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PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, SECOND SESSION

# SENATE—*Wednesday, February 23, 1972*

The Senate met at 10 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord of our life and God of our salvation we praise Thee for the light of another day with its promise of achievement and its possibility of failure. May it be sufficient for us to know that we may have Thee for a constant companion and ever present friend. Keep us close to Thee that we may never be shaken by doubt or weakened by fear. Spare us from being overtaken by anything unworthy of our calling, from being trapped by temptations too strong, or from yielding to cowardly compromises. Keep us steady and secure amidst the shifting scenes of the day. And when the evening comes, give us the peace of those whose minds are stayed on Thee.

We beseech Thee to guide the leaders of the nations until all life is in alinement with Thy kingdom. And to Thee we ascribe all glory, majesty, and power forever. Amen.

## DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., February 23, 1972.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
*President pro tempore.*

Mr. BYRD of West Virginia thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 22, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR THE SENATE TO CONVENE AT 10 A.M. ON MONDAY, TUESDAY, AND WEDNESDAY OF NEXT WEEK

Mr. MANSFIELD. Mr. President, the distinguished deputy majority leader, now presiding over the Senate, has already received permission of the Senate to convene at 10 a.m., for the remainder of this week.

I ask unanimous consent that on Monday, Tuesday, and Wednesday of next week, the Senate convene at 10 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. If there are to be any 15 minute remarks by Senators, they will be ordered prior to the hour of 10 a.m.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader wish to be recognized?

## COMMITTEE SERVICE ASSIGNMENTS

Mr. SCOTT. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read the resolution (S. Res. 261) as follows:

S. RES. 261

*Resolved,* That the Senator from New York (Mr. Buckley) is hereby excused from further service on the Committee on Aeronautical and Space Sciences; that the Senator from Kentucky (Mr. Cook) is hereby excused from further service on the Committee on Veterans' Affairs; that the Senator from Oregon (Mr. Hatfield) is hereby excused from further service on the Committee on Commerce; that the Senator from Illinois (Mr. Percy) is hereby excused from further service on the Committee on Appropriations; that the Senator from South Dakota (Mr. Mundt) is hereby excused from further service on the Committee on Appropriations and the Foreign Relations Committee; that the Senator from Ohio (Mr. Saxbe) is hereby excused from further service on the Small Business Committee; that the Senator from Alaska (Mr. Stevens) is hereby excused from further service on the Committee on Interior and Insular Affairs and the Committee on Rules and Administration and that the Senator from Connecticut (Mr. Weicker) is hereby excused from further service on the Committee on Public Works; and be it further

Resolved, That the Senator from New York (Mr. Buckley) be and he is hereby assigned to service on the Interior and Insular Affairs Committee; that the Senator from Oregon (Mr. Hatfield) be and he is hereby assigned to service on the Committee on Appropriations; that the Senator from Illinois (Mr. Percy) be and he is hereby assigned to service on the Committee on Foreign Relations; that the Senator from South Dakota (Mr. Mundt) be and he is hereby assigned to service on the Committee on Aeronautical and Space Sciences and the Committee on Public Works; that the Senator from Ohio (Mr. Saxbe) be and he is hereby assigned to service on the Committee on Veterans' Affairs; that the Senator from Alaska (Mr. Stevens) be and he is hereby assigned to the Committee on Appropriations, and that the Senator from Connecticut (Mr. Weicker) be and he is hereby assigned to service on the Committee on Commerce.

Resolved further, That the following shall constitute the minority party's membership on the following committees:

The Committee on Government Operations:

Messrs. Percy, Javits, Gurney, Mathias, Saxbe, Roth, Brock, Mundt.

The Committee on Rules and Administration:

Messrs. Cook, Cooper, Scott, Griffin.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. SCOTT. Mr. President, I send another resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read the resolution (S. Res. 262) as follows:

S. RES. 262

*Resolved,* That the Senator from Connecticut (Mr. Weicker) is hereby excused from further service on the Committee on the District of Columbia and is hereby assigned to service on the Select Committee on Small Business.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. SCOTT. Mr. President, I yield back the remainder of my time.

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum briefly, with the permission of the distinguished Senator from Virginia (Mr. Byrd).

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished senior Senator from Virginia (Mr. Byrd) is now recognized for not to exceed 15 minutes.

## FORCED BUSING

Mr. BYRD of Virginia. Mr. President, the lovely wife of a presidential candidate has best articulated, it seems to me, the case against compulsory busing of schoolchildren to create an artificial racial balance.

Representing her husband at a political rally in Florida, Mrs. George McGovern angrily denounced another presidential candidate for charging that the McGoverns pay $1,400 a year to send their daughter to a school in Maryland so she does not have to go to an integrated school in the District of Columbia.

That was not our motive, Mrs. McGovern stated.

As one who knows Eleanor and George McGovern, I accept that statement completely. Both are sincere in their convictions. Neither, I feel sure, would have the slightest hesitancy in sending their children to an integrated school.

Why then do they pay $1,400 to send their daughter to a particular school? Mrs. McGovern answered this from a mother's heart:

> She wanted to be with her friends.

To me, this dramatizes the thinking of the vast majority of those who are protesting forced busing. They are not protesting sending their children to an integrated school. In Virginia, for example, virtually every school is integrated.

What mothers and fathers everywhere want for their children is what Senator and Mrs. McGovern want for their daughter; they want her to be with her friends.

Federal judges in many areas are denying untold numbers of schoolchildren the right to go to school with their friends and neighbors.

Senator and Mrs. McGovern combat this by paying school tuition of $1,400. But most parents cannot afford such a cost.

This is why Congress and the President must devise an effective remedy against the compulsory busing of schoolchildren to achieve an artificial racial balance.

Eleanor McGovern's heartfelt assertion about her daughter represents the feeling of most mothers. Senator and Mrs. McGovern wanted their daughter to be with her friends and were willing to pay $1,400 to accomplish this.

Congress and the President, acting together, must make this possible for all parents—without the payment of $1,400—by preserving the neighborhood schools.

Mr. President, I received through the mail a communication from Rabbi Jacob J. Hecht, executive vice president of the National Committee for Furtherance of Jewish Education. The address is 824 Eastern Parkway, Brooklyn, N.Y.

This is a statement by Rabbi Hecht, the executive vice president of the National Committee for Furtherance of Jewish Education and the caption is "Busing Negro Children to Schools in White Neighborhoods is Educational Dead-End."

Among other assertions made in the statement is this one by Rabbi Hecht:

> A good hard look at the history and the current situation in busing is all it takes to realize that this program has been a drastic mistake.

Mr. President, that is not a statement made by someone in South Carolina, Virginia, or Florida but by the National Committee for the Furtherance of Jewish Education in Brooklyn, N.Y.

Another paragraph reads:

> As Rabbi Hecht explained, the nationwide lack of success with busing programs could have easily been predicted since busing a child daily many miles to school could hardly be conducive to providing him with a favorable educational environment. Busing in reality creates new tensions and anxiety at a time when he is already beset with the multiplicity of problems coincident with growing up and adolescence.

Another paragraph reads:

> "Busing removes from a child one of his most powerful sources of security—his neighborhood," said Rabbi Hecht. "It places him smack into an alien atmosphere he could only react to with anxiety."

Mr. President, the question of busing to achieve an artificial racial balance is, indeed, a national problem. Mothers and fathers, wherever they may be or whatever their religion or race may be, are rising up in opposition to the extremism of some Federal courts and the extremism of the Department of HEW in attempting to force compulsory busing upon the people of our Nation.

I think it is significant that the National Committee for Furtherance of Jewish Education, located in Brooklyn, N.Y., stated the strong view that it takes in this regard. The Jewish people, as we all know, are warmhearted people. As a matter of fact the motto of this committee is "the organization with a heart." And I think that typifies the Jewish people.

Mr. President, I ask unanimous consent that the release from the National Committee for Furtherance of Jewish Education, located at 824 Eastern Parkway, Brooklyn, N.Y. 11213, containing the statement by Rabbi Jacob J. Hecht, executive vice president, be printed at this point in the Record.

There being no objection, the news release was ordered to be printed in the Record, as follows:

### Busing Negro Children to Schools in White Neighborhoods Is Educational Dead End, Charges National Committee for Furtherance of Jewish Education

Says bussing programs are based on an educational fallacy, and not only waste taxpayers' money, but are disruptive to the child, school, family, and neighborhood.

The bussing of Negro children to schools in white neighborhoods in order to improve education is a pedagogical dead-end, it was charged by the National Committee for Furtherance of Jewish Education.

In a special report prepared by the NCFJE's Education Committee, it was stated that the whole bussing concept is based on "an educational fallacy," and that bussing is not only a "waste of taxpayers' money, but also a disruptive influence that succeeds only in disrupting the bussed child, the school, the family, and the neighborhood."

"A good hard look at the history and the current situation in bussing is all it takes to realize that this program has been a drastic mistake," said Rabbi Jacob J. Hecht, NCFJE executive vice president.

As Rabbi Hecht explained, the bussing concept stemmed from research studies conducted a decade ago which indicated that Negro children attending schools in white neighborhoods did better educationally than Negro children who went to school in black neighborhoods. "These study results were seized upon as the basis for a massive bussing movement that education and social leaders saw as a panacea that would help solve the nation's racial and poverty problems."

According to the NCFJE report, it is now thought that the Negro children in the original studies improved educationally because of other factors, and not the bussing. "We are beginning to realize that these Negro children were not representative of all Negro children, but were from middle-class Negro families who were agresively trying to upgrade their status. Thus, the group surveyed was atypical, and the results obtained with them do not apply to the majority of Negro youth, millions of whom are not middle-class.

The NCFJE pointed out that for this reason, "it is not surprising that in those American cities where bussing programs have been carried out, Negro children have not done better, and that indications are, the bussing rather than improving their educational levels, may have had adverse effects."

As Rabbi Hecht explained, the nationwide lack of success with bussing programs could have easily been predicted since bussing a child daily many miles to school could hardly be conducive to providing him with a favorable educational environment. "Bussing in reality creates new tensions and anxiety at a time when he is already beset with the multiplicity of problems coincident with growing up and adolescence.

"Bussing removes from a child one of his most powerful sources of security—his neighborhood," said Rabbi Hecht. "It places him smack into an alien atmosphere he could only react to with anxiety."

Rabbi Hecht explained that even though a neighborhood may be depressed, with broken-down homes and dirty streets, it still provides to a child who grows up there a sense of security. "It is when we move this child into an unfamiliar locale with different types of children that his security turns to insecurity."

"Even the fact a child is being bussed into a different neghborhood has a negative effect, because somewhere along the line, he cannot help but think there must be something wrong with his own neighborhood and people and thus he becomes more resentful and fearful."

The NCFJE report also stressed that bussing runs counter to the entire Negro trend of taking pride in himself and black culture. "This is one of the healthiest sociological developments in years, and what does bussing do but only try to ram down Negro throats the idea that his culture is inferior and that he should aspire to white culture."

Bussing, Rabbi Hecht explained, forces the Negro away from his aspirations, and even more damaging, influences his children to think that the Negro way of life is second-rate. "So again we deflate the Negro image, and we detract from another major source of security for Negro children—their parents. By bussing them outside their neighborhood, we are suggesting to them the fact their parents cannot provide the best environment, and thus we strike another low blow against both them and their parents."

Besides children and families, neighborhoods and communities also suffer when bussing programs are instituted, according to the NCFJE report. "The entire community is disrupted because the normal pattern of integration has been turned topsy-turvy. When Negroes move into an area under normal conditions, a mutual respect and understanding eventually develops between whites and blacks. But when the balance is drastically changed over night by bussing hundreds of Negro children into the area each day, the community pattern of growth becomes disjoined."

Bussing also precipitates community conflict according to the NCFJE report. Cited as an example is the New York area of Brooklyn Heights where bussing was introduced into the public school six years ago. "This school became the center of a terrible controversy which has intensified through the years rather than abated. Community groups, pro and con bussing, have fought so viciously through the entire six years that parents with school-age children have moved out of the area, neighbors once friendly have stopped speaking to each other, and the school itself has become such a wasteland that proper education is now impossible."

According to the NCFJE, it is important to take immediate steps (1) to stop bussing where it already exists and (2) to adopt other programs to accomplish what the bussing was intended to accomplish. "The first thing we must do is to turn educational authorities away from thinking in terms of bussing," said Rabbi Hecht. "This can be accomplished only by making the public aware of the consequences of bussing and then putting pressure on state legislatures and municipal administrations to outlaw this practice."

The next step is to take the millions of dollars saved by eliminating bussing, and divert them into programs aimed at improving schools in the Negro areas so these schools will be indistinguishable in faculties and facilities from schools in white neighborhoods.

The third step is to coordinate this program with another massive program, aimed at building up the black neighborhoods that need to be improved. "A massive infusion of federal government funds is needed here to make up for the years of neglect and to create neighborhoods as desirable as those in the other areas of the cities where whites live."

"Like anything else worthwhile, the accomplishment of all this will not be easy," concluded Rabbi Hecht. "But once we bring the neighborhoods and the schools of all our cities to comparable levels, we will then have black and white co-existing peacefully and living in harmony. We will also have equality of education and opportunity, and the results will be of optimum benefit to not only Negroes, but to the entire nation.

## CONFUSION AND LACK OF COOPERATION IN HEW

Mr. BYRD of Virginia. Mr. President, on February 4 I had hand delivered to the Office of the Secretary of Health, Education, and Welfare, a letter I wrote Mr. Richardson under that date, February 4, 1972, inviting his attention to a very serious situation in Virginia.

In Campbell County, the county suburban to the city of Lynchburg, the school board, after appropriate hearings, fired a schoolteacher who, according to a letter to me from the superintendent of schools of Campbell County, hit a child with a plastic hose. After the school board had heard this case, the school board fired that teacher.

The teacher appealed to the Department of Health, Education, and Welfare, and the Department of Health, Education, and Welfare demanded that this teacher be reinstated with back pay.

The regional office of the Department of Health, Education, and Welfare refused to give the school board the facts on which region 3 of the Department of Health, Education, and Welfare based this demand that this teacher be reinstated.

Mr. President, I do not pretend to know the facts, other than those contained in the letter from the superintendent of schools. However, in my letter to Secretary Richardson, I quoted the statement of the superintendent of schools, and I expressed the view that the school board should have the facts upon which the Department of Health, Education, and Welfare based its demand for reinstatement.

In one paragraph of my letter I asked if, in view of the fact that HEW did not give the facts to the school board, Mr. Richardson would submit to me the facts upon which Dr. Severinson of HEW, justifies her assertion that the teacher was not dismissed for good cause.

I then asked:

> Have you, as Secretary of Health, Education and Welfare, been informed that this teacher was dismissed by the school board for beating a child?

I also asked this question:

> Do you not agree that this is a case which your office should investigate?

The Department of Health, Education, and Welfare has threatened to cut off school funds going to Campbell County unless this teacher is reinstated. Bearing in mind that the teacher was dismissed for beating a child and bearing in mind that region 3 of the Department of Health, Education, and Welfare has refused to submit to the school board the facts on which the reinstatement is demanded, the Secretary of Health, Education, and Welfare has an obligation to look into the case.

It was on February 4, 1972, that my letter was hand delivered to Mr. Richardson's office. A week ago yesterday, I had not received a reply. Mr. Richardson came before the Senate Finance Committee. I read this letter to him, and he promised to get me a prompt reply. That was a week and 1 day ago, and still there is no reply.

Mr. Richardson in his testimony before the committee—and it was in his written statement—asserted that the people of the United States are beginning to mistrust more and more their Government. I agree with that assertion. I think one reason is that many top officials of Government are lacking in interest in responding to inquiries and requests for information on the part of the people and even on the part of the Members of the Congress of the United States.

I thought perhaps it was because of inadequate help that the Department of Health, Education, and Welfare had not replied to my inquiry. I asked Mr. Richardson, "How many employees do you have?" After looking through his papers, he said he had 104,000 employees. It seems to me that with 104,000 employees, the Department of Health, Education, and Welfare and its Secretary, Mr. Richardson, could reply with some degree of promptness to official communications presented to the Secretary by elected representatives of the people.

My letter was hand-delivered on February 4. It is now the 23d day of February. I think this in a way dramatizes just how impersonal this big bureaucracy in Washington has got and how little interest it has in trying to help the people of our Nation.

I feel a deep obligation to answer the mail that comes to me from the 5 million people whom I represent in Virginia—a deep obligation. I stay here late at night signing mail. I submit that the Secretary of Health, Education, and Welfare, although he is a very busy man, and I admit that, can spend some time and utilize some of those 104,000 employees to answer some mail from the representatives of the people of our Nation.

Mr. President, I ask unanimous consent to have printed in the RECORD my letter under date of February 4, 1972, to Secretary Richardson.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., February 4, 1972.*

The Honorable ELLIOT L. RICHARDSON,
*Secretary of Health, Education, and Welfare,*
*Washington, D.C.*

MY DEAR MR. SECRETARY: My assistance has been sought by Mr. G. Hunter Jones, Jr., Division Superintendent of the Campbell County, Virginia, school system, with regard to demands placed upon him by Dr. Eloise Severinson, Regional Civil Rights Director for Region III. A copy of Dr. Severinson's letter to Mr. Jones is enclosed.

Dr. Severinson's letter directs Campbell County to re-employ, with back pay, a teacher, who, school officials state, was dismissed for cause.

Mr. Jones, in correspondence with me, said that:

"Mr. Oswald Merritt, a fifth grade teacher at the Altavista Elementary School hit a child with a plastic hose on January 29, 1971, which resulted in the parent seeking medical attention from the family physician, who was Chairman of our School Board at the time. The Board was scheduled to meet that same evening, and the matter was brought to the Board by him. The teacher was suspended by the Board, and after hearings by the Board, the teacher resigned."

An investigation was conducted by Region III HEW personnel during September 1971, but Mr. Jones writes me that Dr. Severinson has refused to provide the Campbell County School Board with specific charges of any of the complaints against it.

In view of this, would you submit to me the facts upon which Dr. Severinson justifies her assertion that Mr. Merritt was not dismissed for good cause?

Further, Mr. Secretary, not even the Equal Employment Opportunity Commission has the power to order the reinstatement, with back pay, of an employee, yet Dr. Severinson has taken this power upon herself. On what legal authority does Dr. Severinson base that demand?

Have you, as Secretary of Health, Education and Welfare, been informed that this teacher was dismissed by the school board for beating a child?

Do you not agree that this is a case which your office should investigate?

I have protested Dr. Severinson's harassment of Virginia school officials in the past, and I await your reply as to the course of action which you intend to take in regard to the Campbell County case.

I am having this letter hand-delivered to your office.

Sincerely,

HARRY F. BYRD, JR.

## TRANSACTION OF ROUTINE MORNING BUSINESS

**The PRESIDING OFFICER.** Under the previous order, the Senate will now proceed to the transaction of routine morning business, with statements limited therein to 3 minutes.

## THE U.N. SHOULD NOT DECIDE NEWSMEN'S ACCREDITATION

**Mr. BYRD of West Virginia.** Mr. President, the American people are now receiving the most extensive coverage of the People's Republic of China in a quarter century, and I believe the newsmen covering the President's trip deserve a great deal of credit.

However, there is a much smaller group of newsmen engaged in a quite different "China story" in New York, and I feel that their efforts deserve more recognition than they have thus far received.

I am referring to the group headed by Erwin D. Canham, editor in chief of the Christian Science Monitor, which is scheduled to meet this afternoon with United Nations Secretary General Kurt Waldheim. During that meeting, they will discuss the withdrawal of press credentials from two representatives of the Central News Agency of China—Taiwan.

As all of us recall, Mr. President, the two newsmen had their accreditation revoked at the request of the People's Republic of China when that nation replaced Nationalist China in the United Nations. The action was taken by former Secreary General U Thant, who chose to make this unconscionable move one of his final acts of office. From all indications, Mr. Waldheim intends to uphold the withdrawal of press credentials. His failure to take a stand on an issue so fundamental as this does not augur well for the United Nations during his term.

In my opinion, there was no justification for revoking the accreditation of the newsmen from Nationalist China, especially in view of the fact that the official news agency of East Germany has an accredited newsman covering events at the U.N.

I wish Mr. Canham's group well in its meeting this afternoon, and I hope that a rejection by Mr. Waldheim will not end the efforts to assure full coverage of U.N. activities by all nations of the world—nonmember nations, as well as member nations. I further hope that pressure will be brought to bear—especially by news organizations—to assure that newsmen, and not the U.N., will in the future decide accreditation of reporters who seek to cover the United Nations.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Waldheim To See Press Group on U.N. Credentials," which was published in Editor & Publisher of February 19, 1972.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Editor & Publisher, February 19, 1972]

### WALDHEIM TO SEE PRESS GROUP ON U.N. CREDENTIALS

United Nations Secretary-General Kurt Waldheim will meet with a committee from the news media Wednesday afternoon, February 23, to discuss the withdrawal of press credentials from two representatives of the Central News Agency of China (Taiwan).

A few days before he set the date for a conference with the group, Waldheim told U.N. reporters he stood by the decision of his predecessor, U Thant, in accepting legal advice that the two Taiwan newsmen were ineligible for accreditation because they work for Nationalist China.

Under the General Assembly's resolution admitting the People's Republic of China and expelling Nationalist China, the ouster of Chen-chi Lin and T. C. Tang was held to be mandatory. At the time of the action in December, it was generally reported that the Chinese Communists had insisted on taking the credentials away from Nationalist China representatives.

"No new elements are involved," Waldheim declared at a news conference February 10, but he said he was willing to sit down with the press committee and talk it over.

This week the general board of the National Council of Churches joined press groups in criticizing the U.N. action and a resolution declared the journalists were not officials of the Taiwan government nor were their employers.

The ouster, News media have said, constitutes a dangerous precedent, insofar as it allows a Communist country to place a ban on newsmen that it does not want to be present at U.N. proceedings. Several nonmember states have journalists accredited to the U.N. Among them are East Germany, whose correspondent serves an official agency.

Erwin D. Canham, editor in chief of the *Christian Science Monitor*, was designated as spokesman for the committee appointed by Richard N. Fogel, *Oakland Tribune*, chairman of the Sigma Delta Chi freedom of information committee.

Other committee members are:

Frank Stanton, CBS.

C. A. McKnight, American Society of Newspaper Editors.

Mims Thomason, UPI.

Paul Miller, Gannett Newspapers.

Katharine Graham, *Washington Post*.

Robert U. Brown, Inter American Press Association.

Arthur O. Sulzberger, *New York Times*.

Julian Goodman, NBC.

Elton H. Rule, ABC.

Stanford Smith, American Newspaper Publishers Association.

Hugh N. Boyd, International Press Institute.

Chet Casselman, Radio and Television News Directors.

Malvin Goode, United Nations Correspondent Association.

Guy Ryan, Sigma Delta Chi.

Richard H. Fogel, Sigma Delta Chi.

**Mr. BYRD of Virginia.** Mr. President, will the Senator yield?

**Mr. BYRD of West Virginia.** I yield.

**Mr. BYRD of Virginia.** Mr. President, I associate myself completely with the remarks just made by the distinguished Senator from West Virginia.

It seems to me that what we need in this world today is more reporting, more communicating. We need more people who can be accredited to report the facts and news developments, and not less.

I know of no reason why any particular country should be prevented from having a representative at the United Nations.

So far as I know, no charges have been made against these newsmen. The only charges made have been made by mainland China, or Communist China, or the People's Republic of China, whichever way one wishes to express it. They say they do not want the Taiwanese reporters to attend the United Nations and cover deliberations.

I would guess that other countries might have the feeling that they would prefer that such and such a country not have a representative. Why should any country have veto power over newsmen from other countries?

If we are going to have a world organization we need to have the right for countries to have reporters there to report the events that take place in that world organization.

The purpose of the world organization is to maintain a peaceful world. It seems to me that the more dialog we can have—that is why I like the President's trip to China—the more reporting of events which take place in the Halls of Congress, the United Nations, the British Parliament, and elsewhere, the better off everyone would be.

As a longtime newspaper editor, as a U.S. Senator, as one who favors President Nixon opening a dialog with the leaders of the People's Republic of China, and as one who has long felt that mainland Chinese reporters should be admitted to the United States and that U.S. reporters should be admitted to mainland China, I strongly protest the withdrawal of press credentials from two representatives of the Central News Agency of China—Taiwan. It seems to me that what we need in this world today is more dialog, more reporting, more communication. That also applies to the United Nations, and perhaps especially to the United Nations.

So I associate myself completely with the splendid remarks of the able Senator from West Virginia.

**Mr. BYRD of West Virginia.** I thank my friend, the distinguished Senator from Virginia.

## QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. GRIFFIN. Mr. President, at the request of the distinguished majority leader, I ask unanimous consent that the period for the transaction of routine morning business be extended 10 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SCHOOL BUSING IN NEW YORK CITY

Mr. ALLEN. Mr. President, I was interested to note the news item this morning in the New York Times with the headline "Student Busing Never Big Issue Here Despite Racial Imbalance." The reference is to New York City.

Mr. President, isn't that very nice, indeed? It is no big issue in New York City because they have practically no busing there.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, reading from this article:

> Busing students to achieve racial balance in public schools, which Mayor Lindsay endorsed during his Florida campaign yesterday, has not emerged as a major issue in New York City, despite the fact that the city's schools are among the most racially imbalanced in the state.

And I might add parenthetically, in the Nation—

> The city has never had a busing program, nor has the school administration developed proposals for one.

We have busing programs in Alabama. We have busing programs throughout the entire South because the HEW and the Federal district courts and the courts of appeal and the Supreme Court have directed that we have busing programs. They do not have busing programs in New York City.

> The closest thing to it is the school system's open-enrollment program—

Is that freedom of choice, Mr. President—open-enrollment program?

> which permits students to apply—with their parents' approval—to fill classroom vacancies in other districts.

That is not the way it is done in Alabama and the South. Literally hundreds of thousands of students are transported from one area to another area in the city or in the county, irrespective of the ability of the school to which those students are transported to take care of the increased number of students. But in New York City all that they can do under the open-enrollment program is apply for a vacancy that might be created in one of the other districts.

Reading further:

> In practice this has meant that fewer than 3,000 students, most of them black—

That is out of hundreds of thousands of students—

> In practice this has meant that fewer than 3,000 students, most of them black, are bused daily to less-crowded and largely white schools. A very small number of white children, under the same voluntary program, travel to predominantly black schools each day.
>
> The recently published report of the so-called Fleischmann Commission on education label racial imbalances in New York City "severe." The 18-man commission, which was appointed by Governor Rockefeller two years ago, defined as "imbalanced" any school in which the representation of a given race varied by more than 10 percent from that race's proportion of the district.
>
> Under this formula, the commission concluded, 88.7 percent of the city's schools are imbalanced.

That is 88.7 percent. If there were such a district in Alabama or the South, would we not be hearing a hue and cry from all over this Nation to desegregate that district?

> 66 percent of the total of 906 schools range from being seriously imbalanced to "totally segregated."

That is the situation in New York and most sections outside the South, because the figures of HEW show conclusively that there has been more desegregation in the South than in sections outside the South.

Mr. President, the fact that in New York there is no busing, to speak of, certainly indicates that busing is no problem there, and certainly underlines and emphasizes the need that we have in Alabama and the South and throughout the Nation to put an end to the practice of forced mass busing of little children to create an artificial racial balance in our public schools.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. ALLEN. Mr. President, I ask unanimous consent to have 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. There is another interesting paragraph in this article:

> Some black groups, however, have criticized busing as a solution to racial imbalances and underutilization of white schools in the city. They have argued, instead, that more and better schools should be built in black districts.

So, Mr. President, this issue is soon to be joined in the Senate later on this day, as to whether or not we are going to stop the forced busing of little schoolchildren in order to create an artificial racial balance in the public schools of this country.

I want to say right here and now again, as I said on yesterday and on Monday, that the so-called Scott compromise amendment, which will freeze busing in these desegregation plans as a possibility, is certainly not going to be accepted. How ironic and how cynical that approach is. It reminds me of the cynical approach which the distinguished Senator from Pennsylvania adopted with respect to the Stennis amendment and with respect to the Whitten amendment, when he came in with a scuttling amendment. That is what this amendment is, and it will certainly be resisted.

Another thing I would like to call attention to is an item appearing in the newspapers attributed to the distinguished senior Senator from New York (Mr. JAVITS) saying that the effort to stop busing would nullify the results of the Civil War, after the spending of billions of dollars and the loss of oceans of blood.

I notice that when those who advocate the desegregation of the schools in the South, without desegregating the schools in the North, are without arguments, they always wave the bloody flag of the War Between the States; but I would like to point out that if, as they contend, equality of education can be obtained only when there is integration of the races, why then does not the State of New York and other States of the North give equality of education to their black students, when they have not done so?

Mr. President, when we can have the same rule in the South that we have in the North, we are not going to have any objection in Alabama and the South.

EXHIBIT 1

[From the New York Times, Feb. 23, 1972]

### STUDENT BUSING NEVER BIG ISSUE HERE DESPITE RACIAL IMBALANCE

(By Iver Peterson)

Busing students to achieve racial balance in public schools, which Mayor Lindsay endorsed during his Florida campaign yesterday, has not emerged as a major issue in New York City, despite the fact that the city's schools are among the most racially imbalanced in the state.

The city has never had a busing program, nor has the school administration developed proposals for one. The closest thing to it is the school system's open-enrollment program, which permits students to apply—with their parents' approval—to fill classroom vacancies in other districts.

In practice, this has meant that fewer than 3,000 students, most of them black, are bused daily to less-crowded and largely white schools. A very small number of white children, under the same voluntary program, travel to predominantly black schools each day.

The recently published report of the so called Fleischmann Commission on education label racial imbalances in New York City "severe." The 18-man commission, which was appointed by Governor Rockefeller two years ago, defined as "imbalanced" any school in which the representation of a given race varied by more than 10 per cent from that race's proportion of the district.

Under this formula, the commission concluded, 88.7 per cent of the city's schools are imbalanced, and 66 per cent of the total of 906 schools range from being seriously imbalanced to "totally segregated." And the commission notes that the city's four prestigious specialized high schools—the Bronx High School of Science, the High School of Music and Art, Stuyvesant High School and Brooklyn Tech, which have students from all over the city are 75.7 per cent white.

A feasibility study of busing in New York City that was done for the Fleischmann Commission by Dr. Dan W. Dodson of New York University concluded that such imbalances could be overcome by busing about 215,000 elementary and junior high school students each day.

The $16-million a year such a program would cost would be more than made up for by more efficient utilization of school space, Dr. Dodson's report said.

The Fleischmann Commission did not endorse the Dodson study, but included it in its final report as a basis for future discussion.

Some black groups, however, have criticized busing as a solution to racial imbalances and underutilization of white schools in the city. They have argued, instead, that more and better schools should be built in black districts.

Several New York City suburbs have active and largely successful busing programs to promote integration. Among the leaders is White Plains, which began busing in 1964. Currently, 600 kindergarten through sixth grade students are bused daily, at an annual cost of $105,000.

## EDUCATION AMENDMENTS OF 1972—AMENDMENTS NOS. 916 AND 917

Mr. ERVIN. Mr. President, as a result of the War Between the States, the blacks were freed from slavery. Compulsory busing to achieve racial integration restores slavery insofar as little children, both black and white, are concerned.

Mr. President, on behalf of myself, Mr. Allen, Mr. Baker, Mr. Bennett, Mr. Brock, Mr. Byrd of Virginia, Mr. Eastland, Mr. Ellender, Mr. Gambrell, Mr. Gurney, Mr. Hollings, Mr. Jordan of North Carolina, Mr. Long, Mr. McClellan, Mr. Sparkman, Mr. Stennis, Mr. Talmadge, Mr. Thurmond, and Mr. Tower, I submit two amendments and ask that they be printed and lie on the table until they are called up.

The PRESIDING OFFICER. The amendments will be received and printed and will lie on the table, as requested.

Mr. ERVIN. Mr. President, the first amendment, amendment No. 916, provides for the protection of the rights of children to attend neighborhood schools. It declares this:

> No court, department, agency, or officer of the United States shall have jurisdiction or power to order or require by any means whatever the state or local authorities controlling or operating any public school in any state, district, territory, commonwealth, or possession of the United States to deny any student admission to the public or private school nearest his home which is operated by such authorities for the education of students of his age or ability. The Congress intends that this statutory provision to apply to every court, department, agency, or officer of the United States, and to every state or local authority, public school system, public school, student, or person, and to every circumstance and situation to which or to whom the Congress has the constitutional power to make it applicable, and to this end the Congress declares that its invalidity in particular respects or in particular applications shall not impair in any way its validity in other respects or in other applications.

The other amendment (No. 917) relates to freedom of choice assignments, and provides:

> No court, department, agency, or officer of the United States shall have jurisdiction or power to order or require by any means whatever state or local authorities controlling or operating any system of public schools in any state, district, territory, commonwealth, or possession of the United States to assign students of any race, religion, or national origin to any schools other than those chosen by the students or their parents where such state or local authorities open the schools under their jurisdiction to students of all races, religions, or national origins and grant them the freedom to attend the schools chosen by them or their parents from among those available for the instruction of students of their ages and educational standings. The Congress, intends this statutory provision to apply to every court, department, agency, or officer of the United States, and to every state or local authority, public school system, public school, student, or person, and to every circumstance and situation to which or to whom the Congress has the constitutional power to make it applicable, and to this end the Congress declares that its invalidity in particular respects or in particular application shall not impair in any way its validity in other respects or in other applications.

Mr. President, the equal protection clause says that no State shall deny any person within its jurisdiction the equal protection of the laws. This is a simple clause. All that it means is this: That no State shall treat in a different manner persons similarly situated. That is all it means. And when a State school board opens its schools to children of all races, religions, and national origins, and grants them freedom to attend whatever schools are available to children of their ages and educational attainments and chosen by them or their parents, it treats everyone similarly situated in exactly the same manner; and I assert that oceans and oceans of judicial or political sophistry cannot erase that plain truth.

The best way to abolish all discrimination in schools is to allow the children or their parents to select the schools the children are to attend from among those open to children of their ages and educational standards. That is the one reason for this amendment: To stop the courts of this land and the Department of Health, Education, and Welfare from usurping and exercising the rights, powers, and responsibilities of local school boards throughout this Nation.

I wish to make one other observation. I say to my friends from the North that when those who want to forcibly integrate schools by busing and by denying children the right to attend their neighborhood schools have reduced the South to a state of vassalage, they are not going to sit down like Alexander the Great and weep, because they have no more worlds to conquer. They are going to turn their attention, as in fact they are now doing, to the schools north of the Potomac River and the Mason-Dixon Line, and they are going to try to inflict upon the schools in those areas the same tyrannies they have inflicted upon the schools, the school boards, the parents, and the little children of the South.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. MANSFIELD. Mr. President, if the Senator wants more time, I ask for recognition and yield to the Senator from North Carolina.

Mr. ERVIN. I thank the Senator; I would like to have about 3 minutes more.

The Wall Street Journal for February 8, 1972, published an article written by Vermont Royster entitled "Suffer the Children." It says:

> For anyone with a grisly sense of humor—sick humor, in the current phrase—there is bound to be sardonic laughter in the rise of school busing as a social and political issue outside the South.
>
> For one thing it does is expose some monumental hypocrisy. Over many years those in other parts of the country have treated the issue as one peculiar to the Southern states. Objections to hauling children all over the countryside to obtain a preconceived "racial balance" in the public schools were supposed to stem only from racial prejudice and to be raised only by Southern white racists.

I ask unanimous consent that the entire article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

### SUFFER THE CHILDREN

(By Vermont Royster)

For anyone with a grisly sense of humor—sick humor, in the current phrase—there is bound to be sardonic laughter in the rise of school busing as a social and political issue outside the South.

For one thing it does is expose some monumental hyprocrisy. Over many years those in other parts of the country have treated the issue as one peculiar to the Southern states. Objections to hauling children all over the countryside to obtain a preconceived "racial balance" in the public schools were supposed to stem only from racial prejudice and to be raised only by Southern white racists.

Any other objections to this kind of busing—whether on educational grounds, the disruption of neighborhood cohesion, inconvenience to the children or parents, or considerations of cost—all were disdainfully dismissed as merely the rationalizations of diehard segregationists. Where, as sometimes happened, blacks in the South likewise objected they were dismissed as "Uncle Toms."

It was treated, in short, as a purely regional issue. The rest of the country looked on with smug equanimity as court decisions, government policy and public pressure forced area-wide school busing on community after community. After all, so said the rest of the country, it's not our problem.

Well, it is now. In the North, the Midwest and even in the Far West, in community after community, there have of late been eruptions of public protest when the same policy of area-wide busing came to be applied. And every poll of public sentiment is now showing that school busing for arbitrary racial balance has become a nationwide issue.

Congress is having to come to grips with it both as a substantive and a political issue. The House has already passed anti-busing legislation; it is also considering a Constitutional amendment banning busing. The Senate, to the agony of so many Presidential hopefuls, is finding it daily harder to avoid the issue because the people back home—all over the country—are forcing it.

In this, too, there is cause for sardonic laughter. Of all those Senate presidential hopefuls with school-age children only Senator Jackson (the most "conservative" of the Democratic aspirants) has his children in a Washington public school. The others, liberals all, send their own children to private schools while proclaiming their devotion to busing for everybody else.

But for all this exposed hyprocisy there is, in all truth, nothing to laugh at, sardonically or otherwise. The whole business has become too sad even for sick humor.

A part of the sadness lies in the fact that this great convulsion over school busing comes at a time when the public, in the South and elsewhere, is at long last casting aside old prejudices. Just recently the National Opinion Research Center, as cited in a Wall Street Journal story, found that 80% of the nation (including half of the Southern white population) today accepts integration in schools and other aspects of public life. That is, acceptance of integration and opposition to school busing have grown together.

This paradox is only a seeming one. What the evidence shows is that it is no longer correct to treat the school busing issue as solely a "racist" one. Many blacks, as recent demonstrations witness, also oppose area-wide busing. So too do many whites who are not only not "racists" but actively support racial integration in the school system The busing issue now transcends the old labels.

This ought to be understandable to anyone who can put aside stereotyped thinking. There is, first of all, something absurd about busing a child, who lives within a few blocks of an elementary school, a half-day's journey across country, with some starting before dawn and returning long after dark. For years the country labored expanding its school system to avoid just this sort of necessity. Now when it isn't necessary we are reverting to it in the name of having the "right" racial quota.

The expense of it is ridiculous. The cruelty of it is that it takes a small child and makes him consume an 8 or 10 hour day for a few hours of schooling, and puts him in the position where the friends of his school are not the friends of his neighborhood or vice-versa. He (or she), aged six or ten, has life disrupted over a social policy of his elders.

And that, I think, gets us to what is really sad about the way we, the elders, have gone about the long overdue and necessary task of ending the segregation and isolation of the blacks among us.

It was a happenstance of history that the first major decision of the Supreme Court striking down the old laws and customs of segregation came in an elementary school case. The other court decisions and the various civil rights laws came afterward. But that happenstance focused the issue, first and foremost, on the school system.

And nowhere have we since applied the pressure as implacably as on the elementary school system. In the schools the courts have said that there is a legally correct "balance" and that if necessary children must be moved around to enforce it.

Where else have we said the same thing? Segregation has been struck down, and properly so, at the college level also. But no court has ordered any public college to truck a certain portion of its white students to a black college, or the other way around, to enforce the quota concept.

The courts and the statutes have attacked *de facto* segregation in neighborhood housing by striking down racial covenants and limiting the rights of sellers and renters. But nowhere is there a court decision or a law compelling people to move from one neighborhood to another, by governmental fiat, to achieve some preconceived idea of what constitutes a correct neighborhood balance of the races.

The reason why this has not been done is quite plain. The people, white and black, would consider it outrageous; it could not be done by anything short of a Soviet type dictatorship. And the people would be quite right. The law of a free people ought to prohibit segregation of any of its citizens in any form. A law to *compel* people to move from one place to another would make our society no longer one of a free people.

But what we, the elders, have refused to decree for ourselves and our own lives we have, by some tortured logic, decreed for our children. However you may dismiss the inconvenience or the cost of this wholesale busing, we have asked our children to suffer what we will not. And the wrong of that cannot easily be dismissed.

Mr. ERVIN. I also call attention to an editorial entitled "Dubious Integration Plan," published in the New York Times of Friday, February 11, 1972. This editorial relates to recommendations by the Fleischmann Commission concerning the racial integration of the State's public schools in the State of New York. It says:

> The Fleischmann Commission has properly given high priority to the racial integration of the state's public schools, and it has clearly described the disturbing trend of increasing segregation as the school population of the major cities turns predominantly black and Puerto Rican.
>
> It is unfortunate, however, that the commission has proposed actions likely to create a maximum of conflict and in any case are quite unrealistic.
>
> The key to the proposed approach is to create in every school a strict ethnic balance that approximates the racial pattern of total pupil population. In New York City, where the white enrollment now constitutes less than 40 per cent, this would mean that a white minority of roughly that proportion would have to be maintained in every school. Such a redistribution could be accomplished only by either transporting large numbers of white children into the presently predominantly black schools or by phasing out all schools in such areas. Both approaches would run into massive opposition on the part of black as well as white parents.

Mr. President, it is time for Congress to step into this picture and put an end to this busing of children to and fro, denying children admission to the neighborhood schools, and denying the people of our land freedom of choice, merely to mix children racially in the public schools.

The public schools were created to educate and enlighten the minds of children, not to integrate their bodies. The people of the United States have no governmental power which has the capacity to abolish this unspeakable bureaucratic and judicial tyranny except the Congress of the United States. These amendments which I have introduced today for myself and many other Senators are carefully drawn, and are drawn in the light of all the interpretations made by the Supreme Court with respect to the power of Congress to define or limit the jurisdiction of the Federal courts.

The PRESIDING OFFICER. The Senator's additional 3 minutes have expired.

Is there further morning business?

## AUTHORITY FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL CORRECTIONS IN S. 2515 AND IN H.R. 1746, THE EQUAL EMPLOYMENT OPPORTUNITY ENFORCEMENT ACT OF 1971

Mr. WILLIAMS. Mr. President, during the consideration of amendment No. 813 to S. 2515, I offered an amendment to the amendment intended as a substitute. The Senate agreed to my amendment and then agreed to amendment No. 813 as amended. Due to an inadvertence, two lines were permitted to be deleted from the bill in such a way as to leave an inconsistency in the language of the bill as well as to cloud the intention of the Senate.

I have talked with the Senator from North Carolina (Mr. ERVIN), and cleared this matter with him. He was the sponsor of amendment No. 813. Accordingly, I ask unanimous consent that the Secretary of the Senate, in the engrossment of S. 2515, and in the enrollment of the Senate amendment to H.R. 1746, be authorized to insert between the word "that" on page 32 line 24 and the word "persons" on page 33 line 2 the following language which was inadvertently omitted:

> During the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

## ADDRESS BY DAVID PACKARD BEFORE THE UNION LEAGUE CLUB OF CHICAGO

Mr. ALLOTT. Mr. President, last night, in Chicago, Mr. David Packard, the former Deputy Secretary of Defense, delivered an address to the Union League Club which I think demonstrates very amply the great mental horizons of this man—a man whom I have admired since he was in high school. The title of the speech is "Strong Defense—Guardian of Peace," and in it he analyzes not only the position of the United States in the area of defense but also analyzes, to some degree, the political and diplomatic situations of the world.

In order that Senators may have the benefit of this speech, which I believe is far reaching and contains many great elements which should be considered seriously by Congress, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### STRONG DEFENSE—GUARDIAN OF PEACE

(Address by David Packard before the Union League Club of Chicago, February 17, 1972)

> I am delighted to be here tonight at the Union Club. Over the years I have visited Chicago many times. It has always been one of my favorite cities. And I can tell you, after spending three years in the cross-fire of the eastern press and television establishment in Washington—Chicago and the midwest look even better than ever.
>
> I was very fortunate to have had the opportunity to serve during the first three years of President Nixon's administration. I say that for many reasons, but foremost because these have been three years of bold and imaginative leadership by our President.
>
> If anyone doubts that bold and imaginative leadership was needed, just recall for yourselves the state of this nation in 1968.
>
> There was rioting and burning on the streets. Our great universities were in shambles. We had over half a million service men and women in Vietnam and there was no plan to bring them home. In the second quarter of 1968 an average of 360 American

servicemen were killed in Vietnam—and hundreds more wounded—every week. Domestically, inflation was destroying all previous economic progress. In short, America was in deep trouble at home and abroad.

If anyone doubts the effectiveness of President Nixon's bold and imaginative leadership during these three years, compare those dark days of 1968 with the spring of 1972.

Peaceful and legal protest has replaced rioting and burning on the streets. Our great universities are back in the business of education. Our forces in Vietnam have been reduced by 418,000 without closing the door on the rightful aspirations of the peoples of Indochina. By the fourth quarter of 1971 the number of Americans killed fighting in Vietnam had been reduced to six per week. This is still too many, of course, but thank God it is sixty times fewer than three years ago.

Bold steps have been taken to bring inflation under control. American leadership abroad and American self-confidence at home are rapidly rising.

But there is something even more important about these three years. When the history of the 20th Century is recorded, 1968 will be recognized as the end of one era and the beginning of a new one. The end of the old era came when American military and economic commitments finally overextended our nation's resources to the breaking point.

By 1968 most people in Washington and throughout the country recognized we were in serious trouble. In the Senate the liberals were making the most critical noises although their past policies were the very ones which had caused the disastrous situation. Even Senator Fulbright, dean of the Senate in foreign affairs and chairman of the Foreign Affairs Committee, had no particular plan except to withdraw from the world. He wanted troops withdrawn from everywhere and all aid stopped. Others wanted substantial cuts in defense. Many advocated immediate withdrawal from Vietnam even though at that time it would have been unconditional surrender by the United States. There was no plan, no usable policy suggested by the Senate majority. They were simply wailing and flailing.

Fortunately, President Nixon had the courage to seek a new course, and the vision to adopt one that was positive and imaginative. It is President Nixon's courage and vision that has made his leadership possible. It is because he charted a bold and positive course for America that his leadership has been effective.

Much study and analysis has gone into the development of policies to chart this new and positive course for both domestic and foreign affairs into the decades of the '70's and beyond.

Because of the recent notoriety about Dr. Henry Kissinger I want to say a word about his role in this planning process. He made a great contribution during this entire period. We in Defense worked very closely and effectively with him. This provided me with the opportunity to become very well acquainted with Dr. Kissinger. He was always very cooperative and helpful to me personally—and I hold him in great respect and consider him to be a good friend.

The extensive planning over these three years to develop an exciting new course for our country has not been a one-man show. There have been many people who have played important roles. Issues were carefully studied and thoroughly discussed before recommendations were made to the National Security Council and to the President.

Dr. Kissinger was the chairman of the groups that directed and reviewed the numerous studies and forwarded the recomcil and the President. Every department including State had ample opportunity to contribute. No one was reticent about expressing his personal opinion. If any one of us disagreed with the proposed recommendation, the opportunity was always there to present our views to the President.

I use this point because there has been considerable criticism of the decision-making process of this administration. Much of this criticism has been unjust, unreasoned, and in many cases just plain vicious.

Let me give you one example of such criticism. A few days after the Cambodia invasion some Harvard professors came in to see me. They were hopping mad. They said it was irresponsible for the President to make such a decision without thorough consultation with his advisors.

I pointed out that the Indochina problem had been discussed for months, that we all had been studying every aspect of the Vietnam problem including what might be done about Cambodia. I told these professors the President had fully consulted with his advisors before he made the decisions to send American troops to Cambodia. The response of the professors was, "In that case it is even worse".

This extensive planning for President Nixon's new course toward a generation of peace was of great importance to our planning and budgeting work in the Defense Department. We had an important part in helping to develop these policies and they, in turn, provided the foundation of our planning of future military forces.

The new policies were first delineated in Guam in 1969 by the President and have come to be known as the Nixon Doctrine. The President in his address to the Nation on January 20 of this year restated this new course for our foreign policy in the following terms:

We will maintain a nuclear deterrent adequate to meet any threat to the security of the United States or of our allies.

We will help other nations develop the capability of defending themselves.

We will faithfully honor all of our treaty commitments.

We will act to defend our interests whenever and wherever they are threatened any place in the world.

But where our interests or our treaty commitments are not involved our role will be limited.

We will not intervene militarily.

But we will use our influence to prevent war.

If war comes we will use our influence to try to stop it.

Once war is over we will do our share in helping to bind up the wounds of those who have participated in it.

This is a decisive change from the American foreign policy which prevailed from 1945 to 1968. During that period we were undisputed in military and economic strength everywhere in the world, and we thought we could act accordingly. President John F. Kennedy set the stage to carry the same foreign policy into the decade of the 1960s. In his inaugural address in 1961 he said:

"We shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty."

Neither President Kennedy nor other leaders of the Democratic Party foresaw that this policy would commit us to Vietnam and bring America to the brink of disaster before the end of the decade.

As the great poet Robert Frost has said—there are only two things which are certain in this world: there will be conflict and there will be change. This is what President Nixon has recognized in forging his new American policy to meet the challenges of the final decades of this century.

It is a policy designed to deter major conflict, limit minor conflict, and accommodate to change. It is based on three pillars—negotiation, partnership, and strength. Important steps have already been taken building on these pillars.

We have already made considerable progress in negotiating a better understanding with the Soviet Union on a number of issues which will have a major impact on the future peace and security of the world. A treaty prohibiting nuclear weapons on the ocean seabeds has been concluded. A new treaty on Berlin, and a treaty on germ warfare, are two other important steps. Negotiations are underway with the Soviet Union directed at strategic nuclear arms limitations. These talks, which are identified as SALT, have been serious and constructive. At least limited agreement is likely to be achieved in the near future.

As a result of the President's leadership, fighting has stopped in the Middle East, replaced with discussions moving toward serious negotiations. Every conceivable effort has been made to find a way to negotiate an acceptable solution to the Indochina problem.

These have been important first steps from an era of confrontation to an era of negotiation.

Partnership has always been an important element of foreign policy. Nations have joined together to improve their security where they have a common interest. When we say that partnership is one of the three pillars of our new foreign policy, what is meant is that in the future our friends and allies, as our partners, will be expected to bear a larger share of the burden for their own security. They will be expected, as our partners, to take a more responsible role in international monetary policy and international trade as well. Parallel with this, as they carry a larger share of the burden, it is appropriate that they have a larger voice in determining the course of the partnership in areas relating to their national interests.

This new course in American foreign policy, involving as it does a readjustment of responsibilities among the free nations of the world, and a readjustment of American commitments around the world, has a substantial influence on the level and kind of military forces this nation will need in the decades ahead. Reduced commitments, in general, can allow for reduced levels of military forces. In deciding whether there can be an absolute reduction or only a relative reduction, we must not forget that realism is essential in military force planning. Our military strength combined with that of our allies must always be adequate to deter war, both nuclear and conventional, and that deterrence must be realistic and responsive to changing world conditions.

An adequate nuclear deterrent is an absolutely essential requirement of President Nixon's new foreign policy. Without an adequate nuclear deterrent, any significant contribution to world leadership would be impossible. Negotiations would fail and our partners would desert us. If we survived at all as a nation without an adequate nuclear deterrent, it would not be as a great nation.

Today we have an adequate nuclear deterrent—even in the face of a vast Soviet buildup of nuclear weapons. Our weapons have superior characteristics, though the Soviet's are larger in terms of total destructive power. One of these superior characteristics is called MIRV. There was considerable opposition to the MIRV program—its use to improve the capability of our Minuteman forces while the Soviets concentrated on increasing total numbers, and its use in the Poseidon program—a program which has improved the capability of our submarine-based forces during a time when the Soviets have been rapidly increasing theirs. If the opponents of MIRV had prevailed three years ago, we would not have an adequate nuclear deterrent today. The Soviet buildup is continuing and we must not stand still until and unless we achieve mutual agreement on limitations.

We have planned our nuclear forces to be consistent with possible outcomes of the strategic arms limitation talks. We also have taken action to assure that we will have an adequate strategic nuclear deterrent, in case the arms limitation talks fail and the Soviet buildup of nuclear weapons continues.

There are two important actions, within these guidelines, which were taken in preparing the 1973 budget. One was to provide for substantial improvements in the responsiveness and survivability of the command and control of our strategic nuclear forces. This is so urgent, that the President has requested a supplemental appropriation to the fiscal 1972 budget so that this program can be accelerated.

Let me emphasize, in my view, this improvement in the command and control of our strategic forces is absolutely essential if we are to maintain an adequate nuclear deterrent in the future. This new Airborne Command Post program must have the highest priority in the 1972 supplemental request, in the 1973 defense budget, and in future budgets until it is complete and operational.

During these past three years Secretary Laird and I undertook very extensive studies to make sure that our strategic nuclear forces will provide an adequate nuclear deterrent—not only for today, but also into the foreseeable future. These forces include land-based missiles, submarine-launched missiles, and manned bombers. This is the so-called triad. By maintaining these three different types of forces, each with a very substantial capability, we make it impossible for an enemy to avoid unacceptable damage in retaliation to any conceivable attack he can mount. This ability must be assured for the 1970s, the 1980s, and beyond, until and unless some other way is found to eliminate the possibility of nuclear war.

Submarine-launched missile forces are considered by many to be the most important, because they seem potentially the most difficult for an enemy to neutralize. But, as launched forces have potential shortcomings which are being given attention at this time.

There is growing concern among our friends about the desirability of their having foreign nuclear weapons based on their land. It is therefore prudent that we should plan now for submarine-launched strategic forces which can be based in our own territory. However, the relatively short range of our present submarine-launched missiles requires that these submarines be operated at great distances from our borders, and in limited areas of the ocean. With longer range missiles our submarine force could be based at home, and operate over larger areas of the ocean, making it impossible for these forces to be located and destroyed by any means we can envision for the future. Finally, since our present submarine-based forces are under continuous operation they will eventually wear out. We estimate their usefulness will begin to deteriorate toward the end of this decade and they will have to be replaced.

For these very important reasons we have recommended that the development of an undersea long-range missile submarine force (ULMS) be accelerated. Substantial funds to do this are included in the 1973 budget. Additional funding is requested in the 1972 supplemental budget. This ULMS program will asure that we have an adequate nuclear deterrent in the decade of the 1980s and on to the end of this century. It is a major program and the development must be accelerated now to achieve an operational buildup beginning in 1978. This program will require the expenditure of many billions of dollars over an eight to ten year period. By going ahead now we can spread these costs, avoid a large buildup in any one year, and keep the defense budget at a reasonable level as a percentage of our gross national product.

Under this new policy our commitments are limited in a realistic way. We must, however, maintain strong conventional forces to support commitments we believe are important.

The FY 1973 budget provides for a strong Navy to counter the rapid Soviet naval buildup, and a strong Air Force as well. These forces have smaller numbers of ships and planes than they had in previous years, but they are better ships and better planes, and therefore the forces are more capable. The budget provides for fewer men and women in uniform than in previous years, particularly in the Army. The Army, too, has better weapons.

The 1973 budget has a substantial increase in research and development as did the 1972 budget. As Secretary Laird and I have said many times during these past three years—the realities of the situation indicate that we can have adequate forces for the future with lower levels of military manpower. However, America cannot afford to have both lower force levels and inferior weapons. Military research and development must receive increasing support as we reduce our force levels.

Some feel we have cut back too far in our military budget and military forces during these past three years. We have, in fact, made major reductions—while the Soviets, at the same time, have been increasing their military forces. I am confident, however, that the forces planned are adequate, and will remain adequate if they are not reduced further.

Some feel we have not cut back the Defense Budget far enough. They say it is actually as high as it was three years ago—that there is no peace dividend from Vietnam. In real dollars, adjusted for inflation, there has been a substantial reduction—over twenty-five billion dollars. The more important criterion is the effect of the Defense Budget on our economy and our federal resources. In 1968 Defense took 9.5% of this nation's GNP. The 1973 budget will take only 6.5%—the lowest drain on the economy in twenty years. This is a reduction of three full percentage points in relation to the GNP. The GNP should grow to 1,200 billion next year at the end of fiscal 1973. In these terms the reductions that have been made will be a drain on our resources of 36 billion dollars less in 1973 than in 1968. This is the real measure of the substantial reduction that has been made.

Secretary Laird and I have recognized that a strong nation requires both a strong defense and a strong economy. We have considered both in preparing the 1973 Defense Budget and in planning the military forces this budget will support.

This new course President Nixon has chartered for us is designed to bring to America and the world a generation of peace. To achieve this goal will require strong leadership along the course. There will be difficult negotiations to resolve areas of conflict without confrontation that could lead to war. There will be difficult negotiations ahead with our friends and allies to get them to accept a fair share of the burden of partnership. Above all, success toward our goal of a generation of peace requires that we maintain strong military forces—strong to back up the sincerity of negotiations with our enemies; strong to insure the confidence and support of our friends.

America must lead the nations of this world in the attainment of this exciting goal in the decade of the 1970s. America can take this lead only so long as she remains strong.

In the words of our President—"Strong military defenses are not the enemy of peace. They are the guardian of peace."

## QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Byrd of West Virginia) laid before the Senate the following letters, which were referred as indicated:

### Proposed Authorization of Appropriations for Certain Maritime Programs

A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce (with an accompanying paper); to the Committee on Commerce.

### Report of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Inspection and Improved Methods of Administration Needed for Foreign Meat Imports," Consumer and Marketing Service, Department of Agriculture, dated February 18, 1972 (with an accompanying report); to the Committee on Government Operations.

### Report of National Academy of Sciences

A letter from the President, National Academy of Sciences, transmitting, pursuant to law, a report of that Academy, for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Labor and Public Welfare, and ordered to be printed as a Senate Document.

### Report of Secretary of the Senate

A letter from the Secretary of the Senate, transmitting, pursuant to law, a statement of the receipts and expenditures of the Senate, for the 6-month period ended December 31, 1971 (with an accompanying report); ordered to lie on the table and to be printed.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Byrd of West Virginia):

A resolution of the Senate of the State of Rhode Island; to the Committee on Finance:

"Resolution Memorializing Congress To Set Minimum Standards for Private Pension Plans

"Whereas, The Senate Labor Committee of the United States Congress recently revealed that only a fraction of the thirty million United States workers covered by private pension plans will ever receive any payment when they leave work; and

"Whereas, This committee's investigation revealed that in the fifty-one percent of the 5.2 million involved who retired or left their jobs early received nothing; and only three percent of this group retired with full pensions; and

"Whereas, This investigation also revealed that many pension plans invest their funds in the stock of the parent company, thus if the company should go bankrupt, claims for unpaid pension fund contributions are not entitled to priority in bankruptcy proceedings and these obligations are only partially paid if at all; and

"Whereas, Funding alone may not protect employees in the event of plant or company terminations; and

"Whereas, It is evident that only a relative handful of the estimated tens of millions of American workers under priavte pension plans will receive anything from the plans on which they now stake their future; now, therefore, be it

"Resolved, That Congress be respectfully requested to support legislation which would guarantee, through Federal reinsurance, that benefits promised under pension plans will be paid by the Federal Government if the employer fails for any reason to meet his obligation; would set minimum standards for funding, vesting after ten years of service and the portability of pensions; would amend the bankruptcy laws to provide for special priority for pension obligations; would recognize that those responsible for the management of pension funds have assumed a solemn obligation to their covered employees and would impose severe criminal penalties for failure of such officials to exercise their fiduciary responsibility faithfully; and be it further

"Resolved, That the secretary of state be and he hereby is respectfully requested to transmit duly certified copies of this resolution to the President of the Senate of the United States, the Speaker of the House of Representatives, and to the Rhode Island delegation in Congress."

Resolutions of the Senate of the Commonwealth of Massachusetts; to the Committee on Foreign Relations:

"Resolutions Urging A Settlement of the Civil Strife in Northern Ireland

"Whereas, The civil strife in Northern Ireland during recent months has become the social cynosure of the European community and the Western Hemisphere; and

"Whereas, The most recent deaths of thirteen citizens of Northern Ireland has highlighted the tragic dimensions of this internal unrest; and

"Whereas, A world saddened but wisened by a savage and brutal Second World War can no longer tolerate the oppression of a people because of their religious, ethnic or racial identity; therefore be it

"*Resolved*, That the Massachusetts Senate officially expresses to the government of Great Britain the sense of the Senate that the time has come for Great Britain to end the needless oppression and suffering extant in Northern Ireland by relinquishing her claims and ceasing her administration of Northern Ireland; that the time has come to move speedily and with all due regard for and protection of the civil rights of all groups and persons involved to satisfy Irish irredentism and effect the unification of the Irish people; and that the time has come to simultaneously right the wrongs of the past and help ensure a tranquil, prosperous era of cooperation and alliance for Great Britain and Ireland; and be it further

"*Resolved*, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of Congress, to the members thereof from the Commonwealth and to the Secretary General of the United Nations.

"Senate, adopted, February 8, 1972.

"Norman L. Pidgeon,
"*Senate Clerk.*"

A resolution adopted by the City Council of White Salmon, Wash., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the City Council of Carson, Calif., praying for the enactment of H.R. 11950, the Intergovernmental Fiscal Coordination Act of 1971; to the Committee on Finance.

A resolution adopted by the City Council of Hoquiam, Wash., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the City Council of Yonkers, N.Y., praying for an end to the violence in Northern Ireland; to the Committee on Foreign Relations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. Burdick, from the Committee on the Judiciary, without amendment:

H.R. 1824. An act for the relief of Clinton M. Hoose (Rept. No. 92–635);

H.R. 2828. An act for the relief of Mrs. Rose Scanio (Rept. No. 92–636);

H.R. 2846. An act for the relief of Roy E. Carroll (Rept. No. 92–637);

H.R. 4497. An act for the relief of Lloyd B. Earle (Rept. No. 92–638);

H.R. 4779. An act for the relief of Nina Daniel (Rept. No. 92–639);

H.R. 6998. An act for the relief of Salman M. Hilmy (Rept. No. 92–640); and

H.R. 7871. An act for the relief of Robert J. Beas. (Rept. No. 92–641).

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## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SAXBE:

S. 3217. A bill to provide loans to enable certain health care facilities to meet requirements of the Life Safety Code. Referred to the Committee on Finance.

By Mr. McGOVERN:

S. 3218. A bill to declare that certain federally owned lands are held by the United States in trust for the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Indian Reservation in North and South Dakota;

S. 3219. A bill to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its land holdings in North Dakota and South Dakota, and for other purposes; and

S. 3220. A bill to amend the Wild and Scenic Rivers Act. Referred to the Committee on Interior and Insular Affairs.

S. 3221. A bill to establish an Emergency Medical Services Administration within the Department of Health, Education, and Welfare to assist communities in providing professional emergency medical care. Referred to the Committee on Labor and Public Welfare.

By Mr. BIBLE (for himself and Mr. Metcalf):

S. 3222. A bill to amend the Alaska Native Claims Settlement Act. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRAVEL:

S. 3223. A bill to halt further operation and construction of civilian nuclear powerplants until the probabilities of major accidents and nuclear pollution are reduced by tested methods, until the justification for creating a permanent radioactive legacy is more widely debated, and until alternative energy sources are considered. Referred to the Joint Committee on Atomic Energy.

By Mr. SPARKMAN (for himself and Mr. Allen):

S. 3224. A bill to designate the Sipsey Wilderness and establish the Sipsey National Recreation Area, Bankhead National Forest, in the State of Alabama; and

S. 3225. A bill to establish Southeastern Wild Areas in U.S. national forests with the Sipsey Wild Area in the Bankhead National Forest as a prototype. Referred to the Committee on Agriculture and Forestry.

By Mr. DOMINICK (for himself and Mr. Allott):

S. 3226. A bill to modify the project for flood control below Chatfield Dam on the South Platte River, Colo., authorized by the Flood Control Act of 1950. Referred to the Committee on Public Works.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SAXBE:

S. 3217. A bill to provide loans to enable certain health care facilities to meet requirements of the Life Safety Code. Referred to the Committee on Finance.

Mr. SAXBE. Mr. President, in the cold early morning hours of January 26, 1972, a fire swept through a nursing home in Cincinnati, Ohio, killing 10 and reaping heavy damage. This kind of tragedy has happened before in other places.

Mr. President, the Federal Government has jurisdiction over the fire and safety regulations of extended care facilities and skilled nursing homes certified under titles 18 and 19—medicare and medicaid—of the Social Security Act. Through a bill passed during the first session of this Congress, moreover, intermediate care facilities—such as the one that burned in Cincinnati—were placed under the same jurisdiction.

In many cases, nursing home facilities—for various reasons—have been exempt from some of the safety standards, and many homes lack adequate fire protection equipment. Today, I am introducing legislation designed to aid facilities in meeting safety standards by providing Government-backed low-interest loans to improve their fire protection equipment. Briefly, the loans would be issued by the Secretary of Health, Education, and Welfare to qualifying facilities, and they would be repayable over a 10-year period. Mr. President, I ask unanimous consent that the context of the bill be printed in the Record.

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

S. 3217

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) it is the purpose of this Act to provide assistance in the form of loans to hospitals and extended care facilities, which are providers of service participating in the health insurance program established by title XVIII of the Social Security Act, in meeting requirements of the Life Safety Code of the National Fire Protection Association.

(b) The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") is authorized for a period of five years commencing January 1, 1972, to lend to any hospital or extended care facility described in subsection (a) a sum sufficient to enable such hospital or extended care facility to install five protection equipment necessary to meet the requirements of the Life Safety Code of the National Fire Protection Association, but only if a State planning agency described in section 314(a), section 314(b), or section 604(a) of the Public Health Service Act (or such other appropriate planning agency as may be designated by the Secretary) determines that the proposed expenditure should be made to permit the continued participation of such hospital or extended care facility in the program established by title XVIII of the Social Security Act, and that the proposed investment is not inconsistent with, or inappropriate in terms of area needs for the facility concerned.

(c) (1) Loans under this Act shall be made only upon application therefor and shall be made by the Secretary in such amounts as the Secretary determines to be appropriate to carry out the purposes of this Act and protect the financial interests of the United States.

(2) The rate of interest to be charged for any loan under this Act shal be the average of the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund as determined at the time such loan is made.

(3) Such loans shall be repaid over a period of not to exceed 10 years, in equal periodic installments to be made out less frequently than annually.

(4) Such loans shall become due and payable in full at once if the Secretary determines (A) that the funds in question were not used for the purpose specified in the loan application, or (B) that the facility has ceased to make its services available to a reasonable proportion of persons entitled to benefits under title XVIII of the Social Security Act in the area served by such facility and who require such services.

(d) No hospital or extended care facility shall be eligible for a loan under this Act unless—

(1) it was in operation and participating as a provider of services under title XVIII of the Social Security Act on January 1, 1972,

(2) the building in which the equipment is to be installed was constructed prior to January 1, 1972, and

(3) the Secretary is satisfied that the applicant is unable to secure such loan from other sources or is unable to secure such loan from other sources at a reasonable rate of interest and on reasonable terms and conditions.

(e) There are authorized to be appropriated for the fiscal year ending June 30, 1972, and for each of the next five fiscal years such sums as may be necessary to carry out this Act.

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By Mr. McGOVERN:

S. 3220. A bill to amend the Wild and Scenic Rivers Act. Referred to the Committee on Interior and Insular Affairs.

Mr. McGOVERN. Mr. President, I introduce a bill which will protect the beautiful Oklawaha River from desecration by including it within the Wild and Scenic Rivers System. This lovely winding river, twisting its serene way through central Florida, is one of the most scenic rivers in the United States. Tree lined and veiled with Spanish moss, it deserves to be kept in its natural state and my bill would accomplish this. With the halt in construction of the Cross-Florida Barge Canal, which I opposed, the Oklawaha won a reprieve. Let us insure that it remains forever free by including it in the Federal system of wild rivers.

I ask unanimous consent that the text of my bill be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3220

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3(a) of the Wild and Scenic Rivers Act is amended by adding at the end thereof the following:

"(9) Oklawaha River, Florida.—The entire river".

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By Mr. McGOVERN:

S. 3221. A bill to establish an Emergency Medical Services Administration within the Department of Health, Education, and Welfare to assist communities in providing professional emergency medical care. Referred to the Committee on Labor and Public Welfare.

### EMERGENCY MEDICAL SERVICES ACT

Mr. McGOVERN. Mr. President, I introduce for appropriate reference a bill entitled "The Emergency Medical Services Act." The same legislation is being introduced in the House of Representatives by Mr. MOLLOHAN, of West Virginia, and Mr. ROBISON, of New York, and I commend their excellent, pioneering work on this important subject.

With attention focused on other important aspects of health care, few people are aware that simply by using emergency techniques and equipment already developed, we could, at very little cost, save tens of thousands of lives each year. According to a recent Public Health Service estimate, as many as 60,000 lives could be saved annually if we had truly effective ambulance and hospital emergency room systems throughout the country.

That is the objective of this legislation. I urge speedy action.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3221

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Emergency Medical Services Act".

### FINDINGS; DECLARATION OF POLICY AND PURPOSE

SEC. 2. (a) The Congress finds that countless lives have been and are being lost through the lack of prompt and professional ambulance care, and that many of these lives could be saved if such care were more readily available.

(b) It is the policy of the Congress and the purpose of this Act to prevent this needless loss of life by upgrading the quality of ambulance care in the United States through the establishment of a Federal entity having the power to set standards for ambulance vehicles, equipment, and personnel training and the authority to provide financial assistance to qualified ambulance services operated by or under the supervision and auspices of local political subdivisions or combinations thereof.

### ESTABLISHMENT OF EMERGENCY MEDICAL SERVICES ADMINISTRATION

SEC. 3. There is established within the Department of Health, Education, and Welfare an Emergency Medical Services Administration (hereinafter referred to as the "Administration"). The Administration shall be headed by a Director (hereinafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

### DIRECTOR OF THE ADMINISTRATION; TECHNICAL AND PROFESSIONAL PERSONNEL

SEC. 4. (a) The Director, under the general direction and supervision of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), shall carry out the functions and responsibilities vested in or transferred to him or the Administration by or under this Act, and shall perform such related duties as may be prescribed by the Secretary to carry out the purpose of this Act.

(b) The Director shall serve at the pleasure of the President and shall receive basic pay at the rate prescribed for level 18 of the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code.

(c) With the approval of the Secretary, the Director shall appoint such technical and professional personnel as he deems necessary, in addition to the regular personnel of the Department under his jurisdiction and control, to carry out the functions of the Administration, and shall fix the pay of the personnel so appointed, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

### ESTABLISHMENT OF STANDARDS FOR OPERATION OF AMBULANCE AND RELATED SERVICES

SEC. 5. The Director shall establish, keep current, and from time to time publish standards to govern the operation of ambulance and other emergency medical services. Such standards, which shall be designed to insure that such services are professionally provided and effectively available on the widest possible basis, shall include (without being limited to) standards and minimum requirements for—

(1) the licensing of ambulance services based (in the case of any entity providing such services) upon periodic inspection of its vehicles and equipment, and periodic review of the training level of its personnel and the adequacy of its dispatching and communications system;

(2) the licensing of ambulance drivers, and of ambulance attendants (taking into account the extent to which they meet the standards established by the Director with respect to level of medical training);

(3) the type and amount of equipment to be carried aboard ambulance vehicles;

(4) adequate liability insurance to cover ambulance operations;

(5) the performance of advisory and monitoring functions by physicians in connection with ambulance operations;

(6) the filing of reports on all calls to which response is made in the provision of ambulance services; and

(7) the revocation of licenses, or the imposition of other penalties, for violation of any of the standards established under this section.

### FINANCIAL ASSISTANCE FOR OPERATION OF LOCAL AMBULANCE SERVICE

SEC. 6. (a) In order to make funds available to local communities and regional combinations thereof to assist them in the development and operation of ambulance services meeting the standards prescribed under section 5, the Director is authorized to allot funds to qualified States for distribution among their political subdivisions as provided in this section.

(b) (1) The Director shall allocate and pay to each State which qualifies for assistance under this section with respect to any fiscal year, from the funds appropriated pursuant to section 11(a) for such year, an amount (based on the population of the State and other conditions, such as population density and the availability of physicians and hospital facilities, demonstrating or bearing upon the adequacy of ambulance services in the State) which reflects the needs of such State and its political subdivisions for improved ambulance services relative to the corresponding needs in other qualified States.

(2) A State is qualified for assistance under this section with respect to any fiscal year if (and only if) it has in effect throughout such year a fully implemented comprehensive ambulance program, submitted by the Governor of the State and approved by the Director, which provides for financial

assistance to political subdivisions of the State or regional combinations thereof for the development and operation of ambulance services, and for the licensing of such services, based on vehicle design standards, personnel training standards, equipment standards, and other standards designed and established to improve the quality of ambulance care.

(c) Subject to subsection (d), funds made available to a qualified State with respect to any fiscal year under subsection (b) shall be disbursed by the appropriate agency of such State, in accordance with the State's comprehensive ambulance program and on such additional terms and conditions (consistent with such program) as such agency deems appropriate, to political subdivisions of the State or regional combinations thereof for the development and operation of improved ambulance services by or under the supervision and auspices of such subdivisions or combinations.

(d)(1) No funds shall be disbursed by a State to any political subdivision or regional combination of subdivisions under subsection (c) unless and until the Director has specifically approved such disbursement as suitably contributing to the achievement of the purpose of this Act on the basis of (A) reports submitted by such subdivision or combination along with its application for funds, and (B) any onsite inspections, review and other information and data which the Director may deem necessary.

(2) The amount of the funds disbursed by a State to any political subdivision or regional combination of subdivisions under subsection (a) with respect to any fiscal year for the development and operation of ambulance services shall not exceed one-third of the costs incurred or to be incurred by such subdivision or combination during such year for the development and operation of such services.

(e) Under regulations prescribed by the Director, any funds which have been disbursed by a State to a political subdivision or combination of subdivisions with respect to any fiscal year for the development and operation of ambulance services, and which remain unexpended and unobligated, may be withdrawn from such subdivision or combination (and redistributed to other political subdivisions or regional combinations of subdivisions in that State, or to other qualified States) if the Director deems the withdrawal of such funds warranted on the basis of subsequent inspections made or information received.

### FINANCIAL ASSISTANCE FOR INITIAL PURCHASE OF AMBULANCE EQUIPMENT

SEC. 7. In addition to providing financial assistance for the development and operation of improved ambulance services under section 6, the Director is authorized to assist in the establishment of new ambulance services in any political subdivision or regional combination of political subdivisions in a qualified State by making grants to such subdivision or combination of subdivisions for the initial purchase of ambulance vehicles, equipment, and communication systems to be used in the provision of ambulance services by or under the supervision and auspices of such subdivision or combination. A grant under this section shall be in an amount not exceeding 50 per centum of the cost of purchasing the ambulance vehicles, equipment, and communication systems involved, and shall be made only to a political subdivision or combination of political subdivisions which demonstrates to the satisfaction of the Director that, with the acquisition of such vehicles, equipment, and systems, it will rapidly be able to provide ambulance services fully complying with the standards established by the Director under section 5.

### TRANSFER OF CERTAIN HIGHWAY SAFETY FUNCTIONS TO DIRECTOR

SEC. 8. (a) All functions, powers, and duties of the Secretary of Transportation and the National Highway Safety Bureau relating to emergency medical services (standard numbered 11) which are being exercised under, in connection with, or as a part of the uniform standards for State highway safety programs are transferred to and vested in the Secretary of Health, Education, and Welfare, to be exercised and carried out by him through the Director and the facilities and other personnel of the Administration.

(b) So much of the positions, personnel, assets, liabilities, contracts, property, records, and unexpended balances of authorizations, allocations, and other funds of the Secretary of Transportation and the National Highway Safety Bureau as were employed, held, used, or available for use exclusively or primarily in connection with the functions, powers, and duties transferred by subsection (a) shall be transferred to the Secretary of Health, Education, and Welfare along with such functions, powers, and duties.

(c) The transfers under subsections (a) and (b) shall be made in accordance with such regulations as the Director of the Office of Management and Budget may prescribe to carry out this section.

(d) With respect to any function, power, or duty transferred by subsection (a) and exercised after the date of the enactment of this Act, any reference in any law, document, or record to the Secretary of Transportation or the National Highway Safety Bureau shall be deemed to be a reference to the Director of the Emergency Medical Services Administration.

### APPLICATION OF STANDARDS TO FEDERAL PROGRAMS

SEC. 9. (a) The standards established by the Director under section 5 shall apply to and govern the operation of all ambulance and other emergency medical services which are provided or assisted in any way under Federal law or under programs established, carried on, or supported under Federal law.

(b) No loan, grant, or other assistance in any form shall be provided under any Federal law, directly or indirectly, to any public or private agency, organization, or other entity engaged in furnishing ambulance services, or to any State or local governmental agency exercising jurisdiction, control, or regulatory authority over any such entity, unless such services meet the applicable standards established by the Director under section 5.

(c) The Director shall consult with and provide technical and other advice and services to the heads of the various Federal departments and agencies having jurisdiction over programs or activities involving the provision of ambulance or other emergency medical services or the provision of assistance in any form, directly or indirectly, to entities furnishing such services, in order to insure that the requirements of this section will be met and that all such programs and activities of the Federal Government will be effectively coordinated with a view to the widest possible achievement of the purpose of this Act.

### GENERAL PROVISIONS

SEC. 10. (a) In administering the provisions of this Act, the Director is authorized to utilize the services and facilities of any other agencies of the United States and of any non-Federal public or nonprofit private agencies or institutions, in accordance with agreements entered into between the Director and the heads of such agencies or institutions, on a reimbursable basis or otherwise.

(b) The Director is authorized to conduct or contract with others to conduct studies and research projects on the problems and conditions of emergency medical care and on methods of upgrading emergency medical services. Any such studies or projects shall particularly be directed toward the utilization of technological advances in the improvement of ambulance care.

(c) The Director, with the approval of the Secretary, shall prescribe such regulations as may be necessary or appropriate to carry out this Act.

(d) The Director shall annually submit to the President and the Congress a full and complete report on activities under this Act, including such recommendations as he may consider necessary or desirable for legislative or administrative action to improve and make more effective the program under this Act.

### AUTHORIZATION OF APPROPRIATION

SEC. 11. (a) For assistance under sections 6 and 7, there is authorized to be appropriated the sum of $100,000,000 for the fiscal year ending June 30, 1973, the sum of $125,000,000 for the fiscal year ending June 30, 1974, and the sum of $150,000,000 for the fiscal year ending June 30, 1975.

(b) For other expenses incurred by the Director and the Administration in carrying out this Act, there is authorized to be appropriated the sum of $50,000,000 for the fiscal year ending June 30, 1973, the sum of $60,000,000 for the fiscal year ending June 30, 1974, and the sum of $70,000,000 for the fiscal year ending June 30, 1975.

(c) Any amounts appropriated pursuant to this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1975.

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By Mr. BIBLE (for himself and Mr. METCALF):

S. 3222. A bill to amend the Alaska Native Claims Settlement Act. Referred to the Committee on Interior and Insular Affairs.

### AMENDMENT TO ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. BIBLE. Mr. President, on behalf of myself and the junior Senator from Montana (Mr. METCALF), I introduce for appropriate reference a bill to amend the Alaska Native Claims Settlement Act of 1971. This amendment is designed to deal with a number of problems which have come to attention since this measure became law on December 18, 1971.

The amendment in major part is patterned after an amendment introduced in the House of Representatives by Congressman ASPINALL. The purpose of that amendment was to correct technical errors and internal inconsistencies. The amendment I introduce today would also conform the act to achieve what the conferees intended with respect to Naval Petroleum Reserve No. 4. It was the intent of the conferees that no subsurface estate be granted by the act to any lands within the petroleum reserve. I have, however, been informed that the Solicitor of the Department of the Interior feels that the act could be construed to permit one of the regional corporations to gain title to subsurface estate in some of the lands granted out of the petroleum reserve. This is contrary to the conferees' clear intent and should, in my view, be corrected by amendment.

Finally, the amendment deals with a

question which arose after the adoption of the act. The question is this: Does the State of Alaska have the right under the act to make land selections during the 90-day statutory land withdrawal period provided for in the act? The question is raised because the State of Alaska has attempted to select 74 million acres of land under the Statehood Act. This selection is in apparent conflict with the intent of the act and with Federal plans for additions to the Park and Wildlife Refuge System and may conflict with Native selection rights.

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By Mr. GRAVEL:

S. 3223. A bill to halt further operation and construction of civilian nuclear powerplants until the probabilities of major accidents and nuclear pollution are reduced by tested methods, until the justification for creating a permanent radioactive legacy is more widely debated, and until alternative energy sources are considered. Referred to the Joint Committee on Atomic Energy.

### SUSPENSION OF NUCLEAR POWERPLANT OPERATIONS

Mr. GRAVEL. Mr. President, the bill I introduce today would stop nuclear powerplant construction and operation, at least on a temporary basis, and therefore it would probably be called the nuclear power moratorium bill.

Mr. President, I shall ask that the full text of this bill be printed at the end of my remarks.

The reason for this bill is the multiplicity of unresolved safety problems regarding nuclear powerplants and their radioactive fuel cycles. Simply stated, the pace of nuclear licensing far exceeds the readiness of the technology.

### A SURVEY OF NUCLEAR PROBLEMS

There are problems revealed almost daily in nuclear reactor design, manufacturing, construction, and operation.

In the West, we have found reactors located next to earthquake faults, and underdesigned for earthquakes which have more ground motion than predicted.

In the East, we have had the first case of sabotage—apparent arson by a worker at the Indian Point No. 2 nuclear plant near Peekskill, N.Y.

Vigorous dissent rages among nuclear safety experts on whether or not the most important safety system in a nuclear reactor will work effectively or not. The first large-scale test will not occur until 1975, and by itself cannot fully answer the crucial question. In recognition of the uncertainty, the AEC promulgated "interim" measures in June 1971, the adequacy of which is hotly disputed today even within the AEC's own staff. Some details on this particular controversy were place by me into the RECORD yesterday.

The possibility of building nuclear powerplants deep underground still needs exploration, and we urgently need an independent evaluation of the accident and sabotage hazards at nuclear fuel-reprocessing plants.

There are unresolved problems in the transport of radioactive fission products and plutonium on our highways and railways.

There is the problem of preventing theft of plutonium, which is probably worth more than heroin on the black market. It takes just a few pounds to make a nuclear bomb.

There is the overwhelming problem of human fallibility. For the nuclear power industry to leave us a livable world, it must perform all its radioactive operations and storage with 99.999-percent perfection, or else we face permanent nuclear poisoning of the planet. Performance, not good intention, is what counts. Every time a few million more defective automobiles are recalled, we had better start wondering about the nuclear power industry.

Although we are in the infancy of this technology, our civilian nuclear powerplants are already producing radioactive waste each year equivalent to the fissioning of 10,000 Hiroshima bombs. This radioactive legacy will have to be stored for several thousand years somehow, but no one agrees how.

The need to cope with this problem is felt so desperately that the AEC Chairman is now talking about shooting the waste in rockets into space. That might be fine, except that we will have to wait, forever perhaps, for infallible rockets.

There are presently 23 operating nuclear powerplants in the country, average size 440 electrical megawatts. By the end of 1972, the AEC hopes that 15 more will be ready, average size 700 megawatts. In other words, we are fast approaching the No. 50.

### ACCIDENTS "AN ABSOLUTE CERTAINTY"

> Better government notwithstanding, when we talk about fifty [nuclear] reactors, the statistical probability of something going wrong and an accident occurring is an absolute certainty. . . . Mathematically, this is a certainty, and in a short finite period of time. . . . My feeling is that they will be minor accidents.

The statement was made by M. A. Shultz, professor of nuclear engineering at Penn State University.

All he has offered us is a hunch that the inevitable accidents will not be of catastrophic proportions. But then again, no one denies that a single nuclear accident could lay radioactive waste to a huge section of the country tomorrow. Everyone acknowledges the possibility, but no one knows the odds.

To argue that nuclear reactors are safe because we have not had a big accident yet is like arguing that your house is fireproof because it has not burned down yet. Yet we hear the argument frequently offered by nuclear promoters.

### THE MORAL IMPERATIVES OF NUCLEAR ENERGY

More honest treatment of the hazard can be found in an important article in the December 1971 issue of Nuclear News, which is the journal of the American Nuclear Society. Entitled "The Moral Imperatives of Nuclear Energy," the article is by the Director of the AEC's Oak Ridge National Laboratory, Dr. Alvin Weinberg.

I do not mean to imply that Dr. Weinberg, any more than Professor Shultz, supports this bill. Nevertheless, in this article Dr. Weinberg points out that peaceful nuclear fission is "intrinsically dangerous," that we might not develop it if solar or fusion power were developed instead, and that deficiencies in fission technology, if unremediable, "could mean catastrophe for the human race."

When such an awesome possibility exists, it seem obvious that the burden of proof belongs on the AEC and the nuclear industry to show that nuclear power will not mean catastrophe; the burden of proof does not lie on the public to prove that it will.

The most profound and public debate is required before our economy becomes dependent on nuclear electricity, not afterwards. Therefore a moratorium is needed now, right away.

### NO ONE PLANS A DISASTER

There has never been a public hearing specifically on nuclear hazards, at least not by my concept of the word, before any committee of Congress.

The assumption has simply been made at congressional hearings that, since sincere efforts are applied to preventing nuclear catastrophe, such efforts will actually succeed. Thus we are repeatedly offered the rosy prediction that by the year 2000, the population will be receiving only a trivial radiation exposure from nuclear power.

Truly this may be the plan—no one plans a disaster, at any rate. But the rosy predictions, so different from the warnings of Dr. Weinberg and others, are all based on the wild assumption that everything will go as perfectly as planned. That assumption urgently needs congressional examination.

### RELATIONSHIP TO S. 1855 AND PRICE-ANDERSON ACT

There is glaring evidence right in the Atomic Energy Act that no one believes nuclear operations will go as planned. I am referring to its section 170, which was added by the Price-Anderson Act of 1957.

Section 170 acknowledges that giant nuclear accidents can happen, and then actually removes the very restraint which normally operates to prevent reckless activities—namely, full liability for public damages.

Section 170 places a limit for public liability at $560,000,000 per nuclear accident, regardless of the real size of the damage, and leaves the taxpayers instead of the AEC licenseholder to pay 83 percent of that. In other words, the victims do the paying.

This strange piece of legislation was written after the AEC had calculated that a single nuclear accident might cause $7 billion in public injury, an estimate which is now too low. Private industry refused to build nuclear powerplants if it had to be financially responsible for potential catastrophes, and so the Price-Anderson Act was written to provide 10 years of protection for the industry.

I am afraid Congress literally did not know what it was doing when it passed that piece of legislation in 1957. There was no rollcall vote in either the House or the Senate, and when the Price-Anderson Act was renewed in 1965, there was a rollcall vote in the House but none in the Senate.

Even today, I think many Members of Congress do not know that law exists. Otherwise, I feel confident there would be cosponsors for my bill, S. 1855, which would repeal most of it.

As long as a law is necessary to deal with catastrophic nuclear accidents, there is no point denying that such nuclear catastrophes are possible. Until the utilities themselves unite to repeal Price-Anderson and to accept unlimited financial responsibility for nuclear damage there is no reason for any of us to have confidence in their nuclear safety claims, and there is every reason to declare a nuclear moratorium.

### SUMMARY OF THE MORATORIUM BILL

The bill I am introducing today is designed "to halt further operation and construction of civilian nuclear powerplants until the probabilities of major accidents and nuclear pollution are reduced by tested methods, until the justification for creating a permanent radioactive legacy is more widely debated, and until alternative energy sources are considered."

The bill has Congress declare that the pace of nuclear powerplant licensing is not consistent with the health and safety requirement of section 3 of the Atomic Energy Act, and has Congress direct the AEC to suspend or revoke all powerplant licenses under section 186 of the Atomic Energy Act, and to arrange promptly for just compensation to licensees and disemployed Government and private workers under section 186 as amended by section 2 of this bill.

Since the bill refers to two provisions already in the Atomic Energy Act, their content should be made clear.

The relevant text of section 3, which is called "Purpose," states that one purpose of the Atomic Energy Act is to provide for "a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public."

The relevant text of section 186, which is called "Revocation," states the following:

> Any license may be revoked for . . . failure to observe any of the terms and provisions of this Act . . . Upon revocation of the license, the Commission may immediately retake possession of all special nuclear material held by the licensee. In cases found to be of extreme importance to the national defense and security or to the health and safety of the public, the Commission may recapture any special nuclear material held by the licensee or may enter upon and operate the facility prior to any of the procedures provided under the Administrative Procedure Act. Just compensation shall be paid for the use of the facility.

The second section of the bill I am introducing today would add another subsection to section 186, in order to provide "just and prompt compensation" in cases of license suspension as well as license revocation, and to provide it for affected employees as well as license holders. It also clarifies the right of individual State governments to prevent nuclear power operations within their States.

The compensation provisions of the nuclear moratorium bill offer the same level of protection to the nuclear industry which the industry has allegedly been offering to the public—namely, reasonable assurance that there will not be undue risk to its health and safety.

I believe that the nuclear industry deserves this kind of assurance from the Government. After all, it was the Government which vigorously pushed nuclear power and prematurely licensed nuclear powerplants.

### GROWING DEMAND FOR A MORATORIUM

There is no doubt in a growing number of minds that the licensing of nuclear powerplants is premature and inconsistent with public health and safety.

For instance, in California, half a million citizens signed an initiative petition which put a 5-year statewide nuclear moratorium on the June 1972 ballot.

In Oregon, a similar citizen initiative procedure is underway for November.

The Governor of Minnesota, Wendell R. Anderson, has urged the Minnesota Legislature to enact a nuclear moratorium of indefinite duration in that State. Early in 1971, State Senator Nicholas Coleman had introduced such a bill into the Minnesota Legislature.

In Kansas, the Kansas Academy of Science released its report in October 1971, stating that, if the problems of radioactive waste storage appear insurmountable, "a temporary moratorium on promotion of light-water, fission-type, nuclear powerplants must be considered."

In both Pennsylvania and South Carolina, the State legislatures have formed special nuclear study committees.

The distinguished Board of the Committee for Nuclear Responsibility, which includes four Nobel Laureates, has been urging a national nuclear power moratorium for a year already.

The Union of Concerned Scientists in Cambridge, Mass., has been urging a national moratorium since July 1971.

The National Intervenors, representing a coalition of citizen groups opposed to nuclear power in 14 States, announced its position in favor of a moratorium in January 1972.

Nevertheless, I do not pretend that a majority of the American people are presently demanding a nuclear power moratorium. Most people hardly understand what a nuclear powerplant is at all. But among those who do understand, there may well be a majority who are already very worried.

### PREVIOUS STATEMENTS ON NUCLEAR HAZARDS

In my opinion, their worries are amply justified. I have previously placed a number of statements and papers on nuclear hazards in the Record, including the following:

April 6, 1970: "The Future Use of Atomic Energy."

April 30, 1970: "Radiation: the Ultimate Pollutant."

May 12, 1970: "Atomic Energy Commission."

May 13, 1970: "International Commission on Radiological Protection."

September 22, 1970: "National Air Quality Standards."

March 10, 1971: "Safe Electrical Energy."

March 19, 1971: "Concern Over Nuclear Power Plant Safety."

April 29, 1971: "Breeder Reactors and the Danger of Plutonium."

May 13, 1971: "S. 1855, Repeal of the Price-Anderson Act."

May 26, 1971: "Let's Learn About the Breeder."

June 10, 1971: "Radioactive Contamination From Nuclear Power Plants."

July 8, 1971: "The President's Energy Message."

July 20, 1971: "AEC Authorizations, 1972."

July 31, 1971: "Public Works Appropriations, 1972."

August 4, 1971: "S. 2430, a Bill To Reconcile Contradictory Risk-Estimates Regarding Nuclear Electricity."

October 15, 1971: "The Illusion of Nuclear Safety."

October 15, 1971: "Another Nasty Nuclear Surprise."

October 20, 1971: "Dealing With Nuclear Investors."

November 30, 1971: "What Is New at the AEC?"

December 2, 1971: "Politics of Electric Power."

January 25, 1972: "Radiation and the War on Cancer."

February 8, 1972: "Battling With the AEC."

February 14, 1972: "Amendment No. 879 to S. 3103, AEC Authorizations 1973."

February 22, 1972: "Looking for Nuclear Information."

February 23, 1972: "The Consequences of a Nuclear Moratorium."

Reprints are available from my office. In the weeks ahead, I shall place additional material in support of this moratorium bill into the Record. Cosponsorship of the bill would be welcome.

### THE FINANCIAL AND ECONOMIC COMMITTEES OF CONGRESS

I believe it is time for the several economic committees of Congress to examine not only the economic implications of the proposed nuclear moratorium, but also the economic consequences of a single severe nuclear accident upon the whole economy, and the economic implications of very heavy private investment in a seriously flawed and unpopular technology which may never work out acceptably.

Mr. President, I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

### S. 3223

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) Congress declares that an unacceptable immediate and future threat to the health and safety of the public is created by the operation of nuclear power plants prior to the installation of safety systems of tested effectiveness and prior to demonstration of safe methods for confining radioactive waste in perpetuity, and that this situation is not consistent with the requirement of section 3 d. of the Atomic Energy Act of 1954 that encouragement of widespread civilian energy activities must be consisted with the health and safety of the public.

(b) The Atomic Energy Commission is directed to suspend or revoke all construction and operating permits and licenses for civilian nuclear power plants granted under sections 103 and 104 of the Atomic Energy Act of 1954 and to arrange promptly for just compensation under the provisions of section 186 of such Act as amended by section 2 of this Act.

Sec. 2. (a) Section 186 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2236), is amended by—

(1) inserting in subsection a. immediately before the period at the end thereof a comma, and the following: "or following a determination that the facility presents or will present an unacceptable threat to the health and safety of the public"; and

(2) adding immediately after subsection c. the following new subsections:

"d. The Commission shall suspend any license issued under sections 103 or 104 following a determination that the licensed facility presents or will present an unacceptable threat to the health and safety of the public.

"e. A determination that a licensed facility presents or will present an unacceptable threat to the health and safety of the public under subsection a. or d. of this section may be made by the Commission, the Atomic Safety and Licensing Boards, by any court of competent jurisdiction in the United States, Congress, the legislature of any State in which such a facility is located, or by statutory enactment through citizen initiative procedures in any State in which such a facility is located and in which such procedures are lawful, any other provisions of this Act notwithstanding. Upon the suspension or revocation of the license by the Commission after such a determination has been made, the Commission may immediately recapture any special nuclear material held by the licensee or may enter upon and close the facility prior to any of the procedures provided under the Administrative Procedure Act. Whenever any license is suspended or revoked by the Commission as a result of a change in public policy rather than as a result of negligence or deception on the part of the licensee, the licensee and all employees of any facility, contractor, or agency affected by such action shall be entitled to just and prompt compensation by the Federal Government for financial loss and hardship incurred as a result of such suspension or revocation."

(b) (1) The caption of such section 186 is amended to read as follows:

"Sec. 186. Revocation and Suspension.—"

(2) The table of contents at the beginning of such Act is amended by striking out:

"Sec. 186. Revocation."

and inserting in lieu thereof:

"Sec. 186. Revocation and Suspension.".

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By Mr. SPARKMAN (for himself and Mr. Allen):

S. 3224. A bill to designate the Sipsey Wilderness and establish the Sipsey National Recreation Area, Bankhead National Forest, in the State of Alabama; and

S. 3225. A bill to establish Southeastern Wild Areas in U.S. national forests with the Sipsey Wild Area in the Bankhead National Forest as a prototype. Referred to the Committee on Agriculture and Forestry.

Mr. SPARKMAN. Mr. President, on April 21, 1971, for myself and for Senators Allen, Bennett, Church, Eastland, Hart, Hatfield, Jackson, Metcalf, Tower, and Young, I introduced a bill, S. 1608, to designate certain lands within the Bankhead National Forest in Alabama as a wilderness area. The area involved surrounds the headwaters of the Sipsey River, and, under our bill, was to be known as the Sipsey Wilderness. Our bill is pending before the Senate Agriculture Committee.

Subsequent to the introduction of the bill, some feeling arose among those interested in the area that our bill was more broad than necessary in order to protect the Sipsey area. As a result, there have been submitted to me two further drafts of bills, with a request that they be introduced and made available for consideration by the committee and interested Senators. My colleague, Senator Allen, has received a similar request and, accordingly, we are introducing today two further bills dealing with the preservation of the Sipsey area for the enjoyment of future generations.

I ask unanimous consent that the two bills be printed in the Record following my remarks.

There being no objection, the bills were ordered to be printed in the Record, as follows:

### S. 3224

A bill to designate the Sipsey Wilderness and establish the Sipsey National Recreation Area, Bankhead National Forest, in the State of Alabama

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That certain lands within the Bankhead National Forest, Alabama, depicted as the "Sipsey Wilderness" on a map entitled "Sipsey Wilderness and National Recreation Area—Proposed", dated January 7, 1972, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, are hereby designated as the Sipsey Wilderness within and as a part of the Bankhead National Forest, comprising an area of approximately 6,000 acres.

Sec. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture (hereinafter called the "Secretary") shall file a map and a legal description of the Sipsey Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided however,* That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 3. The Sipsey Wilderness shall be administered by the Secretary in accordance with the provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131 et. seq.) governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Sec. 4. In order to provide for the public outdoor recreation use and enjoyment of certain forested areas and recreational facilities in the State of Alabama by present and future generations and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Sipsey National Recreation Area (hereinafter referred to as the "recreation area"), within and a part of the Bankhead National Forest comprising an area of approximately 3,000 acres.

Sec. 5. The recreation area shall consist of those lands depicted as the "Sipsey National Recreation Area" on the map referred to in Section 1 of this Act. The Secretary shall, as soon as practicable after the date this Act takes effect, publish in the Federal Register a detailed description and map showing the boundaries of the Sipsey National Recreation Area.

Sec. 6. The administration, protection, and development of the recreation area shall be by the Secretary in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best provide for (1) public outdoor recreation benefits, (2) conservation of scenic, scientific, historical, and other values contributing to public enjoyment, and (3) such management, utilization, and disposal of natural resources as in his judgment will promote, or is compatible with, and does not significantly impair the purposes for which the recreation area is established.

Sec. 7. The Secretary may acquire by purchase with donated or appropriated funds, by gift, exchange, bequest, or otherwise, such lands or interests therein within the boundaries of the recreation area as he determines to be needed for the purposes of this Act.

Sec. 8. (a) As soon as practicable after the date of enactment of this Act, the Secretary shall institute an accelerated program of development of facilities for outdoor recreation in the recreation area. Such facilities shall be so devised to take advantage of the topography and geographical location of the lands in relation to the growing recreation needs of the people of the United States.

(b) The Secretary is authorized to cooperate with all Federal and State authorities and agencies having programs which will assist in the development of the recreation area and rendering services which will aid the Secretary in evaluating and effectuating the establishment of adequate summer and winter outdoor recreation facilities.

Sec. 9. The distributive shares of the respective counties of receipts from that part of the Bankhead National Forest from which the recreation area and the wilderness area are created by this Act, as paid under the provisions of the Act of May 23, 1908, as amended (35 Stat. 260; 16 U.S.C. 500), shall not be affected by the enactment of this Act.

Sec. 10. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the Sipsey National Recreation Area in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, regulations prescribing any such restrictions shall be issued after consultation with the Alabama Department of Conservation.

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### S. 3225

A bill to establish Southeastern Wild Areas in U.S. National Forests, with the Sipsey Wild Area in the Bankhead National Forest as a prototype

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SHORT TITLE

Section 1. This Act may be cited as the Sipsey Wild Area Act.

#### WILD AREAS SYSTEM ESTABLISHED

Sec. 2. (a) There is hereby established a Southeastern Wild Areas Preservation System to be composed of federally owned lands designated by Congress as "wild areas," and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wild lands, and so as to provide for the protection of these areas, the preservation of their wild character, and for the gathering and dissemination of information regarding their use and enjoyment as wild areas; and no Federal lands shall be designated as "wild areas" except as provided for in this Act or by a subsequent Act.

#### Definition of Wild Area

(b) The term "wild area" applies to undisturbed or restored lands of a wild character which have not been reviewed under the terms of the National Wilderness Law of 1964 or proposed for inclusion in the Wilderness System by the administering agency. They may be the subject of legislation introduced by congressional delegations in response to the demand of constituents. They may have undergone agency reviews and been excluded from the President's proposal. Or they may be newly defined wild land units that can be established as wild areas by Congress at any time, with or without prior agency reviews. In all cases, the congressional prerogative—to give protection under the National Wilderness Law of 1964 or to remove it—remains in force.

Statement of Policy

(c) The inclusion of an area in the Southeastern Wild Areas Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the Southeastern Wild Areas Preservation System, unless otherwise provided by Act of Congress.

(d) No appropriation shall be available for the payment of expenses or salaries for the administration of the Wild Areas as a separate unit nor shall any appropriations be available for additional personnel, stated as being required solely for the purpose of managing or administering areas solely because they are included within the Southeastern Wild Areas Preservation System.

EXTENT OF SYSTEM

SEC. 3. (a) All areas within Southeastern national forests which are potential wild areas under the definition should be studied for possible inclusion in the Wild Areas System. The Secretary of Agriculture shall—

(1) within two years after the effective date of this Act file a map and legal description of each wild area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives.

(2) The Secretary shall maintain, available to the public, records pertaining to said wild areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wild areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest supervisors, and forest rangers.

DESCRIBES AND ESTABLISHES SIPSEY WILD AREAS

SEC. 4. (a) That, Congress hereby finds that the Sipsey Area of the Bankhead National Forest, as described herein, is an area of national forest land representative of Wild Areas in the Southeast.

(b) The Sipsey Wild Area, although in part once subject to the works and activities of man, has been restored or is in the process of restoration to a natural condition; appears predominantly primitive and undisturbed in character and has outstanding opportunities for solitude or a primitive and unconfined type of recreation; has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition, and also contains ecological, geological and other features of scientific, educational, scenic, and historical value.

(c) In order to provide permanent protection and enhancement of the resource values contained in the watersheds of the Sipsey River and its tributaries there is hereby created the Sipsey Wild Area (hereinafter referred to as the "Wild Area") within the Bankhead National Forest, State of Alabama.

ADMINISTRATION, MANAGEMENT, AND PROTECTION

SEC. 5. (a) The agency administering any land designated as wild area shall be responsible for preserving the wild character of the area, and shall so administer such area for such other purposes for which it may have been established as also to preserve its wild character. Except as otherwise provided in this Act, wild areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservational, and historical uses.

(b) The administration, protection, and management of the Sipsey Wild Area shall be by the Secretary of Agriculture (hereinafter called the "Secretary") as a part of the Southeastern Wild Areas Preservation System unless otherwise provided by Act of Congress.

(c) The Secretary shall manage the Sipsey Wild Area in accord with the following provisions:

(1) Primitive, wild conditions shall be preserved, restored, and protected.

(2) No structure or installation shall be erected within the wild area. Developments shall be of a rustic, primitive nature limited to those reasonably necessary for the health, safety and well-being of the visiting public and restricted to locations outside the boundaries of the wild area on land adjacent to it.

(3) Public use shall be consistent with the ability of the wild area to support such use and to retain its natural character.

(4) Except as necessary to meet minimum requirements for the administration of the area for the purposes of this Act, including measures required in emergencies involving the health and safety of persons within the area, there shall be no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft and no other form of mechanical transport.

(5) There shall be no permanent road within the wild area, and no temporary roads, except for purposes defined in (4) above. All existing temporary roads shall be allowed to revert to wild land.

(6) Commercial timber harvesting shall not be permitted. Such measures may be taken as may be necessary in the control of fire, insects and diseases, subject to such conditions as the Secretary deems unavoidable.

(7) Grazing of domestic livestock shall be limited to riding stock where permitted and where established prior to the effective date of this Act.

(8) Commercial services may be performed within the wild area if necessary for activities which are proper for realizing the recreational or the other stated purposes of the wild area.

(9) The Secretary shall provide a management plan for the wild area developed according to the provisions of the wild areas Act and it shall be given development with full public involvement.

MINING CLAIMS

SEC. 6. Subject to existing valid claims, the lands within the Wild Area are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing or disposition of minerals materials.

ACCESS LAND ACQUISITION, GIFTS, BEQUEST, AND CONTRIBUTIONS

SEC. 7. (a) In any case where State-owned or privately owned land is completely surrounded by national forest land within the areas designated by this Act as Wild Area, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest.

(b) Within the Wild Area the Secretary may accept title to non-Federal property of substantially equal value and convey to the grantor of such property any federally owned property in the State of Alabama under his jurisdiction.

(c) Within the Wild Area the Secretary may acquire by purchase with donated or appropriated funds, by gift, exchange or otherwise, such lands, water or interests therein as he determines necessary or desirable for the purposes of this Act.

(d) The Secretary may accept gifts or bequests of land adjacent to the Wild Area for inclusion in the Wild Area.

SIZE OF SIPSEY WILD AREA

SEC. 8. The Sipsey Wild Area shall consist of approximately 9,000 acres as shown on a map entitled "Proposed Sipsey Wild Area" dated January 7, 1972 which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture and to which is attached and hereby made a part thereof a description of the exterior boundaries. The Secretary may by publication of a revised map or description in the Federal Register correct clerical or typographical errors in said map or description.

HUNTING, FISHING, AND TRAPPING

SEC. 9. The Secretary shall permit hunting, fishing, and trapping on the land and waters under his jurisdiction within the Wild Area in accordance with applicable Federal and State laws; except that the Secretary may issue regulations designating zones where and establishing periods when no hunting, fishing or trapping shall be permitted for reasons of public safety, administration or public use and enjoyment. Except in emergencies, any regulations pursuant to this section shall be issued only after consultation with the Alabama Department of Conservation.

RIGHTS RETAINED BY THE STATE OF ALABAMA

SEC. 10. The Secretary shall cooperate with the State of Alabama or any political subdivision thereof in the administration of the Wild Area and in the administration and protection of lands within or adjacent to the Wild Area owned or controlled by the State or political subdivisions thereof. Nothing in this Act shall deprive the State of Alabama or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the Wild Area, or of its right to tax persons, corporation franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the Wild Area.

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By Mr. DOMINICK (for himself and Mr. ALLOTT):

S. 3226. A bill to modify the project for flood control below Chatfield Dam on the South Platte River, Colo., authorized by the Flood Control Act of 1950. Referred to the Committee on Public Works.

Mr. DOMINICK. Mr. President, on behalf of myself and Senator ALLOTT, I am introducing today a bill to amend the legislation which authorizes a flood control project below Chatfield Dam on the South Platte River in Colorado. This bill would permit use of a portion of the authorized funds for acquisition of lands for a flood plain park. It is identical to a bill introduced by Congressman BROTZMAN last week.

The existing authorization is for 6.4 miles of channelization necessary to prevent downstream flooding during periods of high discharge after Chatfield Dam is completed late next year. Since the project was authorized, the city of Littleton, through which the South Platte flows, has proposed a natural flood plain park as an alternative to channelization for a portion of the 6.4-mile segment. Under the "Littleton Plan," the first 2 miles would be left in its natural state.

Approximately 475 acres along the river comprising the flood plain would be acquired and used as a park. In times of high water, the park would be closed, and since there would be no development, little damage would occur.

Mr. President, the park would preserve much needed open space for residents of Littleton and the Metropolitan Denver area. Littleton's commitment to the park project is evidenced by its approval last fall of a $400,000 bond issue for local matching funds. The major impediment to the park is that the authorization for the channelization project may not be broad enough to permit use of corps' funds for acquisition of the flood plain lands. This bill would remove that impediment.

The "Littleton Plan" is an imaginative concept in flood control, and will demonstrate that concrete is not necessarily the only answer. Many of my constituents are expressing concern about the environmental effects of channelization projects, and I think it would be a shame for a creative alternative like this to be stifled merely because the authorizing legislation was drafted at a time when the need for such an alternative was not foreseen.

Mr. President, I hope the Public Works Committee will consider incorporating this legislation in the omnibus flood control bill which it will take up shortly. Time is of the essence, because the flood plain lands should be acquired before Chatfield Dam is completed next year.

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Colorado in connection with the introduction of S. 3226.

The PRESIDING OFFICER. Without objection it is so ordered.

### Statement by Senator Allott

I am pleased to join with Senator Dominick in introducing this legislation to assist the City of Littleton, Colorado in implementing a plan to create a flood plain park below Chatfield Dam and Reservoir on the South Platte River. I believe it is important to take one moment and trace the derivation of this legislation which we are introducing today.

In 1950, Congress authorized a project to provide flood control along the South Platte River south of Denver. This project was to consist of the Chatfield Dam and Reservoir and certain channel improvements along the River north of the Dam. The Chatfield Dam is on schedule and the closing date is now scheduled for sometime in 1973. The remaining downstream channel improvements are the purpose of this legislation.

As presently planned, these "improvements" will consist of widening, deepening, and straightening the channel of the South Platte River. The purpose of this is to assure that high water will remain in the channel.

The residents of Littleton question the necessity of these improvements. In fact, Mr. President, the people of Littleton have specifically and unequivocally stated that these improvements are not required. Instead, the "Littleton Plan" has been devised to create downstream flood control along with secondary benefits of recreation park land and urban open space.

The Plan is very simple. The City will acquire 500 acres of land below Chatfield for natural open space. This area, along both sides of the River, would remain basically undeveloped. This two-mile stretch of river flood plain will serve as a buffer zone. When the River is in a flood stage, it would cover this area but will not damage buildings or private property. At the end of the two mile stretch, dikes will direct the river back into its channel, a simple plan incorporating both safety and urban open space.

The legislation which we introduce today will assist in implementing the Littleton Plan. The legislation allows the Corps of Engineers to utilize the already authorized channelizing funds for assisting in the acquisition of the required lands.

I use the word, "assisting" purposely, Mr. President. The voters in the City of Littleton have already approved by a two to one majority a $400,000 bond issue for use in the acquisition of land. This was an important vote. Not only did approval obligate the City to the limit of its legal indebtedness, it also demonstrated that the residents of Littleton are prepared to "put their money where their mouths are!" I think the Congress can do no less. I urge speedy approval of this bill.

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S. 1485

At the request of Mr. Ribicoff, the Senator from Arkansas (Mr. McClellan) was added as a cosponsor of S. 1485, a bill to establish a Department of Education.

### S. 2574

At the request of Mr. McGee, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 2574, the voter registration bill.

### S. 2981

At the request of Mr. Aiken, the Senator from Texas (Mr. Bentsen), the Senator from Oklahoma (Mr. Harris), the Senator from Ohio (Mr. Saxbe), and the Senator from Illinois (Mr. Stevenson) were added as cosponsors of S. 2981, a bill to provide for environmental improvement in rural America.

### S. 3185

At the request of Mr. Percy, the Senator from New Mexico (Mr. Montoya) was added as a cosponsor of S. 3185, the Federal Corrections Reorganization Act.

## ADDITIONAL COSPONSOR OF A RESOLUTION

### SENATE RESOLUTION 214

At the request of Mr. Griffin, for Mr. Case, the Senator from Nevada (Mr. Bible) was added as a cosponsor of Senate Resolution 214 relative to the submission of any Portuguese base agreement as a treaty.

## EDUCATION AMENDMENTS OF 1972—AMENDMENTS

### AMENDMENT NO. 918

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself and Mr. Allen) submitted an amendment intended to be proposed by them jointly to the committee amendment in the nature of a substitute offered to the House amendment to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

### AMENDMENT NO. 919

(Ordered to be printed and to lie on the table.)

Mr. ALLEN (for himself and Mr. Ervin) submitted an amendment intended to be proposed by them jointly to the committee amendment in the nature of a substitute offered to the House amendment to the bill (S. 659), supra.

### AMENDMENT NO. 920

(Ordered to be printed and to lie on the table.)

Mr. FULBRIGHT submitted an amendment intended to be proposed by him to the committee amendment in the nature of a substitute offered to the House amendment to the bill (S. 659), supra.

### AMENDMENT NO. 927

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the committee amendment in the nature of a substitute offered to the House amendment to the bill (S. 659), supra.

## FAIR CREDIT BILLING ACT—AMENDMENT

### AMENDMENT NO. 921

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BROCK. Mr. President, during the hearings before the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs on S. 652 to provide fair credit billing, the chairman of the subcommittee requested a panel of bankers appearing before the subcommittee on October 29, 1971, for their advice on improvement of S. 652. In response to that request, the American Bankers Association's witnesses have submitted specific recommendations for modifying the bill.

In order that other Senators and their staffs may have an opportunity to study these proposals, upon request and without commitment to the provisions of the amendment, I am introducing the banking panel's suggestions in the form of an amendment in the nature of a substitute to S. 652. I ask unanimous consent to place in the Record the text of the amendment along with the letters of transmittal from the American Bankers Association.

There being no objection, the amendment and letter were ordered to be printed in the Record, as follows:

### Amendment No. 921

Strike all after the enacting clause and insert the following:

That this Act may be cited as the "Fair Credit Billing Act".

Sec. 2. Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended:

(1) by adding at the end of subsection (f) the following:

"Provided, however, That for the purposes of the requirements imposed under section

127(a)(6), 127(a)(7), 127(a)(8), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(9), 127(b)(10), 127(b)(11), and chapter 4 of this Act, the term creditor means any person who regularly extends credit, or arranges for the extension of credit whether in connection with loans, sales of property or services, or otherwise."

(2) by adding at the end of the section the following new subsection:

"(s) With respect to any disclosure required pursuant to § 127(a), the opening of an account under an open end consumer credit plan shall be deemed to be the relevant consumer credit transaction for the purposes of any determination of liability pursuant to § 130."

SEC. 3. Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended to read as follows:

"Sec. 105. Rules and Regulations.

"(a) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may include, without limitation, regulations governing the disclosure, billing, collection and other practices of creditors in consumer credit transactions so as to insure fair treatment of obligors with respect to the timely transmission of periodic statements and crediting of payments received, replies to obligor complaints and inquiries, correction of billing errors, and other matters affecting the fair and effective operation of consumer credit plans, and may contain such classification, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purpose of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

"(b) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation or interpretation issued by or under authority of the Board or other agency designated in section 108, notwithstanding that such rule, regulation or interpretation may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason."

SEC. 4. Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended—

(1) by amending subsection (a) (1) to read as follows:

"(1) The conditions under which a finance charge may be imposed, including the time period, if any, within which any credit extended may be repaid without incurring a finance charge, *Provided that*, the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period but before the opening date of the next billing period.";

(2) by adding at the end of subsection (a) a new paragraph to read as follows:

"(8) A brief statement of the protection provided by Section 101 to an obligator in a form prescribed by regulations of the Board;"

(3) by amending subsection (b)(2) to read as follows:

"(2) the amount and date of each extension of credit during the period and a credit sufficient to enable the obligor to identify the transaction or relate it to copies of sales vouchers or similar instruments previously furnished.";

(4) by amending subsection (b)(10) to read as follows:

"(10) The date by which, or the period (if any) within which, payment must be made to avoid additional finance charges; *Provided that*, the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after said date or the termination of said period but before the opening date of the next billing period."; and

(5) by adding at the end of subsection (b) a new paragraph to read as follows:

"(11) An address and telephone number to be used by the obligor in making inquiries concerning his statement; "and (6) by amending subsection (c) to read as follows:

"(c) In the case of any account under an open-end consumer credit plan which is in existence on the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than sixty days after such date."

SEC. 5. Effective upon the date of enactment of this Act, section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by amending subsection (a) to read as follows, and except with respect to proceedings in which final judgment has been entered and from which the time to appeal has expired, any action heretofore commenced thereunder shall be further prosecuted for the recovery of liability only pursuant to the section as hereby amended:

"§ 130. Civil liability

"(a) Except as otherwise provided in this section,

"(1) any creditor who fails in connection with any consumer credit transaction to disclose to any person any information required under this chapter to be disclosed to that person is liable to that person in an amount equal to twice the amount of the finance charge in connection with the transaction; and

"(2) any creditor who fails to comply with any requirement imposed under chapter 4 of this title with respect to any person is liable to that person in an amount equal to the amount of any actual damages sustained by that person as a result of such failure; "*provided, however*, that the liability under either of the foregoing paragraphs shall not be less than $100 nor greater than $1,000, and, *provided, further*, that, in the case of any successful action to enforce liability hereunder, the court shall award to the person bringing the action the costs of the action together with a reasonable attorney's fee, without regard to the amount of recovery, as determined by the court. No action to recover liability under this section may be brought or maintained as a class action pursuant to any state or Federal statute, rule or procedure."

SEC. 6. Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"(a) Whoever in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use one or more counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained credit cards to obtain money, goods, services, or anything else of value which within any one year period has or have a value aggregating $1,000 or more; or

(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, lost, stolen or fraudulently obtained; or

"(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, altered, forged, lost, stolen or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, lost, stolen or fraudulently obtained; or

"(d) Except as hereinafter provided in subsection (e), whoever knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value, which within any one year period has or have a value aggregating $1,000 or more, moving as, or which are part of, or which constitutes interstate or foreign commerce and which has or have been obtained with counterfeit, fictitious, altered, lost, stolen or fradulently obtained credit cards; or

"(e) Whoever, knowingly receives, conceals, uses, sells or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which within any one year period has or have a value aggregating $500 or more, which has or have been purchased or obtained with one or more counterfeit, fictitious, altered, lost, stolen or fradulently obtained credit cards; or

"(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services or anything else of value, which within any one year period has or have a value aggregating $1,000 or more, through use of one or more counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained credit cards knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained—shall be fined not more than $10,000 or imprisoned not more than ten years, or both."

SEC. 7. The Truth in Lending Act (15 U.S.C. 1601–1655) is amended by adding at the end thereof a new chapter as follows:

"Chapter 4.—CREDIT BILLING

"Sec.

"161. Correction of billing errors.

"162. Regulation of credit reports.

"163. Length of billing period.

"164. Crediting payments.

"165. Crediting excess payments.

"§ 161. Correction of billing errors

"(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account under an open-end consumer credit plan, receives from the obligor, at an address designated therefor by the creditor, a written notice, other than a notice on a payment stub or other payment medium supplied by the creditor, in which the obligor—

"(1) sets forth sufficient information to enable the creditor to identify the obligor and the account,

"(2) directs the attention of the creditor to an amount shown in the statement which the obligor believes involves a billing error and indicates the amount (if any) by which the amount shown in the statement is greater or less than the sum believed by the obligor to be owing to the creditor, and

"(3) sets forth facts, providing a reasonable basis for the obligor's belief that the statement is in error, the creditor shall—

"(A) not later than fifteen days after the receipt of the notice, send a written acknowledgment thereof to the obligor, and

"(B) not later than sixty days after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, believed to be in error—

"(i) make appropriate corrections in the account of the obligor and either transmit to the obligor a statement of his account, showing the corrections, at the end of the billing cycle in which the corrections are made, or send to the obligor a written notice that the corrections have been made, or

"(ii) after having conducted an investigation in response to the obligor's written notice, send a written explanation to the obligor setting forth the reasons why the creditor believes the account of the obligor was correctly shown in the statement, unless the obligor has previously agreed that the account was correctly shown.

"(b) For the purposes of this section, a 'billing error' shall consist of one of the following: (a) an extension of credit which was not made to the obligor, or if made was not made in the amount reflected on the statement, (b) the creditor's failure properly to reflect a payment or credit on such statement, (c) a computation error of the creditor, or (d) a similar error of an accounting nature which the obligor relates to a specific transaction (if any).

"(c) For the purposes of this section, action to collect amounts believed by the obligor to be in error shall not include sending periodic statements of account as required by subsection 127(b) which include such amounts, so long as the obligor's account is not restricted or closed solely due to the amount claimed to be in error, and further provided that nothing herein shall be construed to prohibit any action by a creditor to collect amounts not claimed by the obligor to be in error.

"(d) Requests of obligors for clarification of statements, which do not claim error in accordance with subsection (a), shall be answered promptly by the creditor in accordance with regulations of the Board.

"§ 162. Regulation of credit reports

"(a) After receiving a notice from an obligor as provided in subsection 161(a), a creditor may not, until thirty days after the date on which the creditor has met the requirements of that subsection, directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing solely because of the obligor's failure to pay the amount described in the notice pursuant to subsection 161(a) by which the balance in the account is greater than the balance believed to be correct.

"(b) After receiving a notice from an obligor as provided in subsection 161(a) and until the creditor has met the requirements of that subsection, a creditor may not report to any third party that the account of an obligor is delinquent solely because of the obligor's failure to pay the amount described in the notice as greater than the balance believed to be correct without also reporting that the account is in dispute and at the same time notifying the obligor of the name and address of the parties to whom the creditor reported such information.

"§ 163. Length of billing period

"If an open-end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring additional finance charges, such additional finance charges may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement including the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date of termination of the period specified on the statement by which payment must be made in order to avoid imposition of that finance charge.

"§ 164. Crediting payments

"Payments received from obligors under an open-end consumer credit plan by the creditor shall promptly be posted to the obligor's account as specified by regulation of the Board.

"§ 165. Crediting excess payments

"Whenever an obligor transmits funds to a creditor in excess of the total balance due upon an account under an open-end consumer credit plan, the creditor shall promptly credit such excess amount to the obligor's account; and if the creditor receives a request from the obligor for a refund of any credit balance properly owing to the obligor, such refund shall promptly be made."

SEC. 8. Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end of subsection (3):

"*Provided, however,* that regardless of whether they are real property transactions, if the extensions of credit are for agricultural purposes and the total amount to be financed exceeds $10,000, those transactions shall also be exempt."

SEC. 9. This Act takes effect upon the expiration of eighteen months after its enactment except that the provisions of section 3, as it relates to Section 105(b) of the Truth in Lending Act, 5, 6, and 8 shall take effect on the date of enactment.

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THE AMERICAN BANKERS ASSOCIATION,
*Washington, D.C., February 16, 1972.*
Hon. WILLIAM E. BROCK,
*U.S. Senate, Washington, D.C.*

DEAR SENATOR BROCK: Enclosed for your consideration is a copy of my letter of February 16, addressed to Senator Proxmire, Chairman of the Subcommittee on Financial Institutions, concerning S. 652. I hope that you may react favorably to our proposed changes in the bill. These changes are consistent with testimony given in behalf of The American Bankers Association on October 29, 1971, and, in addition, would implement two of the recommendations made by the Federal Reserve Board in its Annual Report on the Truth in Lending Act.

Sincerely,

CHARLES R. MCNEILL.

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THE AMERICAN BANKERS ASSOCIATION,
*Washington, D.C., February 16, 1972.*
Hon. WILLIAM PROXMIRE,
*Chairman, Subcommittee on Financial Institutions, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: You will recall that during hearings on S. 652, on October 29, 1971, you requested The American Bankers Association witness to give the Subcommittee specific recommendations for modifying the bill. Since that time, we have worked with other banking and bank-card organizations, and have agreed upon an amendment in the nature of a substitute for the present text of S. 652. A copy of this amendment and a comparative summary of the two texts are enclosed.

Since the Subcommittee may meet in the near future to consider S. 652, we would appreciate it if you or some other member of the Subcommittee would introduce the proposed amendment, so that other Senators and their staffs may have a better opportunity to study the specific proposals it contains. We hope that these recommendations will be acceptable to you, but we clearly understand that introducing the amendment would not commit you or any other Senator to provisions which may be unacceptable. I am sending a copy of this letter to the other members of the Committee on Banking, Housing, and Urban Affairs.

If the Subcommittee determines that legislation like S. 652 is needed. The American Bankers Association is prepared to support the proposed substitute, and will cooperate fully with the Subcommittee in developing workable legislation.

Sincerely,

CHARLES R. MCNEILL.

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## MODIFICATION OF PAR VALUE OF THE DOLLAR—AMENDMENT

### AMENDMENT NO. 926

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. GAMBRELL. Mr. President, I submit an amendment to S. 3160, now pending before the Committee on Banking, Housing and Urban Affairs, the so-called gold revaluation bill. The amendment is self-explanatory. I ask that it be received and printed, and printed in the RECORD at this point, and I ask unanimous consent to have printed in the RECORD following the printing of the amendment a series of questions and answers and a statement which I made yesterday at the Banking Committee hearing on this bill.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 926

At the end of the bill, add the following:

"SEC. 5(a) Whenever the rate of economic inflation as defined in Subsection (b) hereof, shall increase during any six-month period at an annual rate greater than 5%, the President shall declare an economic emergency, and shall stabilize prices, rents, wages, salaries, dividends and interest, pursuant to Section 203 of the Economic Stabilization Act of 1970 (Public Law 91–379) as amended, with rules, regulations, and requirements thereunder substantially identical to those in effect on January 1, 1972. The period of economic emergency, and the program of economic stabilization shall continue for not less than 180 days, and until the President has determined that the rate of inflation has been reduced to less than 5 per centum, and has declared said emergency terminated, but not more than 180 days after the rate of inflation has been reduced below 5 per centum.

The Board of Governors of the Federal Reserve System, if it shall determine that the rate of economic inflation has increased during any six-month period at an annual rate greater than 5 per centum, may after 30 days notice to the President, declare such economic emergency and the President shall thereupon proceed as required by this section.

(b) The rate of economic inflation is the percentage increase in the cost of living determined pursuant to an index or standard established by the Secretaries of Treasury, Labor, and Commerce. Until an index shall have been established by said Secretaries, the Consumer Price Index of the Department of Labor in effect on January 1, 1972, shall be the index or standard used for the purposes of this section. The index determined by said Secretaries, and any changes and adjustments made therein from time to time, shall be subject to veto by the Board of Governors of the Federal Reserve System within forty-five days after its publication in the Federal Register."

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STATEMENT BEFORE BANKING COMMITTEE

Senator GAMBRELL. Secretary Volcker, let me begin by saying I appreciate the necessity of having such legislation and do not have in mind being against its adoption, but I am concerned along the lines that Senator Roth expressed, that we simply turn off these things that we have got to do by a flick of the wrist, and we don't get on to dealing with the very basic substantive problems that bring on such things as devaluation of our dollar. To me it is about like issuing a death certificate for somebody who died in an epidemic. I think the issuance of a death certificate is almost automatic, but I think we need to deal with what is causing the epidemic.

Why do we have to issue these death certificates all of the time? I am frankly surprised in connection with the Smithsonian agreements that the foreign governments haven't said not only to revalue our dollar but that we should impose certain other disciplines on ourselves before we come back to the bargaining table to discuss international economic arrangements.

I was pleased more than anything else in your statement by the recognition on page 14 that the success of our economy at home, our ability to achieve growth without inflation, to restore the vigor of our ex parte industries, to improve our technology and spur productivity are the more basic considerations. I know Senator Roth has a bill pending to impose a spending limit on the government. I know that the Finance Committee at the present time is considering the debt limitation. Frankly I don't think that ought to be an automatic thing simply because we foresee a deficit, that we just automatically agree to borrow the money to carry through with it.

I think we ought to impose some disciplines on ourselves in that respect. Frankly I consider this measure here a vehicle by which we might undertake to impose some disciplines on ourselves. We seem to be perfectly happy to rush through this death certificate on the value of the dollar, but we don't seem to be anxious to rush through any fundamental disciplines on ourselves and on our economic mismanagement.

I would like to ask you if you consider it appropriate that we do something specific to control such things as Senator Roth was mentioning, our deficit spending, and to impose some rigid limitations on how much we will spend in excess of our income over the next two, three, four, five, or eight or ten years, as a commitment by this country to manage our economy.

Mr. VOLCKER. Well——

Senator GAMBRELL. Do you think this would be a good time to take that up?

Mr. VOLCKER. I think it would be an excellent time to take up the question of a spending limitation. As you know, President Nixon has proposed a rigid spending limitation and we urged the Congress to move in that direction. In terms of the longer term budgetary discipline, I would note that the Administration has invested a good deal of intellectual effort as well as spending discipline in maintaining, insofar as possible, adherence to the full employment budget concept whereby spending would not exceed our revenue generating capacity at full employment.

Now the present budget for the present fiscal year does not meet that criteria, but the budget for fiscal 1973 does. And that has been proposed as a serious effort to maintain over a period of time the kind of discipline to which you are referring. I couldn't agree with you more.

Senator GAMBRELL. I consider that as an explanation of why we continue to have deficits and no discipline at all.

Mr. VOLCKER. I wish you would look at it the other way, Senator, because I think it can be in a very difficult area a useful disciplinary tool. If it is not, it is not of much value. But I would hope it can be looked at and become a real disciplinary tool and in a sense combining that with the spending limitation set at that level, provide the kind of practical mechanism by which the discipline can be imposed and we would be in favor of that.

Senator GAMBRELL. I understood you to say to Senator Roth that continued deficit spending over a period of time would undermine our international economic position.

Did it make any difference whether the deficit arrives from a full employment budget or from just a deficit spending budget?

Mr. VOLCKER. What I think I said in this connection is if we run deficits of the magnitude we have been running, it would either reflect continuing inadequate performance of the American economy, which wouldn't be helpful domestically or internationally, or it would be a tremendous inflationary force which wouldn't be helpful either.

So I don't contemplate deficits of that size continuing.

Senator GAMBRELL. Of course there are two aspects to a budgetary deficit. Putting a spending limit on and putting a borrowing limit on don't mean we are going to meet our goals in terms of productivity or revenue income. If we fall short it is just as deficit creating as overspending.

Mr. VOLCKER. I think it does have a different economic impact, assuming that the spending level again is within the capacity to generate revenues. If the deficit arises from slack in the economy, it has quite a different implication than if the defiicit arises when the economy is more or less fully employed.

There is a tremendous difference in those terms between the deficit we have at the present time and the deficits we had in the late 1960s, when they were superimposed upon an economy that was already subject to inflationary pressures, already at full employment, already with very tight labor markets. Under those conditions the large deficits were a recipe for inflation. I don't think that is true of the current deficit, when the bulk of the deficit arise from a short fall in revenues as you point out.

Senator GAMBRELL. What programs other than deficit spending does the government have to increase productivity?

Mr. VOLCKER. Well, as part of the very measures taken on August 15, there was an investment tax credit, for instance, proposed directly as an effort to stimulate productive investment, modernization of industry. There had been actions taken on depreciation procedures prior to that time for the same reason.

The Administration is concerned with other means more directly of stimulating technology and of course spend a good deal of money or sponsors a good deal of money on research itself. One of the strengths of the American economy is our lead in technology. I think that lead has probably been slipping in recent years and it remains vitally important that we do the things that are necessary not only to modernize investment, but to keep up at the very forefront of technology and break new grounds in that area.

Senator GAMBRELL. I realize that all of these things are going on, but it is discouraging to me that we are willing to consider the disciplines at leisure, and we have to rush through the legislation by which we recognize our faults.

Mr. VOLCKER. I would like to think we have been considering these disciplines for some time, Senator, if I may. I just want to emphasize that on August 15, when the actions were taken that led to this particular bill, at the same time the President did take very drastic actions in other directions. He took actions directly on the wage-price situation, he took action on the investment tax credit, he took action to cut government spending at that time. This was a program that by no means neglected the side you are concerned about and that I am concerned about and that the President is concerned about. I think his concern was reflected in his program. This is only one little part of it.

Senator GAMBRELL. Well, I agree with you that the President acted decisively on August 15. But who is to say that he will do so next year or the year after that, and why should it be left to the President's discretion to act in ways that are necessary and disciplinary on ourselves. I think the Congress should enact legislation and enact it in a hurry to impose the disciplines on the economy that are necessary to keep us from having to periodically revalue our dollar and go through domestic inflation and other conditions that have arisen that we have been wrestling with for the last year.

Mr. VOLCKER. Well, I hope the appropriations committees will act on that with dispatch, Senator.

## ADDITIONAL COSPONSOR OF AN AMENDMENT

### AMENDMENT NO. 776

At the request of Mr. GAMBRELL, the Senator from Florida (Mr. CHILES) was added as a cosponsor of Amendment No. 776 intended to be proposed to the committee amendment offered as a substitute for the House amendment to the bill (S. 659), the Education Amendments of 1972.

## NOTICE OF HEARINGS ON AUTHORIZATION OF APPROPRIATIONS

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations will hold hearings during March on legislation to authorize appropriations for the Department of State and the U.S. Information Agency. A provision in the Foreign Assistance Authorization Act for fiscal year 1972 requires passage of authorization legislation this year for Department of State and USIA activities before appropriations can be provided. It is expected that draft legislation will be transmitted to Congress by the executive branch shortly.

Administration witnesses, headed by Secretary of State Rogers, will be heard on the State Department legislation on March 8, 9, and 10 and on the USIA legislation on March 20, 21, and 22. Public witnesses will be heard on both bills on March 23. The hearings will be held in room 4221 in the New Senate Office Building beginning at 10 a.m. each day. Any person wishing to testify should communicate with Arthur M. Kuhl, chief clerk of the committee, room S–116, the Capitol, telephone 225–4615.

## NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, March 1, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Louis C. Bechtle, of Pennsylvania, to be U.S. district judge, eastern district of Pennsylvania, vice John W. Lord, Jr., retired.

James L. Foreman, of Illinois, to be U.S. district judge, eastern district of Illinois, vice William G. Jurgens, retiring.

Howard David Hermansdorfer, of Kentucky, to be U.S. district judge, eastern district of Kentucky, vice a new position created by Public Law 91–272, approved June 2, 1970.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan), the Senator from Nebraska (Mr. Hruska), and myself as chairman.

## NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

John A. Field III, of West Virginia, to be U.S. attorney, southern district of West Virginia, for the term of 4 years, vice Wade H. Ballard III, resigned.

Robert Gottschalk, of New Jersey, to be Commissioner of Patents.

William K. Schaphorst, of Nebraska, to be U.S. attorney for the district of Nebraska for the term of 4 years, vice Richard A. Dier, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, March 1, 1972, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

## NOTICE OF HEARINGS ON ALASKA NATIVE CLAIMS ACT AMENDMENTS

Mr. BIBLE. Mr. President, on March 2, 1972, at 1 p.m. in room 3112, the Senate Interior and Insular Affairs Committee has scheduled a hearing to consider amendments to Public Law 92–203, the Alaska Native Claims Settlement Act. This complex measure became law on December 18, 1971. The committee will be considering a number of technical and perfecting amendments to the bill as well as any other pending amendments.

## ADDITIONAL STATEMENTS

## WILLOWBROOK TRAGEDY

Mr. JAVITS. Mr. President, as a public service, WABC–TV in New York has focused attention on the tragic conditions at the Willowbrook State School in New York, a residential facility for the mentally retarded.

I have long been deeply concerned with the human rights of the mentally retarded and was profoundly shocked and concerned, as were the Governor of New York and other officials, by the dreadful conditions found at the Willowbrook State School on Staten Island.

Governor Rockefeller, with Dr. Alan Miller, Commissioner of Mental Hygiene, requested me to seek to assure that the Federal Government would do everything in its power to assist the State of New York in improving the situation at Willowbrook, Letchworth, and at any other New York State institutions with similar difficulties. I discussed this matter immediately with Secretary Richardson and he assured me that the full resources of HEW would be made available.

Since Dr. Bertram S. Brown, Director of the National Institute of Mental Health, has announced the formation of a special action team of Federal mental retardation and mental health specialists and consultants who will visit Willowbrook and other New York State Department of Mental Hygiene facilities and meet with key State personnel to review promptly and effectively the institutions' problems and identify possible areas of increased Federal assistance. The visits on February 28 and 29 will be headed by Dr. Brown, the Director of the National Institute of Mental Health, and will include:

Mrs. Bernice Bernstein, Director, Region II, New York, Department of Health, Education, and Welfare.

Dr. George Tarjan, program director of mental retardation, Neuro Psychiatry Institute, UCLA.

Dr. Edward Zigler, Director, Office of Child Development, Department of Health, Education, and Welfare.

Dr. Edwin W. Martin, Associate Commissioner, Bureau of Education for the Handicapped, Office of Education, Department of Health, Education, and Welfare.

Dr. Julius B. Richmond, director, Judge Baker Guidance Center, Boston, Mass.

Dr. Joseph Douglas, Executive Director, President's Committee on Mental Retardation.

Dr. Norman Lourie, Executive Deputy Secretary for Federal Policies and Programs, Pennsylvania Department of Public Welfare.

Mr. Francis X. Lynch, Director, Division of Development Disabilities, Rehabilitation Services Administration, Social and Rehabilitation Services, Department of Health, Education, and Welfare.

Mr. Wallace Bevington, Director, Office of Mental Retardation Coordination, Department of Health, Education, and Welfare.

As the ranking minority member of the Senate Committee on Labor and Public Welfare, I will accompany the special team, and I have also invited the entire New York congressional delegation, as well as Senator Williams, the chairman of the committee, Senator Kennedy, and other members of the Committee on Labor and Public Welfare, to be on the scene.

I believe the WABC–TV series of newscasts, which culminated in a half hour documentary entitled "Willowbrook—The Last Great Disgrace" has made a most significant contribution to arousing public concern for the plight of the mentally retarded. I ask unanimous consent that the transcript of "Willowbrook—The Last Great Disgrace," presented by WABC–TV in New York on February 2, 1972, from 7:30 to 8 p.m., be printed in the Record.

Mr. President, I have not asked that the transcript be printed in the Record to point the finger of blame at anyone, for we are all—society at large—who are to blame for permitting retarded children to live—perhaps exist is a more appropriate word—in such degradation. Rather, I hope the transcript will remind all of us of our responsibilities to one another, particularly to those less fortunate.

I agree with Dr. Allen Miller, New York State Commissioner of Mental Health, who termed the WABC–TV telecasts of conditions at Willowbrook:

> An honest portrayal of the problems at their worst.

Dr. Miller's concept of the value of the programing is one I share. He said:

> If the public eye leaves Willowbrook and all of the other places and we once again find ourselves, we and the directly involved parents, trying to go it alone, then I think we struggle to maintain our few gains and we struggle slowly to get ahead, and that a window on those conditions could reinforce a sense of hopefulness and to reestablish in people's minds that we're talking about human beings with potential.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

### Willowbrook—The Last Great Disgrace, February 2, 1972

Announcer. There are some aspects of life which society has hidden from public view. The following program will remind you that they exist and that we all bear a responsibility to humanity. If you have children, you may want to exercise parental guidance.

Robert Kennedy. When I visited the state institutions for the mentally retarded, and, I think, particularly at Willowbrook, that we have a situation that borders on a snake pit and that the children live in filth, that many of our fellow citizens are suffering tremendously because lack of attention, lack of imagination, lack of adequate manpower gives very little future for the children or for those who are in these institutions. Both need a tremendous overhauling, and I'm not saying that those who are the attendants or the ones who run the institution are at fault. I think all of us are at fault. And I just think it's long overdue that something be done about it.

Geraldo Rivera. It's been more than six years since Robert Kennedy walked out of one of the wards here at Willowbrook and told newsmen of the horror he'd seen inside. He pleaded then for an overhaul of the system that allowed retarded children to live in a snake pit. That was way back in 1965 and somehow we'd all forgotten. I first heard of this big place with the pretty sounding name because of a call I received from a member of the Willowbrook staff, Dr. Michael Wilkins. The Doctor told me he'd just been fired because he'd been urging parents with children in one of the buildings, Building #6, to organize so they could more effectively demand improved conditions for their children. The Doctor invited me to see the conditions he was talking about, so unannounced and unexpected by the school administration, we toured Building #6.

The Doctor had warned me that it would be bad. . . . It was horrible. There was one attendant for perhaps 50 severely and profoundly retarded children. The children, lying on the floor and smeared with their own feces, they were making a pitiful sound . . . a kind of mournful wail that it's impossible for me to forget. This is what it looked. . . . This is what it sounded like. . . . But how can I tell you about the way it smelled? It smelled of filth. . . . It smelled of disease . . . and it smelled of death.

We've just seen something that's probably the most horrible thing I've ever seen in my life. Is that typical of ward life?

Dr. Wilkins. Yes. There are 5,300 patients at Willowbrook, which is the largest institution for the mentally retarded in the world. The ones that we saw were the most severely and profoundly retarded. There are thousands here like that . . . not going to school . . . sitting in the ward all day . . . not being talked to by anyone. . . . Only one or two or three people to take care of 70 people in the ward. . . . Sharing the same toilet . . . contracting the same diseases together. One hundred percent of the patients at Willowbrook contract hepatitis within six months of being in the institution. . . . Most patients at some time in their life have parasites. . . . The incidence of pneumonia is greater than any other group of people that I think exist in this country. . . . Trauma is severe because these patients are left together in a ward . . . seventy retarded people basically unattended . . . fighting for a small scrap of paper on the floor to play with . . . fighting for the attention of the attendants, who are overworked trying to clean them, feed them, clothe them and, if possible, pay a little attention to them and work with them and develop their intelligence. But what, in fact, happens is that they go downhill.

**Geraldo Rivera.** Two days after our first unofficial visit, our camera crew was given an authorized tour of the facility. While unannounced we had found the children naked and basically unattended, then we were shown children who were fully clothed and generously attended. It was to insure that this sudden improvement in the quality of life was permanent that we returned without the knowledge of the school administration and through a back door. It was the first day all over again.

**Dr. Wilkins.** For these people life is just one hour after another of looking at the floor. There's no training going on here.

**Geraldo Rivera.** Can the children be trained?

**Dr. Wilkins.** Yes. Every child can be trained . . . You know . . . these kids . . . there's no effort . . . We don't know what these kids are capable of doing. Some training programs go on at Willowbrook, but the State provides a bare minimum, just enough so that they can call this place a school . . . Clearly these kids aren't getting any training. I mean, I don't think I even have to say that. They're just sitting here in the ward . . . These are the hours in which they should be in school and they're not.

**Geraldo Rivera.** What ward is this now?

**Dr. Wilkins.** This is Building 27 . . . These patients do have clothes on today. But as you can see, the one thing that can't be hidden is that there are no training programs . . . That all these patients do is sit during the day. They are not occupied. Their life is just hours and hours of endless nothing to do . . . no one to talk to . . . no expectations . . . just an endless life of misery and filth. What you see, it makes you think that it's hopeless . . . but you know they only look this way because they haven't ever had opportunity for training. Now if you or I were left to sit in a ward, surrounded by other mentally retarded people, we would probably begin looking like this, too.

**Geraldo Rivera.** The Willowbrook State School is this country's largest home for the mentally retarded. It's called a school, but that's more a statement of aspiration than of fact. Fewer that 20% of the 5,230 people who are kept here attend any kind of classes.

When the State of New York entered a period of economic retrenchment two years ago, a hiring freeze was clamped on this and other institutions in the Department of Mental Hygiene. In the intervening months, Willowbrook lost 600 employees through attrition. For the budget of fiscal '71–'72 the Governor recommended a hold-the-line appropriation of $603 million for the Mental Hygiene Department. The Legislature, seeking to trim the waste and fat from the budget, cut it down to $580 million. Willowbrook lost another 200 employees and a situation that two years ago was bad became hopeless. The attendants tried to care for their wards but were simply overwhelmed. The attendant-to-patient ratio which should be about 4–1 dropped to 30–1 or 40–1 and the average feeding time per patient which should be 20 or 30 minutes went down to 2 and 3 minutes.

**Dr. Wilkins.** Many of the retarded children aren't capable of feeding themselves. In my building we had no staff to train them in a systematic way to use utensils to feed themselves. . . . That can be done, but what's necessary is to feed them. You take a bowl of food that you've made into a mush-like substance with a big spoon and you ladle it out into their mouth. In the building where the kids can't feed themselves there are so few attendants that there is only an average minimum time—three minutes per child, per feeding.

**Geraldo Rivera.** How much time would be needed to do the job adequately?

**Dr. Wilkins.** The same amount of time that your children and my children would want to have breakfast.

**Geraldo Rivera.** What's the consequence of three minutes, per meal, per child?

**Dr. Wilkins.** The consequences is death from pneumonia.

**Geraldo Rivera.** North of the City, on the way to Bear Mountain, is a lovely-looking place called Letchworth Village Rehabilitation Center. Set among the hills and woods of suburban Rockland County a passerby could easily mistake the place for a country club or a college campus, but the early morning mist gave the place an eerie feeling, like a set from a horror movie. And once inside that feeling became suddenly appropriate. It was a repeat of the misery and degradation of Willowbrook.

Congressman Mario Biaggi had planned an official tour of the facility for ten o'clock in the morning, but by this time, wary of what I felt were attempts on the part of the Department of Mental Hygiene to make the situation look better than it really was, my camera crew and I got there two hours before that. As the hour of the official tour approached, bundles of clothing were brought in for the children and the process of cleaning up was begun. Even so, none of these cosmetic changes could do much to improve the place.

**Congressman Biaggi.** Who's in charge here, Gerry?

**Geraldo Rivera.** Mrs. Nixon . . . This is . . .

**Congressman Biaggi.** Mrs. Nixon? I'm Congressman Biaggi. How are you? Why are these patients unclothed?

**Mrs. Nixon.** We don't have enough clothing. We don't have the proper help to keep clothing on them. We have a few nudists that will not keep clothes on. They will pull them off. But most of all we don't have the help to keep the kids properly dressed.

**Congressman Biaggi.** You're talking about more money for the institution?

**Mrs. Nixon.** Well, that we could use because then we would have more help.

**Congressman Biaggi.** How understaffed are you?

**Mrs. Nixon.** Very understaffed. There are days we have four or five attendants to take care of 134 kids. Like today, we have four people on to take care of the entire group of kids.

**Congressman Biaggi.** We have a condition in a very beautiful ground, very well-built buildings, where inside we have housed the children of many of our citizens who are subjected to what appears to be the worst possible conditions I've ever seen in my life. I visited penal institutions all over the country . . . I visited hospitals all over the country . . . I visited the worst brigs in the military . . . I've never seen anything like it.

**Geraldo Rivera.** About 25% of the funding for Letchworth Village comes from the Federal Government and one of the requirements for continued eligibility is that there be 80 square feet of space per patient . . . Here they get only 35 square feet. In the face of this terrible overcrowding there was a ward there that stood empty because they hadn't the funds to hire the 38 people it would take to staff it.

How can this be?

**Milton Ressel.** Well we need 38 additional positions, then we would be able to staff this area and reduce our overcrowding in overcrowded areas.

**Geraldo Rivera.** It's a sin, my God, a sin.

**Milton Ressel.** Well, we have submitted and we are expecting that we might be getting them and then we will be able to reduce the overcrowding in certain areas.

**Geraldo Rivera.** There's at least one more horrifying aspect of life at Letchworth . . . More than 300 able-bodied patients, both physically and mentally able to work outside the institution, are not being allowed to. They are being used to fill the places of the too few employees. They get paid $2.00 a week for their efforts . . . about what they'd make each hour on the outside. And there was another development on the day we visited Letchworth.

It was eight days after our investigation had begun. Governor Rockefeller admits the growing public outcry over the conditions at Willowbrook . . . made an announcement. He was restoring the $20 million he had stricken from the budget of the Department of Mental Hygiene. Willowbrook, it was said would be able to rehire 300 of the 900 employees it had lost since November 1970. Letchworth Village would be able to rehire about 200. But the additional employees, while perhaps slowing the downward course of these two institutions, would not be able to change the basic nature of the two places, mere depositories for the retarded.

Do you think what we showed on television in the past week is an adequate reflection of the situation?

**Dr. Allen Miller**, Commissioner of Mental Hygiene, N.Y.S. I think it focused and made vivid the problems at Willowbrook.

**Geraldo Rivera.** Do you think it was an honest portrayal?

**Dr. Miller.** I think it was an honest portrayal of the problems at their worst. It may not tell the whole story of Willowbrook and it certainly doesn't tell the whole story of the retarded, but it does describe unmistakably the kind of problems that we've seen and now, thanks to the coverage, many people are seeing. If the public eye leaves Willowbrook and all of the other places and we once again find ourselves, we and the directly involved parents, trying to go it alone, then I think we struggle to maintain our few gains and we struggle slowly to get ahead and perhaps if you were to come back a year from now and look again you might see we've made headway . . . I'd expect you would, but you won't see it all solved in two weeks. I wish you would go back in two weeks and in two weeks and in two weeks because I think that a window on these conditions and maybe even allowing to begin to see not only what it is but what it could be and even what it is already in some places . . . so to reinforce a sense of hopefulness and to reestablish in people's minds that we're talking about human beings with potential. I would hope that you would see continued change and if you didn't see it that you'd say so.

**Geraldo Rivera.** Two weeks after that interview I took Dr. Miller up on his invitation to revisit Willowbrook. I found no meaningful change in the quality of life for the 5,230 people who live here. The attendants are trying their best but the staff is just too small to do anything more than just try and keep the place clean. When there's one person to take care of 30 or 40, nothing can possibly happen . . . No rehabilitation . . . no training . . . nothing. The attendants are as much the victims of the conditions here as the patients are. And this visit has reminded me of something else Dr. Miller told me. He said, "Now that society has moved to clean up the lunatic asylums, the prisons and the hospitals, the way we care for our mentally retarded is the last great disgrace."

The story of Willowbrook and of Letchworth Village is a story of degradation . . . a real life horror story of lack of attention, of filth and of children living as animals live, an uncivilized and inhuman existence. But our intention is not just to horrify but also to demonstrate that it doesn't have to be that way.

This is Children's Hospital in Los Angeles. It houses the Regional Center for the Mentally Retarded. The Director of the program is Dr. Richard Koch. Last month, at the invitation of several parents' groups he toured the Willowbrook facility.

Dr. Koch. The conditions that I saw at Willowbrook are somewhat like this . . . When you enter the building I entered, the smell is so over-whelming. It's almost nauseating. I frankly don't understand how they have people who will work there, to be honest with you. And I think that's the first thing that hits you. Secondly, you find many patients in the same room, all milling about with nothing to do. Now, I may have seen an unusual situation but I don't believe so because I saw three different buildings and in those buildings I did not see any kind of program . . . I saw men sitting around masterbating . . . I saw boys and girls lying on the floor, some of them naked. In other words, it just was without program. That is the crucial thing. It's just simply too big.

Now you've got to get the clients out of there because they're becoming dehumanized in the conditions that I saw. They've got to come out where they can become part of society and become treated as an individual. I think the most important thing, though, about the Willowbrook situation, as I see it, is that the system is feeding on itself. In other words, there isn't any alternative for parents that need help. The State is only reaching out its hand primarily with residential care in mind and what parents want, by and large, are a rich variety of programs, primarily in the community. And the reason we've been able to get an expansion of our program in California, even with Mr. Reagan as Governor, is because this program is showing that it has cut the rate of institutionalized retarded persons in California to practically almost in half in just five years.

Geraldo Rivera. Public pressure can apparently force change in California as well as it does here in New York. They had a system that resembled ours until 1965 . . . That was when a prominent European expert on retardation said something that was widely publicized. After touring the California facilities he said, "My God, you don't take care of your mentally retarded children as well as we, in Europe, take care of our cattle." The remark eventually caused them to dramatically restructure their approach.

The heart and soul of the California system is now no longer the large institutions . . . it's the regional center. Children's Hospital is one of the 13 centers in the State. Various programs are administered in neighborhoods all over Los Angeles County and the San Fernando Valley from here. Sub-offices provide whatever services a family with a retarded child needs . . . be it a day-care center, a sheltered workshop or medical care. The idea is to shift the care and training of the retarded children to their own communities . . . In other words, to help the parents keep their children at home.

Education for the retarded in California is as much a right as education for normal children . . . and they're working toward the development of a public school program for every child, no matter what the degree of retardation.

This is a developmental center for handicapped minors . . . All these children are severely or profoundly retarded.

Dr. Koch. This is entirely a State supported program and provides tremendous relief to the parent in terms of day-care.

Geraldo Rivera. Now these children would be parallel to the children at Willowbrook, for instance?

Dr. Koch. Oh, yes. All of these children would be in an institution for the retarded if we didn't have this kind of program for them. The fact is, in years past, I used to recommend institutional care myself for similar children. Now New York is doing some of this, but here again we've realized that the community programs should have top priority in terms of state dollars rather than last priority and I think your priorities are mixed up in New York in terms of serving the retarded. Your top investment is in institutions. . . Our top investment is in the Department of Education, in providing a program for the child while he's at home and in terms of day care, for example. These kids can go to school at age 3 years so they start it very young and that helps a great deal for parents. And when parents are actively encouraged to keep their child at home, they do so because they know they can have the help of the regional centers or public schools or the Health Department in terms of services, etc.

Geraldo Rivera. For the mild to moderately retarded, over school age, the regional center assists in the finding of employment in one of the many sheltered workshops in the area.

Dr. Koch. In the workshops you are seeing less severely retarded persons and the tremendous importance of this is that it gives the retarded person something to do during the daytime that gives them dignity and they earn a little money with it and do something useful. They become a contributor to society instead of a drag on society.

Fred Glad. If you look around and see and just visualize all these people sitting home vegetating and here they are out in the stream of life, doing their own thing. They're earning their own way.

Geraldo Rivera. Dr. Koch told me time and again that the importance of prevention could not be overemphasized. Families with histories of genetic retardation are counselled not to have more children. And if there's a great possibility that a pregnant woman is carrying a retarded child she's tested and if the fetus is found brain-damaged, the center recommends a therapeutic abortion. The center also runs an extensive program of community education and pre-natal care, the lack of which is a prime cause of retardation.

Dr. Koch. Now actually this child has Downes Sydrome and she's just as retarded as most of your patients at Willowbrook. And we're helping this family to keep her at home and the mother's doing a beautiful job on her and the important thing is we're also providing genetic counselling for the family. This is an inherited form of Downe's Syndrome and we have advised the mother that this is true and frankly have advised them not to have any more of their own children.

Geraldo Rivera. How is this child being better serviced by being home rather than being in an institution like Willowbrook?

Dr. Koch. Well, for example, she has access to one of the finest pediatric facilities in the world right here at Children's Hospital. If she were in a state hospital she wouldn't have access to this kind of a facility.

Geraldo Rivera. How about parental care? Is that making a difference in this child?

Dr. Koch. Parental care makes a difference in every child, even the very retarded person. If you could get that across to the people . . . that retarded people are more normal than they are abnormal . . . they have feelings—love, hate, etc.—just like normal people. The only thing is they simply don't think as fast as a normal person.

Geraldo Rivera. How old is she?

Dr. Koch. She's two years old.

Geraldo Rivera. Two years old. What would be happening to her if she were in a place like Willowbrook?

Dr. Koch. Well, frankly, probably nothing.

Geraldo Riviera. But Dr. Koch admits that for some retarded, perhaps 1½% to 3%, 24-hour residential care will always be necessary and some California institutions, Fairview State and Orange County, for example, could be described in the most unflattering terms as smaller, cleaner Willowbrooks. But while Willowbrook has a large waiting list, the California institutions are being rapidly emptied. In five years the total population is down from more than 14,000 to less than 10,000 and that number continues to go down. But even in the area of 24-hour residential care, they are moving to improve the quality of life.

This is the Spastic Children's Foundation, a private foundation that provides total care. It costs $14 a day for children to live here. It costs the State of New York $21 a day to house a child at Willowbrook and if the California parent can't afford the bill, the State contributes based on the family's ability to pay.

Anne Wendt. This is an individualized program, each child has a prescription . . . for therapy, for academic training, for social adjustment, for feeding training, toilet training . . . every facet of his life that he needs help with. We sit down as a staff and we talk about his total needs, not just today, but where he is going to be in the future . . . and how does his family relate to him because all of these things are a part of the whole with this child. See, we see these people as very important human beings.

Geraldo Rivera. It's a five day resident program so the children actually go home?

Anne Wendt. Right, because we want the family to remain the controlling factor in this child's life presently.

Geraldo Rivera. We started this series as a kind of an expose on the conditions at Willowbrook and one of the things that really struck me as barbaric were the toilet facilities. They are so awful, so filthy. Is this more money to keep it this way?

Anne Wendt. It isn't one cent more . . . it doesn't cost any more to be clean . . . it doesn't cost any more to be cheerful and bright and colorful. . . . It's a matter of interest and seeing that children are important people. . . . It's how much status you give to them. And sometimes because they can't respond and say what they like and dislike, it's very easy for people to just sit back and think, 'Oh, this is good enough.' . . . But it isn't good enough. They deserve everything that you and I want out of life. But they can't get it for themselves.

Geraldo Rivera. Here the toothbrushes have the children's names on them. . . . In Willowbrook there were no toothbrushes.

Hi, Richard. How you doing?

Richard. Fine.

Geraldo Rivera. I see you're copying a Van Gogh there. You'd better watch it, you'll get in trouble.

Richard. Yes.

Geraldo Rivera. How long did you live in the state school before you came here?

Richard. I was there for ten years.

Geraldo Rivera. Do you like it better here?

Richard. Yes.

Geraldo Rivera. The thing that impressed me most on the California trip was an apartment where retarded people live in semi-independence.

Irene, how do you like it living here?

Irene. I love it.

Geraldo Rivera. How come?

Irene. I can do my own thing.

Geraldo Rivera. I think the main difference between the approach of New York and that of California to the problem of caring for the mentally retarded is that they treat the retarded as people . . . we treat them as something less.

We haven't given the people who run the New York program equal time to give their side of the story, for as Edward R. Murrow once said, "On some stories there is no other side!"

Perhaps the Governor can defend and explain away the budget cuts for the Department of Mental Hygiene . . . And perhaps Dr. Miller can explain and defend the filthy, dehumanizing conditions we found in this and other buildings. But they won't do it on this program.

What we found and documented here is a disgrace to all of us. This place isn't a school, it's a dark corner where we throw children who aren't pretty to look at. It's the "big town's leper colony."

How long have you been at Willowbrook?

Bernard. Eighteen years.

Geraldo Rivera. How long were you given physical therapy in school?

Bernard. Five years.

Geraldo Rivera. Are you still going to school?

Bernard. No.

Geraldo Rivera. Why?

Bernard. Cause I'm over age.

Geraldo Rivera. You're too old?

Bernard. Yes.

Geraldo Rivera. Would you like to go back to school?

Bernard. Yes, I would.

Geraldo Rivera. What would you want to learn if you went back to school?

Bernard. Learn how to read more.

Geraldo Rivera. Learn how to read?

Bernard. Yes.

Geraldo Rivera. How is it living on the ward that you live?

Bernard. Disgrace.

Geraldo Rivera. It's a disgrace?

Bernard. Yes.

Geraldo Rivera. Why?

Bernard. Because the conditions are getting worser every time they cut the budget more and more.

Geraldo Rivera. But even Bernard with his tragically eloquent plea for help doesn't really understand that what Willowbrook needs isn't more money . . . more money would certainly help, at least the kids would have clothes and they'd be cleaner than they are now, but they'd still be basically human vegetables in a detention camp. What we need is a new approach . . . We have to change the way we care for our mentally retarded. We ask for change . . . We demand change. What you've seen here just doesn't have to be this way.

Announcer. This special report was brought to you as a public service by WABC-TV News.

## RELIGIOUS DEVOTIONS AND BIBLE READING IN PUBLIC SCHOOLS

Mr. ALLEN. Mr. President, some may believe that the people are giving up the fight to restore the traditional and cherished right of children to voluntarily participate in Bible reading and other forms of devotions conducted in public schools. It is my opinion that such a conclusion is both premature and gravely in error. There is evidence that the fight is only begun. Witness the letters I have received from schoolchildren in the fifth grade of Mitchell Elementary School in my hometown of Gadsden, Ala.

The letters to which I refer were sent to me with a letter of explanation from Mrs. Patricia I. O'Neal, the teacher of these pupils. It was she who had the difficult task of trying to explain to her pupils why it is supposed to be unconstitutional and therefore illegal and wrong to read or to hear Bible stories read in classrooms.

Mr. President, these letters have the emotional impact of opinions written with the sincerity, simplicity, and eloquence of children. I invite and I urge all Senators to take time from their busy schedules to read these letters.

Mr. President, I am convinced that the judgments expressed by these schoolchildren are shared by teachers, schoolchildren, and parents throughout the Nation and that they and countless other citizens will not be turned back in their firm determination to remove the blight of illegality from the simple act of Bible reading and participation in simple devotions in the public schools in the United States.

Mr. President, I ask unanimous consent that the letter from Mrs. O'Neal and the letters from her pupils be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Mitchell Elementary School,
*Gadsden, Ala., February 17, 1972.*

Dear Senator Allen: As you can see, my children were most upset that we have been directed, because of our school board's interpretation of court orders, to stop having any kind of Devotionals here at school.

The children wondered what they could do to let someone know how they felt about this. Although I explained that this was not your decision, but the Supreme Court's, I thought perhaps you might like to see how strongly some of them felt.

Respectfully,

(Mrs.) Patricia I. O'Neal,
*Fifth grade teacher.*

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Gadsden, Ala.,
*February 17, 1972.*

Dear Senator Allen: I wish that we could still have a devotional each morning. Everybody in our class enjoyed it. Our devotional helps make our day better. It really teaches us to be better boys and girls. I think that everyone in our room believes in God. In fact, I believe that everybody in our school believes in God. So, our class thinks that we should still have devotional, if we don't read directly from the Bible.

Please help us to keep devotions in our classroom.

Sincerely,

Dianna Holcomb.

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Gadsden, Ala.,
*February 17, 1972.*

Dear Senator Allen: I am not writing this just for me, but for the rest of my class as well. Just because one out of five people doesn't believe in Christ, if they are hundreds of miles away, that shouldn't mean that we can't have a Bible reading. All the people in my class believe in Christ. That means a lot to me because I love Him and I know all the people in my class do too. In all my classes at school we have set a time every morning for either reading directly from the Bible or reading just a Bible Story. It meant a lot to us. It seemed to give us a brighter day. Please see if there is something you could do to help us be able to have our Devotional again.

Thank you,

Tim Belk.

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Gadsden, Ala.,
*February 12, 1972.*

Dear Senator Allen: I wish you could see if you could do something about the law that you can't read the Bible in the classroom. We were upset when we found out that we could not read the Bible or even a Devotional. Like it says in the Constitution, we want our freedom of religion.

Yours truly,

Lori Dooley.

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Gadsden, Ala.,
*February 14, 1972.*

Dear Senator Allen: I would like to know why we can not read the Bible or have a devotional of any kind anymore.

There is no one in our room that does not believe in God, yet we still can not read the Bible or have a devotional. Personally I don't understand why we can't do these things.

If we can't read the Bible why do you allow the Gideons to hand out Bibles to all fifth graders.

Some people say it will hurt their religion. Well, if we don't read the Bible it will hurt ours.

When we have a devotional or read the Bible we know God is with us and will help us to come through the day safely.

My class discussed the problem and we think it is unfair to us and other people.

Used to, we had a devotional every day first thing. Now we don't have one because of one lady who complained.

Very truly yours,

Mary Hunkapillar.

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Gadsden, Ala.,
*February 15, 1972.*

Dear Senator Allen: I am writing to you on behalf of our fifth grade class at R. A. Mitchell School.

We respectfully request that you introduce a constitutional amendment to grant the right for Bible reading in schools.

This right is one of the first American heritages that we had.

Please help in any way that you can.

Respectfully,

Debra Basson.

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Gadsden, Ala.,
*February 15, 1972.*

Dear Senator Allen: About four months ago we heard that we couldn't have Bible reading in schools. My teacher, Mrs. O'Neal, kept reading from a Devotional book.

Monday Mrs. O'Neal found out at a teacher's meeting that we couldn't even read these stories. This has made my class and me very mad. Everybody in my classroom believes in God so why can't we have it? If there is a classroom that has somebody that doesn't believe in God, that class doesn't have to have Bible readings.

There are more people in the world that believe in God than there are that don't, so why can't we have Bible readings in school?

Yours truly,

Cindy Condra.

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Gadsden, Ala.,
*February 14, 1972.*

Dear Senator Allen: I go to R. A. Mitchell School. I am in the 5th grade. I am writing about the rule that we are not to have a devotional in our school room each morning. I wonder if you could do anything about it. There is one thing I don't understand, about a week ago they gave out Bibles to both of our 5th grades. I do understand that some people in some schools don't believe in God, but there is nobody in our room who doesn't so why can't we? So please try to do something!

Yours truly,

Kim Naler.

P.S.—Everybody in my room agrees with me!

GADSDEN, ALA.,
*February 15, 1972.*

DEAR SENATOR ALLEN: I would like for you to try to put Bible reading back in school, if you can. If it hurts other children because of their religion they do not have to listen, but it may hurt ours if we don't hear it. So please try to do all you can about it.

Yours truly,

RENEE ROBINETTE.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: I'm the granddaughter of the Honeycutts who are staying in your house in Gadsden.

I hope you can do something for me. I would appreciate if you would tell me what is wrong with this woman who doesn't want Bible reading in the Schools.

My class and I feel that if we don't have Bible reading it may affect our religion. When we have Bible reading it starts us off with a happy and good day.

I hope you can do something about this woman who does not want Bible reading. If you can do anything about this my class and I will be very thankful to you.

Yours truly,

BELINDA LONG.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: Everyone in my class at school believes in God and wants to be able to have a devotional. When we had a devotional our schoolday seemed to run smoother, but now since we don't our days just aren't the same. Please see what you can do to get a devotional back in school.

Yours truly,

CAROL LAMBERT.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: I am a fifth grade student at P. A. Mitchell School in Gadsden, Alabama. All of my life my mother and daddy have taught me to pray and be thankful for America and its freedoms. This week we were told we must not read from the Bible or from the Bible storybook in our school. As long as it does not hurt anyone in my class, I'm wondering why we must stop giving devotion to God.

Will you please help our class to be able to have our morning devotional?

Respectfully,

JAN WATSON.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: We are having trouble in our school about religion. Some people think we should not read the Bible because they think it will hurt their religion. But we believe in the Bible. So please do everything you can to let us read the Bible.

Sincerely yours,

DAVID COCHRAN.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: We were very upset to have to cut out our Devotional. Our class likes it very much. No one in our class objects to having it. It starts our day with a happy feeling. We get along better with each other if we have Devotional.

Our whole class was upset when we found out we couldn't have a Devotional. We were in an up roar.

So can't you please do something to let us have Devotional again?

Sincerely yours,

APRIL MCWILLIAMS.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: We have no devotional because it might hurt other people's religion. My class disagrees with the Supreme Court. If we don't read the Bible, it may hurt our religion. In the Constitution there is freedom of speech, freedom of religion, and freedom of petition. Please help us. We also can not have a School Christmas Program this year because of this.

Sincerely,

BOB COFFMAN.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: I am not trying to be critical or anything, but I think that we ought to be able to read the Bible if we want to. Please see what you can do to let us read the devotional. We think that we ought to have our freedom of religion and Christmas programs and other things like that too.

Sincerely yours,

TAYA MCLESTER.

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GADSDEN, ALA.,
*February 11, 1972.*

DEAR SENATOR ALLEN: The children of R. A. Mitchel School, Gadsden, Alabama, have been told that we could not have Bible reading, or Devotional in school every day. We would like for you to do something about it if you can. We think we should be able to read the Bible or have daily Devotional in our class.

Very truly yours,

WARREN COX.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: We, the pupils at R. A. Mitchell school, think that we should get to have a Devotional every morning. I am sure my classmates will agree. We miss it very much. Please see if there is anything you can do.

Sincerely yours,

RHONDA HENEGAR.

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GADSDEN, ALA.,
*February 14, 1972.*

DEAR SENATOR ALLEN: I don't approve of taking away our Bible readings at school. When you have Bible readings it starts your day off right. Every person in my class likes to have a devotional and want it back in our school.

Sincerely yours,

CURT SCARBOROUGH.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: I hope you can do something about our not having a devotional in class. Could you? What about freedom of religion and freedom of speech? My class and I were wondering if you could do anything about this. If you can please do.

Sincerely,

LARISSA HIGGINS.

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GADSDEN, ALA.,
*February 17, 1972.*

DEAR SENATOR ALLEN: I am writing about the devotional we had to quit giving. Anyway what's wrong with giving the devotional as long as everybody else doesn't mind and I'm sure they don't. So would you please see if you could do something about it.

Sincerely yours,

TAMMY BALLARD.

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## DEVELOPMENT OF NUCLEAR ROCKET ENGINE

Mr. CANNON. Mr. President, for more than a dozen years Congress has given overwhelming support to the development of a nuclear rocket engine, known as NERVA, which has been under development in connection with our commitment to explore space.

Over these years the project has challenged the maximum capability of our science and technology and has been an unqualified success. Repeated tests have demonstrated beyond doubt that an atomic energy in space will work and would enable the United States to double its payload capability as well as affording our spacemen maneuverability in space to an extent never before possible using conventional fuels.

While this development phase has met every expectation, the ax wielders in the administration have steadily applied a starvation budget and scaled down U.S. objectives to a point where now, instead of an original 200,000 pound thrust engine, it is proposed that Congress approve a 20,000 pound thrust, thus minimizing the weight advantages which the system itself affords.

Mr. President, it seems to me to be a tragic example of waste and mismanagement for the administration to ignore the fact that the American people have invested $1.5 billion over these years for a successful program, only to find that they have created little more than a tool for a group of confused accountants and bewildered fiscal managers who are more interested in starting new and unproven schemes in space than they are in reaching objectives to which we have made firm national commitments.

I am pleased that the Senate Space Committee will be looking into this and related questions when they meet next month on the NASA authorization bill.

The situation which I have described was succinctly summarized in a statement by Commissioner James T. Ramey, of the AEC, in testimony last week before the Joint Committee on Atomic Energy. I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY JAMES T. RAMEY, COMMISSIONER, U.S. ATOMIC ENERGY COMMISSION

As I look at the proposed Nuclear Rocket Program, I am fearful that the old requirements merry-go-round is about to nail another scalp to the wall. This Committee need not be reminded how the system works. There is no requirement and, therefore, we should not develop the technology. Then later comes a requirement, but we cannot meet it because the technology does not exist. This disease breaks out in the bureaucracy in almost every season and this Committee has had many past opportunities to observe the results.

To date, the American people have invested $1.4 billion in the Nuclear Rocket Program and results have been highly satisfactory. For something like an additional $400 million, we can proceed with confidence through a flight test and give the United States an unquestioned place of leadership in space.

Instead of proceeding with the confidence which past technological accomplishment justifies, it seems to me that we are about to sink the whole program. In Fiscal Year 1971, the combined NASA/AEC Nuclear Rocket Program totaled $84 million. In Fiscal Year 1972, it was cut to $34 million with an avowal that we were planning to maintain our technological base that had been developed. Now we are proposing to cut the combined program to $13.5 million with only $5 million of that total available to the Atomic Energy Commission to carry out a skeleton program at the Los Alamos Laboratory and the Nevada Nuclear Rocket Development Station. Again, we are told that this program will preserve the technological base in order that the nuclear propulsion option will be available in the event a requirement develops. I certainly agree that we should preserve the technological base in order that the nuclear propulsion option will be available in the event a requirement develops. I certainly agree that we should preserve the technological base, but I do not believe that we can do it very well for $5 million. I would suggest that an appropriation of $20 million for the entire program with $12 million allocated to the AEC and $8 million to NASA would come much closer to accomplishing the stated desire to maintain the technology and to avoid wasting much of the $1.4 billion invested to date.

For this amount of money, a proper program consisting of the following could be conducted. First, we could maintain a strong test and facility organization at NRDS that would be able to conduct reactor and component tests and perform facility engineering functions required to prepare for testing low-thrust nuclear rockets. Second, the fuel and reactor technology program could be expanded to include nuclear furnace tests on a more rapid pace and permit an early test of a Peewee reactor fueled with modern composite fuel elements. This step is vital to round out our technology, because reactor tests are the only valid proof of our technical capabilities. Third, the increased funding would make it possible to commence development of vital, long-lead-time components for a low-power nuclear rocket engine. Essential components include the turbopump, nozzle, gimbal, pressure vessel, valves, and actuators. Fourth, an adequate program on advanced solid core technology (carbide fuel elements) could be conducted along with other supporting research and technology activities that must otherwise be terminated.

To summarize, I continue my strong support for the nuclear rocket program. However, I must register the dissenting view that inadequate funds are budgeted in FY 1973 for this program. I believe that past progress and future promise for nuclear rockets warrant continuation of the program at a higher level to insure the maintenance of a strong and dynamic program with proper near term goals.

## DISTURBING REPORTS FROM DEPARTMENT OF TRANSPORTATION

Mr. WEICKER. Mr. President, in the last several weeks I have heard some very disturbing reports emanating from the Department of Transportation. Those reports concern two internal DOT studies both of which appear, at least on the surface, to have excellent potential—first, the broad, overall National Transportation Planning Study initiated by Secretary Volpe 2 years ago and, second, the Urban Mass Transportation Administration's study into new guidelines for mass transit capital grants.

The purpose of the National Transportation Planning Study is to provide both DOT and Congress with a coherent framework within which to evaluate all future transportation bills, projects and planning. Unfortunately its formulation seems to have some serious flaws.

As we who are strong supporters of total transportation well know, State and Federal highway departments are the only transportation agencies which have real, long-term experience with broad-spectrum planning. Mass transit, by its nature, is localized and less susceptible to planning on a national scale. Airports and airways have national impact but their planning process is still in its infancy. Waterways, as a means of mass transit have been completely ignored. The only national study of inter-city rail needs has been done by a private group—America's Sound Transportation Review Organization—ASTRO.

As a clear result of these planning traditions, or lack of them, any National transportation plan which uses today's methodology and today's experiences must end up with an overemphasis on highways. This, I am convinced, would be a major mistake, just as would be any plan weighted in favor of mass transit or airports. It is absolutely essential that any such plan include a heavy dose of data and thinking on all modes of transportation, even going so far as to consciously deemphasized highways to compensate for the inevitable bias in their favor.

Any national plan must also include the best possible projections on developing technology effecting all forms of transportation and, perhaps most important, must carefully analyze the impact of each different mode on the environment, on housing, on the economy as a whole and job opportunities specifically. Finally, any planning process must consider the changing nature of urban and rural development including the need for transportation to follow population as it moves out from and encircles our major cities.

However, if any one kind of transportation is emphasized over the others, such rational planning will simply be impossible. If the selfish desires of a particular interest group, a particular industry or a particular history of expertise is allowed to predominate, we might as well scrap the whole project right now and spend the money where it will be more useful. Therefore, I would urge Secretary Volpe and all others involved in the study to again review their sources of information and their methodology to remove all the natural biases toward long established programs and to assure adequate compensation for intrenched, preconceived ideas.

Another aspect of the current DOT planning process which I find somewhat alarming is the fact that the final recommendations may well attempt to set rigid guidelines for allocating DOT funds among various transportation modes. For instance, it is said that capital needs for highways by 1990 will cost $600 billion while those for mass transit will be a mere $60 billion. Now those figures may, in 1990, turn out to be correct. But the Federal Government has no business imposing a 10-to-1 ratio on the whole country without reference to local, State, and regional needs which may bear no relationship to such a ratio. I have often said that I want no part of applying a Montana or Wyoming solution to a Connecticut problem. Nor would I impose the answer to Connecticut's transportation needs on other States. Any planning process which starts at the Federal level and imposes rigid technical or funding guidelines on local or State governments undermines the entire purpose of transportation planning. Such planning must come from the bottom up and not from the top down.

Mr. President, on February 2, I introduced S. 3110, a bill to create a national transportation trust fund. This would dump all Federal transportation funds into a single pot, allocate the pot as a whole to the States on a formula basis without reference to any particular transportation mode, requiring only that it be spent in accordance with a State plan approved in advance by the Department of Transportation. These plans obviously would have to be coordinated with those of adjacent States and would, therefore, taken together, constitute a national plan. But in this case the planning initiative would come from the level of government faced with the problems and would not be imposed from above.

This bill may not be the ultimate answer, but it seems to me to at least address the right questions. From what I have heard of the DOT study with its rigid guidelines, it would appear that, once again, we have lost sight of the right questions.

Mr. President, transportation is typical of many Federal programs. Somehow the assumption is made that Washington is the repository of all wisdom. Somehow we have come to feel that we in Washington know the answers to State and local problems better than the State and local officials elected to solve them. This simply is not true.

I would be the first to admit that transportation across the country is in a mess. In some areas, highways are desperately needed to clean up this mess. But in other areas more highways would only make the mess worse. What I am talking about is coordinated flexibility not planned ridigity. If the DOT study finally emerges in the form it appears to be taking, I will be the first to demand that Congress scrap it in favor of greater local option.

Finally, Mr. President, there is a strong indication that the Urban Mass Transportation Administration will soon issue new guidelines for capital grants which will place heavy emphasis on highway-oriented transit—in effect making it virtually impossible for any city to build or substantially improve a rail transit system.

It is said in justification for this action that only a very few cities are suited for the traditional form of rail system such as now exists in New York, Philadelphia, Chicago, and Cleveland. This may be true. But then, again, it may not be true. In any case, who are we, in Washington, to tell Baltimore, Atlanta, Buffalo, Dayton, St. Louis, Los Angeles, or any other city that we can solve their transportation problems better than they themselves can? Who are we to say that mass transit funds must be spent for anything more specific than mass transit in general? Who are we to say that rail transit or a combination of highways and rails will not best suit the needs of a particular city? Who are we to say that, because someone in Washington wants to pour more concrete, we are going to close all nonhighway options to local communities even though they may already have available rail lines which they could use, thus saving billions of dollars and hundreds of acres?

A good example seems to be developing in Dayton, Ohio. There a plan has been advanced to put commuter cars on existing Penn Central tracks, thus relieving existing highways of commuter traffic and relieving the city of the painful need to further tear itself apart with even more highways. This proposal has not even been officially submitted to UMTA, and perhaps, based on local evaluations of local problems, it never will be. But what business does Frank Turner, the Federal Highway Administrator, have to descend on Dayton and, in essence, inform the city's officials that they might as well forget about plans for rail transit?

Proposals have been made for a simliar rail system in Washington and my own State capital of Hartford may well be a candidate for a similiar program. And I will be damned if I will sit back and watch all freedom of choice removed from Hartford, Washington, or any other city simply because UMTA guidelines are so rigid as to eliminate even the option of funding rail mass transit.

Mr. President, I would sincerely hope that rumors I have heard about both the broad planning study and the UMTA guidelines are wholly without foundation. But should they be true, let me assure my colleagues and transportation officials in Washington and throughout the country that I will be prepared to offer whatever legislation may be required to restore and improve local and State flexibility wherever possible.

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## LOOKING FOR NUCLEAR INFORMATION

Mr. GRAVEL. Mr. President, the AEC's hearing on nuclear powerplant safety—specifically on the untested emergency core cooling system in such plants—has been underway since January 27.

Thanks to the February 17 issue of Nucleonics Week, we have available a summary account of some important developments there, including the disagreement within the AEC's Division of Reactor Standards about the adequacy of the present performance criteria.

Mr. President, I ask unanimous consent that the following items from Nucleonics Week be printed in the Record:

First, "ACRS Again Urges ECCS Improvements; Pressures Grow for It To Testify."

Second, "Industry Feels ECCS Dissent Healthy; Opposition Sees Its Case Proved."

Third, "AEC Internal Documents on ECCS Reveal Staff Qualms."

Fourth, "Strength of ECCS Hearing Intervenors' Technical Case Questioned."

There being no objection, the items were ordered to be printed in the Record, as follows:

### ACRS Again Urges ECCS Improvements; Pressures Grow for It To Testify

The Advisory Committee on Reactor Safeguards has written a second strongly worded letter to AEC chairman James Schlesinger calling for the commission to strengthen its emergency core cooling research program. The letter, sent last Thursday (Feb. 10), said: "The ACRS recommends that a subtantial increase in funds be made available for regulatory support of these activities and for reactor safety experiment which can be initiated in prompt response to items identified in regulatory review." The research areas identified in the letter are 1. flow phenomena during reactor depressurization; 2. reflooding rate as affected by steam binding; 3. flow and heat transfer during blowdown; 4. improved ECCS computer codes; and 5. fuel rod failure.

The letter follows an earlier one to AEC calling for ECCS design improvements for future reactors (NW, 20 Jan, 1). It comes in the middle of a heated controversy over whether AEC should reverse its recent ruling and require ACRS to testify at the ECCS rulemaking hearing now going on. Sources said there is a growing feeling within the commission that it will have to direct the 15-man ACRS to testify in person, as demanded by National Intervenors, the environmentalist grouping participating in the hearing.

These sources said that AEC is in a damned-if-you-do and damned-if-you-don't position over ACRS. "If they [ACRS members] are not subjected to cross-examination there will be a hole in the record large enough to drive a truck through," a commission source said. On the other hand AEC is under pressure from the Joint Committee on Atomic Energy to protect ACRS and keep it out of the hearing. JCAE feels that ACRS would collapse as an institution if its members were forced to testify. In its rule barring ACRS appearance at the hearing, AEC set up a formula for submitting interrogatories through the hearing board to ACRS. However, National Intervenors' attorney Myron Cherry has threatened to challenge AEC in court on grounds of due process if ACRS is not produced to face cross-examination. Meanwhile, it was learned this week that ACRS itself is divided on the issue of testifying, some of its members believing that no practical purpose can be served by establishing a hearing record that does not include direct examination of the bodies charged by Congress with watchdogging reactor safety.

Three other subjects also are awaiting AEC rulings and they, too, are expected to generate controversy. The commission must: 1. rule on whether it is going to produce witnesses asked for by the intervenors, such as members of the ECCS task force who are not part of the panel of 10 AEC witnesses at present on the stand; 2. endorse or reject slippage in the hearing schedule (the participants already have agreed—without endorsement of either the hearing board or commission—to delay introduction of their testimony from today [Feb. 17] to Feb. 24; 3. hand down guidelines on the scope of the hearing, a definition being sought by both intervenor environmentalists and reactor vendors. Sources say the commission would like to be liberal on the issue of witnesses and the ACRS but rigid in insisting on adherence to the hearing schedule and in confining the hearing to matters related directly to ECCS.

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### Industry Feels ECCS Dissent Healthy; Opposition Sees Its Case Proved

The facts revealed in the emergency core cooling papers released by AEC last week mean different things to different people. The documents (*see story below*) are mainly memoranda from AEC staffers to each other or to the task force that produced the ECCS interim criteria last June. To National Intervenors, the environmentalist coalition group participating in the rulemaking hearing now being conducted by AEC on the interim criteria, the ECCS papers mean confirmation of their case. This is that the interim criteria are inadequate and that plant licensing should be slowed down or stopped while ECCS safety is improved; some of the AEC memos take a similar line. But to the nuclear industry and nuclear engineers closely following ECCS development, the documents reveal a healthy measure of dissent. The vendors—particularly Babcock & Wilcox, Combustion Engineering and Westinghouse, who are mentioned in the memos—take the dissenting documents as simply a part of the AEC's decision-making process.

Robert Lowenstein, the Washington attorney representing Combustion Engineering in the rulemaking hearing, said: "What they [the documents] say to us is that the AEC staff has been particularly conscientious in reviewing the criteria and has listened faithfully to every view. Over-all, the documents only show that two men disagreed with the majority of their colleagues. I believe that when the record is complete these documents will buttress the position taken by the staff rather than detract from it." A similar view was expressed by Barton Z. Cowan, a Pittsburgh attorney appearing for Westinghouse in the ECCS hearing. Cowan said that the presence of some dissent within AEC was inevitable and probably healthy. Other industry representatives at the rulemaking reflected the same position: that some dissent was a good, natural thing.

#### NO UNANIMITY IN MATTERS OF JUDGMENTS

Sources close to the Advisory Committee on Reactor Safeguards also felt it is a healthy sign that there is disagreement among those responsible for developing ECCS standards and criteria. They stress that these dissenting views were fully considered in formulating AEC's position on ECCS. This position is that plants can continue to be built while ECCS design and code development progress, since the likelihood of a loss of coolant accident happening to the relatively few plants under construction in the next few years is extremely small, and the likelihood of the ECCS not working in such an accident is also extremely small.

Said one source: "If all AEC people agreed with each other [on ECCS criteria] they wouldn't be doing their job. You cannot get 20 or so competent people going along in lockstep right down the line. These are judgment matters. These memos just had to show substantial differences. Whether or not, in the long run, it is good for society to have all these internal disagreements aired, I don't know. But it is certainly a healthy sign that these are people in there fighting over whether this is better than that."

He said that the dissenting points of view of Morris Rosen, chief of the systems performance branch, AEC Div. of Reactor Standards, Robert J. Colmer of his staff, and others were rejected by the task force on ECCS, "but only after agonizing consideration of their points of view. The staff group tried very hard to see whether there was some sort of consensus view, but there wasn't." Rather than shut down nuclear licensing while ECCS improvements are achieved, the task force decided to "make a sort of rolling change," in which plants could continue to be licensed while the ECCS improvements were effected. And in fact ACRS recently wrote to AEC formally calling for such improvements for future plants. Instead of taking the absolutist view of reactor safety that some environmentalists take, said one source, the task force allowed for economic factors such as the needed power to be generated by the plants and the huge utility investment in the plants.

Many industry and AEC persons express concern about the long term effects of the precedent now established by publication of the internal documents. Already, the David Comey-led intervenors in the Bailly (Northern Indiana Public Service) and Zion (Commonwealth Edison) licensing cases have requested the release of AEC internal documents. The requests, based on the Freedom of Information Act, could result in a serious problem in the commission's internal work.

Mused an AEC staffer: "That's the end of the memo. If every thought, however extraneous, that is committed to paper is going to be the subject of cross-examination in a hearing, then no one around here is going to want to put anything in writing that is not classified. Worse, what really is going to hurt is that you are going to be obliged to make a written reply to any written suggestion with which you do not agree to avoid being accused of ignoring it in making a decision. If the commission makes internal documents available in every case, then we have a serious problem in our day-to-day workings."

As for the ECCS documents, one reactor-vendor executive felt that their release "amounts to an airing of internal dirty linen. Therefore it should be of more concern to them [AEC] than to us as vendors." He felt it was unfortunate that the papers were released, and that the intervenor's attorneys were following their usual pattern of "asking for documents and using them for delaying and embarrassing rather than getting at the information in an objective way. I think, they will use the information in such a way as to stall the proceedings and try to delay any findings of the board (if not to prevent them altogether) that AEC's criteria are adequately conservative. By pointing out internal divisions of opinion within AEC they will slow things down."

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### AEC Internal Documents on ECCS Reveal Staff Qualms

Study of the recently released AEC internal documents on emergency core cooling reveals a strong measure of staff concern that 1. the interim criteria on ECCS are not conservative enough; 2. that accident-condition factors such as coolant-channel blockage are not sufficiently understood or allowed for; 3. that experimental tests conducted so far have little or no relevance to the large reactors now being built; and 4. that computer codes used for calculating the results of a hypothetical loss of coolant accident (LOCA) are relatively crude, lack much needed data, involve too much "patching" between one code and another, were intended for 1965 and 1967 reactor designs, and should be replaced by much more sophisticated codes as soon as possible.

Wherever a specific reactor type is mentioned in the documents it is almost exclusively the pressurized water reactor (PWR). The boiling water reactor (BWR) hardly appears at all.

The documents were demanded by National Intervenors, a combination of several environmental organizations taking the opposition role in the AEC rulemaking hearings on ECCS. The hearing board refused to release the papers but the AEC commissioners reversed the ruling. Of the 61 documents originally demanded, only four were not released for reasons of proprietary or national security interests. The released papers date from May 1968 but most of them were prepared in 1971, especially the last three or four months. The great majority of them are memoranda from regulatory staffers to each other or to the AEC task force on ECCS which produced the interim criteria last June. None of the documents released records the opinion of the Advisory Committee on Reactor Safeguards on the interim criteria. However, one of the four documents retained by the commission is an ACRS review of the criteria, dated Dev. 12, and another is concerned with ACRS consideration of a computer-code model. ACRS has told AEC it must develop design changes and improvements to enhance ECCS performance but ACRS has refused to testify at the rulemaking hearing.

#### URGE MORATORIUM ON POWER INCREASES

Two of the AEC staffers making the strongest stand against present ECCS criteria are Morris Rosen, chief of the systems performance branch, Div. of Reactor Standards, and Robert J. Colmar, Rosen's deputy. In a memo to the ECCS task force, dated June 1, 1971, (shortly before issue of the interim criteria) they recommend a 6–12-month moratorium on reactor power increases to provide a "breathing spell" to allow time for further understanding of computer code limitations and capabilities. In talking about ECCS codes, tests, and conservatism, the pair wrote—in capital letters—that they took exception to this current approach and had consistently pointed out that it is too limited for the task at hand. It will have unforeseen pitfalls, they said. ". . . This approach will not be technically defensible in the final analysis as a basis for selectively derating multi-million-dollar plants on a plant-by-plant basis should code-generated numbers indicate such a course. We are further concerned because the task force is not adequately emphasizing the need to identify the current urgency of new system development and the need for experimentation to justify the adequacy of present designs in a timely way. We believe that the consummate message in the accumulated code output is that the system performance cannot be defined with sufficient assurance to provide a clear basis for licensing," they wrote.

Rosen and Colmar went on: "On the basis of these observations and the indicated views of many experts in the field we take exception to the simplistic argument of doing business in the best way we know how within the framework of the current state of the art as embodied in the present codes imperfect as they may be. We feel that the task force should realize that these may not be good enough for present safety analysis and may be, in fact, detrimental to an orderly and comprehensible licensing process."

They attacked the computer codes and noted that their views are supported substantively by critics of the reactor vendors' codes such as Wayne A. Carbiener of Battelle Memorial Institute member of the former Idaho Nuclear Corp. (now Aerojet Nuclear Corp.), Amir N. Nahavandi, doing AEC research work at Newark College of Engineering, Newark, N.J., and C. G. Lawson of Oak Ridge. Both Nahavandi and Lawson have ECCS papers among the released documents. Wrote Rosen (and it was co-signed by Colmar): "Cooling by narrow margins would have to be recorded by me as an essentially uncoolable situation." They told the task force that it is foolish for the vendors to continue preparing massive calculations based upon their ECCS computer codes and deluging AEC staff with them. It would be better, they said, to take an entirely new approach—for AEC to call for entirely new emergency core cooling systems to be developed, including the injection of water directly into the fuel core.

#### PWR FUEL ROD TEST DATA CITED

Many of the released documents refer to the PWR–FLECHT (Full Length Emergency Cooling Heat Transfer) tests of full-size, 12-foot-long fuel pin assemblies at General Electric and Westinghouse facilities under subcontract to the former Idaho Nuclear Corp. The electrically heated assemblies simulated decay-heat generation in reactor fuel pins cooled by sprays (BWRs) and flooding (PWRs).

Colmar discussed the PWR-FLECHT results in a memo to the task force dated Dec. 1, quoted here in full.

"The attached figure represents some of the PWR-FLECHT data showing the sensitivity of the heater rod performance to the bundle flooding rate. It is clear that the coolability of the rods, as measured by the maximum-clad-temperature-increase parameter, is a threshold phenomenon; that is to say, below a certain value of the flooding rate the coolability of the core deteriorates extremely rapidly.

"For these data, for example, the brink of this deterioration is somewhere in the region of 1 to 2 inches per second flooding rate, and that coolability below these rates becomes rapidly uncertain.

"It is important to note that current safety evaluations under the AEC interim policy statement on ECCS indicate that the reactor cores are flooding at the rate of 0.9 in./sec (i.e., Point Beach, Ginna, McGuire). Even though these calculated flooding rates represent results predicated on the multiplicity of conservatisms stated in the interim policy statement it must be recognized that there is implied in this a measure of absolute certainty on the part of the AEC task force on ECCS in finding such low flooding rates acceptable. This degree of certainty does not seem to be warranted. The margin for error for as yet unknown effects is measured by the difference between a presently acceptable flooding rate of 0.9 in./sec and an uncoolable situation at approximately 0.6 in./sec. At this point in the technology concerning the LOCA and ECCS there may be enough uncertainty in the effects of channel blockage due to clad swelling, uncertainties in the use of 'transition' boiling correlations by Westinghouse, or in the general FLECHT results themselves, to potentially overwhelm this narrow available margin of error.

"Judging from the FLECHT results the reactor should only be permitted to operate in the 'stable' or flat portion of the flooding curve which is attached. For example, best-estimate or realistic flooding modes should be required to be at no less than 6 inches per second. For deteriorated operation, representing a reasonably conservative approach (such as a modified interim policy statement on ECCS) the flooding rate should not be permitted to fall below 3 or 4 in./sec to allow for any residential phenomenological uncertainty that cannot yet be characterized for this difficult and incompletely understood phenomenon.

"It is suggested that the ECCS task force members reconsider the acceptability of the very low flooding rates and attempt to reformulate a position which reflects a greater margin of error than is presently accepted by interim policy."

#### CHALLENGES APPLICABILITY OF DATA

In another memo to the task force nine days later (Dec. 10), Colmar attacked much of the usefulness of the PWR–FLECHT test data. He noted that the fuel pins were contained in a housing which is "artificial with regard to the open-lattice core structure of a pressurized water reactor, so that some consideration must be given to the design of the housing in order for the test results to be meaningful. The thermal-hydraulic behavior of the housing must be such that the performance of the bundle is essentially the same as it would be in the realistic environment of additional rows of rods [in a real PWR]." Colmar said that there is no evidence that the temperature assigned by Westinghouse to the housing simulated the energy input of an additional row of rods in an open-lattice core. The radiation heat transfer to the relatively cold housing had not been adequately accounted for in the final reduction of the FLECHT data, said Colmar. He went on:

"This feature contributes a non-conservative element to the use of the FLECHT heat transfer coefficient data which is of unknown magnitude. Furthermore, the thermal-hydraulic behavior of the housing and its effect on the heat transfer coefficient is also *an unknown* at the present time. There is some indication that the steam generation associated with the thermal-hydraulic behavior of the housing may also contribute to nonconservative FLECHT heat transfer coefficients.

"These considerations are significant elements in the proper evaluation of the FLECHT data, yet the nature and extent of these effects on the FLECHT heat transfer coefficients are *unknown* to the regulatory staff. Nonetheless, the PWR–FLECHT data has been accepted in safety evaluations, as prescribed by the interim policy statement on ECCS, with these deficiencies not clearly understood. It seems imperative that the ECCS task force members resolve these uncertainties at the earliest possible time inasmuch as present licensing procedures are predicated on the acceptability of the PWR–FLECHT heat transfer coefficients for flooding rates as low as 0.9 inch per second; the FLECHT data indicates an uncoolable reactor situation at about 0.6 inch per second, so that the margin is extremely narrow and can possibly be overwhelmed by the existing uncertainties."

### CALLS DECISION INSUFFICIENTLY CONSERVATIVE

Colmar also said: "It seems important to note that, in addition to the regulatory staff not having any clear evidence from Westinghouse that the housing performed properly in these FLECHT tests, members of the Aerojet Nuclear Corp. connected with this project have expressed concern that the proper behavior of the housing has, indeed, not been accomplished." Colmar added that the softness of the data on the housing and the radiation heat transfer to it "suggest the magnitude of the potential errors involved at the low flooding rates and should *serve to alert the regulatory staff* to potential nonconservatisms in presently acceptable analyses that may have serious consequences. The essential point is that the radiation heat transfer component should be properly accounted for in the reduction of the FLECHT data, particularly for the low flooding rates, as was done in the BWR–FLECHT program wherein these effects were found to be quite significant. This evaluation has not been accomplished in the PWR–FLECHT program. Further, there does not appear to be any substantive basis on which to conclude that these effects are insignificant at present; yet the results of the PWR–FLECHT program are prescribed in the interim policy statement on ECCS for the safety evaluation of current reactor systems for licensing purposes."

In a third memo to the task force, dated Jan. 13, 1972, Colmar stated that the PWR-FLECHT tests suggested blockage of the coolant channels between fuel pins, caused by swelling of the cladding, is actually beneficial in emergency cooling. However, he said, because FLECHT did not represent an open-lattice core the test results "may be misleading if taken at face value. . . . There are indications . . . that elements exist in the blockage configuration which are clearly deleterious to bundle cooling during reflooding. The indications are that this phenomenon may have a serious effect on core cooling," he said.

However, despite all of Colmar's memos, the task force concluded, at a meeting on Dec. 11, that the inadequacies of the PWR–FLECHT tests "could for the time being be dismissed when considering the interim evaluation models," said Momis Rosen, Colmar's chief, in a memo to the task force dated Jan. 12. The task force felt that arguments refuting Colmar's contentions should be developed by the reactor manufacturers. Rosen mentioned another memo, apparently also to the task force, by G. Norman Lauben of the Div. of Reactor Standards, in which the later continued to "raise serious questions as to the usefulness of the interim criteria for licensing purposes." He also quoted from a letter by J. C. Maire of Aerojet Nuclear Corp. which said: ". . . as reflooding rates approach 1 in./sec. [acceptable within the interim criteria] bottom flooding is relatively ineffective in preventing clad damage for many postulated LOCA conditions."

### ASKS BETTER COMPUTER PROGRAM

An undated report by Nahavandi, a research professor at Newark College of Engineering, prepared under AEC contract, concluded that the current ECCS analytical capabilities are inadequate for predicting a plant's dynamic behavior during a LOCA. He wrote: ". . . under the present conditions, the core fluid flow and heat-removal capability and effectiveness of the ECCS in maintaining the fuel cladding temperature within allowable limits cannot be established." To overcome this problem, the report proposes the development of a more reliable computer program. The effects of flow oscillations on heat transfer should be determined by analytical and experimental studies, and then factored into the new computer program. "The program should be designed to eliminate the need for external coupling or 'patchwork' between component programs." Nahavandi wrote, adding "the computational volume of the new computer program is one order of magnitude larger than that of the present programs. Therefore, new computational techniques must be introduced to reduce the running time of the program."

This theme was echoed by Edson Case, director of the Reactor Standards Div. In a memo to Milton Shaw, director of the Div. of Reactor Development & Technology, dated Aug. 16, Case wrote: "Current efforts on the development of a more sophisticated thermal-hydraulic LOCA code should be substantially increased both in priority and funding. What we have in mind is not 'patching' or adding to existing codes, but development from basic principles of a new code, better able to handle the complex physical problems realted to a LOCA and to ECCS performance. In particular, potentially disadvantageous phenomena observed in recent experiments, such as nonequilibrium mixing and chugging, should be realistically treated in the new code. This is a difficult task, at the frontier of presently available technology, but it is urgently needed to permit correlation of existing and new experimental data, including that to be obtained from LOFT [Loss of Fluid Test], with large power reactors. We suspect that adequate LOFT design may also depend upon development of a sufficiently realistic thermal-hydraulic code, of the type here proposed. Short-term efforts should be continued to make specific modifications to Relap-3 and Theta-1B [codes] in order to better model thermal and hydraulic phenomena in PWRs (e.g., the degree of mixing during ECC injection) and to permit the use of Relap for BWR LOCA calculations. Improvement in the Theta code with the goal of improving running time and continued development of a three-dimensional version of Moxy which includes a rate of heat transfer model representative of the BWR heating code should be developed." (The codes mentioned were developed by Aerojet Nuclear.)

### PRESSESKY CALLS CODES OUTDATED

A plan for development of a new code was presented on Oct. 21 by A. J. Pressesky, assistant director for nuclear safety, Div. of Reactor Development & Technology, in a memo to Case. The code proposal was prepared by Aerojet Nuclear. Pressesky noted that nuclear safety codes used by the nuclear industry are based upon codes for plants built between 1965 and '67. The codes have been updated since then to take account of the larger plants under construction, but . . . "A point has been reached where the present codes cannot be effectively modified to meet future needs. Specifically, the difficulties which would inhibit the use of present codes for future problems are: 1. inability to describe important physical phenomena and subsequent lack of ability to define the margin of safey with confidence; 2. inconsistent treatment of common phenomena in codes; 3. difficulties in interfacing and modifying codes; 4. over-emphasis on empirical correlations."

Pressesky said that the plan proposed establishing three principal code components: 1. A basic loop code structure capable of describing slip flow, unequal-phase temperatures, variable flow area, and volumes with three or more junctions. Some 11 man-years would be required to develop this code. 2. A core thermal-model code, to better determine core flow and its distribution. It would determine the type and magnitude of flow oscillations, among other things. Nine man-years would be necessary to develop the code. 3. An executive code designed to link together the other codes, to keep them up to date, and allow their use on any of the present computers and the new large-capacity scientific computers. This would take four-man-years to develop. The plan also proposed several additional subroutines and auxiliary codes.

### QUESTIONS KNOWLEDGE OF BLOCKAGE EFFECT

Colmar took up the matter of coolant channel blockage in a memo to the task force on Dec. 1: "The entire question of channel blockage, its extent and its effects, in a reactor core during the reflood phase of the LOCA does not appear to have been resolved adequately. The interim policy statement on ECCS contains no explicit consideration of channel blockage although the effects can conceivably add several hundred degrees to the calculated clad temperature. It is recommended that the task force consider the question of flow channel blockage due to clad swelling and formulate a properly conservative modification to the interim policy statement on ECCS."

He went on to make several points: "1. The existing basis for establishing the effects of channel blockage is extremely limited; the analytical studies are somewhat outdated and the only experimental studies on full length bundles is limited to one program, the PWR-FLECHT tests. 2. Channel blockage acts as an increased resistance to flow and causes a redistribution of the normal flow which results in a flow reduction into the regions affected by the blockage. 3. An attempt to interpret the PWR-FLECHT data to account for some effects of radial flow indicates that blockage tends to degrade the local heat transfer and reduce rather than increase cooling as suggested by previous interpretations of the published FLECHT data. The temperature increase due to blockage appears to be dependent on the amount of blockage and may be in the order of several hundred degrees for 50% blockage. 4. At low flooding rates, in the order of 1 in./sec, the successful performance of the ECCS may be very sensitive to any additional degradation of the local flooding rate. The effects of flow channel blockage may be very critical in this regard.

"It seems essential, therefore, to carefully re-evaluate the basis for the present regulatory position on the effects of channel blockage in the current safety evaluations," Colmar urged the task force. He recommended careful re-evaluation of the FLECHT data, "which forms the principal basis for presently estimating the effects of blockage for a bottom flooding system. . . . If the FLECHT uncertainties cannot be resolved readily and blockages on the order of 50% seem probable the ECCS task force ought to consider amending the interim policy statement on ECCS appropriately." Colmar reminded the task force that the "effect of channel blockage has not been implied or explicity delineated by the existing conservatisms. Therefore a discrete conservatism to account for the effects of flow channel blockage should be formulated. This effect should be explicitly stated in the interim policy statement as applicable to all reactor types so that the burden of demonstrating any benefits, experimentally or analytically, to reduce this conservatism would be placed with each of the reactor vendors or the applicants. This would seem to be prudent from a technical point of view as well as from the standpoint of improving the position of the regulatory staff at future public hearings on licensing matters."

### TEMPERATURE MARGINS LISTED

The matter of peak clad temperatures was taken up in a memo to the task force, by Richard C. DeYoung, assistant director of the Div. of Reactor Licensing, dated March 16. He wrote: "The problem of ECCS performance must be considered in terms of the criteria established for licensing. To date LOCA analysis has used the computer codes discussed and peak clad temperatures have been predicted to be below the criterion of 2,300 degrees F. The following results are listed to indicate margins in clad temperature before exceeding the clad criterion for the large cold leg break.

"Westinghouse plants: Indian Point-2, 2,015 degrees F; Indian Point-3, 2,215; Zion, 2,040; D.C. Cook, 2,240; Turkey Point, 2,465 (reduced to 2,315 after charges [sic] to decay heat generation); Prairie Island, 1,955; Aguirre, 1,990 (both of which are for intermediate cold leg break).

"Babcock & Wilcox plants: Oconee, 2,204.

"Combustion Engineering plants: San Onofre-2 and -3, 1,850."

The results of the semiscale ECCS tests conducted by Idaho nuclear were discussed in several memos. One, on the applicability of the tests to PWRs, was prepared by D.F. Ross, Div. of Reactor Licensing, in September. He concluded that there were several mechanisms that were responsible for ECC rejection in the semiscale tests that would not exist in a PWR "to the extent necessary for complete ECC rejection." He listed these mechanisms as: "1. Semiscale continued to blowdown in a negative direction in the core during and after ECC delivery. This was due to the single loop feature, the discharge to atmospheric pressure, and the additional steam generated from heat transfer from hot metal surfaces. In a PWR there are multiple flow paths which will permit core bypass. Heat transfer from hot metal surfaces was found to be of lesser significance in a PWR. 2. Semiscale had an oscillatory behavior in the latter stages of blowdown which contributed to ECC loss. Similar analysis for a PWR indicates a small oscillation prior to core recovery in relation to the height of the PWR downcomer. 3. The core frictional resistance of steam generated during the latter stages of semiscale blowdown was sufficient to lift water up the inlet pipe and out the break. This will not occur in a PWR because the core pressure drop is less; the annulus/core area ratio is 1/2 instead of 1/9 on semiscale; and the downcomer is five times higher on a PWR. The experimentally observed phenomenon of oscillation in the latter stages of blowdown is being incorporated into PWR analysis. Preliminary results show that this mechanism will cause ECCS loss, although not sufficient to prevent core flooding."

Colmar, in another memo, stated that the semiscale test results could not be construed as a failure or applicable to a full-scale reactor. Aerojet Nuclear (the successor to Idaho Nuclear, conductor of the semiscale tests) concluded that pressure oscillations caused the ECC water loss in the tests. But, Colmar told the task force in a memo of Oct. 1, ". . . the view is that steam binding was the cause. . . ."

### HANAUER EXPRESSES CONCERN

Leader of the task force was Stephen Hanauer, AEC technical adviser to the AEC director of regulation. He wrote many memos to the task force, discussing its forthcoming or just-past meetings, among other things. One of the memos, written on Nov. 5, told the members: "I expect to be grilled by the Advisory Committee on Reactor Safeguards about future research and improvements in ECCS." Writing about Babcock & Wilcox's computer codes, he said: "I am not enchanted with my first book at BAW 10034. Note the horrible oscillations in fig. 7-2, less horrible in fig. 7-8. See the spikes in figs. 7-12, -13, -35, -49, -53, -64. Do we have to buy this . . . ?" And he added: "I expect the same problems with the ACRS."

In an earlier memo to the task force, on July 28, he wrote: "We are getting too much help from intervenors and environmental groups in establishing the technical basis for ECCS effectiveness and performance. Rather than rebut such papers as the recent ones by [David] Comey [environmental director of Businessmen for the Public Interest, a component of National Intervenors now participating in the rulemaking hearing] and the Union of Concerned Scientists [also with National Intervenors] one by one, we should instead accelerate publication of the AEC technical paper on this subject."

The AEC technical paper was never released separately by the task force, but was incorporated into the commission's testimony for the rulemaking hearing.

Hanauer later said, in the same memo, "It is sad but true that neither Babcock & Wilcox nor Combustion Engineering will be in satisfactory shape, I now envisage, for getting out this report. There are various possibilities for handling this difficulty: a. tell it like it is with all our present qualms about the present codes; b. leave a hole, acknowledging that codes are under development and no description or review is possible at the time of publication and issue a supplement. Neither of these is very appetizing but we will have to decide something fairly soon," he wrote.

In another Hanauer memo to the task force, dated July 7, he talked about a meeting planned for July 12. Combustion Engineering "will be in to tell us lots of good things about their present effort. I plan to tell them that what they are doing may look pretty good for the interim, but it will leave them a year from now in the same shape they are in today, namely, with calculational tools based on obsolete technology. They need a program aimed at acquiring or developing *better* [Hanauer's emphasis] calculational tools so that a year from now they will be able to continue justifying their designs."

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### STRENGTH OF ECCS HEARING INTERVENORS' TECHNICAL CASE QUESTIONED

As the emergency core cooling rulemaking hearing creaks slowly along, observers close to the situation are speculating that National Intervenors—the grouping of environmentalist organizations forming the opposition—has a slim technical case. National Intervenors, represented by Myron Cherry, contends that the AEC interim criteria on ECCS are inadequate, that all operating nuclear plants should be substantially reduced in power, and that there should be a moratorium on licensing new plants until ECCS improvements are effected.

Observers point to the fact that so far Cherry has been relying for technical assistance during the hearing on 24-year-old Daniel Ford, a coordinator of environmental projects at Harvard Univ. with no formal education in nuclear engineering. Ford's credentials were seriously questioned when he entered the hearing. John Buck, one of the two technical members of the hearing board, said: "Mr. Ford has stated that he got into this area less than a year ago. The staff and vendors here have experts in the various fields that have been in the fields for many years." Buck said that some determination should be made of Ford's expertise. "I cannot under any circumstances consider that a man with nine months' intermittent experience in a field in which he has no formal training whatsoever could meet that qualification," he added. One AEC staffer commented: "He [Cherry] has promised us an affirmative case but the nature of his questioning indicates that his case is one of rebuttal. He is making it as he goes along."

Nevertheless, Cherry points to the facts that he intends to bring five expert witnesses (so far unnamed) to the hearing and that his expert testimony amounts to some 600 pages. And the Union of Concerned Scientists, the Boston-based group of which Ford is a principal member, published two weighty documents last year detailing its case against the ECCS interim criteria. Cherry has plenty of time later in the rulemaking hearing to develop his technical case.

The feeling among AEC and nuclear-industry people participating in the proceedings is that the hearing is producing a good record but the intervenors have not made an effective contribution so far—with or without the internal ECCS documents the commission released last week. The papers reveal a measure of AEC staff dissent from the official AEC position on ECCS. One utility lawyer said: "If Mr. Cherry were to have taken the trouble to read the original [AEC] staff testimony he would have found that the dissent that has come to light in the internal documents was mentioned in that." A Westinghouse source added that the only effect the internal documents would have on his company would be to force its lawyers to do more work on its testimony, which hasn't been presented yet.

However, Cherry is using the documents as a source for relentless cross-examination of AEC's 10 technical witnesses. Quoting passages from the AEC memoranda which reveal qualms about the adequacy of the interim criteria and computer codes, among other things, Cherry has been mercilessly questioning AEC witnesses such as Stephen Hanauer, chairman of the AEC task force which established the interim criteria. Hanauer, technical adviser to AEC's director of regulation, has taken a torrent of barbs from Cherry. When he appeared not to be familiar with a piece of paper that was known to other members of the witness panel, Cherry snapped at him: "What is the reason for your solitude, Dr. Hanauer?" On another occasion, Cherry told him: "Go back to sleep, Dr. Hanauer." Sometimes Hanauer has been rattled by the verbal battering and has answered shortly or argued with Cherry. But by and large he has given the impression of a man laboring genuinely to tell all. Most of those attending the hearing have felt for him—especially since he may be on the stand for many weeks.

Armed with the internal documents, Cherry was able to catch Hanauer in some minor inconsistencies of testimony. But generally he was unable to shake the witnesses with his new material, although he drew some disagreement with the rest of the panel from Norman Lauben of the Div. of Reactor Standards. Lauben apparently shares some—although by no means all—of the reservations of two of his superiors whose memoranda compose the bulk of the controversial documents. They are Morris Rosen, head of the systems performance branch of the Reactor Standards Div., and his deputy, Robert J. Colmar. Some of Lauben's reservations were elicited in this series of questions directed by Cherry to Hanauer and later to Lauben:

**Cherry.** "Are you sufficiently satisfied that the codes predict accurate results at this point?"

**Hanauer.** "I'm sufficiently satisfied with the conservatism of the evaluation models which include the codes when used with the criteria of the interim policy statement."

**Cherry.** "Mr. Lauben, do you agree with the statement made by Dr. Hanauer?"

**Lauben.** "No, because I think that I would include some more conservative requirements on reflooding heat transfer.

**Cherry.** "Dr. Hanauer, in the area in which he stated that he thought that the codes ought to be more conservative, can you state, sir, whether you believe that in that area you or Mr. Lauben possesses a greater understanding of the problem, in your judgment?"

HANAUER. "I think Mr. Lauben does."

CHERRY. "Thank you, Dr. Hanauer."

At another point, Cherry again found Lauben responsive to his questions, in this exchange.

CHERRY. ". . . Would you say that for a specific area or for a general area, that the [AEC] regulatory staff testimony is not sufficient to support the interim criteria and that the interim criteria in and of themselves are not the approach to take in licensing of reactors?"

LAUBEN. "I would have to say that there are certain portions of the testimony that I would have to consider personally as not being sufficient."

CHERRY. "Please tell me what they are, Mr. Lauben?"

LAUBEN. "If you don't mind, I feel the necessity for carefully wording this."

CHERRY. "Yes, sir, please take all the time you wish, if you wish to confer or take a two minute break——"

LAUBEN. "No, sir."

CHERRY. "It is an important answer."

LAUBEN. "I have a certain amount of difficulty with the FLECHT [Full Length Emergency Cooling Heat Transfer tests] with respect to the heat transfer as being a sufficient way to calculate coefficients during a reflood phase."

CHERRY. "Could you be a little more specific, Mr. Lauben?"

LAUBEN. "Yes, I believe that the FLECHT heat transfer—or I could say heat reflood transfer—is a very important part of the loss-of-coolant accident. I would even say that it's the most important part, in my judgment, now. I am not convinced that the way that it is spelled out to be done in the interim policy . . . has been demonstrated to be sufficiently conservative, in my view."

A few questions later, Lauben said he had not quantified the amount of conservatism that he would add to the calculations as they are presently constituted, and it would depend on the fuel-clad temperatures reached in an accident.

## THE COPPER INDUSTRY AND POLLUTION CONTROL

**Mr. FANNIN.** Mr. President, the copper industry has long been a mainstay of the Arizona economy. Recently it has become the center of the controversy over pollution control.

What happens in Arizona and other copper-producing States is of vital interest to the entire Nation. Copper is used in a great variety of products, and it is essential to our national defense.

Proponents of immediate and harsh antipollution regulations contend that the copper companies are bluffing, that they can meet the high costs of new commission control equipment, that they will not be driven out of business in America, that they will not abandon their mines and smelters to shift their operations to other areas of the world.

Mr. President, I do not believe that they are bluffing.

I believe that the risk of forcing them out of business is too great, and that the risk is unnecessary.

I believe that new regulations should be imposed in a manner which will enable the companies to meet the standards.

A recent editorial in the Arizona Daily Star, of Tucson suggests that the copper industry is being made a scapegoat in the pollution fight. The editorial likens environmental extremists to a lynch mob which attacks the first person it comes upon.

Copper companies are large, visible targets. The pollution they cause is concentrated and thus easy to criticize.

Certainly every effort should be made to cut down on this pollution. Restrictions should be imposed which will require the firms to move as rapidly as is economically possible in pollution-control work.

But a misjudgment in this area would be extremely harmful. We could lose thousands of jobs, millions of dollars in tax revenues, and worse, our domestic sources of this very important metal.

Mr. President, I would like to share the Arizona Daily Star editorial with the Senators. I also would like to bring to their attention an enlightening article published in the February 10 Wall Street Journal. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Arizona Daily Star, Feb. 11, 1972]

### TOWARD CLEANER AIR

Every responsible citizen is concerned about air pollution, and favors taking measures to keep the air over the Tucson metropolitan plateau, as well as elsewhere in Arizona, clean and safe. Tucson must not be allowed to slip into the situation of Los Angeles, New York, and other large cities in various parts of the nation.

The problem is not one of whether or not the air should be kept clean, or be made cleaner than it is. It is how to achieve that end. Involved in the discussion of pollution control and preservation of a clean environment are numerous emotional arguments that seem to be impervious to all presentations of fact.

In this respect, the speech of George B. Munroe, president of Phelps Dodge Corp., in Tucson last week is worth analyzing. Munroe made a good case for a reasonable, measured approach to the pollution problem—an approach that would neither demand impossible haste nor tolerate unnecessary delay. His company is prepared to spend $120 million between now and 1974 on such an approach. Munroe indicated that, granted time and technology, Phelps Dodge would take every step to reduce pollution to the absolute minimum.

He also pointed out some economic realities of the Arizona pollution situation. Demands that will break even a company of the size of Phelps Dodge cannot be met. Insistence on the impossible will force Phelps Dodge and other copper companies to mine copper elsewhere. Not as a threat but as a fact, Munroe told how as a matter of economic life or death Phelps Dodge might have to move elsewhere, and already had begun exploring in Australia and South Africa.

That assertion alone should be the answer to the argument used loosely by many people—that the copper companies have to have Arizona, but Arizona can do without the copper companies. Arizona produces 53 per cent of the United States' copper because this state has large ore bodies and the industrial climate thus far has enabled development and production.

Make development unattractive, or mining and smelting virtually impossible, and some other area will produce not just 53 per cent of the copper this nation uses, but a larger percentage. Munroe indicated the national undesirability of forcing America to rely on sources of copper outside its boundaries.

The Star believes that preservation and protection of clean air is a goal that should be achieved. The Star also believes that the mines have become scapegoats for all sorts of other polluters. The big mining companies have pledged more than $200 million toward clean air, at a time when there is little concerted move or financial commitment by any other segment of the Arizona economy to do its share to clean up the air.

The protection and preservation of clean air must occur in the proper perspective of economic and social realities of the present day. Jobs are involved. The movement of citizens properly from one place to another in automobiles is a considerable factor. The limits to which municipal and county governments can go to spend money on dusty thoroughfares is another factor.

Only last week John Ensdorff, director of Pima County environmental control services, attributed the steady rise in smog over Tucson to "more people, more cars." People and cars, he said, cause dust pollution which is responsible for the haze that frequently hangs over the city.

County officials said that city and county governments should accept as much responsibility for cleaning the air as they insist industry take.

For extremists to attempt to twist or distort the situation, to blame mining companies when numerous other factors are involved, and to insist on the impossible, is neither right nor wise.

Yet, as Munroe recognized, the political climate prevents proper consideration of reasoned presentations.

As an example, take the controversial committee report to the board of health. It unfortunately was enveloped in secrecy. When it became public it proved to contain numerous assertions questionable on the basis of other information available.

The emotions aroused by public speculation over what a private document contained have not calmed down. Anyone who argued, no matter on what grounds, that the committee report was worthless might well be shouted down, his facts drowned in the general ecological din.

Environmental extremists can be like a lynch mob. The mob sometimes lynched the first person it came upon, without regard to guilt or justice.

Neither the mines, nor the big public utilities that must generate electricity should be lynched. They are only fractionally as guilty of air pollution as most of the people attacking them. Someday, Arizonians should hope, moderation and sanity again will rule. There should remain a firm and sure demand that whatever pollution exists be eliminated as fast as the means develop to end it.

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### BITING THE HAND—SOME MINING STATES OUTDO U.S. STANDARDS IN AIR-POLLUTION WAR

(By Barry Newman)

PHOENIX.—Fred A. McKinney, 96 years old, scratched out a note to Arizona's Gov. Jack Williams.

"I have lived in Bisbee since the smelters were built in Douglas and endured the smelter smoke when the wind was right" for the past 65 years, he wrote. "We believe Phelps Dodge is doing what it can to remedy the situation, and we are sure that a smelter and a little smoke are far preferable to no smelter and no smoke."

But Arizona disagrees. The state's board of health says Phelps Dodge will have to do more—much more—to control the smoke that spews from its aging smelter in Douglas and, when the wind is right, smothers the towns nearby where the copper workers live.

In fact, Arizona and some other Western states whose economies were built on the bedrock of the mining industry are coming to believe that no smelters and no smoke may indeed be preferable to the white haze the industry casts over nearby towns, pristine desert and virgin forest.

These and other states have just about finished submitting to the Environmental Protection Agency their plans to implement the federal fair quality standards issued last spring and made final at year-end. The federal controls cover emissions such as sulphur dioxide (the main pollutant from copper smelters), carbon monoxide, hydrocarbons and particulates.

### SOME STATES OUTDO UNCLE SAM

Since the federal rules were formally adopted, some Western states, including Texas, Utah and Nevada, have begun loosening their tougher standards to bring them closer to the federal rules. But other states are adopting standards that go well beyond the federal guidelines.

Arizona and Montana, the two states that have long relied msot heavily on mining and smelting, are biting down hard on the hand that both feeds and smothers them. They have imposed shorter deadlines to meet lower levels of sulphur dioxide contamination than the federal standards require; they are demanding that 90% of the sulphur dioxide be removed from all emissions before they leave the smokestack.

The copper companies have exerted all the political muscle they can muster within the state governments and in Washington. But despite the mounting pressure to change the rules—even from their own governors—the boards of health in Arizona and Montana appear at this point to be rolling with the punches.

The two states are sticking with their basic, tough regulations. About all the health boards are willing to do is grant the companies more time for meeting the standards. In Arizona, the rules are already in effect, but most companies have sought and received conditional permits to keep operating. But they must comply with the rules by the end of next year. Montana, likewise, has a procedure for issuing variances from its rules, which take effect in mid-1973.

For some companies already reeling from expropriations in Chile, Zambia and the Congo, the effect of the domestic blows may be nothing short of disastrous. U.S. producers had been talking of expanding operations in this country because of the threat of still more nationalizations abroad, but the environmental movement now is beclouding their plans.

### SOME SMELTERS WILL CLOSE

Instead of expansions, the state regulations appear certain to force the closing of some smelters. Phelps Dodge Corp. says it will have to close the old Douglas smelter, and it naturally laments Arizona's stance. "It's clearly the wrong way," says George B. Munroe, president. "It would put the very people the law seeks to help in a condition of substantial hardship."

Bringing each of its three Arizona smelters into compliance with the standards by the 1974 deadline would cost Phelps Dodge $240 million, Mr. Munroe says. "That amount represents more than one-third of the total net worth of the company. To make expenditures of this magnitude prior to 1974 for construction and equipment which will not increase our production is simply not possible, even for a company the size of Phelps Dodge."

A copper industry analyst in New York says the high cost of pollution control will force the closing of some copper mines as well as smelting operations. In Montana, he says, Anaconda Co. "is sweating blood" because "it just doesn't have the money" to meet the tough pollution regulations. "The copper companies," he adds, "are fighting for their lives."

The company's argument against the strict rules is solely economic, says David Swan, vice president for technology at Kennecott Copper Corp. "The regulatory agencies have a single mission—improving air quality. They aren't concerned if anyone loses his job, and they don't have the tools to measure these and other possibilities."

Arizona's board of health agrees its emphasis is on air quality rather than economics. Says Elaine McFarland, chairman of the Arizona health board, "The industry is seriously threatened, but our entire way of life is seriously threatened, too."

Joseph Sturtz, Arizona's health commissioner when the strict standards were drafted, echoes Mrs. McFarland's sentiments: "If I must choose between the margin of profit on old copper installations and the health and beauty of Arizona, then I choose the health and beauty of Arizona. I know that copper contributes to the general welfare. But profit at the cost of poisoning the air we breathe is too high a price to pay."

But the economic impact of the tough controls wasn't entirely lost on the Board of Health—and thus the extensions of deadlines. After all, Arizona produces 40% of the copper consumed in the U.S. In 1970, $1.2 billion of copper was dug from Arizona's soil. Seven of the country's 15 copper smelters are in the state. And although the seven smelters are responsible for putting a million tons of sulphur dioxide into the state's air every year, they also contribute hugely to the state's economic health.

The economic realities are brought closest to home in the smelter towns. After driving along the Dripping Springs mountains and into the valley of the Gila and San Pedro rivers, the visitor comes to the town of Kearny (population 3,000) in the "copper basin." The basin is full to the brim with white haze, most of it from the Kennecott smelter in nearby Hayden, which has the highest sulphur dioxide concentration in the state.

At the weekly meeting of the Kearny Rotary Club (whose membership includes Kennecott division manager I. G. Pickering), the talk turns naturally to pollution. But to most of these men, the problem is with the regulators rather than the polluters.

"I had TB in 1937," says Mike Smith, who heads the adult-education program at Central Arizona College. "I've been here since then, and the air has never hurt me." Adds Ron Stockstill, a real estate broker, "You can't deny they put out a little smoke. But it's pretty clean smoke as far as I can see."

The logic of the Kearny Rotary members is hard to miss, even in the pervasive haze. Kennecott pays 93% of the school taxes in the town. The company built and staffed the town's hospital, and about 80% of the population works for Kennecott. In other words, what's bad for Kennecott is bad for Kearny. The town council said just that in a resolution it sent to the state board of health asking that the state pollution standards be toned down. Hayden and other smelter towns made similar appeals.

Such exhortations from civic clubs, Chambers of Commerce merchants and copper workers and their families deluged the state's board of health late last year. All warned of possible economic catastrophe. "It's been said that smoke kills," wrote the owner of a department store in the smelter town of San Manuel. "I'll tell you this—I'd die without it."

Louis C. Kossuth, the state's new health commissioner, told the Arizona press that public opinion in favor of the companies appeared just as strong as the opposition from vocal environmentalists whose organizations are in areas less economically dependent on copper smelting.

Environmentalists had feared the state would succumb to the industry's pressure and ease the requirement of removing 90% of sulphur dioxide emissions. After the board of health early this year suggested a possible alternative method of control, the Phoenix press was filled with charges of secret meetings and conflicts of interest, and members of the board's technical staff threatened to quit. But the board ultimately backed the tough pollution code, so the companies' only hope now is for a subsequent modification or legislative action to change the rules.

In Montana, the pollution-control issue is equally intense. Anaconda is clearly the economic anchor in a state that has little other industry, but the company has encountered extremely rough going. Expropriation of its mines in Chile has left it with only a quarter of the earnings power it once had, and the company was planning major expansions in Montana to help compensate for the loss.

The state, also floundering with a 7% unemployment rate and a stagnant tax base, could clearly use the impetus of an Anaconda expansion. "People can't live on air, mountains and trees," says an aide to Gov. Forrest H. Anderson. "It takes money."

But Anaconda is hinting that the strict pollution rules may force a cutback of the planned expansion. Appealing for a relaxation of the standards in December, Anaconda's president, John B. M. Place, told a hearing that he knew of "no meteorological, health or other reason" why the Montana rules should be stricter than those of the federal government. Spending the extra $22.1 million needed to meet the state standards, he argued, would be a waste "just as surely as if we built a bonfire of $22.1 million in currency."

The board of health, however, countered that Montana's air is much cleaner than required by the federal standards, so the federal rules alone would represent a permit to pollute in Montana. "What the federal standards really do," says Ben Wake, the state's hard-jawed air-pollution chief, "is to make the country uniformly dirty."

Anaconda gets little sympathy elsewhere, either. Its image in the state it once dominated politically as well as economically is now so poor that its pleas for leniency are sneered at.

"The company is the largest industrial organization in Montana," says a New York analyst, "and everybody seems to hate them." An Anaconda official in Montana concedes that "our employes distrust us tremendously, too."

Montana's Gov. Anderson, a small, feisty man who has decided not to run for a second term, doesn't attempt to mute his bitterness toward the company. "I've heard Anaconda use the same argument a thousand times," he says. "They said they'd walk out on Montana before. It's the old wolf story. The wolf never comes. This is the way they practiced their business in the past—by threatening."

The governor, however, doesn't deny the economic importance Anaconda holds for the state. In fact, he is now hearing the cry of wolf, authentic or not. At final hearings on the state's implementation plan held last week, he sided with Anaconda in attacking the 90% emissions control standard as too strict. But the health board stuck firmly to its rules despite the governor's new stand.

With the writing on the wall becoming clearer, the copper companies are looking for new avenues. Some producers are said to be studying the feasibility of a smelter in Mexico, just over the border from Arizona.

Says Lehman Bros. analyst John R. Bogert, only partly tongue in cheek, "The answer is to get together an international consortium of copper companies and build a huge smelting complex on an island in the Pacific. Then you could let the pollution go all over the ocean."

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## THE GENOCIDE CONVENTION AND U.S. DISCRETION

Mr. PROXMIRE. Mr. President, there are some men who argue that American ratification of the Genocide Convention will bind our Government hand and foot to the treaty's articles. Their contention is that such an international agreement would subject American citizens to prosecution and perhaps persecution from foreign powers. In addition they fail to see any safeguard against such outside intervention.

However, once again the implementing legislation is crystal clear on this point. It reserves great powers of discretion for the Secretary of State. It is he who serves as the ultimate check and safeguard. In the words of the legislation:

> It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country . . . where the United States is competent to prosecute the person whose surrender is sought . . . or where the person whose surrender is sought has already been or is at the time of request being prosecuted for such offense.

As is prudent, the United States would never consent to any international agreement which would allow foreign states a free hand in American jurisprudence. The articles of the Convention and the subsequent legislation allow our Government to retain jurisdiction over our own affairs. American citizens have the full protection of their Government in all instances.

The argument of foreign intervention and unjust extradition treaties is unjustified in light of the provisions of S. 3182. Again I urge the Senate to unhesitatingly ratify the Genocide Convention.

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## DR. MARIA GOEPPERT MAYER, NOBEL PRIZE WINNER

Mr. McGOVERN. Mr. President, Dr. Maria Goeppert Mayer, the first woman physicist to win the Nobel Prize since Marie Curie in 1903, died on the night of February 20 at the age of 65. Let us pay tribute to this extraordinary American woman who had proven again that sex is no barrier to intellectual accomplishment.

She was awarded the 1963 Nobel Prize in physics for her elucidation of nuclear shell structure. Hers was the uncemented, unchained mind of the eternal researcher constantly in quest for the more logical, more perfect solution to the problems of nuclear physics.

Nothing that I could say to voice my deep admiration for this woman would so nearly console her family. America has lost a dedicated researcher and teacher.

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## SENATOR MUSKIE AND THE WAR

Mr. CHURCH. Mr. President, Stephen S. Rosenfeld, writing in the Washington Post recently, expressed his agreement with another of that newspaper's distinguished columnists, David Broder, as to the necessity for opening a debate, at the Presidential level, on the issue of the Vietnam war.

Rosenfeld wrote:

> The debate on Vietnam tactics which Muskie has carried to the President, is essential to the health, or the recovery, of the American political system. . . . This is so not only because debate is the method by which a democracy educates its citizens and obtains their knowing consent, but because debate is the method by which a democracy explores alternatives.

The most conspicuous failure of the American political process during the 1960's was the craven way presidential candidates permitted the issue of Vietnam to be muted in national elections. Our Presidents managed to intimidate their opponents on the war, with the result that the American people were deprived of any choice on the one matter that concerned them most. By removing Vietnam from the arena of Presidential debate, the peoples' franchise was restricted to secondary issues. In a word, the American people were cheated out of their sovereign right to decide, for or against, the war.

Now the same old ploy is being attempted once more—this time against the man who appears most likely to win the Democratic nomination for President this year—Ed Muskie.

Administration spokesmen are castigating the Senator for criticizing the President's latest offer for a political settlement, Mr. Nixon's chief of staff, H. R. Haldeman, in a manner reminiscent of Joe McCarthyism at its worst, has gone so far as to intimate that Muskie is "consciously aiding and abetting the enemy."

But Senator Muskie has refused to be hushed, and if he continues to speak out, he may well become the first presidential nominee in a decade willing to offer the American people an alternative to the war in Vietnam. The voters may find, after being ignored so long, that Ed Muskie has at last given them more of a choice than that between tweedle-deedum and twiddle-dee-dee.

I commend to the attention of the Senate three excellent articles on the subject, written respectively, by Stephen S. Rosenfeld, Marquis Childs, and Don Oberdorfer, and ask unanimous consent that they be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

### How Foreign Policy Is Fashioned in a Democracy

(By Stephen S. Rosenfeld)

The onset of vivid political debate over Vietnam negotiating tactics and the coincidental release of Mr. Nixon's annual "state of the world" message point up the fundamental problem of how a democracy goes about putting together its foreign policy. The problem is not simply whether policy should be made at one end of Pennsylvania Avenue or the other, by the Executive or the Congress. It's whether policy should be made by "the people" or, in their name, by an expert corps or elite.

"The people," of course, speak most clearly in a national election when opposing candidates offer them alternatives. The fact is, however, that in the last two decades, the electorate has not been offered real alternatives. Candidates have vied with each other to demonstrate their devotion to peace or freedom, whichever was more in demand that year, and their knowledge of the ways of the world. But they have not come forward, as Edmund Muskie, a serious presidential contender, has now come forward, to suggest a specific different way to solve a particular problem in foreign affairs.

On the contrary, under the banner of "bipartisanship" a generation of opposition politicians largely surrendered in foreign policy the option they rightly prize in domestic policy: the option to criticize the President, to hold him to account, and to offer alternatives. It is no accident that presidents of both parties have lionized Arthur Vandenberg, the Republican senator whose conversion from "isolationism" made it possible for a Democratic president to carry out an "internationalist" policy after the war. It is not Vandenberg's insight that is celebrated but his example of permissiveness: "leadership" and "responsibility," admirers of presidential powers call it.

It is debatable whether the "bipartisan" foreign policy which the Vandenberg tradition made possible served the nation for good or ill; indeed, it is hotly debated. It is not debatable, however, that its practical effect was to give presidents far more authority in foreign affairs, and this in turn meant that presidents would make policy not by consulting the people or Congress, least of all their political opposition, but by consulting specialists and experts.

In past administrations, most of these experts tended to be professional diplomats. Llewellyn Thompson, who died this week, was among the best known of them, a man respected for his special knowledge of the ways of Soviet power. In this administration, the leading expert, Henry Kissinger, is a former academic respected for his special knowledge of the ways of American power. But he is in the familiar postwar pattern of being very much the President's man.

To read the new "state of the world" report, which is largely Kissinger's handiwork, is to recognize at once the extent to which Presidential policy is the work of an elite. The report has a technical excellence, a consistency and a seriousness that the public—necessarily less well informed and less attentive, more varied in outlook, often capricious in mood—can never hope to attain. Moreover, the report is, in terms of popular appeal, essentially unreadable: too long, too abstract, too technical. Although it is billed as a report to the Congress, that is, to the people, it is in fact more of a guide to the bureaucracy—to let it know what the President has on his mind.

But is the presidential policy set out in this report good policy? What is good policy in a democracy? One can reply that it is policy which serves the nation's "interests." That begs the basic question of who is to define the nation's interests, and to oversee the pursuit of them.

My colleague, David Broder, argued on the opposite page the other day that the debate on Vietnam tactics which Muskie has carried to the President is essential to the health, or the recovery, of the American political system. I would agree and add that such debate, necessarily focused on a few litmus issues, is essential to the composing of good policy. This is so not only because debate is the method by which a democracy educates its citizens and obtains their knowing consent but because debate is the method by which a democracy explores alternatives.

No doubt Henry Kissinger performs brilliantly in seeing that the President has available the relevant facts and possible options. But can facts and options provided by officials who owe their positions to Mr. Nixon be as germane and varied as those provided by legislators or politicians with their own base of power? Can debate within the bureaucracy be as rigorous as debate between political rivals? Can anyone seriously claim that a George Ball, the most celebrated Vietnam critic of the 1960s inside the government, could have the same influence as an Edmund Muskie, whose challenge to the Executive consensus is braced not merely by logic but by political power?

We can all think of cases where an issue of public policy was fully debated and where a "bad" choice, by our particular lights, was made. But the rationale for submitting tight hard questions to the public, even—perhaps one should say, particularly—in the pressure-cooker atmosphere of a presidential campaign, is not that the public is more likely to make a wise choice than the elite. The rationale is that public policy is the public's policy: its to make, its to accept the consequences of, too.

Just as Muskie was entirely justified in giving his views on the President's negotiating tactics, so the President is justified in criticizing Muskie. Whether either is wise is something else again but what question can possibly be worthier of debate, more central to the health of the nation, than the prospects of our exit from the Vietnam war? Mr. Nixon may have hoped that "bipartisanship" would spare him serious partisan challenge. By going public with his settlement proposals, however, and then by responding as he did to Muskie's attack on them, he has improved the chances that the people finally will make policy on Vietnam.

### Haldeman Stirs Viet War Issue

(By Marquis Childs)

If anything could guarantee keeping the Vietnam war alive as an issue it was H. R. Haldeman's charge that critics of the Nixon peace plan are consciously aiding the enemy. This outrageous charge, so reminiscent of the Joe McCarthy era, was capped by the White House disclaimer that this was Haldeman's own personal point of view.

Haldeman is the Nixon chief of staff. This former ad man controls the access to a President who shelters himself behind the powers of the office more than any chief executive in recent times. To say that he does not reflect the views of his superior is to strain credibility to the breaking point.

The Nixon peace plan unveiled with such fanfare after months of secrecy was no perfect model for ending the war. It was an inevitable target for critics pointing out the weaknesses almost certain to bring about its rejection.

On the timing of the attack by the President's Democratic opponents there is room for doubt. When Sen. Edmund Muskie, the front-runner, spoke out, the Communist side had not formally rejected the Nixon plan. That is largely irrelevant, however, since elements in the seven-point plan were bound to get a Communist no.

The concept of free elections, regardless of how they may be hedged around by mixed commissions, is unacceptable. A free choice by the individual is alien to communism.

One of the demands made by Xuan Thuy in his interview on "Face the Nation" is just as unacceptable to the United States. That is the demand for withdrawal of all material supplied to the South Vietnamese and an end to future economic or military assistance. It is a call to turn over the Thieu government to the Communists.

Whether that demand is negotiable no one can say. However low the esteem for the Thieu regime may be, no President—whether Democrat or Republican—could accede to that demand. The Thieus and the Kys and their immediate followers might escape the country to refuge in Switzerland or some other well-banked neutral haven. For thousands of well-meaning South Vietnamese who staked their future on American support, even as the American force winds down in Vietnamization, this would be naked surrender.

WHY, one must ask, did Haldeman choose this particular moment to charge critics of the peace proposal with treason, for the charge was no less than that? It could be that the White House is anticipating in the near future a testing time when with a new flare-up in the war the President will want support for a drastic step-up in retaliation.

Secretary of State William P. Rogers says the enemy has made extensive preparations for a Tet offensive which would coincide with the Nixon mission to Peking. With American combat forces reduced close to the vanishing point in the Vietnamization program, the brunt of the attack would be borne by the South Vietnamese army. And it is here that the test may be critical.

In the Laos "incursion" a year ago the vital flaw was largely concealed. It was not as widely reported at the time that South Vietnamese forces in the operation, on the "Let's you and him fight" principle, were routed and fled in panic. The painful truth, as this reporter has learned from intelligence sources, is that the South Vietnamese command committed only a fraction of the divisions planned for the operation. In an effort to sustain the greatly outnumbered South Vietnamese forces the United States took heavy losses in helicopter gun ships.

Fighting for their own country and not in foreign territory, the outcome, if a serious Communist offensive develops, may be different. But if the Laos incursion is a precedent the President might have to resort to bombing of the North on a far more massive scale than any since the halt in 1968.

### Peace Talk and Politics

(By Don Oberdorfer)

While running for president in 1968, Richard Nixon pledged to end the war and win the peace, but refused to say how he would do it—on the ground that any statement of his might interfere with the peace talks Lyndon Johnson had begun. Four years later, Mr. Nixon has removed most of the American troops but has not been able to end the war. Now he is asking his potential rivals to remain silent on how they would end the war—on the ground that any statement of theirs might interfere with the peace talks which still continue.

At first glance, the Nixon position sounds fair enough—what is sauce for the goose, is sauce for the gander. But this argument merits closer examination. This year's is quite different from 1968. And it is doubtful in retrospect that the 1968 Nixon position served the nation as well as it served Mr. Nixon.

In recent days Mr. Nixon and his associates have said over and over in dozens of ways that his Vietnam speech of Jan. 25 sets forth an offer which could bring peace—unless subsequent statements by Democratic candidates encourage Hanoi to wait for a better deal after the November election.

They make it sound as if the Democratic views developed out of nowhere after Mr. Nixon's "most generous peace offer in the history of warfare." In fact, the Democratic views developed long before this campaign year began, and long before the President and Henry Kissinger let it be known that they were engaging in secret talks in Paris.

Sen. Edmund Muskie's call for a "date certain" for complete U.S. withdrawal from Vietnam, contingent on safety for the withdrawing troops and release of American prisoners, dates back at least to Feb. 23, 1971. Sen. George McGovern's call for a definite withdrawal date goes back at least to Oct. 9, 1969. While there have been refinements and changes in their positions—as in the President's position—the fundamentals were announced many months before the recent Nixon speech.

For Mr. Nixon to warn such Democrats now to keep quiet—lest they reap the blame for a Hanoi decision not to bargain—is unrealistic at the very least. Even if Democrats said not a word after Jan. 25, Hanoi is well aware of their views. Their position, shared by a large segment of the public, is that the United States must terminate a mistaken war, with or without a favorable conclusion.

There is no indication whatever that Hanoi is preparing to settle on anything like the terms which Mr. Nixon has offered. With American troops withdrawing and the American public sick to death of the war, there would seem to be little or no incentive for Hanoi to agree to any risky bargains. Moreover, the President on Thursday announced a veto power for the Thieu government over any further peace proposals. This would would seem to reduce his own maneuvering room to the vanishing point—if he really means it.

By refusing to say in 1968 how or when he would terminate the war, Mr. Nixon insulated himself against a potential Lyndon Johnson charge that he was interfering—a possibility very much on the mind of the Nixon campaign team that year. More important, the Nixon "no comment" stance deprived the American voters of a chance to judge the details or even the essence of his policy on the war, the greatest problem before the country.

We know now that Mr. Johnson's peace proopsals had virtually no chance of success in 1968, and that Mr. Nixon had virtually no peace policy at all. There were no Nixon details because there was no Nixon plan, beyond the misplaced hope that the Soviet Union would pressure Hanoi to make a deal.

Should the Democrats in 1972 follow the route Mr. Nixon has opened for them, they will tell the people, "I will end the war, but I won't say how." The public would not—and should not—accept this.

President Nixon will have had four years to deal with a war which the nation had rejected months before he took office. He will be judged in November on what he has accomplished and failed to accomplish. Casting blame on his critics is not likely to work.

One of the wisest things he ever said about Vietnam as a political issue was in his Nov. 3, 1969, address. "I have chosen a path for peace. I believe it will succeed," he told the nation. "If it does succeed, what the critics say now won't matter. If it does not succeed, anything I say then won't matter." It is still true.

## DEATH OF FORMER REPRESENTATIVE JOHN MURDOCK, OF ARIZONA

Mr. FANNIN. Mr. President, during the past month two of the grand old men of Arizona politics have died. We were saddened first by the loss of our former Senate colleague, Carl Hayden.

Last week we learned of the death of John Murdock, a fine gentleman and scholar who served in the House of Representatives for 24 years. His record as a Member of Congress and as a professor in our colleges was outstanding.

Mr. President, the Arizona Republic on February 16, 1972, published an editorial paying tribute to John Murdock, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### Professor Turned Politician

An observer of Arizona politics once said, "The idea is to pick a good man, send him to Congress when he is young, and keep him there until he acquires enough seniority to be chairman of an important committee." Sen. Carl Hayden was an outstanding example of that strategy.

Another example was John Murdock, a college professor who had taught at all three state universities. He went to Congress from Arizona in 1937 (we had only one representative then) and remained there until 1952, by which time he had become chairman of the House Interior Affairs Committee. He was never able to get the Central Arizona Project through the lower House, but his position of influence advanced the bill down the path to eventual passage.

John Murdock threw his hat into the political ring when Arizona was a one-party state and elections were decided in the primaries. In 1936, Professor Murdock, then dean of students and professor of political science at ASU, ran against eight veteran politicians in the Democratic primary. He won, and his victory in the general election was assured by a registration something like eight-to-one in favor of the Democrats and against the Republicans.

Murdock's election was frequency attributed to support from his students and former students. That was before the day of student demonstrations and 18-year-old enfranchisement, but the students were willing workers, and the alumni were eager voters.

Professor Murdock's specialty was constitutional law. He is largely responsible for the requirement that the Arizona Constitution be studied in Arizona's schools. He also is credited with the passage of the Navajo-Hopi rehabilitation bill, providing $80 million and the first big boost for the development of the two Arizona reservations.

John Murdock died in a Phoenix nursing home Monday at the age of 86. He left the political scene in 1958, but his contributions to the state and to the nation have outlived him.

## ANNOUNCEMENT OF POSITION ON A VOTE

Mr. HUGHES. Mr. President, last week while I was necessarily absent, the Senate unanimously adopted a measure which may well save us from some future shock at revelations of secret agreements with other nations. Since I wholeheartedly support Senator Case's bill, S. 596, I ask that the permanent Record indicate that, if present, I would have voted "aye" on rollcall 48 Leg.

The PRESIDING OFFICER. The Record will so indicate.

## JOE KENNEDY III

Mr. McGOVERN. Mr. President, one of the Nation's most remarkable and talented young men is Joseph Patrick Kennedy III—the son of Ethel Kennedy and the late Senator Robert Kennedy.

In his 19 years of life thus far he has experienced both more tragedy and high adventure than most of us will experience in a lifetime.

But through it all, he has met the test of courage defined by his uncle, the late President John F. Kennedy—"grace under pressure."

I shall never forget the gallantry and poise of this young man when at the age of 15 he went through the funeral train carrying his father's body to extend a word of warmth to each passenger on that sad trip.

Today's New York Times carries an interesting account of Joe Kennedy's life. I ask unanimous consent that it be printed in the Record:

There being no objection, the article was ordered to be printed in the Record, as follows:

### Young Adventurer: Joseph Patrick Kennedy III

Washington, February 22.—Joseph Patrick Kennedy 3d has probably seen more adventure in his 19 years than most men see in a lifetime.

He has been a mountain guide on the glaciers of Mount Rainier in the State of Washington, herded antelope on horseback in Africa, tried his hand at bullfighting in Spain and worked as a crewman aboard a sailboat across the Atlantic. Joe Kennedy has also had more than an average share of misfortune. His father, Senator Robert F. Kennedy, died from an assassin's bullet in June, 1968, as did his uncle, President John F. Kennedy, in November, 1963. He suffered through the aftermath of the tragic accident in which another uncle, Senator Edward M. Kennedy, was involved at Chappaquiddick, Mass., in July, 1969. Joe himself has broken a leg once in skiing and again playing football, and has required surgery on knees bashed in football.

Young Mr. Kennedy had another taste of adventure today aboard a German airliner hijacked by Arab commandos.

The young man had been with Senator and Mrs. Kennedy on a visit to Bangladesh and then took an unpublicized motorcycle tour through the central states of India before boarding the plane for Athens in New Delhi, presumably on his way home.

#### HE'S A KENNEDY

This afternoon, one of his former teachers said he was sure that Joe was handling himself with poise. "I wouldn't worry about Joe at all," the teacher said. "He's a Kennedy, and they have a style about them that comes through in a crisis."

A friend of the Kennedy family described Joe, who is just over 6 feet tall and weighs close to 200 pounds, as "a brave kid" and "a gentle kid." He said: "Joe's been the man of that family ever since his father died. He's been the great with his younger brothers and sisters. There's a lot of horseplay and Joe is the leader. But he's also the protector of the little one."

Another friend said that young Mr. Kennedy's finest hour may have been aboard the train carrying his father's body from the funeral at St. Patrick's Cathedral in New York to his resting place in Arlington Cemetery here. Then 15 years old, he went through the train holding his tears back, shaking everybody's hand and saying things like: "I'm Joe Kennedy. You were a friend of my father's. I'm very grateful that you are here."

#### ONE OF 11 CHILDREN

Joseph Kennedy 3d was born in Boston on Sept. 24, 1952 after his mother, Ethel, had been out campaigning in Fall River the night before for John F. Kennedy's election to the Senate. He was named for his grandfather, the late financier and former Ambassador to Britain, and for an uncle who was killed flying a dangerous mission during World War II. Young Mr. Kennedy is the second child and eldest son in a family of 11 children.

He attended Our Lady of Victory School and Georgetown Preparatory School in Washington and in 1966 went to the Milton Academy, in Milton, Mass., where his grandfather had studied. He was not a particularly good student there, which teachers ascribed to the distractions of a glamorous family and its fortunes and tragedies. Young Mr. Kennedy failed to graduate but earned his high school diploma from the Manor Hall Tutoring School in Cambridge.

He left Milton in 1970 to work in Senator Kennedy's re-election campaign as an advance man, arranging speaking engagements and drumming up crowds. He was said to be deeply interested in politics and to be considering a career in public service.

Right now, said a family friend, "he's trying to sort things out for himself. He had a lot put on him as a young kid but he's finding his way."

## EXTENDED UNEMPLOYMENT COMPENSATION RATES

Mr. RIBICOFF. Mr. President, late last year the Senator from Washington (Mr. Magnuson) and I cosponsored legislation to extend unemployment compensation benefits in States where unemployment rates are high. As finally enacted, the measure provided an additional 13 weeks of benefits to workers who have exhausted their regular and extended unemployment compensation eligibility in those States where unemployment rates exceeded 6.5 percent.

According to a recent New York Times article, the salutary effects of this legislation are beginning to be felt.

I commend Senator Magnuson for his leadership in the enactment of legislation to aid unemployed workers. I ask unanimous consent that the New York Times article of February 22, 1972, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Long-Time Jobless Praise New U.S. Program Extending Benefits

(By Robert A. Wright)

Seattle, February 21.—For Arnold Smith, a 40-year-old electronics engineer who had exhausted his unemployment benefits, the new Federal program providing added aid for 13 weeks is a "lifesaver." But he and many other long-term jobless who now are getting the new benefits in 13 States still worry that it will be a long time before can they take home a real paycheck.

Mr. Smith, who came here from Britain four years ago, is one of more than half a million workers in the United States who have been jobless for at least 27 weeks. The plight that he and others like him face underscores the persistence of long-term unemployment at a time when the Nixon Administration's economic program is seeking to create new jobs.

"The new benefits are appreciated," remarked Ray Lavender, 56, a Boeing employe for 25 years before he was laid off last July. "But 13 weeks or 26 weeks is not enough time to retrain for anything. But it might give the Government more time to do something else."

That "something else" has already become a major issue in this Presidential election year. While more Americans are employed—80.6 million—than ever before, the unemployment rate continues to hold close to 6 per cent of the national work force, or 5.4 million persons seeking work but unable to find jobs.

Like half a million other workers in the United States, Mr. Smith has been unemployed for 27 weeks or more, and with a wife and two young children to support he had been living from day to day, unsure where to turn for help.

"We really couldn't do without it," said Mr. Smith.

Ray Lavender, 56, a Boeing employe for 25 years before being laid off last July, agreed as they sat talking at a Social Service center funded by the Office of Economic Opportunity in suburban Woodenville.

But neither man was optimistic. "The new benefits are appreciated," remarked Mr. Lavender, "but 13 weeks or 26 weeks is not enough time to retrain for anything. But it might give the Government more time to do something."

More significantly, in terms of measuring hardship, 24 per cent, or almost two million persons, among the unemployed have been consecutively without jobs for 15 weeks or longer, according to seasonally adjusted Government figures for January.

While the over-all unemployment rate has improved slightly in recent months, the percentage of people out 15 weeks or longer has remained fairly constant. The figure averaged 23.7 per cent of the jobless in 1971, compared with 16.2 per cent in 1970. And 11.1 per cent, or 562,000, of the people without jobs last month had been out of work 27 weeks or longer. A year before, the percentage was 10.4 per cent.

Many of these hard-core unemployed—no exact total is available—will qualify for the new Federal program, the so-called Magnuson Extended Benefit Program, after the legislation's sponsor, Warren G. Magnuson, Democrat of Washington.

The program provides Federal funds to 13 states, including New York, New Jersey and Connecticut, where the unemployment rate is 6.5 per cent or more. It furnishes up to 13 weeks of additional unemployment compensation to the jobless who have exhausted their benefits under previous programs.

Regular unemployment compensation programs vary in terms and maximum payments from state to state.

In Washington, for example, the state pays up to 30 weeks and up to a maximum of $75 a week, scaled to the unemployed person's pay from his last job. Like other states where unemployment has remained high, Washington paid up to 13 additional weeks under a special program financed equally by the state and the Federal Government.

Under the Magnuson extension, a Washington state resident who has been unemployed 26 weeks or longer and has exhausted benefits under both previous programs is entitled to the full 13 weeks of additional benefits at the same rate he received under the earlier plans.

### MORE THAN 60,000 IN NEW YORK

In New York State, more than 60,000 persons who have used up 39 weeks of unemployment insurance benefits have signed up since becoming eligible for the program on Jan. 31.

In Massachusetts, 28,049 persons have so far applied for the Magnuson benefits. In California, 40,138 of about 200,000 who may be eligible have applied.

Last year, 193,000 Californians exhausted 39 weeks of benefits under the state program and the 13-week extension jointly financed by state and Federal funds.

More than 37,000 applications were filed in Washington in the week ended Feb. 7, the beginning of the new program.

State officials here estimate that about 90,000 persons will be eligible for the new benefits through June 30. That number will have collected benefits for 43 weeks of joblessness.

"Lifesaver" is the word expressed repeatedly by beneficiaries of the extended benefits in interviews across the country. But the hard core unemployed, particularly those once used to steady, well-paid jobs, worry about what they will do when the extensions run out.

A 53-year-old Boston engineer who declined to give his name was typical. Laid off from an aerospace company in January, 1970, and unemployed since, this man has been living off $75 unemployment checks and savings. He was forced to sell his home and move his wife and son into an apartment.

"It's a lifesaver," he said about the Federal extension. "Any benefits are a boon. But the crunch is getting by day to day. The mental stress is harder than the financial."

A similar kind of sentiment prevails around the Woodenville Social Service Center, an operation funded by the office of Economic Opportunity and run by Charles Eberhardt, a 50-year-old aerospace industry veteran who himself went through *two one-year* periods of joblessness, losing his house in the process.

Mr. Eberhardt, who considers the bedroom community around Woodenville "an area of benign neglect," now makes $8,900 a year, compared with his last aerospace pay of $16,000. His operation provides the needy with transportation, job sources and counseling on such programs as food stamps, welfare and veterans assistance.

Both Arnold Smith and Ray Lavender make it a point to get out of their houses each day, and usually go to the center to lend a hand. "After the month sitting in the house, I met Chuck Eberhardt and learned how important it is to get out every day," said Mr. Smith. "It's a way to keep your sanity, to keep your mind active," Mr. Lavender remarked.

Still, Mr. Lavender sees himself being "back where I started pretty soon. By summer, he said, "I'm going to have to mortgage my house and start a business with others with his mortgage money."

Mr. Smith believes he will soon have to turn to the British consulate for help. "I don't want to move back. The kids are doing so well in school, it seems a shame to uproot them again. I've decided to stick it out to the bitter end. If we do go to England, we will have lost everything."

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## THANK YOU AMERICA—FROM A CANADIAN

Mr. FANNIN. Mr. President, it is fashionable these days to run down America. We are bombarded with material which questions the basic goodness of American society and the American people. We see altogether too little discussion of what is good about America.

On this Washington's birthday anniversary, it might be enlightening to consider all the great things about our country. We might start by observing what a Canadian thinks of the United States.

A good friend in Phoenix sent me an article written by Patricia Young of Vancouver, British Columbia. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Thank You, America

Permit me, a Canadian, to express a long overdue "Thank you, America"—not only for putting a man on the moon, but for almost two hundred years of contributing to the betterment of mankind; for the airplane, radio, cotton gin, phonograph, elevator, movie machine, typewriter, polio vaccine, safety razor, ballpoint pen and zipper!

No other land in all the world has, in so brief a history, contributed so much and asked so little—only that we live together in peace and freedom.

From the days of Washington and Lincoln you have demonstrated the creativity, invention, and progress of free men living in a free society where ideas and aspirations may be promoted to the extent of a man's willingness to work and build a "better mousetrap" with commensurate rewards.

Thank you for upholding the principles and rights of freedom; for the American Constitution and Bill of Rights, and for protecting those rights even when it results in the burning of your flag and the murder of your President.

Thank you for those who helped defend freedom on foreign soil in two World Wars—a debt we have been able to pay in small measure by way of some 10,000 Canadian volunteers who stand and fight with you in Vietnam; for the Foreign Aid you give even when your hand is bitten and your motives impugned; for keeping your dignity in the face of insults from nations still wet behind the ears; for your patience with those who seek to steal the world and enslave its people; for keeping your "cool" even when the Trojan horse mounts the steps of the White House to insolently spew forth its treason.

Thank you for keeping alive the concept of individual liberty and faith in God in a world wallowing in humanistic collectivism.

For those reasons and so much more, I say: "Thank you, America, and God bless you."

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## SECRETARY BUTZ AND THE STRAW MAN

Mr. McGOVERN. Mr. President, Secretary of Agriculture Earl Butz is running around the country boasting about high meat prices. While I do not believe our cattle producers are receiving too much for their livestock, the tactics of Secretary Butz are particularly obnoxious to consumers who only know that prices have gone up. The Secretary's statement that costs are higher because Mrs. Jones is competing with Mrs. Smith at the meat counter is economic nonsense. The Secretary's statement that food stamp customers were contributing to the price increase is sheer demagoguery.

If Mr. Butz were the spokesman of agriculture he pretends to be, he might tell the consumer that according to the latest reports, our Nation's farmers only receive a return of 1 percent on their investment, while the large chainstores get a return of 22 percent. Mr. Butz' shameful tactics in a meat price investigation in the 1950's were documented by the Senator from Montana (Mr. Metcalf) during the debate on the Secretary's nomination.

At the moment, various farm and ranch groups are suing the Nation's three largest food chains for alleged monopoly practices in meat pricing. Needless to say, these organizations do not have the cooperation of either the Department of Justice or the Department of Agriculture.

Apparently, Mr. President, Secretary Butz is attempting to put a freeze on raw agriculture products by the back door method of stirring up consumer resentment. On February 22, Tony Dechant, president of the National Farmers Union, said:

> What the Secretary should be talking about is the farm-retail spread. For every extra penny the farmer gets, someone else gets a nickel or more.

I ask unanimous consent that Mr. Dechant's statement be printed in the Record. I call special attention to his observation that excess stocks of wheat and feed grains now flooding the market could destroy our Nation's livestock producers.

There being no objection, the statement was ordered to be printed in the Record, as follows:

> Secretary Butz is evidently trying to conduct his farm program through the news media instead of facing up to the hard choices of removing surplus commodities from the marketplace, helping farmers recoup 1971 economic losses, and preventing disastrous overproduction again in 1972. No amount of "spending money like a drunken sailor," or willingness to "fight like a wounded steer," will help farmers out of the troubles created by the disastrous set aside land retirement plan. The problem is simply one of overproduction.
>
> The feed grains purchase program is a pitiful half measure. The extra incentives to

wheat and feed grains producers offer practically no hope of reducing production to levels which will result in substantial reduction in excess stocks now flooding the market. Worse, these excess supplies are now a time bomb ticking away to shatter the livestock industry. The number of cattle and hogs are building up. It is only a matter of time till prices fall leaving economic ruin for many farmers.

Secretary Butz' talk of "fighting like a wounded steer" to keep ceilings off farm products is absurd. Parity is only 72 percent. No one in his right mind would even consider ceilings. It is a cynical attempt by Secretary Butz to erect a straw man so that he can be a hero when he knocks it down. What the Secretary should be talking about is the farm retail price spread. We need a ceiling on mark-up. For every extra penny the farmer gets, someone else gets a nickel or more.

## AID TO FIREFIGHTERS PLEDGED

Mr. McINTYRE. Mr. President, there are few occupations in the United States in which the employee is asked to crawl from his slumber at 3 a.m., jump onto a rolling truck and fight a raging blaze that may take his own life and the life of his fellow workers.

Firefighters face this threat each and every day of their lives.

They are constantly subjected to injuries and hospitalization from simply "doing their job." They face these hardships with the knowledge that when it is all over they will not be heroes, for their heroism is all in a day's work.

In some of our big city departments, men are called upon to fight as many as 20 alarms in one night's work. In rural areas volunteers from one unit often travel several miles in all kinds of weather to help a companion unit of volunteers fight a blaze. Clearly, the men who make such a contribution to our health and welfare deserve our support.

And yet, Mr. President, the large amounts of Federal money that have been spent on the tremendous problem of crime in the streets have not been matched by any aid specifically designed to help the firefighter.

For that reason, I have decided to submit an amendment to present legislation, authorizing the Department of Housing and Urban Affairs to provide funds for our Nation's firefighting units, both big city and rural departments.

The funding includes an allocation for the expansion of present facilities, the construction of new facilities and the authority to provide funding to update present equipment.

Mr. President, I ask unanimous consent to have printed in the RECORD a New York Times editorial written by a battalion chief of the New York Fire Department. I know that it will dramatize the plight of firemen to which I have attempted to respond legislatively. We need to make this long overdue effort to help those who stand by 24 hours a day to guarantee our safety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 20, 1972]

NOW LISTEN TO A FIREFIGHTER'S PLEA

(By Joseph E. Galvin)

During my firefighting career I've been blown from the roof of a blazing pier, have had the man next to me on a hose line gasp and die as we tried to advance into a burning tenement, have had a woman relieve herself as we carried her down an aerial ladder from a blazing Harlem tenement in a snowstorm.

I've worked seven hours in a blizzard while soaked to the skin, and had to be taken to a hospital as a result; I once literally tore the arms from a dead firefighter who was trapped beneath a truck.

I've saved lives and have had mine saved several times by my brother firefighters. I've suffered injuries ranging from scalds and burns to a form of "combat fatigue." I've been taken to the hospital, unable to walk, due to the swelling in my heels resulting from sliding the firehouse pole over twenty times during one single night tour in Harlem. I've been in building collapses to assist in the removal of victims when the building was threatening to collapse over our heads and bury us.

I've also been cursed, punched, assaulted and insulted by so-called "toughs" so many times that, incredibly, I'm almost inured to it. I've fought off a group of hoodlums who had surrounded our apparatus and were attempting to steal our tools and equipment. However, and this is quite important, I am not alone nor am I unique. Many other professional firefighters have endured much more than I, and will carry terrible physical and emotional scars to their graves.

To be a member of a ladder company crawling around the smoke-filled rooms of an occupied tenement, searching for possible fire victims, while three or four rooms are afire in the apartment directly below, is one of the most demanding tasks required of a human being. To be given the assignment of cutting a hole in a building's roof to effect ventilation so that the engine company down below can advance its line, when every enlargement of the hole allows superheated smoke and gases to blast into one's face, demands the ultimate in dedication and raw guts.

The human body is subjected to such a high level of punishment during the performance of these tasks that no one, and I mean no one but a firefighter, would place his body in close proximity to the immediate area. You see, professional firefighters as a rule have life spans approximately seven years less than the average male.

Few of this city's citizens realize that some fire units respond to over seven thousand alarms during the year, and that each time they do the firefighters are subjected to tremendous emotional strain—not knowing whether the alarm will be a tragedy or a false alarm. I've seen some of my men leave their firehouses after the completion of their tour of duty almost disoriented from fatigue and the effects of noxious gases. To respond to over twenty alarms during one night tour and get three or four tough fires, back to back, is a terrible experience. What motivates men to perform this task?

After almost twenty years of working with and observing firefighters in every conceivable emergency, I've concluded that the glue which holds this great department together is a combination of brotherhood and love. The misery, suffering and pain which we firefighters share creates a bond which those outside the fire service cannot comprehend. Wives, mothers, sweethearts—none can intrude into this unique fraternity that comes from being truly brothers. This spirit of comradeship grows from the development of mutual respect and admiration which each man has for another; and is a form of love. And that special love which men in combat develop for one another is indeed a wonderful thing to share in, or even to observe. We firefighters endure hardships and share experiences which we'll never forget even if we live to be 200. The crucible of arduous fire duty welds us into a tough steel-like chain, which may be strained, but never parted.

In recent years we have all but been inundated by television shows, newspaper and magazine articles, movies and books describing the problems of the law-enforcement officer (all valid) during this era of "crime in the streets." This has resulted in hundreds of millions of dollars being granted by both state and Federal agencies to police departments throughout this country.

Doesn't "crime in the streets" and the Safe Streets Act relate to malicious false alarms, arson, assaults on and shooting at professional firefighters? Cannot we in the fire service acquire the aid of someone to forcefully bring to the attention of our citizens a truly honest picture of the firefighter's life? And death? Does it have to be left to a nonerudite individual like myself, so obviously out of my element, to attempt to get across the message that this noble calling—the saving of lives—takes a terrible toll?

What is needed is the effective * * * of the firefighter's problems; the unique skills required of the job and the need for aid—new equipment, research and development programs, a newer type of lightweight mask (the mask widely used now, developed for World War II, weighs thirty pounds and can be used up in less than ten minutes).

It should be just as easy for a firefighter to attend a course at a university as it is for a policeman, but the work schedules now in effect in the New York City Fire Department make it very difficult for a fireman and almost impossible for an officer.

Won't someone please come forward to help us?

## NORMAN CARLSON

Mr. PERCY. Mr. President, I would like to call to the attention of my colleagues in the Senate the nomination of Norman Carlson to receive the Arthur S. Flemming Award. This award is given in recognition of Mr. Carlson's leadership in the area of Federal corrections in his capacity as Director of the Bureau of Prisons of the Department of Justice.

He has contributed to the development and implementation of a long-range master plan to improve correctional facilities. In spite of a lack of overwhelming public support in this area, Norman Carlson has toiled long and hard to improve corrections. In large part, he deserves the credit for many of the innovative programs which have characterized the Bureau of Prisons during his tenure there.

Mr. President, the direction of correctional institutions is a vital part of the overall problem of crime. Norman Carlson deserves our respect and gratitude for the part he has played in helping to relieve the problem of crime in our society. For my colleagues and for myself, I offer congratulations to Norman Carlson for having earned the Flemming Award in recognition of his contributions to this Nation's system of corrections.

## GROWTH OF THE REPUBLIC OF CHINA

Mr. DOMINICK. Mr. President, at a time when the country's attention is properly fixed on the President's trip to Peking, it is only fitting that we remind ourselves of the tremendous progress made by the Republic of China, so unhappily, and in my mind illegally, ousted from the United Nations. It is even more fitting to compare its way of life with that of the Mao followers graphically depicted on the recent TV films over channel 5 in the Washington area, where the regimentation, militarism, and forced indoctrination of the mainland Chinese were clearly revealed.

Now that the emotional climate which pervaded United Nations decisions on the membership of Taiwan has subsided, it might be enlightening to look at the tremendous growth and progress made by the Republic of China in the last quarter century, in further assessing those factors which have and continue to foster friendship and alliance between our two countries.

Economic growth in the Republic of China has been miraculous. Two decades ago, the island of Formosa was hardly the dream of those who sought new outlets for foreign industrial expansion. Yet today, an island of 15 million people, Taiwan has created not only an attractive climate for such foreign investments and capital, but has, also, a gross national product which enables it to help other developing countries significantly.

Foreign investments on Formosa have risen from an annual average of $2.5 million prior to 1960 to approximately $140 million in 1970 and again in 1971. This is not the track record of a country which sits back as it smilingly rakes in U.S. aid, but is rather the accomplishment of a country which recognized at an early stage in its industrialization that it could not depend on U.S. aid indefinitely. Indeed American economic aid to the Republic of China assisted the Chinese greatly during the early years, but in June of 1965 this aid terminated. Rather than being stifled by the lack of former assistance from the United States, the Republic of China stepped up its efforts toward more international cooperation, seeking the necessary technical support and new sources of capital which could lead toward sustained growth.

Efforts were made by the Republic of China to improve the balance of payments, create jobs and find new ways to attract foreign investors. Basic innovations contributing to the success of these efforts included new statutes to encourage investment—permitting 100 percent foreign ownership, offering tax incentives, and providing for repatriation of capital. As a result of growth-oriented planning and expansion-conscious business policies, Taiwan increased its gross national product 11 percent in 1971 over 1970. Two-way trade brought a gain of 31 percent over that same period, representing a favorable balance of payments of $157 million. Again, hardly the track record of a country willing to rest comfortably on the cushion of foreign aid.

In addition to economic accomplishments at home, the Republic of China has exported the agricultural expertise of its people by helping some 28 developing countries rise to new levels of agricultural planning and efficiency through training in management, rice culture, marketing, and water utilization. Twenty-one teams numbering 1,000 farm specialists are working in African countries. It goes without saying that the work of these Chinese specialists helps our own aid programs in these areas.

By wisely placing its emphasis on those areas of expertise which were most marketable and most beneficial to developing countries, the Republic of China moved forward with major programs aimed at the serious food shortages caused by population growth and declining per capita food production in these areas. The Chinese Government initiated several major programs, including the Land Reform Training Institute, established jointly in 1968 by the Chinese Government and the John C. Lincoln Foundation of the United States. The institute's major goal was to share with developing countries knowledge and benefits gained from the land reform program implemented in the Republic of China. Establishment of the Food and Fertilizer Technology Center, set up to pool regional resources to help increase food production in Asian countries is another example of Taiwan's efforts to help her neighbors. Programs such as these, combined with bilateral project-by-project steps have not only stimulated agricultural gains in developing countries, but have spurred the growth of industries which depend on agriculture for raw materials.

Mr. President, we are embarking on what can only be a new and important era in U.S. relations with the countries of the Far East. Yet it would be a grave mistake to forget the value of our alliance with the Republic of China, and the Republic of China's contributions to the world economic and political community.

While Senators have been upgrading the Government of mainland China, downgrading the Government of Taiwan, and speaking generally about the need for the United States to avoid assistance to dictatorial regimes, it is interesting to see that they ignore the fact that Taiwan operates under a constitution with elections at all level while mainland China operates under total executive order interpreted and enforced through one man. It is time that we noted publicly that the dictationship of the left can and does destroy the lives and dignity of people at a truly fearful rate as the dictatorship of the right has done in the past. These countries like Taiwan which operate peacefuly in the middle of the spectrum should be applauded for their contributions.

## SOME SHORT-TERM CONSEQUENCES OF A NUCLEAR POWER MORATORIUM

Mr. GRAVEL. Mr. President, earlier today I introduced a bill which would stop the licensing and operation of nuclear powerplants on a temporary basis. The premature doubling of nuclear power capacity this year, with machines averaging almost twice the size of the present models, represents a danger to life and property of unprecedented magnitude.

Perhaps other Members of Congress will soon introduce a bill with the opposite purpose, namely to accelerate the licensing and operation of additional nuclear powerplants. This would be seeking legislative relief from recent court decisions which declared that the Atomic Energy Commission has been making a mockery out of the National Environmental Policy Act of 1969, and which forbid the Commission to grant nuclear operating permits until compliance with the law is completed.

The threat of some summer blackouts if nuclear licenses are not granted was presented by the utilities last November to the Senate Interior Committee Energy Task Force.

As summer approaches, we can expect more obvious activity, and if it includes villifying environmentalists and citizen intervenors, the situation will be just what AEC Chairman Schlesinger predicted last October in his maiden speech.

I would not be surprised if debates between the extremes—stopping nuclear power and accelerating it—become important in the primaries and subsequent elections.

The threat of blackouts is a major concern which needs full and advance examination by the economic committees of Congress, but I shall offer certain facts right now.

### THE CONSEQUENCES IN 1972

In 1970, nuclear power contributed only 0.3 percent of the country's total energy consumption. In 1971, it was an estimated 0.8 percent. If all 15 nuclear plants nearing completion were in operation by the end of 1972, the contribution from nuclear power would still be only a grand 1.6 percent of the Nation's energy consumption.

I submit that the nuclear risk is all out of proportion to the nuclear contribution, and that shutting off 1.6 percent of the country's energy is no proper cause for hysteria and recklessness anywhere.

Furthermore, not all 15 of the nuclear plants will be operable in time for this summer's crunch. According to the AEC's own list dated January 28, 1972, seven of the 15 will not even be ready for loading nuclear fuel until April, May, June, and September. After fuel loading, sometimes many weeks are necessary to bring a nuclear plant into reliable baseload operation.

If all 15 nuclear plants come into full power operation by the end of 1972, they would provide an additional 10,600 megawatts of nuclear electricity. This would approximately double the 1971 nuclear generating capacity, which was 10,041 megawatts.

It might be noted for comparison that the AEC's own electrical consumption in 1972 will tie up at least 6,000 megawatts of electrical generating capacity, mostly for making more nuclear fuel. By shutting down the AEC's nuclear fuelmaking operations, approximately 20 percent of the effect of a nuclear power moratorium would be instantly eliminated.

The net result of a nuclear moratorium in 1972 would be the absence of 16,000 electrical megawatts. While this is less than 1.5 percent of our total energy consumption as presently projected, it is approximately 4 percent of our electrical energy capacity for 1972.

### THE CONSEQUENCES IN 1975

If you assume that the nuclear moratorium continues through 1975, then we are talking about the absence of 59,000 nuclear megawatts, which would be about 4.8 percent of the country's 1975 energy consumption, or about 12½ percent of the country's projected 1975 electrical consumption. If one calculates the liberation of 6,000 electrical megawatts through the nonproduction of more nuclear fuel, the percentages go down somewhat. The figures are nothing more than approximations in any case, including the common estimate that electricity accounts for one-fourth of our energy consumption.

NUCLEAR CAPACITY 1970-80

| Year | Number of nuclear plants operating | Nuclear electrical megawatts | Total U.S. electrical capacity | Percent nuclear | Percent nuclear in total U.S. energy | Number of nuclear plants being built [1] | Their electrical megawatts |
|---|---|---|---|---|---|---|---|
| December 1970 | 20 | 7,498 | 334,986 | 2 | [2] 0.3 | 53 | 44,038 |
| December 1971 | 23 | 10,041 | 357,122 | 3 | [3] 0.8 | 54 | 45,779 |
| December 1972 | 38 | 20,630 | 382,000 | 5.5 | [4] 1.6 | | |
| December 1975 | [3] 80 | 59,000 | 475,000 | 12.5 | [4] 4.8 | | |
| December 1980 | | 150,000 | 665,000 | 22.5 | [2] 7.0 | | |

[1] An additional 52 nuclear plants with an electrical capacity of 51,571 megawatts are "planned" (reactors ordered) according to the Atomic Energy Commission., Jan. 17, 1972.

[2] Source: Paul W. McCracken, Council of Economic Advisers, 1971, "National Energy Problems and Prospects." All other figures from the Atomic Energy Commission.

[3] Estimate.

[4] High estimate.

### WHAT ARE THE LOAD FACTOR CURVES?

Some perspective on these figures is provided by a description of how electrical need is calculated.

Generally the peak or the very highest demand is estimated. Then it is thought prudent to assume that 10 percent of the generating capacity of any large electrical system is out of operation for routine overhaul and maintenance at any particular time. So the Federal Power Commission adds 10 percent need to the peak demand. Then it is thought prudent to add another 10 percent reserve for malfunctions and accidents which put more equipment out of operation.

So the alleged need for electrical generating capacity equals the peak demand plus 20 percent reserves.

A more interesting calculation seldom surfaces in public presentations, though it is not secret. It is the load factor curve, or the curve which shows the percent of generating equipment in use versus the number of days per year it is used.

It turns out that some utilities use a third of their equipment only 10 percent of the time or less. In other words, after you subtract 20 percent for reserves, only two-thirds of the remaining equipment is needed 90 percent of the time.

Some of this is explained in an article entitled "Southland Facing Electrical Power Crisis in Next Two Years," which appeared January 23, 1972, in the Los Angeles Times.

According to that article, the so-called electrical crisis in southern California is caused by only 18 days a year, when it is very hot or very cold. "About one-third of the available power is idle the other days," it says.

If 33 percent of electrical capacity were idle 90 percent of the time, would it not be absurd to court nuclear catastrophe in return for a technology which at best could provide only 5.5 percent of electrical generating capacity in 1972 and 12.5 percent in 1975?

I do not know how the load factor curves look for the country as a whole, or for the regions of alleged "critical need" for nuclear power plants. While I must assume the curves are less astonishing than the ones for southern California, it may be that the need for nuclear plants is far from critical.

I strongly suggest that we look at the load factor curves and also verify the figures before we are stampeded into the premature licensing of nuclear plants and the automatic production of permanent radioactive waste.

### WHO REALLY WILL USE THE POWER?

In addition, it is time to take a very tough look at the alleged demand for electricity, especially for the years 1972 through 1975. We are seldom told who the projected customers are, or what they will use the extra electricity for.

In Oregon during 1971, Portland General Electric and the Bonneville Power Administration put out reports entitled respectively, "Why Oregon Needs More Power" and "Everything You Always Wanted to Know About BPA." Using these sources and others, Dr. Wilbur McNulty wrote an article on Northwest power needs which appeared in the Sunday Oregonian on October 17, 1971.

He considers the familiar claim that massive amounts of electricity will be needed in the immediate future for pollution abatement, and concludes that "the figures do not bear this out."

After adding up possible future automobile shredding machinery, affluent control for Oregon pulp and paper mills, tertiary sewage treatment, electrical mass rapid transit, the biggest need increase Dr. McNulty can generate for pollution abatement is a few percent—trivial in comparison with the alleged "need" for a 100-percent increase in electrical capacity every 10 years.

The real increase, he says, will be used to quadruple aluminum production by 1987, and to heat more homes electrically. His conclusion is quite consistent with the 21st annual electrical industry forecast, which says that electrical sales can treble by 1985 if we drastically increase the production of steel, aluminum, and petroleum processing, increase the use of electricity to heat and air condition, and increase the use of electrically driven appliances.

### THE MYTH ABOUT JOBS, PROSPERITY, AND COMFORT

While the electrical industry is trying hard to increase sales, others are figuring out ways to reduce per-capita energy consumption without reducing our comforts or standard of living or employment opportunities at all. They shoot holes right through the line that prosperity and jobs and comfort all depend on greater use of electricity.

I particularly recommend two papers on this subject which are available in the RECORD.

One is a paper entitled "Electrical Power, Employment, and Economic Growth," presented at the American Association for the Advancement of Science meeting in December by Professor Herman E. Daly of Louisiana State University. It was placed in the RECORD by Mr. HART on February 8, pages 3079–3084.

The other is a paper entitled "An Assessment of Energy and Materials Utilization in the U.S.A." presented by A. B. Makhijani and A. J. Lichtenberg in September 1971 at the college of engineering at the University of California, Berkeley. I placed this paper in the CONGRESSIONAL RECORD, volume 117, part 34, pages 44629–44635, and reprints are available from my office.

In this paper, the authors show how we could reduce per capita energy consumption to 62 percent of our 1968 levels without sacrificing our standard of living at all.

### HEAT AND AIR CONDITIONING

Would our standard of living be reduced by better building insulation? About one-sixth of the country's energy consumption is devoted to heating buildings. It is estimated that better insulation could reduce that share by 30 percent.

As for the power consumed by air-conditioners, the amount could probably be reduced by 15 percent with the addition of a new thermal energy storage device being tested this spring at the University of Pennsylvania National Center for Energy Management.

This is also a peak shaving device, which means it reduces the need for building peak generating capacity which stands idle most of the time. The air-conditioning system was developed with the help of the National Science Foundation's RANN program, according to the story "System Stores Coolness" in the January 10, 1972, issue of Chemical and Engineering News.

### FUEL CELLS, HYDROGEN, AND FOSSIL FUELS

Another way to reduce per capita energy consumption is to produce more electricity from a constant amount of fuel. Commercial fuel cells, which will be on the market in 1975, are expected to produce 30 percent more electricity per unit of fuel than do steam-cycle plants.

Furthermore, fuel cells produce no pollutants at all, only carbon dioxide and water.

As for the supply of fuel for fuel cells, there need be no shortage. Commercial gas made from coal, of which this country has at least a 400-year supply, will start reaching the market in 1973, according to the February 7, 1972, Wall Street Journal.

Fuel cells run even better on hydrogen, which can be separated from fresh or salt water by electrolysis using such simple and familiar machines as windmills. Additional peak shaving could be accomplished by using idle electrical capacity to produce hydrogen for use in fuel cells.

If fuel cell production is too limited to make up for the nuclear deficit in 1975, there should be no problem making up for it with clean geothermal and fossil-fuel boilers.

For instance, in October 1971, Commonwealth Edison announced that a 840-megawatt coal-burning plant whose construction will begin in mid-1972, will be completed in 1975. Furthermore, "the new unit will be environmentally acceptable in every respect," promises J. Harris Ward, chairman, according to the Wall Street Journal, October 7, 1971.

### HOW TO REFUSE BLACKOUTS

In other words, we certainly do not need nuclear fission in a rush, if ever. We can afford the time to consider the alternatives, including solar power, much more carefully.

A nuclear moratorium does not have to mean blackouts or an energy crisis. These threats are self-serving and perhaps self-fulfilling slogans used by the utilities, and their counterparts in the Federal Power Commission and the Atomic Energy Commission.

It is time for us to reject the idea that, in case of a peak demand which cannot be met a few days per year, the first things to go must be the things we cherish most, such as lights, air conditioning, elevators, transportation, hospital equipment, and sewage treatment.

That kind of punishment is not necessary.

For instance, in New Zealand, what are called "ripple signals" are widely used. Nonessential electrical equipment is provided with a special switch which responds to a low-power signal from the utility. When a peak-power period is approaching, the utility sends the signal, which shuts off the nonessential load.

Ripple systems are not expensive to install, but American utilities have not suggested them, perhaps because they have been trying instead to increase electrical consumption and justify increases in their capital investment for new equipment.

In the absence of ripple systems, we can still cope with any peak demand which exceeds capacity without blackouts. We can simply poll the public democratically, and shut down some of the big loads which people do not consider essential to their daily happiness. After all, we are talking about just a few days per year.

### PUBLIC HARDSHIP NOT NECESSARY

I have been stressing the fact that a nuclear moratorium need not mean hardship. However, I believe that the public and Congress, once they understand more about present nuclear dangers, would favor a nuclear moratorium even if it did mean temporary hardship and inconvenience.

But it does not. Public hardship can be prevented altogether during a nuclear moratorium, providing Congress does not leave its implementation solely to the utilities.

## PROPOSED RECONCILIATION BETWEEN WEST GERMANY AND EASTERN EUROPEAN NATIONS

Mr. TALMADGE. Mr. President, the late West German Chancellor Dr. Konrad Adenauer was a great political leader who brought West Germany to a great economic prosperity and to a secure position among the nations of the Western World. He carried out the reconciliation with France and Britain and has always been a great friend of the United States. He has kept the positions of the free world in an uneasy situation at the border of the free and the Communist world in Europe.

The present West German Federal Government under Chancellor Willy Brandt has used a false logic when stating that Mr. Brandt, in the same way as Dr. Adenauer did vis-a-vis the free nations, will now bring about a reconciliation between Germany and its Eastern neighbors. The Eastern neighbors are not free people; they are represented by the Communist regimes, and a German reconciliation with the Communist regimes of Eastern Europe which have been suppressing their people, is not and cannot be equal to the reconciliation Dr. Adenauer reached with the West.

In her Ostpolitik, West Germany has brought many sacrifices and given many concessions to the Soviet Union and other Communist countries. These sacrifices have been unnecessary and will bring the Germans no friendship whatsoever, because the subjugated nations of Eastern Europe will reject such German policies as being hostile and detrimental to their vital interests, and the Communist rulers of those nations will not be satisfied and grateful until Germany surrenders everything including her own freedom.

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## THE LOYAL LEGION AWARD

Mr. PERCY. Mr. President, every year the Loyal Legion, a patriotic organization made up of descendants of the original group of men who formed the Loyal Legion at the time of the assassination of Abraham Lincoln to prevent the overthrow of the Government, gives an award on Lincoln's birthday to the college student submitting the best paper on some phase of the Lincoln administration.

The award this year was given to Miss Mary Sand, a student at Dakota State College, Madison, S. Dak., who wrote on the subject, "Foreign Relations and Diplomacy Between Great Britain and the United States During the Civil War, 1860–65."

As part of the award, Miss Sand was given a trip to Washington, D.C., to participate in the ceremonies at the Lincoln Memorial on February 12. I ask unanimous consent, Mr. President, to print the copy of Miss Sand's report in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### FOREIGN RELATIONS AND DIPLOMACY BETWEEN GREAT BRITAIN AND UNITED STATES DURING THE CIVIL WAR, 1860–65

(By Mary Sand, Dakota State College, Madison, S. Dak.)

Ephraim D. Adams ably summarized England's dilemma when he wrote, "The difficulty of England in regard to the Civil War was the difficulty of reconciling sentiments of humanity long preached by Great Britain, with her commercial interests and her certainty that a new State was being born."[1] Great Britain was thoroughly awakened to the seriousness of the growing rift between the North and the South in relation to British foreign trade.

On April 12, 1861, the Southerners opened fire on Fort Sumter, and in two days forced the Northern fort to surrender. President Lincoln promptly called for 75,000 militiamen; and four additional Southern states seceded from the Union. Civil War had erupted. With the fall of Fort Sumter, European countries recognized that a civil war was actually under way in the United States. For the period previous to April 1861, British official attitude may be summarized in the statement expressed by the British Minister at Washington, who, wishing that some solution might be found for the preservation of the Union, but at the same time, looking to future British interests and possibly believing also that his attitude would tend to preserve the Union, asserted vehemently the impossibility of any Northern interference with British trade to Southern ports.[2]

According to the historian Thomas A. Bailey, when the Civil War broke out relations between England and the United States were more friendly than they had been at any time since the turn of the century.[3] He substantiates his statement by the fact that the Isthmian controversy had just been settled and no serious dispute divided the two nations. With the bombardment of Fort Sumter, England would be the focal point of American diplomacy and the greatest diplomatic problem facing the Republican administration was to keep England neutral.

According to J. G. Randall and David Donald, neither the South nor the North wanted England to remain strictly neutral. What the North desired was a denial of belligerent status to the Confederacy. In reality, the North wanted sympathy, not cold neutrality. On the other hand, the Confederacy wanted "unneutral assistance, recognition and intervention." Most upper-class Englishmen sided with the Confederate cause. For years the Old South had been close to Great Britain in both business and society. Southern planters were the equivalent of the English gentry. In the eyes of the British aristocrat, they detested the "demon democracy" and had long expected the collapse of the democratic form of government which was largely supported by the "gibbering mob" derived from the scum of Europe. A subtle reason for this attitude of the English gentry was the fear that if the North triumphed, the disenfranchised masses of England would clamor more loudly than ever for democracy. Other reasons for the attitudes of the English ruling class were the fact that the United States was a growing world power, a formidable commercial competitor, and a potential menace to Canada and other British possession in the Western Hemisphere.[4]

Economic reasons also influenced the thinking of the British ruling class. In 1861, Congress had enacted the highly protective Morrill tariff. Most of Britain's leaders, men like Prime Minister Palmerston, and Foreign Secretary Russell favored the South. They were convinced at first that the South's independence was inevitable. But the British economic interests were opposed to intervention. British shippers realized that their business would be ruined by Yankee privateers if England and America clashed.

Britain's liberal humanitarians from the first to the last favored the Union. British liberals such as John Bright and Richard Cobden saw the Civil War as the test of democracy and shared the desire of the working class for a Northern victory. The profound

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Footnotes at end of article.

pro-Unionism of the English masses was a decisive factor at the outbreak of the Civil War. The masses close affiliation to the Northern masses helped keep the London government neutral. *Uncle Tom's Cabin* by Harriet Beecher Stowe made a profound impression. The English masses regarded the North as the haven of free labor and democracy to which thousands of their countrymen had emigrated. The British government sensed that the English workingman would never willingly consent to intervention on behalf of slavery. Although the upper classes controlled the press, the attitude of the English masses could not be ignored.[5]

President Lincoln wished to regard the Civil War as a "mere domestic struggle or quarrel", one that would not involve foreign nations and thus would avoid the question of neutral rights. With the bombardment of Fort Sumter, President Lincoln retaliated with his proclamation of the blockade of Southern ports. Lincoln's proclamation of a blockade, however violated his own theory. According to International Law, a blockade without a state of war and without placing restrictions of neutral shipping imposed by the Union would give the Confederacy belligerent rights. England immediately recognized the flaw in the Union's theory. England viewed the situation as hypocritical since the Union wanted England to recognize a state of war by admitting their blockade but at the same time deny a state of war by treating the Southern vessels as pirates. The British government decided to treat the civil conflict as a full-fledged war. On May 13, 1861, Queen Victoria issued a proclamation of neutrality recognizing the belligerency of the Confederacy.

In other words, England recognized the South as having a responsible government capable of conducting a war.[6] President Lincoln and Secretary of State Seward objected to England's proclamation of neutrality first as unfriendly and then as "premature". Ambassador Charles Francis Adams considered the proclamation of neutrality as a first step toward recognition of the Southern Confederacy which it was not. The proclamation of neutrality was merely a customary proclamation of impartial neutrality, similar in principle to the position the United States had taken during the Canadian rebellion of 1837. Other European countries considered England's action proper. Thus, other European nations followed the example of Great Britain and also accorded the South belligerent rights.[7]

According to Alexander De Conde, the Civil War raised the old questions of maritime rights between belligerents and neutrals. The Civil War reversed the traditional positions of the United States and Great Britain. For the first time, England was the major neutral and, for the first time, the United States insisted on the rights of a belligerent rather than on the privileges of a neutral.

Another interesting and unique feature of the diplomacy of the Civil War was that the European nations for the first time could apply a body of international law covering maritime rights that had been adopted at the end of the Crimean War. The principles adopted in the Declaration of Paris, April 1856, abolished privateering, stated that a neutral flag covered all enemy goods, except contraband, were free from capture under an enemy flag, and that a blockade was binding only if strong enough to prevent ships from entering ports.[8]

The Declaration of Paris embodied most of the neutral principles that the United States had upheld since the achievement of independence. Yet, when the European Nations had asked the United States to adhere to the Declaration, United States had refused because it would not give up the right of privateering. The rationale behind this refusal was the fact that United States believed that in a time of war with a stronger naval power, the United States would need privateers to supplement the striking power of its small navy.[9]

In the Civil War however, privateering gave a decisive advantage to the South which had no navy. A week after Jefferson Davis said that he would commission privateers, secretary Seward offered to adhere unconditionally to the Declaration of Paris since it would now benefit the Union and its cause. In reality and in practice, privateering did not help the South. European nations closed their ports to both Northern and Southern ships of war and their prizes. The Confederacy, with its own ports blockaded, had no ports where it could send prizes of war. The South tried privateering in 1861, but after that year, the South gave up the effort, since blockade-running proved to be more lucrative.[10]

Secretary of State William Seward had refused the offer of the European powers for a conditional adherence to the principles of the Declaration of Paris, but told the British that the Union would follow them in practice.

After the South's unsuccessful efforts at privateering, it also followed those principles during the Civil War.

Agreement on the maritime principles did not solve the major diplomatic question of the Civil War: would Europe, primarily England and France, the two most powerful countries in Europe, recognize the Confederacy as an independent nation? The North's primary objective was to prevent such recognition. The South's primary aim was to win the recognition through European intervention. Although recognition depended more on the success of Confederate arms than on diplomacy, the material advantages to be reaped from such recognition were considered important enough to bring victory to the South. Northern diplomacy under the brilliant guidance of Charles Francis Adams and intelligence as well as battle victories helped thwart such recognition. Europe's recognition of the South's belligerency had given the Confederacy the status of a nation for the purpose of fighting a war.[11]

From the beginning, Southern statesmen hoped that England and France would take the next steps and aid them in the same way France had helped the fighting colonies in the American Revolutionary War. "England will recognize us" Jefferson Davis had stated on the way to his inaugural, "and a glorious future is before us." [12]

With high hopes, the South tried to aid its armies through diplomacy. The Confederacy sent agents, without official status, to Europe to work for recognition, to float loans, to spread propaganda, and to buy ships and supplies. From March 1861, to January 1862, the South scored several points but was unsuccessful in its main undertakings by the Yancey-Rost-Mann mission. The commissioners found entree' into London society, seized the attention of a considerable public, and obtained recognition of belligerency; but they failed to secure full recognition of the Confederacy, sought it in vain for a treaty of amity and commerce, met disappointment in their demand that England denounce the Northern blockade, were denied the use of foreign ports for Confederate privateers, and saw their hopes deferred in the matter of intervention.

Though Lord Russell granted interviews to the Southern commissioners, the conversations were unofficial. Later the Southern diplomats were requested to put their communications in writing. Yancey developed a feeling of bitterness toward England and asked to be relieved of his duties. The Southern commissioners differed among themselves, and they had the feeling that they had been officially snubbed. With the arrival of new commissioners in January 1862 (Mason and Slidell), their mission came to an end.[13]

The Confederate government selected two distinguished men. It sent James Mason of Virginia to London and John Slidell of Louisiana to Paris to represent the Southern government in two most important foreign capitals. Slipping through the Northern blockade, the commissioners took passage on the British merchant ship, *Trent*. The day after leaving port (November 8, 1861) the *Trent* was stopped by the conventional signal, a shot across the bow, by a warship of the United States, the *San Jacinto* under Captain Charles Wilkes. The two commissioners and their secretaries were arrested and removed to the *San Jacinto*. The searching party met with some difficulty as stated by Captain Wilke's report and force was necessary to search the ship.

Though the envoys were treated with every possible courtesy by Captain Wilkes and his officers, the Southern commissioners were political prisoners and were placed in confinement in Fort Warren, Boston Harbor. The effect of the seizure was immediate and sensational. The act of Captain Wilkes was vociferously applauded in the United States but the act was more than a breach of International usage, it was an affront and challenge to England's honor. When Lord Palmerston heard about the incident, he declared in a cabinet meeting; "You may stand for this but damned if I will."[14]

The mass of English people appeared to share his rage. War preparations were carried to the point of sending 8,000 troops and war materials to Canada, putting a steam fleet in readiness and prohibiting the exportation of munitions. On the American scene, the Northerners rejoiced over the capture of the two important Southern diplomats and the insult that Captain Wilkes had given England. Cheering crowds in Washington serenaded Captain Wilkes. The House of Representatives voted to give him a gold medal. The Secretary of the Navy commended him for his "brave, adroit, and patriotic conduct."

The *New Times* said, "Let the handsome thing be done, consecrate another fourth of July to him." [15]

European statesmen, French, Italian, Prussian, Danish, and Russian all agreed that the United States had done the wrong thing. Captain Wilkes' act smacked of impressment, a practice that the United States had always denounced as in conflict with International law.

President Lincoln realized his country held a weak position. Lincoln did nothing to encourage the public rejoicing. "One war at a time," he told Secretary of State Seward.

The British cabinet insisted that a "gross outrage and violation of international law had been committed," and Prime Minister Palmerston and Lord Russell drew up an ultimatum threatening war. When Prince Albert, Queen Victoria's dying consort, read the dispatch he cautioned restraint and toned the dispatch down. The revised instructions, demanded the release of the two Confederate prisoners and a suitable apology. If the United States did not indicate compliance within seven days, the minister in Washington had orders to break off diplomatic relations and return to London, but he also had the private instructions not to threaten war.

Lincoln's cabinet met on Christmas Day to consider the British demands. Finally after a long discussion, all eight members agreed that the government must release Mason and Slidell. It was a wise decision. Failure to meet the English demands probably would have meant war and a victory for the South.

Nevertheless, Lincoln feared the political consequences arising from the public anger over the surrender of the two Southerner diplomats, but the public reaction, except for the anti-British press, was less violent than Lincoln and his advisors had expected. Despite the furor that the *Trent* affair created, neither the British government nor its people really wanted a war wtih the United States.

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Footnotes at end of article.

Such a war would have opened Canada to an invasion, would have placed the British merchant marine at the mercy of the American privateers and would have aligned Britain, the leader of the world crusade to stamp out slavery, on the side of the slaveholding South. To the satisfaction of both England and the United States, Lincoln's government peacefully overcame its first major diplomatic crisis of the Civil War.

The crisis brought no benefit to the South. When Mason and Slidell arrived in England at the end of June 1862, public interest in them had almost disappeared. In referring to them the *London Times* had once said, "We should have done just as much to rescue two of their own Negroes." [16]

The South's main diplomatic weapon was the coercive economic power of cotton, on which English and French textile industries were critically dependent. In England, some five million people (one fifth of the population) in one way or another relied on the textiles industries for a living. The South supplied about 80% of England's raw cotton. The *London Times* said that "so nearly are our interests intertwined with America that the Civil War in the states means destruction and destitution in Lancashire." [17]

Southerners believed that England's and France's dependence on their cotton would force those countries to recognize the Confederacy as independent and to end any long war by intervening on the South's side. Without the South's cotton, a South Carolina senator had claimed, "England would topple headlong and carry the whole civilized world with her, save the South. No, you dare not make war on cotton. No power on earth dares to make war upon it. Cotton is King." [18]

This Cotton King theory had several fatal flaws which consisted of the fact that bumper crops in the 1860s filled the brokers' warehouses and England found other sources of cotton in Egypt and India. At first the South actually welcomed the Union blockade, since it was to create a cotton famine.

At the beginning of the Civil War, state and local officials in the South prevented the export of cotton. Southerners refused to plant a new cotton crop and before the end of the war as a patriotic duty had burned some two and half million bales of cotton. Later, as its forces blockaded and occupied Southern ports, the North strangled the cotton export. Yet neither England nor France or any other foreign nation recognized the Confederacy. The war itself, South's self-blockade and the North's enforced blockade came as a boon to British and French cotton brokers; for the brokers profited from the high wartime prices that the cotton brought. The war, in fact, saved England's cotton industry from severe panic and turned the impending ruin into a glowing prosperity. Therefore, the long Civil War worked to the advantage of the cotton industrialist. As the British and French textiles manufacturers exhausted their cotton supply, they found substitutes in cotton from Egypt and India and linen and woolen goods. Also, as the Union armies captured cotton, strenuous efforts were made to ship the captured cotton to England to alleviate the shortage.

Despite the hardships Englishmen suffered as thousands of English and French cotton spindles stopped, the starving British workers did not agitate for intervention at any time during the Civil War mainly because the millions of workers believed in the Union cause and, because poor relief both public and private, and some supplied by Northern philanthropists helped ease their suffering.

Also, Northern wheat was more vital than Southern cotton. If Britain had intervened, it would have meant war with the United States and the consequent cessation of the flow of wheat during the bad harvests. Since the British needed Northern wheat more than Southern cotton, the English dared not to intervene.[19]

Another theory, centered on economic motivation, held that England's swollen war profits weakened the coercive power of King Cotton. Both North and the South bought most of their war supplies from England, giving enormous profits to her munitions makers. Britain's shipowners profited from the South's destruction of the Union's merchant marine, their main prewar rival. Some English shipowners even rejoiced over the Civil War. According to the "war profitteer" theory, England profited from the Civil War to such an extent that England did not want to intervene and thereby kill prosperity.[20]

After the crushing Northern defeat in the Second Battle of Bull Run, England became more convinced than ever that the Union cause was hopeless. By September 1862, Lord Russell, the foreign minister, wrote in his opinion that the time had come "for offering mediation, with the view to the recognition of the independence of the Confederacy." Lord Russell added that in failure of mediation, England should on her part recognize the Confederacy. Secretary of State Seward insisted that forcing intervention would mean enlarging the war and that the Union would reject all offers of mediation. If Europe intervenes, Seward stated "this Civil War will, without our fault, become a war of the continent—a war of the world." [21]

For such a mediation plan to have developed into the official program in Great Britain would have probably have meant a severance of relations between Washington and London; had this proposal been followed by intervention to stop the conflict, war with the Union would, according to all indications, have resulted. But at this critical point, various factors acted as a brake upon this proposed British policy.

Lee's repulse at Antietam and Lincoln's Emancipation Proclamation were having their effects. Fundamental in Secretary of State Seward's foreign policy was the conviction that England dreaded war with the United States. Secretary Seward sent to the Union ambassador, Charles Francis Adams, the instructions to inform England that the proceedings relative to outfitting of ships (Alabama, Florida and the Shenandoah) for the Southern Confederacy complicated the relations between the two countries in such a manner as to render it difficult to preserve the friendship between the two countries.

British shipowners outfitted armored steamers mounted with an iron ram, known as Laird rams. Potentially more powerful than any ship in the Union Navy, the Laird could crush the wooden blockade ships, smash the blockades and perhaps turn the tide of the Civil War. As the rams became ready for delivery to the Confederates in 1863, Lord Russell ordered the rams held, because of Charles F. Adams' vigorous protests and because of the fear of retaliation by the North.[22]

Napoleon III of France was always ready to recognize the Confederacy if England would support him. Napoleon dared not risk a long intervention because of divided French opinion. Therefore, the South's hopes for direct foreign intervention rested with England. Shortly after the collapse of the British mediation scheme, Napoleon made his most determined bid to intervene. He proposed a six-month armistice and the suspension of the blockade, if Britain and Russia would act jointly with France. This plan would have assured independence for the South but would have been rejected by the North. Britain and Russia would have nothing to do with the proposed mediation plan.

The issue of slavery profoundly affected the diplomatic maneuvers during the Civil War. Southerners realized that a main obstacle to obtaining foreign intervention was the question of slavery. As early as May 1861, the first Southern commissioners in England had reported that "the public mind here is entirely opposed to the government of the Confederate States of America on the question of slavery, and that the sincerity and universality of this feeling embarrass the government, in dealing with the question of our recognition." Anti-slavery sentiment in France and England was a "deep-rooted antipathy, rather than active hostility." [23]

Although the Battle of Antietam was more of a draw rather than a victory, President Lincoln used it to herald his Emancipation Proclamation. Since his armies had failed and the fear of foreign intervention haunted him, Lincoln believed that a definite stand against slavery would greatly strengthen the Union position in Europe. Union victories of Gettysburg and Vicksburg revealed the power and strength of the Northern armies, The influence of Lincoln's Emancipation Proclamation gained moral support. Finally, with defeat appearing certain, the South itself offered to abolish slavery if England and France would offer recognition. For England, the offer came too late, even in the opinion of pro-Confederate Englishmen.

The difficulties between England and the Confederacy in 1863 led to the break of diplomatic relations later in the year. The detention of the ironclads by Lord Russel and the failure of recognition had much to to do with this cessation of foreign relations between England and the Southern Confederacy.

When General Robert E. Lee met General Ulysses S. Grant in the village of Appomattox Courthouse on April 9, 1865, to discuss terms of surrender, the Union had already won the diplomatic war. American diplomacy really lost only the prosperity of the American merchant marine during the Civil War, despite the desperate nature of the conflict and the singlehanded fight the Union had to wage. According to Samuel Flagg Bemis, the nation's safety and the perpetuation of the Union were not only assured by the faithful efforts of the very capable diplomat like Charles F. Adams but was won on the battlefields of Gettysburg, Vicksburg where millions of young men lay down their lives that a nation might live undivided.[24]

### FOOTNOTES

[1] Douglas E. Adams, *Great Britain and the American Civil War* Russel and Russel, New York, New York. 1958 page 59.

[2] *Ibid.* page 73.

[3] Thomas A. Bailey *A Diplomatic History of the American People* 3rd Edition 1946 Appleton-Century-Crofts INC. New York, page 342.

[4] *Ibid.* page 344.

[5] *Ibid.* page 347.

[6] Alexander De Conde *A History of American Foreign Policy* Charles Scribner's Sons, New York, New York. 1963 page 243.

[7] *Ibid.* pages 243–244.

[8] *Ibid.* page 244.

[9] *Ibid.* page 244.

[10] *Ibid.* page 244.

[11] *Ibid.* page 245.

[12] J. G. Randall & David Donald *Civil War and Reconstruction* D. C. Heath & Co. Boston, Mass, 1961, page 359.

[13] *Ibid.* page 360.

[14] *Ibid.* page 360.

[15] Samuel Flagg Bemis *A Diplomatic History of the United States* 4th Edition 1957 Henry Holt and Co. New York, New York. page 364.

[16] Alexander De Conde *A History of American Foreign Policy* Charles Scribner's Sons, New York, 1963, page 247.

[17] De Conde page 247.

[18] *Ibid.* page 247.

[19] De Conde page 249.

[20] De Conde page 250.

[21] De Conde page 251

[22] De Conde page 259.

[23] De Conde page 253.

[24] Samuel Flagg Bemis *A Diplomatic History of the United States* 4th Edition 1957 Henry Holt & Co. New York, page 382.

## CLASSIFICATION OF INFORMATION

Mr. McGEE. Mr. President, much has been said and written in the past few months about the conflict between the need for a government to safeguard certain information from unauthorized disclosure and the right of citizens to be informed concerning the activities of their government.

Much of what has been said has been shrouded in the cloak of emotionalism with very little thought given to striking a rational balance between the citizen's right to know and the Government's need to maintain confidentiality.

Kenneth Crawford comes to grips with this problem in a column published in yesterday's Washington Post. In his article, entitled "Secrecy and Negotiation: Some Questionable Precedent," he discusses the ramifications that could ensue should governmental confidentiality not be maintained under certain circumstances.

Crawford asks:

> How frank does Chou En-lai, for example, feel that he can be with Mr. Nixon, knowing that what he says may soon be the subject of a column by (Jack) Anderson, or even of a briefing, on or off the record, by Presidential advisor Henry Kissinger.

Crawford's point is well taken.

A letter written by William Florence appeared in this morning's Washington Post. Florence, a retired Air Force officer who spent 26 years as a security policy specialist, offers a sensible approach to the subject of classification of information.

I ask unanimous consent that both Mr. Crawford's column and the letter written by Mr. Florence be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### WHAT DISCLOSURES DO TO THE CONDUCT OF FOREIGN AFFAIRS—SECRECY AND NEGOTIATION: SOME QUESTIONABLE PRECEDENTS

(By Kenneth Crawford)

Where have the diplomatic secrets gone? Into the public prints and onto television screens, that's where. What secrets Daniel Ellsberg and Jack Anderson don't give away, the Nixon administration does. There is, to be sure, a time lag between secret events or discussions of them and their exposure. But the lag is getting shorter.

The Pentagon Papers dealt with events several years past. The Anderson Papers brought the lag down to weeks and days. Secret negotiations on Vietnam have been going on for months but President Nixon's broadcast brought them up to date.

All this exposure violates a sacred tradition of international diplomacy. President Woodrow Wilson talked about open covenants openly arrived at but this was a political slogan tarnished almost as soon as it was minted. Secrecy has always been the way of the diplomat when important issues were under negotiation and even at times, after they were resolved. It used to be taken for granted that almost every publicly announced treaty dangled secret commitments.

These days a secret commitment would likely be front page news before ink dried on signatures to the public treaty, or even before the signing, if the United States were a party to the agreement. Even the intimate discussions of foreign policy-makers in the supposed privacy of their own quarters are no longer secure in Washington.

What this does to the business of conducting the country's foreign affairs is a question—perhaps an important question. President Nixon is involved in negotiations not only with the North Vietnamese and the Vietcong but with the Chinese this week, and with the Russians, the Japanese, the Europeans and countless other nations on a continuing basis. Presumably the success of all these encounters will depend, in part at least, upon the frankness of the talk on both sides. And the degree of frankness will depend, in turn, upon confidence or lack of confidence that what is said will not become public property.

How frank does Chou En-lai, for example, feel that he can be with Mr. Nixon, knowing that what he says may soon be the subject of a column by Anderson, or even of a briefing, on or off the record, by presidential adviser Henry Kissinger? Maybe he will be no more guarded than he would be talking with, say, President Pompidou of France. But this is doubtful. The French still conduct their foreign affairs in the traditional fashion, as does almost everybody else.

The utility, some say necessity, for secrecy in the formulation of U.S. foreign policy was thoroughly hashed over in the course of the Pentagon Papers flap. The Washington Post, The New York Times and other newspapers challenged the laws against revelation of classified documents on the ground that the public's right to know was an overriding consideration, especially as the revelations gave away no secrets useful to a potential enemy.

Ellsberg readily, indeed triumphantly, confessed that he had turned over the documents. He said he considered it his civic duty to inform the public that it had been duped by the Johnson administration—that the war in Vietnam had been escalated in such a devious way that the public couldn't know what was going on. That was one way of reading the Pentagon Papers. The other way was to find in them only documentary confirmation of facts already known or guessed at.

In any case, Ellsberg was indicted and awaits trial. Debate over the effect of his disclosures has died down. The question whether Ellsberg set a healthy or unhealthy example remains unresolved. The only generally accepted conclusion is that government documents have been over-classified—that too much innocuous information has been stamped secret or top secret.

Nobody now argues that information about secret weapons should be handed out or published, though a few in the know once thought that the Soviet Union should be given atomic secrets just to even things up. But who is to decide whether a secret should remain secret? As matters stand, any government employee with access to classified information can make the original judgment and any writer or editor to whom he hands information can make the second judgment.

When the first installment of the Pentagon Papers appeared, the Justice Department undertook to impose prior restraint on further disclosures but it was overruled by the U.S. Supreme Court in a hasty and narrowly applied decision. Since then, there has been no effort to prosecute the newspapers for violation of laws against disclosure. The position of the newspapers in question is that they are competent to judge what secrets should be kept and what shouldn't. It is up to the government, they say, to police its employees and protect its own vital secrets.

The Anderson Papers came and went without much controversy or challenge. This may have been because everybody was tired out by the hassle over the Pentagon Papers. Having learned from experience, the government made no effort to stop publication of the new documents or to deny their authenticity. Intelligence agencies tried to find the source of the leaks, apparently without much success because almost everybody and his secretary with access to the papers also has access to duplicating mahines.

Now the government is giving away its own secrets and that is a different matter but it may be more dangerous than unauthorized leakage. President Nixon has unilaterally disclosed the details of secret negotiations with the North Vietnamese and Vietcong. Kissinger has elaborated the President's revelations both in one off-the-record and one on-the-record press conference. Communist spokesmen have called this a pernicious breach of faith.

The President's move would seem to be justified by the duplicity of the Vietnamese in publicly charging that the Nixon administration had never made the proposals it in fact had made in private. Since the North Vietnamese seem to have no intention of substituting negotiation in good faith for the pursuit of military victory, the tension created by the President's disclosure probably will do no immediate harm. It may even do some good.

Yet the precedent could prove damaging in future negotiations with more willing and more reliable negotiators.

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### AN APPEAL FOR A SENSIBLE POLICY ON NATIONAL DEFENSE SECRECY

The Washington Post recently published news of a National Security Council recommendation that the existing secrecy policy in Executive Order 10501 for safe-guarding national defense information be reissued in a new order. Measures currently imposed to keep Congress and the people from knowing what the Executive branch is doing would be continued.

We can all be thankful for the opportunity to explore this subject with the President and express our own views. Excessive secrecy has developed into one of the most critical problems of our time. The court cases and other events of 1971 show that the more secret the Executive branch becomes, the more repressive it becomes. It has already adopted the practice of honoring its own secrets more than the right of a free press or the right of a citizen to free speech.

The NSC "final draft" revision, as obtained by The Washington Post, claims that an Executive Order is required to resolve a conflict between (a) the right of citizens to be informed concerning the activities of the government and (b) the need of the government to safeguard certain information from unauthorized disclosure. Of course, *that simply is not true*. The Constitution did not create and does not now contain a basis for any such conflict. The interests and the power of the people are paramount in this country.

The only conflict about this matter is the President's failure to recognize the citizens' rights and ask Congress for legislation, in addition to existing law, that would provide the protection he wants for information bearing on the *active defense* of this nation. The information could be called National Defense Data. A specific definition for the data could be similar to the one already recommended in the report submitted to the President and Congress last year by the National Commission on Reform of the Federal Criminal Code. The President should take guidance from the fact that the Atomic Energy Act has been quite effective in controlling Atomic Energy Restricted Data without objectionable impact on the citizens' right of access to government activities.

If the President still insists on having an Executive order on the subject of safeguarding information, here are some comments that could be helpful:

1. *Updating*. The procedures in Executive Order 10501 for classifying defense information as top secret, secret or confidential are substantially the same as the Army and Navy used before World War II to classify military information as secret or confidential. The policy was suitable for small self-contained military forces. All of the secret and confidential material held by some of the large Army posts could fit in a single drawer of a

storage cabinet. Circumstances are completely different today. The strength of our national defense is not limited to military effort. It stems from the vast politico-social-industrial-military complex of this country. A commensurate interchange of information is essential. Therefore, such Executive order as the President considers to be required should be *radically* updated.

2. *Definition.* A fatal defect of Executive Order 10501 was the absence of a definition of "national defense information." That comparatively narrow term was an improvement over the broader terms "national security" and "security information" which were discarded in 1953. However, it is imperative that the designation used be limited severely by specific definition to information which the President really believes would damage the national defense and which leads itself to effective control measures.

3. *Categories.* Consistent with the urgent need to narrow the scope of protection, there should be only *one category* of defense information. Internal distribution designators could be used to limit distribution of a given item, but there need be only one classification marking. Experience proves that three classifications invite serious confusion, promote uncontrollable overclassification, and reduce the effectiveness of the security system.

4. *Authority to Classify.* The President's assumed authority to impose a defense classification ought to be exercised by only a tiny fraction of the hundreds of thousands of people who are now classifying. The new definition and great importance of the information involved would permit limiting classification authority to persons designated by the President and to such others as they might designate. (Individuals who put markings on documents containing information classified by someone else do not need classifiers.) As a new procedure, anyone who assigns a defense classification to material which does not qualify for protection should be made subject to disciplinary action as a counterfeiter.

5. *Declassification.* The millions of classified papers currently gushing forth cannot possibly be kept under review for declassification on a document-by-document basis. But that is no reason for perpetuating assigned classifications as the NSC proposed. The President should take the insignificant risk and cancel the classification on historical material by appropriate order. As guidance, this writer authored DoD Directive 5200.9 in 1958 which canceled the classification on a great volume of information under the jurisdiction of the Secretary of Defense that had originated through the year 1945.

As for the smaller number of items that should be produced in the future, declassification by the originating authority would be practicable and enforceable. Exceptional classified items, if any, sent to records repositories could be declassified automatically after the passage of a period of time such as 10 years.

6. *Privately Owned Information.* It is estimated that at least 25% of the material in this country which bears unjustifiable classifications was privately generated and is privately owned. The Executive order should specifically exclude privately owned information from the defense classification system.

7. *Misrepresentation of Law.* The NSC draft revision would continue the existing misrepresentation of the espionage laws by warning that disclosure of information in a classified document to an unauthorized person is a crime. The law applies only if there is intent to injure the United States, with no reference to classification markings. Falsification of the law should be eliminated.

The President could do the country a great service if he would seek advice from Congress and others outside the Executive branch regarding Executive Order 10501. It is hoped that many concerned citizens will help influence the adoption of that course of action.

WILLIAM G. FLORENCE.

WASHINGTON.

## SENATOR HAYDEN SERVED WELL

Mr. PROXMIRE. Mr. President, Senator Carl Trumbull Hayden had more time in Congress than any other man before him. He had more time on earth than most men. Now he has gone to eternity with the respect of more persons than most men ever attain.

Carl Hayden was the first man ever elected by the citizens of the new State of Arizona to represent them in Congress. He never betrayed that trust, staying in the House for eight full terms and in the Senate for seven full terms before retiring to his birthplace, which he loved as few men love their native soil.

His service began when Arizona was still a territory—the last within the continental United States. Member of the Tempe Town Council, treasurer of Maricopa County, sheriff of Maricopa County, officer in the National Guard of Arizona, Carl Hayden had earned the right to seek the new State's only congressional seat.

From the beginning, he worked for his State. Within his first month he helped to win more funds for firefighting in national forests. In the year he announced his retirement, he finally won for his State a massive water project. His was a continuum of service to Arizona.

He was not parochial, however. Among his achievements nationally was the legislation authorizing the Farmers Home Administration.

Senator Hayden's greatest contributions to the country were made through his chairmanship of the Senate Appropriations Committee.

During his tenure in Congress, Senator Hayden saw the Federal budget climb from just over $1 billion to more than 200 times that amount. A 1967 article published in the Arizona Republic summarized in one paragraph Senator Hayden's viewpoint on Federal spending:

> Congress, Hayden contends, was never supposed to function as a rubber stamp for the executive branch in money matters. He can cite notable skirmishes he fought to preserve the congressional prerogative.

Carl Hayden was always the kind of man who knew how to accomplish a goal, once having set it. As a youth, he went to Stanford University weighing 130 pounds. Determined to build his physique, he worked in the gym and raised his weight to 180 and made the football team. This spirit of competition remained with him.

After his retirement, he told the Arizona Gazette:

> We need a resurgence of that old spirit that imbues the individual with the conviction that he can accomplish anything.

Senator Hayden did accomplish much for his State and for the Nation. He was truly a great man. He will rest in peace.

## SENATOR CARL HAYDEN

Mr. SPONG. Mr. President, the recent death of former Senator Carl Hayden brings back memories of the first days of my career in the U.S. Senate. Senator Hayden was a quiet and thoughtful man and an interesting personality. I once had the pleasure of hearing him recount his days as sheriff when Arizona was still a Territory.

He later told me:

> In the Senate, there are show horses and work horses. I always look for the work horses.

Senator Hayden spent 56 years in Congress, more than any other man. Forty-one of those years he served in the Senate. He retired 4 years ago at the age of 94 after serving his State and the Nation with great distinction. Senator Hayden was a good man. I am glad to have known him and to have had the privilege of serving with him in the Senate.

Mr. PERCY. Mr. President, I recently read a copy of Senator Carl Hayden's last newspaper interview in which he said in reference to his service under 10 Presidents, "I got along with them all." This quiet understatement was typical of Carl Hayden and it serves to explain much more than his congenial relationships with the Presidents, Taft to Johnson.

It is said, Mr. President, that with the exception of one filibuster in 1937, Carl Hayden made only three floor speeches during his first 50 years in Congress. We must acknowledge that such a taciturn man is a rarity in this august body. But then Carl Hayden was a rare man. Few Senators have ever equaled Senator Hayden's grasp of the multitude of issues that came before him. Few have ever received such esteem from their colleagues. Few have ever wielded such power with such grace.

Carl Hayden was serving his last few years in the Senate by the time I arrived as a freshman Senator. He was elderly by that time, but it was not difficult to recognize him as a giant of a man. His service to his beloved State of Arizona was lengendary by then. Beginning his service on the Tempe City Council in 1902, Carl Hayden then went on to be elected treasurer of Maricopa County in 1907. He worked in that capacity until 1911 when he was elected the first Congressman from the fledgling State of Arizona. In 1927 he became Senator Carl Hayden, and in that position he did his best work in behalf of his State. Senator Hayden brought the precious gift of water to his State by means of federally funded dams and reclamation projects and he brought roads. It would not be an overstatement to say that by his own hand he brought life to Arizona through his untiring and able efforts in the Senate.

The real stature of Carl Hayden can best be measured in ways other than the powerful positions he held in the Senate, though they were powerful, indeed. Carl Hayden achieved his measure of greatness by being a good man, a kind man, and a fair man. He was courteous to all who came before him as colleagues or witnesses. He was patient with those less familiar with the operations of the Senate than he. He was tolerant of points of view other than his own.

I know, Mr. President, that the citizens of his State of Arizona must feel a nearly overwhelming loss in his passing, for truly no man did more for that State than Carl Hayden. His love for that State—for its grandeur and its problems—and for all its people were reflected in his unparalleled 56 years of service.

Those of us who remain here feel the loss deeply, too, for Carl Hayden's devotion and service to his native Arizona were simply manifestations of his devotion and service to his country.

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## COUNTER-ADVERTISING

Mr. BAKER. Mr. President, on January 6, 1972, the Federal Trade Commission filed a statement with the Federal Communications Commission advocating the use of "counter-advertising"; that is, the right of access of the broadcast media for the purpose of expressing views and positions on controversial issues that are raised by commercial advertising to provide the consumer "with all essential pieces of information concerning the advertised product." The FTC recommended that the FCC take this action in order to overcome the shortcomings of the FTC's regulatory tools, thus departing from its historical role as the agency specifically created by Congress to deal with the problem of deceptive advertising.

After studying the FTC proposal and realizing that it had tremendous implications for not only the advertising and broadcasting industries, but for our entire economy as well, I took the opportunity to question FCC Chairman Dean Burch on the probable FCC response at an oversight hearing on that agency held by the Communications Subcommittee. Because the FCC has not concluded part III of its inquiry on the Fairness Doctrine, he was not able to supply me with a definitive answer. At that same hearing and in order to explore the counter-advertising proposal, I recommended a meeting with the subcommittee members and the Chairman of the FTC and FCC.

Last week, Dr. Clay T. Whitehead, Director of the Office of Telecommunications Policy, in a speech before the Colorado Broadcasters Association discussed this subject. His comments are timely and should be of interest to all Senators. I ask unanimous consent that Dr. Whitehead's speech be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### REMARKS OF CLAY T. WHITEHEAD.

From all the reports I've seen, last year was not a great financial success for broadcasting, but it was not as bad as some expected when a future without cigarette billings seemed to be a very bleak future indeed. That's the business side; nothing very exciting in 1971, but the economic prospects look good for the coming year. On the government, or regulatory side, broadcasters were beset by threatening developments at the FCC and in the courts: license renewals, fairness and access, cable television, spectrum reallocations, and children's programming among other issues. But serious as these developments are, they are being over-shadowed by a new problem.

The problem I refer to is the regulation of broadcast advertising and the conditions the advertiser finds when he chooses the broadcast media for his messages. Try this list of issues: advertising and the Fairness Doctrine; mandatory access for editorial ads; advertising in children's programs; licensee responsibility as to false and misleading advertising; campaign spending limits on broadcast ads and political advertising in general; ads for certain types of products; and counter advertising. The nature of commercial broadcasting depends heavily on how these and other similar issues are resolved. What is commonly called "free" broadcasting is actually advertiser-supported broadcasting, and the regulatory framework for broadcast advertising deals with the economic core of our private enterprise broadcast system. Similarly, advertising is now so dependent on broadcasting that the issues faced by the advertising industry have been transformed into broadcast-advertising issues.

Of course, there were ads before there was broadcasting and, of course, many of the ads in the pre-broadcasting days were crude deceptions. Deceptive and misleading advertising is still an important issue, but now the overall issue is much broader than the traditional concerns about questionable advertising. If it were only a case of advertising taste or excessive "puffery," I think most people would take advertising with the proverbial grain of salt that one relied upon in listening to the "medicine men" at country fairs or reading the back pages of comic books and other popular literature. But now broadcasting, especially TV, has raised the advertisement to a popular art form. TV advertising is not only pervasive, it is unavoidable. That special impact that characterizes the television medium provides a natural attraction for the techniques usually associated with advertising. It seems that the TV advertising spot is the most innovative and almost inevitably appealing use of the television medium.

In these circumstances, it seems that advertising itself has become an issue. Some people tend to view it as the means by which an insidious business-advertising complex manipulates the consumer and leads public opinion to goals that are broader than simply purchasing the products being advertised. Some feel that what is being sold the American people is a consumption-oriented way of life. This becomes a political issue that is a fit subject for government redress—a remedy in addition to the traditional controls on false and misleading advertising.

I think that some of these broader concerns about TV advertising are now motivating the Federal Trade Commission. The FTC filed comments in the FCC's Fairness Doctrine inquiry, proposing that there be compulsory counter advertising for almost all broadcast ads. The FTC's counter advertising proposal would provide an opportunity for any person or group to present views contrary to those raised explicitly and implicitly by product ads. In the Trade Commission's own words, counter advertising "would be an appropriate means of overcoming some of the shortcomings of the FTC's regulatory tools, and a suitable approach to some of the present failings of advertising which are now beyond the FTC's capacity." The Trade Commission wants to shape the Fairness Doctrine into a new tool of advertising regulation and thereby expand the Doctrine's already chaotic enforcement mechanism far beyond what was originally intended and what is now appropriate.

The Trade Commission would have the FCC require responses for four types of ads:

(1) Those that explicitly raise controversial issues, such as an ad claiming that the Alaska pipeline would be good for caribou;

(2) Those stressing broad, recurring themes that implicitly raise controversial issues, for example, food ads that could be taken as encouraging poor eating habits;

(3) Those ads that are supported by scientific premises that are disputed within the scientific community, such as an ad saying that a household cleanser is capable of handling different kinds of cleaning problems; and

(4) Those ads that are silent about the negative aspects of the products, so that an ad claiming that orange juice is a good source of vitamin C may be countered by a message stating that some people think rose hips are a superior source of that vitamin.

The Trade Commission also suggested that broadcasters should have an affirmative obligation to provide a substantial amount of free air time for anyone wishing to respond to product ads. This goes beyond the requirement in the *BEM* case that broadcasters must allow persons or groups to purchase time. In a business sense, that is not too intrusive on the broadcasters' operations, and some right to purchase time for the expression of views on issues would serve an important purpose. But a requirement to provide "free" time in response to paid advertising time would have all the undesirable features of any market in which some people pay and some do not. It is, in any event, misleading to call this free time. There would be a hidden subsidy and the public would end up paying for both advertising and counter advertising messages.

Even if there were no problems with a broad free time requirement, we would be critical of the FTC for suggesting that "Fairness" responses be required for ads involving disputes within the scientific community and ads that are silent as to the negative aspects of products.

We all know that, if an advertiser falsely implied that a scientific claim was well established or failed to disclose a material negative aspect of his product, the FTC could use its own procedures to deal with this type of deceptive advertising. The Trade Commission could even use its new corrective advertising weapon, and require the advertiser to clear up misleading claims in past advertising. This is now being done in the Profile Bread ads.

The FTC, however, doesn't think that these regulatory tools are effective enough or thinks that they are too troublesome to apply. It is disturbing, however, that the agency charged with overseeing the content of advertising in all media has stated that the FCC is better able to achieve the Trade Commission's regulatory goals for the broadcast media. Of course, the Trade Commission would like to bring the FCC into the process and by-pass the difficult job of making factual determinations concerning advertising deception. The FTC is constrained by all sorts of procedures which safeguard the rights of advertisers accused of deception. It is much easier to subject the suspect advertiser to a verbal stoning in the public square, but is it responsible for a government agency to urge this type of approach? This Administration thinks not.

Perhaps private, self-styled spokesmen for the public interest cannot be faulted for advocating compulsory counter advertising without coming to grips with all the complexities and consequences involved. But a regulatory agency cannot afford the private litigant's luxury of dismissing the enormous practical difficulties of its proposal by simply asserting without support that it would be workable. Nor can an agency ignore or dismiss difficult and sensitive First Amendment problems, the underlying economic structure of the industries it is dealing with, or the detailed balancing of competing public interest considerations.

If you have any doubts as to the workability of the FTC's proposals, listen to some typical examples of the type of "negative aspect" counter ads the FTC had in mind:

In response to advertising for small automobiles, emphasizing the factor of low cost and economy, the public could be informed of the views of some people that such cars are considerably less safe than larger cars. On the other hand, ads for big cars, emphasizing the factors of safety and comfort, could be answered by counter-ads concerning the greater pollution arguably generated by such cars. In response to advertising for some foods, emphasizing various nutritional values and benefits, the public might be informed of the views of some people that consumption of some other food may be a superior source of the same nutritional values and benefits. In response to advertising for whole life insurance, emphasizing the factor of being a sound "investment," the public could be informed of the views of some people that whole life insurance is an unwise expenditure. In response to advertising for some drug products, emphasizing efficacy in curing various ailments, the public could be informed of the views of some people that competing drug products with equivalent efficacy are available in the market at substantially lower prices.

The FTC capped this list of examples—which related to products that alone account for 40 per cent of all TV advertising—by inserting that "the list could go on indefinitely"! Can the FTC be oblivious to the fact that this is precisely the problem with compulsory counter advertising? Without doubt our overriding goal in this area should be to provide consumers with information that will enable them to make intelligent choices among products. But *any* broadcast advertisement could start an endless round of debate and disputation based on opinions regarding the products being advertised. This isn't the kind of information that is most helpful to consumers. Although it may seem that the Trade Commission's counter advertising proposal serves consumers' interests, the public would be done a disservice if all that counter advertising achieves is a bewildering clutter of personal opinions thrust before consumers every time they turn on their radios and TVs. And who is supposed to protect the public from false and misleading material in the counter-ads?

The advertisers will still have the content of their presentations regulated by the Trade Commission to weed out deception, but who is to guard against the excesses of counter advertising by irresponsible or uninformed groups? When this question was raised, the FTC's Director of Consumer Protection indicated that the agency might have to "monitor" counter-ads, but this may become "ticklish" since a First Amendment problem may be involved. Ticklish indeed! One would have hoped that a Federal agency would have been more sensitive to this problem before proposing a requirement of counter advertising.

It is also disturbing to see that the counter advertising position is not unique to the FTC. Others in government seem to be advocating an end to the broadcast ban on cigarette ads just to bring back anti-smoking spots!

The figures show that per capita cigarette consumption in the U.S. decreased when anti-smoking spots were aired in large numbers and increased in 1971, when there were no cigarette ads and a lower level of anti-smoking spots. Bigger increases are predicted for 1972. The Department of Agriculture has attributed the increased consumption to a decrease in anti-smoking spots. This may indicate that advertisers are better off not using the broadcast media when there is a counter advertising requirement. If the cigarette advertising ban were lifted, the advertisers might well choose not to buy time and, thereby, underwrite the anti-smoking campaign. Naturally, there would be some who would respond to this public interest crisis by requiring cigarette companies to advertise on radio and TV. Broadcasters wouldn't mind this at all, but if the FTC had its way you would have to require all advertisers to use TV and even the NAB couldn't pull that one off.

This wouldn't be a very constructive approach to advertising's problems, but one is sorely needed. The public expects to see actual and substantial progress made by the advertising industry's belated efforts at self-regulation. Advertising has made significant contributions to our economic well-being and our material worth. But if advertising is to continue to make these contributions it must reassess its role in our society.

We do not want to see advertisers respond to these problems by fleeing the broadcast media either voluntarily or involuntarily. Advertisers might be able to survive without broadcasting, but broadcasting could not survive without advertising. Advertising revenues make possible all of the public service, news, information, and entertainment programs. I do not agree with those who believe that commercial broadcasting is impervious to the adverse economic affects of regulation. You really can kill the goose that lays the golden egg; and it doesn't matter that it's killed by well-intentioned people.

This does not mean that the abuses and excesses of broadcast advertising should not and cannot be prevented. Broadcasters themselves are moving to correct problems in children's advertising and problems with deceptive and offensive ads. The advertising industry itself is following the broadcasters in the essential route of self-regulation. The record of self-regulation has not always been free of problems; and it never will be. Public vigilance is needed too, and the FCC and the Trade Commission have proper roles in seeing to it that that vigilance is maintained effectively.

The FCC has taken an approach that I strongly support. The FCC believes that advertising should be regulated as a business practice by the Trade Commission and this is not the FCC's job. Product ads should not be regulated, TV or not, as expressions of ideological, philosophical or political viewpoints. On the whole the FCC has recognized this and has implemented its regulatory power over broadcast advertising in a reasonable and responsible manner.

In its area of responsibility, the Trade Commission must use its regulatory tools to preclude false and deceptive advertising. The public is entitled to protection from the unethical business practices and from the occasionally misleading hyperbole of advertising agencies. But the FTC's responsibilities should not be expanded to include the responsibility for finding a solution to the philosophical problem that advertising in general poses for some consumer advocates. I think the FTC realizes that this would be beyond the scope of its regulatory authority; and it should be kept that way. Government agencies must realize that they cannot solve all of society's problems, that the Fairness Doctrine is not a panacea for fairness, much less all of our ills, and that when they go too far with social engineering they do more damage than good.

This Administration does not believe that advertising is inherently evil. We do not believe that advertiser support of commercial broadcasting is polluting the minds of America. This Administration believes in a strong and free private enterprise system of broadcasting for our country and in effective but responsible government. We intend to work to keep it that way.

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## FORMATION OF FOREIGN POLICY

Mr. McGEE. Mr. President, the Washington Star of Sunday, February 20, contains an article by Walt W. Rostow which defends Presidential foreign policy powers.

Mr. Rostow's article is an excellent analytical piece on the relationship of the President to Congress in the area of the formulation of foreign policy.

As to efforts, past and present, to curtail Executive power in the area of foreign policy formulation, Mr. Rostow made this interesting observation.

> In this century, for example, Congressional opposition to two Presidents helped cause the second World War. First, there was the rejection of the League of Nations in which the Senate played a crucial role, and then, in the 1930's, resistance through rigid neutrality acts to President Roosevelt's efforts to deter the Axis by throwing American weight into the balance.
>
> Congressional pressure to pull our forces out of Europe and unilaterally demobilize our military strength helped encouraged Stalin, in 1945–47, making the cold war inevitable.

The foreign policy posture of this Nation should be such that it acts as a deterrent to such holocausts as World Wars I and II. However, congressional opposition to the foreign policy efforts of the Executive prevented the Nation from exercising that responsibility.

Such is the state of the world today. We are witnessing increasing congressional pressure to diminish the Executive powers of the President in the arena of foreign policy formulation and conduct. Are we saying we are willing to pay the price of a third holocaust for curtailing these powers? If we have any sense of history and can learn the lessons of the past, it would be my hope that the answer to this question would be negative.

I ask unanimous consent that Mr. Rostow's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### IN DEFENSE OF THE PRESIDENT'S FOREIGN POLICY POWERS

(By W. W. Rostow)

Who should make foreign policy in this delicate period when, to use President Johnson's language of January, 1967: "We are in the midst of a great transition: from narrow nationalism to international partnership; from the harsh spirit of the cold war to the hopeful spirit of common humanity on a troubled and threatened planet"?

Foreign policy, is, of course, now made by the President, in a relationship to the Congress more complex, perhaps, than the Founding Fathers envisaged. The austere "concurrence of Senate" in Section 2 of Article II of the Constitution has ramified out into a maze of briefings and consultations, formal and informal.

The "congressional leadership"—the leaders in both houses of both parties—has assumed an almost constitutional role in this consultative process on key issues. In addition, foreign and military policy have become extremely expensive; and congressional control over the purse-strings has become a major factor shaping foreign policy.

The armed services committees play a large role in military policy and the Joint Atomic Energy Committee on issues that, in the past, have set important limits on both military and foreign policy.

In the wake of the war in Vietnam, these relationships are all under examination; and there are evidently those who would dilute the President's powers in various ways and seek a new balance between the President and the Congress in these matters.

I am against such dilution on the basis of both past experience and future prospects.

The Founding Fathers gave much attention to this matter, as we all know. The incapacity of the nation to conduct foreign affairs effectively through congressional committees in the 1780s was, of course, a major reason for the formulation of the Constitution.

I believe the issue of foreign affairs was decisive to the reluctant acceptance of the Constitution by the individual states. The deep and understandable suspicion of excessive executive authority nevertheless left in the Constitution very great powers in the hands of Congress in foreign affairs.

I would certainly suggest no change to diminish congressional authority in foreign affairs; but we should all face the fact that this authority has not always been used with wisdom.

In this century, for example, congressional opposition to two presidents helped cause the second World War. First, there was the rejection of the League of Nations, in which the Senate played a crucial role; and then, in the 1930s, resistance through rigid neutrality acts to President Roosevelt's efforts to deter the Axis by throwing American weight into the balance.

Congressional pressure to pull our forces out of Europe and unilaterally demobilize our military strength helped encourage Stalin, in 1945–47, making the cold war inevitable.

The conduct of the Korean War was gravely complicated at a critical stage in 1951 by extraconstitutional communications between a general and a senior member of the Congress.

The shifting position of the Congress on Southeast Asia, despite the SEATO Treaty and the Southeast Asia Resolution of 1964, will, I believe, be judged in history as one major factor in prolonging the war in Vietnam.

Why, for almost two centuries, has the collective behavior of the Congress in foreign affairs been quite often less than satisfactory?

The answer is, I believe, two-fold.

First, the President and the members of Congress have different constituencies. The latter are elected from states and district which have strong local interests that demand representation in Washington. They may also have narrow particular foreign policy interest. But no member of Congress is elected with a primary duty to weigh the nation's interest as a whole.

Second, the people do not look to the Congress to make foreign policy and do not hold its members responsible. They look to the President, knowing that his constituency is national and that he is amply checked by the treaty-making powers of the Senate, the congressional control over the purse strings, and other restraints on willfulness or bad judgment.

Every four years the people can and do make their own assessment of the President's performance in foreign as in domestic affairs. And if the President does not run, they make the best assessment they can of the policies, character, experience, and judgment of the candidates, knowing one of them will have to act for all of us in a complex and dangerous world.

If a President passively bowed to the will of the Congress on a major issue of foreign policy and things went badly, the American people would not exonerate the President and vote out the offending members of Congress: they would get themselves a new President.

I understand with sympathy the argument of some that further restraints on the executive might encourage a responsible partnership between the President and the Congress in foreign affairs. Occasionally that kind of partnership has happened; for example, as between Sen. Arthur Vandenberg and Presidents Roosevelt and Truman; Sen. Lyndon B. Johnson and President Eisenhower; Sen. Everett M. Dirksen and Presidents Kennedy and Johnson. But that kind of relationship cannot be legislated.

In the period 1961–69 I had the privilege of observing the process of congressional consultation with the President on many occasions, formal and informal, in large groups and small. I emerged with great respect for members of the Congress and have heard them make wise and helpful observations, both critical of the President's course and supportive.

They often left the room, after such sessions, with authentic expressions of sympathy for the burdens the President carried, one of the most notable such expressions being: "Mr. President, you have more trouble than a dog has fleas."

And, in the end, they are the President's fleas; for when views had been candidly exchanged, the members of Congress walked away from the White House relatively free of responsibility. The President was left essentially alone, with the burden of decision. That is the way the Constitution is written; that is the way the people expect it to be; and that, in my view, is the way it should remain.

In carrying his inescapable responsibilities, the President needs and deserves the limited protection his constitutional prerogatives, as now interpreted, afford. Proposals now being considered would diminish the President's authority without in any way diminishing his responsibilities.

As for the use of armed forces, the record will show, I believe, that on such contentious issues as the Korean War, the Dominican Republic and Vietnam the President's initial commitments were made after congressional consultation and overwhelmingly supported by congressional opinion and public sentiment. The problems—notably, with respect to Korea and Vietnam—came later, as the pain of using limited force for limited purposes over a protracted period weighed down the spirit of a nation whose style lends itself more easily to an allout, uninhibited application of its powers.

I will not argue here whether or not the policies of Presidents Truman and Johnson were wise, once the basic commitments were made. But surely, wars cannot be conducted by recourse to monthly public opinion polls or the changing moods of the Congress.

They will have their effect in our system as elections come around.

Further, I do not believe that an increased congressional role in determining the use of our Armed Forces would, as many believe, lead to a more temperate and reserved application of our military power. The congressional advice President Kennedy received on the eve of his missiles-in-Cuba speech of Oct. 22, 1962, was for example, to go immediately beyond his limited and selective quarantine. That has been and, I suspect, will be the tendency of congressional feeling in crises sufficiently serious to induce a president—always contrary to his basic political interests as well as his human feelings—to engage Americans in armed conflict.

If it is military restraint we're looking for, we're more likely to get it from the President than from the Congress.

Looking ahead to the complex transitional problems of moving towards stable peace in a world of diffusing power—where Cold War impulses are waning but not yet tamed, where raw and violent nationalist feelings have not yet been disciplined by the habits of stable regional partnerships—I believe we shall have to rely on the responsibility and judgment of our presidents at least as much as in the past.

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## INSPECTION OF FOREIGN MEAT PLANTS

Mr. RIBICOFF. Mr. President, I am releasing a report compiled by the General Accounting Office concerning the Department of Agriculture's inspection program for foreign plants exporting meat to the United States. The report shows that in the past the Department's inspection programs have not given American consumers the protection they have a right to expect. Further improvement of these programs is necessary.

This report is another in a series which I have released revealing the inadequate protection the public receives from our food inspection programs. In September 1969 and again in November 1971, I released reports describing the Agriculture Department's failure to require decent standards in poultry processing plants. In June 1970, I released a GAO report that showed that shocking conditions were being allowed to prevail in domestic meat plants. Now, once again, evidence emerges that casts doubt upon the purity of our food supply. While this report does not reveal the same kind of deplorable conditions that were described in domestic plants in the June 1970 report, there is much that requires improvement.

The Federal Meat Inspection Act provides that no meat or meat food products shall be imported into the United States—if adulterated or improperly marked, labeled, or packaged and—unless produced by foreign meat plants which are approved to export to the United States and which are in compliance with U.S. inspection, sanitation, and facility requirements.

The Department of Agriculture is responsible for determining whether foreign countries' inspection systems and plants comply with U.S. requirements and for inspecting meat upon importation into the United States. During fiscal year 1971, about 1.7 billion pounds of foreign meat products were imported for U.S. domestic consumption and about 25.2 million pounds were rejected.

The report discloses that the Department of Agriculture has failed to assure that meat products are imported only from plants which comply with U.S. health requirements and has failed to conduct thorough inspections of meat at U.S. ports. According to Agriculture Department records, some plants which did not meet U.S. requirements were allowed to continue exporting meat to this country. Procedures for "delisting" plants were slow and cumbersome. An average of 45 days elapsed between the first findings of deficiencies and ultimate delisting of the plants.

More disturbing, however, is the fact that meat from delisted plants continued to be imported into the United States. About 13 million pounds of meat products, processed prior to delisting, were imported from 11 plants after they had been delisted. Even if inspection is required at the port of entry, no meat product from a plant that does not meet minimum standards of cleanliness and hygiene at the time of inspection should be allowed into this country. This point is particularly important in light of the fact that inspections have occurred so infrequently. For plants delisted in 1970, inspections took place on the average of only once every 10 months.

Some people opposed to raising quotas on the importation of foreign meat may seek to use this report as evidence that foreign meat is less wholesome than domestic meat. As previous GAO reports have shown, however, conditions in domestic plants leave much to be desired, and no inference can be drawn about the superior quality of domestic to foreign meat. Inspection programs in both areas must be improved.

I am in favor of relaxing meat quotas and making more foreign meat available to American consumers. For too long, restrictive quotas have protected the domestic meat industry from competition and forced American consumers to pay a subsidy to the domestic meat industry in the form of higher prices than necessary for their meat. This does not mean, however, that we should compromise the standards of purity and wholesomeness required of imported meat.

The Agriculture Department has recently reorganized its Consumer and Marketing Service, the bureau responsible for meat inspection. It has also adopted some of the suggestions put forward by the GAO to improve its program for the inspection of imported meat and the certification of foreign meat plants. If meat imports do increase—as I believe they should—further improvements and expansion of inspection programs will be needed. I urge the Department to take the necessary steps to insure the safety of our food supply.

I ask unanimous consent that the GAO's summary of its report on inspection of foreign meat, a copy of Comptroller General Staats' letter of transmittal, together with a summary of its 1970 report on domestic meat plants, and my speech of November 17, 1971, concerning the Agriculture Department's inspection of poultry plants, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL OF
THE UNITED STATES,
*Washington, D.C., February 18, 1972.*

Hon. ABRAHAM A. RIBICOFF,
*Chairman, Subcommittee on Executive Reorganization and Government Research, Committee on Government Operations, U.S. Senate.*

DEAR MR. CHAIRMAN: Enclosed for the use of your Subcommittee is a copy of our report pointing out that better inspection and improved methods of administration are needed for foreign meat imports. The import meat inspection program is administered by the Consumer and Marketing Service, a constituent agency of the Department of Agriculture.

The report includes recommendations to the Secretary of Agriculture that:

1. The Consumer and Marketing Service's foreign programs officers be authorized to provisionally delist those plants that do not meet basic U.S. requirements until corrections are made and to direct foreign inspection officials to suspend the exporting of meat and meat products to the United States at the time of the review, subject to final determination in Washington, D.C.

2. The importation of all meat and meat products produced prior to the date of the plant's delistment be prohibited where, in the foreign programs officer's judgment, the conditions causing delistment are such that the products may have been rendered injurious to health or are for any reason unsound, unhealthful, unwholesome, or otherwise unfit as human food.

3. Additional foreign programs officers be stationed in those foreign countries where necessary to meet plant-review frequency objectives.

Also the report contains several recommendations to the Secretary for improving the inspection program at ports of entry or other destination points to provide increased assurance that foreign meat and meat products receive a thorough and uniform inspection before being imported.

Comments of the Department of Agriculture on these matters have been obtained and are included in the report.

Sincerely yours,
ELMER B. STAATS,
*Comptroller General of the United States.*

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BETTER INSPECTION AND IMPROVED METHODS OF ADMINISTRATION NEEDED FOR FOREIGN MEAT IMPORTS

(Comptroller General's report to the Congress)

WHY THE REVIEW WAS MADE

The Federal Meat Inspection Act provides that no meat or meat food products be imported into the United States—if adulterated or improperly marked, labeled, or packaged and—unless produced by foreign meat plants which are approved to export to the United States and which are in compliance with U.S. inspection, sanitation, and facility requirements.

The Consumer and Marketing Service (C&MS), Department of Agriculture, is responsible for (1) determining that foreign countries' inspection systems and plants comply with U.S. requirements and (2) inspecting meat and meat food products presented at U.S. ports of entry for inspection before American consumption.

The General Accounting Office (GAO) made this review to determine the adequacy and effectiveness of C&MS practices and procedures in carrying out these responsibilities.

During fiscal year 1971, about 1.7 billion pounds of foreign meat products were passed for entry for U.S. domestic consumption and about 25.2 million pounds were rejected.

FINDINGS AND CONCLUSIONS

To provide greater assurance that foreign meat and meat products (1) are imported only from plants which comply with U.S. requirements for wholesome products processed under sanitary conditions and (2) receive thorough and uniform inspections at U.S. ports before being accepted for entry, C&MS needs to strengthen its administration of the import meat inspection program.

*Compliance with basic requirements*

Although foreign countries' inspection officials were required to withdraw certifications to export to the United States from many plants that did not meet U.S. requirements (called delisting), C&MS records showed that some plants had been permitted to remain eligible to export to the United States.

C&MS criteria for delisting should be mandatory for plants that do not meet basic U.S. requirements until needed corrections are made to ensure that U.S. consumers are safeguarded. (See p. 14.)

A GAO staff member accompanied C&MS foreign programs officers—veterinarians experienced in U.S. meat inspection—on their reviews of 80 plants in four major meat-exporting countries—Australia, Argentina, Canada, and Denmark. The officers' reports showed that some plants complied with U.S. requirements; others did not.

Because of serious deficiencies at 14 of the 80 plants, C&MS had the plants delisted. (See pp. 16 to 25.)

*Delays in delisting plants*

Delistment procedures were such that a considerable period of time—averaging 45 days in calendar year 1970—generally elapsed between the dates that the C&MS officers found deficiencies and the dates that the plants actually were delisted. In the interim meat products processed in the plant were eligible for export to the United States unless C&MS determined that the plant constituted a health hazard. Of 327 plants delisted in 1970, two were classified as health hazards.

Such time lapses virtually could be eliminated, GAO believes, if C&MS authorized its foreign officers (1) to delist plants provisionally when they inspected the plants and (2) at the same time, to direct foreign country officials to suspend the exporting of products by provisionally delisted plants, subject to a final determination by C&MS. (See p. 26.)

*Products from delisted plants eligible for import*

C&MS meat products from a delisted plant (1) to be presented for entry for American consumption if certified by foreign country inspection officials as having been produced prior to the date that delistment took effect and (2) to be imported into the United States if they pass inspection at the port of entry.

About 13 million pounds of meat products were imported from 11 of the plants delisted after GAO's visit. Importation of meat products produced prior to delistment for conditions that could render the products unsound, unhealthful, unwholesome, or otherwise unfit as human food is, obviously, not in the best interest of U.S. consumers. (See p. 29.)

*Frequency of reviews*

C&MS records showed that it had not reviewed some plants as often as it considered desirable. For plants delisted in calendar year 1970, an average period of 10 months elapsed between reviews which showed conformance with U.S. requirements and reviews which resulted in delistments.

C&MS said that reviews were infrequent because it did not have enough foreign programs officers and because its officers were stationed in the United States and spent only about 30 weeks a year in foreign countries. In May 1971 the agency began stationing some of its officers in foreign countries. (See p. 32.)

*Inspections at ports of entry*

To improve inspections at ports of entry, the agency needs to:

Establish a sampling plan for inspecting packaged meat products and improve its sampling plan for examining canned products to ensure that the number of items examined is representative of the total lot or shipment. (See p. 39.)

Establish adequate criteria for identifying and classifying defects found during examinations of canned products and inspections of packaged products to ensure maximum uniformity in determinations to accept or reject such products. About 396 million pounds of processed canned meat products were presented for entry during fiscal year 1970. (See p. 39.)

Monitor and coordinate import inspection activities more adequately to reduce variances in inspection procedures and results among inspectors, ports, and inspection circuits. (See p. 44.)

Improve its training program to ensure that import meat inspectors, particularly new inspectors, develop and maintain the skills, knowledge, and abilities needed. (See p. 47.)

RECOMMENDATIONS OR SUGGESTIONS

Foreign programs officers should be authorized to provisionally delist plants that do not meet basic U.S. requirements at the time of inspection and, at the same time, to direct foreign inspection officials to suspend the exporting of meat products to the United States, subject to formal C&MS determinations as to whether the deficiencies are serious enough to sustain delistments.

Importation of all meat products produced prior to the date of a plant's delistment should be prohibited when, in the judgment of the foreign programs officer, the conditions causing delistment are such that the products may have been rendered injurious to health or unfit as human food.

Additional foreign programs officers should be stationed in those countries where necessary to meet plant-review frequently objectives. (See p. 35.)

Several recommendations to provide increased assurance that imported meat products receive thorough and uniform inspections at ports of entry will be found on page 50.

### AGENCY ACTIONS AND UNRESOLVED ISSUES

The Department of Agriculture concurred in nearly all GAO recommendations and said that many of them had already been implemented, as follows:

Inspection requirements for foreign plants had been and were being tightened.

The foreign programs officers had been given authority to provisionally delist unsatisfactory plants and to instruct appropriate foreign country inspection officials to segregate and hold all products prepared after the date of the review pending a final decision of delistment in Washington.

The number of foreign programs officers had been increased from 13 to 18, seven had been stationed in foreign countries, and an eighth soon would be stationed in another.

The appointment of an import inspector correlator, an improved supervisory structure resulting from the recent reorganization of C&MS, an increased emphasis on supervisory training, and the establishment of a training program for inspectors should resolve the problem of variances in inspections and should upgrade the entire import inspection force.

Statistical sampling plans would be implemented at an early date for canned and packaged meat products.

With respect to a proposal in a draft of this report that meat products produced at a plant prior to the date of its delistment be prohibited from entering the United States, the Department said that this practice was followed for plants that were classified as health hazards but that such a policy should not be instituted for delistments irrespective of cause.

GAO recognizes that some plants have been delisted for reasons unrelated or only indirectly related to wholesomeness but also notes that classification of plants as health hazards has been rare. Because a review of C&MS records showed apparently serious deficiencies at some delisted plants which did not result in their being classified as health hazards, GAO believes that the Department may need to broaden its criteria for determining when products produced prior to delistment should be prohibited from entering the United States. GAO believes that, under these broadened criteria, such determinations should be made by the foreign programs officers at the time they provisionally delist plants.

### MATTERS FOR CONSIDERATION BY THE CONGRESS

This report is provided to the Congress for its information and consideration in its continuing evaluation of consumer protection programs. Also the Congress may wish to consider matters discussed in this report and in earlier GAO reports on domestic meat and poultry inspection activities (see p. 6) in connection with a number of measures now before the Congress concerning consumer protection.

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## WEAK ENFORCEMENT OF FEDERAL SANITATION STANDARDS AT MEAT PLANTS BY THE CONSUMER AND MARKETING SERVICE

(Comptroller General's report to the Congress)

### WHY THE REVIEW WAS MADE

The Congress has determined that it is essential for the health and welfare of consumers to be protected by ensuring that meat and meat food products distributed to them are wholesome and processed under sanitary conditions.

Under the Federal Meat Inspection Act, the Consumer and Marketing Service, Department of Agriculture, has the responsibility for establishing and enforcing sanitation standards in federally inspected meat plants. Inspectors assigned to the plants are responsible for enforcing the sanitation standards. (See p. 6.)

The Consumer and Marketing Service also is responsible for ensuring that sanitation standards are maintained by nonfederally inspected plants that receive Federal grading service—a marketing service provided to meat plants upon request. (See p. 7.)

As of December 31, 1969, there were about 3,200 federally inspected plants and about 140 nonfederally inspected plants which had been approved by the Consumer and Marketing Service as eligible to receive Federal grading service.

The General Accounting Office (GAO) in a report to the Congress (B–163450, September 10, 1969) pointed out the need for the Consumer and Marketing Service to strengthen its enforcement procedures to ensure that standards for sanitation, facilities, and equipment were met by federally inspected poultry plants. Also, the Office of the Inspector General, Department of Agriculture, in 1965 and 1969 pointed out weaknesses in the enforcement of sanitation standards at federally inspected meat plants.

In view of previously indicated weaknesses in the enforcement of sanitation standards, GAO wanted to ascertain the adequacy of the Consumer and Marketing Service's enforcement of sanitation standards at meat plants provided Federal inspection or grading service.

GAO's review was directed primarily to certain of the plants which Consumer and Marketing Service records indicated had sanitation problems.

Conditions found in the plants and reported in this review therefore may not be typical of conditions in all plants receiving Federal inspection or grading service.

### FINDINGS AND CONCLUSIONS

The Consumer and Marketing Service needs to strengthen its enforcement procedures to ensure that standards for sanitation are met by plants receiving Federal inspection or grading service.

Accompanied by Consumer and Marketing Service supervisory personnel, GAO visited 40 federally inspected plants and eight nonfederally inspected plants receiving Federal grading service. Evaluations of the plants were made in accordance with Consumer and Marketing Service sanitation standards. (See pp. 14 and 34.)

In calendar year 1969, the 40 federally inspected plants accounted for about 7.7 percent of the cattle and swine slaughtered and about 4.9 percent of meat products processed in all federally inspected plants.

Consumer and Marketing Service inspection personnel were not uniform in their enforcement of sanitation standards and generally were lenient with respect to many unsanitary conditions unless product contamination was obvious.

At 36 of the 40 federally inspected plants and at the eight nonfederally inspected plants, animals were being slaughtered or meat food products were being processed for sale in the consuming public under unsanitary conditions. GAO observed instances of product contamination at 30 of the federally inspected plants and at five of the nonfederally inspected plants. Some of the major unsanitary conditions observed during GAO's plant visits included:

Lack of adequate pest control as evidenced by flies, cockroaches, and rodents.

Improper slaughter operations resulting in contamination of carcasses with fecal material and hair.

Use of dirty equipment and processing of product in unsanitary areas.

Contamination of product by rust, condensation, and other foreign material from deteriorated or poorly maintained overhead structures. (See pp. 15 and 34.)

Examples illustrating sanitation problems at federally inspected and nonfederally inspected plants visited by GAO are located on pages 16 to 30 and pages 34 to 40, respectively.

At the plants visited, Consumer and Marketing Service inspection personnel had not consistently

rejected for use equipment and plant areas or suspended inspection in federally inspected plants when unsanitary conditions were found and

recommended the withdrawal of Federal grading services at nonfederally inspected plants that were found operating under unsanitary conditions.

If Federal inspection service is suspended, a plant cannot slaughter animals or process meat for movement in interstate commerce. The withdrawal of grading service from a nonfederally inspected plant precludes the plant's using any official mark or other identification of the Federal grading service. (See pp. 6 and 8.)

GAO was unable to ascribe to any one cause the failure of inspection personnel to require plant managements to promptly and effectively correct unsanitary conditions. GAO believes, however, that a primary cause of the lack of uniformity and leniency in enforcement of sanitation standards was a lack of clear and firm criteria setting forth the actions to be taken when unsanitary conditions were found.

GAO believes that weaknesses in the Consumer and Marketing Service's system for reporting on plant reviews also contributed to the inadequate enforcement of sanitation standards at federally inspected plants. Because reports generally did not show what action, if any, was taken to correct reported unsanitary conditions, information was not readily available to Consumer and Marketing Service management as to whether appropriate and timely corrective actions were required by inspection personnel. (See p. 41.)

Clear and firm criteria—setting forth the actions to be taken when unsanitary conditions are found—and improved reporting policies can provide a basis for improving the enforcement of sanitation standards at meat plants. In the final analysis, GAO believes that the effectiveness with which such standards are enforced will be dependent on the resolve of Consumer and Marketing Service personnel at each and every level—from the plant inspectors to the Washington officials.

### RECOMMENDATIONS OR SUGGESTIONS

The Administrator of the Consumer and Marketing Service should reemphasize to individual employees at all levels their responsibilities for the enforcement of regulations to ensure that meat and meat food products are wholesome and unadulterated.

To assist employees at all levels in carrying out their responsibilities the Administrator should establish

criteria setting forth specific conditions under which inspection and grading services should be suspended at plants in violation of sanitation standards and under which equipment and specific plant areas in federally inspected plants should be rejected for use until made acceptable and

a uniform reporting policy whereby action taken and to be taken will be a required part of all reports pertaining to observed sanitation deficiencies. (See p. 42.)

### AGENCY ACTIONS AND UNRESOLVED ISSUES

The Administrator of the Consumer and Marketing Service (see app. I) stated that:

> The conditions described in GAO's report are of deep concern to the Department of Agriculture, and the Department is and has ben determined to eliminate such threats to the wholesomeness of the Nation's meat and poultry products.

The emphasis and objectives of the major inspection improvement program already under way and now being intensified in the Consumer and Marketing Service are completely in line with an responsive to GAO's recommendations.

Much has been accomplished but much remains to be done.

With respect to specific actions taken and planned, the Administrator stated that:

A letter had been directed to all Consumer Protection Program personnel clearly outlining inspection objectives and procedures regarding sanitation and assuring each employee of full support for his efforts in enforcing sanitation standards.

Meetings would be held with committees from major meat packer organizations for the purpose of reemphasizing meat inspection objectives and developing an educational program for their membership on the whole spectrum of meat inspection, particularly sanitation.

Revised procedures, forms, and instructions had been issued to assist inspectors in carrying out the Consumer and Marketing Service's policy at plants where unsanitary conditions are found, including criteria for withholding or suspending inspection for cause.

The Administrator also provided detailed information on enforcement actions taken as a result of the inspection improvement program.

He stated that, although the record demonstrates progress during the past year, the need for still further action is acknowledged.

The action needed will be determined by a management study now under way to determine improvements needed in administration. This study is expected to have strong impact on carrying out GAO's recommendation relating to improved reporting systems to demonstrate actions taken.

The Administrator provided the following report on the status of the 48 plants visited by GAO as determined by recent Consumer and Marketing Service plant visits.

Federal inspection has been discontinued at five of the 40 federally inspected plants.

Conditions of sanitation in 27 of the federally inspected plants have been so improved as to meet Consumer and Marketing Service sanitary requirements.

Two of the eight nonfederally inspected plants ceased operations following withdrawal of recognition for Federal grading service.

Four nonfederally inspected plants' operating conditions are now acceptable.

In the remaining eight federally inspected plants and the two nonfederally inspected plants, action has been taken to protect the product while the remaining needed plant improvements are being completed.

GAO believes that the actions already taken and the further actions outlined by the Administrator, if fully implemented, substantially comply with its recommendations and will provide greater assurance to the consuming public that meat products are processed under sanitary conditions. GAO believes, however, that, even with the intensified enforcement actions planned by the Consumer and Marketing Service, continuing efforts of all inspection personnel to require compliance with sanitation standards are vital to maintaining the integrity of the inspection program and ensuring the consuming public of a wholesome product.

### MATTERS FOR CONSIDERATION BY THE CONGRESS

This report discusses matters of such importance to the consuming public that the Congress may wish to consider the facts revealed and the steps being taken to correct the situation.

### Poultry Inspection

Washington, D.C.—Senator Abe Ribicoff (D-Conn.) today released the names of the 68 poultry slaughterhouses and packaging plants cited in yesterday's General Accounting Office report on poultry inspection procedures together with an Agriculture Department report on current conditions at these plants.

The GAO found that every plant inspected had some deficiencies and that proper sanitary facilities at many were "virtually nonexistent," Senator Ribicoff said.

Senator Ribicoff's remarks in the Senate today are attached as is the list of the plants which were inspected by GAO. Also attached is the Agriculture Department report.

Yesterday I released a report prepared by the General Accounting Office concerning the unsanitary conditions which exist in many poultry slaughterhouses and packaging plants. The GAO inspected 68 plants across the country, about one-fifth of the plants in the nation. Americans ate more than a billion and a half pounds of poultry from these plants last year.

The names of the sixty-eight plants inspected by the GAO between October 1970 and March 1971 have now been made available to me together with a report prepared by the Department of Agriculture giving the Department's description of the current status of the sixty-eight plants.

The GAO found that every plant had some deficiencies when inspected, with sanitary facilities at many being virtually nonexistent. The GAO has declared that it believes conditions in these plants are probably typical of conditions in most poultry factories and slaughterhouses.

The Department of Agriculture, charged with the responsibility of enforcing Federal meat and poultry inspection laws, has found that many of the plants continue to have substantial violations.

I am confident that unless something is done to change our present regulatory system, a GAO report in two more years will uncover the same deplorable conditions once again. Apparently Upton Sinclair's 65-year-old book *The Jungle* is going to continue to be an accurate description of contemporary America.

Something must be done to change this situation. If Federal regulation of food processing is to be meaningful, it must be carried out by agencies whose highest priority is the health and safety of consumers. The Department of Agriculture has come to represent too many other interests to protect consumers effectively. It may be necessary to transfer its consumer protection functions to an agency responsive to consumers, with general responsibility for food plant regulation.

Even reorganizing the Federal food inspection system will not be sufficient, however. Time after time we have seen institutions designed to protect the consumer fail in their mission. I have therefore supported legislation to establish an independent Consumer Protection Agency with authority to represent the interests of consumers before other agencies.

Many who opposed my bill last year, including the Administration, now support the independent agency concept. The dispute this year is over the scope of the Consumer Advocate's right to participate on behalf of consumers in another agency's activities.

My legislation would ensure that the consumer protection agency would have the right to participate to protect the consumer's interest in any agency decision. Under my bill, for example, the consumer agency would be able to participate in all the Agriculture Department's decisions concerning its inspection programs.

The House bill to create a Consumer Protection Agency is also now before my Subcommittee on Executive Reorganization and Government Research. Unfortunately, the House bill fails to give the Consumer Agency adequate authority to protect the interests of consumers. For example, the House bill would not give the Consumer Advocate the right to participate in most of the important decisions taken by the Department of Agriculture with respect to inspection of food plants. The Advocate could not participate in Agriculture Department decisions to close or suspend the operation of a plant; in decisions about the rules for inspectors looking for violations; or in decisions about the resources to be devoted by the Agriculture Department to its inspection programs. The sorry conditions that now prevail in spite of the Agriculture Department's inspection programs graphically illustrate the need for the presence of a consumer advocate in the regulatory process at all of these decision points.

But even if we develop an effective inspection system, we will still have to depend to a great degree on the food packagers and processors themselves to make certain that the system works. Federal inspectors cannot be present every day. Private industry has the primary responsibility to assure that its products are wholesome, safe and clean. This does not seem too much to ask. In the past, however, the only times the industry seems to have shown much interest in cleaning its own house is after the publication of reports by the General Accounting Office. We cannot wait two years between every housecleaning and allow pollution of our food supply in the meantime.

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## TRANSPORTATION AND THE HANDICAPPED AND ELDERLY

Mr. PERCY. Mr. President, the Senate Special Committee on Aging held hearings late last year on "A Barrier Free Environment for the Elderly and the Handicapped."

The purpose of these hearings was to focus public attention on the unique problems encountered by the handicapped and the elderly, in their daily lives, in simply getting from one place to another. While the majority of Americans can jump into their automobile or hop onto a bus to get where they want to go, a sizable number of Americans—six million physically handicapped persons and a good percentage of the 20 million Americans over age 65—can move around only by overcoming tremendous obstacles. For them, coping with a public transportation system cannot only be difficult, it can also be humiliating. At the Aging Committee hearings, some disabled witnesses testified they could stay at home rather than suffer the embarrassment of making others wait while they attempted to mount high bus steps, or overcome other barriers.

In a recent article in The Chicago Tribune, reporter Sheila Wolfe commented on this problem and discussed efforts which are being made in Chicago to help those with disabilities increase their mobility.

Mr. President, I found Miss Wolfe's article most interesting, and I wish to bring it to the attention of my colleagues by asking unanimous consent that it be printed in the Record:

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Chicago Tribune, Jan. 23, 1972]

### Mass Transportation Poses Barrier to Handicapped Worker Going to Job

(By Sheila Wolfe)

For the physically handicapped, public transportation is a succession of barriers rather than a means of getting from one place to another.

Able-bodied individuals who ride buses, elevated and subway trains, and commuter railroads probably give little thought to the setup. But the whole transportation system is designed for them—as long as they stay reasonably fit.

People in wheelchairs and on crutches and those with a wide variety of standing and sitting disabilities are, for all practical purposes, barred.

They cannot get to the station or stop, are unable to penetrate the entrance, cannot find a suitable place to situate themselves for the trip, and are unable to cope with the extremes of traveling movement.

NO TRANSPORTATION, NO JOB

They are constrained by crowds, time pressure, and long walking distances. And, as a result, many are counted out of jobs they might be able to hold if only they could get to and from them.

Estimates by the National Center for Health Statistics indicate there are approximately 6 million physically handicapped persons in the nation whose mobility is limited as a result of a chronic or long-term medical condition. About 800,000 live in Illinois.

Thus far, pathetically little has been done to eliminate transportation barriers for them.

"Public transportation systems are not thoughtful of those who can't leap on," said Dr. Henry Betts, medical director of the Rehabilitation Institute of Chicago.

"What is needed at the outset is an attitude that the physically handicapped and sick exist and ought to be allowed access to the system—transportation and everything," he said.

PERCY WORKING ON PROBLEM

One approach to the problem is being taken on the federal level by Sen. Percy (R., Ill.), who has introduced a bill in Congress which would require that mass transit facilities receiving federal financial assistance be accessible to the handicapped and elderly.

No action has been taken on Percy's proposal.

Altho they consider a more accessible public transportation system highly desirable, some experts have come to the conclusion that, realistically, the cost of making the desire a reality is enormous.

In Milwaukee, one man's inability to get around without assistance led 14 years ago to the founding of a fleet of cabs and buses especially for the handicapped.

"I am confined to a wheelchair, and after graduating from high school I sat around home for 10 years," said John Lovdahl. "Finally I got a job in an insurance company, and my brother and brother in law took turns getting me to work.

"When their hours were switched, I found I had a job and no way to get there. I called the bus and cab companies, and they wouldn't take me when they learned there was lifting involved.

"So I hired a fellow to drive me, and from that came this firm."

Lovdahl is president of Handicaps, Inc., with 90 buses that serve institutions for the handicapped and with 10 special cabs driven by men trained in wheelchair handling.

"THRU DOOR SERVICE"

Cab customers call in for service, which Lovdahl describes as "thru door service," transporting the individual from inside his home and back if necessary.

"In time," Lovdahl said, "I think catering to the mobility of the handicapped will become an industry . . . kind of an adjunct to mass transportation. It's the thing of the future."

In Chicago, a modest beginning has been made toward what its backers envision as an eventual solution.

About 300 persons a month use Li-La-U (a name formed from Lincoln Park, Lake View, and Uptown areas) Handi-Bus, 3940 N. Clark St. A project of Mutual Enterprises of the Handicapped, the little fleet now consists of two buses soon to be expanded to three. It has been operating since July, 1970, as a nonprofit enterprise.

"This is the only bus service of its kind in the United States that we know of," said Miss Frances Even, president of Mutual Enterprises. "It is door-to-door and scheduled on a day-ahead call basis.

SEES GROWTH OF IDEA

Miss Even, who is handicapped, said that before HandiBus, which serves a North Side area, "a majority of our riders were imprisoned in their homes."

Buses are equipped with hydraulic lifts, floor clamps, safety straps, and open space for wheelchairs.

Miss Even is optimistic.

"Really, this is a prelude to what should become a mass handicapped transportation system in any large city," she said.

She pictures a connecting system of handicapped and regular bus fleets somewhere in the future.

"The important thing is mobility," she emphasized, "and getting the disabled into the mainstream of living."

George Conn, executive director of the Illinois Governor's Committee on Employment of the Handicapped, takes a hard-nosed economic view of the situation.

"Illinois spends approximately $300 million annually in public and private funds to aid, educate, and rehabilitate the handicapped," said Conn, who walks with the aid of crutches.

"The state is not getting a good return on this investment, tho, because of existing attitudes," he said. "Not when rehabilitated people cannot get to and from jobs they are capable of holding and when they cannot get to places to shop and spend their money."

FINDS SOME IMPROVEMENT

"Cabs are getting a little better," Conn commented. "It used to be they wouldn't stop for a handicapped person at all."

These would include ordinances requiring the ramping of curbs at intersections thruout the Loop and Michigan Avenue area, making parking easier and more convenient for the handicapped, and requiring cab companies to provide at least 25 per cent of their fleets in a design accommodating the handicapped.

[High curbs along the recently widened stretch of North Michigan Avenue between Randolph and Lake Streets include ramps on both sides of the street.]

One Illinois locale that has done something of a positive nature is Champaign-Urbana, where the University of Illinois' outstanding program for the handicapped has influenced campus planning and the surrounding community.

IS STUDYING THE SITUATION

"There is hardly a curb that is not ramped there, and I got spoiled," said Miss Barbara Black, a handicapped U. of I. graduate who is director of medical records at the Rehabilitation Institute.

Miss Black, who drives herself to work and enters the building from a ramp off the parking lot, said she does not know how she would be able to get about the city if she couldn't drive.

Dr. Richard M. Michaels, director of research at Northwestern University's Transportation Center, has been looking at the travel barrier problem and hopes to secure grant money to delve into it further.

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## THE BUDGET REPORTING PROCESS

Mr. CURTIS. Mr. President, the time has come for depoliticizing the Federal Government's budget reporting process. It should be done this year, while the deficit is so high and the blame for it so all encompassing that neither political party can point with pride to any success in lowering the deficit spending.

The unified budget which was instituted by the Johnson administration is too political to be credible. It escapes public understanding.

As the distinguished Members of this body know, Mr. President, the unified budget is a system whereby trust funds are lumped together with general tax funds in measuring and reporting the flow of Government income and outgo.

This system has the effect of making the Government's deficit spending look smaller, both in dollar amounts and in percentage of total spending, than the straight reporting system based on general receipts and expenditures.

Trust funds cannot legally be spent for financing the general day-to-day activities of the Government. They are limited to use for the specific purposes for which they are collected, such as social security benefits or highway construction.

When trust funds are lumped with general transaction funds of the Government, a distorted picture results.

For example, in 1970 the unified budget deficit was $2.8 billion whereas the general Treasury deficit was $13.1 billion. In 1971 the difference in deficits was between $23 billion under the unified budget and nearly $30 billion under the general transactions budget.

In 1972 the picture worsened to deficits of $38.8 billion under the unified budget and $44.7 billion in general funds. For fiscal 1973, there is a projected deficit of $25.5 billion under the unified budget compared with $36.2 billion in general transactions.

The time has come to correct this distorted system and report the true budget to the American people.

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## TRIBUTE TO THE LATE SENATOR CARL T. HAYDEN

Mr. BURDICK. Mr. President, I wish to add my voice to the many others who mourn the passing of a distinguished former Member and friend, the Honorable Carl T. Hayden, for almost half a century a U.S. Senator from Arizona.

Carl Hayden was a man of great heart and charming disposition. He also was a man of many talents, high intellectual attainments, and strong conscience. He was incapable of standing aside, unconcerned, when his fellow man was suffering. He was a man of great insight, with sufficient perception to solve a host of national problems great enough to baffle the majority.

Carl Hayden was the first Member of the U.S. House of Representatives to be elected from the State of Arizona, serving seven terms before his elevation to the Senate in 1926.

As chairman of the Senate Appropriations Committee, he became in time one of the most influential people in Washington and, as a man of sterling integrity, one of the most respected.

A friend of reform and the public interest, Carl Hayden supported the New Deal, Fair Deal, the New Frontier, and the Great Society with equal vigor and determination. He was largely instrumental in establishing the modern formula for the vast Federal highway aid program so important to the development of the Western United States. He also was vitally involved in the passage of legislation in the fields of mining, public lands, reclamation, and other projects affecting his native Western area.

It was an honor and a pleasure to have known and worked alongside this fine man, and I, personally, am proud to have had him as a friend.

## ENVIRONMENTAL THRIFT FOR THE FUTURE

Mr. PERCY. Mr. President, increasingly, environmental proposals are put forth in this Chamber directed toward improving and extending means of energy production in this country. I am especially concerned that we pay at least equal attention to the critical need to improve the utilization of energy sources.

That is to say, both industry and the consumer should give added attention to the concept of environmental thrift which recognizes the importance of minimizing the consumption of energy potential in the attainment of any desired end.

Much of the present dialog in this regard centers upon the recycling of materials which is, itself, a mode of environmental thrift. Another such mode entails extending the useful life of the machines that serve us in our daily needs. Without minimizing the significance of these two principles of environmental thrift, it seems to me most important that, as a society, we concentrate on the adoption of new technologies aimed at better reconciling the accelerating demands for power to bring about a lifestyle more satisfying to us all.

Specific application of this principle has recently been brought to my attention by Prof. R. Stephen Berry of the University of Chicago who serves as a member of an Environmental Advisory Committee which I have set up to advise me on ecological considerations that affect Illinois and the Nation as a whole. Professor Berry recently completed an excellent paper, to be published in the March issue of the Bulletin of the Atomic Scientist—Science and Public Affairs, in which he discusses the relationship of "Recycling, Thermodynamics, and Environmental Thrift." I note that in conjunction with the Illinois Institute for Environmental Quality, Professor Berry is engaged in a detailed study of automobile manufacture, discard, and recycling in order to assist the institute's program for solid waste management. The study involves mining, steelmaking, and other basic industries and problems of scrap recovery which impact directly on considerations of environmental thrift.

Mr. President, so that the outstanding paper that Professor Berry has prepared can be given the attention it deserves, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

### RECYCLING, THERMODYNAMICS, AND ENVIRONMENTAL THRIFT

(By R. Stephen Berry, Department of Chemistry and the James Franck Institute, University of Chicago)

(NOTE.—Figures referred to are not printed in the RECORD.)

#### INTRODUCTION

As environmental considerations become more important factors in policy decisions and planning, the need becomes more compelling for reliable and precise indices of environmental use. This need becomes particularly apparent when one is confronted with alternative policies, among which some selection must be made. The problems arise at the most commonplace level, such as the housewife's choice between a paper sack or a polyethylene bag, and at the highest level of long-range policy making, such as the choice among means and locations for power-producing plants.

The problems call for the identification of variables that can be reasonably well and unambiguously quantified, that are general enough to compare quite different sorts of processes, that are summary variables rather than overly specific quantities, and that are truly measures of the amount of use to which the environment is put.

To a scientist seeking general quantifiable and unambiguous summary variables, the quantities of thermodynamics are the most obvious and natural. In particular, the change in thermodynamic potential associated with execution of a process fills all the criteria we have just laid down. The change in thermodynamic potential contains within it all the energy exchanges associated with the process and also the effects of changes in organization and structure, as measured by entropy.

Thermodynamic potential is the fundamental measure of the capability of a system to perform work. Every natural process involves the consumption of some thermodynamic potential; the science of thermodynamics tells us how to determine the minimum expenditure of thermodynamic potential, to achieve a given physical change. In other words, thermodynamics tells us how to determine the maximum efficiency of a process, and to compare the expenditures of thermodynamic potential required for different processes.

Thermodynamic analysis may be applied as a global device for studying long-term development of a society, or as a micro-analytical tool for comparing specific processes such as specific manufacturing practices. Following a general discussion of the nature of the analysis, we direct our attention toward the second of these, an analysis of one group of manufacturing processes; we then examine the implications of the analysis for national policy.

#### WHY A THERMODYNAMIC ANALYSIS?

For the scientist assessing the potential stored in a complex system, or the potential consumed when a complex system undergoes a process, the natural variables with which to describe the system are the variables of thermodynamics. This is true whether one is computing the work that can be done by a physical process or a biological system. The same laws, variables and concepts apply to the burning of a million tons of coal to produce electricity to run the machines of a factory, as also apply to the metabolism of sugar to produce energized molecules of adenosine triphosphate to generate movement and growth.

The two essential forms of stored potential are energy and order. We withdraw and use energy from many forms of storage: gravitational energy provides power for turning millstones and hydroelectric generators; chemical energy is readily available in the form of fossil fuels; solar energy powers electrical cells and the growth of green plants. We find and use the potential represented by order when we obtain minerals from concentrated ore bodies, rather than find them distributed uniformly over the earth's surface, or, in a sense, when we use ice as a refrigerant.

Our present task is to try to analyze the potential stored in the environment and how we make use of it. The world we inhabit contains a vast stored potential, in many different forms. In some of its forms, this stored potential is very accessible; the chemical potential stored in a tree, for example, can be converted to heat energy very easily, just by burning the tree. Other forms of stored potential are less available; it requires considerable work and energy to obtain a useful amount of energy from nuclear fission. We have not yet learned to unlock the potential, at least in a controlled way, that we know is available through the fusion of two nuclei of heavy hydrogen. Yet we can determine rather easily how much potential is locked up in each of the stored forms we know, and how much we receive from our one important outside source, the sun.

Determining the total amounts of stored potential of various forms depends on estimating reserves. Hence there is a degree of uncertainty in trying to evaluate total amounts of potential. However we can do much better, removing most of the uncertainties, if we examine the *changes* in stored potential associated with particular processes. The laboratory sciences have provided us with a rich source of accurate data on the changes in potentials that accompany virtually any chemical or physical process, and even some biological processes. (Strictly speaking, the thermodynamic data are always being improved, and one can find occasional examples for which the data are not yet very accurate. These exceptions are rare enough to leave our sweeping generalization quite valid.)

Knowing the changes in stored potential associated with processes is actually of far more use in choice-making situations than knowing the absolute amount of stored potential, up to the point that the supply of stored potential runs low. By comparing the amounts of potential consumed by alternative processes that achieve the same end, one can choose the more thrifty, the process that uses fewer resources to accomplish its task.

One can easily see how doing "energy economics" gets us to one of the root problems of environmental management, the problem of thrifty utilization of energy. It is remarkable how many of the environmental insults that we now recognize can be traced to the use of large amounts of energy. If we could identify areas in which there were large potential economies to be found in *energy utilization*, then we would begin, perhaps, to find a key to reconciling the technological life style we have so thoroughly adopted with the threat of increasing environmental insults that seem to accompany our technology.

If one looks further along into the future, past the immediate environmental problems of our decade or our century, we can see "energy economics" or "thermodynamic economics" taking a larger role. As the potential stored in one form of natural resource is depleted, we must make choices among alternative responses to the foreseeable shortage. The choices each presumably carry long-term, large-scale implications; one cannot take seriously using a short-term market analysis to decide, say, in the year 2171, whether all the remaining fossil fuel should be reserved for the chemical industry. We must rely on the most long-range, most nearly absolute measures we have to make such choices; these measures are precisely the variables of thermodynamics, the potentials.

It is not accidental that the parallel between economic analysis and thermodynamic analysis continues to appear. Let us try to identify the essential difference between the two. Economic analysis is associated with a set of values based on shortage, as preceived by the participants in the marketplace. The perception of shortage is itself a recognition of supply and demand for the present instant and for some time in the future. Thermodynamic analysis is the way to measure the absolute supply of the only commodity of which there is a true shortage when one considers an arbitrarily long time scale into the future, the thermodynamic potential.* So long as matter is conserved within the region we inhabit, there is no real shortage of any substance; there can only be a shortage of the thermodynamic potential to do the work required to recover the substance.

Hence, if the economists in the marketplace were to determine their estimates of shortage by looking further and further into the future, these estimates would come closer and closer to the estimates made by their colleagues, the thermodynamicists. In the jargon of the scientist, we may say that economic valuation approaches asymptotically toward thermodynamic valuation, as the time scale of the economic valuation grows arbitrarily long. For the ultimate long-range planner, economic and thermodynamic analyses are equivalent.

Environmental analysis necessarily confronts many problems in which one wants to make long-term valuations. Frequently the time scale one requires is far longer than one would use in market analysis. We are forced to treat the concept of shortage on the time scale, for example, in which some elements are available only through reuse or through recovery from their natural levels of abundance, rather than from ores. At this level, where the only true shortages are those of thermodynamic potential, thermodynamic analysis becomes imperative.

### THE THERMODYNAMIC SYSTEM

In the next section, we describe the analysis of a specific set of processes of manufacture, use and disposal. The quantities that enter are energies, entropies and temperature. However it is important to recognize first precisely what the thermodynamic system is, that we describe, and what constitutes the surroundings, the rest of the universe that lies outside the system.

Our system consists of the materials that become the manufactured object, *together with the other resources from our environment that enter directly in the processes.* This means that we include the energy spent *by* the system to prepare the manufactured object, and the potential lost when the object is broken up and ultimately completely dispersed, when we evaluate the real thermodynamic expenditures for manufacture and disposal. To find the real thermodynamic cost of the new object, we evaluate the actual amount of thermodynamic potential that we withdraw from our environment when we make the object and subtract the amount of thermodynamic potential that is actually stored in the object. However we are more interested in the cost of the process of manufacture and discard; it is not really our concern to calculate the thermodynamic cost of a collection of mint automobiles. Therefore we calculate the total thermodynamic cost by adding to the net cost of producing the new machine the thermodynamic potential lost when the machine is discarded.

The amount of thermodynamic potential stored in the new machine is exactly the unrealizable, ideal limit of its thermodynamic cost, the result of what scientists call a "reversible process." In the ideal limit, either the system or the surroundings may pay the thermodynamic cost, but whichever pays the bill, the amount is the absolute minimum as set by natural law. If the system pays, the net change in the system's thermodynamic potential is zero, and the process has merely changed one form of potential into another. If the surroundings pay, as, for example, if the required energy were taken from the sun, then the stored potential of the system would increase by the amount stored in the new machine. In the real world, of course, we cannot expect to operate ideal systems. We always spend considerably more thermodynamic potential to make something than is stored in that thing. The difference between the potential we spend for the process of production and what is stored in the product, is the net potential spent or lost in the process. This difference, this net cost, will provide the basis for our analysis in the last section. It is precisely because the thermodynamic potential is truly lost, that we describe the ultimate shortage of chemical potential as the only true shortage. The amount is limited to what we have stored in the earth and what we receive from the sun; one is limited in absolute amount and the other, for all intents and purposes in this context, comes only at a fixed, unchangeable rate.

There is a certain degree of arbitrariness in defining the boundaries that separate system from surroundings. We have made our choices largely on the basis of what kinds of data are available. For example, we have included the expenditure of electrical energy for mining and manufacturing as part of the process undergone by the system, but have omitted the processes of generating electricity from primary energy sources. (To include this conservatively, one need only multiply the first three entries in the last column of Table 1 by a factor of about 2.6.) We have also omitted the thermodynamic costs of sustaining the people who do the work, on the basis of the assumption that the people would somehow be sustained whatever process one considers. We have also neglected the thermodynamic cost of operating our exemplary machine, the automobile, on the basis that the operation of the vehicle belongs more properly to the thermodynamic system associated with transportation than to the process of manufacture and discard.

With this description of our system, we may now proceed to the analysis.

### THERMODYNAMIC ESTIMATES

We have chosen as an example the thermodynamics associated with the manufacture of automobiles, both from new raw materials and from recycled automotive scrap. The quantities of principal interest to us are the amounts of thermodynamic potential consumed in mining and manufacture of automobiles from "new" raw materials, the amounts of thermodynamic potential consumed in recycling, and the minimum requirements of thermodynamic potential that would be required to manufacture an automobile by an ideally efficient process. The criterion for judgement is introduced at this point, the criterion of "thermodynamic thrift": that it is desirable to minimize the consumption of thermodynamic potential, in achieving any chosen goal. The criterion is the thermodynamic analog of the statement "It is undesirable to throw away money needlessly."

With the criterion of thermodynamic thrift and the results of our estimates of the free energy consumption, we can compare and evaluate three policies, in terms of what they can achieve. The first is maximizing recycling; the second is extending the useful life of the machine; and the third is the development of more (thermodynamically) efficient processes. By considering automobile manufacture as a prototype for manufacturing processes, we can immediately make certain generalizations and recommendations for long- and short-term policy regarding technology and manufacturing.

Having defined our system, we take the first step in analyzing the process of automobile manufacture by defining the process and breaking it into manageable steps. Each step involves a transformation of matter from one state to another. We find it convenient to isolate six states:

State 1: material as ores and other primary forms;

State 2: pure raw materials;

State 3: the new, manufactured automobile;

State 4: the used automobile, no longer functioning;

State 5: the materials of the automobile, discarded and dispersed, and finally;

State 6: the chemically degraded dispersed materials (e.g., completely rusted iron).

The six states are connected by the transformations indicated in Figure 1. (Not shown in RECORD). These transformations are labeled, for convenience, as:

A—Mining and Smelting (but strictly, including manufacture of synthetics, production of fabrics and other basic industrial processes);
B—Manufacturing;
C—Normal use;
D—Recycling;
E—Junking, and;
F—Natural degradation.

Often, steps E and F are not actually separate, but occur simultaneously.

The two pathways of main concern for us are the manufacture of automobiles from basic raw materials, via steps A, B, C, E, and F, or the recycling process, via steps B, C, and D. We are interested in the real costs, in terms of energy and thermodynamic potential, for these two pathways. We are also interested in one other thermodynamic quantity, the *minimum* requirements of thermodynamic potential, for production of an automobile, either from the nonfunctioning wreck (State 4) or the raw materials (State 1).

The next stage of the development is the determination of the thermodynamic quantities for the steps of interest. The actual energy expenditures are tabulated for a wide variety of processes which cover most of the important quantities of interest to us.[1][2] One real energy quantity must be estimated from rather nonspecific data, but, as we shall see, even with the uncertainty so introduced, We are still able to draw unambiguous conclusions. It would be desirable to know the actual entropy changes which, together with the energy, determine the *real* expenditure of thermodynamic potential. However, the analysis shows that the changes of energy so clearly dominate the changes in thermodynamic potential that, at the present level of refinement and for the particular problem under discussion, these entropy changes can be neglected. Inclusion of real changes of entropy would only strengthen our final conclusions. The other quantities to be found are the ideal thermodynamic changes, the differences in energy and thermodynamic potential for each transformation in Figure 1. We must estimate the change in internal energy and in thermodynamic potential for the stuff that makes up an automobile, in each step of the process. These changes represent the ultimate natural limits on the energies and thermodynamic potentials that must be paid, in order to carry out the various steps.

Having used the term "thermodynamic potential" so freely, we must define it. We take the thermodynamic potential F as

$$F=E-TS+PV$$

Here, E is the internal energy, T is the absolute temperature, S is the entropy, and the last term, PV, is the product of pressure and volume. We are interested only in

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* We omit such special exceptions as the loss of helium from the earth's atmosphere.

Footnotes at end of article.

*changes* in F. The last term, PV, is essentially constant for almost all liquid and solid systems, and is quite properly neglected for systems such as the one we are discussing here. (The PV term is not negligible for systems involving gases, such as the burning of fuels, or the dispersal of one gas into another.) We therefore concern ourselves here with finding the changes in thermodynamic potential, F final $-$F initial $\Delta F$. Since the world's temperature is more or less constant, we can write

$$\Delta F = \Delta E - T\Delta S,$$

and concentrate on the changes in energy and entropy, with each step. (There is some question regarding the appropriate quantity to be used for T in certain parts of the treatment, but the ambient temperature gives a suitable upper limit for $\Delta F$, which is all we need.)

The energy changes are virtually all changes in the internal chemical energy of the materials, and are well-known, measured quantities, per unit of material.[3] Hence the theoretical values of $\Delta E$, per automobile, are readily determined from a knowledge of the composition of an automobile. Automobiles are almost all steel, iron, ferro alloys, and aluminum, and the thermodynamics of automobiles are dominated by these materials. The contributions to $\Delta E$ and $\Delta F$ from fabrics, rubber, plastics and other materials become significant only if we require quite precise values for the thermodynamic quantities. At this stage, such precision would add nothing to our insight because of the uncertainties and variations in the parts of the cycle associated with mining and preparation of primary materials. For example, the energy differences between different iron ores (in the quantities required for an automobile) e.g., hematite vs. taconite, are comparable to the energy associated with the "minor materials" of the automobile. Hence we neglect the minor materials in the present treatment.

Most of the entropy changes are small, as it turns out, but have been considered explicitly for reasons that will become apparent. Entropy changes associated with chemical transformations are known from experiment and are available just as the corresponding energy changes are available.[3] Entropy changes associated with the creation of an ordered structure have been estimated from an extension of information theory;[4] the details of the method are given in the Appendix.

Entropy changes associated with dispersal of used materials are sometimes quite significant. These quantities are readily evaluated from the well-known expression[5] $\Delta S = nk \ln(C_{initial}/C_{final})$, where n is the number of atoms in the system, k is Boltzmann's constant, approximately $1.6 \times 10^{-16}$ erg/deg C, and the argument of the natural logarithm is the ratio of the initial concentration (atoms per unit volume) to the final concentration. The initial concentration is essentially the density of the pure material. The final concentration has been taken as the mean concentration of the particular substance in the earth's crust, based on its natural abundance.

This method of calculating changes of entropy and thermodynamic potential is associated with a specific picture: discarding according to Step E is equivalent to allowing the relatively pure materials of a junked automobile to become uniformly dispersed throughout the earth's crust, to the extent that, were the process to be pursued indefinitely, we would eventually be forced to recover the materials from their lowest state of thermodynamic potential. This is the state of uniform distribution. Iron, which, on the average, comprises about 0.6% of the earth's crust, is mined from ores that are about 50% iron, so that we presently obtain iron from a relatively high-grade source. This is not true of all substances; iodine obtained from sea water, for example, is taken from a state approaching maximum dispersal and minimum thermodynamic potential. Such examples only arise when high-grade sources are unavailable or when extremely efficient recovery methods have been developed.

Having outlined how the thermodynamic quantities are obtained, we now attach numerical values to them. It is convenient to carry out the estimates on the basis of the energy and thermodynamic potential per automobile. Our figures are based on the projections for 1980, given by Landsberg Fischman and Fisher,[1] except where noted. The most uncertain figures in our estimates are those associated with mining and smelting. The total national energy expenditure for these processes is $33 \times 10^9$ kilowatt-hours (kwh). On the basis of the weight of mined iron ore, relative to an estimate of the total weight of mined material, we assume that one-fourth to one-half of that energy is used for iron, and that one-fifth of the iron mined is used for automobiles.[1] We take 7 million as the number of automobiles manufactured in 1960, and assume that about 14 million automobiles will be manufactured in 1980. We find that the iron in each new automobile is actually produced by the expenditure of about 115–230 kwh of energy for mining and smelting. This figure probably has the indicated uncertainty of about a factor of 2, and could be uncertain by a factor of 3. Producing the automobile's 0.1 metric ton of aluminum requires about 1640 kwh.

Now we consider the ideal limit associated with Step A. The absolute thermodynamic potential change associated with mining and smelting the metric ton of iron in an automobile is approximately 5 kwh, including both the chemical transformation of iron oxide to pure iron, and the mechanical work of lifting the ore to the earth's surface. The 0.1 metric ton of aluminum adds about another 0.5 kwh, so we can estimate the total change in thermodynamic potential of the materials in an automobile, that ideal thermodynamic limit that would be spent by producing pure starting materials from primary ores by a perfectly efficient machine, would be about 6, or possibly 7 kwh.

The actual costs in energy and, at the same time, a lower limit to the costs in thermodynamic potential for Step B was roughly 2000 kwh per automobile in 1960, and is projected to be about 4200 kwh in 1980.[6] The theoretical limit to the change in thermodynamic potential for Step B is essentially the change associated with introducing order and structure into the purified materials. This is of order $10^{-11}$ kwh, or conceivably $10^{-10}$ kwh at the very most. In other words, the actual expenditures of energy for manufacturing an automobile are reflections of the *historically developed means* of production and transport, rather than of the *thermodynamic requirements* for creating ordered structure of an operable machine.

The thermodynamic potential for Step C is roughly that for the loss of the information content of the structure, and is therefore negligibly small, for our present purposes. We do not take into consideration the consumption of thermodynamic potential associated with the use of an automobile, because that is fairly independent of its manufacture and dispersal. One aspect of the thermodynamics of use would play a role in a more refined treatment; this is the dependence of the fuel and servicing requirements on the age, condition and manufacturing tolerances of an automobile.

The actual requirements for recycling through Step D are approximately 600 kwh for steel (because scrap steel is generally processed by electric furnace), about 60 kwh for cast iron, and between 600 kwh and 1640 kwh, depending on the amount of refining and treatment required, for aluminum, giving a total between 1260 and 2300 kwh. The ultimate changes in thermodynamic potential are again negligibly small, associated simply with the segregation of a few relatively pure but functionally useless components to separate piles of relatively pure materials.

The next phase, Step E, requires no energy input. It consists simply of the dispersal of the metric ton of iron (and a small contribution from aluminum) from its virtually pure state to its condition of uniform dispersal, comprising 0.68% of the earth's crust. This gives a change in thermodynamic potential between 25 and 26 kwh per auto.

Finally, Step F, the natural chemical degradation of the dispersed materials, is associated with a loss of chemical potential which is almost entirely due to rusting of the iron and steel. This gives a net loss of about 2 kwh per automobile, considerably less than the loss associated with dispersal.

The set of changes in thermodynamic potential associated with the various steps are collected in Table 1.

TABLE 1

Real and ideal changes in thermodynamic potential associated with the steps in the processing of an automobile. The abbreviation "n.a." means "not applicable"; "negl." means that the quantity is negligibly small. In all the steps of this example, with the exception of Step E (and the negligibly small changes in the ideal limits for Steps B, C and D), the overwhelming contribution to the change in thermodynamic potential is given by $\Delta E$, the energy change. Negative signs indicate *losses* or *expenditures* of potential. The figure of 6 kwh for ideal Step A is actually the increase in thermodynamic potential associated with the automobile itself; in the ideal limit, this could all be taken from either the system (environment) or surroundings. If it were taken from the system, then the total net change in the thermodynamic potential of the system would, of course, be zero.

| Step | Ideal | Real |
|---|---|---|
| A | 6 kilowatt-hour for auto alone. | −2,300. |
| B | Negligible | −2,000 in 1960.<br>−4,200 in 1980. |
| C | do | Not available. |
| D | do | −1,260 to −2,300. |
| E | −25 | −25. |
| F | −2 | −2. |

A. *Recycling:*

The first comparison to be made is that of automobile manufacture, by existing processes, from ores and other primary materials, with recycling. The former process involves Steps A, B, C, E and F, while the latter involves only Steps B, C, and D. The first process, according to the figures of Table 1, contributes a net loss of approximately 6525 kwh of thermodynamic potential per automobile; with the uncertainty we estimate for Step A, this could be as small as 5000 kwh, but it is very unlikely to be less than this. The recycling process, with present technology, uses between 3260 and 4300 kwh with the 1960 energy requirements for manufacturing, and will go up to between 5480 and 6500 kwh if the projections for 1980 prove correct. The savings associated with recycling at the present time are therefore between zero and about 1040 kwh per automobile.

It is very probable that not all the needs for new automobiles can be met by recycling. The projections of Landsberg, Fischman and Fisher[1] indicate that up to about 50% of these needs can be met from "obsolete scrap." If this is reasonably accurate, then a program of maximum recycling would amount to an average saving up to about

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Footnotes at end of article.

520 kwh per new automobile, or about 10% of the present thermodynamic requirements for manufacturing a new automobile. The maximum annual net saving in energy now would be of order 4 billion kwh. This clearly would represent a moderate saving in energy and thermodynamic potential, if it could be realized. However, it is not clear whether it is, in fact, realizable, so that recycling with present technology seems to be a questionable process. If the thermodynamics of Step B could be improved, then recycling would provide larger benefits; by the same token, if the energy costs for Step A increase, this also makes recycling more desirable.

At another level, the level of ultimate costs of thermodynamic potential, recycling is also advantageous. Even if the component parts of automobiles are allowed to rust away, a decided saving is achieved by preventing the dispersal of nonfunctional automobiles. In effect, by collecting wrecked automobiles into stockpiles and letting them rust there, we save the 25 kwh per automobile of Step E, even though we may lose the 2 kwh of Step F. Consequently, there is a basis for retaining automobile scrap stockpiles, whether or not a policy of maximum recycling is adopted. Of course,the real saving achieved by recycling is far greater than the possible saving from a single non-dispersal policy.

B. *Extended Life:*

A second general means for achieving thermodynamic thrift comes to mind. This is a policy of extending the life of the machine. Presumably, the useful lifetime of a machine is a function of the precision with which it is manufactured and of the kind of maintenance it receives. It is difficult to assess the precise thermodynamic costs that would be required if the useful life of an automobile were doubled or tripled. However, one can say with full confidence that an upper limit for these costs is, at the very most, somewhat less than the real present expenditure for Step B, i.e., with the total expenditure required for manufacturing the vehicle.

A policy of extending lifetimes of automobiles would, in effect, increase the cost of Step B, conceivably by as much as 1000 kwh, more probably by no more than half this amount, but would require that Step A be performed only one-half or one-third as often as it is presently. This would mean a net saving of order 2750–4500 kwh per lifetime of present vehicles and two to three times this much over the life of an extended-use vehicle, with one extended-use vehicle replacing two or three of the type now manufactured.

Presumably the economic cost of extended-life vehicles would be significantly higher than that of comparable vehicles now being made. The manufacturing manpower required, per mile travelled or per passenger-mile, might well be comparable to present manpower requirements. However, these considerations are irrelevant to the kind of thermodynamic considerations on which we are focusing here. Balancing thermodynamic gains against the inconveniences or added financial cost is already at the level of policy decisions that may call for judgments outside the purely thermodynamic sphere. As the discussion in the second section indicates, we can expect that most economic judgments would coincide with decisions based on thermodynamic considerations, provided that the economic costing is done with a sufficiently long-term valuation and with the costs of "externalities" included.

The bases of economic and thermodynamic valuation tend to become more and more similar as one extends the time scale for consideration of economic value. We shall return to the question of the limitations on making decisions on strict thermodynamic grounds.

C. *Real and Ideal Costs:*

The third general sort of approach to thermodynamic thrift is suggested by comparing the first and second columns of figures in Table 1. The most striking aspect of the table is the enormous disparity between the magnitudes of the two sets of figures. Where the ideal expenditures of thermodynamic potential are tens of kilowatt-hours per automobile, the actual expenditures are typically thousands of kilowatt-hours per automobile.

The immediate implication of this disparity is the existence of possibilities for vast savings in thermodynamic potential. The discrepancy between real and ideal thermodynamic costs makes it clear that there can be technologies far more efficient than the ones we use now. Even "modest" improvements in efficiency could be expected to reduce the thermodynamic costs from thousands of kilowatt-hours per vehicle. It is not at all unreasonable to suppose that improvements in basic technology could increase the efficiency (in terms of the ratio of ideal to real thermodynamic costs) from the present figure or 1980 projection of about 0.1% up to 1% or even 5%.

Clearly, the largest potential savings, in terms of energy and thermodynamic potential, can be achieved with improvements in the basic methods of metal recovery and fabrication. The savings that could, in principle, be so achieved would reduce the thermodynamic cost of an automobile by factors of five, ten or more. We saw, by comparison, that extending the life of a machine could achieve a saving of about 50–100%, whereas recycling can apparently achieve a saving of about 10% now and probably less than that in 1980.

### POLICY RESPONSES

The figures are reasonably compelling; the differences between the three courses we have considered are so large as to make the three choices almost qualitatively different. We need not worry about details of the computations, when the figures separate the possibilities so clearly. It is obvious as can be that the savings to be achieved by recycling with present technology are at best small, compared with the savings that extended-life machines could provide, and that these savings are, in turn, small compared with the possible savings that could be accomplished by new technology. The decision to opt for thermodynamic thrift* would immediately tell us which course is the most desirable.

At the same time that we consider which policy offers the greatest savings, we must also ask about the relative ease of adopting one policy or another. Recycling is a relatively minor perturbation on present policy; maximum recycling would only amount to reapportioning the relative amounts of effort among well-established courses that we now follow. In absolute terms, a moderate amount of energy and thermodynamic potential might be saved if a policy of maximum recycling were adopted. Making extended-life machines would require some changes in manufacturing technique and a moderate readjustment of the relationship between the owner and the vehicle. The adjustment, as well as the savings, would be significantly greater than in the case of maximum recycling, and the time required to put the policy into effect would be longer as well. It seems reasonable to suppose that recycling might be adopted and put into practice rather soon, while the changes necessary for extending machines' useful lives are being developed.

The same sort of comparison holds for major technological change, but on a much grander scale. The basic ideas required to implement the changes probably do not yet exist. Only when these ideas have been conceived and developed into workable engineering methods could we begin to achieve some of the huge possible savings that can be made. Hence, we should plan to use, first, recycling and then, extended-life machines, during the interval when the new technology is being developed.

Whether or not development of the new technology is slow or difficult is not important, unless, by some strange quirk of fate, its cost of development rivals the saving it provides. The potential savings are so great that we consider this possibility too unlikely to be worthy of consideration. We assume that the costs of development, even if they are large, will be infinitesimal compared with the eventual savings. A saving of only 1000 kwh per vehicle would correspond to the total power output of eight or ten good-sized generating stations.

The assumption that the costs are small compared with the gains, together with the adoption of a policy of thermodynamic thrift, point to the desirability of establishing a new national goal. This goal would be the development of new technology for extractive and manufacturing industries, technologies that would operate with efficiencies far closer to the ideal limits than do the present methods.

The desirability of such a national goal would carry with it some very surprising implications that differ sharply with current Federal policy. The foremost implication is the need for numbers of scientists and engineers with the skills to do fundamental and innovative development in applied science and basic engineering. Rather than cutting back the supply of scientists now, we should be assessing how large a force may be needed to increase our scientific and engineering personnel enough to establish a major effort in technological development. The effort would entail far more detailed and careful analyses of real and ideal processes than the rough figures developed here. However, the analyses would only be the first step, and would only provide the measure against which the real innovations could be tested. Finally, a major engineering development would be required to convert the ideas into practical, full-scale methods.

A second implication of the adoption of developing new technologies as a national goal would be with regard to the National Laboratories, including the National Bureau of Standards. Just as national laboratories were the natural centers for our previous national goals, of nuclear weapons and space travel, the national laboratories become natural foci for development of new technologies. The requisite scale of development, in terms of both time and the scale of readjustment, is far too vast for the private sector to undertake it. Hence, instead of reducing the scale of national laboratories and focusing them on increasingly specific goals, this argument implies that we should be broadening and strengthening these laboratories.

The third implication is the desirability of training young scientists and engineers who are oriented toward technology and application, albeit at a very basic level within this context. The orientation of scientific and engineering training during the past one or two decades has been relatively heavy toward the most basic and fundamental levels of our understanding of nature. Now, it appears, there is a need for people who want to make use of this knowledge to develop basic changes in the way we do things.

A fourth implication concerns the problem of the energy needs of the nation and the world. Most of the attention to this problem has gone toward improving and extending energy *production*. The conclusions of our analysis are that we can go far in dealing with energy needs if we improve energy *utilization*. At present, roughly 60% of the U.S. electrical energy production is used by industry. Let us take the automobile as a representative of industrial products, for thermodynamic purposes. Then we might expect our hypothetical new technology to reduce our industrial needs for electrical energy by about a factor of 10, ultimately, to something like 6% of the total national produc-

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tion. (We have not yet estimated what sorts of savings are potentially possible in the 40% used for domestic and commercial purposes.) With savings of this magnitude, one can begin to face the possibility of developing underdeveloped nations without the ominous problem of an insufferable energy demand. It may well be that technological development of underdeveloped nations can only be achieved if we make significant progress toward a new technology grounded in thermodynamic thrift.

It is clear that we *may* follow the three-stage course of recycling, developing extended-life machines and adopting new technologies. It is not yet clear whether we have any other options, particularly with regard to the new technologies. One way to reconcile our growing demands for power and increasing needs to process our environment is to achieve our life style by means much more efficient than those we now use. Whether such a course is sufficient in itself for an indefinitely long period is not known. It does seem now that such a policy is probably a necessary component of any adaptive means that avoids a cataclysmic social upheaval. In other words, prudence fairly dictates that we begin to think, evaluate, and react in terms of thermodynamic thrift. The short-term means for achieving this may be through judicious recycling; for the intermediate term we can turn to extended-life machines. However, for the long term, we must develop more efficient basic technology.

### A CAVEAT

One very important point, to which we alluded earlier, must not be missed. The present limits of human capabilities for logical analysis, be it thermodynamic, economic or any other sort, are vastly more confined than is the actual range of the variety of human experience. To suppose that thermodynamics or economics could or should suffice to *determine* most policy decisions, is presumptuous beyond belief. The most we should expect from a logical analysis such as the one presented here, is that it can be a guide, to provide one way of ordering preferences and, sometimes, of eliminating a number of undesirable courses. In an ideal situation, we would be able to use logical analysis to reduce our options to a small number of choices, and then to choose among these according to the values that we cannot fit into a logical, analytical scheme. Occasionally there will be situations in which the choices can be made by thermodynamic analysis alone. These, however, should be the exception rather than the rule. If we are both wise and fortunate, our decisions will be made more easily because we use as much logical analysis as possible before we made our final choices.

### ACKNOWLEDGEMENT

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### APPENDIX—CONCERNING THE ENTROPY OF A MACHINE

The information content and entropy of an organized structure have been analyzed by Brillouin,[4] in terms of the number of binary connections among elements of the structure. The reduction in entropy associated with N terminals or binary junctions, relative to an unorganized structure is

$$I = K N \log_2 N,$$

where k is the Boltzmann constant and the logarithm is taken to the base 2. The number of binary junctions or terminals N is given in terms of the number n of elements in the structure, the number of m of internal terminals and the number q of external terminals:

$$N = nm + q.$$

Our problem is one of defining the elements of structure of a machine.

We begin by recognizing that the machine functions as intended when it is made to conform to a set of manufacturing tolerances. If every part of every piece satisfies the tolerances, the machine will operate as it should. If the tolerances are not met, then the machine will not operate, or will have a shorter life than is intended, or in some other way will not perform. Hence, the *tolerances* define the characteristics dimensional unit for organized structure of the machine.

We may next consider the terminals as the junctions between the machine and the outside world, the surface area of the machine, where the *unit* of surface area is the square of the tolerance dimension, *l*. Thus, the number q of external terminals is the total area A, measured in units of $l^2$:

$$q = A/l^2$$

The internal terminals may also be included, but do not change the magnitude of the result significantly. These, if they are included, are about 4 per unit of surface, or about $4A/l^2$.

We estimate that the uncritical surfaces of a machine, such as the exterior of the engine block, the chassis and the body contribute about $10^9$ to N, with a tolerance of about 1 mm. The internal, critical surfaces, with tolerances of order $10^{-2}$ mm, contribute a total of about $10^{10}$–$10^{11}$ to N, so that the uncritical components are relatively unimportant, in terms of the order in the operating structure. The information, in bits, is $N\log_2 N$, $10^{11}\log_2(10^{11})$, or about $3.5 \times 10^{12}$ bits, so that $kN\log_2 N$ is about $4 \times 10^{-4}$ ergs per degree, or entropy units. The appropriate "temperature" is not clearly defined for this system, but the ambient temperature of 300° is probably a high upper limit, since all new automobiles are in, more or less, the same state. Hence, we estimate that $T\Delta S$ or $TI$ is less than about 0.12 ergs. Even if I were as large as 1 entropy unit, the entropic contribution to the free energy of an automobile would surely be less than $10^3$ ergs per vehicle, which would correspond to about $3 \times 10^{-10}$ kwh per vehicle. Hence, the figure of $10^{-11}-10^{-10}$ was taken as an upper limit in the text; the correct figure is probably a thousandfold smaller.

### FOOTNOTES

*The same concept has been used under the name "energy husbandry," by R. H. Socolow.

[1] H. H. Landsberg, L. L. Fischman and J. L. Fisher, "Resources in America's Future" (Resources for the Future, Inc., Washington, D.C., 1963).

[2] "Historical Statistics of the United States, Colonial Times to 1957" (U.S. Dept. of Commerce, Washington, D.C., 1960).

[3] "Handbook of Chemistry and Physics," 50th Ed (Chemical Rubber Co., Cleveland, Ohio, 1969).

[4] L. Brillouin, "Science and Information Theory," 2nd Ed. (Academic Press, Inc., New York, 1962).

[5] E. A. Guggenheim, "Thermodynamics," (North-Holland Publishing Co., Amsterdam, 1959).

[6] See Ref. 1, Table A10–28, p. 761.

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## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## EDUCATION AMENDMENTS OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The second assistant legislative clerk read as follows:

> A bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The pending question is on agreeing to the motion to concur in the amendment of the House to S. 659, with an amendment in the nature of a substitute. The motion is open to amendment.

Mr. PELL obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. PELL. I yield to the majority leader as much time as he desires.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I yield myself 10 minutes from the time of this side on the bill.

The PRESIDING OFFICER. The Senator from Michigan may proceed.

Mr. GRIFFIN. Mr. President, later in the day, with the hope and the objective of voting sometime tomorrow, I plan to offer an amendment. The amendment I will offer will seek by statute to prohibit the forced busing of schoolchildren. It would withdraw from the Federal courts jurisdiction to require that pupils be bused to and from school or from school district to school district on the basis of race. It would prohibit the Department of Health, Education, and Welfare from requiring forced busing as a condition for receiving Federal funds.

Mr. President, I regret that it has become necessary to seek such restrictions upon the courts and the Department of Health, Education, and Welfare. But I, for one, have concluded, as have the vast majority of Americans, black and white, northerners and southerners, that too many courts and bureaucrats have lost sight of the fundamental meaning of the 14th amendment and the mandate of Brown versus Board of Education case.

In Brown, the Supreme Court held that State-imposed segregation in public education is denial of equal protection of the law. In effect, the court said that government must be color blind. I am convinced that most Americans today accept and support that fundamental principle. I agreed with the Brown decision in 1954, and I support it now. But, unfortunately, since then some of the courts have gone well beyond Brown and well beyond the bounds of commonsense in requiring that schoolchildren be bused long distances because they are black, because they are white, because they are brown, because they are yellow or because they are red, in order to achieve an artificial and superficial racial balance.

In 1954, when the Supreme Court decided the Brown case, some black and white pupils were being bused miles past their neighborhood schools in order to attend schools that were segregated as a matter of law. Now, in 1972, instead of being allowed to attend those neighborhood schools, some black and white students are again being bused miles past their neighborhood schools by court order.

Mr. President, last year I introduced a joint resolution proposing an amendment to the Constitution which reads as follows:

> This Constitution shall not be construed to require that pupils be assigned or transported to public schools on the basis of their race, color, religion, or national origin.

The statutory amendment which I propose today reiterates my belief that it is fundamentally wrong for any instrumentality of government, including a court, to discriminate in the treatment of children on the basis of race.

Forced busing has not only proven ineffective but it is proving counterproductive. It is a wasteful diversion of tax dollars which should be used to improve the quality of education. In many areas it is increasing racial tensions instead of moving toward the goal of racial harmony. It is accelerating the flight from the cities to the suburbs and beyond. It runs counter to the desire of most parents, black and white, to see their children educated in a quality school close to home.

Mr. President, nearly everyone has reached the conclusion that forced busing is wrong—everyone, apparently, except some of the Federal courts and some of the bureaucrats.

Recently an article in the New Republic contained this statement:

> Parents rightly feel that it is physically difficult, if not impossible, to maintain a connection with the school and make their needs and wishes felt if the school is 15 miles away.

Continuing to quote from the New Republic:

> Busing, then, is not only disruptive and fraught with costs that are not always offset by the benefits it brings, but often fails to achieve the benefits it promises. It is therefore foolhardy to concentrate on massive school integration and the promise that busing can produce it as the chief objective in public education.

Mr. President, recently a distinguished black writer for the Detroit News, June Brown Gardner, wrote an article explaining why many blacks in the Detroit area are opposed to forced busing. Reading from that article, I quote:

> But in Detroit, where the majority of students are black and the city is fast becoming black, the concept of moving the entire city to the white suburbs for an education is humiliating to black people and an affront to black pride. Busing says in effect that any school which is all black is all bad. Black people cannot accept this implication because we know that black teachers are equal to white, black pupils are equal to white, and black student potential is equal to white.

Continuing to quote June Brown Gardner's article in the Detroit News:

> If a parent has a valid reason for wanting his child bused to another school, every consideration should be given to his request, but to bus thousands of Detroit children for the illusive goal of racial balance is humiliating to black pride, destructive to the building of a black identity, a massive waste of everybody's money, and a total disregard for the concept of equality which demands that every school, no matter where it is located, be equal to every other school.

Mr. President, reference has been made to the article in the Wall Street Journal written by Vermont Royster recently. It read in part:

> The law of a free people ought to prohibit segregation of any of its citizens in any form. A law to compel people to move from one place to another would make our society no longer one of a free people.
>
> But what we, the elders, have refused to decree for ourselves and our own lives we have, by some tortured logic, decreed for our children. However you may dismiss the inconvenience or the cost of this wholesale busing, we have asked our children to suffer what we will not. And the wrong of that cannot easily be dismissed.

Mr. President, New Detroit, Incorporated, a civic-minded organization which was appointed by the Governor and the mayor of Detroit after the riots in Detroit several years ago, and which has done an excellent job—I think almost everyone would agree—recently paid for a highly professional opinion poll company to take a survey of black opinion within the city of Detroit. One of the questions raised in that survey was this one:

> Would you be willing to have your children and children in this neighborhood go to a school at a further distance from home than the schools they now attend in order to go to an integrated school?

Of those polled, 62.9 percent answered the question "No."

In another survey conducted by the Detroit News, 74 percent of those polled agreed with the following statement:

> School money in Detroit should be spent for better schools and not on busing.

Mr. President, I can only echo those sentiments. School money in the United States will be better spent for better teachers and better schools, rather than for busing purely for the reason of achieving some artificial racial balance.

The question, of course, before the Congress is: What can we do about the situation? I must say that, as a lawyer, I fully realize and recognize the difficulties——

The PRESIDING OFFICER. The Senator's allotted time has expired.

Mr. GRIFFIN. Mr. President, I yield myself an additional 10 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GRIFFIN. Mr. President, I fully recognize the difficulties of trying to deal in a statutory way with a matter that has been dealt with by the Supreme Court as an interpretation of the Constitution. The question necessarily arises whether there is anything that the Congress can do short of the adoption of a resolution to amend the Constitution which would have effect and be recognized on review by the Supreme Court of the United States.

It seems to me that there are two things that Congress can do by statute, and perhaps others. First of all, I believe that the adoption of an amendment similar to an amendment adopted in the other body, which would be procedural in effect and would merely delay the efective date for the implementation of a court order requiring forced busing until the appeal procedures had been exhausted, should be held constitutional by the Supreme Court. There Congress would only be dealing in a procedural rather than a substantive way with the matter. I would think that very clearly Congress by law could say that a court order requiring forced busing for the purposes of achieving racial balance could be delayed in terms of its implementation at least until the decision had been reviewed, if a review were to be sought within the time allotted.

The other way that Congress can deal, perhaps, constitutionally with this subject is to take the approach contained in the amendment that I shall introduce. That is to exercise a power which Congress has under the Constitution in terms of delineating the jurisdiction of the courts under Article III of the Constitution. I must say that I move down this particular path with some reluctance. I voted against an amendment which the distinguished Senator from North Carolina offered at one time dealing with the criminal laws and the laws of evidence. I do not remember all the circumstances and details, but he wanted, in effect, to modify a Supreme Court decision by withdrawing jurisdiction of the Supreme Court in that particular area and to a limited extent. I opposed his amendment at the time, saying that I thought it was much preferable to allow the Supreme Court to correct the situation itself.

That would be the preferable route in this situation as well. But looking at the question of constitutionality, and whether Congress has the authority, it seems to me that the Senator from North Carolina presented then a very persuasive argument that Congress, indeed, does have authority and could constitutionally adopt a statute partially withdrawing the jurisdiction of the Court in an area such as this. And it seems to me that it would serve a good purpose for Congress to go on record clearly indicating its support for such an approach by statute, which would then put the Supreme Court into the position of either clarifying or modifying its own decisions to make clear that forced busing is not constitutionally required, or passing upon the constitutionality of this attempt by Congress to delineate a restricted jurisdiction.

Mr. ERVIN. Mr. President, will the Senator yield briefly?

Mr. GRIFFIN. I yield to the Senator from North Carolina.

Mr. ERVIN. I call the Senator's attention to certain authorities bearing upon this point. Every Member of the Senate has in his office a book entitled "The Constitution of the United States of America, Revised and Annotated 1963." This book was originally annotated by one of the greatest constitutional scholars this country has ever known, Prof. Edwin S. Corwin of Princeton University.

It states, on page 705, with respect to the power of Congress over the jurisdiction of Federal courts inferior to the Supreme Court:

> The manner in which the inferior Federal courts acquire jurisdiction, its character, the mode of its exercise, and the objects of its operation, are remitted without check or limitation to the wisdom of the legislature.

Then on page 700, after reviewing the decisions of the Supreme Court interpreting the provision of clause 2 of the second section of article III of the Constitution which prescribes:

> In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

This book, annotated by this great constitutional scholar, says:

> The result is to vest an unrestrained discretion in Congress to curtail and even abolish the appellate jurisdiction of the Supreme Court, and to prescribe the manner and forms in which it may be exercised.

I think those statements, as well as multitudes of decisions, establish beyond any question, in accordance with the words of article III, that Congress has the power to define or to limit the appellate jurisdiction of the Supreme Court and the jurisdiction of all courts inferior to the Supreme Court.

Mr. GRIFFIN. The Senator from North Carolina knows that under the Constitution Congress has the right to establish inferior courts; is that not correct?

Mr. ERVIN. Yes. And I would suggest to the Senator that the reason I think the men who drafted and ratified the Constitution put these provisions in the Constitution, giving Congress the power to regulate the appellate jurisdiction of the Supreme Court and all of the jurisdiction of courts inferior to the Supreme Court, was that they realized that the Supreme Court had the power to check unconstitutional actions on the part of the President or on the part of Congress, and that there should be some check on the exercise of unconstitutional powers by the Supreme Court, and this was given to Congress, to keep the Supreme Court and the other Federal courts from straying far beyond the bounds of their constitutional authority. It is the only check provided in the Constitution on the courts.

Mr. GRIFFIN. Mr. President, it seems to me that while the only sure way, perhaps, of dealing effectively with this subject is to adopt a constitutional amendment, there is understandable reluctance on the part of many people, including the junior Senator from Michigan, who has himself introduced the constitutional amendment, to go that route unless it is absolutely necessary. There is no question that the Constitution should be the embodiment of broad principles.

The PRESIDING OFFICER. The time of the Senator has expired. Does the Senator wish additional time?

Mr. GRIFFIN. I yield myself an additional 10 minutes.

Mr. President, I was saying that most people, I believe, including those who have introduced proposals to amend the Constitution—and that includes the junior Senator from Michigan—are reluctant to go that route if it is possible to deal with this subject effectively in some other way. But there should be no mistake about it: If it should become necessary to adopt a constitutional amendment in order to bring reason and commonsense into a matter of educating our children, the American people would demand it—if not in this session, I think that in the next session Congress would be ready to adopt such an amendment.

In the meantime, I think there is wisdom in pursuing the other courses that are available. Although I am persuaded by the arguments of the distinguished Senator from North Carolina that this approach would be held constitutional, I recognize, nevertheless, that until the Supreme Court has ruled on this particular amendment, there is always the possibility that the Supreme Court could hold what we might do to be unconstitutional. So we would run a risk, but it seems to me that it is a risk we should accept.

The Senator from North Carolina has eloquently pointed out some of the provisions in article III of our Constitution.

In ex parte McCardle, the Supreme Court of the United States held that Congress had the power to rescind the Court's authority to review applications for writs of habeas corpus. Certainly, that was a far-reaching exercise of the authority to limit the Court's jurisdiction at an early date, and the Court held that Congress had such power under article III.

Chief Justice Chase, writing for the Court, said:

> We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution, and the power to make exceptions to the appellate jurisdiction of this court was given by express words.

Sixty-four years later, when Federal courts were attempting to control labor disputes by issuing injunctions, Congress passed the Norris-LaGuardia Act, which expressly withdrew from Federal courts their jurisdiction to invoke a particular remedy in a given situation.

Mr. President, that is what we would be trying to do, essentially, in this amendment—not to withdraw the jurisdiction of the courts to deal with the subject of segregation or discrimination generally, or to pass upon interpretations of the 14th amendment.

Some people argue that the amendment I will propose would repeal the 14th amendment. That is absurd. It would not repeal the 14th amendment at all. But it would withdraw from the courts one remedy—a remedy which in my opinion and which in the opinion of most Americans is a radical, unreasonable remedy—a remedy of busing, just as Congress said to the courts at an earlier date that the Federal courts in labor disputes may not issue injunctions.

It would seem to me that the adoption of this kind of amendment might get the court back on track, might get the court back on the track where it should be and where I think most Americans thought the court was when it announced the Brown decision, and that is that government at all levels should be color blind.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. GRIFFIN. I yield.

Mr. ERVIN. Does not the Senator from Michigan think that the reason Congress passed the Norris-LaGuardia Act and prohibited virtually all issuance of injunctions in labor controversies was that the courts had grossly abused their power to issue injunctions and had done an injustice to labor?

Mr. GRIFFIN. The Senator from North Carolina makes an excellent point.

Mr. ERVIN. Does not the Senator think an equally good case can be made of the fact that the courts are now abusing their powers and are committing an injustice upon the little school children of America, and for that reason Congress will have an equal duty to intervene in behalf of little children, as it did in the case of labor?

Mr. GRIFFIN. I think the Senator from North Carolina makes a persuasive argument.

Mr. President, there are other similar instances of statutes passed by Congress which have circumscribed and limited the jurisdiction of the Federal courts; and the Senator from North Carolina, in times past, has put a great deal of material in the RECORD making a case for this particular approach.

At the present time, I do not know whether or not the amendment, when I offer it, will include the addition of the amendment adopted in the House, which would delay the effectiveness or implementation of a court order until the appeal procedures available had been exhausted. Perhaps that amendment will be offered separately. In any event, I want to indicate my strong support for that amendment as well as the amendment I have described, and which I will offer later, to withdraw from the jurisdiction of the Federal courts the power to issue orders requiring forced busing on the basis of race.

Mr. President, I want to indicate that if certain other approaches are presented to Congress—if, for example, an amendment which seeks to deal with this problem strictly on the basis of so-called freedom of choice is submitted in a manner similar to the amendments along this line that were offered in earlier debates—I will oppose that amendment, because I think it would go too far, unless it would be modified.

For example, if construed literally, it

would say that if a school board constructed a brandnew school, and there were three or four other schools, some older and not so attractive, under a strict interpretation of freedom of choice, all the schoolchildren in the school district presumably would have the right, under freedom of choice, to attend a brandnew school. It seems to me that helps to point up why the power of freedom of choice, literally interpreted, is unrealistic. I think that a school board does need the authority to assign students on a reasonable basis to schools within the district, provided always that assignment is not based on race, color, national origin, or religion, which is the thrust of my amendment.

If amendments are offered, and some have been in the past, which go so far as to prohibit voluntary busing by a school district or a school board, then I would be obliged again to oppose such an amendment. I am conscious of the fact that in many areas—in the city of Detroit, for example, we have had in effect a voluntary program, adopted voluntarily by the local school authority, the purpose of which is quality education, and the integration or racial mix is an incident thereof.

It is not designed primarily for the purpose of establishing any particular percentage or degree of racial mix. The voluntary busing program in Detroit does help achieve that goal.

I want to indicate that if such an amendment should be offered, and it is susceptible of that interpretation as prohibiting or outlawing a voluntary busing program, I would again oppose it.

Mr. ERVIN. The Senator from North Carolina wishes to know if he has correctly interpreted the amendment of the Senator from Michigan. As I interpret his amendment, it does not apply to anything which a State may voluntarily desire to do. It applies only to forced busing at the instance of the Federal Government; is that not correct?

Mr. GRIFFIN. The Senator from North Carolina is absolutely correct. The amendment that the junior Senator from Michigan will offer would not apply to or affect any voluntary busing program. It would only prohibit forced busing that would be ordered by a Federal court.

### PRIVILEGE OF THE FLOOR

Mr. PELL. Mr. President, I ask unanimous consent that the following staff members of the Committee on Labor and Public Welfare be admitted to the privilege of the floor during consideration of the message of the House on S. 659: Stephen J. Wexler, Richard D. Smith, Roy Millenson, Daniel Moyle, Richard Segal, Albert Sidney Johnson III, Kevin McKenna, and Nick Edes.

The PRESIDING OFFICER (Mr. Allen). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a member of my staff, Mr. Robert Lewis, may also be permitted the privilege of the floor during consideration of S. 659.

The PRESIDING OFFICER. Without objection, it is so ordered.

### QUORUM CALL

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Tunney). On whose time?

Mr. PELL. On my time.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Tunney). Without objection, it is so ordered.

### PRIVILEGE OF THE FLOOR

Mr. PELL. Mr. President, I ask unanimous consent that during the consideration of S. 659, the following staff members of the Select Committee on Equal Educational Opportunity be authorized to be on the floor: William C. Smith, Bert Carp, Leonard Strickman, Francis Hennigan, Carolyn Fuller, and Donald Harris.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, and I do not intend to object, I would ask the distinguished manager of the bill whether the select committee to which he has referred has jurisdiction over the pending legislation?

Mr. PELL. The select committee has no legislative jurisdiction.

Mr. BYRD of West Virginia. Mr. President, I have no objection. However, it is understood that that subcommittee would not be entitled to have four additional staff members present on the floor over and above the names specified in the request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 213. An act to repeal the "cooly trade" laws; and

H.R. 6420. An act to amend the Immigration and Nationality Act.

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## HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on the Judiciary:

H.R. 213. An act to repeal the "cooly trade" laws; and

H.R. 6420. An act to amend the Immigration and Nationality Act.

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## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

### AMENDMENT NO. 663

Mr. ERVIN. Mr. President, I call up amendment No. 663 and modify the amendent on page 1, line 7, by striking out the words "a bill to amend the Higher Education Act of 1965," and substitute in lieu thereof the words, "the committee amendment to the House amendment to the Higher Education Act of 1965".

The PRESIDING OFFICER. The amendment is so modified, and, without objection, the amendment, as modified, will be printed in the Record.

The amendment, as modified, is as follows:

The committee amendment to the House amendment to the Higher Education Act of 1965, the Vocational Education Act of 1963, and related Acts, and for other purposes, is amended as follows: At the end of the committee amendment to the House amendment insert the following new title:

TITLE —PROHIBITION AND LIMITATIONS WITH RESPECT TO THE TRANSPORTATION OF PUBLIC SCHOOL STUDENTS TO CORRECT RACIAL IMBALANCE

EFFECTIVE DATE OF COURT ORDER WITH RESPECT TO THE TRANSFER OR TRANSPORTATION OF STUDENTS

Sec. . Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purpose of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

Sec. . No funds appropriated for the purpose of carrying out any program subject to the provisions of the General Education Provisions Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system. No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee.

PROHIBITION AGAINST BUSING FOR EMERGENCY SCHOOL AID

SEC. . No funds appropriated pursuant to any provision of Federal law making funds available for financial assistance to local educational agencies in order to establish equal educational opportunities for all children on an emergency basis may be used to acquire or pay for the use of equipment for the purpose of transporting children to or from any school, or otherwise to pay any part of the cost of any such transportation.

NEIGHBORHOOD SCHOOLS

SEC. . Nothing in this Act shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other methods of student assignment whether or not the use of such geographic attendance areas results in the complete desegregation of the schools of such agency.

The PRESIDING OFFICER. How much time does the Senator from North Carolina yield himself?

Mr. ERVIN. Mr. President, I yield myself such time, within the limits of 1 hour, as I may consume.

This is an amendment which would restore to the committee substitute the amendments which the House had made in respect to the original bill when it was under consideration in the House.

Mr. President, we have had some misgivings expressed by some persons to the proposal that the Congress limit the jurisdiction of Federal courts. This has been a practice of Congress ever since the beginning of this Nation. We have just spent a month considering the so-called EEOC bill. That bill, in its original form, contained a provision which would have limited the jurisdiction of Federal courts. It expressly provided that the courts could not review the findings of the Commission with respect to whether or not an employer had been willing to make an agreement satisfactory to the Commission under the bill. That was a very crucial question that the court was denied the power to consider, because upon that finding depended the whole jurisdiction of the Commission to do anything.

Mr. President, with respect to many legislators, it depends upon whose ox is being gored. When this Congress adopted the Norris-LaGuardia Act, it took away from the Federal courts about 95 percent of their jurisdiction and powers. It did this by virtually depriving the Federal courts of the power to issue any injunction in any labor controversy. Most of the jurisdiction of the courts of equity lies in their power to issue restraining orders and injunctions. And Federal courts are courts of equity.

There is not a Member of this Congress who has not voted on occasion to limit the power and jurisdiction of the Federal courts. When Congress passed the Voting Rights Act of 1965, Congress decreed that every courthouse door in the United States should be nailed shut against 40 counties in my State and six other Southern States and that they could not get relief anywhere on the face of this earth, of a judicial nature, except by traveling, in some cases, 1,000 miles and bringing their witnesses to one court, the court sitting in the District of Columbia, the district court—where, I assert, knowledgeable Members of Congress knew that it would be virtually impossible to get a panel of judges that would hold the scales of justice evenly in any case arising in the South having racial overtones. My assertion is borne out by the assignment of a panel of judges to hear the case involving the trial of my county of Gaston, where no discrimination in voting had occured within the memory of any living man, which sought to obtain relief from the court.

There are some provisions of the Constitution which are so plain that the wayfaring man may run and still read and understand them, and these are the provisions of the Constitution which give Congress the exclusive power to define the appellate jurisdiction of the Supreme Court and all of the jurisdiction of all of the other Federal courts.

Section 1 of article III of the Constitution provides that the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

Every Federal court, except the Supreme Court, is a creature of the Constitution, and the creator always has the power to define what its creatures shall do. And so it is not surprising that the Supreme Court has held, under this section of article III, in cases virtually past number, that Congress can not only define and limit the jurisdiction of Federal courts inferior to the Supreme Court, but that it can even abolish such courts. And Congress has on occasion abolished such courts created by it. It did this in connection with the Commerce Court, which existed at one time. It also did it in connection with the circuit courts, which existed at one time in this Nation.

I wish to call the attention of the Senate to the case of Lockerty against Phillips, which is reported in 319 U.S. at page 182. This was a case which involved the power of Congress to prescribe what jurisdiction Federal courts should have under the Emergency Price Control Act of 1942. On page 187 the Court had this to say with reference to the jurisdiction of all Federal courts other than the Supreme Court:

> All Federal courts other than the Supreme Court derive their jurisdiction wholly from the exercise of the authority to ordain and establish inferior courts conferred on Congress by Article III, Section 1 of the Constitution. Article III left Congress free to establish inferior Federal courts or not as it felt appropriate. It could have declined to create any such courts, leaving suitors to the remedies afforded by the State courts, with such appellate review by this court as Congress might prescribe. The congressional power to ordain and establish inferior courts includes the power of investing them with jurisdiction, either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good.

Interpreting that same act, the Court held, in the case of Yakus against the United States, reported in 321 U.S. at page 414, that Congress had the power to deny jurisdiction to the Federal district courts, as inferior courts, and that by this Emergency Price Act it did deny such courts the power to consider whether a person charged with a criminal violation of the Emergency Price Act had been deprived of his liberty and his property by that act in violation of the due process clause of the fifth amendment.

Some days ago I called the attention of the Senate to the case of Ex parte McCardle. Ex parte McCardle involved the power of Congress to regulate the appellate jurisdiction of the Supreme Court, and it was a drastic decision.

McCardle was a newspaper editor and publisher in the State of Mississippi in the days of reconstruction. After the last Confederate soldier had laid down his arms and returned to peaceful pursuits, under the Reconstruction Act. Federal troops were garrisoned in Mississippi—and I might add that for years after that tragic episode they were stationed in my hometown of Morganton, N.C.

The Reconstruction Acts provided that the military commander of the military district embracing a Southern State could order men tried before military commissions instead of in civil courts. Several years before the McCardle case was handed down, the Supreme Court of the United States expressly held, in Ex parte Milligan, that where the civil courts of a State or the Federal courts within a State were operating, no American citizen who was a civilian could be tried before a military commission. The Supreme Court held, in Ex parte Milligan, that a civilian under those circumstances had a constitutional right to be tried in a civil court, that he had a constitutional right to be indicted by a grand jury before he could be placed on trial for an infamous crime, and that he had a constitutional right to be tried before a petit jury; and it set aside the conviction of Milligan, a civilian, who had been tried and sentenced to death by a military commission.

Despite the decision in Ex parte Milligan, the military commander in Mississippi had McCardle arrested by military authorities and had him scheduled for trial before a military commission instead of a civil court. And, lo and behold, they had him arrested and scheduled for trial before a military commission because McCardle had written an editorial criticizing the military occupation of Mississippi and criticizing the military officials, as he certainly had a right to do under the freedom of the press clause of the first amendment.

So here was a man who, according to the decision in Ex parte Milligan, was being deprived of his liberty in violation of the Constitution, who was being denied his right to be tried before a civil court rather than a military commission, and who was being held and detained for trial for exercising a right guaranteed by the first amendment of the Constitution of the United States. McCardle applied to the local Federal court—it was then called a circuit court—for a writ of habeas corpus. When the circuit court refused to release him at the hearing upon the application for the writ of habeas corpus and remanded him to the military authorities for trial, McCardle appealed to the Supreme Court of the United States under an act of Congress which conferred upon the Supreme Court of the United States the power to review the refusal of an inferior Federal court to release a man upon a writ of habeas corpus. McCardle's case was argued before the Supreme Court of the United States, and the Supreme Court took it under advisement.

Before the Supreme Court could write and announce its decision, the radicals who controlled Congress in that sad episode of our history repealed the act of Congress which had given McCardle the right to have his case reviewed by the Supreme Court of the United States; and the Supreme Court handed down a decision at its December 1868 term dismissing McCardle's appeal, stating that it dismissed the appeal "for want of jurisdiction."

In the course of the opinion, which was written by Chief Justice Chase, this statement was made:

> It is quite true, as argued by the counsel for the petitioner, that the appellate jurisdiction of this court is not derived from acts of Congress. It is, strictly speaking, conferred by the Constitution, but it is conferred "with such exceptions and under such regulations as Congress shall make."

In making that statement, the Court was quoting from clause 2 of the second section of article III, which reads as follows:

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

I submit that a high school boy who is capable of reading the English language to any extent whatever is able to ascertain that under that provision of the Constitution, and by the plain English words in it, Congress is given the power to prescribe such exceptions and to impose such regulations as it may see fit in respect to the appellate jurisdiction of the Supreme Court.

In the course of the McCardle opinion, Chief Justice Chase said further:

> The exception to the appellate jurisdiction in the case before us, however, is not an inference from the affirmation of other appellate jurisdiction.
>
> It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of habeas corpus is expressly repealed. It is hardly possible to imagine a plainer instance of positive exception.
>
> We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution, and the power to make exception to the appellate jurisdiction of this court is given by express words.
>
> What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.

So the Supreme Court dismissed the appeal because the act of Congress permitting it had been repealed and, in consequence, it no longer had any jurisdiction in the matter.

There have been many theoretical writers of law who do not like the McCardle case, and they do not like what article III of the Constitution says in plain English words. I was present on one occasion when one of these theorists asserted that Congress did not have the power to limit the jurisdiction of Federal courts because of what he described as the doctrine of separation of powers and the supremacy clause of the Constitution. He expatiated on this matter for about 50 minutes. When he got through, I said:

> I think, without doing any bragging, that I can demolish your arguments in about 3 seconds.
>
> With respect to the doctrine of the separation of powers, the Constitution itself separates the powers to prescribe the jurisdiction of Federal courts by giving it to Congress in article III and by denying it to the courts in the same article.
>
> With respect, to the supremacy clause of the Constitution, the supremacy clause says that this Constitution, the acts of Congress enacted pursuant to it, and treaties made by the United States shall be the supreme law of the land. The supremacy clause does not say that all this Constitution except article III shall be the supreme law of the land. It says that article III as well as all the other provisions of the Constitution shall be the supreme law of the land.

Mr. President, I asked the Library of Congress to furnish me with a list of some statutes in which Congress had undertaken to define and limit the jurisdiction of the Federal courts. I have just received a reply to my request dated February 23, 1972, in which the Library of Congress states that the following is a list of statutes in which Congress has withdrawn, restricted, or ignored the ordinary orginal jurisdiction of the U.S. district courts, the appellate jurisdiction of the U.S. courts of appeal, and the original and appellate jurisdiction of the U.S. Supreme Court. The study lists some 77 statutes in which Congress has exercised its constitutional powers to define or limit the jurisdiction of the Federal courts. I ask unanimous consent that the statement and the list of statutes be printed in the RECORD.

There being no objection, the statement and list were ordered to be printed in the RECORD, as follows:

### VARIATIONS IN FEDERAL COURT JURISDICTION

The following is a list of statutes in which Congress has withdrawn, restricted or ignored the ordinary original jurisdiction of the United States District Courts, the appellate jurisdiction of the United States Courts of Appeals and/or the original and appellate jurisdiction of the United States Supreme Court:

5 U.S.C. sections 701–706—Judicial review under the Administrative Procedure provides that administrative actions supported by substantial evidence be upheld.

5 U.S.C. section 8715—Provides for concurrent original jurisdiction in the Court of Claims and the district courts of the United States to hear cases under chapter 87 of title 5 (Life Insurance).

5 U.S.C. section 8912—Provides for concurrent original jurisdiction in the Court of Claims and the district courts of the United States to hear cases under chapter 89 of title 5 (Health insurance).

6 U.S.C. section 5—Provides for a five year limitation of liability against sureties for officials of the United States.

7 U.S.C. section 8—Provides for judicial review under the Commodity Exchange Act with original jurisdiction in the United States Courts of Appeal restricting modification or setting aside of agency action to those cases where the order is unsupported by the weight of the evidence, is beyond the jurisdiction of the agency, is unconstitutional, or where notice or hearing were denied.

7 U.S.C. section 135b (d)—Provides for judicial review under chapter 6 (Insecticides) of title 7 with original jurisdiction in the United States Courts of Appeals in which the findings of Administrator of the Environmental Protection Agency must be sustained if supported by substantial evidence on the record as a whole.

7 U.S.C. section 194—Provides for judicial review of hearings of the Secretary of Agriculture against meat packers found to have violated 7 U.S.C. sections 191–195 with original jurisdiction in the United States Courts of Appeals.

7 U.S.C. section 210—Provides for judicial review of the Secretary of Agriculture against stockyard violations of 7 U.S.C. sections 205–208 with original jurisdiction district courts of the United States and where the findings and orders of the Secretary are prima facie evidence of the facts.

7 U.S.C. section 292—Provides for judicial review of hearings of the Secretary of Agriculture against associations of agricultural products producers with original jurisdiction in the district courts of the United States and where the findings of the Secretary are prima facie evidence of the facts.

7 U.S.C. section 499g (b)—Provides for judicial enforcement of reparation orders under chapter 20A (Perishable Agricultural Commodities) of title 7 with original jurisdiction in the district courts of the United States and where the findings of the Secretary are prima facie evidence of the facts.

7 U.S.C. section 1115—Provides for judicial review of allotments made under chapter 33 of title 7 with original jurisdiction in the United States Courts of Appeal and where the findings of fact of the Secretary of Agriculture, if supported by substantial evidence, are conclusive unless clearly arbitrary or capricious.

7 U.S.C. section 1366—Provides for judicial review of market quotas under sections 1361–1367 of title 7 with original jurisdiction in the district courts of the United States and where the findings of fact by the review committee, if supported by the evidence, are conclusive.

7 U.S.C. section 2050—Provides for judicial review of a refusal to issue or renew, or suspension or revocation of a certificate of farm labor contractor registration with original jurisdiction in the district courts of the United States and where the findings of fact of the Secretary of Agriculture may not be set aside if supported by substantial evidence.

7 U.S.C. section 2149(b)—Provides for judicial review of cease and desist orders issued by the Secretary of Agriculture for violations under 7 U.S.C. section 2142 with original jurisdiction in the United States Courts of Appeal in accordance with 5 U.S.C. sections 701–706.

8 U.S.C. section 1105a—Provides for judicial review of deportation order in which the Attorney General's findings of fact are conclusive if supported by reasonable, substantial and probative evidence on the record as a whole.

10 U.S.C. ch. 47—Provides, inter alia, for court-martial jurisdiction.

12 U.S.C. section 1730(j)*—Provides for judicial review of cease and desist orders is-

sued under 12 U.S.C. section 1730 with original jurisdiction in the United States Courts of Appeal and proceeding as provided in chapter 7 of title 5.

12 U.S.C. section 1730a (k)—Provides for judicial review of orders of the Federal Savings and Loan Insurance Corporation with original jurisdiction in the United States Courts of Appeals proceedings as provided in chapter 7 of title 5.

12 U.S.C. section 1786(i)—Provides for judicial review of cease and desist orders issued under 12 U.S.C. section 1786 with original jurisdiction in the United States Courts of Appeals proceedings as provided in Chapter 7 of title 5.

12 U.S.C. section 1818(h)—Provides for judicial review of cease and desist orders issued under 12 U.S.C. section 1818 with original jurisdiction in the United States Courts of Appeals proceedings as provided in chapter 7 of title 5.

12 U.S.C. section 1848—Provides for judicial review of the orders of the Board of Governors of the Federal Reserve System with original jurisdiction in the United States Courts of Appeals and where the findings of fact by the Board are conclusive if supported by substantial evidence.

15 U.S.C. sections 15b, 16—Provides for statutes of limitation in antitrust actions.

15 U.S.C. section 21(c)—Provides for judicial review of cease and desist orders under 15 U.S.C. section 21 with original jurisdiction in the United States Courts of Appeals where the agency's findings of fact are conclusive if supported by substantial evidence.

15 U.S.C. section 45(c)—Provides for judicial review of cease and desist orders under 15 U.S.C. section 45 with original jurisdiction in the United States Courts of Appeals where the agency's findings of facts if supported by evidence is conclusive.

15 U.S.C. section 77i—Provides for judicial review of Securities Exchange Commission orders governing domestic securities under 15 U.S.C. section 77a *et seq.* with original jurisdiction in the United States Courts of Appeals where the findings of the Commission are conclusive if supported by evidence.

15 U.S.C. section 78y—Provides for judicial review of orders issued under chapter 2B of title 15 with original jurisdiction in the United States Courts of Appeals where the findings of fact by the Commission are conclusive if supported by substantial evidence.

15 U.S.C. section 79x—Provides for judicial review of orders issued under chapter 2C of title 15 with original jurisdiction in the United States Courts of Appeals where the findings of fact by the Commission are conclusive if supported by substantial evidence.

15 U.S.C. section 80a-42—Provides for judicial review of orders issued under subchapter I of chapter 2D of title 15 with original jurisdiction in the United States Courts of Appeals where the findings of fact made by the Commission are conclusive if supported by substantial evidence.

15 U.S.C. section 80b-13—Provides for judicial review of orders issued under subchapter II of chapter 2D of title 15 with original jurisdiction in the United States Courts of Appeals where the findings of fact made by the Commission are conclusive if supported by substantial evidence.

15 U.S.C. section 687e(f)—Provides for judicial review of orders issued under 15 U.S.C. section 687f with original jurisdiction in the United States Courts of Appeals proceeding as provided in chapter 7 of title 5.

15 U.S.C. section 717r—Provides for judicial review of orders issued under chapter 15B of title 15 with original jurisdiction in the United States Courts of Appeals and where findings of fact made by the Commission are conclusive when supported by substantial evidence.

15 U.S.C. section 1071—Provides for appeal to the United States Court of Customs and Patent Appeals in trademark cases.

15 U.S.C. section 1193(e)—Provides for judicial review of flammability standards and regulations with original jurisdiction in the United States Courts of Appeals proceedng as provided in chapter 7 of title 5.

15 U.S.C. section 1193(e)—Provides for judicial review of standards prescribed by regulation issued under 5 U.S.C. section 553 with original jurisdiction in the United States Courts of Appeals proceeding as provided in chapter 7 of title 5.

16 U.S.C. Sec. 8251—Provides for judicial review of Federal Power Commission orders under chapter 12 of title 16 with original jurisdiction in the United States Courts of Appeals where findings of the Commission are conclusive where supported by substantial evidence.

17 U.S.C. Sec. 115—Provides for a three year statute of limitations on criminal and civil actions under title 17 (Copyrights).

18 U.S.C. Sec. 401—Limits the contempt powers of the United States Courts to conduct stated in Sec. 401.

18 U.S.C. ch. 119—Limits conditions under which a warrant approving the interception of oral or wire communications may be intercepted.

20 U.S.C. Sec. 241k—Provides for judicial review for certain actions of the Commissioner of Education under 20 U.S.C. Sec. 241 with original jurisdiction in the United States Courts of Appeals where findings of the Commissioner are conclusive if supported by substantial evidence.

20 U.S.C. Sec. 351d(f)—Provides for judicial review of the Commissioner's action in terminating payments to the States under chapter 16 (Public Library Services and Construction) of title 20 with original jurisdiction in the United States Courts of Appeals where the findings of fact made by the Commissioner are conclusive if supported by substantial evidence.

20 U.S.C. Sec. 721—Provide for judicial review of certain actions under chapter 21 (Higher Education Facilities) of title 20 with original jurisdiction in the United States Courts of Appeals where findings of fact made by the Commissioner are conclusive if supported by substantial evidence.

20 U.S.C. Sec. 827—Provides for judicial review of certain actions under chapter 24 (Grants for Educational Materials, Facilities and Services, and Strengthening of Educational Agencies) of title 20 with original jurisdiction in the United States Courts of Appeals where the findings of fact made by the Commissioner are conclusive if supported by substantial evidence.

20 U.S.C. Sec. 869a—Provides for judicial review of certain actions taken under part A or B of subchapter III of chapter 24 of title 20 with original jurisdiction in the United States Courts of Appeals where the findings of fact of the Commission are conclusive if supported by substantial evidence.

20 U.S.C. Sec. 1008—Provides for judicial review of certain action taken on community service program grants, 20 U.S.C. Secs. 1001–1011 with original jurisdiction in the United States Court of Appeals where the findings of fact of the Commissioner are conclusive if supported by substantive evidence.

20 U.S.C. Sec. 1110c—Provides for judicial review of certain actions taken under 20 U.S.C. Secs. 1110a, 1110b with original jurisdiction in the United States Courts of Appeals where findings of fact made by the Commissioner are conclusive if supported by substantive evidence.

20 U.S.C. Sec. 1128—Provides for judicial review of certain actions taken under 20 U.S.C. Sec. 1127 (denial of state plans for financial assistance for the improvement of undergraduate instruction) with original jurisdiction in the United States Courts of Appeals where the findings of fact of the Commissioner are conclusive if supported by substantial evidence.

20 U.S.C. Sec. 1413(d)—Provides for judicial review of certain actions taken under 20 U.S.C. Sec. 1413(a) (state plans for assistance to states for education of handicapped children) with original jurisdiction in the United States Courts of Appeals where the findings of fact made by the Commissioner are conclusive if supported by substantial evidence.

21 U.S.C. Sec. 346a(i)—Provides for judicial review of administrative agency action involving tolerances for pesticide chemicals in or on raw agricultural commodities under certain provisions of 21 U.S.C. Sec. 346a with original jurisdiction in the United States Courts of Appeals where the findings of fact made by the Secretary of Health, Education, and Welfare are conclusive if supported by substantial evidence.

21 U.S.C. Sec. 348(g)—Provides for judicial review under 21 U.S.C. Sec. 348 (regulation of food additives) with original jurisdiction in the United States Courts of Appeals where the findings of the Secretary with respect to question of fact are sustained if based upon a fair evaluation of the entire record.

21 U.S.C. Sec. 355(h)—Provides for judicial review of the Secretary's refusing or withdrawing approval of an application under 21 U.S.C. Sec. 355 (new drugs) with original jurisdiction in the United States Courts of Appeals where the Secretary's findings of fact are conclusive if supported by substantial evidence.

21 U.S.C. Sec. 877—Provides for judical review of action taken under subchapter I of chapter 13 (Drug Abuse Prevention and Control) of title 21 with original jurisdiction in the United States Courts of Appeal where the findings of fact of the Attorney General are conclusive if supported by substantial evidence.

22 U.S.C. ch. 2—Provides for the jurisdiction of consular courts.

22 U.S.C. Sec. 1623—Provides for the settlement of claims under the Yugoslav Claims Agreement of 1948 by the Foreign Claims Settlement Commission of the United States.

27 U.S.C. Sec. 204(h)—Provides for judicial review of the Secretary of the Treasury's action in denying application for, suspending, revoking or annulling a permit under the Federal Alcohol Administration Act with original jurisdiction in the United States Courts of Appeals where the Secretary's findings of fact are conclusive if supported by substantial evidence.

28 U.S.C. Secs. 1331, 1332—Jurisdiction of the district courts of the United States in civil cases is limited to cases which involve $10,000 or more.

28 U.S.C. Sec. 1341—District courts of the United States have no jurisdiction to enjoin, suspend or restrain the assessment, levy or collection of any state tax where a state remedy exists.

28 U.S.C. ch. 91—Provides for the jurisdiction of the United States Court of Claims.

28 U.S.C. ch. 93—Provides for the jurisdiction of the United States Court of Customs and Patent Appeals.

28 U.S.C. ch. 95—Provides for the jurisdiction of the United States Customs Court.

28 U.S.C. ch. 155—Provides for the jurisdiction of three-judge courts empowered to enjoin the enforcement of unconstitutional state and federal statutes.

28 U.S.C. ch. 158—Provides for judical review of orders of federal agencies with original jurisdiction in the United States Courts of Appeals.

29 U.S.C. Sec. 160(e)—Provides for enforcement of orders under Sec. 160 by the National Labor Relations Board with original jurisdiction primarily in the United States Courts of Appeals where the findings of fact made by the Board are conclusive if supported by substantial evidence on the record considered as a whole.

29 U.S.C. Sec. 210—Provides for judicial review of wage orders in Puerto Rico and the Virgin Islands with original jurisdiction in the United States Courts of Appeals where

the findings of fact of the industry committee are conclusive if supported by substantial evidence.

29 U.S.C. Sec. 667(g)—Provides for judicial review of the Secretary of Labor's withdrawal of approval or rejection of a state plan under 29 U.S.C. Sec. 667 with original jurisdiction in the United States Courts of Appeals.

30 U.S.C. Sec. 731—Provides for judicial review of orders of the Federal Metal and Nonmetallic Mine Safety Board of Review under 30 U.S.C. Sec. 730 with original jurisdiction in the United States Courts of Appeals where the findings of fact made by the Board are conclusive if supported by substantial evidence on the record considered as a whole.

30 U.S.C. Sec. 816—Provides for judicial review of orders under chapter 22 (Coal Mine Health and Safety) of title 30 with original jurisdiction in the United States Courts of Appeals where the findings of fact made by the agency are conclusive if supported by substantial evidence on the record considered as a whole.

47 Stat. 70 Sec. 4 (1932)—Provides that no United States Court has jurisdiction to grant injunctive relief against certain conduct in labor disputes.

56 Stat. 23, 33, (Sec. 204(d) (1942)—Provides that no court has jurisdiction to consider the validity of regulations or orders under the Emergency Price Control Act or to restrain or enjoin such orders except as granted by Sec. 204 of that Act.

79 Stat. 437, 445, Sec. 14(b) (1965)—Provides that no court other than the district court of the District of Columbia or a Court of Appeals reviewing certain determinations of Civil Service hearing officers has jurisdiction to hear broad-gauged attacks on the Voting Rights Act of 1965 or to restrain its enforcement.

81 Stat. 100, 104 (1967)—Provides that no judicial review is available from classification or processing of registrants under the Universal Military Training and Services Act.

84 Stat. 922, 935, Sec. 702 (1970)—Limits the jurisdiction of the United States Courts to hold certain evidence inadmissible.

CHARLES DOYLE,
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Mr. ERVIN. Mr. President, I should like to state further in this respect that the Library of Congress did not have very much time to make this study. I want to assert from my own study of Federal statutes that there are far more than the 77 statutes in which Congress has exercised its power under article III of the Constitution to define or limit the appellate jurisdiction of the Supreme Court and the jurisdiction of all courts inferior to the Supreme Court. Every Member of Congress has voted for some of the statutes. For example, Congress would have the power, under article III of the Constitution, to give Federal courts jurisdiction of every controversy arising under the Construction and the laws and treaties of the United States, and of every controversy between citizens of different States regardless of the value of the thing in dispute.

But this Congress has consistently placed limitations on the jurisdicton of Federal courts to entertain or try such actions, by placing certain monetary limitations on the value of the amount in dispute. At the present time, as a general rule, the Federal courts have no jurisdiction of any legal controversy unless the matter in dispute exceeds $10,000. So Congress says that a man who has a claim of less than $99,999.99 cannot have his case heard in the Federal courts because the Federal courts under act of Congress do not have the jurisdiction to try them.

Why was article III written in such fashion as to give Congress the power to prescribe the appellate jurisdiction of the Supreme Court and the jurisdiction of all courts inferior to the Supreme Court?

I think the answer to that is very plain. Those who drafted and ratified the Constitution had studied the heartrending story of the struggle of man against arbitrary governmental power, for individual freedom and the right to self-government. They had found this truth inscribed, sometimes, in letters of blood on each page of that history, that no man and no set of men can be safely trusted with unlimited governmental power. So when they wrote the Constitution, they provided in it that all legislative power of the Federal Government should be vested in the Congress. But they knew that Congress would pass some laws which were foolish even though they might be constitutional and so they put a check on such action on the part of Congress. They provided that the President could veto an act of Congress and that that act would remain invalid unless two-thirds of each House of Congress should overrule the veto.

There are many other limitations on the powers of Congress in the Constitution to prevent tyranny, such as the provision that Congress shall pass no ex post facto law, and that Congress shall pass no bill of attainder. These were checks placed on Congress by the Constitution to prevent it from exceeding the bounds of the Constitution and not only to prevent it from exceeding the bounds of the Constitution but also to prevent it from acting in an unwise manner.

Now these men recognized that there had to be some checks placed on the power of the President. They recognized that the President, as head of the Nation, should have the right to appoint ambassadors, and should be Commander of the Armed Forces of the Nation, and should have the right to appoint Federal judges.

The Constitution, however, places checks on these powers of the President to keep him from acting unwisely or unconstitutionally. It provides that he cannot appoint a Federal judge or an ambassador without the advice and consent of Congress. They also recognized that the heads of state, in times past, in other countries, and even to some extent in the colonies, had made themselves virtual dictators over the people by exercising powers as commanders in chief of the militia. So while they gave the power to command the Armed Forces to the President, they took particular pains to check his exercise of that power and to prevent him from using that power to become a dictator by giving Congress the power of the purse and by stating that even Congress with all of its power of the purse could not make an appropriation for the armed services for more than an expressly limited period of time.

The men who drafted and ratified the Constitution of the United States knew that Federal judges are just like Presidents and Members of Congress; that is, they knew they were human beings. They knew they were subject to human weaknesses and they knew, as George Washington declared in his Farewell Address to the American people, that they were all subject to the disease of tyranny—which George Washington rightly diagnosed in his Farewell Address as the love of power and proneness to abuse it.

Now it is apparent that under the Constitution the Federal courts can restrain unconstitutional exercise of power by Congress and the unconstitutional exercise of power by the President. It is also plain from a study and observation of human nature that Federal judges who do not have the ability or willingness to restrain themselves and confine their decisions to the principles of the Constitution can also abuse their powers. They attempted to free them from all of the temptations which assail all of the rest of us who occupy or seek public office from all of economic pressures, political pressures, social pressures, and other pressures by declaring in effect that Federal judges should hold their offices for life and should receive a compensation for their services which cannot be diminished a single penny during their continuance in office.

This was done by the men who drafted and ratified the Constitution because they wanted to make all Supreme Court Justices and all Federal judges independent of everything on earth except the Constitution. These men who drafted this great document realized that the Supreme Court Justices and Federal judges hunger and thirst for power just like the occupants of other public office, and that on occasion they might succumb to the temptation to go beyond the bounds of their constitutional power and beyond the limits of the Constitution itself despite the fact that it was provided that they hold office for life and receive a compensation which could not be diminished during their continuance in such office.

Tyranny results from only one thing, and that is the insatiable thirst and hunger of some men in public office for more power than the Constitution and the laws give them. So the men who drafted and ratified the Constitution imposed checks upon Congress to prevent Congress from transgressing its constitutional powers; and imposed checks upon the President to keep him from transgressing his constitutional powers; but did not propose that Supreme Court Justices and Federal judges should be free of all checks which would keep them within the bounds of their constitutional power and prevent them from usurping and exercising powers they do not possess under the Constitution and the laws.

I assert that this is the explanation of why the men who drafted and ratified the Constitution worded the third article in such a way that Congress should have the power to regulate and even to withdraw the appellate jurisdiction of the Supreme Court and the jurisdiction of all courts inferior to the Supreme Court.

That was the only effective way by which the country could restrain Supreme Court Justices and Federal judges and keep them within the bounds of the authority of their offices.

Some people say that the impeachment power is provided. However, under the Constitution a judge cannot be impeached and removed from office unless he is convicted by the Senate of treason, bribery, or other high crime or misdemeanor.

The Constitution does not provide for the impeachment of a Federal judge or a Supreme Court Justice merely because he hungers and thirsts for more power than his office gives him and strips the Constitution and perverts the Constitution and twists the provisions of the Constitution awry to obtain such power.

As I have said before on the floor of the Senate, all of these tyrannies which the Federal courts have practiced upon little children and by which they have converted little children, both black and white, as well as yellow and red and brown, into the helpless subjects of a judicial oligarchy is allegedly based upon the equal protection clause of the 14th amendment which says that no State shall deny to any person within its jurisdiction the equal protection of the laws.

Mr. President, during recent years—and I say this with reluctance and with sadness—the Supreme Court has piled a lot of intellectual rubbish on the equal protection clause. As a result some Federal judges seem incapable of seeing the equal protection clause because of the intellectual rubbish which is piled upon it.

The equal protection clause is perhaps the simplest provision to be found in the Constitution in its objectives and in its effect and in its application when properly interpreted.

Those who drafted this clause really believed that a State should not have one law for one man and another law for another man when those men were similarly situated, or one law for one group of people and another law for another group of people when the groups were similarly situated. So, they put in the Constitution the 14th amendment, the equal protection clause. All that the equal protection clause does is this, it prohibits any State from treating in a different manner people similarly situated.

Mr. President, all of the little children of school age residing in the same geographic district or the same geographic zone are similarly situated. They have a right to demand that they be treated alike. If they have a neighborhood school, every child in the zone or the district has the same right as every other child to attend that neighborhood school.

When a U.S. court requires a school board to divide the children in a school attendance zone or district into two groups and to permit one group to attend the neighborhood school and to deny the other group the privilege of attending the neighborhood school, the U.S. court requires that school board to violate the equal protection clause because it requires the school board as the State agency to treat children similarly situated in a different manner.

Now, in every busing case the Federal court requires the school board to divide the children in the attendance zone or district into two classes, and requires the school board to let one class attend the neighborhood school and denies to the other class the right to attend the neighborhood school.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. ERVIN. I am happy to yield to the distinguished Senator from Georgia.

Mr. TALMADGE. Is it not true that the Brown decision in 1954 held that no State could classify children by color to attend public schools?

Mr. ERVIN. Absolutely. That was the holding of the Brown case. I might state that in every subsequent decision the Supreme Court has held that that is the law and the proper interpretation of the equal protection clause, and that by reason thereof no child can be excluded from any school on the basis of the child's race.

Mr. TALMADGE. Mr. President, will the Senator yield further?

Mr. ERVIN. I yield.

Mr. TALMADGE. Is it not true that since that time, in less than 18 years, our Federal courts have gone full circuit, in that they are now classifying children by race and by color for assignment to public schools?

Mr. ERVIN. Yes. I am glad the Senator has called that to the attention of the Senate.

When the Federal court orders a school board to deny children within a geographical attendance zone or district the right to attend the neighborhood school it does so in order to compel the school board to transport those children elsewhere, either to decrease the number of children of their race in the neighborhood school or to increase the number of children of their race in schools elsewhere.

Oceans and oceans and oceans of judicial sophistry cannot wash out the plain fact that that is denying the children who are bused solely on the basis of their race, their rights under the equal protection clause.

Mr. TALMADGE. Is it not true that various Federal courts, in their zeal to achieve some sort of mythical racial balance that they themselves feel is desirable social conduct in this country, have entered orders in many areas of our country, particularly in many of the southern States, ordering some arbitrary number of students to be sent to specific schools, a certain percentage of black and a certain percentage of white, and then ordering them to be bused to whatever districts may be necessary to achieve that racial balance?

Mr. ERVIN. The Senator is correct. The Federal courts are doing that notwithstanding the fact that the Civil Rights Act of 1964 expressly defined what segregation is and is not, and it expressly forbade any Federal court to do anything of that character.

Mr. TALMADGE. In addition to that, it is expressly in violation of the holding that the Supreme Court used to support in the Brown decision in the first place.

Mr. ERVIN. In effect, what it comes down to is an absurd conclusion; that in order to enforce the equal protection clause of the 14th amendment, Federal courts can compel States to violate the equal protection clause of the 14th amendment.

Mr. TALMADGE. The Senator is making a very significant address. I am sorry we do not have more Members of the Senate in attendance to listen to the wisdom and the commonsense the Senator from North Carolina is presenting.

The people of this country—North, South, East, and West—are up in arms today about sending their children great distances to schools far removed from their homes to achieve some sort of racial balance. I hope this Congress will have the courage to act with wisdom and justice and put an end to it, because if it was wrong to classify children by race in 1954 for assignment to public schools it is equally wrong to do so in 1972. I hope Congress will exercise its power and wisdom and put an end to this foolish business of getting children up before daybreak, letting them stand in the rain, sleet, and snow to go to school, where one member of the family may go north and another member of the family may go east and still another go west, to be separated until after dark. I think it would be wise if some of these judges could be bused about instead of some of our children.

Mr. ERVIN. I would say to the Senator that some of these judges take particular pains to see that their children shall not be subjected to the judicial tyranny which they impose upon the children of other people, by sending their children to private schools and thus add the vice of judicial hypocrisy to the sin of judicial tyranny.

I wish to make another observation In 1964 I was a Member of the Senate. The Civil Rights Act of 1964 was passed that year over my protest. Those who favored the Civil Rights Act of 1964 and, in particular, the provisions of it relating to desegregation of schools, stated on the floor of the Senate time and time again that that act was being passed to enforce the decision in the Brown case; that is, that no child should be excluded from any school on account of his race. I heard that statement made with my own ears on a number of occasions by the manager of the bill, Senator Hubert Horatio Humphrey. The statement is in the Record to that effect. The distinguished Senator from West Virginia, the present assistant majority leader, stood on the floor of the Senate within my hearing and asked him if under this bill they could bus little children to and fro to integrate the schools, and the Senator from Minnesota stated that positively, in answer to the question, that could not be done.

Before the Swann case the Supreme Court handed down its decision in Green against New Kent County, a rural Virginia county. This county had only two schools; one had been a school for white children and the other had been a school for black children, during the days when segregation was permitted by law and was constitutional, as then interpreted by the Supreme Court.

After the decision in the Brown case the school board of New Kent County said that every child in New Kent County could go to either one of those schools that he wished to attend. They treated them all alike, gave them all the same right, regardless of their race. Because the white children elected to remain where they had been before and most of the black children elected to remain at their school, the school they attended before, we got a most astounding decision from the Supreme Court which, in its ultimate analysis, holds this: That where little children exercise their freedom of choice, exercise their liberty, by mixing themselves in schools, in racial proportions pleasing to Supreme Court Justices, little children are allowed to be free and to enjoy liberty. But when the little children, in the exercise of their freedom and liberty, attempt to go to the schools they wish to go to and exercise their freedom and liberty in a way pleasing to themselves, they have no liberty.

I deny that the Constitution of my country makes the freedom of little children hang upon such an arbitrary and tenuous legal thread as that. I deny that the Supreme Court Justices have the right to impose such tyranny on those little children.

The PRESIDING OFFICER. All the Senator's time has expired.

Mr. ERVIN. Mr. President, I ask for 1 more second.

I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. BROOKE. Mr. President, the provisions contained in the measure before us, S. 659, the "Education Amendments of 1971," were all considered by this body in the previous session of Congress.

The bill contains the omnibus education provisions, passed without opposition on August 6. The new programs and directions for many areas of education make S. 659 truly a landmark measure in the history of Federal aid to education. The emergency school aid provisions contained in S. 659 are identical to S. 1557, which passed by a vote of 74 to 8 last April 26 after considerable debate over the transportation of pupils as a means to achieve voluntary or court-ordered desegregation.

While the provisions of the pending measure remain unchanged from last session, there has been a perceptible change in the mood of the Nation as it concerns busing. Distortions and expansive rhetoric have created a state of near-hysteria in many quarters. Facts have been lost amid fears.

Regrettably this historic education measure has become a focal point of attention in the alleged busing versus antibusing controversy. However, the measure before us does not require any school district to bus a single student or desegregate a single school. The emergency school aid provisions merely offer assistance to those school districts desegregating by choice or by court order.

Mr. President, busing within the context of the pending measure must be brought into proper perspective. The issue is not, as is often stated, "busing to achieve racial balance." Rather it is merely a question of whether busing shall remain as one of several constitutional tools available for overcoming a constitutional violation. At present it is the law of the land that busing is a legitimate mechanism for eliminating de jure desegregation in public school systems. Those who oppose busing would have us reverse or dilute that law.

It would serve us well to focus on existing law by reviewing the Supreme Court decisions relating to school desegregation and consequently to school busing.

In 1954, the Supreme Court unanimously ruled that State-imposed segregation in the public schools violated the equal protection clause of the 14th amendment. In Brown against Topeka Board of Education the Court reversed the longstanding Plessy against Ferguson decision by ruling that "separate but equal facilities" are inherently unequal. The thrust of the Brown decision was that black children were being denied their rights under law since they were receiving a decidedly and inherently inferior education.

This dictum was reinforced a year later in 1955. In a decision, popularly referred to as Brown II, the Court ruled that admission to public schools should be guaranteed, as soon as practicable, on "a nondiscriminatory basis." The Court also recognized that this would require the "elimination of a variety of obstacles."

The interpretation of the phrase "nondiscriminatory basis," and questions of which obstacles should be removed to insure admission to public schools on this basis, were the subject of several minor Supreme Court decisions over a 13-year period.

In 1968 the Court made it clear, again in a unanimous decision, that a local "freedom of choice" plan was inadequate to the task of meeting the mandate of Brown II. Justice Brennan, in expressing the opinion of the Court, said:

> Brown II was a call for dismantling of well-intrenched dual systems tempered by the awareness that complex and multi-faceted problems would arise and would require time and flexibility for a successful resolution. School boards such as the respondent then operating state-compelled dual systems, were nevertheless clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch.

In weighing the steps which might be necessary, Justice Brennan added:

> Freedom of choice is not a sacred talisman; it is only a means to a constitutionally required end—the abolition of the system of segregation and its effects. If means prove effective, it is acceptable, but if it fails to undo segregation, other means must be used to achieve this end.

In April of last year, the Supreme Court unanimously affirmed that "busing" was among the "other means" which if required, must be employed to provide equal educational opportunity to all on a "nondiscriminatory basis."

Chief Justice Burger wrote the opinion for the Court in Swann against Charlotte-Meckleburg Board of Education:

> The objective today remains to eliminate from the public schools all vestiges of state-imposed segregation. Segregation is contrary to the equal protection guarantees of the Constitution and it was this maxim that was the basis for holding in *Green* that school authorities are clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch.

The objective of the Chief Justice and his colleagues was to reaffirm unanimously the dictum, first enunciated in Brown that all children must be afforded an equal educational opportunity.

Ideally, neighborhood schools would provide such education on an equitable basis. But the circumstances in this country are not ideal. Economic opportunities and access to housing have not been equal, and neighborhood patterns have developed along racial lines.

All too frequently these patterns have been institutionalized in the public schools by official acts. And it is in such cases, where schools have been segregated by official intent, that the Swann decision applies.

The Supreme Court has made it clear that it is a school system's affirmative duty to end segregation and provide quality education for all on an equal basis. When a system fails to meet its constitutional obligation it becomes the affirmative duty of the Court to impose its remedial power.

Whether it integrates voluntarily or under Court order, each school system requires different remedies. There is no one, set formula for insuring equality of educational opportunity in all districts. The answers are not always easy. Solutions, Justice Burger suggests, "may be administratively awkward, inconvenient, and even bizarre in some situations, and may impose burdens on some. But such problems cannot be allowed to impede the clear constitutional imperative to end segregation in our school systems."

In the Swann case, the Court ruled that busing was an essential remedy to overcome racial imbalance in one community. For those residents who feared long bus rides for their children, the Court pointed out that under the district court's busing plans there would be less busing than previously existed in the dual system.

This points up an important fact: Busing, which now serves as a means to desegregate, has long served as a means to segregate. For generations, white students have been bused past nearby black schools to distant white schools. In many communities this pattern continues today.

Busing can serve several ends. But, most important, it has long been recognized as an essential means of providing quality education. Forty percent of the Nation's public school pupils ride school buses to school, and there is no evidence to suggest that these 18 million youngsters suffer any ill effects from their daily rides. Among educators, school consolidation has become synonymous with improving the quality of education. In most cases, busing is indispensable to consolidation.

Is it not paradoxical that, though generally accepted as an instrument for school consolidation, busing is widely rejected as a method for school desegregation?

This schizophrenic reaction to busing seems to reflect the undue fears of many Americans that busing will somehow lead to a deterioration of education. Such a view is diametrically opposed to the intent of the Constitution as interpreted by the courts, and to the emergency school aid provisions contained in the pending measure.

The intent of the Constitution, as unanimously interpreted by the Supreme Court over the past 18 years, is equality of education for all. The intent of the emergency school aid provisions is to provide $1.5 billion in compensatory assistance toward the goal of insuring that equality and quality of education are synonymous.

Neither the Constitution nor any provision of this bill suggests that busing is the necessary means to achieve desegregation in every instance. Such a suggestion would clearly contradict experience and reason.

Clearly it is preferable for students to attend schools as close to home as possible. A school system desegregating voluntarily or under court order should seek remedies that provide for pupil assignments close to home. By remedial restructuring of attendance zones, "pairing" or "grouping" of schools, such a goal is often attainable. Yet each school district poses different problems, and in some the segregated housing patterns clearly defy a "walk to school" remedy for segregation.

In such cases, where other remedies will not work, busing must be used to unify a dual school system and equalize educational opportunities.

When busing becomes an imperative remedy due to the absence of alternative approaches, caution is in order to insure that neither the health nor the education of pupils is adversely affected by the busing process.

The Chief Justice addressed the proper limits of busing in Swann when he wrote:

> An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process.

In other words, busing is, and must be, considered a limited tool in the desegregation process.

Though limited, however, it remains an essential remedy that must be retained for school districts desegregating voluntarily or under court order. The law of the land outlawing school segregation will stand. We must not, therefore, limit the remedies available to a school district to be in compliance with the law.

To limit the desegregation mechanisms available to a school district is akin to asking a physician to heal a patient while taking away one of the medicines necessary for the cure.

We have long envisioned the healing of the persistent and painful patterns of segregation. We have long placed our initial hopes in the desegregation of our schools and the opportunity for a quality education for all. Yet we find, in the desegregation of our schools, that we are treating the symptoms while a cure for segregation eludes us.

Segregation will be ended when housing and economic opportunities become truly equal and we move to an integrated society. When we reach the goal of integration in our neighborhoods, we shall be able under the law to send our children to the neighborhood schools we all prefer. The moving van, not the school bus, is the proper vehicle for true integration.

While we should be ever mindful of the long-term goal, we cannot escape the narrower context of the issue before us: Shall we impede school districts in their efforts to remedy a constitutional violation by restricting the constitutional options available to the districts? Knowing the law of the land, do we then handicap those who seek to comply with it?

The question can be put another way. The Governor of Florida, Reubin Askew, recently raised it most eloquently and succinctly:

> We're talking about more than the problem of transportation. We're talking about a problem of justice. Perhaps the time has come for all of us to decide if we're *really* committed to desegregating our school systems and providing an equal opportunity for all.

The time has come for us in the Senate. The answer must be: We are.

Mr. MONDALE. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time therefor be drawn equally from the two sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

### AMENDMENT NO. 922

The assistant legislative clerk read as follows:

> Beginning on page 753, line 24, strike out all to and including line 2 on page 754, and insert in lieu thereof the following:
>
> SECTION 901. No provision of this or any other Act shall be construed to require the assignment or transportation of students or teachers for any purpose.

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

I was amazed upon examining this "Sears, Roebuck catalog" to find that it contains the Senate bill, S. 659, the House amendment to that bill, and then the Senate committee amendments to the House amendments—all of those bills and amendments are contained in this tremendous document.

I was further amazed, Mr. President, to read the very last section of the committee amendments, title 9, section 901, which reads as follows:

> No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

Mr. President, that sounds mighty, mighty good. They are not going to allow any provision of this act to be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance. The average observer would feel that this provision would outlaw the assignment or transportation of students and teachers in order to create or establish a balance, because one would think offhand that "overcome racial imbalance" would be synonymous with "create or establish a racial balance."

Not so, Mr. President. The words "racial imbalance' have been construed by HEW and by the Federal courts to mean de facto segregation. So, Mr. President, we have the amazing factor here of the committee coming forth with this section 901, which is not new wine in old bottles, but old wine in old bottles. This is the very same provision that we have been operating under since 1964. What this provision protects is not what is called de jure segregation, but it protects de facto segregation, and de facto segregation alone.

Mr. President, while the country is clamoring for antibusing legislation in every section of the country, the Senate committee—I am glad to see that some of the members are present in the chamber; possibly they will give us an answer as to why this was done, why they are serving us in the Senate this old wine in old bottles, this protection for de facto segregation alone.

I am sure that the country has been amazed to read the statistics coming from the Department of Health, Education, and Welfare to the effect that there is more desegregation of the public schools in the South than there is in the North. I was interested to the point of inserting in the CONGRESSIONAL RECORD this morning an account of the busing situation in the city of New York. The headline of the article very smugly stated, "Busing Is No Problem Here," here being New York.

No, Mr. President, it is not a problem in New York, because they do not have any busing, or so the article stated, and it said that the school authorities did not have any plans for any busing. They said they had a voluntary program under which some 3,000 students were bused into the innercity, under a plan by which students or their parents could apply for admission to a school of their choice to fill a vacancy in that school.

I thought when I read that, Mr. President, how different that is from Alabama and the South, where literally hundreds of young children are transported by bus from one section of the city to another section of the city, and schools are closed. In the State of Alabama, more than $100 million worth of school buildings have been closed by orders of the Federal courts, and they lift those children out of their home communities and into distant communities, with strange schools, strange playmates, strange teachers, and strange surroundings, and crowd them into already overcrowded schools, whereas in New York, Mr. President, they apply for a vacancy that might exist in another district.

So, Mr. President, section 901, which the amendment I have submitted would seek to strike out and amend, provides that de facto desegregation, the segregation that is supposed to exist in areas outside the South, is going to continue to be protected.

Oh, no; we cannot have any transportation, any assignment of students, in order to overcome racial imbalance. We cannot do that. That would be knocking out de facto segregation. That would be knocking out Northern style segregation, which the statistics show is increasing rather than decreasing. So why should they have a rule saying that there should be no transportation, no assignment of students or teachers, to overcome racial imbalance? Why not have the same prohibition as to both types of segregation? Why not say that there should be no transportation of students or teachers, no assignment of teachers or students, to overcome segregation where, as, and if it exists?

So the amendment that the junior Senator from Alabama has offered would merely strike out the words "in order to overcome racial imbalance" and insert the words "for any purpose." That would be in line with the demand of the majority of the people of this Nation.

It is said that a segregated education, education obtained in a segregated school, is an inferior type of education to one obtained in an integrated school. I question that premise. I question whether that is so. In defense of the black citizens of my State, I would say that that is not so. It is not necessary to have integration of bodies in order to obtain a good education. What we need is a better education for all, better teaching staffs, better school facilities, for all our students, and not lift them up by the hundreds and the thousands from their home communities, that is, in the South, and take them into strange communities, in strange schools, with strange playmates and strange teachers.

Mr. President, this is the language with which we have been trying to cope for 7 years, but we get the cold shoulder. We are told, yes, the law says there cannot be any busing in order to overcome racial imbalance, but that is talking about de facto segregation.

Mr. President, if education in an integrated public school is a better education than one in a segregated school, I am wondering why the State of New York and many other States outside the South, where segregation is increasing in public school systems, do not move rapidly to end this segregation, to provide integrated schools, in order that all their citizens can obtain the benefits of an integrated school education.

The amendment turned out by the Senate committee on this subject is a cynical approach. How cynical can one get? When the public is demanding an end to busing for the purpose of creating a racial balance, they have come out with a section saying that there shall be no busing as regards defacto segregation. In effect, there shall be no busing in areas outside the South.

Mr. President, I was somewhat taken aback when I read news accounts crediting the distinguished Senator from New York (Mr. JAVITS) with stating that he opposed—and in order to be absolutely accurate, I am going to limit what I understand his opposition to be on the face of it—to a constitutional amendment to forbid busing because, he said, that would nullify the results of the Civil War, when the Nation lost oceans of blood and mountains of treasure.

It occurs to the junior Senator from Alabama that those among us who seek to preserve the device of busing in the South, while forbidding it in the North, want to see busing continue in the South, but they do not want to see any desegregation in the North, and the records show that, because segregation is increasing in many areas outside the South.

Mr. President, why should the bloody flag of the War Between the States continue to be waved in this body? That is no argument. Look at what the condition is in the North after 106 years. The black citizens there are getting an inferior education, because they are in segregated schools. And they come out with a provision saying that there shall be no busing as regards northern-type segregation. Where is the fairness of that?

What is wrong with the Stennis amendment, which provided that desegregation standards and criteria should be the same nationwide? We were trying to truly make of this country and its various sections one nation, with the same rule as to public schools and the desegregation of public schools, applied equally throughout the country. Was that amendment adopted? It was finally adopted, after the distinguished Senator from Pennsylvania (Mr. SCOTT) put in an amendment saying, "Yes, we will have unanimity." We will have unanimity as to all de facto segregation. Everything involved in de facto segregation would be enforced the same throughout the country and all regulations and criteria and standards affecting de jure segregation, which is said to exist in the South, would have a uniform rule as to that, but we would not agree to a uniform rule throughout the country. No, we are going to have a little rule up in the North that protects segregation but down in the South we are going to permit busing, we are going to have uniform busing down there. And that is what it is. It is uniform throughout the South. But we come up with section 901 that continues to protect the segregation that exists in the North. No protection for the South, no protection against busing. We will have to continue to put up with that. But the committee says, "Let us keep on protecting segregation in the North."

Mr. President, the purpose of this amendment is merely to say that under this act, or any other act, they shall not be construed to require the assignment or the transportation of students or teachers for any purpose. They will give protection to all. Mr. President, do you think that is going to be accepted? It makes too much sense to be accepted.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BROCK). The Senator has used 18 minutes. Forty-two minutes remain to him.

Mr. ALLEN. I thank the Presiding Officer. Mr. President, I reserve the remainder of my time.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 1746) to further promote equal employment opportunities for American workers; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mr. DENT, Mr. HAWKINS, Mrs. MINK, Mr. BURTON, Mr. CLAY, Mr. GAYDOS, Mr. WILLIAM D. FORD, Mr. BIAGGI, Mr. MAZZOLI, Mr. PUCINSKI, Mr. BRADEMAS, Mr. QUIE, Mr. ERLENBORN, Mr. BELL, Mr. ESCH, Mr. LANDGREBE, Mr. HANSEN of Idaho, Mr. STEIGER of Wisconsin, and Mr. KEMP were appointed managers on the part of the House at the conference.

## ORDER FOR ADJOURNMENT

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business tonight, it adjourn until 9:45 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Subsequently, the above order was changed to provide for the Senate to convene at 9:15 a.m. tomorrow.)

## ORDER FOR RECOGNITION OF SENATOR STENNIS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, immediately upon the giving of the prayer, the reading of the Journal, and the recognition of the two leaders under the standing order, the distinguished Senator from Mississippi (Mr. STENNIS) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendments to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 1 minute.

Mr. ALLEN. Mr. President, I modify my amendment, and I have a memo in my hand which I send to the desk, to strike out all after the word "teachers" and add the words "for the purpose of changing the racial composition of any school."

In other words, that is added instead of "for any purpose," but it does change the words "racial imbalance," which means any de facto segregation, to the words "for the purpose of changing the racial composition of any school" which would cover both kinds of segregation.

Mr. MANSFIELD. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. MANSFIELD. Would the Senator from Alabama allow the clerk to read the amendment as proposed to be changed?

Mr. ALLEN. Yes. On my time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

> On page 753, strike out line 24 over to and including line 2, on page 754, and insert in lieu thereof the following:
>
> Section 901. No provision of this or any other Act shall be construed to require the assignment or transportation of students or teachers for the purpose of changing the racial composition of any school.

Mr. ALLEN. Mr. President, I reserve the remainder of my time.

Mr. PELL. Mr. President, the committee recommends adoption of title IX in order to recognize and accept the desire and wishes of the country that there should be some limitation to the use of busing.

"Busing" has become really a red letter word. What we sought to do was to make sure that busing would be not used in a forced situation. We would rather that, if it is used, it be used at the discretion of local school boards.

We realized that it was a compromise move that may or may not have achieved its purpose. It is the middle of the road toward which we so often look. However, I think we realized in the committee and as individuals that the people throughout our country are opposed to the concept of busing in a good many cases and is particularly opposed to busing for the sake of busing.

Sometimes I wonder, too, whether the Congress has not reflected those worries even more vigorously than the country as a whole expresses it. Very often, I believe that Congress is a year or two behind the country and I am wondering whether this is not the case this time.

I do not know, but I do believe that the bill as put forward and the compromise that it seeks to achieve does reach a moderate, middle ground that we hope will be satisfactory.

I know my personal view is that busing for the sake of busing is not correct. Busing, unless it achieves a degree of educational improvement, is not correct. Obviously the busing of children from a majority group into a center city where they find themselves very much in the minority would not be beneficial to them. Nor would it be beneficial to the children already in that school. On the other hand, only busing children from the inner city into suburbia would not be correct.

Busing is not a tool that should be used to extreme, but in modernation. It is one means of achieving a degree of the integrated society which we seek. Of course, we seek to be reasonable men. What one man might consider moderate, another man would consider extreme.

There is more acceptance of integration in the schools in the South than there is in the North. We have a lot to learn in the North.

There may be some flaws in the bill. However, in this case as the manager of the bill, having considered many of the elements that the Senator from Alabama has advanced, I would feel compelled to oppose his amendment.

Mr. President, I yield as much time as he desires to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I join with the Senator from Rhode Island (Mr. PELL) in opposing the amendment. I might say that I think it is rather dreadful that upon this very major education bill we have gotten into the struggle over busing. However, whether dreadful or not, there it is, and we have to deal with it. I think in fairness to the committee, it should be pointed out that the very section that is sought to be amended by the amendment of the Senator from Alabama represents an effort by the committee simply to carry on what has been carried on in other legislation, including appropriation bills on this subject. Rather than to rock the boat now in terms of the busing proposition, the committee simply carried over the section 901 which was the catechism we adopted before in respect of education appropriation bills.

Mr. President, the provision which the Senator from Alabama would seek to substitute for the part he would strike may or may not actually do what I believe he wants to do, because it relates to education acts generally and the requirement for transportation or the assignment of children for transportation in education acts generally really is not relevant to the provisions of the 14th amendment. That is the basis upon which the Court decided the Brown case, and it is the basis upon which the Court classically decided the cases in this field.

So, even if we extend this particular provision to any other act—to wit, any other provision of law—it still does not reach the main issue which is reached in my judgment by the basket of amendments proposed by the Senator from North Carolina which he subsequently withdrew.

Mr. President, my own judgment on the busing issue is that I have no fear of it whatever. I state unequivocally, as I have stated before—that, I believe that busing is an essential, temporary tool to be used in respect of raising the level of the education of our children by taking them out of a segregated environment which debases that level.

That was the basis for the decision of the Supreme Court in 1954. It has been the gravemen of the decisions since, and in that regard, the findings of the famous Coleman report held that we make a material, radical change in the level of the education by putting children, regardless of their color, in a desegregated environment and maintaining them there. Both by the findings of the Select Committee on Equal Educational Opportunity, of which I am a member and which the Senator from Minnesota (Mr. MONDALE) heads so ably, and in accordance with the memorable speech he made here the other day, we lay out exactly what that committee has done.

We understand the problems of people who do not want children transported. We are talking about the parents of children. We are talking about parents with all of the built-in prejudices as well as the legitimate concerns, that all parents have, including the parents of black children.

The Court has made it clear in the Swann case, and the Court has had a very excellent way of working out of these situations in which they take account of the main complaints, that the health of the children should not be impaired and that there should not be excessive busing of children of tender age.

I place great emphasis upon that great phrase in the Swann case which says that we cannot impinge upon the educational process of the children. I believe that refers to not only the child who is being transported, but it also refers to the children in the school to which that child is being transported.

The argument that the process of desegregation is a tool makes a lot of sense to me.

The Supreme Court decisions show that the courts are refining the doctrine so as to meet the practicalities of the situation. If we need to do anything, we need to legislate carefully with a scalpel and not with a cutless. I think the amendment of the Senator from Alabama proposes to cut off the head of transportation.

If it does that—and I say that I do not know whether the language does that or not, but nevertheless that seems to be the thrust of the purpose there—I join with the Senator from Rhode Island (Mr. PELL), as the ranking member of the Committee on the Minority in opposing the amendment.

I believe it is too broad, sweeping, and inappropriate to achieve the result which we all want, which is decent education for all children, but without impinging upon the education of any. That is what we are all really after, means to bring about excellence in education, and that is the central point which the Senator from Minnesota (Mr. MONDALE) brought out, which my own experience in the committee has brought out, and which the experts have brought out.

The central question, no matter how many billions of dollars more are piled into compensatory education, it simply cannot, even if the Constitution is laid aside, equal the decisive result which is obtained from taking children out of a segregated situation which is so conducive to not learning, and putting them into a desegregated situation where the whole atmosphere is conducive to improved education for children of all races.

Finally, all of us should want to encourage this process. It will enrich the country; it will raise the economic and social level of all of our people, including depressed peoples; and it will lend stability, as well as justice to the country.

Again, I refer to the fine speech made by the Senator from Minnesota (Mr. MONDALE). The Senator from Rhode Island (Mr. PELL) and I, as well as others, have said many times more than one-half of the children are being bused now. In my State in New York we have had established for years central school districts to take the place of the little red schoolhouse that, notwithstanding the sentiment attached to it, did not bring the most children up to the parity required by good citizenship in the United States, although once in a while an Abraham Lincoln came along.

Mr. President, for all those reasons I join the Senator from Rhode Island in opposing the amendment.

Mr. President, I also at this time ask unanimous consent that a pertinent column by Tom Wicker appearing in yesterday's New York Times be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE FIFTH OPTION: IN THE NATION

(By Tom Wicker)

High officials in the White House have let it be known that upon his return from China President Nixon will be presented four "options" from which to choose a means of halting or slowing court-orderer busing for purposes of school desegregation. Apparently, there is to be no "option" suggesting to Mr. Nixon that perhaps the President's role ought to be, instead, to restore some perspective situation.

The four options, as described to Robert B. Semple Jr. of this newspaper, are as follows:

1. A Presidential speech or statement summarizing his oft-stated opposition to busing but also raising broader educational issues.
2. More Justice Department intervention against busing in school desegregation cases.
3. Legislation restricting the remedies that courts could impose to overcome segregation.
4. A Constitutional amendment banning busing.

But surely someone around the President—perhaps his able H.E.W. Secretary, Elliot Richardson, who apparently opposes a Constitutional amendment—could at least as devil's advocate present him a fifth option that would go something like this:

"A speech or a series of speeches by the President expressing the view that while he personally favors other means of desegregating schools and considers busing in some ways harmful, he views segregated schools as even worse and realizes that at present there is no feasible alternative to some busing for purposes of racial desegregation; that the evidence is overwhelming that the 'quality education' he seeks cannot be achieved without substantial school desegregation; that therefore there will have to be some busing until other means of desegregation make it unnecessary."

Put more bluntly, this option would ask Mr. Nixon to put aside, without abandoning, his personal views, and to assert powerful Presidential leadership that would lay the real alternatives before the people. Governor Reubin Askew of Florida, for instance, has said to his constituency what Mr. Nixon might well say to the nation.

No one, Mr. Askew reminded a news conference last week, "liked the inconvenience and the hardship that accompanied busing . . . I don't like it, the people don't like it and the courts don't like it. The question is, however, how do you address yourselves to achieving an end, and the end is to insure an equal opportunity for the school children of this state regardless of race, creed, color or place of residence.

"I say that somewhere along the line we've got to break this cycle . . . by which many people, particularly black people in this country, are not having a chance at an adequate education so that it could help them . . . to improve themselves economically and in turn improve the whole economy of our entire country.

"At this time busing is an artificial and inadequate instrument of change and I think it should only be used as a temporary measure to try to put us on the road to doing what we should do and that is to provide this equal opportunity. And I haven't seen to my satisfaction any other way that we could accomplish this until such time as our housing patterns change and all of our schools are upgraded so that busing then will become unnecessary."

Mr. Nixon himself has pointed out that those who have studied the matter "know that desegregation is vital to quality education." He knows that big investments in "compensatory education," on the other hand, have produced few encouraging results. He must know as well as anyone some of the statistics Senator Walter Mondale of Minnesota cited in a notable speech last week—that twenty million school children ride buses to school in America every week, and that 65 per cent of the nation's school children ride buses to school for reasons that have nothing to do with desegregation.

And if he does not know it, Mr. Nixon could easily find out that only in rare instances have the courts ordered anything like unreasonable busing, and that virtually every busing plan has been aimed at overcoming state-sponsored segregation—not at establishing some social planner's arbitrary racial balance. Nor would it be hard for him to learn that busing programs, to a great extent, enabled Senator Mondale to say that "integrated education—sensitively conducted and with community support—has been tried, and is working in countless communities in every section of this nation. It can and does result in better education for all children, white as well as black, rich as well as poor."

That is why the fifth option should go before Mr. Nixon with the rest. There may be no quick political profit in it, but the vision and the courage that have taken Mr. Nixon to China might yet cause him to find the right course here at home.

Mr. ALLEN. Mr. President, I yield myself 6 minutes.

I was interested in the different approaches taken by the distinguished Senator from Rhode Island and the distinguished Senator from New York with respect to this amendment. The Senator from Rhode Island said there is a great hue and cry about busing in this country and this is the effort of the committee to do something about it. The Senator from New York, on the other hand, said this measure carries forward the law which has existed for many years. Now, which of those versions is correct?

It is quite obvious this has been the law for a number of years. It was in the Whitten amendments before they were emasculated in this very Chamber. What has not been explained by either of the speakers recommending the committee amendment is why did the committee come forward, as the Senator from Alabama said, seeking to serve the Senate old wine in old bottles to meet this situation, and offer it only as protection against de facto segregation, segregation of the type that is said to exist in the North.

If it is so good for the North to have this protection, if it is so good and necessary that the segregation in the North be protected by forbidding busing to break down that segregation, why in the world should not the same prohibition against busing be allowed in the South? That is all the amendment of the junior Senator from Alabama seeks to do. It would provide something new, I will say to the distinguished Senator from Rhode Island. It would provide something new because it would prevent busing of little children in the South in order to create a racial balance, whereas the committee serves up a provision that does not change the law as it exists now, but it does harbor and protect segregation in the North.

So, Mr. President, all this would seek to do is to provide the same rule providing busing for areas outside of the North. Why should not the same rule apply? If the committee is going to forbid busing in areas outside the South, why should not the Senate apply the same provision to the entire country? That is all my amendment would do. It would give the public school child in the South the same protection.

The Senator from New York renewed his argument that only by breaking down segregation—and that should be done in the South by busing or by any other means—and desegregating public schools can the schoolchildren be given a quality education, a good education, because segregated education, the Senator would have us believe, is inferior to integrated education. If that be so why have not the areas outside the South conferred this better education on all our citizens? Why does segregation in the North continue to increase while schools in the South are desegregated?

The amendment offered by the junior Senator from Alabama would merely give the same rule for the South as the committee seeks to provide for the North.

I recommend that the Senate agree to the amendment.

Mr. GRIFFIN. Mr. President, will the Senator yield to me for a parliamentary inquiry?

Mr. ALLEN. I am delighted to yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, earlier in the day the junior Senator from Michigan indicated he wishes to offer an amendment and hopefully have a vote on it tomorrow. That amendment is Amendment No. 915.

My parliamentary inquiry is whether or not that amendment would be in order to offer as a substitute to the amendment by the Senator from Alabama now pending.

The PRESIDING OFFICER. If the Senator offered it as an amendment in lieu of the language offered by the Senator from Alabama it would be in order.

Mr. GRIFFIN. I want to indicate to the majority leader and the minority leader that I am prepared, as I indicated earlier, to lay my amendment before the Senate and to do so as a substitute, if there could be some understanding, perhaps, that we might vote first thing tomorrow or at any time tomorrow, if that be inconvenient.

Mr. MANSFIELD. The Senator has not made a unanimous-consent request, but I assure him we cannot have that assurance at that time because there are others of us prepared to offer amendments in the second degree; and as far as the distinguished minority leader and I are concerned, we are prepared to vote tonight.

Mr. SCOTT. That is correct.

Mr. MANSFIELD. In that way the distinguished Senator from Michigan, the deputy Republican leader, would be able to keep his word and have a vote on his amendment tomorrow.

Mr. GRIFFIN. I am sorry. I understand the amendment of the amendment was not going to be ready until tomorrow.

Mr. SCOTT. It might be well to explain that is probably our fault because we have been perfecting language and we will request the privlege to offer it as a substitute for the amendment of the Senator from Alabama.

Mr. GRIFFIN. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Is it the case that such a substitute may not be offered until all time has expired?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. Mr. President, I ask unanimous consent that this time for colloquy not come out of the time of the Senator from Alabama. I have a number of additional arguments I wish to make on the amendment.

Mr. PELL. Let it come from my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator indulge me while I do a little counting.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Who yields time?

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alabama (Mr. ALLEN) has 31 minutes remaining.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, on whose time?

Mr. SCOTT. From the time of the Senator from Alabama.

The PRESIDING OFFICER. Does the Senator yield such time?

Mr. ALLEN. Yes.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, if the Senator from New York will yield me 1 minute.

Mr. JAVITS. Yes, I yield.

Mr. MANSFIELD. Mr. President, how much time remains on the amendment?

Mr. ALLEN. Mr. President, how much time remains?

The PRESIDING OFFICER. All time has expired on the amendment.

### AMENDMENT NO. 923

Mr. SCOTT. Mr. President, I offer an amendment and send it to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. COOPER. Mr. President, I object. I should like to hear the full text of the amendment.

The PRESIDING OFFICER. Objection is heard, and the clerk will read the amendment.

The assistant legislative clerk read as follows:

### AMENDMENT NO. 923

At the end of the Senate Committee Amendment add a new section.

SEC. — (a). No funds appropriated for the purpose of carrying out any program subject to the provisions of the General Education Provisions Act, including this Act, may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written request of appropriate local school officials; provided, however, that no Court, and no officer, agent or employee, of the United States shall order the making of such a request; and provided further that no funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process.

(b) No officer, agent or employee of the Department of Health, Education and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent or employee of the Department of Health, Education and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the eduactional opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color or national origin.

(c) Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from one local educational agency to another, or which requires the consolidation of two or more local educational agencies for the purpose of achieving a balance among students with respect to race, sex, religion or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals the expired. This section shall take effect upon the date of its enactment and shall expire at midnight on June 30, 1973.

Mr. SCOTT. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

### ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I ask unanimous consent that I may propose a unanimous-consent agreement without the time being taken out of either side on the amendment so that we can arrive at an agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

### UNANIMOUS-CONSENT AGREEMENT

Mr. SCOTT. Mr. President, my request, after consulting with the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN) would be that, in order to accommodate the convenience of Senators, and in order that the amendment can be printed so that all will be aware of what is contained in it, I ask unanimous consent that the 2-hour debate which has been formerly agreed upon for all amendments, shall begin at 10:30 a.m. tomorrow and shall expire at 12:30 p.m. tomorrow.

Mr. ERVIN. Mr. President, I do not quite understand the unanimous-consent request because, as I understand it, under the Senate rules, while no Member of the Senate can propose an amendment to the substitute amendment, any Member of the Senate can propose a perfecting amendment either to the Allen amendment or to the provisions of the bill which the Allen amendment seeks to amend and there is under the present unanimous-consent request a 2-hour limitation to be equally divided in respect to any such perfecting amendments.

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. SCOTT. Mr. President, my request was merely that the 2 hours on my side pertaining to the amendment begin at

10:30 a.m. and expire whenever under the unanimous-consent agreement it expires. It is the same thing. I will be glad to do that——

Mr. ERVIN. I construe the request of the Senator not to be a request that a 2-hour limitation on debate shall expire at 12:30 in respect to any perfecting amendment which might be in order.

Mr. SCOTT. The Senator is entitled to preserve any rights that he has now. Under my unanimous-consent request, if he has the right to offer a perfecting amendment, and if the perfecting amendment is ruled by the Parliamentarian to be a perfecting amendment, the Senator's rights are preserved. Is that satisfactory?

Mr. ERVIN. In other words, as I understand it, the Senator is asking unanimous-consent request that the debate on the substitute amendment begin at 10:30 and end at 12:30.

Mr. SCOTT. Mr. President, I withdraw the end part of it and ask that it begin at 10:30 and that it be the pending business at 10:30 a.m. tomorrow, if that suits the Senator.

Mr. ERVIN. As far as I am concerned, that would be entirely satisfactory to me. I thank the distinguished Senator from Pennsylvania, as well as the distinguished manager of the bill and the distinguished majority leader, for their willingness to allow the substitute amendment to go over until tomorrow so that it can be printed and made available to the Members of the Senate.

I thank the Senators.

Mr. SCOTT. Mr. President, that would seem to be fair to all. I therefore renew my request.

Mr. COOPER. Mr. President, I want to understand the request. The Senator is asking for 2 hours on the substitute amendment, the time to begin at 10:30 tomorrow morning.

Mr. SCOTT. Mr. President, we are governed by the existing unanimous-consent agreement which limits it to 2 hours. I merely asked that the debate begin at 10:30 tomorrow morning and that the amendment in the nature of a substitute become the pending business.

Mr. COOPER. Mr. President, reserving the right to object, we are talking about one of the most complex subjects before Congress and before the American people. The court has rendered these decisions on a number of occasions. Conceivably, reading the simple language of the Civil Rights Act of 1964, section 4 contravenes certain language in the act.

I have had an opportunity to read the proposed amendment and my first impression, as I look at it briefly, is that it would invalidate the decisions made by the courts. Whether we should do that, of course, will be determined.

I see two or three provisions in this proposal which are provisions that the Senate has authority to enact.

We are getting ready to discuss an issue which is of great significance to the schools and to schoolchildren and which troubles our entire country. I must object to limiting the time to 2 hours.

Mr. MANSFIELD. Mr. President, the Senator cannot object, because an agreement has been made. The time will start on the pending amendment, unless this time is counted, at the conclusion of the morning business tomorrow.

Mr. COOPER. Mr. President, I know that the time is set and that certain hours have been agreed to in the unanimous-consent agreement. However, I would ask that Senator who introduced the amendment to provide for more time. This is an important question, and to dispose of it in 2 hours would simply be beyond comprehension.

Mr. SCOTT. Mr. President, I would like to call to the attention of the Senator the fact that there are 6 hours on the bill, most of which has not been used.

Mr. MANSFIELD. There is no time on the bill. The time is on the amendments. If no amendment is pending, it could be considered as against the bill.

Mr. SCOTT. At one time there was 6 hours on the bill.

Mr. MANSFIELD. The Senator is correct. However, we had to change it. May I say that this is an issue whose time has come. We ought to face up to it. We have an agreement. I do not think it should be extended.

The issue is not so complex that it is not understood by everyone and by every parent and others in this country. I would hope that we would face up to it and dispose of it one way or the other.

I suggest to the distinguished Senator from Kentucky that on the basis of conversations I have had with the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN), the vote will not occur at the end of the 2 hours because they intend, if my memory serves me correctly, to offer some substitute proposals at that time.

There will be a lot of debate on it. The sooner we face up to it, the better off everyone will be, regardless of their feelings on this matter.

Mr. COOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOPER. Mr. President, can the amendment that has been offered be amended?

The PRESIDING OFFICER. The language proposed to be stricken is open to perfecting amendments.

Mr. COOPER. I thought that would be correct. I therefore reserve that right to object. I know that we have to face up to this matter. I am only asking for a little more time, a little more than 2 hours. Many questions may be asked on this proposal. I want to ask a few questions. I helped to manage this particular section when the 1964 Civil Rights Act was passed, and I have kept up with these cases throughout the years.

I think there is too little time and that we will be preventing Members of the Senate—not myself alone, but also others—from asking questions.

Many Senators will want to ask questions when we are enacting a statute which could be overturned in the court and which would help frustrate this problem for another year or two. All I ask is for a little more time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky?

Mr. MANSFIELD. Then, Mr. President——

Mr. SCOTT. Mr. President, before we get into that, I want to make sure that none of this time comes out of the amendment. I think that we have an agreement to that effect.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. JAVITS. Mr. President, I have very great regard for the Senator from Kentucky, and any request of his would be almost a mandate to me. However, I would like to point out to him, and also in fairness to our leadership, that there can be a succession of perfecting amendments. We could have one or five perfecting amendments. Once one is stricken down, another one is in order. There might conceivably be six or 10. Therefore, I believe that perhaps the Senator from Kentucky himself might wish to offer a perfecting amendment. I believe that using that technique, and without disturbing the original unanimous-consent agreement, what the Senator from Kentucky desires can be accomplished.

Mr. MANSFIELD. Mr. President, I would agree. And I think that would take care of the questions raised by the Senator from Kentucky.

Mr. GRIFFIN. Mr. President, reserving the right to object, I think it should be understood that no perfecting amendments to the substitute offered by the distinguished majority and minority leaders would be in order. There is nothing further that can be offered to modify that substitute. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. Mr. President, as I understand it, perfecting amendments to the Allen amendment or to the original text, or both, may be offered. If such perfecting amendments are offered, the votes on such perfecting amendments would precede the vote on the substitute offered by the two leaders.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. Because the substitute offered by the leaders is so important, and it is obviously the major amendment before the Senate, I would rather hope that we go along with the request of the distinguished Senator from Kentucky to have an additional hour on the amendment.

Mr. MANSFIELD. Mr. President, I am most reluctant to object, but I must object because, as the distinguished Senator from New York has pointed out, if the Senator from Kentucky wants time, he can offer perfecting amendments himself and get all the time in the world.

But I think in view of what the Senate has been led to understand we should keep the format the Senate agreed to and that will give the Senator all the time he needs.

Mr. COOPER. Mr. President, if the

Senator will yield, I wish to state that I still contend for the substance of what I have said but I will follow his suggestion and study carefully the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania?

Without objection, it is so ordered.

Mr. SCOTT. Mr. President, a parliamentary inquiry to clear up something.

Mr. MANSFIELD. Time begins at 10:30.

Mr. SCOTT. Time begins at 10:30; I understand.

The PRESIDING OFFICER. Yes.

Mr. SCOTT. Now, I ask unanimous consent that the time not be taken out of the amendment or out of the bill for the parliamentary inquiry I am proposing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. I would like to inquire as to the nature of the vote that would occur on any perfecting amendment because if perfecting amendments were to be offered by the proponents of the original amendment, does the vote occur on the original amendment as perfected prior to the vote on the substitute? It is not my understanding, but I would like that cleared up.

The PRESIDING OFFICER. The answer is no, it would not.

Mr. MANSFIELD. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. SCOTT. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. It is correct to state that it is the prerogative of any Senator to offer a perfecting amendment to the amendment, either in the form of perfecting amendments to the Allen amendment or the substitute as reported out of committee?

The PRESIDING OFFICER. The Senator is correct. If an amendment is offered to the substitute first, the amendment to the Allen amendment would not be in order until the amendment to substitute was disposed of.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. To make sure I understand the situation and the Chair's ruling in response to the request of the majority leader, do I understand perfecting amendments are in order to the bill?

The PRESIDING OFFICER. To the Allen amendment or the text proposed to be stricken by the Allen amendment.

Mr. BAKER. But not to the Scott-Mansfield substitute?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Yes, but as to other parts of the bill, there would be no restriction on the bill because that would be in the first degree, would it not?

The PRESIDING OFFICER. At a later date it would be in order.

Mr. BAKER. But amendments to any other part of the bill would not be subject to this restriction?

The PRESIDING OFFICER. Correct.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. An amendment would be in order to the language of the committee substitute which my amendment seeks to amend; that would be in order. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. There are two sections to which perfecting amendments may be offered; that is, two legislative measures pending to which perfecting amendments may be offered.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. The right to offer a perfecting amendment is a privilege afforded to every Senator. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Does the right reside with the authors of this substitute to offer perfecting amendments to this substitute?

The PRESIDING OFFICER. It does not.

Mr. BAKER. There is no method for offering amendments to the substitute by the authors of the substitute.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. But the authors of the substitute can offer perfecting amendments on their initiative to the portions of the pending business, which the distinguished Senator from Alabama indicated.

The PRESIDING OFFICER. To obtain 901 or——

Mr. ALLEN. In other words, if all matters are cleared out of the way of the Scott-Mansfield substitute, its provisions are as unchangeable as the laws of the Medes of Persia.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator will please restate his inquiry.

Mr. ALLEN. Once all obstacles are cleared out of the way of the Mansfield-Scott amendment, if that time ever comes, then the provisions of the Mansfield-Scott amendment would be as unchangeable as the laws of the Medes of Persia. Is that correct? It would be up and down?

Mr. SCOTT. I would not ask the Chair to speculate, but, as previously indicated, the time will come under the unanimous-consent agreement, one way or another.

The PRESIDING OFFICER. The Chair would state that the parliamentary situation is that the amendment pending is the Allen amendment and they cannot yield on the substitute at this point without unanimous consent.

Mr. MANSFIELD. Mr. President, will the Presiding Officer please explain that? I am not sure I understand what the Chair said.

The PRESIDING OFFICER. The pending amendment is the Allen amendment. The substitute has been offered to that amendment, but the time has expired on the amendment of the Senator from Alabama. Therefore, no time can be yielded on the substitute until unanimous consent is requested.

Mr. MANSFIELD. But time could be yielded on the bill under the 6-hour notation on a daily basis.

The PRESIDING OFFICER. But he cannot yield.

Mr. MANSFIELD. I understand he can. There is no amendment pending at the present time. All time on the Allen amendment has been disposed of and, under the agreement entered into by the Senate, we now have the Scott substitute being taken up at 10:30 tomorrow, so we want to conclude now. We can either go ahead and talk on the bill or lay it aside and talk.

Mr. SCOTT. Or go home.

Mr. MANSFIELD. Or go home.

Mr. SCOTT. That is the point I made about the 6 hours.

Mr. GRIFFIN. Mr. President, the prerogatives of leadership being what they are, and the junior Senator from Michigan having been preempted in offering a substitute, I send to the desk a revised version of amendment No. 915, which I explained earlier today, and seek to have it printed and available tomorrow. The junior Senator from Michigan will try again tomorrow to have it offered as a perfecting amendment.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. May I say that tomorrow there will be a lot of perfecting amendments. But, remember, every Senator has the right.

Mr. PASTORE. To lay on the table, is that correct?

Mr. MANSFIELD. Not always. But I would hope the distinguished Senator from Rhode Island would exercise his usual discretion.

Mr. PASTORE. He will. There will be no question about that.

Mr. BYRD of West Virginia. Mr. President, will the manager of the bill yield to me time from the bill?

Mr. PELL. Mr. President, I yield the Senator as much time as he may desire.

## ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of all unanimous-consent orders recognizing Senators tomorrow there be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR TUNNEY AND SENATOR GAMBRELL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, immediately after the two leaders have been recognized under the standing order, the Senator from California (Mr. TUNNEY) be recognized for not to exceed 15 minutes; that he be followed by the distinguished Senator from Georgia (Mr. GAMBRELL) for not to exceed 15 minutes; and that at the conclusion of the remarks by the Senator from Georgia (Mr. GAMBRELL) the distinguished Senator from Mississippi (Mr. STENNIS) be recognized for not to exceed 15 minutes as previously agreed to.

The PRESIDING OFFICER. Without objection it is so ordered.

## ORDER OF BUSINESS

Mr. COOPER. Mr. President, there is no allotment of time at present?

Mr. PELL. Mr. President, I yield the Senator as much time as he desires.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

Mr. COOPER. Mr. President, I shall be brief. I know there will not be very much time tomorrow to speak on this amendment.

I want to raise some questions today and perhaps those Senators who manage the amendment will look over my questions and refer to them tomorrow.

Of couse, I know the majority leader and minority leader are making an effort—and a conscientious effort—to reach the difficult question of busing. I saw the amendment a short time ago and have not had a chance to digest it carefully, but I do want to point out a few questions which I think it raises, and which I hope the managers of the amendment would respond to tomorrow.

The first clause of section (a) provides that:

> No funds appropriated for the purpose of carrying out any program subject to the provisions of the General Education Provisions Act, including this Act, may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system.

The second clause goes further, and prohibits the use of any funds "in order to carry out a plan of racial desegregation of any school or school system," except in the written request of local school officials.

I point out that the *Swann* case held that a State could not absolutely prohibit the use of funds even to achieve racial balance, because that might impinge upon school desegregation.

I would question, although my mind is open to argument and reasoning, that we can prohibit the use of funds to carry out a program of racial desegregation of schools, and particularly if it has been ordered by a court. I want to raise that question.

The next question I raise is that the amendment attempts to tell the courts that, although they may render a judgment providing for school desegregation, they cannot enforce that judgment. I do not know that we have any authority to take the power of enforcement away from a court, unless we use the constitutional authority jurisdiction from an inferior court in some cases; but I doubt very much that we can strip a court of its enforcement powers. Certainly, I do not believe we can strip the Supreme Court.

The next question I raise is this: It might be argued that, while we cannot prohibit use of a State's funds, we can prohibit our Federal funds from being used; but, again, in the Swann case it was held that action could not be taken to take away the protections of a child who had fallen under the constitutional protection in desegregation cases.

I believe this amendment poses very grave constitutional questions and grave questions about delaying desegregation. That is the reason why I contend that it deserves longer debate.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. COOPER. There is just one more point I want to raise. The amendment would bring into decisions by the HEW and by Federal agencies, and even by the courts, the criteria of the effect of busing upon a child's health or its impingement upon the processes of education. I think, since that has been suggested in several court cases, it is a field into which we could enter, particularly because I do not think the legislative body has ever laid down specific criteria for busing. It is a power we have. The courts may not agree with all the criteria we provide, but our interpretation would have effect.

That is all I wanted to say. I think this amendment raises grave problems. That is the reason why I thought we ought to have more time on it.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. SCOTT. I do hope the Senator will read the amendment very carefully, because it has been carefully drafted and it is grounded on the concern which has been expressed and also on the Brown against Board of Education case and Swann against Mecklenburg Board of Education case. In that latter case the Supreme Court said an objection to busing "may have some validity" when the foregoing conditions are demonstrated; that is, the time or distance of travel being so great as to risk the health of children or significantly impinge upon the educational process.

Mr. COOPER. I suggested that it is certainly a proper provision of the amendment.

Mr. SCOTT. This amendment would be saying that this kind of objection does have validity, just as the Court said it may have validity.

Another part of the amendment is designed to avoid the effect of repealing title VI of the Civil Rights Act of 1964 as it applies to education, as we do not want to turn the clock back.

The third part of the amendment deals with the effective date of certain district court orders expiring on June 30, 1973, by which time these questions will have been resolved.

I think the Senator will find, the more he reads it, it is an effort to promote voluntary desegregation and compliance with court orders and validly applicable statutes, but that it does not attempt to repeal any section of any prior Civil Rights Act; and it is in the spirit of the Swann case that the amendment is drafted.

Mr. COOPER. Mr. President, I appreciate the Senator's explanation. I want to say that after reading it—and I have read it pretty carefully—I think it presents grave questions, and I think what it does—if we want to face it, we can—is to deny the tool of busing, at least until next year.

Mr. SCOTT. That is what the various amendments to which I stand in opposition would do. The other amendments would seek to deny funding and prevent all busing. There are today 20 million children being bused in this country. What we are trying to do is to find a moderate position in accordance with the law and this would establish guidelines under which busing could not take place.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. JAVITS. I have listened to the questions of the Senator from Kentucky with great interest. I would like to suggest to him the following areas of consideration. I believe that the power sought to be exercised by us, in the Senate, in this bill, as we restrain the expenditure of Federal funds in the exercise of Federal authority, as we are a separate branch of the Government insofar as we control Government departments and Government expenditures, is constitutional.

I have some doubts, myself, relating to both constitutionality and public policy considerations as to that section which seeks to suspend the operation of court orders for a year, or 16 months if we take it from today; but, as a practical matter, the issues raised in pertinent cases will probably not be fully resolved in those 16 months. But the important thing I would like to point out to the Senator is that I believe we will be marking a new departure in the busing field and believe we will be laying down not only guidelines, but rules of fairness.

The most critical rule of fairness that we are laying down, and which is taken out of the Swann case, is that busing shall not significantly impinge on the educational process. That means, as it is now spelled out in the amendment, not only the educational process as it affects the child being bused, but the educational process as it affects the school to which he is bused. That is, to me, the most significant aspect of this amendment and is to my mind the most substantive answer to what has been troubling people who have been so deeply exercised about busing.

For those reasons, I believe that this amendment as finally drafted commends itself as a temporary solution to a temporary problem, because, after all, the objective of the law is to desegregate.

Then we go back to busing patterns, which exist anyway, having not been ordered by the courts for 40 percent of America's children. This idea that it is some horrendous thing, I think, has been completely exploded by the hearings of the Select Committee on Equal Educational Opportunity; the fact that educational progress has already taken place through desegregation involving use of busing has not been refuted and is irrefutable.

Since I have such enormous respect for the Senator from Kentucky and his thinking as a constitutional lawyer and a judge, I suggest these lines of inquiry as he seeks to answer these questions about the rationale on which those, like myself, joining with the manager of the bill have proceeded with respect to this matter.

*Mr. BAKER. Mr.* President, may I inquire who has time, and if someone can yield time to me?

Mr. JAVITS. Mr. President, as I understand the ruling of the Chair, the time is now divisible between the two sides without regard to hours, so long as there is no amendment technically in order; therefore, I think we are prepared to yield time on the bill to the Senator from Tennessee, as he may desire.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the time under control?

The PRESIDING OFFICER. Unless there is unanimous consent, there is no time available.

Mr. BYRD of West Virginia. Mr. President, under the agreement, there is time on the committee substitute, not to exceed 6 hours daily. If that 6 hours has not been consumed, there would still be time available from the time on the substitute. Am I not correct?

The PRESIDING OFFICER. The Senator is correct, but time cannot be allowed from those 6 hours on an amendment. Technically, we are on an amendment.

Mr. BYRD of West Virginia. That is correct, but time on the Mansfield-Scott amendment does not begin until 10:30 a.m. tomorrow. Technically, the Mansfield-Scott amendment is before the Senate. Time-wise it is not. So, unless time may be yielded at this point from the committee substitute, the Senate, except by a unanimous consent of some sort, would be forced to adjourn. It appears only logical that, in this situation, time may be yielded for general debate from the remaining time on the committee substitute.

Mr. BAKER. Mr. President, the parliamentary inquiry is whether the time is under control. I have no desire to press the issue, but just to make sure that I have the 3 or 4 minutes I may require, I now ask unanimous consent to proceed for not more than 5 minutes on the bill.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, the Senator does not have to ask unanimous consent, because time on the amendment does not start running until tomorrow at 10:30 a.m.

Mr. PELL. Mr. President, I am glad to yield to the Senator whatever time he wishes.

Mr. BAKER. Whoever will yield me 5 minutes, I shall be glad to proceed on that basis.

Mr. JAVITS. I yield the Senator 5 minutes.

Mr. BAKER. I thank whoever yielded me 5 minutes.

Mr. PELL. The Senator from New York.

Mr. BAKER. Mr. President, this is not the occasion to undertake to educate the Senator from Kentucky by saying what he should consider overnight. I add my bit, not because he needs to be directed, but because the colloquy between the Senator from Kentucky and others has suggested problems which I believe of even graver consequence than we have expressed today.

I think we really are in a sad situation, when we are going to limit the consideration of this substitute to 2 hours, as we have now done. We are engaged in the consideration of a matter of really extraordinary importance, and one of vital importance, I believe, to a great majority of the people of this country. But that is behind us now. Two hours is the limitation on the substitute.

It does nothing to satisfy my concern to say there can be a series of perfecting amendments. There can be, presumably and theoretically, an endless string of perfecting amendments, but not to the substitute. The substitute stands inviolable, and there is nothing we can do about it.

Mr. President, just to make sure that there is some frame of reference, I think we might consider the fact that while the substitute reported by the distinguished joint leadership contends that it clarifies into law a suggestion of the Swann case that you cannot order busing when it will impinge on educational quality or unduly affect the health and welfare of the children, I think that deserves a further bit of explanation, because that is the precise language of the Swann case, and the Court itself, in Swann, complained that they have not had a legislative directive on how they should implement the requirements of the law.

I suggest, Mr. President, that that is nothing to give them a legislative policy, but simply reiterating the exact language of Swann. If we wanted to do that, the substitute might say that we cannot transport unless the child is in the fourth, fifth, or sixth grade, or unless the child is 6, 10, or 12 years old, or that we cannot transport for more than 15 minutes, or for more than 15 minutes before daylight, or for more than a certain geographical distance. This might be of assistance to the Court in establishing what we probably can do, that is, give some legislative direction to the implementation of a policy for public education. But that is not what we do in the substitute. We simply parrot the language of Swann, and say this is legislative direction. It is not, Mr. President.

The sad part about that is that, if my contentions are correct, then the 2-hour time limitation and the inviolate character of the substitute, which cannot be amended, becomes even more burdensome.

So, Mr. President, once again with apologies to the distinguished jurist and Member of this body having suggested these things for his fellows' consideration, I can only say the substitute is indeed replete with serious and basic constitutional questions. I have grave doubt that we can or should do some of the things suggested in the substitute. I think there are other things we can do; but I think it is a shame, Mr. President, that we have 2 hours—just 2 hours—to consider the substitute, take it or leave it. I do not think that is worthy of the Senate.

Mr. BYRD of West Virginia. Mr. President, on behalf of the manager of the bill, I yield myself 1 minute on the committee substitute.

## ORDER FOR ADJOURNMENT UNTIL 9:15 TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

Mr. BYRD of West Virginia. I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1746.

The PRESIDING OFFICER (Mr. Brock) laid before the Senate a message from the House of Representatives that the House had disagreed to the amendment of the Senate to the bill (H.R. 1746) to further promote equal employment opportunities for American workers and requested a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate insist on its amendments and agree to the conference requested by the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Williams, Mr. Randolph, Mr. Pell, Mr. Nelson, Mr. Eagleton, Mr. Stevenson, Mr. Hughes, Mr. Javits, Mr. Schweiker, Mr. Packwood, Mr. Taft, and Mr. Stafford conferees on the part of the Senate.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

Mr. GAMBRELL. Mr. President, will the Senator from Rhode Island yield me 4 minutes on the bill?

Mr. PELL. I yield 4 minutes on the bill to the Senator from Georgia.

### AMENDMENTS NOS. 924 AND 925

Mr. GAMBRELL. On behalf of Senator CHILES and myself, I submit for printing, but not to call up, amendments to the pending committee substitute, one being an amendment which seeks to limit the jurisdiction of the Federal district courts in respect to school busing orders, and providing that in the event that busing is provided for, it should be provided for in a uniform way throughout and across the country, and defining what is uniform adopted busing policy throughout the United States.

The second amendment that I send to the desk for printing is likewise an amendment to the pending committee substitute. This is a clarification and adaptation which was previously adopted by the Senate to the school desegregation bill when it was passed last spring. The bill at that time was amended by the Senator from Florida (Mr. CHILES), and Senator CHILES and I are offering this amendment to the pending legislation to be considered by way of clarifying the committee's report on that subject.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that the two amendments to the committee substitute be printed at this point in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

#### AMENDMENT NO. 924

On page 699, line 20, strike out the words "a final" and insert in lieu thereof the word "any".

On page 711, strike lines 15 through 20, and insert in lieu thereof the following:

"(c) Notwithstanding any other provision of this title, sums appropriated pursuant to section 704, and apportioned to a State pursuant to section 705, shall be available for grants to and contracts with any local educational agency in such State which is eligible to receive financial assistance under section 706(a)(1)(A)(i)(I) of this title, to assist such agency in carrying out programs or projects referred to in section 707 of this title, and as set forth in the plan of desegregation undertaken pursuant to order of court, and no further conditions shall be established by the Secretary, or any other official of the United States Government in order to establish the eligibility of such agency to receive grants or contracts under this title."

#### AMENDMENT NO. 925

At the end of the bill add the following new Section:

"SEC. —. (a) Notwithstanding any other law or laws, no court of the United States shall have jurisdiction or authority to enforce any order or judgment to the extent that it provides for the assignment or requirement of any public school student to attend a particular school because of his or her race, creed, or color, until—

(1) Appeals in connection with such order or judgment have been exhausted, or in the event no appeals are taken, until the time for such appeals has expired; and

(2) Plans, approved by competent judicial authority, providing for the racial desegregation of schools without regard to the origin or cause of existing segregation, shall have been adopted uniformly throughout the United States.

"(b) Plans referred to in Subsection (A) (2) hereof shall not be deemed to "have been uniformly adopted throughout the United States" until—

(1) Such plans have been adopted in school systems containing not less than 75 per centum of the public school population of the United States; or

(2) Such plans are in effect in not less than 75 of the 100 most populous school systems in the United States which have total minority student population greater than 15 per centum and such plans are in effect in 75 per centum of the States of the United States having a minority public school student population greater than 15 per centum.

"(c) The Attorney General of the United States is authorized to initiate appropriate actions in the Federal District Courts of the United States seeking the desegregation of public schools under plans as provided for in Subsection (A)(2) hereof, and no plan of public school desegregation shall qualify for consideration under Subsection (A)(2) hereof unless and until the Attorney General has been made or become a party to the action pursuant to which judicial approval of such plan has been given."

### QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and I assume that this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:15 a.m. After the two leaders have been recognized, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senators TUNNEY, GAMBRELL, and STENNIS.

At the conclusion of the unanimous-consent orders recognizing Senators, there will be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

At the hour of 10:30 a.m., the Senate will resume the consideration of amendment No. 923 by the distinguished majority leader and the distinguished minority leader—an amendment to the Allen amendment, No. 922. Under the limitation of time on amendments, time on amendment No. 923 will be limited to 2 hours. Rollcall votes tomorrow are very probable.

### ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:15 a.m. tomorrow.

The motion was agreed to; and (at 4:53 p.m.) the Senate adjourned until tomorrow, Thursday, February 24, 1972, at 9:15 a.m.

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# HOUSE OF REPRESENTATIVES—*Wednesday, February 23, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Peace be to the brethren and love with faith, from God the Father and the Lord Jesus Christ.*—Ephesians 6: 23.

O Thou Kindly Light of our pilgrim way, we come confessing that in the rush of busy hours we often forget Thee and neglect to climb the stairs to the upper room where for awhile we may be alone with Thee and have our faith restored, our hope renewed, and our love be given new life. Forgive us, our Father, and make us mindful of Thy presence as we face the duties of this day.

We pray for our Nation. Help her to be strong in Thee and in the power of Thy might that justice may reign in the minds of men and peace may rule in the hearts of our people.

"O God, may Thy spirit protect our dear land,
In mercy assist her to faithfully stand
For justice and honor through all of her days,
One people united to serve Thee in praise."

Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### WELCOME TO ROTC CADETS

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, I wish to take this opportunity to welcome ROTC cadets from all over the Nation to Washington this week. I am sure that the membership of the House joins me in this cordial welcome.

Some 250 young men, representing the various ROTC detachments on a number of college and university campuses have been selected by the Department of Defense to attend the Reserve Officers Association's 2-day conference, which also marks that major national organization's 50th anniversary.

This is the first assembly of its kind

for ROTC representatives. In Washington they will exchange views with national leaders such as Secretary of Defense Laird, with other Defense officials, and with Senate and House leaders. Included will be briefings on defense and national security.

They will lay a wreath on the Tomb of the Unknown Soldier, among many activities, all designed to further their knowledge of government and country.

The cadets will visit Capitol Hill for a breakfast under the sponsorship of Senator Thurmond, who is a past national president of the Reserve officers. They will also meet with other leaders in ROA.

These serious-minded young men will be a bulwark of tomorrow's Armed Forces and because of their conscientious dedication, they have already shown they will be among the Nation's leaders in industry and commerce.

Cadets, let this visit be among your most meaningful. Learn well the lessons that await you here. And again, a warm welcome from the Congress of the United States.

## INCREASE IN SOCIAL SECURITY BENEFITS

(Mr. MILLS of Arkansas asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MILLS of Arkansas. Mr. Speaker, I am today introducing a bill which would provide a 20-percent increase in social security benefits effective June 1, 1972, in substitution for the 5 percent that was contained in H.R. 1, as it passed the House last year.

On passage of H.R. 1 last year, I began to make a further analysis and study of the entire social security cash benefit program. I have concluded, as did the Advisory Council on Social Security, that on the basis of the tax projected in H.R. 1, we are overfinancing the fund, accumulating far too much of an excess amount of money. So my bill would reduce the rates of tax actually which are set forth in H.R. 1 as it passed the House, and at the same time increase the benefits by 20 percent across the board.

The trust fund will remain completely and totally sound actuarially.

This will mean an increase in the average benefit from $133 a month to $162 a month; from $222 a month to $269 a month for the aged couple; and from $114 to $153 a month for aged widows. These people will still be at or below a poverty level of income if this is the only source of income they have. I think they are the people most in need of our assistance and our attention.

I am very pleased it has developed that these kinds of changes can be made within the social security cash payments without jeopardizing the fund or without requiring 1 cent of money to be transferred from the general fund into the social security fund.

I hope this matter will be considered by the Senate in connection with the bill they now have in the Finance Committee, H.R. 1, and that this figure can be substituted for the 5 percent that is in the House-passed bill.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I am glad to yield to the majority leader.

Mr. BOGGS. I should like to commend the gentleman for his statement. The gentleman probably knows more about this subject than any other Member of Congress, either in this body or in the other body.

I gather from the gentleman's statement that what he would like to see happen would be acceptance of this figure, 20 percent across the board by the Senate so that it may be accepted in the conference on the welfare bill.

Mr. MILLS of Arkansas. I should like for the Senate to use it as an amendment in lieu of the 5 percent, and let us face it in conference with them, which is the quickest way to enact it.

Mr. BOGGS. Which would expedite consideration of it?

Mr. MILLS of Arkansas. Exactly.

Mr. BOGGS. I thank the gentleman.

Mr. MILLS of Arkansas. Mr. Speaker, at a later point in the Record today I shall include a complete analysis of my proposal.

## PROVIDING FOR CONSIDERATION OF H.R. 12931, RURAL DEVELOPMENT ACT OF 1972

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 829 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 829

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12931) to provide for improving the economy and living conditions in rural America, and all points of order against said bill for failure to comply with the provisions of clause 4, rule XXI, are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

## CALL OF THE HOUSE

Mr. HAYS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 48]

Ashbrook
Baring
Barrett
Bergland
Blatnik
Brown, Ohio
Camp
Celler
Chappell
Chisholm
Clark
Clay
Collins, Ill.
Conyers
Danielson
Diggs
Dowdy
Dwyer
Edwards, La.
Gallagher
Goldwater
Gray
Gubser
Hawkins
Hébert
Heinz
Hillis
Ichord
Kemp
Koch
Leggett
Long, La.
McCloskey
McEwen
Macdonald, Mass.
Martin
Metcalfe
Mitchell
Mizell
Monagan
Moorhead
Murphy, N.Y.
Nix
Patman
Pryor, Ark.
Railsback
Rees
Reid
Roe
Rooney, Pa.
Sarbanes
Scheuer
Seiberling
Stanton, James V.
Steed
Stokes
Talcott
Taylor
Teague, Tex.
Tiernan
Wiggins
Wilson, Bob
Zablocki

The SPEAKER. On this rollcall 368 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1746. An act to further promote equal employment opportunities for American workers.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 960. "An act to designate the Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, State of Arizona".

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2515. An act to further promote equal employment opportunities for American workers.

S. 3197. An act to increase the dollar limitation on the cost for construction of Federal Reserve branch buildings.

The message also announced that the Vice President, pursuant to Public Law 84–1028, appointed Mr. Pastore, Mr. Cannon, Mr. Allott, and Mr. Stevens to be members of the Board of Visitors to the U.S. Air Force Academy.

The message also announced that the Vice President, pursuant to Public Law 84–1028, appointed Mr. Inouye, Mr. Humphrey, Mr. Young, and Mr. Goldwater to be members of the Board of Visitors to the U.S. Military Academy.

The message also announced that the Vice President, pursuant to Public Law 80–816, appointed Mr. Magnuson, Mr. Byrd of Virginia, Mr. Pell, and Mr. Boggs to be members of the Board of Visitors to the U.S. Naval Academy.

## PERSONAL EXPLANATION

Mr. BROWN of Ohio. Mr. Speaker, I missed the immediate preceding quorum call because I was in attendance at a meeting of a special study committee of the Committee on Government Operations with the Governor of Ohio with reference to a program on problems of the aging in which the people of that State are greatly interested.

I make this announcement for the benefit of my constituents who read the Record because I would like them to know that I was on the job and it was for that reason that I missed the quorum call.

## APPOINTMENT OF CONFEREES ON H.R. 1746, EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1971

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1746) to further promote equal employment opportunities for American workers, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

The Chair hears none, and appoints the following conferees: Messrs. Perkins, Dent, Hawkins, Mrs. Mink, Messrs. Burton, Clay, Gaydos, William D. Ford, Biaggi, Mazzoli, Pucinski, Brademas, Quie, Erlenborn, Bell, Esch, Landgrebe, Hansen of Idaho, Steiger of Wisconsin, and Kemp.

## PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. YOUNG of Texas. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

## RURAL DEVELOPMENT ACT OF 1972

The SPEAKER. The gentleman from Texas (Mr. Young) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 829 provides an open rule with 2 hours of general debate for consideration of H.R. 12931, the Rural Development Act of 1972. Because sections 110, 111, 112, 117, and 201 of the bill violate the provisions of clause 4, rule XXI—appropriations in a legislative bill—points of order are waived for failure to comply with those provisions. The resolution also provides that the bill shall be read for amendment by titles instead of by sections.

The purpose of H.R. 12931 is to effect a program for rural America for better living conditions and employment opportunities in order to impede migration to metropolitan areas. The communities affected would have a population of not more than 5,500.

The authority of the Farmers Home Administration and the Soil Conservation Service would be expanded. Business type loans would be authorized for rural areas; farm properties would be appraised at market value rather than "normal value"; loans could now be made for community facilities; the dollar limitation on authorizations for water and waste disposal grants would be eliminated, as well as the dollar limitation on planning grants. Planning grants would be authorized to State and local authorities without requiring that they be legally binding on the municipalities which benefit and planning grants would be permitted for solid waste disposal projects without the dollar limitation. In addition, the dollar limitation is eliminated on individual water and waste disposal loans.

The Farmers Home Administration would be authorized to make grants for comprehensive planning for the broader purpose of rural development.

The maximum amount of new unsold loans that may be held in the agricultural credit insurance fund at any one time would be increased from $100 million to $500 million.

The limit on the size of operating loans would increase from $35,000 to $50,000.

The Watershed Protection and Flood Prevention Act would be amended to broaden the authority of the Secretary of Agriculture.

It is estimated that the cost of the legislation during the current and 5 succeeding fiscal years could amount to $280 million in additional grant authority annually.

This is very comprehensive and encompassing legislation which I will not go into further at this time, Mr. Speaker, and I urge the adoption of the rule in order that it may be considered.

Mr. HALL. Will the gentleman yield?

Mr. YOUNG of Texas. Gladly, Mr. Speaker.

Mr. HALL. Mr. Speaker, I wonder if the gentleman could tell us just a little bit more as to the background of why we should appropriate on a legislative committee's authorization bill, other than just the flat statement that that is the reason why points of order are waived?

Mr. YOUNG of Texas. Mr. Speaker, I will refer that question to the author of the bill, the chairman of the Committee on Agriculture.

Mr. POAGE. Mr. Speaker, I thank the gentleman for yielding.

We do not consider that this bill does make any appropriation. It does increase the number of authorizations, but we do not make any appropriations here.

Mr. HALL. I understood the distinguished gentleman from the Committee on Rules to say that that was the reason for the rule waiving all points of order.

Mr. POAGE. That was the reason.

Mr. HALL. Whether this is a transfer or whether it is just an authorization I do not know. Of course, there is no question that that is within the prerogative and the bailiwick of the Committee on Agriculture. I just want to know why points of order are waived.

Mr. POAGE. The reason is this: We do not think it involves any appropriation at all. However, the bill does involve bookkeeping within the Farmers Home Administration whereby they keep substantial sums of money in what we call the agricultural credit insurance fund. FHA brings in these notes that they buy and guarantee. This authorizes substantially an increase of from $100 million to $500 million of unsold notes that they may hold in that fund. We do not consider that is any appropriation at all, because it is just a bookkeeping or housekeeping performance within the department. However, there is some question of the technicalities involved as to whether or not it complies with the rules. We thought it did, and our committee parliamentarian thought we were safe, but there was a suggestion that we had better have such a rule. As I explained to the Committee on Rules yesterday, I did not think we needed it, but it cost nothing to ask for it, so we thought we would and be absolutely sure about it.

Mr. HALL. After all, this is all I was asking for that is exactly why the points of order are waived. I think I understand that now. Of course, the only cost of waiving points of order is the individual right of any Member of the House on the floor, also elected to the Congress, of making a point of order against a bill that does do this. I have no objection per se to a revolving fund of the Farmers Home Administration, which has a record of collections through the years of something over 106 percent of the taxpayers' money it uses.

To my mind, it is one of the good things that does need expanding under the watchful eye of this committee. But any time we repeatedly violate the rules of the House by waiving points of order, it represents a transgression against the Members' rights; and I think we have a right to that explanation on the floor, before voting on the rule proposing to make the legislation in order for consideration.

I thank the gentleman for yielding.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say at the outset that I support this rule and that I support the bill.

Mr. Speaker, I concur with the statements just made by the gentleman from Texas (Mr. Young).

There is one real good reason for supporting this bill. It is the increased authorization provided in section 104 for FHA grants for water and sewer facilities in small communities.

We hear almost daily in this Chamber about the tremendous burden the cities have been assuming due to the migration from our rural areas and small communities to the cities and that we must reverse this trend.

I agree that we should reverse this trend. However, in order to do this, we must give these small communities and rural areas help in providing the facilities and the jobs necessary to keep these people at home. To date, we have not been giving them this necessary assistance. We have placed increased burdens on these small communities in the area of pollution abatement. We have not, however, given sufficient thought to the fact that these communities do not have the resources or the tax bases necessary to carry these burdens.

Mr. Speaker, I just received a letter from the mayor of the small community of Oakwood, Ohio, a community with a population of 804 people, which sums up the problems of small communities throughout America.

The mayor's letter reads, in part, as follows:

> DEAR CONGRESSMAN: I need some information for a small town, like many other small towns in our country that have not progressed.
>
> As you know, Oakwood has a railroad, two State highways and a river; yet we have very little industry and only a few business establishments. The essential ingredients needed to maintain and improve this town have always been cast aside. We now have a critical situation. This situation has caused me concern.
>
> The State of Ohio has informed us that we must have a sewage plant, another fire truck, an ambulance service and changes in our water system. They failed to tell us how we are to pay for all this. So, you can see why I need information.

Mr. Speaker, there is not a Member in this Chamber from a rural area who has not received letters similar to this one by the score.

I understand that counsel has contacted FHA, and believe it or not, FHA estimates a potential backlog of $12 billion worth of requests for help from small communities if funds are available. But, what has this Congress been doing about this need? Practically nothing; practically nothing. We have given these small communities too much lip service and too little financial assistance. It is high time that we gave them something to work with if we want to stop this migration to our cities.

Most of these people would like to stay on the farm or in their home communities where they know their neighbors and their neighbors know and care about them.

But we are forcing these people to move in search of employment. Industries will not locate in communities without water and sewer facilities. Without industries, there are no jobs. Today, we have an opportunity to help these small communities in their efforts to attract industry.

We have been doing far more in assisting our cities with their water and sewer problems than our rural areas. By comparison, last year this Congress appropriated $500 million for sewer and water grants for the cities under HUD. In addition, $200 million was carried over, making a total amount of $700 million.

How much was appropriated for these rural areas, these small communities we talk so much about? Well, we appropriated $100 million under the program, and the Bureau of Budget and Management released only $44 million—$44 million. This is a drop in the bucket when you have a potential need of $12 billion.

We have outside my hometown, a little community called Portage, Ohio. Within the past few weeks the health department was checking on the wells of its inhabitants since the town is without a water system. Over 35 percent of the wells were found to be contaminated.

At the north end of my home county there is a little community called Perrysburg Heights, an unincorporated area, but they have 200 houses. A like percentage of these wells were found to have contaminated water.

They do not have the tax duplicate to support any kind of a do-it-alone bonding program. This community needs help from the Federal Government. It cannot turn to the State because the State needs help. Small communities, such as these, are calling on Congress for assistance. We can give them some additional assistance in this bill. We have an opportunity today to at least make a start toward helping these small communities help themselves. Today we can give them more than the hope and the lip service we have given them in the past.

Mr. Speaker, I think this is an important bill. I do not agree with every section in it, or with every amendment made by the committee, or with every amendment which will be proposed, but this one section is sufficient reason for every Member interested in rural America to vote for it.

I shall offer an amendment to increase the amount of money now provided for water and sewer grants for these communities. The committee has increased the authorization from $100 to $200 million. This amount is not enough when you have $12 billion worth of potential requests. Why, we could use $100 million in Ohio alone, and still not take care of our needs. So, let us make some minor adjustments in our spending priorities and help these communities fulfill some of their basic needs. Industry can then be attracted and jobs will follow. I am going to offer an amendment to increase this amount to $500 million. If you are really interested in rural America you will support my amendment.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Speaker, I thank the gentleman for yielding me this time. I am not opposed to this rule, but I am opposed to some features of the bill. There are some bad sections and some good provisions which I like.

I might point out to the gentleman from Ohio (Mr. LATTA) that there are 17,000 Oakwoods throughout the country. If Oakwood gets its share of the total appropriations proposed under this bill it will get about $8,000, so perhaps they can buy a second-hand ambulance because it will not be enough to build much of a sanitary system or provide those other requests or needs.

My objection to the bill is that it is a cruel hoax. We are raising unjust hopes throughout all the small communities of this country that they can come to the Federal Government and have all of their problems solved, and that simply is not correct.

I will speak more about this in general debate.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. POAGE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12931) to provide for improving the economy and living conditions in rural America.

The motion was agreed to.

The SPEAKER. The Chair appoints the gentleman from Georgia (Mr. FLYNT) to preside over the Committee of the Whole.

Will the gentleman from Michigan (Mr. O'HARA) kindly temporarily occupy the Chair as Chairman pro tempore.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12931, with Mr. O'HARA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Texas (Mr. POAGE) will be recognized for 1 hour, and the gentleman from California (Mr. TEAGUE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Chairman, I yield myself 15 minutes.

Mr. POAGE. Mr. Chairman, there was once a time in our Nation's history when the goal of great numbers of Americans was to leave our great cities and develop farms in the rural part of America.

When millions of people immigrated to this country during the 19th century and the early part of the 20th century, they were forced initially to settle in large cities like New York, Boston, and New Orleans. It is true that many of them have remained in those areas, but many were able to leave and to settle through our great land.

These good people have added immensely to the greatness of America. People of Czech, Irish, German, Polish, Scandanavian, Italian, and many other such backgrounds are not only found in our urban centers, but are found in virtually every village in America. America was truly a "melting pot" of culture and tradition.

There was a time when America was full of thriving small towns and these towns were, in a sense, the symbol of our Nation. But times have changed, and this change, while gradual, has been sad and tragic. Gradually, more and more Americans have concentrated in our major population areas until, at the present time, some 70 percent live on 2 percent of our land.

What has brought about this change? I believe that the simplest answer is that the opportunity to make a sufficient living in rural America has diminished dramatically. Basically, this means that farmers' income has not kept pace with that of the rest of the economy. During the past 20 years, wages have increased 340 percent, and pay of government employees has increased 430 percent.

Business and professional incomes have increased 200 percent. Stock dividends have increased 300 percent. During the same period farm food prices have increased only 7 percent.

It is true that farm efficiency has increased just as has the efficiency of labor, but it is impossible for the increases in farm efficiency to have made up the difference between a 7-percent 20-year-food price increase when compared with a 340-percent wage increase. Yet today there are many bitter criticisms of farm food prices.

It was only last month that the price of live cattle equaled what it had been 20 years ago. Cotton, corn, and wheat are all selling for substantially less than they brought 20 years ago, and yet this very inequity in price has in itself accounted for a substantial part of the dislocation of farm families.

Obviously this insufficiency of income has resulted in further mechanization and the enlargement of our farms. While the development of complex tractors, reapers, and other farm machinery has in many ways been a blessing—a blessing to all of us—there is no doubt that it has eliminated a vast number of farm jobs.

The cotton economy, with which I have some familiarity, presents a stark example of this. Modern technology has virtually eliminated the need to chop or to pick cotton. Those two jobs in the past accounted for the biggest part of employment in our part of the country. This is true all over the country. New agricultural techniques and machinery have taken over many thousands of jobs. Those who once relied on this farm work have been forced to look for work elsewhere and, for the most part, they have turned to our great cities to find it.

Of course, the same thing has happened to all other crops. Great mechanical and technological advancements, including pesticides and fertilizers, have made it possible to grow a great deal more on a given amount of land. Not long ago 100 bushels of corn per acre was considered unheard of. Today it is something that is not at all unusual. This development means less acreage to cultivate, and therefore less labor.

Also, we must not overlook the fact that the American farmer has been severely hurt by the tremendous cost of the machinery he must have to compete with his neighbor. The number of American farmers has sharply decreased. Many have been forced to leave the farm for other jobs, again in the city. Many of those who remain on the farm will have to sell their farms before long because their children have no intention of continuing to operate the farm in view of the bleak prospects of success and the harsh living conditions thereon. They will probably try to find jobs in our cities.

When these people leave our farms, we see the local economy of our small towns suffering. What happens to the banker, the grocer, the doctor, the implement dealer, and even to the churches? They all suffer, and as a result we have today's situation. It is a most sad situation, and one who once knew a thriving town years ago, when he returns to it today, must have a feeling of sadness. Thousands of rural communities now exist simply upon old maps. Eventually they will be forgotten entirely and be but a shadow of the past.

Mr. Chairman, when rural Americans leave for our cities, it affects not only rural America but it affects urban America as well, and just as severely.

A visit to the ghetto of any of our large cities will reveal that many of these residents once lived out in the country. When there was no work available in the country, they came to the city with the hope they could find work. In many instances they could not find it. Most came with good intentions but disappointment and despair awaited them. As a result our slums have grown, creating not only suffering for those who live there, but also for the entire city as well. Our welfare rolls have ballooned to astronomical heights. Poverty and frustration among those who are concentrated in our ghettos have contributed to crime and mistrust.

Mr. Chairman, at this point I want to commend the great efforts that have been made by our large cities and by their representatives. They have done their best to cope with the problem, but it appears that no solution is in sight. The answer cannot be to continually increase the welfare rolls.

This only adds to the problem. Obviously, we must try our best to halt the rush to the ghetto, and this is one of the goals of this bill we are bringing to the House today, this Rural Development Act of 1972.

Of course, it could be argued that at least some of these activities can be supplied by the urban agencies that are now in existence. The weakness is that too many of these agencies simply never get to the small towns and to the rural areas. They could provide some of the needed money but they have no organization in these areas and they have no plans to serve the country areas. On the other hand, the Farmers Home Administration and the Soil Conservation agencies already are present in the rural areas of the entire United States. There are some 4,700 offices all over the United States. They are not trying to displace anyone, and this bill does not displace any agency or take over the work of any existing agency. We are simply trying to let these existing agencies render needed service in areas where no other agencies now exist to fill the need.

Mr. Chairman, I will not take the time of our colleagues to discuss each section of this bill. The committee report contains what I think is a very good section-by-section analysis of the bill beginning on page 19 of that report, if Members care to read it, but I do think we should recognize just what we are doing.

As I see it, the first goal of the Rural Development Act is to stop the rural residents from leaving their homes because of poor living conditions. We cannot guarantee them a good income. That is not what this bill undertakes to do.

But it does attempt to give them better living conditions and to that extent make it practical to live in rural areas. If we can do this—make it attractive, and I think we can—we must try to make it desirable and possible for the people to return to rural America.

How does this bill try to deal with this monumental task? First, we propose to utilize the two agencies of the Department of Agriculture most familiar with the rural problems, the Farmers Home Administration and the Soil Conservation Service. Between them these two agencies have, as I said a while ago, some 4,700 offices all over rural America. They have the employees who know the problems and the people of these communities. We feel that to utilize these existing agencies makes good sense. Our committee does not propose to create new agencies or departments. We feel this would be wasteful and it only creates more red tape and delay in attacking an emergency situation.

Briefly, we give the Farmer's Home Administration new areas of authority. We authorize loans to rural residents, including farmers, to establish and operate small businesses in rural areas, to try to create jobs in those areas.

We authorize loans to industry which will locate in rural areas, taking special care to prohibit industrial "pirating." These loans must be geared to improving the environmental climate of rural America by creating employment and otherwise improving life in rural areas.

Loans are permitted for community facilities and services, including fire houses, equipment, ambulances and rescue equipment. Civic centers will be built with these loans.

This legislation would permit grants to public bodies for the preparation of facilities designed to encourage rural development in areas such as industrial development. Again we take care to prohibit any industrial "piracy." Also, grants are authorized for the preparation of comprehensive plans of rural development.

Recognizing that it is vital that we should and must make every effort to combat and prevent the pollution of our environment, we authorize loans and grants for that purpose. We do not propose to reward those who do not sincerely try to fight pollution.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. POAGE. Mr. Chairman, I yield myself an additional 2 minutes.

We do recognize that ofttimes the measures needed to prevent pollution are so costly that many farmers and businessmen simply cannot afford them and stay in business. One example of this can be found in the meatpacking industry today. Hundreds of small meatpacking plants are being forced to close their doors because they cannot afford the cost of improvements demanded by the fairly recently established Federal regulations. We feel that it is desirable to provide the type of financing which will enable such businesses to continue in operation and to meet the pollution and sanitary requirements of our Government. The alternative is for them to close and for additional rural residents to be without work.

We make other Federal programs, such as the Farmers Home Administration water and sewer programs under the Poage-Aiken bill and the Greenspan program, more flexible to meet the increased demands for program participation.

The small watershed and the resource, conservation and development programs of the Soil Conservation Service are made more flexible by providing assistance in such areas as municipal and industrial water supply, water quality management, pollution abatement and control, and other areas such as rural fire protection and solid waste disposal.

We encourage joint participation with other Federal agencies such as HUD, SBA, and EDA. This is most desirable to avoid duplication and confusion.

We encourage additional participation of local banks and other financing institutions in these loans. This participation is needed and will be helpful to all concerned.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. POAGE. Mr. Chairman, I yield myself 1 additional minute.

This bill will move much of the financial burden from the Government to private lending institutions. That is as it should be. It will do this by requiring the Federal agencies to guarantee private loans rather than making loans from appropriated funds.

We emphasize the need to locate new Federal institutions in rural America and call for accelerated progress in this area.

Mr. Chairman, I believe our committee worked long and faithfully on this bill. It does not take anything away from any city, but it does try to bring rural America more in line with urban America as far as Federal programs are concerned.

I hope the members of this committee will see fit to support this bill and vote down those amendments which, although they might be good on their own, would interrupt or defeat the purposes of this bill.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

Mr. POAGE. Mr. Chairman, I yield myself 2 additional minutes, and I yield to the gentleman from Mississippi.

Mr. ABERNETHY. Mr. Chairman, I would like to say to the Members of this House something which I know is well known. The gentleman from Texas has been a Member of this House for many, many years. For the past 4 years he has served as the chairman of this committee. He has been exceedingly diligent in his efforts and in the interests of people from all sections of the country and more particularly those who live in rural areas, which, of course, is his assignment in the Congress. He has never been sectional in his efforts. He has devoted as much of his time to legislation which would benefit one section of the country as he has to another or to his own section.

We are proud of the service of Bob Poage. We appreciate the exceedingly hard work he has done to bring this bill to the floor. I wish to commend him for his statement and would like to associate myself with the remarks he has made. I am proud to be a coauthor of the bill of which he is the chief author, and I commend the legislation to the further consideration of the Members of this body.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I want to second everything that the gentleman from Mississippi said about the gentleman from Texas. The gentleman from Texas is certainly the most outstanding authority in this House in the field of agriculture.

I will not take any extended time to speak on this bill, because the gentleman from Texas has already said substantially everything necessary and some more, too. He made one of the best statements I have ever heard in this House on the real situation existing in this country concerning people moving from rural areas and into cities with almost all of the attention being put on the problems existing after they get there and not enough on the problems that caused them to go there.

I certainly want to commend the gentleman for his statement, and I am wholly in support of the bill.

Mr. POAGE. I thank my colleague from Iowa.

Mr. ALBERT. Mr. Chairman, would the distinguished chairman yield?

Mr. POAGE. I yield to the distinguished Speaker.

Mr. ALBERT. Mr. Chairman, I commend the distinguished gentleman from Texas and his great committee on bringing this bill to the floor.

The Rural Development Act of 1972 has been assigned a high priority for this session by the House leadership.

This legislation will fill a vacuum in national policy. The regrettable truth is that rural America, once the heartland of this Nation, has been in steady decline since World War II. Our national population has increased by more than 50 million during that period, but there are 23 million fewer rural dwellers than there were in 1945. Americans have been pouring into the cities at such an overwhelming rate over the last quarter of a century that 75 percent of us now occupy only 2 percent of the available living space. Our problem is not overpopulation, it is overconcentration of people and the need to disperse them over a land which can easily support our present populace and many more if necessary.

To those who say we cannot afford a rural development program at this time, I reply that we cannot afford not to initiate measures like the ones incorporated in this legislation. The movement of people into urban centers has not resulted merely in a shift of numbers, it has had a disastrous effect on the quality of life in rural America. As people have moved out, communities have eroded and local businesses have gone under. Unemployment is endemic in the absence of economic opportunity. More than 14 million of this Nation's 25 million poor live in rural America. Sixty percent of our inadequate housing is found outside city limits. There are 30,000 small towns without a water system, and more than 30,000 communities without adequate waste disposal.

In virtually every facet of day-to-day life, rural Americans lag far behind the rest of us. Be it education, health, jobs, power, transportation, or the amenities city dwellers regard as commonplace, rural people in general go without. Over 130 rural communities have been identified as having no doctor, and as a result one-half of all maternal deaths in the United States are in small towns, the infant mortality rate is one-third higher, and there is a 30 to 40 percent higher rate of death and disability from accidents. It is little wonder that the Secretary of Agriculture has predicted we will have 40 percent fewer rural dwellers by 1980.

The question is: Where are they to go? Our cities are at the bursting point, choking in traffic, pollution, deteriorating housing, and mass humanity. Crime and drugs proliferate, as do all forms of aberrant behavior under the stress of overcrowding. Reversing the inmigration to cities is in the national interest, and it could be crucial to our future to start the process now.

The bill reported out of the Committee on Agriculture is an important first step. It will authorize new loan and grant programs to finance the creation of new business, industry, and employment in rural America. Where jobs are, people go. And where industries locate, communities are formed. I am optimistic that the provisions of this bill will start a regeneration of America's countryside by making it economically feasible for industry to relocate and by providing a stimulus for new enterprises.

A broad enhancement of the quality of life in rural America is contemplated in this bill. It will help build community centers and provide needed fire and rescue services. It will double the present authorization for water and waste disposal construction grants. It will raise the loan limit in the agricultural credit insurance funds from $100 million to $500 million for expanded support for economic development, pollution control, watershed protection, flood prevention, and resources conservation and development. It will give the Secretary of Agriculture new authority to share the costs of water quality management, land utilization, and agricultural waste management. And it will give priority to the locating of new Federal facilities and offices in rural areas.

These programs may well be the catalyst for a long-overdue revitalization of rural America. They can help reverse the rush to the cities and hopefully bring new purpose and new hope for the future to the forgotten Americans scattered across the breadth of this country in communities scarred by decline and decay. The Rural Development Act will affect city and country dwellers alike. It will benefit all America, and I urge its speedy approval.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Teague).

Mr. TEAGUE of California. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I feel rather lonely down here, I might say.

Before telling you why I oppose this bill, I would like to join in the statements just made about the gentleman from Texas (Mr. Poage). I have the greatest respect for him. While I disagree with him concerning many features of this bill, certainly there is no harder working or more sincere or more knowledgeable man in the field of agriculture than Mr. Poage. Nevertheless I rise in opposition to H.R. 12931.

This is a bill that is both bitter and sweet; it is a bill that has some good features and some very bad ones. It is a bill that in many ways is well intentioned but in other ways raises false hopes that will surely be cruelly dashed in the future. This is a bill that I feel impelled to oppose because the negative aspects outweigh the positive aspects.

As the ranking Republican member of the Conservation and Credit Subcommittee, it has been my privilege to serve with the gentleman from Texas (Mr. Poage) for a number of years. I know of his long-standing interest in and support of farm and rural legislation. I appreciate his authorship of the many important laws relative to soil and water conservation and waste control and abatement. Through the years I have been proud to have played a part in the development of a number of constructive and worthwhile programs in this area.

Thus I want to be constructive. There is no impediment against my support for the provisions of H.R. 12931 which—

First, use a market value appraisal in place of normal value appraisals for farm ownership loans.

Second, raise the $100 million limit on the agricultural credit insurance fund—ACIF—to $500 million.

Third, consolidate emergency and ACIF revolving funds.

Fourth, insure loans made in connection with Soil Conservation Service projects.

Fifth, increase the size of farm operating loans from $35,000 to $50,000.

Sixth, convert farm operating loans from an appropriated funding to an insured loan basis.

Seventh, remove the $4 million ceiling on community water and waste disposal loans.

Eighth, provide for administrative improvements in FHA operations—bonding of employees, property disposition, and so forth.

Ninth, amend the Watershed and Flood Prevention Act to provide cost sharing for water quality management within the resource conservation and development areas.

Tenth, amend the Bankhead-Jones Farm Tenant Act to authorize cost sharing for water quality management within the resource conservation and development areas.

Eleventh, direct the Secretary to carry out a land inventory and monitoring program and report at not less than 5-year intervals on soil, water, and related resource conditions; and

Twelfth, authorize the Department of Agriculture to extend financial assistance to more desertland entrymen.

Yes, Mr. Chairman, these twelve items in the bill would make sound changes in existing law. They are all reasonable improvements and most importantly they are within the range of reasonable expectation of future funding.

Unfortunately, however, there are a number of other provisions in the bill which are either founded on unsound theory or are full of unrealizable dreams.

In our minority views on this bill, the gentleman from Oklahoma (Mr. Belcher) and the gentleman from Pennsylvania (Mr. Goodling) and myself specifically questioned four new donation plans envisioned by this bill—plans, incidentally, which eventually will be measured in the billions of dollars, not in the millions described in the bill before us.

These four new grant programs should be thoroughly understood before the House votes upon this bill.

The first new grant authority would provide for pollution abatement and control grants to a great number of recipients including "public, private, or cooperative organizations organized for profit or nonprofit or to individuals." While the bill establishes an initial annual ceiling of $50 million for these grants, the precedent established by this authority would be most unwise. Favored polluters would be rewarded for their action in a method diametrically opposite of the principle that when one goes into business and damages others, he should be required to pay for those damages—certainly the public should not be required to subsidize polluters.

I understand Mr. Dow of New York will have an amendment to correct this provision of the bill which certainly will have my support.

The second new grant authority would earmark $25 million annually in grants to farmers and others for pollution abatement and control. This new authority would be vested in the Farmers Home Administration and would duplicate and overlap the existing rural environmental assistance program—REAP—currently being administered by the Agricultural Stabilization and Conservation Service. Unlike the REAP program which imposes a $2,500 cost assistance ceiling, however, these new grants could be of unlimited size.

The third new grant authority would permit up to $50 million per year to be donated to small towns, cities, or other public bodies for a host of rural economic development activities.

This may cut the potential benefit for Oakwood, Ohio, from $7,000 to $2,000. I seriously doubt that the proposed scope of these grants could ever begin to meet the anticipated demand for this new source of free money. There are over 16,000 small towns in the Nation. There are 3,000 counties and uncounted public bodies. Either most of these potential recipients will now seek a Federal grant or they will collectively collect billions of dollars, not millions.

There is not conceivably anywhere enough money to provide any meaningful amount of contribution to these thousands and thousands of eligible recipients.

The fourth new grant authority envisions $10 million per year for planning. This, too, is in duplication of an existing program—in this case the "section 701" Housing Act grant authority that the U.S. Department of Agriculture now receives.

In addition to creating these four new grant programs, the bill also doubles the authorized level of two existing grant programs for the water and sewer program, liberalizes cost sharing on the small watershed and the resource conservation and development programs, and increases—by $30 million annually—the authority for the Greenspan program of the U.S. Department of Agriculture.

In total, it authorizes in the neighborhood of $300 million of new and unbudgeted donations by the Federal Government which simply does not have the money to give away.

On top of this, the bill would also expand low-cost Government-subsidized credit through the facilities of the Farmers Home Administration, and the loans would be at the rate of 5 percent. Again, this generosity must be tempered by realism.

I know, of course, that there is an "antipiracy" clause in the bill. It is designed to inhibit a rural area from raiding an urban area to entice business away. I wish those of you from urban areas would listen to this.

But do you believe such a provision can be effective? How can it possibly be enforced? And by whom?

Make no mistake about it, this bill has as its basic purpose the creation of favorable economic conditions in rural areas—economic conditions created by Government subsidy in a manner designed to engender greater business growth in rural areas. That policy is even more clearly articulated in section 401 of the bill which establishes a first priority for the location of Federal facilities in rural areas.

You Members from urban districts should fully understand that you are voting for a Government subsidy to transfer your jobs and your businesses to rural areas.

In conclusion, Mr. Chairman, I would make this one final point.

All the debate on this bill has presupposed we have some Federal resources to give. In fact, that is itself a cruel hoax. With a $23 billion budget deficit last year, a $39 billion deficit this year, and at least a $26 billion deficit next year, I think it is most legitimate to ask that old question: "Where in the world are we going to get the money?"

In summary, Mr. Chairman, this bill has some good features. On the other hand, it contains enough unwise and unrealistic provisions to recommend its rejection.

Only in this fashion can we act responsibly to bring some true progress to farm and rural people while being fair to other American taxpayers as well.

Mr. TEAGUE of California. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania (Mr. Goodling).

Mr. GOODLING. Mr. Chairman, I too, want to join in the tribute paid to the chairman of our committee. In the entire field of agriculture there is no more knowledgeable man in this House.

Bob and I do not always agree but we have learned to disagree without being disagreeable. Good legislation is the result of divergent views.

Mr. Chairman, while I can agree with the objectives of this legislation to impart economic dynamics to rural America, I cannot agree with the use of grants to implement parts of this program. The use of grants is, considering our precarious financial position of the present, a resort to fiscal folly, and this bad means defeats a good end.

In summary, this legislation authorizes at least $300 million of new and unbudgeted donations by the Federal Government which simply does not have the money to hand out. I repeat that this is "unbudgeted" money, which would be superimposed upon a lopsided estimated $40 billion fiscal 1972 deficit.

This whopping sum of money would be added to the vast sums of money the Federal Government already is handing out in the form of subsidies. Not too long ago, the House of Representatives—Senate Economic Committee issued a report which showed that various kinds of subsidies cost the Nation's taxpayers at least $63 billion a year. That huge figure represents almost one-fourth of the total spending of the Federal Government, and it amounts to more than $308 for every man, woman, and child in this country.

Let us look at the dismal financial picture which confronts us. The gross public debt of the United States currently is estimated to be in the area of $425 billion. I would like to point out that when I came to Congress in 1961, that national debt figure was $286 billion. This means that in 11 years, our national debt has skyrocketed by $139 billion. I might add my voting record indicates I did not help create this debt.

It is a frightening prospect to realize that the Federal Government has to come up with over $25 billion annually to meet the interest charge on this national debt figure. Translated into terms that are meaningful to the average person, the current gross national debt is a financial burden of $2,031.80 for each man, woman, and child in the United States. In other words, for a family of four, the national debt bill for the current fiscal year stands at $8,127.20. I would like to say, too, that those are conservative estimates.

We have gained the disreputable reputation in this Congress of being budget busters. Let us keep in mind that the budget deficit for the fiscal year ending June 30, 1971, was just under $30 billion. The year before the deficit was $13 billion. It is estimated that the deficit for the current 1972 fiscal year will be in the vicinity of $40 billion. Those combined deficit figures are in excess of $80 billion, and to my way of thinking this is something about which we should be gravely concerned.

Let us remember that inflation is America's No. 1 domestic problem today. The Congress enacted the Economic Stabilization Act of 1970 to place a harness on the wild horse of inflation. President Nixon is endeavoring to use the authority granted him under this act to put the rein on inflation. If, instead, we are going to use the spur, rather than the rein, then we will have a galloping inflation, which will take us down the road at a fast clip to fiscal insolvency.

For a moment think of this: Every minute that I stand here we are spending $43,000 interest on our national debt. The grant features of this legislation before us would provide little assistance for the small farmer and would place a big burden on the taxpayer. Furthermore, it would add to the weight of the national debt millstone which undoubtedly will hang from the necks of our grandchildren unless we change our "wild spending ways." Let us delete these grants or defeat this bill.

In my opinion, proponents of this measure have an obligation to tell the Members of this House where they propose to acquire more than $300 million of unbudgeted money.

I started my farming operation 50 years ago. It is difficult for me to stand here and oppose any bill designed to assist rural America, but is it not about time we forget emotional appeals and give some serious thought to the policy of fiscal folly we appear to have adopted in this Congress?

Mr. TEAGUE of California. Mr. Chairman, I yield such time as he may require to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Chairman, I am sure our colleagues in this Chamber today are well aware that I have long been an advocate of reversing the migration to our overcrowded urban centers. During the more than 9 years I have been privileged to serve in the Congress this has been one of the paramount priorities in my legislative program.

No social phenomenon has had a greater impact on the American style and standard of living than the wholesale abandonment of our rural areas. I think reasonable men will agree that the impact of this mass movement to the central city has not been beneficial either to the places from which these migrants have come or to the places where they have gone.

A growing number of rural areas are decaying while urban central cities are being choked from seemingly endless population pressures. Unfortunately, and inexplicably, the proposed solution for this universally recognized problem is to develop programs for the urban areas that, instead of discouraging immigration, have the effect of encouraging the continued flight from rural areas thus compounding both urban and rural problems.

The legislation before us today is helpful but hardly the answer to most related problems. The required solution must reflect a consideration of the total environment for future living not just a portion of the problem.

I am extremely hopeful that our Public Works Committee can develop a comprehensive legislative package that will coordinate all aspects of this issue to reverse the migratory trend toward large metropolitan areas.

First, any proposal should create the atmosphere for economic growth. The key to this is wise land use planning. Land use planning is of prime importance because it so closely affects people—all people. To my mind, land use planning involves the careful consideration, utilization, and conservation of all natural resources.

In addition, rural America desperately needs a balanced, integrated transportation system to reverse and redirect the imbalance in our population distribution and to promote and enhance economic growth.

Also, reform of the tax structure is desperately needed if we are to achieve the goal of rural development. Many goals are frustrated because of existing inequities in the tax structure at all levels of government and these must be removed.

In seeking to rebuild rural America and reduce the pressures on our great urban centers, Federal program must maximize the degree of coordination between the various political subdivisions at all governmental levels. Too many programs are formulated on the basis of Federal findings as to the national condition rather than on the local government decisions relating to the specific land problem at hand.

While I support the Rural Development Act of 1972, I feel strongly that we must do much more and that we must do it more rapidly. I shall continue to pursue this course.

Mr. TEAGUE of California. Mr. Chairman, I yield such time as he may require to the gentleman from North Carolina (Mr. Mizell).

Mr. MIZELL. Mr. Chairman, I rise at this time to express my strong support for the efforts being made today to bring new life to rural America by providing new and enlarged opportunities for the millions of people living in our rural areas.

It is my privilege to serve as a sponsor of this legislation with Chairman Poage and other members of the Committee on Agriculture, on which I serve.

Rural development has always been an issue of special interest to me, and I am most gratified to see this bill come to the floor with its promise of providing the greatest impetus to rural development in many years.

But I cannot let this debate be concluded without informing my colleagues of an effort I have made to incorporate the growing spirit of local initiative and the valuable asset of State planning into our new efforts to promote rural development.

Last November, I introduced my own comprehensive Rural Economic Development Act, which provided for a $1 billion Rural Development Commission, patterned after the highly successful Aplachian Regional Commission but expanding the concept to a national scale to develop all of rural America.

The program I proposed encouraged the establishment of local rural development districts—multicounty areas pooling resources to plan and finance projects benefiting a large number of people.

In addition, the program would have provided for supplemental assistance funds to help local governments participate to a far greater extent in Federal grant-in-aid programs than their fiscal capabilities currently permit.

The entire $1 billion authorization could have been used for supplemental assistance, with a potential investment-return ratio of up to 5 to 1 with effective use of available categorical aid.

Small communities and even metropolitan areas could have received limited assistance for projects, such as airport improvement, hospital construction, manpower training, and so forth, providing services and facilities with widespread use by the rural population.

The formula for State-by-State financial assistance was based on each State's percentage of rural population and level of personal income.

I regret that the committee bill does not include the innovative approach to rural development that I have proposed, but I intend to continue promoting my legislation as actively as possible, and hopefully gain additional support for this proposal which already has the endorsement of many of my colleagues.

For the present, however, we have before us a bill that goes a long way toward insuring more rapid progress and greater opportunity in rural America, and I strongly urge my colleagues to join me in voting for passage of this vital rural development bill.

Mr. POAGE. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, I strongly support H.R. 12931, the Rural Development Act of 1972, and I congratulate the distinguished gentleman from Texas (Mr. POAGE), the chairman of the Committee on Agriculture, and the members of that committee for bringing the bill to the floor. Not only should this bill be passed, it should have been passed years ago. For it attempts to deal with one of the most critical problems facing the Nation today—the revitalization of rural America.

I believe we can take effective steps toward solving the urban and environmental problems by embarking on a serious program to reverse the decay which has taken place in the rural areas of our country.

Recent statistics indicate 73 percent of our people live on only 2 percent of the land, a fact which is dramatic evidence of the problem of overcrowding and attendant problems of unemployment and crime. This statistic also gives us some insight into the reasons for concentrations of pollution of the air, water, and land.

But aside from these dangers, the real tragedy is that people are leaving the wide open spaces of the farmland and of rural America with clean air and sparkling waters for the virtual wasteland of the cities where too often the cancer of poverty spreads from parent to child and where moral stagnation breeds alarming increases in crime, drug addiction, and soaring welfare costs.

What is it that brings a man or woman to abandon the beauties and pleasures of rural America in exchange for the uncertainties of city life? Why is it that millions of Americans choose to walk away from a precious natural resource—the land—and pack themselves into what often become pockets of misery in urban areas?

Basically, people are leaving rural America because they cannot find the quality of life they desire for themselves or their children. In most instances, they simply cannot make a living. It is to this problem that we must address ourselves with all urgency.

We must view the problems of our age as directly traceable, at least in large measure, to the changing face of American society where many now look upon city life with all its shortcomings as more acceptable than a dead end rural life.

In short, Mr. Chairman, we must reverse the trend now upon us—not only for the sake of our cities and our ecology, but even more importantly for the continuation of this Nation's ultimate strength, the men and women who work and serve the land.

Therefore, we must develop legislation which will address itself directly to the problems of the rural areas.

First, we must provide necessary funding and program to bring about business and industrial growth in smaller communities in order to provide job opportunities as well as economic stability.

We must provide more and better schools and technical training centers which are accessible to those living in the towns and hamlets of our Nation. Those who desire to further their education or training should not be required to travel to a distant city in order to advance their knowledge or their basic skills.

We must provide more and better health care facilities so that those who choose to live in smaller communities have speedy access to hospitals and clinics which can meet their needs.

We must direct our attention to improved highway and transportation systems. The old concept of "farm to market" transportation is outdated and insufficient. Our Federal highway system of interstate highways, while serving the needs of those moving from major city to major city, tend to bypass the smaller communities rendering many of them virtually inaccessible to those who otherwise might choose to live and work there.

We must provide for critically needed housing. While we have created a massive agency to deal with urban housing problems, the situation with regard to rural housing has been sorely neglected. Those who want to move to and remain in smaller communities have the same needs as do those who are attracted by the bright lights of the cities. They want a decent house, electricity, a supply of pure water, sewage disposal systems, and police and fire protection.

We must make available new and modern libraries, recreation areas, and cultural attractions.

Certainly high on the list there must be improved opportunities for a livelihood. That means better business opportunities; it means cooperative enterprise; it means the development of small industries, preferably those which utilize rural products. It means assistance in marketing. This requires not only direct help from Government, it means educational programs which encourage those in rural America to take advantage of the opportunities which can be theirs for a better livelihood.

Finally, we must direct a massive effort toward encouraging those who are necessary to man these facilities—the skilled teachers, trained medical and dental personnel, experienced police and firemen, and specialists in the sciences to examine the myriad advantages of the small communities. I think it is within our power to help assure these services and facilities. I think we have an obligation to do so.

We will never solve the problems of the cities—problems which recently have been awarded the highest priority—until we solve the problems elsewhere in the Nation which cause people to flee to the cities.

The agencies of Government which should be working to develop our cities are struggling instead to save them. Let us not make the same mistake again. Let us not wait to develop programs for rural America until a time when massive sums of money will be needed just to keep rural America from utter decay.

As I mentioned earlier, 73 percent of our people live on only 2 percent of the land. What we are here considering, Mr. Chairman, amounts therefore to 98 percent of America. With so much at stake, we cannot afford to delay further. The future of our Nation and its people will hang on the decisions which now are before us.

The President's proposal to rejuvenate rural America is to be applauded, not for its content but for its intent. It will not do the job. The committee plan is practical and purposeful. Notably, it will expand existing agencies, agencies which have been tried and tested and which enjoy the confidence of the people. Thus, we avoid a new bureau with all the problems which confront new and untried agencies. It will be much simpler and more effective to expand the Farmers Home Administration and the Soil Conservation Service than to begin a new program with the delays which would inevitably attend it.

The time to help rural America is now. Approval of the committee bill will demonstrate the will of Congress that this long standing cancer of rural decay must now be healed. Other proposals would harm, not help in this noteworthy effort, and they are too little and too late.

I am convinced that most of the people who leave the country want to stay. This bill can give many of them the opportunity to do so. Over half of those classified as poor in America live in rural areas. Nearly two-thirds of the substandard housing is in rural areas. Yet only one-fourth of the population of America live there. This shows the sad imbalance of rural living in America today.

Let us break this cycle of poverty and bring new life to unused and abandoned rural resources. I think we can provide no greater service to America than to reverse the flow of our population from the rural areas to the city slums, and to bring back to the rural areas the bright and happy promise which once the people knew in this great land. America will be the beneficiary.

Mr. McFALL. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to my distinguished colleague from California (Mr. McFALL).

Mr. McFALL. I thank the gentleman for yielding.

Mr. Chairman, I support H.R. 12931. As I read the bill, I believe it would, if enacted, authorize the Farmers Home Administration to extend the kinds of loans contemplated in my bill, H.R. 8800. I appreciate the cooperation of the gentleman from Texas (Mr. POAGE) the chairman of the Committee on Agriculture in this matter and his willingness to answer questions in this regard so that my understanding, if it is correct, will be a permanent part of the legislative history of this significant rural development legislation.

My bill, H.R. 8800, is very brief; it relates to loans to local cooperatives. It is very important throughout my State of California where rural people have made such a constructive and helpful use of the cooperative self-help technique of economic development.

I appreciate the attention and helpfulness of the chairman of the Committee on Agriculture. May I propound the following question:

Is it the understanding of the chairman of the Committee on Agriculture that the present wording of the bill before us, H.R. 12931, in section 103 and section 112, would authorize the making of loans to rural cooperatives as if the following language were included in the bill:

> The Secretary may also make or insure loans to local cooperative associations furnishing farmers and rural residents services and facilities for harvesting, storage, processing (including preservation or preparation of edible products for market), transporting or services, or the processing or marketing of other products of farmers or rural residents. Such loans may include funds for the organization and establishment of the association, necessary land, buildings, and equipment, or for the repair, expansion, or enlargement of such services or facilities, for operating capital and for refinancing.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the distinguished chairman of the committee.

Mr. POAGE. If the gentleman will read the sections he cited in H.R. 12931, he will find that the types of loans about which he inquires are authorized. The loan proceeds may clearly be used for the purposes about which he inquired so long as such loans provide for the orderly development of a rural area while improving its economic and environmental climate.

Mr. McFALL. Mr. Chairman, will the gentleman yield further?

Mr. SIKES. I yield to the gentleman from California.

Mr. McFALL. Mr. Chairman, I thank the chairman of the committee.

I offer my commendation to the chairman of the committee and to the Members on both sides of the aisle for this very important legislation.

I appreciate the help of the chairman of the Committee on Agriculture. His reassurance will be most pleasing to local leaders in my district who are concerned with rural revitalization by using the cooperative technique of economic organization.

Mr. TEAGUE of California. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I thank the distinguished gentleman from California for yielding.

Mr. Chairman, I want to say to my colleagues that this is an historic time in the deliberations of this House, because today we are going to be able to really do something to further rural development in America. Rural development is a topic that has been much discussed in the press and by people in all walks of life. We all know rural communities have been neglected. All too often they have been the step child of the many programs which have been enacted in this country to give a stronger economic and social viability to the people. We have poured billions of dollars into programs for urban areas without even considering the plight of the rural areas. This has been one of the reasons—not the only reason, but certainly the primary reason—why our people have left the farms and rural areas and have flocked to the cities only to be confronted by the problems of urban decay and the other great crises in the ghettos of America.

This bill is not perfect. Most members of the Agriculture Committee, had they been able to select their own personally preferred vehicle for meeting this problem would have made some changes, and yet H.R. 12931 was reported from the committee with only four dissenting votes. It is a good bill, and a bill which I enthusiastically support. All Members should understand this is the only opportunity we are going to have this year to do something about rural development.

While some of us may have some personal reservations about certain aspects of the bill, we should make no mistake about it, in all likelihood, we are not going to have another rural development bill this year. All of us who are genuinely interested in doing something about bringing renewed prosperity to rural America and giving rural America a fair shake should support this bill.

This bill includes many programs aimed at increasing rural opportunities and the rural standard of living. Included are such things as raising the $100 million limit on the Agricultural Credit Insurance Fund—ACIF—to $500 million. This is a very practical forward step aimed at improving the functions of the Farmers Home Administration.

There is also the consolidation of the emergency and ACIF revolving funds.

The bill also contemplates insuring loans made in connection with Soil Conservation Service projects, which for the first time is real progress.

The size of farm operating loans is increased from $35,000 to $50,000, and they are converted from an appropriated funding to an insured loan basis. The $4 million ceiling on community water and waste disposal loans is also removed.

The bill includes amendments to the Watershed and Flood Prevention Act to provide cost sharing for water quality management and to authorize agreements for cost sharing up to 10 years within watershed projects for land treatment measures, which is certainly something we should all support.

Other similarly beneficial measures incorporated herein are new authority amounting to $10 million annually for rural development planning grants and new authority for pollution abatement grants to rural residents, farmers and communities of $75 million annually.

The bill also provides for new authority for grants for business and economic development of $50 million annually, a doubling of the water and sewer grant authority under Poage-Aiken from $100 million to $200 million, and increased planning grant authority under Poage-Aiken from $15 million to $30 million.

One other provision which I certainly do not want to miss pointing out is the increase in the Greenspan authorization from $10 million to $40 million annually.

Mr. ZWACH. Mr. Chairman, will the gentleman yield?

Mr. MAYNE. I am happy to yield to the distinguished gentleman from Minnesota, a member of the committee.

Mr. ZWACH. I should like to commend my neighbor from Iowa and my colleague on the committee for his constructive presentation, and associate myself with his remarks.

Mr. MAYNE. I thank the gentleman from Minnesota. It is a real privilege to sit beside the gentleman on the committee. He certainly has been one of the members of this committee, both Republican and Democrat, who have worked very hard to get this bill in its present excellent condition under the great leadership of our chairman.

The CHAIRMAN pro tempore (Mr. BROOKS). The time of the gentleman from Iowa has expired.

Mr. TEAGUE of California. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. MAYNE. Mr. Chairman, I want to pay tribute to the distinguished chairman of the committee, the gentleman from Texas (Mr. POAGE), who has taken such a great role in leading us to the result which we are about to achieve today.

I also pay tribute to the distinguished gentleman from Iowa (Mr. KYL), who has labored long in making a very noteworthy contribution to the development of this bill.

I call on all my colleagues to support this very workable and practicable tool to help the farmers and rural communities of America. This is the one opportunity we are going to have this year to take action, so let us rise to the occasion and pass this bill by an overwhelming vote.

Mr. POAGE. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. DOW).

Mr. DOW. Mr. Chairman, at the proper time I shall offer two amendments to the bill before us, H.R. 12931.

In general, I applaud the measure represented in the bill to elevate the economic conditions in rural America. And I applaud generally the remarks of my chairman of the Agriculture Committee. The bill is a very valid expression by those who represent rural America, that this critical segment of American society deserves Federal aid as well as our cities and our suburbs.

My concern with this legislation pertains to two rather obscure clauses which call for Federal grants to abate pollution. Under title I, subtitle A, a new section 310B(b) is included which allows grants within an authorization of $50,000 annually "to eligible applicants under this section for pollution abatement and control projects." "Eligible applicants" are defined in the prior paragraph (a) as "public, private, or cooperative organizations organized for profit or nonprofit, or individuals." I do not object to abating pollution. I am for it. But I do question the concept of endowing the private sector by use of Federal funds.

As an alternative to the array of eligibles named in the bill, which encompasses profit-making enterprises or individuals, I will offer an amendment to substitute the words "public bodies," in paragraph (b). That term is the one used in the next paragraph (c) of the section covering various grants for other purposes, so it is a consistent term to use.

Of course, we all admire private enterprise. I am sure that true friends of private enterprise would not want to see it corrupted by taking public welfare in the form of outright grants.

This novel provision for Federal grants to the private sector deserves close examination before it is accepted. It is a marked departure from the economic and political philosophy represented in our American system as we know it.

In the past we have observed various approaches to the concept of public funding for private benefit. The most obvious is public welfare; this, however, is granted to provide food and lodging to individuals as the final means of preserving literally their existence.

In the Lockheed case of recent memory, Federal accommodation was provided, not as a grant, not as a loan, but only as a guarantee of a loan. And that was bitterly and closely opposed.

In the case of the SST it was argued that Federal funding of private industry would provide jobs in a depressed area. Yet, even here the Federal funding was allotted under contract, with a quid pro quo in the form of a national benefit and royalties from the sale of the plane. Further, the SST financing was defeated here in this House.

Later in the bill, specifically in sec. 115, a paragraph (d) is provided to make pollution abatement grants out of an authorization totalling $25,000,000 annually to eligible applicants under this subtitle. The definition of such applicants elsewhere under the subtitle is youths who are rural residents and individual farmers or ranchers. While the grants under this section would be somewhat more restricted, the principle of making grants to private enterprise remains the same. Since there is no intention expressed here to offer these grants to public bodies, as in the earlier section, on this paragraph (d) I will merely move to strike.

Some brief points should be made in closing, Mr. Chairman. One is that we should fully support loans to individuals and private enterprise wherever these appear at several places in this legislation. There is a vast difference between loans and grants.

Under a system of grants to individuals, it is possible that someone could, at one and the same time, be funded to curb his pollution, while being fined under the Refuse Act of 1899—33 U.S.C. 407, 411, 413 for creating it.

Finally, I could not afford to have any one believe, because I oppose the indicated grants for pollution abatement, that I have any quarrel with pollution abatement. Of course not. I am very jealous of my proved record in strong support of environmental protection.

Mr. TEAGUE of California. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. ZWACH).

Mr. ZWACH. Mr. Chairman, I thank the gentleman for yielding me this time.

I would like to say that this is a happy occasion. I have spent 5 years in the Congress—this is the sixth—and we have always been considering urban renewal and housing and never the countryside. This year the President sent a rural development message to the Congress. This is historic. The Committee on Agriculture—and may I compliment the chairman and its other membership—are considering a historic bill, a rural development bill.

Mr. Chairman, I have spent much of my time in the Congress working on this subject.

You know, the good life is no longer in the big centers. The good life is in countryside America.

We have stacked more and more of our people on less and less and less of our land until we have reached the point where the problems are unsolvable, the problems of the big cities.

Mr. Chairman, urban renewal and rural development go together.

I found when I came to Congress that although we have 60 percent of the ill housing in the countryside, we were getting very little of the housing funds. In 1968 that figure was 4 percent. That is amazing.

We were getting very little of the Small Business Administration money in rural America. The urban centers with their mass media—the press, the radio and the TV—were able to zero in on their problems, and so it is historic that the Congress now has reached a crescendo for rural development. This is tremendously good.

Mr. Chairman, it would be grossly unfair for me to say that rural development as defined in this bill would do everything that we ought to do. It does give us some added money and opportunity. It does bring about some equity in housing, small business development, and FHA. However, the real problem of rural America is not more credit, but equity of income.

Mr. Chairman, what has driven the people from rural America has been the inequity of rural income. It will never be fully corrected until this Congress understands this and until we do what we can do here—we cannot do everything here but we can do more here for equity to countryside income.

Parity in January of this year was 72 percent of a fair return. Parity in January of 1969 when this administration took over was 72 percent.

We have made little, if any, progress. We have been up and down and in between. If we had parity of income in countryside America, $15 billion additionally annually would be going out into rural America.

If we had equity of income, the problems of the countryside would, and the cities in the main, go away. Small business would thrive our ability to support churches and schools, our ability to maintain our sewer systems and highways, and the economics of the countryside would be there if we had equity of income.

So, I am not standing here saying that this is the answer alone. However, it is an important step in that direction.

Mr. Chairman, it is because of this that I strongly support the Rural Development Act of 1972, H.R. 12931.

Mr. POAGE. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. I thank the chairman for yielding me this time. Let me preface my remarks by saying that the distinguished chairman of the House Agriculture Committee has perhaps been the most able advocate of helping small town America and helping rural America through his long years of service which have been of invaluable aid to the United States of America at every level of living.

I think it would be worthwhile to mention the fact that the end result of more than half of the legislation considered by the Committee on Agriculture is enacted for the betterment of not just rural America, but for the ultimate consumer and the people in the large cities of urban America. In the few instances that the legislation is enacted purely for rural America you cannot ignore the fact that it enhances the life in the urban parts of the United States nonetheless.

Mr. Chairman and Members of the Committee, I wish there were more of our urban colleagues here, because one should limit himself to speaking of that which he knows best, and my area happens to be an area that is part of rural America. This is the message that I would like to bring to my urban colleagues, and to my colleague from California who opposes this legislation, for reasons as legitimate as they might be, but the fact is that rural America does not have the basic resources or the basic facilities that urban America has, and that is what daily they have to live with. For those who live in the cities, their garbage is picked up as a governmental function. There is no such thing in the smaller towns of rural America.

In the cities we have grown accustomed to going to the drugstore, or even walking to the grocery store, but this becomes a major enterprise in rural America because you have to get in your pickup truck and go miles to town for your groceries. We used to do this every Saturday.

Also, sources of heat and power are not available in rural America as readily as in urban America.

What does this legislation do—and this is no emotional appeal, this is just an appeal for equity. It is to give the same governmental functions to rural America at least that we do to urban America.

We have people who still have to bring water to their homes in a tank in the back of their pickup truck from an irrigation ditch several miles away. We are trying to organize a rural water supply entity. Everybody is going to pay for the water to pay for the loan to the Farmers Home Administration but we found there was no grant available for the plant to purify the water. There were no grants available for those who did not have the $50 to sign up. So we are getting $180,000 from a religious institution.

Now, you may say that that is proper that there be local support, but this does not happen in the city because the grant is there.

So all we are asking is that equity be established by giving us this allowance that we do not have in rural America.

The same way with planning, and the same way with pollution.

My colleague, the gentleman from New York, who says that he does not want to give aid to the individual, I would reply to him that there is no such entity in rural America. Rural America does not have resources the same as they have in the cities. They have no workers to collect the trash.

The stream that goes behind the town is polluted. There is no governmental agency through which to secure assistance. So it has to be an individual. It has to be the fellow who lives on that stream.

I have one instance I can cite where there is a plant that under our environmental legislation, unless they connect to a sewer, that plant will have to close, and there are about 300 jobs involved there.

This is in a locality that can provide no other jobs. They will lose 300 jobs. There is no governmental agency to build the sewer line that they can connect to. So how in the world are they going to keep those 300 jobs unless we provide means to help that plant?

You say why help the individual? Self-government, the individual contributes, and I agree with my colleague from California, but if that plant were inside the city limits they would get the aid they need through the municipal facilities, and even so, the small communities in rural America do not have the resources to provide these basic facilities.

Let me tell you, my colleagues, the people who live in rural America are the most patient, the least demanding, and oh how I know, the most independent—and the most self-supporting. But they are the first to serve—they are the first to love their country and they are the first to participate in every governmental function to the fullest of their ability to participate.

So why should we not treat them as equals when we afford the protections of government and give them the same kind of treatment—no more and no less than you give those in the urban areas.

So I ask you to support this legislation with us in giving at least a beginning of hope to the people of rural America. I know this is not the complete answer. I know it is not enough money. I know that a lot more things have to be done. But at least we can begin here to think of their plight.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. TEAGUE of California. Mr. Chairman, I yield the gentleman 1 minute.

Mr. Chairman, will the gentleman yield for a question?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. TEAGUE of California. Do you realize that your communities that obviously do have serious problems, one with water problems and one with sanitation problems—do you realize that if each got its share of the money available in this whole bill—that each would get about $8,000? I do not know how you build the water system or build the sewer system with $8,000?

Mr. DE LA GARZA. It is the same with all the other programs, I will say to my colleague, the gentleman from California, there is not enough money to give everyone to do what needs to be done.

So this is a problem in urban America too, that there is not enough money for every city that wants it. There is not enough for every governmental entity that wants it.

So I say very sincerely, we ask for no more and no less—we want to be placed in line and, if some cities have to wait, we are willing to wait for our turn too.

I agree with the gentleman that there is not enough money to do what needs to be done, but somehow and somewhere we must begin and this is the opportunity that we have now. We must begin, we must take the first step, time will test the justness of our cause. We cannot, we must not turn our backs on rural America. I again urge my colleagues to support this legislation.

Mr. TEAGUE of California. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. BLACKBURN).

Mr. BLACKBURN. Mr. Chairman, I want to thank the gentleman from California for granting me this time to explain very briefly an amendment that I am offering today.

Let me first make the observation that I am in general agreement with the purpose of this bill.

I think we all recognize that the great concentration of population in our cities is creating and contributing to the deterioration of our cities. As a member of the Housing Subcommittee of the Committee on Banking and Currency, I am acutely aware of the problems that exist in our urban areas, particularly in the area of public housing. It has been my privilege in the last few weeks to have traveled to various cities throughout the country. I have a great concern about deterioration in the urban areas and therefore I support a move to create and encourage economic opportunities in our rural areas.

Mr. Chairman, I wish to use this time to explain the amendment which I am offering today.

Specifically, my amendment makes the terms of the Fish and Wildlife Coordination Act applicable to the small watershed projects performed by the Soil Conservation Service of the Department of Agriculture under Public Law 566, the Watershed Protection and Flood Prevention Act.

At the present time, in the process of assisting in the creation of municipal and industrial water supplies, water quality management, and pollution abatement and control, the Soil Conservation Service has contributed to severe environmental damage ranging from destruction of waterfowl production wetlands in the prairies to demolition of hundreds of miles of bottomland hardwood swamps in the Southeast.

This situation should be corrected. It is time that Soil Conservation Service projects are put in the same category as Bureau of Reclamation and Corps of Engineers projects with respect to fish and wildlife conservation.

My amendment is not designed to halt or even hinder the continued operation of the small watershed program. Rather, it is designed to provide for orderly modifications of small watershed project plans in behalf of fish and wildlife conservation.

When the Fish and Wildlife Coordination Act was being amended in 1958, the Department of Agriculture was just getting the watershed program well underway. Agriculture objected strenuously to having the small watershed program brought under the purview of the Coordination Act. Instead, a compromise was reached to amend the Watershed Protection and Flood Prevention Act.

It amended this act by adding section 12. This section generally outlines the policies under which the Department of the Interior and the Department of Agriculture are to operate in providing for fish and wildlife conservation in the small watershed program. Among other things, this present section 12 gives a veto power to local organizations who sponsor the projects—usually organizations of landowners with whom the Soil Conservation Service cooperates—over the inclusion in small watershed projects of fish and wildlife conservation measures recommended by the Bureau of Sport Fisheries and Wildlife and the State fish and game agencies. This built-in veto by local landowners gives them the opportunity to control a national program of fish and wildlife conservation in connection with a water program which is in large part federally financed. However, these landowners cannot be expected to have a balanced viewpoint on the need for fish and wildlife conservation in water resources projects; quite naturally, they are chiefly interested in maximizing the benefits to themselves.

By requiring the Soil Conservation Service to adhere to the provisions of the Wildlife Coordination Act, protection would be given to environmental values such as wildlife and fish resources and habitats which, under present procedures are not receiving the attention they deserve. Like all other agencies under the Wildlife Coordination Act, the Soil Conservation Service would work with the Department of the Interior in formulating mitigation measures and assuring that the fish and wildlife resources of any area are protected.

My amendment has wide support. The same conclusion was reached in a series of conferences held by the Bureau of Sport Fisheries and Wildlife with State fish and game agencies and national private conservation organizations in 1970 and 1971 on conservation of fish and wildlife resources in the national water resources program. The following organizations have expressed support for my amendment:

National Wildlife Federation.
Izaak Walton League of America.
Friends of the Earth.
Environmental Policy Center.
Environmental Action.

Citizens Committee on Natural Resources.

Sport Fishing Institute.

National Audubon Society.

National Rifle Association.

International Association of Game, Fish, and Conservation Commissioners.

There is another amendment which I shall probably offer during the amending process which would permit the Soil Conservation Service to assist in securing bottom lands or wetlands for park purposes to be held in order to preserve natural habitats, particularly in close proximity to our large urban areas. These areas today are being totally destroyed in some of our urban areas.

Mr. PRICE of Texas. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I am happy to yield to the gentleman from Texas.

Mr. PRICE of Texas. I thank the gentleman.

Mr. Chairman, as a cosponsor of the Rural Development Act, I can say that we foresaw livestock feedlot operators as one of the principal participants in pollution abatement and control projects. If the proposed amendment to limit participation to public bodies passes, they—along with small businessmen, farmers, and rancher—would be excluded from participation. Because I feel that small businessmen, farmers, ranchers, and especially feedlot operators should be permitted to participate in these programs of pollution abatement and control, I oppose the amendment.

As for the overall bill itself, I am, of course, in favor of its passage. It offers positive programs to encourage and assist the development of business, industry, community centers and services, and pollution abatement and control in our small towns and in the countryside. The bill encourages younger people to remain on the farms or in rural communities by making it easier to obtain loans for farms or in rural communities by making it easier to obtain loans for farming and rural development purposes.

It also gives added flexibility to our small watershed and resource conservation and development programs, providing Federal assistance in such projects as municipal and industrial water supply, water quality management, pollution abatement and control, and other purposes directly related to rural development.

In addition the bill incorporates two separate pieces of legislation which I introduced last year. The first would increase the size of farm operating loans from $35,000 to $50,000. The second, which is a continuation of the amendment I was able to add to last year's farm bill which raised homeownership loans from $50,000 to $100,000 would convert farm operating loans from an appropriated funding to an insured loan basis. This legislation takes the risk out of the local lender's making loans for purposes of rural development. Both these provisions will be of substantial assistance to farmers and ranchers in west Texas as well as throughout the country.

I urge your support of this critical piece of legislation.

Mr. TEAGUE of California. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I am generally interested in this legislation. I think it has a very worthy purpose and objective. Much of the area which I have the privilege to represent in the Congress is rural—and could benefit from portions of this legislation. I have been in communication with Mr. Kenneth Fiske, Director of the U.S. Department of Agriculture Soil Conservation Service, who indicated to me the importance of this legislation to the rural areas of McHenry, Kane, and Lake Counties.

I should like to make a statement and inquire of the chairman with regard to his interpretation or his understanding of the language in the bill. I refer particularly to the language on page 21 of the bill, beginning at line 4 down to line 17. The reason that I ask questions concerning this language is that we have recently had hearings before my subcommittee of the House Judiciary Committee, the Civil Rights Oversight Committee, in which we discussed at some length and had extensive hearings with regard to the location of Federal facilities, and particularly those that are constructed and managed by GSA, which I think is charged generally with providing for the construction and management of Federal facilities for the various executive departments.

It was emphasized in these hearings that it was important to locate structures in such a way that employees would have equal access to employment in the new Federal facilities. It seems to me that the language to which I have referred goes counter to the existing Federal policy and would require the location of new Federal facilities in rural areas without regard to the question of their ready access by persons without regard to questions of race or color. I notice that the existing statute has been revised in a way, and the very significant words "insofar as practicable" have been eliminated.

If this language is followed directly, it would deprive persons who are presently residing in the inner city and in other urban areas of possible opportunities for employment. It would put their places of employment at too great a distance from their residences for them to continue their employment there. Would the chairman be willing to comment and explain this change to me?

Mr. POAGE. I did not offer the present language. The change was made by the committee. I offered the language of the original bill, so I cannot explain to you the motives behind those who offered the change. But I think the language covers substantially the same thing. Rather than saying "insofar as practicable," the provision states "giving first priority to the location of new offices and other facilities—."

I do not think that either one is an arbitrary mandatory requirement and that under no circumstances could we locate the building any place else, but I think it does mean very clearly that where we can do so without doing violence elsewhere, we should give first priority to these rural areas we are trying to develop.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TEAGUE of California. Mr. Chairman, I yield the gentleman from Illinois 1 additional minute.

Mr. POAGE. Will the gentleman yield further?

Mr. McCLORY. Yes, I will yield, but let me make this statement. As I understand it then, this language is subject to the condition that the new facilities if located in a rural area are readily accessible to all persons who might find employment there without discrimination as to race or color.

Mr. POAGE. I think we have to take other things into consideration, but we just try, as hard as we can, to put some of these facilities in rural areas. We have placed Government buildings in Washington, D.C. and in large population centers all over the country. We tell these agencies that we want the Government services decentralized, and we want to give the Federal Government directions to do so.

Mr. McCLORY. In other words, this would not override existing policies with regard to fairness and equality of opportunity in Federal employment?

Mr. POAGE. I do not think it would override fairness at all, but this provision says this is one of the ways to get equality.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I associate myself with the remarks of the chairman of the full committee. I appreciate his remarks on this fine piece of legislation.

The House of Representatives today has an unparalleled opportunity to squarely and positively confront the problem of rural decline which in the past has been dismissed with piecemeal programs and rhetoric empty of action.

As a member of the Rural-Urban Forum, which seeks to encourage mutual understanding among Members of vastly different constituencies, I ask that my colleagues from the great metropolitan areas resist the temptation to oppose this as a matter not involving their constituents. There is no rural problem; there is a national problem of population imbalance and inequity of economic opportunity. The problems of the city cannot be resolved without addressing the problems of the countryside.

The 1970 census dramatized a trend which has continued without interruption for the past 50 years: the movement of Americans from small towns to larger metropolitan areas, either the inner city or the suburban satellites. We now have some 70 percent of our population living on 2 percent of the land. In the past 45 years, some 25 million persons have moved out of rural America, resulting in the past decade in a net population loss in 500 counties, and over the long term straining the economic resources of the cities which receive them. The President has summed up the grim situation most succinctly:

> Vast areas of rural America have been emptied of people and promise while our cen-

tral cities have become the most conspicuous area of failure in American life.

In the absence of a national policy on population distribution, the Congress must take the lead in enacting legislation to revitalize small communities and to stimulate economic opportunities to help struggling rural communities survive.

We have before us today a Rural Development Act which promises such a beginning.

Under the able leadership of Chairman POAGE, the House Agriculture Committee has produced a bill which will provide new grants and loan authority for a host of rural development projects, ranging from industrial planning to pollution abatement to water and sewer system construction. It creates new opportunities for credit, provides for cost sharing in water quality management, land utilization and agricultural waste management within watershed projects, and encourages young Americans to consider a career in small towns.

The committee has wisely refrained from creating a new super bureaucracy, preferring instead to enlarge the role of the faithful and familiar servants of rural life, the Farmers Home Administration and the Soil Conservation Service.

I take a personal pride in the committee's inclusion of title 5, which directs that the Federal Government locate new Federal offices and other facilities in rural areas, which in this bill include any cities or towns whose population does not exceed 10,000.

The Agriculture Act of 1970 required the Federal Government to give consideration to establishing new Federal facilities in areas of lower density population. The bill before us today is the strongest language yet written governing the policy on distribution of Federal complexes.

Having risen on a number of occasions urging such a policy, I am delighted to see it linked in this overall program of rural development, and I think that future generations of Washingtonians will thank us for sparing them any more congestion. As the recent extraordinary public hearing at the Greater New Hope Baptist Church by the Public Works Subcommittee on Public Buildings and Grounds indicated, the residents of this city are growing weary of an endless procession of costly building projects which obliterate neighborhoods, worsen traffic jams and displace tax-paying industries.

Title V makes Washington a microcosm of what needs to be achieved in the 12 large metropolitan areas which house over 70 percent of the population. It is time for a moratorium on new construction here in Washington and in the handful of super cities. If the economic opportunity were more equitably and rationally distributed, the 500 counties which experienced a net loss in population might hold their own and thousands of parents need not send their sons and daughters to distant cities because there are no jobs at home.

It has been observed that the population of this Nation could increase five times before it would equal that of Europe, so we can see that distribution is the all-important factor.

The inclusion of a mandate to the Federal Government to seek sites in communities of less than 10,000 population is not going to reverse this trend; it may have only a marginal effect. But, in symbolic terms, in terms of setting an example for the business executives of America to follow, it is of revolutionary potential.

I urge my colleagues from urban constituencies to make a common cause with those of us who represent constituencies of low density population because a pattern of rational and equitable national growth is mutually advantageous. If rural communities can maintain their population levels, the tax burden will be eased and the metropolitan areas will not suffer the migration of thousands more seeking jobs and homes. What we are seeking in large terms is the beginning of a conscientious effort to restore to community life some of the beauty, the peace, and the tranquillity which has made us envious of previous generations and apprehensive of the future. Nothing less than the environment of this and succeeding generations is at stake in this Rural Development Act and I urge my colleagues to assure its passage and continuing support of its goals.

Mr. BURLISON of Missouri. Mr. Chairman, today can be a significant point in the development of rural America. It has been my pleasure and coveted opportunity to join Chairman POAGE and some other members of the Agriculture Committee in sponsorship of this much needed legislation, to wit: H.R. 12931. I urge my colleagues to act favorably on it. It, of course, does not contain everything that some of us would like to see in a rural development program. At the same time, it contains some provisions that our city friends may feel unneeded and unnecessary. It should be noted that whatever rural America may receive from this legislation, comparable assistance has been already authorized and appropriated for the cities, and in proportionately greater amounts. Hopefully, our urban Representative colleagues will also be mindful that many of their problems have been precipitated or accentuated by the influx into their cities of our rural people who have been unable to achieve an acceptable standard of living on the farm lands of America.

Many of us have gone to great lengths to be sympathetic with the problems of urban America and have contributed our votes and support toward solution of those complex and diverse problems. Today is a day for soul searching which should culminate in accommodation and reciprocity by our city friends.

Mr. Chairman, our farmers should not be misled by the impact of this proposal on their farm income, however. Earlier action by the Congress relating to the commodity programs and the broad Federal farm credit system amendments are likely to have a greater potential in that area. However, this legislation, though of fairly minimal effect on farm income, should go a considerable distance in making rural living more rewarding and more comfortable.

I hope the House today will recognize its responsibilities to rural America and recognize the importance of our existence, as it relates to our friends in the city, and thus to our great Nation at large. H.R. 12931 should be passed.

Mr. TEAGUE of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I rise in support of H.R. 12931, the Rural Development Act of 1972. Although there are several sections contained in the measure which could be improved or revised, the bill as a whole is perhaps one of the most significant pieces of rural development legislation to come down the pike in some time.

In recent years there has been a growing awareness that rural and urban problems are interrelated—that if we are to ultimately solve the staggering problems of the inner city we must begin to revitalize the small towns and countryside of America. My colleagues from the large urban centers in increasing numbers recognize the adverse consequences of continued rural outmigration and the heavy demand it places on already depleted community services and resources in the big cities. Therefore, H.R. 12931 provides us with common ground upon which we can all work to achieve a more balanced population growth and a better quality life for both urban and rural residents.

This bill proposes to build upon the very solid record of effective and efficient program delivery established by the Farmers Home Administration and the Soil Conservation Service. Instead of structuring some new bureaucratic spoke, as some have advocated, the committee has wisely chosen to expand the role and operating authority of FHA and SCS to take better advantage of their unique expertise and delivery mechanisms. I have worked closely with these people over the years and believe they are among the most talented and dedicated employees of the Federal Government. If the ultimate success of any new governmental undertaking is reflected in the kind of people who carry it out, then we should have little worry in making this expanded commitment to rebuild rural America through the Farmers Home Administration and Soil Conservation Service.

Mr. Chairman, I believe that if we do not move resolutely to enact a meaningful rural development this year we may not have another opportunity for some time. It is therefore important we approve this legislation, and show the way to the other body to adopt a similar approach to rehabilitate and rebuild rural America.

Mr. POAGE. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I rise in support of this legislation.

Mr. TEAGUE of California. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. BAKER).

**Mr. BAKER. Mr. Chairman, I thank the gentleman from California for yielding this time.**

**Mr. Chairman, I have to ask myself**

and my colleagues a question. Is rural America a fading America? Many persons say yes. One-third of our counties have lost population. Many of our rural areas are being emptied of their people and their promise. Farming is an uncertain business in the best of times, and the complaint is heard time and time again in rural areas that too many people—especially our young people—are leaving the land.

We have begun to make progress in slowing this trend. Rural housing programs have been increased. The number of families benefiting from rural water and sewer programs is greater than it was in 1969. Yet, we must do more.

We must expand the quantity and quality of economic and social opportunities in rural America so that those who choose to live in our rural areas can do so and not be forced to move to our already overcrowded and overburdened metropolitan centers.

The rural development concept is directed toward reversing this trend of rural migration into congested metropolitan areas. This legislation, H.R. 12931, we are considering here this afternoon can help revitalize rural and small-town America and help us to achieve once more a healthy and prosperous rural and urban balance.

A great deal of money and effort is being directed by Federal, State, and local governments toward trying to solve the housing problems, the traffic problems, the pollution problems, the population problems, of our cities.

Meanwhile, thousands of rural communities are seeking more people.

Mr. Chairman, it seems to me that unless we work with the rural areas, unless we develop attractive opportunities in rural towns and in the countryside, we can never hope to solve the social ills of our cities even with the most ambitious multibillion dollar proposals.

Indeed, the Rural Development Act is an integral part of our growing commitment to deal with our Nation's urban crisis, and I urge my colleagues to support this legislation.

Mr. POAGE. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. Chairman, as a cosponsor of H.R. 12931, the Rural Development Act of 1972, I rise in support of the legislation. Together with the Sugar Act of 1971, this bill can be regarded as one of the two most important pieces of legislation to emerge from the Committee on Agriculture in this Congress. At the outset, therefore, I would like to commend its chairman, the gentleman from Texas (Mr. POAGE), for his extraordinary leadership in guiding the committee through many difficult weeks while this measure was being considered.

Considerable credit must also be given to my colleagues on the committee and to the committee staff for providing the generous support without which this landmark legislation would not have been possible.

H.R. 12931 would upgrade the quality of rural life in America with a three-pronged program. First, it would broaden the credit services of the Farmers Home Administration; secondly, it would provide the means to achieve a rural development objective; and, finally, it would give greater emphasis to community development and environmental aspects of the Small Watershed and Resource, Conservation and Development programs of the Department of Agriculture.

The first part of the rural development program is particularly meaningful to Hawaii as the result of committee adoption of an amendment which I had offered. For many years, lessees of Hawaiian Home Lands were informed that they were ineligible under the Farmers Home Administration's financial assistance to rural residents program—title V of the Housing Act of 1949. This adverse administrative determination excluded Hawaiian homesteaders from one of the most important sources of rural housing loans.

The Hawaiian Homes program is the product of an Act of Congress commonly referred to as the Hawaiian Homes Commission Act of 1920. The act itself was a manifestation of the sincere desire on the part of many people, in Congress as well as in Hawaii, to preserve the native Hawaiian race from what was feared to be certain extinction. The main thrust of the 1920 Act, therefore, was to make possible the rehabilitation of the native Hawaiian race through a program of homesteading.

The dilemma of the rural Hawaiian homesteader who needed a home-improvement loan was that he was caught between two acts of Congress which effectively prevented him from obtaining one. On the one hand, the Hawaiian Homes Commission Act prohibited him from mortgaging his homestead. On the other hand, the 1949 Housing Act required a mortgage on fee simple real estate before a loan could be made under its provisions.

My amendment would provide a way out of this dilemma. In lieu of a real property lien, the State of Hawaii, through its Department of Hawaiian Home Lands, would give its guarantee that the borrowing Hawaiian homesteader would repay his loan. The amendment would authorize the Secretary of Agriculture to accept the State's guarantee and grant the loan to the Hawaiian homesteader.

The legislation we are considering today has many other noteworthy provisions which are designed to slow down or halt the migration of farm families to the cities, where so many soon find themselves on the relief rolls. To retard or reverse this trend, however, we must provide needed aid to improve the conditions of rural living. We must do something about these hard facts:

Sixty percent of the substandard housing in the United States is located in rural areas;

Per capita income in rural areas is lower than in cities by about 25 percent;

Services such as fire protection and ambulance are too often inadequate in rural areas;

Rural areas urgently need more water and sewer systems to meet urban standards.

H.R. 12931 should not be regarded as an immediate panacea for these long-existing rural ailments. Rather, it should be regarded as the most significant cure that has been proposed in recent years. The program it provides is indeed one that is tailored to meet the urgent need for a better life in rural America.

The estimated cost of this legislation is $280 million a year in additional grant authority over and above the amounts which are authorized under existing law. Once the desired objectives in the proposed program are achieved, a strong and healthy rural America will prove beyond any doubt that it was well worth the cost.

Mr. Chairman, I urge a favorable vote for H.R. 12931.

Mr. POAGE. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. STUBBLEFIELD).

Mr. STUBBLEFIELD. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, for decades we have seen a continuous trek of the population of this country from the rural areas to the cities. This has occurred to a large extent because of a lack of jobs in the rural areas and because the standard of living has been higher in the large metropolitan areas.

In the past few years we have awakened to the effects of this mass migration. Certainly thousands of small towns and communities throughout the country have been adversely affected, and a greater number have entirely disappeared from the map. Now we have come to realize that our cities also are losers by virtue of this social upheaval. Tens of thousands of men who have left the farms and small towns with their families looking for work in the cities have crowded into the ghettos and has been forced onto relief rolls.

Here we have a chance in this legislation, the Rural Development Act of 1972, to strike at one of the root causes of the troubles our Nation faces on the home front. Here we have a chance to help the rural and small town Americans with the same kind of governmental assistance we have provided urban Americans for years. Our studies show, for instance, that 60 percent of the substandard housing in America is located in rural America. We have spent billions of dollars on housing programs in the cities.

In this legislation we increase and expand the authority and capability of the Farmers Home Administration to carry on its fine programs. We authorize funds in this legislation for the development of facilities in small communities to help them attract industries which will provide jobs. We provide that the Federal Government shall give priority to small communities in the consideration of sites for the location of new Federal installations and agencies. We sharply increase the amount of funds authorized as grants to towns and villages of less than 5,500 population for construction of water and sewage systems. We authorize funds for pollution abatement and control projects, both those operated by public bodies and those such as dairies and feed lots operated by individuals.

This legislation is too broad to go into details as to its provisions, but it was drafted and approved by the Committee on Agriculture after extensive public hearings and we on the committee believe it is a good bill. We believe it is a bill that will benefit all Americans, not just those who live in the rural parts of the country.

Mr. POAGE. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Chairman, I rise in support of this legislation.

Mr. POAGE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, I rise in support of this legislation. I want to commend the committee for bringing it out. It is badly needed.

Mr. POAGE. Mr. Chairman, I yield such time as he may consume to the gentleman from North Dakota (Mr. LINK).

Mr. LINK. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, as the Congressman from the most agricultural district in the United States, I am most keenly aware of the continuing erosion of the economic base in rural America and the need for corrective action. As a result of this erosion, my State of North Dakota was one of only three States to lose population in the decade of the 1960's.

Therefore, I am most pleased to support H.R. 12931, the Rural Development Act of 1972. As a member of the House Agriculture Committee, I cosponsored this legislation and have seen it develop over several months into its present form. I wish to commend the committee chairman, Mr. POAGE, for his capable, experienced leadership in bringing H.R. 12931 to the House floor.

I have said before that the problems of rural America cannot be viewed in isolation any more than the problems of urban America. The problems are interwoven and interconnected. On one hand, the migration of people from rural America to our already congested cities leaves an economic vacuum in rural America, and on the other hand it creates new problems for urban America, already weighted down with clogged traffic, pollution, crowded housing, and crime.

So rural development is not simply a way to alleviate the problems of rural America, it is a way to relieve the problems of our cities, too.

H.R. 12931 has many features that have good potential for breathing new life into rural America. Among other things, it would expand credit facilities of the Farmers Home Administration; give greater emphasis to community development; and authorize for the first time aid to finance pollution abatement and control programs in rural areas; and increased assistance for water and waste system projects.

Mr. Chairman, all of these features beamed at rural America are in the national interest. But I want to state clearly that they cannot provide, in themselves, renewed prosperity for rural America.

The most effective rural development measure would be to raise agricultural income to fair levels. We could do so with microscopic effects on food prices, and in doing so we could restore buying power to the national levels thereby creating a favorable impact on the Nation's economy. In doing so, too, we could maintain small businesses, instill new life and hope in rural America, and halt the exodus from rural America to our cities.

I emphasize this point now only because I think we should not be diverted from the primary affliction of rural America: inadequate farm income. However, we must move in on the problem from all sides and I heartily approve the approaches taken in H.R. 12931. They would improve the conditions in rural America.

I commend H.R. 12931 to my urban and rural colleagues.

Mr. TEAGUE of California. Mr. Chairman, it appears that Mr. GOODLING and I will be the only Members voting against this bill. In the meantime, I yield 2 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, I support this bill. I wish, however, to note that a few moments ago the gentleman from Georgia (Mr. BLACKBURN) made reference to an amendment he would offer. He stated that it is not the intention that this amendment do damage to the program as proposed by this bill, and it was further stated that it was not the intention to cause any delays.

I emphasize the fact that he said it is not the intention, but it is not always the intention that finally evolves. Sometimes we run into a situation where bureaucracy becomes so cumbersome and so time-delaying that the projects suffer because of it. This amendment that will be offered would remove, in many respects, local sponsors from decisionmaking processes with regard to these measures in their own federally assisted projects. Actually, the money would be diverted to the Secretary of the Interior and it would be put under his control.

Mr. Chairman, I received a call this morning from the people who represent these small watersheds. They were alarmed at what this amendment would do. I am inclined to feel, if we want to move, we need to move with those sponsors closest to the people back home. Surely mistakes have been made in the past, but I think overall the effort that has been expended by these people has been commendable.

I believe if this bill is to pass, the so-called amendment that will be offered should be defeated and we should proceed with the machinery we have already set up to take care of the projects throughout the country.

An amendment to remove or modify section 12, Public Law 83-566 known as the Blackburn amendment would remove local sponsors from decisionmaking on these measures in their own federally assisted projects yet require them to finance part or all of the costs of decisions imposed on them by Federal and State agencies.

An amendment also would divert small watershed funds to the Secretary of the Interior with respect to its participation in watershed project planning.

Section 12, Public Law 83-566, already provides for adequate consultation with fish and wildlife interests and accomplishes essentially the same objectives as the Fish and Wildlife Coordination Act.

Section 12 requires the Secretary of the Interior to make investigations and prepare reports on wildlife resources out of funds appropriated to the Department of the Interior. Any change would require the transfer of watershed funds to the Bureau of Sport Fisheries and Wildlife.

Mr. TEAGUE of California. Mr. Chairman, I yield one minute to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Chairman, I would like to commend our chairman and all of the members of the committee that worked so hard on this bill.

I would like to say I think the rural way of life is a wonderful one. If we can give rural America the adequate teeth of economic opportunity to go forward and to do more than just exist, it will be wonderful. One of the greatest benefits that we could give would be to see to it that grandparents will not have to travel as far to visit their grandchildren.

I appreciate the opportunity to comment regarding the Rural Development Act of 1972. I think it is most significant that the House leadership has recognized the importance of scheduling this legislation only 1 week after it was reported by the House Agriculture Committee. Rural development is truly a national and priority goal.

Mr. Chairman, in discussing this legislation, I think we should acknowledge the leadership and commitment on the part of the chairman of the House Agriculture Committee, the distinguished Congressman from Texas, the Honorable W. R. POAGE, who is the principal sponsor of the Rural Development Act of 1972. Those of us who are privileged to serve on the House Agriculture Committee know that this bill is being considered here today because of the chairman's longstanding commitment and effort to revitalize rural and smalltown America. I know I can speak for the farmers of the "Big First" District of Kansas in expressing our appreciation and thanks to the distinguished Congressman from Texas.

We who are concerned with agriculture have long been interested in the concept of rural development. I have been working for some time in cooperation with the senior Senator from Kansas, the Honorable JAMES PEARSON, in putting together legislation that would feature rural job development through tax incentives to private industry that would locate in our rural areas. I am extremely hopeful that we can consider this legislation at some future date.

The bill we are considering here today, H.R. 12931, offers an effective program to enable those who live and work in rural America to improve living conditions and economic opportunity, and, in doing so, perhaps halt the steady flow of rural citizens to our Nation's large urban centers. This legislation has a special sense of urgency, for it applies to both rural and urban America. Part of our urban problems stem from the decline of economic opportunity in our rural areas.

I think what is especially pertinent about this legislation is that it builds upon established agencies within the Department of Agriculture rather than creating new bureaucratic authority and a new tax burden. This legislation will build on the success of two agencies—the Farmers Home Administration and the Soil Conservation Service. These agencies have an estabished record of success and service; and, of special importance to this legislation, they work through an effective network of offices and personnel throughout rural America. FHA and SCS employees know the problems of, and work with, our rural citizens. The task of revitalizing our rural areas is a task in which they are already involved and a field where they already have experience and expertise.

Through expanded FHA authority, this bill will encourage young citizens to stay in their home areas by making it easier to obtain loans for farming and rural development purposes. This should and will be done through joint financing using Federal agencies such as the Farmers Home Administration to complement local sources of credit. I feel very strongly that Federal funds should not be used to compete with local and private lending institutions. They should be used as a vehicle by which local bankers and savings institutions can increase their rural and community improvement efforts.

Another important section of this legislation would authorize the Secretary of Agriculture to enter into long-term contracts—up to 10 years—with landowners and farmers to share the cost of conservation plans within watershed projects. Experience in the Great Plains conservation program has demonstrated that an agreement between farmers and the Government based on a good conservation plan that allows the farmer assured cost sharing enables him to plan and program conservation activities without uncertainty and with improved results.

This provision would supplement, but not supplant, the cost sharing authorized under REAP, the Great Plains conservation program, and other programs that provide conservation cost sharing.

I know there has been much interest on the part of my colleagues regarding the proposed amendment to title II of this bill regarding Fish and Wildlife. I do not feel this amendment is necessary. The watershed programs authorized by Public Law 566, and carried out through local watershed leaders and SCS personnel, have been very successful in my district and have enhanced the growth and development of fish and wildlife resources and habitat. Moreover, I feel that burdensome reports and a transfer of existing authority from local SCS personnel and the USDA to the U.S. Fish and Wildlife Service would be costly and perhaps counterproductive to our efforts to incorporate fish and wildlife development in watershed projects.

Mr. Chairman, there are two other aspects of this legislation in which I have special interest. First, this bill strengthens title IX of the Agricultural Act of 1970 to provide mandatory priority in locating new Federal offices and facilities in rural areas. If we are going to provide Federal facilities and services closer to the people and make these services and facilities more responsive, this authority must be given priority.

Second, I am most interested in the Greenspan program within this legislation. This program is designed to divert marginal farmland to conservation and pollution abatement uses, as well as recreation and beautification. Up to now, the authorization level has been too low to implement an effective program. The increase in the annual authorization from $10 million to $40 million will allow the USDA to designate specific programs to see if we cannot carry out the goals and objectives of Greenspan.

Mr. Chairman, again, I appreciate the opportunity to make these comments on the Rural Development Act of 1972. I want to assure my urban colleagues this legislation is not simply a program for rural America. This bill represents increased economic opportunity for our rural areas with the hope that at the same time we can bring needed relief to our overcrowded cities.

Mr. TAYLOR. Mr. Chairman, I rise in support of the Rural Development Act of 1972 and the strong promise it offers for both improving the quality of life in our rural areas and at the same time offering our established rural citizens a reinforced alternative to migrating to our Nation's large metropolitan centers.

I commend the distinguished chairman of the House Committee on Agriculture (Mr. POAGE) and the dedicated committee members who have labored these many months to hammer out the features of this important piece of legislation. I am convinced that they have tried to arrive at a fromula which will help to revive rural America without the creation of a massive new Federal bureaucracy to handle the details. The chairman is entirely correct in his obseravtion that the Farmers Home Administration and the Soil Conservation Service and other established agencies within the Department of Agriculture have well established records in which we have every reason to place continued confidence.

In recent years, it has been my feeling that too often our Government has overlooked the problems of rural America in its zeal to focus more and more attention on large city ghetto problems. Certainly, both merit attention. However, many of the housing and other social problems of our large cities would gradually evaporate if sufficient incentive could be provided to make it unnecessary for our rural citizens to move into the cities in order to make a living.

Statistics show us that far too many people are leaving the countryside. Far too many rural communities are folding up their streets. In fact, this grim trend has seen the exodus of some 20 million people from rural America into our large metropolitan centers since 1946—placing 70 percent of our population on 2 percent of the land.

The migration has left in its wake a crushed rural America with a countryside that provides to few economic and social opportunities for too few people. Sadly for the large cities, the migration has created a storehouse of additional problems which they did not need and, in most cases, have not been able to fully handle.

The price we are paying for this distorted rural-urban imbalance is far too high, even for a seemingly affluent nation such as ours.

This bill is a serious, important effort to change the pattern through a careful new investment in the future of our rural regions. It should not be viewed merely as an attempt to cure an ill through an injection of public funds. Rather, this legislation should be the springboard of new ideas and how they can be used to impede the flow of rural Americans to the cities and to eventually check it.

While the bill before us today does not embody all of the proposals contained in the President's proposed rural development financing bill, it does contain what I think is a sound approach to the problems involved.

I urge its favorable consideration.

Mr. GALIFIANAKIS. Mr. Chairman, the rural development bill that is before the House today is one of the most important pieces of legislation affecting rural America that will come before this body this session. This Committee on Agriculture has worked long and hard and I commend this committee and its members.

Mr. Chairman, we have talked about the need to revitalize rural America for many years now—but we have done very little. We have in many instances allowed the residents of rural America to be treated as second-class citizens with their faith in this Government shaken as a result of our inaction.

For many years, we have seen our rural communities robbed of their most vital resources, their young people and their hope for the future. We must demonstrate to our citizens in rural America that we care about them, and this bill is the first great step in that direction.

Mr. Chairman, the lights are burning low in rural America today, and it is incumbent upon us as representatives of the people to make those lights burn brightly again.

Mr. Chairman, I support this bill not as a perfect measure, or as a final answer, but as a step in the right direction—a direction away from despair and toward progress for rural America.

Mr. WAMPLER. Mr. Chairman, we are much concerned today with the need to revitalize rural America. For too long, our youth, born and reared in the countryside, have been attracted to the cities and urban areas by the promise of greater opportunity. The Rural Development Act of 1972, under discussion here today, is designed to improve the standard of living on our family farms, and to make our smaller towns and communities more attractive and more lucrative for our new families.

We are not asking you to establish a rash of wasteful and duplicative new Federal programs. Rather we are asking that you authorize a reasonable expansion of the programs that have proven themselves successful under the administration of experienced, already established agencies thoroughly familiar with the problems that face the areas they serve.

Basically, the legislation would broaden the credit services of the Farmers Home Administration, aiding both farm and nonfarm rural people by making insured loans available to family farmers for operating expenses or the purchase, enlargement or basic improvements of their farms; by providing housing in rural areas, and in towns with a maximum population of 10,000; and by assisting in funding modern water and sewer systems. In addition, the legislation would provide $75 million annually to help fund vitally needed pollution abatement and control projects in rural areas.

In my opinion, the whole country will benefit greatly from the development of rural America. The implementation of this legislation will go a long way toward equalizing the opportunity for employment and decent living conditions between urban and rural districts, and will encourage a redistribution of population as a result, thus easing the problems of both.

My colleagues on the Agriculture Committee worked long and hard to develop this legislation, holding extensive hearings and receiving volumes of expert testimony. We believe it reflects maximum effort to do a job that needs doing. Many concerned individuals and organizations have endorsed our efforts. Close to my own district, they include the Virginia Association of Soil and Water Conservation Districts and the Virginia Association of Electric Cooperatives.

I believe the Rural Development Act of 1972 is a good bill which will have a tremendous impact on the future growth and progress of the rural areas of this country.

Mr. PRICE of Illinois. Mr. Chairman, the Rural Development Act of 1972 is important to all Americans whether they live in rural or urban areas. The bill is designed to help restore the vitality of rural America which goes hand in hand in our meeting our urban crisis.

Solving our urban problems does not stop at the city limits. Urban America needs a strong and vital rural America. The two are partners. Over the years I have been a strong supporter of the rural electrification program because it provides services to our rural dwellers that are essential for their areas' development.

The bill H.R. 12931 is no different. It enables the Farmers Home Administration and the Soil Conservation Service to finance industrial and community development and pollution abatement in rural areas and its eases loan terms for farming and rural development programs. It provides operating loans to rural youth for activities under training programs and it authorizes small business operating loans in rural areas.

This bill is needed. The following facts bear this out:

Sixty percent of our Nation's substandard housing is located in rural areas.

The per capita income in rural areas is lower than that in our cities.

Services such as fire protection and ambulance service are often inadequate.

Rural areas urgently need more and better water and sewer systems.

Job opportunities are desperately needed in rural areas.

There are other disparities in rural America which underscore the severity and the magnitude of the problem. Suffice it to say that if we expect to correct the population outflow from rural America we must take positive action to enhance the standard of living and opportunities of our rural dwellers. This bill represents a step in that direction.

Finally, I want to deal with the issue of whether we as a nation can afford this legislation. In reading the dissenting views in the report I noted the concern expressed over the cost of this legislation, its budgetary impact and the effects it would have on our economy. Let me try to put this argument in some perspective.

Based on the best available estimates this bill would cost approximately $280 million annually over the next 5 years. I do not think there is any question that we can meet this requirement. If we can spend nearly $100 million daily to support the South Vietnamese Government, I do not think there is any question about our being capable of spending money in our own Nation on our own people.

Moreover, the potential salutary effects of this legislation in creating jobs, encouraging economic and industrial development, and protecting our environment clearly belie the cost argument against this bill. If anything, this bill will help to improve our bleak economy and help generate additional revenues to offset the colossal public debt that present economic policies have produced.

Mr. Chairman, I strongly support this bill and urge my colleagues to vote for it.

Mr. CONTE. Mr. Chairman, one of the basic concepts of this Rural Development Act is the use of presently existing agencies to administer new and expanded programs. I strongly favor both the commitment to alleviating the serious problems faced by rural Americans and the concept of utilizing present agencies. There are already far too many arms on our bureaucratic octopus.

I must, however, inform my colleagues that the Farmers Home Administration cannot adequately administer the programs for which it is now responsible. Because of present employment ceilings and a questionable formula for allocating administrative funds, the Farmers Home Administration is unable to process loan applications already sitting in its county offices. While needy families waited, over $90 million went unused last year. While young farming families in Massachusetts prayed for a loan, 550 applications gathered dust in the three overworked and understaffed Farmers Home Administration Offices in my State.

Massachusetts has come out on the short end of the stick as far as Farmers Home Administration programs go. During the last fiscal year, Massachusetts only received 0.1 percent of Farmers Home Administration funds. With a population of over 5 million people—over half of which are eligible under present Farmers Home income limitation—Massachusetts has only three county offices. Farmers Home Administration programs could benefit 208 towns in my State. At present, however, they cannot. Consequently, needy rural families are denied the benefits of valuable Farmers Home programs.

I said earlier that the Farmers Home Administration has a "questionable formula" for allocation of administrative funds. Perhaps the best phrase would have been "no formula at all." In a letter I received last month, Administrator James V. Smith informed me that "past years' new-loan-making activity in each State has been a reasonably accurate guide to allocation of manpower for new-loan making." I am certain that all of my colleagues can recognize the fallacy of that argument; if our Massachusetts offices have no staff, they can make very few loans. If they make very few loans, then they are not entitled to an increase in staff for the next year.

Administrator Smith has promised me that he will take steps to change this situation, and relate manpower allocations to potential demand.

I mention this sad state of affairs for only one reason: If we commit ourselves to expanding the programs and services provided by the Farmers Home Administration, we must also commit ourselves to helping them meet that increased responsibility.

As a member of the Appropriations Committee, I pledge to fight for such an increase in Farmers Home Administration administrative funding. Only then can by constituents, and rural families throughout Massachusetts and the Nation take full advantage of these valuable programs. If we expect Farmers Home Administration to seriously help rural America, we must give them the men and the money to do that. I, for one, intend to try.

Thank you, Mr. Chairman.

Mr. KASTENMEIER. Mr. Chairman, I will support the amendment that will be offered by my colleague from Wisconsin (Mr. Reuss), and recall his earlier efforts of last summer to bring channelization work under greater public and environmental review. Although I supported the amendment of last June, I feel that efforts here today to bring the Watershed Act within the oversight functions of the Fish and Wildlife Coordination Act are more reasonable and thus more deserving of passage than the moratorium amendment. Today's amendment does nothing more than to insure that proper consideration and evaluation is given to the value of fish, wildlife, and our natural environment in all Federal resource projects.

Should my support for Mr. Reuss' amendment here today be misinterpreted by my good friends within the soil and water conservation districts of my State, I would remind them that Wisconsin statutes already require that the Wisconsin Department of Natural Resources review and grant permits for all channelization projects that might involve enlargement of waterways, changing of stream course, or removal of material from beds of navigable waters. This amendment is merely an attempt to bring Federal regulations up to the quality that Wisconsin residents have enjoyed for many years. And I would also like to stress further that a vote for this amendment is not a vote against the many valuable soil and water conservation projects that have been directed by local leaders over the years to the betterment of all U.S. citizens. It is an attempt rather to bring about a small adjustment in a single soil and water conservation technique that can result in even greater benefit to the environmental future of our country. Finally, I would just like to add that over the years I have been a consistent and enthusiastic supporter of conservation work carried out by the soil and water conservation districts, and plan to continue to do all I can to insure that they get the necessary backing to carry on their vital work.

Mr. PURCELL. Mr. Chairman, if there is one primary objective among all others to the bill which we have under consideration today, it is to finance job-creating enterprises in rural areas. Words have echoed and re-echoed across this Chamber about the difficulty of solving urban America's crisis and what should be done about reversing a population migration from rural to urban areas which could ultimately choke the Nation to death. This bill is a direct, toes-on-the-line effect to knock the status quo off dead center. We must move from talk to solid action.

Last Friday, February 18, I sat with a half-dozen community leaders from my district before the top officials of the Office of Economic Opportunity seeking to find ways to secure no more than seed money for an industrial park in a four-county area which has suffered consecutive population losses of more than 30 percent for the last two censuses. We received looks of concern and expressions of "gosh we would like to help, but there is nothing we can do." It was a message which was heard earlier in the offices of the Economic Development Administration and the Department of Agriculture.

This was a group of men who have spent virtually their lifetimes trying to develop viable communities in northwest Texas. They were not up here on a lark. They came looking only for enough help to put a local industry base on its feet. That group returned to Texas Friday. They went home frustrated. Their story will frustrate their fellow townspeople. And without some real help in the very near future—help which we have the opportunity to provide—their children and thousands of others like them will continue to abandon rural America. By abandoning rural America they will automatically add to the population glut of urban America.

We are talking about one problem when we discuss overcrowded cities and opportunity-starved rural communities. Yet to this day, Mr. Chairman, the Federal Government has insisted on treating the symptoms of population migration as separate problems. There are on the books at this time more than 1,700 Federal programs designed to be of primary benefit to large cities; 350, a fifth as many, have been designed to be of primary benefit to rural areas. The amount of money spent in these two categories follows these numbers more than proportionally.

This bill is designed to put Federal emphasis upon solving what is one problem by working at its source—a rural America which offers less and less opportunity to a more and more mobile society.

Title I of this bill will provide authority for the Farmers Home Administration to finance industrial development in order to provide more jobs in rural areas. Ongoing industrial development programs have not made much impact—as my several visits with the Federal bureaucracy indicated just last week—because they have been limited in scope and in funding.

Section 112(a) of this bill would provide insured loans for the purpose of financing small- or medium-sized industrial or commercial establishments. Additionally, it would provide loans and grants to nonprofit local industrial development organizations for the purpose of financing facilities related to the development of industrial or commercial establishments. This authority is extremely important since it is likely that, in many instances, for an industrial development project to be a success a number of essential related facilities will be required such as access roads, parking lots, water supply and waste disposal facilities and even some initial operating capital.

Further, this section would provide authority for the Department of Agriculture to participate in joint financing with other Federal agencies such as the Economic Development Administration, the Small Business Administration, the Office of Economic Opportunity and the Department of Housing and Urban Development, as well as with State agencies and with private and public financial institutions. The provision would bolster the impact of all of the ongoing programs which—let me reemphasize—are sorely in need of muscle power.

Mr. Chairman, the entire country will benefit from the enactment of this bill. It contains four titles, and I have discussed only a part of one of them. Section 12(a), originally contained in my bill H.R. 10671, is of vital importance to the country. In it rural communities can find the seeds of their revitalization; and in it the huge cities can find a check upon the continuous influx of population.

This bill should be passed. It should be passed with a margin which will indicate to the Senate the degree of need which exists across this country for renewed economic opportunity away from the sprawling metropolitan centers and throughout the rural heartland of the Nation.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 12931, the Rural Development Act of 1972, and to express my profound hope that my colleagues in the House of Representatives will seize the opportunity which this legislation offers for improving the economy and living conditions in rural America.

Since it is my privilege to represent a district which makes up part of the rural America we are focusing on today, I am acutely aware of the many problems to which this legislation is addressed. As the House Agriculture Committee report on H.R. 12931 points out, for example, in the rural areas of America we find 60 percent of the Nation's substandard housing as well as much lower levels of per capita income, public services, water and sewer systems, and employment opportunities, than those existing in the urban areas.

As the committee report also clearly points out, however, the problems of rural America are not isolated ones but are very much interrelated with the many problems facing our modern cities. We have, of course, long been aware of the steady migration from rural America to our Nation's large population centers and of the fact that this has led to many of the chronic problems now existing in these cities. For too long, however, this migration was merely looked upon as being an inevitable result of changes in our Nation's way of life—to be coped with somehow at both ends.

Part of this migration certainly was, and continues to be, an inevitable result of certain basic trends in our Nation, but we must recognize that a significant amount is attributable to the comparatively poor living conditions and employment opportunities in rural areas. By making improvements in these conditions and employment opportunities we can, I am confident, significantly check this migration and thereby alleviate problems facing both rural and urban areas in our Nation.

The House Committee on Agriculture is to be commended for the attention which it has given to this very important area and for the legislation which it has recommended to deal with these problems. I am in particular accord with the course taken by the committee in meeting the problems of rural America through an expansion of the roles of those existing Federal agencies already engaged in rural development. The fine work of the Farmers Home Administration and the Soil Conservation Service has substantially benefited many areas within my congressional district. With the long experience of such agencies in dealing with rural area problems, they would seem best suited to undertake an expansion of these efforts.

Among other things, H.R. 12931 provides a significant expansion in the amount and type of loans which the Farmers Home Administration is authorized to make in rural areas—including new authority for business-type loans and loans for community facilities. It gives added flexibility to the small-watershed and resource-conservation and development programs, providing needed Federal assistance in such areas as water quality management, municipal and industrial water supply, and pollution abatement. The legislation would also increase authorizations under the Bankhead-Jones Farm Tenant Act to assist State and local public agencies and local nonprofit organizations in such areas as water storage programs and programs of land inventory and monitoring.

As indicated, I fully support these provisions of H.R. 12931 and feel that the increased Federal assistance contained therein will be of great benefit to our Nation's rural areas. I am also in full support of an amendment which I understand will be offered today and which would increase the amount authorized in title I, section 104 for water and waste disposal grants under the Consolidated Farmers Home Administration Act from the $200 million provided for in the committee-approved bill to $500 million. I am familiar with the great need for these grants in the Third District of Arkansas and hope that the House will see fit to provide for the above increase in funds.

Among other amendments intended to be offered today are two to which I would like to express opposition at this time. One of these amendments would bring the Watershed and Flood Prevention Act of 1952 under the provisions of the Fish and Wildlife Coordination Act. The effect of this amendment would be to add unneeded and unnecessary Department of Interior control of programs relating to fish and wildlife by adding the approval of the Secretary of Interior as a prerequisite for such projects. In my judgment, the Congress clearly intended to exclude the Watershed Act from the provisions of the Fish and Wildlife Coordination Act. To adopt such an amendment would do serious damage to the program, and would certainly be an injustice to the local sponsors. I will oppose it if offered.

Another amendment that may be offered would propose a moratorium on stream channelization projects of the Soil Conservation Service. Such an amendment has been offered in the House on several occasions before today and the arguments of its proponents and opponents should be familiar to all of us. At this time, therefore, I will merely indicate my judgment that the Soil Conservation Service's channel projects have been of great benefit to many areas of our country, including my own congressional district, and that I believe these benefits to far exceed the environmental dangers feared by supporters of this amendment.

Mr. **BADILLO**. Mr. Chairman, I am supporting the Rural Development Act of 1972 not so much because I believe it to be a comprehensive answer to the complex problems of rural America, but because it is both a modest step forward and at the same time a recognition that the economic and social difficulties experienced in the rural areas of our Nation bear directly on the problems of our cities.

In its report on this legislation, the Committee on Agriculture asserts that the basic purpose of H.R. 12931:

> Is to provide an effective program to enable rural America to offer living conditions and employment opportunities adequate to impede the steady flow of rural Americans to our Nation's large population centers.

The committee observed that:

> Once this outmigration is checked, this legislation proposes to make it desirable for Americans to actually return ot our rural areas, thereby lessening the burdens and problems of the modern big city.

In my view, it is essential that this migration be checked and to the extent that this legislation can accomplish this, it has my full support. We cannot overlook the fact that the urbanization of America has aggravated the problems of poverty not only in our cities but in our rural areas as well. The recently formed Coaltion for Rural America reported to the Senate Finance Committee not long ago that fully half of the citizens living in rural areas are in poverty; that 60 percent of our Nation's inadequate housing is outside the metropolitan areas; that infant mortality in rural America is 20 percent higher than the national average.

As long as this remains the stark reality of life in our rural areas, we can except the migration to the cities to continue. And we must keep in mind that those who migrate to the cities without being trained and equipped to find employment there becomes an additional tax burden to some city, another statistic in the cycle of poverty and despair which afflicts our urban areas.

Through the legislation before us today and hopefully, through the various housing, health and education bills yet to be considered in the House, we will come to grips with the problem in its fullest dimensions.

Mr. **SKUBITZ**. Mr. Chairman, I rise in support of H.R. 12931.

This bill is a step in the right direction.

It is an effort to bring prosperity to rural America.

It is a bill which will make a number of needed improvements in existing law and will inaugurate some new efforts to improve the quality of life in rural America.

Earlier this year the President pointed out that all Americans have a stake in rural development. It is not just rural people. It is not just farmers. It is city people too. All Americans will benefit if our rural areas can prosper and grow.

The President pointed out that many of the problems which rural people now face are directly linked to those of our cities and suburbs.

We should recognize, Mr. Chariman, that the changing patterns of contemporary American life has resulted from increased mechanization of agriculture and other natural resource industries.

While employment is there, our very basic industries have declined or machines replaced men, many of those same men left the rural and remote areas of the notion to seek jobs and opportunities in the small and large cities.

In their wake, the declining rural population has left a situation where:

Sixty percent of the substandard housing is located in rural areas.

The per capita income of rural people is consistently lower than that of urban people.

Medical, fire, water, sewer, and other human needs are often inferior in rural areas.

In brief, the crux of the problem has been that poor opportunities in rural areas have caused many people to leave and move to the cities.

Of course I realize that all this has been said many times by many people. But today there is a difference, because today the House is ready to vote on a concrete proposal to do something about the problem.

The bill before us is divided into four separate titles, each of which is targeted toward the solution of various problems of rural people, main points include the following: Title I would help farmers get larger operating loans—from $35,000 to $50,000.

It would permit FHA to insure these loans, through making more credit available.

It would allow business and economic development loans and grants.

It would permit pollution abatement and control loans and grants and triple Poage-Aiken water and sewer *grants*.

It would beef up grants for community planning.

Under titles II and III the small watershed program and the resource conservation and development program would be improved.

Title IV establishes a priority for the location of Federal facilities in rural areas. It also increases the authorization for the Greenspan program from $10 million to $40 million per year—the Greenspan program permits small towns to receive a Federal grant for acquiring farms near the city if the farm was eligible for a land retirement program.

All in all, this bill is a conservative and concrete step toward building a better America—not just a better rural America, but a better America for all Americans.

Mr. **FUQUA**. Mr. Chairman, I would like to take this opportunity to commend the House Agriculture Committee for reporting out this excellent rural development bill. The rural-to-urban migration in this country has reached dramatic proportions representing the displacement of 30 million farmers and rural people since 1940.

The committee has recognized the need to offer effective programs to assist the rural communities in impeding this outward migration and H.R. 12931 is an ideal mechanism for providing this rural development assistance. Certainly the large cities have an important interest in this legislation as improved living conditions and employment opportunities in the rural areas will provide a catalyst for reversing the rural-to-urban migration thus lessening the glut of our major metropolitan areas.

In the State of Florida this outward migration was vividly illustrated by the 1970 census statistics. In 1960, 73.9 percent of the citizens of Florida lived in urban areas of the State. By 1970 this figure had increased to 80.5 percent. The rural figure had decreased during this same time period from 26.1 to 19.5 percent. Recognizing the continued impact of this outward migration from the rural areas, it is most timely that this legislation be brought to the House floor. Although there is a great need for new programing capabilities and rural development leadership, I am pleased that the committee did not choose to create still another Federal agency to administer these new efforts. The Department of Agriculture, through the Farmers Home Administration and the Soil Conservation Service has served the needs of rural people well and is in a position administratively to address the increased need for rural development programs without overhauling the present network of offices and personnel throughout rural America.

The urgency of providing rural America with opportunities to make living conditions and job opportunities more nearly comparable to those available in our cities is apparent. I wholeheartedly support this measure and encourage its favorable consideration today.

Mr. NELSEN. Mr. Chairman, because I have lived in the country all my life and represented rural areas in the Minnesota State Legislature and here in the House of Representatives, I have taken a great interest in the subject of rural development. The fact that we are now actively considering a bill that would economically aid rural America means that some solid action is likely to be taken to boost opportunities in the countryside.

The Rural Development Act of 1972, as reported out of the House Agriculture Committee, has been criticized, but I believe the enactment of those workable committee recommendations that can be financed would be an important step forward.

Let us first recognize that today there is no such thing as equal opportunity for those in rural America. Our cities receive an inordinate amount of governmental aid but at the same time the needs are often greater in rural areas. Seventy percent of our Nation lives in urban areas, but 60 percent of our substandard housing is in rural areas. Major public services are often inadequate or nonexistent in the country. Most important, the economic opportunities on which to base sound community growth are often lacking in the countryside.

Without this basic economic foundation, rural citizens cannot hope to achieve equal status with city residents.

In his message to the Congress on the problems of rural America, the President pointed out that the three decades since 1940 have seen half of our counties, though not always the same ones, lose population. In fact, 40 percent of our Nation's counties have lost population in each of the three decades. President Nixon said:

> Our rural areas are being emptied of their people and their promise.

The answer must first be in a recognition that the balanced growth of this Nation is important to the longrange interests of every American. The problems we face domestically are compounded by rural out-migration. Our cities can barely keep their heads above water now, without having to incorporate added thousands from the countryside. Yet, farm people are being forced to move into the city along with their problems because of a lack of economic opportunities in rural communities.

This migration is bad sociologically, politically, and economically. Fifty-six percent of all Americans would prefer to live in the country or small towns. We have allowed economic circumstances to bring about the conditions we have today, so their preferences are denied. There are roads and places to build homes and businesses. There are stores and local governmental institutions that can easily expand to meet growing needs. Rather than spend added billions to solve the problems of tomorrow's cities, let us invest a few dollars in the future of tomorrow's rural America.

I urge my colleagues to recognize that the only solution to rural problems and a major answer to our cities' problems is a rural development program which will encourage capital investment in rural America to create jobs and a new sense of optimism in 98 percent of the land area of this Nation.

Mr. DORN. Mr. Chairman, the Rural Development Act now before us is a splendid step forward toward the goal of rural renewal. We will continue to spend billions for urban renewal. Yet the problems of urban housing, pollution, unemployment and crime continue with little apparent improvement. We must move toward a more positive approach. We must attract our people back to the great rural areas. Ours is a tremendous, spacious land, yet 70 percent of our population is crowded into only 2 percent of our land surface. Since 1940, the period when the overcrowding of our metropolitan areas quickened, half of the Nation's counties have actually lost population. There can be no higher national priority than to reverse the stream of people into the metropolitan areas.

There can be no ecology or environment to speak of in a crowded ghetto or in a rush-hour traffic jam. For too many there is only the despair and loneliness. Too many were forced to leave the country because of economic decline and find even less opportunity in the city. This is a natural breeding ground for higher welfare rolls, drugs, and crime. We must encourage a return to less populated areas of the country.

The bill now before us, as well as other measures now pending in the Congress, show the determination of the Congress to improve the quality of rural life. The Rural Development Act would greatly improve existing loan programs. Loans would be available for establishment and operation of small business enterprises in rural areas and for essential community facilities. Especially commendable, Mr. Chairman, is the provision authorizing loan assistance to young people for business enterprises being carried out in connection with agricultural training programs. There are also important new programs authorizing grants for pollution abatement and industrial planning.

We are especially pleased, Mr. Chairman, that these splendid new programs would be carried out by the dedicated and devoted people of the Farmers Home Administration and the Soil Conservation Service. Mr. Chairman we do wish to commend the great Committee on Agriculture for their outstanding, diligent work in bringing forth this legislation. Under the leadership of Chairman Poage of Texas and our own John McMillan, the committee has reported a great bill. I enthusiastically support it and urge its overwhelming approval.

Mr. RANDALL. Mr. Chairman I rise in support of H.R. 12931 because in my judgment we are engaged today in a legislative effort that is as important as any we have embarked upon, during this second session of the 92d Congress and even most likely one of the most innovative, far-reaching and generally beneficial pieces of legislation that will be considered during the entire 92d Congress.

It would be difficult to recite the total number of bills of a similar nature with substantially the same objectives as H.R. 12931, that have been introduced in Congress within the past several years. Suffice it to say there have been many such bills very much like the Rural Development Act of 1972 which unfortunately have expired at the end of each Congress without being approved by either the appropriate committee or by either body of Congress.

Those of us who represent rural areas and, indeed, the entire membership of the House should be indebted to the Committee on Agriculture for reporting out and bringing to the floor H.R. 12931, with its announced purpose to provide for improving the economy and living conditions in rural America. What an important objective. What a worthwhile objective. How can one imagine a purpose more needed for all of us to try to accomplish or a more urgent goal to try to achieve, as soon as possible.

Mr. Chairman, whatever the terminology or whatever words may be used to describe a bill with substance such as this one, it should merit the support of not only those who are privileged to represent the rural areas but our colleagues from the big cities as well. It should not take any great word artist to make it clear that if we do not take some prompt and rather determined steps to prevent this continued migration from the rural areas to our cities, then we will very soon reach an imbalance in our population that will leave us, on the one hand, with a vast wasteland in the rural areas and, on the other hand, not just cities but a series of megalopoles so large and unwieldy as to be almost unmanageable with problems of a scale that will become truly insoluble.

Should it develop that there is a record vote on this measure, it is my sincere hope that when and if the roll is called, we will not find any who represent the big cities in opposition to this bill because it happens to bear the title of the Rural Development Act. If I may, let me point out that this bill is of just as much value and importance to our colleagues who represent the overcrowded cities of America as it is to those of us who represent areas that frequently decline in population from one decennial census to the next. Why can we believe this is a fair and reasonable statement of fact? The answer is that for all the money that we authorize and spend on welfare in our great cities—under the poverty program, model cities, urban renewal, public housing, low-income housing, rent supplement and all the others, it will be to little or no avail as long as this migration from the land to the cities continues as thousands upon thousands of men and women, unskilled, but seeking jobs continue to crowd into our cities. They will create unemployment on such a massive scale that no social welfare program that we can pass in this Congress can hope to cope with.

Someone has aptly expressed himself to the effect that all the money that is spent on housing, urban renewal and elimination of ghettoes, if this migration continues, will be money that will demonstrate little visible results. The reason is that as soon as one ghetto is eliminated, another will spring up right beside it unless the crowding into our cities year after year is somehow arrested and/or hopefully somehow, some way reversed through some of the inducements provided in this legislation. Those who are now in our cities, unemployed, and on welfare, and living in poverty may hopefully notice this inducement to return to the rural areas, as being a better place to live and as a place where they can find some kind of employment which will be extended through the provisions of H.R. 12931.

Mr. Chairman, I have long been on record that a comprehensive rural development program is absolutely essential for the well-being of this Nation. To this end, early in the present Congress I introduced H.R. 1510 which would encourage and aid the revitalization of rural America. Our bill took a different approach to the problem than the legislation which is before us today. It attempted to stem the forced migration from rural areas and to reduce the population pressures in urban centers by providing tax incentives for the establishment of new or expanded job-producing industrial and commercial facilities in rural areas.

Of course our proposed type of rural revitalization measure came under the jurisdiction of the Committee on Ways and Means. Nevertheless, it is refreshing to see that the concept of industrial and commercial job-producing expansion in rural areas which my bill would have operationalized in a different manner has been accepted and endorsed by the legislation now reported by the Committee on Agriculture.

Mr. Chairman, we cannot think in the anachronistic terms of rural versus urban interests. We can find many examples of disparities which exist between rural and urban America, but if any progress is to be made toward the goal of providing a better quality of life for all Americans, that progress can only be made through the cooperative efforts of both rural and urban America working together.

An excellent case can be made for the contention that it will cost far less to save rural America than it will cost to fight the losing battle against poverty in our urban slums. This is not to suggest that we should take money away from the cities, nor to suggest that the poverty war should be abandoned. But it does assert that the benefits to be realized from concerted attention to the needs of our deteriorating countryside can be instrumental in alleviating some of our urban problems. It is altogether possible that much of the so-called hard-core poverty-stricken population in the big cities is in this condition because of an inability of people with deep rural roots to cope with the noise, congestion, aggressiveness, and tensions found in metropolitan areas. A massive rural development program may give many of these people something to come back to in the countrysides they left, and in many cases still call home.

Mr. Chairman, the revitalization of rural America may very well become the first step toward a revitalization of all America. Establishment of a rural development program will fulfill a commitment already made by this Congress in the Agricultural Act of 1970 which declared that a sound balance between rural and urban America was "so essential to the peace, prosperity and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas."

True this is a first step but let us take that first step.

Mr. Chairman, today we embark on an effort that will hopefully have far reaching consequences. During luncheon today in discussing some of the problems of our rural areas with our counterparts, the Norwegian Parliament, I happened to mention this bill. For their part, they thought this bill contained an excellent idea. However, some of our own colleagues who were present at this luncheon expressed the thought that while we were proposing a lofty ideal and espousing a meritorious cause, nothing might ever come or happen as a result of our enactment of the Rural Development Act of 1972. This kind of pessimism struck me as being a sort of self defeat even before we have ever given this proposal a chance to succeed. I hope that this kind of view is not shared by very many in this body. If we adopt this kind of attitude in advance about the program before it has a chance to work then we are really in trouble.

So frequently, we hear about the application of the cliche, "action speaks louder than words." Well, may I most respectfully suggest to my colleagues in the House what we are trying to do today is translate the context of all the bills introduced over the past 3 years into some kind of action through the passage of this bill. It is always well to be cautious. It is all right never to be overly optimistic. For my part, I prefer to regard myself as the kind of a moderate pessimist who also applies the yardstick of realism to a given situation without admitting defeat before the battle has ever begun.

In the area where we fight for rural revitalization we simply must not, we cannot admit that it is a losing battle. The facts are if we do not enter this contest to save our rural America in a crusading spirit and resolve not to take no for an answer then truly the problems of rural America will be compounded beyond our capacity, or ability to solve. In the kind of a fight we face to save rural America it may be all right to be realistic. For the good of our country, we cannot become pessimistic. We must be optimistic.

Mr. ANDERSON of Illinois. Mr. Chairman, over the last three decades, half the counties in the United States have been losing population; during that same period, the population of the United States has increased by 63 percent, from 130 million people to 205 million people. According to the interim report of the Commission on Population Growth and the American Future, when our Nation was formed, 95 percent of the people lived in rural areas; today, over two-thirds of our people live in metropolitan areas and many more in outlying cities and towns. During the decade of the sixties, three-fourths of our Nation's growth occurred in metropolitan areas, with the suburbs absorbing most of it. And during that same period, the farm population dropped from 15 million to 10 million. According to James L. Sundquist, senior fellow at the Brookings Institution, if these trends continue, by the turn of the century 77 percent of our Nation's 300 million people will live on 11 percent of the land—excluding Alaska and Hawaii—and only 12 percent of the people will live outside urban areas of 100,000 or more population. If current chaotic growth patterns are allowed to go unchecked, Sundquist predicts that by the year 2000, 60 percent of our people or 187 million people will live in four huge urban agglomerations along each of our seaboard strips and around the Great Lakes. The problems presently confronted by our urban areas will be nothing in comparison with those which will face these sprawling megalopoli.

The bill which we are considering today—the Rural Development Act of 1972—is far from being the final answer to reversing this dangerous trend. Obviously a more massive and comprehensive approach will be required if we are to abort this megalopolian monster, and hopefully the final report of the Population Growth Commission will give us detailed guidance in planning for future growth. Nevertheless, I do consider this legislation an important first step in breathing new life back into our decaying rural areas. This bill is designed to provide adequate living conditions and employment opportunities in these areas by encouraging and assisting the development of business, industry, community centers and services, and pollution abatement and control in our small towns and in the countryside.

Rather than creating new bureaucratic organs to administer these new rural development programs, this legislation wisely, I think, builds upon the time tested capabilities of existing agencies—the Soil Conservation Service and the Farmers Home Administration which currently have 3,000 and 1,700 offices respectively across the Nation.

While I intend to support certain amendments to this legislation, particularly those offered by Congressmen Dow, BLACKBURN, and REUSS, I think for the most part this is a sound and workable bill and most importantly, an urgently needed one. I urge my colleagues to join with me in voting for the Rural Development Act of 1972.

Mr. MATHIS of Georgia. Mr. Chairman, the Rural Development Act of 1972 is an important first step toward bringing new life to rural America.

It is the purpose of the bill to make it not only possible but also desirable for people to return to the Nation's small towns and cities and open spaces. It is our hope that this bill will help stem the tide of rural to urban migration which continues at the rate of 500,000 a year.

Members of the House Agriculture Committee has worked long and hard to report a bill designed to improve the employment opportunities and living conditions for rural Americans.

Chairman BOB POAGE is especially deserving of praise for his efforts to bring an effective, nonpartisan rural development bill to the House floor. I am pleased to be associated with the gentleman from Texas as a cosponsor of this legislation.

Chairman POAGE is one of the most knowledgeable men I know in the field of agriculture, and he has done an outstanding job of explaining H.R. 12931 and the effect we hope it will have on rural areas throughout the country.

No one has been so foolish as to claim that this bill will solve all the ills that plague our countryside and our cities where millions have fled in a fruitless search for jobs and better living conditions.

My fellow members of the House Agriculture Committee see this legislation as a beginning. There has been too much talk and not enough action in the past. The time has come to show the people of rural America that their Congress and their Government intend to take some concrete action toward helping solve the problems that have mushroomed as a result of neglect.

I feel that the committee acted wisely in choosing not to create yet another Federal agency to administer rural development programs. The Department of Agriculture, through the Farmers Home Administration and the Soil Conservation Service, is best qualified to serve the needs of our rural people.

It is very important that every Member of Congress and every taxpayer realize that rural development legislation will benefit all America—city and country dwellers alike.

Today, 800,000 people a year are migrating from rural areas to the cities. Between 1960 and 1970 more than half of our rural counties suffered population decline.

Yes, hundreds of thousands of individuals and families have been forced off their land for a multitude of reasons. Most of them have packed their well-worn suitcases and left the countryside as fast as their old cars or the first bus would take them to Atlanta, New York, or Washington. When they start looking for a job at the end of the line—they discover something. They find they are victims of a cruel hoax. There is no job, no decent housing, no land of milk and honey. They become locked in a way of life that is totally alien. They are pulled down into a whirlpool of frustration. They all too often become a statistic, another number on the welfare rolls, a victim of crime, a pawn, if you will, in the great chess game of power and politics over which they have no control.

The predicament of the unwilling urban dweller is all the more sad when you stop and realize that this cruel and costly dislocation of fellow human beings is not really necessary.

Something can and must be done to stem the tide of out-migration from rural America which leaves behind deserted towns, depleted resources, empty institutions and people without hope for the future. Yes, these are results of the greatest out-migration in history—400 million to the cities in 50 years.

To me it seems deplorable that this trend should continue. But it is continuing.

I want the people who live in our cities and who control the destiny of this country at the ballot box to realize that all of their problems stem from a common source. Yes, all urban problems—pollution, congestion, crime, traffic, poor housing, and on and on and on—have resulted from the neglect of rural America. I think more and more of our fellow Americans are beginning to see that the urban problem has its roots in our rural areas. What this bill attempts to do is deal with the problem at its source, instead of attacking it only at the point of its greatest visibility.

I say again that this legislation does not offer the final solution I feel strongly that we must start. And this bill is a beginning.

Mr. TEAGUE of California. Mr. Chairman, I have no further requests for time, and apparently no one is coming forth to support Mr. GOODLING and myself, so I yield back the balance of my time.

Mr. POAGE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Rural Development Act of 1972".

### TITLE I—AMENDMENTS TO THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

SEC. 100. The Consolidated Farmers Home Administration Act of 1961 is amended as provided in this title.

#### SUBTITLE A—REAL ESTATE LOANS

SEC. 101. Section 304 is amended by—

(1) inserting "(a)" before the first sentence and striking out "(a)" and "(b)" in the first sentence; and

(2) adding at the end of the section a new subsection as follows:

"(b) Loans may also be made or insured under this subtitle to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 302 to acquire or establish in rural areas small business enterprises to provide such residents with essential income."

SEC. 102. Section 305 is amended by striking out "normal" in the first and second sentence and striking out the last sentence.

SEC. 103. Section 306(a)(1) is amended by striking out "and recreational developments" and inserting in lieu thereof "recreational developments, and essential community facilities including necessary related equipment."

SEC. 104. Section 306(a)(2) is amended by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000".

SEC. 105. Section 306(a)(6) is amended by—

(1) striking out "$15,000,000" and inserting in lieu thereof "$30,000,000";

(2) striking out "official"; and

(3) striking out "sewer" and inserting in lieu thereof "waste disposal".

SEC. 106. Section 306(a) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) As used in this title, the terms 'rural' and 'rural area' shall not include any area in any city or town which has a population in excess of ten thousand inhabitants.

SEC. 107. Section 306(a) is amended by striking out paragraph (5) and renumbering the subsequent paragraphs accordingly.

SEC. 108. Section 306(a) as amended by section 107 of this Act is amended by adding at the end thereof a new paragraph as follows:

"(10) The Secretary may make grants, not to exceed $10,000,000 annually, to public bodies or such other agencies as he may select to prepare comprehensive plans for rural development or such aspects of rural development as he may specify."

SEC. 109. Section 309(f) is amended by—

(1) changing "$100,000,000" to "$500,000,000" in paragraph (1); and

(2) striking out "section 335(a) in connection with insured loans." in paragraph (5) and inserting in lieu thereof "in connection with insured loans, including the difference between interest payable by borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance."

SEC. 110. Section 309 is amended by adding at the end thereof the following new subsections:

"(g)(1) The assets and liabilities of, and authorizations applicable to, the Farmers Home Administration direct loan account created by section 338(c) and the Emergency Credit Revolving Fund referred to in section 326 are hereby transferred to the fund, and such account and such revolving fund are hereby abolished. Such assets and their proceeds, including loans made out of the fund pursuant to this section, shall be subject to the provisions of this section, section 308, the last sentence of section 306(a)(1), and the last sentence of section 307.

"(2) From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the value as determined by the Secretary, with the approval of the Comptroller General, of the Government's equity transferred to the fund pursuant to the first sentence of this subsection plus the cumulative amount of appropriations made available after enactment of this provision as capital and for administration of the programs financed from the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of loans made or insured from the fund, adjusted to the nearest one-eighth of the 1 per centum. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

"(h) The Secretary may provide financial assistance to borrowers for purposes provided in this title by guaranteeing loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, or other legally organized lending agency."

SEC. 111. Subtitle A is amended by adding at the end a new section as follows:

"SEC. 310A. Loans meeting the requirements of the Watershed Protection and Flood Prevention Act or title III of the Bankhead-Jones Farm Tenant Act may be insured, or made to be sold and insured, in accordance with and subject to sections 308 and 309, the last sentence of section 306(a)(1), and the last sentence of section 307 of this title."

SEC. 112. (a) Subtitle A is amended by adding at the end thereof, after section 310A as added by section 111 hereof, a new section as follows:

"SEC. 310B. (a) The Secretary may also make and insure loans to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control. Such loans shall be subject to the last sentence of section 306(a)(1), but no such loan nor participation agreement shall be made in connection with the relocation of any industrial establishment employing more than twenty-five persons from a location outside the rural area to be served by the facility or installation.

"(b) The Secretary may make grants, not to exceed $50,000,000 annually, to eligible applicants under this section for pollution abatement and control projects. No such grant shall exceed 50 per centum of the development cost of such a project.

"(c) The Secretary may also make grants, not to exceed $50,000,000 annually, to public bodies for purposes including the planning, development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, services and fees. No such grant shall be made in connection with the relocation of any industrial establishment employing more than twenty-five persons from a location outside the rural area to be served by the facility or installation.

"(d) The Secretary may participate in joint financing in rural areas with the Economic Development Administration, the Small Business Administration, and the Department of Housing and Urban Development and other Federal and State agencies and with private and quasi-public financial institutions, through joint loans to applicants eligible under subsection (a) for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas or through joint grants to applicants eligible under subsection (c) for purposes including the planning, development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, services and fees."

(b) Section 333 is amended by—

(1) inserting "except for loans under section 310B," after "(a)" and "(c)" respectively; and

(2) inserting "310B," in paragraph (b) after '306,".

Sec. 113. Subtitle A is amended by adding at the end thereof, after section 310B as added by section 112 hereof, a new section as follows:

"Sec. 310C. (a) Applicants who receive rural housing loans under section 517(a)(2) of the Housing Act of 1949, as amended to provide dwellings in rural areas for their own use shall not be subject to the requirements of section 501(c) and 502(b)(3) of such Act.

"(b) For the purposes of title V of the Housing Act of 1949, as amended, a guarantee of payment given under the color of law by the Department of Hawaiian Home Lands (or its successor in function) shall be found by the Secretary reasonably to assure repayment of any indebtedness so guaranteed."

### SUBTITLE B—OPERATING LOANS

Sec. 114. (a) Section 311 is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end of the section a new subsection as follows:

"(b)(1) Loans may also be made under this subtitle without regard to the requirements of clauses (2) and (3) of subsection (a) to youths who are rural residents to enable them to operate enterprises in connection with their participation in 4–H Clubs, Future Farmers of America, and similar organizations and for the purposes specified in section 312.

"(2) A person receiving a loan under this subsection who executes a promissory note therefor shall thereby incur full personal liability for the indebtedness evidenced by such note in accordance with its terms free of any disability of minority.

"(3) For loans under this subsection the Secretary may accept the personal liability of a cosigner of the promissory note in addition to the borrowers' personal liability."

(b) Section 312 is amended by inserting "(a)" after "311".

Sec. 115. Section 312, as amended by section 114(b) hereof is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end of the section new subsections as follows:

"(b) Loans may also be made under this subtitle to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 311 to operate in rural areas small business enterprises to provide such residents with essential income.

"(c) Loans may also be made to eligible applicants under this subtitle for pollution abatement and control projects.

"(d) The Secretary may make grants, not to exceed $25,000,000 annually, to eligible applicant under this subtitle for pollution abatement and control projects. No such grant shall exceed 50 per centum of the development cost of such a project."

Sec. 116. Section 313 is amended by changing "$35,000" to "$50,000".

Sec. 117. Subtitle B is amended by adding at the end thereof a new section as follows:

"Sec. 317. Loans meeting the requirements of this subtitle may be insured, or made to be sold and insured, in accordance with and subject to sections 308 and 309 and the last sentence of section 307 of this title."

### SUBTITLE C—MISCELLANEOUS

Sec. 118. Clause (c) of the second paragraph of section 331 of the Consolidated Farmers Home Administration Act of 1961 is amended by inserting after "Act;" the following: "may obtain fidelity bonds protecting the Government against fraud and dishonesty of officers and employees of the Farmers Home Administration in lieu of faithful performance of duties bonds under section 14, title 6, United States Code, and regulations issued pursuant thereto, but otherwise in accordance with the provisions thereof;".

Sec. 119. Paragraph (a) of section 333 is amended by inserting after "in writing" the following: ", and the Secretary shall determine,".

Sec. 120. (a) Section 331 is amended by adding at the end a new clause as follows:

"(g) Consent to the transfer of property securing any loan or financed by any loan or grant made, insured, or held by the Secretary under this title, or the provisions of any other law administered by the Farmers Home Administration, upon such terms as he deems necessary to carry out the purpose of the loan or grant or to protect the financial interest of the Government."

(b) Subsection (c) of section 335 is amended by—

(1) striking out "subtitle A" in the first sentence and inserting in lieu thereof "the provisions of any law administered by the Farmers Home Administration";

(2) striking out "the provisions of subtitle A" in the second sentence and inserting in lieu thereof "such provisions";

(3) striking out in the fourth sentence "of at least 20 per centum" and "not more than five annual"; and

(4) adding at the end of the fourth sentence before the period the following: ", but not in any event at rates and terms more favorable than those legally permissible for eligible borrowers".

Sec. 121. Section 343 is amended by inserting at the end thereof before the period the following: ", and (4) the word 'insure' as used in this title includes the meaning of guaranteeing the payment of a loan originated and serviced by a private financial agency or other lender approved by the Secretary, and (5) the term 'contract of insurance' includes a contract of guarantee".

Sec. 122. Section 307(b) is amended by changing "shall" to "may" in the second sentence.

Mr. POAGE (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

### COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments to title I.

The Clerk read as follows:

Committee amendments:

Page 3, line 8, strike the words "ten thousand inhabitants." and insert in lieu thereof the words "5,500 inhabitants."

Page 3, line 25, after the quotation marks delete the word "in".

Page 5, line 7, delete "the" before "1".

Page 8, line 2, change the period to a semicolon and add the following: "and inserting 'other than Section 310B' after 'and for loans under said sections'."

The committee amendments were agreed to.

### AMENDMENT OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dow: Page 6, line 20, strike out "eligible applicants under this sec-" and line 21, strike out "tion", and insert in lieu thereof on line 20, "public bodies".

Mr. DOW. For the benefit of the Members who did not hear the general debate I will summarize the amendment.

My first amendment would alter title I, subtitle A, section 310B(b) of the bill. As the section now reads, it permits grants, not loans, for pollution abatement up to $50 million annually to public corporations organized for profit or to individuals. My amendment would change this provision by making grants available only to public bodies such as counties or municipalities and thereby prevent the Federal Government from giving outright, unencumbered grants to members of the private sector to clean up their own pollution.

I offer this amendment because it is my feeling that to so casually open the door for Federal grants to organizations organized for profit and individuals involves a principle of economic and political significance that should be carefully weighed before acting. The circumstances are even more objectionable if the Federal Government is to provide grants which, in effect, reward individuals for creating pollution problems.

Further grounds for objection to this section of the bill are:

It would open the door to favoritism of the grossest sort by allowing the Government to hand out money with no strings attached to its special friends either in private or corporate life.

The bill would permit private beneficiaries to take Government funds into their balance sheet, thereby affecting their earnings and profit position. Potentially it could affect competing corporations in a most dangerous way.

The bill would put the individual or corporate entity in the anomalous position of being punished for creating pollution under the Refuse Act of 1899 while accepting rewards for cleaning up the very same pollution. Indeed, one could pay off his fine with the money the Government had given him to clean up his pollution.

The politics and the philosophy which underlie this provision represent a radical departure from the traditional operation of the Government separate from the private sector.

As a proved defender of our environment, and an enemy of pollution, I respectfully urge that we adopt an amendment which will limit pollution abatement grants to public bodies rather than to the private sector.

Mr. POAGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and members of the committee, this amendment strikes out what I think is a sound policy that is adopted by this proposed legislation.

This proposed legislation is based on the assumption that if the Government imposes an obligation in behalf of all of society, that society should at least share in the cost of improving the environment.

We do not ask and would not even authorize society to pay all of the bill, but we recognize that society is going to impose tremendous burdens on all livestock growers and I just cannot feel that we should deny these people any help.

I have never understood the argument by my colleague from New York that somebody could make a profit on this deal because, as a matter of fact, he could not get more than 50-percent assistance in the cost of any antipollution abatement. He would still have to pay a large share of the cost.

I think it is unfair to charge all of that cost to the individual who gets no benefit from it. I think it is unfair to provide this help in the cities and withhold it as this amendment would do, in rural areas.

The practical effect of this thing goes to those who have dairies, those who have chickenhouses, those who have feedlots, those who grow turkeys, or any kind of livestock. Any of those kinds of operations are going to create pollution. Any of them are going to adversely affect the environment. Any of them can become terribly expensive in trying to take care of that pollution.

Our committee is not suggesting that we should not deal with this pollution problem or should not enforce all the regulations against pollution.

But we are saying that where the Government, for the benefit of society, imposes a requirement, that the Government should properly share in part of that cost. The maximum cost the Government could share would be 50 percent under the bill. The owner of the property would have to pay at least 50 percent, and we know as a practical matter that it means he would probably pay 75 percent.

If this pollution abatement is going to cost $50,000 to provide for the sanitary arrangements for a dairy—and that is about what I have been led to believe it is going to cost in most of these cases—that means that the man will always be out at least $25,000, and probably a good deal more.

We are merely suggesting that it is sound to say that we want to help those people who are helping society clean up. It is utterly unfair to say, as my colleague—I am sure inadvertently—said, that this was rewarding people for being polluters. This rewards no one. You cannot pay more than half of what he is out, and if a farmer puts out $2 and only gets $1 back he is not being rewarded very heavily.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Chairman, I received a call from the city attorney of a small town in my area, and he said that there they were fearful that this proposed amendment would make it difficult for the small towns in rural America to attract industry because of the complications involved. I want to compliment the gentleman on his statement, and I believe this supports the fear that I received in that respect. I thank the gentleman for his statement.

Mr. POAGE. I agree entirely with the gentleman from Minnesota, and with the gentleman's constituents. But I am not so concerned about industry, although I think industry should be treated as fairly as agriculture. I am basically concerned about the dairymen all over the United States, about the chicken growers all over the United States, about the feedlot operators all over the United States, the turkey growers, the hog growers, and about those who have any livestock about their premises, because you cannot have livestock without having a pollution problem.

I think it is nothing but fair to provide, as this bill does, an opportunity for the Government to assist all of those people.

The Government is assisting those who live within the big cities. Everyone who lives in a large city gets the benefit of Government assistance. But if you live outside of the city limits you are denied any opportunity to share in these kinds of payments.

I know that the gentleman from New York is trying to do something which he thinks is fundamentally sound, and that is to see that this does not enrich any individual. But, as I see it, his efforts may well prevent doing anything for any individual. I think he is going to destroy a great many individuals. He is going to destroy a great deal of the business in rural areas, and it is going to destroy a great many agricultural activities that we think are beneficial and essential to the welfare of our country. That is the reason we have this provision in the bill. We hope you will support the bill as written.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. TEAGUE of California. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment offered by the gentleman from New York (Mr. Dow).

Mr. Chairman, I have poultry operations, feed lots, and similar projects in my congressional district. But, Mr. Chairman, I think the gentleman from New York (Mr. Dow) is correct in this instance. It seems to me it is somewhat analogous to the man who starts a bonfire in the backyard and negligently and carelessly lets it get away, and burns down a whole block, through his own fault, and then expects the taxpayers of the United States to bail him out for his negligence. To me this is exactly the same situation, and I therefore rise to support the Dow amendment.

Mr. HOWARD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would just like to ask the gentleman from New York, on this amendment, and I am not that familiar with it—but what this does, in fact, is to take the taxpayers' money and pay up to 50 percent to private industry to clean up water pollution which it is or has been causing; is that not correct?

Mr. DOW. That is correct, I will say to the distinguished gentleman from New Jersey. I would like to offer an observation about the remark by the distinguished gentleman from Texas, the chairman of the committee who said that we would destroy these individuals.

For goodness' sake, in the whole history of the United States for 200 years or so, they have never had this kind of benefit and the mere withholding of it now is certainly by no stretch of the imagination a destruction of anybody whatsoever. I do not think that implication should be put upon my amendment.

Mr. HOWARD. I feel that certainly water pollution control is a major problem, or one of the major problems in this country and the Committee on Public Works deals with water pollution legislation and the Water Quality Act over the past several years and realizes that we have to spend billions and billions of dollars. What we are trying to funnel the taxpayers' money into is to municipalities to build adequate sewage treatment plants. I feel that if we were to follow this proposal in our general water-control legislation where we would find we have steel companies that may need to spend hundreds of millions of dollars probably. There is one steel company in Cleveland itself that could use over four times the total amount of money in this bill to try to clean up its pollution and we would just bankrupt the entire program.

I feel it is very unwise.

Mr. DOW. May I ask the chairman another question?

Mr. Chairman, is there any precedent in the history of American legislation to provide grants to private corporations and individuals by the Government aside from welfare which is a very special situation and which certainly has nothing to do with business.

Can the gentleman cite any precedent that would help us in debating this amendment?

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman.

Mr. KYL. Responding to the question that was just propounded, I am sure the gentleman from New York who is a member of the Committee on Agriculture and is very knowledgeable, is fully aware of the REAP program which has for many years provided up to 80 percent matching to individuals to clean up pollution. That certainly is a precedent which is all the gentleman asked for. We could give him more.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman.

(Mr. HAYS asked and was given permission to speak out of order.)

Mr. HAYS. Mr. Chairman, I know the rules of the House and I do not want to violate them. But if I were permitted to do so, I would tell you that there is a very distinguished group of Norwegian parliamentarians in the vicinity, a contingent of the Defense Committee of the Norwegian Parliament.

They are our stanch allies and our stanch friends. I know that the rules prohibit my saying that they are here, but if I were allowed to, I would tell you they are in the diplomatic gallery.

Mr. HOWARD. I thank the gentleman for not violating the rules by telling us that.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman.

Mr. SMITH of Iowa. A gentleman on the Public Works Committee, to use an example from that committee in the way of sight pollution, which is billboard and junk yards, we are going to pay 100 percent there and not 50 percent.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman.

Mr. DOW. In response to the question of the gentleman from Iowa about the REAP program which evidently provides $2,500—I would say that limitation takes a certain amount of the sting out of the possibility of subsidizing private individuals and corporations. But certainly if I had been on this floor when that provision was passed, I think I would have raised the same objection to it that I raise now to this subsidy for private industry.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. KYL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I, too, think something ought to be done about this particular title, but I do not want to eliminate the program entirely. I think there should be some limitation, and I would support some limitation, as I did in committee with an amendment which I offered. The amendment under consideration does not do the job.

I want to say here that Chairman POAGE has been most patient with me. As I remember I achieved adoption of 14 different amendments in the committee. But I decided after looking at the host of amendments which have been presented at the table here that I may be forced to oppose every one of these amendments so we can get a bill passed. Above all, I want to get this bill passed.

We labored a long time on this bill in committee and out of committee. The other body is working in a different direction on another bill. There will be many opportunities to modify provisions of this bill.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. KYL. Not at this time. I will if I have time remaining.

I think you ought to know the possibilities which this title does involve. It is possible that we can make grants to clean up pollution of an oil mill, to a corporate feedlot, to a gin. To a gin? Which one? Do we start with the biggest polluter because that is the biggest problem? I think inherently the title is defective. We will not get the kind of continuous funding we ought to have and could get if we used a revolving or long-term approach, or if we set some kind of reasonable limitation.

There is another title which is again subject to some reservation, so far as I am personally concerned. I do not find a pending amendment to this particular title. I tried to get one in the committee. This provision actually creates a new Small Business Administration, with grant authority. This bill includes antipiracy language to prevent a town in Missouri from pirating a business from a town in New Jersey. But with the new kind of grant system which is applied here, I think we could develop a piracy within a community. For instance, here is a plant which a person or a group has built over long years with blood, sweat, and tears, without any help from the Government, and having paid considerable taxes to the Government, he makes a certain product. Somebody else, in order to create some jobs in a community, gets a grant from Uncle Sam to go into the same business, and if there is unfair competition, he builds that second business at the expense of the first. You then have created new jobs, but you have not created additional jobs, and you have created some pretty serious public relations problems in addition to violating some basic premises of this Government.

I will now yield to the gentleman from New York for a question.

Mr. DOW. I am surprised the gentleman would be so fearful of amendments. There is no reason why the bill cannot be amended and then passed. I do not think that here in the House it is entirely appropriate to suggest that the passage of one or two amendments would be a tactic for barring the passage of the bill.

Mr. KYL. If the gentleman will give me back my time I should like to repeat what I said in the first place. I believe this title needs amendment, but the kind of amendment which the gentleman has offered does not remove the defects as I see them, and I do not think it contributes to the purpose of the bill.

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the Dow amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. ROBERTS. Mr. Chairman, I am not a member of the Committee on Agriculture, but I think we ought to put in proper perspective the amendment offered by the gentleman from New York (Mr. DOW). I think he has a good basis for his amendment. However, I think he has not taken into consideration some of the legislation which undoubtedly we will act on before this session is over. As practically all of you know, the Senate has passed Senate bill 2770 by a vote of 78 to 0. A somewhat different bill has been acted upon by the Public Works Committee, and the basic philosophy of this bill is that we will change our water quality requirements and the no-effluent or the effluent-control program.

If we are going to require dairy farmers, chicken farmers, and cattle feeders to put in sewage treatment facilities which would be the equivalent in effluent quality of the best coming out of the small towns and cities, then it only makes sense that we make some provision to assist them. I am not sure that this is the best way, but I do not know of any other way.

I certainly suggest that we turn down the Dow amendment, and let us see how this thing works.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from North Carolina.

Mr. TAYLOR. Mr. Chairman, as I understand the situation—and I am not on the committee—the purpose of this legislation is to promote the rural economy and to slow down the movement of the people from the rural areas to the cities. This movement has left our rural areas impoverished and with too few people and too few opportunities, while it has caused problems on top of problems as the rural people have crowded into the cities.

We are living in a new day as far as pollution and pollution control are concerned. Every dairy man, every poultry operator, and every man who has livestock is going to have to face new regulations, and it will be expensive for those who have to comply. If aid is not granted to the farmers, it will result in just forcing more of them off the farms and hastening the movement of people into the cities and increasing the problems in the cities which have already been mentioned.

Mr. Chairman, I think this is an important section of this bill, and I hope it will be retained.

Mr. ROBERTS. I thank the gentleman from North Carolina. I appreciate his remarks.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from New York.

Mr. DOW. Mr. Chairman, I would like to say that some of these speakers with the best of intentions are taking a very narrow view of my amendment. They look on it as a benefit which is very limited, merely providing pollution control to poor farmers and others in the country. I do think we should look on it with a broad vision, which reveals that we are opening the gates to public money for private industry, for private individuals, and for government entry into the private sector, and opening questionable opportunities to private individuals.

Mr. ROBERTS. We have done this for

the cities through urban renewal and other arrangements for those areas for a great many years. I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. Dow) there were—ayes 16, noes 45.

### TELLER VOTE WITH CLERKS

Mr. DOW. Mr. Chairman, I demand tellers.

Mr. Chairman, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. 105 Members are present, a quorum.

### PARLIAMENTARY INQUIRY

Mr. HOWARD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOWARD. May I make a parliamentary inquiry without jeopardizing the effort of the gentleman from New York to demand tellers?

The CHAIRMAN. The next order of business is the demand for tellers. The gentleman will state his parliamentary inquiry.

Mr. HOWARD. The Chair has just stated that a quorum of over 100 Members is present. May I ask the Chair to repeat the result of the vote we had just prior to that, on the division?

The CHAIRMAN. The Chair will state that is not a parliamentary inquiry.

The gentleman from New York has demanded tellers.

### TELLER VOTE WITH CLERKS

Tellers were ordered.

Mr. DOW. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. DOW, KYL, POAGE, and TEAGUE of California.

The Committee divided, and the tellers reported that there were—ayes 150, noes 224, not voting 58, as follows:

[Roll No. 49]

[Recorded Teller Vote]

AYES—150

Abzug
Addabbo
Anderson, Ill.
Archer
Arends
Badillo
Belcher
Bennett
Betts
Biaggi
Biester
Bingham
Blackburn
Bolling
Bow
Bray
Broomfield
Burke, Fla.
Burke, Mass.
Burton
Byrne, Pa.
Camp
Carney
Chamberlain
Clancy
Clawson, Del
Cleveland
Collier
Conable
Corman
Cotter
Coughlin
Crane
Daniels, N.J.
Delaney
Dellums
Devine
Diggs
Dingell
Donohue
Dow
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Fascell
Findley
Ford, William D.
Forsythe
Frelinghuysen
Frenzel
Frey
Gallagher
Gibbons
Grasso
Green, Pa.
Gross
Grover
Gubser
Hall
Halpern
Harsha
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Helstoski
Hicks, Wash.
Hosmer
Howard
Jacobs
Jarman
Johnson, Pa.
Jonas
Kastenmeier
Keith
Koch
Kuykendall
Landgrebe
Latta
Lloyd
Long, Md.
Lujan
McCulloch
McDade
McDonald, Mich.
McEwen
McKevitt
Madden
Mann
Martin
Mazzoli
Michel
Mikva
Miller, Ohio
Minish
Mink
Mollohan
Moss
Nedzi
O'Hara
Pelly
Pettis
Pike
Podell
Poff
Powell
Railsback
Reid
Reuss
Riegle
Rodino
Rogers
Rosenthal
Rousselot
Roybal
Ruth
Ryan
Sarbanes
Saylor
Scherle
Schmitz
Schneebeli
Schwengel
Seiberling
Shoup
Smith, Calif.
Smith, N.Y.
Staggers
Steiger, Wis.
Stokes
Teague, Calif.
Thompson, Ga.
Van Deerlin
Vanik
Ware
Whalen
Whalley
Wiggins
Williams
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Fla.

NOES—224

Abourezk
Adams
Albert
Alexander
Anderson, Calif.
Anderson, Tenn.
Andrews
Annunzio
Ashley
Aspin
Aspinall
Baker
Barrett
Begich
Bell
Bevill
Blanton
Boggs
Boland
Brademas
Brasco
Brinkley
Brooks
Brotzman
Brown, Ohio
Broyhill, Va.
Buchanan
Burleson, Tex.
Burlison, Mo.
Byron
Cabell
Caffery
Carey, N.Y.
Carter
Casey, Tex.
Chappell
Clausen, Don H.
Collins, Ill.
Collins, Tex.
Conte
Culver
Curlin
Daniel, Va.
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Denholm
Dennis
Dent
Derwinski
Dickinson
Dorn
Downing
Duncan
Edmondson
Edwards, Ala.
Edwards, La.
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Fisher
Flood
Flowers
Flynt
Foley
Fountain
Fulton
Fuqua
Galifianakis
Gaydos
Gettys
Giaimo
Gonzalez
Goodling
Gray
Green, Oreg.
Griffin
Griffiths
Gude
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hathaway
Heckler, Mass.
Henderson
Hicks, Mass.
Hogan
Holifield
Horton
Hull
Hungate
Hunt
Hutchinson
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kee
King
Kluczynski
Kyl
Kyros
Landrum
Lennon
Lent
Link
McClory
McClure
McCollister
McCormack
McFall
McKay
McKinney
McMillan
Mahon
Mallary
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Melcher
Mills, Ark.
Mills, Md.
Minshall
Mizell
Montgomery
Moorhead
Morgan
Murphy, Ill.
Myers
Natcher
Nelsen
Nichols
Obey
O'Konski
O'Neill
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Pirnie
Poage
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Randall
Rarick
Rees
Roberts
Robinson, Va.
Robison, N.Y.
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roush
Roy
Runnels
Ruppe
St Germain
Sandman
Satterfield
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spence
Stanton, J. William
Steele
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Taylor
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Ullman
Vander Jagt
Veysey
Vigorito
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles H.
Winn
Wright
Yatron
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—58

Abbitt
Abernethy
Ashbrook
Baring
Bergland
Blatnik
Brown, Mich.
Broyhill, N.C.
Byrnes, Wis.
Cederberg
Celler
Chisholm
Clark
Clay
Colmer
Conyers
Danielson
Davis, Wis.
Dowdy
Dulski
Dwyer
Ford, Gerald R.
Fraser
Garmatz
Goldwater
Hagan
Hébert
Heinz
Hillis
Ichord
Karth
Keating
Kemp
Leggett
Long, La.
McCloskey
Macdonald, Mass.
Mailliard
Metcalfe
Miller, Calif.
Mitchell
Monagan
Morse
Mosher
Murphy, N.Y.
Nix
Patman
Pryor, Ark.
Rangel
Rhodes
Roe
Scheuer
Springer
Stanton, James V.
Steed
Talcott
Terry
Tiernan

So the amendment was rejected.

### AMENDMENT OFFERED BY MR. LATTA

Mr. LATTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

**Amendment offered by Mr. LATTA: Page 2, lines 21 and 22, strike out the figure "$200,000,000" and insert in lieu thereof the figure "$500,000,000".**

The CHAIRMAN. The gentleman from Ohio (Mr. LATTA) is recognized.

Mr. LATTA. Mr. Chairman, as I mentioned earlier during the consideration of the rule, I would offer this amendment.

This amendment proposes to give the Farmers Home Administration more authority for making grants to small communities of under 5,500 for sewage and water treatment facilities. I think it is important that we face reality. I pointed out earlier, we are constantly heaping more and more burdens on the small communities and saying to them: "Stop polluting, have clean water, stop sending people to our crowded cities," and so forth. We then fail to follow through with any meaningful financial assistance. They do not have the tax duplicate necessary to float a bond issue to build their own water treatment facilities or their sewage treatment facilities.

As a consequence, they cannot build them.

On checking with the Farmers Home Administration Administrator, the Agriculture Committee Counsel learned there are some $12 billion worth of needs and potential requests from these small communities for grants for water and sewage treatment facilities. Certainly with an authorization and an appropriation of $100 million, which was reduced this year to $44 million, we cannot begin to touch the problem.

By comparison, in 1972, $500 million was appropriated from our cities and HUD had a carryover of $200 million—which makes $700 million available for similar grants.

People can pollute our rural areas as well as they can pollute our urban areas, and if we really mean to do anything about pollution—if we really mean to do anything about keeping people on the farms and in our rural areas—if we really mean to keep them from migrating to the cities by providing jobs for these good people—if we mean all of these things—then you will vote for my amendment.

I have discussed this amendment with the chairman of the committee.

I will now yield to the gentleman from Texas, the chairman of the committee.

Mr. POAGE. I find I am in a rather strange position. When I introduced this bill, I said without hesitation I think we needed a much larger amount than the amount that is in the bill. My original bill had no limit.

The committee did cut it down to $200 million.

I think the gentleman is correct that it will take at least $500 million to actually have the impact he suggested. But as chairman of the committee, I cannot state that the committee accepts this amendment. I personally expect to vote for it because I think it is a good and desirable amendment.

Mr. LATTA. I thank the gentleman.

Mr. TEAGUE of California. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, as I pointed out earlier in the debate, the present bill would provide, if every eligible small community and water district and sanitation district and flood control district and so forth, applied, about $8,000 to each.

If this pending amendment were adopted, we might double that figure to about $16,000. But you cannot build much of a sanitation system or do the other necessary civic works for $15,000 or $16,000. This is just going to raise further false hopes in the minds of the governments of all the small cities, communities and counties in this country.

If we want to do it right, we might as well make it $5 billion or $12 billion. But we do not have that kind of money. We do not even have the kind of money proposed in this bill. Therefore, I am opposed to the amendment.

Mr. CLEVELAND. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The gentleman from New Hampshire is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Chairman, later on I may offer an amendment to the bill that will reflect the following situations. I would appreciate it if the sponsor of the amendment would yield for a question that will arise from what I am about to say.

Mr. Chairman, the Senate has passed water pollution legislation that provides a Federal matching grant of up to 70 percent under certain circumstances. At the present time the House Public Works Committee has reported legislation that provides for Federal matching grants up to as high as 75 percent. The present bill we are considering provides a matching grant of only 50 percent.

My question of the sponsor of the amendment and also the chairman of the committee is this: How effective is it going to be under this bill to have 50 percent matching money for pollution abatement facilities when with another hand the Congress is going to pass legislation that is going to let the EPA make grants up to as high as 75 percent? It seems to me we are on something of a fool's errand here. I support the amendment offered by the gentleman from Ohio, but I think he would have to admit that we are going to act in vain if the matching funds are only going to be 50 percent under this legislation. A rural town would be certainly very severely criticized by the taxpayers of those towns if they came in for 50 percent matching funds when under the EPA they can get matching funds up to 75 percent.

So my question to the sponsor of the amendment and to the chairman of the committee is this: Would they view with favor an amendment which would permit the matching funds under this bill to reflect what the matching funds would be under the legislation we are now working on, and wherein we expect the percentage to be either 70 or 75 percent?

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Ohio.

Mr. LATTA. Let me say at the outset that I would support such an amendment, but out our way we are begging and pleading Washington to get 50 percent or even 25 percent. These small communities do not have the wherewithal to build sewage treatment or water facilities we are urging them to build. They will take whatever they can get. We will not quibble whether it is 50 percent or 70 percent. We have a long waiting list of small communities. They will take 50 percent. They will take 70 percent. All they want is some help.

Mr. CLEVELAND. I thank the gentleman. Do not feel too badly because you had a town wait 7 years. I have some that have been waiting 8 or 9 years. So to the extent that misery loves company, your people have plenty of company. I wonder if the chairman of the committee would respond to the point I raised about percentage.

Mr. POAGE. I will whenever we reach that point, but I have never found it helpful to pass judgment on something that could happen when I do not know the circumstances, and I do not know what the circumstances would be at the time it would come up. I am inclined to agree with the gentleman from Iowa (Mr. KYL) who suggested a few moments ago that if we want to pass a bill here, which would be helpful to rural America, we had better get about passing the bill. A great multitude of amendments submitted will not really help to pass the bill. I certainly would want to see the situation before I would commit myself on your amendment.

Mr. CLEVELAND. I appreciate the comments of the gentleman.

The CHAIRMAN. The time of the gentleman from New Hampshire has expired.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to point out to the Members that 30 percent of the housing units in rural areas do not have inside plumbing and that includes towns of 5,500 and under. Also, in the past 30 years, during the time when we have accumulated more than $100 billion of risk to the Federal Government on housing programs, people in these towns and smaller cities have been denied the right to participate in most of the housing programs. Lending companies do not want to lend money on housing that is in a town or small city which does not have public sewerage and water. They have for practical purposes been excluded from the benefits of housing programs. When a young couple with $500 or $1,000 wants to buy a house they are told they must go to the city to buy the house. If they are going to buy it in the smaller city without public sewers, where perhaps they can buy it for half the money, they will have to put 50 percent down because the Government guarantee is not available. That is more money than they have. So we have in effect run these people into the cities, people who did not want to go there.

We in the Congress to some extent have been at fault for the countryside being vacated. It is basic that the towns must have water and sewage facilities in order for the towns to be able to even hold the population they have now.

Mr. Chairman, this is a most important part of this bill.

Of course, the same thing applies to small industry. They cannot go into some of the local areas and set up an industry, even though qualified employees are available.

So, Mr. Chairman, this is a most important part of this bill.

Two years ago the administration asked for $24 million for this program. I proposed an amendment on the floor which passed, which gave them $100 million. They finally spent $44 million that year.

Last year the administration asked for nothing at all, but they did agree to use the $56 million left over from the year before. Last year they were again given another $100 million, but used only $42 million of that amount. They have not been spending the money that has been appropriated, but, nevertheless, there have been statements made recently wherein the White House has indicated they may now see how important this program is, so I think we ought to give them the additional authority in this bill. I think the water and sewer program is basically a most important part of this whole bill. I urge adoption of the amendment.

Mr. RUPPE. Mr. Chairman, I enthusiastically and wholeheartedly support the amendment offered by my distinguished colleague, the gentleman from Ohio. Certainly we in Congress recognize the 1972 appropriation for FHA participation in water and sewer grants as far too little to enable thousands of the small towns across America to offer basic services. The withholding of $58 million of this appropriation by the Office of Management and Budget simply compounds the severity of a crisis that is now of tremendous proportions.

Basic FHA legislation provides the agency with authority to advance grant moneys to qualified communities to the extent of 50 percent of project costs. The fact of the matter is that in Michigan, the Farm Home Administration has a mere $1 million for grant participation in water, sewer and solid waste disposal projects.

Consequently this agency in our State does not decide in terms of a full 50 percent participation, but rather its goal has got to be that of keeping local water rates below the usury level of $10 per month. In some towns across my district individuals are paying as high as $13 or $14 per month for these basic services. I have several cases here which I can cite specifically as pinpointing the agency's problem. In three sewer projects the FHA has provided in one instance 20 percent of Federal participation in grant form, and in another 33 percent, and fortunately in a third case, 66 percent. As for water projects, in two instances, again in my own district, FHA grant participation as part of the local grant package was 9 percent in one case and zero percent in another. This does not take into account the local government share of the entire project, so if we total the government share and the local cost together, it means that FHA grant participation has been at a meager percentage of total project cost.

I might say, however, that the record of this administration, the Nixon administration, is an excellent one by comparison.

In my own State of Michigan, in the past 3 years, FHA participation in housing, farm loans, and water and sewer projects has risen from $18 million a year to a $75 million level this year. For next year the projected rate of expenditure should reach $90 million. It is simply not a question of this administration not demonstrating its commitment but rather the problem being of such proportion that we in the Congress must lead the national response.

Certainly the goal of rural development is jobs, new industry and job opportunities for our young Americans. But this challenge can only be met by providing basic facilities—water, sewer, waste disposal facilities—to the thousands of rural communities across our country.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's yielding. I want to commend the gentleman for his excellent statement. I join with him in support of the Latta amendment and urge its adoption by the House.

Mr. RUPPE. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I rise in support of the amendment.

Mr. Chairman, I rise to support the amendment offered by the gentleman from Ohio (Mr. Latta) to increase the authorization for the Farmers Home Administration to provide water and waste treatment or disposal project funds for smaller communities and small political subdivisions.

There is a very great and growing demand for these types of facilities in those rural areas that have a very limited tax base and economic ability to construct water and sanitary facilities.

While I realize the administration has offered to assist rural communities through revenue sharing, rural and community development, I am a political realist and recognize that we have no real assurance that these legislative proposals will be enacted in time to be responsive to the backlog of needs as compiled by the Farmers Home Administration.

Therefore I support this increase in authorization in order to provide us with a legislative vehicle that will permit the Appropriations Committee to address themselves to the funding problem.

I hope the Members will vote for the Latta amendment.

Mr. MILLER of Ohio. Mr. Chairman, I support the amendment offered by my distinguished colleague from Ohio (Mr. Latta) to increase the Poage-Aiken water and sewer grant authority to $500 million. Originally in H.R. 10867, the committee lifted the dollar limitation on annual water and waste disposal project construction entirely. Later when it reimposed certain limits, the existing authorization level for Poage-Aiken was raised from $100 to $200 million. Although certainly an improvement, this new level contained in H.R. 12931 is far from adequate. The proposed $500 million ceiling is a much more realistic figure in accommodating the present backlog in funding requests. In my home State of Ohio, 20 project applications had to be turned away for the coming year, because of lack of funds. Thirteen of these projects requested grant moneys totaling $2,317,000, about the same amount the FHA hopes to be able to fund in the coming year. Water and sewer systems are essential to any community improvement program and we cannot possibly hope to rebuild rural America if we cannot lay down basic facilities. By making a commitment to authorize more water and sewer grant moneys, I hope we can follow through to appropriate the additional money to get the job done.

Mr. SCHERLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have no quarrel with the amendment offered by the gentleman from Ohio. My big concern is that last year we did increase the appropriation to $100 million. However, the thing which does bother me is that the administration has $58 million tied up in OMB. These funds should be released for usage in water and sewer grants.

This afternoon we are gathered here discussing a bill for rural America. It is difficult for me to comprehend the reason why the administration does not release the $58 million to which I feel these small towns are entitled.

We stand here arguing, debating issues of rural development for rural America. We need that money. I suggest that we should make a better effort to get the money released at this time and give those people back in our general localities an opportunity to spend this money, rather than provide an increase once again which probably will be tied up by OMB.

I certainly hope that the administration will release the money and provide the opportunity for our small towns, applying for water and sewer grants, to help themselves and to keep the people in their own small communities. Do not force them into the cities. I believe a supreme effort should be made along that line.

Well known to those who live in rural areas but hitherto largely unpublicized outside of them is the fact that the American farmer constitutes an economically disadvantaged minority group. Although only a quarter of the U.S. population lives in rural areas, half of the country's poverty-stricken citizens—about 14 million—live there. In the cities, 1 person in 8 is poor; in the suburbs, 1 in 15; but in rural America, 1 in every 4 is poor. The rate of unemployment in nonmetropolitan areas often exceeds by two or three times the rate of metropolitan areas. Jobs in rural America pay less. In health care, housing, and most other community services, the resident of America's countryside suffers by comparison with his city counterpart.

These facts are all the more ironic in view of the farmer's contribution to American life. He provides more and better food at a comparatively lower cost than the producers of any other country in the world. Agriculture is the Nation's largest industry, with assets totaling $307 billion. Farm people spend over $38 billion a year on goods and services needed for food and fiber production, and another $12 billion on the same consumer items that city dwellers buy. Three out of every 10 jobs in private industry are related to agricultural production.

The farmer's costs are high—and growing. His production expenses rose from $26.4 billion at the beginning of the last decade to $38.5 billion near its end. Total farm mortgage debt more than doubled, and the interest rate on loans—when available—increased steadily. Meanwhile, the parity ratio plummeted to its lowest level since the depression, and the farmer's share of the consumer's food dollar dropped from 41 to 37 cents. No other sector of our economy consistently earns such a poor return on its investment. By all acceptable standards of reason, justice, and economic equity, the present deficiencies of the income structure for people who till the soil is unacceptable.

As a result of this deplorable situation, rural areas are quickly being depopulated. Half a century ago, the population was equally divided between countryside and city. Today close to three-quarters of the Nation live in metropolitan areas, and the migration continues at the rate of about half a million a year. The cities neither want nor need this influx of people, nor can they provide an adequate environment for them. Thus it is essential that we direct our national effort to the critical task of restoring the balance between rural and urban America. Our efforts should be channeled toward two basic goals: Fairer returns from farming to allow those who wish to continue farming a reasonable chance of doing so, and wider nonagricultural job opportunities in rural areas. I support this legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Latta).

The question was taken; and on a division (demanded by Mr. Teague of California) there were—ayes 91, noes 9.

So the amendment was agreed to.

Mr. DOW. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to advise the House that I had a second amendment pending to this bill which is essentially the same amendment as that just defeated. This second amendment would apply to section 115 and would strike out a paragraph in that section. However, I am not going to offer that amendment because I think the principle was settled on the earlier vote in some respects.

Section 115 is less objectionable than the section which the House voted to retain, so it would be idle for me to offer my amendment.

### AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLEVELAND: On page 6, line 14, change the comma to a period and strike all thereafter through and including line 18, and insert in lieu thereof the following: "Such financial assistance shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them: *Provided, however,* That such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations."

Mr. CLEVELAND. Mr. Chairman, this amendment is known as an antipiracy amendment. It makes little sense to lure or steal an industry into a rural area if all you are doing is depriving a suburban or urban area of that same industry.

The Committee on Agriculture recognized this problem, and on page 6 they do say:

No such loan shall be made in connection with the relocation of any industrial establishment employing more than 25 persons.

There are many industries, I might say, that employ less than 25 people that might be pirated under this legislation. In addition to that it is quite conceivable a corporation can split.

A third problem that appears very readily apparent would be the situation where an industry that wanted to flee from a suburban or an urban area would simply layoff everybody and be down to the hard core of the managerial staff of 15 or 20 and then go into the rural area and get their grant or loan.

I have no particular pride of authorship in the language of my amendment. It grew out of our experiences in the Committee on Public Works first with ARA and then with the Economic Development Administration.

This language has been tested by 6 years experience. This language has met the approval of organized labor and of industrial development corporations.

This language and the history behind it of interpretation under the Economic Development Act stretches over a period of 6 years, with added background experience under the ARA.

I do not think this Congress, neither consciously nor unconsciously, wants to pass legislation that would result in the pirating of industry from one part of the country to another, from a suburban area to a rural area. It would not be fair to use the taxpayers' money to take a company employing less than 25 people or a company with a staff of less than 25 people, and finance its move to another part of the State or Nation.

My language has been in the Economic Development Act for almost 6 years and has been tested in court and proven.

I think, if the committee does want to do what they appear to want to do on page 6, they might be willing to accept this amendment, because we seem to be trying to accomplish the same purpose.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from California.

Mr. BURTON. I would like to commend the gentleman in the well for this sorely needed clarifying amendment.

Mr. Chairman, I would urge its adoption.

Mr. PURCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

The committee, at least in my own judgment, tried rather diligently to do just what the gentleman says in his amendment and what he says it is equipped to do.

This language is adopted from existing agency language. Frankly, I have checked in the last few minutes—and I am not able to put my hand on the specific source of the language to be perfectly frank—but there were great pains taken to be sure that there was not the kind of piracy carried on about which the gentleman speaks.

I was assured, both at the time the amendment was adopted and considered by the committee, and since then by organized labor—that this is not in violation of any of their desires.

Mr. Chairman, it is my own judgment that the language—the effect of the language—is very similar. However, the language as contained in the bill was carefully drawn.

Therefore, Mr. Chairman, I would urge the defeat of the amendment.

Mr. CLEVELAND. Mr. Chairman, would the gentlemen yield?

Mr. PURCELL. I would be glad to yield to the gentleman from New Hampshire.

Mr. CLEVELAND. The gentleman from Texas heard my remarks during my discussion of the amendment.

Is it not perfectly true that under the committee amendment, the committee section, an industry employing 200 or 300 people could lay everyone off and if they only had 24 people left—and these could be management—that industry could have its move financed under the provisions of this legislation and they could move, say, either from a city, out to the country, to a suburban area, or from one State to another or one labor market to another? Would not that be possible under the committee amendment?

Mr. PURCELL. If there were people in Government who were willing to take that kind of dire action—and assuming that there were those who were considering loans or grants were willing to be a party to such a dastardly act—I would never say it is impossible. However, it is my judgment that no responsible Government agency would become involved in such a sham as that.

Mr. CLEVELAND. Mr. Chairman, if the gentleman will yield further, this is precisely the experience we had with the former ARA. We found that that was exactly what was happening. People were so anxious to get new industries that they did not look into the true situation and as a result of that we had this pirating. We had that experience under the ARA, which was finally voted down and then we went into the EDA. That explains this language I have offered which has precisely this history and background.

Mr. PURCELL. We were assured in the committee by those who are as nearly related to the problem in Government functions now as will be under the enactment of this legislation, that they would be extremely careful not to let this happen.

No one, I am sure, can say absolutely that there cannot be some kind of a bootleg operation, some kind of collusion, at least theoretically, worked out. I think that the unfavorable publicity and the unfair handling of these types of things in the past will in themselves prohibit these types of things from happening again.

The gentleman will please understand that this is my amendment, although I am not trying to seem as though I have pride in its authorship, but we did go to a great deal of trouble in trying to find the proper way of saying just what the gentleman is trying to accomplish in his amendment. It may well be that the language the gentleman proposes would be a little more sure on this, but not having seen the language before now and not having heard any testimony on it, I feel as though the language in the bill that at least has been tested through the testimony of the witnesses who appeared before us, will also accomplish what the gentleman's language seeks to state better.

Mr. CLEVELAND. Mr. Chairman, if the gentleman will yield further, let me say that my amendment is also your language, this is the language of the House of Representatives. This language is not my language, it is the language in the present Economic Development Administration, law language which we enacted, and have reenacted on several occasions. It has been tested. It has met the test on precisely the type of problem I am talking about.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment because, just as the gentleman from New Hampshire has stated, we went through this in our hearings on the Economic Development Act, and we took great pains to make certain that we would not have the kind of industry or business piracy that had taken place heretofore, which has proven protective capability as enunciated in the language of the gentleman's amendment. I believe it will strengthen the legislation before us, and therefore I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 35, noes 44.

So the amendment was rejected.

### AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLEVELAND: Page 6, line 22, strike all after "per centum" through and including line 23, and insert in lieu thereof the following: "or the maximum federal participation rate allowed for construction of such type facilities under law existing at the time of approval of such grant and administered by the Environmental Protection Agency, or its successors, at such time of approval, whichever is the larger."

The CHAIRMAN. The Chair recognizes the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, this amendment is one that I have already referred to.

This bill has a section (b) on page 6 where you will find the following words, and this is in connection with pollution abatement control projects:

No such grant shall exceed 50 per centum of the development cost of such a project.

As I pointed out previously it seems rather odd that we are now legislating in an effort to strengthen rural America and we come up with a 50-percent matching formula when the Senate has already passed by a unanimous vote an up to 70-percent matching formula.

It seems regrettable that there is not a little bit more cooperation between the two committees, particularly when both are dealing generally with the same areas. But the House Committee on Public Works has already reported a bill where Federal participation can be as high as 75 percent. So we are either going through an exercise in futility here of raising false hopes saying that we are going to have all of this money as amended by the Latta amendment, going into rural America, when before this year is out probably even in the next 2 or 3 months, there will be a new participation rate under EPA programs which will be at least 70 or 75 percent.

My amendment is designed to meet that problem. If we do enact up to 70 percent participation rate, then the FHA can use its funds for grants not to exceed that new rate.

I would hope that the chairman would accept this amendment.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman.

Mr. POAGE. As chairman I cannot accept in behalf of the committee any amendment not proposed by the committee. But, personally, I can see no objection to the proposal that the gentleman makes. It seems to me perfectly clear and equitable. Certainly, we are not seeking to secure a rate, a participation rate, on the part of the Government higher on one side than on the other.

It seems to me, it would work out quite equitably.

As I told the gentleman from Ohio, I personally expect to vote for it, but I cannot accept it on behalf of the committee, but I do expect to vote for it.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman.

Mr. TEAGUE of California. I cannot accept it either for myself or for anybody on this side of the committee. They can speak for themselves.

I do not want to ask what might be considered to be an improper or rude question, but it seems to me I have read—and is it correct—that New Hampshire has no State income tax and no sales tax?

Mr. CLEVELAND. We have no broad based tax. We do have a tax on interest and dividends.

Mr. TEAGUE of California. Then it seems to me it is not too much to expect a local community to pay half of the cost of these projects.

Mr. CLEVELAND. I think a local community, if I may respond to the gentleman's very penetrating question—I think any local community, particularly in New Hampshire would under no circumstances pay for 50 percent of a project when the Congress in its infinite wisdom has decreed by other legislation that they only had to pay 25 percent.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman.

Mr. COLLIER. Is it not possible, however, in light of the tremendous deficit that we are facing that there may be a new look at the percentage of participation and we may well find that we cannot afford to do anything more than match rather than to go as high as 70 percent?

Mr. CLEVELAND. This can well be a problem. But I can tell you right now, before 2 or 3 months have passed, there will be legislation in the water pollution abatement field and we will have Federal matching funds at least as high as 70 percent, and that is as certain as the fact that night follows the day.

Mr. COLLIER. It may be as certain only so far as what the majority of the committee does. But I have heard a great deal of alarm expressed and properly so, that with the fiscal situation that we find ourselves in, and I think after the exercise in verbiage that we have heard here, we ought to remember for the rest of the year that this problem is not going to go away and it might well get worse.

Mr. CLEVELAND. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The question was taken; and on a division (demanded by Mr. CLEVELAND) there were—ayes 27, noes 37.

So the amendment was rejected.

### AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLEVELAND: Page 7, line 23 strike the quotation marks.

On page 7, after line 23, insert the following new subsection (e):

"(e) No financial assistance under this section shall be extended to any project when the result would be to increase the production of goods, material, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises."

Mr. CLEVELAND. Mr. Chairman, this is another amendment that I am offering, based again on the experience of the 6 or 7 years we have had in the Public Works Committee with economic development. We found that when the ARA was first operating to develop rural America—we found that a good many examples came up where somebody would apply for a loan—for example, to help construct a pulp mill—and it would be in an area where there were already existing pulp mills and there was an oversupply or overproduction of pulp. We found there were situations where loans were being granted to develop a hotel or motel facility in an area where the actual count of vacancies showed that there was an unused capacity. We had the situation, in other words, where the Federal Government was coming in with either ARA money or, in some instances, with EDA money, and directly competing with existing industries with unused capacity.

This language was adopted on the floor of the House, and it was adopted to prevent precisely that type of situation. I think it would be very unwise of us not to have this type of language in the bill. When the committee turned down my suggestion for tightening up the piracy laws, the gentleman from Texas said he had great confidence in administrators. All I can say is that I do not share his confidence in Federal administrators because I have dealt with too many of them. I think in some of these cases we must have clear congressional expression that will make the type of laws that will cause people to have more confidence in their Government.

If you have had the opportunity to try to explain to workers in a pulpmill in your district why the Government is building a brandnew pulpmill when they are on half time, or if you have had the opportunity of trying to explain to a hotelman or motelman with half of his rooms vacant why the Federal Government is building a nice, new facility across the street from him, I think you would understand why we want language like this written into the law. I might say that even with this language in the EDA law we had some problems that were looked into by our Oversight Committee. I would hope that this amendment at least could be adopted.

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment. I supported the gentleman's last amendment, which was not adopted, but I feel that this amendment, while its purpose is clearly good, is so impractical it would simply add to the confusion that we always have with the bureaucratic operation of things.

We cannot say how anybody else is going to interpret a law providing for a judgement as to the need for further goods or services of a certain type. We simply have to allow people to exercise some business judgment. Possibly I have been taken in, but I believe the agricultural agencies are running a better house than that described by the gentleman from New Hampshire. I believe they are doing a better job. Somehow or other I think the services will be better off, and we had better leave them this degree of freedom, rather than to try to write off something I do not believe Old King Cole and all his fiddlers could ever figure how to carry out. So I hope we will turn down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The amendment was rejected.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Committee on Agriculture, under the able leadership of its chairman, the gentleman from Texas, has brought to the floor of the House of Representatives a fine piece of legislation which I believe the Congress should enact without weakening amendments.

The need for positive action in rebuilding rural America is urgent and cannot be denied or ignored. Rural areas are continually losing people. The 1970 census indicates that during the last decade, half of all the counties in the Nation lost population while another third of the counties just held their own—neither gaining nor losing.

Recent census reports show that during the 12-month period ending October 30, 1970, U.S. farm population decreased by some 600,000 people. The population now has fallen to less than 10 million people. It should be noted that this 600,000 annual reduction in farm population continues an average experienced during the past 5 years. During the period from 1960 to 1965 the average net outflow of people off the farms totaled 800,000 a year. There is no question but what these people are moving to the cities.

As a result our cities are straining, bulging, hurrying, and—too often—ugly. By the year 2000, if present trends continue, 80 percent of all people in the United States will live in four small areas of the country. They will be concentrated along the east coast from Washington, D.C., to Boston, on the west coast from San Diego to San Francisco, near the Great Lakes from Milwaukee to Pittsburgh and on the Florida peninsula.

When so many people live in so little space, problems arise. Problems that sometimes seem to defy solution.

You have read about it and seen it yourself: Our great cities are beset by pollution problems, transportation paralysis, housing blight, increasing crime and crowding. Our great megalopolises, if left to grow unchecked, will soon become socially intolerable, politically unmanageable, and economically inefficient.

If this flight from the country to the cities continues, we are on a collision course with disaster.

What is the lure of the cities?

The answer, of course, is jobs. A man will live where he can earn the money to provide for his family and it is popular, but not always true, to believe there are more jobs in the cities. If we are to halt the migration of people from rural areas, we must have jobs and income in rural communities. What is needed is to locate new industries in rural areas—not transplanted industries, but new industries—to help maintain a balance of opportunity between rural and urban areas. There is also a need in many rural communities for certain amenities that are available elsewhere and might tend to draw people away; such things as libraries, good schools, hospitals, recreation areas, better communications systems, and other facilities that many of us take for granted.

To achieve these goals people must become involved. For instance, the youth of the Nation must be involved and their interests served. The same can be said for minority groups and the disadvantaged. The factors of social, political, human, and physical resources must be brought together and made to function in a process that will bring about a new prosperity and a quality environment in thousands of rural communities across the Nation. The people and government at all levels working together can make rural communities the type of place that will attract more people to work and live.

We need new and better marketing programs, programs to stimulate agribusiness and other economic enterprises including farm credit and business credit, and programs to provide incentives to private landowners to improve management of their forest, land and water resources. Transportation systems in rural areas need further consideration as well as industry tax incentives. This overall accomplishment will be a balanced rural/urban economy, and a quality environment for all Americans.

I am especially pleased that the Committee on Agriculture saw fit in reporting its legislation to this House to emphasize the work of the two existing agencies of the Department of Agriculture, the Farmers Home Administration, and the Soil Conservation Service. These are fine, old-line people and farm-oriented agencies with broad experiences in accomplishing great things with limited funds and authorities. I hope that through enactment of this legislation we can broaden the scope of their work to better achieve the goals we all seek.

In conclusion, Mr. Chairman, I want again to commend the Committee on Agriculture for its wisdom and foresight in drafting this legislation and urge my colleagues to support it as recommended by the committee. There are some. I know, who question the basic wisdom of farm legislation of this type. May I once again remind you the consequences of continued migration to our already overcrowded cities whose mayors already are struggling with seemingly insurmountable tasks of providing adequate services and in the face of continuing population explosions are turning to the Federal Government for help.

Would it not be wiser and far more economical to stop this migration to the urban areas? Could this bill, properly titled: "The Rural Development Act of 1972," also be thought of as the "Save Our Cities Act"?

### AMENDMENT OFFERED BY MR. HATHAWAY

Mr. HATHAWAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HATHAWAY: Page 9, line 20, strike out "(2)" and insert in lieu thereof "(3)", and immediately after line 19 insert the following new paragraph:

"(2) further amending subsection (a) (as so designated by paragraph (1)) by striking out "and (9) for loan closing costs." and by inserting in lieu thereof the following:

"'(9) loan closing costs, and (10) for assisting farmers or ranchers in effecting additions to or alterations in the equipment, facilities, or methods of operation of their farms or ranches in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 or standards adopted by a State pursuant to a plan approved under section 18 of the Occupational Safety and Health Act of 1970, if the Secretary determines that any such farmer or rancher is likely to suffer substantial economic injury due to such compliance without assistance under this paragraph.'"

Mr. HATHAWAY. Mr. Chairman, the sole purpose of this amendment is to expand the Farmers Home Loan Authority to farmers and ranchers so they may be able to comply with the conditions set under the Occupational Health and Safety Act. When we took up the Occupational Health and Safety Act, we did provide for small businessmen to be able to borrow funds to make the necessary renovations in their businesses to comply with the act, but we neglected to include farmers and ranchers. This provision simply remedies that defect.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I join with the gentleman in support of this amendment. At the time the Committee on Education and Labor considered the Occupational Safety and Health Act, it did, in fact, authorize loans through SBA to small businessmen, but we neglected to authorize the same opportunity for farmers and ranchers. I think this amendment is a sensible amendment. I urge its adoption. I thank the gentleman for having offered it.

Mr. HATHAWAY. Mr. Chairman, I thank the gentleman for his comments, and I thank him for cosponsoring the amendment with me.

Mr. SCHERLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there have been a great many pieces of legislation passed in this honorable body, but I think the lousiest legislation this House has ever passed has been the Occupational Health and Safety Act.

I would ask, so far as the farmers and ranchers are concerned, that the Members of this House vote down this amendment.

Mr. HATHAWAY. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I am happy to yield to the gentleman from Maine.

Mr. HATHAWAY. I, of course, do not agree with the gentleman that the Occupational Health and Safety Act has been lousy. I believe it has had a good effect.

If the gentleman urges voting down this amendment, he is urging making it even worse, because the farmers are required to comply, and many of them have been unable to get the money to comply with the act. This amendment will allow them to borrow funds under the FHA to comply.

It would just be making it worse for the farmers for the Members to vote down this amendment.

Mr. SCHERLE. By the same token, this legislation forces them to comply with the act and in essence provides them with the opportunity to borrow money so that they in turn can comply with the act.

I would suggest we pass separate legislation we have introduced, that all employers with fewer than 25 employees be allowed to be exempt from the Occupational Health and Safety Act. It is a real deterrent and is a real problem for small business.

If this inherently dangerous legislation is enforced to its ultimate, we are going to see a lot of small businessmen ruined, literally put out of business, because some inspector walking into some plant, depending upon a whim as to whether or not he can find some flagrant violation, in his estimation, and force that business to close their doors.

I do not want that to happen to my ranchers or the farmers.

Mr. HATHAWAY. Mr. Chairman, will the gentleman yield further?

Mr. SCHERLE. I am happy to yield further.

Mr. HATHAWAY. Under the terms of the Occupational Health and Safety Act every farmer must comply with the mandates of the Federal or State safety requirements. And they may be forced to close down if they cannot comply with the act by making certain changes in their business operations. This amendment would allow them to prevent themselves from being closed down, by being able to borrow money so that they can comply with the act.

This does not force them under the act; they are already under the act.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. I rose to personally applaud the observation the gentleman made a minute ago. This is the worst piece of legislation with which I am familiar. I spoke of it at noon today, under the 1-minute rule.

The reason why, is that it delegates, again, the right to make law to an administrator downtown, who is not responsible to the small businessmen or the farmers to whom the law applies. Consequently, he has promulgated the rules and regulations Congress asked them to promulgate, but in the form of a 400-page booklet to be given to the ranchers and farmers of our country.

When our constituents call the Labor Department officials and say, "Please come to tell us what this is all about," they say, "No, we will not. We will come to arrest you if you violate them, but we will not help you understand them."

I was not a Member of the House at the time the law was passed, thank heaven, but it is the worst peace of legislation with which I am familiar.

How can we pass a law exempting anybody from maintaining safe premises for employees? We cannot do that. Everybody has to maintain safe premises for employees.

But what did the Secretary of Labor do? He put out regulations including the gem, that every rest-room shall have hanging in it a coat hanger. That is what the people received through the Occupational Health and Safety Act. That is a joke. We have a duty to do something about it, or we are going to be laughed out of our chamber if we acquiesce in this sort of thing.

Mr. SCHERLE. As I said before, Mr. Chairman, the Occupational Health and Safety Act is lousy legislation. I hope we can change the basic content of that law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. HATHAWAY).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

### TITLE II—AMENDMENTS TO THE WATERSHED PROTECTION AND FLOOD PREVENTION ACT, AS AMENDED

SEC. 201. The Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended, is amended as follows:

(a) Section 1 is amended by striking out the words "the purpose of preventing such damages and of furthering the conservation, development, utilization, and disposal of water, and thereby of preserving and protecting the Nation's land and water resources" and substituting therefor the words "the purpose of preventing such damages, of furthering the conservation, development, utilization, and disposal of water, and the conservation and utilization of land and thereby of preserving, protecting, and improving the Nation's land and water resources and the quality of the environment."

(b) Section 2 is amended by substituting a comma for the word "or" after the clause (1) and adding after the phrase "(2) the conservation, development, utilization, and disposal of water" a comma and the words "or (3) the conservation and proper utilization of land".

(c) Section 3 is amended by changing the period at the end of paragraph (5) to a semicolon and adding the following: "(6) to enter into agreements with landowners, operators, and occupiers, individually or collectively, based on conservation plans of such landowners, operators, and occupiers which are developed in cooperation with and approved by the soil and water conservation district in which the land described in the agreement is situated, to be carried out on such land during a period of not to exceed ten years, providing for changes in cropping systems and land uses and for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife, and recreation resources of lands within the area included in plans for works of improvement, as provided for in such plans, including watershed or subwatershed work plans in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented. Applications for assistance in developing such conservation plans shall be made in writing to the soil and water conservation district involved, and the proposed agreement shall be reviewed by such district. In return for such agreements by landowners, operators, and occupiers the Secretary shall agree to share the costs of carrying out those practices and measures set forth in the agreement for which he determines that cost sharing is appropriate and in the public interest. The portion of such costs, including labor, to be shared shall be that part which the Secretary determines is appropriate and in the public interest for the carrying out of the practices and measures set forth in the agreement, except that the Federal assistance shall not exceed the rate of assistance for similar practices and measures under existing national programs. The Secretary may terminate any agreement with a landowner, operator, or occcupier by mutual agreement if the Secretary determines that such termination would be in the public interest, and may agree to such modifications of agreements, previously entered into hereunder, as he deems desirable to carry out the purposes of this paragraph or to facilitate the practical administration of the agreements provided for herein. Notwithstanding any other provision of law, the Secretary, to the extent he deems it desirable to carry out the purposes of this paragraph, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of any crop; or (2) surrender of any such history and allotments."

(d) Paragraph (1) of section 4 is amended by inserting after "without cost to the Federal Government" the words "from funds appropriated for the purposes of this Act".

(e) Clause (A) of paragraph (2) of section 4 is amended by striking all words after "fish and wildlife" and substituting therefor the words "development, recreational development, water quality management, or the conservation and proper utilization of land: *Provided*, That works of improvement for water quality management shall consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage, and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source, and shall be consistent with standards and regulations adopted by the Water Resources Council on Federal cost-sharing for water quality management, and".

(f) All that part of clause (B) of paragraph (2) of section 4 which follows the word *"Provided,"* is amended to read as follows: "That, in addition to and without limitation on the authority of the Secretary to make loans or advancements under section 8 the Secretary may pay for any storage of water for present or anticipated future demands or needs for municipal or industrial water included in any reservoir structure constructed or modified under the provisions of this Act as hereinafter provided: *Provided further*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the local organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment within the life of the reservoir structure of the cost of such storage: *Provided further*, That the land organization shall, prior to initiation of construction or modification of any reservoir structure including water supply storage, make provision satisfactory to the Secretary to pay for not less than 50 per centum of the cost of storage for present water supply demands, and all of the cost of storage for anticipated future demands: *And provided further*, That the cost to be borne by the local organization for anticipated future demand may be repaid with the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands, except that (1) no payment on account of such cost need be made until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be determined in accordance with the provisions of section 8."

(g) Subsection (4) of section 5 is amended to read as follows: "(4) Any plans for works of improvement involving an estimated Federal contribution to construction costs in excess of $250,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet which includes (a) works of improvement reclamation, irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) Federal assistance for floodwater detention structures, (c). features which may affect the public health, or (d) measures for control or abatement of water pollution, shall be submitted to the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President."

Mr. REUSS (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

### COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment to title II.

The Clerk read as follows:

Committee amendment: Page 15, line 19, delete the comma after "storage".

The committee amendment was agreed to.

### AMENDMENT OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REUSS: Page 17, line 9, strike out "(g)" and insert in lieu thereof "(h)", and immediately after line 8 insert the following new subsection:

(g) Section 4 is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by inserting immediately after paragraph (6) the following new paragraph:

"(7) provide, or provide assurance satisfactory to the Secretary, that landowners and water users will acquire such rights, pursuant to State law, as may be necessary in order to provide public access to such work of improvement for the purpose of fishing, hunting, or other recreational use, if the Secretary of the Interior determines that such work of improvement has potential value for any such use."

Mr. REUSS. Mr. Chairman, this is a simple, and a perfecting and a protecting amendment. It provides that where the taxpayers and the public build a reservoir-lake which is determined by the Secretary of the Interior to have real potential value for recreation, there be public access to that reservoir-lake.

Precisely this is accomplished by all of the lake-building agencies of the Government—TVA to its credit, the Corps of Engineers, bless it, the Bureau of Reclamation, hallelujah—they all provide this. It is only the Soil Conservation Service which somehow balks at letting John Q. Public, under appropriate circumstances, in to visit the body of water which he has contributed to the building of with his taxpayer dollars.

I, and other members of my Conservation Subcommittee, took a little walk down here in the neighboring State of Maryland a few months ago. We visited a beautiful 57-acre lake in St. Mary's County. It was a beautiful lake for swimming and beautiful for fishing. There were people swimming in it and fishing in it. Yet we found there a sign which read "No trespassing. No fishing. No visitors allowed."

Well, that is a sorry note for the taxpayers who have paid for that lake. And the owner of that lake then profits by giving exclusive rights to it and cutting it up for lots.

All this amendment asks is that the same be done with regard to the larger watershed lakes as is done by the Corps of Engineers and the Bureau of Reclamation and the TVA.

All the great organizations are for this amendment: The National Wildlife Federation, the Isaac Walton League, the Friends of the Earth, Environmental Policy Center, Environmental Action, the Citizens Committee on Natural Resources, the Sports Fishing Institute, the National Audubon Society, the National Rifle Association, the International Association of Game, Fish, and Conservation Commissioners.

The Rifle Association today, in a telegram to the leadership on both sides of the aisle, over the signature of Maj. Gen. Maxwell Rich, executive vice president of the National Rifle Association, urged that the amendment be enacted as in the public interest.

I, as a city congressman, have always voted for farm legislation. I want to vote for this bill.

So, I hope and pray that my friends and leaders on the Agriculture Committee will say, "Hurrah for the Reuss amendment and we accept it."

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. REUSS. Yes; I am glad to yield to the gentleman from Texas.

Mr. WRIGHT. Does the gentleman's amendment apply to these upstream soil conservation dams that are erected on the private property of individual farmers? Would his amendment require those farmers to let the public onto their property if the Secretary of Interior said they had to do so?

Mr. REUSS. The amendment does not apply to the small farm ponds constructed under the Soil Conservation Act. It will not result in any additional burden to the landowner. It only applies where the reservoir will provide potential recreational opportunities. It does not require the local sponsors to provide sanitation or other facilities. It simply says that where the public helps pay for the lake or reservoir, the public has a right to go onto it.

Mr. WRIGHT. If the gentleman will yield further, the gentleman is saying it would not, then, apply to the individual farmers' upstream dams constructed under the Soil Conservation Act?

Mr. REUSS. Oh, yes; that is precisely what it does apply to.

In other words, it is the purpose of this amendment to say to the farmer, "God bless you, we love farmers and we are delighted to pour out the money from the people who live in the cities and small towns to help you put this lake on your property, but if it is a large lake, a lake with recreational potential as determined by the Secretary of Interior, then, frankly, in this day when we desperately need public access to such areas, we are trying to assure that the people will be able to take advantage of it.

Mr. POAGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, of course, I am somewhat confused in taking the floor in opposition to this amendment. There have been so many contradictory statements made as to what it does, I would appreciate it if the gentleman from Wisconsin would undertake to clarify it.

May I have the attention of the gentleman from Wisconsin, because I have not been able to understand this amendment and I do not want to criticize an amendment unfairly. However, did the gentleman say, in answer to a question from the gentleman from Texas (Mr. WRIGHT), that this applied only to those structures that were built for recreation and so designated by the Secretary of Interior?

Mr. REUSS. Mr. Chairman, if the gentleman will yield, I am glad the gentleman raises this question because I do not think I said that.

Mr. POAGE. Probably not.

Mr. REUSS. If I did, what I said has been misunderstood.

As I tried to say to my friend from Texas (Mr. WRIGHT), this amendment is no patsy. It does apply to all of those Public Law 566 lakes and reservoirs where there is appreciable recreational potential. However, I would not touch one of the tanks or feedlots of the gentleman's beloved Texas country nor would I touch the little farm ponds of my friend from Iowa (Mr. SMITH). However, where a person, whether he be a farmer or a city slicker speculator has the public build him a lake, I want the public to have an opportunity to go there to pick a daisy, to catch a black bass, or go swimming.

Mr. POAGE. I think from what you say, it is clear that this does apply to the reservoirs built under Public Law 566.

Mr. REUSS. Yes.

Mr. POAGE. That being true, I think that the Members of the House should understand how those reservoirs are built and who pays the costs.

One of the features that has been very disturbing since we established this program has been the question of who bought the rights-of-way for the reservoirs.

We have held out in our committee, against a great deal of pressure, to require that the Federal Government not contribute to the cost of the right-of-way. That right-of-way is given by the landowners or else the dam is not built. The people can get up money and buy it, but the Federal Government does not contribute the money to buy that place for that reservoir.

The reason we do not do that is that we know once we establish the policy of having the Federal Government buying those rights-of-way, the cost would become so staggering that instead of building 23 of these projects per year, when we ought to build 100, we would build only two or three a year.

That is all we would get money for. So what we are trying to do is to maintain a program that will enable us to keep a number of these projects going each year. We cannot do it if we let the cost go clear out of the ceiling. You cannot hold the cost down if the Government is going to buy these rights-of-way.

The Government does not buy these rights-of-way; the individuals or the neighbors pay for those rights-of-way, and they are not something that is given by the Federal Government.

Now, the Federal Government does pay the cost of building the structure itself, but that is built on private land and not on Government land. I think we ought to keep that clearly in mind.

There is also a provision in Public Law 566 that provides that for every 75,000 acres within a watershed that you have in one of these projects that the Government can buy a site for a recreational project. And we are doing this. If there are between 75,000 and 150,000 acres, then the Government can buy two. If there are more acres than that the Government can put up three of these recreational dams. And in those instances the Government does pay for the land, and does pay for the land surrounding it, and they are open to the public, and the law requires that they be open to the public. You cannot build them with Government money buying the land without making them open to the public; but when the Government does not spend the money—and the Government does not spend the money on most of these Public Law 566 projects—it seems to us to be utterly unfair to say you are going to require the farmer or the rancher to admit an unlimited number of people to his pasture.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. POAGE was allowed to proceed for 5 additional minutes.)

Mr. POAGE. Mr. Chairman, as I was saying, it seems to be utterly unfair to require the landowner who furnished the land to open it up and give the public free access to it.

I do not know how many of the Members are actually familiar with farming and ranching, I presume most of you are not, of course, and I live in town too, but I do know enough about farming and ranching to know that no one can maintain a livestock operation very successfully if he is going to let the public come in there and use it, because when the public goes out, then the cows are going out too, because half of these people from town do not either know how to fasten a gate, or do not bother to fasten a gate, and you simply cannot operate a livestock operation that way.

And when you allow these hunters to come in there without any supervision, most of them do not know the difference between a Holstein cow and a panda fresh from China. They seem to think that the cows are bears and they shoot them. They are afraid of them, and they shoot them. The losses are so substantial that no one can stay in the livestock business that way.

That is why we made provision for public recreation, for every 75,000 acres that is in one of these projects. And that is not a tremendously large area. But we do provide for a recreation dam, and we do provide for access to it, and we do provide for the Government owning the land around it, and to put up shelters and to put up fireplaces, and all those sorts of things that go along with it. We are providing that under the present law.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, the gentleman gave us a good example, but that is not as good an example as the Black Angus bull getting in with the Guernsey heifers.

Mr. POAGE. You are right; that will really result in pandas—at least the calves will look like pandas.

But the situation is such that it is just not practical to do the thing the gentleman from Wisconsin is suggesting. It would set back our upstream watershed program by many, many years were we to do this sort of thing.

Mr. PURCELL. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. PURCELL. Mr. Chairman, I would ask the gentleman from Texas would it also not be true if we were to follow the gentleman's recommendation that we would in effect be taking private property for public purposes without any payment? And is that not one of the objections?

Mr. POAGE. It would if it is retroactive. Frankly, I do not know whether it is retroactive or not.

Mr. REUSS. Let me be quite clear—it is not retroactive. It simply applies to the future.

Mr. POAGE. But if it is merely prospective, it would just stop the development of these projects and we just would not build new ones because none of us are not going to give a place on his ranch to build these things if it means opening our place to a flow of strangers.

Mr. PURCELL. Is there any provision under this amendment that would say who is going to police a private road access or provide guards or whatever might be required?

Mr. POAGE. No, and there is no provision for plowing fire guards to keep the place from burning up either. And burn it sure will on one of those dry falls. That sort of thing just ignores the practicalities of ranching and livestock farming.

I am sure the gentleman offers the amendment with the best intent, but he offers it out of an abundance of ignorance. I think this House should show it has more understanding of the problems of rural areas than is shown by the gentleman from Wisconsin. I hope this House will turn this amendment down and let us maintain a good program, and a program that I think most all of our people recognize as being one of our better programs. We should maintain a good program when we have it rather than try to destroy it.

Mr. KYL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, first, this amendment would apparently involve the Secretary of the Interior for the first time in what has been a province of the Department of Agriculture.

What we are apparently saying here is that after the Agriculture Department has had its technicians study the area and made its recommendations, and the engineering studies are completed, then we are going to get an equal group or perhaps a greater group out from the Department of Interior to look the same thing over to see if there is some recreational potential; is that correct?

Mr. REUSS. That is correct. But the purpose, I will say to the gentleman from Iowa, is simply this. The Secretary of the Interior is charged with the whole problem of outdoor recreation and rather than have him spend further millions in acquiring new land—why should he not team up with his friend, the Secretary of Agriculture, and together let them help both the farmer and the city folk?

Mr. KYL. The answer to that question, I think, is a basic misunderstanding of what is involved in watershed programs.

Why does the farmer build a pond? He builds that pond because it is a part of the soil conservation project, of a watershed project.

What does the Federal Government contribute to creation of the impoundment? An amount that will make the farmer happy? No—the Federal Government contributes on the basis of the downstream benefit of public benefit. The Federal Government does not contribute money to that farmer—it is contributing Federal funds for the benefit of the public.

We are talking about watersheds here. We are talking about flood protection. We are talking about the prevention of siltation—we are talking about the silt carrying, piggyback, pesticides, and herbicides, and fertilizers, and other undesirable materials. The farmer has tried for more than 30 years to stop the worst polluter of water. Just now the public is becoming aware of the necessity.

The money that the Federal Government puts in is for the public benefit and I think the public is getting its dollar's worth out of the program.

As a matter of fact, these projects are good for the fish and wildlife and that is of concern to the gentleman from Wisconsin and myself and the chairman of the committee.

As a matter of fact, the chairman and I introduced legislation a few years ago that included recreation benefits in these projects. But as the chairman points out so graphically, you have to recognize the practicalities and you have to recognize the facts of life. At this moment we are trying to find out who is responsible for accidents on a man's farm when the public has access. If somebody goes to a farm to seek recreation, who is responsible under the law if the recreationist is injured?

One of the reasons the farmers do not like to have unannounced visitors is that if the visitors hurt themselves—get themselves involved with livestock or fence or anything else—you can have a pretty good case in court against the farmer, and it is a very serious matter.

On the other side, if an individual is on this farmer's land and does damage, what is the means of recapturing for the loss that is sustained by the farmer who has agreed to let people come to this land?

Mr. REUSS. The House Government Operations Committee addressed itself to that very point and found that the provision of public access would not result in any additional burden to the land owner or be a substantial liability for public use of the land. An action would simply not lie in common law or under the statutes, so there is no liability on the part of the farmer.

Mr. KYL. Was that the decision of the Public Works Committee or the courts of the United States?

Mr. REUSS. That was the decision of the House Committee on Government Operations, one of the finest.

Mr. KYL. I must repeat to the gentleman that we have some very serious problems involving responsibility for people who are on lands when the farmer has had some reason for granting public access, or even if there are "No Trespassing" signs in place, even if there is a sign saying "No Hunting." The liability does not always disappear, the Public Works Committee or not.

As you know, we have serious court cases involving the maintenance of an attractive nuisance. A farmer has a pond at the side of his property. Someone comes along and perhaps drowns. The farmer possibly could be sued for maintaining an attractive nuisance.

I wish this thing were simple. It is not. But I do wish to say this for the edification of the gentleman. In spite of all the uses of chemicals for agriculture today and in spite of all alleged damage to wildlife, in my own State we have the finest game picture we have ever had, and I think the reason for it is the presence of the Soil Conservation's Pond and Watershed program.

By creating more and better habitat, the conservation practices have more than compensated for today's multiple hazards to fish and wildlife, thus, there has been a stimulus to recreation choices from harvesting game to the most esthetic appreciations.

You will find, too, that the careful, courteous recreationist is welcomed by most farmers.

Knowing the gentleman from Wisconsin, I venture to say he would certainly be welcome and I hope I can someday have an opportunity to demonstrate the hospitality.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DOW. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. DOW. I should like to ask the distinguished gentleman from Wisconsin a question. I have the highest admiration for the gentleman, as he knows, I hope. Yet I have received outcries from my conservationist friends up on Hudson River about his amendment. I have not had a chance to go into all the ins and outs of it, but I would like to find out from him why there would be an issue here and what kind of explanation he would offer to simon-pure conservationists who have raised questions about his amendment.

Mr. REUSS. I will answer the gentleman by saying that there must be some failure in communication. Conservationists are for the Reuss amendment, not against it. The Wildlife Federation, the Izaak Walton League, the Friends of the Earth, Fishing Institute, the National Audubon Society, the National Wildlife Association, the International Association of Game Fisheries, conservationists, commissioners, and all the rest are specifically on record in favor of this amendment, because they want to strike harmony between the interests of farmers and the interests of people who also want to enjoy the great outdoors.

Mr. DOW. There must be some misunderstanding, but I appreciate the gentleman's explanation.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. DOW. I yield to the gentleman from California.

Mr. TEAGUE of California. The misunderstanding might be explained by the fact that probably the conservationists who have communicated with him have ponds of their own while those who have communicated with the gentleman from Wisconsin do not.

Mr. DOW. They come from very good people.

Mr. BLACKBURN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Reuss amendment. I certainly think the gentleman has performed a valuable public service by calling to the attention of the members of this committee that what we are dealing with are matters of broad, public policy as well as the question, "For what purposes will public funds be spent?" I will have to reaffirm the observations of the gentleman from California (Mr. TEAGUE) to the effect that if you will look into the communications that have come from the "conservationists" who are in opposition to the Reuss amendment, you will find they are "Soil Conservation Service" conservationists. They are not generally from the conservation groups which the gentleman from Wisconsin mentioned earlier in his dialogue.

I think we have to clarify one thing about the objections made by the chairman of the committee (Mr. POAGE) as to the contribution of the landowner to these projects.

What the landowner actually contributes to the lake is the land the lake stands on. We are considering that. We are being told this is a very valuable contribution on the part of the landowner. What else could be contribute? He could not contribute any less. The lake has to back up on something. We are told by the Agriculture Department he is making a very valuable contribution. It is a happy circumstance for him the land happens to back up on his own land. In many instances the beneficiaries are not the farmers who are trying to feed their farm animals, but rather the speculators who are taking very sizable lakes which have valuable contributions for recreational purposes, and after the lakes are built, are turning them into recreation areas; and then we see the ads in the newspapers about "Come to Lake Happy Lot." The land which was formerly $5 an acre has been turned into land which is $500 to $2,000 a lot, very valuable recreational space.

What the gentleman from Wisconsin is saying is this. If the land is of sufficient size and attractive enough to have utility and value for recreational purposes, whether for boating or fishing or swimming, then, since we will use public funds for this purpose, it is only fair that we say the public shall have access to the lake. That does not involve taking any land from the landowner.

Mr. KYL. If the gentleman will yield, is the gentleman trying to tell the House the Federal Government pays all the expense of building this lake on the farmer's land?

Mr. BLACKBURN. I am happy to say in the projects I have looked into—and I am not qualified to pass judgment on all the projects in the country, because there are numerous ones—I can say the Federal Government certainly pays the great bulk of the actual cost of building the dam and other things that are necessary. What is added into the contribution figure are the value figures for the land which is being contributed by the landowner.

Mr. KYL. Is the gentleman trying to tell us the Government does this to help the farmer?

Mr. BLACKBURN. I think the gentleman is making a very valuable contribution. It is obvious that we consider the national purposes involved in these projects, or we would not be using national funds. The gentleman correctly pointed out that we are considering as part of these national purposes such things as flood control and soil erosion and general conservation purposes, as some of the national purposes for which we contribute national funds, but we are saying there is an additional national purpose, that is, to insure the general public with access to these recreational facilities.

Mr. DENHOLM. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from South Dakota.

Mr. DENHOLM. Mr. Chairman, pursuing the gentleman's theory, that the National Government contributes money for a national purpose function, does it follow that money invested in homes under public authority should require the homes to be open to the public? We realize the farm is the home of the farmer.

Mr. BLACKBURN. I understand the gentleman's point, and it is well made. I think the gentleman from Wisconsin has made a very valuable contribution though by distinguishing between those lakes that would have recreational values from those that do not.

If we are going to say a man's livingroom should be open to public access, because it happens to be financed under FHA loans, I do not go along with that, because a man's livingroom has very little recreational value.

Mr. KEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to make one clarification. I have been all over the State of Georgia, and I have no idea how many watersheds there are in the congressional district represented by the gentleman who just left the well, but I have watersheds in West Virginia. The Conservation and Watershed Development Subcommittee of the House Public Works Committee has made six trips through the United States and covered eight States. Through our entire experience without exception we have not found a question of the property owner failing to do his part in giving the ground. He has to give the right of entry for construction, and he also has to guarantee the Government against any damage loss. I should like to make that point in the Record.

Mr. McMILLAN. Mr. Chairman, I move to strike the last word. As coauthor of the pending Rural Development Act of 1972, H.R. 12931, I am extremely pleased that the House is taking final action on this bill today. The House Agriculture Committee held extensive hearings during the first session of the 92d Congress on this proposed legislation. I am of the opinion that if this bill is enacted into law, it will certainly greatly improve the living conditions on the farm.

We all fully realize that we must revive rural America since millions of our farmers have been unable to compete with their city brethren who depend on industry for their livelihood. Millions of our good farmers have left the farm and secured lucrative positions with industry. This great exodus from the farm has created terrific problems in the city and in the rural areas where so many of our good schools and churches have closed their doors since there were not enough farmers left in the community to retain the schools and churches.

This bill does not create any new Government agency; however, it does greatly expand the duties and authority of the Farmers Home Administration and the Soil Conservation Service. After testimony from farmers and other interested citizens from all 50 States, we feel that it is the duty of the Congress to make the living conditions and job opportunities more readily comparable to those available in our cities.

We are experiencing a great difficulty in our large cities at this time concerning law enforcement and overcrowded public welfare and unemployment payrolls.

We hope that if this bill becomes a law and is enacted that we will set a massive comprehensive rural development effort in motion and millions of farmers will return to the farm.

Mr. SCHWENGEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am concerned that some of the sponsors of this amendment are not operating from a base of total information and complete understanding of the problem, and that they are unaware of the fact that the people who live out in the country on the farms are cooperating in every way with the conservationists.

There was a tour made of the United States, to which the gentleman from West Virginia just referred, and we asked conservation groups repeatedly, everywhere, if they had any quarrel at any time with the conservation efforts of those who promoted the small watersheds. Always the answer came that there was no quarrel and the public had access to almost all facilities.

This is in good hands now, Mr. Chairman and my colleagues, and we ought not deviate from the committee recommendation. We ought to vote this down, and let those most interested in and most aware of the problem, who are better acquainted with the total problem, to contend with the problem and make some recommendations. They will be forthcoming from our committee and from other sources. The public interest will be served, conservation will be protected, and wildlife will be promoted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Reuss).

The question was taken; and on a division (demanded by Mr. Reuss) there were—ayes 12, noes 80.

Mr. REUSS. Mr. Chairman, I demand tellers; and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred and forty-eight Members are present, a quorum.

Mr. REUSS. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BLACKBURN

Mr. BLACKBURN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Blackburn: Page 18, insert immediately after line 6 the following:

(h) Section 12 is amended to read as follows:

"Sec. 12. This Act shall be administered in accordance with the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661). Construction and operation measures for the benefit of fish and wildlife resources, including measures for the mitigation and compensation of project related losses to such resources, will be incorporated into works of improvement authorized under this Act if joint approval of such measures is given by the Secretary, the Secretary of the Interior, and the State fish and game agencies."

POINT OF ORDER

Mr. POAGE. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Georgia on the grounds that it is not germane under rule XVI, clause 7.

The gentleman from Georgia proposes an amendment to this bill with language that incorporates the terms and conditions of the Fish and Wildlife Coordination Act. Nowhere in this bill is there a reference either direct or indirect to the Fish and Wildlife Coordination Act, yet the gentleman's amendment would, and I quote, require that:

> This Act shall be administered in accordance with the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661).

The CHAIRMAN. Does the gentleman from Georgia desire to be heard on the point of order?

Mr. BLACKBURN. I do, Mr. Chairman.

Mr. Chairman, this is a very simple amendment. We are dealing with title II which relates to four amendments to the Watershed Protection and Flood Prevention Act. That is the bill under consideration here.

What I seek to do in this amendment is make this act subject to the provisions of another act presently on the books and in the law.

The CHAIRMAN. The gentleman from Georgia offers an amendment which would require that this act be administered under the provisions of a separate act, to wit, the Fish and Wildlife Coordination Act, appearing in title 16, United States Code 661.

The gentleman from Texas makes a point of order against the amendment on the grounds that the amendment is not germane to the legislation pending before the Committee of the Whole House on the State of the Union. The gentleman from Texas (Mr. Poage) cites as his authority for his point of order rule XVI, clause 7, and makes the statement that the Fish and Wildlife Coordination Act is nowhere referred to in the basic legislation pending before the Committee.

It appears that the Fish and Wildlife Coordination Act cited as title 16, United States Code, section 661, is not an act under the jurisdiction of the Committee on Agriculture of the House of Representatives which reported the pending legislation. There is no reference in the pending legislation to the provisions of the bill to which the amendment offered by the gentleman from Georgia (Mr. Blackburn) refers.

The Chair therefore is constrained to rule that the amendment is not germane to the bill under consideration.

The Chair sustains the point of order made by the gentleman from Texas.

AMENDMENT OFFERED BY MR. BLACKBURN

Mr. BLACKBURN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Blackburn:

Page 18, insert immediately after line 6 the following:

(h) Adding at the end thereof the following new section:

"SEC. 13. The Secretary of Agriculture shall not grant any funds for engineering or construction of any stream channelization measure under any program administered by him under this Act unless construction of such channelization began prior to the effective date of this section or unless the Secretary of Agriculture, the Secretary of the Interior, and the Administrator of the Environmental Protection Agency publish in the Federal Register their determination that such channelization would be in the public interest."

Mr. BLACKBURN. Mr. Chairman, I appreciate the ground swell of support that I sense here.

Mr. Chairman, the previous amendment which was stricken on a point of order would have required the Department of Agriculture and the Soil Conservation Service to comply with the provisions of the Fish and Wildlife Coordination Act. This act was designed to insure that environmental concerns were given consideration when the Soil Conservation Service and its subagencies—the various State and local committees—were planning a soil conservation watershed project. This possibility for cooperation from the very beginning and from the very inception of a project has now been decisively eliminated.

Now, Mr. Chairman, we have to fall back to another position which may not be desirable and which may be even more undesirable from the standpoint of the Soil Conservation Service. However, I see no alternative.

I say to the members of the Committee on Agriculture as well as to the members of the Committee of the Whole House on the State of the Union that the public of the United States is becoming more and more concerned about the protection of the natural environment and natural habitat of both fish and wildlife which today are becoming increasingly scarce in our country, not to mention in our urban areas.

Now, gentlemen, we have demonstrated on several occasions what I thought were concerns about the environment.

Mr. Chairman, I have sensed throughout the deliberations on this bill a certain proprietary interest on the part of the members of the Agriculture Committee relative to this bill which I do not sense relative to a bill coming out of the Banking and Currency Committee.

Certainly, the Members of this body have shown no reluctance on many occasions to amend bills coming out of my own committee. Yet I find that in offering amendments which we feel will protect the public interest, since we are representing our constituents with the same degree of sincerity as the members of the Agriculture Committee are representing their constituents, we find ourselves faced with an attitude, "Look, we know all there is to be known about public policy in this bill in this regard and, therefore, you ought to accept our version of the bill. After all, we are experts in this area."

You are experts in this area, but I feel very jealous of my obligation to introduce and support amendments which I feel are right and which I feel my constituents would like to have me introduce.

So, Mr. Chairman, I make no apology for having intruded upon this philosophy of the Agriculture Committee. I have very dear friends on the Agriculture Committee and I know they will respect my responsibilities just the same as I respect theirs.

All I am saying is that this amendment would say that no soil conservation project could be carried out unless it had been approved, in effect, by not only the Secretary of Agriculture but by both the Secretary of Interior and the Administrator of EPA.

Mr. Chairman, I would urge the Members to adopt this amendment as being in the best interest not only of the Agriculture Department, because after all, if this bill should not pass today, I daresay it will pass, because of the very provincial attitude which has been demonstrated up to this moment.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from Wisconsin.

Mr. REUSS. Mr. Chairman, I commend the gentleman from Georgia (Mr. BLACKBURN) in offering his amendment, and I fully support it. It has the full and unqualified support of the National Wildlife Federation, the Isaac Walton League, the American Friends of the Earth, the Environmental Policy Center, Environmental Action, the Citizens' Committee on Natural Resources, the Sports and Fishing Institution, the National Audubon Society, the National Rifle Association, and the International Association of Game, Fish, and Conservation Commissioners. It is a moderate and sensible amendment. It simply says that if the Secretary of the Interior says that a given project is against the public interest, or if the administrator of EPA says, because of its pollution-making qualities it is against the public interest, then we ought not to spend the taxpayers' money building it.

I hope the gentleman's amendment will be adopted.

Mr. BLACKBURN. Mr. Chairman, I appreciate the observations of the gentleman from Wisconsin (Mr. REUSS). I want to conclude with this observation, and that is, I say to you that I believe the Bureau of Reclamation and the Corps of Engineers must give full consideration to the environmental concerns before those projects are constructed. That is the only thing I say.

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Georgia (Mr. BLACKBURN).

Mr. Chairman, I recognize that the hour is getting late, and everybody wants to vote, but I hope they understand what they are voting on.

If you vote for this amendment you vote to give the Department of the Interior an absolute veto power over projects that are financed and approved by the Department of Agriculture, that is over agricultural projects.

This involves mainly the proposition of drainage. It basically involves the Mississippi Valley and the coastal areas, who are most vitally concerned with this. And if you give an agency that has its base and its thinking situated out in the arid area of the west, and that is where the Department of Interior has its bases of thinking, you are placing, it seems to me, a veto power in some very dangerous hands.

At the present time, under the existing law, the Secretary of the Interior must review all of these projects, and the Environmental Agency reviews them too. If they find that there is anything wrong with these projects they have the authority and the responsibility right now to bring that to the attention of the Secretary of Agriculture. And if they present a convincing case I cannot think of a situation where the Secretary of Agriculture would not go along with them.

But the gentleman from Georgia is not satisfied with their making a case. He insists that an outside agency must have an absolute veto over essential actions of the Department of Agriculture.

To me that does not seem to be a matter of comity. That seems to be a matter of destroying the Department of Agriculture, and subordinating it to the views of these other agencies.

The other agencies now can and do present their case, and if they have a good case it will be recognized by the Secretary of Agriculture.

But let me give you an example; I just left home the day before yesterday, and I had an example there where there is a creek outside of Waco called Tehuacana Creek and there are some 23 watershed dams on that creek.

Now, I have farmed on that creek since 1928, and I know that that creek goes dry every summer. The Environmental Agency sent word that we should not go ahead with any channelization there because it would disturb the beavers, Well, there has not been a beaver on that stream up there since old George Bernard closed his trading post out there 155 years ago.

They also said that it would kill some of the fish. Well, if the creek goes dry every year, then the fish die every year. But we have established some 23 upstream dams that do not go dry, and those 23 dams have fish in them. We have added tremendously to the availability of wildlife in that area. Now they say we should not go ahead and complete the project because they do not want us to kill those fish that could not be more than 8 months old. You do not get big fish in a creek that goes dry, but you do in the dams that we build. They have water the year around.

The question is, Do you want to try to improve the ecology by building more reservoirs where you do get fish, or do you want to deny the construction of a project of that kind, and hold back the whole program?

I think what we are doing is far more in the interest of ecology and in the interest of wildlife than in the interest of maintaining our environment than this idea of denying to the Department of Agriculture the right to go on with these projects because the Department of the Interior decides that they want to put their veto on it.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. EDMONDSON. Mr. Chairman, I thank the gentleman for yielding. I join the gentleman in opposing this amendment.

I have served on the Committee on the Interior for many years and have a high regard for the Department of the Interior, but I do not believe they should have the veto power over these projects.

Mr. POAGE. I thank the gentleman.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. TEAGUE of California. I have served for many years on the Subcommittee on Conservation and I fully agree with the gentleman's statement in opposition to this proposed amendment.

Mr. POAGE. I thank the gentleman.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. GRAY. Is it not a fact under the present law, under Public Law 566, before a project could be approved in Georgia or Texas or anyplace else, the Governor of that State must approve the project before it is submitted to the Congress?

Mr. POAGE. Yes.

Mr. GRAY. So the fears of the gentleman from Georgia are unfounded because the Governor of that State has the right to veto this.

Mr. POAGE. Yes, it would not even get to Washington if the Governor disapproves it.

Mr. GRAY. That is right. I thank the gentleman.

Mr. SCHWENGEL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in opposition to the amendment.

The question about channelization was asked. We had testimony from all groups that the gentleman from Wisconsin cited as supporting his amendment, where we had hearings on the watershed and the conservation needs of the Midwest—I think 14 different States—and invariably when they complained about channelization, we asked them for examples where the public interest was not served and maybe where this kind of amendment would be justified. We have yet to find an example presented to the committee or in the report.

Mr. Chairman, this amendment is not needed. I support the gentleman from Texas and hope we can vote this down and get on with the legislation.

Mr. DINGELL. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I think the House ought to have clearly before it the issue at stake here.

You know, when Government bureaucracy and agencies become highhanded and arrogant and when they fail to regard the wishes and intentions of the people of the United States and when they do things that are foolish and environmentally unwise and ecologically hurtful, they bring down upon themselves the wrath of the people concerned.

I want to express some sympathy to my good friend, the chairman of the Committee on Agriculture, and the members of the committee for being stuck with a bad situation here, because the Department of Agriculture on these matters has behaved in a most highhanded and arrogant fashion.

Mr. Chairman, the amendment addresses itself to one thing and that is channelization. That is, taking a beautiful river or a stream and converting it from a river or a stream into a straight ditch. The result of this should be very plain.

First of all, no fish and no wildlife can exist where a river has been converted into a ditch.

Second, the downstream flood problems are magnified—and there is more and more need for more dams and things of this kind. A good part of the flooding that has been going on in some parts of the country recently has been directly related to the fact that these channelization projects have gone forward converting rivers into ditches.

In some instances the duck production on rivers and streams that have been done this way have fallen as much as 86 percent of total production.

In Michigan they are doing this to the trout streams. No one—the author of the amendment or myself or anybody else—says that this ought never be done. There are certainly instances where channelization is wise and necessary and desirable and where it does not have environmental hurtful effects and where it has no adverse effects on the fish and wildlife.

But the evidence is here—in Michigan they are doing it in trout streams. In Michigan they are doing it where a majority of the people in the area are opposed to the project. We have had litigation going on in Michigan where the citizens who live in the area, where the majority of the citizens who are affected are opposed to the project.

What the amendment says is that they are going to take a look at the whole project and see whether it is environmentally sound, to see whether it hurts fish and wildlife.

The gentleman from Georgia, I think wisely and properly so, says that where the Department of Agriculture has behaved so poorly, and so arrogantly, and so haughtily for so long that they will be compelled to submit to the judgment of another agency—the Department of the Interior—to scrutinize and review the effect of the actions the Department of Agriculture has proposed, to see whether they have an environmentally hostile and detrimental effect, and to see whether the actions of the Department of Agriculture are hurtful from the standpoint of fish and wildlife. Certainly that is not too much to ask.

If you want to engage in some correspondence with a haughty and arrogant agency—and I am chairman of the Subcommittee on Fish and Wildlife and have some reason to know—I have engaged in correspondence with the Department of Agriculture with regard to these projects, and the Department of Agriculture even refuses under the National Environmental Policy Act to submit a report as required under the National Environmental Policy Act indicating the environmental impact of these projects. That kind of behavior is not the kind which would justify the trust or affection of the Congress, and the amendment would say the Congress feels it is time that we bring this agency under control.

We would see to it that they act in a responsible way, that they cease to destroy our precious treasury of clear water, streams, and things like that when swamps and other land is drained, affecting the water table of the people in the area, and not only a few landowners.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. TEAGUE of California. Does the gentleman realize that the subcommittee on which I serve has held hearings on the matter to which he has referred?

Mr. DINGELL. I would suggest, then, that your committee look further into some of the things I am discussing, because it is apparent to me that it is needful.

Mr. POAGE. Mr. Chairman, I understand it is snowing. I wonder if we can move forward, and to that end I wonder if we can agree that all debate on the amendment and all amendments thereto close at 5:20 p.m.

The CHAIRMAN. Is the gentleman asking unanimous consent that all debate on the amendment and all amendments thereto close at 5:20 p.m.?

Mr. POAGE. That is my request, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. BLACKBURN. Reserving the right to object, do I correctly understand that the time limitation applies only to my amendment and any amendments to my amendment?

The CHAIRMAN. To the pending amendment and any amendments thereto.

Mr. BLACKBURN. Not to the bill as a whole?

The CHAIRMAN. That is the way the Chair understands the unanimous consent request.

Mr. BLACKBURN. It would not apply to the bill as a whole?

The CHAIRMAN. It does not apply to the bill.

Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. KEE).

Mr. KEE. Mr. Chairman, in view of the time limitation, I have asked to extend my remarks.

In response to a rash of criticism of channel work on small watershed projects on the part of fish and wildlife interests, the Soil Conservation Service last year undertook a careful review, State by State, of all pending projects involving channel work. As a result of this review, SCS determined that a portion of the work should be redesigned to mitigate or eliminate entirely the possibility of any adverse effects to fish or wildlife. The SCS administrator, Kenneth E. Grant, also reiterated an invitation of long standing to all types of State and local groups—and fish and wildlife groups in particular—to participate in watershed project planning from the very beginning.

But a number of opponents of small watershed projects took no notice either of the SCS review or the invitation. In fact, they continue to attack the small watershed program as if SCS had taken no action at all. One is forced to conclude that nothing less than abandonment of the Public Law 566 program will satisfy this special interest group.

The proponents of small watersheds are accused of trying to channelize every natural stream in large areas of the country.

The truth is that only a small percentage of proposed channel work is on natural streams, and only a part of that has a substantial fishery resource.

Watershed planners have been accused of keeping fish and wildlife interests off their committees.

The truth is that fish and wildlife interests have long been encouraged to participate in planning, but that, all too often, by their own volition, they wait until plans have been made to enter the picture and complain and criticize.

Farmers have been accused of promoting watershed projects to enable them to bring more land into production.

The truth is that watershed projects normally result in a net reduction of land used for crop production.

Watershed sponsors have been accused of increasing sedimentation through channel work.

The truth is that any increase in sediment which takes place during construction is temporary and drops quickly as banks are seeded. It is one of the objectives of these projects to reduce sediment in waterways. This reduction is obtained through the increased number of soil protection measures installed by landowners in the watershed as a part of each project.

Frankly, in this age of unprecedented concern for the environment and for the improvement of rural areas, it is a mystery to me why there should be such a concerted attempt on the part of one special interest group to wreck one of the most successful environmental improvement programs in the history of our Nation.

The channel project moratorium was defeated by a vote of 278 to 129 last year—specifically on June 23, 1971.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I am opposed to the Blackburn amendment. I consider it to be a very dangerous amendment which could seriously inhibit very important soil and water conservation work which is going on in this country. The language in it is so sweeping that it would be a real threat to many ongoing projects undertaken after much intelligent planning.

Something has been said about officials of the Department of Agriculture here in Washington allegedly being arrogant in these matters. I am not concerned about them, but I am concerned about the many letters and telephone calls I have received from soil and water district commissioners in Iowa who are very alarmed by this so-called antichannelization amendment and think it will greatly imperil the accomplishment of their work. I think we should vote this amendment down, just as we did last year, by an overwhelming vote. As I said of the similar amendment which was offered by the gentleman from Wisconsin (Mr. REUSS) on June 23, 1971, this amendment, if adopted, may well jeopardize our entire watershed program in the name of ecology. The amendment would deny funds for the engineering or construction of any "stream channelization." But what is the meaning of "channelization" in this context? I submit to my colleagues that the language of the amendment is so broad and imprecise that it might well be interpreted, if enacted, to stop the construction of terraces, grass waterways, and other soil and water practices which have proved their worth. Inasmuch as they, too, channel or divert the flow of runoff water, who is to say they are not included in the prohibition against "channelization"? This would seriously cripple the work of the Soil Conservation Service.

Watershed projects include a combination of terraces, grass waterways, dams and levees all designed and engineered to fit the topography of the individual watershed. As a member of the Agricultural Subcommittee on Conservation and Credit, which has jurisdiction over watershed approvals, I have had the opportunity to review the plans for a good many watershed projects. Judgments must be made on a project-by-project basis depending on local conditions and the needs of the local people.

The watershed organization is locally organized and controlled but has available the expert assistance of many governmental and private organizations. The local sponsors have official working relationships with most agencies of the Departments of Agriculture and Interior. Many work closely with the Corps of Engineers and other key Federal agencies. They have memorandums of understanding with State health departments; fish and game commissions; and State departments of agriculture, highways, commerce, natural resources, water resources, forestry and economic development. The Soil Conservation Service is without question one of this country's major natural resources agencies. It is indeed a tragedy that its great contribution to preserving our environment and the work of our soil and water conservation districts is so grossly underrated and misunderstood in some urban sectors of our society.

The substantial progress against pollution under Public Law 566 since 1954 is largely unknown to city folk, who are belatedly now swept up in a tremendous upsurge of ecological concern. The farmers of America welcome their urban compatriots to the battle against pollution, but they plead with us as responsible legislators: "Don't let Johnny-come-latelys to the ecology movement destroy years of solid achievement by our soil and water conservation districts." The farmers and landowners actively planning and coordinating conservation in such districts should be encouraged to continue their important work free from harassment. They deserve our protection from this obstructive antichannelization amendment, which would severely curtail the entire watershed program.

I urge my colleagues to join me in voting no on the amendment now before us.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. GRAY).

Mr. GRAY. Mr. Chairman, I rise in opposition to the amendment.

It is important to remember that watershed projects are initiated by local people, planned by local people, and built by local people with the help of Federal funds. Not all the construction costs, however, come from Federal sources. Local funds are used for land rights and cost sharing of structures which will serve purposes other than flood prevention. Many local organizations already have raised their share of project funds, although the channel improvement work contemplated may not have been started.

It should be kept in mind that in all watershed projects, channels are not considered unless dams cannot be built or cannot by themselves give the protection that local people want and need. These projects are on small drainage areas less than 250,000 acres, and some of the planned channel work are on dry streams which flow only after a heavy rainstorm.

During project development, local sponsors have sought technical help from many sources to develop a plan which will fit their needs. These projects include purposes of watershed protector, flood prevention, irrigation, drainage, recreation, fish and wildlife development, industrial and municipal water supply, and others. In many of these projects, sponsors have solved other local problems before they could complete the development of their plans. In many watersheds, the overall justification is dependent on the channel improvement; therefore, if the channel is not built, other structural measures may not be built and entire multipurpose projects will not be developed. These plans are plans of the people, by the people, and for the people. The Soil Conservation Service in southern Illinois and the Nation are doing a great job and I for one do not want to do anything to impede their work in behalf of the people.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. THOMSON).

Mr. THOMSON of Wisconsin. Mr. Chairman, I think this is a dangerous amendment. The Soil and Water Conservation Authority has been the pioneer in the saving of the soil and water in this Nation. Mistakes have been made, but come out to Wisconsin. Look at Mill Creek, which is 6 miles of channelization, with the trout back in the stream and the banks solid, and with shrubbery; it is a model which is not to be seen anywhere else in America.

Let us not kill that off and smother it with three layers of bureaucracy—and that is the purpose of this amendment. It is not to improve it, but to kill it, and I think we ought to recognize it for what it is. This amendment should be defeated.

The CHAIRMAN. The Chair recognizes

the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Chairman, I rise in opposition to the amendment. A moment ago it was described as a dangerous amendment. In my judgment it is worse than that. It is a most inconsistent amendment. If we adopt this amendment we will find ourselves going in two directions at the same time. The opponents say they are worrying about the big Federal bureaucracy. As I understand it, all projects under Public Law 566 cannot come before us in Congress for consideration unless they are approved by the Governor of the State where the watersheds are to be built. If we adopt this amendment then what we are doing is injecting bureaucracy into the program. We are really adding more bureaucracy by adding not one but two more agencies—the Department of the Interior and the EPA or the Environmental Protection Agency. If there is anything wrong with the watershed program then it must be at the local level.

Now as to the practice of channelization, I thought the purpose was to assist in soil conservation or to assist in flood control.

Mr. Chairman, when the House considered the Agriculture appropriation bill on June 23, 1971, the intent of Congress seemed to state that the use of funds in the bill for any stream channelization project not already underway before July 1, 1971, would not be subject to question. By a teller vote of 278 to 129 the House rejected an amendment to forbid funding of any stream channelization project administered under the Secretary of Agriculture unless the project was in the construction stage before July 1, 1971.

Should this amendment pass it would violate the spirit and intent of Congress when the Fish and Wildlife Coordination Act was passed. The Watershed Act was not excluded through any oversight. Legislative history makes it very clear that Congress, having considered such proposals, has rejected them.

Mr. Chairman, we should not hamper or interfere with the continued development and progress of our watershed projects. This amendment should be defeated.

Mr. Chairman, as to this particular amendment we do not have to engage in the current controversy raging over the Corps of Engineers, which involves the protest by the environmentalists against some 15 projects of the Corps. While the increasing opposition to the work of the Corps of Engineers is a serious matter, in this amendment before us now, we are not talking about either a flood-control project or any kind of drainage or navigation project. Instead, Mr. Chairman, we are considering a soil conservation program which is best known as Public Law 566 or the watershed program.

Let me repeat and reemphasize that under present law none of these projects ever come to consideration by Washington unless they have been previously screened, carefully analyzed and previously approved by the Governor of the State in which they are located. In response to those who say that this program is already beleaguered by the Federal bureaucracy, it is most surprising that today by your amendment you offer to submit these programs to further bureaucratic approval by both the Department of the Interior and the Environmental Protection Agency either of which could literally smother a good soil conservation program under these two additional layers of bureaucracy. I do not believe that those of our colleagues who subscribe to the concept of a Federal-State partnership will relish this kind of amendment. I hope this amendment may be decisively defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. POAGE) to conclude debate on the amendment.

Mr. POAGE. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BLACKBURN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BLACKBURN. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, apparently we are going to get this battle over channelization back on the floor at least annually, and probably more often than that. I should like to make a suggestion.

For those people who are interested in improving what they consider a bad situation, may I suggest that they contact the members of the Committee on Agriculture, which has primary jurisdiction over this matter, so that those individuals and members of the Committee on Agriculture can consult with the Agriculture Department and the Soil Conservation Service, so that we can work out the kinds of guidelines which will accomplish the broad purpose which is sought and still prevent any of the deleterious actions which are suggested from time to time.

This is not a matter of having one part of the House lined up against another. It is time we got together and tried to do something constructive, rather than fighting the matter out on the floor of the House, as we have been doing from time to time.

The CHAIRMAN. If there are no further amendments to be proposed to title II, the Clerk will read.

The Clerk read as follows:

### TITLE III—AMENDMENTS TO THE BANKHEAD-JONES FARM TENANT ACT, AS AMENDED

SEC. 301. Section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011), is amended by adding at the end thereof the following:

"The Secretary shall also be authorized in providing assistance for carrying out plans developed under this title:

"(1) To provide technical and other assistance, and to pay for any storage of water for present or anticipated future demands or needs for rural community water supply included in any reservoir structure constructed or modified pursuant to such plans: *Provided*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the public agency or local nonprofit organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment of the cost of such water supply storage within the life of the reservoir structure: *Provided further*, That the public agency or local nonprofit organization prior to initiation or construction or modification of any reservoir structure including water supply storage, make provision satisfactory to the Secretary to pay for not less than 50 per centum of the cost of storage for present water supply demands, and all of the cost of storage for anticipated future demands: *And provided further*, That the cost to be borne by the public agency or local nonprofit organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands except that (1) no payment on account of such cost need be made until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the advancement for such water supply is first made, which are neither due nor callable for redemption for fifteen years from the date of issue.

"(2) To provide, for the benefit of rural communities, technical and other assistance and such proportionate share of the costs of installing measures and facilities for water quality management, for the control and abatement of agriculture-related pollution, for the disposal of solid wastes, and for the storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs."

SEC. 302. In recognition of the increasing need for soil, water, and related resource data for land conservation, use, and development, for guidance of community development for a balanced rural-urban growth, for identification of prime agriculture producing areas that should be protected, and for use in protecting the quality of the environment, the Secretary of Agriculture is directed to carry out a land inventory and monitoring program to include, but not be limited to, studies and surveys of erosion and sediment damages, land use changes and trends, and degradations of the environment resulting from improper use of soil, water, and related resources. The Secretary shall issue at not less than five-year intervals a land inventory report reflecting soil, water, and related resource conditions.

### TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. Section 901(b) of the Act of November 30, 1970 (84 Stat. 1383), is amended to read as follows:

"(b) Congress hereby directs the heads of all executive departments and agencies of the Government to establish and maintain departmental policies and procedures giving first priority to the location of new offices and other facilities in rural areas as defined in section 306(a)(7) of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1926). The President is hereby requested to submit to the Congress not later than September 1 of each fiscal year a report reflecting the efforts during the immediately preceding fiscal year of all executive departments and agencies in carrying out the provisions of this section, citing the location of all new facilities, and including a statement covering the basic reasons for the selection of all new locations."

Sec. 402. Section 16(e)(7) of the Soil Conservation and Domestic Allotment Act, as amended, is amended by striking the figure "$10,000,000" the second time such figure appears in such section and inserting in lieu thereof the figure "$40,000,000".

Sec. 403. (a) the first sentence of the Act entitled "An Act to enable the Secretary of Agriculture to extend financial assistance to homestead entrymen, and for other purposes", approved October 19, 1949 (63 Stat. 883; 7 U.S.C. 1006a), is amended by striking out "homestead entry" and inserting in lieu thereof "homestead or desertland entry".

(b) The last sentence of the first section of such Act is amended by striking out "reclamation project" and inserting in lieu thereof "reclamation project or to an entryman under the desertland laws".

Mr. POAGE (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to title III?

Are there any amendments to be proposed to title IV?

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair (Mr. Flynt) Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 12931) to provide for improving the economy and living conditions in rural America, pursuant to House Resolution 829, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MR. TEAGUE OF CALIFORNIA

Mr. TEAGUE of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. TEAGUE of California. In its present form I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Teague of California moves to recommit the bill H.R. 12931 to the Committee on Agriculture.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. POAGE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks in connection with the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I have asked for this time to inform the House that on tomorrow we will call up the conference report on H. R. 12067, the foreign aid appropriation bill for 1972. It will be called up under a rule which was granted today waiving points of order against the 3-day rule.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Has the report on the foreign aid appropriation bill been filed?

Mr. BOGGS. The report will be filed this evening.

Mr. GROSS. I thank the gentleman.

## OSH ACT NEEDS EDUCATION, THEN ENFORCEMENT

(Mr. RONCALIO asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, no single labor of the preceding 91st Congress has yielded such a harvest of confusion and discontent as the Occupational Safety and Health Act of 1970.

I was not a Member of Congress when the House took final action by approving the conference report on this legislation on December 17, 1970. I believe, however, that some of the ambiguities and frustrations attendant to this law may well make this issue the concern of the 92d Congress as well.

In the course of 3 years, a variety of proposals were advanced to implement a national on-the-job safety program, based on the universal awareness that occupational accidents have reached appalling rates. The Bureau of Statistics report on the 1970 incidence provides grim confirmation: on-the-job accidents that year caused the death of 14,500 workers, the injury of 2.2 million, the loss of $1.5 billion in wages and $8 billion to the gross national product.

The comprehensive legislation enacted in the last Congress addressed this problem generally, and while I know that no one questions the need to implement a national safety program, a number of our colleagues believe some perfecting amendments are in order. Mr. Thone of Nebraska has some 100 cosponsors for his amendment to require the Department of Labor to distinguish the requirements of light residential construction industry from those of the heavy construction industry in promulgating safety standards. He has observed that under this law, each house will be considered a separate construction site, multiplying the problems of small contractors. The Labor Department, for example, will require builders to put bars in front of each window opening more than 4 feet above ground until glass is installed. A fire extinguisher is supposed to be on every floor of a house under construction, and temporary handrails have to be installed before steps are finished.

If a house has a second floor, the law requires that a chute be provided for waste disposal. In this kind of blanket coverage, affording no distinctions in the magnitude of a construction project, the cost of an average residence will increase by about $1,500.

In another area, roll bars are being required. While this might be in order for all new tractors, this law requires retroactive installation, which will cost the construction industry an estimated $1.2 million on equipment purchased before 1969 because frameworks on older tractors are not strong enough to hold the roll bars which must be added. The regulation apparently will also apply to any farmer who employs one or more persons.

Mr. Sebelius of Kansas has an amendment to exempt all small farmers from this act and Mr. Fisher of Texas an amendment to exempt employers with 25 or fewer employees. I also understand that Senator Curtis of Nebraska is drafting four amendments, several dealing with defense mechanisms.

Under the law passed by the last Congress, an employer must seek judicial review from the Court of Appeals after conviction, and yet the Secretary of Labor may use the District court. The cost to a small employer or farmer for appeal in the circuit court is another hidden cost in this act, and, as lawyers in Wyoming have complained, it is far easier for the Federal Government to get into court than for the ordinary farmer.

This law must be amended, not to compromise safety, but to require the Secretary of Labor to precede compliance with an educational program, at least letting citizens know by example and counseling what is expected of them and not besieging them with the maddening plethora of promulgated regulations as done under this act. Once again, Congress has legislated away its power to write law by delegating it to an administrator, this time the Secretary of Labor.

To illustrate the need for counseling, consider the consternation of an employer who picks up the Federal Register of May 29, 1971, to review the nearly 400 pages of regulations. Among other items, he will find a requirement to keep a coathanger in the lavatory.

To make matters worse, the Department of Labor has unfortunately conveyed to employers the impression that enforcement of the law comes first, education afterward.

There is no provision in this act for a courtesy inspection, designed to alert employers to possible hazardous equipment. Last week, I received a telephone call from a small businessman who had called the regional office in Denver, asking that a representative meet with him to explain and clarify the regulations. He was told that inspectors could visit his premises, but that there would be no warnings and that citations would be issued. Surely we can agree that such a policy breeds contempt for us all.

As Herbert Manig, executive secretary of the Wyoming Farm Bureau Federation, explained in a letter to me, the more realistic approach, inviting cooperation, would be to provide farmers, ranchers, indeed all employers, with education and assistance in comprehending this complicated law. If after the groundwork has been properly established and employers would not meet the standards, then enforcement should be executed. In short, the emphasis should be on education, then on enforcement.

I believe a small start has been made in the scheduling of 10 regional meetings in Wyoming during this month where the Wyoming Department of Labor and Statistics will explain the impact of the law. This is an encouraging indication of the State's willingness to move ahead toward its own administration of the standards. Wyoming is working with a planning grant to develop the regulations which will be reviewed by Federal officials to insure that national standards are met. After 1 year of full operation under Federal surveillance, Wyoming will then administer its own safety and health standards through inspection and enforcement, probably achieving total responsibility in 1974.

The State officials in Wyoming have assured employers that education and engineering are keys to their plan, stressing willingness to help operators resolve problems so that a citation can be prevented.

In section 9 of the act, investigators are directed to issue a citation in writing to any employer who he believes has violated a requirement and to set a reasonable time for abatement of the violation. Within a reasonable time after the inspection, the employer will be notified of the penalty imposed by registered mail. As other amendments are considered, it might be appropriate to weigh the merits of permitting an initial no-citation inspection of sites for the purpose of explaining the law and issuing warnings. It would go a long way toward reconciling employers to a law which at this time has aroused anger and resentment.

During the first 6 months of the administration of this law, the Labor Department announced that 8,165 inspections were made, resulting in the discovery of 18,699 violations, which gave rise to the issuance of 5,308 citations and the assessment of $349,375 in penalties. Therefore, although Wyoming employers are being advised that the only personnel in the field are taking a sampling, the report indicates that inspections are being conducted in other areas.

Although the volume of citations seems to vindicate a policy of enforcement first, I would suggest that many of the violations during this confusing interim period might be of a minor nature and could have been reduced if greater stress had been placed on informative measures.

I know that the Department of Labor is aware of the need to provide promotional literature and I would urge an intensified effort.

I am pleased to note that the Department is contemplating a special advisory committee on agricultural standards which would include representatives of the major farm organizations. I believe the greater the involvement of operators in determining workable regulations, the greater the compliance, avoiding the issuing of thousands of citations and the possibility of placing an even greater strain on the courts in handling appeals.

At a time when the ordinary citizen finds himself increasingly alienated from a Federal Government whose operations he imperfectly understands and whose officials seem remote and indifferent, the Department of Labor could perform an invaluable service by intensifying its instructional groundwork with a view to helping employers understand the law that they might not violate it.

I would ask my colleagues to give serious considerations to an amendment specifying that the Department accelerate educational programs and permit field personnel to visit sites for a first-time review and counseling session without issuing citations.

With this shift in priorites from enforcement before education to education before enforcement, the Department could ease the transition to the time when the law will be administred by the States.

I know that in Wyoming, the Occupational Health and Safety Commission is a responsive body, sensitive to the requirements for safety and eager to do everything possible to provide for safe and humane conditions for all who labor there. If the groundwork of counseling has been properly laid, the Commissions' task will be far easier, and the results far more satisfying.

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## THE 100TH ANNIVERSARY OF MILITARY SCIENCE TRAINING AT AUBURN UNIVERSITY

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NICHOLS. Mr. Speaker, last Saturday, it was my great privilege to attend ceremonies commemorating the 100th anniversary of Military Science Training at Auburn University.

Military training has been an important part of Auburn since the school was designated as a Land-Grant College in 1872.

Since 1921, when the first ROTC commissions were awarded, over 8,000 graduates have been commissioned as officers in our Nation's military forces, including 44 who have attained the rank of general or admiral. Auburn is one of only 32 universities in the United States to have all three branches of ROTC service—Air Force, Army, and Navy.

Among Auburn's graduates who received commissions are the late Lt. Gen. Holland M. Smith, considered the father of amphibious warfare, the late Gen. Franklin Hart, commandant of the Marine Corps and Lt. Comdr. Ken Mattingly, the command module pilot on Apollo 16 which is due to be launched in April. Recently, Auburn conferred an honorary degree on Adm. Thomas Moorer, Chairman of the Joint Chiefs of Staff and a native of Alabama.

During the 100 years of military training at the school, Auburn University has made a lasting contribution to the future of our great Nation.

Mr. Speaker, in connection with this event, I would like to submit for my colleague's study, a history of the military at Auburn University, written by Lt. Col. John H. Napier in 1960 and updated by Col. Andrew LaMar, professor of military science, Army ROTC at Auburn:

### HISTORY OF THE MILITARY AT AUBURN UNIVERSITY

(By Lt. Col. John H. Napier)

(NOTE.—The following history of military instruction at Auburn was written by Col. Napier in 1960. It has been continued and updated by Col. Andrew LaMar, PMS, AROTC at Auburn, West Point, '46.)

To trace the military associations of Auburn University, one can go back to the formation of the Auburn Guards, under Captain George W. Dixon in 1861, which supposedly included numbers of students from East Alabama Male College, Auburn University's ancestor. President Jefferson Davis reviewed them at the Auburn Railroad Station February 16, 1861.

During the War Between the States, there were two training camps, Camps Winston and Johnson, in the Auburn vicinity. Wilson's and Rosseau's Yanks pillaged the town twice. The College's main building and other houses in town served as a Confederate Hospital.

Actually, 1872 marks the beginning of the military science instruction at Auburn, for in that year, EAMC became the A&M College of Alabama, and was required by the Morrill Land Grant Act of 1862 to furnish military instruction to its students. While the first president, Dr. Isaac T. Tichenor was a Baptist minister, he had been a Confederate chaplain.

The first Commandant, George P. Harrison, Jr., was the youngest Confederate Brigadier at 22, the third president, David F. Boyd, a Confederate Lieutenant Colonel in charge of munitions department of the Confederate Ordnance Corps. The second Commandant, Lt. Col. Robert A. Hardaway, is remembered as one of the most brilliant artillerists in Lee's Army of Northern Virginia.

The first available college catalog, that of 1875, outlines the military instruction. In those days, cadets had to buy their own uniforms which consisted of a cadet gray frock coat with three rows of college buttons, grey trousers, black kepi and black facings as well as a fatigue uniform. The total cost was about $43.00, a lot of money in those days. Students were required to wear the uniform at all times. They learned to drill, stand guard and picket (scouting and patrolling) duties. The State provided breech-loading cadet rifles, swords and accoutrements.

There were initially two companies of cadets, but this was expanded to a battalion in 1898. Governor's Day is not new—in 1875 and in 1882, the Governor of Alabama was scheduled to review the cadet corps, and in the latter year, this was followed by a dress parade and levee, or ball. Formations were held on the grounds in front of the Main Building, Samford Hall's predecessor, for an 1881 engraving shows the corps drawn up there. Later, however, and for many years well into this century, the drill field was where Ross Square is now. Before World War II, drill was held on Bullard Field, south of the Women's Dining Hall.

In 1885, the appearance of the corps was spruced up by the prescription of a white helmet for dress occasions. This is the same era when the U.S. Army adopted Prussian style spike helmets, apparently influenced by German military prowess after the War of 1870. In 1887, Main Building burned and the cadet arms were destroyed, but were replaced rapidly in time for the school's re-opening. In 1891 Auburn's long association with St. Barbara began when two pieces of three-inch field artillery with carriages and limbers were added to the armory. The corps of cadets stood honor guard at the Auburn railroad station in May 1893 when Jefferson Davis's body was moved from New Orleans to Richmond.

An early feature of the cadet corps was Co "K," mentioned in the first Glomerata of 1897. It should be explained that in those days, students had to "take military" all four years, not just for their first two years, as they do now. Obviously, not all seniors had the capacity and/or inclination to be cadet officers, nor were there sufficient "slots" for them. They were placed in Co "K," where apparently most were "gentleman privates" going through the motions of "playing soldier" yet unofficially given some latitude in observing cadet regulations.

Around the turn of the century, there were no barracks nor dorms. Cadets boarded with townspeople, and one would be designated monitor, or NCO-in-Charge, for that house. He would report absences and other infractions periodically to the Commandant, as the PMS (Professor of Military Science) was then known.

Cadets were required to rise at the beat of a drum at 5:30 and if living within a mile of the campus, had to report for roll call. They then returned to their lodgings to eat, and had to meet a second muster on campus at 7:45. Classes ran until 1 p.m. when there was another roll call, followed by lunch. Classes resumed at 2:00 and from then until 4:00, cadets could not be seen on the streets of the village. After 6:00 they had to return to their rooms, could not retire before 9:30 and had to go to bed at 10:00. They could not go off the campus on weekends—leaves were allowed only at Christmas or in an emergency.

Church parade on Sunday was compulsory, and cadets were marched to the church of their denomination, and here hangs a tale, the legend of the founding of Sacred Heart Roman Catholic Church, Auburn. In those days, there was no Roman Catholic Church here, and few "R.C.'s" among the students. Some of the bright lads realized that if they set down their religious preference as "R.C.," they would not have to go to church. It worked. However, the statistics showing an increase in Catholics at Auburn reached the bishop of this diocese. The right reverend gentleman reasoned that a mission here was needed to attend to these members of the faith, and the church was founded. At first however, they found few actual Roman Catholics. So goes the story, anyway.

There were at least 30 Auburn-trained officers in the Spanish-American War. The son of the third President, D. F. Boyd, Jr., was on the Maine when it was blown up.

In 1899, the same year A&M became API, the Auburn Military Band was organized, the oldest of our existing supplementary military organizations. Apparently in 1905, uniforms were no longer obligatory on all occasions, and Spanish-American war style slouch, or campaign hats, were worn for fatigue. In the next year, the cadet kepi gave way to the bell cap, fore-runner of today's service cap, but with a smaller crown. Also, in 1905, the first sponsor of the cadet corps, Miss Louise Vass, was chosen battalion sponsor, beginning a pleasant custom still with us. From that time on, feminine grace has softened the military's Spartan ways.

In 1916, the Reserve Officers Training Corps was established here, as a result of the National Defense Act of that year. This was one of 37 Land Grant colleges in the US where ROTC began. Briefly, the replacement of the old cadet structure by the ROTC made it possible for a graduated cadet to obtain a reserve second lieutenancy for the first time, and provided more Federal supervision, uniformity and funds.

Two thousand Auburn Alumni served in World War I. In 1919, the ROTC here was reorganized into Field Artillery, Engineers and Infantry. Artillery has been emphasized ever since.

The Infantry unit was discontinued in 1926. In 1928, Will Rogers was initiated here into Scabbard and Blade as an honorary member. Two years later, long trousers again replaced breeches and puttees as part of the uniform. By 1932, the cadet corps had grown to such an extent that it was necessary to group the Field Artillery into a brigade of two regiments and the Engineers into another regiment. The Army ROTC increased steadily. Before World War II, it was rather larger than today, because there were no NROTC nor AFROTC units, as at present.

In 1942, at the outbreak of World War II, 17 officers (13 of them Auburn alumni reserve officers) and 28 enlisted men were assigned as instructors. While not part of the ROTC, the CPT (Civilian Pilot Training Program) in 1941 had given flying instruction to many students. In 1943, the seniors were commissioned, and fortunes of war demanded that the juniors be enrolled in the Enlisted Reserve Corps and go to officers' candidate school before being commissioned. The Advanced course was discontinued, although about 200 cadets who were too young for military service continued in basic ROTC. Scabbard and Blade was inactive between 1943 and 1946. There were numerous soldiers assigned here in the ASTP in 1944 taking certain technical courses. These did not necessarily lead to a commission.

No sooner was World War II won than a new uniform appeared on the Auburn campus—the Navy ROTC was established in the fall of 1945. At this point, it becomes necessary to treat the military at API in terms of three separate armed services.

The NROTC after World War II had a strong string to its bow with adoption of the Holloway Plan (named for V/Adm. James "Lord Jim" Holloway), which provided a subsidized education—tuition, books, uniforms, retainer pay, etc.—for four years for selected "regular students." The latter agreed to accept commissions as regular ensigns, USN or Second Lieutenants, USMC and serve on active duty at least three years. The first Midshipman was commissioned in September 1947.

In the meantime, the Army ROTC was reorganized for the second time following World War II. In 1946, in addition to Field Artillery and Engineers, it included Armored Cavalry (now Armor), Signal Corps and Air Corps. The pattern of the present four Army ROTC branches was set—Artillery, Engineers, Armor and Signal. With this set-up arose honorary and professional organizations for each branch.

After World War II, the so-called "ROTC Hangar" was built on the new drill field (Morris Field) at West Magnolia and Wire Road, and this hangar includes garage and Armory facilities for all three services, rifle range and certain ROTC and NROTC classroom facilities. In 1958, a new pre-fabricated metal AFROTC Supply Building was erected just south of the hangar. At the present time, the NROTC offices, Army ROTC Supply and classrooms for all services are in Broun Hall, Army ROTC and AFROTC offices are housed in the military (erstwhile Electrical) Building adjacent to the rear of Langdon Hall.

Although the Army Air Forces were autonomous during World War II, as previously stated, the Army ROTC included the Air Corps in 1946. The United States Air Force came into being in 1947, and gradually the AFROTC split from its parent. In July 1949, it was separated and headed by the first PAS&T, as he was then called.

This short history cannot claim to be a definitive one, and more detailed information has been omitted. One is left with the conclusion, however, that API, which became Auburn University in January 1960, has certainly done its share in turning out military leaders in peace as in war. The accent has been on college graduates who do not necessarily choose the service as a career, but on a large pool of reserve military officers to furnish leadership in an emergency. AU alumni have demonstrated their loyalty and efficiency to a country from which they have received more advantages than the average citizen.

### CONTINUATION, WRITTEN BY ARMY ROTC, IN 1971

On January 3, 1962 the advanced program of Army ROTC at Auburn changed from a branch-oriented instruction in Armor, Artillery, Signal, and Engineer branches to a General Military Science program. In the new program, under which the University still operates, all cadets receive general instruction and receive their branch assignments during their senior year.

Fall quarter of 1969 marked the end of ROTC as a requirement for graduation. No longer were two years of the basic program mandatory. As a result, basic drill was revamped to make the program more attractive. Training in the field of first aid, rappelling, hand-to-hand combat, survival, voice and command, and quick-fire were added to the program. Basic drill was reduced to one drill weekly and class meetings to two per week. The new program enabled the cadets to receive closer, more supervised instruction, resulting in better officers for the military.

Figures reveal that, even though ROTC has become the subject of controversy at many colleges and universities across the country, the number of cadets commissioned each year at Auburn has increased dramatically since 1967.

In 1966–67, there were 80 cadets commissioned. In 1968–69, there were 165 cadets commissioned. This is just five shy of 170, the all-time Auburn record.

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## ENACTMENT OF APPROPRIATIONS BILLS BEFORE THE FISCAL YEAR

(Mr. WYMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WYMAN. Mr. Speaker, in recent years the Congress has fallen far short of its responsibilities for sound fiscal management. One of the problems that we have experienced is the frequent delay in the consideration of appropriations bills past the beginning of the fiscal year—July 1—causing much of the Government to be operated under continuing resolutions. The delay in passing appropriations has been attributable in large measure to the failure of the authorizing committees to complete their hearings and pass necessary authorizing legislation prior to the beginning of the fiscal year.

There are no valid reasons, in most instances, why authorizing legislation cannot be completed in the 5-month period between January and June 15 in future years for the operation of the Federal Government and its agencies for the ensuing fiscal year. The hang up on appropriations is squarely due to the provisions of the rule that prohibits bringing appropriations bills to the floor of the House until a separate authorization has been passed. This is not a matter of statutory law. It is merely a rule of this body and it ought to be modified to the extent of allowing the House of Representatives to get its appropriations measures through before the beginning of the fiscal year.

Some have suggested changing to a calendar year basis and this suggestion may have merit. But such a change involves an amendment to the United States Code. It would also create the specter of possible delay on appropriations action until November and December in future years and for this reason could further protract and stretch out our already virtually annual sessions of Congress. In election years it might even require postelection sessions that would invariably for one reason or another include a number of members in the "lame-duck" category. For these and other reasons, changing to a calendar year for the entire Federal Establishment is a big subject and ought to be separately considered.

In the meantime this resolution would break future logjams in this body and would go a long way toward expediting the handling of authorizing legislation as well as appropriations. I want it to be understood that I am by no means proposing the abolition of the function and power of authorizing committees after June 15 of each year. An authorization subsequent to appropriation may well be in order if the Rules Committee sees fit to amend the rule to so provide. But it should be made clear, in this event, that the subsequent authorization cannot exceed the amounts appropriated although the authorizing committees would continue to have the authority to deny authorizations by categories in which event the appropriation would abort for that item as of the date of passage of such subsequent authorization.

Such a procedure would materially expedite the appropriating process and materially assist the House in getting its work done in each session of Congress. It would also have the happy effect of informing the various departments and agencies of the Government what their appropriation is going to be for the fiscal year ahead perhaps subject to reduction by authorizing committees that have not acted prior to June 15 or the date of passage of the appropriation whichever is subsequent. It would virtually eliminate the vexatious device of the so-called continuing resolution that for agencies having appropriations that vary substantially from year to year presently find the continuing resolution confusing and often wasteful.

Sponsorship of this proposal is bipartisan. It would be a substantial and constructive reform that would demonstrably improve both the efficiency and the quality of the legislative process. I sincerely hope it will have the prompt approval of this body. The text of the resolution and the names of Members cosponsoring follow:

H. Res. 775

*Resolved,* That (a) rule XXI of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"7. The Committee on Appropriations shall, to the maximum extent practicable in the determination of the Committee, take such action as may be necessary to report all general appropriation measures for each fiscal year (other than measures for supplemental and deficiency appropriations) to the House for its consideration by such time before the beginning of that fiscal year as will permit the enactment of all such measures into law before the beginning of that fiscal year."

(b) The second sentence of clause 2 of rule XXI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "*Provided further,* That after June 15 of each calendar year appropriations measures providing funds for the operation of any branch of the Federal Government or its independent agencies for the ensuing fiscal year shall be in order for consideration notwithstanding the provisions of this rule."

List of Cosponsors

Mr. Walter Flowers, Mr. John J. Rhodes, Mr. Thomas M. Rees, Mr. Craig Hosmer, Mr. Donald G. Brotzman, Mr. J. Herbert Burke of Florida, Mr. Edward J. Derwinski, Mr. Robert McClory, Mr. Elford A. Cederberg, Mr. Bill Frenzel, Mr. Charles Thone, Mr. James C. Cleveland, Mr. John E. Hunt, Mr. Charles W. Sandman, Jr., Mr. Edwin B. Forsythe, Mrs. Shirley Chisholm, Mr. Howard W. Robison of New York, Mr. John H. Terry, Mr. Barber B. Conable, Jr., Mr. David N. Henderson, Mr. Samuel L. Devine, Mr. Wendell Wyatt, Mr. John Ware, Mr. Albert W. Johnson of Penna., Mr. John J. Duncan, Mr. O. C. Fisher, Mr. J. Kenneth, and Robinson of Virginia.

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## SOCIAL SECURITY REFORM NOW

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, many of the Members will no doubt remember my coming before this House on several occasions in the past to urge a complete reappraisal of this Nation's social security system. Since then, other matters, some of the highest importance, have intervened to occupy the attention of the Members of this body. However, before any more time goes by, I wanted to take this opportunity to remind the Members of both the seriousness of the situation and the sincerity of my conviction that something must be done and done soon to completely restructure the social security system, as we know it today.

Since refiling my proposal to increase social security benefits across the board by 50 percent, while at the same time devising a new tax formula for financing the system; namely, one-third from the employer, one-third from the employee, and the new feature, one-third from general revenue—since refiling that legislation with a most impressive list of cosponsors, several important developments have occurred which make me more convinced than ever that now is the time to bring social security reform front and center, to the top of the list of this Congress unfinished business. Since refiling my legislation and announcing the social security honor roll with 64 names, the White House Conference on the Aging has come and gone. While it was in session, the attention of the Nation for 1 fleeting week was focused every day on the elderly and their problems. It is a sorry thing to admit, but I detect memories fading quickly, and it is becoming increasingly difficult for busy Members in this city of conventions and conferences to recall too much of what was said or done during that Conference. One thing, however, emerged quite clearly and that is that adequate income is probably the No. 1 problem facing the elderly of this Nation. Another fact which emerged from my consultations with the elderly is that for many their sole means of support is their social security benefits. Maybe this is not what the designers of the system intended, but it is a fact of life, and to ignore it is to be heartless and cruel to those unable to fend for themselves and earn their way in life because of their years. They look to us and we cannot look away to anyone else to help them. The buck stops here, as they say, and we have failed to come to grips to date with either the problem or the solution. Another major development is that the Senate is still hopelessly tied up with maneuverings, some call them hearings, on H.R. 1. Consequently, even that meager sop to the needs of the elderly, a 5-percent increase in benefits supposed to have been effected as of January 1, is still awaiting action. One of the most pathetic experiences of my congressional career is returning to my office each day and reading the hundreds of letters from the elderly across the Nation asking me to find out what happened to their 5-percent increase that they were supposed to get in January. When people are this concerned about a pathetically small 5-percent increase in their monthly social security check that they will take pen in shaking hand and plead with their Congressman for what, in most cases, is no more than a dollar or two a month extra, then I, for one, do not have to look any further for reasons to reform, or to score a major breakthrough, in the present system.

Perhaps the most important development is the revelation since refiling my bill that the Social Security Advisory Council has concluded that the present methods of accounting in the social security system has unduly tied down the system's possibilities because of a slavish attachment to outdated conservative accounting methods. It is now clear that by abandoning the sinking fund approach, Congress has within its power to dramatically increase the benefit level and at the same time reduce the tax burden which would normally result from such an increase. When accountants, that most conservative of all professions, start discovering ways of improving the lot of the elderly in life, then I think it is time we, the elected representatives of the people, at least caught up to them and seized the opportunity to move decisively in this field. If my new tax formula were adopted at the same time, then not only could the benefits be increased even further, but the tax burden would be even further reduced. I am not engaging in slight of hand in saying this. I am not bankrupting the Treasury in proposing this. I am not grandstanding today. Instead I am addressing myself to a serious situation which can no longer be ignored. The elderly do not have an adequate income today. Something must be done to alleviate their suffering and done soon and we have at our disposal the means to remedy the situation. A price tag accompanies all good things, it seems, and I am not trying to conceal the price for 1 minute. I am simply saying that there is a better way of sharing the cost of the extra increase and that in redistributing the pressure more evenly throughout our society that we will find that the extra burden on the taxpayer for doing what is right by our elderly is not an unbearable burden at all. For too long the fiscal conservatives have been able to discourage any dramatic improvement in social security benefits, because of the way the tax burden was distributed solely on those presently working and presently employing, and also because conservative accounting methods required a sinking fund which had to be maintained at an inordinately high level before anyone could receive any increased benefits.

Mr. Speaker, today I renew my appeal for action on social security reform. I know that the Ways and Means Committee has a full docket of important business. However, I am convinced that if the leadership of either party made this the number one issue it deserves to be, that room would be found to tackle this problem while this Congress is in session. In the past few days I have personally contacted by letter and telephone all my colleagues on the committee as well as the leadership of this House to move this problem to the center of their attention. Attached to each letter, I enclosed copies of an article which recently appeared in the Boston Globe. I feel its message is so compelling that I want to include it for all the Members to read at this time. In conclusion, just let me say there is, in fact, a job each and every Member in this House can perform and that is, simply to contact their leaders and push for genuine social security reform. I am convinced that in doing so time will be found and both parties will be able to return to the electorate in November with their heads held just that much higher than otherwise would be the case.

### BURKE MAKES GOOD CASE FOR 50 PERCENT SOCIAL SECURITY INCREASE

(By Joseph Levin)

Farm state Sen. Frank Church of Idaho has offered the elderly a very small and cold potato—a 12 percent average increase in Social Security benefits. His bill, filed this week, would hardly be worth mentioning except for the fact that he happens also to be chairman of the Senate's Special Committee on Aging.

As such he has been spending thousands of the taxpayers' dollars (including the elderly taxpayers') holding hearings up and down the country—to what ends, one may ask. He seems to have learned nothing. One wonders, also, whether Church's bill reflects the views of his committee, which includes Bay State Senators Kennedy and Brooke? If it does not, they should speak out quickly.

Church's views may indeed prevail if we judge the Democrats by the yardstick of the five percent SS increase in HR–1, the bill framed by Chairman Wilbur Mills of the House Ways and Means Committee and passed by the House.

But if a 12 percent increase is the most the majority party can offer in 1972 the case for elderly voter support of President Nixon in the election is already made. The Social Security Advisory Council headed by Mr. Nixon's appointee, Dr. Arthur Flemming, has already opened a door that could lead—perhaps by simple administrative action—to a 20 percent increase.

The Advisory Council said that if actuarial philosophy governing the accumulation of Social Security trust funds (now nearing $50 billion) is changed, SS benefits can be upped 20 percent without increasing employer-employee contributions.

Present actuarial policy builds up the funds on the basis that wages and payrolls will remain stationary. But experience shows that in fact wages and payrolls rise with the years. That means SS taxes can also rise, in order that Social Security benefits can keep pace with the increasing productivity and income of the nation.

In a series of powerful speeches in the US House last fall, Representative James A. Burke of Milton, who is a member of the House Ways and Means Committee but does not share the conservative views of Chairman Mills, argued for an immediate 50 percent increase in Social Security.

"We must recognize and accept that for the overwhelming number of Americans over 65, Social Security checks have become essential to their financial security and well being," he said.

"Statistics, while incomplete, give every indication that more than 50 percent of our population over 65 is totally dependent on income received from Social Security checks . . . I have concluded that what is needed is a 50 percent across-the-board increase in Social Security benefits." As of now, he said, 63 other members of the House are supporting.

"Of course," Burke continued, "I realize that what frightens most people about my proposal is the price tag. Already the Social Security taxes are slated to increase dramatically. My answer to these men of more fear than vision is that they have not studied my proposal in its entirety.

"I am fully cognizant of the cost that a 50 percent increase will mean for the Social Security system. It is for this reason that I have proposed a new formula for tax assessment which would change the present method of assessing the employer 50 percent and the employee 50 percent. Under my proposal one-third of the cost would be borne by the employer, one-third by the employee and one-third by the general revenues."

Burke's plan makes sense but whether its time has come is hard to say. It offers the Democrats a way to win over to them solidly the 20 million elderly voters whose ballots may well decide the 1972 election. It offers justice to the elderly. The plan also has the advantage of being conservative and time tested in Western Europe. It would also create a vast market for services which financial writers say is the economic growth area for the 1970's and the 1980's.

Senior Set welcomes signed letters from readers but cannot promise individual replies.

## MAJ. GEN. GEORGE V. WILLIAMS RETIRES

(Mr. HANLEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, there are, across the North American continent, a series of important air defense centers designed to provide protection from air attack to the American people. One of the most critical of these is the 21st North American Air Defense Command (NORAD) region at Hancock Field in Syracuse, N.Y. a measure of its importance can be seen when it is pointed out that New York, Boston, and Buffalo lie within Hancock's area of responsibility.

Since November 1969, the commander of this strategic defense center has been Maj. Gen. George V. Williams. Speaking as one who has known the general personally, I can say that the American people are indeed fortunate to have had a man of this caliber in this sensitive area of our military defense.

General Williams retired February 4, 1972, after 32 years of active military service. Born in New York City on June 6, 1919, he was graduated from Hyde Park High School in Chicago, Ill. He entered the aviation cadet program at Randolph Field, Tex., in 1940 and received his pilot wings and a commission as a second lieutenant in the Army Air Corps in May 1941.

During World War II, General Williams served in the European-African-Middle Eastern and Asiatic-Pacific theaters of Operations as a fighter pilot, squadron commander and finally, deputy group commander. He flew Spitfires in North Africa, Sicily, and Italy on 150 missions for a total of 200 combat hours. He was awarded the Silver Star and the Distinguished Flying Cross for action in the Mediterranean area. Later, he flew 50 missions in P–47 aircraft totaling 200 combat hours in the Western Pacific area.

After World War II, General Williams served in a number of assignments in the United States, including commander of two fighter squadrons. From 1951 to 1953 he was director of training and operations and later deputy commander of the 12th Strategic Fighter Wing at Bergstrom Air Force Base, Tex. In 1953 he assumed command of the 58th Fighter Bomber Group at Osan Air Base, Korea, and the following year assumed command of the 51st Fighter Interceptor Group on Okinawa.

General Williams returned to the United States in 1956 to become deputy for operations on the 37th Air Division at Truax Field, Wis. In January 1959 he became director of tactics, training, and evaluation, Eastern Air Defense Force, Stewart Air Force Base, N.Y., and in August became assistant deputy for Operations. He next was assigned to Dobbins Air Force Base, Ga., as deputy of operations of the 32d Air Division and in May 1961 became vice commander of the division.

He was assigned to Ent Air Force Base, Colo., in August 1961 as director of operations, Headquarters Air Defense Command—ADC—and in August 1963 became Assistant Deputy Chief of Staff for

Operations. He assumed command of the Detroit Air Defense Sector in July 1964.

General Williams became vice commander of the Northern North Air Defense Command—NORAD—Region in January 1966 and assumed command of The United States Logistics Group—TUSLOG—with headquarters in Ankara, Turkey, in July 1967. He returned to Headquarters Aerospace Defense Command as Deputy Chief of Staff, plans, in August 1969. He assumed command of the 21st North American Air Defense Command Region with headquarters at Hancock Field, Syracuse, N.Y., in November 1969.

His military decorations include the Silver Star with one oak leaf cluster, Legion of Merit with three oak leaf clusters, Distinguished Flying Cross, Air Medal with 17 oak leaf clusters, and Air Force Commendation Medal. He is a command pilot with more than 8,550 hours flying time in conventional and jet aircraft.

General Williams is married to the former Kitty Touchberry of Florence, S.C.

On February 4, 1972, command of the 21st NORAD Region was turned over to Maj. Gen. James L. Price by General Williams, who retired the same day. To this dedicated airman, may I extend the heartfelt thanks of the people of the 35th New York Congressional District.

## CONFERENCE REPORT ON FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS (H. REPT. NO. 92–849)

Mr. MAHON submitted the following conference report and statement on the bill (H.R. 12067) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972:

### CONFERENCE REPORT (H. REPT. No. 92–849)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12067) "making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 8, 9, 28, 32, 38, 41, and 42.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 6, 7, 10, 11, 13, 16, 17, 19, 21, 24, 25, 26, 29, 33, 35, 36, and 37, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$160,000,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$127,000,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,000,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "$200,000,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$200,000,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$500,000,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$550,000,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: "Overseas Private Investment Corporation, reserves: For expenses authorized by section 235(f), $12,500,000, to remain available until expended."

And the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$72,000,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$24,250,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$211,760,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$123,050,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 5, 23, 27, and 40.

Otto E. Passman,
John J. Rooney,
Clarence D. Long,
Edward R. Roybal,
Wm. D. Hathaway,
George Mahon,
Garner E. Shriver,
Donald W. Riegle, Jr.,
Robert C. McEwen,
J. Kenneth Robinson,
Frank T. Bow,
*Managers on the Part of the House.*

Gale W. McGee,
Allen J. Ellender,
Warren G. Magnuson,
John C. Stennis,
Hiram L. Fong,
Edward W. Brooke,
Milton R. Young,
*Managers on the Part of the Senate.*

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12067), making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

### TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

#### *Funds appropriated to the President*

#### Economic Assistance

Amendment No. 1: Worldwide, technical assistance: Appropriates $160,000,000 instead of $150,000,000 as proposed by the House and $165,000,000 as proposed by the Senate.

Amendment No. 2: Alliance for Progress, technical assistance: Appropriates $80,000,000 as proposed by the Senate instead of $75,000,000 as proposed by the House.

Amendment No. 3: International organizations and programs: Appropriates $127,000,000 instead of $41,000,000 as proposed by the House and $138,000,000 as proposed by the Senate.

The managers agreed that of the funds appropriated under this title, not to exceed $86,000,000 shall be available for the United Nations Development Program.

Amendment No. 4: Provides that $15,000,000 shall be available only for the United Nations Children's Fund as proposed by the Senate.

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which would make the provision a sense of Congress provision instead of only the Senate and require a progress report to also be sent to the Foreign Affairs and Appropriations Committees of the House of Representatives. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 6: Programs relating to population growth: Appropriates $125,000,000 as proposed by the Senate instead of $50,000,000 as proposed by the House.

Both the House and Senate adopted separate line item appropriations for the population programs, based on the authorization for such appropriations contained in section 292 of the Foreign Assistance Act of 1961, as amended.

Amendment No. 7: American schools and hospitals abroad: Appropriates $20,000,000 as proposed by the Senate instead of $17,200,000 as proposed by the House.

Amendment No. 8: Deletes language proposed by the Senate which would have limited the funds appropriated under the title "American schools and hospitals abroad" to finance only such projects enumerated in the reports of the Foreign Affairs Committee of the House and the Foreign Relations Committee of the Senate covering the authorizing legislation.

Amendment No. 9: Deletes language proposed by the Senate which would have provided that the maximum amount of funds allocated to any nonbudgeted project should not exceed $2,000,000.

Amendment No. 10: Deletes language proposed by the House which would have allocated funds to specific institutions.

Amendment No. 11: Changes section number to conform with the authorizing legislation as proposed by the Senate.

Amendment No. 12: Indus Basin Development Fund, grants: Appropriates $10,000,000 instead of $7,500,000 as proposed by the House and $15,000,000 as proposed by the Senate.

Amendment No. 13: Indus Basin Development Fund, loans: Appropriates $12,000,000 as proposed by the Senate instead of $6,000,000 as proposed by the House.

Amendment No. 14: Refugee relief assistance (East Pakistan): Appropriates $200,000,000 instead of $175,000,000 as proposed by the House and $250,000,000 as proposed by the Senate and deletes language proposed by the Senate which would have allowed the appropriation to remain available until expended and which would have restricted the availability of funds for obligation under this appropriation to not to exceed an amount equal to 40 percent of all contributions provided for such assistance.

The managers recommend that every effort be made to obtain contributions from other countries to help share in the burden of this tragedy. If reasonably possible, the United States share of the total contributions received for this relief and rehabilitation from all sources should not exceed 40 percent.

Amendment No. 15: Development loans: Appropriates $200,000,000 instead of $250,000,000 as proposed by the House and $150,000,000 as proposed by the Senate.

Amendment No. 16: Administrative expenses, AID: Appropriates $50,000,000 as proposed by the Senate instead of $54,600,000 as proposed by the House.

Amendment No. 17: Administrative and other expenses, State: Appropriates $4,221,000 as proposed by the Senate instead of $4,255,000 as proposed by the House.

The managers agreed that the funds appropriated under this title should be allocated to the various programs, with regard to specific amounts, by the Department.

### Military Assistance

Amendment No. 18: Appropriates $500,000,000 instead of $552,000,000 as proposed by the House and $350,000,000 as proposed by the Senate.

### Security Supporting Assistance

Amendment No. 19: Changes section number to conform with the authorizing legislation as proposed by the Senate.

Amendment No. 20: Appropriates $550,000,000 instead of $575,000,000 as proposed by the House and $400,000,000 as proposed by the Senate.

Amendment No. 21: Provides that of the funds appropriated under this paragraph, not less than $50,000,000 shall be available for obligation for security supporting assistance for Israel only as proposed by the Senate.

### Overseas Private Investment Corporation

Amendment No. 22: Appropriates $12,500,000 instead of $25,000,000 as proposed by the House. The Senate deleted this item.

### Inter-American Foundation

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which would place a limitation on obligations during the current fiscal year of not to exceed $10,000,000 instead of $11,000,000 as proposed by the Senate and which would change the name of the organization. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The name of this organization was changed by the Foreign Assistance Act of 1971 from the "Inter-American Social Development Institute" to the "Inter-American Foundation" and the managers agreed to change the name in the bill to conform with the authorizing legislation.

### GENERAL PROVISIONS

Amendment No. 24: Section 111: Changes section number to conform with the authorizing legislation as proposed by the Senate.

Amendment No. 25: Deletes language proposed by the House which would have made funds appropriated under the bill available notwithstanding the provisions of section 10 of Public Law 91–672.

Amendment No. 26: Section 112: Conforms section number.

Amendment No. 27: Section 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to restore the original House language deleted by the Senate which would provide that no part of any appropriations contained in the bill may be used to provide assistance to Ecuador, amended to provide that the President may waive this provision if he determines that the furnishing of such assistance is important to the national interest of the United States. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 28: Deletes language proposed by the Senate which would have provided that none of the funds appropriated or made available pursuant to the bill to carry out part I of the Foreign Assistance Act of 1961 should be used for continuing public safety programs of the Agency for International Development.

In view of the concern evidenced in many quarters over the priorities assigned continuation of the Public Safety Program, the managers agreed to examine the program carefully in the fiscal year 1973 hearings in an effort to reassess the Agency for International Development's commitment to its continuation.

### TITLE II—FOREIGN MILITARY CREDIT SALES

Amendment No. 29: Appropriates $400,000,000 as proposed by the Senate instead of $510,000,000 as proposed by the House.

The managers agreed that of the aggregate ceiling of $550,000,000 on foreign military sales credits authorized for fiscal year 1972, not less than $300,000,000 of this amount shall be made available to Israel only.

### TITLE III—FOREIGN ASSISTANCE (OTHER)

### *Funds appropriated to the President*

### *Peace Corps*

### Salaries and Expenses

Amendment No. 30: Appropriates $72,000,000 instead of $68,000,000 as proposed by the House and $77,200,000 as proposed by the Senate.

Amendment No. 31: Provides that of the amount appropriated, not to exceed $24,250,000 shall be available for administrative expenses instead of $24,000,000 as proposed by the House and $24,500,000 as proposed by the Senate.

### *Department of the Army—Civil functions*

### Ryukyu Islands, Army, Administration

Amendment No. 32: Appropriates $4,216,000 as proposed by the House instead of $4,564,000 as proposed by the Senate.

### *Department of Health, Education, and Welfare*

### Assistance to Refugees in the United States

Amendment No. 33: Appropriates $139,000,000 as proposed by the Senate instead of $100,000,000 as proposed by the House.

The managers recommend that the Executive Branch exert every effort in bringing about the termination of this program as soon as reasonably possible.

### *Funds appropriated to the President*

### *International financial institutions*

### Inter-American Development Bank

Amendment No. 34: Appropriates $211,760,000 instead of $150,000,000 as proposed by the House and $261,760,000 as proposed by the Senate.

Amendment No. 35: Allocates $75,000,000 of the total amount appropriated for the Bank for paid-in capital as proposed by the Senate instead of $13,240,000 as proposed by the House.

Amendments Nos. 36 and 37: Delete the word "solely" in two instances as proposed by the Senate.

Amendment No. 38: Deletes the amount and the language proposed by the Senate which would have allocated $50,000,000 for the Fund for Special Operations of the Bank.

### International Bank for Reconstruction and Development

Amendment No. 39: Appropriates $123,050,000 instead of $246,100,000 as proposed by the Senate. The House deleted this item.

The managers agreed that this appropriation should be allocated as follows: $12,305,000 for paid-in capital and $110,745,000 for callable capital.

### TITLE V.—GENERAL PROVISIONS

Amendment No. 40: Section 504: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which would provide that not to exceed $1,200,000 of the funds appropriated under title I of the bill and for the Peace Corps under the bill may be used to reimburse the expenses of the Inspector General, Foreign Assistance and a provision would be added which would validate all obligations incurred during the period beginning February 23, 1972 and ending on the date of approval of the bill for projects or activities provided for in the bill. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

### Unemployment Trust Fund—Extended Benefits

Amendments Nos. 41 and 42: Delete the provisions added by the Senate to appropriate such sums as may be necessary (as repayable advances) to the extended benefit account in the Federal Unemployment Trust Fund on account of Public Law 91–373 and Public Law 92–224.

Supplemental fiscal 1972 budget estimates for these purposes, contained in the President's 1973 Budget, are now pending consideration in the Congress. The urgency of these items, as well as other unemployment compensation funding requirements mandated by basic legislation, is such that a special supplemental will need to be considered shortly. The conferees have dropped the provisions from the pending bill on the firm assurance that such a supplemental resolution will be presented for consideration in the two Houses within the next three weeks.

### Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1972 recommended by the Committee of Conference, with comparisons to the fiscal year 1971 total, to the 1972 budget estimate total, and to the House and Senate bills follows:

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1971 | $3,812,257,000 |
| Budget estimates of new (obligational) authority, fiscal year 1972 | 4,342,635,000 |
| House bill, fiscal year 1972 | 3,003,461,000 |
| Senate bill, fiscal year 1972 | 3,076,535,000 |
| Conference agreement, fiscal year 1972 | 3,189,437,000 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 1971 | −622,820,000 |
| Budget estimates of new (obligational) authority, fiscal year 1972 | −1,153,198,000 |

| | |
|---|---|
| House bill, fiscal year 1972 | +$185,976,000 |
| Senate bill, fiscal year 1972 | +112,902,000 |

OTTO E. PASSMAN,
JOHN J. ROONEY,
CLARENCE D. LONG,
EDWARD R. ROYBAL,
WILLIAM D. HATHAWAY,
GEORGE MAHON,
GARNER E. SHRIVER,
DONALD W. RIEGLE, Jr.,
ROBERT C. MCEWEN,
J. KENNETH ROBINSON,
FRANK T. BOW,
*Managers on the Part of the House.*

GALE W. MCGEE,
ALLEN J. ELLENDER,
WARREN G. MAGNUSON,
JOHN C. STENNIS,
HIRAM L. FONG,
EDWARD W. BROOKE,
MILTON R. YOUNG,
*Managers on the Part of the Senate.*

## THE LATE HONORABLE CARL HAYDEN

The SPEAKER pro tempore (Mr. MATSUNAGA). Under a previous order of the House the gentleman from Arizona (Mr. UDALL) is recognized for 60 minutes.

Mr. UDALL. Mr. Speaker, on January 25 of this year Carl Hayden died after a remarkable life of 94 years.

This unusual man had served in the Congress from the day that Arizona became a State, beginning in the year 1912. He broke all records for length of service—continued length of service—having served in the House of Representatives for 15 years and the Senate 42 years before his retirement in 1969.

Mr. Speaker, on January 26 Representative RHODES, my colleague from Arizona, and I announced to the House the death of Senator Hayden and a number of tributes were paid to this great man by my colleague and I, by the Speaker and the minority leader and others, all of which are to be found in the CONGRESSIONAL RECORD, volume 117, part 1, page 1044.

Mr. Speaker, my colleague (Mr. RHODES) and I took this special order this evening in order to afford our colleagues in the House an opportunity to join us in paying further tribute to the remarkable life of this distinguished man.

I have had a number of requests for extensions of remarks in connection with this special order.

Mr. RHODES. Mr. Speaker, when Arizona's former Senator Carl Hayden died on January 25, Arizona lost one of her most beloved and dedicated pioneers. His every thought was for his State and her people, and his every effort was directed toward her advancement and development. Senator Hayden was also one of America's greatest statesmen and public servants—his name is indelibly imprinted on the annals of our Nation for his leadership and unselfish service to all her citizens.

Over the nearly 57 years in which he represented Arizona in the Congress of the United States, Americans in all areas and walks of life knew him as their friend, and were aware of the kindness and understanding and wisdom which made him the great man he was. I think the following tribute to Senator Hayden, sent to me by a very thoughtful lady, Mrs. Fran Lewis, Librarian of Administrative Services of the Arizona Highway Department, and written by Mr. Fred H. Rosenberg, an employee of the Arizona Highway Department, upon receiving word of his death, is a very moving expression of the affection and esteem in which the Senator was held by all:

### THE LORD SAID

Welcome, Carl to Paradise.
You have filled your mission on earth and accomplished your task;
You have led the Congress and Senate well, gave your all for these United States and the State of Arizona you loved so much; in wisdom and direction to achieve peace and good will on earth.
You gained the respect of the peoples of the entire world.
You have served your country for 57 long years.
You have smiled often and loved your fellow man, you looked for the best in others and gave the best you had to all.
You never expected others to accept whatever was distasteful and hateful to you; Carl you left behind the true meaning of Brotherhood.
Your humility and compassion for others must have been quite rewarding and pleased me much.
You saw beauty in all I created, In Arizona, its unbelievable magnificence and never failed to express it in your prayers.
Your prayers and concern about Arizona were always acceptable, for you lived by the Ten Commandments and the Bible as you were taught.
You have left the world better than you found it.
Welcome home, Carl!

Carl Hayden's career covered service as a member of the Tempe Town Council from 1902 to 1904, treasurer of Maricopa County from 1904 to 1906, sheriff of Maricopa County from 1907 to 1912, Member of the U.S. House of Representatives from 1912 to 1927, and Member of the U.S. Senate from 1927 to 1969—a total of 67 years. Few men can match such service to his fellow men, particularly when all of it was rendered with honor and integrity. The goal of his service was always the improvement of our country—and the American West shows particular evidence of his success in attaining those goals of reclamation, power, highways, parks, and irrigation. Most notable, of course, is the central Arizona project, which hopefully and properly will bear the proud name of the Carl Hayden project.

Senator Hayden married Miss Nan Downing in 1908 and cherished her until her death in 1961. Although most of their life together was spent in Washington, their home was always Arizona, and upon Carl's retirement he returned to Tempe, the town where he was born 94 years before. Until his death he went almost daily to his office in Arizona State University's Charles Trumbull Hayden Library, named for his father, where he worked with the papers of his past days in the Congress and on his personal interests, including the history of Arizona.

All who knew Carl Hayden are the richer for their friendship and association with him. He will long be remembered as a patriot and gentleman and statesman who represented the people of his State and Nation with dedication and ability. Certainly, the words "Well done, good and faithful servant" most fittingly describe his life.

Mr. GERALD R. FORD. Mr. Speaker, I am proud to join my colleagues in this memorial tribute to one of the remarkable men ever to serve in the Congress of the United States, the late Carl Hayden.

Carl Hayden was remarkable in many ways—not only because he served in Congress for 57 years, a record for consecutive years of service. He was remarkable because he was most wise, most patient, and a master in the art of compromise which marks a great lawmaker.

Carl Hayden was remarkable not only because his congressional career spanned the transformation of the old West into the new West and the incredible growth of the world's most powerful Nations. He was remarkable because he was a man of sterling character and a profound devotion to doing what was right for the Nation.

Carl Hayden was also remarkable because he believed, like the very best Americans, that hard work was a virtue. And hard work and patience paid off for him in the greatest achievement of his amazingly long career—the flowering of Arizona through enactment of the central Arizona project.

I knew Carl Hayden through many years of association with him as a member of the House Appropriations Committee. He left his mark on every Federal program involving irrigation, power, and reclamation projects in the West. He was a quiet man, but his actions bespoke his power as chairman of the Senate Appropriations Committee.

Carl Hayden loved his country and was ever alert to a threat to the United States and to world peace. He was a strict internationalist in world affairs and a dedicated friend of those who have served their Nation in time of war.

Mr. Speaker, today we salute a man who served with—not under—10 Presidents, a truly remarkable man, Carl Hayden of Arizona.

Mr. SISK. Mr. Speaker, I should like to join my colleagues in paying tribute today to a great American. Although Carl Hayden has departed from our midst his great works will long survive him.

He was truly a man of the American West. He descended from pioneer stock that first settled Arizona, and was elected to Congress in 1912 when Arizona was first admitted to the Union. He then served his country and State here for 57 consecutive years.

While his first interests were always in his native State, he was the leading figure in Congress for many years in the development of that commodity which is most important to all the West—water. I had the distinct privilege of working with him on water matters vital to California, and he gave unstintingly of himself to California water problems as well as Arizona's, since they were so intertwined.

Quietly, industriously, he worked in the service of his country. Through his efforts this is a greater nation.

Mr. SCHWENGEL. Mr. Speaker, it is a great privilege for me to join with my colleagues at this time in paying tribute to a truly distinguished American. Carl Trumbull Hayden's life spanned nearly a century of our National history, a century filled with momentous and shattering events in which this country became the single greatest power in the free world community. For over half of that time—56 years, to be exact—he served in the Congress of the United States, 42 years in the Senate and 14 years in the House.

To a unique degree, his life reflected the transformation of America which marked the end of the Civil War and the passing of the frontier. His roots were deep in that frontier life, with its values of courage, initiative, and perseverance. He bore the distinction—among many—of being the first U.S. Congressman from Arizona, a State he loved and served throughout his remarkable career.

It has been truly said of him that no one else in Congress wielded greater influence with less oratory. Self-effacing to a fault, reticent, and prudent with words, he commanded the respect of all. At the time of his retirement, some 4 years ago, he was commended as one unaffected by the "arrogance of power." It would be difficult to find a finer tribute to the character of his life and achievement.

I first met Carl Hayden as a fellow member of the Capitol Historical Society, an organization whose deep concern for American history and tradition in this, the Capital City of our Nation, always won his interest and support. His dedication to the traditions of both Senate and House was a byword among those who knew him. I can bear witness to the dignity, warmth, and quiet intelligence which gave special value to his friendship.

As was said of Christopher Wren, so may it be of Carl Hayden: If you would seek his monument, look around you. He was instrumental in literally transforming the American landscape—in irrigation projects, roads and highways, bridges, dams, railways, and national parks. Reclamation and the development of power resources were areas in which his accomplishments helped reshape the life of the West.

Yet, in the end, his most enduring memorial will be his own life—a monument to his character, a life of integrity, conscientious fulfillment of duty, and faithful service to State and Nation. He will not soon be forgotten, not in this House nor across the land. The memory of his life will continue to inspire and sustain not only those who knew him but generations yet to be who will see in him an example of the shining reality behind that saying which speaks of public office as a public trust. The story of his life and career has become a part of the American dream.

Mr. ASPINALL. I am most appreciative that our colleagues from Arizona, (Mr. RHODES and Mr. UDALL) have secured this time for the Members of the House who desire to do so to pay their tributes to the late Carl Hayden, great Senator from the State of Arizona.

It was my privilege to know this outstanding public servant for almost one-half a century. First, in his early days on the problems of the Colorado River, and then for almost a quarter of a century in our relationships as Members of the Congress. Many Members have had an influence upon my approach to the responsibilities which I have had here in Congress and the labors which I have performed in response thereto. However, no one among my colleagues in Congress has had more influence in these respects on me than the late Senator Carl Hayden. I like to think that I had his confidence right from the beginning of my work here on Capitol Hill, and I know that he had mine.

He was a quiet, constructive and dedicated servant not only to his State, but to all the rest of the Nation as well. He was as effective as any leader we have had during this century and far more effective than most. He performed his duties without seeking the limelight or without any endeavor to intimidate his colleagues. These have been outstanding attributes of many public servants of our Nation, but in these days, I think they are more highly prized than perhaps at any other time.

No one has ever excelled Carl Hayden in his personal dedication to his patriotism and loyalty to his country. The late Adlai Stevenson in one of his outstanding speeches made reference to such values much better than I. He said:

> What do we mean by patriotism in the context of our times? . . . A patriotism that puts country ahead of self; a patriotism which is not short, frenzied outbursts of emotion, but the tranquil and steady dedication of a lifetime. There are words that are easy to utter, but this is a mighty assignment. For it is often easier to fight for principles than to live up to them.

Simply stated, our country is a much better Nation and its place in the councils of the world is much more secure because of the service of this great American.

Mr. SIKES. Mr. Speaker, I join with my colleagues in paying tribute to one of the great leaders in service to Congress and the Nation, the late Carl Hayden of Arizona, who died on January 25, 1972.

His was a colorful career that began at the very grassroots of the American political scene. He was first a member of the Tempe Town Council—the town in which he was born—then served in Maricopa County as treasurer and, later, sheriff. When Arizona was admitted to statehood in 1912, Mr. Hayden came to Washington as a Member of the House of Representatives where he served from 1912 to 1927. He was then elected to the Senate and served as a Member of that body from 1927 to 1969. The span of years that Carl Hayden served is the longest in the history of the Congress—and every one of those nearly 57 years was a year of dedicated service to his State and country. He retired at the end of the 90th Congress in 1968 at the age of 91.

It is my privilege and pleasure to be one of Carl Hayden's friends. Through my membership on the House Appropriations Committee, I had frequent occasion to be associated with him in his role as chairman of the Senate Appropriations Committee. He was a man of wisdom, knowledge, vision, and integrity. He possessed the qualities of sound judgment and clear understanding to a remarkable degree.

Carl Hayden was not only an institution in the Congress; he was an institution in the Nation. He was one of the great figures of our generation and also of the generation that went before us. He will be long remembered as one of the most outstanding men in the history of the Congress of the United States.

Mr. EILBERG. Mr. Speaker, it was with great regret that I learned of the passing of our esteemed former colleague, the Honorable Carl T. Hayden, Representative from Arizona from 1912 to 1926; and Senator from 1926 to 1968.

A friend of good government, liberal reform, and Federal services for persons and areas in greatest need, Carl Hayden became an institution here in Washington. He was an early supporter of social security legislation, in a period when the program was judged as revolutionary. He was an early advocate of Federal aid to education. Against the protests of powerful mining interests in his own State, he championed reform measures in the areas of mining, reclamation, and the public lands. He was ever in the forefront of the fight for ethical distribution of the Federal weal, and on that basis was designated chairman of the powerful Senate Committee on Appropriations. In that capacity, he came out firmly for continued and increasing expenditures in the public interest. An expanding population required expanded Federal services; so he believed, and his policies as chairman of Appropriations mirrored that belief. He was never bullied into economy ventures at the expense of those Americans in need.

Carl Hayden spent 14 years in this Chamber before entering the Senate, establishing a record for quiet, hard-working effectiveness that rendered him a favorite on both sides of the aisle. Neither here nor in the Senate was he given to speechmaking, but in both Houses he was known as a most effective legislator, with dramatic powers of persuasion.

Taking office initially at the close of the horse and buggy era, Carl Hayden became the champion of the macadamized road, and was largely instrumental in establishing the modern formula for the vast Federal highway aid program. Without proper transportation facilities, Arizona would remain forever isolated from eastern wealth, and Carl Hayden was anxious to provide the transportation required to alter that arrangement. The Federal highway program did the job, and Carl Hayden was gratified.

He also was a leading advocate of Federal irrigation programs looking to the benefit of agricultural regions habitually visited by drought. The Colorado River Basin bill, enacted into law in the final year of Carl Hayden's congressional career, was a glowing tribute to his many years of labor in behalf of Federal irrigation aid. President Johnson marked the occasion of the signing of the bill by declaring Carl Hayden Day at the White House, and praising Carl Hayden for his service in this regard.

The highest ranking position ever held by Carl Hayden—in the official sense—was Acting Vice President of the United

States, under Lyndon B. Johnson, following the assassination of John F. Kennedy. Yet, from the outset of his congressional career, the standing of this remarkable man—Carl T. Hayden—was head and shoulders above the great mass of his contemporaries. He was always one of the best, in every aspect of his political performance.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join my colleagues from Arizona, the Honorable JOHN J. RHODES, the Honorable MORRIS K. UDALL, and the Honorable SAM STEIGER, in paying tribute to the great career, and especially the historic congressional service, of the late Senator Carl Hayden of Arizona.

Representing a State that still retains the pioneering spirit, Senator Hayden was, in fact, the pioneer legislator of his State, having served as its territorial delegate to Congress, the first Member of the House from that State, and having had a remarkable career in the Senate. Senator Hayden was a great citizen of Arizona and on behalf of his State made a great contribution to the Nation.

It has been my privilege to be closely associated with the present Arizona Senators, the Honorable BARRY GOLDWATER and the Honorable PAUL J. FANNIN, and I know from my personal conversations with them of the great respect in which they held Senator Hayden. Throughout his career, Senator Hayden symbolized the ruggedness, perseverance, and individualism which typifies the people of the great State of Arizona.

Senator Hayden continually rose above partisanship when working on the complex problems he encountered in the course of his illustrious career. He was especially respected and revered by his colleagues in the Congress. They knew him to be a man of his word and he was truly a "legislator's legislator."

The fact that Arizona is no longer a remote and a barren area, but is one of our most rapidly growing States, is certainly, in large measure, due to the efforts, leadership, and perseverance of Senator Hayden.

Mr. MAHON. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to the memory of the late Carl Hayden, of Arizona. For years we enjoyed a close relationship. Long before I became chairman of the House Appropriations Committee in 1964, Senator Hayden had become chairman of the Senate Appropriations Committee. We had a close and delightful working relationship from the time I became a junior member of the House Appropriations Committee in 1939 until Senator Hayden retired from Congress in December of 1968.

Measured by any standard, Senator Hayden was a great American. He typified the West. He was a man of few words, but of great wisdom and effectiveness as a legislator. He had charm and all of those assets which are so typical of the wide open spaces which he represented so well.

Arizona and the Nation were enriched by the long and effective labors of this man in the Congress of the United States.

Mr. ROONEY of New York. Mr. Speaker, the passing of Senator Carl T. Hayden, of Arizona, sadly marks the end of an era both for the people of that State, whom he served so faithfully and well, and for the people of our entire country. For 57 years, from the time that Arizona was admitted to the Union in 1912, Carl Hayden served here; first for seven terms as a Member of the House of Representatives and then for 42 years as a Member of the other body. He was a master of the legislative process and as hard a worker as either body has ever seen. He was a man respected and admired by all his colleagues in both Houses, on both sides of the aisle.

I had the privilege of working with him innumerous times over the years on matters before the Appropriations Committees and of knowing him as a warm and sincere friend. He was truly one of the great ones. And what a remarkable life—from frontier sheriff to the House of Representatives to the U.S. Senate—a lifetime of service to his fellow Arizonans and to his country. Men like Carl Hayden do not come along often; he will be sorely missed. His family has my deepest sympathy.

Mr. CARTER. Mr. Speaker, hot roads stretch across the desert. The pavement melts into the hills, all just an arm's length away, the hills of many browns melting into a falling sun.

Out of the ground slips a narrow stream, downhill, between, away from the blue-hot sky and the bubbling brown earth. The cool flow runs down. The water spreads its fingers through other earth seeps through the hot soil, finds the planted roots. From the warm brown soil a green shoot rises, reaches to the blue heat of the air.

Brown earth becomes gray. The gray of buildings and the grace of glass rise from the Arizona earth. Trucks haul the green grain of the valleys; gray planes climb into the blue.

Much of this Carl Trumbull Hayden knew as a young man in an infant place called Arizona. Much more of this Carl Hayden left behind when he departed a last time from the land he knew so well—the land he had seen grow into a great State.

A chapter in the history of the United States is closed with the death of Carl Hayden, who was himself a landmark in American political history. Let us today pause to reflect upon his contributions to the people of his Nation and his State.

Living standards, agriculture, transportation, the Nation's stature in the eyes of the world—all these grew in Carl Hayden's time, until the Nation into which he helped join his land had grown to be the most powerful country in the world.

All this Carl Hayden saw; he called it "a great piece of history."

Carl Hayden's death marks the end of another part of his Nation's lifetime. The land from which this Nation grew cannot support the whole weight of megalopolis much longer. The point is about reached where the brown earth Carl Hayden knew so well will sag and break beneath the steel of America.

I join my colleagues today in paying tribute to Carl Trumbull Hayden. He gave us leadership and a sense of history, as he represented Arizona from the time of Statehood.

No record of service in Congress equals his, and not just in the sense of duration. Indeed, he was one of the grandest pillars in the halls and history of the Congress. Those of us who had the privilege of knowing him have touched our true heritage.

But his legacy will be incomplete if we do not care for his land. We must continue in the spirit of his great devotion to his country, and in his efforts to make one of the most breathtaking landscapes in the world not only accessible but livable for his people.

If we do not, we dishonor the legacy of Carl Trumbull Hayden, in the State he helped build, in the Nation he helped guide, and in these Chambers he helped dignify.

What remains is a large order from a large man.

Mr. WHALLEY. Mr. Speaker, I would like to join my colleagues in paying tribute to the late Carl Hayden, former Senator from Arizona and one of the greatest men of our time. Born in 1877, his lifetime spanned the emergence of the West from frontier territory to modern society and the growth of the United States into a great industrial and international power. In a very real sense, the story of his life is the story of America in the past century.

Carl Trumbull Hayden was born in Tempe, Ariz., but at that time the town was called Hayden's Ferry. It was founded by his father, an Arizona pioneer, and was later to become the home of Arizona State University. Carl attended Stanford University, but his father's illness and sudden death during his junior year forced him to return home to take on responsibility for the family business. Very soon he began to show the interest and the talent for political affairs that led to his outstandingly successful political career.

In 1902, when he was 25, Carl Hayden was elected to the Tempe City Council. He won the post of treasurer of Maricopa County in 1904, and that of sheriff in 1906. In the fall of 1911, while training with the National Guards at Camp Perry, Ohio, Carl read in a newspaper that President Taft had declared that as soon as Arizona adopted a constitution, it could become a State. He decided immediately to seek Arizona's single congressional seat, and thus was launched a career of more than half a century of leadership and dedicated service to Arizona and the Nation.

Carl Hayden came to Congress in 1912 and had served, first in the House and then in the Senate, under 10 Presidents when he retired in 1968 at the age of 91. In the Senate he chaired the Committee on Rules and Administration and then the Appropriations Committee. Few men have played a greater role in shaping the monumental legislation of our time. There was no arrogance in his use of power. Rather, he exerted his quiet leadership to obtain the compromise that was most beneficial, fair, and acceptable to all.

Senator Hayden knew the West, its resources and its potential. Practically every program which has contributed to western irrigation, power, and reclamation bears his mark. Roads, dams, military installations, and his triumph, the central Arizona project, are the enduring monuments of his achievement. He was instrumental in acquiring new railroads, securing the Federal highway system, establishing the Grand Canyon National Park, and in constructing Coolidge Dam.

Senator Hayden was indeed a great American. By his colleagues he was admired, respected and loved for his political sagacity, his dedication to Senate traditions, his remarkable ability to make and keep friends, and for his devotion to quiet, hard work. President pro tempore and dean of the Senate from 1957 until his retirement, he retained to the end his keen intelligence, wit and zest for life. Arizona, the Congress, and the Nation that he served so well will mourn his passing for many years. We were the richer for his life among us, and now we have been made poorer by his death.

**Mr. MANN.** Mr. Speaker, a man among men has gone from among us, and we are the less for his loss. I speak today in remembrance of the late Honorable Carl Hayden, the distinguished gentleman from Arizona, who earned that appellation in the truest sense of the word from his colleagues of the Congress, from his constituents in Arizona, and from the more politically knowledgeable of the Nation. That Carl Hayden was a well respected and beloved man who never succumbed to the arrogance of power is well evidenced by his return to the Congress during a period that spanned more than 57 years. His Senate service was longer than that of any other man in the Nation's history.

My friend was proud of the fact that he bore the badge of the Democratic Party—a party regularity—with honor and distinction; but the love of his people and their loyalty to him was reflected in the fact that he never used party allegiance as a test of his willingness to help a friend. He was Jeffersonian in the sense that he never allowed a political difference to interfere with friendship, for as he once wrote a friend:

> I have friends in both political parties and I do not forget that fact when there is an opportunity to be of service to them, regardless of whether they are Republicans or Democrats.

And so it is today right, and just, that he should be honored by those of all partisan principle. His friends also gave him help in his moments of need. It was the prophet Joel who said:

> Your old men shall dream dreams
> And your young men shall see visions.

And from his long service to Arizona and to the Nation, from his wealth of practical experience, he dared to "dream dreams"; and from his retained youthful spirit he saw "visions" that would lead him to yet more accomplishment for his people.

At age 91 he realized one of his most cherished and long sought dreams when President Lyndon Johnson signed into law the lower Colorado River Basin bill. And he was further honored by the President who declared "Carl Hayden Day" at the White House, saying the Senator deserved credit for the new law that would cause his beloved desert to flower into new commodities and resources for Arizona and for the Nation. Mr. Hayden's foresight meant much to the ecological balance of his beloved country and he worked in the Congress for the preservation of scenic wonders, and national parks, and monuments for all mankind to enjoy. He was a man both with, and ahead, of his times. His services ranged the spectrum and he played a major role in the reclamation of fertile acres that opened scenic, climatic and industrial treasures to new citizens of his State and to visitors from all the world.

Senator Hayden always talked "roads" when he visited the White House and when one President, of the 10 under whom he served, asked him why he insisted on talking about "roads" all the time he replied:

> Arizona has two things people will drive thousands of miles to see, Grand Canyon and the Petrified Forest. They cannot get there without roads.

And so it is that the ribbons of super highways of Arizona are further tribute today to my late friend. The surging, yet harnessed power of the Colorado and many other attractions of the great State of Arizona are further examples of the persuasive power of this quietly effective man who has gone from among us.

Mr. Hayden's wife, the former Nan Downing, died in 1962. And while they had no issue, the cause and effect of his stream of legislation flows ever onward.

**Mr. MATSUNAGA.** Mr. Speaker, Carl Hayden first came to Congress when his beloved State of Arizona first sent its bona fide representatives to Congress, upon its admission as a State in 1912. As a sheriff in his home county, he had, I have no doubt, enforced the law fairly and vigorously. And when he was elected to the House in 1912, he embarked on a career that kept him in the Congress longer than any other man who ever served here. He served under 10 Presidents, beginning with William Howard Taft, and remarked in a recent interview that "I got along with 'em all."

And certainly, Mr. Speaker, each of them got along with Carl Hayden. One of them, former President Lyndon Johnson, delivered a stirring eulogy to Senator Hayden at the funeral ceremonies.

> I never knew a man who did not love or respect him: I do not think he ever had an enemy.

By the time he retired in 1969, Carl Hayden had served longer in the Senate—36 years—than anyone else in the history of the Republic. It was said by knowledgeable persons that no one in the Senate's history wielded more influence with less oratory. He was, as he advised so many new Members of Congress to become, a workhorse rather than a showhorse.

Mr. Speaker, Carl Hayden was a gentleman—a gentle man—unpretentious, with unquestioned integrity and unfailing courtesy. He served not only with exceptional length in the Congress, but with exceptional ability, and he left an indelible imprint on his State, the Congress and the Nation.

Perhaps the best way to characterize the life of Carl Hayden is to say that he lived up to the standard he himself set by which to judge public servants. He once told an audience:

> The real reward for serving America is the knowledge that you have served her, and you never finish with that kind of service. It runs from the cradle to the grave, gives purpose and direction to our lives.

Mr. Speaker, those words truly exemplify this great American, Carl Hayden.

## GENERAL LEAVE

**Mr. UDALL.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the life and service of the late Senator Carl Hayden.

**The SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

## RADIO FREE EUROPE—RADIO LIBERTY

**The SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FRELINGHUYSEN) is recognized for 5 minutes.

**Mr. FRELINGHUYSEN.** Mr. Speaker, I expressed the hope yesterday that Senate and House conferees could reach early agreement on legislation to provide funds for Radio Free Europe and Radio Liberty. To show that there is considerable support for these activities, I am submitting for consideration several editorials.

The editorials follow:

[From the New York Times, Feb. 21, 1972]

### SAVING FREE VOICES

For a generation now, Radio Free Europe and Radio Liberty have contributed enormously to enlarging the market place of ideas in Eastern Europe and the Soviet Union. Their transmissions have made available to those countries factual news of the outside world that the governments involved would have preferred their subjects did not know. In addition, these stations have broadcast the writings of such dissidents as Nobel Prizewinner Aleksandr Solzhenitsyn, whose masterly novels and stories are prohibited in the Soviet bloc. A Library of Congress study of these stations, made at the request of the Senate Foreign Relations Committee, has paid high tribute to these organizations' contributions toward liberalization of the Soviet world.

But now both these stations are threatened with extinction tomorrow unless House and Senate conferees end a Congressional stalemate. This situation arose because each chamber voted a different bill authorizing the continuation of these broadcasts.

If the deadlock kills Radio Free Europe and Radio Liberty, the chief gainers will be the Soviet bloc's hardliners who hate the two radio stations as allies of the liberal and progressive elements in the Communist world. Moreover, the demise of these broadcasts because of the inability of House and Senate conferees to agree would hardly project a flattering view of the American legislative system, nor would it add to American prestige for Europeans to see an important political question decided by a mere technical stratagem.

We believe the work of these two stations has a lasting validity and importance, but even those of a different view must realize that the existence of these oragnizations provides potential bargaining counters for President Nixon's Moscow visit next May. At the least, all concerned should be able to agree that a final decision on the future of Radio Free Europe and Radio Liberty cannot be made until Mr. Nixon has returned from the Kremlin, and Congress can take a hard look at the post-Moscow situation of American foreign policy.

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[From the Washington Post, Feb. 22, 1972]

### RADIO FREE EUROPE STILL HAS A PART TO PLAY

When American public—or political—opinion swings, it tends to swing hard, and this is likely to be more and more of a problem for the Nixon Administration as it trumpets its "breakthrough" in Peking this week and, presumably, further successes in Moscow in May. No matter what the true measure of the rapprochement achieved in either Communist capital, there will be a tendency on the part of some to exploit a "new era" in world relationships as a reason for scuttling anything and everything that smacks of the dark, old Cold War days. A case in point is the effort now being conducted in the Senate, largely by Senator Fulbright, to choke off appropriations for Radio Free Europe and Radio Liberty, which beam broadcasts into Eastern Europe and the Soviet Union, respectively, with the help of government funds. The CIA used to finance these broadcasts covertly and after this was brought inescapably to light two years ago the government took over the burden openly, but on a temporary basis while debate continued about whether these operations should be continued and in what form.

With the question still unsettled, a continuing resolution authorizing temporary funding of RFE and RL expires today and the money will run out in a few weeks. This is just what Senator Fulbright thinks should happen, his point being that everything is changing, what with Mr. Nixon's new approaches and new evidence of conciliation in China and the Soviet Union, and that therefore RFE and RL should "take their rightful place in the graveyard of Cold War relics." The Senator would have us believe, on the basis of White House briefings he has received about the President's policy, that broadcasts of this sort behind the Iron Curtain are contrary to the President's purposes in Peking and Moscow.

The President, however, has not only never said as much, but has actually expressed quite the opposite view; in a recent letter to Mr. Stewart Cort, the chairman of a fund which seeks to raise private money to supplement RFE operations, Mr. Nixon said he thinks the free flow of information is "indispensable" to more normal relations between East and West. Given the nature of the service performed by RFE and RL, it would seem to us that their programs fit the President's definition of what is still needed in Europe, for all the bright hopes of easing tensions and developing detente. For these are not provocative, propagandistic diatribes and still less do they "sell" America, U.S.I.A.-style. Rather, what both stations attempt to do is tell the people of Eastern Europe and Russia news about themselves and their own countries which their governments don't want them to hear. They do this job professionally, responsibly, and effectively, by almost all accounts, and the only real question for Congress, in our view, is how RFE and RL should be set up in a more permanent way so that they can go on doing it.

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[From the Evening Star, Feb. 22, 1972]

### VOICES OF HOPE

We hope that members of the Senate Foreign Relations Committee who pride themselves on their liberalism and their championship of the right of dissent in this country will not take it upon themselves to deny the same rights to the citizens of the Soviet Union and Eastern Europe. For this, essentially, is what they may do in the near future by scuttling the operation of two radio stations that have played an essential part in the tentative and fragile trend toward liberalism in the Communist world.

The fact that Radio Free Europe and Radio Liberty, both operating out of Munich, were once secretly financed by funds from the Central Intelligence Agency is, in our view, quite beside the point. The point is simply whether or not the operation of these stations promotes the broadest interests of the United States and the people of Eastern Europe and the Soviet Union.

The Congress, by and large, apparently believes that they do promote these interests. As of last November, both the House and Senate had passed separate bills providing for the public financing of the stations, under the overall supervision of the State Department. But since then, the two bills have been bottled up in conference where resolution of the differences between them has been effectively blocked by Chairman Fulbright of the Senate Foreign Relations Committee. If there is no action by the end of this week, the stations will be out of business.

For his part, Fulbright is openly hostile to the operation of the stations. In his view, they are an "anachronism" that have "outlived any usefulness they may have once had." Says Fulbright: "I submit these radios should be given an opportunity to take their rightful place in the graveyard of cold war relics."

The men in the Kremlin and in the beleaguered chancelleries of Eastern Europe would certainly agree: a good many millions of people in Communist countries would not, including the small, desperately brave and bitterly persecuted group of intellectual dissidents in the Soviet Union. The same goes for millions of Soviet Jews. For these people, Radio Liberty is the only means of getting pleas across to their own countrymen.

As for Radio Free Europe, which broadcasts to the Eastern bloc countries, the Congressional Research Service of the Library of Congress has reported that "it contributes substantially to preserve the reservoir of good will toward the United States" and has even, in the opinion of the researchers, contributed to the slight liberalization of the Communist regimes that has taken place. If so, it would be a tragedy if these programs were scrapped in the name of American liberalism.

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## NATIONAL FUTURE FARMERS OF AMERICA WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, we have been hearing quite a bit lately about how today's youth is working within the system and is "putting it all together" in an effort to make our Government more responsive to the problems we face today. The theme, "Let's put it all together," seems to have replaced the philosophy that "In order to build, we must tear down."

We have many responsible young people who are taking an active and constructive interest in the affairs of our Government. However, in looking to our future, I know of no group that has in their hands more strength and more power to lead America than the Future Farmers of America.

This week, from February 19 through 26, is the observance of National Future Farmers of America Week. The theme for this year's observance is most appropriate—"Youth With a Purpose" It is most appropriate, for nationwide over 450,000 young men and women and their chapter advisers are continuing to improve conditions in rural America as well as helping to guarantee that agriculture continues as our Nation's No. 1 industry.

It is common knowledge that today we have problems in agriculture. Farm oriented citizens know them by heart—the farm income crisis, the cost-price squeeze, the fact that young people today cannot find adequate economic opportunity in our rural areas.

Yet, despite the problems, the challenge for American agriculture remains unchanged and this challenge is still being met. The American farmer is expected to feed a growing population and to try to help feed a troubled and hungry world. Many of our current FFA boys and girls will help us meet these challenges by carrying on the proven tradition of the family farm and American agriculture. Farmers today produce the highest quality food at the lowest price in the world—and they produce enough for themselves and for 45 others.

As we observe National FFA Week, we are in fact selling the value of farming and a way of life. In this regard, I think it is time we get the chip off of our shoulders and quit running down opportunity in rural America. For some time now, we have been hearing the complaint that farming is a dead-end occupation without much future. It is true that we are losing too many family farm operations and that the farmer is not receiving justice at the marketplace. Many simply cannot put together the land, the management, and the modern equipment necessary for a good and profitable operation.

But, in having the privilege to meet and visit with many FFA chapters in my congressional district in Kansas, I have found that despite our problems in rural America, these young people are determined to try to stick it out and are looking forward to the future with optimism.

The number of young men who are running bigger and better farm operations is increasing—not fast enough, but increasing. The point is that "poor mouth" talk does not do the farmer justice and one of its effects is to discourage boys who really would like to prepare for modern farming.

I fully realize the family farm operation is no longer what it used to be. The tremendous shift to expensive machinery, technology, new demands on productivity relating to man-hours of labor and complex management problems means farming is a complex and big business—and tragically, it also means fewer farmers.

Nevertheless, we should quit this business of pouring cold water on the future of farming. There are unlimited opportunities for young people in agribusiness. The family farm is still the most efficient way to produce food and fiber. The vast number of successful farms today are medium sized, well equipped, and managed and run by a family operation.

Most important, young people who belong to the Future Farmers of America realize that taking care of the land and preserving God's creation is man's greatest source of satisfaction.

FFA membership today is also sponsoring a constructive program that allows each young man or woman to see tangible results for their efforts. The program is called Building Our American Opportunities or BOA.

The BOA program, now in its third year, is a coordinated effort between community leaders and FFA youth to initiate local self-help programs for community improvement. One aspect of this program deals with actual physical improvements such as building parks, ecological centers, renovating old business districts, construction of outdoor recreation centers, and a general overall cleanup of their home communities and the surrounding area.

Another aspect of the program concerns the social problems of our rural areas such as unemployment, job placement, and career counseling. The FFA has been extremely successful in working with local community leaders and with nonmembers in improving social and physical conditions throughout rural America.

I am confident that we can fulfill the promise of American agriculture in the future. I am confident because of the work of the Future Farmers of America and their dedicated advisers. It gives me great pleasure to salute the FFA during this special week. FFA truly represents youth with a purpose—to build a better America. As we in Congress endeavor to improve economic opportunity in our rural areas, let us this week renew our dedicated support to this fine organization.

## SPECIAL ASSISTANCE NEEDED FOR TURKEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, at the beginning of this year during the congressional recess, I had the opportunity to investigate firsthand some of the massive problems our Nation faces in illegal drug traffic. Part of my on-the-spot investigation of the problem occurred in Turkey, a country which last June announced a total ban on opium growing, effective during the fall of this year. As high as 80 percent of the heroin traffic into the United States originates in Turkey. But there are many complications to what might appear to be a solution in regard to Turkey. Turkish farmers have grown poppy for centuries and opium, a product of lanced poppies, is a legitimate cash crop, with the farmers using poppy seeds for seasoning, the oil for cooking, and the stalk for fodder and fuel. In fact, in 1970, the United States alone imported nearly 20,000 pounds of poppy seed oil and 6.5 million pounds of sterilized poppy seeds for use in foods and other legitimate purposes. Even though 75,000 Turkish peasants depend on poppy cultivation for their livelihood, heroin addiction is virtually unknown in Turkey. In fact the opium farmer is seldom aware of his part in the spread of a terrifying worldwide epidemic.

When a kilogram of heroin reaches the American addict, it is worth $250,000 on the street, but the Turkish farmer will have received no more than $250 for the opium used to make the heroin. So the great value of heroin does not benefit the Turkish producer or the Turkish economy. Instead, it is the illegal processors and carriers all along the trail of misery that reap the huge profits, their compensation for the risks of dealing in an illegal drug. So the Turkish farmer is understandably confused by having a crop prohibited which he has grown for centuries for legitimate purposes. Notwithstanding the unpopularity of the prohibition and the criticism that the Government is being a "Washington lackey," Turkey's Government has acted with courage in banning opium farming as of the fall of 1972.

There are other problems for Turkey in addition to the disgruntled farmers, such as the massive task of enforcing their new law. To succeed, the Turks will need the support of the United States. In a country where bribery is sometimes considered a legitimate business expense, a city policeman may earn as low as $40 per month. There are not nearly enough reliable inspectors to insure that poppy growing will cease. Informers, a key to drug detection in any location, are not abundant in the closely knit, intermarried communities where people are shot for far less serious offenses. Despite these and other problems, Turkey's Government is making a bona fide effort to curb drug traffic. In addition to the law prohibiting opium farming, there are now 240 narcotics agents in Turkey. Turkish laws are among the most severe in the world, and judges in Turkey show little tolerance in applying these laws to smugglers or users.

It is possible, as India has shown with its strict licensing system and severe punishment for violators, for a country to prevent almost all opium exportation. But Turkey will need a great deal of help. Our $3-million loan to Turkey for police training and equipment is a start, but we must help the Turkish farmer and the Turkish law enforcement officer in a greater way as opium farming becomes prohibited this fall, and we can do this through grants, equipment, know-how, and advisers.

## TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's pioneers of progress and in so doing renew our faith and confidence as individuals and as a nation. In 1913, American Elmer Sperry created the first gyrocompass.

## A STUDY OF PRISONS IN NEW JERSEY—REPORT AND FINDINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SANDMAN) is recognized for 5 minutes.

Mr. SANDMAN. Mr. Speaker, I recently conducted a detailed inquiry into New Jersey's penal system for the Select Committee on Crime.

In response to numerous requests by my colleagues in the House to consider the report and findings I have submitted to the committee, I insert it in the RECORD:

### REPORTS AND FINDINGS

### PREFACE

This study was undertaken and this report is submitted in the hope that true penal reform can be achieved promptly in the State of New Jersey.

Politically, a prisoner has no constituency and little voice with which to seek budgetary priorities or fundamental changes in the philosophy, techniques and facilities of prison society in which he lives.

Sadly, it has taken inmate uprisings such as we have witnessed nationally during the past year and recently in New Jersey to focus public attention on the prison dilemma. Only after such disturbances, it seems, the call for reform is echoed from all quarters.

But the echoes fade from the public memory swiftly if we can judge from history. Not for lack of the proper inclination to achieve reforms among prison authorities and legislators, but because deep down, society persists in the archaic notion that prisons are to confine and punish rather than to rehabilitate or correct offenders.

A noted commentator once observed: "The degree of civilization in a society can be judged by entering its prisons." It is hoped that this report provides sufficient facts and observations from inside prison walls to translate the general public concern that exists today into constructive, lasting and prompt reform.

### ABBREVIATED HISTORY

As elsewhere in the nation, New Jersey's system of corrections has consistently been and is now handicapped by archaic facilities, insufficient and untrained personnel and inadequate resources with which to operate and make improvements.

It is miraculous that there are as few prisons uprisings as there have been for inmate life, in all but perhaps two of New Jersey's prison institutions, is barren and futile at best.

I have long urged prison reform with my personal observations that were recorded as early as 1956.

During my tenure as a member of the New Jersey State Senate and as a member and chairman of the Joint Appropriations Committee for many years, I was acquainted with all institutional needs in New Jersey.

In the late 1950's, I co-sponsored a $40 million bond issue designed to meet the needs of the Department of Institutions and Agencies. My primary purpose then was to provide the wherewithal to reduce the problems presented by overcrowding in our prisons. I was appalled that our prisons were nothing more than forgotten repositories of human beings.

In 1962, in an attempt to introduce a progressive plan of correction and rehabilitation, a priority schedule of capital expansion of prisons was agreed upon. This occurred during the first administration of Governor Richard J. Hughes.

That priority schedule called for the construction of a new medium security prison at Leesburg in Cumberland County and of a new reformatory at Yardville in Mercer

County. While I recognized the many problems and deficiencies at that time in our prison system, it was assumed that efficiency and effectiveness would be fostered by resources provided during the Fiscal Year of 1962–63. Accordingly, the first monies were made available by passage of a $50 million bond issue in 1963.

In keeping with the projections made available to us at that time, it was felt that the improvements provided for in that bond issue would be sufficient to meet the needs of New Jersey's penal system for the foreseeable future.

Probably more important than the brick and mortar rebuilding programs were the many other reforms that were to be initiated with relatively little cost to the taxpayer. At the time, New Jersey's plan was ambitious and progressive: the criteria for continuing reform of our penal institutions had been established.

It must be noted, however, that for some reason after I left the State Senate, much of those carefully considered plans were abandoned or forgotten. As one who was closely involved in the making of those plans and in securing the necessary votes in the Legislature and the favorable vote of the public by referendum, I have frankly been saddened by how far astray from those plans the resulting facilities and programs are.

New Jersey, like all other States in the past, has built prisons for the purpose of detention primarily, with little or no facilities for correction and rehabilitation. In the interim, crime and the apprehension of those who commit crimes have multiplied tremendously.

The number of incarcerations for violations of the narcotic laws has skyrocketed, thus contributing to overcrowding of our prisons at a time when every available cell is needed due to the increased number of predatory, aggressive offenders who are committed for violent crimes in the streets.

And so the basic purpose of my inspections and of hearings in New Jersey's prisons has been to update insight and information I had previously gathered so that the various recommendations in this report are offered from a uniquely involved prospective that has covered 15 years.

This study for the Select Committee on Crime was commenced officially on November 1, 1971, which was prior to any of the outbreaks at Trenton State Prison, Rahway State Penitentiary and at Yardville Reformatory.

At the outset, it was intended that this study be primarily confined to an examination of physical prison facilities in New Jersey and the existing system's ability to house and rehabilitate offenders.

Overcrowded conditions at both Rahway and Trenton State Prisons required that this study be expanded to a review of many factors, including sentencing, parole procedures, county level facilities and the prison population's make-up by offense.

Inspections were made of the minimum and medium security prisons at Leesburg, the maximum security facilities at both Trenton and Rahway, the State Reformatory at Yardville and the metropolitan county jails in Essex and Bergen Counties.

Review of sentencing procedures and other matters was made during a lengthy conference with the Honorable Joseph Weintraub, Chief Justice of the New Jersey Supreme Court, and a number of other high level jurists of the State.

A major difficulty encountered throughout this inquiry was the apparent lack of reliable facts and statistical data in the Division of Correction and Parole. Citing lack of funds, the Division acknowledges this deficiency and reports that only one employee, along with other obligations, is assigned to preparing statistical summaries of statistics. The result of this clearly has been that decisions are made on the basis of speculation rather than facts.

Reliable statistics are absolutely essential for efficient management as well as for planning for any of the institutions and the overall system. The kindest remark that can be made on this score is that data development and record-keeping is haphazard. There is no question that additional efforts are needed for better planning, budgeting, research and analysis.

The recommendations made herein are offered to the Governor and the State Legislature as a method of improving the corrections system in New Jersey. They are offered not in the sense that here is the only acceptable method, but as carefully considered suggestions of one who is genuinely concerned and who is determined that meaningful changes are needed and possible now.

### SECTION I

### *Prison unrest*

During the past year, unrest in the prisons of the nation has increased sharply and dramatically. The outbreaks commenced at San Quentin, California and were followed by the holocaust at Attica, New York. These events prompted the Select Committee on Crime of the U.S. Congress to commence both in Washington and in various prisons pertaining to the causes and possible cures of prison unrest.

Predominant among the reasons given by inmates and authorities for the unrest are that maximum security facilities are grossly inadequate and overcrowded. These conditions have caused almost impossible problems in the handling of large numbers of inmates.

Another major point raised by inmates, though generally denied by prison authorities, has been a lack of communications between prisoners and their overseers, and the lack of trained personnel running the institutions, and finally, the lack of any productive rehabilitation programs and facilities.

One observation should be kept in mind. Short of abolishing prisons, inmates can never be fully satisfied and so that cannot be the goal of penal reform. Common desire among all inmates is that to a man, they would rather be anywhere else.

And if prison society is an extension of society outside the walls, it should be remembered that there are those who insist that only through demonstrations and media-sensationalized shows of dissent can changes be secured. Most disturbances may be triggered by inmates with that futile feeling that the only way to be heard is by rioting, taking hostages or issuing demands.

### SECTION II

### *Classification of inmates*

Once sentenced to imprisonment, an individual's first days in prison are in many respects the most important: certainly, this is true for first offenders. Nearly all will have been incarcerated at local jails during trial, but many are sustained by hope of a favorable verdict. Uncertainty ends upon sentencing and the reality of adapting to prison life must be faced.

Classification of an individual is the priority task of the prison system. It is the means by which the problems of each inmate are indexed so that at best an appropriate program of rehabilitation, if it existed, could be scheduled for him.

At a minimum, classification is the process by which young first offenders can be separated from hardened criminals. It is when the narcotic offender is separated from the mentally disturbed and the homosexual from the burglar.

Further, it is when a determination should be made as to the degree of incarceration an inmate needs and deserves at the outset: degrees identified as maximum security, medium security and minimum security.

Proper classification of inmates can help reduce overcrowding, thereby cooling tensions and reducing the chances of disturbances.

Adult male convicts in New Jersey are supposedly classified at Trenton State Prison, younger ones at Yardville Reformatory. The present process is extremely uncertain, unprofessional and long, with delays during classification "observation" of several months quite common. Average stay at Trenton is 29 months.

In testimony before the Committee at Trenton State, Warden Howard Yeager noted that law requires that each inmate have a psychiatric report to be used as a basis of classification. Yet he pointed out that there is only one psychiatrist on the staff to handle approximately 1,800 inmates.

Testimony further developed that of the population at Trenton State Prison in maximum security, well over half are convicted of non-violent and mostly victimless crimes. If New Jersey's initial classification of inmates were effective, offenders such as junkies, bookies and non-supporters would not remain in Trenton Prison for the duration of their terms as many now do.

### SECTION III

### *Is there a need for the maximum security prison?*

During our tour of the institutions, we heard from many of the New Jersey prison authorities that the future needs of the State could be met by expanding the number of medium and minimum security units and further, that no additional maximum security prisons should be built.

In testimony at Leesburg, Director Albert C. Wagner of the Division of Correction and Parole, stressed this viewpoint. Others in authority including the Governor of the State, are advocating immediate and huge expenditures be made to construct two or three medium security prisons, such as the facility at Leesburg.

All those questioned agreed that maximum security facilities are necessary. Warden Yeager at Trenton said that his prison could function well as a maximum facility given adequate improvements and a reduced population of not more than 800. Chief Thomas Oldew at Rahway confirmed the same information for his prison.

Maximum security prisons house the most troublesome inmates that other institutions do not want or cannot handle. Under present projections, conditions and financial limitations, it is evident that the maximum security prisons at Trenton and Rahway must remain in operation for many years to come, but not without significant improvements.

### SECTION IV

### *Degrees of incarceration*

New Jersey has three types of penal institutions to handle convicts of crimes or various misdemeanors. There are two maximum security prisons for men, each originally built to house 90 at Trenton and at Rahway. The total minimum security at Leesburg designed for a capacity of 500, but now housing some 320 inmates.

There is also a minimum security prison at Leesburg designed to house 350 men. Rahway State Prison sends minimum security prisoners to Marlboro and houses additional minimum security inmates outside the wall at Rahway. The total minimum security facilities available in the State today is about 600.

In addition to these three major "degrees of incarceration," the State of New Jersey has followed the lead of nearly every other state by implementing work release and furlough programs, both worthwhile and successful to date though just developing in terms of the number of inmates participating.

These programs of course, can be successful only to the extent of how trustworthy individuals involved are. In fact, for an entire system of rehabilitation to be successful, it must be premised upon a lessening of the degree of security over the inmate as his term progresses.

There are prisoners, the number of which is unknown, who can be classified as totally incorrigibles; individuals that no matter what efforts are made to help them, resist to a point that maximum security may be necessary throughout their terms.

But for the majority of inmates, given proper circumstances in which to function, progress can be made and measured so that they would respond positively to an incentive program designed to reduce their level of incarceration from maximum security to medium security and then to minimum security.

Such an incentive program is needed in New Jersey's penal system. With it, of course, must come more effective and regular classification of the progress, or lack of it, of each inmate.

One of the most shocking findings of this study was the extent of the practice of releasing prisoners to the streets straight out of maximum security. Though here is an example of where reliable statistics are not kept, best estimates are that three times as many prisoners go from maximum security to freedom than are transferred from maximum security to medium security. If an inmate is not trusted enough to be placed into medium security, how could he deserve parole or release back into society?

Warden Yeager quite accurately described this situation as a serious and dangerous dilemma which, he said, more than any other single element accounts for the high rate of recidivism: approximately 60% of the men released in this manner are later reconvicted and sentenced to prison.

The bulk of prisoners who are released from maximum security to the streets have served their full sentences or, in a lesser number of cases, their reduced sentences permitted under law which, of course, neither the Warden or the courts can control.

That my recommendation for an inmate incentive program could be productive is borne out in some excellent and progressive research and program development by William E. Prendergast, Jr., Director of the Rahway Treatment Unit. Mr. Prendergast has come forth with a highly impressive program and record of success by "Re-education of Attitudes (and) Repressed Emotions" of inmates. Called R.O.A.R.E. for short, Prendergast's intensive group therapy program employs new techniques that show great promise in rehabilitation.

Used at Rahway now only in the treatment of sex offenders, Mr. Prendergast cites a recidivism rate from his program of only about 12 percent and that primarily because the men he was working with were released before treatment was completed.

Even the most hardened criminal can, he claims, be helped to some extent by the R.O.A.R.E. method. The program doesn't rely in any sense on pampering the prisoners: that's not why they're in prison. Men are sent to prison because they violated the law and the law requires that they be punished.

At the same time, prisons serve society best by rehabilitating individuals so that the probability of their return to unlawful behavior will be diminished. The inmate, by virtue of his incarceration, loses many privileges. However, he does maintain basic individual rights which require an institution to treat him fairly and give him the best possible chance to rehabilitate himself for a better life upon his release.

From the time of his original sentence to maximum security and classification until the time of his release from prison, a workable program must be established so that wherever possible and as soon as possible, the man is transferred to medium security and then to minimum security.

If upon his release from maximum security, the authorities have reason to believe they are dealing with a psychopath or someone who is a continuing threat to society, then perhaps the Legislature should entertain the thought of changing certain laws so that such an individual can be detained for further treatment rather than released.

With further reference to treatment, one cannot overstress the importance of trained guards, or as they prefer, correction officers. New Jersey has a dismal record on such training. The American Correctional Association recommends at least 52 hours of training per year plus an extensive orientation course when a man assumes a correction officer job. In New Jersey, a mere 15 percent needing training were provided it. And of those, training lasted only 20 hours for each officer.

The overcrowded conditions at both Rahway and Trenton State Prisons could be alleviated through reclassification by transferring more inmates to minimum and medium security facilities.

Approximately 200 vacancies exist at the medium security prison at Leesburg and another 100 vacancies exist at the minimum security farm there. If 300 appropriate prisoners were transferred from Trenton to Leesburg, Trenton State would have the approximate population it should have—some 900 men.

The same is true at Rahway, though overcrowding there is less acute. It should not have a capacity of more than 800 in maximum security either. At least 200 men now at Rahway should be moved into medium and minimum security facilities that could be created at very little cost by expansion projects at Leesburg and at the other minimum security prisons in the state.

A systematic review of all maximum security prisoners should be made on a monthly basis with the goal of reclassifying them to medium as soon as appropriate. The "good time" privileges given prisoners in New Jersey is extremely liberal. Under New Jersey law, a prisoner can be released on good conduct by serving either his minimum sentence or one-third of his maximum sentence. This, together with the additional benefits of work release and furloughs, should be additional incentive for an inmate to peaceably and productively spend his time.

### SECTION V

### *The narcotics offender*

Under the laws of New Jersey, before it was recently changed, a narcotic user convicted for possession was given a mandatory sentence of from two to three years in State Prison. This statute was amended in 1971. However, many of those people who were convicted under the old statute are still serving terms in maximum security prisons.

In cases where the only offense was the use and possession of narcotic drugs, the individual should not have been sent to a maximum security prison in the first place. He should be sent to a Narcotic Treatment Center.

The narcotic user is the weakest individual in any prison and the prey of more dangerous inmates. At Trenton State Prison, for example, Warden Yeager testified that of a population of about 1300, some 650 inmates on the day of our inspection were there on a conviction of possession, use or sale of narcotics.

From the statistics available, it appears that there is a serious need in New Jersey for a 350 bed narcotics treatment hospital. This need is so urgent that the State should not waste time to build such an institution. It should lease existing facilities such as the Jersey City Medical Center which the State long ago could have acquired for $1. The 1966 report of the New Jersey Drug Study Commission recommended such an institution at that time. The need existed then and is more acute today.

The removal of 350-men who are narcotics offenders from the maximum security prisons would again diminish the overcrowded conditions that exist today.

The Narcotic Treatment Center at Skillman Psychiatric Institute is too small and not capable of taking care of this tremendous demand at the present time. Additional state facilities are needed immediately.

### SECTION VI

### *Optimum size and location of prisons*

Throughout the testimony of authorities from around the Nation at the Committee's hearings in Washington and at our hearings here in New Jersey, there seems to be a unanimity of opinion that the maximum security prisons should be of a maximum population of 800. Many experts argue that even that figure is too high and some favor small 200-cell complexes. A consensus is about 600.

The day of the huge institutions, such as Attica, New York, has come to an end. With more than 2,200 inmates within the walls there, authorities had an impossible situation to cope with in trying to curtail the recent uprising there. These arguments ten years ago, of course, led New Jersey to design Leesburg medium security prison for a capacity of 500.

The federal maximum security prison at Marion, Illinois, has a capacity of about 800. It is regarded as one of the finest penal institutions of its kind anywhere in the world. Its inmate population averages sentences of more than 30 years. All of the inmates that previously occupied Alcatraz were transferred to Marion. The prison has an enviable record, having experienced no major disturbances since it opened in 1963. As far as the size of the prison is concerned, it is evident that the success at Marion lies in setting a limit of 800 for new prisons of maximum security.

The location of a prison is also extremely important because the main remedy for holding down inmate unrest is contact with outside society through visits of friends and relatives. Reasonable visitation policies at prisons help inmates cease to believe that they are forgotten men, a natural tendency of thought.

It can be said that the number of visits an inmate receives is proportional to the number of miles the visitor has to travel. The main objection now to the medium security prison at Leesburg is that more than 75 percent of its inmates come from metropolitan areas in North Jersey, making it an extremely long trip to visit.

In 1969, New Jersey embarked upon a new program which, under certain circumstances, allows a prisoner to be employed outside the prison walls by private industry. This system has worked well from the testimony we have taken. However, if the prison is far from industrial areas, job opportunities outside are reduced. And if it is hoped that an inmate would keep his work-release job after he is released from prison, the job should be as close as possible to his outside residence. The New Jersey experience in this regard has no reliable statistics at this time primarily because the program is so new. However, it is evident from information received from elsewhere that upon release from prison in almost all cases, a prisoner returns to his previous place of abode.

Therefore, prison location can be an important factor in determining a man's chances of finding employment after he is released, especially if he has availed himself of a work-release program while still in prison. Any new institution, whether it be maximum, medium or minimum, should be built in the geographical center of the highly-populated section of Northern New Jersey.

### SECTION VII

### *Trenton State prison*

The original prison in the State was built near the present location of Trenton State

Prison at the close of the 18th century. The oldest cell block still in use was originally built in 1834. All of the buildings, with the exception of a new structure for educational use, are more than 70 years old. The old cell blocks were built under the old system of solitary confinement.

Overcrowding has reached the point where there are as high as four men in a cell. The Trenton State Prison, in addition to holding new arrivals for classification, houses the most dangerous inmates in the State. It is the location of the execution chamber and the death house.

There are no rehabilitation training facilities here on the premises. The new education building, when it is put into use later this year, is to serve a worthwhile purpose: however the institution is sorely in need of vocational training.

The buildings at Trenton State Prison are so old and so depreciated that there is a great question as to whether or not it is economically feasible to consider repairing them. Almost all of the growth area has been utilized: in fact, there are too many buildings on the premises now.

If the maximum population were reduced to 800, the oldest cell block building should be torn down and in its place, shops for vocational training similar to those in Yardville Reformatory should be constructed.

According to available data, it appears that those who have been sentenced to maximum security because they are of a higher average age, a far greater percentage have an established occupation than the inmates, for example, at Yardville. Where the average age is lower, there is a much higher percentage of inmates who have no occupation.

This could be interpreted to mean that vocational training is more beneficial to the State and society in a reformatory than in prisons. However, there is an unanimity of opinion that vocational education serves a definite benefit in every type of correction institution. There is no question that the inmate as well as the society he will return to both benefit from his being better prepared to earn his own living. And all agree that the idea of keeping inmates occupied with definite positive results on the operation of the institutions themselves.

### SECTION VIII

### *Rahway State Prison*

Rahway State Prison was originally built at the turn of the century. Almost all of its buildings are 70 years old with the exception of one cell block which was built in the early '50's. The institution is well kept. However, most of the buildings have outlived their usefulness to a point where it is hardly economically feasible to invest monies for extensive repairs or renovations.

Rahway seems to have a great deal more space inside the walls than Trenton State Prison. However, its capacity should also be reduced to not more than 800. To do this would permit the razing of the oldest cell block to make room for Yardville-type vocational training facilities such as previously advocated for Trenton.

The Rahway prison has no vocational training at present. The investment at Rahway is rather large. In fact, its newest investment, which is about eight years old, is a $3 million laundry that services most of the State institutions North of the Raritan River.

The work shops at Rahway as well as Trenton are very old and the machinery generally outdated. The work program at both maximum security institutions should be expanded so that State Use Industries' products can meet the increasing demands of all of the State institutions.

We were tremendously impressed with the R.O.A.R.E. program at Rahway as previously mentioned. Those responsible for the program are of the opinion that it can be extended into many other areas of correction, rather than just sex offenders as at present. Provision of space to house this kind of expanded program should be made at both Trenton and Rahway, perhaps later to the other prisons. And a long range program must be developed to replace the Rahway buildings. As is the case at Trenton, the Rahway location is favorable.

### SECTION IX

### *Leesburg minimum security prison*

Opened in 1913 in beautiful rural surroundings, several hundred acres are under cultivation and large herds of dairy cattle are attended. It has a present capacity of approximately 300 and had an average daily occupancy in 1971 of 250. This institution is well run. The number of attempted escapes have been minimal. Leesburg seems to be an ideal location for the minimum security-farm type of institution. And because of the vast amount of land, this institution could easily be expanded to a capacity of 500.

### SECTION X

### *Leesburg medium security prison*

Constructed adjacent to the minimum security facility, the new Leesburg Medium Security prison was constructed from 1963 bond issue funds. It received its first inmates in early 1971 and this institution has a very controversial history.

It is presently designed to have a maximum capacity of 500, but on the date of our visit, there were 328 inmates. Final phases of construction are well underway.

When this prison was originally designed in 1962, it was regarded by experts as being the finest of its kind anywhere in the Nation. However, its cost turned out to be extremely high. Cost of construction to date is over $16 million, not counting a planned but now abandoned regional $3 million laundry that was to have served State institutions South of the Raritan River.

Leesburg Medium Prison has cost the taxpayers of New Jersey more than one and one-half times the cost of the Nation's strongest Federal maximum security prisons at Marion, Illinois, which cost $10,500,000 for 800 of the hardest core prisoners in the Nation. By comparison, Marion was built under the Chicago wage rate—the highest wage rate at the time of construction in the Nation. The medium security prison at Leesburg cost the taxpayers of the state some $33,000 for each living unit—an amount equal to about twice the cost of a luxury Hilton Hotel unit built anywhere in the world at that time. It is reported by those in authority today that the Leesburg facility duplicated under present costs would run over $25 million or some $50,000 per unit.

The construction at Leesburg at such a very high cost still leaves a lot to be desired. Most of the construction is concrete block and masonry. Compared to the Yardville Reformatory, which cost approximately the same amount of money and was built at the same time, no reasonable person can agree that the finished plant at Leesburg is anywhere near as good as Yardville. There is no point in belaboring the comparison.

The Leesburg medium security prison boasts up-to-date machinery in all of its work programs, notably in its bakery, which is almost totally automated in a prison system where there are four men for every inmate job presently available. In this modern bakery, it requires only 13 men to produce baked goods that with less automation would occupy three or four times as many men. It is extremely difficult to justify high automation in a prison.

The insitution has a number of new classrooms, but on the day of our visit, none of them were occupied nor ready for use. Operation of Leesburg medium security prison seems to be efficient and the officers and employees there seem dedicated.

Vocational training facilities are under construction at Leesburg, though they are too incomplete to judge at this time. But total cost of these valuable facilities will nowhere near approach the cost of the bakery.

Because of the glaring inadequacies, a few of which have been referred to in this study, at Leesburg including the extremely high cost per unit, it would be a mistake to attempt to duplicate this type of design elsewhere. To reconstruct another Leesburg at a cost of $50,000 per unit is a luxury that the Garden State could ill afford. Such a proposal on bond issue referendum would most certainly be defeated at the polls.

### SECTION XI

### *Yardville Reformatory*

Also built from the 1963 bond issue monies and opened in 1968, this is a reception center for all youth correctional commitments and young adults. Ages range from 15 to 30 years. Current population is 800 males and although there are other reformatories at Jamesburg, Bordentown and Annandale as well as the women's prison at Clinton Farms, this institution drew our closest scrutiny because it is the newest and the largest in the entire state system.

This institution at Yardville rates with the finest in the Nation. Its design is practical. Its construction economical. Its over-all facilities meet every requirement. The entire operation is most impressive. On the day of our visit, morale seemed to be very high throughout the institution and yet one week later, a rebellious group within the institution seized hostages and made vociferous demands to aid their views to the press. Clearly, unrest may occur in corrections institutions regardless of the excellence of facilities and basic corrective programs as at Yardville.

An alarming percentage of the inmates at all of the institutions, particularly Yardville, have had experience with drugs. A sizeable percentage have been addicted to heroin. The major suggested improvement for Yardville Reformatory would be greater segregation of drug addicts from other prisoners. It is extremely dangerous for a hardened heroin user to be in close communication with a teenage non-user.

The New Jersey Narcotic Drug Study Commission in its several reports revealed that the average age in 1964 for the first use of an addictive drug in the State was 19. The same report, as the result of hundreds of interviews backed up by sound data, proved that in more than 90 percent of the cases, the first use was caused by curiosity. This fact no doubt remains true and it is therefore vital that addicts be segregated from teenage non-users. Addicts, in close contact daily with a non-user, invariably glorify in telling about the wonderful feeling experienced under the influence of heroin. This kind of conversation over a long period of time can do nothing but excite the curiosity of a teenager to a point that upon his release, he will be more apt to experiment with the dangerous addictive drug.

### SECTION XII

The hue and cry for local jail reform has been echoed for as long as the facilities have existed. It is the municipal or county jail where individuals accused of crime are first remanded and it is there too often that first offenders are hopelessly dehumanized by their first experience in overcrowded, poorly managed jails. The county jails, because of their primary function as holding facilities, rarely make any pretense or effort to be correctional in purpose.

According to the United States Justice Department, of the Nation's 4,037 jails, 89 percent lack educational facilities, 86 percent contain no facilities for recreation, 49 percent lack medical facilities, 26 percent don't permit visitors and about 60 of them even lacked toilets. These medieval conditions in many respects are in greater need of reform than the "big houses."

Two of New Jersey's county jail facilities and programs were reviewed by the Committee. Following are brief reports on the County Jails in Bergen and Essex Counties.

### *Bergen County Jail*

Unquestionably the best county-level penal system in New Jersey and the best I know of in the nation, exists in Bergen County under the administration of Sheriff Joseph Job. Bergen County has two separate facilities—an old institution which is located behind the Court House building in Hackensack and the other, a new institution opened January 1967 located about one mile from the Court House. We inspected only the new institution and questioned Sheriff Job and his administrative staff at length about Bergen County's facilities and programs.

The new Bergen facility is a model arrangement with nearly every sensible correction program to meet the needs of one of the State's most densely populated counties. The jail has a capacity of approximately 180. On the day of our visit, there were 65 male inmates and 15 females.

Sheriff Job testified that his number one target is to keep the population down to the lowest practical level. During 1970, 4759 persons were dealt with by the Bergen County jails, which have an over-all capacity of just over 300 persons. The new jail serves primarily for serving sentences, as opposed to detention for trial.

The institution has an excellent high level of morale, both for inmates and the correction officers, who are well trained and motivated. Sheriff Job points with pride to the fact that every inmate who leaves his prison system has a job to go to and money in his pocket earned while incarcerated. Recidivism there is the lowest in the State—under 20 percent. Inmates are isolated generally by offense as necessary, are given excellent recreational, educational and job opportunities and the inmate relationship to the jail's correction officers and administration and therefore society is very good.

I commend the full transcript of our hearings at Bergen County when it is published as highly rewarding and informative reading for anyone genuinely interesting in learning about a model institution.

### SECTION XIII

### *The Essex County Jail*

Essex County is the largest First Class County in the State, having a population of nearly one million people. The crime problem in the City of Newark is so acute and presently unmanageable that the County Board of Freeholders recently constructed a new penal facility.

Adjacent to the County Court House complex in the heart of Newark, Essex County's new jail was opened in mid-1971 and is a 13-story high-rise design. The movement of prisoners in and out has a fantastic average of 400 daily. This County Jail is under the administration of Sheriff John Cryan after the County Freeholders turned the facility over to him this past Fall. In all fairness, Sheriff Cryan quite obviously is doing his very best under extremely difficult circumstances.

Construction of this facility, at a cost in excess of $10 million, commenced in 1964. Nearly all of the inmates in the new jail have not been convicted of the crimes for which they are being held. They are awaiting trial for the most part.

In testimony before this Committee on December 21, 1971, Sheriff Cryan said the intended maximum population of the new jail is 580. In 1971, the inmate flow through the county penal system exceeded 12,000 persons. At the time of our hearings, 85 inmates were awaiting trial on the charge of murder. Fifty had been indicted for First Degree Murder, the remainder on lesser murder charges.

During an inspection of the 13-story jail, a conclusion that it was structurally obsolete and unmanageable even before it is finished was hard to avoid. The argument advanced for building the institution downtown was that untold amounts of money would be saved on transportation alone for inmates having to make court appearances. Thus the close proximity to the Court House, it was reasoned.

As it turned out, in terms of the personnel needed to man the 13 different floors, the Sheriff is now faced with having to double his staff just to have adequate custodial care. There is also a serious question of security in the Essex high-rise because cell door controls are located only on alternate floors as are the communications centers.

Other drawbacks of the overcrowding, indefinite stays, and poor design are the lack of adequate classification of inmates, any rehabilitation programs of significant drug counseling despite the fact that over 70 percent of the jail's population is a result of drug-related offenses.

The institution has a gymnasium, an auditorium and a Chapel. Very few of the inmates can be used for jobs within the institution since the great bulk of them are awaiting trial or sentence. Essex has two other institutions—one which is known as the old Jail and a second which is known as the Essex County Penitentary at Caldwell. County facilities can handle 900 inmates.

The most dangerous part of the entire operation are those inmates that are awaiting trial or sentencing for felonies and crimes of violence, including murder. It is well-known that the most difficult inmate to handle and the one who can be trusted the least, is the individual who spends every moment in desperation and doubt, never knowing what his fate will be. This individual is most apt to attempt to escape or to harm or even kill someone. Under such tension, the Essex County Jail could explode into a serious disaster at any time.

Immediately and at the very least, individuals in the Essex County Jail that are awaiting trial or sentence for a crime of violence should be transferred to another, more secure and manageable institution. When the number of inmates is small, and the amount of supervision more adequate, it is easier to manage.

### SECTION XIV

### *Problem of prison overcrowding*

As is evident from the foregoing, inadequate and too infrequent classification, along with certain mandatory sentences are major factors contributing to overcrowding, particularly of the State's maximum security prisons at Trenton and Rahway. Convicts of non-violent offenses, except under extraordinary extenuating circumstances, should not be imprisoned in maximum security facilities. They do not belong there.

It is granted that the bookmaker, the numbers writer, the gambler and similar offenders may be part of organized crime. If the courts determine that he be incarcerated, then he should be immediately classified for minimum security. He is the type least expected to try to break out and the one most able to become adjusted to minimum security. The same can be said for so many other non-violent crime offenders.

And the teenager who has committed a non-violent crime should not, again except in extraordinary circumstances, be sent to the maximum security prisons. We interviewed a boy who, upon his escape from the Bordentown Reformatory at age 19, was sent to Trenton State Prison, where he served two full years before he was released. He was denied transfer to the medium security prison and to the minimum security prison at Leesburg. How is it possible for a boy of his age not to be fit for transfer to minimum security on one day and then fit for release the next? He shouldn't have been sent to Maximum Security in the first place.

To cut down the present population in the two maximum security prisons in the near future, it will no doubt be necessary for the Legislature to consider changing the law of the State so that many of the non-violent offenders cannot be sent to maximum security. Such a recommendation at this point has great merit.

### SECTION XV

### *Financing institutional needs at the State level*

New Jersey, because of its highly tax conscious public, has over the years financed its capital improvements by floating large bond issues. This method carries with it a painfully slow process of fulfilling a drastic need, such as prison reform now.

In addition, the New Jersey public, much the same as elsewhere in the Nation, has not been willing to expend large amounts of money for prisons unless such proposals are tied to more popular causes like mental hospitals and the like. For example, the only large institution construction in the last 20 years were financed by bond issues, only part of which were for prisons: namely Leesburg medium and Yardville.

This slow process of funding by bond issue cannot be used as the answer to the current prison crisis in 1972. To simply say we will bond two or three new Leesburgs to remedy the existing problem is only kidding the public.

Leesburg medium security prison, under this procedure, took ten years to build. Even if New Jersey makes the mistake of trying to duplicate Leesburg elsewhere, we should not under any circumstances use the same method of financing.

The 1972 problem should be financed by direct appropriation in the 1972–73 fiscal year budget. It is estimated, accurately we feel, that all of the emergency physical change recommendations in this study can be effected for approximately $10 million. That includes razing of the oldest cell blocks at both Trenton and Rahway to reduce population at each institution to 800. It includes construction of effective Yardville-type vocational training facilities at both Trenton and Rahway. And it includes provision of space for R.O.A.R.E. programs at all three prisons and expansion of the minimum security farm at Leesburg to 500.

The possibility of securing substantial Federal funds for capital construction use in New Jersey's prison system will be discussed in the next section. But in the event that New Jersey will have to raise the entire $10 million or so for these emergency improvements, it is suggested that those revenues be created immediately by a slight increase in one of the excise taxes rather than postpone these needed improvements while waiting for the elongated bond issue procedure.

The recommendations herein contained can meet the immediate needs of the State at the present time and for several years to come. However, a new institution will be needed by 1975, according to current projections, and plans for it should be made now.

It should be of medium security with expanded minimum security facilities. Its location should be in the metropolitan Northern area of the State. It is recommended that an institution designed similar to the Federal maximum security prison at Marion, Illinois would be far more economical and efficient than using the Leesburg design.

Basically, the only difference between medium security and maximum security are manned towers on outside walls. These are terribly expensive to maintain and operate. Although there is a great deal of authority that recommends that any institution be not greater in size than to house 600 inmates, there is no reason why such an institution cannot be placed adjacent to another State Institution. In fact, such a plan should be carefully considered so that central power and utilities could be utilized for more than one institution.

### SECTION XVI

### *Federal funds*

Through the Law Enforcement Assistance Administration, (LEAA) the Federal government annually provides millions of dollars to New Jersey to fight crime: over $6 million in Fiscal 1971 and more than double that amount in Fiscal 1972 with additional increases for future years.

But in New Jersey, the Division of Correction and Parole is ending up with nothing more than a bone of the LEAA funds so far. Even less filters down where it is needed the most now—in the prisons. To date, it is interesting to note that the New Jersey authorities have yet to allocate a single dime to try to help remove the State's most glaring prison deficiencies. Unconfirmed rumors persist that New Jersey's LEAA administrative agency (SLEPA) will soon free several million dollars in withheld federal funds for prison purposes. Such expenditures should be spent as part of an over-all master plan of reform, not for stop-gap purposes.

As one of my recommendations to the Committee On Crime, later this month, I intend to ask for a detailed investigation of how and where Federal LEAA funds are being spent by various States, including New Jersey.

In December, I introduced legislation in the House of Representatives to help cut red tape involved in the use of LEAA funds. And when Congress reconvenes later this month, I intend to introduce additional legislation to free LEAA funds for use in capital construction of State correctional facilities, plans of which meet certain standards. Hopefully, with support of the State of New Jersey, this legislation could help pay for a sizeable percentage of the bill for both the immediate facility reforms needed and the long range needs of the State's correctional system.

Sheriff Cryan and other officials in Essex County pointed to current regulations which ignore County Sheriff Departments in the distribution of certain LEAA funds. I have assured the Sheriff that this matter will also be studied and that if possible, federal funds for law enforcement will be made available to Sheriff's departments as well as other law enforcement agencies now eligible under the program.

### SECTION XVII

### *Need for State legislative action*

A multitude of old laws on the State statute books affecting mandatory sentences should be studied and either repealed or amended. Courts should be empowered to review cases of those sentenced under statutes that are changed or repealed.

In addition, several laws that hamper the chances of employment of a released prisoner should be changed. Many of the professional boards have promulgated rules which prohibit any person convicted of a crime from working in that field. Ex-convicts cannot be barbers, for example. Such a rule should be changed because in many of the institutions, inmates are taught how to cut hair. If this is the only field they know how to be employed in when they are released, how do they get such jobs when they can't secure barber's licenses? A review of all such statutes should be made and acted upon by the Legislature at an early date.

In our review of these laws, we had a two-hour meeting with The Honorable Joseph Weintraub, Chief Justice of the New Jersey Superior Court and several of the State Assignment Judges. The information and insight gained in that conference was extremely valuable.

### SECTION XVIII

### *Summary of recommendations*

A. *Emergency Prison Facility Reforms.* A $10 million plan to relieve overcrowding, better treat drug offenders and implement rehabilitation and training programs is recommended. The plan should include:

Rental of a 350-bed hospital for narcotics offender treatment, a move that would result in better treatment and would remove drug offenders from maximum security prisons where they do not belong.

Raze the oldest cell blocks at both Trenton and Rahway Prisons to reduce inmate population at each location to 800.

Finish medium security construction to house 500 inmates and expand minimum security capacity at Leesburg from 250 to 500 and elsewhere as appropriate.

Construct and establish at both Trenton and Rahway a comprehensive vocational training complex similar to that which presently exists at Yardville.

Provision of space and funding for intensive group therapy program (R.O.A.R.E) for all types of offenders throughout the entire prison system.

B. *Long Range Prison Facility Improvements:*

Begin plans now for one new 600 to 800 unit medium security prison in Northern metropolitan area to be ready for occupancy in 1975.

Implement plan of gradual replacement of antiquated buildings at both Trenton and Rahway.

C. *Handling of Inmates:*

Establish a more adequate and frequent classification system, complete with competent psychiatric care.

Institute an "inmate incentive plan" by which prisoners can earn advancements from maximum to medium to minimum security facilities and programs, deserving additional privileges and greater freedom along the way including work release and furloughs.

Non-violent offenders such as bookmakers, gamblers, narcotic use cases, etc. should be held in maximum security, except in extraordinary cases.

Revise cell block assignments as needed to segregate types of offenders.

D. *Financing Prison Reform:*

Finance emergency facility reforms (A above) by direct appropriation in the 1972–73 State budget. If needed, impose slight increase on an excise tax instead of using time consuming bond issue method of financing.

Proceed with bond issue plans for new medium security prison needed by 1975 and building replacements.

Support Federal legislation in Congress to permit the use of LEAA crime-fighting funds for capital improvements of State Correction Institutions.

E. *State Law Revision:*

Legislature should review the penal code to make sentencing uniform, to repeal laws that discriminate against employment of former inmates and to widen the scope of discretion on the part of judges and the prison system with respect to the location, duration and degree of incarceration.

Establish a separate bureau for the management and administration of all correctional institutions in the State. Current arrangement within the Department of Institutions and Agencies dilutes authority and too severely limits budgetary requirements.

Cooperate as fully as possible on budgetary requests for prison reform, particularly items such as psychiatric care, R.O.A.R.E. funding, correction officer training, and education and vocational training for inmates.

This report could not have been made without the valuable assistance of our Chief Counsel, Frank Paglianite; the assistance of various State, County and prison officials in each of the institutions we visited and the wholehearted cooperation of the Chief Justice of the New Jersey Supreme Court and his associates.

The program recommended herein is far reaching and comprehensive. If the State of New Jersey recognizes and admits that a crisis exists as it does, then the Governor and Legislature must be prepared to act on these recommendations at the earliest possible date.

Mr. Speaker, full transcripts of the testimony taken at all of the hearings held in connection with this study are being published by the Select Committee on Crime. I am advised that the committee's full report should be available soon.

### FUNDING THE REFORMS

Since the foregoing report was written, I have met with officials of the Federal Law Enforcement Assistance Administration to clarify the considerable confusion throughout New Jersey as to the authorized uses of LEAA moneys.

As a result of this meeting, it is now apparent that the $10 million emergency program of penal reform I have recommended for New Jersey can be paid for with a combination of State and Federal funds.

Specifically, it is recommended that $6.5 million of the fiscal 1972 LEAA funding for New Jersey be used for prison reform as outlined. The remaining $3.5 million could be secured from the dedicated proceeds of the State's lottery.

It is not widely remembered, but when New Jersey's highly successful lottery was approved, it was done by a statewide referendum that amended the State constitution to dedicate all receipts to higher education and institutions.

Therefore, Mr. Speaker, it is my opinion that the nature of the prison crisis in New Jersey is such that this marriage of $6.5 million of Federal LEAA funds and $3.5 million of lottery receipts must be arranged immediately.

Following is an initial breakdown of 1970 and 1970 awards and projections by the LEAA in New Jersey for corrections programs. Also following are several noteworthy exhibits of statistics on New Jersey's prison system:

STATE OF NEW JERSEY,
STATE LAW ENFORCEMENT
PLANNING AGENCY,
*Trenton, N.J., January 28, 1972.*

Hon. CHARLES W. SANDMAN, JR.,
*Member of Congress,*
*Washington, D.C.*

DEAR CONGRESSMAN SANDMAN: The Attorney General has referred your letter of January 20, 1972 to me for reply with regard to the amount of funds received by the State of New Jersey from the Law Enforcement Assistance Administration in 1971.

Block grant funds received by the State in 1971 totalled $11,870,000. These funds, according to Federal guidelines, are available fo expenditure until June 30, 1973. Therefore, a variety of programs have been funded to date, others are in the process of funding or are anticipated for funding.

In order to expedite matters, I would appreciate it if you would have a member of your staff contact me so that I might arrange to brief him as to the nature and purpose of all these grants.

Very truly yours,
JOHN J. MULLANEY,
*Executive Director.*

LAW ENFORCEMENT
ASSISTANCE ADMINISTRATION,
*Washington, D.C., February 14, 1972.*
Hon. CHARLES W. SANDMAN, JR.,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN SANDMAN: This is in response to your recent letter to Jerris Leonard regarding LEAA funds expended in New Jersey in 1971.

In keeping with the discussion during our meeting on January 31, I am providing information on funds used for corrections programs for Fiscal Years 1970 and 1971.

In Fiscal Year 1970 New Jersey received a block grant award of $6,372,000 and of this amount allocated $2,650,000 to corrections programs. In Fiscal Year 1971 the New Jersey block grant was $11,870,000 and $5,320,000 was allocated for corrections. In addition, in Fiscal Year 1971, New Jersey received $1,437,000 in Part E corrections funds.

I am enclosing a copy of a report on all sub-grants made by the New Jersey State Law Enforcement Planning Agency for projects involving corrections out of Fiscal Years 1970 and 1971.

If I can provide additional information, please let me know.

Sincerely,

RICHARD W. VELDE,
*Associate Administrator.*

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U.S. DEPARTMENT OF JUSTICE, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

[A detailed breakdown of awards and projections for New Jersey Corrections programs follows:]

| | 1970 funds | 1971 funds |
|---|---|---|
| A. The New Jersey SPA made funds available to the State division of correction and parole for the following enumerated projects utilizing 1970 and 1971 funds as indicated: | | |
| 1. Community based treatment center for juveniles (2) (age 14 to 16 years) | $58, 087 | $128, 821 |
| 2. Coordinator of community-based correctional programs | 11, 212 | |
| 3. Expansion of correctional advisory and inspection staff | | 29, 765 |
| 4. Community corrections center for work releases and services to released offenders (2 centers) | 90, 518 | 148, 178 |
| 5. Mobilizing citizen volunteer services for State correctional institutions | | 40, 656 |
| 6. Research for program effectiveness of juvenile rehabilitation projects | | 75, 000 |
| 7. Special narcotics rehabilitation program for the youth reception and corrections center | | 75, 300 |
| 8. Vocational counseling and placement services implemented by graduate school students unit—Youth reception and corrections center | | 75, 490 |
| 9. Lawyers as parole volunteers | | 65, 979 |
| 10. Development and implementation of a correctional officers training academy | | [1] 320, 000 |
| 11. Implementation of a narcotics rehabilitation program with aftercare services in State correctional institutions | | [1] 225, 000 |
| Total for paragraph A | 159, 817 | 1, 184, 189 |
| B. The following awards were made to New Jersey State agencies, other than the division of corrections and parole: | | |
| 1. Department of community affairs: Implementation of a model probation service center in Paterson, N.J | 130, 000 | |
| 2. Bureau of Children's Services: Emergency group home for juveniles without domicile | 21, 250 | 5, 825 |
| 3. Administrative office of the courts. Hudson County Pretrial Intervention Project | | 195, 701 |
| Total for paragraph B | 151, 250 | 201, 526 |
| C. The N.J. SPA awarded the following funds to local units of government for correctional projects: | | |
| 1. Somerset County: Feasibility study for development of juvenile detention center | $15, 000 | |
| 2. Bergen County: | | |
| (a) Social case work services at detention center | 26, 310 | |
| (b) Remedial education services in juvenile detention center | 30, 000 | |
| 3. Cumberland County: Feasibility study for development of juvenile detention center | 15, 000 | |
| 4. Mercer County: Counseling services in juvenile detention center | 21, 671 | |
| 5. Atlantic County: Architect's fees for designing new county detention center | 45, 408 | |
| 6. Essex County: | | |
| (a) Guidance counseling in juvenile detention centers | 44, 760 | |
| (b) Recreation programs for detainees in juvenile detention centers | 11, 141 | $32, 891 |
| (c) Residential treatment center for juveniles as an alternative to juvenile court | 113, 533 | |
| (d) Newark defendant's employment project | | 199, 916 |
| (e) Staff support for Essex County prosecutor office to investigate cases recommended for defendant employment project handling | | 19, 300 |
| 7. Morris County: Implementation of a screening unit in probation department to screen juveniles referred by police for detention confinement | | 26, 850 |
| 8. Mercer County: Televised academic education courses from community college to Trenton State Prison | | 39, 000 |
| 9. Monmouth County: Vocational preparation for county jail inmates | | 14, 935 |
| Total for paragraph C | 322, 823 | 332, 892 |
| D. The following projects were funded by the N.J. SPA for local corrections from pt. E funds: | | |
| 1. Cape May County: Development and implementation of an emergency shelter for juveniles requiring temporary domicile | | 75, 000 |
| 2. Atlantic County: | | |
| (a) Construction of a new juvenile detention facility | | 597, 000 |
| (b) Professional services to juveniles in detention | | 40, 00 |
| Total for paragraph D | | 712, 000 |
| E. The N.J. SPA has allocated $150,000 of 1971 pt. E funds to supplement pt. C funds for a program called improvement of practices and programs in county jails | | |
| F. Partial projection of 1972 correctional programs: | | |
| 1. Vocational training and placement of inmates in State prisons | | 500, 000 |
| 2. Expansion of academic educational programs in State correctional institutions | | 420. 000 |
| 3. Expansion of work release centers | | 425. 000 |
| 4. Expanded professional directed treatment services in State correctional institutions | | 150. 000 |
| 5. Other projects are currently under study | | |
| G. The N.J. SPA representative stated that their intention is to expend $2,014,320 (pt. C) and $1,696,000 (pt. E) for corrections programs on the State and local level | | |
| H. It should be noted that the SPA does not fund institutions directly, they only fund the State division of corrections and parole and they (grantee) in turn, supply the moneys for the programs in the various institutions, such as Trenton, Leesburg, and Rahway State Prisons | | |

[1] Pt. E.

### EXHIBIT (a)

I. SELECTED STATISTICS, A COMPARISON—FISCAL YEARS 1968–71: ADMISSIONS TO NEW JERSEY'S PRISON SYSTEM[1]

| Institution | 1968 | 1969 | 1970 | 1971 |
|---|---|---|---|---|
| I. Trenton (main) | 1, 223 | 1, 360 | 1, 351 | 1, 367 |
| II. Trenton (West unit) | 123 | 164 | 164 | 151 |
| III. Rahway (main) | 1, 152 | 1, 242 | 1, 239 | 1, 123 |
| IV. Marlboro unit | 128 | 126 | 134 | 130 |
| V. Leesburg medium | | | | 285 |
| VI. Leesburg minimum | 299 | 321 | 298 | 253 |
| VII. Total admissions | 1, 358 | 1, 557 | 1, 291 | 1, 545 |
| VIII. Average daily population | 2, 841 | 3, 015 | 3, 160 | 3, 209 |
| IX. Dec. 31, inmate count | 2, 925 | 3, 213 | 3, 172 | 3, 308 |

[1] Source: New Jersey Division of Correction and Parole.

### EXHIBIT (b)
### FISCAL YEAR 1971

INMATES CLASSIFIED FOR TRANSFER[1] FROM TRENTON STATE PRISON

| Transferred to: | *Number of prisoners* |
|---|---|
| Rahway State Prison | 437 |
| Leesburg | 309 |
| Jones Farm | 222 |
| Yardville | 9 |
| Total | 977 |

[1] Source: N.J. Division of Correction.

### EXHIBIT (c)
### FISCAL YEAR 1971

RELEASES FROM NEW JERSEY'S PRISON SYSTEM[2]

| | |
|---|---|
| Paroled | 746 |
| From Trenton State Prison | 472 |
| From Rahway State Prison | 274 |
| Released at maximum sentence | 416 |
| Other | 328 |
| Released by Court | 53 |
| Recalled by Court | 4 |
| Transferred to Trenton Psychiatric Hospital | 168 |
| Transferred to Bordentown | 11 |
| Transferred to Yardville | 49 |
| Escaped | 37 |
| Died | 6 |
| Total | 1, 490 |

[2] Source: N.J. Division of Correction and Parole.

### EXHIBIT (d)

SUMMARY OF WORK RELEASE PROGRAM[3] IN NEW JERSEY'S PRISON SYSTEM

Statute signed April 22, 1969 permits inmates to be released for work, school and vocational training.

First inmates began work release June 2, 1969.

There were 87 inmates on work release on Sept. 30, 1970.

A total of 312 inmates participated in work release program up to June 30, 1970.

Of the 312, 287 were employed and 25 attended school.

Total salaries earned to June 30, 1970 was $212,901.00.

Inmates who work outside prison pay a maintenance fee of $4 per day, seven days a week.

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[3] Source: Abstract from Fiscal 1972 Budget Presentation of the N.J. Division of Correction and Parole.

EXHIBIT II

CHARACTERISTICS OF PRISON AND YOUTH OFFENDER SUBGROUPS

| | Calendar 1969 admissions | | | | | Calendar 1970 admissions | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Youth juveniles | Youth adults | Prisoners to age 29 | Prisoners age 30+ | Total | Youth juveniles | Youth adults | Prisoners to age 29 | Prisoners age 30+ |
| Size of subgroups during each year | 3,907 | 930 | 1,515 | 702 | 760 | 4,186 | 892 | 1,985 | 563 | 746 |
| Percent | 100 | 24 | 39 | 18 | 19 | 100 | 21 | 47 | 13 | 18 |
| PERCENTAGES OF EACH SUBGROUP | | | | | | | | | | |
| No. 50—Race | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Nonwhite | 59 | 65 | 54 | [1]67 | [2]57 | 59 | [1]66 | 56 | [1]66 | [2]53 |
| White | 41 | 35 | 46 | [1]33 | [2]43 | 41 | [1]34 | 44 | [1]34 | [2]47 |
| No. 63—Skill level, longest job | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| I. Low skills | 57 | [1]76 | [2]52 | 65 | 51 | 58 | [1]79 | [2]57 | 67 | 52 |
| II. High skills | 43 | [1]24 | [2]48 | 35 | 49 | 42 | [1]21 | [2]43 | 33 | 48 |
| (i) Odd jobs, welfare | 8.7 | 9.0 | 5.3 | [1,2]12.6 | 11.4 | 4.4 | [1]8.8 | 5.5 | [2]2.2 | 3.2 |
| Unskilled regular labor | 30.8 | [1,2]59.0 | 34.0 | 24.8 | 19.0 | 24.4 | [1,2]43.7 | 33.2 | 12.9 | 12.5 |
| Machine operator | [2]17.3 | 7.7 | 12.3 | [1,2]28.1 | 20.7 | [2]29.7 | 16.3 | 18.4 | [1,2]51.6 | 36.5 |
| (ii) Service worker | 15.7 | [1]10.3 | 19.1 | [2]12.8 | 14.3 | 13.5 | 13.8 | 16.7 | [1,2]7.7 | 11.6 |
| Craftsman, foreman | 24.6 | [1,2]14.1 | 28.1 | 19.6 | 26.7 | 23.8 | [1,2]7.5 | 25.1 | 23.4 | 23.7 |
| Professional, manager | 2.8 | | 1.1 | 2.2 | [1,2]7.8 | 4.3 | | 1.0 | 2.2 | [1,2]12.5 |
| No. 79—IQ | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| I. Below average | [2]44 | [2]49 | [1]31 | 48 | 55 | [2]36 | [2]38 | 26 | 44 | [1]52 |
| II. Average | 48 | [2]46 | [1]58 | 44 | 37 | 51 | [2]52 | 56 | 46 | [1]41 |
| III. Above average | 8 | [1]5 | [1,2]11 | 8 | 8 | 13 | 10 | [2]18 | 10 | [1]7 |
| (i) Retarded | 3.7 | [2]1.7 | 1.0 | 5.5 | [1]9.8 | 4.6 | [2]3.2 | 2.3 | 5.5 | [1]10.1 |
| Mild retarded | 11.5 | [2]11.3 | 6.9 | 14.2 | [1]18.5 | 10.6 | [2]9.2 | 6.0 | 13.4 | [1]19.5 |
| Dull normal | [2]28.6 | [1,2]36.0 | 23.6 | 28.4 | 26.8 | [2]21.3 | [1,2]25.4 | 17.5 | 25.2 | 22.6 |
| (ii) Average | 48.3 | [2]46.2 | 57.6 | 43.7 | [1]36.6 | 50.8 | [2]52.3 | 56.5 | 46.3 | [1]41.2 |
| (iii) Bright normal | 6.4 | 4.2 | [1,2]8.9 | 4.9 | 5.3 | 9.7 | 8.3 | [2]13.5 | 5.9 | [1]5.5 |
| Superior | 2.1 | [1].6 | [2]2.0 | 3.3 | 2.8 | 3.0 | 1.6 | [2]4.2 | 3.7 | [1]1.1 |
| No. 12—Present offense | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| I. Offenders versus persons | 34 | 24 | 32 | [1]48 | [2]39 | 33 | 24 | 31 | [1]49 | [2]34 |
| II. Offenders versus property | [2]39 | [2]48 | 46 | [1]25 | 28 | [2]35 | [2]40 | 41 | [1]24 | 25 |
| III. Narcotics law violators | [2]17 | [1]8 | [2]19 | 22 | 19 | [2]21 | [1]9 | [2]26 | 23 | 19 |
| IV. Other offenders | 10 | 20 | [1]3 | 5 | 14 | 11 | [1]27 | 2 | 4 | [2]22 |
| (i) Murder | 4.6 | .6 | 2.0 | [2]9.8 | [1]9.9 | 5.4 | 2.6 | 3.1 | [1,2]13.2 | 8.4 |
| Negligent manslaughter | .4 | .3 | .4 | .5 | [1,2].8 | .1 | | .1 | .2 | [2].2 |
| Rape | 1.3 | .5 | .9 | [1,2]3.2 | 1.1 | .9 | .5 | .8 | [1,2]1.6 | .9 |
| Carnal abuse | .5 | | .6 | [2].7 | [1].8 | .2 | | .2 | [2].2 | [1].5 |
| Other sex offenses | 1.6 | .8 | .5 | 2.5 | [1,2]4.2 | 1.1 | .2 | .4 | 1.8 | [1,2]2.7 |
| Robbery | 16.4 | 10.2 | 20.3 | [1]22.5 | [2]10.9 | 16.7 | 11.0 | 20.3 | 22.2 | [1,2]10.0 |
| Assault, atrocious assault | 6.8 | [1,2]10.8 | 4.4 | 6.3 | 6.8 | 6.1 | [2]7.7 | [1]4.3 | 6.6 | 7.7 |
| Weapons offense | 2.6 | 1.4 | [2]2.8 | 2.5 | [1]3.9 | 1.9 | 1.5 | [2]1.3 | 2.8 | [1]3.0 |
| (ii) Break and enter, larceny | 18.7 | 20.2 | 23.5 | [1]12.5 | [2]12.7 | 17.2 | 19.7 | 21.9 | 10.6 | [1,2]10.0 |
| Larceny, theft | 7.5 | [1,2]10.4 | 8.0 | 5.3 | 5.0 | 7.6 | [2]9.4 | 8.9 | [1]5.8 | 4.4 |
| Auto theft | 4.7 | [1,2]13.3 | 3.2 | .8 | .9 | 4.0 | [1,2]9.7 | 2.9 | 2.2 | 2.2 |
| Forgery, counterfeiting | 1.6 | [1].3 | 2.4 | .7 | [2]2.2 | 1.4 | [1].2 | 1.8 | 1.4 | [2]1.4 |
| Embezzlement, fraud, bad check | 1.4 | .1 | 1.3 | 1.8 | [1,2]2.8 | .9 | | 1.0 | .4 | [1,2]2.1 |
| Stolen property | 5.3 | 3.3 | [1,2]7.6 | 4.0 | 4.3 | 4.0 | [1]1.5 | [2]4.6 | 3.8 | 5.2 |
| (iii) Narcotics law | [2]17.0 | [1]7.5 | [2]19.4 | 21.7 | 19.3 | [2]20.7 | [1]9.0 | [2]26.0 | 22.6 | 19.1 |
| (iv) Family offenses | .3 | | .2 | | [1]1.2 | .4 | | .2 | [2].6 | [1].8 |
| Commercialized vice | | | | (2) | [1].2 | | | [1].1 | | |
| Gambling | 2.3 | | .1 | 1.0 | [1,2]10.9 | 4.0 | | .1 | 1.8 | [1,2]18.3 |
| Juvenile offense solely | 4.1 | [1]17.1 | | | | 4.8 | [1]24.2 | | | |
| Disorderly, other offense (more detailed offense tabulations are available) | 2.9 | 3.3 | 2.4 | [1,2]4.2 | 2.2 | 2.4 | 3.1 | 1.8 | [2]2.2 | [1]3.2 |

[1] The subgroup with the largest difference in incidence compared to incidence among total admissions.

[2] The subgroup showing the largest change in incidence of characteristic from 1969 to 1970.

EXHIBIT III

NEW JERSEY CORRECTIONS

| | By fiscal years | | | | | | | Average monthly admissions and average resident last month; by quarters ending— | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1961 | 1966 | 1971 | 1968 | 1969 | 1970 | 1971 | 1969 | 1969 | 1970 | 1970 |
| Total corrections: | | | | | | | | | | | |
| Commitment plus parole return | 3,922 | 4,593 | 5,541 | 4,132 | 4,749 | 4,634 | 5,541 | 349 | 383 | 372 | 451 |
| Resident, last day | 5,471 | 5,995 | 6,570 | 5,684 | 6,179 | 6,186 | 6,570 | 6,019 | 6,048 | 5,886 | 6,186 |
| On parole, last day | | 5,310 | 6,620 | 5,701 | 5,682 | 6,179 | 6,620 | 5,929 | 6,094 | 6,232 | 6,179 |
| Prison: | | | | | | | | | | | |
| Admissions | 1,171 | 1,348 | 1,545 | 1,358 | 1,557 | 1,291 | 1,545 | 96 | 103 | 107 | 123 |
| Average daily population | 2,704 | 2,808 | 3,209 | 2,841 | 3,015 | 3,160 | 3,209 | 3,192 | 3,146 | 3,131 | 3,160 |
| Resident last day | 2,777 | 2,883 | 3,308 | 2,925 | 3,213 | 3,172 | 3,308 | 3,189 | 3,131 | 3,046 | 3,172 |
| On furlough | | | | | | | | | | | |
| Trenton main | | 1,238 | 1,367 | 1,223 | 1,360 | 1,351 | 1,367 | 1,324 | 1,336 | 1,362 | 1,351 |
| West Trenton unit | | 136 | 151 | 123 | 164 | 165 | 151 | 164 | 155 | 148 | 165 |
| Rahway main | | 1,092 | 1,123 | 1,152 | 1,242 | 1,239 | 1,123 | 1,248 | 1,227 | 1,133 | 1,239 |
| Marlboro unit | | 127 | 130 | 128 | 126 | 134 | 130 | 131 | 123 | 139 | 134 |
| Leesburg medium | | | 285 | | | | 285 | | | | |
| Leesburg minimum | | 290 | 253 | 299 | 321 | 298 | 253 | 323 | 296 | 270 | 298 |

| | By fiscal years | | | | | | | Average monthly admissions and average resident last month; by quarters ending— | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1961 | 1966 | 1971 | 1968 | 1969 | 1970 | 1971 | 1969 | 1969 | 1970 | 1970 |
| Youth: | | | | | | | | | | | |
| Admissions | 1,474 | 1,746 | 3,195 | 1,912 | 2,283 | 2,554 | 3,195 | 185 | 207 | 200 | 257 |
| Average daily population | 1,447 | 1,661 | 2,246 | 1,639 | 1,904 | 2,016 | 2,246 | 1,998 | 2,058 | 1,955 | 2,078 |
| Resident last day | 1,513 | 1,698 | 2,317 | 1,858 | 2,019 | 2,135 | 2,317 | 1,982 | 2,041 | 1,993 | 2,135 |
| On jurlough | | | | | | | | | | | |
| Yardville reception | | | 176 | 134 | 172 | 198 | 176 | 129 | 90 | 165 | 198 |
| Yardville correction | | | 598 | 355 | 460 | 531 | 598 | 456 | 478 | 498 | 531 |
| West Trenton unit | | 34 | 27 | 44 | 33 | 40 | 27 | 25 | 29 | 39 | 48 |
| Wharton unit | | | 22 | | | | 22 | | | | |
| Yardville community center | | | 9 | | | | 9 | | | | |
| Bordentown main | | 882 | 759 | 699 | 685 | 636 | 759 | 727 | 733 | 631 | 636 |
| NPI unit | | 54 | 40 | 55 | 52 | 48 | 40 | 38 | 56 | 49 | 48 |
| New Lisbon unit | | 52 | 62 | 65 | 63 | 64 | 62 | 58 | 54 | 62 | 64 |
| Annandale main | | 641 | 542 | 419 | 465 | 531 | 542 | 454 | 511 | 454 | 531 |
| Stokes Forest unit | | 48 | 44 | 46 | 43 | 48 | 44 | 52 | 43 | 48 | 48 |
| High Point unit | | 47 | 38 | 41 | 46 | 39 | 38 | 43 | 45 | 47 | 39 |
| Women: | | | | | | | | | | | |
| Admissions | 276 | 226 | 237 | 142 | 162 | 190 | 237 | 14 | 14 | 15 | 20 |
| Average daily population | 302 | 373 | 284 | 302 | 231 | 214 | 284 | 205 | 212 | 216 | 244 |
| Resident last day, main | 314 | 378 | 385 | 256 | 192 | 246 | 285 | 197 | 203 | 211 | 246 |
| Community center | | | 7 | 7 | 9 | 8 | 7 | 9 | 7 | 8 | 8 |
| Jamesburg: | | | | | | | | | | | |
| Admissions | 815 | 1,073 | 427 | 603 | 605 | 431 | 427 | 41 | 40 | 33 | 33 |
| Average daily population | 535 | 674 | 297 | 474 | 417 | 332 | 297 | 358 | 333 | 297 | 295 |
| Resident last day | 585 | 720 | 313 | 438 | 436 | 283 | 313 | 343 | 331 | 303 | 283 |
| Skillman: | | | | | | | | | | | |
| Admissions | | | 101 | | 103 | 134 | 101 | 8 | 16 | 10 | 10 |
| Average daily population | | | 162 | | 50 | 144 | 162 | 110 | 152 | 165 | 178 |
| Resident, last day | | | 161 | | 96 | 175 | 161 | 116 | 152 | 166 | 175 |
| Girls: | | | | | | | | | | | |
| Admissions | 205 | 307 | 118 | 162 | 153 | 116 | 118 | 11 | 11 | 7 | 9 |
| Average daily population | 220 | 232 | 104 | 164 | 132 | 116 | 104 | 116 | 117 | 110 | 111 |
| Resident last day | 211 | 245 | 108 | 134 | 129 | 106 | 108 | 112 | 118 | 102 | 106 |
| GPP Centers: | | | | | | | | | | | |
| Admissions | 147 | 258 | 227 | 250 | 232 | 220 | 227 | 18 | 17 | 16 | 23 |
| Average daily population | 41 | 81 | 65 | 70 | 65 | 70 | 65 | 70 | 70 | 61 | 64 |
| Resident last day | 51 | 74 | 71 | 66 | 85 | 61 | 71 | 71 | 65 | 57 | 61 |

| | Average monthly admissions and average resident last month; by quarters ending— | | | | | | July–December 1971 [1] | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | September 1970 | December 1970 | March 1971 | June 1971 | September 1971 | December 1971 | July | August | September | October |
| Total corrections: | | | | | | | | | | |
| Commitment plus parole return | 408 | 443 | 476 | 518 | 407 | | 502 | 352 | 366 | 456 |
| Resident, last day | 6,204 | 6,313 | 6,402 | 6,570 | 6,460 | | 6,641 | 6,474 | 6,266 | 6,187 |
| On parole, last day | 6,175 | 6,248 | 6,407 | 6,620 | 6,831 | | 6,679 | 6,810 | 7,006 | 7,175 |
| Prison: | | | | | | | | | | |
| Admissions | 118 | 107 | 122 | 164 | 112 | | 147 | 90 | 100 | 130 |
| Average daily population | 3,177 | 3,186 | 3,160 | 3,286 | 3,332 | | 3,317 | 3,357 | 3,323 | 3,313 |
| Resident last day | 3,176 | 3,179 | 3,172 | 3,308 | 3,328 | | 3,343 | 3,331 | 3,310 | 3,287 |
| On furlough | | | | | | | 10 | 7 | 5 | 7 |
| Trenton main | 1,307 | 1,325 | 1,284 | 1,367 | 1,301 | | 1,341 | 1,297 | 1,262 | 1,289 |
| West Trenton unit | 165 | 147 | 142 | 151 | 153 | | 151 | 147 | 160 | 148 |
| Rahway main | 1,226 | 1,139 | 1,112 | 1,123 | 1,152 | | 1,149 | 1,150 | 1,156 | 1,129 |
| Marlboro unit | 141 | 139 | 135 | 130 | 141 | | 133 | 145 | 144 | 144 |
| Leesburg medium | 45 | 153 | 237 | 285 | 318 | | 311 | 326 | 318 | 313 |
| Leesburg minimum | 292 | 276 | 262 | 253 | 263 | | 259 | 266 | 265 | 262 |
| Youth: | | | | | | | | | | |
| Admissions | 242 | 266 | 269 | 290 | 273 | | 284 | 216 | 219 | 268 |
| Average daily population | 2,186 | 2,220 | 2,230 | 2,302 | 2,250 | | 2,323 | 2,302 | 2,125 | 2,035 |
| Resident last day | 2,193 | 2,243 | 2,267 | 2,317 | 2,232 | | 2,366 | 2,253 | 2,086 | 2,029 |
| On furlough | | | | | | | 10 | | | 1 |
| Yardville reception | 148 | 152 | 177 | 176 | 152 | | 184 | 119 | 154 | 190 |
| Yardville correction | 566 | 579 | 583 | 598 | 555 | | 583 | 569 | 513 | 503 |
| West Trenton unit | 30 | 29 | 35 | 27 | 31 | | 36 | 32 | 25 | 24 |
| Wharton unit | | | 8 | 22 | 32 | | 29 | 32 | 34 | 33 |
| Yardville community center | | 6 | 11 | 9 | 9 | | 3 | 13 | 11 | 5 |
| Bordentown main | 684 | 695 | 699 | 759 | 711 | | 765 | 720 | 647 | 582 |
| NPI unit | 53 | 53 | 43 | 40 | 44 | | 49 | 46 | 36 | 48 |
| New Lisbon unit | 66 | 66 | 59 | 62 | 63 | | 68 | 67 | 53 | 57 |
| Annandale main | 552 | 561 | 561 | 542 | 544 | | 543 | 558 | 530 | 505 |
| Stokes Forest unit | 46 | 56 | 50 | 44 | 46 | | 47 | 48 | 44 | 43 |
| High Point unit | 48 | 46 | 41 | 38 | 46 | | 49 | 49 | 39 | 38 |
| Women: | | | | | | | | | | |
| Admissions | 17 | 18 | 19 | 21 | 19 | | 24 | 17 | 18 | 15 |
| Average daily population | 271 | 279 | 303 | 290 | 285 | | 286 | 288 | 282 | 285 |
| Resident last day, main | 266 | 274 | 297 | 285 | 276 | | 279 | 276 | 274 | 270 |
| Community center | 6 | 8 | 9 | 7 | 8 | | 8 | 8 | 8 | 8 |
| Jamesburg: | | | | | | | | | | |
| Admissions | 33 | 37 | 37 | 34 | 25 | | 27 | 23 | 24 | 34 |
| Average daily population | 258 | 294 | 297 | 318 | 300 | | 319 | 296 | 285 | 286 |
| Resident last day | 259 | 295 | 307 | 313 | 296 | | 313 | 294 | 280 | 282 |
| Skillman: | | | | | | | | | | |
| Admissions | 5 | 9 | 13 | 6 | 8 | | 9 | 6 | 8 | 8 |
| Average daily population | 153 | 154 | 159 | 169 | 154 | | 162 | 155 | 146 | 148 |
| Resident, last day | 155 | 150 | 170 | 161 | 149 | | 159 | 143 | 146 | 150 |
| Girls: | | | | | | | | | | |
| Admissions | 8 | 12 | 10 | 11 | 8 | | 10 | 7 | 8 | 8 |
| Average daily population | 89 | 100 | 109 | 114 | 112 | | 114 | 114 | 109 | 105 |
| Resident, last day | 80 | 101 | 114 | 108 | 190 | | 112 | 111 | 105 | 101 |
| GPP Centers: | | | | | | | | | | |
| Admissions | 18 | 18 | 21 | 19 | 18 | | 19 | 18 | 18 | 19 |
| Average daily population | 59 | 69 | 66 | 63 | 65 | | 72 | 65 | 57 | 58 |
| Resident, last day | 69 | 63 | 66 | 71 | 62 | | 71 | 58 | 57 | 60 |

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[1] Figures for November and December not available.

### EXHIBIT IV

### STATE PAROLE BOARDS—SUMMARY OF PAROLE DECISIONS

FISCAL—JULY 1, 1970 THROUGH JUNE 30, 1971

| | |
|---|---|
| State and county hearings: | |
| State hearings: | |
| Parole hearings | |
| Approved for parole | 1,132 |
| Parole denied | 911 |
| State parole hearings | 2,043 |
| Parole violation hearings | |
| Approved for reparole | 50 |
| Reparole denied | 259 |
| State violation hearings | 309 |
| Total State hearings | 2,352 |
| County hearings: | |
| Parole hearings | |
| Approved for parole | 32 |
| Parole denied | 14 |
| County parole hearings | 46 |
| Parole violation hearings | |
| Approved for reparole | 0 |
| Reparole denied | 1 |
| County violation hearings | 1 |
| Total county hearings | 47 |
| Total State and county hearings | 2,399 |
| Discharges from parole prior to expiration of maximum term: | |
| Granted | 14 |
| Denied | 44 |
| Defer | 1 |
| Total discharges considered | 59 |
| Paroles revoked | 248 |
| Rescissions of revocation of parole: | |
| Granted | 8 |
| Denied | 3 |
| Total rescissions considered | 11 |
| Granted | 8 |

TABLE 1.—STATE PAROLE HEARINGS

| Class of offender | Parole date set | Date eligible | Approved—when: Prior expiration minimum term | At minimum term | After expiration minimum term | Subtotal | Approved—how: To detainer only | To medical facility only | To revert or start another term | To community | Subtotal | Denied: To be reheard | To serve maximum term | Subtotal |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1st | | 8 | 374 | 2 | 317 | 701 | 2 | | 11 | 686 | 701 | 383 | 152 | 535 |
| 2d | | 1 | 39 | 1 | 73 | 114 | 1 | | 3 | 109 | 114 | 77 | 84 | 161 |
| 3d | | | 1 | | 24 | 25 | 1 | | 3 | 24 | 25 | 19 | 33 | 52 |
| 4th | | | | | 2 | 2 | | | | 2 | 2 | | 13 | 13 |
| 5th | | | | | 4 | 4 | | | | 4 | 4 | | 3 | 3 |
| Life | 11 | | | | | 11 | | | 3 | 8 | 11 | 28 | | 28 |
| I–S[1] | 29 | | | | | 29 | 1 | | | 28 | 29 | 33 | | 33 |
| I–R[2] | 31 | | | | | 31 | | | 2 | 29 | 31 | 21 | 10 | 31 |
| I–N[3] | 132 | 10 | 37 | 4 | 32 | 215 | 1 | | 1 | 213 | 215 | 46 | 9 | 55 |
| Total | 203 | 19 | 451 | 7 | 452 | 1,132 | 6 | 0 | 23 | 1,103 | [4]1,132 | 607 | 304 | [5]911 |

[1] Special sex offender (indeterminate term).

[2] Reformatory term (indeterminate).

[3] Narcotics term equivalent to 2-to-5-year term (indeterminate).

[4] (A)—Approved for parole.

[5] (B)—Parole denied.

Note: State parole hearings (A plus B), 2,043; State violation hearings (table 2), 309; tota State hearings, 2,352.

TABLE 2.—STATE PAROLE VIOLATION HEARINGS

| Class of offender | Subsequent offenders: Reparole approved—to community | Reparole denied: To pay or work off fine | To be reheard | To serve maximum term | Sub-total | Technical violators: Reparole approved—to community | Reparole denied: To be reheard | To serve maximum term | Subtotal |
|---|---|---|---|---|---|---|---|---|---|
| 1st | 16 | | 12 | 33 | 49 | 5 | 9 | 68 | 77 |
| 2nd | 4 | | 8 | 11 | 15 | | 2 | 8 | 10 |
| 3rd | | 1 | | 3 | 4 | | | | |
| 4th | | | | | | | | | |
| Life | | | 2 | | 2 | | 4 | | 4 |
| I–S[1] | 2 | | 2 | | 2 | 2 | 7 | | 7 |
| I–R[2] | 19 | | 31 | 15 | 46 | | 3 | 7 | 10 |
| I–N[3] | 2 | | 6 | 4 | 10 | | 7 | 16 | 23 |
| Total | [4]43 | | 61 | 66 | [5]128 | [6]7 | 32 | 99 | [7]131 |

[1] Special sex offender (indeterminate term).

[2] Reformatory term (indeterminate).

[3] Narcotics term equivalent to 2- to 5-year term (indeterminate).

[4] (A)—Subsequent offender reparoled.

[5] (B)—Subsequent offender denied.

[6] (C)—Technical violators reparoled.

[7] (D)—Technical violators denied.

Note: Subsequent offenders heard (A plus B), 171; technical violators heard (C plus D), 138; approved for reparole (A plus C), 50; reparole denied (B plus D), 259; State violation hearings 309.

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## OSTPOLITIK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 15 minutes.

Mr. CRANE. Mr. Speaker, at this very moment, the treaties between West Germany and the Soviet Union and Poland are being considered by the West German Bundestag.

On February 9, West German opposition parties used their one vote margin in the upper house of parliament to record "grave political and legal objections" to these treaties.

During that debate in the Bundestag Chancellor Willy Brandt and his foreign minister, Walter Scheel, intervened to plead for bipartisan support of these treaties, treaties which are an essential part of the new German policy of "Ostpolitik."

There are many in this country, as well as in West Germany, who hail the policy of "Ostpolitik," and consider the treaties now under consideration to be great strides forward and to be the beginning of a new day of peaceful relations between East and West.

A closer look at these treaties, however, indicates a far different story. Supporters of the policy of Ostpolitik, both in this country, in West Germany, and elsewhere in Europe, should carefully consider what exactly it is that they are supporting.

### THE BERLIN AGREEMENT

Our own Government seems satisfied with the Big Four Agreement reached on the future status of Berlin, despite the fact that the West has lost and the East has gained in this transaction.

In that agreement, travel was simplified for West Berliners wishing to visit East Berlin, but no provision was made whatever for East Berliners wishing to visit the West. Similarly, it was agreed that no sessions of the West German Parliament nor the Congress, which elects the West German President, may take place in West Berlin. In this one-sided agreement, the situation in East Berlin was not even mentioned.

Contrary to all previous agreements,

the East German regime has installed all its governmental offices and parliament in East Berlin. In addition, East German soldiers are stationed in East Berlin, while no West German soldiers are permitted in West Berlin. This situation has now been made into a formal agreement, and incredibly is hailed as a victory and achievement in the West. It is this agreement which the Bundestag is now asked to ratify.

By agreeing to act as a consular agent for Berlin residents and by agreeing to issue specially marked passports to West Berlin residents—the treaty does not say German nationals residing in the Western sectors but refers only to residents—the Federal Republic gave up all rights to claim to be issuing passports to these residents as German nationals. As far as international law is concerned, the specially marked Federal Republic passports establish only personal identity. This action in effect has the Federal Republic recognize that residents of Western sectors of Berlin are in effect stateless.

Another serious long-term reverse to the Federal Republic touches the question of legitimacy as the sole legal bearer of statehood. Up to the present, the Federal Republic and the Western Allies have claimed that the Federal Republic is the only legitimate, legal successor, or heir to German sovereignty and statehood and that the government of East Germany is only a de facto, or ad hoc, administrative entity, with no legitimate legal rights to successorship and no claim either as an heir to past German statehood or to present title to German statehood, or to successorship to such statehood in the future. The Berlin treaty seriously endangers this long-standing successorship claim.

Discussing the Berlin agreement several months ago before the National Press Club in Washington, D.C., Axel Springer, founder and owner of the leading West German publishing group, declared:

> Completely incredible is the concession to establish a Soviet consulate general in West Berlin, a concession obviously granted upon German urging. The Berliners already call this the future home of all the spies who were kicked out of Britain recently.

Mr. Springer stated that:

> The West also gave a death blow to all hopes for eventual reunification of Berlin and Germany. I mean, of course, reunification in freedom. This new policy will most likely bring in its wake international diplomatic recognition for the East German regime. The run has already been started.

The treaty, it must be remembered, has greater implications for East-West relations than the status of Berlin alone. Mr. Springer places the treaty in some perspective:

> These treaties, in my mind, are so dangerous, not only because they give away German rights without getting anything back in return, but because they are the first sign of a new "renversement des alliances," reversal of alliances, as Bismark called it.

The Berlin treaty is only the first step in the Soviet timetable, a timetable which Western leaders seem eager to help them fulfill. Mr. Springer notes that:

> The next step, according to the Soviet timetable, will be the so-called European security conference. Here the often told, long-range aim is to find a political and legal justification for the demand that "all troops return home from foreign soil." This in effect would mean that the Soviet units might retreat beyond the new Polish eastern border, and that the American units retire beyond the Atlantic.

### SOVIET TIMETABLE

The unfortunate fact is that the West German policy of Ostpolitik is the exact realization of what the Communist States of Eastern Europe have referred to as "Westpolitik." The countries of the Warsaw Pact declared their political aims in Karlsbad, Czechoslovakia, on April 26, 1967, and in Bucharest on July 6, 1966, and in Budapest on March 17, 1966. These include the following: first, the recognition and the inviolability of all frontiers in Europe; second, the recognition of the line on Oder-Neisse Rivers as the western frontier of Poland; third, the recognition of the so-called German Democratic Republic as a sovereign state; fourth, annihilation of the Munich Agreement from 1938 since its very beginning; fifth, recognition of Western Berlin as a community with a special political status; sixth, a conference of European security as soon as possible; and seventh, no nuclear weapons for Western Germany.

With the exception of point four which is yet to be negotiated between West Germany and the Government of Czechoslovakia, the West German Government has carried out in its policy of Ostpolitik essentially everything which the Communists set forth as goals for themselves.

### WEST GERMAN OPPOSITION

Fortunately, there have been strong voices in West Germany warning against ratification of these treaties. The chairman of the Christian Democratic Party, Dr. Rainer Barzel, declared on September 21, 1971, that the policy of Ostpolitik has not made the peace more secure but has merely insured the domination by the Soviet Union of a large part of Europe. The chairman of the Christian Social Union, Dr. Franz Josef Strauss, called the policy of Ostpolitik one of "submission to the demands of the Soviet power policy."

Writing in the West German newspaper Kieler Nachrichten, Renate Marbach notes:

> That if consideration is given to the price paid by the West—a scaling-down of the Federal presence, the establishment of a Russian consulate-general in West Berlin and agreement that the GDR should be admitted to the United Nations, amongst other concessions—it will be seen that the results of the inter-German agreements are somewhere around the lower limits of what has been hoped for.

The architects of the policy of Ostpolitik seem, in many respects, not to understand the forces at work in today's world.

### SOVIET BUILDUP

The strategic buildup of the Soviet Union has, as its long-range goal, the outstripping of Western naval, ground, air and nuclear weapons systems while the Soviet diplomacy of détente has as its purpose the demolition of the Western alliance, particularly the North Atlantic Treaty Organization. These policies work hand in hand and an increasing number of sophisticated observers in Western Europe are expressing the real fear that what we may face in the near future, if policies such as the West German Ostpolitik continue, is the "Finlandization" of the entire area.

Why, for example, have so many in Western Europe expressed little interest in either NATO or in any kind of systematic and rational defense in recent years? One answer was given in an important article which appeared in Europa Archiv last year. Coauthored by three respected spokesmen—Dr. Curt Gasteyger, acting director of the Atlantic Institute in Paris, Prof. Wilhelm Kewenig, lecturer in constitutional and international law at Bonn University, and Dr. Norbert Kohlhase, head of the Geneva office of the European communities—the article makes the following assessment:

> In the shadow of a nuclear confrontation of the two great world powers the spectre of a Soviet sortie over the Elbe has paled into insignificance. The axiom that security was based mainly on political unification and military unity now looks far less convincing and the feeling of being threatened has virtually disappeared. . . . Security in Europe is to be reached and ensured in the future not by deterrents and federal solidarity alone but also to an increasing extent as a result of détente wherever possible and coming to terms with the East bloc.

The fact that Western Europeans are all too aware of the growing Soviet strategic strength is shown later in the same article:

> Up until now European security has been based on what was called the "balance of imbalances." The predominance of Soviet power on the continental land mass was balanced by the universal strategic superiority of the United States. The security of Western Europe was credibly guaranteed for as long as it remained a part of this alliance with the American nuclear power. The price for greater independence from America was the risk of increased insecurity. More recent developments seem to have affected this strategic equation and put the question of the future of European security seriously in doubt once again.

At this very moment there are militant voices in the United States calling for the withdrawal of American troops from Europe. Commenting upon this possibility, the authors note that:

> The military and psychological effects of this would not be so marked if this were not the precise moment when the Soviet Union is all out to create a kind of strategic equality with the United States. . . . For the Soviet Union to equalize its world-wide strategic position, makes its superiority in Europe all the more felt. This position of superiority would be made all the clearer if the possible withdrawal of American troops became fact.

### FINDLANDIZATION

Thus, Mr. Speaker, more and more Western Europeans are using the term "Finlandization" to express their fear of a future in which pro-Soviet neutrality would be the foreign policy posture of nations now allied with us in NATO. Western Europe clearly cannot stand alone, and to ask for faith in an American policy which seems to be moving toward strategic parity with the Soviet Union and withdrawal of the American physical presence from Europe may be asking the impossible. The West German policy of Ostpolitik is as unrealistic a response to the realities of the world as is the new American isolationism preached by so many here.

That the Brandt government is pleasing the Communist governments of Eastern Europe is easy to see. In June 1970, for example, Premier Maurer of Rumania visited the Federal Republic. The Communist Central Committee organ, Scinteia published daily comprehensive reports, in which every stage of the state visited was described. According to the paper, economic, technical-scientific, and cultural relations had been extended and, this process of rapprochment formed a concrete contribution to the cooperation between European states. The Bandt government's overcoming of "immobilism" in European relations was hailed by Rumania as an extraordinarily favorable act.

The Rumanian paper singled the Brandt government out for praise:

> Especially after the formation of the Brandt-Scheel government, numerous favorable tendencies have become perceptible in the political life of this country which favor a more realistic, clearer policy characterized by a relaxation of international tension.

Similar reports have been seen in the press of virtually all of the countries of Eastern Europe.

While the West German Government appears to have changed its policy with regard to the Communist countries of the East, the goals of those Communist countries remain precisely the same.

Professor Walter Laquer, director of the Institute of Contemporary History in London, provides the following interpretation of what is happening:

> The age of dialogue, we are told, has replaced the age of confrontation. This is only partly true. Western Europe no longer fears a Soviet invasion, but on the other hand neither the fundamental assumptions nor the political aspirations of the Soviet Union have changed. It is the age of detente—not, unfortunately, a detente that signals real peace and security, but a detente in the more narrow meaning of a "period that succeeds a period of crisis in the Cold War." For European security since the end of the war has rested not on dialogues and mutual understanding but on the existence of a certain balance of military power, and this balance, never complete or perfect, has in recent years been radically upset.

While the West German Government speaks of an "opening to the East," the Russians have signified their "peaceful intentions" in this way: they now have three times as many tanks in Europe as does NATO, and 3,500 more tactical aircraft. From 1962 to 1968 American forces in Europe were reduced from 462,000 to 300,000, whereas the number of Soviet divisions has grown during the last 4 years from 26 to 31. The number of American ICBM's has remained static since 1967 at 1,054, while during the same period the number of Soviet missiles has almost doubled, and now stands at 1,500. Between 1967 and 1970 the military expenditures of NATO decreased by $10 billion, those of the Warsaw Pact countries rose by $5 billion. The Soviet Union now spends two of three times more per capita than NATO on military affairs.

### A CHANGE IN EUROPE?

If there has been a change in Europe it has not been a change in Soviet ambitions, but a change in Western willingness to oppose such ambitions. Professor Laquer notes that the Soviet Union has never made a secret of its goals:

> As the greatest European power it aspires to political, economic and military hegemony, and it hopes to achieve this goal by inducing Western Europe to relax its political cohesiveness and military vigilance, by encouraging an accelerated program of American disengagement, and by preventing all moves toward closer political and military cooperation or integration among European countries.

It is sad that the West German policy of Ostpolitik plays directly into the hands of Soviet strategists. It is almost as if they were making the decisions both for themselves and for their alleged adversaries.

"Detente diplomacy," for the Soviet Union, has been a one-way street. The Soviet Union has traded very little in return for deals pending with the Germans and with other West European nations. Russian nuclear and conventional forces in Eastern Europe remain unchanged. Soviet maritime strength is building steadily, and there is a new and continuous Russian presence in the Middle East and in the Indian Ocean. One observer at a recent NATO conference in Brussels declared:

> NATO must not accept geographical differentiation of policy. The Russians cannot be hostile in the Mediterranean and friendly in Europe and be believed when they bid for broad detente and mutual security.

The only basis upon which the treaties now pending in the Bundestag would make sense would be if the Soviet Union had truly ceased to have aggressive designs upon its neighbors. Every indication is that such designs remain unchanged. Recently, the new NATO Secretary General, Joseph M.A.H. Luns, declared that:

> The over-all objectives of the Soviet Union, even if they are presented in a more subtle way, have not changed.

Dr. Luns stated that:

> Expanding Soviet military forces were far in excess of those needed for self-defense and that in Europe, it can be expected that the Soviet Union will continue to seek dominance. . . . To the Communists detente means the exploitation of the peaceful instincts of the West, while waiting and working patiently to gain access to political power; in short, continuing the struggle by all means short of war.

### CONCLUSION

In conclusion, Mr. Speaker, if the West German Bundestag ratifies the treaties now before it, the Soviet Union will have, in fact, exploited that nation's peaceful instincts. Professor Lacquer states that:

> There is a distinct danger that by unilateral concessions and disarmament those who strive for peace will undermine the very basis on which the prospects for peace and security in Europe rest—namely the ability of Europe to defend itself. A European Defense Organization could play a decisive role in bringing about a real detente. If Europeans put their trust in high-sounding but basically meaningless dialogues and security conferences, while at the same time failing to take adequate measures to insure their own defense, the outcome, short of a miracle, will be only too predictable.

The choices faced by the Bundestag are important ones indeed. The whole future of European security may, in the end, depend upon them.

## CORPS OF ENGINEERS ANNOUNCES GREAT LAKES, ST. LAWRENCE SEAWAY NAVIGATION STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am proud to announce today that funds authorized by the 1970 River and Harbor Act have been put to excellent use by the Army Corps of Engineers. These funds have been allotted to initiate a survey study and a demonstration program to investigate the practicability of extending the navigation season on the Great Lakes and the St. Lawrence Seaway.

Hopefully, this study, which is to be completed by July 30, 1974, will show that it is indeed practicable and desirable to extend the navigation season on these economically important waterways. The consequences for my own city of Chicago and all other port cities bordering on the Great Lakes will be most propitious. These cities will accrue economic benefits that have been up to now unattainable. A more constant route to the Atlantic will keep midwestern freight charges to a minimum.

The program is being jointly undertaken by the Corps of Engineers in cooperation with the Departments of Transportation, Interior, and Commerce, the Environmental Protection Agency, and other Federal and non-Federal interests. In addition, public meetings will be held in conjunction with the investigations to further determine the desires of shippers and vessel operators, and also to inform the public sector of what the investigations will consider. I am optimistic that the combination of these agencies plus the strong consideration of public opinion will surely produce results that will benefit us not only economically but ecologically as well.

## THE VANISHING FAMILY FARM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SISK) is recognized for 5 minutes.

Mr. SISK. Mr. Speaker, the sad state of agriculture has been a concern to all of us for many months. Farm costs are rising, farm prices dropping, competition for the family farmer is increasing and farm labor is becoming more militant in demanding a greater share of the farm dollar.

The farmer, especially the family farmer, is truly caught in a cross-fire. Nowhere is this more true than in my own 16th Congressional District in California.

And nowhere is there more enlightened concern for this state of affairs.

The Fresno Bee has run an excellent series entitled "The Vanishing Family

Farm" written by Reporter Ray Steele, Jr., who knows whereof he speaks. He was born on a Fresno County farm and lived there for 20 years before taking up journalism. That profession's gain is farming's loss.

Mr. Steele says the small farm, once the hallowed mode of existence is going the way of Old MacDonald's mule. It has fallen victim to the combined blows of technology and the realities of present day economics.

I would like to take this opportunity to insert Mr. Steele's series in the RECORD so that my colleagues will have the benefit of his views on the small farm. If enough of us are concerned maybe we can do something to stop this trend.

### Little Guy: Tough Row To Hoe

(By Ray Steele Jr.)

A few weeks ago a young family approached a Fresno real estate salesman about buying a 40-acre farm.

The young father told the salesman he planned to quit his job and "farm like my grandfather did; I think I can make more money."

Looking a little surprised, the salesman briskly thumbed through stacked papers on his desk until he came to a pamphlet by Edward A. Yeary, a farm adviser specializing in farm management at the University of California's San Joaquin Valley Research and Extension Center in Parlier.

The salesman turned quickly to a page of underlined sentences and read:

"Experience has shown that as a rule only large units can be farmed efficiently. The days of the 'family farm,' that is four people making a living on 60 acres, are almost surely numbered."

After citing more facts and figures and learning the financial status of the prospective buyer, the salesman urged the young man to keep his job and forget farm living.

#### INDICATIVE OF A TREND

The salesman painted a picture of the small farm, once the backbone of the nation's economy and a dominant force in California agriculture, as fading more each year.

The number of farms in the United States has declined by 50 per cent to 2,924,000 units in the last 25 years, the US Department of Agriculture reports. In California, the total number of farms declined 22 per cent from 1959 to 1969, the last year for which farm census figures are available

In California, farms classified as "commercial"—meaning they had gross sales of at least $50—dropped from 66,927 in 1959 to 57,741 in 1969, a decline of 14 per cent. The only increases reported in that period were farms with gross sales of $2,500 to $9,999.

Even to those not associated with agriculture, the figures are indicative of a trend in farming.

Rex F. Daly, a Department of Agriculture economist, said in a recent report that by 1980 more than half the nation's food and fiber will come from only about 95,000 big farms—gross sales of $100,000 or more—and the total number of farms will drop to about 1.9 million.

But what about the small farms, the kind found on the east side of the San Joaquin Valley, in the Sacramento Valley and other parts of Northern California?

#### BEDROOM FARMERS

Daly said small farms will not disappear from the American scene, but they will continue to lose their importance in the national food production picture. They probably will account for less than one per cent of total agricultural sales by 1980.

If the prediction comes true, and there are indications it will, the Northern California farm picture will change drastically in the next few years.

For instance, 78 per cent of the 7,414 farms in Fresno County are less than 100 acres in size. Of that, about 20 per cent are 20 acres or less, obviously not the primary source of family income in nearly every case.

In the past five years, real estate salesmen report many families have bought 1-, 2-, 5-, and 20-acre parcels, but primarily to establish suburban-type homes.

They are referred to as "bedroom farmers" by those farming for their living because these others sleep on the farm and work it on weekends but have a city job which supports their families.

Preliminary figures obtained from the US Census Bureau's agriculture division show that from 1964 to 1969 farm numbers in Fresno County increased by 121.

There were 94 more farms in the 1–9 acre size and 223 more in the 10–49 acre size, which agriculture specialists say reflects the growth of the "bedroom farmer."

#### A 617-ACRE AVERAGE

The only other farm sizes to show gains were 140–179 acres, plus two, and 1,000–1,999 acres, plus 14. Every other category showed a decline.

Agriculture experts say the decline in the number of farms, excluding the "bedroom farmer," is evidence farmers are having a harder time stretching the dollar to make ends meet.

They note that labor, equipment and other operating costs are up; property taxes are at all-time highs for most growers, and prices received for their crops are about the same as they were 20 years ago.

The only way to make a living on the farm, these experts say, is to increase the size of the unit to make operations as economical as possible. Size is dependent on the crop and may range from one to four sections of land for field crops to 80–160 acres for fruit and nut crops, they say.

Burt B. Burlingame, an economist for the US Agricultural Extension Service, said in a report issued last year that in the late 1930s farms in California averaged a little more than 200 acres per farm with an investment in land and buildings of about $16,000.

In 1969, the average farm was 617 acres and had a comparable value of $327,250, which, he said, shows that while size tripled, the investment was up 20 times.

Few farms in the green belt area of Central and Northern California approach the average size. Most are in the 20- to 240-acre class.

It is these farmers, the farm experts say, who are hurt the most by the cost-price squeeze because their margin is the same as the larger farmer at best but production is smaller because of fewer acres.

#### SUPPORTING THE FARM

Because their net income is dwindling each year, many small farmers go hunting part-time jobs to supplement their farm income. In many cases, the farmer's wife seeks work in the city. In some instances, lending officers say they have asked farmers to take outside jobs or have their wives get a job before the bank would lend money for the farm operation.

Among older small farmers—the average age of farmers in California is 53 and many are in their 60s—there is a trend to sell their land and leave the old "family place."

In most cases, the units under 40 acres are being purchased by "bedroom farmers." In other cases, the units are purchased by neighbors who want and can afford to expand to have a more economical unit or by large investors, such as corporations or city-resident professional men seeking a tax shelter.

Daly said this trend toward fewer and bigger farms is fueled by the same developments which have been steadily cutting farm numbers since World War II, that is new developments in farm technology, opportunities to cut costs by large-scale buying of farm supplies and bulk marketing of farm products and the increased availability of capital which can be substituted for labor.

He said the small growers, which many say includes anyone who grosses less than $100,000 a year, do not have the capital to compete with the conglomerate, the corporation or the city speculator who is investing in agricultural land.

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### Price Squeeze

(By Ray Steele, Jr.)

"People should work in the soil with their hands to understand that food comes from the soil. Too many people in the affluent countries think food comes from a supermarket."—Dr. Norman A. Borlaug, 1970 Nobel Peace Prize winner.

The success of the farmer is dependent on the market place and farmers in California say they are not getting the returns they deserve.

Two years ago housewives in major cities across the United States staged a rebellion against rising food prices.

They paraded in front of grocery stores demanding that prices be lowered so their food bill would be less.

Mrs. Jan Stophlett, who led the protest movement in the Cocoa Beach, Fla., area said her food bill averaged $135 a month in 1964 and "the same stuff would cost me about $275 monthly today."

Despite the sporadic demonstrations and the complaints, prices through checkout counters in supermarkets have continued to increase even though the housewife spent one-tenth of 1 per cent less of the family income for food in 1969 than she did in 1968, the US Department of Agriculture reports.

#### LOWEST PROPORTION

These figures also show take-home pay spent for food has dropped from 25 per cent in 1945 to 21.1 per cent in 1955 and 16.7 per cent in 1969, the last year for which figures are available.

Nonetheless, Americans in 1969 spent more than $105 billion for food, including about $7 billion a month in retail food stores, a 5.7 per cent increase over 1968.

But the proportion of disposable income spent for food in the US is the lowest in history and the lowest of all countries in the world, the survey shows.

Agricultural economists point out much of the money housewives spend at the grocery store is not for food but for such items as panty hose, bug spray, pet food, toiletries, kitchen utensils and cosmetics.

The widening farm-to-consumer gap is clear in a comparison of Department of Agriculture statistics showing what happened to the money a housewife paid for a loaf of bread in 1949 and what happens to it today.

In 1949, the average price of a one-pound loaf of white bread was 13.5 cents. Today it is 22.9 cents.

In 1949 the retailer's slice of the bread price was 2.2 cents. Today it is 5 cents.

#### MIDDLEMAN'S INCREASE

In 1949 the baker and wholesaler—the key middlemen—got 6.3 cents. Today they get 12.2 cents.

In 1949, 1.7 cents of the retail price went for milling, grain handling, and transportation. Today the figure is 2.4 cents.

In 1949, the farmer received 3.3 cents for his wheat and other ingredients—such as lard, sugar and dried milk—that went into the loaf of bread. Today he gets the same 3.3 cents.

A House Agriculture Committee report in 1969 pointed directly at the middlemen in discussing reasons for rising food prices.

"Processors and marketing agencies—the middlemen between farmers and consumers—experiencing higher costs, have been successful in adding greatly increased charges to farmers' products before they reach the consumer," the report said.

". . . All the increase in retail prices—and more—goes to the middlemen. None accrues to farmers."

The report added that much of the middlemen's cost is in labor for handling, processing, transporting or packaging.

Middlemen admit their percentage of the consumer price has not changed much in 20 years, but they say inflation is the cause.

### AT BUYER'S MERCY

They say labor costs are up 100 per cent, costs of containers and packaging material are up 40 per cent and overhead costs, such as rent, are up as much as 96 per cent.

They also say housewives are demanding foods that require more and more processing—canned chocolate pudding, for example, or frozen three-course dinners or "almost anything that requires less work at the stove and sink."

Whereas the middlemen can add the increased costs to the price of the product, the farmer still is at the mercy of the buyer of his raw products.

A large percentage of California crops are perishable and farmers must accept market place prices when their products are ready for harvest.

This especially hinders the small farmer because he is the one principally involved in producing perishable products. Nonperishables, such as grains and cotton, usually are produced by large growers on the West Side of the San Joaquin Valley.

"We can't bargain for a price when our fruit is hanging on the trees and will be too ripe to pick and ship in a few days," said Yuk Hamada, a Reedley-area peach grower.

"We've got to pick the crop when it's ready and just hope the price in the market place is good enough so we can make some money."

Coupled with the threat of perishables rotting on the vine is the problem of strikes. For instance, during the rail strike earlier this year many farmers could not move perishable fruit to eastern markets.

### FICKLE WEATHER

When the strike was over, some buyers pushed the price down even though there was a good demand because the buyers knew the farmers had to sell their fruit or let it rot.

"We're over a barrel," said George Kitihara, a Parlier-area grower. "If we don't get stabbed in the back one way, there's always another."

Sometimes it is the weather. An early or late season frost, a hail storm when fruit trees are in bloom or an early fall rain when grapes are being dried into raisins can mean the difference between making and losing money. For instance, one Dinuba grower lost an estimated $15,000 crop of peaches this spring because a hail storm knocked the blooms from the trees.

Hamada said the housewives' demand for top-grade products also affects the farmer and what he realizes for his crop.

He said more and more of his peaches end up in the cull bin because they have a scar on them. Cull peaches bring only a fraction of the price the grower receives for "top-grade" fruit sold on the eastern market.

"There is nothing wrong with the edibility of the fruit," he said. "It just has a scar on it and the housewife, even the store manager, won't buy it because she thinks something is wrong with it."

There is a belief widely held among California farmers that consumers should pay more for their food. They call low food prices a consumer subsidy.

"How else can people afford to have two cars, one or two color television sets, sometimes a second home, a boat in the garage and two or three motorcycles for recreation unless they're getting something dirt cheap along the way?" asked Kitihara. "They're getting food dirt cheap."

The cry that all farmers get cash subsidies so food prices should be low does not apply to most crops grown in the Central Valleys.

A U.S. Department of Agriculture report shows only three per cent of all farmers in California get cash payments from the government. Too, the subsidies are paid to field crop farmers for wheat or cotton, and no subsidies are paid to grape or tree fruit farmers.

However, most farmers receive a "subsidy" in the form of reduced water prices. Bureau of Reclamation officials say it costs $3.58 an acre foot to deliver water to farmers which does not include the capital outlay for dams and canals.

The water delivery system not only provides irrigation water, but replenishes the underground water supply from which farmers draw. Bureau officials estimate it would cost $7–$10 an acre foot in electricity alone if farmers had to pump all their water from underground.

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## EFFICIENCY: DOUBLE EDGED SWORD

(By Ray Steele, Jr.)

With costs rising faster than prices, the number of farmers who rely on the land for a living will continue to dwindle, farm experts say.

"What was an economical unit five, 10 or 15 years ago is now losing money," said a bank official in Selma.

"If it wasn't for the farmer becoming more efficient and taking advantage of technological advances, we'd have a lot more ranches up for sale," said a lending officer in Fresno.

They say the days of the farmer with 40 acres, a tractor and a few implements are disappearing as rapidly as the mom and pop grocery store.

Higher costs of labor and equipment, higher taxes and other increased production costs crowd them into a decision to sell out, buy more land to make the unit profitable or get an outside job.

"Only those who manage better and take advantage of better technology will stay alive," said Fresno County Farm Adviser Ray Crouch.

Vernon Wynn, manager of the Production Credit Association which makes loans to farmers, said if it had not been for the farmer increasing his efficiency during the past five to 10 years, "the farmer couldn't have withstood the inflation."

### TAXES BITE

But Crouch said the farmer has nearly run out of ways to cut production costs. With cuts in the state budget for agricultural research, new ways of reducing costs will come slower, he said, and a few months or a year or two could make a difference to some farmers.

"If it's not taxes, it's something else always biting us in the back and eating away at profits," said one Tulare County farmer.

According to a survey by the US Department of Agriculture Economic Research Service, total farm production expenses in the state amounted to 77 per cent of the gross income in 1969, up 12 per cent since 1950. Not included are farm property taxes which have tripled since 1960.

Wynn said the average loan made by PCA has jumped from $20,000 10 years ago to about $75,000 today, indicating farmers are having a tougher time meeting expenses from their own capital. In many cases, he said, farmers both large and small are borrowing for longer periods of time.

Raymond Westrup, district appraisal officer for the Bank of America in Fresno, said the farmer's profit margin is getting thinner. The culprit, the farmer says, is labor.

The State Department of Human Resources Development reported farm wages this year averaged $1.87 an hour, almost double what they were 10 years ago and about 45 cents higher than the national average. Wage rates in the state ranged from $1.65 an hour for some field labor to $2.40 an hour for tractor drivers and up to more than $3 an hour for operators of mechanized equipment.

### MACHINERY COSTS

Farmers in the Central Valleys say labor accounts for 50 per cent or more of the total operating cost and is a primary factor in the cost-price squeeze.

For instance, wage rates in the Central Valleys ranged from $1 to $1.25 an hour in 1963. This year, most farmers reported they paid a minimum of $1.85 an hour and as high as $2.15 for field labor. At the same time, most farmers report productivity is down.

Equipment comes higher too. A survey of farm equipment dealers in the San Joaquin Valley showed costs are up 20 to 75 per cent from seven years ago. For instance, a tractor for vinyard work which cost $3,000 in 1964 had a list price of $4,600 this year.

Costs of insecticides, fertilizers, seeds and vine and tree rootings also have climbed and most farmers are using more insecticides and fertilizers.

A report published by the UC Agricultural Extension Service shows it now costs $1,338.01 an acre to bring an 80-acre vineyard to full production in four years. That is about $400 more than in 1960. The cost includes land preparation, planting, rootings, stakes, wire and staples, training and suckering, pruning and tying, irrigation, fertilizer, pest control, taxes, repairs and interest on capital. Not included is the price paid for the land.

Yet, agricultural economists point out the prices farmers receive have not increased much.

### AT LEAST 400 HEAD OF BEEF

In the wine grape industry, for instance, the average price to the grower for all grapes, including the more lucrative varietals, was $59 a ton in 1964. The price was $56.40 in 1969 and it is expected to be about the same this year.

In 1967 the feeder received 53 cents for each pound of beef he sold. Today he gets about 69.6 cents, about 33 per cent more but his costs have risen by 60 per cent, beef cattle experts say.

The result, the experts say, is that the rancher with a small herd is selling out or getting bigger because "he must have at least 400 head to make a living."

In the dairy industry, in five years, store prices for a quart of milk have gone up about 2 to 3 cents to 26–28 cents depending on the area in the state. But, says the State Milk Advisory Board, the farmer is realizing the same 10–12 cents a quart despite the fact that for every $1 invested in the dairy industry, 95 cents of it is invested by the farmer.

Besides pushing some men out of farming, the cost-price squeeze is keeping younger men from getting in.

Walter Ficklin, a Madera rancher, said his son wants to get into farming.

"How to turn your land over to the younger generation is difficult," he said. "I've talked with attorneys and tax men, but taxes make it so difficult to turn it over to your kids."

### MINIMUM OF 80 ACRES NEEDED

Even a partnership is difficult, Ficklin said, because then the profits from the 120 acres he owns must be split "and in the end neither of us would be making any money."

To get into profitable farming of vines or an orchard, farm economists said it would take a minimum of 80 acres. With land costs ranging from $1,700 to $2,000 on the east side of Tulare-Fresno-Madera Counties, 80 acres would cost about $150,000.

The down payment, alone, would range

from $30,000 to $45,000 with a seven per cent interest charge on the balance if the loan is held by the seller.

If the buyer paid $30,000 down, his interest payment the following year would be $8,400. If his land was planted in Thompson Seedless grapes which he sold to the winery at $54 a ton, he would gross about $43,200 if he got 10 tons to the acre, the valley average.

UC economists say it costs about $48.24 a ton to produce and harvest the grapes which would leave the farmer a net of about $4,700. However, most of the cost is in labor and the difference between the net and what the buyer needs to make his mortgage and interest payments must come from labor savings.

"Unless a man has a substantial amount of capital to withstand the first couple of years, he'd better not go into farming," said Westrup.

Wynn said even though the small farmer tends to be more efficient, he is still having the most difficult time making a living off the land. He said in some cases the PCA has urged a farmer to find an outside job or to put his wife to work in order to make enough money.

"I'd say the majority of men farming up to 50 acres are either working on the side or have put their wives to work," said Wynn, who owns some farm land near Easton.

Westrup, Wynn and others said the trend is toward "bedroom farming" where a man holds a job in the city and works the farm on the weekend and toward business and professional people entering the agricultural field.

For instance, several large operators have moved into eastern Madera County where they buy land and hire the ex-owner or some other farmer to manager it. The glamour crop, pistachio nuts, is behind a lot of the rapid development.

In another instance, several Southern California businessmen brought land in eastern Fresno and Tulare Counties several years ago and planted thousands of orange trees. The primary result was inflated land prices which local farmers trying to expand could not afford to pay.

The increase in farm land values is about the only area of the farm where the price has kept pace with the economy and where a farmer who has been in the business a number of years realizes a good return.

For instance, one Fowler-area grower who bought a 160-acre ranch in the early 1940s for $55,000 sold it in 1966 for $215,000. Another grower in southeastern Fresno County who paid $18,000 for 50 acres in the early 1940s has a price tag of $75,000 on 40 acres now. He sold 10 acres three years ago for $18,000.

"In some cases these guys are speculating," said Walter Emrick, the Madera County farm adviser. "But it seems to be a trend in farming. The little guy who envisions working his way up by first working on a place and then later buying a little piece of land for his own may be gone."

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## ORGANIZED BARGAINING KEY TO SURVIVAL

(By Ray Steele, Jr.)

Raymond Westrup, the district appraisal officer for the Bank of America in Fresno, compares the status of the small farmer to life in a jungle.

"It's simply going to be survival of the fittest as far as the farmer is concerned," he said. "It definitely means that those who are the stronger will win. But the strong fighter also has to be knowledgeable and willing to change."

Fresno County Farm Adviser Ray Crouch said because labor accounts for more than 50 per cent of the farmer's cost, the small farmer is going to have to do more of the work himself to survive.

The bankruptcy court in Fresno listed 56 Chapter 11 bankruptcy petitions filed by farmers in 18 months ended in June.

How many farmers who could not make a living and got out by selling cannot be determined.

"When things get tight, the weaker manager is wiped out," said Vernon Wynn, manager of the Production Credit Association in Fresno. "Some guys are not economical and others just don't have enough land to make their operation profitable."

A University of California economist partially blamed the "stubborn, independent farmer" as the reason for the vanishing family farm.

### BANDING TOGETHER

"If the farmers would work together more and compete together instead of against each other they wouldn't be in as bad a position," he said. "But farmers are an independent bunch and if one guy can get a little higher price he'll sell out to the detriment of the rest."

As an example, the economist pointed out that three years ago wine grape growers were getting about $30–$35 a ton for their products. A group started to form a Wine Bargaining Association to bargain with the wineries on prices.

However, just as the group started to gain respect, some wineries offered prices in the $50 range. Soon, many farmers were signing contracts and the efforts to form the association stopped.

Five years ago a group of men in the raisin industry formed the Raisin Bargaining Association. Prices to growers in 1966 averaged less than $240 a ton, according to the annual Fresno County agriculture report, and the average now is $272 a ton.

"In one case we have some farmers who saw a problem and tackled it and the other we have some farmers who saw a problem but sold out when the price was right," said the economist. "Now the latter are crying because they're getting $54 a ton and say they should be getting $60."

The economist also said farmers should get into other fields, such as marketing and distribution, just as the corporations do.

### TAKING A CHANCE

For instance, Cal-Can, a cooperative of 1,100 growers has 14 big processing plants to process farm products and markets under its own labels.

The firm also was the first to introduce low-calorie canned peaches in the market place and, one farm adviser said, "it is willing to take a chance once in awhile."

Improved marketing techniques and the entrance of the grower into the marketing field is one idea which may give the small farmer new breath.

"We've been talking about forming our own little group," said one Reedley-area grower, "where three or four or six farmers will get together, build their own packing shed, hire their own crews and pack, ship and market their own crops. We've looked at it and we think it's the way to go."

Because the middlemen reap the largest percentage of profit from the crop, agricultural experts say it would prolong the farmer's life if he got into the business.

Some farm experts say various segments of the agricultural industry must promote their products.

They cite the dairy industry as an example.

Ted Shields, manager of the State Milk Advisory Board, said the industry expected a decline in dairy sales of about two per cent in 1970, but the industry's promotion program "allowed us to break even." Promotion programs are now used by a number of other commodities.

### JOINT USE OF MACHINES

US economists also urge more farmers to mechanize.

"The high cost of labor is one reason so many farmers are mechanizing," said Burt B. Burlingame, a UC farm economist. "And mechanization is a strong force in the increase in farm size."

He explained most machines are immensely expensive and unless the farmer has a large enough unit to justify the expense, he must cope with the high cost of labor.

"That's why the economical unit has increased three times in size," said Wynn. "The farmer has to have more land to justify the purchase of the machine and the smaller guy cannot afford to operate without them, so he is being pushed out. Only in a few cases are two or three neighbors going together and buying and using equipment."

Joint use of machines is occurring on a small scale in the Central Valleys. For instance, some farmers have gone together to buy a brush shredder and once their own work is completed, they hire it out to other farmers in the area.

"A small guy can't afford to buy all the machinery he needs," said Westrup. "I know we had a small cotton farmer who bought a cotton picker when he could have contracted for the work at a much smaller cost. He'd only use the cotton picker a couple of weeks and then it sat idle for the rest of the year."

"If we could change the attitudes of farmers about how to run their places to be even more economical than they are now, a lot of smaller farms could stay in business," said a UC economist. "But many are set in their ways and think joining together is communistic or socialistic. Yet, when it comes down to a fight, like the labor situation in the valley, they join together. Well, many are going to have to fight to save their farms. And they're going to have to get together in the use of machinery and even get into the field of marketing."

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## GROWERS FEAR "HUELGA"

(By Ray Steele, Jr.)

Already caught in a fierce cost-price squeeze, Central Valleys' farmers see unionization of farm workers by the United Farm Workers Organizing Committee as a final blow that spells doom to small farming.

To many of them, Cesar Chavez is the "devil's advocate," a man out to destroy the small rancher. They say UFWOC is their most worrisome problem.

"If I have to sign a contract like the one Heublein signed, I might as well put up a 'for sale' sign and get out of farming," said Harry Kubo, president of the Nisei Farmers League. "With contracts like that, Chavez may be trying to force the small farmer out and let the corporation take over. He's found he can deal more effectively with the big guy"

In trying to unionize laborers on some 10,000 small farms in the Tulare-Fresno-Madera Counties area, Chavez has come head to head with men who are independent and slow to change.

They are men with backgrounds as diversified as the crops they grow. There are those who came from Scandinavia, Armenia, Japan, the Tennessee hills and dust-laden Oklahoma.

Many of them got their farms by first laboring as hired hands socking away their money and finally buying their own place. In the case of many Japanese farmers, it was an adventure which had to be started again after they were released from World War II relocation camps.

### FEARS HEIGHTEN

These farmers have seen strikes cripple them because they could not haul their goods to market or ship them to foreign ports. If farm workers were unionized and went on strike, farmers might be forced into bankruptcy, the farmers say.

With UFWOC's most visible penetration into the San Joaquin Valley green belt this summer, the farmers' fears shot up to new heights. Because labor already accounts for about 50 per cent of their operating cost, they fear union labor will be more expensive.

Kubo and other vineyard and tree fruit farmers say Chavez cannot negotiate separately with the estimated 10,000 small growers who account for 93 per cent of all the farmers in the three-county area. They say they feel Chavez will use other means to get the small units to use UFWOC labor.

They point to the UFWOC contract with Heublein, Inc., as an example. The contract provides incentives to encourage small, nonunion growers to use UFWOC labor without requiring them to sign UFWOC contracts.

Heublein owns 82 per cent of United Vintners which crushes about 400,000 tons of grapes a year, of which 95 per cent comes from 1,700 members, all small growers, of the Allied Grape Growers of Madera.

By 1973, 35 per cent of the crush must be picked by union crews and Allied growers say they feel the contract is a back-door approach to unionization of the small farm.

Besides Heublein, UFWOC has signed contracts with a number of fruit packing sheds in the three counties. Growers say they fear Chavez will attempt to tie up all packers, wineries and food processors so that a grower cannot deliver his crop unless the work, either harvesting or preharvesting, is done by union crews.

The farmers say if such is the case, it will be coercion because neither they nor their workers will have a say about whether to unionize.

The farmers say they also object to clauses in the contract which call for a "penalty" if either the grower or the union says bad things about the other and for a union shop.

"On this union shop thing. In effect, the grower becomes a recruiter for the union," said Alvin Gomes, a Madera-area dairyman and grape grower. "The union is saying 'we don't have the workers, but you go get them and they have to join our union when you do'."

The clause provides that a grower must go through a union hiring hall to get his workers. If the union cannot provide the men, the grower is free to get crews anywhere. But if he gets workers somewhere else, the grower has to tell the union within seven days (three in some contracts) the names, addresses, Social Security numbers and job classifications of the men he hired and the men must join UFWOC.

Of the penalty clause, a UFWOC spokesman called it "an understanding between the growers and the union so that anyone who speaks bad about the other is reprimanded and stopped. We needed that kind of clause to keep the peace that is necessary when you sign an agreement. Without it, we'd be fighting every day."

### CONCERNED ABOUT TACTICS

He said he would not call the union shop clause "making the growers recruit for us." He said the union sometimes runs into problems because a large grower will start picking before the small grower and the workers are not available. He also said some growers "don't treat their workers like human beings" and cannot keep workers. "Then they go crying to the union that we're not providing the workers," he said.

Bruce Burkdoll, a Dinuba-area grower and president of the 1,100-member, 11-year-old Central California Farmers Association, said farmers are more tolerant of unionization today than six years ago. However, he said many are concerned about UFWOC's tactics and the crux of the struggle between the union and the small farmers is who is to decide whether farm workers should be unionized.

Representatives of various farm organizations said most growers are not opposed to UFWOC or any other union willing to hold secret ballot elections, a means used to decide if workers want to be represented by a union.

Records show there have been at least five elections in which UFWOC was involved, including one the union lost among asparagus workers hired by Tenneco, Inc. The union is protesting the latter election because of alleged company misconduct which Tenneco officials deny.

Additionally, the union has made card checks at some firms to see if the workers employed belonged to the union. Where UFWOC members were a majority, contracts were signed. In other cases, contracts signed by growers have been "ratified" by the work force.

### BEER AND VODKA BOYCOTT

Nonetheless, the majority of the 200 contracts Chavez claims to hold with growers, packers and shippers were signed because of the effectiveness of the secondary boycott of farm products or the threat of a boycott. Most of the boycott impetus has come from city-resident students, union labor and city clergymen.

For instance, Heublein signed with UFWOC after the union boycotted two of the firm's principal products—Hamm's beer and Smirnoff vodka.

It was a pressure tactic which worked, Heublein sources said, because "we could not afford to have our products boycotted for a portion of our operation which totals less than five per cent."

The UFWOC spokesman said the union depends "on the power of the boycott to force the grower to negotiate with us. Even if we have the necessary workers to form a union, the growers don't want it. They'd go out and hire scab workers from Mexico or other parts of the United States."

The lever of the boycott was absent when the union picketed 16 small ranches in the southern Fresno-northern Tulare Counties area in June and July.

Without the boycott, the power play for unionization rested solely on the claims by both the union and the growers as to who was providing the worker the best deal.

Field workers arrived and left amid taunting harassment from the UFWOC pickets. There was some vandalism and Mrs. Bonnie Lindgren, wife of a Kingsburg-area grower, has kept two small sacks of tacks and nails which she said were picked up from driveways and avenues used by her husband on the farm. The union denies any of its people caused any vandalism or threw the tacks and nails.

### FEW WALK OUT

In some cases, the US Border Patrol was called out. An officer in the Livermore office said records show 2,078 Mexican aliens, including some UFWOC card holders, were arrested in Kings, Tulare, Fresno, Madera, Merced and Mariposa Counties in the two-month period, including "several hundred" in the Reedley-Parlier area. But only a few workers, apparently wanting to be represented by the union, walked out of the fields.

The patrol official noted farmers often do not know they are using illegal workers because they often hire workers through contractors or "do not ask the worker if he is a US citizen." It is not illegal to hire an illegal alien, but it is to hide one.

Each of the growers picketed said UFWOC did not ask them to hold an election.

The struggle in the Central Valleys' green belt shows that UFWOC's efforts here differ from those in Salinas, Delano or Calexico where farmers rely more on migrant workers who move from job to job and valley to valley, depending on the harvest season.

Workers in the Central Valleys tend to stay in the area. Many live on the ranches. Some are employed from nine months to year-round. Also, many try to buy their homes and to work as steadily as possible to avoid the other problems associated with migrant work.

### SENIORITY ISSUE

Union officials say they are the most susceptible to nonunion pressures.

Ranchers, however, say the workers are not interested in the union because the growers provide the same wages and working conditions and more—security.

Several workers interviewed said they object to the union because of seniority clauses in its contracts which give preference in filling jobs to those who have belonged to the union the longest. Others said they see no additional benefits from the union. Others said they did not care and still others said they wanted to join but are fearful of losing their jobs if the grower found out. Some said they had been threatened not to join.

The UFWOC spokesman said the seniority clause is necessary so the union knows who should go to work first when jobs are available. He said in many cases growers or packers who sign UFWOC contracts use the crews they have had for years. "We don't move anybody out when we sign," he said.

Kubo said all growers would have to sign with UFWOC if the workers wanted it.

"If Cesar had the majority of the workers behind him, the farmers wouldn't be able to do anything else but sign," he said. "How could we get any workers if all of them were union members or wanted the union to represent them?

### THREATS ALLEGED

"He wouldn't need the boycott or anything else. He'd just have to say, 'Look, I have 75 per cent of your crew who wants to join the union,' and we'd have to sign to get the workers to harvest the crop."

The UFWOC spokesman said the majority of the farm workers would be union members "if growers would not threaten them and say they'd get rid of them if they joined us.

"If someone wants to bet with me, I'd say the majority (of workers) want the union. But unless we have a contract with the grower, what benefit would the worker get? If the employer fires him because he has a union card, the worker is worse off than before."

Kubo denied any growers threatened workers to keep them from joining the union.

"I'm not saying some might not have been threatened, but I don't know of it," he said.

Burkdoll said most growers doubt Chavez' popularity.

Although Chavez claims to represent 55,000 workers, a report filed in 1970 by UFWOC with the Internal Revenue Service listed 5,100 members. Sources close to the union said paid-up members now total about 15,000 because of a number of contracts signed this year.

This compares with 384,000 farm workers in California in 1969, including about 98,600 employed year-round and 200,400 on a seasonal basis, the State Department of Human Resources reports.

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## LEGALIZING LABOR

(By Ray Steele, Jr.)

The picketing of small ranches in the San Joaquin Valley this summer by Cesar Chavez' United Farm Workers Organizing Committee awakened a sleeping giant.

"We should have been in Delano fighting UFWOC six years ago," said one Madera grape grower. "But then I and a lot of my neighbors said that was their (the Delano growers') problem. It's ours now. It's right at our back door and we've got to do something about it."

In less than three month, five new farmer organizations have sprouted and linked themselves with existing farmer groups to form a Valley Coordinating Committee representing farmers in Tulare, Kings, Fresno and Madera Counties.

Committee leaders estimate the membership at about 11,000, but because one farmer may belong to two, three or even four organizations, the exact figure is probably lower, Frank Bergon, the committee secretary, said.

The committee's purpose is to coordinate efforts to combat UFWOC and show force to get legislation passed to outlaw the secondary boycott and provide for secret ballot elections in farm worker unionization attempts.

Farmers say more than 50 per cent of their cost is labor and UFWOC either will force labor costs up so the small farmer cannot compete or force him to mechanize and become larger, a trend in US agriculture. The family farm will vanish, they say.

### NISEI LEAGUE

In combatting the union, the farmers avoided such established groups as the Grange and the Farm Bureau.

As one farmer put it: "They serve their purpose and they're useful in some ways, but they haven't done a damn thing to help the small guy."

Bruce Burkdoll, president of the 1,100-member Central California Farmers Association, said many in the group felt it could not work without representation from the big land owners and packers. But when the packers signed with UFWOC, they quit the association and Burkdoll said "we've found we're even more effective now."

Because most farmers felt they had little say in the large organizations and because of the UFWOC activity, new groups were formed. One of the most active is the Nisei Farmers League, a group of 750 growers of all nationalities which was formed when UFWOC picketed 14 farms owned by Americans of Japanese descent.

Harry Kubo, the league's president, said members have been appearing before clubs and civic groups throughout the valley to explain the farmers' position on unionization.

Other groups have joined in farmer rallies and have appeared before the legislature when key bills affecting the farm and farm labor came up before committees.

### WHERE THE VOTES ARE

"This is something new to us," said Kubo. "I guess you might call it public relations. But no longer can we sit back and be the quiet guy. We can't let the union go around the country and tell half-truths and make people believe what they say is the whole truth. We can't let the farmer take all the blame for higher food prices."

The Nisei group was formed at first so farmers could band together to protect laborers as they entered and left the field against harassment by UFWOC sympathizers.

"But we knew we had to go further," said Kubo. "Other farmers called us, wanting to form new groups."

To coordinate their efforts instead of going off on tangents and becoming ineffective, the committee was formed.

Kubo, who also is the committee chairman, said the group believes it can get legislation passed to provide for secret ballot elections, but legislation banning the secondary boycott "looks more difficult."

Bills dealing with both issues have been before the legislature the last two years but none have been signed into law.

"We aren't getting the bills passed because the legislators don't worry about problems, but where their votes come from," said Kubo.

"Why would a legislator from Los Angeles or San Francisco vote to ban the boycott or for secret ballot elections when the people who vote for him are supporting Chavez?

### COMBAT IN THE CITIES

"We have to change the attitudes of the people who vote for the legislators before the legislators will change.

"To do that we need to get the Mexican-American who is so opposed to Chavez to speak up. He's like the Japanese-American; he's been too quiet.

"When it comes to the boycott, we plan to combat Chavez in the cities. That's where his power is anyway. It's not on the farm. It's in the cities. We're going to go to those cities and tell the facts about farming. When Chavez or one of his people tells an audience the farm worker in California is getting $1.30 an hour, we're going to show them our books.

"Most of the population is in the urban area and many of the people belong to unions. They think any union is better than no union and that's not always true."

Many farmers said Chavez opposes secret ballot elections for farm workers "because he knows he'll lose if they (the workers) get a chance to vote."

A UFWOC spokesman said the union does not oppose secret ballot elections.

"The union wants some guarantee written into the law which provides the employe with protection against interference, coercion and restraint by growers," he said.

"If an election was held, it would be on the grower's place and he could easily threaten workers so they would vote against it. It happens anytime a union is getting started. Who do we complain to, the grower? No. We need some agency set up so we can file a grievance if we have information that the employer did not conduct a fair election. That's what happened at Tenneco (where UFWOC lost an election among asparagus workers and is allegeding misconduct by Tenneco)."

### COMPETING WITH GEORGIA

Kubo said the farmers are fighting unionization because products produced here must compete with products produced in other states which do not pay as much for labor. For instance, field workers in the Georgia peach orchards make only $1.30 an hour at best.

"If we get $3.50 a lug box for peaches, we don't see as much profit as the guy in Georgia," he said.

If the farmers' efforts do not bear fruit, there is talk of combatting unionization in other ways.

For instance, some farmers say they will form cooperatives of four or five ranches, build their own packing sheds and hire their own workers.

"I don't think it will come to that," another farmer said. "Chavez doesn't have the support in the field and packers are beginning to realize that. There's a lot of talk that some packers with contracts are going to tell UFWOC to get lost when they come up for renewal." No packers would comment.

Most farmers said it is not hard to obtain laborers and they admit that some are Mexican aliens. "But we don't ask to see their papers," one added quickly, "and I bet no city businessman does either. Hell, if they didn't know they could make more money in the fields of California than anywhere else, they wouldn't come here in the first place. They know where the money's at."

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## FIGHTING THE ODDS

(By Ray Steele, Jr.)

Gene Bachman is bucking the trend; he is buying a small farm.

Despite the forecasts of doom for the small farmer, Bachman bought a 20-acre vineyard in the Kerman area in May after leasing 20 acres for five years. He still leases property and works for the Pacific Gas & Electric Co.

"We don't believe the small farm is going to die," said Mrs. Bachman. "And if the people that say that would come out to our area and look around, I don't think they would say things like that.

"Our schools are just as full as the city schools so there must be a lot of people still in the farming business."

Mrs. Bachman said she and her husband hire help to prune the vines but they do the tractor work and irrigating. They also help in the harvest and vine tying.

"The decision facing us now is whether my husband should leave his job and go into farming full time," she said. "We haven't really decided but we think we can make it."

University of California agricultural economists and farm experts throughout the nation say the family farm is vanishing and will be replaced by larger units which can be operated more economically.

### EXPAND OR SELL

They say it is higher costs which will force the small farmer to either expand his unit or sell.

But people like the Bachmans look at the small farmer as a person who everyone should have an interest in, including the city dweller.

"Farming is a big industry in California," said Bruce Burkdoll, a Dinuba grower. "Food prices for the most part are cheap, farming is a big source of employment and it's a living for a large number of people."

"If the small farmer gives way to the big guy, then watch food prices go sky high," said George Kitihara, a Parlier-area grower. "There are enough small guys now to provide the competition to keep prices lower—admittedly they are too low sometimes, at least on our end. But without the small farmer, the big guys who have their own fields and packing houses and brokers will really send prices up."

Other farmers point to the large number of farm employes—about 384,000 farm workers and about 55,000 farmers—who rely on the land for a living as a reason for everyone having a stake in farming.

Kitihara said city people often fail to understand the facts of farm life and "how beneficial it is to everyone."

"Some people don't understand that the urban problem of today was the ag problem of yesterday," he said. "The farmer here has got to compete with farmers in other parts of the nation and for markets all over the world with other nations.

### CITY MIGRATION

"Since labor is becoming more and more expensive, we have to mechanize in order to compete. I don't want to mechanize but I may have to. What happens to the farm laborers then?

"Well, look what happened in the South when labor started costing more and the farmers there went into mechanization. Negroes were pushed out of jobs because they started using mechanical cotton pickers. So the Negroes moved to the cities and look at the problems that have been created. There's a lot of unemployment and there's a lot of money being spent on training programs to get people jobs that don't exist.

"I want to hire people to pick my crops. But if it costs me too much I'll mechanize. So what if I lose 50 per cent because the fruits is scarred by a mechanical picker? I'll still make more money than by paying high labor costs.

"Farm work is not as menial, dirty and unattractive as a lot of people think. Farms are putting people to work. If the city people don't like it and they boycott our fruit and force us to mechanize, then they can have the farm workers. They haven't done such a good job taking care of farm workers forced out of the South, but they can have them."

### TEN JOIN FORCES

While machines grind down the number of jobs, Cesar Chavez' United Farm Workers Organizing Committee tries to unionize farm workers to get them better wages, working conditions and benefits.

Several Central Valleys farmers and packers already have signed contracts. But the majority of the workers still are nonunion.

The issue of farm labor unionization has aroused the farmer to action. He is talking about working together in small groups and as one large unit.

Thousands of farm jobs in California already have been eliminated by machines. Just as tractors replaced mules, machines have gobbled up jobs once held by laborers in the cotton and tomato fields. The machine now is rumbling into the grape harvest and experts say mechanical harvesting of tree fruits is not far off.

Ten organizations have linked arms to form the Valley Coordinating Committee to fight unionization and tell the farmers' story in urban areas.

One UC economist said the action of farmers to join together may have the side affect of slowing the rapid demise of the small farm.

"What they're doing is becoming less independent, realizing they must rely on each other for strength," he said. "If it is carried through in the planting, production, harvesting, handling, processing and marketing of their crops, they'll survive a lot longer."

Most farmers and financial officials say only the most efficient operator will live on.

They point out that costs in the past 20 years have doubled, tripled or quadrupled while prices have remained stable or increased only slightly.

"The major problem facing the grower, large or small, is trying to hold the line on costs," said Raymond L. Westrup, the district appraisal officer for the Bank of America in Fresno.

"The margins are tighter and tighter. Therefore, he's using equipment which should have been replaced two or three years ago. He cuts back on fertilizers or insecticides and he loses in production. Unless he can control his costs, he's going to be hurting."

"Despite all his problems," said Vernon Wynn, manager of the Production Credit Association in Fresno, "I see a future for the small farmer. He is usually more efficient and a better manager. As long as he can remain economical, and I think he can, the small farmer will exist. And everybody will benefit."

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## THE EMPEROR'S CLOTHES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 15 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I appreciate having this opportunity to discuss with my fellow colleagues in this House some of the serious charges which a number of us have been bombarded with in recent weeks, since so many of my colleagues have seen fit to cosponsor H.R. 10914, the Foreign Trade and Investment Act of 1972. The latest of these attacks came from the chamber of commerce last week. Since I feel some responsibility for this bill's existence, having introduced it back in September, I thought it only fitting that I should take this time today to combat some of the more glaring charges which have been leveled against the bill. The fact is that in spite of the impressive source of some of these irresponsible charges, they really do not stand up too well under close examination. The situation is just too serious for those that have enjoyed the full fruits of our present policies—while other sectors of our economy withered and died on the vine, whole communities were disrupted—to be allowed to adopt a completely intransigent attitude about this problem. This continuous refusal to admit that serious problems do exist, that something must be done to right the overwhelming bias under our present trade policy toward greater imports and little exporting. This head-in-the-sands attitude must cease before it does any more harm. If repeated balance-of-trade deficits and increasingly worsening balance-of-trade figures would not do the trick, then it seems that Congress has no alternative but to accept the challenge which confronts this Nation's economy. I would not go so far as to liken this Nation's present trade policies to the emperor who wore no clothes, surrounded by multinational trade advisors who continuously reassured him he looked wonderful, but I will go so far as to say that if the emperor has any clothes they are doubtlessly foreign made.

I want to first of all to comment on the increasingly sharp attacks being circulated against the Burke-Hartke bill, the Foreign Trade and Investment Act of 1972—H.R. 10914 and S. 2592.

Needless to say, I would be taking too much time if I tried to take on all the various charges that have been leveled against this bill. The most recent publicity in the free trade press seems to focus on the recent press release put out by the Chamber of Commerce of the United States. Actually, I am surprised that the chamber has taken any public position on the matter, in view of the favorable attitude toward the bill held by countless businessmen across the country, especially the smaller businessmen who have suffered so much because of the unbridled flooding of our domestic markets by cheaply produced, foreign-manufactured goods in recent years. In other words, while I expected a task force representing the international group of the chamber to author a "study," I wonder just how much broad chamber support across the country there is for Mr. Arch Booth's unqualified support of its findings. I put the word study in quotes because it is apparent from reading the report that there was a minimum amount of research involved and what we have basically is a rehash of some of the propaganda bombarding the media in recent months, funded and organized by various associations of multinational business firms. The coincidental release in the space of 3 weeks of the Harvard Business School study—headed by one Harvard professor—the distribution of an expensively produced glossy by the National Association of Manufacturers—retailing for $2.50 a copy and entitled "U.S. Stake in World Trade and Investment"—a survey released by the Department of Commerce—repeating the same statistics contained in these previous two studies—and now, the chamber of commerce findings—is just too coincidential to be believed and represents an obvious reaction in concert by the multinational corporations and their friends in the administration.

Having said this much, I want to make it clear that this barrage of free trade propaganda, more than adequately financed by the very well-off membership of ECAT hardly comes as a surprise. Before I even filed the bill, it was made perfectly clear to me that I could safely expect to be the number one target of the free trade press. The chamber lists a number of "particularly disturbing features in the proposal in the Burke-Hartke bill"—none of which really, I think, are accurate statements of their real concern over this legislation. Let us take them one by one.

No. 1: Potential increases in costs to the consumer. This is one of the oldest arguments in the free trade litany. The idea is that the tremendous differences in prices between American-produced goods and those produced with cheaper foreign labor are passed on to the consumer, yet what in fact is the case? Because of virtually no restrictions on labeling by the Government, countless goods stamped "Made in U.S.A." are in fact close to 100-percent made overseas. In other words, component parts manufactured overseas are shipped to this country and packaged and assembled. In many cases, the consumer is paying something very close to the American selling price, if not as much, for this cheap foreign product, disguised as it is, for a genuinely American-made product. Even in cases such as shoes or wholly foreign-made electronic items which are identifiable as foreign-made by the consumer, the consumer is paying considerably more than the foreign wholesale or retail selling price and transportation and customs costs. The following is but a representative example of the fantastic mark-up which occurs with most foreign imports and I think it clearly indicates that the American consumer is being gouged every day in the marketplace. Sure, he might be saving a few pennies or even a dollar or two, but he is, in many cases, paying many times what it costs the importer, the middleman, to import the product.

The sections of my bill which address themselves to truth in labeling demonstrate a greater concern for consumers, it seems to me, than the chamber's position of letting things remain as they are.

Of perhaps even greater concern to me in this is the long-range implications for the consumer if our present policies remain unchanged. Again and again, foreign firms have demonstrated an ability to undersell competitors for many years and, in the process, sustain losses—some of which are subsidized by their governments—in order to gain a foothold and eventually a significant share of another country's market. Once this share is theirs, previous savings to the consumer disappear; then far from enjoying low prices and keen competition, the consumer often ends up hostage to prices dictated by foreign manufacturing firms. Insofar as my bill addresses itself to strengthening antidumping provisions of existing legislation, it attempts to address itself to this widespread practice. The Westinghouse case against Japan's transformer manufacturers is only now, after 5 years of intensive study by the Treasury Department, being referred to the Tariff Commission for further review and consideration, even though the Treasury Department has decided, in fact, that there is adequate evidence of dumping by foreign transformer manufacturers.

| Product | Price in Japan | Price landed in the United States | Suggested retail price |
|---|---|---|---|
| Portable radio | $11.66 | $13.81 | $39.95 |
| Do | 17.88 | 21.35 | 59.95 |
| Do | 19.20 | 22.10 | 53.95 |
| Do | 46.22 | 54.05 | 179.95 |
| AM-FM tuner amplifier | ? | 39.10 | 119.95 |
| Do | 31.74 | 38.80 | 159.95 |
| Stereo cassette tape recorder | ? | 52.63 | 149.95 |
| Stereo reel tape recorder | 70.65 | 90.00 | 219.95 |
| Portable cassette | ? | 27.73 | 89.95 |
| Stereo cassette tape recorder with speakers | ? | 66.00 | 189.95 |

Far too often, in other words, it seems to me consumer and consumer groups are sucked into the free trade camp by illusory short-term monetary advantages. In ignoring some of the long-term implications of these short-term gains, consumers are literally sacrificing future long-term benefits. When we discuss multinational corporations, we are dealing with an even greater tendency toward monopoly pricing policies as the multinationals are increasingly controlling the supply of both domestic and foreign-made goods. A quite prevalent practice by some of the larger retail merchandisers in this country is to buy their goods in many different countries at quite different prices and mingle the goods to the extent that they all sell at the same price in the United States retail outlets. Gloves produced in several different countries, for instance, at several different prices are sold at the same selling price here. In short, I see plenty of evidence that what determines the selling price of foreign imports is not their true value or cost to the importer, but rather the American selling price and what American consumers are willing to pay for items manufactured in this country.

The second disturbing factor mentioned by the chamber is future restrictions on buyer selection. Again, I think this is a red herring. The experience of the past 10 years is that in several vital industries, American production is phasing out and the consumers are left with no alternative but to buy foreign items. The American consumer can no longer buy an American baseball or baseball glove or an American-produced umbrella. Very few ladies' handbags are made in this country today. Increasingly, practically all of the small consumer electronic items such as hearing aids, transistor radios, phonographs, even radios and televisions are exclusively foreign-made. How this represents greater consumer selection escapes me. Again, my bill's quota provisions are being grossly distorted by the chamber and other groups. Its quota provisions would not exclude foreign-made products and thus limit a buyer's selection to American products, but rather allow them to retain their share of the domestic market and even allow for an orderly growth as our domestic market expands, for any given product. In other words, it is the epitome of an orderly market bill, providing for reasonable growth in the market and tying in for the first time foreign imports with market growth. The present policy has seen nothing short of total market disruption in certain key industries underneath the onslaught of a veritable avalanche of cheap foreign goods. I need only refer to our domestic shoe market, electronic goods market, our stainless steel market, and our textile market for this point to be appreciated. In other words, I seriously challenge whether any nation can afford to allow foreign domination of its domestic market to increase in runaway leaps and bounds and expect that the consumers in the long run are going to be the beneficiaries. Quota legislation would, in fact, guarantee the continuation of buyer selection by insuring the continuation of the present blend of American and foreign made goods.

As far as the Chamber's third concern goes, potential retaliatory action by other governments, my initial instinct is to retort with "retaliate?" Can they really retaliate any more than they already are? This concern presupposes that we are in fact living in a genuinely free trade world at the moment. Nothing could be further from the truth. Free trade implies a two-way street, with our goods having equally free access to the markets of foreign nations as they have to ours. Such is clearly not the case. The myriad of trade barriers which has grown up in the last 10 to 20 years in both Japan and the Common Market testifies that the opposite is the case. The free trade lobby likes to point out progress made in the last 20 years in removing tariff barriers, but what has grown up to take the place of such barriers are mechanisms and restrictions which are as effective as they are insidious. We find, for instance, import licensing requirements a major feature of the trade landscape today in foreign countries, value added taxes with their hidden export subsidies, whopping export tax credits subsidized by the foreign taxpayers, border taxes on imports, governmental restrictions in the name of safety and consumer protection which effectively, for instance, keep out from some countries cars two inches longer than the smallest cars made in this country. In other words, I know of no foreign government which has abdicated governmental intervention in every aspect of the economy in the name of social well being and economic progress of its citizens. This is the only nation that seems to feel that the laissez-faire standards of the 18th century should apply where foreign trade is concerned, even though the government is active in every other area of our domestic economy. Every nation in the world, including ours, is dedicated to the pursuit of full employment, yet ours is the only one, it seems, that has agreed to pursue this goal with one important hand tied behind its back and that is the foreign trade arm of our economy. Far from encouraging retaliatory action by other governments, I am convinced that our foreign trading partners would begin to seriously negotiate the removal of many of these barriers if they thought for one minute the Burke-Hartke bill was under serious consideration.

I am convinced that much of the progress scored by this administration in achieving voluntary agreements with our foreign partners can be traced to the realization by our trading partners that Congress means business and its patience cannot be taken for granted much longer. It is only with the Burke-Hartke bill that our negotiators for the first time have something to trade off for foreign concession. Thus, it seems to me that, far from encouraging retaliation, my bill has encouraged for the first time a willingness to seriously negotiate a genuinely worldwide market for the first time in the last 20 years. This Nation's staggering series of trade deficits, balance-of-payment deficits, unemployment rates, budget deficits can no longer be ignored, either by the elected officials of this Government or any other nation in the world. The continuing erosion of this Nation's trading position cannot be solved by platitudes about encouraging exports and trying harder when we are confronted with insurmountable trade barriers in other nations, nor can it be solved by rolling back the clock to the days of the sweatshop, child labor, the 7-day workweek or by repealing the minimum wage law. The workers have fought hard for their present standard of living and they are perfectly within their rights in not wanting to work in conditions similar to those in Japan, Korea, Indonesia, or wherever else the cheapest foreign labor market is today. I am for free trade, but genuine free trade, not the sham we have today which is positively injurious to this Nation's economic interests.

As for the fourth point of the chamber, that we are ignoring the positive contributions of the multinational corporations, all I can say is that the chamber has swallowed their claims without serious examination. The same Harvard Business School that has recently released a study pointing out the good features of the multinationals some years back also released a study showing how these giants have outgrown all national boundaries, can no longer be relied upon to have any true national loyalty, given their global outlook and scale of operations, and which had grown like topsy under the very eyes of the governments of the world which, on the whole, have been unaware of the implications of their development.

Consequently, I fail to see how pointing to the marked increase in employment in these corporations in recent years is something that is all to the good. I fail to see how we can be too happy with the much-touted export performance of these firms, when we realize that the bulk of their exports is in the form of machinery. In a real sense, any nation, 45 percent of whose exports are in the form of machinery, is in effect exporting future jobs as well—as these machines are the very ones which will be manufacturing goods to compete with our manufactured goods, with cheap foreign labor making the vital competitive difference. Excessive reliance on this kind of exporting is ultimately self-defeating and cannot be a source of too much long-term comfort to the majority of American manufacturers. I fail to see how this

Government can be entirely happy with the fact that more and more these firms are dependent in excess of 50 percent of their earnings from foreign operations and that increasingly our foreign policy is being conducted, in part at least, to protect the interests of these firms in the far corners of the globe. If these firms have no choice but to invest overseas or lose foreign business by default, then I fail to see why the taxpayers of this country should be required to underwrite and subsidize what is, after all, only good business for them. The foreign investment tax credit, to me, is nothing more than a bonus tax loophole for making business decisions which would probably be made with or without an investment tax credit. It is time that the taxpayers of this country save some $3 billion a year, which this subsidization costs them. A firm locating a plant in Appalachia or one of the hard-pressed unemployment areas on the west coast can only hope for a tax deduction at best for local taxes paid. Firms locating overseas, in sharp contrast, are given a dollar-for-dollar tax credit right off the top. It is not surprising, therefore, that some of the kindest things that have been said about this bill have come from the tax reform lobby. Firms doing business in this country have to abide by the terms of the Sherman Antitrust Act and pay their taxes. How can we justify any longer a few multinationals increasingly dominating various industries with an increasingly larger share of their operations overseas and beyond the control and restraints of this Government?

I can appreciate the chamber's concluding remarks that this bill goes against the grain of their "free enterprise philosophy." My only reply, and it is a sincere one, is that if our domestic manufacturers must operate in a less than free enterprise atmosphere, with all kinds of Government controls and regulations, then I cannot justify in my own mind how we can tolerate any longer a glaring exception in the favor of the multinationals. While employment in these firms increases, countless other workers may never work again because their mistake was to be employed by a small manufacturing firm whose business has long since disappeared. Unemployment compensation is being exhausted and the welfare rolls are increasing. To me, it does little good to know that a few major firms are doing well in the midst of all of this.

Finally, in this city one gets used to the direst predictions imaginable. Right now, the the multinationals are trying to convince everyone through the press that these giant industries will have to shut down if the Burke-Hartke bill passes. If I may be so bold as to suggest, it seems to me that these firms are fighting more for their profits than for their lives and this is as it should be, in my opinion, where serious questions of national interest have to be considered.

I would also want to call the attention of the Members of the House to several articles which have appeared in publications recently which merit serious consideration.

The first, from that respected publication, Chemical and Engineering News, December 31, 1971, an article from a recent edition of Dun's, and finally a newsletter from the Bourbon Institute illustrating the export problems confronting America's "national" drink overseas.

### Trading Our Future for Profit

Letters such as "Unions vs. the public" (C&EN, Oct. 11, page 4) and "On professionalism" (Oct. 4, page 8) which blame "union demands" for our inflation, unemployment, and balance of payments problems, and suggest salary cuts as a cure for inflation would have been appropriate for 1936 editions of *The Wall Street Journal* or *Business Week*. The repetition of this common but clearly fallacious argument, in a 1971 issue of C&EN which represents working (or at least it is hoped, working) scientists, deserves a rebuttal.

The industrial and agricultural worker in the U.S.—blue-collar, white-collar, professional, union, and nonunion—requires a high wage. It is he who supports through taxation the entire structure of welfare-subsidy-aid-poverty program, etc., below, plus the tax shelter-loophole-depletion allowance-capital gains edifice above. In addition, he supports a huge, growing and ever more expensive government bureaucracy. Therefore, let us not bite the hand that feeds us, or more appropriately, let's not knock over the trough at which the rest of the hogs fatten.

Most significant the middle-income taxpaying worker supports an expensive but excellent educational system which produces the people who create America's real resource—the world's most advanced technology.

For many years our advanced products enabled us to compete in international markets despite high prices (and high wage rates).

What has happened in the 1960's and continues is that American corporations, via licensing agreements, foreign plant construction, and other multinational arrangements, have given away for a very small portion of real cost and value, this advanced technology and with it, the jobs it created. When a multinational corporation licenses a product abroad, it gives away the technology created by Americans educated at public expense, and the American jobs which produce that product, for the 5 or 10% profit represented by the license fee or return on invested capital. Result—the American worker loses a job, the U.S. loses an export product and becomes an importer of that product and the corporation still nets 5 or 10%. Result—unemployment plus balance of payments problems. Naturally, the foreign producer can sell for less—he hasn't had to invest in the education, the R&D, or the wages which support the "American system."

That imported television set or scientific instrument you buy ought to be cheap; we paid for it once in R&D, we're paying for it now in the jobs of American workers, and we will pay in the future with our own and our nation's economic well-being.

Our willingness to permit this continued unrestricted technology drain will result in the destruction of the resources which support that technology in which case no amount of "salary cuts" or pointing fingers at "the unions" will save our economy, our jobs, or even ultimately, the corporation which shortsightedly trade America's leadership and future for short-term profit.

Nathaniel Brenner,
*Director of Marketing, Coates & Welter Corp.*

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### Washington Desk

Although he admits that there is a "strong trend towards protectionism" in the United States, Peter G. Peterson, Assistant to the President for International Economic Relations, is nevertheless optimistic. "I think this trend will reverse itself," the former Bell & Howell president told RUN'S.

The top Presidential aide bases his optimism on the successful completion of the various ongoing monetary and trade negotiations, which should give us "hopeful outlook for the balance of payments," and an improvement in unemployment. "In fact," adds Peterson, "I have not noticed any pickup in demands for more protection in recent months."

But despite Peterson's optimism, there is one facet of the trade picture that does not augur well for the United States: half of our exports stem from technology-intensive industries. On the face of it, this would seem like a boon rather than a bane. But it is not.

For as soon as we achieve a technological breakthrough, it is copied abroad. This was not the case even a generation ago. According to studies by Peterson's staff, a half century ago it took about twenty years for the average new product to appear in another country. By 1950, it took about ten years. Today, it takes no more than three.

Thus, the Administration's upcoming program to provide industry with more incentives for research and development, which should be unveiled this month, will not really be a panacea for the nation's international economic problems. For whatever new products are created as a result of this R&D will soon appear abroad.

This, of course, does not mean that the development of cost-reducing technology is no longer worth the effort. That is far from the case. In fact, cost reduction is surely the only way that we can regain our supremacy in the world market. But businessmen must bear in mind that any new products they might develop through stepped-up R&D incentives will soon be copied overseas.

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[From the Bourbon Newsletter, Dec. 27, 1971]

### Blocks and Barriers Around the World

Bourbon, the largest selling distilled spirit in the U.S., has a difficult time trying to reach consumers around the world. When an American distiller becomes interested in selling Bourbon outside the U.S. borders the barriers he faces, economic, tariff and non-tariff and otherwise, are countless. It takes a lot more than just marking the case "for export" to make Bourbon available in liquor stores overseas.

The obstacles start with exhorbitant ocean freight rates and run right through excessive custom duties, special labelling and a myriad of bottle size requirements.

For example, under the prevailing freight rates it costs an American Bourbon producer $87.50 per ton to ship from San Francisco to Japan. A shipment of the same weight and size from England to Tokyo costs only $65.76—a differential of $21.74. The differential is compounded in Japan, as well as in many other countries, where the import duties and taxes are based on the value of the Bourbon plus the insurance and the freight costs. In most cases the total taxable value of a case of Bourbon landing in Tokyo reaches the point where the custom duty is 220%. In a country like Japan, the best Bourbon market to date in the Far East, the retailer must charge $15 to $20 per bottle if he is to make any profit whatsoever. With these marketing limitations it is obvious why, despite the growing sales, the total value of Bourbon exported to Japan last year was only $388,000. In comparison, the dollar value of the Japanese alcoholic beverages exported to the United States was $2,573,000.

#### QUOTA BARRIERS

For many years they faced Bourbon exporters all over the world. Exports to any of these countries could never exceed the gallonage exported the previous year. England, France, and Italy finally dropped their quota systems a few years ago and Japan followed a little over a year ago. Mexico still maintains a quota on Bourbon shipments. In addition,

> the import duty on Bourbon entering Mexico is up to 50% of the value. Interestingly, imports of Mexican distilled spirits to the U.S. in 1970 were close to a billion gallons. A total of 27,683 gallons of Bourbon entered Mexico in the same year—a ratio of 32 to 1.
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> * * * * *
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> Distillers must also keep in mind the varied label requirements of every country. Many insist on labeling in their own language. Others, like Brazil, stipulate that bottles not only have labels in Portuguese but also have one in English. The information required on it varies from country to country.
>
> As a way of insuring their consumers against bogus Bourbon, many countries, including all those in the Common Market and New Zealand, are requiring that every case shipped from the U.S. bear an "authenticity certificate" signed by the producer.
>
> Overall, these barriers have been contributing factors to the trade deficit which exists in alcoholic beverages. In the U.S., largest market in the world for imported alcoholic beverages, the trade deficit in all alcoholic beverages last year was $659,000,000, and indications are that it will be even greater this year.

## THE ADMINISTRATION'S POLICIES ARE HARMFUL TO AMERICA'S HEARTLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, since 1970 I have periodically taken the floor of the House of Representatives to urge that we, as a Congress and as a nation, make a firm commitment to the survival of small towns and communities. These are more and more recognized as the future hope for achieving the goal we have set for ourselves—the goal of providing all persons in our country with a choice of social, cultural, economic, and physical environments in which to live.

At other times I have used the medium of the CONGRESSIONAL RECORD to share with my colleagues information which I feel is pertinent to the consideration of programs designed to speed us to success with our goal.

Most recently this information has taken the form of testimony from a series of hearings I have conducted in the First Congressional District of Arkansas. This testimony was taken from leaders in governmental and private communities. It also came from interested persons acting on an individual basis.

In view of this deep and continuing interest of mine in total community development in nonmetropolitan areas, I could have been expected to be enthusiastic about the fact that the President's February 1 message to the Congress took note of "the Problems of Rural America."

Early in the message I was encouraged when I saw his comment that:

> All Americans have a high stake in rural development. For the problems which many rural areas are now experiencing are directly linked to those of our cities and suburbs.

For more than 2 years, I have repeatedly contended this is true. In his discussion of population concentration problems the President said:

> Our problems are not so much those of numbers as of distribution. And, their solution requires revitalization of the American countryside.

I agree, for I have said this frequently since coming to the Congress. And, I must admit to a bit of special enjoyment when I read that the President did not feel that more tax money from the taxpayers was the sole solution. He said:

> What we must now seek instead is a fundamental change in the way government approaches the entire developmental challenge.

And, again, I agreed.

Now, Mr. Speaker, a few moments ago, I indicated that my enthusiasm for the President's Rural America message was somewhat tempered. It was tempered by the knowledge that I have of situations which have developed in my district and which adversely affect development in nonmetropolitan regions. Situations created by executive branch actions which have resulted in more than 54 persons losing their jobs. The jobs of at least 20 other persons are in jeopardy.

I do not believe it would be difficult to find agreement that basic to the nucleus of a small town with a future are three things. These are the general store, the post office and the doctor—not necessarily in that order of importance.

The general store can provide local residents with a gathering place for neighbors and a variety of store-bought supplies. These supplies are items the creative, independent, imaginative, small town people do not grow, build, or otherwise devise for themselves. This store acts as a basic building block for the business community.

The doctor is the person to whom the men and women of the community turn to for aid in time of trouble. He is their medicine man. He is the vital link between the people and good health. And, frequently his 10 to 20-bed hospital is the nearest point at which medical help is dispensed. Its presence and that of the doctor can also easily be the margin by which this community wins the contest for job producing enterprise.

One of the post office's most important roles—while it is not tangible—is vital to the community. The post office does provide jobs and service, true. But, the most important element is the town-identity support yielded by the post mark used in that post office.

This marking on letters which carry news of the small town throughout the Nation—and world—is evidence to the stranger that Earle, Ark., is a tangible place.

Now, the President has been telling the Congress and the Nation that his administration is aware of and favors the revitalization of small towns and nonmetropolitan America. And, even while he is dispensing that news, at least two elements of the executive branch have been initiating actions which say the exact opposite.

In the Manila and Leachville, Ark., areas, the Department of Health, Education, and Welfare has knowingly pursued a course of action which directly resulted in the closing of one small hospital and threatens another. And, the actions may rob the area of resident doctors. These medical units, Rodman Hospital, Inc., and Shaneyfelt Hospital, Inc., which closed February 18, 1972, provided service to a 400-square-mile area. The nearest large hospitals have annual average occupancy levels ranging from 58.8 percent to 81.4 percent.

While this occupancy rate indicates some beds vacant, it is an average made over the 365 days in a year. It does little to indicate the critical bed shortage which occurs during the annual seasons of high incidence of illness.

In addition, action taken by the Arkansas State Department of Health, in reaction to edicts by HEW officials, has deprived residents of the Trumann, Ark., area of the services of Smith Hospital, Inc. This hospital had a 17-bed capacity. Its patients will be forced to compete for bed space in the same hospitals to which those of the Shaneyfelt and Rodman units will be directed.

The principal reason for HEW's determination to force the closing of the hospitals I have mentioned seems to be the shortage of registered nurses available for 24-hour duty. Officials involved cite Public Law 91–690 as their authority for this action. Yet, Mr. Speaker, it was clear, I believe, when we approved including this flexibility in the medicare-medicaid statutes that it was intended to make possible the continued operation of small, high quality medical units located in low-population, nonmetropolitan communities.

This action by HEW is, I believe, a subversion of the intent of Public Law 91–690. These are actions which, deliberately or not, are designed to sharply curtail the ability of small towns to persuade members of the business and industrial communities to locate new firms or branches of existing firms in their areas. Diminishing this capacity works as a direct threat to the community's ability to continue to exist as a cohesive unit.

Clearly, Mr. Speaker, the end result of the administration's policies are harmful to America's heartland. They are weighed against the survival of small towns. These policies are severely increasing the difficulty of the nonmetropolitan community's uphill fight to maintain or increase, in an orderly manner, its current level of population.

I would urge my colleagues whose districts encompass small towns and communities—or whose districts are affected by their fortune, whether it be good or ill—to be aware of the results of the administration's policies. We must take very close review of proposals by the administration. We must assure ourselves that these suggestions and requests are not designed to work to the detriment of the nonmetropolitan segment of our Nation. I expect to continue my practice of periodically taking the floor of the House to make my colleagues aware of situations such as the one I have brought to your attention today.

## PANAMA CANAL TREATY NEGOTIATIONS: EXERCISE IN DIPLOMATIC FUTILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 30 minutes.

Mr. FLOOD. Mr. Speaker, on February 9, 1972, President Nixon submitted a report to the Congress on "U.S. Foreign Policy for the 1970's." In the Latin American section of the report is this brief though significant statement:

> We have entered new negotiations with Panama to achieve a mutually acceptable basis for the continuing efficient operation and defense of the Panama Canal.

The new treaty talks mentioned in the report refer to the resumption of negotiations that preceded the abortive 1967 treaties. To understand the full import of the cited statement one must know some recent history.

Starting on January 9, 1964, there were 3 days of massive Red led Panamanian mob assaults on the Canal Zone requiring the use by the United States of its Armed Forces to protect the lives of our citizens and the security of the canal, but at no time did our forces leave the Canal Zone. On orders of the President of Panama the National Guard of that country was kept in their barracks thus giving the mobs free play. This was his method for emphasizing Panamanian demands for a new canal treaty.

In a mistaken gesture of friendship, President Johnson, though initially taking a correct position in support of our treaty obligations, reversed himself and, on the advice of the State Department, acquiesced in the Panamanian demands for the negotiations of new canal treaties. He appointed Robert B. Anderson, then chairman of the sea-level canal study panel under Public Law 88-609, to the additional office of Chief U.S. Negotiator with the personal rank of ambassador.

After lengthy diplomatic discussions, the Presidents of Panama and the United States in a joint statement on June 26, 1967, announced the completion of negotiations for three proposed new canal treaties: First, for the operation of the existing canal; second, for the construction of a new canal of so-called sea-level design; and third, for defense purposes.

Quoted in addresses in the Senate by Senator STROM THURMOND in the CONGRESSIONAL RECORD of July 17, 21, and 27, 1967, respectively, the proposed treaties evoked such hostile reactions in both Panama and the United States that they were never signed and consequently never submitted for ratification.

The most significant points about them were their provisions for making Panama an active partner in the operation and defense of the canal and for surrendering U.S. sovereignty over the Canal Zone to Panama, a weak, unstable and technologically primitive country that in the last 69 years has had 59 presidents, a recent one serving only 11 days. Moreover, the proposed surrender of U.S. territory and property was agreed to by our negotiators despite the fact that the U.S. Constitution—IV, section 3, clause 2—vests the power to dispose of territory and other property of the United States in the Congress, which includes the House as well as the Senate and which provision was specifically followed in the case of the 1955 treaty.

On October 11, 1968, the constitutionally elected Government of Panama was overthrown in a military coup d'e tat. One of the first acts of the usurping regime was the abolition of the National Assembly of Panama, which body is the only governmental agency of that country authorized to ratify treaties—article 118, Panama Constitution.

In connection with what has been transpiring as regards the Panama Canal, it should be remembered that wresting its control from the United States has been a major Soviet policy since 1917 and that the Communist take over of Cuba in 1959 was the first specific step in that direction.

After a brief delay following the 1968 Panamanian military coup, the revolutionary Government of Panama, which gradually revealed its pro-Soviet and pro-Cuban affinities. Though it later repudiated the proposed 1967 treaties as unacceptable as a basis for future negotiations it sought to reopen diplomatic talks with the United States for new canal treaties.

Not withstanding all of this background, negotiations were resumed in June 1971 under President Nixon, with the same Ambassador Anderson again as our chief negotiator.

Though not mentioned so far as known in the press of the United States, a November 22, 1971, newsstory from Buenos Aires by Julio Argain for El Colombiano was to the effect that Gen. Omar Torrijos, the Panamanian military strongman, conferred with Soviet Leader Kosygin and Cuban Premier Castro in Antilla, Cuba. The fact of this conference has never been denied by either Panama or the U.S.S.R. It has been reported that Kosygin promised Torrijos financial aid, armaments, and technical advisers. The last are already arriving in the Isthmus as "guest speakers," but they remain as residents.

Recent information, as stated in my press release of February 9, 1972, quoted by me in an address to the House on the same day, is that the plan of the present U.S. administration calls for submitting a new treaty to the Senate in March of this year. To arouse support in the Congress, Ambassador David H. Ward, newly appointed Assistant Chief Negotiator for the proposed treaty, has been interviewing Members of the Senate as well as seeking interviews with Members of the House. Such action, Mr. Speaker, is ex parte in character and highly irregular.

Meanwhile, the people of the United States, under well-informed leadership of the American Legion and many other patriotic and civic organizations, writers and commentators, have been alerted to the dangers involved in the surrender proposals. My correspondence from all over the Nation and Panama itself is overwhelmingly and strongly opposed to any surrender of any U.S. territory, rights, power, or authority at Panama. Our people in their instinctive reactions are far ahead of their Government and do not wish a Suez situation on the Isthmus.

For many months the Panama press under strict government controls has been conducting a sensationally hostile campaign against the United States, using epithets regarding the Canal Zone such as "imperialism," "colonialism," and "enclaves" and making impossible demands, such as for the payment of billions of dollars for canal lockage water from the Chagres River. Water rights of the United States are fully covered in article IV of the 1903 Treaty. Threats have even been made to divert Chagres River water to the oceans.

The use of the term "enclave" by revolutionaries to describe the Canal Zone is merely dyed in the wool Red terminology the use of which is aimed at embarrassing the United States. The Canal Zone territory is no more of an enclave than the Gadsden Purchase. Yet Red agents infiltrate Panama with impunity and are currently engaged in counseling the leaders of the usurping revolutionary government in making their extreme and impossible demands against the United States.

Mr. Speaker, in considering these problems with respect to Panama Canal, the Congress must ever bear in mind the fact that the security of the Western Hemisphere depends upon the United States continuing its undiluted sovereignty over the Canal Zone and canal.

It is highly significant that public statements by present revolutionary officials of Panama have been featured by the increased use of Communist terms, threats to invade the Canal Zone at the head of 6,000 rifles, and opposition to holding congressional hearings by the House Subcommittee on the Panama Canal in the U.S.-owned zone territory, which are now underway under Chairman JOHN M. MURPHY. The only possible explanation for opposing such hearings is that Panamanian revolutionaries do not wish the Congress to have all the facts, for Panama Canal employees know them well.

Such truculence, Mr. Speaker, can be explained only by the growing influence of Soviet agents already placed in Panamanian Government agencies and in the University of Panama. Have any of our high officials publicly answered demagogic Panamanian accusations and demands? They have not; and their failure to do so is the reason why from time to time I have replied to them.

A surprising recent isthmian development was the publication in screaming red headlines in the January 29, 1972, issue of La Hora, a leading Spanish language newspaper in Panama, of a newsstory denouncing General Torrijos, the pro-Red dictator of Panama. It charges him with being an assassin and murderer, an embezzler, a member of the Mafia engaging in illegal narcotics traffic, and a traitor.

The fact that such an attack was made at all indicates that Panamanians are now preparing for another of their perennial governmental overthrows; and possibly a return to constitutional government. Furthermore, the attack may well mark the beginning of the end for the Torrijos revolutionary regime. In such event imagine the ridiculous position in which our Government would find itself, for the last constitutional president of Panama never used the canal issue for election purposes and never demanded surrender of U.S. sovereignty over the Canal Zone.

The Canal Zone territory as presently constituted is the minimum area necessary for the operation and protection of the canal. Instead of reducing it the zone should be extended to include the entire watershed of the Chagres River for obvious reasons.

During World War II, the entire Canal Zone was virtually an armed camp, because of the danger involved. With Cuba a U.S.S.R. satellite, Soviet agents infiltrated into the Panama Government, and pro-Red revolutionaries poised to strike at the zone, under no circumstances should be United States surrender any of the zone territory or any of its rights, power, and authority therein.

In spite of all the "sound and fury" that has been generated on the Isthmus and the covert efforts of State Department officials engaged in the treaty negotiations to influence Members of the Congress, the following conclusions are justified:

First. That under the U.S. Constitution—article IV, section 3, clause 2—the surrender of U.S. territory, property, rights power, and authority over the Canal Zone and Panama Canal cannot be made without the specific authorization of the entire Congress—House and Senate.

Second. That the Congress as evidenced by the September 22–23, 1971, hearings in Panama Canal sovereignty resolutions before the Subcommittee on Inter American Affairs will never authorize any of the proposed surrenders at Panama.

Third. That the pro-Red revolutionary Government of Panama, which has liquidated the National Assembly of that country, has no constitutional means for the ratification of treaties.

Fourth. That Panamaniams themselves now seem to be preparing to overthrow the Torrijos government.

As a close student of Panama Canal history and problems over many years, I long ago recognized that recent Presidents of the United States have received some very bad advice from State Department sources as regards Isthmian canal policy matters. It is crystal clear that the present canal negotiations are exercises in diplomatic futility and that the best course for the administration to follow is to remove both Robert B. Anderson and David H. Ward from their present positions, to terminate the current negotiations, and to reestablish constitutional procedures in there connections in both Panama and the United States. Then the way will be open for the major modernization of the existing canal as provided in S. 734 and H.R. 712, 92d Congress, identical bills introduced by Senator Thurmond and myself. The solution therein provided, which was derived from almost 60 years of successful experience in operating the canal, is not only the best from the operating, engineering, economic and ecological standpoints but also from the diplomatic, for it does not require a new treaty and preserves the economy and best interests of Panama.

The Canal Zone territory is constitutionally acquired domain of the United States owned and governed by the United States, paid for by our taxpayers, and absolutely necessary for the operation and protection of the canal. For our Government to undertake to arrive at a "mutually acceptable" basis with the Torrijos military dictatorship is about as sensible as arranging a pact between law enforcement agencies and a band of robbers.

Our President is bound by oath to "preserve, protect, and defend" the U.S. Constitution and it remains to be seen whether or not he observes it.

Because of its pertinence in the overall canal situation, I quote the 1971 memorial to the Congress prepared by the Committee for Continued U.S. Control of the Panama Canal and commend it for careful reading:

### PANAMA CANAL—SOVEREIGNTY AND MODERNIZATION

Honorable Members of the Congress of the United States: The undersigned, who have studied various aspects of interoceanic canal history and problems, wish to express their views:

(1) The report of the interoceanic canal inquiry, authorized under Public Law 88–609, headed by Robert B. Anderson, recommending construction of a new canal of so-called sea level design in the Republic of Panama, was submitted to the President on December 1, 1970. The proposed canal, *initially* estimated to cost $2,880,000,000 exclusive of the costs of right of way and inevitable indemnity to Panama, would be 10 miles West of the existing Canal. This recommendation, which hinges upon the surrender to Panama by the United States of all sovereign control over the U.S.-owned Canal Zone, has rendered the entire canal situation so acute and confused as to require rigorous clarification.

(2) A new angle developed in the courses of the sea level inquiry is that of the Panamic biota (fauna and flora), on which subject, a symposium of recognized scientists was held on March 4, 1971 at the Smithsonian Institution. That gathering was overwhelmingly opposed to any sea level project because of the biological dangers to marine life incident to the removal of the fresh water barrier between the Oceans, now provided by Gatun Lake, including in such dangers the infestation of the Caribbean Sea and Atlantic Ocean with the poisonous yellow-bellied Pacific sea snake (Pelamis platurus).

(3) The construction by the United States of the Panama Canal (1904–1914) was the greatest industrial enterprise in history. Undertaken as a long-range commitment by the United States, in fulfillment of solemn treaty obligations (Hay-Pauncefote Treaty of 1901) as a "mandate for civilization" in an area notorious as the pest hole of the world and as a land of endemic revolution, endless intrigue and governmental instability (Flood, "Panama: Land of Endemic Revolution . . ." Congressional Record, vol. 115, pt. 17, pp. 22845–22848), the task was accomplished in spite of physical and health conditions that seemed insuperable. Its subsequent management and operation on terms of "entire equality" with tolls that are "just and equitable" have won the praise of the world, particularly countries that use the Canal.

(4) Full sovereign rights, power and authority of the United States over the Canal Zone territory and Canal were acquired by treaty grant in perpetuity from Panama (Hay-Bunau-Varilla Treaty of 1903). In addition to the indemnity paid by the United States to Panama for the necessary sovereignty and jurisdiction, all privately owned land and property in the Zone were purchased by the United States from individual owners; and Colombia, the sovereign of the Isthmus before Panama's independence, has recognized the title to the Panama Canal and Railroad as vested "entirely and absolutely" in the United States (Thomson-Urrutia Treaty of 1914–22). The cost of acquiring the Canal Zone, as of March 31, 1964, totalled $144,568,571, making it the most expensive territorial extension in the history of the United States. Because of the vast protective obligations of the United States, the perpetuity provisions in the 1903 treaty assure that Panama will remain a free and independent country in perpetuity, for these provisions bind the United States as well as Panama.

(5) The gross total investment of our country in the Panama Canal enterprise, including its defense from 1904 through June 30, 1968, was $6,368,009,000; recoveries during the same period were $1,359,931,421, making a total net investment by the taxpayers of the United States of more than $5,000,000,000; which, if converted into 1971 dollars, would be far greater. Except for the grant by Panama of full sovereign powers over the Zone territory, our Government would never have assumed the grave responsibilities involved in the construction of the Canal and its later operation, maintenance, sanitation, protection and defense.

(6) In 1939, prior to the start of World War II, the Congress authorized, at a cost not to exceed $277,000,000, the construction of a third set of locks known as the Third Locks Project, then hailed as "the largest single current engineering work in the world." This Project was suspended in May 1942 because of more urgent war needs, and the total expenditures thereon were $76,357,405, mostly on lock site excavations at Gatun and Miraflores, which are still usable. Fortunately, no excavation was started at Pedro Miguel. The program for the enlargement of Gaillard Cut started in 1959, with correlated channel improvements, was completed in 1970 at a cost of $95,000,000.' These two works together represent an expenditure of more than $171,000,000 toward the major modernization of the existing Panama Canal.

(7) As the result of canal operations in the crucial period of World War II, there was developed in the Panama Canal organization the first comprehensive proposal for the major operational improvement and increase of capacity of the Canal as derived from actual marine experience, known as the Terminal Lake—Third Locks Plan. This conception included provisions for the following:

(1) Elimination of the bottleneck Pedro Miguel Locks.

(2) Consolidation of all Pacific Locks South of Miraflores.

(3) Raising the Gatun Lake water level to its optimum height (about 92').

(4) Construction of one set of larger locks.

(5) Creation at the Pacific end of the Canal of a summit-level terminal lake anchorage for use as a traffic reservoir to correspond with the layout at the Atlantic end, which would improve marine operations by eliminating lockage surges in Gaillard Cut, mitigate the effect of fog on Canal capacity, reduce transit time, diminish the number of accidents, and simplify the management of the Canal.

(8) Competent, experienced engineers have officially reported that all "engineering considerations which are associated with the plan are favorable to it." Moreover, such a solution:

(1) Enables the maximum utilization of all work so far accomplished on the Panama Canal, including that on the suspended Third Locks Project.

(2) Avoids the danger of disastrous slides.

(3) Provides the best operational canal practicable of achievement with the certainty of success.

(4) Preserves and increases the existing economy of Panama.

(5) Avoids inevitable Panamanian demands for damages that would be involved in the proposed sea level project.

(6) Averts the danger of a potential biological catastrophe with international repercussions that recognized scientists fear might be caused by constructing a salt water channel between the Oceans.

(7) Can be constructed at "comparatively low cost" without the necessity for negotiating a new canal treaty with Panama.

(9) All of these facts are elemental considerations from both U.S. national and international viewpoints and cannot be ignored, especially the diplomatic and treaty aspects. In connection with the latter, it should be noted that the original Third Locks Project, being only a modification of the existing Canal, and wholly within the Canal Zone, did not require a new treaty with Panama. Nor, as previously stated, would the Terminal Lake—Third Locks Plan require a new treaty. These are paramount factors in the overall equation.

(10) In contrast, the persistently advocated and strenuously propagandized Sea-Level Project at Panama, initially estimated in 1970 to cost $2,880,000,000, exclusive of the costs of the right of way and indemnity to Panama, has long been a "hardy perennial," according to former Governor of the Panama Canal, Jay J. Morrow. It seems that no matter how often the impossibility of realizing any such proposal within practicable limits of cost and time is demonstrated, there will always be someone to argue for it; and this, despite the economic, engineering, operational, environmental and navigational superiority of the Terminal Lake solution. Moreover, any sea-level project, whether in the U.S. Canal Zone territory or elsewhere, will require a new treaty or treaties with the countries involved in order to fix the specific conditions for its construction; and this would involve a huge indemnity and a greatly increased annuity that would have to be added to the cost of construction and reflected in tolls, *or* be wholly borne by the taxpayers of the United States.

(11) Starting with the 1936–39 Treaty with Panama, there has been a sustained erosion of United States rights, powers and authority on the Isthmus, culminating in the completion, in 1967, of negotiations for three proposed new canal treaties that would:

(1) Surrender United States sovereignty over the Canal Zone to Panama;

(2) Make that weak, technologically primitive and unstable country a senior partner in the management and defense of the Canal;

(3) Ultimately give to Panama not only the existing Canal, but also any new one constructed in Panama to replace it, all without any compensation whatever and all in derogation of Article IV, Section 3, Clause 2 of the U.S. Constitution. This Clause vests the power to dispose of territory and other property of the United States in the entire Congress (House and Senate) and not in the treaty-making power of our Government (President and Senate)—a Constitutional provision observed in the 1955 Treaty with Panama.

(12) It is clear from the conduct of our Panama Canal policy over many years that policy-making elements within the Department of State, in direct violation of the indicated Constitutional provision, have been, and are yet, engaged in efforts which will have the effect of diluting or even repudiating entirely the sovereign rights, power and authority of the United States with respect to the Canal and of dissipating the vast investment of the United States in the Panama Canal project. Such actions would eventually and inevitably permit the domination of this strategic waterway by a potentially hostile power that now indirectly controls the Suez Canal. That canal, under such domination, ceased to operate in 1967 with vast consequences of evil to world trade.

(13) Extensive debates in the Congress over the past decade have clarified and narrowed the key canal issues to the following:

(1) Retention by the United States of its undiluted and indispensable sovereign rights, power and authority over the Canal Zone territory and Canal as provided by existing treaties;

(2) The *major* modernization of the existing Panama Canal as provided for in the Terminal Lake Proposal.

Unfortunately, these efforts have been complicated by the agitation of Panamanian extremists, aided and abetted by irresponsible elements in the United States, aiming at ceding to Panama complete sovereignty over the Canal Zone and, eventually, the ownership of the existing Canal and any future canal in the Zone or in Panama that might be built by the United States to replace it.

(14) In the 1st Session of the 92nd Congress identical bills were introduced in both House and Senate to provide for the *major* increase of capacity and operational improvement of the *existing* Panama Canal by modifying the authorized Third Locks Project to embody the principles of the previously mentioned Terminal Lake solution, which competent authorities consider would supply the best operational canal practicable of achievement, and at least cost without treaty involvement.

(15) Starting on January 26, 1971 many Members of Congress have sponsored resolutions expressing the sense of the House of Representatives that the United States should maintain and protect its sovereign rights and jurisdiction over the Panama Canal enterprise, including the Canal Zone, and not surrender any of its powers to any other nation or to any international organization in derogation of present treaty provisions.

(16) The Panama Canal is a priceless asset of the United States, essential for interoceanic commerce and Hemispheric security. The recent efforts to wrest its control from the United States trace back to the 1917 Communist Revolution and conform to long range Soviet policy of gaining domination over key water routes as in Cuba, which flanks the Atlantic approach to the Panama Canal, and as was accomplished in the case of the Suez Canal, which the Soviet Union now wishes opened in connection with its naval buildup in the Eastern Mediterranean and Indian Ocean. Thus, the real issue at Panama, dramatized by the Communist take over of strategically located Cuba and Chile, is not United States control versus Panamanian but United States control versus Soviet control. This is the issue that should be debated in the Congress, especially in the Senate. Panama is a small, weak country occupying a strategic geographical position that is the objective of predatory power, requiring the presence of the United States on the Isthmus in the interest of Hemispheric security and international order.

(17) In view of all the foregoing, the undersigned urge prompt action as follows:

(1) Adoption by the House of Representatives of pending Panama Canal sovereignty resolutions and,

(2) Enactment by the Congress of pending measures for the major modernization of the existing Panama Canal.

To these ends, we respectfully urge that hearings be promptly held on the indicated measures and that Congressional policy thereon be determined for early prosecution of the vital work of modernizing the Panama Canal, now approaching saturation of capacity.

Dr. Karl Brandt, Palo Alto, Calif., Economist, Hoover Institute, Stanford, CA., Former Chairman, President's Council of Economic Advisers.

Comdr. Homer Brett, Jr., Chevy Chase, Md., Former Intelligence Office, Caribbean Area.

Hon Ellis O. Briggs, Hanover, N.H., U.S. Ambassador retired and Author.

Dr. John C. Briggs, Tampa, Florida, Professor of Biology, University of South Florida, Tampa.

William B. Collier, Santa Barbara, Calif., Business Executive with Engineering and Naval Experience.

Lt. Gen. Pedro A. del Valle, Annapolis, Maryland, Intelligence Analyst, Former Commanding General, 1st Marine Div.

Herman H. Dinsmore, New York, N.Y., Former Associate Foreign Editor, *New York Times*, Editorialist.

Dr. Lev E. Dobriansky, Alexandria, Va., Professor of Economic, Georgetown Univ.

Dr. Donald M. Dozer, Sta. Barbara, Calif, Historian, University of Calif., Sta. Barbara, Authority on Latin America.

Lt. Gen. Ira C. Baker, Washington, D.C., Former Commander-in-Chief, Allied Air Forces, Mediterranean, Analyst and Commentator on National Security Questions.

K. V. Hoffman, Richmond, Va., Editor and Author.

Dr. Walter D. Jacobs, College Park, Md, Professor of Government and Politics, University of Maryland.

William R. Joyce, Jr., J.D., Washington, D.C., Lawyer.

Maj. Gen. Thomas A. Lane, McLean, Va., Engineer and Author.

Edwin J. B. Lewis, Washington, D.C., Professor of Accounting, George Washington University, Past. President, Panama Canal Society of Washington, D.C.

Dr. Leonard B. Loeb, Berkely, Calif., Professor of Physics Emeritus, University of California.

William Loeb, Manchester, N.H., Publisher and Author.

Lt. Col. Matthew P. McKeon, Springfield, Va., Intelligence Analyst, Editor and Publisher.

Dr. Howard A. Meyerhoff, Tulsa, Okla., Consulting geologist, Formerly Head of Department of Geology, University of Pennsylvania.

Richard B. O'Keefe, Fairfax, Va., Asst. Professor, George Mason College, University of Virginia, Research Consultant on Panama Canal, The American Legion.

Capt. C. H. Schildhauer, Owings Mills, Md., Aviation Executive.

V. Adm. T. G. W. Settle, Washington, D.C., Former Commander, Amphibious Forces, Pacific.

Jon P. Speller, New York, N.Y., Author and Editor.

Harold Lord Varney, New York, N.Y., President, Committee on Pan American Policy, New York, Authority on Latin American Policy, Editor.

Capt. Franz O. Willenbucher, Bethesda, Md., Lawyer and Executive.

Dr. Francis G. Wilson, Washington, D.C., Professor of Political Science Emeritus, University of Illinois, Author and Editor.

(NOTE.—Institutions are listed for identification purposes only.)

## REDUCE THE NATIONAL DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nevada (Mr. BARING) is recognized for 5 minutes.

Mr. BARING. Mr. Speaker, on February 9, 1972, I voted against increasing the national debt by any amount. I have never supported increasing the debt ceiling and I never will.

It is preposterous for this free spending authority to continue.

Mr. Speaker, an attempt should be made to balance the budget and reduce the national debt—not continuously increase it.

This current year, 1972, fiscal budget deficit is way out of step to the tune of a reported almost $40 billion. I do not believe in further saddling the citizens of tomorrow in this Nation, much less the American citizens of today, with a continued huge national debt which has been and will bring extinction to any chance of the United States attaining a good, solid, and balanced financial condition.

The financial condition of the United States is bad enough as it is today without adding further grief to the problem or to further tax loads on American citizens. If we do not wake up soon, we are going to have a catastrophic financial upheaval from sea to shining sea in the United States which, of course, will ruin world financial markets.

This national debt has to be pulled back into reality. Raising the debt limit again only gives the spenders of that money, which is an eventual due bill, even more money to play around with. This has to be stopped, Mr. Speaker.

I further will state that I believe it is high time that the Congress insist that the administration come before the appropriate House committees on a regularly scheduled quarterly or half-year basis with their requests to increase the debt so that each and every Member of the House will have a continued update as to the financial situation of the administration's fiscal requests and budgets.

Ten billion dollars a year could be spent on reducing the national debt instead of the giveaway program—foreign aid. I believe this would please the people of the United States and especially the people I represent in Nevada.

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## CANADA'S OPPOSITION TO THE TRANS-ALASKA PIPELINE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 20 minutes.

Mr. **ASPIN**. Mr. Speaker, today I would like to include in the Congressional Record the text of an address by the Honorable C. M. Drury, the president of the Canadian Treasury Board. I am sure that those of my colleagues concerned with the trans-Alaska pipeline issue will find these remarks of interest.

Once again, the Canadian Government has expressed its strong opposition to the proposed trans-Alaska pipeline. In particular, I would point out Mr. Drury's remarks that:

> To us, it appears that an oil line from Alaska through Canadian territory would have the advantage of ruling out a vulnerable tanker link to markets and would provide more economic transportation of oil to the U.S. Midwest.
>
> My colleague, the Minister of State for External Affairs, has made clear in the House, and the Government in an aide-memoire sent to Washington last August, stated in the strongest possible terms, Canada's reservations with respect to the ecological and other hazards of movement of oil by tanker from Alaska, down the West Coast and through the Puget Sound to the northwestern U.S. refineries. Let no one suppose that the opposition of Canadians—so effectively voiced by members of Parliament like David Anderson—is not the genuine concern of this Government. We have made clear that full indemnity will be required for the ravages that oil spills could inflict on our coastline.
>
> As far as we know, very little study has been given by the proponents of this route to the dangers of tanker movement in the restricted channels adjacent to the southern British Columbia coast, and what little as has been presented by the companies involved would only seem a faltering step in defining the actual tonnage that would traverse this route and the precautions needed to safeguard our interests.

The full text of Mr. Drury's remarks follow:

### Resources and Priorities in the 1970's

#### INTRODUCTION

Mr. Chairman and delegates to the Conference on Northern Pipeline Research, it was certainly gratifying to receive an invitation to speak to your conference—touching as it does on an aspect of resource development which so clearly involves Canada's priorities in the '70's.

No problem is of deeper concern to mankind than that of coming to terms with the natural environment so that it will support a reasonably satisfying way of life.

Indeed, Time Magazine asked in its January 24 issue, "How Long Can Population and Industrialization Continue to Grow on this Finite Planet?"

Quoting a study done at the Massachusetts Institute of Technology, Time concludes: ". . . that the depletion of non-renewable resources will probably cause the end of the civilization enjoyed by today's contented consumer. As industrialization grows, it voraciously consumes enormous amounts of resources. Resources become scarcer, forcing more and more capital to be spent on procuring our materials, which leaves less and less money for investment in new plants and facilities."

The study sponsored by the Club of Rome was based on a computer model developed by MIT professor, Jay Forrester. Our own Department of Energy, Mines and Resources retained Forrester as a consultant in 1971 and the Department has been holding discussions about the resource role in society and about policies shaped for the future, as the coordinator of Canada's resource management.

In 1963, Harold J. Barnett, then a professor of economics and chairman of the economics department of Washington University in St. Louis, and Chandler Morse, a professor of economics at Cornell University, writing on the economics of natural resource availability, said:

"Man's relationship to the natural environment, and nature's influence upon the course and quality of human life, are among the oldest topics of speculation of which we are aware. Myth, folktale, and fable; custom, institution, and law; philosophy, science, and technology—all, as far back as records extend, attest to an abiding interest in these concerns."

#### *The doctrine of increasing natural resource scarcity*

The past two centuries—the period of industrial revolution, emergence of science, and population explosion—have witnessed a great broadening and deepening of interest in natural resources. An influential expression of this growing interest was that of British classical economics, early in the nineteenth century, with its doctrine that an inherently limited availability of natural resources sets an upper bound to economic growth and welfare. Later, there was the Conservation Movement in the United States, which took shape around the turn of the century. Arising out of concern over natural resource scarcity and a consequent endeavour to formulate policies for the use of the extensive public domain, this movement provided broad, vigorous, and influential expression and political leadership. The interests of the Conservation Movement survive in a vast current literature of scientists, engineers, social analysts, educators, journalists, businessmen, public officials, and adherents of a wide variety of academic disciplines. The occurrence and economic consequences of natural resource scarcity, and their social and policy implications, run like strong threads through the variegated fabric of contemporary public concern over natural resources. The doctrine of increasing scarcity and its effects has achieved remarkable viability.

Classical economists—particularly Malthus, Ricardo, and Mill—predicted that scarcity of natural resources would lead to eventually diminishing social returns to economic effort, with retardation and eventual cessation of economic growth. Indeed, classical economic theory acquired its essential character, and for economics its reputation as the "dismal science," from this basic premise. In a somewhat different formulation, the scarcity idea also entered the theory of natural selection when Darwin, acknowledging a debt to Malthus, saw competition for limited means of survival as the determinant of biological evolution.

The Conservation Movement accepted the scarcity premise as valid for an unregulated private enterprise society. But, rejecting laissez faire, at least so far as activities connected with natural resources were concerned, they believed that the trend of social welfare over time could be influenced by the extent to which men conserved and managed resources with an eye to the welfare of future generations. The leaders of the Conservation Movement proposed that society, taking thought for the consequences of its actions, should forestall the effects of increasing scarcity by employing criteria of physical and administrative—not economic—efficiency.

They argued that government intervention could improve on the untrammeled processes of private decision making with respect to natural resources, and that public policies should be devised with this end in view. Their willingness to employ public power as a check on business freedom, signifying as it did a certain disillusionment with the principles of laissez faire, made the Conservation Movement something of a catch-all for interventionist ideas of all kinds. This helps to explain its many-sided character. But the core of the Movement was concern for the effect of natural resources, and especially natural resource policy and administration, on the trend of social welfare in a world subject to increasing resource scarcity.

To an increasing extent the problems of natural resources are qualitative. The difficult questions now are not whether physical and economic problems can be solved, but which problems to solve and how to solve them. The kinds and qualities of change in the environment, in the social production process, and in commodities; the composition and the allocation of benefits and costs; the standards and the procedures by which alternatives are to be evaluated—these, rather than the cost of an increment to the pre-existing product mix, have become of increasing concern. As man extends his mastery over output and its cost, it is inevitable that these social problems will acquire increased significance and receive greater attention. Whether the attention they receive will suffice to assure continuing improvement in the quality of life is an open question.

The capacity of scientific progress to create new problems for society, it appears, has outrun the capacity of social progress to solve them. Because of the lag of social innovation, it is possible to be concerned with whether man has learned how to avoid something comparable to diminishing returns in the quality of life, a point on which Mill was optimistic. The dynamic, accelerative character of technological change seems to suggest that expansion in the number of social and individual choices available to us is an endlessly cumulative prospect. But our calculus of decision-making and our social value standards are not much changed from Mill's day. And, unlike Mill, we do not look forward to a stationary state, with endless time to contemplate and devise a steady, costless improvement in the quality of life. There is, therefore, a question of whether requisite changes in our mechanisms of choice will keep pace with the dynamic development of the scope of choice. The classical economists saw the process of growth as subject to limitations. But they saw the limitations as residing in nature rather than in man.

Man's relations to nature, we could well remember, were once regarded as governed by uncontrollable natural forces. Science, indeed, had just crossed the threshold to objectivity when the classical economists wrote; and this is why they held its potential in such low esteem. We may hope to stand on the threshold of a similar transition to greater objectivity with respect to man's relations to man, which in our time has become crucial for handling man's relationship to the natural environment.

Some of the problems are old—but their urgency is new.

### SOME MAIN THEMES EMERGE

You will probably agree, then, that no previous Canadian Government has ever had as many important and difficult resource questions before it as we have today. Several main themes readily snapped into focus in preparing these remarks for you tonight:

1. *The impact of resource industries on environmental stability:* The impact on man's physical environment and the continuing economic growth and, in particular, the role of energy and minerals in this growth. The evaluation of the relationship between man's objective for economic betterment and his physical security and comfort. Fundamentally, the issue is: what kind of a society do we want to live in?

2. *Minerals in Canadian industrial development:* We might explore the role of minerals in the national economy, their competitive nature in the world market and the importance of an early return on our resource potential. Also, to be developed, would be the relationship between resource strategy and industrial growth strategy and their role, in combination, in obtaining better results for Canada in international trade negotiations.

3. *"Good corporate performance" in the minerals industry:* We might review the role which corporations are playing in the development of our resource economy and the need for closer co-operation between Government and industry in developing national policies and in seeing that agreed policies are implemented. As you know, National Advisory Committees are expected to play an important role here.

4. *The inter-energy competition:* This subject would analyze the way in which prices and resources affect the kinds of energy used—the nature of the present supply, and resource development potential either in Canada and the U.S. or on a world-wide basis, and would predict the changing priorities for energy. In addition, it would show how environmental protection will condition and channel the development and use of energy sources.

### RESOURCES AND STRATEGIES FOR GROWTH

It is not my purpose to include in the scope of these remarks an entire thesis on the debate on the strategy for economic growth in Canada and the role of the resource industries. Still, I have to make some comment.

First, if we are to remain a modern industrial state with a high standard of living, we must maintain the growth of our real income at the same levels of performance as other leading industrial states.

Secondly, this can only be done through the production of technologically advanced goods produced by an educated and efficient population. These goods must command a premium for their usefulness and the quality of the human labour contributed.

Third, the capital to finance this growth and to sustain the present level of activity must come from established sources of earnings and established markets for our goods.

Fourth, an essential part of our current economic activity comes from the resource and energy industries, and full advantage should be taken of our competence in this area and of the great demands on it from our own and international sources.

Finally, Mr. Lincoln once said: "You don't strengthen the weak by weakening the strong." The issue is not the weakening of the primary industries to transfer capital resources to other sectors which will initially have a high risk factor and thus performance lag, with the problem of how Canada pays its way in the meantime. The issue is the harnessing of the increasing wealth of the nation derived from sound primary resource growth to the service of new and desirable industrial growth outside resource industries. Whether you agree or not with the methods, this is the balance which Mr. Benson's new tax policies seek to strike.

### RESOURCE POLICY—NORTHERN OIL DEVELOPMENT

To this point, I have tried to describe the general parameters for national resource policy. Now I would like to turn to describe a specific resource development program and ask you to bear in mind the context of what I have said previously. The program I am selecting—the development of our northern oil potential—is one of specific interest to this group. Let me begin with a description of government organization in this area and then move to specific problem centres.

#### *Task force on northern oil development*

A Task Force on Northern Oil Development was established by this government in December, 1968, under the chairmanship of the Deputy Minister of Energy, Mines and Resources, to consider all aspects of northern oil development, transportation and marketing. The Task Force membership includes the Deputy Minister of the Departments of Indian Affairs and Northern Development, Transport, and Environment, and the Chairman of the National Energy Board. The long-term plans of the Task Force call for the organization and appraisal of studies needed to encourage optimum development of northern oil resources and also to ensure adequate government supervision and control over activities related to this resource program.

With industry plans under way for oil and gas pipelines from the far north, the Task Force carries on a continuing review and appraisal of industrial activity to ensure that industrial programs will be in the national interest. Task Force plans are designed towards the ultimate objective of the most economic recovery of northern oil in keeping with adequate protection of the Arctic environment and maximum employment opportunities for northern citizens, that is at the lowest possible social cost.

During 1970, the Task Force made several reports to government, one of which led to the establishment of northern pipeline guidelines. These guidelines provide terms of reference for industry in its northern oil activities and relate to the common carrier concept of northern pipelines, environmental control, employment for northern residents, and full opportunity for investment by Canadians in northern pipelines. The Task Force also continued its ongoing appraisal program of exploration, transportation and market development related to northern oil activity for the purpose of advising the government on matters of national interest.

Task Force plans for 1971 included further development of the northern pipeline guidelines, special emphasis on coordination of research concerned with environmental control, and engineering and economic studies of proposed oil and gas pipelines from both the American and Canadian Arctic to markets in eastern Canada and the United States. This and related work is continuing in 1972.

The Task Force is made up of five important committees.

The Pipeline Engineering Committee appraises all matters relative to the construction and operation of oil and gas pipelines in the north. The emphasis is on construction procedures and on design and operational criteria for these pipelines. The Committee maintains close contact with the three gas pipeline companies who have declared themselves as possible applicants to build a gas pipeline from Prudhoe Bay across northern Canada to continental gas markets.

The Committee also maintains close contact with the group of oil companies which is carrying out research relative to the building of an oil pipeline in the Canadian north. Additionally, representatives of this Committee are meeting on occasion with representatives of those oil companies who are planning to build a trans-Alaska pipeline. This Committee also maintains close contact with such associations as the Canadian Standards Association which determine specifications for pipeline materials.

The Economic Impact Committee is charged with the responsibility of carrying out studies to determine the expected impact on the economy of the building and operation of northern pipelines. The studies are carried out in terms of such criteria as employment benefits, regional impacts, balance of payments and exchange rate effects, investment impacts, availability of finances, etc. In general, the Committee's work is concerned with the question as to whether a northern pipeline would be a benefit or an overall cost to the economy and the nature and scale of the benefit-cost balance.

The Marine Transport Committee focused most of its attention in 1969 and 1970 on matters relative to the voyages of the "Manhattan" and the possibilities of opening up a "Northwest Passage". More recently it has been given the responsibility of determining whether it would be appropriate to have harbour studies in the Arctic. This follows a detailed study that had been carried out by the Department of Public Works regarding the feasibility of a supertanker harbour at Herschel Island.

The Marketing Committee is charged with the responsibility of assessing the impact of northern oil and gas on the energy supply and demand patterns of North America. It has had such specific assignments as that of determining the extent to which the Pacific Coast States of the U.S.A. could accommodate Prudhoe Bay oil and price effects related thereto. It has also done analyses of the laid-down cost of northern oil in such major continental markets as Chicago and Toronto.

The Environmental-Social Committee has been extensively developed because of the major environmental program in which the government of Canada is now involved.

The environmental program now under way was approved for a three-year period by the Cabinet last year and provides for an annual expenditure of up to $5 million over a three-year period. The program is a multidisciplinary activity involving the field and laboratory research work of geologists, geophysicists, cartographers, biologists, forestry specialists, water resource and wildlife specialists.

There is a good expectation that by the end of 1972 the field work will have advanced to such a stage as to put the government in a position whereby it could appraise, from an ecological point of view, any applications that might be received by companies wishing to build pipelines in the north. There would then, of course, have to be very thorough hearing procedures which would involve not only the criteria developed by this Committee, but by the other four Committees of the Task Force as well.

The continued success of Panarctic Oils Ltd., the consortium in which the Government of Canada retains a 45 per cent interest, and stepped up exploration by industry in the North, only adds urgency to several policy questions confronting the Canadian Government in respect to oil and gas industries and northern development.

### THE "LAND BRIDGE" CONCEPT

I want to take this opportunity to restate our view that the Canadian Government would welcome applications to build oil or gas pipelines from Alaska through Canada in a "land bridge" to the continental United States. Any such applications would be reviewed in a hearing process subject to the guidelines mentioned earlier and in light of the mounting research brought to bear on these undertakings by private industry and the Government.

The Canadian government welcomes the periodical reports and discussions with interested industry groups relative to the construction and operation of northern pipelines. We certainly look forward to further exchanges covering such items as throughput, spare capacity, financing, ownership, responsibility to carry Canadian oil and/or gas, the role of northern people and environmental protection standards, to mention a few key areas.

In the resource management of the North American land mass, all the alternatives need to be thoroughly investigated before any unilateral actions are taken. That much seems clear no matter what national strategies are to be pursued by Canada and the United States in satisfying their respective requirements for oil and gas.

To us it appears that an oil line from Alaska through Canadian territory would have the advantage of ruling out a vulnerable tanker link to markets and would provide more economic transportation of oil to the U.S. Midwest.

My Colleague, the Minister of State for External Affairs has made clear in the House, and the Government in an aide-memoire sent to Washington last August, stated in the strongest possible terms, Canada's reservations with respect to the ecological and other hazards of movement of oil by tanker from Alaska, down the West coast and through the Puget Sound to north western U.S. refineries. Let no one suppose that the opposition of Canadians—so effectively voiced by Members of Parliament like David Anderson—is not the genuine concern of this Government. We have made clear that full indemnity will be required for the ravages which oil spills could inflict on our coastlines.

As far as we know very little study has been given by the proponents of this route to the dangers of tanker movement in the restricted channels adjacent to the southern British Columbia coast, and what little has been presented by the companies involved would only seem a first faltering step in defining the actual tonnage that would traverse this route and the precautions needed to safeguard our interests.

### CONCLUSION

In conclusion, Canadians and their Government will continue to place a top priority on the development of policies for natural resources which will optimize their contribution to national goals. For centuries, public policy has sought to harmonize man's relationship with his environment, his changing expectations with respect to economic well being and the quality of life. Today, science and technology have introduced a new urgency to the calculation of decisions about our future. Our ability to respond and adapt to these challenges may require new outlooks. But we must harness our strength to that future and adapt to its challenges.

The broad range of public policies can only work with the cooperation of governments, industries and, indeed, all Canadians, in a world increasingly dominated by powerful external forces which Canada confronts in world markets. Our relationships with one another have become important to the success with which we meet the challenge to our future.

Your conference can contribute significantly to meeting the challenge of opening up Canada's great oil and gas potential of the north. Gathered here today are experts from a broad cross section of disciplines which will be called upon to provide effective response to policy issues facing Canada in the 1970's. I wish you every success in your deliberations.

## DILEMMA ON DISPOSAL METHODS FOR RADIOACTIVE WASTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 5 minutes.

Mr. HARRINGTON. Mr. Speaker, the increasing use of radioactive materials in the United States and the rest of the world has resulted in a growing dilemma on disposal methods for radioactive wastes.

Several proposals have been offered, including a suggestion by Dr. J. R. Schlesinger of the Atomic Energy Commission that these wastes be disposed of in outer space. However, most proposals would have these waste products disposed of underground. The Atomic Energy Commission has in its possession studies of several potential disposal sites in Kansas and has assured Senator JAMES PEARSON that its search for an appropriate Federal repository will not be limited to his State. According to Senator PEARSON, the AEC will consider sites throughout the continental United States.

We are all concerned about the harmful effects which might result from the underground disposal of these waste materials. Some radioactive wastes are not as potentially dangerous as others. Chemical and radiological composition of these wastes depends upon source and previous treatment and they are generally classified as low, intermediate, or high level in terms of activity.

One can get an indication of how harmful these waste materials might be by examining their decontamination factors, a term used to describe levels considered safe for direct release into the environment. Low-level wastes contain more than 1,000 times the level of concentration authorized for direct release into the environment. Intermediate-level wastes contain still more and high-level wastes contain 100,000 times the amount considered safe for direct release. This intensity of radioactivity in high-level wastes, combined with the long half-lives of some of the fission byproducts, makes them potentially lethal to man and destructive to the environment for thousands of years.

Nobody knows exactly how much radioactive waste material will have to be disposed of by the United States in the coming years. But the Atomic Energy Commission estimates that 5 million gallons alone would come from operation of nuclear fuel reprocessing plants. However, this 5 million gallons represents only a fraction of the total international radioactive wastes.

About 40 million gallons of concentrated high-level radioactive waste material has already been generated by the Atomic Energy Commission through development of the U.S. nuclear weapons program and in the development of peaceful uses for atomic energy. The Soviet Union has, in all probability, generated a like amount. West Germany, France, and Great Britain have also accumulated large amounts of radioactive waste material and all are experimenting with methods of disposal. Lesser amounts have been accumulated by India, Italy, Spain, Brazil, and Japan as other countries progress in their technology in this field. A realistic figure for the total amount of radioactive waste material in the world may be around 83 million gallons. All of this waste material is in temporary storage facilities.

This worldwide accumulation of potentially harmful radioactive waste material apparently has little utilitarian value in the foreseeable future. The consensus of scientists today is that all of this waste material, along with all future accumulations, must be stored indefinitely in total isolation from the environment.

Because the safe and expeditious disposal of this waste material is a concern to other countries as well as to the United States, I am introducing a resolution today asking for an international conference on the management of nuclear wastes. The same resolution was earlier introduced in the Senate by Senator PEARSON.

Under this resolution, the President would invite the other governments to join with us to deal with the problems of radioactive waste disposal. I hope that this conference would result in an international treaty on the subject aimed at searching the world over for the ideal conditions for disposal sites.

The development of nuclear power capabilities, both in weaponry and in peaceful uses, has done much to impress upon us the closeness of our world neighbors. This development has also brought with it the need for responsible and safe use of these systems. Let us now join in searching out responsible and safe methods for disposing of the wastes these systems produce.

## PROPOSES BRINGING NORTHERN IRELAND SITUATION BEFORE UNITED NATIONS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New Jersey (Mr. MINISH) is recognized for 5 minutes.

Mr. MINISH. Mr. Speaker, the recent tragic events in Northern Ireland have reemphasized the fact that the governments of Britain and Ulster are unable to solve this crisis in a fair and equitable manner.

The present bloodshed can be traced to years of systematic and deliberate discrimination by the Government of Northern Ireland against the minority Catholic population. The current policy of repression and internment has only served to prolong and escalate the conflict.

I have introduced House Concurrent Resolution 538 which calls upon our Government to take immediate steps to bring the Northern Ireland situation before the United Nations.

The resolution calls upon the United States to support the following propositions before the world body:

Immediate termination of the current internment policy and the release of all persons detained thereunder;

Arrangement for consultation among all involved parties including the Irish Republican Army;

Replacement of British troops in Northern Ireland with a peacekeeping force of the United Nations; and

International inquiry into the tragic events of Sunday, January 30, 1972 in which 13 innocent citizens were killed by British troops.

On February 2 I called upon the House Foreign Affairs Committee to give immediate attention to the crisis in Northern Ireland and to the role our Government might plan in seeking a workable settlement. I am gratified that hearings have been scheduled next week before the subcommittee chaired by Congressman ROSENTHAL of New York.

Questions of civil, political, and religious rights and of self-determination transcend national boundaries and involve the whole world community. The Irish ask no other to fight their battles for them, but they have the right to our support in their efforts to achieve economic, social, and political equality. We cannot stand aside while the people of Ulster are condemned to the rage and death that have been their fate for too many turbulent generations.

Mr. Speaker, at this point in the RECORD I include a resolution which has been adopted by the New Jersey State Senate and a news article summarizing a rally held in South Orange, N.J., on February 13 to support the oppressed minority of Northern Ireland:

### Senate Resolution by Senator Dodd, Adopted February 7, 1972

Whereas, The continuing violence and bloodshed in Northern Ireland is a cause of the deepest concern to Americans of all faiths and political persuasions; and,

Whereas, The causes of the present conflict may be traced to the systematic and deliberate discrimination in housing, employment, political representation and educational opportunities practiced by the governmental authorities of Northern Ireland against the minority there; and,

Whereas, The Governments of the United Kingdom and of Northern Ireland have failed to end the bloodshed and have failed to establish measures to meet the legitimate grievances of this minority; and,

Whereas, Continued repression and lack of fundamental reforms in Northern Ireland threaten to prolong and escalate the conflict and the denial of civil liberties; now, therefore, be it

*Resolved,* by the Senate of the State of New Jersey: That this House hereby expresses its deepest concern over the present situation in Northern Ireland; and, be it further

*Resolved,* That this House hereby calls upon the Government of the United States to exert all diplomatic efforts to urge upon the nations involved the implementation of the following actions, in accord with fundamental concepts of nondiscrimination, fairness, democracy, self-determination and justice:

1. Termination of the current internment policy and the simultaneous release of all persons detained thereunder;
2. Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic and religious discrimination;
3. Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law-enforcement, housing, employment and voting rights;
4. Dissolution of the Parliament of Northern Ireland;
5. Withdrawal of all British forces from Northern Ireland and the institution of law enforcement and criminal justice under local control acceptable to all parties;
6. Convening of all interested parties for the purpose of accomplishing the unification of Ireland; and, be it further

*Resolved,* That duly authenticated copies of this resolution shall be transmitted to the President of the United States, the Vice President of the United States and the Speaker of the House of Representatives, the Chairman of the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs, and to each of the Members of Congress elected from this State.

——— ———,
*President of the Senate.*

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### Seton Rally for Ulster Draws 2,000

(By Barbara Kukla)

About 2,000 persons of different nationalities, religions, and political persuasions yesterday took part in a rally to urge the end of violence and bloodshed in Northern Ireland and to commit themselves to independence for six Irish counties under British control.

The three-hour rally at Seton Hall University in South Orange was sponsored by 105 Irish-Americans groups in the state and was called "The All-New Jersey Rally for Human Rights and Justice in Northern Ireland."

It featured a score of emotion-packed addresses by representatives of federal, state, county and local governments as well as talks by clergymen and labor leaders.

Most of the speakers called for the withdrawal of British troops from Northern Ireland, the right of the people of the counties to determine their own destiny, and a boycott of all British-made goods.

The killing of 13 civilians by British troops in Londonderry on Jan. 30 was condemned by all.

According to Dr. John Campbell, chairman of the New Jersey American Committee for Ulster Justice, a one-day boycott of buying, selling and transporting British-made products is scheduled for March 1.

Campbell said his organization has been promised the support of three major labor groups, which have said they will refuse to service British ships and airplanes arriving from points along the Eastern Seaboard to Brownsville, Texas.

He said plans also are being made for picketing of the Newark ticket offices of the British Overseas Airways Corp. (BOAC).

John Brown, state AFL-CIO secretary-treasurer, in offering the support of the many labor groups within his organization, called for an immediate start of a prolonged boycott.

"Ireland must guide it's own destiny," he told the standing-room-only audience. "If you can't participate physically in gaining her freedom, join together to boycott British products," he said.

He urged a boycott of at least 30 days, claiming "you'll see results by March 17."

The boycott theme also was pickd up by Assemblyman Anthony Imperiale (Ind.-Essex), who said:

"You don't conduct a boycott by not buying goods on South Orange Avenue. You do it by not letting the products off the ships."

"When England seeks loans and credit from the United States, England should be told her credit card is non-valid," Imperiale added. Rumbling applause shook the room.

The audience was just as responsive to a speech by Rep. Peter W. Rodino Jr. (D-10th Dist.) as the congressman explained his efforts to bring peace to Northern Ireland.

Rodino said that a congressional resolution which he cosponsored urges the United Nations General Assembly to:

Call for withdrawal of British troops from Northern Ireland and establish a UN peacekeeping force during that time; set up an international inquiry into the 13 killings; establish peace talks.

"This great country of ours must raise a voice as a moral persuader to be sure that others listen," said Rodino. "We cannot afford to be saddened when justice is trampled upon."

In similar fashion, Rep. Joseph G. Minish (D-11th Dist.) urged "the American people to impress upon its people that the course of action in Ireland must be changed."

"The people in Ireland will not be conquered despite concentration camps and massacres," he declared. "Civil, political and religious rights transcend national boundaries; while I have no Irish blood in my veins I stand with you on this issue side-by-side."

Other presentations were made by Rep. Edward Patten (D-15th Dist.); State Community Affairs Commissioner Lawrence Kramer; State Sen. William Bate (D-Passaic); State Sen. Wynona Lipman (D-Essex); State Sen. Frank Dodd (D-Essex); and Essex County Freeholders Thomas Cooke and Phillip Keegan.

Also Essex County Sheriff John Cryan; Newark Fire Director John Caufield, representing Mayor Kenneth A. Gibson; Elizabeth Mayor Thomas Dunn; Rabbi Ely . . . audience in the singing of "An Irish Lullaby." Entertainment also was provided by Irish folksinger Brian Anthony and two bagpipers.

The audience was welcomed by Msgr. Thomas G. Fahy, president of Seton Hall, and Dr. John Duff, executive vice president. Michael L. Delahunty of Montclair was master of ceremonies and rally coordinator.

## A TRIBUTE TO ZENON C. R. HANSEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes.

Mr. ROONEY of Pennsylvania. Mr. Speaker, in our deliberations in this Chamber we frequently focus on the subject of opportunity in America and attempt to devise means by which our young people are extended opportunities to pursue their life's goals and to achieve to the limit of their abilities.

From time to time our attention is attracted to instances in which individuals have made extraordinary use of the opportunities extended them and have attained goals which seem phenomenal.

One such individual began working in the parts department of the International Harvester Co. when he was 18. Today, at 62, he is chairman and president of Mack Trucks, Inc., a leader in its field of truck manufacturing and a name associated with rugged construction and performance.

Zenon C. R. Hansen lives in Macungie, Pa., in my congressional district, a short distance from the city of Allentown, "Truck Capital of the World," where the Mack corporate headquarters and one of its manufacturing plants are located.

His success story and his executive philosophy are contained in feature articles in the January issue of Nation's Business and in the December issue of Professional Pilot.

I invite the attention of my colleagues to both articles, not only to learn of Zenon Hansen's personal accomplishments, but to understand some of the problems which confront major domestic industries today and to become acquainted with Mack's relentless and successful efforts to compete in foreign markets.

The articles follow:

### ZENON HANSEN OF MACK TRUCKS—GIVING A COMPANY NEW GET-UP-AND-GO

Driving south through Allentown, Pa., an ordinary-looking, middle-sized city in the pleasant Lehigh Valley, you suddenly enter another world.

There, on the outskirts, is a broad, grassy boulevard. It takes you to a large, tan building whose appearance smacks faintly of those TV late-show movies that deal in lost civilizations.

Little bulldog insignia adorn signposts on roadways around the building. And towering above the entrance is the biggest bulldog you'll ever see. It's a low-relief model, 24 by 22 feet.

If your imagination is running free, you half expect to find chanting priestesses of some forgotten cult inside the building.

But it's no ancient temple. It's the new headquarters of a very-much-up-to-date company—a leader in its field with 14,000 employees, and plants not only nearby in Allentown but in Maryland, New Jersey, New York, California, Canada and four countries overseas.

The company is Mack Trucks, Inc., and the bulldog has been its symbol since World War I doughboys hailed a snub-nosed Mack product for its rugged tenacious performance on the battlefields of France.

Both company and symbol have been given new life by an ebullient businessman named Zenon C. R. Hansen, who has more than 44 years' experience in the truck business.

Zen Hansen, 62, the company's chairman and president, came to Mack in 1965 from a position as executive vice president and director of The White Motor Co. and president of its subsidiary, Diamond T Motor Car Co.—which he had taken into a merger with White seven years earlier. (He has since led Mack, which operates with near-complete autonomy, into subsidiary status with The Signal Companies, of Los Angeles.)

When he arrived, the heavy-duty truck maker (26,000 pounds and up) was facing heavy going. While competitors thrived, Mack profits were in a downturn. Morale had suffered. There had been five presidents in less than 10 years.

Today, profits are way up. Morale is as high as that 24- by 22-foot fiber glass bulldog.

At a time when many firms were putting old symbols on the shelf, Mack had lessened its emphasis on its identification with the bulldog. One of many steps Mr. Hansen took to renew the company's vigor was to renew that emphasis.

When you enter the headquarters building, you are presented with a bulldog lapel pin. Bulldogs are on stationery, advertising, carpeting, ashtrays, paperweights, even cookies in company eating places.

Bulldogs are everywhere in Mr. Hansen's sixth floor office—statues, portraits, on the pipe he incessantly smokes, on his cuff links and tie clasp. He may give you a key to the city of Allentown ("The truck capital of the world," it boasts). On it, too, is a bulldog.

At his home in suburban Macungie ("MAC-Kungie," he insists) there is a room containing scores of model bulldogs. (Does he have a live bulldog? Enough is enough. He has three schnauzers.)

Mr. Hansen is notable for achievements outside the business arena as well as in it. He never went to college, but he's been at many of them to receive honorary degrees, to serve as a trustee, or to speak.

It would take pages to list all his public service positions or fraternal memberships. They include: president, National Council, Invest-in-America; former national treasurer, Boy Scouts of America (an Eagle Scout, he earned 81 merit badges instead of the required 21); chairman, Committee of One Thousand, Freedoms Foundation at Valley Forge.

Accepting all the awards he receives for good citizenship (the sources range from the Fellowship of Christian Athletes to the United Jewish Appeal) is almost a full-time job in itself.

The following interview with a Nation's Business editor may give you some clues as to how Mr. Hansen has been able to achieve what he has.

*Mr. Hansen, you have been in truck manufacturing since you were 18, haven't you?*

Actually, I started out in the parts department with International Harvester Co. In those days, in 1927, their truck business was not anywhere near as big as it is today, and anyone working with them who indicated an interest in trucks was told he might not have a great future. The really great part of the business, he was told, was in farm equipment.

*But you indicated you were interested in the truck business, anyway?*

That's right. I stayed in it and maintained my interest.

*What prompted that interest?*

Well, the truck industry was new, and intriguing to a young man.

*At 55, you left Diamond T and White Motor to take on an unknown quantity. What led you to that?*

Really, the challenge of turning something around and establishing its rightful place in the industry.

One of the first accounts I called on, when I started selling trucks as a commission retail salesman in the '30s, had a Mack bulldog on his desk. And as I called on other accounts I also would run into that bulldog. The bulldog kind of created an inferiority complex for those of us in competitive companies, because we recognized the great product that Mack manufactured.

So when there was an opportunity for me to come to Mack, I thought: "I've been in this industry a long time, and in the closing years of my career I might just as well end on top if I can."

*But Mack wasn't on top, was it? Hadn't its share of the heavy-duty truck market dropped from 21.4 per cent in 1959 to 15.9 in '64?*

That's correct.

*How did you turn the company around?*

Well, I was a newcomer. I had not been inside Mack Truck's offices, factories or anywhere. So when I arrived, without my family, I worked from early morning till very late at night boning up on everything.

Mack's big problem, I found, was not being able to keep up with the growth of a rapidly expanding industry. It had suffered for lack of planning and perhaps management in previous years, and though it had kept up product-wise, technology-wise, it hadn't increased production facilities to meet the requirements.

There were times when Mack could not meet the customers' demand. It had a very substantial backlog.

Most people were under the impression that Mack was producing all the trucks it could produce. But we went up to 70-plus trucks a day with virtually the same facilities that had been producing 50 to 55 previously. With an addition to the Allentown plant, which was started within two or three months, we were able to increase production still further.

Then, the financial community all talked about Mack's labor relations problems, and the tremendous drains from our Hagerstown, Md., plant and our foreign operations, which were operating at heavy losses.

Well, coincidentally with the production increase we concentrated on establishing better labor relations.

Then we took a serious look at Hagerstown. Outside consultants, instead of management, had selected the plant location and laid out the plant. There were many reasons why it was not producing as it should.

So that was worked out, and within a reasonable time Hagerstown had increased capacity and become profitable.

We also went to work on our foreign operations. For instance, their headquarters were in Bermuda. It was really a country club. We closed down the Bermuda offices and brought those who were necessary back to the headquarters office where they could work together without loss of time in travel and communications. And before long, we had foreign operations on a profitable basis.

Now, another thing: Mack had moved into new headquarters in Montvale, N.J., about six months before I came.

And during those long evenings of work when I used to go through the building, I managed to wander into the beautiful reception room and just accidentally look into the visitors' register.

I found out that nobody came there. There were no customers, dealers or suppliers to speak of.

And in trying to communicate with some of the key executives, why, I found out that they were either en route to or from Allentown or Hagerstown or somewhere else. There was an awful lot of lost time.

The decision was made to move to Allentown.

*What did you do to establish good labor relations?*

Well, one thing I have found is that the boss should not hesitate to face employees personally.

Regardless of what a burden it might be on me to do so, I have made it a practice, when the employees are having a picnic or anything on a weekend, or a meeting in the evening, to try to attend. And that's whether it's at Hagerstown, or Allentown, or Somerville, N.J., or at our Brockway Motors Trucks subsidiary in Cortland, N.Y. I haven't slighted anybody.

I have gone to retirees' annual or semi-annual gatherings whenever possible.

Then we have various small social groups within the company, and whenever they have Christmas parties or other affairs, why, I try to attend. We encourage all of our top management to do so.

I have gotten a lot of good first-hand knowledge talking to some of the people directly. I even have heard from some union members about complaints that they thought maybe their officers weren't bringing to the front.

We also started our house organ, *The Mack Bulldog* magazine. And we have told the employees we would keep them informed on anything important. We have been very straightforward.

*In addition to making for better team spirit, does this sort of thing affect results at the bargaining table?*

At least it does this: It creates a better spirit of understanding and respect for each other at the bargaining table.

*What share of the heavy duty truck market does Mack now have?*

Well, that varies from month to month, but it's been 18.8 per cent recently. In 1970, we regained No. 1 position in diesel truck sales.

*Doesn't Mack have the lion's share of U.S. heavy-duty truck exports?*

Yes, Mack has been very fortunate in its ability to maintain its export markets. We have varied from 40 per cent in some years to, well, for the first six months of 1971 we were at 48-plus per cent.

*Have you faced competition to any extent from foreign imports?*

Actually, up to the present time, I don't think any U.S. heavy-duty diesel truck manufacturer has.

*In 1964, the year before you took over at Mack, sales were $275 million. How are they going now?*

We had $534 million in 1970. Our first six months of 1970 were all record-breakers. But then came a crunch in the money markets, and the last months of the year felt it. In 1971, we were not able to surpass our 1970 sales pace until August. Sales for the year should come to more than $545 million.

*Are profits keeping pace with the growth in sales?*

Well, not quite. We have had to absorb heavy wage and fringe benefit increases.

*Mr. Hansen, your attendance at those employee gatherings might be considered extracurricular, and certainly the numerous public service positions you have held are. How do you manage to do it all?*

Well, you can always find time to do the things you want to do. I have to work harder, that's all.

*Do you have special techniques for compressing more work into less time?*

Actually, no. I'm able to read pretty fast and to absorb facts that are necessary to the business and forget about those that are not.

And at Mack we have two pure jets, a turbojet and two jet helicopters, all of which help me and other executives to get more done.

*Do you go from your home to your office by helicopter?*

No. My drive from home is only about 10 minutes. And I often come in very early and sometimes go home late—last night it was 9:15 when I left the office. There's no point in having a helicopter crew standing by for that.

I have, though, been picked up by helicopter at home in winter when snow has blocked the roads, or if I've been going out to the airport at the high density traffic hour in the morning.

I use the 'copter on trips to New York, Philadelphia and Washington.

*You said you worked until 9:15 last night. What's a typical working day?*

Actually, there is no typical working day. The schedule depends on what there is to do.

Now, I was involved in an important meeting in Jacksonville, Fla., yesterday, which was not over until about 2 in the afternoon. So our jet brought me—and an associate who was dropped off at Norfolk, Va.—back up. We arrived in Allentown at 5. The helicopter was at the airport and I was in my office at 5:05.

Well, there had been an accumulation of material from the previous afternoon when I left for Jacksonville, so I had to go through it and get ready for a dictating session this morning and handle some other matters so that I can leave tomorrow noon for a trip west.

We work weekends and holidays at Mack Trucks.

*"We" meaning executives?*

I mean not only me, but many of my associates as well as my secretaries.

*Do you feel you get enough rest?*

I can get by on very little rest as long as I have something interesting and challenging to do. But if I let down or there is a lull, then I feel I need a lot more.

*Is trucking still a growth industry?*

Oh, yes.

*Do you see any major change ahead in trucks? A new power train, perhaps?*

Well, there are going to be changes to gas turbines or other types of power trains, but that is for the future. We are working on them. Keeps us pretty busy. But I don't see anything tomorrow.

*Was your merger with The Signal Companies in '67 aimed at getting capital to finance growth?*

No. That was the "mergeritis" time, when a lot of companies were looking at other companies and a lot of individuals were looking to move in to take over.

Mack, which had had a rather poor earnings record, had a very fine year in 1966. Earnings had gone from 92 cents a share in '64 to $4.26 in '66.

When a company turned its earnings around and the outlook became favorable, why, naturally all the vultures zeroed in. I can't even recall how many different companies tried to take us over.

Sooner or later, regardless of the fact that we were doing a good job and wanted to be independent, we were going to be the victims of a take-over, and perhaps by someone we didn't want to be taken over by.

So we looked over all the candidates and when we met the group from The Signal Companies we decided that as long as we had to get under the umbrella of someone, they were the best opportunity for us. Their philosophy was to allow companies to operate autonomously. And each of their segments was in an industry unto its own—Signal Oil and Gas Co., for example, and Garrett Corp., in aerospace.

*Have there been drawbacks?*

Frankly, none.

I don't know of any association that could be as good as this one. In 1970, when the financial crunch occurred, we had to rely heavily on Signal from time to time, and naturally we had problems. But they certainly were not serious.

*Mr. Hansen, getting back to your personal career, did you miss much by not going to college?*

Not a damned thing.

*Is it still possible for a young man to be a business success without college?*

Yes. I think it is more difficult today, however, because we have such contradictory laws and opinions in this country. For instance, we talk about fair labor practices and equal rights and all those things. But just recently I met a young man at a company and told him I would see him again.

And he said, "No. I won't be here because I have to go back to school to get my master's degree."

I said, "What in the hell do you have to get that for?"

"Well," he said, "I have been passed over twice for promotion because I didn't have a master's degree. That's just one of the requirements here. The degree isn't going to do me a damned bit of good, but I've got to get it."

The same thing holds true in hiring practices at government agencies and other organizations.

We have this built-in handicap for people who just don't happen to have a college degree but who may be equal or better in knowledge and experience.

*Have you eliminated that handicap in your company?*

Definitely.

*Are there other top executives at Mack who have not been to college?*

You know, I haven't even checked. Of course, our executive vice president of engineering is an MIT graduate.

And our legal people are law graduates, and so forth. But, well, yes, our executive vice president of marketing never went to college.

*You have been quoted as saying that too many kids who are not qualified go to college, and that one of the problems is "pushy, selfish parents."*

No question about it.

*And you have said the worst thing that's happened in America has been the invention of the safety razor, because the old-fashioned razor strop disappeared.*

That's right. That and the formation of the P-TAs.

*How about your own upbringing? Were you subject to the razor strop?*

I was very definitely subject to the razor strop, to the strictest discipline. And also taught to say Yes, sir, No sir, and Thank you, and to behave myself.

I was also brought up under the philosophy that children should listen to what their elders said, and not voice opinions.

That, of course, was prior to the time that we oldsters decided to give the country to the younger people.

*How about your own three sons?*

Well, they are all grown, and none of them has been a problem. Only one saw fit to attend college. And then, after leaving college, he worked for a few years and decided to return to get his law degree, which he has done on his own. He is now establishing his own private practice.

The other two are coming along satisfactorily.

*Mack Trucks has been a financial supporter of educational institutions. Has wildness on campus affected the company's policy?*

We have discontinued support of schools where it appeared that the students were not appreciative of the opportunity being given to them, and where there were indications that the faculty was far-out.

I get sick and tired of hearing that industry hasn't done a good job of selling our educators and students on the benefits of the free enterprise system.

If these college professors are so damned smart, they ought to know that in many instances the endowments for the buildings they are in, the very campuses they are on, have been created by the blood and sweat of people who never had a college education. If they are so dumb that they can't figure that out, we ought to get rid of them.

*Mack has widely distributed a folder on how to display and honor the U.S. flag. How did that come about?*

When President Nixon was inaugurated, I was on the platform not too far away. And I could observe the behavior of the members of our Supreme Court, the President's Cabinet, members of both houses, the Governors of states and so forth.

It was appalling to me that, when the flag was presented, there was either a lack of knowledge of how to respect it, or lack of desire, on the part of so many of these important people. And this was on national television.

So upon my return I asked the Flag Plaza Foundation in Pittsburgh to produce a pamphlet for us.

*Mack recently engaged in negotiations, now terminated, about supplying the Russians with truck-making tools. Do you see anything incompatible between this type of business deal and patriotism?*

Absolutely not. As a matter of fact, Mack thought it was patriotic. We are the only major nation not really trading with the Soviets, though many American firms do business with them through foreign subsidiaries from which we get no balance of trade credit or employment or anything else.

And manufacturers from Britain, Germany, France and Italy, for instance, had been endeavoring to secure the business. Nothing was going to be furnished to the Soviets that they couldn't get on their own or from some other country.

*You were born in Hibbing, Minn., but went to grade school in Miami, Fla., and to high school in Sioux City, Iowa. Why so much movement?*

My mother and father were separated when I was about four years old. I was raised by a grandmother and a couple of aunts.

*Your first name is unusual. A family name?*

No. When I was a boy, I disliked it very much. I found out that my mother, prior to my birth, had been reading a book in which there was someone by the name of Zenon.

In those days, we lived in a community that was primarily Scandinavian. We had Swedes, Danes and Norwegians, and there were a great many Hansens, spelled either "s-o-n" or "s-e-n." And the first names were all Scandinavian.

My mother decided I should have an unusual name. So she chose Zenon.

Until recently, in all my travels, I had heard of no other Zenon, except once during World War II. However, during the publicity over Mack's possible participation in the Soviets' truck plant, two Zenons wrote to me. Both were so interested in finding someone named Zenon that they journeyed to Allentown and we had visits.

We have since found another Zenon. We are thinking of forming a Big Z or Zenon club and trying to find out how many people there are by that name.

*Had the other Zenons' mothers also read that book?*

No. One of these gentlemen is of Polish extraction and the other Lithuanian, and I find there is a background of using the name among Poles and Lithuanians.

*Your mother also decided to change the spelling of your last name, didn't she?*

Yes. The name should have been spelled "s-o-n." She decided to change it to "s-e-n" when we moved one time. And it stuck.

*Mr. Hansen, what would you say has been the smartest decision you've ever made?*

I think it was when I decided as a young man not to do what I started out to do—work a while and then go to college—but to keep on working.

*And what has been your biggest mistake?*

Probably that I have not devoted enough time to my personal affairs, particularly financial. I have devoted a great proportion of time to civic affairs and my businesses.

But I am going to get along all right. And I have had a great deal of personal satisfaction working with and helping people. So I'm not going to worry about it.

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## WINGS AND ROTORS OF BULLDOG AIRLINES SPEED MACK TRUCKS EXECUTIVES

(By Murray Smith)

Zenon C. R. Hansen has brought Mack Trucks, the nation's first truck manufacturer, back from a losing position in 1965 to a powerhouse in 1971. The company's new, multi-million-dollar headquarters in Allentown is festooned with bulldogs. On the front of the building above the entrance is a 22-foot-high Mack Bulldog which is made of fiberglass and is illuminated day and night. The aviation department is referred to as Bulldog Airlines, and Hansen credits some of his success in rebuilding Mack to the mobility the flight department has brought to his viable management team. When Chief Pilot Bill Sapp arrived at Mack in 1965, his instructions were to build an effective flight department. Sapp did, and it is.

Despite strong competition from International Harvester, White, General Motors, and others in this country (and with increasing competition from various foreign manufacturers as well), Mack Trucks is a major power in the heavy duty truck market and claims 20 per cent of the U.S. market. According to Zenon C. R. Hansen, chairman of the board and president of Mack Trucks, the past success of the company had been built on its matchless reputations for producing reliable, high-quality products, and on its image as the originator of more new ideas in the motor truck industry than any other producer.

"But past laurels aren't worth a damn in the fight for new business," the dynamic 62-year-old truck industry leader declared in his recent interview with *Pro Pilot*. "You can't live on your past reputation. You've got to continue to bring new and better ideas to truck building."

Surrounded by Bulldog symbols and puffing on one of his cavernous pipes, Hansen continued: "To develop new ideas you've got to know your customers' needs intimately. You've got to get around. Having our own fleet of turbine-powered fixed wing and rotary wing aircraft gives us the opportunity to move an effective management team around the country quickly; to learn more from our customers in face-to-face meetings; to bring collected information quickly to our plant sites; to visit our parent company headquarters; and to reach financial institutions, vendors, or other suppliers in a minimum of time. Being faster than our competition with our derived product intelligence and resultant new developments is really the key to our current industry leadership here at Mack Trucks."

### MACK NOT ALWAYS THE LEADER

Mack hasn't always been the leader. The nation's first truck-maker fell upon hard times in the late 1950s. A succession of finance-oriented chief executives—four within seven years—were installed and removed by a closed-end investment company. Central Securities Corp., whose Northeast Capital subsidiary was Mack's largest stockholder at the time. None of these in-and-out Mack leaders had any truck manufacturing experience. The results were appalling, and Mack's futures were plunging toward the point of no return.

Mack management was isolated, and executive travel requests were frequently denied. Facilities had deteriorated, research atrophied and inter-plant coordination was practically non-existent. An obsolete plant was retained too long, then suddenly scrapped for a snap-decision replacement hundreds of miles away in an area so devoid of trained employables that start-up costs topped $17 million. Morale was low, work stoppages and strikes were prevalent.

Between 1959 and 1964 Mack lost a third of its share of the heavy-duty truck market, sliding from 21.4 per cent to 15.9 per cent. Earnings nosedived from $15.8 million to $3.4 million, and Mack stock plummeted. When a desperate plan to merge with Chrysler was denied by the Justice Department in 1964, it looked as if the final curtain might be pulled down on Mack Trucks.

At this supercritical time, Mack's directors elected to try once more to find a new chief executive—a man who was familiar with every facet of the truck business and who had an uninterrupted record of success. They decided upon Zenon Clayton Raymond Hansen, president and director of Diamond T, and also executive vice president and director of the parent White Motor Company.

### ZENON CLAYTON RAYMOND HANSEN

At the time Hansen was 55, had moved up from sales vice president to president of Diamond T eight years before, and had increased the company's revenues by more than 20 per cent and earnings by 800 per cent. He negotiated the agreement making Diamond T a subsidiary of White and subsequently moved his headquarters and production operations to Lansing, Michigan as a centralization move to improve corporate efficiency.

"I believed in corporate air travel from the days when I was vice president of sales at Diamond T," stated Hansen emphatically. "Time was precious, and you could have it with air travel. When I was at Diamond T in Chicago, back in the early fifties, it was my idea to get a company helicopter to avoid the traffic tieups between our plantsite and the Chicago Midway Airport. We used a four-place Bell Executive and found we could cut company officer travel time from an hour to only 15 minutes in carrying top personnel from the plantsite to the airport. I moved to allow more liberal use of the helicopter by other personnel with important jobs, and even used the helicopter to carry urgent or 'fire' orders to the airport for airmail shipment to customers. Cost per part might have been high, but fleet owners remembered when we gave them overnight parts delivery service, and many placed their next truck orders with Diamond T because of the overnight parts back-up service we provided."

"When I moved operations to Lansing, the company bought a Twin Beech G18 to use most frequently for travel from our office in Lansing to the home office of White Motor in Cleveland."

### HANSEN JOINS MACK

When the directors of Mack approached Hansen with the proposal of leaving White Motor to salvage the Mack Trucks operation, they wisely didn't sugarcoat the position of the company. "The idea of making the Mack Bulldog growl again appealed to me," Hansen said. "I was number two or three or four man at White. Here was a chance to put all my ideas into effect and rebuild a very individual truck company back into the great leader it had been before."

When Hansen became president of Mack in 1965, he did some pretty amazing things. "I'm going to first rebuild this company's spirit," he declared, and proceeded to do just that. He called in all employees for meetings; promised to make all promotions from within; and has kept that pledge. He dusted off and reemphasized the Mack Bulldog—perhaps the best known corporate symbol in America—and started placing bulldogs on everything. Bulldog pictures, bulldog ashtrays, bulldog carpets, bulldog blazer emblems, bulldog statues in steel, wood, fiberglass, and even porcelain. He gave out thousands of bulldog lapel pins. Personalized gold bulldog telephone covers soon appeared in executive suites throughout the country.

"Mack Trucks didn't own an airplane when I came," continued Hansen, "but the word got out on the pilots' grapevine that we were going to buy one. The grapevine was so effective that Bill Sapp had heard about it within one day, and called to ask me if there was a job open. I told him there was one; that it would be the captain's job; but that he was employed, and it was not our policy to proselytize personnel. He replied that he had already planned to make a change, and that as long as he was going to do so he would prefer to come to Mack. I naturally felt complimented, because he had experience with me and knew how I operated. When he arrived, I told him to establish the best damn flight department in corporate aviation, and he got things off the ground within a month."

### BULLDOG AIRLINES

"We started with a tri-gear Twin Beech, followed by a second. An order was placed for a DH 125, but deliveries in those days were extended, and it was going to take 15 months to place it in operation. We needed mobility and speed immediately, and so we purchased a Learjet 23 and disposed of one of the Twin Beeches. When the Volpar turbine engine tri-gear became available on the market, we placed it in service and disposed of the second Beech. We are proud, of course, that the Volpar is powered by turbine engines made by our affiliate company, the Garrett Corporation."

"As soon as jet helicopters were available, a Bell JetRanger was placed in service, and early this year, when the Bell 212 was produced, we received the first delivery for corporate air service."

Mack experienced a corporate air tragedy in November 1969 when their first Learjet 23 was lost in Lake Michigan with a crew of two and five passengers aboard. The aircraft had just returned from its 100 hour airworthiness inspection, which had been performed less than a week previously. Hansen commented: "The loss was a great one to Mack, and a personal one to Mack people. Because we operate our corporate aircraft with complete operational safety standards and the finest equipment available, it had to be concluded that everything possible had been done to prevent such an occurrence. It was most regrettable, but it should not interfere with the air operations of the company. Having known the crew and personnel, I know it would have been their wish for Mack to keep flying."

### MACK DEVELOPMENTS AND CURRENT OPERATIONS

Through location consolidations and the use of company aircraft, Hansen unified Mack's operations. He selected Allentown as the center for operations, and tagged it "The Truck Capital of the World."

Former management had been reluctant to give the go-ahead for development and production of the revolutionary Maxidyne diesel engine and matching Maxitorque transmission, both of which had been built in prototype. Hansen gave the go-ahead immediately, saying only "How long and how much?" It was such an innovation that time was of the essence, and the cost secondary. Being a truck man himself, Zen Hansen listens to his engineers and truckers; has a gut feel about a good truck. He recognized the fantastic potential of the Maxidyne engine, and it has become the top seller of the Mack line.

With sales climbing, the company needed more money for new product development, but its borrowing power was severely limited by its common equity capitalization of only $134 million. Hansen came to realize that a merger with a larger organization was necessary to supply adequate capital for expansion. As Mack was enjoying a flush of prosperity, and backlog orders for Maxidyne equipped units and other Macks were high, many corporations were eager to talk. In 1966 Mack's earnings reached $4.26 per share, up from 92 cents per share when Hansen had taken the helm two years before. A New York bank suggested Signal Oil to Hansen, and after a two and a half hour meeting with the principals, Hansen had his deal. He would have complete autonomy, and no other truck manufacturer or similar company would be in the corporation. Today, Signal's mainstays are Mack, Garret, and Signal Oil.

The record for Hansen's first five years at Mack (1964 to 1969) reads: sales up 94 per cent to $533.3 million; unit production up 71 per cent to 24,518; net income up 417 per cent to $25 million; earning per share up 471 per cent to $7.94; and return on equity up 218 per cent to 12.7 per cent.

### TOP MANAGEMENT SMALL GROUP BUT MOBILE

"Interestingly, I used the same management team at Mack," explained Hansen. "I didn't expand the management team; just got them around faster. We've grown since 1965 from a $275 million company to a $550 million company only bectause we have the mobility for our top executives through Mack's own Bulldog Airlines."

"I believe in corporate aviation," Hansen told *Pro Pilot*. "I think companies that engage in interstate commerce and don't have aircraft are lacking in guts, management or something. I do believe that what we've done here at Mack Trucks is applicable to other companies. I must tell those executives who aren't now using company aircraft that they just don't know what they're missing. Only with company aircraft can a business really do the things that need to be done when they *should* be done."

### HANSEN'S VIEWS OF FLIGHT DEPARTMENT

"I feel quite strongly about the advantages of helicopters," he continued. "Small helicopters are ineffective, but large ones—like our twin turbine powered 212—can really do a good job in point-to-point transportation. We make numerous flights to New York City heliport locations such as 60th Street and Wall Street, and we also make runs to Philadelphia and into New Jersey. Not only do we save hours upon hours of time, but we also think it's much safer for our executives to be *above* the highways than *on* the highways."

"There should be no conflict between rotary wing aircraft and fixed wing aircraft in the flight department. Either you have a need for a helicopter or you don't! If your plant is located near a good all-weather airport, you don't usually need a helicopter. On the other hand, if your plant is located some distance away from the airport, a helicopter with turbine power and sufficient size to carry your management team would appear to me to be a good investment."

"The proper flight department for each company should be worked out in conjunction with the aviation group and management. In our company, we bring our aviation department director, Bill Sapp, in on our executive travel planning needs and put him to work on equipment suggestions. As far as aviation is concerned, his is the ultimate decision. We're not going to purchase a given type of aircraft if he were to recommend against it. Similarly, if he feels it would be best to go a certain route with aircraft or avionics, we listen quite closely to him. *He* is the expert in this field."

### INTERVIEW WITH MACK'S AVIATION DEPARTMENT MANAGER

We then talked to Chief Pilot Bill Sapp and asked him about his decisions regarding equipment for Mack aircraft. William C. Sapp, 50, holds commercial multi instrument, and has been Director of Transportation and Chief Pilot at Mack Trucks for the past seven years. He holds type ratings in the Learjet 23/24, DH 125, L-18 and PV-1. Before Mack, he worked at White Motor; prior to White he flew for Lakeshore, and before that for Fruehauf Trailer.

All aircraft and instrumentation selections have been his. We talked to him about his flight department:

"We call our operation the Bulldog Airlines, and our fleet consists of the turbo powered Volpar stretched Twin Beech based at Queens City; the DH; the Learjet 24B; the JetRanger; and the 212. We fly the Lear and the DH about 600 hours a year each. The Volpar Twin Beech goes a little more, say 700 hours a year, and the helicopters fly about 1000 hours a year each. Central scheduling is handled by Miss Mary Price at the corporate headquarters office of Bulldog Airlines. She handles both airline and in-house air travel and will take a Mack employee traveling on a scheduled commercial flight and put him on a Bulldog flight if we have one going in the same general direction."

### SELECTION OF EQUIPMENT

"We had demonstrations in about everything before selecting the Learjet and the DH. I evaluated the Falcon, Sabreliner, JetStar, Jet Commander, the Learjet, and the Hawker Siddley DH 125 for the Allentown (ABE) Airport operation I suggested aircraft to Mr. Hansen based upon our particular needs. Mack Headquarters is located near two airports—Queen City and Allentown (ABE). Queen City has only a VOR/DME approach, and the longest runway is 4000 feet. We've had our jets into Queen City, but it's not really a jet airport. However, Queen City is a more convenient airport than Allentown for us; it's a good bit closer. The Volpar Twin Beech is based there, and is used as a commuter aircraft. At ABE we base both the Lear and the DH. The DH is bigger and roomier, but is more expensive to operate than the Lear. So for quick, one day out-in-the-morning, back-in-the-evening trips for our sales force and other management executives, the Learjet is fine. For Mr. Hansen and his special customers, Mack executives, and parent company executives, we use the DH. The DH is more of a walk-around airplane, and therefore more comfortable for long trips."

### HELICOPTER DECISIONS FROM CHIEF PILOT

"It was also my recommendation to acquire the helicopters. The JetRanger worked out very well, and then when the 212 was available we thought we'd use it on a trial basis. The Bell 212 has been an unusually good aircraft. We're trying to license it for IFR operations, and are making progress with the FAA."

"On the helicopters, I looked at the Fairchild Hiller FH–100, but was worried about factory support. I also reviewed the Hughes 500, but it was smaller than the JetRanger. Looking at the factory support angle, and Bell's image as a leader in the executive helicopter field, I went with Bell on the JetRanger, and decided on the 212 as the only twin turbine executive helicopter available."

"I don't recommend having a fixed wing pilot checked out to fly helicopters. I believe flying turbine powered helicopters is a special profession; therefore we have five fixed wing pilots and two helicopter pilots. And the 212 is working out so well that we might retire the JetRanger."

### NEW AIRCRAFT VIEWS

"I have evaluated the Merlin III and the Citation as possible replacements for the Volpar Beech in the future. We want to continue to utilize the Queen City Airport, so we need shorter field length requirements. But these decisions are down the road a bit."

### AVIONICS VIEWS

"On avionics, I like Collins. I've planned all the panels, and the Lear is all Collins, as is the DH. The 212 has dual Collins PN–101s. Every aircraft in our fleet is also equipped with radar altimeters—I believe in them. I'm using Collins in the DH, IFD in the Volpar Beech and 212, and the Bonzer in the Lear and JetRanger."

"We have new hangar and office facilities at Allentown (ABE), and a smaller but effective office at Queen City. At ABE we handle quite a bit of our routine maintenance, and for the larger maintenance jobs, Atlantic Aviation and AiResearch do the DH, and Executive Jet takes care of the Lear."

### PERSONAL THOUGHTS ON RULES AND REGS

"As far as my personal desires on rules and regs are concerned, I'd like to see the twin turbine helicopters certified for IFR, and I'd sure like to see corporate aviation separated from general aviation. All the general aviation problems become our corporate aviation problems—we're saddled with their accident record, and their little airplane image. And I'd like to see a mandatory retirement age of 60 set by FAA for corporate pro pilots . . . few corporate pilots will be around to enjoy company retirement programs that begin at 65."

## INCREASE IN SOCIAL SECURITY BENEFITS

(Mr. MILLS of Arkansas asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MILLS of Arkansas. Mr. Speaker, I am today introducing a bill which would provide a 20-percent increase in social security benefits. In 1971, we passed H.R. 1 which would do much to improve social security protection for certain beneficiary categories—including increased benefits for widows, medicare for the disabled, and making social security benefits inflationproof. However, H.R. 1, now being considered by the Senate, would provide only a 5-percent increase in cash benefits, effective this June. The 5-percent increase would only keep benefits up to date with the increase in prices since January 1971, the effective date of the last benefit increase. The time has come, and the means are available, to provide a substantial real increase in benefits and thereby make social security benefits for retired workers, and for disabled workers and their dependents, widows, and surviving children, more nearly adequate.

Under my bill social security benefits would be increased by 20 percent beginning with benefits payable for June 1972. The minimum benefit would be increased from $70.40 to $84.50 a month. It is estimated that the 20-percent increase along with the other provisions in H.R. 1 would increase the average benefits from $133 to $162 a month for retired workers, from $222 to $269 for aged couples, and from $114 to $153 for aged widows.

It is important to remember that social security benefits are the major reliance of the great majority of retired workers and the sole reliance for about half of them. Although about half of the workers in the country are covered by private pension plans, very few of the retired workers are actually getting private pension payments. Only 21 percent of the couples receiving social security benefits and 8 percent of the nonmarried beneficiaries also receive private pensions. Even when benefits from other Federal Government programs are considered, only 30 percent of the couples and 14 percent of the other beneficiaries have a second pension.

Perhaps most important is the fact that the 20-percent benefit increase and the other cash benefit improvements in H.R. 1 can be financed with the present contribution rate of 4.6 percent each for employees and employers for 1973–76 and with a rate of 4.9 percent for 1977–2010 and a contribution and benefit base—the amount of annual earnings which are counted for benefits and on which contributions are paid—of $10,200 in 1972 and $12,000 in 1973. The following table shows a comparison of the rates under present law, under H.R. 1, and under my proposal.

OASDI CONTRIBUTION RATES (EMPLOYEE AND EMPLOYER, EACH)

[In percent]

| Year | Present law[1] | H.R. 1[2] | Proposal[3] |
|---|---|---|---|
| 1972 | 4.60 | 4.2 | 4.6 |
| 1973–74 | 5.00 | 4.2 | 4.6 |
| 1975 | 5.00 | 5.0 | 4.6 |
| 1976 | 5.15 | 5.0 | 4.6 |
| 1977–2010 | 5.15 | 6.1 | 4.9 |
| 2011 and after | 5.15 | 6.1 | 6.1 |

[1] $9,000 contribution and benefit base for 1972 and after.

[2] $10,200 contribution and benefit base for 1972 with automatic adjustments to increases in earnings levels thereafter.

[3] $10,200 contribution and benefit base for 1972 and $12,000 for 1973 with automatic adjustments to increases in earnings levels thereafter.

I would like to stress the fact that the cash benefit improvements that I am proposing, kept up to date with the cost of living, can be financed for the next 40 years or so with contribution rates that are lower than the rates under present law for that period. In addition, these rates are well below the rates for 1975 through 2010 under H.R. 1; and the rate for 2011 and after is the same as the ultimate rate under H.R. 1. The 4.6-percent rate is based on the concept of current-cost financing and on the assumption that both benefits and earnings levels will rise in the future. Current cost simply means setting the contribution rates high enough to assure sufficient income to meet current expenditures and to allow for some growth in the trust funds so as to maintain them at a reasonable contingency level.

I think that it is obvious to most of us that there is nothing new about current-cost financing. Since the mid-1950's, whenever the Congress has provided for major changes in the social security program and set new contribution rates, the intent has ordinarily been to set the current contribution rate at a level judged necessary to provide for relatively small annual increases in the fund. Thus, I am recommending that the policy of current-cost financing, which has been followed in practice, be recognized in the law.

Basing the contribution rates for the cash benefits part of the social security program on the dynamic assumptions that benefits will rise in the future to take account of increases in prices—as provided under H.R. 1—and that earnings levels will rise is a departure from past practice. In the past, the contribution rates were based on the assumption that neither benefits nor earnings levels would rise. And, as a result, when earnings levels did rise, there was an automatic excess of social security income that the Congress would use to finance benefit improvements. The use of the so-called level-earnings assumption in the financing of the cash benefits program has resulted in the enactment of contribution rates that, when earnings did increase, actually provided financing in advance for benefit increases that go beyond increases in the cost of living. The use of dynamic assumptions would mean that at any time in the future that Congress chose to increase benefits by more than the increase in the cost of living, contribution rates would also have to be increased.

The contribution rates I am recommending are based on the best actuarial estimate of future price and earnings relationships but with a margin of safety so that even if the estimate of actual earnings and price relationship in the future should vary to any significant degree from the assumptions, the rates provided by my bill will be sufficient to meet the cost of benefits, adjusted in the future for increases in the cost of living, over the 75-year valuation period.

My financing proposals are based largely on the recommendations of the Advisory Council on Social Security. As you know, the Council was a distinguished 13-member panel, which under the law was made up of representatives of organizations of employers and employees and of the self-employed and the public. The Council's Chairman was Arthur S. Flemming, a former Secretary of Health, Education, and Welfare, and recently Chairman of the White House Conference on Aging. Several members of the Council have long, prominent careers in finance. In addition, the Council was assisted in its review of the financing of the program by nationally recognized actuaries and economists, including two outstanding private pension consultants. My financing proposals differ in one important respect from the Advisory Council recommendations, that is, that my proposals include a margin of safety. I am inserting for the record excerpts from the report of the Advisory Council on Social Security on the specific financing recommendations on which the financing of my bill is largely based and a list of the distinguished members of the Advisory Council and the panel of actuaries and economists that assisted the Council in its study of social security financing.

The increase in the earnings base to $12,000 in 1973 would result in substantially improved benefit protection for workers with above average earnings. The base is a major factor in determining the level of social security protection for such workers. Increasing the base to $12,000 would move in the direction of covering the proportion of workers' earnings that were covered under the original Social Security Act. In 1938, the $3,000 earnings base covered the full earnings of 97 percent of all workers. A $12,000 base would cover the full earnings of about 86 percent of all workers in 1973.

Another reason for increasing the base is that, in general, with any given level of benefits, a higher earnings base makes possible lower contribution rates; conversely, a lower base means higher contribution rates, with a correspondingly greater part of the cost of the program being borne by lower paid workers.

Social security is the Nation's basic income insurance program. It provides protection for American workers and their families against loss of income due to the retirement, disability, or death of the family earner. There is no other program as effective in helping to assure economic security while maintaining dignity for workers and their families. The success of the social security program as the Nation's basic income insurance program is in large part due to the fact that workers earn future economic security as they earn their living. Entitlement to benefits is based on past employment, and the amount of cash benefits is based on past employment, and the amount of cash benefits a worker and his family receives is related to his earnings in covered work.

The social security program today is a universal system, serving workers at all income levels. The program touches the lives of practically every family in our country. About 91 percent of the elderly are getting benefits or would be eligible for them when they or their spouses stop working, and 93 percent of those reaching age 65 in 1972 are eligible for benefits. More than 9 out of 10 people in paid employment and self-employment are covered, or eligible for coverage under the program. Ninety-five percent of the children under 18 and their mothers can count on monthly cash benefits if the family earner should die. More than 27 million men, women, and children—one out of every eight Americans—are getting monthly cash benefits. In addition, virtually all of the aged are eligible for hospital insurance benefits and 95 percent of them have enrolled in the supplementary medical insurance program.

The time has come to make a substantial improvement in the social security program and thereby improve its effectiveness as the Naton's basic income maintenance program. We can provide this very substantial increase in social security benefit amounts in a way that does not impose an undue tax burden on covered workers, and in a way that assures that social security will continue to be financed on a conservative and actuarially sound basis. The enactment of my bill would accomplish all these objectives.

The excerpt of the previously referred to report follows:

### EXCERPTS FROM THE REPORT OF THE ADVISORY COUNCIL ON SOCIAL SECURITY

#### EARNINGS ASSUMPTION

*The Council recommends that the actuarial cost estimates for the cash benefits program be based—as the estimates for the hospital insurance program now are—on the assumptions that earnings levels will rise, that the contribution and benefit base will be increased as earnings levels rise, and that benefit payments will be increased as prices rise.*

Actuarial estimates of income to the hospital insurance part of the Medicare program are based on the realistic assumptions that earnings levels will continue, on the average, to rise in the future as they have over the long-range past, and that the contribution and benefit base will be increased proportionately as earnings levels rise. Benefit outgo under hospital insurance of course increases with the cost of hospital care, and this fact is also taken into account in the hospital insurance cost estimates.

In the same way, the Council believes, the long-range cost estimates for the cash benefits program should be based on the assumptions that earnings levels and the earnings base will rise, and that as prices rise, benefits will be increased accordingly.

Up to now, estimates of the long-range cost of the cash benefits program have been based on the assumption that both earnings and benefits will remain level over the valuation period. The Council recognizes that the assumption of level earnings and level benefits has been adopted as a convenient device for cost estimating purposes and is not intended as a prediction of actual experience. With the use of this device, the estimates do not have to involve assumptions about the long-range movement of wages and prices; at the same time, the establishment of contribution rates based on these estimates results in a very considerable margin of safety in the financing of the program.

This is true because earnings levels will in fact rise (contrary to the assumption used in the estimate), and the additional income from rising earnings is substantially greater than the benefit liability arising from the higher earnings. Thus, a long-range actuarial surplus is created each time earnings increase. As a matter of fact, if the other assumptions on which the cost estimates are based turn out to be approximately correct, the additional income that develops as earnings rise will be enough to provide for benefit increases that go beyond increases in prices.

Although there are advantages in this estimating technique, the Council believes the disadvantages outweight the advantages. First of all, the Council believes that the obvious understatement of the dollar figures of program income and outgo that results from projections based on level earnings and level benefits can lead to a misunderstanding of the nature of the estimates. It cannot easily be made clear that both the income and outgo over the long-range shown in the trustees' reports, for example, are really to be expected to reach much higher levels than those shown.

Secondly, the use of the level-earnings assumption for a system that is in fact responsive to increases in earnings and prices results at any one time in a considerable overstatement of the role of interest earnings in financing the program for the long run. As is discussed in part IV, in practice the program has for many years been financed on a current-cost basis and the large funds which would result from allowing scheduled increases in the contribution rates to go into effect never materialized. Thus the portion of long-range benefit costs to be met directly by contributions is in fact larger than the estimates indicate.

More importantly, the Council believes that assumptions concerning such fundamental cost-determining elements as future earnings levels and future benefit levels should be explicitly stated so that they can be examined for reasonableness. To base contribution rates on estimates that assume that earnings, prices, and benefits will remain level is, in practice, to assume that as earnings and prices do, in fact, rise, the Congress will act not merely to maintain the purchasing power of the benefits but to provide for real increases in benefit levels. The assumption is, in effect, that when earnings rise, benefits will be increased sufficiently so that the annual cost of the program as a percentage of payroll will be unchanged (after due allowance for any difference between the other assumptions underlying the cost estimates and actual experience).

The Council believes that contribution rates for the cash benefits program should be based on estimates that project the cost of existing law, as kept up to date in terms of prices. It may well be that the Congress will vote real improvements in the program as the general level of living rises in the future. In fact, the Council has recommended that Congress make such improvements on an *ad hoc* basis. But the Council does not believe that financing for such improvements—making them all but inevitable—should be reflected in the contribution rate schedule ahead of time.

Although it recommends that, as a minimum guarantee in the law, benefits be kept up to date with prices automatically and that the contribution and benefit base be kept up to date with earnings automatically, the Council does not believe that the adoption of these automatic provisions is critical to the estimating principles here recommended; these principles are, in the Council's opinion, the best ones to follow for estimating purposes in any event.

In summary then, the Council proposes that the cost estimates for both cash benefits and health insurance be based on the same assumptions concerning the future movement of earnings, with cash benefit levels adjusted for price changes and Medicare cost levels adjusted for price changes therein. The Council believes that estimates based on these assumptions would give the public and the Congress a better understanding of the most likely course of the program. Moreover, professional and peer assessment of the assumptions on which the estimates are based would be more readily obtainable if the assumptions on the movement of wages, prices, and benefits were stated explicitly, as would be the case under the Council's recommendation. The Council believes that the discipline inherent in the contributory program would be strengthened if, at times when improvements in the benefit level that go beyond adjustment for rising prices are considered, the contribution rates are revised at such times to reflect the increased cost that necessarily accompanies the improvement.

#### CURRENT-COST FINANCING

*The financing of the program should be on a current-cost basis, with the trust funds maintained at a level approximately equal to one year's expenditures.*

The Council agrees with previous Councils that under compulsory social insurance it is unnecessary and undesirable to depend on trust funds to assure future payment of benefits. As indicated earlier, unlike the situation in private insurance, trust fund accumulations are not necessary to provide for security of payment. Under a compulsory social insurance program, it is proper to take account of future contributions as a balancing item against future benefit obligations; social insurance is soundly financed as long as provision is made to meet all benefit payments and administrative expenses as they occur. The financing of the program has always rested, and will continue to rest, on anticipated future contribution income, which in turn rests on the commitment of the Government to use its taxing power to meet the program's obligations. This is true regardless of the extent to which the commitment is recognized by a particular form of a governmental promise to pay, that is, the holding of Government securities in a trust fund.

Reserve financing is not only unnecessary under social insurance but the Council believes that it is undersirable in financing the general expenses of the Government to rely to any significant extent on borrowing from social insurance trust funds. The general expenses of Government should be met directly through the tax resources of the Federal Government, or, as the case may dictate, by borrowing from voluntary sources. The Council does not believe it is sound policy to support the operations of Government by borrowing from trust funds that grow out of the forced savings represented by social security contributions that are more than currently necessary.

Thus, the Council believes that the trust funds should be held to a reasonable contingency level, and it suggests the level of approximately one year's expenditures. Trust fund balances of this size would be more than ample to meet temporary excesses of outgo over income due to relatively high benefit costs or low social security tax yields in a particular period.

There is nothing new about this recommendation. Over the years, it has been widely recognized that the funds should be held to such a contingency function. Since the mid-1950's, whenever the Congress has provided for major changes in the social security program and set new contribution rates, the intent has ordinarily been to set the current contribution rate at a level judged necessary to provide for relatively small annual increases in the fund.

Although the Congress has restricted the trust funds to a contingency-reserve function so far as actual operations are concerned, the law nevertheless has continued to prescribe future contribution rate increases which, if allowed to go into effect, would produce very large trust fund accumulations. As a result, long-range actuarial estimates for the present cash benefits program show a trust fund of nearly a trillion dollars by the end of year 2025. And even medium-range cost estimates indicate a trust fund 15 years from now of only slightly under $200 billion. Since these results will not, in fact, occur under a continuation of the long-standing policy of postponing those increases not found to be currently necessary—a policy which the Council believes to be correct—the financial picture based upon the assumption of such large-scale trust fund growth is misleading.

The Council recommends that the policy of current-cost financing, which has been followed in practice, should be recognized in the provisions of the law. To carry out this recommendation, the contribution rate charged should be sufficient only to result in trust funds equal to approximately one year's benefit expenditures, and the law should be changed to require the boards of trustees to report immediately to the Congress whenever it is expected that the size of any of the trust funds will fall below three-quarters of the amount of the following year's estimtaed expenditures, or will reach more than one and one-quarter times such expenditures. The trustees should be responsible for proposing changes that would keep the trust funds at the recommended level.

One result of limiting the trust funds to a contingency-reserve function and of making the amounts needed for this purpose the determinant of the contribution rate charged is to postpone until well into the next century any increases in the contribution rates for a cash benefits program with benefits adjusted to price changes. The present rate of 4.6 percent each for employees and employers is more than sufficient to support the cash benefits part of the program for the next 4 decades or more. The contribution rate of 5 percent each for employees and employers now scheduled in the law to be effective for 1973 and the 5.15 percent rate now scheduled in the law to be effective in 1976 are not necessary for meeting current costs. The only function of rates this high is that if they were charged during the next several decades, very large funds would be built up, and the interest earnings on those funds would make it possible to have somewhat lower contribution rates than would otherwise be needed in the next century.

As a matter of fact, a current-cost approach under the Council's recommended actuarial assumptions and methodology shows that the cost of the cash benefits program over the next 3 or 4 decades will be a smaller percentage of estimated covered payrolls than it is at the present time. Costs as a percentage of covered payrolls would then rise somewhat beginning about the year 2010 because of the growth of the retired population relative to the employed population as those born during the high birth-rate years following World War II reach age 65. The table following shows contribution rates that would be sufficient to meet the estimated costs of the cash benefits program under the Council's recommended actuarial assumptions and methodology and to allow for growth in the trust funds. The table indicates the combined employer-employee contribution rates by 2-year intervals for the years 1973 through 1985 and 5-year intervals for the years 1985 through 2045.

*Contribution rates*

| Calendar year: | *Percent* |
|---|---|
| 1973 | 9.3 |
| 1975 | 8.9 |
| 1977 | 8.8 |
| 1979 | 8.7 |
| 1981 | 8.0 |
| 1983 | 8.5 |
| 1985 | 8.4 |
| 1990 | 8.2 |
| 1995 | 7.9 |
| 2000 | 7.0 |
| 2005 | 7.5 |
| 2010 | 7.9 |
| 2015 | 8.8 |
| 2020 | 9.7 |
| 2025 | 10.4 |
| 2030 | 10.7 |
| 2035 | 10.9 |
| 2040 | 11.2 |
| 2045 | 11.6 |

This estimate is based on the assumption that prices and wages will rise as follows:

| [In percent] | *Rate of increases* | |
|---|---|---|
| Calendar year: | *Prices* | *Wages* |
| 1971 | 3.8 | 6.0 |
| 1972 | 3.4 | 5.6 |
| 1973 | 3.0 | 5.2 |
| 1974 | 2.6 | 4.8 |
| 1975 | 2.3 | 4.5 |

### MEMBERSHIP OF THE ADVISORY COUNCIL ON SOCIAL SECURITY

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Bertha S. Adkins, former Under Secretary of Health, Education, and Welfare; Vice Chairwoman, 1971 White House Conference on Aging.

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Walter J. Burke, Secretary-Treasurer, United Steelworkers of America.

Kermit Gordon, President, The Brookings Institution.

Gabriel Hauge, Chairman of the Board, Manufacturers Hanover Trust Company.

Arthur Larson, Director, Rule of Law Research Center, Duke University.

Lee W. Minton,[1] President, Glass Bottle Blowers' Association of the United States and Canada.

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Bert Seidman, Director, Department of Social Security, AFL–CIO.

Charles A. Siegfried, Vice-Chairman of the Board and Chairman of the Executive Committee, Metropolitan Life Insurance Company.

Joseph P. Tonelli, President-Secretary, Iñternational Brotherhood of Pulp Sulphite and Paper Mill Workers of the United States and Canada.

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## THE PRESIDENT'S STATEMENT ON SOUTH ASIA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the President's report to the Congress on U.S. foreign policy for the 1970's, entitled "The Emerging Structure of Peace," is a voluminous document and in the pressure of other work in the Congress, there may be those Members who have not had full opportunity to study and digest its contents.

I was particularly struck by the President's handling of the subject of South Asia. It provided detailed information of our country's efforts to prevent armed conflict between India and Pakistan. It spells out beyond question the refusal of India to accept negotiation and the clear conclusion that India was the aggressor. The President's discussion of this controversial question is frank and clear. It should receive widespread and careful attention, and I am pleased to ask that it be reprinted in the CONGRESSIONAL RECORD:

### SOUTH ASIA

"I shall never forget the conversation I had with Prime Minister Nehru . . . when I was Vice President. On that trip around the world of 73 days, in 20 countries, I asked every head of government and state what he wanted most for his country. Some said roads; others said industrial development; others said education. Prime Minister Nehru did not answer in that way. He thought a moment, and he said, 'What India needs, what the world needs, is a generation of peace.' "—Remarks at a Dinner Honoring the Prime Minister of India, November 4, 1971.

The United States made a determined effort throughout 1971 to prevent a war in South Asia and to encourage a political solution. We did not succeed.

A year ago I described the broad objectives of United States policy in South Asia:

"Our aim is a structure of peace and stability within which the people of this region can develop its great potential and their independent vision of the future. Our policy is to help these nations deal with their own problems, and to bring our activity into a stable balance with that of the other major powers with interests in the area."

This structure of regional peace broke down in 1971.

The United States has had an enduring interest in the security, independence, and progress of both India and Pakistan. On my visits to their capitals in the summer of 1969, in my two previous Foreign Policy Reports, and on many other occasions, I have expressed my strong personal interest in warm relations with both countries. There have been fluctuations in our political relationships over the years—from our earliest ties with Pakistan in SEATO and CENTO, to our defense cooperation with India after the 1962 border war with China, to the Nixon Doctrine's posture of balance and restraint. But our fundamental interests and ties have been constant.

India is a great country, a free and democratic nation, in whose future as a model of progress for the developing world the United States has invested its hopes and resources. India has been by far the principal beneficiary of U.S. development assistance—to the extent of approximately $10 billion since its independence. In Fiscal Year 1971, this Administration provided $540 million, or approximately two-thirds of the world's net development aid to India.

The United States has long maintained a close tie also with Pakistan. Since its independence we have contributed almost $4 billion to its economic development.

In 1971, these constructive relationships and shared hopes for progress were shaken by war.

### UNITED STATES POLICY IN THE EMERGING CRISIS

The crisis began as an internal conflict in Pakistan. Pakistan's elections in December 1970 gave a majority in the National Assembly to the Awami League, a movement seeking substantial autonomy for the Bengalis of East Pakistan. When negotiations between the Government and the League on a formula for autonomy broke down at the end of March 1971, the Government ordered the army to suppress all separatist opposition. The League was banned; its leader, Sheik Mujibur Rahman, was jailed for treason. As the army's compaign advanced in East Pakistan through spring and summer of 1971, countless thousands were killed, civil administration crumbled, famine threatened, and millions left their homes and fled to India.

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[1] Resigned—replaced by Joseph P. Tonelli.

[2] Resigned—replaced by Arthur Larson.

[3] Deceased—March 11, 1971.

The United States did not support or condone this military action. Immediately, in early April, we ceased issuing and renewing licenses for military shipments to Pakistan, we put a hold on arms that had been committed the year before, and we ceased new commitments for economic development loans. This shut off $35 million worth of arms. Less than $5 million worth of spare parts, already in the pipeline under earlier licenses, was shipped before the pipeline dried up completely by the beginning of November.

The crisis quickly acquired an international character. The flood of refugees was a tremendous burden on India's scarce resources and a threat to political stability in the Indian states into which the refugees poured. With support from India, a guerrilla movement developed in East Pakistan. Both countries moved their military forces to their common borders, and tensions mounted dangerously between them.

It was a foregone conclusion that if war broke out, India would win. But in our view war was neither inevitable nor acceptable.

We realized full well that there were objective limits to what the United States could do. South Asia was a region in which we had no preeminent position of influence. Tensions between Hindus and Moslems, and among the many feuding ethnic groups in this subcontinent of 700 million people, had endured for centuries. Nevertheless, because of our ties with both countries, in 1971 we were the only great power in a position to try to provide a political alternative to a military solution.

There were three levels of the crisis, and the United States addressed them all:

The humanitarian problem of the Bengali refugees in India and the millions who remained in East Pakistan facing chaos and the threat of famine;

The problem of political settlement between East and West Pakistan—the basic issue of the crisis; and

The danger of war between India and Pakistan, which grew week by week.

On May 28, I expressed our concerns in letters to the leaders of both Pakistan and India. To President Yahya, I wrote:

"I feel sure you will agree with me that the first essential step is to bring an end to the civil strife and restore peaceful conditions in East Pakistan. Then full-scale efforts can go forward within an international framework to help your government provide relief assistance to the people who need it. . . .

"While this is being done, it will, of course, be essential to ensure that tensions in the region as a whole do not increase to the point of international conflict. I would be less than candid if I did not express my deep concern over the possibility that the situation there might escalate to that danger point. I believe, therefore, that it is absolutely vital for the maintenance of peace in the Subcontinent to restore conditions in East Pakistan conducive to the return of refugees from Indian territory as quickly as possible. I urge you to continue to exercise restraint both along your borders with India and in your general relations with that country. We are counseling the Government of India to do the same.

"It is only in a peaceful atmosphere that you and your administration can make effective progress toward the political accommodation you seek in East Pakistan."

To Prime Minister Gandhi, I wrote:

"We share your government's hope that peace and stability can be restored in the subcontinent and that all the countries of the area can develop democratic systems of government consistent with their own traditions and history.

"The United States Government has not been a passive observer of these events. We have under active and continuous review two elements of the situation which we regard as particularly urgent: the human suffering and dislocation which has taken place and the basic political cause of this suffering and dislocation.

"In regard to the basic cause of this human suffering and dislocation, my government has also been active. We have chosen to work primarily through quiet diplomacy, as we have informed your Ambassador and Foreign Minister. We have been discussing with the Government of Pakistan the importance of achieving a peaceful political accommodation and of restoring conditions under which the refugee flow would stop and the refugees would be able to return to their homes. . . .

"I am also deeply concerned that the present situation not develop into a more widespread conflict in South Asia, either as a result of the refugee flow or through actions which might escalate the insurgency which may be developing in East Pakistan. The problems involved in this situation can and should be solved peacefully. As you know, in recent months we have been impressed by the vitality of Indian democracy and the strength of purpose which your government has shown in meeting the complex social and economic problems which India faces. India's friends would be dismayed were this progress to be interrupted by war. As one of Asia's major powers, India has a special responsibility for maintaining the peace and stability of the region."

Throughout the summer, we refrained from public declarations but continued to express our concerns privately to all parties. It would have served neither India nor Bengali interests for us to alienate ourselves from the Government of Pakistan, whose policy and action were at the heart of the problem. This was explained again to the Government of India in July; its response was to express hope that our influence would produce results.

The three problems—the humanitarian, the political, and the danger of war—were obviously interlinked. The tragedy was that they could not all be resolved within the same timeframe. The humanitarian problem was monumental and immediate. A political settlement would take time. The threat of war, tragically, had its own momentum.

We responded to the *humanitarian emergency* with an urgent and massive program of relief, in the framework of a United Nations effort. We were ready to provide $500 million in cash or commodities, nearly twice as much as the rest of the world combined. We committed $91 million through the UN for the support of the nearly ten million refugees in India and $158 million both through the UN and bilaterally for the 60–70 million people in East Pakistan to help avert famine and stem the further outflow of refugees. I asked the Congress for $250 million more, and stated that more food would be provided if needed. We financed the chartering of vessels to transport grain into the interior of East Pakistan. We gave financial and technical support to the whole UN program. Although pockets of need remained, by November, provincewide famine had been averted in East Pakistan. The refugees in India were sustained at least above the level of starvation.

But we knew that *political settlement* between East and West Pakistan was the key to ending the crisis. Our relief program was an effort to gain the needed time for a political process to work. Direct relief to the refugees in India was essential if India were to manage their support; famine in East Pakistan would have made impossible any restoration of normal life or civil peace, redoubling the flood of refugees and further inflaming tensions between Pakistan and India.

It was obvious to us that a lasting political solution could be found only on the basis of some form of autonomy for East Pakistan. Over the summer, in contacts in Washington as well as in their capitals, we made clear to all parties that we favored such a solution. We sought to set in motion a process of accommodation.

We obtained assurance from President Yahya that Sheikh Mujibur Rahman would not be executed. At our urging, Pakistan agreed to an internationalized relief presence in East Pakistan. We urged an amnesty for refugees of all creeds, replacement of the military governor of East Pakistan by a civilian, and a timetable for return to full civilian rule. Pakistan took all these steps. Return to civilian rule was pledged for the end of December and could have increased the chances for a political settlement and the release of Sheikh Mujib. Meanwhile, in August, we established contact with Bengali representatives in Calcutta. By early November, President Yahya told us he was prepared to begin negotiation with any representative of this group not charged with high crimes in Pakistan, or with Awami League leaders still in East Pakistan. In mid-November, we informed India that we were prepared to promote discussion of an explicit timetable for East Pakistani autonomy.

India was kept fully informed of all these developments at every stage. It indicated little interest. Meanwhile, India expanded its support of the guerrillas, and hostilities escalated along the eastern border.

The United States cannot be certain that the steps it proposed would have brought about a negotiation, or that such a negotiation would have produced a settlement. But it is clear that a political process was in train, which could have been supported and facilitated by all the parties involved if they had wished. This is the basis for the profound disappointment we felt and expressed when war erupted.

We had known the *danger of war* would increase toward the end of 1971, as weather conditions and India's military readiness improved and as the guerrilla forces completed training. In addition to humanitarian and political steps to provide alternatives to war, we sought directly to ease the military confrontation. In contacts in Washington and other capitals, in letters and face-to-face meetings with heads of government, foreign ministers, and ambassadors, we exerted our influence for restraint.

To the Soviet Union, we made the point repeatedly over the summer that it behooved the two superpowers to be forces for peace. We asked the Soviet Union for its ideas on possible joint action.

We continued to urge Pakistan to restore normal life in the East, and to put together a program of administrative and political steps that could stem the tide of refugees and lay a basis for a constitutional settlement.

We told India that we attached the greatest importance to close U.S.-Indian relations, would do all we could to help with the burden of the refugees, but could only regard an Indian resort to armed attack as a tragic mistake. As early as August 11, Secretary Rogers told the Indian Ambassador that the Administration could not continue economic assistance to a nation that started a war.

As the tension along the border intensified in the fall, the United States proposed that both India and Pakistani troops pull back from the borders. Pakistan accepted this proposal; India turned it down. UN Secretary General Thant placed his good offices at the disposal of both. Pakistan responded favorably, and in addition suggested the dispatch of UN observers to both sides of the border. India refused the Secretary General's offer, and declined to accept UN observers. The United States then proposed to Pakistan that it pull its forces back from the borders unilaterally, as a first step toward a mutual pullback. Pakistan accepted this idea, provided India would give some assurance that it would eventually reciprocate. India would not.

Time had run out on a peaceful solution. In late November, open war on a broad front erupted between India and Pakistan.

The United States had sought for many years to establish conditions of stability which would have made this war less likely. We had observed an embargo on heavy arms to both sides since their 1965 war over Kashmir. Our military deliveries to both, amounting to only $70 million over six years, were restricted to non-lethal equipment and spare parts for equipment previously supplied. We concentrated instead on assistance for economic development. Our economic aid to India in those six years totaled some $4.2 billion. We provided over $1.3 billion in economic assistance to Pakistan over the period—with an increasing concentration on promoting development in East Pakistan.

Over the six years of our embargo, however, the Soviet Union and its Eastern European allies sharply expanded their military supply to India and furnished over $730 million of arms—including tanks, combat aircraft, artillery, surface-to-air missiles, submarines, missile boats, and other heavy equipment. Our six-year arms embargo had a much greater impact on Pakistan than on India. India's total military procurement after 1965—not a period of increasing tension with China—was more than four times that of Pakistan. While China supplied Pakistan with $133 million in arms over the period, India obtained from abroad almost twice the quantity of arms as Pakistan. Moreover, at the same time India built up its capacity to produce its own heavy arms—a capacity which Pakistan did not have. As a result, the military balance shifted decisively toward India between 1966 and 1971.

### THE OUTBREAK AND CONTAINMENT OF WAR

When war erupted toward the end of November, the world community was close to unanimous that there was one urgent necessity—to stop it.

On December 4, the United States requested an urgent session of the UN Security Council, which voted, 11 to 2, for an immediate ceasefire and withdrawal of foreign forces. The USSR vetoed this and a second resolution soon after. A similar resolution then passed on December 7 in the General Assembly by 104 to 11, with 10 abstentions. Of all the nations of the UN, only the USSR, some of its East European allies, India, and Bhutan opposed it; our position was supported by the overwhelming majority of the nations of the world. The Soviet Union blocked international action until the capture of East Pakistan was a *fait accompli*.

Then, during the week of December 6, we received convincing evidence that India was seriously contemplating the seizure of Pakistan-held portions of Kashmir and the destruction of Pakistan's military forces in the West. We could not ignore this evidence. Nor could we ignore the fact that when we repeatedly asked India and its supporters for clear assurances to the contrary, we did not receive them. We had to take action to prevent a wider war. On December 12 we called for another emergency session of the UN Security Council. We declared:

"With East Pakistan virtually occupied by Indian troops, a continuation of the war would take on increasingly the character of armed attack on the very existence of a member state of the UN. All permanent members of the Security Council have an obligation to end this threat to world peace on an urgent basis."

The Soviet Union vetoed again. Intensive exchanges took place with the Soviet leaders. A ceasefire, however, was not agreed to until December 17.

The U.S. had two choices when war broke out.

We could take a stand against the war and try to stop it, or we could maintain a "neutral" position and acquiesce in it. The former course meant strains in our relations with India, as well as the risk of failure. But the latter course, I concluded, ran even greater risks. Acquiescence had ominous implications for the survival of Pakistan, for the stability of many other countries in the world, for the integrity of international processes for keeping the peace, and for relations among the great powers. These risks were unacceptable.

We did not act out of bias, or in ignorance of India's agony under the burden of the refugees, or in sympathy with Pakistani actions that had generated the crisis. As Ambassador Bush stressed in the Security Council on December 4, the United States "values its close relations with both India and Pakistan." He continued:

"We recognized that a fundamental political accommodation still has not been achieved in East Pakistan . . . this body cannot accept recourse to force to solve this problem. . . . The very purpose which draws us together here—building a peaceful world—will be thwarted if a situation is accepted in which a Government intervenes across its borders in the affairs of another with military forces in violation of the United Nations Charter."

If we had not taken a stand against the war, it would have been prolonged and the likelihood of an attack in the West greatly increased. It was not my view in the first place that war was the solution to a humanitarian problem. The complete disintegration by force of a member state was intolerable and could not be acquiesced in by the United Nations. The war had to be brought to a halt.

The global implications of this war were clear to the world community. The resort to military solutions, if accepted, would only tempt other nations in other delicately-poised regions of tension to try the same. The credibility of international efforts to promote or guarantee regional peace in strife-torn regions would be undermined. The danger of war in the Middle East, in particular, would be measurably increased. Restraints would be weakened all around the world.

Internal ethnic conflicts and separatist strains, moreover, are a phenomenon of the contemporary world. India, more than most, has a heavy stake in the principle that such instabilities should not be exploited by other countries through subversion or resort to arms. The alternative is a formula for anarchy. The unanimity of Third World countries against this war was testimony to the universality of this concern.

Beyond this, there were implications for great-power relations.

Soviet policy, I regret to say, seemed to show the same tendency we have witnessed before in the 1967 Middle East war and the 1970 Jordanian crisis—to allow events to boil up toward crisis in the hope of political gain. The Soviet Union assured us that its August treaty of friendship with India was designed to strengthen its influence for peace. Whatever the intent, in retrospect it appears that the treaty, together with new arms deliveries and military consultations, gave India additional assurance of Soviet political support as the crisis mounted.

The United States, under the Nixon Doctrine, has struck a new balance between our international commitments and the increasing self-reliance of our friends; the Soviet Union in the 1970's is projecting a political and military presence wthout precedent into many new regions of the globe. Over the past three years, we have sought to encourage constructive trends in U.S.-Soviet relations. It would be dangerous to world peace if our efforts to promote a detente between the superpowers were interpreted as an opportunity for the strategic expansion of Soviet power. If we had failed to take a stand, such an interpretation could only have been encouraged, and the genuine relaxation of tensions we have been seeking could have been jeopardized.

Finally, it was our view that the war in South Asia was bound to have serious implications for the evolution of the policy of the Peoples Republic of China. That country's attitude toward the global system was certain to be profoundly influenced by its assessment of the principles by which this system was governed—whether force and threat ruled or whether restraint was the international standard.

These were our overwhelming concerns. They underlay our efforts to prevent war and our efforts to stop war when it broke out. They went to the heart of our responsibility as a great power.

### WHERE DO WE GO FROM HERE?

The crisis of 1971 transformed South Asia. We enter 1972 acutely aware of the challenges the new conditions present.

Pakistan remains a close friend. Its people face the ordeal of rebuilding the society and economy of a shattered state. The United States stands ready to help. Our concern for the well-being and security of the people of Pakistan does not end with the end of a crisis.

Our relief effort in East Bengal will continue. The authorities face the grim challenge of creating a viable political structure and economy in one of the most impoverished—and now newly devastated—areas of the world. We have never been hostile to Bengali aspirations. Our aid program in the 1960's increasingly concentrated on development in East Bengal. We provided two-thirds of the world's emergency aid to the province in 1971. We would expect other nations to bear a proportionate share of that responsibility in the future, but as the United States strengthens new relationships in Asia, we have no intention of ignoring these 70 million people.

The United States, of course, has a tradition of friendship with India as well as Pakistan. Our strong interest in Indian democracy and progress is not diminished.

It makes no sense to assume, however, that a country's democratic political system—or its size—requires our automatic agreement with every aspect of its foreign policy. We have our views and concerns in the world, just as India has its own. We disagreed with specific Indian actions in November and December, and we said so.

We did not expect this to be popular in India. Great nations like our two nations, however, do not make their policy on so ephemeral a basis. For this reason, we could not accept the argument that our criticism would drive India into the arms of the Soviet Union. India itself, we knew, had the strongest interest of all in its own democracy and nonalignment. And India and the Soviet Union already had a political tie of a kind that the U.S. would not attempt to match. This tie—inherent in the expanding Soviet-Indian military supply relationship after 1965—originated long in advance of the November war, the August treaty of friendship, our July China initiative, or the March crisis in Pakistan. When the August treaty was signed, both sides told us that it had been in preparation for more than two years. Beyond this, in the 1971 crisis, the Soviet Union was willing to veto UN action and to make military moves to deter China on

India's behalf. For the United States to compete with the Soviet Union in fueling an arms race, obstructing UN efforts to stop a war, and threatening China, was out of the question.

We are prepared now for a serious dialogue with India on the future of our relations. We look forward to a fruitful discussion. This will depend not on an identity of policies, but on respect for each other's views and concerns. This should go both ways.

Just as the success of Indian democracy and progress is important to us, we also have a continuing interest in India's independence and non-alignment. Thus our political as well as our economic relationship will naturally be the subject of our dialogue. If India has an interest in maintaining balanced relationships with all major powers, we are prepared to respond constructively. Of interest to us also will be the posture that South Asia's most powerful country now adopts toward its neighbors on the subcontinent.

I know that India will have its own issues to add to the agenda. India's basic policy choices are India's to make. We both, nevertheless, have an interest in finding common ground. We can search out ways of transcending our recent differences and resuming our traditionally close relationship.

What will be the role of the great powers in the subcontinent's future? The 1971 crisis was bound to affect great-power relations. After my July 15 Peking summit announcement, and also during the diplomacy of the South Asian crisis, there was fanciful speculation of a U.S.-Chinese alignment. There is no such alignment; neither of my summit meetings is directed against any other nation. And there were ample opportunities for the Soviet Union to help prevent the Pakistani political conflict from being turned into an international war.

A more constructive approach to great-power relations in South Asia—and elsewhere—will be one of the goals I hope to further in my discussions in both Peking and Moscow.

A tragic irony of 1971 was that the conflict in South Asia erupted against a background of major developments, global and regional, which had offered unprecedented hope:

Globally, we could see the beginnings of a new relationship between the United States and the Peoples Republic of China; concrete progress on important issues in U.S.-Soviet relationships; a maturing relationship between the U.S. and East Asia as the Nixon Doctrine took effect and the U.S. sharply reduced its military involvement in Vietnam; the increasing contribution of Japan in Asian affairs; and efforts among industrialized nations to create new economic relationships increasing the trade opportunities of the developing world.

Regionally, there were breakthroughs in economic development. The "green revolution" in agriculture was laying the basis for industrial development and steady growth. Trade earnings were financing an increasing proportion of development needs, strengthening economic and political self-reliance.

Our purpose now will be to recapture the momentum of these positive developments. The 700 million people of the subcontinent deserve a better future than the tragedy of 1971 seemed to portend. It is for them to fashion their own vision of such a future. The world has an interest in the regional peace and stability which are the preconditions for their achieving it.

## THE HONORABLE CARL ALBERT TO RECEIVE THE MINUTE MAN OF THE YEAR AWARD

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, this is a week when legislators, regardless of party affiliations, will join in honoring our beloved speaker, CARL ALBERT, who on Friday night is to receive the Minute Man of the Year Award from the Reserve Officers Association of the United States.

When the announcement of this latest honor for "the little giant" from Oklahoma was made, Brig. Gen. Gerald A. Hart, national president of the Reserve Officers, described the Congressman as "the citizen who has contributed most to national security," and added:

> He has worked to build a better America and to insure a lasting peace. He has worked for progress and the strengthening of all of our free institutions.

I would like to second these sentiments.

The Minute Man of the Year Award carries a very distinguished tradition. The first individual to be named was the late Gen. David Sarnoff. Other outstanding Americans who have received this honor are the late Senator Richard Russel, our beloved former colleague Carl Vinson, Senator MARGARET CHASE SMITH, the late Congressman Mendel Rivers, Senator JOHN STENNIS, Congressman F. EDWARD HÉBERT, former House Speaker John McCormack, Secretary of Defense Melvin Laird, and Senator STROM THURMOND.

Which brings me back again to David Sarnoff, who so recently left this earthly plane. It is significant that Sarnoff, the first award winner, a giant in American industrial development is now followed by another great American who holds one of the highest positions in Government and who enjoys the respect and esteem of Democrats and Republicans alike.

These and other honorees have helped in molding the greatness of America. They are the type of citizen who labors to keep our Nation strong and free.

CARL ALBERT has been a member of the Congress of the United States for nearly a quarter of a century. Measured by his character and his works, he is readily seen to be among our Nation's leading figures.

He is the leader in one of the greatest and most powerful legislative bodies in the world. He says as did his predecessors, that the United States to be free must first be secure, and that is his policy, his purpose, his grail.

Speaker ALBERT, along with the Reserve Officers Association, in this, its golden anniversary week, I salute you.

## THE FAIR SCHOOL FUNDING ACT OF 1972

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD).

Mr. MIKVA. Mr. Speaker, in a message to Congress almost exactly 11 years ago today, President John Kennedy told us that our progress as a nation can be no swifter than our progress in education. That has even more truth to it now than it did in 1961. In the long run, the standards of excellence set in our schools will determine the standards of excellence for this country. Unfortunately, judging by the state of education in many American communities today, we are far from setting any standards of excellence.

There is a crisis in American education. The schools are in trouble—not just in the big cities, but in the suburbs as well—and, as a result, the education of our young people is suffering. The problems of the Chicago school system are not unknown. They are characteristic of the problems of school systems in most big cities, but it is a bit worse in Chicago. This year, school may have to close 2 weeks early simply because there is not enough money to keep them operating.

What is not as well known is the dilemma of the public school systems in the suburbs. In Cook County, 60 percent of the 145 suburban school districts had to borrow money to stay open—some of them have borrowed up to their legal limit. The reasons behind the financial problems are not difficult to understand: teachers need higher salaries, more and more students are filling the schools, tax collections often are late and, finally, there is an understandable reluctance on the part of the taxpayer, especially the property owner, to pay even more taxes to support the schools. Time after time, voters have rejected increases in school taxes proposed in a community referendum. We can no longer bail out the school system year after year by constantly increasing real estate taxes.

When it comes to the schools, there is no lack of problems. There is a lack of sensible and immediate solutions—solutions that do not bankrupt the community or the taxpayers—solutions that take the burden off the already overburdened property tax without lowering the level of quality education.

Mr. Speaker, it is urgent that the Federal Government act now to ease the financial dilemma which faces school systems around the country.

I am pleased to introduce today a bill which will provide billions of dollars of new funds for elementary and secondary schools without imposing new and regressive taxes on the taxpayers of America.

The Fair School Funding Act is designed to do three things—it will provide vital Federal assistance for public school systems across America; it will bring some relief from regressive local property taxes; and it will reduce the inequities in the present Federal income tax structure by closing up some of the major loopholes.

Under this bill, the Federal Government will pay each State two-thirds of what it costs the State to increase the per-pupil expenditures in the underfinanced schools to a level comparable to the wealthiest schools in the State. At present, because schools rely primarily on local property taxes for their financing, there is a wide gap within each State in the amount of money localities are able to spend on their schools. In Illinois, for example, the wealthiest school district spends $2,295 on each pupil in its elementary and secondary schools. In another part of the State, the local government can raise only enough revenue to spend $391 per pupil in its schools.

Mr. Speaker, no one should make the mistake of equating money with quality of education, but quality education does cost money, and there can be no dispute that the pupils in the school system which spends $2,295 per pupil are more likely to receive a quality education than the students in schools receiving only $391 per pupil. This inherent inequality of opportunity has generated several recent court decisions holding that methods of school funding which produce such extreme inequality in spending among school districts are unconstitutional.

### LAWSUITS CHALLENGING PROPERTY TAX ENDANGER QUALITY OF EDUCATION

The California and Texas court decisions pose an urgent dilemma for school systems around the country—they are obligated to equalize spending among all the schools within the State, but there is already too little money to go around. There is a grave danger that these lawsuits challenging the use of the property tax for local education will produce a perverse result. Without some new source of funds, equalization of expenditures will mean lowering the quality and the spending in the best funded schools in order to improve that of the poorest schools. Mr. Speaker, it is unthinkable that the improvement of underfunded schools should come at the expense of the schools at the other end of the scale. Clearly, the only sensible approach is to raise the lowest schools up to the level of the highest. To do that, the States will require substantial additional funds. That is why I have proposed the Fair School Funding Act.

### FEDERAL FUNDS FOR EQUALIZING PER PUPIL EXPENDITURES

Under the act, the Federal Government would contribute $2 for each dollar the State contributes toward equalization of per pupil expenditures. The State must continue to spend at least as much as it did before the act; only increases in State spending would be matched by the Federal Government on a 2-for-1 basis. This 2-for-1 matching would be available until every school in the State was receiving as much money per pupil as the average school in the 90th percentile was receiving per pupil the year before, ranking all schools in the State in order of increasing per pupil expenditures. For example, if a State has 300 schools they would be ranked in order of their per pupil expenditures, from the lowest to the highest. The three lowest would constitute the first percentile, the next three the second percentile, and so on. The 90th percentile would contain three schools also, and only 30 schools in the State would be spending more per pupil than those three schools in the 90th percentile. If we took the average per pupil expenditure of the three schools in that 90th percentile, that would give us the standard which all schools in the State must meet to achieve equalization. Until all schools are brought up at least to that level, the Federal Government would provide two Federal dollars for each new State dollar spent on equalization. The result is to equalize expenditures by bringing up the lowest schools, not by bringing down the highest.

### FEDERAL INCENTIVE FOR REDUCTIONS IN LOCAL PROPERTY TAXES

Once equalization is achieved, the Fair School Funding Act moves into its second phase. It then makes available matching Federal funds wherever local real estate taxes on residential property are reduced and are replaced by increased State contributions for education. For each extra dollar given to the schools in a locality which reduces its property taxes, the Federal Government would be required to give a Federal dollar. This provides a strong incentive for reduction of regressive local property taxes and their replacement by more equitable forms of statewide revenue raising. It also gives local school systems an additional opportunity to catch up with their needs without placing an extra burden on the taxpayer. In fact, under this section of the Fair School Funding Act, local real estate taxes would go down in many parts of the country.

Once again, Mr. Speaker, it is important to remember that money does not create quality education. That requires good teachers, innovative administrators, and creative educational programs. Unfortunately, none of these is likely to be available without adequate financial resources. The Federal Government has no business dictating to the States or localities how they should go about developing quality education. But the Federal Government does have an obligation to help provide them with the funds so that they can develop quality education on their own.

### CLOSING INCOME TAX LOOPHOLES WILL RAISE $12 BILLION A YEAR FOR SCHOOLS

The question eventually must be faced: How is the Federal Government going to pay for this? Where is the money going to come from? The answer given by the Fair School Funding Act is to close the most costly loopholes in the Federal income tax structure. Title II of the bill proposes to eliminate seven loopholes, and thus to increase the Federal Treasury by more than $12 billion per year. This is almost the total amount spent by all 50 States combined on elementary and secondary education in the 1968 school year, according to the latest figures available from the Office of Education.

Increased tax equity is a way both to raise the additional revenue needed to ease the burden on State and local funding for education and to assure the taxpayers who are footing the bill that everyone is bearing his fair share of the cost of educating the next generation of Americans—a generation which will inherit the problems and the destiny of the Nation.

Mr. Speaker, I would like to list seven specific examples of the glaring inequities in the present Federal income tax structure. Although this list does not exhaust the possibilities for tax reform by a long shot, these are the seven loopholes which the Fair School Funding Act would close, with a net gain of more than $12 billion a year.

First, the grandfather of all tax loopholes, the percentage depletion allowance for mineral deposits, including gas and oil. This device enables mineral producers to recoup many times the actual depletion of their resources, at a cost to the rest of us of approximately one and a quarter billion dollars a year.

The baby brother of the percentage depletion allowance is the treatment of intangible drilling and exploration costs, which enables gas and oil magnates to go around the world looking for new fortunes, courtesy of the American taxpayer. Closing this loophole would earn another three-quarters of a billion dollars a year for the Treasury.

Third, we must begin taxing fully all capital gains on property which is passed on at the owner's death. More than $3 billion a year slips through that particular hole in the income tax structure, as wealth is passed on from generation to generation without ever being fully taxed.

Fourth, we should end the farce of treating executive stock options as though they were capital gains rather than income. The Tax Reform Act of 1969 did only part of the job in this area—doing the rest will put about $150 million into the Treasury each year.

Fifth, the bill would repeal the $25,000 surtax exemption on corporate earnings. This bargain basement tax treatment for corporate income primarily benefits corporations which do not need the help which was originally intended to be given to small struggling businesses. The net gain to the Treasury would be $1.6 billion a year.

Sixth, the bill would put the skids to the biggest boondoggle to come along in quite a while, the asset depreciation range changes implemented recently by the administration. By allowing manufacturers to pretend that their assets are depreciating much faster than is actually the case, the Treasury is engaging in a special form of revenue sharing on behalf of the wealthy, to the tune of $2 billion a year.

Finally, there is the investment tax credit which the administration successfully pushed through Congress in the Revenue Act of 1971. This epitomizes the "trickle down" economics which has been so productive politically for the administration—subsidize the people at the top, and hope that some of the money will trickle down to the rest of the people. The investment tax credit provides the people at the top with $3.5 billion a year. That money should be brought back into the Treasury and utilized in more efficient ways to reach the problems of the Nation, namely funding elementary and secondary education.

### CONCLUSION

Mr. Speaker, the Fair School Funding Act offers a positive solution to some of the pressing problems faced by school systems around the country. It will assist the States in equalizing per pupil expenditures so that the opportunity to receive a quality education will not turn on where a child is born. And it will make this possible without reducing the level of assistance to the schools on the high end of the financial ladder.

Second, the bill will help to relieve the burden of regressive property taxes which weigh heavily on the middle-income and fixed-income taxpayer.

Finally, it will introduce a greater measure of tax equity into the income tax structure, so that the cost of supporting our schools and dealing with pressing social problems is more evenly distributed among the taxpayers of America—according to their ability to pay rather than according to their political clout.

For years the Federal Government has been subsidizing the construction of highway systems across the United States by matching State expenditures at a level of 9 to 1. With the help of 90 percent Federal funding we have constructed the most exhaustive network of pavement the world has ever seen. But these roads will be no more than dead-end streets if we do not begin to make the same kind of national commitment to other areas of social development, including education. That is the intention of the Fair School Funding Act, a road to reform for the financing of elementary and secondary education.

## U.S. INVOLVEMENT IN FRENCH ATMOSPHERIC NUCLEAR TESTING

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, France is one of two nuclear powers which has not yet signed the treaty banning testing of nuclear weapons in the atmosphere. The French are currently conducting such tests in French Polynesia. The United States, however, has signed the test ban treaty. I was most disturbed, therefore, to receive a report from a former member of my staff who is now traveling in the South Pacific which indicates that American officials are apparently involved and cooperating with the French in their atmospheric tests, and are even engaging in activities which appear designed to enable us to benefit from the tests.

Any such involvement, Mr. Speaker, certainly would be a violation by this Nation of the spirit, if not the letter, of the nuclear test ban treaty. Rather than cooperating with the French, we should be doing everything possible to persuade them to end their testing and to sign the treaty. With that in mind, I am directing letters to the Secretary of Defense and the Director of the U.S. Arms Control and Disarmament Agency requesting them to confirm or deny this apparent American involvement in the French nuclear testing program about which I have been informed, to outline our policy toward these tests, and to inform me of any efforts we may be making to achieve French compliance with the test ban.

The text of the report by my former staff member, Mr. Arthur Condliffe, and my letters to Secretary of Defense Laird and Arms Control and Disarmament Agency Director Gerard Smith follow:

Hon. Melvin Laird,
*Secretary of Defense.*
Hon. Gerard Smith,
*Director, Arms Control and Disarmament Agency.*

Dear ———: I was most disturbed by a report (copy enclosed, from a former member of my staff who is now traveling in the South Pacific indicating that American officials are cooperating with the French in their atmospheric nuclear testing program in French Polynesia, and that we are even engaging in activities which appear designed to enable us to benefit from these tests.

I will appreciate receiving whatever information you can provide confirming or denying the specific examples of American involvement in the French testing program cited in the enclosed report, along with a statement of U.S. policy toward the French tests and a review of any efforts we are making to achieve French compliance with the treaty banning nuclear testing in the atmosphere.

Sincerely,

JBB.

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### Toujours La Bombe

(By Arthur J. Condliffe)

December 16, Papeete, Tahitti, home of Gaugin, Somerset Maugham, and beautiful Polynesian girls combing their hair under clear waterfalls, is also home of "La bombe."

France is one of only two nations in the world to be actively testing nuclear weapons in the atmosphere. French Polynesia, of which Tahiti is the main island, is the location of the French testing program.

The average tourist coming to Tahiti would not likely be aware of the magnitude of the French effort here. There are two thousand French military personnel and five hundred French civilians working on the bomb but many of them live on the atoll of Mururoa, three hours by DC–6 from Tahiti, near the actual test sites. What military facilities there are on Tahiti itself are outside Papeete, the main town and the center of tourist activities.

This low profile of bomb related activities has not, however, lessened the economic impact. Papeete is not only the principal town on the island; it is Tahiti's only deep water port and has Tahiti's only jetport nearby. Young men who once would have made a happy if meager living from the production of copra and the cyclical harvesting of vanilla beans now work unloading the many cargo ships that bring necessary supplies, in construction jobs of all kinds, and in the wide range of other support activities. Any operation of this magnitude would be like a shot of economic adrenalin to Papeete's population of only 50.000.

This fragile prosperity may have short-run benefits to the people of Tahiti but most of the nations of the world recognize the folly and danger in continuing atmospheric testing of nuclear weapons when they signed the Nuclear Test Ban Treaty. One would expect that those nations who signed the treaty would want to bring all the pressure they could bring to bear on non-signatory nations, particularly on the two who are now conducting tests, to sign the treaty.

Contrary to expectation, however, it is the United States and Britain, aside from France herself, who gain the most knowledge with each French blast and therefore have less motivation to seek a cessation of the tests. Both the American ship *Richfield* (T–AGM–4) and the British ship *Sir Perceval* are constantly on station near the French testing area. During times of actual testing, a second American ship arrives and the two American ships place themselves on opposite sides of ground zero to monitor the blast. The Russians also monitor the French tests, but not regularly. When they do come, they arrive in fishing trawlers, ostensibly minding their own nets.

In addition to having two, on-site monitoring ships, the United States has various land-based monitoring stations. Also, within as little as one minute after a nuclear detonation, an Hawaii-based Air Force KC–135, the military version of the Boeing 707, flies directly through the atomic cloud collecting samples for later analysis.

Good relations prevail between the French "testers" and the American and British "observers." The French provide the Americans and the British with the exact time and location of each test, they bring mail to the American and British ships by helicopter and they will evacuate American or British sailors in a medical emergency. The French, on one occasion, rescheduled one of their tests so as not to interfere with an Apollo mission.

The Americans and British, in turn, have each been host to the French commanding officer and his top scientists aboard their respective ships. Further, on request from the French, the Americans have provided the French with some of the results from our monitoring stations. One wonders if the cooperation ends here.

What the full extent is of the American involvement in the French testing program is not publicly known and American officials are reluctant to discuss the subject. For example, earlier this year, the Governor of American Samoa, in discussing the U.S. role in American Samoa over local television, mentioned the monitoring of the French nuclear tests as one aspect to the American presence but he did not elaborate. There is, however, a U.S. Air Force installation on American Samoa and the activity greatly increases during the summer months when the French conduct most of their tests. Last summer, a team of American scientists from the University of Denver were on American Samoa, under government contract, to monitor the French tests.

Also last summer, an American KC–135, believed to have taken off from American Samoa, flew through the atomic cloud following a French nuclear explosion and crashed en route to Hawaii with its samples. All 19 persons aboard the plane were killed but news of the crash was hushed up by American authorities.

Whatever the extent and nature of American involvement in these tests, it seems that any involvement would violate the spirit if not the letter of the Nuclear Test Ban Treaty. At the very least, the American people should be told exactly what our involvement is and what steps are being taken to urge the French to end their tests and sign the treaty.

## MUSKIE OR MUSK-OX ON NATIONAL SECURITY?

(Mr. WYMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. WYMAN. Mr. Speaker, hints of what some of the alternatives to President Nixon might involve for the United States of America next year, are to be found in today's Evans and Novak column in the Washington Post. Implicit in the reporting of these distinguished writers is the suggestion that Candidate Muskie would cut defense funds and to blazes with the national security.

This ties in with another Democrat contender, Senator McGovern, who has publicly proposed a $33 billion cut in defense over a 3-year period—all while the incontrovertible evidence is that the Soviet Union is sharply increasing its defense—offense?—spending and the United States is spending for defense even if the DOD fiscal year 1973 requests are not cut, $6.6 billion below the 1964 budget.

I wonder if either of these gentlemen who aspire to the Presidency of the United States with its solemn responsibilities, realize that increases in prices and increases in pay and allowances for military personnel since 1964 have increased defense costs for these items alone by more than $32 billion since 1964? And none of this buys us any hardware or research and development.

I wonder, also, if these would-be Presidents realize that nondefense spending alone is up 150 percent since 1964?

President Nixon has requested a modest budget increase for defense, principally for new ships and submarines. May the Lord save America if anything less than this become the order of the day.

It is the continuing responsibility of those of us in the Congress and the executive branch to keep America strong so our people can be safe. There are no poverty programs in Communist nations—only concentration camps for protesters—or mental hospital if they are too brainy.

The utter indifference to the national security of the Muskie, McGovern positions is a caution to voters who want a free, safe America in the years ahead. It is said that voters do not carefully ponder such things. I believe they do.

The article follows:

### Senator Muskie's Disarmers

(By Rowland Evans and Robert Novak)

The pressure for wholly irresponsible cuts in defense spending by Sen. Edmund S. Muskie's active supporters is reflected in a bizarre discussion last November among his secret policy advisers ending with recommendations smacking of unilateral disarmament.

The Muskie advisers talked about cutting $30 billion from Pentagon spending ($75.8 billion for this fiscal year) and redistributing the money to the poor. Although it is inconceivable that Muskie as president would even contemplate such irresponsibility, one of the senator's top aides sat in on the meeting without one serious word of dissent.

That reflects a little understood fact about the Muskie campaign. Whereas the senator maintains a centrist image in his drive for president, both his paid staff and his voluntary advisers are situated well to the left. Consequently, Muskie will prove an extraordinary political balancer if he can appeal to the masses and simultaneously satisfy his ideologically rigid supporters.

Such supporters make up the "Muskie Domestic Issues Group" headed by Morris B. Abram, distinguished attorney and former president of Brandeis University. It meets regularly at Abrams' elegant Manhattan apartment in The Dakota with Donald E. Nicoll, Muskie's longtime aide and confidant, flying up from Washington to attend.

The Nov. 17 meeting of the Abram group accurately reflected the caliber of its advice to Muskie. S. M. Miller, professor of educational sociology at New York University, presented a paper on redistribution of income which proposed $30 billion of tax relief for poor-to-middle brackets by cutting annual defense spending that much within three or four years.

Even Muskie's own liberal staffers privately acknowledged $30 billion easily transcends reality when Soviet military spending is ominously rising. Moreover, currently studying possible defense cuts, the Muskie staff, properly, starts from what U.S. foreign policy commitments ought to be and how much must be spent for defense to sustain them. Prof. Miller's approach—setting an arbitrary $30 billion target—reverses this.

But Nicoll, Muskie's staffer present at The Dakota, offered no rebuke. Instead, he echoed the sidestepping of Muskie himself on defense. According to the meeting's official minutes: "Nicoll said that Sen. Muskie's position was that the military budget must be cut but that he had not proposed a fixed amount for that cut, because we are not sure of the correct figures involved and it is very difficult to get these figures."

That triggered several flights of fancy. Miller said the way to cut defense spending was to promise more spending in education and housing. Sociologist Herbert Gans talked about cutting military spending for "right wing dictatorships" (actually an insignificant amount).

At no time were the harsh realities of national security discussed.

Abram agreed that the defense budget "had become almost a sacred cow," adding: "This military budget is a monstrosity and a disgrace. We should lock the Chiefs of Staff in a room and tell them not to come out until they have cut $20 billion from the military budget and we should use that money to raise the minimum (tax) exemption to $1200 per person (presently $750)."

In conclusion, Nicoll injected a note of political, though not military caution. ". . . It is hard to sell a $20-billion reduction now with the economic situation as bad as it is. He (Nicoll) liked the approach of going at the problem in stages and talking of reduction gradually over three or four years."

Officially, the Muskie camp values the Abram group's advice. Privately, however, Muskie aides say it is humored mainly because of Abram's talents in attracting big campaign money.

Nevertheless, advice from it and other leftish sources has its relevance. With Muskie getting lurid recommendations of $30 billion in defense cuts, a reduction of a few billion—dangerous though that might be to national security—might seem quite modest to him. Certainly, there is no voice today warning Muskie of the peril to the nation in the years immediately ahead.

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## THE 100TH BIRTHDAY OF ST. LOUIS NATIONAL STOCKYARDS

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, the St. Louis National Stockyards in National City, Ill., is celebrating its 100th anniversary this year. Established in 1873, the stockyards has withstood disaster and change to become one of the largest livestock marketing centers in the United States.

The stockyards provides important services to the modern day consumer. Its facilities enable today's shopper to enjoy quality products through effective processing, distribution, and marketing capabilities. It is important to the economic vitality of the area in which it is located by providing employment opportunities and generating tax revenues. It provides the farmer with a central point for marketing his livestock. Clearly, the stockyards provides multifaceted services which are important to individuals in all walks of life.

I salute the stockyards on its 100th birthday, the people associated with it, and the people it serves. Mr. Speaker, at this point in the Record, I include an article from the February 13 edition of the Metro-East Journal on the stockyards anniversary:

### The 100th Birthday of St. Louis National Stock Yards

St. Louis National Stock Yards in National City now is in its 100th year.

It was established in the beginning of 1873 and has withstood floods, droughts, fires, wars, depression and constant change. It has been familiar to several generations of livestock farmers and stockmen.

With the completion of one century, National Stock Yards is looking forward with great anticipation to the next one, according to C. J. "Cap" Smith, public relations director.

A major building and expansion program is under way at the yards. In two years, the company has spent nearly $250,000 in upgrading buildings and facilities. A new Swift & Co. plant was completed there last year.

New personnel also are brightening the stock yards outlook, Smith says.

"We're bringing in young men—all highly recommended by their colleges," he says. Most are graduates in animal husbandry. Physical facilities are only half a market, Smith says, "It's the skill of a salesman that really counts."

In 1971, National Stock Yards received shipments of livestock from 19 states. Salable cattle, calves, hogs and sheep totaled 2,107,283 head—up from 2,062,493 handled during 1970.

The biggest market was in hogs. Receipts were 1,647,316 head worth a total of $69.5 million, according to figures compiled by Joe A. McClure, head of the National Stock Yards Market News Service. No hogs were ever turned away due to lack of space.

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## WAR POWERS

(Mr. DULSKI asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DULSKI. Mr. Speaker, there has been considerable discussion recently of war powers. What were the intentions of our Nation's founders in framing the Constitution? Should there be clarifications in law in view of the numerous controversial actions of recent years?

Last February, I introduced a joint resolution concerning the war powers of the Congress and the President. An identical resolution was approved by the House Committee on Foreign Affairs and was passed by the House last August.

The Senate now has pending the War Powers Act, which deals with the same subject through legislation rather than by joint resolution.

Last week, the Senate approved unanimously legislation to require all international agreements entered into by the United States to be transmitted to the Congress within 60 days of their execution. Treaties already are required to be submitted to the Congress for ratification, but such a requirement does not apply to Executive agreements.

I am pleased that both the House and the Senate have seen fit to act affirmatively on this important subject of war powers. This is in no way a reflection upon the incumbent administration in particular, but rather is intended to deal with Executive practices which have been developing over a period of years.

Corrective action is overdue and I support the current efforts on both sides of the Capitol to deal with our handling of international affairs.

I am today introducing in the House the War Powers Act which generally is similar to the measure pending before the Senate.

As part of my remarks, I include two editorials dealing with the House and Senate actions during the past year:

[From the Buffalo (N.Y.) Evening News, Feb. 18, 1972]

### SENATE WANTS TO "ADVISE, CONSENT"

The Senate has made a new attempt to share in the making of foreign policy—as the constitution intends—by its passage of a measure that would require the President to submit texts of all international agreements to Congress for its information. The strong Senate feeling on the subject (as reflected in the 81–0 vote) has in the past been expressed in moves to limit a President's war powers.

The present move is a fairly modest one, making no direct presumption as to the formulation of policy but merely seeking to be kept informed. The impetus for the measure came from the surprising revelations about secret agreements made in the 1960s with Laos, Ethiopia, Thailand, Spain and others.

The relationship between the executive and legislative branches is a delicate one and has been constantly redefined since the earliest days. In accordance with the Constitution's provision that treaties should be made "by and with advice and consent of the Senate," President Washington once went to confer with the Senate but received such a cool reception that he said, as one historian tells it, "he would be damned if he ever went there again." He didn't and neither did any other President, with the result that the Senate at times feels ignored.

The problem has been accentuated in recent decades by the complexity of America's worldwide role and by a tendency for Presidents to negotiate "executive agreements" instead of treaties, thus avoiding the necessity of ratification by the Senate. There is a shadowy area here, since some agreements do not deserve the status of treaties, while others leave the nature of the U.S. commitment uncertain.

There is, of course, a place for secrecy in diplomacy—although this usually has to do more with the process of arriving at agreements than with the national commitments ultimately arrived at. Mr. Nixon's long negotiations preceding his trip to China and President Kennedy's negotiations in the Cuban missile crisis are examples. The measure just passed by the Senate recognizes this by providing for the revelation of secret agreements only to the relevant congressional committees, rather than to the entire Congress.

While no direct check on presidential power, the measure would put Congress in a better position to challenge executive policies. It would help to restore the "advise and consent" relationship that is often forgotten—especially in these days of one-man diplomacy.

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[From the Buffalo Evening News, July 30, 1971]

### RESTORING CONGRESS WAR POWER

The United States Senate, which has had some soul-searching debates on the Vietnam war over the years, at last seems to have found a suitable vehicle to express its frustrations and to reassert its traditional role in foreign policy. The decision of Hugh Scott, the Senate Republican leader, to throw his support to plans to limit presidential power has greatly enhanced the prospects for legislation to assure Congress "the right to participate, in accordance with the Constitution, in the whole enormous business of how wars are begun."

The problem has been that, while Congress is supposed to have the responsibility for declaring war, it has in many cases, such at the Tonkin Gulf affair and the plot against President Diem, been kept in the dark like the rest of us. With each President running his own show, Congress has seemed to be left only with the unhappy choice of going along or directly undercutting him.

A particularly glaring example of just how quickly and deeply this can get us over our heads in a war that Congress has neither debated nor declared can be seen in the Pentagon Papers—in two 1965 memoranda by Defense Secretary McNamara to President Johnson.

The first, in July, called for a 100,000 raise in the U.S. manpower ante, calmly predicted that "the U.S. killed-in-action might be in the vicinity of 500 a month by the end of the year," but—without a by-your-leave for Congress—confidently predicted that U.S. public opinion would support such a course "because it is sensible and courageous" and likely to bring success.

The other memo, just four months later, recommended a still greater escalation during 1966 but warned that this "will not guarantee success," that U.S. killed-in-action "can be expected to reach 1000 a month," and glumly conceded "the odds are even that we will be faced in early 1967 with a 'no decision' at an even higher level."

Yet in the face of this grim forecast of 1000 U.S. killed-in-action for the sake of a 50–50 chance of a "no decision" outcome neither Secretary McNamara nor President Johnson evidently saw any reason to lay the problem before Congress and share the responsibility for such a bloody war of attrition with the constitutional branch of our Government that supposedly has the sole power to declare war.

Surely whenever ANY President's foreign policy has reached a point where the plans call for an acceptance of 12,000 Americans killed-in-action per year for as far ahead as anyone can see, the time has come to go to Congress and ask at the least for a formal declaration of war!

The various measures now being considered in the Senate Foreign Relations Committee are designed to insist that Congress be made a partner instead of a rubber stamp in the fashioning of such war policies.

Most of these measures, like that proposed by Sen. Javits (R., N.Y.), would allow the President to take emergency war action but would bar him from continuing hostilities beyond a few weeks without congressional consent.

The measures are not something that has been hatched by Senate doves in the Foreign Relations Committee by proposals backed by both hawks and doves, by both Democrats and Republicans. They go far beyond the immediate issue of the Vietnam war.

The broader issue is whether warlike operations should be worked out by a President and a small band of advisers and then presented to Congress as a series of accomplished facts. Not only is this dangerous from a democratic point of view but it is not even productive. Former Undersecretary of State George Ball says Congress can provide the objectivity a President lacks and that a reassertion of congressional power could block "the kind of creeping involvement to which we succumbed in Vietnam."

In this constructive context, the Senate proposals should be seen not as attacks on the presidency but as moves to restore a vital and meaningful partnership between two constitutionally coordinate branches of government.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BLATNIK (at the request of Mr. BOGGS), for February 23 through February 24, on account of official business.

Mr. DANIELSON (at the request of Mr. BOGGS), for February 23 through February 24, on account of official business for Committee on Veterans' Affairs.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARCHER) and to revise and extend their remarks and include extraneous matter:)

Mr. FRELINGHUYSEN, for 5 minutes today.

Mr. SEBELIUS, for 10 minutes, today.

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. ROBISON of New York, for 10 minutes, on February 24.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. SANDMAN, for 5 minutes, today.

Mr. CRANE, for 15 minutes, today.

(The following Members (at the request of Mr. MAZZOLI) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. BEGICH, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. SISK, for 5 minutes, today.

Mr. BURKE of Massachusetts, for 15 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. FLOOD, for 30 minutes, today.

Mr. BARING, for 5 minutes, today.

Mr. ASPIN, for 20 minutes, today.

Mr. HARRINGTON, for 5 minutes, today.

Mr. MINISH, for 5 minutes, today.

Mr. ROONEY of Pennsylvania, for 5 minutes, today.

Mr. MOLLOHAN, for 5 minutes, February 24.

Mr. BEGICH, for 5 minutes, February 24.

Mrs. ABZUG, for 30 minutes, February 24.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PURCELL, to revise and extend his remarks prior to close of general debate on H.R. 12931.

Mr. MILLER of Ohio, to extend his remarks prior to vote on section 104 and section 310(b) of H.R. 12931.

(The following Members (at the request of Mr. ARCHER) and to include extraneous material:)

Mr. ZWACH.

Mr. ROUSSELOT in two instances.

Mr. DERWINSKI in two instances.

Mr. HORTON.

Mr. NELSEN in three instances.

Mr. WYMAN in two instances.

Mr. BROWN of Ohio in two instances.

Mr. WHITEHURST in two instances.

Mr. SEBELIUS.

Mr. BAKER.

Mr. MICHEL.

Mr. ANDERSON of Illinois.

Mr. BROTZMAN.

Mr. EDWARDS of Alabama.

Mr. FRENZEL in two instances.

Mr. ROBISON of New York in two instances.

Mr. STEIGER of Arizona in two instances.

Mr. VEYSEY in four instances.

Mr. ARCHER.

Mr. DUNCAN in two instances.

Mr. MCKEVITT.

Mr. PETTIS in three instances.

Mr. MILLER of Ohio in four instances.

Mr. SMITH of New York.

Mrs. HECKLER of Massachusetts.

Mr. BRAY in three instances.

Mr. FINDLEY.

Mr. SCHWENGEL.

Mr. STEIGER of Wisconsin.

Mr. CLEVELAND.

Mr. MCKINNEY.

(The following Members (at the request of Mr. MAZZOLI) and to include extraneous matter:)

Mr. ICHORD.

Mr. SISK.

Mr. WOLFF in two instances.

Mr. DRINAN.

Mr. BIAGGI in five instances.

Mr. BEGICH in five instances.

Mr. ANDERSON of Tennessee in four instances.

Mr. HAGAN in three instances.

Mr. GONZALEZ in two instances.

Mr. RARICK in three instances.

Mr. ROGERS in five instances.

Mr. BADILLO.

Mrs. ABZUG in 10 instances.

Mr. DIGGS in four instances.

Mr. RANGEL in two instances.

Mr. DULSKI in six instances.

Mr. DINGELL in three instances.

Mr. BRINKLEY.

Mr. BINGHAM in three instances.

Mr. SYMINGTON.

Mr. DE LA GARZA.

Mr. RODINO in two instances.

Mr. ROYBAL.

Mr. O'HARA.

Mr. VANIK in two instances.

Mr. GALLAGHER.

Mr. JAMES V. STANTON.

Mr. DENT.

Mr. HARRINGTON in two instances.

Mr. DORN in two instances.

Mr. MOORHEAD in five instances.

Mr. HAMILTON in two instances.

Mr. RONCALIO in 10 instances.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3197. An act to increase the dollar limitation on the cost for construction of Federal Reserve Bank branch buildings; to the Committee on Banking and Currency.

## ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 36 minutes p.m.) the House adjourned until tomorrow, Thursday, February 24, 1972, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1644. A letter from the Secretary of Defense, transmitting an annual report for calendar year 1971 on pay for officers holding positions of unusual responsibility and of critical nature, pursuant to 37 U.S.C. 306; to the Committee on Armed Services.

1645. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report for the first half of fiscal year 1972 showing the total amount of assistance-related expenditures in, for, or on behalf of Laos, pursuant to section 505(f) of Public Law 92-156; to the Committee on Armed Services.

1646. A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting a report of military procurement actions for experimental, developmental, test or research work negotiated under the provisions of 10 U.S.C. 2304 (a)(11), and in the interest of national defense or industrial mobilization under the provisions of 10 U.S.C. 2304(a)(16), covering the period of July–December 1971, pursuant to section 2304(e); to the Committee on Armed Services.

1647. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of certain facilities projects proposed to be undertaken for the Naval and Marine Corps Reserves, pursuant to 10 U.S.C. 2233(a)(1); to the Committee on Armed Services.

1648. A letter from the Secretary of Commerce, transmitting the Annual Report of the Economic Development Administration for fiscal year 1971; to the Committee on Public Works.

### RECEIVED FROM THE COMPTROLLER GENERAL

1649. A letter from the Comptroller General of the United States, transmitting a report on the audit of payments by the Department of Defense from the special bank account to Lockheed Aircraft Corp. for the C-5A aircraft program during the quarter ended December 31, 1971, pursuant to Public Laws 91-441 and 92-156; to the Committee on Armed Services.

1650. A letter from the Comptroller General of the United States, transmitting a report of a survey of the budgetary and fiscal information needs of the Congress; to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PASSMAN: Committee of conference. Conference report on H.R. 12067 (Rept. No. 92-849). Ordered to be printed.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 838. Resolution providing for the consideration of the conference report on H.R. 12067, an act making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes. (Rept. No. 92-847). Referred to the House Calendar.

Mr. MILLS of Arkansas: Committee on Ways and Means H.R. 6547. A bill to amend section 582(c)(3) of the Internal Revenue Code of 1954, as amended; with amendment (Rept. No. 92-848). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 13314. A bill to amend the Occupational Safety and Health Act of 1970 to exempt retail lumber dealers, in States having laws regulating safety in the retail lumber business, from the Federal standards created under such act; to the Committee on Education and Labor.

By Mr. EDWARDS of California:

H.R. 13315. A bill to amend title 28 of the United States Code to provide for the dissemination and use of criminal arrest records in a manner that insures their security and privacy; to the Committee on the Judiciary

By Mr. ABERNETHY:

H.R. 13316. A bill to authorize pilot field-research programs for the suppression of agricultural and forest pests by integrated control methods; to the Committee on Agriculture.

H.R. 13317. A bill to amend title 39 of the United States Code, to provide that the envelope or any other cover on mail matter shall include a marking by the Postal Service to designate the post office at which it is mailed; to the Committee on Post Office and Civil Service.

By Mr. BROYHILL of Virginia (for himself, Mr. GUDE, and Mr. HOGAN):

H.R. 13318. A bill to establish an independent monitor over the operations and use of the District of Columbia sewage systems in order to provide for a cleaner Potomac River; to the Committee on the District of Columbia.

By Mr. DELLUMS:

H.R. 13319. A bill to establish an independent Board of Parole, to provide for fair and equitable Federal parole procedures, to establish a National Parole Institute, and to provide assistance to the States for the operation of fair and adequately staffed parole systems, and for other purposes; to the Committee on the Judiciary.

By Mr. MILLS of Arkansas:

H.R. 13320. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. FASCELL:

H.R. 13321. A bill to facilitate the preservation of historic monuments, and for other purposes; to the Committee on Government Operations.

By Mr. FOLEY:

H.R. 13322. A bill to amend section 2(3), section 8c(2), section 8c(6)(I), and section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended; to the Committee on Agriculture.

By Mr. FRASER (for himself, Mr. FINDLEY, Mr. EILBERG, Mr. FLOWERS, Mrs. CHISHOLM, Mr. HUNGATE, Mr. ROYBAL, Mr. SISK, Mr. MCDADE, Mrs. MINK, and Mr. VAN DEERLIN):

H.R. 13323. A bill to require that an additional $4 per month (reflecting post-1970 across-the-board increases in social security and railroad retirement benefits) be passed along to public assistance recipients, either by disregarding such amount in determining their need or otherwise; to the Committee on Ways and Means.

By Mr. GARMATZ (for himself and Mr. PELLY):

H.R. 13324. A bill to authorize appropriations for the fiscal year 1973 certain maritime programs of the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

By Mr. HALPERN:

H.R. 13325. A bill to amend title 32, United States Code, to provide that Army and Air Force National Guard technicians shall not be required to wear the military uniform while performing their duties in a civilian status; to the Committee on Armed Services.

H.R. 13326. A bill to provide for the crediting of certain past employment by certain persons subject to the National Guard Technicians Act of 1968; to the Committee on Armed Services.

By Mr. KEMP (for himself, Mr. Archer, Mr. Aspin, Mr. Bevill, Mr. Biaggi, Mr. Blanton, Mr. Byron, Mr. Davis of South Carolina, Mr. Dent, Mr. Derwinski, Mr. Duncan, Mr. Hanley, Mr. Hutchinson, Mr. Lent, Mr. Mazzoli, and Mr. Pike):

H.R. 13327. A bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies; to the Committee on Armed Services.

By Mr. KEMP (for himself, Mr. Bell, Mr. Danielson, Mr. Goodling, Mrs. Grasso, Mr. Hammerschmidt, Mr. McClure, Mr. Mitchell, Mr. Nelsen, Mr. Nichols, Mr. Podell, Mr. Veysey, Mr. Whitehurst, Mr. Young of Florida, and Mr. Zwach):

H.R. 13328. A bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies; to the Committee on Armed Services.

By Mr. KEMP:

H.R. 13329. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works.

By Mr. KUYKENDALL (for himself and Mr. Baker):

H.R. 13330. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. McCOLLISTER (for himself and Mr. Thone):

H.R. 13331. A bill to amend the Internal Revenue Code of 1954 to allow an itemized deduction for State and local motor vehicle registration fees paid or accrued; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 13332. A bill to authorize pilot field research programs for the control of agricultural and forest pests by integrated biological-cultural methods; to the Committee on Agriculture.

By Mr. MIKVA:

H.R. 13333. A bill to provide for Federal grants to States which equalize expenditures for public elementary and secondary schools, to bring about a reduction in local real property taxes, and to provide for Federal tax reform; to the Committee on Ways and Means.

By Mr. MILLS of Arkansas (for himself and Mr. Byrnes of Wisconsin):

H.R. 13334. A bill to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes; to the Committee on Ways and Means.

By Mr. MITCHELL:

H.R. 13335. A bill to establish an independent Board of Parole, to provide for fair and equitable Federal parole procedures, to establish a National Parole Institute, and to provide assistance to the States for the operation of fair and adequately staffed parole systems, and for other purposes; to the Committee on the Judiciary.

By Mr. MORGAN:

H.R. 13336. A bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations; to the Committee on Foreign Affairs.

By Mr. PATMAN:

H.R. 13337. A bill to eliminate excess charges for services rendered in connection with real estate settlements, to provide home buyers with necessary information related to real estate settlements, and for other purposes; to the Committee on Banking and Currency.

By Mr. POAGE:

H.R. 13338. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. RANGEL (for himself, Mr. William D. Ford, Mr. Forsythe, Mrs. Grasso, Mr. Halpern, Mr. Hammerschmidt, Mr. Harrington, Mr. Helstoski, Mr. Hosmer, Mr. Hungate, Mr. Kemp, Mr. King, Mr. McDonald of Michigan, Mr. Metcalfe, Mr. Mikva, Mr. Mitchell, Mr. Moorhead, Mr. Morse, Mr. Murphy of Illinois, Mr. Pepper, Mr. Peyser, Mr. Price of Illinois, Mr. Riegle, Mr. Rosenthal and Mr. Ryan):

H.R. 13339. A bill to regulate the interstate trafficking and sale of hypodermic needles and syringes; to the Committee on Interstate and Foreign Commerce.

By Mr. RANGEL (for himself, Mrs. Abzug, Mr. Addabbo, Mr. Alexander, Mr. Anderson of Tennessee, Mr. Baker, Mr. Baring, Mr. Bell, Mr. Biaggi, Mr. Bingham, Mr. Brasco, Mr. Buchanan, Mr. Carey of New York, Mrs. Chisholm, Mr. Clay, Mr. Cleveland, Mr. Collins of Illinois, Mr. Conyers, Mr. Dellums, Mr. Diggs, Mr. Dingell, Mr. Donohue, Mr. Fauntroy, Mr. Fish, and Mr. Flowers):

H.R. 13340. A bill to regulate the interstate trafficking and sale of hypodermic needles and syringes; to the Committee on Interstate and Foreign Commerce.

By Mr. RANGEL (for himself, Mr. Scheuer, Mr. Stokes, Mr. Tiernan, Mr. Veysey, Mr. Ware, Mr. Whitehurst, Mr. Hawkins, Mr. Nix, Mr. Rodino, and Mr. Collier):

H.R. 13341. A bill to regulate the interstate trafficking and sale of hypodermic needles and syringes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY of Pennsylvania (for himself, Mr. Saylor, Mr. Nix, Mr. Ware, Mr. Schneebeli, and Mr. Goodling):

H.R. 13342. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. RYAN (for himself and Mr. Corman):

H.R. 13343. A bill to amend the Lead-Based Paint Poisoning Prevention Act; to the Committee on Banking and Currency.

By Mr. RYAN:

H.R. 13344. A bill to amend the National Defense Loan Program to provide that the obligations of student borrowers to make payments on their loans shall be suspended while they are performing alternative service under the Military Selective Service Act; to the Committee on Education and Labor.

By Mr. SPRINGER:

H.R. 13345. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE of Texas (by request) (for himself and Mr. Kyros):

H.R. 13346. A bill to amend chapter 15, title 38, United States Code, to liberalize the computation of a spouse's income for veterans' pension purposes; to the Committee on Veterans' Affairs.

H.R. 13347. A bill to amend chapter 15, title 38, United States Code, to exclude in the computation of income for death pension purposes private or commercial life insurance to the amount of $10,000; to the Committee on Veterans' Affairs.

H.R. 13348. A bill to amend chapter 55, title 38, United States Code, so as to increase the amount of benefits payable to certain hospitalized veterans; to the Committee on Veterans' Affairs.

H.R. 13349. A bill to amend section 410 of title 38, United States Code, to provide a statutory presumption of service-connected death of any veteran who has been rated totally disabled by reason of service-connected disability for 10 or more years; to the Committee on Veterans' Affairs.

By Mr. THOMPSON of Georgia:

H.R. 13350. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mrs. ABZUG:

H.R. 13351. A bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods; to the Committee on Interstate and Foreign Commerce.

H.R. 13352. A bill to insure the right of citizens to have access to the Federal courts to redress the deprivation of rights, privileges, and immunities secured by the Constitution and laws of the United States; to the Committee on the Judiciary.

By Mr. ANDERSON of California:

H.R. 13353. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board benefit increase with subsequent cost-of-living increases, to raise the earnings base; to liberalize the retirement test; to increase widows' and widowers' benefits; to improve benefit computation; to increase the lump-sum death payment, to provide benefits for additional disabled children and dependent parents of insured individuals, and to liberalize qualifications for disability benefits; to provide medicare benefits for all individuals receiving cash benefits based on disability; to provide benefits for dependent brothers and sisters of retired, disabled, or deceased insured individuals; and to provide a $5,000 income tax exemption for individuals 65 years of age or over; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 13354. A bill to amend the Internal Revenue Code of 1954 to provide that tuition for the education of a handicapped dependent at a private school shall be treated as a medical expense of the taxpayer when such education is recommended by a physician; to the Committee on Ways and Means.

By Mr. CHAPPELL:

H.R. 13355. A bill to require the payment of interest on escrow accounts held in connection with residential real estate mortgage loans; to the Committee on Banking and Currency.

By Mr. CLARK:

H.R. 13356. A bill to further amend the Federal Civil Defense Act of 1950, as amended, to authorize establishment of national standards for threads and couplings of firehoses, and for other purposes; to the Committee on Armed Services.

H.R. 13357. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise the eligibility conditions for annuities, to change the railroad retirement tax rates, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. COTTER:

H.R. 13358. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DULSKI:

H.R. 13359. A bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress; to the Committee on Foreign Affairs.

H.R. 13360. A bill to amend section 109 of title 38, United States Code, to provide benefits for members of the armed forces of nations allied with the United States in World War I or World War II; to the Committee on Veterans' Affairs.

By Mr. JONES of North Carolina (for himself and Mr. Mizell, Mr. Abbitt, Mr. McMillan, Mr. Miller of Ohio, Mr. Stubblefield, Mr. Wampler, Mr. Fountain, Mr. Mathis of Georgia, Mr. Henderson, and Mr. Preyer of North Carolina):

H.R. 13361. A bill to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended; to the Committee on Agriculture.

By Mr. KOCH:

H.R. 13362. A bill to amend the Urban Mass Transportation Act of 1964 to provide emergency grants for operating subsidies to urban mass transportation systems on the basis of passengers serviced; to the Committee on Banking and Currency.

By Mr. KOCH (for himself and Mr. Collins of Illinois):

H.R. 13363. A bill to amend the Child Nutrition Act of 1966 to permit the waiver of matching requirements in special and unusual circumstances; to the Committee on Education and Labor.

By Mr. RODINO:

H.R. 13364. A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes; to the Committee on Education and Labor.

H.R. 13365. A bill to amend the Public Health Service Act so as to provide for the prevention and control of venereal disease; to the Committee on Interstate and Foreign Commerce.

By Mr. SISK (for himself, Mr. Abbitt, Mr. Betts, Mr. Broyhill of Virginia, Mr. Don H. Clausen, Mr. Collier, Mr. Davis of Wisconsin, Mr. Edwards of California, Mr. Fuqua, Mrs. Green of Oregon, Mr. Gubser, Mr. Johnson of California, Mr. Leggett, Mr. McFall, Mr. Mailliard, Mr. Mathias of California, Mr. Eshleman, Mr. Hammerschmidt, Mr. McCormack, Mr. Meeds, Mr. Michel, Mr. Nelsen, Mr. Robinson of Virginia, Mr. Smith of New York, and Mr. Steiger of Wisconsin):

H.R. 13366. A bill to provide for the payment of losses incurred by domestic growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates in food after extensive inventories of foods containing such substances had been prepared or packed or packaging, labeling, and other materials had been prepared in good faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on the Judiciary.

By Mr. SISK (for himself, Mr. Talcott, Mr. Teague of California, Mr. Teague of Texas, Mr. Ullman, Mr. Vigorito, and Mr. Waldie):

H.R. 13367. A bill to provide for the payment of losses incurred by domestic growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates in food after extensive inventories of foods containing such substances had been prepared or packed or packaging, labeling, and other materials had been prepared in good faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 13368. A bill to designate as wilderness certain lands within the Chiricahua National Monument in the State of Arizona; to the Committee on Interior and Insular Affairs.

By Mr. BENNETT:

H.J. Res. 1073. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling attendance in schools other than the one nearest the residence and to insure equal educational opportunities for all students wherever located; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.J. Res. 1074. Joint resolution proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of Congress; to the Committee on the Judiciary.

By Mr. BRADEMAS:

H.J. Res. 1075. Joint resolution designating the work of March 20–26, 1972, as "American Football and Basketball Coaches Week"; to the Committee on the Judiciary.

By Mr. CASEY of Texas:

H.J. Res. 1076. Joint resolution proposing an amendment to the Constitution of the United States to insure the rights of parents and local school authorities to determine which school the children in that locality will attend; to the Committee on the Judiciary.

By Mr. FISHER:

H.J. Res. 1077. Joint resolution proposing an amendment to the Constitution of the United States with respect to the reconfirmation of judges after a term of 6 years; to the Committee on the Judiciary.

By Mr. RODINO:

H.J. Res. 1078. Joint resolution relating to sudden infant death syndrome; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDE (for himself, Mr. Garmatz, Mr. Hechler of West Virginia, Mr. Dingell, Mr. Rees, Mr. Frelinghuysen, Mr. Hicks of Washington, Mr. Mailliard, Mr. Mitchell, Mr. Mikva, Mr. St Germain, Mr. Gibbons, Mr. Sarbanes, Mr. Bell, and Mrs. Grasso):

H. Con. Res. 541. Concurrent resolution expressing the support of the Congress for the U.S. delegation to the United Nations Conference on the Human Environment; to the Committee on Foreign Affairs.

By Mr. HELSTOSKI (for himself, Mr. Forsythe, Mrs. Chisholm, and Mr. Alexander):

H. Con. Res. 542. Concurrent resolution providing for the recognition of Bangladesh; to the Committee on Foreign Affairs.

By Mr. GARMATZ:

H. Res. 839. Resolution to provide further funds for the expenses of the investigations and study authorized by House Resolution 21.

By Mr. HARRINGTON:

H. Res. 840. Resolution; International Conference on Management of Nuclear Wastes; to the Committee on Foreign Affairs.

By Mr. MITCHELL (for himself, Mrs. Abzug, Mr. Badillo, Mr. Burton, Mrs. Chisholm, Mr. Clay, Mr. Collins of Illinois, Mr. Conyers, Mr. Edwards of California, Mr. Halpern, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Helstoski, Mrs. Hicks of Massachusetts, Mr. Hungate, Mr. Koch, Mr. Mikva, Mr. Rangel, Mr. Ryan, Mr. St Germain, Mr. Seiberling, and Mr. Stokes):

H. Res. 841. Resolution; Health Bill of Rights; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS:

H. Res. 842. Resolution providing for the expenses incurred pursuant to House Resolution 213; to the Committee on House Administration.

By Mr. WYMAN (for himself, Mr. Flowers, Mr. Rhodes, Mr. Rees, Mr. Hosmer, Mr. Brotzman, Mr. Burke of Florida, Mr. Derwinski, Mr. McClory, Mr. Cederberg, Mr. Frenzel, Mr. Thone, Mr. Cleveland, Mr. Hunt, Mr. Sandman, Mr. Forsythe, Mrs. Chisholm, Mr. Robison of New York, Mr. Terry, Mr. Conable, Mr. Henderson, Mr. Devine, Mr. Wyatt, Mr. Ware, and Mr. Johnson of Pennsylvania):

H. Res. 843. Resolution amending the Rules of the House of Representatives to expedite the enactment of general appropriation measures, to facilitate the making of appropriations for subsequent fiscal years, and for other purposes; to the Committee on Rules.

By Mr. WYMAN (for himself, Mr. Duncan, Mr. Fisher, and Mr. Robinson of Virginia):

H. Res. 844. Resolution amending the Rules of the House of Representatives to expedite the enactment of general appropriation measures, to facilitate the making of appropriations for subsequent fiscal years, and for other purposes; to the Committee on Rules.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

315. By the SPEAKER: Memorial of the Senate of the State of New Jersey, relative to the situation in Northern Ireland, to the Committee on Foreign Affairs.

316. Also memorial of the Legislature of the State of Iowa, requesting the Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States providing that a portion of the taxes levied on income by Congress shall be made available to State governments; to the Committee on the Judiciary.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mrs. HICKS of Massachusetts introduced a bill (H.R. 13369) for the relief of Wojciech Ostrowski; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

195. By the SPEAKER: Petition of the City Council, Washington, D.C., relative to the conduct of public hearings before the Zoning Commission of the District of Columbia; to the Committee on the District of Columbia.

196. Also, petition of Alfonso S. Valmorida, Cagayan de Oro City, Philippines, relative to extending recognition to the Talisayan Guerrilla Force; to the Committee on Foreign Affairs.

# EXTENSIONS OF REMARKS

## WILBUR MILLS SAYS "NO"

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### HON. WM. JENNINGS BRYAN DORN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DORN. Mr. Speaker, it is reassuring to the 27 million veterans in our country to hear WILBUR MILLS' emphatic "No" to those who would phase out our great veterans' hospital program. WILBUR MILLS has consistently supported the veterans' hospital program and every piece of legislation reported by our Veterans' Affairs Committee to benefit the veteran, his widow, and orphan.

As vice chairman of the Veterans' Affairs Committee I commend Mr. MILLS and am grateful to him for working closely with our committee, with the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the AMVETS, the Veterans of World War I, and every veterans organization in passing more beneficial veterans' legislation than in any other era in the history of our country.

WILBUR MILLS is a stanch supporter of the GI education bill for World War II, Korean, and Vietnam veterans. Mr. Speaker, the American people have been fortunate in having this devoted, dedicated, and able leader in the Congress to successfully fight for compensation, pensions, medical care, and justice for the returning veteran.

WILBUR MILLS, chairman of the powerful Committee on Ways and Means, effectively supported the bill to prevent any veteran from losing pension benefits because of an increase in social security. WILBUR MILLS is one of the truly great, outstanding legislators of all time. Congressman MILLS received the highly coveted Silver Helmet Award for distinguished congressional service from AMVETS. Congressman MILLS received the National Congressional Award from the Veterans of Foreign Wars for superior service to the veterans, national defense, and the cause of freedom throughout the world.

Mr. Speaker, I commend to the attention of my colleagues in the Congress, the veterans of our country, and our people throughout the Nation the following outstanding article by WILBUR MILLS from the February issue of the VFW Magazine, the outstanding monthly publication of the Veterans of Foreign Wars:

[From the VFW magazine, February 1972]

"NO" TO TAKEOVER OF VA

(By Representative WILBUR D. MILLS)

(EDITOR'S NOTE: As Chairman of the all-important House Ways and Means Committee, Rep. Mills is one of the most powerful men in government. His outstanding service to the country was recognized by the V.F.W. in 1967 when he received the organization's Congressional Award.)

I appreciate this opportunity to present my views concerning a program vital to veterans and of interest to all readers of the *V.F.W. Magazine.*

Leaders of this great veterans organization have brought to my attention their concern for the future of the Veterans Administration medical programs, including its vast hospital system, and especially the effect of various legislative proposals for National Health Insurance introduced by members of Congress.

I understand some of the alarm is caused by provisions in these bills that would utilize other federal agencies' services and facilities, coordinate other federal assistances and consolidate all federal health programs. To those concerned with the future of the VA hospital program these are indeed ominous.

I do not pretend to speak for the authors of these proposals, but as a Congressman from the State of Arkansas, I do say that I shall oppose any provision which would obliterate or adversely affect VA medical programs.

I stand in the forefront with all others who rightfully contend that veterans who have served their nation in its hours of peril, defended its sovereignty and protected its people's freedom have earned and should have special consideration. This certainly includes first quality medical care for all veterans entitled under laws enacted by Congress. Any other position or action would be a breach of faith in this nation's willingness to discharge its obligation to its veterans.

Apart from providing separate and specially designed medical care for veterans, the VA, especially its hospital system, must be maintained because of its ever-increasing contributions to the quantity and quality of medical care, not only for veterans but for all the other citizens of the nation. Primarily these are the products of extensive VA research, education and training. Let me cite some.

The VA developed a drug treatment cure for tuberculosis and the first pacemaker which established regular heartbeat for heart patients. The VA has gained recognition for its cancer research. More recently, VA research in hypertension shows great promise in treating this disease, thereby eventually reducing strokes and other ailments attributed to it. These are only a few of the breakthroughs that can be credited to the VA.

I recognize that some of the work on over 5,200 projects now being done by more than 5,300 VA researchers might be undertaken by individual VA hospitals even if the VA system was parceled out to other groups throughout the country. However, I believe there is no denying that research conducted within such a vast, organized and coordinated system is much more productive than it would be if carried on in isolation without the advantage of effective correlation with similar studies in other hospitals. To cancel this definite advantage in the field of medical investigation by a drastic curtailment or elimination of the VA hospital system would be a disaster to veterans and non-veterans alike. It is a convincing, basic reason for continuing the VA hospital system.

Just as important—or even more so—is the extensive VA participation in training physicians, nurses and others in the health field, some 16,400 in 1960. This number increased dramatically to more than 53,000 in 1971, of whom 23,443 were physicians, 1,332 dentists and 15,880 nurses. Nearly 9,000 were receiving paramedical instruction.

Without this enormous VA input of qualified health personnel, the obvious shortages would be even more alarming. In my opinion, maintenance of the VA hospital system as an integral program is essential to insuring continuation and expansion of the VA's contribution to training workers in medical occupations.

This brings me to another point about medical education. A high proportion of practicing physicians in the United States received their training abroad. If anything demonstrates the need for wider educational opportunities in medicine, this does. And it underscores what would happen if the VA hospital system were abolished or dismembered. Training would be curtailed, instead of being expanded, at a time when there are shortages in many areas and in many specialties.

A moderate increase in the nation's medical schools is desirable. I have heard recommendations, however, for immediate and drastic expansion of medical colleges and for shortening the time needed for a medical education. However, they must not lead to a disregard for the quality of medical training or care. In the 19th century there was a great need for physicians. To meet this, new medical schools sprang up all over the country. Some were mere diploma mills and their poor quality was recognized early in the 20th century. Half were closed—160 to 80—by 1927. Since then a cautious expansion has raised the total to 108. Radical increases in schools and students would not be beneficial if clinical opportunities for training, such as offered by VA hospitals affiliated with medical schools, were no longer available.

Like many other Americans, I am disturbed by the inadequacies in this nation's health care. Particularly alarming are the distinct shortages in several specialties. Cries from communities in all parts of America for physicians are loud and compelling.

Certainly we must increase the quantity of medical care, but only with the assurance of accompanying quality facilities, equipment and people. Particular attention should be paid to perfecting the delivery of health care. Improvement must be deliberate and calculated.

I do not believe in generating high hopes among those for whom quality medical care is not now available, for financial and other reasons, by creating a monster bureaucracy and by politically motivated, bland promises with no expectation of fulfilment. We must do what we say we will do in this vital government and private cooperative enterprise. We must not say we will do that which we cannot or do not intend to do.

I oppose abandoning aspects of the present system which have worked and now are providing quality medical care to a large segment of the American population. I classify the VA program as the largest and best hospital system in the world. I shall staunchly oppose any and all proposals which would lead to its dismemberment or abandoment.

We must, however, do those things which insure that the VA can and will provide first class medical care for all those entitled to it under the laws of the land. Adequate staffing must be authorized. Funds for all programs, including costly new medical treatment techniques, must be made available. All eligible veterans must be informed of this health care resource and rules governing their entitlement.

Because the VA hospital system is not now used to capacity by eligible veterans, I have supported H.R. 10880, which, if approved by the Senate, will authorize VA care for wives and children of veterans with 100% service-connected disabilities and widows and children of those who died in service or whose deaths were related to their service. I believe this legislation is justified and that the Senate will act favorably on it as the House already has done.

The attitude of the Administration is very disturbing. A year ago the Office of Management and Budget (OMB) directed that the VA hospital system daily patient load be cut from approximately 86,000 to 79,000, a reduction of 7,000. Even though Congress appropriated adequate funds and clearly expressed its intent, there is apparently no realistic prospect of rebuilding the daily patient load to 85,500 during this fiscal year as stipulated in the Appropriations Act.

Equally disturbing is the OMB-directed moratorium on VA hospital construction. The director of this powerful federal agency has clearly stated that ban is caused by the necessity of evaluating the VA hospital system's future in light of broad federal health care legislative proposals.

This is a convincing indication that budget office officials believe the VA hospital system will be abolished, drastically curtailed or at least in some manner intertwined in any broad system of federal government participation in health care for the entire public. I personally believe this should be lifted and additional VA hospitals authorized and constructed where and as needed.

I am convinced we should not recommend federal health care legislation until the Administration provides firm information as to plans for the future of the VA program.

For the reasons stated, I shall continue to support vigorously continuance of the VA hospital system, the rapidly expanding outpatient program and all measures designed to improve the quality of medical care which the VA provides the nation's veterans.

## NEWS BULLETIN OF THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

### HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

**Mr. WHITEHURST.** Mr. Speaker, I am inserting into the RECORD the weekly news bulletin of the American Revolution Bicentennial Commission, compiled and written by its communications committee staff. The bulletin is for the week ending February 21.

The bulletin follows:

FEBRUARY 21, 1972.

A major plan for a network of Bicentennial Parks, built on Federal Surplus land or otherwise donated land, was unveiled today by the ARBC at its first full Commission meeting of the year. Under the plan, the Bicentennial Park would serve as the focal point of that State's celebration of the Nation's 200th Anniversary in 1976, and thereafter remain as a permanent residual.

A press conference to announce the Bicentennial Parks project will be held at 12:00 noon, Tuesday, February 22, for all media in the Internal Ballroom West following the States presentation. Also, a special presentation has been arranged by the ARBC for noted national architectural critics to view and discuss the Parks project prototype with its Architects, Davis, Brody & Associates of New York.

Also, on the agenda for the full Commission meeting which convened at 9:00 A.M. today in the Pan American Health Organization Building, Meeting Room B, are the International Expo (Philadelphia), The Sickle Cell Anemia Disease Project, Call for Achievement, Bicentennial Coins and Medals, The Boy Scouts of America Bicentennial participation, an Afro-American Bicentennial Corporation progress report, and a report on an ARBC Study by Arthur D. Little Inc.

On Tuesday, February 22, the Fifty States National Bicentennial Conference will convene at 9:00 A.M. in the International Ballroom West, Washington Hilton Hotel. Regional Group discussion will convene at 1:30 P.M., following which the full Conference will reconvene at 3.30 P.M. for the duration of the afternoon. At 9:00 A.M. on Wednesday, February 23, the Conference will again convene in the International Ballroom West for a full day session.

At 10:00 A.M. on Thursday, February 17, at the National Press Club, American Airlines announced in a press conference its decision to host on NBC a ten-part series of specials on "The American Experience" in honor of the Bicentennial. Program host Chet Huntley along with officials of the airlines and the network and ARBC Director Jack I. LeVant discussed initial plans of the project which is to commence in the Fall, 1972.

Following a meeting with Philadelphia Mayor Frank L. Rizzo on Thursday, February 10, ARBC Chairman David J. Mahoney announced that a final deadline of March 15 has been imposed on the city for an Expo plan, which must present not only a feasible site but also an acceptable cost breakdown, assurance of political and neighborhood support in Philadelphia, objectives and theme for the Expo, and a timetable for bringing one about. At the news conference William L. Rafsky, Chairman of The Executive Committee of the Bicentennial Corporation, said "We're confident on March 15 we will be presenting a plan that will be acceptable to the Commission and the Department of Commerce and Congress."

Winners were announced recently in a competition to design the official seal for the Rhode Island Commemoration of the Bicentennial. Prizes were awarded in ceremonies in Governor Licht's office. Top prize of $1,000 went for a design depicting the State's independent man and a Colonial Minuteman standing together, encircled by 13 stars and the words, "Rhode Island Bicentennial, 1776–1976." A student at the Rhode Island School of Design took first prize in the college division of the contest and was awarded $500 for his design of our stylized figures, "ri76".

The wives of the White House Fellows were guests for a morning briefing on ARBC activities at Washington Headquarters on February 14. AABC Director LeVant was host to the group assisted by Perdita Champey, Communications Department and Project Manager for Women's Activities for the ARBC. The ladies were shown the ARBC film presentation.

Following the lead of the City of Hartford (Conn.) the City of Scranton (Pa.) is embarked upon a campaign to create an American Flag made entirely of living flowers in honor of the Bicentennial. Plans are underway for a fund-raising campaign for certain flowers to be grown in the City's Nay Aug Park Greenhouse, so that the Bicentennial "Growing Flag" can be dedicated this coming July 4th.

A Buffalo (N.Y.) councilman with the Recreation and Urban Beautification Subcommittee of the Citizens Advisory Committee on Community Improvement has submitted a proposal outlining a clean-up program for Delaware Park and its polluted lake in an effort to designate the project a national Bicentennial goal.

The New Jersey Historical Commission, in a resolution adopted unanimously on February 9, has called on the State Government to create a special agency to coordinate the State's celebration of the National Bicentennial. The Commission wants its own role in the observance confined to "appropriate historical projects pertinent to New Jersey's significant role in the Revolution." Chairman John T. Cunningham and the Commission expressed the hope "that the State may effectively proceed with a sense of urgency to the next phase in planning for the Bicentennial."

On February 24, the first meeting of a 26-member committee to lead Baltimore's Bicentennial commemoration will be held at the invitation of Mayor Schaefer, Honorary Chairman of the Committee. Baltimore Attorney, Robert J. Thiebiot, a member of the Board of School Commissioners and also of the Historical and Architectural Preservation Commission, has been named Chairman. The appointments to the Baltimore City Bicentennial Committee were announced last week by Wilson K. Barnes, Chairman of the Maryland ARBC.

The Speech Communication Association, representing 8,000 specialists in speech communication (most of them in higher education) has appointed a Bicentennial Coordination Committee to lead the Association in planning a comprehensive Bicentennial program for 1976. Chairman of the Committee is Dr. James McBath, Department of Speech Communication, University of Southern California.

Twenty-two organizations were represented at the ARBC Heritage '76 Committee Advisory Panel meeting held on February 11 at ARBC Headquarters in Washington. According to James Biddle, Chairman of the Heritage '76 Committee, the three Panels, Historic Conservation, Commemoration and Convocation, Publications and Research met individually in workshop sessions and then jointly to discuss guidelines and suitable national programs that the Panels could initiate.

It was reported this week in the Washington Star that the Virginia General Assembly will soon ask Congress to "expedite a tour of the Liberty Bell" from Philadelphia's Independence Hall by truck and highway in honor of the Bicentennial, so, the Assembly was quoted, "That it may have the best possible access to as many American citizens as possible."

## THE INCHWORM

### HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 22, 1972*

**Mrs. GRASSO.** Mr. Speaker, an annual event of interest to Connecticut young people is the designation of the winner of the Connecticut Regional Scholastic Creative Writing Award. Entries in the annual contest, sponsored by the Hartford Courant Parade of Youth, are accepted in poetry, short story, short-short story, formal and informal article, dramatic script and critical review. The judging panel includes teachers, professors, book reviewers and journalists.

The top scholastic award, the Hartford Courant Parade of Youth Literary Award, a scholarship to a 5-week summer term at Trinity College, was won by a 12-year-old student at Saint Ann's Junior High School in New Britain, Miss Denise Graveline. A copy of the top entry follows:

THE INCHWORM

(By Denise Graveline)

Little Tommy Peterson was walking to the library one sunny Tuesday clutching his book closely to him. This past week, he had chosen The Ugly Duckling, and he had liked it so much that his mother took him to see the movie, The Ugly Duckling.

Now it was time to return the book and all of his six years regretted it. He had especially liked the part about the inchworm. As he stood in line to return his book, he thought about the song in the movie. It was so nice! Well, this week maybe he would find another book just as good.

"Hello, Tommy. Did you enjoy your book?" asked the librarian, jolting him out of his daydreams. "Yes, I did, Mrs. Herring. Do you have any more books like this one?" he asked.

"Yes, Tommy, right over there," she replied, pointing to one of the shelves.

Tommy ran over there quickly, and began looking for more Hans Christian Andersen books. He finally chose a book with assorted fairy tales, and as soon as he had checked it out, he hurried out of the door and into the bright daylight.

While walking home, suddenly an inchworm dropped on an invisible thread in front of his freckled nose. A soft, silvery voice said, "Hello, Tommy. My name is Marcus. I'm an inchworm, as you can see. I'm to stay with you for awhile, so why don't we get acquainted?"

"Yes, sure," said Tommy. "Say aren't you the inchworm that Hans Christian Andersen wrote about?"

"No, that was my great-great-great-great-grand uncle. He talked, too. In fact, when he wasn't measuring, you'd often find him deep in conversation with Mr. Andersen. Mr. Andersen was an old family friend," concluded the worm. "But now, hadn't we better get going? We can talk on the way," he said.

Tommy began walking again. "Do you measure marigolds too?" he asked.

"No, I measure petunias. All of us inchworms have a different flower. That one there," he said, pointing to a rose, "is the type that my sister measures."

"Here we are," said Tommy, as they came to a small white house. "There is a petunia plant in my room. Gee, I'm awfully glad that you came," he said. "They went into a room decorated with pictures of ships and planes. On a window sill stood a petunia plant, just as Tommy had promised.

"Marcus, do you know any tricks?" asked Tommy.

"Sure, watch me," said Marcus. He inched along the petunia stalks until he reached the top, and there he turned somersaults, rolls, and formed all of the alphabet, and the numbers from zero to nine. Then he stood on one of the petals and bowed.

"Hurray! Boy, Marcus you are fun!" said Tommy. "I'll keep you a secret. Mom and Dad wouldn't understand. You could stay forever, as far as I'm concerned," he said.

"Thank you, Tommy. I'm glad you're such a good friend. Now, would you lift me up to that blossom, please? It's much faster than inching," said Marcus. After he was put on the blossom, he curled up in the center and began to sleep. Tommy crept away and started to do his homework.

Later that evening, Tommy went upstairs with a thimbleful of milk and another one with honey. Marcus accepted them and ate. When he was finished, he said, "Let's play a game. I'll form letters and words to make messages."

"O.K." said Tommy. So Marcus spelled out these messages:

You are a good friend;
Thank you for supper; and
How about going to bed?

"Sure, Marcus," said Tommy giggling. He shut off the light and they went to sleep.

The next few days were spent happily. Tommy had a few days of vacation and he and Marcus decided that Tommy's mother should know about Marcus. Of course, she didn't know that he could talk, but as Tommy said, "It would be easier to give him food openly, instead of sneaking it."

Marcus helped Tommy quite a bit. Tommy improved immensely in reading and math. There was time for fun, too, like the time they had a picnic by the river.

Then one day, Marcus was gone! Tommy and his mother searched everywhere, but in vain. Half-heartedly, Tommy, at his mother's suggestion, searched the potted plants. "I just don't understand, Mom," he said. "Marcus was so happy here. He liked the petunias, and gosh, you even took care of him, too. He was grateful, I know."

He continued to search. There were many flowers to look in, narcissus, marigolds, pansies and others. Just then he heard a small sneeze coming from a marigold. He looked, and there was Marcus! Marcus sneezed again, again, and once more. Tommy just started happily and then Marcus spoke up.

"Tommy, I'm sorry that I ran away, but Tom, I just found out something."

"What?" asked Tommy.

"Every inch of me is allergic to petunias!"

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## PRESIDENT NIXON REAFFIRMS HIS STAND AGAINST BUSING

### HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BAKER. Mr. Speaker, last week, in a conference with congressional leaders, President Nixon reaffirmed his stand against court-ordered busing for the purpose of achieving racial balance in our Nation's schools.

I am proud two Republican Senators from my own State of Tennessee, Hon. HOWARD BAKER, JR., and Hon. BILL BROCK III, were prominent among those participating in the conference. Both echoed my own views as they urged Presidential support of our constitutional amendment to prohibit assignment of students to any school on the basis of race, color, or creed.

The President's announcement that he has ordered a study to determine the best means of halting busing is clear evidence of his position on this crucial issue. It comes as a source of encouragement to all of us—legislators, concerned teachers and parents, and students—who have been fighting Supreme Court rulings calling for busing since the day they were handed down.

At the same time, the President announced. he will continue to explore other possible avenues other than a constitutional amendment to halt busing, including administrative enforcement of court orders and legislative means.

The Nashville Banner, known statewide for its clear-thinking editorials in support of individual freedom and local government, recently published an article praising the President for his continued fight against busing. I join with its author in lauding our chief executive and expressing the hope he will back our constitutional amendment.

The editorial follows:

#### BY LAW OR AMENDMENT: NIXON SEEKS BEST COURSE TO END FORCED BUSING

As a responsible steward, who has taken oath to uphold and defend the Constitution of the United States, President Nixon is a "strict constructionist" where that organic law is concerned. So are millions of other Americans, likewise opposed to judicial or other contortions twisting the instrument to suit themselves for accomplishment of eccentric, factional, divisive purposes.

Repeatedly the President has declared his personal and official view that public school controls belong in the hands of local school boards; meaning that they do not belong in hands remote from the community scene—in bureaucratic hands at the Washington or regional level, or subject to manipulation by the federal courts.

He spelled out that view again yesterday—announcing that he had ordered a study to determine if a constitutional amendment is the best and surest way to prevent forced busing to achieve integration in the public schools. And for that study he has invited backers of the amendment proposals, including notably, both Tennessee Senators who have been pushing for the amendment course. Senator Brock has presented an amendment of his own, and Senator Baker has urgently endorsed it.

What the President means is not a question of the advisability of prohibiting the massive busing that has been ordered by courts and HEW people (as in Metro Nashville)—but a question of the surest way to permanently estop that outrageous federal usurpation of school authority. His stand is against busing for the purpose stated; the intention of this study is simply to determine which avenue of debarment is best.

No American citizen can doubt where President Nixon stands on the issue of massive, forced busing—nor can any question the fact of his intentions to do something about that monstrous invasion on local responsibility. As he said in his State of the Union speech, again, local school controls belong in the hands of local school boards.

This newspaper believes the best course for enforcement of that principle would be a constitutional amendment—having not only the sanction of Congressmen in the ratio required, but the clear decision of the American people, again as stipulated by the amending process.

In enacting the Civil Rights Act of 1964, Congress provided in precise language that busing to achieve racial balance in the schools was forbidden. That was ignored by the court rulings—and by the HEW manipulators in alias-oriented Name of the Game.

Because of that, sponsors have chosen the amendment-approach. By that approach, especially with full White House backing, justice and reason can be restored to school operations at the community level all over the nation. It would post the "No Trespassing" sign where it has been needed these many years.

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## TRIBUTE TO EVERETT McKINLEY DIRKSEN

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. MICHEL. Mr. Speaker, during the Lincoln Day recess it was my good fortune to participate in an annual Lincoln Day dinner sponsored by the Tazewell County Republican Committee, held at Pekin Community High School.

Pekin, you will recall, was the hometown of our late, beloved friend, Everett Dirksen, the former distinguished minority leader of the Senate and longtime Member of this House before that.

We all cherish the memory of Everett Dirksen and at that banquet, a longtime friend of the late Senator's and of mine, Miss Nina Hammer, gave very moving tribute to Everett. I think it deserving of being included in the RECORD, and that it be printed at this point:

#### EVERETT M. DIRKSEN

In this moment of remembrance of Everett McKinley Dirksen may we recall thoughts that are now his legacy to us.

Let the first be his gracious greeting that always preceded his address:

"It is so good to be home again." How warmly he said it! "It is so good to be home again." The memory shall be one of our treasures.

Through the years we heard how America and leaders of the world valued his judgment.

When a problem came to him, he studied it, did individual research, consulted with others. No effort or leader was too great or too far away for him to consider. Seriously he assembled the facts, weighed the opinions, studied the lessons from history that applied and then just when all was ready for his decision he asked a question: "Is it good for the people of the country? Is it good for the people of the country?" His answer to that question directed his decision.

He cherished the privilege of representing the people and he never forgot his duty to serve them well—as he said "to the best of my ability". The record shows his decisions were good, and we the people had faith in him.

When he was home he and Mrs. Dirksen loved to work in their garden. He spoke of it often—the violets, trillium, the staunch little Jacks-in-the-Pulpit and others. Among these others there was one that captured his interest, for it seemed to covet more than its share of the light and energy of the earth's nearest star. It was a gorgeously radiant robust flower and Mr. Dirksen shared his joy in it by calling the attention of the nation to the vibrant beauty of the marigold.

Not the least of our memories of him were his words from the Book of Nehemiah 4–5. He would shout almost as he quoted them and his gestures enforced the power and earnestness in his voice. "And so built we the wall—for the people had a mind to work. And so BUILT we the wall for the people had a mind to work."

What memories! What a legacy!

1. It is so good to be home again.
2. Is it good for the people of the country?
3. To the best of my ability.
4. The marigold.
5. And so built we the wall—for the people had a mind to work.

God bless the memory of Everett McKinley Dirksen.

And may we like him have a mind to work for the good of all the people.

## FARM PRICE INCREASES

## HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. SEBELIUS. Mr. Speaker, just this week I received in the mail an open letter from the National Council of Farmer Cooperatives regarding high food costs.

The letter, signed by Kenneth D. Naden, executive vice president of the National Council of Farmer Cooperatives, points out a most significant fact. Contrary to what many think, farm prices have led the fight against inflation in recent years. Due to the interest on the part of every Member of this body, I urge my colleagues to consider these facts before they jump to any conclusions regarding price ceilings or farm products or increasing any meat imports:

NATIONAL COUNCIL OF
FARMER COOPERATIVES,
*Washington, D.C., February 18, 1972.*

Re Farm Price Increases.

*Open letter to Members of Congress:*

In the past two weeks some members of Congress and others have attacked recent rises in farm prices. Critical comment has centered on the 20-year high in beef prices reached in January. Many comments imply that these rising farm prices are not in the national interest.

Such statements distort the farm price situation by omitting relevant facts. The facts are that although live cattle prices are now back up to 1951 levels, farm food prices increased only 7% totally during that 20-year period. This cannot be called inflationary. It is far below the increase justified by farm productivity.

Yet, during the same period:

Money paid to wage earners *increased* 340%.

Money paid to government employees *increased* 430%.

Business and professional income *increased* 200%.

Dividends *increased* 300%.

(Source: USDA.)

These critics seem to imply that farmers don't have the same right to earn a fair income as do their urban counterparts. Indeed, they fail to point out that low farm prices have led the war on inflation in recent years.

Demands by some for ceilings on raw farm products fail to take another fact into consideration. Namely, that farm prices are now, and always have been, subject to a form of control that's far more rigid, pervasive, and effective than present government controls—*severe price competition*. Farm prices are sharply limited by (1) competition among many producers; (2) competition from unplanned and unrestricted output; and (3) competition from many close substitutes of each product. The practical result of this is that many farm products are sold for long periods of time at prices below cost of production.

No other sector of the economy has such handcuffs on it. And, no more effective form of consumer protection can be devised. In fact, consumer spokesmen have long deplored, and rightly, the absence of this kind of competition in wide areas of business and labor. Certainly, this absence was a major factor requiring the Economic Stabilization Act and the present program of federal controls.

As long as farm prices are formed under such severe competitive conditions, neither consumers nor their spokesmen need fear a modest increase in farm prices caused by: (1) a short supply situation; and (2) strong consumer insistence on high-quality food. These increases cannot be considered abnormal or harmful or inflationary.

We urge you to keep these and other relevant facts before you in analyzing the current food price changes.

Sincerely yours,

KENNETH D. NADEN,
*Executive Vice President.*

## SALUTE TO THE FFA

## HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. FINDLEY. Mr. Speaker, "Youth With a Purpose," is the theme of National FFA Week being observed this week throughout the United States by the Future Farmers of America.

The 1972 FFA Week theme is most appropriate because, in the many years I have closely watched the Future Farmers of America, its members truly are youth with a purpose. That purpose is to equip themselves for leadership in life and to develop their individual abilities.

In our modern world when too many young people are felt to be drifting without much direction in their lives, FFA members represent a refreshing departure from that unfair label which often blankets today's youth.

The FFA is an organization of youth with a purpose—young men, and, recently, young women who have as their goal becoming a part of the dynamic industry of agriculture. Preparation for an agricultural career begins for these young people through participation in vocational agriculture classes.

The instructional program of vocational agriculture is supplemented by the FFA activities providing an opportunity for gaining experience and responsibility with a minimum of adult supervision.

The FFA was founded with a purpose— to develop leadership, citizenship, and cooperation among its members. I salute this outstanding youth organization and call attention of my colleagues to the activities and accomplishments of the FFA during National FFA Week.

## BIASED COVERAGE OF BIASED HEARINGS?

## HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BROWN of Ohio. Mr. Speaker, the Senate Subcommittee on Constitutional Rights has been holding a series of hearings on newsmen's privilege. I have watched with interest much of the television and radio coverage of witnesses who have charged "Goverment intimidation" of the press. I have seen very little coverage of any witnesses who have taken the other side: that such "intimidation" is not present in our system, but that the press is subject to its own biases in reporting the news.

Accuracy in Media, an organization which seeks to promote the accurate reporting of news events, released a statement February 16, which points out what the organization feels has been biased reporting of biased hearings. I would like to submit the statement for insertion in the RECORD for the benefit of my colleagues who have not had the opportunity to read in the press, where it received only remote attention:

### AIM CHARGES BIASED COVERAGE OF BIASED HEARINGS ON NEWS MEDIA

Abraham H. Kalish, Executive Secretary of Accuracy in Media, charged today that the television networks had heavily slanted their coverage of the recently concluded Ervin Committee hearings on the news media. Kalish said that the hearings, chaired by Senator Sam Ervin of North Carolina, were heavily stacked with witnesses who represented or defended the views of broadcasters and newspaper publishers and journalists. Spokesmen giving the point of view of the consumers of the news media product were sorely lacking, he said. He said this was difficult to justify at a time when the importance of consumer interests is being stressed in every other field. He said that any serious investigation dealing with the news media should concern itself with the justifiable complaints of the consumers about monopolistic practices in the news industry, inaccurate and slanted reporting, and the arbitrary blacking out of reporting of news and views at the whim of journalists and publishers.

Mr. Kalish said that one of the most interesting stories connected with the Ervin Committee hearings related to the refusal of those who arranged the hearings to permit Dr. Francis G. Wilson, President of Accuracy in Media, to testify. Mr. Kalish said that permission for Dr. Wilson to testify had been sought well in advance of the hearings, and that AIM had been led to believe that he would be heard as a spokesman for the consumers of the news media product. Dr. Wilson submitted to the Committee a well-documented statement, citing many of the legitimate complaints of the public. He emphasized the right of the public to know. Despite semi-promises, Dr. Wilson was not given an opportunity to testify in a hearing that was concerned, ironically, with freedom of information. Kalish said that it was not even clear whether or not Dr. Wilson's important statement will be included in the published hearing report.

Mr. Kalish pointed out that the network television coverage of the Ervin Committee hearings illustrated the existence of serious slanting in news reporting. He said that careful monitoring of the nightly network TV news programs showed that both CBS and NBC had given very generous coverage to defenders of the broadcasters, publishers and newsmen who had expressed the industry viewpoint in their testimony before the Ervin Committee. ABC was less generous in its coverage, but it gave nearly all of the industry spokesmen some coverage.

On the other hand, the few witnesses whose testimony was somewhat critical of the news media were almost completely ignored by network TV. Kalish said that Edith Efron, author of the new book, "The News Twisters", a well-documented analysis of bias of TV networks, testified before the Ervin Committee on February 2; but her testimony was *completely ignored by all three TV networks* in their nightly news shows. The UPI, AP, and the Washington Post, however, ran 300 word stories of her testimony.

A table showing network TV coverage of the Ervin Committee on the nightly TV news shows is appended:

NETWORK TV NIGHTLY NEWS SHOW COVERAGE OF ERVIN HEARINGS ON FREEDOM OF THE PRESS

[Time devoted to testimony (minutes and seconds)]

| | CBS | ABC | NBC |
|---|---|---|---|
| Sept. 28: Norman Isaacs attacks subpenas and intimidation | 2:25 | 0:30 | 2:20 |
| Sept. 29: Frank Stanton attacks FCC intimidation and subpenas | 2:30 | 20 | 2:00 |
| Sept. 30: Walter Cronkite speaks | 2:50 | 25 | 2:15 |
| Oct. 12: Julian Goodman and Fred Friendly discuss fairness | 2:30 | 1:30 | 2:30 |
| Oct. 13: Harold Andersen, president, Omaha World Herald, "We should welcome outside criticism" | 25 | | 20 |
| Oct. 14: Elmer Lower of ABC on intimidation and subpenas | | 20 | 1:15 |
| Oct. 19: David Brinkley of NBC defends objectivity | 2:20 | | 2:20 |
| Oct. 30: Commissioner Dean Burch defends FCC | 2:00 | | 2:00 |
| Feb. 1: Daniel Schorr of CBS | 2:20 | 2:05 | 2:05 |
| Feb. 2: Edith Efron, author of "The News Twisters" revealing bias of TV networks | | | |

## BENEFITS FROM SPACE PROGRAM

### HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. PETTIS. Mr. Speaker, in examining our priorities in the area of space exploration, I believe we must place the primary emphasis on those projects from which we will derive the greatest benefits to mankind. The space shuttle is, in my view, an outstanding project which will provide limitless near-earth benefits particularly in the fields of weather forecasting and communications technology.

In light of the importance of the space shuttle to the American people, I am glad to bring to the attention of my colleagues the reply of my good friend and esteemed colleague, the Honorable JAMES GROVER, Jr., to a WCBS–TV editorial on the space shuttle. He has made an excellent analysis of the benefit which will accrue from the space shuttle.

WCBS–TV EDITORIAL REPLY

A recent editorial on WCBS–TV discussed the proposal for a space shuttle and suggested that it is not consistent with our nation's priorities.

I differ with this conclusion. The success of our moon exploration was not only dramatic and historic, it also led to vast expansions of scientific knowledge, advances in medicine, and the opening of new vistas for technological advance.

With our new concentration on near and inner space, the space shuttle will accelerate developments in those directions with prospects for even greater accomplishments for mankind in communications, navigation, weather, the study of our earth resources and indeed in our number one priority, the very preservation of the human environment.

The Channel Two editorial also attacked the proposed reusable space shuttle on the basis of economy. The projected investment for the shuttle which, with its payloads will constitute essentially our entire space program, is far less than the investment in the Apollo moon program in the past ten years.

The space program, which has perhaps been the most positive American impact on the international scene in the past decade, is currently and will continue to be but a small fraction of our national budget. The NASA budget has declined markedly, while other expenditures have increased. The shuttle will not exceed 30 per cent of the NASA budget for development and will constitute only 15 per cent once in full operation. As you can see, we are taking care of vital human resource needs and the other major elements of the federal budget.

The cost of the space shuttle, even if we assume a constant annual national budget for the next ten years, will be only one-half of one per cent of our national annual budget—a very attractive and vital investment for the American people.

## THE MOSCOW TREATY

### HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. WHITEHURST. Mr. Speaker, debate is mounting in Germany over the Moscow Treaty, which is the manifestation of the Brandt Ostpolitik. A great deal of publicity has been given to this policy, and indeed high hopes have been raised that it heralds a new era in German-Russian relations.

I doubt that many Americans are aware of the full implications of that policy, because upon studying the Moscow Treaty, I am not convinced that future German or European interests have been fully served by it. It would appear that Germany's best hope lies in its integration in the European Community, and that its unilateral negotiation permits the Soviets the opportunity to drive a wedge into the European Community.

My deepest misgiving about the Moscow Treaty is that it solidifies and legalizes Soviet territorial aggrandizement. In spite of the passage of a generation, it seems to me that this was an unnecessary concession. I fear also that the security of Berlin and the rights of access to it are little improved. For the foreseeable future, the integrity of Berlin will continue to rest upon an American presence and American determination. The Soviets have made no visible concessions, and their promises of renunciation of force are hardly supported by their record.

Years ago, a wise philosopher said that eternal vigilance is the price of liberty. That principle is just as valid today.

Mr. Speaker, I recognize that the matter of acceptance or rejection of the Moscow Treaty is something for the Germans themselves to resolve, but I would hope that the American Government would not go on record in any way in giving encouragement to its acceptance.

## CONGRESS SHOULD MONITOR EXISTING PROGRAMS

### HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ROBISON of New York. Mr. Speaker, the job of Congress does not end with the authorization and appropriation for a new program. It is also of crucial importance that Congress monitor existing programs so that it can evaluate their effectiveness and correctly determine whether they should be continued, modified, or disbanded with the passage of time.

It is in this spirit that I was pleased to receive recently a letter from Hon. John C. Gridley, chairman of the board of supervisors of Chemung County, N.Y., which is in my congressional district. Mr. Gridley wrote about the use in his county of Federal funds under the Emergency Employment Act—a program passed into law only last summer. Already, 310 people have been put to work in Chemung County under its auspices; that large a number being hired as a result of the county receiving a portion of the Secretary's discretionary funding under the act in addition to its regular allotment.

It is obvious from the facts presented by Mr. Gridley that this community was able to place individuals into useful jobs and to do so quickly and efficiently. The full text of his letter follows:

COUNTY OF CHEMUNG,
BOARD OF SUPERVISORS,
*Elmira, N.Y., February 17, 1972.*

Hon. HOWARD W. ROBISON,
*Rayburn House Office Building,*
*Washington, D.C.*

DEAR HOWARD: We are most appreciative in Chemung County of your valued assistance in having us named eligible for United States Labor Department Emergency Employment Act funding.

At a time when we have been experiencing unemployment close to 8%, we have needed some stimulus to reverse a trend of personal lay-offs due to a sluggish economy. In addition, two manufacturing plants have recently announced the closing of their operations attributable mainly to foreign competition and the introduction of cheaper products, which quite frankly, the surcharge on those products would have been the salvation of our local plants, had this been followed through in Washington.

The implementation of Sections 5 and 6 have enabled us to find gainful employment for Veterans returning from the Vietnam conflict and the special High Impact Demonstration Project is already effecting some change in welfare roll allocations.

Through the three programs, $1,928,400.00 has been approved for this county. The county government has assumed the responsibility of directing job allocations, scheduling of projects and all accounting duties. We have set up a roving work force concept to do assorted projects for all municipal governments and have also directly assigned people to city government jobs and school district jobs.

Witness to the fact of the cooperative spirit engendered among municipal governments is that out of a total of 317 job slots set up, 310 have been filled for public service work, and the remaining 7 are being temporarily held pending arrival of equipment for a newly established county-wide solid waste disposal district, which equipment these people will operate.

Despite misgivings from many quarters on the justification of "make work projects", we believe that this is already a successful program.

The outstanding projects thus far have been with our roving labor forces who have directly saved local property tax dollars approximating close to $100,000. For example on one alone, we had quotes close to $80,000 from private contractors to clear brush and trees underneath power lines running to hilltop airport beacon lights with a time estimate of six months. With our EEA crews properly equipped and supervised, the job is now almost completed within two months with a direct local tax expenditure of about $300.00 for equipment.

Public Law 92-54, Section 2 (5) delineates areas of endeavor that we are attempting to follow. We have encouraged recommendations from the courts, police agencies, district attorney and, of course, the social service agencies for job applicants. The New York State Department of Labor has referred over 1400 people to us. A blend of Veterans, people with college degrees as well as those with not even an ability to read or write, people on probation or parole—even some currently under indictment—have been melded together. Thus far we have had only a 10% turnover due to firing for just cause or refusal to show for work. Any welfare recipient refusing to work is automatically taken off welfare assistance for thirty days.

We are setting up avenues through both the Board of Cooperative Educational Services operated by local school districts, and the New York State Vocational Rehabilitation Department for on-the-job training. Already in our program we have absorbed a half dozen people in our full-time departmental set-up and certainly hope to absorb the 50% quotient by the end of the EEA program.

In summation, this program is working well after a slow start up. It does also highlight what further beneficial programs could be evolved more completely and more rapidly if the Congress would pass the much-needed revenue sharing plan.

Cordially yours,

JOHN C. GRIDLEY, *Chairman.*

## VOTING RECORD OF HON. BILL FRENZEL, 92D CONGRESS, FIRST SESSION

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### HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. FRENZEL. Mr. Speaker, I have received several inquiries concerning my voting record for the first session of the 92d Congress. In order that this information be more readily available, I am submitting for the RECORD my votes for 1971. In addition, also submitted herewith is a listing of bills which I have sponsored or cosponsored.

This voting record and bill list do not show a complete congressional profile, but I hope they will be helpful to my constituency.

The list follows:

MEMBER'S INDIVIDUAL VOTING RECORD—HON. BILL FRENZEL—92D CONG., 1ST SESS.

[NVF—Not voting, paired for; NVA—Not voting, paired against]

| Roll No. | Date, 1971 | Page in daily Record | Description | Member's response |
|---|---|---|---|---|
| 1 | Jan. 21 | H1 | Call by States | Present. |
| 2 | do | H2 | Election of Speaker | Ford. |
| 3 | do | H6 | Call of the House | Present. |
| 4 | do | H6 | do | Do. |
| 5 | Jan. 22 | H57 | do | Do. |
| 6 | do | H60 | do | Do. |
| 7 | do | H66 | H. Res. 5 (on previous question) | Nay. |
| 8 | do | H68 | do | Nay. |
| 9 | do | H69 | H. Res. 5 (on amendment) | Yea. |
| 10 | do | H70 | H. Res. 5 (on agree to resolution) | Nay. |
| 11 | Feb. 2 | H362 | Call of the House | Present. |
| 12 | Feb. 4 | H428 | do | Do. |
| 13 | do | H434 | H. Res. 193 (on previous question) | Nay. |
| 14 | Mar. 2 | H1100 | H. Res. 264 (on agree to resolution) | Not voting. |
| 15 | Mar. 3 | H1144 | Call of the House | Present. |
| 16 | do | H1173 | H.R. 4690 (on passage) | Yea. |
| 17 | Mar. 10 | H1379 | Call of the House | Present. |
| 18 | do | H1391 | H.R. 4246 (on passage) | Yea. |
| 19 | do | H1398 | H.R. 5432 (on passage) | Yea. |
| 20 | Mar. 16 | H1585 | H.R. 4690 (agree to conference report) | Yea. |
| 21 | do | H1589 | H.J. Res. 465 (on passage) | Yea |
| 22 | Mar. 17 | H1630 | Call of the House | Present. |
| 23 | do | H1630 | do | Do. |
| 24 | Mar. 18 | H1715 | do | Do. |
| 25 | do | H1748 | H.J. Res. 468 (Yates amendment) | Yea. |
| 26 | Mar. 23 | H1819 | Call of the House | Present. |
| 27 | do | H1856 | H.J. Res. 223 (agree to joint resolution) | Yea. |
| 28 | Mar. 24 | H1937 | H. Res. 339 (on agree to resolution) | Yea. |
| 29 | do | H1959 | H.R. 7 (on passage) | Nay. |
| 30 | Mar. 3 | H1173 | H.R. 4690 (Patman amendment) | Nay. |
| 31 | Mar. 18 | H1748 | H.J. Res. 468 (agree to amenement) | Yea. |
| 32 | Mar. 29 | H2072 | H. Res. 349 (consideration of) | Yea. |
| 33 | do | H2077 | Call in committee | Present. |
| 34 | do | H2077 | S.J. Res. 55 (on amendment) | Nay. |
| 35 | Mar. 30 | H2123 | Call in committee | Present. |
| 36 | Mar. 31 | H2221 | Call of the House | Do. |
| 37 | do | H2249 | H.R. 6531 (on amendment) | Nay. |
| 38 | do | H2258 | do | Yea. |
| 39 | Apr. 1 | H2332 | Call of the House | Present. |
| 40 | do | H2343 | Call in committee | Do. |
| *41 | do | H2345 | H.R. 6531 (on amendment) | Yea. |
| *42 | do | H2359 | do | Nay. |
| *43 | do | H2370 | do | Nay. |
| *44 | do | H2371 | do | Yea. |
| 45 | do | H2388 | H.R. 6531 (on passage) | Yea. |
| 46 | Apr. 6 | H2463 | Call of the House | Absent. |
| 47 | do | H2478 | Call in Committee | Present. |
| 48 | do | H2492 | H. Res. 356 (on agree to resolution) | Nay. |
| 49 | do | H2495 | Call in committee | Present. |
| 50 | do | H2502 | H.R. 5981 (on preferred motion) | Yea. |
| *51 | Apr. 7 | H2560 | Call in committee | Present. |
| *52 | do | H2588 | H.R. 7016 (on amendment) | Nay. |
| *53 | do | H2605 | H.R. 7016 (Conte amendment) | Yea. |
| 54 | do | H2611 | H.R. 7016 (on passage) | Yea. |
| 55 | Apr. 19 | H2661 | H.R. 1535 (suspend rules and passage) | Yea. |
| 56 | Apr. 20 | H2697 | Call of the House | Present. |
| 57 | do | H2708 | Call in committee | Do. |
| 58 | do | H2711 | H.R. 4724 (on passage) | Yea. |
| 59 | Apr. 21 | H2755 | Call of the House | Absent. |
| 60 | do | H2756 | do | Do. |
| 61 | do | H2761 | do | Do. |
| 62 | do | H2762 | do | Do. |
| 63 | Apr. 21 | H2762 | Call of House | Absent. |
| 64 | do | H2771 | Call in committee | Do. |
| 65 | Apr. 22 | H2883 | Call of the House | Present. |
| 66 | do | H2897 | H.R. 5376 (motion to recommit) | Nay. |
| 67 | do | H2898 | H.R. 5376 (Tiernan amendment) | Yea. |
| 68 | Apr. 27 | H2985 | Call of the House | Present. |
| 69 | do | H2991 | H.R. 2598 (motion to recommit) | Nay. |
| 70 | do | H2998 | H.R. 6417 (on passage) | Nay. |
| 71 | Apr. 28 | H3138 | Call of the House | Present. |
| 72 | do | H3159 | H.R. 6444 (on passage) | Yea. |
| 73 | Apr. 29 | H3204 | Call of the House | Present. |
| 74 | do | H3223 | H. Res. 274 (on amendment) | Nay. |
| 75 | do | H3224 | H. Res. 274 (motion to recommit) | Nay. |
| 76 | do | H3225 | H. Res. 274 (on agree to resolution) | Yea. |
| 77 | May 3 | H3301 | Call of the House | Present. |
| 78 | do | H3315 | H.R. 6283 (motion to suspend) | Yea. |
| 79 | May 4 | H3449 | S. 531 (on passage) | Not voting. |
| 80 | May 5 | H3486 | H. Res. 422 (on agree to resolution) | Yea. |
| 81 | do | H3490 | H. Res. 423 (on agree to resolution) | Yea. |
| 82 | do | H3496 | H.R. 4604 (on passage) | Yea. |
| 83 | May 6 | H3571 | Call of the House | Present. |
| 84 | do | H3576 | H. Res. 412 (on agree to resolutions) | Nay. |
| 85 | May 10 | H3660 | H.R. 5638 (on passage) | Yea. |
| 86 | May 11 | H3734 | Call of the House | Present. |
| *87 | do | H3772 | H.R. 8190 (Giaimo amendment) | Yea. |
| 88 | May 12 | H3836 | Call of the House | Present. |
| *89 | do | H3855 | H.S. 8190 (Boland amendment) | Nay. |
| 90 | do | H3861 | do | Nay. |
| 91 | May 17 | H3955 | H.R. 7271 (motion to suspend) | Yea. |
| 92 | do | H3959 | H.R. 5257 (motion to suspend) | Yea. |
| 93 | do | H3973 | H.R. 56 (motion to suspend) | Yea. |
| 94 | do | H3977 | H.R. 5060 (motion to suspend) | Yea. |
| 95 | do | H3980 | H.R. 2587 (motion to suspend) | Yea. |
| 96 | May 18 | H4036 | Call of the House | Present. |
| 97 | do | H4038 | do | Do. |
| 98 | do | H4047 | H. Res. 437 (on previous question) | Nay. |
| 99 | do | H4048 | H. Res. 437 (on amendment) | Yea. |
| 100 | do | H4048 | H. Res. 437 (on agree to resolution) | Yea. |
| 101 | do | H4050 | Call of the House | Present. |
| 102 | do | H4093 | S.J. Res. 100 (on 3d reading) | Yea. |
| 103 | May 19 | H4107 | Call of the House | Present. |
| 104 | May 20 | H4202 | H.R. 8190 (on agree to report) | Yea. |
| 105 | do | H4204 | H.R. 8190 (on motion to concur) | Nay. |
| 106 | May 24 | H4240 | H. Res. 415 (on agree to resolution) | Yea. |
| 107 | May 25 | H4290 | Call of the House | Present. |
| 108 | do | H4319 | H. Res. 411 (on agree to resolution) | Nay. |
| 109 | May 26 | H4379 | Call of the House | Absent. |
| 110 | do | H4398 | H. Res. 155 (on agree to resolution) | Nay. |
| 111 | June 1 | H4462 | Call in committee | Present. |
| 112 | June 2 | H4498 | Call of the House | Do. |
| 113* | do | H4530 | H.R. 3613 (Esch amendment) | Yea. |
| 114 | do | H4538 | H.R. 3613 (motion to recommit) | Yea. |
| 115 | do | H4538 | H.R. 3613 (on passage) | Nay. |
| 116 | June 3 | H4587 | H. Res. 452 (on agree to resolution) | Yea. |
| 117 | do | H4627 | H.R. 7109 (on passage) | Nay. |
| 118 | June 4 | H4704 | Call in committee | Present. |
| 119 | do | H4714 | H.R. 8825 (on passage) | Yea. |
| 120 | June 7 | H4757 | H.R. 8011 (motion to suspend) | Not voting. |
| 121 | do | H4762 | H.R. 1161 (motion to suspend) | Do. |
| 122 | do | H4784 | H.R. 7960 (on passage) | Do. |
| 123 | June 8 | H4859 | Call of the House | Absent |

| Roll No. | Date, 1971 | Page in daily Record | Description | Member's response |
|---|---|---|---|---|
| 124 | Jnue 8 | H4862 | H. Res. 465 (on agree to resolution) | Not voting. |
| 125 | June 9 | H4896 | Call of the House | Absent. |
| 126 | do | H4913 | H.J. Res. 617 (motion to recommend) | Not voting. |
| 127 | do | H4914 | H.J. Res. 617 (on passage) | Do. |
| 128 | June 10 | H4988 | Call of the House | Present. |
| 129 | do | H4999 | H. Res. 471 (on previous question) | Nay. |
| 130 | do | H5020 | H.R. 8866 (on passage) | Yea. |
| 131 | June 14 | H5085 | H.R. 8794 (on passage) | Yea. |
| 132 | June 15 | H5161 | Call of the House | Present. |
| 133 | do | H5165 | do | Do. |
| 134 | do | H5180 | S. 575 (on agree to conference representative) | Yea. |
| 135 | June 16 | H5185 | Call in committee | Present. |
| 136 | do | H5267 | do | Do. |
| *137 | do | H5284 | H.R. 8687 (Leggett amendment) | Nay. |
| *138 | do | H5293 | H.R. 8687 (Pike amendment) | Nay. |
| *139 | do | H5297 | H.R. 8687 (Stafford amendment) | Yea. |
| *140 | do | H5300 | H.R. 8687 (Aspin amendment) | Yea. |
| 141 | June 17 | H5338 | On motion to adjourn | Nay. |
| 142 | do | H5339 | H.R. 7016 (preferential motion) | Yea. |
| *143 | do | H5398 | H.R. 8687 (Mink amendment) | Nay. |
| *144 | do | H5399 | H.R. 8687 (Nedzi amendment) | Yea. |
| *145 | do | H5410 | H.R. 8687 (Pepper amendment) | Not voting. |
| 146 | do | H5414 | H.R. 8687 (on passage) | Do. |
| 147 | June 18 | H5449 | H. Res. 434 (on agree to resolution) | Nay. |
| 148 | do | H5454 | H.R. 7736 (on passage) | Not voting. |
| 149 | June 21 | H5510 | H.R. 5237 (on passage) | Yea. |
| 150 | do | H5517 | S. 1538 (suspend rules, pass) | Yea. |
| 151 | do | H5519 | H.R. 3146 (suspend rules, pass) | Yea. |
| 152 | do | H5536 | H. Res. 487 (on previous question) | Yea. |
| 153 | June 22 | H5586 | Call in committee | Present. |
| 154 | do | H5608 | do | Do. |
| 155 | do | H5630 | do | Do. |
| *156 | do | H5716 | H.R. 1 (Ullman amendment) | Nay. |
| 157 | do | H5717 | H.R. 1 (on passage) | Yea. |
| 158 | June 23 | H5738 | Call of House | Present. |
| *159 | do | H5774 | H.R. 9270 (on amendment) | Yea. |
| *160 | do | H5804 | do | Yea. |
| *161 | do | H5809 | do | Yea. |
| 162 | June 24 | H5862 | Call in committee | Present. |
| *163 | do | H5871 | H.R. 9272 (on amendment) | Nay. |
| *164 | do | H5876 | do | Nay. |
| 165 | do | H5885 | H.R. 9272 (on passage) | Yea. |
| 166 | June 28 | H5926 | Call of the House | Present. |
| 167 | do | H5943 | H.R. 6531 (on pref. motion) | Nay. |
| 168 | do | H5953 | Call in committee | Present. |
| 169 | do | H5958 | H.R. 9271 (on passage) | Yea. |
| 170 | June 29 | H6016 | Call of the House | Present. |
| 171 | do | H6058 | H.R. 9417 (on passage) | Yea. |
| 172 | June 30 | H6113 | H. Res. 489 (motion to table) | Yea. |
| 173 | do | H6124 | H.R. 7016 (agree to conference report) | Yea. |
| *174 | do | H5159 | H.R. 9382 (on amendment) | Nay. |
| 175 | July 1 | H6229 | S. 31 (agree to conference report) | Yea. |
| 176 | do | H6258 | H.R. 8629 (on passage) | Yea. |
| 177 | do | H6272 | H.R. 8630 (on passage) | Yea. |
| 178 | July 7 | H6384 | H. Res. 492 (motion to table) | Nay. |
| 179 | do | H6411 | H.R. 8805 (on passage) | Yea. |
| 180 | July 8 | H6454 | Call of the House | Present. |
| 181 | do | H6469 | Call in committee | Do. |
| *182 | do | H6472 | H.R. 8181 (on amendment) | Nay. |
| *183 | do | H6477 | do | Nay. |
| 184 | do | H6488 | H.R. 9093 (on passage) | Yea. |
| 185 | July 12 | H6538 | H.R. 8407 (on passage) | Yea. |
| 186 | July 13 | H6631 | Call of the House | Present. |
| 187 | do | H6639 | H.R. 8699 (on passage) | Yea. |
| 188 | do | H6669 | H. Res. 534 (motion to recomit) | Yea. |
| 189 | July 14 | H6709 | Call of the House | Present. |
| 190 | do | H6737 | H.R. 9667 (on passage) | Yea. |
| 191 | July 15 | H6761 | Call of the House | Present. |
| *192 | do | H6797 | H.R. 9388 (on amendment) | Nay. |
| 193 | July 19 | H6852 | H.R. 9265 (motion to suspend) | Yea. |
| 194 | do | H6863 | H.J. Res. 748 (motion to suspend) | Yea. |
| 195 | do | H6869 | S.J. Res. 111 (motion to suspend) | Yea. |
| 196 | July 20 | H6899 | Call of the House | Present. |
| 197 | do | H6904 | H. Res. 424 (agree to resolution) | Yea. |
| 198 | July 21 | H6969 | Call of the House | Present. |
| 199 | do | H6974 | H. Res. 457 (on agreeing to resolution) | Yea. |
| 200 | do | H7002 | H.R. 4354 (motion to recommit) | Nay. |
| 201 | July 22 | H7062 | Call of the House | Present. |
| 202 | do | H7063 | H. Res. 533 (dispense proceedings) | Not voting. |
| 203 | do | H7094 | H.R. 9844 (on passage) | Yea. |
| 204 | July 27 | H7177 | H.R. 9270 (agree to conference report) | Nay. |
| 205 | do | H7184 | H.R. 9272 (on pref. motion) | Yea. |
| 206 | do | H7233 | Call in committee | Present. |
| *207 | do | H7246 | H.R. 10061 (on amendment) | Nay. |
| *208 | do | H7254 | do | Yea. |
| *209 | do | H7259 | do | Nay. |
| 210 | do | H7261 | H.R. 10061 (on passage) | Yea. |
| 211 | do | H7285 | Call of the House | Present. |
| *212 | July 28 | H7306 | H.R. 9092 (on amendment) | Yea. |
| 213 | do | H7325 | H.R. 9922 (on passage) | Yea. |
| 214 | July 29 | H7363 | Call of the House | Present. |
| 215 | do | H7372 | H.R. 9382 (agree to conference report) | Yea. |
| 216 | do | H7380 | H.R. 9667 (agree to conference report) | Yea. |
| 217 | do | H7384 | H.R. 9667 (concur in Senate amendment No. 5) | Yea. |
| 218 | do | H7388 | Call of the House | Present. |
| *219 | do | H7417 | H.R. 10090 (on amendment) | Yea. |
| *220 | do | H7422 | do | Yea. |
| 221 | do | H7429 | H.R. 10090 (on passage) | Yea. |
| 222 | July 30 | H7451 | Call of the House | Absent. |
| 223 | do | H7451 | (Approval of the Journal) | Not voting. |
| 224 | do | H7452 | H. Con. Res. 384 (on agree to resolution) | Do. |
| 225 | do | H7460 | H. Res. 566 (on previous question) | NVA. |
| *226 | do | H7515 | H.R. 8432 (on amendment) | Not voting. |
| 227 | do | H7519 | H.R. 8432 (on passage) | NVA. |
| 228 | Aug. 2 | H7598 | H.R. 9272 (agree to conference report) | Yea. |
| 229 | do | H7604 | H. Res. 539 (motion to discharge) | Yea. |
| 230 | do | H7610 | H. Res. 539 (agreeing to resolution) | Yea. |
| 231 | do | H7640 | H.R. 3628 (motion to suspend) | Yea. |
| 232 | do | H7644 | H. Con. Res. 370 (motion to suspend) | Yea. |
| 233 | do | H7652 | H. J. Res. 829 (on passage) | Yea. |
| 234 | Aug. 3 | H7696 | Call of the House | Present. |
| 235 | do | H7766 | H.R. 9910 (on passage) | Yea. |
| 236 | Aug. 4 | H7836 | H. Res. 578 (on agreeing to resolution) | Nay. |
| 237 | do | H7846 | H.R. 6531 (motion to recommit) | Nay. |
| 238 | do | H7847 | H.R. 6531 (on agree to conference report) | Yea. |
| 239 | do | H7854 | Call in committee | Absent. |
| *240 | do | H7867 | H.J. Res. 833 (on amendment) | Nay. |
| *241 | do | H7870 | do | Nay. |
| 242 | do | H7871 | H.J. Res. 833 (on passage) | Yea. |
| 243 | Aug. 5 | H8033 | Call of the House | Present. |
| 244 | do | H8035 | do | Do. |
| 245 | do | H8040 | do | Do. |
| 246 | do | H8041 | S. 581 (agree to conference report) | Yea. |
| 247 | do | H8058 | H.R. 10061 (agree to conference report) | Yea. |
| 248 | Sept. 8 | H8179 | Call of the House | Present. |
| 249 | do | H8197 | Call in committee | Do. |
| 250 | do | H8229 | do | Do. |
| 251 | Sept. 9 | H8255 | H.R. 9727 (on passage) | Yea. |
| 252 | Sept. 13 | H8314 | H. Res. 483 (on agreeing to resolution) | Yea. |
| 253 | do | H8316 | Call in committee | Present. |
| 254 | Sept. 14 | H8372 | Call of the House | Do. |
| *255 | do | H8385 | H.R. 234 (on amendment) | Nay. |
| *256 | do | H8387 | do | Yea. |
| 257 | do | H8400 | H.R. 234 (on passage) | Yea. |
| 258 | Sept. 15 | H8458 | Call of the House | Present. |
| 259 | do | H8486 | Call in committee | Do. |
| 260 | Sept. 16 | H8518 | do | Do. |
| *261 | do | H8539 | H.R. 1746 (on amendment) | Nay. |
| 262 | do | H8540 | do | Nay. |
| 263 | do | H8540 | H.R. 1746 (motion to recommit) | Nay. |
| 264 | do | H8541 | H.R. 1746 (on passage) | Yea. |
| 265 | Sept. 22 | H8640 | H.R. 10090 (agree to conference report) | Yea. |
| 266 | Sept. 23 | H8672 | Call of the House | Present. |
| *267 | do | H8676 | H.R. 9166 (on amendment) | Nay. |
| 268 | Sept. 28 | H8753 | Call of the House | Present. |
| 269 | Sept. 29 | H8800 | do | Do. |
| 270 | Sept. 30 | H8863 | Call in committee | Do. |
| *271 | do | H8884 | H.R. 10351 (on amendment) | Not voting. |
| *272 | do | H8891 | do | Do. |
| *273 | do | H8903 | do | Do. |
| *274 | do | H8906 | do | Do. |
| *275 | do | H8921 | do | Do. |
| 276 | do | H8936 | do | NVA. |
| 277 | do | H8938 | H.R. 10351 (motion to recommit) | NVF. |
| 278 | do | H8939 | H.R. 10351 (on passage) | Do. |
| 279 | Oct. 1 | H8979 | Call of the House | Absent. |
| 280 | Oct. 4 | H9001 | Call in committee | Present. |
| *281 | do | H9008 | H. Res. 596 (motion to rise) | Nay. |
| 282 | do | H9022 | H. Res. 596 (agreeing to resolution) | Nay. |
| 283 | do | H9027 | H. Con Res. 374 (motion to suspend) | Yea. |
| 284 | do | H9084 | H.R. 9961 (on motion to suspend) | Nay. |
| 285 | do | H9091 | H.R. 8083 (on motion to suspend) | Yea. |
| 286 | do | H9092 | Call of the House | Present. |
| 287 | do | H9094 | H.R. 8866 (agree to conference report) | Yea. |
| 288 | Oct. 5 | H9151 | Call of the House | Present. |
| 289 | Oct. 6 | H9232 | H.J. Res. 915. (on passage) | Yea. |
| 290 | do | H9234 | H.J. Res. 916. (on passage) | Yea. |
| 291 | Oct. 12 | H9358 | Call of the house | Present. |
| *292 | do | H9360 | H.J. Res 208. (on amendment) | Nay. |
| *293 | do | H9390 | do | Nay. |
| 294 | do | H9392 | H.J. Res. 208 (on passage) | Yea. |
| 295 | Oct. 13 | H9479 | Call of the House | Present. |
| 296 | do | H9503 | Call in committee | Do. |
| 297 | Oct. 14 | H9558 | Call of the House | Do. |
| *298 | do | H9565 | H.R. 10835 (cn amendment) | Nay. |
| *299 | do | H9571 | do | Nay. |
| 300 | do | H9582 | H.R. 10835 (on passage) | Yea. |
| 301 | Oct. 18 | H9635 | Call of the house | Present |
| 302 | do | H9648 | H.R. 9212 (on motion to suspend) | Nay. |
| 303 | do | H9660 | H.J. Res. 923 (motion to suspend) | Yea. |
| 304 | do | H9663 | H.R. 10458 (motion to suspend) | Yea. |
| 305 | do | H9670 | H.R. 8140 (motion to suspend) | Yea. |
| 306 | Oct. 19 | H9710 | Call of the House | Present. |
| 307 | do | H9728 | H.R. 8687 (on previous question) | Nay. |
| 308 | do | H9728 | H.R. 8687 (instruct conferees) | Nay. |
| 309 | do | H9741 | Call in committee | Present. |
| 310 | Oct. 20 | H9778 | Call of the House | Do. |
| 311 | do | H9780 | H.R. 9844 (agree to conference report) | Yea. |
| 312 | do | H9809 | H.R. 10367 (on amendment) | Yea. |
| 313 | do | H9816 | H.R. 10367 (on passage) | Yea. |
| 314 | Oct. 21 | H9867 | Call of the House | Present. |
| 315 | do | H9880 | Call in committee | Do. |
| 316 | do | H9889 | H.R. 10670 (on passage) | Yea. |
| 317 | do | H9890 | Call of the House | Present. |
| 318 | do | H9891 | H. Res. 624 (on previous question) | Yea. |
| 319 | Oct. 27 | H9970 | Call of the House | Present. |
| 320 | do | H9971 | Call in committee | Do. |
| 321 | do | H9979 | H.R. 11418 (on passage) | Yea. |
| 322 | do | H9983 | H. Res. 661 (on agreeing to resolution) | Yea. |

MEMBER'S INDIVIDUAL VOTING RECORD—HON. BILL FRENZEL—92D CONG., 1ST SESS.—Continued

[NVF—Not voting, paired for; NVA—Not voting, paired against]

| Roll No. | Date, 1971 | Page in daily Record | Description | Member's response |
|---|---|---|---|---|
| 323 | Oct. 27 | H10005 | Call in committee | Present. |
| 324 | do | H10010 | do | Do. |
| 325 | Oct. 28 | H10074 | Call of the House | Do. |
| *326 | do | H10098 | H.R. 7248 (on amendment) | Yea. |
| *327 | do | H10107 | do | Yea. |
| 328 | Nov. 1 | H10146 | Call of the House | Present. |
| 329 | do | H10156 | H.R. 2266 (motion to suspend) | Yea. |
| 330 | do | H10159 | H.R. 9961 (motion to suspend) | Yea. |
| 331 | do | H10162 | H.R. 8389 (motion to suspend) | Yea. |
| 332 | do | H10168 | H.R. 9180 (motion to suspend) | Yea. |
| 333 | do | H10171 | H.R. 9323 (motion to suspend) | Yea. |
| 334 | do | H10172 | Call of the House | Present. |
| 335 | do | H10178 | H.R. 7854 (motion to suspend) | Yea. |
| 336 | do | H10198 | H.R. 11232 (motion to suspend) | Yea. |
| 337 | do | H10199 | Call of the House | Present. |
| 338 | do | H10199 | On motion to adjourn | Nay. |
| 339 | Nov. 2 | H10234 | Call of the House | Present. |
| 340 | do | H10236 | do | Absent. |
| 341 | do | H10236 | (On motion to adjourn) | Not voting. |
| *342 | Nov. 3 | H10286 | H.R. 2 (on amendment) | Do. |
| 343 | do | H10287 | H.R. 2 (on passage) | Do. |
| *344 | do | H10303 | H.R. 7248 (on amendment) | Do. |
| *345 | do | H10307 | do | Do. |
| *346 | do | H10311 | do | Do. |
| *347 | do | H10322 | do | Do. |
| 348 | Nov. 4 | H10352 | Call of the House | Present. |
| *349 | do | H10365 | H.R. 7248 (on amendment) | Yea. |
| *350 | do | H10374 | do | Nay. |
| *351 | do | H10382 | do | Yea. |
| *352 | do | H10386 | do | Do. |
| *353 | do | H10406 | do | Nay. |
| *354 | do | H10417 | do | Yea. |
| *355 | do | H10422 | do | Nay. |
| *356 | do | H10427 | do | Yea. |
| *357 | do | H10479 | do | Nay. |
| *358 | do | H10440 | do | Do. |
| *359 | do | H10446 | do | Yea. |
| *360 | do | H10457 | do | Do. |
| 361 | do | H10457 | H.R. 7248 (on passage) | Yea. |
| 362 | Nov. 5 | H10551 | Call of the House | Present. |
| 363 | do | H10562 | H.R. 8292 (on passage) | Yea. |
| 364 | Nov. 8 | H10589 | Call of the House | Present. |
| 365 | do | H10593 | H.J. Res. 191 (discharge motion) | Nay. |
| 366 | do | H10657 | H.J. Res. 191 (on passage) | Nay. |
| 367 | Nov. 9 | H10725 | Call of the House | Present. |
| 368 | do | H10752 | Call in committee | Do. |
| *369 | do | H10768 | H.R. 10729 (on amendment) | Nay. |
| *370 | do | H10769 | do | Yea. |
| *371 | do | H10770 | do | Yea. |
| 372 | do | H10773 | H.R. 10729 (on passage) | Yea. |
| 373 | Nov. 10 | H10804 | Call of the House | Present. |
| 374 | do | H10809 | Call in committee | Do. |
| *375 | do | H10824 | H.R. 9212 (on amendment) | Yea. |
| *376 | do | H10829 | do | Yea. |
| 377 | do | H10833 | H.R. 9212 (on passage) | Nay. |
| *378 | do | H10847 | H.J. Res. 946 (on amendment) | Nay. |
| *379 | do | H10865 | H.R. 8687 (on amendment) | Nay. |
| 380 | Nov. 11 | H10915 | H. Res. 698 (agree to resolution) | Yea. |
| 381 | do | H10933 | Call in committee | Absent. |
| *382 | do | H10943 | H.R. 11341 (on amendment) | Nay. |
| *383 | do | H10944 | do | Nay. |
| *384 | do | H10952 | do | Nay. |
| 385 | do | H10961 | H.R. 11341 (on passage) | Yea. |
| 386 | Nov. 15 | H11026 | H.R. 11302 (motion to suspend) | Yea. |
| 387 | do | H11030 | H.R. 11350 (motion to suspend) | Yea. |
| 388 | do | H11033 | S.J. Res. 132 (motion to suspend) | Yea. |
| 389 | do | H11039 | H.R. 11651 (motion to suspend) | Yea. |
| 390 | do | H11044 | H.R. 11652 (motion to suspend) | Yea. |
| 391 | do | H11052 | H.R. 11080 (motion to suspend) | Yea. |
| 392 | Nov. 16 | H11082 | Call of the House | Present. |
| 393 | do | H11092 | Call in committee | Do. |
| 394 | do | H11111 | do | Do. |
| *395 | do | H11114 | H.R. 11731 (on amendment) | Nay. |
| 396 | Nov. 17 | H11161 | Call of the House | Present. |
| 397 | do | H11164 | Call in committee | Do. |
| *398 | Nov. 17 | H11169 | H.R. 11731 (on amendment) | Nay. |
| *399 | do | H11196 | do | Yea. |
| *400 | do | H11198 | do | Nay. |
| *401 | do | H11201 | do | Yea. |
| 402 | do | H11203 | H.R. 11731 (on passage) | Yea. |
| 403 | Nov. 18 | H11237 | Call of the House | Present. |
| 404 | do | H11240 | do | Do. |
| 405 | do | H11241 | do | Do. |
| 406 | do | H11244 | H. Res. 710 (agree to resolution) | Yea. |
| 407 | do | H11251 | H. Res. 711 (agree to resolution) | Yea. |
| 408 | do | H11253 | H.J. Res. 946 (agree to conference report) | Yea. |
| 409 | Nov. 19 | H11311 | H. Res. 699 (agree to resolution) | Yea. |
| 410 | do | H11322 | S. 18 (on passage) | Yea. |
| 411 | Nov. 29 | H11409 | Call of the House | Present. |
| *412 | do | H11430 | H.R. 11060 (on amendment) | Yea. |
| *413 | do | H11432 | do | Yea. |
| *414 | do | H11435 | do | Yea. |
| 415 | Nov. 30 | H11460 | Call of the House | Present. |
| *416 | do | H11489 | H.R. 11060 (on amendment) | Yea. |
| *417 | do | H11502 | do | Nay. |
| 418 | do | H11509 | H.R. 11060 (on passage) | Yea. |
| 419 | Dec. 1 | H11537 | Call of the House | Present. |
| 420 | do | H11543 | Call in committee | Do. |
| 421 | do | H11553 | do | Do. |
| 422 | do | H11556 | H.R. 11589 (on passage) | Yea. |
| 423 | Dec. 2 | H11641 | Call of the House | Present. |
| 424 | do | H11644 | H.R. 11932 (resolve to Committee) | Yea. |
| 425 | do | H11665 | Call in Committee | Present. |
| *426 | do | H11675 | H.R. 11932 (on amendment) | Yea. |
| *427 | do | H11678 | do | Nay. |
| 428 | do | H11681 | do | Yea. |
| 429 | do | H11684 | H. Res. 719 (agree to resolution) | Yea. |
| *430 | do | H11700 | H.R. 11955 (on amendment) | Yea. |
| 431 | Dec. 6 | H11830 | H.R. 9526 (motion to suspend) | Yea. |
| 432 | do | H11832 | H.R. 11624 (motion to suspend) | Nay. |
| 433 | do | H11833 | H.R. 45 (motion to suspend) | Yea. |
| *434 | do | H11834 | S.J. Res. 176 (motion to suspend) | Yea. |
| 435 | do | H11835 | H.R. 11809 (motion to suspend) | Nay. |
| *436 | do | H11856 | H.R. 10420 (motion to suspend) | Nay. |
| 437 | Dec. 7 | H11908 | Call of the House | Present. |
| 438 | do | H11940 | S. 2007 (agreeing to conference report) | Nay. |
| 439 | Dec. 8 | H11960 | Call of the House | Present. |
| *440 | do | H11980 | H.R. 12067 (on amendment) | Nay. |
| 411 | do | H12002 | H.R. 12067 (on passage) | Yea. |
| 442 | do | H12006 | Call of the House | Present. |
| 443 | do | H12013 | H. Res. 728 (on previous question) | Nay. |
| *444 | do | H12028 | H.R. 1163 (on amendment) | Yea. |
| *445 | do | H12033 | do | Yea. |
| *446 | do | H12035 | do | Yea. |
| *447 | do | H12036 | do | Present. |
| 448 | do | H12038 | H.R. 1163 (on passage) | Nay. |
| 449 | Dec. 9 | H12126 | Call of the House | Present. |
| 450 | do | H12133 | H.R. 10947 (agree to conference report) | Yea. |
| 451 | do | H12137 | H. Res. 729 (agree to resolution) | Nay. |
| 452 | do | H12142 | Call of the House | Present. |
| 453 | do | H12148 | H.R. 11955 (agree to conference report) | Yea. |
| 454 | Dec. 10 | H12211 | Call in committee | Present. |
| *455 | do | H12233 | H.R. 11309 (on amendment) | Yea. |
| *456 | do | H12248 | do | Nay. |
| *457 | do | H12253 | do | Yea. |
| 458 | do | H12257 | H.R. 11309 (on passage) | Yea. |
| 459 | do | H12264 | H.R. 11341 (agree to conference report) | Yea. |
| 460 | Dec. 13 | H12324 | Call of the House | Present. |
| 461 | do | H12337 | H.R. 11628 (on passage) | Yea. |
| 462 | Dec. 14 | H12444 | Call of the House | Present. |
| 463 | do | H12448 | do | Do. |
| 464 | do | H12455 | do | Do. |
| 465 | do | H12466 | H.R. 10367 (agree to conference report) | Yea. |
| 466 | Dec. 15 | H12573 | H.R. 11731 (agree to conference report) | Yea. |
| 467 | do | H12584 | H.R. 11932 (agree to conference report) | Do. |
| 468 | do | H12586 | Call of the House | Present. |
| 469 | do | H12591 | H.R. 6065 (agree to conference raport) | Nay. |
| 470 | do | H12602 | H.J. Res. 1005 (on passage) | Yea. |
| 471 | Dec. 16 | H12689 | Call of the House | Present. |
| 472 | do | H12689 | S. 2819 (instruct conferees) | Yea. |

* Indicates recorded teller vote.

CUMULATIVE VOTING RECORD THIS SESSION (THROUGH ROLL NUMBER 472)

| | Yeas/Nays | Quorum calls | Recorded tellers | Grand totals |
|---|---|---|---|---|
| Number of Calls or Votes | 211 | 151 | 108 | 470 |
| Present responses (yea, nay, present, present-paired for or against) | 190 | 126 | 96 | 422 |
| Absences (absent, not voting, not voting-paired for or against) | 21 | 15 | 12 | 48 |
| Voting percentage (presence) | 90.0 | 90.0 | 88.8 | 89.7 |

### LEGISLATION INTRODUCED BY BILL FRENZEL—JANUARY 22 TO DECEMBER 14, 1971

#### ENVIRONMENT

H. Res. 191. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on the Environment. To the Committee on Rules, February 3, 1971.

H.J. Res. 280. Joint resolution; designation of the 3rd week of April of each year as "Earth Week." To the Committee on the Judiciary, February 4, 1971.

H.J. Res. 349. A joint resolution to establish a joint committee on the Environment. Referred to Committee on Rules, February 18, 1971.

H.R. 5075. A bill to amend the National Environmental Policy Act of 1969 to provide for citizens' suits and class actions in the United States District Courts against persons responsible for creating certain environmental hazards. Referred to Committee on Merchant Marine and Fisheries, February 25, 1971.

H.R. 5446. A bill to consent to the Interstate Environment Compact. Referred to Committee on the Judiciary, March 3, 1971.

H.R. 5973. A bill to establish an Environmental Financing Authority to assist in the financing of waste treatment facilities, and for other purposes. Referred to Committee on Public Works, March 11, 1971.

H.R. 8642. A bill to amend the Federal Aviation Act of 1958 in order to provide for more effective control of aircraft noise. Referred to Committee on Interstate and Foreign Commerce, May 20, 1971.

H.R. 9385. A bill to authorize and direct the Secretary of Defense and the Administrator of the General Services Administration to insure the procurement and use by the Federal Government of products manufactured from recycled materials. Referred to Committee on Government Operations, June 23, 1971.

H.R. 9386. A bill to authorize and direct the Administrator of the General Services Administration to prescribe regulations with respect to the amount of recycled material contained in paper procured or used by the Federal Government or the District of Columbia. June 23, 1971.

H.R. 10032. A bill to amend chapter 9 of title 44, United States Code, to require the use of recycled paper in the printing of the Congressional Record. Referred to the Committee on House Administration. July 22, 1971.

H.R. 10610. A bill to direct the Administrator of the Environmental Protection Agency to establish and carry out a bottled drinking water control program. Referred to the Committee on Interstate and Foreign Commerce. September 13, 1971.

H. Con. Res. 428. A concurrent resolution expressing the sense of the Congress with respect to the designation of the years 1973 through 1978 as the World Environmental Quinquenniumto involve all nations of the world in a global environmental research program of both national and international scope. Referred to the Committee on Foreign Affairs. October 14, 1971.

H.R. 11533. A bill to authorize the Secretary of the Interior to establish the George Washington Boyhood Home National Historic Site in the State of Virginia. Referred to the Committee on Interior and Insular Affairs. November 2, 1971.

H.R. 12020. A bill to amend the National Environmental Policy Act of 1969 to require that environmental impact statements be included in agency reports on bills and resolutions being considered by the Congress. Referred to the Committee on Merchant Marine and Fisheries. December 2, 1971.

H.R. 12286. A bill to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and for other purposes. Referred to the Committee on Merchant Marine and Fisheries. December 14, 1971.

### WATER POLLUTION

H.R. 4360. A bill to amend the Act of August 3, 1968 to protect the ecology of estuarine areas by regulating dumping of waste materials. Referred to the Committee on Merchant Marine and Fisheries, February 17, 1971.

H. Con. Res. 176. Concurrrent Resolution expressing the sense of the Congress with respect to the pollution of waters all over the world and the necessity for coordinated international action to prevent such pollution. Referred to the Committee on Foreign Affairs.

H.R. 5050. A bill to regulate the discharge of wastes in territorial and international waters. Referred to the Committee on Merchant Marine and Fisheries, February 10, 1971.

H.R. 4719. A bill to prohibit the discharge into any of the navigable waters of the United States or into international waters of any military material or other refuse without a certification by the Environmental Protection Agency approving such discharge. Referred to the Committee on Merchant Marine and Fisheries, February 22, 1971.

H.R. 5223. A bill to amend the Federal Water Pollution Control Act to establish standards which must be met by all synthetic detergents and to ban from detergents all phosphates and those synthetics which fail to meet the standards by June 30, 1971. Referred to the Committee on Public Works, March 1, 1971.

H.R. 5961. A bill to amend the Federal Water Pollution Control Act, as amended. Referred to the Committee on Public Works, March 11, 1971.

H.R. 5965. A bill to amend section 8 of the Federal Water Pollution Control Act, as amended, and for other purposes. Referred to the Committee on Public Works, March 11, 1971.

H.R. 5969. A bill to amend the Federal Water Pollution Control Act, as amended. Referred to the Committee on Public Works, March 11, 1971.

H.R. 6487. A bill to amend the Federal Water Pollution Control Act, as amended, and for other purposes. Clean Lakes Act of 1971. Referred to the Committee on Public Works, March 22, 1971.

H.R. 7539. A bill to amend section 274 of the Atomic Energy Act of 1954 to allow the imposition by a State of more restrictive standards relating to the discharge into the navigable waters of the United States of radioactive materials. Referred to the Committee on Atomic Energy, April 20, 1971.

### SOLID WASTES

H.R. 5451. A bill to discourage the production of one-way containers for cardboard and/or malt beverages so as to reduce litter, reduce the cost of solid waste management, and to conserve natural resources. Referred to the Committee on Ways and Means, March 3, 1971.

H.R. 6652. A bill to encourage States to establish abandoned automobile removal programs and to provide for tax incentives for automobile scrap processing. Referred to Committee on Ways and Means, March 22, 1971.

H.R. 9685. A bill to amend the Act of March 3, 1899, commonly referred as the Refuse Act, relating to the issuance of certain permits. Referred to Committee on Public Works. July 8, 1971.

### CONSERVATION AND RECREATION

H.R. 4262. A bill to amend section 4182 of the Internal Revenue Code of 1954. .22 Caliber ammunition. Referred to the Committee on Ways and Means, February 10, 1971.

H.R. 5778. A bill to authorize insurance in connection with loans for the preservation of residential historic properties. Referred to Committee on Banking and Currency, March 9, 1971.

H.R. 7134. A bill providing for the conveyance of certain real property to the State of Minnesota for park and recreation purposes. Fort Snelling. Referred to Committee on Government Operations, April 1, 1971.

H.R. 8060. A bill to amend the Communications Act of 1934 as to provide for the regulation of the broadcasting of certain major sporting events in the public interest. Referred to Committee on Interstate and Foreign Commerce, May 4, 1971.

H.R. 10418. A bill to establish a national policy and program with respect to wild predatory mammals and for other purposes. Referred to the Committee on Merchant Marine and Fisheries. August 5, 1971.

H.R. 10921. A bill to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes. Referred to the Committee on Merchant Marine and Fisheries, September 28, 1971.

### CONSUMER PROTECTION

H.R. 4541. A bill to establish an Office of Consumer Affairs in the Executive Office and Bureau of Consumer Protection. Referred to Committee on Government Operations, February 18, 1971.

H.R. 9738. A bill to limit the sale or distribution of mailing lists by Federal Agencies. Referred to the Committee on Government Operations. July 13, 1971.

### TAX LEGISLATION

H.R. 4219. A bill to give all unmarried individuals tax benefits of income splitting. Referred to Committee on Ways and Means, February 10, 1971.

H.J. Res. 662. To create a select joint committee to conduct an investigation and study into methods of significantly simplifying Federal income tax return forms. May 25, 1971.

H.R. 9683. A bill to restore the income tax credit for investment in certain depreciable property. Referred to the Committee on Ways and Means. July 8, 1971.

H.R. 10193. A bill to advance by one year the standard deduction provisions of the Tax Reform Act of 1969. Referred to the Committee on Ways and Means. July 29, 1971.

H.R. 10435. A bill to amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income. Referred to the Committee on Ways and Means. August 5, 1971.

R.H. 11020. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict. Referred to the Committee on Ways and Means. September 30, 1971.

H..R 11810. A bill to amend the Federal Salary Act of 1967, and for other purposes. Referred to the Committee on Post Office and Civil Service. November 16, 1971.

### GOVERNMENT REORGANIZATION AND REFORM

H.J. Res. 198. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older, to the Committee on the Judiciary, January 22, 1971.

H.R. 3135. A bill to provide that the fiscal year of the United States shall coincide with the calendar year, to the Committee on Government Operations, February 1, 1971.

H.R. 3994. A bill to amend the Legislative Reorganization Act of 1946 to provide for annual reports to the Congress by the Comptroller General concerning certain price increases in Government contracts and certain failures to meet Government contract completion dates. February 9, 1971.

H.R. 4188. A bill to restore balance in the Federal system of government. Revenue sharing. Referred to the Committee on Ways and Means, February 10, 1971.

H.R. 6141. A bill to provide for the District of Columbia an elected mayor, an elected council, and for other purposes. Referred to Committee on the District of Columbia, March 16, 1971.

H.R. 8853. A bill to provide Federal revenues to State and local governments and afford them broad discretion in carrying out community development activities and to help States and localities to improve their decision making and management capabilities. Referred to Committee on Banking and Currency, June 2, 1971.

H.J. Res. 717. Joint resolution to limit the the tenure of office of Senators and Representatives, and to provide an age limit for Senators and Representatives. Referred to the Committee on the Judiciary, June 16, 1971.

H. Res. 499. A resolution to provide for equitable and effective minority staffing on House standing committees. Referred to the Committee on Rules, June 22, 1971.

H.R. 9507. A bill to establish certain qualifications for election to the offices of President and Vice President of the United

States. Referred to the Committee on House Administration. June 29, 1971.

H.J. Res. 736. A joint resolution proposing an amendment to the Constitution of the United States to provide an age limit and a single six-year term for the President. Referred to the Committee on the Judiciary. June 22, 1971.

H.R. 10198. A bill to provide home rule for the District of Columbia. Referred to the Committee on District of Columbia. July 29, 1971.

H.R. 11280. A bill to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes. Referred to the Committee on Interstate and Foreign Commerce. October 18, 1971.

H.J. Res. 961. A joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress. Referred to the Committee on the Judiciary. November 11, 1971.

H. Res. 724. A resolution to amend the Rules of the House of Representatives to require that the report accompanying each bill or resolution contain an analysis and evaluation of the environmental impact of the bill or resolution. Referred to the Committee on Rules. December 2, 1971.

H.J. Res. 1002. A Joint Resolution to establish a Joint Committee on Aging. Referred to the Committee on Rules. December 8, 1971.

H. Res. 737. A resolution to provide for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia. Referred to the Committee on House Administration. December 10, 1971.

### CIVIL RIGHTS AND LIBERTIES

H.J. Res. 325. Joint resolution; equal rights for ladies; constitutional amendment. February 1, 1971.

H.R. 5640. A bill to protect the political rights and privacy of individuals and organizations and to define the authority of the Armed Forces to collect, distribute, and store information about civilian political activity. Freedom from Surveillance Act of 1971. Referred to the Committee on Armed Services, March 4, 1971.

H.R. 5693. A bill to amend Title 18, United States Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall be committee for detention or imprisonment in any facility of the United States Government except in conformity with the provisions of Title 18. Referred to the Committee on the Judiciary, March 8, 1971.

H.R. 6361. A bill to amend the Economic Opportunity Act of 1964 to authorize a legal services program by establishing a National Legal Services Corporation, and for other purposes. Referred to Committee on Education and Labor, March 18, 1971.

H.R. 7665. A bill to amend Title 28, United States Code, to prohibit Federal judges from receiving compensation other than for the performance of their judicial duties, except in certain instances, and to provide for the disclosure of certain financial information. Referred to Committee on the Judiciary, April 22, 1971.

H.R. 8602. A bill to amend Title 5, United States Code, to provide that individuals be apprised of records concerning them which are maintained by Government agencies. Referred to Committee on Government Operations, May 20, 1971.

H.R. 11556. A bill for the relief of certain orphans in Vietnam. Referred to the Committee on the Judiciary, November 3, 1971.

### CRIME AND JUDICIAL REFORM

H.R. 6471. A bill to prohibit assaults on State law enforcement officers, firemen, and judicial officers. Referred to Committee on the Judiciary, March 22, 1971.

H.R. 7351. A bill to amend Title 18 of the United States Code by adding a new chapter 404 to establish an Institute for Continuing Studies of Juvenile Justice. Referred to Committee on the Judiciary, April 7, 1971.

H.R. 10695. A bill to strengthen interstate reporting and interstate services for parents of runaway children, to provide for the development of a comprehensive program for the transient youth population for the establishment, maintenance, and operation of temporary housing and psychiatric, medical and other counseling services for transient youth, and for other purposes. Referred to the Committee on the Judiciary. September 15, 1971.

H.R. 11415. A bill to change the minimum age qualification for serving as a juror in Federal courts from twenty-one years of age to eighteen years of age. Referred to Committee on the Judiciary. October 21, 1971.

### EDUCATION

H.R. 3610. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education. Referred to the Committee on Ways and Means, February 4, 1971.

H.R. 5099. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit for gifts or contributions made to any institution of higher education, to be cited as, "The Higher Education Gift Incentive Act of 1971." Referred to Committee on Ways and Means, February 25, 1971.

H.R. 6233. A bill to authorize a White House Conference on Education. Referred to Committee on Education and Labor, March 17, 1971.

H.R. 7344. A bill to provide a comprehensive child development program in the Department of Health, Education, and Welfare. Referred to Committee on Education and Labor, April 7, 1971.

H.R. 7397. A bill to provide a comprehensive child development program in the Department of Health, Education, and Welfare. Referred to Committee on Education and Labor, April 7, 1971.

H. Res. 427. A resolution to provide for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia. Referred to Committee on House Administration, May 5, 1971.

H.R. 8937. A bill to amend the Elementary and Secondary Education Act of 1965, to provide for administration of programs of Indian education by a National Board of Indian Education in the United States Office of Education, and for other purposes. Referred to the Committee on Education and Labor, June 4, 1971.

H.R. 11878. A bill to insure that Federal laws do not interfere with neighborhood school systems which are conducted on a racially nondiscriminatory basis. Referred to Committee on Education and Labor, November 18, 1971.

H.R. 12293. A bill to transfer the Teacher Corps to Action. Referred to the Committee on Education and Labor, December 14, 1971.

### FOREIGN RELATIONS/DEFENSE

H. Con. Res. 164. Concurrent resolution to create an Atlantic Union delegation. Referred to Committee on Foreign Affairs, February 17, 1971.

H. Con. Res. 194. Concurrent resolution expressing the sense of Congress that our NATO allies should contribute more to the cost of their own defense. Referred to the Committee on Foreign Affairs, March 3, 1971.

H. Con. Res. 252. A concurrent resolution to express the sense of the House with respect to peace in the Middle East. Referred to the Committee on Foreign Affairs, April 1, 1971.

H. Con. Res. 258. A concurrent resolution urging review of the United Nations Charter. Referred to Committee on Foreign Affairs, April 5, 1971.

H.R. 8660. A bill to provide a procedure for the exercise of Congressional and Executive powers over the use of any Armed Forces of the United States in military hostilities, and for other purposes. Referred to the Committee on Armed Services, May 24, 1971.

H.J. Res. 775. A joint resolution limiting military assistance and military sales to Pakistan. Referred to the Committee on Foreign Affairs. July 12, 1971.

H.R. 9964. A bill making appropriations to the President for the development of a prototype desalting plant in Israel. Referred to the Committee on Appropriations. July 21, 1971.

H.J. Res. 797. A joint resolution to establish a select joint committee to be known as the Joint Committee on United States Foreign Policy in Southeast Asia. Referred to the Committee on Rules. July 21, 1971.

H. Con. Res. 386. A concurrent resolution dealing with the Vietnam Disengagement Act. Referred to the Committee on Foreign Affairs. August 3, 1971.

H.J. Res. 892. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest-USA and the World Ploughing Contest in September, 1972. Referred to the Committee on Foreign Affairs. September 28, 1971.

### SOCIAL SECURITY AND AID TO DISADVANTAGED

H.J. Res. 120. A resolution to create a Select Committee on Aging. Referred to the Committee on Rules, January 22, 1971.

H. Con. Res. 181. A concurrent resolution to declare the sense of the U.S. Congress with respect to the Federal administration of Indian Affairs. Referred to the Committee on Interior and Insular Affairs, February 23, 1971.

H.R. 6020. A bill to amend the Social Security Act to authorize a family assistance plan providing basic benefits to low-income families with children with incentive for employment and training to improve the capacity for employment of members of such families, to achieve more uniform treatment of recipients under the Federal-State public assistance programs and otherwise improve such programs, and for other purposes. Referred to Committee on Ways and Means, March 15, 1971.

H.R. 6021. A bill to amend Title II of the Social Security Act to provide increases in benefits, to improve computation methods, to raise the earnings base under the old-age, survivors, and disability insurance system, and for other purposes. Referred to Committee on Ways and Means, March 15, 1971.

### SOVIET JEWRY

H.R. 6385. A bill for the relief of Soviet Jews. Referred to the Committee on the Judiciary, March 18, 1971.

H. Con. Res. 221. A concurrent resolution requesting the President of the United States to take affirmative action to persuade the Soviet Union to revise its official policies concerning the rights of Soviet Jewry. Referred to Committee on Foreign Affairs, March 22, 1971.

H. Con. Res. 390. A Concurrent resolution to relieve the suppression of Soviet Jewry. Referred to the Committee on Foreign Affairs. August 6, 1971.

H. Con. Res. 425. A concurrent resolution expressing the sense of Congress with respect to placing before the United Nations General Assembly the issue of the dual right of all persons to emigrate from and also return to one's country. Referred to the Committee on Foreign Affairs. October 14, 1971.

H. Res. 664. A resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East. October 27, 1971. Referred to the Committee on Foreign Affairs.

H.R. 6698. A bill for the relief of Soviet

Jews. Referred to the Committee on the Judiciary, March 24, 1971.

H. Res. 460. A resolution calling upon the Voice of America to broadcast in the Yiddish language to Soviet Jewry. Referred to the Committee on Foreign Affairs, June 2, 1971.

### POW/MIA

H.J. Res. 21. A joint resolution to authorize the President to designate the period beginning March 21, 1971, as "National Week of Concern for Prisoners of War/Missing in Action." Referred to the Committee on the Judiciary, January 22, 1971.

H. Con. Res. 113. A concurrent resolution calling for the humane treatment and release of American prisoners of war held by North Viet Nam and the National Liberation Front. Referred to the Committee on Foreign Affairs, February 3, 1971.

H.R. 9568. A bill to provide compensation to prisoners of war of the Vietnam era because of the inhumane circumstances of their incarceration. Referred to the Committee on Veterans' Affairs. July 1, 1971.

### BUSINESS/JOBS

H.R. 5063. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural area. Referred to the Committee on Ways and Means, February 25, 1971.

H.R. 6371. A bill to amend the Small Business Act by striking out "$2,200,000,000" and inserting in lieu thereof "$3,100,000,000". Referred to the Committee on Banking and Currency, March 18, 1971.

H.R. 6688. A bill to authorize the National Science Foundation to conduct research, educational, and assistance programs to prepare the country for conversion from defense to civilian, socially oriented research and development activities, and for other purposes. Referred to Committee on Science and Astronautics, March 24, 1971.

H.R. 7414. A bill to amend the State Technical Services Act of 1965 to make municipal governments eligible for technical services under the Act, to extend the Act through fiscal year 1974, and for other purposes. Referred to Committee on Interstate and Foreign Commerce, April 7, 1971.

### HEALTH

H.R. 4413. A bill to amend Section 620 of the Foreign Assistance Act of 1961 to suspend economic and military assistance to countries which fail to take appropriate steps to prevent narcotic drugs produced in such country from entering the United States unlawfully. Referred to Committee on Foreign Affairs, February 17, 1971.

H.R. 6019. A bill to amend Title 39, United States Code, as enacted by the Postal Reorganization Act, to prohibit the mailing of unsolicited samples of cigarettes. Referred to Committee on Post Office and Civil Service, March 15, 1971.

H.R. 6808. A bill to require the Secretary of Transportation to prescribe regulations requiring certain modes of public transportation in interstate commerce to reserve some seating capacity for passengers who do not smoke. Referred to Committee on Interstate and Foreign Commerce, March 25, 1971.

H.R. 7120. A bill to establish the Office of Drug Abuse Control within the Executive Office of the President. Referred to Committee on Interstate and Foreign Commerce, April 1, 1971.

H.R. 7765. A bill to amend the Public Health Service Act so as to provide for new health manpower educational initiatives, increase the level of financial assistance to health professions schools and other institutions training health personnel, improve the distribution and increase the supply of health personnel, and for other purposes. Referred to Committee on Interstate and Foreign Commerce, April 27, 1971.

H.R. 8093. A bill to amend Section 620 of the Foreign Assistance Act of 1961 to prohibit foreign assistance from being provided to foreign countries which do not act to prevent narcotic drugs from unlawfully entering the United States. Referred to the Committee on Foreign Affairs, May 5, 1971.

H.R. 8742. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities. Referred to the Committee on the Judiciary, May 26, 1971.

H.R. 8861. A bill to establish drug abuse control organizations in the Armed Forces, and for other purposes. Referred to the Committee on Armed Services, June 2, 1971.

H.R. 9123. A bill to amend the Social Security Act to require employers to make an approved basic health care plan available to their employees, to provide a family health insurance plan for low-income families not covered by an employer's basic health care plan, to facilitate provision of health services to beneficiaries of the family health insurance plan by health maintenance organizations, by prohibiting State law interference with such organizations providing such services, and for other purposes. Referred to the Committee on Ways and Means, June 15, 1971.

H.R. 9213. A bill to provide comprehensive treatment for servicemen and veterans who suffer from abuse of, or dependency on, narcotic drugs, and for other purposes. Referred to the Committee on Armed Services, June 16, 1971.

H.R. 9231. A bill to amend the Controlled Substances Act to move amphetamines and certain other stimulant substances from Schedule III of such Act to Schedule II. Referred to the Committee on Interstate and Foreign Commerce, June 17, 1971.

H.R. 9426. A bill to make it unlawful in the District of Columbia to intentionally promote or facilitate illegal drug trafficking by possession, sale, or distribution, of certain paraphernalia, and further to make it unlawful for a person to possess an instrument or device for the purpose of unlawfully using a controlled substance himself. Referred to the Committee on the District of Columbia, June 24, 1971.

H.R. 9426. A bill to make it unlawful in the District of Columbia to intentionally promote or facilitate illegal drug trafficking by possession, sale, or distribution, of certain paraphernalia, and further to make it unlawful for a person to possess an instrument or device for the purpose of unlawfully using a controlled substance himself. Referred to the Committee on the District of Columbia. June 24, 1971.

H. Con. Res. 362. A concurrent resolution relative to control of the production and traffic in illegal drugs. Referred to the Committee on Foreign Affairs. July 14, 1971.

H.R. 9800. A bill to provide a comprehensive child development program in the Department of Health, Education and Welfare. Referred to Committee on Education and Labor. July 14, 1971.

H.R. 9827. A bill to provide additional Federal assistance for State programs of treatment and rehabilitation of drug addicts. Referred to Committee on Interstate and Foreign Commerce. July 15, 1971.

H. Con. Res. 407. A concurrent resolution expressing congressional recognition of a declaration of general and special rights of the mentally retarded. Referred to the Committee on Interstate and Foreign Commerce. September 23, 1971.

H.R. 10841. A bill to amend the Narcotic Addict Rehabilitation Act of 1966, to provide for involuntary civil commitment of narcotic addicts charged with a crime, to authorize grants for certain training programs, to establish training programs for judicial officers, to provide for research and development into causes of and cures for narcotic addiction, and for other purposes. Referred to the Committee on the Judiciary. September 23, 1971.

H.R. 11466. A bill to amend the Food Stamp Act of 1965 to provide food stamps to certain narcotics addicts and certain organizations and institutions conducting drug treatment and rehabilitation programs for narcotics addicts, and to authorize certain narcotics addicts to purchase meals with food stamps. Referred to the Committee on Agriculture. October 28, 1971.

H.R. 7764. A bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes. Referred to the Committee on Interstate and Foreign Commerce. April 27, 1971.

H.R. 12155. A bill to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood banks. Referred to the Committee on Interstate and Foreign Commerce. December 9, 1971.

### TRANSPORTATION

H. Res. 324. A resolution to make mass transportation a national priority. Referred to Committee on Interstate and Foreign Commerce, March 17, 1971.

H.R. 9088. A bill to amend the Railway Labor Act to provide more effective means for protecting the public interest in national emergency disputes involving the railroad and airline transportation industries, and for other purposes. Referred to the Committee on Interstate and Foreign Commerce, June 14, 1971.

### URBAN AFFAIRS/HOUSING

H.J. Res. 165. A joint resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Urban Affairs. Referred to the Committee on Rules, January 29, 1971.

H.R. 9331. A bill to consolidate, simplify, and improve laws relating to housing and housing assistance. Referred to the Committee on Banking and Currency, June 22, 1971.

H.R. 9799. A bill to assist in the efficient production of the needed volume of good housing at lower cost through the elimination of restrictions on the use of advanced technology, and for other purposes. Referred to Committee on Banking and Currency. July 14, 1971.

### ECONOMY

H.R. 10323. A bill to establish a temporary Emergency Guidance Board to facilitate economic recovery with minimum inflation by establishing price and wage guidelines and encouraging voluntary adherence thereto. Referred to Committee on Banking and Currency. August 3, 1971.

H.R. 10922. A bill to promote the economic well-being of the United States by providing authority to negotiate commercial agreements including the granting of most-favored-nation treatment with countries having nonmarket economics. Referred to Committee on Ways and Means. September 28, 1971.

### AGRICULTURE

H.R. 11175. A bill to amend Section 608 of the Agricultural Marketing Agreeemnt Act of 1937. Referred to the Committee on Agriculture. October 12, 1971.

H.J. Res. 992. A joint resolution to assure continued eligibility of recipients of food stamp benefits and to maintain present levels of bonuses for these recipients. Referred to the Committee on Agriculture. December 2, 1971.

### LABOR

H.R. 11228. A bill to amend the Walsh-Healey Act and the Contract Work Hours Standard Act to permit certain employees to work a 10-hour day in the case of a four-day workweek, and for other purposes. Referred to the Committee on the Judiciary. October 13, 1971.

## SHAPP SUPPORTS FEDERAL MASS TRANSIT FINANCING

### HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. MOORHEAD. Mr. Speaker, this morning the Honorable Milton J. Shapp, Governor of Pennsylvania, testified before the House Banking and Currency Committee on the need for operating subsidies for urban mass transportation. I believe that he correctly and forcefully described the need for Federal support for existing systems which serve millions of people daily as well as aid to new systems. I would like to insert his remarks in the RECORD:

STATEMENT OF GOV. MILTON J. SHAPP

I am Milton J. Shapp, Governor of the Commonwealth of Pennsylvania. We are the third most populous State in the Union with 12 million inhabitants. In Pennsylvania, there are a dozen major metropolitan areas within which urban transportation is beyond the capability of the automobile to serve alone. These major areas are plagued with narrow streets, heavy population density, older people, traffic congestion, and all of the many other factors which require urban mass public transportation.

Our largest city, Philadelphia, used its own bonding power to provide traffic-free mass rapid transit before the advent of Federal aid, just as the Commonwealth supported the Turnpike Commission to provide the Nation's first long distance superhighway before the advent of Federal aid.

Pennsylvania has been severely penalized by leading the way in solving its own problems. Because we have done these things, we are ineligible for Federal aid funds, taken from our taxes, and given to others who did less for themselves. We need help to more fully develop mass transit systems and reduce traffic congestion and air pollution in our urban areas.

We are not opposed to providing better highways for the automobile. That is necessary, but we are opposed to aiding the automobile to the near total exclusion of public transport.

We have State aid programs to help our systems of mass public transport. But unfortunately, we cannot obtain one dollar of Federal assistance to support these systems. This is grossly and inexcusably prejudicial to the interests of those who don't drive. In fact, it is unfair to all who live in busy cities where there is no room nor financial feasibility for everyone to drive.

I want to digress here a minute to thank members of this committee for the growing aid you have provided for new transit systems, and capital replacements for aging systems. This aid is most needed and most appreciated, but it is no substitute for support to keep the operations going. It would be a gross waste of public funds, and of urban land, to throw away all existing systems, just so we could get Federal capital money to buy or build new systems. In many cases, it is far less costly and far more satisfactory to continue to operate what we have where it is capable of doing the best possible job. You must structure your Federal aid program to aid existing transit systems serving millions of people daily, as well as offering aid to new systems.

Because of public policy, the impact of current economic trends requires public financial support to help urban public transportation. We in Pennsylvania are providing it, but it is inequitable that we receive no Federal help. I want to go on record in total support of proposals now before you to provide $400 million annually in Federal funds to defray some of the costs for the movement of approximately 28 billion passenger-miles a year of urban transit riders by bus, trolley, subway and train.

This cost is less than two cents per mile of travel, as compared to far higher costs for federally financed alternatives to which people must turn if this aid is denied.

We do not ask you to support waste and inefficiency. To qualify for aid, a service should be shown to be necessary, and aid should not exceed two and a half cents per passenger-mile for any system at present cost levels. The point is that whatever the limitations, the aid is urgently needed. Everyone agrees to that Urban life has reached the point where this aid can no longer be delayed. It is overdue. It is needed now. I urge your support to help defray some of the operating losses of our urban mass transit systems.

Further, I think it is time that Congress reviews its subsidy program for aiding the construction of new urban mass transit systems. The Department of Transportation subsidizes 90 percent of the cost of interstate highways with the State picking up the remaining 10 percent. Ironically, by building better highways we create more congestion in our cities and this in turn creates a greater need for urban mass transit systems.

Yet the Federal Government only offers to pick up two-thirds of the capital cost of an urban mass transit system, leaving it to the State and city to pick up the remaining one-third. Most of our cities are in such poor financial shape that they cannot provide any portion of these required funds and our States likewise find it difficult to pick up this large a percentage of the tab.

It seems quite illogical for the Federal Government to pick up 90 percent of the cost of new highways and only two-thirds of the cost of vitally needed urban mass transit systems, and I would request that the Federal Government increase its percentage for the latter. If Washington were to put up 90 percent of the fuds for mass transit systems, this would go a long way toward reducing congestion on our highways and city streets and enable a greater number of our citizens to travel back and forth within our cities at lower cost.

Thank you very much for this opportunity to present my views before this committee.

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## THE SUBMARINE FORCE TODAY

### HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ANDERSON of Tennessee. Mr. Speaker, having had considerable submarine duty during my Navy years, I retain a strong residual interest in what is happening with U.S. submarines at the present time.

On of the most informative articles on the submarine force that I have seen recently, came across my desk. It is written by Anthony Harrigan. Because it is so comprehensive and informative, I am placing it in the RECORD and recommend it to my colleagues:

THE SUBMARINE FORCE TODAY

(By Anthony Harrigan)

ABOARD THE U.S.S. BILLFISH IN THE ATLANTIC.—The officer of the deck calls out, "Diving officer, submerge the ship." The reply comes, "Dive, dive, dive." The 4,600-ton nuclear attack submarine slips beneath the choppy surface of the ocean 100 miles south of Montauk Point at the eastern end of Long Island. The control room is filled with a loud humming noise, the sound of air leaving the ballast tanks. It is necessary to hold onto the overhead as the submarine submerges. The sensation is one of riding a train down a steep mountain grade.

I boarded the sub at Groton, Conn., for a day of test operations and a night run past Sandy Hook, N.J. The *Billfish* is among the newest submarines in the U.S. Navy, having been commissioned last March. She is the 50th nuclear attack submarine to join the fleet and perhaps the fastest of the Sturgeon class. The commanding officer of the *Billfish* is Cdr. Richard McB. Hughes, USN, a 1955 graduate of the U.S. Naval Academy.

Even as the captain and crew of the *Billfish* learn the capabilities of their craft, the public reads of the need for new types of submarines, including subs capable of firing cruise missiles at surface ships and ultra-long range missile-firing submarines. These and other types of undersea warfare craft undoubtedly are needed by the United States to provide a new measure of national security in the late 1970's and 1980's. But for some years to come, the undersea defense of the United States will depend on submarines such as the *Billfish* and the men who take her to sea. One of the keys to America's security in the '70's is the quality of submarine commanders and their crews and the performance they are able to get out of the craft they operate.

Operational problems and challenges don't particularly interest the public. Reports of futuristic submarines are more exciting. But what the Navy does with the existing naval hardware is what really counts.

The grim fact is that the Soviet undersea fleet is superior in numbers to the U.S. submarine force. The numbers situation is much worse than anyone expected even a year ago. Secretary of Defense Melvin Laird recently said the Soviets are expected to match, in numbers, the U.S. Navy's 41 Polaris-type submarines in 1973, a year earlier than expected. Congress is slow to approve badly needed nuclear attack submarines. Even if a green light were given to a submarine buildup, it would be years before the new undersea vessels were operational. Therefore, qualitative improvement is the chief hope of the United States in submarine warfare.

It shouldn't be imagined that the Soviets are slouches when it comes to quality. Their new submarines have displayed outstanding performance in terms of quietness and high submerged speed. But the U.S. submarine service, at least for the time being, has a lead in submarine technology. America's hope for widening the margin—in terms of threats in the near future—depends on the performance of submarines such as the *Billfish*.

The *Billfish* has improved sonar and is designed for quiet operation. The latter is very important, for a quiet submarine can hear another undersea craft at a greater distance and can't be as easily detected. This has a bearing on the deployment of submarines, especially in the critical North Atlantic. The United States has to watch for unusual movements of Soviet submarines. The manner in which the U.S. deploys its submarines depends on the extent to which Soviet subs are capable of quiet operation. As the Soviets gain in quietness, the U.S. has to narrow defensive or patrol sectors for its submarines. In view of the numerical weakness of the U.S. undersea fleet, enemy gains in quiet submarine operation pose a grave problem.

It is a mistake, however, for the public to think of submarine warfare wholly in terms of numbers and the age of equipment.

The action of Israel's armed forces in recent years have demonstrated the decisive impact of combat readiness and innovative use of older equipment. These factors undoubtedly would be of major importance in any undersea struggle.

The *Billfish* and other new attack submarines have remarkable equipment for identification of Soviet submarines and for fire control in combat. Unfortunately, the United States has yet to develop torpedoes of the same level of excellence as American submarines. But the greatest opportunity for the U.S. Navy to retain a qualitative advantage is in the area of human capabilities. The intensive training and schooling of U.S. submarine personnel should pay off in a combat situation. Furthermore, the computer has not replaced the submarine commander in a duel with another submarine. Experience and judgment are key factors in undersea warfare. Some submarine commanders, like some fliers, have an instinct for combat—a feel for the combat situation—that could tip the scale in wartime. Moreover, the skipper of today can develop his combat command skill by use of electronic simulators ashore.

Beyond that, a submarine crew must be a unit in mind and mood. One hears a great deal these days about poor discipline in the armed forces. It is heartening, therefore, to cruise aboard the *Billfish* and see a true team in action. The crew of the *Billfish*, like the crews of other nuclear submarines, represents an elite force skilled in nucleonics, electronics and weaponry.

In riding the *Billfish*, one naturally wonders about the next phase of submarine development, quieter, deeper-diving, faster submarines. The country must have such craft if it wants to be safe against enemy attack. Lessons learned aboard the *Billfish* and other new attack boats must be cranked into development plans. The Congress must acquire a new sense of urgency regarding submarine defenses. But there also must be a broader public recognition of the efforts submarines are making to get the best out of available equipment and to operate in the most skillful fashion. The current dangers and challenges have to be faced and dealt with by forces in being. The *Billfish* and other units of the U.S. Navy's submarine force are the country's first line of defense against attack from the ocean depths.

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## FOXES AND CHICKENCOOPS

## HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. O'HARA. Mr. Speaker the act of March 4, 1913, creating the U.S. Department of Labor, contains, in its preamble, the following language setting forth the obligation and responsibility of that Department. The sentence reads:

> The purpose of the Department of Labor shall be to foster, promote and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment.

That is an important provision of law, because it makes perfectly clear to whoever will read it that that Department has the same kind of obligation to serve the identifiable interests of a particular part of the Nation as does the Commerce Department, whose mandate is to serve the business community, and the Agriculture Department, whose mandate is to serve the farmer.

In the current administration, the Labor Department's performance of its mandate to "foster, promote and develop the welfare of the wage earner" has largely expressed itself in pushing legislation for compulsory arbitration of labor disputes, adjusting the Bureau of Labor Statistics to protect the workingman from being told how bad unemployment is, assuring the unemployed workingman that he is not unemployed, that if he is, it is only "transitional," and anyway, what he needs is not a job but training; in opposing meaningful increases in the minimum wage, in opposing further limitations on child labor, in helping write the scripts for the President's little guerrilla theater assaults on the elected leaders of organized labor, and, currently in lending its strength and enthusiasm to the "New Economic Policy," which is based on freezing the workingman's wages and telling him that is going to bring him a new prosperity—which will only be a little bit more painful than the old recession.

I will not say that the Labor Department in the Nixon administration has forsaken its legislative mandate to "foster, promote, and develop the welfare of the wage earner," but I will say that they have been remarkably imaginative in the way they have interpreted those words.

Harry Conn, an editor of Press Associates, Inc., has recently filed a story explaining where the Nixon administration recruits people to "foster, promote, and develop" the wage earner's interests. It may shed some light.

### LABOR DEPARTMENT POLICYMAKERS READ LIKE "WHO'S WHO IN BUSINESS"

(By Harry Conn)

WASHINGTON.—The U.S. Department of Labor, created in 1913 to protect the interests of working people, has rarely been under as much fire for being pro-business and pro-management as it is today.

A survey of the key policymakers of the Department provides a logical explanation: it reads like a "Who's Who in Business."

Almost all of the top Department officials come from Big Business, only a handful are career government officials and those with trade union background are almost singular exceptions.

Secretary of Labor James Day Hodgson came to Washington to join the Nixon Administration with a background of 28 years as an executive of the Lockheed Corporation. He was vice-president in charge of industrial relations at the time he was named Undersecretary of Labor by President Nixon.

Hodgson reached right into Lockheed for one of his top assistants. Prior to joining the Department in 1970, William H. Schmidt, Jr., served as corporate information director for Lockheed.

E. Carl Uehlein, executive assistant to Hodgson, was with a Massachusetts law firm where he specialized in labor law, largely with management clients.

The Special Assistant to the Secretary for Legislative Affairs, Frederick L. Webber, held a legislative liaison post with the National Forest Products Association, the trade organization of the lumber industry.

Under-secretary of Labor Laurence H. Silberman practiced law in Honolulu, specializing in labor law. He won his corporate credentials since his practice was heavily weighted toward management and business.

Silberman's executive assistant, Richard J. Wise, was assistant director of industrial relations for the John Hancock Life Insurance Company with offices in Boston.

The line-up of Assistant Secretaries of Labor could reasonably be expected to hold posts with the Department of Commerce. But Labor? The only exception is W. J. Usery, Jr., Assistant Secretary for Labor-Management Relations, who was Grand Lodge Representative of the International Association of Machinists.

Frank G. Zarb, Assistant Secretary for Administration, has a background of investment banking houses including CBWL-Hayden, Stone, Inc., where he was executive vice-president; Cogan, Berlind, Weill & Levitt, Inc., as senior vice-president, and with Goodbody & Co. For five years he was with the industrial relations department of Cities Service Oil Company.

Assistant Secretary for Occupational Safety and Health George C. Guenther was president of the John H. Guenther Hosiery Co., in Reading, Pa., where he was successful in keeping the American Federation of Hosiery Workers from organizing his employees.

Malcolm Lovell, Assistant Secretary for Manpower, lists among his credentials 12 years in management capacities with the Ford Motor Co., and manager of employee services for American Motors Corporation.

Hodgson recently re-assigned Assistant Secretary Richard J. Grunewald to head Employment Standards. He served from 1956 to 1971 with the Olin Corporation in New Haven, Conn., the last six years as vice-president for administration.

Former Assistant Secretary Jerome M. Rosow was with Standard Oil of New Jersey for 16 years prior to being named to head policy, evaluation and research. He recently returned to Standard Oil.

One of the most important posts in the Department is that of Solicitor. It is currently being filled by Richard F. Schubert. He joined Bethlehem Steel Corp., in 1961, was promoted to assistant manager of labor relations in 1966, where he served until he joined the Nixon Administration.

Donald M. Irwin, who was Deputy Under-Secretary for International Affairs until his recent appointment as Chicago regional director for the Department, held top offices with Chrysler, Deere & Co., and Hawaiian Airlines.

John Wilks, director of the Office of Contract Compliance, operated his own public relations firm in the San Francisco-Oakland area where he had such clients as Standard Oil of California, Chrysler, Safeway Stores and F. W. Woolworth.

John L. Blake, director of the Job Corps, came to the Department from his post as assistant secretary for the Marine Midland Trust Company of Rochester, N.Y.

In addition to Usery, only two other higher Labor Department officials have trade union backgrounds: Deputy Assistant Secretary of Labor for Manpower Paul J. Fasser, Jr., from the Steelworkers, and Assistant Manpower Administrator Robert J. Brown, who held posts with the United Auto Workers and the Minnesota CIO in 1952–53.

These are the men who determine policy for the Department of Labor, which was created "to advance the public interest by promoting the welfare of the wage earners of the United States, improving their working conditions, and advancing their opportunities for profitable employment."

If the Labor Department officials view this function from the management side of the bargaining table, it's understandable.

## THE EFFLUENT SOCIETY?

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## HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. NELSEN. Mr. Speaker, recently an excellent article on the subject of water pollution control came to my attention. Amendments to the Federal Water Pollution Control Act of 1965 will be coming up for consideration in the near future, and I bring to my colleagues' attention the comments and analysis by Mr. Douglas Caddy which appeared in the January 31, 1972 issue of Barron's.

So that our colleagues might have the benefit of Mr. Caddy's comments, I include his article in the CONGRESSIONAL RECORD at this point in my remarks:

EFFLUENT SOCIETY? PENDING WATER POLLUTION CONTROLS WOULD COST INDUSTRY DEAR

(By Douglas Caddy)

Now that Congress has reconvened for its second session, it will pick up where it left off in processing major legislation. At the top of the list is the Federal Water Pollution Control Act Amendments of 1972, an impressive title for an array of concepts and proposals which may drastically affect the balance sheets of American corporations for at least the next decade.

In the opinion of most Congressional leaders, the new water bill could be the most important legislation enacted by the 92nd Congress. One thing is certain: if the proposed 1972 amendments to the Federal Water Pollution Control Act of 1965 are adopted without substantive modification on the floor of the House, their potential impact upon the economy and upon industry, agriculture, labor and government will be profound. The bi-partisan leaders of the House Public Works Committee, in announcing that the Committee had ordered its bill HR 11896 reported on the day before the first session of Congress ended, described it as "the most significant water improvement legislation ever reported to Congress," meaning the 1972 offspring amendments certainly outshine their parent act passed seven years ago.

### SENATE VOTE

The Senate passed its own bill S. 2770 on November 3. The vote of 86–0 clearly reflected the absence of controversy and debate, although Senators James Buckley (R.-C., N.Y.) and Lloyd Bentsen (D., Texas), who serve on the Senate Public Works Committee, voiced concrete reservations about some of the bill's provisions. The Senate Public Works Committee in the past two years devoted 33 days to public hearings on the water legislation, heard 171 witnesses, received 470 statements for the record, compiled 6,400 pages of testimony and held 45 executive sessions. In the end, even the two slightly critical Senators, joining in praise for Senator Edmund Muskie (D., Maine) for skillfully guiding the bill toward successful passage, voted "yea" and sent the measure to the House.

Rep. John Blatnik (D., Minn.), Chairman of the House Public Works Committee, almost immediately indicated he strongly opposed reopening the public hearings on the legislation which his committee, like its counterpart in the Senate, had been conducting for months. The Administration, supported by industry and state governments which felt the Senate bill weakened their pollution control powers, pressed for new hearings. Within a week after having voiced opposition to the hearings, Rep. Blatnik succumbed and scheduled final hearings for December 7-10.

The four days of hearings saw a parade of prominent witnesses—from the Republican governor of New York, Nelson Rockefeller, to the then Chairman of the Council of Economic Advisers, Paul McCracken—criticize the Senate and House bills as embracing the wrong goals and establishing dangerous regulatory powers. Nevertheless, on December 16 the House Committee voted to order its own bill, stronger in some aspects than the Senate version, sent to the House floor where it will be voted upon, perhaps as early as February. Rep. Robert Jones (D., Ala.), who is Acting Chairman while Rep. Blatnik recovers from a slight heart seizure, and Rep. William Harsha (R., Ohio), ranking minority member, declared the House bill goes "with the overwhelming bi-partisan support of the Committee's members."

### COMPLEX PROVISIONS

One reason why little or no opposition is voiced against the legislation in Congress is that few members of Congress admit they understand the amendments' complex provisions and concepts. Indeed, it is worth noting that the Senate Public Works Committee on October 28 voted to report its bill but the actual text and committee report were not available until November 1, the day before the Senate was scheduled to vote. S. 2770 is 190 pages long and its length and complexity undoubtedly deterred many Senators from reading the bill in the 24 hours between the time the bill became available and the debate and vote. Thus, the Senate almost blindly relied upon the collective judgment of its Public Works Committee, which strongly recommended passage.

It was not until after Senate passage that the Administration and other critics awoke and began to clamor for a re-examination by the House Committee. S. 2770 and H.R. 11896 (as introduced on November 19—the text of the final bill will not be ready until February) must be read sentence by sentence to pierce their complex concepts and provisions. After doing so, one veteran Washington lawyer described the bills as "virtually a world's fair of legislative ingenuity and legal intricacy."

The controversy that has developed since Senate passage swirls around five concepts embraced by both bills:

First, the legislation sets a series of goals to be achieved and deadlines to be met in order for the country to obtain pollution-free water.

By June 30, 1974, municipal sewage pollution facilities will provide the equivalent of secondary treatment.

By July 1, 1974, construction grants for treatment facilities will be made on a regional, or area-wide basis, rather than on a city or town basis as in the past.

By January 1, 1976, industrial sources of pollution will be required to have the best practicable control technology.

By January 1, 1981, industry will cease water pollution discharges.

By 1985, the discharge of all pollutants from all sources into navigable water will be eliminated.

### INTERIM GOAL

There is one general interim goal: to make lakes and streams clean enough by 1981 for swimming and for the propagation of fish, shellfish and wildlife.

The Administration and industry representatives argue that the setting of these goals and deadlines is unrealistic and could lead to a new undermining of the confidence of the citizens in their government when expectations are not fulfilled. Environmental Protection Agency Administrator William Ruckelshaus told a National Press Club luncheon on the same day that the House Committee ordered its bill reported that the provision for the elimination of all discharges into waterways by 1985 is not technically feasible.

Earlier, in committee testimony ,the chairman of the Council on Environmental Quality, Russell Train, also criticized the goal. After noting that "since wastes will not simply disappear and must be disposed or recycled in some way," Train observed, "a no-discharge requirement presupposes that it is uniformly preferable to dispose of all waterborne waste on the soil or in the air rather than in the water, except where some type of re-use is possible. It is true that the land should be considered and quite possibly used to a much greater extent as an alternative to water for waste disposal, particularly for wastes that are composed of usable nutrients. However, I am aware of no evidence that land can be regarded as the best or even a viable solution for all or most waste disposal requirements. There are practical limits on land availability; there is potential for contamination of soil and ground waters by heavy metals and other materials.

"These and other questions need, and are receiving, further research and investigation. Moreover, surface water has a capacity to absorb a certain amount of wastes without harm. Although we certainly should not abuse or strain this capacity, neither should we ignore it, especially not without weighing the environmental hazards of alternative disposal choices." Train further noted that incremental costs of abatement increase greatly as higher levels of reductions are required. This is shown in the accompanying table.

### EFFLUENT LIMITATION STANDARDS

The second major concept is abandonment of water quality standards developed under the 1965 Act and substitution of effluent limitation standards. Premised on a determination of the beneficial uses to be made of a given body of water, water quality standards include a description of the quality necessary for such uses, stated in physical, chemical and biological measures. A schedule of remedial actions to achieve and preserve such quality is included.

The proposed effluent limitation standards would require the progressive restriction on discharges into the water until the point is reached when no pollution effluent is discharged, i.e. 1981 for industry, and 1985 for all other sources.

EPA Administrator Ruckelshaus, in criticizing the substitution of effluent limitation standards for water quality ones, points out that this concept would forbid tertiary chemical treatment of sewage. Such a system is currently being installed at the Blue Plains sewage plant for the District of Columbia and, according to Ruckelshaus, the discharges from this treatment will be just short of drinkable quality. However, under the concept of effluent limitation the treated discharges could not be put into the Potomac River. According to Ruckelshaus, the alternative will necessitate the building of huge lagoons for sewage sludge settlement and the use of irrigation or some other system for the return of disinfected sewage effluent to the land. EPA favors the new legislation building upon the existing foundation of water quality standards and employing effluent limitation only as a tool to achieve such standards.

### BEST PRACTICABLE

The legislation's third major concept is to achieve the "no discharge" goal and effluent limitation standards through two phases. Phase I would require industry to apply the "best practicable control technology currently available" by January 1, 1976. Phase II would require industry to apply the "best available control technology" by January 1, 1981, if it is unable to eliminate completely the discharge of pollutants. A part of this concept is that all new point sources of discharge for 28 industrial groups (such as textile, steel, paper, chemical, etc.) will be required to use the "best available technology" and, if practicable, to meet a standard of performance which permits no discharge of pollution.

Industry representatives express concern over this concept because the legislation fails to define adequately what constitutes best "practicable" control technology, opening the possibility that the EPA or private parties in citizen's suits allowed under the act, might take the position that any control technology which is "possible" or "capable of being used" (the dictionary definition of practicable) is required. Since the two bills establish a precise standard of "secondary treatment" for publicly owned plants, they argue that precise standards should be applied to industry.

Industry is also disturbed over the logistical problem of meeting the Phase I January 1, 1976, deadline, since EPA regulations defining the treatment facilities will not be available until 1973. The design and installation of sophisticated treating facilities for large or complex manufacturing plants involve a lead time of several years. Moreover, thousands of plant owners will be competing at the same time for the equipment and construction labor. There is already about $7 billion worth of waste treatment facilities for which federal financial assistance has been committed, construction of which is incomplete or not yet under contract. Still another problem is that Phase II will see a separate and more stringent standard for treating facilities. Thus, after massive investment in Phase I facilities, industry may quickly find that they do not satisfy the act's requirement.

### NO SOLACE

The citizen's suits and administrative and judicial procedure set forth in the amendments comprise the fourth major concept. Since the act will permit citizen's suits to enforce compliance, industry may find no solace in the suggestion that EPA will be reasonable in applying the act and in resisting literal compliance.

The amendments would allow any citizen to initiate a civil suit against any party who is alleged to violate an effluent limitation or a federal or state abatement order, or against the EPA Administrator for failure to perform a non-discretionary act. If EPA or the state initiates a civil or criminal action on its own against the alleged violator, no court action may take place on the citizen's suit.

Any party who willfully or negligently violates its discharge permit or who violates several other specific provisions contained in the amendments shall be liable to a fine up to $25,000 per day of violation and/or one year in jail. The penalty for the second conviction is $50,000 per day and/or two years in jail.

The Senate bill requires a petition for review of EPA's promulgation of standards relating to new sources of toxic pollutants and any petition for review of the EPA Administrator's acceptance or rejection of a state's procedure for controlling new sources or issuing permits to be filed within 30 days in the U.S. Court of Appeals for the District of Columbia. A challenge to the Administrator's actions cannot be raised in civil or criminal enforcement proceedings.

### FAIR SHAKE

Industry representatives argue these provisions substantially deprive interested parties, including the states, of access to judicial review. Since the U.S. Court of Appeals in the District of Columbia is characterized by some as a "liberal" court, they believe that they would receive a fairer shake if appeals could be filed in the U.S. Court of Appeals for the appropriate local circuit.

The House bill contains a provision which may prove to be a superior judicial procedure. It requires the President, through the Department of Justice, to study and make recommendations on the advisability of establishing an Environmental Court to resolve disputes over administration of pollution control measures.

The final concept embodied in the amendments is contract authorization. This would eliminate the budget-appropriation process of Congress and would give EPA direct authority to enter into contracts. At stake is the contracting authority to disburse vast sums of public sums. The House bill calls for a total outlay of $27 billion over four years—$7 billion more than the Senate bill. The Administration had originally recommended $8 billion for the same time span.

Of the $27 billion in the House bill, $20 billion would be for sewage-treatment plants, including construction of collection systems. The Senate bill authorizes $14 billion for plant construction. Both bills, in bypassing the normal budget-appropriation process, allow EPA to enter into long-term contracts with regional authorities. The federal share of construction costs under HR 11896 would range from 60% to 75%, depending on the state's contribution. This compares with 60%–70% in S. 2770 and 30%–55% in existing law. Both bills also authorize reimbursement to cities and states for their sewage plant construction work since 1965 ($2.4 billion in S. 2770 and $2.75 billion in HR 11896).

### SIDESTEPS SAFEGUARDS

EPA Administrator Ruckelshaus, who would have the authority to disburse the billions of public funds, is opposed to contract authorization—as are a number of Senators. He says it "sidesteps all the safeguards and discipline provided by the budgetary-appropriation process. . . ."

The concept of contract authorization raises perhaps the most fundamental question concerning the potential impact of the water act amendments: will the economy be adversely affected?

Paul McCracken believes it may well be. In testimony before the House Committee last December he observed: "If new programs are taken in without seeing clearly the magnitude and character of future commitments, they may get out of line with our capability in the future to produce, thereby imposing severe strains and distortions on the economy. . . . We are already on an expenditure course such that federal outlays will tend to rise more rapidly than the increment of revenues that on-going economic growth will yield with any given system of tax rates."

He warned that the impact of the water legislation could "turn out to be proportionately heavy on industries and products that are important to our foreign trade" and could lead to enlarged structural unemployment, the most difficult to control because it is caused primarily by disappearing markets.

In concluding, McCracken indicated his prepared remarks held three implications:

(1) "The commitment involved in H.R. 11896 is large. Required capital outlays for a sustained period would be equal to something like one-tenth of business fixed investment, and another like amount would be spent for operating costs.

(2) ". . . It would appear physically to be very difficult for this country under its system of construction as currently organized to produce the physical plants to achieve the level of effluent removal suggested by 1981 by either the Senate or House bills. Over the last two years the rate of growth of construction of waste disposal facilities has been 25% annually. This compares with a long-term rate of growth of approximately 6%. . . . Higher levels of activity in this sector could lead to more rapidly escalating inflationary pressure. . . ."

(3) The question of the economic feasibility of carrying the removal level to 100% "it not answered by whether even purer water is better but whether after achieving a reasonably high level of removal the large resources involved to achieve small further gains could contribute even more to our material welfare if they were to be used elsewhere. . . ."

### IMPORTANT EFFECT

The economic common sense contained in McCracken's comments had an important effect. Committee members agreed to insert a new provision in their bill to require that within two years after enactment the National Academy of Sciences would complete and report to Congress a study of the social, economic and technological effects that would result from achieving the 1981 clean water goals. The requirement that industries must use the best available pollution control technology would not come into force until the Congress takes action to implement the findings of the National Academy of Sciences study. Practically, this might mean the 1981 requirement would not take effect unless Congress reimposed it.

Of course, even if provision requiring this study is retained in the bill on the floor of the House, it may be struck out when the House and Senate bills are sent to conference committee. Nevertheless, the McCracken testimony and the proposed study do serve to focus the attention of the entire House not on the question most frequently posed up to now: "Do we need this legislation if we are to clean up our waters?" but instead: "If we pass this legislation, will its environmental benefits be more than offset by the social, economic and technological costs required to implement it?"

If Congress enacts the water act amendments, President Nixon is not likely to exercise a veto. To do so, as Ruckelshaus says, would open him to accusations that he favors "dirty water." Accordingly, Ruckelshaus cautioned the House Committee members in enacting legislation: "We must be as careful as surgeons. We must take care not to throw the proverbial out with the bathwater."

TOTAL NATIONAL COSTS OF SUCCESSIVE LEVELS OF POLLUTANT REMOVAL

[Dollars in billions]

| Level of removal (percent) | Total cost | Cost per incremental percentage point of removal |
|---|---|---|
| 85 to 90 | $61.0 | $0.7 |
| 95 to 99 | 119.0 | 6.0 |
| 100 | 317.0 | 66.0 |

Source: Estimates of the Council on Environmental Quality and the Environmental Protection Agency. In effect the data are in terms of 1971 dollars, since no price inflation has been built into the data. Total costs include a 10-year program of capital expenditures and 20 to 25 years of operating costs for those facilities.

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## PERSECUTION OF UKRAINIAN INTELLECTUALS BY THE SOVIET UNION

## HON. JAMES D. (MIKE) McKEVITT

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. McKEVITT. Mr. Speaker, recently I received a petition containing the names of approximately 260 American citizens of Ukrainian descent protesting continuing and increasing persecution of young Ukrainian intellectuals by the Soviet Union. The petitions were gathered in Denver this past January 30 as the Denver branch of the Ukrainian Congress

Committee met to observe the 54th anniversary of Ukrainian independence.

The letter which accompanied the petitions is one which I would like to share with my colleagues:

DEAR MR. MCKEVITT: We, the undersigned, being your constituents and fully aware of your leadership both in the United States Congress and our community at large, appeal to you for your support in a matter which is of grave concern to us.

As you undoubtedly know from the press, the Soviet government has been engaged in a series of arrests of Ukrainian intellectuals in the past few weeks. Persecution and oppression of the Ukrainian people by Communist Russia have always been the principal traits of Russian Communist rule in Ukraine, but since 1965 the Kremlin has stepped up the persecution of the Ukrainian intellectual elite. Arrested, tried and sent to jails, labor camps and psychiatric asylums are professors, writers, poets, artists, literary critics, musicians, researchers, dramatists, scholars and students. The oppression in Ukraine is not only aimed at suppressing any opposition to the Communist regime, but at eradicating, if possible, the very essence of Ukrainian consciousness, Ukrainian culture and the spirit of Ukrainian independence.

The persecution of Ukrainians by the Soviet regime is also a flagrant violation of human rights, as enunciated by the United Nations Declaration of Human Rights on December 10, 1948, which was solemnly signed by the government of the Ukrainian SSR and USSR.

Therefore, we appeal to you, Sir, to raise your voice of protest in the United States Congress in defense of the persecuted Ukrainian people. We know that under the pressure of outside opinion the Soviet government has been allowing many Jews to emigrate to Israel, and we trust the effect will be attained with the Soviet government discontinuing its discriminatory and oppressive policies toward the Ukrainians. Demand that the United States Government, through its Representative to the United Nations, proposes the immediate investigation of Communist terror upon the 47-million Ukrainian nation.

By doing so, Sir, you will demonstrate your unswerving dedication to the principles of Freedom and justice of man everywhere.

Respectfully yours,

UKRAINIAN CONGRESS COMMITTEE,
OF AMERICA, DENVER BRANCH.
IVAN STEBELSKY,
*Chairman.*
MICHAEL MEDWETZKY,
*Secretary.*

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## SOMEONE SHOULD SAY THEY ARE SORRY

### HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ZWACH. Mr. Speaker, our countryside, already suffering from economic adversity, is being dealt a new blow by our railroads which are in the process of abandoning up to a third of their trackage.

This is a serious setback for our rural communities who depend on the railroads for their bulk transportation.

The feeling of our rural people is very well expressed in an editorial by Ken Anderson, editor of the Cottonwood County Citizen at Windom, which, I insert into the CONGRESSIONAL RECORD so that my colleagues will have a better understanding about the problems facing countryside America.

SOMEONE SHOULD SAY THEY ARE SORRY

Depots in three area towns closed Saturday.

And with the closing of the three depots—and others still to come—a way of life is gone forever.

It's sad, but that's the way it is.

With its usual disregard for the feelings of its employees, customers, or whomever it might be dealing with, the Chicago and Northwestern Railroad had little to say. It merely issued directives terminating the services of its agents, many of whom have worked long years for the railroad.

As one agent said, "They didn't even say they were sorry."

That figures.

It probably explains why railroads, even though they are essential to our nation's well-being, are having all kinds of troubles.

Railroads as an industry have never been able to adapt to 20th century business practices. Combine this business shortcoming with a lack of heart and it's easy to see why railroads are coming to the end of the line.

But maybe before the end comes, somebody—just on general principles—should tell the railroad people that they're sorry for what has happened. It might help.

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## A REALISTIC OVERVIEW OF PRESIDENT NIXON'S TRIP TO PEKING

### HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ROUSSELOT. Mr. Speaker, there is a great deal of discussion about President Nixon's trip to Communist China and the meetings in Peking with Mao Tse-tung, Chou En-lai and other rulers of the Communist dictatorship. There are certain facts and opinions that should be considered because the world's attention is now glued to the television set which, by the marvel of the INTELSAT communication system allows everyone to see the many "festive occasions" that are being conducted in Peking. Unfortunately, this television extravaganza tends to distract from the hard facts that exist in this so-called "new relationship." U.S. News & World Report in its February 28, 1972 edition, page 15, has given a very objective appraisal of what the American Government has given to the Communist government in Peking in exchange for this so-called Journey for Peace. At this point I wish to insert this report from my colleagues:

WHAT NIXON HAS GIVEN PEKING SO FAR

At little cost to themselves, the rulers of Red China have already won a long string of concessions from the U.S. as the price of a Nixon visit to Peking.

Latest U.S. concession, for example, came on February 14, when the White House dropped the last trade restriction aimed specifically at the mainland Chinese, putting Peking on the same trading basis as the Soviet Union. That means that American businessmen can now sell to Communist China items such as industrial chemicals, locomotives, construction equipment and rolling mills.

Over all, the three-year record of Mr. Nixon's overtures shows substantial gains for Red China on the political as well as the economic front. Details:

A series of conciliatory gestures began in July, 1969, when the U.S. gave permission for noncommercial purchases of Chinese goods by American tourists, museums and others. At the same time, the U.S. eased some restrictions on travel to China by American citizens.

In December, 1969, foreign subsidiaries of American firms were authorized to engage in commerce between mainland China and third countries.

In March, 1970, the U.S. announced it would validate passports for travel to China "for any legitimate purpose."

In August, 1970, restrictions were lifted so that most foreign ships could use American-owned bunkering facilities for trips to and from Chinese ports.

In March, 1971, the U.S. ceased to require special validation of passports for travel to China.

In April, 1971, Washington decided to: 1. Expedite visas for visitors from China. 2. Relax currency controls so China could acquire dollars from the U.S. 3. Permit U.S. oil companies to provide fuel for ships or aircraft en route to or from China, except those whose itineraries included North Korea, North Vietnam or Cuba. 4. Allow U.S. ships and planes to carry mainland Chinese cargo between non-Chinese ports, and U.S.-owned carriers under foreign registry to call at Chinese ports. 5. Compile a list of nonstrategic items for direct export to China.

In May, 1971, other controls on dollar transactions with China were lifted.

In June, 1971, the U.S. ended a 21-year embargo on trade, issuing a general export license for a comprehensive list of nonstrategic items.

By far the most important political concession was reversal of U.S. opposition to United Nations membership for Red China. Allied diplomats say this not only brought the People's Republic into the U.N. but triggered the expulsion of Nationalist China—Taiwan.

IN RETURN FOR ALL THIS

China has freed two imprisoned Americans and commuted the life sentence of a third American to five more years. Peking has also opened its doors to cultural, scientific and journalistic visitors from the U.S.

Immediately following President Nixon's announcement on July 15, 1971, that he would go to China, there were a great number of patriotic Chinese people who began raising questions about the psychological and real effects that this trip would have upon freedom-loving people of Asia. One such individual is Calvin Chao who spoke to a meeting of the South Pasadena Business and Professional Women's Club on Wednesday, February 9. I felt that it would be appropriate to bring Mr. Chao's remarks to the attention of my colleagues for their review and consideration at this important point in time:

A CHINESE CHRISTIAN'S COMMENT ON PRESIDENT NIXON'S PLANNED VISIT TO PEKING

(By Calvin Chao)

On July 15th, 1971 President Nixon made the announcement, "I will go to China." Many friends in America are anxious to know what Chinese Christians think about President Nixon's plan to visit Peking and how to pray intelligently for China.

This announcement did not surprise most of the Chinese because the Asian policy of the United States has been shifting for some time. Everyone can foresee now that Red China will enter the United Nations this fall or next year and that it will not be long before the United States recognizes Red China.

Within a week of the announcement Taiwan protested, South Korea eyed it with suspicion, and South Viet Nam reluctantly accepted it. All other countries seem to be happy except Soviet Russia, who remains silent so far. In this nation the liberals heap compliments on Nixon and some conservatives are making objections. Others do not know what to think. It is too early for anyone to make predictions regarding the results of this future visit. No one rules out the possibility of a cancellation of the visit as Khrushchev did to former President Eisenhower, but Kissinger's talks with Chou En-Lai must have laid some ground work for negotiations between the U.S. and Red China. The writer of this article does not want to be a prophet on this political move but some concerned evangelical Christians have called or written, asking for his appraisal of the situation. As a Bible-believing Christian who has been taking a stand against Communism he holds the following views:

(1) Knowing oriental subtlety the writer of this article believes that whatever the diplomatic game is, it is the Chinese Communists who will benefit more from this visit than the United States. Most Asians note that the United States with the greatest military power in human history has not won the war in Indochina in the first place. Now, when President Nixon of this great country, as the leader of the free world, seeks to go to Peking, he "is moving his wine-jar to the table where he listens to the instructions", as a Chinese saying puts it. It must be remembered that Chou En-Lai has not made overtures to the United States. Why did Mr. Nixon not arrange a meeting with Chou En-Lai in a neutral country, or why doesn't he send the Secretary of State to Peking to talk with Chou En-Lai? In any case the President of the United States should not have betrayed his anxious desire for such a meeting.

(2) Mr. Nixon's plan for going to Peking may be for reasons that are not known to us, but it will certainly upgrade the prestige of Red China in the world today. Many overseas Chinese had already been leaning toward Red China because of her nuclear weapons. Now Nixon's planned visit to Peking will certainly cause an emotional sweep among the Chinese in the free world to support Red China. When there are so many pro-Communist Chinese outside the bamboo curtain, who is going to profit from this switch of loyalty on the part of the Chinese?

(3) This move will frustrate the anti-Communist countries who have been allies of the United States since the second World War. Isn't there something morally wrong with the United States, when, after this country has spent billions of dollars in supplying weapons and training to help these Asian countries fight against Communism, now suddenly the U.S. is found wooing the Mao regime and leaving such staunch anti-Communist countries as South Korea, South Viet Nam and Taiwan stranded? The question follows: who will trust the leadership of the United States any more?

(4) It is the opinion of this writer that Chou En-Lai will outsmart President Nixon. Chou has been a smooth diplomat from the beginning. He fooled General Marshall into believing that the Communists were agrarian reformers and not real Communists. He deceived many Chinese with his outward grace in Chungking when the Communists were cooperating with the Nationalist government during World War II. He has survived many internal conflicts and kept his leadership in the Communist party for the last forty years. It would appear that none of the U.S. diplomats are a match for him. The negotiations in Peking will be a test of will and power and sublety. During the negotiations Red China and the United States might make some concessions on a give-and-take basis but Chou En-Lai must know that Mr. Nixon has to have some successes to bring back to the U.S. in order to win the next election. He certainly will capitalize on this weakness and force Mr. Nixon to make more concessions. Remember how Franklin Roosevelt yielded to Stalin at the Yalta Conference at the sacrifice of outer Mongolia and Port Arthur without consulting the Chinese government beforehand at all?

(5) Let us consider the effect which Mr. Nixon's visit to Peking may have on Christian missions. In other words, will it lead to the eventual opening of mainland China to missions? This writer would say that the effect will be practically nil, and that as long as Mao or his clique is in power, there is no hope that the bamboo curtain will yield to the gospel. England recognized Red China some twenty years ago. Canada has done the same lately. Have any of the English and Canadian missions been able to send missionaries to China? The reason should not be too difficult to find. Mao is definitely a doctrinaire. He is not the kind of flexible and practical politician that Nixon is. To him religion is the people's opiate. The Bible is "imperialist poison". The missionaries are "spies". He believes this to the extent that he tried to liquidate all religions in the cultural revolution carried out by the Red Guards. Now "all religions are purged" and "all bibles burned". No religious services or rituals are held. Why should Mao allow the Imperialist spies to return to mainland China to spread their opiate and poison among the people whom he is indoctrinating with his own thoughts? If there is any prospect of his allowing missionaries to enter China, as such, would he not first allow the Chinese churches inside the bamboo curtain to be revived? Will he do this?

(6) Mr. Nixon's visit to Peking may or may not result in normalizing relations with the Communist regime, but one thing is certain: the United States, in her efforts to court the Chinese Communists, will certainly not make Cold War against totalitarianism and dictatorship, to say nothing of supporting the Nationalists in freeing mainland China from oppression of freedom of speech and beliefs. Any attempt to oppose such unChristian systems will become more and more unpopular. Therefore it may be expected that the persecuted Christians on the mainland will be forgotten and anti-Communism will no longer be a cause. Moreover, U.S. and most countries in the free world will compete in courting Red China rather than fighting against its ideology. Anyone who interferes with this courtship will be frowned upon. All "liberal-minded" intellectuals and mission statesmen will try to jump on the bandwagon and ride along. This will be the turning point in a new era in which Christians will try to make peace with atheists. There will be a few hard shelled fundamentalists who will continue to sound warning bugles, but they will be very few. A friend of the writer has just written, "I shudder at the thought that the hope of many Chinese and their friends of freedom for Chinese on the mainland may be dashed to pieces". This speaks for the many Christians who know what Communism is and who love freedom for themselves and freedom for other peoples.

We realize that speculations are being made about Mr. Nixon's planned visit to Peking. More than anything else people speculate that Mr. Nixon's move is a partisan one with the purpose of taking the edge away from his potential rivals in the next election. Some say that he is trying to get China's help in pulling out from South Viet Nam. Still others think that he is trying to free Red China from tension with the free world so that Mao may fight it out with Russia. Others may think that Red China will be a big market for U.S. industry. No matter what speculations people may make they would agree that there will be no permanent peace, remembering that Mao Tse-Tung and Chiang Kai-Shek had a peace treaty also, before and during World War II. What good did it do, when Stalin and Hitler had their non-aggression pact? Even if Red China wins the war over Russia, with the United States keeping neutral or giving substantial help to this Oriental country, another war will take place between Capitalism and Communism in any case, unless the Americans prefer to be "Red rather than dead".

In conclusion, no matter what the United States may gain from Mr. Nixon's visit, once a compromise is made at the sacrifice of God's truth and His principles, there is a price to pay. Let us pray for the President of the United States that he may seek the will of God in this matter. Let us pray that God would "turn the King's heart" in His hand whithersoever He will. Let us pray that true freedom may be restored on mainland China so that Christians may return to preach the gospel there.

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## CONCERNED BUSINESSMEN JOIN BOYCOTT OF FRENCH PRODUCTS IN THE FIGHT AGAINST HEROIN TRAFFIC

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. RANGEL. Mr. Speaker, a group of concerned New York businessmen have pledged their support for a citizens' boycott of French products to exert economic pressure on France to encourage cooperation in the war against heroin. The Long Island Restaurant & Catering Association has stated the unanimous intention of its membership to boycott French wines until France makes satisfactory progress in stopping the processing and smuggling of dangerous drugs to our shores.

So that the American people will know that these businessmen are making a financial sacrifice to join in this citizens' effort, I am inserting in the RECORD at this point my correspondence with the president of the Long Island Restaurant & Catering Association and the list of members. It is my hope that their example will be followed across the Nation and that each individual in the United States will recognize the stakes involved in the heroin epidemic.

HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 7, 1972.*

Mr. WARREN SPELLMAN,
*President, Long Island Restaurant & Catering Association, Hicksville, N.Y.*

DEAR MR. SPELLMAN: I would like to take this opportunity to commend you and the Long Island Restaurant and Catering Association on your important and forward-looking step in boycotting French wines. Since my election to Congress, the war against narcotics has been my major concern. My Concurrent Resolution to boycott French-made goods until France begins cooperating with us in a more satisfactory way has been cosponsored by Members of Congress of both political parties and from all parts of the United States.

Unfortunately, the French government has not been greatly moved by our diplomatic requests for assistance in stopping the flow of heroin to our shores. It has become necessary for us to pledge ourselves to use our vast economic power to assure cooperation in our efforts against international narcotics traffickers.

I am aware that your courageous action will hurt some of your members financially. But I am also aware that the long-term effects will save the people of the United States a great deal of money and agony. You are to be commended for your participation in the continuing fight against drug abuse.

I would greatly appreciate your submitting a list of the members of the Long Island Restaurant and Catering Association to me so that I may share the names of these community-minded businessmen with my colleagues.

Again, I am grateful for your efforts in this common endeavor.

Sincerely,

CHARLES B. RANGEL,
*Member of Congress.*

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LONG ISLAND RESTAURANT
AND CATERERS ASSOCIATION,
*Hicksville, N.Y., February 14, 1972.*

Hon. CHARLES B. RANGEL,
*House Office Building,*
*Washington, D.C.*

DEAR MR. RANGEL: Thank you for your letter expressing interest in the stand taken by L. I. Restaurant and Caterers Association concerning the boycott against imported French wines until some action is taken by the French government to help eliminate this tremendous problem.

From the large response received to date in the form of letters, telegrams and phone calls from all sections of the United States, we most certainly feel that this boycott is gaining momentum and, within the next thirty to sixty days, we expect to reach every community in the country. We believe the economic impact will force the French to recognize the seriousness of this problem. If not, we intend to expand this boycott through the media and make every effort to boycott French perfumes, fashions, cars, etc. Anything you can do to help publicize or extend this boycott will be appreciated.

We enclose a listing of our membership, as you requested, and look forward to your continued interest and support.

Sincerely,

WARREN R. SPELLMAN.

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MEMBERS OF LONG ISLAND RESTAURANT AND CATERERS ASSOCIATION

Amato's Restaurant, 348 Merrick Rd., Amityville.
The Andirons, 1040 Old Country Rd., Plainview.
Antun's, 96–43 Springfield Blvd., Queens Village.
Arbor Inn, 35 Woods Road, Rockville Centre.
Barnacle Bill's, 127 E. Montauk Hwy, Lindenhurst.
Bavarian Inn, 422 Smithtown Blvd., Lake Ronkonkoma.
The Bounty Inn, 1775 Rockaway Ave., Hewlett.
Bronco Charlie's, Montauk Hwy., Oakdale.
Bruno's on the Blvd., 88–25 Astoria Blvd., Jackson Heights.
Camelot Rest & Pub, 333 S Service Rd., Plainview.
Capriccio Restaurant, 399 Jericho Tpke., Jericho.
The Castle Inn, 712 Main St., Islip.
Chez Andre, Northern Blvd., Great Neck.
China Island, 204 Mayfair Center, Commack.
Clubhouse, 320 W. Jericho Tpke., Huntington.
Copper Pan, 234 Hillside Ave., Williston Park.
Coral House, 70 Milburn Ave., Baldwin.
Coral Inn, Sunrise Hwy & 4th St., Valley Stream.
Dick & Dora's, 33 Alhambra Rd., Massapequa.
Al Dowd's Steak House, 173 Sunrise Hwy., Rockville Centre.
Al Dowd's Steak House, Route 25A, Centerport.
Al Dowd's Steak House, 744 Country Rd., Setauket.
Durow's Restaurant, 81–01 Myrtle Ave., Glendale.
Edelweiss Restaurant, 677 Farmingdale Rd., West Babylon.
Edouard's Restaurant, Sunrise Hwy., Valley Stream.
The Firehouse Restaurant, 163 Hempstead Tpke., West Hempstead.
Fleur de Lis Caterers, 870 Cypress Ave., Ridgewood.
Flynn's Restaurant, Maple Ave Dock, Bayshore.
Fox Hollow, 7725 Jericho Tpke., Woodbury.
Gene's French Restaurant, 959 E Jericho Tpke., Huntington.
Good Steer Drive Inn, 2810 Middle Country Rd., Lake Grove.
Gurney's Inn, Old Montauk Hwy., Montauk.
Harbor Inn, 84 New York Ave., Halesite.
Holiday Manor, 345 Hicksville Rd., Bethpage.
Carl Hoppl's in Baldwin, 100 Sunrise Hwy., Baldwin.
Hoppl's Malibu, Lido Blvd., Lido Beach.
Jimmy's Backyard, 415 Main St., Port Washington.
Koenig's Restaurant, 86 South Tyson Ave., Floral Park.
LaGoletta Restaurant, 57 Shore Rd., Port Washington.
La Grange Inn, Montauk Hwy & Higbie La., Babylon.
Le Cordon Bleu, 96–01 Jamaica Ave., Woodhaven.
Maine Maid Inn, Jericho Tpke, Jericho.
Manero's Steak House, Northern Blvd., Roslyn.
Manero's Steak House, 347 Jericho Tpke, Syosset.
Marcpiere, Rte. 110, S. Melville, Huntington.
Milleridge Inn, Hicksville Rd & Jericho, Jericho.
Murant's, 276 Old Country Rd, Hicksville.
Lauraine Murphy's, 1445 Northern Blvd, Manhasset.
Narragansett Inn, 244 E. Montauk Hwy, Lindenhurst.
Nassau Country Club, St Andrews La, Glen Cove.
Nathan's Famous, 601 Long Beach Rd, Oceanside.
New Hyde Park Inn, 214 Jericho Tpke, New Hyde Park.
Old Country Manor, 244 Old Country Rd, Hicksville.
Olsen's Inn, Carman Rd & Sunrise Hwy, Massapequa.
John Peel Room at Island Inn, Old Country Rd, Westbury.
Porterhouse Restaurant, 294 W Merrick Rd, Valley Stream.
Rendezvous, 292 Merrick Rd, Amityville.
Roslyn Country Club, Club Drive, Roslyn.
Royal Viking, 7940 Jericho Tpke, Woodbury.
Seascape Inn, 116 Main St, Montauk Hwy, Islip.
Ships Inn, 3882 Sunrise Hwy, Seaford.
Ships Inn, 6 Fifth Ave, East Rockaway.
South Shore Inn, 716 Sunrise Hwy, Rockville Centre.
Stouffers, 1001 Franklin Ave, Garden City.
Strazzini's, 101 E Montauk Hwy, Lindenhurst.
Sunrise Village, 175 E Sunrise Hwy, Bellmore.
Valley Stream Park Inn, W Merrick Rd, Valley Stream.
Viennese Coach, Jericho Tpke, Syosset.
Villa Bianca, 167–17 Northern Blvd, Flushing.
Villa Victor Caterers, 274 Jericho Tpke, Syosset.
Village Bath Club, The Gate, Manhasset.
Westbury Chef, Jericho Tpke & Brush Hollow Rd, Jericho.
Westbury Manor, Jericho Tpke, Westbury.
Westfal's, 111–02 Atlantic Ave, Richmond Hill.
Wyland's Country Kitchen, 55 Main St, Cold Spring Harbor.
Yankee Clipper, 275 S Main St, Freeport.
Yankee Clipper, 320 Montauk Hwy, W Islip.

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## COMPUTERS AND DOSSIERS

## HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DRINAN. Mr. Speaker, I desire to share with Members of the Congress an extraordinarily useful and significant article published in the Nation magazine on August 30, 1971, by Prof. Vern Countryman of the Harvard Law School.

This article entitled "Computers and Dossiers" is a most perceptive and persuasive development of the concept of privacy which Justice Brandeis described as—

> The right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

Professor Countryman served as clerk to Mr. Justice William O. Douglas in 1942–43. He was thereafter assistant and associate professor at Yale Law School, dean of the University of New Mexico Law School and, since 1964, professor at the Harvard Law School.

It is worthy of notation that, in the long list of Federal agencies involved in the business of collecting dossiers, the House of Representatives is not absent. Professor Countryman notes the invasions of privacy on the part of the House Internal Security Committee.

This article is a dramatic reminder that, as Mr. Countryman has put it, 1984 is only 12 years away:

### COMPUTERS AND DOSSIERS

(By Vern Countryman)

"Damn Your Cards," said he, "They are the Devil's Books"—Swift.

The compiling of dossiers on individuals is not new in this country. The Federalists, enforcing the first Alien and Sedition Acts, doubtless compiled dossiers on known and suspected Jacobins. But when they had served their purpose in the prosecution of the suspects, or at least when the Alien and Sedition Acts were repealed, those dossiers were apparently discarded. I find no record of their having been used for any other purpose.

However, as our numbers have increased, as our society has grown more complex, and as we have come to recognize more and more reasons—political, social and economic—why one man may have a "legitimate" interest in the affairs of another, the business of compiling personal dossiers has multiplied. The company that contemplates extending credit to, insuring, or employing John Doe has a "legitimate" interest in knowing something about his economic condition and perhaps some of his other characteristics also. An entire industry has developed in response to this "need." And since it is more "efficient" that a new compilation should not be developed from scratch every time a new need arises, this industry maintains permanent dossiers on each of its subjects. And the final entry, on the death of one subject, becomes only an entry along the way in the dossiers on his heirs.

Because law-enforcement agencies have a "legitimate" interest in a variety of information on suspected malefactors, they also compile dossiers. Here again, it is more "efficient" to retain the record permanently, even after the case is closed—and even though it be closed with the conviction of someone else.

During World War II and in the ensuing and apparently endless period of the cold war, it has become fashionable to put trust in a variety of prophylactic measures designed to identify potential criminals before they can commit their intended crimes, and to frustrate them in their supposed intentions. Chief among these efforts are loyalty programs, a bewildering variety of laws defining sedition and other political crimes, and the antics of certain legislative committees. To meet the "legitimate need" of government to protect itself, the same governmental agencies referred to above, and some new ones, have compiled dossiers on the political beliefs, expressions and associations of all who appear, in the eyes of the compilers, to be "subversive"—in intent if not yet in deed. And it is more "efficient" that these dossiers also should be permanent.

But the demands of that most outstanding of American virtues—efficiency—do not end here. If it is efficient for any one compiler to maintain a permanent dossier on each subject, so that he need not start from scratch each time interest in the subject is renewed, it is by the same token inefficient for one compiler to begin from scratch when another compiler already has a file on the subject. Hence, a considerable interchange of data occurs among the compilers—within the generous limits allowed by law, and sometimes beyond those limits.

Even that interchange does not exhaust the demands of efficiency. Technology has provided the computer, an instrument with endless capacity to store data and to regurgitate them at lightning speed. It is, of course, "inefficient" not to use such an instrument to combine the dossiers on a given individual that are accumulated by various private and public compilers: to a considerable extent, that has been done.

If the trend continues, the day will come when the push of a button will produce a complete "data profile" on every citizen, from his departure from the womb (or perhaps several months earlier) to some time after he enters his tomb. I cannot say precisely how far off that day may be, because our information about what goes on right now is far from complete. For the same reason, I cannot be precise about how detailed, or how accurate, the "data profile" will be.

But enough is known, I believe, to indicate that I am right about the trend. And enough is known, I also believe, to indicate that every citizen should be demanding more information about and more protection against this development than he is now disposed to demand. He should be asking more questions and asking them more insistently and at the highest levels.

### PRIVATELY COMPILED DOSSIERS

Some of those in the private sector who compile data on individuals, or who support such compilations, do so for profit. Others do so for the purpose of punishing those with whom they disagree, and still others for more benevolent reasons. We know most about the agencies that gather data for sale because Congress has in recent years concerned itself with their operations; they have been the subject of no less than five separate Congressional hearings, culminating in a new federal statute that was enacted just a few months ago. These commercial agencies fall into two categories: the credit bureau and the so-called "investigatory" reporting agency.

*The Commercial Compilers.* In a very rough way, the credit bureau is to the individual seeking personal credit what Dun & Bradstreet's reporting service is to a business organization seeking commercial credit. As consumer credit in the United States has burgeoned by more than 2,000 per cent in the past quarter century, so has the business of the credit bureau.

There are approximately 2,500 credit bureaus in the country, of which some 2,100 are members of the major trade association, Associated Credit Bureaus, Inc. The files of the bureaus affiliated with ACB include records on approximately 100 million persons, and those bureaus interchange their information. ACB is also operating under a 1933 antitrust consent decree which requires it to interchange data with the 400 credit bureaus not affiliated with it. In 1968 ACB engaged International Telephone & Telegraph Corporation to provide a computer service to facilitate the interchange.

The largest credit bureau operation outside the ACB is the Credit Data Corporation, which operates in California, Illinois, Michigan and New York, has files on 27 million persons, is adding files at the rate of half a million a month, and is fully computerized. While there is doubtless some overlap between the 100 million ACB files and the 27 million Credit Data Corporation files, the combined accumulation just about covers the 131 million of us who are older than 18 particularly since most of the 93 million of us who are married will be combined in some 46 million files with our spouses.

What sort of information do the credit bureau files contain, and where does it come from? The content, and its reliability are pretty well dictated by the three principal sources from which the credit bureaus draw:

(*1*) Their own subscribers—the merchants, banks and finance companies who buy most of their reports—supply to the bureaus such information as they obtain on their own credit customers as to employment, approximate income and credit performance. There are at least three significant limitations on this data: (*a*) The credit bureau files will not reveal the subject's net worth, or whether he is solvent or insolvent, but only whether or not his accounts with the bureau's subscribers are delinquent. Those who extend credit in reliance on a credit bureau report do so on the simplistic assumption that anyone who is managing to keep up his present payments should be able to assume one more debt. (*b*) The credit bureau files will not reveal the approximate amount of the subject's debts, since many creditors are not subscribers. (*c*) When subscribers report that the subject's account is delinquent, they are rarely moved to add, where that is the case, that there is a bona fide dispute over the amount owed (perhaps because a computer has gone awry in the billing procedure, as they all too frequently do) or that there is a dispute over the quality of the merchandise delivered.

(*2*) The more enterprising bureaus check official records for notices of such things as arrests, lawsuits, judgments, bankruptcies, mortgages, tax liens, marriage, divorces, births and deaths. Here again, there are limitations: the possibility of mistaken identity is substantial, and official records frequently do not disclose the ultimate disposition of such things are arrests, lawsuits, judgments, tax liens and mortgages.

(*3*) Most credit bureaus also maintain a news-clipping service—with some, this substitutes for checking official records. Obviously, this source contains even more danger of error and omission than does the check of records.

Both Congressmen and the news media, during the Congressional hearings on the subject, focused on the man who is denied credit because of erroneous adverse information in credit bureau files. But, since a case of mistaken identity means not only an incorrect adverse entry in one file but also the omission of a correct adverse entry in another file, and since almost all credit files understate the debts of their subjects, it is obvious that misleading credit bureau reports lead also to some granting of credit which should not have occurred. It is no coincidence that, as consumer credit expanded, so did consumer bankruptcies—from 8,500 in 1946 to 178,000 in 1970. If a creditor were to compare the report he received from the bureau with the debts scheduled by a subject in his bankruptcy proceeding, he might conclude that the report was not worth the 35¢ to 75¢ paid for it. (That is what it costs the subscriber to learn what reposes in the compiler's file at the moment he makes inquiry. If he wants the file brought up to date by calls to other subscribers, he must pay an additional fee.) During hearings held in Washington, D.C. in March 1968, a New York Congressman asked for a demonstration of Credit Data Corporation's high-speed computerized retrieval of his New York City credit file. Within the time consumed by 6 pages of printed hearing record, the report came back—on one bank loan as of June 1967, and nothing else. The Congressman's response: "A very inefficient system, thank God!"

Upon entires of such fragile reliability is your "credit rating" built. And when the credit bureau engages also in debt collection—as many of them do, finding their ability to affect the credit rating an effective collection tool—the reliability of the entries is even further threatened by a built-in conflict of interest.

But, as the credit bureaus themselves are fond of stressing, they collect only facts—if what their subscribers report to them and what they read in the newspapers can be regarded as facts. They do not engage in affirmative investigations of their subjects, save as they may on occasion join with local merchants to sponsor the Welcome Wagon lady, who reports back to the merchants on the apparent worldly needs of the newcomers she visits and to the credit bureau on their apparent credit worthiness—and on where the newcomer came from, so that his file can be obtained from a credit bureau at his former location.

For these reasons, credit bureau files do not satisfy some who contemplate commercial relationships with their customers—particularly prospective employers and prospective insurers. Such clients turn to the "investigatory" reporting agency. Congressional committees heard from representatives of the country's largest agency of this sort—Retail Credit Company of Atlanta, with 1,225 offices, 7,000 inspectors, and files on 48 million persons. Retail Credit is not yet computerized.

Inspectors for Retail Credit not only check public records and clip newspapers; they also interview friends, neighbors, former neighbors, acquaintances, employers, former employers, business associates—anyone who may know something, or have an opinion about, the subject. For life insurance companies, Retail Credit inspectors inquire about, among other things, the subject's drinking habits (including the reasons for his drinking), any domestic difficulty, any adverse criticism of "character or morals," and whether his living conditions are crowded or dirty.

For automobile insurers, they will inquire about, among other things, the quality of neighborhood, business reputation, morals and "antagonistic-antisocial conduct." Auto insurers are convinced that there is a correlation between frequency of accident and all of these factors except antagonistic-antisocial conduct, and that both immorality and antagonistic-antisocial conduct would impair the subject's effectiveness as a witness in the event of litigation. The latter consideration, of course, should dictate an inquiry also into harelips, unsightly scars and birthmarks, and the use of deodorants. For employers, Retail Credit will report whether the subject has any "known connection with a 'peace movement' or any other organization of a subversive type," and whether he is reported by others to be "neurotic or psychotic."

When Congressional investigators began to worry about the reliability of some of the opinions thus solicited, spokesmen for Retail Credit had two assurances:

(*1*) Its inspectors are carefully trained persons of "unusual inspection ability." This assurance lost some of its force when inquiry revealed that these highly qualified well-trained sleuths commanded a starting salary of $475 to $500 per month, that they prepared anywhere from two to sixteen reports per day (which Retail Credit sold for from $4 to $200 apiece), and that half of them had no more than a high school education and another 30 percent were college dropouts.

(*2*) Any adverse information not coming from public records is confirmed from a second source or reported as unconfirmed. Whatever comfort might otherwise be drawn from this assurance is somewhat qualified by evidence that at least one well-trained, highly qualified inspector, who claimed to have been told by two sources that the subject had served a prison term, reported what he had been told as an unqualified fact, although he could find no confirmation in court or prison records.

The legislators wanted to know who has access to the files of these commercial compilers. Only "reputable" business organizations, they were told, with a "legitimate" business interest. However, spokesmen for the credit bureaus admitted that there had been instances when an employee of a subscriber to a credit bureau had obtained a report for purposes unrelated to his employer's business, and Retail Credit's spokesman admitted that it sometimes gave out reports as a "favor"—for example, when an executive contract. On a second round, the fictitious man being considered as a new minister for his church.

Moreover, the compilers had been under interrogation by Congressional committees for more than a year when CBS News tried an experiment. Using a fictitious company name, it sent out twenty letters to credit bureaus, requesting reports on named individuals. It received ten reports and offers of two more if it would sign a subscriber's contract. On a second round, the fictitious company sent out twenty-eight letters. This time it did not state that it was considering granting credit—it simply asked for a full report. And this time it asked only about individuals who had been complaining to Congressional committees about the credit bureaus. It received only seven of the requested reports—plus one more when it signed a subscriber's contract.

The dosiers of the commercial compilers are available also to the government. This includes not only such governmental credit-granting agencies as the Federal Housing Administration and the Veterans Administration, who buy such reports just as do private subscribers, but also such law-enforcement agencies as the FBI and the Internal Revenue Service. Members of ACB and the Retail Credit Company make their files available to the law enforcers "as a public service." The Credit Data Corporation took a different view, declining to turn over its reports to the IRS. It was then met with a statutory summons calling for "all credit information relative to" named taxpayers. When Credit Data refused to obey the summons, it was served with a judicial order of enforcement pursuant to the statute, requiring it to comply on payment by the IRS of 75¢ per report, the fee which Credit Data charged its regular subscribers. On appeal, Credit Data won a great victory. The decision was affirmed in all respects save that the case was remanded to determine the "fair value" which IRS must pay for the reports, the rate paid by subscribers not being taken as conclusive because subscribers supply "valuable credit information" to Credit Data.

This result was not surprising. In a long line of cases, the Supreme Court has sustained judicial enforcement of an administrative agency's statutory subpoenas against Fourth Amendment attack, if the subpoena sought testimony about the affairs of, or the records of, the person subpoenaed; if the subpoena was sufficiently specific to satisfy the Fourth Amendment; if the administrative inquiry was authorized by Congress, and if the evidence sought was relevant to the inquiry—the Court's appliction of the last two requirements when its enforcement order was sought being held to satisfy the Fourth Amendment's requirement of probable cause.

More than forty-five years ago the Supreme Court also summarily affirmed a decision that no Fourth Amendment question was even presented when the IRS, investigating the tax liability of a bank depositor, summoned the bank to produce its records. And after the Credit Data case was decided, the Supreme Court unanimously extended that ruling to cover an IRS summons to the taxpayer's employer and, by dictum, to any other third person with no established legal privilege, such as an attorney, where the taxpayer has "no proprietary interest of any kind" in the records subpoenaed. The Fourth Amendment, therefore, offers no discernible protection to the subject whose file in a credit bureau is subjected to an administrative subpoena or summons of a governmental agency showing a "legitimate" interest in its contents.

No matter who else may see the file, however, the commercial compilers are uniformly steadfast on one point—the subject himself must never see it. Three reasons are given, one laughable and two believable. First, if the subject ever got his hands on the file, even in the compiler's office, he might destroy it. Second, to let the subject see the file would be to reveal the compiler's sources and would tend to "dry up" those sources. Third, if the "file" consists of a computer printout, the subject wouldn't be able to understand it. Doubtless the second reason should be expanded to say that nondisclosure of the files protects not only the compiler's sources but also the compiler himself, from trouble, including litigation, with the subject.

As a result, many subjects have not known, when they were denied credit, or a job, or insurance coverage, that the denial might have been caused by an adverse report from a commercial compiler. The subject who did learn of that fact, and who believed that the adverse report was erroneous, seldom obtained legal relief. If he sued on a theory of defamation or interference with economic expectations, he encountered a qualified privilege, based on the subscriber's "legitimate" interest in his affairs, which protected the compiler who was not guilty of gross negligence or malice.

If he resorted, instead, to an action for invasion of his common-law right of privacy he confronted, first, the fact that the famous law review article by Warren and Brandeis which launched that right in American jurisprudence was concerned only with the publicizing, albeit accurately, of private matters (not matters of public record) in the news media. If he persuaded the Court that the concept of a right of privacy had now developed to the point where it protects against offensive intrusion into his private affairs regardless of publicity, he might again have found that his protection against intrusion was qualified by the "legitimate" interest of the user of the files.

As previously noted, Congressional investigators were impressed by the plight of those whose dossiers were compiled—at least where the dossiers contained erroneous adverse information. The compilers detected that they were impressed and decided that they could not fight the move for reform and had better join it. The result was the Fair Credit Reporting Act of 1970.

This Act, applicable both to credit bureaus and to "investigatory" reporting agencies, attempts to guard against inaccurate or stale information in the reports and to restrict their use by providing that:

The compilers must maintain "reasonable procedures" to eliminate from their reports bankruptcies after fourteen years and other adverse information after seven years.

The compilers must keep their public record entries in employment reports up to date to the extent that the public records are up to date, and the investigatory agencies must confirm their adverse interview information at least three months before reporting it.

Users of investigatory reports must notify the subject that such a report is being made; users of credit or investigatory reports must advise the subject whenever credit, insurance or employment is denied "wholly or partly because of" the report and must identify the reporting agency; and compilers reporting adverse public record information for employment purposes must advise the subject of that fact.

Any compiler, on request of a subject, must disclose to him the "nature and substance" of the information on him in its files (but not the file itself); credit bureau compilers must disclose also the sources of their data; and all compilers must reinvestigate any item which the subject disputes and, if it does not correct the item, include in future reports his statement of not more than 100 words describing the dispute—unless the compiler has "reasonable grounds to believe" the statement is "frivolous or irrelevant."

The compilers must maintain "reasonable procedures" to confine the furnishing of their reports, without written consent of the subject, to those who have "a legitimate business need" for them.

Compilers must not, without written consent of the subject, furnish to a governmental agency more than name, address and place of employment of a subject, except in connection with licensing, governmental grants or other business transactions where government has a "legitimate business need"—and except in response to court order.

The Act also authorizes damage actions when there is negligence in failing to comply with the Act, punitive damages for willful noncompliance with the Act, and administrative enforcement by the FTC. It immunizes compilers and their sources of information from any other liability save for false information "furnished with malice or willful intent to injure" the subject. And it imposes criminal penalties for officers or employees of compilers who "knowingly and willfully" make unauthorized disclosures of information and for any person who "knowingly and willfully" obtains such information "under false pretenses."

The entire reach of the Act—about which I will have more to say later—is to accuracy of and access to the reports. No attempt is made to limit their contents. The report to which the Act applies, whether issued by a credit bureau or an "investigatory" agency, is defined to mean any communication bearing, not only on credit but on "character, general reputation, personal characteristics, or mode of living."

*The Punitive Compilers.* There has been, so far as I can discover, no official investigation of private compilers who assemble dossiers for the purpose of punishing those with whom they disagree. From what I have been able to learn and observe of these compilers over a quarter of a century, they are sponsored and staffed by right-wing extremists. This is not to say that right-wing extremists are less restrained by scruples than left-wing extremists. The much simpler explanation is that official investigations of extremist groups have, with rare exceptions, been aimed at those on the Left end of the political spectrum—although they tend to hit anyone to the Left of the right-wing extremists. There are two corollaries to this fact: first, private punitive compilers rely for information almost entirely upon official investigations, and there is not enough information available to compile dossiers on right-wing extremists. Second, in the absence of official investigations to whet public interest, there would be no substantial market for dossiers on right-wing extremists if they could be compiled.

Some of the punitive compilers attempt to operate for profit. One such is American Business Consultants, organized by three former FBI agents, which operated effectively, if not at great profit, during the heyday of Sen. Joseph McCarthy. It published the newsletter *Counterattack*, which provided dossiers on those deemed not sufficiently anti-Communist, with special emphasis on the news media, writers, and publishers, and *Red Channels*, which focused on those thought similarly deficient in the entertainment business. Other compilers, such as the Americanism committees of some American Legion posts, are motivated by their version of patriotism. Still a third group, which includes the John Birch Society and Aware, Inc., which also flourished in the entertainment industry during McCarthy's reign, profess patriotism.

The punitive compilers' principal aim is to cost the subject his employment. Since their dossiers are neither solicited, nor in many cases even wanted, by the subject's employer, they are not well situated to invoke the "legitimate" needs of the employer as a justification in either a defamation or a privacy action. Offsetting their apparent legal vulnerability, however, is the fact that most, if not all, of them are either completely judgment proof or incapable of responding in damages for the full injury they have caused.

Both of these facts were dramatically demonstrated by a distinguished and courageous graduate of the University of Texas, John Henry Faulk, who lost his position with CBS in 1956 when Aware, Inc. published his dossier—largely based on erroneous information in the files of the House Un-American Activities Committee. In part, also, Mr. Faulk was dismissed because of an advertising boycott that was organized by the owner of a chain of grocery supermarkets after the Aware bulletin was published. Faulk sued Aware, one of its employees and the supermarket owner for libel, realizing that Aware and its employee were not capable of responding in damages in any significant amount.

After a trial in which the court ruled that the defense of qualified privilege was not available and that defendants had failed to prove the defense of truth, the jury returned a verdict for $3.5 million—of which $1 million was actual damages against Aware, its employee and the supermarket owner; $1.25 million was punitive damages against Aware, and $1.25 million was punitive damages against its employee. There was no award of punitive damages against the supermarket owner because he died shortly before the case went to the jury. The judgment against him was settled with his disappointingly small estate for $175,000. After an appeal by the surviving defendants, during which they were castigated as "malicious" and "vicious" purveyors of libel, the judgment was reduced to $450,000 against Aware and $100,000 against its employee, no part of which was collectible. No private remedy, even for false reports, will avail the victims of punitive compilers who are as irresponsible financially as they are otherwise.

*The Benevolent Compilers*. Many who compile personal dossiers, or who support their compilation, have no interest in the individual subjects. They are interested in groups. In this category of data collectors are government officials and business executives, who seek to make informed decisions and plans, and scholars (particularly social scientists), who would promote understanding and aid decision making and planning. But though they are interested in groups, most of the information about groups must come from, and relate to, individuals.

At first blush it might seem that such information could be obtained and compiled without preserving a record of individual identity. Unfortunately, some key to the identity of the subjects must be retained if group compilations are to be kept up to date and if they are to be adapted for uses not contemplated at the time of their original accumulation. And as long as keys to the identity of those in the group are retained, these compilations are a potential source of personal dossiers, either because they fall into unauthorized hands or because the policy of the compilers changes.

Many of those who use group compilations are so single-mindedly devoted to their own purposes as to be heedless of this danger. Thus, a committee of the Social Science Research Council proposed in 1965 that the Bureau of the Budget establish a Federal Data Center to collect and computerize all machine readable data from all federal agencies, for use both by the government and by individual scholars. The report was eloquent on the "efficiency" of such an operation, but took account of the threat to individual privacy only to the extent of suggesting that where a government agency had obtained data under a pledge of confidentiality, "it is often possible to disguise the information in such a way that specific data cannot be traced to any individual respondent." The bureau referred the recommendation for review to a research analyst employed by Resources for the Future, Inc., a private foundation. He endorsed the proposal in a report much concerned with organizational and operational problems which did not even mention problems of privacy. The bureau next created a task force, consisting of one statistician and five academicians, to consider the problem. The task force also endorsed the proposed National Data Center, but its report took account of hearings on the subject wherein Congressmen had shown themselves considerably alarmed by the danger to privacy. The task force viewed this criticism rather lightly, however, since it thought that Congress could define an enforceable standard for access to the data in the center, and that the technical possibility that the federal computers might themselves be tapped by other technological means could be met by unspecified "organizational and technical means . . . available to control and limit the risks."

I shall have more to say about the National Data Center concept later; here I want to add an illustration from my own experience of the scholar's insensitivity to problems of privacy when his thirst for knowledge is aroused. Early in 1969, a private foundation sent out to graduate students in colleges and universities a questionnaire asking their opinions on a variety of subjects ranging, if I remember correctly, from drug use to forcible overthrow of the government. Since the respondents were to sign these questionnaires, one graduate student phoned me to ask if there was any danger, despite the foundation's assurance of confidentiality, that his replies might come into the hands of a government agency. I advised him that, in my judgment, the foundation would have no defense to an administrative or legislative subpoena. Apparently in order to spread this valuable legal advice to other graduate students, the man to whom I talked reported it to the *Harvard Crimson* which printed it.

I thereupon received a long letter of admonishment from a Harvard professor of government. First, he explained that he had nothing to do with the particular questionnaire, but assured me, on the basis of his thirty-five years of experience, that it was "typical of those used by both academic and commercial pollsters." Second, he explained to me—along lines similar to those given above—why the identity of those polled must be preserved. Third, he expressed doubt that any government agency would seek to obtain the information. Fourth, though he was not a lawyer, he ventured the opinion that the courts would very likely create some sort of privilege to block a government subpoena. Fifth, he pointed out that advice such as mine might well reduce the number of responses to the questionnaire. Finally, he urged me to "reconsider" and to "issue another statement on the issue." I declined his invitation on the grounds that I thought my legal advice better than his and that I thought the students were entitled to have that advice so that they, rather than he, I, or the foundation, could do their own speculating about the likelihood of a government subpoena.

Not all group compilers are insensitive to the privacy problem but, even when they are aware of the danger, there is not much they can do to forestall it—once they have amassed their compliations—beyond attempting to guard the identity of their subjects and hoping that their successors in control of the compilation will be similarly scrupulous.

The reality of the danger is made vivid by the steps taken by the United Planning Organization of Washington, D.C., a private organization devoted to combating poverty. In the course of its work, UPO has found it useful to compile data from public records on such matters as juvenile arrests, school dropouts, evictions and welfare payments. To guard the identity of its subjects, UPO transferred all its data to a trustee under an irrevocable trust, with strictures which permit UPO to have continued access to it only as long as it does not reveal the identity of his subjects. Under the terms of the trust, UPO apparently will indeed lose access to the data if it changes its policy and identifies its subjects, or, possibly, if one of its officers or employees makes an unauthorized disclosure. But, by that time, personal dossiers on all of its subjects may be in someone else's computer.

### PUBLICLY COMPILED DOSSIERS

If our information on private compilers of dossiers is incomplete, our information on governmental compilers is fragmentary. Most of what we do know comes from disclosures made by the news media and from sporadic hearings conducted by a Senate subcommittee between 1960 and 1967. Some additional information emerged from hearings in early 1971 before another Senate subcommittee.

In some instances the government can compel a subject to provide information about himself. Obvious examples are the tax and census returns, of which more later. However, most governmental compilers rely for most of their information on the technique used by the Retail Credit Company of Atlanta—they interview neighbors, associates and acquaintances of the subject. The investigators are better paid, and one hopes better qualified and better trained, than Retail Credit's inspectors, but the superiority may not be enough to inspire great confidence in the objectivity of their results. Most of us in academic life are familiar with the FBI agent and the military investigator who come to inquire about former students seeking government employment or a military commission. Most would agree, I believe, that there is no faster way to get the visitor out of the office than to make clear that you have nothing derogatory to say about the subject. And I can testify that the visitor will depart almost as rapidly if, in a case where you have something to say that might conceivably be considered derogatory, you tell the investigator you want your secretary to take down your statement so that you can send a copy to the subject.

Governmental compilers have another source of information disclaimed by Retail Credit, whose representatives emphatically and repeatedly denied that it ever resorted to wire tapping or bugging. Governmental compilers resort to both. Because of what it reveals, both as to their attitudes about individual privacy and as to the feasibility of legislative efforts to protect privacy, it will be instructive to survey briefly the history of their use of these devices. (See also "Thirty Years of Wire Tapping" by Athan G. Theoharis, *The Nation*, June 14.)

In 1928 the Supreme Court held that government wire tapping did not violate the Fourth Amendment. In the Communications Act of 1934 Congress made it a crime for anyone, without authority of the sender, willfully to intercept any communication by wire or radio and to divulge the contents of the intercepted communication to any other person. Thereafter, the Court held that, because a wire tap was illegal, evidence so obtained, including the "fruit of the poisonous tree," was inadmissible in federal courts.

Despite the explicit finding that federal agents commit a federal crime when they tap telephones, the FBI continued the practice, which it had begun in 1931, until March 1940, when Attorney General Jackson ordered it stopped. In May 1940, however, President Roosevelt issued a secret directive, whose existence was not made public until after his death, ordering wire tapping resumed for "persons suspected of subversive activities against the Government of the United States, including suspected spies." Thereafter, Attorney General Biddle in 1941 announced that the Department of Justice intended to use wire tapping in "espionage, sabotage, and kidnapping cases when the circumstances warranted," and President Truman in 1947 approved a proposal by Atty. Gen. Tom Clark that wire tapping be used "in cases vitally affecting the domestic security, or where human life is in jeopardy." In 1964 President Johnson issued a directive forbidding wire tapping by federal agents, except in national security cases. And in 1965 Attorney General Katzenbach testified that, "Under present law. [wire tapping] should be permitted only where national security is involved" and acknowledged that the department had sixty-two wire taps then in effect "under my specific direction." In 1967 Atty. Gen. Ramsey Clark issued a memorandum requiring prior written approval from the Attorney General for any federal wire tap or electronic bugging save in "national security" cases which "shall continue to be taken up directly with the Attorney General in the light of existing stringent restrictions."

Since the Communications Act contains no exceptions, it is evident that the Department of Justice has been violating that Act for most of the time since its enactment. From time to time spokesmen for the department have argued that the contents of wire taps are not "divulged"—and hence the Communications Act is not violated—when they are merely communicated from one federal agent to another, but this proposition has never been tested in the courts. The Department of Justice has never seen fit to prosecute an FBI agent or any other federal agent for violation of the Communications Act, even in cases where convictions have been reversed because the contents of wire taps were divulged in court.

The practice of electronic bugging was governed by a series of decisions beginning in 1942 which held that the Fourth Amendment was not violated by the interception of communications by means of detectaphones or informers wired for sound, as long as the interception was accomplished without a physical trespass on defendant's premises.

Regardless of the state of the law or of the current content of executive directives, FBI Director Hoover has annually since 1965 assured the House Appropriations Committee that every wire tap undertaken by the FBI has been "approved in advance and in writing by the Attorney General," and that all taps were limited to "national security" or "internal security" cases. But less than two months after Hoover gave that testimony in 1969, an FBI agent testified, during the trial of Cassius Clay under the Selective Service Act, that the FBI had tapped the wires of Martin Luther King, Jr. for four years before his death in 1968. Hoover then produced his version of an "approval in writing in advance by the Attorney General"—a memorandum written by one of Hoover's own subordinates, reciting that in 1963 Atty. Gen. Robert Kennedy, now also deceased, had inquired "if it was feasible to use electronic devices" to check into allegations that Dr. King "had Marxist leanings." The House Appropriations Committee found no reason to question Hoover's credibility when he appeared before it the following year and again testified that "all" wire taps "were authorized in advance in writing by the Attorney General."

Meanwhile, both constitutional and statutory requirements applicable to wire tapping and electronic bugging had changed. In 1967 the Court in *Berger* v. *New York* invalidated a New York statute authorizing electronic bugging with prior court approval, in a case where physical trespass was involved, because the statute did not satisfy the Fourth Amendment's requirements of specificity as the crime involved or the conversations to be overheard. Later in the same year, in *Katz* v. *United States,* the Court concluded that the Fourth Amendment applied to both wire tapping and electronic bugging, regardless of physical trespass, thus requiring prior court approval for employment of either device under a procedure which would satisfy the specificity requirements of *Berger*.

In the Omnibus Crime Control and Safe Streets Act of 1968 Congress amended the Communications Act of 1934 so that its prohibition of interception and divulgence of communications is confined to radio communications, and established a procedure for judicial approval of wire tapping and electronic bugging which arguably does not meet the requirements of the *Berger* case.

That Act also contains the following remarkable provision:

"Nothing contained in this chapter or in section 605 of the Communications Act of 1934 . . . shall limit the constitutional power of the President to take such measures as he deems necessary to protect the nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means or against any clear and present danger to the structure or existence of the Government. The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as necessary to implement that power."

Whatever other effect this provision may have, it has emboldened Attorney General Mitchell to argue that the President has "inherent power . . . derived from the Constitution itself," free from judicial review under the Fourth Amendment, to employ wire taps and electronic bugging (*1*) "to gather foreign intelligence information" including "information necessary for the conduct of international affairs and for the protection of national defense secrets and installations from foreign espionage and sabotage"; and (*2*) "to gather intelligence information deemed necessary to protect the nation from attempts of domestic organizations to use unlawful means to attack and subvert the existing structure of government." This argument was first made and accepted by Judge Julius Hoffman in a case where the domestic threat to the "structure of government" consisted of the disturbances at the National Democratic Convention in Chicago in 1968. It has been rejected by the U.S. Court of Appeals for the Sixth Circuit and by a federal district court in California, and appeals are pending.

The 1968 Act also requires annual reports to Congress of all court-approved wire taps and bugs obtained under the Act by either federal or state authorities. In 1969, the first full year that the Act was in operation, these reports revealed thirty federal interceptions and 241 state interceptions, 176 of the latter being in New York alone. For the second year, there were 180 federal interceptions and 403 state interceptions, including 213 in New York and 129 in New Jersey. By these taps and bugs, federal authorities in one year listened in on more than 146,000, and state authorities on more than 244,000 conversations. But the federal figures do not reveal all federal wire taps—the government is acting on Attorney General Mitchell's contention that no court approval is required for tapping and bugging in "national security" cases. On one day, in March 1970, the FBI operated thirty-six wire taps and two bugs in such cases.

### SNOOPING IN THE MAILS

The governmental compilers have still another source of information not available to private compilers—the "mail cover," provided by the Post Office Department, which supplies the name and address of anyone sending mail to a suspect and, if desired, a facsimile of the sender's handwriting. The Post Office provides this service on request to any federal or state law-enforcement agency, and averages about 1,000 mail covers a month.

One of the chief users of the service is the Internal Revenue Service, but both it and the Post Office declined to supply Congressional investigators with the names of those subjected to such surveillance—not only because some were still under investigation but also because such disclosure would constitute an invasion of the privacy of those investigated and found innocent of tax violations! Although not specifically authorized by statute, the Post Office finds its authority for the practice in a general statutory power to prescribe rules and superintend the business of the department, and courts have held that it does not violate provisions of the Criminal Code forbidding delay of the mails.

So much for sources. What of the official dossiers compiled from them. Starting with the proposition—probably quite literally true—that God only knows what is contained in the files of the CIA, some information is available about the files of the more obvious compilers.

*The FBI.* Congressional committees occasionally hear something *about* the FBI, but save for J. Edgar Hoover's annual appearances before appropriations committees, they never hear *from* the FBI. From the director's appearances we are advised that the FBI's computerized National Crime Information Center, which is tied to twenty-four computerized terminals throughout the country, contains in excess of 1.7 million personal files, as well as more than 195 million sets of fingerprints. The latter collection (with a substantial assist from state police forces and the Selective Service System, and a lesser one from visitors to FBI headquarters who are persuaded to ink their fingers) is increasing at the rate of about 7 million a year. Even with some allowance for foreigners, it must be approaching 100 per cent coverage of the adult population of the United States.

One can only speculate as to the contents of the 1.7 million files. They are not to be disclosed to the public, save as Hoover sees fit to reveal their contents in a book, an article or a speech. But we can be sure that they are not confined to information related to enforcing the criminal laws. Since 1947 the FBI has been investigating, under the federal loyalty-security program, federal employees and applicants for federal employment; somewhat later the program was expanded to cover the personnel of those who contract with various agencies and departments of the government. Investigations under that program delve even more deeply into the morality, beliefs and associations of the subjects than do the investigations conducted for private employers and insurance companies by the Retail Credit Company. From a careful study of all available data, Prof. Ralph Brown concluded in 1958 (*Loyalty and Security*) that the federal program then covered more than 13 million people, or one-fifth of the national labor force. The same fraction today would produce a figure in excess of 16 million. Professor Brown also estimated that the cumulative total of those dismissed under the program in 1958 was in excess of 10,000. It is a fair guess that their names, and the names of many others who were not dismissed but about whom derogatory information was recorded, are included in the FBI files. But there is no reason to suppose that all of them are included in the 1.7 million files reported in the National Crime Information Center.

If that were all, most of us who have never worked for, or sought to work for, the executive branch of the federal government or its contractors, and who have never done anything which would be likely to make us suspects of a federal crime (including the burgeoning list of political crimes), could rest easy so far as the FBI files are concerned.

But that is not all Under the Emergency Detention Act of 1950, the President is authorized to declare an "Internal Security Emergency" in the event of invasion, declaration of war or "[i]nsurrection within the United States in aid of a foreign enemy." In that event, the Attorney General is to apprehend and incarcerate "each person as to whom there is reasonable ground to believe that such person will engage in, or probably will conspire with others to engage in, acts of espionage or sabotage." Obviously, speed will be of the essence and any diligent Attorney General charged with enforcing this Act must have a list of suspects prepared in advance. *The Washington Post* recently remarked that the Department of Justice does maintain such a list and made a "conservative guess" that it contains 10,000 names. Data alleged to support such a list are doubtless lodged in the files of the FBI.

The FBI has long operated under a Department of Justice order providing:

"All official files, documents, records, and reports in the Department of Justice shall be regarded as of a confidential nature, and the content thereof shall be disclosed only in the performance of official duties.

"Except upon specific authorization of the Attorney General, no officer or employee shall forward to any person outside the Department of Justice . . . any information obtained from the Federal Bureau of Investigation."

But there are vague authorized exceptions. Department regulations allow for exchange of "identification records, including personal fingerprints voluntarily submitted," with "law-enforcement and other governmental agencies," and for the operation of "a central clearinghouse of police statistics . . . and a computerized nationwide index of law-enforcement information under the National Crime Information Center." And Hoover has said that "the FBI has long followed a policy, approved by several Attorneys General, of relaying information believed to be of interest to other Government agencies."

The official position remains that the contents of FBI files are not to be disclosed to private parties, but there is room for doubt about operations in the field. Do the FBI agents who receive information from Retail Credit Company and the credit bureaus ever return the favor? Mayor Alioto of San Francisco recently told a Senate subcommittee that he had proof that the FBI had supplied information to *Look* for an article charging him with underworld connections. The Department of Justice replied that an FBI agent had not "furnished," but had "confirmed," information which the magazine might have obtained from other federal agencies and that the agent involved had been disciplined and forced to retire.

*Internal Revenue Service*. Most adults in the country are required to initiate a file with the IRS by filing a tax return. The file is augmented when the IRS launches an investigation of tax liability or has to report to collection efforts. In some instances, these efforts are quite strenuous.

In 1965 the Commissioner of Internal Revenue admitted to a Congressional committee that the Service had in the past used two-way mirrors and bugging devices in conference rooms where taxpayers and their lawyers met prior to and during discussions with IRS agents; and that some agents, in an excess of "zeal emanating from the highest motives," had employed illegal bugs and wire taps. He assured the committee that all such practices had been terminated. Later he advised the committee that agents who engaged in illegal eavesdropping had been disciplined by reprimand and transfer and that there had been some voluntary separations from service. There was no mention of criminal prosecution.

Another practice, not disavowed by the IRS, involved the opening of a taxpayer's first-class mail, either in search of evidence of tax liability or of assets from which taxes might be collected. Federal statutes forbid, and prescribe criminal penalties for, the opening of first-class letters or parcels by anyone save an employee in the dead letter office or a person holding a search warrant. But it is a nuisance to obtain a search warrant: the application must make some showing of probable cause for the search, the warrent may be annoyingly specific as to the items to be seized, and there have even been instances when warrants have been refused. Hence, the IRS hit upon a more "efficient" scheme.

Provisions of the Internal Revenue Code authorize the IRS to make its own administrative levy on "property of" a taxpayer "for the payment of" taxes. These provisions also direct that "as soon as practicable after the seizure of the property" it shall be sold. In any event, they reach only to property of the taxpayer, and postal regulations provide that the sender of mail can reclaim it at any time before it is delivered to the addressee. Nonetheless, it was the practice of the IRS to serve levies on the Post Office, which would thereupon surrender mail addressed to taxpayers—not for the purpose of sale but to be opened and examined by the IRS. When this practice was exposed, Congress promptly amended the Internal Revenue Code to exempt all undelivered mail from the IRS levy.

It might be supposed that information which the government compels the citizen to supply in his tax returns would be held in confidence and used only for the purpose for which it is supplied. In fact, the confidentiality of tax returns is preserved by a statute which has all the containing qualities of a sieve. Federal tax returns are fully available to state tax officials and *The Wall Street Journal* has reported (April 21, 1970) that at least 45 million of some 75 million returns filed in 1970 were to be put on computer tapes and mailed to at least thirty states.

Tax returns are available also to any select committee of either House of Congress "authorized to investigate returns," and to anyone authorized by executive order. Between 1957 and 1970 fifty-three such orders were issued. These orders are not confined to the returns of named persons, but authorize inspections of all returns for designated periods of years. Two of the chief beneficiaries of these Presidential dispensations have been committees that have nothing to do with internal revenue matters—the House Un-American Activities Committee (which changed its name to the House Internal Security Committee two years ago) and its counterpart in the Senate, the Senate Subcommittee on Internal Security.

Moreover, by relying on these executive orders, I am substantially understating the extent to which tax returns, or their contents, are disseminated. The discovery about a year ago that Presidential aide Clark Mollenhoff was examining tax returns without an executive order—or at least without a published order—led to further disclosures that similar practices had been followed in the Kennedy administration. It was reported also that IRS employees had not infrequently leaked the contents of returns, and that in one instance a friendly revenue agent had obliged a federal prosecutor by screening the tax returns of 150 prospective jurors in a tax case. No one could recall, however, that any IRS employee had ever been prosecuted under a statute imposing criminal penalties for such activities.

*The Army*. The Army, of course, has personal files on those who are, or have been, in its service. But in January of last year, a former captain of Army intelligence revealed that the Army since 1965 had been collecting information on civilians and maintaining files on them in its computerized data bank at Fort Holabird in Baltimore—ostensibly to enable it to anticipate civil disturbances. Then followed a series of somewhat contradictory reports. Rep. Cornelius Gallagher, chairman of the House Subcommittee on Invasion of Privacy, announced that the Army had assured him that its surveillance of civilians would cease. Somewhat later, Secretary of Defense Melvin Laird announced that the surveillance operation had been transferred to civilian control in the Department of Defense.

Later hearings before a Senate subcommittee revealed details of the Army's 1968 "Civil Disturbance Information Plan." Defense Department spokesmen testified that the Department had since 1968 maintained an index of 25 million names (now being computerized), about 80 per cent of which were keyed to dossiers; and that since 1968 the compilation had included civilians who had taken part in civil rights or anti-war activities, and who were thus regarded as at least potential civil disturbance risks.

Also included were prominent persons friendly with such suspects among them Sen. Adlai E. Stevenson III, Rep. Abner Mikva and former Illinois Gov. Otto Kerner. The

Army's share of the dossiers—about 8 million—were said to be accessible to only 688 authorized officials. Asst. Atty. Gen. William Rehnquist testified that surveillance of civilians had now been transferred from Defense to Justice, conceded that there had been abuses due to "excessive zeal," opposed any legislative limitations on such surveillance, and urged the Congress to rely upon "self-discipline" on the part of the executive branch.

Before the Congressional hearings started, the ACLU had filed two actions to enjoin the Army's civilian surveillance programs as a violation of the First and Fourth Amendments and of a constitutionally protected right of privacy. In each instance the complaint was dismissed; in both cases appeals were taken and the Court of Appeals in the District of Columbia has in one case reversed the dismissal and ordered the Army to trial.

*House Internal Security Committee.* Not all the dossier compilers of the federal government are in the executive branch. Since 1938 the former House Un-American Activities Committee has been compiling dossiers on persons and organizations it deems insufficiently anti-Communist. (In a more sporadic fashion, the Senate Internal Security Subcommittee does the same thing.) The House committee does not reveal the number of its dossiers, but by 1949 they occupied thirty file cabinets, and by 1955 the committee was converting them to microfilm.

The Supreme Court has held unconstitutional a state statute requiring registration of members of organizations cited by the committee, because the committee's procedures do not include minimum safeguards to "insure the rationality" of its compilations. Those compilations are, nonetheless, widely used both privately and officially.

Anyone can obtain a copy of a committee dossier by requesting it through a member of Congress. During the past year the committee responded to 1,057 such requests, and its files were also examined 1,348 times by twenty-five executive departments and agencies of the federal government. In 1968 Rep. Don Edwards wrote to several executive agencies and departments and asked them to what extent they searched the files in connection with the federal loyalty-security program and estimated the frequency of their searches as follows:

Housing and Urban Development—"about once a month."

Health, Education and Welfare—"several times each week."

Defense Department—"approximately 120 times a week."

Civil Service Commission—"approximately 288,000 times in fiscal 1967."

Rep. Edward Koch has recently introduced a bill, applicable only to the House Internal Security Committee, which would require the committee to notify each individual on whom it keeps a file that the dossier exists, to allow the individual to inspect and supplement the file (but not learn the source of information in it), and to forbid any disclosure of the file to persons outside the committee and its staff without the consent of the subject—but with a blanket exception from all these provisions for files that two-thirds of the committee decide should "be kept secret in the interest of national security."

During the summer of 1970 the committee sent a questionnaire to 179 colleges and universities, asking them to list all campus speakers for the previous two-year period, together with the honoraria paid. After checking the replies received against its dossiers, the committee produced and released to the press a list of sixty-five "radical" campus speakers. Some of those so named protested and the list was pared to fifty-seven.

The ACLU brought an action to enjoin official publication and distribution of the list. Judge Gesell decided that he could not direct an injunction to committee members because of the "speech or debate" clause of the Constitution, but did enjoin the Public Printer from printing or distributing the list, which he found to have no legitimate legislative purpose but to be designed solely to agitate college officials, alumni and parents in an effort to inhibit free speech on the campuses. Although the government has appealed the decision, the committee persuaded the House to adopt a resolution directing the Public Printer to publish the list and he has done so.

From time to time, the committee also publishes a cumulative index of the names of all individuals, organizations and publications mentioned in any of its own publications. The index for the period 1938–54 includes the names of some 38.000 individuals. A supplement published last year lists about 25,000 names mentioned in committee reports, hearings or "consultations." Since I am in the supplement, though not in the original volume, I used the index to discover what had brought me into such distinguished company. I discovered that in the 1966 hearings a witness had cited an article of mine which described as unconstitutional a "Criminal Conspiracies Control Act" which the committee was sponsoring. [See "Clear and Present Danger" by Vern Countryman, *The Nation*, July 4, 1966.] But that was not the extent of my misdeeds. During the 1967 hearings of the committee, the Washington representative of the National Committee to Abolish HUAC, of which I am also an official, distributed to the press a statement I had written contending that proposed amendments to the Internal Security Act, which were enacted in 1968, were also unconstitutional. Of course I have no ground for complaint at being included in a list which also names, among others, all known and suspected members of the Communist Party and the Ku Klux Klan. The committee protects my good name by saying, in fine print in the front of the index:

> The fact that a name appears in this index simply indicates that said individual, publication or organization has been mentioned in a hearing, report, or consultation. It is not per se an indication of a record of subversive activities. A careful check of references in the hearing, report, of consultation will determine the circumstances under which such individual, publication or organization is named.

Anyone with access to the committee's hearings and reports, and time to devote to them, can determine the basis for most of the citations. The committee does not explain, however, how one is to check out its "consultations." Presumably one asks his Congressman to obtain a copy of the committee's dossier on the person in question.

*The Census Bureau.* Although the Constitution directs a decennial "enumeration" of the population for the purposes of apportioning Representatives among the states, the Census Bureau, an arm of the Department of Commerce, is now directed by statute to collect and publish information not only on the population but also on industry, business, agriculture and governments, on crime and on defective dependent and delinquent classes. The population census, far from being a mere "enumeration," covers matters of sex, race and national origin, place of birth, marital status, family size, nature of household, quality of housing, geographical location and mobility. In addition to the information which it collects itself, the Census Bureau also obtain information from such other agencies as the Internal Revenue Service and the Social Security Administration. Like the benevolent private compilers, the Census Bureau is not interested in individuals but in groups. But, as in the case of the private compilers, its data cannot be kept up to date or programmed for new uses unless a key to the identity of each individual is preserved, and such a key is preserved.

Everyone over 18 years of age is required by law to respond to the bureau's inquiries. The bureau is authorized to furnish state governments, courts and individuals with "data for genealogical and other proper purposes," but the information so furnished is not to be "used to the detriment of" the subject. Otherwise, the bureau is forbidden to use the information supplied by the citizens for "other than statistical purposes," or to permit anyone outside the Department of Commerce to "examine individual reports." Criminal penalties are prescribed for unauthorized disclosure.

The bureau claims that there has never been a known violation of these restrictions on use and that it does not supply individual information to other federal agencies, but the Federal Trade Commission found a loophole. Pursuant to an investigation of possible violation of antitrust laws, it issued an administrative subpoena for a corporation's file copy of its census returns. The Supreme Court, in an opinion equally applicable to all census returns, and probably to tax returns as well, held that the subpoena should be judicially enforced, although the census report form was marked "Confidential" and stated that it could not "be used for purposes of taxation, investigation or regulation." Both the legend on the forms and the statutory restrictions on disclosure were held to run only against the Census Bureau and not to impose limitations on the power of other governmental agencies to compel the subject to disclose its file copies. Congress promptly passed an amendment forbidding any governmental agencies from obtaining copies of census returns retained by the subject.

This survey of official dossier compilers is by no means complete, even at the federal level. For instance, The Associated Press reported last year that the Civil Service Commission has files on 10 million persons who have sought federal jobs since 1939, and additional files on 1.5 million suspected of "subversive activities," who presumably have lost or will never get federal jobs. The Secret Service has computerized 100,000 names and accumulated 50,000 dossiers. Personal files are kept on virtually all of the labor force by the Social Security Administration, and the Passport Office keeps a computerized file of more than 243,000 citizens whose applications for passports are brought to the attention of law-enforcement agencies. A 1966 survey of all federal executive departments and agencies revealed that they had 3.1 billion personal files, including 264.9 million police records, 342 million medical histories, 279.6 million psychiatric records, and 187.8 million "security or other investigative reports."

Congressman Koch and Sen. Birch Bayh have introduced bills to enact a Citizens' Privacy Act. Applicable to all federal agencies and departments subject to the Administrative Procedure Act (but not to Congressional committees), the Act would require the same notice to the subject, opportunity for him to supplement the file, and petition against disclosure without his consent that Congressman Koch's bill would impose on the House Internal Security Committee—but with exceptions for files "compiled for law-enforcement purposes" so long as "reasonably necessary to commence prosecution or other action," and for files "specifically required by executive order to be kept secret in the interest of the national security."

Taking a cue from the federal government, the states are also compiling mountains of data. The New York State Identification and Intelligence System, established in 1965, has a computerized central data bank serving 3,600 law-enforcement agencies in the state. The Oklahoma Office of Inter-Agency Coordination, established in 1969 with federal Law Enforcement Assistance funds, is now facing an ACLU lawsuit seeking the dismantling of its files of 6,000 dossiers. The Massachusetts Civil Liberties Union is preparing a similar suit against the State Police's Subversive Activities Division, whose continued operation is also being challenged in the state legislature.

In a New Orleans suit now before the United States Court of Appeals for the Fifth Circuit, the commander of the city's intelligence division has testified that his men attend and take photographs at all public events where "controversial" views are likely to be expressed. In New Jersey, the attorney general sent a memorandum to local law-enforcement officials asking them to report to the State Police Central Security Unit the names of all persons involved in "incidents" such as "civil disturbance, riot, rally, protest, demonstration, march, confrontation, etc." including information on spouses, draft status, affiliations, education and credit status. In a class action for a declaratory judgment that such a program violated the First Amendment, the trial court gave summary judgment for the plaintiffs and ordered the attorney general to produce and destroy all dossiers except those that "will be used to charge persons with specifically defined criminal conduct." On appeal, the decision was reversed. The summary judgment was held to be improper because plaintiff's fears that the dossiers would be improperly used was considered "fanciful"—the police, it was suggested, may have intended to use the dossiers only to call upon those listed to help dissuade others from resorting to violence! An amended complaint has been filed in this action.

### A NATIONAL DATA BANK

As I mentioned earlier, a proposal, originating with certain academics and encouraged by the Bureau of the Budget, was made several years ago to establish a Federal Data Center, not for the purpose of compiling personal dossiers but solely to compile statistical information on groups. After a series of Congressional hearings in which it was conceded that some key to the identity of those in the group must be maintained if the group compilations were to be kept up to date and adaptable to new uses, a commitment was obtained from the Bureau of the Budget that, before such a central data bank was established, the problems of threat to privacy would be evaluated by a panel including constitutional lawyers, computer experts, suppliers and users of statistical information and representatives of Congress, and that specific legislative authorization would be sought on any recommendations of the panel. There the matter rests.

It would be incautious to conclude from that, however, that a National Data Bank is an issue for another day. The effect of computers on the vast numbers of personal dossiers already collected by private and official compilers is to give us a National Data Bank now, albeit one not as "efficient," and one more vulnerable to unauthorized use, than a single storehouse of information would be.

Many private compilations are already computerized, more are in process of transfer to computers, and the dossiers of many noncomputerized compilers have been fed into computers of other private or official compilers. The federal government acquired its first all-electronic computer during World War II for use by the Army Ordnance Corps. By 1964 at least 2,000 computers were in federal use, excluding "equipment which is used in military operational and certain classified activities within the Department of Defense.

The computer can store infinite bits of information and can retrieve them at the rate of a few nanoseconds (billionths of a second) per bit. Computers can be connected by interfaces and can be tapped, not only by theft of printouts or by tampering with wires but by laser beams and other non-mechanical intrusions. Access codes can and are broken, after which the intruder can "display and manipulate the data stored within the system." No completely effective security system against such intrusions has been or probably ever will be devised.

The intruder in quest of data on a particular subject will, of course, have to locate his quarry in the bank, but in many cases that may not be difficult. Enough knowledge in advance about the subject to pose a few pertinent questions to the raided computer will quickly identify him. In many other cases, an even easier technique may be available. Social Security numbers are entered on federal and many state tax returns. In several states that number is also used on drivers' licenses. One and a half billion of those 3.1 billion federal personal files also contain the subjects' Social Security numbers.

Computers not engaged in compiling or stealing dossiers can also make their contributions to the data bank. The airlines' computerized reservation service will reveal where you flew, whether you rented an automobile for use after landing and, perhaps, where you made hotel reservations. The hotels' computerized reservation service will provide the latter information if the airlines' service does not, and will say also whether you shared the accommodation with one claiming to be your spouse. Your bank's computerized check-processing system will reveal details of many of your expenditures and, as we move into the checkless, cashless society, will ultimately reveal the details of your every expenditure.

Measured against this monstrous technological capacity to search out most of the details of our lives, the present state of the law—and most of the proposals for new law—seem to me inadequate to achieve their professed objectives. And those goals, in time, promise inadequate protection, even if they could be achieved.

*Insuring the Accuracy of Dossiers.* Some concern about the accuracy of the proliferating dossiers arises from what computer men call the GIGO principle—Garbage In, Garbage Out. In fact, the computerization of personal dossiers may provide the first liberal application of that principle, since the investigators of private individuals have been known to comb through the subjects garbage.

The main purpose of the Fair Credit Reporting Act, and of the proposals for legislative restrictions on some federal compilers, is to insure that the information in all our dossiers will be accurate. The chief mechanism provided to achieve this end is notification to the subject, who then has an opportunity to correct erroneous entries; the Act also requires the compiler to discard out-of-date entries on his own initiative. These measures almost surely will not achieve their objectives for at least two reasons:

(*1*) Many subjects will never receive notice that their dossiers exist. The only sanctions in the Fair Credit Reporting Act are compensatory damages for negligent failure to give notice and punitive damages for willful failure to give notice. The Act even purports to prevent the states from expanding their tort law to award damages for erroneous reports against compilers who are not guilty of malice or willful intent to injure. Since subjects who do not receive notices will never know that they may have a cause of action, compilers have considerable incentive to be sparing with notices.

The proposed legislation applicable to executive departments and agencies not excepted in "law-enforcement" and "national security" cases seems to provide even less incentive to give notice. The legislation contains no sanctions of its own, and it is doubtful that the nebulous provisions of the Federal Tort Claims Act can be read to incorporate the compensatory damage provisions of the Fair Credit Reporting Act. Beyond this, there appears to be only the possibility of an action, possibly a class action, to compel compliance, and that will also be of little value to one who does not learn that he is the subject of a dossier. The proposed legislation applicable only to the House Internal Security Committee, which also contains no sanctions of its own, seems even more toothless. Since the Federal Tort Claims Act extends only to executive departments and agencies, an action to compel compliance may not reach to members of Congress, and apparently will not reach to employees of the committee if the committee is careful not to delegate to them the duty of giving notice.

(*2*) The credit reporting agencies managed to put over on Congress the monstrous proposition that they should remain free to collect and disseminate erroneous dossiers—subject only to liability for malice or willful intent to injure—and that the burden should fall upon their subjects to come in and correct the errors. The pending bills that are applicable to some federal compilers proceed on the same assumption. But many subjects, even if they receive notice, may conclude that life is too short, or their resources too limited, to make the effort toward correction. Particularly may they reach this conclusion when they discover that they cannot learn the sources of adverse entries (except for credit bureau reports), nor compel deletion of such entries, but must content themselves with entering their version of matters in the file—and that under the Fair Credit Reporting Act they cannot actually see the files but must be content with the compiler's disclosure of the "nature and substance" of the information therein.

*Restricting Access to Dossiers.* The Fair Credit Reporting Act imposes two restrictions on access to the dossiers of commercial compilers without consent of the subject. First, the compiler is to furnish information only to persons and governmental agencies who, the compiler "has reason to believe," have a "legitimate business need" for the information or, in the case of a government agency, wish to determine the subject's eligibility for a license or other benefit. Any compiler who is negligent in establishing his "reason to believe" is liable for compensatory damages, and any compiler who willfully acts without such reason is liable for punitive damages—if the subject learns what was done and is able to persuade a court that the need was not "legitimate" and that the compiler acted negligently or willfully. These remedies, I would suppose, will be invoked almost as rarely as the criminal penalties prescribed for officers or employees of a compiler who knowingly and willfully disclose information to one "not authorized" to receive it. The standard for authorized access—"legitimate business need"—is probably too vague to satisfy due process requirements for a criminal statute and is certainly too vague to hold out much promise for an effective civil remedy.

Second, the Fair Credit Reporting Act forbids disclosure, except in response to court order, of more than identifying information—name, present and former addresses, and present or former places of employment—to any government agency not engaged in determining eligibility for a license or other benefit or which does not have a "legitimate business need." No substantive limit at all is placed upon government agencies empowered to issue statutory subpoenas enforceable by court order, that can convince the court that the information is relevant to an inquiry they are authorized to make; the Act does impose upon them the inconvenience of obtaining the court order.

The FBI has no subpoena power. It is thus left with three alternatives in cases where it does not wish to obtain a search warrant or to proceed on the assumption that the Fourth Amendment does not apply to the federal executive: (1) it can stop using the files of the commercial compilers; (2) its agents can obtain access to the files by means of false pretenses and risk prosecution by the Department of Justice; or (3) without false pretenses, its agents can persuade officers or employees of the commercial compilers to risk prosecution by the Department of Justice by knowingly and willfully making an unauthorized disclosure. The record of Department of Justice prosecutions for illegal wire taps under the Communication Act of 1934 strongly suggests that the FBI will not feel confined to the first alternative.

Some concerned computer men have suggested that privacy may be adequately protected if disclosure of personal data is limited to instances when the subject consents to such disclosure. The Fair Credit Reporting Act also authorizes disclosure of dossiers to anyone, pursuant to "the written instructions of" the subject. But obviously, when the subject is seeking employment, when he is seeking insurance, or even when he is seeking credit, his consent will be far from voluntary. Indeed, one of the compilers' arguments against compelling them to give the subject a copy of his dossier was that someone else might, by economic coercion, "invade his privacy" by compelling him to produce it.

The proposed legislation applicable to some federal compilers would—with generous exceptions for "national security" and "law-enforcement" files—forbid any disclosure of information without the "permission" of the subject. Here again, any consent given by a subject seeking federal employment will often not be voluntary. In any event, the limited sanctions available under these proposals are not likely to deter improper disclosure, or to provide effective relief to one injured by such disclosure.

*Limiting the Contents of Dossiers.* It has been suggested that limitations be placed upon the content of personal dossiers. Some of the proponents of a formal National Data Center, for instance, suggested that its files should include only "statistical" data, not personalized data of the sort found in FBI, IRS, military, civil service and medical records. But they could devise no standard precise enough to permit effective control. Moreover, they apparently contemplated the continued compilation of the various types of more personal dossiers that they would not include in the National Data Center, and it is the existence of such dossiers and the ubiquity of the computer which have created the present, informal, National Data Center.

### BUT WHAT ABOUT PRIVACY?

Even if all dossiers were absolutely accurate, or if remedies for inaccuracy were absolutely adequate, the question of the right to privacy would remain. By a "right to privacy" I do not confine myself to the right to protection against unwanted publicity and palpable intrusion into private affairs which finds some limited protection by common law or by statute in some states. Nor do I confine myself to recently emerging constitutional concepts which thus far have forged slightly beyond the Fourth Amendment to permit married persons to receive birth control information, and anyone to contemplate in the sanctity of his home material which might otherwise be forbidden as obscene, but which do not protect against erroneous but nonmalicious publicity about public officials, public employees embroiled in public issues, and private citizens who have been injected into the news by events beyond their control.

I refer rather to a concept of privacy which Justice Brandeis described as "the right to be let alone—the most comprehensive of rights and the right most valued by civilized men." Justice Douglas has characterized it as the freedom of the individual "to select for himself the time and circumstances when he will share his secrets with others and decide the extent of that sharing." Such a concept of privacy is offended by the gross compilation of details about a person's private affairs, however accurately and delicately the compilation is effected, and the dissemination of those details to others, whether they be private or public users of the information and regardless of their number.

I do not regard it as conceivable that courts or state legislatures, in the development of private law remedies, or that courts in the development of constitutional doctrine, will establish such a concept of privacy in time to meet the dangers of the computerized dossier. Only the Congress seems capable of acting with the speed required. And, in order for it to act effectively, it must first comprehend the concept of privacy which its efforts must be designed to insure. It must also rid itself of three misconceptions which it shares with many outside the Congress:

(1) That whatever technology can produce should be used; (2) that anyone who can show that information is useful, or comforting, to him in the conduct of private or public affairs has shown a "legitimate need" for its use; (3) that whatever is efficient is desirable.

If a meaningful concept of privacy were adopted and these three misconceptions were discarded, Congress should then proceed on the assumption that, as long as dossiers exist on the present scale, they will be used in disregard of whatever restrictions may be imposed. Law-enforcement officials "in an excess of zeal" will disregard those restrictions and, in an excess of tolerance, will not invoke criminal sanctions against themselves or others who similarly disregard them. And with the use of dossiers at its present magnitude, no privately enforceable remedies will suffice to check unauthorized use.

The only hope for substantial protection of privacy against the computerized dossiers, therefore, is that they not exist—at least that they not exist on the present scale. And if the "legitimate need" for dossiers were appraised as an actual need for a vital public purpose, rather than as a convenience or a comfort for any acceptable purpose, the great bulk of existing dossiers could be eliminated and the growth of dossiers in the future drastically curtailed. Careful study of the contents of various compilations, and careful consideration of the justification therefor, would be required before lines could be drawn, but it seems apparent that a rigorous application of the test of actual need for a vital public purpose would drastically clear the files.

To cite but a few examples: No such need justifies the retention in FBI files of all information amassed by it and by cooperating state police authorities on all persons investigated in connection with a particular crime after the case has been closed. Similarly, there is no such need to retain in both FBI and Ciivl Service Commission files the collection of gossip, rumor and hearsay—or even of hard facts—on an applicant for federal employment after his application has been denied. The only "need" for preserving keys to personal identity in the Census Bureau's population statistics is that those keys facilitate keeping the statistics up to date and adapting them to new uses during the ten-year period between censuses. How vital is that need, and could it not perhaps be met instead by taking a population census at more frequent intervals?

There is no such need at all for the highly untrustworthy files of the House Internal Security Committee. There is even room to question the need for those permanent dossiers which constitute the lifeblood of the credit bureaus. As I have previously indicated, they are as likely to induce as to preclude an unwise credit extension. Yet the business volume of the users of those dossiers is such that their losses are almost infinitesimal. I have asked many bankers and finance company representatives about their loss ratios on consumer receivables and have yet to be given a figure higher than .5 per cent. In other instances the consumer finance companies have claimed a loss ratio of 1.5 per cent, and the bankers have claimed 2 per cent. But the latest word I have seen, from a spokesman for the American Bankers Association, is that on consumer transactions "in commercial banks the loss ratio is less than half a per cent; it is perhaps now getting close to a quarter of 1 per cent." If the customers of the credit bureaus can do that well on the sort of information they now receive, how much worse would they do if left to their own devices? The oft-stated assumption that losses would greatly increase, with a consequent increase in the cost of consumer credit and a throttling of the economy based on that credit, has not been sufficiently challenged.

If a tough-minded inquiry were directed to the actual need for most of the existing compilations, we might expect to hear even more from the compilers than we have in the past about "efficiency." It is more efficient to preserve the dossiers for future possible use than to require a new investigation of the subject whenever information about him becomes necessary, or helpful, or comforting. Certainly it is more efficient. It is more efficient to preserve in a place of convenient access every police investigation of anyone ever made, no matter how unwarranted, against the possibility that such an investigation may again be made in the future. It is efficient to have the Selective Service System provide the FBI with fingerprints and other information on all persons it processes, against the possibility that a small percentage of them may at some future date be involved in an infraction of the law. It would be more efficient to extend the Alien Registration Act to citizens.

But we have not, in this country, been content in the past to let efficiency be the determining factor when individual liberty was jeopardized thereby. We have decided against efficiency and in favor of constitutional bans on unlawful searches and seizures and self-incrimination, and for jury trials in criminal cases. In view of the massive threat to individual privacy posed by the present and growing body of computerized dossiers, efficiency will hardly serve to justify their preservation.

These are the assumptions on which, it seems to me, Congressional inquiry should proceed. If it were to proceed so, I am confident that it would conclude that most of our present National Data Bank must be wiped out. If the inquiry were to proceed on those assumptions it would also produce some meaningful restrictions on access to the dossiers which survive because they have some reasonable relation to a vital public purpose, and these restrictions would themselves justify the preservation and continuing use of such dossiers. If Congress were to proceed on those assumptions, finally, it would not place the policing of restrictions to access in the hands of those most likely to violate the restrictions.

We have not yet had an inquiry based on such assumptions, and the time for it is overdue. The computerized dossiers are multiplying by the day. We are only thirteen years from 1984.

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## LITHUANIAN INDEPENDENCE

## HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 1972*

Mr. STEIGER of Arizona. Mr. Speaker, the commemoration of Lithuanian Independence Day in the House of Representatives is being observed during the second part of February.

We join our American friends of Lithuanian origin or descent and their friends in all parts of our great Nation in marking two very important anniversaries this month. The first is the observance of the 721st anniversary of the formation of the Lithuanian State when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251. The second is the 54th anniversary of the establishment of the modern Republic of Lithuania on February 16, 1918.

Mr. Speaker, the only country in which Lithuanians will be unable to commemorate these historic events is in Lithuania itself, because of the continuing subjugation and oppression by the Soviet Union.

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## OLIVER H. DELCHAMPS, JR., MOBILIAN OF THE YEAR

### HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. **EDWARDS** of Alabama. Mr. Speaker, one of my closest personal friends and a man for whom I have the highest respect, Oliver H. Delchamps, Jr., was recently chosen Mobilian of the year. He was honored at a banquet in Mobile, Ala., on January 18, 1972, where his many friends paid tribute to him for his great service not only to the people of the city of Mobile, but to our State and Nation as well.

What makes this rather remarkable is that Oliver Delchamps is only 39 years old. In a short period of time he has been involved in almost every facet of community life and is truly an asset to our area.

It was my intention to speak at some length today about Oliver's accomplishments, but I have concluded that the job was done so well by the Reverend Joel D. McDavid when he introduced Oliver at the banquet, that I think it would be most appropriate to include Reverend McDavid's remarks at this point in the RECORD.

INTRODUCING MOBILIAN OF THE YEAR, OLIVER H. DELCHAMPS, JR.

The slogan, "Talk up Mobile," has turned our attention to the assets and opportunities offered in our city, so often taken for granted and thus overlooked. When we "talk up" Mobile we must turn our attention to its fine people who make our city a spot of beauty and a desirable place in which to live. We must think of those who do more than their share to keep the economic, moral, sociological and spiritual wheels turning; providing a better life for us all. How do you select a Chief "Wheel-turner," whose contribution is so outstanding that all of us pause to express our gratitude? It is not easy, but this year we have again chosen well.

Phillip Brooks said, "No man has come to true greatness who has not felt in some degree that his life belongs to the human race and that what God gives him, He gives him for mankind." Two things are here stated clearly—"All that one possesses is a gift from God, and this gift is given to serve the needs of the human family."

We honor as the Mobilian of the Year, 1972, one whose life and labor among us has enshrined these two principles.

Oliver Harris Delchamps, Jr., is a religious man, who not only goes into his closet and closes the door for his prayers, but who opens that door and walks out into the world to give his prayers hands and feet; he joins forces with others, finding ways to bear witness to his faith through the church and its multitude of ministries. His sensitivity to moral and spiritual values is supported by his good judgment, his generous spirit, and his courage to take a stand. To identify his roles of churchmanship would require our full time. Locally, state-wide, and beyond, he holds high offices and carries great responsibilities for his church.

The business and professional world honors him as one of its workmen, who bears no shame. As president of Delchamps, Inc., his business acumen is known throughout our region. He walks in circles of freedom of enterprise at its best, cleared of greed, so that it may fully provide for economic needs of all people. Look over the Boards of Directors of Better Business Bureau; Associated Industries of Alabama; Chamber of Commerce; Management Associations; Banks, and others, and Oliver Delchamps' name will be found. In it all, he manages to find another expression of his role as a servant.

The educational life of our city and state is a concern of his, and in its behalf he manages to invest much of his effort. The ones who forgot to vote for him for the State Board of Education must not have known of his insight and interest—from P.T.A. to Medical School Steering Committee; from the Junior Miss Scholarship Fund to the Chairmanship of the Advisory Board of Bishop State Junior College; from a School Trustee to the County Foundation of Higher Learning, he rushes to meetings—he raises money—raises the quality of education, and—raises the spirits of those professionals who are involved in education, because of his dedication.

No man takes second place to Oliver in civic and community life—he is or has been president or chairman of more important civic programs and projects than any person I know—Lions Club; Public Library; Radio-free Europe; Boy Scouts Council; Opera Guild; Association for the Blind. Two stand out in importance and success—Mobile Junior Miss Pageant, Inc. in 1969–70 and the United Fund Campaign Chairman, 1971!

While many of us enjoy our plans of self-interest, he enjoys a busy life of investment in good causes among us.

The only criticism I hear of our Mobilian of the Year, 1972, comes from the Democrats. His prominence in leadership of the Republican Party is known to us all who are with him near election time. He advises, promotes, finances, and helps elect honorable people to office. He prefers that their names appear under the elephant, but his primary concern is for the best people to serve the public.

If anyone doubts his full credentials for occupying this distinct place for 1972, I shall be glad to furnish several typewritten pages listing his involvements in providing a better way of life for us all. Or, I shall be glad to have you speak to his wife about that speedy shadow of Oliver which passes through the Delchamps home occasionally. She is convinced that one cannot be Mobilian of the Year and father and husband of the year at the same time.

Personally, I have one major disagreement with Oliver—we have loyalty to different football teams in the state, but since January 1st, and our experiences in New Orleans and Miami, we are about united in that.

Since I am a preacher, I must quote some scripture, and sermonize a bit. A great teacher once said, "He that is greatest among you is servant of all." The people of Mobile are proud to honor one of its great citizens this night, for true greatness is measured in terms of service!

Oliver Delchamps has many more years to serve his fellow man and I predict that he will have a great future as he continues to give of himself to those around him. For my part, I am content to be able to claim him as a friend. It has been my privilege to know Oliver and his wife, Tillie, since college days. As the years have gone by, our friendship has grown and I can truthfully say that to have known him has meant much to me.

It is fitting, in my opinion, that all of my colleagues have this opportunity to know a little something about Oliver Delchamps for one day he will be known throughout the Nation.

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## LITHUANIAN INDEPENDENCE

### HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 1972*

Mr. **HELSTOSKI**. Mr. Speaker, this month, Americans of Lithuanian descent and all freedom-loving Americans observe two important anniversaries: February 12, the 721st anniversary of the founding of Lithuania; and February 16, the 54th anniversary of the establishment of the modern Republic of Lithuania.

The understandable pride of Lithuanians in their national heritage is an inspiration to us all. The geographical location of Lithuania, with its access to the Baltic, made it a target for invasion and the subject of foreign aggression from the West as well as the East. Their strong nationalism and the resulting unity of purpose gave them the strength to preserve their traditions.

After more than 100 years of oppression at the hands of czarist Russia, Lithuanians declared their nation an independent state on February 16, 1918, in accordance with the right of self-determination proclaimed by President Woodrow Wilson. Four years later, free Lithuania became a member of the League of Nations.

Tragically, this period of Lithuanian independence lasted only 22 years. A supplementary protocol to the 1939 Nazi-Soviet Nonaggression Pack designated Lithuania as within the Soviet sphere of influence, and an invading Soviet force occupied Lithuania in June of 1940. In the shadow of Soviet guns, a travesty of justice was perpetrated as mock one-slate elections were staged to give a veneer of respectability to the new regime.

The Lithuanians, however, were steadfast in their resistance. One year later, Lithuanians threw off the yoke of Communist tyranny and reproclaimed its inpendence. The provisional government was shortlived, for soon after Hitler's troops occupied Lithuania. In 1945, the Communists returned. For approximately the next 8 years, a liberation force of Lithuanian partisans fought Soviet domination, sustaining 50,000 Lithuanian casualties. The Soviets retaliated by sending one-sixth of the population to concentration camps, where many were subjected to the worst brutalities and countless Lithuanians died.

Empathy with the Hungarian freedom fighters led to several demonstrations in 1956, again evidencing the Lithuanians' continued devotion to the principle of self-determination.

Recognizing the need for justice in this region, the 89th Congress unanimously passed House Concurrent Resolution 416, calling for the freedom of Lithuania, Latvia, and Estonia. I urge the administration to take positive action in this regard, and I shall include the text of the resolution, along with a resolution recently adopted by the United Committee of Lithuanian-Americans of the State of New Jersey, below:

### H. Con. Res. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

*Resolved by the House of Representatives (the Senate concurring)*, That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

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### Resolution of United Committee of Lithuanian-Americans

Whereas the Communist regime did not come to power in Lithuania by legal or democratic process; and

Whereas the Soviet Union took over Lithuania by force of arms in June of 1940; and

Whereas the Lithuanian People are strongly opposed to foreign domination and are determined to restore their freedom and sovereignty which they rightly and deservedly enjoyed for more than seven centuries in the past; and

Whereas the Soviets have deported or killed over twenty-five per cent of the Lithuanian population since June 15, 1940; and

Whereas the Government of the United States maintains diplomatic relations with government of the free Republic of Lithuania and consistently has refused to recognize the seizure of Lithuania and forced incorporation of this freedom-loving country into Soviet Union; and

Whereas the Committee of the House of Representatives, created by H. Res. 346 of the Eighty-third Congress to investigate the incorporation of the Baltic States into the Soviet Union, found that the incorporation of Lithuania, Latvia, and Estonia was contrary to established principles of international law; and

Whereas the House of Representatives and the United States Senate (of the 89th Congress) unanimously passed House Concurrent Resolution 416 urging the President of the United States to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Lithuania, Latvia, and Estonia, and to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples; now, therefore, be it

*Resolved*, That we, Americans of Lithuanian origin or descent, reaffirm our adherence to American democratic principles of government and pledge our support to our President and our Congress to achieve lasting peace, freedom and justice in the world; and be it further

*Resolved*, That the President of the United States carries out the expression of the U.S. Congress contained in H. Con. Res. 416 by bringing up the Baltic States question in the United Nations and demanding the Soviets to withdraw from Lithuania, Latvia, and Estonia; and be it finally

*Resolved*, That copies of this resolution be forwarded this day to the President of the United States, Secretary of State William P. Rogers, United States Ambassador to the United Nations George Bush, United States Senators from New Jersey, Members of the U.S. Congress from New Jersey, Democratic and Republican leaders in the U.S. Congress, Lithuanian Minister in Washington, D.C., and Lithuanian Counsuls in New York City, Chicago, Illinois, Los Angeles, California, and the press.

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## LACKAWANNA DOCTOR HELPED CHINA CONQUER DISEASES

## HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DULSKI. Mr. Speaker, the current visit of the President to Peking has drawn attention to the role of a native of my district who has used his medical training to organize treatment for the people of China.

He is Dr. Shafick Hatem, born and raised in Buffalo and Lackawanna, N.Y., and now highly respected by Chinese leaders for his efforts to control disease.

When Edgar Snow, the widely known journalist and expert on China, was stricken recently in Switzerland, Premier Chou En-lai sent Dr. Hatem to attend him. Mr. Snow died February 15 of cancer.

The work of Dr. Hatem is described in an excellent article by the award-winning medical writer, Mildred Spencer. The text follows:

[From the Buffalo Evening News, Feb. 19, 1972]

### Doctor From Lackawanna Helped Red China Conquer Diseases

(By Mildred Spencer)

In mainland China he is Dr. Ma Hai-teh, a name meaning, roughly, "virtue from overseas."

An official in the Chinese Ministry of Public Health, he was largely responsible for the mass campaign that China claims has wiped out venereal disease there.

In Buffalo and Lackawanna, where he was born and attended Our Lady of Victory School he was Shafick (nicknamed "Shag") Hatem, the son of immigrant Lebanese parents, Nahoum S. and Tammam Hatem.

Dr. Hatem (whose first name was Americanized to George) "knows more about Red China and its leaders than any foreigner alive," the late Edgar Snow wrote in "The Other Side of the River."

Snow, veteran American foreign correspondent and an expert on Communist China, declared that the doctor was the one American who had "intimately shared the ordeals of the men and women who fought for the responsibility to bring China to her feet."

The American physician and the journalist met in June 1936, when they were smuggled through Nationalist lines into districts held by the Red Chinese and traveled together for two months.

#### WENT WITH EDGAR SNOW

Snow later left China, to return as the only American writer accredited by the U.S. State Department and the Peking government to travel through Communist China.

Dr. Hatem remained.

He had gone to China after obtaining his medical degree from the University of Geneva, Switzerland, and had tried to organize a campaign against venereal disease in Shanghai.

The Nationalist Chinese, he later told Edgar Snow, weren't interested. Shanghai, he felt, "exists to breed and spread venereal disease," but "maybe these people up north are interested in putting an end to it."

His own family had been poor and he felt a great empathy with the poor.

"The medical profession," he said, "is a failure if we can't give all the children of even the humblest parentage an equal start in life—the same food and proper care that only the wealthy can afford now. If that's what these people up there are aiming at, I'm with them."

#### ONE OF TWO QUALIFIED MD'S

For some time—until the outbreak of the war with Japan—"Shag" Hatem and the Chinese graduate of a Methodist missionary hospital were the only two qualified doctors in the Red army.

He organized the base hospital and medical training system. After Japan's surrender he represented the relief organization for the guerrilla districts recovered from the Japanese. Still later, as chief of staff of China's Institute of Venereology and Skin Diseases, he headed the national war against syphilis and gonorrhea.

A first step was the elimination of the principal carriers of venereal disease, the prostitutes.

In Peking, women workers went into the brothels to talk to the girls, many of whom had been sold into slavery. The seriously ill were sent to hospitals immediately. Then, in a single night, Snow wrote, every brothel in the city was closed. The women were taken to hostels that had been set up for them, where they were examined and treated. Other jobs were found for them.

The approach that had been so successful in Peking was duplicated in other cities. In two years, venereal disease had been virtually wiped out in urban centers and the drive was extended to rural towns and country.

#### ASSEMBLY LINE APPROACH

The assembly line approach used by Dr. Hatem and the Ministry of Health in getting rid of venereal disease was then extended to mass campaigns for control of pests and epidemics, vaccination against smallpox, plague, cholera and typhus, and to parasitic and skin diseases.

When Dr. E. Grey Dimond, provost for the health sciences at the University of Missouri-Kansas City, visited China late last fall, Dr. Hatem told him that it had been 10 years since a case of gonorrhea was identified and that epidemic diseases have been controlled.

The Red Chinese leaders have been appreciative of Dr. Hatem's contributions.

When Edgar Snow returned to China as an accredited correspondent, both Mao Tse-tung and Chou En-lai invited the former Buffalonian to dinner with the writer.

And when Dr. Hatem's brother, Joseph, a businessman in Roanoke Rapids, N.C., decided, last summer, to try to visit China and the brother he had not seen since childhood, the doors were opened to him.

### VISITED BY BROTHER

The State Department agreed that it would issue him a passport if he could get a visa from China, which he did with no problem. During 43 days there, he told The Buffalo Evening News recently, he traveled where he wished, without restrictions, as the guest of the Chinese Academy of Science.

Joseph Hatem met his brother's Chinese wife, Ssu-fei. The physician also has two children, a son and a daughter, both married, and two grandchildren.

Since returning to the United States, Joseph Hatem has been working on a biography of his brother.

But this week the brothers are together again in Switzerland. Dr. Hatem flew there with two Chinese physicians sent by Premier Chou En-lai to attend Edgar Snow, who died Feb. 15 of cancer. His brother joined him there.

The Hatem brothers have a sister, Shafia, in Roanoke Rapids, N.C., and four first cousins in Erie County.

They are Ernest Hatem, a sales representative with the Papermate Co.; Mrs. Theresa Hatem Ode, a teacher in the Truman School, Lackawanna; Mrs. Martha Hatem Hashem, a nurse at the Veterans Hospital and Miss Amelia Moses, a cashier with the Norfolk & Western Railroad.

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## MODERN ADVERTISING PRACTICES

## HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ROYBAL. Mr. Speaker, on November 18, 1971, the Federal Trade Commission heard the testimony of Mr. Domingo Nick Reyes, executive director of the National Mexican American Anti-Defamation Committee, concerning the portrayal of the Spanish speaking by media advertisers.

The ideas and evidence that Mr. Reyes offers us deserve our attention and close examination. Although some progress has been made to reverse the years of inaccurate portrayal of the Mexican and Spanish-speaking people, there are still repeated instances where Mexicans are portrayed in a degrading and ridiculing manner. It is my hope that we can stop perpetuating and selling to the public this type of immature and racist humor which not only demeans a culturally rich people but all Americans. For this reason, I joined with 10 other Congressmen in introducing House Concurrent Resolution 9. This resolution calls for standards which will end ethnic, racial or religious ridicule and stereotypes by the media.

The comments made by Mr. Reyes apply to all minority groups in our society. What Mr. Reyes demands is a fair and reasonable portrayal of the Mexican and other minority groups, and their representation in the Federal Trade Commission. An examination of its staffing patterns reveals a serious exclusion of minority groups from its executive and policymaking echelon.

According to Federal employment data, FTC has placed 80 percent of its minority employees in lower paying jobs and none in top decisionmaking positions. In the area of Spanish speaking employment, FTC has only hired a total of seven—an underrepresentation of over 90 percent.

This pattern of exclusion extends to the entire Federal apparatus: only 2.9 percent of the 2.6 million Federal employees are Spanish speaking, with only one-third of 1 percent in key positions. Two of the worst offenders are the Civil Service Commission and the Equal Employment Opportunity Commission, both entrusted with carrying out the equal employment program for the Federal Government. Out of a total of over 5,300 employees, the Civil Service Commission hired only 140 Spanish speaking with three-fourths placed in lower paying jobs. Out of a total of 700, the EEOC employed 64 Spanish speaking with not one holding a top level position. These figures show a definite pattern of job discrimination and indifference by the Federal Government for the Spanish speaking.

### TESTING BY DOMINGO NICK REYES

I am Domingo Nick Reyes, Executive Director of the National Mexican American Anti-Defamation Committee, Inc. Prior to holding this office, I had a varied background in the Federal Government, as Special Assistant to the Commissioners of the Equal Employment Opportunity Commission and Public Affairs and Education Programs at the EEOC. This background also included working for the Mexican American Education Studies Division at the U.S. Commission on Civil Rights as Coordinator of Technical Data and Media Activities.

For twenty-one years I have been involved with the media as a broadcast journalist, producer, director and writer for TV and radio.

I speak, therefore, as a Chicano (Mexican American), who understands the media and the role of the government. While a realist, I believe that these hearings can result in forward progress in transforming the image of Chicanos and other Spanish-surnamed, Spanish-speaking Americans. A group this Commission and the federal establishment should know represent the single largest most numerous bilingual, bicultural human resource in the United States.

### THE PROBLEM

Mankind has progressed rapidly on many fronts: technologically and socially. In the area of communications alone the advancement has been no less than phenomenal. Every man, woman and child in the United States is at one time or another exposed to some form of written or spoken communication in most cases, daily, and the number of television sets now in American homes is a case in point.

I am most concerned with the effect that this information bombardment has on American public opinion and attitudes, particularly with regard to those individuals of Chicano (Mexican American) lineage.

There seems to be an attitude on the part of advertisers that America is basically a racist society: that it is good business to capitalize on this proclivity by making the Chicano (Mexican American) appear as a figure to be laughed at, scorned and otherwise demeaned. ". . . Americans of Mexican and Spanish ancestry are perenially portrayed in demeaning, ridiculing roles and have had a degrading stereo-type created . . . as a stupid, dirty, shiftless, immoral, servile bandito type ethnic group. This abusive image . . . perpetuated by mass media is of long standing and continues up to the present . . . ."[1] It has been my observation that Chicanos are rarely depicted in a positive fashion; e.g., the student, the family, the cleancut athlete, the kindly grandmother, etc. We can point to no instance where at least a balance can be cited as counterbalance to this devastating practice.

A common attitude toward minority groups can be illustrated by the following poem:

> Little Indian, Sioux or Crow,
> Little frosty Eskimo,
> Little Turk or Japanee,
> Oh don't you wish that you were me.[2]

Although this stanza was penned before the turn of the century, racist attitudes are still prevalent, and advertisers are continuing to reinforce this phenomenon.

### THE POWER AND ROLE OF MASS MEDIA

Given the fact that mass media possesses tremendous power in terms of its accessibility to all Americans, it seems to me that this force should be directed toward a more positive approach to minority groups. "[The communications media's] most important task should be that of overcoming antagonisms, contradictions in thought, conflicts of interest, and above all, prejudice."[3]

". . . the top 100 advertisers [in the United States] in 1969 spent nearly $2 billion alone in . . . magazine, newspaper, and television commercializing—$1.4 billion of that just in TV. The potential for good as well as profit is enormous."[4] "[Communications technology] offers powerful . . . weapons for a major assault on major social . . . problems."[5] These "weapons" have not been used in a positive manner in many cases, and the fault lies with the persons who set policy and make decisions in the mass media industry.

". . . advertising plays an important role in demonstrating upward social mobility and progress to members of minority groups. It is, so to speak, a yardstick by which minority group members chart their progress in their search for acceptance, recognition and response from the Anglo Community. This aspect of the social role of advertising has been . . . overlooked."[6]

### THE EFFECT OF MASS MEDIA ON ATTITUDES

Advertising is both a reflector and creator of attitudes. There is no way whereby attitudes can arise in a person except through learning. Since the objective of commercializing is to sell products, and buyers are made aware of the product's existence and attributes through mass media, advertising is, by nature, educational. The advertiser uses methods which, in his opinion, will make his product appealing to buyers. In some cases this is done in a positive fashion; e.g., Crest toothpaste encourages good health habits via regular dental checkups. But all too often the thrust is negative: the Mum commercial, for example, showing a Mexican bandit, who uses the product: "If it [Mum] works on *him*, it will work on you". Another example is the infamous Frito Bandito, now removed from television.

". . . advertising plays an an essential role in the education of children. For one thing, it shows them, in part, what the dominant Anglo culture thinks of various subcultures. When the Chicano (Mexican American) for example is portrayed as sloppy, untrust-

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Footnotes at end of article.

worthy, greasy and undependable, this can only affect the self-picture of the Mexican-American children who see it.[7]

Frequently mass media creates or reinforces stereotypes. If the caricature is negative, the effect is damaging, not only from the viewpoint of the minority group, but also with regard to the fostering of attitudes in members of majority groups. "The habit of making generalizations makes one consider as common to all what he observes in a particular conduct of an individual."[8] The fact is *most of the persons in the class to which the stereotype pertains do not conform to the stereotype.*

"When Camel cigarettes presented a few months ago a 'typical Mexican village' in one of their commercials, it may . . . serve to involve the views in the village life. But, what kind of village life is shown? All of the residents are either sleeping on the boardwalk, or walking around seemingly bored. The involvement, in this case, is one of the Anglo American sensing superiority over the lazy Mexican villagers."[9] These forms of discrimination are sometimes subtle, but they are nevertheless real. It is obvious that mechanisms must be created to stem, and ultimately reverse, this unfortunate trend.

That concludes my statement. I would now like to make three documents available which relate directly to my statements and propose that you consider the following recommendations.

### RECOMMENDATIONS FOR CONSIDERATION BY THE FTC

1. Creation of a Fair Advertising Practices Commission (FAPC) is recommended, which would include representatives of industry, government and minority groups.

2. We recommend to the FTC that it insist that advertisers of America must make a positive representation of all its constituents regardless of race, color, creed, national origin or sex. A fine example of this is the National Urban Coalition's media campaign entitled "Love, it comes in all colors".

3. We recommend greater emphasis be placed now on the hiring, training and recruiting of Spanish-speaking Americans to assist in the overall monitoring of FTC practices which are injurious to our community.

4. We recommend the development of a system which is similar to that of bilingual and bicultural Canada that provides for labeling and descriptive matter in packaging by law written in the two primary languages of the country.

5. We recommend that a government supported program be launched to enlist advisory councils in the regional areas of the FTC and similar regulatory agencies, composed of national organizations and consumer groups to communicate with these, particularly with regard to ethnic representation and consumer protection in the mass media.

6. We recommend that annual reports be required from the advertising agencies regarding the use of minority persons in the ads. These reports would provide a mechanism for assessment by the general public as to how the advertising community deals with social issues of the day, much in the same manner as those annual awards for best performance, best commercial award of the year, etc, are now part of the system.

7. We recommend development of a mechanism to award research and development grants and training and technical assistance to minority groups to study the impact of advertising and other public opinion attitudes.

8. We propose and recommend a mechanism be provided, with proper enforcement, for redress of grievances against certain advertising and manufacturers of certain products, similar to procedures included in this for equal employment statutes for companies being awarded government contracts.

9. We recommend that Chicanos, Blacks, other minorities, women and youth be included in panels as part of the FTC's policymaking activities with regard to the advertising community.

10. The advertising community must be held accountable for actions which affect the lives of *all* Americans. Existing codes and industry self-policing programs have proven to be ineffective. While we are adverse to censorship, we recommend that a careful study be made in setting up a permanent mechanism for monitoring and assessing the import of advertising in order to evaluate the effects on attitudes (reinforced by advertising caricatures or slogans) and bias which are injurious to the concept of a pluralistic American society.

### FOOTNOTES

[1] Martell, Ray: *Protest to the Federal Communications Commission (FCC) on the Cavalier and Abusive Treatment of Americans of Mexican and Spanish Ancestry by the Mass Media*; August 4, 1969, p. 1.

[2] Robert Louis Stevenson.

[3] Caldera, Rafael: *Food for Thought,* The Washington Daily News, Thursday, June 4, 1970.

[4] Rendon, Armando and Reyes, Domingo Nick; *Chicanos and the Mass Media: Brown Position Paper No. 1*; The National Mexican American Anti-Defamation Committee, Inc., 1971.

[5] Sarnoff, Robert W.; *Vital Speeches of the Day*; November, 1967, p. 95.

[6] Kanter, Donald L.; *Advertising and the Mexican American Consumer;* A paper presented to the A.A.A.A. Southwest Council Annual Meeting; March 12, 1970; p. 22 (Footnote).

[7] *Ibid.*

[8] Caldera, Rafael; *op cit.*

[9] Civil Rights Digest; *How Advertisers Promote Racism;* U.S. Commission on Civil Rights: Fall 1969, p. 7.

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## TV PROGRAM—"SURVEILLANCE—WHO'S WATCHING — CHICAGO'S 'RED SQUAD'"

## HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ICHORD. Mr. Speaker, I have received a copy of a letter to the Federal Communications Commission from Mr. William Stanmeyer, an associate professor of law at Georgetown University, protesting a recent program aired over Television 26, the Public Broadcasting System, the so-called Educational Television Network.

The program was entitled "Surveillance—Who's Watching—Chicago's 'Red Squad.'" Part of this program concerned a standing committee of the House of Representatives which I have the honor to chair—the House Committee on Internal Security.

Mr. Stanmeyer describes the program as a "one-sided and highly slanted attack on preventive law and all police intelligence-gathering efforts, from local departments to the FBI," a description with which I am in full accord.

In his review of the program's shortcomings, Mr. Stanmeyer notes that very little effort was made to present a balanced picture of preventive criminal law and the gathering of intelligence material both in regard to crime and to the subversive elements in this country who would destroy our democracy with force, if necessary.

To quote Mr. Stanmeyer:

> The worst omission was their total silence about the problem that preventive criminal law tries to cope with: the bombings, sabotage, arson, mob action, contrived riots, etc. Had their topic been the fire department, they would have said nothing about fires.

Mr. Stanmeyer asks the FCC to take a "hard look at whether NET is propagandizing the public—as it did in this broadcast—and violating the fairness doctrine and the intent of Congress."

I agree that the FCC should do this because this program was nothing more than a cheap, one-sided shot at law enforcement agencies and the operations of the Congress of these United States.

But further, I think Congress itself should take a hard look at this matter. After all, we provide the bulk of the funds for the PBS operation—congressional approval of the appropriation is required.

The sum this Congress provided last year was $35 million. And we are being asked to be even more generous this year—$45 million. It seems passing strange to me that the House of Representatives is using such large sums of money—the taxpayer's money—to propagandize against itself.

If the Public Broadcasting System and its outlets are plucking the feathers of the goose which lays its golden egg, perhaps the goose should either divert this golden egg to more worthwhile ends or return it to the hapless televiewing taxpayer.

Perhaps it is time to begin examining more closely what is issuing forth in the guise of educational television.

The Public Broadcasting System was so pleased with this particular broadcast of an hour and one-half's duration that it reran it once and contemplates doing so again.

And when one is discussing the Public Broadcasting System in general, I must say that I was aghast to discover that it was paying the very handsome salary of $85,000—twice what Congressmen and Senators earn—to one Sander Vanocur to impose his special slants and prejudices on the PBS news operation.

If the Public Broadcasting System continues to utilize congressionally appropriated funds to directly or indirectly smear the operations of Congress, I assure you that I can hardly be persuaded to continue to vote approval of these funds.

I will enter Mr. Stanmeyer's letter into the Record:

Georgetown University
Law Center,
*Washington, D.C., February 2, 1972.*

Re Political bias in NET.

Mr. Richard E. Wiley,
*Commissioner, Federal Communications Commission, Washington, D.C.*

Dear Dick: On Monday, February 1, Channel 26 of the Public Broadcasting System presented an "educational" documentary entitled, "Surveillance—Who's Watching"—Chicago's "Red Squad."

This was a one-sided and highly slanted attack on preventive criminal law and all police intelligence-gathering efforts, from local departments to the FBI. It continually showed private citizens discussing their real or imagined grievances and how "chilled" their freedom of speech was. Its first introduction of the House Internal Security Committee was a long tirade from Father Drinan, its junior member who joined it with the dishonorable purpose of destroying it; this excerpt it then "balanced" by a brief remark from another committee member who denied they rely on hearsay.

The narrator, a Mr. McCutchon, occasionally asserted the program's efforts to give time to a few police undercover agents (who if they accepted would of course have "blown their cover" permanently) and the FBI (which would be attacked, had it accepted, for politicking).

But in light of the program's manifest intent to interview almost exclusively those who oppose police intelligence-gathering on potential bombers and arsonists, the agents' appearance would certainly have been only token. Obviously, they made no efforts to enlist private citizen comments on the other side of the scale—e.g., some local D.A.'s or members of any citizens anti-crime organizations.

The worst omission was their total silence about the problem that preventive criminal law tries to cope with: the bombings, sabotage, arson, mob action, contrived riots, etc. Had their topic been the fire department, they would have said nothing about fires.

I think FCC should take a hard look at whether NET is propagandizing the public—as they did in this broadacst—and violating the fairness doctrine and the intent of Congress.

Sincerely yours,

WILLIAM A. STANMEYER.

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## REMARKS OF THE ADMINISTRATOR OF VETERANS' AFFAIRS TO THE MARINE CORPS LEAGUE—AN ACCOUNT OF PROGRESS AND SERVICE TO OUR NATION'S VETERANS

### HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. SMITH of New York. Mr. Speaker, the partnership between the military forces in our Nation and the Veterans' Administration, has been an enduring and enviable one. I am proud to take this opportunity to present to my colleagues the text of remarks presented by the Honorable Donald E. Jackson, Administrator of Veterans' Affairs at the midwinter meeting of the Marine Corps League. At this juncture in our history, that partnership between the Veterans' Administration and the military is a particularly important one. We are successfully winding down the conflict in Southeast Asia. At the same time, hundreds of thousands of military men are returning home, home to a difficult employment situation, home with possible drug related problems, home with the hope of completing an interrupted education.

The Veterans' Administration stands as a beacon to our returning servicemen. It is the one guiding light which provides our men in uniform and those who gallantly served their Nation the hope of medical care, educational assistance and guidance for a better life.

It is with great pride I salute this partnership and provide for my colleagues Mr. Johnsons remarks and a resolution 'of the Marine Corps League:

REMARKS BY THE HONORABLE DONALD E. JOHNSON

National Commandant Lynn Cavin . . . members of the National Board of Trustees . . . officers and members of the Marine Corps League:

It is not only a pleasure meeting with you . . . but an honor to address this prestigious organization of American veterans.

As a World War II Army combat infantry sergeant . . . I cannot personally share . . . although I greatly admire . . . the proud history and heritage of you Marines. And I use the active title deliberately . . . because I am well aware of the saying:

"Once a Marine—Always a Marine."

As Administrator of Veterans Affairs . . . however . . . I feel a close kinship to the Marine Corps League.

Certainly you and I . . . and our associates in the Marine Corps League . . . and in the Veterans Administration . . . share an overriding concern for the welfare of America's veterans, their dependents and survivors.

More importantly . . . we are engaged in a common cause:

Service to those who served.

Because we are partners in this great work . . . it is appropriate today . . . I think . . . that we examine together what is now being done . . . and what more with yet be done . . . "to care for him who shall have borne the battle and for his widow, and his orphan."

I suggest that we examine VA's programs of benefits and services in the order in which they are involved in your list of 8 good reasons why eligible members should join the Marine Corps League.

First . . . however . . . let me emphasize that this examination will be factual . . . not boastful . . . because after nearly three years in office . . . it just seems like I am rounding out a 30-year career . . . I have learned to appreciate Mike's wisdom.

Mike was about to die and the priest bent over him to give him the last rites of the church.

The priest said: "Repeat after me, I renounce the devil and all his evil works."

But there was no response from Mike.

The priest again said: "Repeat after me, I renounce the devil and all his evil works."

Still no response from Mike.

After the third try, the priest shook Mike, who opened his eyes.

"Didn't you hear me?" . . . asked the priest. "Yes" . . . replied Mike . . . "but you told me I was going to die, and this is no time to antagonize anybody."

Very frankly . . . VA's account of past accomplishments, on-going achievements and exciting potential . . . if it does not antagonize . . . does not always meet with total acceptance and agreement from the news media . . . the Congress . . . or even veteran organizations . . . including the Marine Corps League.

Nor should it . . . ever.

But with few exceptions . . . VA's story has been given a fair and full hearing.

I know that such will be the case today . . . not only because of your innate courtesy and fairness . . . but also because you truly want to know the facts so that you can make intelligent, meaningful judgments as to how effectively . . . or whether . . . the welfare of our veterans and their families is being met today . . . and will be served tomorrow.

I am certain that you did not list the 8 reasons for joining the Marine Corps League in any order of importance . . . because all of the benefits cited are important.

But you had to begin somewhere. And the first reason listed is "assistance for hospital, nursing, medical and dental care."

I realize that this includes military hospitals. Today . . . however . . . let's examine the Veterans Administration's quality hospital and medical care program . . . the VA hospital system . . . the nation's finest as well as largest hospital system.

A number of things must be said about this program . . . the most visible of all VA benefits and services.

First . . . for more than four decades . . . VA has had sole responsibility for operating an independent, viable, and improving hospital and medical care program for ill and disabled and aging veterans.

I promise you here and now that as long as I am Administrator of Veterans Affairs . . . VA is going to continue to have sole responsibility for operating an independent, viable, and improving hospital and medical care program for ill and disabled and aging veterans.

I make this promise with full knowledge that the American people are going to demand . . . and will get . . . the quality health care at reasonable cost that is their right.

It is just a matter of time.

But I tell you again that the quality VA hospital and medical care program . . . which we know today . . . is going to remain a quality VA hospital and medical care program . . . which we can recognize tomorrow.

VA medicine is not going to be emasculated.

VA medicine is not going to be merged . . . or submerged . . . into oblivion.

Instead . . . VA medicine is going to become an even greater benefit for increasing numbers of veterans.

And VA medicine is going to become an even more vital member of the American medical community . . . contributing substantially, even spectacularly, to qualify health care for all of our citizens . . . while retaining its independence and identity.

Permit me to cite a few comparative figures . . . not to brag . . . but to reassure you and your members . . . indeed, all of America's veterans and their families . . . that the Veterans Administration has the capacity to match its resolve to provide our veterans with the quality hospital and medical care they deserve and may need now and in the years ahead.

President Nixon's record-high budget request of $11.7 billion for the Veterans Administration in Fiscal year 1973 . . . beginning July 1 . . . is nearly $800 million more than this year's all-time high VA budget.

The new budget calls for an increase in VA's average employment of 11,640 . . . to bring our work force total to almost 184,000. Nearly 11,000 of the employment increase is earmarked for our Department of Medicine and Surgery. Average medical employment in the new fiscal year is targeted at 162,246 . . . the greatest number of employees in the history of VA medicine.

The record-high $2.5 billion which President Nixon requested for VA medicine in the coming fiscal year is more than $166 million over this year's budget . . . and will enable VA to:

1. Increase inpatient beneficiaries to nearly one million . . . or more than 24,000 over this year.

2. Increase outpatient visits to nearly 11 million . . . or 1.5 million more than this year.

3. Activate 248 new medical units . . . including 12 drug centers, 15 alcoholism treatment centers, and 6 hemodialysis units.

4. Provide medical training for nearly 62,000 individuals . . . another record number . . . and 5,500 over this year's total.

5. Increase the authorized nursing beds by 33 percent over this year's number to a total of 8,000 . . . double the authorized level of 1964.

6. Devote more money than ever to medical research. We expect to obligate $74 million . . . an increase of $8 million over this year.

7. And obligate $3.2 million for prosthetic research . . . half again as much as the $2.1 million we are spending this year.

Before commenting briefly on other VA

programs that relate to cited benefits of Marine Corps League membership . . . let me say another word or two about VA's drug treatment program.

First . . . and most important . . . those citizens among us who believe that every Vietnam veteran is a drug addict must disabuse themselves of this false and harmful attitude.

The fact is that less than one percent . . . an estimated 50,000 at the most . . . of the more than 5.6 million Vietnam era veterans now back home . . . were unfortunate enough to become addicted to drugs.

Stated another way . . . and more fairly . . . more than 99 percent of our Vietnam era veterans are not . . . I repeat . . . not drug addicts.

Those who have become the tragic victims of drug addiction . . . and they constitute less than one-fifth of the estimated quarter-of-a-million and more drug addicts in our national population . . . are going to receive the finest, most advanced medical care possible from VA . . . and for as long as necessary.

In the 32 new VA drug treatment centers which we have activated in the past year.

In the 12 new centers which we will open in the coming fiscal year.

And in our established and experienced regular hospital system drug treatment facilities.

I tell you today that VA is totally committed to solving this tragic problem . . . not only for our Vietnam veteran victims . . . but for all in our society who bear this burden.

So much so that I have designated the Deputy Administrator of Veterans Affairs . . . Fred B. Rhodes . . . as VA's Drug Program Coordinator . . . to represent me in dealing with President Nixon's Special Action Office for Drug Abuse Prevention . . . and with all of the departments and agencies in the government sharing responsibilities for attacking the drug problem.

I am also establishing a Drug Program Coordination Committee within VA . . . composed of representatives from my office, Department of Medicine and Surgery, Department of Veterans Benefits, Controller, General Counsel, and Management and Evaluation.

A full-time Secretariat for this program will be established . . . and necessary clerical assistance will be provided.

Now to cover quickly other Marine Corps League membership benefits . . . as they involve major VA programs.

Decent housing . . . for active duty Marines as well as for veterans . . . concerns you.

I can assure you that it also concerns my associates and me in VA.

Our Fiscal Year 1973 budget anticipates a continuing advance in the G.I. Bill home loan program . . . with a forecast of more than 340,000 VA loans on homes valued at $7.2 billion. This is a five percent increase over this year, which, itself, marks the highest VA loan volume since 1957.

To me . . . your reference to benefits and claims means VA's compensation and pension program.

The biggest single item in VA's fiscal '73 budget is the payment of disability and death compensation and pensions to nearly six million veterans and dependents. The amount for these payments in the new budget is set at $6.4 billion . . . which is an increase of $331 million over this year . . . and reflects this Administration's recommendation to the Congress for a cost-of-living increase of nearly six percent in compensation payments to service-disabled veterans.

For the Marine Corps League . . . as well as for VA . . . one of your principal programs calls for your assistance in obtaining educational benefits for your members and others entitled to help under the G.I. Bill or other VA education and training programs.

In this area, too, this Administration has asked the Congress to approve an 8.6 percent increase in G.I. Bill education and training benefits . . . and a 48 percent increase in VA on-the-job training allowances to make this program more attractive for unskilled, educationally disadvantaged, and largely unemployed Vietnam veterans . . . as well as for employers.

The $2.2 billion requested for G.I. Bill training and other readjustment benefits is nearly $205 million higher than this year's budget . . . and represents an increase of more than 200 percent over the budget of just four years ago.

Moreover . . . the more than two million young veterans who will train under this program in the coming fiscal year constitute an increase in excess of 105,000 over this year's record number of enrollees.

An estimated 67,000 sons, daughters, widows and wives of deceased or seriously disabled veterans will receive VA educational assistance in the coming fiscal year.

Next month the House Appropriations Committee will hold hearings on VA's requested fiscal '73 budget . . . which I have just highlighted.

Necessarily . . . I will have to speak to the specific dollar figures involved. But I can tell you today . . . in closing . . . that the principal thrust of my testimony will be but a reiteration of the charge given to me . . . to my VA associates . . . indeed, to all Americans . . . for all time . . . by Abraham Lincoln in his Second Inaugural Address.

"... care for him" . . . he told us . . . "who shall have borne the battle and for his widow, and his orphan."

This we are resolved to do.

This . . . I know . . . the Congress will have us do.

Thank you again for the privilege of being with you today.

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RESOLUTION OF THE MARINE CORPS LEAGUE

Whereas, the Marine Corps League, a Congressionally-chartered national veterans service organization composed exclusively of people who have honorably served or are now serving in the United States Marine Corps; and

Whereas, the Marine Corps League will celebrate the fiftieth anniversary of its founding on June 6, 1973, having been established in New York in June, 1923 during a reunion of Marines of the First World War; and

Whereas, the Congressional Charter of the Marine Corps League calls for the carrying out of fitting acts to observe the anniversaries of historical occasions of peculiar interest to Marines;

Now therefore be it resolved, that the Marine Corps League establish a *Fiftieth Anniversary Committee* for the purpose of noting and observing this auspicious occasion in appropriate fashion, and that among others, the following officers be appointed to this Committee: the National Commandant, the National Sr. Vice Commandant, the National Historian, the National Adjutant Paymaster, the National Public Relations Officer, and the National Liaison Officer.

Adopted at the Mid-Winter Meeting of the National Board of Trustees, Marine Corps League, Feb. 12, 1972.

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## THE LATE JOHN R. MURDOCK

## HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. STEIGER of Arizona. Mr. Speaker, John R. Murdock was no exception to the historic role of Arizona representatives to Congress. He served well, contributing colorful rhetoric and solid accomplishment. From his arrival in 1936 through 15 years of service his wide range of interest and effort covered teaching Bible classes in the Capitol and acting as "father" of the Department of the Interior's desalinization research program. He served us well, as an Arizonan and U.S. Congressman.

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## HOME RULE FOR THE DISTRICT OF COLUMBIA

## HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DIGGS. Mr. Speaker, over the years the American Association of University Women has given thoughtful consideration to many of the problems of national importance that have come before the Congress for legislative action. Positions on issues are adopted by the association only after much research and well-informed discussion by its wide membership. I therefore take pleasure in presenting below, for the thoughtful attention of my colleagues, the statement on home rule for the District of Columbia that was recently submitted by the American Association of University Women to the House Committee on the District of Columbia.

The statement follows:

STATEMENT ON HOME RULE FOR THE DISTRICT OF COLUMBIA, SUBMITTED TO THE HOUSE COMMITTEE ON THE DISTRICT OF COLUMBIA, FEBRUARY 16, 1972

(By Mrs. Sherman Ross, Chairman, Legislative Program Committee, American Association of University Women)

As we have done before, the American Association of University Women urges enactment of legislation by the Congress which would provide the sovereignty of local government to the residents of the District of Columbia. Support for Home Rule for the residents of the District of Columbia has been supported by the Association's membership and has been approved by the delegates to our biennial Conventions as an item in our national—Convention adopted—program for over three decades.

Visitors to the capital of the United States are appalled by the conditions which exist under the present form of government. Residents of this city that is so poorly governed; that has such serious inadequacies in its schools, its hospitals and other public services, cannot help resenting the fact that they pay such vast sums in federal income taxes when, compared to the states, the District has so little returned in dollars through federal programs that are available to state and other municipal governments. Yet this city has a greater population than any one of a dozen states.

It is a shocking fact to us in the American Association of University Women that for some years District residents have been paying approximately 87% of the District's operating costs through a city income tax upon residents and through taxes upon the fifty per cent of the property within the city limits which is left eligible to taxation.

We cannot help but wonder what the motive can be that lies behind the failure of Congress to end this taxation without representation which is so uncharacteristic of this nation's history—and of its current protestations of being a democratic state.

It is strange to us that the same Congress, which will not share equally the operating cost of this city with its already heavily taxed citizens; which denies the right of self-government to D.C., so recently saw fit to grant statehood to Alaska and Hawaii.

We believe the District should be permitted by an act of Congress to elect its own city council; be given the authority to pass its own laws, to set its own taxes and spend its own money.

We also believe such an act should set a specific percentage as the federal share of the cost of operating this Capital city and that annual appropriations in line with that percentage should be made from federal revenue.

We thank you for the privilege of having our views incorporated in the record of the current hearings of the House District Committee on Home Rule.

## A HOME AWAY FROM HOME

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DERWINSKI. Mr. Speaker, the necessary steps taken by the administration to reach an agreement for home port facilities for our 6th Fleet in the Greek seaport of Piraeus has been subject to criticism and second-guessing. A very sound and reasonable commentary on this situation appeared in the Chicago Tribune of February 18 which I insert into the RECORD at this point:

### A HOME AWAY FROM HOME

When the United States announced Feb. 5 it had reached an agreement in principle to make the Athens seaport of Piraeus the home port for the 6th fleet carrier task force, it was inevitable that there would be criticism from both liberals at home and the Soviet Union.

Firing the first salvos, Rep. Shirley A. Chisholm [D., N.Y.] called the agreement made with the ruling Greek military junta evidence of the "malignant" intent of the Nixon administration to depend upon "reactionary authoritarian" regimes to further American interests. She brushed off an official explanation that the purpose was to move 3,500 U.S. dependents to the new home port and thus to boost fleet morale.

Moscow has now followed suit with protests filed by Russian ambassadors in Washington and Athens. The Kremlin couldn't care less about the character of the Greek government. What concerns Moscow is the establishment of what it terms an American naval base in close proximity to the Soviet Union and "other Socialist" countries. Russia threatens to make a countermove in the Mediterranean Sea.

We can't help wondering what Russia can do that it hasn't already done. Its own Mediterranean fleet already has the use of naval facilities in Egyptian and Syrian ports. Indeed, Alexandria, Egypt, has become almost a Russian port complete with a Russian harbor-master. Soviet war planes based in Egypt—along with a large contingent of Russian troops—constantly fly surveillance of the 6th fleet.

In contrast, as the State Department has been careful to point out, the proposed home port of Piraeus would in no way constitute a "formal naval base." The arrangement with Greece, said Charles W. Bray III, a State Department spokesman, involves "no increase in military personnel or combatant vessels." All it means is a chance to move servicemen's families closer to them during lengthy tours of sea duty, as is done for sailors of the 7th fleet destroyers which have home ports in Japan.

The separation of families during long sea duty tours is one of the Navy's biggest morale problems. Providing a home port near Athens is certainly a big step forward in making Navy life more attractive. The Russians should be able to understand that, even if American liberals do not. And even if they don't they are in no position to complain.

## LEARNING TO DO BUSINESS WITH RADICAL NATIONALISTS

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. HAMILTON. Mr. Speaker, despite our displeasure with some of the international role-playing and posturing by leaders of some developing countries, we often do have mutual economic interests with such nations that can transcend other international goals.

The United States relations with Algeria are a case in point. After years of friction between Algeria and the United States, we adopted a relatively relaxed posture toward Algeria in about 1969. Both countries have since acquired modest expectations about each other and have tried to separate economics and politics. Algeria will continue to oppose the United States on the Middle East and on Vietnam, but we can continue to live with that. Trade, the transfer of technology, and Algeria's abundant supply of natural gas which we need all can provide the basis for important relations in the future.

This recognition of mutual interests by both Algeria and the United States serves as an excellent example of the kind of strategy the United States might fruitfully pursue in its dealings with radical nationalists who seek dignity and independence on their own terms.

The issue of dealing with radical nationalists in general and Algeria-United States relations in particular are the subject of a very perspective essay by Dr. William B. Quandt of the Rand Corp. This paper was delivered to a southern California working group on U.S. relations with leftist regimes. I recommend Dr. Quandt's article to my colleagues and endorse his conclusions:

[Arms Control and Foreign Policy Seminar, southern California, October 1971]

### U.S. RELATIONS WITH ALGERIA: LEARNING TO DO BUSINESS WITH RADICAL NATIONALISTS

(By William B. Quandt)

#### SUMMARY

The United States and Algeria have had a wide variety of experiences with one another over the past decade. Behind the ups and downs that have characterized U.S.-Algerian relations stands a great disparity in power which makes the United States at times insensitive to Algerian interests and the Algerians suspicious of U.S. motives.

This paper examines the brief early period of good feeling following Algerian independence, and traces the subsequent decline to waning interest on the part of the United States and chronic instability in Algeria. By the time Ben Bella was overthrown in 1965, the United States was on the verge of suspending further aid to a regime which was commonly viewed as a second Cuba in the making.

Boumediene's coming to power led initially to an improvement in relations, but a seemingly minor issue of compensation for nationalized properties became the focus of bitter acrimony by spring 1967. When the Arab-Israeli war of June 1967 occurred, Algeria broke diplomatic ties with the United States. This subsequently provided the opportunity for both sides to take a new look at their relations and to rebuild them on a modest scale around a few areas of common interest. The Algerians have shown a keen desire for U.S. technology and for access to the American market for their exports. The keystone in these evolving economic relations is the El Paso-Sonatrach agreement, which, if successfully implemented, will have a major impact on improving political relations between the two countries.

#### INTRODUCTION

The United States and Algeria, after nearly a decade of dealing with one another, are finally beginning to lay the foundations for a relatively stable and mutually profitable long-term relationship. The key to the emerging pattern of interaction is a complex network of economic ties, most important of which will be the delivery of large quantities of Algerian liquified natural gas to the United States. Both parties expect to benefit from this arrangement and both anticipate that improved political relations may be one consequence of closer economic ties. What is most remarkable about U.S.-Algerian relations today is how implausible it would have seemed only four or five years ago that the two countries would be on such comparatively good terms.

For a brief period after Algerian independence, the United States had taken a tolerant and even helpful posture toward the new regime of Ahmed Ben Bella. Algeria's revolutionary rhetoric and chronic instability in its first years of independence, however, led to a deterioration of relations, which were only partially improved when Ben Bella was ousted by Houari Boumediene. When the Arab-Israeli war of June 1967 broke out, Algeria was quick to believe UAR President Nasser's accusation of American military involvement on Israel's behalf, and diplomatic relations were broken. It was not until 1969 that U.S.-Algerian ties began to improve as a result of several important factors. First, by 1968 Algeria was beginning a period of unprecedented stability following a major internal crisis in late 1967. Stability bred greater self-confidence and provided the Algerian government with the opportunity to face seriously economic and social problems in the country. Second, as the regime decided to push for rapid economic growth based on an ambitious plan of industrialization, it found that U.S. private business was willing and able to provide goods and services required by the Algerians. Following the lead of U.S. businessmen, the American government began to look for ways in which Algeria's interest in U.S. technology could serve to improve relations between the two governments. While U.S.-Algerian relations have much that is peculiar to them, they nonetheless provide a revealing example of how two very different societies and governments can learn to develop limited areas of mutual benefit that serve the long-term objectives of both parties.

U.S.-Algerian relations have evolved against the inevitable backdrop of an immense power disparity, a fact that influences U.S. conduct everywhere in the Third World. The simple reality is that the United States Government does not generally view its relations with the weak and impoverished countries of

Africa, Asia, and Latin America as matters of great importance, whereas for these latter, the United States often looms very large in their set of concerns, either as potential benefactor or dangerous opponent. Algerians, in particular, are very sensitive to unequal treatment, to signs of discrimination, and to veiled or explicit political pressure. U.S. power and Algerian suspicions combined to produce some awkward moments in the early phase of relations when neither government knew the other very well. As the United States shifted from its initial mild enthusiasm toward Ben Bella to disenchantment and indifference, the Algerians invariably saw U.S. actions as sinister, ideologically motivated efforts to manipulate Algerian political life. In fact, the United States was merely losing interest in doing favors for a regime that maintained a posture of denouncing U.S. imperialism on every possible occasion. Despite a brief improvement in atmosphere between the two countries when Boumediene came to power, by early 1967 relations were strained again. Algeria's breaking diplomatic ties to the United States in June 1967 proved to be a therapeutic in that it removed illusions on both sides and allowed a period of rebuilding relations on an improved basis, this time with fewer possibilities of major misperceptions caused by the inevitable asymmetry in power. The ability of both countries to learn to deal with one another fairly effectively, despite overt ideological differences on major world issues, provides an important case study of U.S. relations with radical regimes.

### THE EARLY YEARS: KENNEDY AND BEN BELLA

Contacts between the U.S. Government and the Algerian FLN were made prior to Algerian independence in 1962. From these early ties, Algerians came to expect friendly treatment from Washington after independence, a condition not commonly true for radical regimes. The basis for U.S.-Algerian good relations after independence stemmed from two prior sets of events. First, John F. Kennedy, as Senator and member of the Committee on Foreign Relations, had delivered a speech in July 1957 calling for Algerian independence. Most American officials at the time were outraged by the speech, fearing its impact on U.S.-French relations. Although Kennedy was in later years to back away somewhat from his strong stand of 1957, the Algerians nonetheless remembered him with unusual warmth. Second, when Kennedy became President in 1961, U.S. concern with Algerian issues increased noticeably. Knowing that Kennedy had a personal interest in Algerian affairs, members of the U.S. foreign affairs bureaucracy who favored expanding contacts with the FLN, especially the Bureau of African Affairs in the Department of State, took several initiatives in 1961 and 1962. The French desk in the European Bureau at State, reflecting opinion in Paris, became the strongest bureaucratic opponent of these moves. Despite considerable criticism, the United States Government sent the former director of North African Affairs at the State Department, and the man who had helped Kennedy to prepare his 1957 speech, William Porter, to Algiers in May 1961 as Consul General. That same year, the then current head of North African Affairs, William Witman, was quietly directed to meet with Algerian representatives at the U.N. Late in 1961, a "Special Assistant" to Witman was named whose real functions were those of a country director for Algerian Affairs. A major task was to prepare an aid program for Algeria that could go into effect immediately after independence at a level of perhaps $50 million yearly.

When Algeria became independent in July 1962, the United States had already developed some momentum in its relations with the Algerians. Once Ben Bella had officially come to power in September 1962, the United States recognized his government and Porter was named Ambassador. Assistance programs, which had been worked out over serious AID opposition, [1] were ready for implementation. Ben Bella's first trip outside of Algeria as President was to the United States, first to the U.N. and then to Washington for a cordial meeting with Kennedy.

During and immediately following Ben Bella's trip to the United States, signs appeared that Algeria's "radicalism" might lead to frictions between the two governments. While in Washington, Ben Bella refused to observe normal protocol in greeting the head of the diplomatic corps, the Ambassador from South Vietnam. Next, on leaving Washington, Ben Bella flew directly to Havana, where he joined Castro in calling for the elimination of the U.S. base at Guantanamo. This occurred on the eve of what was to become the Cuba missile crisis, and had the effect in some U.S. circles of identifying Algeria with Cuba. From that time on, the image of Algeria's becoming a second Cuba was frequently evoked in U.S. policy circles, despite efforts by North African specialists to combat the misleading analogy. [2]

During 1963, further incident, occurred that cooled U.S.-Algerian relations. In March, Ben Bella dramatically announced the nationalization of "vacant properties," most of which had been left behind by former French owners. A few U.S. citizens were affected by the measures, which eventually led to the filing of a number of private U.S. claims for compensation, totaling perhaps several million dollars in all. Although the amount of money involved was minor, this issue came to be an important point of contention in U.S.-Algerian relations in later years.

A more troublesome problem than nationalization of property owned by U.S. citizens was the border dispute between Algeria and Morocco, the latter a country with close ties to the United States. Even prior to Algerian independence, the Moroccan nationalist party, the Istiqlal, had made clear its claims to parts of Algeria's territory. During the war for independence, the Algerian Provisional Government had even agreed to discuss these historically disputed areas with Morocco once French rule had ended. But in the chaotic first year of Ben Bella's regime, the Algerians were in no mood to relinquish any territory under their control.

The issue of borders remained in dispute, and finally in the fall of 1963, in the midst of an Algerian domestic crisis involving an insurrection in Kabylia, war broke out along the Moroccan frontier. The Algerians were still in the process of converting their army into an integrated, modern force, and in the fighting the Moroccans acquitted themselves well, although no lasting territorial changes were registered by either side. Despite the rapid end to the war and the inconclusive results, the Algerians suspected that the creditable Moroccan performance could be at least partly explained by American assistance, including the transport of Moroccan troops to the front. Earlier Algeria had tried to acquire arms from the United States and had been turned down, and this fact too could be seen as part of a plan to keep Algeria weak in order to permit the Moroccans to realize their irredentist ambitions. While the United States position during the war was officially that of neutrality and an expressed desire to see the war end rapidly, the net impact of the conflict on U.S.-Algerian relations seems to have been to increase suspicions on both sides. [3]

In the United States, some observers felt that the Algerian-Moroccan war showed that Algeria, like Cuba, was seeking to export revolution to its more moderate neighbors. In Algiers, the idea that "U.S. imperialism" was backing the Moroccan "reactionary" forces in order to undermine the Algerian revolution was heard in the press and was doubtless believed by some officials as well. One concrete result of the border war was to accelerate Algeria's search for modern military equipment, particularly from the Soviet Union. This also added a sour note to U.S.-Algerian relations as the Soviet presence in Algeria began to grow along with heavy doses of Marxist jargon in the Algerian press.

Shortly after President Kennedy's death, during the spring of 1964 the United States expressed its concern over events in Algeria in an official State Department report that warned of "disturbing evidence of pro-Communist influence in important opinion-making positions" in Algeria and called Algeria a cold war "danger point" in Africa. [4] The Algerian ambassador in Washington met with Secretary of State Dean Rusk to express his concern over the report and to ask for clarifications. The incident quickly passed into oblivion, but indicated prevalent perceptions of Algeria in U.S. circles early in 1964.

Despite occasional irritations with Ben Bella's revolutionary zeal, especially among high-level U.S. policymakers, State Department specialists were generally willing to give Algeria the benefit of the doubt during the period of instability and uncertainty following independence. The keystone to U.S.-Algerian relations during these years was the PL 480 wheat program. With immense needs for imported wheat, particularly following the drought of 1963, Algeria became a major recipient of PL 480 grant aid during Ben Bella's rule. Algerians were glad to receive the wheat, but seemed to expect it as something due them as a matter of course to help compensate for the ravages of the war for independence. During the program's six years of existence in Algeria, wheat valued at over $175 million was provided.

Problems periodically arose in Washington over the continuation of the PL 480 aid to Algeria, and shipments were at times delayed, as in late 1963. By early 1965, the feeling was widespread in Washington that the aid program had outlived its usefulness. Among other problems, AID officials were confronted with a legal obligation under the Hickenlooper Amendment of January 1962 to suspend aid to any country that had failed to take "appropriate steps" within a "reasonable amount of time" to compensate U.S. citizens for nationalized or expropriated property. Claims stemming from the nationalizations of March 1963 had been formally received by the U.S. Government toward the end of 1964. The United States did not insist that the amounts in question or even the facts of ownership be fully accepted by the Algerian government, but it did demand that the claims be dealt with according to acceptable legal procedures. The handling of these cases, which were later to become a sore point of controversy between the two governments, contributed to the general atmosphere of disenchantment with the Ben Bella regime in Washington, and by late spring 1965, the U.S. Government had apparently decided not to renew PL 480 aid for the coming fiscal year. [5]

### BOUMEDIENE AND THE BREAK IN RELATIONS

In June 1965, Ben Bella was overthrown in a surprise coup d'état led by his Minister of Defense and Vice President Houari Boumediene. While U.S. officials were generally pleased with Ben Bella's ouster, few knew anything about the austere and remote figure who now spoke on behalf of the Council of the Revolution. Boumediene was thought to be more deeply influenced by Arab-Islamic culture than Ben Bella, but his trips to Moscow and the dependency of Algeria on Soviet arms led some observers to think that Algeria under President Boumediene would continue its drift toward becoming another Cuba. This image, however, was soon weakened as Boumediene moved against his domestic Marxist critics and engaged in a public quarrel with the Soviet Union. Combined with the serious, non-demagogic tone of Boumediene's early speeches, these acts gave rise to modest hopes that U.S.-Algerian relations might improve now that Ben Bella was out of the picture.

Shortly after the coup against Ben Bella, Ambassador Porter was transferred from Algiers and several months passed before he was replaced by a professional diplomat with former experience in the Arab world, John Jernegan. During the interlude between ambassadors, few initiatives were taken toward the new regime. By the end of the year, however, the Algerians had been presented with the still unsettled claims from 1963, and after agreeing to take up these cases, the Algerians received the welcome news early in 1966 that the PL 480 program was being resumed on a modest scale. Out of a desire to keep this aid flowing, the Algerians continued to report throughout 1966 that progress was being made in the processing of these claims and that they were "not gathering dust."

Despite these few positive signs, U.S.-Algerian relations were beginning to deteriorate as early as mid-1966. In June, the Algerians accused the United States of building secret military bases in Morocco and Tunisia. This atmosphere of distrust and suspicion was reinforced in August when an incident occurred involving the USIS branch office in Constantine. Late in August, the Constantine office had provided a USIS film to a Quaker group operating in Skikda. The film, which was to be shown to a group of Algerian peasants, had mistakenly been picked up from the discard pile and contained scenes of former President Ben Bella. To the chagrin and embarrassment of the Quakers, Ben Bella's brief appearance on the screen set off a noisy demonstration among the former President's supporters. The Algerian authorities immediately learned of the incident, and despite the obvious lack of any U.S. desire to see Ben Bella return to power, the USIS branch office in Constantine was closed for its alleged subversive activities.

During the fall of 1966, the Algerian press, always quick to criticize "U.S. imperialism" in Vietnam and the Middle East, extended its attack on the United States, blaming Washington for most of the worlds' ills. U.S. officials in Algiers had long resented the behavior of the press, and finally in early 1967 Ambassador Jernegan wrote a letter to the Algerians protesting the distortions and errors in the mass media concerning the United States. The Party newspaper defiantly published this supposedly confidential letter, accusing the United States of trying to pressure Algeria into abandoning its support for various progressive and revolutionary causes. It was even suggested that Jernegan had implied that future aid would depend upon a more restrained attitude in the press. The specter of blackmail seemed to be rearing its head, and the Algerians were very much on their guard as negotiations began for a new PL 480 program for fiscal year 1968.

The Algerians depended upon the continued supply of U.S. wheat and were anxious to conclude a new agreement, even on the stiffer terms of Title IV credit sales instead of grants, as in former years. With the legal requirements of the Hickenlooper Amendment always in the background, the United States urged Algeria to settle the outstanding claims as a precondition for the aid. Meanwhile, at the expert level the details of a new agreement were being negotiated, with scant attention paid to awkward political considerations. By May, the text of an agreement was ready for signatures, and neither the Algerians nor U.S. embassy personnel in Algiers anticipated any last minute difficulties, despite long-standing contentions over the tone of the press and the unsettled private U.S. claims. The Algerians had suggested that once the aid agreement was concluded, then the matter of the claims could be dealt with. The U.S. Government, however, held out for the opposite order of priority. Privately, the Algerians explained their reluctance to act on the claims for compensation by the fact that any agreement with the United States might be seen as a precedent for the much more extensive French claims stemming from the 1963 nationalizations.

On the eve of the Arab-Israeli war of June 1967, the U.S. Embassy in Algiers received firm instructions from Washington that there could be no aid agreement without continuing progress on the settlement of the claims. Embassy officials, who had been minimizing the chances of such a decision in talks with their Algerian counterparts, were faced with the unpleasant task of informing the Algerians that no agreement was possible because of the terms of the Hickenlooper Amendment. The Algerians saw in this unexpected announcement the confirmation of their fears that the United States was trying to pressure them into abandoning their militant stand on such issues as Vietnam and the Middle East. Surely the issue of the claims was a mere disguise for the more sinister purposes of U.S. policy. And to bargain over food supplies at a time of great need in Algeria was seen as particularly unsubtle. The handling of the entire question left bad feelings on both sides, and in this atmosphere the Algerians needed little encouragement to break diplomatic relations with the United States, although the ostensible reason given was the Egyptian allegation of U.S. participation in the war on Israel's behalf. With the suspension of diplomatic ties, U.S. aid to Algeria was automatically prohibited under the terms of the Gruening Amendment which forbids all but minor humanitarian assistance for countries that break relations with the United States. Since June 1967, then, the United States, by the terms of both the Hickenlooper and Gruening Amendments, has been unable to offer economic aid to Algeria. Without this major lever of policy, new bases of common interest had to be found if U.S.-Algerian relations were to be improved.

### RECOVERY AND PROGRESS: 1968–71

Even when diplomatic relations reached their low point in 1967, the Algerians stopped short of total estrangement from the United States. For example, although breaking diplomatic relations, they nonetheless allowed a small staff to maintain a U.S. interests section under Swiss protection in the U.S. Embassy. In addition, Consular relations were not broken, which left two American Consulates operating in Oran and Constantine. Finally, the Algerians made it clear that they were interested in maintaining some ties to the United States despite the current political-diplomatic crisis. These gestures of continuing interest in relations of some sort were only partially offset by measures taken against several U.S. companies, most of which were involved in oil production. These companies, including Esso, Mobil, Sinclair, El Paso, Phillips, Getty Petroleum, and Newmont Mines were eventually all nationalized, with each company negotiating for compensation on its own.

An important development in Algerian domestic politics indirectly contributed to the improvement of U.S.-Algerian relations after 1968. An internal power-struggle had been brewing during 1966–67 between the group around Boumediene, consisting of professional military men, technocrats, and intellectuals, and a rather mismatched coalition of former guerrilla leaders and Marxist ideologues. By the end of 1967, the conflict took the form of an attempted coup d'état, led by the Chief of Staff of the armed forces, Tahar Zbiri. The coup was rapidly thwarted by the use of air power against the advancing tank columns. Boumediene then moved swiftly to eliminate his opponents from positions of influence. The result was a relatively homogeneous government with good prospects of long-term political stability. [6]

During 1968, the Algerian Government, for the first time relatively free of internal security threats, began to concentrate on improving its relations with Morocco and Tunisia and on domestic economic development. This turning inward was in no sense a result of U.S. policies, but was very much in line with American preferences. In addition, the serious developmental effort launched by the Algerians, especially as part of their Four Year Plan begun in 1970, led them to desire American technology and products, both of which they were able to pay for in hard currency as a result of their profits from oil production. Algeria took the lead in seeking out the U.S. private sector and U.S. business responded with considerable enthusiasm. Between 1967 and 1969, U.S. trade with Algeria nearly doubled, from $33 million in U.S. exports to almost $64 million. [7]

With the private sector having taken the lead, the U.S. Government sought to capitalize on this area of obvious common interest between the two countries. During 1968, U.S. policy became that of maintaining correct political relations and encouraging the growth of economic relations by adopting a liberal position on granting export licenses. As part of the political strategy, it was decided to try to reach the center of the Algerian policymaking structure, which increasingly seemed to consist of Boumediene himself. After an assassination attempt against Boumediene in the spring of 1968, the United States sent a note expressing the relief of the U.S. Government on learning of his well-being. In time, a dialogue on political-diplomatic issues was reopened. The United States did not initially push for the resumption of diplomatic relations, but at the same time decided not to try to exact any price from the Algerians for the restoration of relations. The initiative, however, would have to come from them. In the absence of diplomatic relations, the American presence was bolstered somewhat through a variety of educational and cultural programs and a small amount of humanitarin aid.

In October 1968, Getty Petroleum Company signed a precedent-setting agreement with Sonatrach, whereby Sonatrach acquired 51 percent ownership of Getty's operations, while Getty agreed to provide capital for further exploration and production in return for a specified percentage of realized profits. The Algerians were pleased with the terms of this joint venture and subsequently, in February 1971, imposed similar conditions on French oil companies operating in Algeria.

In mid-1969, an important turning point was reached in U.S.-Algerian economic relations with the signature of a preliminary agreement between El Paso Natural Gas and the Algerian petroleum monopoly, Sonatrach, for the annual delivery of 10 billion cubic meters of liquified natural gas to the United States over a period of twenty-five years. (In early 1971, the amount was increased by 50 percent.) The United States was entering a period of scarcity with respect to natural gas and Algeria possessed enormous reserves as well as proven capacity for economically liquifying and transporting the gas. The scale of the project was immense, requiring the construction in Algeria of a new liquification plant and of a tanker fleet. El Paso agreed to handle the marketing of the gas in the United States as well as the construction of the tankers, while Algeria undertook to cover all operations within its own borders. Two major obstacles, however, remained in the path of full implementation of the agreement. First, the Federal Power Commission (FPC) in the United States had to approve the importation of the gas. Second, the Algerians needed to find financial assistance to cover part of the envisaged $500–$600 million in expenditures required of them. Prominent among possible creditors was the Export-Import Bank in Washington.

With the prospect of a long-term economic relationship of considerable magnitude before them, both the United States and Algerian governments took steps to improve their dialogue. Algerians had expressed their regret to U.S. officials that they had broken relations with the United States on the basis of false information provided by Cairo and mentioned the hope that future developments in Vietnam and the Middle East would allow Algeria to renew its ties to Washington. During the U.N. General Assembly session in the fall of 1969, Foreign Minister Bouteflika met with Secretary of State Rogers to discuss U.S.-Algerian relations. The following month the El Paso contract was formally signed, thus providing the United States and Algeria with a potentially important point of common interest, something that had been noticeably lacking in earlier years.

In order to clear the way for approval and financing of the El Paso deal, the Algerians made further efforts to settle the issues arising from the post-1967 nationalizations of several U.S. companies. During 1970, several U.S. companies agreed to settle their claims with the Algerians, leaving only Esso and Newmont Mines as outstanding cases from the post-1967 nationalizations. The minor claims from 1963 were still on the books as well. Neither party wanted to make a major issue of these formerly troublesome cases, but it was clear that if Algeria and the United States were going to enter into serious long-term economic transactions, it would be helpful to dispose of all such claims in order to avoid a possible repetition of the 1966–1967 experience.

To improve the dialogue between Algiers and Washington, in December 1970 Boumediene sent to the United States the former head of Algerian protocol, Abdelkader Bousselham, as Minister in charge of Algerian interests. A close aide to Boumediene, Small Hamdani, had already been given special responsibility in Algiers for U.S.-Algerian relations. Through these and other channels, the issues of financing and implementing the El Paso deal were discussed at length. [8]

In mid-February 1971, the head of the Export-Import Bank, Henry Kearns, visited Algeria to discuss the financing of the Algerian part of the El Paso contract. He met with virtually all top Algerian officials, including President Boumediene, and was apparently favorably impressed with the prospects for financing the construction of the liquification plant. Within several weeks of Kearns' visit, Algeria, then in the midst of a serious crisis with France concerning the nationalization of French oil companies, took the important step of settling its disputes with both Esso and Newmont Mines. This may have been a tacitly understood *quid pro quo* for Ex-Im Bank credits. Shortly after these settlements, the Bank did tentatively offer to finance virtually all of the Algerian costs of the El Paso projects, with the stipulation that the credits be used for the purchase of U.S. equipment. [9] The surprising ease and generosity of the offer was greatly welcomed by the Algerians. Full agreement on the El Paso contract now depended only on a favorable Federal Power Commission ruling and prior approval of the various concerned branches of the U.S. Government.

In June 1971, both the State Department and the Defense Department were prepared to inform the Federal Power Commission that they had no objection to the El Paso project on foreign policy or national security grounds. At the last minute, however, the White House, perhaps under pressures from domestic gas producers, the French oil companies, and conservative Republican interests, asked for a delay in the announcement pending a high-level review. [10] A month later the White House let it be known that it had no objection to the contract. Despite some concern over these delays, U.S. and Algerian officials both expected positive implementation of the El Paso agreement, [11] In U.S. circles, it was hoped that a favorable FPC ruling in 1972 would lead to the prompt resumption of diplomatic relations.

### UNITED STATES AND ALGERIAN INTERESTS

American policymakers have generally argued that the United States has three of four major interests in Algeria and in North Africa more generally. First, a number of military security issues involving Algeria have caused some concern in the U.S. Government. As former Secretary of Defense Robert McNamara saw the problem:

"The Soviet thrust into the Mediterranean and Middle East . . . represents a potentially serious threat to the equilibrium of both that area and Western Europe. The Maghreb and the Horn are the areas of Africa of most immediate strategic concern to the United States—North Africa covering the southern flank of NATO and the Horn standing at the approaches to the Red Sea and Indian Ocean. The Arab-Israeli crisis and the continued Soviet-sponsored Algerian military build-up have added to the basic instability of the area. The delivery of over $200 million worth of Soviet equipment to Algeria since 1965 continues to alarm her moderate neighbors . . . ." [12]

To prevent Algeria from providing the Soviet Union with a strong military presence in North Africa, and to prevent polarization between a U.S.-supported Morocco and a Soviet-supported Algeria, the United States has sought to provide something of an alternative to exclusive economic reliance on the Soviet Union as Algeria moves to reduce her exceedingly heavy dependence on France. One area in which the United States has been able to play a particularly effective role is the provision of advanced technology, especially for Algeria's petroleum industry. In addition to the objective of maintaining a strong Western presence in Algeria to counter possible Soviet influence, the United States has developed modest economic interests of value in Algeria. The favorable trade balance in the U.S. favor of over $50 million is not of great importance, but the growing need for natural gas imports to the United States is contributing to American economic interests in Algeria.

While the strategic and economic interests of the United States in Algeria have been generally acknowledged without much controversy, an earlier desire to gain intangible political benefits from ties to Algeria has disappeared. During the Kennedy years, there seems to have been a desire to identify the United States with non-communist but progressive Third World countries. Because of Kennedy's early interest, Algeria for a brief period was seen as a country to be courted in the hope of convincing neutral governments throughout the world that the Cold War mentality of the Dulles era was over. This "New Frontier" philosophy does not seem to have survived long after Kennedy's death.

Algeria's interests in dealing constructively with the United States have varied somewhat over time, but generally have complemented U.S. interests reasonably well. Initially, Algeria had need of wheat to feed a substantial part of its population, and the United States was willing to provide large amounts at virtually no cost. Second, Algeria, particularly in recent years, has sought to diversify its foreign relations in order to maximize its own independence. This has led to the development of close relations with the Soviet Union in some areas, and more recently with the United States and a host of middle-range powers such as Canada. Third, the Algerians hope to gain access to U.S. technology to further their development efforts, as well as to tap U.S. financial resources and markets. The El Paso agreement is a case in point. Finally, Algerian leaders probably hope to forestall overt U.S. hostility that might take the forms of internal interference in Algerian affairs, strong backing of Morocco and Tunisia against Algeria, or United States support of French claims against Algeria arising out of nationalizations such as those of February 1971. This latter objective in particular has required the maintenance of a constant political dialogue with the United States, which from time to time is complemented by high-level contacts. As the El Paso contract nears implementation, it is fair to say that both Algeria and the United States are relatively pleased with the manner in which their respective interests in each other have been progressing in recent years.

### REMAINING OBSTACLES TO IMPROVED UNITED STATES-ALGERIAN COMMUNICATION

Between societies and governments as different as those of Algeria and the United States, the difficulty of communicating effectively is frequently important. Both parties find certain characteristics of the other somewhat irritating or troublesome. While in most cases this problem remains in the background, it nonetheless seems to place an outer limit on how far relations between the two countries can develop smoothly.

For U.S. officials in Algiers, the tone and content of the Algerian press is one of the most disturbing elements they have to contend with. Nearly every day the Party newspaper finds some reason to attack "U.S. imperialism" for its misdeeds around the world. Only in the field of science and technology is the United States mentioned with admiration in the press. Some Americans find it incongruous that Algeria should make major efforts to develop close economic relations while maintaining an attitude of such unreserved hostility on political and diplomatic issues. This has been a long-standing issue of dispute between Algeria and the United States, and American officials in Algiers continue to hope that eventually the press will begin to treat the United States like a respectable member of the international community, despite obvious policy differences between the two countries.

Next to the tone of the Algerian press, Americans seem most bothered by the inefficiency and incompetence of the Algerian bureaucracy. Annoying delays and excessive paperwork are expected in any French-influenced bureaucracy, but at times important projects are undermined by the failure of the administrative apparatus to produce authoritative decisions. Thus a promising program for recruiting English teachers for Algerian secondary schools was sabotaged by the inability of the Ministry of Education to process the dossiers of the American applicants in time for the school term. At the same time, Algerians profess their interest in expanding the teaching of English in the schools and request U.S. help to do so. Not surprisingly, the frustrated USIA officials lose their enthusiasm for meeting their requests as they observe the results of earlier efforts.

U.S. officials often find their Algerian counterparts to be bright and competent, and cordial personal relations are at times achieved. More frequently, however, Americans feel that Algerians are excessively suspicious, uncompromising, quick to take offense at suspected slights, and generally rather touchy and aggressive. Bargaining and negotiating become difficult tasks given these Algerian characteristics and susceptibilities. At best U.S. officials hope that time, experience and greater security will soften the rather harsh contours of the Algerian personality, thereby opening the way for an easier exchange of ideas and information.

Finally, the United States would like to see Algeria take the step of restoring diplomatic relations. While considerable progress has been made even without full diplomatic ties, the normalization of relations is seen as necessary at some point as U.S.-Algerian economic contacts expand. Thus far the Algerians have been hesitant to take this step, arguing that U.S. policy in Vietnam and the

Middle East makes it difficult to restore relations at the present time.

For the Algerians, the United States is an enigma. They genuinely dislike and oppose U.S. policies in Vietnam and the Middle East, and suspect U.S. intentions elsewhere in the world. At the same time, they have been quick to appreciate the advantages of U.S. technology and have proved themselves to be skillful at dealing with private U.S. business. In fact, they have hired U.S. consulting firms to help draw up their four year plan and to search out U.S. products and services. The Algerians justify this behavior by claiming to keep economic and political considerations separate.

In some Algerian circles, the dislike of U.S. international policies is complemented by an aversion to western values and practices. A conservative, Islamic current of opinion worries about western influences on Algeria's youth, condemns mixed marriage, long hair, mini-skirts and alcohol. Even when this school of thought is out of favor, as it usually is, one may encounter among Algerian "socialists" a certain distaste for the alleged inequities of capitalist society. Naturally, the United States, along with France, figures prominently as the purveyor of both the corrupting western values and of the capitalist style of economics. For the French-educated, cosmopolitan technocratic elite in Algeria, these are not serious problems, but for a minority of vocal ideologues along various parts of the political spectrum they evoke genuine emotion that may at times take the form of opposition to the United States.

More serious than the corrupting influence of Western ideas for most Algerian officials is the fact that the United States, with its immense economic and military power, may somehow threaten Algeria directly or indirectly. To forestall such a possibility, the Algerian government has publicly called for the withdrawal of the U.S. Sixth Fleet from the Mediterranean, along with the Soviet squadron. The Algerian emphasis on the withdrawal of both Great Power fleets, however, suggests that for the present they would not welcome the unilateral departure of U.S. military power because of the possibility that Soviet influence might thereby spread more rapidly in the Mediterranean.

On the economic front, Algeria would like to correct its substantial trade imbalance with the United States, partly to reduce the possibility that Algeria's economic well-being can be manipulated from the United States. The completion of the El Paso agreement will have the result of improving the trade balance, which may reduce sensitivity on this issue.

Finally, the Algerians are somewhat wary of the workings of the American political system. They understand and profit from U.S. economic decentralization and pluralism, but find it difficult to be sure of how to deal with the U.S. Government. The arguments raised by U.S. officials that compensation claims, for example, must be settled so that future aid agreements will not be subject to Congressional veto strike some Algerians as barely disguised effort at blackmail. The role of domestic pressure groups and public opinion in shaping U.S.-foreign policy is little understood in Algerian circles.

Despite these obstacles to mutual comprehension, Americans and Algerians are learning each other's peculiarities and adapting to them reasonably well. Some useful bridges have been laid by U.S. educational and cultural efforts. Nearly 150 Algerian students have received U.S. Government scholarships in the past to study in the United States, and many of these graduates are now in prominent positions in the Ministry of Foreign Affairs or Sonatrach. Current U.S. cultural programs, amounting to a modest $75–$80,000 per year, have concentrated on travel grants for a small number of Algerians to visit the United States and English teaching programs in Algeria. Two Fulbright professors also teach at the Universities of Oran and Constantine.

### CONCLUSIONS

The policies adopted by the United States in dealing with a radical nationalist regime may have considerable impact on whether the government in question becomes a threat to U.S. interests or whether limited areas of cooperation can be established. The worse fears of U.S. officials concerned with Algeria have not come true. Algeria has not become a second Cuba, has not vigorously exported revolution to the rest of Africa, and has not provided bases to the Soviet Union from which Europe or the Sixth Fleet might be threatened. It is not implausible, however, to believe that if the United States had adopted an uncompromisingly hard line toward Algeria, some of these fears might have become reality. Strong U.S. pressure against them could easily have encouraged Algerians to respond by threatening U.S.-backed regimes on their borders and calling for attacks on U.S. interests throughout the Arab world. By adopting a relatively relaxed posture toward Algeria, the United States insured that the door to good relations would be open whenever common interests brought the two countries together. By 1969, this policy began to pay dividends, as the Algerians, feeling relatively secure for the first time since independence, were able to approach the United States on a basis of equality, rather than as seeker of aid without strings. U.S. officials by this time had also abandoned some of their simplistic views of "revolutionary" Algeria and were prepared for business-like relations.

The key to successful U.S.-Algerian relations in recent years has been the adoption of modest, and therefore possibly realistic, expectations about each other in Washington and Algiers. Neither side believes it can manipulate the internal or foreign policies of the other. Algeria will continue to oppose the United States on Vietnam and the Middle East, and the United States will continue to live quite easily with such criticism. [13]

The Algerians would like to keep economics and politics separate, and up to a point this may be feasible. Trade, the transfer of technology, and joint ventures like the El Paso deal seem to provide a fairly sound basis for good relations. These economic ties are less susceptible to political strains than direct U.S. investment, which the Algerians do not seem to want, and operations in the host country. They are also less vulnerable to U.S. domestic politics than aid programs, which require periodic Congressional approval. Neither side is likely to be tempted to use economic levers stemming from trade and joint ventures for political purposes. By way of contrast, aid programs are likely to have strong political overtones, and private U.S. companies can be held hostage by the host country in the hope of political gain. Unlike the cases in other parts of the world where U.S. business activities cause political problems for the United States, in Algeria improved political relations have been a consequence of vigorous U.S. private sector activity involving trade and the transfer of technology.

The absence of diplomatic relations has not thus far been a major impediment to the improvement of U.S.-Algerian relations. A good dialogue has been possible even without formal ties. The United States cannot, however, offer aid to Algeria or investment guarantees to U.S. companies operating in Algeria in the absence of diplomatic relations. While Algerians have disclaimed interest in aid programs, they would nonetheless like to purchase wheat on concessional terms which is only possible now through the PL 480 program. Thus, diplomatic relations might lead to a restoration of some U.S. economic assistance to Algeria, although not on the terms or scale of earlier years.

Extensive economic relations with Algeria in the future seem likely to produce favorable political side-benefits. Algeria will continue to see itself as a "nationalist, socialist and anti-imperialist" state, but if provided an alternative to heavy dependence on France or the USSR, she will remain independent in foreign policy and probably interested above all in regional stability and rapid economic development. As the scale of U.S.-Algerian relations increases, and as the stakes involved grow on both sides, it is possible that points of frictions and temptations to try to manipulate each other will also grow, although current expectations all run in the opposite direction. In any case, both countries are starting from a fairly realistic base-line in 1971, and it seems unlikely that major changes in the quality of relations will take place in the near future.

The U.S.-Algerian case suggests that countries with quite different political systems and foreign policy objectives may take some time to adapt to each other. This process of accommodation and maturation may be greatly facilitated by a relaxed attitude on the part of the stronger, and potentially more threatening of the partners. It is also aided by the absence of crises and the acceptance of limited objectives by both governments. In contrast to its dealings with the UAR, where Americans have sought major goals in the midst of periodic crises, the United States is likely to be able to sustain relatively good relations with Algeria at low cost and with modest benefits, over a long period based on expanding economic ties. Such a result would have the welcome advantage for the United States of preventing North Africa from becoming an area of U.S.-Soviet tension on the pattern of the Middle East.

### SOURCE NOTES

1. A major program of health care, involving the creation of an eye disease treatment center at Beni Messous, was opposed by AID because it was not "developmental." It was, however, much needed and appreciated by the Algerians.

2. Arthur Schlesinger has reported that . . . "Kennedy's disappointment over Ben Bella's erratic behavior did not divert him from his course. He felt that the antiimperialist extravagance of Algeria was more the result of mood than of doctrine or discipline; that the present state of affairs was not necessarily permanent; that the United States should maintain a presence and help direct Ben Bella's energies toward the welfare of his own people." *A Thousand Days* (Boston: Houghton Mifflin Co.; 1965), p. 565.

3. *The New York Times,* November 11, 1963.

4. *Ibid.,* April 12, 1964.

5. The *New York Times,* January 5, 1966.

6. More information on internal Algerian developments can be found in my *Revolution and Political Leadership: Algeria 1954–1968* (Cambridge: The M.I.T. Press, 1969), and "Algeria, The Revolution Turns Inward," *Mid East,* August 1970.

7. From 1966 to 1968 the United States was the second largest provider of goods to Algeria and third in overall trade, well ahead of the USSR.

8. On the political front, the Algerians responded to U.S. requests to help obtain information from Hanoi on U.S. prisoners in Vietnam. Two lists were eventually communicated to Washington.

9. By fall 1971, the Export-Import Bank was considering financing projects in Algeria totalling nearly $800 million.

10. *The New York Times,* June 16, 1971.

11. For both El Paso and the Algerians, the delays were more than just an annoyance. El Paso faced important decisions over the purchase of liquid natural gas tankers that could not be made until the FPC approval was certain. Algeria, because of clauses in

the contract for the construction of the liquification plant, had to submit to penalties which increased the cost of the plant by one and one-half million dollars per month agreed to absorb these losses without passing on the cost to El Paso for a period up to six months. If the FPC does not rule by April 1972, the likelihood of successful completion of the El Paso-Sonatrach deal would be jeopardized, and with it the whole fabric of U.S.-Algerian relations.

12. Robert S. McNamara, *The Essence of Security* (New York: Harper and Row, 1968), p. 28. McNamara earlier states that he does not believe Algeria will give "full base rights" to the Soviets.

13. As the war in Vietnam comes to an end, however, and as a new American policy in Asia is developed, and as the Middle East crises stagnates in its unresolved state, these points of contention may take on less importance in any case.

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# CHINA TRADE ACT

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

**Mr. RARICK. Mr. Speaker, a review of the China Trade Act of 1922, 15 U.S.C. 141, and so forth, along with the many tax shelters found in title 26, sections 246, 901, 941, 942, 943, 1504, 6072, and 6091 may offer some insight into the great expectations sought to be gained by a few through renewed trade with the mainland China.**

**The China Trade Act has not been rescinded nor repealed but was only restricted by 22 U.S.C. 2370(f) "unless the President finds and promptly reports to Congress that: First, such assistance is vital to the security of the United States."**

**All that now needs be decided is that our President's quest for peace with the Red Chinese leaders is buyable as "vital to the security of the United States" and "in the national interest."**

**I insert 15 U.S.C. 141, and so forth, the China Trade Act of 1922, as of January 20, 1971, and 22 U.S.C. 2370 (f) and (i) after my remarks:**

[From the United States Code, 1970 edition]

### CHAPTER 4.—CHINA TRADE

Sec.
141. Short title.
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157. Regulations and fees; disposition of fees and penalties.
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160. Maintenance of agent for service.
161. Alteration, amendment, or repeal.
162. Creation of China corporations restricted.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 26 sections 246, 901, 941, 942, 943, 1504, 6072, 6091.

§ 141. Short title.

This chapter may be cited as the "China Trade Act, 1922." (Sept. 19, 1922, ch. 346, § 1, 42 Stat. 849.)

#### CROSS REFERENCES

Assistance under foreign assistance provisions to Peoples Republic of China, Tibet, Outer Mongolia-Mongolian Peoples Republic prohibited except upon express findings of the President, see section 2370 of Title 22, Foreign Relations and Intercourse.

§ 142. Definitions.

When used in this chapter, unless the context otherwise indicates—

(a) The term "person" includes individual, partnership, corporation, and association;

(b) The term "China" means (1) China including Manchuria, Tibet, Mongolia, and any territory leased by China to any foreign government, (2) the Crown Colony of Hongkong, and (3) the Province of Macao;

(c) The terms "China Trade Act corporation" and "corporation" mean a corporation chartered under the provisions of this chapter;

(d) The term "Federal district court" means any Federal district court, and the United States District Court for the District of Columbia;

(e) The term "Secretary" means the Secretary of Commerce; and

(f) The term "registrar" means the China Trade Act registrar appointed under section 143 of this title. (Sept. 19, 1922, ch. 346, § 2, 42 Stat. 849; June 25, 1936, ch. 804, 49 Stat. 1921; Treaty Jan. 11, 1943, 57 Stat. 767; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

#### CODIFICATION

Words "the United States Court for China" were deleted from the definition of term "Federal district court" under the authority of Treaty between the United States and the Republic of China, 57 Stat. 767, which was signed in Washington, Jan. 11, 1943, ratified by the United States Senate on Feb. 11, 1943, ratified by the President on May 4, 1943, and ratified by the Republic of China on Feb. 4, 1943, by which the United States relinquished all extraterritorial jursdiction and rights in China.

Congress by private act Dec. 22, 1944, ch. 691, 58 Stat. 1086, provided for the relief of certain former employees of the United States Court for China for the period of July 1, 1942 to May 20, 1943, on which date the Court ceased to exist.

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia".

Act June 25, 1936, substituted "district court of the United States for the District of Columbia" for "Supreme Court of the District of Columbia".

§ 143 Registrar; designation; station; supervision by Secretary of Commerce.

The Secretary of Commerce may authorize such Foreign Service officer as Secretary of State shall make available to perform duties of China Trade Act Registrar under his direction. The official station of the registrar shall be in China at a place to be designated by the Secretary. All functions vested in the registrar by this chapter shall be administered by him under the supervision of the Secretary; except that upon appeal to the Secretary in such manner as he shall by regulation prescribe, any action of the registrar may be affirmed, modified, or set aside by the Secretary as he deems advisable. (Sept. 19, 1922, ch. 346, § 3, 42 Stat. 850; 1939 Reorg. Plan No. II, § 1(d), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431.)

#### TRANSFER OF FUNCTIONS

Secretary of Commerce may authorize such Foreign Service officer as Secretary of State shall make available to perform duties of China Trade Act Registrar under direction of Secretary of Commerce to conform to 1939 Reorg. Plan No. II, set out in the Appendix to Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 6001.

§ 144. Incorporation; articles; business prohibited: subscription to stock.

(a) Three or more individuals (hereinafter in this chapter referred to as "incorporators"), a majority of whom are citizens of the United States, may as hereinafter in this chapter provided, form a District of Columbia corporation for the purpose of engaging in business within China.

(b) The incorporators may adopt articles of incorporation which shall be filed with the Secretary at his office in the District of Columbia and may thereupon make application to the Secretary for a certificate of incorporation in such manner and form as shall be by regulation prescribed. The articles of incorporation shall state—

(1) The name of the proposed China Trade Act corporation, which shall end with the legend, "Federal Inc. U.S.A.", and which shall not, in the opinion of the Secretary, be likely in any manner to mislead the public;

(2) The location of its principal office, which shall be in the District of Columbia;

(3) The particular business in which the corporation is to engage;

(4) The amount of the authorized capital stock, the designation of each class of stock, the terms upon which it is to be issued, and the number and par value of the shares of each class of stock;

(5) The duration of the corporation, which may be perpetual or for a limited period;

(6) The names and addresses of at least three individuals (a majority of whom, at the time of designation and during their term of office, shall be citizens of the United States), to be designated by the incorporators, who shall serve as temporary directors; and

(7) The fact that an amount equal to 25 per centum of the amount of the authorized capital stock has been in good faith subscribed to.

(c) A China Trade Act corporation shall not engage in the business of discounting bills, notes, or other evidences of debt, or receiving deposits, of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt, for circulation as money; nor engage in any other form of banking business; nor engage in any form of insurance business; nor engage in, nor be formed to engage in, the business of owning or operating any vessel, unless the controlling interest in such corporation is owned by citizens of the United States, within the meaning of section 802 of Title 46.

(d) No certificate of incorporation shall be delivered to a China Trade Act corporation and no incorporation shall be complete until at least 25 per centum of its authorized capital stock has been paid in cash, or, in accordance with the provisions of section 148 of this title, in real or personal property which has been placed in the custody of the directors, and such corporation has filed a statement to this effect under oath with the registrar within six months after the issuance of its certificate of incorporation, except that the registrar may grant additional time for the filing of such statement upon application made prior to the expiration of such six months. If any such corporation transacts business in violation of this subdivision of this section or fails to file such statement within six months, or within such time as the registrar prescribes upon such application, the registrar shall institute proceedings under section 154 of this title for the revocation of the certificate. (Sept. 19, 1922, ch. 346, § 4, 42 Stat. 850; Feb. 26, 1925, ch. 345, §§ 1–5, 43 Stat. 995; June 25, 1938, ch. 696, § 1, 52 Stat. 1195.)

#### CODIFICATION

Sections 1—5 of act Feb. 26, 1925, amended subsecs. (a), (b) (6), (7), and (c) of section 4 of act Sept. 19, 1922, and added subsec. (d).

#### AMENDMENTS

1938—Subsec. (b) (5). Act June 25, 1938, amended subsec. (b (5) generally.

#### EFFECTIVE DATE OF 1938 AMENDMENT

Act June 25, 1938, provided that the amendment shall apply to China Trade Act corporations created after the date of enactment of the act.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 148 of this title.

### § 144a. Same; perpetual existence fee.

Any China Trade Act corporation existing on June 25, 1938, may make its existence perpetual only upon application to the Secretary of Commerce to amend its charter in that respect and upon payment of a fee equivalent to the incorporation fee. Upon receipt of such application and the payment of such prescribed fee, the Secretary shall approve such application and the charter of the corporation shall be amended accordingly. (June 25, 1938, ch. 696, § 2, 52 Stat. 1196.)

#### CODIFICATION

Section was not enacted as part of the China Trade Act, 1922, which comprises this chapter.

### § 145. Certificate of incorporation.

The Secretary shall, upon the filing of such application, issue a certificate of incorporation certifying that the provisions of this chapter have been complied with and declaring that the incorporators are a body corporate, if (a) an incorporation fee of $100 has been paid him; (b) he finds that the articles of incorporation and statements therein conform to the requirements of, and that the incorporation is authorized by, this chapter; and (c) he finds that such corporation will aid in developing markets in China for goods produced in the United States. A copy of the articles of incorporation shall be made a part of the certificate of incorporation and printed in full thereon. Any failure, previous to the issuance of the certificate of incorporation, by the incorporators or in respect to the application for the certificate of incorporation, to conform to any requirement of law which is a condition precedent to such issuance, may not subsequent thereto be held to invalidate the certificate of incorporation or alter the legal status of any act of a China Trade Act corporation, except in proceedings instituted by the registrar for the revocation of the certificate of incorporation. (Sept. 19, 1922, ch. 346, § 5, 42 Stat. 850.)

### § 146. General powers of corporation.

In addition to the powers granted elsewhere in this chapter, a China Trade Act corporation—

(a) Shall have the right of succession during the existence of the corporation;

(b) Shall have a corporate seal and may, with the approval of the Secretary, alter it;

(c) May sue and be sued;

(d) Shall have the right to transact the business authorized by its articles of incorporation and such further business as is properly connected therewith or necessary and incidental thereto;

(e) May make contracts and incur liabilities;

(f) May acquire and hold real or personal property, necessary to effect the purpose for which it is formed, and dispose of such property when no longer needed for such purposes;

(g) May borrow money and issue its notes, coupon or registered bonds, or other evidences of debt, and secure their payment by a mortgage of its property; and

(h) May establish such branch offices at such places in China as it deems advisable. (Sept. 19, 1922, ch. 346, § 6, 42 Stat. 851; Feb. 26, 1925, ch. 345, § 6, 43 Stat. 996.)

#### CODIFICATION

Act Feb. 26, 1925, amended section 6 of act Sept. 19, 1922, by substituting "Shall" for "May" in par. (b).

#### TREATY

Par. (h) of this section has been affected by the 1943 Treaty between United States of America and the Republic of China, 57 Stat. 767, in which the United States relinquished all extraterritorial jurisdiction and rights in China. See note set out under section 142 of this title.

### § 146a. Jurisdiction of suits by or against China Trade Act corporation.

The Federal district courts shall have exclusive original jurisdiction of all suits (except as provided by sections 191 to 197, 199, 200, and 202 of Title 22, as amended) to which a China Trade Act corporation, or a stockholder, director, or officer thereof in his capacity as such, is a party. Suit against the corporation may be brought in the United State District Court for the District of Columbia or in the Federal district court for any district in which the corporation has an agent and is engaged in doing business. (Sept. 19, 1922, ch. 346, § 20 (a), 42 Stat. 855; Feb. 26, 1925, ch. 345, § 10, 43 Stat. 996; June 25, 1936, ch. 804, 49 Stat. 1921; Treaty of Jan. 11, 1943, 57 Stat. 767; June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

#### REFERENCES IN TEXT

Sections 191 to 197, 199, 200 and 202 of Title 22, referred to in the text, related to the United States Court for China. These sections were omitted from the Code and were subsequently repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

#### CODIFICATION

Section comprises subsec. (a) of section 20 of act Sept. 19, 1922, as amended by act Feb. 26, 1925. Subsec. (b) of section 20 is classified to section 160 of this title.

The provision that suits against the China Trade Act corporation might also be brought in the United States Court for China was omitted as that court is no longer in operation. By the treaty of Jan. 11, 1943, between the United States and China, the United States relinquished extraterritorial rights in China.

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia".

Act June 25, 1936, changed name of "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia".

### § 147. Stock; issuance at par value.

Each share of the original or any subsequent issue of stock of a China Trade Act corporation shall be issued at not less than par value, and shall be paid for in cash, or in accordance with the provisions of section 148 of this title, in real or personal property which has been placed in the custody of the directors. No such share shall be issued until the amount of the par value thereof has been paid the corporation; and when issued, each share shall be held to be full paid and nonassessable; except that if any share is, in violation of this section, issued without the amount of the par value thereof having been paid to the corporation, the holder of such share shall be liable in suits by creditors for the difference between the amount paid for such share and the par value thereof. (Sept. 19, 1922, ch. 346, § 7, 42 Stat. 851; Feb. 26, 1925, ch. 345, § 7, 43 Stat. 996.)

#### CODIFICATION

Act Feb. 26, 1925, amended section 7 of act Sept. 19, 1922, by substituting "not less than par value" for "par value only".

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 148 of this title.

### § 148. Same; payment in real or personal property.

No share of stock of a China Trade Act corporation shall, for the purposes of section 147 of this title or of subdivision (d) of section 144 of this title, be held paid in real or personal property unless (1) a certificate describing the property and stating the value at which it is to be received has been filed by the corporation with the Secretary or the registrar in such manner as shall be by regulation prescribed, and a fee to be fixed by the Secretary or the registrar, respectively, to cover the cost of any necessary investigation has been paid, and (2) the Secretary or the registrar, as the case may be, finds and has certified to the corporation that such value is not more than the fair market value of the property. (Sept. 19, 1922, ch. 346, § 8, 42 Stat. 851.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 144, 147 of this title.

### § 149. Bylaws.

The bylaws may provide—

(a) The time, place, manner of calling, giving notice, and conduct of, and determination of a quorum for, the meetings, annual or special, of the stockholders or directors;

(b) The number, qualifications, and manner of choosing and fixing the tenure of office and compensation of all directors; but the number of such directors shall be not less than three, and a majority of the directors, and the president and the treasurer, or each officer holding a corresponding office, shall, during their tenure of office, be citizens of the United States resident in China.

(c) The manner of calling for and collecting payments upon shares of stock, the penalties and forfeitures for nonpayment, the preparation of certificates of the shares, the manner of recording their sale or transfer, and the manner of their representation at stockholders' meetings. (Sept. 19, 1922, ch. 346, § 9, 42 Stat. 852; Feb. 26, 1925, ch. 345, § 8, 43 Stat. 996.)

#### CODIFICATION

Act Feb. 26, 1925, amended section 9(b) of act Sept. 19, 1922.

### § 150. Stockholders' meetings.

(a) Within six months after the issuance of the certificate of incorporation of a China Trade Act corporation there shall be held a stockholders' meeting either at the principal office or a branch office of the corporation. Such meeting shall be called by a majority of the directors named in the articles of incorporation and each stockholder shall be given at least ninety days' notice of the meeting either in person or by mail. The holders of two-thirds of the voting shares, represented in person or by proxy, shall constitute a quorum at such meeting authorized to transact business. At this meeting or an adjourned meeting thereof a code of bylaws for the corporation shall be adopted by a majority of the voting shares represented at the meeting.

(b) The following questions shall be determined only by the stockholders at a stockholders' meeting:

(1) Adoption of the bylaws:

(2) Amendments to the articles of incorporation or bylaws;

(3) Authorization of the sale of the entire business of the corporation or of an independent branch of such business;

(4) Authorization of the voluntary dissolution of the corporation; and

(5) Authorization of application for the extension of the period of education of the corporation.

(c) The adoption of any such amendment or authorization shall require the approval of at least two-thirds of the voting shares. No amendment to the articles of incorporation or authorization for dissolution or extension shall take effect until (1) the corporation files a certificate with the Secretary stating the action taken, in such manner and form as shall be by regulation prescribed, and (2) such amendment or authorization is found and certified by the Secretary to conform to the requirements of this chapter.

(d) A certified copy of the bylaws and amendments thereof and of the minutes of all stockholders' meetings of the corporation shall be filed with the registrar. (Sept. 19, 1922, ch. 346, § 10, 42 Stat. 852; Feb. 26, 1925, ch. 345, § 9, 43 Stat. 996.)

CODIFICATION

Act Feb. 26, 1925, amended section 10(a) of act Sept. 19, 1922, by inserting ", represented in person or by proxy," in third sentence after "voting shares".

§ 151. Directors.

The directors designated in the articles of incorporation shall, until their successors take office, direct the exercise of all powers of a China Trade Act corporation except such as are conferred upon the stockholders by law or by the articles of incorporation or bylaws of the corporation. Thereafter the directors elected in accordance with the bylaws of the corporation shall direct the exercise of all powers of the corporation except such as are so conferred upon the stockholders. In the exercise of such powers the directors may appoint and remove and fix the compensation of such officers and employees of the corporation as they deem advisable. (Sept. 19, 1922, ch. 346, § 11, 42 Stat. 852.)

§ 152. Reports; records for public inspection.

(a) For the purposes of this chapter the fiscal year of a China Trade Act corporation shall correspond to the calendar year. The corporation shall make and file with the registrar, in such manner and form and at such time as shall be by regulation prescribed, a report of its business for each such fiscal year and of its financial condition at the close of the year. The corporation shall furnish a true copy of the report to each of its stockholders.

(b) The registrar shall file with the Secretary copies of all reports, certificates, and certified copies received or issued by the registrar under the provisions of this chapter. The Secretary shall file with the registrar copies of all applications for a certificate of incorporation, and certificates received or issued by the Secretary under the provisions of this chapter. All such papers shall be kept on record in the offices of the registrar and the Secretary, and shall be available for public inspection under such regulations as may be prescribed. (Sept. 19, 1922, ch. 346, § 12, 42 Stat. 853.)

§ 153. Dividends.

Dividends declared by a China Trade Act corporation shall be derived wholly from the surplus profits of its business. (Sept. 19, 1922, ch. 346, § 13, 42 Stat. 853.)

§ 154. Investigations by registrar; revocation of certificate of incorporation.

The registrar may, in order to ascertain if the affairs of a China Trade Act corporation are conducted contrary to any provision of this chapter, or any other law, or any treaty of the United States, or the articles of incorporation or bylaws of the corporation, investigate the affairs of the corporation. The registrar, whenever he is satisfied that the affairs of any China Trade Act corporation are or have been so conducted, may institute in the United States Court for China proceedings for the revocation of the certificate of incorporation of the corporation. The court may revoke such certificate if it finds the affairs of such corporation have been so conducted. Pending final decision in the revocation proceedings the court may at any time, upon application of the registrar or upon its own motion, make such orders in respect to the conduct of the affairs of the corporation as it deems advisable. (Sept. 19, 1922, ch. 346, § 14, 42 Stat. 853.)

REFERENCES IN TEXT

The United States Court for China, referred to in the text, has been abolished. See note under section 142 of this title.

§ 155. Authority of registrar in obtaining evidence.

(a) For the efficient administration of the functions vested in the registrar by this chapter he may require, by subpoena issued by him or under his direction, (1) the attendance of any witness and the production of any book, paper, document, or other evidence from any place in China at any designated place of hearing in China, or, if the witness is actually resident or temporarily sojourning outside of China, at any designated place of hearing within fifty miles of the actual residence or place of sojourn of such witness, and (2) the taking of a deposition before any designated person having power to administer oaths. In the case of a deposition, the testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed by the deponent. The registrar, or any officer, employee, or agent of the United States authorized in writing by him, may administer oaths and examine any witness. Any witness summoned or whose deposition is taken under this section shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) In the case of failure to comply with any subpoena or in the case of the contumacy of any witness before the registrar or any individual so authorized by him, the registrar or such individual may invoke the aid of any Federal district court. Such court may thereupon order the witness to comply with the requirements of such subpoena and to give evidence touching the matter in question. Any failure to obey such order may be punished by such court as a contempt thereof.

(c) Repealed. Pub. L. 91-452, title II, § 217, Oct. 15, 1970, 84 Stat. 929.

(d) For the efficient administration of the functions vested in the registrar by this chapter, he, or any officer, employee, or agent of the United States authorized in writing by him, shall at all reasonable times, for the purpose of examination, have access to and the right to copy any book, account, record, paper, or correspondence relating to the business or affairs of a China Trade Act corporation. Any person who upon demand refuses the registrar, or any duly authorized officer, employee, or agent, such access or opportunity to copy, or hinders, obstructs, or resists him in the exercise of such right, shall be liable to a penalty of not more than $5,000 for each such offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States. (Sept. 19, 1922, ch. 346, § 15, 42 Stat. 853; Oct. 15, 1970, Pub. L. 91-452, title II, § 217, 84 Stat. 929.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-452 struck out subsec. (c) which granted immunity from prosecution for any natural person testifying in obedience to a subpoena.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Treaty between United States and China nullifying extraterritorial rights, see note set out under section 142 of this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Application of section under rule 42, see note by Advisory Committee under rule 42, Title 18, Appendix, Crimes and Criminal Procedure.

§ 156. Dissolution of corporation; trustees.

In case of the voluntary dissolution of a China Trade Act corporation or revocation of its certificate of incorporation, the directors of the corporation shall be trustees for the creditors and stockholders of the corporation; except that upon application to the United States Court for China by any interested party, or upon the motion of any court of competent jurisdiction in any proceeding pending before it, the court may in its discretion appoint as the trustees such persons, other than the directors, as it may determine. The trustees are invested with the powers, and shall do all acts, necessary to wind up the affairs of the corporation and divide among the stockholders according to their respective interests the property of the corporation remaining after all obligations against it have been settled. For the purposes of this section the trustees may sue and be sued in the name of the corporation and shall be jointly and severally liable to the stockholders and creditors of the corporation to the extent of the property coming into their hands as trustees. (Sept. 19, 1922, ch. 346, § 16, 42 Stat. 854.)

REFERENCES IN TEXT

The United States Court for China, referred to in the text, has been abolished. See note under section 142 of this title.

§ 157. Regulations and fees; disposition of fees and penalties.

(a) The Secretary is authorized to make such regulations as may be necessary to carry into effect the functions vested in him or in the registrar by this chapter.

(b) The Secretary is authorized to prescribe and fix the amount of such fees (other than the incorporation fee ) to be paid him or the registrar for services rendered by the Secretary or the registrar to any person in the administration of the provisions of this chapter. All fees and penalties paid under this chapter shall be covered into the Treasury of the United States as miscellaneous receipts. (Sept. 19, 1922, ch. 346, § 17, 42 Stat. 854.)

§ 158. False or fraudulent statements prohibited; penalties.

No stockholder, director, officer, employee, or agent of a China Trade Act corporation shall make, issue, or publish any statement written or oral, or advertisement in any form, as to the value or as to the facts affecting the value of stocks, bonds, or other evidences of debt, or as to the financial condition or transactions, or facts affecting such condition or transactions, of such corporation if it has issued or is to issue stock, bond, or other evidences of debt, whenever he knows or has reason to believe that any material representation in such statement or advertisement is false. No stockholder, director, officer, employee, or agent of a China Trade Act corporation shall, if all the authorized capital stock thereof has not been paid in, make, issue, or publish any written statement or advertisement, in any form, stating the amount of the authorized capital stock without also stating at the amount actually paid in, a sum not greater than the amount paid in. Any person violating any provisions of this section shall, upon conviction thereof, be fined not more than $5,000 or imprisoned not more than ten years, or both. (Sept. 19, 1922, ch. 346, § 18, 42 Stat. 855.)

§ 159. Unauthorized use of legend; penalty.

No individual, partnership, or association, or corporation not incorporated under this chapter or under a law of the United States, shall engage in business within China under a name in connection with which the legend "Federal Inc. U.S.A." is used. Any person violating this section shall, upon conviction thereof, be fined not more than $1,000 for each violation. (Sept. 19, 1922, ch. 346, § 19, 42 Stat. 855.)

§ 160. Maintenance of agent for service.

Every China Trade Act corporation shall maintain in the District of Columbia a person as its accredited agent, upon whom legal process may be served, in any suit to be brought in the United States District Court for the District of Columbia, and who is authorized to enter an appearance in its behalf. In the event of the death or inability to serve, or the resignation or removal, of such person, such corporation shall, within such time as the Secretary by regulation prescribes, appoint a successor. Such corporation shall file with the Secretary a certified copy of each power of attorney appointing a person under this section, and a certified copy of the written consent of each person so appointed. (Sept. 19, 1922, ch. 346, § 20 (b), 42 Stat. 855; Feb. 26, 1925, ch. 345, § 10, 43 Stat. 996; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

### CODIFICATION

Section comprises subsec. (b) of section 20 of act Sept. 19, 1922, as amended by act Feb. 26, 1925. Subsec. (a) of section 20 is classified to section 146a of this title.

### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia."

Act June 25, 1936, changed name of "Supreme Court of the District of Columbia" to "district court of the United States for the District of Columbia".

§ 161. Alteration, amendment, or repeal.

The Congress of the United States reserves the right to alter, amend, or repeal any provision of this chapter. (Sept. 19, 1922, ch. 346, § 28, 42 Stat. 856.)

§ 162. Creation of China corporations restricted.

No corporation for the purpose of engaging in business within China shall be created under any law of the United States other than this chapter. (Sept. 19, 1922, ch. 346, § 29, as added Feb. 26, 1925, ch. 345, § 13, 43 Stat. 997.)

### 22 § 2370—FOREIGN RELATIONS

### PROHIBITION AGAINST ASSISTANCE TO COMMUNIST COUNTRIES; CONDITIONS FOR WAIVER OF RESTRICTION BY PRESIDENT; ENUMERATION OF COMMUNIST COUNTRIES

(f) No assistance shall be furnished under this chapter (except section 2174(b) of this title) to any Communist country. This restriction may not be waived pursuant to any authority contained in this chapter unless the President finds and promptly reports to Congress that: (1) such assistance is vital to the security of the United States; (2) the recipient country is not controlled by the international Communist conspiracy; and (3) such assistance will further promote the independence of the recipient country from international communism. For the purposes of this subsection, the phrase "Communist country" shall include specifically, but not be limited to, the following countries:

Peoples Republic of Albania,
Peoples Republic of Bulgaria,
Peoples Republic of China,
Czechoslovak Socialist Republic,
German Democratic Republic (East Germany),
Estonia,
Hungarian Peoples Republic,
Latvia,
Lithuania,
North Korean Peoples Republic,
North Vietnam,
Outer Mongolia-Mongolian Peoples Republic,
Polish Peoples Republic,
Rumanian Peoples Republic,
Tibet,
Federal Peoples Republic of Yugoslavia,
Cuba, and
Union of Soviet Socialist Republics (including its captive constituent republics).

* * * * *

### DENIAL OF ASSISTANCE TO COUNTRIES PREPARING FOR AGGRESSIVE MILITARY EFFORT

(i) No assistance shall be provided under this chapter or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to any country which the President determines is engaging in or preparing for aggressive military efforts, or which hereafter is officially represented at any international conference when that representation includes the planning of activities involving insurrection or subversion, which military efforts, insurrection, or subversion, are directed against—

(1) the United States,

(2) any country receiving assistance under this chapter or any other Act, or

(3) any country to which sales are made under the Agricultural Trade Development and Assistance Act of 1954,

until the President determines that such military efforts or preparations have ceased, or such representation has ceased, and he reports to the Congress that he has received assurances satisfactory to him that such military efforts or preparations will not be renewed, or that such representation will not be renewed or repeated. This restriction may not be waived pursuant to any authority contained in this chapter.

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### PUBLIC LAW 92-126, 92ND CONGRESS, S. 581, AUGUST 17, 1971

An Act to amend the Export Import Bank Act of 1945, to eliminate certain export credit controls, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) this Act may be cited as the "Export Expansion Finance Act of 1971".

(b) The Export-Import Bank Act of 1945 (12 U.S.C. 635 and following) is amended as follows:

* * * * *

(5) Section 2(b)(3) of such Act is amended to read as follows:

"(3) The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with (A) the purchase of any product, technical data, or other information by a national or agency of any nation which engages in armed conflict, declared or otherwise, with the Armed Forces of the United States, or (B) the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in any such nation described in clause (A). The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation if the President determines that any such transaction would be contrary to the national interest."

SEC. 2. In connection with section 2 of Executive Order Number 11387, dated January 1, 1968, and any rule, regulation, or guideline established by the Board of Governors of the Federal Reserve System in connection with a voluntary foreign credit restraint program, there shall be no limitation or restraint, or suggestion that there be a limitation or restraint, on the part of any bank or financial institution in connection with the extension of credit for the purpose of financing exports of the United States.

Approved August 17, 1971.

### LEGISLATIVE HISTORY

House Reports No. 92-303 accompanying H.R. 8181 (Comm. on Banking and Currency) and No. 92-435 (Comm. of Conference).

Senate Report No. 92-51 (Comm. on Banking, Housing and Urban Affairs).

Congressional Record, Vol. 117 (1971):
Apr. 5, considered and passed Senate.
July 8, considered and passed House, amended, in lieu of H.R. 8181.
Aug. 2, Senate agreed to conference report.
Aug. 5, House agreed to conference report.

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## ESTONIAN INDEPENDENCE DAY

## HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mrs. GRASSO. Mr. Speaker, it is certainly in keeping with the American tradition and that of freedom-loving people throughout the world to pay tribute to the 54th anniversary of Estonian Independence Day.

Since early in the 13th century, the proud and courageous people of Estonia have sought to combat invasion and foreign domination. Unfortunately, history has not been kind to Estonia, though her people remain full of zeal in their quest for self-determination.

February 24, 1918, marked the proclamation of Estonian independence from all foreign rule. The Soviet Union capitalized on the German withdrawal in 1918 to impose their will upon the Estonian nation. Later, the persistence and desire of the Estonian people resulted in a peace treaty with the Soviet

Union in 1920, after which Estonia again enjoyed freedom and sovereignty.

After its admission into the League of Nations in 1921, Estonia assumed a prominent role in the world community of nations. Its contributions to that world organization as spokesman for the small democratic states and as an advocate of peace were noteworthy.

That leadership was short lived, however, for by 1940, the Soviets again exercised complete domination over Estonia. Except for the brief interlude of Nazi occupation between 1941 and 1944, Estonia has remained in the clutches of Soviet influence.

Estonians have suffered tremendously under Soviet Communist rule, yet they remain brave and steadfast in their will to endure hardship until freedom and liberty can again be restored. It is my hope, Mr. Speaker, that the Estonian people will soon once again join the ranks of the free nations of the world.

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## CONSERVATION OF ANTARCTIC SEALS

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DINGELL. Mr. Speaker, earlier this month a number of representatives of nations involved in Antarctic research met to negotiate a treaty for the conservation of Antarctic seals. While it has been generally supposed that the waters of Antarctica were a form of sanctuary for Antarctic seals, just as the lands and shelf ice of Antarctica are protected from commercial exploitation, that supposition is incorrect. Right now, citizens from any nation could descend upon the Antarctic and kill every seal there without violating the language or intent of any treaty.

It was to prevent such an occurrence that a treaty has been proposed to regulate the taking of Antarctic seals. At the conclusion of the conference, the representatives of the nations concerned agreed upon a draft treaty, and in order to have this given the widest possible review, I insert the texts of the final act of the meeting, and the draft convention to appear at this point in the CONGRESSIONAL RECORD:

FINAL ACT OF THE CONFERENCE ON THE CONSERVATION OF ANTARCTIC SEALS, FEBRUARY 3–11, 1972, WITH CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS

I

The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Republic of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and the Food and Agriculture Organization of the United Nations represented by an observer delegation;

Having accepted the invitation extended to them by the Government of the United Kingdom of Great Britain and Northern Ireland to participate in a Conference on the Conservation of Antarctic Seals;

Appointed their representatives, advisers and observers who are listed below by countries in the order of alphabetical precedence:

*Argentina*

Representative: Señor Juan Carlos M Beltramino, Minister Plenipotentiary, Argentine Embassy, London.

Alternate: Dra. Graciela Leonor Grandi, Second Secretary, Argentine Embassy, London.

*Australia*

Representative: His Excellency Mr. R. L. Harry, CBE, Australian Ambassador, Bonn.

Adviser: Mr. E. L. Jenkins, Agricultural Representative, Australian High Commission, London.

Adviser: Mr. W. J. Farmer, Second Secretary, Australian High Commission, London.

*Belgium*

Representative: M. Alfred van der Essen, Ministre Plenipotentiaire, Directeur d'Administration au Ministère des Affaires étrangerès et du Commerce extérieur, Bruxelles.

Alternate: Baron de Gerlache de Gomery, MVO, Shipping Counsellor, Belgian Embassy, London.

*Chile*

Representative: Señor Jorge Berguño, Minister-Counsellor, Embassy of Chile, London.

Alternate: Dr. W. Hermosilla. Adviser in Biology, Instituto Antartico Chileno, Santiago.

Alternate: Señor H. Montealegre, Second Secretary, Embassy of Chile, London.

*The French Republic*

Representative: M. J–F Miquel, Scientific Counsellor, French Embassy, London.

Alternate: Mme. Nicole Glynn, Scientific Service, French Embassy, London.

*Japan*

Representative: Mr. N. Nakashima, Minister, Plenipotentiary, Japanese Embassy, London.

Adviser: Professor Masaharu Nishiwaki, Tokyo University.

Member: Mr. Tatsuo Saito, Deputy Head of the First Maritime Division of the Fisheries Agency.

Member: Mr. Hakubi Sasaki, First Secretary (Scientific), Japanese Embassy, London.

*New Zealand*

Representative: Mr. N. V. Farrell, Minister, New Zealand High Commission, London.

Alternate: Dr. V. Armstrong, Scientific Adviser, New Zealand High Commission, London.

Alternate: Mr. A. C. Doyle, Second Secretary, New Zealand High Commission, London.

*Norway*

Representative: Mr. Tore Bogh, Minister-Counsellor, Ministry of Foreign Affairs, Oslo.

Alternate: Mr. J. H. Bernes, Director-General, Ministry of Fisheries, Oslo.

Alternate: Mr. T. Oristland, Oceanographer. The Marine Research Institute of the Directorate of Fisheries, Bergen.

*The Republic of South Africa*

Representative: Mr. R. W. Rand, Division of Sea Fisheries, Department of Industries, South Africa.

Adviser: Mr. W. Scholtz, Second Secretary, South African Embassy, London.

*The Union of Soviet Socialist Republics*

Representative: Mr. I. I. Ippolitov, Minister-Counsellor, Embassy of the Soviet Union, London.

Alternate: Mr. L. A. Popov, Ministry of Fisheries.

Alternate: Mr. V. S. Kotlyar, Ministry of Foreign Affairs.

Adviser: Mr. V. Y. Faekov, Embassy of Soviet Union, London.

*The United Kingdom of Great Britain and Northern Ireland*

Representative: Mr. H. G. Balfour Paul, CMG, (Chairman).

Alternate: Dr. Brian Roberts, CMG Polar Regions Section, Latin America Department, Foreign and Commonwealth Office.

Alternate: Mr. David M. Edwards, Assistant Legal Adviser, Foreign and Commonwealth Office.

Alternate: Miss Charlotte Rycroft, Latin America Department, Foreign and Commonwealth Office.

Alternate: Mr. W. Nigel Bonner, Seals Research Division, Institute for Marine Environmental Research.

Alternate: Dr. Richard M. Laws, Life Sciences Division, British Antarctic Survey.

Alternate: Dr. T. E. Armstrong, Scott Polar Research Institute.

*The United States of America*

Representative: The Honourable Donald L. McKearn, Ambassador, Special Assistant to the Secretary of State for Fisheries and Wildlife and Coordinator of Ocean Affairs, Department of State.

Alternate: Mr. Alanson G. Burt, Office of the Special Assistant to the Secretary of State for Fisheries and Wildlife and Coordinator of Ocean Affairs, Department of State.

Alternate: The Honourable Wymberley DeR. Coerr, Special Adviser to the Special Assistant to the Secretary of State for Environmental Affairs, Department of State.

Adviser: The Honourable Mario Biaggi, Congressional Adviser, United States House of Representatives.

Adviser: The Honourable Edwin B. Forsythe, Congressional Adviser, United States House of Representatives.

Adviser: Mr. Frank M. Potter, Jr., Congressional Staff Adviser, Committee on Merchant Marine and Fisheries. United States House of Representatives.

Adviser: Mr. Bryan H. Baas, American Embassy, London.

Adviser: Mr. David E. Birenbaum, National Parks and Conservation Association, Washington, DC.

Adviser: Mrs. Prudence I. Fox, Office of International Affairs, National Oceanic and Atmospheric Administration Department of Commerce.

Adviser: Mr. Thomas R. Garrett, Friends of the Earth, Washington, DC.

Adviser: Mr. William A. Hayne, Senior Staff Member for International Affairs, Council on Environment Quality, Executive Office of the President.

Adviser: Captain James E. Heg, USN, Chief of Polar Planning and Coordination, Office of Polar Programmes, National Science Foundation.

Adviser: Mr. Walter Kirkness, Acting Deputy Associate Director for Resource Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

Adviser: Mr. George A. Llano, PH.D., Programme Manager, Polar Biology and Medicine, Office of Polar Programmes, National Science Foundation.

Adviser: Mrs. Eleanor C. McDowell, Office of the Assistant Legal Adviser for Treaty Affairs, Department of State.

Adviser: Mr. Addison E. Richmond, Jr., PH.D., Deputy for Polar and Technological Affairs, Office of General Scientific Affairs, Bureau of International Scientific and Technological Affairs, Department of State.

Adviser: Mr. Donald B. Siniff PH.D., University of Minnesota, Minneapolis, Minnesota.

Adviser: Mrs. Frances K. Wein, Sierra Club, San Francisco, California.

Adviser: Mr. Robert L. Horstman, Sea Mammal Motivational Institute, Key Largo, Florida.

*The food and agriculture organization of the United Nations*

Observer: Mr. L. K. Boerema.

Observer: Dr. J. A. Gulland.

The Conference met at London on 3 February 1972 under the Chairmanship of Mr. H. G. Balfour Paul, representative of the delegation of the United Kingdom of Great Britain and Northern Ireland.

The committees established under the Rules of Procedure of the Conference were constituted as follows:

### *Committee on drafting*

D. M. Edwards (UK—Chairman).
J. C. M. Beltramino (Argentina).
HE Mr. R. L. Harry (Australia).
J. Berguno (Chile).
T. Saito (Japan).
A. C. Doyle (New Zealand).
T. Bogh (Norway).
V. S. Kotlyar (USSR).
T. E. Armstrong (UK).
Mrs. E. C. McDowell (US).
Mrs. P. Fox (US).

### *Committee on the annex*

R. M. Laws (UK—Chairman).
E. L. Jenkins (Australia).
W. Hermosilla (Chile).
M. Nishiwaki (Japan).
T. Saito (Japan).
T. Oritsland (Norway).
R. W. Rand (South Africa).
V. Y. Faekov (USSR).
V. S. Kotlyar (USSR).
L. A. Popov (USSR).
W. N. Bonner (UK).
W. Kirkness (USA).
G. A. Llano (USA).
L. K. Boerema (FAO).
J. A. Gulland (FAO).

The final session was held on 11 February 1972.

As a result of its deliberations the Conference has established and drawn up for signature a "Convention for the Conservation of Antarctic Seals", the text of which is annexed hereto.

## II

The Conference on the Conservation of Antarctic Seals Resolves: (1) To express its gratitude to Her Majesty's Government in the United Kingdom for their initiative in convening the present Conference and for its preparation; (2) To express to its Chairman, Mr. H. G. Balfour Paul, its deep appreciation for the admirable manner in which he has guided the Conference; (3) To express to the officers and staff of the Secretariat and to the Interpreters and Translators its appreciation for their untiring services and diligent efforts in contributing to the attainment of the objectives of the Conference.

## III

The Conference on the Conservation of Antarctic Seals Resolves: That the Government of the United Kingdom of Great Britain and Northern Ireland be authorised to publish the Final Act of this Conference (together with an Addendum containing statements by the Representatives of Chile and the United States of America) and the text of the Convention annexed hereto.

## IV

The Conference on the Conservation of Antarctic Seals Recommends that when meetings of the Contracting Parties are convened by the Government of the United Kingdom of Great Britain and Northern Ireland as Depositary, such meeting should be held in the Capitals of each of the Contracting Parties in rotation and proceeding in alphabetical order in the English language.

In witness whereof, the following Representatives have signed this Final Act.

Done at London, this eleventh day of February 1972, in a single original copy to be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, which shall transmit a certified copy thereof to all the other Governments participating in the Conference.

### *Signatures of representatives and alternates*

*Argentina:* J. C. M. Beltramino and G. L. Grandi.

*Australia:* R. L. Harry.

*Belgium:* Alfred v. d. Essen and de Gerlache de Gomery.

*Chile:* Jorge Bergufio.

*The French Republic:* J-F Miquel.

*Japan:* N. Nakashima.

*New Zealand:* N. V. Farrell and Alan C. Doyle.

*Norway:* Tore Bogh and Torger Oritsland.

*The Republic of South Africa:* R. W. Rand.

*The Union of Soviet Socialist Republics:* I. I. Ippolitov, V. S. Kotlyar, and L. A. Popov.

*The United Kingdom of Great Britain and Northern Ireland:* H. G. Balfour Paul, Brian Roberts, R. M. Laws, D. M. Edwards, C. S. Rycroft, Terence Armstrong, and W. Nigel Bonner.

*The United States of America:* Donald L. McKernan and Alanson G. Burt.

### ADDENDUM

The following statement was made by the Representative of Chile:

"The Delegation of Chile states that the reference to Article IV of the Antarctic Treaty contained in Article 1 of the present Convention signifies that nothing specified therein shall confirm, deny or impair the rights of the Contracting Parties as regards their maritime jurisdictions and their declared juridical position on this matter."

The following statement was made by the Representative of the United States of America:

"The Delegation of the United States of America believes that the Convention should contain stronger provisions for the observation of operations and enforcement of regulations, especially with regard to the use of observers of the Contracting Parties with each others' sealing expeditions. Opposition to stronger provisions has chiefly arisen not from commerical but from juridical interests.

"Nevertheless, the Convention is a new and valuable International Agreement, achieved in advance of the development of commercial sealing in the Antarctic, that contains many provisions important to the conservation of seals and their protection against over-exploitation. We understand exploratory commercial sealing ventures may be imminent.

"In order not to diminish the progress achieved by this Conference in international cooperation for effective conservation in the Antarctic, the delegation of the United States of America has decided to sign the Final Act and will submit the Convention for its Government's consideration.

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## Convention for the Conservation of Antarctic Seals

The Contracting Parties,

*Recalling* the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted under the Antarctic Treaty signed at Washington on 1 December 1959;

*Recognizing* the general concern about the vulnerability of Antarctic seals to commercial exploitation and the consequent need for effective conservation measures;

*Recognizing* that the stocks of Antarctic seals are an important living resource in the marine environment which requires an international agreement for its effective conservation;

*Recognizing* that this resource should not be depleted by over-exploitation, and hence that any harvesting should be regulated so as not to exceed the levels of the optimum sustainable yield;

*Recognizing* that in order to improve scientific knewledge and so place exploitation on a rational basis, every effort should be made both to encourage biological and other research on Antarctic seal populations and to gain information from such research and from the statistics of future sealing operations, so that further suitable regulations may be formulated;

*Noting* that the Scientific Committee on Antarctic Research of the International Council of Scientific Unions (SCAR) is willing to carry out the tasks requested of it in this Convention;

*Desiring* to promote and achieve the objectives of protection, scientific study and rational use of Antarctic seals, and to maintain a satisfactory balance within the ecological system,

Have agreed as follows:

### ARTICLE 1

### *Scope*

(1) This Convention applies to the seas south of 60° South Latitude, in respect of which the Contracting Parties affirm the provisions of Article IV of the Antarctic Treaty.

(2) This Convention may be applicable to any or all of the following species: Southern elephant seal, *Mirounga leonina;* Leopard seal, *Hydrurga leptonyx;* Weddell seal, *Leptonychotes weddelli;* Crabeater seal, *Lobodon carcinophagus;* Ross seal, *Ommatophoca rossi;* and Southern fur seals, *Arctocephalus* sp.

(3) The Annex to this Convention forms an integral part thereof.

### ARTICLE 2

### *Implementation*

(1) The Contracting Parties agree that the species of seals enumerated in Article 1 shall not be killed or captured within the Convention area by their nationals or vessels under their respective flags except in accordance with the provisions of this Convention.

(2) Each Contracting Party shall adopt for its nationals and for vessels under its flag such laws, regulations and other measures, including a permit system as appropriate, as may be necessary to implement this Convention.

### ARTICLE 3

### *Annexed Measures*

(1) This Convention includes an Annex specifying measures which the Contracting Parties hereby adopt. Contracting Parties may from time to time in the future adopt other measures with respect to the conservation, scientific study and rational and humane use of seal resources, prescribing *inter alia:*

(a) permissible catch;

(b) protected and unprotected species;

(c) open and closed seasons;

(d) open and closed areas, including the designation of reserves;

(e) the designation of special areas where there shall be no disturbance of seals;

(f) limits relating to sex, size, or age for each species;

(g) restrictions relating to time of day and duration, limitations of effort and methods of sealing;

(h) types and specifications of gear and apparatus and appliances which may be used;

(i) catch returns and other statistical and biological records;

(j) procedures for facilitating the review and assessment of scientific information;

(k) other regulatory measures including an effective system of inspection.

(2) The measures adopted under paragraph (1) of this Article shall be based upon the best scientific and technical evidence available.

(3) The Annex may from time to time be amended in accordance with the procedures provided for in Article 9.

### ARTICLE 4

### *Special Permits*

(1) Notwithstanding the provisions of this Convention, any Contracting Party may issue permits to kill or capture seals in limited quantities and in conformity with the objectives and principles of this Convention for the following purposes:

(a) to provide indispensable food for men or dogs;

(b) to provide for scientific research; or

(c) to provide specimens for museums, educational or cultural institutions.

(2) Each Contracting Party shall, as soon as possible, inform the other Contracting Parties and SCAR of the purpose and content of all permits issued under paragraph (1) of this Article and subsequently of the numbers of seals killed or captured under these permits.

#### ARTICLE 5

*Exchange of information and scientific advice*

(1) Each Contracting Party shall provide to the other Contracting Parties and to SCAR the information specified in the Annex within the period indicated therein.

(2) Each Contracting Party shall also provide to the other Contracting Parties and to SCAR before 31 October each year information on any steps it has taken in accordance with Article 2 of this Convention during the preceding period 1 July to 30 June.

(3) Contracting Parties which have no information to report under the two preceding paragraphs shall indicate this formally before 31 October each year.

(4) SCAR is invited:

(a) to assess information received pursuant to this Article; encourage exchange of scientific data and information among the Contracting Parties; recommend programmes for scientific research; recommend statistical and biological data to be collected by sealing expeditions within the Convention area; and suggest amendments to the Annex; and

(b) to report on the basis of the statistical, biological and other evidence available when the harvest of any species of seal in the Convention area is having a significantly harmful effect on the total stocks of such species or on the ecological system in any particular locality.

(5) SCAR is invited to notify the Depositary which shall report to the Contracting Parties when SCAR estimates in any sealing season that the permissible catch limits for any species are likely to be exceeded and, in that case, to provide an estimate of the date upon which the permissible catch limits will be reached. Each Contracting Party shall then take appropriate measures to prevent its nationals and vessels under its flag from killing or capturing seals of that species after the estimated date until the Contracting Parties decide otherwise.

(6) SCAR may if necessary seek the technical assistance of the Food and Agriculture Organization of the United Nations in making its assessments.

(7) Notwithstanding the provisions of paragraph (1) of Article 1 the Contracting Parties shall, in accordance with their internal law, report to each other and to SCAR, for consideration statistics relating to the Antarctic seals listed in paragraph (2) of Article 1 which have been killed or captured by their nationals and vessels under their respective flags in the area of floating ice north of 60° South Latitude.

#### ARTICLE 6

*Consultations between contracting parties*

(1) At any time after commercial sealing has begun a Contracting Party may propose through the Depositary that a meeting of Contracting Parties be convened with a view to:

(a) establishing by a two-thirds majority of the Contracting Parties, including the concurring votes of all States signatory to this Convention present at the meeting, an effective system of control, including inspection, over the implementation of the provisions of this Convention;

(b) establishing a commission to perform such functions under this Convention as the Contracting Parties may deem necessary; or

(c) considering other proposals, including:

(i) the provision of independent scientific advice;

(ii) the establishment, by a two-thirds majority, of a scientific advisory committee which may be assigned some or all of the functions requested of SCAR under this Convention, if commercial sealing reaches significant proportions;

(iii) the carrying out of scientific programmes with the participation of the Contracting Parties; and

(iv) the provision of further regulatory measures, including moratoria.

(2) If one-third of the Contracting Parties indicate agreement the Depositary shall convene such a meeting, as soon as possible.

(3) A meeting shall be held at the request of any Contracting Party, if SCAR reports that the harvest of any species of Antarctic seal in the area to which this Convention applies is having a significantly harmful effect on the total stocks or the ecological system in any particular locality.

#### ARTICLE 7

*Review of operations*

The Contracting Parties shall meet within five years after the entry into force of this Convention and at least every five years thereafter to review the operation of the Convention.

#### ARTICLE 8

*Amendments to the Convention*

(1) This Convention may be amended at any time. The text of any amendment proposed by a Contracting Party shall be submitted to the Depositary, which shall transmit it to all the Contracting Parties.

(2) If one third of the Contracting Parties request a meeting to discuss the proposed amendment the Depositary shall call such a meeting.

(3) An amendment shall enter into force when the Depositary has received instruments of ratification or acceptance thereof from all the Contracting Parties.

#### ARTICLE 9

*Amendments to the Annex*

(1) Any Contracting Party may propose amendments to the Annex to this Convention. The text of any such proposed amendment shall be submitted to the Depositary which shall transmit it to all Contracting Parties.

(2) Each such proposed amendment shall become effective for all Contracting Parties six months after the date appearing on the notification from the Depositary to the Contracting Parties, if within 120 days of the notification date, no objection has been received and two-thirds of the Contracting Parties have notified the Depositary in writing of their approval.

(3) If an objection is received from any Contracting Party within 120 days of the notification date, the matter shall be considered by the Contracting Parties at their next meeting. If unanimity on the matter is not reached at the meeting, the Contracting Parties shall notify the Depositary within 120 days from the date of closure of the meeting of their approval or rejection of the original amendment or of any new amendment proposed by the meeting. If, by the end of this period, two-thirds of the Contracting Parties have approved such amendment, it shall become effective six months from the date of the closure of the meeting for those Contracting Parties which have by then notified their approval.

(4) Any Contracting Party which has objected to a proposed amendment may at any time withdraw that objection, and the proposed amendment shall become effective with respect to such Party immediately if the amendment is already in effect, or at such time as it becomes effective under the terms of this Article.

(5) The Depositary shall notify each Contracting Party immediately upon receipt of each approval or objection, of each withdrawal of objection, and of the entry into force of any amendment.

(6) Any State which becomes a party to this Convention after an amendment to the Annex has entered into force shall be bound by the Annex as so amended. Any State which becomes a Party to this Convention during the period when a proposed amendment is pending may approve or object to such an amendment within the time limits applicable to other Contracting Parties.

#### ARTICLE 10

*Signature*

This Convention shall be open for signature at London from 1 June to 31 December 1972 by States participating in the Conference on the Conservation of Antarctic Seals held at London from 3 to 11 February 1972.

#### ARTICLE 11

*Ratification*

This Convention is subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland, hereby designated as the Depositary.

#### ARTICLE 12

*Accession*

This Convention shall be open for accession by any State which may be invited to accede to this Convention with the consent of all the Contracting Parties.

#### ARTICLE 13

*Entry into force*

(1) This Convention shall enter into force on the thirtieth day following the date of deposit of the seventh instrument of ratification, or acceptance.

(2) Thereafer this Convention shall enter into force for each ratifying, accepting or acceding State on the thirtieth day after deposit by such State of its instrument of ratification, acceptance or accession.

#### ARTICLE 14

*Withdrawal*

Any Contracting Party may withdraw from this Convention on 30 June of any year by giving notice on or before 1 January of the same year to the Depositary, which upon receipt of such a notice shall at once communicate it to the other Contracting Parties. Any other Contracting Party may, in like manner, within one month of the receipt of a copy of such a notice from the Depositary, give notice of withdrawal, so that the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.

#### ARTICLE 15

*Notification by the depositary*

The Depositary shall notify all signatory and acceding States of the following:

(a) signatures of this Convention, the deposit of instruments of ratification, acceptance or accession and notices of withdrawal;

(b) the date of entry into force of this Convention and of any amendments to it or its Annex.

#### ARTICLE 16

*Certified copies and registration*

(1) This Convention, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, which shall transmit duly certified copies thereof to all signatory and acceding States.

(2) This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

In witness thereof, the undersigned, duly authorized, have signed this Convention.

Done at ——— this ——— day of ———, 19 ———.

### ANNEX

#### *Permissible catch*

The Contracting Parties shall in any one year, which shall run from 1 July to 30 June inclusive, restrict the total number of seals of each species killed or captured to the numbers specified below. These numbers are subject to review in the light of scientific assessments.

(a) in the case of Crabester seals *Lobodon carcinophagus* 175,000

(b) in the case of Leopard seals *Hydrurge, leptonyx* 12,000

(c) in the case of Weddell seals *Leptonychotes weddelli*, 5,000

#### *Protected species*

(a) It is forbidden to kill or capture Ross seals *Ommatophoca rossi*, Southern elephant seals *Mirounga lconins*, or fur seals of the genus *Arctocephalus*.

(b) In order to protect the adult breeding stock during the period when it is most concentrated and vulnerable, it is forbidden to kill or capture any Weddell seal *Leptonychotas weddelli* one year old or older between 1 September and 31 January inclusive.

#### *Closed season and sealing season*

The period between 1 March and 31 August inclusive is a Closed Season, during which the killing or capturing of seals is forbidden. The period 1 September to the last day in February constitutes a Sealing Season.

#### *Sealing zones*

Each of the sealing zones listed in this paragraph shall be closed in numerical sequence to all sealing operations for the seal species listed in paragraph 1 of this Annex for the period 1 September to the last day of February inclusive. Such closures shall begin with the same zone as is closed under paragraph 2 of Annex B to Annex 1 of the Report of the Fifth Antarctic Treaty Consultative Meeting at the moment the Convention enters into force. Upon the expiration of each closed period, the affected zone shall reopen.

Zone 1—between 60° and 120° West Longittude.

Zone 2—between 0° and 60° West Longitude, together with that part of the Weddell Sea lying westward of 60° West Longitude.

Zone 3—between 0° and 70° East Longitude.

Zone 4—between 70° and 130° East Longitude.

Zone 5—between 130° East Longitude and 170° West Longitude.

Zone 6—between 120° and 170° West Longitude.

#### *Seal reserves*

It is forbidden to kill or capture seals in the following reserves, which are seal breeding areas or the site of long-term scientific research:

(a) The area around the South Orkney Islands between 60° 20′ and 60° 56′ South Latitude and 44° 05′ and 46° 25′ West Longitude.

(b) The area of the southwestern Ross Sea south of 76° South Latitude and west of 170° East Longitude.

(c) The area of Edisto Inlet south and west of a line drawn between Cape Hallet at 72° 19′ South Latitude, 170° 18′ East Longitude, and Helm Point, at 72° 11′ South Latitude, 170° 00′ East Longitude.

#### *Exchange of information*

(a) Contracting Parties shall provide before 31 October each year to other Contracting Parties and to SCAR a summary of statistical information on all seals killed or captured by their nationals and vessels under their respective flags in the Convention area, in respect of the preceding period 1 July to 30 June. This information shall include by zones and months:

(i) The gross and net tonnage, brake horse-power, number of crew, and number of days' operation of vessels under the flag of the Contracting Party:

(ii) The number of adult individuals and pups of each species taken. When specially requested, this information shall be provided in respect of each ship, together with its daily position at noon each operating day and the catch on that day.

(b) When an industry has started, reports of the number of seals of each species killed or captured in each zone shall be made to SCAR in the form and at the intervals (not shorter than one week) requested by that body.

(c) Contracting Parties shall provide to SCAR biological information concerning in particular

(i) Sex.

(ii) Reproductive condition.

(iii) Age.

SCAR may request additional information or material with the approval of the Contracting Parties.

(d) Contracting Parties shall provide to other Contracting Parties and to SCAR at least 30 days in advance of departure from their home ports, information on proposed sealing expeditions.

#### *Sealing methods*

(a) SCAR is invited to report on methods of sealing and to make recommendations with a view to insuring that the killing or capturing of seals is quick, painless and efficient. Contracting Parties, as appropriate, shall adopt rules for their nationals and vessels under their respective flags on aged in the kiling and capturing of seals, giving due consideration to the views of SCAR.

(b) In the light of the available scientific and technical data, Contracting Parties agree to take appropriate steps to insure that their nationals and vessels under their respective flags refrain from killing or capturing seals in the water, except in limited quantities to provide for scientific research in conformity with the objectives and principles of this Convention. Such research shall include studies as to the effectiveness of methods of sealing from the viewpoint of the management and humane and national utilization of the Antarctic seal resources for conservation purposes. The undertaking and the results of any such scientific research programme shall be communicated to SCAR and the Depositary which shall transmit them to the Contracting Parties.

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## SEVENTH ANNIVERSARY OF THE INDEPENDENCE OF THE GAMBIA

## HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DIGGS. Mr. Speaker, the Republic of The Gambia celebrated its seventh anniversary of independence on February 18. It gives me great pleasure to extend to President Sir Dawda K. Jawara and to The Gambia people best wishes for the future.

Our relations with The Gambian people predate their independence. The first visit to the African Continent by a U.S. President in office was to Bathurst, capital of The Gambia, when President Roosevelt stayed overnight there en route to and from the Casablanca conference. Also, during World War II, The Gambia contributed troops to the Allied cause. Bathurst provided an airstrip for use by the U.S. Army Air Corps and was port of call for allied naval convoys.

The Gambia and the United States have enjoyed excellent relations since Gambian independence on February 18, 1965, and we are confident this will continue. I visited The Gambia in August of 1971 and met President Jawara and other Gambian officials. In Bathurst, I personally felt the dynamism which characterizes this progressive country. The Gambia is an outstanding example of a small country energetically registering steady progress in nation building. This steady and solid progress in nation building makes us confident of The Gambia's future.

On this, the seventh anniversary of its independence, I am happy to salute President Jawara and the people of The Gambia.

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## SENATOR BUCKLEY ON NATIONAL DEFENSE

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BIAGGI. Mr. Speaker, the distinguished Senator from New York (Mr. BUCKLEY) recently addressed the New York Council of the Navy League of the United States on the subject of national defense. His analysis of our current status vis-a-vis the Soviet Union is an excellent one. It carries the clear warning that the U.S.S.R. is fast outstripping our own defense position and may pose a serious threat to world peace.

In particular, this threat may not be exercised against the United States directly but against our allies. When the Soviet Union threatened world peace in the fifties in Berlin, our superior strength was responsible for preventing a third world war. Again in the sixties, when the Soviets sought a foothold in the Western Hemisphere at Cuba, the strong defense position of the United States forced a Soviet retreat back to the status quo.

Today the Soviets are again threatening world peace in the Middle East and elsewhere. Will the United States be able to hold the line once more?

In our efforts to necessarily reorder our priorities to solve pressing national problems such as mass transit, unemployment and crime, we have lost sight of the fact that a strong national defense is essential to a strong nation.

The Federal Government has the sole responsibility for providing for the common defense. The States share with the Federal Government the responsibility for health, education, and welfare expenditures. While the Federal Government must increase its expenditures in the latter human resource areas, we cannot do so by dismantling our defense system.

Senator BUCKLEY's remarks are most explicit on this point and I urge my colleagues to read his statement before making any decisions on national defense expenditures.

The statement follows:

I am awed at the abundance of stripes and ribbons which I see about me tonight. When I was discharged from the Navy some 25 years ago, having risen to the dizzying rank of Lieutenant Junior Grade while serving on an LST in the Western Pacific, it would have been impossible to foresee that I would one day have the temerity to address so august and knowledgeable a group on the subject of National Defense. On the other hand, in 1946, it would have been equally impossible to foresee how soon we would be losing sight of the lessons of Munich and its aftermath, the lessons which can be summed up in the single proposition that only the strong can remain free.

In simpler times, when it was somehow easier to maintain tough with reality than it is today, it was understood that the first priority of any society was to provide for its own survival. This fundamental principle ought to be as self-evident today as it ever has been in the past. Yet for some time now, we have been in the grips of a blind anti-militarism which has forced drastic cutbacks in large categories of defense spending which are essential to our security. As a result, we are not only falling critically behind in the necessary business of military research and development, but we have allowed our existing forces to deteriorate to a point where the ability of the President of the United States to assure the defense of vital national interests may soon be in jeopardy.

Because of the attrition caused by inflation, these cutbacks have been far more severe than would appear on the basis of dollar figures alone. We have not simply cut the fat out of military budgets, we have been hacking away at the sinews and muscles as well. By way of illustration, because of inflation and because payroll costs have risen from 40 per cent of the Defense Budget for fiscal 1964 to 60 per cent of the budget submitted for fiscal 1972, in the coming year we will be purchasing 40 per cent less military research and hardware than we did eight years ago before we became actively involved in the Vietnam War. These same figures have forced us, over the same eight-year period, to reduce the number of our Navy carrier wings from 24 to 15, and to reduce by almost 30 per cent the number of our active Naval vessels, from 932 vessels to 658. What is more, this budgetary decimation of our Naval forces has taken place in the face of an extraordinary and continuing build-up of the Russian Fleet which, according to the latest edition of the authoritative *Jane's Fighting Ships*, now has an active force of 1,899 combatants, a force three times larger than our own.

Now admittedly, there is no inherent virtue in maintaining a large and costly military establishment, or in developing increasingly sophisticated weapons. No nation with peaceful intentions requires or can justify a defense establishment which is larger than that which is necessary to meet the needs of her own security. But the adequacy or inadequacy of a nation's defenses is determined not by considerations of domestic priorities, but by the power relationships within which that nation must operate. And we must keep in mind that in the real world, no country can conduct an effective foreign policy without a military capability which is appropriate to its responsibilities.

In our case, our responsibilities since World War II have necessarily been international in scope as they have concerned themselves primarily with the need to contain the aggressive outward thrust of the Communist Powers.

These are responsibilities which we did not seek, but which we cannot escape as the only free world power capable of facing up to the Russian challenge. In the past we have succeeded time and again—witness, for example, the Berlin and Cuban crises—in causing the Soviets to back away from confrontations which might have ignited a third world war precisely because we had the military power to back the positions we had to take. The Soviets simply could not risk a test of strength. Our military might, in other words, has been the critical factor in our ability to maintain the tenuous peace which by and large has existed since the end of the Second World War.

While the effectiveness of our foreign policy has ultimately rested on our power to unleash nuclear devastation on any enemy, it has long been an accepted fact at home and abroad that it is unthinkable that the United States should ever initiate an atomic strike. Therefore, the whole fabric of our defense policy has depended on our having sufficient strategic weapons to survive any attack and to assure us the ability to deliver a retaliatory strike which would inflict unacceptable losses. This is what our policy of nuclear deterrence has been all about. This is what has been called the Balance of Terror.

There is a growing body of evidence, however, to support the conclusion that we will soon find ourselves in a position where our deterrent capacity will no longer be sufficiently plausible to cause the Soviet Union to back away from future confrontations involving interests vital to the West. What this means, quite simply, is that we are rapidly approaching a point where no American President will be able to emerge from a political confrontation with the Soviet Union with our foreign policy objectives intact, whether that confrontation takes place in the Middle East or Western Europe or even in the Caribbean.

Since 1965, the Soviet Union has launched and sustained a truly extraordinary drive to increase and modernize every section of her strategic and conventional forces. As a result, the Soviet Union now has a payload capacity in her intercontinental and submarine-launched ballistic missiles which is capable of delivering eight times as many nuclear warheads as the United States. This buildup so far exceeds any plausible requirement for a policy of deterrence that we can only conclude that the Soviet Union has developed this extraordinary capacity for use in support of her own diplomacy, a diplomacy whose historic goals have always been aggressive.

The conventional wisdom states that any development of nuclear warheads beyond a certain point, whether by the United States or the Soviet Union, is simply superfluous—the disparity in warheads representing merely an "overkill" capacity. I suggest, however, that there is no evidence whatever that the Russians buy this analysis.

For an insight into what may be the Russian view, let us consider what might plausibly be the result of a hypothetical "First Strike" attack by the Soviets on our strategic forces. If we assume that Russia's production line technology is equal to our own—and we must—then the existing three equipped with between three and six independently targeted warheads having a yield of from two to five megatons. This would give their SS–9's the capacity to deliver between 900 and 1800 warheads, each capable of attacking and destroying one of our Minutemen ICBM's. If we assume further that the Russians employ guidance systems equivalent to those available to us for our Minuteman III and Poseidon missiles, then a "First Strike" attack by their SS–9's could destroy on the ground or in port about 90 per cent of our land-based ICBM's, 50 per cent of our aging B–52 bombers, and one-third of our Polaris submarines before we could even consider a retaliatory strike. And this destruction of our deterrence force could be significantly increased by advances in guidance technology which our own research has already shown to be feasible.

This assessment of the Soviet Union's strategic capabilities is not mine, and it cannot be written off as scare-talk emanating from the Pentagon at Defense appropriation time. Rather, it represents the sober judgment of third party observers such as the editors of Jane's, who in a recent edition predicted that by 1975, the Soviet Union would have the capacity to destroy virtually all of our land based strategic forces in a preemptive strike.

Assuming such an attack, the Soviets would have left over sufficient missiles to pose a continuing threat to our remaining strategic forces and to our cities. This remaining capacity would include over 900 SS–11's, over 400 submarine launched ballistic missiles, and nearly 200 bombers. We would, as of the present, still have the suicidal capacity to inflict devastation on those Russian cities not protected by ABM systems; but even this remaining deterrence could be reduced to levels acceptable to the Communist mentality by either a major breakthrough in Russia's anti-submarine warfare capability or by a significant expansion of her ABM defenses.

There are many, of course, who are pinning their hopes on the Strategic Arms Limitation Treaty negotiations which are now taking place. In a sensible, rational, truly peace-seeking world, we could have high hopes for the success of these discussions; and the optimist in me believes that such success may in fact be possible, but only if the Soviets are satisfied that we will not deal away our strength in exchange for unenforceable promises. One thing which ought to be clear is that we cannot hope for success if we hide from the cold realities of life, if we let ourselves be carried away by euphoria at every small concession. Let us keep in mind that the SALT talks are now in their second year. And that we have experienced powerful pressures here at home to defer any buildup of our forces or of our purely defensive systems pending the outcome of these talks. Yet since the SALT negotiations began in early 1969, the Soviets have deployed 700 ICBM's, thus doubling the number which were deployed in late 1968.

Moreover, there is no evidence that the Soviets are relenting in their singular obsession with the development of an overwhelming strategic superiority. Last week, Secretary of Defense Laird reported that the Soviets have again enlarged the capacity of their submarine production yards with the result that their "Yankee" class submarines—the rough equivalent of our Polaris—are being produced at the rate of nearly one per month, a rate 50% higher than that observed just one year ago. This means that by 1973 the Soviets will have surpassed us in missile-launching submarines. Similarly, recent evidence indicates that the Soviets are continuing their deployment of ICBM's, including that of two or three new designs for which we have no counterparts.

In my judgment, we can no longer afford to defer further development of our strategic offensive and defensive capabilities in the hope that successful negotiations will have made the expenditures unnecessary. And we must take particular care that any agreement reached with the Russians will not have the effect of freezing them in a position of decisive superiority.

I submit that if we are to provide adequately for our own defense, and if we wish at the same time to create the conditions best calculated to assure the ultimate success of present and future efforts to negotiate an end to the arms race, then we must move on an urgent basis to preserve the credibility of our nuclear deterrence while at the same time restoring unquestioned superiority of our conventional arms.

We simply cannot afford any longer to ignore the fact that the Soviet Union is currently spending $3 billion per year more than we are on military and space research and development, and that she is expanding these expenditures at the rate of 13 per cent per annum while ours have been declining. Nor can we close our eyes to the significance of some of the dividends which she is already beginning to derive from this investment. Jane's All the World's Aircraft reports, for example, that the Soviets have now developed and tested a satellite-destroyer system which is capable of attacking any satellite which we may station in space. We have no comparable system at our disposal. There is also evidence which suggests that a recently developed Soviet bomber has been employed as a test vehicle for nuclear engines. If the Soviets succeed in developing such an engine, they will have an aircraft which is capable of remaining aloft for ninety days or more. The serious implications of such a development to anti-submarine warfare, maritime surveillance and other strategic missions are self-evident. Yet a similar program of our own was scrapped by former Secretary of Defense McNamara in 1961. We simply cannot fall further behind in our military research and development efforts, because to do so will be to invite a technological Pearl Harbor from which there may be no reprieve.

What is more, we cannot afford to be obsessed with our strategic capabilities at the expense of our conventional forces, because our strategic posture represents only part of the story. Under any philosophy of strategic defense, the objective has been to assure a balance of forces which will preclude a resort to nuclear warfare. But while the maintenance of such a balance might avert the horror of an atomic holocaust, it does nothing to eliminate recourse to more conventional forms of warfare; and to the extent that nuclear warfare becomes unthinkable, to that extent must we make certain that we maintain the conventional strength essential to our needs. But here again, while we have allowed our position to deteriorate, the Soviets have been overtaking us with astonishing determination and speed, with consequences which are far from academic.

In the field of Air Defense, for example, the Soviets have deployed several thousand highly effective surface-to-air missile launchers while we have allowed our own Air Defenses to deteriorate to a point which the Armed Forces Journal has described as their weakest condition since 1942.

In Europe, the Soviet Union is now capable of fielding over 15,000 modern tanks as compared with less than half that number available to the NATO forces. Yet in recent weeks, a strong effort was made on the floor of the Senate to kill plans for the production of an American tank of superior technical characteristics which will enable us to offset the Soviet Union's numerical superiority.

In still another area, the Russians have unveiled a whole new series of aircraft, such as the MIG 23 Foxbat, which have eroded away the once unchallengable U.S. superiority in tactical air power.

But the dramatic advance which the Soviet Union has made has been in the astonishing expansion of her Navy from small coastal defense forces in 1965 to what is today a deep water Navy with an increasing capability for worldwide military action. And this modern, rapidly expanding fleet is being serviced by an ever larger structure of bases which have been established along the coast of North Africa, in the Caribbean and, more recently, in the Indian Ocean.

Thus, while we have been allowing our relative military strength to decline, the Russians have been moving rapidly to establish a position where they will at the very least have neutralized our strategic forces while bringing their conventional strength to a point where they will be able to challenge the West in areas which are of central importance to us.

Let me illustrate the dangers posed by these developments by focusing on just one area in which the superiority of our Naval Forces has played a decisive role in protecting strategic interests which are generally conceded to be vital to the free world. I speak of the Middle East.

Because of the extreme danger to the interests and security of the West which is posed by Soviet expansionism in the Middle East, and because Israel sits athwart Soviet ambitions, we have had a special interest in Israel's continuing independence. American policy, therefore, has sought to assure Israel of the weapons required for her defense against her Arab neighbors, while at the same time we have sought to dissuade the Russians from the kind of adventurism which might escalate Arab-Israeli hostilities into an American-Soviet confrontation. To the latter end, we have relied on the United States Sixth Fleet to provide the credible threat required to deter the Soviets from any temptation to intervene on the side of the Arabs in an all-out attempt to crush Israel.

In the past, the United States has been able to achieve these twin objectives, and as a result she has helped to keep the Middle East from blowing apart. She has been able to avert, in other words, a crisis of the kind which might have triggered a third World War. But as a result of the persistent cuts in research and procurement which have been imposed on our military in recent years, it is no longer at all certain that the United States will continue to have the capability of meeting these objectives in the future.

The Soviet Union, for example, has recently introduced the MIG-23 Foxbat into Egypt's already formidable arsenal. This is an aircraft which can outshoot and outmaneuver anything the Israelis have, and we can do nothing about it because we simply have nothing in our existing military inventory which can challenge the Foxbat. The best we have on hand is the F-4 Phantom which is, of course, the primary aircraft utilized by the Sixth Fleet for its own defense and for support of ground operations. Yet it is typical of the blindness of our times that earlier this month there was an attempt in the Senate to eliminate the F-14 Tomcat from the Defense Procurement bill even though it is the only aircraft competitive with the Foxbat which we are in a position to deliver to the Navy at a reasonably early date.

But this isn't the only problem now facing the Sixth Fleet. The growing obsolescence of its combat vessels, the abandonment of Nato bases along North Africa, the rapid expansion of modern Soviet Naval Forces in the Mediterranean, and the deployment of Soviet fighter, bomber and reconnaissance squadrons at air bases in Egypt, Libya and Algeria are reducing to the vanishing point the effectiveness of the Sixth Fleet as an instrument of American policy.

Because the simple, quite inescapable fact is that unless action is taken to modernize and reinforce the Sixth Fleet; and unless we are able to develop and deploy weapons which can challenge those which the Soviets can provide to the Arab States, we will find our Mid-East options foreclosed. If our compulsive antimilitarism is not soon brought to heel, we will find that American foreign policy objectives in the Middle East will have become irrelevant because we will be without the means of implementing them. It will be irrelevant that the United States is committed to the survival of the State of Israel. or that the United States opposes a Russian hegemony in the area, because in a showdown the United States will have no choice but to back down.

And once we begin backing down under pressure here and there around the globe, we will court the disaster of a third World War. Because aggressor nations seem inevitably to overestimate the readiness of free men to retreat. This was the lesson of the First and Second World Wars; a lesson which we will forget at our mortal peril.

Military forces are not a luxury but a necessity so long as we live in a world in which some nations feel a compulsion to dominate others, we have no choice but to maintain those levels of defense which are essential to our survival. We can find no escape in isolationism because great nations are not allowed the luxury of retiring from the world. For such nations, there can be no peace unless they have the power and the will to defend it.

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## FATHER AND SON: AN AMERICAN TRAGEDY TRIGGERED BY DRUGS

## HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. RODINO. Mr. Speaker, I am sure all of us are fully aware of the awesome proportions of the narcotics addiction epidemic confronting our Nation.

But in considering the horrifying statistics that describe the total problem, it is all too easy to become somewhat impersonal about the situation. It is when we understand the details of each individual's descent into the hell of drug addiction and the suffering experienced by their loved ones that we can truly realize the enormity of the drug tragedy. And when we multiply the tragedy of each individual addict and his family by thousands, we can clearly see the devastation to our society caused by drug addiction and the need to relentlessly pursue all possible solutions to the problem.

On February 13, the Newark Star-Ledger published a very sad and moving account by one father of his son's fall into drug addiction, and I include the article at this point in the RECORD:

### FATHER AND SON: AN AMERICAN TRAGEDY TRIGGERED BY DRUGS

CHARLESTON, W. VA.—My son is in jail. Oddly enough, I take comfort in this.

He is addicted to heroin.

Call him Mark, but it is not his real name. He had dropped out of school and enlisted in the Army before his 18th birthday.

He weighed a hard-muscled 185, was clear-eyed. His officers told me he had the makings "of a real soldier."

It was at that camp where he started taking drugs, all available for a price. There were amphetamines to keep going, pot for relaxing, Doriden for sleeping.

After a time, he began overstaying weekend passes. There were disturbances and petty thievery in town. Mark began to return home and overstay his leave.

Determined to get to the bottom of what was happening to Mark, I flew back to his base and talked to his commanding officer. We discussed the possibility of drugs in the camp, but very little was admitted.

Once, when he had been picked up by Charleston police, he had been refused sedation while coming down off a high. He "freaked out" and slashed his wrist and arm wide open.

I called the adjutant general of West Virginia and explained the situation to him. I assured him that if he would have Mark released in my custody, I would fly back with him and deliver him to his commanding officer.

He agreed. At the camp, Mark assured his superiors he wanted another chance to complete his enlistment. His good intentions lasted a little over 30 days.

Mark had been contacted by a friend, Rusty, who was an acid head and speed freak. The talk, as Mark recalled, went like this: Rusty: "Hey, man, have you tripped yet?"

Mark: "Only as far as marijuana would take me. I'd better stay clean for awhile."

Rusty: "Oh hell, man, you chicken or something? Ain't I your buddy? You'll like this; it's an easy rider."

Mark: "No, I ain't chicken . . . how do you know you can get it?"

Rusty: "You're putting me on, man. You can get everything right here on the base or right outside the gates."

Rusty and Mark became fairly regular users of LSD and soft drugs. Heroin was the next step.

Our son was discharged in early 1970 and returned to Charleston. About three weeks later the truth of Mark's problem was to become grimly apparent to me.

At about 2 a.m. one morning the telephone rang. It was Mark, his voice faint and shaking. Slipping pants and shirt over my pajamas, I drove to the place. He was standing in a shadow, leaning heavily against a telephone pole. His hand reached out falteringly for mine.

I got him into the car, and he fell over on the seat, shuddering violently. At home, I helped him up the stairs into my room. There in the full light I could see him clearly. My wife gasped and turned pale. His pallid skin was covered with a fine rash. He was soaking with clammy sweat.

He took my hand, turned toward the wall and said: "I had a few beers, smoked some pot and shot up on something called synthetic morphine."

I was torn between fear for his life and fear of notoriety if I took him to a hospital. Mark staggered to the bathroom, abdomen twisting and heaving. The sounds of his sickness produced nausea in my wife and myself. She cleansed his face with a cold washcloth as tears spilled down her cheeks.

I helped Mark back into bed and covered his twitching body with a blanket. He asked for a glass of water. He drank, retched and stumbled to the bathroom. His stomach could not even tolerate cool water.

Recalling a phrase from a book on drug studies, I said to Mark: "Hang tough, son, hang tough." He whispered: "Yeah, right on Dad, right on . . ." and almost smiled.

The doorbell's sudden, sharp tone shocked my wife and I into startled rigid postures. As she finally moved to answer it, I rasped: "Careful, check through the glass first."

I was beginning to learn caution in opening a door, to feel a deep gut response to telephones in the night. All were nudging primal instincts. But it was only the doctor I had called.

The doctor told us Mark had, indeed, taken a strong drug and had suffered an allergic reaction. He gave me a prescription and suggested a week's bed rest.

Mark was asleep, so I looked at his arms. I could see no needle punctures. My wife and I spent the rest of the night staring at each other over our coffee cups.

Several times after this Mark made efforts to kick his habit. But, like most, he thought he could do it easily by himself. Maybe one in 100,000 can.

Mark began leaving home for long periods.

The addict becomes a master at manipulation, an actor and liar of the first water. He gets a lot of practice on gullible parents who live from one vain hope to another that everything will work out.

One evening, Mark showed up at the front door, clean and smiling. After dinner he said: "I have been on some hard stuff and I am going to kick it. I am not going to leave this house. I want out of this thing before I kill myself."

Mark ate some cookies and milk, said goodnight, took a couple of books to his room and shut the door. We finally went to bed, coming awake at the slightest noise.

When I returned home from work the next day, Mark was really beginning to be in bad shape. He was suffering from cold sweats, cramping and diarrhea. His temperature was 101. I was awake all that night with him.

Many times I caught myself staring at him—seeing the curly-haired baby, the toddler, the little boy and remembering the baptism, the first words, first steps, first days of school. I recalled watching one day when he was about 4, standing in the yard for long moments, staring at a rose—his nose almost in the petals and eyes almost crossed from being so close . . .

I remembered standing with him, when he was about 12, on the walkway along the Grand Canyon during a vacation. After studying the grandeur for a long time, it was a strangely quiet and subdued Mark who turned to me and said: "You would have to believe in God, wouldn't you?"

This was the same lad—my flesh and blood fighting for his life.

Mark apparently had been successful in his withdrawal. He remained around home for about 10 days, then went to another town and secured a job driving a delivery truck. We felt certain he was off hard drugs.

But after several weeks he returned home. One evening his mother was working in the kitchen, and I was in the living room cleaning out some old picture albums.

His mother came hurrying in and told me Mark had slipped a spoon into his pocket. "What does he want with a spoon?" she wondered:

I leaped from my chair and ran to the bathroom. The door was locked.

"Open this damned door!" I roared.

No answer . . . I raised my foot and smashed it against the door. Wood splintered, the door slammed against the bathtub . . . and there sat Mark.

There sat my son: Stripped to the waist with his belt knotted and twisted about his left bicep. His face was flushed from the strain and his eyes wide from the shock of the moment.

In his right hand was a plastic syringe. It was partially filled with a cloudy liquid. A scorched spoon and burnt matches were on the washbasin.

I smashed the needle from his hand and stomped it shapeless on the floor. Mark was stunned. I pushed him out into the living room.

"Get your butt on that chair, "I choked out. "I haven't touched you in a long time, but if you quiver even one finger, I'll slap you senseless."

Mark sat rigidly. My horror-stricken wife stood in the doorway. I stalked out onto the front porch, fighting to calm my racing heart. I knotted my fist and slammed it into the cold stone of the porch column.

The sudden pain cleared my mind a little but not enough to erase the images: The belted arm with its distended veins, the poised needle and Mark's eyes, those frightened eyes.

"God . . . God . . . God, where from here?" I sobbed

Days later, Mark admitted to me that not only had he resumed taking heroin but that now he was up to eight bags a day at $10 a bag. Meanwhile he had agreed to tests.

The doctor minced no words. Mark had contracted serum heptitis, apparently from a contaminated syringe. The hepatitis had resulted in liver malfunction and damage, cardiac problems and chronic abdominal pain. We were told Mark should have absolute bed rest and a special diet. We asked what would happen if this were not done.

"Generally, death."

"How soon?"

"Depending on variables . . . six to 18 months."

After much trying, we found a hospital that could and would treat Mark, but in spite of his good intentions to attempt rehabilitation, the withdrawal agonies became too much for him.

On the afternoon of the third or fourth day, Mark slipped out an unlocked window. He was picked up as he tried to make his way to town. He was returned to his ward and placed in a bare locked room.

The next day we went to see Mark—through a long corridor filled with people of all ages. Many of these were seated in rocking chairs, going slowly backward and forward. Some crooned as they rocked. Others just stared into their own nothingness.

Mark looked like he had not eaten for two or three days. Treatment had not yet begun. He begged to be taken home.

I no longer believe Mark's assurances, that he would change, take any cure.

"Mark, there just does not appear to be a place for treatment, a doctor, a hospital, for you. I don't believe any of this because you have said it all before. But I will take you out of here."

From here it was downhill all the way. Mark and his friends were said to be ripping off stealing from other addicts—drugs and money. We began to receive threatening phone calls. Weird characters came to the door wanting Mark or some of his buddies, wanting money, threatening to beat or kill Mark.

I bought a gun. Our doorbell was only answered when the gun was hanging on its nail in easy reach.

Mark was in and out of jail several times. He was continually wanted for questioning. He said he was going to turn himself in and see what they wanted. He never did.

Once I got a glimpse of him on the street, but he vanished before I could get my car turned around.

Eventually Mark stopped by the house and talked to his mother. He was so weary, sick and haggard that he swayed and staggered as he walked.

My wife was calling me when she heard Mark leave the house.

She ran to him and grabbed his arm. He twisted free and staggered away.

As he half-ran, half-walked, he turned and called over his shoulder: "I'm sorry, Mother, I'm sorry."

Several days afterwards, Mark was arrested again. He was unable to run any more.

He was taken to county jail to face cold-turkey withdrawal and multiple criminal charges—all piled up through feeding his habit.

On the second day in jail, without sedations, methadone or counseling, Mark ripped his arm open again with a piece of jagged metal.

We rushed to the jail. Mark was only in a pair of trousers, being searched.

"Are you okay?" I shouted.

He just looked around and nodded.

From there Mark was put in the "hole"—a solitary cell. We did not see him again for three days while he was going through whatever hell he had to face—alone.

Mark has been locked up for several weeks now. He has survived the painful, lonely withdrawal. His doctor has been in to examine him. A minister has been making regular visits. A lawyer is working on his case.

He says his addiction cost him $25,000 for the past year. We've paid over $5,000 so far, more than enough for a degree from a good college.

But who knows what the cure will be.

It will take more than condemnation by those as yet untouched by the horror.

It will take more than speeches at clubs or sermons in church.

It will take more than the current efforts of the mental health departments or law enforcement agencies or other branches of government.

It will take the combined effort of every one of us—from all walks of life.

Your child may very well be out there right now, like mine was . . . needing help . . . seeking answers . . . and whom will he turn to . . . a pusher?

My son is an addict. But he is your son, too, just as your son or daughter is also mine . . . to help as long as I have breath or strength. Or love.

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## A SKEPTICAL ECONOMY

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. HARRINGTON. Mr. Speaker, when the President proposed his program to stimulate the economy, many of us argued that it was both misdirected and inadequate; that the package of probusiness tax cuts which he proposed and which we unfortunately enacted with little change would fail to make a serious dent in our unemployment problem.

It is becoming more and more clear that this is the case. Recent downward revisions in economic projections confirm the fear that we will finish the year with unacceptably high unemployment—unless we move decisively to restimulate the economy in socially productive ways.

There will be a proposal forthcoming in the near future to provide more public-service jobs for men and women who want to work, but now cannot find jobs. The following article from the Wall Street Journal, quoting the view of Prof. Henry Wallich, makes clear the need for such programs.

The article follows:

DOUBTS ON ECONOMY'S 1972 GROWTH OUTLOOK ARISING NEAR U.S. POLICYMAKING CENTERS

WASHINGTON.—Skepticism about the economy's 1972 growth prospects is creeping closer to the government's policy-making centers.

The Treasury's top economic consultant openly asserted that the gross national product is more likely to rise $85 billion than the $98 billion officially forecast by the Nixon administration. And a Commerce Department revision left the last quarter's GNP—the dollar value of total private and governmental output of goods and services—flowing a little less assuringly.

The overriding concern at high levels in the Nixon camp is whether unemployment will be reduced significantly enough to remove it as a campaign handicap. While the present inclination is to hold off any fresh action until current budget and monetary policies have about three to six months to prove themselves, the contingency planning extends to such last-resorts as a new Works Progress Administration or WPA, for massive public employment.

#### GREATER PLAUSIBILITY

Henry C. Wallich, Yale professor and part-time senior economic consultant to Treasury Secretary John B. Connally, split from the optimistic official line in testifying to the congressional Joint Economic Committee on Friday. Instead of a GNP rise to $1.145 trillion this year from the $1.047 trillion of 1971 as the administration predicts, Mr. Wallich said, "a forecast of $1.132 trillion has greater plausibility."

His own forecast is considerably less optimistic than the "consensus" of prominent private economists, too, Mr. Wallich noted. But he has "some uneasiness" about this consensus, he explained, on grounds that it is based too narrowly on mathematical formulas and because it masks wide variations between high and low estimates for various sectors of the GNP.

Asked about Mr. Wallich's statement, a spokesman for the President's Council of Economic Advisers said that "we still have confidence in our forecast." While there are "uncertainties," he conceded, the elapse of one month since the council forecast was issued is too short a time to justify "jumping to another conclusion." Besides, he added, the January statistics for industrial production and other indicators "weren't all that bad."

The Commerce Department's latest revision of GNP figures wasn't nearly as sharp as the one it had made in January for the first three quarters of last year. This time it pared only $100 million from the original version of a $1,072,900,000,000 seasonally adjusted annual rate.

#### "REAL" RATE SLICED BACK

But the fourth quarter's "real" GNP growth rate—expressed in 1958 dollars to strip away the effects of inflation—was sliced back to 5.8% from the original version of 6.1%, which officials had hailed as the start of the 6% trend they're seeking for 1972. And the GNP price-inflation index, while still sharply reduced from other recent periods, was scaled up to a 1.7% annual rate from the original estimate of a 1.5% pace.

Two sectors of the GNP underwent major and largely offsetting changes, the department said. With dock strikes taking a larger toll than expected, the deficit on foreign trade in goods and services combined was revised to a $4.6 billion annual rate from the earlier estimate of a $2 billion deficit rate. But business fixed-investment was scaled up by "almost the same amount," the report added.

The consumer spending rate was reduced by $500 million, it also showed, but business inventory accumulation was revised upward by a like amount to a $2.4 billion annual rate. The saving rate was revised upward to 7.8% of after-tax personal income from the earlier version of 7.7%.

Also in testimony to the Joint Economic Committee, former Johnson administration chief economist Arthur M. Okun said his GNP forecast is $5 billion below that of the Nixon administration estimate for 1972. The "important difference," though, he said, is that he expects the unemployment rate to be 5.4% around year-end, in contrast to the administration's estimate of the rate being in "the neighborhood of 5%."

#### TAX REBATE PROPOSED

Disputing the recently voiced fears of some private business economists, the Brookings Institution senior fellow said "I see no economic risk in applying more stimulus to the economy now or in the next few months," and suggested a $100 one-time tax rebate on each 1971 individual income-tax return this spring. "The danger that the consumer might continue to refuse to climb on the bandwagon toward recovery is sufficiently serious to warrant contingency planning at this time," Mr. Okun said.

As part of its own contingency planning, the Treasury has sent a private memorandum to key officials of other agencies asking, among other things, "What is and can be done to put the unemployed to work for the government, a la WPA?" In recent public testimony, Nixon administration officials have bitterly criticized large-scale public-service-employment programs such as the Depression-era WPA, but congressional questioners have reminded them that they sounded just as adamant against wage-price controls and dollar devaluation prior to last Aug. 15.

While the dispute about how much unemployment will be reduced this year from the recent level of about 6% continues, so does the dispute over whether the administration's "full employment" goal should continue to be a 4% jobless rate.

Mr. Wallich observed that "today, 4% unemployment unfortunately is more inflationary than in the past." While favoring "direct action" such as massive job-training to reduce disproportionately high unemployment among women and teen-agers, he asserted that "we must rid ourselves of the implication attached to the overall unemployment figure that the part-time unemployment of a high school teenager has the same social significance as the unemployment of a head of a family."

#### REDEFINED, DEVALUED CONCEPT

Expressing concern that the administration wants to "abandon the battle for non-inflationary full employment and seek shelter in a redefined, devalued concept of full employment," Mr. Okun estimated that the cost of having 6% instead of 4% joblessness is "about $75 billion in lost production and lost income." In addition, he argued that it is important whether a recent high school graduate "is greeted by a society eager for his contribution to the productive process or rejected because of a shortage of jobs," and that "it is relevant whether a woman in her forties who has sent her youngest child off to college . . . finds something productive to do."

Also on Capitol Hill Friday, the Senate confirmed Marina Whitman as a member of the Council of Economic Advisers, and confirmed the reappointment of William B. Camp for a five-year term as Comptroller of the Currency, or regulator of U.S.-chartered banks. The Senate Commerce Committee cleared Peter G. Peterson to become Commerce Secretary, but the nomination hasn't yet reached the Senate floor.

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## YOUTH WITH A PURPOSE

### HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mrs. GRASSO. Mr. Speaker, this week we honor those fine young men and women who are members of the vocational agricultural education program known as Future Farmers of America.

The FFA program, open to youth between the ages of 14–21, has a current enrollment of nearly 550,000 high school students in 49 States, Puerto Rico, and the Virgin Islands. In Connecticut, there are 17 chapters of FFA with over 1,000 members—including five chapters in my Sixth District: Canaan, Litchfield, Southington, Suffield, and Woodbury.

The Future Farmers of America provides an opportunity for interested young men and women to study agriculture through seven related topics. These include: agriculture supplies and services; agricultural processing; ornamental horticulture; product agriculture; natural resources; agricultural mechanics and engineering-electrification, and forestry.

Providing adequate, nutritious food for our people is a vital responsibility, as the future unfolds and our young people play an increasingly important role. Today's young farmers, through FFA, are being given the opportunity to study this problem and help arrive at solutions. More and more, the young people of today are being called upon to meet the challenges of the future, and through the Future Farmers of America program they have the chance to meet these challenges head on. The FFA helps these young people to foster creative ideas in the modern, complicated world of agriculture.

The Future Farmers of America deserves our support and our admiration. I am pleased to join my colleagues in saluting this great organization.

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## SOUTH GEORGIA LIMITED ACCESS HIGHWAY ASSOCIATION

## HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BRINKLEY. Mr. Speaker, I recently had the privilege of giving the welcoming address to a meeting of the South Georgia Limited Access Highway Association at Callaway Gardens in Pine Mountain, Ga. This meeting was attended by State highway officials from six States—Alabama, Mississippi, Tennessee, Arkansas, Missouri, and Georgia—and was concerned with construction of a proposed limited access highway which would stretch from Kansas City, Mo., to Brunswick, Ga. This proposed major highway would, in effect, connect the southeastern and midwestern United States. In view of the widespread interest as well as the importance of such a highway, I would like to bring to the attention of my colleagues excerpts of my remarks which were made at the meeting and those of Col. Kermit Blaney, retired, the executive director of the South Georgia Limited Access Highway Association. Colonel Blaney is also my good friend and neighbor from Columbus, Ga., and is providing excellent leadership to this much needed and deserving project.

The articles follow:

### ADDRESS BY REPRESENTATIVE JACK BRINKLEY

Fourteen months ago near Cartersville, Georgia, on U. S. 41 Thomas Jenkins, his wife and their three children, in their 1962 Plymouth station wagon, were returning home from Marietta. They were northbound. Several miles beyond them, an elderly Missouri couple, Mr. and Mrs. John Jeter were proceeding southbound on that same highway, U. S. 41; intended destination, Orlando, Florida. They were never to make it.

Four minutes later, somehow, Mr. Jeter lost control of his 1970 Bonneville and the lives of seven people were snuffed out in a moment.

Thomas was only 34, his wife 31. He was a skilled craftsman with Lockheed. Their oldest son was nine, with bright eyes and a zest for living. The second child was a curly headed seven-year old girl. The baby was only three.

The Jeters were retired. Healthy, and with many of the best years of their life before them.

The tragedy didn't have to happen. Had I–75 been completed, Las Vegas would have given long odds against its happening. You see, I–75 is the parallel replacement road for U. S. 41.

To build the most modern highway known to man and connect it with a one-mile mud puddle link, reduces the efficiency of the highway to the mud puddle!

This is I–75. The portion of U.S. 41 still in use is the mud puddle. And, it is travesty that the U.S. Department of Transportation has not shown the willingness or ability to make a decision in this regard.

The story I have told you is a fictitious one. It is not true. But the statistics are even greater. In the past 14 months, 18 killed; 337 injured on that stretch of road.

Conservation? Doesn't the conservation of human life count for anything?

And who is there among us who ever saw an ugly interstate? Medians with trees; broad, sloping, grassy shoulders!

Who speaks for conservation? Ecology? The environment?

A pastor could hardly allow an imposter to occupy his pulpit. All of us should just as vigorously oppose the pre-emption of this field by those no more qualified than ourselves.

Of course, we care about aesthetic consideration. Of course, we are concerned with the surrounding terrain. Of course, we want quality control. And of course, good roads can be consistent with all of these things.

Our job as reasonable men and women is to be leaders, champions for conservation, for ecology, for the environment, for good roads. Each complements the other and we must not allow that good package to become contaminated by omission of any one item or a fetish for any one.

Reasonable men do not wish to go back to Adam and Eve. Nor to the caves; neither do we wish to spoil. Our motto should be, along with 4–H'ers, to make the best better.

Finally, on the question of limited access, may I quote several paragraphs from the following article which appeared in the *American Road Builder*:

"Controlled" or "limited" access actually is a guarantee that a highway will live, and not become obsolete in sections because of fringe development. More specifically, when access on a highway is "controlled," or "limited," it means simply that all access points have been designated in advance of construction, as the road was designed, and rights of way needed for its construction then acquired incorporating all access points into the land deeds and barring others.

"It means the prohibition of direct access to the through-traffic lanes from individual properties contiguous to the rights of way, thus reducing the number of potential congestion or accident points. It means no traffic intersections at grade, no stop lights, no stop signs and no left turns.

"Controlling access assures preservation of the highway investment, guaranteeing use of the right of way for travel in perpetuity. It means that you can get on and off the main roadway only at facilities designed especially for that purpose. It means safety, convenience, comfort and a minimum of traffic congestion for the user."

As Shakespeare once pointed out:

"There is a time in the affairs of man which taken at the flood leads on to fortune, omitted all the voyages of their lives are bound in miseries and in shallows; on such a full sea are we now afloat and we must take the current when it serves, or lose our ventures."

The best poverty program that could ever be developed would be to put people to work. What better way than by putting people to work as an investment in public works projects, whether it be dams, or buildings or roads?

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### ABSTRACT OF REMARKS BY KERMIT B. BLANEY

Interest has been growing for this highway corridor as is demonstrated in all communities along the route and it is easy to gain the impression that this is primarily based on selfish political interest. This, in my opinion, is like the cliche, put me in office and I'll get you the highway. If this was our justification for the highway, I would not be a part of it and would not be here today.

The real justification and need for this highway corridor is far and beyond selfish interest. To point this up let us again look at the entire United States.

1. It is estimated there are over 205 million people in our nation—with over 30% or some 70 million concentrated in the northeast.

2. Ecology and contamination are fast becoming common household words and this is primarily because of the conditions that have developed in the over congested northeast area.

3. Our educators and learned writers are more than attempting to enlighten and at the same time caution us regarding future plans and developments. The recent runaway best seller Future Shock by Alvin Toffler, provides some interesting and enlightening facts on how rapidly we are progressing in all areas and changes are urgently needed to cope with conditions of tomorrow. Although I'm not a student of the megalopolis theory, wherein there will only be five large cities in the entire United States, in my opinion, the facts presented in support of this theory warrant more than cursory consideration. We should also become more aware of today's positions and advice from our modern urban geographers and civil engineers.

I'm sure many of you have read the quotation in our brochure attributed to the late Thomas H. McDonald, head of the Bureau of Public Roads for 34 years when he once said, "we were not a wealthy nation when we began improving our highways but the roads themselves helped us create a new wealth in business and industry and land values . . . So it was not our wealth that made our highways possible; rather, it was our highways that made our wealth possible."

In my opinion the United States must grow outward from the northeast area. To meet this growing need more modern land lines of communication are required outside that area. The highway corridor will go far to meet the initial expansion area required. It ties the heartland of the United States so the southeast coast—and here international deep water ports are available for expansion. A closer look at the corridor presents another factor. It is understood that traffic service here—Kansas City—Springfield, Mo.—and here between Memphis and Birmingham and here between Interstate 85 and Interstate 75 goes far toward justifying this highway need today.

We are honored that our highway officials from the six States would join with us in our meeting here today. The greatest majority of us came here for a common cause, we want this highway corridor evaluated—not only looking at it as to what it will mean to Waycross, Ga., Sylacauga, Ala., Tupelo, Miss., Newport, Ark., or Springfield, Mo.—more than that—we feel that this corridor goes far to meet one of the greatest needs in the central and southeastern United States—and in my opinion in the best interest of our planned highway network serving the United States.

Therefore we have a joint request to make, and here it is:

We wish to initiate a request to the respective state highway departments and to the federal highway administration to accomplish an overall survey analysis on the proposed highway corridor connecting the southeastern with the midwestern United States and to provide an official route or corridor designation for same.

Further, we request a reply report on the survey analysis at our next meeting in Memphis, Tennessee, Monday, October 9, 1972.

I'm sure that most anyone of us could go on expounding on this highway corridor for some time, but we do not feel we need to belabor the matter anymore among ourselves.

In summary, I wish to add that it is inspiring to me, in the day of dehumanized, computerized programming, to be able to be a part of this project. Here's why: Everything these days seems mechanized and impersonal, yet this program brings together major cities like Birmingham and Memphis, and the smallest counties in Arkansas and Georgia, working hand in hand, on an equal basis, toward a common goal—the completion of this highway, which will be a vital link between the peoples of our great nation.

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## TWELFTH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF CHAD

### HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DIGGS. Mr. Speaker, Tuesday, January 11, 1972, was the 12th anniversary of the independence of the Republic of Chad, and I wish to speak briefly about the progress made during these 12 years by the Government and people of Chad.

The people of Chad trace their lineage to several of the ancient empires of central Africa, including the magnificent kingdoms of Kanem-Bornou. Francois Tombalbaye, who became President of Chad at independence, endeavored to bring members of all religious and racial groups into his government. He encouraged the expansion of the Parti Progressiste Tchadien, hoping to use the party to stimulate a greater sense of national identity among Chad's peoples. During my visit to Chad in the spring of 1970, I noted the efforts of President Tombalbaye to weld his people together. He sought and obtained foreign assistance from abroad, principally from France, and he espoused the practice of regional cooperation among African states.

Development has not been easy. The subsistence nature of the Chadian economy permits little local capital formulation, and Chad thus remains highly dependent for economic improvement on increasingly scarce foreign assistance. Rebellion by bandits and political insurgents necessitated a call on France for military assistance in the late sixties. Conflicting national goals sometimes checked efforts at regional economic development.

Twelve years after independence, however, President Tombalbaye heads a civilian government which includes representatives from all parts of Chad. Government control has been reestablished over most of the country, amnesties have been granted political opponents, some of whom now are members of the government, and the modest French forces which helped Chad curb insurrection have begun their withdrawal. Within the party, there is vigorous debate, and all sectors of the population are represented in its leadership. Even dissident students have access to the President, who recently took a personal hand in correcting some of the problems which sparked student protests in Fort-Lamy. President Tombalbaye's role within Africa has been recognized by his peers, the other African Chiefs of State who have elected him President of OCAM, the African and Malagasy Common Organization, for 2 successive years.

On this anniversary of Chad's independence, the progress made in national development by the President, his government and people merits commendation. Congratulations to President Tombalbaye and to the people of Chad, and best wishes for a development which I hope the United States will continue to support.

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## TRANSPORTATION FOR THE ELDERLY AND HANDICAPPED

### HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mrs. ABZUG. Mr. Speaker, this afternoon, I had the privilege of testifying before the Subcommittee on Housing of the Committee on Banking and Currency on urban mass transit in general and the transportation problems of the elderly and the handicapped in particular.

Under the 1970 amendments to the Urban Mass Transit Act, we have begun to move toward redesigning transportation facilities so as to make them accessible to elderly and handicapped persons. This work will take many years to accomplish, and we must provide some assistance in the interim.

H.R. 10909, which is sponsored by 20 Members plus myself, would permit the Secretary of Transportation to make grants to private nonprofit groups willing to undertake transportation of the elderly and the handicapped. It would also increase from 1½ to 2 percent the proportion of Urban Mass Transit Act funds available for elderly and handicapped programs in the field of transportation.

I include at the conclusion of my remarks the text of my statement before the subcommittee, the text of the bill, and a list of the 20 cosponsors:

#### TESTIMONY BEFORE THE SUBCOMMITTEE ON HOUSING OF THE COMMITTEE ON BANKING AND CURRENCY: URBAN MASS TRANSIT, TRANSPORTATION FOR THE ELDERLY AND HANDICAPPED

Mrs. ABZUG. Chairman Barrett, Members of the Subcommittee, it is a pleasure to appear before you this afternoon.

I think that you are all aware of the tremendous problems facing our urban areas with regard to mass transportation. Our existing mass transit facilities and systems are in large measure unable to cope with the demands made upon them. The facilities are often old and subject to breakdowns; the systems are uncoordinated and do not cover sufficiently either the central cities or the suburbs. Individuals who cannot afford automobiles are compelled to struggle with these shortcomings, enduring inhuman conditions just to get to and from work each day. Because we have failed to make mass transit as attractive as private cars, people who *can* afford cars are willing to suffer through rush hour traffic conditions; as a result, our ears are choked by noise and our lungs are choked by fumes.

It is apparent that massive infusions of capital are necessary to redesign and modernize our urban mass transportation systems and facilities as well as to meet day-to-day operating costs. Only the federal government has the financial wherewithal to do this, and I am a co-sponsor of legislation which would make the Highway Trust Fund available for mass transportation purposes, as well as other legislation which reflects the great need for federal financial assistance in this area. We are all in this together, and it is a terrible mistake to take the parochial view that funds collected as highway use taxes should be used only for highway purposes.

#### TRANSPORTATION FOR THE ELDERLY AND HANDICAPPED

You have already heard from other witnesses about the general need for help in improving urban mass transit, so I will not dwell on that subject further. I would, however, like to discuss briefly a specific and very much needed program—transportation for the elderly and the handicapped—and a specific bill which I have introduced on this subject, H.R. 10909.

Ten percent of this country's population is over the age of 65. 70% of all single women and 32% of all single men in this category have incomes of less than $2670 per year; one-quarter of all individuals in this category have incomes below the poverty line. After food and housing, transportation is the top expenditure in senior citizens' budgets, accounting for about 9 cents out of every dollar.

Three percent of our population—6 million individuals—is chronically handicapped, and an additional 4.6 million have short-term disabilities. More than half of the chronically handicapped have incomes below the poverty line.

The elderly and the handicapped are often isolated and unable to make full use of transportation services in their communities. Use of public mass transit systems is often impossible for persons confined in wheelchairs or needing individual assistance due to their physical or emotional handicaps. Without adequate transportation, these people are denied access to shopping areas, recreational facilities, gainful employment, and social contacts. Cut off from these life needs, many of the elderly and the handicapped find themselves in isolation, often leading to mental and physical deterioration.

Some movement toward alleviating this problem has been made. Section 16 of the Urban Mass Transit Act, added in 1970, permits the use of 1½% of the total funds allocated for mass transit programs for the provision of transportation services "which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons." Plans and studies are being made with an eye toward modifying existing mass transit facilities to make them accessible to the elderly and the handicapped. Furthermore, efforts are being made to see to it that systems and facilities built in the future will be designed so as to be accessible to these people.

Section 16, as presently worded, is not sufficiently flexible to meet the transportation needs of the elderly and the handicapped. The modification of existing facilities and their replacement with better designed new facilities, will be an immensely costly undertaking and will doubtless take many, many years to accomplish. We cannot ignore the needs of these disadvantaged people until the far-off time when our regular facilities are able to handle them.

Last fall, I introduced H.R. 10909 (reintroduced, with 20 co-sponsors, as H.R. 11259), which would amend section 16 to enable the Department of Transportation to provide grants to private, nonprofit groups which are willing and able to provide transportation for the elderly and the handicapped *here and now*. The bill raises from 1½% to 2% the percentage of Urban Mass Transit Act funds available for transportation aid for the elderly and the handicapped; this represents an increase in the existing authorization of $15 million. The groups receiving these funds would transport the disadvantaged to and from hospitals, clinics, shopping centers, recreation centers, and cultural activities, thus enabling them to enrich their lives and increase their independence.

I am not suggesting that we should eschew careful, long-range planning to adapt our mass transportation systems to the needs of the elderly and the handicapped, but only that we should recognize the needs as current ones. H.R. 10909 clearly provides that grants to private groups for transportation purposes would only be made in areas where the regular mass transit facilities are "unavailable, insufficient, or inappropriate" for the needs of this specialized group.

I am sure that we are all agreed as to the need to modify our transportation systems to take care of these people. I hope that we can also agree as to the need for some immediate relief, and that this bill—or at least this concept—will receive favorable consideration from this distinguished subcommittee.

Thank you.

### H.R. 10909

A bill to amend the Urban Mass Transportation Act of 1964 to authorize grants and loans to private nonprofit organizations to assist them in providing transportation service meeting the special needs of elderly and handicapped persons

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 16(b) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b) In addition to the grants and loans otherwise provided for under this Act, the Secretary is authorized to make grants and loans—

"(1) to States and local public bodies and agencies thereof for the specific purpose of assisting them in providing mass transportation services which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons, with such grants and loans being subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under section 3(a) and being considered for the purposes of all other laws to have been made under such section; and

"(2) to private nonprofit corporations and associations for the specific purpose of assisting them in providing transportation services meeting the special needs of elderly and handicapped persons for whom mass transportation services planned, designed, and carried out under paragraph (1) are unavailable, insufficient, or inappropriate, with such grants and loans being subject to such terms, conditions, requirements, and provisions (similar insofar as may be appropriate to those applicable to grants and loans under paragraph (1)) as the Secretary may determine to be necessary or appropriate for purposes of this paragraph.

Of the total amount of the obligations which the Secretary is authorized to incur on behalf of the United States under the first sentence of section 4(c), 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs)."

### COSPONSORS

Mr. Addabbo, Mr. Bingham, Mr. Burton, Mrs. Chisholm, Mr. Collins of Illinois, Mr. Dellums, Mr. Eilberg, Mr. Gude, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Helstoski, Mrs. Hicks of Massachusetts, Mr. Pepper, Mr. Pike, Mr. Podell, Mr. Rangel, Mr. Roe, Mr. Rosenthal, Mr. Ryan, and Mr. Scheuer.

## CONGRATULATIONS TO MAPLE HEIGHTS WRESTLING TEAM

## HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. JAMES V. STANTON. Mr. Speaker, I would like to extend my warmest congratulations to the Maple Heights High School wrestling team upon the achievement of their 100th consecutive victory. Their proud record reflects the great ability of Coach Mike Milkovich and his staff, who have caused high school wrestling in Maple Heights to become synonymous with diligent work and steadfastness in the pursuit of excellence. The many young men of Maple Heights who helped compile this record have had their lives immeasurably improved through the high standards of physical and mental fitness required for wrestling, but equally important is the sense of pride and excitement that the team has inspired in our community.

In honor of the achievements of Coach Milkovich and the Maple Heights wrestling team, I insert into the RECORD the following tribute from the Southeast Sun:

### SUN OPINION—A GREAT RECORD

Maple Heights High and its "Mr. Wrestling," Coach Mike Milkovich, still are celebrating their mat teams' almost unbelievable string of 100 consecutive victories, and no one will resent their moment of pleasure.

The Southeast Sun joins in congratulating the school for its accomplishment, and extends a special salute to the man most responsible for the record—Mike Milkovich.

He has been the one constant factor in the school's phenomenal success in wrestling over the past 16 years, and tribute should be paid his ability to produce teams that consistently have led in state competition.

Milkovich himself was a great wrestler, reigning as a state high school champion in 1941 and northeast Ohio Amateur Athletic Union champion at Kent State University in 1948.

But being an outstanding athlete in any sport does not guarantee the individual will be an outstanding coach. Milkovich's record proves he has been both because he has been able to inculcate his vast knowledge of the sport in his squad members.

Perhaps Milkovich's most important trait is his ability to motivate his youngsters. He has done this by exhibiting a rare expertise in the sport and also gaining and maintaining the respect of the students.

He has successfully combined the two with a wise choice of assistant coaches to build a winning spirit at Maple Heights. He also has taught the boys that when defeat does come, the real athlete picks himself up after a loss and starts a winning streak anew.

In fact, in some circles his 186–3 overall record at Maple Heights High rivals closely the 100-victory string.

Nor does the general public know that Milkovich devotes untold hours to segments of the sport not primarily of benefit to the Maple team. He has held numerous offices in city and state wrestling organizations, and has shared his knowledge at many meetings and seminars.

In wrestling, Milkovich has had the best of two worlds. He has been able to demonstrate to the individual athlete that his performance helps in the team effort, but the coach also can impress on his youngster something all persons, not just athletes, eventually must learn: that each is responsible for his actions, and how he makes out in life will depend mostly on him.

That Maple Heights High is fortunate in having Milkovich is self-evident; perhaps not so evident but immeasurably more important is that hundreds of Maple Heights High athletes have been exposed and influenced by a fine gentleman . . . CJR.

## HOUSTON NATIVE WINS WORLD CHAMPION RODEO TITLE

## HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ARCHER. Mr. Speaker, I would like to pay tribute to a real cowboy, a native of Houston who has just capped his finest year on the professional cowboy rodeo tour by winning the world champion all-around title at the International Finals Rodeo in Tulsa, Okla.

Jack Wiseman, a resident of Missouri City, Tex., has for years been a top performer in rodeo with the International Rodeo Association, and this year he set a purse earnings record for IRA cowboys.

Wiseman is only 28 years old, yet he is already a veteran rodeo performer of 11 years standing, the last 4 with the International Rodeo Association. Versatility is the mark of a true cowboy, and Jack Wiseman is truly versatile. This year he was the only man to work a riding event and a timed event in the IFR, competing and winning the bull riding competition, and finishing third in steer wrestling. It is rare for a rodeo performer to compete in both riding and timed events, but the unusual combination has paid off handsomely for the talented Texan, as he added a second world championship title to the one he won in 1969.

Jack Wiseman is a true cowboy, having been raised on his father's ranch near Texas City where he learned firsthand and at an early age of the bumps and bruises attendant to riding bulls and bucking horses. Today, when not on the "Suicide Circuit," he still makes his living as a working cowboy on ranches in south Texas.

A fitting champion, Jack Wiseman is a model representative of a sport that has resisted exploitation and over-organization—one in which personal initiative and pride of performance are the marks of a man. The cowboy still sets his own schedule, pays his own fees and expenses, and arranges for his own future, fiercely resisting conformity and manipulation. The rodeo cowboy remains independent and self-reliant, doing "his own thing" in his own, unique, individual way—an example for all of us in an age of regimentation and follow the leader.

## TWENTY-THIRD CONGRESSIONAL DISTRICT'S COMMUNITY CONFERENCE—"MAKING GOVERNMENT WORK BETTER"

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## HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BINGHAM. Mr. Speaker, for the sixth year I have sponsored, with the cooperation of the New York University, a community conference to which all residents of the 23d Congressional District were invited. The theme of this year's conference, on November 14, 1971, was "Making Government Work Better." As usual, a great many citizens turned out to hear opening statements and panel discussions by a number of distinguished guests. The opening statement was made by Senator EDMUND MUSKIE, and four panel discussions were conducted, with the following participants:

MAKING GOVERNMENT WORK BETTER

Panel I—Is the consumer adequately represented?—Auditorium.

Chairman: Hon. Robert Abrams, Bronx Borough President.

Panelists: Ms. Betty Furness, Congressman Benjamin Rosenthal, Author—Consumer Protection Agency Act of 1971, Paul Dixon—Federal Trade Commissioner.

Reporter: Ms. Ruth K. Nezin.

Panel II—Can Congress do its job?—South Lounge.

Chairman: Congressman Jonathan Bingham.

Panelists: Former Senator Albert Gore, Congressman Herman Badillo, Congressman Charles Rangel, and Edward Hamilton, Deputy Mayor of New York City, and Councilwoman Aileen Ryan.

Reporter: David Condliffe.

Panel III—How can we humanize bureaucracy?—North Lounge.

Chairman: Councilwoman Aillen Ryan.

Panelists: Dr. Jewel Bellush, Professor of Political Science, Hunter College; Staff Director, City of New York Commission on State-City Relations, Victor Gotbaum, Executive Director, District Council 37, American Federation of State, County and Municipal Employees, Edward Hamilton, Deputy Mayor of New York City.

Reporter: Mrs. Shellagh Perry.

Panel IV—Does the military have too much influence?—Auditorium.

Chairman: Congressman Jonathan B. Bingham.

Panelists: Cyrus R. Vance, former Paris peace negotiator and Deputy Secretary of Defense, Adam Yarmolinsky, Author—The Military Establishment, and J. Daniel Mahoney.

Reporter: Mrs. Jerri Rose.

Conference Coordinator: Mrs. Lucille Felsenthal.

Mr. Speaker, it was not possible to take a verbatim transcript of the proceedings, except for Senator MUSKIE's opening statement. The following summaries, therefore, are based on rapporteurs' notes. I am pleased to submit them for the RECORD in view of the excellent observations and recommendations they contain on a subject of broad interest to the public and to the Members of this Congress:

### PANEL II—COMMUNITY LEADERSHIP CONFERENCE REPORT

### CAN CONGRESS DO ITS JOB?

Chairman: Congressman Jonathan Bingham.

Panelists: Former Senator Albert Gore, Congressman Herman Badillo, Congressman Charles Rangel, N.Y.C. Deputy Mayor Edward Hamilton, and N.Y.C. Councilwoman Aileen Ryan.

Reporter: David Condliffe.

Senator Gore argued for three reforms:

(1) a reform in the independence, in the responsibility and in the political courage of the men and women in Congress.

(2) American elections should be freed from private money

(3) The procedure of Congress should be brought to the American people on television and radio.

In arguing for a reform in the moral courage and responsibility of the members of Congress, Senator Gore stated that Congressmen must put the interests of the American people ahead of their own political fortune. What right does a senator have to vote to confirm the Supreme Court nomination of an unqualified man, no matter from whence he comes?

Secondly, American politics should be freed from money. The greatest threat to our democracy is money in politics. "We saw last week two events: 1) a United States Senator who had declared himself a candidate for President found he had to withdraw after six weeks, because he said "I'm broke." It cost him $50,000 a month to run for President. 2) We saw a fund-raising event on closed-circuit T.V., an event which reportedly raised $5 million in one night for President Nixon. Now how does a man of the people without the support of the money bags compete with a man who has access to virtually unlimited campaign funds? The inequality is glaring.

How does that affect the public interests? In this day of mass communications, a monied candidate for Congress, for the Senate or for the Presidency can buy up the time on television and radio to smear his opponent. Why, ladies and gentlemen, in this country of freedom should we allow the principle force of the decisive last days of a campaign to be the size of a candidates campaign chest?

Last year the Congress voted to place a limit on the usurpation of television time for political purposes. But it was vetoed. There has been a battle on all this year. I don't know what the outcome will be. But instead of a limitation we ought to eliminate private money in politics completely. If any candidate for Parliament of Great Britain spent one tenth as much as an average candidate for the U.S. Senate does in this country, he wouldn't be permitted to take his seat. That used to be the custom in our country. If a man corrupted the ballot box with vast amounts of money, he wouldn't be permitted to take his seat in the United States Senate. This is no longer true.

We are a nation of 200 million people. Yet we elect only 537 men and women to Federal office. Now one would think that when the whole system of freedom depends upon the integrity of such a small group that in filling these positions we would decide on the basis of merit. Rather we are now brainwashed by the amount of money which is spent.

Elections must be freed from both the money of politicians and the money of others. Let the government of the United States provide reasonable funds to conduct a regulated and a people-oriented campaign.

Thirdly, the proceedings of Congress should be brought to the American people. We have seen the growth of the power of the Presidency. We have seen the powers of the elected representatives of the people diminished, degenerated and denied. When the President speaks he has access to all the television channels and newspapers. There is no unified voice of the Congress and perhaps there never can be. There is however, a place they hold their meetings. Newspapers have reporters in the Gallery, but the television cameras are not permitted there. I think the American people need to look in upon their representatives every time they meet.

Senator Gore cited two examples to clarify his point: the televised hearings on the Vietnam war and on the deployment of anti-ballistic missiles.

Before the Senate Foreign Relations Committee hearings on the Vietnam war, the American people were frightened to criticize our policy lest they be accused of disloyalty. When they heard eminent Americans question the morality, validity and legality of the war, then the American people stood up themselves. It caused President Johnson to alter his course.

The second development concerned the deployment of the Anti-Ballistic Missile System. We held televised public hearings. This was a very bitter and close battle. We lost by a tie vote. But we really didn't lose. This was the beginning of many battles to redirect America. It led to the defeat of the SST. It led to the administration backing off on ABM. These were battles in the overall struggle to re-order priorities in our society.

These instances show what it means to the American people to be brought into the decision-making process. This was enlightened public opinion in participatory democracy. If we can do it on the big, the technical, the sophisticated issues, then we can do it on the other issues; tax policies, social security, the urban problems. This third reform, added to the other two, offers three fundamental steps which will bring Congress into a new order of effectiveness.

Mr. Hamilton made two additional points:

Mr. HAMILTON. (1) Congress can only do its job if the federal structure is changed. This means federal assumption of national problems such as: welfare, national health insurance, and general revenue sharing.

(2) Reform of the seniority system. New York City's obstacle with regard to revenue sharing is a single Congressman from Arkansas who sits on the Ways and Means Committee. It must be profitable for him politically to change his position. Presently the system is not structured to express popular will.

There is a serious danger of this nation falling apart if Congress does not treat the problems of our cities and states. Welfare, poverty and migration are national problems. General revenue sharing must be used to aid the cities and states in providing basic services like police, fire, sanitation and education. As long as seniority and money are the base of power in Congress, then cities will be underrepresented de facto if not in number.

Mr. BINGHAM. I couldn't agree more with Senator Gore. Elections are bought. Senator Gore knows whereof he speaks. His opponent bought T.V. and the newspapers.

I am presently in the middle of a fight on this problem in the Congress. The Corrupt Practices Act does no good. We have a reasonable chance this year of passing spending limits on television, radio and periodical advertising. Two committees are presently working on legislation on this problem. The Committee on House Administration is working on legislation to limit contributions and personal spending and to require more complete reporting. We also hope the President will recognize the importance of the litigation brought by Common Cause in this field.

Even if these controls are effective, it will still be possible to spend $12 million in a Presidential campaign. These are very large amounts of money.

We must find a way to put an end to the powerful lobbies in Congress. In the issue of Highways versus Mass Transit we are not underrepresented numerically; rather, the highway lobby controls many members of the subcommittee on Public Works. Reform in this area is at least as important as reform of the seniority system.

The real question is what is to take the place of the current system. Will taxes pay for campaigns? Is this politically real? If so, does anyone running in a primary receive federal money?

Senator Gore. I would like to answer that by way of an illustration. I recently spoke in San Diego. A man I had never met rose to tell me of his travels in Latin America. While in Sao Paulo, Brazil and in Lima, Peru he had witnessed fund-raising events attended by officers of U.S. corporations based in Latin America. They were raising money to defeat me back in Tennessee. I knew that a similar event took place in the Carlyle Hotel in London for their counterparts in Western Europe. What is their money doing in a Tennessee election? When I asked that San Diego audience if public financing of campaigns could be sold to the American people, the audience applauded. Let the taxpayers preserve *their* freedom by financing these campaigns instead of permitting them to be subsidized by private interests.

In answering your question about primaries, we must recognize that in many instances the primary is for all intents and purposes the election. The question is how to prevent every Tom, Dick and Harry from receiving campaign funds. There are several solutions. If a candidate can collect say 1000 signatures on a petition, we have some indication of a serious candidacy. We also could have runoff elections.

Also we must emphasize that we are not talking about vast sums of money. The cost of one submarine is more than the cost of most national campaigns.

Mr. Bingham. This will be one of the central issues of the 1972 campaign. The Twentieth Century Fund has decided to launch a comprehensive study of campaign spending.

Mrs. Ryan. In discussing campaign spending, I must ask the question: What about all elections?

This is one of the most serious problems.

Congressman Badillo discussed three issues which he felt prevent Congress from dealing effectively with our real problems:

(1) the job of Congressmen,

(2) the difference between appropriation and authorization,

(3) the seniority system.

The main issue to be discussed is what is the job of a Congressman. An example of this issue is in this week's Congressional Record.

Mr. Montgomery of Mississippi reports that he took a poll on the prayer amendment issue. The response was 85% in favor of prayers. He found that he voted the way they wanted him to back home. Yet as Congressmen we should not be talking only about the rights of the majority, but the rights of the individual, also. It is the function of Congress to uphold the Bill of Rights. The majority doesn't care about the minority and the majority doesn't come from the cities.

A second issue to be understood is the division between authorization and appropriation. Few new laws need to be written. We have the Employment Act of 1946, the Housing Act of 1968, Acts on higher education and health care. The crunch comes because all Congressmen have pens to write bills, but few will appropriate the necessary money.

The final issue is the seniority system. An example of this one is Carl Albert, the present speaker of the House. He has been in Congress for 20 years. At one time, Albert was a Rhodes scholar and no doubt 20 years ago he pushed for great innovations. The point is that those in effective power today are the reformers of a different generation.

Senator Gore. There is another element I wish to discuss: the leadership element. Should a Congressman represent the popular will or should he represent his best judgment? We are not a pure democracy. We are a representative democracy. When the people elect an official they invest in him their confidence. He owes them the benefit of his conscientious judgment.

Mr. Bingham. While many are dissatisfied with the seniority question, we must face the problem of what can replace it. Should the committee chairman be appointed by the speaker, elected by a majority caucus, elected by the committee itself, or should we stick to the seniority system but limit the terms to eight years?

Mr. Badillo. Chairmen now are theoretically elected by the caucus. I believe we need the effort of a real election. This would be the beginning of a responsive committee structure. He should be elected by committee members of the majority party. The method of selection should be geared to the Committee system.

Senator Gore. In considering alternatives, I must be frank to say that the longer I stayed in Congress the more I thought of the seniority system. Now that I have been promoted to private life, I view the seniority system as a tradition of American society. It exists in labor unions, in high school football teams, in the postal system, etc. I believe we should modify the seniority system but not abolish it. There is some value in experience, from having served over the years. Nevertheless it should not be the sole test. We should limit the selection of committee chairmen to the senior three members with the stipulation that once he is past 70 years of age, someone else should serve.

Mr. Bingham. Senator Gore spoke of the need to televise our sessions of Congress. I don't happen to agree with him on this point, I believe that if proceedings of Congress were televised, we'd just never get our work done, because the members' chief concern would be to get on camera. I think we should have cameras in committees and at special debates. In any case I recognize that this is a debatable point.

(At this point Congressman Rangel was introduced.)

Mr. Rangel. On the question of seniority, I feel the seniority system should be abolished. The fact that a Congressman has sat on a committee for twenty years does not necessarily mean that he has become an expert in that field. It does mean that often marriages have been formed with certain powerful lobbies.

I used to be a member of the New York State Assembly. When I arrived in Congress, I was appalled at how disrespectful the Members are to one another. It is, indeed, shocking to stand in the gallery and see a Congressman reading a statement to an empty hall. Congressmen should be in their seats and should get to know one another. The only way they can understand each other's problems and better serve their constituents is to work together. In the N.Y. State Assembly we were assigned specific seats. Thus when the press came around they knew exactly who was there.

The most disappointing thing that I found upon arriving in Washington is that there is no Democratic party. Many Democratic Congressmen don't really care who the next President will be. Congress might be more effective if we could go to the party leaders and explain the problems of our constituents and then arrive in a caucus where we could depend upon a sympathetic reception because we shared political philosophies.

(Councilwoman Ryan took over the chair at this point.)

Question: I read recently that Ralph Nader plans a series of lawsuits to change the direction of Congress. I'd like the panel to comment on this.

Mr. Rangel. It is my understanding that Mr. Nader will be studying the activities of Congressmen in committee, on the floor, and in the district. I think this is very healthy and should have been done a long time ago.

Mr. Badillo. I'd like to address the problem of obtaining information on Congress within the city delegation, because there are members who won't even talk to their fellow Congressmen. If they won't even talk with each other, never mind what they'll do to Ralph Nader.

Question: How can Congressmen justify granting themselves salary increases?

Mr. Badillo. Congressmen don't like to vote for salary increases for themselves so they are now attempting to give the authority to the chairman of the House Administration Committee.

Question: Does Congress have any real power to affect foreign and domestic policy?

Senator Gore. Under the constitution the power is there, but the power has been eroded and degraded. In the Senate we have seen a reassertion of the power in the votes on the ABM, the SST, and recently on Foreign Aid. The problem is that the Administration has deceived and misled the public about the intent of Congress. Last year the Senate voted that no public funds could be used for advisors in Laos. This year they are still there, but the Administration calls them military aid supervisors. The Congress has a great deal of power. It has the power of the purse. The Congress must now reassert its power until we once again have three coordinate branches of government with checks and balances one upon the other.

Question: I'd like to ask Mr. Hamilton a question. Since Congress needs restructuring, do you have any specific suggestions which would make Congress more responsive to our cities?

Mr. Hamilton. Evidence that the problem is as serious as I have stated it lies in the fact that the notion of statehood has become serious discussion among serious people. That does not mean it is an ideal solution. There are serious problems with it. The fact of the issue is important, however: the Congress, as presently structured, is not delivering solutions to the problems of our cities. My argument is that if we were to change the seniority system, there would be a difference in the character of the committees which operate in the Congress. We need a Congress that can deliver concepts such as "National Cities" where, say, the twenty-five largest cities will share some of a states power so that with certain local problems they can get help directly from the Federal government.

Secondly, we face the problem of the difference between appropriation and authorization. I agree with Herman Badillo that, technically, Congress has authorized enough benefits to solve our major problems. But we need a Congress which is structurally responsive enough to express the true priorities of the majority of the people.

Mr. Badillo. I think that we have to be very precise when we talk about what the majority really wants. The majority of Americans do not want to help our central cities. The divisions within our cities reflect this.

What we must ask is how are majorities made up. There is a famous poll that says 72% of Americans want us to pull out of Vietnam. With this we say Congress is unresponsive for not passing the Mansfield amendment. Yet the very same poll points out that 52% of Americans agree with the way Nixon is doing the job. Thus I question whether the majority really will help our central cities.

Question: Would the panel please comment on the proposal that a President serve one six-year term instead of two four-year terms.

Mr. Rangel. I have been in favor of a two year term for Congressmen. Yet, after observing the performance of President Nixon, it seems that perhaps the President should run every two years. I would oppose a 6 year term.

Senator GORE. I oppose the idea. I would not place any limitation on the ability of the people to select their leadership.

Question: I would like to ask the other panelists if they agree with Senator Gore's highly aristocratic stance which allows him to determine what is good for a majority of his constituents.

Senator GORE. I don't think my action or my attitude was aristocratic. Had I voted what appeared to be the loudest voice of my constituency, I would have voted for Carswell, but such a vote would not have served the people. That simply is voting for one's own political interest.

Further how does a senator know what the majority opinion is on an issue. Practically, a Senator or Representative has no choice but to vote his judgment and conscience when the roll is called. It is not aristocratic to say that he owes the people the benefit of his best judgment. That is his highest responsibility.

## POW/MIA WEEK OF CONCERN

### HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 22, 1972*

Mr. ANDERSON of Illinois. Mr. Speaker, I wish to associate myself with the action taken by this body yesterday in passing Senate Joint Resolution 189 which designates the week of March 26 through April 1 as a "National Week of Concern for Prisoners of War/Missing in Action," and to designate Sunday, March 26, as a national day of prayer for the lives and safety of these men. This resolution is nearly identical to one introduced by the gentleman from Indiana (Mr. MYERS) and myself on February 2 of this year and to Public Law 92-6 which we authored in the last session of this Congress.

Mr. Speaker, the purpose of this national week of concern is to focus public attention, both at home and abroad, on the plight of these men, many of whom have been held for over 7 years now. The significance of this week is that on March 26, 1964—8 years ago—U.S. Army adviser Capt. Floyd J. Thompson was captured in South Vietnam, thus becoming the first American POW in that conflict. Since that time, over 1,600 Americans have been added to the list of POW/MIA. Because North Vietnam has flagrantly violated the provisions of the Geneva Convention on the treatment of prisoners, we do not have a full listing of those Americans actually being held. The North Vietnamese have also prevented the free exchange of mail between these prisoners and their families, the release of the seriously sick and wounded, and international inspection of POW facilities. By ignoring the Geneva Convention, the North Vietnamese have inflicted cruel and inhumane punishment on both the prisoners and their families. Hopefully the week of concern will help to bring the pressures of world opinion to bear on this problem and it will be rectified.

## PONY EXPRESS CARRIES VOLUNTEER BLOOD ACROSS NEW JERSEY

### HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. VEYSEY. Mr. Speaker, the attitude that human blood is no more than some venal product, easily bought and sold, has crept across America. This attitude keeps healthy people from volunteering their blood and forces hospitals to get blood from commercial blood banks.

In light of this trend. I am particularly pleased to hear of blood programs vigorously dedicated to volunteerism. One such program operates under the New Jersey Blood Exchange, centered in Princeton, N.J. A new project to organize hospital auxiliaries in a three-part volunteer program is now underway. The idea is to coordinate a statewide "Pony Express" to transport needed blood from member blood banks to hospitals when and where it is needed. This invaluable service is proving very successful.

The volunteers will also be recruiting new donors and seeking replacement of blood used by hospital patients. These two projects are essential to voluntary blood programs. They are primarily educational and can be successfully carried out by hard-working volunteers.

We need more of the kind of spirit that this program demonstrates. I commend the New Jersey Blood Exchange and its many volunteers for their fine efforts, as well as the Trenton Sunday Times Advertiser, which carried the following article on this vital project:

"PONY EXPRESS" OF VOLUNTEERS TO CARRY BLOOD ACROSS STATE

(By Sharon Schlegel)

A Cape May hospital has a blood emergency. A phone call alerts the New Jersey Blood Exchange in Princeton that a rare type of blood is needed. The exchange administrator, Fay Scudder, checks through her inventory and finds that the blood is available in a Summit community blood bank.

Now the problem is getting it to Cape May.

A few months ago, that problem might have been unsurmountable. Hospitals, overcrowded and understaffed, cannot allocate personnel to chauffeur blood. Blood banks have no personnel available to deliver blood and according to an agreement between hospitals and member blood banks, it is the recipient hospital which is responsible for transportation of the blood it needs.

DIRECTED BY TRENTON WOMAN

But very soon a "pony express" of volunteers set up across the state to transport lifesaving blood 24 hours a day at a few minutes notice will help eliminate the problem. This network of community members, dedicated to making sure that a blood emergency never arises due to lack of transportation, is being put together under the direction of Mrs. Miles Wilson of Trenton. Her job, and not a small one, is to coordinate a three-part program involving the 112 hospital auxiliaries totalling among them 76,000 members. It is from this group, as well as any interested community volunteers, that the blood transportation setup will be comprised.

Mrs. Wilson, a volunteer herself for a quarter of a century, remembers hearing someone insist that the plan to utilize the auxiliaries as the base for the program would be impossible to organize. She recalls the remark with a smile and has complete confidence that "as far as the volunteer is concerned, when the need arises, the help is there."

So far her optimism has been accurate. She has already met with area chairmen representing the four sections of the state and their interest has been confirmed.

COMMUNITY NETWORK

"Our plan is to have each local auxiliary appoint a blood chairman who will work with area chairmen to set up a transportation network in her community, utilizing community volunteers.

On January 31 a seminar will be held at the Essex County Blood Bank at which all the blood chairmen will be present. Further inter-coordination will be worked out.

"It is very important to us to make the point that volunteers are by no means limited to auxiliary members," affirmed Mrs. Wilson. "This kind of program should have appeal to all segments of the population. Retired men who are willing to drive a bag of blood to a hospital, housewives who want to contribute to the community, senior citizens, everyone can get in touch with their hospital's blood auxiliary and find out how they can help. "Conceivably, thousands of people all across the state will be on tap to help carry that bag of blood from Cape May to Summit when the 3 a.m. phone call comes.

FIRST IN COUNTRY

The central clearinghouse for the operation is the New Jersey Blood Exchange, located in the New Jersey Hospital Association Building in Research Park, Princeton. The exchange which celebrates its first anniversary this month, is the first program of its kind anywhere in the country. It is composed of 25 member hospitals and community blood centers, ranging across every section of New Jersey, who participate in the program through the American Association of Blood Banks, a national non-profit organization of blood banks. What the exchange actually does is to keep a record of blood inventories among the member hospitals across the state in order to promote larger resources for emergency need and to insure against the outdating of blood, a substance only usable for 21 days unless frozen.

When a hospital needs a certain type of blood, it contacts the exchange which runs down the inventory to find out where the closest available blood is waiting. If there is no blood available at a member blood bank, Mrs. Scudder will turn to other sources, such as the American Red Cross, with whom the exchange has a reciprocal agreement or regional clearinghouses in nearby states. Once the blood has been located and allocated for use, the facility requesting it arranges to pick it up, after finding out from Mrs. Scudder exactly where the blood is located. Transportation then becomes the major concern. Thus enters the community blood volunteer, ready and able to see that precious time is not lost along the way.

NEED FOR BLOOD

But there is another huge concern among those involved in the blood program and it is one that the hospital auxiliaries plan to tackle with as much gusto as they have the "pony express."

That is the chilling fact that there may one day not be enough blood available when that phone call comes—not enough in a nearby blood bank, not enough in the state, not enough anywhere if voluntary blood donations continue to stay at the present level.

In New Jersey alone, more than 150,000 units of blood are needed every year. Yet, although one half of the population is eligible to donate blood according to age and physical condition, only three percent do so. It is because of this disappointing statistic that parts two and three of the auxiliary-based volunteer program have evolved. These goals involve the recruitment of new blood donors and the replacement of blood used by hospital patients.

In order to accomplish the first of these tasks, each blood chairman will name blood donor recruiters in her area who will meet monthly to work on methods of recruitment. The bill recently passed permitting 18-year olds to donate blood without parental consent is one development which may prove a boon to the cause, enabling as it does college students away from home to participate in local blood drives. Such sources, as well as the recruitment of individuals and the commitment of organizations are prime targets.

### ROOM REMINDER

The third part of the volunteer program will aim at the many hospitals which have no plan for seeking blood replacements from the families or friends of patients. One possibility being considered is the placing of a sign in every patient's room reminding visitors who might wish to help that an alternative to candy and flowers might be donating blood.

As Jim Williams, director of the Mercer County Blood Center, summarizes the situation, "The volunteer program is one big step in the right direction. But the community must begin to really care about the need—to stop thinking 'I don't need blood—I'm not sick and nothing's going to happen to me.' People are obliged to protect their families and to remember that giving blood is the last personal act of charity left to us. No one can cover that obligation by writing a check. It is an act of humanity that requires caring. With the country in a state of violence everywhere, the need is greater than the response.

"If we care at all about preserving human life, we have to care about giving blood."

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## BROTHERHOOD WEEK

## HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mrs. GRASSO. Mr. Speaker, today I would like to extend my sincerest congratulations to the National Conference of Christians and Jews as we observe the 38th anniversary of Brotherhood Week.

The origins of Brotherhood Week date back to the initial observance of Brotherhood Day on April 29, 1934. This observance was suggested by a Catholic priest, Father Hugh L. McMenamin, who saw the value in setting a specific day on which to celebrate our human interdependence and to focus on the need for understanding friendship and respect among all men.

The idea for such a celebration was expanded in 1940 when Dr. Everett R. Clinchy, president of the conference, proposed to lengthen Brotherhood Day to Brotherhood Week, calling it "America's big idea." After receiving the support of President Franklin Roosevelt, many organizations, including churches, schools, Government agencies, and the news media, conducted special programs, dedications, and sermons as evidence of community support.

The commitment to brotherhood program in 1972 is dedicated to furthering fellowship and brotherhood with Americans who are of Spanish origin. As always, the dominant theme of this organization is "rededication to the basic ideals of respect for individuals and peoples," and "the practical steps which people can take to promote an understanding and realization of these ideals." These aims are highly consistent with the philosophy of the National Conference of Christians and Jews to combat prejudice and discrimination wherever it exists.

I am pleased to join in tribute to Brotherhood Week, which most assuredly must be celebrated each week in the year. Indeed, our commitment to brotherhood is our commitment to each other.

In observance of this event I am proud to note that the Connecticut-Western Massachusetts Region Chapter of the N.C.C.J. have designated as recipients of the 1972 award the Honorable Gloria Schaffer, secretary of the State of Connecticut, and William P. Gwinn, chairman of United Aircraft. These distinguished Connecticut citizens by their lives and by their actions exemplify the high standards of the N.C.C.J. It is an honor to salute them on this auspicious occasion.

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## CAB ENFORCES LAW BANNING UNAUTHORIZED CHARTER FLIGHTS

## HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. STEIGER of Wisconsin. Mr. Speaker, of all the laws in our Federal books, among the most flagrantly violated and difficult to enforce are the Civil Aeronautics Board regulations concerning transatlantic charter flights.

Historically, the problem is rooted in the cost of running an airline. A scheduled plane must fly on time whether or not its seats are half empty. A nonscheduled plane can delay departure for hours and days until the seats are filled. The cost and fares of a "nonsked" flight are therefore lower than those of a scheduled airline.

To promote the existence of nonscheduled as well as scheduled airlines, present law limits a charter trip on any airline to people who have been members of a bona fide organization—not one merely formed to cut travel expenses—for at least 6 months.

Unfortunately, the law is violated by a number of airlines who are soliciting the general public for illegal charter flights. Their routine is well known. A boarding passenger is asked to cooperate by assuming "membership" in a phantom club or professional organization.

By circumvention of the law, black-market charters are filling most seats and making profits on transatlantic travel while the airlines who strictly abide by the law are suffering financially.

The situation is unfair, and I am encouraged by recent news reports of bold initiatives on the part of the CAB Bureau of Enforcement and its Director, Richard J. O'Melia.

It seems to me the CAB regulations should be strictly enforced or we should consider ways to change them. For the information of my colleagues I insert as part of my remarks a recent speech by Director O'Melia, who describes in detail some of the inspections and actions that his department has been undertaking.

In acting to uphold the law on charter flights, Director O'Melia has my support and commendation.

The speech follows:

### REMARKS OF RICHARD J. O'MELIA, DIRECTOR, BUREAU OF ENFORCEMENT

It has been about two years since I had the pleasure of speaking before the Central Regional ASTA Chapter in Chicago, but in the relatively short span of time since then, there have been many significant developments in the enforcement area of the air transport industry. Many of these are of vital interest to you as ASTA members and, in fact, ASTA has played an important role in some of them. At the time I spoke to you—in January 1970—I was in my freshman year as Director of the Bureau of Enforcement, and we were just initiating what we hoped would be a bold and more productive program of enforcement. I want to review with you today some of the Bureau's activities of the past two years which I hope will persuade you that our efforts have met with some success.

But, first, let me say that we appreciate the opportunity to participate in your meeting here in Chicago. I believe this interchange of views can be of mutual benefit to us in our endeavors. I also want to express my appreciation to ASTA at large for the resolutions it adopted at your Tokyo. Amsterdam and Sydney meetings endorsing the enforcement action taken by the Bureau with respect to charter flight violations.

### CHARTER FLIGHTS

Although charter operations are only a part of the air transport activities requiring our attention, they have, in recent years, absorbed a large part of our time and energy. Because of your interest in this area, my remarks will deal principally with charters. Since I spoke to you last, the Bureau of Enforcement has taken legal action unprecedented in scope with respect to North Atlantic charter flights, against air carriers, travel agents and chartering organizations.

It should be clear to all in the industry that this program of legal action is the Board's declaration that fraudulent charter activities will not be tolerated. Its purpose is to restore order to a segment of the air transport industry in which illegal practices have been rampant and unscrupulous people have pursued unlawful operations as a way of life. Let me tick off what we have done. We have filed no less than 20 formal complaints before the Board against 16 U.S. and foreign, scheduled and supplemental air carriers. We have obtained cease and desist orders—which operate like injunctions—against carriers, agents and chartering organizations. In an appendix to this speech, copies of which are available for you, I list these airlines, travel agencies and charter organizations.

In addition, the Board has sought civil penalties in amounts substantial enough to remove much of the profit incentive from unlawful activities. Since last July, the Board has accepted settlements with two direct air carriers which alone have resulted in civil penalties in the total amount of $142,000. In the last six months a total of $176,000 in civil penalties has been imposed and several other substantial settlements including civil penalties are imminent. By conservative estimate, the Bureau may be expected to collect a quarter of a million dollars or more in civil penalties for charter flight violations during the current fiscal year.

These civil penalties were negotiated with the respondents. However, whenever a negotiated settlement cannot be reached, the Bureau is prepared to go to trial, as it did in June of last year against American Flyers Airline Corporation, now Universal Airlines, Inc. That proceeding resulted in a Board order to cease and desist which has been appealed to the Court of Appeals by the respondent. This order may form the predicate for a federal court suit for collection of civil penalties in the absence of a satisfactory money settlement.

Faced with wide-spread enforcement problems arising out of charter flight violations, the Bureau has found it necessary to take other judicial actions in addiction to the formal proceedings before the Board, and to resort to the courts. Let me highlight for you the most significant actions.

First, most importantly, in September 1971, the Board filed suit in the United States District Court for the Eastern District of New York against sixteen (16) individuals and organizations charging violations of the Board's charter regulations and the Federal Aviation Act. This suit seeks injunctions to prevent the defendants from acting as indirect air carriers or indirect foreign air carriers in violation of the Act. This action represents the first time that the Board has taken direct Federal court action against persons allegedly involved in illegally soliciting members of the general public for passage on transatlantic charter flights.

As I am sure you can appreciate, this suit represents the culmination of a comprehensive investigation and trial preparation Although certain procedural delays have ensued which have kept the court from passing down a decision on the merits of the case, the court has taken action to join six (6) direct carriers, three (3) U.S. and three (3) British, as parties to the suit and every effort is being made to set this case for trial as quickly as possible.

In this action, as well as in other charter complaints, we have worked very closely with the air transport industry, including various ASTA members. I would also like to mention that your General Counsel, Paul Quinn, in Washington has given us valuable assistance and advice. Reciprocally, we have cooperated with the industry in its efforts. As an example, a complaint was filed in 1971 in the U.S. Court for the Southern District of California by two ASTA members seeking an injunction against an individual and a charter organization alleged to be engaging in unauthorized indirect air transportation through charter flights. During the course of that proceeding, it was learned that the Court was experiencing difficulty in determining the definition of an "indirect air carrier". When ASTA brought this to our attention, we submitted, through the Department of Justice, an *amicus* brief covering the matter. In addition, we sent an Enforcement Attorney to California to be present at the hearing in the event the Court had any further questions on this use. A favorable decision was obtained in this case.

We feel that our part in this proceeding contributed to the favorable decision in the lower court. As you undoubtedly know this decision has been appealed. We are also filing an *amicus* brief in the Circuit Court of Appeals.

A third example illustrates that our actions have not been directed solely against domestic carriers and operators. Although enforcement action against foreign parties is more difficult because of limited inspection authority, the Board has shown that it will move with equal vigor against them. One particularly significant action, of which you have all heard, was the Bureau's filing for an injunction against Alitalia last June in the U.S. District Court for the Eastern District of New York. This case did not involve charters but rather the sale of youth fare tickets prior to the tariff's effective date, in defiance of the Board's denial of Alitalia's request for short-notice tariff approval. Upon an indication by the court that it was prepared to enjoin further sale of tickets, Alitalia agreed to discontinue immediately the unauthorized sales. This action was accomplished in less than one week.

Now, information and documentation establishing the factual situation is essential to effective enforcement action against both U.S. and foreign carriers. In recognition of this, the Board on March 5, 1971, took action never before taken—to vest the Bureau with delegated authority to issue Board orders requiring the submission of documents, reports and information by U.S. carriers. Pursuant to this delegation, the Director of the Bureau on March 26, 1971, issued the first such order against Capitol International Airways, directing them to submit specified information and documents within 30 days. Capitol complied with this order.

While this delegated authority cannot extend to foreign carriers under the provisions of the Act, foreign carriers are nevertheless required to furnish certain information under the Regulations of the Board. In a very recent case, a foreign carrier, Laker Airways, refused to submit required information. Faced with this intransigence, the Board on December 27, issued an order requested by the Bureau requiring Laker Airways to submit charter documentation. The order declared that this action was taken because of Laker's indifference to previous informal requests of the Board's staff for information.

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Even with the efforts taken by the Bureau, charters continue to be the major enforcement problem for our industry. As quickly as the Bureau moves to plug one hole in the dike, the ingenious mind of the black-market charter consolidator seeks new ways to scrounge illegal charter profits.

It must be remembered that the Bureau has undertaken these unprecedented enforcement actions before the Board, and in the Federal courts, with a staff virtually unchanged in size from what it was twenty years ago.

Indeed, the Board's staff as a whole, as you may be aware, has not varied substantially in size since the early 1950's. It is significant that the Bureau's investigation staff, numbering eight men, has acquired only two additional positions since the 1952 era. The legal staff, now numbering 12 attorneys, remains smaller than the in-house legal staffs of several individual airlines. During the same two decades the air transport industry in the United States has experienced at least a three fold growth. To cope with the enlarged responsibilities we have streamlined our operations and restructured our organization, with the strong support, encouragement and direction of the Chairman and the Members of the Board.

When I last spoke to this organization, I stressed the importance of educating the public on the do's and don'ts of charter travel. That affinity charter travelers must be bona fide member of the chartering organization, that six months membership is required, that charges must be truly pro rata, that passengers cannot be indiscriminately intermingled, etc. I still feel that you, as responsible and established travel agents, can play an important role in this essential education of the traveling public. I am well aware that ASTA members have been active in educating the public on charter requirements, and welcome your continuing efforts.

### CHARTER REGULATIONS

In the last two years, the Board's enforcement program disclosed the need for changes in the charter flight regulations. As you know, the Board's revision of the charter regulations in the Spring of 1971 were far-reaching. That revision brought all U.S. and foreign, scheduled and supplemental carriers—for the first time—under uniform charter regulations governing both on-route and off-route charters.

Another change, prompted by the unfortunate stranding of students by World Academy in 1970, was the Board's issuance in 1971 of Study Group Charter Regulations imposing financial requirements on study group charter operators. As a result, we had no instances of strandings of study groups in the Summer season of 1971.

As you know, however, there were strandings of pro rata groups last summer, principally in London. In an effort to prevent a recurrence of such strandings, the Board—as the Chairman stated in recent testimony before Senator Inouye's Subcommittee—is considering an amendment to the regulations requiring that the full round-trip charter price be paid to the carrier prior to departure.

Another regulatory proposal that I know is of great interest to you is the new proposal of the Board to adopt regulations providing for "Travel Group Charters". The Board's announcement on December 30, 1971 of this precedential proposal will undoubtedly arouse strong feelings by various segments of the air transport industry. Essentially, the proposal would set up a new class of charters—to be known as "Travel Group Charters"—free from affinity requirements. Under this proposal any group of 50 or more persons will be permitted to participate in a charter if the group is formed six months prior to flight departure and each member pays by that time a non-refundable deposit equal to not less than 25 percent of the transportation charge. The proposed rule sets up bonding and escrow requirements and other conditions including filing of documents with the Board to ensure that the passenger is protected.

Interested persons may submit their comments to the Board by February 7, and established rule making procedures will be followed to insure that all pertinent views are given full consideration. This action of the Board is another manifestation of the Board's awareness of the charter problem and of its efforts to provide an effective and orderly environment for charter travel. This new proposal, if adopted, will not affect the continued vigorous enforcement by the Bureau of the affinity regulations.

Before moving on to another aspect of enforcement, let me say that the Board's rule making actions and its tough new policy of the last two years—particularly its willingness to take violators to court—has already resulted in a significant change in the industry's responsiveness to our program. Carriers know that they will have to pay heavy civil penalties if they violate the Act. Shady passenger consolidators now know that they will be ferreted out and made to answer for their sins.

Because of this tough new policy, our informal measures to obtain compliance are now more effective. As you may imagine, over 90 percent of the suspected violations that come to our attention are dealt with through informal procedures without resort to formal administrative or judicial proceedings. It is gratifying to find that more and more the Bureau's telegrams and warning letters to suspected violators lead to prompt voluntary corrective action. This is as it should be.

### OTHER ACTIONS

So much for our recent efforts to deal with some of the more flagrant charter violations. Of related interest is the recent notice that the United Kingdom proposes to require clearance of charters three months prior to departure. This should help curb the activities of many of the illicit charter operators. In addition, the U.K. has deferred the renewal of charter licenses for the coming year to certain British supplemental carriers involved in the transatlantic charter market.

And the United Kingdom is not the only

country actively seeking to control charter irregularities. To cite but one example, Italy has imposed requirements for advanced filing of documents to make sure that affinity charters are legitimate. Indeed, it is encouraging that the European countries as a whole are jointly and separately seeking solutions to the illegal charter problem.

### BOWL GAME CHARTER FLIGHTS

Moving to another item of current interest, bowl game charter flights have been a perennial enforcement problem, as many of you ASTA members are well aware. In fact, two years ago ASTA sent its own investigator to one of the principal areas involved in bowl game charter activities to conduct investigations both by field trips and through inquiries by correspondence. Industry letters have been sent to all carriers putting them on notice as to bowl game enforcement problems and requesting close scrutiny to insure that charters fully comply with all of the applicable regulations.

During the latter part of 1971, we sent a similar industry notice and conducted field investigations on bowl game charters. During representative checks recently, we found that the college bowl charters were being properly limited to students eligible to participate in these flights. However, we have been concerned with certification as to the eligibility of such participants by responsible college officials and have made our views known to the carriers. The pro bowl game charters may present a different story. We are keeping our eyes on them, and will appreciate any information or help you can give us on irregularities that come to your attention.

### DISCOUNT TICKETS

Discounting of transportation on individually-ticketed flights of scheduled carriers has also been a matter of considerable interest in recent months. Although I am not at liberty to disclose names publicly at the informal stage of this matter, I can say that the Bureau is actively pursuing complaints involving the sale of discount tickets. As you know, such illegal rebating would subject not only the carrier but the agent involved to the sanctions set forth in the Federal Aviation Act including possible criminal sanctions.

### FLYING CLUBS

Finally, let me say just a word about problems raised by flying clubs. As you know, flying clubs which purport to be private entities operating their own aircraft for the benefit of their members, have been in existence for approximately 10 years. The failure rate on these clubs has been quite high and there have been many clubs that have gone in and out of business during this period of time.

However, several of the clubs that have survived have recently experienced tremendous membership growth, and have acquired large aircraft, including jets. These large aircraft are now available because the certified carriers are converting to wide-bodied jets. As the size and number of flying clubs grow, so grows the Bureau's concern with both the manner in which the clubs solicit new members and the nature of that membership—i.e., is membership merely used as a device whereby such a flying club can provide common carrier air service to the general public?

In the absence of specific regulations concerning the legitimate scope of flying club operations, the Bureau must rely on the general principles governing air transportation in order to determine, on a case-by-case basis, whether a particular flying club has gone over the line into unauthorized common carrier operations in violation of the Federal Aviation Act. We think that many of these clubs have crossed over the line. Accordingly, we have recently filed a complaint against Voyager 1000, an Indianapolis, Indiana travel club, alleging that it is engaging in air transportation without Board authority. The outcome of this case will provide guidance in future flying club cases, and we intend to pursue this problem vigorously.

### CONCLUSION

To summarize, we think progress has been made during the past two years. While we cannot say that the time is near when all of the violators will be brought to bay, there should be no doubt that violations will be pursued through all channels and with all the tools available to us. That message should be clear and I hope you will pass it on.

There should also be no doubt that we are feeling more confident that the job can be done and that there is light at the end of the tunnel. This confidence rests to a considerable degree on the knowledge that the Board fully supports an energetic enforcement program, and that the air travel industry, organizations like ASTA, can be counted on to do their part. I compliment you for this, and thank you again for this opportunity to discuss our mutual problems.

### APPENDIX

I. Formal affinity charter or group flight complaints against carriers.

*U.S. Scheduled Carriers*:

1. Pan American.
2. Trans World Airlines.

*Foreign Scheduled Carriers*:

3. Air France.
4. Alitalia.
5. KLM.
6. Lufthansa.
7. Sabena.
8. SAS.

*U.S. Supplemental Carriers*:

9. American Flyers (Universal).*
10. Capitol.
11. Overseas National.*
12. Saturn.
13. Trans International.
14. World.

*Foreign Supplemental Carriers*:

15. Atlantis.
16. Caledonian.

II. Cease-and-desist orders entered against five travel agents.

1. Continental Express (Anthony Stute).
2. Sea and Sky Travel (Irving Papermaster).
3. Siyor Travel (Robert Logan).
4. Charter Consultants (Fred Meyrow).
5. Group Travel Associates (Howard McConnell).

III. Cease-and-desist orders entered against four charterers.

1. American British Canadian Club.
2. United European American Club.
3. International Cultural Exchange Program—Educational Student Exchange Program.
4. United California Social Club.

IV. Air Carriers cited in C.A.B. case in eastern district of New York.

1. Dan-Air Services, Ltd.
2. Donaldson International Airway.
3. Laker Airways, Ltd.
4. Pan American World Airway.
5. Trans International Airlines Corp.
6. Universal Airlines, Inc.

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* Indicates cease-and-desist order entered.

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## MAN'S INHUMANITY TO MAN—HOW LONG?

## HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

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## FREDERICK COUNTIANS RISE TO THE OCCASION

## HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BYRON. Mr. Speaker, recently a severe winter storm struck the east coast of the United States including my home county of Frederick. Hundreds of motorists were stranded by the heavy snowfall in the county, but I am proud to say that the local people immediately rose to the emergency and pulling together they performed numerous unselfish deeds of public service and personal sacrifice. As a tribute to the citizens of Frederick County I would like to take this time to recognize the lead editorial in the February 22 issue of the Frederick News-Post. The closing paragraphs aptly summarize my feelings on this occasion:

### WINTRY TEST MET

A grateful Frederick County and surrounding area certainly owes a well merited salute to all of the many official and volunteer groups who worked around the clock to keep highways open, rescue stranded motorists, and restore order during the weekend's heavy snowfall.

It is in times of great stress that that great intangible—completely dedicated public service regardless of personal exhaustion—is brought sharply into relief.

Certainly this was never more tellingly spelled out than in the early evening and darkness of Friday night and continuing through Saturday and Sunday. One death marred the weekend, but it was apparently a freak incident that should never have happened.

According to Lieut. Col. W. W. Corbin of the State Police, in addition to the hundreds of stranded motorists finding succor at Frederick City's hotels and motels, some 600 to 700 individuals were afforded temporary shelter through the united efforts of State Troopers of the Frederick Barracks, the National Guard, Fort Detrick and scores of volunteer citizens.

What could have been a freezing wintry catastrophe of great magnitude was averted through the combined efforts of police, rescue teams, forest rangers, national guardsmen, citizen volunteers, deputies, members of the area fire companies, plowing crews both of the State Roads Commission, Brunswick, Frederick County and Frederick City, the Salvation Army and other groups.

Many of the volunteer and paid local and State Roads Commission plowing crews battled unceasingly for as long as 30 hours a snowfall exceeding a foot in depth whipped by gale-like winds exceeding 50 miles an hour.

Every possible weapon was mustered into service. This included snowmobiles, helicopters, National Guard trucks, and Forest Rangers' sleds.

Between 200 and 300 stranded autoists were rescued from their stalled cars on local and state highways and rushed to the State Armory, where store owners, the Salvation Army, firemen and guardsmen brought them nourishing and badly needed hot meals and rounded up cots so that they could enjoy a night's sleep.

We gratefully tip our editorial hat to all of these unselfish men and women who either in the line of duty, or voluntarily mastered a blizzard which could have easily been one of the greatest catastrophes in the history of Frederick County.

In this wholly inadequate but sincere tribute to their dedicated efforts far beyond their normal obligations, we are confident that all of the Frederick County area will gladly join.

## RESOLUTION TO RESTORE SELF-GOVERNMENT TO BALTIC PEOPLES

### HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. WOLFF. Mr. Speaker, during the second half of February, Americans of Lithuanian origin and descent will commemorate Lithuanian Independence Day and Lithuania's long struggle for freedom and independence from Communist control. As an expression of our belief in the principle of self-determination, I think it most appropriate that the House of Representatives take part in the commemoration of Lithuania's fight for liberty and self-government. I submit for the RECORD the text of House Resolution 416 adopted by the 89th Congress calling for freedom for Lithuania, Estonia, and Latvia:

H. CON. RES. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its efforts to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

*Resolved by the House of Representatives (the Senate concurring)*, That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

## FURTHER WORDS ON MARIE ANTOINETTE AND HER PAL, KING GEORGE III

### HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. RONCALIO. Mr. Speaker, I have long been fascinated with the career of Marie Antoinette—with her comings and goings—as well as those of a man with whom she shared a great affinity in one respect: Her lack of concern for the welfare of the people. I speak, of course, of King George III—a remarkable man, who more than any other was responsible for the birth of democracy in this country coming just when it did. Both of these famed monarchs came to a sad, though fitting end, precisely because of this lack of concern. Poor George went mad with self-concern, while Marie lost her head over the belief that her people should eat cake rather than bread.

Neither would tolerate the petition of grievances by their own people; yet when their people finally rose up against them, it apparently came as a very great shock indeed. I would think that one job of all Congressmen at this point in our Nation's history would be to work against such a form of future shock. For that reason, I would like to insert into the RECORD a petition of local District of Columbia citizens who are opposed to the proposed convention and sports arena center which, if the threat is ever carried out, will shortly take up regal residence just below Mount Vernon Square.

I believe that the project is unwise. I think that Washington already has too many white elephants to make room for another, and I believe that the suffering associated with relocation and the razing of numerous well-known businesses and churches would not be worth whatever benefits are promised, much less actually gained. For that reason, all my colleagues would do well to pay close attention to the following petition, the fulfillment of which sacred right is guaranteed by the first amendment; yet one which too often falls short of its original purpose because it is now so hard to hear the small voice of the people speaking amid all the noise and clatter of modern communications.

This is one petition, at any rate, which should be heard:

A PETITION TO THE CONGRESS OF THE UNITED STATES AND AMERICAN REVOLUTION BICENTENNIAL COMMISSION

MT. VERNON RELIGIOUS, CIVIC, CHINESE, AND BUSINESS ASSOCIATIONS,
*Washington, D.C., February 22, 1972.*

Hon. KENNETH J. GRAY,
*Chairman, Public Buildings Subcommittee, Committee on Public Works, House of Representatives, Washington, D.C.*

DEAR CHAIRMAN GRAY: Our motto is: Not one more cent for sports arenas and convention centers to be paid by D.C. citizens.

"We have to give up our Church, but the question in my heart and the hearts of my congregation is where do we go from here"—Rev. C. H. Hamilton, Pastor, Greater New Hope Baptist Church to be bull-dozed for a sports arena-convention center, in testimony to your Subcommittee.

Is a 599,000-square-foot convention hall, a 295,000-square-foot sports arena, and parking for 5,000 cars a worthy American Bicentennial Project? Are there worthier projects to celebrate the Nation's Bicentennial? If not, why not?

Another Declaration of Independence is needed now. Therefore, We, the undersigned concerned citizens, businessmen, Chinese, owners, tenants, and others ask you and the other Members of the House Public Works Committee, and the Congress, if the proposed convention center-sports arena-parking garage is the most appropriate project for the celebration of the Nation's Bicentennial in the Nation's Capital City? We ask the American Revolution Bicentennial Commission to hear our plea.

We ask you all if the destruction of the Greater New Hope Baptist Church, the Turner AME Church, the 129 large and small businesses, and the historic Chinatown business and residential community, the loss of 3,000 jobs, and the erosion of the city's tax base, the denial of basic Constitutional rights such as due process, and Fifth and Fourteenth Amendments—which guarantee due process, just compensation, and equal protection of the laws, the destruction of religious youth centers and hundreds of homes, the destruction and violation of the principle that all men are created equal, that each man must have one vote, the tenant as well as the landlord and owner, the denial of the very issues for which the American Revolution was fought—*can all this be in accord with the American Revolution Bicentennial?* Your Subcommittee polled the land owners, but did not poll the business and residential tenants, a discrimination which immediately made these tenants, many of them Chinese who are old, poor, and defenseless, second and third class citizens. *Why should Congress help landlords, and fight tenants in support by taxes?*

What priority does or should sports have over other matters? The Rev. S. Everette Guiles of Turner Memorial AME Church in his testimony to your Subcommittee said: "I plead for preserving not only our churches, but the 129 large and small businesses, the 3,000 jobs they provide, the city's tax base, the historic Chinatown area, the employes, the families, the residents of our area. We all ask, why destroy 3,000 good jobs to provide 1,500 jobs where our Black employes can hawk beer, sell peanuts, and park cars? We ask, isn't fulfilling the needs of the people, many of whom are still without enough to eat and lacking job opportunities and decent housing, more important than building a place to shoot hoops, blow noise-makers, and park 5,000 cars? Why not avoid the displacement and heartbreak by building the project on government land, at Union Station, or in the suburbs? We ask this Subcommittee and Congress to give mature, responsible study to our side of this issue. I cannot understand how your committee can see only good in the proposed convention center-sports arena, which is the latest instance of 'Negro removal by urban renewal.'" *Will Congress support this instance of Negro removal?*

The Brookings Institution, a highly-regarded research institution, says few if any stadiums generate enough income to cover costs of operation and debt service. The Kennedy Stadium in Washington, D.C. has not paid off one cent of its construction bonds, and President Nixon has provided funds in his budget to help the District of Columbia pay off these bonds. The Kennedy Stadium was promoted in 1958 as a sure and certain bonanza for the Nation's Capital but it has been a "red ink elephant" ever since. The *Evening Star* reported recently that the Kennedy Stadium has reported operating losses of $831,871 this past year while the city still had the Senators as a baseball team. The *Star* reported there will be an additional $450,000 deficit this year as a result of losing the baseball team. The *Star* also reported that Arthur J. Bergman, D.C. Armory manager, conceded that the construction of the new convention center-sports arena would probably "spell the end" of the Armory's years as a self-supporting facility. *Will Congress help pay off the Kennedy Stadium bonds, or not?*

The D.C. Bicentennial Commission chairman, James Gibson, strongly supported the sports arena-convention center at your February 17 hearings, yet none of the people affected have ever been invited to, or been given the opportunity to, be heard by the D.C. Bicentennial Commission, or the national American Revolution Bicentennial Commission.

Now, the Star commented that "Some members of Congress, made wary by the RFK Stadium woes, are sure to question the reliability of forecasts that the convention center-sports arena will show a profit once it is fully operational."

And, we believe such wariness is vital in view of the Brookings Institution study titled "Direct and Indirect Subsidies to Professional Sports", published in December, 1971, which states that: "Government subsidies to professional sports teams take various forms. At the local level, we find explicit subsidies resulting from stadium rentals that are below the economic value of such facilities as well as implicit subsidies from property taxes foregone on stadium property. . . . A realistic figure for total subsidies is probably $45 to $50 million per year. . . . Although the justification offered for public ownership of sports facilities is shaky, vast amounts of government resources have been (and continue to be) devoted to these 'monuments of civic pride'. At the same time, the local property tax base continues to shrink and sorely needed public services normally provided by local governments continue to go begging for funds."

And, Rep. M. Gene Snyder, who cast a "no" vote in your Subcommittee when it reported the convention-sports complex to the full House Public Works Committee, cited an inconsistency in the proposed financing of the Center according to a report in the *Evening Star* (February 3, 1972). The *Star* report said: "If representations that the center would pay its own way are correct, he said, there is no need for a government guarantee as suggested in several of the proposed financing methods. 'We don't need another drain on the revenues of the government', Snyder said. Referring to experience with RFK Stadium and the Kennedy Center for the Performing Arts, he said: "We need additional evidence of economic feasibility this time—let's not go down that road again.' "

### THE CHINESE BUSINESS, RESTAURANT, AND RESIDENTIAL COMMUNITY

Now, Members of Congress in both the Senate and House have expressed grave concern over the proposed convention-sports center and tell us that a number of cities across the country have expressed alarm that Federal funds will be used to build it, and that it will compete unfairly with convention centers, hotels, and other facilities built without Federal financial assistance in cities back home.

And, The Chinese Youth Club of Washington, D.C. issued a statement in connection with the celebration of the Chinese New Year which said that—

"We, the Chinese Youth of the Metropolitan area, are against the proposed plans to build the Convention and Sports Center in the Mount Vernon Square area. Our opposition to the choice of the site is due to the fact that a large portion of our community, which is Chinatown, will be destroyed.

"Even though it is true that many families have moved to the suburbs, Chinatown still provides a cohesive medium to maintain a social and cultural identity of which we are proud. Without Chinatown, it would be difficult for the Chinese people to be with others of the same ethnic background.

"The building of the Center in this area will not only mean the displacement of Chinese residence and business, but also the destruction of the Chinese culture and traditions in Washington. The Chinese people place great value in their heritage, and Chinatown, being the center of our community, plays an important role in the continuance of that heritage.

"President Nixon has said the following concerning the Chinese American Citizens Alliance, 'Your Patriotic organization has been in the forefront of Chinese American contributions to our heritage and way of life. You have encouraged the diligence, the family unity and the devotion to country which come to mind in any salute to your community.

"If you cherish something as much as we cherish our community then you will know what we stand for and sympathize with us, in saving Chinatown."

George Moy, of the Joy Inn Restaurant at 609 H Street, NW in the heart of the city's historic Chinatown section, pled for the preservation of the Chinese community in his testimony to your Subcommittee at its February 17, 1972 hearing. He said that: "Prior to 1930, the Chinese community was located on Pennsylvania Avenue. With the construction of the Federal Triangle, the people of this community were dispersed in many different directions (He did not point out the callousness of such dispersal). After a period of years, the Chinese were finally able to establish another community in the area of Sixth and H Streets Northwest where they could relocate their homes and their businesses. This community is continually growing. New Businesses are being opened in this area each year.

"Now the planning commission (and your Subcommittee) wants to split the Chinese community again. Six of the nine restaurants would be destroyed. Four of the eight grocery stores would also be destroyed with the many homes in the area of this proposed arena.

"Relocation of half of the Chinese community would be very difficult for the many families and businesses. This change would be even more difficult for those who speak very little or no English.

"Almost all of the large cities do have a Chinese community which is a tourist attraction for many people. If this sports arena is built on the site, the Chinese community would gradually become nonexistent."

George Moy told your Subcommittee in his testimony at the hearings at Greater New Hope Baptist Church that most of the city's Chinese residents live in Eye Street, between 5th and 10th Streets NW, four blocks of which would be bull-dozed for the sports arena-convention center.

### RACIAL OVERTONES

The *Washington Daily News* reported February 18, 1972 in part as follows: "Altho there were occasional racial overtones in the testimony, it was not made explicit until Attorney King David said they (the Government and Congress) would not build the center there (between 6th and 10th and H streets and Mt. Vernon Square) if the area was predominantly white. 'It's always, let's take it from the Blacks, poor and Chinese'. He said if he was hired by someone in the area, he would take the issue all the way to the Supreme Court." Later, in this letter, we will cite possible legal challenges.

### THE AREA WILL REHABILITATE ITSELF IF ALLOWED TO

The *Evening Star* rambler column on February 18, 1972 said this: "Rolling through Chinatown and having a look at the furniture stores, the book stores and all the other modest places of commerce, I found it hard to imagine the proposed sports arena and its neighbor, a convention center. I realized how fortunate I was not to be faced with such an uncertain future as the merchants of the area are. They probably have enough troubles as it is. But all is not lost. The National Collection of Fine Arts and the National Portrait Gallery have added class to the neighborhood. And the new public library, at 9th and G Streets NW, is magnificent. And with the subway coming in, perhaps the area would come to life again, and people would throng downtown. . . . While feeling sorry for the merchants, I came across an item which, once again, discussed the possibilities of a new Lion House at the zoo. . . . We could build the sports arena on the site of the old Lion House and build the convention hall on stilts over the duck pond."

The Chairman of the D.C. City Council, Gilbert Hahn, Jr. has helped to hold up renewal of the area by pushing for the convention-sports complex which has stymied the new $9-million office building. The National Capital Planning Commission, by locating the convention-sports center in the area, has also prevented private rehabilitation and new buildings from being located in this area. The affected businessmen were never consulted and hearings were not held by the NCPC, or the City Council, or RLA. What justice is there for your Subcommittee to try to condemn and seize the land and improvements because there has been no private development. How could there be under such circumstances? There are other examples of private renewal being held up by the convention-sports center.

Congress and the American Revolution Bicentennial Commission have a responsibility to pick a site which will not do violence to basic constitutional rights for which the American Revolution was fought.

Now, the church, business, and Chinese community, leaders have suggested through the Rev. King David, a leading Negro attorney, that the convention center be located in the area bounded by 7th Street on the East, 9th Street on the West, Eye Street on the South, and Mt. Vernon Square on the North. It could be on several levels, just as the convention facilities are at the Shoreham, Sheraton Park, and Washington-Hilton hotels, and this would provide enough space for the convention center. A convention center built on one or two levels is not good use of land in a mid-town area, as the Shoreham, Washington Hilton, and Sheraton Park Hotels prove. If this downtown site is chosen, then housing should be built above the convention center, otherwise there is no possible justification to use urban renewal funds to help build the convention center in view of the desperate need to use urban renewal funds to rebuild the burned-out areas which should have a far higher priority in use of Federal funds. Office buildings and hotels should be built north of Mt. Vernon Square to help rebuild the Shaw Project and give Federal City College attractive surroundings.

Probable legal basis for lawsuits to prevent confiscation of church, Chinese community, residential, and business properties for the convention center-sports arena in case the Senate and House Public Works Committees adopt the site recommended by the House Public Buildings Subcommittee on February 1, 1972, to the full House Public Works Committee.

Now, The Mt. Vernon Religious, Civic, Chinese, and Business Associations presented testimony to your Subcommittee on February 17, 1972 through Harry Hahn, an able attorney, which outlined in some detail the probable legal basis for lawsuits to prevent confiscation of church, Chinese, and business properties for the convention-sports center in the unlikely case that the Senate and

House Public Works Committees adopt the site and plan recommended by the House Public Buildings Subcommittee on February 1, 1972. Here are the relevant excerpts from Mr. Hahn's testimony—

"Mr. Chairman, have you and your fellow committee members decided that this area cannot be rehabilitated? This is an urban renewal area and is protected by the urban renewal laws. Sec. 307 of the Housing Act of 1964 requires the Secretary of Housing and Urban Development to find that the area cannot be rehabilitated. The Secretary of Housing and Urban Development has made no such finding with regard to the area sought for the Convention Center-Sports Arena. We do not believe he can make such a finding. Our area can be rehabilitated just as the Georgetown area was.

"Title 42 United States Code 1451(e)(2) states that the Secretary must find 'clear evidence that the community provides and continues to expand opportunities for its citizens. . . . that it provides clear and direct access to decision making, relevant and timely information, and necessary technical assistance to participating groups and individuals in programs covered.' We point out that being in an Urban Renewal Area this section of the United States Code also applies.

"The Public Buildings Act of 1959 outlines clearly that appropriations shall not be made for Public Buildings costing in excess of $100,000 unless determined by the President 'to be justified in the national interest'. There has been no such required 'justification' by the President declaring the Convention Center and Sports Arena in the national interest, as required by the Public Buildings Act of 1959, and his Bicentennial Message does not legally constitute such a 'justification'.

"The *Washington Post* of February 5, 1972 quotes as part of President Nixon's Bicentennial Message on this matter, 'that the legitimate concerns of merchants, working people and residents in those neighborhoods receive fair consideration in the planning and location process.' We were pleased to see that President Nixon recognizes this vital concern and hope that you and your committee will also share with us the need for our participation in the decision making process.

"Public Law 91–190, effective January 1, 1970, and cited as the 'National Environmental Policy Act of 1969', in Sec. 101 calls for the 'preservation of important historic cultural, and natural aspects of our national heritage, and maintain wherever possible an environment which supports diversity and variety of individual choice.' This community, which includes the Greater New Hope and Turner Memorial AME churches, as well as Chinatown, is an example of an historic and cultural area.

"Sec. 102 of this Act requires that you 'include in every recommendation or report on proposals for legislation and any other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible officials on (i) the environmental impact of the proposed action; (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, and (iii) alternatives to the proposed action.'

"What justification is there for a 5,000-car parking facility that will introduce enormous congestion and pollution into this downtown area, only one block from two of the city's major subway stations with which they will compete for passengers?

"'In two short years since the National Environmental Policy Act was enacted, Federal Courts across the country in widely varying fact situations have proved that the "102" provisions are court enforceable.' The foregoing statement was placed in the *Congressional Record* January 18, 1972 by Congressman John. D. Dingell. He further pointed out that 15 Courts of Appeals and 48 District Courts have supported the National Environmental Policy Act.

"Each member of the House and Senate Public Works Committee has a special responsibility to his Constituency back home. Have you considered the fact that a tax-built convention center-sports area in Washington, D.C., would indeed compete with your own local facilities which were built with the private and municipal funds without Federal aid?

"Finally, I would like you to know that this area has gone through a social and philosophical evolution. Please note how united we are—Black, White, Chinese, Churches and Businesses. We are dedicated to living in harmony with our fellow man. After all, shouldn't this be your goal, as well as ours?

"In conclusion, we strongly urge that you deliberate further on: (1) Loss of taxes; (2) Sec. 307 of the Housing Act of 1964; (3) Title 42 U.S.C. 1451(e)(2). (4) Detailed 'justification' by the President that this project is in the national interest; (5) Sections 101 and 102 of the National Environmental Policy Act; (6) Added congestion and pollution to this area by 5,000 cars; (7) Alternative locations; (8) Your fiscal responsibility to the citizens in your home Congressional Districts; (9) Destruction of an historic and cultural area that is socially and philosophically integrated.

"Now we ask, why shouldn't the Federal Government consider expanding the city's tax base by locating the Convention Center-Sports Arena on its own land and thus eliminate altogether the displacement and destruction of our churches, large and small businesses, Chinatown, and homes, which the suggested [Mt. Vernon] site in our area would eliminate?"

Now, finally, we believe that the convention center-sports arena should be entirely paid for by the Federal Government and not be foisted on the backs of District citizens and businessmen like the Kennedy Stadium was, which was also pushed by certain special interests as a "bonanza" for the Nation's Capital. Finally, after ten years, President Nixon has included $1,500,000 in his Federal Budget this year to help pay off the bonds of the Kennedy Stadium. He has not included one red cent to pay for the convention center-sports stadium, and his Bicentennial Message indicates that he is unlikely to include now or in the future anything more than a "token payment". The District of Columbia is on the verge of bankruptcy now, and this convention center-sports arena as recommended by the House Public Buildings Subcommittee is far more likely to bankrupt it than to contribute to its fiscal solvency. There are many instances in history where powerful emperors, kings, queens, etc. have devoted vast sums, terribly needed for national purposes, to the building of palaces and stadiums and have later been swept into the dustbins of history. It is an historic fact worth remembering. The $100,000,000.00 proposed for the convention center-sports arena could be better used to ameliorate the conditions of citizens in the Congressional Districts back home in the advancement of conditions more in accord with the spirit and intent of the American Revolution Bicentennial. We can think of several projects of this nature—spurred by the thought that the Congress is unlikely to spend more than $5,000,000.00 on this project, leaving District citizens to pay the remaining $95,000,000.00 which can scarcely be considered a bargain. In any event, the Congress is unlikely to pay even half of this projected $10,000,000.00 cost of the proposed convention-sports center, and if the House and Senate Public Works Committees recommended such an even sharing of the costs with the citizens of the District of Columbia it is highly likely that several Members of these two Committees would not be returned to Congress in the elections this fall. Our motto is: Not one more cent for sports arenas and convention centers to be paid by D.C. citizens.

Respectfully yours,

George Moy, William Yee, Ralph H. Wilkinson, Mr. D. Lee, Mrs. Inga G. Yaeger, James J. Muscatello, Philip J. Brown, William and Helen Leavitt, J. George Frain, Sam Abbott, Samuel A. DeVito.

Donald L. Reinhardt, Weston G. Roberts, Nellie Brown, A. J. Buell, William T. Bennett, Vernon McKenzie, Richard H. Sansure, Phillip R. Collis, Lawrence A. Jennings, Joseph W. Jennings, Harriet B. Hubbard, David Paris.

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## SOCIAL SECURITY BENEFIT INCREASE

## HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ANDERSON of California. Mr. Speaker, I am today introducing legislation which would first, increase social security benefits by 20 percent; second, increase the minimum benefit from $70.40 a month to $100 a month; third, allow social security benefits to automatically increase to compensate for future cost-of-living increases; and fourth, allow a social security recipient to earn up to $300 a month before his social security benefits would be reduced.

### TWENTY-PERCENT INCREASE IN BENEFITS

Presently, 27 million Americans are receiving social security benefits. Most of them do not have any other means of income. Most of them are hovering around the poverty level.

The 20-percent increase in benefits called for in this bill, coupled with the 5-percent increase mandated in H.R. 1—now in the Senate Finance Committee—would provide for a 25-percent cumulative increase in benefits in this year.

Mr. Speaker, the elderly have worked and have paid their own way; but now, many have exhausted any assets that they may have managed to accumulate during their working years.

The elderly deserve to live their remaining years in dignity with the aid of social security—a program that they founded and that they have built.

### COST-OF-LIVING INCREASE

Under my proposal, Mr. Speaker, social security benefits would be automatically increased in the future, commensurate with increases in the cost of living. If, after a 3-month period, the Department of Labor determines that the cost of living has increased, then social security benefits would be increased in an equal amount.

Thus, under my proposal, the elderly would not be subject to the irregular procedures of today whereby the administration and the Congress must agree on the proper amount of any social security increase.

### ALLOW INCREASED EARNINGS

The present law allows a social security recipient to earn up to $1,680 a year before his social security benefits are reduced. This provision penalizes the initiative of thousands of people who have found it impossible to live on their earnings and their social security benefits.

My bill would allow an elderly person to earn up to $300 a month, or $3,600 a year, before his social security benefits would be reduced.

This provision will enable social security beneficiaries who are eligible, and yet desirous of supplementing their income, to have increased latitude to do so without suffering a lowering of social security benefits.

Mr. Speaker, if my bill were enacted, and if the bill H.R. 1, which has passed the House and is presently in the Senate, were enacted, the average benefits for an elderly couple would be increased from $222 a month to $269 a month.

While I submit that this is hardly enough to sustain two people in today's society, it would be a welcome relief to those who depend solely upon the social security benefits they so richly deserve.

## FDA ACTS TO SAFEGUARD CHILDREN

### HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. SYMINGTON. Mr. Speaker, those of us who serve on the House Public Health and Environment Subcommittee have become acutely aware of the danger of accidental poisoning. Children are particularly prone to such accidents and nothing is more tragic than the death of a child. To alleviate this danger, the Public Health Subcommittee, under the able leadership of Representative PAUL ROGERS of Florida, has conducted numerous hearings dealing with drug abuse.

In the course of these hearings, members of the subcommittee have asked drug manufacturers what safeguards they build into their products so that children cannot accidentally open the drug containers. Too often the Public Health Subcommittee found inadequate safeguards, too many times manufacturers have admitted their products are easily accessible to children.

Fortunately and finally, the Food and Drug Administration—FDA—has announced that by August 15, 1972, all aspirin sold in the United States must be in containers that are difficult to open. The FDA has plans for similar packaging requirements for a number of other products that could be dangerous. The FDA stated there are over 4,300 such products that could be dangerous to children.

In my judgment, the FDA cannot move too quickly to require safe, childproof packages for all dangerous substances. I am pleased the FDA is moving on this matter. The Public Health Subcommittee has tentative plans to hold oversight hearings on drug advertising that makes possibly harmful drugs attractive to children and adults alike. Hearings like the one planned and action by the FDA are necessary if accidental poisoning is to be avoided. I applaud the FDA's recent action.

## TRAINING SCHOOL FOR COAL MINERS OPENED

### HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. DENT. Mr. Speaker, as promised during the Coal Mine Health and Safety Act debate, I am today making a report on one phase of that act that has long been needed in the coal mining industry and is now in operation.

This report deals with a training school for coal miners. It is hoped that this will make the mining industry more attractive as an occupation and will promote health and safety in the mines. This new school was finally put into operation through the cooperative efforts of the Federal Government and its Bureau of Mines headed by Dr. Elburt F. Osborn, the Pennsylvania Department of Environmental Resources and its Secretary Maurice K. Goddard, the Florence Mining Co. under the direction of James Hurley, and the United Mine Workers of America.

Representative JOHN P. SAYLOR and I participated in the dedication of this new facility. I can assure you that Mr. SAYLOR is as pleased as I am, and satisfied that this is a great step forward in making mining safer for that great body of men who keep the mines going.

The report follows:

MINING MACHINE OPERATORS TRAINING COURSE

This is a prototype, cooperative training program funded in part by a grant from the U.S. Bureau of Mines to the Central Pennsylvania Coal Operators Association, with the Pennsylvania State University accepting responsibility for the actual creation and conductance of the training work. Other interested organizations are the Pennsylvania Department of Environmental Resources, the United Mine Workers of America, the Keystone Bituminous Coal Association, and the Western Pennsylvania Coal Operators Association. All have taken an active part in the original planning and organization of the program.

The problem is this: with the tremendous expansion demanded of the bituminous coal industry that has resulted in Pennsylvania becoming the energy capital of the eastern United States, there just aren't enough skilled men in the operation of these machines to man the new mines that are necessary. Furthermore, despite a high wage scale and continuing success of measures to alleviate dust and noise problems, older machine operators with high seniority frequently bid off these jobs to jobs away from the face.

Therefore, in order to solve the problem this program was adopted with the following objectives:

1. Upgrade and improve on-the-job training of the safety phases of underground mining machine operators with the ultimate goal of reducing accidents mostly caused by inadequate training and instructions.

2. Increase the number of state-certified mining machine operators underground. (It is almost impossible to meet health and safety requirements and production goals with the large number of untrained, inexperienced new hires now being introduced to the underground mines.)

3. Improve the productivity of underground mobile mining machine operators as one means of meeting ever-increasing energy demands.

4. Alleviate the current shortage of underground miners who need to be trained in health and safety practices as well as production methods by formal classes of instruction conducted by competent instructors.

5. Provide a semi-permanent vehicle for teaching fundamental, safe coal mining habits and practices relating to mine ventilation, roof control, and safe machine maintenance and operation.

All the men presently and prospectively enrolled in this program are full-time employees of member companies of C.P.C.P.A. They are paid their regular wages by their respective employers while in attendance.

The overall program is projected for one year, consisting of six consecutive eight-week programs, of which this is the first, now in its fourth week. Each eight-week program enrolls 32 men, assigned by the employers. They make application through their companies and are tested for mechanical aptitude by Penn State.

All 32 men report to the classroom for the first week of each program. There they are taught coal mining methods, roof control, mine ventilation, gas detection, dust control, machine maintenance, first aid and accident prevention. During the second through the seventh weeks they are divided into two groups of 16 men each. These groups alternate by one group reporting to the class for a week while the other group reports back to their mines, where they are given assignments related to their training. Thus, each group receives three weeks training in the simulated mine. For the eighth week the entire group of 32 men are brought back into the classroom for review before dismissal. The following Monday a new group of 32 appears.

The 16 men in the mine are divided into teams of four, with each two teams under a full-time instructor. At present, the machines to which they are assigned are a drum-type continuous miner, a shuttle car, a loading machine and a roof bolting machine. Each man of the 32 eventually gets operating time on each of the machines through a carefully kept job check sheet, maintained by the instructors, and is graded on his performance.

If this pilot program lives up to the expectations that are held for it, it is expected that it will continue and others like it will be started in other coal mining areas.

## A PLEA FOR LITHUANIAN FREEDOM

### HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. HORTON. Mr. Speaker, mankind's struggle for individual freedom and dignity has been continuous since the dawn of civilization. The earliest recorded histories detail the desire for liberty in the ancient civilizations of Greece, Babylonia, and Egypt. While the battle against repression never ends for any society, there are some peoples who have been thwarted in their efforts to secure liberty and freedom by the oppression and domination of another country.

One of the most blatant examples of this subjugation is the Soviet Union's annexation of Lithuania. This month marks the 721st anniversary of the founding of the Lithuanian state and the 54th anniversary of the establishment of the modern Republic of Lithuania. However, we cannot rejoice with the peoples of Lithuania, for their young democracy was shattered by the invasion of Soviet troops in 1940 and again in 1944 and the imposition of Soviet rule throughout the country.

Their history since World War II has been one of continuous struggle against the oppressive rule by the Communist dictatorship in Soviet Russia. An armed patriotic resistance movement waged war against the Soviets until 1953. During this period, nearly 50,000 lost their lives. In the years since then, one out of every six citizens has been deported from their country against their will and sent to other areas of the Soviet world. They have been replaced by Russians in an effort to quell resistance. Dissidents have been sent to Siberia or committed to asylums for the mentally ill. A large percentage of these persecuted people have perished due to harsh conditions, starvation, or executions.

The free practice of religion in Lithuania is nonexistent. According to Russian law as implemented in Lithuania, the practice of religion is protected except where it is harmful to the health or rights of citizens. The Soviet interpretation of the "harmful effects" includes almost every aspect of religious practice. Priests have been imprisoned by Soviet authorities for teaching children, with their parents' approval, the principles of their religious heritage. By isolating children from religious influences, Soviet authorities hope that what they term "religious superstitions" will be eliminated. Through state control over the number of priests and the total submission of the church to the state, it is hoped that religion can be stopped as a major force in that society.

The passage of time has not dinned the people's vision of a free Lithuania and their desire for self-rule. Courageous protests to the Soviet Government by many groups continue and individual efforts to escape the cruel and insensitive rule by the Soviet Government are many.

Just 2 years ago, a young Lithuanian sailor, Simas Kudirka, attempted to defect aboard a U.S. Coast Guard vessel during a meeting between representatives of the Lithuanian navy and the U.S. Coast Guard. Kudirka felt so completely dominated by the Soviet regime that he was willing to risk his life and the lives of his family in the hope that he could be of more help to them from free soil. In a tragic mistake, Soviet officials were permitted to board the American ship, the *Vigilant*, and take Kudirka back to face trial in his homeland. He was sentenced to 10 years service in a Soviet labor camp.

Under Russian law, no one is allowed to leave the country unless the government gives its consent. The indignity of being forced to live where the government of another country allows one to, could break many people. But it has only given the Lithuanian people greater determination to defeat the Soviet-imposed government.

The indestructible spirit of Sima Kudirka must not be forgotten. To that end, I introduced legislation in the House last year to rename the Coast Guard cutter, the *Vigilant*, the *Simas Kudirka*. I hope that my colleagues will join me in this small tribute to a young man who showed tremendous personal courage and conviction.

The United States must make every effort to help this courageous nation to find the freedom we have enjoyed for nearly 200 years. In 1966 , I supposed House Concurrent Resolution 416 which urges the President to bring this denial of freedom to Lithuania and the other Baltic States of Estonia and Latvia to the attention of the United Nations and to make every effort to direct the force of world opinion to the oppression of these countries. I urge President Nixon to do all in his power to realize this goal.

In the last few months, the world has watched while the leaders of the great powers made realistic appraisals of dated and time-worn foreign policies. It is my hope that our efforts at establishing a meaningful dialog between countries of different political philosophies, will open the way to helping other countries determine their own political destiny.

As we commemorate the founding of the Lithuania State, let us each promise to make our own individual effort to insure that Lithuania's is not in vain.

## MR. PAUL PERITO MOVES TO SAODAP

## HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. SCHEUER. Mr. Speaker, last week the White House announced the designation of Paul L. Perito as Deputy Director of the Special Action Office for Drug Abuse Prevention. I do not want such a wise and commendable appointment to go unnoticed by this House, for this is a position of immense importance in the Nation's battle against drug abuse.

As you know, the President created the Special Action Office for Drug Abuse Prevention—SAODAP—on an interim basis by Executive order on June 17, 1971 and named Dr. Jerome Jaffe as Director. At the same time he submitted legislation to create such an office on a permanent basis. The concept for this office was first contained in legislation which I introduced with over 60 co-sponsors in March 1971. Consequently, I have had a keen interest in the organization, staffing and operation of SAODAP in the ensuing months.

The appointment of Mr. Perito is one of the most encouraging developments in SAODAP's brief history. He is a highly talented and skillful professional whose successful career in government testifies to his outstanding abilities. After 4 years as an Assistant United States Attorney for the Southern District of New York, where he prosecuted major organized crime and narcotics cases, Mr. Perito became chief counsel of the Select Committee on Crime. Under the leadership of the chairman of the Select Committee, our esteemed colleague Representative CLAUDE PEPPER, Mr. Perito directed a series of impressive and exhaustive investigations into the problems of amphetamine abuse, the treatment of heroin addicts, juvenile delinquency, heroin trafficking and packaging, and a broad range of problems in the administration of our criminal justice system. Mr. Perito's clear sense of direction and purpose contributed immensely to the success of these investigations. The committee's report and recommendations for improving the Nation's attack on both the causes and the effects of crime have provided this Congress with a comprehensive agenda for action.

During his 18 months on Capitol Hill I consulted with Mr. Perito frequently on the subject of drug abuse and drug trafficking. While conducting my own investigation of these problems and preparing legislation to combat them, I found him to be one of the most knowledgeable people in Government. He is now taking his experience as a prosecutor and as an investigator to a new agency which will play a crucial role in determining the success of our battle against narcotics abuse. I am sorry that he will no longer be lending his expertise to the House of Representatives, but I am glad that the administration has had the foresight to recruit such an experienced and effective young man. I am sure that my colleagues join with me in wishing him and his new agency every success.

## FREEDOMS FOUNDATION AWARDS TO INDIANAPOLIS AREA RESIDENTS AND ORGANIZATIONS

## HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BRAY. Mr. Speaker, the February 21, 1972, issue of the Indianapolis Star carried a front-page story listing the Indiana and Indianapolis area winners of 1971 awards from the Freedoms Foundation at Valley Forge, Pa.

The top national editorial award went to Eugene C. Pulliam, publisher of the Indianapolis Star and News, for his editorial on the threat to individual freedom posed by the Federal bureaucracy.

The story follows:

### Foundation Honors Pulliam Editorial Hitting Bureaucrats

Eugene C. Pulliam, publisher of The Indianapolis Star and The Indianapolis News, yesterday was named recipient of the top national editorial award for 1971 of the Freedoms Foundation for his Oct. 24 editorial, "Will The Federal Bureaucracy Destroy Individual Freedom in America?"

William F. Bennett, an editorial writer for The Star, and Wayne Guthrie, a columnist for The News, also were honored. Bennett received an Honor Certificate for an editorial, "America's Strength," and Guthrie received a Distinguished Service Award for a column, "Old Glory Needs Its People."

General of the Army Omar N. Bradley, America's only living five-star general, was named recipient of the top Freedom award.

The George Washington Award, and a check for $5,000 will be presented to Gen. Bradley by Howard H. Callaway, chairman of the Council of Trustees of the Freedoms Foundation in ceremonies today at Valley Forge, Pa.

The "G.I.'s General," as he became known during World War II because of compassion for his men, was cited for his "integrity, individuality, objectivity, hard work and responsibility."

Pulliam's editorial, published on the front page of The Star, and his other papers, including The Muncie Star, The Muncie Press, The Phoenix Gazette and The Arizona Republic was widely reprinted.

Highlighted along with the editorial were "Freedom Quotations" from famous Americans.

The editorial stated that, "The most serious threat to freedom in America today—including freedom of the press—comes from a Federal bureaucracy which seems determined to gain control over every facet of American life."

Pulliam will receive an encased George Washington Honor Medal and $500.

Recipients for the awards were chosen in December by a distinguished volunteer National and School Awards Jury of state supreme court jurists and representatives of national veterans, service, civic, and patriotic organizations.

A total of 52 other Indiana individuals and organizations received awards. They follow:

George Washington Honor Medal Award—United States Air Force M/Sgt. Paul E. Hendricks, Columbus; Air Force Sgt. Lester W. Walden, Edinburg; Navy Comdr. Richard A. Hendricks, Elwood; Army 1/Sgt. Roger G. Glidden, Kokomo; Army (reserve) 1/Sgt. Clay C. Elmore, Muncie; and Army S/Sgt. John S. Mobley, Terre Haute, for Armed Forces Letter, "What Is An American?"

Also, Zollner Corporation, Fort Wayne, and its corporate publication editor, Bernard Kampschmidt; Dorothy Smith, Frankfort, for a letter to the editor; Brian L. Bex, Indianapolis Chamber of Commerce Building, for essay; City of Indianapolis for government unit activities; Robert K. Konkle, superintendent of the Indiana State Police, for a public address; National Council for the Encouragement of Patriotism Inc. at Munster, in Americana category; Wilma Long of Whitestown, letter to the editor, and the Greater Zionsville Chamber of Commerce for community programs.

Schools cited—Arlington High School, 4825 North Arlington Avenue; Arsenal Technical High School, 1500 East Michigan Street; W. A. Bell School 60, 3330 North Pennsylvania Street; Emma Donnan School 72, 1202 East Troy Avenue; Emmerich Manual High School, 2405 Madison Avenue, $100, plus medal; Indianapolis Public Schools, 120 East Walnut Street; and Jonathan Jennings School 109, 6150 Gateway Drive.

Also, John Marshall High School, 10101 East 38th Street; Theodore Potter School 74, 1601 East 10th Street; James E. Roberts School 97, 1401 East 10th Street; Lew Wallace School 107, 3307 Ashway Drive; Albert Walsman School 111, 1780 Sloan Avenue and Daniel Webster School 46, 1702 West Miller Street.

Distinguished service award—William S. Sanderson, Fort Wayne, $100, plus award for a cartoon; American Legion National Headquarters, Indianapolis, Americana category; American Legion Auxiliary National Headquarters, Indianapolis, for Girls Nation silver anniversary; Anna Brochhausen School 8C, 5801 East 16th Street; Brookside School 54, 3150 East 10th Street; H. L. Harshman School 101, 1501 East 10th Street, and Minnie Hartman School 78, 3734 East Vermont Street

Other awards included:

Ruth T. Hall, Evansville, Valley Forge Teachers Medal; L. S. Ayres & Co., 1 West Washington Street, honor certificate for advertising; Department of Indiana, Veterans of Foreign Wars, 1402 North Shadeland Avenue, honor certificate for nonprofit publication; Toni Flowers, 924 East 52d Street, Valley Forge Teachers Medal, and Robert Frost School 106, 5301 Roxbury Road, honor certificate.

Also, Myla Hall, 3207 West 29th Street, Valley Forge Teachers Medal; A. P. Hamilton School 77, Principal School Award; Christian Park School 82, 4700 English Avenue, honor certificate; C. N. Kendall School 62, 940 North Wallace Avenue, honor certificate; Merle Sidener School 59, 2424 Kessler Boulevard, East Drive, Principal School Award; Virginia C. Simmons, 814 Lincolnwood Drive, American Educators Medal, and D. T. Weir School 71, 3333 North Emerson Avenue, honor certificate.

Others are Carl Wilde School 79, 5002 West 34th Street, Principal School Award; Kate Rutherford, Liepsic, Ind., Valley Forge Teachers Medal; Frank H. Hammond, Munster, American Educators Medal; Marine Corps S/Sgt. Stanley R. Brown Jr. of Russiaville, honor certificate and Army SP5 George J. Stacey of Tipton, honor certificate.

Indianapolis winners of awards will receive citations at a ceremony to be held in the auditorium of the L. S. Ayres & Co. downtown store at 7 p.m. April 13.

The ceremony will conclude a three-day Freedoms Foundation Fair in which city schoolchildren will participate.

## CONSERVATION: AN ELOQUENT PLEA FOR COMMONSENSE

### HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. CLEVELAND. Mr. Speaker, the question of preservation of the environment versus the need for natural resources to keep our economy going is one which has been receiving a great deal of attention of late.

Although I love the outdoors, the woods, and the scenic beauty of my native New Hampshire, I am also aware that economic progress has been accomplished in many instances by the exploitation of our natural resources. In many cases this exploitation has been excessive and destructive, but in others it has been done with rational restraint paying attention to the ecological balance and replacement. In the rush to protect the environment we sometimes overreact, and this too can be destructive.

The elimination of pollution from our rivers, streams, lakes, oceans, and air is a responsibility we all have to our children and their descendants. However, we must not let the lure of a perfect environment blind us to the reasonable needs of our economy. We should strive for a balance to meet our commitments and responsibilities in both areas of concern.

The following is a letter written by a fellow New Hampshirite and outdoors enthusiast, Mr. John C. Calhoun, Jr., president of the Association of New Hampshire Consulting Foresters, to the New York Times in reply to the attached editorial on the Forest Service. Mr. Calhoun eloquently states the other side of the case, which has too often been ignored by those who should know better.

The material follows:

To the Editor,
*The New York Times,*
*New York, N.Y.*

Dear Sir: In this day of instant everything, it troubles me as a member of the forestry profession to see your paper joining ranks with those uninformed and rather sentimental preservationists who want their cake, the forests, to look at (if they choose to) and who want to eat it too, in the form of lumber and even newsprint.

Have you for instance gone to the source of your own newsprint to see what it looks like when the commercial loggers have been through it. Or are you in this case giving editorial lip-service to multiple use, if any, and the pristine appearance of the landscape after these hard-pressed "timber miners" have done their job and sent the pulpwood floating downstream to your newsprint factories? If you have not and do not insist on the highest quality of forestry and appearence, then why do you so glibly take up the cudgel against the original conservationists of this country, as you did so heavily in your columns on April 13, 1971, on the U.S. Forest Service.

If you took the time to look into it you might well find enough scenery apparently destroyed in the process of supplying just your paper in a year that you might be tempted to look for another newsprint material. But if your study of these matters persisted as they have with the professional foresters of this country and Canada for the last seven decades, you would certainly find that under certain conditions forests treated as harshly as your loggers have treated them, or even the Forest Service is treating them in the Bitterroot Mountains, in the Douglas fir country on the west coast, in the scrub oak land of the south, where great pine forest now grow following pretty drastic initial treatment to the forest and the landscape are both scenic and healthy and productive today.

The point is, that growing timber is a long-range business and a great body of evidence points to the need to remove all shade, expose the mineral soil to establish a new crop of most of our most valuable forest trees. There is also the fact troubling the foresters, and as a consumer of forest products, it should trouble the New York Times, at least the business office, if not the Editor, that more timber is lost each year to fire, insects and disease, than is ever consumed by the people of this country as paper or lumber. The effect of calling off the application of forestry, however temporarily unattractive looking, to the Bitterroots, or any other National Forest, would be a major disaster, if you are truly interested in the long-range supply of timber for this country.

The one fact that seems to escape you and so many others who are happily now concerned, is that the forests grow. It is a long process but a steady one, and when the crop is ready, mature, it must be cut, or it will be lost. Now if you feel that these forests should be locked up so that we can sit in our city homes and think that they are there and find satisfaction in that fact, please say so. But how do you square that with your cry for more housing for our increasing population?

No doubt the Forest Service can stand some criticism. Perhaps they are behind in what you call Reforestation, even by five million acres. If that is so, perhaps it is because people like Senator McGee have failed to appropriate the money to hire the staff that is obviously needed to do the job. Or perhaps the New York Senators and others feel that the first priority of the Service should be to increase the supply of lumber so that housing needs can be met. Perhaps the Review should be in this area!

All that I can ask, is that the next time you feel the urge to write on this important subject, please get closer to the complex facts of the matter. And while you are at it, check up on your own woodlots and see if you yourselves are responsible for leaving vast stretches of the Adirondacks, Ontario and Quebec "desolate in the decades required for reforestation." My guess is that in spite of initial bad appearance you have in many cases gotten several crops from the same acreage, and your own people would tell you there was no alternative to this process, except perhaps import from Russia.

Sincerely yours,

JOHN C. CALHOUN, Jr.,
*President, Association of New Hampshire Consulting Foresters.*

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[From the New York Times, April 13, 1971]

THE USES OF A FOREST

A much-needed examination of Forest Service practices may at long last be at hand. Testifying last week before a Senate subcommittee, Senator Gale McGee of Wyoming not only proposed a review of timber management in the national forests but sought a Congressionally imposed moratorium on clear-cutting by logging companies until such a study can be made.

Clear-cutting, in many places a highly questionable logging procedure, is the practice of chopping down all the trees in a particular section of forest, supposedly to allow better regrowth. Selective cutting, favored by most conservationists, singles out only the fully grown trees, leaving others to mature. By keeping the forest itself intact, this method—though more time-consuming and costly for the loggers—tends to prevent fatal soil erosion and the clogging of streams, especially in hilly areas, leaves wildlife undisturbed and preserves the scenery for the joy of man instead of leaving it desolate in the decades required for reforestation.

What is bringing the issue to a head is not a mere difference in techniques; rather it is the evidence that has been mounting for years that the Forest Service has been taken in, like so many regulatory bodies, by those it should be regulating. It is accused of giving only lip service to the concept of multiple use of forests, of reducing their role largely to the purpose of furnishing timber to commercial loggers at attractive prices.

The charges have been impressively documented. A special committee at the University of Montana, studying the Forest Services practices in the Bitterroot Mountains, concluded that it was not engaged in "timber management" at all, but in "timber mining." West Virginia a legislative commission was so shocked recently by the devastation permitted by the "timber oriented" service that it recommended a halt to all clear-cutting except in small occasional patches of forest.

In their headlong and wasteful course, the loggers have left reforestation efforts dangerously far behind. A series of articles for the Des Moines Register and Tribune indicates that the Forest Service is five million acres behind in its reforestation efforts and another thirteen million acres in forest improvement. Senator McGee's call for a pause and a hard look at the Service is modest in the circumstances—and it comes none too soon.

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## A STUDY OF CLEARCUTTING ON PUBLIC LANDS

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. FRASER. Mr. Speaker, last month there were reports that an Executive order would be issued restricting clearcutting on public lands. But evidently the administration backed away.

More than half the timber in the Boundary Waters Canoe Area, the Nation's prime canoe country in northern Minnesota, consists of stands of aspen and jackpine, which are felled by clearcutting. Environmentalists have pointed out that clearcutting ruins an area for recreational use, not only because of unsightly open areas that result, but because of the extensive network of roads needed to haul out the logs. It takes years before replanting can cover the scars.

I am sponsoring H.R. 13187, legislation introduced originally in the Chamber by the distinguished gentleman from Wyoming (Mr. Roncalio), which would establish a commission to investigate and report within 2 years on the practice of clearcutting of timber resources on Federal lands. Until this study was completed, a moratorium would be in effect on cutting in those areas. Further depredation of our national forests would be prevented while the system of clearcutting was thoroughly evaluated and reasonable restraints were devised.

The following account in the Minneapolis Tribune of January 14 tells of the failure of the administration to set guidelines for clearcutting in national forests:

UNITED STATES ABANDONS PLAN TO LIMIT CLEARCUTTING IN FORESTS

(By Al McConagha)

WASHINGTON, D.C.—The Nixon administration, yielding to heavy opposition from the timber industry, abandoned a proposal Thursday to limit clear-cutting in national forests.

The decision to drop plans for an executive order was reached jointly by Agriculture Secretary Earl Butz, Interior Secretary Rogers Morton and Russell Train, chairman of the Council on Environmental Quality.

An official of the Forest Service, which administers the national forests, announced dropping the curbs on clear-cutting, the practice of cutting down all trees within an area.

Environmentalists strongly oppose this forest harvesting technique as being unsightly, wasteful and in some cases permanently damaging to the forest environment.

Administration informants said officials had concluded that the White House order was not required because satisfactory control of clear-cutting could be established through other steps.

The order had been urged by Train, informants reported, and had been circulating through the bureaucracy in a number of drafts for the past three months.

Last weekend officials in the Department of Agriculture called a series of meetings with representatives to the timber industry to acquaint them with plans for the order.

The industry representatives were particularly concerned about a prohibition of clearcutting in areas of "great natural beauty." They felt this would lead to countless law suits.

The timber industry urges continued clearcutting in the national forests as the economically most efficient means of logging and contends that the practice aids reforestation.

Spokesmen for the logging firms argued that the clear-cut curbs were already part of Forest Service regulations and that agency is best able to judge the issue of "natural beauty."

Conservationists, some of whom had characterized the White House proposal as merely a "gesture," last night vigorously protested the administration's action.

Legislation is under congressional consideration that would further restrict clearcutting or ban it altogether in the forests.

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## LEGISLATION TO SPEED UP THE APPROPRIATIONS PROCESS

### HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BROTZMAN. Mr. Speaker, I am pleased to join with my distinguished colleague from New Hampshire (Mr. WYMAN) in cosponsoring important legislation to speed up the appropriations process. If enacted into law, the measure would permit the appropriations bills to be considered on the floor of the House after June 15 without prior separate authorization.

Last year I introduced a similar resolution in conjunction with a three-part package on reforming the appropriations process. The first, H.R. 4698, provides that the fiscal year of the Federal Government coincide with the calendar year. The second, H.R. 4699, requires continuous sessions of the House whenever an appropriations measure has not passed by the beginning of the new fiscal year. The third, House Resolution 241, would permit appropriations measures to be considered 30 days prior to the commencement of the new fiscal year even if authorizing legislation has not been passed by that time.

Unfortunately, my three-bill package has not come to the floor. That is why I am today joining with the distinguished gentleman in sponsoring an important part of the proposal. The adoption of this resolution would be of immediate assistance in ending the problems caused by delays in the appropriations process. Even if the House goes ahead with the proposal to make the fiscal year coincide with the calendar year, the resolution now offered could be of great assistance.

Although it may not be as dramatic, the reform of the appropriations process is as important a congressional reform as can be found. Each year untold amounts of tax money are spent inefficiently due to the delay in annual appropriations. First, it leads to the practice of irresponsible grants due to the fact that agencies like to spend their full appropriation, but yet they do not receive their full appropriation until late in the year. Second, ineffectual or outmoded programs continue to operate as a result of resolutions for continuing appropriations which necessarily accompany delays in the regular appropriations bill.

Particularly hurt by the delays in appropriations are the school districts. Often they find themselves in the uncomfortable position of working on next year's budget without even knowing their level of federal assistance for the current year. This cannot help but lead to an inefficient allocation of tax dollars.

The seriousness of the problem cannot be overemphasized, Mr. Speaker. Over the past 8 years, 92 percent of the appropriations bills have been passed after the commencement of the new fiscal year. In the 2 years of the 91st Congress, not one single regular appropriations bill was signed into law by the deadline.

I commend the gentleman from New

Hampshire, himself a member of the Appropriations Committee and thereby aware of the problems I have been discussing, for his resolution, and I am pleased to join with him in cosponsorship.

## REPORTS ALARM MEAT PRODUCERS

### HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. NELSEN. Mr. Speaker, the general manager of the largest livestock market agency in the world has just written me, greatly alarmed by reports in the press indicating that our Government is considering the lifting of 1972 meat import quotas by about 10 percent. The manager, Mr. N. K. Carnes of the Central Livestock Association in South St. Paul, Minn., also enclosed a resolution on the subject of inadequacies in present law governing meat imports. The association, with a membership of 122,536 livestock producers, adopted the resolution at a stockholders' meeting on February 10.

I share the deep concern of livestock producers about this whole question. The Department of Agriculture reported only a few days ago that of a $21 increase last year paid by consumers for a "market-basket" list of food items, farmers got only a meager $1. The other $20 was pocketed by middlemen. In fact, farmers last year got only 38 cents of each dollar consumers spent on food, down 1 cent from 1970.

There is far too little public recognition of the fact that while all nonfarm prices have soared year after year, farm prices have remained static for more than two decades. Millions of farmers have been driven out of business as a consequence, and the drive continues unabated to this very day. It would be tragic and ill-advised to lay further economic roadblocks in the path of our long-suffering farmers.

I include the Carnes letter and resolution No. 7 of the Central Livestock Association at this point in my remarks for the benefit of colleagues and appropriate Federal officials:

CENTRAL LIVESTOCK ASSOCIATION, INC.,
*South St. Paul, Minn., February 14, 1972.*
Hon. ANCHER NELSEN,
*House Office Building,*
*Washington, D.C.*

DEAR ANCHER: Those of us associated with the management of the Central Livestock Association, Inc. (headquarters, Exchange Building, South St. Paul, Minnesota), which enjoys the distinction of being the largest livestock market agency in the United States, and, therefore, in the world, as defined by the Packers and Stockyards Act of 1921 as amended, were very much surprised and concerned when we read the article which appeared in the Wall Street Journal of Monday, February 14, 1972, page five, under the heading, "Administration may decide soon to lift 1972 meat import quotas by about ten per cent".

Despite the fact that many consumers and consumer organizations are "crying" about the high prices of meats, I am certain that anyone who has made an extensive study of the situation realizes that meats are cheap at the present time when one considers the length of time a laborer must work in order to earn the price of a pound of meat when compared with the time it was necessary for him to work to earn the price of a pound of meat a few years ago.

The disposable income of labor has advanced much more rapidly than the cost of food, and today the consumer is only spending around sixteen per cent of his disposable income for food, which is substantially lower than it has been in the past.

I think the time has arrived when those holding positions of responsibility within the framework of our government should consider the interests of agricultural producers and pay less attention to the cries of labor and the consumer in their desire to arrive at equitable decisions.

The Central Livestock Association, which has a membership of 122,536 residing and operating largely in the States of Minnesota, Wisconsin, Iowa, North Dakota, South Dakota, and Montana, at a stockholders' meeting held in St. Paul, Minnesota, on Thursday, February 10, unanimously passed a resolution relative to this matter, a copy of which I am enclosing for your information and guidance.

We sincerely hope that before any action is taken to broaden quotas on foreign meats or increase imports, that this matter will be given careful consideration, bearing in mind the interests of livestock producers, whose net income has not kept pace with the advancements that have been made in returns to American labor.

Respectfully yours,
N. K. CARNES,
*General Manager.*

RESOLUTION NO. 7—MEAT, WOOL AND DAIRY IMPORTS

We commend the United States Department of Agriculture, the Department of State, and the Department of Commerce on the progress made in restricting the excessive importations of certain meats, and other products of animal agriculture, through negotiations with several principal exporting countries, and the application of quotas in accordance with the provisions of the 1964 Meat Import Law.

We further commend the United States Department of Agriculture for its order issued December 30, 1971, prohibiting transshipments into the United States during 1972 of meats subject to the Meat Import Law and originating in Australia, New Zealand, and Ireland.

However, the 1964 Meat Import Law is inadequate in that only fresh, frozen and chilled beef, veal, mutton and goat are included in the law. Quotas increase in direct proportion to the increase in our own domestic production of these same meats. Quantities of these meats allowed to enter are far too liberal before import restrictions are required.

Lamb, pork, canned, smoked and processed meats of all kinds are not included in the present law.

Uncontrolled lamb imports threaten to destroy our domestic lamb industry at a time when our domestic sheep producers are attempting to increase sheep numbers. Such stabilization of lamb and wool production in the United States is highly desirable.

Excessive imports of cheaply produced, foreign woolen textiles are liquidating and destroying our only customer for domestically-produced wool, the American textile industry. This situation represents another serious threat to the survival of our United States sheep industry, producer of wool, a strategic commodity.

Dairymen of America are faced with the same serious threat to their prosperity because of potential foreign imports of dairy products, should temporary restrictions be modified, evaded, or abandoned.

We urge livestock producers and feeders to contact their representatives in the Congress of the United States and ask that they recognize the requests of farmers, ranchers, and farm organizations, and present a united front and an intensified effort to enact legislation, should voluntary negotiations break down, that will provide more adequate protection from excessive importations that pose a serious threat, not only to the livestock industry, but to our entire economy.

## GENERAL OF THE ARMY OMAR N. BRADLEY RECEIVES FREEDOMS FOUNDATION AWARD AT VALLEY FORGE

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. TEAGUE of Texas. Mr. Speaker, under leave to extend my remarks in the RECORD, I wish to include the text of a news release from the Freedoms Foundation at Valley Forge announcing the fact that General of the Army Omar N. Bradley was the recipient of their top award.

I can think of no other American who deserves this award any more than General Bradley. He has devoted a lifetime to his country in the quest of freedom.

The news release follows:

FREEDOMS FOUNDATION AWARD

VALLEY FORGE, PA.—General of the Army Omar N. Bradley, America's only living five-star general, was named today recipient of the nation's top freedom award by Freedoms Foundation at Valley Forge.

The George Washington Award and a check for $5,000 will be presented to General Bradley by The Honorable Howard H. Callaway, Chairman of the Council of Trustees of Freedoms Foundation at Valley Forge and a former Congressman from Georgia, who will preside at Freedoms Foundation's 23rd annual awards ceremony tomorrow, (Feb. 21) 2 p.m., in Thomas Hall, Valley Forge Military Academy.

General Bradley, the Army's highest ranking officer at 79 (his birthday was Feb. 12) is still on "active duty" status. He was selected by the 1971 National Awards Jury for "his long, dedicated and selfless service to his country as a professional soldier, head of the Veterans Administration and Chairman of the Joint Chiefs of Staff."

The "GI's General," as he became known in World War II because of his compassion for his men, was further cited for his "integrity, individuality, objectivity, hard work and responsibility," exemplified throughout his military and civilian career.

General Bradley graduated 44th in the Class of 1915 from the United States Military Academy at West Point and was the first to become a brigadier general in 1941. World War II propelled General Bradley to the upper echelons of the Army.

Within two months after Pearl Harbor, he commanded the 82nd Infantry Division of World War II fame: then to command of II Corps that smashed through units of the Afrika Corps in Northern Tunisia; to the first U.S. Army which landed in Normandy, June 6, 1944 to break the Atlantic Wall; and finally he assumed command of the U.S. 12th Army Group which consisted of the combat forces of the First, Third, Ninth and Fifteenth Armies.

In the spring of 1945, after his American armies had smashed the German winter attacks and broken through the Sigfried Line to push on to the Rhine River, General Bradley was given his fourth star.

He was nominated by President Truman for promotion to General of the Army on Sept. 18, 1950; was confirmed two days later by the Senate, and was appointed a five-star Army general officer on Sept. 22, 1950.

On August 15, 1945, three weeks after V-E Day, General Bradley was designated administrator of the Veterans Administration during the critical post war demobilization of our Armed Forces. He relinquished the post in 1947 and subsequently became Chief of Staff U.S. Army, succeeding General of the Army Dwight D. Eisenhower. A year and a half later, he was appointed Chairman, Joint Chiefs of Staff for a two year term and was reappointed in Aug. 1951.

He left the Pentagon post in 1953 and assumed a civilian position with the Bulova Watch Co., and today is its board chairman.

He and his wife, along with their twin miniature poodles, Omaha and Utah, named for the Normandy beachheads, enjoy their home atop a 1,232 foot crag in Beverly Hills.

During the ceremony, Mr. Callaway will be assisted by Gen. Harold K. Johnson, US Army (Ret.), president of Freedoms Foundation at Valley Forge and a former U.S. Army Chief of Staff, and other Freedoms Foundation directors and trustees in presenting top awards in different categories to 50 outstanding Americans for their contribution to a free America and better understanding of our democratic Republic and the American free enterprise.

General Johnson will also make known a listing of 1822 additional awards to individuals, organizations, corporations, schools throughout the country for their outstanding efforts in upholding the basic American freedom precepts. These awards will be presented at local and regional ceremonies throughout the country later in the year.

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## CYRUS EATON

## HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. STOKES. Mr. Speaker, for many years, Cyrus Eaton has been a lonely voice in an industrial wilderness.

Alone among the industrial potentates, he has placed personal gain last in a long list of priorities. At the top of his list are a lifelong dedication to world peace and fellowship and a compassion which is unexcelled by other figures of his stature.

When presidents and ministers have failed to bow to the humility required in peacemaking, Cyrus Eaton has stepped forward to achieve instant understanding by treating the alleged enemy simply as another human being, worthy of respect. And that is probably the secret behind Mr. Eaton's ability to cross all lines and be accepted wherever he goes. When he looks at a man, Mr. Eaton does not see a nationality, a race, or a religion. All he sees is a man—and that is his greatness.

On February 1, 1972, an article appeared in the Chicago Daily News about Cyrus Eaton. I would like to share it with my colleagues today:

ANGRY PROPHET CYRUS EATON: "NIXON, KISSINGER NOT SINCERE IN ENDING VIET WAR"

(By Georgia Anne Geyer)

NORTHFIELD, OHIO.—Outside, a gentle, moist snow has fallen, filling the elbows of branches, welding the blades of grass together and turning the 860 acres of Acadia Farms into a misty wonderland.

Inside, wealthy industrialist, Cyrus Eaton, 87, sat by a hissing fire in one of the most beautiful old homes anywhere in the world.

But all this material loveliness did not stop him from being angry—angry and sad because, after more than 15 years of fighting for rapproachement with the Communists, he is more certain than ever he is right.

"Yes, people don't criticize me so much anymore," he said, referring to President Nixon's trips to Moscow and Peking. "They see I've been right, particularly with regard to peaceful coexistence with the Communists."

But these thoughts gave him little pleasure. He had watched President Nixon announce "secret negotiations" with the North Vietnamese, and he was infuriated that the President had "deceived" the American people with what he felt were mystery-filled, Rasputinian tales of back-door negotiating while, all this time, he had ignored the front door of simply getting out of a wrong war.

"When are the American people going to realize that Nixon and Kissinger are not sincere?" he said, his normally kindly voice suddenly angry. "Oh, certainly Kissinger had the meetings he said he had with the North Vietnamese, but they do not understand Hanoi's position. They (Hanoi) will never accept the Thieu government.

"When my wife and I went to Hanoi in 1969, we talked to almost all the top Vietnamese leaders—Le Duan, Le Duc Tho, Pham Van Dong and others. When I told them the American leaders would listen to any peace plan I might bring back, one of them suggested to me that I might be 'naive.'

"When we came back, it was just as he said. What I was told in Washington by the highest officials was that these men in North Vietnam were 'evil people' and they could not be negotiated with.

"You see, these men have tried to negotiate with the West since the 1940s and time and time again they have been double-crossed. They are convinced that this will not happen again."

Probably there is no more interesting—and, to many people, contradictory—capitalist in the United States today than Cleveland's Cyrus Eaton, a man whose fortune is conservatively estimated at $100 million, a man whose industrial empire includes interests in two railroads and six major steel corporations, and man who gets along swimmingly with the Communists.

Eaton looks at America today, and sadly, sees it in trouble. He sees, very possibly a great depression approaching. "What's wrong with this country that we would get into a Vietnam?" he said. "Part of it is our inexperience, and out conceit over the successful experience in World War II. This and an over-reliance on the military.

"Capitalism needs great reforms," he went on. "I have great stakes in this country. I have 14 grandchildren here. I believe that we must have much more contact between management and workers. We must have workers as stockholders and workers on boards. We have a long way to go."

Eaton thinks the United States ought to get the benefit out of trade with the Communist, instead of letting the Europeans get it, and he sees the U.S. perfectly capable of destroying its own system in trying to destroy Communism through such "horrors" as the Vietnam War.

"The greatest enemy of capitalism are those fanatics who are willing to have this country go bankrupt in its efforts to confine and destroy Communism," he has said.

Today, Eaton is delving deeper into man, beyond politics, trying to find out, "Why does one man think one way and one another way, why does one react decently and one another way?" Right now he is fascinated by some of the modern Darwinians, who believe that even man's thought processes may be materially evolved.

Certainly he has seen enough of the curiosities of mankind to make him wonder from whence man's behavior comes. He smiled when he talked about walking into the North Vietnamese mission outside Paris one day, on one of his free-lance diplomatic tours, carrying an American newspaper open to the Dow Jones averages.

"Of course, you wouldn't know what those were," he remarked lightly to one of the Hanoi negotiators.

The man smiled. It was a time when the North Vietnamese were watching for any signs of the war's deleterious effect on the American economy.

"We read them every day," he said.

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## THE CASE FOR A SECRETARY OF EDUCATION

## HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BRADEMAS. Mr. Speaker, few people have in recent years made more significant contributions to strengthening American education than Francis Keppel, who served with much distinction as U.S. Commissioner of Education under both Presidents John F. Kennedy and Lyndon B. Johnson.

Mr. Keppel's version of Federal education policy is therefore worthy of particular attention. I take this opportunity to insert in the RECORD the text of Mr. Keppel's address of February 14, 1972, before the American Association of School Administrators at Atlantic City, N.J.

In his speech, Mr. Keppel discusses "The Case for a Secretary of Education."

I believe Mr. Keppel's discussion of this issue to be one of the most perceptive and thoughtful I have yet seen, and I commend his views to the attention of my colleagues.

The text of the address follows:

THE CASE FOR A SECRETARY OF EDUCATION—AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS, ATLANTIC CITY, N.J., FEBRUARY 14, 1972

(By Francis Keppel)

A decade ago I would not have accepted an assignment to present "The Case for a Secretary of Education". At that time I was persuaded by three arguments that it would not be good policy to separate Education from federal programs in health and welfare:

1. The extent of the Federal activities in education was not sufficient to justify the establishment of a separate Department reporting directly to an overburdened President. The annual federal expenditures directly used on behalf of schools and colleges was less than a billion dollars, and the federal government in fact exercised very little leverage on elementary and secondary schools, and had only a minor impact on most colleges. Every citizen has a duty to put his special interests into national perspec-

tive, and in those days I could see little reason to burden the chief executive with what, in all candor, one had to describe as a minor program on the national scene, even though it was a major matter in the states and localities.

2. The era of Joseph McCarthy was recent and unforgettable, and with many others I was leery of letting education get too close to what, in a pejorative sense, we called "politics". The meddling hand of partisan interests might grasp and throttle freedom of teaching and learning. Many of us had worked to separate education from partisan politics at the local and state level, and we had built in our minds an image of education as a kind of Fifth Estate too delicate to be influenced or directed by other social and political forces. By keeping the Office of Education under the shield of a member of the Cabinet, who had other duties, it seemed likely that the Office would be directed and staffed by professionals and not politicians. A buffer seemed to be needed to protect the virtuous educators from improper influences.

3. Federal programs to improve health care and to help the poor and deserving seemed natural ideological and administrative allies. Education had long identified with, though it had never achieved, equal opportunity for every child. It was clear that children could not learn if they were ill or could not see or hear. Nor could they learn if they were hungry and neglected. No other activities of government seemed to me to be as important as health and welfare to help along the cause of education—and I was sure that education needed help, especially in the rural and city slums.

### NEW PERSPECTIVE ON EDUCATION

Since each one of these arguments still has relevance today, you may well ask why I, and I suspect many others, have changed their minds on the matter of a separate Cabinet-level Department of Education. The basic cause is a change of perspective brought about by the experience of a decade. It is not that the old arguments turned out to be wrong but rather that they no longer seem so important as we look ahead to the coming decades.

The change in perspective is well stated in the Findings and Purpose of S–1485, the bill introduced by Senator Abraham Ribicoff on April 5, 1971 to establish a Department of Education.

### FINDINGS AND PURPOSE

"Sec. 2. The Congress finds that—

(1) education is the largest single category of domestic public expenditure in the Nation;

(2) the role and importance of education increases as our society becomes more complex and more affluent;

(3) public policy toward education is vital to the present and long range interests of the United States;

(4) education must be broadly conceived in terms of all those forces, institutions, and agencies which function as educating influences in the United States;

(5) the United States is the only major nation which does not have a Cabinet-level department of education; and

(6) it is essential therefore to establish a Department of Education to administer and coordinate Federal education legislation, weigh and consider major educational policy issues confronting the Nation, and facilitate a continuing renewal of the educating institutions of the United States."

In introducing his Bill, Senator Ribicoff dealt persuasively with the first argument: that federal activities in education were not large enough to deserve the special consideration of a Cabinet Department:

"Today 29 Federal agencies spend over $12 billion on education, often with no coordination and little cooperation. Millions of Americans are educated through Federal programs as diverse as those of the Office of Child Development, the Defense Department, the Job Corps, and the Bureau of Indian Affairs. Nearly 6 percent of the Federal budget supports education. The $12 billion we now spend is a 500-percent increase over our activities in 1962 when I was Secretary of Health, Education, and Welfare. In addition, there are now more than 20 imperfectly coordinated Federal advisory councils and commissions for education."

### EDUCATION—A HIGH NATIONAL PRIORITY

One of the "Findings" quoted above suggests that the second argument—the need for a buffer between education and politics—was an oversimplification. You will recall that finding number 3 was that "public policy toward education is vital to the present and long range interests of the United States." By using the words "public policy" Senator Ribicoff, it seems to me, has given us the perspective we need on the ever vexing matter of the relation between politics and education. Education is undeniably an instrument—and a major instrument—that every society uses to create its future. It plays a vital part in reaching a host of national and international goals: equal opportunity, racial equality, scientific understanding, aesthetic sensitivity, economic productivity, to name only a few. It has become clearer in the last decade that the national government must adopt policies about education that relates to these goals. Education in that sense has to be a part of the continuous formation of public policy. As Senator Ribicoff put it,

"A second principle in this bill is the need to plan for the future. Educational policy must be oriented to the future. The time between the identification of educational policy needs, the incorporation of solutions into operational programs, and the achievement of desired results is often many years."

We can no longer enjoy the luxury of thinking that our particular interest is so important and so special that it is better for the public interest to have it, in effect, self-managed and self-regulated. Education, one might say with some irony, now seems too important to be left to the educators. It does need separation from partisan politics—it needs even more involvement with public policy.

With regard to the third argument—that health and welfare seemed the natural administrative allies of education—the past decade has once again taught some lessons. It has become clearer that education is not limited to institutions, and that non-school influences are a good deal more influential on learning than many of us may like to admit. Once again let me quote from Senator Ribicoff:

"Third, my legislation recognizes the broad range of educating agencies and institutions in our society. Educational policy deliberations are normally directed to schools, colleges, and universities. But we have developed a more refined understanding in recent years of the numerous agencies and influences beyond the schools which have an impact on education.

"Major surveys like the Coleman report have suggested how strong non-school influences are in predicting academic achievement. The success of 'Sesame Street' is coming just as we are beginning to understand the tremendous impact mass media are having on the education of your young. . . . We know that industry, the military, the Peace Corps, and VISTA all perform educational functions, formal and informal, intended and unintended. The President's proposal for a family assistance program has widespread implications for education which go far beyond its day care provisions.

"As the new Department addresses educational policy issues, therefore, it should consider such issues from the dual perspectives of the basic eucational systems—preschool, elementary and secondary schooling, and higher education—and the nonschool educational systems such as those just identified. To stimulate this kind of concern, my bill defines education very broadly and appoints the Secretary an ex officio member of the Board of Directors of the Corporation for Public Broadcasting.

Finally, an idea that occupies a central position in this bill is the concept that the Federal role in education should be to stimulate, facilitate, and help bring about renewal in the educational systems of the Nation. This idea is closely related, of course, to the impact of the future and rapid change in our society upon educational goals and the institutional structures the Nation possesses for education."

Against the background of such considerations, the case for a special partnership with health and welfare seems less persuasive.

### NEED EXISTS FOR UNIFIED EDUCATION DEPARTMENT

The need for what might be called a "free standing" Department, flexible enough to enter into negotiations with such major areas as Housing and Urban Development, the Treasury on tax policy, and the Department of Labor and Commerce on manpower and economic issues, becomes clearer.

There seems to be agreement of a bi-partisan character, among those who have studied the matter, that the time has come to pull together the separated educational programs of the Federal establishment and put them under single management. The President's Reorganization Plan proposes a Department of Human Resources to promote the well-being and development of individuals and families. This would include effectively all of the present HEW, plus Manpower Administration and the Women's Bureau from the Department of Labor; the School Lunch program from the Department of Agriculture; parts of OEO; College Housing Construction from HUD; and other units. To these Senator Ribicoff's bill would add, in a new and separate Department of Education based on the present Office of Education; the Office of Child Development of HEW; the education of Indians from the Department of Interior; the Defense Department Schools; and the educational programs of the National Science Department.

Based on the Fiscal Year 1972 outlays, the proposed Department of Human Resources, of which education would be a part, would have a budget of nearly $81 billion and the number of employees would exceed 120,000. I do not have available estimates of the size of the proposed separate Department of Education, but it would obviously be far smaller, perhaps less than $12 billion in F.Y. 1972.

The question does not seem to be whether to seek greater Federal coordination of its educational programs. On that there is agreement. The questions are rather how much to put in one place under single direction, and whether to give education separate standing from the other parts of Human Resources.

### SOME ARGUMENTS FOR SEPARATION ARE LESS PERSUASIVE

In considering these questions it may be helpful to take up some of the other arguments that are made for a separate Department of Education. The one that usually leads the list is that "we can give education the dignity and importance it merits only by getting a Department of Education and a Cabinet-level secretary" (Helen Bain, *Phi Delta Kappa*, September 1971, page 11). The horse and the cart of this argument seem mixed up to me. A Cabinet Department does not create dignity and importance: it reflects an achieved position in society. I submit that the role of Education in society is well established. We educators need no longer complain that our light is kept under a bushel.

Another argument is that creation of a Cabinet post for Education would put its incumbent "at the President's Council table".

(ibid) While a pleasing picture to the eye, this relationship does not seem to me to reflect an accurate understanding of the realities of the federal government. The Cabinet in this country is nothing like that in Britain. It is not a deliberative or decisive body. It is used or not used by the President as he sees fit. The real issue is whether the President wants to include education as one of his major programs. If he does, as President Johnson made abundantly clear, it does not make much difference what the lines are on the chart: something happens. You can get to the White House in response to a summons just as fast in a Chevrolet as a Cadillac. The real issue is relations with other Cabinet departments and the Congress.

### "CLOUT" WITH OMB AND CONGRESS IS IMPORTANT

In the first category—relations with other agencies and departments—the argument for a Cabinet-level position is more powerful than a subordinate role in the new Department of Human Resources. An important part of Senator Ribicoff's Bill is the Federal Interagency Committee on Education, chaired by the Secretary. In protocol conscious Washington, it is vital that this body be chaired by a Secretary, or it will soon lose its usefulness. The real power of such a group is its influence on budget and management—and the Secretary can reach OMB with "clout". On this matter I speak on the basis of some experience. For a while I was chairman of such an Interagency group on education while serving as an Assistant Secretary of HEW. After a little while the people who showed up for meetings seemed to be those who happened to be available that day and in a mood for a high-minded if fruitless discussion.

In time the creation of a Department might also influence the procedures of the Congress in enacting new laws, monitoring existing legislation and appropriating funds. The fact that different Committees and subcommittees of the Congress are now actively at work in the field does not help to insure careful planning and effective congressional oversight. A Department of Education would assure the Congress of better developed proposals and would give it a better opportunity to be sure that its intent is carried out.

This aspect of the matter deserves careful thought by individuals better qualified than I. It goes to the heart of the matter of keeping education separate from partisan politics, in the sense of building defenses against a particular party legislating on what shall be taught in schools or colleges about economics, or social policy, international affairs or other "political" topics. The very real fear of such a possibility is almost enough to paralyze action. But we must face up to it, and my (not very well qualified) judgment is that in this matter offense is the best defense. A joint Congressional committee, which requires membership from both (or all) political parties, might be established to which a Secretary of Education should report annually. It is not unreasonable to assume that the political majority of our Congress may turn into a minority at a later session, and vice-versa. It also seems reasonable to suppose that this possibility will not be hidden from the political parties themselves. I can see advantages, from a purely political point of view, in staying away from the mare's nest of legislating a partisan curriculum when there is a chance of retribution in reasonably short order.

### INTERNAL ALINEMENT OF PROPOSED DEPARTMENT IS CRUCIAL

You will have gathered from these remarks that I rate more highly the possible effects of creating a separate Department of Education on formation of public policy and on intergovernmental and congressional relations than I do its effect on prestige or even on managerial matters. We are, and will probably be for a decade, in a situation in which we have a lot to learn about the interrelation of education and other public policies. During such a period it seems wise to keep open what might be called the "options on alignment". A separate Department of Education meets that test.

Please permit me a few words on the matter of the internal organization and staffing of such a Department. The goals to be achieved are well stated in Senator Ribicoff's remarks and in S-1485. To me they call for a Secretary who is a broad guaged public servant but who is *not* a professional educator, though it would be pleasant to hope that he is of a friendly disposition to the cause of education and to those who labor in its vineyards. What the Department requires is leadership—to quote the Bill—to "develop and recommend to the President appropriate policies and programs to foster the orderly growth and development of the Nation's educational facilities and resources especially in the light of long range requirements . . . (and to) exercise leadership at the direction of the President in coordinating Federal activities affecting education."

### PLAN FOR NIE SHOWS CONGRESSIONAL FEELING

These are tasks which involve analyzing and balancing the demands and pressures of a number of educational groups. The educational world is not a single, monolithic group but—as any former Commissioner of Education can testify with lively examples—rather consists of a variety of special interests which compete with each other as often as they combine their forces. Policy and program must not be the result of adding together the demands of such groups but rather the result of detached and broader judgment. Consider one area as an example: the setting of policy and the overall direction of the proposed National Institute of Education. This is an enterprise which carries within it the seeds of criticism of present practices in education, as well as the seeds of new growth. Many members of Congress so distrust the ability of the educational establishment to reform itself that they feel it essential, under present arrangements, to separate the Institute entirely from the present Office of Education. Under a separate Cabinet officer, unencumbered by special interests, the Institute could both be directed in the broader public interest, receive Secretarial attention (which is difficult under the present HEW arrangements) and be relatively free from entangling alliances.

The importance of the separation of educational content from partisan politics suggests a possibility, which may be awkward in our system, to assure professional independence and academic freedom. It is customary in England to rely on very senior civil servants, separated from party politics, to fill a position roughly comparable to what we might call a "Permanent Undersecretary", whose appointment is independent of the change of administration. In our setting, comparable nonpartisan appointments are at least worth considering for the direction of the various divisions of the new Department: the schools, the colleges, the Universities, the National Institute, *et al;* as a buffer against improper partisan influence. There is nothing like a resounding resignation from an independent man to draw attention to an undesirable state of affairs.

These are the arguments, as I see them, related to the desirability of creating a new Department of Education. The experience of the past decade, and what we can see, however murkily, of the decade to come, persuade me that the case is made for a Secretary of Education. I hope he will soon be appointed, and in advance I present him or her with my best wishes and my sympathy.

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## BANK FOR SAVINGS AND LOAN ASSOCIATIONS IN CHICAGO

## HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ANNUNZIO. Mr. Speaker, I rise today to call the attention of my colleagues to the spectacular growth rate of the Bank for Savings and Loan Associations in Chicago whose growth has quadrupled since passage of the Housing and Urban Development Act of 1970.

A provision of this act granted statutory liquidity status to deposits of the Bank for Savings and Loan Associations and enabled it to continue its outstanding services not only to savings and loan associations, but also, indirectly to people who want to buy homes throughout the State of Illinois.

The Bank for Savings and Loan Associations is a private central bank which currently serves approximately 250 savings and loan associations. It also maintains active trading relationships in the primary securities markets, and has established institutional lines of credit to complement its savings and loan industry cash flow.

The bank's operations are entirely institutional in character and it does not do a general banking business with the public. However, it does provide demand deposits, 24-hour time deposits, short-term credit, and possibly in the future, overnight loans to savings and loan associations.

I want to congratulate Arnold Rauen, president of the bank, as well as the 19-man Board of Directors, for astutely guiding the development of the bank since its establishment in 1966. They are responsible in good measure for the remarkable success of this bank and for providing more money and more cash flow in the home mortgage market in Illinois.

A press release regarding the 1971 growth record of the Bank for Savings and Loans was issued recently, and it follows:

### Bank For Savings And Loans Records Phenomenal Growth

In what must be among the largest single year's growth ever recorded by any commercial bank, the Bank for Savings and Loan Associations, 39 S. LaSalle, Chicago, witnessed a net increase in total assets of 276% over the past twelve months, it was announced today by Bank President, Arnold J. Rauen.

"Following passage of Federal legislation qualifying Association deposits in our Bank as liquidity, which occurred late in 1970, the confidence in our specialized bank was restored," Rauen stated. "Hence, we were able to grow in every respect at a rather spectacular rate."

As of year-end, the Bank for Savings and Loan Associations had total assets of $106,284,768, almost $88 million higher than the 1970 figure of $28,213,946. Total deposits, a more significant figure, amounted to $90,928,094 at 1971 year-end, $67,667,697 above the 1970 Dec. 31 total of $23,260,397.

"Of special interest to the approximately 200 savings and loan associations who constitute our shareholders, net income increased an enormous 608%," Rauen continued.

"Earnings after taxes reached $358,015 for the year, against $50,537 after taxes recorded in the previous twelve months. This comes to $2.30 per share compared with 1970's total of $.33 per share.

A highly specialized bank, the Bank for Savings and Loan Associations was organized in 1966 to provide banking services especially geared to the needs of savings institutions. Originally limiting its operations to the Illinois area, it currently serves associations throughout the country as a full-service, state chartered bank.

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## NATIONAL CONFERENCE OF CHRISTIANS AND JEWS FOCUSES ON SPANISH-SPEAKING AMERICANS IN SPECIAL "BROTHERHOOD COMMITMENT EMPHASIS"

## HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BADILLO. Mr. Speaker, at a news conference this morning Dr. Sterling W. Brown, president of the National Conference of Christians and Jews, announced a special "Brotherhood Commitment Emphasis" which will focus upon promoting better understanding and awareness of Spanish-speaking Americans.

Dr. Brown also announced that the cochairmen of this nationwide effort to assist Puerto Ricans, Mexican-Americans, Cubans, and other Spanish-speaking persons in securing their full rights and equal opportunities will be Dr. Pascual Sanchez of Brooklyn, N.Y., and Mrs. Grace Olivarez of Phoenix, Ariz.

I was pleased to join with Dr. Brown, Dr. Sanchez, Mrs. Olivarez and Hon. Raymond L. Telles, Commissioner of the Equal Employment Opportunity Commission, in announcing this important program. This will be more than just a publicity program, however, as the NCCJ intends to conduct both local and regional workshops and conferences on the problem of Hispanic Americans. In the latter part of May, for example, the NCCJ will sponsor a conference in New York on the "Self Help Effort of the Puerto Rican Community in New York City." This conference will be run by Puerto Ricans for non-Puerto Ricans. Dr. Brown also revealed that the NCCJ will be holding a Southwest conference in Las Cruces, N. Mex., which will be keyed on the "Rights of Spanish Americans in the Southwest." Similar conferences will be held in Los Angeles and at the University of Oklahoma.

I commend this distinguished national organization for taking the initiative in promoting this program to assist our community in fully participating in all aspects of American life and in aiding us to secure our rights. I am delighted to be a part of this effort and I urge our colleagues to lend whatever support you can to the NCCJ's brotherhood commitment emphasis program in your home communities.

In order that our colleagues may know more about this nationwide program, I present herewith, for inclusion in the RECORD, a number of statements which were made at this morning's news conference:

### BROTHERHOOD COMMITMENT STATEMENT

(By Sterling W. Brown, president, National Conference of Christians and Jews)

Racial and cultural prejudice, labor exploitation, educational deprivation and political disenfranchisement are the products of more than 300 years of destructive subordination of Indians, Blacks and Hispanic Americans by the dominant society in America. These prejudicial attitudes, behavior patterns and institutional structures are deeply embedded in our society.

They cannot be eradicated overnight by legal means alone, nor in merely a few years. They have been built up for over three centuries. Effectively combatting the problem will require persistence and commitment by all our citizens, especially the leaders of the country.

Since its founding in 1928, the National Conference of Christians and Jews has been working to combat intergroup prejudice by trying to build bridges of understanding among ethnic and religious groups and by bringing the forces of enlightenment and education to bear upon racial and religious prejudice.

However, no policies or programs directed at improving conditions among minority groups or ameliorating the wide polarization among our peoples can possibly succeed unless they are politically supported by a majority of whites. Such support is essential to obtain the money and institutional changes required to alter the conditions.

Many people, especially those living in suburbs, are virtually unaware of life in the Black ghettos or Puerto Rican and Mexican-American barrios. Too many tend to think that the plight of the Hispanic Americans or other disadvantaged minorities is primarily their own fault rather than the product of the racial prejudice manifested by institutions controlled by whites.

They simply fail to perceive the compelling need for progressive change and human understanding.

The National Conference of Christians and Jews' 1972 special Brotherhood Commitment emphasis will focus directly upon implementing ways of creating better understanding of Hispanic Americans in order that they may achieve the rights and dignities each of us wants for himself.

### STATEMENT OF CONGRESSMAN HERMAN BADILLO

The problems confronting the nation's Spanish-speaking community are many and varied. The hopes and aspirations of Puerto Ricans, Mexican-Americans, Cubans, Dominicans and other Spanish-speaking persons are not being effectively met by most of our institutions and we continue to experience almost insurmountable difficulties in the areas of housing, employment, education, welfare, job training and social services.

For far too many years Spanish-speaking Americans have been denied full access to many of this country's political, economic and social institutions. We have been excluded from the mainstream of American life and have not been afforded the opportunity to share the benefits of this country on the same basis as other citizens.

The unique needs and special problems of Spanish-speaking persons can no longer be ignored. The time is long past that we must endure the second class status to which we have been relegated. Both governmental establishments and private industry and labor must play a more active role in identifying the urgent and special requirements of this country's approximately 15 million Spanish-speaking citizens. Positive initiatives and meaningful action must be taken to insure that equal opportunities are afforded to the Chicano in the West and Southwest; to the Puerto Rican in the Northeast, Midwest and Puerto Rico; to the Cuban in the East and Southeast and to the other Spanish-speaking groups throughout the country.

A particular awareness of and sensitivity to the plight of our Spanish-speaking citizens must be created. Our nation's leaders must realize that they can no longer disregard our pleas for aid, understanding and guidance. Further, the stereotypes must be smashed, the general public must be made aware of our many important contributions and our young people must be assisted in identifying with our leaders and accomplishments as well as with our rich cultural heritage.

I am encouraged that the National Conference of Christians and Jews has chosen to focus attention on Spanish-speaking Americans in its 1972 Brotherhood Commitment Emphasis program. This great national organization is to be commended for taking the initiative in highlighting the difficulties and aspirations of Spanish-speaking citizens as well as our contributions and cultures. By directing public recognition throughout the country to Mexican Americans, Puerto Ricans and others and by calling for greater fellowship and brotherhood toward Spanish-speaking persons, the NCCJ's efforts will help break the barriers of suspicion, prejudice, disrespect and fear. I am hopeful that this brotherhood program will foster a greater awareness and appreciation of our people by our fellow citizens and that greater understanding will result in the weeks and months ahead. Through programs such as this I hope we will begin to proceed along the path of achieving justice and equality for Spanish-speaking Americans and will be assisted in securing those rights and privileges which have long been denied to us.

I am particularly pleased to see that Dr. Paschal Sanchez of Brooklyn has been selected as the co-chairman of the NCCJ's 1972 National Brotherhood Commitment program. I have had the pleasure of knowing Dr. Sanchez for many years and he's one of the young Puerto Rican leaders now coming up in Brooklyn. He is an active community leader and I am delighted he has now assumed a national role. I am sure the NCCJ will find that his dedication and outstanding abilities will be major contributions to promoting this program.

### BROTHERHOOD COMMITMENT STATEMENT

(By Raymond L. Telles, Commissioner, Equal Employment Opportunity Commission)

My most sincere congratulations and appreciation to the leadership of the National Conference of Christians and Jews for sponsoring this very significant press conference which coincides with National Brotherhood Commitment Week.

Never in the history of our country has there been a greater need for religiously motivated people to promote civic cooperation and mutual understanding among men of all religious and ethnic groups.

Now is the time for men and women of good will, of different religions, and different backgrounds and national origin to work together on common civic concerns in order to convert into reality the dreams of the original founders of the National Conference of Christians and Jews such as Charles Evans Hughes, Newton D. Baker and other distinguished Americans.

We are now in one of the great revolutionary periods of the human story; a period which will determine our fate in the years ahead, not just in decades, but possibly in centuries to come. Many will view this period as filled with opportunity and challenge. I do myself, while others may be apprehensive. Our challenging times call for strong and firm leadership, seasoned with wisdom, understanding and compassion. Our challenging times call for our young people and minority groups, as members of our communities, to exercise continued tolerance and forbearance. Together we must find better ways to recreate the sense of community and to make our whole society come alive to its responsibilities and opportunities in order to overcome our problems.

I believe that our beloved USA will thrive better and progress further if we can achieve a degree of unity among the people of this great nation, that will find us eventually pulling together instead of pulling apart. I believe that America stands in need of the devoted services of all her citizens, not just some, but all our people, young and old. I am confident and have faith that we will meet the challenge.

I believe God, the Almighty, will, as He always has, guide and direct us toward an age that will never be equalled.

### BROTHERHOOD COMMITMENT STATEMENT

(By Henry M. Ramierz, Chairman, Cabinet Committee on Opportunities for Spanish-Speaking People)

I am very pleased to know that the National Conference of Christians and Jews has decided this year to focus special attention on our nation's Spanish-speaking people through the National Brotherhood Commitment Project. It seems a propitious choice in a year that has seen great gains towards equality made by the nation's second largest minority through our President's determined efforts to bring our people into the decision and policy-making levels of the Federal Government and into the full mainstream of opportunity offered by Federal funding.

The efforts of the Conference to bring all Americans together by seeking to eliminate prejudices cannot be overstressed, for these go back to the time of the birth of our nation. As a former member of the Civil Rights Commission I know first hand of the exclusion suffered by our people, an exclusion carried out on the basis of language, color, and culture. Today, I note with pride that two distinguished Spanish surnamed citizens, Pascual Sanchez of New York and Grace Olivarez of Arizona, have been named co-chairmen of this year's Brotherhood Commitment Project.

The road to equality is a long one, and I dare say it might be 20 or 30 years before we Puerto Ricans, Mexican Americans, Cubans, and others with Spanish surnames—over 10 million of us—obtain our rightful place in our great nation. When the day comes that a Spanish surnamed citizen will not be a "first" on the President's cabinet, at a desk in the top levels of industry, commerce and banking and other high Government and civilian jobs, it will be to no small extent the result of the work of the Conference, which for 40 years has been struggling for the just human cause of equality for all.

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## COOLEY'S ANEMIA

## HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. GIAIMO. Mr. Speaker, a private medical foundation recently made me aware of a hereditary disease called Cooley's anemia. Medically termed thalassemia major, and sometimes called mediterranean disease, Cooley's anemia was discovered by Dr. Thomas B. Cooley, an American, in 1925. Presently, there are more than 100,000 Americans, mostly children, suffering from this incurable stigma. Initially, it was prevalent only among persons of Mediterranean descent, primarily Greeks and Italians. Today, however, America's Mediterranean population has intermarried in many cases and the disease is now found not only among Americans of Italian or Greek origin but also among Americans of Jewish, Scandinavian or even oriental origins. Rarely does a victim of this disease live beyond 20, and from early life on victims must undergo blood transfusions almost daily in order to maintain a blood count sufficient for survival.

The Cooley's Anemia Blood and Research Foundation for Children, a private organization based in New York City with branches in other cities, remains the only national source for extensive funding of research and training toward possible cure of the disease. For fiscal year 1971, the Federal sector provided only $630,000. This major reliance on the private sector unfortunately has made the projection of long-term programs difficult. Meanwhile, more and more American children are discovered with the terminal disease. It is estimated that one-quarter of all children born of a marriage of two individuals with even a mere trait will have a severe form of the disease, and an additional 50 percent will be carriers.

Before Cooley's anemia grows worse, and to initiate a long-term program of research and training, the Federal sector must intervene with financial assistance.

There is now legislation before the House Interstate and Foreign Commerce Committee to provide approximately $125 million for research and training toward curing sickle-cell anemia, another blood disease. This bill, S. 2676, is cited as the National Sickle Cell Anemia Control Act. Sickle cell anemia is a disease that certainly warrants Federal support. There are over 2 million victims of sickle-cell anemia, and hopefully funds provided by enactment of this legislation will eventually diminish this number. However, in addition to this fiscal delivery, the bill, if broadened, could contain funds to provide for Cooley's anemia, hopefully an amount sufficient to make possible the work which can be done realistically.

In summary, I am convinced of the need and the urgency not only to provide sufficient Federal funds for sickle cell anemia, so that our Nation can quickly put an end to its awful toll on our youth, but also for Cooley's anemia, a disease just as fatal and just as demoralizing to a large segment of our population.

Cooley's anemia is not well known. May I recommend to you, my colleagues, that you became familiar with the impact of the disease in your respective States and that you examine data related to its national impact.

To stimulate further awareness and interest, I insert in the RECORD at this point the first of a series of revelations about Cooley's anemia, a fact sheet prepared by the Cooley's Anemia Blood and Research Foundation for Children.

The article follows:

### COOLEY'S ANEMIA

Cooley's Anemia is the name commonly used to describe the severe form of a hereditary disease of the blood. It was Dr. Thomas B. Cooley, an American physician, who described this as a separate and specific type of blood disease about 1925.

This disorder occurs most commonly in individuals whose ancestors were natives of the countries surrounding the Mediterranean Sea. In the United States therefore, most of the patients are of Italian descent. Those of Greek, Turkish, Southern French, and North African origins are also more susceptible. There are sporadic cases found in individuals of other origins, especially among the Chinese and Israeli.

The disease, also called Mediterranean Anemia or Thalassemia, is inherited according to Mendelian laws, and it is currently believed that the severe form (Thalassemia Major) occurs in a child born of parents both of whom must be carriers of the trait. According to this most widely accepted concept, approximately one quarter of all children born of a marriage of two individuals with the trait, will have the severe form of the disease. Another twenty-five per cent of the offspring will be perfectly normal, and fifty per cent will be carriers themselves. Any such hereditary situation, of course, is valid in a statistical sense only, and may not be referable to one family where instances are known of only one affected (anemic) child out of ten, or the reverse, where three out of three children may be affected.

Because individuals with the trait or minor form of the disease are not in any significant way handicapped physically, and in whom the only manifestation may be detectable changes in the size and shape of the red blood cells, it is of great importance to distinguish between Thalassemia major and Thalassemia minor. Individuals with Thalassemia minor have a normal life span and enjoy normal health, whereas individuals with Thalassemia major may succumb to the disease in a matter of one or two decades. The trait never increases in severity or converts to the severe form of Cooley's Anemia.

Thalassemia major usually becomes manifest during the first year of life. Both sexes are equally affected. The earliest signs may be pallor, listlessness, loss of appetite, and irritability. Examination of the patient, by a physician, usually reveals an enlargement of the spleen and liver to some degree, pallor of the skin and mucous membranes, and sometimes a slight degree jaundice (yellow coloration) of the whites of the eyes. Blood examination will usually show typical changes in the shape, numbers of the erythrocytes (red blood cells), and a variety of alterations from the normal in special properties of the blood cells, in addition to a severe anemia.

There are probably several defects which lead to the anemia, for example, there undoubtedly is a reduction in the rate at which red blood cells are formed in the bone marrow and released to the blood vessels. Those cells that are produced are defective in that they do not survive in the blood vessels for more than ⅓ to ½ of the normal life span of red cells, which should be about 90 to 120 days. There are complications which develop in certain individuals which further reduce the rate of blood cell production and survival time of the formed cells. In these patients the greatly enlarged spleen may be the cause of this additional hindrance.

As a result of the chronic state of anemia the children with this disease are greatly handicapped. Bone growth is poor—they are therefore usually small for their age. Because of abnormalities of the bone marrow there are alterations of the skull and other bones, so that a characteristic facial expression is found, which give many of these children the appearance of being related. The bones are more fragile than normal, and fractures occurring almost spontaneoulsy are quite common. The anemia causes easy fatigability, and a lack of pep and energy. Frequent nose bleeds is a common finding in many patients. When anemia is severe, low grade fever may be noted. There is no particular increase in susceptibility to infections.

At present the only effective treatment is the proper administration of blood transfusions to alleviate the constantly recurring anemia. There are other specific treatments for various complications of the basic disease.

Specific food substances or vitamins other than required for a normal balanced diet do not in any way affect beneficially the basic disease.

There seems to be a continuous spectrum in the degree of severity of the disease from those children who require blood transfusions as often as once a week to those who rarely need transfusions. Some children die within a few years and others are known who are alive in their twenties. There is no known cure.,

Basic research on the problems of blood formation and destruction offers the only hope available to the sufferers.

HERBERT C. LICHTMEN, M.D.,
*Kings County Hospital Center.*

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## THE COMMUNICATIONS SATELLITE BRINGS INTERNATIONAL CO-OPERATION

### HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mrs. GRASSO. Mr. Speaker, an excellent example of international cooperation and the down-to-earth benefits space technology brings to all of us is the Intelsat global commercial communications satellite system. One of this system's three Intelsat IV series satellites is relaying live television broadcasts of President Nixon's visit to mainland China.

Known as the International Telecommunications Satellite Consortium, Intelsat is a partnership of 77 nations. The United States is represented on this body by the privately owned Communications Satellite Corporation, Comsat, which acts as manager of the program on behalf of the participating countries.

Intelsat IV is the most advanced commercial synchronous communications satellite developed thus far. Built by the Hughes Aircraft Co., it has the capacity to handle as many as 9,000 two-way telephone calls, 12 simultaneous color television programs, tens of thousands of teletype circuits, or combinations of these communications media. Intelsat IV also is capable of providing communications to many remote areas of the world where a modest ground terminal can be installed.

Companies making significant contributions to Intelsat are located in the United Kingdom, West Germany, Switzerland, Belgium, Japan, Italy, Sweden, Spain, France, Canada, as well as the United States.

Mr. Speaker, one of the U.S. companies is Hamilton Standard, which is based in Windsor Locks, Conn. Hamilton Standard developed and built the six attitude control thrusters which keep Intelsat IV positioned in orbit and orient its antennas to assure effective transmission. Fired on command by an on-board computer or from ground stations, each thruster produces five pounds of thrust and has an operating life of 7 years. Hamilton Standard, which provides the astronaut life support equipment for the Apollo moon explorations, makes similar highly reliable, fast-response thrusters for Solrad X, Applications Technology Satellite III, and other scientific satellites.

I am proud of Hamilton Standard and its workers for their achievements and their important contributions to history-making events.

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## GREYHOUND CORP.

### HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. RHODES. Mr. Speaker, since the Greyhound Corp. has recently moved its headquarters to Phoenix, Ariz., in my district, it is a particular pleasure to insert in the CONGRESSIONAL RECORD a letter sent to the Honorable George M. Stafford, Chairman of the Interstate Commerce Commission, by Mr. Gerald H. Trautman, chairman of the board and chief executive officer of the Greyhound Corp. My compliments go to the ICC for making this "right" decision on the subject of the expansion of Greyhound into nontransportation fields, and to Greyhounds officials for making it work. This is a real success story:

DECEMBER 30, 1971.

Hon. GEORGE M. STAFFORD,
*Chairman, Interstate Commerce Commission, Washington, D.C.*

DEAR CHAIRMAN STAFFORD: As we draw near the end of the year 1971, the second full year that Greyhound has had control of Armour & Company, I thought it would be an appropriate time to render an informal report to you and the other Commissioners on the progress which we have made with the Armour acquisition and the progress which we have made with our carrier operations since that acquisition. I thought this would be particularly appropriate since at least one of the Commissioners has indicated from time to time that he was disturbed by this acquisition.

Greyhound's cost of 100% of the common stock of Armour was approximately $388.5 million (not counting the warrants which were issued without cost to Greyhound). Of this amount approximately $230 million was paid in cash and the remainder represented the value of the securities issued by Greyhound in connection with the acquisition.

It was our intention in 1969 upon taking control of Armour to sell off its unproductive, marginal, and capital intensive businesses, and this program has been energetically pursued with the result that as of this date we have received from these properties cash or cash equivalent in the amount of $172.5 million and an additional $39.5 million will be received early in 1972, making total cash or cash equivalent realized from these dispositions of approximately $212 million. A confidential schedule showing the details of these dispositions is attached hereto for the information of you and the other Commissioners.

Thus, within a little over two years the Greyhound organization has recouped virtually all of the cash expended in the Armour acquisition, and it still has Armour Foods, Armour-Dial and Armour Pharmaceutical which in the aggregate will earn approximately $31 million after tax in 1971, of which approximately $28 million will be attributable to Greyhound's interest.

Our Board of Directors, which is composed of ten outside directors (principal executives of unrelated companies) and seven inside directors, feels very strongly that the Armour acquisition has been a good thing for Greyhound and has lent a considerable amount of financial strength to the Greyhound organization. This financial strength, of course, is bound to be of benefit to its operating subsidiaries, including the carrier subsidiaries which I shall mention later.

In 1970 the Greyhound organization paid off approximately $100 million of long-term debt and again in 1971 approximately $100 million of debt will be discharged. No major debt payments are due until 1975 when the $36.5 million note issued to General Host in connection with the Armour acquisition becomes due. In view of our present financial condition, this payment gives us no concern.

Working capital as of November 30, 1971 was approximately $143 million. We have unused bank lines at the present time in the amount of $75 million (excluding the unused bank lines of our leasing subsidiaries) and recently we cancelled an additional $80 million in bank lines because we saw no immediate use for these lines.

In some of the comments concerning Greyhound's acquisition of Armour it has been said that this acquisition placed our carrier operations in peril. This is absolutely untrue. There was never any threat to our carrier operations. As a matter of fact, all through the period of the Armour acquisition, starting in 1969, we continued to spend substantial sums of money on our carrier operations. During the last two years we have added virtually one new terminal per month to the Greyhound intercity system and I do not know of any other carrier that can even approach this record.

Currently we have in design or under construction 19 new terminals and operating facilities and 22 remodeled and expanded terminals and operating facilities, involving an estimated total investment of approximately $25.5 million.

Also during the period of the Armour acquisition we have added hundreds of new buses and have continued our research and development at considerable cost with the objective of producing even better buses in the future. In 1971 we added 357 Super Seven buses to our fleet at a cost of approximately $25.5 million. In addition, we spent substantial sums refurbishing and upgrading the balance of our fleet so that we believe our fleet is now in the finest condition ever.

In the area of research and development, in addition to continual improvements in our new MC6 and MC7 models, we are road-testing a turbine engine, a new and improved automatic transmission, an anti wheel lock device, an anti spin differential, and several other prospective improvements, all aimed at giving a safer and more comfortable ride by bus.

Customer service has not been neglected during the last two years.

We have worked with the telephone company to engineer and install more sophisticated equipment for providing telephone information.

Baggage handling has been improved through ticket counter checking and conveyor systems.

Suburban terminals have been provided with the dual advantages of connecting with local transit systems and eliminating the needs for travel to the city center in order to take the bus.

College service has been improved with the addition of schedules and the opening of agencies on campus with student agents.

Package express facilities have been upgraded and expanded and a new service "Next Bus Out" has been successfully inaugurated.

Optional honoring, thru-service, and connecting schedules have been arranged with Amtrak.

Also, Greyhound has been alert to provide any special services which may be required, such as the service provided for three major insurance companies between Hartford, Connecticut and Wall Street, New York on a daily basis and service provided to Walt Disney World in Florida where Greyhound has been named official ground carrier.

As I have said before, we think the United States has the finest bus service in the world and we aim to keep it that way.

Also during the period of the Armour acquisition Greyhound has continued to invest money in Greyhound Van Lines, a household goods carrier subject to the Commission's jurisdiction, despite the fact that the returns from this business, in common with the experience of household goods carriers generally, have been quite poor during the last few years. I have this particularly in mind right now because we have just authorized the purchase of 46 pieces of new rolling equipment for this company despite the fact that it had a loss in 1970 and a very modest profit in 1971.

In conclusion I would like to point out that in contrast to 1970 when we had some losing operations, all of our operations are expected to be profitable in 1971 which, of course, includes all of the operations acquired by us with Commission approval. In particular, our first acquisition—our leasing operations—which was acquired pursuant to a 6 to 5 decision of the Commission will return over $10,000,000 after tax in 1971 compared with $425,000 after tax the year prior to our acquisition. We are extremely pleased with the results of the diversification program which we have pursued since 1962 and we hope that the Commission will take some satisfaction in the accomplishments to date, since the program could not have been undertaken without the approval of the Commission.

Respectfully yours,

Gerald H. Trautman.

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## RURAL DEVELOPMENT ACT OF 1972

## HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ALEXANDER. Mr. Speaker, the House of Representatives has been considering H.R. 12931, the Rural Development Act of 1972. I am a sponsor of this legislation. I have supported its passage, for it will aid towns like Shirley and Mount Pleasant and counties like Izard in Arkansas and across the Nation.

As has become my custom, I want to again share testimony from the series of hearings on community development needs in Arkansas. The statements which I will be making a part of today's Record come from Glenn Hackett, acting mayor of Shirley; Mayor Everett Roberts of Mount Pleasant and Arkansas State Representative John Miller whose district encompasses Izard County.

The areas these men represent are important to the future of this Nation, as are others like them across the country. But, there are other small city areas—nonmetropolitan areas—which are also vital to the U.S. achievements of tomorrow. And, they would not be served by H.R. 12931. But, they would benefit greatly from the enactment of the provisions of H.R. 13272, the Small Communities Planning, Development, and Training Act of 1972. I would urge my colleagues who are concerned about the total picture of national growth to give the most serious consideration to this bill which I introduced on February 22.

Now, I would like to share the testimony to which I referred earlier:

### Testimony by Members of the Shirley Community

I appreciate this opportunity to represent members of my community in this hearing concerning the problem of economic development. I am Glenn Hackett, acting mayor of Shirley, Arkansas. I represent a city with an area of 1200 acres, and a population of 350. We are located at the junction of State Highways 9, 16, and 110 in northern Van Buren county, on Middle Fork of Little Red River, five miles west of Greers Ferry Lake.

According to school records and surveys, we have graduated 345 students over the past 24 years. We lost an additional 102 students as school drop-outs, and during the past 4 years have granted 35 diplomas of graduation to adults attending an adult basic education class sponsored by the district. Of the 345 graduates, 118 left Arkansas, 104 moved to cities in Arkansas, and 123 remained in the Shirley area. Fifty of the drop-outs left Arkansas, 25 moved to other cities in Arkansas and 27 remained in the area.

To summarize briefly, ⅔ moved to large cities, ⅓ remained in Shirley. The move to cities, in most instances, involved the movement of the fathers, mothers, brothers, and sisters of the student. There were few permanent jobs, so when the boy or girl graduated, he or she and the family left to find a job in the city.

From 1950 through 1960 the United States population increased 18.5%, Arkansas lost 6.5%, Van Buren County lost 25% and the city of Shirley lost 30% of its population.

Since 1960, beginning about 1965 to 1967, the nation gained 9.4%, Arkansas gained 10.2% and Van Buren County gained 18.7%. Shirley School enrollment increased from 252 in 1960 to 340 in 1971. The increase this year was 50. Of the 26 who graduated last year, 1 left the state for military service, 1 moved to a city in Arkansas, and 24 remained in Shirley, although 14 are still in college and trade schools and 6 are still unemployed.

The preceding statistics, at first glance, make it appear that our economic problems caused by out-migration have been solved. A closer look will show that high school graduates stayed at home the past 2 years because they could find very little to do in the large cities of other states. In most cases, they will eventually have to move to the larger metropolitan cities of Arkansas for employment. This is encouraging from a state standpoint, but it creates more problems for the overcrowded cities. The truth is the situation has compounded our problems.

We now have the problem of providing jobs and services for young people who are staying in the community, and those who are moving back to rural areas. We have, also, the added problem of a great number of retired persons fleeing the heavily populated cities to find a better quality of living in our rural areas. Certainly they are welcome, as they are adding to economic development, but they are demanding better roads, better streets, schools, parks, airports, hospitals, and other facilities that our permanent residents have not been able to afford. Both have a right to expect these attractions that add to the quality of life in any community.

In this new situation, we have an almost unbearable burden placed on cities, counties, and school districts which have been operating on budgets depressed by years of stagnation in a declining economy. The new migrations have not been here long enough to increase the tax base. It takes at least 3 years for new property to generate any tax money. A school must transport pupils one year before it can draw money from the state to help in transportation. An enrollment increase this year will not generate funds to pay for extra teachers needed now. The result of all these factors have made it extremely difficult for those responsible for public services in rural communities to find the money to provide them.

Now this background information leads me to the five most urgent needs of the city of Shirley and the Shirley School District which are:

1. We need a small industrial site developed for a plant to employ 60 people who need steady jobs in our community. This would cost $25,000.
2. We need 25 low rent housing units to provide some help in meeting the needs of elderly people and young people not able to rent or buy decent housing in our town. The cost would be $250,000.
3. We need a sewer system which would cost approximately $145,000.
4. We need $24,000 to pave 3 miles of city streets.
5. We need $120,000 to build and equip a modern grade school building to take care of the added enrollment in our school.

This $564,000 is a bare minimum that we need to start the economic development in our city.

In regard to our financial ability to finance these economic development projects, I can only say that we do not have the funds to start any at the present time. The town received $5,400 from a 5 mill property tax and turnback funds from the state. $1,800 of this goes for street lights and utilities for a city hall and a community center The remainder, $3,600, is reserved for street maintenance, $800 of which is used to make a bank loan payment for 1 mile of streets we paved last year. In paving these streets, house owners on the streets paid 50% of the cost and the city paid 50%. Our only recourse to paving other streets would be a bank loan at 10% interest.

As for the financial condition of the school district, we borrowed $88,000 last year to build a new high school building. Funds came from a bond issue to run for 20 years at 5.9% interest. It cost us 3% of the face amount to sell the bonds. The District now has a borrowing power of $8,500 which will have to go for 2 new school buses to take care of the transportation of 100 additional students. The District collects a 25 mill tax for operation and maintenance and 22 mills for debt service on an assessed valuation of $938,855. We will have to wait at least 5 years, if our rate of growth is vastly increased, to reach a point where we can borrow enough to build. We need the buildings now to take care of the increased enrollment.

We have applied for a low rent housing project of 20 units but if any expense is involved in getting the units approved we will have to borrow money from a bank at 10% interest.

We received a grant and have built a community center but our share of the money had to be raised from community contributions.

A sewer system would require local matching which we do not have.

A building program for a new elementary school cannot be raised because our borrowing power is exhausted. Various federal funds such as NDE cannot be obtained for school equipment because we cannot afford the 50% matching.

We need a police officer for the town but it will take $1,500 per year matching funds to match the salary through the Federal Crime Bill.

The same economic problems that I have enumerated here in the city of Shirley are present in other small cities located in this six county area. They are prevalent in towns all over Arkansas, in fact, they appear in most rural areas of the United States.

To correct our economic ills, we need two things; leadership and money. The leadership has been demonstrated in all parts of our state where people have raked up money to plan and carry out projects like water systems, community centers, housing projects, parks, industrial sites, sewer systems, and other things that must precede and develop along with economic progress. They have collected donations, sponsored pie suppers, cake walks, carnivals, folk dances, musicals, and used every conceivable method of raising money to match Federal Funds. They have raised taxes for bond issues but a point has been reached where this type of financing has reached the saturation point. The time has come for some massive source of funds to carry out these projects.

In the past 25 years, we have seen a massive program of grants and low interest development loans made to our allies in World War II. We have seen the tremendous amount of aid given Germany and Japan. We have witnessed the massive aid to Korea, now we see massive aid to Vietnam.

We can also see the benefits of that program. Germany and Japan have become the wealthiest nations on earth. Korea has vastly improved its economic system.

While carrying out these programs we have neglected for 25 years the plight of our rural counties and cities and our large metropolitan areas. The time to cut the red tape is now at hand for the formulation of a massive economic program that requires a steady, strong, new and certain source of income for local, county, and municipal governments, prepared to undertake public projects to enhance economic development prospects.

I am glad to say that the citizens of our community will back any legislation to carry out a massive system of Federal grants and long term loans directed at the economic ills of Rural America.

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## TESTIMONY PRESENTED BY MAYOR EVERETT ROBERTS OF MT. PLEASANT, ARK.

### WATER SUPPLY EXTENSION

In my opinion the greatest need now for Mt. Pleasant is an extension of the present water system. The present water facility was completed in 1969. At that time the area of the incorporated town of Mt. Pleasant was approximately 320 acres. But effective January 1, 1970 the area was increased to approximately 2,820 acres. Most of this new addition extends in a northwesterly direction along either side of State Highway 69. The residents in this new addition have a very unsatisfactory and often unsanitary water supply. Individual wells, cisterns, springs, and ponds are the chief suppliers of water. Very often in dry periods many of these families must hire their water supply hauled from many miles away.

Because of the higher elevation of most of the new addition a booster pump and other facilities would be needed to pump water from the existing supply. The existing facilities consist of a water well supply, storage stand pipe, and distribution system. The existing facility adequately serves the original 320 acre town site, but the existing supply does not furnish enough water for very many more users. Therefore another well with storage tank would be necessary. The 1970 population within the incorporated limits of Mt. Pleasant was 346. The number of people within the town to be served by the proposed additional water system is estimated to be 120, and another 120 persons outside the town, including the Sage community will be served.

The Affiliated Engineers, Inc. of Hot Springs, Arkansas made a preliminary survey of this project and determined the cost estimates. It was found the entire cost of the project will be $180,000. It was also noted that considering the number of people served, the project is feasible and will be able to pay for itself.

This project when completed will give a significant boost to a large part of the south part of Izard County by furnishing an adequate and dependable water supply.

### SEWAGE DISPOSAL

The town's existing means of sewage disposal consists of individual septic tanks. Due to the type of soil, very little absorption occurs, therefore, the effluent from the septic tanks sometimes flows in open ditches through the town. During periods of prolonged rainfall, there are areas in the town that have offensive odors due to the septic conditions caused by the seepage of the septic tank drain fields to the top of the surface. Under these conditions, there is an ever present danger of pollution of individual private wells by the septic tank effluent. As the town's present water system is now built, many of the town residents cannot be served by it, but use private wells as a source of water. These facts show that Mt. Pleasant does need a public sewage system to protect the health of its citizens. The total estimated cost of this project is $114,000, according to Affiliated Engineers, Inc. of Hot Springs, Arkansas.

### COMMUNITY CENTER

All of Izard County in which Mt. Pleasant is located is classed as a rural area and is one of the lowest in the state in per capita income. According to a labor survey made by the State of Arkansas in 1969 Izard County rated 50% for participation in the Economic Development Administration projects. In this respect the county is very comparable to Stone, Fulton and Sharp Counties. The county is in a class which would have to provide only 25% of the total cost of a neighborhood facility due to the redevelopment area status designation.

According to the above mentioned labor survey 66.1% of the families in Izard County had an annual income of less than $3,000. And the rate of unemployment was 6%. The median income of males in Izard County was $1,515 annually and for females it was $649 annually.

Izard County contains 577 square miles. The Mt. Pleasant School District contains 100 square miles. In 1960 the population of Mt. Pleasant School District was 1,330. In 1950 it was 1,763 or a loss of approximately 25% in population. But in the 1970 census the District showed a small gain in population. 140 persons or 11.3% of all Izard County welfare payments were made to Mt. Pleasant residents while 19.6% of all Izard County population is in the Mt. Pleasant School District.

The number of workmen in the Mt. Pleasant area showed a decrease of 1.5% while the state showed an increase of 54.6% during the same period. Recreation facilities for this deprived area are almost nonexistent. The need for a suitable location for the use of senior citizen activities is great in the Mt. Pleasant area. There are 305 persons in the district 65 years of age or older who receive old age assistance. These people can't afford any form of entertainment or activity except those prepared without fare. The proposed community center will provide community owned space in which the town, in co-operation with the county, school board and community action agency will provide badly needed health, social and recreational facilities for the inhabitants of the community. There is a large group of low-income families living in the community who are entitled to and who should receive the new available benefits from the war on poverty. If this facility is made available the community will expand its present programs now limited by lack of facilities, and will initiate additional programs. The proposed facility is fully consistent with the comprehensive planning for the town of Mt. Pleasant and its proposed service area. The total cost of the facility as determined by the architect is $109,000. This includes a federal grant of $81,870 and a non cash contribution of $23,069 for the town. The town will also contribute $4,230 in cash. The needs and cost estimates of the facility were determined by Moore and Lee, architects of North Little Rock, Arkansas. These architects are employed by the town of Mt. Pleasant to design this facility that is so desperately needed in the community.

### LOW RENT HOUSING

Low-rent housing is another need that is great in Mt. Pleasant. An application was made to the Housing Authority in Washington, D.C. for 48 units but only twelve units were allotted to us. It is understood that funds in the amount of $234,000 have been approved to construct these twelve units, however the town has a waiting list of 70 applicants for low-rent housing.

### POLICE PROTECTION

Because of the area Mt. Pleasant occupies, its need for police protection is probably greater than most towns of comparable population. At its greatest length it is more than five miles long. Yet, considering the present revenue received by towns with populations comparable to Mt. Pleasant, it is not possible to employ police personnel. Programs to give aid to towns with populations the size of Mt. Pleasant, have guidelines that make small towns ineligible to participate. Unless more liberal provisions are made to help small towns pay for police protection their citizens will continue to be without the protection that much of their tax money is paid for.

### STREET BUILDING AND MAINTENANCE

Recently built homes in Mt. Pleasant make it necessary to build approximately two miles of streets. With no equipment and with little funds to purchase equipment, creates a difficult situation preventing solution of Mt. Pleasant's street problems in a feasible manner.

### FIRE PROTECTION

During the past year eight homes in or near Mt. Pleasant were destroyed by fire. In most of these homes all or most of the contents were destroyed. With no fire equipment, little could be done to help. But with fire protection some of these homes could have been saved. Plans were discussed with fire equipment people relative to purchasing fire equipment. The town had enough income of general funds to make the necessary annual payments prorated over a number of years, however, we were told that funds could not be legally committed for that long a period of time, even with the vote of the people because of the limiting nature of State of Arkansas statutes. The assessed valuation of property in Mt. Pleasant is not great enough to make it feasible to assess millage enough to raise the necessary funds to contract for purchasing within the time limits stipulated by statute. As a result Mt. Pleasant has no fire equipment. It would seem to be an unreasonable requirement regarding contracting income for purposes as necessary as fire protection. Liberalizing of the law in this respect seems imperative.

### GENERAL COMMENTS

For many years 95% to 100% of the young people of Mt. Pleasant left for other parts of the country to seek employment just as soon as they completed high school or college. But in recent years a larger percent of these young people are remaining and making their homes in the vicinity. This is because more employment is available in the area and because more of the conveniences such as running water in the homes, better homes, and in general more services that make life more enjoyable, are being provided. It is hoped that a way can be found to make available to our town and other towns in the area, the needs and services discussed on these pages. Unless we can give our people the modern conveniences that are available in other areas and also provide jobs for them, they will continue to migrate to other places and our area will regress instead of progressing.

In our limited experience in selling bonds for public works projects, we have experienced little difficulty in selling those bonds. The local and county officials we have been associated with are highly in favor of the federal government cooperating more with municipal and county governments in providing means to obtain services and benefits that our area generally lacks but which are so desperately needed.

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## IZARD COUNTY—COMMUNITY DEVELOPMENT PROPOSAL HEARING

### I. MOST URGENT NEEDS

In determining the five or even ten most urgent needs of this area, it becomes necessary to eliminate projects that some segments would consider top priority and to include others that different segments would consider relatively unimportant to the economic growth of this county. The five categories we have agreed upon by no means covers the range of needs for this area. They merely appear to be the most urgent at this time.

1. Health
2. Transportation
3. Waste Disposal and Water Systems
4. Protection and encouragement of local industry
5. Training opportunities

#### *1. Health needs*

The existence in Melbourne of an unused county hospital is a waste of desperately needed facilities. With $30,000 the hospital could be modernized, put into operation and be self-supporting. In this way at least patients who need hospitalization but not intensive medical treatment could be served locally. This would not only make the service more convenient for rural residents, but would relieve the overcrowding of neighboring facilities.

There is no qualified ambulance service in the entire county and no funds to provide the matching necessary to receive a grant from the National Highway Emergency Act. $12,000 per year initial plus $5,000 per year would provide one fully equipped ambulance plus personnel for this county. Surrounding communities could provide back up services. (Closest—32 miles.) There has been talk of providing helicopter services to rural areas for emergency patients. This too is needed to transport people to qualified emergency facilities. The long ride to Little Rock is dangerous and the delay getting to services can prove fatal.

The critical lack of doctors and other medical personnel can partly be removed by an increase in the admittance rate at operating medical schools. A better solution would be the establishment of regional medical schools at sites where well equipped hospitals presently exist, i.e., Jonesboro, Fort Smith, Texarkana. Qualified resident doctors could do much of the teaching and the hospitals could serve as a training base. The extreme scarcity of doctors willing to practice in rural areas seems senseless when qualified applicants are being turned away from overcrowded medical schools. There is no way this need can be filled with the present rate of graduating doctors, and there is no reason why more qualified doctors cannot be made available through the Regional Medical School concept.

Also, a loan fund to enable residents to become members of other medical professions is needed if qualified personnel are to be maintained. This loan procedure would allow local people to borrow money on a long term, low interest rate. ($25,000)

#### *2. Transportation*

In addition to the liability that a lack of health services places on economic development, transportation remains a priority problem in rural areas. At this moment, the future of our region seems to lie with the development of the tourist industry. We have the ingredients for a major tourist economy: the natural scenic beauty of the Ozarks, the rivers and streams for camping and fishing, and the imminent opening of Blanchard Caverns across the river in Stone County. These assets make the tourist dollar a force to be considered. When you remember that in excess of 500,000 visitors per year are expected at the Caverns, and that many of them will pass over our roads, you wonder how they will ever get there.

We need a reasonably sized airport ($100,000), not only for tourist use, but for business and industrial purposes. We need major highways—especially from Mammoth Spring to Hot Springs. We need an easy route to at least one major population center. This would connect us with central Arkansas.

A transportation system, either private or public, is needed so people can get to work when jobs are available and to the doctor when necessary. Agencies, of necessity, spend much time and effort trying to arrange transportation for their clients. A public transportation system could be established and implemented for $12,000. This problem continues to be a thorn in every program—private or public—that is attempted.

#### *3. Water systems and waste disposal*

The expansion of the public water system has been a boon to the small rural town. We most certainly would like to see this expansion continue, both to the small town and to more isolated areas. The sewage system, also, needs expansion in this county. This is necessary not only for business development, but for adequate housing growth.

Water systems continue to be needed at Guion, and at selected campsites. Expansion of present systems should be continued ($200,000). Sewer systems are needed at Pinevile, Guion, Mount Pleasant, Oxford, Franklin, and Horseshoe Bend ($600,000).

Every section of the country is faced with a solid waste disposal problem. We know that we can establish a county wide—and possibly a multi-county-wide—land fill waste disposal system for $63,000. We do not want to lose the assets we do have—clean air, mountains, and streams. Wthout preparation, this part of the country with the many expected visitors will assume the air of a cluttered carnival. White River Planning and Development District has researched this problem and has arrived at the above figure. The possibility of a multi-county project would decrease the per capita cost.

#### *4. Protection and encouragement of local industry*

Following a minimum of successes and a maximum of failures, most of the people of this county have reached the conclusion that in order to be attractive to outside industry, there are certain basics we must have before their interest can really be aroused. As we work to acquire these basics, i.e., a natural gas supply, good medical facilities, recreational opportunities, transportation, we must protect what is already available.

If tourism is to be a major economic factor, then our environment must be protected. Our rivers must be kept clean and the vocations presently pursued in connection must be protected. We are worried lest the trout fishing industry, for example, be destroyed by the unregulated flow of the White. In order to save any part of the White for fishing or recreational purposes, an act of Congress would be required as the original purposes of the dam regulating the flow was for electricity and flood control. The use of the White in connection with fishing and other forms of recreation is necessary for future plans in this country.

Also in the area of local industry as relates to the tourist trades are facilities to accommodate these people. Monies for construction of motels and restaurants need to be available to private enterprise on a long term basis. Even SBA does not have funds for this purpose, or if they have, it isn't available. ($300,000) Both Calico Rock and Melbourne need these facilities.

Craftsmen need funds available for tools and craft outlets, and potential businessmen for the possible construction of trailer parks. ($100,000).

Campsites and parks must be constructed: one at Sylamore, one at Calico Rock, and one at Melbourne. Sufficient public services positions are necessary for maintenance. ($100,000).

Another priority need involves the financial ability to provide natural gas to residents, businesses and prospective industry. The operation by Northcentral Arkansas Development Council, Inc., of a small sorghum mill at Oxford required in excess of $50.00 per day for butane gas costs. ($1,000,000).

#### *5. Training opportunities*

As with the question of which came first, we have always wondered where to start in qualifying people for jobs. No industry was willing to locate where trained personnel were not available, yet it seemed senseless to train people when there was no job possibility. There must be, however, a starting point. That point is in training people for vocations that already exist at Vocational Technical schools and then adding courses as there is a need for them. There is no Vo-Tech school within 70 miles of us. There is no way our people can attend training and remain at home without subjecting them to many hours on the road. ($800,000).

We feel that present training programs using government funds (Federal, State, or Local) should be expanded and made more meaningful.

### II. OUTLINING FUNDING NEEDS, CAPABILITIES, AND PROBLEMS

#### *1. General*

County and City governments are hard put to make ends meet each month. Yet practically every program that becomes available demands matching cash. Often if you are too poor to provide the service, you are too poor to provide the matching. Then without the assistance, your economic depression increases.

While most taxpayers are willing to pass a bond issue and to buy the bonds if there is a tax system for repayment already set up, they have become increasingly reluctant to pass a tax increase of any kind. They see abuses of agriculture, defense, health, and welfare monies. They see unneeded people on the public payroll, and they see huge grants made for what appears to them to be pork barrel projects. The taxpayers are not in a very good mood to be asked to pass a tax bill—even the ones being paid from the taxpayers pocket which is a large percentage in our county. The answer lies in more efficient use of what we have.

What we don't have are lending institutions capable of lending money on the scale we are considering. In Izard County there is no Federal Savings and Loan Association. HUD does not operate here except through other agencies. The banks of the county make no long term business loans. The collateral requirement (or absolute lack of collateral requirement) makes many of our potential business people ineligible for both of the most popular types of Small Business Association loans. Without a source for long range funding, much community development looks impossible. Without community development, we will become more and more isolated and economically deprived while the cities teem with unsolved problems resulting from our migrants. We have no desire to become completely industrialized. We want industry, but not those industries that would pollute our countryside. We just want to keep our young and provide a basis for growth for our citizens.

For years our young have been unable to remain here after graduation, but they never forget. When they get older, they return and we want them. Their tax paying days; however, are over. They have contributed to the problems of the city when they could have remained here where they wanted to be all the time. Additionally, people who are not Izard County natives are looking for land in local land developments designed for retirees. Still our young who provide the bulk of the taxes must leave.

*Population figures for Izard County*

| | |
|---|---|
| 1860 (approximately) | 7,000 |
| 1910 (approximately) | 14,500 |
| 1930 | 12,872 |
| 1940 | 12,834 |
| 1950 | 9,953 |
| 1960 | 6,766 |
| 1970 | 7,381 |

At a time when the U.S. population was increasing dramatically, Izard County was losing half its population. This was not primarily during the depression years either, but immediately thereafter. More people lived in the County in 1860 the year before the Civil War than lived there in 1960, one hundred years after. Even the increase from 1960 to 1970 can be largely attributed to retirees wanting to escape the cities.

Calico Rock and Mt. Pleasant have applied to HUD for Community Facility buildings. These are needed, not only for the consolidation of existing services, but for space to provide growth activities. ($500,000).

*2. Health*

| *Project* | *Cost* |
|---|---|
| Expansion of hospital | $30,000 |
| Ambulance service | 12,000 |
| Loan fund | 25,000 |

*3. Transportation*

| | |
|---|---|
| Airport | 100,000 |
| Transportation system | 12,000 |

*4. Water systems and waste disposal*

| | |
|---|---|
| Water systems | 200,000 |
| Sewer systems | 600,000 |
| Solid waste disposal | 63,000 |

*5. Protection and encouragement of local industry*

| | |
|---|---|
| Loan funds for motels and restaurants | 300,000 |
| Loan funds for machinery and construction | 100,000 |
| Construction of campsites (much labor provided from work programs) | 100,000 |
| Natural gas | 1,000,000 |

*6. Training opportunities*

Vocational technical school, $800,000.

Government training programs, presently operated programs.

III. ACCOMPLISHMENTS, PROBLEMS, AND ATTITUDES TOWARD PRESENT FEDERAL PROGRAMS DIRECTED AT AID FOR COMMUNITY DEVELOPMENT PROJECTS

As a result of grant and loan policies, many of the small towns of this county have water systems, and some have sewer.

The local telephone company took advantage of a Department of Agriculture REA loan when their operation first began. Low rent housing is under construction at Melbourne and has been approved for Mt. Pleasant. Farmer's Home Administration loans have improved living conditions. Federal funds helped establish a Senior Citizens Center. Manpower monies supported the Green Thumb project that has helped build a park. A $10,000 grant has been approved for a park in Melbourne. White River Planning and Development District and Northcentral Arkansas Development Council, Inc., research, plan, apply for and sponsor programs funded by various local, state, and Federal sources.

Federal funds definitely have helped the economy of this area.

Mr. Speaker, this is the 17th insertion in the CONGRESSIONAL RECORD of testimony and other materials which I have gathered during my research into ways to assist community development in nonmetropolitan areas. Other materials on this subject appear in the CONGRESSIONAL RECORDS, volume 117, part 25, pages 32740–32741; part 26, pages 34505–34506; part 27, pages 35409–35410, 36133–36135; part 28, pages 37358–37360; part 29, pages 38121–38123; part 30, pages 39156–39158; part 31, pages 40813–40817; part 32, pages 41882–41884; part 34, pages 44696–46699; part 35, pages 45963–45966; part 36, pages 47310–47312; and volume 118, part 1, pages 1225–1226; part 3, pages 3583–3586; part 4, pages 4739–4743; and pages 4824–4828.

## THE BILLIONS IN THE WHITE HOUSE BASEMENT

## HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ANDERSON of Tennessee. Mr. Speaker, I would like to invite the attention of Members of the House to an article written by Timothy H. Ingram in the January edition of the Washington Monthly entitled "The Billions in the White House Basement."

I believe that Mr. Ingram's insight into the subject of Executive seizure of Congress' authority over the purse illustrates clearly the impoundment practices of the executive branch.

This article is lengthy, thus I have taken excerpts of same and include these excerpts for the RECORD:

### THE BILLIONS IN THE WHITE HOUSE BASEMENT

(By Timothy H. Ingram)

By cliche, the power of the purse is now widely referred to as Congress' only remaining lever for redressing the balance between itself and the presidency. Increasingly, Congress is recognizing that its foreign affairs and treaty-making functions are mere ornaments, and that its traditional checks on the Executive are either unrealistic or meaningless. What is left is the appropriations power, and a handful of senators and representatives are invoking it in a muted but growing struggle to revive congressional strength.

Few appreciate, however, the extent to which even the power of the purse, that bulwark of legislative authority, is already controlled by the presidency. As Congress attempts to tame the Executive by threatening to cut off funds for things like war, it finds that the Executive has already developed innumerable devices for getting the money, anyway. And far from successfully denying the President his money, Congress is even having a hard time getting him to spend what is appropriated.

The Constitution, of course, says that the appropriation power is the exclusive prerogative of Congress. But in the vacuum created by Congressional indifference to overseeing the bureaucracy's spending habits, and by the now empty ritual of blue-penciling the President's annual budget, the Executive has amassed a mound of spending prerogatives of its own: transfer authorities, contingency funds, lump-sum appropriations, reprogrammings, special waiver authorities, and covert financing.

The panoply of deceptive devices available to the Executive's budgetary Houdinis was graphically illustrated in a memo submitted by the Joint Chiefs of Staff to Secretary Laird on August 30, 1971. According to *The New York Times*, the Joint Chiefs offered several ways of by-passing the limited military aid appropriated by Congress to generate an additional $52 million or more, to increase the strength of the Cambodian Army.

The first would be simply to transfer $52 million appropriated for economic aid to the military aid program. The second would be to use economic aid money to buy all "common use" items such as trucks and jeeps, which have military as well as civilian value, thus freeing the other funds for strictly military uses. The third would be to increase procurement for the U.S. Army by $52 million and give the materiel to the Cambodians, for "repayment" later. The fourth would be to make some exceptions in Defense Department supply regulations, declaring equipment to be "excess" and delivering it to the Cambodians.

In addition, the memo proposed, the Joint Chiefs would clandestinely provide for a mechanized brigade, an artillery brigade, and coastal patrol units, as well as ground troops and extensive logistic support. AID would help finance the paramilitary force of armed civilians, which the planners hoped would number 200,000 by mid-1973 and more than 500,000 in 1977. The CIA, with its secret budget, supposedly would help train and direct Cambodian military units, as it is now doing with Laotian and Thai troops in Laos, and would provide airlift support with its subsidized airline, Air America. The proposals represented a complete subversion of congressional authority.

But the real significance of the story was not reported: how commonplace these methods have become. The Executive devices are as widespread as they are ingenious.

#### TRANSFER AUTHORITY

After convincing Congress of crucial need for aid to a given country, the President can then turn around and use the money in an entirely different country, and for a different purpose. He can even shuffle funds from the economic aid program to military assistance, and back. Section 614 of the Foreign Assistance Act, for example, allows the President to waive requirements of the Act whenever such action is "important to the security of the United States." There were 17 such waivers between July, 1970, and October, 1971, and in none was Congress notified before the fact. One of these pumped $110 million of military aid into Cambodia following the 1970 invasion by siphoning money originally intended for Taiwan, Greece, Turkey, and Vietnam. Nixon didn't inform Congress until later that year when he asked it to replace the funds ex post facto. Another waiver was for $3 million in military aid to Ceylon, given on an *oral* authorization by the U.S. ambassador last April 10, to help Ceylon put down a leftist insurrection begun five days earlier which had captured large sections of the country. Helicopters were supplied, and within a month government forces were again in control. Congress was finally notified of the transfer on June 25.

#### EXCESS STOCKS

The annual gifts of "excess" stocks of military arms and equipment have long been a Christmas bonus for a select group of foreign nations. Grants of surplus war goods are not listed as current outlays for military aid. Thus, the Departments of State and Defense were able to keep Chiang Kai-shek's forces well stocked with excess aircraft, tanks, howitzers, and M–14s, even though Congress, busily voting reductions in Taiwan's regular military assistance, believed arms shipments were being diminished. When one looks at the budget documents of 1966–1971, there is an almost dollar-for-dollar increase in handouts of excess war articles as congressional appropriations for all military aid programs were being decreased. To conceal the trajectory of this rise, the Pentagon suddenly switched from listing the acquisition cost of excess armaments to something called "utility value," a rough approximation of market value which averaged out at about one-fourth to one-third the equipment's original cost.

### SECRET FUNDS

Withholding information and wielding a "secret" stamp are the Executive's weightiest weapons. As Senator Stuart Symington told *The Atlantic* recently: "They don't tell the truth. What is driving me up the wall is what on earth are they doing with the money I am turning over. If they won't put that on the record, we might as well stay home and just send in a batch of proxies." When Executive intransigence is combined with control over the contents and structure of the budget, the visors are completely pulled. Political scientist Louis Fisher cites an estimate that in the 1972 fiscal budget of $249 billion, secret funds may amount to $15 billion to $20 billion. No one really knows, for example, in how many different ways foreign assistance is given, nor exactly how much it all adds up to. The only item in the budget clearly marked as military aid totals around $400 million. That is a gross understatement. At Joint Economic Committee hearings last January, Senator William Fulbright introduced a table showing more than $6.9 billion in military assistance and sales for fiscal 1972. Two Defense Department officials broke pencils while disagreeing with each other over the total cost, finally putting the figure at $4.9 billion and later revising it to $6.3 billion. As Senator Proxmire commented, military assistance is not an example of administrative flexibility, but complete "unmanagement," "a giant discount supermarket with no check-out counters, no cash registers, no store manager."

### THE PIPELINE

The Treasury's largest suspense account is the enormous balance of funds which carry over each year, called unexpended authority, or more loosely, the pipeline. The question is whether this unspent balance might be tapped for purposes never intended—whether it, in effect, provides a second, hidden budget. During floor debate last October over the Symington ceiling on funds for Laos, Senator Fulbright voiced his suspicions: "I have never figured out how [Defense managers] are able to spend money that has neither been authorized nor appropriated. They have ways of drawing on unexpended funds. I imagine there is at least $50 billion of unexpended funds in the pipeline as reserve for the Pentagon. So I would not be sure that even with a prohibition against appropriation of any money, they could not find some in a very short time."

The most devastating aspect of these huge reserves is that they can kill chances of both accountability and economy. For example, for the last several years, the Pentagon's yearly spending has been higher than its appropriation. In fiscal 1971 it was $3 billion more than that authorized by Congress. Congress, by focusing on yearly appropriations, never looks at the real level of outlays, and generally does not adequately review program monies authorized in previous years. This was painfully obvious when in October the Senate voted down the foreign aid bill, and it was announced that $4.7 billion—one and a half times the total in the defeated bill—was still in the aid pipeline. Supposedly this would keep aid programs going for some time, though no one on the Hill seemed to know exactly what was in the pipeline, or indeed, what a pipeline was.

### IMPOUNDMENT

In October, Senator Lawton Chiles of Florida received complaints from the city of Jacksonville that despite the demands of its poor people it had been unable to switch from the commodity-distribution program to food stamps. The Department of Agriculture had told the city that funds were simply unavailable.

There were obvious reasons for the desire to get off the commodity program. The Senate Select Committee on Nutrition and Human Needs had only recently outlined its abuses. The commodity program's 3.5 million intended beneficiaires go once a month to a county-run warehouse to pick up whatever farmers and processors currently have in excess. Its aim is more to absorb farm surplus and keep food prices up than to feed the hungry. The result is insufficient food, nutritional imbalance, dangerous shortage conditions, and red tape. Food stamps, though flawed, at least make food accessible.

Upon inquiry, Chiles learned that not only Jacksonville, but 40 counties in Florida and several hundred areas nationwide, had been denied money already appropriated by Congress and approved by the Department of Agriculture for food stamp programs. The snare was that the President's Office of Management and Budget was impounding, or refusing to release, $200 million in funds specifically earmarked for the stamps.

Chiles further learned that a number of federal programs affecting his rural constituents were having funds withheld: research in nonchemical pest control, rural electrification, water and waste disposal grants, and $75 million in direct operating loans from the Farmers Home Administration.

Chiles took to the Senate floor on October 20, castigating the growing Executive practice of impounding or "freezing" appropriations, and warning that the President, in hatcheting a legislative program because he considers it inexpedient or inefficient, twists constitutional principles and usurps Congress funding power. The President is exercising, Chiles continued, an unconstitutional item veto over programs he has signed into law without the danger of being overidden by a two-thirds vote of Congress. Chiles proposed adoption of a resolution which would say, in effect, when we passed that food stamp appropriation, we meant it.

Donna Willis recounts that while working for former Congressman Arnold Olsen of Montana last year she received a one-line telegram from a tribal chairman asking what had happened to Indian health money. It turned out that $2 million in Indian health funds had been frozen, thus cancelling immunization, contract care programs, and all "elective surgery" (a little medical black humor, meaning cases where there is no *immediate* threat of death), Miss Willis spent the next two weeks gathering the signatures of 90 congressmen and senators to force release of the money.

It is in this way, usually only by accident, that a member of Congress learns that money has been withheld. The OMB jealously guards its figures on impounded funds. Calls to OMB are met with evasive answers and delays—for both reporters *and* members of Congress. When Senator Sam Ervin's subcommittee on separation of powers held hearings on the impoundment question last March, it was the first time in anyone's memory that a breakdown on impounded sums had been released. Bill Goodwin, of the subcommittee staff, remarks, "We had a hell of a time. We had been after the budget bureau for three and a half years before the information was finally released."

It presents a strange situation: members of Congress, hat in hand, pressuring to have appropriated monies spent. The typical congressional complaint runs, "I had thought that once the Congress passed the appropriation bill and the President approved it and signed it and said to the country that "This has my approval, that the money would be used instead of sacked up and put down in the basement somewhere." Those were the words of Lyndon Johnson, speaking as a senator, in 1959. From the vantage point of the presidency, Mr. Johnson was as free as his predecessors in putting money in the basement, stashing as much as $10 billion at one point. Since the mid-50s, Presidents have repeatedly negated programs by refusing to spend the money.

Impoundment has taken a different twist under President Nixon. In the past, it has usually been an Administration wanting to spend and a Congress not willing to appropriate. Now, with a Republican President and a Democratic Congress, the impoundment of funds which conflict with the President's policy priorities has become more pronounced, and more routine. As of last June—when the latest figures were relased by OMB, $12 billion had been frozen.

The Administration has tried to seduce Congress with a little semantic foreplay, saying that the funds are not being "impounded," but are merely being "deferred" or "put in reserve," and will be released later "when circumstances warrant." The beauty of the ploy is that, for example, $200 million appropriated for public housing for fiscal 1971 can be placed in the deep freeze, then "released" and applied to the budget request for fiscal 1972. The Administration comes out looking good both years—for having slashed $200 million in 1971, and for getting Congress to appropriate less in 1972 because of the carry-over. The added advantage of impoundment to the President is that he can quietly cripple a program without making embarrassing press statements. A veto is at least above board, but with impoundment, as George Patten, Senator Chiles' legislative assistant, points out, "The problem is, you can't pinpoint responsibility. An agency can hide behind a budget bureau decision, or the President can veto something through the budget bureau, and then you have to play games with all three, getting the run-around."

Congress has not been totally supine. In 1970, a proviso in the hospital construction bill ordered that the entire appropriation be spent. Nixon vetoed it because of this "assault on presidential options," but he was overridden, and that mandatory spending language is on the books as precedent. The classic congressional solution in such a dispute is a little political blackmail, holding up programs the President wants. A little-noticed section of the Senate-passed foreign aid bill last November forbids expenditures abroad until the President releases urban development funds.

The Nixon Administration has justified its impounding practices in two ways: through the power of apportionment and the broadest possible interpretation of the Executive power of the President.

OMB is able to lop off funds through its practice of apportioning, or setting quarterly allotments. Four times a year the OMB gives agencies a chunk of the amount Congress has granted them, in an effort to prevent agencies from spending their appropriations all in the first months and then having to return later for deficiency requests. But the apportionment process does not entail simply dividing the appropriation into four equal parts. Adjustments are made also for spending rates, inflation, and so on. More and more, such adjustments have come to be used to keep total amounts below those actually set by Congress.

The adjustments are made under the Anti-Deficiency Act of 1950, which provides that money may be reserved "to provide for contingencies," or "to effect savings whenever savings are possible through changes in requirements." The vagueness of that phrasing has provided the hook upon which to hang a defense for impoundment. For example, the Administration interprets "changes in requirements" as granting broad authority to impound as a means of combating inflation.

There is no dispute about reserving, or replacing funds in the Treasury, whenever a program costs less than originally expected. But the area of dispute, as Senator Frank Church has written, is where funds are frozen not to effect marginal savings but to alter the purpose of a program or policy.

Aside from claiming broad apportionment discretion, the Administration also claims almost unlimited power over spending as a constitutional prerogative, inherent in the President's role as Chief Executive. Caspar Weinberger, Deputy Director of the OMB, said in March that a congressional appropriation was "a direction to be followed whenever it's possible to do so." He insisted that the President could not be placed in the position of automatically spending all money approved by Congress without exercising any discretion. "The President has to be more than a rubber stamp or a messenger boy running over to the Treasury," he said. Weinberger also suggested that the constitutional requirement that the President "take care that the laws be faithfully executed" could require him to withhold appropriated funds. On another occasion, when asked why the Administration was refusing to spend $10 million already appropriated for a national aquarium in Washington, he responded: "The Administration decided not to fund the project and is giving Congress another chance to consider the matter." Weinberger also readily conceded that some of the items withheld involve "policy" determinations.

Budget examiners frankly admit that programs are cut back when the appropriated amount differs from the President's budget priorities. The most blatant examples involve the attitude toward congressional add-ons. The $200 million impounded for mass transportation is almost exactly the same figure by which Congress' appropriation exceeded the President's original budget request. There has also been an across-the-board freeze on all public works projects added by Congress, even though the price-benefit ratios of some of these are higher than the ones proposed by the President.

The most forceful answer to Weinberger is a memo written in 1969 by then Assistant Attorney General William Rehnquist, of the Office of Legal Counsel. In Rehnquist's words: "With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent." Further, he wrote: "It may be argued that the spending of money is inherently an executive function, but the execution of any law is, be definition, an executive function, and it seems an anomalous proposition that because the Executive branch is bound to execute the laws, it is free to decline to execute them."

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## SUPPORTS RAISE IN SOCIAL SECURITY BENEFITS

## HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mrs. GRASSO. Mr. Speaker, I am pleased to give my strong support for legislation introduced today by Wilbur D. Mills, chairman of the House Ways and Means Committee, which would raise social security benefits by 20 percent on July 1, 1972.

This legislation is still not enough. However, it offers a vast improvement over the 5-percent increase in benefits provided in H.R. 1, the Social Security Amendments of 1971, which has been stalled in the Senate since last summer. Indeed, it is an encouraging development which would give significant help to so many of our older citizens on fixed income who desperately need this assistance.

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## AN AIRPORT WITH A FUTURE FOR A CITY ON THE GO

## HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. YATRON. Mr. Speaker, I would like to take this opportunity to express my deepest appreciation to the Reading Municipal Airport Authority, and its manager, Mr. Donald F. Glass, for the fine job they have done in making Reading's airport a center of growth. The people of the city of Reading and Berks County can certainly be proud of this modern, profitable, and progressive facility which serves the interests of eastern Pennsylvania so well.

The Reading Municipal Airport, in the year of 1971, became self-sufficient and we in Reading are hopeful that in 1972 an even greater margin of profit will be realized. For the first time in 30 years, the airport required no assistance from the taxpayers of Reading, Pa., and I am proud, not only as a Member of Congress, but also as a lifelong resident of Reading, to see this success story come about in such a short period of time.

The self-sufficiency of the airport has been the goal of Mr. Donald F. Glass, airport manager, and represents the success of innovative management techniques which are being applied to the operation of the airport. For the last 3 years, they have initiated a new financing system, trained new office and old office personnel, set up schools of instruction for maintenance personnel, taught self-motivation to foremen, and many other items that have helped toward putting this airport on a paying basis. By realining revenues from buildings that are nonaviation, and adjusting leases so that some of them have now incorporated a cost of living index, the airport should realize additional revenue each year. Also, by taking nonaviation land on the airport, which is defined as nonaeronautical in use, and making it a revenue producing agent, additional funds will be received.

Additionally, during 1970–71, a $110,000 taxiway was built without the need for the enactment of a bond issue. The airport authority, under the guidance of Mr. Glass, has found that by running an airport as a business with everyone paying his fair share, the concept of complete utilization of nonaeronautical lands has proven to be an economic success by making them revenue producing bodies.

The national publicity given Reading in the August issue of Professional Pilot magazine of 1971 points out that our airports, in many cases, can be run effectively if proper management techniques are applied. Yet, with a little imagination, there are new avenues that can be pursued that will help support our airports even more, and, thereby, relieve the taxpayer of his great burden. On our airport in Reading, for example, there are 53 small companies, which employ people. There are 95 dwellings that house people. There are four fixed base operators, one airline and one commuter airline, all of which employ people. Even though each of these facets is completely different, the airport authority has attempted to interweave all of them into one productive team. At the Reading Airport it is working.

To cite an example, an office building was built on nonaeronautical land that was owned by the airport. This small building cost the airport $33,000. Leases from companies were then used as collateral and their rents were applied to the mortgage for a 5-year period. Therefore, when the mortgage is paid at the end of this 5-year period, the airport will be enriched by better than $8,000 per year. The Airport Authority has also applied this principle to their T-hangars, which are hangars for light aircraft. Money was borrowed locally from the banks, assigned the tenant's lease as collateral, and applied their rents to the mortgage. This has also been done with several other companies on our airport and, as can be seen, in the period of a few short years, large sums of money will be added to the airport's general operating account.

This is long-range economical planning. Many corporations that are coming into the communities today are aviation-minded and would, if properly wooed, put up their small offices or light industry in and on nonaeronautical land surrounding airports. With approximately 75,000 youths available in the labor market each year in Pennsylvania, and with the unemployment rate that our Nation is now experiencing, it is important that cities like Reading encourage new industry to come into its community to create new jobs. It is the position of the Reading Municipal Airport and its manager, Mr. Donald F. Glass, to do just that.

The attraction of business concerns to airport property also brings with it much needed employment and revenue for the city of Reading, its people, and the surrounding areas of Berks County. The arrival of General Public Utilities Corp. to Reading will bring better than $10 million in payroll to the community, with better than 225 employees. Commercial Credit Equipment Corp. also has established an air executed office in Reading. These and many others have listened to our plea and have moved onto our airport and are now helping to support it via the nonaeronautical lands that, in the past, have been deficits and which have now become assets. The Airport Authority has even pastured cattle on their land, raised pigs in their barns, and leased land to farmers for crop production. The Airport Authority has utilized all of its land and has succeeded in making it revenue producing.

Mr. Speaker, the people of Reading and Berks County can look with deep civic pride upon this modern facility which, through its management team and under the direction of Mr. Donald Glass, has sought to serve the public interest to the utmost. I am proud, and I believe everyone in Reading and Berks County shares this feeling. I hope that some of my colleagues in the House will have the opportunity to use this growing facility and see its progress firsthand. I would like to express my best wishes to the Airport Authority for their continued success in, as their motto states:

> An Airport with a Future for a City on the Go!

## ENERGY—A GROWING NATIONAL CRISIS

## HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. COLLINS of Texas. Mr. Speaker, Dresser Industries did a splendid community service in including the national crisis in energy with their annual report. Today business tends to discuss its problems in a small room with six or seven executives.

Dresser Industries, which is headquartered in Dallas, does more than $805 million in annual sales of industrial equipment and service business. Dresser, with its progressive spirit, is aware of the serious challenge facing America in the 1970's. But what is more important is that they are making America aware of this. I appreciate the leadership shown by John Lawrence, chairman of Dresser, and John V. James, who is the president.

I hope some of my colleagues here in Congress have the opportunity to review some of the highlights of the statement by Dr. John J. McKetta, the renowned professor of chemical engineering at the University of Texas. Dr. McKetta has served this past year as Chairman of the Advisory Committee on Energy to the Secretary of the Interior. He has a lengthy report, but I would like to summarize some of the major points emphasized by Dr. McKetta:

### ENERGY—A GROWING NATIONAL CRISIS

The situation of energy in America today is, in a single word, serious. Extremely serious. Since 1950, we have doubled our consumption of energy, and can see this consumption doubling again by 1985. We are already falling behind in our ability to produce as much energy as we consume.

The United States is experiencing the first shortage of basic energy fuels—cheap energy—in its history. Our demand is growing and growing, but our supply isn't keeping up.

The U.S. will continue to depend on oil and gas as energy sources in the next twenty years. The trend today is toward increased imports, currently reaching 23 per cent of oil used in this country. But we cannot forget the terribly important point that increasing our dependence upon foreign fuel sources could result in real threats to our economic and national security. And the paradox of all this shortage and increasing imports is that there are sufficient domestic resources of crude oil and natural gas to last for the foreseeable future.

The main reasons for this shortage, then, are that major areas for oil and gas exploration, recovery and distribution have been practically dormant in recent years because of a combination of negative economics and positive ecological pressures.

Oil drilling in the U. S. has dropped 50 percent since 1956 because of a lack of economic incentives. Government regulation of natural gas has suppressed the field price of gas to about one-third the cost of an equivalent amount of oil. Coal is the most abundant fossil fuel we have, but getting to it without scarring the earth and converting the coal to energy without polluting the air pose many problems. Water power, supplying only about 4 percent of our needs, is an insignificant energy source. Nuclear power is the best answer to our energy shortage, but well into the future, and social, political and regulatory problems hinder the growth of nuclear power.

The problem in our energy crisis does not all boil down to money—as the crisis grows, money may eventually be the easiest part of the solution. The more difficult problems lie in the areas of establishing more realistic government policies and setting environmental standards that can be economically attained while still permitting the acquisition of the fuels we must have.

The government must encourage the discovery and development of new domestic oil and gas reserves if we are to improve the supply of energy in the U.S. Exploratory efforts, and especially drilling, must be increased substantially on a long-term basis. To stimulate drilling and development onshore and offshore, we must allow economics to work by providing the necessary price incentives commensurate with the high risks and costs.

The brightest prospect for governmental action on the massive scale needed is the proposed cabinet level Natural Resources Department, the logical source for expert policymaking decisions that would guide us to the provision of our energy needs, while guarding our nation against unacceptable environmental damage.

But this problem is not only the government's problem. It is everyone's problem. Our jobs and our unprecedented high standard of living are based squarely on our ability to increase human efficiency so fantastically by substituting other forms of energy for human labor.

The government must stop overregulation, conflicting policies, and indecision which affect essential, massive projects and increase costs which in turn will be paid by each of us. The energy industries must do more exploration and research. The environmentalists must become more realistic in the goals they seek.

Our nation's economy runs on energy. Today's jobs and tomorrow's jobs are directly dependent on energy. We simply have no alternative but to solve the energy dilemma.

## SUFFER LITTLE CHILDREN OF VIETNAM

## HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. FRASER. Mr. Speaker, February 15, the New York Times commented editorially on the South Vietnamese Government's assault on and dismemberment of South Vietnam's largest orphanage. This orphanage had been located at Longthanh Village, 20 miles east of Saigon. A news story datelined Longthanh, February 13 gives the sordid details of the forceable entry and relocation—to unknown destinations—of the 3,000 residents of the orphanage. The Times editorial properly expresses the outrage most Americans must feel about this incident. The Pontius Pilate-like reaction of the U.S. adviser is also worthy of our anger.

[The New York Times, Feb. 14, 1972]

### 3,000 MISSING AS SAIGON SHUTS BUDDHIST ORPHANAGE

LONGTHANH VILLAGE, VIETNAM, February 13.—South Vietnam's largest orphanage was silent today following a police action Friday during which the orphanage was shut and nearly 3,000 Vietnamese children were carried away in trucks.

Relatives and friends of the children arriving here—some in tears and clutching photographs of infants they hoped to claim—were turned away by armed policemen and government security agents.

The national police first raided the Buddhist orphanage eight days ago. Fifteen truckloads of policemen entered shortly after midnight, armed with clubs and water hoses, and firing tear-gas grenades, according to Buddhist nuns there at the time.

The police reported having arrested 114 draft-eligible men and the head of the orphanage, a man said to be wanted for "misuse of authority and cheating." The police are now dismantling the children's center.

The nuns said that three boys died from tear-gas poisoning and that others were seriously injured in the raid. Repeated attempts to get the police to comment on the reported deaths have been unsuccessful.

The Longthanh Orphans Village has been Vietnam's largest and most controversial orphanage. It was founded nearly four years ago and its leaders have at times been accused of using the orphans for political purposes.

The children have been photographed with banners asking for an end to the war. Some have engaged in "fasts for peace,' bringing attention to their antiwar and anti-Government beliefs.

#### MEETINGS BROKEN UP

When "Prayer for Peace" meetings were held at the orphanage, they were broken up and the orphanage was quickly cordoned off by the police. Some Western observers may have provoked the Government into closing the home.

An American adviser to the Vietnamese national police said "the staff had gotten a little suspicious." He was quick to add that the move against the orphanage "was strictly a Vietnamese affair."

Today, scores of women who had heard about the raid trickled to the isolated orphanage, 20 miles east of Saigon, in search of their children. The mothers listened with anguish as policemen said they did not have the authority to say where the children had been taken.

"She's lost? I know she's lost," said a 25-year-old mother as she pleaded with the police.

She explained that her husband had been killed while in the army and that she had left her 6-year-old girl with the Buddhist nuns while she worked nearby. She asked not to be identified because she said the police might arrest her for speaking with the foreign press.

#### WOMEN GATHER IN SAIGON

Back in Saigon, Buddhist nuns and relatives of the children stood in front of the Ministry of Social Welfare even though the office had closed for the weekend. They said they knew of no other place to go to find the children.

An elderly Buddhist nun dressed in old saffron cloth quietly described the police raid as women shoved closer so they could hear her.

"The children ran," she said. "Some hid behind buildings. All were afraid. They did not know where they were being taken." Her wrinkled face was strained as she spoke.

"The older ones went more quietly. But the younger children cried and ran. The orphanage was all they knew and they feared the police," she added.

She told the women that several hundred armed policemen occupied the orphanage for a week between the time they first entered and the time they carried off the children.

"Now they are carrying away sewing machines, kettles, bags of rice and whatever else they can take," she added.

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[From the New York Times, Feb. 15, 1972]

### Suffer Little Children

President Thieu's repressive national police have written another ugly chapter in the annals of Vietnamization with their recent assault on and subsequent dismemberment of an alleged hotbed of antiwar and anti-Government activity—South Vietnam's largest orphanage at Longthanh Village, near Saigon.

Even if the orphanage harbored draft-dodgers and was misused for political purposes by its Buddhist sponsors, as the Government contends, there can be no excuse for the heavy-handed police tactics employed. These included a midnight attack by policemen armed with clubs and water hoses and firing tear-gas grenades, and the ultimate evacuation of nearly 3,000 terrorized children to parts unknown. Nuns say that three boys died from tear-gas poisoning and that others were seriously injured in the raid.

Equally shocking is the cold indifference displayed by an American adviser to the Vietnamese national police who dismissed the incident as "strictly a Vietnamese affair." Such brutal repression is wholly unacceptable on the part of a Government dependent on massive American economic, military and diplomatic support. These orphans are an American concern, especially since some of them are the abandoned offspring of American servicemen and many more are victims of a war in which the United States continues to be deeply involved.

The Longthanh incident is a singularly grotesque symbol of a much larger problem of child abuse and neglect in South Vietnam. It should spur Congress to act favorably on a bill, sponsored by Senators Hatfield, Williams and Hughes, which would create a new Child Care Agency to seek a long-term solution of the problem of the abandoned children of South Vietnam, many of them, we repeat, half-American.

Mr. Speaker, the last paragraph of this editorial bears repeating:

> The Longthanh incident is a singularly grotesque symbol of a much larger problem of child abuse and neglect in South Vietnam. It should spur Congress to act favorably on a bill, sponsored by Senators Hatfield, Williams and Hughes, which would create a new Child Care Agency to seek a long-term solution of the problem of the abandoned children of South Vietnam, many of them, we repeat, half-American.

On February 8, 1972, I joined the gentleman from Wisconsin (Mr. Kastenmeier) and several other colleagues in introducing H.R. 13031, a House version of the Vietnam Children's Care Agency legislation mentioned in the editorial. As a Minneapolis Tribune editorial of February 12 points out:

> . . . the Government [the United States government] could do much of what is proposed in the legislation, without vote of Congress, if it were sufficiently motivated to translate pronounced official "serious and continuing concern" into official action.

Our Government could start by making strong and unmistakeable protests about the Longthanh outrage.

[From the Minneapolis Tribune, Feb. 12, 1972]

### Only "Concern" for Vietnam Kids?

Billions for reconstruction tomorrow, but how much for children today? The question can appropriately be asked in view of the recent announcement that the U.S. government offered $7.5 billion over the next five years to help rebuild war-torn Indochina. Meantime, the United States has done almost nothing to assist the hapless young victims of the Vietnamese parents and the children fathered by American GIs and civilians.

An article on this page Jan. 28 pointed out that there are many thousands of Vietnamese-American children—estimates range from 5,000 to 400,000. Other figures list 92,000 orphans and 210,000 children whose Vietnamese fathers were killed in the war. Yet, as recently as 1970, reported the New York Times, the Defense Department said that the welfare of the children was not an area of government responsibility. Evidence of this unconcern was seen in late 1969 when the State Department sent a social worker to Vietnam to study the problem, and then abolished the job after she arrived because the United Nations had two persons there doing similar work.

Report after report from Vietnam indicates that additional facilities and personnel are needed to care for these children. Some of the children are simply roaming the streets. Others are living with mothers or relatives in seriously inadequate circumstances. Many are in crowded orphanages. Lack of proper care resulted in an attack of pneumonia and a case of polio for one child—both while a Roseville couple was trying to cut red tape for adoption. The child may never walk again.

Much of the American aid until now has come from private agencies, volunteer organizations such as Parents Aiding Children Today (PACT) in Minnesota, and GIs and former GIs who are concerned about the children. PACT is supporting—with some difficulty—the monthly salary of a South Vietnamese social worker. A group of young people in southern California is collecting clothes, medical supplies and sewing materials for nine orphanages in Vietnam. Other groups around the country are raising money and urging the adoption of Vietnamese-American orphans.

These efforts, although worthy, fall far short of the need. The French set a good example for this country toward the end of their colonial rule, when they repatriated and supported 5,000 unwanted French-Vietnamese children. The children who remained in Vietnam with their mothers were educated at the expense of the French government.

The U.S. has the resources to go beyond such action and assist in setting up child-care programs for all the children suffering from the war, whether Vietnamese or Vietnamese-American. One expert says day-care facilities and aid for Vietnamese social workers, many of whom now cannot get employment, are especially needed. The Williams bill in the Senate, which calls for adoptions here and child-care in Vietnam, is the best of the legislative proposals. But the government could do much of what is proposed in the legislation, without vote of Congress, if it were sufficiently motivated to translate the recently pronounced official "serious and continuing concern" into official action.

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## IMPORT SHOCK WAVES

## HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. GAYDOS. Mr. Speaker, since the first of the year, the American steel industry and the steelworker have been clouted with one shock wave after another from foreign competitors.

The first, of course, was the official confirmation of what everyone in the country had been expecting: the news that a record high tonnage of imports had flooded the country last year, 18.3 million tons, and the undeniable admission that the so-called Voluntary Restraint Arrangement of 1968 had been ripped to shreds during 1973, the last year of its 3-year limit. Provisions of the VRA as to tonnage and product mix were totally ignored and flagrantly violated.

The second wave did lift some eyebrows. It was the revelation that the Soviet Union had outproduced the United States, and every other country, in total steel production in 1971. Russia was credited with making 132 million tons of steel, while the United States produced only 120 million tons. It caught many people by surprise since all eyes have been turned toward Japan as the major U.S. competitor. The Japanese have made no secret about the fact they expect to outstrip the United States as the major steel producer by 1975. Apparently, the American steel industry now is in second place and heading toward third.

However, it was the last shock wave which has triggered an angry reaction among the Nation's steelworkers. It is the knowledge that a major U.S. auto manufacturer is allowing a domestic plant, one located at New Stanton in Pennsylvania, to gather dust while the same firm is producing its product abroad and bringing it into the United States as a finished item and sold under the guise of being American-made.

This shocking revelation was made by my good friend and esteemed colleague, the Honorable John H. Dent of Westmoreland County in Pennsylvania—the home of the idle auto plant. Mr. Dent has long been championing the cause against uncontrolled imports and what they will do to the American employment picture.

Mr. Speaker, I am inserting into the Record a copy of the article written by John P. Moody of the Pittsburgh Post-Gazette, which pertains to Mr. Dent's discovery. I would like to call the attention of my colleagues to the article and urge them to read it, for foreign imports cost the steelworkers of America an estimated 100,000 jobs last year.

The item follows:

[From the Pittsburgh Post-Gazette, Feb. 4, 1972]

### Chrysler Products Built in Japan, Dent Says

WITH AREA PLANTS IDLE, IMPORTS HEAT UP USW

(By John P. Moody)

Philadelphia.—Pittsburgh area steelworkers, already troubled by foreign imports, seethed last night at news that Chrysler Corp. is leaving an area plant idle while producing abroad and bringing finished autos into the country to sell as American-made products.

Joseph Odorcich, USW District 15 director, said some of the Chrysler products actually were being promoted by steelworkers in a "Buy America" campaign.

Chrysler Corp. officials were not immediately available for comment.

The steelworkers plan to take the issues up today with Gov. Milton Shapp when he comes here to address the closing session of the union's Legislative Committee of Pennsylvania which the steelworkers are attending.

Chrysler built and was scheduled to commence auto production in a new plant at New Stanton, Westmoreland County. Employment at one time was expected to reach 4,000. Odorcich said 20,000 had been interviewed for jobs.

News of the Chrysler foreign production was given to steelworkers yesterday by U.S. Rep. John H. Dent, Westmoreland Democrat, when they visited him in Washington to discuss area unemployment.

Returning to Philadelphia, the committee reported to Ordorcich and quoted Dent as saying the autos are being manufactured in Japan. The cars, according to George Kutska and Russell Bertgstedt, members of the committee, are being imported with U.S. State Department approval and sold without any identifying markings that would show they are foreign-made.

Steel mills in the Mon Valley have been operating far below capacity and many workers are on layoff. Both the industry and the USW blame much of their plight on foreign imports which totalled 18 millions tons last year, the equivalent of 100,000 steelworker jobs.

Ritzie Caldron, president of the USW local in Monessen, said he and other steelworkers will try to meet with Shapp today and make plans for a confrontation with Chrysler people as well as members of the State Department to discuss the foreign import situation and the New Stanton plant which never has been put into operation.

Meanwhile, steelworkers at the Legislative Committee session today will be asked to back a movement calling for Blue Cross and Medicare to include chiropractors in their payment coverage program.

The resolution is one of three that 600 delegates will vote on today.

Other resolutions call for federal protection of workers' pensions and a reciprocal tax agreement between Pennsylvania and adjoining states to prevent double taxation of residents working in other states.

The chiropractor resolution has the support of 30 USW locals, all in the Greater Pittsburgh area. It called on the state AFL-CIO to get behind efforts for state legislation to include chiropractic coverage in the Blue Shield and Medicare programs.

The chiropractor has been a controversial figure in state health programs. The AFL-CIO traditionally has opposed their inclusion in Blue Cross and Medicare.

The resolution charges that "too often physicians have not been able to give relief from pain and agony . . . so that it was necessary to resort to chiropractic services."

The resolution says many steelworkers have had to pay for medical treatment while maintaining health and hospital medical insurance.

The reciprocal tax proposal is based on an agreement now existing between Kentucky and Ohio where persons living in one state and working in the other pay only the taxes of the state in which they live.

In an intra-union political development, John W. Hughey, grievance chairman for Local 1253 in Rankin, announced he will be a candidate for the USW District 15 directorship in the union's 1973 election.

Odorcich is the incumbent director, and is expected to seek re-election.

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## HOLY CROSS RELIGIOUS ISSUE STATEMENT CONDEMNING RENEWED BOMBING OF NORTH VIETNAM

## HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BRADEMAS. Mr. Speaker, I have the honor of representing in Congress many religious of the Order of the Holy Cross.

Recently a large majority of Holy Cross religious, following a community meeting, issued a statement strongly criticizing the renewed bombing of North Vietnam.

I include at this point in the RECORD the text of the news release prepared by the Ave Maria Press which incorporated this statement of moral concern.

The text of the release follows:

### HOLY CROSS RELIGIOUS PROCLAIM "OUTRAGE" OVER ETHICAL COLLAPSE OF NATIONAL POLICIES

NOTRE DAME, IND., December 30.—A large majority of Holy Cross religious, assembled in a community meeting of the priests' provinces, endorsed a spontaneous statement of "moral outrage" over the renewed bombing of North Vietnam.

The protest, signed by 128 of the 140 priests, brothers and seminarians present, was described as unique in the history of the religious congregation.

The statement read: "We the undersigned members of Holy Cross are outraged by the decision of the United States government to renew the bombing of North Vietnam. We especially deplore the fact that this decision was made at a time when the institutions of democratic process and legitimate protest were adjourned and celebrating the season of peace."

"We feel," the statement continued, "that this decision was wrong and violates the conviction of a growing number of American citizens. This decision represents a continuing pattern of violence, unrestrained force and deception which characterizes our nation's foreign policy and exceeds all acceptable moral limits."

Among the signers were the Rev. Howard Kenna, Provincial Superior of the Indiana Province and the Rev. James Burtchaell, Provost of the University of Notre Dame.

Speaking for the group, Father John Reedy, publisher of Ave Maria Press, highlighted the significance of the action in the following terms:

"As a group, this community has been very restrained in its public criticism of national policy. Never before have so many of our members, in such spontaneous action, felt compelled to express such a moral judgment."

The statement, he said, arose from a meeting assembled for completely different purposes concerning the renewal of the religious life.

Father Reedy continued, "These men are speaking from experience as teachers in universities and high schools, in parishes and the religious press, in accordance to the people of Chile, Uganda and what is now Bangladesh."

Though the statement focuses on the specific decision to accelerate the bombing of North Vietnam, Father Reedy said that it was formulated in discussions of similar concerns regarding what appears to be an "ethical impotence" governing American policies toward Bangladesh, toward Latin American and toward the Third World in general.

"We foresee a frightening crisis of national confidence" he said, "as a growing number of our influential citizens—opinion shapers—conclude that the immense power of our nation is being exercised without any discernible ethical norms."

He added, "Raw head-counts, through opinion polls, provide a treacherous security when constantly increasing numbers of clergymen, teachers, legislators and press are unable to give moral support to national policies."

"We are not speaking of one administration," he said. "The trend has been developing and growing throughout the recent administrations, under the leadership of both parties."

"If this trend continues, many of us foresee a catostrophic collapse of support for our government."

"We cannot claim there is no ethical thought behind these policies," he said. "But if there is, it is not being conveyed in any convincing way to vast numbers of our citizens whose concern, education and experience should enable them to understand the actions being taken in the name of our nation."

Father Reedy concluded that this response of religious spokesmen conformed to the many pleas expressed in the October Synod of Catholic Bishops, pleas for churchmen to see as an integral part of the priestly ministry a prophetic protest against those institutions, structures and policies which oppress and degrade human life wherever it exists.

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## STABILIZING THE CONSTRUCTION INDUSTRY

## HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. ROBISON of New York. Mr. Speaker, a few nights ago it was my privilege to speak at the 30th annual dinner meeting of the Associated Building Contractors of the Triple Cities, Inc.—"triple cities" in this context meaning the metropolitan complex of Binghamton, Johnson City, and Endicott, in up-State New York.

During my conversations with my hosts, both before and after my own remarks, I was reminded once again of the difficulties this vital industry has had, in recent years, with its disproportionately large labor costs that have threatened to escalate themselves right out of sight, to the point where some projects were simply pricing themselves out of the market.

This is a problem—a very special problem—the effects of which have, I am sure, been made clear to all of us. It has likewise been a problem of growing concern to me, as my prior discussions with both construction-employer and employee-union heads in my district have disclosed the fact that each, in their own ways, have unhappily concluded that they were riding, together, on an economic merry-go-round that spun ever faster and faster and that neither knew how to get off of, even though staying on meant inevitable disaster.

In any event, the February 22 issue of the Wall Street Journal carries a column by Lindley H. Clark, Jr., outlining how this industry got itself into the fix it is in—with governmental assistance, of course—describing how the recently established construction industry stabilization committee has been trying to wrestle with the problem, and suggesting, finally, what the eventual congressional responsibility may turn out to be in this regard. It is a column well worth reading—by all of us—and is herewith set forth with that thought in mind:

### SPEAKING OF BUSINESS—CONSTRUCTIVE IDEAS

(By Lindley H. Clark, Jr.)

At a recent conference at the Brookings Institution, several economists were discussing the performance of the Construction Industry Stabilization Committee. Most of the participants agreed that the group had done rather well at a difficult job, but they also felt that the committee by itself could not solve the industry's problems.

Early in 1971 construction industry wages were racing upward so rapidly that even the unions were concerned. Heavy labor costs were helping to price some projects out of the market, so that industry unemployment was far above the national average.

After initial rumbles of reluctance the unions agreed to go along with establishment of the stabilization committee, which was set up last March. In addition to labor members, the group also includes public and management representatives.

Facing the committee was the fact that average first-year increases in 1970 contracts had been 15% and that settlements in the first quarter of 1971 had run even higher. Unions obviously were trying to outrace inflation, and some of them were succeeding well.

That was only the first of the problems, though. Negotiations were usually on the local level on a craft-by-craft basis. If one craft won a sizable increase, the others tried not to equal it but to surpass it. The costly game of leapfrog went on and on.

Although local employers bargained together, they weren't strong enough to face down the local unions, supported by their national organizations. Many builders were thinly financed, unable to take a strike of any length. Moreover, there had been few cases where employers had won strikes in recent years, a record that tended to discourage even the larger builders.

The stabilization group nonetheless decided to set a ceiling of 6% on future wage increases. As Princeton's Albert Rees noted at the Brookings meeting, however, the committee left itself—and the unions—a loophole.

As Professor Rees said, the group "provided that equity adjustments 'may, where carefully identified, be considered over the life of the contract to restore traditional relationships among crafts in a single locality and within the same craft in surrounding localities.'"

Equity, like beauty, lies in the eyes of the beholder. Use of this criterion has meant that settlements approved by the stabilization committee are still much bigger than 6%—almost twice as big, in fact. Similar considerations of "equity" have helped to keep the Pay Board's awards well above its own 5.5% guidelines.

Professor Rees feels that once all of the so-called equity cases are out of the way the construction committee's job will be easier, and he may be right. In this system of setting wages by fiat, though, some observers may wonder when, if ever, all the unions will agree that they are being treated equitably.

If a local union's big wage increase forces—for reasons of equity—a number of other large wage increases, we may have been experiencing "more of a wage-wage spiral than a wage-price spiral," commented Arthur Okun, who headed President Johnson's Council of Economic Advisers.

"Wage explosions can occur for no obvious reason," he continued. "We are led to the notion that wage rate wars can break out, much as gasoline price wars do. These seem to occur when craft unions deal with small employers, not only in construction but also among printers, teamsters and dockworkers. Perhaps it reflects the absence of countervailing power on the management side, which would tend to moderate the settlements."

That's a sound thought. If that's the way things are, Mr. Okun says, the situation "ought to be changed by institutional reform or by controls. It should not be dignified as 'equity.' I don't view it as equity that, when one chicken gets out of the coop, all the others have to be let out, too."

Naturally, we would prefer the approach of institutional reform, and Princeton's Professor Rees has some ideas along that line. He suggests, for instance, that bargaining might be broadened to cover wider areas, though he would stop far short of national negotiations. In this way the employers might be able to muster greater strength on their side of the bargaining table.

To curb leapfrogging Professor Rees would encourage multicraft agreements. Whether this would work on a voluntary basis or not depends on whether the unions think they could do as well by pooling forces as they do now.

Even the unions, however, may be beginning to realize that they can't always have everything as they want it. The general wage-price control setup, bitterly criticized by organized labor, still has the support of most of the public—despite recognition of the system's numerous flaws.

Sooner or later, Congress is going to have to get around to a general overhaul of labor law, in an effort to move back toward the bargaining-table balance that was envisioned by authors of the National Labor Relations Act in the 1930s.

As part of that overhaul, and of special relevance to construction, the lawmakers surely should scrap the Davis-Bacon Act. This law in theory compels federal contractors to pay the prevailing local wage. In practice it has meant that prevailing union wage and, if there is no union in the community, the nearest union wage that anyone can find.

Davis-Bacon plainly has served as a federal floor under construction wages, helping the unions to extend gains in one area to many others. The practice of leapfrogging, in other words, has had a lot of help from the government.

We would also want to stress that unions, in construction or anywhere else, cannot cause inflation, even when they engage in wage wars. They can and do put upward pressure on prices by raising costs, but they will only increase their own members' unemployment unless the government accommodates them by engaging in inflationary policies.

Although the government lately has been pretty accommodating, it hasn't taken care of the construction industry increases. At last count unemployment in the industry was still over 11%, nearly double the national rate. The government can help stabilize the industry, but it will have to do more than set up a union-management-public committee.

## VEYSEY DISTRICT QUESTIONNAIRE

## HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. VEYSEY. Mr. Speaker, as has been my custom, I am once again seeking the opinions of my constituents on a number of the pressing issues before the Nation. The poll is going to 270,000 households in my congressional district, and I will announce the results in the CONGRESSIONAL RECORD as soon as they have been tabulated.

The questionnaire follows:

Please place a "yes," "no," or appropriate answer in the space to the left of the question. You need not answer all questions. Your answers will be held to be confidential. Mail either as a postal card or enclosed in an envelope.

1. What should we do about the Vietnam War? (Check one only, please.)

(a) Withdraw all U.S. forces immediately, and let South Vietnam fend for itself;

(b) Congress should set a firm date to withdraw our forces;

(c) Continue the President's policy of Vietnamization (i.e., withdraw in stages and turn the combat over to the South Vietnamese);

(d) Strive for a military victory.

2. Would you suggest a major increase in federal funding of public schools as a substitute for local property taxes?

3. Do you think that federal regulation of prices and wages since last August is satisfactorily curbing the rising cost of living?

4. Should Congress force settlement of labor disputes where the national interest is involved such as transportation or dock strikes?

5. Should the federal government establish national standards for and regulate blood banks?

6. From what you have read, do you believe our military strength is adequate for our needs?

7. In the area of national health insurance, which do you prefer? (Check one only, please.)

(a) An expansion of federal health care for the working poor and unemployed;

(b) Tax credits to purchase private insurance protection;

(c) A federal program to help pay catastrophic medical costs;

(d) Government financed health care for everybody;

(e) No new federal legislation in this area.

8. Should the United States expand trade and diplomatic relations with Communist China?

9. Do you support busing of children as a means of improving the quality of education in the schools?

10. Do you think social security payments should increase automatically with a rise in the cost of living?

11. Should the United States sell additional arms to Israel?

12. I normally vote (check just ONE please) ---- Democratic; ---- Republican; ---- Other; and would like to see that party nominate as its Presidential candidate (write just ONE name, please).

Check if you want to receive my newsletter.

Name.
Street.
City.
Zip.

## NEW YORK POST SUPPORTS CITIZEN REENFORCEMENTS

## HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. BINGHAM. Mr. Speaker, the Citizens Anti-Crime Patrol Assistance Act (H.R. 12262), which I introduced on December 13, 1971, and reintroduced with

14 cosponsors on February 17, has received enthusiastic endorsement from the New York Post. The text of a February 19 New York Post editorial supporting this legislation follows:

### OF CRIME AND PREVENTION

#### 1. REALISM ABOUT DRUGS

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#### 2. CITIZEN REENFORCEMENTS

There is no shortage of talk about crime in the streets; too much of it is political rhetoric that does nothing to alter the reality. Something more affirmative and hopeful is embodied in the "Citizens Anti-Crime Patrol Assistance Act" being sponsored by Rep. Bingham (D-Bronx) and endorsed by a notably biracial group of fourteen other Congressmen.

It provides for an allocation of $275 million over the next three years to promote the formation of community patrols operating on a local, neighborhood level. Together with auxiliary police units now in existence, they would work under the overall supervision of the police and they would be unarmed; they would provide an important, reassuring additional presence and service for many harassed areas, without any taint of irresponsible vigilanteism. The appropriation would, among other things, permit some minimal compensation for the volunteers.

A national Administration that has devoted so much lung-power to anti-crime pronouncements should be able to find its voice to support the Bingham bill. It could mean wide, dedicated public participation in the fight against fear in the cities.

After meeting Dr. Morley at the London School of Public Hygiene, where he was studying tropical public health, Dr. Cunningham returned and tried a similar approach in Lagos.

"In the Peace Corps, we had a team of 18, and I was the director of the first medical project in Togo," Dr. Cunningham recalled recently during a relatively quiet day at the clinic.

"We brought in masses of first-class American equipment and drugs, but Africa taught me that this was not the way. It was too much for a little, poor country. Expensive medical care couldn't be maintained, and they couldn't afford to provide drugs or experienced personnel." He said the Togolese trained in his project were sent by the Government to other parts of the country and the Government relied on his people while they were there.

Dr. Cunningham, who is also assistant professor in the Department of Community Medicine at Mount Sinai, explained that it was after he met Dr. Morley that he realized first-class medicine was a failure if it did not provide care for people.

#### MIDWIVES UTILIZED

What Dr. Morley did was create a system not built around doctors who are not around or who do not enjoy being there when they are, but around people who like living there—using indigenous midwives rather than models from Paris, Moscow or New York."

By eliminating a lot of diagnostic tests, cutting down on giving a lot of expensive drugs and emphasizing both preventive and curative medicine that can be administered at home, the cost of visits averaged out to about 15 cents a visit and less than $5 a child a year, according to Dr. Cunningham.

Among other things, he said, the families were taught about disease, how to hydrate, before dehydration makes hospitalization an absolute necessity, how to treat minor burns and infections by cleaning them in the home, and how to stop diarrhea.

#### SANITATION A PROBLEM

"Sanitation there is a problem," Dr. Cunningham explained, "so you could place your emphasis on getting money for new pipe systems, but there is no money. Or you could wait until the child gets sick and send him to the hospital—the Western way. Or you could teach the people that mild diarrhea is self-limiting, that instead of stopping water, you increase it and add a little salt.

"A doctor dealing with the problem does not usually involve the mother in solving it. A nurse explains, the mother becomes involved in solving the problem and next time she knows and doesn't have to ask."

And while mothers in East Harlem may not have to deal with poor sanitation as a problem, the process in dealing with problems is the same.

#### HEALTH TEAM EMPHASIZED

At the Wagner Project which is supported under the Model Cities Treating Physicians Program, acting through the Health Services Administration, and by Mount Sinai as well, emphasis is placed not on the doctor but on the health team, which includes nurses, community aides and mothers and fathers. Doctors and nurses were either hired for the project or provided by the Department of Health.

Dr. Cunningham's co-director, Kim Thomstad, a nurse, has found out that the community health workers—most of whom are bilingual and live in the area—are much better at talking to patients with problems—both medical and domestic—than the nurses, "despite our years of studying interviewing techniques."

Miss Thomstad also said the paraprofessionals, who earned $7,000 to $8,000 a year, also learned laboratory work—how to conduct various tests—and go into the home, as well.

Health workers and parents praise the facility, a brightly decorated eight-room apartment on the ground floor of the Wagner Housing Project. About half of their patients come from there, the other half from nearby tenements. There are about 20,000 families in Health Area 17—north of 119th Street and east of Third Avenue.

"It's the only place that you don't have to spend two carfares to get to when your baby is sick," said Mrs. Lynne Williams, who is organizing the mothers in the area. "And when your baby is well, you see the same doctor each time, so that you don't have to explain things over and over and you don't have to wait."

Dr. Cunningham said he strongly favored health stations that serviced small geographical areas and provided comprehensive medical care.

"It's not second-class medicine," he said. "It's simply adding to the system. And while it is a good solution for inner-city children, today it is becoming necessary for everybody—from migrant workers to people in Scarsdale. If people in the suburbs start this kind of care early, too, they might find some answers, like why their kids are getting on drugs."

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## TRAVELS TO NORTHERN IRELAND

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

### PART I: THE MARCH AT NEWRY

Mr. BIAGGI. Mr. Speaker, over the course of the last 2 years, I have been extremely active in trying to bring about a solution to the tragic situation in Northern Ireland. I was the first Member of Congress to introduce legislation calling for an end to hostilities, the withdrawal of British troops, and the holding of a plebiscite of all of Ireland to determine the question of national reunification.

I have also introduced legislation to provide 25,000 emergency refugee visas for residents of Northern Ireland. This would provide speedy entry into the United States in time of emergency in much the same way as this Nation provided for the Hungarians and the Cubans in the past.

Additionally, I have called upon the Nixon administration repeatedly to intervene in the situation and to use all available channels to resolve the conflict. Thus far, no action has been taken. I have also contacted the United Nations on several occasions to urge an inquiry into the atrocities being committed and to seek an international settlement of the problems. Most recently, I called for a United Nations investigation into the shooting in Derry.

In August of last year, I sent my daughter Jacqueline, and a member of my staff, Carol Nolan, to Northern Ireland to investigate conditions at that time. This was the first month the Special Powers Act was put to full use.

They returned with reports of atrocities which were taking place in the detention camps there. Horror stories of gestapo-like arrests in the early morning hours were commonplace. For the last several months I have been including affidavits from detainees in my remarks in the CONGRESSIONAL RECORD. Just recently I have called on the Government of Northern Ireland to release the Red Cross report on the conditions in these camps. This report has been suppressed for over 2 months.

When the killing of the Derry 13 occurred, I was not satisfied with the confusing and conflicting reports which were in the press at that time. Furthermore, to me as a professional police officer, the incidents as reported did not ring true.

Following the killings in Derry, a second march was immediately scheduled for the town of Newry. The plans were denounced by the Stormont and British Governments. The equally adament stand by the march organizers, however, seemed to indicate that a confrontation was imminent. With upward of 100,000 participants expected, Newry presented a great potential for an even more bloody Sunday than the Derry affair.

At this point, I felt the only way I would have all the facts on this new march was to be there in person. My family tried to dissuade me from going. Surely, the prospects of death or injury were high. The presence of so many diverse groups with diametrically opposite objectives—the police versus the marchers, the army versus the IRA—set the stage for a potential explosion that would rock the world.

On Saturday evening I spoke at an Irish rally in New York at which I pledged my support of a 1-day boycott set for March 1, of British goods from Maine to Texas. On hand was Thomas W. (Teddy) Gleason, president of the AFL–CIO International Longshoremen's Association and other labor leaders.

Following the rally, I took a late night Aer Lingus flight to Dublin, arriving at

10:30 Sunday morning, the day of the march. On board my flight was the U.S. Ambassador to Ireland, John Moore. While my escort from the Civil Rights Association was not at the airport to meet me, U.S. embassy officials were. Ambassador Moore tried at great length to convince me not to go to Newry. The killing or injury of a U.S. Congressman, he argued, would have a worldwide impact on the situation.

Despite his pleadings, I rented a car and motored as far as Dundalk on the Republic side of the border. I had a contact in the town, a Mrs. Irene Quinn, who owned the Imperial and Balymascalon hotels. Entering the Imperial, I was shocked to hear my name shouted from across the lobby. More startling was the personage to whom the voice belonged, Gene Foley, an old friend from Hastings, N.Y.

As the luck of the Irish would have it, Gene Foley was able to secure his friend Bill Fuller's four-door Cadillac—with New York license plates no less—to make the trip to Newry. Neal Blaney, a Dublin member of Parliament, joined us for the journey. As we motored across the Irish countryside, each of us felt the incongruity of the situation. Here was this large American car with American passengers traveling along side small cars, bikes, buses, and trucks filled with countless thousands of Irishmen. All had a unity of purpose in mind—to join the march of protest at Newry.

Excitement, uncertainty, and a bit of fear bristled through the air. Each potential marcher wondered whether this would be his last trek through his beautiful Ireland. And most striking that I marveled how any Irishman could ever find it in his heart to leave.

A few miles outside Newry we encountered our first military blockade. The sight of British commandos with their black pitch-smeared faces and carbines at the ready stood as stark testimony to the reality of the situation. Here was a country at war.

The blockade itself was a heavy wooden structure with large rolls of barbed wire. The constant blaring of the bull horn warning that marches were prohibited underscored the fear already building in the crowd.

To emphasize their intent on controlling the situation, the British troops insisted that people pass through the barricade two at a time. Once, on the other side, each of us was subjected to a thorough body search. Probably, as a U.S. Congressman, I could have protested this insulting treatment and gotten by without having to be searched. Yet, the tense atmosphere warned me that such protests would be folly in light of the confrontation that might possibly result.

Blockades set up at key points along all the roads each utilized the same pairing processes. All this seemed to accomplish was to stretch out the marchers for miles.

With the overcast sky, the soldiers lining the route and armed lorries patroling the route, I felt like I was part of a column of refugees leaving a doomed town. Only our direction was toward the point of possible disruption—not away from it. As we drew nearer to Newry, I urged those in my party to stay in groups of two's and three's so as to maintain a low profile and thus not attract too much attention.

As we approached the town square, we could see where the marchers had planned to assemble. A huge blockade presenting a fearsome entanglement of barbed wire, soldiers and military weaponry barred passage to the gathering site. Had there been a confrontation at that point, there surely would have been bloodshed. The organizers did an extremely creditable job of advance preparation. Contingency plans were implemented and the march was diverted into a grassy area called Rooney's Meadow. Solemnity prevailed and as the march proceeded along it was thunderous in its silence. The organizers were constantly alert, almost fanatic in their efforts to maintain order and avert trouble.

It took 2½ hours for the marchers to assemble in the green for a spate of speeches and demonstrations of unity. The crowd was a potpourri of men, women and children, the young and the old, the rich and the poor, all manner of Irishmen. As I maneuvered through the crowd, I encountered numerous press correspondents from all over the world. When asked why I was there, I answered that I wanted a true, firsthand picture of what was going on in Northern Ireland. I added that I felt the presence of a U.S. Congressman might deter violence as well.

Throughout the afternoon and into the evening, the speakers were constantly interrupted by six helicopters that patrolled the sky overhead. Periodically came the monotone announcement that the procession was against the law and that continued activity was at the risk of the participants involved.

With the thoughts of Derry fresh in everyone's mind, no one quite knew what to expect. Would the soldiers move in to break up the rally? None of the 50,000 marchers was deterred. When finally all were packed into the site, the speeches began. Mr. McShane, chairman of the rally, introduced the speakers to the crowd from atop a lorry.

The crowd quieted down as the first speaker, Michael Keogh, a local Nationalist Member of Parliament, started to attack the British policies in Northern Ireland. He was followed by other Stormont and Westminister M.P.'s and by speakers from the Northern Ireland Civil Rights Association. Mr. Thomas Driberg, who had not marched but had followed the proceedings as an observer, was a member of the British Parliament and the only speaker from England. I shared the speakers' platform for a short time, but spent the remainder of the time among the crowds talking to the people.

The speeches carried into the night. Miss Bernadette Devlin, the Independent M.P. from Mid-Ulster, was the last to speak and received the warmest welcome.

Throughout the speaking, the continual clattering of helicopters completed a grim picture reminiscent of scenes from George Orwell's 1984. I was there: I observed it; but I still find it difficult to believe.

I reflected on how wonderful our country is where the right of assembly is constitutionally guaranteed. Sometimes, of course, questions are raised when it appears that those who are trying to destroy our Nation are actually granted the same privilege.

As darkness fell, the speeches ended and the people left for their homes. For most it meant a 3-mile walk to their cars and buses in the blackness of the night. All was not quite as calm as it appeared, however, for periodically we would hear the ominous click of a carbine. This fact acquired additional significance when you consider that the killings at Derry occurred at the time of dispersal.

When I returned to my hotel, the Balymascalon, everyone was delighted with what had occurred that day. This success filled the marchers heads with many extravagant plans for future demonstrations. However, my appraisal in the cold light of reality was not as optimistic. I was not as certain as they that the British would permit continued marches without intervention at some point. I know that if there were intervention violence would result. Already in the few weeks since the march, violence has begun again and more lives lost.

As for the march in Newry, however, a great deal of credit must be given to all who participated. They had reflected a sense of responsibility and practiced extreme restraint in order to avoid what appeared to be the inescapable conclusion—violence.

It was a great tribute to those who gave their lives in Derry. Surely, the tragic and needless killings in that town resulted in the unity of all Irishmen, not only in Ireland itself, but throughout the world. Moreover, it focused attention on the troubles in Northern Ireland and produced a great response from all mankind. For the first time the Irish were no longer fighting alone. People of good will had now begun to act.

## TO HALT FORCED BUSING, SEEK ITS ORIGIN

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. RARICK. Mr. Speaker, since the "landmark" 1954 Supreme Court ruling in the case of Brown against Topeka, Kansas Board of Education, public education in the United States has continued to retrogress as judicial usurpation and tyranny progressed. It remained for a 1971 decision by a U.S. district judge in Richmond, Va., to order the consolidation of the school systems of the city of Richmond and two adjacent counties to inflame the people over the danger of the erosion of local governments. The people recognize instinctively that what happened at Richmond could also occur at New York, Detroit, Chicago or Los Angeles and that the dangers created by the Richmond case must be overcome.

The lack of informed leadership based upon an understanding of the Constitution has forced organized demonstrations at State Capitols, rallies in Washington, D.C. and much other "sound and fury." While the instincts of our people are sound and correct, the activities in which they have been engaged may be exercises in futility because they do not get to the heart of the problem.

The question involves the police powers of the States and it is the governments of the States acting in their highest sovereign capacities through legislative enactments in the exercise of their vast power under the Constitution that must clarify and make definite what is the law with regard to the health and safety as well as education of their citizen's children.

Instead of facing the grave school question by enforcing the law of the land which prevents busing of students to overcome racial imbalance, high officials are misleading the people by ignoring the law and further confusing the issue.

In a thoughtful paper Lt. Col. Arch E. Roberts seeks the origins of the present dilemma.

I ask that it be inserted in the RECORD at this point.

### To Halt Forced Busing, Seek Its Origins

(By Archibald E. Roberts, Lt. Col., AUS, ret.)

Instinctive rejection by irate parents of the Virginia inter-county busing order, and national defiance of other revolutionary directives to achieve "racial balance," reveals a proper reverence for constitutional freedoms by the average American family.

Lack of informed leadership to give this promising protest direction and purpose may, however, doom a potential challenge to tyrrany to a mere exercise in futility.

The immediate cause for the mounting constitutional crisis over forced integration of State schools is the failure of State governments to arrest the usurpation of governmental powers by international agencies.

Not one of the States affected by the United States Supreme Court order of 29 October, 1969, has organized its legal and legislative forces to meet this challenge to its sovereignty. As a consequence the free public school system in America faces inevitable collapse and ultimate assumption of a world government authority.

The real issue before State governments is that: a. Federal "laws" are promulgated by the United Nations Organization; and, b. These ultra vires acts are foisted upon State governments, and the citizens they represent, by federal agencies acting in violation of the United States Constitution.

Intervention by the United Nations Organization in public education was succinctly revealed by Mr. Carl B. Rix, former president, The American Bar Association, before Senate committee which was hearing testimony on the Bricker Amendment, 11 May, 1955.

Under the new-found United Nations Treaty powers, Mr. Rix noted, the Congress "may enact a comprehensive education bill, providing for education in any State which does not provide it. In fact," he said, "it may take over all public education now provided by States and municipalities."

"Congress is no longer bound by its constitutional system of delegated power," said attorney Rix. "Its only test is under the obligatory (the word is that of the Attorney General) power to promote human rights in these fields of endeavor: Civil, political, economic, social and cultural. These are found in articles 55 and 56 of the Charter of the United Nations, a ratified and approved treaty. They are being promoted in all parts of the world by the United Nations," he declared.

"Congress may now legislate as an uninhibited body with no shackles of delegated powers under the Constitution. Our entire system of a government of delegated powers of Congress has been changed to a system of undelegated power without amendment by the people of the United States."

The new test of constitutionality applies to all legislation by Congress since 1945, which deals with any of the five fields of endeavor. Any Judge deciding on the validity of legislation must have two books before him—one, the Constitution of the United States and the other—the Charter of the United Nations. If he does not find authority for the act in the Constitution, he will find it in the Charter. This is the exact situation in which U.S. District Judge Robert R. Merhinge, Jr., found himself last January in ordering the seventy percent black city school system of Richmond, Virginia, desegregated through merger with the ninety percent white system of two suburban counties.

"The question to be answered is this," Mr. Rix concluded: "Which form of government (U.S. Constitution or U.N. Charter) do the people of the United States prefer to live? Manifestly, we cannot operate under both."

Also testifying on the Bricker Amendment, Senator Pat McCarran declared the United Nations Charter "a clear and present danger to the Constitution of the United States. This danger," he said, "stems from the fact that the traditional balance of powers and separation of powers, under the Constitution, have been upset by the growing doctrine of the supremacy of treaties and the authority of the Congress, under treaties, to take action not otherwise open to it.

"The Congress of the United States today, because of power granted to it by treaty, could enact laws to control and regulate all education . . . I do not want the Congress to have this dangerous power," said Senator McCarran.

Testifying before the Committee on the Judiciary of the United States Senate, the Attorney General of the United States, on April 7, 1953, took the position that action under articles 55 and 56, United Nations Charter, is obligatory.

"A notable example," he said, "is articles 55 and 56 of the United Nations Charter, obligating the parties to promote stated social and economic objectives and pledging themselves to take joint and separate action for the achievement of these purposes."

It is by such deceit that forced integration of the State school systems, and of the American society, became the "Law of the Land."

Origin of the forced busing subterfuge is United Nations General Assembly Resolution 1904, "The United Nations Declaration on the Elimination of All Forms of Racial Discrimination." This sweeping decree, humanitarian on the surface but basically subversive, was adopted by the one hundred nineteen nation body on 20 November, 1963. Ambassador Arthur J. Goldberg signed on behalf of the United States on 28 September, 1966. By the end of that year forty-eight U.N. member states had signed the resolution and five had ratified or acceeded to it.

Resolution 1904 is, of course, couched in the most disarming language.

"The Charter of the United Nations," it begins, "is based on the principle of the dignity and equality of all human beings."

This cruel hoax is rooted in Article 55 of the U.N. Charter which states in part:

". . . the United Nations shall promote . . . universal respect for . . . human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

An even earlier source was the cry of the French Revolution (1789), "Liberty, Equality, Fraternity," a slogan which claimed the lives of one and a half million French citizens.

Following a lengthy preamble Resolution 1904 then declares that (because) ". . . the building of a world society free from all forms of racial segregation and discrimination . . . is one of the fundamental objectives of the United Nations. . . . All (member) states shall take effective measures to revise governmental and other public policies and to rescind laws and regulations which have the effect of creating and perpetuating racial discrimination wherever it still exists."

Forced busing, racial balance, and other mandatory directives imposed upon State school systems suggests that the real intent of Resolution 1904, and the United Nations articles which inspired it, is more than advertised. The "building of a world society free from all forms of racial segregation" may be achieved at the cost of eliminating races and cultures. The world of the future would then be populated by the United Nations brown man.

"All effective steps," Resolution 1904 continues, "shall be taken immediately in the fields of teaching, education, and information, with a view to eliminating racial discrimination and prejudice and promoting understanding, tolerance and friendship . . . among racial groups."

Responding to this astonishing order the vast power of mass media is today shaping public opinion to promote the objectives stipulated by articles and resolutions of the United Nations. Elemental examination of the current massive attack upon the American public should convince most impartial observers, however, that the true objective of this assault is not the elimination of racial discrimination, but the elimination of social and religious inhibitions against racial assimilation. Hard sell integration, and its predictable consequence, assumes increasing characteristics of genocide.

The destructive policy of forced integration has created a nightmare for its victims resulting in the most ominous racial tensions in American history. Our sick society is the product of sick-brained men. The cynical program of these madmen will lead, unless reversed, to the eclipse of the American civilization.

The power to correct excesses by federal agents in the matter of forced busing is found in the Constitution.

The reason that the people of each State have been burdened with the acts of federal agents is because that State has not repudiated the attempts of its agents to act beyond their authority. These acts had the effect of "law", not by reason of any nonexistent authority of the federal agents, but because of the authority that State gave to these acts by failing to challenge the attempts of its federal agents to exceed their authority.

It is shockingly apparent that our agencies in Washington have fallen into the hands of those who would not only alter the Constitution in the matter of education, but would completely abrogate it by means of the so-called United Nations Treaty.

This emasculation of our Constitution by the Congress most certainly was not authorized by the States as parties to the Constitutional Compact. Lacking this authority, it is against the law. Being unlawful it must be put down.

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## METRO GOVERNMENT, TWIN CITIES-STYLE

### HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. FRENZEL. Mr. Speaker, the Metropolitan Council continues to be identified as a model of multicommunity participation in solving the kinds of municipal problems which are common to the entire Twin Cities metropolitan area, and to other metropolitan areas as well.

I would commend to my fellow Members the excellent article in the January 21, 1972, issue of Life magazine on the Metropolitan Council:

METRO GOVERNMENT, TWIN CITIES-STYLE

Like millions of Americans, I like my Sunday drives in the country with the family. We push past the so-called "weed belt"—former croplands held by speculators—to authentic working farms with cornfields, cows and tractors. Enjoy it while you can, I tell myself. For as matters now stand, much of my favorite scenery—and yours—is doomed by piecemeal development that is spreading outward from American cities.

It does not take geniuses to figure out graceful ways for urban regions to expand into the countryside. Several European countries have managed to save large "green belt" areas near their cities, while guiding development into well-thought-out new communities unlike the haphazard housing tracts and commercially junked-up roadsides this country has been getting. Most of our big U.S. metropolitan areas aren't organized to insure orderly development; they are organized to promote chaos.

In most areas, local government is balkanized into myriad municipalities, school districts and special-purpose authorities, all going their separate ways. There's no region-wide authority telling Township A to keep developers away from its river palisades and informing Village B that it is the logical place for a new shopping center.

There is one bright exception: the Twin Cities of Minneapolis and St. Paul and their suburbs. For four years the 1.9 million inhabitants of this fast-growing area have been living under a limited form of regional government, representing an ingenious compromise between the two extremes of metropolitanism. At one extreme are the impotent "councils of government," or "COG"s, that sprang up in the 1960s with federal encouragement. At the other is the outright merger of cities and suburbs into a supergovernment, as has happened in recent years in Jacksonville and Indianapolis.

In big metropolitan areas, a supergovernment can be a monstrosity that stifles local democracy. And it may not be necessary. A regional authority limited to dealing with regional matters doesn't have to reach down and usurp local functions—police, fire, sanitation and zoning—best performed by units close to the people. Instead, it reaches up for bits and pieces of "metro" power, some of which have been around for years.

In the New York area, for example, the Port Authority, the Metropolitan Transportation Authority and the Tri-State Regional Planning Commission are potential building blocks of a regional government. Right now, there's no real coordination of these agencies, yet they make decisions that determine how the environment will look to our grandchildren. In the Twin Cities such agencies have been brought together under a new entity called the Metropolitan Council.

The impetus for forming the council came not from political theorists but from a down-to-earth pollution crisis. As the region's population spilled out into vast new suburbs built without sewers during the '50s, water supplies were contaminated. Frantic mayors were soon calling for a metropolitan sewer authority. By the time the state legislature acted in 1967, a coalition of civic groups had successfully promoted the concept of a much broader agency.

Composed of 15 members appointed by the governor, the Metropolitan Council oversees a whole string of "metro" activities—among them watershed development, the Sewer Board, the Transit Commission and the Airport Commission. It doesn't actually run them, but it holds real power. It can veto any major project that conflicts with its plan for the region's future and, modest as that sounds, it could mean the difference between chaos and orderly development during the rest of this century. For one thing, it gives the council control over the location of future trunk sewers and mass transit routes—and thus a powerful influence over the location of new industries, shopping centers and homes.

The Metropolitan Council's regional plan, called the Development Guide, is a broad-brush blueprint that lets local governments and builders work out the details of what gets built where. The guide is based on public-opinion surveys. The council's planners have learned, among other things, that people don't want a continuation of the present formless sprawl.

The council has already started to shape the region's future. It has barred a proposed airport next to a wildlife preserve, and a search for a better site is under way. Construction of a regional sewage system is in progress, and water quality is being rescued. In a low-keyed way, the council is in the process of winning modifications of state highway plans and is trying to influence the location and design of new suburban shopping centers. The council hopes for something better than the usual shopping malls; surveys indicate that the public wants real *places*, with apartments, offices and educational institutions as well as stores. In effect, this means a limited number of "major diversified centers"—the Development Guide calls for ten—rather than too many little centers.

Elsewhere, a plan of this sort would be sabotaged as each suburb scrambled to get for itself a center and the property tax revenues it would bring. To head off this kind of competition, the Minnesota legislature recently passed an ingenious "tax-pooling" law. In the future, 40% of the property taxes from new industrial and commercial buildings will be shared by the entire seven-county region. Thus, it won't greatly matter to Township A if a "major center" is built across the line in Village B, since it will have a fiscal "piece" of *all* the new centers built in the Twin Cities area.

Does all this mean that the Twin Cities have licked the problem of suburban sprawl? It's too early to give a strong affirmative answer. The council certainly has enough negative power to prevent major ecological atrocities, but the next few years will tell whether it has enough positive power and leadership to make *good* things happen. I doubt that the council can succeed in the long run unless it is converted to a true "government," with members directly elected by the people instead of being appointed. Al Hofstede, the 31-year-old former Minneapolis alderman who serves as council chairman, agrees. "We need accountability," he says. "That's the problem of government today."

The Twin Cities experiment has begun to stir things up elsewhere. Last year the Georgia legislature created an Atlanta Regional Council embracing a five-county metropolitan area, and a bill establishing a metropolitan agency for the San Francisco Bay area passed the California assembly but died on the senate floor. In most of the U.S. the suburban explosion is still raging wildly. But now there are at least three places with a chance of bringing the explosion under control.

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# SENATE—*Wednesday, February 24, 1971*

The Senate met at 9:15 a.m. and was called to order by Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our Governor, whose glory is in all the world, we commend this Nation to Thy merciful care, that being guided by Thy providence, we may dwell secure in Thy peace. Grant to the President of the United States, and to all in authority, wisdom and strength to know and to do Thy will. Fill them with the love of truth and righteousness; and make them ever mindful of their calling to serve these people in Thy fear; through Him who is King of Kings and Lord of Lords. Amen.

### DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

**The PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., February 24, 1972.*

*To the Senate:*

Being temporarily absent from the Senate, I appoint Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
*President pro tempore.*

Mr. GAMBRELL thereupon took the chair as Acting President pro tempore.

### THE JOURNAL

**Mr. MANSFIELD.** Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 23, 1972, be dispensed with.

**The ACTING PRESIDENT pro tempore.** Without objection, it is so ordered.

### COMMITTEE MEETINGS DURING SENATE SESSION

**Mr. MANSFIELD.** Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

**The ACTING PRESIDENT pro tempore.** Without objection, it is so ordered.

### AMENDMENT OF THE FEDERAL AVIATION ACT OF 1958

**Mr. MANSFIELD.** Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 566, S. 2423, and that the Senate proceed to the immediate consideration of the bill.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

Calendar No. 566, S. 2423, a bill to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of American carriers and foreign air carriers in foreign air transportation, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That section 404(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)) is amended by inserting "(1)" immediately after "(a)" and adding at the end thereof the following new paragraph:

"(2) It shall be the duty of every air carrier and foreign air carrier to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to foreign air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable division thereof as between air carriers or foreign air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers or foreign air carriers."

Sec. 2. Section 801 of such Act is amended by inserting "(a)" immediately following "801" and by adding at the end thereof the following new subsection:

"(b) Any order of the Board pursuant to section 1002(j) of this Act suspending, rejecting, or canceling a rate, fare, or charge for foreign air transportation, and any order rescinding the effectiveness of any such order shall be submitted to the President before publication thereof. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States not later than ten days following submission by the Board of such order or orders to the President."

Sec. 3. Section 1002 of such Act is amended by adding at the end thereof the following new subsection:

### "SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j) (1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding three hundred and sixty-five days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classifications, rules, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice go into effect subject, however, to being canceled when the proceeding is concluded: *Provided*, That this paragraph shall not apply to any initial tariff filed by an air carrier or foreign air carrier. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or such classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder which was in effect immediately prior to the filing of the new tariff.

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the effective date of such suspension. If after hearing the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being cancelled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff, embodying any rate, fare, charge, or classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

"(3) Whenever the Board finds that the government or aeronautical authorities of any foreign country have refused to permit the charging of rates, fares, or charges contained in a properly filed and published tariff of an air carrier filed under this Act for foreign air transportation to such foreign country, the Board may, without hearing, (a) suspend the operation of any existing tariff of any foreign air carrier providing services between the United States and such foreign country for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension, and (b) during the period of such suspension or suspensions, order the foreign air carrier to charge rates, fares, or charges which are the same as those contained in a properly filed and published tariff (designated by the Board) of an air carrier filed under this Act for foreign air transportation to such foreign country, and the effective right of an air carrier to start or continue service at the designated rates, fares, or charges to such foreign country shall be a condition to the continuation of service by the foreign air carrier in foreign air transportation to such foreign country.

"(4) The provisions of this subsection and compliance with any order of the Board issued pursuant thereto shall be an express condition to the certificates or permits now held or hereafter issued to any air carrier or foreign air carrier, and the maintenance of rates, fares, or charges in conformity with the requirements of such provisions and such order of the Board shall be a condition to the continuation of the affected service by such air carrier or foreign air carrier.

"(5) In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

"(A) the effect of such rates upon the movement of traffic;

"(B) the need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

"(C) such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

"(D) the inherent advantages of transportation by aircraft;

"(E) the need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier service; and

"(F) whether such rates will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation."

Sec. 4. The amendments made by this Act shall not be deemed to authorize any actions inconsistent with the provisions of section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502).

Sec. 5. This Act shall take effect upon enactment.

Mr. CANNON. Mr. President, the bill I am calling up today gives the Civil Aeronautics Board discretionary authority, subject to disapproval by the President, to suspend or reject tariffs in international air transportation to and from the United States. It imposes on air carriers and foreign air carriers engaged in foreign air transportation a duty to establish just and reasonable rates and practices. The bill would further the objective of the air transport policy of the United States to provide a system of reasonable rates taking into account both the interests of the carriers and the needs of consumers. It would maintain the present mechanism for establishing international air transportation rates through the International Air Transport Association—

IATA—but would give the Board the statutory tools needed to perform its responsibility to protect the traveler, the shipper, and air carriers by suspending and rejecting rates which are too high and rates which are destructively low. In essence, the bill would give to the Board the same degree of control over rates and practices of foreign air carriers operating into U.S. territory as foreign countries now have over operations of their own carriers and over operations of carriers foreign to those nations.

The amendment in the nature of a substitute to S. 2423 differs in substantial respects from the original bill. The original bill would have provided for more extensive regulation of rates and practices in foreign air transportation and would have authorized the Civil Aeronautics Board both to fix and suspend such rates largely as it does with respect to rates of air carriers in interstate and overseas air transportation. The original bill would also have required that such orders of the Board be reported to the President before publication.

After extensive hearings on October 19, 20, and 21, 1971, the committee concluded that such extensive regulation would be self-defeating, in view of the nature of international air transportation as well as the provisions of most bilateral air transport agreements between the United States and other nations. The committee concluded that the Board would be armed with adequate powers to protect the traveler, the shipper, and air carriers if its authority were confined to the suspension and rejection of rates in foreign air transportation. The committee also concluded that such orders of the Board should be subject to disapproval of the President on the basis of foreign policy or national defense considerations, providing that such actions be taken within 10 days of submission to the President of such orders.

The purpose of the amendments made by the committee to S. 2423 is—

First, to provide that the Board may suspend and reject or cancel proposed and existing fares in foreign air transportation but not prescribe them;

Second, to extend the maximum period of suspension to 1 year—365 days—instead of 6 months—180 days;

Third, to provide the President with discretionary authority to disapprove Board actions suspending or rejecting rates or fares in foreign air transportation provided that such action is taken as a result of foreign policy or national defense considerations and provided further that such disapproval is exercised within 10 days of submission of an order from the Board to the President; and

Fourth, to make no other changes in Board's rate powers under the Federal Aviation Act.

As originally proposed, S. 2423 would have authorized the Board not only to suspend proposed fares in foreign air transportation but after an investigation to prescribe those rates. While the Board favored this approach on the ground it would better enable the Board to cause existing high fares to be lowered, there was little support for it elsewhere. The committee has decided that it is not necessary in the present situation and indeed if adopted would not have permitted the Board to suspend certain fares of foreign air carriers recently proposed, because of the wording of most of the bilateral air transport agreements which are applicable. Moreover, Board prescription of a fare, it was argued by some, might complicate international discussions aimed at resolving a fare dispute. However, should it appear at a later time that the power to prescribe fares is necessary, the committee would be willing to consider the matter again in the light of those future circumstances.

However, the committee is convinced that the Board needs more power than just a power to suspend fares for a limited period of time, since at the end of the suspension period a questionable rate might go into effect, which would defeat the purpose of the legislation. Accordingly, the committee's amendments would permit the Board, after investigating a questionable fare during a suspension period, to reject that fare and prevent it from coming into effect.

The authority to reject fares would have to be exercised consistently with the applicable bilateral air transport agreements between the United States and other countries. This is made clear by section 1102 of the Federal Aviation Act, which would not be affected by the proposed bill. Thus, in considering whether to reject a proposed or existing fare, the Board would take into account not only the traditional ratemaking factors, but also the criteria for fares in the relevant bilateral agreement. Generally speaking, these criteria include the establishment and maintenance of fares at reasonable levels, due regard being paid to all relevant factors such as costs of operation, reasonable profit, the characteristics of each service, and the rates charged by other air carriers and foreign air carriers.

Under terms of the bill, during the period prior to and following suspension of a rate, the United States would engage in discussions with the other government or governments involved as provided in the bilateral agreements. The discussions would seek resolution of the disrupted fare situation, and the Board would be expected to take the results of the discussions into account in reaching any decisions or whether to reject a fare.

The power to suspend and reject rates will arm the Board with sufficient authority to exercise broad influence on international ratemaking and will keep in effect subparagraph (f) of article II of the annex to the United States-Bermuda-type air agreements so that unreasonable rates may be held in abeyance by the U.S. Government pending investigation or negotiated agreement.

Following the hearings on the bill the committee became convinced that the President must have an opportunity to review and disapprove, if necessary, CAB actions which could have an adverse impact on the foreign policy of the United States or the U.S. national defense.

The committee amendment limits the Presidential role to that of disapproval and states the grounds on which the President may act. The amendment also specifies that the President must exercise his authority within 10 days of receiving an order from the CAB.

The Board's suspension and investigation of a questionable fare would proceed in the same fashion as cases of suspended fares in domestic air transportation. Thus there would be full opportunity for all proper parties, including members of the public, to participate in the case. The only difference would be that the Board would not prescribe the rate, it would merely decide whether to reject it.

The amendment would permit the Board to suspend, investigate, and ultimately reject or cancel existing as well as proposed fares. However, this authority with regard to existing fares would be available only in those cases in which it was not precluded by an applicable bilateral air transport agreement. During the period of suspension and following rejection of a fare, the carrier would be permitted to file a tariff embodying the fares used by a U.S. air carrier in the same foreign air transportation. In addition, it is implicit in the amendment that the foreign air carrier whose existing fares were suspended could request the Board to investigate the fares of the U.S. air carriers which the foreign air carrier was using during the period of suspension. Explicit provisions to this effect in the original S. 2423 were therefore not necessary and accordingly were deleted.

A special provision in the amendment would arm the Board to deal with the situation which arises if another government rejects the fares filed by U.S. air carriers. In such an event, the Board could suspend the existing fare of the air carrier of that foreign country—and any other foreign carrier providing the same service—and require it to change the fares filed by the U.S. air carriers, as a condition of being able to provide air service between the United States and that country. Such a retaliatory power is necessary to set the stage properly for consultations and negotiations between the United States and other governments concerned and to protect the position of the U.S. carriers.

Under present law air carriers providing interstate and overseas air transportation are required to establish just and reasonable rates. The Civil Aeronautics Board has the power, under certain circumstances, to prescribe the rates and practices for interstate air transportation, prescribe maximum or minimum or maximum and minimum rates for domestic overseas air transportation, and suspend the operation of new tariffs for interstate or domestic overseas air transportation pending determination of the lawfulness of such tariffs.

The Board has no such authority with respect to rates and practices in foreign air transportation, although such authority is possessed and exercised by foreign countries into which U.S.-flag carriers fly. The only power which the Board now has, except for its power to disapprove agreements among U.S. carriers and foreign air carriers fixing rates and practices in foreign air transportation, is to remove discrimination in foreign rate structures. It has no authority to prevent a carrier, including a U.S. carrier, in foreign air transportation from placing into effect any rate, fare, or practice, even though such rate, fare, or practice may be unjust or unreasonable.

Rates, fares, and practices in foreign air transportation are currently established by IATA, which is an organization of international air carriers. The rates are recommended by the members of IATA and are approved or disapproved by IATA at periodic rate conferences. Approval must be unanimous; any member carrier may veto the proposed rate structure. The rates established through these conferences must be approved by the governments of the foreign countries represented by the carriers. The Board, under section 412 of the Federal Aviation Act of 1958, must approve or disapprove the rates established by IATA. Because of the lack of any direct authority over international rates, however, the Board's indirect power under this section has been ineffective and has resulted in the rubberstamping by the Board of IATA rate agreements.

Since the advent of international air travel, the United States and other nations have participated in conferences and negotiations seeking the orderly development of international air services. However, all countries assert complete sovereignty in respect to the airspace overlying their respective territories. In the Convention on International Civil Aviation drawn up at Chicago in December 1944, it was recognized that each country retains complete freedom of action with respect to the admission into its territory of foreign-flag scheduled airlines. Bilateral air agreements are entered into between countries which set forth the terms and conditions under which carriers of the respective countries may fly into and out of each other's territory. There is no corollary to the "freedom of the seas" policy applicable to ocean vessels engaged in international commerce. These agreements are the result of lengthy and numerous negotiations between the countries involved and the position of any country under such agreements is determined by bargaining.

In the past, efforts by the United States to improve its position in meeting foreign air transportation competition have been hampered and restricted by the limited authority of the Board over the rates and practices in foreign air transportation. In short, foreign countries have recognized this lack of authority and the bargaining power of the United States has been weakened. The consequence has been that the Board has been unable to protect U.S. carriers in rate negotiations from the almost complete domination and control of the foreign countries into which they fly. Nor has the Board been able to protect the U.S. traveling public from the unjust and unreasonably high rates which are prevalent in many markets in foreign air transportation. When a foreign carrier casts its vote at an IATA rate conference, it is in effect casting its government's vote and can depend upon the full assistance and authority of its government in seeing to it that its vote will prevail.

Mr. President, this legislation will tend to give the U.S. Government, U.S. carriers, and travelers and shippers equal footing with foreign governments and foreign air carriers. The bill will give the Board more authority to seek to implement U.S. international air transport policy and will hopefully result in more rational and equitable rates and fares in foreign air transportation. I urge my colleagues to approve S. 2423 as amended by the committee.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill (S. 2423) was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read: "A bill to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–593), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE OF THE BILL

The bill as reported by the Committee gives the Civil Aeronautics Board, hereinafter referred to as the Board, discretionary authority, subject to disapproval by the President, to suspend or reject tariffs in international air transportation to and from the United States. It imposes on air carriers and foreign air carriers engaged in foreign air transportation a duty to establish just and reasonable rates and practices. The bill would further the objective of the air transport policy of the United States to provide a system of reasonable rates taking into account both the interests of the carriers and the needs of consumers. It would maintain the present mechanism for establishing international air transportation rates through the International Air Transport Association, (IATA) but would give the Board the statutory tools needed to perform its responsibility to protect the traveler, the shipper and air carriers by suspending and rejecting rates, which are too high and rates which are destructively low. In essence, the bill would give to the Board the same degree of control over rates and practices of foreign air carriers operating into U.S. territory as foreign countries now have over operations of their own carriers and over operations of carriers foreign to those nations.

### EXPLANATION OF COMMITTEE AMENDMENT

The amendment in the nature of a substitute to S. 2423 differs in substantial respects from the original bill. The original bill would have provided for more extensive regulation of rates and practices in foreign air transportation and would have authorized the Civil Aeronautics Board both to fix and suspend such rates largely as it does with respect to rates of air carriers in interstate and overseas air tranportation. The original bill would also have required that such orders of the Board be reported to the President before publication.

After extensive hearings on October 19, 20, and 21, 1971, the Committee concluded, for reasons set forth more fully below, that such extensive regulation would be self-defeating, in view of the nature of international air transportation as well as the provisions of most bilateral air transport agreements between the U.S. and other nations. The Committee concluded that the Board would be armed with adequate powers to protect the traveler, the shipper and air carriers if its authority were confined to the suspension and rejection of rates in foreign air transportation. The Committee also concluded that such orders of the Board should be subject to disapproval of the President on the basis of foreign policy or national defense considerations, providing that such actions be taken within ten days of submission to the President of such orders.

The purpose of the amendments made by the Committee to S. 2423 is—

(1) to provide that the Board may suspend and reject or cancel proposed and existing fares in foreign air transportation but not prescribe them;

(2) to extend the maximum period of suspension to one year (365 days) instead of 6 months (180 days);

(3) to provide the President with discretionary authority to disapprove Board actions suspending or rejecting rates or fares in foreign air transportation provided that such action is taken as a result of foreign policy or national defense considerations and provided further that such disapproval is exercised within ten days of submission of an order from the Board to the President; and

(4) to make no other changes in Board's rate powers under the Federal Aviation Act.

As originally proposed, S. 2423 would have authorized the Board not only to suspend proposed fares in foreign air transportation but after an investigation to prescribe those rates. While the Board favored this approach on the ground it would better enable the Board to cause existing high fares to be lowered, there was little support for it elsewhere. The Committee has decided that it is not necessary in the present situation and indeed if adopted would not have permitted the Board to suspend certain fares of foreign air carriers recently proposed, because of the wording of most of the bilateral air transport agreements which are applicable. Moreover, Board prescription of a fare, it was argued by some, might complicate international discussions aimed at resolving a fare dispute. However, should it appear at a later time that the power to prescribe fares is necessary, the Committee would be willing to consider the matter again in the light of those future circumstances.

However, the Committee is convinced that the Board needs more power than just a power to suspend fares for a limited period of time, since at the end of the suspension period a questionable rate might go into effect, which would defeat the purpose of the legislation. Accordingly, the Committee's amendments would permit the Board, after investigating a questionable fare during a suspension period, to reject that fare and prevent it from coming into effect.

The authority to reject fares would have to be exercised consistently with the applicable bilateral air transport agreements between the United States and other countries. This is made clear by section 1102 of the Federal Aviation Act, which would not be affected by the proposed bill. Thus, in considering whether to reject a proposed or existing fare, the Board would take into account not only the traditional rate-making factors, but also the criteria for fares in the relevant bilateral agreement. Generally speaking, these criteria include the establishment and maintenance of fares at reasonable levels, due regard being paid to all relevant factors such as costs of operation, reasonable profit, the characteristics of each service, and the rates charged by other air carriers and foreign air carriers.

However, the Committee has established one other criterion to be taken into consideration by the Board in exercising the proposed authority. The CAB must consider "whether such rates will be predatory or tend to monopolize competition among air carriers or foreign air carriers in foreign air transportation."

The intent of the amendment to Section 1002(j)(5)(F) is to require the Board in suspending or rejecting rates to take into consideration arbitrary, capricious, discriminatory and unfair methods of competition, either by a domestic or foreign air carrier or as a result of agreements between such carriers and any government or aeronautical authority of any foreign country which results in imposing arbitrary, capricious, unreasonable restrictions upon the performance of air carriers, domestic or foreign, competing in air transportation between any foreign country and the United States. This amendment is specifically aimed at the willful, intentional setting of rates or other conditions relating to the services for which the rates are charged, which may be unreasonably low. For example, a single carrier serving multiple routes would be precluded from intentionally filing a rate which was, relative to costs, below the comparative rates for other routes, if the effect was to force abandonment of service by competing carriers on the lower rate route. Any pricing, which together with the non-price "fringe" benefits given the customer, is coercive or designed to force weaker rivals out of business on a particular route is to be judged predatory.

Price competition itself is not prohibited by this provision. On the contrary, the intent of the amendment is to encourage healthy price competition by requiring the Board to consider the effect of rates on the continued existence of alternative, competitive air transport suppliers.

During the period prior to and following suspension of a rate, the United States would engage in discussions with the other government or governments involved as provided in the bilateral agreements. The discussions would seek resolution of the disrupted fare situation, and the Board would be expected to take the results of the discussions into account in reaching any decisions or whether to reject a fare.

The bill must be considered in light of the bilateral air agreements existing between the United States and numerous foreign countries. In 1946 the Bermuda Air Agreement was entered into between the United States and the United Kingdom. This agreement has served as the pattern for a substantial number of air agreements subsequently entered into by the United States, as well as for air agreements entered into between other foreign nations. The agreement contains alternative provisions relating to rates and practices which are of prime importance to the bill reported by the Committee.

It must be remembered that in 1946 the Board had no power to control rates and practices in foreign air transportation, whereas the aeronautical authorities of foreign nations possessed such power. Consequently, the agreement contained the alternative provisions, together with an agreement by the President to obtain legislation which would empower the Board to control rates and practices.

The provision of the Bermuda agreement (see appendix) which has been operative since 1946 is subparagraph (f) of article II of the annex to the agreement, which provides that, in the event a dispute arises between the two countries over a rate matter and no agreement can be reached, either country "may take such steps as it may consider necessary to prevent the inauguration or continuation of the service in question at the rate complained of." This provision has been of little benefit to the Board in its attempts to fulfill its responsibilities, because the Congress has never vested it with statutory power over rates and practices or, in the Board's opinion, authorized it to impose severe sanctions against foreign carriers to enforce the rights of the United States under the provisions.

The alternative provision, subparagraph (e) of article II of the annex, will be activated and substituted for subparagraph (f), (see appendix) if the Board is provided the authority to *prescribe* rates. This provision states that, if the Board is given the power to fix and suspend rates for foreign air transportation, any dispute over a rate will be resolved pursuant to the terms of that paragraph. These terms differ substantially from the terms of subparagraph (f). Under subparagraph (e) any proposed rate which is in dispute "may, unless the aeronautical authorities of the country of the air carrier concerned see fit to suspend its operation, go into effect provisionally pending the settlement of any dispute in accordance with the procedure outlined in paragraph (g)," which paragraph basically outlines provisions for arbitration.

The effect of subparagraph (e) is to remove the right of the aeronautical authority of either country to prevent the rate of a foreign carrier from going into effect. This, the Committee was faced with the paradox that the very act of granting to the Board the power to prescribe foreign air transportation rates of both U.S. and foreign carriers deprived the Board of direct control over the rates of foreign carriers.

For this reason and for others the Committee believes that the Board should be limited to suspending and rejecting rates and fares it finds to be unreasonable. The Committee is also of the view that in a political and diplomatic sense it would be very difficult if not impossible for the U.S. to directly impose prescribed rates and fares on foreign nations and their carriers.

The power to suspend and reject rates will arm the Board with sufficient authority to exercise broad influence on international rate making and will keep in effect subparagraph (f) of article II of the annex to the U.S. Bermuda-type air agreements so that unreasonable rates may be held in abeyance by the U.S. Government pending investigation or negotiated agreement.

Following the hearings on the bill the Committee became convinced that the President must have an opportunity to review and disapprove, if necessary, CAB actions which could have an adverse impact on the foreign policy of the United States or the U.S. national defense.

The Committee amendment limits the Presidential role to that of disapproval and states the grounds on which the President may act. The amendment also specifies that the President must exercise his authority within ten days of receiving an order from the CAB.

The Board's suspension and investigation of a questionable fare would proceed in the same fashion as cases of suspended fares in domestic air transportation. Thus there would be full opportunity for all proper parties, including members of the public, to participate in the case. The only difference would be that the Board would not prescribe the rate, it would merely decide whether to reject it.

The amendment would permit the Board to suspend, investigate and ultimately reject or cancel existing as well as proposed fares. However, this authority with regard to existing fares would be available only in those cases in which it was not precluded by an applicable bilateral air transport agreement. During the period of suspension and following rejection of a fare, the carrier would be permitted to file a tariff embodying the fares used by a U.S. air carrier in the same foreign air transportation. In addition, it is implicit in the amendment that the foreign air carrier whose existing fares were suspended could request the Board to investigate the fares of the U.S. air carriers which the foreign air carrier was using during the period of suspension. Explicit provisions to this effect in the original S. 2423 were therefore not necessary and accordingly were deleted.

A special provision in the amendment would arm the Board to deal with the situation which arises if another government rejects the fares filed by U.S. air carriers. In such an event, the Board could suspend the existing fare of the air carrier of that foreign country (and any other foreign carrier providing the same sevice) and require it to change the fares filed by the U.S. air carriers, as a condition of being able to provide air service between the United States and that country. Such a retaliatory power is necessary to set the stage properly for consultations and negotiations between the United States and the other government concerned and to protect the position of the U.S. carriers.

### PROVISIONS OF THE BILL AS AMENDED

*Section 1* amends Sec. 404(a) of the Federal Aviation Act of 1958, (as amended), (49 USC 1301) so as to require carriers (foreign and domestic) engaged in foreign air transportation, to establish, observe and enforce just and reasonable individual and joint rates, fares, and charges, etc., which shall not unduly prefer or prejudice any participating carrier or foreign air carrier.

*Section 2* requires that any order suspending or rejecting a rate, fare or charge, or any order rescinding the effectiveness of such an order, shall be submitted to the President before publication. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the U.S. not later than 10 days following submission by the Board of such order or orders to the President.

*Section 3* adds a new subsection (j) to section 1002 of the Act concerning Suspension and Rejection in Foreign Air Transportation as follows:

Paragraph (1) empowers the Board to order hearings, upon notice, concerning the lawfulness of newly filed rates, fares, etc., for foreign air transportation, and to suspend and defer use of same for a period up to 365 days from the effective date of the tariff in question.

If after hearing the Board found such rate, fare, etc., to be unjust, unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, it could reject and prevent the use of such rate, fare, etc., provided that such was not contained in an initial tariff. During the period of suspension the air carrier or foreign air carrier would be required to operate under its tariff in effect immediately prior to the filing of the new tariff.

Paragraph (2) empowers the Board to order hearings, upon notice, concerning the lawfulness of *existing* rates, fares, etc., for foreign air transportation, and to suspend and defer use of such rates, fares, etc., for a period of up to 365 days from the effective date of the rates, fares, etc., contained in the tariff in question.

If, after hearing the Board finds such rate, fare, etc., to be unjust, unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, it could reject and prevent the use of such rate, fare, etc. For the purposes of operation during the period of suspension or the period following cancellation the air carrier may operate under a tariff identical to the effetcive tariff of any air carrier in the same foreign air transportation.

Paragraph (3) would, in cases where a foreign country refused to permit an air carrier to charge rates, fares, etc., contained in a properly filed and published tariff, authorize the Board without hearing to suspend the tariff of that country's carrier for up to 365 days, and order that foreign air carrier to charge rates, fares, etc., which are the same as those contained in a properly filed tariff of an air carrier for foreign air transportation to such country during the suspension period.

The paragraph also provides that the foreign air carrier's right to operate into the U.S. is conditional on the right of the air carrier of the U.S. to operate to such foreign country at the designated rates, fares, charges, etc.

Paragraph (4) makes compliance with these provisions and Board orders pursuant thereto an express condition to the continuation of a certificate or permit now held or hereafter issued to any air carrer or foreign air carrier.

Paragraph (5) lists the following criteria the Board must consider in exercising its authority with respect to rejection of rates in foreign air transportation:

(1) The effect of such rates upon the movement of traffic;

(2) The need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

(3) Such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

(4) The inherent advantages of transportation by aircraft;

(5) The need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier service; and

(6) Whether such rate will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation.

*Section 4* states that amendments made by this Act shall not be deemed to authorize any actions inconsistent with the provisions of section 1102 of the Federal Aviation Act.

*Section 5* provides that the Act shall be effective upon enactment.

### BACKGROUND OF THE BILL

Under present law air carriers providing interstate and overseas air transportation are required to establish just and reasonable rates. The Civil Aeronautics Board has the power, under certain circumstances, to prescribe the rates and practices for interstate air transportation, prescribe maximum or minimum or maximum and minimum rates for domestic overseas air transportation, and suspend the operation of new tariffs for interstate or domestic overseas air transportation pending determination of the lawfulness of such tariffs.

The Board has no such authority with respect to rates and practices in foreign air transportation, although such authority is possessed and exercised by foreign countries into which U.S.-flag carriers fly. The only power which the Board now has, except for its power to disapprove agreements among U.S. carriers and foreign air carriers fixing rates and practices in foreign air transportation, is to remove discrimination in foreign rate structures. It has no authority to prevent a carrier, including a U.S. carrier, in foreign air transportation from placing into effect any rate, fare, or practice, even though such rate, fare, or practice may be unjust or unreasonable.

Rates, fares, and practices in foreign air transportation are currently established by IATA, which is an organization of international air carriers. The rates are recommended by the members of IATA and are approved or disapproved by IATA at periodic rate conferences. Approval must be unanimous; any member carrier may veto the proposed rate structure. The rates established through these conferences must be approved by the governments of the foreign countries represented by the carriers. The Board, under section 412 of the Federal Aviation Act of 1958, must approve or disapprove the rates established by IATA. Because of the lack of any direct authority over international rates, however, the Board's indirect power under this section has been ineffective and has resulted in the rubberstamping by the Board of IATA rate agreements.

Since the advent of international air travel, the United States and other nations have participated in conferences and negotiations seeking the orderly development of international air services. However, all countries assert complete sovereignty in respect to the airspace overlying their respective territories. In the Convention on International Civil Aviation drawn up at Chicago in December 1944, it was recognized that each country retains complete freedom of action with respect to the admission into its territory of foreign-flag scheduled airlines. Bilateral air agreements are entered into between countries which set forth the terms and conditions under which carriers of the respective countries may fly into and out of each other's territory. There is no corollary to the "freedom of the seas" policy applicable to ocean vessels engaged in international commerce. These agreements are the result of lengthy and numerous negotiations between the countries involved and the position of any country under such agreements is determined by bargaining.

In the past, efforts by the United States to improve its position in meeting foreign air transportation competition have been hampered and restricted by the limited authority of the Board over the rates and practices in foreign air transportation. In short, foreign countries have recognized this lack of authority and the bargaining power of the United States has been weakened. The consequence has been that the Board has been unable to protect U.S. carriers in rate negotiations from the almost complete domination and control of the foreign countries into which they fly. Nor has the Board been able to protect the U.S. traveling public from the unjust and unreasonably high rates which are prevalent in many markets in foreign air transportation. When a foreign carrier casts its vote at an IATA rate conference, it is in effect casting its government's vote and can depend upon the full assistance and authority of its government in seeing to it that its vote will prevail.

### AIR TRANSPORTATION IN THE NORTH ATLANTIC MARKET

While the historic high fare philosophy of foreign carriers and governments still exists in many markets of the world, notably in the Pacific, more recently a new phenomenon—cut rate fares—has developed in the highly competitive and heavily traveled North Atlantic.

In the last several years the North Atlantic carriers have devised and put into effect a variety of cut rate fares or "promotional fares" as they are called which are significantly lower than normal economy fares. On the other hand economy fares have continued to rise slowly over the last decade. The variety and complexity of promotional fares has given rise to a situation in which a traveler has more than 50 different fare possibilities from which to choose in planning a trip from the U.S. to Europe. For example, during 1971 while the peak period economy fare from New York to London was $552 round trip, the affinity group fare for those belonging to a club or organization was only $277. The group inclusive tour fare for those staying at least 14 days and not longer than 21 days and for those purchasing ground services was $302 while the excursion fare for travelers staying 29 days but no longer than 45 days was $332. Even further discounts were available during the nonpeak travel periods.

The confusing maze of discount fares which has sprung up in the Atlantic market is directly aimed at luring the vacation traveler. The fares are intended to stimulate and develop the price elastic market for pleasure travel.

Another major factor giving rise to this unusual pricing phenomenon in international air transport has been the quick and dramatic penetration of the North Atlantic market by the nonscheduled airlines or the supplementals.

Since the mid 1960's the supplementals have developed and largely captured a rapidly growing market for charter air transportation—principally the affinity group prorata charter in which members of a club or organization charter an aircraft and divide the cost among themselves equally. Such transportation is very economical and is an increasingly popular form of vacation travel particiularly between the U.S. and Europe. In the last several years the charter traffic on the North Atlantic has grown to nearly one-fifth of the total trans-Atlantic traffic.

In response to this increasingly competitive situation the scheduled or IATA carriers have further reduced their promotional and group fares in an attempt to compete in the low cost, bulk transportation market. The result is a proliferation of low cost fares available to some but certainly not all international passengers. While first class and economy fares, those normally used by the captive market, i.e., businessmen, etc., have not been reduced—indeed they have been raised—many passengers using scheduled air transportation have availed themselves of the attractive promotional fares.

Still another factor contributing to the panoply of discount rates is the current overcapacity situation in which all of the 25 carriers operating over the North Atlantic find themselves with huge new airplanes but without passengers enough to fill them. The promotional fares have been seen by the IATA carriers as a device to lure new vacation travelers into the air and thereby fill the many seats which have been going empty.

Certainly the promotional fares have stimulated the market. In 1970, for example, the two U.S. flag carriers flying the North Atlantic experienced traffic increases of nearly 30% while domestic U.S. traffic was growing at a much slower rate.

The infatuation with discount fares and the drive for even further reductions led the scheduled carriers to a near crisis in 1971 when wide-spread disagreement about the nature and level of promotional fares led to the beginning of a fare war which was only settled in the face of mounting U.S. concern.

In mid 1971, Sabena, the Belgian Airline, began offering students a $200 round trip fare to Belgium from New York touching off the first phase of the fare war. Other North Atlantic carriers, including the U.S. flag lines, quickly matched the fare and the race was on.

In the summer of 1971 the IATA carriers met at one of their periodic fare setting conferences to discuss and to agree upon a new fare package for the North Atlantic in 1972. Following lengthy discussions and controversy, the conference ended in disagreement. Lufthansa, the West German airline, was the lone hold-out for a fare package concept that was somewhat revolutionary; the other IATA members had reached a series of compromises for the 1972 package.

Simply stated, Lufthansa held out for a vastly simplified fare structure with only about 6 alternatives rather than the more than 50 that the other carriers had agreed upon. In addition Lufthansa proposed an excursion fare of $210 between the U.S. and Germany for passengers staying at least 7 days. In contrast, the current excursion fare is $312 roundtrip and the traveler must remain abroad at least 29 days.

The IATA carriers, having failed to agree, were then free to file individual tariffs with the U.S. CAB in what is known as an "open rate" situation. In the absence of an IATA fare agreement to consider, the Board was powerless, under U.S. law, to even consider the reasonableness of the tariffs which were being filed, carrier by carrier. Following the Lufthansa filing other European carriers soon filed tariffs embodying similar discounts—a situation which threatened to throw North Atlantic air transportation into chaos.

The Committee conducted its hearings on S. 2423 during the period following the break-up of the IATA fare conference. The U.S. carriers involved, Pan American and Trans World Airlines testified that if they were forced to match the Lufthansa promotional fare they would sustain losses in the North Atlantic market exceeding $30 million in 1972. Their testimony and that of the Board indicated that the Lufthansa fare might not be economical—that is it would not cover the cost of providing the transportation. Yet despite the suspicion that the fare was uneconomic, or worse, the Board had no authority to take any action whatsoever. With the Board powerless the Lufthansa fare represented a serious potential threat to the U.S. carriers and more importantly to the U.S. concept of a balanced air transportation system.

Some testimony before the Committee indicated that the Lufthansa fare package was clearly devised and intended to divert charter passengers from U.S. and foreign supplemental carriers. European governments, unlike the U.S., generally oppose large scale charter transportation on the North Atlantic. In many instances European governments have devised a series of procedural and bureaucratic restrictions aimed at discouraging U.S. charter traffic. In other instances governments have imposed outright bans on charter traffic from the U.S.

The U.S. has long favored a balanced air transport policy with scheduled rights and supplemental or charter rights given equal footing. The Germans, alarmed at the great growth in charter traffic between the U.S. and Frankfurt, particularly from the U.S. West Coast, may have been motivated by an interest in pricing their scheduled transportation at a level very nearly that of the cost per passenger of a pro rata charter trip. Of course such a fare, even if it proved temporarily uneconomic for Lufthansa, could have posed a serious economic threat to the future viability of the charter airlines.

The Committee, of course, cannot ascertain the motivation of the German carrier or of the German government. Lufthansa declined an invitation to testify but the committee believes that if the Lufthansa proposed fare was found to be uneconomic by Pan American and Trans World Airlines, it probably also would be uneconomic for Lufthansa.

While the threat of major losses to the U.S. carriers on the North Atlantic was certainly of concern to the Committee, particularly at a time when the airlines are facing serious economic problems, of even greater concern is the possibility that foreign airlines and their governments can, through economic means, exert a negative influence on U.S. transportation policy.

The recent policy of cut rate discount and promotional fares reflects a pattern of fare discrimination among various classes of travelers. For example, one exceedingly low fare applies only to students or young people. The group fares may be only used by those belonging to a club or organization or by those who are willing to purchase, in advance, ground services such as food, transportation and lodging. Other fares apply only to those who are able to remain in Europe for 17 days and still others apply only to those who remain more than 29 days. Thus, an anomalous but every day situation is created in which a passenger paying $552 for a round trip to London is seated next to a passenger enjoying the same transportation and services while only paying $302. In such a situation it appears that the regular fare paying passenger is subsidizing the transportation of those who, by group or length of stay, may avail themselves of cut rates.

There has been much discussion within industry and in government as to whether this pricing policy is fair and whether it is economic. There is some suspicion that the promotional fares are not economic—that they do not cover the full costs of the transportation and are simply a weapon to inhibit the growth and development of the supplemental carriers and the market for low-cost bulk transportation. The recent decline in yield facing the international carriers buttresses this argument. Indeed, the argument is more persuasive when looking at other international markets where the supplementals do not operate. In the Pacific, the Far East and in Latin America, fares, in terms of cost per mile of transportation, are markedly higher and there is nearly a complete absence of the discount and promotional fares discussed above. In these areas charter transportation has yet to become a factor.

The troubling aspect of the situation is that the U.S. Government, acting through the Board, does not possess the authority to assure the U.S. traveler of reasonable fees, and is therefore confined to a role of little more than an observer. While the Committee cannot absolutely ascertain whether the North Atlantic fare policy and situation is in the interest of the U.S. traveler and the U.S. air transport policy, it strongly believes that the U.S. Government must be vested with authority to make this determination and to exert greater influence in the international air transport arena.

The foreign governments and their carriers know full well that the Board has little authority over international transportation rates. If, as has happened in the past, the Board fails to approve an IATA rate setting agreement, then the carriers simply file individual tariffs possibly embodying the same fares not approved and the Board cannot take further action.

In late November 1971, the Committee was engaged in marking up this legislation. During that period, the IATA carriers met in a last ditch conference of airline chief executives in Honolulu to try again to iron out the differences between Lufthansa and the other North Atlantic carriers.

Press reports of the time indicate that Congressional action on legislation empowering the Board to regulate international fares was a strong incentive for the IATA carriers to drive for an agreement. For whatever reasons the carriers suddenly and quickly came to an agreement and ended the possibility of an open rate situation on the North Atlantic in 1972. It seems clear that had S. 2423 been the law, the dispute might not have arisen in the first place. If this bill is enacted, in the future, all carriers, U.S. and foreign, will be on notice that the U.S. Government will have the authority to take action aimed at insuring that international rates and fares are reasonable; that is, not too high and not destructively low.

Another dramatic illustration of the need for this legislation is the Chandler Dispute of 1963. Shortly after that major air transportation crisis this Committee held hearings and reported legislation similar to S. 2423. Unfortunately it was never enacted. The Chandler Dispute is more indicative of the historical international situation—that is high fares—than the one of cut rate or discount fares discussed above. It is informative to review the Chandler crisis and excerpts from the Committee's Report of 1963 are printed below. (Senate Report 88–473, p. 7).

### COMMITTEE REPORT OF 1963

A brief summary of the dispute will illustrate the handicap under which the Board has been operating. During September and October of 1962 an IATA traffic conference was held in Chandler, Arizona, to discuss and determine whether changes should be made in the international air rate structure. Prior to the conference the Board notified participating U.S. carriers that it would not approve any rate increase.

On November 23, the Chandler resolutions were filed and on December 3 the IATA fare tables were filed. On December 10, members of the Civil Aeronautics Board staff met with U.S. carriers to request basis and support for fare increases. Statements were received by Pan American and Northwest, respectively, on January 14 and 25, 1963. On February 12, the Board issued a tentative order disapproving transatlantic and transpacific round-trip fare increases. The order allowed 30 days for the submission of additional comments. IATA submitted a brief statement but by no means submitted all the information request and refused to make available the minutes of the Chandler meeting. On March 18, the Board issued its final order approving certain Chandler proposals but disapproving the proposed 5.5-percent round-trip fare increase. Canada adopted a position similar to that of the United States while European governments approved the Chandler increase. Mexico, Japan, and Chile deferred action. Although the rates had been proposed for an April 1 effectiveness, they were postponed until April 29 pending further discussions. On April 8 through 10 informal discussions were conducted with the British aeronautical authorities in Washington. On April 24 through 26 further meetings with European and Canadian aeronautical authorities were held in London, but the fare dispute was not resolved. The April 29 date was once again postponed and set for a May 12 effectiveness.

Strong representations were made to the State Department by various foreign governments concerning the position taken by the Board. At the height of the dispute certain foreign governments threatened to withdraw landing rights and to seize the aircraft of U.S. flag carriers if they did not put into effect the increase in rates. The full force and power of these governments was utilized to support their carriers' demands for an unjustified and unreasonable rate increase. As previously mentioned, the United States succumbed and the increase went in effect. While a compromise was subsequently reached on the level of the fare increase, the result is that there has been an increase, most of which will be paid by U.S. citizens to foreign-flag carriers, and that our Government was unable to support the publicly declared desires of U.S. flag carriers for lower rates to protect U.S. citizens from an excessive increase in rates.

It is pertinent to note the situation in Canada today and the testimony in this regard of Alan S. Boyd, Chairman of the Civil Aeronautics Board, at page 7 of the hearings.

"If I could allude for just a moment to the rate legislation, I would point to the situation in Canada today. The air carriers operating between Canada and Europe are operating at the old fares, and they are doing so because Canada has rate legislation and because the Canadian bilateral has a somewhat different article than the one the United States is presently operating under with the European countries.

"When we obtain rate legislation we believe we will be in a situation similar to that of Canada. I point out also that the European countries have acknowledged, I am advised, that they have no right to take any action at the present time on the rates between Canada and the European countries."

It is clear that had the Board been armed with the legislation reported by this Committee, it would not have had to surrender to the threats made against U.S. carriers.

It is more than slightly ludicrous that this Nation, which is predominant in the field of aviation and international air travel, should be unable to resist the threats and dictates of foreign governments with respect to international air fares. With the additional powers which would be added by favorable action on S. 1540, the Board will be able to effectively utilize and wield this economic power in negotiations with foreign countries. * * *

If the Board is not empowered to take prompt and effective action with respect to international air rates, either the recent spectacle over transatlantic fares or the previous rubberstamp approvals of IATA rates can be expected to reoccur. There are no indications that foreign governments will not persist in supporting their carriers' demands for rate increases which will come largely out of the pockets of U.S. citizens. (Senate Rept. 88–473, p. 12.)

A fundamental difference exists in the rate philosophies of foreign carriers and U.S. carriers. Historically, and until recently foreign carriers have pressed for an obtained rate increases, while U.S. carriers have always sought to lower rates. There are two basic reasons for the variations in philosophy.

Traditionally, U.S. carriers have been the low-cost and most efficient air carriers. They are privately owned, operate without subsidy and compete effectively. Most foreign carriers are either owned or subsidized or both to a great degree by their governments. Many are not noted for efficient, profitmaking operations. Many fly uneconomic routes for reasons of national interest and prestige. They offset their losses on uneconomic routes from the profits made from transporting U.S. citizens. Many are airlines of new nations which have come into service largely for reasons of national prestige. All carriers engaged in foreign air transportation are presently faced with an overcapacity of seats, caused partly by the advent of airlines of newly formed nations and partly by the addition of jumbo jets, with their tremendous capacity, to the fleets.

If the actions of the foreign governments and foreign air carriers affected only the citizens and carriers of such countries, this Committee and the Board might not be as concerned. But the full impact of their action and their fare philosophy must ultimately be borne by the citizens of this Nation. This Committee would be derelict in its duty if it failed to take affirmative action to protect U.S. citizens, U.S. carriers and the U.S. air transportation policy.

In recommending this legislation to the Congress, the Committee fully intends that there be no drastic departure from the present method of arriving at international air fares and that the Board, if vested with this additional authority, shall use it to implement the policy of the Congress with respect to international air transportation, as set forth in the Federal Aviation Act of 1958, within the framework of existing agreements and procedures.

### COST OF THE LEGISLATION

The enactment of S. 2423 as amended should not result in any new or further expenditures by the United States Government. The Committee believes that the Civil Aeronautics Board can exercise the additional authority conferred by the legislation without increased manpower or expenditures.

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished Senator from Mississippi (Mr. STENNIS) may be recognized at this point in the place of the distinguished Senator from California (Mr. TUNNEY).

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Chair recognizes the acting minority leader.

Mr. GRIFFIN. Mr. President, under the order entered yesterday, we are going to begin the consideration early today of the bill, S. 659, and various amendments related thereto that deal with busing.

I note that the substitute amendment offered by the distinguished majority leader and the distinguished minority leader is printed and is available on the desks of Senators. That is very fine, and it is the way we should have it. However, I also note that the revised amendment which I submitted at the same time last night is not printed and available and that other amendments, the numbers of which run from 916 to 923, are not printed and are not available.

I hope the Printing Office will get them here before we begin the consideration of the bill.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. I wish to assure the distinguished acting minority leader that on behalf of both of us I will immediately contact the Printing Office and make certain that the amendments are here this morning.

Mr. GRIFFIN. I thank the majority leader.

## PRIVILEGE OF THE FLOOR

Mr. STENNIS. Mr. President, I ask unanimous consent that a member of my staff, Mr. John Hailman, whose name I have not had a chance to place on the eligibility list, be admitted to the Chamber.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE NEED FOR A UNIFORM NATIONAL POLICY ON SCHOOL DESEGREGATION

Mr. STENNIS. Mr. President, once again I call to the attention of the Senate the double standard presently applied by the Federal Government in enforcement of school desegregation in this country. In the South, two, three, and sometimes four lawsuits are often brought against a single small and relatively poor school district, and with each new lawsuit a new court order transfers a major portion of the students of that district, often in the middle of a school term, to a different school building with different teachers, a different principal, different schedules, and different classmates. These oppressive transfers have occurred and are still occurring today, often after earlier court-ordered desegregation plans had been approved and were already in effect in all schools of the district. The only reason given for these cruel and disruptive midyear transfers is that certain schools in the district, often only one school out of a half dozen or more, have larger percentages of white or black students than the school district as a whole. The Federal courts have held, and continue to hold, that in the South a school which is statistically more black or more white than the district as a whole is racially identifiable. HEW and the Justice Department continue to pursue and harass school districts in the South, large and small, and require massive transfer of students until complete racial balance in every school is created, even if it requires busing small children many miles from their own homes and neighborhoods. The sole rationale for placing these excessive and onerous burdens on public schools in the South is that the State where the particular school is located had a law requiring school segregation by race in 1954 when the Brown decision was handed down. This requirement of racial balance in southern schools by HEW, the Justice Department, and the Federal courts is said to be fair and just and required by the 14th amendment to eradicate State-imposed school segregation.

I do not advocate today, and I have not in my arguments, the abrogation of Brown against Board of Education. I know the basic decision in that case is the beginning point. I only ask: Is such racial balance required in every school in the North? Certainly not.

Twice since 1970 the Senate has officially recognized the blatant hyprocrisy of the present dual standard and has approved amendments to education bills making it a policy of this Congress that there be nationwide uniformity in application of school desegregation guidelines and criteria, thus giving equal protection of the laws to all school children and their parents in all States and regions. When I first introduced such an amendment to an earlier education bill in 1970, a colleague from Connecticut; the distinguished Senator RIBICOFF, had the courage to step forward and cosponsor the amendment with me. In his statement, he called the situation in the North "monumental hypocrisy." That amendment stated:

> It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964, Section 182 of the Elementary and Secondary Education Amendments of 1966, shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

On February 18, 1970, the Senate by the heavy margin of 56 to 36, passed the Stennis-Ribicoff amendment, thereby announcing a congressional policy of equal treatment for all States and regions in school desegregation matters.

Unfortunately that action was later changed beyond recognition by the conference committee which rendered it totally ineffective, and in fact caused it to reinforce the old status quo requiring the South to integrate while leaving the schools of North and West overwhelmingly segregated. The conference committee so changed the uniform national policy amendment as to render it a travesty of what its cosponsors and supporters on a rollcall vote had intended.

After emasculation by the committee, the amendment stated that this country should have two uniform national policies, one for so-called de jure segregation, a code word for segregation only in the South, and another totally different policy for so-called de facto segregation, the code word for school segregation in all other regions of the country.

This provision was the handiwork of those who want one policy for the South, total, balanced integration, and another for their own areas; that is, the status quo with no disturbance of their schools.

The effective period of that law has now expired, so that first attempt to create a congressionally sponsored uniform policy in school desegregation matters is now history.

Last year, I once again introduced the Stennis-Ribicoff amendment in its identical, original form as first approved in the Senate by the 56 to 36 vote. Last year's amendment was offered as an amendment to the emergency school aid bill of 1971, which is now before the Senate for discussion today.

The original amendment now appears as title VII, section 702, of this same emergency school aid bill of 1971 and may be found printed in the CONGRESSIONAL RECORD for February 22, 1972, at page 5006.

When this bill was last before the Senate on April 22, 1971, the Stennis-Ribicoff amendment was again approved, with substantial bipartisan support from all regions of the country, by a vote of 44 to 34. As passed by the Senate, the amendment was made applicable to title VI of the Civil Rights Act of 1964, section 182, of the Elementary and Secondary Education Act Amendments of 1966 and the Emergency School Aid Act of 1971. The amendment then went, along with the rest of the emergency school aid bill, to the House, which attached to it as amendments other education acts approved by the Senate, and now the entire package is before us.

For reasons unknown and unexpressed, the House committee drastically curtailed the Stennis-Ribicoff amendment by deleting the portions applying it to the Civil Rights Act of 1964 and ESEA amendments of 1966. This left the amendment, which was a strong statement of congressional policy, applicable only to the provisions of this title; that is to say, the Emergency School Aid Act of 1971. This House committee action, which is unexplained in the RECORD or elsewhere, and was never discussed at all on the House floor, seems to me totally illogical and uncalled for. If Congress is to express a uniform policy as to school desegregation, it must necessarily apply broadly to all significant congressional legislation in the field. It defies logic to have a uniform policy which does not apply uniformly, and if the amendment applies only to one title of the present package of bills before us it cannot be a statement of national policy, but only a whisper, which HEW and the Justice Department may once again feel disposed to ignore and expend all their efforts and energy in further upsetting the already integrated schools of the South while totally ignoring the massive school segregation elsewhere in this country.

The House debate on other amendments to the package of education bills now before the Senate clearly shows how little consideration was given to the importance of a uniform national policy on school desegregation. It was remarked during House debate that a bill forbidding the implementation of court-ordered busing until all appeals were exhausted would have no effect anyway, since no court would order busing plans into effect until the school districts had a chance to have their cases reviewed by courts of appeal. Such a remark shows the lack of consideration and research which permitted the House to disregard the vital importance of the Stennis-Ribicoff amendment.

In the Southern States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas, all of which are subject to the jurisdiction of the U.S. Fifth Circuit Court of Appeals, no stays are granted by the fifth circuit of any school desegregation orders. A majority of the judges of the fifth circuit has even gone so far as to order all U.S. district courts under its jurisdiction not to grant any stays of any orders entered in school desegregation cases, no matter what issues are raised therein. This court policy of refusing to allow stays pending appeal affects all school districts under the fifth circuit's jurisdiction. In some cases, notably the Jackson, Miss., school desegregation case, the refusal to grant a stay caused the local school board to retransfer actually hundreds of its students two different times in a single year as one desegregation plan after another was first approved by the district court and then reversed by the court of appeals and yet another plan substituted for it.

I personally know they took that position while they were under the prodding of the Supreme Court, and also by others in Government. I point out now, to illustrate the variety of opinions that are in effect in the South in the various circuit courts' jurisdictions, that none of them are uniform and that they vary not district by district, but vary and contradict each other from one circuit court of appeals to another. It is an illustration of the need for some action to be taken by Congress. I think also that additional guidelines should be laid down by the Supreme Court.

For example, in the recent and much publicized Richmond, Va., case, after the district judge refused a stay of his order, the fourth circuit court of appeals stayed the busing order until it could review the case thoroughly.

I think the court rendered the right decision without instance, but it shows the contradiction.

These are the kinds of inconsistencies and irrational inequality of treatment which the absence of a uniform school police has created.

Such unequal treatment of different States and regions must stop. The Senate has already so voted twice by enacting the Stennis-Ribicoff amendment, and I commend the Senators for their evenhanded and fairminded support of our amendment.

Senators who did not support it at that time gave it their utmost consideration, which I am sure they will do at this time if it comes up again.

It is no longer possible, as it was perhaps as recently as 2 or 3 years ago, prior to implementation throughout the South of the Supreme Court's so-called instant desegregation order, to point a finger at the lack of statistical school integration in Southern States. That day is past. Today school integration is much greater in the South than in the North, as even Secretary Richardson of HEW has admitted. Furthermore, the old terms "de facto" and "de jure" have now totally lost their meaning, if indeed they ever had any.

**Mr. President, how much time have I remaining, please?**

**The ACTING PRESIDENT pro tempore. The Senator has 4 minutes remaining.**

Mr. STENNIS. I thank the Chair.

In past years, the courts, the press, and Congress have discussed those two Latin terms as if they were really helpful or useful in dealing with the school segregation situation in this country. In the beginning, representatives of States outside the South insisted that those two Latin terms stood for and symbolized two totally different situations: "De jure" segregation of schools meant segregation affirmatively imposed by law in Southern States which had laws requiring school segregation at the time of the Brown decision in 1954. "De facto" school segregation, by contrast, was said to mean mere segregation in fact, based upon segregated housing patterns which blacks and whites in the North and West freely chose without any compulsion from State laws or State officials. As I have so often stated on this very floor, this distinction is not only artificial, it is hypocritical in the extreme.

In the infinitesimally small number of northern and western school districts where the Government or private parties have sought to enjoin school segregation, courts have nearly unanimously found that segregation there was not really fortuitous or accidental but was in reality the product of significant action on the part of the State, and sometimes Federal officials. Although extensive statistics and hard proof of de jure segregation are, of course, unavailable on most northern and western school districts at this time because of the failure of HEW to vigorously investigate and prosecute school desegregation cases outside the South, few would dispute the fact that State actions and policies have significantly influenced the conditions of near-total school segregation which now exist in most large cities of the North. In prior speeches before the Senate in the past 2 years, I have placed upon the CONGRESSIONAL RECORD HEW's own undisputed statistics showing these extensive patterns of school segregation in northern cities.

Since the degree and magnitude of northern school segregation has been made known, a series of lawsuits in Federal courts to desegregate a few of those schools have been successful on the theory that they are segregated de jure, or by actions of State officials having the force and effect of State law. Senators from Northern and Western States having massive segregation in their schools have begun to understand the problem as it reaches their area.

Mr. President, that is the only way that this problem can be understood. The people have got to be out in the stream where this current is flowing. They must feel the impact on their children and on their peace of mind in order to know just how this matter works.

I commend Senators who have lent their further attention and their concern and their earnest consideration to this matter as the practical application of the rule has reached their constituents. That is the kind of Government we have. That is our system. That is the kind it should be.

Significantly, we now hear much less often the term "de jure" because it increasingly appears that most segregation in northern schools is, at it was formerly in southern schools, de jure, or created by State action, and not merely accidental, or de facto. For that reason, some of those who once breathed fire upon the South for its de jure school segregation while absolving segregated systems in the North as "de facto" have now changed their tune and have begun to talk of mere "racial isolation" in their States and cities. These subtle changes in wording do not camouflage the basic fact: school segregation was once widespread throughout this country. It is now present on a large scale only in the North and West. Intensive, in fact I might say obsessive, efforts by HEW and the Justice Department have produced far greater school integration in the South than in any other part of the country, as was shown by the HEW figures cited in Senator RIBICOFF's speech on February 22, 1972, on the floor of the Senate. Yet even now, HEW, the Justice Department, and the Federal courts strain themselves in near-frantic exertions to create absolute racial balance in every last classroom in the South. In our region racially neutral zone lines are struck down by Federal courts if they do not affirmatively produce racial ratios or "quotas." The sole reason for this enforced racial balance in every last school in the South is the outdated and discredited de jure-de facto distinction which is being increasingly abandoned, even in the North, where the issue is now being clouded by references to "racial isolation" or "racial imbalance."

In this regard I wish to express my gratitude to Senators for twice adopting the Stennis-Ribicoff amendment in an honest and fairminded attempt to end this hypocrisy. I also wish to call to the attention of the Senate one more serious attack on the progress toward equality of treatment of all regions which we have made: the final title of the emergency school aid bill now before the Senate; that is to say, title IX, section 901 of that act, is entitled "Assignment or Transportation To Overcome Racial Imbalance." Section 901, which was added to the House passed version of the bill after its recent further review by the Senate committee, reads as follows:

> No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

This section reintroduces the old and unhappy dichotomy against which I have fought for so long, and once again implies a dual standard for the enforcement of school desegregation guidelines in the different areas of the country by using the code words "racial imbalance," the words now used to describe school segregation outside the South. This language invites invidious discrimination against all southern school districts while attempting to protect northern and western school districts from the same treatment. There is absolutely no excuse for confusing the issue further by the addition of such misleading language. The conglomeration of confusing bills and amendments already before us is only compounded by this further reference to racial imbalance, and that language should be stricken from the bill passed by the Senate.

I do not specifically propose any additions or amendments to section 901 at this point, but of course, I shall be at liberty to do so at any time I might choose.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

(The remarks Mr. TUNNEY made at this point on the introduction of S. 3227 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Under the previous order, the Senator from Georgia (Mr. GAMBRELL) is recognized for not to exceed 15 minutes.

## A PLATFORM PLANK FOR EQUAL PROTECTION

Mr. GAMBRELL. Mr. President, on Tuesday, January 25, 1972, the Senate Democratic Conference unanimously adopted a resolution which reads as follows:

> Whereas, civil rights laws are intended to secure equal protection of the laws for all citizens, now therefore be it resolved, by the Senate Democratic Conference, that this body, through its leadership, shall make every effort to require that all laws securing equal protection of the laws are themselves applied equally and uniformly in every section of the country.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. GAMBRELL. I yield.

Mr. MANSFIELD. I wish to corroborate what the distinguished Senator has just said. The so-called Gambrell resolution to which he refers was adopted unanimously by the Democratic Caucus.

Mr. GAMBRELL. I thank the Senator for that corroboration.

Mr. President, little notice was taken of the adoption of this resolution at that time, and to the best of my knowledge, no notice has been taken of it in official circles since that date.

It is my purpose here today to make a full report on the subject of this resolution, which in plain and concise terms can be described as a stand for equal treatment for the South in civil rights matters.

On November 24, 1971, I wrote Senator HUBERT H. HUMPHREY as chairman of the policy council of the Democratic National Committee, suggesting the inclusion of such a commitment as a plank in the platform of the National Democratic Party at its convention in the summer of 1972, and asking for his comments.

A copy of my letter and the enclosed platform plank will be offered for inclusion in the RECORD at the end of my remarks.

I am pleased to report that Senator HUMPHREY responded promptly at that time. He stated:

> I like your proposed platform plank. It is fair and just. It represents the position that our Party should take.

A copy of Senator HUMPHREY's reply will be offered for inclusion in the RECORD.

Copies of my letter were sent to the chairman of the Democratic National Committee, Mr. Larry O'Brien, and the so-called leading candidates for President of the United States at that time, with a request for their comments.

No comments were received from any of them.

On January 5, 1972, I wrote a letter to each of the announced candidates at that time except Senator HUMPHREY, who had already responded, again asking for their views on this important subject. These letters went to Senators MUSKIE, MCGOVERN, JACKSON, and HARTKE, and also to Mayor Lindsay and Mayor Yorty. Governor George Wallace and Mrs. SHIRLEY CHISHOLM were not included as they had not then announced their candidacy. I am now in the process of directing an inquiry to them, and will report on any reply received from them.

Subsequently, on February 21, 1972, a reply was received from Senator HENRY JACKSON advising of his support for a platform plank of the sort which I proposed. But no response has been received from any of the other candidates or from the chairman of the Democratic National Committee.

A copy of my followup letters of January 5, and of Senator JACKSON's reply of February 21 will be offered for inclusion in the RECORD.

Thereafter, upon being notified of the Senate Democratic conference scheduled for January 25, 1972, I wrote the majority leader, Senator MANSFIELD, suggesting a resolution in the form which was subsequently adopted at the conference meeting. Copies of this letter and resolution were mailed to members of the Senate Democratic Policy Committee, and a courtesy copy was sent to Senator HUM-

PHREY because of his previously expressed interest in this subject.

As I have said, the resolution was unanimously adopted, by voice vote of those present.

Of course, every member of the Senate Democratic conference was not present on that occasion, so I would not presume to say that each member of the conference voted in favor of the resolution. However, I was favored by a letter of February 4 from Senator HUMPHREY stating his support for the resolution. A copy of that letter will be offered for inclusion in the RECORD.

May I say at this time that I extend my thanks to Senators HUMPHREY and JACKSON for the positions they have taken on this subject.

Naturally, as sponsor of this resolution, and as one who is intensely interested in the subject matter of the resolution, I would like to see it implemented in a forceful way. And, bearing in mind the obligation which the resolution places upon the conference leadership, I hope that the Democratic leadership in the Senate will "make every effort" to secure the equal and uniform application of civil rights laws to every section of the country.

Mr. President, beginning on yesterday, the Senate addressed itself to one of the most controversial and divisive issues in the history of civil rights legislation. That is the subject of forced busing of schoolchildren for integration purposes.

In my view, the primary reason that this matter has reached its present level of aggravation and intensity, is the lack of uniformity in the application of this desegregation remedy throughout the country.

The implementation of desegregation in public schools through court orders, of necessity, can only be done on a locality-by-locality basis. As among the remedies applied in each case, there will be differences. Furthermore, in the now famous case of Swann against Mecklenburg County, in which school busing was authorized by the Supreme Court as a desegregation remedy, it was determined by the Court that busing and other desegregation remedies could be applied in some areas of the country, while they might not be applied in other areas based on the so-called "de facto—de jure" distinction.

Whatever legal justification that might be for such a distinction in the selection of remedies, pursuing such a course can only lead to the uneven application of the law with consequent controversy, irritation, and racial disharmony.

It is now well known that southern school systems are more fully desegregated than those in the North. Statistics establishing this fact have been placed in the RECORD on numerous occasions. A news article published in the Atlanta Constitution of January 13, 1972, reporting this fact is offered for inclusion in the RECORD. Recognizing this fact, and the fact that court and Department of Health, Education, and Welfare enforcement practices are widespread in the South, while having been applied only in a limited way in other sections of the country, it is obvious that southern school systems are being subjected to discriminatory desegregation enforcement practices. Here again are being sowed the seeds of discontent and divisiveness. One can hardly expect southerners to accept the disruptions of their education systems which are now taking place, when other areas are going scot-free in this regard.

I congratulate the Senator from Mississippi on the remarks he made earlier in this session on this subject.

In referring to the Swann decision at the time of its release, I stated that:

> This decision was a new license for discrimination against the South in dealing with a problem that is national in scope.

I stated further that:

> The decision permits the lower Federal Courts to create a crazy quilt of integration plans in the South while leaving Northern school systems segregated. The lack of a uniform national policy recognizing neighborhood schools can result in hypocrisy, litigation, discord and damage to our educational system.

My full release on that subject is offered herewith for inclusion in the RECORD.

Efforts have been made to bring about some equalization of enforcement practices. The Southern Governor's Conference, meeting in Atlanta on November 10, 1971, adopted the statement of policy with reference to forced school busing and also with reference to a uniformly applied school desegregation policy.

A copy of that statement is offered herewith for inclusion in the RECORD.

On three occasions, the Senate has adopted the so-called Stennis-Ribicoff amendment to school desegregation legislation providing that desegregation policies "shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to origin or cause of such segregation."

It is hardly necessary to observe that little note has been taken of this expression of sentiment by the Departments of Justice and Health, Education, and Welfare in executing desegregation policies.

Mr. President, having laid out in front of ourselves the pursuit of equal civil rights enforcement in all regions of the country, how might this be applied in the case of forced school busing?

On yesterday, I offered, along with the junior Senator from Florida (Mr. CHILES), amendment No. 925, undertaking to deal directly with the problem.

Like the amendment passed by the House of Representatives last November 4, our amendment would deny jurisdiction to the U.S. courts to enforce school busing and other racially selective desegregation orders until appeals therefrom have been determined. However, our amendment goes a step further by suspending the effectiveness of such orders until school desegregation, without regard to the origin of segregation, is uniformly applied throughout the country. In this respect, we have adapted of the so-called Stennis-Ribicoff amendment and applied it to this form of solution of the school busing problem. The amendment defines uniformity as requiring the application of court-ordered desegregation, in effect, to 75 percent of the public school population or 75 percent of the major public school systems. The amendment goes further, to authorize the Attorney General of the United States to initiate and participate in court proceedings by which desegregation enforcement becomes uniform.

In other words, Mr. President, no busing or racially selective desegregation remedies will be permitted until the courts have settled their constitutional legitimacy, and until segregation of schools is a matter of uniform national policy.

May I say, Mr. President, that I do not think that forced school busing or racially selective desegregation remedies should be permitted under any circumstance, and I expect to vote for any legislation which so provides, including an amendment to the U.S. Constitution, should that become necessary. It is my hope that, given an opportunity after a legislative moratorium on such orders, the Supreme Court will determine that this remedy is not only unworkable, but improper in all respects.

However, as there seems to be some hesitancy in legislating a flat prohibition against racially selective desegregation plans, I wish to have my proposal for uniform enforcement of desegregation plans before the Senate for consideration.

In the event that no complete prohibition is adopted, I expect to call up my amendment to be voted on, or will add section 2 of my amendment to any reasonable plan offered by other Senators for a busing moratorium.

What I primarily am concerned with here is to commence the implementation of a uniform national policy with regard to desegregation of schools, and any subsequent efforts to enact programs for the racial integration of public schools, about which much has been said.

Mr. President, before closing, I wish to observe for the record that the amendment pending on behalf of the majority leader and the minority leader does not in any respect seek to achieve equal and uniform application of school desegregation in every section of the country. Therefore, it represents a failure to comply with the mandate of the uniformity resolution adopted by the Senate Democratic caucus on January 25. The voting on the Scott-Mansfield plan will reveal whether commitments of the Senate Democratic conference have any meaning, or whether they are merely instruments of political convenience upon which the leadership can "waffle."

Mr. President, my comments on this subject may seem rather abrupt, but we are talking about a matter which cannot be taken lightly. I have pursued the subject of equal treatment for my State and region of the country with singular intensity and purpose. I have felt that it was not only my duty, but my right, to do so, and I have felt that I was free to do so without being called a racist or considered to have any ulterior motives. Those who have spent the last 18 years here in Washington wrestling with the school desegregation problem may have thought that the conflict was tense and spirited. I can only assure them that, for those of us in the field, it was even more so. And, I will be happy to compare my record of positive achievements in the field of race relations during the past 18 years with anyone who has lived face to face with the problem as I have.

In conclusion, Mr. President, I will repeat the remarks which I made on the Senate floor on September 13, 1971, when I first had occasion to address the busing problem.

I will state without any qualification that I and the people of my state accept desegregation decision of the Supreme Court as the law of the land.

The time for racial discrimination has passed in Georgia and throughout the South. Southern political leaders have openly taken stands for equality of the races before the law. Southern people, both black and white are working in harmony, through the enormous social and cultural adjustments made necessary by the overruling of previous federal court deecisions dealing with race relationships. Now the question has become whether Southerners, both black and white will have to bear further burden, one not borne in other sections of this country. In the long run, I do not think that we will, because it is not right, and things that are not right will not work—this has already been proved in the case of busing.

Mr. President, I ask unanimous consent that the material I have referred to in my remarks be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., December 2, 1971.*
Hon. DAVID H. GAMBRELL,
*U.S. Senate,*
*Washington, D.C.*

DEAR DAVID: I have your letter of November 24 along with the text of a suggested plank for the Platform of the National Democratic Party. I welcome your proposal.

I am sure you know my feelings about the importance of the South to the Democratic Party. The most disappointing and sad experience of my political life was my failure to carry any one of the Southern states in the election of 1968. I like the South and its people. I have always felt comfortable and at home in the South. I of course understand some of the reasons for my poor showing in the Southern states in 1968. Nevertheless, I am determined to do my best to see that the South returns to the Democratic Party and that the Democratic Party treats the South as an equal partner.

It is wrong to single out the South for special Federal supervisory directives. Today there are new leaders in the South—men like yourself and Governor Carter. These new leaders deserve and need the wholehearted cooperation of the Democratic Party. Likewise, the Federal Government should look to these new leaders for direction and counsel—encouraging them and backing them.

I like your proposed platform plank. It is fair and just. It represents the position that our Party should take.

Sincerely,

HUBERT H. HUMPHREY.

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NOVEMBER 16, 1971.
Hon. HUBERT H. HUMPHREY,
*Chairman, Policy Council,*
*Washington, D.C.*

DEAR SENATOR HUMPHREY: I am writing you as Chairman of the Policy Council of the Democratic National Committee which, I understand, is soliciting the suggestions and opinions of Democrats throughout the country as to how to improve our Party's policies and goals, and in particular to improve our opportunity to prevail in the election campaign next year.

For several years, it has been my feeling that the Democratic Party, in national election campaigns, has suffered because antagonisms within the Party have excluded many Democrats in the South from full participation in Party affairs.

Recent newspaper reports indicate that you, personally, have made a point of welcoming Southern Democratic input into next year's national election campaign. A similar recognition on the part of other national candidates, and in the Party Platform for 1972, would help to restore support for the National Party which the South has consistently given until the last two elections.

For your consideration, and that of the Policy Council, in this connection, I am including the text of a suggested plank for the platform of the National Democratic Party next year. It proposes that there be uniform enforcement of civil rights laws throughout the country. It can hardly be expected that the Southerners, even those who are Democrats, could support any candidate or any party which would not egress to give the South equal treatment in this regard.

I would like to have the benefit of your comments on this proposed platform plan. Copies of this letter are being directed to the other principal candidates for the Democratic nomination, as well as to the Chairman of the Democratic National Committee, for their comments.

It is my sincere hope that our Party, and our candidates will have the wisdom to support a platform of this type. Otherwise, the support of thousands of Southerners who might otherwise be expected to vote for Democratic candidates, may be lost.

Yours sincerely,

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PLATFORM STATEMENT OF UNIFORM CIVIL RIGHTS ENFORCEMENT POLICY

Laws and law enforcement on the vital subject of civil rights, including voting rights and desegregation of schools, should be applied uniformly throughout the country. Equal protection of the law and due process of law would be hypocritical slogans if the statutes under which these principles are enforced, are not themselves equally applied. While vigorous steps will be taken against any State or local action, wherever found, depriving any persons of their constitutional rights, neither the South, nor any State or other section of the country shall be singled out for special enforcement efforts under these laws.

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JANUARY 5, 1972.
Hon. VANCE HARTKE,
Hon. GEORGE MCGOVERN,
Hon. HENRY JACKSON,
Hon. EDMUND S. MUSKIE,
*U.S. Senators,*
*U.S. Senate,*
*Washington, D.C.*
Hon. SAM YORTY,
*Mayor,*
*Los Angeles, Calif.*
Hon. JOHN LINDSAY,
*Mayor,*
*New York City, N.Y.*

DEAR SIR: I have recently submitted to the Chairman of the Democratic National Committee a proposed plank for the National Democratic Party next year. The proposed plank, a copy of which is enclosed, calls for a uniform civil rights enforcement policy throughout the country.

The proposed platform plank would represent a commitment by the Democratic Party, and its candidate, that special laws and law enforcement in regard to civil rights would not be applied in limited sections of the country and particularly in the South.

I think such a commitment will be critical in returning the South to its traditional support of the Party's candidates in the general election, and I also think that such a commitment will be critical in the efforts of any candidates to obtain the Democratic nomination.

I am asking each of the principal candidates for the Democratic nomination to state their views on this important subject. An early reply from you would be greatly appreciated.

With best wishes for a happy and prosperous New Year, I am

Sincerely,

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U.S. SENATE,
*Washington, D.C., February 21, 1972.*
Hon. DAVID H. GAMBRELL,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR GAMBRELL: Thank you very much for sending me a copy of your proposed plank for the Democratic Platform calling for a uniform civil rights enforcement policy throughout the country.

I believe a strong statement on this subject should be included in the 1972 Platform. The Democratic Party should be committed to the principle of equal enforcement, without regard to the geographic region involved.

I appreciate this opportunity to comment on your proposal.

With best wishes,

Sincerely yours,

HENRY M. JACKSON,
*U.S. Senator.*

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JANUARY 20, 1972.
Hon. MIKE MANSFIELD,
*Chairman, Senate Democratic Conference,*
*Washington, D.C.*

DEAR MIKE: I have in mind offering the enclosed resolution for consideration by the Conference at its meeting on Tuesday. If this is not in order in accordance with conference procedure, please let me know. Several Senators have expressed an interest in this proposal.

Copies of this letter and the resolution are being handed to members of the Policy Council for their information.

With best personal regards, I am

Sincerely,

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RESOLUTION

Whereas, civil rights laws are intended to secure equal protection of the laws for all citizens,

Now therefore be it resolved, by the Senate Democratic Conference,

That this body, through its leadership, shall make every effort to require that all laws securing equal protection of the laws are themselves applied equally and uniformly in every section of the country.

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SOUTH PASSES NORTH IN INTEGRATION RATE

WASHINGTON.—The government reported Wednesday that 11 Southern states for the first time have fewer black pupils in totally segregated schools than does the North.

The South also has widened its gap over the North in the number of blacks attending mostly white schools, the U.S. Office for Civil Rights said in its first preliminary report on 1971–72 enrollments.

Only 9.2 per cent or 290,390 black Southern pupils attend all-black schools the report said, compared with 11.2 per cent or 325,874 in the 32 Northern and Western states.

The greatest segregation remains in the six border states and the District of Columbia where 24.2 percent or 162,578 pupils still attend segregated schools, the report said.

Excluding the large, mostly black D.C. school system, the government estimates 21 per cent of black pupils in Delaware, Kentucky, Maryland, Missouri, Oklahoma and West Virginia attend segregated schools. That is nearly double the estimated nationwide average of 11.6 per cent.

Almost 44 per cent of Southern black pupils now attend predominantly white schools, the report said, for a 4.8 per cent gain since last year, and a 25.5 per cent gain over the last three years. "But little integration process had been made during the same period in the Northern, Western and border states," it added.

About 28 per cent of black pupils are attending mostly white schools in the North and West, and 30 per cent in the border states and D.C.

More than two-thirds of all Negroes in predominantly white Southern districts are attending mostly white schools, the report said, and nearly half of all whites in predominantly black districts are attending schools in which they form a minority.

"Only .3 per cent of the white pupils in predominantly minority districts attend all-white schools," the report said. More than one-third of the 3.1 million black Southern pupils live in predominantly black school districts.

The statistics show that nearly one-third of all black school children in the nation now are in majority white schools, for a 2.5 per cent gain in the last year.

The statistics were gathered from about 2,700 school districts representing about 20 million pupils, and then projected to cover all 43.3 million pupils included in the 1970 survey.

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### NEWS RELEASE FROM SENATOR DAVID H. GAMBRELL

WASHINGTON, D.C., April 21, 1971.—The decision handed down yesterday by the Supreme Court of the United States in regard to the busing of school children in integration cases is a new license for discrimination against the South in dealing with the problem that is national in scope. While it is encouraging that busing to meet racial quotas is not mandatory, the decision permits the lower Federal courts to create a crazy quilt of integration plans in the South while leaving Northern school systems segregated. The lack of a uniform national policy recognizing neighborhood schools can only result in hypocrisy, litigation, discord and damage to our educational system. Rather than being the object of harrassment, Southern school systems should be studied by systems throughout the country for the successes which have been achieved in meeting the problems of racial integration.

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### STATEMENT ON BUSING BY SOUTHERN GOVERNORS' CONFERENCE, NOVEMBER 10, 1971

The Southern Governors' Conference urges the Congress to enact a single national policy for the desegregation of public schools—that policy to be applied uniformly throughout the Nation by all branches of the Federal Government including the Departments of Justice and H.E.W., and the courts.

The Southern Governors' Conference opposes the busing of school children from one area to another for the purpose of attempting to achieve numerical racial balance.

The Southern Governors' Conference recognizes and commends the actions of the U.S. House of Representatives of Nov. 4th as providing a first step in achieving the above-stated policy but cautions the Congress that the prohibition of the expenditure of federal funds should not be enacted in the absence of such a uniform policy, uniformly applied by all branches of the Federal Government.

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U.S. SENATE,
*Washington, D.C., February 4, 1972.*

Hon. DAVID H. GAMBRELL,
*U.S. Senate,*
*Washington, D.C.*

DEAR DAVID: Indeed I am for your resolution. Thanks for your note. Sorry I wasn't at the Conference.

Sincerely,

HUBERT H. HUMPHREY.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. GAMBRELL. I yield to the Senator from Florida.

Mr. CHILES. As I understand the amendment of the junior Senator from Georgia, one of its purposes is to see that we have some uniformity in what the decisions are going to be in regard to this subject and that the rest of the country will not have to go through what Florida and Georgia and other Southern States have had to go through when different Federal courts and different districts handed down different orders, when the HEW changed its mind within districts as to what kind of busing or pairing there should be, when the Justice Department had a different criterion and standard between one area and another, when school boards never could determine what they should do in regard to setting up the attendance of their classes and with respect to what kind of equipment they would need for transportation, when there has been generally 2 years of chaos throughout the South, where these orders have been enforced.

If the Senator's amendment is adopted, it would protect the rest of the country from having to go through the chaos that we have been going through and are still going through in the South.

Mr. GAMBRELL. The Senator is correct, and I appreciate his joining me in sponsoring this amendment.

I would say that we have had 18 years of chaos, only the last 3 or 4 of which have been brought about by the so-called busing controversy.

Mr. CHILES. If the amendment should be adopted, we would be carrying out the caucus intent that there be a uniform application, and at the same time what was fair in Florida would be fair in California, would be fair in Michigan, would be fair in Montana, and would be fair in every other State, and we would have a uniform application of the law and everyone could understand what the law would be.

Mr. GAMBRELL. The Senator is correct.

Under the amendment we are sponsoring, the Supreme Court and the courts would state what a uniform policy was or should be, and then would be applied simultaneously throughout the country rather than being applied on a piecemeal basis. Every fair-minded person can understand that the people in Florida, in Georgia, or someone in Flint, Mich., does not want to be an experimental guinea pig in trying to work out something so critical as the question of desegregation. I do not see why, instead of fighting what we are trying to do, why those interested in desegregation and integration of the school systems are not now here urging that there be more widespread enforcement of the program on a uniform basis rather than trying to hold us up as examples.

Mr. CHILES. The Senator shares my concern. Two years ago or even 1 year ago, there were few people in this country and in Congress concerned with this question outside of the South, because it was not happening anywhere else outside the South.

Suddenly we find that a great many Congressmen and Senators have great concern about this matter and there are many amendments on the subject. My concern, and I think the Senator from Georgia shares it with me, is that many of the amendments we see floating around now which will prevent HEW from enforcing any further orders are also going to prevent the Justice Department from moving further, and will keep the courts from executing any orders until the last appeal has been taken. That is very good for Michigan, California, and some other States, but we have busing in the South now. Our orders are final. We are under title VI or a court order. Many of the plans and many of the so-called busing amendments will not affect us one whit. What we are seeking is whatever would be fair. This amendment addresses itself to uniform application. We would be treated the same as any other area or State. If busing is necessary for quality education—although certainly the Senator and I differ on that, as to whether that is necessary—but if that is the law of the land, if it is necessary, then it should be necessary everywhere and should not be just necessary in the South.

Mr. GAMBRELL. Mr. President, I would simply say in reply to the Senator from Florida that I would assume any Member of the Senate who would vote to hold schoolchildren in Georgia or Florida or Michigan or California hostage pending the working out of the school desegregation and busing problem would urge those in his own State—the school officials, the courts, and the enforcement officers—immediately to set about desegregation of their schools under a plan similar to that which is being applied to Georgia, to Florida, to Michigan, or to California. In other words, I am assuming that Members of the Senate would not seek the application of laws to my State, or to the State of the Senator from Florida that they would not seek to apply to themselves. That as I understand, is the sense of the Democratic caucus resolution of January 25.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from Georgia yield?

Mr. GAMBRELL. I yield.

Mr. MANSFIELD. I was not able to hear all of the Senator's speech except the latter portion, but I want to say that the action taken by the Democratic caucus was intended to apply on a uniform basis throughout all the States and all the sections of the Nation.

May I call the Senator's attention to the fact that I was one of those who voted for the Stennis-Ribicoff amendment twice, because I felt that an issue of this nature should be applied on a nationwide basis and we hope that anything which is done will be done on that basis.

Mr. GAMBRELL. I thank the Senator for that comment and I am sure his commitment on the subject is in good faith and bears his honest intentions.

What concerns me on this subject is that the people down on Pennsylvania Avenue in charge of the enforcement of these things seem to take no notice of the fact that Congress has adopted this as a policy—at least the Senate has on three occasions—yet the enforcement practices and procedures continue to be discriminatory and irregular throughout the country. We would like to see it written into the law by both Houses of Congress and signed by the President.

## ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. Tunney). Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

## PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the time in which the very distinguished senior Senator from Connecticut (Mr. Ribicoff) is engaged in the debate today, two of his aides, Messrs. John Koskinen and Theodore Leary, be given the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Gambrell) laid before the Senate the following letters, which were referred as indicated:

### Report on Officer Responsibility Pay

A letter from the Secretary of Defense, transmitting, pursuant to law, a report relating to Office Responsibility Pay, for the calendar year 1971 (with an accompanying report); to the Committee on Armed Services.

### Report on Military Procurement Actions for Experimental, Developmental, Test or Research Work

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on military procurement actions for experimental, developmental, test or research work for the six-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

### Report on Expenditures in, for, and on Behalf of Laos

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on expenditures in, for, and on behalf of Laos, for the six-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

### Report of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Budgetary and Fiscal Information Needs of the Congress", dated February 17, 1972 (with an accompanying report); to the Committee on Government Operations.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Gambrell):

A letter, in the nature of a petition, from the Chairman, City Council, District of Columbia, in support of proposed legislation to amend the law relating to the conduct of public hearings before the Zoning Commission of the District of Columbia; to the Committee on the District of Columbia.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD of West Virginia (for Mr. Jackson), from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6291. An act to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets numbered 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes (Rept. No. 92–642).

By Mr. RANDOLPH, from the Committee on Public Works, with additional amendments:

S. 907. A bill to consent to the Interstate Environment Compact (Rept. No. 92–643).

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Kevin O'Donnell, of Maryland, to be an Associate Director of Action;

William Rinehart Pearce, of Minnesota, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador;

Robert Stephen Ingersoll, of Illinois, to be Ambassador Extraordinary and Plenipotentiary to Japan;

Dan W. Lufkin, of Connecticut, and J. D. Stetson Coleman, of Virginia, to be members of the Board of Directors of the Overseas Private Investment Corporation; and

William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, now Ambassador Extraordinary and Plenipotentiary to the State of Kuwait, to the State of Bahrain, and to the State of Qatar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Sultanate of Oman and to the United Arab Emirates.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TUNNEY (for himself, Mr. Baker, Mr. Burdick, Mr. Case, Mr. Dominick, Mr. Eagleton, Mr. Gambrell, Mr. Harris, Mr. Hart, Mr. Hartke, Mr. Hollings, Mr. Humphrey, Mr. Jordan of North Carolina, Mr. Kennedy, Mr. McGovern, Mr. Metcalf, Mr. Muskie, Mr. Pell, Mr. Percy, and Mr. Stevens):

S. 3227. A bill to amend the Internal Revenue Code of 1954 to allow a business deduction under section 162 for certain ordinary and necessary expenses incurred to enable an individual to be gainfully employed. Referred to the Committee on Finance.

By Mr. JAVITS (for himself, Mr. Schweiker, Mr. Packwood, Mr. Taft, Mr. Stafford, Mr. Case, Mr. Boggs, Mr. Brooke, Mr. Saxbe, Mr. Mathias, Mr. Hatfield, Mr. Percy, Mr. Cook, and Mr. Stevens):

S. 3228. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. METCALF (for himself, Mr. Mansfield, Mr. Burdick, Mr. Harris, Mr. Hughes, Mr. Humphrey, and Mr. McGovern):

S. 3229. A bill to protect the incomes of wheat and feed grain producers. Referred to the Committee on Agriculture and Forestry.

By Mr. METCALF (for himself and Mr. Mansfield):

S. 3230. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Assiniboine Tribes of Indians in Indian Claims Commission docket No. 279–A, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PACKWOOD (for himself, Mr. Bellmon, Mr. Bennett, Mr. Brooke, Mr. Chiles, Mr. Cranston, Mr. Gravel, Mr. Hart, Mr. Javits, Mr. Metcalf, Mr. Percy, and Mr. Randolph):

S. 3231. A bill relating to the reimbursement of actual travel expenses of Senators and employees of Senators. Referred to the Committee on Rules and Administration.

By Mr. PACKWOOD (for himself, Mr. Dominick, Mr. Taft, Mr. Beall, Mr. Allott, Mr. Baker, Mr. Bellmon, Mr. Bennett, Mr. Brock, Mr. Cooper, Mr. Cotton, Mr. Curtis, Mr. Dole, Mr. Fannin, Mr. Fong, Mr. Eastland, Mr. Goldwater, Mr. Griffin, Mr. Hansen, Mr. Hruska, Mr. Jordan of Idaho, Mr. McClellan, Mr. Roth, Mr. Saxbe, Mr. Scott, Mr. Thurmond, Mr. Tower, Mr. Weicker, and Mr. Young):

S. 3232. A bill to provide more effective means for protecting the public interest in emergency disputes involving the transportation industry and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (by request):

S. 3233. A bill to amend section 396 of the Communications Act of 1934 to increase and extend for 1 year the authorization for the Corporation for Public Broadcasting. Referred to the Committee on Commerce.

By Mr. HARRIS:

S. 3234. A bill providing for the distribution of judgment funds of the Osage Nation of Indians. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARRIS (for himself and Mr. Bellmon):

S. 3235. A bill to declare that the United States holds certain lands in trust for the Citizen Band of Potawatomi Indians of Oklahoma. Referred to the Committee on Interior and Insular Affairs.

By Mr. BYRD of Virginia (for himself and Mr. Spong):

S. 3236. A bill to provide for the establishment and operation of a research center at Blacksburg, Virginia. Referred to the Committee on Interior and Insular Affairs.

By Mr. STENNIS (for himself and Mrs. Smith) (by request):

S. 3237. A bill to authorize an additional Deputy Secretary of Defense, and for other purposes. Referred to the Committee on Armed Services.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TUNNEY (for himself, Mr. BAKER, Mr. BURDICK, Mr. CASE, Mr. DOMINICK, Mr. EAGLETON, Mr. GAMBRELL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JORDAN of North Carolina, Mr. KENNEDY, Mr. MCGOVERN, Mr. METCALF, Mr. MUSKIE, Mr. PELL, Mr. PERCY, and Mr. STEVENS):

S. 3227. A bill to amend the Internal Revenue Code of 1954 to allow a business deduction under section 162 for certain ordinary and necessary expenses incurred to enable an individual to be gainfully employed. Referred to the Committee on Finance.

Mr. TUNNEY. Mr. President, I am introducing today a bill to amend the Internal Revenue Code to allow a business deduction for household and child-care expenses incurred by working mothers and certain other individuals to enable them to be gainfully employed.

The basic principle of this bill—allowing this deduction as a business rather than a personal expense—has already received overwhelming support in the Senate. On November 12, 1971, the Senate adopted my amendment to the Revenue Act of 1971 to create the business deduction by a vote of 74 to 1, but the amendment was eliminated in conference. This new bill would reaffirm the Senate's prior action in support of the business deduction.

It is my belief that the time has come to remove the inequity in our tax laws which enables businessmen to deduct "ordinary and necessary" business expenses, yet denies to working mothers a deduction for the most "ordinary and necessary" business expense they incur—the cost of maintaining their households and assuring safe and responsible care for their children while they work.

If a businessman can deduct the cost of hiring a secretary to improve his effectiveness in working, if he can treat his entertainment expenses as a tax deduction, how is it just that a working mother should not be allowed the same sort of deduction for expenses which are even more vitally related to her work? What can be more of a business expense than one which basically enables her to work, or enables her to work to the full extent of her capacities?

These are not personal expenses, like doctors' bills. They should not be classified, as they are now, with charitable contributions. They are ordinary and necessary expenses incurred to enable an individual to be gainfully employed.

In 1971, 42 percent of the Nation's mothers worked outside the home. Of the approximately 12.5 million mothers with children under 6, more than one in every three is working today. That means there were more than 4.3 million mothers with children under 6 who were in the labor force last year.

These are the people who simply cannot avoid paying for the care of their children and for other household expenses. Very often they have to lose a substantial proportion of their income to secure these services. Yet they are not allowed to take these considerable costs as a business deduction.

There are many reasons why mothers go out to work. At the lower income levels it is a matter of compelling financial necessity. Whether or not they prefer to be full-time mothers, devoting all their care and attention to the family and the home, they do not really have the choice. They must work, they must produce a second income to keep their family out of poverty and provide even the basic necessities.

Others want to go out and earn some money so their families can live a better life, so their children can have access to wider opportunities, so they can more easily withstand the impact of rising costs and rising prices.

Others again want to work as a matter of self-fulfillment, to use their capabilities to take an individual's place in the community in the way that a man can, and is expected to, without any special obstacle.

Whatever the motivation for working, their problem in this area is the same. To be able to take employment and receive an income they must step over a much higher threshold than other people who want to enter the labor market. Not only do they have to find a suitable job. They must also obtain and pay for the care of their children and of their houses while they are away earning that income. These expenses are clearly work related.

In 1971, of all mothers of children under six, 10 percent—1.3 million of them—were single parents bringing up children without a husband. Half of these mothers held down a job.

For these women, and for many widowers or divorced men with families to care for, the fundamental character of these outlays as a business expense is even more explicit. There may be doubts about many of the expenses which businessmen run up in the name of business, and consequently take as tax deductions. But the expenses with which this bill deals are not for entertainment or for country club subscriptions. They are payments which are necessary for those families to be viable, self-supporting economic units.

There are many other income earners, both men and women, whose earning capacity depends on their ability to provide suitable care of a spouse or other dependent who is incapable of caring for himself.

Their situation is particularly difficult and demanding, physically and emotionally as well as financially. They have enough to handle without the additional difficulty of tax laws which limit the availability of a legitimate deduction for expenses involved in bringing in their family income.

All these groups are taxpayers, producing taxable income, but at present the tax laws fail to recognize the reality of the direct link between the expenses they incur and the income which is generated.

The main burden of the failure to allow a business deduction for such expenses as child care has, of course, fallen mainly on women. It places an unnecessary and unjustifiable obstacle in the path of women who wish to enter the employment market, and once they are in the market, it constitutes a built-in economic disadvantage to their efforts. It is not the result of any positive attempt to discriminate against women. It is rather the relic of a time when it was not the normal or accepted thing for mothers to go out to work. But times have changed. The proportion of mothers now working outside the home is more than double that of 25 years ago. In 1948, 18 percent went out to work. Now 42 percent do. The trend is continuing. Tax provisions should reflect the realities of the society to which they apply.

In the name of equity for working mothers now and in the future, the current situation should be changed.

It is true that the law as it stands at present, including the amendments of last December, provides some relief in this area, by allowing these expenses as a personal income tax deduction.

However, apart from the objection of principle that genuine business deductions should be treated as business deductions and not as personal deductions, there is a much more practical objection to leaving the existing provisions as they are.

This arises from the fact that some 68 percent of the families with earnings of $10,000 or less use the standard deduction form and do not itemize their personal deductions. As a result they do not get the benefit of the child care deduction. Yet these are often the people who most need and most deserve assistance from tax relief. They are people with modest to moderate incomes. They are people who are doing their best to be self-reliant and to improve their lot. They are often people who need a second income in the family to ward off the effects of inflation which others can bear with greater ease. They are people who need help and support, not discrimination against their efforts in the tax structure.

The bill allows a deduction for expenses paid or incurred during the taxable year for household services and for the care of one or more dependents of the taxpayer, but only if such expenses are "ordinary and necessary to enable the taxpayer to be gainfully employed." The deduction will be available on the same basis as any other business expense deduction subject to such rules and regulations as the Internal Revenue Service may prescribe.

It does not create another loophole in the income tax code. It is not a soft subsidy for those who do not need it. It simply is a correction of a basic inequity whose burden often falls heavily on those who have small capacity to bear it.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

S. 3227

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as (i), and by inserting after subsection (g) the following new subsection:

"(h) Certain Expenses Necessary for Gainful Employment.—

"(1) In general.—In the case of an individual who maintains a household which includes as a member one or more of the following qualified individuals.—

"(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e),

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself, or

"(C) the spouse of the taxpayer, if he or she is physically or mentally incapable of caring for himself or herself, the deduction allowed by subsection (a) shall include the expenses paid or incurred during the taxable year for household services and for the care of one or more individuals described in subparagraph (A), (B), or (C), but only if such expenses are ordinary and necessary to enable the taxpayer to be gainfully employed.

"(2) Maintaining a household.—For purposes of paragraph (1), an individual shall be treated as maintaining a household for any taxable year only if over half of the cost of maintaining the household during such period is furnished by such individual (or if such individual is married during such period, is furnished by such individual and his or her spouse).

"(3) Payments to related individuals.—Paragraph (1) shall not apply to any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) (relating to definition of dependent) or to a dependent described in paragraph (9) of such section."

SEC. 2. Section 62(2) of the Internal Revenue Code of 1954 (relating to trade and business deductions of employees) is amended by adding at the end thereof the following new subparagraph:

"(E) Certain expenses necessary for gainful employment.—The deductions allowed under section 162 which consist of expenses allowable by reason of the application of subsection (h) thereof, paid or incurred by the taxpayer in connection with the performance by him or by her of services as an employee."

SEC. 3. Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended—

(1) by striking out section 214 (relating to expenses for household and dependent care services necessary for gainful employment), and

(2) by striking out the item relating to section 214 in the table of sections for such part.

SEC. 4. The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

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By Mr. JAVITS (for himself, Mr. SCHWEIKER, Mr. PACKWOOD, Mr. TAFT, Mr. STAFFORD, Mr. CASE, Mr. BOGGS, Mr. BROOKE, Mr. SAXBE, Mr. MATHIAS, Mr. HATFIELD, Mr. PERCY, Mr. COOK, and Mr. STEVENS):

S. 3228. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964, and for other purposes. Referred to the Committee on Labor and Public Welfare.

### COMPREHENSIVE HEADSTART, CHILD DEVELOPMENT, AND FAMILY SERVICES ACT OF 1972

Mr. JAVITS. Mr. President, I introduce a bill designed to provide increased and more adequate Headstart, child development, and related family services. This is a joint proposal made by myself as ranking minority member of the Committee on Labor and Public Welfare and by a number of other Republican members of that committee: Senator ROBERT TAFT, Jr., Republican of Ohio, the ranking minority member of both the Subcommittee on Employment, Manpower and Poverty and the Subcommittee on Children and Youth, and Senators RICHARD S. SCHWEIKER, Republican of Pennsylvania, BOB PACKWOOD, Republican of Oregon, and ROBERT T. STAFFORD, Republican of Vermont. We are joined by the following cosponsors: Mr. CASE, Mr. BOGGS, Mr. BROOKE, Mr. SAXBE, Mr. MATHIAS, Mr. HATFIELD, Mr. PERCY, Mr. COOK, and Mr. STEVENS.

Mr. President, in vetoing S. 2007, the economic opportunity amendments of 1971, which included the child development title, President Nixon stated:

> We cannot and will not ignore the challenge to do more for America's children in their all-important early years. But our response to this challenge must be a measured, evolutionary, painstakingly considered one, consciously designed to cement the family in its rightful position as the keystone of our civilization.
>
> Further, in returning this legislation to the Congress, I do not for a moment overlook the fact that there are some needs to be served, and served now.

We share that commitment and agree that more needs to be done now. Accordingly, rather than let that matter drop, we have designed a new bill, which we hope will enjoy the support of the administration and our colleagues and become law at the earliest opportunity.

The bill authorizes $2.9 billion over a 3-year period for comprehensive child development and family service programs, compared with $2.1 billion over a 2-year period under the child development title of the vetoed bill. It also:

Emphasizes that acceptance of services provided under the act are to be entirely voluntary, as opposed to the more general child development emphasis under the vetoed bill;

Contains eligibility, fee and other provisions, extending coverage to children of all families, but with greater funds set aside for programs such as Headstart conducted for children from low-income families;

Provides for a variety of quality services, with an emphasis on free choice by parents;

Establishes a prime sponsorship "delivery system" with a more significant role for State governments; as a general matter, localities would be eligible if they have 50,000 population, compared with 5,000 under the vetoed bill; and

Places greater emphasis on child care centers as family centers, the provision of services to other family members and the involvement of parents in the programs.

There appears to be agreement between the administration and the Congress on, to use the President's words of February 19, 1969:

> . . . a national commitment to providing all American children an opportunity for a healthful and stimulating development during the first five years of life.

In his veto message of December 10, 1971, the President cited this objective as "laudable," but stated that he considered that purpose "overshadowed" in the vetoed bill by:

> Fiscal irresponsibility, administrative unworkability and family weakening implications of the system it envisions.

Whatever the validity of that judgment—and a number of us have disagreed with it—we have sought to design a proposal to meet the President's major objections, while maintaining our basic commitment to the principles which prompted many of us to support the vetoed bill.

### NEED FOR SERVICES FOR CHILDREN

Mr. President, our basic commitment is to provide each American child with the opportunity to reach his or her full potential and is not to provide all American children with child development services per se.

In those terms, by any measure, much needs to be done now:

There are more than 2.5 million children under age 6 in families with incomes below the poverty level—approximately $4,000 annually for a family of four—whose mothers do not work.

There are 1 million children under the age of 6 in the poverty category where mothers work.

There are approximately 2 million children between the ages of 6 and 14 in families below the poverty level where mothers work.

In the $4,000 to $7,000 income range—the "near poor"—there are more than 1 million preschool children and 1 million school-age children in families with mothers in the working force.

Mr. President, beyond this there are needs in other socioeconomic groups that must be recognzed. Overall, in 1971, 43 percent of the Nation's mothers worked outside the home. In 1948, the figure was only 18 percent. One in every three mothers with children under 6 is working today. In 1948, the figure was 1 in 8.

These mothers work to improve the economic well-being of their families, and many work out of absolute necessity; for example, in 1971, of all mothers of children under 6—in every income category—1.3 million were single parents bringing up children without a husband.

Most distressing is the continued existence of "latchkey" children—very young children left alone without any supervision at all. A 1965 study by the Department of Labor's Women's Bureau estimated that there were at least 18,000 such children in the Nation.

To meet these needs, we have at the present time approximately 378,000 positions funded under Headstart and 700,000 other licensed child care opportunities in the entire Nation.

The Family Assistance Act—H.R. 1—would add 875,000 positions in each year—for a total of 2 million opportunities, against the fact that there are 7.5 million children—almost four times as many in the poor and near-poor categories alone who need this opportunity.

### FISCAL RESPONSIBILITY

Mr. President, quite clearly, billions of dollars in Federal resources could well be spent on our children for supplementary educational and child care opportunities.

But the question is not how much is needed as an optimum, but what may now be added for these purposes, in an effective and beneficial way.

Our bill authorizes $1.2 billion for fiscal year 1974 and $1.6 billion for fiscal year 1975, with an additional authorization of $100 million for fiscal year 1973, for planning, training and technical assistance to prepare for the startup year; the vetoed title authorized $2 billion for fiscal year 1973, with sums for startup in the previous year. This rate of growth is consistent with the best judgment of witnesses before the committee.

###### ELIGIBILITY, FEES AND PRIORITIES

Mr. President, the bill contains no upward limit on eligibility, but does provide for channeling of resources through the following provisions relating to fees and priorities:

First, as under the vetoed bill, no fee may be charged for any family having an income below $4,320, based upon a family of four—the family assistance cutoff point.

The Secretary is authorized to establish a fee schedule above that point, subject to the following limitations:

That in no event may the charge exceed 10 percent of family income between $4,320 and $5,900 and 15 percent of incremental income between $5,900 and $6,960, the "lower living standard" determined by the Bureau of Labor Statistics for a family of four;

That the schedule must be designed to permit enrollment or continued participation as family income increases in accordance with ability to pay;

That fees below those prescribed by the Secretary may be permitted, upon application by any prime sponsor, when the Secretary determines it necessary to reflect actual living expenses in the prime sponsorship area, to meet special needs of economically disadvantaged persons, or to insure to meet special needs of economically disadvantaged persons, or to insure consistency with existing fee schedules for similar services under law.

The first provision was contained in the vetoed bill, having been worked out at great length with the administration; the latter two provisions are new provisions to take into account the desirability of insuring mobility generally and meeting special circumstances that may pertain in various localities.

Second, with respect to the application of funds, the bill provides a reservation of $600 million for Headstart and other programs for children of low-income families, compared with the $500 million under the vetoed bill. As the President said in his veto message:

> Headstart continues to perform both valuable day care and early education services, and an important experimentation and demonstration function which identifies and paves the way for wider application of successful techniques.

The bill—like the vetoed bill—provides also, as a general requirement that at least 65 percent of the funds on the local level—after the Headstart reservation—would be used for children and families below the Bureau of Labor Statistics "lower living standard".

This group will not have any appreciable tax break from the Revenue Act of 1971. That act, which provides a tax deduction up to $200 a month for child care out of the home, will not provide significant benefits below the $6,900 bracket.

We have included also specific reservations—along the lines of the vetoed bill—for children of migrants, Indians, bilingual children, and for the handicapped.

###### A VARIETY OF QUALITY SERVICES

In his veto message President Nixon identified two existing needs: "day care to enable mothers, particularly at the lowest income levels, to take full-time jobs" and secondly, "the protection of children from actual suffering."

Mr. President, these are legitimate categories in a statistical sense, but I consider it important to comment on the President's characterization.

I believe that it is very dangerous to put an uneven reference—particularly in the low-income range—on employment needs of mothers over the developmental needs of children.

We must, if we are ever to break the syndrome of poverty, view child care as a means of providing services to children whose mothers have determined it necessary to work; not just as a means of permitting or requiring that mothers work. Seen in this way, as a general matter, the needs of a child of a working mother will be no less nor more than the needs of any child for developmental services.

It is up to the parents in each case to decide what kind of care will enable their child to achieve his or her full potential; the proper role of the Federal Government in that context then is to insure that quality care is available to protect children from inadequate or injurious services—not to single out this or that economic or social group for a particular kind of care.

The bill we introduce is based upon the concept of freedom of choice and provides for a wide range of opportunities—including family group services and round-the-clock services, as well as programs in centers, so that parents who wish services for their children may meet individual needs.

###### ADMINISTRATIVE WORKABILITY

Mr. President, in his veto message the President voiced particular concern over the so-called delivery system of the vetoed legislation, particularly in respect to the number of potential prime sponsors and what he termed an "insignificant" role for State governments. The vetoed bill extended eligibility to any unit or combination, having a population of 5,000 or more persons.

We have sought to meet those concerns in this legislation.

Under our bill, the following would be eligible for prime sponsorship: any State; any unit of general local government or combination thereof having population of 50,000 or more; any unit of general local government, regardless of population, if it can demonstrate a particular demand for services and availability of resources in the area; any Indian tribal organization and any public or nonprofit agency, under certain circumstances.

Each sponsor would be required to demonstrate administrative capability, establish a child development and family service council, and meet other requirements, essentially as contained in the vetoed bill.

If all units having a population of 50,000 or more were approved, then the Secretary would deal directly with approximately 1,047 governmental prime sponsors, compared with the estimated 7,000 under the vetoed bill; even adding the other eligible sponsors this is considerably below the 1,700 grantees under the Headstart program which has been a successful Federal program.

The bill makes it clear that in the event that a unit of general local government or combination of such units meets the requirements, then its application is to be approved over that of a State for the same area; where localities submit applications for the same area, the Secretary is directed to approve that which he determines may provide more effectively comprehensive child development and family services under the act.

Mr. President, with these changes, parents and children in areas which would not be eligible for direct prime sponsorship—particularly the economically disadvantaged—are entitled to the same degree of autonomy and protection in their relationships to the States as larger units of government will have in relation to the Federal Government.

Accordingly, the bill we introduce today:

Requires any State sponsor to establish "local family service areas" in appropriate areas under its administration and to establish a local child development and family services council, responsible for approval of the program statement—operational plan—with respect to programs conducted in the area.

Directs the Secretary to reserve an allocation for each such area from sums allocated to the States, based upon fixed criteria.

Provides a clear and direct recourse for any project applicant in such area to the Secretary, alleging that its project was denied by the State by reason of discrimination, on the basis of race, sex, or national origin.

The bill also contains the direct funding and bypass provisions of the vetoed bill, which we have strengthened by authorizing the Secretary to utilize up to 10 percent for model programs through nonprofit agencies, compared with the 5 percent under the vetoed bill.

Mr. President, administrative feasibility is enhanced also by requiring each State to submit a State annual child-service plan setting forth any agreements it has reached with local prime sponsors for coordination, mutual exchange programs, technical assistance, and other functions. The Secretary is authorized to utilize up to 5 percent of a State's apportionment for this purpose.

Moreover, the role of the responsibilities of the prime sponsors vis-a-vis the various councils, have been clarified, and the requirements for program statements and for project applications have been greatly simplified.

Finally, we have sought to link preschool programs with those conducted in the schools under a special section for cooperative programs to be run by educational agencies; 5 percent of the funds under title I are set aside for that purpose.

### FAMILY-STRENGTHENING ASPECTS

As I noted, the President viewed the vetoed bill as having family-weakening implications. I disagreed with that judgment; in fact, for the most part the history of existing programs evidences that these efforts strengthen the family by strengthening its members.

Nevertheless, I think it is important that we make clear the intent of this bill. We have done so in a number of ways:

The statement of purposes makes clear that parents—and not the Federal Government—are responsible for the development of children, and that the services provided are to strengthen family life and are only for children of parents who have either determined it necessary or desirable to engage in employment, training, or education or to seek assistance in providing educational and related developmental services.

Child development services are to be supplemented by services to other members of the family including maternal health services, which the President mentioned; referral services for prenatal, medical, and nutritional care, to reduce infant and maternal mortality and other handicapping conditions; as well as programs to prepare adolescents for family responsibilities, so that child development centers can be family centers.

A number of provisions require the full involvement of parents in directing, conducting, and participating in programs and an emphasis on the employment of parents as paraprofessionals and professionals.

The child development and family services councils, on the State, local, and area level are each structured to give parents—who would constitute one-half of the council—a principal voice in the conduct of programs.

The bill contains each of the provisions, inserted by my New York colleague, Senator BUCKLEY, in the vetoed bill, making it clear that participation in the program is in all respects—and without exception—up to the parent or guardian.

I ask unanimous consent that those provisions be printed at this point in the RECORD.

There being no objection, the provisions were ordered to be printed in the RECORD, as follows:

### SPECIAL PROHIBITIONS

SEC. 217. (a) Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law.

(b) The Secretary is directed to establish appropriate procedures to ensure that no child shall be the subject of any research or experimentation under this Act unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

(c) A child participating in a program assisted under this Act shall not be required to undergo medical or psychological examination, immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment if his parent or guardian objects thereto in writing on religious grounds. . . ."

Mr. JAVITS. Mr. President, we have introduced this legislation as a separate bill because it would provide child development opportunities to a range of socioeconomic groups and because we do not wish to delay further the vital extension of the Economic Opportunity Act, S. 3010, introduced by Senator NELSON and myself, now before the Committee on Labor and Public Welfare.

I am committed to meaningful legislation on child development and shall take every necessary step to have it considered concurrently, although separately with the extension.

It is hoped that an accommodation may be reached on legislation, for the vital interests of the poor and the many others who may benefit from this legislation, will not be well served if we have only another confrontation.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a section-by-section analysis of the bill, together with the bill itself.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

### S. 3228

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Comprehensive Headstart, Child Development, and Family Services Act of 1972."

### STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) millions of children in the Nation, by reason of poverty or other debilitating factors, lack a full opportunity, particularly during early childhood years, to receive adequate educational, nutritional, health and other services sufficient to enable them to reach their full potential;

(2) in exercising their moral and legal rights and responsibilities in respect to their children and families, many mothers, and single parents have determined it necessary or desirable to seek such services for their children in order to engage in employment, training, or education on a full- or part-time basis during hours when their children would ordinarily be in the home or to otherwise enhance the well being of their families by seeking supplemental educational and other services for their children and related services for other members of their families; and

(3) while there have been increased child care and developmental services for children of working mothers and single parents and while Headstart and similar programs have provided supplemental educational and other services for children, such services have not been made available to families to the extent that parents consider it necessary to contribute to the full development of their children and to improve the economic well being of their families and to otherwise strengthen family life.

(b) It is the purpose of this Act to provide a variety of quality family-centered child care and development service and other services to families, to assist parents in providing their children with an opportunity for a healthful and stimulating development regardless of economic, social and family backgrounds, with priority to those families and children with economic or other special needs, in a manner designed to strengthen family life and to ensure decisionmaking at the community level through a partnership of parents, State and local governments and the Federal Government, building upon the experience of Headstart and other existing programs.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) For the purpose of carrying out this Act, there is authorized to be appropriated $1,200,000,000 for the fiscal year ending June 30, 1974, and $1,600,000,000 for the fiscal year ending June 30, 1975. Any amounts appropriated for each fiscal year which are not obligated at the end of such fiscal year may be obligated in the succeeding fiscal year.

(b) For the purpose of providing training, technical assistance, planning, and such other activities (including activities authorized under section 107) as the Secretary deems necessary and appropriate to prepare for the implementation of this Act, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973.

(c) Of the amounts appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall allocate not less than 90 per centum only for the purposes of title I of this Act and the remainder shall be allocated only for the purposes of title II of this Act.

(d) (1) For the purpose of affording adequate notice of funding available under this Act such funding for grants, contracts, or other payments under this Act is authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(2) In order to effect a transition to the advance funding method of timing appropriation action, paragraph (d) (1) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

### DEFINITIONS

SEC. 4. As used in this Act, the term—

(1) "Secretary" means the Secretary of Health, Education, and Welfare;

(2) "State" means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(3) "child development and family service programs" means programs on a full-day or part-day basis which provide the educational, nutritional, health, and other services needed to provide the opportunity for children to attain their full potential, including services to other family members related to the full educational and other development of children;

(4) "children" means individuals who have not attained the age of fifteen;

(5) "economically disadvantaged children" means any children of a family having an annual income below the lower living standard budget (adjusted for regional and metropolitan, urban, and rural differences, and family size), as determined annually by the Bureau of Labor Statistics of the Department of Labor;

(6) "handicapped children" includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children or children with specific learning or other disabilities who by reason thereof require special education and related services;

(7) "program" includes any program, service, or activity, which is conducted full or part time, day or night, in special facilities, in schools, in neighborhood centers, or in

homes, in group homes or in family group homes or which provides child development and family services for children whose parents are working or receiving education or training and related family services;

(8) "parent" means any person who has day-to-day parental responsibility for any child;

(9) "single parent" means any person who has sole day-to-day responsibility for any child;

(10) "working mother" means any mother who requires child development and family services under this Act in order to undertake or continue full- or part-time work, training, or education outside her home;

(11) "minority group" includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, children who are from environments in which a dominant language is other than English and who, as a result of language barriers, may need special assistance, and, for the purpose of this paragraph, Spanish-surnamed Americans include persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

(12) "bilingual" means, but is not limited to, persons who are Spanish surnamed, American Indian, Oriental, Portuguese, or others who have learned during childhood to speak the language of the minority group of which they are members and who, as a result of language barriers, may need special assistance;

(13) "local educational agency" means any such agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

(14) "institution of higher education" means any such institution as defined in section 1201(a) of the Higher Education Act of 1965;

(15) "low-income family" means a family whose annual income is less than the "poverty level" as defined by the Director of the Office of Economic Opportunity;

(16) "unit of general local government" shall mean any public agency having general governmental powers substantially similar to those of a city.

## TITLE I—HEADSTART, CHILD DEVELOPMENT AND FAMILY SERVICES PROGRAMS

### FINANCIAL ASSISTANCE

SEC. 101. The Secretary of Health, Education, and Welfare shall provide financial assistance to prime sponsors and to other public and nonprofit agencies and organizations in accordance with the provisions of this title for carrying out child development and family service programs under this title.

### USES OF FUNDS

SEC. 102. Funds available for this title may be used for planning, establishing, maintaining, and operating the following child development and family service programs and activities including but not limited to:

(1) Headstart and similar programs focused upon pre-school children in low-income and other families providing such comprehensive health, nutritional, educational, and other services as parents deem necessary to enable their child to achieve his or her full potential, including full day, part-day programs and programs for all or part of the week and for such months of the year as is deemed desirable by parents, and related programs for other children;

(2) child care for preschool and other children of a quality which insures that the health, nutritional, education, and other services which parents deem necessary to enable their child to achieve his or her full potential are provided during times when their mothers engage in employment, training or education on a full- or part-time basis;

(3) other programs designed to support and enhance family life and contribute to the full development of children and other family members. Such programs may include, but are not limited to, the following—

(A) referral services for family planning, and purchase of such services when not otherwise available;

(B) referral services for prenatal, medical, and nutritional care, and purchase of such services when not otherwise available, designed to reduce infant and maternal mortality and incidence of mental retardation and other handicapping conditions;

(C) programs to prepare adolescents and other family members for family responsibilities, including assistance to public secondary schools and nonprofit organizations to implement courses for adolescents and providing opportunities for the participation of adolescents in child development and family service programs authorized under this title;

(4) emergency child care programs for children of parents who are sick, incapacitated, or for other urgent reasons, temporarily unable to provide adequate care for their children;

(5) programs designed (i) to meet the special needs of minority group, Indian, and migrant children with particular emphasis on the needs of children from bilingual families for the development of skills in English and the other language spoken in the home, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of minority groups which belong to their communities and the role of members of such minority groups in the history and cultural development of the Nation and of the region in which they reside;

(6) diagnosis, identification, and treatment of visual, hearing, speech, nutritional, and other physical, mental, and emotional barriers to full participation in programs, including programs for preschool and other children who are emotionally disturbed;

(7) special activities designed to identify and ameliorate identified physical, mental, and emotional handicaps and special learning disabilities as an incorporated part of programs conducted under this title and, where necessary because of the severity of such handicaps, establishing, maintaining, and operating separate child development and family services programs designed primarily to meet the needs of handicapped children, including emotionally disturbed children;

(8) preservice and inservice training for parents, professional and paraprofessional personnel and volunteers for child development and family service programs;

(9) allowances for transportation and other costs with respect to children where such costs are necessary to and directly related to such child's participation in programs under this title;

(10) rental, remodel, renovation, alteration, construction or acquisition of facilities, including mobile facilities, and the acquisition of necessary equipment and supplies;

(11) staff and other administrative expenses of child development and family service councils, and project advisory committees established and operated in accordance with the provisions of this title; and

(12) such other services and activities as the Secretary deems appropriate in furtherance of the purposes of this title.

### STATE AND LOCAL PRIME SPONSORS

SEC. 103. (a) In accordance with the provisions of this section, the following may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements directly with the Secretary to carry out programs under this title within a State:

(1) any State;

(2) any unit of general local government or any combination of such units having a total population of fifty thousand or more persons on the basis of the most satisfactory current data;

(3) any unit of general local government or any combination of such units, without regard to population, subject to a demonstration by the applicant of capability to carry out adequately a comprehensive child development and family service program, and of a particular demand for services and availability of resources within the area to be served;

(4) any Indian tribal organization;

(5) any other public agency or private nonprofit agency meeting the requirements of subsection (d), (h), or (i) of this section.

(b) Such applicants under this subsection may be designated, upon the approval by the Secretary of a prime sponsorship plan which—

(1) describes the prime sponsorship area to be served;

(2) sets forth satisfactory provisions for establishing and maintaining a child development and family service council which meets the requirements of section 104;

(3) provides that the prime sponsor shall be responsible for developing and preparing for each fiscal year a prorgam statement in accordance with section 105 and any modification thereof and for selecting or establishing an agency or agencies to administer child development and programs in the prime sponsorship area;

(4) sets forth arrangements under which the child development and family services council will be responsible for approving program statements and the selection or establishment of an agency or agencies under paragraph (3) of this section and for evaluating child development and family service programs, conducted in the prime sponsorship area;

(5) set forth procedures to insure that all project applicants for financial assistance in the area to be served are given due consideration in accordance with regulations promulgated by the Secretary;

(6) provides assurances that the prime sponsor has the capability (through the administering agency or agencies established or selected pursuant to paragraphs (3) and (4) of this subsection) to provide directly or by contract or arrangement with State, local, or other public agencies or other nonprofit organizations in an effective and comprehensive manner—

(A) child-related family, social, and rehabilitative services;

(B) coordination with educational agencies and providers of educational services;

(C) health (including family planning) and mental health services;

(D) nutrition services;

(E) training of professional and paraprofessional personnel;

(F) full-time administrative personnel to conduct the program;

(G) such other services, including transportation, as are necessary to participation of children in the program; and

(7) in the case of an applicant for prime sponsorship which is a State, designates for the purpose of administering programs under this title, local family service areas within the prime sponsorship area, whose boundaries are political jurisdictions or other appropriate areas;

(8) sets forth procedures with respect to each such local family service area, pursuant to regulations promulgated by the Secertary, for—

(A) the appointment of a director for each such local family service area, to be responsible to the administering agency or agencies, established or selected under paragraphs (3) and (4) of this subsection for the administration of programs in such area;

(B) the establishment and maintenance of a local child development and family service council for each such area, to the fullest extent practicable, in the same manner and having the same composition as the child development and family service council required under section 104 of this Act, which council shall be responsible in cooperation with the director for the approval of that portion of the prime sponsor program statement to be submitted in accordance with section 105 relating to programs to be conducted in such local family service area;

(C) an appeal directly to the Secretary by any approved local child development and family service council whenever such council alleges that with respect to its portion of the program statement the State has failed to comply with the provisions of the program statement or the provisions of the Act.

(c) (1) The Secretary shall approve a prime sponsorship plan submitted by a State or other applicant under subsection (a) if he determines that the plan so submitted meets the requirements of this section where applicable, and includes adequate administrative and other provisions for carrying out effectively comprehensive child development and family service programs in the area to be served.

(2) In the event that the prime sponsorship plan of any applicant under paragraph (2), (3), or (4) of subsection (a) of this section includes any common geographical area with that covered by another such applicant, the Secretary shall designate to serve such area the applicant which he determines has the capability of more effectively carrying out the purposes of this Act with respect to such area and which has submitted a plan which meets the requirements of this section and includes adequate administrative and other provisions for carrying out effectively comprehensive child development and family service programs in such area.

(3) In the event a State has submitted a prime sponsorship plan under subsection (a) of this section to serve a geographical area covered by the plan of an applicant under paragraphs (2), (3), or (4) of subsection (a), the Secretary shall approve the latter plan after carrying out the procedures in subsection (e), if he determines that the plan so submitted meets the applicable requirements of this section and includes adequate administrative and other provisions for carrying out effectively comprehensive child development and family services programs in such area.

(d) The Secretary may approve a prime sponsorship plan submitted under paragraph (5) of subsection (a) by any public or private nonprofit agency, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization or migrant agricultural workers, organization of Indians, employer organization, labor union, employee or labor-management organization, or public or private educational agency or institution, if he determines that the plan so submitted meets the applicable requirements of this section and includes—

(1) provisions setting forth arrangements for serving children in a neighborhood or other area possessing a commonality of interest in the area of any locality with respect to which there is no prime sponsorship designation in effect or with respect to any portion of an area where the prime sponsor is found not to be satisfactorily implementing child development and family service programs which adequately meet the purposes of this title, or for making available special services, in accordance with criteria established by the Secretary, designed to meet the needs of economically disadvantaged or preschool children or children of working mothers or single parents; or

(2) arrangements for providing comprehensive child development and family service programs on a year-round basis to children of migrant agricultural workers and their families; or

(3) arrangements for carrying out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, or bilingual preschool children or to demonstrate the feasibility of conducting child development and family services programs on the basis of a neighborhood or other area possessing a commonality of interest in the area of any locality.

(e) The Governor or other chief executive officer shall be given not less than thirty nor more than sixty days to review prime sponsorship plans filed by an applicant other than a State, to offer recommendations to the applicant, and to submit comments to the Secretary.

(f) A prime sponsorship plan submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

(g) (1) If any party is dissatisfied with the Secretary's final action under subsection (f) with respect to the disapproval of its plan submitted under this section or the withdrawal of its prime sponsorship designation, such party may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such party is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) When a unit (or combination of units) of general government is maintaining a pattern and practice of exclusion of minorities or of economically disadvantage children, the Secretary shall give preference in the approval of applications for prime sponsorship to an alternative unit of government or, notwithstanding the provisions of subsection (d) of this Act, to a public or private nonprofit agency or organization in the area representing the interests of minority and economically disadvantaged persons.

(i) In the event that an applicant eligible under subsection (a) has not submitted a program statement under section 105 or the Secretary has not approved a program statement so submitted, or where the Secretary has not designated or has withdrawn designation of prime sponsorship under this section, or where the needs of migrants, preschool-age children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served, the Secretary may directly fund projects, including those in rural areas without regard to population, that he deems necessary in order to serve the children of the particular area.

### CHILD DEVELOPMENT AND FAMILY SERVICE COUNCILS

SEC. 104. (a) Each prime sponsor designated under section 103 shall establish and maintain a Child Development and Family Services Council composed of not less than 10 members as follows—

(1) not less than half the members of such Council shall be parents of children served in programs under this Act chosen in accordance with the provisions of paragraph (1) of subsection (b) of this section.

(2) the remaining members shall be appointed by the chief executive officer or the governing body, whichever is appropriate, of the prime sponsor to represent the public, but (A) not less than half of such members shall be persons who are broadly representative of the general public, including government agencies, public and private agencies and organizations in such fields as education, economic opportunity, health, welfare, employment and training, business or financial organizations or institutions, labor unions, and employers, and (B) the remaining members, the number of which shall be either equal to or one less than the number of members appointed under clause (A), shall be persons who are particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child and family services, except that the Secretary may waive the requirement of this clause (B) to the extent that he determines, in accordance with regulations which he shall prescribe, that such persons are not available to the area to be served; and

(3) in establishing a Child Development and Family Services Council under this section, the prime sponsor shall give due consideration to the membership of day care coordinating bodies then existing in the area to be served.

(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, each prime sponsor designated under section 103 shall provide, with respect to the Child Development and Family Services Councils established and maintained by such prime sponsor, that—

(1) the parent members described in paragraph (1) of subsection (a) of this section shall be chosen as follows:

(A) in the case of Councils established by prime sponsors which are States, by the parent members of local child development and family service councils established under section 103; and

(B) in the case of Councils established by prime sponsors other than States (and by States with respect to local family service areas) initially by the membership of Headstart policy committees and of other organizations conducting child development, child care and day care programs in the prime sponsorship area and, at the earliest practicable time, in such a manner as to insure equitable representation of the various segments of children served under programs conducted in the prime sponsorship area under this title;

(2) the terms of office and any other policies and procedures of an organizational nature, including nomination and election procedures, are appropriate in accordance with the purposes of this title;

(3) such Council shall have responsibility for approving program statements and the establishment or selection of an administering agency or agencies, and for evaluating child development and family service programs.

### PROGRAM STATEMENTS

SEC. 105. (a) Financial assistance under this title may be provided by the Secretary for any fiscal year to a prime sponsor designated under section 103 only pursuant to a program statement which is submitted by such prime sponsor directly to and approved by the Secretary in accordance with the provisions of this title. Any such program statement shall set forth a comprehensive program for providing child development and family services in the prime sponsorship area which—

(1) identifies child development and family service needs and basic goals within the area and describes the purposes for which the financial assistance will be used and the basic policies and procedures to be followed in carrying out provisions under this title;

(2) meets the needs of children and families in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, including infant care and before and after school programs for children in school with priority to children who have not attained six years of age;

(3) (A) provides that funds received under section 112(a) will be used for programs and services focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects by reserving for such projects from such funds in any fiscal year an amount at least equal to the aggregate amount received by public or private agencies and organizations within the prime sponsorship area for programs during the fiscal year ending June 30, 1973, under section 222(a) (1) of the Economic Opportunity Act of 1964, and (B) provides that programs receiving funds under section 112(c) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of the cost of programs receiving such funds for the purpose of serving economically disadvantaged children as determined under paragraph (5) of section 4;

(4) gives priority thereafter to providing programs and services to children of single parents and working mothers not covered under paragraph (3);

(5) provides that the prohibition of section 218 shall be met with respect to each of the programs to be conducted in the prime sponsorship area;

(7) provides, in the case of a prime sponsor located within or adjacent to a metropolitan area, for coordination with other prime sponsors located within such metropolitan area, and arrangements for cooperative funding where appropriate, and particularly for such coordination where appropriate to meet the needs for services to children of parents working or participating in training or otherwise occupied during the day within a prime sponsorship area other than that in which they reside;

(8) provides for coordination of other programs providing child development, child care and family services, and manpower training services, including but not limited to educational, health, employment and other social services with program conducted under this Act;

(9) provides equitably for the special needs of minority group children, children of migrant agricultural workers and other significant segments of the economically disadvantaged including dissemination of information relating to programs in the functional language of the parents;

(10) provides for such fiscal control and funding accounting procedures as the Secretary may prescribe to assure proper disbursement of and accounting for Federal funds paid to the prime sponsor;

(b) No program statement or modification thereof submitted by a prime sponsor under this section shall be approved by the Secretary unless he determines, in accordance with regulations which the Secretary shall prescribe, that—

(1) each community action agency or single-purpose Headstart agency in the area to be served previously responsible for the administration of programs under this title or under section 222(a) (1) of the Economic Opportunity Act of 1964 has had an opportunity to submit comments to the prime sponsor and to the Secretary;

(2) the local educational agency for the area to be served and other appropriate educational and training agencies and institutions have had an opportunity to submit comments to the prime sponsor and to the Secretary; and

(3) the Governor or other chief executive officer of the State has had an opportunity to submit comments to the prime sponsor and to the Secretary.

(c) A program statement submitted under this section may be disapproved or a prior approval withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such program statement, including a statement of the reasons, (2) a reasonable time to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

(d) In order to contribute to the effective use of child development services developed and operated under this title the Secretary shall require that, wherever feasible, agencies providing child development and child care under the Social Security Act shall purchase services from those facilities funded by the prime sponsor, and in any event programs providing child development and child care under the Social Security Act shall be coordinated with programs conducted by the prime sponsor. In order to encourage such coordination, the Secretary may accept those amounts of non-federal share contributions which exceed matching requirements under this Act as meeting the non-federal share contributions under the Social Security Act.

### PROJECT APPLICATIONS

SEC. 106. (a) Financial assistance under this title may be provided to a project applicant for any fiscal year only pursuant to a project application which is submitted by a public or private agency and which provides—

(1) that funds will be provided for carrying out programs under this title only to a qualified public or private agency or organization, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, private organization interested in program for such children, employer, or business organization, labor union, employee or labor-management organization, or public or private educational agency or institution;

(2) for establishing and maintaining project policy committees composed of not less than ten members as follows—

(A) not less than half of the members of each such committee shall be parents of children served by such project, and

(B) the remaining members of each such committee shall consist of (i) persons who are representative of the community, and (ii) at least one person who is particularly skilled by virtue of training or experience in child development, child health, child welfare, child care or other child services, except that the Secretary may waive the requirement of this clause (i) where he determines, in accordance with regulations which he shall prescribe, that such person is not available to the area to be served;

(3) for direct participation of such policy committees in the development and preparation of project applications under this title;

(4) that project policy committees shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, including policies with respect to planning, overall conduct, budgeting, location of centers and facilities, and direction and evaluation of projects;

(5) that adequate provision will be made for training and other administrative expenses of such policy committees;

(6) that programs assisted will provide for such comprehensive health, nutritional, education, and other services, as are necessary for the full development of each participating child;

(7) that programs will provide for the full participation of parents and other family members in the conduct, overall direction and evaluation of programs;

(8) that programs will provide to the extent feasible for the employment of parents and other members of the family as professionals and paraprofessionals and includes to the extent feasible a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

(9) that adequate provision will be made for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons are fully informed of project activities;

(10) that with respect to programs assisted under this title—

(A) no charge will be made with respect to any child who is a member of any family with an annual income equal to or less than $4,320 with appropriate adjustments in the case of families having more than two children, except to the extent that payment will be made by a third party (including a public agency); and

(B) such charges as the Secretary may provide will be made with respect to any child of any other family, in accordance with an appropriate fee schedule established by him, designed to permit enrollment or continued participation in the program as family income increases and based upon the ability of the family to pay, which payment may be made in whole or in part by a third party in behalf of such family, except that any such charges with respect to any family with an income of less than the lower living standard budget (as determined in accordance with paragraph (5) of section 4) shall not exceed the sum of (i) an amount equal to 10 per centum of any family income which exceeds the highest income level at which no charges would be made with respect to children of such family under subparagraph (A) but does not exceed 85 per centum of such lower living standard budget, and (ii) an amount equal to 15 per centum of any family income which exceeds 85 per centum of such lower living standard budget but does not exceed 100 per centum of such lower living standard budget and, if more than two children from the same family are participating, additional charges may be made not to exceed the sum of the amounts calculated in accordance with clauses (i) and (ii) with respect to each such additional child or, the actual cost of services, whichever is less: *Provided*, That charges less than those prescribed by the Secretary pursuant to this paragraph (B) may be made with respect to any programs, where the Secretary, upon application of any prime sponsor, determines that such lower charges are necessary in order to take into account actual living expenses within the prime sponsorship area, to meet the special needs of economically disadvantaged persons within such area, or to insure consistency with existing fee schedules for similar services under other laws;

(11) that children will in no case be excluded from the programs operated pursuant to this title because of their participation in nonpublic preschool or school programs or because of the intention of their parents to enroll them in nonpublic schools when they attain school age;

(12) that there are assurances satisfactory to the Secretary that the non-Federal share requirements will be met; and

(13) that provision will be made for such

fiscal control and fund accounting procedures as the Secretary shall prescribe to assure proper disbursement of and accounting for Federal funds.

(b) A project application may be approved by a prime sponsor upon its determniation that such application meets the requirements of this section and that the programs provided for therein will otherwise further the objectives and satisfy the appropriate provisions of the prime sponsor's program statement as approved pursuant to section 105.

(c) A project application submitted directly to the Secretary by a public or nonprofit private agency may be approved by the Secretary in special circumstances upon his determination that it meets the requirements of subsection (a) of this section and that direct funding is necessary to insure the purposes of this Act.

(d) Any project applicant alleging that a prime sponsor disapproved an application for funds under this title on the basis of discrimination because of race, color, creed, or national origin, may apply directly to the Secretary for funds under this title. Each such application shall contain or be accompanied by such information as the Secretary may reasonably require. Upon approval of an application, the Secretary is authorized to make grants to the extent practicable in accordance with the provisions of this title.

### ANNUAL FAMILY SERVICE PLANS

Sec. 107. (a) Any State desiring to receive additonal financial assistance pursuant to subsection (d) of section 112, shall submit (in addition to a program statement in respect to fiscal years after that ending June 30, 1973), an annnal family service plan.

(b) Such plan shall be approved by the Secretary upon a determination that it sets forth adequate agreements between State and local prime sponsors for maximium coordination of programs conducted under this Act within the State and for full utilization of resources within the State, including, but not limited to agreements with respect to—

(1) the determination of general child development and family service goals and needs throughout the State;

(2) comprehensive planning of child development and family service programs to be conducted within the State;

(3) arrangements under which State agencies shall assist in the establishment of Child Development and Family Services Councils and in strengthening the capability of such Councils to participate effectively in programs under this Act where requested by local prime sponsors;

(4) arrangements under which State agencies shall assist in providing health, educational, family planning, education, nutrition, and other components of child development and family service programs and facilities and training related thereto where requested by local prime sponsors in the development and implementation of program statements submitted by local prime sponsors;

(5) arrangements for conducting programs for the exchange of personnel involved in child development and family service programs within the State;

(6) procedures for assessing State and local licensing codes and teaching standards as they relate to Headstart, child development and family service programs within the State; and

(7) procedures for disseminating model program information and the results of research on programs for children and families.

### SPECIAL COOPERATIVE PROGRAMS WITH EDUCATIONAL INSTITUTIONS AND OTHER PROJECT SPONSORS

Sec. 108. (a) The Secretary shall provide assistance made available for the purposes of this section pursuant to paragraph (b) (6) of section 112 of this title to educational agencies and institutions to be used by such agencies and institutions in cooperation with other project applicants pursuant to program statements for the purpose of planning, carrying out and evaluating cooperative programs and activities designed to provide continuity between preschool programs, after school programs and educational and related programs conducted by such agencies and institutions, including those conducted under the Elementary and Secondary Education Act of 1965 such as joint design of programs, provision for interchange and progression of children between programs, cooperative use of professional, technical and administrative personnel and development of sequential programs to be conducted by several component agencies or organizations.

(b) Nothing in this section shall be construed to limit the opportunity of any agency or institution receiving assistance under this section from otherwise receiving assistance under this title.

### ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION

Sec. 109. (a) Applications for financial assistance for projects including construction may be approved only if the prime sponsor, pursuant to regulations promulgated by the Secretary determines that construction of such facilities is essential to the provision of adequate child development and family services, and that rental, renovation, remodeling, or leasing of adequate facilities is not practicable.

(b) If any facility assisted under this title shall cease to be used for the purposes for which it was constructed, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds, unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(c) All laborers and mechanics employed by contractors or subcontractors on all construction, remodeling, renovation, or alteration projects assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(d) In the case of loans for construction, the Secretary shall prescribe the interest rate and the period within which such loan shall be repaid, but such interest rates shall not be less than 3 per centum per annum and the period within which such loan is to be repaid shall not be more than twenty-five years.

(c) The Federal assistance for construction may be in the form of grants or loans, provided that total Federal funds to be paid to other than public or private nonprofit agencies and organizations will not exceed 50 per centum of the construction cost, and will be in the form of loans. Repayment of loans shall, to the extent required by the Secretary, be returned to the prime sponsor from whose financial assistance the loan was made, or used for additional loans or grants under this title. Not more than 15 per centum of the total financial assistance provided to a prime sponsor under this part shall be used for construction of facilities, with no more than 7½ per centum of such assistance usable for grants for construction.

(f) In the case of a project for the construction of facilities and in the development of plans for such facilities due consideration shall be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

### USE OF PUBLIC FACILITIES FOR CHILD DEVELOPMENT AND FAMILY SERVCE PROGRAMS

Sec. 110. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within nine months after enactment of this Act report to the Congress with respect to the extent to which facilities owned or leased by Federal deparments, agencies, and independent authorities may be made available to public and private nonprofit agencies and organizations, through appropriate arrangements, for use as facilities for child development and family service programs under this title during times and periods when not utilized fully for their usual purposes, together, with his recommendations (including recommendations for changes in legislation) or proposed actions for such use.

(b) The Secretary may require, as a condition to the receipt of assistance under this title, that any prime sponsor under this title agree to conduct a review and provide the Secretary with a report as to the extent to which facilities owned or leased by such prime sponsor, or by other agencies or institutions in the prime sponsorship area, could be made available, through appropriate arrangements, for use as facilities for child development and family service programs under this title during times and periods when not utilized fully for their usual purposes, together with the prime sponsors, proposed actions for such use.

### PAYMENTS

Sec. 111. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 112 the Federal share of the costs of programs, services, and activities, in accordance with plans or statements which have been approved as provided in this title. In making such payment to any prime sponsor, the Secretary shall include in such costs an amount for staff and other administrative expenses for the Child Development and Family Service Council not to exceed an amount which is reasonable when compared with such costs for other prime sponsors.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay an amount not in excess of 90 per centum of the cost of carrying out programs, services, and activities under this title. The Secretary may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the child development and related family service needs of economically disadvantaged children.

(2) The Secretary shall pay an amount equal to the full cost of providing child development and family service programs for children of migrant agricultural workers and their families under this title.

(3) The Secretary shall pay to each prime sponsor approved under section 103 an amount equal to the full cost of providing child development and family service programs for children in Indian tribal organizations.

(c) The non-Federal share of the costs of programs assisted under this title may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes) reasonably evaluated, or union or employer contributions. Fees collected for services provided pursuant to section 106(a)(10) may be used to make up the non-Federal share, and may also be used by the project applicant for the same purposes as payments under this section, except that, in case of projects assisted under a program statement, such fees shall be turned over to the appropriate prime sponsor for distribution in the same manner as the prime sponsor's allocation under section 112(c).

(d) If, with respect to any fiscal year, a prime sponsor or project applicant provides non-Federal contributions for any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements for such contributions for the subsequent fiscal year under this title.

(e) No State or locality shall reduce its expenditures for activities for children and their families by reason of assistance under this title.

### APPORTIONMENT OF FUNDS

SEC. 112. (a) From the amounts available for carrying out programs under this title, $600,000,000 shall first be used for the purpose of providing assistance for programs under this title focused upon pre-school children and services for other family members from low-income families, giving priority to continued financial assistance for Headstart projects.

(b) Of the amounts available for this title (after making the reservation provided for in subsection (a)) the Secretary shall reserve for use under title I, the following:

(1) not less than that proportion of the total amount available as is equivalent to that proportion which the total number of children of migrant agricultural workers bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children of migrant agricultural workers on an equitable basis, and to the extent practicable in proportion to the relative numbers of children served in each such program;

(2) not less than that proportion of the total amount available as is equivalent to that proportion which the total number of children in Indian tribal organizations bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children in Indian tribal organizations on an equitable basis, and to the extent practicable in proportion to the relative numbers of children in each such program;

(3) not less than 10 per centum of the total amount available which shall be made available for the purposes of section 102(7) of this title (relating to special activities for handicapped children);

(4) not less than 10 per centum of the total amount available which shall be made available under section 103(d)(3) of this title (relating to model programs); and

(6) not to exceed 5 per centum of the total amount available, which shall be made available, under section 108 of this title (relating to special cooperative programs).

(c) The Secretary shall allocate the remainder of the amount available for this title (after making the reservations provided for in subsections (a) and (b)) among the States so as to provide the following geographical distribution:

(A) 50 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the State, excluding those children in the State who are eligible for services funded under paragraphs (1) and (2) of subsection (b), bears to the number of economically disadvantaged children in all the States, excluding those children in all the States who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section;

(B) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children through age 5 in the State, excluding those children in the State who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section, bears to the number of children through age 5 in all the States, excluding those children in all the States who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section;

(C) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the State, excluding those children in the State who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section, bears to the total number of children of working mothers and single parents in all the States, excluding those children in all the States who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section.

(d) Not to exceed 10 per centum of the total funds allotted for use within a State pursuant to subsection (b)(2) may be made available to carry out the provisions of section 107 of this title.

(e) The Secretary shall apportion the remainder of the amount allotted for use within each State (after making allocations under subsection (d) among local family service areas and areas to be served by prime sponsors in each such State so as to provide the following geographical distribution:

(1) 50 per centum thereof so that the amount apportioned to each such area bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the area served by prime sponsors bears to the number of economically disadvantaged children in the State;

(2) 25 per centum thereof so that the amount apportioned to each such area bears the same ratio to such 25 per centum as the number of children through age 5 in the area to be served by the prime sponsor bears to the number of children through age 5 in the State;

(3) 25 per centum thereof so that the amount apportioned to each such area bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the area bears to the number of children of working mothers and single parents in the State.

(f) The portion of any allotment or apportionment under subsection (c) or (e) for a fiscal year which the Secretary determines will not be required, for the period for which such allotment or apportionment is available, for carrying out programs under this title shall be available for reallotment or reapportionment from time to time, on such dates during such period as the Secretary shall fix, to other States in the case of allotments under subsection (c), or to other local family service areas and areas to be served by alternate prime sponsors in the case of apportionments under subsection (e), in proportion to the original allotments to such States under subsection (c), or the original apportionments to such local family service areas and areas to be served by alternate prime sponsors under subsection (e), for such year, but with such proportionate amount for any of such States or such areas being reduced to the extent it exceeds the needs of such State or such area for carrying out activities approved under this Act, and the total of such reductions shall be similarly reallotted among the States or reapportioned among such areas whose proportionate amounts are not so reduced. Any amount reallotted to a State or reapportioned to an area under this subsection during a year shall be deemed part of its allotment or apportionment under subsection (c) or subsection (e) for such year.

(g) The Secretary is directed to adjust any allotment or apportionment under subsection (c) or (e) for any fiscal year in order to insure priority to the continuation of Headstart programs pursuant to paragraph (a) of this section and paragraph (a)(3) of section 105.

(h) In determining the numbers of children for purposes of reserving, allotting, and apportioning funds this section, the Secretary shall use the most recent satisfactory data available to him.

(i) As soon as practicable after funds are appropriated to carry out this title for any fiscal year, the Secretary shall publish in the Federal Register the allotments and apportionments required by this section.

## TITLE II—SUPPORTIVE SERVICES AND SPECIAL ACTIVITIES

### SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 211. The Secretary is authorized to—

(a) make payments to provide financial assistance to enable individuals employed or preparing for employment in programs assisted under this Act, including volunteers, to participate in programs of preservice or inservice training for professional and nonprofessional personnel, to be conducted by any compentent public or private agency or organization carrying out such program or any institution of higher education, including a community college, or by any combination thereof. The Secretary may reserve for the purposes of this subsection not more than 50 percent of the amounts available under this title for any fiscal year;

(b) make technical assistance available to prime sponsors and to project applicants participating or seeking to participate in programs assisted under this Act on a continuing basis to assist them in planning, developing, and carrying out programs under this Act;

(c) make an evaluation of Federal involvement in activities and services for children and families by contract with any public or private agency, organization, or individual. Prime sponsors and project applicants assisted under this Act and departments and agencies of the Federal Government shall, upon request by the Secretary, make available, consistent with other provisions of law, such information as the Secretary determines is necessary for purposes of making the evaluation required under this subsection. The Secretary shall reserve for the purposes of this subsection not less than 1 per centum, and may reserve for such purposes not more than 2 per centum, of the amounts available under this title for any fiscal year;

(d) conduct research efforts directly or through grants, contracts, or other arrangements with prime sponsors or public or private agencies (including other governmental agencies, organizations, institutions, and individuals) relating to the purpose of the Act. The Secretary shall establish procedures to assure that the result of research are reflected in the conduct of programs under this Act;

(e) conduct special demonstration experimental and model programs, including programs for children of employees of the Federal, Government, which demonstration, experimental, and model programs shall be subject to the fullest extent practicable to each of the requirements with respect to project applications under section 106;

(f) establish procedures to assure that adequate nutrition services will be provided in programs conducted under this Act. Such services shall make use of the special food service program for children as defined under section 13 of the National School Lunch Act of 1946 and the Child Nutrition Act of 1966, to the fullest extent appropriate and consistent with the provisions of such Acts; and

(g) report to Congress not later than September 1, 1975, summarizing his activities and accomplishments under this section during the preceding fiscal year and the grants, contracts, or other arrangements entered into and making such recommendations (including recommendations for legislation) as he may deem appropriate.

### FEDERAL STANDARDS FOR CHILD DEVELOPMENT AND FAMILY SERVICES

SEC. 212. (a) Within six months after the enactment of this Act, the Secretary shall, after consultation with other Federal agencies and with the Committee established pursuant to subsection (c) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child development and family services with Federal assistance under this Act, to be known as the Federal Standards for Child Development and Family Services. If the Secretary disapproves the Committee's recommendations, he shall state the reasons therefor.

(b) Such standards shall be no less comprehensive than the Federal Interagency Day Care Requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968.

(c) The Secretary shall, within sixty days after enactment of this Act, appoint a Special Committee on Federal Standards for Child Development and Family Services, which shall include parents of children enrolled in Headstart, child care and family services programs, representatives of public and private agencies, and organizations administering such programs, specialists, and others interested in services for children. Not less than one-half of the membership of the Committee shall consist of parents of children participating in programs conducted under this title and section 222(a)(1) of the Economic Opportunity Act of 1964 and title IV of the Social Security Act. Such Committee shall participate in the development of Federal Standards for Child Development and Family Services and modifications thereof as provided in subsection (a).

### DEVELOPMENT OF UNIFORM MINIMUM CODE FOR FACILITIES

SEC. 213. (a) The Secretary shall, within sixty days after enactment of this Act, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child care facilities receiving assistance under this Act or in which programs receiving assistance under this Act are operated. Such standards shall deal principally with those matters essential to the health, safety, and physical comfort of the children, their suitability for projected uses, and the relationship of such matters to the Federal Standards for Child Development and Family Services under section 212.

(b) The special committee appointed under this section shall include parents of children participating in Headstart, child care and other programs and representatives of State and local licensing agencies, public health officials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering such programs, and national agencies or organizations interested in services to children and families. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under title I and section 222(a)(1) of the Economic Opportunity Act of 1964 and title IV of the Social Security Act.

(c) Within one year after its appointment, the special committee shall complete a proposed uniform minimum code for facilities and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

(d) After considering the recommendations submitted by the special committee in accordance with subsection (c), the Secretary shall promulgate standards which shall be applicable to all facilities receiving Federal financial assistance under this Act or in which programs receiving Federal financial assistance under this Act are operated. If the Secretary disapproves the committee's recommendations he shall state the reasons therefor. The Secretary shall also distribute such standards and urge their adoption by States and local governments. The Secretary may from time to time modify the uniform code for facilities in accordance with procedures set forth in this section.

### MORTGAGE INSURANCE FOR CHILD CARE FACILITIES

SEC. 214. (a) It is the purpose of this section to assist and encourage the provision of facilities for child development and related family services.

(b) For the purpose of this section—

(1) The term "child care facility" means a facility of a public or private profit or nonprofit agency or organization, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the provision of child development and related family service programs.

(2) The terms "mortgage", "mortgagor", "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.

(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) In order to carry out the purpose of this section, the Secretary of Health, Education, and Welfare is authorized to insure any mortgage which covers a new child care facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary of Health, Education, and Welfare, who demonstrate ability successfully to operate one or more child development and related family service programs. The Secretary of Health, Education, and Welfare may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary of Health, Education, and Welfare may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Child Care Facility Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary of Health, Education, and Welfare under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the child development facility, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments wtihin such term as the Secretary of Health, Education, and Welfare shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary of Health, Education, and Welfare finds necessary to meet the mortgage market.

(4) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has determined that the child care facility to be covered by the mortgage will be in compliance with the Uniform Minimum Code for Facilities approved by the Secretary pursuant to section 213.

(5) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has also received from the prime sponsor designated under title I of this Act a certificate that the facility is consistent with and will not hinder the execution of the prime sponsor's plan.

(6) In the plans for such child care facility, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

(e) The Secretary of Health, Education, and Welfare shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Child Care Facility Insurance Fund (established by subsection (h)) issued at par plus accured interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary of Health, Education, and Welfare is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(f) The Secretary of Health, Education, and Welfare may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(g)(1) The Secretary of Health, Education, and Welfare shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Child Care Facility Insurance Fund, and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(h)(1) There is hereby created a Child Care Facility Insurance Fund which shall be used by the Secretary of Health, Education, and Welfare as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Child Development Facility Insurance Fund.

(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Child Care Facility Insurance Fund.

(3) Moneys in the Child Care Facility Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary of Health, Education, and Welfare may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Child Care Facility Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be cancelled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary of Health, Education, and Welfare in connection therewith, and all earnings on the assets of the fund, shall be credited to the Child Care Facility Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Child Care Facility Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

### OFFICE OF CHILD DEVELOPMENT

SEC. 215. The Secretary hall take all necessary action to coordinate child development and family service programs under his jurisdiction. To this end, he shall establish within the Department of Health, Education, and Welfare an Office of Child Development, administered by a Director, which office shall be the principal agency of the Department for the administration of this title including research and evaluation and for the coordination of programs including all child development and family service research, training, and development efforts conducted by the Department of Health, Education, and Welfare, and, to the extent feasible by other agencies, organizations, or individuals.

### SPECIAL COORDINATING COUNCIL

SEC. 216. A child Development Research Council, consisting of a representative of the Office of Child Development established under section 216 of this title (who shall serve as chairman), and representatives from the Federal agencies administering the Social Security Act and the Elementary and Secondary Education Act of 1965 and from the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Office of Economic Opportunity, the Department of Labor, and other appropriate agencies, shall meet on a regular basis, as they may deem necessary, in order to assure coordination of child development and related family service activities under their respective jurisdictions so as to assure—

(1) maximum utilization of available resources through the prevention of duplication of activities;

(2) a division of labor, insofar as is compatible with the purposes of each of the agencies or authorities specified in this paragraph, to assure maximum progress toward the achievement of the purposes of this Act;

(3) the establishment and maintenance of an information bank to insure that each office or agency of the Federal Government conducting child development and family service, child care and related family service activities is aware of the administrative actions of other offices or agencies with respect to the provision of financial assistance to eligible applicants; and

(4) recommendation of priorities for federally funded research and development activities related to the purposes of this Act.

### SPECIAL PROHIBITIONS

SEC. 217. (a) Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law.

(b) The Secretary is directed to establish appropriate procedures to insure that no child shall be the subject of any research or experimentation under this Act unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

(c) A child participating in a program assisted under this Act shall not be required to undergo medical or psychological examination, immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment if his parent or guardian objects thereto in writing on religious grounds.

(d) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(e) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if, on the grounds of sex, that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program or activity receiving assistance under this Act.

### SPECIAL PROVISIONS

SEC. 219. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 103, the Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(b) The Secretary shall not provide financial assistance for any program service, or activity under this Act unless he determines that persons employed thereunder, other than persons who serve without compensation, shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 206), if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar occupations by the same employer.

(c) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(d) The Secretary shall not provide financial assistance for any program under this Act unless he determines that no funds will be used for and no person will be employed under the program on the construction, operation, or maintenance of so much of any facility as is for use for sectarian instruction or as a place for religious worship.

(e) Prime sponsorship plans, program statements, annual family service plans, project applications, and all written material pertaining thereto shall be made readily available without charge to the public, as appropriate, by the State, the prime sponsor, the applicant, and by the Secretary.

### WITHHOLDING OF GRANTS

SEC. 219. Whenever the Secretary, after reasonable notice and opportunity for a hearing for any State prime sponsor, or project applicants, finds—

(1) that there has been failure to comply substantially with provisions of the State annual family service plan relating to coordination (in accordance with section 107; or

(2) that there has been a failure to comply substantially with any requirement set forth in the program statement of any such prime sponsor approved under section 105; or

(3) that there has been a failure to comply substantially with any requirement set forth in the application of any such project applicant approved pursuant to section 106; or

(4) that in the operation of any plan, program, or project carried out by any such State, prime sponsor, or project applicant under this Act there is a failure to comply substantially with any applicable provision of this Act or regulation promulgated thereunder;

the Secretary shall notify such state, prime sponsor or project applicant of his findings and that no further payments may be made to such State, sponsor or applicant under this Act (or in the Secretary's discretion that any such prime sponsor shall not make further payments under this Act to specified project applicants affecter by the failure) until he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Secretary may authorize the continuation of payments with respect to any project assisted under this Act which is being carried out pursuant to such plan or application and which is not involved in any noncompliance.

### FEDERAL CONTROL NOT AUTHORIZED

SEC. 220. No department, agency, officer, or employee of the United States shall, under authority of this Act, exercise any direction, supervision, or control over, or impose any requirements or conditions with respect to, the personnel, curriculum, methods of instruction, or administration of any educational institution.

### REPEAL OR AMENDMENT OF EXISTING AUTHORITY AND COORDINATION

SEC. 221. (a) In order to achieve, to the greatest degree feasible, the consolidation and coordination of programs providing services for children, while assuring continuity of existing programs during transition to the programs authorized under this Act, the Economic Opportunity Act of 1964 is amended, effective July 1, 1975, as follows:

(1) Section 222(a)(1) of such Act is repealed.

(2) Section 162(b) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development and family services but not operation of such programs for children".

(3) Section 123(a)(6) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development and family services", and adding after the word "employment" the phrase "but not including the direct operation of such programs for children".

(4) Section 312(b)(1) of such Act is amended by striking out "day care for children".

(b) The Secretary of Health, Education, and Welfare shall promulgate regulations to assure that other federally funded child development and family services, child care, and related family service programs, including title I of the Elementary and Secondary Education Act of 1965 and section 222(a)(2) of the Economic Opportunity Act of 1964 and the Social Security Act, will be coordinated with the programs designed under this Act. The Secretary shall insure that joint technical assistance efforts will result in the development of coordinated efforts between the Office of Education and the Office of Child Development.

(c)(1) Section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "or civil defense" and inserting in lieu thereof "civil defense, or the operation of child care facilities".

(2) Section 203(j)(3) of such Act is amended—

(A) by striking out, in the first sentence, "or public health" and inserting in lieu thereof "public health, or the operation of child care facilities",

(B) by inserting after "handicapped," in clause (A) and clause (B) of the first sentence the following: "child care facilities", and

(C) by inserting after "public health purposes" in the second sentence the following: ", or for the operation of child care facilities,".

(3) Section 203(j) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) The term 'child care facility' means any such facility as defined in section 214 (b) of the Comprehensive Headstart, Child Development and Family Services Act."

### SECTION-BY SECTION ANALYSIS OF COMPREHENSIVE HEADSTART, CHILD DEVELOPMENT AND FAMILY SERVICES ACT OF 1972

Section 2. *Statement of Findings and Purpose:* This section states the findings that: (1) millions of children lack a full opportunity, particularly during early childhood years, to receive adequate educational, nutritional, health and other services; (2) that in exercising their moral and legal rights and responsibilities in respect to their children and families, many mothers and single parents have found it necessary or desirable to seek such services while they engage in employment or education or to otherwise seek supplemental services for their children and (3) despite increased child care opportunities and programs such as Headstart, there is still an inadequate number of quality opportunities available to parents for the full development of their children.

The purpose of the Act is to provide a variety of quality family-centered child care and development services and other services to families to assist parents in providing for their children, with priority to those families and children with economic or other special needs, in a manner designed to strengthen family life, and to ensure decision-making at the community level through a partnership of parents, State and local governments and the Federal Government.

Section 2. *Authorization of Appropriations:* This section authorizes appropriations under the Act of $1.2 billion for FY '74 and $1.6 billion for FY '75, as well as $100,000,000 for FY '73 for initial planning, training and technical assistance.

Of the amounts appropriated, the Secretary is directed to allocate ninety percent for State and local programs under Title I and ten percent for special federal supportive services and special activities under Title II; advance funding is authorized.

Section 4. *Definitions:* This section defines "State", "child development and family services programs", "economically-disadvantaged children" and other terms.

### TITLE I—HEADSTART, CHILD DEVELOPMENT AND FAMILY SERVICES PROGRAMS

Section 101. *Financial Assistance:* The Secretary of Health, Education and Welfare is authorized to provide financial assistance to prime sponsors and other public and non-profit private agencies and organizations in accordance with the provisions of the title.

Section 102. *Uses of Funds:* Funds may be used for planning, establishing, maintaining and operating child development and family service programs and activities, including Headstart and similar programs for preschool and other children; other programs to support and enhance family life including family planning and other services for family members; emergency programs, programs especially designed for Indians, migrant, bi-lingual and minority group children; special activities for the handicapped; training; transportation allowances, rental remodeling, renovation, alteration, construction or acquisition of facilities; staff and other administrative expenses and other activities.

Section 103. *State and Local Prime Sponsors:* The Secretary is authorized to designate as prime sponsor, any State, any unit of general local government or combination thereof having a population of 50,000 or more; any other unit or combination (irrespective of population), which can demonstrate a particular demand for services and availability of resources; any Indian tribal organization; any public or private non-profit agency or organization under limited circumstances.

An eligible prime sponsor must submit a prime sponsorship plan for approval by the Secretary describing the area to be served, setting forth procedures for the establishment of a Child Development and Family Services Council, and for the establishment or selection of agency or agencies to administer programs and providing assurances that it can provide effectively a number of educational, health and related services necessary for comprehensive programs.

An applicant for prime sponsorship which is a State is required additionally to establish local family service areas for the administration of programs and to provide procedures for the appointment of a director and the establishment of a local child development and family service council to serve each area, as well as for appeal by such council to the Secretary.

The Secretary is directed to approve a prime sponsorship plan if it meets the requirements of the Act and includes adequate administrative and other provisions for carrying out effectively child development programs in the area.

In the event of competing plans from units of general local government or combination thereof, he is directed to approve the plan which he determines has the capability to more effectively carry out the Act. A plan submitted by a local unit (or combination) is to be approved over a State plan for the same area if it meets the requirements of the Act, and includes adequate administrative and other provisions for carrying out effectively programs in the area.

Other provisions provide for withdrawal of assistance, and for direct funding in the case of withdrawal and in the event a prime sponsor is maintaining a pattern or practice of exclusion.

Section 104. *Child Development and Family Services Council:* This section requires each prime sponsor to establish a Child Development and Family Services Council composed of not less than 10 members, half of which shall be parents, the remaining members are appointed by the chief executive officer to represent the public from certain groups.

The parent members are to be chosen, in the case of prime sponsors which are States, by the parent members of local child development and family services councils (established for local family service areas within the State) and in the case of other prime sponsors (and local family service areas within a State) so as to be representative of children served in the area.

Section 105: *Program Statements:* In order to receive financial assistance a prime sponsor must submit a program statement setting forth a program identifying needs and goals within the area to be served, meeting local needs to the extent possible, with priority to pre-school children; ensuring that Headstart projects are continued and that not less than 65 percent of the remaining funds are used for programs for economically-disadvantaged children; (giving priority thereafter to children of single parents and working mothers); and meets certain other requirements as to coordination and coverage.

The program statement must be reviewed for comment to the Secretary of community action agencies, single-purpose Headstart agencies, local educational agencies and the Governor.

Section 106. *Project Applications:* Each project application must provide programs that will be carried out by a qualified or private agency, for establishment and maintenance of a project policy committee or organization, training; and certain assurances that programs are developmental in nature and provide for the full participation of parents.

This section provides that no charge may be made with respect to any child who is a member of a family with annual income equal to or less than $4320, and for establishment by the Secretary of a fee schedule above that level, subject to (a) certain limitations with respect to families with income between $4320 and the Bureau of Labor Statistics lower living standard budget (currently at $6960 for a family of four); (b) reductions upon application to the Secretary to take into account actual living expenses with a prime sponsorship area, meet the special needs of economically-disadvantaged persons, or ensure consistency with similar programs conducted in the prime sponsorship area under other law.

Any project applicant alleging that its application was denied by reason of discrimination on the basis of race, color, sex, creed or national origin may apply directly to the Secretary.

Section. 107. *Annual Family Service Plans:* This section authorizes additional financial assistance to States for the preparation of of an annual family service plan, setting forth agreements between State and local prime sponsors for maximum coordination of programs and full utilization of resources, including agreements with respect to the determination of goals, comprehensive planning, technical assistance, exchange of personnel and procedures for assessing licensing codes, and teacher standards and for disseminating model program information. The Secretary may use up to 5 percent of a State's apportionment for the purpose of this section.

Section. 108. *Special Cooperative Programs with Education Institutions:* This section authorizes the provision of special assistance to educational agencies and institutions to carry out cooperative programs with other project applicants to provide continuity between pre-school programs and after school programs and related programs.

Section 109. *Additional Conditions for Programs Including Construction:* This section authorizes approval of construction only if it is determined that such construction is essential and that rental, renovation or leasing of existing facilities is not adequate, and sets forth other conditions relating to construction under the Act.

Section 110. *Use of Public Facilities:* This section requires the Secretary to report to the Congress within nine months of enactment on the extent to which federal facilities might be made available to public and private non-profit agencies for use as child care facilities during times when they are not utilized by the government for other purposes.

Section 111. *Payment:* This section authorizes the federal payment of 90 percent of the cost of approved programs and permits the Secretary to increase such amount as necessary to meet the child care needs of economically-disadvantaged children. In addition, the Secretary is also required to pay 100 percent of the cost of services to children of migrant agricultural workers and for children in Indian tribal organizations.

This section also contains a maintenance of effort provision.

Section 112. *Apportionment of Funds:* This section requires that of appropriated funds allocated to Title I, $600 million shall be made available for services to pre-school children from low-income families with priority to continued assistance under Headstart projects.

Of the remainder, reservations are made for: children in migrant agricultural families and for Indian children in each case in proportion to the number of economically-disadvantaged children in the Nation; special activities for handicapped children (10%); for special model programs (10%) and for special cooperative programs (5%). In each case programs would be conducted under Title I.

The remainder is allocated to the states (and among areas within each State) on the basis of the number of economically-disadvantaged children through age 14, the number of pre-school children, and the number of children of working mothers and single parents.

### TITLE II—SUPPORTIVE SERVICES AND SPECIAL ACTIVITIES

Section 211. *Special Responsibilities of the Secretary:* This section authorizes the Secretary to provide financial assistance, for training, technical assistance; research and evaluations.

Section 212. *Federal Standards For Child Development and Related Family Services:* The Secretary is required, with nine months of the date of enactment, to promulgate, after consultation with a Special Committee on Federal Standards for Child Development and Family Services, Federal Standards for Child Development and Family Services which shall be no less comprehensive than current applicable Federal Interagency Day Care Requirements.

Section 213. *Uniform Minimum Code for Facilities:* The Secretary, within sixty days after enactment must appoint a special committee to develop within one year a proposed uniform minimum code for facilities to be used in licensing child care facilities.

Section 214. *Mortgage Insurance for Child Care Facilities:* This section authorizes the Secretary of Health, Education and Welfare to insure mortgages covering a new child care facility and equipment upon specified terms to protect the interest of the government for this purpose.

This section also establishes a Child Care Facility Insurance Fund to carry out the provisions of the section.

Section 215. *Office of Child Development:* This section requires the Secretary to establish within the Department of Health, Education and Welfare an Office of Child Development to administer the Act and to coordinate all child development and related programs.

Section 216. *Special Coordinating Council:* This section establishes a Special Coordinating Council composed of representatives of various federal agencies to coordinate child development services and to recommend priorities for federally-funded research.

Section 217. *Special Prohibition:* This section provides that nothing shall interfere with the moral and legal rights of parents with respect to their children; that no child is to be subjected to research or experimentation and that no discrimination be practiced with respect to programs under the Act.

Section 218. *Special Provisions:* This section authorizes the Secretary to make grants and contracts; and to prescribe regulations; the Secretary is prohibited from providing funds to programs involving political or religious activity.

Section 219. *Withholding of Grants:* This section authorizes the Secretary, after notice and a hearing, to withhold grants for failure to comply with the provisions of the Act.

Section 220. *Federal Control Not Authorized:* This section states that no federal control with respect to any operation of any educational institution is permitted.

Section 221. *Repeal or Amendment of Existing Authority:* This section repeals and amends various sections of the Economic Opportunity Act, including a repeal (effective July 1, 1974) of the current authority for Headstart.

This section also requires the Secretary to promulgate regulations assuring coordination of child care and related family services programs under this Act and the Elementary and Secondary Education Act.

Mr. TAFT. Mr. President, I am honored to be a prime sponsor of the Comprehensive Headstart, Child Development, and Family Services Act of 1972, which the distinguished Senator from New York (Mr. JAVITS) has today introduced. This legislation is the product of a concerted effort to improve the child development title of S. 2007, which was vetoed in December. We hove attempted to meet the objections which the President expressed in his veto message.

The bill would make it possible for thousands of parents to work or educate themselves to improve the well-being of their families with the confidence that their children are not only being cared for but that they are involved in quality educational day-care programs. I believe that the bill would be a desirable complement to the welfare reform legislation which we will soon be considering. Though there are guidelines to insure that the various programs are of a high quality, flexibility is provided so that these programs can be designed to meet the needs of the families involved.

The proposed legislation gives priority to economically disadvantaged families and to families of working mothers and single parents. The fee schedule allows free services for families whose annual income is less than $4,320 and a graduated fee requirement above that.

It is my hope that many of the mistakes in the consideration of the vetoed bill will not be repeated with respect to this new legislation. Because of the high priority that we place on the care and education of our Nation's most precious asset—our children, I urge that the committee take the necessary time to continue hearings and carefully look at all facets of this unprecedented national program. The inclusion of child care legislation in legislation to extend OEO, as was the case in the vetoed bill, would be a mistake which again might jeopardize both issues. The veto of S. 2007 was not the result of any opposition by the President to the poverty program. It was caused instead by the controversial provisions of the child development title. We must act quickly to extend the authority of OEO and to create a Legal Services Corporation. On the other hand, we must take the time to hear testimony on child development from many groups who did not participate in last year's hearings. We must then reserve adequate time in the committee to perfect this legislation, which will have such a critical impact on our children and their parents.

Mr. STAFFORD. Mr. President, today I am privileged to introduce with the distinguished senior Senator from New York (Mr. JAVITS) the Comprehensive Headstart, Child Development, and Family Services Act of 1972.

It is the purpose of the bill to provide a variety of quality family centered child care and developmental services. The bill will assist parents in providing their children with an opportunity for a healthy and stimulating development regardless of the economic and sociological background. The emphasis is placed on those families and children who need the services and who voluntarily want to use them.

Mr. President, many children in this country lack a full opportunity, particularly during the early childhood years, to receive adequate educational, nutritional, health, and other social benefits. The bill will provide the essential elements that will enable them to reach their potential so that they may participate fully in our society.

The critical impact of the first 5 years of a child's life has been well documented. These years are the most important for the growth of his intellectual capacity and for his emotional, physical, and social being. These early years lay the groundwork for the motivational development, initiative, and the many other factors which will determine the child life style in the later years.

We have learned that a child's intelligence and mental stability are significantly environmentally determined. These, combined with the child's exceptional eagerness and ability to learn at this early age, point up the desperate need in our society for the type of child development. How many Einsteins, Rousseaus, Hesses have gone undeveloped in this country because we have failed to do anything?

It is the responsibility of this Government to provide these development programs to those parents who in exercising their consciences in respect to their children and families, have found it necessary or desirable to engage in employment, training, or education on a full- or part-time basis during the time when their children would ordinarily be at home. It is incumbent upon the Government as a part of its responsibility to its citizens to provide this commodity, not merely to promise it. The bill is the means to that end.

Mr. President, the bill introduced today will not in any way infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional and physical development of their children. This is a voluntary program that will provide for the full participation of parents and other family members in the conduct, overall direction and evaluation of programs. The programs instituted under this bill will provide to the extent feasible for the employment of the parents and other members of the family as professionals and paraprofessionals to work in the child development center. This will create an even deeper parental involvement in the programs which are provided for their children.

The need for developmental child care programs is a pressing one which demand our action. President Nixon in his economic opportunity message to Congress in February 1969 concisely stated this need.

> So crucial is the matter of early growth that we must make a national commitment to providing all American children an opportunity for healthful and stimulating development during the first five years of life.

I am glad I have had the opportunity to work with Senator JAVITS and the other Republican Senators in creating this piece of proposed legislation.

Mr. HATFIELD. Mr. President, I am delighted to join as a cosponsor with Senator JACOB JAVITS on the revised child development bill he is reintroducing today.

I share Senator JAVITS' belief that the Senate must adopt a new version of the legislation which was vetoed last year, for we need to begin the necessary planning for these vitally needed child care centers.

It is my hope that during the legislative process on this legislation—and other legislation which I noted that Senators MONDALE and NELSON introduced last week—that a compromise version would emerge from committee which would contain not only adequate provisions for strong and meaningful parental involvement in these programs, but also strong protection for initiatives by localities in those areas where the State is the prime sponsor. Oregon is a State of small cities and I want to assure that these areas are fully protected under the law and will be guaranteed participation in the program.

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By Mr. METCALF (for himself, Mr. MANSFIELD, Mr. BURDICK, Mr. HARRIS, Mr. HUGHES, Mr. HUMPHREY, and Mr. MCGOVERN):

S. 3229. A bill to protect the incomes of wheat and feed grain producers. Referred to the Committee on Agriculture and Forestry.

Mr. METCALF. Mr. President, Members of Congress from grain States are swamped with protests against the additional diversion proposals involved in the sign-up which require a plow-down of winter wheat or reduction of last year's feed grain acreage.

The regulations make it impossible for Montana farmers to participate in the wheat diversion program because they were unable to plant winter wheat, due to drought or other weather conditions, or because they chose to wait and plant spring wheat, as can be done in much of Montana. The requirement that feed grain acreage must be reduced below last year's plantings similarly penalizes farmers who reduced acreage last year and rewards those who created our present surpluses by planting from fence to fence in 1971 under the freedom of the new set-aside program.

Indications are that sign-up this year will be considerably under participation in previous years and that production of additional surpluses is likely. Secretary Butz has not at any time indicated an interest in strengthening wheat prices. He has given some vocal support to the idea of raising feed grain prices a little. but he has just suspended his corn purchase program and offered farmers a bonus in the form of payments for unused storage to release resealed barely to the Commodity Credit Corporation for resale.

These two actions indicate that feed grain prices are now as high or higher than Secretary Butz wants them to go. While his corn buying did not amount to an eye dropper full—13 million bushels out of a 5.6 billion bushel crop—the discontinuance is notice to the grain trade that he does not intend to support feed grains above the loan level and then when farmers are forced to clear storage space for another crop, they will have no market for it except at the loan level. plus possibly a few pennies for storage.

It is clear that the Secretary is much more interested in keeping farm prices down to peddle farm products abroad, even at a loss to producers, to close the dollar gap.

What the administration has been doing has become clear. It is not going to raise prices.

It is now time for Congress to increase the loan level up to where grain farmers can survive. Senator Mansfield and I have therefore today introduced a new wheat and feed grain price support bill providing for a 25-percent increase in price supports on the 1972 and 1973 wheat and feed grain crops. Except for crop years covered, the measure is identical to the amendment offered by Congressman MELCHER that was approved in the House of Representatives.

We have been joined in our effort by colleagues, Senators BURDICK, HUMPHREY, MCGOVERN, HARRIS, and HUGHES.

Mr. President, there has been objection to this bill on the ground that it will stimulate production and must be accompanied by production management provisions. The production management provision is already in the Agricultural Act of 1970. The act gives the Secretary of Agriculture authority to return to the use of acreage allotments, or positive controls instead of the lax provisions of the set aside program which got us into this trouble. That needs to be done and the necessary authority is already there.

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By Mr. PACKWOOD (for himself, Mr. DOMINICK, Mr. TAFT, Mr. BEALL, Mr. ALLOTT, Mr. BAKER. Mr. BELLMON, Mr. BENNETT, Mr. BROCK, Mr. COOPER, Mr. COTTON. Mr. CURTIS, Mr. DOLE, Mr. FANNIN, Mr. FONG, Mr. EASTLAND, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HANSEN, Mr. HRUSKA, Mr. JORDAN of Idaho, Mr. MCCLELLAN, Mr. ROTH, Mr. SAXBE, Mr. SCOTT, Mr. THURMOND, Mr. TOWER, Mr. WEICKER, and Mr. YOUNG):

S. 3232. A bill to provide more effective means for protecting the public interest in emergency disputes involving the transportation industry and for other purposes. Referred to the Committee on Labor and Public Welfare.

### TRANSPORTATION CRISIS PREVENTION ACT

Mr. PACKWOOD. Mr. President, on behalf of myself and Senators DOMINICK, TAFT, BEALL, ALLOTT, BAKER, BELLMON, BENNETT, BROCK, COOPER, COTTON, CURTIS, DOLE, FANNIN, FONG, EASTLAND, GOLDWATER, GRIFFIN, HANSEN, HRUSKA, JORDAN of Idaho, MCCLELLAN, ROTH, SAXBE, SCOTT, THURMOND, TOWER, WEICKER, and YOUNG, I am today sending to the desk for appropriate reference the Transportation Crisis Prevention Act.

Mr. President, this legislation is identical to the amendment I offered on the floor on February 8, during debate on Senate Joint Resolution 197, dealing with the west coast dock strike. Because of the unusual circumstances surrounding consideration of the dock strike legislation, my transportation crisis prevention amendment was tabled, 42 to 39, but I am optimistic that the cosponsorship of over one quarter of the Senate, including colleagues on both sides of the aisle, and with the continued action promised by the distinguished chairman of the Senate Labor Committee, the Senator from New Jersey (Mr. WILLIAMS) this vital legislation will be before the Senate again in the very near future for the careful consideration it needs and deserves.

Mr. President, the Transportation Crisis Prevention Act has much in common with the administration's bill, S. 560, with some important differences. Some of the changes I have made are designed to correct deficiencies in the administration bill, some are to tighten up the procedures and make them more effective, and other changes will protect the public more effectively from the impact of crippling transportation tieups. The two most important differences between S. 560 and my bill are, first, that my bill will permit the use of emergency procedures in the event of regional as well as national transportation emergencies whereas S. 560 applies only to national emergencies. Second, S. 560 permits the President to use only one of the additional three options authorized; whereas my bill will permit use of each or every option, in any order, with the limitation that should final offer selection be invoked, no procedure may be used after that, since it is a final procedure.

There are additional differences which I feel are significant and which will, I am convinced, improve the workability and equitability of this legislation. Among these differences are for example, shortening of the additional cooling-off period from 30 days to 15 days, and a new provision to permit the bargaining parties to submit two final offers each, rather than just one.

Additionally, with the inclusion of rails and airlines under the Taft-Hartley emergency procedures, and elimination of the ineffective emergency procedures of the Railway Labor Act, the National Mediation Board loses one of its primary functions, that related to administration of the RLA. My bill therefore would abolish the National Mediation Board and shift its remaining functions to the National Labor Relations Board and the Federal Mediation and Conciliation Service.

Mr. President, the administration has accepted the new provisions and changes in my bill, and I am pleased and gratified that they have agreed to support my bill over S. 560.

I will not take my colleagues' time here today to explain the details of my bill, but I will refer instead to my remark on February 8, starting on page 3153 of the Congressional Record, for a full explanation of the bill's provisions. I ask unanimous consent only that a copy of the Transportation Crisis Prevention Act and a section-by-section analysis of the bill be printed at this point in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

### S. 3232

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Transportation Crisis Prevention Act of 1972."

### CONGRESSIONAL FINDINGS AND PURPOSE

Sec. 2. (a) The Congress find:

(1) That present procedures for dealing with national emergency disputes under the Railway Labor Act tend to encourage resort to governmental intervention in such disputes rather than utilization of the collective bargaining processes to solve labor-management disputes;

(2) That present procedures for dealing with disputes in the transportation industry, in general, have proved insufficient to prevent serious disruptions of transportation services.

(b) The Congress declares it to be the purpose and policy, through the exercise by Congress of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible that no strike or lockout in the transportation industry or a substantial part thereof will imperil the national health or safety or the health or safety of a substantial sector of the Nation—

(1) by providing a single set of procedures for dealing with emergency disputes in the transportation industries;

(2) by establishing procedures which will encourage the parties to make effective use of various private collective bargaining techniques to resolve disputes;

(3) by establishing procedures which will both protect the public interest and recognize the interests of the parties involved in the dispute;

(4) by providing the President with appropriate means for dealing with transportation emergency disputes;

(5) by amending the Railway Labor Act to lessen reliance upon Governmental machinery or intervention for adjusting grievances and for collective bargaining in the railroad and airline industries; and

(6) by establishing a National Special Industries Commission to study and make recommendations concerning those industries which are or may be particularly vulnerable to national emergency disputes.

### TITLE I—AMENDMENTS TO THE LABOR-MANAGEMENT RELATIONS ACT, 1947, RELATING TO EMERGENCY DISPUTES IN THE TRANSPORTATION INDUSTRY

Sec. 101(a) Title II of the Labor-Management Relations Act, 1947, is redesignated as Title II, Part A.

(b)(1) Section 206 is amended to read as follows:

"Sec. 206. Whenever in the opinion of the President of the United States, a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety or, when the strike or lockout is in an industry subject to Part B of this title, imperil the health or safety of a substantial sector of the Nation, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendation. The President shall file a copy of such report with the Service and shall make its contents available to the public."

(2) Section 208(a) is amended to read as follows:

"Sec. 208(a) Upon receiving a report from a board of inquiry, the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof and if the court finds that such threatened or actual strike or lockout—

(1) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission or communication among the several States or with foreign nations or engaged in the production of goods for commerce; and

(2) if permitted to occur or to continue, will (i) imperil the national health or safety or (ii), when the strike or lockout is in an industry subject to Part B of this title, imperil the health or safety of a substantial sector of the Nation.

it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate: *Provided,* that when such petition is sought to enjoin a strike or lockout in an industry subject to Part B of this title it shall be heard and determined by a three-judge district court in accordance with section 2284 of title 28, United States Code."

(3) Section 208(c) is amended by substituting a semicolon for the period at the end thereof and adding the following: "except that where the proviso in section 208(a) is applicable, appeal shall be to the United States Supreme Court in accordance with section 1253 of title 28, United States Code."

(4) Section 209(a) is amended to read as follows:

"Sec. 209(a) Whenever a district court has issued an order under section 208 enjoining acts or practices which imperil or threaten to imperil the national health or safety, or imperil the health or safety of a substantial sector of the Nation, it shall be the duty of the parties to the labor dispute giving rise to such order to make every effort to adjust and settle their differences, with the assistance of the Service created by this Act. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service."

(c) Section 212 is hereby repealed.

Sec. 102. Title II of the Labor-Management Relations Act, 1947, is hereby further amended by adding a new Part II B at the end of Part II A to read as follows:

### "Part B—Alternative Procedures Following Initial 80-Day Cooling-Off

### "APPLICABILITY OF THIS PART

"Sec. 213 This Part shall apply only to the following transportation industries: (1) railroads, (2) airlines, (3) maritime, (4) longshore, and (5) trucking.

"Sec. 214(a) If no settlement is reached before the injunction obtained pursuant to section 208 of this Act is discharged, the President may, within ten days, invoke any of the procedures set forth in sections 217, 218, or 219. The President may proceed under these sections in such sequence as he may deem appropriate until it is certified by the Secretary of Labor that the dispute is settled; *Provided,* however, that the President may only invoke the procedures of a new section immediately upon the termination of the procedures of the previously invoked section and that the procedures of a section may be invoked only once during a dispute.

(b) The President may, if he deems it consistent with the purposes of this Act, terminate any procedures invoked under sections 217 or 218. He may thereafter proceed under another of sections 217, 218, or 219.

(c) If the procedure set forth in section 219 is invoked, the President may not, in the same dispute, invoke subsequently the procedures of section 217 or 218."

"Sec. 215. The President shall immediately notify the Congress of each choice of procedure, unless the Congress has adjourned or is in a recess in which case such notice shall be transmitted as soon as Congress reconvenes.

"Sec. 216. If the President does not choose to invoke any of the procedures set forth in section 217, 218, and 219 of this Act, the President shall submit to the Congress a supplemental report including such recommendations as he may see fit to make.

### "ADDITIONAL COOLING-OFF PERIOD

"Sec. 217. The President may direct the parties to the controversy to refrain from making any changes, except by agreement, in the terms and conditions of employment for a specified period of not more than 15 days from the date of his direction. During such period, the parties shall continue to bargain collectively and shall engage in no strike, lockout, or similar activity. The board of inquiry may continue to mediate the dispute with the assistance of, and in close coordination with, the director of the Federal Mediation and Conciliation Service.

"PARTIAL OPERATION

"SEC. 218. (a) The President may appoint a special board of three impartial members for the purpose of having the board make the following determinations:

"(1) Whether and under what conditions a partial strike or lockout in lieu of a full strike or lockout in an entire industry or substantial part thereof could take place without imperiling the national health or safety, or the health or safety of a substantial portion of the territory or population of the Nation; and

"(2) Whether, under such conditions, the extent of such partial strike or lockout would, in the judgment of the board, appear to be sufficient in economic impact to encourage each of the parties to make continuing efforts to resolve the dispute.

"(b) (1) If the board makes a determination that there are conditions under which a partial strike or lockout can take place in accordance with the criteria specified in subsection (a), it shall issue an order specifying the extent and conditions of partial operation that must be maintained. The board shall make reasonable efforts to assure that no greater economic burden is placed on any party than that which would be caused by a total cessation of operations.

"(2) If the board makes a determination that a partial strike or lockout cannot take place in accordance with such criteria, it shall submit a report to the President.

"(c) The parties shall not interfere by resort to strike or lockout with the partial operation ordered by the board. The board's order shall be effective for a period determined by the board, but not to exceed 180 days.

"(d) The board's order or any modification thereof shall be conclusive unless found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"(e) (1) The board shall issue its order no later than 30 days from the date of its appointment by the President, unless the parties, including the Government, agree to an extension of time, but such extension shall reduce pro tanto the maximum effective period of the board's order.

"(2) On notice to the parties, the board may at any time during the period of partial operation modify its order as it deems necessary to effectuate the purposes of this section.

"(f) Until the board makes its determination and during any period of partial operation ordered by the board no change, except by agreement, shall be made in the terms and conditions of employment, and no strike, lockout, or similar activity shall take place except as may be provided by order of the board. If the board determines that the implementation of any particular term of the existing terms and conditions of employment is inconsistent with the conditions of partial operation, it may order the suspension or modification of that term but only to the extent necessary to make it consistent with the conditions of partial operation.

"(g) The following rules of procedures shall be applicable to the board's functions under this subsection:

"(1) *Notice of Hearing.* Upon appointment by the President the board shall promptly notify and inform all parties, including the Government, of the time, place, and nature of the hearings, and the matters to be covered therein.

"(2) *Hearing to be Public.* The board shall hold public hearings, unless it determines private hearings are necessary in the interest of national security or the parties, including the Government, agree to present their positions in writing. The record made at such hearing shall include all documents, statements, exhibits, and briefs, which may be submitted, together with the stenographic record. The board shall have authority to make whatever reasonable rules are necessary for the conduct of an orderly public hearing. The board may exclude persons other than the parties at any time when in its judgment the expeditious inquiry into the dispute so requires.

"(3) *Participation by board in the Hearing.* The board, or any member thereof, may, on its own initiative, at such hearing, call witnesses and introduce documentary or other evidence, including a plan for partial operation, and may participate in the examination of witnesses for the purpose of expediting the hearing or eliciting material facts.

"(4) *Participation by Parties in Hearing.* The parties, the Government, or their representatives shall be given reasonable opportunity; (A) to be present in person at every stage of the hearing; (B) to be represented adequately; (C) to present orally or otherwise any material evidence relevant to the issues including a plan for partial operation; (D) to ask questions of the opposing party or a witness relating to evidence offered or statements made by the party or witness at the hearing, unless it is clear that the questions have no material bearing on the credibility of that party or witness or on the issues in the case; (E) to present to the board oral or written argument on the issues.

"(5) *Stenographic Records.* An official stenographic record of the proceedings shall be made. A copy of the record shall be available for inspection by the parties.

"(6) *Rule of Evidence.* The hearing may be conducted informally. The receipt of evidence at the hearing need not be governed by the common law rules of evidence.

"(7) *Requests for the Production of Evidence.* The board shall have the power of subpoena. It shall request the parties to produce any evidence it deems relevant to the issues. Such evidence should be obtained through the voluntary compliance of the parties, if possible. In case of refusal to obey a subpoena, the board may request the Attorney General to invoke the aid of any district court of the United States or the United States courts of any territory or possession within the jurisdiction of which such person is found or resides or transacts business and such court shall have jurisdiction to issue to such person an order requiring such person to appear or to produce evidence, if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

"(h) If a settlement certified by the Secretary is reached at any time during the hearing, the board shall adjourn the hearing and report to the President within 10 days the fact that a settlement has been reached and the terms of such settlement.

"(i) (1) Members of the board shall receive compensation at the per diem equivalent of the rate for GS–18 when engaged in the work of the board as prescribed by this Act, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"(2) For the purposes of carrying out its functions under this Act, the Board is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"FINAL OFFER SELECTION

"SEC. 219. (a) (1) The President may direct each party to submit a final offer to the Secretary of Labor within 3 days. Each party may at the same time submit one alternative final offer. The Secretary of Labor shall transmit the offers to the other parties simultaneously.

"(2) If a party or parties refuse to submit a final offer, the last offer made by such party or parties during previous bargaining shall be deemed that party's or parties' final offer.

"(3) Any offer submitted by a party pursuant to this section must constitute a complete collective bargaining agreement and resolve all the issues involved in the dispute.

"(b) The parties shall continue to bargain collectively for a period of 5 days after they receive the other parties' offers. The Secretary of Labor may act as mediator during the period of the final offer selection proceedings.

"(c) If no settlement has been reached before the end of the period prescribed in subsection (b) of this section, the parties may within two days select a three-member panel to act as the final offer selector. If the parties are unable to agree on the composition of the panel, the President shall appoint the panel.

"(d) No person who has a pecuniary or other interest in any organization of employees or employers or employers' organizations which are involved in the dispute shall be appointed to such panel.

"(e) The provisions of section 218(h) and 218(i)(1) and (2) of this Act shall apply to the panel.

"(f) The panel shall conduct an informal hearing in accordance with section 218(g) of this Act insofar as practicable, except that

"(1) the Government shall have no right to participate; and

"(2) the 30-day period in which the panel shall complete its hearings and reach its determination shall run from the time that the President directed the parties to submit final offers, but in no case shall the panel close the hearing until 5 days from the date of its appointment as provided in subsection (c) herein.

"(g) The panel shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed by this section.

"(h) From the time of appointment by the President until such time as the panel makes its selection, there shall be no communication by the members of the panel with third parties concerning recommendations for settlement of the dispute.

"(i) The panel shall entertain applications for intervention from any persons asserting an interest because of a conflicting claim to all or any portion of the work involved in the dispute subject to these proceedings. Such application must be filed within 5 days from the time of appointment of the panel as provided in subsection (c) herein. The panel, thereafter, may, in its discretion allow such applicant to participate in the hearings, under rules established by the panel, solely for the purpose of presenting views in support of either of the final offers previously submitted.

"(j) Beginning with the direction of the President to submit final offers and until the panel makes its selection, there shall be no change, except by agreement of the parties, in the terms and conditions of employment, and no strike, lockout, or similar activity shall take place. In no instance shall such period exceed 30 days.

"(k) The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall be given to, nor shall any evidence be received concerning, the collective bargaining in the dispute, including offers of settlement not contained in the final offers.

"(l) The panel shall select the most reasonable, in its judgement, of the final offers submitted by the parties and shall state, in writing, the reasons for its selection. The panel may take into account the following factors:

"(1) past collective bargaining contracts between the parties, including the bargaining that led up to such contracts;

"(2) comparison of wages, hours and conditions of employment of the employees involved, with wages, hours and conditions of employment of other employees doing comparable work, giving consideration to factors peculiar to the industry involved;

"(3) comparison of wages, hours and conditions of employment as reflected in industries in general, and in the same or similar industry;

"(4) security and tenure of employment with due regard for the effect of technological changes on manning practices or on the utilization of particular occupations;

"(5) The views in support of either final offer of any additional persons permitted to intervene in the proceedings as provided by subsection (i) herein; and

"(6) the public interest, and any other factors normally considered in the determination of wages, hours and conditions of employment.

"(m) The final offer selected by the panel shall be deemed to represent the contract between the parties, except to the extent that any provision is determined, under appropriate procedures, not to be in accordance with applicable law.

"(n) The determination of the panel shall be conclusive, unless modified pursuant to subsection (m), or found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"SEC. 220. (a) Any board or panel established under Part B of title II of this Act may act by majority vote.

"(b) A vacancy on any such board or panel shall not impair the right of the remaining members to exercise all of the powers of such board or panel. In the case of a vacancy due to death, or resignation, the President may appoint a successor to fill such vacancy.

"SEC. 221. Whenever the term Government is used in title II of this Act, it shall be deemed to mean the United States Government acting through the Attorney General or his designee."

## TITLE II—AMENDMENTS TO THE RAILWAY LABOR ACT

SEC. 201. Subject to the provisions of section 202(b) of this Title, the National Mediation Board is abolished, and its functions shall be assumed and carried out by the Federal Mediation and Conciliation Service and the National Labor Relations Board, as specified in subsections (f) and (g) of section 202 of this Title.

SEC. 202. The Railway Labor Act is further amended as follows:

(a) Section 2 Seventh of Title I is amended to read as follows:

"Seventh. No carrier, its officers or agents, or representatives shall change or seek to change the rates of pay, rules, or working conditions as embodied in agreements or arrangements except in the manner prescribed in such agreements and in Title 1, section 6 of this Act, as amended."

(b) Section 3 First (i) of Title I is amended by striking the period following the words "upon the disputes" and inserting thereafter:

": *Provided, however,* That all such disputes shall no longer be referred to the Adjustment Board commencing 60 days after the effective date of this Amendment to the Act.

"All such disputes which are not so referred within such period and all such disputes arising thereafter shall be submitted to arbitration in accordance with the following procedure. Upon failing to reach a satisfactory adjustment at the level of discussion hereinbefore mentioned, the parties shall within 5 days seek to reach mutual agreement on the selection of an arbitrator. If the parties fail to reach agreement within such period, the Federal Mediation and Conciliation Service shall submit to the parties a list of five qualified arbitrators. Each party shall alternately reject a different arbitrator named on the list until one arbitrator remains who shall thereupon arbitrate the dispute. To the extent that the parties are unable to agree to the rules for arbitration, including the distribution of costs, the arbitrator shall make all necessary rules therefor.

"All disputes which have been referred to the Adjustment Board may be removed by the grievant to the arbitration process herein if the dispute is not then being heard by the Adjustment Board.

"The aforementioned method of arbitration shall prevail with respect to such disputes until such time as the collective bargaining agreements between the parties contain no-strike, no-lockout clauses and provisions for grievance machinery terminating in final, binding arbitration.

"The Adjustment Board shall be dissolved after it has processed to completion all of the disputes before it or upon two years from the effective date of this Amendment to the Act, whichever first occurs. If all the disputes before the Adjustment Board have not been processed to completion by the time of the Board's dissolution date, all such disputes shall be removed by the grievant to the arbitration process hereinabove described.

"The National Mediation Board shall continue to carry out such of its functions and duties as are required by the existence of the Adjustment Board until the Adjustment Board has been dissolved as provided in this section. At such time the National Mediation Board shall be dissolved."

(c) Section 3 Second of Title I is amended by adding the following language at the end of the first paragraph following the words "jurisdiction of the Adjustment Board.":

"The provisions of paragraph (i) of this section, as amended, shall apply in the same manner and to the same extent with respect to system, group or regional boards of adjustment."

(d) Section 3 Second of Title I is amended by adding the following language at the end of section 3 Second following the words "awards of the Adjustment Board.":

"No dispute which has not been referred to a special board of adjustment by the effective date of this Amendment to the Act may be referred to such special board thereafter."

(e) Section 4 Second of Title I is amended by striking the word "mediation" in the third sentence of paragraph Second and inserting the word "representation."

(f) Section 4 Fifth of Title I is amended to read as follows:

"Fifth. The National Labor Relations Board shall assume and carry out all functions of the National Mediation Board relating to the determination of bargaining representatives, including duties particularized in Title I, section 2 Eighth and Ninth of this Act, as amended."

(g) Section 4 of Title I is further amended by adding the following paragraphs after paragraph Fifth:

"Sixth. All functions of the National Mediation Board which in the judgment of the President are primarily related to mediation shall be transferred to the Federal Mediation and Conciliation Service.

"Seventh. All cases which are being mediated by the National Mediation Board on the effective date of this Amendment to the Act shall be transferred to the Federal Mediation and Conciliation Service no later than 30 days after the effective date of this amendment to the Act. All cases arising thereafter under this Act, as amended, requiring mediation, shall be subject to the jurisdiction of the Federal Mediation and Conciliation Service.

"Eighth. All unexpended appropriations for the operation of the National Mediation Board that are available at the time of the dissolution of the Board shall be apportioned between the National Labor Relations Board and the Federal Mediation and Conciliation Service by the President according to the relative needs of each based on the division of functions prescribed herein."

(h) Section 6 of Title I is amended to read as follows:

"SEC. 6. Carriers and representatives shall give the other at least 60 days written notice of an intended modification of termination in agreements or arrangements affecting rates of pay, rules or working conditions. The party desiring such change or termination shall simultaneously notify the Federal Mediation and Conciliation Service of the existence of the dispute. Upon notification, the Federal Mediation and Conciliation Service shall commence appropriate mediation efforts. The parties shall continue in full force and effect, without resorting to strike or lockout or other economic coercion, all the terms and conditions of the existing agreement or arrangement for a period of sixty days after such notice is given or until the expiration date of the agreement containing the rates of pay, rules, or working conditions sought to be changed, provided such agreement exists, whichever occurs later.

"With respect to rates of pay, rules or working conditions for which there exists no fixed expiration date, the time for serving the 60-day notice in the first instance, and the first instance only, shall be established by agreement of the parties to the arrangement; if they cannot agree, the party seeking to serve the 60-day notice may invoke the arbitration procedure prescribed in section 3 First (i), as amended, in order to fix the date on which such notice may be served. In making his decision, the arbitrator shall take into account the probable intention of the patries as revealed by custom and practice with respect to past adjustment of rates of pay, rules or working conditions. In no case, however, shall the arbitrator decide that the time for serving the first 60-day notice shall be more than 2 years after the enactment of this amendment to the Act.

"The parties shall bargain collectively with respect to such intended modification or termination which means that the parties shall have the mutual obligation to meet at reasonable times and confer in good faith with respect to rates of pay, rules and working conditions or the negotiation of an agreement and the execution of a written contract incorporating any agreement reached if requested by either party, but such ligation does not compel either party to agree to a proposal or require the making of a concession."

(i) Section 201 of Title II is amended by striking the words "except the provisions of section 3 thereof,".

(j) Section 202 of Title II is amended (1) by striking the words ", except section 3 thereof,", and (2) by adding the following language after the end of the first sentence therein:

"The functions and duties of the National Labor Relations Board, as prescribed in Title I, section 4, shall apply as well to carriers by air and their employees or representatives."

(k) Section 204 of Title II is amended by striking the period following the words "upon the disputes" at the end of the first sentence and inserting thereafter—

": *Provided, however,* that if the parties, by mutual agreement elect to discontinue referrals to such adjustment boards and such election has been certified by the Secretary of Labor, no such disputes shall be referred to an adjustment board but shall thereafter be handled through arbitration in the manner specified in Title I, section 3 First (1) as amended. Notwithstanding any other provisions of this Act, the costs of adjustment board procedures and the compensation of all board members shall be borne entirely by the carriers and labor organizations involved and upon dissolution of the National Mediation Board, its responsibilities and functions in relation to the selection of members of adjustment boards shall be transferred to the Federal Mediation and Conciliation Service. Upon election of the parties to discontinue referrals to adjustment boards and certification of the Secretary of Labor as provided in this section, existing adjustment boards shall be dissolved after they have processed to completion all of the disputes before them.

## TITLE III—SPECIAL INDUSTRIES COMMISSION

SEC. 301. The National Special Industries Commission is hereby established. The Commission shall be composed of 7 members all of whom shall have a background by reason of education or experience in labor relations.

(a) The Commission members shall be appointed by the President for a term not to exceed 2 years.

(b) The Commission members shall receive compensation at a rate of up to the per diem equivalent of the rate for GS–18 when engaged in the work of the Commission, together with any necessary travel and subsistence expenses.

(c) The Commission shall be authorized to study and investigate industries (determined by the Secretary of Labor to be particularly vulnerable to national emergency disputes) combinations or groups thereof, and problems relating thereto, including but not limited to—

(1) the ways and means by which the collective-bargaining process might be improved, altered, revised, or supplemented so as to avoid or minimize strikes and lockouts which affect an entire industry, or region, or a substantial part thereof;

(2) the effectiveness and usefulness of various forms of mediation, conciliation, arbitration, and other possible procedures and methods for aiding or supplementing the collective-bargaining process;

(3) the administration, operation, and possible need for revision of this Act and its effect on collective bargaining, strikes, or lockouts affecting an entire industry or region or substantial portion thereof;

(4) the adequacy of current legislation in encouraging work-rule arrangements that maximize productivity;

(5) such other problems and subjects which relate in any way to collective bargaining, strikes, or lockouts as the Commission deems appropriate.

(d) A vacancy in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission, and shall be filled in the same manner as the original appointment was made. The President shall designate a chairman and a vice chairman among its members.

(e) In carrying out its duties, the Commission or any duly authorized subcommittee thereof, is authorized to hold such hearings or investigations, to sit and act at such places and times, to require by subpoena or otherwise the attendance of such witnesses and production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, to make such expenditures as it deems advisable. The Commission may make such rules respecting its organization and procedures as it deems necessary: *Provided, however,* That no recommendation shall be reported from the Commission unless a majority of the Commission assent. Subpoenas may be issued over the signature of the chairman of the Commission or by any member designated by him or by the Commission, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Commission or any member thereof may administer oaths to witnesses. The cost of stenographic services shall be fixed at an equitable rate by the Commission. Members of the Commission, and its employees and consultants, while traveling on official business for the Commission may receive either a $50 per diem allowance or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

(f) The Commission is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The Commission is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government.

SEC. 302. The Commission shall, within a period of 2 years from the date of the appointment of its members, report to the President concerning its findings. Such report shall also contain any recommendations for dealing with problems caused by any weaknesses in the collective bargaining process, including any recommendations for legislation which the Commission deems necessary to the solution of such problems. The Commission may also recommend, if it deems it advisable, legislation to bring other industries within the coverage of Part B of title II of the Labor-Management Relations Act, as amended.

## TITLE IV—MISCELLANEOUS PROVISIONS

### SUITS BY AND AGAINST REPRESENTATIVES

SEC. 401. (a) Suits for violation of agreements or arrangements between carriers or common carriers by air and their employees or the representatives thereof, as those terms are defined in the Railway Labor Act, or between any such representatives, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

(b) Any representative of employees, as defined in the Railway Labor Act, and any carrier or common carrier by air, as defined in the Railway Labor Act, shall be bound by the acts of its agents. Any such representative may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the United States. Any money judgment against such representative in a district court of the United States shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

(c) For the purpose of actions and proceedings by or against representatives in the district courts of the United States, district courts shall be deemed to have jurisdiction of a representative (1) in the district in which such organization maintains its principal office or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(d) The service of summons, subpoena, or other legal process of any court of the United States upon an officer or agent of a representative, in his capacity of such, shall constitute service upon the representative.

(e) For the purposes of this section in determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

### REPEAL

SEC. 402. Sections 5, 7, 8 (both), 9 and 10 of title I, and sections 203 and 205 of title II of the Railway Labor Act, as amended, are hereby repealed.

### INAPPLICABILITY OF THE NORRIS-LAGUARDIA ACT

SEC. 403. The provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable to any judicial proceeding brought under or to enforce the provisions of this Act.

### RIGHTS OF EMPLOYEES

SEC. 404. Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

### RAILROAD UNEMPLOYMENT INSURANCE

SEC. 405. Section 4(a)(v) of the "Railroad Unemployment Insurance Act of 1938," 52 Stat. 1098, is hereby amended by inserting a semi-colon following the words "at which he was last employed" and striking the remaining language in the paragraph.

### APPROPRIATIONS

SEC. 406. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

### SEPARABILITY

SEC. 407. If any provisions of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

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## TRANSPORTATION CRISIS PREVENTION ACT OF 1972—SECTION-BY-SECTION ANALYSIS

*Section 1.* Contains the short, or official title of the Act, "Transportation Crisis Prevention Act of 1972."

*Section 2.* Contains a declaration of Congressional findings, purpose and policy. The purpose and policy is to assure so far as possible that no strike or lockout in the transportation industry or a substantial part thereof will imperil the national health or safety or the health or safety of a substantial sector of the Nation.

### TITLE I—AMENDMENTS TO THE LABOR-MANAGEMENT RELATIONS ACT RELATING TO EMERGENCY DISPUTES IN THE TRANSPORTATION INDUSTRY

*Section 101(a).* Redesignates Title II of the Labor-Management Relations Act as Title II, Part A.

*Section 101(b)(1).* Amends section 206 of the Labor-Management Relations Act so as to provide that the national emergency provisions of section 206 apply to a strike or lockout in the railroad, airline, maritime, longshore or trucking industries if such strike or lockout imperils the health or safety of a substantial sector of the Nation.

*Section 101(b)(2).* Amends section 208(a) of the Labor-Management Relations Act so as to permit the issuance of an injunction when a strike or lockout in the railroad, airline, maritime, longshore or trucking industry would imperil the health or safety of a substantial sector of the Nation.

A proviso recognizes the special nature of the transportation industries by requiring that a petition to enjoin a strike or lockout in the railroad, airline, maritime, longshore or trucking industry must be heard by a three-judge district court rather than by a single district court judge.

*Section 101(b)(3).* Amends section 208(c) of the Labor-Management Relations Act so as to provide for direct appeal to the United States Supreme Court for review of an order or orders of a three judge district court in a case involving the transportation industries.

*Section 101(b)(4).* Amends section 209(a) of the Labor-Management Relations Act so as to provide that, when an injunction is issued in a case involving a transportation industry labor dispute which imperils the health or safety of a substantial sector of the Nation, the parties to such a labor dispute must make every effort to adjust and settle their differences with the assistance of the Federal Mediation and Conciliation Service.

*Section 101(c).* Repeals section 212 of the Labor-Management Relations Act thus making the national emergency provisions of the LMRA applicable to all transportation industries.

*Section 102.* Amends Title II of the Labor-Management Relations Act by adding a new Part II B (sections 213–221) as follows:

*Section 213.* The new Part II B applies only to the railroad, airline, maritime, longshore and trucking industries.

*Section 214.* This section empowers the President to invoke new procedures providing for an additional cooling-off period, partial operation and/or final offer selection within 10 days after an injunction obtained pursuant to section 208 of the LMRA is discharged if no settlement has been reached by the parties. The new optional procedures may be exercised in such sequence as the President deems appropriate until it is certified by the Secretary of Labor that the dispute is settled. However, only one of the optional procedures may be exercised at any one time and each may be invoked only once during a dispute.

Subsection (b) provides that if either the additional cooling-off period or the partial operations option is exercised, it may be terminated before the procedure is completed and the President may then exercise another of the three optional procedures.

Subsection (c) makes it clear that if the final offer selection option is exercised, the President may not thereafter invoke either the additional cooling-off period or the partial operation option.

*Section 215.* This section requires the President to notify Congress of each optional procedure which he invokes.

*Section 216.* This section requires that if the President does not choose to invoke any of the three optional procedures, he must submit a supplemental report to Congress which includes such recommendations as he may see fit to make.

*Section 217.* This section provides the President with the option of an additional cooling-off period of 15 days during which period there would be continued bargaining between the parties. No changes could be made, except by agreement, in the terms and conditions of employment during the 15-day period and the parties would be precluded from engaging in a strike, lockout or similar activity. The board of inquiry appointed pursuant to section 206 could continue to mediate the dispute along with the director of the Federal Mediation and Conciliation Service.

*Section 218.* This section provides the President with the option of partial operation of a transportation industry. The President is empowered to appoint a special board to determine whether and under what conditions a *partial* strike or lockout could take place without imperiling the national health or safety, or the health or safety of a substantial portion of the territory or population of the Nation and whether under such conditions, the partial strike would be of sufficient economic impact to encourage resolution of the dispute.

Subsection (b) provides that if the special board determines that a partial strike or lockout is feasible, it shall issue an order specifying the extent and conditions of partial operation. If a partial strike or lockout is not feasible, the board shall submit a report to the President.

Subsection (c) precludes the parties from interfering by resort to strike or lockout with a partial operation ordered by the special board. The board's order may be effective for up to 180 days.

Subsection (d) provides that the board's order is conclusive unless found to be arbitrary or capricious.

Subsection (e) requires the special board to issue its order within 30 days from the date of its appointment unless all parties, including the Government, agree to an extension of time. Any extension would reduce *pro tanto* the maximum effective period of the board's order. The board may modify its order, on notice to the parties, at any time during the period of partial operation.

Subsection (f) requires the status quo to be maintained while the board is making its determination and during any period of partial operation ordered by the board, unless otherwise provided by order of the board. The board may suspend or modify any existing term or condition of employment to the extent necessary to make it consistent with the condition of partial operation.

Subsection (g) prescribes rules of procedure applicable to the special board's functions. Any party or any member of the board can present to the board a plan defining the strike or lockout action that would be consistent with the public interest. The board, after appropriate hearings in which the Government would be a party to protect the public interest, could adopt or modify the plan.

Subsection (h) provides that if a settlement is reached during the course of the board's hearing, the board shall adjourn and report to the President.

Subsection (i) prescribes the compensation of members of the special board and authorizes them to employ experts and consultants to assist them in performing their functions.

Section 219. This section provides the President with the option of final offer selection. Each party would be directed to submit a final offer to the Secretary of Labor within 3 days. Parties may also submit one alternative final offer. If any party failed to submit an offer, the last offer made during bargaining would be deemed its final offer. Each final offer submitted must constitute a full resolution of the controversy.

Subsection (b) requires the parties to meet and bargain, with or without mediation by the Secretary of Labor, for a period of 5 days after they have received each other's final offers.

Subsection (c) provides that if a settlement has not been reached within the 5-day period, the parties have 2 days within which to select a three-member panel to act as the final offer selector. If the parties cannot agree to a panel, the President shall appoint the panel.

Subsection (d) makes it clear that no "interested" person shall be appointed to a final offer selection panel.

Subsection (e) provides that if a settlement is reached while the panel is conducting its informed hearing, the hearing shall be adjourned and the panel shall report to the President. This action also prescribes the compensation of members of the panel and authorizes them to employ experts and consultants to assist them in carrying out their functions.

Subsection (f) provides for the conduct of an informal hearing to determine which of the final offers constituted the final and binding resolution of the issues. The Government does not have a right to participate in this hearing. The hearing must be completed and the panel must reach its determination within 30 days from the time that the President directed the parties to submit final offers.

Subsection (g) and (h) make it clear that the panel's function is limited to choosing the more reasonable of the final offers. It may not mediate or otherwise settle the dispute otherwise than as provided for and it may not communicate with third parties concerning recommendations for settlement.

Subsection (i) provides for permissive intervention in the panel hearing by any person asserting an interest because of a conflicting claim to all or any portion of the work involved in the dispute. An application for intervention must be filed within 5 days from the time the panel is appointed. Intervention is permitted solely for the purpose of presenting views in support of any of the final offers previously submitted.

Subsection (j) provides that the status quo is to be maintained until the panel makes its selection of the final offer.

Subsections (k) and (l) make it clear that the panel may not compromise or alter the final offer that it selects and that it must select the most reasonable of the offers. Subsection (l) also specifies certain factors which may be taken into account by the panel in reaching its decision.

Subsection (m) provides that the final offer which the panel selects shall be deemed to represent the contract between the parties except to the extent that any provision is determined not to be in accordance with applicable law.

Subsection (n) makes the determination of the panel conclusive unless it is found to be arbitrary or capricious or a particular provision is modified because it is not in accordance with applicable law.

*Section 220.* This section authorizes special boards and final offer selection panels to act by majority vote.

Subsection (b) makes it clear that a vacancy on a board or panel does not prevent the remaining members from exercising all of the powers of the board or panel. The President may appoint a successor in the case of a vacancy due to the death or resignation of a board or panel member.

*Section 221.* The term "Government" as it is used in Title II of the Labor-Management Relations Act is deemed to mean the United States Government acting through the Attorney General or his designee.

### TITLE II—AMENDMENTS TO THE RAILWAY LABOR ACT

*Section 201.* This section transfers the functions of the National Mediation Board to the Federal Mediation and Conciliation Service and the National Labor Relations Board. The Mediation Board is then abolished after it has carried out such of its functions and duties as are required by the existence of the National Railroad Adjustment Board.

*Section 202(a).* Amends section 2 Seventh of the Railway Labor Act to provide that the rates of pay, rules or working conditions as embodied in agreements or arrangements may not be changed or sought to be changed by a carrier, its officers or agents or representatives except in the manner set forth in such agreements and in Title I, Section 6 of the Railway Labor Act.

*Section 202(b).* Amends section 3 First (i) of Title I of the Railway Labor Act to provide for the discontinuance of the referral of disputes described in that subsection to the Adjustment Board and for their submission to Arbitration in accordance with a prescribed procedure. The parties have 5 days to select an arbitrator. If they cannot agree, the Federal Mediation and Conciliation Service submits to the parties a list of five qualified arbitrators. One is selected through a process of alternate rejection and he arbitrates the dispute. If the parties cannot agree to the rules for arbitration, the arbitrator makes the necessary rules.

Disputes which have been previously referred to the Adjustment Board but are not presently being heard by the Board may be removed by the grievant and submitted to the arbitration process.

The statutory arbitration process set up herein shall prevail until such time as the collective bargaining agreements between the parties contain no-strike, no-lockout clauses and provisions for grievance machinery terminating in final, binding arbitration.

The Adjustment Board may continue to function until it has processed to completion all of the disputes before it or until two years from the effective date of this amendment, whichever first occurs. If disputes are still pending before the Board at the time of its dissolution, they must be removed to the arbitration process.

*Section 202(c)*. Amends section 3 Second of Title I to make it clear that the arbitration process also applies with respect to system, group or regional boards of adjustment.

*Section 202(d)*. Disputes which have not been referred to a special board of adjustment by the effective date of this amendment may not be referred thereafter.

*Section 202(e)*. Amends section 4 Second to provide that the Mediation Board may designate one or more of its members to exercise the functions of the Board in representation proceedings.

*Section 202(f)*. Amends section 4 Fifth to provide that the National Labor Relations Board shall assume and carry out all functions of the National Mediation Board relating to the determination of bargaining representatives, including duties particularized in Title I, section 2 Eighth and Ninth of the Railway Labor Act.

*Section 202(g)*. This subsection adds paragraphs Sixth, Seventh and Eighth to section 4 of Title I. These new paragraphs transfer the mediation functions of the National Mediation Board to the Federal Mediation and Conciliation Service, provide for the transfer of cases from the Board to the Service and provide for the apportionment of the unexpended appropriations for the operation of the National Mediation Board between the National Labor Relations Board and the Federal Mediation and Conciliation Service.

*Section 202 (h)*. Amends Section 6 of Title I to change the notice-of-contract modification or termination provisions to direct the railroad and airline industries to the form of contract reopening presently existing in industries subject to the Taft-Hartley Act. The parties would be obligated to serve written notice of proposed contract changes on each other at least 60 days prior to the contract expiration date. Special provision is made for the transition to the new method of contract reopening. At the expiration of the contract or of 60 days, whichever is later, the parties would be free to resort to self-help.

*Section 202 (i)*. Amends section 201 of Title II to extend the provisions of section 3 of Title I to the airline industry.

*Section 202 (j)*. Amends section 202 of Title II to provide that any duties, requirements, penalties, benefits and privileges prescribed and established by the provisions of section 3 of Title I shall be extended to the airline industry. The subsection further provides that the functions and duties of the National Labor Relations Board with respect to representation proceedings shall apply to the airline industry.

*Section 202 (k)*. Amends section 204 of Title II to provide that parties may, by mutual agreement, elect to discontinue referrals of disputes to adjustment boards and thereafter handle them through arbitration.

TITLE III—SPECIAL INDUSTRIES COMMISSION

*Section 301*. This section establishes a National Special Industries Commission to study labor relations in those industries which the Secretary of Labor has determined to be particularly vulnerable to national emergency disputes. The commission is empowered to study all the factors affecting labor relations in those industries and to make recommendations to the President as to the best way of remedying the weaknesses of collective bargaining in the industries studied.

*Section 302*. This section prescribes that the Commission shall report to the President concerning its findings within a period of 2 years from the date of the appointment of its members. The report shall contain recommendations for legislation if appropriate. The commission's recommendations may also include a proposal that additional industries be brought within the coverage of the new Part B of Title II of the Labor-Management Relations Act.

TITLE IV—MISCELLANEOUS PROVISIONS

*Section 401*. This section permits suits for violations of collective bargaining agreements or arrangements in the air and rail industries to be brought in any Federal district court having jurisdiction of the parties without regard to the amount in controversy or without regard to the citizenship of the parties. This section also makes representatives suable in their capacity as such. Money judgments against representatives are enforceable only against the organizations they represent.

*Section 402*. Repeals sections 5, 7, 8 (both), 9 and 10 of Title I, and sections 203 and 205 of Title II of the Railway Labor Act.

*Section 403*. The Norris-LaGuardia Act is made inapplicable to any judicial proceeding brought under or to enforce the provisions of the Crippling Strikes Prevention Act of 1972.

*Section 404*. Makes it clear that no employee may be forced to work without his consent; or shall the quitting of labor by an employee in good faith because of abnormally dangerous conditions for work at the place of employment of such employee be deemed a strike under this Act.

*Section 405*. This section repeals the provisions of the Railroad Unemployment Insurance Act that makes strikers eligible for benefits if the strike is not in violation of the Railway Labor Act or of the rules of the labor organization of which they are members. Thus, strikers in the railroad industry will be disqualified from unemployment insurance benefits in accordance with the usual criteria in State unemployment insurance laws applicable to other industries.

*Section 406*. This section authorizes such sums to be appropriated as are necessary to carry out the provisions of the Transportation Crisis Prevention Act of 1972.

*Section 407*. This section contains the usual separability provisions.

Mr. ROTH. Mr. President, I am pleased to cosponsor a bill introduced today by the distinguished Senator from Oregon (Mr. PACKWOOD) S. 3232, entitled the Transportation Crisis Prevention Act of 1972. The major purpose of this legislation is to improve and strengthen settlement procedures for transportation labor disputes which threaten to imperil the health or safety of the Nation or of a substantial sector of the Nation. The legislation is similar to, but in important respects a revision of, President Nixon's recommendations for amending Federal law with respect to emergency labor disputes.

The President's proposal was first transmitted in March 1970, to the 91st Congress. No hearings were held in that Congress on his recommendations, or on any other dispute-settlement proposals. Mr. Nixon resubmitted his proposal to the 92d Congress, in February 1971. The Senate Labor Subcommittee began hearings in June 1971 on the administration bill and related measures, but has not yet concluded its hearings.

Since the President first submitted his proposal in early 1970, the Congress has been forced to intervene on five separate occasions with ad hoc measures to prevent emergency-creating strikes or lockouts. Four of these five special-purpose statutes dealt with rail disputes, while the fifth—still vividly scarred in our memories—covered the recently ended 134-day west coast dock strike, the longest dock strike in U.S. history. We deliberate in these halls today with the knowledge that dock strikes may erupt soon in the east and gulf ports. All Taft-Hartley procedures for the east coast port disputes have been exhausted. The east coast stevedores have agreed to remain at their jobs until mid-March; failing settlement by then, they may go on strike, as they did last October and November, and the American economy will again begin to wither.

The recent west coast dock strike worked many hardships upon our economy. Let me cite only a few of these, as they apply to agriculture—an industry of great importance in my State of Delaware and, of course, in many other States of the Nation. According to Agriculture Secretary Earl L. Butz, the west coast dock strike reduced farm exports by almost $6 million every work day that it remained in effect. It damaged our reputation as a dependable supplier of farm products. It backed up commodities into barges, rail cars, trucks, and warehouses all the way to the farm. It caused reduced farm prices, increased marketing costs, and spoiled crops.

The time is due, and long past due, for strengthened Federal legislation to prevent crippling strikes in the transportation industries. I strongly urge my colleagues on the Senate Labor Committee to proceed rapidly with hearings on the bill I cosponsor today, and related proposals, and to report out a bill. Give the full body of the Senate an opportunity to vote it up or down; I feel confident that the large majority of my colleagues in the Senate, as well as those in the House, recognize the imperative need for strike-settlement legislation in this Congress.

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By Mr. MAGNUSON (by request):

S. 3233. A bill to amend section 396 of the Communications Act of 1934 to increase and extend for 1 year the authorization for the Corporation for Public Broadcasting. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, today I am introducing at the request of the administration an amendment to section 396 of the Communications Act of 1934 to increase and extend for 1 year the authorization for the Corporation for Public Broadcasting.

I ask unanimous consent that the letter requesting the legislation be printed in full at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of Telecommunications
Policy, Executive Office of the
President,
Washington, D.C.

Hon. Spiro T. Agnew,
*President of the Senate,*
*Washington, D.C.*

Dear Mr. President: I am submitting herewith for the consideration of the Congress a proposed revision of section 396 of the Communications Act of 1934, which pertains to public broadcasting.

In the Congressional deliberations preceding enactment of the Public Broadcasting Act of 1967, considerable attention was given to the desirable manner of funding public broadcasting. That important question was ultimately left for later resolution, and funds have since then been authorized on an annual or biennial basis that is generally acknowledged to be less than ideal. During the past year, the Administration has undertaken fundamental consideration of this important question and had hoped to present its recommendations during the past session. It developed, however, that basic questions were involved beyond those pertaining to the level, means and duration of funding. In particular, it became apparent that any program for increased funding without annual Congressional review would have to contain carefully drawn provisions to insure disposition of the funds in accordance with the intent of the Public Broadcasting Act.

We have found no consensus within the public broadcasting community on these matters, and hence have been unable to develop our recommendation as early as we had hoped. There is no controversy, however, concerning the continuing desirability of public broadcasting as envisioned by the 1967 Act, nor is there much doubt of its need for increased funds to continue its healthy development. While, therefore, consideration of an ultimate funding procedure continues, we recommend that the Congress adopt the proposals contained within this legislation for another one-year extension of the Corporation for Public Broadcasting's current funding, at a significantly increased level—$10 million above that for the present fiscal year. Federal funding will thereby be established at $45 million, $5 million of which must be matched by funds derived elsewhere. Despite severe pressures on the Federal budget, we feel this increase is desirable to continue the progress of an enterprise which is still in its developing stages.

This legislation also reflects an effort to direct assistance specifically to the individual public broadcasting stations, which currently face severe financial burdens. At present the Corporation devotes between $5 and $6 of its $35 million to general operating support of local radio and television stations. The Administration bill seeks to add to this an additional $10 million for Fiscal 1973. It establishes a mechanism for distribution of a total of $15 million to the local stations in a manner which assures that they will be effective partners with the Corporation in the development of public broadcasting service for their communities.

This mechanism provides for $2 million to be distributed to public radio stations—almost doubling the general support funds which the Corporation now provides them. Because of the large number and enormously diverse nature of public radio operations, the manner of distribution of these radio funds is left to the discretion of the Corporation, to be exercised in consultation with station representatives. The proportion of the $15 million devoted to radio represents the approximate share of total non-Federal public broadcasting support which goes to radio.

The statutory mechanism would also make available $13 million to approximately 140 licensees of public television stations. Two types of grants would be used for this purpose: a minimum support grant of $50,000 and a supplemental grant based on the proportion which the licensee's operating budget, exclusive of Federal and Corporation grants, bore to all licensees' operating budgets during Fiscal 1971. The minimum grant would be reduced in those instances where necessary to prevent it from exceeding 25 per cent of the licensee's Fiscal 1971 operating budget (exclusive of Federal and Corporation grants). There would also be an upper limit on the amount of the supplemental grant, since no licensee's operating budget would be considered to exceed $2 million for grant purposes.

The Public Broadcasting Act needs substantial refinement—not only to establish its final basis of financing, but also to take account of technical change and operational experience during the first five years of its existence. While the needed revisions are being considered by the Administration and the Congress, this proposed bill will enable the sound growth of the system to continue.

The Office of Management and Budget advises that the proposed legislation is in accord with the program of the President.

A similar letter is being sent to the Speaker of the House.

Sincerely,

Clay T. Whitehead.

By Mr. HARRIS:

S. 3234. A bill providing for the distribution of judgment funds of the Osage Nation of Indians. Referred to the Committee on Interior and Insular Affairs.

Mr. HARRIS. Mr. President, on April 1, 1971, I introduced for myself and the junior Senator from Oklahoma (Mr. Bellmon) S. 1456, a bill to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma. There is some question among the Osage about the way in which that bill provides for the distribution of the claims settlement.

Therefore, Mr. President, I am sending to the desk for appropriate reference another bill to provide for the distribution of this claims settlement. It directs the Secretary of the Interior to "prepare a roll of persons who possess Osage Indian blood of the degree of one-fourth or more and were living on the day that judgment against the United States became final" in this settlement. These persons must have been enrolled on the allotment roll prepared pursuant to the Osage Allotment Act of 1906 (34 Stat. 539) or must be descendents of such persons. This bill would distribute 85 percent of the judgment funds on a per capita basis to the persons on the above roll. The balance of these funds would be used for any purpose agreed to by the Osage governing body and the Secretary of Interior and approved by a majority vote of those on the distribution roll.

Mr. President, I am introducing this second distribution bill in order to insure that consideration of this issue in committee is balanced and takes into account all points of view. And it is certainly my hope that the Senate Committee on Interior and Insular Affairs will give this matter its attention as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3234

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is authorized and directed to prepare a roll of persons who possess Osage Indian blood of the degree of one-fourth or more and were living on the day that judgment against the United States became final in the Indian Claims Commission in docket numbered 105, 106, 107, and 108.

Such persons must have been enrolled on the allotment roll prepared pursuant to the Osage Allotment Act of 1906 (34 Stat. 539) or must be a descendant of a person enrolled on the allotment roll prepared pursuant to the Osage Allotment Act.

Applications for enrollment must be filed with the Superintendent of the Osage Agency, Pawhuska, Oklahoma, within six months of the date of this Act or be forever barred. For a period of three months thereafter, the Secretary shall permit the examination of the applications by the Osage governing body and any interested persons for the purpose of lodging protests against any application. The burden of providing eligibility for enrollment under this Act shall be upon the applicant and the determination of the Secretary regarding the eligibility of any applicant shall be final.

Sec. 2. (a) Eighty-five percent of the funds on deposit in the Treasury of the United States (with accrued interest thereon, less deductions for attorney's fees and litigation expense) which have been appropriated to pay a judgment against the United States obtained in the Indian Claims Commission in docket numbered 105, 106, 107, and 108, shall be distributed by the Secretary in equal amounts per capita to all persons whose names appear on the distribution roll provided for in section 1 of this Act.

(b) The balance of such funds, after making payment of or provision for such per capita payment, shall be advanced or expanded for any purpose that is agreed to by the Osage governing body and the Secretary and approved by a majority vote of the enrollees, which may more properly serve the long-term interest of the enrollees than would a per capita payment.

(c) A share payable to a person under twenty-one years of age or under a legal disability shall be paid in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons.

(d) A share payable to a deceased enrollee shall be paid to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

Sec. 3. No part of any of the funds distributed in accordance with this Act shall be subject to any State or Federal tax.

Sec. 4. No part of any of the funds distributed in accordance with this Act shall be subject to any debt or debts created prior to the date of this Act.

Sec. 5. Any other law or laws relating to funds paid or accruing to the Osage Nation or Tribe of Indians shall not apply to the funds distributed, expended or advanced under this Act.

Sec. 6. The Secretary is authorized to prescribe regulations necessary to carry out the provisions of the Act.

By Mr. HARRIS (for himself and Mr. Bellmon):

S. 3235. A bill to declare that the United States holds certain lands in trust for the Citizen Band of Potawatomi Indians of Oklahoma. Referred to the Committee on Interior and Insular Affairs.

Mr. HARRIS. Mr. President, for myself and the junior Senator from Oklahoma (Mr. Bellmon), I send to the desk for appropriate reference a bill to redesignate certain lands conveyed to the Citizen Band of Potawatomi Indians of Oklahoma as trust lands maintained by the Department of Interior.

The Citizen Potawatomi Business Committee passed a resolution requesting the Oklahoma congressional delegation to introduce this legislation, and I ask unanimous consent that the resolution be printed in the Record at this point.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution of Citizen Band of Potawatomi Indians of Oklahoma

A resolution requesting that lands conveyed to the Citizen Band of Potawatomi Indians of Oklahoma pursuant to the Act of August 11, 1964 (78 Stat. 393) and the Act of September 13, 1960 (74 Stat. 903) by quitclaim and subject to no restrictions because of Indian ownership be redesignated restricted lands and maintained in trust by the Departemnt of Interior for the aforementioned Indian tribe

Whereas, the Citizen Band of Potawatomi Indians of Oklahoma is desirous of having the above mentioned lands redesignated Trust lands, and

Whereas, the Citizen Potawatomi Business Committee voted during a Special Business Committee Meeting on September 16, 1971, to authorize the Business Committee Chairman to prepare a proposed Bill on the aforementioned subject and submit same to the appropriate members of the United States Congress.

Now therefore be it resolved that the Citizen Potawatomi Business Committee Chairman prepare this Bill and contact the Oklahoma Congressional Delegation in order to get said proposal introduced and maintain contact with these gentlemen to insure a prompt hearing and expeditious enactment.

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By Mr. BYRD of Virginia (for himself and Mr. Spong):

S. 3236. A bill to provide for the establishment and operation of a research center at Blacksburg, Va. Referred to the Committee on Interior and Insular Affairs.

Mr. BYRD of Virginia. Mr. President, I am sending to the desk legislation to provide for the establishment of a research center for the Bureau of Mines, of the Department of the Interior, at Virginia Polytechnic Institute and State University at Blacksburg, Va.

A similar research center is now at the University of Maryland, but on October 1, 1965, the Congress authorized reconveyance to the State of Maryland that land on which the center is now situated, along with the buildings thereon. This was done because of the need of the space by the University of Maryland. The research center thereupon leased the premises until a suitable relocation site could be found.

That lease eexpires on June 10, 1978, and the University of Maryland has informed the Bureau of Mines that it will not renew the lease. Because of the dire need for additional space, the University of Maryland desires that the buildings housing the research center be vacated at the earliest possible moment.

Virginia Polytechnic Institute and State University has offered, without cost, to the Bureau of Mines, a tract of approximately 20 acres on or adjacent to its campus upon which a research center can be built. The proposed legislation would authorize the expenditure of $6.1 million to erect and equip such a facility and would also provide for funds necessary for the annual maintenance and operation of such facility.

The location of this center at VPI and SU would be most beneficial to the Bureau of Mines. The university is a large and well respected institution of higher learning, which has especially fine schools in the areas of technology and science.

It has a large library well oriented in technical and scientific fields. The university atmosphere and the locale are such that will be most attractive to prospective employees of the center.

Blacksburg, Va., is located adjacent to Virginia's vast coal mining regions. Therefore, the center would be located close to active workshops of all description.

As the research center must be relocated prior to June 1978, there is a onetime expense of relocation, which the Government must bear. Relocation to the southwest Virginia area would, in the estimation of the Bureau of Mines, result in substantial savings in annual maintenance and operation costs.

Thus, over the years the Federal Treasury will benefit.

My distinguished colleague from Virginia (Mr. Spong) is cosponsoring this legislation with me. Also, there is companion legislation being introduced today in the House which is cosponsored by the entire 10-man Virginia delegation.

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By Mr. STENNIS (for himself and Mrs. Smith) (by request):

S. 3237. A bill to authorize an additional Deputy Secretary of Defense, and for other purposes. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, by request, for myself and the senior Senator from Maine (Mrs. Smith), I introduce, for appropriate reference, a bill to authorize an additional Deputy Secretary of Defense, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of Defense,
*Washington, D.C., February 9, 1972.*

Hon. John C. Stennis,
*Chairman, Senate Armed Services Committee, U.S. Senate, Washington, D.C.*

Dear Mr. Chairman: The need for Congressional authorization of a second Deputy Secretary of Defense has not diminished and I urge favorable consideration by your Committee of the necessary legislation to authorize a second Deputy Secretary as a matter of urgent priority. It is my understanding that when the proposal to create a second Deputy Secretary of Defense was considered by your Committee in the closing days of the last session of Congress, concern was expressed that the authorization would create a potential for conflict between the two Deputy Secretaries of Defense due to the jurisdictional overlap. The basis for such a concern I believe, may be alleviated by a reemphasis on the reasons for this request and a review of the roles contemplated for the two Deputy Secretaries.

I have requested authorization for an additional Deputy Secretary because I believe that the most efficient management of Department of Defense resources desired by the President, the Congress, and myself, cannot be achieved with the two senior managers now authorized in this Department. Deficiencies that we have all observed in the past have in large measure been due to insufficient senior management attention to the affairs of the Department of Defense. I am convinced that the authorization for an additional Deputy Secretary will provide the capability for this necessary level of attention. At the same time, I think it is particularly important that we do not increase the layers of management within the Department. The management attention that is required is the attention of those who have the authority to issue instructions and make decisions in their own right without further reference to other more senior managers. The position of Deputy Secretary of Defense provides this level of authority and responsibility.

As you know, the position of Deputy Secretary of Defense was created in 1949. Since that time, it has been customary for the Secretary of Defense to make a full delegation of authority to the Deputy Secretary. Consequently, there has always been a full overlap in or coincidence of the scope of authority between the Secretary and the Deputy Secretary. This has enabled the Deputy Secretary, in the absence of the Secretary, to act and make decisions on any matters within the authority of the Secretary.

The authority for a full delegation of the Secretary's authority to the Deputy Secretary is the significant factor which distinguishes the position of Deputy Secretary of Defense from that of the Under Secretaries in other departments. The necessity for a Deputy Secretary who can act for the Secretary of Defense in all matters, rather than a functionally limited Under Secretary, is necessary because of the peculiar duties delegated to the Secretary of Defense by the President in his role of Commander-in-Chief of the Armed Forces.

This "alter ego" relationship between the Secretary and the Deputy Secretary of Defense obviously requires a very close and highly coordinated relationship between the Secretary and the Deputy Secretary. Despite the coincidence in scope of authority between the Secretary and the Deputy Secretary, however, it has also been the unbroken custom to allocate by agreement between the Secretary and the Deputy Secretary primary responsibilities and tasks in the day-to-day business of the Department. This allocation has varied from time to time depending largely on the experience and areas of primary interest of the particular Secretary and his Deputy.

In requesting the authorization of a second Deputy Secretary of Defense, I have recommended that the functional responsibilities of the two Deputy Secretaries not be specified by statute for several reasons.

The first reason is related to the responsibilities of the Secretary of Defense as a link in the chain of military command between the President as Commander-in-Chief and the Commanders of Combatant Forces.

To insure the faithful execution of orders of the Commander-in-Chief to the Armed Forces, the Secretary of Defense must have a comprehensive scope of authority over all elements and activities of the Department of Defense. The Deputy Secretary of Defense requires an equivalent scope of authority to act when the Secretary is absent or disabled. It is contemplated that if a second Deputy Secretary of Defense is authorized and appointed, the President would formally designate which of the two Deputy Secretaries would take precedence, when both are present, to act in the absence of the Secretary of Defense in the chain of military command. On occasions, the business of the Department of Defense can be expedited by both the Secretary and the Deputy Secretary of Defense attending meetings together or concurrently outside the Capitol area. In the absence of the Deputy Secretary designated as precedent and when the Secretary of Defense is also absent, the second Deputy Secretary would act in the chain of military command and in accordance with the comprehensive delegation of authority from the Secretary of Defense made routinely to a Deputy Secretary.

Despite the fact that it is contemplated that both Deputy Secretaries of Defense would receive a full delegation of authority from the Secretary of Defense, an allocation of primary responsibilities and tasks among the Secretary and the two Deputy Secretaries is also contemplated. This functional allocation of responsibilities should not, in my opinion, be made by statute because, first, it would be impracticable, if not impossible, meaningfully to reduce the allocation to written form and, second, the allocation of responsibilities should always remain quite flexible in order to respond to changing management approaches and to the capabilities and personalities of the men who fill the positions from time to time.

The tasks performed by the Secretary and the Deputy Secretary of Defense are numerous, varied, complex, and inextricably interrelated. For example, decisions on the weapons acquisition process are influenced by, and in turn impact upon almost all other facets of departmental activities, such as force planning and composition, manpower and training and budget, to name but a few. Similarly, with respect to any particular functional area such as weapons acquisition, there are a variety of types of tasks to be performed, including the provision of internal policy guidance, monitoring, planning, resource allocation, and justification within the Executive Branch and before Congress. It is not always possible for the individual who has primary responsibility in the area of weapon systems acquisition to personally perform all of the tasks related to the function, nor from the standpoint of good management is it necessarily desirable that the same individual perform all of the related tasks in a given functional area. As a consequence, the allocation of primary responsibilities between the Secretary and his Deputy Secretary must remain somewhat generalized and be permitted to vary somewhat as circumstances and events require. The same considerations would apply equally to the allocations of responsibility among the Secretary of Defense and two Deputy Secretaries of Defense. Accordingly, it would not be practicable in my judgment to codify such allocations of responsibility.

Flexibility in the allocation of responsibilities among the Secretary and two Deputy Secretaries of Defense must also be maintained in order to accommodate personnel changes in the three positions. Individual experiences and areas of highest competence of individuals vary widely. Ideally, those of the Secretary of Defense and his Deputy Secretary or Deputy Secretaries should complement each other. The allocation of primary responsibilities and tasks should be adjustable in order to realize the fullest potential of the varying talents of the individuals who will from time to time fill these positions.

I believe it should be clear from this explanation that the responsibilities and duties of the Secretary of Defense and the Deputy Secretary of Defense should be viewed as an entity and that the request for a second Deputy expresses the need for additional assistance in performing the responsibilities of that entity. The request for a second Deputy is not premised upon any concept of two Deputy Secretaries who would perform the total responsibilities between themselves at a level subordinate to a Secretary of Defense who plays the role of referee. On the contrary, our concept is that the duties and responsibilities now centralized and focused in the office of the Secretary of Defense must continue to be concentrated in one place for effective management, but three individuals, rather than two, have proved to be necessary for the accomplishment of the responsibilities and tasks so concentrated.

Since 1949 there have been 17 combinations of Secretaries and Deputy Secretaries of Defense. These pairings have included a very large variety of personality and experience combinations. In each case, the Secretary and the Deputy Secretary found it possible, and, indeed, essential, to function not as superior and subordinate, but as a unified team to fulfill one composite set of responsibilities. The flexibility of this "alter ego" concept has been tested and performed over more than two decades of often very difficult circumstances. By adding an additional Deputy Secretary, we propose not to alter this concept but to maintain it intact and to strengthen its performance.

I would again urge favorable consideration of legislation to create the second Deputy Secretary of Defense on an expedited basis.

Sincerely,

MELVIN R. LAIRD.

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1322

At the request of Mr. TOWER, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 1322, a bill to provide excess storm loss reinsurance for commercial fishing fleets.

S. 2574

At the request of Mr. MCGEE, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Washington (Mr. MAGNUSON), and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 2574, the voter registration bill.

S. 2860

At the request of Mr. PERCY, the Senator from Pennsylvania (Mr. SCOTT), the Senator from Ohio (Mr. TAFT), and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of S. 2860, a bill to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses.

S. 2994

At the request of Mr. MCCLELLAN, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

S. 3067

At the request of Mr. JAVITS, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. PERCY) and the Senator from Iowa (Mr. HUGHES) were added as cosponsors of S. 3067, a bill to eliminate racketeering in the sale and distribution of cigarettes and for other purposes.

S. 3138

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, at the request of the distinguished Senator from South Dakota (Mr. MCGOVERN), that the name of the distinguished Senator from Wisconsin (Mr. NELSON) be added as a cosponsor of S. 3138, to provide price support for milk at not less than 90 percent of the parity price therefor.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3152

At the request of Mr. CHILES, the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), and the Senator from Oklahoma (Mr. BELLMON) were added as cosponsors of S. 3152, a bill to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer or employee of the United States.

S. 3158

At the request of Mr. WILLIAMS, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3158, a bill to establish within the Department of Health, Education, and Welfare an Office for the Handicapped to coordinate programs for the handicapped.

S. 3187

At the request of Mr. JAVITS, the Senator from Georgia (Mr. GAMBRELL), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 3187, the Venereal Disease Prevention and Control Act.

S. 3191

At the request of Mr. ALLEN, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 3191, a bill to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Bartram Trails, Ala., as a national scenic trail.

## SENATE RESOLUTION 263—SUBMISSION OF A RESOLUTION RELATING TO A PORTRAIT OF THE LATE SENATOR VANDENBERG

(Referred to the Commttee on Rules and Administration.)

ARTHUR HENDRICK VANDENBERG

Mr. GRIFFIN. Mr. President, in the spring of 1967, the Senate adopted a resolution which officially designated room S–139 of the Capitol as the Vandenberg Room in honor of the late Senator Arthur Hendrick Vandenberg of Michigan.

While that action on the part of the Senate was most appropriate, provision was not made at the time to have a portrait of Senator Vandenberg displayed in the room. Accordingly, in cooperation with the senior Senator from Michigan (Mr. HART) I am today introducing a resolution authorizing the procurement of a portrait of the late Senator Vandenberg to be placed in the Vandenberg Room.

Arthur Vandenberg was appointed to the U.S. Senate on March 31, 1928, and served with distinction until his death on April 18, 1951, a period of more than 23 years. He was President pro tempore of the Senate during the 80th Congress, 1947 and 1948.

Mr. President, Arthur Vandenberg was one of Michigan's finest statesmen, a highly respected public servant who consistently placed country above party and principle above politics.

I am proud and grateful that 11 Members of this body who served with Senator Vandenberg have agreed to add their names as cosponsors of this resolution. They are: the Senator from Louisiana (Mr. ELLENDER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from North Dakota (Mr. YOUNG), the Senator from Alabama (Mr. SPARKMAN), the Senator from Louisiana (Mr. LONG), the Senator from New Mexico (Mr. ANDERSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Utah (Mr. BENNETT).

Mr. President, so far as I have been able to determine, only one portrait was ever made of Senator Vandenberg. That painting is in Grand Rapids, Mich. An artist could be commissioned, at a relatively nominal cost, to duplicate that portrait for display in the Vandenberg Room.

I hope that prompt action will be taken on this resolution by the committee and by the Senate.

The resolution reads as follows:

### S. RES. 263

*Resolved*, That in order to honor appropriately the late Senator Arthur Hendrick Vandenberg of Michigan as an outstanding American and Senator, the Committee on Rules and Administration shall have placed in the Vandenberg Room of the Capitol, a suitable portrait of the said Senator Arthur Hendrick Vandenberg. Procurement of the portrait may be by gift or purchase.

SEC. 2. Expenses of carrying out the provision of this Resolution shall be paid out of the contingent fund of the Senate upon vouchers signed by the Chairman of the Committee on Rules and Administration.

## SENATE RESOLUTION 264—SUBMISSION OF A RESOLUTION RELATING TO MEMBERSHIP ON COMMITTEE ON APPROPRIATIONS WITH RESPECT TO FOREIGN ASSISTANCE AND RELATED PROGRAMS

(Referred to the Committee on Rules and Administration.)

Mr. FULBRIGHT (for himself and Mr. AIKEN) submitted the following resolution:

### S. RES. 264

*Resolved*, That the second column of the table contained in paragraph 6(a) of Rule XVI of the Standing Rules of the Senate is amended by inserting immediately below—"For the Diplomatic and Consular Service." the following:

"For Foreign Assistance and Related Programs (other than the Export-Import Bank of the United States)."

## SENATE CONCURRENT RESOLUTION 63—SUBMISSION OF A CONCURRENT RESOLUTION ESTABLISHING A JOINT COMMITTEE FOR 1973 INAUGURATION ARRANGEMENTS

(Referred to the Committee on Rules and Administration.)

Mr. JORDAN of North Carolina submitted the following concurrent resolution:

### S. CON. RES. 63

*Resolved by the Senate (the House of Representatives concurring)*, That a point committee consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January, 1973.

## EDUCATION AMENDMENTS OF 1972—AMENDMENTS

### AMENDMENTS NOS. 928 THROUGH 932

(Ordered to be printed and to lie on the table).

Mr. ERVIN (for himself, Mr. ALLEN, Mr. BAKER, Mr. BENNETT, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, and Mr. TOWER) submitted five amendments intended to be proposed to the committee amendment offered as a substitute for the House amendment to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

### AMENDMENT NO. 933

(Ordered to be printed and to lie on the table.)

Mr. FONG submitted an amendment intended to be proposed by him to the committee amendment offered in the nature of a substitute to the House amendment to the bill (S. 659), supra.

### AMENDMENT NO. 937

(Ordered to be printed and to lie on the table).

Mr. HARRIS. Mr. President, for myself and the distinguished Senator from South Dakota (Mr. MCGOVERN) I send to the desk an amendment intended to be offered to the committee substitute for S. 659 (the Higher Education Act). I ask that the amendment be printed and lie at the desk, and that it be printed in the RECORD, together with statements which I and others made today along with other related documents and materials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### AMENDMENT NO. 937

At the end thereof, add the following new title:

#### TITLE 19—STUDENTS ON BOARDS OF TRUSTEES

SEC. 1901. It is the sense of the Congress: (a) that student participation should be encouraged on the governing boards of institutions of higher education; (b) that to this end there should be at least one student member on the governing board of every institution of Higher Education in America; (c) that she or he should have the rights and privileges of full members of said board; and (d) that the method of appointing the student member should permit the students of said institution to participate, either directly or through directly chosen student representatives, in the selection and approval of the appointment of the student member.

SEC. 1902. The Secretary of Health, Education, and Welfare shall issue a report to the Congress concerning the representation of students on the governing boards of institutions of higher education; said report shall indicate the number and percentage of institutions with students on their governing boards, and shall report on the results of such student representation. Said report shall be due 12 months from the date of enactment of this title.

### STATEMENT OF SENATOR FRED R. HARRIS

Today students are coming from increasingly different backgrounds. They are facing problems which earlier generations of students have not had to deal with. Yet the major policy-making boards of most colleges and universities still reflect the image of the wealthy white male, student of 40 years ago and successful alumnus.

In a recent issue of The Association of Governing Boards of Universities and Colleges Report, Morton Rauh analyzed the composition of boards of trustees. He found that: 86 percent of all trustees are male, and 75 percent are over 50 years of age. A mere 5 percent are under 40, while only 1.3 percent are Black.

Most are rich. The average trustee has an income between $30,000 and $50,000 a year. He is most likely to be an executive of a manufacturing corporation (17 percent) or an executive of a banking or investment firm (11.2 percent).

In spite of the growing interest in the humanities as a field of graduate and undergraduate study, only 0.4 percent of trustees consider the creative arts their principal occupation. On an average, trustee have been away from the university about forty years, and Rauh's study indicated that only about 85 hours a year was spent on college business, including transportation to and from the campus. Yet these men are required to pass judgment on such issues as faculty appointments, student life regulations, university expenditures and changes in the curriculum.

Even the most conscientious trustee has little time for university affairs.

His position in the community together with the age gap between him and the average student makes it impossible for him to have any real contact with students and other groups involved in the day to day business of the university. Moreover, the business orientation of most trustees makes them equate running a university with managing a commercial enterprise. For example, last year the trustees of the University of Pennsylvania voted to sell the school's stock in General Motors—but not because of the company's monopolistic pricing, pollution policy or record on auto safety. Rather the trustees announced they were selling the GM stock because they were afraid tough new federal anti-pollution standards would lower the value of the stock.

Young people are convinced this system of selecting trustees does not serve the interests of education. And they are right. If the idea of the university as a community of scholars is going to have any credence at all, if universities are going to be something more than mills turning out people for big business, students have got to have more voting representation on boards of trustees.

The governors of several states have appointed students and young people to the boards of trustees of state universities. Governor Curtis of Maine appointed a senior at the University of Maine to that board of trustees two years ago. He stated that the student, Stephen Hughes, has been a valuable addition to the board and has given the other trustees insight into student problems that they would otherwise lack.

Mayor Lindsay's appointment of two young people to the Board of Higher Education for the City University of New York was termed extremely effective by officials at CCNY. Both young trustees have urged further openings of opportunities for minority students and have been active in promoting the open admissions policy.

Governor Sargent of Massachusetts has enacted legislation to allow students at the University of Massachusetts to elect one student as a voting trustee of the school. Each community college in the University of Massachusetts system also elects one of its members to an advisory committee to the trustees of the community colleges.

Governor Wallace of Alabama has stated that it is in the best interests of public education that a closer relationship exist between the governing boards of the various state colleges and the students of those colleges. He recently appointed students elected by their student body associations to represent the various campuses on the boards of trustees of the state colleges.

I think that more colleges and universities should be encouraged to put students on their boards of trustees. A great majority of college administrators have found student input extremely helpful in formulating new policies. Students at these universities consider the boards to be more receptive to their concerns and more in line with the American ideal of participatory democracy.

It is for this reason that I am introducing an amendment to S. 659, the Higher Education Act, which states that it is the sense of the Congress that student representation on the governing boards of institutions of higher learning ought to be encouraged.

The amendment states that to this end all institutions of higher learning ought to have at least one student member on their governing board. It also calls upon the Secretary of Health, Education and Welfare to issue a report on the success of institutions of higher education which now allow students to serve on the governing board.

This amendment is not mandatory. But it would be a clear signal to students and their universities that the Congress shares the view that students have a right to participate in decisions which most affect their lives. By authorizing a public report on this matter, the amendment also would help university leaders around the country to see what some of the more progressive schools have already done and the success they have enjoyed.

Since I first declared a few days ago that I intended to offer this amendment, the response from the student world has been literally unanimous. I have received calls of support from all over the country. Participation in the institutions that affect them is clearly an issue that brings all students—conservative or liberal—together.

### PARTICIPANTS AT HARRIS PRESS CONFERENCE

Marjorie Tabankin, President, National Student Association.

Layton Olson, Executive Director, National Student Lobby.

Roger Cochetti, President, Georgetown University Student Government Association.

Joseph Hurley, President, Catholic University Student Government Association.

Carroll Green and John Henderson, Federal City College Student Government Association.

James Corrigan, President, George Mason College Student Government Association.

Ann Welsh, President, Mary Washington College Student Government Association.

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### PRESS RELEASE

NATIONAL STUDENT LOBBY,
*Washington, D.C., February 24, 1972.*

The National Student Lobby today announced support for Sen. Fred Harris' "sense of the Congress" resolution urging at least one student be a member of all public college governing boards.

"The Senate in the next few days has the opportunity to either vote for the 8.6 million college and junior college students to join the system in this country," said Layton Olson, Executive Director of the National Student Lobby, "or continued to exclude them from decisions which directly affect them.

"Students and young alumni have long sought representation on college boards of trustees, and so far they have succeeded at about 50 public and private colleges.

"Included are such schools as University of North Carolina, Temple University, Ohio State University, Princeton University, Vanderbilt University, University of Massachusetts, and Boston College.

"Experience with student trustees has been excellent, as reported by college presidents and students alike. Student trustees have begun a dialogue and have worked to make the system more responsive.

"Student body presidents and student representatives here today indicate that student interest runs high in favor of student trustees.

"The National Student Lobby has had as much of a reaction from students on this issue as any other this year.

"Sen. Harris' resolution avoids questions of Federal control and dictation to colleges who is to be on their boards. The resolution relies solely on the weight of Congressionally-expressed public opinion, rather than using any enforcement power. The final decision is up to each local college.

"The National Student Lobby will follow the results of the vote on the Harris Resolution closely and report them back to the 800,000 students in the 97 college and junior college student bodies which we represent in Congress.

"Based on the Lobby's National Referendum of students, our No. 1 priority in domestic issues is a much higher level of funding for the Higher Education Act, particularly the often-forgotton student financial assistance programs (Scholarships, Work-Study, and Student Loans), which for millions of Americans makes the difference between going to college and not.

"The Harris Resolution to be added to the Higher Education Act follows in the steps of the 18-year old vote by placing both adult rights and responsibilities on the shoulders of students and youth."

The National Student Association has been conducting continuous research for several years into models of university governance as viewed from a student standpoint. We believe that students have the right and the responsibility to participate fully in the decision-making processes which not only affect their academic pursuits, but their total life situation as members of a college or university community as well. One of the ways that such involvement can be most effectively facilitated is through student participation in Boards of Trustees.

We perceive several sound arguments of advocating student participation in Boards of Trustees. At a time when so many colleges find themselves at a critical juncture in defining their institutional futures, we think that students have considerable creative input which could be profitably utilized by their respective Boards. We further believe that student involvement in the workings of their Boards encourages a sense of communication and openness in a college community: students know what the Board is doing, what decisions it feels compelled to make in the institution's interests, and how they can best influence those decision-making processes. The Trustees in turn know what the students are doing, what changes they perceive as being in their best interests as students, and how they can arrive at decisions which genuinely reflect their concerns and needs.

But we believe that student participation on Boards of Trustees should be more than a friendly gesture or a token of good will. Student participation in institutional decision-making is not a privilege, to be accorded or not at whim, but a basic student right. We think that any institution which perceives its purpose to be educational should recognize the valuable learning experience provided by student involvement in university governance. Consequently, we think that every college and university should afford its students the opportunity to learn about all aspects of university decision-making and gain experience in dealing with governmental structures.

Furthermore, since increasing numbers of students are "paying their way" through college, we feel that they are entitled to some form of "consumer advocacy." Students should have both the opportunity and the channels, not only to speak, but to be heard and heeded, on those matters which affect them—academically, financially, socially, and politically: in short, a viable method of protecting and representing their own best interests to the highest decision-making board, whatever its form.

Finally, because we realize that the right to speak is not necessarily the same as being heard, we caution students not to be coopted by tokenism. We encourage them to seize the opportunity for representation on Boards of Trustees, but to remember that exerting an influence on policy-making does not end with securing a seat or two on the governing board, and to continually investigate alternatives by which all students can have free and equal access to the processes of decision-making which govern their lives and the resources which determine the quality of their education.

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THE CATHOLIC UNIVERSITY
OF AMERICA,
*Washington, D.C., February 23, 1972.*

Hon. FRED R. HARRIS,
*Old Senate Office Building,*
*Washington, D.C.:*

The youth in this nation are asking for the right to have a voice in what affects them, and that their voice be heard. For too many years now, countless student leaders throughout the nation have spent hours working within the system; proving to the Administration that they are responsible. Consequently, at most colleges today, students are seen on just about every lower policy body. However only too often, their presence means nothing for it is the governing bodies of each institution that makes the major decisions.

Unfortunately, few institutions have students on their governing bodies. Thus, a frustration is felt by most student leaders for they realize that they are involved in little more than busy work. The only way seen by most students to remedy this situation is to have students on their own governing bodies.

Thus, the Undergraduate Student Government at the Catholic University in Washington, D.C., wholeheartedly supports the Harris Amendment. Just as the eighteen year old vote was a large step forward in giving first class citizenship to the youth of this nation, so too would the Harris Amendment be another large step forward for responsible student determinism.

Sincerely,

**Joseph Hurley,**
*President of the Undergraduate Student Government at Catholic University.*

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### Results of Informal Poll Conducted by the Office of Senator Harris on Student Trustees

Administrators from six universities were asked for comment about the participation of students and younger people on their boards of trustees. Without exception they stated that the young people brought fresh insights to the trustees, and were instrumental in making students feel they had a sympathetic representative on the board. Statements from Howard University, the City University of New York, Vassar College, Princeton University, the University of Maine and American University were completely favorable and found young trustees extremely valuable and innovative. Mr. Owen Nichols, Vice President for Administration of Howard University, termed the two students on Howard's board "a major step . . . a roaring success". The students at Howard are able to present their own viewpoints to the board and are also better able to understand the workings and limitations of the university.

Ms. Lois McFarland, Assistant Director of University Relations for the City University of New York, said that Mayor Lindsay's appointment of two young people to the Board of Higher Education was extremely effective. Mr. Jean-Louis d'Heilly, one of the young trustees has been instrumental in drawing up university-wide governance procedures for all the City University campuses.

At Vassar College, the President's Office stated that Ms. Alison Bernstein, a 25-year-old graduate student, gave "a very positive, useful perspective" to Vassar's Board of Trustees. In one instance she helped to mediate between a group of minority students and the administration, thus preventing possible violence.

Princeton University has inaugurated a policy of appointing a student from each year's graduating class who is elected by the junior and senior classes and two classes of most recently graduated alumni. The students bring their considerations forward to the board and act as a mediating force between the trustees and the students.

Mr. Allan Keys, Governor Kenneth Curtiss' assistant, said that Mr. Stephen Hughes has been a valuable addition to the Board of Trustees of the University of Maine. Mr. Hughes gives the board insight into student problems which it would not usually have.

Mr. Anthony Morella, Vice President and General Counsel for American University, found that student participation on the Board of Trustees has been valuable and that the student trustee made a conscious effort to stay in touch with matters of concern to the student body.

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[From the Chronicle of Higher Education, June 8, 1970]

### Student Involvement Found Not Affecting Basic Policy

Philadelphia.—Students have gained membership on at least one policy-making body at most colleges and universities, but still have little influence on the bodies that form basic educational policy, according to Earl J. McGrath, director of the higher education center at Temple University.

Mr. McGrath conducted a study of student participation in academic government for the American Assembly on University Goals and Governance.

He found that 88.3 per cent of the 875 colleges and universities he surveyed had added students to at least one policy-making body.

However, he noted, only 22.7 per cent had given students membership on the faculty executive committee or a group with similar campus-wide responsibilities, and only 4.7 per cent had put students on the committee handling faculty selection, promotion, and tenure.

#### MANY ON CURRICULUM PANELS

Students have been most successful in gaining representation on curriculum committees with over half of the 875 institutions reporting either voting or non-voting representation, Mr. McGrath found.

However, he said, "It would be a mistake to conclude that because students do increasingly participate in the deliberations and actions of some institutional committees, they have now gained a position of decisive or even strong influence in the bodies concerned with basic educational issues."

The majority of institutions, Mr. McGrath said, "have added only a few students, often only one or two, to some committees and frequently have given them merely the status of disputants, pleaders, or observers."

Only 175 institutions (20 per cent) admitted students to meetings of their boards of trustees, he found, and only 2.7 per cent gave the students voting privileges on the boards.

In most cases, the students who have been admitted to the board's meetings sit with one or another of the committees, Mr. McGrath said. "The committees to which students have most commonly gained access are, in order of frequency: the committee on student affairs, life, or welfare; on educational policy; on the selection of the president; on buildings and grounds and the design of the campus and its structures; and on development or public relations."

#### SUPPORTS STUDENT ROLE

In his report on the study, Mr. McGrath strongly supports the addition of students to all policy-making bodies of the institution.

Students, he warned, have learned the techniques of resistance and confrontation and recognize that they are effective.

"Those who wish to restore to the campus the conditions indispensable to the achievement of the proper goals of an academic society, and who wish at the same time to realize the reforms necessary to correct the present shortcomings of American higher education, will earnestly consider ways to involve students in academic government. Means must be found to formalize the students' participation in the making of academic policy, to regularize their contribution, and to involve them as initiators of, rather than as the protesters against, policy," he said.

Many people believe, he added, "that until students have a direct and officially recognized means of expressing their views on those matters [that affect their education] the academic society will be subject to recurrent disorders which will handicap the students' own education and reduce the social benefits which should flow from it."

Mr. McGrath does not propose formulas for the addition of students to policy-making bodies, but he says of each that "membership should include students and non-students, with the numbers of each varying with the types of issues which come before a particular committee, and with the special knowledge and expertise required for their solution."

He warns against tokenism, however, and supports voting privileges for students on all bodies as well as election by students of their own representatives.

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[From Newsweek, Dec. 1, 1969]

### The Long-Haired Trustees

For generations, the boards of trustees of most U.S. colleges and universities have seemed interchangeable with boards of directors of large corporations. Most college trustes are businessmen and lawyers in their 50s and 60s, members of the Republican Party, the Protestant church and the best clubs in town. Now, however, the stereotype is changing. From Stanford to Vassar, boards of trustees are being expanded and changed. Increasingly, students and recent graduates are being given a voice in running their schools—and often the new trustees are peace-marching political and social activists clearly out to get their schools to come around to their way of thinking.

Princeton's youngest trustee, for example, is a 22-year-old black flutist who helped seize a building last year to protest the university's investments in South Africa. Vassar's is a pretty, blond history major who strums folk songs on ner guitar. At the University of Maine, the youngest trustee is a 26-year-old political science major who was so busy with peace activities last year that he now is making up a math credit he missed in the process. Everywhere the youth movement is gaining ground rapidly, and many of the young trustees have been chosen in part because of their activism.

#### PROTEST

Two new appointments to New York's Board of Higher Education, which acts as the board of trustees for the City University of New York, are also products of activism. Pean-Louis d'Heilly, a 28-year-old graduate student in political science, met Mayor Lindsay before leading a demonstration at City Hall to protest cuts in the school's budget. Lindsay was so impressed that he appointed d'Heilly to the board. He also appointed Maria Josefa Canino, a 26-year-old graduate of City who is a community organizer in East Harlem. Lindsay said he hoped the appointments would make the 175,000 student university "more responsive and relevant to the needs of youth."

Miss Canino, whose father ran a Harlem bodega, or small grocery store, is quite specific about how she wants to change CUNY. Puerto Ricans, she says, make up about 11 per cent of the city's population, but only 3.5 per cent of CUNY's enrollment. "I want to project my concerns and the views of many Puerto Rican parents to the board," she says, "and relate back to them what the City University is all about."

#### MARCHES

Steven Hughes, a senior in political science, was president of the student senate when he was appointed to the University of Maine board of trustees last spring. But Hughes was so busy as an activist—he organized two marches to protest against ROTC on the Orono campus—that he failed to graduate. He now is working as assistant to the president of Bates College in Lewiston and making up the math credit he needs for his degree from Maine. Like many other young trustees, Hughes fears that his views may change once he is out of school. "After six months," he says, "I am beginning to lose real touch with the campus. And after two years I will like as not be just another trustee."

Occasionally the young trustees are pressed into service to act as interpreters between the board and the students. In October the Vassar trustees appointed Alison Bernstein, a tall, 21-year-old blonde who was graduated summa cum laude last June, to fill an unexpired term on the board. Ten days later, a friend awakened her at International House near Columbia University—where she is studying for a doctorate in history—to tell her that a group of black students had seized the administration building in Poughkeepsie. "Get up," ordered the friend, "you're going to have to mediate between hairy youth and hoary age." A member of the administration later said Miss Bernstein was extremely "useful" in straightening out "misunderstandings" between the blacks and the trustees.

Both of Princeton's young trustees already are married—but they have little else in common with their fellow board members. Indeed, Brent Henry, the 22-year-old black flute player, and Richard Cass, a 23-year-old white from Chevy Chase, Md., introduced a resolution at their first trustees' meeting last month asking Princeton as an institution to condemn the war in Vietnam. The proposal was roundly defeated.

### JUDICIOUS

Henry and Cass were elected to the trustees by their classmates. Henry, who sports a mustache and a mild Afro, was graduated last June, Cass a year before. Both now are at Yale Law School—and both are judicious about the other board members. "They are enlightened men," Henry says, "but they are too concerned with protecting Princeton's image and protecting the campus from protesting students with minority viewpoints." Cass adds that "the trustees can't understand everything that is going on, but at least they are willing to admit they don't understand."

Perhaps not surprisingly, one young trustee who does not want to change his campus happens to be 21-year-old Ezra Cornell, a great-great-great grandson of Cornell's founder. He owes his trustee's position not to the swing to youth but to the fact that his illustrious grandsire decreed in his will that each of his eldest adult male descendants must be given the post. An agricultural-economics major, the new trustee admitted last week after his first board meeting, "I like Cornell very much the way it is."

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HOWARD UNIVERSITY,
*Washington, D.C., February 15, 1972.*
Hon. FRED R. HARRIS,
*The U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HARRIS: This will acknowledge receipt of your letter of February 10, relative to students serving as members on the Board of Trustees of Howard University.

The Board approved the seating of two student members in April, 1970. Full membership was granted with no attendant restrictions, except for terms of office. Student Trustees are elected for a term of one year with eligibility for re-election for an additional year. Other Trustees are elected for a term of three years, with eligibility for reelection.

It has been the experience of the University that inclusion of students on the Board of Trustees has greatly embellished the character of the Board. The insight, input, and perspectives of these members have contributed to a more meaningful and representative body. Student members have themselves gained invaluable experience by participating in University governance at the highest level.

I am pleased to have the opportunity to present you with this information.

Sincerely yours,
OWEN D. NICHOLS,
*Vice President for Administration.*

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## THE MYTH OF EDUCATIONAL DEMOCRACY

(By Steven Deutsch and Joel Fashing)

Now that it is fashionable for students to serve on certain university committees, many administrators and faculty are operating on the assumption that they have, at long last, provided the students with the necessary "input" into the decision making process. This assumption, however, is not shared by many students who feel that what is needed is not "student input" but the democratization of the university.

Some administrators, faculty and governing board members have opined that they cannot understand why a voice in running the institution is not sufficient, why the student finds it necessary to demand equal participation.[1] It seems that the answer to this question is relatively simple. Students want to win. They are not interested in being heard and then having their petitions discarded or rejected as they have been in many cases in the institutions studied. Until they can achieve their major objectives, in whole or in part, they are likely to interpret their participation as hollow ritualism or a form of co-optation. Most students are becoming relatively sophisticated in the organizational mechanisms for siphoning off their energies or enthusiasm for change and have become wary of being given a voice in the decision-making process where they do not have power equal to achieving their substantive objectives. To the extent that such power continues to be denied, and to the extent that fundamental conflicts of interest persist, it is likely that students will continue to fail in the achievement of important reform objectives.

One final point in this area needs to be addressed. Many student leaders seem to feel that the incorporation of students into the decision-making process as equals will essentially solve major problems. The position, however, ignores the fact that even the elements of democratic procedure involving faculty in all of the institutions studied are, in fact, spurious. In the last analysis, decisions rendered via the democratic process, even in areas supposedly reserved to faculty, can be overruled by administrative or trustee action. That this has not been a frequent occurrence reflects not so much the power of the faculty as it does a general faculty willingness to operate within the confines dictated by boards and administrators. In this sense, educational institutions take on the characteristics of what has been described as "guided democracies," where the "sense of electoral potency is high but mistaken."[2] Institutional democracy is not fully developed even now among those who "share" the decision-making power. The result is that any decision arrived at collectively is tentative inasmuch as it is subject to the approval of an executive head or board of trustees.

Introducing students into the deliberative process will not alter the basic structure insofar as alternative actions will be circumscribed by those in whom legal authority is vested. To the extent that this is true, the introduction of students as equals, if it leads to a change in the general thrust of decisions, might well expose the lack of substance in current institutional democracy. If this happens, the roles of constituents would almost certainly revert to their previous adversary character. Under such circumstances, students are more likely than ever to resort to tactics such as strikes, boycotts or disruption—which are defined as illegitimate by institutional and extra-institutional authorities and which harden cleavages and escalate mutual hostility. What threatens then is a cyclical process of escalation. Student pressures are followed by moves to co-opt the student. Once the student recognizes that he has been co-opted, there is an escalation of the original pressures and tactics. Interestingly, as this process develops, the long-range developments may lead to a displacement of procedural goals by substantive goals once again. While the procedural issues have taken on a "life of their own" in that power becomes an important goal, even more important substantive goals within the institution and the larger society are more likely than ever to occupy the center of students' attention.

By now the issue of student participation in college and university decision-making has been universally recognized and considered. In a study of 875 institutions in the fall of 1969, Earl McGrath found that 88 per cent have some students on at least one policy-making body.[3] Although most institutions have not experimented with community government in the tradition of Antioch[4] or similar avant-garde institutions, the overwhelming majority of colleges and universities have recently reappraised the nature of their institutional self-government.

A number of institutions have developed self-study commissions on the matter of governance, occasionally because of some initiatives for creative exploration, but more often in response to crises.[5] Our evidence, as well as that of others, suggests that pressure politics are necessary for change. In most cases, innovation follows from an expressed commitment to change in the face of pressure rather than as a consequence of self-study. In short, self-studies rarely generate change unless great outside pressure is brought to bear or a majority of faculty genuinely desire change.[6]

The experiences of colleges and universities with reference to the issue of governance are varied, but one reform gaining widespread attention is a push for the reconsideration of trustee membership—that is, including students or other young persons on boards.[7] College and university trustees are typically male, over 50 (with more than a third over 60), white, Protestant, well educated, wealthy (over half report incomes over $30,000) and Republican.[8] The concern with trustee membership is indicative of the extent of the demands for change in governance ranging all the way to the most important and powerful governing elements. While there are often formidable legal barriers in the case of public institutions, the trustee concern is especially important in private institutions—even those prestigious as Harvard and Stanford.[9]

The issue of governance is clearly complex especially when addressing the thousands of institutions of higher learning. Among the prime issues have been the *in loco parentis* conception of the university as a surrogate parent where there is substantial evidence that the traditional concept has been eroded and altered, and the curriculum, an area in which surveys suggest a considerable amount of student participation in decision-making. In other crucial areas, however, the amount of student involvement is miniscule. In particular, the proportion of schools in which students participate in faculty and personnel matters is substantially less than the number in which students participate in faculty and personnel matters is substantially less than the number in which students participate in curricular matters. While some would play down importance of the participation of students in institutional governance, the issue is fundamentally linked to the more basic question of whom the university serves and in what way. The latter is a crucial issue, not only for the institutions in question, but for the society which they ostensibly serve.

The question of governance has been addressed by scores of individuals, including prominent educators from prestigious universities. By and large, their analyses indicate a lack of sensivity to actual power contests, conflicts of interest, and the organizational structure that are a part of the contemporary universities. One renowned observer comments, for instance, that:

> "The claim that students should have a major role in actual governance is based upon a false premise: that students can plan, with reasonable awareness of the outcomes, the essentially professional service they receive from the college and university."

With such views as a frequent point of departure for the consideration of student involvement, it is no mystery why efforts to develop institutional governments based on a concept of the creative participation of all members of an intellectual community have failed. There is an explicit assumption that faculty are more committed to institutional

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Footnotes at end of article.

welfare and more sensitive than students, and that they possess a monopoly on wisdom and truth. In the long run, the essence of the contest is one of who knows what is better for the student—the student himself, or the faculty and administration. While no serious advocate of radical change denies that faculty generally possess more of certain kinds of knowledge—and have had more of certain kinds of experiences—than students, there is a feeling that traditional views of faculty-student relations fail to give serious consideration to the positive potential of alternative learning communities with experimental approaches to decision-making in academic and administrative matters.

The barrage of material on the matter of governance is understandable. The issue is one of fundamental prerogatives, power and the sharing of privilege. The debate goes to the heart of traditional versus alternative conceptions of education. After the Berkeley Select Committee on Governance issued their report, a counter report was advanced. As an addendum to the Cornell governance report, one professor made the case for academic education and against participatory education. He saw the latter as political involvement and a threat to free inquiry and expression. The diversity of viewpoints aside from the conventional liberal-conservative distinction is illustrated by the debate between a liberal college professor and a radical professor, in which the latter's model is one based on the slogan "power to the people" rather than "student power" or "faculty power"—a people's university using the Chinese model. No single piece is definitive nor can any argument speak for all constituencies in higher education; however, our observation is that efforts in the area of educational innovation inevitably open up the larger questions of governance. Furthermore, every indication is that the modes of participation will continue to develop and expand.

Although it is argued by some that student participation is unwarranted because of their short tenure and lack of commitment and wisdom, there are effective counter-arguments. For instance, Wallerstein contends, "Wisdom is maximized by the fullest participation of those who desire to participate," and "Commitment is increased by involvement in decision-making." At the schools intensively examined in this study, we have noted the degree to which participation in the curricular experiments have served an educational function. Students were involved in significant experiences such as designing curricula in the Experimental College at San Francisco State, participating in a Task Force at UCLA and planning the ethnic studies programs at Berkeley. At the University of Oregon, the participation of students in university and departmental functions during the past couple of years has heightened student awareness, commitment and the degree to which they could relate their own educational experiences and needs to those of others within the university.

As suggested earlier, the impetus for change has usually been external pressure and dramatic events or crises. The Berkeley Free Speech Movement created a mood for change, though temporary in character. The Cambodian invasion in May, 1970, created a climate of concern across the country, leading many faculties to pass legislation concerning ROTC or governance on the campus. Often such decisions were rescinded shortly thereafter. The pattern of immediate response in the face of a crisis followed by later retrenchment is not an infrequent one. Typically, the major concessions and changes made are altered shortly afterwards, or agreements are ignored or abrogated by higher authorities. The strike at San Francisco State College perhaps best illustrates this dynamic. While schools around the country were exploring new cooperative faculty-administration relationships, San Francisco State became increasingly polarized. The 1968 efforts for a constitutional convention to revise governance gave way to the strike, the appointment of S. I. Hayakawa as President, and the entrenchment of a no-nonsense autocratic administration.

One of the recurrent questions in educational reform has to do with the method of approach. Typically, the perspective is to ameliorate tensions, improve conditions, grant changes as pressures increase, and gradually reform or modify existing structures and procedures. In part this is due to the institutionalized conservatism of higher education. As we have observed, change is most frequently a response to pressures or events. Innovation is often a defensive phenomenon. Changes usually come only grudgingly.

The alternative approach to the problem of change—developing conceptions of new educational environments and then devising the best way to achieve the new ideal—is one that is rarely found. Although the strategy is rare, there are some provocative arguments for adopting such perspectives. In an extremely provocative book, Robert Paul Wolff argues that appeals to the principle of participatory democracy, on the grounds that students should participate in decisions which affect them, should be abandoned. He insists, instead, that students should participate because they are part of the academic community and community governance is the only logical form of government for a real community. In advocating the implementation of Paul Goodman's idea of the community of learning, Wolff is arguing that we should bring university decision-making into the open for full scrutiny, criticism and review and that decision-making procedures should be developed which maximize the natural growth of a university community.

Although one might take issue with some of the details in Wolff's proposal, his argument articulates in many ways, our position that some affirmative model or concept of the university is required to successfully meet the challenges now facing the university. The matter of governance cries out for systematic effort to alter the existing structures of colleges and universities to fit a more ideal model.

Experiences of the past few years lead us to the conclusion that most efforts to change are reactive in character. Faculty-administration response to demands for student power has largely been to assume a defensive posture. Radical innovations in curriculum have challenged the total governance of the academy. Response has been piecemeal and predicated on the position of minimal change to ward off the assaults. To the extent that there is real crisis in the university, we see the cries for student power as misdirected. The question is increasingly seen by students, faculty and administrators as one of the nature of decisions made, not merely who makes them. To be sure, the argument might be made that power should lie in the hands of faculty and students rather than regents or trustees and administrators. But, power is not shared by those who have it, and what is ultimately critical is what changes might be created in the colleges and universities. A changed conceptualization of what the institution ought to be will naturally enough lead to an expression of how decisions should be made. In this climate it would be well to address the matter of governance. In the meantime, demands for change in student participation will likely circle about the controversial issues on the campus—such as student initiated curricula and ethnic studies programs, student admissions and the wider issue of college and university functions, particularly in regard to corporate and military training.

FOOTNOTES

[1] Michael Miles, "Whose University?" *The New Republic,* 160 (April 12, 1969), pp. 17–19.

[2] Robert E. Agger, Daniel Goldrich, and Bert E. Swanson, *The Rulers and the Ruled* (New York: Wiley, 1964), pp. 82–90.

[3] Earl J. McGrath, *Should Students Share The Power?* (Philadelphia: Temple University Press, 1970).

[4] *Ibid.,* for a discussion of the history of experimentation with governance at Antioch and other institutions. For a discussion of Antioch, also see Burton R. Clark, *The Distinctive College* (Chicago: Aldine Publishing Co., 1970), Morris Keeton and Conrad Hilberry, *Struggle and Promise: A Future for Colleges* (New York: McGraw-Hill, 1969).

[5] Dwight R. Ladd, *Change in Educational Policy* (New York: McGraw-Hill, 1970) *reviews* some of the self study commissions.

[6] *Ibid.* This is a major conclusion from the survey of self studies.

[7] "Reforms in Governance," *Time* (September 26, 1969), p. 47.

[8] "What the Trustees Think," *Saturday Review* (January 10, 1970), p. 62.

[9] See Rodney.

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## SOCIAL SECURITY AMENDMENTS OF 1971—AMENDMENT

### AMENDMENT NO. 938

(Ordered to be printed and referred to the Committee on Finance.)

**Mr. HARRIS.** Mr. President, today I am offering an amendment to H.R. 1 which would, if enacted, amend title II of the Social Security Act to reduce from 20 to 10 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record

We have recognized in the Social Security Act that a housewife should be covered by the retirement benefits her husband has accumulated and built up during his working years. In caring for the home and any children she carries responsibilities and duties equal to those of her husband and is entitled to a share of the benefits of this partnership. Rightfully it is intended that her choice of full-time homemaker is protected equally with the choice of an outside occupation.

However, the act has not always fulfilled this intention completely. Until 1965, a divorced woman was not entitled to any benefits from her former husband's social security, no matter how long the marriage had lasted. In 1965, the act was amended to provide that a woman who had been married 20 years was eligible for benefits as wife or widow on her former husband's wage record. This is an improvement, but still not liberal enough to be fair.

The 1966 report of the President's Commission on the Status of Women contained the following comment:

> A divorced wife, if she is not remarried and if her marriage continued for a substantial period, such as 10 years, or a divorced widow, should become eligible at age 62 to a wife's benefit based on her former husband's wage record.

We have been too long in enacting this recommendation. It would be very helpful to those women who married later in life and at the time of the divorce were too old to be able to work long enough to qualify for adequate benefits based on their own earnings. A 10-year period would eliminate any opportunistic marriages and while being a fairer measure of entitlement to benefits than 20 years.

Past estimates reveal that the cost of this amendment would be insignificant. This should eliminate the negative argument that this forward step should not be taken because of the cost of the measure. But although the number of women affected would be small, the positive argument for its passage is that the measure is fair and worthy.

I ask unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

### AMENDMENT NO. 938

On page 134, after line 15, insert the following:

"REDUCTION IN LENGTH OF TIME A DIVORCED WOMAN'S MARRIAGE MUST HAVE LASTED FOR HER TO QUALIFY FOR WIFE'S OR WIDOW'S BENEFITS

"SEC. 144. (a) That section 216 (d) of the Social Security Act is amended by striking out '20 years' in paragraphs (1) and (2) and inserting in lieu thereof in each instance '10 years'.

"(b) Section 202 (b) (1) (H) of the Social Security Act is amended by striking out '20 years' and inserting in lieu thereof '10 years'.

"(c) The amendments made by this section shall apply only with respect to monthly insurance benefits under title II of the Social Security Act or months after the month in which this section is enacted."

### AMENDMENTS NOS. 939 THROUGH 944

(Ordered to be printed and referred to the Commitee on Finance.)

### SOCIAL SECURITY AND MEDICARE INTERNAL PROGRAM

Mr. HATFIELD. Mr. President, I send to the desk amendments to H.R. 1 which deal with specific internal reforms within the social security system.

Mr. President, both the Senate and the House of Representatives have taken significant action in H.R. 1 with respect to changing various aspects of the Social Security Act, making it more comprehensive, internally consistent, and just. Among those actions taken by either or both bodies include:

Automatic adjustments with the cost of living.

Enlarging the maximum amount of annual earnings that is taxable and creditable toward benefits.

Allowing a person eligible for actuarily reduced benefits both as a retired worker and as a spouse to be able to choose only one of the two benefits and claim the other one later.

Equal treatment for men and women.

Increasing the benefits for widows and dependent widowers to 100 percent of the benefit that the insured widow or widower was receiving at the time of death.

Elimination of the support requirement for divorced wives and widows.

One month reduction of the waiting period for disability insurance benefits.

Increase in the amount of social security trust fund money authorized for reimbursement of State vocational rehabilitating agencies for the costs of rehabilitating social security disability beneficiaries.

Offset of workmen's compensation for disability insurance beneficiaries.

Raising the age limitation for childhood disability eligibility.

Coverage of Federal civilian employees under social security.

Coverage of social security disability beneficiaries under medicare.

Coverage of additional days if inhospital care is required and extended care under medicare.

In spite of these and other measures advocated by the administration and the congressional committees handling this issue, there remains a great deal to be done with respect to internal reforms. Today, I am introducing legislation which I believe will move us still further in the right direction in the area of social security. Briefly, the amendments include the following:

Removing the $255 limit per month on the lump sum death payment so that lump sum death payments would vary with the past earnings of the worker.

Allowing child's insurance benefits on the basis of wages and self-employment income of certain relatives with whom a child is living and from whom he receives support.

Eliminating recent work tests as a condition of insured status for disability insurance benefits, a test that does not have to be met to qualify for other social security benefits.

Qualifying a worker aged 55 or over as disabled for purposes of social security if he meets the test of disability now applicable to older blind workers.

Allowing disabled widows and widowers to unreduced widow's and widower's insurance benefits without regard to age.

Allowing disabled wives and husbands to unreduced wife's and husband's insurance benefits without regard to age.

Providing coverage for out-of-hospital prescription drugs with a copayment of $2.

All of these recommendations have the support of the 1971 Advisory Council on Social Security, appointed by former Secretary of Health, Education, and Welfare, Robert Finch, in May 1969. I would like to examine each of them in brief.

Lump sum death payments. Elimination of the $255 limitation set by the 1952 social security amendments would put death payments back on a level comparable to earning levels. According to the Report of the 1971 Advisory Council on Social Security in January 1971, about 75 percent of lump sum death payments made on account of the death of retired workers were limited by the $255 maximum. One of the amendments I am introducing today would raise the maximum to the highest family benefit, $517 under the present law.

Child's insurance benefits. According to the Advisory Council:

> Social security benefits are payable to a child on the basis of a parent's earnings record on the presumption that the child lost a source of support when his parent retired, became disabled, or died. Situations where a child is living with and being supported by a relative who is not his parent—say, a grandfather—are not uncommon; yet the child cannot get benefits when that relative retires, becomes disabled, or dies, even though the child loses a source of support.

An amendment I am introducing today would allow a child to receive the benefits of such a relative if the relative had been a source of at least one-half the support for the child for at least 6 weeks prior to the relative's death or the date he became entitled to receive benefits.

Elimination of recent work tests for disability benefits. Under present law, there are different criteria for retirement benefit protection and disability protection which are not comparable. For the former, a worker is eligible for benefits if he is fully insured: having earned "at least as many quarters of coverage as the number of calendar years that elapsed after 1950—or the year he reached 21, if later—and up to the year in which he became disabled, died, or reached retirement age"—with one execption. To be eligible for the latter, a worker must pass a recent work test. As the Council points out:

> Disability determinations are now made regularly under the program in cases of widows and widowers and adults who became disabled in childhood, without regard to whether they have done recent work or whether they have ever worked.

The same should be the case for the disabled worker.

Definition of disability for older workers. Under the present law, the test to determine the disability of blind workers aged 55 and older is less strict than for a worker to qualify for disabilities of other types. Today a blind worker qualifies if he or she cannot engage in substantial gainful activity because of the blindness. As the Advisory Council points out:

> Under the definition of disability in present law, a worker cannot be considered disabled unless his impairments are so severe as to render him unable to engage in any substantial gainful activity. . . . While the present general definition of disability appears to be appropriate for younger workers, it is unrealistic when applied to older workers. A severe, but not totally disabling impairment has a much greater impact on an older worker than on a younger worker.

Consequently, the present criteria should be changed to eliminate this injustice by allowing a worker to qualify for disability payments under the criteria of having attained the age of 55 and who is unable, for medical reasons, to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Entitlement of disabled widows and widowers to insurance benefits. Disabled widows and widowers above the age of 62 are eligible for benefits at a higher rate than those who are younger. Furthermore, benefits to disabled widows or widowers cannot begin before the age of 50. However, there possibly is even more of a need for benefits to be paid to those under age 50 than above because, for instance, they have not had the time to accummulate savings as older persons. Yet, I am proposing that disabled widows and widowers of all ages should be entitled to the same benefits. In January 1971, the 50-year old disabled widow or widower on the social security rolls averaged roughly $110. If my proposal had been law in January 1971, not only would the 50-year-old disabled widow or widower receive $110 per month, but also those under the age of 50 who qualified.

Benefits to disabled wives and husbands. Very similar to the plight of disabled widows and widowers under the age of 50 is that of beneficiaries' disabled wives under the age of 62 who are not caring for a child and beneficially disabled husbands under 62 who were dependent upon their wives for at least one-half of their support. Under present law, it is presumed that people under 62 who are not disabled should be able to provide for themselves and should not be eligible for social security benefits. However, this is not the case for those who are totally disabled. The same type of argument in these situations as for disabled widows and widowers is relevant, and the legislation I am proposing would rectify this inequity.

Prescription drugs coverage under medicare. The problem of out-patient health care has been the focus of many studies.

One of the central features has been outpatient drug costs for the elderly. According to the 1971 Advisory Commission on Social Security:

> About 20 percent of all private health care expenditures for the aged are for prescription drugs, and most of this drug expenditure is paid directly out-of-the-pocket by the Aged. Annual per capita expenditures for drugs on the part of the elderly are more than three times those of people under age 65. Annual per capita expenditures for drugs on the part of the severely disabled are six times those of the population as a whole.

Clearly there is a need for coverage in out-of-hospital prescription coverage under medicare. A proposal I am introducing would provide for $2 coverage for each new prescription and $1 for each refill. This was recommended by the Advisory Commission on Social Security and I am in full agreement. Current laws affecting social security demean many older Americans and funds provided do not meet many of life's essentials. In that adequate administrative procedures would need to be set up, the amendments I am introducing today to effect this change would not become effective until July 1, 1976, allowing 4 years to set up appropriate structures and to provide for adequate funding.

To have an equitable and just social security and medicare program the changes I have advocated today as well as many encompassed in H.R. 1 and in the respective Senate and House committees should be implemented at the earliest possible time. Adequate medical and health care must be provided our retired workers and their relatives as well as providing financial security in one's later years. The amendments I am introducing today would move in this direction and I anticipate will receive judicious hearings in the Congress and by the administration.

There is one word of caution which I would like to make in concluding. As we all know, inflation has been an ever-plaguing problem, spurred essentially by inappropriate Government spending. While the proposals I am introducing today, as well as others, would move us toward the elimination of many inequities in our society and within our social security system particularly, they should be contingent on fiscal responsibility exhibited by the Federal Government. Consequently, I have introduced legislation to change the financing structure of social security which would better enable us to more effectively deal with the inequities and inadequacies within the system and not contribute to increasing inflation.

## ADDITIONAL COSPONSOR OF AN AMENDMENT

### AMENDMENT NO. 804

At the request of Mr. TOWER, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of amendment No. 804 intended to be proposed to the bill (H.R. 7117), a bill to amend the Fishermen's Protection Act of 1967.

## NOTICE OF HEARINGS: SMALL BUSINESS

Mr. McINTYRE. Mr. President, I wish to announce that the Subcommittee on Small Business of the Committee on Banking, Housing and Urban Affairs will hold a hearing on the bill, S. 3166, to amend the Small Business Act.

The hearing will be held on Thursday, March 9, 1972, and will commence at 10 a.m., in room 5302, New Senate Office Building.

Persons wishing to testify or to submit written statements in connection with this legislation are requested to contact Mr. T. J. Oden, Senate Committee on Banking, Housing and Urban Affairs, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-7391.

## ADDITIONAL STATEMENTS

## RECONCILIATION AND PEACE IN IRELAND

Mr. PELL. Mr. President, the general assembly of the State of Rhode Island recently adopted a resolution memorializing Congress and the President of the United States to take whatever steps are in their power to bring about reconciliation and peace in Ireland.

I believe, Mr. President, that the resolution of the general assembly is a faithful reflection of the deep concern with which residents of my State have viewed recent events in Northern Ireland, and I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS,
*February 15, 1972.*

Hon. CLAIRBORNE PELL,
*Old Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR PELL: I am directed by the General Assembly to transmit to you the enclosed certified copy of resolution (S. 3136), introduced by Senators Wilson, Campbell, McBurney, Grimes, Rodgers, Flynn, Corr, Taylor, Pastore, Hanaway, Chaves, Goodwin, Horan, Mulligan, Hawkins, Callaghan, Walsh, Hayes, McCaffrey, Arcaro and Picano, entitled Resolution Memorializing Congress and the President of the United States to Take Whatever Steps in Their Power to Bring About Reconciliation and Peace in Ireland, passed by the General Assembly at the January Session, A.D. 1972 and approved by the Governor on the fourteenth day of February, 1972.

Very truly yours,
PRIMO IACOBUCCI,
*First Deputy, Secretary of State.*

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RESOLUTION MEMORIALIZING CONGRESS AND THE PRESIDENT OF THE UNITED STATES TO TAKE WHATEVER STEPS IN THEIR POWER TO BRING ABOUT RECONCILIATION AND PEACE IN IRELAND

Whereas, In recent months and especially in the last few days, the world has witnessed the consummate tragedy born of hatred and violent despair in Northern Ireland; and

Whereas, All of Ireland is moving swiftly and almost irrevocably toward massive civil war and carnage while British troops purportedly guard the peace in Ulster; and

Where, as Catholics of Northern Ireland are being interned in camps because they continue to wage their struggle for the freedom and equality inherent in the right of self-determination; and

Whereas, The issue in Northern Ireland is human dignity—the basic human right due to all men and one that men throughout history have been willing to relinquish their lives to possess; and

Whereas, Until the minority enjoys equal rights with the majority, since equality and justice are the only true instruments men possess to eradicate fear and mistrust, the handmaidens of violence and terror, peace will be alien to Ireland; and

Whereas, The true answer may lie in a unified Ireland in which Catholics and Protestants work together to create a new Ireland—a country in which all men by having full and mutual respect for each other come together and tenaciously guard their hard fought peace, now therefore be it

*Resolved,* That the Congress and the President of the United States be and hereby are respectfully requested to take whatever steps in their power to bring about reconciliation and peace in Ireland; and be it further

*Resolved,* That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Congress, the President, and the delegation from Rhode Island in Congress.

## COMING MEETING OF NATIONAL ASSOCIATION OF INDUSTRIAL PARKS

Mr. BEALL. Mr. President, it is with a great deal of pleasure that I bring to the attention of the Senate the upcoming meeting of the National Association of Industrial Parks, to be held March 22, 1972, at the Mayflower Hotel, in Washington, D.C. The association, which represents more than 200 owners of industrial and office parks in the United States, is planning this 2-day conference to exchange information with Members of the Congress and the executive branch on matters of national policy which affect the industry. Although this is a small group, the assets of these developers exceed the billion-dollar mark and hundreds of office buildings, manufacturing plants, and distribution facilities covering many thousands of acres of developed land in nearly every State in the Union.

I commend the association for its spirit of constructive inquiry, as it seeks to better inform its members on the problems confronting the organization today. I am sure that the members of NAIP will find the conference most instructive, and I am confident that the dividends and economic growth as a result of this meeting will accrue both to the members of the association and to the Nation as a whole.

## DEATH OF JOHN TATSEY, INDIAN SERVICE POLICEMAN AND NEWS COLUMNIST AT HEART BUTTE, MONT.

Mr. MANSFIELD. Mr. President, it is with great sorrow that I report the death of a good friend and one of the Nation's most colorful journalists, John Tatsey.

John was not an educated or a nationally known reporter, in the everyday sense of the word, but he brought to the people of Montana some colorful writing and insight into the habits and work of his people, the Blackfeet Indians.

John for many years was the Indian Service Policeman at Heart Butte, on the Blackfeet Indian Reservation, and for a time he wrote a news column for the Glacier Reporter. The column was also printed in the Hungry Horse News. On a number of occasions I have placed in the Record excerpts from John's column so that Senators might share the humor of this man. John Tatsey reported many seemingly unimportant events, but in their context they were most readable and entertaining. John kept all of us up to date on the activities of his Blackfeet brothers, such as Stoles Head Carrier.

I know that I came to know the Blackfeet Indian community better because of John Tatsey's insight, and I am certain that this observation would apply to many of his readers.

John Tatsey has passed on to his reward, but he lived a long and good life.

## JOHN CAMPBELL SPEAKS ON OUR RESPONSIBILITY TO FREEDOM

Mr. DOLE. Mr. President, on January 29, 1972, I had the pleasure of attending the Kansas Day Republican Veterans Club Luncheon held in Topeka, Kans., where the guest speaker was a young man named John Campbell, a student at Topeka West High School. John delivered a speech which was prepared for the national oratorical contest of the Veterans of Foreign Wars.

It is true, as is often said, that the future of America is in the youth of America, and it is reassuring to me, as I know it will be to my colleagues, that the future lies in the capable hands of fine young men and women of the caliber of John Campbell.

Mr. President, I commend the words and thoughts of John Campbell to my colleagues, and request unanimous consent that the text of his speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### My Responsibility to Freedom

When many people think of the United States of America they consider a land mass, or a large group of people. But when I think of our country, one fact overshadows all of the other many assets that this country has to offer; that asset is freedom.

In no other country in the world are the individual rights of free speech, religious tolerance or free political thought more respected than in America. These rights have not been obtained cheaply, or by apathetic or cynical people. They have been obtained by a hardworking people, who in many cases were willing to give their lives in the never-ending task of maintaining a free society. I also have a responsibility to help maintain freedom, and I can fulfill this responsibility in many ways.

First, I believe that I must be willing to fight for my country. While there are many great leaders of freedom such as President Nixon, Prime Minister Heath and Chancellor Brandt, other men are equally dedicated to destroying the ideals upon which the foundations of freedom are based . . . men who are willing to die for their beliefs. We who believe in democracy and love freedom can be no less dedicated.

It would be pointless in fighting for freedom abroad if we were not equally prepared to defend the ideal of freedom at home. I believe every American citizen should cherish the right to vote. I feel that by joining political action groups and helping with voter registration, I can directly help maintain my country's freedom.

Ignorance is the worst enemy of freedom. I must take it upon myself to become educated to the facts and to help spread these facts. But simply having knowledge isn't enough. I must be willing to put my words into actions. As a citizen of the United States, I have the right to contact any member of the government and inform him of what I believe to be the violation of an individual's or group of individuals constitutional rights. I can help the local, state and national law enforcement officers by supporting the city police and county sheriffs, by supporting the State police and by supporting the F.B.I. The judicial branch of our government is only as good as the people it serves. Our local, state and national leaders also need every citizen's support in the fight against pollution.

It is unlikely that one person would be able to destroy or maintain freedom but at the same time every person should feel that his vote will decide the election or that unless he becomes involved in his community, someone shall suffer. Thomas Jefferson once said that "the price of liberty is eternal vigilance." I can help maintain freedom in the United States and I believe that every American citizen is equally able to do likewise.

## SENATOR ROTH SPEAKS TO FEDERAL ASSISTANCE REVIEW WORKSHOP AT AIRLIE HOUSE

Mr. BOGGS. Mr. President, on January 18, 1972, my distinguished colleague from Delaware (Mr. Roth) spoke to a workshop of the Federal Assistance Review at Airlie House in Warrenton, Va. The Federal Assistance Review, more commonly referred to as FAR, is an effort on the part of the Office of Management and Budget to improve the administration of Federal domestic assistance. It is most appropriate that Senator Roth participate in such a meeting, given his efforts in both Houses of Congress to rationalize the Federal grant system.

Mr. President, I ask unanimous consent that the text of Senator Roth's remarks be printed in the Record.

There being no objection, the address was ordered printed in the Record, as follows:

### Address by U.S. Senator William V. Roth, Jr.

As some of you may know, I have long been interested and concerned about the way in which we administer our aid to States. I would like first to commend the President for instigating the Federal Assistance Review in March 1969. I believe several significant improvements have already been achieved by this effort, and I am sure that you will continue in your efforts to improve our grant delivery system in this last year of the FAR study.

What has disturbed me in the evaluation of our system of domestic assistance is that we seemed to continue to proliferate programs without concerning ourselves with really making these programs usable to their intended recipients. After all, the grant system was created to assist the States, localities, and other non-Federal bodies in carrying out their proper functions without burdening them with complex, expensive, and inflexible requirements. Further, I feel that we failed to give proper attention to their impact on the balance within our Federal system, and to evaluating the degree to which these grants programs were achieving the national objectives for which they were created.

A realistic picture of the true dimensions of the difficulties faced by applicants for Federal grants arises from a realization of the number of programs operating in any particular functional area. This picture is complicated when the multiple uses to which programs can be put are taken into account. By "multiple uses" I refer to the fact that, for example, there are housing, research, and manpower training programs which can be of benefit to educators and educational institutions. Sorting out the multiple uses of programs is an activity requiring the most sophisticated grantsmanship.

When these multiple uses are accounted for, there are something like 172 grants identified as housing programs handled by 16 agencies and 32 subagencies, bureaus or offices within larger units. As regards education programs, a potential applicant for aid could be confronted by approximately 440 programs under the direction of 31 major agencies and 53 bureaus. I have been able to obtain statistical information on the multiple uses of programs through use of the computer programs of Applied Urbanetics, Inc., a Washington firm whose business is providing services to State and local governments and others in their attempts to solve social problems. While these data result from a study several months ago, I am confident that it still represents the basic reality.

This proliferation of programs, besides creating mammoth informational problems for grant applicants, has led to needless duplication and overlapping of Federal assistance programs. Duplication of programs has resulted in duplicating guidelines, duplicating regulations, and duplicating application forms. As a result, State and local officials find themselves mired in expensive and inflexible red tape and bureaucracy. It is important to realize that a grant applicant may have to contend with guidelines, regulations, and application forms generated by a number of departments and bureaus, each having their own ways of doing things.

I am happy to say that President Nixon and his administration have sought to deal with the deficiencies of our system of domestic categorical grants-in-aid. I support the broad intentions of the administration's four executive reorganization bills, its special revenue sharing proposals, and the efforts of the OMB's Federal Assistance Review and those of agency task forces. Constructive directions in which OMB has been moving include: the decentralization of grant administration; the establishment of common regional boundaries for agencies offering grants; the development of Regional Councils for the coordination of application procedures; improvement of program information; pilot projects in joint funding; and the pending Integrated Grant Administration program.

While I heartily approve of the reforms noted above as steps in the right direction, I do not believe they will treat all the ills of the domestic assistance system. Even if both the executive reorganization program and the six special revenue sharing bills became law, State and local officials and Federal administrators would still face a most complex array of categorical grants. Putting to use the same data referred to above, it is possible to take a "before and after" look at the number of programs and agencies which citizens, private institutions, and State and local governments must sort through when seeking aid in a number of program categories.

By rearranging programs and agencies to account for what seems to be the likely effects of the proposed reorganizations and special revenue sharing plans, we can to some extent measure the impact of these on reorganization and special revenue sharing. This process led to the conclusion that, even if all of this legislation were enacted, we would still need to look to other means to further rationalize the grant system. Referring to our statistics, we have found that in the category of housing aid the number of programs involved would be reduced from about 172 to 155, while 13 major agencies, 9 newly created administrators, and 20 bureaus would carry the load formerly borne by 16 major agencies and 32 bureaus. The approximately 440 education programs now existing would shrink to 380 with 25 major agencies, 15 administrators, and 34 bureaus acting where 31 major units and 53 bureaus had participated. The special revenue sharing bills would phase out only 130 of the many hundreds of categorical programs.

I do not suggest that all 440 education programs, for example, should be or indeed could be consolidated. I do think, however, that some beneficial groupings could be made that would simplify the administration of Federal grants. I would urge the Executive branch to press even harder to consolidate grants through administrative action when possible and to continue to pursue the other grant reforms. I, myself will continue to support, as I have in the past, legislation to expand the President's authority to consolidate and jointly fund grant programs.

Even if we were to perfect the most efficient and rational formal apparatus for distributing Federal money to the non-Federal level of our Federal system, successful grant administration would still depend heavily on reasonable implementation by the civil servants in charge. It is most important that these program managers see their grants as a means of helping State and local governments play an effective role in certain areas of public activity appropriate for their participation.

Requirements placed on these State-local applicants should be only such as are required to guarantee the proper accounting of Federal funds, foster major national goals, and help non-Federal bodies improve their governmental capabilities. Administrators should anticipate the problems of grant users and seek to remedy them of their own accord. If this were the case, OMB, political-level Federal officials, and Members of Congress would less frequently have to become involved in the distribution of aid.

During the past year, as a Senator from Delaware, I have had some difficulty in obtaining flexibility in the application of planning requirements associated with several HUD sewer, water, open space, and land use grant programs. Similar difficulties have been faced in obtaining HUD approval of money to fund a study of Wilmington's mass transit needs. A number of these grants-in-aid require applicants to present plans which are comprehensive for an entire Standard Metropolitan Statistical Area (SMSA). There appear to be many valid reasons for utilizing this statistical unit as a device for certain kinds of grant planning and implementation, and it may be relatively practical for the representatives of local units encompassed by most SMSA's to cooperate in the creation of area-wide plans.

However, in the case of Wilmington and New Castle County, Delaware, the requirement of SMSA planning means that their officials must engage in joint planning with officials from two other counties, one lying in Maryland and the other in New Jersey. There are only four of the 231 Standard Metropolitan areas which include territory from as many as three States. The two relatively rural counties outside of Delaware, with economic and geographical needs and interests often different from New Castle County, are a part of the Wilmington SMSA and therefore must be included in SMSA-wide planning. As a result of the inflexible application of such requirements, it has been much more difficult for some Delaware communities to provide the planning prerequisites to grants—especially within the time limitations imposed by HUD deadlines. Further, State and local officeholders within the Wilmington SMSA have taken meaningful steps to achieve coordinated planning for the three counties involved, including the creation of an area-wide planning unit—the Wilmington Metropolitan Area Planning Coordinating Council ("WILMAPCO").

It has taken considerable expenditure of time and effort by OMB, State and local officials, the National Association of County Officials, Federal agency personnel, and myself to obtain some hope of increased flexibility in the application of HUD planning requirements. We have not asked for a redefinition of the Wilmington SMSA, but have sought a relaxation of the requirement for three-county planning. Of course, it is important to make sure that the SMSA is sued as a planning unit only when it is appropriate in terms of the functional activity involved and that its definition and the census data it relates to be continuously updated. While considerable progress has been made, one gets the impression that if the same or a qualitively similar situation arose elsewhere or with other programs, the same arduous process would have to be repeated to obtain flexibility.

Somehow, the OMB and Federal agencies in charge of intergovernmental aid must impress upon program personnel the need for reasonable flexibility which contributes to the general objectives of programs. Certainly most important among these objectives is to help State and local governments better perform their appropriate tasks. Unfortunately, the public officials in the Wilmington Metropolitan Area who are seeking money from the Department of Housing and Urban Development have at times been presented with complicated requirements and left to meet these on their own as best they can. I think that it is fair to say that these officials have on most occasions been honestly attempting to meet the spirit of HUD's rules.

Another key to the efficient flow of Federal funds to State and local government lies in the success of the planning capabilities of those units. Only through planning can the myriad of Federal programs be made to dovetail together to assist our cities and States to grow in a manner most beneficial to its citizens.

Unfortunately, the planning programs themselves have administrative difficulties and often involve an unacceptable degree of inertia, misunderstanding, and animosity; rather they should do the opposite, promoting understanding, confidence, and capability at the interface between the local, State and Federal partnership.

To place the planning programs in perspective, let me note that of 1,069[1] categorical grant programs providing more than $38[2] billion annually, there are 27[3] planning assistance grants amounting to $231[3] million and 81[4] functional programs, funded at approximately $17 billion, requiring planning as a prerequisite. Only 0.6 percent of our grant funds go for planning. I believe there is a need for a review of this distribution which may provide inadequate funds for planning.

As part of a continuing interest and effort to improve our grant structure, recognizing the leverage which planning has on the utilization of funds, I asked my staff to begin a study of the structure of Federal planning programs. We hope to identify some of the major problem areas and make recommendations for legislative or administrative actions which might bring about an improvement in the administration of these programs. That study is still in progress, but I believe I can cite some case studies, which State and local governments have been kind enough to supply, to illustrate a few of the salient points which have already come through.

One theme brought out over and again was the need for program administrators and decision makers who understand the planning process. One member of a State water control board stated, after describing some application problems:

"The program is in our opinion a good one and should receive continued support. Our biggest concern is that persons administering it should be much more conversant in the guidelines, policies and allocable costs than they have previously demonstrated themselves to be."

Another intergovernmental agency wrote:

". . . maybe each field office should be required to prepare and update an Overall Program Design of its own activities. There is nothing like actually preparing an OPD to bring a little practical perspective to bear on this new management theory."

Another major problem is excessive delay in processing applications. This creates difficult situations for the State or local planner. As a State director of planning wrote:

"The magnitude of the effort needed to make application suggests that the requirements are excessive and wasteful, costing a great deal of time and money without proportionately improving the quality of the application."

A third major complaint, which was continually voiced, is the number of steps required to review and approve an application. This problem is at the heart of delivery of Federal programs. One planner complained:

"The varied length of time required for approval, from two weeks to five months indicates the unworkability of the large volume of application documents required. Furthermore, we feel that the time spent by the field staff in such a review could be far better spent in becoming familiar with the actual planning activity and with providing technical assistance to the planning units."

In a similar fashion, a health planner said:

"Multiple review of applications by Federal agencies generally has the effect of unduly delaying the grant approval process."

One last problem I'll mention, which came through repeatedly, was that personal animosities arise between State and Federal officials as a result of lack of knowledge about the programs, delays, changes of requirements, personnel changes, and all the problems which infest our grant programs. To quote an irate local planner writing to his Federal contact:

". . . *we've had it*. Is this what you want from your agencies—all bureaucratic persiflage and no substantive work?"

Certainly it is a two-way street with both sides—Federal and State—contributing to the problems as well as the solutions. But it concerns me deeply when I learn that Federal employees are making things more

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Footnotes at end of article.

difficult for State and local government officials than they need be. Indeed I believe it is the duty of the Federal employee to go out of his way to initiate and assist the local planner, elected official, or officer to qualify and to expedite to the people the assistance which the Congress and the administration have provided for them.

There are many problems in the realm of the delivery of Federal grants, some of which I have touched on, others of which you and I are aware, some of which we are not. Some of the problems can be eliminated or improved upon by structural changes such as might be brought about by special revenue sharing, block grants, and program consolidation. But, in my view, if we do not improve the flexibility of our system to account for the many time consuming and expensive *little* problems, and strive for a different approach, one which aggressively assists rather than impedes, any real improvements will be difficult to come by.

In closing I would like to share with you a quote of a young city manager which, though indicative of yet another problem, I thought amusing. Obviously somewhat concerned of what might become of his comments in replying, he closed with:

"These are just a few suggestions, but I would be the last to want to put my city's name on a complaint to the Federal government."

FOOTNOTES

[1] OMB Catalog for 1971.

[2] Special Budget Analysis for 1972.

[3] OMB letter from W. Brussat to E. Barber, December 1971.

[4] PARCC Study 1969.

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## CARL HAYDEN

**Mr. HRUSKA.** Mr. President, the passing of Carl Hayden removes from our midst one of the more remarkable statesmen in the history of our Nation. While he is now gone, the lessons which he taught so many of us, the inspiration of his dedication and hard work, and the warm memory of his kindness and courtesy, will remain for years to come as an ideal for us to emulate.

When this Senator was elected to this great body in 1954, nearly 18 years ago, the distinguished Senator from Arizona had already been a Member for 27 years. It would be impossible to recount the education and enlightenment which I gained from observing and working with Carl Hayden.

I dare say those of us who were privileged to work with him prior to his retirement could fill the pages of this RECORD with stories of how he helped make them better legislators.

One of the most striking lessons which he taught us, in my estimation, was the value of hard work as the major factor in legislative effectiveness. It would be difficult to find a Senator who spoke up publicly with the reluctance of Carl Hayden, but it is unlikely there will ever be another Member of this body who so thoroughly illustrated his own advice: namely, when you have the votes, you do not need to talk. His actions spoke louder than words, eloquently and with great effect.

Carl Hayden was the last Member to serve this body who was capable of bridging the various eras of our country's history. He was the last who could personally relate our ultramodern civilization to the early pioneering days in which our civilization as we know it now was not yet conceived.

When one considers his early career in Maricopa County before Arizona even became a State, one can then have some appreciation and understanding of the wisdom, knowledge, and love of country which he imparted to the Nation through his service here.

His record of service to his Nation, including 57 years in Congress, in all likelihood will never be equaled. His contributions to the Nation will have to await the judgment of history before they can be measured in the proper perspective, but we may be sure they will be considerable and significant.

While his death is cause for sorrow among his friends and loved ones, we can rejoice that he lived a long and fruitful life, serving his State and Nation diligently and happily. We can be grateful that it was our good fortune to have had the very special privilege of serving with this distinguished American and calling him our friend.

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## FEDERAL FUNDS FOR STATE AND LOCAL LAW ENFORCEMENT

**Mr. PELL.** Mr. President, one of the keystones of the national effort to curb increasing rates of crime, and to provide our citizens with a greater sense of personal safety and security, is the Law Enforcement Assistance Act.

That program is providing to State and local law enforcement, criminal justice, and corrections programs funds that are desperately needed for modernization and improvement.

Many States, including my own State of Rhode Island, now find their continued effective participation in this program threatened by an untimely requirement for cash matching of Federal Government allocations.

Because of the timing of notification to the States of this change, it will be exceedingly difficult for Rhode Island and other States to provide the cash matching funds.

The General Assembly of the State of Rhode Island recently adopted a resolution urging the Congress to eliminate this cash contribution requirement. I ask unanimous consent that the resolution, expressing the concern of the State legislature, be printed in the RECORD.

Mr. President, I believe that Congress should act promptly and affirmatively to help our State and local governments continue their fight against crime. The junior Senator from Virginia (Mr. SPONG) has introduced a bill, S. 3137, to defer the new cash matching contributions until the LEAA authorizing legislation is reviewed by the Congress next year. I am a cosponsor of that bill, and I hope very much that prompt action can be taken on this legislation.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

### RESOLUTION MEMORIALIZING CONGRESS TO DELETE SOME AMENDMENTS TO THE "OMNIBUS CRIME CONTROL ACT OF 1970" WHICH WAS AMENDED BY PUBLIC LAW 91-644 IN 1971

Whereas, The "Omnibus Crime Control and Safe Streets Act" was adopted to permit local law enforcement agencies participate in a federal program to help curb the rise of crime; and

Whereas, The amendments which were adopted in 1971 would tend to jeopardize further state participation in this most worthwhile program; and

Whereas, Present economic conditions are such that to ask the citizens to carry an additional unexpected burden of supporting an anti-crime program will become oppressive; and

Whereas, Crime in the streets has been rising on a national scale for the last thirty years and without a continuation of the "Safe Streets Act"; and

Whereas, Other than a municipal property tax, Rhode Island does not have either a county form of government or an extensive local taxing base and therefore additional tax requests are not feasible; and

Whereas, Unless the following amendments in Public Law 91-644 are deleted many states will be unable to continue participation with this program:

line 11 of subsection (6) of section 4; "and that with respect to such programs or projects the state will provide in the aggregate not less than one-fourth of the non-Federal funding". and

line 29 of subsection (8) of section 4; "Effective July 1, 1972, at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated in the aggregate, by state or individual unit of government, for the purpose of the shared funding of such programs or projects."; now therefore be it

*Resolved*, That the general assembly hereby memorializes congress to aid the states in this time of need by deleting those portions enumerated herein so that this most worthwhile program may be continued; and be it further

*Resolved*, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the senators and congressmen serving from Rhode Island.

PRIMO IACOBUCCI,
*First Deputy Secretary of State.*

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## AID FOR COSTS OF CHILDREN'S COLLEGE EDUCATION

**Mr. PEARSON.** Mr. President, middle-income Americans bear more than their fair share of taxes and receive a small proportion of public assistance and benefits from their tax dollars.

Of all forms of assistance, one of the most needed and least available to middle-income people is aid for costs of their children's college education. With the 50-percent increase in college costs in the last decade, it may well cost an average family with three children more than $30,000 for higher education. Many families are hard pressed to meet these expenses without some form of assistance.

Students from middle-income families rarely qualify for Federal, State, or private funds designed to meet the legitimate needs of low-income students. While we do not now have the resources to provide grant assistance to middle-income students, we can find other ways to help meet high college costs.

The bill which is cosponsored today, S. 2860, is an innovative approach to this urgent problem. It provides for a deferment of Federal income taxes up to a limit of $1,500 per year per student for higher educational expenditures. Each family may defer up to $7,500 per student and an additional $2,500 for graduate study.

This money is only deferred. It is to be repaid in annual installments with an interest rate of 7 percent. We can, in this way, assist middle-income families to meet tuition, room and board costs for college and technical education without large Federal outlays. This bill would cost the Government very little money, if any.

The passage of the bill, introduced by the Senator from Illinois (Mr. PERCY), will provide direct assistance to those Americans who rarely receive aid from the Government. They will not get a handout, nor do they ask for one, but we shall all be making a sound investment in the future of our Nation by insuring that children of middle-income Americans receive the higher education they need to prepare them for the complex world of tomorrow.

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## AMERICAN HUNGARIAN FEDERATION STATEMENT ON EUROPEAN SECURITY CONFERENCE

Mr. DOLE. Mr. President, the American Hungarian Federation has represented American citizens of Hungarian descent in this country for the past 65 years. The Federation is highly concerned with certain aspects of the forthcoming European Security Conference, particularly those pertaining to Hungary and East Central Europe.

Mr. President, I ask unanimous consent that the following statement by the American Hungarian Federation, expressing its concern on this issue, be ordered printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

### MEMORANDUM

The convocation of a European Security Conference seems to be inevitable within the next eighteen months. This estimate is based upon the various statements made by leading statesmen of our NATO allies and the communique of the last NATO meeting of Foreign and Defense Ministers in Brussels of December 10, 1971.

The American Hungarian Federation looks toward the convocation of such a European Security Conference both with hope and anxiety. We are aware of the policy of our Government to end a policy of confrontation and to proceed to an era of negotiations with the Soviet Union and the People's Republic of China. We are aware that the creation of stable conditions of peace in Europe must occupy a high priority in United States foreign policies. We also believe that the forthcoming visit of our President to Moscow in May 1972 will provide a historical opportunity to demonstrate the paramount interest of the United States in creating conditions, or reenforcing already existing trends, leading toward true peace and international cooperation in Europe.

A European Security Conference conceals the seed of both hope and risk. Hope springs eternal in our hearts that given good will on our sides, a resolute Western diplomatic stand could help to erase, or at least diminish the existing cultural, economic, and political barriers between the nations of Europe. These barriers still divide the homeland of our fathers, Hungary, from Western European and the United States in the physical and political sense.

A European Security Conference could help to remove Soviet troops from Hungary. It could restore the opportunity for Hungary as well as the other nations of East Central Europe to reintegrate themselves gradually into the European and Western community of nations—a culture to which they have belonged for over a millennium and from which they were torn by the events following World War II. We hope that these peoples will be able to escape the hegemonial position of the Soviet Union and recover their right to self-determination. We hope for intra-regional solutions of their outstanding domestic, international and nationality problems.

Yet, we cannot deny our anxiety about the announced goals of the Soviet Union and her Warsaw Pact allies in seeking the convocation of a European Security Conference. Their most obvious purpose remains the recognition of all existing frontiers and the political status quo in Europe in form of a conference of all European and North American powers, a recognition which would be binding in international law both bilaterally and multilaterally. Such a declaration would effectively freeze the legal status of the present status quo, including Soviet Russian domination over East Central Europe and the partition of Germany. Unfortunately, the yet unratified Bonn-Moscow Treaty provides a precedent in this regard as far as the Federal Republic of Germany is concerned.

We are heartened by the final communique of the NATO Ministers of December 10, 1971 stating that a European Security Conference cannot serve the purpose to render permanent the postwar partition of Europe. We earnestly hope and expect that this position, with positive elaborations, will also be the position of the United States Government at any forthcoming European Security Conference. We refer in this regard to the Charter of the United Nations, article 2, which maintains that its members base—or should base—their policies on the "sovereign equality of all its Members" and "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state." We know that the U.S. Government not only observes this precept in its relations with other nations, but will use its full diplomatic power and influence to sustain these principles for Europe at any European Security Conference.

We feel some anxiety about the use of a coming European Security Conference by the Soviet Union and its allies as a vehicle for the reduction of American political, economic and military presence in Europe and for effectively loosening the ties between the European NATO allies and the United States. Any further deterioration within NATO would have grave consequences for Western security and we call upon you to do everything in your power to prevent such trends from developing into actuality. In this regard, we must praise highly the continuous efforts of the United States Government to resist premature plans for unilateral withdrawals, which would create Soviet military superiority in Europe.

Yet, we also feel that in the long run, a condition for peace in Europe must include the creation of confederate or even federal institutions of the states of Western Europe, a development which all American administrations since 1948 have actively encouraged. Furthermore, we believe that if a European Security Conference takes place, the United States should propose positive plans for inclusion of the nations of East Central Europe, taking into consideration the security interests and political-military realities of the situation. In our Memorandum of 1969 we called attention to the possibility of proposing an expansion of the existing neutral area between the NATO and the Warsaw Pact nations which extends from Austria and Yugoslavia. We would have this zone include: Hungary, Czechoslovakia and Rumania. Removal of foreign military forces from these countries and an international guarantee of their nonalignment, if so desired by their governments, could be made the subject of serious discussions, even if the chances of immediate implementation might be small.

One method of approaching the topic could be their inclusion in the preparatory talks on convoking a European Security Conference, or even at the preliminary talks on Neutral, Unilateral Force Reductions (MBFR).

It seems likely that both sides will conconcentrate upon reducing the forces of their adversaries in the respective parts of Germany, since this region poses the most delicate and involved questions both to NATO and the Warsaw Pact.

However, in the case of the Danubian region, where there exists no concentration of NATO units, and only relatively weak Soviet contingents there may be a fruitful subject for making a start with MBFR. Any MBFR agreement in this region would also promote indirectly the emergence of a quasi-neutral bloc including the states between Austria and Rumania thereby creating the opportunity for freer national and economic development for the peoples of the region. If MBFR and a European Security Conference are going to be more than a slogan, the reweaving of the two parts of Europe without impairing basic security needs of the superpowers must form the priority item. The chances of creating a zone of states without the presence of foreign military forces appears to be nowhere better in Europe than in the Danubian region where two "neutral" states already exist.

In addition, historic, economic and social ties between the states of the Danubian region are still in existence and remain extensive even across alliance borders. The expansion of a neutral zone—free of foreign military units—would promote closer cooperation among these states which would not be directed against the superpowers.

Thus, we reiterate our 1969 proposals for the expansion of a zone of neutral states on both sides of the alliances, including at least Austria, Hungary, Yugoslavia, and Czechoslovakia, and perhaps also Rumania and other states in the region as well. If full neutralization cannot be achieved, we would regard the inclusion of the problem of removing foreign troops from the Danubian and Balkan regions into the MBFR talks as a first step toward positive evolution.

Reduction would have to be balanced and phased, involving a substantial removal of Soviet forces in return for NATO concessions of strength in Southern Europe. While it is correct that such negotiations introduce a new element: the territorial expansion of the talks to Southern Europe, this would be outweighed by the advantages in the military and political stability once Soviet power were effectively removed from the Danubian and Balkan regions, especially with regard to the relative instability of the Yugoslav situation.

We expect that these proposals would be seriously considered by our Government and employed at the right time and place in order to promote both the interests of the United States and the peoples of Hungary and other states of the Danubian region. For the people of Hungary and of the other states feel constrained and unhappy under foreign occupation. They long to rejoin the Western community in Europe, to which they have historically belonged.

We trust that the President, who has displayed his special regard for the peoples of Hungary and East Central Europe many times in the past, will employ the diplomatic and economic talents of the United States to bring peace, self-determination and free development opportunities to them through his sustained diplomatic offensive, including his forthcoming talks in Moscow.

Finally we and most American citizens of Hungarian descent cannot accept Soviet proposals to freeze the ideological political and military partition of Europe by a multilateral declaration on frontiers and the political status such has been done in the yet unratified Bonn-Moscow Treaty. A European Security Conference must be a first step toward the creation of stable and peaceful conditions in Europe based on the principles of sovereign equality and self-determination, or the causes of tension in Europe will never be removed.

## AUTOMATED VISUAL SENSITIVITY TESTER

Mr. ANDERSON. Mr. President, although there are many applications of the space program to the field of medicine, few ever come to the attention of the layman. There is no easy means of communicating such ideas to him; and those of us who are close to the space program sort of take them for granted. However, every once in a while an application comes along which catches your eye and deserves special mention. Recently NASA announced such an application. It is an instrument which maps the vision patterns of the eye and is expected to be particularly valuable in the diagnosis and treatment in a number of disorders such as brain damage caused by tumors or injuries, glaucoma, and detached retina. The instrument is called the Automated Visual Sensitivity Tester and maps the position and extent of the blind spots in the eye. Originally this tester was designed for use in long-term confinement situations where periodic checks of visual function are required as in space flight. The application to everyday medicine is clear.

Mr. President, I ask unanimous consent that the NASA Release No. 72–21 be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

### VISION TESTER

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
*February 1, 1972.*

A simple, accurate, and easy-to-use device to map individual vision patterns of the eye has been developed at the National Aeronautics and Space Administration's Ames Research Center, Mountain View, Calif.

The device is expected to be particularly valuable in the diagnosis and treatment of a number of disorders, including brain damage caused by tumors or injuries, optic track degeneration, glaucoma, and detached retina.

The machine, called the Automated Visual Sensitivity Tester, maps the position and extent of the normal blind spot of each eye. Characteristics of this blind spot, which is the area of the eyeball where there are no nerve endings to sense light, are a strong indication of the state of a patient's visual health.

The tester can also plot the presence of abnormal blind spots, called scotoma, which may be caused by looking at the sun, welder's arc and other intense light sources; or by retinal detachment or variable metabolic diseases.

The Automated Visual Sensitivity Tester was originally designed for use in long-term confinement situations where a periodic check of visual function is indicated, as in space flight. It was used in a manned 90-day closed environment chamber test conducted for NASA by the McDonnell Douglas Corp.

The machine resembles a large slide viewer. The patient looks into the front of the instrument with one eye and then the other. Inside, he sees a stationary red cross and a moving white dot. He fixes his gaze on the red cross and pushes a button whenever the white dot disappears from his vision. Output of the machine is a graphic plot of the patient's vision pattern for each eye. Data could be presented in many other ways including transmission directly to a computer for automatic processing.

The machine is versatile since it uses film loop cassettes on which audio instructions can be recorded. Changing from one test to another merely requires plugging the appropriate film cassette into the machine.

Tests for visual acuity and color blindness are now being developed. Other tests for which the device could be used include measuring the ability of the eye to smoothly follow a moving object (dynamic ocular tracking), measuring the ability to correctly discriminate different simple and complex forms (indication of possible brain damage), measurement of the Optokinetic Nystagums Reflex which is the tendency for the eye to follow repeated apparent motion as a barber pole, and measurement of sensitivity to various colors in different parts of the visual field.

The tester may be useful as a mass vision screener in schools and might be helpful in the diagnosis of brain damage in children. It is scheduled for clinical evaluation at ophthalmological clinics and for the possible inclusion in remote mobile health care service being planned by the Space Sciences Research Center, University of Missouri.

The Automated Visual Sensitivity Tester was conceived, designed and built by a three-man research team at Ames: Dr. Richmond F. Haines, Salvador A. Rositano, and James W. Fitzgerald.

## ERIKSON INSTITUTE FOR EARLY EDUCATION

Mr. PERCY. Mr. President, I have had a long and continuing interest in the problem of child care. I feel strongly that we must provide preschool children throughout the Nation with the opportunity for healthy and stimulating development during their early years. There is no doubt that effective child care, on a voluntary basis, addresses itself to our national interest by investing in the Nation's children at the most critical point in their lives.

We can no longer ignore the growing needs of many low- and middle-income families for adequate child care services. Mothers are joining the Nation's work force in increasing numbers. Working women with children under 18 now number more than 12 million. Approximately one-third of the mothers with children under age 6 account for 4.5 million of our work force, and this number is expected to increase by an additional 1.5 million by 1980. Most of the mothers work because of necessity. Some mothers are the sole supporters of their families and others have families who need the additional income.

While the number of day care facilities have increased, the services they provide do not even begin to meet the demand. Licensed day care centers now have room for only 640,000 children. In Chicago, 282,000 children are eligible to receive day care services, but only 12,500 are actually in day care programs. It is all too evident that many youngsters are left improperly supervised or entirely unattended.

The need for qualified child care personnel is equally critical. The White House Conference on Children called for the training of at least 50,000 more child care workers every year for the next 10 years. Our Federal training programs in this field have fallen far short of this goal.

I think my colleagues will be interested in the valuable contribution made by one institute in my State to early childhood education. I am referring to Chicago's Erikson Institute for Early Education which is affiliated with Loyola University. Erikson Institute offers a comprehensive training program leading to a masters degree in education, consisting of an intensive academic curriculum combined with a tutorial program and an internship in affiliated schools, Headstart centers and day care centers in Chicago. In addition, the Institute serves as consultants to many day care centers in the area, public and private.

Erikson Institute's capable dean, Dr. Maria W. Piers, is a reknowned child psychologist, educator, and author. At a time of much controversy over the day care issue, I think Dr. Piers' expert views on child care will be of interest to my colleagues.

I ask unanimous consent that articles describing Erikson Institute's activities and Dr. Maria W. Piers' speech before the Governors' Conference on Day Care be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, June 13, 1971]

### INDIANS WITH DEGREES SOUGHT FOR CHILD DEVELOPMENT UNIT

The Department of Health, Education and Welfare has designated the Erikson Institute of Loyola Universtiy as a center to prepare American Indians for work in child development programs.

Main problem of the program is finding qualified applicants who hold bachelor's degrees, said Mrs. Dorothy Anker, supervisor of field work for Erikson.

"Indians have the highest dropout rate of any minority group, probably because relevant education does not take place in early schooling," she said "Children have constantly been pulled out of their environment, brought to [boarding] schools and not allowed to speak their native tongue. They are expected to act like middle class white children, which is diametrically opposed to their cultural pattern."

#### MANY FEAR BIG CITY

She said the institute has "bombarded" colleges to find students who would qualify for the federally financed stipends for study, but many have no desire to come to large urban areas because of "culture shock" or the educational deficiencies from their own schools. At the Black Hills State College in South Dakota, Mrs. Anker said, there are 150 Indian students but only 5 or 6 graduate annually.

An auxiliary training course for those who do not want master's degrees in child development or lack the educational requirements is also under development. In many Indian population centers, no one is adequately trained for Head Start or parent-child centers, she said.

In preparation for the new Indian training phase, Mrs. Anker visited the Pine Ridge Reservation for the 10,000 Ogalala Sioux near Rapid City, S. D., at the request of Mrs. George McGovern, wife of Sen. McGovern and supporter of early childhood education. At the reservation are 10 Head Start centers for a total of 250 children and three parent-child centers in need of more staff.

Traditional educational tools are not valid to Indian needs nor are the typical ways of teaching which are simply transferred from urban public schools, Mrs. Anker said. "We need to learn as much as we can about their culture, customs and environment so we can work with any minority group," she said. "There's no 'recipe approach.' We want to train teachers to become incessant problem solvers, to bring their knowledge to Indian tribes with a variety of processes they can use to help the community solve its own problems."

She said Indian background largely has been ignored in the "Americanizing" process pushed by schools near reservations. Some are forced to speak English while Indian strengths in ecological concern for the land or interest in arts and crafts were bypassed.

### SAYS BACKGROUND IGNORED

"Boys and girls, brothers and sisters, are not supposed to look at each other when they talk [under Indian custom]," she said. "Some teachers take this as apathy and indifference. With reading, stoplights and firetrucks may have no meaning. The purpose is to teach language discussion, but they are given foreign objects that have no meaning.

"There's no reason children have to discriminate between circles and squares. I have a feeling that Indian children have better depth perception than most, and putting blocks in organized rows may have no purpose. We have to find out even what kind of toys we should use in these centers."

According to the Bureau of Indian Affairs, there are approximately 15,000 Indians living in Chicago with over 90 different tribes represented, Mrs. Anker said. In the Chicago public schools there are 1,042 Indian students on the elementary and high school levels.

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[From the Chicago Tribune, Chicago, Ill., November 11, 1970]

## PROGRESS IN DAY CARE PROGRAMS

(By Carol Kleiman)

There are some bright spots in the day care picture—let them shine!

Back in May, I wrote that Illinois Bell Telephone had gotten the message and was setting up a new program to assist employees in finding day care for their children, in searching out new facilities and in helping to get private homes licensed for day care.

The company has taken the program one necessary step forward: The Erikson Institute for Early Childhood Education at Loyola University, 1525 E. 53d St., has been asked to help Bell to train a staff to help provide decent day care for employes' children.

Dr. Maria W. Piers, dean of the school, which provides a master's degree program for child care experts, explained the connection with the telephone company.

"We are not helping set up costly day care centers, but day care in more home-like surroundings," she says. "We're training three Illinois Bell women to find suitable homes and suitable mothers to care for employes' children during the day. We will help these homes to get licensed.

"Through weekly seminars, we are training women to ferret out good private homes, to understand what children need. We are also working with some of the women whose homes are already licensed and being used by Bell employes."

The neat part about this is while day care mothers attend Erikson, students at Erikson take care of the children!

Director of the program and of the Institute is Lorraine Wallace. The program's aim: To get as many of the children as possible to enjoy a measure of achievement, a measure of pleasure. It's a model program in the business community.

More and more people care about day care—especially as more and more mothers go to work. A recently organized group is the Day Care Alliance of Lincoln Park, incorporated to foster, encourage, and develop facilities for pre-school and school age children of local families who have no other means of caring for their children during working hours. This group also does not intend to operate the programs. It wants to coordinate them. President is Mrs. Jurdis Dierauer. You can reach her at 348-6378 or 766-5800.

A new day care center has opened in Bensenville. The Professional Child Care clinic, 324 E. Green St., was brought about to service the needs of working parents. It's owned and directed by Thomas Murray of Park Ridge. Catherine Murray, his wife, is assistant director. The school's capacity is 103 youngsters. The center has an exciting abundance of recreational and play equipment for the kiddies. Hours are realistic: 6:30 a.m. to 6 p.m.

"Love," says reader Evlyn Eck, "is one of the most important aspects of day care. When you write about tender, loving, care, I always think of the Uptown Lutheran day care center, 5030 N. Marine Dr. It's operated by the Lutheran Welfare Services of Illinois and is staffed by a wonderful group of women who shower the children with T.L.C. And there is a constant, steady, dependable flow of love and deep concern for each child."

Now, that's what we need more of!

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[From Focus Today, Dec. 12, 1971]

## EXPERT'S PLEA: LET'S CARE ABOUT DAY CARE

The swirling debate over day care intensified last week when President Nixon vetoed a bill which would provide far-reaching care for children of working mothers. Critics cite its $2 billion a year pricetag. Proponents cite the human need. To put the issue in perspective, Chicago Today is printing excerpts from a speech delivered by Dr. Maria Piers, dean of Chicago's Erikson Institute for Early Education. She made the address recently before the Governor's Conference on Day Care.

One morning 7 years ago I had a phone call from a young friend who had just enrolled her only daughter in nursery school. My friend was in tears. She had been told by several well meaning neighbors as well as by her mother-in-law that a 3½-year-old belongs home with her mother, not in nursery school, and that she should stop doing her secretarial work and stay home with her child, etc. She felt terribly guilty, as if she were public enemy No. 1. That was back in 1964.

Now the tide has turned. Now loving friends and relatives and civic-minded people make you feel guilty when you don't send your child to a nursery school, or indeed to an all-day care center. It is the mother who wants to stay home and take care of her children who is made to feel like public enemy No. 1.

In view of such a puzzling about face we better take a long questioning look at the whole issue of preschool education in general and day care in particular. At the moment, everybody is in favor of day care. Industry and labor, government and private groups, and the womens liberation movement. [Correction: almost everybody is in favor; children have not been consulted]. Seriously, there is a lot to be said for preschool education. When people ask me what specifically is good about it, I have the answer at my finger tips:

Weaning children from mother [for short stretches of time away from home];

Under safe conditions;

In the company of other young children [very important from 3 on];

With large equipment [jungle gym] impossible to provide for most families;

Lots of space for running and screaming [sans neighbors complaining];

Best of all, under the aegis of a teacher trained to satisfy a child's intellectual curiosity.

While teaching us the fundamentals of coexistence. [If you kick Tommy in the shins he is not likely to let you play with his fire engine—or a kneenex is for blowing your nose; Jennifer's sweater is not.]

That is what is good about a day care center. If it provides that mixture of care and education. What if it does not?

Before answering that question, let me tell you about a strange thought that occurs to me. Why is that people always ask me what is so good about preschool education and nobody ever asked me what's so good about home? Why are we professionals never called upon to justify the existence of family life? Just in case someone should ask. I have an answer ready:

Home is a place where you are safe;

Where you can flop when tired;

Where you are liked for what you are, even on your off days;

Where you are thoroughly familiar with every nook and cranny and person and thing;

Where you get a peanut butter sandwich when you are hungry, and an answer to a question, and a whack when you are mean and a hug when needed;

A home is good if it provides all of these: food, shelter, information, whacks and hugs.

What if it does not? The point here is that not every home is a good home. I am thinking at the moment not even of a poverty child, but of a 7-year-old boy with a hard-working father in a high income tax bracket, and a mother in a mental institution, and a suburban house full of toys and a constantly changing stream of housekeepers and baby sitters—and nobody to trust and nobody to talk to.

Such tragedy can happen everywhere. But it does happen much more frequently to children in urban slums.

Dale Meers from the Washington Children's Hospital has in treatment two school-age children from a black slum area, and in cooperation with the police tried to assess the environment of those two children.

Here is what they found: In an area of three square blocks, over a period of 12 months, there were 3,520 major crimes. This number reflects by no means a sum total, but only those crimes that were reported by the police—crimes like murder, and robberies.

To set an alternate way of growing up is, in such cases, imperative. Day care, whether in an institution or a licensed home seems an answer. One could even say that any kind of care is a better answer than a home life that renders children inaccessible to a teacher, or for that matter any responsible adult. Here we must remind ourselves that the children who live in such abysmal conditions are relatively few, that day care is currently the advocated solution for many, many more children with a basically good sound home who are alert, sometimes affectionate, sometimes annoying . . . like all kids.

The idea of day care for the average child makes us immediately and acutely aware that something which is a little better than the worst, simply isn't good enough.

The point is that second-rate day care also has its dangers. They are different from a crime-infested slum, but just as pernicious. The understaffed center, or the center with a high staff turnover must by definition remain a merely custodial place, must rely on an overdose of behavior modification, without motivating the individual, and must therefore turn out children who are easy to manage, stupid, often sickly, well-behaved in order to avoid trouble, without developing inner controls.

The custodial day care center manufactures future dropouts, unemployables, burdens to the taxpayer, and in doing so, it sharply increases class differences. For it's only the children who have no choice who land in such centers (not your children or mine), and no public school teacher can make them study, no matter how dedicated or talented he may be.

There is yet another danger inherent in the understaffed center: We virtually force children to seek support, company, stimulation from their peer groups. Too much of this too early in life prepares them for joining streetgangs.

I think the message is loud and clear: If we are setting up day care on a large scale, and if we don't want to produce a generation of quasi-deaf and dumb unresponsive children who in due time spawn another generation of quasi-deaf and dumb children, then we must provide quality day care.

That, if I may now remind you of some earlier statement, means that we sink our money in people. Not into a curriculum, or into a beautiful building, or into marvelous equipment—though we are certainly not opposed to any of these. But if we must cut corners (and it seems that we must) then let's not cut it on personnel.

There remains one issue that is currently much talked about It is parent involvement. What do we mean by that? Participation? Government? Perhaps. And perhaps not. Many mothers and fathers are too burdened as it is. Some ethnic groups abhor the idea of parents [especially mothers] running things. But everywhere under all circumstances for people of all races, colors, creeds, income groups, here is one of the essentials of development: Young children learn, unfold, thrive, in constant interchange with a parent. Lethargic, deprived, angry, sick people make bad parents. Parent involvement, then, whether or not it means participation, means under all circumstances that the needs of human beings must be met up to that point where they foster the growth of their own children.

Now for some utopian picture on the horizon. What could day care become ideally? Occasionally an idea springs up that was meant to benefit the poor, but turned out such an excellent idea that everybody wanted it. Health insurance was such an idea. The Montessori system and indeed before that, Froebel Kindergarten. If I may share with you some subjective impressions, Head Start had a similar effect.

It is true that the Westinghouse Study proved convincingly that Head Start failed to perform miracles. It failed to kill off rats in tenements, it failed to improve the economy, the awesome complexities of big cities, crime and graft, and it didn't do away with the war in Southeast Asia, cancer or the common cold.

And so, kids continued to have problems in grade school.

On the other hand, Head Start convinced mothers—poor illiterate mothers—that they could learn and indeed become their children's teachers, that they could have their teeth fixed, take up dressmaking and look attractive, serve balanced menus, generate a measure of beauty in their schools and homes, and above all believe in self-determination based on self-respect.

I will also stick my neck out and say that I am quite sure that Head Start helped people in all walks of life to take the first 5 years seriously and to discover the values of preschool education.

What was good about Head Start was people. People who set it up, people who were direct beneficiaries and people who learned from it. As we set up day care on a grand scale, let's please not forget people.

### WHAT VETO MEANS TO CHICAGO

Some 100,000 Chicago children were affected last week by President Nixon's veto of a $2 billion dollar child-care program. Day care advocates say Thursday's action virtually killed any possibility for providing drastically needed services in the city and county.

In his statement to the press, the President showed a bias against what he called "communal approaches to child rearing" and said he felt day care centers were a threat to family stability.

"Good public policy requires that we enhance rather than diminish both parental authority and parental involvement with children, particularly in those decisive early years when social attitudes and a conscience are formed, and religious and moral principles are first inculcated."

The child-care provisions had been submitted as a rider on a bill authorizing continued operation of the U.S. Office of Economic Opportunity for two more years. Nixon urged Congress to send him another version before adjourning for the holidays, but without the child-development section.

Opposition to the veto by child-care experts in Chicago was nearly unanimous. It was expressed by Mrs. Murrell Syler, day care administrator in the mayor's office; Mrs. Sylvia Cotten, president of the Crisis Committee on Day Care; Miss Olive Greensfelder, vice president of the League of Women Voters, and Mrs. Heather Booth, chairman of the Action Committee for Decent Childcare.

Ald. Christopher B. Cohen, whose 44th ward includes the low-income Uptown and Lakeview communities, said: "The veto by President Nixon shows his cynical disregard for the poor, the children and the working mothers of this country."

## SUFFER LITTLE CHILDREN

Mr. WILLIAMS. Mr. President, while the intensive bombing and emphasis on an American-directed military victory in Vietnam continues, the devastating social problems of that country receive low priority consideration.

The United States clearly has a responsibility to help the Vietnamese people resolve their war-related problems, among which probably the most acute involves the children.

For many months now, I have given particular attention to the problems facing the children of Vietnam and I have been dismayed by my findings. Although children under 15 comprise nearly 45 percent of the population, they receive negligible attention and concern from the Vietnamese or the American Governments until they reach the draft age. Literally thousands of children can be found living and struggling for their survival on the streets of the larger cities which generally are severely overcrowded and underdeveloped. The infrequent government support or involvement in this situation is meager at best, and deadly at the worst. Even the government-supported orphanages receive poor treatment.

Because of the dire need for positive action focusing on the problems of Vietnamese children, I have introduced, along with Senators HUGHES and HATFIELD, S. 2497, which will establish the Vietnam Child Care Agency. The agency will work specifically on improving, in Vietnam, the conditions and lives of children who have been orphaned or disadvantaged by the war. The agency would coordinate day-care, health, hostel, orphanage, and training programs with the Vietnamese Government and international voluntary service organizations. Furthermore, the agency, supplementing the development of programs in Vietnam, would negotiate with the Vietnamese and American Governments to ease the regulations concerning intercountry adoptions.

I am pleased to say that we have been joined by 14 of our colleagues from both sides of the aisle as cosponsors and that a nearly identical bill has been introduced in the House by Congressmen WHALEN, KYROS, KASTENMEIER, and DWYER.

On February 15, the New York Times printed an editorial, "Suffer Little Children," which discusses this worsening situation. I ask unanimous consent that the editorial be included in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Tuesday, Feb. 15, 1972]

### SUFFER LITTLE CHILDREN

President Thieu's repressive national police have written another ugly chapter in the annals of Vietnamization with their recent assault on and subsequent dismemberment of an alleged hotbed of antiwar and anti-Government activity—South Vietnam's largest orphanage at Longthanh Village, near Saigon.

Even if the orphanage harbored draft-dodgers and was misused for political purposes by its Buddhist sponsors, as the Government contends, there can be no excuse for the heavy-handed police tactics employed. These included a midnight attack by policemen armed with clubs and water hoses and firing tear-gas grenades, and the ultimate evacuation of nearly 3,000 terrorized children to parts unknown. Nuns say that three boys died from tear-gas poisoning and that others were seriously injured in the raid.

Equally shocking is the cold indifference displayed by an American advisor to the Vietnamese national police who dismissed the incident as "strictly a Vietnamese affair." Such brutal repression is wholly unacceptable on the part of a Government dependent on massive American economic, military and diplomatic support. These orphans are an American concern, especially since some of them are the abandoned offspring of American servicemen and many more are victims of a war in which the United States continues to be deeply involved.

The Longthanh incident is a singularly grotesque symbol of a much larger problem of child abuse and neglect in South Vietnam. It should spur Congress to act favorably on a bill, sponsored by Senators Hatfield, Williams and Hughes, which would create a new Child Care Agency to seek a long-term solution of the problem of the abandoned children of South Vietnam, many of them, we repeat, half-American.

## THE FUTURE OF AMERICAN TECHNOLOGY

Mr. GOLDWATER. Mr. President, ever since the defeat of the SST program last year, I have been greatly concerned over the future of American technology and what that means to the United States and the rest of the world.

We are witnessing today what amounts to a senseless war on science and technology which is threatening to reduce America to a second-class military power and a second- or third-class economic power. In following the lead of Senate liberals in their largely successful attack on scientific progress we have managed to create a crisis situation which experts tell us is bordering on a national calamity.

A stark outline of this problem was sketched for the National Security Industrial Association, meeting in Washington on February 8, by Edgar M. Cortright, Director of the NASA Langley Research Center at Hampton, Va. He said the attack on science has become so serious that it has put tens of thousands of scientists out of work, created serious setbacks in our aerospace industry, caused a sharp decline of student interest in science and engineering and weakened our technical colleges and universities.

Because of the great importance of this subject, I ask unanimous consent that Mr. Cortright's address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

### Technology and Our Future

(By Edgar M. Cortright)

Gentlemen: I'm glad to be here today. It's good to see some old friends from my stint on the Washington scene. And it's a welcome opportunity to speak out on one of my favorite topics—the importance of continuing to advance our national technology.

I do have some misgivings about speaking on this subject to this particular group. As representatives of the Nation's high technology industries, you may enjoy a little pep talk—but you surely don't need any convincing. This talk is really designed for the average man on the street who is trying to make up his mind as to where to place his bets.

During the past year I've tried out most of these thoughts on lay groups with good response. I will continue to do so on every chance I get. So should you. If we don't carry the fight for technology—who will? And if we lose it, and watch our country begin its decline toward a second class military and economic power, there will be little consolation in knowing that we were right.

For most of our lifetimes, science and technology have worn a "white hat." They have represented our attempts to understand the physical laws which govern us and our universe; and our efforts to apply those laws to improve man's condition on Earth.

Because we've worked hard at it, we have generated an explosion of ideas, discoveries, inventions, and new technologies during the past century. By tapping the energy of the sun stored in fossil fuels, and more recently the energy of the atomic nucleus, man has energized the world. We are illuminated, heated, and cooled at the flick of a switch. Many chores are now handled by electric appliances. We speak to our friends and business associates half a world away—sometimes by satellite. We have seen the automobile, airplane, and spaceship open up undreamed of opportunities for travel. Should we elect to stay at home, the activities of the entire earth—and sometimes the moon—are but an arm's reach to our television sets.

Similarly, we have made great strides in medicine and biology—without which perhaps as many as half of this audience would not be here today. With the remarkable advances in molecular biology, such as the unravelling of the genetic code, the potential for understanding ourselves and treating our ills seems unlimited.

But I've only touched on the positive aspects of science and technology. There is another side to the story which relates to unwanted side effects. During the past decade we have become acutely aware that we are polluting our own environment—fouling our own nest. The same fossile fuels that launched the industrial revolution are choking people and plants to death in some parts of the world. The refrain "Welcome sulphur dioxide, welcome carbon monoxide—the air, the air is everywhere" has a disturbing jolt to it.

Many of the same agricultural chemicals that enable about 5 percent of our population to feed the rest of us are beginning to show up in strange places, with strange effects. Modern plumbing, which is credited by some with saving more lives than modern medicine, has merely delivered the waste of the city dwellers into the streams and onto the beaches of his country neighbors—or perhaps to his weekend retreat. Out of sight—out of mind.

We have come only recently to realize that the vastness of the oceans, and the skies above them, are but limited repositories for man's waste products, from which nothing escapes. Our earth is truly a spaceship with four or five billion passengers—passengers with little understanding or control of their delicate ecological balance, and apparently intent on reproducing themselves at a fantastic rate.

Another aspect of science and technology that concerns most people is its destructive potential in the form of weapons. Man seems powerless to restrain himself from killing his fellow man for one reason or another. "Man is a hunter, and his prey is—us," someone once said. So, today we find ourselves in the ludicrous position of sitting with our trigger fingers on enough nuclear rockets to destroy the world, while the other guy does the same. What a grotesque application of our intellect!

What frightens many people is the mind-boggling rapidity with which these developments are taking place. If the four billion years of our earth were to be compressed into just one year, then Christ walked the streets of Jerusalem just 15 seconds ago, and the industrial revolution began only a second ago. Man and his works have evolved in the twinkling of an eye! If so—what might the next twinkling hold in store for us—bad as well as good? Should we slow it all down? Can we?

These are but a few examples of the philosophical arguments which are raging over technology in many circles today. Lawrence Lessing in the March issue of Fortune calls it "The Senseless War on Science." As Lessing puts it, "The immense prestige of U.S. science is being undermined by assaults from several different directions. If this wildly irrational campaign doesn't end soon, the U. S. can become a second-rate power and a third-rate place to live." Dr. Philip Handler, President of the National Academy of Sciences says, "if we foreswear more science and technology, there can be no cleaning up of our cities, no progress in mass transportation, no salvage of our once beautiful landscape, and no control of overpopulation. Those who scoff at technological solutions to those problems have no alternative solutions." The anti-technologists are just as vehement on the other side.

The immediate effect of all this debate is to slow down the advance of technology in the United States. Even in a favorable environment it is often difficult to launch effective new programs in this country. Look how hard it is to get the domestic programs going which are so urgently needed! In an unfavorable environment it can be nearly impossible. And the environment today is distinctly unfavorable for science and technology. Some of the indicators are:

1. Technological timidity on the part of an increasing number of our leaders.

2. Increasing attacks on areas of technical activity which are in good shape—but soon won't be!

3. Tens of thousands of unemployed scientists and engineers.

4. Serious setbacks in our aerospace industry.

5. Loss of student interest in science and engineering.

6. Weakening of our technical colleges and universities.

In my view, it is a crisis situation bordering on a national calamity. It could take years to recover. Let me elaborate on this point, and express a few thoughts on what to do about it.

One thing we've got to do more effectively is to get people to listen to the case for technology. Then we must make the case well.

How does one get the attention and due consideration of the public and congress these days? I'd like to suggest that we must *earn* it. We must earn it not merely by doing our aerospace jobs well, but by special acts of public service—acts which recognize some of the "superproblems" which face this Country today.

I define a superproblem as one in which many separate problems interact in one gigantic integrated problem. Environmental control is one such superproblem—involving pollution, power, transportation, and the economy.

Superproblems are relatively new. In the past we each could work our separate fields somewhat independent of the other guy. Today, we are beginning to see the interactions and the need for a much more sophisticated approach. This is where we come in.

As the most technically sophisticated industries in the world, we must play a strong role in attacking the superproblems of today—and in avoiding the superproblems of tomorrow. We must take the initiative in developing solutions. We must volunteer help to our local, state, and federal governments—help in the form of ideas, technical analyses and support, and just plain, hard work. We must do this without compensation, if necessary, and sometimes without even encouragement.

Many companies *are* doing just this. Some have gotten discouraged. My message to you is this: Don't lose heart—the name of the game is perseverance! The stakes are unimaginably high. And, in addition to serving mankind, there will be the additional benefit of gaining the attention to our own special problems that we need—then we must make our case for technology. My case is this.

This Country must decide what it wants to be. Today we have the highest standard of living, the most advanced technology, and the greatest capacity to do good works of any nation in the world. Most Americans would like to keep it that way! Sure, we have plenty of problem areas which need attention. But, like Phil Handler, I feel that we will need our technology both to attack these problems directly, and to stay economically strong enough to do so.

Whether all of us like it or not, we *are* a technological nation. Our entire business and commerce structure is built on technology. With our high pay scales, advanced technology is the only thing that lets us compete favorably with the lower priced labor markets of the world. Even so, we have lost major portions of the manufacturing market to foreign competition in recent years.

The February 7 issue of "U.S. News" helps us understand the seriousness of this situation. Our big trade surpluses are as follows: aircraft—$3.6 B, computers—$1.1B, fabricating machinery—$1 B, chemicals—$800 M, construction machinery—$700 M, power-generating machinery—$600 M, and synthetic materials $500 M. Our big trade deficits are motor vehicles—$3.3 B, clothing textiles—$1.9 B, iron and steel—$1.9 B, nonferrous metals—

$800 M, footwear—$800 M, and telecommunications equipment—$600 M.

The trend is unfavorable. Last year five nations—Japan, Italy, Canada, West Germany, and France increased their exports of manufactured goods far more than we. Four of them lead us in spending on plants and equipment. Deeper and deeper inroads are being made into technological product lines in which we once felt secure. I personally feel that our dominance of the commercial aircraft field—our greatest asset in the balance of payments—will soon come to an end unless the United States decides to fight to maintain its present favorable position. Our cancellation of the development of a supersonic transport heralded to the world our withdrawal from this competition. Frankly my foreign counterparts in Britain and France were incredulous—but happy—that this Country would do such a thing in the face of a potential market of over $20 billion for supersonic transports in the next 15 years.

I am not an economist. I do not fully understand all of the ramifications of our balance of payments. But I do understand this. We export or we don't import. If we don't import we do without foreign goods that will then have to be made here at greater cost. Our standard of living then declines—and the economic health of the entire world suffers. We must continue to develop high technology export leaders, such as supersonic transports, because we have little to fall back on. I will come back to this point.

One of the prime counter arguments one hears these days against advanced technology is that it depends too much on government research and development funds. The cry has gone up that tax revenue should be fed back to the public in the form of public services. Is there really any doubt that this has happened on a gigantic scale? Over half of our tax dollar comes back to us through such domestic programs. The percentage is climbing. Since 1969 the following changes have taken place in our Federal Budget. The total has increased from $191 B to $246 B. While this increase of $55 B was taking place, our defense budget dropped from $81.2 B to $78.3 B, and our space budget from $4.2 B to $3.2. So called civil sector programs and services consume over half the budget. The big increases have been social security, welfare, and other benefits +$32 B; health +$8.5 B; veterans' benefits +$4.1 B; transportation and commerce +$3.7 B; environment and national resources +$3.1 B; housing +$2.8 B; and education +$2.2 B.

Certainly the government has attempted to respond to the civil needs. But in so doing there is a danger of killing the goose that laid the golden egg. The two areas that have declined, defense and space, are those that have paced the technological development of this Country for the past thirty years. This impact is even more serious when one realizes that the costs of supplying the war have further cut into new military technological developments.

Last year only about 7 percent of our tax dollar was spent on R&D. This is too low for a technological nation such as the United States. I believe the Administration is trying to build this up but the competition for dollars is tough. Just like any successful business, the United States must plow back some of its gross national product into developing new opportunities for us all. Contrary to some views, private industry cannot do it all—and never could. There are some industrial and economic ventures that are simply beyond the capacity of any company or group of companies to finance on their own. In many cases the risk is too high to attract investors. If these new opportunities are sufficiently important to the Nation's future, then it is the responsibility of the Federal government to act on behalf of all Americans to reach for these opportunities. This is our system. If this Country wants to continue to market aircraft, for example, some form of government support will be required. This is an economic fact of life. Sensing the importance of this particular market, foreign governments *are* sponsoring new aircraft developments. This is the nature of our competition.

With foreign competition as tough as it is, how then are we to maintain our preeminence in science and technology? The answer is relatively simple. We must continue to work on the most challenging and difficult scientific and technological problems of our day. There simply is no other way—none.

The best scientists and engineers thrive on tough problems. Tough problems demand new approaches and advanced techniques. It doesn't matter too much what the field is so long as the problems are challenging and difficult. In solving them, the frontiers of science and technology are pushed back on all fronts. From this process invariably come practical applications which benefit everyone. Frequently they are unexpected offshoots of the prime objective. Such is the way of science.

Like it or not, military weapons requirements have sparked many of the technological developments in this Country in the past. From them have come modern air transportation, nuclear power, solid state electronics, and a host of other technological advances. Today, in addition, we have some good nonmilitary alternatives to set the pace for our science and technology. They are in such scientific fields as biophysics and the life sciences, ultra-high energy physics, and plasma physics and controlled fusion. And they are in such applied fields as transportation, space, power, oceanography, and the environment.

Each of these fields could be used to illustrate the point. But because I'm most familiar with aerospace, I will close this talk by emphasizing several outstanding opportunities for technological developments in aeronautics which I think the United States should seize upon at the earliest opportunity.

These are in the area of civil air transportation. The growth of air transportation is one of the most remarkable technological developments of the twentieth century. It has provided almost unlimited mobility to hundreds of millions of people all over the world. In so doing, it has opened up new vistas of economic development and has offered the promise that one day nearly everyone will have his chance to see the world.

An average of eight forecasts indicates that by 1990 the western world air traffic will grow from the current 300 billion passenger miles per year to a staggering rate of 1.5 trillion passenger miles. A corresponding market potential for new aircraft of over $100 billion by 1985 is indicated. About 60 percent of this market will be for aircraft not yet certificated.

But there are several impediments to the United States realizing its share of this new aircraft market. First, with the Concorde and the European airbus nearing certification, and with foreign STOL developments underway, we can expect to lose a large portion of it to overseas competition. That is unless we do something about it. Second, to do something about it will require Federal assistance of some form to our hard pressed aircraft industry due to the difficulty of locating sufficient private risk capital to underwrite new transport developments. As I said before, foreign governments are doing this in order to capture a greater share of the market. Third, the projected market might not actually materialize unless we solve some of the technological problems which constrain its development—namely noise and congestion.

If we want our share of this market, and I see no viable alternatives in the balance of trade, What then must we do? We must get back into the competition by undertaking to develop competitive aircraft for the future. The most promising aircraft types appear to be STOL transports, advanced technology—high subsonic transports, and second generation supersonic transports. The sales potential through 1985 for these aircraft has been estimated at about $10 billion each even with a successful Concorde.

NASA's ongoing experimental QUESTOL project to provide the necessary technology for quiet STOL aircraft is already underway. Such aircraft could be in widespread service by about 1980, providing all weather operation from 2000-foot runways.

The advanced technology for the next generation of long range wide-body subsonic or transonic jet transports is also being actively pursued by both government and industry. The potential for 10 percent reduction in both noise and operating costs is foreseen, along with speed increases of 10 percent.

It is in the area of the supersonic transport that we must really face the handwriting on the wall. This is hard to do because we are still smarting from the bare knuckle give and take that preceded the demise of our first SST. However, I believe that the following points are becoming increasingly clear:

1. The day will come when virtually all intercontinental and some transcontinental air traffic will be supersonic—or faster.

2. The United States must develop a supersonic transport or abdicate its enviable position as master builder of the world's commercial aircraft.

3. We do not have too much time to make up our minds. Are we in, or are we out?

If we decide to get back in this competition there are certain facts we must face up to:

1. The next United States SST must be better than the one we cancelled. It must be quieter, have a greater payload fraction, and have longer range—trans-Pacific if possible.

2. The United States SST must be better than the competition. Because of the time we have lost, the competition will not be the Concorde, but a follow-on super-Concorde of unknown characteristics.

These facts dictate that we proceed with a sense of urgency in the development of the necessary technology to produce a superior aircraft. I believe that there is a remarkable unanimity in the aircraft and air transport industries that a good SST would be a winner for the United States—creating jobs and National income.

This brings me to the last point I would like to impress upon you. Remember that I said that we need more than new aircraft to realize our share of the potential market. We also need to solve the problems of noise and congestion. Here I would like to cite the joint DOT/NASA CARD policy study as providing a national roadmap to a solution of these ills. Aircraft noise can and must be reduced to an acceptable level. I am confident that R&D now underway will lead to acceptable noise levels for all future transport aircraft. The congestion problem too can be solved by the vigorous application of advanced technology. Integrated digital avionics providing improved en-route and terminal navigation and traffic control and automatic all-weather landings, when coupled with improved ground ATC, should bring this problem under control. The United States has a clear advantage here having developed much of the necessary technology through space electronic developments. We should move out to capitalize on this advantage—while it lasts!

I wish there were more time to go on. The fact is that there are many such technological opportunites for the United States if we have the courage and energy to grasp them: The space shuttle, experimental military aircraft, a hypersonic research aircraft, and numerous new applications of earth satellites to name a few in the aerospace field. If I sound a little aggressive its because I am. I'm tired of hearing why we can't do some of these things that need doing. I think its time we pulled ourselves together and did them.

## RULES OF COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

Mr. ANDERSON. Mr. President, section 133B of the Legislative Reorganization Act of 1946, as amended, requires that each committee have its rules printed in the CONGRESSIONAL RECORD not later than March 1 of each year. In accordance with that rule, I ask unanimous consent that the rules of the Committee on Aeronautical and Space Sciences be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

### AERONAUTICAL AND SPACE SCIENCES COMMITTEE RULES

(Ninety-second Congress, second session, 1972)

Rules governing the Procedure of the Senate Committee on Aeronautical and Space Sciences, adopted pursuant to Sec. 133(b) of the Legislative Reorganization Act of 1946, as amended:

#### 1. MEETINGS

The meetings of the committee shall be on Tuesday of each week at 10:30 a.m. or upon call of the chairman.

#### 2. NOMINATIONS

Unless otherwise ordered by the committee, nominations referred to the committee shall be held for at least seven (7) days before presentation in a meeting for action. Upon reference of nominations to the committee, copies of the nomination references shall be furnished each member of the committee.

#### 3. HEARINGS

(a) No hearing on an investigation shall be initiated unless the committee or subcommittee has specifically authorized such hearings.

(b) No hearing of the committee or any subcommittee thereof shall be scheduled outside of the District of Columbia except by the majority vote of the committee or subcommittee.

(c) No confidential testimony taken or confidential material presented in an executive hearing of the committee or subcommittee thereof or any report of the proceedings of such an executive hearing shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

(d) Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted while the witness is testifying to advise him of his legal rights.

#### 4. QUORUM

Three Senators, one of whom shall be a member of the minority party, shall constitute a quorum of the Senate Committee on Aeronautical and Space Sciences for the purpose of taking sworn testimony, unless otherwise ordered by the full committee. Each duly appointed subcommittee of the Committee on Aeronautical and Space Sciences is instructed (1) to fix, in appropriate cases, the number of its entire membership who shall constitute a quorum of such subcommittee for the purpose of taking sworn testimony, and (2) to determine the circumstances under which subpenas may be issued and the member or members over whose signatures subpenas shall be issued.

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## ANNIVERSARY OF ESTONIAN INDEPENDENCE

Mr. CURTIS. Mr. President, 54 years ago, on February 24, 1918, the people of Estonia formally proclaimed their independence.

They were renouncing the ancient oppression of the Russia of the czars and challenging the new tyranny of the Russia of the Communists.

Thus, did Estonia, along with Lithuania and Latvia, choose to form a bastion of freedom along the Baltic flank of the most powerful, the largest, and one of the cruelest tyrannies in modern history.

Perhaps it would have been safer, and certainly easier to have sought union with the larger nations surrounding her. Instead, the Estonians chose the most precarious and dangerous course of all, because they had learned that freedom is worth all dangers, all risks.

For centuries, this small nation with no geographic barriers had suffered under German, Polish, Danish, Swedish, and Russian occupation.

They held firm. They never lost their precious identity of language, custom, culture, and faith.

Only when we keep these facts in mind, do we really understand why they leaped at the chance for freedom in 1918, even if it meant living on the edge of the knife, always in danger of attack from the great powers to the west and to the east.

This explains as well why these proud, tough Baltic peoples are among the most passionately patriotic of all the immigrants who have enriched our land. They have carried that fierce desire for freedom in their minds, in their hearts, in their very bones for century upon century.

And when they find freedom, it is second in their scale of values only to their deeply held religious beliefs.

For 22 years Estonia was a recognized entity among the family of nations.

In the history of nations, some fall through inner corruption or some gross mistake in foreign policy.

Estonia can be charged with neither. She, along with Lithuania and Latvia, was overwhelmed by the massive arrogance, greed, and power of the two most devastating forces in 20th century Europe, Nazi Germany, and Communist Russia.

Buffeted and brutalized by alternate conquest and occupation, Estonia finally was dragged back into the grasp of the worst practitioner of imperialism in our time, Soviet Russia.

To our own Nation's credit, we have never recognized this Communist conquest of the Baltic Republics. It is a policy that we must continue, and once more I pledge my total support to that end.

Finally, to my fellow Americans, I urge us to learn the lesson of Estonia well, lest we put too cheap a price on our own magnificently free society.

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## FINANCING OF SCHOOL DISTRICTS

Mr. PEARSON. Mr. President, the fact that the reliance on property taxes to finance public schools creates inequitable burdens on taxpayers and unequal educational opportunity for children is now widely recognized in this country. I have received numerous letters which express clearly and concisely this complex problem.

The letters, written by officials responsible for the financing and administration of a school district in Kansas, demonstrate clearly why we must increase Federal aid to education and improve the methods by which it is distributed.

I ask unanimous consent to have printed in the RECORD letters from Mr. John F. Schnieders, president, board of education of Unified District 499, and Mr. F. K. Pontious, superintendent, so that Senators may understand, in the words of the people who must face educational finance problems daily, why we must act promptly.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNIFIED SCHOOL DISTRICT NO. 499,
*Galena, Kans., February 11, 1972.*

Hon. JAMES B. PEARSON,
*U.S. Senator,*
*Washington, D.C.*

DEAR SENATOR PEARSON: Our school district is one of the distressed schools in Kansas and the foundation formula does not provide equalization for schools of our type. Direct federal aid to the boards of education is desperately needed to reduce property taxes and bring about equalization in property tax levies and equalization in educational opportunities. We are imploring you to support and approve such legislation.

In the present situation many schools are able to get money for extensive programs, while other schools are financially unable to provide necessary and minimal programs. We would certainly appreciate anything you might be able to do to help this situation.

We again appeal to you to provide and support legislation for direct federal aid to go directly to Boards of Education. Thanking you for your support, I remain

Yours sincerely,

F. K. PONTIOUS,
*Superintendent.*

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UNIFIED SCHOOL DISTRICT NO. 499,
*Galena, Kans., February 8, 1972.*

Hon. JAMES B. PEARSON,
*U.S. Senator,*
*Washington, D.C.*

DEAR SENATOR PEARSON: The dilemma relative to the school funding is that categorically many schools are able to get money for extensive programs, while other schools are financially unable to provide necessary and minimal programs. Therefore, we appeal to you to provide and support legislation for direct federal aid to go directly to Boards of Education.

Our school district is one of the distressed schools in Kansas and the foundation formula does not provide equalization for schools of our type. Consequently, we are asking that direct aid be given public schools wherein exorbitant high property taxes can be lowered. The categorical aid given for the many federal aid school programs does not alleviate the tax situation.

Thanking you for your support, I remain

Yours sincerely,

JOHN F. SCHNIEDERS,
*President, Board of Education.*

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## SENATOR CARL HAYDEN

Mr. BENNETT. Mr. President, it was with a deep sense of personal loss that I learned of the passing of Senator Carl Hayden of Arizona.

His service to the people of Arizona in the Congress of the United States spanned the time from the day Arizona entered the Union until his retirement in 1968. During that time he left his imprint on much of the important legislation that was enacted during that time.

His concern for the conservation of our natural resources was well known. His efforts to obtain the maximum benefits from the resources were culminated by the passage of numerous projects that have aided in the growth and development of our country particularly in the West.

All of these achievements have been duly noted by historians and they will undoubtedly become more significant as the people of the West continue to enjoy the advantages of having an adequate water supply and an ample supply of power. But perhaps the one single thing that causes those of us in the Senate who had the pleasure of serving with Carl Hayden is that we will no longer have his counsel to learn from and his friendship to enjoy.

Carl Hayden's personal life, as I knew him, was characterized by fairness and honesty. He was never one who required columns and columns of newsprint lauding his praises to motivate him in his work. He worked and worked hard for those things that he believed in, not being particularly concerned with who got the credit for them. He was not known for his lengthy speeches or showy committee hearings, rather he was a man who kept his word once it was given and got the job done without a lot of fuss. His fine character earned him the respect of not only those who served with him in the Congress but of all those who knew him.

Above all else, the real monument that Carl Hayden will leave to the rest of us will be the memory of a dedicated man who served the people of his State and the people of this great Nation to the best of his ability.

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## THE SPACE SHUTTLE

Mr. ANDERSON. Mr. President, on January 5, 1972, the President announced his decision to proceed with the development of the space shuttle. The space shuttle is just what its name implies, it is a transportation system to carry payloads from the surface of the earth to near-earth orbit. Its payloads will be materials, automated satellites, and men.

The space shuttle will replace practically all existing space launch vehicles. It will carry just about everything that needs to be transported from the surface of the earth into space. Even small payloads could simply "piggyback" into space on board a shuttle flight. Larger payloads will be modularized to fit into the shuttle payload bay and assembled in orbit to make up whatever size payload is required.

The space shuttle is envisioned as a two-stage vehicle, an orbital vehicle and a booster vehicle. The orbiter vehicle will be piloted and after finishing its mission in space will be deorbited and will land on the surface of the earth much like present day aircraft. The orbiter is manned because that is the best and cheapest solution to its operation. The booster vehicle will be unmanned but will be returned to the surface of the earth intact and reused. While most aspects of the orbiter are now pretty well defined, the specific booster concept will not be selected until current studies are completed.

Mr. President, it is my intention, during its hearings this session on the NASA fiscal year 1973 authorization bill, S. 3094, that the committee delve deeply into space shuttle plans and management. The Committee on Aeronautical and Space Sciences has been following the evolution of the space shuttle closely since its inception and we will continue to do so. I have directed the professional staff to follow the shuttle program on a continuing basis and to review the principal shuttle studies. This has been the top priority assignment for the staff for more than a year and will continue to be.

I have been in close touch with the Administrator of NASA on the space shuttle and on January 14, he wrote me to inform the committee in some detail of their recent shuttle studies and planning. Mr. President, I ask unanimous consent that the Administrator's letter of January 14 be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
*Washington, D.C., January 14, 1972.*

Hon. CLINTON P. ANDERSON,
*Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I am writing to inform you and the Committee in some detail of the developments in our studies and planning for the space shuttle which were the basis for the President's decision that we should proceed with the development of the space shuttle, and of the steps we now plan to take to get that work underway.

As you know, the FY 1972 budget for the space shuttle submitted to and approved by the Congress last year provided, in addition to engine development, for continuing studies or starting development of the shuttle itself depending on the progress made in the studies. Our shuttle studies have now progressed to the point that we have been able to make a definite decision on the configuration concept and can now proceed to make the final trade-off decisions required for preparation and issuance of requests for proposals from prospective development contractors.

As reported in my letter of June 16, 1971, the results of our contractor Phase B studies then becoming available confirmed the technical feasibility of a reusable space shuttle. Since that time, as indicated in my subsequent letters on our space shuttle planning, the aim of our studies has been to identify alternative configuration concepts and program approaches which would substantially reduce development costs without sacrificing the principal objective sought in the program, i.e., a reusable system which, in addition to providing for future manned space flight missions, would provide a low cost flexible capability for launching and retrieving unmanned payloads from orbit.

The configuration concept we have now selected meets this objective. Its development cost will be half of what the fully reusable system originally conceived would have cost. We can develop this space shuttle within the framework of a total NASA program with annual budgets at approximately the present level.

It may be helpful if I review briefly how our thinking on the shuttle configuration concept has evolved during the past several months as the technical studies and evaluations have progressed. The lengthy process of study and successive iteration of alternatives we have followed is a necessary feature—and I believe a classic example—of the use of the systems engineering approach to balance complex technical and cost considerations to reach the proper decisions on a major new program.

1. The design concept to which the Phase B studies initiated in 1970 were originally addressed was a two-stage fully reusable system consisting of winged flyback booster and orbiter stages, with all fuel carried internally. We estimate that the development cost (excluding facilities) of such a system would have been about $10 billion.

2. The Phase B study work indicated, however, that the size of the system and its development cost would be reduced through the use of an external expendable liquid-hydrogen tank for the orbiter, with a small increase in operating costs per launch. The resulting "baseline" configuration was the subject of detailed cost analyses which indicated that its development cost (excluding facilities) would have been about $8.1 billion over about six years.

3. Further study showed that additional cost savings and technical advantages in the development program were feasible if *both* the liquid-oxygen and liquid-hydrogen for the orbiter were carried in an external tank that would be jettisoned in orbit. This change permitted the orbiter vehicle to be significantly smaller, thereby easing some development problems and reducing substantially orbiter development and procurement costs, with some additional increase in the recurring cost per flight. The orbiter and external hydrogen-oxygen tank configuration established at this point has remained essentially the same in all the configurations subsequently studied.

4. In parallel with other studies, we also investigated alternatives which might reduce the peak annual funding required for developing the space shuttle by "phasing" the development over a longer period of years. We examined in some detail the approach discussed in my letter of June 16, 1971, in which the orbiter would first be tested on an interim unmanned expendable booster, with development of the manned reusable booster to be undertaken later. We found, however, that the advantages to be gained did not justify the high development cost of the interim booster and the increased total cost and longer development time for the entire program.

5. We then examined various other ways in which the introduction of advanced technology might be phased to reduce costs. Out of these studies came the Mark I/Mark II concept referred to in my letter of October 6, 1971. Under this concept a Mark I shuttle with reduced capability would first be developed using less advanced technology and subsystems. As new technology and subsystems were developed, they would be introduced some years later in a Mark II shuttle which would have the full planned capabilities. Estimated development costs (excluding facilities) for the Mark I/Mark II approach, with a flyback booster using F–1 engines, were $6–7 billion.

6. Our studies of the Mark I/Mark II approach made it clear that any further substantial reduction in space shuttle development costs depended *on the use of an unmanned ballistic booster*. Accordingly, we focussed *intensive* study efforts on a variety of possible types. In December these studies established the following points:

a. The recoverable/reusable pressure-fed liquid (PFL) and expandable solid rocket motor (SRM) are the best candidate unmanned ballistic booster concepts.

b. A space shuttle configuration concept consisting of the previously defined orbiter and an unmanned ballistic booster of either the PFL or SRM type is technically feasible.

c. Development costs (excluding facilities) would be about $5.5 billion with a PFL booster and less with a SRM booster.

d. Operating costs per flight would be about $7 to $10 million with a PFL booster and somewhat higher for a SRM booster.

7. Based on all the information available, we concluded that sufficient studies were now in hand to show that:

The configuration concept described above, with either a PFL or SRM booster, has lower development costs than any other configuration concept meeting the technical performance requirements and the basic objective of the space shuttle program.

The expected operating costs per flight are in a range that is *acceptable* in view of the very large reduction in development costs. The large cost savings inherent in the capability to recover and repair a wide variety of payloads will be the same as for the fully reusable system originally envisager.

The remaining open technical and cost questions on the PFL and SRM booster options can be resolved in about two months, permitting issuance of a request for proposals this spring and entering into the contract this summer.

These conclusions were the basis for NASA's recommendations and the President's approval for proceeding with development of the space shuttle.

We are now moving ahead with final studies and actions on the remaining open questions that must be resolved before the request for proposals can be issued. These include detailed studies to clarify certain technical aspects of both the SRM and PFL booster configurations and to provide a more precise forecast of the operating cost per launch that can be expected from these systems. In addition, we are making a study to revalidate earlier studies which indicated that the cost of the shuttle system would not be substantially less by reducing somewhat, but within acceptable limits, the precise payload size and weight requirements on which our planning is now based.

The results of all these studies are scheduled to be in hand in a few weeks and should put us in a position to make the final cost and technical trade-offs and the decisions required for issuing the request for proposals.

The decisions now reached on the configuration concept, and, as they become available, the results of the further studies described above, are being considered by the special board to evaluate launch sites for the space shuttle. As I have previously indicated, the final selection of sites for developmental and operational flights will be made after all pertinent technical operational, cost, and environmental factors have been analyzed and evaluated. Pending a report from the site evaluation board on the impact of the configuration concept decision, giving their assessment of the additional study and analyses required, I cannot at this time forecast when the site selection will be made.

I hope that this letter will give you and the Committee a useful summary of the basis for the decision on the space shuttle configuration concept and of the actions we now have underway. I am convinced that this decision will give the United States a space shuttle that

1. Is technically sound,

2. Meets the real future needs of the nation and the space program, and

3. Can be developed at the lowest possible cost consistent with meeting these objectives and within the framework of a balanced total NASA program with annual budgets at approximately the current level.

We look forward to discussing the program in further detail with you and the Committee during our hearings on the Fiscal Year 1973 budget request.

Sincerely,

JAMES C. FLETCHER,
*Administrator.*

Mr. ANDERSON. Mr. President, there has been criticism of the space shuttle by some that the shuttle is principally an effort to keep the so-called manned space program going. Mr. President, the space shuttle is not a "manned space program"; it is a transportation system that will put virtually all payloads including automated payloads—frequently called unmanned spacecraft—into low earth orbit around the earth at a substantially lower cost than payloads can be put there today. It is an effort to reduce the cost of space operations.

Mr. President, it is interesting that the editorial opinion of most of the country's leading newspapers has been in support of the President's decision to proceed with the space shuttle. No less a paper than the New York Times has supported this decision. In an editorial of January 8, the New York Times says:

> President Nixon made a wise decision in authorizing the National Aeronautics and Space Administration to proceed with the development of the Space Shuttle.

For the full editorial, I refer Senators to volume 118, part 1, pages 273–274 of the CONGRESSIONAL RECORD, where it was inserted by the ranking minority member of the Space Committee, the Senator from Nebraska (Mr. CURTIS).

The Washington Evening Star, in an editorial in the CONGRESSIONAL RECORD, volume 118, part 2, page 1645—had this to say:

> The space shuttle will cost $5 or $6 billion over a six-year period, and that is not an exorbitant outlay, it seems to us, for the continued gleaning of knowledge from space . . . Congress should go along with this proposed investment, knowing that if the country's highly efficient space organization is killed, it will not easily be revived. There's still much work to be done on those peaceful cosmic frontiers that can spread many benefits and much inspiration on this troubled earth.

The Washington Daily News of January 11 said:

> Having started to climb a "stairway to the stars" it would be stupid to stop at midstair.
>
> So the President's announcement that he has approved a $5.5 billion six-year project to develop two test space shuttles is welcome news.
>
> Altho the cost seems huge, shuttle craft would be a long-range economy . . .

The Daily News editorial notes that:

> Dollar for dollar, efforts to solve social problems probably have been less productive than the space effort.

The editorial ends by saying:

> Another virtue of the program is spiritual. Man needs a challenge.
>
> He lives not by bread alone. He nourishes himself also on seemingly "impossible" dreams. He needs, according to folk wisdom, to "shoot for the stars."
>
> Now, at last, the target may well be within reach. And it would be a sorry people who at this point turned away from the target.

The Cleveland Plain Dealer, on January 6, 1972, supported the shuttle and said:

> President Nixon's green light for development of the space shuttle was essential if the American space program is to progress and operate economically.

The Times-Picayune of New Orleans on January 7 said:

> The presidential "go" for a six-year, $5.5 billion program to develop the reusable space shuttle may get a lot of flak as it takes off, but it represents the logical and necessary next leap toward the equally logical and necessary use of space by man.

The Atlanta Constitution of January 7 said:

> . . . we're inclined at this stage to support President Nixon's go-ahead for several reasons. For one thing, it's bad policy to ignore the future entirely and concentrate on the pressing problems of the present. We are already heavily committed to dealing with the problems of the present, constant criticism notwithstanding. Perhaps we ought to be even more heavily committed. But if we are to do anything at all about the future, we ought to be prepared to pay for it, to invest in it. Otherwise, we can't expect much from it.

The St. Louis Globe-Democrat of January 7 says:

> There are so many potentialities for the shuttle that it is hard to envision all of them.

Chicago Today, on January 7, said:

> We believe the space shuttle program is advisable if only to realize the investments in space we've made so far.

The Kansas City Star of January 7 said:

> The next great step in space for the United States seems assured . . . In view of the record of space accomplishments, there is not much doubt that the planned space shuttle program will be fruitful both from the standpoint of technological success and long-range scientific benefits.

About the prospects of the shuttle, the Star had this to say:

> Certainly they promise enough to justify the effort even though it must, perforce, be measured against other national priorities, many of them urgent. Some will ask whether the U.S. should spend $5.5 billion over the next six years on a space project when so much is needed for education, medical aid, including research in the cure and prevention of diseases, public transportation and the problems of urban decay.
>
> The answer should be that the United States has the resources to provide for all these requirements and continue to move ahead in space science as well. Certainly the amount indicated for the space shuttle program is not prohibitive. It would represent only a small fraction of the sums being spent on defense and the operations of government bureaucracy.

The New Haven Register of January 7 said:

> The shuttle concept proposed is exciting enough to revive national interest in space, with all the benefits that go with it. Uncertainty over our direction in space has been eliminated. A big decision has been made, a decision that should end the delays that have severely handicapped the U.S. space endeavor.

The Detroit News of January 8 puts it simply:

> If we don't press on, others will.

The Milwaukee Journal in its editorial of January 7 sums it up succinctly:

> It is a worthwhile program.

The Christian Science Monitor of January 7 says:

> We would argue that a space shuttle program, because it is so practically linked to fulfilling man's age-old vision of mastering the heavens, will unleash more constructive

human energy than it will consume. And this excess will make meeting earthside demands the easier.

Mr. President, not many of the programs announced by the President have received such widespread support. I congratulate him on taking the step.

In an effort to reduce development costs, the shuttle that is now being requested by NASA is substantially different from the one presented to the Congress last year. The committee, of course, will explore these differences during the authorization hearings on the fiscal year 1973 budget. We will continue our oversight of the space shuttle program and will ask many penetrating questions. We will insist that before NASA proceeds with the next phase of the space shuttle program that the program is properly defined and under control with respect to cost and schedules. When we bring the authorization bill to the floor, I am confident that we will be able to present sufficient information upon which to make a sound judgment on this program.

Mr. President, I ask unanimous consent that the newspaper articles from which I quoted and which have not previously been printed in the RECORD, be printed at the conclusion of my remarks.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Daily News, Jan. 11, 1972]

### STAYING UP THERE

Having started to climb a "stairway to the stars" it would be stupid to stop at midstair.

So the President's announcement that he has approved a $5.5 billion six-year project to develop two test space shuttles is welcome news.

Altho the cost seems huge, shuttle craft would be a long-range economy in that they represent only about one-fourth the cost of the Apollo moon program and the ships would be reuseable in trips into and back from space. The shuttle program's cost in fact, represents about the minimum possible to keep the country in the manned space business.

Congressional outcry has been heard and more can be expected: Why continue the voyage into space when earthly needs are so urgent?

The answers are as obvious as the question:

Ignoring the challenge of space would not of itself solve earth's ills.

Dollar for dollar, efforts to solve social problems probably have been less productive than the space effort.

In New York City, for instance, a grand jury has found that $1 billion (repeat billion) in Medicaid payments "went down the drain" because of malpractice, cheating and poor administration of a compassionate program to aid the medically indigent.

More positively, the spinoff from the space program has indisputably created jobs and the marketing of new products useful to earthlings—including everything from new TV transistors to medical devices. The space shuttle itself is expected to create 50,000 jobs.

Another virtue of the program is spiritual. Man needs a challenge.

He lives not by bread alone. He nourishes himself also on seemingly "impossible" dreams. He needs, according to folk wisdom, to "shoot for the stars."

Now, at last, the target may well be within reach. And it would be a sorry people who at this point turned away from the target.

[From the Cleveland (Ohio) Plain Dealer Jan. 6, 1972]

### SHUTTLE ADDS TO SPACE FUTURE

President Nixon's green light for development of the space shuttle was essential if the American space program is to progress and operate economically.

The proposal is for $5.5 billion for a six-year span of development. The shuttle would reduce substantially the cost per pound for delivering personnel and/or materials in space ferrying passengers to and from the projected orbiting space stations. It also could boost the sagging aerospace industry.

Skylab, the first orbiting space laboratory, is expected to be ready late next year for testing and the Apollo moon missions are scheduled to end this year with manned flights number 16 and 17, slated for March and for late in the autumn.

Development of the space shuttle could enable man better to survey the earth's resources, improve communications, monitor and predict weather, perhaps harness the sun's energy as a pollution-free source of power.

Because the shuttle could be used many times (possibly there could be 100 launches), it could be an economic factor in future space progress. The airplane section of the shuttle, after completing an orbital mission, is being designed to make a conventional airport landing.

The proposal now must go through the regular budget route and pass congressional scrutiny for allocation, but the President's OK for the shuttle is a big boost at a time when the space program needed support for its continuity.

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[From the New Orleans (La.) Times-Picayune, Jan 7, 1972]

### SPACE SHUTTLE "GO" RIGHT DECISION

The presidential "go" for a six-year, $5.5 billion program to develop the reusable space shuttle may get a lot of flak as it takes off, but it represents the logical and necessary next leap toward the equally logical and necessary use of space by man.

The flak will come from those who, either sincerely or through obligatory political opposition, claim that the space budget is an expendable frill that drains money away from urgent earthly programs. Their argument can be disposed of primarily by comparing figures—the space budget is minuscule in relation to either the total national budget or the human-problems budget.

In addition, the National Aeronautics and Space Administration has pared the shuttle program down to a cut-rate half-a-loaf project in which only the orbiting section, rather than both orbiting and launch sections, is reusable. The reusable launcher can come later, when money may perhaps be easier to come by—after the space program is fully elaborated, routine and to some degree profit-making and the shuttle has proved its value.

The lead time in such complex pioneering being what it is, today's shuttle project looks to the space program of the late '70s and the '80s, when permanent manned stations will be orbiting the earth, on-the-spot moon activity will have been resumed, and near-earth space will be dotted with unmanned "applications" satellites needing servicing.

The shuttle orbiter—good for 100 missions with a crew of two and room for 14 passengers or a hefty freight load—is to be for the maturing space industry what the DC-6 was for the maturing aviation industry—the rugged, economical, all-purpose vehicle that made it all work.

The beneficial impact on the nation's shaken community of space scientists and technologists is important to the national interest, such minds and skills bring a national resource in danger of being lost as the Apollo moon program phases down.

And the energizing impact on the troubled aerospace industry is of particular note—not only in New Orleans, where the Michoud facility stands to be fully reactivated—because it is being harnessed not to a real frill like the SST, as was proposed and properly denied, but to a program that promises to return full measure on the investment.

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[From the Atlanta (Ga.) Constitution, Jan. 7, 1972]

### UP AND AWAY

Fasten your seat belts.

The United States is about to take off on a $5 billion program to build a combination spaceship-super airliner designed, in President Nixon's words, "to help transform the space frontier of the 1970s into familiar territory, easily accessible for human endeavor in the 1980s and '90s."

That's good news for the aerospace industry which has been hard up for good news recently (see above).

We anticipate strenuous objections to this project based primarily on the view that $5 billion would be better spent elsewhere.

But we're inclined at this stage to support President Nixon's go-ahead for several reasons. For one thing, it's bad policy to ignore the future entirely and concentrate on the pressing problems of the present. We are already heavily committed to dealing with the problems of the present, constant criticism notwithstanding. Perhaps we ought to be even more heavily committed. But if we are to do anything at all about the future, we ought to be prepared to pay for it, to invest in it. Otherwise, we can't expect much from it. The space bus idea can do what the President believes it will do—revolutionize transportation and put the knowledge gained in the space program to practical use in our daily lives. The program also has the almost immediate benefit of employing some 50,000 highly trained aerospace workers who have faced a dismal job picture as the Apollo program has phased out. And, again, the proposal demonstrates that imagination and vision and a willingness to dare are still part of the American way of doing things.

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[From the St. Louis (Mo.) Globe-Democrat, Jan. 7, 1972]

### SHUTTLING INTO SPACE

The space shuttle given the green light by President Nixon could revolutionize space travel and one day might make commercial space flights a reality.

As designed by the National Aeronautics and Space Administration the shuttle will be about the size of a DC9, look like a modern, delta-wing airplane but will "take off like a rocket, fly in orbit like a spaceship and land like an airplane."

One of its biggest achievements will be the reduction of the cost of a space launching to $10 million a flight and cut the cost of putting a payload into space from the current $700 to $800 a pound to about $100 a pound.

The space shuttle also will be reusable, drastically reducing the cost of space vehicles required. A happy by-product of the shuttle's development will be a $5.5 billion shot in the arm for the sagging space industry. It is estimated it will mean about 50,000 new jobs in the industry in the six year development program.

But there is no doubt that if it is completed space travel for the average citizen may become a distinct psosibility in the 1980s.

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[From Chicago "Today", Jan. 7, 1972]

### SPACE TRAVEL, ECONOMY CLASS

In describing the "Space Shuttle" program for which he gave the go-ahead Wednesday, President Nixon used a striking word. He said the $5.5 billion reusable space craft, when it is ready in six years or so, would revolutionize space travel by "routinizing" it—making space so readily and cheaply accessible that it can be used for everyday needs on earth.

The program marks something new in space technology: A shift from the exploratory phase, with its glamor and adventure, to the practical phase of putting to use what has been explored. Many uses are possible for the space shuttle, among them weather mapping, crop and mineral surveys, and charting of air and water pollution.

The key to all this is that one space shuttle will be able to fly dozens of missions. That means it may cost perhaps one-tenth what it costs now to put a payload into orbit; space flight will be practical, not just a hobby of superpower governments.

The huge investment is bound to be criticized, but we believe the space shuttle program is advisable if only to realize the investments in space we've made so far.

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[From the Kansas City (Mo.) Star, Jan. 7, 1972]

### Space Shuttle Can Be a Scientific Bridge to the Future

The next great step in space for the United States seems assured. President Nixon has pressed the go-ahead button and apparently it will be largely a matter of adequate funding by Congress. In view of the record of space accomplishments, there is not much doubt that the planned space shuttle program will be fruitful both from the standpoint of technological success and long-range scientific benefits.

Thus it has been decided that the country first on the moon should, in the President's words, "proceed at once with the development of an entirely new type of transportation designed to help transform the space frontier of the 1970s into familiar territory, easily accessible for human endeavor in the 1980s and '90s."

What good can come of this? A White House statement asserts: "One of the primary reasons for development of the shuttle is to open the use of space for the practical benefit of mankind. It will better enable man to survey the earth's resources, monitor and predict weather, improve worldwide communications . . . and perhaps even harness the sun's energy as a source of pollution-free energy."

Grand prospects, these. Certainly they promise enough to justify the effort even though it must perforce, be measured against other national priorities, many of them urgent. Some will ask whether the U.S. should spend $5.5 billion over the next six years on a space project when so much is needed for education, medical aid, including research in the cure and prevention of diseases, public transportation and the problems of urban decay.

The answer should be that the United States has the resources to provide for all these requirements and continue to move ahead in space science as well. Certainly the amount indicated for the space shuttle program is not prohibitive. It would represent only a small fraction of the sums being spent on defense and the operations of government bureaucracy. Yet it will be asked in Congress and elsewhere whether this particular expenditure is really necessary.

It may not be absolutely essential but it is desirable. It can even be said that further space progress will be stymied without it. There is much appeal in the concept of creating rocket ships able to make repeated trips into space, unload men and supplies at large orbiting work stations and return to land at more or less conventional airdromes.

Not stressed in the President's announcement on the shuttle was the fact that it can be a godsend to the flagging aerospace industry. Building the hardware for the shuttle projects will assure thousands of jobs for aerospace workers. Their pay will come indirectly from tax dollars, however, and the negotiated 12 per cent wage increase (when the general guidelines under controls call for 5.5 per cent) would have made the shuttle less palatable to taxpayers. The Pay Board has rejected the 12 per cent without recommending a specific guideline.

If Congress is willing, then, the track is clear for establishing by the end of this decade an orbital base station in which, eventually, up to 100 persons might work and live. That would be a scientific triumph of the highest order.

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[From the New Haven (Conn.) Register, Jan. 7, 1972]

### The Big Space Shuttle Decision

If there is congressional opposition to the space shuttle program approved by President Nixon, let's hope it's of the constructive type and not based on the old emotionally-oriented, oversimplified contention that the money is needed for social welfare programs. The returns to be yielded by space progress, in terms of pure knowledge, practical material benefits on earth, employment, military advances, are real. The country's problems will not be solved by failure to carry out creative, necessary programs in favor of expensive make-work.

Criticism of the $5.5 billion, six-year space shuttle venture might do some good if it showed economic or scientific weaknesses. The shuttle approach was agreed upon by the White House and the National Aeronautics and Space Administration as the leastly costly way of moving into the next stage of space exploration at a price the nation can manage.

The President's decision involves hard choices and some compromises. Money problems figured in the use of the shuttle method rather than massive manned space stations to orbit the earth. It's figured that it will be less expensive to send a reusable craft with men and supplies between ground and earth orbit. The orbiter craft could remain in space up to 30 days, during which time it could deploy unmanned satellites, military and scientific, that would remain in orbit much longer.

Malfunctioning satellites could be retrieved by the orbiter and then repaired. It should be possible to pilot the orbiter back to earth for a landing like a modern jet airplane. There is space maneuverability and flexibility for a wide variety of missions that NASA cites as economic justification for the approved program.

Nevertheless, NASA has had to settle for less than it wanted to attain urgently-needed momentum for space effort. The shuttle system will be only half reusable, instead of fully reflyable, as NASA originally had anticipated. Fearful that the $10 billion cost of developing a fully reusable shuttle would stir legislative resistance to the entire program, NASA and the President settled for a less ambitious enterprise.

But the shuttle concept proposed is exciting enough to revive national interest in space, with all the benefits that go with it. Uncertainty over our direction in space has been eliminated. A big decision has been made, a decision that should end the delays that have severely handicapped the U.S. space endeavor.

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[From the Detroit (Mich.) News, Jan. 8, 1972]

### United States in the Space Race

It is good that the $24 billion outlay on the Apollo moon program is not to be wasted by the United States dropping out of the space program. Mission Impossible became mission accomplished because there was a national commitment to beat the Russians to the moon. The fact that race has been won, however, should not blind Americans that it was only the first, tentative step in unlocking the mysteries of space. If we don't press on, others will.

Mr. Nixon has now authorized a plan to spend $5½ billion—one quarter of Apollo's cost—to design and build two test flight vehicles over the next six years to launch the space shuttle program. In a word, there could be rapid transit in space before such a system might operate in Detroit.

The main difference from the Apollo program is that these shuttle craft would be reuseable, unlike the one-shot operation of booster and spacecraft for moon trips. They would take off like a rocket, orbit like an Apollo craft, then land like a plane, awaiting the next assignment. The booster shooting the delta-winged orbiter into space after a piggy-back ride could even be recovered down range and used again.

The spacecraft would stay aloft a month, deploying satellites in the exact position required, return to repair them if needed, even return them to earth if they proved too balky for a quick fix—delivery man, plumber and rescue party. Satellites are vital for military espionage, for world-wide communication, weather forecasting, environment studies.

The way Mr. Nixon sees the shuttle is to move from our present beachhead in the sky into a working space presence. We will switch from the Apollo spectaculars into routine access to space. We can delete the word astronomical from space costs. Both boosters and orbiters will be designed to fly about 100 missions.

The key word is reusable. It has dismayed many laymen that hundreds of millions of dollars have been spent on one vehicle for just one flight, much like building a luxury car solely to drive to Lansing and then leaving it in the parking lot there to rot. With the shuttle, it will be like parking a car in the garage overnight until next day's chores have to be done.

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[From the Milwaukee (Wis.) Journal, Jan. 7, 1972]

### Space Shuttle Next

President Nixon has given the go-ahead for development of the space shuttle, the necessary next step if space exploration is to become economical and full benefits are to be derived at a reasonable cost.

With the Apollo moon program ending, the US space effort is at a crossroads. The kind of costly space race that stimulated Apollo is no longer politically acceptable. Nor should it be. There are too many earthbound problems that have greater priority for the kind of concentration of human and material resources that went into our moon effort. But space should not be abandoned. This would be a terrible waste of the enormous investment made so far. The program is on the verge of payoffs that can help improve life on earth. Space is a frontier that man is bound to explore.

If man is to continue to invade space physically with any amount of frequency, some way must be found to cut the large costs of getting there. The reusable shuttle will do this. As Fortune Magazine has stated: "Ultimately, perhaps the economic justification of the shuttle rests upon the plain proposition that if the US is to have a progressive space program at all, it cannot continue to throw away multi-million-dollar vehicles on every trip."

The shuttle, designed for up to 100 trips, will pare expenses dramatically. We now throw away almost $300 million in equipment on an Apollo flight. Unmanned launches cost from $20 million to $35 million. Fortune points out that a shuttle launch would cost about $5 million. The shuttle probably would return in savings its development costs by 1990.

The shuttle offers the opportunity to make space flight fairly routine, of taking large numbers of people and supplies in and out of space, of manning earth resource space stations continuously, of monitoring and repairing communications and resource satellites. It is a worthwhile program.

[From the Christian Science Monitor, Jan. 7, 1972]

### . . . And for the Space Program

Taken with a longer view, President Nixon's decision to go ahead with America's space shuttle program will mean a lot more to man than the creation of 50,000 aerospace jobs over the next six years.

It is another step toward true space voyage, toward the true spaceship that can take off and land on earth after lengthy space travel.

Granted the project at the moment is being sold on more pragmatic terms. The restoring of work to one fourth of the 200,000 laid-off electronics and aerospace workers and professionals may make up for tough wage action by the Pay Board. Scientifically useful will be the surveys of earth resources, the weather study, global communications progress, and sun energy exploitation.

Also appealing on practical grounds is the reusability aspect of the space shuttle. The launch container can be recovered for reuse, while the passenger capsule of course will be preserved after it returns to earth much like any of today's high altitude aircraft. This reusability introduces an element of economy into an effort that has necessarily consumed enormous sums of dollars and energy for the purpose of discovery. In a way, much of the space program to date has been like the work of an expedition seeking a new route through uncharted wilderness. With the space shuttle, the work of developing the new region by scientists and other earthlings takes hold.

No doubt there will be criticism of the space shuttle program along the lines of that which led to a stringing out of America's moonshot program—energy and money and resources need to be used against poverty and pollution and other earthside needs.

Yet, the space discovery versus human needs argument should not be seen as an either/or issue. This is so even leaving aside the jobs creation or economic return arguments. In the past couple of years alone, America reduced its output deliberately to stem inflation by enough to pay for the shuttle program. The country does not really know what its full productivity is, or could be, if the spunk and drive to master challenges are there. Nothing hurts the availability of resources more than a depression of mental energy.

We would argue that a space shuttle program, because it is so practically linked to fulfilling man's age-old vision of mastering the heavens, will unleash more constructive human energy than it will consume. And this excess will make meeting earthside demands the easier.

## THE ECONOMY AND THE BUDGET

Mr. FULBRIGHT. Mr. President, the distinguished chairman of the Committee on Appropriations (Mr. Ellender) and the committee members are to be commended on the recent series of hearings on the Federal budget for fiscal year 1973. At the hearings a variety of witnesses presented their views on the budget as it relates to national goals and priorities. I think it is imperative that we continually reexamine the goals and priorities reflected in our budget, rather than simply operating on the same assumptions year after year.

It is quite clear that the economy and the budget are in dismal shape. The administration proposes a budget of $246.3 billion, and predicts a deficit of $25.5 billion. Last year President Nixon told us there would be a 1972 deficit of $11.6 billion, but now he admits the deficit will be $38.8 billion or more. In view of the President's previous record, this year's estimates must be scrutinized even more carefully than ever. It is also important to note that the administration is asking for $271 billion budget authority.

This administration came into office pledging a balanced budget. Instead we have a deficit totaling $124 billion under the administrative budget over the 4-year period, or $88 billion under the unified budgeting method. As the chairman of the Committee on Appropriations has frequently pointed out, only a change in accounting procedures keeps the estimated 1973 deficit at $25.5 billion—unified budget—instead of $36.2 billion—administrative budget. However the books are kept, the deficits add up to the largest in history, with the exception of World War II.

In addition to my opposition to so much red ink in the Nixon budget, I strongly object to the way he would allocate funds. Military spending still dominates the "controllable" portion of the budget, although the President claims that "only" 32 cents of every budget dollar would go for military purposes. In fact, the figure is closer to 62 cents. Subtracting the $72.5 billion for trust fund expenses, the "controllable" budget is $173.8 billion, and the President is asking $83.4 billion budget authority for the military. The military budget keeps increasing despite a force reduction of 1 million men and the "winding down" in Vietnam. Direct military expenditures are nearly half of the "controllable" budget and the addition of war-related costs, including veterans' benefits and interest on the national debt, brings the total to about $115 billion. Another way of looking at it is to consider that about 69 percent of Government expenditures are, in effect, already committed. Besides the social insurance programs, this would include veterans' benefits, debt interest, medicaid, farm supports, military retirement pay, postal service, public assistance and food stamps. Of the remaining 31 percent, more than two-thirds—20.3 percent—is earmarked for the military.

I recently sent a newsletter on the subject of the 1973 budget to my constituents in Arkansas. Judging from the response I have received, the citizens of Arkansas are greatly disturbed about the mounting budget deficits, and opposed to the continuing imbalance in the allocation of our resources.

In this regard, Mr. President, I would like to call particular attention to a statement made before the Committee on Appropriations during the recent hearings by Mr. Harold Willens, national chairman of the Businessmen's Educational Fund. Mr. Willens made an excellent statement in which he dealt in some detail with the question of military spending and shifting priorities. He also stressed the importance of Congress and the public—businessmen in particular—engaging in a more serious study of the budget. Mr. Willens said:

> For too long the Congress has behaved like a wholly-owned subsidiary of Presidents from both parties. For too long the Congress has defaulted its role in the balanced system of checks and balances our country's founders established to limit Presidential power. For too long the Congress has obediently approved Administration requests for staggering sums which have not been used in the nation's best interest.

Mr. President, this is an excellent statement which deserves widespread attention. I ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

### Statement by Harold Willens

The Businessmen's Educational Fund appreciates your invitation and commends you for imaginative innovation: by opening its doors and its minds to public testimony, this influential committee has broken ground which can lead to consequences of historic magnitude.

For too long the Congress has behaved like a wholly-owned subsidiary of Presidents from both parties. For too long the Congress has defaulted its role in the balanced system of checks and balances our country's founders established to limit presidential power. For too long the Congress has obediently approved administration requests for staggering sums which have not been used in the Nation's best interest.

Fundamental reassessment of resource allocation is urgently needed. These hearings are the right place for such reassessment. Verbal commitment to better policies and priorities are as meaningless for a country as for a corporation. Financial commitment is the name of the game: putting our money where our mouth is.

The Businessmen's Educational Fund, a national nonpartisan organization, believes our national resources have not been wisely invested. We look to you in the hope that a better distribution of our Federal tax dollars can be initiated. And because many of us wrestle with complex corporate budget problems, we understand that rational allocation is easier to talk about than to achieve, especially for a country faced by the multiple demands which go along with a leadership role in world affairs.

But that, we feel, is exactly where we have gone astray—and where you can uniquely serve our people by carrying through to its logical conclusion the concern about fundamental priorities which is evidenced by the unprecedented format of these very hearings. The Congressional Record of last December 15 included a statement by this committee's distinguished chairman. Referring to public witnesses concerned with national issues, Senator Ellender said: ". . . we would invite them to testify on general goals and priorities, rather than on specific appropriation line items . . . too often we are exposed to only the administration thinking on overall priorities and national goals . . . It is time we expand our scope to take an overall look at spending practices." It is in the spirit of these remarks that we come before you, convinced of the urgent need to reassess the fundamental values which should underlie American public policy and resource allocation.

The crux of the problem is defining the kind of world leader the United States ought to be. We have the military capability to destroy any country on earth. We possess a substantial share of the world's wealth and consume a substantial share of the world's resources.

Because we are so richly endowed our national actions have international impact. Yet we shall always need commercial and cultural interaction with others. There is no way so rich and powerful a nation can ignore or be ignored by other nations. Those who speak of isolation or neo-isolation speak empty words.

It is not a question of leadership but leadership for what ends: what kind of international role should the United States play during the 1970's?

We suggest for your consideration two interrelated guiding principles in response to this question. The first is that America can best lead by setting an example. There is no better way of gaining respect from other nations and stimulating them to good acts than by establishing a truly free, just, and prosperous society for all American citizens. Only by demonstrating the ability to solve the problems of poverty and discrimination and to create a vital society can we earn the basis for giving advice which other nations are likely to find persuasive.

The second principle is to employ our influence and power through partnership rather than force: to be a world partner rather than a world policeman. Military power should not be used as an aggressive instrument for mandating our vision of how other societies ought to be shaped and governed. Businessmen should no longer expect the American Government to make their foreign investments safe and profitable at the cost of American lives.

As we approach our 200th anniversary we need to reflect upon the most basic precepts embodied in our constitution and declaration of independence. Our ideal is a world community in which every society has an opportunity to determine for itself the kind of existence and political organization it chooses. We submit that leadership through example and partnership—rather than force—is the national role most consistent with our basic principles, and therefore the proper course for the United States.

Measured against such standards, our performance during the past two decades has been inadequate. If a balance sheet were to be drawn comparing America's assets—international goodwill among them—20 years ago and now, we would not be proud of the bottom line.

In some ways we have made substantial progress: an increased gross national product, a rise in educational attainment, a decline in illiteracy, virtual elimination of polio and smallpox, landmark court decisions which have riddled the fabric of discrimination.

But much remains undone. Vietnam veterans return to widespread unemployment and racial tension. They find cities being devoured by poverty, crime, pollution, heroin and rats. These veterans bear personal witness, along with the 55,000 who died, to the ultimate obscenity of perverted priorities.

By pouring lives, brains, technology and money into profitless ventures based on imaginary dangers, the country served by these veterans has jeopardized the best system ever devised by man: free enterprise democracy. While trying to force our will upon others we have neglected and damaged our own precious way of life.

By far the major reason for our failure to stem domestic disrepair—and despair—has been the disproportionate share of our public wealth allocated to military purposes. Excessive military spending has preempted our opportunity to build an exemplary model society at home and has lured us into actions bringing loss of respect abroad. Apart from the long-range inflationary damage caused by Vietnam, the military billions spent there alone could have made a visible difference in controlling urban blight, environmental crisis and social disintegration. The Indochina blunder is not an aberration. It is an inevitable outgrowth of policies reflecting excessive military influence—and spending.

You and your elected fellow officials, along with my greed-governed peers in the business community, have created a military-industrial machine which now dominates our foreign policy and domestic economy. President Eisenhower's prophetic warning has been ignored because Presidents, isolated from reality, demanded monumental military sums which have been rubber-stamped rather than realistically evaluated. At one point Congress, at least symbolically, was ready to surround our cities with missiles while no one denies that we have needed and continue to need convincing deterrent forces to prevent an attack on the United States or close allies for whom we provide a nuclear shield. National security remains a paramount goal. But we have all acted irresponsibly—as lawmakers and citizens—by allowing one department of the Government to call all the shots. Simplistic foreign policy preachments and a massive military bureaucracy have hoodwinked us into a one-dimensional definition of national security. It is against our self-interest to equate national security with multiple military overkill while ignoring economic vitality, confidence in Government and faith in the system.

In three critical areas we have made massive errors which have caused massively wasteful military spending. First, the fundamental assumptions underlying our military posture have been full of holes. Time and again we have mistaken legitimate nationalistic aspirations akin to our own American revolution and misread world events because of a faulty perception of a monolithic aggressive Communist movement. We have been blinded by an archaic view of Soviet and Chinese intentions. By refusing to reassess erroneous assumptions we have missed opportunities to make significant advances toward lasting world stability and peace. It is time to accept the fact that China and Russia (who certainly have their share of military hardliners, as we do) are led by people, not monsters: That survival is their mission, not trying to destroy us—an attempt they know would result in their own destruction.

Only then can we achieve more open, flexible policies and mutual step-by-step arms reduction reflecting current realities rather than the angel/devil world view underlying our foreign policy. I have seen businessmen march lemming-like toward corporate oblivion blaming the evil of others every step of the way, never thinking to look inward for possible partial fault. Let us avoid even the remote task of having that happen to our country.

Secondly, specific actions taken to implement those foreign policy assumptions have been ill-advised. Intervention in the civil affairs of other countries where the military result could have no impact on American security has cost us dearly in lives lost, dollars spent, and world opinion soured. In Saigon last year a woman described to me how prison guards, paid with our money, had forced bottles and live eels into her sexual organ: a form of torture from which equally innocent women died before her eyes. At Con Son prison, where this had happened, an American construction firm was meanwhile building 288 additional "isolation wards" (Vietnamese call them "tiger cages") under a $400,000 U.S. Navy contract. For such use our tax money has been appropriated by your committee in the holy name of "national defense."

Finally, the arming and operation of military forces to implement our mistaken foreign policy have been carried out in flagrantly wasteful fashion. The staggering cost overruns in procurement of major weapons systems have been amply documented. Even more wasteful have been decisions leading to retention of weapons systems which have long since outlived their usefulness. Most costly of all has been a general attitude of unquestioning acquiescence to military requests for new and more weapons. The blame cannot be levied on the military professionals who are after all only doing their job. To say that a military man wants expensive—and perhaps unneeded—weapons systems is simply to recognize what he is paid to do. So it rests upon our elected representatives to give military spending requests the same tough-minded scrutiny other programs receive. The following few words from a Fortune magazine editorial indicate the businessmen's educational fund is not alone in these views: "U.S. ground troops have been deployed around the world for a generation like the twentieth century equivalent of the Roman legions. The United States is in the grip of a costly escalating pattern of military expenditure (which) has come to live a life of its own."

And to remind you that our military planners share the responsibility for an endless arms race which grows increasingly dangerous and costly, here are a few words from a Wall Street Journal editorial at the time multiple independently-targeted re-entry vehicles (MIRV) were in the news. "The Pentagon is deploying this weapon at least four years in advance of the Soviet deployment it reportedly is a reaction to.

If that sounds as fishy to Soviet diplomats as it does to us . . . their generals would inevitably want to press harder with their own multiple warhead testing" the Wall Street Journal said. Those words proved prophetic as well as descriptive of how unbusinesslike it is to let military men determine military spending levels.

Several years ago we distributed an article written by former Marine Corps Commandant General David M. Shoup, entitled "The New American Militarism." With 20,000 copies we included a survey asking business leaders if they disagreed or agreed with General Shoup's statement that "America has become a militaristic and aggressive nation." Because these are strong words and businessmen are not known for courageous public positions, we were astonished to receive 2000 replies agreeing with General Shoup's accusation. There may be surprising support—even in the business community—for discarding imperialistic military policies which have caused Congress to shortchange many of our people and misdirect resources required to create the inspirational model which would prompt others to want American partnership.

In that context consider again the cogent words of Senator Ellender: "It is time we expand our scope to take an overall look at spending priorities." Right now this committee can perform a unique national service by rising above political pressures and special interests: by applying an objective overview which can prevent repeating past mistakes.

You represent the best current hope for actualizing the "new priorities" for which most Americans are calling. No government body is better positioned to step out of—and above—the roaring stream of events in whose context hasty, irresponsible budget decisions have been made.

It would be irresponsible, for example, to appropriate extra military money just to provide jobs. Nothing would more clearly illustrate the power of the one-two military punch which has bullied Congress into abdicating the role intended by the Republic's founders: men who wanted to prevent Presidents from becoming de facto kings, and who knew the dangers of an overly-powerful military establishment. The first punch consists of exaggerated threats which cow Congress into underwriting annual military wish lists. After absurd spending levels create a military grip on the economy, the second punch is delivered, as indicated by Secretary Laird's recent response to former Deputy Defense Secretary David Packard's remarks that the Pentagon could save $1,000,000,000 a year spent on unneeded military bases. Said Mr. Laird: "I'd hate to be called the Secretary who has caused more unemployment than any other."

Military spending is not the way to solve unemployment problems. Of all the myths which die hard, one of the most tenacious is the belief that American economic prosperity requires heavy military spending.

We agree with the opinions expressed at one of our meetings by Louis B. Lundborg, who was then Bank of America's board chairman about the great need for and benefits which would come from economic conversion to quality of life expenditures. Advancing that kind of economic conversion is the best way to solve unemployment problems. In this context it should be stated that the Marshall Plan—not NATO—made possible the economic rebirth and democratic survival of our European friends. So also equitable economic assistance—partnership—can keep desperate people from embracing the economic lure of socialist systems.

To meet the challenge and the opportunity now before you will require something vastly different from the congressional subservience which has emasculated the potency of checks and balances. To meet that historic challenge this committee must assume again the constitutional responsibilities which Congress has abandoned.

For you are now being asked to authorize an increase of 6.3 billion military dollars. That request is a gross insult to your intelligence because it ignores the plain lessons of two decades: it ignores the reduced costs of the Indochina conflict: it ignores the fact that heavy military spending fueled the inflation which has gutted our economy: it ignores the trillion dollar misunderstanding that arms escalation increases national security: it ignores the so-called 2½ war strategy-fantasy responsible for the quantum leap from a sensible military spending level of $12,000,000,000 in 1948, when the cold war was really frigid.

Asking you to increase military spending at this point in time is like dealing with Ford Motor Company's greatest mistake by stepping up production of the Edsel. If an imperious Ford Co. chief executive had urged such action: if a weak staff and board had gone along, a costly mistake might have been compounded into the demise of a great corporation. We respectfully submit that elements in this analogy are worthy of your consideration as you review a military budget which asks you to continue—and expand—counterproductive spending policies.

In its crisis Ford Motor Company showed true leadership quality by recognizing and correcting its mistake, thus serving well the long-term interests of its shareholders. Our executive leadership is not doing as well for the shareholders of the American enterprise.

But the constitutional power of the purse still resides in Congress. We appeal to you to use better budgetary discretion than is revealed in the request before you. It is time for Congress to express its own views on basic policy directions and spending rather than obediently accepting administration assumptions and dictates.

Administration advisors are not blessed with ultimate wisdom, as we have learned from the costly advice of Walt Rostow, Dean Rusk and others. As businessmen we can of course appreciate your need for expanded analytical staff capabilities.

We would regard as a prudent national investment money spent for that, as well as for a congressional think-tank institute to provide a more equal analytical balance between Congress and the administration in place of the grossly imbalanced present relationship.

But that is for the future. The immediate need is for meaningful response to an historic challenge.

While calling for strong fiscal discipline and asking Congress to forestall "raids on the Treasury" the President placed before you a budget which raids the Treasury by failing to reduce military spending levels based on the faculty perceptions and assumptions of the 1950's and 1960's.

The question before you is this: since the President has failed to lead us into new directions, will this committee exercise the leadership we so desperately need? Will this committee inspire the Congress to an independent action which forsakes old ways proven wrong?

By exercising the courage of true leadership you can start a process which will gainfully affect our own people and reestablish the international respect we have lost.

Imagine the worldwide reaction if Congress, inspired by this committee, reallocates to quality of life programs $20,000,000,000 now budgeted for military spending! Would China and Russia be able to resist international pressure to follow such leadership? Beset by their own domestic needs, might they not welcome that first military deescalatory step which requires the courage of true leadership?

In business we seek but rarely find low-risk, high-yield ventures. This is such a venture. With our overkill capacity, with the President's forthcoming visits to China and Russia, with evidence that inefficiency and duplication keep us from getting maximum military return for minimum costs—the calculated risk of a $20,000,000,000 reduction is well worth the probable gains. As to where the cuts should be made, copious documentation exists to provide intelligent guidelines.

In closing, we express the fervent hope that by facing past mistakes with clarity and dignity: by defining national security more broadly and opting for a world leadership partnership role; by shifting fiscal policies to give "new priorities" real meaning—and by reasserting the constitutional role of Congress through a specific budgetary action—this committee will exercise the leadership for which our people yearn: leadership which will benefit our Nation as well as all the world.

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## FRANK B. TOALSON, PRESENTED DISTINGUISHED SERVICE AWARD

Mr. DOLE. Mr. President, perhaps the greatest tribute one can receive in whatever area of endeavor he is engaged, is to be singled out for recognition and commendation by his peers. Frank B. Toalson, a recently retired Kansas educator, is one such man. On February 13, 1972, in Atlantic City, N.J., Frank accepted a distinguished service award, one of the highest awards given by the American Association of School Administrators. Frank is the first Kansan so honored with this award.

He commented, in typical modesty:

> It is a nice award, but I am sure dozens of people in Kansas are just as entitled.

But in all deference to Frank, I could not find myself in greater agreement with the opinion of the American Association of School Administrators on their selection of him for this prestigious award.

Mr. President, I request unanimous consent to have printed in the RECORD, an article which appeared in the Dodge City Globe on February 12, 1972, about Frank B. Toalson and the award which he received.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### NATIONAL SOCIETY HONORS FRANK TOALSON

(By Evelyn Steimel)

On the day before he was to leave for Atlantic City, N.J., to accept a Distinguished Service Award . . . the first Kansan to be so honored with one of the top awards given by the American Association of School Administrators . . . Frank Toalson was substituting for an instructor in the Vocational-Technical School.

Tall, direct, enjoying himself there among the sparks from the welders and the carpenter's shavings, the educator who retired as USD 443 superintendent in Aug., 1971, just before his 68th birthday, was doing what he enjoys most, being with the students.

"One thing about retirement," said the veteran of the classroom who has served as substitute for a dozen teachers this term, "it gives me a chance to be with the kids, something I really missed as an administrator."

Despite his attachment to the teaching side of his profession, or because of it, he is being honored for his work as an administrator.

There among the 25,000 administrators of schools around the country, including some 200 Kansans, the Chief, as he has long been known in local circles, will receive the citation. According to the Kansas Association of School Administration newsletter, it is being awarded to Toalson because he has "exerted leadership in Kansas education among the superintendents, and many state wide organizations.

"He is forthright, knowledgeable, and persuasive," noted the journal of the organization which Toalson headed as president in 1962.

#### LEADERSHIP

In his years in education, the Dodge Citian has also served seven years on the Board of Control for the Kansas State High School Activities Association. He was vice-president of the Dodge City section of the Kansas State Teachers Association and chairman of its negotiations committee from 1962 to 1967. He has served on a number of legislative committees and is considered a leader in vocational education.

On the national level he was consultant for Kansas in preparation of school superintendents and served on the prestigious resolutions committee of the AASA in 1969 and 1970.

Frank Toalson came to Dodge City in 1929 as a coach and science teacher from Herrington where he had also coached for three years. More important, while in Herrington, he also met and married Helen Kesler of Overbrook, a math teacher there.

Before receiving his bachelor of arts degree from William Jewell College in Liberty, Mo., in 1926, he had taught elementary school in his native town, Clark, Mo.

#### DODGE CITY EDUCATOR 41 YEARS

In Dodge City for the next four decades, Toalson earned his title from hundreds of young people and parents whose lives he touched as a coach, instructor, principal, superintendent. Not the least of these was Dr. Jack A. Kinder, now superintendent of schools in Rochester, Minn., and currently vice-president of the AASA.

Dr. Kinder, in an address last April honoring his old mentor, summarized the accomplishments of Chief Toalson on the local level.

"In talking about tenure," remarked Dr. Kinder to a gathering of school administrators and local residents, "most of us are satisfied if we can stay around a place for four or five years . . . here is a man who has served since 1929 . . . as a teacher of chemistry, physics and physical education. He coached football and baseball. He served as an assistant high school principal. He served as senior high school principal, and beginning in 1954, he became superintendent of schools.

"This, my friends," Kinder declared, "is a tremendous accomplishment for any man!"

### CHANGES IN SCHOOLS

Chief Toalson commented before he left Wednesday, enroute to the convention where he will be honored on Sunday evening, that "it is a nice award, but I am sure dozens of people in Kansas are just as entitled."

He was more interested in talking of education and its current directions.

"Education has changed considerably since I came into it, and it still has a long way to go. All the while I have been in public education, I have tried to make it as practical and as pertinent as possible.

"I believe in upgrading vocation and technical training, and it seems as if the government realizes this now. I believe we have recognized it in Dodge City as much as anywhere.

"I am in perfect accord with the upgrading of the teacher's role," said the man who guided the Kansas teachers in the first moves for negotiation.

"That is for salary purposes as well as for a role in determining where education is to go.

"But there is a danger in this, like there is in having students have all the say about what they are to study.

"I've enjoyed substituting this year . . . visiting with the pupils. One girl argued with me that the student should decide what to take, when to attend. It is hard to say when one reaches an age when he is ready to make such decisions.

"I am beginning to believe, though, that there is a time in a young person's life when if he doesn't want to go to school, then he should have the right to quit, after counseling with parents and teachers, of course.

"At what age? Well, that is hard to say . . . 16, 18. Who can tell about maturity? It differs with people.

There are problems today that we didn't used to have. Maybe I am getting old, but I think that is true and maybe the pendulum is swinging back. College students and even high school youngsters are seeing things can be accomplished with hard work, good behavior. At least I think so.

"It is easier for me to see, now that I am retired, the problems on all sides. When I was principal in the high school, the laws were strict and students couldn't even walk in the hallways. Maybe that is changed for the better.

### EXPECT TOO MUCH?

"But people expect too much out of the schools. And you get so many opinions from the parents, from the students."

He pointed out a book he was reading, Walter Hickel's "Who Owns America?"

"If kids had to work a little . . . Hickel was milking cows at five, driving a tractor at 9 . . . . Maybe it is the times, but it seems parents give their children too much, they don't learn to work. You can't expect the school to do everything . . . heredity and upbringing mean the most.

"Generally speaking," he said with a little smile. "We have a good staff here. Naturally, I would say that."

"We have our faults of course. I've always believed in taking a stand as often as I can, maybe too quick at times," he remarked of his years as administrator.

"You know I was chairman when Kansas teachers initiated negotiations. I was concerned awhile that maybe teachers were going too far, school boards were too close minded.

"But it seems now to be wholesome."

### RETIREMENT

During his first half-year of retirement, Chief Toalson has enjoyed golf, visiting friends he has made in his many years as a keyman in the community. He has time to read and to "take a trip or two." Recently he was named a trustee of the First Presbyterion Church.

Mrs. Toalson, who has taught off and on in the Dodge City schools, including the Junior College, up until her husband became superintendent, will accompany him to Atlanta. Enroute they will visit with sons, Bill, a physician in Prairie Village, and Bob, director of parks and recreation in Champaign, Ill., and their families that include five grandchildren.

And that may be as important to Frank Toalson as the award he will receive before the world's largest convention of educators.

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## ENVIRONMENTAL IMPROVEMENT AND WORLD TRADE

**Mr. WILLIAMS.** Mr. President, on December 10, 1971, I submitted Senate Concurrent Resolution 53, the need for international standards to protect the environment. I stressed then that one of the most important reasons for this approach was to prevent the disruption of international trade balance while environmental protection measures are being taken.

I was pleased to see that the Washington Post of February 16, 1972, contains an article entitled "Environmental Improvement and World Trade," written by Claire Sterling. The article points out the great need to obtain international accords to avoid trade imbalances and the serious problems we are facing today because we have not yet taken a multilateral approach. I believe the article reinforces the position of the more than 30 cosponsors of Senate Concurrent Resolution 53, and it certainly expresses the reasons that I am so concerned about this issue.

Mr. President, I ask unanimous consent that the article be printed in the RECORD for the benefit of those who are deeply interested in this problem.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### ENVIRONMENTAL IMPROVEMENT AND WORLD TRADE

(By Claire Sterling)

GENEVA.—Among the papers one hopes will not get lost in the shuffle at next June's Stockholm environmental conference—and with 7,600 other documents around, it might—is a report from the U.N. Committee for Trade and Development (UNCTAD) having to do with the effects of planetary good housekeeping on world trade. It reminds us not only that this is inescapably a planetary job we're taking on, but that the trade involved could easily run to hundreds of billions of dollars.

Some pale idea of the size of the business may be had from the sales figures for anti-pollution equipment alone. The United States is already spending more than a billion dollars a year on such hardware and software (for maintenance), and $5 billion altogether on anti-pollution programs. The rate is going up by about a fifth every year and the U.S. Council on Environmental Quality says $105 billion will have to be spent by 1975 for just a partial cleanup of American air, earth and water. Europe, too, is spending around a billion dollars yearly for this sort of equipment and maintenance, at a rate going up just as fast, and competitors on both sides of the Atlantic are racing for this world market.

Meanwhile, a discernible dent is already being made on world trade patterns by a hodge-podge of national environmental regulations affecting imports. Several European countries are turning back food shipments tainted with DDT residues; new American and West German lead-emission laws threaten to close these enormous markets to Fiat and Renault, whose smaller cars need high-octane (leaded) gasoline; and noise regulations at U.S. airports are bound to affect the commercial future of the Anglo-French supersonic Concorde.

From now on, UNCTAD says, environmental ground rules are clearly going to be such that any manufacturer who cares to stay in or invade the big markets will have to pay handsomely for the privilege. The most polluting industries, such as metal, energy, chemicals, paper and pulp, will of course be hit hardest. On average for all industry, though, compliance with adopted and pending standards will probably mean a 5 to 10 per cent increase in capital investment and as much again in production costs. (In the United States, according to the Council for Environmental Quality, private industry will have to put up 42 of those 105 billion dollars.)

Assuming the ground rules are not harmonized worldwide, they will certainly constitute steep barriers to trade. Even assuming they are harmonized, they would certainly look like steep barrier to that half of the world's population with less than $500 a year—often very much less—to live on. UNCTAD thinks that the rise in investment and production costs should mean an average 6 to 9 per cent rise in export prices. Richer nations might not mind paying that for the luxury of an impeccable environment. Poorer ones might, though, and that is only the beginning of their troubles.

Whenever a rich industrial country tries to take something bad out of its air, earth or water, it almost invariably takes money out of some poor country's pocket. Most of the former import huge quantities of raw materials, and most of the latter have little or nothing else to sell. Restricting the use of lead in gasoline means reducing the amount bought from lead-producing countries. Banning the sale of canned tuna-fish, tainted with mercury, raises the cry for a ban on mercury-dumping into rivers and seas, the search for substitutes, and thus a cut in imports from mercury-producing countries.

So far, recycling of used raw materials has not gone very far because of technical difficulties. But the difficulties are sure to be overcome because research investment cannot help growing under the strain as raw materials reserves go down, extraction costs go up, and wastes keep coming along that nobody knows what to do with. The world price of lead has risen 300 per cent in the last 30 years, for instance, and of mercury 500 per cent in the last 20 years. Under these circumstances, thrift in the use of such materials is not just a matter of environmental virtue but of elementary bookkeeping.

It is true that some of those minerals may be running out before long anyway: the latest studies indicate that world zinc reserves may not last more than another 18 years, tin 15 and mercury 13. But knowing that can hardly be a comfort to Africans or South Americans or Asians whose countries' "terms of trade," as UNCTAD puts it, can only get worse and worse in the meanwhile, as their customers' air, earth and water get better and better.

This isn't by any means the worst problem in the multi-billion dollar environment game: getting up all the billions, and inducing all the world's manufacturers to pay up without ratting, should by rights be worse still. Nevertheless, this particular kind might give pause to earnest environmental crusaders. UNCTAD itself will be holding an international conference on the subject in South America this spring, a couple of months before the Stockholm conference opens, and organizers for the Stockholm gathering have been trying for over a year now to find some way of talking around it. They have ended by asking—in fact, imploring—the world's wealthier states to chip in financially so as to redress trade imbalances, and to recognize that environmental quality must not be achieved primarily at the cost of the third world's economic development. In this case, though, saving is as saving does.

## THE STATE PROPERTY TAX

Mr. MATHIAS. Mr. President, I would like to call the attention of my colleagues to an editorial which appeared in today's Baltimore Sun entitled "Cutting the State Property Tax."

In this editorial, the Sun states that the time may well have come when the State of Maryland should reduce or eliminate its statewide property tax. The editorial points out that—

> While the state property tax falls directly on but one segment of the population—one already taxed heavily by the local government—the revenue from that tax is used to finance public improvements beneficial to all.

For some time I have been concerned about the inequities of the system of State and local property taxes that exists in this country. At hearings on this subject which I chaired during January in Maryland, I discovered that my concerns about these inequities were shared by persons of all walks of life throughout Maryland. I have been encouraged by the President's announcement in his state of the Union address that he has requested the advice of the Advisory Commission on Intergovernmental Relations on this issue. What the President terms "intolerable pressures" on the property tax also led him to establish a Commission on School Finance in March of 1970.

I would like to call to the attention of the Congress the position expressed by the Baltimore Sun. I, therefore, ask unanimous consent that this editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Cutting the State Property Tax

The property tax has always been a basic revenue for Maryland's local governments, both county and municipal. But that has caused no hesitation on the part of the state government which for years has been taxing property to finance the full cost of its general debt. For the current fiscal year the state property tax rate is 18 cents on each $100 of assessment. At first blush that may seem like a small imposition, but it must be remembered that the 18 cents is on top, for example, of Baltimore City's rate of $5.65.

In recent years there have been increasing suggestions, if not pressures, for the state to give up its property tax rate and leave that source of revenue to the political subdivisions. The suggestions may not have made much sense years ago but they do now, since the state has turned in major ways to the gasoline tax, the income tax and the sales tax.

Further, while the state property tax falls directly on but one segment of the population—one already taxed heavily by the local governments—the revenue from that tax is used to finance public improvements beneficial to all.

This situation may be coming to an end. The Legislative Council sponsored a bill at the current session of the General Assembly which would permit the state to use general funds to finance state borrowing. The goal is the eventual elimination of the state property tax. The measure has been passed by the Senate. It should be given prompt attention in the House of Delegates. The bill would not bring immediate relief to property owners but it would bring help in the future.

## PAY BOARD IMPLEMENTS PERCY PRODUCTIVITY AMENDMENT

Mr. PERCY. Mr. President, increased U.S. productivity growth rates are a major economic policy objective of this administration, and a major concern of my own. Thus I am very pleased that the Pay Board agreed yesterday, February 23, on guidelines to implement the Percy amendment to the Economic Stabilization Amendments Act that was passed by this body on December 14 and signed into law on December 22, 1971. This amendment, section 203(f)(3) of the act, exempts increased pay for increased productivity from the Pay Board's wage guidelines.

The Pay Board guidelines as I understand them are consistent with the intent of my amendment.

By implementing the amendment the Pay Board is permitting companies to continue, or to modify, existing, or to install new, incentive pay plans that directly reward workers for increased productivity.

Increased productivity is urgently necessary to improve the lagging vitality and competitiveness of the U.S. economy both during phase II and in the longer term. I urge labor and management to take advantage of the exemption my amendment provides. The result will be increased productivity, higher real take-home pay, reduced inflation, and thus a quicker end to wage-price controls.

I ask unanimous consent that a Pay Board press release announcing agreement on guidelines for this provision of the Economic Stabilization Act, and the text of the guidelines be printed in the Record at the conclusion of my remarks.

Mr. President, I have received during the weeks since the Senate adopted my amendment, a large number of highly encouraging responses from business, labor, the academic community, and the press, indicating support for my amendment and reassuring me of its usefulness in increasing productivity.

Such communications have convinced me that the subject of productivity is considered by many people a topic of primary importance, worthy of continued special effort by the Federal Government.

I have learned that a large number of people from many areas of our society have done a great deal of work on aspects of productivity and are eager to share their knowledge and ideas and to participate in efforts to improve America's productivity growth rates.

I intend to make a more extensive report to the Senate in the near future on more concrete ways in which productivity can be increased. I want now to compliment the distinguished chairman of the Joint Economic Committee, Senator Proxmire, for his concurrence in agreeing to hold hearings on productivity in the committee's Subcommittee on Priorities and Economy in Government. We will put stress on the human, motivational aspects of the problem, as well as on government policy to improve productivity. In my view these hearings are badly needed in order to help bring to light the urgency of efforts to increase productivity growth rates.

There being no objection, the news release was ordered to be printed in the Record, as follows:

### Pay Board News Release

The Pay Board today adopted by unanimous vote a resolution exempting from its wage guidelines wage increases paid in conjunction with employee incentive programs related to employee productivity.

The action was taken to implement the so-called Percy Amendment to the Economic Stabilization Act. The Amendment was designed to insure that Pay Board regulations would not charge the payment of such incentive increases against the wage guidelines.

The resolution applies to plant-wide productivity sharing programs, as well as those which are not plant-wide. It does, however, exclude other forms of variable compensation plans.

In addition to such incentive-related increases, employees may also receive general wage and salary increases as are allowed under Pay Board guidelines.

Incentive plans or practices in existence or announced to employees prior to November 14, 1971 will be allowed to operate according to their terms. New plant-wide plans or programs, or substantial modifications in existing ones, must be reported to the Pay Board within 30 days of installation. Others must be certified prior to installation.

(A copy of the Board's resolution is attached. It will not take effect until published in regulation form in the Federal Register.)

### Resolution: Incentive Programs

*Whereas:* subsection 203(f)(3) of the Economic Stabilization Act of 1970, as amended, provides that the authority to issue regulations to stabilize wages and salaries shall not be exercised to preclude the payment of any increase in wages paid in conjunction with existing or newly established employee incentive programs which are designed to reflect directly increases in employee productivity; and

*Whereas:* the Pay Board intends to implement the provisions of subsection 203(f)(3) and to provide guidance with respect to such incentive programs; therefore

*Be It Resolved:* that the Pay Board adopts the following policy decision:

1. Increases which result from the operation of a commonly-recognized plant-wide productivity sharing program (which compensates employees on the basis of an overall standard rather than individual employee productivity) are not charged against the wage and salary standards of the Board.

2. Plant-wide productivity sharing programs in existence or proposed for installation and communicated to employees prior to November 14, 1971, will be allowed to operate according to their terms.

A description of any new program installed or existing program, the terms of which are substantially revised after such date, will be reported by the employer to the Board or its designee within 30 days of installation or modification.

3. Similarly, increases in pay due to an increase in productivity under incentive plans and practices other than plant-wide productivity sharing programs operating according to their terms (but specifically excluding other forms of variable compensation plans) are not charged against the wage and salary standards of the Board.

4. Incentive plans or practices in existence or prepared for installation and communicated to employees prior to November 14, 1971, will be allowed to operate according to their terms.

The employer shall certify to the Board or its designee prior to (1) the installation of a new incentive plan or practice, or (2) the installation of changes to an existing program where the terms of such program are substantially revised; and which in either case will result in an annual aggregate increase in excess of the wage and salary standards to an appropriate employee unit (which may be larger than the unit covered by such plan or practice) will be offset by increased productivity and will substantially meet certain criteria, i.e., that the plan or practice:

(a) provides the expectation of a level of earnings above base rates which vary in relationship to changes in productivity, but which will not result in increased unit labor costs;

(b) is designed to provide earnings opportunity sufficient to motivate the participants;

(c) defines the employees included and their relationship to increased productivity;

(d) contains standards of performance and provisions for revising such standards to reflect changes in equipment, methods, quality requirements and other factors related to the basis for standards development; and

(e) contains guarantees of wages or earnings for such contingencies as down-time for reasons beyond the control of participants and for non-standard work.

5. If an incentive plan or practice (including plant-wide productivity sharing plans) is discontinued under conditions which result in an increase in wages and salaries to affected employees, the employer will certify to the Board or its designee within 30 days of discontinuance that the action was taken in good faith and not for the purpose of circumventing the intent of the wage and salary stabilization program.

6. In addition to wage and salary increases, which are not charged against the wage and salary standard as herein set forth, employees in an appropriate employee unit may additionally receive such increases permissible under and subject to the wage and salary standards of the Board. Such increases may be applied separately to base hourly rates and/or incentive earnings or, in the alternative, to total average earnings determined over a representative payroll period or periods.

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## THE ENERGY CRISIS

Mr. ALLOTT. Mr. President, on February 10 the distinguished Secretary of the Interior, Mr. Rogers C. B. Morton, addressed the National Petroleum Council. His remarks concern one of the hidden—but less and less hidden—coming crises which this Nation soon must face—the energy crisis.

It is my urgent hope that every Senator will examine the remarks of the Secretary, whose responsibility it is to alert us to the true nature and dimensions of the coming crisis.

I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### REMARKS OF THE SECRETARY OF THE INTERIOR ROGERS C. B. MORTON BEFORE THE NATIONAL PETROLEUM COUNCIL, WASHINGTON, D.C.

Again it is a pleasure to welcome you to Washington, and to have the privilege of sharing with you some thoughts that have been much on my mind in recent weeks.

First, I would like to begin by expressing my deepest appreciation to Del Brockett who has done splendid work for the Council during his many years as a member, and as its chairman. Del, I hope you will permit me to join in the good wishes of your friends as you leave the Council you have served so well and so long.

Since last July's meeting, the Council Task Force has completed Volume II of its interim report on the U.S. Energy Outlook. This work contains a wealth of pertinent, up-to-date information on each of the major energy sources.

Of all the studies the Council has undertaken in its 25 years, I think this is one of the best.

I also want to acknowledge the fine work of the Committee and its Subcommittee on Environmental Conservation. They have produced the final report on this assignment.

My personal thanks to Chairmen Keeler and McReynolds and Vice Chairmen Swearingen and Marshall for their valuable contribution to public understanding.

It is most apparent that our world continues to grow and develop. As a result, we use more energy and we will need more energy.

The environmentalists tell us that we cannot go on using our natural resources as we are . . . they are right.

Those responsible for meeting our Nation's needs for goods and services tell us we cannot go back where we came from . . . and they are right, too.

And I say, we cannot stay where we presently are, either, and I think I'm right!

Specifically, I see no indication that the material needs of the United States will ever be less than they are today.

We can reduce waste, and we should.

We can develop more efficient production and distribution processes, and we will.

We can salvage, reclaim and reuse millions of tons of materials now difficult to dispose of and too often found cluttering our landscape. We will do that too!

We will recycle, reuse and clean up literally billions of gallons of fresh water that we are now simply draining off to the sea.

However, after we have taken all these measures to conserve our resources, we still face the enormous backlog of unsatisfied needs that can only be met by increasing higher levels of energy and of productivity.

I refer to:

Rebuilding our cities.

Reviving our lakes and streams.

Restoring the purity of our air.

And most emphatically and specifically, building a 2nd America in which everyone of the over 200 million of us will have a better life.

One thing the extremists in environmental groups do not understand is that these necessary jobs to enhance the quality of life can be accomplished through the use of energy and more energy directed by an ever escalating plateau of technology.

As you know, our current energy demand is great. It closely parallels the growth of our gross national product.

The problem of supplying this demand has been further complicated by the recent court decisions which caused the cancellation of the lease sale scheduled for December 21, 1971. This has added greatly to our difficulties. The need for oil and gas *are obvious*.

I am deeply—bitterly—disappointed at the outcome of these decisions.

I am concerned that the legislative and management responsibilities of the Congress of the executive branch of our government are being transferred to the judiciary, where the criteria and understanding prerequisite for fundamental resource decisions do not exist.

We are in the testing phase of the National Environmental Policy Act.

The intent of the law is being established over specific issues.

It was the contention of the Department of the Interior in the Louisiana case that the term "alternatives to the proposed action" as used in Section 102c of the NEPA meant only those actions which:

1. Lay within the authority of the Secretary of the Interior to take, and
2. Would produce results within the same time frame as the action proposed.

This assumption has now gone by the boards.

In light of these recent decisions, and in spite of the fact that there is a strong case to be made for excluding all alternatives, we are in the process of modifying our procedures for writing environmental impact statements. We are making every effort to comply with the interpretation of the National Environmental Policy Act as it has been set forth by recent court actions.

This will be difficult to do:

It will delay every action we have programmed for developing our natural resources.

It will delay a decision on the Trans-Alaska Pipeline by at least two months.

It will delay our program on geothermal leasing by about the same length of time.

It will necessitate a complete rescheduling of our plans for leasing tracts in the gulf offshore of Louisiana. Here, is the most prolific producing province we have yet found on the Outer Continental Shelf.

In short, we have lost the time but fortunately, *we have not lost the resources*.

The set backs we have sustained have made us more determined to find a way to comply with and work with the Environmental Policy Act and yet insure an orderly flow of essential fuels to meet the growing needs of the American economy.

All of this would be greatly enhanced when the President's program for reorganization has been achieved.

I believe a Department of Natural Resources is an absolute must in our time if we are to remain fully competitive in this rapidly changing world.

It is our policy and our intention that the Nation should rely, in a large measure, on domestic resources for minerals and energy.

It is only through the strength of our own resource base that our trading position will be firm and have the leverage to deal with the complications and vagaries of world oil politics.

There is great economic power in world oil politics. And, though I love all people across the world, I must say that I would rather have my destiny shaped by friends and neighbors of main street America.

I am asking my staff to utilize your report and all other data available to put together a National Energy Policy.

The time is now—we cannot wait!

Your own report on the U.S. Energy Outlook spells out clearly that our requirements for liquid fuels will rise much faster than our ability to supply them from domestic sources.

This is a fact and a national concern.

Present trends indicate a large share of our refined products must come from foreign supplies by 1980.

We are already confronted by urgent requests for licenses to import petroleum feedstocks for the manufacture of gas.

Applications to date have been made for 17 proposed plants that will manufacture synthetic gas from imports. These plants will consume over one million barrels a day of foreign feedstock.

These and other pressures will undoubtedly bring forth new policy and implement new mechanisms. These policies and the mechanisms will deal with cost, with national security, with the quality of the environment and with basic human needs.

*This does not mean* that we should fail to achieve a reasonable mix of energy fuels from domestic sources with those foreign suppliers.

*This does not mean* that the oil import program should forever be frozen into its present ratios.

But it does mean that we must maintain a balance weighted in favor of domestic producers. For herein lies the true source of our economic strength.

This in turn, more than anything else, gives us the power to reach our goal—*a generation of peace on this earth for mankind.*

At this time, in this world, do not be mislead into thinking that peace will be achieved through rhetoric . . . . through philosophy . . . . or even through the kindness in our hearts.

It will be achieved because we are strong and because we do not covet the land or the riches of any other nations.

In short, peace will come from a wise and humane use of strength derived from an efficient use of our God-given natural resources.

Let us then pursue a realistic course for the perfection of our civilization.

Let us begin to work on solutions to the problems which confront us, as in the past—they lie before us in men's minds. There is nothing that we have yet to do, considering all the knowledge and tools at our disposal, that is more difficult or insurmountable than that which we have already done.

Let us not assume that the sun will burn out in the year 2000 and all will be over.

Conversely, let us assume that the brains of men are only at the beginning in the discovery of new opportunities—not only for man, but also, for the rest of nature, which is so much a part of our life.

Let me say here, that out of all the stridency and contention of the past years I believe we have learned an essential fact. We recognize at last that there is an interlocking bond between the quality of the environment and energy demands in sustaining large numbers of people at decent levels of comfort and well-being.

Share with me the optimism of a great and strong America . . . . of a dedicated and understanding President.

We shall fulfill our energy needs in an expanding future.

We shall enhance all that is beautiful around us.

We shall hold this good earth in trust.

We shall . . . . and together we can . . . . prove ourselves worthy of that trust.

Worthy of the leadership that God has set for us as a Nation, in this time, on this planet.

## PLIGHT OF RELIGIOUS MINORITIES IN SOVIET UNION

Mr. PEARSON. Mr. President, perhaps the most basic of human rights is the right to freely exercise and sustain one's religious faith and identity. It was toward this end that government was instituted among the people of this country.

But the recognition of one's heritage and convictions is a matter which transcends national and international boundaries. It is a matter which deserves the highest regard of the civilized people throughout the world.

The Senate and House of Representatives of the State of Kansas have urged attention to the plight of the Jewish people and other religious minorities in the Soviet Union. They have memorialized their concern to the President of the United States, the Congress, and the Soviet Government. This is not, I wish to make clear, a decision accomplished without broad conviction and deep recognition of principle. It reflects the feelings, the anxieties and sense of urgency, I believe, which the people of Kansas have expressed about the treatment of fellow human beings in the Soviet Union.

I ask unanimous consent that a copy of the Senate Concurrent Resolution No. 82, originated in the Senate of the State of Kansas, be printed in the RECORD. I invite the attention of the Senate to this eloquent statement of concern for human rights.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

### SENATE CONCURRENT RESOLUTION NO. 82

**A concurrent resolution memorializing the President of the United States to call upon the government of the Soviet Union regarding persecution of religious minorities in that country.**

Whereas, In the Soviet Union men and women are denied freedom recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

Whereas, The Government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discriminating against Jews in cultural activities and access to higher education; and

Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union: Now, therefore,

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That the President of the United States of America be memorialized to call upon the Soviet government: To permit the free exercise of religion by all Soviet citizens in accordance with the Soviet Constitution; to end discrimination against religious minorities; and to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights.

*Be it further resolved:* That the secretary of state is hereby directed to transmit an enrolled copy of this resolution to each member of the Kansas congressional delegation and to the President of the United States.

## CARL HAYDEN TRIBUTE

Mr. JAVITS. Mr. President, the late Carl Hayden, a Member of Congress whose service in Washington began when hs native State of Arizona was admitted to the Union in 1912 and continued in the House and Senate until his retirement almost six decades later is one of the most legendary figures ever to have served in the Congress.

Our paths crossed in a way that uniquely typifies the diversity and unity of the Nation. When Carl Hayden was sheriff of Maricopa County in the open expanse of the Territory of Arizona from 1907 to 1912, I was a kid living in the crowded tenement district of New York City's Lower East Side, largely populated by first-generation immigrants. Our environments could not have been more difference. Yet, some half century later, we met when I entered this body as a freshman Senator in 1957 and Carl Hayden was president pro tem of the Senate.

I always felt at one with Carl Hayden; that our common devotion to the Nation's weal was stronger than our sharply contrasting origins. Such is the strength of the Nation.

Carl Hayden saw the Nation grow from an agriculturally oriented society to an industrial one, from an age where man was confined to the power of steam and horse in his travels to an age of man in outer space, reaching toward the moon itself. His memories assuredly encompassed an early America; his vision, however, extended to his Nation's future—for this he is especially revered by those who knew him and were privileged to have served with him. Legendary as was his career so was his patriotism and the highness of his vision for America.

## RADIO LIBERTY AND RADIO FREE EUROPE

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished junior Senator from Washington (Mr. JACKSON), I ask unanimous consent to have printed in the RECORD a statement by him.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT BY SENATOR JACKSON

I urge my colleagues in the Congress to save Radio Liberty and Radio Free Europe which have been doing a first-rate and non-provocative job in keeping the peoples of East Europe and the USSR informed.

The House and Senate have approved an open government contribution to the funding of Radio Liberty and Radio Free Europe. We must not be blind to the realities of Eastern Europe and the USSR. We should not permit this vital link between the peoples of West and East to be severed. Unfortunately, there is a risk that some Senators will succumb to new myths while claiming to reject old ones.

I agree with Mr. Luns, Secretary-General of NATO, who said last week:

"We in the West have sought to make it abundantly clear that for us detente means the improvement of relations and exchanges, cultural and economic, between nations and involves freer movement of ideas and persons."

Congress should also consider the views of another responsible and respected European leader, Dirk Stikker, a great statesman of the Atlantic Community. During World War II, Dirk Stikker was active in thwarting the Nazi occupation. He has been Netherlands Foreign Minister, Chairman of OEEC, Ambassador to Great Britain and to Iceland, and Secretary-General of NATO, 1961–1964. In a message sent to me this week, Mr. Stikker reminded us of what East-West relations are all about. The full text of Dr. Stikker's message follows:

### PERSONAL TELEGRAM TO SENATOR JACKSON FROM DIRK U. STIKKER

LAGO DI COMO, ITALY,
*February 23, 1972.*

Senator HENRY M. JACKSON,
*United States Senate,*
*Washington, D.C.*

MY DEAR FRIEND: I just finished reading the Congressional Record of Senator Fulbright's statement in the Senate of February 17 about Radio Free Europe and Radio Liberty.

As Chairman of the West European Advisory Committee of Radio Free Europe I would like to present my own views which are quite different from those of Senator Fulbright.

We of the oldest generation of this old continent do not like to reply in kind and therefore I will be brief.

First of all, I want to assure you that since I've been Chairman of that European Advisory Committee I have been in touch with those who can be considered as representative for public opinion in Western Europe and to my knowledge the reaction to the work Radio Free Europe is doing is positive appreciation.

I've personally followed the way Radio Free Europe prepares its programs and again I know that it is an independent organization.

We all want a detente. We all want to prevent hot or cold war. But what we do not want is detente abroad and suppression at home and I think we will all agree with what my successor at NATO, Mr. Luns, said in a speech a few days ago: "We in the West have sought to make it abundantly clear that for us detente means the improvement of relations and exchanges, cultural and economic, between nations and involves freer movement of ideas and persons."

Freer movement of ideas is what the radios are all about.

Those who like myself have lived for five years in occupied territory know what it means that the only contact with the outside world is the radio. That contact was in our darkest hours the source to keep alive our courage and our hope.

The American way of life has always included the right of free speech and press. Americans have always believed that an informed public opinion is essential to the development of better mutual understanding among men and nations. Radio Free Europe and Radio Liberty are doing a great deal to assure that the peoples of East Europe and the USSR are kept informed. I can think of no time when this function has been more essential than right now.

I hope that (as I have made a statement on this subject in the subcommittee of the Committee of Government Operations of the United States of which you are chairman) you can find a way that this opinion of an old European who has been fighting for these principles during and since the last World War can be made known to your colleagues.

Best personal regards.

Sincerely,

DIRK U. STIKKER.

## STATE OF THE AGING: HOUSING—A CRITICAL NEED

Mr. WILLIAMS. Mr. President, the recent, historic White House Conference on Aging has given the Congress and the executive branch new mandates for action on aging during the 1970's.

The message of the conferees who met 2 months ago was plain and compelling. In down-to-earth language they told the Nation that the elderly's time is now.

A new, compelling national policy on aging—as expressed at the Conference—must now be translated into early action if that policy is to have any real impact upon the aged of today and tomorrow.

Their challenge cannot be ignored.

Their challenge cannot be met by election year promises and post-election forgetfulness.

To respond to that challenge, Democrats and Republicans alike in the Congress must take immediate action within the next few weeks and months.

To keep the challenge from falling into obscurity, a bipartisan congressional coalition—in alliance with the administration whenever it is receptive—must then sustain that effort.

As a member of the Senate Committee on Aging and as its former chairman—and now as chairman of the Senate Committee on Labor and Public Welfare—I say here and now that I will do all in my power to make the 1970's a decade of accomplishment for older Americans, rather than a period of continuing disappointment, frustration, and mounting anger.

For that reason, I am pleased that the senior Senator from Idaho, my successor as chairman of the Committee on Aging, initiated a Senate floor discussion of the state of the aging. He, together with committee members representing both parties, are providing a congressional springboard for implementation of White House Conference recommendations.

My intention today is to discuss the problems that come before the Subcommittee on Housing for the Elderly, on which I serve as chairman.

But, before turning to those problems and the policy shortcomings which help produce them, I would like to point out that the White House Conference recommendations in other areas are identical or similar to proposals I have advanced within recent years, such as:

Major increases in social security benefits;

Establishing a floor under the income of every older American;

Liberalization of the retirement test under social security;

General revenue financing for a portion of the social security program;

Extension of medicare coverage to include out-of-hospital prescription drugs;

Part-time employment for older Americans in worthwhile service projects right in their own home communities.

Extension of home health services under medicare to provide alternatives to more costly forms of institutionalization.

Greater opportunities for adult education.

A greater research effort into the aging process, as well as social issues affecting older Americans.

More useful assistance to middle-aged and older workers who face long periods of unemployment when layoffs or plant shutdowns occur.

Greater attention to transportation needs of the elderly.

A reversal of recent policy decisions which tend to downgrade the role and functions of the Administration on Aging.

More responsive governmental attitudes to the especially intense needs of those older Americans who are members of minority groups.

A greater emphasis upon health maintenance, or preventive medicine.

Realistic alternatives to institutionalization of the ill, disabled, or isolated and helpless elderly.

Nowhere were the similarities in objectives more apparent than in the field of housing. The conferees agreed with many recommendations which I support and which the Senate Committee on Aging has made in recent annual reports.

In this address, I will discuss the most vital of those recommendations.

In this address, I hope to describe in broad terms actions that can lead to the implementation of a new national policy on housing for the elderly in the United States of the 1970's and the decades beyond.

### HOUSING: NO. 1 COST FOR ELDERLY

But first, the question must be asked: Why is housing now such a critical problem for older Americans?

Part of the answer lies in the fact that housing is the No. 1 expenditure for older Americans.

They spend about 33 percent of their total income for shelter, in contrast to 23 percent for younger persons.

Thirty-three percent of anyone's income is a cruel bite, but for those on retirement income the bite is even more painful because most incomes are so desperately low:

We are talking about an age group including 6.5 million persons—one out of every three persons of age 65 and over—who are below or very near the poverty line.

We are talking about an age group in which more and more people are living into their 70's, 80's, and 90's, trying to stretch savings, annuities and social security over many more years than had been the case in the past. As they grow older, medical bills are likely to increase, and medicare pays only 43 percent of their medical bill.

In addition, may of our older persons are living in the very areas where the greatest deterioration of housing units is taking place.

At least 60 percent are in urban areas, many of them in the "inner city."

Thirty-four percent are in rural areas and 5 percent are on farms. And many are attempting to live in large old houses meant for big families rather than for an elderly couple or a widow or widower.

An overwhelming majority—70 percent—of older Americans are homeowners, and 80 percent of their holdings are free and clear of mortgages or other claims against ownership. Equities of $25,000 or more exist on more than 50 percent of these dwellings.

But homeownership does not guarantee satisfaction or security. Threatened by the ever-rising property tax, many older persons are trying to make do in old houses badly in need of repair, or even beyond repair.

All in all, an estimated 6 million persons—almost 30 percent of all older Americans—live in unsatisfactory or substandard housing.

Generally speaking, the lower the income the greater the problem.

Old age assistance recipients, for example, are hit particularly hard: perhaps 45 to 70 percent live in deficient housing; 15 percent have no running water; 30 percent no flush toilets; 40 percent of the housing has one or more other major defects.

Complicating the situation further, many older persons find it impossible to stretch limited incomes far enough to provide maintenance or repairs. Often, failing health or limited physical mobility may sharply restrict their ability to rehabilitate or maintain their homes.

Should homeowners move into rental housing? That is easier said than done. Rental units in the past few years have been showing a mere 5-percent vacancy rate. Apartments along the eastern corridor are showing only 2.8 percent. Federal programs, as I will discuss later, have provided only sporadic and limited help.

The net impact is that millions of older Americans are finding themselves in an impossible housing situation.

Whether they live in a home that is really not suitable for their needs or in apartments in older city neighborhoods, they stand in need of alternatives.

But acceptable alternatives are in tragically short supply.

THE FEDERAL RESPONSE

Given the great and growing need for housing within the economic reach of the elderly, the Federal Government has offered several significant, but limited, initiatives.

All Government programs taken together produced only 336,000 units for the elderly or an average of about 35,000 units annually between 1960 and 1970.

This one-third of a million units roughly corresponds to the annual net increase in the number of citizens who make it to their 65th birthday in the United States. At that rate, this Nation would barely maintain its present rate of desperate inadequacy.

Another comparison may also help make the point. The President's Committee on Urban Problems developed some statistics from which the committee has made a conservative projection of the need of the 5 million elderly below the poverty line. They say that there is an immediate need for 120,000 units a year for this group alone. Compare that estimate with the 35,000 total annual production for the last 10 years.

Faced by such facts, the present administration might be expected to declare that an emergency exists, and emergency action is called for.

But the last word from Secretary Romney—presented by his emissary at a hearing I conducted in October—was that there is no reason to suspect that elderly families with adequate income "cannot compete effectively in the general housing market, and, therefore, achieve their appropriate share of the housing produced."

His startling conclusion, however, ignores one basic fact: older Americans live on about one-half of the income of those still in the work force.

Moreover, the administration's conclusion was based upon two assumptions which have very little relevance for the elderly:

First. Overcrowding for all age groups diminished between 1960 and 1970.

Second. Plumbing in housing for all Americans improved during the same decade.

A close look at these assumptions reveals that overcrowding is really not a serious problem for most elderly homeowners. Many now live in old family houses that are too big for them or they live alone in apartments.

As for bigger and better plumbing, everyone likes it. But here, again, the Secretary has not chosen a criteria which necessarily has special meaning for the elderly. Since 70 percent are living in homes bought many years ago, they are either likely to have had plumbing in the first place or are unable to pay out the dollars needed for rehabilitation.

Administration perspective on housing for the elderly was expressed in another way by another HUD representative at a hearing last year.

Eugene Gulledge, Assistant Secretary and Federal Housing Administration Commissioner, said that the administration was proud of its record in increasing overall housing production, largely through the interest subsidy mechanism. He said:

> Because housing for the elderly is an integral part of our production goals, and because most of our assisted programs can and do serve their needs, it follows that larger and larger numbers of our senior citizens are now being given the opportunity to live in decent housing, appropriate to their needs.

But you cannot house citizens in rhetoric.

HUD funds helped produce only 41,000 units for the elderly last year, and much of that was possible only because of a "pipeline" or backlog of applications from an earlier—and abandoned—program.

I have discussed numbers of units to show the lack of responsiveness of Government programs, but our national failure can be measured in other terms.

To this end, the resolutions of the White House Conference on Aging are both an indictment of our current efforts and a clarion call for action on a much broader scale.

WHITE HOUSE CONFERENCE RECOMMENDATIONS

Mr. President, many of the individual sections at the White House Conference produced eloquent statements of need and proposals to meet those needs.

But the housing section, in my judgment, merits special praise for the eloquence of its statements, the depth of its convictions, and the high quality of its recommendations.

The major call was for "a national policy on housing for the elderly worthy of this Nation," enjoying a high priority and embracing not only shelter but needed service of quality that extend the span of independent living in comfort and dignity, in and outside of institutions, as a right wherever the elderly live or choose to live.

The housing section participants declared:

> Availability of housing in great variety is imperative. Such housing should respond to health and income needs and provide a choice of living arrangements. It should include sales and rental housing, new and rehabilitated housing, large and small concentrations. It should be produced by public agencies and by private profit and nonprofit sponsors, with incentives to encourage such housing in all communities.

Needs of minority groups, the disabled, and the aged in isolated rural areas would receive special concern and priority. A decent and safe living environment, "the inherent right of all elderly citizens," would become an actuality at the earliest possible time.

Specifically, the section report called for the following:

First. Construction of 120,000 federally assisted units for the elderly each year.

Second. Supportive service for the residents of federally assisted housing projects and the use of these housing projects as the base for outreach programs to serve the general community.

Third. Relief from escalating property taxes which are becoming confiscatory in many States.

Fourth. The incorporation of architectural and design standards in housing to meet the special needs of the elderly. Only 180,000 of the 336,000 units built in the last 10 years were specifically designed for the elderly.

Fifth. The revitalization of section 202 which provided direct loans to nonprofit sponsors desiring to make available housing for the elderly. The delegates specifically requested that the senior housing administrative component of HUD have audit responsibility for this program and that the portion of 236 funds going to the elderly should be placed under this same management.

Sixth. Rent supplements increases. To date there have been only 162 projects and some 4,200 persons of all ages served by this program.

Seventh. The promulgation of new programs which would assist families to care for their relatives in their own homes.

Eighth. The development of physical and environmental security standards for housing for the elderly, perhaps in recognition that crime and the likelihood of fires in high-rise structures are becoming more and more threatening.

Ninth. More HUD research to deal with the health, physical, and social aspects of housing. HUD's budget for research last year was only $30 million and most of that was spent on the development of modular and mass produced housing.

Tenth. Establishment of the Office of Assistant Secretary of Housing for the Elderly within HUD who would be a highly visible advocate for older Americans. This official would have statutory authority to create and implement a national policy of housing needs for the elderly.

The White House conferees would not have had to make such far-reaching recommendations, of course, if present programs were anywhere near adequate. Taking a look at those programs, here is what we find:

LOW-RENT PUBLIC HOUSING

Low-rent public housing continues to be the largset Federal program serving the need of the elderly, providing 282,000 of the 336,000 units constructed during the past decade. But this number falls short of the documented need. Long waiting lists are typical in some areas. An many older Americans are too "poor" for public housing.

Today there are some urgent indications that the program is in trouble. Heading the list, is the serious problem of crime which threatens the very existence of the aged. This point was made very forcefully at hearings I conducted last October when witnesses described murders, rapes, muggings, and the terrorizing of old persons throughout the United States.

Undoubtedly crime is a major reason for the high vacancy rate at some public housing projects. In St. Louis, for example, the vacancy rate is approaching 40 percent because many individuals prefer the discomforts of the slums to the constant threat of danger to themselves and their property.

Additionally, poor management plagues much public housing. Maintenance is usually minimal, and quite frequently nonexistent. As a consequence many tenants are made to feel like unworthy welfare cases rather than proud individuals.

Despite these shortcomings, the public housing program has served many older Americans effectively. What is needed now is essential reform, instead of outright abandonment.

### RENT SUPPLEMENT PROGRAM

Another program with great potential for elderly tenants is the rent supplement program. But it now serves only about 4,200 persons. And many older Americans are discovering that a badly needed social security increase can push them above the qualifying income limitations, and eventually lead to a forfeiture of this valuable assistance. This problem is symptomatic of the urgent need for further improvements in the rent supplement program.

### SECTION 235 HOUSING

Another program requiring reform is FHA section 235, which provides homeownership assistance for low- and moderate-income families. With the Federal Government underwriting the interest cost above 1 percent, this is undoubtedly one of the most costly programs ever conceived. Several leading authorities have pointed out that a $15,000 home could cost the Federal Government nearly $25,000 in interest subsidies over a 40-year period. Additionally, this program has been attacked because:

FHA has permitted real estate speculators to sell substandard homes at inflated prices, oftentimes receiving as much as a 150-percent markup.

It has led to instant slums in certain instances because of shoddy workmanship, poor site planning, and substandard materials.

### SECTION 202 AND SECTION 236: A MOUNTING CONTROVERSY

Now I would like to turn to the section 236 interest subsidy program which provides rental units for low- and moderate-income families of all age groups. Under this program, the Federal Government assumes the difference in interest from the market rate less the 1 percent paid by the sponsor.

Unfortunately this program has led to the abandonment of the popular section 202 housing for the elderly program, which authorized direct loans at 3-percent interest to nonprofit sponsors.

I have consistently argued that the Congress intended the 202 and the 236 program to coexist. However, HUD administrative decisions have required the mandatory transfer of all 202 applicants to 236.

This is extremely shortsighted, in my judgment. By now the arguments pro and con on this issue are well known:

First. Section 202 has been one of the most successful housing programs in our history, providing 45,000 units without a single failure during the 10 years of its existence.

Second. It was one of the two housing programs exclusively for older Americans and specifically designed for their needs. By contrast section 236 serves all ages and has no special design criteria for seniors.

Third. Section 202 loans were repaid to the Government with 3-percent interest. The amount of this yearly interest return created a revolving fund which meant that the same funds could be used again and again. On the other hand section 236 can result in staggering costs for the Government over the long haul. A $3 million project can, for example, cost the Federal Government $8 million in interest over a 40-year mortgage.

### A NATIONAL HOUSING POLICY FOR OLDER AMERICANS

A brief description of existing programs and the recent White House Conference recommendation makes a compelling case of the need for a new national housing policy for the elderly.

Just as evident is the fact that some of these needs are more immediate than others. As always we must face the question of priorities. I will focus on a few of these critical items, although they must continue to be viewed as part of a broader policy.

At the same time I am happy to report that the Senate Committee on Banking, Housing and Urban Affairs, of which I am a member, has acted favorably on some of the following proposals. I understand that the committee's report will be released on February 28.

One. The first and the most pressing need in my judgment is to resolve the dispute over 202 and 236. I am painfully aware of the fact that the elderly are not served when the Congress and the administration engage in years of argument about the means of providing housing. On the other hand, we in the Congress are charged with the responsibility to initiate programs which are efficient and economical.

My position is essentially for the coexistence of sections 202 and 236. I believe this is what the Congress really intended all along. Accordingly I have proposed and the Senate Housing Subcommittee has accepted a $100 million increase in the appropriation for section 202 which will raise total authorizations from $650 to $750 million. At the same time I believe that section 502 of the administration's housing bill, S. 2049, should be perfected to assure that the successor program to 236 is responsive to the special needs of the elderly. My amendment to this effect has also been agreed to by the committee.

Two. Another critical problem for aged homeowners is the property tax, which in many cases is imposing an intolerable drain upon limited incomes. Large numbers are now being forced to liquidate their assets in order to pay for this mounting burden. Many are being forced onto the poverty rolls because the tax remains unchecked. In a 3-year period—from 1967 to 1970—property tax revenues increased by about 35 percent. And there appears to be no end in sight.

In far too many cases, a badly needed social security increase may be obliterated by a sharp rise in property taxes or rent. There is also compelling evidence to suggest that the elderly are hardest hit; many aged homeowners are turning over 20, 30, or 40 percent of their total income to the local assessor. In some cases, the tax bite is more than 50 percent of the retirement benefits.

A classic example occurred in my own State of New Jersey, where one elderly widow, with an annual income of only $1,176, was paying $796 for property taxes. This came to almost 70 percent of her total resources, leaving her only about $7 per week for food, clothing, transportation, medical care, maintenance of her home, and other expenses.

This is not an isolated story. The elderly are now being squeezed through the property tax wringer in every State of the Union. Their problems have reached crisis proportions and require immediate and far-reaching attention.

It is heartening to note that many State and local governments are now considering various alternatives to make the property tax more equitable, especially in view of the recent decisions in California, New Jersey, and elsewhere. However, it is quite likely that many years will elapse before all the issues related to these landmark cases are fully and effectively resolved. In the meantime, the overwhelmed elderly homeowner needs some form of relief from these confiscatory taxes.

And any proposal granting relief, I believe, should be based upon these fundamental concepts:

It should be available to the tenant as well as the homeowner.

This is essential because renters also feel the pinch from high property taxes, since this burden is frequently shifted by the landlord to the tenant.

Relief should be directed primarily at low- and moderate-income older Americans.

A "tier" or "step" system should be employed to provide the greatest assistance for the very low income person.

Relief should be as direct as possible and without cumbersome procedures to be eligible. For example, it may take the form of a tax refund or rebate for persons whose incomes are too small to file a tax return.

Property tax relief should be linked to property tax reform.

Federal assistance should be available to States which include these principles in any legislation to provide relief for aged homeowners and tenants.

The advantages of this approach are many. First, it can provide a badly needed element of economic justice by removing oppressive burdens for elderly persons who simply lack the resources to be saddled with this overwhelming responsibility. Second, it can provide urgently needed relief without the negative connotations associated with welfare, since the local public assistance office is bypassed. And finally, it can deliver the most effective relief for persons in greatest need—the low- and moderate-income aged homeowner and tenant.

Three. Another part of my legislative package will deal with rehabilitation of existing one-family or two-family homes.

Mr. President, I am well aware that the rehabilitation of such structures has fallen under a cloud of suspicion because of recent criticisms of the 235 program, as described earlier.

My rehabilitation program, however, would differ considerably from the mechanisms used under 235. Instead of rehabilitating for one family or couple, my proposal will call for renovation in such a way that several elderly persons could share a private house formerly occupied by only one family or couple.

A model for this kind of program already exists. The Philadelphia Geriatric Center, improvising with fragments of existing programs, has purchased nine row homes in an age-integrated neighborhood adjacent to its hospital, nursing home, and apartment units. Several of the homes have already been renovated to furnish low-cost housing for three or four elderly persons in each building. Each person has a private efficiency apartment and each person has access to a common living room and kitchen-dining area.

Center officials describe such an arrangement as "intermediate housing" which is especially suitable for persons who may not require the degree of service provided by institutions and yet do not wish to live in large age-segregated buildings. Center officials screen potential tenants to assure compatability with other tenants and compatability with the very concept of intermediate living. In addition, the center provides services: the elderly are not put in a "unit" and then forgotten, as is so often the case in other forms of housing.

I believe that the Philadelphia experiment should be applied on a broader scale, and I am now attempting to determine whether new legislation would be needed to do so, or whether HUD can be persuaded to use existing authority to provide incentives for similar projects under varying circumstances in Philadelphia and perhaps in other cities.

Four. Just as I believe that present programs should be explored for possible authority for the intermediate housing program, so do I suspect that much more could be done with present resources for other purposes.

For that reason I am today writing to Dr. Arthur Flemming, Chairman of the continuing White House Conference on Aging and Special Consultant to the President on Aging, to propose the following:

Dr. Flemming should meet with representatives of HUD, HEW, and other appropriate departments or agencies to design and implement—at the earliest possible date—several prototype projects which mobilize existing programs for experimental purposes.

Please notice that I use the word "prototype," not "demonstration." In bits and pieces, in one way or another, many concepts related to housing have been tested and have proven their worth.

The trick now is to put the demonstration successes together into prototype projects which will combine several useful concepts at once. And a number of models already exist for possible future development, including:

In an urban setting, living units should be mixed with buildings offering intermediate and more extensive medical care. Service centers should be established. Youngsters could be recruited into a Security Corps. A day care center could be provided for young and old.

In a suburban setting near a college campus, housing should be provided to promote interchange between retired persons and students. Outreach could be provided for satellite services, and the communication between young and old could lead to development of a center for gerontological studies.

In rural areas, experiments should be conducted to promote greater flexibility in the use of Farmers Home Administration Loans.

Dr. Flemming—known as a man capable of cutting red tape and transforming concepts into action—is now in an ideal position to win clearance for these prototype projects in a matter of months instead of the 2- to 3-year processing period which so often hamstrings innovative proposals.

Five. Public housing certainly has a place in any housing program for older Americans, despite the very critical problems I discussed earlier.

But, several improvements are needed now to improve this program. A major step forward, in my judgment, would be to implement the congregate meal services provision of the 1970 Housing Act. This measure would broaden public housing coverage to include central dining facilities for elderly persons who cannot move around well enough to do their own cooking or shopping.

Perhaps even more significant, this proposal could have potentially far reaching implications on a number of key fronts. It can enable many elderly persons to remain in their own homes, rather than being unnecessarily or prematurely institutionalized at a much higher public cost. Most older Americans would prefer to live in their own home, instead of a nursing home. Equally significant, this measure can provide the heart of a new approach for social services for the aged. It can also provide the foundation for a comprehensive and coordinated network of services for their total housing needs.

Despite the overwhelming support for this concept, HUD has been dragging its feet in implementing this vital reform. Not one project has been built under this measure, even though this legislation was signed into law more than 1 year ago. For that matter, regulations to implement this provision were approved only recently. This slow-motion pace must end now, and I urge HUD to begin steps immediately to implement this measure.

Equally important, security arrangements must be substantially improved. Today far too many elderly tenants are living under a form of "house arrest." They live under a constant fear of being mugged, robbed, beaten, or vandalized.

However, several steps can be taken to control and prevent crime in public housing neighborhoods. For example, Federal funding to help housing authorities improve lighting can help immeasurably. In several communities where lighting has been improved in high crime areas, there has been a significant reduction in the crime rate. This was clearly revealed in a recent survey of 1,300 police officials throughout the Nation. Of this total, nearly 85 percent reported a drop in the crime rate with an improvement in street lighting, and with good lighting, 42 percent of the officials reported a 50 percent reduction in crimes.

And above all, Federal funding must be released to provide trained security personnel at public housing projects. This measure can be one of the most important weapons in our arsenal to make public housing projects safe for its occupants. The Congress spoke out forcefully and clearly in the 1970 Housing Act that this provision should be implemented. And now is the time for HUD to carry out this strong expression of congressional intent.

Other arrangements should also be explored, including:

Additional security personnel at public housing projects during the first part of the month when elderly tenants receive their social security checks;

Development of a system to process lost or stolen food stamps;

Promotion of cooperative arrangements with local police departments to provide greater security during the evenings or at times during the month when the aged receive retirement or public assistance checks; and

Proper design of public housing facilities, to minimize the tenant's vulnerability to crime.

Six. Clearly, a policy and program on housing for the elderly will not take shape until HUD provides organizational muscle to make things happen.

As things stand now, HUD is divided into two major halves: production and management. Housing for older Americans too often falls in between the two divisions. Even though a small unit of housing for the elderly and the handicapped struggles nobly, it is understaffed and tucked away into the boondock regions of the management section of HUD.

We need an advocate for the elderly in HUD. And that advocate should have the power to make policy and to make certain that the policy has high priority.

For that reason, I call again for action on my bill, S. 1935, which would establish the post of Assistant Secretary for Housing of the Elderly. I might add that I was most pleased that the White House Conferees adopted this proposal as one of their major recommendations.

The Assistant Secretary would, as I have indicated, be a visible advocate of the elderly, he would administer and coordinate housing programs for older Americans. His office would serve as a clearinghouse for information and would be in the position to formulate a comprehensive response to the needs of the elderly.

The Secretary would be in charge of

administering my new housing program when it passes the Congress, which would include elements of the old direct loan program along with appropriate services including the social, nutritional, health, and recreational needs of citizens.

As specified in the White House Conference recommendation, he would have charge of that portion of 236 funds earmarked for the elderly and would be responsible to see that the goal of 120,000 units for the elderly is met.

The Assistant Secretary should institute a number of demonstration projects which I am now proposing:

First. Projects to test increased physical—fire—and environmental safety—crime—of federally assisted housing projects.

Second. A pilot program to assist families to house their elderly in their own homes, on a much more extensive basis than now contemplated.

Third. Housing allowances for the elderly.

Fourth. Senior citizen day care centers.

Fifth. Proposals to aid older Americans in the repair and rehabilitation of their homes.

I am pleased to announce that the Housing Subcommittee has accepted an amendment to the administration's Housing Consolidation Act (S. 2049) which calls for the creation of the Office of Deputy Assistant Secretary of Housing for the elderly. Certainly this is an important step toward meeting the goal of my bill, S. 1935, and the recommendations of the White House Conference.

I must say that I am gratified that the Housing Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs has adopted the three amendments I have already mentioned. This is a fine beginning toward realizing the goal of an effective national housing policy. But it is only a beginning.

I have attempted today to offer some of the ingredients of a comprehensive national policy, the elderly unlike younger families, spend most of their time in their homes and apartments. It is, therefore, vital that Federal programs endeavor to provide them with more than just the cold basic bricks and mortar. It should be our goal to allow our older Americans to live in dignity, independently as long as they can or desire to do so. This is little more than the basic right of all men. The alternatives are a loss both to the community and to the individual. I will not quote statistics about how many of our elderly are unnecessarily institutionalized at this point, except to point out that each case represents a failure of society. The time has come to keep the promises easily made and so easily broken to our older Americans. It is time a decent and safe living environment becomes a reality for our 20 million elderly.

## CARL HAYDEN—A SENATOR'S SENATOR

Mr. SYMINGTON. Mr. President, one of the true priviliges of being a U.S. Senator in recent years was the opportunity of serving with an American whose public career is unique in the history of the United States—Carl Hayden of Arizona.

No Senator ever had more friends. Each year that he served he increased that number—and today they are countless because he has the honor of the longest tenure in the history of the U.S. Congress.

As a Senator from his State for nearly half a century, he became known as a man who worked hard, said little, and accomplished much.

No one could ever forget his short but moving talk the day he announced his retirement, a sad day for the people of this Nation.

A county sheriff before coming to Washington, the pioneer Arizona lawmaker served during the terms of 10 Presidents, from William Howard Taft to Lyndon Johnson, and was regarded by all of them as a trusted friend and valuable counsel.

Senator Hayden was a member of the Appropriations Committee ever since his election to the Senate. He was chairman of that committee for 14 years prior to his retirement. As President pro tempore of the Senate, as well, he made significant additional contributions of service.

Senator Hayden's deep affection for the West, particularly for his State of Arizona, was best characterized by his enormous dedication to the concerns of his constituents. At the same time, he always weighed the good of his country with the needs of his State, and because of his invariably fair judgment was referred to by former President Johnson as the third Senator from every State.

Carl Hayden will long be one of the most sorely missed Members of the Senate. We could never repay him for all he has done for the Nation he loved so much and served so well. His life and the history he helped write will always be a source of inspiration and an ideal model for all present and future public servants.

## TRIBUTE TO THE LATE SENATOR CARL HAYDEN

Mr. CASE. Mr. President, Carl Hayden was already a veteran legislator when I first came to Congress in the forties.

He truly became a legend in his time, a bridge between the days of the pioneers and our modern society.

Arizona was fortunate indeed to have such an able advocate in the Halls of Congress.

## EXTENSION OF HUNGER COMMITTEE

Mr. PERCY. Mr. President, I had the honor to appear this week with the distinguished Senator from South Dakota (Mr. McGovern) before the Committee on Rules and Administration to testify in support of Senate Resolution 241 to extend the life of the Select Committee on Nutrition and Human Needs for 1 year.

I believe our committee has done much in the past year to eliminate hunger and malnutrition in America. And this administration has done more to expand the coverage of our major food and nutrition programs than any previous administration.

But our work is not yet done. We have not yet fulfilled our pledge to the American people to win the war against hunger and malnutrition in this country. That is why we must allow the work of the Select Committee to continue.

Mr. President, I have received many letters from around the country which carry this same appeal: Let the contribution of the Select Committee on Nutrition and Human Needs continue. I ask unanimous consent that three of these letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

American School Food
Service Association,
*Denver, Colo., January 28, 1972.*

Hon. Charles H. Percy,
*Senator from Illinois,*
*New Senate Office Building,*
*Washington, D.C.*

Dear Senator Percy: Our Washington office has advised me today that on Wednesday, February 2, 1972, the Senate will again consider extending the life of the Senate Select Committee on Nutrition and Human Needs. *I would again wish to raise my voice to urge that this Committee be continued.*

On October 13, 1971 when I had the privilege of testifying before this Committee, I expressed on behalf of the 50,000 members of our organization and on behalf of the 50 million school children of this nation, our appreciation for the work of this Committee.

I wish to again express such appreciation on behalf of our members, the children, and—indeed—every individual in our nation.

Sincerely,

John Perryman.

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State of Georgia,
Office of School
Administrative Services,
*Chicago, Ill., February 16, 1972.*

Hon. Charles Percy,
*U.S. Senator,*
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Percy: May I take this opportunity to express my appreciation to you and the other members of the Senate Select Committee on Nutrition and Human Needs for the magnificent contribution made to the School Food Service Program.

Since 1968 the number of needy children being served through Child Nutrition Programs has more than doubled. The work of the Senate Nutrition Committee is reflected in this growth. As a State Food Service Director, I can assure you that the present level of funding, and method of funding makes the task of reaching children much easier.

Although tremendous gains have been made, we must not rest until all children needing a lunch at school have that opportunity. Therefore, I am hopeful that the Senate Nutrition Committee will continue its efforts to the end that the nation has a Child Nutrition Program responsive to the nutritional needs of all children.

Sincerely yours,

Josephine Martin,
*Chairman, Legislative Committee,*
*American School Food Service Association.*

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The American Dietetic Association,
*Chicago, Ill., February 16, 1972.*

Hon. Charles Percy,
*New Senate Office Building,*
*Washington, D.C.*

Dear Senator Percy: I am writing on behalf of the 23,000 members of The American Dietetic Association to urge approval of the legislation that is required to extend for an additional year the Select Committee on Nutrition and Human Needs. This Committee has contributed greatly to improving nutrition and food assistance programs in the United States. Many unmet needs, however, in the field of nutrition continue to confront our nation. We believe that the Select Committee on Nutrition and Human Needs will provide a useful forum for the discussion of nutrition problems.

With best wishes, I am

Sincerely,

KATHARINE E. MANCHESTER,
*President.*

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## THE HONORABLE ALF M. LANDON INTERVIEWED

Mr. DOLE. Mr. President, there are never sufficient numbers of senior statesmen, who are wise and able to view present events in the perspective of many past battles and prior experiences. Thus, it is a cherished occasion when we are privileged to share the views of these great men, especially rewarding when we are afforded the opportunity of sharing the views on the issues with one who is held in such high, universal esteem as the Honorable Alf M. Landon, former Governor of Kansas and Republican presidential candidate. Recently, the American people were afforded such an opportunity when he was interviewed by Elizabeth Drew on "Thirty Minutes With . . . ," a production of the National Public Affairs Center for Television, seen on the Public Broadcasting Service.

Mr. President, I believe my colleagues would appreciate the thoughts, reflections, and wisdom of Alf Landon, and I ask unanimous consent that the text of the broadcast be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

PROCEEDINGS OF INTERVIEW

NARRATOR. In Topeka, Kansas, Thirty Minutes With . . . Alf Landon, Republican candidate for President in 1936, two term Governor of Kansas, and Elizabeth Drew.

Mrs. DREW. Governor Landon, you are now one of the statesmen of the Republican Party, a leader of its progressive wing, frequently consulted by politicians. How do you assess President Nixon's chances of reelection?

Mr. LANDON. I couldn't give you any accurate answer to that this far ahead of time. There's too many events going to occur in the world and in the United States that will have a definite effect on that election and to attempt to appraise it at this time would not be accurate entirely, but as it looks now I would say that the chances of his election, odds are 3 to 2.

Mrs. DREW. 3 to 2?

Mr. LANDON. At least.

Mrs. DREW. That makes him not a shoo-in though.

Mr. LANDON. Well, it don't make him a shoo-in but that's the best, the nearest I can give you to an honest appraisal of the political situation as I see it today and if Mr. Nixon continues his enlightened and vigorous constructive leadership, as I am sure he will, and as he has time for these policies to mature which he will have in the coming ten months or so, I am sure his chances of election will be better in next November than they really are today.

Mrs. DREW. Now you were not for his nomination in 1968.

Mr. LANDON. No.

Mrs. DREW. How do you assess the job he has done? You say he's enlightened and constructive. Why are you more enthusiastic now than you were?

Mr. LANDON. Well, one, he has reversed the jingoism of the previous administrations and the containment of communism policy, for instance, by force around over the world and has pursued a course which by and large really follows the outline of President Kennedy's American University speech in which he did not have the time to develop of course because of the unfortunate tragedy but in which he outlined the policies which the President is now—President Nixon is now continuing to develop of negotiation.

Mrs. DREW. Now you urged the recognition of Red China into admission into the United Nations I think as early as 1948.

Mr. LANDON. As the charter is being written in San Francisco I said you couldn't leave out—it wouldn't possibly work leaving out the country of that size. I didn't say it would work if China was in it but at least we see for the first time in an organization designed for peace all the major powers of the world together. Now in the League of Nations one of the arguments at the time was the failure of the League of Nations was due to the absence of America because we hadn't joined. I didn't think that made much difference. Regardless of whether that was true or not today for the first time all the major countries of the world are together in the United Nations.

Mrs. DREW. I interrupted you when you were talking about Mr. Nixon's achievements but I assume that that would be one that you would be quite pleased with, having——

Mr. LANDON. Very, very definitely yes.

Mrs. DREW. Go on why else?

Mr. LANDON. And the second—the domestic policies. I like his domestic policies. He started out with the more orthodox fiscal policy of attempting to remove the uncertainty regarding the American dollar in the international monetary markets of the world and when he found that didn't work, he was perfectly willing to adjust and fit to the situation that existed and he found it necessary to change his policies. He's done it. Done that and the universal acceptance of the so-called stabilization of the American dollar today in the international market—monetary markets of the world. The problem of the dollar started about seven or eight years ago with our failure to meet our payments abroad and that gradually built up to an enormous deficit. Then compounding that in the last two years or so, the balance of trade turned against us.

The balance of payments had been against us all these years and were building up, adding to our deficit and then in about—about two years ago that was compounded when the balance of trade turned against us so that he had both problems to deal with and I think there's general acceptance that his —by Democrat economists at least like Walter Heller for instance—that as to the soundness of his present monetary policies.

Mrs. DREW. You know one of the issues that the politicians talk about and argue over and I am sure will come up in the course of the next year is whether or not the mood of this country is one of unease or how much unease there is. I wonder as you sit here in Kansas how you see the mood of the country?

Mr. LANDON. I think there is an uneasiness, frustrations when economic conditions are not good, there is generally—a general mood of as you say frustration and uneasiness. If the economic conditions improve, as they improve it tends to eliminate that uncertainty. Along with that of course thoroughly aside from the economic conditions are other factors involved in the present mood of the country today.

Mrs. DREW. What are they?

Mr. LANDON. Well, primarily ethnic groups for one reason. The problems of getting along together as it were in America which is nothing particularly new about them. It's old. We're a country based, built by ethnic groups. Go back to the old no-nothing campaigns, back in the 1850s which were anti-Irish and anti-Catholic so this problem of getting along together is a problem that we've had to work with a good bit of our national life.

Mr. DREW. Do you think we're getting better at it or worse at it?

Mr. LANDON. I think we're getting better at it all the time and take the Afro-American problem. Before that it was in the early days of infancy as I said the Irish and then became the Italian immigration into our country and the different groups. We had a big German and Swede immigration after the Civil War period in the seventies and eighties especially. All of these ethnic groups had to be adjusted one way or another with the other ethnic groups which is America.

Mrs. DREW. Speaking again of the mood what do you make of the polls that have been coming out that show us a rather sharp decline in public confidence in virtually all institutions, whether it's business or government or what have you?

Mr. LANDON. That was true back in the thirties with the great depression of the thirties and it disappeared for the time being. Go back to the adjustments to the Civil War in the 1880s and 1890s. There was the same difficulties. As I say it's more than economic. Today we have changed from the Agrarian civilization to an industrial civilization. That's one of the factors involved. The adjustment to city life by a great shifting of, increase of population coming from the more rural areas.

All of that—America has never had the old established society of Europe, for instance. We move around in this country. It's easy to move around and we, not only into new occupations but along with the new occupations we have entirely a change of living conditions.

Mrs. DREW. I'd like to go back to that poll and break it down a little bit. Let's start with business. Do you think it's responsive enough to the public?

Mr. LANDON. I think part of the trouble today in the lack of credibility that you are talking about is the lack of responsibility of big business. Public responsibility and they're commencing paying for that folly. Today I think there is more realization in management of their public obligations and responsibilities as well as their profit and loss statement for their stockholders than there was five years ago, for instance.

Mrs. DREW. Do you think the government should be coming to the rescue of Lockheed or Penn Central?

Mr. LANDON. I did not. I didn't think we had any more business coming to their rescue of Lockhed and——

Mrs. DREW. Penn Central.

Mr. LANDON. Penn Central than bailing out all bankrupt concerns, bankrupt through mismanagement.

Mrs. DREW. Going to politics for a minute, the decline of confidence there has to—seems to have to do with the way politicians make decisions, the money they seem to need, the secrecy with which some of these arrangements are made, is that different from things you've seen before?

Mr. LANDON. No. This is different though that today first you started with the growth of the daily newspapers through the wire associations and so forth and then you come down to the news—atomic media today and both TV and radio bring government in Washington closer at home today than it's ever been. They bring it in the homes if you please so that government in Washington or in the state capitol for that matter with the people for instance out in the other areas of the state are really today more coverage—there's more coverage of them and as a result there's more information today than ever existed before in this history of our country and when the—and the feeling that they don't know as much as they should is a natural corollary of that.

But when you come right down to it, as I say, owing to the news coverage today, the press and the electronic news, there's more multiplicity of information available to the average citizen than ever before in the history of our country or probably any other country in the world.

Mrs. Drew. You were involved in reform in Teddy Roosevelt's Bull Moose movement. Is that very different from some of the reform movements you see now?

Mr. Landon. Well, you know Teddy Roosevelt's progressive slogan was "Pass Prosperity Around." What's the difference between that and what the government is doing today?

Mrs. Drew. But weren't you also involved in some of the reform of the process of politic and state government?

Mr. Landon. Well, us young fellows, we were the wild eyed boys back in those days, the old progressive bunch. We thought we had all the answers to the problems of our government, state and national, in popular elections, United States Senators, primaries. We thought that that was going to solve the problems of our government in those days. Well, it just doesn't work out that way but there has never been a time as a result of the primary and the popular election of the United States Senators I can remember before we had that here in Kansas when the Senators from Kansas was known in the old days—one of them was known as the Santa Fe Senator and the other one the Union Pacific Senator, United States Senators. In the vernacular of the day, how true that was I don't know because that goes way back into the eighties and nineties.

Mrs. Drew. How about the State House? Was it true everybody had a railroad pass?

Mr. Landon. Oh, in the past legislation for instance, you're talking about. It was a great issue during 19—say about 1907. In those days when a man was elected to the legislature he immediately got a railroad pass from his home to Topeka and back so that the anti-pass legislation removed—there was quite a fight over it in the legislature in 1907. I was going to law school down at KU. I remember being here at the session in the House when the debate was going on. The legislators didn't like to give up those free passes but they did and that's another evidence, factor, of the change for the better that's taking place in our government.

Mrs. Drew. Why has the Republican Party remained a minority party?

Mr. Landon. That would take quite an answer. Without making it too short I must say that I am not sure when we were the majority party that we were meeting the demands of the times. We were in tune with the demands of the times. I think Mr. Nixon is and that's why I like what he's doing.

Mrs. Drew. But he's still a minority President?

Mr. Landon. Yes, but he might not be by the time he gets through. For instance, we've talked about his foreign policy. We talked about the domestic economy. I like his support of what's known as the Moynihan Plan.

Mrs. Drew. The Moynihan Plan, you mean for welfare reforms?

Mr. Landon. Yes. I think our national welfare programs—I think it's been a national scandal all these years and——

Mrs. Drew. Which part are you scandalized by? Different people have different reasons for being scandalized. Some say it's because people receive too much and some say it's because they don't receive enough.

Mr. Landon. I don't think that it—I wouldn't describe it to agree with that description alone. It's been more the equitable distribution and hasn't reached the people who need it really. Now in a nutshell the Moynihan Plan or Nixon Plan is designed to enable the poor to break out of the circle of poverty that they're in. Now what the difference between that and underwriting Penn Central and Lockheed for their poor management.

Mrs. Drew. You're for helping the poor but not for Lockheed and Penn Central. We stay clear on that.

Mr. Landon. That's right, but the very people that are for Lockheed and Union Central bailing out, they're not for the——

Mrs. Drew. They're in your party. How do you——

Mr. Landon. Well, they're in the Democrat Party too as far as that goes. They're not for bailing out—this is a Democratic Congress. If the Moynihan Plan hasn't been passed which the President would make amended to the Democrat Congress its first session, it's the Democrat Party's fault.

Mrs. Drew. Well, you know how these things work out, that Republicans and southern Democrats get together against——

Mr. Landon. I don't think so.

Mrs. Drew. You don't think so?

Mr. Landon. No.

Mrs. Drew. I'd like to go back to the parties for just a minute and ask you something else which is how do you account for the fact that fewer people are identifying with either party and there's a rise in what people identify themselves as independents.

Mr. Landon. Party lines started breaking down in the Republican Party in the north and the Bull Moose Progressive Party campaigns in 1912 and 1914. They broke down somewhat in the south in the Al Smith campaign in 1928 but they really didn't start breaking down until the Dixiecrat ticket of Strom Thurmond in 1948 and it's been a little slower down there than it has elsewhere in the country, but this party lines generally have been breaking down. Now that's both good and bad. My recomm—because a strong party organization responsive to the demands of the time is really important to achieve legislation and administration both.

On the other hand, I never did believe in voting for a yellow dog because he's on the party ticket.

Mrs. Drew. Do you think there's a chance we might be getting to a period when the two party system as we've known it is just not going to exist?

Mr. Landon. I think Mr. Nixon's so-called southern strategy, the long-range implication of that has been completely overlooked. It's been talked about just on the basis of his campaign for reelection. Now the Democrat Party following the Civil War, base was in the south. It was really a regional party until Mr. Roosevelt put a firm base under the Democrat Party in the northern states.

In these years the Republican Party has really been a regional party. Mr. Nixon is trying to put a base under it in the southern states. So if he's successful for the first time in a little better than 100 years, we'll have two really genuine national major parties in America.

Mrs. Drew. I want to ask you a question about yourself for just a moment. You're, if you don't mind my saying it,

Mr. Landon. Go ahead.

Mrs. Drew. 84. You run your businesses in radio and oil and you talk to the politicians across the country. How do you keep up and how do you keep in such shape?

Mr. Landon. Well——

Mrs. Drew. It's really two questions there.

Mr. Landon. First thing as I take it, I like to get in horseback riding early in the morning.

Mrs. Drew. What's early?

Mr. Landon. Depends on the time of year and the weather. In the summertime, spring and late spring and summer and early fall, I like to be out at least down at the barn around 6:30 or something like that.

Mrs. Drew. That's early.

Mr. Landon. And sometimes I don't get out—I don't get out as early as I used to and I don't ride as far and as fast as I used to. But I still like to get out on the horse in the morning and after that why, then I enjoy other activities.

Mrs. Drew. How do you stay informed enough to be talking to the Senators and people in your party. What do you read?

Mr. Landon. I read the newspaper pretty close and——

Mrs. Drew. Several of them?

Mr. Landon. Yes and I read—I listen to the news broadcasts in the later afternoon and evening and then there's always some very interesting and goodlooking women like you come along and keep me on my toes like this interview.

Mrs. Drew. Thank you. What do you see has happened to the institution of the Presidency versus the Congress in their relative strength. This is something we worry about a lot.

Mr. Landon. I don't worry about it. I think the Congress is the one that had neglected their constitutional responsibility.

Mrs. Drew. In what way?

Mr. Landon. Over treaties, for instance. I fully supported Senator Fulbright's moves to bring back to the Congress—to the Senate their responsibility over the commitments that our President might be making around over the country. Instead of submitting them in the agreement that he was making to the Congress—to the Senate for advice and consent why he was making what came to be known as executive agreements which at the same time could be as binding as really formal treaty.

Mrs. Drew. Is this a recent thing though. Are you talking just about President Johnson?

Mr. Landon. No, I am talking about Woodrow Wilson had us into the Mexico—war with Mexico both on land and sea before he had—without declaration of war. Roosevelt had us in World War II a year before he asked Congress for a declaration of war. President Truman went into Korea, a decision between night and morning. I praised him at the time. Colgate University—for his courage.

Mrs. Drew. Governor Landon. Thank you, Governor we've run out of time. Thank you very much.

Narrator. In Topeka, Kansas, Thirty Minutes With . . . Alf Landon and Elizabeth Drew.

This has been a production of NPACT, the National Public Affairs Center for Television.

## CBW OPERATIONS IN ALASKA

Mr. GRAVEL. Mr. President, 4 years ago a malfunctioning valve on a test aircraft resulted in the death of more than 4,000 sheep in the valleys near the Dugway, Utah, proving grounds. This accident blew the cover off the Army's secret chemical and biological warfare (CBW) program. At that time the public hardly knew the CBW program existed, including the CBW test mission conducted by the Army's Arctic Test Center at Fort Greely, Alaska.

Since I first learned of the Army's loss of a cache of nerve gas rockets and artillery shells at Fort Greely, I have addressed numerous inquiries to the Secretary of Defense concerning CBW activities. I have been appalled by the difficulty I have encountered in obtaining meaningful and accurate information from the Department of Defense on these matters.

Recently I received a letter from Dr. Richard A. Fineberg, assistant professor of political science at the University of Alaska, detailing some of the questions about CBW testing in Alaska that remain unanswered after more than 2 years of painstaking research. Dr. Fineberg has made a thorough study of the

Army's CBW activities in Alaska, and his book on this subject, The Dragon Goes North: Chemical and Biological Warfare Testing in Alaska, will be published shortly by McNally and Laftin of Santa Barbara, Calif. I think the issues raised by Dr. Fineberg in his letter are of importance to the Senate, and I request that it be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 15, 1972.

Hon. MIKE GRAVEL,
*U.S. Senate,*
*Washington, D. C.*

DEAR SENATOR GRAVEL: While investigating the chemical and biological warfare (CBW) program in Alaska, I raised several questions which remain unresolved to date. I believe that these matters warrant further inquiries to the Department of Defense. The material on which these questions are based is quoted in full in the appendices to my book, *The Dragon Goes North: Chemical and Biological Warfare Testing in Alaska*, to be published shortly by McNally and Loftin, Santa Barbara, California.

1. When I disclosed in June 1970 that the Army drained a small lake in Alaska to recover missing nerve gas weapons from the bottom of the lake, the Army hastened to inform members of Congress that "(d)uring the entire operation no lethal chemical agent was released into the atmosphere, and no personnel were exposed to the agents." ("Information for Members of Congress," furnished by Office, Chief of Legislative Liaison, Department of the Army, June 5, 1970.)

But the following month the Army informed me that during the strange recovery operation at least one artillery shell containing nerve gas was observed leaking and that at least two persons were treated as "possible exposure" cases—one in connection with the leaking shell. (Material included in letter from August T. McColgan, Information Officer, Headquarters, U.S. Army Test and Evaluation Command, July 10, 1970.)

Strangely enough, the Army's "final reply" to inquiries about this incident, drafted several months after I had been informed by the Army of the gas leakage and possible exposure cases, did not correct the erroneous statement you had received from the Army June 5, 1970. (Letter to Sen. Gravel from Col. Philo G. Hutcheson, Colonel, GS, Office, Chief of Legislative Liaison, Department of the Army, Dec. 21, 1970).

The Army subsequently corrected its self-styled "final reply" in a letter to you released publicly some months later. In this letter, the Army said that "certain conflicting information" in the case became available after the final reply to your questions had been drafted. But the Army had advised me of this information nearly six months before the Army answered your queries. (Letter to Sen. Gravel from Col. Hutcheson, July 2, 1971).

I can only conclude that the Army was either unable or unwilling to apprise you of the actual situation at Ft. Greely. Should Congress tolerate this kind of obfuscation of matters of public concern?

2. Two servicemen stationed at Ft. Greely, Alaska, have died of pneumonia—one in 1969 and one in 1970. Pneumonia is seldom fatal to healthy young males. Ft. Greely was the site of open-air biological agent weapons tests in 1966 and 1967. The only biological agent the Army has acknowledged testing is tularemia (rabbit fever), a disease which frequently develops into pneumonia. You asked the Army to look into this matter April 20, 1971.

In response to your inquiry, the Army said that a complete and thorough review of the records disclosed no evidence to support the possible involvement of *chemical* agents in the death of either serviceman. (letter from Hutcheson, June 2, 1971.)

The so-called "complete and thorough review" failed to mention the possibility that *biological* agents might have been implicated. As you are well aware, the Army draws a clear-cut distinction between chemical and biological agents; tularemia is a biological, not a chemical.

You also asked the Army about the discrepancy between the hand-written physician's account and the typewritten summary covering the case of one of the deceased servicemen. The Army responded that none of the handwritten statements in the clinical record were altered, nor were additional statements inserted. As the copy of the deceased servicemen's hospital records I submitted to you last February indicate, there is indeed a change in the typewritten reports prepared by the Army after the patient's death.

When he was admitted to the Army hospital at Ft. Wainwright May 3, 1969, the deceased was seen by Maj. Tom Carter, M.D. Maj. Carter's handwritten interview notes were brief:

25 y.o. caucasian male developed fever & chills yesterday pm, nausea this afternoon, and now mod. productive cough. Denies pains or aches, previous URI [upper respiratary tract infection], drinking spree, etc. Has had mild headache this afternoon.

In the narrative summary of the case, typewritten three weeks after the serviceman's subsequent death, Maj. Carter's handwritten comments were expanded to include the phrase "specifically he denies . . . exposure to gaseous toxins." The typewritten summary in the record reads:

This 25-year-old white male entered with a chief complaint of cough and fever for 24 hours, which began in the afternoon of the day prior to admission, slowly progressed to include nausea, and eventually a productive cough. Specifically he denies having a previous upper respiratory tract infection, generalized myalgia or arthralgia, excessive ingestion of any medications or ethanol, nor any exposure to gaseous toxins. At the time of admission his only additional complaint was that of a mild headache.

Clearly there is an addition in the typewritten account. There is no basis in the handwritten notes for the reference to gaseous toxins inserted into the typewritten account prepared after the serviceman's death. Additional circumstances detailed in my book make it reasonable to inquire about the possibility of a link between CBW and these cases. Here again, however, the Army appears to be either unwilling or unable to respond meaningfully to legitimate inquiries.

3. For over a year I tried to learn about alleged CBW operations northwest of Clear, over 100 miles from Ft. Greely. Inquiries through Ft. Greely and the Army's test and Evaluation Command (TECOM) yielded no information until I finally pinpointed a precise location through non-military sources. Then, and only then, did TECOM belatedly admit that there had been a "meteorological test" at the site in question in 1968. After a year of dodging inquiries, the Army conceded that "to the uninitiated . . . this could have been mistaken for Chemical or Biological test operations." (Letter from McColgan, June 25, 1971.)

TECOM might have added that the ecological research group the Army employed to monitor the biological tests at Ft. Greely was dispatched to the remote site near Clear, that the operation was linked to Ft. Greely's Nuclear, Biological and Chemical test division, as well as the Desert Test Center (a Utah CBW test unit), and that the Bureau of Land Management, the federal agency responsible for administering the land used for this test, was not consulted.

Under what conditions can the Army use land managed by other federal agencies without first securing permission from that agency? This incident demonstrates the ease with which the Army could use a remote Alaskan site for almost any purpose it wishes—including CBW testing.

In my mind, these specific items raise serious questions concerning the Army's manipulation of the information it chooses to make public about CBW. These details are part of a pattern of duplicity which has characterized CBW operations in Alaska and elsewhere.

The President and Army public relations specialists would have us believe that the CBW program is being curtailed. Careful research and analysis indicates that this may not be the case. (See for example Arthur Kanegis and Lindsay Richards, "The Budget Gives the Game Away," *The Nation*, Oct. 11, pp. 337–340.)

The careful attention of Congress to the information submitted by the Department of Defense in accord with P.L. 91–121 and P.L. 91–441 is an important factor countering the continuation of a clandestine CBW program. As an Alaskan, I am grateful for your continued effort and energy looking into these matters.

Sincerely,
RICHARD A. FINEBERG, Ph. D.,
*Assistant Professor of Political Science.*

Mr. GRAVEL. Mr. President, each of the matters raised in this letter has been the subject of several inquiries to the Department of Defense by either myself or Dr. Fineberg. In each case the Army apparently has been either unwilling or unable to respond to the questions posed.

Section 409(b) of Public Law 91–121, as amended by section 506(a) of Public Law 92–441, provides that transportation, open-air testing, or disposal of all lethal chemical or biological agents shall not be effected until the Secretary of Defense has (a) determined that this action is necessary in the interests of national security, (b) consulted with the Secretary of Health, Education, and Welfare and implemented precautions recommended by his representatives, and (c) notified the President of the Senate and the Speaker of the House. These stipulations were enacted to insure congressional oversight of CBW activities after the accident at Dugway and other CBW fiascos were disclosed publicly.

Last summer a special team was flown to Alaska from Dugway to decontaminate two pits containing waste materials from previous chemical warfare tests at Fort Greely. Although the Army was concerned enough to dispatch specially trained personnel to Alaska and to provide them with protective clothing and equipment as a precautionary measure, the provisions of Public Law 91–121 and 91–441 mentioned above were not followed. I am deeply troubled by this apparent breach of statute in an area in which the Army's past record of clandestine activities—and mistakes—already has been well established.

The Fort Greely incident was first revealed in an article by Dr. Fineberg in the Anchorage Daily News, August 6, 1971, and I ask that it be printed in the RECORD.

The President and Secretary Laird have assured us that this country's CBW policies have been modified. I can only hope that this is the case. In the meantime, congressional oversight continues to be a critical factor in assuring safe, efficient, and reasonable management of CBW programs and policies.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Anchorage Daily News,
Aug. 6, 1971]

### CHEMICAL WARFARE WASTE—ARMY "CLEANING UP" PITS AT FORT GREELY

(By Dr. Richard A. Fineberg)

A special team has been flown into Alaska from the Dugway Proving Grounds in Utah to decontaminate two pits containing waste materials from chemical warfare tests at Gerstle River, about 30 miles south of Ft. Greely.

The Daily News learned that the seven technicians from the Utah chemical-biological warfare (CBW) facility are presently on a two-week assignment. Their mission began July 25 and is scheduled to end this week.

Disclosure of the operation was made by the Aberdeen Proving Grounds, Md., headquarters of the Army's Test and Evaluation Command, and was given to this reporter this week by Lt. Col. E. M. Hunt, executive officer of the Arctic Test Center (ATC) as Ft. Greely.

According to the Army's statement, the two pits "are being uncovered for inspection, further decontamination if necessary and removal to one of several consolidated disposal pits in the same area."

One of the pits was apparently used in 1961 to dispose of containers of distilled mustard gas. Mustard is a highly persistent blistering agent which was used during World War I. "The other pit is also believed to contain decontaminated residue from mustard agent tests," the statement notes.

"The Army is reasonably sure that no further residual contamination exists," according to the Aberdeen statement. Although no problems are anticipated, all personnel working on the project have protective clothing and equipment "as a precautionary measure."

Neither the size of the pits nor the number of personnel involved in the clean-up operation is known. The Army says only that the two pits are "small."

At least two dump trucks were observed at Gerstle River Monday. Both are reported to be 2½-ton vehicles. In addition, six men were spotted boarding a tracked vehicle at Gerstle River in the rain Monday morning.

Informed sources say that both the men and the trucks are working on the decontamination project. The Army reported in May that a crew of five men maintain the normally quiet chemical weapons test site at Gerstle.

The Army also says it has "no knowledge" of a large balloon seen flying about 200 feet above the compound at Gerstle River the week before the Dugway group arrived. Weather balloons are frequently used to gather data on local wind currents before dangerous CBW agents are released into the atmosphere.

The cream-colored balloon, about six feet in diameter, was anchored to a wire in the Gerstle River compound on at least one evening during the week of July 20. It was spotted by this reporter from the Alaska Highway. According to the Army, neither the ATC nor the Ft. Greely weather team, which maintains a station at Gerstle River, has knowledge of such a balloon.

The Army has been reluctant to comment on its activities at Gerstle River. Aides to Sen. Mike Gravel say that the senator asked the Army early in July about reports that groups from Dugway "come and go" from Ft. Greely, but the Army has not yet replied.

The command at Ft. Greely has a firm "no comment" for questions about Gerstle River. Lt. Col. Hunt reports that "my instructions are to record all questions and forward them to TECOM" (Test and Evaluation Command).

He says that he called TECOM headquarters at Aberdeen "on a daily basis" for more than a week in an effort to secure release of information concerning the Gerstle River clean-up operation.

The Army lost more than 200 rockets and artillery shells filled with deadly nerve gas at Gerstle River in 1966. The weapons were left on an ice-covered lake during mid-winter and sank to the bottom several months later during break-up. In 1969 the Army drained the lake to recover the missing weapons.

News of the nerve gas boondoggle surfaced nine months after the chemicals themselves. In its belated acknowledgement of the incident, the Army initially denied that any nerve gas had leaked or that there had been any instances of exposure. Subsequently, the Army admitted that at least one weapon had been leaking in 1966 when it was placed on the ice, that another was observed leaking during the 1969 recovery operation, and that there were two possible exposures to nerve gas while the rockets were being recovered.

## INDEPENDENCE OF ESTONIA

Mr. BEALL. Mr. President, on February 24 the peoples of the free world solemnly mark the 54th anniversary of the independence of Estonia. But its remembrance is not a cause for celebration, but rather for mourning and introspection. The Estonian people are not free, and their repression serves as another reminder to all of the dictatorial ambitions of the Soviet Union.

Estonia proclaimed her independence on February 24, 1918. On November 28 of that year, Soviet Russia attacked the new nation, embroiling its natives in a struggle for Estonian independence and freedom. With the help of volunteers from Finland, Denmark, and military supplies from other Western countries, the Estonians, against overwhelming odds, cleared their country of the enemy. The war came to an end with the signing of an armistice, followed by the Treaty of Peace in Tartu, Estonia, on February 2, 1920. In this treaty, Russia renounced forever any claims to the territory of Estonia.

But like countless other Soviet promises, this too was treacherously made to be broken. Forced by the Russo-German Non-Aggressive Pact to sign so-called pacts of mutual assistance with the Soviets in September–October 1939, the Estonians were subjected to the violent occupation of their nation by the Red army and secret police. Their government was replaced by Russian puppets, their constitutional rights were abolished, and tens of thousands of innocent people from all walks of life were arrested and sent to remote regions of Russian or summarily liquidated. The fire of freedom had been successfully extinguished by the Soviet tyrants.

We in America must continue to reaffirm our commitment to the captive people of Estonia, and do our active part to keep the message of hope alive. We look to the past in marking this day, but we must also look to the future. The aspirations of these enslaved people for equal justice and freedom cannot be allowed to die at the hands of Soviet oppressors.

We mark this occasion, not with the joy that accompanies our own Independence Day celebration, but with the grim realization that freedom is a precious gift worthy of defending, as the Estonian people can so sadly attest. Estonian independence was all too brief. We must, however, fervently work and hope for the day that liberty will return to that land. It is in this spirit that we observe the 54th anniversary of Estonian independence. Estonian people will not enjoy that privilege with us.

## SENATOR MUSKIE ON THE WAR

Mr. HUGHES. Mr. President, in recent weeks, the Nixon administration has escalated the air war in Indochina and has also escalated its inflammatory rhetoric against those critical of our present war policies. The reaction appears to have been more against the right of honest dissent than to the substance of the criticism.

A major target of this attack was the distinguished Senator from Maine (Mr. MUSKIE). Yet on reading the remarks which provoked such a violent reaction, I find only a straightforward accounting of the facts and an eloquent plea for peace. As Senator MUSKIE said:

> We must judge the President's policy and our own by a single standard: Can they bring America's soldiers and prisoners home from Vietnam? For what we need is not a reason to prolong the agony of war, but a way to peace.

In order that Members of Congress and the American people may judge for themselves the soundness of Senator Muskie's proposals, I ask unanimous consent that the text of his speech on the war be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### REMARKS BY SENATOR EDMUND S. MUSKIE

I have been asked to talk with you today about the environment . . . the earth God made. Instead, I want to ask you to reflect with me on the earth man has remade. For if what we mean by the environment is what we have done to our land and our lives, then half a world away, we have come dreadfully close to fulfilling the nightmare of Tacitus: "They have made a desert and called it peace."

Four years ago, this nightmare as first invoked to describe the war in Vietnam. Since then, every year has been hailed as a year of hope for peace. And every year, we have seen our hope turn to the dust of new-made graves. America's leaders have been carried along on a tide of illusion, convinced at first that we were right, committed still to making right a war we know is wrong. We fight for a make-believe victory in a real place and real people die each day.

The President gave us his latest solution last week, and he is at a crossroads. The choice for the President is whether he will use his dramatic announcement to build political support for endless battle—or whether he will seek to end the fighting now. Those of us who are out of power must welcome Administration proposals to move American troops out of Indochina. But we must also question the wisdom of a course which attaches so many conditions to our leaving that it can only leave us where we are now—watching our sons fight and die, not for a cause, but for a mistake—looking to a future where more human beings will suffer at our hands in a senseless and immoral conflict.

Surely when we look into our own consciences, we must know that saving lives is more important than saving face. And just as surely, we must judge the President's policy and our own by a single standard: Can they bring America's soldiers and prisoners home from Vietnam? For what we need is not a reason to prolong the agony of war, but a way to peace.

Most of us had hoped that this was what we would hear from the President last week. We had hoped for news of future negotiations that would succeed instead of past negotiations that have failed. We had hoped to see the President remove the war as an election issue by stopping the war before the election.

But again, as so often before, we find our hopes disappointed. We have now had the time to look closely at each of the eight points and listen carefully to all of the official explanations. We waited for a response from Hanoi. All we have heard is harsh criticism of the President's plan, and their official newspaper rejected it on Saturday.

Why are we at an impasse? What has our government really offered to the other side?

Most Americans thought they heard the President agree to set a date certain for our withdrawal. But it is not the genuine date certain so many of us have urged upon him. He did not offer to exchange our presence in Vietnam for the freedom of our prisoners. Instead, he laid down additional conditions . . . a general settlement of all outstanding issues or a ceasefire in all of Indochina.

As part of the general settlement, the President suggested the kind of elections already rejected by the other side—because they would be controlled by our side. The administration promises that such elections will be "free" . . . the same promise that was made in every American proposal of the 1960s . . . the same promise that was broken in 1971, when we saw so clearly what we had purchased with our treasure and our blood: A democratic regime so undemocratic that its Presidential election was unfree, unfair, and uncontested. This time, General Thieu has volunteered to step down thirty days before the voting, but his hand-picked agents would continue to control the police; the province, district, and village chiefs; the whole machinery and force of government. What opponent would then risk his liberty or even his life in open opposition? How could anyone call such elections free?

The President has also offered the kind of ceasefire already rejected by the other side—because it would strengthen our side. The Administration claims that the principle of a ceasefire has been accepted by their negotiators as well as ours. But the administration's words cannot conceal a plain reality. Hanoi apparently proposes a ceasefire as part of a settlement on their terms—which our government rejects. The President proposes a ceasefire on our terms—which Hanoi rejects. Our kind of ceasefire would force the North Vietnamese to withdraw their forces in some unspecified fashion from South Vietnam, Laos, and Cambodia. We are asking them to stop fighting and concede Saigon's control over most of the countryside, abandoning their supporters to the police power of an enemy regime.

The President called for just such a ceasefire in his proposals of October, 1970. His proposals were turned down then. How could anyone expect a similar ceasefire offer to be anything but a stumbling block now? How could anyone expect Hanoi to settle for something which must seem to them nothing more than a date certain for their own surrender.

In short, in the face of a frustrating deadlock, the President has basically renumbered and reissued the proposals that have failed for six years. We are trying to win at the conference table what we have not won and cannot win on the battlefield. And yet we persist.

When will we ever learn?

We have no right to take for our own the awful majesty of God over life and death, destroying land and people in order to save them.

We have no right to kill, wound, or displace over a hundred thousand civilians a month by continuing to rain over four million pounds of bombs a day on Indochina.

We have no right to send young Americans to Vietnam as bargaining chips for the freedom of prisoners of war who would be free if those young Americans were not sent at all.

And we have paid so high a price for being wrong. We have seen 55,000 of our sons come home from Asia in coffins . . . twenty thousand of them in the last three years. We have seen hundreds of our soldiers captured or missing in action . . . four hundred of them in the last three years. We have seen countless Vietnamese killed and innocent children scarred and shot . . . and no number of years can erase the terrible memory.

There are those who say that if we sustain the pressure and stand the pain, we can fight on to victory. We have heard their voices before. We can only reply in the words of an ancient king: "One more such victory and we shall be undone."

So our task is to leave Indochina, to leave it to the Vietnamese to work out their own peace, not to determine their destiny according to a plan written in Washington.

There is only one way out of this war. We must take that way now, before further erosion in our troop strength and our bargaining position frustrates any chance to exchange American military disengagement for American prisoners in the North. This disengagement, I believe, would also set the stage for the Vietnamese to reach a political settlement among themselves. The President must stop throwing away that opportunity. He must commit this country to take two vital steps—not only because they are realistic—but because they are right.

First, we must set a date when we will withdraw every soldier, sailor, and airman, and stop all bombing and other American military activity, dependent only on an agreement for the return of our prisoners and the safety of our troops as they leave.

Second, we must urge the government in Saigon to move toward a political accommodation with all the elements of their society. Without such an accommodation, the war cannot be ended. And it is clear that the American people will not support an indefinite war either by our presence or by proxy.

We must turn toward peace. And we must face this fact: If we have learned anything in seven years, it is that we cannot bomb Hanoi into submission. We cannot bomb them into freeing our prisoners, any more than we were able to bomb them to the conference table in the 1960's. We have learned that this disastrous course will not contain the spread of Communist power, will not strengthen our leadership among nations, and will only turn the people of Asia and indeed of all the world against us, as a country that is violating its deepest principles of morality and respect for human life and human rights.

We should never have gone to Vietnam. We should never have stayed there. A thirty-year-old Laotian mother in a refugee camp recently asked the only question still worth answering: "And, as for the other men and women, do they know all the unimaginable things happening in this war?"

We are the other men and women. We know the truth. How can we go on as we have . . . unleashing terror and destruction to prop up a corrupt dictatorship? Is this what America was made for? Is this what we want America to stand for in our time?

It took too much time for most of us to see the full depth of the tragedy in Vietnam. At first, there were only the quiet stirrings of doubt, then the public outcry of a few brave people, then the great debate over the bombing of the North. In the process, many of us learned that we had been wrong. And I say what I must now, not in righteousness, but in the conviction that we cannot and should not shrink from the truth.

This war has lasted far longer than anyone ever dreamed it could. It has drained us of our treasure and our spirit and our unity far beyond what we can possibly afford. It has brought tragedy and suffering to homes across the nation where young men will never return. It has brought doubt and division to our schools, our churches, and our communities. It has subverted our respect for government and our ties with one another.

It is not an easy thing for a great country to admit a mistake. But it is perhaps the definition of greatness in a country that it can.

So what now must we say of Vietnam?

For the sons who have already died in battle, whose brothers should not have to follow them to war and to an early grave—

For the innocent people of a thousand Asian villages, people who may not know the name of their nation, let alone the cause of their dying—

For the American prisoners of war, who deserve something better than a life sentence or a slow death in foreign jails—

For all those who suffer in Indochina as we meet here—

For their sake and for our own—

We must be willing now—all of us—to say, "Enough."

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## PROPOSED CHANGES IN PAROLE SYSTEM

Mr. PERCY. Mr. President, last week, Judge William Bryant of the U.S. District Court for the District of Columbia ordered the Chairman of the U.S. Board of Parole to answer questions of attorneys representing would-be parolees concerning why and how parole decisions are made. Though this order has been delayed for several days, it is, in my opinion, a significant indication of the possible future direction of offender rehabilitation.

Current practice permits the ordinary prisoner some 5 to 15 minutes with a parole hearing examiner, sometimes after having spent years in prisons. He usually enters the parole hearing with only a vague idea of what is expected of him, and he leaves the hearing with little additional information. He is told only yes or no—yes, he can rejoin his family and have the opportunity to live a life of responsibility in the comunity, or no, he must remain in jail. But he typically is given no reasons. He does not learn what he did poorly or what he did well. Neither is he given any goals. As a consequence, uncertainty, despair, and frustration impede the whole rehabilitative process. The attention and energy of the prisoner is directed away from thoughts of improving himself to brooding about the unfairness of the system.

Judge Bryant's decision will not exactly open up the gates of prison. It will, however, insure that the prisoner at least knows why he is still in prison. It has been said that it is not always so important that justice be done, but that justice seems to be done. As procedures stand now, if a man is properly denied parole, the denial must seem to him unjust simply because he was not told why. Judge Bryant's decision holds out the promise that a prisoner now can have the benefit of this most basic information.

On February 17, I introduced S. 3185, a bill to reorganize the Federal parole system. Under my bill, a prisoner would routinely be told the reasons he was imprisoned and precisely what society expected of him as the prerequisite of parole. The prisoner would thus be aware of the goals of rehabilitation and advised of what he has done well, and what he must do in the future to earn release.

Some of these needs which my bill seeks to address are the basis of Judge Bryant's decision. The Parole Board has these failings of the parole system. It is my strong hope that in light of these new pressures for reform, the board will make every effort to accommodate some of the present capability to correct some of the pending proposals.

Mr. President, I ask unanimous consent that an editorial from the February 20 Washington Post concerning this subject be inserted in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### PAROLE: A MAJOR STEP FORWARD

The U.S. District Court decision to require the Federal Parole Board to submit to questioning by attorneys for prisoners is a major step forward in the developing concept of prisoners' rights. For years, parole, originally considered a benign step on the road to rehabilitation, has, in actuality, been a source of excruciating mental pressure to prisoners in most major penal systems in this country.

The system is fraught with possibilities for abuse. Generally there are few, if any, clear standards of conduct for prisoners to follow in an effort to gain the parole board's favor. In some jurisdictions, a prisoner may follow the recommendations of one panel of the parole board for a whole year only to return and face another panel with totally different standards. Because of the lack of clarity in standards, because there is no requirement of due process (to be represented, for example, at parole hearings by a lawyer) and because the information on which the boards make their determinations is kept secret, there is a broad area of possibility for guards and other authorities to take out grudges against prisoners by providing board members with unfavorable information which the prisoner never has a chance to answer or, in some cases, even to know.

Prisoners, during a seemingly endless stream of empty days, spend a great deal of psychic energy worrying about and preparing for parole hearings. When the hearing comes, it is short, usually less than 20 minutes and often as brief as seven, and is filled with bracing moralistic suggestions and sometimes accusations. The prisoner, having faced the ordeal alone, then goes back to the prison population to wait for the simple unexplained yes or no. Many thoughtful students of penal reform, as well as many prisoners, believe that the uncertainty and the mystery surrounding the parole process not only demeans the whole notion of rehabilitation, but is also the most burdensome of all the antiquated aspects of our creaking penal system.

Judge Bryant's decision is a welcome ray of light in an otherwise dark and murky field.

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## EULOGY OF THE LATE SENATOR CARL TRUMBALL HAYDEN, OF ARIZONA

Mr. CHILES. Mr. President, I join my colleagues in tribute to the late Senator Carl Trumball Hayden, of Arizona. While I did not have the privilege of knowing him personally, I share his legacy each day that I serve in the U.S. Senate.

A devoted servant of his beloved State of Arizona and of his country, Carl Hayden was a dedicated, hard-working man who had power, but used it wisely and moderately.

Carl Hayden was a frontier sheriff who saw this country change from a frontier society to the most powerful Nation on earth. Yet, he never opposed progressive legislation, and he always looked to the future.

His 56 years of service are unequalled in Congress, and I am extremely proud to be a Member of the Senate which he so loved.

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## NEW YORK TIMES EDITORIAL CONCERNING THE CONFERENCE REPORT ON THE FOREIGN AID APPROPRIATION BILL

Mr. FULBRIGHT. Mr. President, the New York Times for February 24 contains an editorial concerning the conference report on the foreign aid appropriation bill, entitled "Foreign Aid Fiasco," which, from the standpoint of upholding the Senate's position, is an accurate description of what happened in the conference.

It is the first time in my memory that conferees on an appropriation bill have come back with a bill containing more money than was voted by either the Senate or the House. This conference report contains $113 million more than the Senate approved and $186 million more than the House allowed. The big increases are on the military side. As the editorial points out:

> Under the adamant leadership of Mr. Passman, the House conferees insisted on pushing up the spending for military assistance from $350 million to $500 million. Similarly, the so-called "supporting assistance" which goes to countries like South Korea and South Vietnam to help them sustain their military burden went up from the $400 million which the Senate had voted to $500 million. Is that what Mr. Passman means by economizing?
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> Mr. Passman and his House colleagues have amply demonstrated once again that they conceive of the foreign aid program as an opportunity not to help people in poor countries but to export that familiar American product—the military-and-civilian contractor's pork barrel.

The editorial states that the chairman of the Senate conferees, Senator Proxmire, ". . . is right in refusing to sign the conference report." The Senator from Wisconsin is to be commended for his efforts to uphold the Senate's position and in refusing to sign a report which clearly does not do so. It is unfortunate for the taxpayers that his fellow conferees did not follow his leadership.

I ask unanimous consent to have the editorial printed in the Record.

In addition, Mr. President, I ask unanimous consent to include an article by Mr. Herbert Scoville, Jr., commentary on the so-called arms limitation effort of the administration. It is an excellent description of our policy.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the New York Times, Feb. 24, 1972]

### FOREIGN AID FIASCO

Representative Otto Passman, Democrat of Louisiana, in his long career as chairman of the House Appropriations subcommittee dealing with foreign aid, has steadfastly pretended to be the enemy of waste and the champion of the taxpayer. The compromise reached this week by House-Senate conferees on the foreign aid bill demonstrates the fraudulence of his claim.

After the Senate temporarily killed the entire program last October in a surprise vote, it set to work to shift the pattern of foreign aid spending. The Senate objectives were to invest more in conomic development and less in military aid and to diminish American bilateral arrangements in favor of an increased role for international organizations such as the World Bank.

Although the Senate was more tight-fisted with the needy countries than is becoming to the world's richest nation, its efforts to restructure the program were clearly headed in the right direction. Unfortunately, those efforts did not fare very well in the conference committee.

Under the adamant leadership of Mr. Passman, the House conferees insisted on pushing up the spending for military assistance from $350 million to $500 million. Similarly, the so-called "supporting assistance" which goes to countries like South Korea and South Vietnam to help them sustain their military burden went up from the $400 million which the Senate had voted to $500 million. Is this what Mr. Passman means by economizing?

The House appropriated nothing for the American contribution to the World Bank and the derisive sum of $13-million to the Inter-American Bank. These contributions are periodically made by member countries and from the financial back-up for the bonds which these international banks sell to finance their lending. The conference committee split the difference between nothing and adequacy.

The same kind of simple-minded arithmetic prevailed with regard to the Peace Corps, which received $72 million, halfway between the higher Senate and the lower House figures. Trivial cuts—trivial except that people may die because of them—were made in humanitarian programs such as aid to the Bangladesh refugees.

The Senate conferees did not lose on every issue. They did succeed in restoring money for the United Nations Development Fund which the House had eliminated entirely. But, on balance, the conference was a fiasco.

Senator William Proxmire, Democrat of Wisconsin, chairman of the Senate conferees, is right in refusing to sign the conference report. Mr. Passman and his House colleagues have amply demonstrated once again that they conceive of the foreign aid program as an opportunity not to help people in poor countries but to export that familiar American product—the military-and-civilian contractor's pork barrel.

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[From the New York Times, Feb. 24, 1972]

### ARMS LIMITATION OR ARMS RACE?

(By Herbert Scoville Jr.)

Washington.—President Nixon's $6-billion new defense requests call for an increase of more than a billion dollars for new strategic weapons. At the same time, concrete results on the Strategic Arms Limitation Talks have again been postponed, at least until he goes to Moscow.

Why the urgency on new weapons programs and interminable delays on a mutual halt to the arms race? Why wait until May? Are national politics controlling our security decisions.

An advanced airborne command post and a future generation submarine missile system headed the list of defense programs which he believes cannot even wait until next year. What has happened since last summer to require, on an emergency basis, a new airborne command and control system for the President and top officials? Certainly we have always assumed that Russian submarines would be deployed in locations which would permit their missiles to reach Washington, just as our Polaris missiles have been stationed for years within range of Moscow.

Secretary of Defense Laird now tells us that our present command communication systems are vulnerable to Electromagnetic Pulse, the high intensity radiation pulse produced by a large nuclear explosion. But this phenomenon is not new. It has been observed in our nuclear tests for more than twenty years. We have had extensive research programs to limit its effects. In 1968 the Defense Department issued an unclassified handbook for the benefit of manufacturers who wished to build more resistant electronic equipment.

Either we are seeing another example of a fabricated danger to keep the military-industrial complex active, or our defense planners should be accused of dereliction in their duties. Although Electromagnetic Pulse is widely advertised as the new menace, the initial procurement under supplemental appropriations will be for four large aircraft, presumably Boeing 747's, the first three of which will be fitted with old electronic equipment, not items newly designed to resist Electromagnetic Pulse.

Similarly, we should ask the question: What emergency suddenly requires supplemental funds and big new expenditures for a new submarine missile system? Secretary Laird recently said this was not subject to negotiation at the talks on strategic arms because it was a replacement for the Polaris submarines. But we are still converting at a cost of $5 billion the Polaris submarines to launch the advanced Poseidon missile. Why—if Polaris is becoming obsolete? Actually, even the Poseidon is unnecessary unless the Russians build a large ABM system which would take many years and which would be banned if President Nixon's optimism on a treaty limiting ABM's is realized.

Defense authorities at all levels have stated that our submarine forces are not threatened by Soviet antisubmarine warfare. Secretary Laird says our Polaris deterrent is "highly survivable." We have even no concept of the nature of such a potential threat since the required technology is as yet undiscovered. While a new submarine missile system may take seven years to build, the lead time for effective antisubmarine warfare deployment is much longer, if it can be done at all. Spending large sums now on a new submarine and missile may prematurely commit us to much larger amounts for weapons designed against the wrong threat.

What is the rush about? No new, unforeseen danger to our deterrent has developed. The Soviet ICBM program is way behind that predicted by Secretary Laird in 1969. Then we started the Safeguard ABM because of estimates that Russia would add about 150 ICBM's to its arsenal each year and that more than a third of these would be the large SS–9's. President Nixon now states that only 80 ICBM's were added last year—only a handful of these were SS–9's. In August, 1969, the Russians were reported to have more than 275 SS–9-type launchers operational or under construction; now, two and one-half years later, the number is only about 300.

The Soviets have not yet tested a missile with multiple warheads which could be aimed accurately at several targets (i.e., MIRV's), and thus threaten our Minuteman. Yet when President Nixon first justified our ABM program, he expressed fears that such testing started in 1968.

True, the Russians are building up their fleet of missile submarines at the rate of nine to ten per year, not a large increase over Secretary Laird's prediction of six to eight per year in 1969. When those under construction are completed, they will have approximate numerical parity with the United States but not with the combined NATO fleet. However, our Polaris-Poseidon missile system is vastly superior to the Russian one.

Furthermore, such submarines cannot attack our Polaris deterrent or in any way make it obsolete so that it would have to be replaced by a new one. We must avoid the puerile notion that because the Russians are building a weapon we must have a similar program even though our security doesn't require it. This is "keeping up with the Joneses" on a billion-dollar scale.

Are we still so naive as to think we can scare the Russians into halting their programs? Delay in an agreement only ensures larger Soviet force levels. By May the Russians may have added another 100 missiles to their arsenal and the United States another 200 warheads. Bargaining chips bought for arms control negotiations are never cashed and lead only to an accelerated arms race. We should put the extra effort into improving our security by a mutual limit on arms now, not in May or not next November.

## AMERICAN NEWS MEDIA IN CHINA

**Mr. ALLOTT.** Mr. President, like most Americans, I have been struck by the thoroughness, competence and all around good taste and judgment shown by the representatives of the American news media traveling with the President and Mrs. Nixon in China.

The coverage has a solemnity appropriate for the occasion. But it also is good humored and openminded.

These hardworking ladies and gentlemen obviously have done their homework, and their demonstration of professionalism and responsibility is a credit to the Nation.

## CASPER: TIED CLOSELY TO THE INDEPENDENT OIL MAN

**Mr. HANSEN.** Mr. President, a magazine article written by an outstanding and knowledgeable newspaperman, Mr. Irving Garbutt, of Casper, Wyo., has been brought to my attention.

Mr. Garbutt's article points out the importance of the independent oil industry to Wyoming's second largest city, and to the entire economy of the State. I ask unanimous consent that the article be printed in the RECORD, along with several paragraphs about the author which establish his excellent credentials.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### CASPER: TIED CLOSELY TO THE INDEPENDENT OIL MAN

"As for me," says Irving Garbutt, "a checkered career."

Garbutt, who started newspaper work in 1934, has held down virtually every job available, and presently is editor of the editorial page and oil editor for the Casper Star-Tribune. He dropped out of the newspaper business once in 1940 to join the Army and stayed until World War II was over. After six years of covering the oil beat, Garbutt quit to try his hand at ranching. "With a spread of about 700 irrigated acres and running 1,000 sheep. I just kept expanding from 1952 until I expanded myself out of business in 1958."

Then it was back to newspapering in Casper. "The oil page is one day a week chore now, thanks to automation and computers," says Garbutt, "but it isn't nearly as much fun as when we had scout checks and traded information on wildcats."

"I find writing editorials and turning out the oil news is a good combination, as it gives me the background for editorials on the subject of the energy crisis, etc."

Garbutt is married, with three boys at home, the youngest six. "We had ten," he says, "but the oldest are married now and there are several grandchildren."

"I've been to Casper," the bumper stickers read. Casper motorists slapped on about 4,500 provided by Publisher Bill Missett of the Casper Star-Tribune and the Chamber of Commerce in the summer of '69.

Reaction was surprising. Just who, or where, is Casper? A Jolly Ghost or a town?

As might be expected, many people around the country were more familiar with Medicine Bow (population 292), the home of The Virginian, or Laramie, Wyo., towns made popular by television westerns.

A small post office named Bill, 70 miles northeast of Casper (population one—the postmaster) also issued bumper stickers saying "I've been to Bill!" These proved popular.

#### BIG OIL COMPANIES LEAVE

For Casper, the Jolly Ghost image was no joke a few years before, in 1965. A big major, Pan American Petroleum (now Amoco Production) had moved its large division offices from Casper to Denver, emptying a four-floor office building downtown.

Shell Oil had followed, vacating two floors of another office building. Mobil Oil closed its refinery—the smallest of three in Casper—then a year later moved its regional offices to Denver. Other majors joined the exodus in the next two or three years: Standard of California, Tenneco, Amerada Hess. A host of brokers, geologists and landmen whose work was closely tied to the majors were forced to follow.

In most cases modern new office buildings were emptied, buildings which the city hoped would anchor the oil offices more or less permanently.

Other factors cited to enhance the image of Casper as "Oil Capital of the Rockies" were some of the best schools in the region, a thriving junior college, paved streets, parks and playgrounds, a modern airport, recreation assets like nearby Casper Mountain with its popular ski facility, Alcova Lake with boating and fishing, square miles of wide open range land on all sides affording unexcelled opportunities for hunting deer and antelope, and trout streams.

Since World War II, the town had been jumping at an annual growth rate of 10 percent a year, reaching a population of 40,000.

A citywide street paving program costing millions of dollars had just been launched.

The announcement of moves by the majors came as a sharp economic shock. Vacant houses appeared on every block as people moved. The Chamber of Commerce was more optimistic, however. "It will halt our growth rate for a few years, but we'll hold our own," said a spokesman.

The spirit of a town becomes evident when it is socked by a few hard economic punches. It was almost in a defiant spirit that Casper citizens went ahead with bond issues for schools and expansion of Casper College, which had grown to more than 1,000 fulltime students plus a popular adult education program.

#### RENOVATION BEGINS

Independent Casper oilman Fred Goodstein, who started from scratch in the Great Depression as a scrap iron dealer and built a multi-million dollar fortune with his firm, Tri-Good Oil, and other enterprises, donated a half-million dollars for the handsome Goodstein Library at Casper College.

The Federal Housing Administration, with federal money plus faith in Casper, renovated and updated vacant houses which it had been forced to repossess. The agency drew some criticism for spending as much as $2,000 or $3,000 to make a vacant house more attractive, but its policy was vindicated sooner than had been thought possible.

Downtown, as most cities, was a worry to the merchants and city fathers . . . what with two large outlying shopping centers drawing the trade. But Casper's downtown remained viable as a financial center, with the First National and Wyoming National, the two largest financial institutions in Wyoming, occupying new buildings with drive-in and "total service" facilities. The Wyoming National, with its unique concrete petal design, has become an architectural showplace in the region and featured in national publications.

Businessmen redecorated and remodeled. Shacky frame structures dating back to the false front stores of Casper's early day as a sheep ranching center, were demolished. The city provided parking areas. Downtown became more and more like a shopping center itself.

The three big downtown hotels, monuments to the oil boom of the 1920s when the Salt Creek Field was at its peak, suffered the most. Like hotels everywhere, they couldn't meet the competition from the big new motel complexes. One, the Townsend, survived by catering to Casper's plush Petroleum Club.

Casper's new Ramada Inn, only three blocks from the center of downtown, and a new Holiday Inn provided the facilities for one convention after another. Casper, in the center of the state, is a convention town.

By 1970, Casper had bounced back to 40,0000 population and is still growing.

### OILMEN RETURN

The biggest factor in its recovery was the return flow of the independent oil men, drillers, oilfield service and supply firms, geologists and landmen—drawn largely by the Muddy sand play in the Powder River Basin of northeastern Wyoming and southeastern Montana. Casper was the logical headquarters for much of this activity.

The Muddy sand play has been called the biggest "onshore" development in the U.S. in 1969–70. It produced new giant oilfields by Rocky Mountain standards: Bell Creek in Montana and Hilight in Wyoming, both in the 50,000 barrel a day category. Hilight, only 60 miles northeast of Casper, has not reached its full potential due to delays arising from field unitization plans.

The downtown office buildings filled rapidly. The former Pan-American Petroleum Building, purchased by an insurance firm, was remodeled to accommodate the influx of independent oil company offices.

The Petroleum Building and Goodstein Building—both built by Goodstein—and the Western Resources Building (formerly Great Plains), all modern structures erected in recent years, filled with oil and uranimum offices.

The old Ohio Office Building across the street from Marathon Oil's division headquarters, was razed to make room for a parking lot for oilmen. It had been occupied by Tenneco.

While Casper seeks diversified industry for the future, it continues to owe its prosperity largely to the independent oil man.

Robert H. (Terry) Martin, central division manager for the Rocky Mountain Oil and Gas Association (RMOGA), pointed out that the oil industry is the No. 1 employer in Casper, with 3,000 working in production and exploration, 500 in oil refining, and 1,500 in service, supply and equipment firms related to the industry.

More than 400 service and supply firms are listed in the yellow pages of the Casper telephone directory.

The Wyoming Geological Association (WGA) claims 400 geologists in Casper, or one geologist for every 100 people. This could be the biggest ratio of geologists to population anywhere, and of course includes a number of petroleum geologists who have entered the uranium and coal mining areas.

### TAXES BOOST ECONOMY

The oil industry pays around $4 million taxes in Casper and Natrona County on oil production, refining, rigs and other equipment—exclusive of buildings and real estate. The tax base of $145 million, highest in the history of the county, rests at least 40 percent on the oil industry.

Three refineries continue to operate, American Oil (Standard of Indiana), Texaco and Little America. The latter is the former Socony-Mobil Refinery, which was acquired by Little America, a motel chain, after it had been closed for only a year.

Pipelines bring in the crude from fields throughout the state, and one products line carries gasoline to the Denver market.

A city built on oil keeps angling for a variety of enterprises to keep its economy going once the oil reserves are depleted, and Casper has scored some successes in this area. Despite a hundred miles of wide open spaces on every side occupied mostly by sheep flocks and cattle, the city has become a major trading center for Wyoming.

A new light industry, Control Data, built a plant and employs 200, mostly women, in manufacturing components for computers.

### CORE DRILLING PROGRAM

Next to the oil drilling boom, the biggest factor in Casper's resurgence is the intensive core-drilling program to develop new uranium ore reserves in the late 1960s. Wyoming had more than half of the truck-mounted rigs in the U.S. drilling holes in the big sedimentary basins. Vast new ore reserves were located northeast of Casper, adding to big reserves in Shirley Basin, 60 miles south of the city, and the Gas Hills area 60 miles to the west. Wyoming is now the leading state in the nation in uranium ore reserves, according to the Atomic Energy Commission.

Humble Oil and Refining is building an ore processing mill in the Powder River Basin northeast of Casper, while Utah International is completing a new mill in the Shirley Basin. When these are completed, the area around Casper will have nine uranium mills turning out "yellow cake" for the growing nuclear power industry.

Small wonder, then, that Casper traded in its slogan, "Oil Capital of the Rockies," for a more ambitious one: "World Energy Capital." This ambitious title also takes into account vast low-sulfur coal beds now being tapped for new coal-steam power plants, and hopefully, in the next decade, for coal gasification plants.

### HOW IT BEGAN

The Salt Creek Boom of the early 1920s boosted Casper from a ranch center to a metropolis, by Wyoming standards. And production at Salt Creek has always pulled the economy and population up and down, in a yo yo fashion.

In the 1920s this great light-oil field gushed out more than 35 million barrels in a single year. By 1955 it had slumped to only 3.7 million barrels, giving the town a gloomy economic prognosis.

Few people realized that a waterflood initiated by Pan American that year would turn the wheel of fortune upward. Salt Creek was gradually turned into a model of secondary recovery and automation. The yield from 1,036 wells in July, 1971, was 1,017,935 barrels—a rate exceeding 12 million barrels a year.

Success of the waterflood was a key factor in holding up the assessed valuation of the county and city, which in turn made possible the floating of bond issues to improve and expand the college, schools, a new library addition, and finally a bond issue to expand the city water system to take care of the needs of a growing city of up to 100,000 people in the years ahead.

The population growth projection is not this high, however. The Board of Public Utilities anticipates no more than 60,000 in the next 20 years. With environmental issues and population pressure leading topics today, there is no push to increase population. Stable, ready growth is the goal.

In fact, many natives think the town is too big already, considering the hunting pressure on deer, antelope and elk in the area.

### TRANSIENTS BRING GROWTH

The question has often been asked, what makes Casper tick? Perhaps it is the continual fresh infusion of new ideas and talents brought with each successive wave of oil men to the community. Their average stay may be only four, five or six years, but they immediately identify with community goals and problems. A transient population may have some edge over the static sort.

Oilmen serve the community on a variety of county boards—hospital, airport, county fair, library, welfare—as well as numerous civic and cultural groups. The town, as they say, is "highly over-organized."

Casper's Dave True, a former president of IPAA, has served on the college and university boards and set up scholarship programs for children of their employes. A former production man for Texaco at Cody after World War II, True built his own Casper-based company from the ground up and now operates oilfields, pipelines, a gas plant, two cattle ranches and the largest cattle feedlot in the state at Newcastle. It's automated, too.

Bill Curry, a onetime geologist for Atlantic Refining in Casper who made a fortune by forming his own independent firm and discovering the South Glenrock Field on a farmout from Continental, is known nationally for his testimony before Congress committees this year as outgoing president of AAPG.

Marathon Oil, which maintains its Rocky Mountain Division offices in Casper, has always contributed time, talent and funds to worthy causes like the Casper Family YMCA.

Ed Boland, an independent, was instrumental in developing a popular ski area on top of nearby Casper Mountain.

Rep. Warren Morton, in the State Legislature, and Senator Tom Stroock, in the Senate—both Casper independents—have espoused the cause of the oil industry in Wyoming's biennial 40-day session. Both have been noted for their fairness in all issues.

Casper geologist John Wold was for a time the only geologist in Congress. He served one term in the U.S. House of Representatives, but was defeated by incumbent Democrat Gale McGee in a bid for the Senate.

Wold, currently involved in coal leasing efforts, recalled the exodus of major oil firms in the late 1960's as sparking the drive for an oil severance tax in the state legislature. It was enacted in 1968 and now costs the oil industry in Wyoming an added $5 million in taxes every year, Wold estimated.

Senator Cliff Hansen, a frequent visitor to Casper, has won national recognition as a spokesman for the oil industry and often set his colleagues straight on erroneous attacks on the import program and other issues.

The list could go on and on, from the early days of the Salt Creek boom to the present. The independent oil man will continue to enrich the life of the city as the search goes on for new oilfields. Majors come and go, and usually after they leave, some independent wildcatter makes a strike and it's a new ball game. That's still the current scene in Casper.

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## VICTOR W. KEARNS, JR., AWARDED CARNEGIE MEDAL FOR HEROISM

Mr. DOLE. Mr. President, in this day and age, when people increasingly shy away from involvement in the misfortunes of their fellow men, it is a rare occasion to hear of one who was not only willing to get involved, but to do so at considerable personal risk. Such was the case with Victor W. Kearns, Jr., of Merriam, Kans., who at peril to his own life, rescued a young man who was trapped inside a burning tractor-trailor. For his unselfish act of heroism, Victor Kearns was awarded a Carnegie medal from the Carnegie Hero Fund Commission.

Mr. President, I ask unanimous consent to have printed in the RECORD a story from the October 8, 1971, Kansas City Times, the text of the certificate presented to Mr. Kearns by the Carnegie Hero Fund Commission, and the text of congratulatory letters from his Congressman, the Honorable LARRY WINN, and from President Nixon. Kansans and all Americans are extremely proud for Mr. Kearns, and I believe my colleagues would find the story of his accomplishment both inspiring and meaningful.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
*Washington, D.C., December 6, 1971.*
Mr. VICTOR W. KEARNS, Jr.
*Merriam, Kans.*

DEAR MR. KEARNS: Senator Bob Dole has told me of your brave action in rescuing a young man who was trapped inside a burning tractor-trailer. I understand you managed to lower the window of the cab and pull him to safety, and that you sustained burns from the flaming vehicle.

Your disregard for your own personal safety and your willingness to be of assistance in an emergency situation demonstrates why you were awarded a Carnegie Medal in recognition of your heroism. I am pleased to have this opportunity to express my admiration for your courage and to add my congratulations to those you have received upon being honored in this special way.

With every good wish for the years ahead.

Sincerely,

RICHARD NIXON.

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CONGRESS OF THE UNITED STATES,
*Washington, D.C., December 17, 1972.*
Mr. VICTOR W. KEARNS, Jr.,
*Merriam, Kans.*

DEAR VIC: I would like to take this opportunity to commend you on your unselfish and heroic actions of April 21, 1970. Your reactions to this life and death situation tell the story of a man who is sincerely concerned for the welfare of his fellow man, even to the extent of self-sacrifice.

I am pleased to see that the Carnegie Hero Fund Commission has recognized your display of courage and leadership by awarding you the Carnegie Medal. I also wanted to recognize, in my own way, what I consider an inspiring and encouraging act of humanity. Enclosed is a copy of the December 16th Congressional Record. I believe Page E 13666 will be of interest to you. I sincerely hope that, in this time of trouble, your strength and civil responsibility will set an example for others to follow.

Best personal regards, and may the New Year be rewarding and fulfilling.

Most sincerely,

LARRY WINN, Jr.,
*Member of Congress.*

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CARNEGIE HERO FUND COMMISSION,
PITTSBURGH, PA.

This certifies that Victor W. Kearns, Jr., has been awarded a Carnegie Medal in recognition of an outstanding act of heroism:

Bronze Medal awarded to Victor W. Kearns, Jr., who helped to rescue Ronald E. Sheriff from burning, Lawrence, Kans., April 2, 1970. A tractor-trailer driven by Sheriff, aged 23, truckdriver, was involved in an accident and moved from the highway onto grass-covered terrain, where the detached cab of the rig landed upright on the ground alongside the trailer. Escaping fuel caught fire, and flames burned on the trailer and one side of the cab. Kearns, aged 35, county commissioner, ran to the other side of the cab and was trying without success to open the door when another man arrived. Flames increased as the two men then managed to lower the window. The other man reached into the cab, grasped Sheriff, and pulled him partially through the window opening. Kearns then also took hold of Sheriff, who had suffered extensive burns. Together, Kearns and the other man drew Sheriff out of the cab and moved him away from it. About a minute later the flames increased when a fuel tank exploded. Sheriff and Kearns recovered from burns they had sustained.

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[From the Kansas City Times, Oct. 8, 1971]

COMMISSIONER GIVEN MEDAL FOR HEROISM

The Carnegie Medal for Heroism has been awarded to Victor W. Kearns, Jr., Johnson County commissioner, for rescuing a man from a blazing truck crash last year on the Kansas turnpike near Lawrence, Kans.

Kearns, 37, received the certificate and a $750 check in the mail yesterday from the Carnegie Hero Fund Commission in Pittsburgh. The commission was founded in 1904 by the famous industrialist, Andrew Carnegie, to recognize acts of bravery by private citizens who, at the risk of their lives, save or attempt to save the life of a fellow man.

Kearns said he was driving home from a public hearing in Topeka on April 21, 1970, when he spotted smoke streaming from an overturned trailer truck on the shoulder of I–70 near the East Lawrence exit. He said he saw a car crushed under the truck and he stopped to investigate.

"This can't be what it appears to be," Kearns recalled thinking as he ran over to the wreck. "The car was compressed into a bundle and I saw the driver, seat belts fastened, leaning out the door. . . . It was obvious he was dead."

Kearns said he climbed onto the burning truck to see if anyone was inside, but both doors to the cab were jammed. Even after another passer-by stopped to help, the doors wouldn't budge, Kearns said.

"The diesel tanks were ruptured and spitting out fire like a flame-thrower, so we were about to give up," he said. "Then we heard a scream from the guy inside the truck. Apparently he'd been unconscious until the flames reached him."

With more struggling the men got the door windows down and pulled the truck driver to safety. "About 30 seconds after we got him to the side of the road the cab blew up." Kearns said.

The Kansas Highway Patrol took the truck driver, Ronald E. Sheriff, 23, to the Lawrence Memorial Hospital where he was admitted with serious burns.

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## ALCOHOL AND HEALTH

Mr. MOSS. Mr. President, some of the concrete results of the deliberation and lawmaking by the Congress on alcohol abuse are now beginning to show up.

As required by title 1, section 102(1) of Public Law 91–616, the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970," the Department of Health, Education, and Welfare has compiled and is sending to Congress the first of several special reports required on "Alcohol and Health."

This initial report pulls together all current information on how the use of alcoholic beverages affects health. It draws a detailed portrait of American drinking habits, and attempts to place in perspective what the United States does to deal with alcohol abuse—including what laws and resources it has mustered.

Later reports will design and test methodologies to assess with precision the ways alcohol affects various areas of well-being, and identify methods for effective treatment and control. If the studies yet to be made turn up a need for further legislative action, such recommendations will be made to the Congress.

Mr. President, no one could hail more enthusiastically than I the appearance of this report, and the indication that the Federal Government is at long last involving itself in large-scale, fundamental efforts to combat what I have long contended was one of the Nation's major health problems.

It was in the fall of 1965 that I introduced the Senate's first bill to authorize the Federal Government to create a Federal Commission on Alcoholism to do research on alcoholism and give grants to the States to develop methods and facilities for the care, custody, treatment, employment, and rehabilitation of those who have the disease of alcoholism.

The following session I joined with Senator JAVITS in promoting a similar bill, and our efforts were later strengthened by Senator HUGHES, who as chairman of the newly created subcommittee on Alcoholism and Narcotics, drove through the comprehensive 91st Congress legislation establishing the Division of Alcohol Abuse and Alcoholism in the National Institute of Mental Health which has just compiled the new report.

This report not only recognizes alcohol as the great health hazard which it is, but calls it "the most widely abused drug in our society." In our drug-oriented and drug-fearing society, this is a point we cannot stress too often. Because of wide publicity on the dangers of using heroin or amphetamines, and of smoking cigarettes, we are inclined to think of our drug problems primarily as limited to reducing the misuse of tobacco and narcotics. But actually, the misuse of the widely used drug, alcohol, causes more illness, and tragically affects the lives of more people, than does abuse of either tobacco or narcotic drugs. The report estimates that alcoholism seriously affects 9 million Americans, and costs America about $15 billion a year, while alcohol-related problems warp the lives and brings heartache and often poverty to many additional millions of our men, women, and children.

Among American Indians, the report tells us, the incidence of alcoholism is at "epidemic level, reaching a 10 percent rate, double the national average, and up to 50 percent on some reservations."

The report states that drinking has been linked with one-third of all homicides, and one-half of all traffic deaths, the latter totaling 28,000 in the last year for which statistics are available. The percentage of deaths from traffic accidents resulting from drinking are even higher among young people, aged 16 to 24.

Dr. Morris E. Chafetz, director of the Alcoholism Institute, says that in one sense, "abuse occurs any time a person becomes drunk," and "alcoholism occurs when a person needs a drink in increasingly large doses and indicates withdrawal symptoms when he cannot get it."

Dr. Chafetz calls alcoholism "America's largest untreated, treatable illness."

He puts the problem in excellent perspective, in my opinion, when he says:

> We are not telling people to drink or not to drink; that is a personal, private decision. What we are saying is that if one chooses to drink, he has a responsibility not to destroy himself or society.

The fact that the Division of Alcohol Abuse and Alcoholism is launching a nationwide advertising campaign costing $197,000, but expected to make use of free public service ads of the type used in the anticigarette campaign, to draw attention to the dangers both to the individual and to society of the abuse of alcohol, is most welcome news—a hopeful sign of our enlightened times.

I wish to assure Dr. Chafetz and his colleagues of my strong support for the work they are doing. It is most satisfying to realize that we are beginning to attack the disease of alcoholism on a scale which augurs some success for our efforts.

## OPEN EXECUTIVE SESSIONS

Mr. HARRIS. Mr. President, Tuesday, the Senate Finance Committee voted on what I consider a most crucial policy within the realm of congressional reform—open markup sessions on welfare and social security legislation. I find it disappointing that members of the Committee are unwilling to either conduct executive sessions in the view of the public or, at the least, allow personal staff members into the sessions.

I ask unanimous consent that the press release I issued following the committee vote be printed at this point in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

### STATEMENT FROM THE OFFICE OF SENATOR FRED R. HARRIS

The Senate Finance Committee today rejected a motion by Senator Fred R. Harris (D-Okla.) to open up the Committee's mark-up sessions on welfare and social security to the public.

"We are doing the public's business on a highly important measure," Harris said in support of his motion. "The public has a right to view our proceedings the same as it does a session of the Senate itself."

The motion was rejected on voice vote with only Senator Harris voting in favor of the motion.

By the same vote the Senate Finance Committee also rejected a Harris motion that would change long-standing Committee proceedings and allow each member to bring one of his staff members into the mark-up sessions. This leaves the Committee rule excluding all but Committee staff from such sessions still in effect.

Later on the Committee did agree that on special occasions, as when a Committee member is presenting an amendment, he may be allowed to bring one staff member into the meeting if the Chairman approves on an individual case basis.

## RETIREMENT OF JULIA THOMPSON

Mr. NELSON. Mr. President, a long-time spokesman and worker for better health care is retiring after 20 years as director of the American Nurses' Association Washington office. Julia Thompson has been a positive voice for improving health care throughout her career.

A native of Wausau, Wis., Julia Thompson had a distinguished career in public health nursing in Kansas and taught nursing before joining the ANA.

In Washington, she worked hard to improve social security benefits for the disabled and retired and to get health benefits written into many laws. She worked for the enactment of the historic medicare legislation at a time when some of her medical colleagues thought support of such legislation was heresy. In 1965, she was one of those who traveled on the President's plane to Independence, Mo., for the signing of the medicare bill in the Truman Library.

As a spokesman for nurses, Julia Thompson worked for years to convince Congress that nurses in the military should be given ranks commensurate with the responsibility they carry. Largely as a result of her efforts, the status of the Army Nurse Corps chief was elevated to brigadier general in 1970. The Air Force is now about to promote its chief nurse to brigadier general. Secretary Laird recently promised that the Navy will promote women to the rank of admiral.

After many years of effort, in 1956 Julia Thompson saw the beginning of Federal support to nursing education with the passage of a professional nurse traineeship program. The Nurse Training Acts of 1964 and 1971 were other pieces of legislation that she and the ANA worked for.

Nurses throughout the country have been well represented by Julia Thompson for these 20 years. I am proud to call her one of Wisconsin's own, and I share with all of her colleagues in wishing her well in her deserved retirement.

## FIFTIETH ANNIVERSARY OF RESERVE OFFICERS ASSOCIATION

Mr. THURMOND. Mr. President, today I would like to extend a heartfelt happy birthday to the Reserve Officers Association which is marking 50 years of service to the Nation with its midwinter conference here in Washington.

Even if I were not a member of this major national organization, or had not been its national president for 1 year, I would still take this time to recognize this milestone. I understand that more than 2,000 members are converging on the Nation's Capital from the length and breadth of this great land of ours to say as only they can say it—we are proud to be Americans and to do our share in its defense.

The beginnings of the Reserve Officers Association go back to 1922 which marked the birth of the organized Reserves as a structure for making sure its citizen-soldier in this country would always be there in time of need.

Names such as John J. Pershing or Harry Truman figure in the inspiration and building of the Reserve officers. The birth pains were not light. In the 1920's a nation disillusioned by war, was turning to headlong pacifism, scuttling warships, allowing tanks to rust away in forgotten depots and generally disarming its uniformed forces. Worse, military leaders were not permitted to speak out against a foolish and eminently dangerous national no-defense policy.

It required the scrappiness and wisdom of Gen. Henry J. Reilly, the association's first national president to demand that Reserve officers, not on duty, were civilians with full rights under the first amendment to appeal directly to their Government.

He went so far as to obtain a ruling from the judge advocate. Some Congressmen were engaged; one of them even walked out of an Armed Forces hearing. But the right had been established for Reservists to speak out on matters vital to the national future.

This week, the members of the Reserve Officers Association rededicate themselves to this all-important role in standing watch upon a nation's ramparts.

During their all too brief but busy time, they will be visiting with me and fellow legislators here on the Hill. We wish to hear from them at least as much as they might from us.

Mr. President, during the 50th anniversary meeting the ROA members will hear from such distinguished speakers as Secretary of Defense Melvin Laird—who will be talking with an ROTC contingent—chairman of the House Armed Services Committee, EDWARD HÉBERT; Speaker CARL ALBERT, who also is being honored as Minute Man of the Year, and Army Secretary Robert Froehlke.

It will be my pleasure and honor to welcome the ROTC cadets at a breakfast. House Speaker ALBERT will be speaking at the concluding banquet when the association's honor is bestowed upon him.

On this golden anniversary of what I might abbreviate as Reserve officership, I wish to say congratulations and—keep up the good work. The country needs you and will benefit from the work the ROA is doing.

## TRIBUTE TO SENATOR HAYDEN

Mrs. SMITH. Mr. President, I rise in tribute to our late friend and colleague, Senator Carl Hayden. It was my privilege to work with him during 15 of his 50 years as a member of the Senate Appropriations Committee. During those years, he maintained his reputation for honesty, fairness, and consideration of all his associates. He was never flagrant in the use of his extensive power.

Senator Hayden was an excellent judge of priorities, and used his great influence to maintain strong national defenses and developmental domestic spending. Carl Hayden faced up to his responsibilities as a Senator, remaining in Washington to give careful and thoughtful attention to the many problems his positions accorded him.

Senator Hayden was a pioneer in the development of his part of the country and a pioneer in development of Federal solutions to regional problems. The dams he helped establish provided water and power to open vast regions of the West and Southwest to settlement.

Born in a prairie settlement his father established, Carl Hayden was elected sheriff of his community in his early twenties. Before Arizona became a State, Carl Hayden came to Washington to represent the territory. For the first promising 13 years of statehood, Carl Hayden was the Representative from Arizona, and the following 43 years he served Arizona as a Senator.

Entire generations grew to maturity with his vigorous and strong character before them. In his unpretentious, receptive, and diligent way, Carl Hayden proved again and again the wisdom of the people of Arizona in choosing him to represent them.

His participation in history is unparalleled. When Carl Hayden came to Washington to represent Arizona, the western plains were undeveloped lands. When he ended his years in the Congress, the western plains had become thriving, modern States. His influence on legislation helped bring about tremendous economic and social changes.

When Carl Hayden came to Washington, automobiles were only beginning to replace horse-drawn carriages as the fashionable means of city travel. Americans were far more interested in domestic growth than in international affairs. During Senator Hayden's years in Congress, the United States became the strongest Nation in the world, no longer able to ignore its international responsibilities. The last few years of his Senate career saw a renewed drive to exercise our energies and idealism in pursuit of national rather than international goals.

Outstanding as a leader on the frontier, Carl Hayden proved himself equally outstanding as a leader in the U.S. Senate. He was a legend in his own time.

## EQUAL RIGHTS AMENDMENT

Mr. DOLE. Mr. President, I wish to announce my intention to support—without inhibiting or crippling amendments, provisos, or conditions—the equal rights amendment to the Constitution.

This is a measure that has become familiar to the Halls of Congress, a measure commanding the forces of reason, equity, and fairness to which our society's institutions must be responsive if they are to continue to grow and function.

### AN OLD STRUGGLE

The struggle for women's rights is more than a century old. In fact, it has been with us since the birth of our Nation. Recent years have seen some progress after many long years of effort. Some recognition of women's rights—brought about by the application of women's political, legal, and personal energies—has been achieved. But no fundamental, basic guarantee of these rights has yet been indelibly forged. The equal rights amendment appears to be the most effective, direct, and desirable means of providing that guarantee.

### SIGNIFICANCE TO KANSAS

I support this amendment with a profound sense of the rightness of its cause. But I also support it with an awareness of the historical significance it holds for my State.

The State of Kansas has many proud and longstanding social, commercial, and political traditions. Foremost among these great traditions is a strong and sometimes exuberant regard for individual rights and freedoms. Perhaps one of the most widely known incidents of history concerns the Kansas struggle to assure equal rights for all citizens. During the Civil War era, the whole State was made a focal point of contending pro- and anti-slavery forces; but one of the deepest and most enduring civil libertarian traditions in the State is one that took root in those early days of statehood: The effort to ensure for women the fullest participation in life—whether on a legal, political, or social basis.

When the women's suffrage movement was initiated in the middle 1800's, there were two major routes to universal suffrage available. On one hand was the implementation of a constitutional amendment applicable to all the States and on the other were referendum efforts to change the State constitutions.

### FIRST REFERENDUM CAMPAIGN

In the 19th century, the suffragette movement focused its early efforts on individual State referendum campaigns. The first of those campaigns was launched in Kansas in 1867. It was led by individuals whose names would become synonymous with the women's rights movement: Olympia Brown, Lucy Stone, Elizabeth Cady Stanton, and Susan B. Anthony. They waged a vigorous campaign throughout the State, and, much to the surprise of many observers, they won nearly one-third of the 30,000 votes cast. They did not win the day, but they did set a powerful example to women everywhere. In the next 51 years, 56 referendum campaigns were conducted across the Nation, and the suffrage movement gained the strength that eventually led to the adoption of the 19th amendment of the Constitution.

According to Eleanor Flexner in Century of Struggle:

> It was no accident that the first round of the political struggle to win women the vote should have taken place in the State of Kansas. During the violence and upheaval of its territorial period in the 1850's, many New England women had come with their menfolk to try and make Kansas "free soil," bringing with them the ideas sown by Margaret Fuller and Lucy Stone.

Despite a series of defeats for universal woman suffrage, however, certain gains were made in the direction of partial or limited suffrage, on such matters as schools, taxes and bond issues. Kansas had led the way in granting partial suffrage, becoming, in 1861, only the second State to grant women the school vote; and, in 1887, it granted women municipal suffrage, an action hailed as a landmark of progress in the movement.

### SEVENTH STATE TO EXTEND FULL SUFFRAGE TO WOMEN

Finally, Kansas became the seventh State to extend complete suffrage to women—a full 7 years before Congress passed the 19th amendment.

The passage of the 19th amendment was greeted with particular welcome by Kansans. Governor Henry Allen was one of the first two governors to recommend its adoption, and the State legislature compiled with ratification on June 16, 1920, within 2 weeks following Congress' action.

### KANSANS ORIGINATED EQUAL RIGHTS AMENDMENT

For many, passage of the women's suffrage amendment was the end of the line. Women had the vote: What else did they need? But Kansans did not share this attitude, and in 1923, two members of the Kansas congressional delegation, Senator, and later Vice President, Charles Curtis, and Congressman Daniel B. Anthony, a cousin of Susan B. Anthony, introduced the measure that has come down to this day in substantially the same form, the equal rights amendment.

I believe the time is long past due for this Nation to eliminate every last barrier to women's full exercise of their rights as citizens and to their participation in the life of this country to the maximum extent of their considerable abilities and talents.

I am proud to add my name to the list of distinguished Kansans—men and women—and Americans who have carried forth the cause of women's rights in the United States.

## PROTECTING THE AMERICAN TAXPAYER

Mr. MATHIAS. Mr. President, late last year, as the Revenue Act of 1971 neared passage, I inserted into the RECORD a letter from the National Society of Public Accountants (NSPA) supporting an amendment I introduced to provide for the confidentiality of information which taxpayers provide to income tax return preparers.

My amendment was adopted by the Senate and became part of the law signed by the President.

More recently, the Internal Revenue Service has asked for comments from interested parties on the question of whether or not further action to regulate income tax preparers is desirable.

The NSPA has promptly responded to the request by IRS and has put forth what it believes, based on the long experience of its members, is a constructive and specific program of action. I am pleased that the IRS, the NSPA, and I are in total agreement that the goal of our actions should be the best and most reasonable protection and aid for the American taxpayer. I believe that this subject is so important that it merits the attention of all my colleagues, and for that reason I would like to ask unanimous consent that the proposals of the NSPA and its letter to Mr. J. R. Turner, the Acting Assistant Commissioner of

**the Internal Revenue Service be inserted into the RECORD at this point.**

**I also wish to thank the NSPA for the public-spirited attention it has given to this important issue.**

**There being no objection, the material was ordered to be printed in the RECORD, as follows:**

NATIONAL SOCIETY OF
PUBLIC ACCOUNTANTS,
*February 25, 1972.*

Mr. J. R. TURNER,
*Acting Assistant Commissioner,*
*Internal Revenue Service,*
*Washington, D.C.*

DEAR MR. TURNER: In response to your request for the view of the National Society of Public Accountants on the extremely controversial question of regulating Federal tax return preparers, NSPA has developed the enclosed recommendations for consideration.

We have felt for some years that the unfettered growth of certain segments of the commercial preparation field (as contrasted with professionals who are governed by ethical codes of conduct) has created serious problems for the taxpayer seeking assistance in filing or in tax planning. The persuasive forces of advertising have especially caused us concern.

Our recommendations are intended to offer an increased measure of responsibility on the part of those who engage in tax return work, while we remain mindful of the realistic problems of administration and enforcement that make some proposals impractical.

NSPA is delighted by this reply to take the lead among the professional organizations whose comments were sought. We hope that our suggestions will be endorsed by the other major bodies representing professionals engaged in accounting and tax services.

We would welcome any thoughts you have on our suggestions and look forward to working closely with the Internal Revenue Service in this important matter. Thank you for the opportunity.

Sincerely,
RUDOLPH J. PASSERO,
*President.*

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### RECOMMENDATIONS BY THE NATIONAL SOCIETY OF PUBLIC ACCOUNTANTS FOR THE PROTECTION OF TAXPAYERS

American taxpayers must be protected from incompetent and irresponsible tax return preparers.

Every Federal tax return preparer who assists taxpayers for a fee must register with the Internal Revenue Service.

Continuing technical education must be shown for renewal of registrations at three-year intervals.

Advertisng the fact of registration would be prohibited to prevent any apparent endorsement by IRS.

No prohibitions on advertising other than those now in effect would be imposed.

Preparation for a fee without a current registration would be illegal.

Every return under a registrant's responsibility must bear his name and registration number.

Revocation or suspension of a registrant by IRS would be for gross misconduct, fraud, etc.

### AMERICAN TAXPAYERS MUST BE PROTECTED FROM INCOMPETENT AND IRRESPONSIBLE TAX RETURN PREPARERS

The main objective of these recommendations is to protect the taxpaying public. It is necessary to begin by identifying preparers so that they can be held accountable for their work. The need for a greater measure of responsiblty for the quality of work and the uses made of confidential information in the tax field has long been a concern of the National Society of Public Accountants. The rampant increase of commercial tax preparation operators and heavier reliance upon advertising has led to recent action by the Federal Trade Commission and enactment in Congress of provisions insuring confidentiality in the Revenue Act of 1971. NSPA applauds these steps. Members of NSPA are bound by a strict Code of Professional Ethics and those engaged in tax practice must meet additional provisions specifically applied to that aspect of professional practice. Confidentiality has been the keystone of these Codes. Other professional groups similarly oversee the manner in which their members practice. By requiring the identification of all preparers responsibility to the public is assured. Continuing technical education will do much to insure competence in a constantly changing field. Above all, with mandatory registration the scope of the problem and the troublesome areas can be pinpointed and specific remedies designed in the future.

### EVERY FEDERAL TAX RETURN PREPARER WHO ASSISTS TAXPAYERS FOR A FEE MUST REGISTER WITH THE INTERNAL REVENUE SERVICE

Registration at a local IRS District Office would be required of every return preparer who prepares Federal tax returns for a fee on a full-time, part-time or even seasonal basis. Every registrant would be assigned a registration number. For multiple offices or franchise operations, the individual in charge of each of the respective offices would be required to register. No qualifications are set for the initial registration. This disclosure is the heart of the recommendation. Any exceptions from registration will erode the usefulness of the program as a means of identifying the problem areas. The National Society of Public Accountants believes that the simple and inexpensive registration process suggested would cause the true professional no great burden and that administrative costs could be made self-sustaining to a large extent by a minimal fee. While no qualifications are set for initial registration, this would serve to get the program started. It avoids the problems inherent in licensing after examination. The only persons who might be reluctant to register would be the marginal preparers who have something to hide.

### CONTINUING TECHNICAL EDUCATION MUST BE SHOWN FOR RENEWAL OF REGISTRATIONS AT 3-YEAR INTERVALS

Registrations would be valid for a period of three years (or some other reasonable period). In order to renew a registration, an individual would have to show that he has received continuing technical education in the Federal tax field. The standards for continuing education would be set by the IRS. An affidavit filed with the local District office would be required of the registrant. Appropriate penalties should be imposed for filing of a false affidavit concerning participation in approved continuing technical education programs. Qualifying continuing education could include correspondence courses, conferences and seminars sponsored by professional and technical organizations, formal courses at educational institutions, participation in courses or seminars that could be sponsored by the Internal Revenue Service, inhouse training in firms with a set number of persons in attendance and by other means prescribed by the IRS. NSPA believes that the field of tax practice is so complex and that technical regulations, interpretations and court decisions bring change so frequently that some proof of continuing education is highly desirable. A key element here is that methods of compliance are flexible enough to permit a variety of means be available to the practitioner to meet the requirements. The National Society and affiliated state societies already offer a wide range of seminars, materials and services to assist members in keeping up to date on changes in tax law procedures.

### ADVERTISING THE FACT OF REGISTRATION WOULD BE PROHIBITED TO PREVENT ANY APPARENT ENDORSEMENT BY IRS

By prohibiting the registrant from advertising his registration, the danger of misleading the public into thinking any given registrant is endorsed by the Federal Government is removed. The registration number would have to be made available to a client upon request (so that he was assured the preparer possesses a registration) but a commercial preparer could not benefit from the fact of registration in his promotional practices. This would eliminate to the maximum extent possible the misuse of a registration program by an unscrupulous operator to further deceive the public about his qualifications. To avoid any loopholes, the prohibition against promotional use of the fact of registration should extend to stationery, signs, cards and listings. Since registration would be mandatory for all who prepare Federal tax returns for a fee, everyone doing so would presumably possess a registration. Penalties for practice without a registration are provided.

### NO PROHIBITIONS ON ADVERTISING OTHER THAN THOSE NOW IN EFFECT WOULD BE IMPOSED

Professional ethical codes would continue to operate on attorneys, certified public accountants, independent public accountants and enrolled agents (who are licensed after examination to practice before the IRS on tax matters). Misleading advertising, false and erroneous claims should continue to be prosecuted under present laws by the Federal Trade Commission and other entities. A complete ban on advertising, while considered desirable and adhered to by NSPA members along with other professional organizations, would be subject to attack on legal grounds.

### PREPARATION FOR A FEE WITHOUT A CURRENT REGISTRATION WOULD BE ILLEGAL

Preparation of a Federal tax return for another for a fee without a registration, or with an invalid registration, should be a misdemeanor subject to fine and imprisonment upon conviction. This is vital if the recommended program is to succeed in identifying preparers, holding them to a measure of responsibility for their work and bringing all preparers under the requirements of continuing technical education. Enforcement of this provision will be aided by reports from fellow practitioners and commercial competitors as well as the public. As the program is implemented, taxpayers will learn to check the registration of their prospective return preparers to see that he is registered and has a current registration (which will in the future demand continued technical education).

### EVERY RETURN UNDER A REGISTRANT'S RESPONSIBILITY MUST BEAR HIS NAME AND REGISTRATION NUMBER

All returns prepared in whole or in part under a registrant's responsibility for compensation must be signed by him and include his registration number. The identification of preparers will enable the IRS to determine, when a pattern of returns shows a problem, the source. This will be true even if the preparer has moved around geographically.

### REVOCATION OR SUSPENSION OF A REGISTRANT BY IRS WOULD BE FOR GROSS MISCONDUCT, FRAUD, ETC.

The IRS should have the right to suspend or revoke a registration for cause under procedures that afford the registrant his rights of due process, administratively and constitutionally. Reasons for suspension or revocation could include gross incompetence, unethical advertising, fraud, willful misconduct, filing a false report and similar activities. It may be expected that some unqualified or unethical persons may not seek the registration at all since it makes them identifiable for their work. Those who are not willing to meet some continuing technical education requirements probably should not be in practice anyway. The program is designed not as one of exclusion, although it may have that effect to a degree, but rather as one of inclusion. By bringing the wide variety of preparers under the umbrella of coverage, the public will be better served in this important area. With disclosure comes responsibility; with renewal comes continued education and with these combined, the American taxpayer will be better protected. The National Society of Public Accountants stands ready to help to realize this goal.

## THE GENOCIDE CONVENTION AND STATE AND LOCAL LAWS

**Mr. PROXMIRE.** Mr. President, critics of the Genocide Convention have questioned the power and jurisdiction of the treaty in relation to State and local authority. They believe that ratification of the genocide agreement would preempt these local laws.

However, the implementing legislation is quite explicit when it states that:

> Nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

In essence, State and local laws will maintain their full powers and rights of jurisdiction. The implementing legislation indicates clearly which acts shall be considered acts of genocide and prescribes appropriate punishment. In each case, the provisions of the Genocide Convention shall be consistent or complimentary to existing statutes enforced by the communities of this Nation.

The Genocide Convention is not in conflict with any present law or agreement but rather represents a new safeguard against any future atrocity. Immediate action should be taken to ratify the Genocide Convention.

## PRICE SUPPORTS AND INCOMES OF FARMERS AND RANCHERS

**Mr. TOWER.** Mr. President, there have been several comments from individuals and news sources complaining about price supports and increased incomes received by farmers and ranchers for commodities, whether crops or livestock. The total blame for increased food costs is being put on the shoulders of the American agriculturalist.

There are several points which I would like to make in behalf of farmers and ranchers in America. The American housewife is buying more and better food for a smaller percentage of her disposable income than any housewife in any part of the world at any time in history. An American farmer buys his needs in America and the price includes the high cost of the American wage scale. These costs are constantly going up, while the price of most farm products is very much the same as it was twenty years ago, if not lower.

Cattle prices are now at their 1951 level, and food prices have increased only 7 percent in 21 years. Yet at the same time, money paid to wage earners has increased 340 percent, money to government employees has increased 430 percent, business and professional income has increased 200 percent and dividends have increased 300 percent.

There is a tremendous investment behind agriculture which is necessary if the American farmer is to continue as the most efficient producer in the world. The investment behind the average agricultural worker is $50,000 while the average investment behind the industrial worker is $25,000. The farmer must pay interest on his huge investment of land, modern machinery, fertilizer, insecticides, seed, labor, and many more items. These production costs must come from somewhere. If we will provide farmers with the costs of production, however, they will provide food for all our domestic needs as well as a large part of that needed abroad.

American farmers have always bought in a protected market. They pay American prices for the goods they purchase, yet must sell in a free international market, competing with goods produced by those with a wage scale only a fraction of that in the United States. There would be no need for price supports if the American farmer could buy in a completely free market. Until this is possible, however, it is up to us to give the assistance necessary to insure the American people that they will be able to buy enough to eat at a very reasonable cost.

People do not seem to realize that virtually every segment of the economy receives, or has received, Government assistance. Railroads, steamships, airlines are either directly or indirectly subsidized. Tariffs help protect manufacturers from foreign goods at lower prices and in turn help hold down the cost to the consumer. If we remove the support from agriculture, the farm production would not be able to maintain the present rate. After taxes and interest, there would not be enough left to operate. To produce in supply for American demands, it is essential that farmers utilize modern equipment. If there were not Government price supports to offset the high cost of this equipment, the additional income would have to come from higher prices.

The support paid to farmers does a lot more for consumers in the cities than it has ever done for people on our farms. Agriculture supports make it possible for Americans to enjoy more and cheaper food than consumers in any part of the world. The blame for higher food prices lies elsewhere. While the price received by the farmer for his goods is just beginning to catch up with a period of 20 years ago, the average hourly labor cost for marketing food has increased 66 percent in the past 10 years. Food costs have risen to offset higher wages for those who process and retail food. Higher consumer income has influenced more competition for food. Farm food prices are up only 7 percent from 20 years ago while retail food prices are up 44 percent. The reasons for higher food prices are quite evident.

Even with the predicted increase in amounts paid for food, the percentage is less than the expected increased income, therefore, causing an actual decrease in the percentage of income spent for food, possibly an all time low.

I do not oppose higher wages, but feel that the farmer deserves an increase in income while the rest of the Nation is receiving theirs.

## TRIBUTE TO DR. PHILIP E. MOSELY

**Mr. DOMINICK.** Mr. President, I was deeply saddened to learn of the passing of Dr. Philip E. Mosely on January 13, 1972.

Dr. Mosely spent most of his career in the academic field, but he also played a major role in the foreign policy community. He was called "the father of Russian studies in this country" by Marshall D. Shulman, the current director of the Russian Institute at Columbia University.

I was privileged to have known Dr. Mosely in my capacity as an advisory member of the Board of the Center for Strategic and International Studies, where he served as chairman of the research council and, until his retirement just over a year ago, as chairman of the executive committee.

Dr. Mosely made outstanding contributions to the Center and to the country, and the Center will deeply miss him and his expertise on the Soviet Union, now so formidable with its ever expanding strike forces.

I ask unanimous consent that Dr. Mosely's detailed obituary be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the New York Times, Friday, Jan. 14, 1972]

### DR. PHILIP E. MOSELY, SCHOLAR OF SOVIET AFFAIRS, DEAD AT 66

(By Israel Shenker)

Philip Edward Mosely, Adlai E. Stevenson Professor of International Relations at Columbia University and a leader of Russian studies in this country, died yesterday morning at his home, 29 Claremont Avenue, after a long illness. He was 66 years old.

As a founder (1946) and director (1951–55) of the Russian Institute at Columbia, Dr. Mosely was instrumental in establishing that institution as a center of advanced scholarship.

Most of his career was in academic life, but he spent many years—officially as a member of the State Department, unofficially as a senior figure in the foreign policy community—advising on affairs of state.

The Russian Institute's current director, Marshall D. Shulman, called him "the father of Russian studies in this country." There were some grandfathers as well. but Dr. Mosely did a good deal more than most for students, encouraging them, even writing personal checks to tide them over personal difficulties.

He was a small, dark-haired man of normally equable temperament, but occasionally he could be roused to striking exhibitions of temper, as happened when an offhand allusion by the scholar E. H. Carr to American motives roused his fury.

### STUDIED THE NUANCES

Dr. Mosley was a charter member of that band of scholars, called Sovietologists or Kremlinologists, who are expected to do more with less than perhaps any other specialists save archeologists of remotest prehistory. Prof. David Joravsky of Northwestern has defined Kremlinology as "the effort to do archival research in Soviet politics without access to the archives."

From subtle shifts in the way leaders are addressed or applause recorded, from dribbles of doctored statistics, from the very mien of a man glimpsed through the miasma of newspaper reproduction, these archivists without archives are expected to elaborate political theories and venture daring predictions.

Like his colleagues, Dr. Mosley had to contend with the subordination in the Soviet Union of reported fact to official political judgment.

Others spread themselves thin in works of massive scholarship; he was more the man of the article and the reviews. As a teacher, he helped turn thousands of students to the elusive enterprise of discerning and ordering the facts of the past and of influencing the policies of the future.

Andrew W. Cordier, dean of the School of International Affairs, called Dr. Mosley "one of the most thorough and knowledgeable members of the entire Columbia faculty."

In a statement Dr. Cordier said: "He regarded teaching, student counseling, and his uniquely effective relationship with students as the top priority of his schedule."

But he was capable of extending his strictures and warnings to any target, however, highly placed. In a review in the New York Times Book Review in 1961 he took Nikita S. Khrushchev, Premier of the Soviet Union, to task for having failed to understand "the forces of fredom," and said it was urgent for the Communist leader "to broaden his perspective."

After earning bachelor's and doctorate degrees from Harvard University, Dr. Mosley—with time out for research in the Soviet Union and the Balkans—taught at Princeton, Union College, Cornell and Hunter. In 1940 he joined the Columbia faculty but spent 1942 to 1946 in the State Department.

An adviser to Secretary of State Cordell Hull at the Moscow Conference in 1943, he was a political adviser in the United States delegation to the European Advisory Commission (1944–45), to the Potsdam Conference (1945) and to the Council of Foreign Ministers (London and Paris, 1945–46). He was United States representative on the four-power Commission for Investigation of the Yugloslav-Italian boundary (1946). The Commission rendered a divided verdict, the West on one side, the Soviet Union on the other.

After returning to Columbia as a professor of international relations, Dr. Mosley left once more, in 1955, to become director of studies at the Council on Foreign Relations. He returned to Columbia in 1963 as director of the European Institute and as associate dean of the School of International Affairs.

He was the author of "Russian Diplomacy and the Opening of the Eastern Question in 1838 and 1839" and of a collection of articles entitled "The Kremlin and World Politics," and he edited "The Soviet Union, 1922–1962."

Under his chairmanship the Joint Committee on Slavic Studies, in 1949, began its publication of a weekly Current Digest of the Soviet Press.

Dr. Mosley was a talented, even facile linguist who spoke more than half a dozen foreign languages.

He is survived by his widow, Ruth Bissel Mosley; two daughters, Mrs. John (Ann) Lesch of Princeton, and Mrs. Philip (Patricia) T. Jackson of Oberlin, Ohio; a brother, James M. Mosley of Boston; a sister, Mrs. Edward (Eleanor) Rust Collier of Harrisville, N.H., and one granddaughter, Laura Jackson.

The interment, in the family plot in his home town of Westfield, Mass., will be private. A memorial service will be held on Feb. 5 at 3 P.M., in the auditorium of Columbia's School of International Affairs, 420 West 118th Street.

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## SENATOR GOLDWATER BRINGS PERSPECTIVE TO PRESIDENTIAL CAMPAIGN

Mr. DOLE. Mr. President, the distinguished Senator from Arizona (Mr. Goldwater) spoke before the students and faculty of the University of Florida on February 3, 1972, and provided his audience considerable insight into the operations and significance of the political process presently enveloping the people of Florida, and other parts of the country. In it he convincingly refutes some of the social, economic, and military myths fostered by certain aspirants to the presidential nomination, and provides wise counsel to the voting public in the exercise of their rights and responsibilities.

Mr. President, the Senator from Arizona's speech conveyed an enlightening message for all Americans. I commend it to them and to the Senate and ask unanimous consent that the text be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

### An Address by Senator Barry Goldwater

At the very outset, ladies and gentlemen, I should like to assure you that my appearance in Florida tonight has absolutely no connection with the fact that on March 14th your state will hold the second Presidential Preference Primary in the nation. Perhaps more than most speakers from Washington, I can understand why it isn't only the fine weather which is attracting prominent colleagues of mine to the Florida hustings at this time.

I am sure I don't need to tell you people that you are about to become yearly participants in one of the great national dramas of the political world. More than any other state but New Hampshire, Florida is being watched for an indication of who might ultimately wind up as President Nixon's Democrat opponent in November. So beware. You are in the spotlight of political fighting such as we have seldom before seen.

Let me warn you that you are in for a lot of noise. You are about to be bombarded with all kinds of charges, slogans, claims and counterclaims and bombast in almost undiluted quantities.

You will hear that the United States has now become the land of the "freeze" and the home of the "phase." You are about to be told that everything wrong in this country—whether it be from smokestacks belching smoke into the polluted atmosphere in one town or from the unemployment resulting from the lack of such active smokestacks in another town—is President Nixon's fault. You will be told that this is the best of times, but you will be told more often that this is the worse of times. You will hear many claims that the way to peace is to throw away our weapons. You will hear demands for freeing Angela Davis and for jailing J. Edgar Hoover. You will hear men who voted for the Gulf of Tonkin Resolution and every request by a Democrat President for arms to fight in Vietnam claiming that the whole show is Nixon's fault because he hasn't yet surrendered.

You may occasionally hear a small Republican voice having the temerity to point out that the Indochina War started under President Kennedy, grew to its ugliest peak under President Johnson and was reduced to almost nothing by President Nixon. You will hear Nixon blamed for not obtaining the release of 1500 prisoners of war, most of whom were captured before he took office. You will hear him charged with failing to surrender the Saigon government to North Vietnam and, consequently, refusing to end the bloodshed.

You will get a full quota of rhetoric from Democrats competing with each other for the opportunity of opposing Richard Nixon in this year's election. And you will hear a comment or two from Republican candidates who are opposing the President within their own party as a token of their complaints about some of his policies.

So tonight, ladies and gentlemen, if I may, I should like to place the situation in this country in some kind of perspective. In this, your own point of view, is extremely important and it should be based on history as well upon current events. For example, if you judge the whole nation from what you read in the public print and see and hear through the electronic media you should be depressed and gloomy and pessimistic about the future. But, if you could look back and study what went on in this country during the Great Depression you might alter your attitude.

Back in the early 30's things were really bad. We had extreme poverty in those days and we had real hunger among the people. But, strangely enough, we did not have a crime wave. Now that's worth thinking about, particularly when you hear the "bleeding hearts" among us insisting that poverty is the seedbed of crime and almost every other domestic ill. Actually, the record shows that affluence—not poverty—is the seedbed of crime. Today, the average national income, even allowing for inflation, is higher than any other nation on earth. And today, our crime rate, even allowing for the increase in population, is higher than at any other time in our history. And today, at a time when we have more and better health education than any other time in our history, we have a higher rate of social disease. And today, when we have more fruits of prosperity, more leisure time, more new and different ways to amuse ourselves, the rate of drug addiction, usually associated with poverty and boredom, is a national problem of enormous proportion.

Another myth about which you shall hear a great deal in the weeks ahead is that a weak America will be a better America because we will not have the weapon to engage in costly wars. The idea here is to convince other nations that we are not a military threat of any kind. And this is the most dangerous kind of nonsense. If we wish to remain great and remain free, we must have a defense establishment at least equal to that of any other nation in the world if our policies are to have credibility and respect from other nations. All these arguments about disarmament and sweetness and light among nations all come down to the suggestion that we disarm unilaterally and thereby shame the other super powers into following suit. Of course, none of these so-called experts—one wants to cut defense expenditures by 20 billion dollars immediately—ever get around to explaining what would happen to American policies and American interests if the other super powers refuse to do the same. Even the peaceniks are willing to acknowledge today that the Soviet Union is on the biggest arms building binge in world history. But, they can't for the life of themselves see this as a legitimate reason for strengthening our own defenses. Time and again you hear these anti-defense candidates argue that the United States is the strongest nation on earth. Well, I've got news for them. When you start figuring out how many ICBM's we have versus the Soviets; how many submarines we have versus the Soviets; how many divisions we have compared to the Soviets, you begin to get a different picture. The fact is that we are at this very moment a second-rate military power and we will be even weaker if the President's defense budget is not approved in this session of Congress.

And, we are told today that America is the richest nation on earth. And most of us believe that. Actually, we are more in debt than all of the other nations in the world combined. Let me ask you, do any of you know what a debt of 400 billion dollars plus is? Well, I'll take a shot at explaining. If you stacked up one million dollars in thousand dollar bills, you'd have a stack eight inches high; if you stacked up a debt of 400 plus billion dollars in one thousand bills, you would have a stack over 50 miles high.

Ladies and gentlemen, we need to look at ourselves realistically. We have been for some years now in what I would call a state of national doldrums. And the doldrums we face today result naturally from the prodigious, exhausting efforts in the past that won two world wars, put out a score of brush fires, spent $200 billion in feeding the poor and restoring the ravaged around the world.

It has been said, and with a great deal of truth, that no nation ever tithed itself so generously to help others. Now we may be disappointed that there is little, if any, gratitude. But we didn't rebuild Germany to get its thanks. We didn't build up Japan to gets its thanks. We didn't send foreign aid around the world to make ourselves rich. We did it because we were a responsible member of the family of nations and had been taught to do the decent thing and help our neighbors fight oppression and communism.

So today, we arrive at a moment that could have been predicted from the lessons of history. Our former foes are challenging us, our former friends are criticizing us and within we are torn by conflicting ideologies that only the unchallenged can afford.

Until recent years our national goals have been lost in a euphoria of helping everybody and everything and being all things to all people. Now, it is time to reset our compass and fix a new course. We have a great destiny among nations. It is as clear, shining and magnificent as when it was first expressed in the Declaration of Independence 200 years ago.

We are still a young nation. We are only beginning to sense our greatness and we can follow through only if we cherish the freedoms which were bequeathed to us by our founding fathers. I mean the freedoms to work, to love, to learn, to play; freedom to compete, to invent, to save, to invest, to create, to promote, and to own; freedom to choose, to join, to vote, to speak and to walk erect with head held high; freedom to be ourselves and to be free to glorify our God.

And of course, we shall not lose these freedoms so long as we retain our perspective and choose carefully the leaders who offer us common sense and correct goals. Mankind has not changed in a thousand years and more. Common sense tells us that. Aesop's fables written over 2,000 years ago describe the same foibles and personality traits that we encounter today.

I can think of nothing more important for this year's voters—especially those of you who fall into the 18- to 21-year-old group of brand new registrants—to keep in mind that what candidates are best suited to the job of protecting and extending our freedoms. And, I wish you would understand when I say that I am not speaking of license when I mention the word "freedom." I am talking about the kind of freedom that stems from a system of ordered justice and law enforcement. I am speaking of the kind of freedom that recognizes and holds precious the freedom of all men and not that of just a few.

I would like to say also that this year will be an especially appropriate time for our newly-eligible young voters to get their feet wet in the exercise of their political privileges.

I say that because I think 1972 may well become one of the most fateful 12 months period in American history. Enormous decisions are to be made in 1972—decisions which may well determine the future status of the United States as a world leader or a secondary power.

The schedule of events for the remainder of the year is almost awesome. It will include the first visit ever by an American President to Communist China. It will include an enormously important Summit meeting with Soviet leaders in Moscow—a meeting which could well determine whether there is to be a limitation of strategic armaments by the world's super powers or whether we are to be condemned forever to endless rounds in a world arms race.

I already have touched on the important political events, which in November will decide whether we are to reelect President Nixon and carry on his domestic reforms and his new worldwide initiatives or whether we are to replace them with someone who views differently our place in history.

And I would remind you these are just the scheduled events, those of historic importance which have already been set in motion. The year also bids fair to bring vast new problems on the international scene which could have an important bearing on war or peace, on worldwide prosperity and on Communist moves toward worldwide domination.

And, as I have already mentioned, the decisions to be made soon by the American public on future defense expenditures will have an important effect on every other international development.

All in all, ladies and gentlemen, the year 1972 is loaded with both opportunities and challenges for this nation.

The manner in which they are handled could effect our lives and the entire free world for many years to come.

This is a good year to study carefully the positions and the policies of candidates for national office and choose conscientiously in the name of freedom.

## THE HOLY CROWN OF ST. STEPHEN OF HUNGARY

Mr. WILLIAMS. Mr. President, much concern has recently been expressed in this body and across the Nation regarding the disposition of the Holy Crown of St. Stephen, the great national treasure of Hungry. At the end of the Second World War, the Holy Crown fell into American hands: since that time it has been held in trust for the people of Hungary, anticipating the day of its return to a proud and free Hungarian Nation. Unfortunately, that day has not yet arrived. Just 15 years ago, in 1956, the people of Hungary rose up in defense of their ancient liberties, only to be cruelly beaten down by the armed might of Soviet Russia. Today, the Holy Crown still remains as an American trust until such time as it becomes appropriate to return it to a free government of Hungary.

The brutal invasion of Czechoslovakia by the Soviets and their allies barely 4 years ago—1968—is powerful evidence of the realities of tyranny which have prevailed in Hungary for a decade and a half. It was in Budapest that the world first saw how aggressive Soviet power could be, directed against a free people in its homeland. The Soviet invasion of Czechoslovakia demonstrates the hostile grip which binds the captive nations to this day.

I am anxious to join my voice with those who oppose the present return of the Holy Crown to Hungary—at least until such time as the people of that unhappy Nation are able once again to dwell in freedom and security. Until that day, we as Americans have a solemn responsibility to hold the Crown in custody for its rightful owners.

It is not easy for us to appreciate the unique hold which the Holy Crown has upon the hearts and minds of Hungarians everywhere. It is the symbol of the Hungarian Nation and culture, the sign of a people and their sovereignty. It calls to mind the long, proud history of the Magyars, combining in itself social, political, and religious associations.

In the year A.D. 1001, St. Stephen, great-grandson of Arpad, received royal recognition from Pope Sylvester II, and his realm became an independent part of the Western European religious and political community. From the very beginning, the Crown in Hungary was limited, despite its great power, by the national assembly, by the electoral rights of the nation, by the right of armed resistance, by the national rights bound up in the coronation itself, and by the elements of a parliamentary system—perhaps the earliest in Europe.

In the words of a noted authority:

> All these various guarantees of the constitution converge in the doctrine of the Holy Crown by which the Magyars were the first among all other nations to realize the modern concept, unknown in the Middle Ages, of the state as a distinct being, as an organism. The state is embodied as an organic entity in the Holy Crown, which again is personified as the holder of public power deeply rooted in the nation itself and vested jointly in King and people in the political sense. Thus even earlier than in England the authority of the Crown is regarded as a trust; earlier than in France, it must be noted, the fundamental principle of national sovereignty is contained in this doctrine.

For Hungary, according to the medieval doctrine of the Holy Crown, "the nation is the source of all rights," including the authority of the Crown. The Holy Crown, then represents not only Hungarian sovereignty, but also the long traditions of constitutionality in that land. How ironic, then, to surrender this precious regalia to a totalitarian ideology whose basis of power proceeds from a gun.

Further, the return of the Crown associated with St. Stephen would betray the faith which made him one of the great figures in the history of the Middle Ages. First King of the Magyars and author of their Christianization, he laid the foundations for an enduring national sovereignty among a people whose cultural and spiritual awakening immeasureably enriched the heritage of European civilization. Hungarian Americans and Americans of every descent are deeply concerned for continued American custody of the Holy Crown. We trust that no rash move will be taken which would return the Crown to a regime wholly alien to its great tradition.

## WINDING DOWN THE WAR

Mr. GRAVEL. Mr. President, many of us who are supercritical of the Vietnam war and who try to expose the fraudulence in the administration's widely publicized "winding down" of the war are challenged to show evidence to support our criticism. After all there seem to be fewer casualties—at least military ones—at least nonyellow ones—and fewer American uniformed soldiers are there on the ground.

But other facts point another way. More tons of bombs have been dropped on Indochina in the last 3 years—95,000 tons per month—than in the Johnson era of escalation—60,000 tons per month. The bombing continues at over 50,000 tons per month. I ask that the attached table showing our total tonnages for Indochina through 1971 be printed in the Record in support of these remarks.

There are however, more subtle aspects to what we are doing in warring in Indochina. To a considerable degree, and with predictably awful consequences, we are substituting technology for manpower. Fancy, sophisticated weapons which combine electronics with ordnance in ways designed sometimes to kill and sometimes to maim and disable. Technical, "antipersonnel" monsters.

An article appearing in the February 1972 issue of Atlas entitled "The Silent War in Vietnam" which was written by a Helsinki journalist and originally appeared in Finland's leading daily describes this trend. I commend it to all Senators and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### The Silent War in Vietnam

The war in Indochina is changing—it is becoming a silent war. The battlefields are shaking less because the big bombs have given way to small, harmful splinter bombs, to steel bullet bombs and fragment bombs. It has become a war personified by small mines camouflaged by leaves or sand; they wound rather than kill. And the newspapers are covering it less because there seems to be less happening.

This has been the major goal of Vietnamization: to forestall defeat implicit in a peaceful settlement by making the war less visible, allowing it to be carried on quietly into 1973 so that Mr. Nixon does not have to run for re-election as the only American president to have lost a war. Costs have been cut, troops are being withdrawn and American casualties have been reduced to make the Vietnamization plan look respectable to the American people and to the world. But behind the misleading statistics lies a new and equally destructive Vietnam War controlled from the White Igloo.

The White Igloo sounds as peaceful and innocent as an Eskimo hut on polar ice. But it is a cover name for something far more complicated—automated warfare planned and carried out by electronic machines. One U.S. Senator called it a "seismic and acoustic Christmas tree", another picturesque term which doesn't quite suit this system which is responsible for massive, blind-folded air strikes in Laos and along the Ho Chi Minh Trail.

The White Igloo operates without troops. Acoustic and seismic "sensors" and "reconnoiters" are built inside long poles which are dropped from planes in great quantities. They implant themselves upright in the ground. A radio transmitter and receiver is dropped by parachute; it may settle in a tree or shrub after which the chute self-destructs so that the radio will not be easily found by the enemy. The poles then receive sounds and vibrations from the environment which are relayed via the radio to a reconaissance plane which circles at very high altitude overhead.

The messages are forwarded to a control center in Nakhon Phanom, Thailand, where they are fed into computers. Professional "target-seekers" determine the source of the messages; if they conclude that they originate from hostile troops, an air attack order is issued.

An IBM machine (Type IBM 360–65) analyzes the source of movement, indicating its numerical strength, speed and position. It is not of course misled by camouflage, darkness, fog or cloud cover. The control center orders an attack against the area. The order goes to airbases in Thailand or South Vietnam or to the aircraft carriers which circle the Vietnamese coast. IBM machines in the airplanes receive the attack signal, and they automatically fly directly to the target, unerringly dropping their bombs. General Evans, one of the directors of the White Igloo system, has noted that the splinter-bombs used in this type of procedure have achieved "excellent results."

Hundreds of different weapons have been created to fight the automated war in Indochina. There are laser and TV-guided bombs that find their own targets. There is the Starlight Scope, a powerful light source that destroys the camouflage of night. There are binoculars that can see the trademark of a golf ball at over a thousand yards.

There are devices that react to the secretions and temperature changes of the human body. And automatic rapid-fire guns that fire 5,000 shots per minute, mowing down everything like a scythe. There are magnetic devices that register all metallic items and relay their messages to the IBM machines, dozens of miles away. And there are weapons specifically designed to mutilate human beings without causing property losses: they can crush a person's leg but don't damage automobile tires.

There are grapeshot bombs, which bounce up to chest-level before they explode, releasing a round of 500 shots. Their bullets are a little bigger than those of a hunting gun and are obviously designed to kill, as they necessarily hit vital organs—except when a small child is struck by this spray of bullets at a distance, in which case he will likely carry them around for the paralyzed remainder of his life.

Round bullets are considered too humanitarian for certain purposes, and are often replaced by small, sharp-edged splinters (which inflict severe wounds and are more difficult to remove). Plastic and fiber bullets which escape X-ray detection are now being used.

There are cobweb bombs, which are dropped from airplanes. Upon hitting the ground, they send out 10-yard-long feelers called "reconnoiterers" in every direction. When the reconnoiterers hit something, the bomb explodes.

American war theoreticians have calculated that it is better psychological warfare, and better public relations at home, to disable people rather than kill them. A dead person is buried and forgotten; but an invalid has to be taken care of, perhaps for the rest of his life. When disabling weapons are used in large quantities, the Vietnamese must devote their energies to caring for their wounded.

It is not easy to fight these technical monsters. The Vietnamese guerrillas have managed to confuse the computers in several ways: for instance, they have hung bags of human urine on trees to confuse devices that record the location of human secretions.

The automation of the war in Indochina is still in its early stages, but improvements are rapid and continuous. We are facing a revolution in war technology the consequences of which are still impossible to estimate. The peoples of Indochina must be saved from the agonies of the new "electronic battlefield".

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### Tonnage of Aerial Munitions

*Southeast Asia—Total*

| | |
|---|---|
| 1965 | 315,000 |
| 1966 | 512,000 |
| 1967: | |
| January | 63,039 |
| February | 68,142 |
| March | 77,384 |
| April | 77,393 |
| May | 80,587 |
| June | 78,042 |
| July | 80,035 |
| August | 79,535 |
| September | 78,885 |
| October | 83,497 |
| November | 83,088 |
| December | 83,136 |
| Total | 932,763 |
| 1968: | |
| January | 90,036 |
| February | 103,000 |
| March | 123,672 |
| April | 124,660 |
| May | 127,942 |
| June | 125,159 |
| July | 128,407 |
| August | 126,379 |
| September | 117,569 |
| October | 122,233 |
| November | 114,925 |
| December | 127,672 |
| Total | 1,431,654 |
| 1969: | |
| January | 129,684 |
| February | 115,759 |
| March | 130,141 |
| April | 125,080 |
| May | 128,300 |
| June | 121,775 |
| July | 122,793 |
| August | 111,047 |
| September | 102,084 |
| October | 99,907 |
| November | 100,509 |
| December | 100,158 |
| Total | 1,387,237 |
| 1970: | |
| January | 117,675 |
| February | 100,639 |
| March | 100,358 |
| April | 97,494 |
| May | 97,323 |
| June | 80,682 |
| July | 79,582 |
| August | 70,867 |
| September | 59,390 |
| October | 54,538 |
| November | 58,434 |
| December | 60,464 |
| Total | 977,446 |
| 1971: | |
| January | 71,792 |
| February | 66,500 |
| March | 92,191 |
| April | 85,000 |
| May | 76,463 |
| June | 60,803 |
| July | 49,196 |
| August | 51,277 |
| September | *51,309 |
| October | *47,137 |
| November | *50,644 |
| December | *61,838 |

*Department of Defense data.

Source: The air was in Indochina, Cornell University.

## CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** Is there further morning business? If not, morning business is concluded.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 12931) to provide for improving the economy and living conditions in rural America, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 12931) to provide for improving the economy and living conditions in rural America, was read twice by its title and referred to the Committee on Agriculture and Forestry.

## EDUCATION AMENDMENTS OF 1972

The **PRESIDING OFFICER.** Under the previous order, the Chair lays before the Senate the unfinished business, S. 659, which the clerk will read by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related Acts, and for other purposes.

The **PRESIDING OFFICER.** Who yields time?

**Mr. SCOTT.** Mr. President, I yield myself 10 minutes on the amendment.

The first two parts of our amendment utilize the exact language of the Ashbrook-Green amendment adopted by the House as section 408 of its bill, adding language which moderates the result, both as to funding and enforcement.

Subsection (a) deals with the use of Federal funds. It states a congressional policy against the use of Federal education funds for transportation, but consistent with the President's belief that there should be maximum possible "local control of local schools," permits funds to be used for busing on the express request of local school officials. While it is true that obligations incurred under the Constitution may sometimes require busing to achieve desegregation, the choice of whether an application for funds under this act may include a transportation component, is left entirely to local school districts. The voluntary nature of the application is assured by the proviso that no court and no officer of Government may order a local educational agency to apply for Federal funds for transportation purposes.

A second provision is intended to insure that no district can receive transportation funding when its proposed plan involves busing where "the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process." In *Swann* v. *Charlotte-Mecklenberg Board of Education,* 402 U.S. 1, the Supreme Court said an objection to busing "may have some validity" when the foregoing conditions are demonstrated. In this section the Congress will be saying that this kind of objection does have validity—indeed that busing funds may not be awarded where the effectiveness of the educational process would be impeded by the time or distance of travel.

Thus, this is a fair compromise which should meet the legitimate concerns expressed by parents about the effects of school busing.

Subsection (b) deals with enforcement of civil rights in the field of education, particularly as set out in the Civil Rights Act of 1964.

As the Ashbrook-Green amendment adopted by the House would have the practical effect of repealing title VI of the Civil Rights Act of 1964 as it applies to education, a result which would mark a turning back of our national commitment to equal educational opportunity, modifications had to be made. The phrase "unless constitutionally required" inserted in the first sentence preserves the Federal role in enforcing the 14th amendment, while clarifying that Federal agencies are not permitted to go beyond constitutional requirements in implementing title VI of the Civil Rights Act. In enforcement as in funding, the amendment seeks to solidify the constitutional standard suggested by the Swann case, that is, that the Constitution cannot be read to require transportation to achieve desegregation "when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process."

The third part of the amendment, subsection (c), deals with the effective date of certain district court orders. It states that district court orders which require the transfer or busing of students from one local education agency to another or which require the consolidation of two or more local education agencies will not become enforcible until all appeals or time for appeals have been exhausted. The purpose of this section is to avoid the disruption of normal educational operations under these district court orders while it is not yet certain that these student transfers are legally necessary. This subsection expires on June 30, 1973, by which time these legal questions will have been resolved.

This, of course, addresses itself to the Richmond case, the Denver case, and perhaps, if it goes on appeal, the San Francisco Chinatown case.

The amendment itself has some further language which ought to be mentioned; namely, the inclusion of the phrase which prohibits Federal agencies from urging, persuading, inducing, or requiring local agencies to undertake transportation under circumstances I mentioned, as in the Swann case, or where the educational opportunities available to the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

Mr. President, I ask unanimous consent at this time to include in the RECORD a news report on this amendment which appeared in today's Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### BUS PLAN OFFERED IN SENATE—MANSFIELD, SCOTT URGE U.S. AID IF CITIES ASK IT

(By Eric Wentworth)

Senate Majority Leader Mike Mansfield (D-Mont.) and Minority Leader Hugh Scott (R-Pa.) yesterday offered a complex school desegregation amendment allowing federal aid for reasonable busing when local officials request it.

The bipartisan amendment, to be debated today, would also stay any federal district court desegregation order involving two or more school districts—such as the Richmond, Va. case—until all appeals were exhausted.

The Senate leaders offered their amendment as the Senate ground slowly through its first full day of debate on a combined higher education and school desegregation aid bill to which Southerners hope to add strong anti-busing language of their own.

The Mansfield-Scott amendment appeared aimed more at preventing the sort of extreme busing that critics fear could occur than at curtailing the degree of busing that the Supreme Court has so far actually allowed.

In fact the amendment borrows directly from the high court's April 1971 decision in the Charlotte-Mecklenberg, N.C. case. It bars federal funds or requirements for busing "when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process."

The Mansfield-Scott measure would allow federal funds for busing "on the express written request of appropriate local school officials" but would bar federal courts and officials from ordering such a request.

The measure also adopts a House-passed amendment barring federal officials from requiring or urging local school officials to spend state or local funds for any purpose for which federal funds are forbidden. But it adds the phrase "unless constitutionally required."

The Mansfield-Scott amendment would also prohibit federal officials from requiring or urging local officials to bus a student to a school where "educational opportunities available . . . will be substantially inferior" to those at the neighborhood school.

This provision, on its face, would appear responsive to those who oppose busing students from a white middle-class neighborhood to a black ghetto school however desegregation advocates argue that the presence of white middle-class students in a ghetto school would improve that school's "educational opportunities."

Another House-passed amendment would stay effectiveness of all court orders requiring busing for racial balance until appeals have been exhausted. But the Mansfield-Scott provision would stay only those orders requiring (1) busing students from the one school district to another or (2) merging two or more school districts to achieve racial balance.

In the Richmond case, District Judge Robert R. Merhige Jr. last month ordered consolidation of the predominantly black city school system with the predominantly white suburban systems of Henrico and Chesterfield counties. His order has already been stayed by the appeals court.

The Mansfield-Scott amendment would stay such an order until all appeals had been taken. But this legislative provision would itself expire June 3, 1973.

Earlier in the day, Senate Minority Whip Robert P. Griffin (R-Mich.) said he would offer an amendment taking away the federal courts' authority to require busing and barring federal officials from requiring busing as a condition for providing federal aid.

Mr. SCOTT. Mr. President, this news article fairly and accurately presents, as I see it, the purpose of the amendment—that it is aimed more at preventing the sort of extreme busing critics fear can occur than at curtailing the degree of busing that the Supreme Court has so far actually allowed. In other words, where the courts have acted and school districts are required to comply under court order, there is obviously no intention on our part that we would subvert the intent of the court or that we would attempt to impose language which would prevent the court from proceeding with its orders in those cases; but at the same time we would not enforce any form of busing under pending decisions of the lower courts until the date set in the amendment, which allows time for full and final clarification and adjudication.

The measure does adopt the House-passed amendment barring Federal officials from requiring or urging local school officials to spend State or local funds for any purpose for which Federal funds are forbidden, but it adds the phrase, of course, "unless constitutionally required."

Another House amendment would stay effectiveness of all court orders until appeals have been exhausted, and we have sought to meet that objection.

Our purpose, Mr. President, here has been to face up to the issue. It has been to responsibly propose an amendment which we think meets most of the concerns and of the objections. It will not satisfy those who would forbid the busing of 20 million schoolchildren which occurs in the United States today. Some 40 percent of schoolchildren, I believe, are bused under court agreements, under school district agreements, under court orders; another 25 percent or more by public transportation.

We are not going to abolish busing, because buses are used for legitimate purposes, and it is only situations where they are used for purposes which would appear to subvert the principle of equal and quality education to which we address ourselves.

The amendment does not please all of those who are in favor of busing under a broader system. It does not please them because they would prefer to have the Federal Government say, "Unless you accept the plan which we hand down to you, you will get no Federal funds."

What we want here are voluntary agreements of the school districts, where possible. Where that is not possible, what we want is for the courts to adjudicate the matter, so that a fair system for the integration of our school systems may be achieved. So we have the voluntary system plus the interposition of the courts, as in all of our jurisprudential actions.

The PRESIDING OFFICER (Mr. BAKER). The Senator's time has expired.

Mr. SCOTT. I yield myself 2 more minutes.

We are simply saying, "Let us obey the law, let us obey the courts, but let us not compel busing under extreme circumstances that would be dangerous to the health or the well-being of the children, or that would require them to go to inferior schools outside of the area where they would otherwise be able to attend schools nearer their homes."

As we have said, the whole issue is in such confusion by reason of appeals from these lower court decisions that it would be better to have the application of the act deferred in those cases until after final judgment.

Mr. President, I reserve the remainder of my time at this point, because the distinguished majority leader would like to discuss the matter on our side later.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, will the Senator from North Carolina yield me time?

Mr. ERVIN. Mr. President, I would be glad to yield to the distinguished Senator from Connecticut, but I understand that the floor manager of the bill controls the time in opposition, unless tne Senator is in favor of the amendment.

Mr. PELL. Mr. President, I shall be making a statement shortly which would make it inappropriate for me to control the time. Therefore, according to the unanimous-consent agreement, the majority leader or his designee controls the time.

Mr. BYRD of West Virginia. Mr. President, as the designee of the majority leader, I yield time in opposition to the amendment to the Senator from North Carolina (Mr. ERVIN).

### OPPOSITION TO THE SCOTT-MANSFIELD AMENDMENT

Mr. RIBICOFF. Mr. President, we are on the verge of taking a long step backward in our fight for racial equality in this country. It is unfortunate that the majority and minority leaders, who are perpetrating this amendment on the floor, will not be present in the Chamber to listen to the discussion. I think it is a sad reflection on the seriousness of a problem such as this when those who submit the amendment will not remain in the Chamber to engage in discussing it.

Mr. SCOTT. Mr. President, will the Senator yield me 1 minute?

Mr. RIBICOFF. I yield.

Mr. SCOTT. I shall return to the Chamber shortly. My presence and that of two other Senators is required to make a quorum in the Judiciary Committee, to vote on the confirmation of the nomination of the Attorney General, and I must go.

Mr. RIBICOFF. For years we have fought the battle of integration primarily in the South where the problem was severe. It was a long, arduous fight that deserved to be fought and needed to be won.

Unfortunately, as the problem of racial isolation has moved north of the Mason-Dixon line, many northerners have bid an evasive farewell to the 100-year struggle for racial equality. Our motto seems to have been "Do to southerners what you do not want to do to yourself."

Good reasons have always been offered, of course, for not moving vigorously ahead in the North as well as the South.

First, it was that the problem was worse in the South. Then the facts began to show that that was no longer true.

We then began to hear the de facto-de jure refrain.

Somehow residential segregation in the North was accidental or de facto and that made it better than the legally supported de jure segregation of the South. It was a hard distinction for black children in totally segregated schools in the North to understand, but it allowed us to avoid the problem.

Now that the courts have begun to find what we all knew to be true—that northern-style segregation is no more accidental than that in the South—we are searching for another way out. Joining in the chorus against busing seems to many to be the solution.

Two years ago, I supported Senator JOHN STENNIS of Mississippi who argued that now that segregation was a national problem, we should have a national solution. That seemed fair. At one point in the debate Senator STENNIS said that the people in the South could live with whatever integration the people in the North would support. I thought we should accept that challenge and begin to solve the problem in our own backyards as well as in the South.

I was roundly attacked at the time for being taken in by a clever southern ploy. Much was said about the motives of Senator STENNIS. As I said then, I was worried less about his motives than I was about our own.

Apparently Senator STENNIS knew northerners better than we know ourselves. Since that debate, the crisis facing this country has worsened and most of the leadership has vanished.

No one challenges the fact that the problem of racial isolation is no longer confined to the South, or that more blacks attend segregated schools in the North.

No one disagrees that the question of integration is no longer confined to our schools or that housing segregation in city after city threatens the entire concept of a unified society.

Few complain that we are winning the battle of school integration in the South and losing the war throughout the country.

If there was ever a time for men to stand up and be counted, it is now. If there was ever a time we needed to work together to develop a program for the future of integration in the country, it is now.

But where are the proposals? Where are the plans? Some object to the amendment that I introduced 2 days ago and that I have been supporting for a year and a half. I do not claim omniscience. I would be pleased to have suggestions of improvements, but none have been forthcoming.

The American people are watching this debate on school integration to see what course we are going to follow in the years ahead. Extremists who have opposed integration for years will continue to oppose it. The vast majority of Americans, however, are looking for leadership and guidance in the midst of exaggeration and confusion.

Our response here today is an amendment drafted by the Senate leadership against some forms of busing and some forms of integration. It is a signal to the country that the best the U.S. Senate can do at this time is to duck the issue, to "waffle" as the Senator from Pennsylvania (Mr. SCOTT) so well put it.

This is an unacceptable response and I shall vote against it. This amendment represents a step on the road backward toward separate but equal schools, toward freedom of choice, toward all the theories we opposed when put forth by the Southerners. The Scott-Mansfield amendment is public notice that we have given up the struggle to end discrimination. Instead of being straightforward about it we hide behind an amendment that cops out for the U.S. Senate.

This amendment has serious weaknesses. It puts all the burden of resolving the problem of racial isolation on the courts and local officials. If they have the courage to confront the problem, that is fine. But this amendment makes it clear no one should expect any guidance, support, or help from the U.S. Senate.

This amendment also sows confusion and encourages delay and endless litigation. It talks about not requiring a child to go to a school substantially inferior to one he would have attended under a nondiscriminatory system of school assignments based on geographic zones. Who is to say what is an inferior school? What are the standards?

Who is the authority on the nondiscriminatory system of school assignments? Is that a system different than the one now existing in a given area?

Will every school board now gerrymander its district to insure that the whites go to the best schools and the blacks the worst? Are we now to write into the law and sanctify separate and unequal schools?

One section of this amendment in effect encourages every community where a court has ordered that school district lines be crossed to end segregation to appeal, appeal, and then appeal some more. For only when all appeals are over will the decree be effective, and that may take years.

This country has a right to expect and demand more from its leaders. But more apparently is not to be forthcoming.

President Nixon has refused to exercise any moral leadership on this question. He first developed what was termed a "southern" strategy by arguing he would do no more than the minimum required by the courts. As the problem of segregation moved North and into the suburbs, so has the President's political strategy. It is now clear that President Nixon is willing to let total racial separation become the reality beneath the theory of racial justice.

The administration's abdication in no way justifies the continued reluctance of Congress to take a stand on the future of this country. Throughout the Nation, an irresponsible, factually erroneous and intellectually dishonest debate is raging over busing children to one school or another.

It is time for the leaders of this country to make it clear that busing is not the basic problem we confront. None of us want to see schoolchildren bused 30, 40, or 50 miles a day each way to school. But simply saying that does nothing to deal with the crisis we face.

The question is, Do we believe that racial barriers and discrimination should be ended? And if so, how do we propose to do it?

A handful of courageous men have been willing to rise above the political pressures and the hysteria against busing rampant in this country. Governor Reuben Askew of Florida has shamed some of the national politicians appearing in his State by his forthright call for implementing—

> The highest destiny of the American people . . . to achieve a society in which all races, all creeds and all religions have learned not only to live with their differences—but to thrive upon them.

As Governor Askew has noted and I have long maintained, busing by itself is an artificial and inadequate instrument of change. But the answer is not to threaten an end to integration. As Governor Askew said:

> The way to end busing is to seek the broader community desegregation which will make it unnecessary. . . . We must decide which is worse—temporary hardship and inconvenience or continuing inequality and injustice.

Mayor Lindsay likewise declared in Florida his opposition to cutting and running on the issue of integration, noting that—

> Busing has become a moral issue, for when we debate busing now we are debating what this country stands for . . . We are debating whether we mean to provide justice and equality to our black brothers and sisters.

Court-ordered busing has not been widespread in the South or anywhere else in the Nation. In many cases, in fact, court-ordered desegregation has resulted in less busing than existed before. But few politicians have taken the time to learn this fact or to explain it to their constituents.

Many who claim they are against busing really oppose integrated schooling. Two-thirds of all American children today ride buses to schools for reasons unrelated to integration. None of their parents object to busing.

In South Today recently, a study showed that students attending private white academies in the South are being bused up to 120 miles a day. Bused pupils for the 10 schools studied in eight States were found to travel an average of 7.6 miles further each way to and from school than pupils bused to public schools in those States. But no one is objecting to this busing.

More is at stake here than a few amendments one way or the other to this particular bill. The tone of the debate in the days to come and the level of the dialogue will reverberate across this country. We will be revealing not only our hopes for the future, but also the degree of our faith and trust in the basic decency of the American public.

I yield to the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Would I be able to get some time from one side or the other?

Mr. PELL. Absolutely.

Mr. ERVIN. How much time does the Senator wish?

Mr. GRIFFIN. Three or 4 minutes.

Mr. ERVIN. I yield 5 minutes to the Senator, and if he needs more time, he can call on me for it.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BAKER). The Senator will state it.

Mr. GRIFFIN. Yesterday, as I understand, it was established that an amendment still could be offered as a perfecting amendment to the amendment offered by the Senator from Alabama (Mr. ALLEN).

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. The junior Senator from Michigan indicated yesterday that he would seek today to offer such a perfecting amendment.

A parliamentary inquiry: Would it be in order for the junior Senator from Michigan to offer such a perfecting amendment at this time?

The PRESIDING OFFICER. The Chair rules that the Senator from Michigan is entitled to send to the desk, for reading, an amendment to the Allen amendment as he described in his parliamentary inquiry, but that debate or consideration of the perfecting amendment is not in order until expiration of the time on the Scott-Mansfield substitute or until that time is yielded back.

Mr. GRIFFIN. I wish to propound a further parliamentary inquiry: Would it be in order for the junior Senator from Michigan at this time to ask unanimous consent that at the expiration of the 2 hours which is now being used on the pending substitute amendment offered by the majority and minority leaders, the junior Senator from Michigan might be recognized for the purpose of offering his perfecting amendment?

The PRESIDING OFFICER. Such a unanimous request would be in order.

Mr. GRIFFIN. Mr. President, I propound such a unanimous-consent request.

Mr. MANSFIELD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRIFFIN. It is rather shocking, Mr. President, that the junior Senator from Michigan apparently will not be able to get the floor to offer his amendment. I understood yesterday, of course, that those in the positions of leaders have the privilege of being recognized first. When I sought recognition yesterday to offer my amendment, it developed that the leaders were ready with their substitute. Obviously, there was nothing the junior Senator from Michigan could do except to defer. The leaders were recognized and have offered their substitute. That is fine. But I must say I am rather surprised and disappointed, after the Senate has had an opportunity to debate the substitute offered by the leaders that I cannot now be recognized for the purpose of offering an amendment—an amendment about which I have served notice upon the Senate.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. Mr. President, may I say—and I emphasized this several times on yesterday—that any Senator would have the right to offer a perfecting amendment. The door is open. If the Senator wants to offer a perfecting amendment relative to the amendment offered by the distinguished Senator from Alabama, I would have no opposition to that, if at the same time the distinguished minority leader or I could be recognized to offer a perfecting amendment as well at the appropriate time.

Mr. GRIFFIN. I would say to the distinguished majority leader that, of course, if he wants to perfect the substitute which he and the minority leader have offered, it is quite common for the proposer of an amendment to modify his amendment.

Mr. ERVIN. Mr. President, I hope that all of this time is not being charged to the time of those opposed to this amendment.

Mr. MANSFIELD. That is not the intent of the majority leader, may I say. But we have a right to perfect, as does any other Senator, and I am sure that the distinguished acting minority leader would recognize that fact.

The PRESIDING OFFICER. In response to the parliamentary inquiry by the Senator from North Carolina, the Chair rules that unless there is a unanimous-consent agreement to the contrary, this colloquy and these parliamentary inquiries are being charged against the 5 minutes which was yielded by the Senator from North Carolina to the Senator from Michigan, which has now expired.

Mr. GRIFFIN. I thank the Chair. I think I understand quite thoroughly what my situation is.

The PRESIDING OFFICER (Mr. BAKER). Who yields time?

Mr. PELL. Mr. President, I yield to the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Is this a time limitation or a general yielding of time?

Mr. PELL. Mr. President, actually, at this point, I do not have the right to yield the time.

Mr. MANSFIELD. Mr. President, may I ask how much time is left on the basis of the Scott amendment on this side?

The PRESIDING OFFICER. There are 45 minutes remaining for both the proponents and the opponents.

Mr. MANSFIELD. I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, we are engaged in a debate which the country should understand clearly rather than abstractly. With the light laying on of hands which seems to be going on around here ever since yesterday, the question is whether the amendment proposed by the leaders, which is a compromise on the whole issue of busing, and I believe a fair and honorable compromise, should be approved in order to demonstrate that it is fair and honorable. As I am known to be an ardent advocate of desegregation of the schools, and I am proud of that distinction, let me say what I think we are giving up if this amendment is adopted and why, therefore, I favor it.

We are giving up, first, the authority to order the use of Federal funds for busing notwithstanding the desires of any local educational agency. We are giving up, second, and this is critically important, as I shall demonstrate in a minute, the definition of the words "significantly impinging on the educational process" which are mentioned in Swann versus Charlotte-Mecklenburg, because those words could be construed differently from the way we are construing them in this amendment. We are construing them as affecting not only the transporting of children, but the time or distance involved in travel, and the maintenance of quality education for those already receiving it, as well as for those for whom it will be established.

The way the substitute reads, we will give the courts the requirement to test out busing in terms of the places to which the children are going in the educational process, and those children with whom they are to learn.

Finally, and of critical importance, we are giving up, as I said yesterday—and this is the doubt I have on constitutional grounds but probably the courts will never catch up with it as it goes on for just 16 months—we are giving up a stay of orders which affect more than one local educational agency. For anyone who believes in desegregation of the American public school system, these are critically important factors, with all respect far more important than almost anything else affecting this matter. Yet, for the country it is a trauma, as depicted by other representatives, although I must say frankly that I do not see it nearly so seriously in my State as they do, although we have problems on school desegregation even there.

Incidentally, this idea of de jure segregation existing only in the South has been completely exploded, as the courts have handed down decrees pending in Detroit, Mich., in Denver, Colo., and other cities, and HEW has commenced title II proceedings in Boston, Mass., and in other places.

I lay aside the idea of the Senator from Connecticut (Mr. RIBICOFF), of giving metropolitan areas a long period of time, or giving them a set pattern in which to desegregate years hence because, with all respect, I do not think that it helps me in this particular controversy. I am sure that the matter will be brought up as a definitive proposal, as he has done before, although the Senate did not go along with it, but we can decide and argue that later on.

Right now, the issue is those who would eliminate busing by a condign cutoff, which is in essence contended for here by the Senators from Alabama, North Carolina, Michigan and others; or those who would try to find a practical way in which to serve both purposes, that is, to deal with the main complaints of the American middle-class parents, and the need to honor the Constitution, after all these years since 1954—North, South, East, West.

It seems to me from those points of view where I started first with what it costs us—to wit, people who believe in desegregation—this compromise which has been suggested, if anything, is weighted on the side of the opponents of busing and, for this reason, the big complainers are the middle-class families and the local educational agencies in the suburbs. They have an absolute right, through the local educational agency, to reject the busing concept at the behest of any Federal official, unless required by the Constitution, unless their local agency seeks to go ahead with it under this amendment. And hopefully the courts will be guided in construing constitutional remedies by the standards suggested in this amendment.

So it seems to me that looks after more than adequately that point of view, that attitude. For those who complain that areas heavily impacted with blacks and other minorities do not want to bus themselves, either the local agency representatives of that temper and character in that particular area can, for practical purposes, refuse to do it on educational grounds. That is the essence of this amendment and we have applied the rules of the Swann case, which are intelligent and equitable, and construed them in the broadest possible way on both sides of the equation.

For me, I would normally be against this, but I am not against it, I support it, because I believe that the other issues which are contained in the higher education bill and in desegregation in trying to give our children a decent education, this is a major factor in their development, that the heat should be taken out of the issue, that this is the greater good, even though I think much of it is for practical purposes being given up, much of the essence of it is being given up by people like myself who believe in desegregation and that busing is essential to it.

Mr. PASTORE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. PASTORE. Does the Senator feel that the compromise amendment conserves and preserves the concept of the decision of local authorities?

Mr. JAVITS. Most assuredly it does. That is what is contended for here. Who knows better than the local educational authority? It seems to me that what we are dealing with here is the essential question, which is the funding source. That is what we have control of.

In that respect, I would like to call to the attention of the Senate that we have a good many provisions in our laws today on this subject, not only for the normal provision, which we have in the bill, too, respecting transportation or assignment of students to overcome racial imbalance, but also have adopted what was a compromise in the Stennis amendment, which deals with uniformity of desegregation policies throughout the country, so that the South would not be favored over the North or disadvantaged with respect to the North in any such situation.

Mr. President, I ask unanimous consent that that provision which deals specifically with the question of racial imbalance wherever found, from Public Law 91–230, section 422, be printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

### Prohibition Against Federal Control of Education

Sec. 422. No provision of the Act of September 30, 1950, Public Law 874, Eighty-first Congress; the National Defense Education Act of 1958; the Act of September 23, 1950, Public Law 815, Eighty-First Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; or the Vocational Education Act of 1963 shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

Mr. JAVITS. Mr. President, to conclude, this is truly a compromise. It hurts the people who are on my side of this issue. But this is the greater good, of getting on with the business of education and allaying the antagonism of millions of people on a relatively peripheral issue which has been blown up into an enormous national issue—to wit, busing; so that I think people in my position are best advised to back this compromise and I hope that the Senate will approve it.

Mr. ERVIN. Mr. President, I yield 5 minutes to the distinguished Senator from Georgia (Mr. Talmadge).

The PRESIDING OFFICER (Mr. Hughes). The Senator from Georgia is recognized for 5 minutes.

Mr. TALMADGE. Mr. President, may I have the attention of the distinguished majority leader in order that I might inquire of him about the nature of his amendment.

Mr. MANSFIELD. Yes.

Mr. TALMADGE. Mr. President, section (a) of the Senator's amendment seems to prohibit the appropriation of Federal funds for busing, "to overcome racial imbalance." Does the Senator construe this statement to prohibit the appropriation of funds for busing to overcome both de facto and de jure segregation, or only de facto segregation?

Mr. MANSFIELD. So far as I am concerned, it applies to both.

Mr. TALMADGE. In section (b), the Senator's amendment prohibits Federal officials from requiring the expenditure of State and local funds for busing unless such busing is "constitutionally required." Who determines what types of busing are "constitutionally required," and who has the burden of proof in establishing this?

Mr. MANSFIELD. Mr. President, in my judgment the courts in that case would have that responsibility.

Mr. TALMADGE. In other words, if the courts determine that it should be required, it would be.

Mr. MANSFIELD. Yes. As I understand it, the function of the court is to determine the constitutionality of questions which come before it.

Mr. TALMADGE. Mr. President, section (c) of the amendment postpones the effectiveness of orders entered by a U.S. district court which require school busing "for the purpose of achieving a balance among students with respect to race." The 1964 Civil Rights Act says that desegregation does not mean the assignment of students to public schools in order to overcome racial imbalance. Why is the amendment not in conflict with the 1964 Civil Rights Act?

Mr. MANSFIELD. Mr. President, it is a matter of interpretation, may I say. And I would not agree with the interpretation just made by the distinguished Senator.

If the Senator will turn to section (c), he will note that it reads as follows:

> Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from one local educational agency to another, or which requires the consolidation of two or more local educational agencies for the purpose of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall take effect upon the date of its enactment and shall expire at midnight on June 30, 1973.

That, I think, allows sufficient time for appeal.

Mr. TALMADGE. Mr. President, I say with all due respect to the distinguished majority leader that the effect of section (c) of his amendment would be to repeal the Civil Rights Act of 1964 which specifically states that we may not assign students to schools for the purpose of achieving a specific racial balance.

What the Senator would do would be to contravene that action of the court by his amendment with respect to the case which originated in Richmond, Va. where several different school districts were required to be integrated and cross-bused for a period of time.

That decision has already been stayed by the Fourth Circuit Court of Appeals, and it would be effective from that standpoint. The time schedule that the distinguished majority leader places on his amendment would mean that the States would not have a chance to get to the Supreme Court to be heard on that procedure.

Mr. MANSFIELD. Mr. President, that is a matter of opinion. Other cases involving this broad question have been instituted. Because of the extreme urgency of this particular case and others the Supreme Court is likely to decide the issue prior to June 30, 1973.

There are other factors. I notice, for example, that just this week the Supreme Court returned from a 4-weeks' recess. Why do they have to have a 4-weeks' recess? Why can they not operate as the Senate does, for example?

I think they have plenty of time to settle these issues rather than avoid or postpone them. They have ample time to decide the issues involved here.

Mr. TALMADGE. Mr. President, I say most respectfully to the Senate that the the case has not even gone to the Fourth Circuit Court of Appeals. It will have to be heard by them and will then have to be appealed to the Supreme Court. The time schedule will not be ample.

May I say that the Sirhan case, which involves the assassin of our distinguished former colleague Robert Kennedy, has not gone to the Supreme Court yet.

Mr. MANSFIELD. That may be so. I have not followed the case that closely. However, I do know that he is still incarcerated in a jail, in prison in California. However, I have an idea that the fourth or fifth circuit, whichever circuit is handling this case, will face up to its responsibility. And, in my opinion, the case referred to will be decided by midnight of June 30 next year.

Mr. TALMADGE. Mr. President, shortly, this body will vote on the so-called Scott-Mansfield amendment.

The description of this measure as an "antibusing" amendment would be laughable were it not for the fact that hundreds of thousands of students and teachers will suffer from the consequences of this amendment. The fact of the matter is that this measure not only sanctions busing, but also compounds the hypocrisy which has surrounded and saturated this issue for years.

On its face, the amendment appears to prohibit the use of either Federal or State funds for busing. Stripped to its bare bones, however, the amendment merely perpetuates the artificial distinctions between "de jure" and "de facto" public school segregation. These artificial legal devices have been manipulated by Federal judges and Federal bureaucrats to mandate busing throughout one region of the country and to allow public school segregation to continue to run rampant in other parts of our country.

Therefore, Mr. President, this amendment is in no way a compromise. It is a codification of existing Federal statutes, or decisions, and bureaucratic guidelines which apply a double standard to the practice of busing to overcome racial imbalance in our public schools.

Mr. President, this amendment says nothing, does nothing, and accomplishes nothing to correct mistaken and misguided policies of the past, or to chart a new course for the future. It is a sham, a hoax, and a smokescreen. Therefore, Mr. President, I shall oppose this measure and I urge my colleagues in the U.S. Senate to do likewise.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield 10 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 10 minutes.

Mr. COOPER. Mr. President, I oppose the amendment of the majority and minority leaders, but for different reasons than those adduced by some who have spoken against it. After studying it, I consider its purpose as simply to provide a moratorium on the practice of busing until at least June 30, 1973, I assume for the purpose of determining if there can be appropriate legislation or constitutional amendments.

Nevertheless, I oppose the amendment because I do not believe its provisions can be successful against the constitutional determinations made by the courts and, to be frank, I believe it will cast doubt upon and is a retreat from the policy of the desegregation of schools which the Congress has supported at least since 1964 by the enactment of the Civil Rights Act and, since 1954, the date of the *Brown* case.

The first clause of section (a) would prohibit the use of Federal funds for transportation in order to overcome "racial imbalance" in any school or school system. I see no objection to this provision as it follows the wording of title IV of the Civil Rights Act of 1964. Nevertheless, the Supreme Court in the *Swann* case has ignored this wording and has ruled against the total prohibition of funds by States even for this purpose.

The second clause of section (a) prohibits transportation to carry out a plan of racial desegregation of any school or school system except upon the express written request of local school officials, and provides that no court, or officer of the United States, shall order the making of such a request. It may be argued that the Congress can prohibit the use of Federal funds for this purpose. The Supreme Court in the *Swann* case held that the State could not prohibit the use of funds directed toward the disestablishment of a dual school system. It seems to me inconsistent with the 1964 act, and our claims of support of school desegregation, to provide that no Federal funds can be used for transportation if it is necessary to assure school desegregation. Particularly would this be true if a court had ordered a school district to take such measures. If this language means anything, it is that entire financial burden would be borne by State and local sources.

Further, I do not believe that the Congress can strip a court of its power to enforce its own judgments. If it can, this amendment will emasculate court decisions and school desegregation.

Section (b)(2) would in effect repeal section 602 of title VI of the Civil Rights Act of 1964 which provides that Federal funds may be denied a school district if it is not proceeding toward the desegregation of schools. I may say that in 1964 I voted against title VI because I looked upon it as coercive; this amendment would, if adopted, have the effect of inhibiting the school districts from proceeding toward desegregation.

In short, upon the legality, or constitutionality of these statutory provisions, I consider it very doubtful that they would be upheld by a court on constitutional matters and, just as important, they appear to negate what I assume has been the purpose of the Congress and the courts to follow the Brown case in working toward school desegregation.

On the question of busing, I would like to say that I do not believe in the theory of doctrinaire or arbitrary busing: that children should be transported across proper geographic district lines or within proper geographic school districts without regard to their health, safety, age, and the quality of education which they will receive in the school to which they are transported. There are, without a doubt, other criteria which could be used in making these determinations. The Congress has failed to provide such criteria and the courts have determined their own criteria. Those provisions of the amendment which deal with criteria are correct, in my judgment, even though they add nothing to those developed in the Swann case. But this is a route we can follow and, while the courts might not follow our criteria, it could be persuasive on them.

I do not want to be negative. I believe amendments can be formulated to deal with criteria, which courts might be persuaded to follow.

In any event, I believe that Congress should make some determinations about de facto segregation. The old basis that the States or local governments have caused dual school systems and discrimination and that only such areas in the South must come under the law, seem to me today to be impractical and grossly unfair. The growing cities in the South are just as much segregated de facto as the cities of the North, and yet they are proceeded against de jure. I believe that the records show that the South, though under compulsion, has a better record on school desegregation than the large cities of the North.

I recognize the amendment is an effort to find "a compromise" but I do not believe that you can find "a compromise" by challenging by statutory means decisions of the courts made on constitutional grounds. Also, as I have said, I consider this amendment and others a retreat from the large purpose of school desegregation.

Mr. President, as one who comes from a State where there is not a great problem in this regard, as in the case of Senators from Northern States where there are fewer blacks and there are no problems. I do not want to be negative in this matter. I hope we can develop some criteria for the courts, which I believe can be done, and end the unfair destinction between de jure and de facto segregation. I believe that this measure is not a compromise but a fall back in the battle and effort toward school desegregation.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I yield 5 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, this amendment offered by the distinguished majority leader and the distinguished minority leader is no antibusing amendment; it is a probusing amendment. If it had not been offered by such honorable and distinguished statesmen as the distinguished minority leader and majority leader I would feel that this method of approach is both a cynical and a hypocritical approach to this problem.

The Senator from New York named what he said were somethings they were giving up by this amendment. I listened very carefully to his enumeration of things they were giving up, and I could not see that they were giving up anything of consequence. He did not state they were giving up busing because the amendments seek to freeze into law the concept of the use of forced busing of little schoolchildren in order to create a racial balance.

Mr. President, the whole country is demanding action by the Senate on this question. The country wants an end to busing of small children, the busing of little schoolchildren from their own neighborhoods to strange neighborhoods, from their own schools to strange schools, from their own classmates, friends, and playmates, to strange classmates and playmates, from familiar schoolteachers over to strange schoolteachers.

But, Mr. President, what is being offered here reminds me so very much of an admonition in the Sermon on the Mount, where Jesus said, "What man is there of you, whom if his son ask bread, will he give him a stone, or if he ask a fish will he give him a serpent."

People want an end put to this destruction of the public schools of the South and, in some isolated areas, of the North. They want an end put to the busing of little children.

But what do they offer? They offer a program for busing. The distinguished Senator from New York made the statement, if my ears did not deceive me, that the local school agencies would have the right to determine whether they should bus students.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ERVIN. I yield 1 additional minute to the Senator.

Mr. ALLEN. That is hardly the way the junior Senator from Alabama reads the amendment. The local school board would have the authority to refuse to use Federal funds for that purpose. But if the Court wants them to but they have to bus, and they have no option in the matter.

The assertion on the floor of the Senate that the local school board has the option to bus or not bus could not be borne out by the provisions of this amendment.

Mr. President, I am going to comment also on the parliamentary situation with regard to this amendment and the inability of the Senator from Michigan to offer an amendment, not to this amendment. The parliamentary situation is such that this amendment has been offered to us, take it or leave it. Mr. President, you cannot amend it, you cannot change the dotting of an "i" or the crossing of a "t." Take it or leave it.

They say, "We say it is a good compromise." Well, we do not want any compromise on the issue of busing, and if we did this would not be any compromise. All this is is a hodgepodge of collections of dictum from Supreme Court decisions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. I yield 1 additional minute to the Senator.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 1 additional minute.

Mr. ALLEN. Busing continues under rulings of the Supreme Court, the wording of which is found in this amendment. Busing will continue after these amendments are agreed to.

I hope that the distinguished Senator from Michigan will be allowed to obtain recognition at 12:30 today to offer his perfecting amendment, which he has served notice on the Senate time and again he wants to offer. I hope he will be given that opportunity.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, will the distinguished minority leader yield to me for 5 minutes?

Mr. SCOTT. I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, as floor manager of the bill I obviously have an acute interest in this amendment. Not being a lawyer, as many of my colleagues are, I read and reread the amendment in order to understand it. It is not easy to grasp, indeed in reading the newspapers this morning I am not sure whether it is understood by the press and public of our Nation.

As I see this amendment, it would do three things. First, it states that no funds could be used for carrying out busing activities, transportation of students, in order to overcome racial imbalance unless it is so requested by the local authorities. Second, it says that there will be no pressure on the part of Federal officials to local officials to use local funds or State funds for the purpose of transporting students to alter the racial composition of a school, unless it grows out of a court decision.

And finally it makes sure, as I said yesterday on the floor, that no efforts would be made to transfer children from a school, to an inferior school.

Very simply stated, that is how I understand the provisions of this amendment. For these reasons, as floor manager of the bill, I find it has merit and goes along the moderate course of which I spoke yesterday.

In this connection, I would like to ask the minority leader his interpretation of the phrase that no funds shall be made available for transportation "where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process."

I realize he explained this is his statement yesterday, but to further simplify our interpretation of this provision, would it not really mean that a child would not be transported for an hour or an hour and a half for the purpose of eliminating racial imbalance?

Mr. SCOTT. Mr. President, in my view, what we are seeking to have the Congress say is what the Swann case said it might well conclude. The Swann case made it clear that there were certain kinds of busing which would be inimical to the health or welfare of the child—namely, to require a child to be on a bus for inordinately long distances or under conditions which would not contribute to the child's health or to the improvement of his educational opportunity.

We are now seeking to say that the Congress agrees to that, and we take it from the main phrase used in the opinion to say that Congress does intend that long busing should not be encouraged or approved.

I do not know whether it would be an hour, but certainly, if very lengthy busing were involved, if children were required to get up at 5 o'clock in the morning and 6 o'clock in the morning to attend an 8 o'clock or 8:30 session, if I were on the bench I would certainly hold that that would be impinging on the child's health or educational opportunity. Even 1 hour would mean a total of 2 hours a day out of the child's time. It seems to me to be getting rather close to the situation the court had in mind. I am sure the courts will judge this phrase, if enacted into law, on the standard of reasonableness.

Mr. PELL. Actually, from the standpoint of the improvement of the health of the child, a good case could be made that the child should walk if it is not more than, say, 2 miles.

Mr. SCOTT. The Senator is an old-fashioned conservative in that regard, and certainly I am, too. However, if there had been busing in Loudon County during the last week, and it ordinarily took 1 hour for the children there to get to school, it would have taken them 3 or 4 hours then. Of course, there are certain circumstances we cannot control, and the weather conditions should be considered. One hour on a city boulevard might be much different from 1 hour in a rural area, with bad roads and bad weather conditions.

Mr. PELL. I am talking a little now of the spirit, and I have often felt that we could give consideration to the regulation or provision that there should be no busing if the distance to be traveled was not more than 2 miles, or a safe distance. That would be a good thing for improving the health of schoolchildren.

Mr. SCOTT. I will be openminded about it. I would like to give the Court a chance to clear up the first confusion first. I would certainly be openminded about it.

Mr. PELL. Mr. President, the amendment retains local option; it recognizes that there should not be busing only for the sake of busing; it recognizes the importance and good of the neighborhood school concept. It does not go as far as the opponents of busing which has become a red letter word would like and busing of any sort which would seem to be eliminated in many cases under the House version of the bill. Also, we are going to be faced in conference with a very strong position on the part of the House. We must insure that busing for handicapped children, busing of children that has nothing to do with racial imbalance, will not be prohibited under that language.

What we have done here is to chart a moderate course. When we seek to reduce the difference between this amendment and what the House has, it will be probably found to be a course that will be more in conformity with the wishes of those who are really concerned about the overbusing of children, a concern which I share. In my State we do not have much busing from the standpoint of racial imbalance, nevertheless I recognize the stemming unfairness and impropriety of busing children long distances past several schools they would like to attend for the sake of complying with court orders.

For that reason I shall support the amendment of the majority and minority leaders.

Mr. SCOTT. I thank the distinguished Senator from Rhode Island.

I yield myself 2 minutes.

Mr. President, I would add, particularly, that some children have disabilities or are unable to walk as well as others, and for reasons of eyesight or other disability, that might be an added burden, all of which the court would take into consideration. What I am pleading for here is substantial justice, because the way busing presently is being operated is surely of the greatest concern to parents all over the country. We are trying to work out something that is fair.

I note particularly that this debate has established, in my own opinion about myself, better than any debate we have had here, the precise nature of my own moderate philosophy, which lies—and we all like to arrogate all the good phrases to ourselves—between the extremes. It is the middle of the road. The ruts are on the side. We do not know where the truth is.

The distinguished Senator from Alabama has referred to asking for bread, but being given a stone. Our proposal is, not a stone, but a stepping stone—a stepping stone to higher and better education, to quality education, by which they may earn bread, and more bread than they would under the New Testament views of the Senator from Alabama. We are in search of truth. The old prophet, the Khasidah of Abdu el Yezdi, said:

> All faith is false; all false is true. Truth is a shattered mirror strown
> In myriad bits,
> And each believes his part the whole to own.

We do not know what is truth, but I believe I know what is substantial justice. I believe we have achieved it when we have ploughed a course down the middle, which does not satisfy those who are against all busing, which does not satisfy those who are for all busing, but which applies certain standards of reason, of practicality, having respect for the courts, advising the courts that the Congress believes in certain guidelines, recognizing that the courts have the last say on matters of what is constitutional and what is not.

I believe it is a reasonable, rational, and acceptable position. I hope Senators will be moved to support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield myself 1 minute.

The distinguished minority leader says, "Let us work out something," so his method of working out something is very simple. He and the majority leader offer an amendment on which nobody can work out anything in respect to anything in their amendment.

I yield 5 minutes to the distinguished Senator from Florida (Mr. GURNEY).

Mr. GURNEY. Mr. President, I am wholeheartedly opposed to this so-called compromise busing proposal which we now consider. I am reminded of the old iceberg metaphor—what appears above the waterline, in this case the printed amendment, looks harmless. Of far greater consequence, however, is what lies below the waterline, in the amendment, the consequences arising from what has been left unsaid, from what is written between the lines.

The crux of this amendment, as we all know, is a codification of the Supreme Court's Swann decision. In other words, this "compromise" is no compromise at all, but merely a statutory expression of the status quo. This is no antibusing amendment. This amendment strengthens and would place the stamp of approval of the Senate upon the busing already sanctioned by HEW and the Federal courts.

This amendment is designed to head off honest antibusing amendments and give those in this body who do not want to vote against an antibusing amendment the chance to get off the hook. The first part of this amendment says that no funds appropriated may be used for busing to overcome racial imbalance or to carry out desegregation plans unless there is a written request from local school officials and the courts and Federal agencies are prohibited from ordering such a written request.

Now let us take a look at what this really means. There is no provision saying that a court cannot order a busing plan, it merely says they cannot order the actual request for funds. What alternative is there for a local school district, under court order to bus, but to request money for busing. If an animal is hungry enough, he will perform any trick he can to be rewarded with food.

The prohibition against busing included in this bill is taken directly from the Swann decision. At that time the Supreme Court said:

> An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process.

To date the Federal courts have shown little concern for the health and education of students to be bused.

Looking at the next part of this amendment, we have wording to prohibit any Federal agency from requiring the use of local funds for busing, or from making other Federal funding contingent on implementation of a busing program "unless constitutionally required." These last three words are crucial. First of all, courts are not mentioned at all in this prohibition but we all know that court orders for busing are now based on constitutional grounds. This whole verbal exercise boils down to the simple fact that Federal agencies could not order busing, but the courts can continue their present practice.

Federal agencies are also subject to the Swann prohibition previously mentioned, to which has been added a curious additional stipulation against busing students to an inferior school.

The final section is also familiar. It echoes a House-passed amendment postponing, but not prohibiting, busing until all appeals, or appeal time, is exhausted.

Mr. President, this Nation has expressed a great deal of concern for truth in the past few years. Congress has considered legislation calling for truth in lending, truth in advertising, fair labeling, consumer protection, and so forth. Such concern is healthy, because all citizens have a right to know exatly what they are dealing with—and that should include truth in legislation.

To call this amendment a compromise, in my opinion, can hardly be justified. Nor can there by any claim whatsoever that this is an antibusing amendment. It certainly is not.

The distinguished minority leader, coauthor of the amendment, in a recent U.S. News & World Report interview, predicted that Congress would "waffle" on the busing issue and that Congressmen were uncertain as to the will of the people on this issue. Whenever there has been busing, in North, South, East or West, the will of the people has been expressed in loud, ringing voices violently opposed to busing. Michigan and California Congressmen have learned that their constituents are just as opposed to busing as parents in Southern States.

I certainly know how the vast majority of Floridians feel about busing. They are almost unanimously opposed. Right now it is the overriding issue in the Florida presidential primary. This has been a major national issue for well over a year. There have been newspaper and magazine articles on busing, polls taken, studies made, and even Presidential statements. I am genuinely surprised that any Congressman could be unaware of his constituents' feelings on such a crucial issue.

I cannot support this proposal because I believe it is misleading and unresponsive. It is called an antibusing amendment when it really perpetuates the status quo.

I have previously made my own stand on forced busing very clear—but I will repeat it again—I am unalterably opposed to it. I do think, however, that we must put aside semantics and face this issue squarely. Political year or not—the American people deserve more than waffles. They deserve a vote up or down on an amendment with teeth in it which would stop forced busing.

I think that the Senate should reject this amendment that does nothing but preserve the status quo, and vote up or down on some of the other amendments pending before this body right now, that would do something effective.

Mr. ERVIN. Mr. President, I yield 10 minutes to the distinguished Senator from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. Mr. President, I appreciate my distinguished friend yielding me a little time.

If we go back to the original decision and the facts in the Briggs against Elliott case, and how it dealt at that particular time with busing, I think it will help fix in Senators' minds what is constitutional and what is unconstitutional, and what is racist and what is not racist.

I have been reading editorials now for the past several weeks—in fact, for a year or so—talking about quality education, when the real issue is safety in the schools; talking about how we have had busing for the last 10 years, why not busing at the present time, where the real matter involved is individual rights.

That has caused me to recall the original case down in Clarendon County, S.C., which was the segregation case that the State of South Carolina lost, in which the Supreme Court ruled against my State in May of 1954, and which impressed upon my mind and my conscience the right and the wrong, the constitutionality and the unconstitutionality, of this situation.

We had at that time, Mr. President, white neighborhood schools and buses. We had the white children in a particular neighborhood bused to the white schools. Then there were blacks in that same neighborhood who were bused past that white school to a black school. Why? Because of their race, that is why.

They were told, "We require, as a matter of State policy, that you be bused past that school and sent to an all-black school."

Of course, at that time the argument was, "Look, as long as we provide an equal facility—as long as you have just as good an atheletic program, just as good a bus, and all the other accoutrements—separate but equal is constitutional."

That was the issue in December of 1952, when I was appointed by then Governor Byrnes, previously Senator Byrnes of this body, to attend the proceedings on behalf of South Carolina, when John W. Davis, the great constitutionalist, was making the argument for South Carolina in the Briggs case.

Mr. Davis, the State of South Carolina, lost that argument. The decision of 1954 came out, and they decided there and then, if the senior Senator from Kentucky please, that busing was unconstitutional.

That is point one. They decided that you could not deny admission on account of race, and that you could not bus on account of race.

Now, what has occurred? We have gone along, down in my backyard and all over the South, as best we could. There has been resistance; it has all been bedded in a historical and cultural way and pattern of life that has not been easy. But some 2 years ago, we had everything seemingly worked out, and we had massive integration, you might call it, after the President of the United States had counseled down in New Orleans with the Attorney General and Secretary Schultz. Everything seemed to be working until, wham, what happened? It hit them in Minnesota, in Connecticut, in New York, and in Detroit. It hit them in Jackson, Mich., the same way it had hit them in Jackson, Miss. Then, they all stirred around looking for cover, saying "What we really need to do is study the thing."

The Senator from Minnesota got a great study committee, and they started talking Latin, which even the Catholic Church had given up on, about de jure and de facto. They tried everyway in the world to deny the impact of the Brown decision, and in the process they ruined us in our backyard, because last week, in Charleston, where we had had a peaceful atmosphere, we had a riot and had to close the schools. Why? Because we do not like discrimination. They are discriminating. They say, "You do it down South. But when you get North, you study it." Who are the racists here?

Where are we? At those arguments back in 1952 Mr. Marshall told Justice Frankfurter, in what we call a colloquy here:

> No, if the Justice please, we are not trying to force any child into any school. All we are trying to do is remove the State imposed policy of separation by race; and if that is removed, the child will have the choice to attend any school he desires.

Where did freedom of choice come from? From Thurgood Marshall, who is now Justice Marshall. That was his argument.

At that time, I say to my good friend, the Senator from Kentucky (Mr. Cooper), who is a lawyer and was a judge, in that case they argued too, about the courts and what authority they would have.

That is the one thing that Thurgood Marshall, John W. Davis, Felix Frankfurter, lawyers, judges, and the court, all on both sides, could agree with. They said at that time that it would be a matter for legislative determination and the court could not set itself up as a super school board; because you get one judge in Charlotte setting one policy, another judge in Richmond trying to run over the counties and cities, that is what has happened and as a result there is complete chaos and no quality.

Why are the Democratic candidates unable to get with it? Why can they not come up in the polls? Why can they not make their mark politically? Because they are not talking sense. As Adlai Stevenson said 20 years ago, you have to talk sense to the American people. When George Wallace talks sense, it is racism. Perhaps it is to some but I leave him to defend that. What he is talking about and what the American people are talking about are fundamental rights, constitutional rights, to own a home and live in a neighborhood and attend the school in that particular area. Public schools mean just that, supported by the public. That is where the quality comes from. Leave the parents out of it, leave the local participation out of it, and leave the local administration out of it, and you have left the quality out of it and you have ruined the school. And the issue is not just peace in Vietnam, but peace in your own home.

That is why we find the results in a poll taken in New Hampshire. Does the Senator from West Virginia know what they say in New Hamphire is the most important issue?

Mr. BYRD of West Virginia. Busing.

Mr. HOLLINGS. Busing. But, there is not a single bus in New Hampshire.

That is what this amendment goes to. It is not the bus. It is what the bus leads to. It is the rights. It is the individual. It is the discrimination. What the Senator from Pennsylvania and the Senator from Montana are trying to do is to write in all kinds of discrimination.

I have the highest respect for both these gentlemen, and my ordinary tendency would be to vote for anything on which their names appear. But when I read this one, I say it is a dirty shame to propose a thing like this and call it leadership in this day and time in the United States.

We cannot get anybody to pay the bills. Conservative Republican President Nixon has added $100 billion to the national debt, and nobody is talking about paying that bill. The town is up for auction to the highest bidder around here. We have "bread and circuses" called family assistance. And when we come to the fundamental, we dance all around the mulberry bush.

Look at this language in the first section; it begins: "No funds appropriated," but then they put down, "in order to overcome racial imbalance."

We had that in 1954, and again in 1964 in the civil rights statute. We had it in the Whitten amendment. We have had it time and time again.

Mr. ERVIN. Mr. President, will the Senator yield for a question on that point?

Mr. HOLLINGS. I yield.

Mr. ERVIN. Yes.

Did not the Supreme Court declare, in the great Swann case, that those words refer only to de facto segregation and did not refer to segregation where there is discrimination? Therefore, this section 1 does not apply anywhere except where there is de facto segregation.

Mr. HOLLINGS. Except to the South. That is what we are talking about. We are discriminating, and we want to cloak discrimination with the dignity of the leadership of the U.S. Senate and say it is the great compromise. They talk about "Tricky Dick." It is "Tricky Congress." [Laughter.]

How can you discriminate between the school whose officials apply for busing funds and one that does not. The child at one rides; the other walks. And they say we have eliminated discrimination.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. I yield 2 additional minutes to the Senator.

Mr. HOLLINGS. An insurance company had a contest and the winning slogan was that Capital Life will pay for the small print on the back. Do not take it away. That was the insurance contract. Whoever wrote this amendment can get a job later with an insurance company.

Let us go to the next section: The executive agencies cannot require busing "unless constitutionally required."

Then they talk about the health of children and say "where the educational opportunities available at the school to which it is proposed that such students be transported will be substantially inferior," busing cannot be required. In reality, it means nothing, for who is to interpret this language but the same people that have done it until now.

That language is really to go back home and tell everybody at the country club and in the suburbs and over in Virginia, "Don't worry. We've taken care of you. You won't have to send your child to the District of Columbia."

My child got out of Woodrow Wilson High, where there was a black principal, a black teacher, and other black personnel. It was a good school.

Mr. ERVIN. Mr. President, will the Senator yield, with the understanding that I will restore to him any time that I may use?

Mr. HOLLINGS. I yield.

Mr. ERVIN. Does not the provision in section 3 that says it will apply only to June 30, 1973, show an effort to put the decision of this entire issue beyond the next election?

Mr. HOLLINGS. That is correct.

If anyone has any doubts, this is why Senator Scott could write it:

> For the purpose of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeal has expired. This section shall take effect upon the date of its enactment and shall expire at midnight on June 30, 1973.

How can you face up when you postpone?

There is the copout. There is an old political axiom: "When in doubt, do nothing, and stay in doubt all the time." And then they talk about leadership.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. I yield the Senator 3 additional minutes.

The PRESIDING OFFICER. If the Senator will suspend for a moment, the Chair cautions the gallery that there should be no displays in the gallery.

Mr. HOLLINGS. Mr. President, this amendment is just full of loopholes. It looks it. It has so many holes that it looks like swiss cheese, but it smells like limburger. [Laughter.]

They say the southerners are filibustering and are denying rights. Really we are protecting rights, not trying to sell the people of this country a bill of goods.

We will put up the amendments. The Senator from North Carolina has the amendment on the appellate authority of the Supreme Court.

If you really want to solve the problem, build a better mousetrap. If you give the money—and we will find the money—the Senator from West Virginia and others of us have talked about it—if you give them a better school in the neighborhood, better teachers, better playground facilities, and better physical facilities, those in the country club will chip in and buy a bus to get down to the good school. That is the way to bring about racial balance in the schools. But do not destroy rights, do not discriminate in order to eliminate discrimination.

But in all this mishmash and mumbo jumbo, none of these can be accomplished.

I close, as the distinguished Senator from North Carolina has been good enough to give me this time, and we can talk further about it on another amendment, but the League of Women Voters says, "We do not favor enforced, massive busing, certainly not busing for busing's sake." But think of the years that busing was used in the South for segregation purposes and no one dared to complain. That does not change the constitutional mandate, or the denial on account of race, or busing on account of race.

Let us get back to fundamentals. That is what we have left. In leaving that fundamental right in the Constitution, we do not need any constitutional amendment. Someone should put in the 14th amendment as a statute and see if we can pass it. No one should be denied the benefits of the Constitution. Once the Court leaves to the legislative branch the proper administration of the schools, once the money is given, not for busing but for building better schools and facilities, we will be able to solve this problem.

I thank the distinguished Senator from North Carolina for yielding me this time.

Mr. MANSFIELD. Mr. President, what is the situation on the time remaining?

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL). The Senator from Pennsylvania has 24 minutes and the Senator from North Carolina has 5 minutes remaining.

Mr. MANSFIELD. Mr. President, would the Senator from North Carolina allow me to finish debate on this amendment?

Mr. ERVIN. Yes; but I would like to use my 5 minutes.

Mr. MANSFIELD. Of course, after the Senator has used up his 5 minutes.

Mr. ERVIN. Yes; Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized for 5 minutes.

Mr. ERVIN. Mr. President, this proposal is not a compromise. It does not resemble a stone or a fish. If it had not been introduced by two gentlemen of such impeccable character, I would say it was a hoax. I know they did not draw it, but whoever drew it has practiced a fraud on them and has attempted to use them as a conduit to practice a fraud upon the Senate.

I say that for this reason: Section 1, under the decision in the Swann case, cannot apply to anything except de facto segregation. That is made obvious in title IV of the Civil Rights Act of 1964 and the decision in the Swann case.

I ask unanimous consent that title IV of the Civil Rights Act of 1964 be printed in the RECORD.

There being no objection, the title IV of the Civil Rights Act of 1964 was ordered to be printed in the RECORD, as follows:

### TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

#### DEFINITIONS

SEC. 401. As used in this title—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

#### SURVEY AND REPORT OF EDUCATIONAL OPPORTUNITIES

SEC. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

#### TECHNICAL ASSISTANCE

SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

#### TRAINING INSTITUTES

SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

#### GRANTS

SEC. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

#### PAYMENTS

SEC. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

#### SUITS BY THE ATTORNEY GENERAL

SEC. 407. (a) Whenever the Attorney General receives a complaint in writing—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin.

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

SEC. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

SEC. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

Mr. ERVIN. Mr. President, in interpreting the Swann case, the Supreme Court stated, on page 13 of the original report on the Swann case:

> There is no suggestion of an intention to restrict those powers or withdraw from courts their historic equitable remedial powers.

Mr. President, the Supreme Court says that notwithstanding the Civil Rights Act of 1964 provides that—

> No court shall order the transportation of students to overcome racial imbalance.

The court said further:

> The legislative history of Title IV indicates that Congress was concerned that the Act might be read as creating a right of action under the Fourteenth Amendment in the situation of so-called "de facto segregation", where racial imbalance exists in the schools but with no showing that this was brought about by discriminatory action of state authorities. In short, there is nothing in the Act which provides us material assistance in answering the question of remedy for state-imposed segregation in violation of *Brown I*. The basis of our decision must be the prohibition of the Fourteenth Amendment that no State shall "deny to any person within its jurisdiction the equal protection of the laws."

Mr. President, what do those words mean?

They mean that the court held that the Civil Rights Act of 1964 applied only to de facto segregation.

In other words, the Supreme Court of the United States held in the Swann case, which has been extolled here, that Members of Congress were such asses that they passed a law to regulate something they had no constitutional power to regulate, and did not intend to pass a law to regulate the only thing they had the constitutional power to regulate.

So, these words—these weasel words—in the first section of this substitute amendment are the same words used in the Civil Rights Act which the Supreme Court declared in the Swann case did not apply to but one kind of situation, and that is de facto segregation.

So, Mr. President, the children ask for fish and this amendment gives them a serpent.

Mr. President, I absolve the two authors of this amendment from any complicity in the purpose of its draftsmen to practice a fraud upon the Senate, because they have demonstrated they do not even know what their own amendment means.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore (Mr. Gambrell). All time of the Senator from North Carolina has now expired.

Mr. SCOTT. Mr. President, I yield 2 minutes to the distinguished Senator from Kentucky (Mr. Cooper).

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized for 2 minutes.

Mr. COOPER. Mr. President, I agree wholly with what the Senator from North Carolina has said, that the clause in section (a) has no meaning at all.

I can recall when the 1964 Civil Rights Act was passed, when questions were asked of the manager of the bill on the floor—I would not want to be incorrect but I believe it was the Senator from Minnesota (Mr. Humphrey), and if I am not correct, I shall correct it later—when asked to interpret the language of section 4 which has just been placed in the Record, as to whether that required busing, the answer was no.

Mr. President, former Senator from Illinois Paul Douglas and I managed title IV of the Civil Rights Act of 1964. I know that everyone will agree Senator Paul Douglas of Illinois was one of the great advocates of civil rights and I think that I have hewed to the line pretty closely during my time in the Senate.

We were asked—both of us—if the language of section 4 of title IV required busing and our answer was no, only within properly and geographically arranged school districts.

The courts have ignored that interpretation and have made their own interpretation. It is correct that in the Swann case the courts even held that one could not prohibit the use of funds even to secure racial imbalance. What the Senator says is correct.

Mr. MANSFIELD. Mr. President, what the distinguished Senator from Kentucky (Mr. Cooper) has just said relative to the 1964 Civil Rights Act is correct.

First, I want to make a few points clear——

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania yield time to the Senator from Montana?

Mr. SCOTT. Yes, Mr. President, I yield to the distinguished majority leader whatever time he may desire.

Mr. MANSFIELD. Mr. President, first, may I say to the distinguished Senator from South Carolina (Mr. Hollings), whose speech I enjoyed very much—and I can understand his deep feelings on this matter—that there is no "small print" so far as the Senator from Montana is concerned.

May I say also that I have had no contact with "liberal Senators" in the drawing up of this amendment which was, in large part, my own idea. I did not even speak to the distinguished minority leader on this matter until yesterday morning.

May I say also that I have had no contact with the administration. This proposal is offered in good faith. It is not a hoax. It is not something cynical. It is not perfect. But it is an attempt to face up to the most pressing domestic problem of the time and to do so, hopefully, on a constructive basis.

I do not want to see that issue prolonged for 5, 8, or 10 years. That is why I feel that initiating the constitutional amendment process would not be apropos at this time, because not only have there been proposals for a 10-year drawing-out period, so to speak, but there have also been proposals for a constitutional amendment which, in my opinion, would have difficulty passing this body because of the two-thirds vote required. The same would apply to the other body. And it would take three-fourths of the States to ratify such a constitutional amendment if all appropriate steps were taken. The idea is to face up to it now.

May I say that it is a matter for the Senate itself to decide. And what the Senate in its wisdom does will be perfectly satisfactory to the Senator from Montana, whether he agrees with it or not.

Mr. President, with those preliminary remarks out of the way, to make my position clear, very clear, I will now turn to the amendment itself.

First, may I say that the amendment would prohibit busing to achieve school desegregation if, in the process, the health of students is endangered.

Second, it would prohibit busing to achieve school desegregation if, in the process, the educational process is significantly impinged upon.

Third, busing would be barred where the school to which the student was transported is found significantly inferior. Our overall goal, as I understand it, is quality education for all.

Mr. RIBICOFF. Mr. President, will the distinguished Senator yield?

Mr. MANSFIELD. I cannot yield at this time. We are under limited time. I hope the Senator will forgive me.

Fourth, it prohibits the use of Federal funds to carry out busing unless expressly requested in writing by local school authorities.

Fifth, there would be no court orders for school district mergers or consolidations or where students are assigned to schools outside home districts until all appeals are exhausted—but this would not extend beyond June 30, 1973.

Sixth, it forbids the practice of coercing localities into busing by threatening to hold back Federal funds.

Seventh, Federal agents would be precluded from conditioning approval of funds for State or local purposes on busing.

Eighth, though busing would be allowed on the express written request of local school officials, no Federal court or official could order such a request.

Ninth, it would forbid Federal officials from requiring or urging local officials to spend State or local funds for any purposes for which Federal funds are forbidden.

What the amendment does not do is this:

It does not change or modify or alter the Constitution of the United States or in any way permit practices of discrimination as barred by the Constitution and by the laws of the land.

Mr. President, were I a lawyer, constitutional or otherwise, I might feel a little more comfortable addressing the subject I am about to raise. At the root of the "busing" issue there is the law and the Constitution. For both of these I have the highest regard and respect. I must approach this subject instead, however, as one who is deeply concerned about an issue that throughout this country—north, south, east and west—has generated more emotion and has divided and torn apart as many communities as has any issue in my career as a public servant.

It is an important issue; important because it involves, in my judgment, the most precious resource this Nation has to offer—schoolchildren. At stake is the right of each child to obtain the best education possible. It is a right in my opinion that is just as sacred and just as sacred and just as carefully protected as any right preserved by the Constitution of the United States. It was on the basis of that document that the Supreme Court first ruled that segregated schools in our society violate a child's right to seek the best education possible—a "quality" education on an equal basis for all, regardless of race, color, national origin or economic circumstances. I refer of course to the famous Brown case decided back in 1954.

To comply with the law, local school districts have assigned students to schools in a nondiscriminatory way. Over 65 percent of our children attending schools today live at such a distance from their school as to require the use of buses or other means of transportation. Substantial busing was employed before the Brown case in 1954, and circumstances have not changed. What has generated the controversy is not the bus ride but what is at the end of the ride. Every parent wants his child to obtain the highest quality education; and no law should interfere with that desire.

The bill before us meets that issue directly as it should—all education measures are designed to improve the quality of schools that have been so long neglected, to provide funds for these purposes and to facilitate constitutionally guaranteed rights of every child to a quality education without regard to race, creed, religion or national origin. It is this goal we should seek to advance; in achieving it, our premise should be founded with the recognition that this society of ours is composed of varied backgrounds, and a multitude of beliefs and origins and that the quality of each student's education is enhanced by contributions from the widest spectrum.

With that said, I can nevertheless understand the concern of parents who, after living in a community for some time, or after having moved there for the express purpose of finding "better" schools, learn that their children must board buses every weekday to take them out of their community away from their neighborhood to different schools. Rearranging school districts that have been intentionally drawn by local school officials to segregate the schooling of children by race must be stopped, but not by burdening the child with the sins of their elders. The basic bill before us offers another remedy.

It is for this reason that I have joined in attempting to meet the issue. It is for this reason that I have taken the position that the issue must be faced now, today, not next year or the year after, or whatever length of time it would take after initiating the constitutional amendment process. To me, that course of action is neither necessary nor prudent. I believe the remedy lies instead within the legislative process.

I have therefore joined in an amendment to the Education Act. The amendment seeks to correct the most grievous consequences of what has become known as "forced busing" within our society.

Under this amendment, busing must be voluntary. I repeat—the goal of this amendment is voluntary busing. For decades now, in my memory, the schoolbus has been used as a means of getting children to and from school. They were used before 1954. They have been used since 1954. Schools and school districts should always, in my judgment, have buses available as a means of transporting schoolchildren.

Education is basically a State or local matter. Assigning students to schools and the problem of getting them there is better handled by local school authorities. Federal involvement has been limited to the use of Federal funds to see that where possible each child in the Nation is afforded quality education. That is the goal. Under this amendment, therefore, the use of Federal funds for busing would be strictly voluntary. Any school system that desegregates may obtain Federal busing funds but does so only upon its own, independent application.

The bill itself seeks to furnish the real answer to years of discrimination. Elsewhere under it, funds are designated to upgrade those schools that have in the past been deprived. It should be said that neither the bill, nor this amendment, would tolerate discrimination as prohibited by the Constitution, and I hope that no one would even attempt to change the Constitution to permit discrimination. In that regard, a constitutional right without a remedy is no right at all.

There is another aspect to this busing issue which has disturbed me very much. It is that Federal administrators or officers or employees may have coerced local school districts into a program of busing. No system of busing can be voluntary if established in the face of threats to cut off Federal funds to which that school district would otherwise be entitled.

This amendment bars this practice and does so in clear and unmistakable language. Even if such a request is made, no schoolchild under this proposal need ride a bus if in doing so there would be any risk to the health of the schoolchild in question.

There is one final aspect to the problem which this proposal would address. Even if a system of busing is established on a voluntary basis and at the uncoerced request of the local district, no child should be transported out of his community, away from his neighborhood to attend a school that is inferior to the school to which that child would otherwise be assigned.

More than any other aspect of this problem, it is this issue that reaches to the very essence of the concern of the parent. So many have said: "It is not the bus ride that concerns me; it is what's at the end of the line that most disturbs me." I agree with that sentiment. Quality education is the goal. And no student should suffer for the sake of riding a bus.

Once moving to a particular community because of the fine reputation of its schools and making such a move in reliance upon the fact that one's child or children will be attending those schools, no parent should be compelled to stand aside to watch his child deprived of that opportunity unless he is assured that his child will receive an education that is substantially identical. Therefore, this amendment would bar the transportation of a child to any school that is substantially inferior to or where the quality of education is substantially less than that found at the school he would otherwise attend.

To summarize, the amendment bars forced busing. It does so by conditioning the approval of any plans to transport children by bus on the express request of the local community school district. The amendment also bars a number of practices that have arisen in connection with the busing issue. Foremost, it bars the practice of coercing localities into busing by threatening to hold back funds to which they were entitled otherwise. Moreover, in any busing scheme—even though initiated at the request of the community—no child can be made to ride the bus if such activity threatens his health or impinges the education process. And finally, no child may ride the bus if it means attending a school inferior to the one he would otherwise attend.

One final point. There are now pending a number of cases within the Federal courts which seek to merge or abolish school district boundaries. This is a particularly vexing problem and one which I think every Member of this body is in sympathy with. I, for one, do not wish to see broad school districts broken apart without the most careful and cautious consideration.

At the present time these cases are in various stages as they wind their way through the courts to the Supreme Court. It is therefore provided in this proposal that while these proceedings continue their way through the appellate process, the consolidation or merging of school districts under court order be suspended until such time as the Supreme Court has had an opportunity to rule.

May I say in passing that this goes far beyond the Richmond decision and it extends to cases pending in other parts of the country, in the Midwest and the North, as well.

To achieve uniformity and consistency and to promote harmony, I think that such a provision is necessary and in the public interest. If further legislative action is found necessary, this suspension will provide the added opportunity to give Congress the chance to take necessary remedial steps to correct any inequities or to provide any new remedies, depending on the outcome.

So the date of June 30, 1973, at midnight, is a flexible date.

I should like to say finally, that in compliance with Court mandates, thousands of school districts throughout this Nation have desegregated smoothly and peaceably. I would venture to say were we a totally colorblind society, there would be no busing issue at all. The fact is, we are working toward the goal of being colorblind and ultimately we will achieve that goal, because, if we are to survive as a nation of laws we have no choice. In the process, however, I do not wish to see any child suffer for lack of educational opportunities be he white, black, yellow; a youth of the poorest ghetto, the Indian reservation, or suburbia. With education assistance provided at the Federal, State, and local level, I would hope all children could be given equal educational opportunities.

Mr. President, may I say in closing that this is a constructive effort on the part of those of us who are offering it to meet a pressing problem and to meet that problem now.

Mr. RIBICOFF and Mr. HOLLINGS addressed the Chair.

Mr. MANSFIELD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. MANSFIELD. I yield to the Senator from Connecticut.

Mr. RIBICOFF. The Senator refers to not requiring a child to go to a school substantially inferior to the one he would have attended under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

Will the Senator tell us who is to say what is an inferior school?

Mr. MANSFIELD. I would say it would be up to the courts to make that decision, if need be. It would be up to the government, local, State and Federal working hand-in-hand with the education community to determine if the educational opportunity is substantially less at one institution as opposed to another.

Mr. RIBICOFF. In other words, we may have a lawsuit to determine if each and every school is inferior or not.

Mr. MANSFIELD. Not necessarily, because I think standards as between the schools can be drawn quite readily. In certain cases the difference is so apparent that the answer would be easily forthcoming.

Mr. RIBICOFF. How is it going to be easily forthcoming? What would be the standard, for instance, in the little dilapidated schoolhouse with a white teacher or a black teacher? Who will set the standards of what is inferior under the Senator's amendment?

Mr. MANSFIELD. The question has been answered. The Senator is going around the issue. A number of factors contribute to determining the type of education a schoolchild gets, and we know that in many schools of this country students are being passed from grade to grade with no education in reality. There would be no question there as to what type of school that was.

In most of suburbia as well there would be no question as to what type of better school that would be. It is my judgment that the education community and all agencies of government, Federal, State, and local that contribute to the education process would be most capable of handling the task.

Mr. RIBICOFF. It may, however, take years for these determinations to be made.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. HOLLINGS. Mr. President, on both sides?

The ACTING PRESIDENT pro tempore. On both sides of the amendment.

Mr. GRIFFIN. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I send to the desk a perfecting amendment to the text of the amendment proposed by the Senator from Alabama (Mr. ALLEN).

The ACTING PRESIDENT pro tempore. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the perfecting amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I will say, for the benefit of the Senate, it is my amendment No. 927 insofar as the substance of the language is concerned.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Michigan? Without objection, it is so ordered.

The perfecting amendment is as follows:

In line 3 of the Allen amendment as printed (No. 922), after the word "teachers", strike all that follows through and including the last word in line 4, and insert in lieu thereof the following: "on the basis of their race, color, religion or national origin."

And after line 4, add the following:

SEC. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 903. No department, agency, officer, or employee of the United States, empowered to extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 904. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, color, religion, or national origin, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

SEC. 905. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. SCOTT. Mr. President, will the Senator yield, on time?

Mr. GRIFFIN. I yield.

Mr. SCOTT. Mr. President, I ask unanimous consent that the time in opposition to the perfecting amendment be allocated to the distinguished manager of the bill, the Senator from Rhode Island (Mr. PELL).

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRIFFIN. Mr. President, there is one significant feature of the Mansfield-Scott substitute that has merit, in my view. I refer to subsection (c) that would postpone the effective date of a court order requiring cross-district busing. Except for that one provision, it is the judgment of the junior Senator from Michigan that the so-called Scott-Mansfield compromise accomplishes little or nothing.

The effect of the compromise proposal, as I understand it, will—except for subsection (c)—be to leave the Senate and the country in the same situation with regard to busing as we find ourselves in now.

Mr. President, the amendment which I have offered seeks to withdraw the remedy of busing from the jurisdiction of the Federal courts. As I explained yesterday, I came to the advocacy of this approach with some reluctance. However, as a lawyer, who has studied the various alternatives available to Congress to deal with the busing problem, it seems to me that unless we are going to amend the Constitution, this is about the only meaningful legislative route open.

It should be acknowledged that there is some question about the constitutionality of this approach. The distinguished Senator from North Carolina (Mr. ERVIN) has eloquently documented the case and the arguments for the constitutionality of this approach.

In times past the Congress has withdrawn the jurisdiction of Federal courts to utilize a particular remedy in dealing with a problem. Perhaps the most noteworthy example is the Norris-LaGuardia Act, when Congress denied the Federal courts jurisdiction to issue injunctions in labor disputes. The Norris-LaGuardia Act did not withdraw all jurisdiction from the Federal courts to deal with labor disputes; it withdrew only the jurisdiction to utilize a particular remedy; namely, the injunction.

A more classic example, perhaps, was the case of Ex parte McCardle. In that case, Congress went so far as to withdraw from the Supreme Court jurisdiction to review applications for writs of habeas corpus. Surely that would have been an extreme example. In passing on the power of Congress to do that, the Supreme Court, through Chief Justice Chase, said:

> We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution and the power to make exceptions to the appellate jurisdiction for this reason is given by express wording.

Mr. President, I regret that it has become necessary to propose such restrictions upon the courts and upon HEW. But along with the vast majority of Americans, black and white, northerners and southerners, I believe too many of the courts and bureaucrats have lost sight of the fundamental purpose and meaning of the 14th amendment as well as the mandate of Brown against Board of Education.

The Brown case, as I read it, stands for the proposition that government at all levels should be color blind. Mr. President, in the Brown case a young black child was being bused miles past a school in her neighborhood to attend a school segregated as a matter of law. Now, in 1972, we find ourselves in the ironic and ridiculous situation where many children, after the Brown decision, are still unable to attend the school in their neighborhood. Most people thought that was the objective of the holding in Brown. Instead small children are now being bused for miles beyond the schools in their local neighborhoods—bused because they are black or because they are white—and they are required to attend far distant schools by reason of court orders.

Mr. President, it really comes down to a basic question: do two wrongs make a right? If it is wrong for a school district to bus children miles past their neighborhood schools because they are white or because they are black, is it right when a district court requires such busing?

I would submit that the 14th amendment applies to government at all levels, to all the branches of government, and to the courts as well as to the legislative bodies—to the Federal Government as well as to the States and local units of government.

Mr. President, I am happy to yield 5 minutes of my time to the distinguished Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, we are debating in this body what has been termed "the most emotional issue of the year." This assertion is probably correct. However, this concern over the busing of schoolchildren is much more than that; it is probably the most important domestic issue of this year and many years to come. What we are dealing with here is not simply some new program that may or may not work; some program that if it does not work can be retooled or abandoned. We are dealing with the lives of our American schoolchildren and their education. Damage done to their education can probably not be corrected. Damage done to already beleaguered school districts may not be able to be set right. We have a very important question to be resolved: Shall we use our schools as vehicles for social engineering or shall we concentrate with our limited financial resources on providing a quality education for all of our children.

Yes, busing is an emotional issue because the things that most Americans hold most dear are their children and their education. We Americans will go to almost any lengths to protect our children and to provide for them the best things in life that we can. It is for precisely this reason that we must take positive steps to eliminate the disruptive practice of forced busing for the purpose of achieving a numerical, racial balance in our school system.

Before I came to the Senate, I taught for many years in an integrated classroom situation. I know for a fact that blacks, whites, and other groups can indeed work and learn well together. The point is not whether desegregation should continue; I do not advocate a return to the dual school system. The separation of children simply because of their race or national origin is not consonant with the American ideal of equality. However, social scientists must not be allowed to urge upon us a reverse bias in turning the emphasis of the schools from education to social engineering.

Mr. President, if there were any educationally sound reason to have massive, forced busing, then the people of this country might not mind this practice so much. But look at the facts: no such educational reason exists. On February 18, Senator MONDALE, who is chairman of the Select Committee on Equal Educational Opportunity and who has spent nearly 2 years studying such tools of desegregation as busing, spoke to the Senate concerning his observations. In his report, after all the testimony that had been taken, he could not come forward with one educational reason why we must have massive, forced busing in urban areas. In urban areas where massive busing has been undertaken, there has been very little accomplished educationally while millions of dollars have been spent to buy school buses and pay drivers. The Select Committee did turn up some very interesting facts, however; namely, the vast amount of money spent by school districts for noneducational activities. In Pontiac, Mich., court ordered busing is costing that district $700,000 yearly. In Dade County, Fla., busing is costing that district $1.5 million in just 6 months. In Harrisburg, Pa., busing is costing the taxpayers $500,000 yearly. This is being repeated all across the Nation. School districts that are in difficult financial straits are being forced to spend millions of hard-earned taxpayer dollars for expenditures that are of little or most probably no educational value. We simply must not allow this tremendous waste of resources to continue when the only outcome in sight is further disruption of educational opportunities, the neighborhood school, and the parents' freedom of choice.

Mr. President, now that we have identified a major problem, we must decide on a way to extricate the Nation from it. There are two methods which show a good deal of promise in this area. The first is a constitutional amendment which would prohibit busing. This is the approach that I favor in the long run, for it is the only approach that is 100 percent certain. No enterprising Federal judge can rule a constitutional amendment to be unconstitutional.

For this reason, I have joined in sponsoring such an amendment and will continue to do everything I can to see that it is finally passed. I realize, however, that the method of amending the Constitution is quite rightly a difficult and time-consuming process and that the question of quality education demands our attention now. Therefore, I am also supporting a second method of affording relief from forced busing. This method is removing from the Federal courts the authority to force a school district to bus or assign a student in order to achieve a racial balance. In this respect, I have cosponsored with Senator GRIFFIN an amendment to this affect which is currently pending to S. 659.

It is long and well settled that the Congress has the authority to determine the matters over which the interior Federal courts shall have jurisdiction and over which the Supreme Court shall have appellate jurisdiction. Article III of our Constitution makes this power abundantly clear. This matter has been judicially established at least since ex parte McCardle in 1867. Most recently, the Congress in the Norris-LaGuardia Act has withdrawn the jurisdiction of the courts to issue injunctions in labor controversies, except in the most carefully defined areas.

Mr. President, the amendment clearly states that:

> No court, department, agency, or officer of the United States shall have jurisdiction or power to order or require by any means whatever the authorities controlling or operating any public or private school in any State, district, territory, Commonwealth, or possession of the United States to transport any student from one school to another school, or from one school district to another school district, or from one place to another place, to alter the racial composition of the student body at any school.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. TOWER. I ask for 2 additional minutes.

Mr. GRIFFIN. Mr. President, how much time remains on this side?

The ACTING PRESIDENT pro tempore. The Senator from Michigan has 44 minutes remaining.

Mr. GRIFFIN. I yield the Senator from Texas 2 additional minutes.

Mr. TOWER. The second part of the amendment provides the same prohibition on the assignment of students. The language is very clear. It is concise.

No Federal official could fail to see that busing would be banned and that this Congress and this Nation mean to use their educational funds to educate, not to experiment with the lives of their children.

Mr. President, there are pending many more amendments to this bill dealing with busing that I am sponsoring. I will continue to sponsor them and I shall vote for them. Yet, not one of them give the promise of stopping busing that this amendment gives. I regret that this is so, but the Federal courts have on numerous occasions refused to follow congressional guidance in this area. Specifically, I refer to the Civil Rights Act of 1964. In title IV, section 2000c(b) of that act desegregation is defined:

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" *shall not mean* the assignment to public schools in order to overcome racial imbalance. (Emphasis supplied).

The courts have actively ignored this provision, and, I am afraid, would continue to ignore anything but a constitutional amendment or the amendment which I am here sponsoring which would withdraw this matter from the jurisdiction of the courts.

Mr. President, in the past few months, there has been much said by many to confuse the issue of busing. Many have said that we are trying to overturn the Brown decision. Nothing could be further from the truth; I would certainly have no part of any such attempt. The issue is clear: are we going to continue to force busing or are we going to end it? If we are going to end it, most probably the only way to end it is through the two methods I am currently supporting. Those who are for busing should vote against us; those who oppose busing should join us.

I thank my colleagues for yielding.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield 2 minutes to the Senator from Virginia (Mr. SPONG).

Mr. SPONG. I thank the Senator from Michigan.

Mr. President, I notice, in reading the Mansfield-Scott amendment, that the section dealing with stays in pending court cases, is explicit with regard to orders requiring consolidation.

I ask the Senator from Michigan, since his section 903 is not explicit with regard to this matter, if he would consider modifying his amendment to provide, on line 12 of page 2, after the words "local authority," language which would say "or which require the consolidation of two or more educational agencies". That is the language in the Mansfield-Scott amendment.

Mr. GRIFFIN. I would respond to the Senator from Virginia by saying that it is the interpretation of the junior Senator from Michigan that his amendment would encompass the situation that concerns the Senator from Virginia. However, I see no harm to be done by inserting the language suggested; it might serve a useful purpose.

If the Senator would restate the wording of his proposal, I would then be in a position to modify my amendment accordingly.

Mr. SPONG. The Senator wishes me to restate it?

Mr. GRIFFIN. Yes.

Mr. SPONG. On line 12 of page 2, in section 903, after the words "local authority," insert "or which requires the consolidation of two or more educational agencies."

Mr. GRIFFIN. I state to the Chair that under the renumbering, the reference would be section 904, as the amendment has been proposed. Mr. President, I modify my amendment accordingly.

The PRESIDING OFFICER. The amendment is so modified.

Mr. SPONG. I thank the Senator from Michigan.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. PELL. I yield 3 minutes to the distinguished Senator from California.

Mr. TUNNEY. Mr. President, I am going to support the Scott-Mansfield amendment for the primary reason and hope that it may help to defuse the rampant emotionalism in the Nation on the busing issue.

I respect the constructive purposes of this amendment's sponsors.

But I am saddened by the presumptions of necessity that have forced the Senate to focus its attentions this week on only one, largely symbolic factor—busing—involved in a profound challenge the Nation.

That challenge is to provide good schools for all of America's children, regardless of race.

The fact that busing is an issue at all is the direct result of our failure, in both State and Federal Governments, to deal with that fundamental challenge. We have continued to allow inner city schools to be strangled by lack of money and we have refused to deal effectively with lack of meaningful housing and job opportunities. Thus, we have forced our judicial system to reach out for other tools, such as busing, to right the inequities which we have been unwilling or incapable of doing ourselves.

Now we are confronted with the results of those failures. Busing has become the focal point of a political storm which should properly be directed at the fundamental issue of providing quality education for every child in the Nation.

Many of us frequently and publicly reaffirm our determination to build quality education for all children. Some of us openly and sincerely commit ourselves to the principles of integration of our schools—and our society.

I support the amendment in the hope that it will remove the emotion and the politics from the fundamental task which we face. It will diffuse some of the objections without depriving school districts of the opportunity to use busing where it is needed for any reason.

But let us not kid ourselves. Neither this amendment nor any other busing amendment is going to move us one step closer to an integrated society or to quality education for our children, in and of itself. If Congress adopts busing amendments but does nothing to provide the money and the personnel and the leadership for good schools in every city and suburb in this Nation, we are ultimately going to be looked upon as hypocrites.

The California Supreme Court recently laid down the challenge to us:

> In a democratic society free public schools shall make available to all children equally the abundant gifts of learning.

I suggest that we get on with this task.

Mr. PELL. I yield myself such time as I may require.

Mr. President, the amendment of the Senator from Michigan is a very strong amendment which, if adopted, would repeal the provisions of the Civil Rights Act and would erode the power of the courts in a way that is rare.

As I said earlier, I recognize both the desirability and the necessity of seeking to reverse the present unacceptable and in some cases unconscionable busing of children for the sake of busing—busing where no educational advantage is secured but where in some cases it is reversed.

What we need is a moderate approach that on the one hand would stop such a course but on the other would not result in the creation of a more rather than a less segregated society.

It is for that reason that I intend to oppose this amendment and to support the amendment of the majority and minority leaders.

Mr. GRIFFIN. I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. BAKER. I thank the distinguished minority whip for yielding so that I may speak in support of his amendment.

Mr. President, I do not think for one moment that when we talk about busing, we are talking segregation or desegregation; and I do not conceive for one instant that if we decide, as a matter of national policy, to end the practice of judicially prescribed busing for racial balance, we are going backward or rolling back time to some period in history prior to the Brown decision in 1954.

I do not think for a single scintilla of time that by deciding, as a matter of national policy, that busing does not serve the interests of the child, or of education, or of the unitary school system, we are in some strange way turning our back on a national commitment to a plural society, to a unitary school system, and to the further progress of civil rights. I think, instead, that we are debating here and now whether or not busing, as a judicially determined technique for bringing about a racial balance in order, as the Court says, to eliminate the last vestiges of institutional segregation, is a desirable public purpose. In my view, clearly, it is not.

Mr. President, perhaps my view is a little more immediate and certain and less hypothetical than the view of some, because in Tennessee, in my native State, in the capital city of Nashville, we have judicially decreed busing, and we have 40,000 students in Nashville being bused twice a day, some of them as long as an hour and a half.

I can testify first-hand that many, many people in Nashville who are dedicated to the purposes of civil rights—and have always been—are vehement in their opposition to busing. I can testify first-hand that there is not a bias or sentiment in Nashville against a unitary school system or the furtherance of the cause of civil rights; but I very much doubt that one could find 10 percent of the people of Nashville who favor busing as we know it, as we have experienced it since September 1971.

Some say—and I suspect that there is a good bit of merit to the argument—that we ought to try other remedies first, before we try legislative proposals such as I support and such as offered by the distinguished junior Senator from Michigan. Some say that perhaps there should be a further determination of what the courts require, because, after all, the Swann decision was painted with a fairly broad brush, and it was. Much of that broad-brushing is incorporated in the Scott-Mansfield substitute—that is, busing is permissible, but use it only when it does not interfere with the child's education or where it does not jeopardize his health. That is not exactly what Swann said, but that is very nearly what it said. But I do not know what that means, and I submit that no one else does either. Nor are we defining with any sort of exactitude what these subjective, descriptive adjectives mean.

To illustrate that point, I would point our that district court busing orders, very massive in their effect, such as in Nashville and other places have all been uniformly upheld, on appeal creating the distinct impression that the appellate courts including the Supreme Court leave vast leeway and latitude to the lesser courts—the district courts and the courts of appeal—to decide whatever they want to decide about busing.

That, Mr. President, does not accord with my views of our responsibility as the policy-setting agency of this three-tiered Federal Government. I believe that not only does Congress have the clear and constitutional authority to do what the distinguished junior Senator from Michigan (Mr. Griffin) proposes we do in the limitation of jurisdiction and the legislative stay, but I believe, indeed and in fact, that it is our responsibility, as servants of the people, to act on this important issue.

As some would say, we should try the judicial technique first. Maybe we should. Maybe that would be preferable. Some say a constitutional amendment is more certain; I agree. But this time is now, and this proposal is before us.

I intend to support it because I intend to do what I can, when I can, to make it perfectly clear that while I support the concept of a unitary school system, and while I support the concept of equal opportunity for every citizen of the United States, I do not support busing. I want carefully, precisely, and exactly, to excise the authority of the Federal judiciary to judicially decree busing—nothing more and nothing less.

So, Mr. President, I disavow any implication, allegation, or any charges that being antibusing is in someway being antiblack, anticivil rights, anti-Chinese, or antianything else other than busing itself. It is not. So far as the senior Senator from Tennessee is concerned, it is nothing more than a statement that busing is not an acceptable and desirable technique to be utilized in further efforts to remove institutional segregation as an ugly scar on the landscape.

Busing is not appropriate to the needs of these times.

I commend the distinguished Senator from Michigan (Mr. Griffin) for acting with precision and exactness in his efforts to do three things:

One, to remove the authority of the Federal judiciary to decree busing.

Two, to see that the administrative agencies of government do not substitute their power in place of that of which we deprive the judiciary.

Three, that there be a legislative stay of the effectiveness of any busing orders until the Government of the United States, the Congress of the United States, the executive branch and, indeed, the courts, have an opportunity to study this very volatile and very important issue and clearly define the distinction between being antibusing and not being anticivil rights.

Thus, Mr. President, I commend the distinguished Senator from Michigan and I intend to support his amendment.

Mr. GRIFFIN. I thank the Senator from Tennessee for his comments, and in a moment I shall be glad to yield to the distinguished Senator from Georgia (Mr. Talmadge).

I share the view of the Senator from Tennessee that the vote on my amendment in no way represents a vote for or against segregation.

Mr. President, because this subject affects my State so directly, I have been very interested in polls which determine and measure the opinions of black people in Detroit, in Pontiac, and in other areas of the country.

Mr. President, a week or so ago I reported on certain surveys of black people in the Detroit area, surveys which were published by the Detroit News.

In this morning's Detroit Free Press there is an interesting story about a survey which reflects the opinion of blacks and Latin-Americans in the Pontiac area.

The distinguished Senator from Texas (Mr. Tower) mentioned that busing in Pontiac will cost $700,000 a year. I am not immediately in a position to verify that figure but I would not doubt it. If the average pay of teachers is in the neighborhood of $10,000 a year, one can quickly compute how many additional teachers could be hired with the money that will be going for busing.

The article in the Detroit Free Press reads in part, like this:

> The majority of Pontiac blacks and Latins do not believe school busing will help integration or improve their children's education, according to an independent survey conducted last October among the city's 33,000 blacks and undetermined number of Latins.
>
> Results of the survey, which asked questions of 250 blacks and 50 Latins, were never released to the public.
>
> The minority attitude survey shows 64 percent of the city's minority population does not believe busing will give their children a better education.
>
> Taken separately, 62 percent of the Latin people surveyed also responded negatively.
>
> Although the study was presented to the Pontiac city planning commission in November, the city commission received copies informally only "several weeks ago," a spokesman said.
>
> The telephone survey was taken by Parkin, Rogers and Associates, Inc. of Detroit in association with a black consulting firm, the Urban Design Institute, also of Detroit.

Mr. President, I ask unanimous consent that the complete text of the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Detroit Free Press, Feb. 24, 1972]

### Survey Results Uncovered—Poll Shows Pontiac Blacks, Latins, Cool To Busing

(By Tim McNulty)

The majority of Pontiac blacks and Latins do not believe school busing will help integration or improve their children's education, according to an independent survey conducted last October among the city's 33,000 blacks and undetermined number of Latins.

Results of the survey, which asked questions of 250 blacks and 50 Latins, were never released to the public.

The minority attitude survey shows 64 percent of the city's minority population does not believe busing will give their children a better education.

Taken separately, 62 percent of the Latin people surveyed also responded negatively.

Although the study was presented to the Pontiac city planning commission in November, the city commission received copies informally only "several weeks ago," a spokesman said.

The telephone survey was taken by Parkin, Rogers and Associates, Inc., of Detroit in association with a black consulting firm, the Urban Design Institute, also of Detroit.

Four questions concerning busing were asked.

Seventy percent of the total group said busing would not be good for integration and 73 percent said busing costs more than it's worth.

A total of 95 percent said they do not think the only way to stop racial unrest is to end busing.

Latin responses (taken alone) showed 68 percent felt busing is not good for integration, 57 percent agreed busing is more costly than beneficial and 80 percent did not think racial unrest can only be avoided by ending busing.

"Some feel that busing will not enhance the city's segregated housing pattern and that efforts (toward integration) should be made in housing instead," according to the report.

"Others are concerned that, through busing, local currently black schools might be phased out, with new or larger schools built solely in white areas . . . (and) some minority respondents felt that busing will eventually result in a lower rate of minority administrators and teachers."

Although one city official said the survey wasn't released because it was a "poor job" and incomplete, Pontiac Community Development Director James Bates said: "It wasn't considered a bad job . . . it gave us a sample of blacks and Latin Americans but it doesn't reflect the opinions of others in the city.

"The minority groups have always contended that their attitudes were never solicited or listened to and this was an attempt to do that."

But both Bates and Andrew Pettress, director of the city's new Human Resources Department, said a more complete citywide attitudinal survey would be taken in the spring.

But Mrs. Irene McCabe, leader of the Pontiac-based anti-busing National Action Group said: "The results don't surprise me one bit. It's indicative and in step with the type of government we have in this city that they didn't release the results.

"They (city officials) believe the people in this town are fools and stupid . . . I live in this city, I talk to the people. Anybody who's honest with himself knows busing is negative in all areas—financial, educational and in race relations and integration.

"The people in Pontiac were polarized before busing with the crime problem," she continued, "and now busing has made it worse. But it's consistent that the commissioners tried to hide the truth. They're consistent liars. And if that gets me in court, that's okay. I'm ready for it."

Those interviewed were selected at random in the survey.

Besides busing questions the interviewers asked opinions on favored shopping locations, favored programs for spending tax dollars, the school district's new Human Resources Center near downtown and the greatest dislikes about the respondents' own neighborhood.

The combined response from the two minority groups was 68 percent in favor of spending tax money on "redeveloping the run-down area of the city." Thirty-one percent of the combined group said the biggest complaint or "dislike" about their neighborhoods was the lack of recreational facilities.

Seventeen percent said run-down housing was the worst problem; 12 percent said inadequate schools; two percent complained of traffic congestion and another 31 percent said "most of the above." Seven percent listed other problems as the worst conditions in their neighborhoods.

Mr. GRIFFIN. Now, Mr. President——

Mr. ERVIN. Mr. President, will the Senator from Michigan yield for a clarifying question?

Mr. GRIFFIN. I yield.

Mr. ERVIN. Does the amendment of the Senator from Michigan, impair in any respect the existing power of the Federal courts to compel local school boards to abolish discriminatory zones or districts and establish zones or districts, which will not in any way deny children from any school, on account of their race?

Mr. GRIFFIN. The Senator from North Carolina is absolutely correct. If the Federal court finds that attendance zones have been drawn with a view toward separating the races or to achieve racial discrimination, the courts would be free after enactment of this amendment to require the redrawing of such attendance zones so that they will not be established on the basis of race. Indeed, any other remedy that the court has available would continue to be available.

Mr. ERVIN. It would not impair in any respect the power of any local school board, of its own volition, to bus for any purpose?

Mr. GRIFFIN. The Senator is absolutely correct. In times past, I have voted against some of the amendments offered on this subject, particularly when the wording went too far. In some situations I can recall, we were required to vote on amendments which, in effect, would have precluded voluntary as well as forced busing. My amendment does not preclude or apply to any voluntary program that might involve busing. I am keenly aware of the importance of this point because the Detroit school system, without any court order, instituted what is called a magnet plan; the program was designed, primarily to provide quality education; it utilizes some busing and, incidentally, also mixes the races. My amendment would not touch that kind of situation.

Now, Mr. President, I yield to the distinguished Senator from Georgia (Mr. TALMADGE).

Mr. TALMADGE. Mr. President, I express my strong support for the amendment to remove from Federal courts the jurisdiction to order forced schoolbusing to achieve an artificial racial balance.

This legislation is required to begin to put our schools back under local control, and to take from Federal courts the life-or-death power they have wielded with such a heavy hand in recent years.

This is a principle embraced by the President of the United States—although he has thus far failed to do anything about it.

If we value public education in America, the time has come for the Congress to act.

We must act to overcome callous judicial and bureaucratic arrogance. We must act to make our Government and courts more responsive to the will of the majority of the people of this country.

Who is guilty of arrogance and total disregard for what the American people desire and what is in their best interests?

Members of the Federal judiciary and the bureaucrats of the Department of Health, Education, and Welfare.

These men can afford to be arrogant. They are safely insulated from the people they are supposed to serve.

Federal judges serve for life. Their compensation cannot even be reduced while they are in office.

The Federal bureaucrat is even more secure. Except for the few who occupy the very few top positions, they are faceless. They are virtually nameless as far as the average citizen is concerned.

The workingman does not even know and has no direct contact with the bureaucrat whose salary he pays. Protected by their seniority, these officials remain entrenched while administrations come and go.

I would like to suggest some examples of the arrogance that has been foisted on the American people.

The Federal judiciary, in its school desegregation decisions, has come full circle. Federal courts have parted company with reason and what the average citizen clearly understands as commonsense.

Eighteen years ago, in the Brown decision, the Supreme Court held that race cannot be a factor in the assignment of children to public schools.

Now, the courts say precisely the opposite. According to them—

We must classify children by race.

We must assign children to a particular school because of race.

We must achieve a contrived racial balance.

Federal courts have not yet taken away the right of Americans to live and work where they please. But they have denied parents the right to decide where their children will go to school.

Federal courts and bureaucrats have arrogantly turned their backs on legislation enacted by the representatives of the American people in Congress. The very language of the 1964 Civil Rights Act prohibits the assignment of students to public schools in order to overcome racial imbalance.

During debate on that legislation, the junior Senator from Minnesota, who was then floor manager of that bill, stated that the Constitution would be violated if children were bused to create a racial balance.

I submit that the Constitution and the law are being violated at this very moment. Children in my own State and in other States are being bused and herded about like sheep to do just what Mr. HUMPHREY and the Congress said could not be done.

Numerous other antibusing amendments have been attached to various appropriations bills. In each case, the language clearly prohibited the forced busing of children to achieve racial balance.

In each case, the language of these measures has been twisted or ignored.

Busing has been achieved by a hypocritical double standard. Federal courts and HEW divide segregation into two categories, "de facto" and "de jure."

"De jure" means by law and there has in fact been no school segregation under the law since the 1954 Brown decision.

In another point of fact, southern schools are now more integrated than those in any other section of the country.

But courts and bureaucrats and so-called liberals have been forced to seek a way out of their dilemma. They want to rationalize the proposition that while segregation in the South is evil, segregation in other parts of the country is something to be tolerated, and even protected.

So they seized upon the de facto-de jure distinction. This kind of hypocritical arrogance may be morally satisfying to some, but it has no foundation under the law or the Constitution.

It is not in the best interests of children anywhere, black or white. It mocks and reduces education to a shambles. It destroys the rights of all Americans in a free republic to get a quality education.

A serious example of this arrogance is the fact that judges and officials totally ignore the will of the people they are sworn to serve.

They ignore legislation enacted by Representatives and Senators whom the American people send to Washington. They force a doctrine on the American public that polls show to be held in overwhelming disfavor by citizens of this nation, both black and white.

By ignoring the will of the people, these so-called public servants are smugly secure in the belief that they know better than the people, what is good for them.

I submit they do not. Let us examine some of the results of forced schoolbusing. Look at the price we are paying for this idiotic policy.

In Chatham County, Ga., this year, that school district will have to raise in excess of $850,000 to pay for court-ordered school busing.

I cannot believe we are unable to think of other ways to spend this money which would be more beneficial to our children and their education.

The cost of busing is rampant throughout the country.

In Dade County, Fla., the bill for forced busing came to $1.5 million for only 6 months.

In Pontiac, Mich., the bill is $700,000 a year.

In Pasadena, Calif., the cost of $300,000 per year.

In Harrisburg, Pa., it is $500,000.

In spite of all this, advocates of forced schoolbusing insist that it is improving the quality of public education in America. It is interesting to note that for the most part, their children are enrolled in private schools.

They demand that the workingman and his children bear the cost of their social experiment. But they protect their own children.

This is the ultimate hypocrisy.

In addition to the cost in tax dollars, there are human costs.

Children stand alone and shivering in the rain at 6 o'clock in the morning waiting for a schoolbus.

Parents lose interest in and respect for their local, neighborhood schools, because, to them, there are no such things any more.

Neighborhoods are silent where children once played, because they spend 2 hours every afternoon on schoolbuses riding down some remote highway.

Many of these extreme hardships are reflected in mail I receive every day from Georgians.

The children of a mother in Savannah are bused 15 miles every day.

A 10-year-old girl, who also lives in

Savannah only two blocks from a school, is bused 15 miles to another one. In 1 year, she will travel more than 5,000 miles on a schoolbus.

In Chatham County, a young girl is bused 20 miles to school every morning and afternoon. In Pooler, Ga., one famliy has six children. Two older boys go to a school 10 miles away. Two smaller boys go to school 4 miles away in the opposite direction. In each case, the boys have to walk a mile to get to the buses.

I want to read to the Senate some of the letters I have received.

One letter states:

> There are four primary public schools within three miles of my home. My fifth and sixth grade children were, however, assigned to a school 16 miles away . . . children that got home at 3:15 last year aren't coming home now until 6:15.

Another letter states:

> We live within 100 yards of a neighborhood school, and our child is being bused 10 miles each day.

Another Georgian wrote:

> Savannah children in the first through sixth grades are having to get up at 6 a.m. in order to be 30 minutes late daily for their classes due to this busing. Many of them are not getting home until 5:30 and 6 p.m.

Another states:

> I have a son eight years of age. We have three elementary schools within walking distance of our home. The Fifth Circuit Court of Appeals has seen fit to order this boy bused 24 miles each day to a foreign neighborhood.

From Wilkinson County, Ga., I heard that "every day the schoolbuses travel as far as from Washington, D.C., to Miami, Fla., and halfway back. Busing will run $133,000 next year."

A mother of six children in LaGrange, Ga., wrote me about her plight. Three of her children are in junior high school, and three attend elementary school. Yet, these six children have been assigned to five different schools.

This issue is dividing our country as it has not been divided since the War Between the States. This amendment provides a logical answer to forced schoolbusing. I urge its support.

I say, let us abandon this foolishness. Let us abandon the busing tyranny. Let us get back to public education for all, which schools were designed to achieve.

We have tolerated judicial and bureaucratic arrogance to the point that it is intolerable. The time to end it is now.

Mr. President, I thank my distinguished friend, the Senator from Michigan, for yielding to me. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield to me for 5 minutes?

Mr. PELL. I yield to the Senator from New York as much time as he desires.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New York is recognized.

Mr. JAVITS. Mr. President, the perfecting amendment which is offered by the Senator from Michigan, which I oppose, essentially picks up the various amendments made in the bill in the other body and, in my judgment, proceeds very much along the same lines as the Senator from North Carolina (Mr. ERVIN) originally proposed to proceed with his consolidated amendment, that is, the one which incorporates amendments of the other body in the one amendment.

Mr. President, I have listened with great interest to the argument of the Senator from Michigan (Mr. GRIFFIN) in favor of his amendment. I am opposed to his position, but I am now dealing with what its proponents claim to be their legitimate reasons why the Griffin amendment should be agreed to. The difficulty I find with their argument is that it proceeds completely without regard either to the Scott-Mansfield amendment or the decision in the Swann case.

In short, we are not now arguing the busing issue as if nothing ever happened. We are arguing the busing issue and the Griffin amendment as an alternative to the amendment offered by the leadership, and following the decision of the Supreme Court in the Swann case.

I consider that decision to be a milestone in the history of the law setting down for the first time effective guidelines by which the courts shall determine their action in school desegregation cases.

I consider the Scott-Mansfield amendment as representing the exercise of the authority of Congress over Federal funds and over Federal actions and Government departments, and so forth, which have been so greatly complained about by those who have opposed what they call forced or involuntary busing.

Finally, by adopting the standards of the judgment suggested in the Swann case, we actually and explicitly spell out what we think they mean in law. It is my judgment that the courts will follow that. They are not compelled to do so, but I am deeply convinced they will, because if we agree to the Scott-Mansfield amendment, we will have based our legitimate policy upon our interpretation of what was the meaning in the Swann case. The important feature of that interpretation, and this is the big issue, is the question of whether busing would create a substantial impingement upon the educational process; and we add that the courts should consider the educational impact not only for the child that is bused, but also the school to which he is bused; and that standard must be judged according to the standard of the school to which he is bused.

That question involves the great reason why busing suddenly burgeoned into the great national crisis depicted here and in the other body. Mr. President, when you take the Swann case and the Scott-Mansfield amendment, you are doing what those who are friendly to the enforcement of the Constitution would agree needs to be done.

But if you follow the Griffin route, no matter how you describe it, the fact is that it cancels out the practical probability of desegregating the schools of the country—North and South, East and West.

I do not challenge for one minute the good faith of any Senator who supports the Griffin amendment, but the effect of it, I argue—and that is why I said I would be addressing myself to the argument—if it can be done constitutionally—and that is a big question—it cuts off the de jure desegregation cases—I am not talking about de facto now—of the public schools that remain still segregated.

The reason for that is that the court itself has held, and all the testimony before the select committee which the Senator from Minnesota (Mr. MONDALE) heads, and of which I am a member, has demonstrated, that some busing is an indispensable ingredient of the effort to bring into constitutional conformance schools which are now not complying with the guarantees of the Constitution.

There is no question about the effort which is made by the amendment to cut that off entirely. Therefore, I say—and I say it advisedly—that adoption of this amendment, if it becomes law, would dismantle the effort to desegregate the public schools of the country in accordance with the requirements of the 14th amendment, granting and not withstanding the utmost good faith of those who support this position.

Second, and very important, I have grave doubts as to whether it is constitutionally possible to engage in this condign cutoff of a remedy.

Let us remember that no effort is made by this amendment to deprive courts of jurisdiction over school desegregation cases under the 14th amendment. What is sought to be cut off is a remedy. However clear the cases are that jurisdiction can be taken away from the Federal courts lower than the U.S. Supreme Court—which is the only court actually recognized by the Constitution—it is not at all clear that if we do not take away the jurisdiction the Congress has conferred, we can take away a remedy, one of the remedies which the Court may wish to utilize in respect to exercising its jurisdiction. I think that is a very grave question, one which would bring us, I believe, into conflicts with the courts—conflicts which I do not believe we wish to incur.

Now on the issue of policy, I think we have a very profound social question before the Congress. No matter how one slices it or limits it, certainly the Mansfield-Scott amendment deals with the problem very effectively and substantively. The fact is if we do not have some residual rights with respect to busing clearly defined, clearly delimited, in the armory of means available to the courts to desegregate public schools, we are simply not going to desegregate them in a very important measure. It does, however its detractors may seek to describe it, have that result.

As I believe that there is a minority here—I do not know how large or how small a minority—which in effect does not wish—notwithstanding the need for some busing in that regard—to desegregate the public schools, this is a perfectly legitimate exercise of their opportunity or right to seek to legislate in that way. I certainly oppose it, but I cannot allow the argument to stand that we are really not doing anything about the desegregation process by depriving the courts of this remedy, circumscribed as it is circumscribed in the Scott-Mansfield amendment as it relates to the authority of Federal officials by adopting the Swann case definition and implementing it the way the amendment does.

For all those reasons, I say those who favor enforcement of the 14th amendment in respect of schools should vote against the Griffin amendment. This is the solid, basic line of division.

As to the implementation of how we are to go about circumscribing, preventing excesses, heeding those who have made complaints about busing, we do that very adequately in respect of the Scott-Mansfield amendment, and coupling that with the Swann decision.

For those reasons, I hope very much the Griffin amendment will be rejected.

Mr. SPONG. Mr. President, will the Senator from Michigan yield? I only need 3 minutes.

Mr. GRIFFIN. Mr. President, I yield to the Senator from Virginia.

Mr. SPONG. Mr. President, when you couple the Swann decision with the Mansfield-Scott amendment, you are fostering, whether intentionally or not, the hypocritical policy in this country which distinguishes between de facto and de jure segregation.

Today in the United States there is more racial isolation in the cities of the East and of the Midwest than there is in many cities and many States in the South.

What we should be concerned with is what is in the best educational interest of the children of the United States, but as long as we pass legislation which does not address itself, at least eventually, to a national policy, then we are deluding ourselves that we are helping the Nation's education.

I submit to you that the Mansfield-Scott amendment, as well intentioned as it may be, fosters the distinction between de jure and de facto segregation, and in doing so fosters a policy of hypocrisy which should not be allowed to continue.

During the course of this debate I hope to put into the Record research which shows that in excess of 40 of the 50 States of this Nation have had statutes, local and State, of one kind or another, that foster discrimination. Whether they were passed 50 years ago or 15 years ago or 25 years ago, they have in some way contributed to the patterns that have resulted in racial isolation in those areas.

So I think that anything that is passed by this body—and we must address ourselves to this problem—must be national in concept.

The inherent weakness of the Mansfield-Scott amendment is that it is not national in application. In almost every case that has gotten to the courts outside the South, whether in Michigan or California or elsewhere throughout the United States—one in Nevada, I believe, yesterday—the courts have found vestiges of legal discrimination. They may not have been State imposed—and that is the word that is always very carefully used—but the actions were there.

Consequently, I think we may be deluding ourselves and fostering a policy that will do no good for the eventual health of public education throughout the United States if we are not able to come up with a policy that is national in application and if we continue to encourage what I consider to be a false distinction between de facto and de jure segregation, which the Supreme Court has not yet settled, despite several opportunities to do so.

I appreciate the arguments of the Senator from New York, but I would say that the educational problems resulting from racial isolation in parts of the United States outside the South are so grave that a national policy emphasizing educational interests is needed more than anything else.

Mr. JAVITS. Mr. President, will the Senator yield me 3 minutes?

Mr. PELL. I yield 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, it seems to me that the argument made by the distinguished Senator from Virginia, rather than refuting, confirms everything I have said. If it is a fact that the laws in our States have brought about or been conducive to segregation, then that is de jure segregation. The courts more and more are finding that. They have now extended their findings to Michigan, to New York, to Denver, and it will extend its findings further.

I am glad that the courts are growing more sophisticated about what de jure segregation is, and that you can gerrymander school districts and engage in other practices which are just as much de jure segregation as the blatant maintenance of a dual school system as it was practiced in the South.

What is endemic in this argument—and I have great respect for the Senator from Virginia, with whom I have joined in many things—is the idea that desegregation is not essential to a quality education. We contend that it is, and we contend that the proof sustains that. Certainly the overwhelming body of evidence—and that is what we have to rely on—from every part of the country, before the Select Committee on Equal Educational Opportunity, sustains the proposition that to this day, the best, most effective, greatest volume of quality education can only come about by the desegregation process.

The fact is that the South has massively desegregated. I say, "Bravo." But does that not prove the point that that is what this educational process lacks? The pride that Southern Senators take in the fact that there has been desegregation is only an endorsement by them of its contribution to quality education.

So I believe we are on the same wavelength, even though we may differ as to remedy. All I argue is that the combination of the Scott-Mansfield amendment and the Swann decision takes all desegregation, wherever it is, and puts it within reasonable, tolerable, and acceptable limits to parents, all those parents whose children are affected by segregation, and of all races.

Not being vote comptometers here, which is the pride of a Senator, we must appraise the situation, whatever may be the heat in many sections of the country, and decide what is in the best long-range interests of the United States. I believe that the greatest contribution to domestic tranquility we can make will be in the way in which we hammer out and fashion a way to desegregate without running afoul of the abrasive elements which have resulted in the present deep feelings with respect to busing.

I believe we will accomplish that if we agree to this amendment.

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from Michigan (Mr. Hart).

Mr. HART. Mr. President, I rise to ask permission of the Senator from New York to adopt, if he will be so kind as to permit me, the words he has spoken, both in his efforts to persuade us to reject the pending amendment and in the additional comment he has made with respect to the anticipated Mansfield-Scott substitute.

It is always with reluctance, I suppose, that one differs with a colleague from one's State. But on this question, our differences are no secret, and our convictions on both sides, I hope, are respected.

I do hope very much, Mr. President, that this amendment and others like it will be rejected, because no matter how you slice it, they tend to be understood as meaning that when we find a violation of the 14th amendment in the case of schools we do not apply the general principle. The general principle, when a constitutional right is found to be denied, is that we try to fix the situation—to fix it so as to deliver, to the extent possible, the denied right. But in this case, volatile as it admittedly is, we in a sense say, "Forget it, do not fix it," and we say that in a variety of fashions, including denying money to a school district found to be in violation of the Constitution, denying money that would permit that district to use the limited tool of the bus.

I appreciate very much the remarks made by the Senator from New York, and join in his petition that we reject this amendment and the series to come.

Mr. GRIFFIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. GRIFFIN. Mr. President, the distinguished Senator from New York, for whom I have the highest regard, has argued that the amendment now pending would be held unconstitutional. To buttress the argument which I made earlier, and which the distinguished Senator from North Carolina has made, that such an amendment is a constitutional exercise of Congressional power, I wish to read into the Record the pertinent important language from the Norris-La Guardia Act:

> No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute . . .

In addition, Mr. President, I ask unanimous consent to have printed in the RECORD certain portions of a book by Charles Alan Wright, professor of law at the University of Texas. The portions are contained in a chapter of a book entitled "The Judicial Power of the United States."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Handbook of the Law of Federal Courts]

### JUDICIAL POWER OF THE UNITED STATES

(By Charles Alan Wright)

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#### CONGRESSIONAL CONTROL OF JURISDICTION [1]

In section 8 it was seen that, in general, the jurisdiction of the federal courts must find its basis in Article Three of the Constitution. The present section is concerned with the extent to which the judicial power granted by the Constitution is subject to control by Congress.

The question is most readily answered with regard to the original jurisdiction of the Supreme Court. Although the First Congress, in the Judiciary Act of 1789, undertook to set forth that jurisdiction, it has always been understood that the constitutional language is, in this regard, self-executing, and that Congress cannot take that jurisdiction away from the Supreme Court.[2] Congress cannot expand the original jurisdiction of the Supreme Court, even to cases otherwise within the judicial power of the United States,[3] nor can it deny such jurisdiction. It can, however, provide that the jurisdiction of the Supreme Court in cases within the grant of original jurisdiction, be concurrent with the district courts,[4] and can give appellate jurisdiction in cases that might also fall within the original jurisdiction of the Supreme Court.[5]

The Constitution, after defining the original jurisdiction of the Supreme Court, provides that in all other cases within the judicial power of the United States, "the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." The power to make exceptions in this jurisdiction was tested in the famous case of Ex parte McCardle.[6] An act of 1867 gave the Supreme Court appellate jurisdiction in habeas corpus cases. Prior to that time there was no such jurisdiction on appeal, though the Supreme Court could issue original writs of habeas corpus and certiorari, and review a denial of habeas corpus below by this means. McCardle was a civilian, held for trial by a military commission in Mississippi pursuant to Reconstruction statutes. The circuit court denied his application for habeas corpus, and he appealed. In 1868, while the case was pending before the Supreme Court, Congress, apprehensive lest the Supreme Court would grant the writ and thus invalidate much of the Reconstruction legislation, passed an amendatory statute, taking away the appellate jurisdiction of the Supreme Court in habeas corpus cases. The Supreme Court held that the 1868 legislation deprived it of jurisdiction. It considered that this was a legitimate exercise of the congressional power to make exceptions to appellate jurisdiction, and that it was immaterial that the act was passed after the Supreme Court had already taken jurisdiction of the case. This case has long been read as giving Congress full control over the Supreme Court's appellate jurisdiction, but of late there has been some suggestion that this is reading too much into the McCardle decision, and that Congress does not have power to make such exceptions as will destroy the essential role of the Supreme Court in the constitutional plan.[7] This reading, for which there is little or no direct authority, is fortified by the fact that shortly after the McCardle case it was held that the Supreme Court could still issue original writs of habeas corpus and certiorari, and thus review in a case like McCardle's.[8] The argument is that the essential role of the Supreme Court is not destroyed when, as in 1868, one means of approach is taken away but another is left open. To deprive litigants altogether of access to the Supreme Court in cases involving the supremacy of federal law, as was proposed in a bill considered by Congress in 1958 that would have denied all jurisdiction to the Supreme Court in cases involving five classes of subject matter, would, on this approach, be invalid.

Congress has a considerable discretion in dealing with the jurisdiction of the lower federal courts. It can provide a particular court for hearing certain questions and deny all other courts the power to consider that question,[9] even to the point of precluding raising the invalidity of a regulation as a defense in a criminal action, where there was a court provided in which the invalidity of the regulation might have been asserted.[10] Congress can provide that cases within the judicial power shall come to the federal courts by removal, rather than in their original jurisdiction.[11] It can take away from the courts power to grant a particular remedy or to enforce a particular kind of contract.[12]

From the First Judiciary Act to the present, Congress has provided that in certain instances the jurisdiction of the federal courts shall be exclusive of the courts of the several states,[13] though federal jurisdiction is not exclusive unless Congress chooses to make it so, either expressly or by fair implication.[14] At present the most significant areas in which Congress has made federal jurisdiction exclusive are bankruptcy proceedings,[15] patent and copyright cases,[16] cases involving fines, penalties, forfeitures, or seizures, under laws of the United States,[17] and crimes against the United States,[18] though there are some others.[19] The statute purports to give the federal courts exclusive jurisdiction of cases of admiralty and maritime jurisdiction,[20] but by virtue of the "saving to suitors" clause in the statute, in fact federal jurisdiction is exclusive only in limitation of liability proceedings and in maritime actions in rem.[21]

Though a wide power in Congress to regulate the jurisdiction of the federal courts has never been challenged, there has been discussion from 1789 on as to whether Congress can refuse to vest in any federal court some part of the judicial power granted by the Constitution. On this question at least four positions are possible: (1) the constitutional grant is self-executing, and if there is some part of the judicial power not vested by Congress, the courts can hear such cases on the basis of the Constitution alone; (2) the constitutional language is mandatory, and Congress should vest the whole of the judicial power, but the duty is not enforcible if Congress should fail to act; (3) Congress has discretion in deciding whether or not to give to the federal courts any part of the constitutional judicial power, save that the grant of original jurisdiction to the Supreme Court is self-executing; (4) though Congress has a wide discretion in granting or refusing to grant jurisdiction, there are due process limitations on this discretion. Scholarly and judicial support can be found for each of these views.

The difficulty on this point was felt in the first Congress. "The crucial contest in the enactment of the Judiciary Act," Charles Warren tells us, was between the broad pro-Constitution men who believed that Congress had no power to withhold from the federal courts any of the judicial power granted by the Constitution, and the narrow pro-Constitution men who were anxious to give the federal courts as little jurisdiction as possible.[22] Though the jurisdictional grants which were made in the First Judiciary Act are patently a compromise between these two positions, the fact is that Congress did not grant to the federal courts the full judicial power of the United States. There was no general grant of "federal question" jurisdiction, jurisdictional amount requirements barred access to federal court for small cases otherwise within the judicial power, and the troublesome "assignee clause" denied jurisdiction, though there was diversity between the parties of record, in some cases where the plaintiff was an assignee of a claim originally owned by a person who, for want of diversity, could not have sued in federal court.

The constitutionality of the decision of the first Congress might have been thought settled in 1799.[23] A case came to the Supreme Court in which the indorsee of a note had sued, and diversity existed between him and the defendants, but the record did not show the citizenship of the indorsers of the note. At the oral argument it was asserted that the citizenship of the indorsers was immaterial; since there was citizenship between the parties of record, the constitutional requirement was satisfied, and Congress lacked power to limit that jurisdiction by the assignee clause. Chief Justice Ellsworth expressed his doubt as to how far the argument could be carried, and Justice Chase expressed his view more strongly: "The notion has frequently been entertained, that the federal courts derive their judicial power immediately from the constitution; but the political truth is, that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us, or to any other court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the federal courts, to every subject, in every form, which the constitution might warrant." [24] Though the opinion of the Court, holding the suit must fail for want of allegations as to the citizenship of the indorsers, does not discuss the constitutional question, it was necessarily present in the case, and, in view of the oral argument, cannot be thought to have been overlooked.

A different answer was given, however, by Justice Story, speaking for the Court in 1816, in the supremely important case of Martin v. Hunter's Lessee.[25] The language of Article Three, he said, "is manifestly designed to be mandatory upon the legislature. Its obligatory force is so imperative that Congress could not, without a violation of its duty, have refused to carry it into operation. The judicial power of the United States shall be vested (not may be vested) in one supreme court, and in such inferior courts as Congress may, from time to time, ordain and establish. * * * The judicial power must, therefore, be vested in some court, by Congress; and to suppose that it was not an obligation binding on them, but might, at their pleasure, be omitted or decline, is to suppose that, under the sanction of the constitution they might defeat the constitution itself; a construction which would lead to such a result cannot be sound.* * * If, then, it is the duty of Congress to vest the judicial power of the United States, it is a duty to vest the whole judicial power. The

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Footnotes at end of article.

language, if imperative as to one part, is imperative as to all."[26]

Despite this strong statement of view, Justice Story apparently believed that the Constitution, though mandatory, was not self-executing. Sitting at circuit two years later, he marvelled at the fact that the jurisdiction conferred by Congress fell so far short of the constitutional extent, but held nevertheless that the court had no jurisdiction not given by some statute.[27]

Justice Story's view was not to prevail. At least since 1845 it has been frequently stated by the Supreme Court that "the judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercises, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court), for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good."[28]

There is so much authority for the proposition that Congress is free to grant or withhold the judicial power that it might seem unnecessary to belabor the point. Yet lingering doubts remain. In 1949 the Court of Appeals for the District of Columbia asserted that it is compulsory upon Congress to confer the whole of the judicial power upon some federal court, and that if a case arises under the Constitution, laws, or treaties of the United States, jurisdiction to entertain it is in some district court by compulsion of the Constitution itself.[29] That decision was reversed, though on other grounds,[30] but it is interesting that a court at so late a date was willing to take a position which went even beyond Story's. Yet the position is supported by some modern writers.[31] Further there are other writers who recognize the general authority of Congress in this area, but who suggest that there are due process limits on the congressional power.[32] A decision of the Second Circuit lends supports to this thesis, saying that "while Congress has the undoubted power to give, withhold, and restrict the jurisdiction of the courts other than the Supreme Court, it must not so exercise that power as to deprive any person of life, liberty, or property without due process of law or to take private property without just compensation."[33] If there is any limit on Congress, this is probably the maximum limit. One hundred and seventy years of history stand in the way of those who would claim that Congress must vest the entire judicial power.

FOOTNOTES

[1] Barron & Holtzoff (Wright ed), § 21; Harris, The Judicial Power of the United States, 1940, c. 2; Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 1953, 66 Harv.L.Rev. 1362; Ratner, Congressional Power over the Appellate Jurisdiction of the Supreme Court, 1960, 109 U.Pa.L.Rev. 157; Merry, Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis, 1962, 47 Minn.L.Rev. 53.

[2] Chisholm v. Georgia, 1793, 2 Dall. 419, 1 L.Ed. 440; Florida v. Georgia, 1854, 17 How. 478, 15 L.Ed. 181; Kentucky v. Dennison, 1860, 24 How. 66, 16 L.Ed. 717.

[3] Marbury v. Madison, 1803, 1 Cranch 137, 2 L.Ed. 60; Wisconsin v. Pelican Ins. Co. of New Orleans, 1888, 8 S.Ct. 1370, 1379, 127 U.S. 265, 300, 32 L.Ed. 239.

[4] Ames v. Kansas ex rel. Johnston, 1884, 4 S.Ct. 437, 111 U.S. 449, 28 L.Ed. 482; U.S. v. California, C.A.9th, 1964, 328 F2d 729, certiorari denied 85 S.Ct. 84, 879 U.S. 817, 18 L.Ed.2d 29. Congress has in fact done this ever since 1780. See 28 U.S.C.A. §§ 1251, 1351. See §§ 109, 110 below.

[5] Cohens v. Virginia, 1821, 6 Wheat. 264, 5 L.Ed. 257.

[6] 1868, 7 Wall. 506, 19 L.Ed. 204.

[7] Ratner, Congressional Power over the Appellate Jurisdiction of the Supreme Court, 1960, 109 U.Pa. L.Rev. 157; Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 1953, 66 Harv.L.Rev. 1302, 1365. See also Merry, Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis, 1962, 47 Minn.L.Rev. 53, arguing that congressional control of the Supreme Court's appellate jurisdiction was intended to extend only to questions of fact, not questions of law.

In a dissenting opinion in Glidden Co. v. Zdanok, 1962, 82 S.Ct. 1459, 1501 n. 11, 370 U.S. 530, 605, 8 L.Ed.2d 671, Justices Douglas and Black say "there is a serious question whether the McCardle case could command a majority view today."

[8] Ex parte Yerger, 1869, 8 Wall. 85, 19 L.Ed. 332.

[9] Lockerty v. Phillips, 1943, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339.

[10] Yakus v. U.S., 1944, 64 S.Ct. 660, 321 U.S. 414, 88 L.Ed. 834.

[11] Tennessee v. Davis, 1880, 100 U.S. 257, 25 L.Ed. 648; Martin v. Wyzanski, D.C. Mass. 1967, 262 F.Supp. 925.

[12] Lauf. v. E. G. Shinner & Co., 1938, 58 S.Ct. 578, 303 U.S. 323, 82 L.Ed. 872.

[13] 1 Barron & Holtzoff (Wright ed.), § 22. The constitutionality of this practice was thought beyond serious question in The Moses Taylor, 1867, 4 Wall. 411, 18 L.Ed. 397.

[14] Claflin v. Houseman, 1876, 93 U.S. 130, 23 L.Ed. 833; Charles Dowd Box Co. v. Courtney, 1962, 82 S.Ct. 519, 523, 368 U.S. 502, 507–508, 7 L.d. 2d 483. Note, Exclusive Jurisdiction of the Federal Courts in Private Civil Actions, 1967, 70 Harv.L.Rev. 509.

[15] 28 U.S.C.A. § 1334; 1 Barron & Holtzoff (Wright ed.), § 35; Mussman and Riesenfeld, Jurisdiction in Bankruptcy, 1948, 13 Law & Contemp.Prob. 88.

[16] 28 U.S.C.A. § 1338(a); 1 Barron & Holtzoff (Wright ed.), § 50; Note, The Jurisdiction of State Courts over Cases Involving Patents, 1931, 31 Col.L.Rev. 461.

[17] 28 U.S.C.A. §§ 1355, 1356; 1 Barron & Holtzoff (Wright ed.), § 44. The ALI Study, pp. 184–186, proposes repeal of these provisions.

[18] 18 U.S.C.A. § 3231.

[19] 28 U.S.C.A. §§ 1351 (consuls and vice-consuls as defendants), 1583 (review of decisions of collectors of customs); 1346 (United States as defendant). In the last of these categories it is only by implication that federal jurisdiction is exclusive.

Some provisions for exclusive federal jurisdiction appear outside the Judicial Code. See, e. g., 15 U.S.C.A. §§ 15, 26 (antitrust actions), 15 U.S.C.A. § 78aa (cases under the Securities Exchange Act) 15 U.S.C.A. § 717u (violations of the Natural Gas Act), and 40 U.S.C.A. § 270 (b) (suits on bonds under the Miller Act).

[20] 28 U.S.C.A. § 1333. See Barron & Holtzoff (Wright ed.) § 32.

[21] See ALI Study, pp. 234–239; Black, Admiralty Jurisdiction: Critique and Suggestions, 1950, 50 Col. L. Rev. 259, 266–267.

[22] Warren, New Light on the History of the Federal Judiciary Act of 1789, 1923, 37 Harv. L. Rev. 49, 65–70.

[23] Turner v. The President, Directors, and Company of the Bank of North America, 1799, 4 Dall. 8, 1 L. Ed. 718.

[24] 4 Dall. at 10.

[25] 1816, 1 Wheat. 804, 4 L.Ed. 97.

[26] 1 Wheat. at 328–330.

[27] White v. Fenner, C.C.D.R.I. 1818, 29 F.Cas. 1015 (No. 17,547).

[28] Cary v. Curtis, 1845, 3 How. 236, 245, 11 L.Ed. 576 To the same effect, see Sheldon v. Sill, 1850, 8 How. 441, 12 L.Ed. 1147; Plaquemines Tropical Fruit Co. v. Henderson, 1808, 18 S.Ct. 685, 170 U.S. 511, 42 L.Ed. 1126; Kline v. Burke Const. Co., 1988, 43 S.Ct. 79, 260 U.S. 226, 67 L.Ed. 226, 24 A.L.R. 1077; Lockerty v. Phillips, 1943, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339.

[29] Eisentrager v. Forrestal, D.C.Cir. 1949, 174 F.2d 961, 966.

[30] Johnson v. Eisentrager, 1050, 70 S.Ct. 936, 330 U.S. 763, 94 L.Ed. 1255.

[31] 1 Crosskey, Politics and the Constitution in the History of the United States, 1953, pp. 610–620; Howland, Shall Federal Jurisdiction of Controversies Between Citizens of Different States be Preserved? 1932, 18 A.B.A.J. 499.

[32] Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 1953, 66 Harv.L.Rev. 1362; Pritchett, The Political Offender and the Warren Court, 1958, pp. 65–69.

[33] Battaglia v. General Motors Corp., C.A.2d, 1948, 169 F.2d 254, 257, certiorari denied 69 S.Ct. 236, 335 U.S. 887, 93 L.Ed. 425.

Mr. GRIFFIN. I yield the distinguished Senator from North Carolina such time as he may require.

Mr. ERVIN. Mr. President, I just wish to reply very briefly to the argument made by the Senator from New York. He said that you could not have quality education unless you have forcibly integrated education.

I have high respect for the Senator from New York, but I think that argument is an insult to both the white and the black races. If that be true, I do not know how countries like Germany, which have no one to integrate, can ever be educated, or how countries like those in Africa which have no one to integrate can ever have quality education.

It is an absurdity to say that the black child cannot learn unless he has the enforced companionship of white children, or that the white child cannot learn unless he has the enforced companionship of black children.

As to the argument of the Senator from New York about the jurisdiction of the courts, I call the attention of the Senate to a statement which I understand was written by Edwin S. Corwin, one of the greatest constitutional authorities of this country. On page 700 of his book on the Constitution of the United States of America, which is in the office of every Senator, after reviewing the authorities, he states:

> The result is to vest an unrestrained discretion in Congress to curtail and even abolish the appellate jurisdiction of the Supreme Court, and to prescribe the manners and forms in which it may be exercised.

This amendment of the distinguished Senator from Michigan merely says that in exercising their jurisdiction, they shall not use busing as a method or form or manner of its exercise.

Then on the question of the jurisdiction of the district courts, the same book states, on page 705:

> The manner in which the inferior Federal courts acquire jurisdiction, its character, the mode of its exercise, and the objects of its operation, are remitted without check or limitation to the wisdom of the legislature.

The mode of exercise of jurisdiction relates to the remedy. Certainly Congress has the right to say "You cannot exercise your jurisdiction by requiring children to be bused out of their neighborhoods into schools elsewhere."

As the Senator from Michigan has so well pointed out, when labor—and labor is composed of adults, who are able to look after themselves in large measure, as contrasted to little children—was being oppressed by injunctive government at the hands of the Supreme Court of the United States and other Federal courts, Congress came to the relief of labor and prevented the continuance of that tyranny against labor by denying the Federal courts the power to issue injunctions in labor controversies.

Surely, if Congress owes a responsibility to protect labor against judicial tyranny, it owes a greater responsibility to protect helpless little children and their parents against judicial tyranny which takes them out of their neighborhoods and transports them hither and yon on bureaucratic and judicial chessboards, just to mingle the races in the schools and not to enlighten their minds.

Perhaps I used a wrong metaphor when I said "chessboards," because chess is played according to certain rules. But the Supreme Court of the United States, in the case to which the Senator from New York pays such great tribute, said this:

> No fixed or even substantially fixed guidelines can be established as to how far a court can go, but it must be recognized that there are limits.

What the limits are, nobody tells us.

The result of the Swann case, instead of being an enlightened opinion, is to say that in this country, instead of having a government of laws, we are to have a government of men and that the rights of little children and of their parents and local school authorities are to be governed not by law, not by the Constitution, but by the caprice and the whim of Federal judges.

Mr. GRIFFIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. GRIFFIN. I yield 4 minutes to the Senator from Alabama and reserve the remaining 1 minute.

Mr. ALLEN. I thank the distinguished Senator from Michigan.

Mr. President, I invite attention to the fact that the amendment before the Senate is only a perfecting amendment. It perfects an amendment which was offered by me and the distinguished Senator from North Carolina (Mr. ERVIN). It adds additional provisions to the amendment which I offered. It therefore perfects that amendment, and, if agreed to by the Senate, it would not be the Senate's final word on the subject. It still would be subject to the substitute offered by the Senator from Montana and the Senator from Pennsylvania.

Mr. President, why should not those of us who want to put an end to the pernicious practice of forced busing not be permitted to offer the best alternative possible to the Scott-Mansfield substitute? The changing of an amendment, the adding of provisions, is a courtesy that is accorded to every Senator on request, in the ordinary procedure. All that is sought at this time is to add a provision to form a basis for an alternative provision to the Scott-Mansfield substitute which is so much a pro-busing amendment rather than an antibusing amendment.

I hope that this perfecting amendment will be adopted and that other perfecting amendments will be adopted before there is a final vote on the Scott-Mansfield amendment, which was offered to an amendment of mine and the distinguished Senator from North Carolina (Mr. ERVIN).

### GOOD ADVICE ON BUSING

Mr. HART. Mr. President, as we embark on what can become an emotional debate on school busing, all of us would do well to read an article written by Leonard Woodcock, President of the United Auto Workers, and published in yesterday's Detroit Free Press.

Mr. Woodcock suggests that in debating the question of busing, we are "engaged on the wrong issue, on the wrong terms, at the wrong time."

Mr. Woodcock writes:

> The great debate should be over how we can best achieve in the shortest possible time, non-discriminatory high quality education. In *Brown* v. *Board of Education*, the Supreme Court mandated the elimination of racially segregated schools. I reaffirm my strong belief in that decision—separate cannot be equal.

Mr. Woodcock makes a strong appeal that public officials and press alike do their best not only to keep the busing issue in perspective but to address themselves to the more important problems. We would do well to follow his advice.

I ask unanimous consent that Mr. Woodcock's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### BUSING CONTROVERSY CLOUDS REAL ISSUE OF EDUCATION

(By Leonard Woodcock)

Plain talk about the problems of public education in this nation is long overdue. There has been too much heat and not enough light shed on vital, sensitive issues of public education—unfairly narrowed by some to what is commonly referred to as the "busing issue." My own words as well as those of others have been taken out of context, distorted and blown out of proportion. It is time now to put the issue properly into context.

The great debate should be over how we can best achieve, in the shortest possible time, non-discriminatory high quality education. In Brown v. Board of Education, the Supreme Court mandated the elimination of racially segregated schools. I reaffirm my strong belief in that decision—separate cannot be equal.

"Busing" has become a highly explosive and emotional word and it is, unquestionably, a code word exploited by some men in high places whose mission should be to pull this nation together rather than to tear it apart. I hope we can persuade those who seek high public office to address themselves to real problems and to heal the nation's wounds, rather than to exacerbate our differences and to promote hate and fear.

It is, however, clear that certain senators, congressmen, state legislators and even those in more exalted political office seem determined to pursue the course of division in this matter. They press constitutional amendments, which, in my view, are unwise and unworthy, and they fan the fires of prejudice. They speak in careful terms but their hidden troops carry the message into the back alleys in naked racist terms. These are the professional anti-busers.

At the other end of the spectrum are those well-meaning liberals who take the bait and tragically do battle on the field and in the terms chosen by the professional anti-busers.

Both groups do the community great disservice. They are engaged on the wrong issue, on the wrong terms, at the wrong time.

Immediate and massive busing cannot solve problems born of generations of discrimination and insensitivity. It is, however, also wrong to eliminate any possibility of the use of some busing as a tool and to use the concept to isolate and polarize the races in the hope of selfish political gain.

At this moment of relative affluence, it is nothing short of shocking to see inner-city schools shortchanged on funds, overcrowded, ill-equipped and poorly manned. Those who have been the victims of segregation, discrimination and societal oversight now see their children punished anew by the denial of a decent educational opportunity. I say these conditions are intolerable.

By the same token, we would be less than fair if we did not understand the feelings of those parents who, without regard to color, have made great sacrifices to move into areas where their children could attend better schools and who face the prospect of having those children bused back to inferior schools. That situation also is tragic.

Americans must recognize that past segregation, as well other forms of racial discrimination, left deep scars and have cast a pall on our system. There is no question but that every American must share the responsibility and the cost of erasing every vestige of discrimination in our society. In this respect, an important area of concern must be the public education system.

Our schools became bastions of segregation in two principal ways. Some localities by law and conscious effort, operating under the discredited doctrine of separate-but-equal, required segregated schools. In other sections of the country, segregated schools are the result of years of economic, social and housing discrimination which created ethnic and racial ghettos.

#### OVERDUE BILL

Segregated housing in the North was rarely a product of individual choice. Separate neighborhood patterns grew out of the poverty of many black families, restrictive zoning and land use, unconscionable practices of real estate dealers and mortgage lenders—all imposed by society.

Segregation in the public schools must be recognized as the direct result of years and years of racism in our society.

The bill that has become overdue is owed by every American. It cannot be paid in full by innocent young people. Society's past transgressions must be remedied by the whole body politic. It is neither realistic nor fair to insist that only one segment—school-age children—bear the entire cost. I, for one, certainly sympathize with those parents whose children would be sent to inferior schools because of the errors and misdeeds of others.

Those of every race, creed and national origin who really care about children and the future of our country realize that the issue must be one of quality, equal education. Just as the isolated, misused busing issue is neither black nor white—as polls and surveys repeatedly show—neither is quality education a goal of only one race. It is that issue, quality education, around which we can rally.

What we most need now is a direct and concerted effort to achieve quality and equality in public education for all children in all schools. Neither black nor white children are served by being bused into inferior schools. That is the main issue—quality education—not busing.

We know enough about what quality education should be to know that for most Americans it does not now exist. The essential elements of quality education are, unfortunately, easier to list than to achieve, but identification of needs is the very first step. To obtain quality public school education in this nation we need, immediately, to make a massive commitment to the following goals:

More money and more equal financing, on a fairer and more progessive tax base.

More teachers—better qualified, trained and more dedicated—assigned on the basis of pupil need.

More and better guidance counselors and administrators.

Better, more modern school plants and equipment.

Curriculum improvements and use of more modern and experimental techniques.

More community, especially parent, involvement.

More adequate security in terms of administrative and police protection.

Achievement of a fair, non-discriminatory system.

If we fail or delay in meeting our obligations to the children, future generations of Americans will pay the price. America cannot wait to make the proper commitment to quality and equality of education.

As we move toward quality education, of necessity, we must also move toward desegregation. The slow process of integration of neighborhoods takes too long; but busing and any other techniques of integrating schools might sensibly and rationally be used with the effort of quality education, but not before it.

### MEANS, NOT AN END

In a democracy, any ideal system of quality education must be non-discriminatory. Consequently, a total commitment to qualify education, by definition, includes a commitment to desegregation. That is why we cannot support the effort to isolate one technique of achieving integration and outlaw it, even though those of little principle would go so far as to amend the United States Constitution. At the same time, while I refuse to discard any reasonable tool of desegregation, I recognize that premature moves aimed solely at racial balance can be counter-productive and harmful to quality education and racial peace.

It is against the national interest to isolate and emphasize busing as an issue. Busing is not an educational system; it is merely a means of transportation. More than 40 percent of American children have traditionally been bused to school.

In trying to suggest the lines of public debate on these great issues, I have avoided any discussion of pending court cases. It does not seem appropriate to me for the public or its leaders to debate such matters. Judges, I hope, are interested in framing their decrees on the basis of the law as they see it and not on the results of polls or the views of politicians and others. I do emphasize, however, my strong feeling that court decrees, in a system of law, must be respected. Of course, I also see it as perfectly proper in individual cases for appeals to be lodged and stays to be sought.

Finally, I would hope that not only would our political leaders emphasize real priorities and avoid destructive and emotional demagoguery, but that the media—press, radio and television—would also put this sensitive national problem in proper perspective.

In this context, I suggest that such questions as "Do you favor widespread busing?" do not serve a legitimate purpose. They are improper. To ask the question is to foreclose honest discussion. Instead, we must ask, "How can we best achieve quality, equal and integrated education?" That question can be answered. Let us hope that the leaders of public opinion will address themselves to that issue.

To play on black frustration and white fear is to play Russian roulette with America's future.

For myself, I favor quality and equality of education, which, of course, includes desegregated schools.

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## ORDER OF BUSINESS

Mr. JAVITS. Mr. President, will the Senator yield me 2 minutes?

Mr. PELL. I yield 2 minutes to the distinguished Senator from New York.

(The remarks Mr. JAVITS made at this point on the introduction of S. 3228 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

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## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to come out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I wonder whether the Senator from Michigan would be willing to yield back his minute and I will be willing to yield back my 30 minutes.

Mr. GRIFFIN. I yield back my remaining time.

Mr. PELL. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. MONDALE. Mr. President, I send to the desk a perfecting amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

At the end of the language to be stricken add the following:

"All requirements established under this Act shall be applied on a uniform basis to conditions of segregation, whether de facto or de jure, throughout the Nation."

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Who has the time, Mr. President?

Mr. PASTORE. The mover of the amendment.

Mr. GRIFFIN. Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. KENNEDY). The Senator from Minnesota, the Senator from Montana, or his designate.

Mr. MANSFIELD. The Senator from North Carolina (Mr. ERVIN) has control of the time in opposition.

The PRESIDING OFFICER. Who yields time?

Mr. MONDALE. Mr. President, I yield myself such time as I may need.

Mr. President, repeatedly, we hear charges that school desegregation requirements are enforced only in the South. Recent decision in Pasadena and San Francisco, Calif.; Detroit and Pontiac, Mich.; South Holland, Ill.; and pending lawsuits in Cincinnati, Ohio; Indianapolis, Ind.; and in East St. Louis, Ill., and elsewhere, as well as recent HEW actions in Boston, Mass., and Ferndale, Mich., demonstrate that this is not the case. But I do believe that, until the past few years, desegregation in the South—where segregation was the product of State law—did receive more attention from the Departments of Justice and Health, Education, and Welfare than did the elimination of racially discriminatory school assignments in the North—where proving official discrimination is a far more complex task.

This perfecting amendment is intended to insure that the pending bill is administered on a nonsectional, uniform basis throughout the country.

Mr. President, I also wish to speak briefly in opposition to the amendment offered by the distinguished Senator from Michigan (Mr. GRIFFIN). In my opinion, amendment No. 915 is both unconstitutional and highly destructive.

The amendment clearly attempts to deprive Federal courts and Federal agencies of the power to require that pupils be transported to or from school to achieve elimination of unconstitutional segregation.

This prohibition would protect school assignments which are clearly discriminatory. If this amendment were adopted, and if it were the law of the land—which it cannot be because it seeks to amend the Constitution—but if it were, the court would find that a school district was deliberately and knowingly separating children on the basis of color, sending all whites to the white school and all blacks to the black school, and that the school district was doing so as an official, conscious policy, and the court would be denied any authority to do anything about it. And Federal agencies would be unable to act under title VI of the Civil Rights Act of 1964.

With respect to courts, this approach is, in my opinion, plainly unconstitutional. The amendment would severely weaken title VI of the Civil Rights Act, by prohibiting the application of constitutional standards in administering its provisions with respect to public schools.

As the Supreme Court stated in Green against New Kent County, decided in March 1968, the goal of the 14th amendment and title VI of the Civil Rights Act of 1964 is to eliminate the results of past racially-based student assignment practices, so that "no student will be effectively excluded from any school on the basis of race."

The Constitution deals only with segregation which is the result of racially discriminatory official action. But once school officials have taken account of race in assigning students and locating schools, an effective remedy cannot be achieved without taking race into account—and reasonable transportation may also be needed.

Mr. President, we get the impression from this debate that there is no longer discrimination in the schools, that whatever may have been the case some years back, discrimination based on race in the assignment of pupils to schools throughout the country is over and that, therefore, we can safely prohibit any further school busing.

Yet, there is abundant evidence, in fact, that discrimination continues to exist throughout the country.

For example, in Pasadena, Calif., a northern community, the U.S. Federal district court found the following:

First, that the school district intentionally gerrymandered attendance zones to concentrate black students in particular schools, and white students in other schools.

Second, that the school district provided transportation to permit white students to avoid integration. In other words, in this northern school system very recently, the court found there was busing, but it was busing for the purpose of separating the children on the basis of race.

Third, that the school district has contributed to the racial identifiability of its schools by assigning the great majority of its black teachers and administrators to predominately black schools—and even assigned substitute teachers on a racial basis.

Fourth, that less well educated, less experienced, and more highly paid teachers were concentrated in majority black schools.

Fifth, that black teachers were denied advancement to administrative positions on a racially discriminatory basis.

Sixth, that in particular, the size of schools was regulated to assure that integration would not take place—and portable classrooms were located at black elementary schools to prevent the assignment of students to adjoining white schools.

Seventh, that transfers out of neighborhood schools were permitted when the stated purpose was clearly to foster segregation.

The issue of discrimination in American public schools is very much still with us. I pointed out in my speech the other day the case of South Holland, Ill. This is a fairly recent case. It is a northern city. The court there found that the public agencies were deeply involved in fostering school segregation. The court found that the schools were located in the center rather than at the boundaries of segregated residential areas in order to achieve school segregation, in order to assure that the schools would be black and white schools, not just plain public schools.

The court also found that the school assignment policies were adopted under which black children living nearer to white schools attended black schools, and white children living nearer to black schools attended white schools.

In other words, to put it mildly, they had a system of busing to separate children on the basis of race. They would take the black children, who could go to a closer school, a school that would be predominantly white, and bus them right by that school and take them to a much more distant school that was predominantly black. That is an example of prejudice of recent origin in a northern community.

There is, therefore, much evidence that, repeatedly and widely throughout the country, the concept of public education has been widely ignored for the purpose of achieving segregation.

Indianapolis, Ind., is a very recent case. The court found that housing segregation was encouraged by realtors and lending agencies, by racially restrictive covenants and land deeds, and even by a 1926 city ordinance which prevented blacks from purchasing "a home-residence on any property located in a white community or a portion of the municipality inhabited principally by white people."

Before 1949, schools in Indianapolis were segregated by law.

Subsequent to 1949, school boundary lines were designed to permit segregation—the assigning of children to schools that were not closest to their homes in order to maintain segregation.

School locations were chosen to continue segregation.

Additions to existing black schools were constructed to avoid sending students to nearby white schools.

"Optional attendance zones" were used to permit students to leave "neighborhood schools" to avoid integration.

Even special education classes—normally districtwide—were largely segregated.

The Department of HEW found in Boston, Mass., that two separate and overlaying sub-school systems were being maintained—one with 8 years of elementary school and 4 years of high school; and one with 6 years of elementary school, 3 years of junior high school, and 3 years of high school.

More than two-thirds of the students in the sub-system with the 4-year high schools are from minority groups, while more than three-fourths of the students enrolled in the subsystem with the 3-year high schools are white.

In Detroit, Mich., in a current case, the Federal court found that schools were intentionally located to increase segregation and that State and Federal agencies, including the FHA, were involved in preventing black families from obtaining housing outside the Detroit ghetto.

Mr. President, we could go on with current examples throughout the country. Discrimination is not dead. It is very much alive.

But efforts to discriminate would be dead if the pending amendment, No. 915, were agreed to—and if it were constitutional, which it is not—because in each of the instances I have cited the courts would be denied—the power to do anything about those discriminatory practices. And the Department of HEW and the Department of Justice would be denied as well the opportunity to even begin the effort.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, who has control of the time?

The PRESIDING OFFICER. The Senator from North Carolina has control of the time.

Mr. ERVIN. Mr. President, I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I wish to propound some parliamentary inquiries of the Chair.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiries.

Mr. GRIFFIN. Mr. President, as I understand it, the amendment now pending, offered by the distinguished Senator from Minnesota (Mr. MONDALE), is a perfecting amendment to the text of the committee amendment proposed to be stricken by the amendment of the Senator from Alabama (Mr. ALLEN).

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. Mr. President, would it be in order for the junior Senator from Michigan, or any Senator, to offer a further amendment to the perfecting amendment offered by the Senator from Minnesota?

The PRESIDING OFFICER. The Chair would advise the Senator that the amendment is open to an amendment in one degree.

Mr. GRIFFIN. Mr. President, would it be in order for the junior Senator from Michigan to offer such an amendment at this time?

The PRESIDING OFFICER. Not until the time has expired, except by unanimous consent.

Mr. GRIFFIN. If I send such a perfecting amendment to the desk at this time, it is my understanding that it could be read at this time but could not be called up for consideration until the expiration of the 2 hours.

The PRESIDING OFFICER. The Chair will entertain a request under those circumstances.

Mr. GRIFFIN. Mr. President, I send to the desk such a perfecting amendment and ask that it be stated. And I wish to indicate that upon the expiration of the 2 hours, the junior Senator from Michigan will be standing on his feet seeking recognition for the purpose of offering that amendment.

The PRESIDING OFFICER. The amendment will be read on the Senator's time.

Mr. GRIFFIN. Yes.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

Mr. GRIFFIN. I do not yield for that purpose now. However, I will later.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without

objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment reads as follows:

In the text of the Mondale amendment, after the words "uniform basis" insert a period, strike the remainder of the sentence, and add the following:

SEC. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 903. No department, agency, officer, or employee of the United States, empowered to extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 904. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority or which requires the consolidation of two or more local educational agencies for the purposes of achieving a balance among students with respect to race, color, religion, or national origin, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

SEC. 905. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. GRIFFIN. Mr. President, if the junior Senator from Michigan obtains recognition and offers that perfecting amendment, will it be in order?

The PRESIDING OFFICER. Would the Senator state the parliamentary inquiry again?

Mr. GRIFFIN. The parliamentary inquiry is, if the junior Senator from Michigan, upon the expiration of the 2-hour time limit, can obtain recognition, would the amendment just read be in order?

The PRESIDING OFFICER. The amendment would be in order.

Mr. GRIFFIN. I thank the Chair.

Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Mr. President, if the junior Senator from Michigan obtains recognition and offers that amendment, would any further amendment of any kind be in order thereafter, before we vote?

The PRESIDING OFFICER. Not until the vote on the suggested amendment, if offered.

Mr. GRIFFIN. Mr. President, I thank the Chair.

Mr. PASTORE. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MONDALE. Mr. President, I yield such time as he requires to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, in other words, if this amendment is brought up and in order if the Chair recognizes the Senator from Michigan, that will preclude the minority leader and the majority leader from offering a perfecting amendment to their amendment.

The PRESIDING OFFICER. The Chair is advised that it will prevent any further amendment until the Senate had voted on that suggested amendment, if offered.

Mr. PASTORE. Mr. President, in other words, the perfecting amendment that will be sponsored at that time will have to follow the vote on the amendment of the Senator from Michigan?

The PRESIDING OFFICER. The Chair is advised that we would have to first vote on the amendment suggested by the Senator from Michigan and then on any other perfecting amendments that might be offered thereafter.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Do I understand that the ruling by the Chair on the question of the Senator from Michigan assumes that a prior amendment has not been called up and made to my amendment?

The PRESIDING OFFICER. The amendment of the Senator from Michigan cannot be called up until time has expired on the amendment of the Senator from Minnesota.

Mr. MONDALE. But the Senator from Michigan has not been recognized for the purpose of calling up his amendment.

Mr. ERVIN. No, I yielded to the Senator from Michigan, but I did not——

The PRESIDING OFFICER. Five minutes was yielded to the Senator from Michigan by the Senator from North Carolina for the purpose of having the amendment read.

Mr. MONDALE. My point is that, as I understand the parliamentary situation, the Senator from Michigan is not automatically recognized for the purpose of offering his amendment at the expiration of the time on the pending amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. ERVIN. Mr. President, if no other Senator wishes to address the Senate, I will proceed to discuss the amendment offered by the distinguished Senator from Minnesota. I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, as one who believes that what is sauce for the southern goose should be sauce for the northern gander, the Senator from North Carolina is subjected to a temptation to support the perfecting amendment of the distinguished Senator from Minnesota. But the Senator from North Carolina has taken an oath to support the Constitution of the United States and the Senator from North Carolina considers that that oath imposes upon him the obligation to vote against legislative proposals which are clearly irreconcilable with that Constitution.

We have heard great tribute paid during this debate to the decision in Swann against Charlotte-Mecklenburg Board of Education. That case arose 70 miles from the home of the Senator from North Carolina and the Senator from North Carolina filed a brief amicus curiae in that case on behalf of the Classroom Teachers Association of Charlotte, Mecklenburg County, and asked the court to reverse that decision.

The Senator from North Carolina did so because the district judge in that case found as a fact that it was impossible to desegregate the predominantly black school districts in the city of Charlotte without busing thousands and thousands of school children. To the Senator from North Carolina that meant that they were dealing with a case of de facto desegregation.

But, unfortunately, the same Swann case indicates that we have different rules of evidence in some States of the Union from those rules of evidence which prevail in other States of the Union. It holds, in effect, that it takes less evidence to make out a case of discriminatory official practice in certain States from what is required in other States.

I am a great believer in uniformity. I have an amendment here, a perfecting amendment, on which I hope to get a rollcall vote that would provide that the rules of evidence which prevail in the Federal courts in school desegregation cases shall be uniform throughout the United States and that no presumption shall arise and no inference shall be drawn from the circumstances that the school authorities having control or management of particular schools happen to be operating in a State so ignorant that it did not precede the Supreme Court itself in discovering that the separate but equal doctrine had ceased to be a part of the law of the land.

The Swann case recognizes that different rules of evidence prevail in Federal courts in those States where the government was so dumb it was not smarter than the Supreme Court and did not anticipate before the Brown case that the separate but equal doctrine was no longer part of the law of the land.

Now, I cannot vote for the amendment of the Senator from Minnesota because the Supreme Court declares 23 times in the Swann case that his amendment is unconstitutional in that it attempts to make the Mansfield-Scott amendment applicable to de facto segregation.

The Swann case states 23 times in 28 pages that Congress has no power to legislate in respect to de facto segregation—23 times. And here, under the amendment of the Senator from Minnesota, and under the second sentence in subsection (b) of the Mansfield-Scott amendment, the Department of Health, Education, and Welfare would have the right and power to require every school district in the United States, whether it was segregated de facto or de jure, to transport students unless the time and the distance of travel is too great or unless it would impinge on their educational opportunity, and a few other nebulous things that are about as concrete as the stars in the Milky Way.

The Senator from North Carolina believes that we ought to leave control of the schools in the hands of local officials. We cannot vote for an amendment which the Supreme Court declared in the Swann case 23 times would be unconstitutional if it were agreed to.

Mr. President, I yield back the remainder of my time in opposition to the amendment.

Mr. GRIFFIN. Mr. President, will the Senator reserve several minutes?

Mr. ERVIN. Yes; I reserve whatever time the distinguished Senator from Michigan wishes to use.

Mr. GRIFFIN. I thank the Senator.

Mr. President, earlier the Chair will recall that the junior Senator from Michigan propounded a series of parliamentary inquiries and made it clear that he had prepared and waiting at the desk a perfecting amendment to the amendment offered by the Senator from Minnesota (Mr. MONDALE), and that the Senator from Michigan asked and had it established that the amendment would be in order if the junior Senator from Michigan could get recognition.

At the end of the period of time which is allotted for the particular amendment before the Senate, the junior Senator from Michigan will be on his feet and will be seeking recognition and hopes very much, of course, that the Chair will respect that prior notice and that the junior Senator from Michigan will have the opportunity to have his amendment considered. I thank the Senator from North Carolina for yielding. If he wants to yield back the remainder of his time, that is fine with me.

Mr. ERVIN. Mr. President, the Senator from North Carolina yields back his remaining time.

Mr. SCOTT. Mr. President, is there time in opposition to the amendment?

Mr. ERVIN. Mr. President, I will say to the Senator that I had control of the time in opposition.

Mr. SCOTT. Is the time for the opponents all yielded back?

Mr. ERVIN. I have yielded back my time, but the Senator from Minnesota still had some of his.

Mr. JAVITS. Mr. President——

Mr. ERVIN. If I could ask unanimous consent to withdraw my yielding back my time, I will be glad to yield some time to the distinguished Senator from Pennsylvania.

Mr. SCOTT. If the Senator from New York will yield me time, since he has the time of the Senator from Minnesota, that would be satisfactory.

Mr. JAVITS. I yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I want to say that I had already lodged with the Chair the request that when the time had expired, either the majority and minority leader be recognized, under the earlier understanding that any Senator might offer such amendments as might be in order. I did not want to take anybody by surprise, but we had already made a request prior to the request by my colleague, the distinguished Senator from Michigan, or, in any event, so far as I was aware.

Mr. GRIFFIN. I was going to say I had made it clear much earlier, before the minority leader came into the Chamber, that I intended to seek recognition at the expiration of time on the pending amendment.

Mr. SCOTT. I think the important thing now is that we all want to get votes on our respective amendments. If the distinguished Senator from North Carolina wants to yield back his time——

Mr. JAVITS. Mr. President, I am not ready to yield back my time.

Mr. ERVIN. Mr. President, I would like to propound a parliamentary inquiry.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator will state his parliamentary inquiry.

Mr. ERVIN. Is it not the duty of the Chair to recognize whichever Senator first demands recognition when time for demand recognition has arrived?

The PRESIDING OFFICER. The Chair will ask the clerk to read rule XIX, paragraph 1.

The assistant legislative clerk read as follows:

> When a Senator desires to speak, he shall rise and address the Presiding Officer, and shall not proceed until he is recognized, and the Presiding Officer shall recognize the Senator who shall first address him. No Senator shall interrupt another Senator in debate without his consent, and to obtain such consent he shall first address the Presiding Officer, and no Senator shall speak more than twice upon any one question in debate on the same day without leave of the Senate, which shall be determined without debate.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, will the Senator from Minnesota yield me 2 minutes?

Mr. MONDALE. Mr. President, I yield such time as he may need to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I am serving notice now that I will be on my feet from now until all time is yielded back and will be seeking recognition, and I believe, as the distinguished majority leader has made clear so many times in the past, it is the custom and precedent of the Senate to recognize the majority leader if he is seeking recognition, and perhaps the somewhat lesser custom, to recognize the minority leader if the majority leader is not seeking recognition. In any event, I am on my feet and will be here until the time expires.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. MANSFIELD. Mr. President, there is nothing in the rules of the Senate which calls for precedent in recognizing either the minority or majority leaders or their deputies if they are acting in that capacity during the absence of the joint leadership. It is my recollection, however, that on the basis of custom, it has been the usual courtesy extended to the leadership on those occasions; and if a motion is being made at the present time, or if the question has been raised, that such will not be the case in this particular instance, then it will set a precedent in other instances as well.

May I point out also that even though there are no rules or regulations, to the best of my knowledge, which accord that privilege to the leaders, who have little privilege, really, and little power, compared to other Senators, if my memory serves me right, the equivalent of a Constitution in Great Britain is an unwritten document and it is based in large part on custom and precedent, and down through the centuries it is recognized as law. I am not saying it should be recognized as law in this instance, but in a like manner as our laws are based on that country's, the tradition and practice of precedent I cite as a similarity which should be brought to the attention of the Senate at this time.

It is, of course, up to the Chair to do what it wishes, but I would cite precedent and custom as being factors in this matter, and I would hope that if either the minority leader is or I am on my feet at the appropriate time, we would be recognized for that purpose.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

Mr. SCOTT. Mr. President, I do not believe the Chair has responded to the question.

The PRESIDING OFFICER. The Chair will say that the Chair is aware of the tradition and custom in the Senate which recognizes the leadership.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. When the majority leader or the minority leader, or the majority leader and minority leader in unison, introduce an amendment, do they not introduce an amendment in their respective capacities as Senators from the States which they represent rather than in their capacities as leaders of the Senate, and in consequence is it not true that under the Senate rules they have no priority in obtaining recognition for the purpose of offering amendments over other Senators?

The PRESIDING OFFICER. The Chair will say to the Senator that he is advised that that distinction has not been made in the past.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. As I understand it, the proponents of the amendment have yielded back their time.

The PRESIDING OFFICER. If the Senator will bear with the Chair, the Senator from Minnesota has not yielded back his time, according to the understanding of the Chair.

Mr. SCOTT. But the Senator from North Carolina has yielded back his time?

The PRESIDING OFFICER. That is correct.

Mr. SCOTT. I stated it incorrectly.

I understand the Senator from Minnesota is about ready to yield back his time. If he does so, I serve notice on the Senate that the moment the Senator yields back his time, I am standing here seeking recognition.

Mr. MONDALE. Mr. President, I yield back my time.

Mr. SCOTT and Mr. GRIFFIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. BAKER. Mr. President——

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

Mr. SCOTT. Mr. President, the Senator from Pennsylvania has been recognized before the Senator suggested the absence of a quorum. The RECORD will so show.

Mr. BAKER. Mr. President, what is the status and who has the floor?

The PRESIDING OFFICER. The Chair recognized the Senator from Pennsylvania.

Mr. BAKER. What was the disposition by the Chair of the request for a quorum call?

The PRESIDING OFFICER. The Chair had recognized the Senator from Pennsylvania before he heard the request for a quorum call.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Does that negate the request for the quorum call?

The PRESIDING OFFICER. The Chair would advise the Senator that it does, since the Senator from Pennsylvania had been recognized.

Mr. SCOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the language to be inserted by the Mondale perfecting amendment add the following:

Sec. — (a). No funds appropriated for the purpose of carrying out any program subject to the provisions of the General Education Provisions Act, including this Act, may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written request of appropriate local school officials: *Provided, however,* That no Court, and no officer, agent or employee, of the United States shall order the making of such a request: *And provided further,* That no funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process.

(b) No officer, agent or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially less than to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color or national origin.

(c) Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from one local educational agency to another, or which requires the consolidation of two or more local educational agencies for the purpose of achieving a balance among students with respect to race, sex, religion or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, effect upon the date of its enactment shall expire at midnight on June 30, 1973.

Mr. SCOTT. Mr. President, at this point I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BAKER. Mr. President——

Mr. ERVIN. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, at this point I am not prepared to yield time. While I intend to continue for a few minutes, it might be well to clarify who has the time for the other hour in opposition to my perfecting amendment.

The PRESIDING OFFICER. The Chair understands that the minority leader has 1 hour for the amendment, and that the other hour would go to the manager of the bill, if he is opposed to the amendment. If not, that time also goes to the minority leader.

Mr. PELL. Mr. President, I yield the time in opposition to the Senator from North Carolina (Mr. ERVIN).

The PRESIDING OFFICER. The Senator from North Carolina, then, has 1 hour.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Will the Senator from North Carolina yield to me so that I might propound a parliamentary inquiry?

Mr. ERVIN. I was under the impression that the distinguished Senator from Pennsylvania has the floor.

Mr. SCOTT. Mr. President, I have the floor, and I was prepared to proceed for a few minutes, with the understanding that the Senator from North Carolina would then perhaps wish to proceed. If the Senator from Tennessee could withhold his parliamentary inquiry for a few minutes and give me a chance to explain the amendment, then I understand that the Senator from North Carolina will yield to him.

Mr. BAKER. Mr. President, I shall be glad to withhold the parliamentary inquiry. I might say, so that the minority leader will be in a position to respond to it in his explanation, that I intend, at the appropriate time, to call for a division of the question.

Mr. ERVIN. Mr. President, I was just going to ask the Senator from Pennsylvania if he would be willing to have some copies of his amendment made, so that some of us could see it. It was sprung on us suddenly, and I could not understand it by hearing it read.

Mr. SCOTT. Mr. President, I thank the Senator from North Carolina, who has excelled in the educative process on the floor of the Senate for a long time. I am glad to join in that educative process here, if the Senator from North Carolina would like, because I am happy to say to the Senator that the language sent to the desk, in the form which is permitted under the rules and under the agreement, is the so-called Mansfield-Scott amendment, as to which a change has been made in one line, where, in referring to certain schools, the words "inferior to" which had been used have been changed to "less than."

I am now prepared to argue for the adoption of this amendment, which is in its content the original Mansfield-Scott amendment as slightly revised.

Mr. ERVIN. Mr. President, if the Senator from North Carolina correctly understands the explanation of the Senator from Pennsylvania, the Senator from Pennsylvania is offering an amendment to the amendment which he and the majority leader introduced under circumstances whereby no one else could offer an amendment to it.

Mr. SCOTT. Well, Mr. President, I think that Senators would all readily agree that we are proceeding in order, that we are proceeding in accordance with the rules, that we have seen those rules honored as various amendments have been offered, including amendments to amend and to strike, that this amendment is indeed in order, and that what we have been struggling to do all day long is to get the Senate to say, in the words of the distinguished majority leader, that it is willing to face up to the busing issue.

I have indicated that I think in some way or other we ought to face up to it. I think now is the time. The amendment which we have introduced, as I have pointed out, is an amendment which meets a number of the concerns of parents, teachers, and students in this country, which defers the effect of lower court rulings for a period of time until the Supreme Court shall have an opportunity to act upon certain decisions as to which many have reservations presently, and I refer to the Richmond case, the Denver case, and perhaps others; that we have sought in this amendment to preserve the concept of voluntary agreements in and among school districts, that we have sought to preserve the integrity of the judicial system, and that we have sought to preserve the constitutionality of what we do from judicial attack.

In so doing, we have come up, I think, with an amendment which, as I said before, some have objected to because it does not go far enough and others have objected to because it goes too far. That usually is the trademark of a good amendment.

In my judgment, this amendment does something which the other amendments do not. The amendment to which it is offered as a perfecting amendment, in the judgment of this Senator, would repeal title VI of the Civil Rights Act. We have struggled through many a long day here with civil rights legislation, and the last thing I want to see us do is to strike out any part of the Civil Rights Act, and I certainly do not want to strike out title VI.

In effect, what we are trying to do is arrive at a solution which will operate as fairly in the South as in the North. I have conceded many times on this floor that de facto segregation is just as deplorable as de jure segregation, but to go back and say we will repeal the Civil Rights Act in substantial part means that we go back to segregation. In my judgment a vote for the repeal of title VI is a vote for a return to segregated school districts, and I intend to oppose that in every way I can as long as I am a Senator of the United States.

Many attempts have been made to obfuscate by the most skillful rhetoric the intent of the prior amendment, even to the point of indicating that perhaps the amendment of the distinguished majority leader and myself is a hoax.

On the contrary, our amendment is the work of the majority leader and myself. It was not the work of others. It was not the work of conservatives, liberals, or moderates. It is the work of the majority leader and the minority leader. About 5 days were spent on an attempt to work out language which would be just, fair, and rational.

I believe we have done that, and I am entirely happy in my position in opposition to repeal of any part of the Civil Rights Act, passage of which was attained here through much difficulty, over many a long day and many a long night. So it is my hope that this amendment will be adopted.

I regret that anyone has used the word "hoax," because, indeed, it is not a hoax. If there is any magical misdirection here or any prestidigitation, it consists on the part of those who assert that they are seeking to adhere to the Constitution and to the Old Testament of the Bible, and who denounce our amendment as being other than it is.

The amendment is very simple. The amendment is very clear. The amendment preserves the Civil Rights Act. It preserves the stature and status of the courts and their right to rule. It preserves the voluntary system wherever voluntary agreements can be made. It defers the impact of lower court decisions until the Supreme Court has also had a chance to face up to this issue.

It is time, in my judgment, that we in the Senate stop obfuscating the issue, that we stop indulging in the kind of rhetoric which indicates that what everybody is trying to do is the same thing. What everybody is trying to do is not the same thing. The public is the judge of that. I will rest on the amendment. I will rest on my presentation. I know what I am trying to do. I grant the good faith of every other Senator, but I suspect that they all know what they are trying to do, too.

I reserve the remainder of my time.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ERVIN. I yield to the Senator from Tennessee such time as he desires.

Mr. BAKER. Mr. President, under rule XVIII, I demand a division of the question, according to paragraphs (a), (b), and (c) of the pending amendment.

The PRESIDING OFFICER. The question will be so divided.

Mr. BAKER. Mr. President, will the Senator yield to me for 3 minutes, so that I may speak on the amendment?

Mr. ERVIN. I yield to the distinguished Senator whatever time he wishes.

Mr. BAKER. Mr. President, I agree with the distinguished minority leader that the time has come to face up to the question involved. But the question is, "How?" Really, it is more than just a rhetorical question. It is one of great and basic significance—that is, whether or not the Senate can take it or leave it, or whether the Senate can work its will on an important fundamental issue. The time has come when we need to vote on particular issues, and that is why I have made the motion for a division of the question.

Mr. President, at least four proposals are pending before the Senate on this particular issue. Yesterday, there was a rather heated and spirited colloquy as to whether or not it was the proper effect, whether it was the desirable result, for the Senate, in effect, through procedural maneuvers, to find itself in a position in which it had no authority and no prospect for amending the substitute that was offered by the joint leadership. I expressed my opinion then that that was not a desirable way to handle a problem of such momentous impact.

As it turns out, we have managed to accommodate our desire for flexibility by a series of other perfecting amendments and amendments, and now, as the distinguished minority leader points out, we are about to face up to the question. But the question is not embodied in this perfecting amendment. It is not embodied in any single amendment. The question finally will be resolved when we decide one issue, and that is whether or not Congress and the people of this country approve of busing as an acceptable technique for the business of trying to eliminate the last vestige of institutional segregation in this country. It is my opinion that we do not approve of that technique. But, Mr. President, that has nothing to do with the continuing desire and dedication on the part of the senior Senator from Tennessee—and I believe a great majority of the Members of the Senate and of the country—to continue the fight for a unitary school system and for equality of opportunity.

Unfortunately, the matter now pending before the Senate does nothing to clarify the confusion that has arisen from several decisions, including the Swann case. It does nothing, for example, to define a unitary school system. It does nothing to describe the distinctions between segregation, desegregation, and integration. This proposal does nothing to describe or to further define what the highest court of the land meant when it said that in some cases busing might be appropriate and in others it might not be appropriate. There is in the Swann opinion almost a judicial invitation for us to provide congressional guidance to the courts as to how they should proceed to remedy the wrong identified in Brown.

Mr. President, those functions can legitimately be served by the Senate in these considerations, but they are not being so served in the proposal before the Senate.

It is my hope that the proposal before the Senate will be rejected; that the proposal by the distinguished junior Senator from Michigan, while not fully determinative of all the questions involved, will be adopted, and that, as the minority leader says, we will get about the business of facing up to the issue. That is why I called for a division of the question, so that we can express our opinions on the several issues on a take-it-or-leave-it basis.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I yield to the Senator from Alabama such time as he desires.

Mr. ALLEN. I thank the distinguished Senator from North Carolina.

Mr. President, we have come to the end of the line. There will be a vote on this amendment at the end of the 2-hour period allotted for its consideration. I am sure that some Senators are not altogether familiar with what has taken place in the Senate. I know that many people throughout the country do not know and never will know. But if I did not respect so much the distinguished majority leader and the distinguished minority leader, I would feel that they had resorted to strong arm tactics to assure that the vote first came on the Scott-Mansfield amendment rather than the amendment offered by the distinguished Senator from Michigan (Mr. GRIFFIN). I suppose it is the role of the individual Senators not to question why, but just to do and die, with respect to this amendment.

Mr. President, the matter first came before the Senate when the distinguished Senator from North Carolina and I offered an amendment to title IX. Then the distinguished majority and minority leaders came in with their substitute. Then Mr. GRIFFIN offered a perfecting amendment to the amendment of the Senator from North Carolina and myself. That then left two possibilities, and they were availed of by the Senator from Minnesota (Mr. MONDALE), who then offered a perfecting amendment to the original language of the committee substitute. The question then became: Who then would get recognition to offer the final amendment?

Mr. President, some 60 minutes ago, the distinguished Senator from Michigan (Mr. GRIFFIN) served notice that he wanted to be recognized as soon as the time was upon the Mondale amendment. He even went so far as to have read by the clerk the amendment that he proposed to offer. It was read. He served notice that he wanted recognition.

I have written down the order of recognition with regard to this parliamentary maneuvering. First, the committee amendments—that is, the Senate committee amendments to the House amendments to the Senate bill. That came out with the bill itself from the Senate committee, and that was before the Senate. Then an antibusing amendment was offered by the junior Senator from Alabama and the senior Senator from North Carolina. Then what I have been calling in this debate a pro busing amendment—for that is what it is—was offered by the majority and minority leaders, the so-called Scott-Mansfield substitute.

There seems to be some misunderstanding or lack of desire to claim credit for the first place in the naming of this amendment. The Senator from Pennsylvania said it is the Mansfield-Scott amendment and the Senator from Montana says it is the Scott-Mansfield amendment. I do not blame either one of them for trying to put the first name on the other Senator. [Laughter]

But an antibusing amendment was introduced, and then a pro busing amendment was introduced by the Senator from Pennsylvania and the Senator from Montana. Then an antibusing amendment was offered by the distinguished Senator from Michigan (Mr. GRIFFIN), and then a pro busing amendment was offered by the distinguished Senator from Minnesota (Mr. MONDALE).

You would think, Mr. President, in that order that no attempt would be made by the leadership to get recognition the next time because recognition had been alternated—antibusing, pro busing, antibusing, pro busing—you would think, Mr. President, that the President Officer would have recognized an antibusing Senator, the Senator from Michigan (Mr. GRIFFIN), to offer the last amendment; but I guess there are some prerogatives of leadership in the Senate. Possibly I have been under an illusion that these prerogatives were exercised with regard to general legislation and not exercised with regard to legislation or proposed legislation in which the leadership had a definite interest by reason of sponsorship of the legislation.

Mr. ERVIN. Mr. President, will the distinguished Senator from Alabama yield for a question?

Mr. ALLEN. I yield.

Mr. ERVIN. Does not the Constitution of the United States plainly declare that each State shall have equal representation in the Senate of the United States?

Mr. ALLEN. Yes, sir; it says that.

Mr. ERVIN. So that if the majority and minority leaders can claim priority over all other Senators when it comes to proposing their amendments, then the State of Alabama, the State of Michigan, or the State of North Carolina have been deprived of equal representation in the Senate, at least contrary to the spirit if not the letter of the Constitution; have they not?

Mr. ALLEN. That is certainly correct. I say again that the distinguished majority leader and the distinguished minority leader are honorable men. I am sure that they would not do anything that smacked of being anything other than honorable action. But, Mr. President, it does seem that this is arrogance that they have adopted with respect to their amendment, when they come forward and dump it in—no one has seen it—but they dump it at the desk and say, "This is it," and then they maneuver the parliamentary procedure in such a way that it cannot be amended. No matter if a glaring mistake is found in the amendment, it could not have been amended.

Now, as the distinguished Senator from North Carolina pointed out, by offering the same amendment with the change of a word or two as a perfecting amendment to the original language, that gave them the opportunity of amending it.

The Mansfield-Scott amendment or the Scott-Mansfield amendment, as alternately they would call it, is a pro busing amendment.

Busing is going on. It is being carried on to the detriment of public education throughout the country.

Busing will continue to be accelerated under the provisions of the Mansfield-Scott amendment. Let there be no doubt as to that, Mr. President.

I hope that Members of the Senate will repudiate this strongarm method. I have no doubt that a majority of the votes will be cast for the Scott-Mansfield amendment, but why deny to the distinguished Senator from Michigan (Mr. GRIFFIN) the opportunity to have a vote up or down on his amendment?

He has been trying for 2 days to get his amendment acted on by the Senate, but here the advocates of this amendment say it is not to be changed in any particular, and they cut off his right to offer the amendment and to have an up-and-down vote on it.

Mr. President, if it is the wish of the Senate that busing continue—forced busing of little school children—if that is the wish of the Senate, then vote for the Scott-Mansfield amendment.

If the Senate wants to respond to the clamor throughout the country to stop forced busing of little school children then they will vote against the Scott-Mansfield amendment.

The issue is clearly drawn. It is very clearly drawn. If the Senate wants to go along with a smoke screen—because that is what it is, the Scott-Mansfield amendment—if they want to support a smoke screen, to seek to lull the people into believing that the Senate has taken some action on this matter, then vote for the Mansfield-Scott amendment.

On the other hand, if the Senate wants to make a genuine effort to stop the forced, massive busing of little schoolchildren, then they will vote against the Scott-Mansfield amendment.

Mr. President, I reserve the remainder of my time.

Mr. GRIFFIN. Mr. President, will the distinguished Senator from North Carolina yield to me?

Mr. ERVIN. I yield to the Senator from Michigan whatever time the Senator wishes.

Mr. GRIFFIN. I am looking to see if the minority leader is in the Chamber, but he is not. In any event, he predicted in an interview in a national magazine last week that the Congress would "waffle" on the busing issue.

I must say, in my opinion, that if the Senate adopts the proposed Scott-Mansfield substitute, we will be waffling on the issue. I am not quite sure exactly what "waffling" means, but I think that adoption of the Scott-Mansfield amendment would be a good example.

Mr. GAMBRELL. Mr. President, will the Senator from Michigan yield for a question?

Mr. GRIFFIN. I yield.

Mr. GAMBRELL. It was my impression, from watching the parliamentary procedure here, that waffling was where the joint leadership caught the distinguished Senator from Michigan (Mr. GRIFFIN) between themselves and the Chair. [Laughter.]

Mr. GRIFFIN. Well, the junior Senator from Michigan is going to try to keep his "cool." He appreciates the prerogatives of the leadership. I wish I could have gotten recognition. I was not accorded that privilege however, so that we will be proceeding to a vote on the Mansfield-Scott substitute.

I am very pleased that the distinguished Senator from Tennessee (Mr. BAKER) has prevailed in his request for a division of the question.

All Senators should be aware that there will be a rollcall vote on three separate subsections, (a), (b), and (c), of the Scott-Mansfield substitute.

As for the junior Senator from Michigan, he will vote against (a) and (b) and vote for subsection (c).

As I indicated earlier, in discussing the merits of this proposal, there is only one part of it that has any substance so far as this Senator is concerned and that part is subsection (c), which provides that any court order requiring consolidation of two or more local educational agencies or requiring the transportation of students from one local educational agency to another, will be stayed until all appeals have been exhausted or until the time for appeals has expired.

I believe that provision would be constitutional and that it would be effective in those limited number of cases to which it would apply. I shall vote for this one provision and vote against the other two because the other two, in effect, put the stamp of approval of the U.S. Senate on the busing practices now in effect. I think that it will be unfortunate if the Congress goes on record and endorses the busing practices now in effect.

I thank the Senator for yielding.

Mr. ERVIN. Mr. President, for the information of Senators, I would tell them how the word "waffle" is defined in the North Carolina lexicon. It is defined as "gumshoeing" and "pussyfooting" to dodge facing an issue. And that is precisely what the Scott-Mansfield or the Mansfield-Scott amendment in all three sections undertakes to do.

The Senator from Alabama (Mr. ALLEN) was defining how Senators who wanted to do certain things should vote, for or against the Scott-Mansfield or the Mansfield-Scott amendment.

The Senator from North Carolina would say that all of those Senators who believe that tyranny on the bench and tyranny in the HEW is just as objectionable as the tyranny on the throne which caused our forefathers to engage in the Revolution to obtain their independence from England ought not to vote for all three sections of the Mansfield-Scott or the Scott-Mansfield amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, the proponents of the amendment have delegated me the assignment of time on the amendment. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, it would be expected that those who are opposed in essence to any busing, or perhaps to the desegregation of schools, would do their utmost to say we have to decide this question yes or no, in black or white and have to face the issue.

It is that old story, "I will hold your coat." We know very well that Government is not run that way, that the sentiments and feelings of millions of people are not dealt with in that way and that any government that is worthy of its name does its utmost and remedies great wrongs in such a way as to make them as acceptable as possible to the greatest number so that the remedies may be effective rather than to crush them under such a load of difficulty as to make them ineffective.

That is precisely what is happening here. School desegregation is a very measurable avenue of progress toward what has developed in this country.

There is no doubt in my mind, and I think in the minds of a majority in the country, that for many decades there was great injustice practiced that brought on the case of Brown against Board of Education and brought on the Civil Rights Act of 1964.

It was natural that in those situations we got to a point where various courts did various things which were generally straightened out by the Court of Appeals or by the Supreme Court. However, in many cases, whole areas, cities, and States got very upset by the danger that the courts might act unwisely. Experience demonstrates that the courts should—and they did—establish guidelines as to what would be a prudent way of securing rights under the Constitution.

Mr. President, the issue therefore is not whether we should or should not enforce the Constitution. The issue is when we enforce it, how do we do it, and does that enforcement result actually in bringing about some hope of obtaining constitutional guarantees.

Mr. President, for that the leadership has adopted a technique and a way of shaping the remedy to the difficulty with due consideration to public feelings about excesses.

Mr. President, in my judgment the remedy is very well fashioned because it takes account of what the courts have done and makes a fair disposition of what should be done with the Federal moneys which are available for school aid and makes a fair disposition of what Federal courts and HEW under title VI and the Constitution can require.

Mr. President, the one argument I would deal with specifically is the argument which was made here that if you support the Scott-Mansfield amendment, it would result in annulling title VI of the Civil Rights Act of 1964. That is based on the fact that we go too far in the amendment, that we do not preserve enough of the absolute power of the courts to order any kind of busing to make school desegregation effective.

The argument doubles back on itself, because if there is one way of breaking the back of title VI, it is by loading with amorphous, undefined limits. What we are trying to do by this procedure is to take the load off its back so that it becomes practicable in operation and in conformance with the policies established by the courts in enforcing the 14th amendment guarantees rather than invalidating them.

The people have a way of sensing these things. They do not know the fine points of the law, which we do in our duties here. However, they sense the decision, and if the periodicals are checked, it will be found that what the Scott-Mansfield amendment is being advertised as is a compromise. It is a compromise—to wit, a compromise between the completely antibusing forces and those who want the arbitrary standard of racial balance applied, regardless of educational consequences, recognizing accommodation must be made with the public feelings on the subject, and with very real problems which have arisen as a result of school desegregation. However, those who would oppose the use of the busing tool even as a temporary expedient and even on a limited basis would have us strike down all Federal enforcement powers under the 14th amendment which may require the use of some busing. That is the toughest thing for us to do. We cannot simply strike down these enforcement powers without effectively striking down title VI of the Civil Rights Act of 1964.

It seems to me, therefore, that if one favors eliminating title VI and an opportunity to really implement it, then he goes over into the antibusing category.

On the other hand, if one wants title VI carried out, he simply cannot say, in my judgment, that this particular goes too far, because the only way to preserve title VI and the only way, in my judgment, to preserve the benefits of a desegregated education for the children who are concerned is to write reasonable rules and reasonable guidelines and reasonable recommendations upon the use of the busing remedy by the courts, and HEW.

I respectfully submit that, to me, the most critical part of this amendment is its definition of what the courts in Swann meant by "impinging on the educational process" of the children. Further, knowing the courts as we do, I have every confidence that the courts will accept as an explanation that the educational impact of desegregation and busing is an important component of what Congress understands the requirements of the 14th amendment to be.

I believe it will be adopted by the courts as to what they understand. The critical aspect of it is, if we legislate in this fashion, whether or not the time or distance of travel impinging on the educational process meant only that the time and energy, considering the age of the children, was taken into consideration in busing the child, and that was what was meant by lessening his opportunity to learn because he was too tired, and so forth. That is excellent, as far as it goes, but we are extending that to our understanding of what it means to us. I think this legislation will be decisive to the courts; that desegregation should not impinge substantially upon the opportunity to learn of the disadvantaged child or the middle-class child. This, to me, is the most critical part of the amendment because it deals with the one big point with which an important majority of parents are concerned.

The other thing we cover in the same way by the same definition, including the voluntary requirement on the part of educational agencies for reverse busing, which is far more a matter of fear to many parents; that is, that children out of traditional suburban neighborhoods, generally speaking, or the higher class city neighborhoods, in economic terms, will be brought to schools where they fear the education will not be as good as that which they are leaving.

By writing in the definition which we do in subsection (b) of the bill it seems to me we are setting what the Supreme Court invited us to set, and that is educational guideline to help make the educational process work most effectively.

Mr. President, I conclude as follows. Those who would sustain title VI and those who would sustain the ongoing effort to improve educational opportunity for the disadvantaged children, blacks and others, without at the same time compromising the educational opportunity of other more advantaged children have essentially this pattern embedded in the amendment which would be voted on in three parts before us. No matter how they disguise it, to strike down that amendment, and, in consequence, to espouse the Griffin amendment or the Allen amendment, is to vitiate title VI, to break its back. That is the substantive issue.

Let us remember, too, if we pass the Griffin amendment or the Allen amendment, and so forth, we have nothing in conference because we are simply adopting what the House did to attempt to outlaw busing as a temporary tool, a limited tool, a minor tool, and nothing is in conference. On the other hand, if we adopt the Scott-Mansfield amendment we give the conferees a chance to work out a more practicable basis and bring it back here when the Senate has an opportunity to review our handiwork.

Mr. President, I speak about this matter with great feeling because I shall be one of the conferees. I consider it my duty to do my utmost to sustain in conference whatever the Senate decides. To any compromise we arrive at in conference I will do my utmost to give the character and thrust of what the Senate wants. Hence, I consider this vote to be extremely important.

I am the ranking Republican member of the committee and I will have a reasonable amount to say in conference.

For all those reasons I hope the most credible effort being made now not to let us go off the deep end of this trying and emotional question will be affirmatively supported by the Senate through the Scott-Mansfield amendment.

Mr. President, I reserve the remainder of my time.

Mr. ERVIN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. ERVIN. Mr. President, I am glad that at long last the Senator from Pennsylvania and the Senator from New York agree. They both said the purpose of the Scott-Mansfield amendment is the preservation of title VI of the Civil Rights Act of 1964. That is what I have said.

The Supreme Court said in the Swann case it had to do only with de facto segregation and it had nothing to do with the problem confronting the country; that is, shall children be bused to change racial composition rather than on the basis of their intelligence.

Mr. GRIFFIN. Mr. President, will the Senator from North Carolina yield a little time to me?

Mr. ERVIN. I yield.

Mr. GRIFFIN. Mr. President, I should like to establish for the education of this Senator and perhaps other Senators, what is going to happen when the time is all yielded back and we proceed to vote.

As I understand it, without any further debate there will be seven votes, one right after the other, all but one of which is a yea and nay vote. I believe that the Mondale amendment as of this moment has not had the yeas and nays ordered.

I say seven votes because I understand the first order of business will be to vote on perfecting amendments to that portion of the committee amendment which would be stricken by the Allen amendment. The pending Scott-Mansfield amendment has three separate votes on the various sections. That would be three votes. Then, a vote on the Mondale amendment, which may or may not be a yea and nay vote. Then, the Senate would proceed to vote on the Griffin amendment to the Allen amendment and then upon the Scott-Mansfield amendment to the Allen amendment, and then upon the Allen amendment, in that order.

The PRESIDING OFFICER. The Senator is correct, unless some other amendment is called up.

Mr. GRIFFIN. Perhaps, this explanation will help give other Senators some notice as to what is going to happen.

Mr. SCOTT. Mr. President, I yield myself such time as I may require. I wish to pose a parliamentary inquiry.

How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 35 minutes remaining.

Mr. SCOTT. How much time remaining does the Senator from North Carolina have?

The PRESIDING OFFICER. The Senator from North Carolina has 37 minutes remaining.

Mr. SCOTT. I thank the Presiding Officer.

Mr. President, the purpose of my amendment has been stated often enough as not to require repetition. I would like to speak to the structure of the amendment and point out that as to each section of the amendment it goes to a specific situation which can be found in the amendment itself.

In other words, when you vote on sections (a), (b), and (c), you will be voting on the language that appears in (a), (b), and (c). You will be informed as you vote that it intends to accomplish certain things. Now, on some of the other amendments, Senators will be voting on legislative language which appears to limit busing in certain respects, but that legislative language does not tell the import of it is to repeal or substantially change parts of the Civil Rights Act, notably title VI.

In a recent article in U.S. News & World Report a reporter asked me if I thought the Senate would "waffle" on busing. I did not originate the word, I might add. My response was yes. Following that interview it occurred to me that is exactly the thing it was my duty to seek to avoid, if possible.

Following that interview, I discussed this with the distinguished majority leader. It was our thought that we would want to prevent any waffling on busing, any straddling on busing. We wanted an amendment which everybody understood.

I submit everybody can easily understand our amendment. They do not need to go to the law books on it. They do not need to consult court decisions beyond those with which they are familiar. They do not have to read the Old Testament, though that is a salutary process in the education of the Senate. And I also might add, in order to give equal time to the New Testament, that the reading of that also is a salutary process.

But I submit that I am far from waffling. I am one who is condemning waffling. I am one who is trying to avoid it. Others may be, too. I do not want to arrogate to myself all the attributes of virtue. But I want to make as clear as I can that our amendment is so specific, so clear, and so directly pointing to certain serious concerns as to give every Member of the Senate good reason to know whether he wants to do these things.

For example, does the Senate want to defer action by the lower courts which would greatly disrupt school districts or would it rather wait until the Supreme Court decides? Our amendment says wait until a day certain, which we fix in the amendment.

Does the Senate prefer voluntary agreements rather than agreements imposed as a condition to obtaining Federal funds? Our amendment says we prefer the voluntary route.

Does the Senate wish to abide by the Constitution? Our amendment says that is a very good idea, so we write it in.

Does the Senate wish to abide by the decisions that the highest court has made and by such future decisions as may be changed or altered or revised by the court as presently constituted? Our amendment says that is what we prefer, and we have written that in.

This is a good law and order amendment, I may say, and we have made the law. We have asked that we follow the orderly processes. We have asked that we do not compel school districts to engage in the turmoil of their reshuffling districts only to find that the district courts have a different idea. As we know, the Supreme Court always has the last guess, whether that is the last best guess or not.

So our purpose is clear. Our motives certainly should be above suspicion. We are doing it in the public forum. We are explaining as clearly as we can every step we take. We are not beating on the Old Testament. We are relying on parables and proverbs for the sustaining of our argument. We are relying on the principles I have mentioned.

I will conclude by pointing out what they are again: Deferment of action until final ruling. Voluntary school district plans. Adherence to the law of the land and the Constitution, and adherence to the action of the courts after the final court of appeals has been heard.

Mr. President, I reserve the rest of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield to the distinguished Senator from Florida such time as he may use out of the time remaining in opposition.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, in viewing the Scott-Mansfield amendment, I have tried to determine, from viewing that amendment, what would be the status of Florida and what would be the status of the other States in the South where we have had busing both by court order and under title VI of the act.

I was interested, in listening to the debate, to hear the distinguished Senator from New York say that if this amendment was not adopted, if any other language was adopted, we would not be able to use the temporary expedient of busing or busing to a minor degree.

I think that really kind of shows me that many people do not understand how busing goes on or to what degree it has been used, and that it only now is gaining and attracting some sort of national interest or the interest of many Members of this body who heretofore were not interested.

It has not been used as a minor expedient in the State of Florida. It has not been used in a minor degree. I think one of the greatest concerns the junior Senator from Florida has in seeing what will be coming up on this floor is that legislation is applied equally to all of the States.

As I view the amendment before us now, the Scott-Mansfield amendment, I see it might give great comfort to a State that has not entered into the tangle of busing, which has not had court orders requiring busing, which has not been required by HEW to enter into busing, because it builds in many delays and builds in many safeguards. I see that perhaps it might relieve the pressure that is on now on a national basis. But I see that Florida might be left with a different standard, with a different requirement, than the rest of the country is left with.

So the junior Senator from Florida is going to review each of the amendments that comes up to see whether it is going to treat all of the States equally. Are we going to be under the same plan? Is what is going to be good for education in Florida going to be good for education in California, or Michigan, or any other State? Are we going to be treated equally or as we have heretofore been treated? In the South we have been treated with one degree and it is only now being used in regard to busing in other parts of the country. I would like to see that everyone kind of stays in the same boat until we determine what is going to be the national policy.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. SPONG. I will ask the Senator from Florida if, in his judgment, after examining the Mansfield-Scott amendment and listening to the distinguished Senator from New York, who asked us to read the Swann decision with this amendment, this amendment does not foster the hypocritical distinction between de facto de jure segregation.

Mr. CHILES. Absolutely; I think it does, and I think when someone can say we are going to just allow the tool of busing as a minor expedient, it is said by someone who has been under that distinction and who has been protected by that distinction, which some of the other States have not been. It has nothing to do with the question of equality.

Mr. SPONG. It has nothing to do with educational opportunity.

Mr. CHILES. No; absolutely nothing to do with educational opportunity. I would dislike to have anyone say, "It is fine for you down here, but we do not want it up here, and we are going to protect ourselves. We are going to say that you should be treated on a different basis, and we are going to see that you are treated on a different basis."

The junior Senator from Florida wants to see that we get equal treatment. That is why I cosponsored the amendment by the Senator from Georgia (Mr. GAMBRELL), which requires equal treatment by the courts.

Mr. SPONG. I want to commend the Senator from Florida. I join him in desiring equal educational opportunity for all, but I am not going to support any amendment that, in my judgment, is not national in application.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield to the distinguished Senator from Mississippi such time as remains in opposition to the amendment as he may use.

Mr. STENNIS. Mr. President, I thank the Senator.

How much time remains under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator has 31 minutes.

Mr. STENNIS. I shall not use all the time.

Mr. President, this amendment has been before us such a short time that I would judge no one has had a real chance to analyze it or to speak with any confidence about what it may or may not mean. Frankly, I know I have not had a chance to do that, so I cannot fully weigh its import, though I do know enough about the background of the subject, having been through the legislative part of this subject several times, and having been through almost all the things that anyone can imagine from a practical standpoint as to how these rules apply at the schoolhouse level and at the level of the parents, their homes, and their children, that, while I am not a wise man by any means, I do not yield to anyone as having more experience or as having been through more of these cases than I have.

I used to go down to HEW and appear there before the examiners. I have had long conferences with men who were high up on the staff of HEW, and, together with the former Senator from Alabama, Mr. Hill, and the late Senator from Georgia, Mr. Russell, have had many conferences with Mr. Cohen and other Secretaries of HEW.

We were given assurances over and over again about what would be done, that the South was not going to be subjected to any more pattern enforcement, and so forth, than anyone else. I have had conferences over the years with the Department of Justice, and I have watched the Supreme Court decisions very closely.

I shall not be contradicted on this: HEW has largely centered on the southern schools alone. There was some sentiment in that Department, I found, that did not want to pick out just one area and stay on it, but that sentiment did not prevail. I have had positive promises from Secretaries of HEW that were not carried out. Frankly, I think they were overruled by someone in authority above them.

I have been to the Department of Justice, and I do not have any criticism of them; they had a problem and tried to handle it in the best way they could. Some very eminent lawyers worked on this matter, and I do not think they are satisfied, as a whole, with what is happening.

But perhaps the saddest thing of all is what the Supreme Court has done, as I see it. I certainly am not one who would want to discredit any court; but time after time, until just a few weeks ago, cases went to the Supreme Court of the United States that put this issue of what is going to be done beyond the South, and the Court has declined to hear every one of those cases. They have declined to take this problem, and it is a problem to everyone—Congress, the President, and the courts. But they declined to take such cases and, with all deference to them personally, I think that was an error.

I have spoken on this subject before here in the Senate, and have delineated the charges with specific dates and statistics. A few weeks ago, the court agreed to take the Denver case. I am not sure that that case really presents the issue. But we do not yet have any clear-cut rule that has any kind of national application. The Supreme Court could have given us a rule, whatever they saw fit to decide, years ago; but we do not have it yet.

We do have two amendments—that is, the same amendment in identical words passed twice here by a very decisive vote whereby the membership of this body adopted an amendment that I had the privilege of offering, saying it is the policy of the United States that guidelines and criteria established pursuant to the titles of these education bills shall be applied uniformly in all areas of the United States, in dealing with conditions of segregation by race, whether de jure or de facto, and so forth.

That, as I say, has been passed twice. That is the judgment of this body by an appreciable margin, meaning no criticism of those who did not vote for it.

But this amendment does not do a thing in the world to that situation. It is neither hot nor cold, whichever you want to call it. It does not clear up anything. It provides no rule to follow. There is no congressional direction for HEW, for the courts, or for the executive branch. It pretty much freezes in busing in the South. It freezes it in rather well.

I have said many times here that we will live with anything in the South that the North will apply to itself. I have pointed out conditions in Pittsburgh, in Philadelphia, in New York, in Chicago, and virtually nothing has been done about those things.

Whatever the conditions are, the figures show that segregation of the schools in those large cities is worse than it was 4 years ago, 3 years ago, or 2 years ago. If there were time, all of that could be brought up to date. It is already in the RECORD what the conditions were 3 years ago. I have not read anything about the Governors or the legislatures of those States, or, if I may say so, even the Senators from those States trying to influence their Governors and legislatures to really get into this thing and apply a uniform rule, applying to themselves what they have put on us. I just have not heard of it, and I do not believe they will bring up anything appreciable to the contrary.

The great State of New York—and it is a great State of wonderful people—passed a law, as Senators will recall, that prohibited the desegregation of the schools. That has been modified somewhat now, but that was what they thought about it when it came home to them.

So I hope now that the Senate will not go off and vote for this amendment on the ground that it really grapples with the problem and offers any solution or any relief, or anything different from what we already have. As I say, I think it rather well freezes the situations as they are in the Southern States, and makes it even more improbable, from one interpretation of it, that anything will ever be done beyond those States.

I know this is a serious matter. It really shakes those States when it gets to them. I am not arguing against having integrated schools.

I shall start with the case of Brown versus Board of Education. I am not trying to change it, but let us not be led away: This is a very political matter.

I am not without sympathy for anyone who is on a hot spot. I think every candidate for President is on a hot spot about it, including the sitting President. I think every Member of this body coming up for election this year will be somewhat affected by it, as will all the Members of the House of Representatives.

Mr. President, I get no satisfaction from that. I do not like to see anyone in trouble. But let us not fool ourselves that we are getting rid of the subject matter. These mothers and fathers will know what this thing is when it hits home. They still do not know until it gets to their schools. But when they have come to know, they have reacted in the expected way.

This will go by degrees into other areas. Private plaintiffs are going to file more and more of these suits, and the facts are not going to be difficult to prove. They are not going to be so difficult to prove whatever may be the requirement of the court. They will not find it difficult to prove the facts in many, many of these cases I have referred to.

But in this matter of having a principle or right to go to school, if every black child has a right to go to school with the white children, and a constitutional right is denied unless they do, why give so much favor to the southern blacks and put such a penalty on the northern blacks? No one has ever answered that.

No one has ever answered that question. I do not say that a black child has to go to school with white children in order to get a good education or to have a personality or to have rights in his own right. I do not look at it that way. But if a principle is involved, practical or legal, let us at least try to have a uniform application of that principle and that right. I do not say it cannot be done.

The Senator from Pennsylvania argued here a few years ago—2 years ago, I believe—that the amendment I have cited about uniform application was impractical and could not be enforced, that it would take the Army to enforce it. I said then, "Don't say it cannot be done." It can be done. You can integrate the schools in Harlem, and it will not take long to do it. Just haul out enough black children, put them in Westchester County, and bring in enough white children from Westchester and put them in Harlem and you will have school integration there.

The same can be done in Pittsburgh, Philadelphia, Chicago, or anywhere else.

Mayor Daley got a notice one day. Somebody in HEW thought they meant what they said, that they wanted to integrate schools everywhere. He gave a notice to Chicago schools. Mayor Daley came in to Washington on the morning plane the next day. An announcement was made either that day or the next day that the matter was taken under advisement. That was years ago. That was before the present administration. The matter was taken under advisement. I recall that, because I was keeping up with the subject; but I saw the facts related in a columnist's column a few days ago. Some HEW official had told about going to see Mr. Cohen, a very fine man, former Secretary of HEW. He said he went there at the instance of the President of the United States and told him he wanted to look into it quickly. It got looked into quickly; it was taken under advisement the next day; and that is the last that was ever heard about that effort to integrate the schools in Chicago.

It depends on where the school is and who is affected, and oftentimes how many electoral votes they have in that State. So let us not fool ourselves.

We are not moving forward one inch, I respectfully say, in seeking an effective solution to this problem. We are not giving it a standard that will have any appreciable application through this amendment. There is no appreciable guideline for a court to follow. There is nothing that is binding on the President of the United States. It does not grapple with the program, but it just affords a program to pass over and sweep under the rug and ignore this problem.

Someone has said that this is just a local matter, a trivial matter, the matter of busing. Wait until it hits the homes of your constituents, and you will find out how trivial this matter is.

Something can be worked out. Conditions can be modified that will be a help educationally to both races, with better education, better training, better living together in harmony and respect. Accord and concord can be the result. But it will not be in this amendment.

I hope we can get to a vote on the amendment of the Senator from Michigan that refers to the jurisdiction of the courts. I do not think even that would be a permanent remedy, but it would be a long step forward as something practical, definite, and specific, and it would make itself felt.

I wish that in a deliberate way we could put together a simple constitutional amendment with language that all the people can understand and let the people pass on this problem. That is the only way it is going to be settled. When you get it to them, down where it is understood, in areas where it has been felt, I do not have any doubt about what the result will be.

So I trust, Mr. President, that this matter, serious as it is, will not be settled on the proposition of an amendment—with great deference—that freezes the situation in one area of the country, creates more doubt and uncertainty in other areas, and will not cause them to remedy the situation one bit—the matter of segregated schools. It will not touch topside nor bottom of these schools that are almost a hundred percent or 90 percent or 95 percent black. It will not touch topside nor bottom of that problem. I do not think it is even claimed that it will do so.

I do not blame anyone for wanting to keep this thing from getting stirred up in his State because of the turbulence. I think that is a pretty good word to use now. We are putting off the issue; we are postponing this matter. I do not believe that, under all the cricumstances, the Senate is going to be willing to pass this thing off on such a weak amendment that does not really grapple with the basic problem.

I thank the Senator for yielding to me, and I yield back whatever time remains.

Mr. SCOTT. I yield myself 2 minutes.

Mr. President, I view our amendment as having quite a contrary effect. In the first place, it is a national amendment in its scope. It is directed toward the school districts, as it should be. It affects the actions of school boards and school districts in all parts of the country. It defers action on enforcement until final appeal or up to a date certain in cases coming from such divergent States as Colorado, Virginia, and possibly California, as well as others. It deals with situations in Pennsylvania, New York, Michigan, and all the other States. It involves the application of Federal funds which the act clearly intends shall be used throughout the Nation. It has no sectional or geographical significance whatsoever.

The South has been too long regarded as a lone offender here by many uninformed people, not by this speaker. The problem is as great in the North, the East, and the West as in the South. In many ways, it is greater, because the integration process has proceeded further in the South. That is why this amendment is truly a nationwide amendment. There is not a word in it which could be construed as limiting the action of anybody to a southern situation. This amendment speaks without accent. It speaks without inflection. It speaks to all. It speaks to the national problem.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. STAFFORD). Who yields time?

Mr. ERVIN. Mr. President, how much time remains unexpired for the opposition?

The PRESIDING OFFICER. The Senator from North Carolina has 14 minutes remaining.

Mr. ERVIN. Mr. President, the Senator from North Carolina yields to the Senator from Alabama (Mr. ALLEN) whatever portion of the 14 minutes remaining the Senator desires.

Mr. ALLEN. Mr. President, the country demands the stopping of busing of little schoolchildren. The country insists that an end be put to the massive, forced busing of little schoolchildren to create a racial balance. But the thrust of the amendment of the Senator from Pennsylvania and the Senator from Montana is busing right on.

The amendment of the Senator from Pennsylvania and the Senator from Montana is a pro-busing amendment. Let there be no doubt about that.

Mr. President, the determination of the Senator from Pennsylvania and the Senator from Montana that their amendment be voted on first that there be no opportunity to vote on the Griffin amendment, or that there be no opportunity to seek to amend their amendment, is requiring the Senate to go through four absolutely futile rollcall votes.

This amendment is before us in two separate amendments. On the one hand, is the amendment offered by the Senator from North Carolina and myself to which the Scott-Mansfield amendment was offered as a substitute, and then the Griffin amendment was offered as a perfecting amendment to the amendment of the Senator from North Carolina and the Senator from Alabama.

Then, on the other side, the Senator from Minnesota (Mr. MONDALE) offered an amendment to the committee language, a perfecting amendment there. Then again, the Senator from Pennsylvania and the Senator from Montana offered their amendment in three parts and we are going to have separate votes. There will then be four votes, every one of which will be wiped out by subsequent rollcall votes, so that the Senate finds itself in this peculiar situation; namely, where Senators can vote against the Scott-Mansfield amendment on the upcoming vote and, irrespective of the outcome of that amendment, whether it carries or loses, they will get the opportunity subsequently to vote again on the Scott-Mansfield amendment.

What an exercise in futility, to have two separate votes on one amendment.

But, it was occasioned by the strong-arm tactics of the proponents of the amendment to demand a first vote on their amendment rather than to allow the Senator from Michigan (Mr. GRIFFIN) to offer his antibusing amendment. So we are going to have four votes before we get to a vote on the Griffin amendment.

Mr. President, far from solving the busing problem and putting an end to busing, the Scott-Mansfield amendment would freeze into the basic and fundamental law of this country a recognition of the busing concept. While the people of the country want an end put to massive, forced busing, the Senator from Pennsylvania and the Senator from Montana would seek to perpetuate that practice. That is all their amendment will do.

So, Mr. President, on the first three votes that we are going to have on the Scott-Mansfield amendment, broken down into three separate votes, I hope that the Senate will vote these amendments down. Those of us who want to vote later for the Scott-Mansfield amendment will have that opportunity.

But I think the Senate should indicate its disapproval of the methods that have been used to bring the Scott-Mansfield amendment to the first vote. I hope that the Scott-Mansfield amendment will be voted down and that the Mondale amendment will be voted down, and that will give us an opportunity to vote on the Griffin amendment followed by still another vote on the Scott-Mansfield amendment.

So, Mr. President, Senators find themselves in the unusual position of being able to vote both ways on the same question before the Senate.

I reserve the remainder of the time.

Mr. STENNIS. Mr. President, will the Senator from North Carolina yield me 1 minute?

Mr. ERVIN. Mr. President, I yield whatever time remains to the opposition to the Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. I thank the Senator but I did not mean to ask for all the time.

Mr. President, I was able to locate some statistics on the 1971 school year that I could not put my hands on before, to show what the picture is really like.

These are figures supplied at my request from HEW.

In school districts with 40,000 to 60,000 pupils, in Fresno, Calif., 64 percent of the black students were in schools 80 percent and above black; whereas in Richmond, Va., it was only 36 percent when these figures were made.

In Dayton, Ohio, 78 percent of black students were in schools of 80 percent or above black; whereas in Greenville, S.C., it was zero percent; that is to say they do not have any schools down there which are 80 percent or above black.

In Gary, Ind., it was 95 percent compared with Winston-Salem, N.C., at only 2.7 percent.

In northern school districts of 70,000 to 100,000 pupils, in Oklahoma City, 68.3 percent. Boston, 63 percent. That is the percentage of black students in schools, 80 percent and above black.

In the southern city of Charlotte, N.C., only 1.5 percent. In Indianapolis, Ind., 60 percent. In Milwaukee, Wis., 78 percent.

Mr. President, there is your uniformity. There is your "one policy"—"treat them all alike." That is the picture over the whole Nation.

I could not get the figures for 1971 for New York City, Philadelphia, or Pittsburgh but we do have them for 1970, and they show, for 1970, 65.7 percent of all black children in New York were in schools 80 percent and over black. In Philadelphia it is 80.2 percent. In Pittsburgh, it is 57.5 percent.

My point is, Mr. President, that this amendment will freeze in those in the southern area and do nothing to help the situation in other areas—as virtually nothing has been done in all these years.

That is concrete proof by these figures to illustrate what the picture really is, that this amendment, in my humble opinion, does not go to the problem and will not have anything to do with adjusting the conditions, and will have no tangible effect.

I thank the Senator from North Carolina for yielding me this time, and yield back to him what time remains.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete details on the figures I have mentioned, together with my statement on the subject.

There being no objection, the statement and figures were ordered to be printed in the RECORD, as follows:

### STATEMENT OF SENATOR STENNIS

I have compiled a table from the HEW preliminary statistics for the 1970–1971 school year and have selected certain comparably-sized Northern and Southern school districts and compared them on the table, which is set up with 4 columns.

The left-hand column is the name of the city; the 2nd column is the total public school pupil population of the city; the 3rd column is the percentage of black students in each city; the 4th column is the percentage of black students in schools having 80% to 100% black student population.

The purpose of the table is to show how much more *racially isolated* black students are in the North than in the South.

1971 HEW FIGURES REVEALING RELATIVE PERCENTAGES OF RACIAL ISOLATION IN PUBLIC SCHOOLS IN THE UNITED STATES

| City | Pupils | Percent of blacks | Percent of blacks in schools with 80 percent or more black enrollment |
|---|---|---|---|
| Districts with 40,000 to 60,000 pupils: | | | |
| Fresno, Calif | 55, 000 | 9. 3 | 64. 0 |
| Richmond, Va | 44, 000 | 69. 0 | 36. 0 |
| Dayton, Ohio | 55, 000 | 42. 7 | 78. 1 |
| Greenville, S.C | 57, 000 | 22. 0 | 0 |
| Gary, Ind | 45, 000 | 67. 5 | 95. 7 |
| Winston-Salem, N.C | 48, 000 | 29. 4 | 2. 7 |
| School districts with 70,000 to 100,000 pupils: | | | |
| Oklahoma City | 70, 000 | 23. 6 | 68. 3 |
| Boston | 96, 000 | 31. 0 | 63. 0 |
| Charlotte, N.C | 80, 000 | 31. 8 | 1. 5 |
| School districts with over 100,000: | | | |
| Indianapolis, Ind | 100, 000 | 37. 7 | 60. 1 |
| Milwaukee, Wis | 130, 000 | 28. 0 | 78. 8 |
| 1970 HEW figures: | | | |
| New York City | 1, 140, 000 | 34. 5 | 65. 7 |
| Philadelphia, Pa | 280, 000 | 60. 5 | 80. 2 |
| Pittsburgh, Pa | 73, 000 | 40. 3 | 57. 5 |

Note: 1971 figures were sought from HEW, but have not been provided, on New York City, Philadelphia, and Pittsburgh, Pa.

Mr. ERVIN. Mr. President, what time remains?

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from North Carolina has 6 minutes remaining, and the Senator from Pennsylvania has 20 minutes remaining.

Mr. ERVIN. Mr. President, the third section of the Scott-Mansfield amendment is a subterfuge in its practical effect, no matter how sincere it may be in the minds of its authors.

There is only one case originally in the entire United States that I have ever heard of to which it applies. That is the case involving the city of Richmond and the counties of Henrico and Chesterfield. That is the only case I have ever heard of where a judge attempted to cross the boundary lines between the independent subdivisions of government. So, it does not apply to the ordinary case at all. It reaches an ordinary case where there is a busing decision handed down by a district judge, and then it can be put into effect immediately.

So, it is a snare and an illusion in that regard as to everything except the city of Richmond and Henrico and Chesterfield Counties. It is also a snare and an illusion as it applies to the city of Richmond and Henrico and Chesterfield Counties.

I say that for the reason that the case cannot possibly reach the Supreme Court of the United States for review within the time limit prescribed in the third section of the Scott-Mansfield or Mansfield-Scott amendment.

Mr. President, to show how it operates generally, a district judge in the middle district of North Carolina entered a school desegregation decree requiring massive busing which was not satisfactory to those who wanted forced busing of virtually everyone. So they appealed the decision to the Circuit Court of Appeals of the Fourth Circuit. And the Circuit Court of Appeals of the Fourth Circuit held, under the authority of the opinion of Chief Justice Burger in Swann against Board of Education of Charlotte, Mecklenburg County, that they had to desegregate every school by busing so as to have exactly the same racial proportion of children in each school that they had in the county which comprised the entire school district.

The case was remanded by the Court of Appeals of the Fourth Circuit to the middle district of Tennessee, and the judge was required to reverse himself and enter a decree conforming to the opinion of the circuit court of appeals that there should be desegregation by busing of every school in proportion to the racial population of the county.

Then the local authorities applied to Chief Justice Burger, as the judge over the fourth circuit, for a stay of execution. This case indicates very well about how much consideration local school authorities get before that august body.

Chief Justice Burger refused to stay the execution. Notwithstanding that, he wrote an 8-page opinion in which he said that the decree of the district judge requiring the assignment of students to every school according to the percentage of racial population of the district was not required by the Constitution and that the court of appeals had misconstrued his decision. But notwithstanding the fact that the Chief Justice said they had misunderstood and misconstrued and perverted his decision—and he so stated in an 8-page opinion—he refused to stay the execution of judgment.

Then, lo and behold, when the school authorities applied to the Supreme Court for a writ of certiorari and insisted that the Chief Justice had declared that the decree was based upon a misconception and a misconstruction and a perversion of the opinion in the Swann case, he did not grant the writ but affirmed the judgment without argument.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. SCOTT. Mr. President, do I understand that the time of the opponents has expired?

The PRESIDING OFFICER. The Senator is correct.

Mr. SCOTT. Mr. President, I have no request for time. I would be glad to yield back the remainder of my time so that we may proceed with a vote.

Mr. ERVIN. Mr. President, before the Senator does that——

Mr. SCOTT. Mr. President, I reserve the remainder of my time and yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I was going to suggest that in order that the Senators who were not present be apprised of the fact that we are about to vote, we have a short quorum call so that the people in the cloakroom can advise them.

### QUORUM CALL

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, will the Senator from North Carolina yield to me for 2 minutes?

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. MANSFIELD. Mr. President, I understand that the Senator from Pennsylvania has some time remaining. I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, earlier, in an effort to assist the Senate, as well as straighten out the matter for the junior Senator from Michigan, I stated the order in which the seven votes would be taken. I left the impression they necessarily would be one right after another.

Am I correct, and I ask this as a parliamentary inquiry, that once the Scott-Mansfield perfecting amendment is completed—and there will be three votes on that amendment—would it not be in order for another Senator, if he chooses to do so, to offer another perfecting amendment to the Mondale amendment, on which there would be 2 hours of debate?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. I thank the Presiding Officer. I wanted to make that clear because we might get to the vote on the other matters tonight.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. I think it might be advisable to state to the Senate that after the three votes are completed it is the intention of the leadership to move to adjourn until tomorrow morning.

### INTEGRATED SCHOOLS ARE NECESSARY AND DESIRABLE

Mr. MOSS. Mr. President, this country has made considerable progress since the 1954 decision of the Supreme Court requiring that our society end its brutal patterns of segregated schools. The segregated schools denounced by the 1954 decision were often in total violation of the neighborhood school concept—a concept that we all support. Children were often bused far from their neighborhood in order to attend school with those of their own race. This pattern destroyed the self-image of the minority children involved and helped to maintain the vicious segregation that racked so many portions of our country.

Neighborhood schools are the best kind of school system when they are available. We would all prefer to have our children walk to a local school. In most places in America, however, this is not possible. Sixty-five percent of American children ride to school on buses each day. This is usually because their homes are too distant from their schools. In some cases, busing is also because it is the only possible means by which integrated schools may be maintained.

Housing patterns are not likely to be changed rapidly in the next few years. Until they are changed, and until we are a truly integrated society in housing as well as public facilities, some movement of students must be used to attain integrated education.

I would prefer that busing not be necessary. But in some cases it is necessary, and we must face that fact.

We must keep sight of this basic goal of our society: equal opportunities brought, in part, by integrated, quality education. In discussing integration and education, we are often presented with numerous statistics relating to educational attainment.

These are certainly important aspects, but we must never lose sight of the fact that education also is basically a humanizing process. School patterns based on segregation can never teach us the human aspects that need to be transmitted through the education process. The important aspect of learning as we become adults is the learning of proper relationships with other human beings. Education is people learning skills and learning how to relate to each other. When walls of segregation are erected between people, such a process can never occur completely.

We know that integration, when properly handled in our public schools, works. The Coleman report, which is one of the most extensive studies ever completed on American education, found that blacks in all-black schools were 1 year behind the education level of blacks in integrated schools. In Berkeley, Calif., where integration has taken place very effectively, the achievement level of blacks in newly integrated schools rose 60 percent. At the same time, the achievement levels of white students rose as well. We know that success stories are not as striking in some other school systems, but that is partially because those communities have lost sight of the overall goal cited earlier. Integration is a total process, and unless economic integration, housing integration, and social integration also occur in a community, education cannot be expected to completely overcome the barriers of separation.

In the past we have often bused for the wrong reasons. Not too many decades ago, Indians were bused from their reservations to boarding schools, where they were shaved of their long hair and stripped of their native clothing. This occurred primarily in the West, but such cases are existent throughout our country. In other areas of the country, busing was used to divide people who were otherwise integrated in neighborhood housing patterns. Blacks were separated from their white neighbors and bused to distant all-black schools.

But we have stopped these incorrect activities and have begun to use busing only when other means of integrating school systems cannot be used. Let us not turn against this tool just at the time when we have eliminated its improper uses and have restricted it in its application. To do so will remove one of the devices necessary to the eventual accomplishment of integrated, quality education.

Let us make this clear: all of us favor quality education, all of us favor neighborhood schools when possible, and all of us prefer to eliminate long distances in the daily travel to and from school. But these are not the real issues. The issue is whether we will continue to allow busing to be used as a limited and carefully constructed device for the purpose of helping us achieve integrated education. I do not believe that we can or should turn the clock back to the days before the 1954 Supreme Court decision regarding school integration.

I will support the Mansfield-Scott amendment on school busing. While I am afraid that it may in some cases restrict busing when it might be useful, I believe that, as a legitimate compromise, it is far more acceptable than other proposals that have been cast about in both Houses of Congress in the last few months. I will therefore support this measure, and urge my colleagues to do likewise. This is certainly better than attempts to repeal the 14th amendment by adding other constitutional amendments. It is also preferable to any of the other legislative proposals I have seen in the last few days. For these reasons, I will vote for the Mansfield-Scott amendment.

Mr. HART. Mr. President, I will vote for the Scott-Mansfield amendment but with reluctance on several counts.

I regret that the Senate of the United States endorse any provision which may be construed by those who have been denied their constitutional rights as a slackening in our commitment to deliver on the promise of the 14th amendment. And I fear, that in the context of today's national debate on "busing," the ramifications of accepting this provision are not all that we would desire in a nation threatened by the prospects of a divided society.

I believe most Senators are, as I am, unwilling to repudiate Brown and retreat to the discredited position of "separate but equal." I will support the Scott-Mansfield bill as the best vehicle to prevent such a retreat, and still provide some assurance to those who are apprehensive about unreasonable busing plans which might harm their children. Under the decisions of the Supreme Court these fears are unfounded, but until we can clear the confusion created by the heated public debate of the past few months, the Scott-Mansfield amendment should provide such assurance, without taking the clearly unacceptable positions embodied in other amendments that have been offered to this bill.

Those amendments, offered by the Senator from North Carolina and other Senators would, in my opinion, prevent the fulfillment of the mandate in Brown and would roll the clock back to 1954. I will oppose them.

I do regret the inclusion in the Scott-Mansfield measure of the provision for even a limited stay of Federal court orders in the field of desegregation. Congress ought singe out this area of effort to vindicate constitutional rights as quickly as possible, by tying the courts' hands in any way. Where appropriate, courts now have discretionary power to stay the effect of their order pending appeal, and appellate courts can issue such stays as well.

At least the stay provision in the Scott-Mansfield substitute, unlike the House-passed provision, is limited and is of definite duration. It covers orders which do raise an issue not yet ruled on specifically by the Supreme Court. They do raise a new issue, and, in that sense, differ from the implementation of plans involving remedies the Supreme Court has already made clear are appropriate. On such plans, there can be no justification for any further delay.

Still, even here Congress treads on dangerous ground when it begins to tamper with the courts. This is particularly true if we try to restrict in any degree the power of Federal courts to do what they find necessary to remedy a constitutional violation. The constitutionality of such restraints, at least where the courts retain jurisdiction to hear cases under the 14th amendment, is very questionable.

But more than the issue of constitutionality, I find disturbing any amendment which would substantially interfere with the court's ability to order remedies for segregation. Such amendments, which go far beyond the stay provision in the Scott-Mansfield bill, have been proposed. They would place Congress in the position of telling the courts, in effect, "even if you find segregation which violates constitutional rights, don't fix it."

I will continue to oppose such amendments interfering with the substance of court orders, and urge my colleagues to do so.

Mr. McCLELLAN. Mr. President, I am opposed to busing as a means of achieving racial balance in our public schools.

It is a tragic day for all Americans—black and white—when the fibers which bind our society together are torn asunder—are so recklessly and callously ripped apart—by the courts without due regard for the welfare and dignity, the safety and security of all the people.

The suffering we must now endure over this busing affliction is needless. It does not have to be—and it should not be allowed to continue.

The disruption and distress forced busing has wrought in our national life is indefensible. Every morning, millions of youngsters are carted off around the country—often to unfamiliar and even hostile surroundings. They are uprooted from their normal environment. They are jolted away from their comforts and companions close to home. They are forced to submit to the adverse uncertainties, insecurities and abuses of an experience that is not only unnecessary but which is detrimental to their welfare.

Under the court's almighty quest to impose its concept of an equal education, innocent children have become pawns in a nationwide game of chess in which everybody loses.

I submit that the psychological harm alone—resulting from this sudden and senseless rupture with all ties and traditions—is of a depth and magnitude that is immeasurable.

The emotional cost to our children—to their worried and weary parents—to their beleaguered and beset teachers—is sufficient reason for an immediate end to the forced busing scourge. But this terrible impact—as serious and disruptive as it is—only touches the mere surface of the widespread injury and injustice being inflicted upon the lives of our people who are directly subjected to its consequences.

In terms of dollars—we are being compelled to spend countless millions, not to improve the quality of education but simply to promote the world's biggest mass transit system.

In terms of time—we are talking about an agonizing situation that is refashioning a productive, progressive system of education into a horrible mass of confusion and resentment.

Where will all this end, Mr. President? Are we to pull together or remain idle while this divisive court edict pulls our great Nation further apart.

I do not want needless busing, Mr. President. The people of Arkansas do not want needless forced busing. And, I am convinced that the vast majority of Americans do not want forced busing.

The PRESIDING OFFICER. All time has expired and the vote now occurs on the amendment offered by the Senator from Pennsylvania, on which a division has been ordered. The yeas and nays have been ordered. The first vote will be on part (a) of the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Alabama (Mr. SPARKMAN).

If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Alabama would vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. PACKWOOD), the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. SAXBE) would vote "yea."

The result was announced—yeas 51, nays 37, as follows:

[No. 58 Leg.]

YEAS—51

Aiken
Allott
Anderson
Beall
Bellmon
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cranston
Dominick
Eagleton
Fong
Fulbright
Gravel
Harris
Hart
Hatfield
Hughes
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya

Moss
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—37

Allen
Baker
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Eastland
Ellender
Ervin
Fannin
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
McClellan
Ribicoff
Smith
Spong
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—12

Bayh
Hartke
Humphrey
Inouye
Jackson
McGovern
Mundt
Muskie
Packwood
Saxbe
Sparkman
Taft

So part (a) of the Scott-Mansfield amendment was agreed to.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which part (a) of the amendment was agreed to.

Mr. MONDALE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on each of the next two rollcall votes, which will be back to back, be limited to 10 minutes, with the midway warning bell sounding at the 5-minute point.

The PRESIDING OFFICER (Mr. STAFFORD). Is there objection? Without objection, it is so ordered.

The question now recurs on agreeing to the second portion of the amendment offered by the Senator from Pennsylvania (Mr. SCOTT), designated as part (b). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Alabama (Mr. SPARKMAN).

If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Alabama would vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Indiana (Mr. BAYH), would each vote "yea".

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. PACKWOOD), the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. SAXBE) would vote "yea."

The result was announced—yeas 50, nays 38, as follows:

[No. 59 Leg.]

YEAS—50

Aiken
Allott
Anderson
Beall
Bellmon
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cranston
Eagleton
Fong
Fulbright
Gravel
Harris
Hart
Hatfield
Hughes
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—38

Allen
Baker
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
McClellan
Ribicoff
Smith
Spong
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—12

Bayh
Hartke
Humphrey
Inouye
Jackson
McGovern
Mundt
Muskie
Packwood
Saxbe
Sparkman
Taft

So part (b) of the amendment was agreed to.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which part (b) of the amendment was agreed to.

Mr. SCOTT and Mr. MOSS moved to lay the motion on the table.

The motion was agreed to.

The PRESIDING OFFICER. The vote now occurs on part (c) of the amendment offered by the Senator from Pennsylvania. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Is any further debate or conversation permitted on this?

The PRESIDING OFFICER. No further debate on this amendment.

Mr. DOMINICK. So we just have to vote, without any further questions?

The PRESIDING OFFICER. On this particular amendment, that is the answer.

Mr. DOMINICK. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Maine (Mr. MUSKIE), would each vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. PACKWOOD), the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. SAXBE) would vote "yea."

The result was announced—yeas 79, nays 9, as follows:

[No. 60 Leg.]

YEAS—79

Aiken
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Fannin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Hruska
Hughes
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—9

Allen
Bible
Cooper
Ervin
Gambrell
Hollings
Magnuson
Ribicoff
Talmadge

NOT VOTING—12

Bayh
Hartke
Humphrey
Inouye
Jackson
McGovern
Mundt
Muskie
Packwood
Saxbe
Sparkman
Taft

So part (c) of the Scott-Mansfield amendment was agreed to.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which part (c) of the Scott-Mansfield amendment was agreed to.

Mr. MONDALE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that further consideration of the amendment by the Senator from Minnesota (Mr. MONDALE), as amended by the amendment of the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Montana (Mr. MANSFIELD), be postponed until tomorrow, and that the time allotted to the committee substitute may be yielded to Senators at this time who may wish to speak out of order today.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 166) to designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Johnson of California, Mr. Udall, Mr. Roncalio, Mr. Kyl, and Mr. Lloyd were appointed managers on the part of the House at the conference.

The message also announced that the House insisted upon its amendments to the bill (S. 1893) to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Aspinall, Mr. Taylor, Mr. Johnson of California, Mr. Saylor, and Mr. Skubitz were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12067) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 5, 23, 27, and 40 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Stafford). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

## STAR PRINT OF AN AMENDMENT

Mr. CHILES. Mr. President, I ask unanimous consent for a star print of my amendment No. 894 to H.R. 1. This is required because of a misprint in the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I yield time on behalf of the distinguished majority leader to the able Senator from Wisconsin (Mr. Proxmire). How much time does the Senator require?

Mr. PROXMIRE. One minute.

Mr. BYRD of West Virginia. I yield 1 minute to the Senator from Wisconsin and then I will yield to the able Senator from Alaska (Mr. Gravel).

## REMOVAL OF COSPONSORS FROM S. 2818

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the names of the Senator from South Dakota (Mr. McGovern) and the Senator from Indiana (Mr. Bayh) be removed as cosponsors of S. 2818, amendment of the Federal Food, Drug, and Cosmetic Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, following recognition of the two leaders on tomorrow, that there be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BYRD of West Virginia. Mr. President, if no Senator wishes to speak further this afternoon, the program for tomorrow is as follows:

The Senate will convene at 10 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

I ask unanimous consent that, at the close of morning business tomorrow, the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, the pending question at the time morning business is closed tomorrow and the unfinished business is laid before the Senate, will be on the adoption of the amendment by the Senator from Minnesota (Mr. Mondale) as amended by the amendment of the Senator from Montana (Mr. Mansfield) and the Senator from Pennsylvania (Mr. Scott).

All time has expired on that amendment.

It should be stated that perfecting amendments to that amendment will still be in order. Whether such will be offered, I cannot say, but if such is offered, there would be a limitation of 2 hours on any such perfecting amendment.

So Senators are on notice that there will be rollcall votes tomorrow. There is certain to be a rollcall vote on the amendment of the Senator from Minnesota (Mr. Mondale). If any perfecting amendment thereto is offered, I assume there will be a rollcall vote on such perfecting amendment. If such perfecting amendment is or is not adopted, it is my understanding that further perfecting amendments would still be in order.

I should like to ask the Chair if I am correct in that understanding?

The PRESIDING OFFICER (Mr. Stevenson). The Senator's understanding is correct.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

So, there will be rollcall votes tomorrow.

Senators are alerted to the fact that a busy day is in the offing.

## ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 5:08 p.m. the Senate adjourned until tomorrow, Friday, February 25, 1972, at 10 a.m.

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# HOUSE OF REPRESENTATIVES—*Thursday, February 24, 1972*

The House met at 12 o'clock.

Rev. Max E. Saar, Estonian Evangelical Lutheran Church, Bergen County, N.J., offered the following prayer:

Let us pray: Dear Heavenly Father, we give Thee thanks for the wonderful blessings Thou hast bestowed upon the people of the United States, whose representatives are gathered here.

Guide with Thy Holy Spirit our President and Congress in their efforts to preserve Thy most precious gifts—freedom and justice.

Make us mindful today, on Estonian Independence Day, of the sorrowful fact that Estonians, whose history goes back to the dawn of civilization, are still mourning the forceful loss of their independence and are suffering under a foreign power, oppressed by alien doctrine and religious persecution.

We beseech Thee, Creator of nations big and small, equally dear to Thee, restore freedom to all captive nations and give us strength to preserve this freedom for our and future generations. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington one of its clerks announced that the Senate insists upon its amendment to the bill (H.R. 1746) entitled "An act to further promote equal employment opportunities for American workers," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of tne two Houses thereon, and appoints Mr. Williams, Mr. Randolph, Mr. Pell, Mr.

Nelson, Mr. Eagleton, Mr. Stevenson, Mr. Hughes, Mr. Javits, Mr. Schweicker, Mr. Packwood, Mr. Taft, and Mr Stafford to be the conferees on the part of the Senate.

## A COMMUNICATION FROM THE CLERK—PICHLER ET AL. VERSUS JENNINGS

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
*February 23, 1972.*

The Honorable the Speaker,
*House of Representatives.*

Dear Sir: The Clerk of the House of Representatives received on February 22, 1972, from the U.S. Marshal, a copy of the summons in a Civil Action together with the complaint filed by Marie Pichler, Donald J. Walsh and George C. Smith v. W. Pat Jennings, Clerk of the United States House of Representatives and the Comptroller General of the United States, in Civil Action File No. 72-548 in the United States District Court for the Southern District of New York.

The summons requires an answer to the complaint within sixty days after service, and both documents are attached herewith.

Pursuant to 2 U.S.C. 118, I have written to the Acting Attorney General of the United States and to the U.S. Attorney for the Southern District of New York (copies of letters attached), requesting that they carry out their assigned statutory responsibilities in defending the Clerk of the House in this matter.

Sincerely,

W. Pat Jennings,
*Clerk, House of Representatives.*

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[U.S. District Court, Southern District of New York—72 Civ. 548]

Notice of Assignment

(Pichler et al., plaintiffs *v.* Jennings, defendants)

Pursuant to Rule 2(c) of the General Rules of this Court the above-entitled action is assigned to Judge Pollack.

All papers to be filed in this action are to be filed in the Clerk's Office, with the exception of motions which will be presented directly to the assigned Judge's Minute Clerk, in room 601-D.

All future documents filed in this action are to have the assigned judge's initials after the docket number.

Dated: New York, N.Y., February 7, 1972.
By Order of the Court.

John Livingston,
*Clerk.*
By: B. Edwards,
*Deputy Clerk.*

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[U.S. District Court for the Southern District of New York—Civil Action file No. 92-548]

Summons

(Mario Pichler, Donald J. Walsh, and George C. Smith, plaintiffs *v.* W. Pat Jennings, as Clerk of the United States House of Representatives, and Elmer B. Staats, as Comptroller General of the United States, defendants)

To the above named Defendants: You are hereby summoned and required to serve upon above-named (Alfred Avins).

John Livingston,
*Clerk of Court.*

Date: February 7, 1972.

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Washington, D.C.,
*February 23, 1972.*

Hon. Richard G. Kleindienst,
*Acting Attorney General of the United States,*
*Department of Justice, Washington, D.C.*

Dear Mr. Kleindienst: I am sending you a copy of a summons and complaint in a Civil Action File No. 72-548, filed against W. Pat Jennings, Clerk of the U.S. House of Representatives and the Comptroller General of the United States, in the United States District Court for the Southern District of New York and served upon me on February 22, 1972.

In accordance with 2 U.S.C. 118, I have sent a copy of the summons and complaint in this action to the U.S. Attorney for the District of Columbia requesting that he take appropriate action under the supervision and direction of the Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

Sincerely yours,

W. Pat Jennings,
*Clerk, House of Representatives.*

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Washington, D.C.,
*February 23, 1972.*

Hon. Whitney N. Seymour, Jr.,
*U.S. Attorney for the Southern District of New York, U.S. Courthouse, New York, N.Y.*

Dear Mr. Seymour: I am sending you a copy of a summons and complaint in a Civil Action File No. 72-548, filed against W. Pat Jennings, Clerk of the U.S. House of Representatives, and the Comptroller General of the United States, in the United States District Court for the Southern District of New York and served upon me in my official capacity as Clerk of the House of Representatives on February 22, 1972.

In accordance with 2 U.S.C. 118, I respectfully request that you take appropriate action, as deemed necessary, under the "supervision and direction of the Attorney General" of the United States in defense of this suit against an Officer of either House of Congress of the United States.

I am also sending you a copy of the letter that I forwarded this date to the Attorney General of the United States.

Sincerely yours,

W. Pat Jennings,
*Clerk, House of Representatives.*

## APPOINTMENT OF CONFEREES ON S. 1893, GOLDEN EAGLE PROGRAM, LAND AND WATER CONSERVATION ACT

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1893) to restore the Golden Eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. Aspinall, Taylor, Johnson of California, Saylor, and Skubitz.

## APPOINTMENT OF CONFEREES ON S. 166, DESIGNATING STRATIFIED PRIMITIVE AREA AS A PART OF WASHAKIE WILDERNESS

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 166) to designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

Mr. SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. Johnson of California, Udall, Roncalio, Kyl, and Lloyd.

## REV. MAX E. SAAR, ESTONIAN EVANGELICAL LUTHERAN CHURCH

(Mr. PATTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTEN. Mr. Speaker, I take pleasure in telling my colleagues that the Reverend Max E. Saar, who gave us his blessing in the opening prayer, is of Estonian background. The Estonians have about two churches in New Jersey. I am happy that Reverend Saar lives in my district, and I want all Members to know that my association with the Estonians and the others of the Baltic States leads me to believe that the people from those countries are all industrious, intelligent, wonderful citizens.

As far as love of our institutions, our democratic processes, and our freedom is concerned, I can tell you that the people who come from Estonia yield to no other American. They are really great citizens, and I have the honor to welcome here today Reverend Saar.

On February 24, 1918, Estonia was declared an independent country—the fulfillment of the yearnings and hopes through many centuries under German and Russian rule.

From 1918 to 1920, the newly established country went through their war of independence with their previous rulers, in which they were victorious. A democratic house of representatives was elected and a government established.

Mr. Speaker, democracy is well-rooted in the minds and hearts of Estonians. They have never had monarchy in their long history. During its short period of independence—February 24, 1918 until June 21, 1940—Estonia grew into a modern state.

Since the Proclamation of Independence on February 24, 1918, constitutes the highest point of Estonia as a nation, that day is most sacred for all Estonians wherever they are. That is why I was especially touched and inspired by Reverend Saar's moving prayer.

## SCHOOL BUSING

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, busing of school children is a financial burden on local school districts. Today, I am introducing a bill which would provide Federal aid to those school districts forced to bus school children by orders of the Federal courts and busing by decrees of the Department of Health, Education, and Welfare. Also, Mr. Speaker, my bill would provide financial aid to those districts voluntarily busing school children. To cut off Federal aid to those school districts already busing to prevent busing in Detroit is an outrage and a mockery of justice and fairness. The dual school system in South Carolina has been eliminated. South Carolina school districts are busing and cannot return to the dual system or segregated school systems. The time has come to eliminate dual justice in the United States. The same law that applies to South Carolina should apply to Detroit in voting rights, busing of school children, equal employment, and segregation. We must not have one code of ethics and justice for one area of the country and exempt other areas. This indeed should be a Nation indivisible with liberty and justice for all. Constitutional amendments and amendments to the Education Act are only designed to relieve the great cities of the burden of busing school children while busing continues in South Carolina. Mr. Speaker, many of our citizens are receiving tax notices now—notices of greatly increased property taxes. Local property taxes are increasing at a fantastic rate. The Federal Government, who ordered busing, should help finance busing thus providing more money for quality education.

## CONFERENCE ON RADIO FREE EUROPE AND RADIO LIBERTY

(Mr. MORGAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MORGAN. Mr. Speaker, I regret to report to the House that the efforts of the managers on the part of the S. 18, a bill to authorize interim financing for Radio Free Europe and Radio Liberty, have met with no success.

Throughout the conference, the managers on the part of the Senate have refused to make any accommodation whatsoever to the position taken by the House, by a vote of 278 to 12, on November 19, 1971.

They have said, in effect, "Either the House accepts the Senate bill or there will be no bill at all."

Under some circumstances, such a solution may have been necessary, even advisable. In this case, however, the issues separating the two Houses are so basic that the acceptance of the proposal of the Senate conferees would have done violence to the position that we were instructed to uphold.

Mr. Speaker, I would like to briefly recount the developments which brought us to this impasse.

Little more than a year ago, it became public knowledge that Radio Free Europe and Radio Liberty, the two American-run radio stations which beam local and international news to the people of eastern Europe and the Soviet Union, had been financed largely for some 20 years by the Central Intelligence Agency.

Proposals were subsequently made in both Houses that the financing of these broadcasting activities be brought into the open and accomplished through special authorizations and appropriations to the Department of State.

In the spring of last year, the administration requested that the Congress establish an independent corporation to finance and manage the two stations.

On August 2, 1971, the Senate approved a bill, S. 18, which authorized an appropriation of $35 million for the financing of Radio Free Europe and Radio Liberty through the Department of State. The authorization was limited to fiscal year 1972.

On September 14, 1971, the Committee on Foreign Affairs began its consideration of S. 18 and of the administration's recommendations.

After hearings and initial executive meetings, it became apparent that the committee was not ready to make a permanent disposition of this matter—either by following the Senate proposal and allowing the two radio stations to exist until the end of this fiscal year, or by accepting the administration's recommendations and placing these broadcasting activities on a permanent basis.

The committee felt that the Congress knew all too little about these operations on which nearly half a billion dollars had been spent in the preceding 20 years.

And so the committee, by a vote of 23 to 1, accepted a compromise advanced by the Honorable DANTE B. FASCELL of Florida, and amended S. 18 to provide for the establishment of a Presidential Commission to study Radio Free Europe and Radio Liberty, to reach some conclusions regarding their relevance to our foreign policy undertakings of the 1970's, and to report its findings to the Congress before the end of this year.

The amendment further provided that the Commission would go out of business on June 30, 1973 and that the two radio stations would be financed until that time through the Chairman of the Commission.

This seemed like an eminently sensible interim solution. It would provide the Congress, through membership in the study Commission and the Commission's studies, with an opportunity to obtain the information necessary to make a sound disposition of the entire matter.

The House approved S. 18, as amended, on November 19, 1971, by a vote of 271 to 12.

And this is where the matter stood when the conferees first met on January 26, 1972.

It became apparent at that time that the Senate conferees favored abolishing the two stations.

At that first meeting, as well as during the weeks that followed and through yesterday's session, the managers on the part of the House tried to work out some compromise that would be consistent with the positions taken by the two Houses.

We failed. The Senate conferees remained adamant.

Last evening, all of the House conferees affixed their signatures to a document which would report the conference to be in disagreement. The signatures were delivered to the Senate conferees this morning.

The matter now rests with the Senate.

## CONFERENCE COMMITTEE ON S. 18

Mr. MAILLIARD. Mr. Speaker, our distinguished chairman, Dr. MORGAN, has advised the House what has happened with regard to the conference on S. 18 and the House amendment thereto. It is a sad story where the conferees of one House are absolutely unwilling to consider the point of view expressed by an overwhelming vote in the other coequal body. The arrogance of such behavior severely strains any effective relationship between the two bodies without which the national interest cannot be served.

The question of the continuation of Radio Free Europe and Radio Liberty beyond the next week or two is now squarely in the lap of the other body. We who represented the House in this conference tried our best to find a middle ground between the expressed wishes of each of the two branches of Congress, and were totally rebuffed.

## RADIO FREE EUROPE AND RADIO LIBERTY

Mr. FRELINGHUYSEN. Mr. Speaker, as one of the House conferees on legislation to continue the activities of Radio Free Europe and Radio Liberty, I am embarrassed that we must report to the House that the conference committee has been unable to reach any agreement. At the outset let me say that this outcome was in no way the fault of the House conferees. It was our earnest desire to find a basis for agreement.

Unfortunately, the conference committee met only twice. The second time was only yesterday, and then with but a few hours' notice.

By yesterday, I might add, the legislative authority for these programs had already expired. Our failure to reach agreement will affect over 3,000 employees of the two organizations involved.

This is a most serious matter, Mr. Speaker, and the sad fact is that there is no real reason why the discussions should have been deadlocked. The differences between the bills passed by the House and the Senate could have been reconciled had good will been shown, and reasonable concessions made by both sides. Had this occurred, the legislative authority for continuing these programs could have been agreed upon.

You may ask, Mr. Speaker, why no agreement was reached. The answer is simple. The Senate conferees—at least three out of five of them—were unwilling to compromise. They have made it evident, both publicly and privately, that they viewed the expiration of existing authority as an opportunity to kill these programs. By their refusal to seek, let alone reach, a compromise with the House conferees, they may have acted within their rights as conferees, but by their action they unquestionably perverted the legislative process.

As I said on the House floor 2 days ago the conference committee, in the legitimate exercise of its responsibilities, could not have killed these programs. Both the Senate and the House had approved their continuation. All that was in issue was the length of time that these programs should continue and how the funding should be handled. And yet now, as the result of the failure to reach any agreement, three Senate conferees may have achieved what they feel is desirable, namely, the end of the Radio Free Europe and Radio Liberty. If they should be successful in achieving their own ends it will have been because of their manipulation of the legislative process, in defiance of the expressed desire of both the House and Senate to have these programs continue. This is a sad development. In my opinion their refusal to seek a compromise is irresponsible, and a reflection on Congress itself. This willful frustration of the will of Congress will have immediate and adverse repercussions abroad, and will prove the inability of Congress to see to it that its own decisions are carried out.

## EVIDENCE CONFIRMS GREAT SUCCESS OF PRESIDENT NIXON'S MISSION TO PEOPLE'S REPUBLIC OF CHINA

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, although full reports are not yet in, sufficient evidence has been developed to confirm the great success of President Richard Nixon's mission to the People's Republic of China.

He has breached the wall. He has developed a climate for extensive communication and exchange with 800 million people with whom we must share the world in peace. His mission was brave. His achievement is salutory.

It is my earnest hope that this endeavor will set the stage for peace, for disarmament, for drastic reduction in defense expenditures. If, through these events, the President's budget for national defense can be reduced by $15 billion, other leading powers of the world can join us in committing our wealth and converting our resources to financial integrity and to the unsolved problems of our people and our environment.

## HOUSE RESTAURANT DEFICIT REDUCED—SELECT SUBCOMMITTEE TO BE APPOINTED ON NONESSENTIAL EMPLOYEES OF THE CAPITOL

(Mr. HAYS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. HAYS. Mr. Speaker, the House Administration Committee has accumulated figures which indicate that the deficit in the House restaurant will be reduced by a quarter of a million dollars for this fiscal year over last year. We hope we can get the deficit cut out altogether.

In looking over some of the facts we have assembled, I want to announce to the House I am going to appoint a select subcommittee of the House Administration Committee on nonessential employees in the offices of the various officers of the House and other people who work in the Capitol. I believe we might have about a half-million dollar savings there, and when I announce who is going to be on the three-man subcommittee, I think Members will agree with me they are the gentlemen who can do the job.

## PROPOSED CHANGES IN FUNDING OF SOCIAL SECURITY PROGRAM

(Mr. CONABLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONABLE. Mr. Speaker, for the more than 100 million Americans who either as contributing workers or current beneficiaries rely on the social security program as their primary source of protection against economic insecurity, the fiscal integrity of the social security trust fund is of paramount importance. For more than one-third of a century—throughout the entire history of the social security program—the fiscal integrity of the trust fund has been based on certain actuarial principles consistently followed. In view of the difficulties involved in making long-range cost estimates for a program affecting so many workers over a period of 75 years, there are many contingencies that can ultimately develop that could adversely affect financing in the future.

For this reason and in order to provide some latitude to meet future benefit increases and make other program improvements, Congress has throughout the history of the program required that long-range cost estimates be made on conservative but sound assumptions.

Legislation was introduced by the chairman of the Ways and Means Committee yesterday that would fundamentally change the methodology on the basis of which the actuarial soundness of the social security system has been measured throughout its entire history. Let me emphasize that this is simply not a question of the present benefit levels being overfinanced in accordance with the existing procedures for computing the actuarial soundness of the system as some people have mistakenly concluded. The proposal involves a fundamental change in the methodology by which the fiscal soundness of the program has always been measured. It is this change, rather than any overfinancing, the bill would use to provide a 20-percent benefit increase at the same time tax rates are reduced sharply throughout the next 40 years.

Before Congress adopts such a fundamental change, public hearings should be provided which will enable the Ways and Means Committee and the House carefully to scrutinize the recomendations that have been made and to consider alternatives. We should also, if we conclude that a change in actuarial assumptions should be adopted that provides additional financing latitude, consider other program improvements, including liberalization of the earnings limitation, greater equity for working women, and the possible election of an earlier retirement age.

## ANNOUNCEMENT OF HEARINGS ON SERVICES FOR AGING

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, a major responsibility of the Select Subcommittee on Education of the Committee on Education and Labor in the coming months will be the consideration of legislation to extend the Older Americans Act, which expires on June 30, 1972.

I take this time to announce that hearings on this legislation will begin on Wednesday, March 1, and continue on Thursday, March 2; Tuesday, March 7; Wednesday, March 8; and Tuesday, March 14.

Mr. Speaker, in the last session of Congress, the Select Subcommittee on Education conducted hearings on various bills to expand and improve services to older Americans. Hearings were held not only in Washington, D.C., but also in Chicago, New York, and Boston. Witnesses included major organizations representing the aging, State, and local officials, Governors, Senators, the administration, and private individuals. As a result of those hearings, together with nine other members of the Education and Labor Committee, I introduced H.R. 12017 on December 2, 1971. Over 75 Members of the House have introduced identical or similar legislation since that time.

Mr. Speaker, H.R. 12017 is aimed at providing comprehensive services for the elderly, including nutrition, transportation, preretirement training, and health services.

Here is a list of the key features of the Older Americans Act Amendments of 1972:

First. Strengthened role of the Administration on Aging in the Department of Health, Education, and Welfare.

Second. Expanded services under the Older Americans Act.

Third. Low-cost transportation.

Fourth. Expanded work service opportunities including strengthening the retired senior volunteer program—RSVP—and the foster grandparents programs.

Fifth. Effective coordination of Federal aging programs.

Sixth. Preretirement training program.

Seventh. Health, nutrition, education, and other social services.

Eighth. Improved system of delivering services to older citizens, and meaningful employment opportunities.

Ninth. Establishment of a gerontological research center to study the aging process.

Tenth. Multipurpose senior centers.

Eleventh. Establishment of a National Information and Resource Center for the Aging.

Twelfth. Program of continuing education.

Mr. Speaker, a major theme of last December's 1971 White House Conference on Aging was that the time for action, as distinguished from rhetoric, on behalf of America's older citizens, is now. Members of the Select Subcommittee on Education intend to do their part to enable the House to have an opportunity to act on behalf of the older people of our country.

## COMMUNIST TYRANNY IN UKRAINIA

(Mr. MADDEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MADDEN. Mr. Speaker, the Communist government in Russia has been sending to other countries, including the United States, propaganda concerning the exceptional freedoms and opportunities now existing behind the Soviet Communist borders.

The world still remembers the inhuman international crimes committed in the Katyn Forest and other Soviet savagery. Millions of the captive nations' victims were loaded into boxcars and sent to slave labor camps in Siberia and other remote localities. Many died of starvation and for lack of shelter. Since the days of Lenin the doctrines and methods of Communist aggression has not changed. Their aim to enslave the world is still the goal of Communist dictators whether it is in Peking or Moscow.

I have received many letters from my congressional district and other parts of Indiana from citizens of Ukrainian descent protesting the inhuman treatment being inflicted on thousands of Ukrainians now under the Soviet Government. Their only offense is they are asking that their rights be respected in line with the U.N. Declaration of Human Rights of December 10, 1948, of which Ukrainian S.S.R. and U.S.S.R. are signatories.

I am, today, requesting President Nixon and the State Department to protest and ask the Soviet Government to cease its barbarous persecution of innocent Ukrainians under its domination and control.

## CONSUMER PRICE INDEX FOR JANUARY

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr Speaker, the Consumer Price Index—seasonally adjusted—rose 0.3 percent in January, compared to 0.4 percent in December. The improvement was due to food prices, which declined 0.2 percent in January.

For the evaluation of the controls program and the course of inflation generally, the performance of nonfood commodities and services is more relevant. The nonfood commodities rose 0.2 percent in January after 0.3 percent in December. When it is recognized that we are still in the "bulge" period following 3 months—September, October, November—during which nonfood commodities did not rise at all, this was an encouraging result.

Reflecting increases in taxes, insurance, public utility rates, and public transportation rates, prices of services rose more in January than in preceding months. The rises of rents and medical costs were relatively small, possibly because of the operation of the controls. It may be that we still have to go through a period of catchup on the legislated and regulated taxes and rates.

Summarizing the overall picture, the increases in the Consumer Price Index in December and January are encouraging when regarded in light of the larger increases that could well have occurred when the freeze was lifted.

## TRIBUTE TO THE HONORABLE JOHN BURNS, GOVERNOR OF HAWAII

(Mr. MATSUNAGA asked and was given permission to address the House for 1 minute.)

Mr. MATSUNAGA. Mr. Speaker, I take this time to call the attention of the House to the fact that we have in our midst today a former colleague, one who served as Hawaii's last delegate to Congress and who is now serving his third 4-year term as Governor of the State of Hawaii, the Honorable John A. Burns.

I might say that, as those who know him could certainly expect, Jack Burns has done and is continuing to do a great job as Hawaii's Governor. Evidence of this is that he has been reelected to an unprecedented third term.

I am sure my colleagues and his old friends would like to join me in saying "It's good to see you, Jack."

## CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 50]

Abernethy
Abourezk
Anderson, Tenn.
Ashbrook
Baker
Baring
Bell
Bergland
Blatnik
Boland
Broyhill, N.C.
Byrnes, Wis.
Cabell
Celler
Chisholm
Clark
Clausen, Don H.
Clay
Colmer
Danielson
Davis, Wis.
Dowdy
Dwyer
Edmondson
Edwards, La.
Erlenborn
Fraser
Galifianakis
Gallagher
Gray
Green, Oreg.
Gubser
Hagan
Harsha
Hastings
Hébert
Heinz
Hillis
Hollfield
Ichord
Jarman
Karth
Kuykendall
Leggett
Long, La.
McCloskey
McDonald, Mich.
Macdonald, Mass.
Mann
Metcalfe
Moorhead
Morgan
Mosher
Moss
Murphy, N.Y.
Patman
Pelly
Pike
Pryor, Ark.
Pucinski
Purcell
Rees
Roe
Scheuer
Sisk
Symington
Teague, Calif.
Tiernan
Widnall

The SPEAKER. On this rollcall 362 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## CONFERENCE REPORT ON H.R. 12067, FOREIGN ASSISTANCE APPROPRIATIONS, 1972

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 838 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 838

*Resolved*, That it shall be in order to consider a conference report on the bill (H.R. 12067) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes, notwithstanding the provisions of clause 2, rule XXVIII.

The SPEAKER. The gentleman from Texas is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 838 merely provides for consideration of the conference report on H.R. 12067, the foreign assistance and related programs appropriation bill, 1972, notwithstanding the provisions of clause 2, rule XXVIII, which is the so-called 3-day rule.

Since the continuing resolution for foreign assistance programs expired at midnight on February 22, this action was taken by the Committee on Rules in order to expedite consideration of the conference report.

Mr. Speaker, I urge the adoption of the rule.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

I concur in the statements made by the gentleman from Texas, so that we can get ahead on this bill which we have had before us for a long, long time.

Even though I am against the foreign aid, I approve the rule, so that the Members can work their will on the bill.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PASSMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 12067) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of February 23, 1972.)

Mr. PASSMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER. The gentleman from Louisiana is recognized for 30 minutes, and the gentleman from Kansas will be recognized for 30 minutes.

Mr. PASSMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before the House is long overdue.

This document should have been on the books on June 30, 1971. About two-thirds of this fiscal year is behind us. I should like to say that about 70 percent of the money contained in this conference report has already been obligated because the agencies have been operating on a continuing resolution for 7 months and 22 days.

Of course, most Members know I am not a foreign aid enthusiast, but indeed I am a realist. With privileges come responsibilities. It has been my responsibility and privilege to handle this bill for 18 years. In most instances when I come to the floor of the House I represent the committee and not necessarily my own views, but in this particular instance I would hope for one time that it would have the unanimous support of this House, both the majority and the minority, based entirely on the facts as they are.

Let me explain to the membership, if they have not had an opportunity to check this bill out in detail, that this is one of the largest reductions made in a foreign aid bill. The total House bill was $3,003,461,000. The total Senate bill was $3,076,535,000. The conferees agreed on $3,189,437,000.

The total conference report is $622,820,000 below that of fiscal year 1971. The conference report is $1,153,198,000 below the budget request, one of the largest reductions ever made in the foreign assistance program since its inception.

I might say that the bill before the House in titles I and II is below the House bill. In title III you will find the World Bank and the Inter-American Development Bank where the House recommended no funds or very little funds and the Senate put in all of the funds, and in conference we compromised on a figure.

Mr. Speaker, I think we should explain to the House that most of the World Bank funds are for callable capital. Previously $5,715,000,000 has been made available to the World Bank for callable capital. Not one time since the creation of the World Bank have they called for any of this callable capital. So, in fact, it is not an appropriation as such to be withdrawn and spent; it is the equivalent of just endorsing the notes of other people just in case there is a default. Of course, there is a chance it would be called and so to that extent we call it an appropriation.

Let me explain to the House, if I may, some of the things which we are confronted with. I believe our recent country's foreign policy is to conclude the Vietnam war and bring home our troops from Southeast Asia.

Let us look, if we may, at Vietnam. Of course, we know that 3 years ago we had 542,000 troops in Vietnam, with expenses running about $30 billion a year.

On May 1 the number will be down to around 64,000 at an estimated expense of about $6 billion a year.

Now, Mr. Speaker, let us look at the situation in South Korea where we have maintained 60,000 troops for a period of 17 years. The present Government policy is to bring home these troops. We have reduced that number by 20,000 troops thereby saving an estimated $1.1 billion over a period of 5 years and to substitute for those troops in order that we can bring them home, there was an agreement to supply military assistance to Korea.

Of course, Mr. Speaker, these people are not able to support their military and their own economy. We have a tremendous investment there not only in money but in lives.

Mr. Speaker, 33,000 young Americans lost their lives in Korea. So, we have an investment there which we must protect.

Why do we insist on the entire $500 million for military assistance? From July 1, 1971 until December, 1971 we permitted the Department of Defense to obligate at the rate of $690 million a year. I must say in all fairness that these people have been very fair and conservative because they could have legally obligated much more then they did but, they only obligated $499.4 million. When we went to conference with the other body we had an authorization ceiling of $500 million. The House recommended $552,000,000.

The Senate recommended only $350 million. Legally, they obligated $499 million. Therefore, Mr. Speaker, how could we make any reduction in this amount when they had already obligated the vast majority of the $500 million authorization amount. So, we insisted on the entire authorized amount. We had no alternative.

Mr. Speaker, in supporting assistance we gave these people the authority to obligate at a $569.6 million rate from July 1 through December. Then, in the later continuing resolution—we said you may obligate at the rate of $600 million a year. The Senate figure was $400 million a year and the House figure was $575 million. However, these people did not obligate all of it because they stayed within the meaning and the intent of the Congress. However, at the present time they have obligated $431 million which does not include $50 million for Israel. If Israel is included, they have obligated $481 million.

So, Mr. Speaker, we have only given this agency some $69 million to operate on for 4 months.

Now, let me go to another item and that is the United Nations. I have never believed that the United Nations should be in the foreign aid business. However, I did not put them in that business. Congress did.

Let us have a look at the so-called U.N. voluntary contributions item. When the House considered the foreign aid appropriation bill in December, they deleted all the funds requested for the U.N. development program because there was some indication from testimony before the committee that they had sufficient funds to operate for a period of 6 months. Subsequently, however, we went behind the testimony and we found out that the witness was not correct and all these funds were not available. We look at the record now and we find out that 124 nations have already pledged their contributions. So, this committee had no alternative other than to go along with the Senate by raising the total amount to $127 million for the international organization item. However, we put in the bare minimum for the U.N. development program which is $86 million. This would give them the same amount as they had during the previous calendar year.

Repeating, Mr. Speaker, if I may, 124 nations have already pledged their contributions to the UNDP and only six nations have not pledged of which the United States is one. So, we wanted to be completely honest and fair to the Members with reference to it.

I share your views on many of these items, but we are a responsible committee. We do not like the U.N. development program item. As you know, I do not like them. I would like to take them out of the bill, but, on the other hand, that would have to come from the authorizing committee, and until such time as we amend the law and cease to finance the U.N. on an aid basis, then we have no alternative but to live up to our contract.

There are many other items in the bill that I could touch upon, and at the expense of being repetitious I would like to say, Mr. Speaker, that this bill is $1,153,198,000 below the budget request. Now, of course, the people who sent down the budget request said that this was a bare minimum upon which they could operate foreign aid. Because the committee did not agree with that, the committee spent many long weeks and held many, many hearings to see where this bill could be reduced. I might add that this has been a specialty of mine since I have been in this Congress, to see how much I could cut foreign aid. As you know, I have always said that it was never my intention to cut any part of the legislation that can be labeled as good. I know that some of my remarks on this subject have come back to haunt me, but you know I have a thick political hide that you could not pierce with an ice pick. But I do also want to remind you that we are $622 million below what we provided last year.

All in all, I consider this the very best deal that we could possibly bring back to the House, and I certainly hope that the House will support the conferees in their report.

I am going to yield, of course, to my distinguished friend, the gentleman from Kansas, who is a very able and distinguished member of this committee, and who has walked side by side with me in trying to write good legislation. That is equally true of every other member of this subcommittee. I might say that I have never had a man who worked harder and more closely with us than the distinguished gentleman from Michigan (Mr. RIEGLE). He said to me:

> You have made a good case, and I am going to surprise some of my friends, because I am going to support this bill.

I single this gentleman out because that gentleman worked along with us, and walked side by side with us, so that we could bring back a good bill.

Of course, my very distinguished friend, the gentleman from Kansas (Mr. SHRIVER) is entitled to 30 minutes of this time, so now, if the gentleman would care to consume some of that time I would be very happy to let him proceed.

Mr. Speaker, at this point in the RECORD, I would like to insert a detailed table outlining the conference action:

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL, FISCAL YEAR 1972—CONFERENCE SUMMARY TABLE

[Note—All amounts are in the form of "appropriations" unless otherwise indicated]

| Item | New budget (obligational) authority, fiscal year 1971 (includes supps.) | Budget estimates of new (obligational) authority, fiscal year 1972 | New budget (obligational) authority recommended in House bill | New budget (obligational) authority recommended in Senate bill | New budget (obligational) authority recommended by conference action | Conference action compared with— | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | New budget (obligational) authority, fiscal year 1971 (includes supps.) | Budget estimates of new (obligational) authority; fiscal year 1972 | New budget (obligational) authority recommended in House bill | New budget (obligational) authority recommended in Senate bill |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
| TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES | | | | | | | | | |
| Funds Appropriated to the President | | | | | | | | | |
| Economic assistance: | | | | | | | | | |
| Worldwide, technical assistance | $166,750,000 | [1] $232,929,000 | $150,000,000 | $165,000,000 | $160,000,000 | −$6,750,000 | −$72,929,000 | +$10,000,000 | −$5,000,000 |
| Alliance for Progress, technical assistance | 82,875,000 | [2] 129,745,000 | 75,000,000 | 80,000,000 | 80,000,000 | −2,875,000 | −49,745,000 | +5,000,000 | |
| International organizations and programs | 103,810,000 | [3] 141,000,000 | 41,000,000 | 138,000,000 | 127,000,000 | +23,190,000 | −14,000,000 | +86,000,000 | −11,000,000 |
| Programs relating to population growth | (4) | (5) | 50,000,000 | 125,000,000 | 125,000,000 | +125,000,000 | +125,000,000 | +75,000,000 | |
| American schools and hospitals abroad | 12,895,000 | 10,175,000 | 17,200,000 | 20,000,000 | 20,000,000 | +7,105,000 | +9,825,000 | +2,800,000 | |
| Indus Basin Development Fund, grants | 4,925,000 | 15,000,000 | 7,500,000 | 15,000,000 | 10,000,000 | +5,075,000 | −5,000,000 | +2,500,000 | −5,000,000 |
| Indus Basin Development Fund, loans | 6,980,000 | 12,000,000 | 6,000,000 | 12,000,000 | 12,000,000 | +5,020,000 | | +6,000,000 | |
| United Nations Relief and Works Agency (Arab refugees) | 1,000,000 | | | | | −1,000,000 | | | |
| Contingency fund | 22,500,000 | 100,000,000 | 30,000,000 | 30,000,000 | 30,000,000 | +7,500,000 | −70,000,000 | | |
| Refugee relief assistance (East Pakistan) | | [6] 250,000,000 | 175,000,000 | 250,000,000 | 200,000,000 | +200,000,000 | −50,000,000 | +25,000,000 | −50,000,000 |
| Alliance for Progress, development loans | 287,500,000 | 235,000,000 | 150,000,000 | 150,000,000 | 150,000,000 | −137,500,000 | −85,000,000 | | |
| Development loans | 420,000,000 | 400,000,000 | 250,000,000 | 150,000,000 | 200,000,000 | −220,000,000 | −200,000,000 | −50,000,000 | +50,000,000 |
| Administration expenses: | | | | | | | | | |
| A.I.D | 51,000,000 | [7] 60,200,000 | 54,600,000 | 50,000,000 | 50,000,000 | −1,000,000 | −10,200,000 | −4,600,000 | |
| State | 4,100,000 | [8] 4,555,000 | 4,255,000 | 4,221,000 | 4,221,000 | +121,000 | −334,000 | −34,000 | |
| Subtotal, economic assistance | 1,164,335,000 | 1,590,604,000 | 1,010,555,000 | 1,189,221,000 | 1,168,221,000 | +3,886,000 | −422,383,000 | +157,666,000 | −21,000,000 |
| Military and security supporting assistance: | | | | | | | | | |
| Military assistance | 690,000,000 | 705,000,000 | 552,000,000 | 350,000,000 | 500,000,000 | −190,000,000 | −205,000,000 | −52,000,000 | +150,000,000 |
| Security supporting assistance | 569,600,000 | [9] 764,614,000 | 575,000,000 | [22] 400,000,000 | [22] 550,000,000 | −19,600,000 | −214,614,000 | −25,000,000 | +150,000,000 |
| Subtotal | 2,423,935,000 | 3,060,218,000 | 2,137,555,000 | 1,939,221,000 | 2,218,221,000 | −205,714,000 | −841,997,000 | +80,666,000 | +279,000,000 |
| Other: | | | | | | | | | |
| Overseas Private Investment Corporation, reserves | 18,750,000 | 25,000,000 | 25,000,000 | | 12,500,000 | −6,250,000 | −12,500,000 | −12,500,000 | +12,500,000 |
| Inter-American Foundation (limitation on obligations) | (10,000,000) | (11,000,000) | | (11,000,000) | (10,000,000) | | (−1,000,000) | (+10,000,000) | (−1,000,000) |
| Total, title I, new budget (obligational) authority, Foreign Assistance Act activities | [10] 2,442,685,000 | [11] 3,085,218,000 | [12] 2,162,555,000 | 1,939,221,000 | 2,230,721,000 | −211,964,000 | −854,497,000 | +68,166,000 | +291,500,000 |
| TITLE II—FOREIGN MILITARY CREDIT SALES | | | | | | | | | |
| Foreign military credit sales | $200,000,000 | $510,000,000 | $510,000,000 | $400,000,000 | $400,000,000 | +$200,000,000 | −$110,000,000 | −$110,000,000 | |
| Military credit sales to Israel | 500,000,000 | | | | | −500,000,000 | | | |
| Total, title II, new budget (obligational) authority, Foreign military credit sales | 700,000,000 | 510,000,000 | 510,000,000 | 400,000,000 | 400,000,000 | −300,000,000 | −110,000,000 | −110,000,000 | |
| TITLE III—FOREIGN ASSISTANCE (OTHER) | | | | | | | | | |
| Funds Appropriated to the President | | | | | | | | | |
| Peace Corps | 90,000,000 | [13] 82,200,000 | 68,000,000 | 77,200,000 | 72,000,000 | −18,000,000 | −10,200,000 | +4,000,000 | −$5,200,000 |
| Limitation on administrative expenses | (31,400,000) | (28,400,000) | (24,000,000) | (24,500,000) | (24,250,000) | (−7,150,000) | (−4,150,000) | (+250,000) | (−250,000) |
| Department of the Army—Civil Functions | | | | | | | | | |
| Ryukyu Islands, Army, Administration | 6,736,000 | [14] 4,564,000 | 4,216,000 | 4,564,000 | 4,216,000 | −2,520,000 | −348,000 | | −348,000 |
| Department of Health, Education, and Welfare | | | | | | | | | |
| Assistance to refugees in the United States (Cuban program) | 112,130,000 | [15] 144,103,000 | 100,000,000 | 139,000,000 | 139,000,000 | +26,870,000 | −5,103,000 | +39,000,000 | |
| Department of State | | | | | | | | | |
| Migration and refugee assistance | 5,706,000 | [16] 8,690,000 | 8,690,000 | 8,690,000 | 8,690,000 | +2,984,000 | | | |
| Funds Appropriated to the President | | | | | | | | | |
| International Financial Institutions | | | | | | | | | |
| Asian Development Bank (paid-in capital) | 20,000,000 | | | | | −20,000,000 | | | |
| Inter-American Development Bank: | | | | | | | | | |
| Paid-in capital | 25,000,000 | 75,000,000 | 13,240,000 | 75,000,000 | 75,000,000 | +50,000,000 | | +61,760,000 | |
| Callable capital | 200,000,000 | 136,760,000 | 136,760,000 | 136,760,000 | 136,760,000 | −63,240,000 | | | |
| Fund for special operations | 50,000,000 | 50,000,000 | | 50,000,000 | | −50,000,000 | −50,000,000 | | −50,000,000 |
| Subtotal, IDB | 275,000,000 | [17] 261,760,000 | 150,000,000 | 261,760,000 | 211,760,000 | −63,240,000 | −50,000,000 | +61,760,000 | −50,000,000 |

Footnotes at end of table.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL, FISCAL YEAR 1972—CONFERENCE SUMMARY TABLE—Continued

| | | | | | | Conference action compared with— | | | |
|---|---|---|---|---|---|---|---|---|---|
| Item | New budget (obligational) authority, fiscal year 1971 (includes supps.) | Budget estimates of new (obligational) authority, fiscal year 1972 | New budget (obligational) authority recommended in House bill | New budget (obligational) authority recommended in Senate bill | New budget (obligational) authority recommended by conference action | New budget (obligational) authority, fiscal year 1971 (includes supps.) | Budget estimates of new (obligational) authority; fiscal year 1972 | New budget (obligational) authority recommended in House bill | New budget (obligational) authority recommended in Senate bill |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
| International Bank for Reconstruction and Development: | | | | | | | | | |
| Paid-in capital | | 24,610,000 | | 24,610,000 | 12,305,000 | +12,305,000 | −12,305,000 | +12,305,000 | −12,305,000 |
| Callable capital | | 221,490,000 | | 221,490,000 | 110,745,000 | +110,745,000 | −110,745,000 | +110,745,000 | −110,745,000 |
| Subtotal, IBRD | | [18] 246,100,000 | | 246,100,000 | 123,050,000 | +123,050,000 | −123,050,000 | +123,050,000 | −123,050,000 |
| International Development Association | 160,000,000 | | | | | −160,000,000 | | | |
| International Monetary Fund (Quota increase) | (1,540,000,000) | | | | | (−1,540,000,000) | | | |
| Total, title III, new budget (obligational) authority, Foreign Assistance (other) | 669,572,000 | 747,417,000 | 330,906,000 | 737,314,000 | 558,716,000 | −110,856,000 | −188,701,000 | +227,810,000 | −178,598,000 |
| TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES | | | | | | | | | |
| Limitation on program activity | (4,075,483,000) | [19] (7,323,675,000) | (7,323,675,000) | (7,323,675,000) | (7,323,675,000) | (+3,248,192,000) | | | |
| Limitation on administrative expense | (7,048,000) | [20] (8,072,000) | (8,072,000) | (8,072,000) | (8,072,000) | (+1,024,000) | | | |
| Total, title IV, Export-Import Bank of the United States, limitations on use of corporate funds | (4,082,531,000) | (7,331,747,000) | (7,331,747,000) | (7,331,747,000) | (7,331,747,000) | (+3,249,216,000) | | | |
| TITLE V—DEPARTMENT OF LABOR UNEMPLOYMENT TRUST FUND | | | | | | | | | |
| Department of Labor Unemployment Trust Fund | | | | ([21]) | | | | | |
| RECAPITULATION | | | | | | | | | |
| Grand total, new budget (obligational) authority, titles I, II, and III | 3,812,257,000 | 4,342,635,000 | 3,003,461,000 | 3,076,535,000 | 3,189,437,000 | −622,820,000 | −1,153,198,000 | +185,976,000 | +112,902,000 |
| Reappropriation of unobligated balances: | | | | | | | | | |
| (a) Economic assistance | (26,503,000) | (25,149,000) | (25,149,000) | (25,149,000) | (25,149,000) | (−1,354,000) | | | |
| (b) Military assistance | (6,300,000) | (4,000,000) | (4,000,000) | (4,000,000) | (4,000,000) | (−2,300,000) | | | |
| (c) Security supporting assistance | (768,000) | (2,721,000) | (2,721,000) | (2,721,000) | (2,721,000) | (+1,953,000) | | | |

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[1] Includes an increase of $1,654,000 contained in H. Doc. 92-93.

[2] Includes an increase of $745,000 contained in H. Doc. 92-93.

[3] Includes $13,300,000 for UNRWA which was funded in fiscal year 1971 from "Supporting assistance."

[4] In fiscal year 1971, this program was funded at a level of $100,000,000 mostly from the "Development loan" accounts.

[5] In the fiscal year 1972 budget, this program was proposed to be funded at a level of $100,000,000 mostly from the "Technical assistance" accounts.

[6] Submitted as a budget amendment in H. Doc. 92-166.

[7] Includes an increase of $2,600,000 contained in H. Doc. 92-93.

[8] Includes an increase of $155,000 contained in H. Doc. 92-93.

[9] Includes an increase of $2,064,000 contained in H. Doc. 92-93.

[10] Unobligated balances as of June 30, 1970, reappropriated.

[11] Unobligated balances as of June 30, 1971, requested to be reappropriated.

[12] Unobligated balances reappropriated.

[13] Includes an increase of $11,000,000 contained in H. Docs. 92-93 ($1,100,000) and 91-122 ($9,900,000).

[14] Includes an increase of $114,000 contained in H. Doc. 92-93.

[15] Includes an increase of $103,000 contained in H. Doc. 92-93.

[16] Includes an increase of $40,000 contained in H. Doc. 92-93.

[17] Includes an increase of $211,760,000 contained in H. Doc. 92-149.

[18] Submitted as a budget amendment in H. Doc. 92-149.

[19] Includes an increase in limitation of $3,690,735,000 contained in H. Doc. 92-175.

[20] Includes an increase in limitation of $373,000 contained in H. Doc. 92-93.

[21] Indefinite.

[22] Includes $50,000,000 earmarked for Israel.

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Mr. Speaker, I will reserve the remainder of my time.

The SPEAKER pro tempore. The gentleman from Louisiana has consumed 13 minutes.

The Chair recognizes the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Speaker, I yield myself such time as I may consume.

**Mr. Speaker, I urge my colleagues to vote in favor of the conference report. We are now 8 months into the 1972 fiscal year, which this bill is supposed to fund, and I believe that all of you will agree that this is much too long a time for this agency or any agency of the Federal Government to have to wait to know what the program is that they are supposed to be administering, and to have to operate for such a long period of time from continuing resolutions.**

Mr. Speaker, may I say that this conference report includes money for the continued Vietnamization of the conflict in Southeast Asia. Our troops are returning home, and supporting assistance must be provided for their protection and to insure that the South Vietnamese Government will not simply collapse as soon as we leave.

This bill also includes and earmarks $300 million of military credit sales for Israel.

Money is included to continue the Peace Corps. Funds are included to continue our participation in the Inter-American Development Bank and the World Bank.

Adequate funds have been included in this bill to meet the Federal Government's obligation to the States, and especially to Dade County, Fla., for the assistance program for the Cuban refugees.

Fifteen million dollars, the amount of the authorization, is included for UNICEF. Two hundred million dollars is in this conference report for refugee assistance for the victims of the Pakistani conflict.

Twenty million dollars is included for American schools and hospitals abroad. Many of those schools are, of course, in Israel. We have supported for many years the American University at Beirut. Funds are included in this for these fine programs in education abroad and hospitals abroad.

On December 15, the House approved a continuing resolution to continue our foreign aid efforts and our Vietnamization efforts by a vote of 233 yeas to 86 nays.

Previously, on November 10, a similar continuing resolution was passed by a voice vote. So again we come to the House with a compromise, but one that is very much like the House-passed appropriation and which is very similar to the continuing resolution passed last December 15.

We can no longer delay on this fiscal 1972 appropriation—the last regular appropriation bill for 1972.

I would reemphasize the most important item in this conference recommendation in my judgment is $550 million for supporting assistance. Approximately 90 percent of the funds programed for the fiscal year 1972 in this title are to be allocated to Vietnam, Laos, and Thailand—mostly to Vietnam, and the Vietnamization program, so that

South Vietnam can continue to take care of itself and so that we can have the withdrawal program the President has announced and which is working so successfully.

So this sum of $550 million is included in this appropriation for Vietnamization—a large proportion really of this greatly reduced foreign aid bill.

Mr. SHRIVER. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. Speaker, I thank the gentleman from Kansas for yielding me this time.

Mr. Speaker, let me see if I understand this conference report, and to that end I would address a question or two to the gentleman from Louisiana (Mr. PASSMAN).

As I understand it, this calls for $3,189,437,000 to be spent on foreign aid in this fiscal year?

Mr. PASSMAN. This is titles I, II and III which includes the amount of $110,745,000 for callable capital for the World Bank; that is correct.

Mr. GROSS. But it is still a commitment and could be expended, if needed; is that correct?

Mr. PASSMAN. It is not likely that there will ever be a time that the callable capital would be spent. But I say to the gentleman categorically, it is a correct indication that if there were some emergency that is unforeseen at this time and where all of the creditors would default and no other money was coming into the World Bank, then there is a commitment to use it. Of course, this provides the money.

Mr. GROSS. So $3,189 million is the total commitment for spending on the foreign handout program under the terms of this bill and for the fiscal year 1972 which ends in 4 months?

Mr. PASSMAN. That is the total commitment, if you include that part which is included for callable capital for the several international financial institutions.

The chances are we would never have to pay out this callable capital.

Mr. GROSS. Do I understand correctly that the commitment under this conference report is more than it was under either the original House or Senate bill?

Mr. PASSMAN. I want to answer the gentleman correctly, in titles I and II, normally referred to as foreign aid, we are under the House bill. We are over the House bill only when you include title III, which, of course, includes the World Bank and the Inter-American Development Bank. That is true.

Mr. GROSS. I am speaking of the total bill. I am not breaking it down as to titles. I am speaking of the total bill, the commitment on the part of the United States and its taxpayers, who will be saddled with this $3-billion mortgage.

Mr. PASSMAN. The gentleman is correct, but I know that he would want to keep the record straight and not leave Members under the impression that we were going to spend all this money. Some of it will be available only to guarantee credit.

Mr. GROSS. I say to the gentleman that if we give any of the bureaucrats around here time enough, especially those in this outfit, they will get the money spent.

Mr. PASSMAN. Not the callable capital. In the long history of the existence of the World Bank, there is no record of callable capital ever being spent, not a dime of it.

Mr. GROSS. I do not care whether you call it callable capital or what it is called. They will get it eventually and it will be spent.

Mr. PASSMAN. It has not been spent.

Mr. GROSS. The gentleman says that this is $622 million less than the amount for the fiscal year 1971.

Mr. PASSMAN. $622,820,000.

Mr. GROSS. All right, $622,820,000 less than for fiscal 1971. Let me ask the gentleman this question: How much of that claimed reduction of $622,820,000 is to be found in other appropriation bills?

Mr. PASSMAN. I am not in a position to discuss bills that I do not handle. It takes all I can do to keep on top of this bill. I would say to my distinguished friend, if he will yield further, I certainly support him. He is a great Member. If he would make the fight on the authorizing bills providing funds for these international organizations, we could save a lot of time when the authorizations are handed to my committee for the appropriation. We should stop this trend when these huge amounts are provided in some authorizing bill.

Mr. GROSS. Let me say to the able gentleman, to keep the record straight, that the gentleman from Iowa has opposed the foreign handout bills in the authorizing committee just as assiduously as he has opposed your bills on the House floor because this money has to be borrowed, and I want to get the foreigners off the backs of the American taxpayers. So I renew the question: To the best of the gentleman's knowledge is any of the $622 million which he claims as a saving over 1971 to be found in any other appropriation bills?

Mr. PASSMAN. I wish that I could give the gentleman a sworn statement on that. Of course, I have no knowledge of any other bills where this is hidden. What I have said applies only to the bill that this committee handles. We took every bill that we handled last year and the reduction of $622 million below fiscal year 1971 is an accurate one. I can assure the gentleman that that is true.

The World Bank was not in the bill last year. This committee denied funds in the supplemental bill for the World Bank. We denied them funds in the regular bill this year. Only when the other body put in the item did we yield, and then we yielded only half way.

Mr. GROSS. I do not care to prolong the agony of considering this particular bill. I know what the House will do. It will ignore the facts of life and approve this unconscionable expenditure of more billions. The House has not yet learned that we are in desperate financial trouble in this country; that some day, if national bankruptcy is to be avoided, it is going to have to quit spewing this money out to foreigners all over the globe.

Mr. PASSMAN. I appreciate what the gentleman from Iowa has said at this time and the great cooperation he has given to me in the past. We have no misunderstanding about this bill. I am just as opposed to excessive foreign aid spending as is the gentleman from Iowa. But we cannot correct all the evils in one year. There comes a time when a man must face up to his responsibility, and that is what I am trying to do.

If the gentleman will yield further to permit me to make one further observation, let us take one of the items that I did not go into and that is the Worldwide Development Loan Fund. We gave them $420 million last year. They asked for $400 million in fiscal year 1972. We gave them $200 million. We cut that by 50 percent.

So in some areas of course we have cut it very substantially. Had it not been for some of the other organizations, such as the Inter-American Development Bank, the World Bank and others, this bill would have been much lower than it is. But I think we made a very good start in this long conference to bring this program under control.

If the gentleman will yield for one further statement. The trend is toward multilateral foreign aid. In the multilateral organization we do not know when the money is obligated, we do not know the amount obligated, we do not know to what country it is obligated to, and we do not know for what purpose it is obligated. We are gradually pushing foreign aid over into the multilateral area where we have little or no control. Once we get an authorization, some of the bureaucrats claim that we have no alternative, and we have to give them the financial support.

Mr. GROSS. Of course, I support the gentleman in his opposition to multilateral foreign aid. The proper oversight cannot be given to multilateral aid. But multilateral or unilateral, it makes no difference. This business of foreign aid has got to end for it is one of the real reasons why the people of this country are facing bankruptcy.

Mr. PASSMAN. If the gentleman will yield further, I assure the gentleman I share his views just as far as I possibly can, but once it is authorized, once we get into these entanglements, it is extremely hard to get out of them, but not impossible. What we should do is block them prior to the point where they come to the Committee on Appropriations.

The SPEAKER. The time of the gentleman has expired.

Mr. PASSMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I compliment the chairman of my subcommittee, the gentleman from Louisiana, for the fine leadership he has taken in the conference. The conference report has been criticized, but several things have to be kept in consideration.

First, we did cut the foreign aid appropriation over $600 million below the amount last year. Second we were prevented from cutting further by the fact this appropriation was held up for many, many months in the other body. While under the continuing resolution the moneys were spent at such a high level that at this late date in the fiscal year it would have been irresponsible to cut further particular military aid items, since nothing would have been left to carry on the program during the remaining few months of the year. Thus the blame for the high appropriation for military foreign aid must rest with the other body which delayed this appropriation so that now it is impossible to cut it.

The House has done a good job, considering the constraint we were put under by the other body.

Mr. PASSMAN. Mr. Speaker, I thank the distinguished gentleman from Maryland.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. Dow).

Mr DOW. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

May I inquire how much is in this bill for financial aid to Cambodia?

Mr. PASSMAN. May I say to the distinguished gentleman from New York, all foreign aid funds are appropriated on an illustrative basis. Of course, we have no idea just how these funds will be allocated along the way. They are shifted from one country to another, depending on the need. Of course, military assistance for Laos, Thailand, and Vietnam are handled by the Defense Subcommittee on Appropriations. There was a budget request presented for assistance to Cambodia, but inasmuch as funds in this bill are appropriated by program and the budget requests are made on a illustrative basis, we cannot give the gentleman an accurate answer on that question at this time.

Mr. DOW. In other words, in the administrative departments who have disposal of these funds, they could decide to use the total amount of the assistance and could apply all this financial aid to Cambodia, and I believe the amount would be a half billion dollars?

Mr. PASSMAN. The total amount for security supporting assistance, of course, is $550 million. Now $481 million of that has been obligated, and $50 million of it is earmarked for Israel.

Of course, I can assure the gentleman that there is no likelihood Cambodia would ever get all the money or get half the money.

I believe the administrators must have some latitude in this matter, in the case of an emergency, where they could ship more to Vietnam or to other countries getting supporting assistance. I actually believe that this supporting assistance is necessary. The executive must have that right to use supporting assistance where needed.

At this time it appears Vietnam will get the lion's share of supporting assistance.

Mr. DOW. It seems to me that the committee is giving an open-ended license to our Government to proceed any way it chooses in a far country without any authorization by way of a declaration of war, any specific authorization from this Congress, and that we are in effect trafficking in blood. We have embarked on a course of adventurism, especially in Cambodia, and I want to register my strong opposition to this license.

Mr. PASSMAN. This foreign aid program has been funded on an illustrative basis since it started. The Department has been quite honest about this. The usual thing is that they follow the intent of the Congress. When they say, "We think we will spend it there." in most instances they do. We do not find they have abused that authority too much.

At the proper time, when conditions improve and we cut this down drastically, I hope we can move over to a line item bill, so that we will know where the money is going and for what purpose.

Mr. DOW. That would be far more responsible.

Mr. ANDERSON of Illinois. Mr. Speaker, I intend to vote for this conference report but not before I make a few passing comments on what is hopefully the final chapter in the great foreign aid debate of fiscal 1972.

Today is February 24, 1972, nearly 8 months into the fiscal year, and yet, only now are we completing action on the final major appropriations bill for the fiscal year which began last July. I think it is disgraceful that only two of the 14 major funding bills had cleared the Congress prior to the beginning of the fiscal year—education and legislative. The rest of our Government agencies were forced to operate for months under continuing resolutions, making for a great deal of uncertainty and confusion in planning and operation. I do not say this in criticism of the Appropriations Committee, for in most cases the hangup was in the authorization process. We must face up to this sorry situation and do something about it. I hope the deadline set by the leadership for major authorizations in this session is strictly adhered to so that we can proceed immediately on consideration of the appropriations measures. And it is my further hope that we can establish some permanent mechanism or rules for expediting the authorization-appropriation process in future years.

One need only look at the Peace Corps as a case study in what these prolonged delays can mean. The Peace Corps began its spending in this fiscal year at the budget request level of $82 million. Later in the fiscal year the spending level was cut back to $77 million by the authorization and continuing resolutions; and still later into the fiscal year the spending level was further reduced to $72 million by continuing resolution. The conferees on the foreign assistance bill compromised the House-passed $68 million and the Senate-passed $77.2 million at $72 million. But because the Peace Corps was spending at the higher levels in the first half of the fiscal year, it now finds itself substantially overextended in terms of the $72 million appropriation and it actually has very few funds remaining to carry it through the rest of this fiscal year. What this means in operating terms is that the Peace Corps will have to drastically reduce its overseas force levels, perhaps even shut down its operations in some countries; it will have to close down current training operations and cancel those which have been planned between now and July, thus reneging on promises made to other countries. By our delays and reductions we in the Congress have dealt a serious if not fatal blow to one of the most successful, valuable, and popular foreign assistance programs ever conceived by this country. I am extremely disappointed that the conferees did not agree to the full authorized amount as approved by the other body and I only wish there were some way short of defeating this conference report that we could set things right.

My second observation has to do with the precarious and uncertain fate of the entire foreign assistance package in this Congress. For a variety of reasons—Vietnam, the U.N. China vote, and foreign military assistance—a curious coalition spanning the political and ideological spectrum lined-up against foreign assistance, and for a while it looked like the entire package might be dumped. Fortunately, reason and good sense prevailed, and foreign assistance was resurrected Phoenix-like from the ashes to take flight once again.

But I think we must squarely face the fact that foreign assistance is still a weak bird with a broken wing flying against the wind in the middle of a storm. And that bird is going to be imperiled by the same congressional tempest for some time to come unless action is taken to reform and thereby strengthen our foreign assistance apparatus. On April 21, 1971, Prseident Nixon proposed to the Congress a major overhaul of our foreign assistance structure, based on the recommendations of his Task Force on International Development, chaired by Mr. Rudolph Peterson. I have been assured by the chairman of the House Committee on Foreign Affairs that the reform legislation submitted by the President would be given serious consideration in this session of the Congress. I think it is imperative that we move in the directions proposed by the President if we are to salvage foreign assistance as a viable, constructive, and effective ingredient of American foreign policy. If not, the Phoenix will soon return to its nest of ashes.

Finally, Mr. Speaker, I wish to address myself to several salutary provisions contained in the conference report before us today. Funds for international organizations and programs were raised from $41 million in the House version to $127 million, including up to $86 million for the United Nations development program for which the House had approved nothing. Funds for programs relating to population growth were raised from $50 million in the House version to $125 million. Funds for refugee relief assistance in East Pakistan were raised from $175 million in the House version to $200 million. And development loans were raised from $150 million in the Senate version to $200 million, as compared with $250 million in the House version. In conclusion, while this bill falls some $900 million short of the administration's request, I think it is deserving of our support.

Mr. BROOMFIELD. Mr. Speaker, only 10 years ago it would have been inconceivable to suggest that the level of noise in our environment might pose a threat to our health and safety.

Regretfully, what would have been

termed folly then, is now all too sobering reality. The growing volume and intensity of noise generated in the home, office, and our cities constitutes just another menacing phenomenon of our modern age.

No less than water or air pollution, noise pollution is a problem which we cannot delay in meeting head on now and one which we must solve soon. The solution to this problem would be much easier if its cause were limited to but a few major sources. However, this is not the case; this pollution emanates from an almost infinite variety of sources.

Since noise pollution is such a comprehensive and all pervasive threat to our people and because it is a threat to the very quality of our lives, we must attack it on a national scale. This measure does just that and, if for no other reason than that it represents a first step toward that goal, it is worthy of our approval.

Mr. Speaker, the scientific facts which motivated this legislation are worthy of review because they illustrate just how real, how devastating the consequences of excessive noise actually are.

We now know that prolonged and unusually high levels of noise cause emotional stress which can have long-term implications for many people. As for physical effects, extreme noise can result in partial or complete loss of hearing.

A study made at the University of Tennessee has proven that an alarming number of incoming freshmen already have reduced hearing facilities. These young people between the ages of 18 and 21 had the hearing ability of people twice their age. Just how much this defect will accelerate as they grow older no one can accurately predict.

It is true that the high rate of hearing defects among young people is due in part to the fact that they often subject themselves for long periods of time to excessively loud music. However, the effect it has had upon them should serve as a graphic example of the potentially disastrous consequences of prolonged noise pollution.

Mr. Speaker, by giving the Administrator of the Environmental Protection Agency the authority to prescribe acceptable noise limits we can roll back the tide of noise which threatens to inundate us all. Today, there are more than 80 million Americans, 40 percent of the population, who are affected by noise pollution. Furthermore, of that number, 40 million are risking serious and permanent hearing impediments.

Mr. Speaker, pollution of any kind, whether it be of noise, water, or air, is distinguished by the fact that no individual by his own efforts can escape it. This enemy will fall only to a national attack; a concerted and united plan by this Government to control the level of noise in our society before it truly does become deafening. I, therefore, respectfully urge the passage of the Noise Control Act.

Mr. DERWINSKI. Mr. Speaker, in casting my vote against foreign assistance appropriations, I do so with mixed feelings since, generally, I feel the aid program should have been scaled back to this size some time ago. However, this particular bill in two areas represents a "pennywise and pound-foolish" approach.

Specifically, I take strong exception to the figure of $72 million appropriated for the Peace Corps, since I believe the full amount authorized by the Senate, $77.2 million, should be appropriated. The Peace Corps is a positive force, an operation that has reached maturity and, if anything, it should have its appropriations increased and not decreased.

It is unfortunate that the chairman of the House subcommittee was successful in his vendetta in having the Peace Corps appropriations decreased.

In my judgment the limit on foreign military credit sales is also unfortunate. I believe that we should take a good hard look at military sales to our allies, especially those that have met all their obligations to treaties with us rather than retreating into neoisolationism.

Mr. ANDERSON of California. Mr. Speaker, I rise in support of the motion by Mr. VAN DEERLIN.

On December 8, 1971, during consideration of the Foreign Aid Appropriations Act, the House of Representatives adopted an amendment which prohibited any of the funds in the act from providing assistance to Ecuador.

Many of us feel very strongly that nations, such as Ecuador, which hijack our vessels on the high seas, and then exact fines totaling over $2 million in 1971 alone, should not receive foreign aid.

Why should the American taxpayer be asked to give $25 million in aid to Ecuador, as requested by the administration?

I do not believe we should.

If we approved granting foreign aid to those countries which voted against us in the United Nations, then Ecuador would rightly deserve U.S. foreign aid.

If we approved granting foreign aid to those countries which violate international law by pirating our fishing vessels, then Ecuador would rightly deserve U.S. foreign aid.

If we approved granting foreign aid to those countries which use U.S. vessels on loan from the Navy to seize our ships on the high seas, then, again, Ecuador would rightly deserve U.S. foreign aid.

But, Mr. Speaker, I do not believe we should adopt a policy which grants aid to a country which commits the above acts, and thus, I vigorously supported the amendment barring aid to Ecuador on December 8.

However, when the bill went to the Senate, this provision was deleted.

In the House-Senate conference, which convened to iron out the differences in the two bills, the language of the House-passed amendment was altered in order to bar aid to Ecuador, unless the President determines that the furnishing of such assistance is important to the national interest of the United States.

Mr. Speaker, the loophole allowing the State Department to continue granting foreign aid to Ecuador will remain open.

Therefore, Mr. Speaker, I support the motion by Mr. VAN DEERLIN which would reject the conference amendment. Instead, I believe that the conference committee should accept the House-passed amendment which would close the loophole and bar aid to Ecuador.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today in support of the conference report on H.R. 12067, the foreign assistance and related programs appropriation bill. It is unfortunate, however, that the conference committee could not recommend the full $77 million for the Peace Corps.

On February 7, I sent a letter to each Manager on the part of the House, urging support for the full funding of the Peace Corps. At that time I believed, as I still believe, that this does not appear to be the logical time to cut the Peace Corps. For, after a period of disillusionment and distrust in government, our young people are again turning to national service in large numbers. I strongly feel that with the projected decrease in the military draft, the number of young people expressing interest in service-related fields such as the Peace Corps is bound to increase.

I heartily applaud the efforts of the conferees, who have acted most judiciously in raising the appropriation to $72 million, $4 million above the House-passed appropriation. This is an admirable step in the right direction.

We cannot forget, though, that one step in the proper direction must be followed by another. It is probable that even a $72 million appropriation will force the cessation of operations in as many as 15 countries and reduce activities in some 40 others. We must not allow the continued curtailment of such a vital and valuable program.

The Peace Corps is worth saving, for it utilizes our most important product, our young people, for a most important purpose—the propagation of peace.

Mr. RARICK. Mr. Speaker, as I understand it, the purpose of the conference committee is to reconcile the differences between the House version and the version passed by the other body.

If this were true, the present conference report on foreign aid assistance now before us would appropriate somewhere between $3.003 and $3.077 billion for foreign assistance. Unfortunately, this is not the case. The conferees ask us to accept a report that would set aside $3,189,437,000 for this purpose, an increase of approximately $113 million over the Senate bill and $185,976,000 over that appropriated by this House, December 8, 1971.

This conference report is but another gigantic shell game practiced on the American people. The conferees have simply rewritten the bill. If this legislation is enacted into law, it can bring us closer and closer to bankruptcy and the brink of one world government.

An examination of but a few of the amendments proposed by this conference report illustrates my point. Amendment No. 1 sets aside $160 million for "worldwide, technical assistance," an increase of $10 million over that appropriated by the House. Amendment No. 2 increases the amount appropriated for technical assistance to the Alliance for Progess to $80 million, $5 million over that contained in the House bill.

Of most importance, however, is the fact that amendment No. 3 increases the amount appropriated by the House for international organizations and programs $86 million to a grand total of $127 million. Furthermore, the conferees agreed that $86 million, which, incidentally, is the exact amount of the increase, "shall be available for the United Nations development program."

In addition to setting aside $86 million more of the American taxpayers' money for international organizations and programs, the conferees have agreed to set aside $15 million specifically for the United Nations Children's Fund. This House did not even include this item in its version passed less than 3 months ago.

What this means, Mr. Speaker, is that the conferees are asking us to accept a report that sets aside $101 million earmarked specifically for the United Nations and its international programs. Furthermore, and most interesting, the total amount set aside for international organizations and programs over that appropriated by this House is exactly $101 million.

Furthermore, as if to compound this insult to the American people, this conference report to accompany H.R. 12067, the foreign assistance appropriations, suggests that the Congress appropriate a total of $123.52 million for the Inter-American Bank over that set aside for this purpose by the House, or a total of $286,760,000.

Mr. Speaker, I intend to cast my people's vote against the conference report to accompany H.R. 12067, the foreign assistance appropriations for fiscal year 1972—it is but another piece of legislation to further entangle America in international alliances and is a waste of taxpayers' money as it proposes to continue to pour American dollars into the sink hole of international progress.

My people would not tolerate the original bill passed by the House less than 3 months ago. This conference report is even more repulsive.

Mr. SHRIVER. Mr. Speaker, I have no further requests for time.

Mr. PASSMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ZABLOCKI). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 213, nays 167, not voting 51, as follows:

[Roll No. 51]

YEAS—213

Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews
Annunzio
Arends
Aspinall
Badillo
Barrett
Biaggi
Biester
Bingham
Blackburn
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Mass.
Burton
Byrne, Pa.
Carey, N.Y.
Cederberg
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Culver
Daniels, N.J.
Dellenback
Dennis
Diggs
Dingell
Donohue
Drinan
du Pont
Eckhardt
Edmondson
Edwards,Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Findley
Fish
Flood
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Fulton
Gallagher
Garmatz
Giaimo
Gonzalez
Gray
Green, Pa.
Griffiths
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hébert
Heckler, Mass.
Helstoski
Hicks, Mass.
Hicks, Wash.
Hogan
Horton
Howard
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Kazen
Keating
Kee
Keith
Kluczynski
Koch
Kyros
Lent
Link
Lloyd
Long, Md.
McClory
McDade
McEwen
McFall
McKay
McKevitt
McKinney
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mikva
Miller, Calif.
Mills, Md.
Minish
Mink
Mitchell
Mollohan
Monagan
Morgan
Morse
Murphy, Ill.
Nedzi
Nelsen
Nix
O'Hara
O'Neill
Passman
Patten
Pelly
Pepper
Perkins
Peyser
Pickle
Pirnie
Poage
Podell
Preyer, N.C.
Price, Ill.
Quie
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Rodino
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
St Germain
Sarbanes
Schneebeli
Schwengel
Seiberling
Shriver
Smith, Iowa
Smith, N.Y.
Springer
Stanton, J. William
Steed
Steele
Steiger, Wis.
Stokes
Stratton
Symington
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Ware
Whalen
Whalley
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wolff
Wright
Wyatt
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Quillen
Randall
Rarick
Roberts
Rogers
Roush
Rousselot
Roy
Runnels
Ruth
Sandman
Satterfield
Saylor
Scherle
Schmitz
Scott
Sebelius
Shipley
Shoup
Sikes
Skubitz
Slack
Smith, Calif.
Snyder
Staggers
Stanton, James V.
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Sullivan
Talcott
Taylor
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Veysey
Waggonner
Waldie
Wampler
White
Whitten
Wilson, Charles H.
Winn
Wylie
Wyman
Young, Fla.
Zion
Zwach

NAYS—167

Abbitt
Abourezk
Anderson, Calif.
Archer
Aspin
Begich
Belcher
Bennett
Betts
Bevill
Blanton
Bray
Brinkley
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Cabell
Caffery
Camp
Carney
Carter
Casey, Tex.
Chamberlain
Chappel
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Conyers
Crane
Curlin
Daniel, Va.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Derwinski
Devine
Dickinson
Dorn
Dow
Dowdy
Downing
Dulski
Duncan
Edwards, Ala.
Eshleman
Evins, Tenn.
Fisher
Flowers
Flynt
Fountain
Frey
Fuqua
Gaydos
Gettys
Gibbons
Goldwater
Goodling
Grasso
Griffin
Gross
Grover
Haley
Hall
Hammerschmidt
Hastings
Hays
Hechler, W. Va.
Henderson
Hull
Hungate
Hunt
Hutchinson
Jarman
Jonas
Jones, N.C.
Kastenmeier
Kemp
King
Kyl
Landgrebe
Landrum
Latta
Lennon
Lujan
McClure
McCollister
McCormack
McCulloch
McMillan
Martin
Mathis, Ga.
Michel
Miller, Ohio
Mills, Ark.
Minshall
Mizell
Montgomery
Moss
Myers
Natcher
Nichols
Obey
O'Konski
Pettis
Pike
Poff
Powell
Price, Tex.

NOT VOTING—51

Abernethy
Ashbrook
Ashley
Baker
Baring
Bell
Bergland
Blatnik
Broyhill, N.C.
Byrnes, Wis.
Celler
Chisholm
Clark
Clay
Colmer
Danielson
Davis, Wis.
Dwyer
Edwards, La.
Erlenborn
Galifianakis
Green, Oreg.
Gubser
Hagan
Hawkins
Heinz
Hillis
Holifield
Hosmer
Ichord
Jones, Tenn.
Karth
Kuykendall
Leggett
Long, La.
McCloskey
McDonald, Mich.
Macdonald, Mass.
Metcalfe
Moorhead
Mosher
Murphy, N.Y.
Patman
Pryor, Ark.
Pucinski
Purcell
Roe
Scheuer
Sisk
Spence
Tiernan

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Tiernan for, with Mr. Macdonald of Massachusetts against.

Mr. Holifield for, with Mr. Hagan against.

Mr. Celler for, with Mr. Ashbrook against.

Mr. Blatnik for, with Mrs. Chisholm against.

Mr. Sisk for, with Mr. Long of Louisiana against.

Mr. Metcalfe for, with Mr. Colmer against.

Mr. Hosmer for, with Mr. Baring against.

Mr. Heinz for, with Mr. Ashley against.

Mrs. Dwyer for, with Mr. Abernethy against.

Mr. Mosher for, with Mr. Galifianakis against.

Mr. Clay for, with Mrs. Green of Oregon against.

Mr. Erlenborn for, with Mr. Purcell against.

Mr. McCloskey for, with Mr. Jones of Tennessee against.

Mr. Clark for, with Mr. Baker against.

Mr. Moorhead for, with Mr. Kuykendall against.

Mr. Murphy of New York for, with Mr. Hillis against.

Mr. Leggett for, with Mr. Broyhill of North Carolina against.

Mr. Karth for, with Mr. McDonald of Michigan against.

Mr. Danielson for, with Mr. Ichord against.

Until further notice:

Mr. Hawkins with Mr. Bell.

Mr. Bergland with Mr. Byrnes of Wisconsin.

Mr. Roe with Mr. Gubser.

Mr. Pryor of Arkansas with Mr. Davis of Wisconsin.

Mr. Pucinski with Mr. Spence.

Mr. Patman with Mr. Scheuer.

Mr. HULL and Mr. BRAY changed their votes from "yea" to "nay."

Mr. BROWN of Michigan, Mrs. HANSEN of Washington, and Mr. BOB WILSON changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: On page 2, line 21, insert the following:

It is the sense of the Senate that the total United States contribution to the International Atomic Energy Agency be negotiated by the State Department with the members of the IAEA in order to bring our contribution down to a per centum not to exceed 31.5. Progress made on these negotiations shall be reported to the Foreign Relations and Appropriations Committees of the Senate by September 30, 1972."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Passman moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"It is the sense of the Congress that the total United States contribution to the International Atomic Energy Agency be negotiated by the State Department with the members of the IAEA in order to bring our contribution down to a per centum not to exceed 31.5. Progress made on these negotiations shall be reported to the Foreign Relations and Appropriations Committees of the Senate and the Foreign Affairs and Appropriations Committees of the House of Representatives by September 30, 1972."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: On page 7, line 7, insert the following:

"INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

"The Inter-American Social Development Institute is authorized to make such expenditures within the limits of funds available to it and in accordance with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out its authorized programs during the current fiscal year: *Provided*, That not to exceed $11,000,000 shall be available to carry out the authorized programs during the current fiscal year."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Passman moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"INTER-AMERICAN FOUNDATION

"The Inter-American Foundation is authorized to make such expenditures within the limits of funds available to it and in accordance with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out its authorized programs during the current fiscal year: *Provided*, That not to exceed $10,000,000 shall be available to carry out the authorized programs during the current fiscal year."

This motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: On page 11, lines 12 and 13, strike out the following:

"SEC. 114. No part of any appropriations contained in this Act may be used to provide assistance to Ecuador."

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Passman moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

"SEC. 113. No part of any appropriations contained in this Act may be used to provide assistance to Ecuador, unless the President determines that the furnishing of such assistance is important to the national interest of the United States."

The SPEAKER. The Chair recognizes the gentleman from Louisiana (Mr. Passman).

Mr. PASSMAN. Mr. Speaker, I yield to the gentleman from California (Mr. Van Deerlin).

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

Mr. Speaker, on this matter of the steps being taken for dealing with the problem that our fishing fleet has had with the nation of Ecuador, I submit that we are very much like the hero in Pilgrim's Progress. The road gets narrower, the road gets steeper, and the road gets rockier each day that we try to move forward.

On the 8th of December on this floor when the legislation was before us, the gentleman from Washington (Mr. Pelly) offered an amendment asking that aid to Ecuador be deleted on the grounds of its harassment of the American tuna boats on the high seas, and he added the language that if in the opinion of the President of the United States this aid was necessary to the security of the United States or was in the national interest of the United States, he might overlook Congress' views in the matter and simply explain to the Congress why he was doing this.

On the challenge of the subcommittee chairman, Mr. Passman, the Chair ruled in favor of a point of order against Mr. Pelly's amendment, saying that it constituted, in effect, legislation on an appropriation bill.

The matter was then dealt with by an amendment which I offered which removed the restraining language and merely excluded Ecuador from American largess through this bill.

It went to conference, and it has now come back from conference with virtually the original language of Mr. Pelly's amendment restored, saying that if in the opinion of the President of the United States it is in the national interests to extend aid to Ecuador, then the President shall be justified in overlooking the views of Congress and extending this aid.

I can only say, Mr. Speaker, that every time we have given the State Department or the White House any discretion, whether it be in a foreign aid bill, a naval vessels loan bill, an Inter-American Development Bank bill, or in the matter of requiring some restitution for property seized from American citizens in this matter—whenever this option has been left to the administration, under any administration, whether the Kennedy, the Johnson, the Eisenhower, or the Nixon administration, nothing has ever happened.

If we really meant what we decided here on the 8th of December, we had better not make it optional. We had better make it stick to the language that we adopted in the House, and I shall surely, Mr. Speaker, ask that this be done.

Mr. PELLY. Mr. Speaker, will the gentleman yield to me?

Mr. PASSMAN. I yield to the gentleman from Washington.

Mr. PELLY. I just wanted to say to the House it is not as bleak as it might appear, because I am informed that under the Hickenlooper amendment, finally our State Department has started to withhold aid and that no aid has gone to Ecuador for the last 14 months. So I join with the gentleman from California in my concern, but I do not think that this administration is completely disregarding the laws that this Congress passed.

Mr. PASSMAN. I thank the distinguished gentleman from Washington.

I yield further to the gentleman from California.

Mr. VAN DEERLIN. Thank you very much.

If I might just add to that, the question we face here is that in testimony before the House Committee on Merchant Marine and Fisheries the State Department has declared flatly that they feel this discriminatory language is all the authority they need for going ahead and doing as they please.

And, I am sure that the gentleman at the microphone will attest that in the expectation of aid to be extended under this is some $14 million to Ecuador, is there not?

Mr. PASSMAN. If the gentleman has concluded, I will answer the gentleman's question.

Mr. VAN DEERLIN. Yes; please.

Mr. PASSMAN. First, we brought this back as a compromise. Even in areas where there are great differences, there is always a possibility that we will have to move in an emergency.

We have almost always given the President this discretion. We have not deleted it in this instance.

I do not know of any specific instances where the executive branch has grossly misused it. I think they should have this right and I believe, in the case of Ecuador, aid has already been withheld. The program is only continuing on-going technical assistance activities, but $25.9 million of authorized but unsigned loans have been held up since January 1971, over 1 year, and not one dime has been approved for development loan.

I would say that the President and the executive branch are backing us up fully and completely on the intent of the original language.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PASSMAN. Yes, I yield to the gentleman from Iowa.

Mr. GROSS. Well, of course, we have denied aid to India as a result of the Pakinstan-India-Bangladesh deal, and yet the World Bank only a short time ago—4 weeks ago—as reported in the newspapers made a so-called loan of $75 million.

So, the right hand often does not know what the left hand is doing or, if it does, it does not care.

Mr. PASSMAN. The gentleman has made a very fine statement and he always makes a contribution to this bill. However, returning to Eucador, if we may, this $25.9 million has been put on ice since January, 1971. We refused to approve it and to disburse it, because of the treatment extended by Ecuador to the United States.

We only give the President this discretion in the event he finds it in our national interest to do so.

I do not think we will make a mistake in supporting this language in this conference report.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I had not intended to get into this particular matter if it were not for the fact that this is not confined to the State of California and also the fact that the State of California does not have a united position on this matter as to how we are handling this Ecuadorian situation, because we have Russian trawlers coming into the northern part of the State of California and literally raping the fishery resources we have there.

I would further state to the gentleman that I did spend some time in Ecuador just recently—and I mention this to each and everyone of you—this kind of leverage through foreign aid is not going to solve the problem. We need to work through the Organization of American States and, hopefully, to make a case and to stage an international conference on this particular matter. However, in my opinion, it is not going to be handled in legislative and appropriation bills or otherwise. I have some specific recommendations to the President of the United States in this regard.

Mr. PASSMAN. I thank the distinguished gentleman and I will work with all Members of the House in drafting appropriate letters to the President and to the Secretary of State to the effect that the intent of Congress was to give him this authority to be used only in cases of emergency and we hope that he will, and I believe that he will, use it in the manner intended and follow the intent of the Congress.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from California.

Mr. CORMAN. I would like to respond in part to the issue raised by the distinguished gentleman from Iowa concerning the India-Pakistan war and Bangladesh.

The real tragedy of this bill and the reason it is very hard to vote for it, although I did, is that we are sending arms to Pakistan with which to kill innocent people and we were using it much of last year. It was very difficult for me to vote for this bill. On the other hand, millions of people might starve if we did not send aid to the refugees.

We get a little bit disturbed about a bank loan to India, and we ought to be concerned about spending the American taxpayers' money to rearm Pakistan to kill the Bangladesh.

Mr. PASSMAN. I thank the distinguished gentleman from California for his very fine statement, but I can assure the gentleman that we are not sending arms to Pakistan, we are only providing for credit sales. I do not know whether they will materialize or not. As far as I know, with the exception of some spare parts, there has been no military assistance to Pakistan.

Mr. CORMAN. I was informed yesterday by the State Department that a ship was arriving in Pakistan next week with arms. I may have been misinformed, but I hope the gentleman might be able to inform the House on this.

Mr. PASSMAN. I can assure the gentleman from California that I have no information on that, but before the sun sets today I will discuss this with the proper authorities, and find out just what their plans are.

Mr. CORMAN. I would hope we can find out how they got the weapons. We all recognize that the grants stopped a long time ago, but if we are still paying American money to finance Pakistan's military buildup I think the gentleman from Louisiana would serve a good purpose to the House and to the country if he could find out if that is true.

Mr. PASSMAN. I will endeavor to do that, but again I will state to the gentleman from California that the military assistance program to Pakistan, if any is made, will be on a sales basis with the loans repaid in dollars.

Mr. COLLIER. Mr. Speaker, if the gentleman will yield, I am very curious as we get into the area of aid and military assistance under this bill, as to what role the Arms Control Agency plays in making decisions that are made in this regard. I wonder if they have ever testified before the committee on the sale of arms, or even on military credit sales, or if they have sent down, if they did not appear, any recommendations? It would seem that this would be the prime function of an arms control department or agency. I am curious to know what part they play in regard to the decisions made in the sale of arms.

Mr. PASSMAN. They appear before the Committee on State, Justice, Commerce, and Judiciary; they have never testified before our committee. But I may state to the distinguished gentleman from Illinois that the military assistance program has been greatly reduced over the years. This year they requested $705 million, and they are getting only $500 million. So the military assistance program has, of course, been cut.

Mr. COLLIER. I understand you were able to cut it without their assistance. I am trying to find out from somebody on the subcommittee, going back to the time we established this agency, because it seems to me that its prime purpose and its prime function was to play a role through research and study in the movement of military equipment and the movement of arms. Yet I have not found a single instance where this agency or anyone representing it has ever come before a committee to make a recommendation of any kind. And I wonder why the agency exists if they are not to assist in such determinations.

Mr. PASSMAN. The gentleman has made a valid point but I suggest he talk to the chairman of the Appropriations Subcommittee which handles that agency and get his thoughts on the subject.

Mr. COLLIER. It seems to me as long as we are financing this agency that we ought to go through the motions of having this discussed, because this is one of the prime purposes for which it was established by this Congress.

Mr. PASSMAN. I certainly concur with the gentleman.

Mr. GROSS. Mr. Speaker, if the gentleman will yield, the gentleman from California (Mr. CORMAN) is disturbed over the supplying of arms to Pakistan, and I agree with the gentleman, but it seems to me that he is somewhat of a Johnny-come-lately in view of the fact that he has apparently been voting for these foreign aid bills, and on supplying arms to Pakistan for a long, long time.

Mr. PASSMAN. I thank the distinguished gentleman from Iowa.

The SPEAKER. The question is on the motion offered by the gentleman from Louisiana (Mr. PASSMAN).

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. VAN DEERLIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 230, nays 138, not voting 63, as follows:

[Roll No. 52]

YEAS—230

Abzug
Addabbo
Anderson, Ill.
Andrews
Annunzio
Arends
Ashley
Aspin
Aspinall
Badillo
Barrett
Belcher
Biester
Bingham
Blackburn
Boggs
Bolling
Bow
Brademas
Brasco
Bray
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Mass.
Burton
Camp
Carey, N.Y.
Casey, Tex.
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Ill.
Conable
Conte
Conyers
Cotter
Coughlin
Culver
Delaney
Dellenback
Dellums
Derwinski
Diggs
Dingell
Donohue
Drinan
du Pont
Eckhardt
Edwards, Ala.
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Flood
Ford, Gerald R.
Forsythe
Fraser
Frelinghuysen
Frenzel
Gallagher
Giaimo
Gibbons
Goldwater
Gonzalez
Grasso
Green, Pa.
Gubser
Gude
Halpern
Hamilton
Hammerschmidt
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hastings
Hathaway
Helstoski
Hicks, Mass.
Hogan
Horton
Howard
Hutchinson
Jacobs
Johnson, Pa.
Jonas
Kastenmeier
Kazen
Keating
Kee

Keith
Kemp
King
Kluczynski
Koch
Kuykendall
Kyl
Landgrebe
Latta
Lent
Link
Lloyd
Lujan
McClory
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
Madden
Mahon
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Michel
Mikva
Miller, Calif.
Mills, Md.
Mink
Minshall
Mitchell
Monagan
Morgan
Morse
Moss
Murphy, Ill.
Nedzi
Nelsen
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pelly
Pepper
Perkins
Peyser
Pirnie
Poage
Podell
Poff
Powell
Price, Ill.
Quie
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Rodino
Rooney, N.Y.
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
St Germain
Schneebeli
Schwengel
Sebelius
Seiberling
Shoup
Shriver
Skubitz
Smith, Iowa
Smith, N.Y.
Springer
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Symington
Talcott
Teague, Calif.
Terry
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Ullman
Vander Jagt
Vanik
Veysey
Vigorito
Ware
Whalen
Whalley
Widnall
Wiggins
Williams
Winn
Wright
Wyatt
Wylie
Wyman
Yates
Young, Tex.
Zablocki
Zion
Zwach

### NAYS—138

Abourezk
Adams
Alexander
Anderson, Calif.
Archer
Begich
Bennett
Betts
Bevill
Biaggi
Blanton
Brinkley
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Byron
Cabell
Caffery
Carney
Carter
Chappell
Collins, Tex.
Corman
Crane
Curlin
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, S.C.
de la Garza
Denholm
Dennis
Dent
Devine
Dickinson
Dorn
Dow
Downing
Dulski
Duncan
Edmondson
Edwards, Calif.
Eilberg
Fisher
Flowers
Flynt
Foley
Fountain
Fuqua
Garmatz
Gaydos
Gettys
Goodling
Green, Oreg.
Griffin
Gross
Grover
Haley
Hall
Hanley
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks, Wash.
Hull
Hungate
Hunt
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kyros
Landrum
Lennon
Long, Md.
McClure
McCormack
McMillan
Mathis, Ga.
Miller, Ohio
Mills, Ark.
Minish
Mizell
Mollohan
Montgomery
Myers
Natcher
Nichols
Nix
Pettis
Pickle
Pike
Preyer, N.C.
Price, Tex.
Quillen
Randall
Rarick
Roberts
Rogers
Roncalio
Roush
Rousselot
Roy
Runnels
Ruth
Sandman
Sarbanes
Satterfield
Saylor
Scherle
Schmitz
Scott
Shipley
Sikes
Slack
Snyder
Stanton, James V.
Stephens
Stubblefield
Stuckey
Sullivan
Taylor
Teague, Tex.
Thompson, Ga.
Van Deerlin
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Wilson, Charles H.
Wolff
Wydler
Yatron

### NOT VOTING—63

Abbitt
Abernethy
Anderson, Tenn.
Ashbrook
Baker
Baring
Bell
Bergland
Blatnik
Boland
Broyhill, N.C.
Burleson, Tex.
Byrnes, Wis.
Celler
Chamberlain
Chisholm
Clark
Clay
Colmer
Danielson
Davis, Wis.
Dowdy
Dwyer
Edwards, La.
Erlenborn
Esch
Evins, Tenn.
Ford, William D.
Frey
Fulton
Galifianakis
Gray
Griffiths
Hagan
Harsha
Hawkins
Heinz
Hillis
Holifield
Hosmer
Ichord
Karth
Leggett
Long, La.
McCloskey
Macdonald, Mass.
Metcalfe
Moorhead
Mosher
Murphy, N.Y.
Patman
Pryor, Ark.
Pucinski
Purcell
Roe
Rooney, Pa.
Scheuer
Sisk
Smith, Calif.
Spence
Tiernan
Wilson, Bob
Young, Fla.

So the motion was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Tiernan for, with Mr. Hogan against.

Mr. Holifield for, with Mr. Long of Louisiana against.

Mr. Blatnik for, with Mr. Abernethy against.

Mr. Scheuer for, with Mr. Abbitt against.

Mr. Clark for, with Mr. Baring against.

Mr. Murphy of New York for, with Mr. Dowdy aaginst.

Mr. Moorhead for, with Mr. Burleson of Texas against.

Until further notice:

Mr. Sisk with Mr. Smith of California.

Mr. Bergland with Mr. Mosher.

Mr. Macdonald of Massachusetts with Mr. Byrnes of Wisconsin.

Mr. Boland with Mr. Erlenborn.

Mr. Celler with Mrs. Dwyer.

Mr. Karth with Mr. Esch.

Mr. Hawkins with Mr. Pucinski.

Mr. Anderson of Tennessee with Mr. Young of Florida.

Mr. Clay with Mr. Heinz.

Mr. Danielson with Mr. Harsha.

Mr. Fulton with Mr. Baker.

Mr. Rooney of Pennsylvania with Mr. Hosmer.

Mr. Gray with Mr. Spence.

Mrs. Griffiths with Mr. Broyhill of North Carolina.

Mr. Pryor of Arkansas with Mr. Ashbrook.

Mr. Purcell witth Mr. Frey.

Mr. Roe with Mr. Davis of Wisconsin

Mr. William D. Ford with Mr. Chamberlain.

Mr. Metcalfe with Mr. Bell.

Mr. Ichord with Mr. McCloskey.

Mr. Colmer with Mr. Hillis.

Mrs. Chisholm with Mr. Galifianakis.

Mr. Leggett with Mr. Evins of Tennessee.

Mrs. GREEN of Oregon, Mr. DOW and Mr. DUNCAN changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: On page 18, line 19, insert:

SEC. 504. Not to exceed $1,200,000 of the funds appropriated under title I of this Act and for the Peace Corps under this Act may be used to reimburse the expenses of the Inspector General, Foreign Assistance, of which amount not to exceed $1,028,000 may be expended for compensation for personnel.

### MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PASSMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: Add the following at the end of said amendment:

"All obligations incurred during the period beginning February 23, 1972 and ending on the date of approval of this Act, for projects or activities for which provision is made in this Act are hereby ratified and confirmed if otherwise in accord with the applicable provisions of this act."

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

## GENERAL LEAVE

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the conference report just adopted.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

## PERMISSION TO INCLUDE TABLES IN REMARKS ON CONFERENCE REPORT

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that I may include certain tables in my remarks on the conference report just adopted.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

## PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 11384, HIGH SPEED GROUND TRANSPORTATION

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on H.R. 11384, high speed ground transportation.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

## LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I have asked for this time for the purpose of getting the rest of the program for this week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the distinguished majority leader.

Mr. BOGGS. Mr. Speaker, in response to the inquiry of my good friend, the distinguished minority leader, we have completed the program for this week.

It is my intention to ask to go over to Monday in a few minutes.

We have transferred one bill that was scheduled for this week until next Tuesday, that is the Noise Control Act of 1972, which was listed on this week's whip notice. The bill will be considered under an open rule with 1 hour of general debate.

On Monday, which is District day, there are no District bills scheduled.

There is one resolution—House Resolution 819—Special Committee To Investigate Campaign Expenditures. That is the committee that is appointed each election year.

On Tuesday, we will consider 22 unanimous-consent bills from the Committee on Ways and Means.

The bills are as follows:

H.R. 532, money gifts to enhance Capitol;

H.R. 1010, Wagering Tax Amendments of 1972;

H.R. 1246, tax treatment of divestitures to effectuate FCC policy;

H.R. 1247, modifications of charitable deduction transition rules under the Tax Reform Act of 1969;

H.R. 1467, personal exemptions in the case of American Samoans;

H.R. 2466, estate tax treatment of annuities in community property States;

H.R. 3233, rate of duty on olives;

H.R. 3544, rates of tax on cigars;

H.R. 5372, production of wine for personal consumption by other than heads of families;

H.R. 5527, refunds in the case of certain uses of tread rubber and tires;

H.R. 5815, cancellation of indebtedness of States for funds deposited with them in 1837;

H.R. 6547, sales of bonds by banks;

H.R. 7025, maintenance of common trust fund by affiliated banks;

H.R. 7175, duties on equipment and repairs for U.S. vessels in foreign countries;

H.R. 8975, definition of commuter fare revenue;

H.R. 9463, importation of pre-Columbian sculpture, etc.;

H.R. 9900, excluding from gross income compensation of prisoners of war, etc.;

H.R. 10379, exemption from duty for articles reimported into the United States under certain circumstances;

H.R. 10837, requirements for showing total cost on airline tickets;

H.R. 11185, exempt status of veterans' organizations;

H.R. 11186, exemption from duty for equipment and repairs to vessels operated for U.S. Government; and

H.R. 11196, definition of unrelated business income.

As I mentioned, the Noise Control Act of 1972, H.R. 11021, will be taken up under an open rule with 1 hour of debate.

On Wednesday and the balance of the week, the first order of business will be eight funding resolutions from the Committee on House Administration including funds for the House Committee on Internal Security.

H.R. 11416, international air fares will be taken up subject to a rule being granted.

H.R. 11384, high speed ground transportation will be taken up subject to a rule being granted.

Conference reports may be brought up at any time and any further program will be announced later.

## ADJOURNMENT OVER TO MONDAY, FEBRUARY 28, 1972

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today that it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that Calendar Wednesday business in order for Wednesday next be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

## PERSONAL ANNOUNCEMENT

Mrs. GREEN of Oregon. Mr. Speaker, earlier this afternoon I was delayed in a meeting and did not vote on the foreign aid conference report. Had I been present, I would have voted "nay." I would like the RECORD to so show.

The SPEAKER. The gentlewoman's remarks will appear in the RECORD.

## MISS RODEO, U.S.A.

(Mr. PASSMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PASSMAN. Mr. Speaker, I am proud to pay tribute to a young lady who has been selected nationally to reign as queen of the professional cowboy rodeo world, as its goodwill ambassadress.

As Miss Rodeo, U.S.A., Miss Brenda Jowers, a 21-year-old, blue-eyed brunette beauty from Monroe, La., will represent the International Rodeo Association of Pauls Valley, Okla., a sanctioning body that brings the one, true, American sport—professional cowboy rodeo—to thousands of people throughout the land.

A graduate of West Monroe High School and presently a sophomore at Northeast Louisiana University, Miss Jowers epitomizes the standards of the International Rodeo Association and cowboy rodeo—unexcelled sportsmanship, high moral character, ethical standards, and concern for the careful treatment of all living things. Miss Jowers reflects the many things that are good about this country and her people—the virtues that have made her great.

The daughter of Mr. and Mrs. H. Raymond Jowers, Brenda was sponsored by KNOE-TV in Monroe in the Miss Ark-La-Miss Stampede Pageant.

KNOE-TV has been instrumental in developing community spirit and in making the Monroe rodeo one of the biggest and finest entertainments in Louisiana, or anywhere.

After winning the Monroe competition, Miss Jowers competed at Tulsa at the premiere rodeo event nationally, the International Finals Rodeo of the International Rodeo Association, and won her title after consideration of 15 lovely ladies from all sections of the Nation, in a contest judged on appearance, personality, horsemanship, and the general qualifications of attractiveness, sincerity, integrity, intelligence, maturity, and high moral standards.

The Miss Rodeo, U.S.A. 1972 Pageant, under Pageant Director Jackie Thompson, included a style show, horsemanship events, and press interviews.

Miss Jowers is to be congratulated on winning a competition in which all contestants must be graced with the highest degree of attractiveness and good grooming, intelligence, conversational ability, a sense of humor and a genuine interest in other people.

As rodeo's spokesman throughout the country, Miss Jowers represents a sport and a sanctioning organization, International Rodeo Association, that has steadfastly resisted exploitation and overorganization—one in which personal initiative and pride of performance are the marks of an individual. Rodeo cowboys remain independent, self-reliant, and unique, in an age of regimentation and "follow the leader."

I am proud to salute Brenda Jowers as a most fitting representative of the fine qualities of professional cowboy rodeo, in her new role as Miss Rodeo, U.S.A.

## OUR NATIONAL SUMMER RECREATION AND PARKS PROGRAM

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, 2 weeks ago, I arranged for a special order of the House in order to praise the Bureau of Outdoor Recreation for their role in our national summer recreation and parks program. I reiterate—the BOR has been an invaluable asset in providing technical assistance on both the Federal and local levels to summer recreation programs. Without the Bureau, the vast majority of these programs would not have survived the bureaucratic chaos that perennially seems to plague summer recreation.

In the past few days I have been reviewing the program guide for the 1972 recreation support program published by the Manpower Administration of the U.S. Department of Labor. The only encouraging factor of this program guide is that it does not claim to be a policy statement by the Department of Labor.

The recreation support program—RSP—was not intended to be a job oriented program. It is only because of the Bureau that the recreation support program has managed to remain a reasonable facsimile of its intended purpose. It now appears that the Manpower Administration plans to have BOR reduced to a solely advisory role. This action will have the effect of eliminating BOR as a technical adviser to city programers. It will make BOR impotent in assisting, on any level, the implementation of the RSP. In short, it will all but eliminate BOR from the RS program.

Mr. Speaker, the recreation support program is being treated unfairly by the Department of Labor. It is being remolded into a job oriented program under the guise of a recreation program.

I have continually urged a reevaluation and a reorganization of our national recreation programs. We have, and rightly so, paid strenuous attention to employing our youth during those potentially volatile summer months. The Department of Labor's Neighborhood Youth Corps has proved to be a highly successful and most necessary program. I cannot commend the Department of

Labor and the Manpower Administration enough for the excellent job they are doing with NYC. But, recreation support was not meant to be a part of NYC. It is not a summer job program. It is a recreation program—a program designed to provide quality recreation facilities and meaningful experiences to all of this Nation's youth. The RSP cannot and should not fulfill the designs described in the manpower program guide. By eliminating BOR from its already too restricted position in regards to recreation support, the Department of Labor has implied that RSP will, if not this summer, then by summer 1973, be nonexistent as we now know it. We cannot allow this to happen.

The recreation support program must be allowed to continue to provide the programs that our Nation, particularly our cities, so desperately needs. The RSP can and should work concurrently with the Neighborhood Youth Corps and other summer job programs. It is both natural and logical that the Department of Labor should administer the job related summer youth programs. It is unnatural and illogical that recreation support, whose sole purpose should be to fulfill national recreational needs, should be administered as though it were a job program. The RSP is, and must remain, primarily a program that provides a means to creatively use leisure time for diversion, self-expression, and cultural enrichment.

Mr. Speaker, I strongly urge the Department of Labor and the Manpower Administration to reevaluate its 1972 guidelines concerning the RSP and the role of the Bureau of Outdoor Recreation. It is imperative that this program function as it was intended to function—as a recreation program. It is also imperative that the agency with the most expertise in the recreation field be allowed to make use of its expertise.

## SALES PLAN FOR THE ANGLO-FRENCH CONCORDE—CAN AMERICA AFFORD NOT TO DEVELOP THE SST?

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WILLIAMS. Mr. Speaker, this country has withdrawn from the effort to construct a supersonic transport aircraft, leaving the field to the Anglo-French joint venture and the Soviets. Recently, the Journal of Commerce, a New York business newspaper, reported on the sales plans for the Anglo-French Concorde.

There were several very interesting aspects of the announced plans that I would like to share with my colleagues. We all know that it will be difficult for an airline to operate the Concorde at a profit, due to its limited capacity. However, to make the aircraft easier to sell, the price will be so low as to preclude the recovery of the research and development costs already invested by the British and French Governments.

The price of the Concorde is to be based on $32.5 million each. At this price, it will be impossible to recoup any more than a small percentage of the $2.2 billion already expended in R. & D. The builders of the aircraft are being further aided by loans of $500 million from the British and French Governments to cover early production costs.

There are also indications that the Anglo-French National Airlines will be allowed to purchase the first production Concordes for somewhat less than the $32.5 million figure.

At this time 16 airlines have already taken options on 74 Concordes. At $32.5 million each that is a total of over $2.4 billion. I cannot help but think how welcome that expenditure would be to our own ailing aerospace industry.

If the noise and some other remaining problems are solved, then we may expect to see most international airlines eventually entering SST service. The minimum investment will almost certainly be for three aircraft with spare parts and service installations. This represents at least $125 million just to inaugurate service.

The Anglo-French producers are planning to have the first production aircraft ready for delivery into commercial service by the end of 1975. By 1980 they expect to have sold at least 250 Concordes, over $8 billion in sales.

There is no doubt that this volume of business would do much to revive the sagging U.S. aviation industry, but it is not to be. Eight billion dollars will pay the salaries of many jobs, but they will not be American jobs. Eight billion dollars will mean years of knowledge and experience, but it will not be American knowledge and experience.

Mr. Speaker, I would remind my colleagues, in conclusion, that the cost of developing an American SST would have been great, but the cost of not developing one may be even greater. Can we afford it?

## EXTENDING UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

(Mr. LANDRUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANDRUM. Mr. Speaker, I am today on behalf of myself, Mr. FLYNT, Mr. STEPHENS, Mr. DAVIS, of Georgia, Mr. STUCKEY, and Mr. MATHIS of Georgia introducing a bill to extend for an additional year certain provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Under this act, which was signed into law by the President on January 2, 1971, an effective date clause requires compliance no later than July 1, 1972. Should a State for any reason be unable to comply, this act provides for a total cessation of the flow of Federal funds into programs within the State which displace individuals or businesses from their premises.

In my own State of Georgia, for example, shortly after the passage of this act, the Governor appointed a committee to study such legislative changes as might be needed in order to comply with the Federal mandate. This committee has now advised that they cannot find constitutional authority common to all public bodies which would authorize implementation of the Relocation Act by all public bodies in the State.

Based on the recommendation of this committee and with the support of the State administration an amendment to the Georgia constitution has been proposed in order to assure all public bodies within this compliance. However, unfortunately, this resolution cannot be considered by the people of the State until the general election which is to be held in the fall of this year—well after the present compliance deadline.

In view of this existing condition in Georgia and, possibly other States as well, I am convinced that additional time for compliance and for continuation of Federal assistance in this area is required. To make this necessity a reality I offer for consideration this legislation to amend the present law, allowing for this more realistic compliance date.

## CIVIL SERVICE REDUCTIONS—SAVINGS OR ADDED EXPENSES?

(Mr. HENDERSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HENDERSON. Mr. Speaker, an official in the Office of Management and Budget, Mr. David P. Taylor, an assistant director, has indicated to the Manpower and Civil Service Subcommittee that the 5-percent personnel reduction, by the President last August, is not meant to result in the contracting out of work by the departments and agencies. This is the statement from the executive office of the President—and I quote:

> Contracts with private firms or individuals will not be increased or used as a way to circumvent the required reductions in employment.

This is certainly a laudatory statement on the part of the executive offices and I applaud them for their stand.

However, I fear that top management in the Government is not adequately monitoring this current 5-percent reduction. Weekly our subcommittee is learning of instances where this reduction is actually resulting in increased labor costs to the American people. Let us look at a few examples.

The Navy has just recently canceled a program that would have replaced 600 contract technicians with civil service employees at a savings of $6 million dollars annually. Why? We were told it was due to the 5-percent ceiling restriction on Navy.

Recently the General Services Administration issued reduction-in-force notices to 50 Government chauffeurs at the Kennedy Space Center. The work is to be done by more expensive contractor-furnished personnel.

At the Navy's supply center in Oakland, Calif., support work, formerly done in-house, is now being performed at increased costs off the base. Why? Because civil service vacancies could not be filled.

Our subcommittee staff has recently returned from a review of manpower management at the Marshall Space Flight Center in Alabama. At this NASA activity hundreds of personnel are being furnished by contractors to work alongside Government employees. The reason; namely, a restriction on the number of civil service personnel that can be hired.

The Federal Government's recent experiences in manpower managing have revealed that the only realistic way to save tax dollars is through a control of all sources of labor available to our Government's managers. In the military departments military men have been placed in civilian-type jobs at the expense of our combat potential. Throughout the departments and agencies, both civilian and military, tens of thousands of personnel are being obtained from contractors to perform personal service work, frequently working alongside civil service employees. In most cases the contractor-supplied worker is considerably more expensive than the Government's civilian worker.

In the name of the American taxpayer, I suggest an increased interest by my colleagues in this area and urge a much more active monitorship on the part of top management in the departments and agencies of the Government.

## THE EMERGENCY MEDICAL SERVICES ACT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ROBISON) is recognized for 10 minutes.

Mr ROBISON of New York. Mr. Speaker, I join my colleague from West Virginia (Mr. MOLLOHAN), today, in reintroducing the "Emergency Medical Services Act," which has now been cosponsored by 21 of our colleagues.

Those who are interested in the subject of this bill can be gratified by the response the "Emergency Medical Services Act" and related proposals have generated throughout the country. The consumer activitism which is making an impact on so many sectors of the economy is similarly being felt in the area of health care, and an increasing number of citizens are asking why this country's emergency medical services capability is so uneven. During those times when quick and competent medical attention is critically needed—in an accident, when a heart attack strikes, or during a sudden natural disaster—too many citizens have found that emergency treatment was not available.

The properly equipped ambulance, the adequately trained attendant or paramedic were not there for a variety of reasons: Because many communities cannot bear the expense of a well-equipped, well-trained ambulance corps; because ambulance service has been too often delegated to the small businessman, who does not have sufficient resources to do anything more than run a fancy "taxi" service; and, most probably, because most of us do not like to think about such things as ambulances, which usually signal to personal tragedy and huge medical bills.

Yet, we are now beginning to survey the problem, to make improvement, and even to ask about the optimum emergency medical response achievable.

To counteract the death-laden statistics so often used to demonstrate the pitiful state of present emergency medical services, we can point to the notable successes of Jacksonville, Fla., Baltimore, Md., and several other cities, which have gone to considerable trouble and expense to provide sufficient numbers of well-equipped ambulances, staffed by trained attendants or paramedics. In the best of these emergency medical systems, there are adequately staffed emergency rooms and trauma wards waiting and in radio contact with ambulance crews. The new TV program, "Emergency," depicts the kind of professional response which can be expected in a properly equipped and coordinated emergency medical system. It is clear that such a system is very much the exception in our country, and Congressman MOLLOHAN and I strongly feel that the "Emergency Medical Services Act" can do something about that.

We are offering a proposal which will centralize responsibility for Federal Government support of local ambulance corps and emergency receiving facilities. A new Emergency Medical Services Administration, as proposed in our act, would dispense and monitor all Federal grants to these services, and would set badly needed standards for ambulance facilities and attendant training. Further, this new office would guarantee that any future Federal moneys spent on emergency medical services will go only to those services which meet acceptable professional standards. With our past thoroughness in placing restrictions on Federal grant programs, it is a bit surprising that such programs as "medicare" will presently pay for ambulance service of any quality.

There are many other Federal departments and agencies somehow tied in with emergency medical services—some 25 at the last count of the National Academy of Science. Those medical professionals who are determined to make some improvement in this area of health care are currently confusing themselves by trying to figure out why so many Federal agencies are involved.

Clearly, the first order of business is to lend some order to this bureaucratic chaos. This we do in the "Emergency Medical Services Act." Then, the Federal Government must demand that a proper level of professionalism is achieved in those areas where Federal funding is involved. Finally, there is the larger responsibility to assure that every citizen receives competent and timely emergency treatment.

The "Emergency Medical Services Act" will put the Federal effort on a proper footing to work toward all of these ends. We welcome the sponsorship and support of our colleagues.

## EMERGENCY MEDICAL SERVICES ACT REINTRODUCED

The SPEAKER. Under a previous order of the House, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 5 minutes.

Mr. MOLLOHAN. Mr. Speaker, my colleague, the Honorable HOWARD W. ROBISON, and I are reintroducing with cosponsors H.R. 12787, the Emergency Medical Services Act, which we first introduced on January 31.

Twenty-four other Members are joining us in this effort to gain a coordinated Federal program to upgrade the quality of ambulance and hospital emergency room care.

On February 23, the Honorable GEORGE MCGOVERN introduced the legislation in the Senate as an integral part of his comprehensive emergency health care proposals, and we can expect further initiative in this field in the Senate.

The realization that we as a Nation now have the technological and manpower capacity to save the lives of thousands of highway and accident victims is now resulting in serious discussion and legislative proposals, and this concern is truly one that crosses party lines.

Chairman PAUL ROGERS of the Public Health and Environment Subcommittee introduced major legislation last month to amend the Public Health Service Act to make funds available for ambulance services through the Department of Health, Education, and Welfare.

And this growing recognition of the need for reform in this area was given invaluable impetus from President Nixon who, in his state of the Union address, called upon the Department of Health, Education, and Welfare to develop new programs to save the lives of those injured in highway and other accidents, as well as those suffering from medical emergencies of other kinds.

Consider, for instance, one side of the emergency health care problem; namely, that of ambulance care. We know, through the efforts of the National Highway Traffic Safety Administration, the National Academy of Sciences, and the Division of Emergency Health Services, that far too many ambulances in the Nation are underequipped with the recommended lifesaving devices and that far too many ambulance attendants are medically unskilled.

The thrust of this legislation is to change this condition by helping communities finance their own ambulance corps, operated as a third public service or under the auspices and direction of the local government.

## REPORT ON THE RECENT GENERAL ASSEMBLY OF THE CROATIAN ACADEMY OF AMERICA

Mr. SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. BEGICH) is recognized for 5 minutes.

Mr. BEGICH. Mr. Speaker, the Croatian Academy of America, Inc., held its 18th Annual General Assembly on January 29, 1972, at the New York Hilton Hotel.

To the new executive council, headed by Prof. Dusko I. Duisin, of Iona College, N.Y., as president, and Dr. Rudolf M. Baricevic, of New York City, as executive secretary, were elected members from various parts of the United States and Canada.

The Croatian Academy of America is

an association of Americans of Croatian descent interested in and dedicated to study of the history and culture of Croatia and specifically to research on the contributions of Americans of Croatian descent to our national culture. Recently a member of the academy, Dr. George Prpich, professor of history at John Carroll University in Cleveland, has published a well-documented book on Croatian immigrants in the United States.

The academy issues annually a scholarly publication, the Journal of Croatian Studies, which has attained an international leadership among the academic communities.

After an exhaustive analysis and discussion of disturbing and ominous events which continue to run their course unabated in Yugoslavia, and particularly throughout the Republic of Croatia, the annual general assembly has unanimously adopted the following statement, which I would like to share with my colleagues today:

Statement of the Annual General Assembly of the Croatian Academy of America, Issued on January 29, 1972, in New York, N.Y.

The Croatian Academy of America is deeply distressed by the developments which have been taking place in Croatia in the last few months, and especially since December 1971. According to reports of foreign correspondents and accounts in the government controlled press of Yugoslavia, it is possible to establish the following facts:

The drastic measures carried out by the President of Yugoslavia, with the support of the military and the police, were aimed at the destruction of the liberalizing forces in the government of the Socialist Republic of Croatia which were acting within the framework of the Yugoslav constitution as it has recently been amended to insure greater freedom to individuals and to the Croatian nation as a whole. Following these political changes, the destruction of the cultural life of the Croatian people has been ordered.

Under the guise of a struggle against Croatian "nationalism", "separatism", "class enemies", "rotten liberalism", and "counter-revolutionary forces", the full force of the totalitarian state has been unleashed once again to crush the aspirations and the rights of the Republic of Croatia and its people by repression reminiscent of the post-war Stalinist period in East Central Europe.

The federal government in Belgrade and the new government of the Socialist Republic of Croatia are seeking to achieve these objectives by illegal and violent means, a fact which is clearly illustrated by the following instances:

The government has accused the Croatian University in Zagreb with its extensions in Rijeka, Zadar, and Split, and its students and professors, of "counter-revolutionary" activities. The president of the University is facing dismissal; the student pro-rector has been imprisoned together with a number of professors and several hundred students. Many of those imprisoned have been beaten and abused by the police.

Matica Hrvatska, the venerable Croatian cultural institution dating back 130 years, has been placed under police control, and most of its local branches have been dissolved. Several of Matica's periodical publications, notably the *Hrvatski Tjednik*, have been suppressed. Most of the members of Matica's board have been imprisoned and are facing trial on trumped-up charges of treason. Similarly, numerous other Croatian intellectual and student publications have been banned, such as *Hrvatsko Sveuciliste*, *Hrvatski Gospodarski List*, *Tlo*, *Istarski Mozaik*, *Praxis*, and others. The directors of Skolska Knjiga, the publishing house for Croatian school textbooks, have been removed, and textbooks in Croatian history and culture have actually been burned.

Editors and writers of a number of mass circulation publications have been ousted by the police in total disregard of legal procedures. Among these are the editor-in-chief of the principal Croatian mass-circulation weekly, *Vjesnik u Srijedu*, and several of its editorial writers, along with many of the writers and editors of the principal Zagreb daily, *Vjesnik*.

Hundreds of other individuals, including writers, economists, educators, and journalists, have been purged and/or arrested. This purge constitutes, in all probability, the most systematic attack on the intellectual elite of the Croatian people in history.

All of this has been done by brutal police methods and in total disregard of the legal obligations undertaken by Yugoslavia as a signatory of the Charter of the United Nations, in violation of its Constitution which guarantees national and civil rights, and in blatant disrespect of the basic human freedoms of thought, opinion and expression, and peaceful assembly and association, as proclaimed in the Universal Declaration of Human Rights.

History, however, teaches that political questions cannot be permanently solved by oppression, terror, and suppression of basic human rights. On the contrary, such methods lead to further conflict and are censured by world opinion.

The Croatian people, like all other nations, have an inalienable right to national self-determination and statehood, recognized by the present Yugoslav Constitution, but denied the Croatian people in actuality. Police terror and repression will only strengthen the resistance of the Croatian people and their firm resolve to achieve their legitimate national sovereignty.

The Croatian Academy of America feels impelled to speak out on the tragic developments in Croatia. We do so not only as an association of Americans of Croatian descent, but also as members of the academic community who protest against the crass suppression of the cultural life, the national self-determination, and the human rights of the Croatian people.

We, therefore, call on the academic community and public to protest the persecution and arrest of hundreds of Croatian professors and students and demand their immediate release. We also appeal to our American academic colleagues to help us in our demand for the restoration of constitutional liberties and individual and national rights in Croatia.

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## INTRODUCTION OF LEGISLATIVE PACKAGE TO AID THE ELDERLY

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Mrs. Abzug) is recognized for 30 minutes.

Mrs. ABZUG. Mr. Speaker, many members of our older population, which is one of this country's most precious resources, are slowly sinking into the depths and despair of poverty. As the number of older persons continues to grow, the number of elderly poor continues to increase.

Seventy percent of all single women and 32 percent of all single men over the age of 65 have incomes of less than $2,670 per year. Low income and poverty in old age are not transitional problems or difficulties that will solve themselves. They are problems crying out for immediate national attention and solution, for the inflationary economic trends of the last few decades have made them especially acute.

Nearly nine out of every 10 older people presently receive Social Security benefits. For many, this is the major or only source of income. Of the people over 65, one-tenth receive old age assistance and more than half receive supplementation of inadequate social security benefits. Despite increases in social security benefits—grudgingly approved by the Nixon administration—the elderly find it increasingly difficult to make ends meet. It is surprising that they can live on what little income they do receive. Eight out of every 10 dollars is allocated to housing, food, transportation, and medical care. These are items required for day-to-day survival. They are not expenditures that can be postponed until the price is right.

This Nation has experienced unprecedented price increases: increases in the Consumer Price Index of 5.4 percent in 1969 and 6 percent in 1970 were the sharpest rises in decades. As of August 1971, the cost of living had registered increases for 55 consecutive months, the longest unbroken string in the 58-year history of the Consumer Price Index. Even more important, many of the price increases have been especially steep for the items upon which the elderly are most dependent.

The hard facts are these: not only are our elderly poor, but they also live daily with chronic and debilitating illness. More than three-quarters of our aged suffer from at least one chronic disease; one-half suffer from two or more. The incidence of illness increases as income decreases, and the recent trend of "medical starvation" continues to take its toll. The average out-of-pocket health cost for the elderly was $248 in 1969. Costs such as these cannot be borne by persons living in abject poverty. Medicare does not provide enough financial relief to pay the cost of the medical needs of the elderly. In New York City, for example, almost all persons over 65 are enrolled in one or both parts of medicare, and about 210,000 are covered by medicaid. It might seem at first glance that older people have to pay very little of their medical expenses, but this is just not so. In 1969, with medicare in full force and effect, older people were still paying an average of 30 percent of their medical costs out of their own pockets. Many people simply cannot afford the costs of prescription drugs, eye and dental examinations and care, or even the $48 annual premium for medicare.

In the last year, medical costs have risen 10 percent, hospital charges have increased 65 percent, doctors' fees have risen 12 percent, and drugs have gone up 5 percent. The overall increase for medical expenses is zero percent above the 1957–59 base. Despite these facts, the administration has announced that the elderly will soon pay $69 instead of the present $60 for each hospitalization under medicare.

Another serious medical problem affecting older people is fragmentation of services. The general practitioner has almost vanished from the American scene, and there are only 50 doctors per 100,000 people in the inner city areas where so many older individuals live. It is not unusual for an older person to have to drag himself from clinic to clinic, doctor to doctor for any sort of medical attention. Each organizational deficiency causes financial and social hardships for the elderly, and their needs become intensified as their physical suffering is further neglected. All this is further complicated by the lack of preventive care for the elderly.

Since 1957, housing costs have risen by more than 25 percent. Some home ownership costs have seen much sharper rises, threatening the continuing ability of the older person to own his home; this may be his major form of accumulating an asset that will be available after retirement has halved his income. Property taxes have risen by nearly 50 percent throughout the Nation. Property insurance rates are up more than 60 percent, and so are the costs of home maintenance and repairs.

It is a typical pattern for many elderly, especially those who are widowed: Income does down, and it becomes more and more difficult—financially and otherwise—to manage a large house. Eventually, a couple decides that the ease of apartment living would make the switch worthwhile. But, with reduced income and special needs such as being near shopping areas and public transportation facilities, it is tough to compete with younger people for the few available apartments. In times of low vacancy rates, the elderly are forced to accept run-down apartments despite their inability to make full and easy use of them.

The Senate Select Committee on Aging has concluded that although new housing construction for the elderly over the last decade has been keeping pace with newly developing needs, it has made no significant inroads on the preexisting need. The Department of Housing and Urban Development states that in the past 10 years, 43,500 apartment units were provided under section 202 of the Federal Housing Act. The Senate Committee estimates that a minimum of 3,000,000 units are needed today.

Congress in 1970 voted a $10 million appropriation for section 202 construction, but the Nixon administration impounded this money and refused to spend it. The 202 program, which is especially designed to provide housing for the elderly, had been considered the most successful of all housing programs in this area, but it has been combined with—or more correctly, submerged in—housing programs for low and moderate income people generally.

Older Americans rank transportation as one of their major problems. After food and housing, it is the top expenditure in their budgets, accounting for about 9 cents out of every dollar of the average retired person's expenditures. Without adequate transportation, the elderly are denied access to shopping areas, recreational facilities, gainful employment, and social contacts. Cut off from these vital contacts, many of the elderly find themselves in isolation, often resulting in mental and physical deterioration.

Senior citizens and their advocates see the need for Federal aid to improve mass transportation systems and facilities. Such improvements, though, will not be completed on any large scale within the near future, and we cannot ignore the needs of those needing transportation until such times as massive improvements have been effected.

I am introducing today eight bills that aim toward resolving some of the problems that I have previously mentioned.

### DEPARTMENT OF ELDER AFFAIRS

I am introducing a bill to create a Cabinet-level Department of Elder Affairs. The elderly represent one-tenth of our population, and a Cabinet-level department is needed to approach and solve their problems in a comprehensive, coordinated manner.

### SOCIAL SECURITY

The Social Security Act would be amended to provide a 25-percent across-the-board benefit increase with subsequent cost-of-living increases. There would be a minimum annual income of $4,500 for a couple and $3,375 for an individual. The bill liberalizes the earnings test to $3,400 per year, eliminates the actuarial reduction in widow's and widower's benefits in cases of disability, and makes certain conditions requiring substantially continuous care eligible for disability benefits.

Under the present law, a disabled widow or widower who retires between the ages of 50 and 60 is forced to accept reduced benefits. These are the people who are most often suffering from catastrophic illnesses, who are living in or near poverty, and who are pressed ever deeper into debt by the high cost of medical care. This bill aims at helping these individuals stay out of poverty, as well as helping all older individuals to have a decent, assured standard of living.

The bill provides for an equitable payroll tax rate that removes the existing ceiling on the amount of wage on which taxation is levied. The burden would no longer be concentrated solely upon those workers earning $7,800 or less, but would be borne by all workers.

### MEDICARE

Until an adequate national health insurance plan becomes a reality, medicare remains a viable alternative for the elderly. The medicare bill which I am introducing proposes to amend title XVIII of the Social Security Act to eliminate all deductibles, coinsurance, cost sharing and time limitations presently applicable to benefits. Medicare would no longer be financed through premium payments, but wholly out of general revenue. The bill would expand medicare coverage to provide payment for eye care, dental care, hearing aids, prescription drugs, prosthetics, and various other items not now covered.

### HOUSING, INCLUDING SHELTER ALLOWANCES

Housing is another crucial problem for the elderly. Accordingly, I am introducing a bill that provides for shelter allowances to low and middle income elderly individuals. No person would have to pay more than 20 percent of his or her income for shelter. The bill is also designed to stimulate nonprofit organizations, consumer cooperatives, limited-profit sponsors, and public agencies to build housing for the elderly by providing direct loans for this purpose. It is intended to facilititate the provision of 50,000 additional units of housing for the elderly by 1977.

### PROPERTY TAX CREDITS

Another of the bills which I am introducing would provide tax relief to individuals 62 years of age and older who rent or own their homes. It would give them a credit against income tax for amounts paid in property taxes or, in the case of individuals who rent their homes, for 25 percent of their rent. If the credit so allowed exceeds the individual's income tax liability, he would receive a direct payment to cover the difference.

### PENSION REINSURANCE AND PORTABILITY

A bill to establish a pension reinsurance and portability program under the Department of Labor is also being introduced today. Many older people are deprived of their hard earned, well deserved, and desperately needed pensions due to the default or merger of companies for which they have worked. The purpose of this bill is to protect these people and also to allow a worker the freedom of changing jobs without losing his pension rights.

### EMPLOYMENT

I am also introducing a bill that provides for a comprehensive program of employment services and opportunities for older and middle-aged individuals. These workers often find themselves disadvantaged in their efforts to retain employment or to regain employment when displaced from long-time jobs. This legislation provides for a midcareer development service and training programs to upgrade skills; also, it increases the availability of work for older workers with Federal contractors and community service organizations and provides for counseling services.

### TRANSPORTATION

I am reintroducing today a bill which I originally introduced in October 1971. It would amend the Urban Mass Transportation Act to enable the Secretary of Transportation to provide grants to nonprofit groups who would provide transportation services to elderly and handicapped individuals. These groups could transport the elderly from their homes to hospitals, shopping centers, community centers, and recreational and cultural activities. Not only would this enable the older individuals to enrich their lives, but it would also allow them to be independent and to do many of the things they are not ordinarily able to do on their own. This type of legislation is only an interim solution for the inaccessibility of public transportation, but it is an immediate and necessary measure.

We in Congress must be advocates for this group of people. Steps must be taken to develop new programs so that the elderly can have incomes sufficient to take them out of poverty and enable them to spend their last days in security, health and comfort. We must provide adequate, low-cost housing, a health insurance plan that depends upon need, rather than wealth and does not demand out-of-pocket payments, social security benefits to insure an adequate income level, opportunities for gainful employment and education, and a single, high-level agency that will focus on problems and solutions for the aging.

Pertinent items follow:

### Declaration of Aging Rights

Humanity's fundamental rights are life, liberty and the pursuit of happiness. They are rights that belong to all, without regard for race or creed or sex. We declare that all people also inalienably possess these rights without regard for age.

As love and nourishment are due the infant, as education and guidance are due the child, as freedom to work and build and lead are due the grown man and woman, so also are certain conditions of justice due our older or retired citizens. Among these, we declare to be:

1. The right to live with sufficient means for decency and self-respect.
2. The right to move about freely, reasonably and conveniently.
3. The right to pursue a career or interest without penalty founded on age.
4. The right to be heard on all matters of general public interest.
5. The right to maintain health and well-being through preventive care and education.
6. The right to receive assistance in times of illness or need or other emergency.
7. The right to peace and privacy as well as participation.
8. The right to protection and safety amid the hazards of daily life.
9. The right to act together to seek redress of their grievances.
10. The right to live life fully and with honor—not for their age, but for their humanity.

This declaration is the sense of overwhelming numbers of older Americans on the occasion of the 1971 White House Conference on Aging, and to it they dedicate their solemn purpose.

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### Speech by Bella S. Abzug to National Council of Social Workers, December 15, 1971

At the turn of the century, there were 3 million older Americans—those aged 65 and over—comprising 4% of the total population. Today, some 20 million older individuals make up 10% of the total population. As the number of older Americans increases (and it will: the population 85 and older may double by 1985), the number of older people living in or near poverty will increase. The Bureau of Labor Statistics moderate budget for an urban retired couple issued in 1969 was $4,192 and $2,880 for an individual. Yet nearly 70% of all single women and 32% of all single men over 65 years of age had total incomes of less than $2,670. From 1968–1969, 250,000 more older person's income dropped below the poverty level. Yet many of these people did not become poor until they became old. Low income in old age is not a transitional problem. And given present trends, it is not a problem that will solve itself. Inflation is taking its toll, medical, housing, transportation, and food costs continue to increase. Assets are quickly exhausted and/or reduced. Increases in Social Security benefits are quickly eroded by these other rising costs.

The Federal government must take the responsibility to solve these problems that the elderly are faced with. New programs must be designed; more money must be allocated. We need an entirely new approach to the problems of the aging. Present trends will not do. I'd like to address myself to these present trends:

The Administration on Aging was created in 1965 as part of the Older American Act of that year. This agency was established within the Department of Health, Education, and Labor, but as an independent agency, responsible to the Secretary of Health, Education, and Welfare. It was supposed to serve as a focal point for all federal efforts on behalf of aging and aged Americans; it was given powers to issue grants for community projects, research, and training efforts. However, in 1967 it became a unit of the Social and Rehabilitation Service; and in 1970 and 1971, key projects and programs were removed from its direct jurisdiction, and absorbed with other units of SRS. The Nixon Administration's budget request for AoA amounted to only $29.5 million in 1971, a $2.5 million reduction from the previous fiscal year. Despite Mr. Nixon's promise to increase the budget to $100 million, prospects for the Administration on Aging accomplishing its functions is still remote. If this agency is going to continue to exist, it must return to its autonomous status and responsibility for programs and projects must be returned to it. Appropriating more money, but not delegating the AoA jurisdiction over its programs, is a half-hearted strategy.

Commissioner Martin (of the AoA) has repeatedly stressed the importance of viewing the Older Americans Act in the context of all federal efforts which attempt to meet the needs of older persons. I am in agreement with this Administration has applied this principle for a political and partisan purposes. On March 10, 1971, before the Select Subcommittee on Education of the House Committee on Education and Labor, Mr. Martin said:

"The basic strategy of this Administration with regard to meeting the needs of older persons is to provide them with increased purchasing power so that they can obtain needed goods and services with the greatest exercise of freedom. The Administration was pursuing this strategy when the President signed into law a 15% increase in Old Age and Survivors Insurance benefits effective January 1, 1970, and continues to pursue it by supporting another OASDI increase in 1972, retroactive to January 1971."

Now just how vigorously has this Administration pursued its strategy? The 15% increase in OASDI benefits was bitterly opposed by the President. He originally proposed a 7% increase to become effective in the Spring of 1970; an increase that would have been totally wiped out by rapidly rising prices. When the House Ways and Means Committee recommended a 15% increase, the President countered with an offer to support a 10% increase, and threatened to veto any increase greater than 10%. The Congress then attached the proposal for a 15% increase to tax reform legislation sought by the Administration, and the President withdrew his objection. The Congress legislated an additional increase of 10% in the beginning of the 92nd Congress in spite of Mr. Nixon's attempt to cut the increase back to 6%. But, again, this legislation had to be attached to other legislation needed by the Administration. Does this mean that Social Security increases, if they are to be acceptable to this Administration, cannot be assessed on their own merits, but must be tied to other legislation? If so, then the Older American Act cannot be viewed in context of all federal efforts attempting to meet the needs of the older person.

Let's turn now to what's been happening in the field of health: Utilization of physicians' services increases with old age. The elderly tend to spend a longer amount of time in hospitals. In 1964, New York City's aged population averaged 16.5 days per hospital stay, while the total population averaged 13.2 days per hospital stay. The group suffering the most are black people reaching old age—they are the victims of double jeopardy. Their earlier health and income deficiencies are severely compounded by the problems of old age.

The elderly are forced to spend a higher proportion of their incomes for health, even with Medicare. In 1969, with Medicare in full swing, older people were paying an average of 30% of their medical costs out of their own pockets. And this does not include the annual premium for Medicare. With family incomes of $2000 and $3000, medical bills for a couple could average $500 or upwards of a quarter of their incomes. It is estimated that with the general increase in medical costs in the last three years, the 20% co-insurance payment alone may be more than the individual's total payments for health services prior to Medicare. The implication of these facts is frightening when we bear in mind the low incomes of our older people. Fixed incomes, unlike doctors' and hospital fees, do not rise proportionately. And Medicare presently does not cover such items as eyeglasses, hearing aids, prescriptive drugs, or dental care.

The Nixon Proposal, HR 7741, as introduced by John Byrnes, concerns itself primarily with financing. It would use the private sector to finance and provide most health care and would continue Medicare for the elderly, but actually reduce coverage of the present program. For example, the plan calls for a reduction in the number of fully-covered hospital days from 60 to 13 and will probably raise the deductibles for hospital and doctors fees. This clearly shows not only a lack of understanding both of the needs of older people and the nature and purpose of Medicare, but shows a lack of commitment on behalf of the Administration to assume responsibility for our senior citizens.

A state of acute emergency exists now with respect to the housing conditions of the elderly—a denial of their dignity which compels them to live their later years in neglected dwellings in cities and in deprived rural areas. Although we do have a wide range of Federally financed programs for the elderly, the progress in providing elderly housing units over the past decade (an estimate of 375,000 units per year) is pathetic when one considers that there is a need for at least 3 million units.

Section 202 of the Federal Housing Act providing direct loans to non-profit organizations to build housing for the elderly was phased out in 1970 and subsumed under Section 236. Section 236 requires these non-profit organizations to compete in a tight and high interest mortgage market. Two million dollars has been appropriated for Section 202, but that money is impounded by the Office of Management and Budget. The general feeling, as expressed in the Report of the President's Task Force on the Aging of April 1970 described this 202 program as "a particularly effective program to meet the housing need of the elderly."

The developments of housing units for the elderly has been further blocked by the downgrading of concern within the Dept. of Housing and Urban Development. Up until 1969, HUD had a position of Assistant Secretary for Senior Housing. This position has been abolished.

This fact and the fact that Section 202 has been phased out is part of the present Administration's policy towards the elderly. Housing needs of the elderly have been submerged in a program of meeting the housing needs of the low-income generally. As the President's Task Force on Aging observed, "this will inevitably deny to the elderly consideration of their needs for special living arrangements." The record shows that this is happening.

The government has the responsibility to fulfill its advocacy role for this group of people. Steps must be taken to develop new programs so that the elderly would be able to have sufficient incomes in their old age to take all of them out of poverty, and enable them to spend their last years in security, health, and comfort. This means that we must provide adequate housing, at low cost, a health insurance plan that does not demand out of pocket payments, increases in Social Security benefits, and a high level agency, on a cabinet level, that will focus on the problems and solutions for the aging.

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[From the Christian Science Monitor, Nov. 29, 1971]

### HOW TO MAKE PROBLEMS OF ELDERLY MORE VISIBLE

(By Robert P. Hey)

WASHINGTON.—The 3,500 delegates to this second White House Conference on Aging have a broad mandate for a most important task.

The mandate is from President Nixon, offered two years ago when he announced that this conference would be held. He said then that "with careful advance planning and with broad, representative participation, this conference can help develop a more adequate national policy for older Americans."

The task seen by delegates and many specialists on problems of older Americans is to lay the groundwork for helping the elderly solve many of their most pressing problems: the need for personal fulfillment, adequate income, health care, and better housing and transportation, to name those most frequently cited.

Dr. Arthur S. Flemming, former secretary of health, education, and welfare, has led the planning of this conference. He has been careful not to specify exactly what he thinks this conference can accomplish.

But others who have been deeply involved in the planning of the conference expect, at the very least, that it will make the problems of older Americans more visible to the millions of younger wage earners who have paid them too little attention heretofore. Focusing public attention on the elderly's needs, they say, is a necessary first step toward meeting them.

Many involved in the conference have another expectation: that from the discussions and recommendations will come the groundwork of plans for meeting many of these needs—through government action at all levels, and through voluntary efforts and those of private industry. They point out that the previous conference, held early in 1961, helped pave the way for medicare, which now pays some 43 percent of the total annual health bill for older Americans; medicaid, which helps meet health needs of the poor of all ages; and the several recent increases in social-security benefits.

But the calling of this five-day conference is a reminder by itself that more needs to be done. On the eve of the conference's first meeting, Nov. 28, a Senate committee report pointed anew to the income needs of Americans over 65. And it offered recommendations.

The Senate Special Committee on Aging reported that one of every four Americans over 65—there are 20 million all together—lives on an annual income of $2,000 or less. One in four elderly Americans, it said, is defined by government standards as officially poor compared with one in nine under 65.

The committee recommended that Congress pass legislation to raise the income level of all older Americans to the poverty level—which is an average of $1,852 for single persons 65 and older, and $2,328 for couples. The committee recommended a combination of social-security increases, and federal income supplements.

In its report the committee warned that a new group of elderly poor appears to be in the making. It said that many older workers, from their mid-50's and above, are being eased out of the labor market, losing their jobs for one reason or another. Once they lose jobs, older workers often find it most difficult to get others. The committee said more and more older workers are finding themselves in this no-man's land—too old to find proper jobs, yet too young to retire.

The committee reported that approximately one million Americans over 45 now are unemployed—some 67 percent more than 2½ years ago.

The current conference is organized in 14 sections. Nine are principal areas of concern of the nation's elderly: education; employment and retirement; health; housing; income; nutrition; retirement roles and activities; spiritual well-being; and transportation.

The other five sections are ways of meeting these needs: facilities, programs, and services; government and nongovernment organization; planning; research and demonstration; and training.

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### WHITE HOUSE CONFERENCE ON AGING—NOVEMBER 28–DECEMBER 2, 1971

### WHITE HOUSE CONFERENCE REPORT A CHALLENGE FOR THE SEVENTIES

#### *Income*

*Income adequacy.* The immediate goal for older people is total cash income in accordance with the American standard of living.

We therefore recommend adoption now, as the minimum standard of income, the intermediate budget for an elderly couple prepared by the (U.S. Labor Department) Bureau of Labor Statistics, averaging about $4,500 a year nationally as of Spring, 1970.

For single individuals, the minimum income should be sufficient to maintain the same standard of living as for couples (no less than 75 per cent of the couple' budget).

For the elderly handicapped with higher living expenses, the budget should be appropriately adjusted.

*Floor of income.* The basic floor of income for older people should be provided through a combination of payments from the Social Security system and payments from Federal general tax revenues.

In addition, there should be a supplementary payment system, based on an income test, to bring substandard incomes up to the minimum, financed entirely from Federal Government general revenues and included in a single check paid by the Social Security Administration.

*Widow's benefits.* Increasing numbers of women without dependent children who have not been regularly employed are becoming widowed before age 60. We recommend that they be eligible to receive widow's benefits starting at age 50 to help fill the income gap until they are eligible at a later age to receive their Social Security benefit.

*Liberalizing the retirement test.* The exempt amount of earnings under the Social Security retirement test should be increased to not less than $3,000 a year (adjusted periodically to changes in the general level of wages).

The offset formula of $1 reduction in benefits for each $2 of earnings should apply to all earnings in excess of the exempt amount.

Eliminating the test entirely would cost an additional $3 billion, and there are more urgent needs to which this sum could be applied than paying Social Security benefits to persons who are still employed at more than the exempt levels.

*Private pensions.* Social Security benefits provide a basic protection which should continue to be improved but which can be augmented through private pension plans.

The Federal Government should take action to encourage broader coverage under private pension plans and ensure receipt of benefits by workers and their survivors. It should require early vesting and/or portability, survivor benefits, and complete disclosure to beneficiaries of eligibility and benefit provisions of the plans. In addition, Federal requirements should assure fiduciary responsibility, minimum funding requirements and protection, through reinsurance and other measures of promised benefits.

*Remission of property taxes.* It is desirable that older persons be enabled to live in their own homes.

States and localities should be encouraged to remit part or all of the residential property taxes on housing occupied by older persons as owners or tenants who qualify on the basis of an appropriate measure of income and assets. Remission is to be achieved by Federal grants to States and State grants to local taxing authorities to compensate for reduced revenues.

*Meeting health needs.* This nation can never attain a reasonable goal of income security so long as heavy and unpredictable health costs threaten incomes of the aged.

Priority consideration should be given to the establishment of a comprehensive national health security program which would include the aged as well as the rest of the population. Financing the program solely through wage and payroll taxes and contributions from Federal general revenues would ensure that health care expenses would be a shared responsibility of the government, employers and individuals. There should be no deductibles, co-payments, or co-insurance.

Until such a system is established, the benefits of Medicare-Medicaid should be increased immediately to include, at a minimum, out-of-hospital drugs; care of the eyes, ears, teeth, and feet (including eyeglasses, hearing aids, dentures, etc.); and improved services for long-term care and expanded and broadened services in the home and other alternatives to institutional care. Here, too, there should be no deductibles, co-payments, or co-insurance.

Government should assume responsibility for assuring an adequate supply of health manpower and essential facilities and for improving the organization and delivery of health services.

A special committee of the House of Representatives should be established which will devote its attention to all social and economic problems of the aged, including income, health, housing, and other needs areas reflected in the organization of this Conference.

Our nation has the resources to effectively carry out the proposals made by this Section, provided there is a reordering of national priorities.

#### *Health*

Health care for the aging must be provided as an integral part of a coordinated system that assures comprehensive health services to the total population, but immediate and special consideration and emphasis must be given problems of, and services for, the aging.

A comprehensive health care plan for all persons should be legislated and financed through a National Health Plan.

#### *Medicare should be expanded*

Pending the achievement of such a National Health Plan, the complete range of health care services for the elderly must be provided by expanding the legislation and financing of Medicare.

Such expanded financing should be accomplished by use of Social Security trust funds and a greatly expanded use of Federal revenues.

Such expansion of Medicare should include elimination of deductibles, co-insurance and co-payments, and all provisions discriminatory to the mentally ill as well as the establishment of the same ages for Medicare and Social Security benefit eligibility.

Both the immediate expansion of the current program and a future National Health Plan should provide for a public/private partnership in the delivery of services and for Federal financing and quality controls in order to assure uniform benefits and uniform application of the standards of quality.

Centralized responsibility for standards and control over health facilities and services must be combined with protection, for the patient and provider, from arbitrary, capricious, and varied application and interpretation of existing as well as new standards. To be comprehensive and systematic, this health care must provide:

Assessment of health;

Education to preserve health;

Appropriate preventive and outreach services;

All physical, mental, social and supportive services necessary to maintain or restore health;

Rehabilitation, health maintenance and long-term care when disability occurs.

Community and consumer participation in the planning and delivery of such a system of services will tend to assure the responsiveness of the system to locally defined community need and the appropriate use of health manpower, facilities, and financing.

Information on all aspects of aging (including physical, mental and other aspects) should be included in educational courses at all levels. The elderly should be among those recruited, trained and utilized in carrying out these programs.

### Special Attention to Research

Development of specialists in the care of the elderly should receive emphasis, especially with a view to providing professional and other health personnel selected and trained to give compassionate and expert care to the aged.

Emphasis should be placed on funding direct services for the elderly but not to the exclusion of research and education. Research findings now available should be assembled, coordinated and incorporated into service programs.

Specific attention should be given to increasing funds available for basic as well as operational research with a strong suggestion that a Gerontological Institute be established within the National Institutes of Health to provide essential coordination of training and research activities in the area of aging.

A center for aging should be established in the National Institute of Mental Health to meet the responsibilities for more research and training in the field of mental health of the elderly.

The President and Congress should authorize the appointment of a Commission on Aging, including a Committee on Mental Health of the Elderly, comprised of representatives from concerned Federal agencies, national organizations, Congress, the judiciary, and private citizens to study, evaluate, and recommend a comprehensive set of policies for the Federal Government, the States, and local communities to pursue in this vital area.

### LEGAL PROTECTION FOR ELDERLY

Congress should appoint a nationwide interdisciplinary committee to determine the scope and type of *intervention procedures* and *protective services* that would clearly protect the rights of the individual with health, mental health, and emotional problems requiring care. The rights of the patient's immediate family and other close associates should be considered.

This committee should include representatives of the religious, civil rights, civil liberties, legal, health and social services communities. Congress should appropriate sufficient funds to assure an in-depth study of all aspects of the individual's rights in relation to his needs for health services and the administration of the patient's affairs until he can resume normal life.

Intervention procedures and protective services also should assure for elderly individuals their rights of self-determination in their use of health facilities and services.

In order to promote and encourage the establishment of ombudsman services (informal adjudication of public complaints), a nationwide interdisciplinary committee, or other suitable means, should be used to study and define the functions and roles of ombudsmen as separate and distinct, conceptually and in practice, from other protective services and from consumer participation in health care services and other matters affecting the elderly.

Some other urgent health concerns include: preventive dental health measures to slow or halt chronic dental disease; special health education programs for disadvantaged minorities, ethnic groups, residents of rural areas and other special groups; immediate steps to control spiraling costs of health services; transportation improvements with specific attention to the elderly and disabled; improved Federal inter-agency collaboration in health care.

### *Housing*

Funds to support a massive and varied housing program and mechanisms for assuring appropriate services are essential to the well-being of the nation's elderly.

A decent and safe living environment is an inherent right of all elderly citizens.

It should become an actuality at the earliest possible time. A fixed proportion of all government funds—Federal, State and local—allocated to housing and related services should be earmarked for housing for the elderly.

Production of 120,000 units a year of housing for the elderly should be undertaken. (Production of housing units for the elderly average 37,000 a year over the last 10 years.)

A variety of living arrangements should be made available to meet the changing needs of the elderly including residentially oriented settings for those who need differing levels of assistance. There should be housing for independent living with recreational and activity programs within easy access, congregate housing with food and personal services provided, facilities with medical and homemaker services as well as food service, and long-term care facilities for the chronically ill.

The Federal and State Governments should provide mechanisms to make possible property tax relief for the elderly home owner or renter.

At least 25 per cent of all elderly housing should be reserved for the elderly poor—those with incomes at or below the poverty level.

Federal agencies dealing with housing for the elderly should establish multi-disciplinary teams (made up of architects, engineers, medical personnel, gerontologists and other experts) to formulate guidelines for architectural standards based on the needs of the elderly. These teams should have authority to review and approve innovative housing proposals.

The Federal Government should encourage preservation of neighborhoods of special character through rehabilitation and/or selective replacement of substandard dwellings with new dwellings, permitting the elderly of the area to remain in a familiar environment.

### Rent Supplements Should Go Up

The Federal rent supplement program should be enlarged and eligibility for participation in the program expanded.

Financial incentives should be available to families providing housing and related care in their own homes or in appropriate accommodations for elderly relatives.

Interest-free, non-amortized loans should be available to elderly home owners to help them meet home maintenance costs, the amount of the loan to be related to income with repayment required only upon the death of the borrower or transfer of the property.

Competent service to the elderly in the area of housing requires sound research widely disseminated and utilized. Such research should cover the physical, psychological and social aspects of housing in relation to the needs of the elderly.

Housing funds impounded by the Administration should be released, and the highly effective Section 202 of the Federal Housing Act—with its special guidelines related to space, design, construction and particularly favorable financing—should be restored. (Section 202 has become a dead letter under the Nixon Administration.)

### *Employment/Retirement*

The income floor for older Americans should be the U.S. Labor Department's intermediate level budget for an elderly couple, which averaged $4,500 a year nationally as of the Spring of 1970.

Pending achievement of that goal, however, Social Security benefits should be raised 25 per cent and the minimum Social Security benefit, now $70 a month, should be increased to $150 a month.

The limitation on what a Social Security recipient may earn without reduction of Social Security benefits should be $5,000 a year. This limit (known as the Social Security retirement test) is now $1,680 a year.

It is the responsibility of the Government to provide meaningful and socially needed employment opportunities for those older persons willing and able to work if all other programs fail to produce such employment.

Chronological age should not be the sole criterion for retirement. A flexible policy should be adopted that is based on the worker's desires and needs and upon his or her physical or mental capacity. Programs must be made available that provide employment opportunities after age 65.

Employers should be encouraged to adopt innovative policies such as gradual or trial retirement.

Unfortunately, however, existing policies fail to protect the worker who is forced to retire prematurely or who is unprotected by a private pension plan.

New national policies and publicly and privately supported programs are needed to help workers who are forced to retire before the normal retirement age because of health problems or job displacement caused by technological changes or jobs requiring early retirement.

New programs should as a rule be run by existing agencies that have responsibility for dealing with these problems.

There should be created by the Federal Government a continuously funded program specially designed to maintain economic security for middle-aged and older workers during their period of transition from prematurely forced retirement into suitable employment or retirement. During this period, a major objective should be to retrain and educate the unemployed to assure reemployability or to assist in mobilizing resources to assure a meaningful retirement.

All workers should be guaranteed a retirement income adequate to maintain a decent standard of living above the poverty level. Legislation must be enacted as soon as possible requiring early vesting, adequate funding and portability of pensions and to provide Federal insurance for pensions.

The age 65 limit of liability under the Federal law forbidding age discrimination in employment should be removed. The law should be extended to cover employees in both the public and private sectors (it now applies only to the private sector). If older workers are to benefit from this law, it must be enforced with greater vigor.

### *Nutrition*

An estimated one-third to one-half the health problems of the elderly are believed to be related to nutrition.

The Federal Government should assume responsibility for making adequate nutrition available to all elderly persons in the U.S. and possessions.

A minimum income (at least $3,000 a year for a single person and $4,500 a year for a couple) must be available to all elderly.

The equivalent of the national school lunch program should be established for senior citizens. This should not be limited to persons with low incomes.

All U.S. Department of Agriculture surplus commodities should be fully available to the proposed senior lunch program on the same basis as to school lunch programs.

Funding should cover adequate staff, food, supplies, equipment and transportation services.

Elderly men and women should be employed insofar as possible under the senior lunch program.

Educational, counseling and recreational opportunities should be made part of this program.

Low income Social Security recipients should be eligible for self-certification for food stamps or public assistance cash grants (as part of nutrition services).

The Federal Government should provide the major portion of funds for action programs to rehabilitate the malnourished and prevent malnutrition among those approaching old age.

There should be established and strictly enforced high standards with specific regulations for food and nutrition services provided by institutions and agencies that receive Federal funds either directly or indirectly.

Nutrition services and nutrition counseling should be included in all publicly financed health delivery systems, including Medicare (the health insurance program for the elderly) and Medicaid (the health care system for the needy at all age levels), health maintenance organizations, home health services, extended care facilities (nursing homes), and preventive health care programs.

It is the responsibility of the Federal Government to establish and enforce such standards as are necessary to insure the safety and wholesomeness of the national food supply as well as improve nutritive value of food.

Particular attention should be given both nutrition and ingredient labeling of food products as a means of achieving consumer understanding.

### *Transportation*

The Federal Government should increase support for transportation facilities for all users, with special consideration for the needs of the elderly, the handicapped, rural residents, the poor and young people.

Congress should convert the U.S. Highway Trust Fund (which finances construction of the U.S. interstate highway network) into a General Transportation Fund. A portion of the proposed General Trasnportation Fund should be made available for development of new and improving existing transportation services for the elderly.

Publicly owned passenger vehicles, operated by Federal, regional, State, county or city agencies, should be made available interchangeably among these agencies for provision of transportation to senior citizens, especially the disadvantaged elderly. Area clearinghouses should be set up so all local transportation resources are used efficiently to meet the transportation needs of the elderly.

Nationwide driver's licensing standards should be established that do not discriminate against the elderly solely on a basis of chronological age.

There should be Federal and/or State legislation to forbid insurers from increasing auto insurance premiums or cancelling auto insurance policies solely on a basis of age.

Exploration of the concept of no-fault insurance (which aims to avoid the high cost of litigation of car accident claims) and the possibility of government-operated insurance programs should be encouraged. Efforts under way in various States to develop better insurance programs should also be encouraged.

### *Education*

Educational opportunities must be afforded all older persons, with special efforts being made to reach those who, because of low income, poor health, or other reasons, are less likely to respond voluntarily.

Public expenditures for education of older persons must be increased so they bear a direct relation to the proportion of older persons within the population.

Available facilities, manpower and funds should be used for educational programs designed and offered on the basis of the assessed needs and interests of older persons.

There should be special emphasis on instruction to help older persons understand issues, procedures and action in regard to political processes to enable them to more effectively meet their needs as individuals or as members of a group.

Pre-retirement programs should be provided those approaching retirement age to help them achieve greater satisfaction and fulfillment in later years. Pre-retirement education must be the primary responsibility of the public education sector working in cooperation with relevant community organizations in industry, labor, government, voluntary service and private associations.

Primary responsibility for initiation, support and conduct of educational programs for older persons must be vested in the existing educational system—Federal, State and local—with active participation and cooperation of specialized agencies.

### EDUCATION FOR THE AGING

A Division of Education for the Aging should be established in the U.S. Office of Education to launch supportive educational services for the elderly. Similarly, all State Departments of Education should assign full-time responsibility to keep staff members for development and implementation of educational programs for the aging.

To implement educational policies growing out of the 1971 White House Conference on Aging, the U.S. Administration on Aging should be accorded the status of an independent agency within the Department of Health, Education, and Welfare as provided for in the Older Americans Act of 1965.

Educational opportunities should include basic, continuing vocational education and training for cultural enrichment and more successful adjustment to conditions associated with the process of aging.

### *Planning*

Planning in behalf of the aged stems from the basic values of society. These values are translated into goals, objectives and priorities. As plannings for aging proceeds, it will be necessary to address these values and priorities.

In planning the allocation of resources, the aged are entitled to and should receive a fair share of the national wealth. This should be accomplished by a reordering of priorities at all levels to increase the commitment of national resources to human needs.

Planning must involve inputs from many segments and sectors of our society. To be effective, it must be comprehensive and coordinated.

The planning efforts of government should continue to be the basic means through which the nation plans for aging. There should be opportunity for significant involvement by the non-governmental sector and by consumers in the decision making process.

A separate entity should be created within the Executive Office of the President through legislation and charged with responsibility for comprehensive planning and advocacy in the area of aging.

This agency should have resources (e.g. authority, funds, staff) adequate to its responsibility. The Administration on Aging should be retained within the Department of Health, Education, and Welfare but should be made an independent agency within the Department, reporting directly to the Secretary of Health, Education, and Welfare.

There should be planning activities in the area of aging at the Federal, State and local levels of government, and these should be related to each other. The State and local planning activities in the area of aging should receive financial support from the Federal Government.

There must be bridges linking those who plan programs, those who administer them and the public which supports them.

Planning must be closely related to the budget process. Planning information should be regularly provided, elected and other public officials who have a direct role in the budgeting process and in providing public funds for planning.

Planning in the area of aging should be based upon experience and expertise of specialists in aging with total involvement of the elderly, including racial and ethnic minority groups

This involvement should be guaranteed at the Federal, State and local levels of government. Age alone should not be the ruling factor in planning in the area of aging. Middle-aged and young persons, who in the normal course of events will one day be elderly, should be included.

Planning must never be used as an excuse for inaction. The need for action should not conflict with the need for long-range planning.

### *Research and demonstration*

Coping with the problems of aging requires understanding of the difficulties the elderly face as well as the nature of the aging process in its various bio-medical and social-behavioral dimensions.

There has been a long history of neglect by the government and by society of responsibility toward the elderly. Funding for immediate and long-range programs to improve the quality of life for older Americans has been inadequate. Nor has there been an adequate administrative structure to advocate, coordinate, implement and administer research programs involving aging and the aged.

A National Institute of Gerontology should be established immediately to support and conduct research and training in bio-medical and social-behavioral aspects of aging.

Congress should increase substantially funds for research, training and demonstration. Federal support of research and training in departments or schools within universities and separate research agencies should be continued, and multi-disciplinary (requiring services of experts in many professions) and multi-institutional programs should be fostered.

Funds for research, training and demonstration programs in the area of aging should be allocated so that aging and that the aged in racial and ethnic minority groups are represented in ratios not less than their proportion to the total population.

High priority should be given recruitment and training of capable women and the representation of such women on bodies which have responsibility for allocation of training and research funds.

The U.S. Administration on Aging or another appropriate clearinghouse should be allocated adequate resources for collecting and disseminating current research findings in the field of the aging and for making these findings relevant and available to the public.

Better procedures should be developed within the Federal Government to assure the continued operation of those Federally funded demonstration projects which have been proven successful after evaluation.

### *Training*

There should be increased Federal support for training programs in the area of aging and at the same time an acceleration of financial support for programs in this area by States, private foundations and private citizens who can afford to contribute to such programs. All programs providing services for the elderly should receive funds earmarked for training personnel.

Funds for recruitment and support of personnel to be trained in providing services to the elderly should be allocated without regard to age or sex of applicants.

Recruiting of personnel for service in the area of aging should be related to job opportunities.

Emphasis should be placed on development of community college level certificate and degree programs by vocational and technical institutes. Teacher training programs should stress positive concepts regarding the aging process for incorporation into elementary and secondary school curricula.

There should be an adequately funded National Institute of Gerontology to take the leadership in training and research in the area of aging. A substantial portion of the funds allocated to the proposed Institute should be reserved for training in the area of aging.

A national data bank and information retrieval system similar to the Education Research Information Center should be established to make available research knowledge and curriculum materials to all training, research and demonstration programs in the area of aging.

Congress should reorder national priorities to assure adequate funds for human needs.

There is an urgent need for personnel trained to deal with and committed to solving problems in the area of aging.

In considering training requirements for services to the older population, it must be borne in mind that adequate income and efficient health services are basic necessities.

There is an urgent need for a minimum income level that will lift all older people out of poverty. There is likewise an urgent need for a massive expansion of programs which will provide employment opportunities for the elderly in constructive activities.

At present, there is little formal training or education in the field of aging.

Retired persons, mature adults, students making career choices, volunteers at all age levels, and members of minority groups must be recruited and trained to work in the area of aging.

Training should be conducted in appropriate settings both within and outside educational institutions.

Such training should be part of a national plan administered by a new Federal agency for aging that is adequately financed and with power to coordinate all Federally supported training programs in the area of aging.

Innovative and experimental efforts in training within the area of aging should be encouraged.

### *Retirement roles and activities*

Twenty million Americans age 65 or over represent a great national resource. Given the opportunity and motivation, they can make a valuable contribution to our society.

Programs at the Federal, State and local levels of government that provide opportunity for community service by older persons should be strengthened and expanded.

Mechanisms should be developed for continuing the work of successful demonstration programs until such programs become self-sustaining (if approved upon evaluation).

Older persons should not be further isolated. Attention must be paid to making opportunities for community service available to all older men and women.

Since older persons have special needs, public programs specifically designed for the elderly should receive categorical (special) support so the elderly need not compete for services, activities and facilities intended for the general population.

Public policy should promote opportunities for greater involvement of older people in community and civic affairs and their participation in formulation of goals and policies on their own behalf as a basis for making the transition from work to leisure roles. Society should re-appraise the current sequence of student/worker/retiree by promoting flexibility in social roles.

The Federal Government should develop models for a network of supportive services for all elderly citizens. Implementation should be the ultimate responsibility of the local community. However, Federal funds should be provided for such services. The availability of services should be made known through a program of public information.

It should be the responsibility of the Federal Government, in cooperation with other levels of government, to provide funds for the establishment, construction and operation of community oriented multi-service centers for older citizens. Industry, labor, religious organizations and other voluntary groups should assist in the planning and implementation of such centers.

In order to encourage older Americans to remain active, Social Security recipients should be allowed unlimited earnings without reduction of Social Security benefits.

Recognizing that many problems of aging are the problems of all Americans, there should be a reordering of national priorities. Our nation will be judged on how well the needs of our people are served.

The President and Congress should order the restructuring of the U.S. Administration on Aging to make it a visible, effective advocate agency for the elderly at the highest level of government directly related to the Executive Office of the President.

The lives of Americans will be enriched as the nation provides opportunities for developing and using the untapped resources of the elderly.

### *Facilities, programs, services*

Tax funds should be more equitably allocated to maximize the likelihood that older persons will continue to live independently and to help assure that older persons will have a choice of living arrangements.

To achieve this, a full range of supportive community services, public and private, must be adequately financed.

Public funds must be allocated in sufficient magnitude to assure such quality institutional care, from minimal to maximal, as may be needed at various stages in an older person's life.

The level and quality of care and services shall be provided without regard to source of payment.

Services to older people should be provided through a combination of governmental, private non-profit and commercial agencies. The Federal Government should be responsible for financing a minimum floor for all services.

These services may be procured from private non-profit and/or commercial sources at the election of local and State governments.

All age groups should be involved in the determination of policies and standards for facilities and services for the older population and older persons themselves certainly must have a role.

Qualifications other than age should be the determining factors in staff employment in facilities and programs for the elderly, but *special effort* should be made to use older persons in staffing such facilities and programs.

Older persons should be served by an integrated system, sharing equitably with other age groups those facilities, programs and services suitable and appropriate to the needs of the general population, but the elderly should also have the benefit of specialized facilities, programs and services based on their distinctive needs.

Age alone may be an appropriate criterion in establishing policy for certain programs, such as eligibility for Social Security retirement benefits and property tax relief. It is an inappropriate criterion when used to discriminate against the elderly in determining eligibility for insurance, employment and credit, for example.

### Quality Standards a Must

Federal legislation should provide minimum quality standards and guidelines to insure uniform services and care for the elderly in all Federally-administered programs.

Such standards and guidelines shall clearly specify requirements regarding staff qualifications and training and the quality of facilities, programs and services.

Government financed legal services shall be available to older persons in all communities.

While the need for greatly expanded facilities, programs and services is urgent, services are not a substitute for sufficient income to maintain independent living in dignity and health. Older persons require no less than the moderate standard of living defined by the U.S. Labor Department's Bureau of Labor Statistics. No limit should be placed on earnings of Social Security beneficiaries.

A central consumer agency should be established at the Federal level to better coordinate and strengthen the powers and responsibilities of existing Federal agencies engaged in consumer protection to ensure that the interests of elderly consumers are better served.

Police protection of the elderly should become a top priority. A portion of Federal funds for the prevention of crime allocated to the States or local communities should be earmarked for this purpose. Particular attention should be paid to the needs of minority groups.

Cooperation between young people and older people should be encouraged at various levels of community life. Young people can gain knowledge of the process of aging and become involved with elderly people through the education system, national youth organizations, and volunteer roles.

Delegates from every part of our Nation call upon the President to end the United States involvement in the war in Southeast Asia. We are acutely aware of the human costs resulting from that tragic war including war-related spiralling inflation and the unfortunate waste of our resources in so-called defense appropriations. We declare urgently and simply: The War Must Stop!

### *Government and Non-government Organization*

Society has grown so increasingly complex and interdependent that no individual person or agency can provide for the needs of people through independent efforts.

The time has come to develop and support an organizational force which will lead to strong reforms and action whereby every older person in our land will be enabled to live out his or her life in decency, dignity and with a sense of personal worth.

A central office on aging should be established in the office of the Chief Executive with responsibility for coordinating all programs and activities dealing with the aging, fostering coordination between governmental and non-governmental programs directly and indirectly engaged in the provision of services, and for planning, monitoring and evaluating services and programs.

This agency should be given the authority, finances and full-time staff needed to formulate and administer policy. It should be assisted by an advisory council and should be required to make an accurate and comprehensive annual report on its progress in resolving problems and meeting goals.

This White House level office should have enough prestige and resources to assure that it will encourage the development of parallel units at the State and community levels.

Governmental responsibility, particularly for providing funds and establishing standards, must be emphasized if the necessary facilities and services are to be made available to older people. The delivery of services should make maximum use of voluntary and private organizations which can meet the standards established by government in consultation with consumers and the providers of service.

Basic facilities and services should be available to all older people as a matter of right. Those in need should be entitled to special consideration.

All efforts to meet the needs of older people, whether by governmental or private and voluntary agencies, should be consistent with: (a) the First Amendment freedoms of association and expression; (b) the right to participate in government-sponsored programs free from religious, racial, ethnic and age discrimination; and (c) protection of one's person and property, particularly in institutional settings.

A special committee on the aging should be established in the U.S. House of Representatives, functioning in a comparable role to that of the U.S. Senate Special Committee on Aging.

National priorities must be reordered so as to allocate a greater share of our nation's resources to meet the needs of its older citizens.

Means should be found for proper follow-up of the recommendations of this White House Conference on Aging which also would extend beyond the announced follow-up year of 1972.

### *Spiritual well-being*

Since man is a whole being with interrelated and interdependent needs, religious organizations should be actively concerned with man's spiritual, personal and social needs.

Religious organizations must be aware of agencies and services, other than their own, which can provide helpful ministry to older persons. Other organizations designed for the benefit of older persons should develop as a part of their services channels to persons or agencies that can relate to spiritual problems.

Religious bodies should exercise a strong advocacy role in meeting the needs of the elderly, working for programs, both public and private, that contribute to the well-being of the elderly and protect them from those who would victimize and demean them.

Religious bodies should work together with the elderly and coordinate their efforts with other groups to assert and affirm the rights of the elderly. Religious bodies and other private groups should make it their concern to rally the support of the entire community for broad-based programs for the aged through multi-purpose community centers.

Religious bodies and government should affirm the right to, and reverence for, life and recognize the individual's right to die with dignity.

Licensing agencies in the States should require that institutions caring for the aged provide adequate chaplain services.

The Government should provide financial assistance for training clergy, professional workers and volunteers to develop special understanding and competency in satisfying the spiritual needs of the aging.

### [Special concerns session]

### *The elderly consumer*

Today's changing marketplace has become increasingly complex and impersonal. Because of these characteristics and other factors relating to the elderly, such as low, fixed income, limited mobility and poor health, a significant number of the elderly have difficulty as consumers.

Action must be taken at the Federal, State and local levels of government to see that the rights of all consumers are protected and that particular problems that relate to the elderly consumer receive prompt and appropriate attention.

Consumers, including elderly consumers, are entitled to:

an independent consumer agency with "authority to serve as an advocate for the consumer, both as an individual and as a class, in proceedings before Federal agencies, officials, and courts";

an independent consumer product safety agency with "undiluted responsibiltiy for preventing consumers from being exposed to unsafe goods, drugs, cosmetics and other consumer products";

health insurance legislation "requiring more stringent regulations regarding private health insurance";

passage of laws at the Federal and/or State level providing for no-fault automobile insurance to replace the present inadequate auto reparations system.

Consumers are also entitled to:

a model law to regulate hearing aids, physical therapeutic devices and appliances;

unit pricing "in print that is easily read and understood" and open-code dating of packaged goods;

a ban on laws forbidding the advertising of prescription drug prices;

a 3-day cooling off period to cancel a consumer purchase contract;

Abolition of laws permitting the holder of a promissory note or other credit instrument to escape contractual responsibilty for the safety or performance of merchandise by transferring the promissory note or other credit instrument to another holder (often described in legal terms as the holder in due course)

Reform of land sales regulations.

The Food and Drug Administration should require all food manufacturers to give specific identification of contents and caloric count on labels of consumer products.

### *Rural older people*

A broad program to develop passenger transportation systems in rural areas should be undertaken such as those financed by the U.S. Office of Economic Opportunity (the anti-poverty agency), the Appalachian Regional Commission and others.

Older persons in rural and farm communities should be provided legal and protective services in order to assure adequate assistance in all matters involving possible encroachment on their rights.

Community service employment programs for older persons should be expanded to serve every rural community.

There should be an adequate across-the-board Social Security increase and in the future automatic Social Security increases geared to increases in the cost of living.

There should, in addition, be an income floor related to the U.S. Labor Department's Bureau of Labor Statistics estimate of the income needed by a retired couple for an adequate level of living.

The amount a Social Security recipient may earn without reduction of Social Security benefits should be increased.

### HOME REPAIR PROGRAM NEEDED

Legislation establishing and funding a major home repair program for older people in rural areas should be enacted and a major new housing program must be developed to meet the needs of the rural elderly.

In the design of a national health service delivery system which provides for facilities, personnel, and payment for services, the unique characteristics of rural areas must be considered and special delivery systems developed.

Transportation, outreach, and home care services should be integral with all health services in rural areas. Use of mobile health units for multi-phasic (health) screening should be greatly expanded.

Health and nutrition education programs should be greatly expanded. Public health, vocational education, extension services, and other such community action programs have demonstrated that poor nutrition practices are a major health problem for the rural elderly.

### [Reports from other special concerns sessions]

### *The elderly poor*

There should be an income floor in the Social Security and adult assistance programs to provide older persons an income equal to the intermediate standard of living as defined by the U.S. Labor Department's Bureau of Labor Statistics (BLS).

This would provide (as of Spring, 1970, latest available figure) at least $2,316 a year for a single older person and $4,489 for a couple headed by someone 60 years or older. These minimums should be guaranteed through immediate amendment of the Social Security Act (Title II) and through the Adult Assistance provisions of Title XX of (House-passed) House Resolution one (H.R. 1, now pending in Congress).

Not later than 1974, the minimum income for Social Security and Adult Assistance beneficiaries should be upgraded to provide the elderly with the so-called "comfortable level" standard of living established by BLS. This would provide (as of Spring, 1970) at least $3,403 for a single older person and $7,114 for an elderly couple.

To meet the increased financial burden of these recommendations, Federal general revenues should be utilized to supplement employer and employee contributions (taxes) under the Social Security Act, and Adult Assistance programs should be taken over by the Federal Government.

Private pension plans should contain provisions for vesting (guarantee of the right to a pension) after the first year of employment, for guaranteed portability of pension benefits (assuring that earned benefits remain intact when an employee changes employers), and for Federal insurance protection against loss of pension benefits. Pension entitlement and protection should be spelled out to all employees under a "truth in pension" Federal statute.

There should be a senior emergency employment act providing a million full-time or part-time jobs for persons age 55 or over who can work and wish to work.

There must be early adoption of a national health care system available to all—the young, middle-aged and elderly—with a full range of health services financed out of payroll taxes and Federal general revenues with no additional billing to the patient for these services.

Meantime, the income and service restrictions imposed on Medicaid and the shifting of the cost of Medicare onto the backs of the elderly through ceilings on length of benefit periods, increases in deductibles, increases in Part B (doctor care) premiums are serious factors that limit health care for the elderly and the poor.

The time has come to eliminate the hodgepodge of partial health care programs. Medicaid and Medicare systems should be reformed now through the merger of these programs with a Federally administered system covering all persons 65 and older.

Where the homes and apartments of older persons are now adequate or capable of renovation, the course of action is clear. Every effort must be made to assure that the elderly have a decent place to live in neighborhoods of their choice. To achieve these goals, it should be the policy of the United States to assure:

The reduction of property taxes for lower income elderly home owners, with proportionate remissions for those older people who rent;

The greatly expanded promotion of grants and low- or no-interest loans by the Department of Housing and Urban Development to renovate unsuitable housing whenever such housing is located.

Expansion of the rent supplement program, specially directed to the elderly, is urgently needed.

Urban renewal and other development

programs should be designed so that residences and natural neighborhoods are renewed, not bulldozed. Those involved, including the elderly poor, should participate in planning such developments.

### *The Spanish Speaking Elderly*

Spanish speaking delegates called on local, State and Federal governments to provide special considerations for the senior citizens of Hispanic ancestry.

Every Cabinet-level department was called upon to give priority to programs and related services to meet the needs of the Spanish speaking senior citizens, taking into consideration cultural and family relationships of this ethnic group.

The delegates called for all action to cover both urban and rural areas.

Migrant farmworkers have special problems and special needs which require special consideration in the comprehensive plans for senior citizens, the Spanish speaking delegates pointed out.

The need for bilingual and bicultural staffs to administer programs and services was emphasized.

Delegates requested that public information on programs, services and aid for citizens also be made available in the Spanish language.

### *Legal Aid and the Urban Aged*

The Federal Government (through the Office of Economic Opportunity or any successor legal service agency providing funds for legal services to the poor) should set aside a minimum of $10 million immediately to be used for special legal services for the elderly. Future funding should be at least proportionate to the percentage of needy elderly to the total poor.

The Federal Government (through the Office of Economic Opportunity) or any successor legal service agency, should establish a special center dealing with legal rights of the elderly comparable to centers relating to health, housing, consumer and migrant problems.

Elderly laymen should be trained as paid legal aides to operate programs in which these aides can act as advocates for the elderly before administrative agencies.

Legislation to establish a legal services agency to assume the responsibilities of the Office of Economic Opportunity relating to legal services should assure that the elderly are represented on the agency's board of directors in approximate proportion to their percentage of the total poor.

The elderly should be provided competent attorneys at no charge in all proceedings relating to civil commitment, conservatorships, and other proceedings brought to restrict their freedom or other legal rights.

The States should adopt legislation providing public guardians, conservators, and administrators without cost to the elderly who cannot afford from modest assets to pay for these services.

### *Long-Term Care for Older People*

Long-term institutional care aspects of Medicaid (the Federal-State health program for the needy) should be completely Federalized. Funding should come from Federal general revenues. A uniform minimum level of benefits should be established on a national level.

Payment to institutional providers of long-term care should be made on such a basis as to cover the cost of providing that care and, in the case of proprietary facilities, allow a fair return on investment.

The Department of Health, Education, and Welfare should change the primary emphasis in nursing home inspections (involving nursing homes receiving Federal funds) from physical plant standards to direct patient care.

A national policy on long-term care needs must have mechanisms for being implemented and financed.

Supplementary resources need to be allocated for alternate care (care other than in nursing homes or institutions).

There is need for a change in national priorities so some of our resources are shifted from defense, foreign assistance and exploration of space to the needs of our elderly citizens, especially in the area of long-term care.

Any national health insurance program which is adopted should meet the needs of those who require catastrophic care, long-term physical and mental health care and social services both within and outside of institutions.

### *Special concerns session on older blacks*

Black delegates to the White House Conference on Aging unanimously voted for a wide-ranging series of recommendations designed to offset the special problems of older Black Americans which grow out of racism and poverty.

Submitted as the beginning of a "national policy for the black aged," the recommendations ranged from a guaranteed annual income of $6,000 ($9,000 for couples) and lower age and work requirements for Social Security purposes to issues of health, nutrition, housing, transportation, and employment.

"God knows all poor people should have the right to a decent income, but people who have been deprived and underpaid all through the decades have earned a right to an immediate remedy," said Dr. Benjamin Mays, President-Emeritus, Morehouse College, and President of the Atlanta Board of Education, who presided at the session.

Speakers outlined the plight of the one and a half million black aged in the country during a four-hour morning session, which followed two other sessions held during the Conference. The recommendations will be included in the Conference report.

Dr. Robert Hill, Associate Research Director for the National Urban League, in a profile of the black aged noted that the group comprises eight per cent of the 20 million persons 65 years and over (61 per cent residing in the South) and has a median income of $3,222. The life expectancy for black men declined a full year (from 61.1 to 60.1) between 1960 and 1968, while that for white men has remained about the same (67.5).

Dr. Hill quoted a survey conducted by the Department of Health, Education, and Welfare which stated that two-thirds of the black elderly are not benefiting from doctor bill coverage under Medicare because they cannot afford the premiums.

The black delegates called for massive improvements in the Social Security system, replacement of the present welfare system with a more humane method of helping the poor, infirm and elderly, a greatly expanded program of Federal support for housing for the elderly and expansion of Medicare health insurance benefits for those age 65 or over (to be financed by Federal general revenue).

The delegates were urged by Congressman John Conyers (D., Mich.) to confront Congress as well as the White House with their demands.

### *Seniors demand end of Vietnam war*

WASHINGTON, D. C.—The war in Southeast Asia must stop, President Nixon was told by delegates to the 1971 White House Conference on Aging here.

"Delegates from every part of our nation call upon the President to end U.S. involvement in the war in Southeast Asia," the anti-war resolution declared, adding:

"We declare urgently and simply: "The War Must Stop!"

The anti-war resolution was presented by the White House Conference Section on Facilities, Programs and Services. Dr. Ellen Winston, retired Commissioner of the U.S. Welfare Administration (now Assistance Payments Administration), presided over this Conference section.

*The National Council of Senior Citizens,*
*1511 K Street, N.W., Washington, D.C. 20005*

The National Council of Senior Citizens, publisher of this supplement, was organized in 1961 by Aime J. Forand, a retired Congressman from Rhode Island and pioneer advocate of what is now Medicare.

#### THE NATIONAL COUNCIL

Led the fight for Medicare, strives for improvement in that program and supports National Health Security legislation for all Americans;

Is spearheading the drive for stronger Social Security;

Pushes vital programs like housing for the elderly, the Older Americans Act, and a Senior Citizens Community Service Corps to provide jobs for the low income elderly;

Fights discrimination against older people; and

Is the link between older people and other large national organizations.

Today's elderly are the men and women who lost jobs, homes and savings in the Great Depression. They survived the Depression and helped build a period of unparalleled prosperity but, for millions of today's seniors, the Depression never ended.

The National Council of Senior Citizens seeks legislation at the Federal, State and local levels to assure them minimum comfort and security during the retirement years.

However, the National Council is more than a special interest group for the elderly. Our organization seeks a better life for all Americans—old and young. It supports clean air and clean water legislation, the war on poverty, occupational safety and health measures, consumer protection and other legislation for a greater America.

### *National Council of Senior Citizens, Inc.*

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## "SENIOR POWER"—A GROWING FORCE IN POLITICS

### RISING AMONG AMERICA'S OLDER PEOPLE IS A MOOD OF REBELLION. MANY ARE TRAPPED IN POVERTY. OTHERS WORRY ABOUT INFLATION. NOW THE ELDERLY ARE BEGINNING TO RAISE THEIR VOICES AT THE POLLS

Now it is "senior power" that is surfacing across the U.S. as 20 million older Americans seek a better place for themselves in the nation's life.

Nearly all of these Americans are getting Social Security benefits and medicare from the Government.

More than half own their homes debt-free. Increasing numbers are covered by pension plans developed in government, business and industry.

Yet for many, the fruits of old age are turning bitter.

Almost 5 million aged are officially described as living in poverty. Millions of others fear the same fate, as the inflationary squeeze tightens on fixed incomes.

#### ECONOMIC CASTOFFS

Beyond that, many—perhaps most—of America's elderly are beginning to see themselves as social and economic castoffs from the community at large.

Today, possibly more than at any time since the Townsend movement of the 1930s, older Americans are beginning to organize and act on their own behalf.

In New York, Governor Nelson A. Rockefeller is getting a sample of senior militancy following his decision to cut social programs, some of them affecting old persons.

At a May 7 conference on aging, elderly hecklers interrupted his speech several times. One aged man tried to engage him in debate. Protesters waved placards warning the Governor: "You can't ignore our vote."

Senior citizens flocked to the polls in California last year to help oust from office one of their own—68-year-old Senator George Murphy—who had voted against medicare and increases in Social Security benefits.

In Florida elections, they played an important part in the defeat of the president of that State's upper house, a man they deemed hostile to legislation for the elderly.

In dozens of States they have pushed successfully in the last two or three years for such programs as hot lunches for shut-ins, low-cost housing for the elderly poor, and tax allowances. In 26 cities, they have put across reductions in bus fares for the aged.

#### PLANS TO HELP

Congress this year is considering more than 190 major proposals for helping older Americans.

Already passed by both houses is a 10 per cent increase in Social Security payments—the second round of increases in 16 months. Other bills propose improvements in health insurance, employment, opportunities for the aged, low-income housing and nursing homes.

Also on the agenda is a White House conference on aging, to be held in November, bringing together top authorities in this field to aid their ideas on easing the problems of the aged.

What is giving the older people in America much of their political clout is the fact that as many as 70 per cent of them will turn out on Election Day to vote.

#### GROWING IN NUMBERS

Older Americans are gaining strength in sheer numbers, too.

Today there are 20 million Americans aged 65 or more—and an additional 8.6 million aged 60 to 64. The 1970s are expected to bring a 20 per cent increase in these groups, at a time when declining birth rates hold U.S. growth as a whole to less than 15 per cent.

Because life spans are lengthening, Americans aged 75 or more are increasing at a faster rate than those aged 65 to 74, a situation that points to increases in medical problems of the aged.

Still, an estimated 81 per cent of the U.S. elderly get around without help. Another 8 per cent manage with mechanical aids, and 6 per cent get by with the assistance of another person. Only 5 per cent are housebound because of physical ailments.

#### MANY IMPROVEMENTS

In other ways, too, the situation of older Americans shows marked improvement over what it was 30 to 40 years ago.

About two thirds of elderly householders own their homes, and 80 per cent of these senior citizens have paid off their mortgages.

While median family income for older people was estimated at $5,500 a year in 1970—compared with $10,500 for younger families—these figures do not tell the entire story.

A recent study by Dr. Hale N. Tongren, chairman-designate of the department of business administration at George Mason College in Fairfax, Va., asserted this:

An aged family with a cash income of $5,500 would actually be doing as well as a younger couple earning $7,200 a year, or even more—assuming that its sources of income approximate the pattern found in a Government analysis of income in 1963.

Reasons: Older people benefit from U.S. income tax allowances, the elimination of the Social Security tax, ownership of a home in many cases, and a differential in medical costs as a result of medicare.

#### FLOW OF "NEW PRODUCTS"?

Dr. Tongren concluded:

"The recognition that aged persons may have more discretionary cash than would be expected from their incomes may prompt market researchers to develop new products suitable to older persons. As birth rates decline, the over-65 age group will become an even larger segment of the population than it is today, and the market does not ignore a potentially profitable group for very long."

Militant spokesmen for the elderly might question the dollar value assigned by Dr. Tongren to these fringe benefits.

Even so, a 1968 survey of savings and loan companies in California—where assets of the elderly admittedly are believed to be higher than in most States—showed that 52.8 per cent of savings accounts came from persons aged 60 and more.

Some growth in affluence among the aged also is reflected in rather expensive "retirement communities" springing up across the U.S.—not only in California and Florida but in Oregon, New York, Maryland and elsewhere.

#### "SUN CITY" AND LUXURIES

There are complete towns like "Sun City" near Phoenix, Ariz., as well as condominium-type apartment houses for older people located in downtowns or busy suburbs.

There are those that offer luxury—and find plenty of customers.

One example is the "Leisure World" establishment at Laguna Hills south of Los Angeles, where 14,000 persons aged 52 and over pay anywhere from $20,000 to $50,000 plus maintenance charges for apartments.

At their disposal are tennis courts, bowling greens, an 18-hole golf course, a swimming pool, scores of "hobby" clubs, a restaurant, classrooms, libraries, medical clinic, closed-circuit television and free bus transportation to Los Angeles. Six-foot walls and guards who patrol grounds and buildings around the clock provide physical security—a major preoccupation of the elderly.

About one third of Laguna Hills' inhabitants work part time or full time. A few become disenchanted with living among their own kind exclusively, and move out. But most stay on, if only to use "Leisure World" as a home base for travels in the U.S. and abroad.

#### THE AGED POOR

For about one quarter of all Americans over 65, classified as living in poverty, "Leisure World" might as well be located in another galaxy.

Such Americans, drawing a cash income of less than $2,194 a year for a couple, fight a daily battle against increasing costs of food, clothing, medical care, utilities, rentals and—if they own a home—property taxes.

Medicare benefits are partially offset by rising medical costs—including a near-doubling of premiums for supplmentary medical insurance paid by the recipients in recent years.

Liberalizing of Social Security benefits and eligibility is expected to reduce for a time the number of older Americans living in or near poverty.

Social Security for most of America's elderly, however, is becoming not just the base of retirement income but the bulk of it.

Despite the growth of pension systems, 93 per cent of single persons over 65 and 81 per cent of elderly couples are not covered by such plans. A Government study in 1968 showed that 41 per cent of older couples and 58 per cent of elderly "singles" had no established income of $300 a year or more, other than Social Security.

Result: Even with the latest raises in benefits, half or more of older Americans will be subsisting entirely—or nearly so—on Social Security payments averaging out to $1,560 a year for individuals and $2,340 a year for couples.

Income from part-time work is limited by Social Security rules under which 50 per cent of earnings above $1,680 a year and 100 per cent above $2,880 are deducted from benefits.

#### RETIRING TOO EARLY?

As economists see it, many elderly persons—and many not so elderly—are being swept into retirement before they are ready for it.

About 50 per cent of all men claiming Social Security in recent years accepted a reduced benefit at the age of 62. About 1 in 5 of these had not worked for the prior 12 months.

Result, for many older Americans, is that the gilt on the "golden years" is wearing thin.

Recently a 76-year-old woman in Swarthmore, Pa., told a U.S. Senate special committee on aging:

"I am one of those elderly people, living alone, who has become poor since becoming old. Unable to work any longer, I am trying to get along on my Social Security of $64 per month income, besides drawing a few dollars from a fast-dwindling nest egg in the bank and an occassional fee from private French teaching and some baby-sitting."

Similarly, a 76-year-old man in Alhambra, Calif., said:

"I retired 10 years ago with my home paid for, and no debts.

"After 10 years my property taxes have doubled. Every service and general living costs have skyrocketed and medical, doctor and hospital costs are as near to robbery as a cost can get—$600 for removing a cataract from one eye, almost $400 for the hospital."

As younger Americans moved from the city to the suburbs in the last 25 years, the elderly poor have stayed behind, for the most part. Many cling stubbornly to their homes, often located in deteriorating neighborhoods. Others move into low-cost hotels and rooming houses—the "retirement community" of the poor.

Such older persons, even more than the affluent elderly, feel increasingly their isolation from the mainstream of American life.

### LIKE "SOLITARY CONFINEMENT"

Said John B. Martin, U.S. Commissioner on Aging:

"About 5 million older Americans are living in a type of solitary confinement. No one cares about them. Although many are physically and mentally able to participate effectively in community affairs, they live in rooms like prisoners, rarely venturing out."

Fear of muggings keeps many old people off the streets, especially in big cities. A New York City study indicated that of 137 elderly persons interviewed, each had been assaulted at least once.

Also contributing to isolation of the elderly is the scarcity and rising cost of public transport for those unable to drive.

### TRANSPORTATION PROBLEMS

In outlying areas, this problem becomes acute. One study for the National Council on Aging found that one third of the elderly poor and one fifth of the near poor had transportation problems. At a hearing conducted by the West Virginia Commission on Aging, an aged man from a rural area reported this:

Since neither bus or taxi was available, he paid a neighbor $9.50 to drive him to town for an early morning appointment with his doctor. But the doctor didn't see him until early afternoon, so he had to give the driver $1 for lunch. The doctor's examination, plus laboratory test and two pharmaceutical prescriptions brought his total outlay to $31.03—one third of his monthly Social Security check. This man said it would be a long time before he would feel able to make another such trip—although the physician had told him to return in two weeks.

Among such older persons, nutrition becomes an increasing cause of poor health. Many are anxious to keep food bills to a minimum. Other causes of improper diets are lack of mobility, emotional stress and loneliness.

In an Iowa survey of 695 persons aged 65 years and over, only 1 person in 20 was choosing a nutritionally desirable diet. In America's big cities social workers have found instances of elderly poor virtually starving to death rather than accepting welfare.

It is against this background of want, insecurity and isolation that "senior power" is becoming a batle cry of elderly militants. Aged homeowners are in the forefront of rebellion against property-tax increases that in some places have raised levies to $1,500 a year or more on relatively modest homes.

Governor Ronald Reagan's push for a reduction in welfare and medical-insurance payments in California brought picketing from elderly demonstrators, and a protest rally of 1,300 persons.

In Florida, which has 1.1 million retirees, "senior citizen" organizations are joining forces on behalf of legislation to liberalize the State's Homestead Exemption Law which forgives local and county property taxes on the first $5,000 of assessed value of home property purchased by newcomers.

### MASSACHUSETTS' EXPERIENCE

Nowhere are older Americans exerting pressure more busily than in Massachusetts.

There a former Congress of Industrial Organizations leader, Frank Manning, heads up a Statewide Massachusetts Legislative Council for Older Americans that pushes aid for the elderly.

In 1968 it was able to activate a dormant housing plan for older persons of low and moderate income. Result, to date, is the building of 14,000 units—"just a start," said Mr. Manning.

In 1969, the Massachusetts legislature made senior citizens eligible for half fares on public transit in the Boston area—24 hours a day, not just in nonrush hours as in other cities.

More recently, the Council persuaded legislators to broaden the State's hot-lunch program for poor or shut-in elderly. At present a drive is under way to get State help in solving the transportation problems of older persons living in isolated areas.

The growing "senior power" of older Americans brought the Council at least 70 requests for endorsement in last year's election. Endorsements finally were given to six. All won. Mr. Manning added this cautionary note:

"It's a good record, but this is something we have to use carefully—not as a scourge against any politician who may disagree with us from time to time."

### A WARNING

Also heard is the warning that older Americans should not "ghettoize" themselves further by concentrating on issues that affect older people only: Said Walter Newburgher, president of the Congress of Senior Citizens of Greater New York:

"We're fighting for universal national health care—not just for the old but for everybody. We want to show the young people we're with them, not on the fringes of society. Our people don't want to be shoved aside and isolated."

Nationally, problems of the elderly are becoming an important political issue.

Such organizations as the National Council of Senior Citizens and the American Association of Retired Persons are pushing for bigger Social Security payments and a wider variety of aids to older persons. Some Congressmen are suggesting a minimum income of $1,800 for all individuals of 65 and over, and $2,400 for a married couple. Others would like a formula adjusting benefits periodically to rises in cost of living, and a liberalizing of present rules which, in effect, discourage Social Security recipients from earning more than $1,680 a year.

As many authorities see it, what is needed now is more emphasis on keeping elderly people active and independent rather than becoming early candidates for nursing homes.

### NEEDED TAX BREAKS

Suggested is legislation providing elderly homeowners with bigger exemptions in property taxes and other aids to an independent life in their own homes. Also being promoted are "home worker" programs providing elderly persons in need with daily visits and hot meals, as well as periodic help in housecleaning and transportation.

Observed Dr. James E. Birren, director of the Institute of Gerontology at the University of Southern California:

"Older people need a variety of small aids to keep them going. But this requires somebody to put it all together. The cost of not doing something like this will become greater as more and more older people enter institutions of one kind or another."

Few authorities would care to predict what solutions to the problems of the elderly will emerge in times ahead.

There is wide agreement, however, that "senior power" is on the move in a drive to recapture for older Americans a worthwhile place for themselves in the day-to-day life of the nation.

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## Some Surprising Facts About America's Elderly Citizens

In today's "youth culture," 1 American in every 10 is 65 years or age or older, and the proportion is growing steadily.

Older Americans carry considerable political heft. Those 65 or older comprise nearly 1 of every 7 people of voting age and, since they go to the polls in heavier proportion than the rest of the electorate, they are an even larger share of votes actually cast.

Nearly 1 out of 5 is still working or looking for a job.

Their buying power—now 60 billion dollars a year—makes older Americans a big and growing market for clothing, health aids, retirement homes, travel, recreation and a host of other goods and services.

Nearly a third of those over 65 live in just four States—California, New York, Pennsylvania and Illinois. Many States have an unusually high proportion of older persons, including Florida, Iowa, Nebraska, Arkansas, South Dakota and Missouri.

Among these older people, women are far more numerous than men—7 women for every 5 men. Most of the women are widows, most of the men are still married.

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## Social Security Could Rise 20 Percent Without Tax Boost, Experts Say

Washigton, D.C.—Congress could raise Social Security benefits 20 per cent immediately without raising the Social Security tax or allocating Federal general revenues to pay for the added benefits, Nelson H. Cruikshank, National Council President asserts.

In a statement submitted to the Senate Finance Committee which is considering House-passed H.R. 1, the Social Security and welfare bill, Cruikshank said a 20 per cent Social Security increase would be possible on present Social Security income if Congress accepts a change in the actuarial assumption relating to the Social Security trust fund proposed by experts in the Social Security field.

This change in the actuarial assumption that shapes Social Security financial policy is urged by the latest Advisory Council on Social Security in a report published last year, Cruikshank noted.

Dr. Arthur S. Flemming, newly named Special Consultant to the President on problems of aging and Chairman of the 1971 White House Conference on Aging, headed the Social Security Advisory Council that made this recommendation, the National Council leader said.

The idea behind changing the actuarial assumption pertaining to the Social Security trust fund is that wages and salaries subject to the Social Security payroll tax will rise in the years ahead, as they have in the past, reflecting increases in the nation's industrial productivity and capacity to create wealth, Cruikshank explained.

### REASONING EXPLAINED

However, Social Security financial policy up to now has been based on the assumption that wages and salaries subject to the Social Security tax would remain level in the years ahead, Cruikshank said.

Should Congress accept the actuarial assumption recommended by the Social Security Advisory Council, it would not be necessary to pile up huge surpluses to keep the Social Security system in balance, and benefits could be increased substantially—approximately 20 per cent—without raising the Social Security tax rate, he explained.

Cruikshank cited the Social Security Advisory Council's findings in a discussion of the 25 per cent Social Security increase recommended by delegates to the 1971 White House Conference on Aging and urged by the National Council of Senior Citizens.

However, Congress decided to meet the cost of increased Social Security benefits—whether by adopting the new rising earnings actuarial assumption or by some other method of financing—a substantial Social Security increase is imperative if the desperate poverty of millions of older Americans is to be alleviated, the National Council leader told lawmakers.

He pointed out: "Nearly 5,000,000 men and women age 65 or over are impoverished and millions more—2,000,000 more at the least—are very, very close to the poverty line."

### ELDERLY TRY TO HIDE POVERTY

Cruikshank continued: "We all know some elderly individuals who are, perhaps, financially well off but rarely do we see the hardship and suffering of the millions of the elderly who are the poorest of the U.S. poor. The elderly do not parade their poverty. As a matter of pride, they do their best to hide it."

Americans age 65 or over represent 25 per cent of the U.S. poor although they comprise no more than 10 per cent of the U.S. population, he noted.

Cruikshank also said: "We all feel the impact of the steady rise in consumer prices—and there is little indication this rise will be slowed substantially with the present inadequate control machinery—but the elderly, living on fixed incomes, are hit harder than any other group by the continuous shrinkage of their purchasing power that has gone on month after month, year after year without letup."

There is an ever-widening gap between what the elderly receive in retirement and what they were able to earn on the job, Cruikshank declared. The average Social Security benefit of a couple retiring in 1950 met half the U.S. Labor Department's minimum budget (for an elderly couple) then but subsequently dropped to a third of the Labor Department's minimum budget, he said, quoting from findings by a task force of experts in a report to the Senate Special Committee on Aging.

More and more low income elderly are being overwhelmed by the steadily rising tide of inflation, he declared.

### ADEQUATE BENEFIT LEVEL ESSENTIAL

In addition, property taxes have risen so rapidly in recent years that for large numbers of elderly the home that was intended to be a haven of security in later years has become an economic liability, Cruikshank asserted.

He said Social Security is the main support of older people—their chief bulwark against poverty in later years—but it offers very inadequate protection for millions of beneficiaries.

Cruikshank called the five per cent Social Security increase proposed under H.R. 1 "patchwork legislation with the patch not covering the gap it should cover."

The National Council of Senior Citizens sees the provision of H.R. 1 for an automatic cost-of-living adjustment for future Social Security benefits "as a trap to keep low income beneficiaries impoverished" if it is not applied to an adequate benefit level, Cruikshank told the Committee.

"Just as many beneficiaries will remain just as poor as they now are and their financial condition may get worse—indeed, it is likely to—as advanced age and deteriorating health deplete whatever resources they have in addition to Social Security benefits," he said.

The National Council seeks, he emphasized, an immediate Social Security increase of 25 per cent as a step toward an income level equal to the U.S. Labor Department's intermediate budget for a retired couple amounting to $4,500 a year (as of Spring, 1970) as recommended by delegates to the White House Conference on Aging.

(The Labor Department has not updated the retired couple's budget since 1970.)

"Already," Cruikshank said, "the elderly have waited more than six months for action on Social Security legislation—H.R. 1 was approved by the House of Representatives last July—while Congress was voting a whopping $8 billion in tax cuts for business and corporations."

### ELDERLY FORGOTTEN IN CRISIS

He asked: "Must the aged be pushed aside whenever there is an economic crisis? Because they do not riot or threaten violence, will they continue to be forgotten and abandoned?

"Speaking for 3,000,000 members of the National Council of Senior Citizens, I respectfully call upon the Administration and Congress to face up to the misery and suffering of millions of older Americans and do something about it."

Cruikshank said this calls for a reordering of national priorities as requested by the White House Conference on Aging.

Social Security financing should come largely from Federal general revenues whether or not Congress decides to change the actuarial assumption relating to the Social Security trust fund, he declared.

"There are compelling reasons for this," he stated, noting that full-rate benefits were paid all covered workers in the early days of the Social Security program as if they had contributed to the program all their working years.

Today's workers are paying for this and it involves an estimated one-third of the cost of the entire Social Security program, he said.

### GENERAL REVENUE FINANCING ESSENTIAL

"As a matter of equity, Federal general revenue should be used to lift this burden off the backs of the workers," Cruikshank said, adding: "Social Security is a great national resource, benefiting the nation as a whole as well as the individual Social Security recipient. It is proper and reasonable that the nation as a whole share in the cost of the program through allocation of substantial general revenue to support it."

The National Council of Senior Citizens favors the idea of automatically adjusting Social Security benefits to increases in living costs only if there is an adequate level of Social Security benefits to start with, Cruikshank declared.

Cruikshank said the H.R. 1 provision for keeping Social Security benefits in line with cost-of-living increases is much better than an earlier Administration proposal in this area because the new provision would operate only when Congress fails to act on needed Social Security increases.

While opposed to basing automatic Social Security increases on today's inadequate benefit levels, Cruikshank said the National Council supports other Social Security provisions of H.R. 1 calling for:

An increase in widows' benefits (now 80 per cent of the primary benefit) to 100 per cent of the primary Social Security benefit.

Liberalized computation of Social Security benefits for men who retire at age 62.

Dropping out one additional year of low earnings for each 15 years of work covered under Social Security for the purpose of computing retirement benefits.

An increase in the amount a Social Security recipient under age 72 may earn without reduction of benefits from the present $1,680 to $2,000 a year with provision for a reduction of $1 in benefits for each $2 in earnings above $2,000.

Reduction from 20 to 10 years in the period a divorced wife must have been married to her former husband to be eligible for a wife's or widow's Social Security benefit.

### HEALTH SECURITY PLAN NEEDED

In the area of health care, Cruikshank told the lawmakers the National Council of Senior Citizens strongly supports the recommendation of delegates to the White House Conference on Aging that there be a Federal system of comprehensive health services for all Americans without regard to income or social status.

Noting than the White House Conference delegates were forbidden under the Conference rules to endorse specific legislation (because the legislation might be changed before the Conference report could be published), Cruikshank said they nevertheless came out strongly in favor of the principles of the Kennedy National Health Security bill (S-3 in the Senate) in their recommendation of the kind of national health program they consider necessary to adequately meet the nation's health needs.

(S-3 is jointly sponsored by Senator Edward M. Kennedy (D., Mass.) and 25 other Senators.)

Cruikshank said the White House Conference delegates urged that this legislation be financed through a tax on workers and employers and with Federal general revenue contributions.

### MEDICARE IMPROVEMENTS SOUGHT

Pending enactment and implementation of a National Health Security program, Cruikshank said the White House Conference delegates asked for improvement of the Medicare health insurance program for those age 65 or over to include, at a minimum, Medicare coverage of out-of-hospital drugs (now excluded), Medicare coverage for care of the eyes, ears, teeth and feet including eyeglasses, hearing aids and dentures (also excluded under Medicare) and improvement in home health care (provided for under Medicare) as an alternative to institutional care of the elderly.

Especially significant, Cruikshank said, was the recommendation by White House Conference delegates for removal of all out-of-pocket payments now imposed on Medicare beneficiaries.

Cruikshank made an evaluation of the Medicare program in his statement to the Senate Finance Committee.

He said it has succeeded brilliantly in these major areas:

Most of America's 20 million older persons have been relieved of a major part of the crushing cost of medical care and the fear of financial catastrophe resulting from an acute illness.

Complexities that could have thwarted the Medicare program have been overcome even though it may seem that to Medicare beneficiaries that the program's procedures are unnecessarily complicated.

He said Medicare has not lived up to expectations in these respects:

Failure to prevent the dangerously steep increase in the cost of medical services.

Failure to hasten changes in the health delivery system essential to improve quality of health care.

Failure to meet the need for long term care of chronically ill.

Cruikshank urged the Senate to extend the Medicare program to those Social Security beneficiaries under 65 who are disabled.

In the interest of better health services, Cruikshank said the National Council of Senior Citizens supports a provision of H.R. 1 that seeks to encourage development of health maintenance organizations (including prepayment group health plans). However, he said, there should be general agreement in Congress on what constitutes a health maintenance organization.

### RETROACTIVE DENIAL OF BENEFITS SCORED

Cruikshank said the National Council also supports a provision of H.R. 1 that would authorize the Secretary of Health, Education, and Welfare to establish periods for which a patient would be presumed to be eligible for benefits in an extended care facility (nursing home) or for home health services.

This would, he said, eliminate retrocative denials of benefits that have "placed such a heavy burden on older people and given rise to more complaints about the Medicare program than any other feature."

Cruikshank called the absence of a national program of coordinated, continuous medical and social services for the aged and chronically ill "a grave national problem for which a solution must be found."

"Our long term care system is in such a mess that it is a national scandal," he declared, adding: "Congress should move quickly to correct long term care abuses and stop the commercial exploitation of the chronically ill."

Cruikshank condemned as "far too low to support a decent level of living in most communities of the nation" the $2,400 annual income proposed for a family of four under the welfare provision of H.R. 1.

The National Council of Senior Citizens sees the need for an immediate guarantee of a least $3,000 a year for a family of four as sought under an amendment to H.R. 1 drawn by Senator Abraham Ribicoff (D., Conn.) who is a member of the Senate Finance Committee, Cruikshank said.

The Ribicoff amendment provides that the initial payment level ($3,000) be increased each year so that, by 1976, no welfare recipient—whether a family with children, a single person or a childless couple—would receive less than the poverty level adjusted annually for raises in living costs, Cruikshank explained.

### FEDERAL MINIMUM WAGE URGED

However, even a basic benefit of $3,000 would be less than is now paid in some States, he noted, adding: "The National Council urges that States receiving Federal matching grants be required to make supplemental payments to insure continuance of welfare payment levels (including food stamp benefits) presently in effect.

Cruikshank said the National Council also insists no welfare recipient be obliged to take a job paying less than the Federal minimum wage and that no welfare mother with small children be obliged to work unless there are easily accessible child care centers for her children while she is on the job.

The National Council supports, Cruikshank stated, a provision of the Ribicoff amendment to H.R. 1 that would increase authorization for child care programs for working mothers to $1½ billion in grants, half a billion in loans, plus $100 million for construction of such centers and $25 million for training center attendants.

Under no circumstances should a welfare mother with children under three years of age be obliged to go outside the home to work, Cruikshank stated.

He also asked that H.R. 1 provide job protection for State and local workers who currently administer welfare programs against loss of job rights when the Federal Government assumes full charge of public assistance.

The National Council of Senior Citizens supports provisions of H.R. 1 that would, over a two-year period, provide an annual income floor of $1,800 a year for an individual and $2,400 a year for a couple in the blind, disabled and elderly poor category but, he said, provision should be made to assure maintenance of existing benefits in States now paying more than H.R. 1 would guarantee.

Noting that the goal of H.R. 1 is to provide incentives for welfare recipients to find jobs, Cruikshank said that, if there is to be any real progress toward this goal, there must be job opportunities available. He said the National Council strongly supports a provision of the Ribicoff amendment to H.R. 1 that would authorize $1.2 billion for public service jobs instead of the $800 million that H.R. 1 as presently written would make available.

Most welfare recipients are physically unable to work, Cruikshank noted, adding that there are undoubtedly many among those able-bodied on welfare who are ready and willing to work if they can find jobs.

"Getting able-bodied welfare recipients onto jobs and off the welfare rolls requires intelligent planning and concern for these job seekers—it cannot be done with mirrors," Cruikshank concluded.

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### NIXON PART B PROPOSAL

WASHINGTON, D.C.—President Nixon is playing games with the nation's elderly when he talks about eliminating the burdensome Medicare Part B (doctor insurance) premium as he did in his State of the Union message, National Council President Nelson H. Cruikshank has warned the Senate Finance Committee.

"There appears to be a strange mixture of rhetoric and fiscal legerdemain in the Administration proposals in this area," Cruikshank said in a statement prepared for the Committee hearing on the House-passed Social Security and welfare bill, H.R. 1.

Cruikshank recalled that a year ago Mr. Nixon suggested a drastic cut in Medicare Part A (hospital insurance automatically covering all Americans age 65 or over) from the present 60-day coverage of hospital expense (subject to an initial out-of-pocket payment of $68) down to 12 days.

This proposed cutback was coupled with an Administration proposal to eliminate the premium charge for optional Medicare Part B (doctor insurance) now amounting to $5.60 a month and scheduled to go to $5.80 a month next July 1.

"Fortunately," Cruikshank said, "lawmakers saw this as trading a horse for a rabbit" and there has been no action on the President's proposal.

Mr. Nixon made no further public reference to eliminating the Medicare Part B premium until his address last December 2 before the delegates to the White House Conference on Aging and at no time has the Administration proposed legislation to effect this change, Cruikshank pointed out.

The President again raised the subject of eliminating the Medicare Part B premium in his State of the Union message but again he failed to indicate how he planned to accomplish this and no Administration bill to accomplish it has been offered in Congress, Cruikshank stated.

Moreover, Cruikshank said, Mr. Nixon made no provision in the health section of his budget message to Congress for the proposed elimination of the Medicare Part B premium.

### WANTS TO STOP GOVERNMENT CONTRIBUTION

The National Council of Senior Citizens has learned that Mr. Nixon has proposed not only that the Medicare Part B premium be eliminated but that the contribution from Federal general revenues which marches the Part B premium payment would also be eliminated, Cruikshank disclosed.

The National Council leader said Part B benefits and the cost of administering the Part B program are running at an annual rate of $2.5 billion while Part B premium payments and the matching contribution from Federal general revenues will come to approximately $2.6 billion for the year ending next July 1, leaving a small surplus to go into the already skimpy reserve in the Medicare Part B trust fund.

Cruikshank observed: "The obvious conclusion is that, if matching funds from Federal general revenues for the Medicare Part B program are to be discontinued, the loss must be made up either by raiding one of the other Social Security trust funds or by increasing the Social Security tax on workers and employers."

(There are separate Social Security trust funds for old age and survivors benefits, for Social Security disability benefits, for Medicare Part A (hospital insurance) and Medicare Part B (doctor insurance).

Cruikshank warned: "It is not possible to transfer money to the Medicare Part B trust fund from the other Social Security trust funds without jeopardizing the programs financed under these trust funds or foregoing much needed increases in Social Security and Medicare benefits."

That is why, Cruikshank said, "the National Council of Senior Citizens considers Mr. Nixon's proposal to eliminate Medicare Part B premium fiscal legerdemain."

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[From the Christian Science Monitor, Nov. 16, 1971]

### THE SEARCH FOR A HOME

(By Robert P. Hey)

PROVIDENCE, R.I.—Judith Pearson is one of more than 6 million elderly Americans who need a better home. But she isn't sure she even can afford the one she's got.

Miss Pearson (not her real name) lives in a basement apartment in a dilapidated frame house in downtown Providence. Most of the old clapboard houses nearby are similarly run down. To her friends it's a slum.

It's been home for Miss Pearson for a decade. But her landlord recently raised the rent from $45 a month to $65. "I guess I'll have to move," she says resignedly. "I don't know how I can afford $65.

"But my friends say $65 really is pretty cheap—that I can't do any better. Is that true?"

Yes it is, Miss Pearson; $65 is pretty cheap. Housing is the elderly's No. 1 expense, as many will tell you. Most speak of paying rents a good deal higher. The Bureau of Labor Statistics figures household expenses —rent, utilities—take 34 percent of their budget. They take less of Miss Pearson's monthly income, but she wonders how she'll make it with $65 rent.

### SCRIMPING ON "UNIMPORTANT" THINGS

Miss Pearson's no spendthrift. For most of her nearly 90 years she has saved money on "unimportant" things—rent, food, clothing—to have a little for the important things—travel, the broadening of her horizons.

But not even she can figure out how to afford an apartment most Americans would consider decent. It's a problem many of the 20 million elderly share. Millions of them live in substandard apartments or homes. Across the country there simply aren't enough decent places for them to live, at prices they can afford.

Even worse, perhaps, nobody is certain just how severe the problem really is. Few statistics are available on the elderly's housing needs; most that do exist stem from information gathered by the 1960 census. No new statistics are expected in the near future. Because of understandable concern for privacy, the questions that yielded this information in 1960 were omitted from the 1970 census.

The 1960 census concluded that about 30 percent of the elderly—6 million—lived in housing that was dilapidated, deteriorating, or lacking some facilities. This figure is believed to represent about 2.8 million substandard apartments or houses.

The Senate's Special Committee on Aging concludes that new housing construction for the elderly over the past decade has roughly been keeping pace with the expanding need—without making major inroads on the pent-up need. It estimates that today "a minimum of 3 million units" are needed.

The problem of the elderly poor appears the most active. In 1968 the President's Committee on Urban Problems reported "an immediate and critical social need for millions of decent dwellings to shelter the nation's low-income families." It called for low-incoming housing units to be built at the rate of 600,000 a year, for 10 years—to a total of 6 to 8 million.

FORTY-ONE THOUSAND NEW UNITS AGAINST ONE-HUNDRED THOUSAND

The Senate Special Committee concludes that, since one-fifth of the poor are elderly, one-fifth of the 600,000 housing units are needed annually by the elderly—about 120,000. "By contrast," the committee reported early this year, "only 41,000 units could be identified as approved or committed for the elderly poor last year."

Much emphasis in construction for the elderly is on apartments, and many elderly are moving from homes to apartments. But at present two-thirds of Americans past 65 live in their homes (80 percent have fully paid off their mortgages).

"For most older Americans," says the Senate committee, "their home is their only asset."

One elderly person in 20 lives in a nursing home for the aged, or other institution.

Seven in 10 live in families, reports the Administration on Aging. It adds that 1 in 4 lives alone, or with nonrelatives. "Three times as many older women live alone or with nonrelatives," it says, "as do older men."

Living alone seems particularly difficult for the elderly, whether it is uncounted thousands in little rundown hotels or those alone in large houses. In little hotel rooms a sense of loneliness and isolation sometimes seems overpowering; in too-big houses it is the expense and difficulty of keeping up such a large place. And the ever-soaring taxes.

TAXES UP "SOMETHING TERRIBLE"

"The real-estate taxes are going to drive me out of my home," laments a widow from northwest Washington, D.C. "I've paid taxes for years; I paid plenty in taxes to educate my children. But the taxes have gone up something terrible the last few years, and with my husband gone I don't have that much income anymore.

"Why do I have to keep paying to educate someone else's children? If taxes go much higher I'll have to sell the house and move into an apartment. But I'll always think of the old house as my home."

It's more than taxes that makes many elderly exchange their houses for apartments. For many it's also the expense of house repairs and the effort needed to keep up a house.

It's a typical pattern for many elderly, especially those widowed. Income goes down; it gets harder and harder to manage a big house financially and otherwise. One day they decide the ease of apartment living would make the switch worthwhile.

However, with reduced incomes and often special needs—such as being within walking distance of good public transportation—many elderly find it difficult to compete with younger persons for available apartments.

Reports the Senate Special Committee on Housing:

"With apartments generally showing only a 5 percent vacancy rate and apartments on the Eastern corridor showing only a 2.8 percent vacancy rate, seniors had little opportunity to find or exchange housing. They have to compete for these vacant units with their younger counterparts, who are more mobile and better off financially.

"In times of severe shortage the elderly are the ones who are forced to accept the run-down apartment that would otherwise stand vacant."

NO CHANGE OF VENUE FOR JUDGE

When most people retire they prefer to continue living in the communities they're in, where friends and surroundings are familiar. For instance, like the Rhode Islander who moved two blocks from house to apartment.

And like the Missouri judge in his late 70's but still practicing law when his wife passed on. His daughter-in-law invited him to live with her family just outside New York City. He thanked her warmly but declined: "All my friends are here; there I'd walk down the street and know no one, and no one would know me."

Nevertheless, many do retire to other areas; witness the many elderly living in mile after mile of mobile homes and small houses in parts of Florida.

In search of country peacefulness, a few retirees even ignore harsh winter weather—as with those who retire to Freedom, N.H. (population 387). "I've vacationed here from Boston every year since '28," says a courtly gentleman standing in front of Freedom's Village Store. "I retired two years ago; moving here year round was the natural thing to do. Freedom's become a retirement village, you know."

Over the years a Midwesterner has bought and beautifully restored several Freedom buildings, including the old inn and a one-time store that had fallen upon sorry days. Now the store is four nice apartments for retirees.

Retirees coming to Freedom have been able to find good housing. But nationally the housing problem of the elderly is acute.

This is an area in which government is helping. But critics charge it should do more than it has done. What's worse, they say, the Nixon administration has been trying to cut back on housing and other aid to the elderly when it really should be expandnig it.

The Department of Housing and Urban Development (HUD) reports that by mid-1970, elderly were living in more than 336,000 apartments or houses subsidized in whole or in part by the federal government. The department says it administers 21 programs under which the elderly are aided, including: apartments exclusively for the elderly; low-rent public housing for elderly and others; and rent-subsidy programs.

NO INROADS ON BACKLOG

As evidence of progress in meeting the housing needs, HUD reports that elderly were living in 156,000 general-purpose, low-income apartments in 1970, compared with 77,000 10 years earlier. It reports also that in 1960 only 1,100 federally aided apartment units existed in programs specifically designed for the elderly. Ten years later, it says, there were 180,000.

Even critics admit that's worthy progress. But they say it only keeps pace with the increase in need—and doesn't meet a basic need for nearly 3 million good-quality, low-cost housing units for the elderly.

HUD says that in the past 10½ years, ending last December, 43,500 apartment units were begun under the major federal program to provide low-cost apartment housing exclusively for the elderly. But the Nixon administration has decided to end this program and instead stress low-to-moderate-income housing for all ages.

Critics charge that the practical effect of this change in direction, made more than a year ago, is to stop new housing for the elderly—making it too expensive to build because of needlessly higher specifications and interest rates. The Senate in 1970 voted $10 million for the old program anyway, but HUD did not spend it.

A LITTLE EXTRA HELP

Acute as is the shortage of adequate housing, for many elderly the problem is not finding an apartment, it's remaining there. What's needed by many is a little extra help from someone: a good hot meal once a day; someone to take them shopping twice a week; a once-a-week cleaning service; help in cutting through the miles of red tape often wound around promised government aid.

Many privately and publicly financed programs exist to provide these services. But in almost every area of the country the need far exceeds the services provided.

One of the best programs is at Hudson Guild-Fulton Center, on New York's Ninth Avenue. The center provides many activities and much help for the elderly of the neighborhood. Perhaps its biggest boost is the nutritious, low-cost dinner it serves some 125 to 150 elderly every day (some meals are sent to the homebound as well).

"I give them more protein than is required," says Mrs. Gertrude W. Wagner, the center's nutritionist, "because I feel that, being the highest priced food element, that's the one they won't get otherwise. She says that "quite a large group that comes every day for a meal lives in resident homes without any cooking facilities.

Mrs. Wagner says "there is no doubt" that because of meals provided by the center a number of local elderly are able to keep living in their homes, not have to move to nursing homes. That, she says, "is the thing all of them want. Nobody wants to leave his home."

The center is widely acknowledged to be doing a fine job through its meals and many other programs. Yet, ever the realist, Mrs. Wagner warns that even in this area of Manhattan the need is far larger:

"It's important that we know we're just a drop in the bucket, compared with the total needs in the area, or in the city, or in the country."

For untold thousands of elderly, living alone and struggling to remain independent, a nursing home is the only alternative to the help this and other centers provide. One elderly American in 20 lives in a nursing home or other institution. And to many another, the very idea of having to move to one brings a tear.

There are many dedicated nursing home administrators and staffs across the country, and a substantial number of fine nursing homes. But a two-year Senate study chaired and directed by Utah Sen. Frank E. Moss (D) concludes that despite some improvement in the nation's nursing home situation in recent years, by and large the picture remains shocking.

BEHIND-SCENES CRITICISM

Many persons who have worked in nursing homes can relate firsthand how care and food costs are held down—even in some expensive establishments.

A kitchen aide says she resigned from a modern southern Massachusetts nursing home because:

"One day when I was ladling mashed potatoes onto the patients' plates the manager came into the kitchen. He told me to mash the potatoes down on the plates with a fork 'so it looks like there is more than there really is.'

"That was too much for me; I quit the same day. I felt so sorry for those poor patients."

Nursing homes became big business from 1966 to '69. Hundreds sprang up across the nation, largely in response to a federal carrot: the federal government began to pay millions of dollars to nursing homes to care for the aged.

Today, the Moss subcommittee estimates, nursing homes take in from $2.5 billion to $3 billion a year. Public funds account for $2 of every $3; federal funds alone pay about $1 of every $2.

Ironically, the Moss study concludes, this is not enough to provide proper care. And in fact a number of nursing homes have declared bankruptcy over the past two years.

States determine how much money should be paid nursing homes each day to care for indigent elderly patients under the medicaid program. The cost then is shared between the state and federal government.

The Moss study finds most states pay $14 a day for medicaid patients, which has to cover the room, nursing care, food, medicines, and other expenses. It's less than most hotels charge merely for a room. "Grossly inadequate" for proper care, complains Senator Moss.

However, charges a Moss committee aide who has been deeply involved in the study, "if a nursing home operator really wants to cut services and care, he can make a fortune on $14 a day."

The study holds that "the gist of the problem is money." The Senator recommends that the way to solve the problem is to pay more money contingent on adequate care, good food, and other elements of a first-rate nursing home.

### HIGH-QUALITY INCENTIVES SOUGHT

He wants to build financial incentives into existing government programs that would encourage high-quality nursing homes. He praises the incentive system Connecticut builds into its medicaid payments to nursing homes for care of the ill and poor.

The state inspects nursing homes and grades them in five categories; the better they are, the more money they receive. "Typically," the Senator says, "a Class A nursing home will receive about $1 a day (per patient) more than a Class B nursing home and $2 a day more than a Class C nursing home, and so forth."

He says that Connecticut "is commonly recognized as having one of the best nursing home systems in the nation. To be sure, there are problems with this system . . . (which are recognized), but with some minor revision it might provide a useful model for other states."

Good food, enough nursing care, a concerned staff, a clean and cheery atmosphere, a fireproof building—good nursing homes have to provide all these things. But there is something more—respect for the patients. Many of the homes have it: But too many, unfortunately, do not.

### A SHORTAGE OF DIGNITY

It's traumatic indeed for the elderly to lose their independence and have to go to a nursing home—however sunny its rooms. However loving its staff.

Some nursing homes unconsciously twist the knife in the unkindest cut of all: slicing from the patient his last shred of dignity.

There is, for instance, a lovely, modern nursing home in southern New England where nurses and staff automatically call even their newest patients by their first names. It's never "Mr." or "Mrs.," but always "John," or "Edith." Nobody ever asks the patients how they wish to be addressed; for some, it's the last straw to be known, like children, only by one informal first name.

A comprehensive study by the Senate subcommittee on long-term care concludes that about half of all the nation's nursing homes run for profit are substandard—in construction, care, food, or some other element. (Most nursing homes which exist primarily to provide medical care are in this proprietary group; most homes for the aged—well and otherwise—are nonprofit.)

If nursing homes were graded like schoolchildren, the study concludes, only 5 percent would get an "A." (These also are expensive, because the needed high level of care and food they provide patients is costly.)

Ten percent would get "B"; 15 percent, "C"; and 20 percent, "D." These are rated as having good physical facilities. "But what you're sorely lacking there is care," explains a subcommittee aide—"more because they can't than that they don't care."

### "THE SYSTEM" GRADED LOWEST

The guilty party, the study concludes, "is the system—and the system builds in poor care. You need more nurses. You need the involvement of more physicians.

"Most of all, you need a clear national policy as to how we are going to treat our elderly ill."

In August President Nixon publicly expressed his concern about the poor quality of some nursing homes. He said he intends to see that those falling below minimum federal standards are brought up to them. As one step he announced plans to train an additional 2,000 nursing home inspectors.

The Moss study holds that "there seems to be a 1-to-1 relationship between being a low-quality nursing home and earning high profits. The reason is that your major expenses as a nursing home are staff and food. So if you want to make a lot of money in the nursing home field, you cut care and food costs."

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## THE AGED OVERSEAS: HOW DO THEY FARE?

(By staff correspondents of the Christian Science Monitor)

This article was compiled by staff writer Florence Mouckley from dispatches written by Monitor correspondents John Allan May in London, Harry B. Ellis in Bonn (who included information from many visits to Sweden), Elizabeth Pond in Tokyo, and Charlotte Saikowski in Moscow.

BOSTON.—With the United States still gyrating to the rhythm of the young, in Great Britain a new, measured beat is being heard. The elderly person is slowly being brought back to a meaningful place in society.

Compared with other industrialized nations, Britain has a foot out in front. As more and more of the physical requirements of the elderly are being met, public and private agencies are responding to their need for companionship, for usefulness, and for being a part of the mainstream of life.

For instance, some 600 day centers and 7,500 social clubs for the elderly dot the country. Many of these are provided by local town governments and county councils. Others are endowed by voluntary services.

In every town in Britain a wide range of "leisure-learning courses" is available. And more and more elderly folk are helping in the social services, in libraries, and on local sports, social, and political committees. Workrooms are being set up by most local authorities to provide those who want it with part-time light work.

### OLD ORDER CHANGES SHARPLY

This movement to include the elderly in the ongoing life of the nation marks a dramatic change in Britain.

It would be almost true to say that even 10 years ago the elderly had no position. The days when "grandma" presided over the family and was taken along on all its outings had already gone.

Most housing was getting too small and expensive to allow the majority of young people to have parents living with them. People in the geriatric wards of hospitals and in "homes" were half-forgotten and tragic actors on the social scene. Most of the poor were old and most of the old were poor.

This situation has changed. But the change still has a long way to go before it is complete.

Some 7.6 million citizens are past the age of 65 in Britain. There is provision, although it is small, for a basic pension for every one of them. And a system of supplementary benefits ensures that those with no other resources receive a basic income of at least £6.30 ($15) a week above the cost of their rent or accommodation.

Meanwhile, a new pensions plan, due to be passed into law this year, will in time ensure that everybody in retirement has an adequate pension, related to earnings during his or her working life, that will be automatically adjusted to take account of inflation.

### MAJORITY KEEP WORKING

However, despite these pension provisions, 6 out of 10 men over the age of 65 still prefer to stay on at work. With pensions at their present levels the majority must work after retirement if they are to maintain a reasonable standard of living.

And it remains true that one-third of all the retired folk in Britain need Supplementary Assistance to keep them above the poverty line.

It is also the case that the number of special houses and flatlets for the elderly needs to be quadrupled.

"Every day we find old people who somehow have been left out of things," says Mrs. Jill Battersby, a Women's Royal Volunteer Service (WRVS) social worker. "There are hundreds of cases still that are precious close to tragedy."

But the numbers are steadily being reduced. Mrs. Mary Simmons, for instance, worked for 60 years as a "char" (domestic). At 75 she retired. She now lives in a one-bedroom, single-story house on a council estate (public housing) in one of the most expensive areas for private housing in Britain.

"Oh, I am lucky," she says; "this is a lovely house. I can live very well on my pension really."

Local authorities now build about half the houses in Britain. Of these, one-quarter are specifically for the elderly. The rate of building old folks' accommodations is 80,000 units a year. In addition, more than 5,000 housing associations are concerned exclusively with the elderly.

### MEDICAL SERVICES LARGELY FREE

Medical services are provided largely free. One-third of total National Health Service spending goes to care for the elderly, who are also exempt from prescription charges on recommended medicines.

Last year half a million older people took advantage of the home nursing services provided by the local authorities. Some 373,000 had "home helps" provided for them and 828,625 enjoyed free chiropody treatment. Volunteer agencies provided 21,561,819 "meals on wheels"—some 14 million served to the aged in their homes and the rest at social clubs.

And an increasing number of local authorities are furnishing even such things as laundry services.

Sweden, which has probably the most comprehensive social-welfare programs of all industrialized nations, is just beginning to grapple with the need of the elderly for companionship and stimulation.

With physical needs now met, loneliness is the prime problem. And Sweden must also deal with another, unique aspect of the loneliness problem: a traditional stiffness and aloofness among its people.

For centuries Sweden was a farming country. Isolated by geography and by long, severe winters, families looked only to their own members and the immediate community for social contact. Activity orbited around home and family.

But with industrialization and the move from farms and small communities to the cities, the extended family system broke down.

### MORE THAN THE CLINICALLY MODERN

With the close contact with the family severed, many elderly people were forced to live on their own, either in government-supported homes or in their own flats. And with the Swedish tendency toward diffidence, the elderly find it extremely difficult to make friends and find a new life.

More and more Swedes acknowledge that they have planned for the elderly—retirement benefits, health care—but not in the sense of finding out what they themselves really want. The Swedish Government and public are coming to realize that the clinically modern apartment blocks and the impersonal caring for physical needs are not the answer for the elderly.

To bring the aged out of their isolation, Prime Minister Olof Palme hopes to inaugurate "continuing education" in Sweden—the opportunity for Swedes of all ages to return to school at government expense. Although not directed specifically at retired people, this program would include them.

Echoing the Swedish situation, a social worker in West Germany says: "What the elderly need above all is stimulation to make their everyday lives a bit different. Over and over, as I go from one old people's home to another, that is what I hear.

"Most people in homes feel they are well taken care of," the social worker continued.

"They acknowledge this, then they sigh and complain that one day is just like another."

Both Sweden and West Germany have comprehensive socialized-medicine programs that antedate the American Medicare program. In addition, many Germans take out extra health insurance through private plans. Thus old age is not the financial burden on families that it is in the United States.

As in Sweden basic living needs of West German elderly are met adequately. All workers contribute to compulsory old-age insurance, with their employers giving an equal amount. Men are eligible at 65; women at 60. And the pension rises automatically with increases in the cost of living.

Housewives who have never worked do not get a pension, though they share as wives and widows in their husband's pensions. Legislation being prepared will give housewives a pension for the years of work within the home.

The traditional pattern of the "old folks" living with the younger generation is largely superseded in West Germany. When, for example, East Germany allowed pensioners to visit their West German families for a month each year, remarkably few elderly East Germans remained in the West. Almost all returned to East Germany to their own homes, rather than start living with their grown children.

### HOUSING AMPLE, STANDARDS VARIABLE

Unlike the United States, there is no serious lack of housing for the elderly in Sweden or in West Germany, both of which build large numbers of "social" housing complexes—that is, supported by government funds with low, controlled rents.

Those elderly who, for one reason or another, cannot live on their own find places in either private or public homes for the aged. Here the quality varies greatly and, in West Germany, at least, there are inadequate controls on how such private homes should be run.

Recently the West German press has stressed the loneliness problems of the aged, portraying them as often exploited by those who run old-age homes.

There is a need for additional facilities for the elderly as the percentage of those over 65 increases.

Japan, rocketing onto the world scene as a major industrialized nation, was late among nations in this category in adopting social-welfare programs for the elderly, since traditionally they have always been cared for by their children.

Throughout history Japanese families have respected and honored their elderly in obedience to Confucian ethics. Japan's whole system of loyalties was shattered by the country's defeat in World War II, however, and filial piety was not exempt. And, too, the explosive postwar industrialization and urbanization, with their population mobility and increase in nuclear families, further undermined the old family system.

### MEN AT THE TOP VERSUS LOSS OF PRESTIGE

Now there is a wide gap between the men in their 60's and 70's who hold the top political and business leadership posts and the vast majority of elderly, who no longer enjoy the prewar prestige of the aged.

The vast majority faces compulsory retirement at 55.

There is a growing literature, both factual and fictional, on the uselessness, loneliness, and even obsolescence that many of these men feel.

Financial provision for the elderly is most inadequate. However, the Finance Ministry has just come out with a plan (which will probably be adopted) to increase social-welfare benefits next year.

Yearly income-tax exemptions for dependent elderly would be increased from 140,000 (about $425) to 160,000 or 180,000 yen. Exemptions for working elderly would also be raised from the present 120,000 yen.

Also, a combination of national and local governments would pay half the costs of private medical insurance for those 70 and over. Old-age pensions (for those 70 and over) would be increased from 2,300 yen a month to 3,300 yen (about $10).

According to a survey by the Social Welfare Ministry made last June, 540,000 elderly (men 65 and over and women 60 and over) live alone, often in extreme poverty. Of these 170,000 can afford to eat only two meals a day; 86,000 are bedridden.

### ABOUT A THIRD SUPPORT THEMSELVES

In more general terms, according to Fumio Miura, section chief in the Welfare Ministry's Social Research Institute, about 30 percent of the 7 million elderly population support themselves; 50 percent are supported by their children; and 10 to 15 percent are supported by the government.

There are no company pensions in Japan. There is a lump-sum payment on conclusion of employment, but this does not cover further needs.

The first government pension program really got started only in 1954. It is financed by funds collected in both company and worker payments over 20 years of employment, supplemented by government money.

At best this gives the pensioner only about two-fifths of the salary he earned while working. And the program has not been in operation long enough for anyone to qualify yet for this maximum pension.

If a man is forced to retire at 55, he may find he has his most pressing financial needs immediately after retirement, for with frequent late marriages in Japan, he may well still have children to support and educate.

A measure of the inadequacy of pensions is seen in the number of people who work after retirement. Over the past decade this has increased to 87 percent. With Japan's labor shortage, retirees can find jobs, but these are often menial and low-paying ones like parking-lot attendants.

### GOLDFISH PONDS AND PERSIMMON TREE

About 80 percent of the aged live with their children. This percentage, which is just the reverse of the Western ratio, has remained constant since 1955. Some 19 or 20 percent live alone; 1 percent live in old-age homes.

Mrs. Toshi Higuchi, 70 years old, is one of the fortunate elderly people in Japan, but still her situation is not ideal. She lives alone in a new mountain house built by her daughter and son-in-law in a resort area of Niigata. She enjoys planting roses and comos and watering her garden, which is quite large and contains two goldfish ponds and a persimmon tree. She lives 15 minutes by car from the train station, and there is a good road to it.

But it's difficult for an old woman to get up and down much. She was in the hospital for 50 days recently but is back home now. The daughter (her only one) and son-in-law live in a bakery, a 15-minute train ride away from the station. Her granddaughter is married and living far away in Kyushu. Her grandson is living rather far away, studying baking in Tokyo. When asked to compare the way older people are treated now with prewar days, she replied: "I have nothing to say, because I am happy. Things are taken care of, but when it comes to evening time, I feel very lonely. . . . If I had a maid living with me, I wouldn't be lonely, but then I would have to think about this and that for the maid all the time, and I wouldn't like that, so I stay alone."

### A FREE MEDICAL CHECKUP—PERHAPS

In theory the Japanese Government provides the elderly with a free medical checkup once a year. But only about 20 percent actually take the checkups. The places of examination are often too far away or inconvenient for the elderly to get to. Also, there is a strong disinclination to have the examination, since at best the elderly person would still have to pay half the costs; and at worst he would have to pay all. Many an older person just cannot afford medical attention. And there is at present no public health insurance for the aged.

The ruling Liberal Democrats are planning free medical care for older people, but it's slow in coming. It will cover those past 75 next year and only eventually cover those past 70.

Efforts to make life meaningful for the old in Japan are limited.

Prefectural (state) governments have some social welfare centers with daytime activities. The Welfare Ministry tries to provide some club activity, too, but these attempts do not even scrape the surface of the need.

A promise on the horizon: The problems of the aged have become an important issue in Japan and no political party can afford to ignore them.

In the Soviet Union, although retirement age is 60 for men and 55 for women, countless Russians continue to work either to supplement meager pensions or because of professional interest. Many scientists, economists, actors, and musicians—as well as the country's political leaders—are in their 60's and 70's.

### MANPOWER—AND CONTENTMENT—SOUGHT

And most significant, because of a growing shortage of manpower, a concerted effort is under way to enlist retired persons back into jobs. Aside from the value to the economy, it is recognized in the Soviet Union that activity keeps older people healthier and happier. Some planners suggest that special light manufacturing plants be built that would hire only elderly persons and that part-time work be provided more widely where feasible.

Parallel with other societies is the disappearance of the traditional Russian patriarchal family, in which two and three generations lived together and the elderly "babushka" looked after the children. Young married couples today prefer to live alone, and the contemporary grandmother is less inclined to spend her senior years tied to family chores. Hence care of the aged is a growing concern in Russia.

Old-age pensions are paid to male wage earners at the age of 60 and to women at the age of 55. The minimum pension was raised this year to 45 rubles ($50) a month and the minimum monthly pension for collective farmers to 20 rubles ($22). The maximum pension, based on years of employment and size of earnings, is 120 rubles. As a measure of comparison, the present average Soviet factory wage is 122 rubles a month.

### FOR HALF, LESS THAN 50 RUBLES

Unlike most in the West, Russians do not contribute to the state pension fund, and pensions received are probably a higher percentage of average earnings than in most countries. However, they are also extremely low in relation to food prices. Western economists estimate that at least one-half of all retired persons have to get along on less than 50 rubles a month, which is below the official minimum living standards.

Certain types of hard labor, such as mining, carry earlier retirement benefits, as do jobs in remote and difficult parts of the country.

In the sphere of public health, the Soviet Union has an extensive system of free medical care (apart from the cost of medicines).

There are reported to be 100 geriatric consulting offices attached to medical institutions throughout the country now, and the first comprehensive geriatric polyclinic has been opened in the city of Tashkent.

With 12 percent of the Soviet population above the age of 60, problems of the elderly are being talked about more these days. Geriatrics specialists would like to see the construction of special rest homes, clubs, and even dietetic restaurants.

### NEED FOR SPECIALIZED HOUSING SEEN

They would also like to see more specialized housing for the elderly.

Housing in general is in short supply, with an estimated 40 percent of the population still living in communal apartments—two or more families per apartment. But rents are subsidized by the state and are minimal by Western standards. Collective farmers, for their part, own their own houses.

According to a Soviet report, about 250,000 aged persons and invalids are cared for entirely by the state in special homes, of which there are some 850 in the huge Russian Federation. There is also special (and better-quality) housing for retired scientists, writers, and other privileged members of the intelligentsia.

Soviet specialists say the needs of the elderly are far from met and they urge construction of more boarding homes for the aged, with places for 100 to 400 persons in the midst of normal urban communities. The current five-year plan (1971–75) also calls for more homes for the aged.

## PERSONAL ACHIEVEMENT IN CHINA

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, on the afternoon of September 6, 1899, the U.S. Secretary of State, John Hay, a Republican, transmitted to the U.S. Ambassador in Germany a diplomatic note. This communication addressed to His Germany Majesty's Government, concluded with the declaration that:

> The policy of the government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

By 1900, the Hay Doctrine had been circulated to all United States Embassies and had become the basis for the so-called open door policy. For the next 50 years our foreign policy toward China was officially proclaimed to be an open door. We pledged to observe China's territorial integrity because, very simply, it was in our best interests to keep China from being cut up and colonized. American policy was to keep China open to all.

That we did not actively promote or enforce the open door policy in the years following 1899 is our discredit. On occasion upon occasion, up to 1941, the United States gave lip service to the principles of the open door but failed to use the means necessary to implement the principles. Tragically and inevitably the open door policy ended. In April 1950, the last American consular and diplomatic personnel withdrew from mainland China and the United States embarked on a China policy which was the very antithesis of the open door. Instead of striving for closer relations with China, the United States barred regular diplomatic relations, prohibited travel of Americans to China, placed a total embargo on trade, and campaigned to keep China out of the United Nations.

A great Republican leader of a later generation has succeeded, step by step, over the past 3 years in removing the barricades the United States itself placed against an open door to China, and he is now in Peking dealing face-to face with the great leaders of that great nation.

The opening of the door to China is a great personal achievement of Mr. Nixon, one in which Republicans especially can rejoice.

Here are the steps taken by President Nixon:

July 1969—American tourists were permitted to purchase Chinese merchandise abroad, travel restrictions were reduced.

December 1969—Foreign subsidiaries of U.S. firms were authorized to engage in commerce between China and third countries.

March 1970—The United States announced it would validate passports to China for any legitimate purpose.

August 1970—Restrictions lifted so most foreign ships could use U.S.-owned bunkering facilities for trips to and from Chinese ports.

March 1971—Requirement of special validation of passports for travel to China terminated.

April 1971—United States decided to expedite visas for visitors from China, relaxed currency controls so China could acquire dollars from the United States, permitted U.S. oil companies to provide fuel for ships and aircraft en route to or from China, allowed U.S. ships and planes to carry mainland Chinese cargo between non-Chinese ports and U.S.-owned carriers under foreign registry to call at Chinese ports. At this time the United States also compiled a list of nonstrategic items for direct export to China.

May 1971—Other controls on dollar transactions with China were lifted.

June 1971—The United States ended a self-imposed 21-year-old embargo on trade with China, issuing a general export license for a comprehensive list of nonstrategic items, and rescinding a 10-year requirement that half of certain grain shipments to Communist ports must go in U.S. vessels.

November 1971—The United States reversed its opposition to United Nations membership for Red China.

February 1972—The United States lifted restrictions on trade with China so trade with China is permitted on exactly the same basis as trade with the Soviet Union.

Each of these steps has been undertaken by the President without initiative or special action by the Congress. That is why the President's opening of the door to China can properly be considered a great personal achievement, of special pride to Republicans.

By substituting a new open door policy for the closed one he inherited, the President has acted courageously and imaginatively to meet the pressing need of stability and normalization in the Far East. His actions effectively reduce the possibility of hostility in that region, because they have ended the dangerous double standard policy, under which the United States actually gave distinct diplomatic, economic, and military advantage to the Soviet Union. By acting to deal on equal terms with both Peking and Moscow, the President has notified Moscow—and the world—that the United States will not gang up with Moscow against Peking in border difficulties or other problems that may arise between the two great rival centers of Communist power.

These steps, and most of all the President's personal visit to China, are major steps toward permanent peace and safety in East Asia. And appropriately they have been undertaken by a Republican.

On each previous occasion in modern history when instability threatened the Far East, a Republican leader has responded.

First among them was John Hay, with the original Open Door Policy toward China. Then followed Republicans Theodore Roosevelt, Henry Stimson, Dwight Eisenhower, and John Foster Dulles.

Richard Nixon in China carries forward with great honor and effect the Republican tradition of leadership for peace, stability, and progress in world affairs.

## NOISE CONTROL ACT OF 1972

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, I rise in enthusiastic support of H.R. 11021, the Noise Control Act of 1972, a bill I am privileged to have cosponsored. Even though I do not believe this legislation will provide a complete answer to the increasingly serious problem of noise pollution, I feel it is a long step forward toward the resolution of the plane noise problem.

The problem of excessive noise is too all-pervasive and too complex to be swept by one act of Congress. And even if this were possible, I personally believe that the bill we have before us does not go as far in combating this menace to the public health and happiness as it should. But, I repeat, the Noise Control Act of 1972 is a most useful beginning step toward bringing noise pollution under control.

In recent years the public attitude toward environmental noise has undergone a considerable, and most necessary, change. Noise used to be considered a minor nuisance, an annoying byproduct of twentieth-century life which could be fought—or endured—by the individual citizen. At worst the local authorities could be involved, as by calling the police to silence a particularly noisy party, or getting a city or town ordinance passed to stop a round-the-clock construction project during the hours of sleep. But it was not really taken seriously, and it certainly was not considered to be a major national problem.

Now the public attitude is very different from that which I have just described. Noise is considered a serious problem, and it is considered a national problem. There are three reasons for this change in attitude. First, the increased concern with all aspects of the environment in which we live has extended to noise, which degrades that environment. Second, the problem itself has grown increasingly more severe, particularly in our urban centers.

Finally, research into the effects of noise on human health has established that noise is a health hazard. Exposure to excessive noise can cause a diminishing of the ability to hear, and it may also produce non-auditory effects such as mental stress, fatigue, dizziness, and interference with sleep. These three factors—increased environmental awareness, increased volume of noise, and increased knowledge as to the harmful effects of noise—have combined to cause a growing public concern, and a demand on the part of many of our citizens that something be done about noise pollution.

A brief listing of some of the more significant sources of noise will serve to show how all-pervasive this problem is. Aircraft, of course, represent the noise source most readily identified, and those living near airports would contend that as a source of annoyance, no noise can compare with the scream of jet engines. But those living near busy highways or construction sites would tend to identify those noise sources as most annoying. Occupational noise is a serious problem to many of our industrial workers. The housewife is victimized by a number of irritatingly noisy home appliances. Finally, even our leisure activities tend to be overly noisy, as the examples of motorboats, snowmobiles, and rock music will show.

The most ironic aspect of the noise pollution problem is that, in a great many cases, noise pollution is simply not necessary. The technology exists that would bring noise down to much more endurable levels. It is not being applied because, in most situations, the control of noise will cost money. It is cheaper to run a Boeing 707 until it wears out instead of replacing it with a newer, quieter aircraft or retrofitting its engines. Similarly, it is less expensive to run jackhammers, subway cars, and textile machines until they wear out rather than replacing them with newer, quieter equipment. In the case of consumer goods, noise may even add to sales—for example, a noisier vacuum cleaner may be preferred over a quieter one out of the mistaken idea that noise denotes cleaning power.

It is in this type of situation, where technology to solve a problem exists but is not being utilized, that we in the Government can be of critical importance. By using the power of legislation and regulation, we can compel the use of quieter equipment in many of the areas of our lives in which noise is an annoying factor. That is the purpose of the bill before us today.

As of now there is no overall Federal noise control law. Federal legislation on noise control has been confined to the limited, though important, areas of aircraft noise and occupational safety. This legislation will mark a dramatic change in this picture. The Federal Government will now have an extensive role in dealing with the noise control problem. I do not intend to explain the Noise Control Act in detail here. The able members of the Interstate and Foreign Commerce Committee, who have been working on this legislation for months, have already done so, in their committee report and in their floor statements. However, I will comment on some of the more important aspects of this bill. Under the Noise Control Act, there will be noise standards, prescribed in most cases by the EPA, which would set maximum allowable noise levels for transportation equipment, construction equipment, and other noisy machinery. The bill would also set Federal noise labeling requirements for products in interstate commerce, a provision I believe would be highly useful since it would provide the consumer with information on noise levels which is not now available to him. It provides for citizen suits against alleged violators of noise control requirements, for a program of research, technical assistance to local governments, and public information, and for the encouragement of the development of new, quieter products to replace existing, noisier ones. It also provides that the Environmental Protection Agency shall coordinate Federal programs relating to noise research and noise control.

This legislation is a major step forward in the battle against noise pollution. Those of us from New York City, or from the other great metropolitan areas of the country, recognize only too well the urgent need to bring noise under control. Mr. Speaker, I urge the passage of this legislation.

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## NUTRITIONAL LABELING ACT OF 1972

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 10 minutes.

Mr. MCKINNEY. Mr. Speaker, as incredible as it may seem, there is a growing nutritional famine in the United States, the most affluent of nations. Studies of the nutrition of thousands of Americans show that their diets do not begin to meet the recommended daily allowances of nutrients. The Department of Agriculture made national nutritional surveys in both 1955 and 1965. Whereas half of our citizens had appallingly inadequate diets in 1955, 10 years later nearly two-thirds were deficient in protein, calcium, vitamins A and C, and all other nutrients considered except iron. Still other studies show that American diets became much worse between 1965 and 1970.

Nutritional deficiency cuts across all age groups and across every class of our population, including those who can afford to purchase almost any food commodity available. In essence, Americans are not healthy and obviously they are becoming less healthy each year. In fact, experts have declared that we are a nation of "nutritional illiterates."

For this reason I am today introducing legislation to amend the Fair Packaging and Labeling Act to provide for the establishment of national standards for nutritional labeling of food commodities. I firmly believe that consumers are realizing the inadequacy of their diets, are becoming aware of the loss of nutrients through our refinement processes, and want to select foods which are healthful and nutritious. Most people generally understand there are four basic food groups from which to make selections; but they are stymied from good selection, because they lack knowledge about the nutritional values of particular foods. With labeling, consumers would be able to know which foods would supply the needed daily requirements and, if labeling were required, manufacturers would most likely compete to produce the best possible food.

There is no one food that contains all the needed nutrients, but through careful selection, the required amounts of nutrients can be obtained daily. For example, most consumers would probably be surprised to learn that a quarter pound of cooked ground round contains more protein, less fat, less calories, and is generally more nutritious than a quarter pound of sirloin steak. And I think there would be a literal run on liver—and a proliferation of recipes to perhaps camouflage this meat—were it known that liver is one of the most nutritious foods available.

To give a further example, I always thought watermelon was basically sweet water when, in actuality, a 4-inch by 8-inch wedge of watermelon supplies half the daily requirements of vitamins A and C, whereas the highly touted apple contains only one-half a unit of vitamin C. And how many consumers know that one cup of pork and beans contains less protein, less fat and fewer calories than two cooked frankfurters? And should not consumers know that kale far outdistances green beans, cabbage, and lettuce in vitamins and that a wedge of cheese pizza contains as much protein as an egg?

The point I am making is that our choice of foods can largely determine whether we daily build our health or daily deteriorate. In other words, what is needed is a single, uniform, nationwide system of nutrient labeling, whereby consumers can determine which foods are more nutritious and how much of a particular nutrient is contained in an average serving of a specific food. I might add here that both the 1969 White House Conference on Food, Nutrition, and Health and the recent White House Conference on Aging recommended nutritional labeling of food products as a means of achieving consumer understanding. And in September of last year Giant Food, Inc., initiated a pilot program of nutritional labeling. In establishing this program the advisory committee, composed of consumer, and industry representatives and nutritional experts, worked with the Food and Drug Administration to provide nutritional information for consumers at the point of sale.

This is a start in the right direction but, since it is a pilot study, it is of necessity limited to the Washington, D.C., area. We need a national system and it is the purpose of the Nutritional Labeling Act of 1972 to require information relating to the nutritional value of food commodities be included on the label of such commodities. So the consumer, whether he be in a Connecticut or New Mexico grocery store, would have at his fingertips the nutritional value of each food before him.

The nutritional value would be expressed in terms of the relationship of the amount of each nutrient contained in the food to the total recommended daily requirement of each such nutrient required to maintain a balanced diet. And by "nutrient," I am referring to the amount of protein, vitamin A, the B vitamins, thiamin, riboflavin, niacin, vitamin C, vitamin D, carbohydrates, fat, calories, calcium, iron, and such additional nutrients as may be prescribed by regulation.

These regulations would be promulgated by the Secretary of Health, Education, and Welfare, after consultation with the National Academy of Sciences, as to the specific types of nutrients which should be listed on the label. And if there is representation on the label as to the number of servings contained in the package, the label must state the nutritional value of each serving.

Because of the stresses of modern-day living, our nutritional requirements are extremely high, perhaps higher for our entire population than ever before in history. And because of the processing and refinement of our foods, as well as our lack of knowledge of our bodily nutrient needs, our chances of obtaining these needed nutrients are perhaps lower for our entire population than ever before in history. With a simple national system to guide us as to what nutrients are contained in the foods we eat, in a couple of years it may once again be possible to find a person who is radiantly healthy.

Mr. Speaker, we spend zillions of dollars studying disease. Can we not also pass legislation for the purpose of studying health?

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## OUR NATION'S HIGHWAYS: A MAJOR THREAD IN AMERICA'S TOTAL ECONOMIC FABRIC

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. McDONALD) is recognized for 15 minutes.

Mr. McDONALD of Michigan. Mr. Speaker, I want to share with you and Members of the House a speech which I delivered today to members of the American Road Builders' Association, the Highway Advisory Council, and the Highway Information Coordinating Council:

I am honored to be here today to meet once again with my friends in Washington's road gang. It is a pleasure to be asked to make a few comments before a group which includes not only so many of my friends, but which also includes so many national highway leaders.

We've met before to talk about our common goals, our common problems. I have always felt, and still do, that we can talk plainly and frankly. I intend to do so again today, because I have some things to say about highway transportation in this country, and I don't want to be restricted to a "good-guy" image.

The fact of the matter is that I am getting tired of having to defend our highway programs and the Federal-Aid Highway Trust Fund. The time is long overdue for all of us to take off the kid-gloves and the pleasant smiles and answer the many, many anti-highway, anti-automobile critics.

You of the road gang have a reputation for plain talk. So here comes some.

As a member of the Roads Subcommittee of the House Public Works Committee I am becoming increasingly irked over some of the attitudes regarding highways.

It is no secret here, of course, that the Congress will very soon begin dealing with two important highway transportation matters. One is related to the impending hearings on highway safety requirements and the other is the biennial congressional action on the Federal highway program.

We are all familiar with the 16 standards established in the Highway Safety Act and all of the ramifications involved in the total effort to reduce traffic accidents. No cause has been more worthy of our attention, but I am becoming increasingly unnerved by the distortions of purpose which have crept into this crusade.

To my dismay, and to the detriment of our highway programs, the cause of highway safety has become a vehicle for every crackpot to damn the automobile and the truck. It has become almost fashionable to affix all blame for traffic mishaps on the vehicle itself. And once the finger has been pointed, these critics spend days and nights dreaming up sophisticated gadgetry for installation on next year's autos, all designed to save the driver from himself. All of these gadgets add tremendously to the cost of the car, and much of it has debatable value.

As a Congressman from an automotive State, I hasten to declare that I do not sanction production of automobiles or trucks with inadequate or faulty parts and equipment. Nor, I feel, do the manufacturers. But the rush to saddle our vehicles with experimental safety claptrap bothers me. It bothers me because too frequently it overlooks what I think are still basic safety essentials. Namely, good, well-engineered highways, and drivers who ought to be screened a little more carefully for at least the minimum skills and physical capacities to operate motor vehicles in our constantly increasing flow of traffic.

It matters little where these crackpot ideas originate. Some come out of Congress. Some from the administration. Some from professional do-gooders. And some from people who seem hell-bent on destroying the automobile industry. The fact of the matter is that, regardless of the source, we must begin to conduct a counter-acting, positive campaign.

We must focus attention toward the roadway itself as one of the factors which long ago was proven of prime value in reducing accidents and highway fatalities.

As Congress reconsiders the matter of highway safety, it will be a great asset to have a well-informed constituency behind us. We must have this support if we are to adequately fund our States and municipalities so that accident-causing, congested, narrow and outmoded roads can be improved to modern safety engineering standards.

I happen to believe that our number one safety job is to modernize and upgrade some 200,000 miles of roads and streets already too hazardous to travel safely. We must focus on this problem first. In terms of lives, injuries, and costs it is far more important than hanging more bumpers, mirrors, periscopes or other such gadgets.

I know that you members of the famous road gang share my trepidation over the approach of congressional debates over the Federal aid highway program. Under normal circumstances, we could expect this year's action to be rather routine with little earth-shaking change in direction or policy.

I fear, however, that our hearings may become an open forum for everyone who wants to take a potshot at the highway program. I will make every effort possible to avoid this donnybrook, but we must make preparations for an all-out attack on the highway industry.

The signs of a brewing storm are already present. We can expect broadsides from those who want to dismantle and fragment the highway trust fund. We can anticipate renewed efforts to use motorist taxes for mass transit. The revenue sharers will be out in force. And all of our friends from the environmental coalition will lay us siege.

It is unfortunate, but some of the opposition to the Federal aid highway program as we have known it for nearly 20 years comes from highly-placed circles. They look with envy on the highway trust fund. They have little regard for its keystone value to our total United States transportation system. Their ignorance may be extreme, but their potency cannot be dismissed.

I confess my alarm. And I suspect it is shared by many in this room. It may take all of our strength this year alone to fend off the attacks. It certainly is going to divert the Congress from any orderly consideration of developing the long-overdue post-75 Federal aid program. And I count that of utmost urgency.

Many of you have seen, as I have, some of the recent opinion polls taken across the Nation. The attitudes they purport to reflect against highways are mind-boggling. I find some of the studies hard to believe.

Some show an alarmingly high percentage of citizens disenchanted with highways. Too many rate highways as negatives to environmental improvement. Quite a few would just as soon halt all road construction.

And one opinion study I saw showed that more than half of the respondents were quite willing to ban all motor vehicle traffic in central city zones.

I suppose we should believe this alarming data . . . presumably arrived at scientifically . . . but I can't help but feel that perhaps at least a few of those who said "yes" to vehicle-free zones undoubtedly went right out, extracted one car from the three-car tangle in the driveway, and drove one block away to buy a loaf of bread.

I rather suspect, too, that some of our fine ladies glibly voted against highways at their local ecology club meeting, to which they drove, of course, and then spent the rest of the day picking up Susie for her ballet class, driving to the beauty parlor, two trips to the supermarket, wrestling the family dog into and out of the car at the vets, and then hurriedly picking up Junior after basketball practice, if you take the car away from this ecologically-hip lady you condemn her to a fate far worse than she can imagine.

I find it amazing, too, that a nation which seems bent on putting every kid into a school bus can be so unconcerned that little John is going to travel 10 or 20 miles every day over inadequate and relatively unsafe streets and roads.

As a result, I must take some of these opinion polls with a little grain of salt. But they bother me, nonetheless, and I am sure they already are causing you deep concern.

How have we, who are interested in highway construction and the maintenance of a sound, sensible road system, fallen into today's position? Why do so many people seem to downgrade highways when they are driving more cars now than ever before and traveling more every day than at any time in history? Why the enchantment with pretty wispy will-o-the-wisp mass transit schemes?

I don't have the answers, of course, I do have a sense that our citizenry may be expressing anti-highway attitudes because it is regrettably a popular pose. I have a serious doubt that very many have really sat down to analyse how *dependent* each one is . . . in his own personal way . . . on our road systems. Dependent in more ways than just going to and from work or school or the supermarket.

Michigan, as you know, is a great vacation state. Ten years ago we used to think of ourselves as a *summer* playground. Now our citizens have more than 300,000 snowmobiles and . . . I think . . . 300,000 little trailers to haul them. On any winter weekend, it looks like the Fourth of July on any northbound freeway. And those not hauling snowmobiles have a rackful of skis. At Houghton Lake . . . midway on the central I–75 artery to the north . . . the official highway traffic counts have jumped 500% for the month of January in just 10 years. In 1960, not much more than deer wandered along that route. Now it's bumper to bumper in January! I just find it hard to believe that 42% of these travelers would vote highways bad for the environment.

Possibly . . . just possibly . . . this is the root of our troubles. We have built a national network of expressways which are safe, fast, and convenient. We have built many municipal highways which made suburban living feasible and stimulated vast economic expansion.

But somehow, someway we accomplished these engineering miracles and then forgot to tell the average citizen that our modern highways have broadened his economic opportunities . . . resulted in marketplaces where he can select goods transported to him more freely and at less cost . . . changed his social patterns . . . and opened up new vistas for recreation and travel.

Better highways have bettered the whole Nation. But for all of our wizardry we haven't won much appreciation . . . or understanding.

I have noted with pleasure that some of you here already are beginning to tackle head-on the many unsupported myths which are so casually scattered by the anti-highway groups.

I encourage this myth-chasing but I fear a lot more remains to be done.

The question is what? And how?

It is apparent our engineering skills have outdistanced our capacity for public relations. Perhaps we have lost public understanding because we are telling our story about highways in about the same way we did in the 30's and 40's. Perhaps we need a thorough-going analysis of what public attitudes truely are . . . and how they got there.

It is painfully evident that we must develop more effective counters to those who would wreck our highway systems. We need to do it soon. Possibly . . . just possibly . . . It will mean restructuring some of our own attitudes if we want to rebuild a more favorable public attitude toward highway transportation.

As I travel about the country, I am impressed as I am sure you are by the vast changes highways have effected. I see vast industrial complexes rising from cornfields. I see housing developments stretching into the countryside. I see once-remote recreational centers now flourishing. And I see a lot of small towns once slowly dying now in healthy economic revival.

There are many books of data about how our more modern highways have changed, expanded, and enhanced the economic strengths of the entire Nation.

I don't have to sketch out any details for you here today. You know what is happening and how better roads have wrought vast economic gains. But when I get home, or talk to my friends in the provinces, I get some pretty funny responses.

Let me illustrate. A grocer friend grosses some $750,000 a year watching semi-trailers deliver produce at the back door and housewives tote it out in shopping carts by the front door. When I ask him how long he could operate without supplies or customers who arrive by car, he looks blank. After much head scratching he finally admits he'd be out of business in 10 days without roads. Maybe less.

An industrial friend located his new plant 50 miles out in the country. Cheaper labor? Not really. Cheaper land and taxes. Yes, for the time being. Better transportation ah, yes. His plant sits astride an expressway and he was aware of its value, but only dimly. He had little understanding of how much it costs to plow, patch, and regulate traffic on that freeway which is his life's blood. And he had no idea who is paying for it . . . or how.

I sometimes vacation near a little upstate Michigan community . . . population 867 . . . 228 miles from Detroit. Recently, a Michigan company cleared some pine stumps away and built a small auto parts supply plant near the village. It employs 300. Almost immediately I began to notice the town took on a lively, bustling appearance. As I talked to the hardware man . . . the grocer . . . the barber, every one admitted the plant and its payroll had turned the town from a sleepy, resort community into a bustling little town. But not one merchant on main street had any real notion that the main reason this village had its first industry is an excellent, year-around highway system that permits two truckloads of mouldings to leave that plant for Detroit every night. Not one businessman along main street had any understanding that the growth of this community is tied up . . . part and parcel . . . in a highway. Not one had any real notion that the town is out of gas . . . out of business . . . but for a road.

I have the sinking feeling most businessmen everywhere suffer the same lack of identification. This recognition gap runs . . . I fear . . . from the executive suites in New York to the corner drugstore.

If nothing else, we must re-educate . . . reimpress . . . or revitalize the understanding of all business and industry that highway transport is woven into our total economic fabric. And that we had all . . . from top to bottom . . . better get a firm grip on this fact of life or risk critical damage to business in America.

Because of this, I propose that we here and now set in motion a National Businessman's Conference on Highway Transportation.

I propose that this conference re-focus business and industry's eyes and minds on the vital role of highways. I suggest it dramatize how jobs, payrolls, capital investment, domestic and international trade, and national growth are reliant on roads. It must demonstrate the highway importance in our economy and it must *activate* business concern.

If nothing else, I would hope such a conference will renew the business community's recognition of highway transport and rally its needed support. My experience suggests we have lost business understanding of highways. Or at the very least, we have managed to let roads slip to a low priority in the minds of industrial and commercial leaders.

If we can't reconvert the bird-watcher society member, we certainly ought to be able to demonstrate to the TV maker or to the corner grocer that roads have a lot to do with his bread and butter.

My alternate proposal is one I hesitate to make. If we fail to re-interest businessmen in their stake in roads, there is an optional route. Let's then select just one State . . . and I don't want to pick it . . . but let's select one State and then for a five year period simply and arbitrarily halt all new road construction and all maintenance. Let the potholes proliferate. Let the traffic jam. Let transport strangle.

I'll guarantee one thing: Public appreciation of highways in that State would change radically. It would be the most effective . . . and certainly the harshest . . . way to change attitudes.

But it would indeed prove our point.

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## THE NAVY'S DESPERATE JUSTIFICATION

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, Admiral Zumwalt's assertion that the Navy should play an important role in protecting the shipment of foreign oil is a desperate attempt to justify unnecessary increases in the Navy budget.

The spending of billions of dollars to protect tankers bringing petroleum supplies into the United States would be an incredibly stupid waste of money.

There is no question that the national security can be much better protected, at a much lower cost, by allowing cheap oil to come freely into the United States and to store as much of it as we might ever need in a national emergency. This might not serve the Navy's parochial desire to increase its fleet, but it would serve the Nation's interest far better.

The oil tanker argument is merely the latest attempt by the Navy to conjure up a rationalization for its large new budget requests. Previously, the Navy had argued that an increase of the Soviet surface Navy justified large Navy increases. Before that, the Navy argued that the block obsolescence of much of the U.S. fleet justified the increases.

These arguments are getting progressively less and less believable.

If the Navy were truly concerned with the national security it would be clamoring for the President to abolish the oil import quota system as soon as possible.

If we abolish the oil import quota system we could import as much oil as we could possibly use in a national emergency, store it underground in completely secure storage areas, and it would cost far less than the $7 billion the import quota system costs every year.

There would be simply no need to build billions of dollars worth of Navy ships to protect oil tankers in the event of a conventional war with the Soviet Union if we already have the oil we need stored within the United States.

Admiral Zumwalt's argument is based on the very tenuous assumption that the oil import quota system will remain in effect indefinitely, and that we will thus continue to deplete our domestic sources of oil at the present rate.

President Nixon's own Cabinet Task Force recommended ending the present oil import quota system and that many of the Democratic presidential candidates were on record as opposing the import quota system.

If Admiral Zumwalt's proposal is approved by Congress, not only will the American taxpayers be paying $7 billion too much because of the import quota system, but they will be paying billions of dollars to pay for the unneeded escort ships.

## NEW FOREIGN AFFAIRS "ERA OF GOOD WILL"

The SPEAKER. Under a previous order of the House, the gentleman from Tennessee (Mr. Fulton) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, it is with great hope that we this week entered a new foreign affairs "era of good will."

The President has demonstrated through meetings with key Chinese leaders that, despite fundamental differences in political philosophy, two nations can initiate constructive dialog, based on constructive thinking, hopefully leading to constructive policies promoting peace and mutual national advantage.

In several months, this first evidence of progress will hopefully be reinforced as the President takes a second step behind a Communist curtain—this time, to the Soviet Union.

While these actions bear promise, there is a third logical foreign policy decision which Mr. Nixon could make, similiar in nature, demonstrating that our desire to improve international communications—and trade—is truly a worldwide effort. I am referring, as I formally have done today in a letter to the President, to the potential value of a State visit to Cuba, followed possibly by normalization of diplomatic relations.

Why take such a step?

Certainly, one sound reason is economics. When relations were broken in 1959, our trade surplus with Cuba was more than $350 million. Under current economic conditions, this year's surplus could have been almost $500 million.

Naturally, it is ridiculous to speculate on what might have been. It is, however, just good sense to promote what might, and in my opinion, should be. Reason would dictate that, due to isolation from many free world markets and products, a great demand could be found for heavy machinery, housing, vehicles, and other supplies. America, filling this demand, could within months ring up a post-embargo trade surplus of perhaps $1 billion.

Needless to say, the international political benefits from such an action could also prove plentiful. If the world's prospects for survival have increased with the China visit, and again should brighten with the summit in Moscow, is not it a fair assumption that having our President in Havana would prove our positive effort in search of positive effects?

I think so.

## EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN IN THE HOUSE AND THE FBI

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter).

Mr. KOCH. Mr. Speaker, the need to eliminate all bars which prevent women from participating fully in every profession must be pressed, and pressed hard. This must be of particular concern to us when the Federal Government is involved.

I should like to call to our colleagues' attention the correspondence I have had with J. Edgar Hoover. On January 18, 1972, I wrote to the FBI Director to point out the Bureau's discriminatory practices in not hiring women agents. The FBI is now the sole Federal security agency that does not employ women as special agents. Mr. Hoover declined to comment stating that this matter is now the subject of litigation.

As you know Mr. Speaker, I also have written to you about the House's own discriminatory practice of not allowing young women to be pages. I know that you are now giving this matter thoughtful and lengthy consideration because favorable action on your part will, of necessity, end a historic practice. When a historic practice outlives its usefulness, and surely this one has, it should be ended without regret.

I am sure Mr. Speaker, that you would welcome the opinions of other Members of this body on this subject and I urge our colleagues to give you theirs. I hope that they too will agree that elimination of this practice would be in the best interest of not only the House of Representatives, but also the country.

My letter of January 19 addressed to you and my correspondence with Mr. Hoover follow:

House of Representatives,
*Washington, D.C., January 19, 1972.*
Hon. Carl Albert,
*Speaker, House of Representatives,*
*Washington, D.C.*

Dear Mr. Speaker: The women's liberation movement has swept our country and many institutions are updating their policies to give women the opportunities and respect long denied them. As you know, the Senate now has a female page. The House does not, but it should. It is important that this House move so that it does not trail in the wake of the Senate and lag behind those who are making the needed changes across the country.

My seniority is so minimal that I could not have the honor of nominating a page. But, if I could, I would nominate a female page to end the outmoded House tradition of limiting page appointments to males. I believe that a Member with sufficient seniority would make the nomination if you would announce that, all rules and regulations to the contrary, from this point on each nomination for a page will be considered solely on the merits of the individual and the House will abide by Title VII of the Civil Rights Act which reads:

"It shall be an unlawful employment practice for an employer to fail or refuse to hire . . . any individual, or otherwise to discriminate against any individual . . . because of such individual's race, color, religion, sex or national origin."

Mr. Speaker, let not the House find itself in the position of saying, "Do as I say, but not as I do."

I would appreciate learning your position in this matter, and I hope you will be supportive of my request.

Sincerely,
Edward I. Koch.

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April 29, 1970.
Hon. J. Edgar Hoover,
*Director, Federal Bureau of Investigation,*
*Washington, D.C.*

Dear Mr. Hoover: I would appreciate your advising me as to whether the FBI has within its ranks female FBI agents. I stress the fact that I refer to agents and not simply female employees. If the material is publicly available, I would appreciate knowing the number of agents and the breakdown in gender.

Sincerely,
Edward I. Koch.

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Federal Bureau of Investigation,
*Washington, D.C., May 4, 1970.*
Hon. Edward I. Koch,
*House of Representatives,*
*Washington, D.C.*

My Dear Congressman: I have your letter of April 29, 1970.

In response to your inquiry, because of the hazardous nature of duties Special Agents are called upon to perform, we do not employ women in this position. We must have Special Agents who are qualified to cope with any situation they may have to face.

Sincerely yours,
John Edgar Hoover,
*Director.*

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House of Representatives,
*Washington, D.C., January 18, 1972.*
Hon. J. Edgar Hoover,
*Director, Federal Bureau of Investigation,*
*Washington, D.C.*

Dear Mr. Hoover: I should like to call your attention to correspondence which I have had on the subject of recruiting female FBI Special Agents. I refer you to my letter of April 29, 1970 and your response of May 4, 1970.

Since our correspondence greater attention has been given to the subject of eliminating artificial restrictions limiting the employment of women by governmental agencies. I call to your attention the fact that on December 7, 1971, five women were sworn in as Special Customs Agents of the Treasury Department. I am informed that the Federal Bureau of Investigation is the only all-male federal law enforcement agency insofar as the employment of Special Agents is concerned.

I ask that you review your position in this matter and at the very least, on a test basis, employ the services of female Special Agents. I believe you will find them the equal of male Special Agents. To steal a phrase, "Try it, you'll like it."

I would appreciate having your comments on this matter.

Sincerely,
Edward I. Koch.

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Federal Bureau of Investigation,
*Washington, D.C., January 21, 1972.*
Hon. Edward I. Koch,
*House of Representatives,*
*Washington, D.C.*

Dear Congressman: I have received your letter of January 18, 1972, together with the enclosures, wherein you request that I review my decision to consider only men for the position of Special Agent. In view of the fact that this matter is presently the subject of litigation, I must decline to comment further upon it at this time.

Very truly yours,
John Edgar Hoover,
*Director.*

## THE EMERGENCY MASS TRANSPORTATION PASSENGER ACT OF 1972

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have introduced H.R. 13362, the Emergency Mass Transportation Passenger Act of 1972 to provide our country's mass transit systems with financial assistance in meeting operating costs. Today, many bus and subway systems are in financial trouble because fare box revenues can no longer meet operating costs. If further service deterioration and fare increases are to be stemmed, outside assistance must be forthcoming. The States and localities alone cannot meet the need; Federal aid is needed.

H.R. 13362 would assist every bus, subway and commuter railroad system in the country in proportion to its share of the country's total mass transit ridership. Much like revenue sharing, this bill contains a distribution formula that 60 days after enactment would allocate money to transit systems on the basis of the number of passengers they serviced. To receive its share, a local public body or agency would only have to file a request for payment and provide assurances that the Federal funds it received under this program would be used to assist in defraying the operating costs of the transit systems in its jurisdiction.

H.R. 13362 would help private as well as public transit systems. In the instance of private systems, application for assistance would be made by a local public body or agency on behalf of the transit companies.

The $400 million annual authorization in the bill is the amount estimated by the American Transit Association and the Institute for Rapid Transit as being needed to meet mass transit's financial crisis.

The Department of Transportation in its November 1971 report on the feasibility of Federal subsidies for mass transit stated:

> There can be no doubt that urban mass transportation faces severe problems which affect both the transit operator and the community.

Unfortunately, the Department has not yet submitted a proposal for an operating subsidy program; it has only recommended further study of the problem. I would urge that we cannot afford to withhold assistance any longer. Delay will only mean the further decline of existing service and more fare hikes—all of which will mean further loss of ridership. Public transit has already suffered an enormous loss in ridership in the last two decades; in 1950 public transit carried more than 17 billion passengers while it now carries less than 7 billion annually. If our urban areas are to survive and prosper, they must provide their citizens adequate and efficient public transportation at a reasonable price.

The House Banking and Currency Subcommittee on Housing, chaired by the distinguished gentleman from Pennsylvania (Mr. BARRETT) held hearings on the subject of mass transit operating subsidies this week. And, last week the Senate Committee on Banking, Housing, and Urban Affairs approved a measure authorizing the use of Federal mass transit funds—now available for capital expenditures only—for operating subsidies. While that committee should be commended for its initiative in this regard, I think that given the Department's reluctance to recommend operating subsidies, it is essential that the Congress pass a measure that will insure the distribution of funds upon enactment. H.R. 13362 provides an equitable and effective distribution formula that avoids the time consuming bureaucratic red tape that slows down many Federal grant programs.

I invite support for this bill from all who are concerned about the fate of public transportation. The text of H.R. 13362 follows:

### H.R. 13362

A bill to amend the Urban Mass Transportation Act of 1964 to provide emergency grants for operating subsidies to urban mass transportation systems on the basis of pasengers serviced

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as "The Emergency Mass Transit Passenger Act of 1972".

SEC. 2. Section 2(b) of the Urban Mass Transportation Act of 1964 is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

"(4) to assist urban mass transportation systems which are operating at a deficit to continue to provide vitally needed transportation services by helping to defray the costs of such systems, allocating funds for operating subsidies to each such system in proportion to the total number of passengers it carries."

SEC. 3. The Urban Mass Transportation Act of 1964 is amended—

(1) by redesignating sections 6 through 16 as sections 7 through 17, respectively; and

(2) by inserting after section 5 the following new section:

"EMERGENCY GRANTS FOR OPERATING SUBSIDIES

"SEC. 6. (a) Notwithstanding any other provision of this Act, the Secretary is authorized to make grants to any local public body or agency thereof, in accordance with this section, to help defray the operating costs of any urban mass transportation system which maintains mass transportation service in an urban area within its jurisdiction.

"(b)(1) The amounts appropriated pursuant to subsection (e) for any fiscal year shall be allocated by the Secretary for grants to local public bodies and agencies thereof as provided in this subsection.

"(2) The Secretary shall allocate to each local public body or agency thereof within whose jurisdiction an urban mass transportation system is being operated (whether by such local public body or agency or by another entity (including a private mass transportation company)), for each fiscal year, an amount which bears the same ratio to the total amount appropriated pursuant to subsection (e) for such year as the number of passengers carried or to be carried by such system during such year (as determined or estimated by the Secretary) bears to the total number of passengers carried or to be carried during such year by all urban mass transportation systems in the United States.

"(3) If, for any fiscal year, applications for assistance under this section are not filed with respect to one or more urban mass transportation systems which would (if such applications were filed) be entitled to such assistance, or the grants made to assist any urban mass transportation system are less than the amount of the allocation made under paragraph (2) (with respect to such system) to the local public body or agency within whose jurisdiction such system provides its services, the amount of such allocation remaining unused shall be reallocated to other local public bodies and agencies (and added to the amounts otherwise available to them for such fiscal year under paragraph (2)) in accordance with such standards and criteria, consistent with the purpose of this section, as the Secretary shall establish.

"(c) Sums allocated to any local public body or agency thereof for any fiscal year under subsection (c) shall be paid to such local public body or agency, upon application filed in such manner and form as the Secretary shall prescribe, as quarterly grants (commencing with the first calendar quarter which begins 60 days or more after the date of the enactment of this section) to assist in defraying the operating costs of any urban mass transportation system being operated within the jurisdiction of such local public body or agency (either by such local public body or agency or by another entity).

"(d) To finance grants under subsection (d) of this section, there is authorized to be appropriated $400,000,000 for each of the fiscal years 1973, 1974, 1975, 1976, and 1977. Any amount appropriated pursuant to this subsection shall remain available until expended, and any amount so authorized but not appropriated for any fiscal year may be appropriated for any subsequent fiscal year ending on or before June 30, 1977.

"(e) The Secretary shall prescribe such regulations as he deems necessary or appropriate to carry out this section and assure that its purpose will be achieved."

SEC. 4. (a) The first sentence of section 3(b) of the Urban Mass Transportation Act of 1964 is amended by striking out "section 7" and inserting in lieu thereof "section 8".

(b) Section 3(e) of such Act is amended by striking out "section 13(c)" and inserting in lieu thereof "section 14(c)".

(c) Section 4(c) of such Act is amended—

(1) by striking out "3, 7(b), and 9" and inserting in lieu thereof "3, 8(b), and 10"; and

(2) by striking out "section 12(d)" each place it appears and inserting in lieu thereof "section 13(d)".

(d) The first sentence of section 16 of such Act (as redesignated by section 3(1) of this Act) is amended by striking out "section 7(b)" and inserting in lieu thereof "section 8(b)".

(e) Section 17(c) of such Act (as so redesignated) is amended by striking out "section 6" and inserting in lieu thereof "section 7".

(f) Section 11 of the Urban Mass Transportation Assistance Act of 1970 is amended by striking out "sections 6(a), 9, and 11" and inserting in lieu thereof "sections 7(a), 10, and 12".

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## ANNOUNCEMENT OF HEARINGS ON THE FEDERAL EMPLOYMENT PROBLEMS OF THE SPANISH SPEAKING

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, I would like to announce that the Civil Rights Oversight Subcommittee of the House Committee on the Judiciary will hold a series of public hearings on the Federal employment problems of the Spanish-speaking. These hearings will commence with testimony from the U.S. Civil Service Commission on March 8, 1971, at 10 a.m., in room 2237 of the Rayburn House Office Building. Additional witnesses will be scheduled to testify at later dates.

Those wishing to testify or to submit statements for the record should address their requests to the Committee on the Judiciary, U.S. House of Representatives, room 2137, Rayburn House Office Building, Washington, D.C. 20515.

## STATEMENT ON INTRODUCED BILL TO AUTHORIZE TREATMENT OF A DRUG DEPENDENT SPOUSE OF A DRUG DEPENDENT VETERAN

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, I wish to introduce at this time a bill to authorize the establishment of residential half-way houses for the treatment of drug dependent veterans and permit, incidental to their treatment, the necessary treatment of a drug dependent spouse of a drug dependent veteran.

As a member of the Veteran's Affairs Committee and as chairman of the Judiciary Subcommittee with jurisdiction over the Narcotic Addict Rehabilitation Act, I have been struck by the tremendous need for the full mobilization of Federal resources to provide effective treatment and rehabilitation for returning, drug dependent Vietnam veterans. The Committee on Veterans Affairs and the House of Representatives have taken a large legislative step towards filling this need through passage of H.R. 9265, The Servicemen's Veterans' and Ex-Servicemen's Act of 1971. Unfortunately, the Senate has not yet acted on this bill.

But even after H.R. 9265 becomes law, there will be need for additional legislation to provide for the aftercare of veterans released from the inpatient phase of their treatment for drug dependency. The bill I introduce today provides for the establishment by the Veterans' Administration of residential half-way houses for the aftercare of drug dependent veterans to assist them in their transition from drug dependency to a return to normal, productive lives in their home communities.

An extremely important element in this return of the veteran to a normal life is the support he will receive from his family. Treatment experts agree that support from loved ones is crucial in the rehabilitation of drug addicts. If the wife of a drug dependent veteran is herself drug dependent, the veteran will not only be deprived of the support he needs from those closest to him during his period of rehabilitation, the rehabilitative process itself will be endangered by the threat of his being pulled back into addiction by his drug dependent wife. It is therefore a reality of the treatment process that its effectiveness is oftentimes determined by the availability of treatment for a drug dependent spouse.

When the treatment of the drug dependent spouse of a drug dependent veteran is found to be medically necessary and incidental to the treatment of a drug dependent veteran, that treatment should be provided by the Veterans' Administration. The bill I introduce today will allow the Veterans' Administration to more effectively treat the drug dependent veteran by giving it the authority to treat his drug dependent spouse.

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## ARREST RECORD SECURITY AND PRIVACY ACT OF 1972

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, I introduce today H.R. 13315 to provide for the dissemination and use of criminal arrest records in a manner that will insure their security and privacy. The proposed legislation is but a small step in dealing with the problem of improper use of criminal records. I am convinced, however, that it is a vital step which must be taken promptly.

The President's Commission on Law Enforcement and Administration of Justice deems "conservative" an estimate that "about 40 percent of the male children living in the United States today will be arrested for nontraffic offenses sometime in their lives." Looking at the same problem from another perspective, the FBI indicates that law enforcement agencies make some 7.5 million arrests during a year for all criminal acts, excluding traffic offenses.

It is a basic premise of our democracy that an individual is innocent until proven guilty, and studies of arrest records would appear to indicate that in fact as well as in theory, an arrest does not in the eyes of the law indicate provable guilt. Again according to the FBI, of the 7.5 million arrests, more than 1.3 million arrests are never prosecuted and another 2.2 million are acquitted or have the charges against them dismissed. Governor Rockefeller's conference on crime has reported that in New York State 45 percent of the people arrested for felonies were released without charges having been filed.

The adverse effect of an arrest record on an individual's future has been accorded judicial notice by a number of courts and has been documented by a number of studies. A recent survey, for example, has shown that 75 percent of the employment agencies in New York refuse to recommend an individual with an arrest record regardless of whether it was followed by a conviction. Another survey of 75 employers indicated that 66 of them would not consider employing a man who had been arrested for assault and acquitted.

Mr. Speaker, as an ex-FBI agent, I fully appreciate the need of law enforcement officials to use records of arrest as a means for abating the terrible wave of crime which confronts our country. At the same time, however, I believe there is a necessity to protect the right of privacy of individuals who may be arrested and not convicted of a crime, and to make a reality the principle that an individual is innocent until proven guilty.

H.R. 13315 has several major thrusts:

First, it prohibits Federal and federally assisted law enforcement officials from disseminating arrest records to anyone other than to law enforcement officials and imposes a similar prohibition on all arrest records received from the Federal Government.

Second, after the passage of 2 years, if there is no prosecution pending as a result of the arrest, there is a prohibition against dissemination and use of the record of arrest. This 2-year limitation on maintenance and use of the record would not apply, however, to records of convicted felons. A similar prohibition exists where the record of arrest has been expunged under court order or a State law or where a prosecutor agrees that the interest of justice would be served by not maintaining a record of arrest. In each of the cases, however, the Attorney General or a local law enforcement official may, upon a showing of compelling public interest, obtain from a court an order lifting the prohibitions imposed by the bill.

Third, it establishes the right of any individual to obtain from a Federal or federally assisted law enforcement agency a copy of his record.

Fourth, it provides that in responding to any question concerning arrests, the respondent may consider such question to apply only to arrests, the records of which can under this act be legally maintained, disseminated or used by the Attorney General.

Fifth, civil and criminal remedies are provided for enforcement of the prohibitions of the bill.

Mr. Speaker, the problem with which this bill deals is a complex one, not only because of the sometimes competing interests of privacy and law enforcement, but because of the diversity of State laws dealing with the protection of individual rights. As one reviews State laws, he sees various meanings ascribed to terms such as "expungement" and "sealing."

Judiciary Subcommittee No. 4, of which I am chairman, plans to hold a series of hearings on this and related measures dealing with the security of arrest records. H.R. 13315 is intended to serve as a vehicle for discussion of the difficult problems with which we are confronted. I hope that our hearings will elicit expert testimony which will result in a revised bill to allow us to make a significant contribution in this area.

The text of H.R. 13315 follows:

### H.R. 13315

A bill to amend title 28 of the United States Code to provide for the dissemination and use of criminal arrest records in a manner that insures their security and privacy

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) title 28 of the United States Code is amended by inserting immediately after chapter 175 the following new chapter:

### "CHAPTER 177—DISSEMINATION OF ARREST RECORDS

"Sec.
"3101. Dissemination by Federal officer or employee; only to law enforcement agencies.
"3102. Prohibition of dissemination, maintenance and use of arrest records.
"3103. Inspection of arrest records.
"3104. Prevention of illegal dissemination or use; correction of incorrect arrest records.
"3105. Court orders allowing dissemination, maintenance, or use in certain cases.
"3106. Questions concerning arrest.
"3107. Penalties.
"3108. Definitions.
"3109. Regulations.
"3110. Effective date.

"§ 4101. DISSEMINATION BY FEDERAL OFFICER OR EMPLOYEE; ONLY TO LAW ENFORCEMENT AGENCIES.

"(a) No officer or employee of the United States or of any federally assisted law enforcement agency may disseminate in any manner any criminal arrest record to any person other than another officer or employee of a law enforcement agency.

"(b) No officer or employee of any law enforcement agency may disseminate to any person, other than another officer or employee of a law enforcement agency, a criminal arrest record received from an officer or employee of the United States or of a federally assisted law enforcement agency.

"SEC. 3102. PROHIBITION OF DISSEMINATION, MAINTENANCE, AND USE OF ARREST RECORDS.

"(a) No officer or employee of the United States or of a federally assisted law enforcement agency, and with respect to a criminal arrest record received from an officer or employee of the United States or of a federally assisted law enforcement agency, no officer or employee of any law enforcement agency, may disseminate to any person a criminal arrest record—

"(1) relating to an arrest which occurred more than two years before the date of such dissemination and concerning which there is no prosecution pending in a court;

"(2) relating to an arrest concerning which the prosecuting attorney responsible for conducting any prosecution arising out of such arrest agrees no prosecution is warranted and that no criminal arrest record should be kept; or

"(3) which is expunged, or prohibited from being maintained, used, or disseminated under a provision of the law of the State in which the arrest which is the subject of such record occurred, or by order of a court having jurisdiction with respect to such arrest.

"(b) No officer or employee of any law enforcement agency may disseminate any arrest record specified in subsection (a) which was received by such officer or employee from any officer or employee of the United States or of a federally assisted law enforcement agency.

"(c) Clause 1 of subsection (a) shall not apply to a criminal arrest record concerning any person who has been convicted of at least one felony under the laws of the United States or of any State.

"(d) No officer or employee of the United States or of a federally assisted law enforcement agency may maintain or use any criminal arrest record which is prohibited from being disseminated under subsection (a) except that a court may maintain and use a sealed criminal arrest record.

"(e) The dissemination, maintenance, or use of a criminal arrest record specified in subsection (a), (b), or (d) may be permitted by or in accordance with a court order issued under section 3105.

"§ 3103. INSPECTION OF ARREST RECORDS.

"Every person shall have the right to inspect any criminal arrest record concerning him maintained by any officer or employee of the United States or of a federally assisted law enforcement agency. The officer or employee of the United States or of such law enforcement agency whose duty it is to maintain criminal arrest records shall prescribe such regulations as are necessary to enable any person, upon request and proper identification, to procure the criminal arrest record concerning such person maintained by such officer or employee at the time of the request. In addition, such officer or employee shall keep, and upon such request, disclose to such person the name of all persons to whom such officer or employee transmitted or communicated such arrest record during the six-month period preceding the request.

"§ 3104. PREVENTION OF ILLEGAL DISSEMINATION OR USE; CORRECTION OF INCORRECT ARREST RECORDS.

"If at any time a person has reason to believe that a criminal arrest record concerning him will be maintained or disseminated by any officer or employee of the United States or of any federally assisted law enforcement agency, in violation of the provisions of this chapter, or that information in a criminal arrest record maintained by such an officer or employee is incorrect, such person may petition any United States district court to issue an order enjoining such maintenance or dissemination, or correcting such record.

"§ 3105. COURT ORDERS ALLOWING DISSEMINATION, MAINTENANCE, OR USE IN CERTAIN CASES.

"(a) The Attorney General or any officer of a law enforcement agency may make an application to a Federal court of competent jurisdiction for, and such court may grant, after a hearing, an order authorizing or approving the dissemination, maintenance, or use of a criminal arrest record, which is otherwise prohibited under section 3102, by the Attorney General or by an officer of a law enforcement agency, if the applicant can show by substantial and convincing evidence that there is a compelling public interest in such dissemination, maintenance, or use.

"(b) Each application for an order authorizing or approving the dissemination, use, or maintenance of an arrest record shall be made in writing upon oath or affirmation to a Federal court of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

"(1) the identity of the law enforcement officer making the application, and the officer authorizing the application; and

"(2) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued.

"(c) The court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

"(d) Orders granted under this section shall be sealed by the court. Custody of the orders shall be whenever the court directs. Such orders shall be disclosed only upon a showing of good cause before a court of competent jurisdiction and shall not be destroyed except on order of the issuing or denying court.

"(e) Any violation of the provisions of this section may be punished as contempt of the issuing or denying court.

"§ 3106. QUESTIONS CONCERNING ARREST.

"In responding to any question concerning any arrest the respondent may consider such question to apply only to an arrest the record of which may be lawfully disseminated, maintained, or used by the Attorney General. No person shall be required to waive the right granted to him by this section nor shall any person be penalized in any manner for exercising such right.

"§ 3107. PENALTIES.

"(a) Any person with respect to whom a criminal arrest record has been maintained, disseminated, or used in violation of this chapter shall have a civil cause of action against the person responsible for such violation and shall be entitled to recover from any such person actual damages and reasonable attorney's fees and other litigation costs reasonably incurred. Exemplary damages may be granted by the court in appropriate cases.

"(b) Whoever willfully disseminates, maintains, or uses a criminal arrest record knowing such dissemination, maintenance, or use to be in violation of this Act shall be fined not more than $1,000 or imprisoned for not more than one year, or both

"§ 3108. DEFINITIONS.

"As used in this chapter—

"(a) The term 'law enforcement' means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

"(b) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(c) The term 'Federal court of competent jurisdiction' means a United States district court or a United States court of appeals.

"(d) The term 'criminal arrest record' means records and related data (including fingerprints) compiled by law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and maintaining as to such persons summaries of arrests and the nature and disposition of criminal charges arising out of such arrest.

"(e) The term 'federally assisted law enforcement agency' means a public agency which performs as its principal function activities pertaining to law enforcement and which is funded, in whole or in part, from grants received under the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731–3737).

"§ 3109. REGULATIONS.

"The Attorney General, after consulting with officers and members of State and local law enforcement agencies, shall prescribe such regulations as he deems necessary to carry out the provisions of this Act.

"§ 3110. EFFECTIVE DATE.

"This chapter shall take effect on and after the one hundred and twentieth day after the date of enactment of this chapter, except for section 3102(d) which shall take effect at the end of the one-year period beginning on the date of enactment of this chapter."

(b) The chapter analysis of Part VI of title 28 of the United States Code is amended by inserting immediately after:

"175. Civil Commitment and Rehabilitation of Narcotic Addicts"

the following new item:

"177. Dissemination of Arrest Records"

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## HOW ABOUT A FAREWELL TO WASHINGTON'S FAREWELL ADDRESS?

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, Monday of this week the House of Representatives met at 12 o'clock noon for the sole and express purpose of listening to the gentleman from Kentucky read George Washington's Farewell Address, which he did. We then adjourned.

The House has met on or about February 22 each year for, lo, nearly a century, losing 1 day of work and ostensibly listening to the advice of the founder of this great Republic, advice, incidentally, with which we have disregarded for nearly as long. It is interesting to notice that under the general leave specifically without its being considered a precedent, all Members who desire to do so have permission to revise and extend their remarks in the CONGRESSIONAL RECORD following the reading of the Farewell Address.

Mr. Speaker, do you know how many

of we 435 Members of the House took advantage of this occasion to have something to say about George Washington's Farewell Address? Not a single, solitary one of us. Following the reading of the Farewell Address last Monday, we had items inserted regarding the cost of arthritis and rheumatism; a plea for academic freedom; a hope that Armenians should be freed; and a 10-minute previous order regarding telephone privacy.

Not a single Member of the U.S. House of Representatives cared enough about what went on in this House last Monday to insert an item in the RECORD. Indeed, there were not more than 10 of us here at the beginning of the speech, a few less at its conclusion.

I believe, Mr. Speaker, the time has come to put an end to this rather sad exercise. It's a cheap excuse for a day off.

## CITIZENS HAVE LOST FAITH THAT THE SYSTEM WILL PROVIDE EQUITY AND FAIRNESS THROUGH PROCESSES OF GOVERNMENT

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I thought I would put this letter in the CONGRESSIONAL RECORD.

It may be that some of the Democrats in the House and Senate might just read it and come up with an answer for citizens who simply have lost faith—not in the Democratic Party, but in both parties, and in our system providing equity and fairness through the processes of government today.

DEAR TENO: Could you give I and the wife the name of a good dog food that is fit for people to eat? There are no more jack rabbits left between Cheyenne and Rock Springs we have ate them all up.

We are on Social Security and can not buy meat at these prices that the stores are asking these days. In my younger days I sold prime beef out of the feed lots for $35 per hundred. But no Top cuts in our stores ever sold for no $2.50 per pound or over. Never have I heard of hamburger (half tallow) selling for over $1.00 Per Pound.

Now, Teno, we are too old to go out at night and shoot us a steer on some ranch, nor can we Hi-Jack a meat truck, or rob a Chain Store.

So, how can we live? What happened to our price control? I know that vegetables and eggs and such were to be exempt from price control, but flour goes through mills and breakfast food also and meat through packing plants and they are not exempt. How come big corporations like the telephone company and many others raise their rates 18½ per cent when it was suppose to be 2½ per cent? We are very confused.

Will we get more trading stamps?

Will we get an increase in our Social Security?

Why, Teno, is this Administration permitted to do as they please when we have as many Democrats in the House and Senate?

Please, Teno, help us old people to remain loyal to the Democratic Party. We feel as though nobody really gives a damn for us any more.

Yours truly,

Mr. and Mrs. LOUIS J. DAMROW.

CHEYENNE, WYO.

## AMNESTY: THE COLEBROOK, N.H., NEWS AND SENTINEL SPEAKS OUT

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, as the presidential campaigns heat up, and the war in Vietnam winds down, there is beginning to be some talk of granting some sort of amnesty, probably conditioned on alternative service, to those who avoided the draft by leaving the country.

As long as the U.S. soldiers are still in Vietnam, some being killed in action, and as long as Americans are being held prisoner of war, this talk is at best premature. Many would say it is more than premature.

In an editorial as concise as it is eloquent, Fred Harrigan, editor of the News and Sentinel of Colebrook, N.H., recently summed up the views of millions of Americans on this subject. I commend this editorial to all who are interested in the question of amnesty for draft evaders.

The editorial follows:

[From the Colebrook (N.H.) News and Sentinel, Feb. 9, 1972]

### AMNESTY SHOULDN'T EVEN MATTER

Even the major presidential candidates are discussing "amnesty" for deserters and draft-dodgers in thinkable terms, which is a deep-seated shock to the middle American. That these spoiled brats should even deserve the slightest consideration while brave Americans are still fighting, or held in prison camps, is almost incredible.

## CONGRESSMAN GROVER SPEAKS OUT ON THE SPACE SHUTTLE

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, our distinguished colleague from New York, Congressman JAMES GROVER, recently presented an eloquent statement of support for the proposed space shuttle. The statement, which was made in reply to a WCBS–TV editorial, concisely states several sound reasons why the space shuttle should be developed. I commend this excellent statement to all who would have the United States continue its leadership of space exploration, with the attendant gains in technology and positive impacts internationally.

### SPACE SHUTTLE

A recent editorial on WCBS–TV discussed the proposal for a space shuttle and suggested that it is not consistent with our nation's priorities.

I differ with this conclusion. The success of our moon exploration was not only dramatic and historic, it also led to vast expansions of scientific knowledge, advances in medicine, and the opening of new vistas for technological advance.

With our new concentration on near and inner space, the space shuttle will accelerate developments in those directions with prospects for even greater accomplishments for mankind in communications, navigation, weather, the study of our earth resources and indeed in our number one priority, the very preservation of the human environment.

The Channel Two editorial also attacked the proposed reusable space shuttle on the basis of economy. The projected investment for the shuttle which, with its payloads will constitute essentially our entire space program, is far less than the investment in the Apollo moon program in the past ten years.

The space program, which has perhaps been the most positive American impact on the international scene in the past decade, is currently and will continue to be but a small fraction of our national budget. The NASA budget has declined markedly, while other expenditures have increased. The shuttle will not exceed 30 per cent of the NASA budget for development and will constitute only 15 per cent once in full operation. As you can see, we are taking care of vital human resource needs and the other major elements of the federal budget.

The cost of the space shuttle, even if we assume a constant annual national budget for the next ten years, will be only one-half of one per cent of our national annual budget—a very attractive and vital investment for the American people.

## CONTROL OF DRUG ABUSE

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the control of drug abuse is becoming one of our Nation's top priorities, and rightly so. Of prime importance in this respect is the fact that drug-related cases can further clog our courts, as it is often necessary to postpone trials quite some time before the courts are supplied with experts to identify the various drugs involved.

In Montgomery County, Maryland's Eighth Congressional District, police officials have been working on an innovative means of substantially shortening the time between arrest and trial. Two county policemen have been trained to identify marihuana for the purpose of giving such expert testimony in court on the identification of suspected substances confiscated by police. If the testimony of these men is accepted as expert in an actual court case, the county police will have succeeded in eliminating a procedure which has caused much delay and backlog in the courts. That is, the scheduling of county trials around the convenience of Justice Department chemists. Speedier trials will undoubtedly result from this special training. I would like to take this opportunity to commend the Montgomery County Police for their leadership and for their initiative and willingness to innovate in this regard.

The following article from the Washington Post of February 17, 1972, further describes this program:

### MONTGOMERY POLICE LEARN TO IDENTIFY MARIJUANA

(By LaBarbara Bowman)

Two Montgomery County policemen went to learn how to identify marijuana.

They took their final examination last week in a courtroom of the Montgomery Circuit Court and, from all accounts, passed with highest honors.

The examination, in the form of a mock trial, was administered by two of the better criminal attorneys in the county, at the request of the police and the state's attorney (county prosecutor).

The purpose of the examination was to see if, under courtroom conditions, the two policemen qualified as experts to testify on the identification of marijuana confiscated by police.

District Court Judge William Cave, a former deputy state's attorney, ruled that the policemen, David W. McBain and Benjamin P. Connor, did qualify after a grueling cross-examination by lawyers James O. Miller and Walter H. Madden.

Miller is considered one of the best criminal lawyers in the county, and Madden, a former assistant state's attorney, is considered something of a drug expert himself.

Both the police and the prosecutor's office want policemen in the county who can testify in court that they identified suspected substances as marijuana to speed up trials of alleged drug offenders.

Currently it takes from four to six weeks for drug cases to be scheduled for court hearings, a spokesman for the prosecutor's office said.

The time lag occurs because the county must depend on chemists from the Justice Department's Bureau of Narcotics and Dangerous Drugs for expert testimony on identification.

In addition to serving Montgomery, the bureau's chemists also analyze suspected drugs for the District police and for authorities in St. Marys, Charles and Prince Georges counties in Maryland. They also test evidence in federal cases.

County trials must be scheduled when it is convenient for the chemists.

With policemen in the county who can run the tests on substances suspected to be marijuana and testify as to their findings in court, officials hope to shorten the time between arrest and trial by two or three weeks, a prosecutor said.

The real test for the two policemen will come when they attempt to be accepted as experts in an authentic trial, said Insp. Fred Thrailkill, head of the police investigations bureau and the man who originated the idea of having the men trained in marijuana identification.

The two policemen attended classes at the laboratories of the narcotics bureau for two days in January. They learned to identify marijuana only. All other drug substances will continue to be sent to the federal laboratory, Thrailkill said.

Jack Rosenstein, chief chemist of the federal bureau who is watching the Montgomery experiment with interest, said, "We have a fantastic amount of cases and we don't have enough men to go around."

If the Montgomery policemen are accepted as experts "it can relieve us of some of the burden," Rosenstein said.

If the men are accepted in an actual court case, Montgomery will become only the second jurisdiction in the country where police officers can testify on marijuana identification.

Last year there were more than 500 arrests for possession or sale of marijuana in Montgomery, according to police records.

Possession of marijuana, a misdemeanor punishable by a $1,000 fine and a year in jail or both is the most common drug offense in Montgomery. Sale of the drug is a felony and punishable by a $15,000 fine, five years in jail or both.

## WASTE TO BE USED TO GENERATE ELECTRICITY

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I was pleased to note recently that efforts are being made in the United States to use the heat created in waste disposal to generate electricity. This is a true example of the kind of environmental innovation which has been practiced abroad for some time. I have long felt that such facilities should be planned and constructed together in order to utilize so-called waste by-products.

The present effort is being sponsored in St. Louis by the Environmental Protection Agency. It is expected that the experiment will be underway in a matter of months and should it prove effective it will be a model for other cities, and one practical answer to the solid waste problem.

I commend the Environmental Protection Agency for their effort and I insert their release of February 10, 1972, for the information of my colleagues and the public.

### Wastes To Be Used To Generate Electricity

Engineers in St. Louis are building a facility for grinding up refuse and other municipal solid wastes to mix with pulverized coal to fire a power plant boiler and generate electricity.

The demonstration is sponsored by the Environmental Protection Agency, the City of St. Louis and the Union Electric Company.

"The fuel value of municipal solid waste is about half that of coal," said William D. Ruckelshaus, Administrator of EPA. "The St. Louis project, if successful, will provide a way to use energy that would otherwise be wasted, and a procedure will become available that could be used in a number of large cities across the country to help solve the problem of waste disposal."

The financing for the project is apportioned as follows: EPA—$1,743,600; and the City of St. Louis—$667,300 (in cooperation with the Union Electric Company).

The actual process of burning waste as an auxiliary fuel, scheduled to start in a few months, will work as follows:

Before the solid waste is shredded to a particle size of 1½ inches ferrous metals will be magnetically removed. Glass and other flame-resistant materials will be ground up along with the wood, paper and other materials that burn.

The process will require about 300 tons of St. Louis solid waste a day—nearly 30 percent of the solid waste collected by city trucks. The ground solid waste will be mixed with pulverized coal at initial proportion of 90 percent coal, 10 percent refuse, on a heat value basis.

This mixture will be fed to one of Union Electric Company's 125 megawatt boiler units, *Meramic Unit No. 1*, for a full scale test of the process. Union Electric's contribution will underwrite the cost of the installation of test facilities for the storage, handling and firing of solid waste on its property.

The recovery of heat from the incineration of municipal solid waste in boilers is fairly common in Europe, but is not practiced extensively in the United States.

## TEMPLE EMANUEL—DAVID CHERNOGLAZ

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, Temple Emanuel in Kensington, Md., in my district, is participating in a nationwide campaign to aid Soviet Jews and assist those who wish to emigrate to Israel.

They have in this effort "adopted" a Soviet-Jewish family that has one of its members in a labor camp. The prisoner is David Chernoglaz, a 36-year-old agriculturalist who was sentenced to 5 years in prison for writing, along with other Leningrad Jews, a letter to Pravda stating his affinity with his fellow Jews around the world.

By remaining in contact with this Soviet Jew and his family, Temple Emanuel is performing an admirable service. They are giving comfort to this man and his family, and they are serving witness to the deprivation of human rights that goes on in the Soviet Union today.

Wheaton, Md.,
*January 9, 1972.*

Dear Friend: We have not heard from you in a long time, and hope that this letter finds you well. We have written a separate letter to Berte to find out how she and Naomi are.

The winter is not a pleasant time of year, and we were wondering if there was anything you needed, and if we could send it to you.

This winter in Washington has been quite mild. We live about 10 miles north of Washington in a suburban town. We have had no snow so far, and many days with the temperature in the 50–60 degree Fahrenheit range.

At the present time two of our children are very much involved in playing Basketball. Our oldest son, Eric, plays for our synagogue team, and our youngest, Ted, plays for a boys' club team. Our third child is our daughter, Lynn, who is seven years old. She is mostly interested in dolls and other things that a young girl is interested in. We look forward to hearing from you.

Yours in friendship,

Alan Drattell.

[Letter written to Berta Chernoglaz, wife of prisoner Chernoglaz, Pr. Maklina 26–25, Leningrad, U.S.S.R.]

Wheaton, Md.,
*January 9, 1972.*

Dear Friend: Greetings from my family to yours. How are you and little Naomi? We have three children, Eric, Ted and Lynn, who are active in many activities in school and through the synagogue.

Eric is our oldest. He is 13 and became Bar Mitzvah last spring. He runs on his school track team and plays the position of center in our synagogue's basketball team. Ted, who is 11, plays on a boys' club basketball team. Just last night his team won 31–14. Lynn, our daughter, is 7, and like most little girls, is interested in playing house and talking a lot. We call her the family yentah.

Are there any things that you and Naomi need? Do you need any clothing or books, for example? Please let us know, and we will send you what we can.

We are writing to David, too, to see if he might need some things also, particularly now that winter is here.

So far this winter has been quite mild. We live near Washington, D.C., and ordinarily winter here is quite mild. This year it is especially so.

Washington is quite a beautiful city and even the bleakness of winter days cannot dull its beauty. The memorials to our departed presidents—Washington, Lincoln and Jefferson are particularly beautiful. In addition to having visited these memorials many times, we have also visited the grave of the late President John F. Kennedy in Arlington Cemetery, which is truly moving and inspiring.

We have heard much about your city of Leningrad, too, its heartiness and beauty.

Please write to us soon, and let us know how you and Naomi are getting along.

Yours in friendship,

Alan Drattell.

## EXCHANGES WITH CHINA?

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, one of the possible results of President Nixon's present historic trip to the People's Republic of China is a program of exchanges of peoples between the United States and China.

One of the subjects of speculation in this respect has been the possibility of the exchange of students and professors as well as other kinds of cultural exchanges.

I was most interested, therefore, to read a recent article, entitled "Exchanges With China?" by Douglas P. Murray.

Douglas P. Murray is program director for the National Committee on United States-China Relations, Inc. Based in New York, the committee is a private, nonpartisan, educational organization devoted to increasing public interest in, and understanding of, China and its relations with the United States.

Dr. Murray received his B.A. and M.A. degrees from Yale University and holds a Ph. D. in international development education from Stanford University.

Mr. Speaker, in his paper, which was, I must point out, written in mid-November 1971, Dr. Murray summarizes what has taken place since last March, when the U.S. table tennis team was invited to visit the People's Republic of China, and he suggests some of the problems to be worked out before there can once again be normal exchanges of persons between the People's Republic and the United States.

Mr. Speaker, Dr. Murray's paper, which appears in the winter 1972 issue of the journal Exchange, a publication of the U.S. Advisory Commission on International Educational and Cultural Affairs, follows:

### EXCHANGES WITH CHINA?

(By Douglas P. Murray)

Late last year Chairman Mao Tse-tung told Edgar Snow that he would welcome visits to China by Americans of many backgrounds and viewpoints. His remarks signaled a possible end to 20 years of mutual isolation of two vital and divergent societies. On March 15, 1971, the United States removed the last restrictions on travel to the People's Republic of China (P.R.C.), and early in April came China's dramatic invitation to the U.S. Table Tennis Team. Since then over 150 Americans—athletes, journalists, scientists, students, civic leaders, and official representatives of our President—have visited the People's Republic. The numbers are likely to grow steadily in the years ahead.

We have not yet, however, entered the era of "exchanges," for no groups or individuals from the P.R.C. have made reciprocal visits to this country. China's leaders have agreed that their table tennis team will come, but no date has been set. The first arrivals from Peking on our shores came not as visitors to see us but rather as members of the P.R.C.'s new mission to the United Nations in New York.

If hopes are realized, it will not be many years before two-way exchanges will be initiated. Whatever one's viewpoint on China's U.N. representation or official Washington-Peking relations, few people doubt that private contacts and exchange programs can benefit both countries. And the political barriers that for so long obscured their obvious value are falling, however slowly.

During the past 3 years while President Nixon was molding a new, more receptive approach to the People's Republic of China, China was still recovering from the turmoil of the Cultural Revolution. If people-to-people programs were impossible without changes in American policy and public opinion, they were hindered equally by the disruption of educational, cultural, and scientific institutions within China. However, by 1971, it appeared not only that most Americans applauded President Nixon's new posture toward the People's Republic, but that China had sufficient confidence in its internal situation to welcome relatively large numbers of visitors from Western and other countries.

#### CHINESE STUDENTS IN UNITED STATES BEFORE 1949

As exchange relations evolve, we should recall that they will renew a long standing pattern interrupted only in part during the last two decades. Largely subsidized by the $15 million Boxer Indemnity Fund, from 1919 to 1939 approximately 1,000 Chinese students came to the United States every year. When the Chinese Communists came to power in 1949, almost 4,000 students from China were enrolled in American schools and universities. Since then, many thousands of students, educators, and technical specialists have traveled between Taiwan and the United States, through cultural and scientific agreements with the Republic of China. (Most students from Taiwan, however, have remained in the United States after completing their education.) Americans have not been entirely cut off from China and Chinese culture, but only from the unique social and political experiments taking place on the vast China mainland. And we should be aware that during this period the People's Republic of China has not been cut off from the rest of the world. From 1950 to the mid-1960's as many as 40,000 Chinese studied abroad. Although the vast majority went to the U.S.S.R., many were sent to Western Europe, including France, England, and Denmark.

Recent American visitors to China agree on one central fact, namely, that China's leaders feel an almost desperate need to learn more *about*—though not *from*—the United States before embarking on formal exchange programs with us. One American reported that Foreign Ministry officers in Peking were eagerly reading recent books from the United States. From Premier Chou En-lai on down, Chinese officials have bombarded their guests with questions about "who's who" and "what's what" in America.

If China's culture has seemed somehow "inscrutable" to Americans, and her unique society somehow unfathomable, the centralized political system of the People's Republic at least makes it clear who the responsible authorities are, and with whom interested Americans must deal. The Chinese Government, particularly the quasi-official Chinese People's Association for Friendship With Foreign Countries, has been involved in handling almost all visits by Americans thus far.

Conversely, our highly pluralistic society must seem incredibly complex to officials in Peking. How can they even *begin* to deal with a country involving untold thousands of private organizations, colleges and universities, competing newspapers and media networks, to say nothing of private businesses? China's leaders, moreover, have been genuinely amazed by the numbers of private Americans wishing to visit their country. By one authoritative estimate, they have received almost 300,000 individual visa applications from Americans; innumerable organizations, universities, and business firms have submitted proposals for exchanges and commercial projects. While Americans are rapidly recognizing the need to learn about China, it seems that China also must unscramble the puzzles of American society before concerted cultural and educational exchange programs can develop.

#### INDICATIONS FOR THE IMMEDIATE FUTURE

In the likely absence of formal diplomatic relations, what might the immediate future bring? Some indications are available from the immediate past. In line with Chairman Mao's comments to Mr. Snow, American visitors to China in 1971 represented a diversity of fields and viewpoints. The first Americans to go were not persons identified as "friends of the People's Republic," but rather an apolitical delegation of table tennis players and officials. Among the earliest travelers were journalists from such "establishment" newspapers as the *New York Times* and the *Wall Street Journal*, a former U.S. Ambassador, and several "old China hands" hardly known as sympathetic to the P.R.C. At the same time, however, China did invite groups and individuals clearly identified with either her own revolutionary philosophy or, in her socialist view, exploited minorities: for example, the National Peace Action Coalition, the Black Panther Party, the Young Lords Party, the Black Workers Congress, and the Reverend Hosea Williams of the moderate Southern Christian Leadership Conference.

Most Americans who visited China in 1971 had one thing in common: by virtue of either personal acquaintances or publicly stated views, they were known to China's leaders and could be assumed to be responsible, if not sympathetic, guests. For example, Drs. Paul Dudley White (the Boston heart specialist) and Samuel Rosen (the New York otologist) had been invited to China years ago because they were internationally known and their special fields held great interest for their Chinese counterparts; they were unable to make the earlier trip, however, because of the prevailing political climate. Seymour Topping of the *New York Times* enjoyed the special introduction of his father-in-law, retired Canadian diplomat Chester Ronning, who was personally acquainted with many of China's leaders. William Attwood of *Newsday* and Bronson Clark and Russell Johnson of the American Friends Service Committee were invited by Cambodia's exiled leader, Prince Norodom Sihanouk, whom they knew personally. Biology Professor Arthur Galston (Yale) and Ethan Signer (MIT) had been outspoken opponents of the Viet-Nam War and were visiting North Viet-Nam when their visa applications were approved.

The 15-member delegation of the Committee of Concerned Asian Scholars not only represented an organization known to oppose U.S. policies in Asia but were residents in Hong Kong when they applied and could thus discuss their interests at length with P.R.C. spokesmen there. Former State Department China specialist John Stewart Service, who visited China in October 1971, was one of four well-known Americans publicly invited by Premier Chou En-lai on the basis of previous residence and personal associations. Numerous Americans of Chinese origin, including Nobel Laureate Professor Yang Chen-ning from the State University of New York at Stony Brook, several China scholars, and a specialist in psycholinguistics, also have been warmly received as "overseas Chinese" visiting their homeland. In general, it appears that China has invited, or admitted, persons in whom they find some basis for trust and confidence—not necessarily political "allies" but simply persons who are likely to be "responsible" guests and not sources of embarrassment to either country.

At a January 1971 Roundtable Conference sponsored by the National Committee on

U.S.-China Relations[1]—shortly before ping pong diplomacy opened the present era—there was general agreement that science and medicine offered the best early prospect for people-to-people relations between the United States and China. The sudden interest of Americans in China's use of acupuncture in anesthesia and for curing deaf-mutism, and her invitations to almost a dozen American doctors and scientists this year, support this judgment. In public health China's efforts to serve every rural and urban commune through local clinics and paramedical "barefoot" doctors have captured the attention of many American specialists now applying to visit the P.R.C. Initially, at least, the relatively "culture free" fields of science, medicine, and technology may be more fruitful channels for people-to-people contacts than the fine or performing arts, or even education, which in both countries reflect divergent—and controversial—political and social values.

Although the Committee of Concerned Asian Scholars has invited a delegation of Chinese students to visit the United States, and the invitation was accepted in principle, no date has been set. Sixteen American teenagers, led by the mother of former China resident and author William Hinton, did spend several months in China in the fall of 1971. But large-scale student exchanges seem a long way off, and it could be many years before China is prepared to have its own young people visit our shores for purposes other than table tennis competition.

### EXCHANGE PROGRAMS A UNIQUE PROBLEM

The question of exchange programs with the P.R.C. presents a new and unique problem for Americans, not only politically but technically. In the late 1950's, when lines of private communication with the Soviet Union and Eastern Europe began to open, diplomatic relations with Moscow had been established for a quarter century and many means, both official and private, were available to work out exchange agreements. Today most private American organizations interested in exchanges with China simply do not know how to assess China's interests, whom to talk to, or where to write. By all indications, China's Ambassador to Canada and his staff in Ottawa have special responsibility for surveying the American scene, and hundreds of Americans already have had fruitful conversations at the Ottawa Embassy. Visa applications can be made there and through the China Travel Service in Hong Kong. But such technical issues should be relatively easy to resolve. The more long-term, and fundamental, questions are not those of "access" to China but of maximizing the opportunities that emerge. What fields will offer the greatest mutual benefit to both countries in the long run? How can we prepare ourselves to understand the China we might visit? What is required for us to be receptive and intelligent hosts? Just as China is attempting to learn about America and our myriad organizations, how can we prepare to handle future exchanges at our end?

Many organizations already are making plans. The Committee on Scholarly Communication With the People's Republic of China, established in 1966 by the American Council of Learned Societies, the Social Science Research Council, and the National Academy of Sciences (NAS), is attempting to encourage and coordinate the interests of scholars in various fields; the new Institute of Medicine (within the NAS) has proposed a systematic study of medical innovations in China, which would include sending a delegation of specialists there.

The Council for International Educational Exchange, a New York-based federation of 165 American colleges and educational organizations has been preparing for some years to initiate student exchange programs with China and already has formally surveyed the interests of its members. The Institute of International Education is similarly concerned, as is the National Association for Foreign Student Affairs. The American Friends Service Committee has attempted for many years to develop working relationships with the P.R.C., and has proposed sending a diverse group of Americans to China next spring. The new U.S.-China Friendship Association, in San Francisco, encourages Americans to develop a sympathetic appreciation of China's development and an interest in reciprocal visits. Leaders of the Committee for a New China Policy have had extensive conversations about exchanges possibilities with Chinese officials in Ottawa and elsewhere. The National Committee on U.S.-China Relations, a private, a nonpartisan educational organization based in New York, is attempting to inform Americans about the exchange interests and activities of other groups concerned with China, and is cooperating with the U.S. Table Tennis Association in raising funds for, and managing, the forthcoming visit of the Chinese Table Tennis Team.

At some stage, greater coordination of the diverse efforts of American groups probably will be needed. Whether this should involve a centralized multipurpose organization, as was proposed by Professor Robert Byrnes of the University of Indiana last year, of a number of more limited operations such as the International Research and Exchanges Board (established in 1969 to succeed the Inter-University Committee) that manages scholarly exchanges with the Soviet Union and Eastern Europe, remains to be seen. Until the extent of China's interest both in welcoming Americans and in enabling her people to visit the United States is better understood, the ad hoc pattern of 1971 probably will continue.

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## CUT YOUR MEDICAL EXPENSES

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include pertinent material.)

Mr. HALL. Mr. Speaker, as a former practicing physician, prior to entering Congress, I have continued to interest myself in quality health care, and the needs of the individual, as well as the Nation as a whole.

To that end, I have become aware that medical, hospital, and allied costs, like other living expense, have increased along with increased demands for service. Therefore, I think the following information on how to cut medical expenses is not only timely, but good health practice:

### CUT YOUR MEDICAL EXPENSES

The price you pay for medical care—like most other living expenses—has been rising in recent years. The Bureau of Labor Statistics estimates a typical family with two children paid about $564 in medical bills in 1970. Five years earlier, such a family would have paid about $468.

Still, there are a number of commonsense ways you can s-t-r-e-t-c-h your medical dollar. At the same time, you will be buying better protection for yourself and your family.

*Have a family doctor.* Choose him carefully—for his reputation in the community, the type of practice he has developed, and his availability. Does he have staff privileges at a hospital nearby? Above all, are you comfortable with him and trust his judgment?

As a wise shopper, you'll probably want to become acquainted with several doctors before deciding. If you are a newcomer in town, the local medical society will be happy to supply you with names of physicians, so you can make a choice. Your neighbors or your minister can often make helpful suggestions.

The doctor you choose may practice medicine alone, in a group or in a large clinic. He should be a person who will come to know you and your family and be interested in your health. He will keep a permanent record of your medical history which may save duplicating many expensive and time consuming tests, as well as having your previous tests on record to compare with those taken later. Knowing your background, he will be better able to tell you promptly if anything is wrong.

*Ask him about his fees.* Don't be embarrassed about mentioning fees when you start going to a physician. In fact, your doctor would prefer that you open the subject, since you are aware of your own financial situation and he is not. (Even if you've been going to a particular doctor for some time, if his fees bother you ask him about them. Why not be straightforward about it?)

*Don't wait too long.* Many people try to save money on medical bills by not seeing the doctor until they are seriously ill. This not only defeats the purpose of preventive medicine (the only sound way to preserve your health), but it is more expensive in the long run.

Emergencies are always more expensive, whether with the family car, the household plumbing or your health. And too often, emergency repairs are only stopgaps toward really solving the problem. Once a disease process has started, it often lasts longer and costs more to cure.

*Have a checkup.* If you are past 35, a complete physical examination at regular intervals is a good idea. It may show that you are in fine shape. But it could also provide an early warning of illness-to-come. Obviously, that would give your doctor a better chance to help control the problem before it becomes serious—at less expense to yourself.

Based on his findings, your doctor will suggest when you should see him again for your next checkup. If he indicates a yearly exam is desirable in your case, a good time to have it—as one doctor suggested to us—is on your birthday.

*Go to your doctor's office.* House calls are more expensive and less efficient. Without his office equipment and his trained staff, your physician is less able to make a really good examination. (Of course, chronically ill, confined patients can be seen only at home.)

When you catch a bad cold, suffer a stomach pain or otherwise become ill, your doctor can give you better care in his office—at less expense. Except in unusual cases, there is little danger in transporting a patient. Today's highways and comfortable cars have brought almost everyone within minutes of good medical treatment.

*Use the telephone.* This will save you money and it makes medical sense. A family doctor who has examined you regularly is familiar with your health history. Consequently, he can frequently advise you over the phone regarding minor health problems.

For anything that seems to be serious, he will likely ask you to come to his office to be examined. If he's busy with appointments during office hours, he will call you later during the period he sets aside for telephone consultations.

*Follow your doctor's orders.* You'd be surprised how many don't. Maybe that includes you. Have you ever been told to take off a few pounds and get more exercise? Did you do it?

If you don't follow the expert advice you solicit and pay for, you might just as well toss your money (and possibly your health) down the drain.

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[1] A report of the meeting is available from the National Committee, 777 United Nations Plaza, 9-B, New York, N.Y. 10017.

*Don't waste your money on "quack" cures.* The American Medical Association estimates that Americans waste more than $2 billion each year on quacks and quack products. When in doubt, ask your physician. It will cost you less and it's safer in the long run.

*Buy enough health insurance.* Health insurance is a bargain, considering the shattering effect that prolonged illness or injury can have on family finances. Many people insure themselves—unwisely—against minor expenses they could pay themselves, while failing to secure adequate coverage for major illness and hospital bills.

Roughly 8 or 9 people in 10 are covered for in-hospital visits by their doctor. Fewer than half of all Americans are covered for doctors' home or office visits, for the drugs he might prescribe, or for the nursing services that might be necessary.

For best economy, buy as much insurance as you can afford. But if you have to choose, protect yourself and your family first against the expenses of serious illness.

*Check your eligibility for Medicare.* For persons over age 65, the medicare program provides comprehensive protection against the cost of illness. The program consists of two parts . . .

Part A, the hospital insurance section for which most people are automatically eligible at 65, helps pay hospital bills and provides payments for skilled nursing home care and home health services.

Part B is a voluntary program, with the cost shared by you and the government. It helps pay for doctors' services, medical supplies and certain other items not covered under Part A.

If you are approaching age 65, check with your local Social Security Administration office for assistance in enrolling for Medicare coverage.

*Take allowable tax deductions.* All taxpayers can include those reasonable medical expenses (such as doctor bills, hospital bills, drug costs, etc.) which exceed a certain percentage of their total income as deductions for federal income tax purposes.

*Finally, stay healthy.* It's the best way to hold down medical expenses. Your health is determined in large measure by the kind of life you lead. So, try to avoid excesses of all kinds; mix some recreation with your work, and give your doctor a reasonable chance to head off emergencies.

You'll spend less for medical care and get top mileage out of your medical dollar.

## YOUTH APPRECIATION WEEK

(Mr. JONAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. JONAS. Mr. Speaker, this year, as last, I propose a resolution authorizing the President to proclaim Youth Appreciation Week. A similar resolution in 1971 became Public Law 92–43.

A great amount of publicity is given to the habits and actions of today's youth and much of this publicity is in a negative vein. Unfortunately, this only serves to broaden the gap that separates the generations. I do not believe that this gap is as wide as some would have us believe. I do not believe that the publicity given the irresponsible actions of some of our youth serves to reduce this gap.

There is a definite need for constructive, cooperative efforts to bring about mutual understanding and to develop a "shoulder to shoulder" attack by all Americans on today's problems. It is toward that end that I introduce this resolution.

Optimist International has sponsored Youth Appreciation Week since 1954. This observance has been held annually starting the second week in November. The concept started in North Carolina by a small group of Optimists and has grown to an important event in the program of the majority of the 3,000 Optimist clubs. The States' objectives are:

To recognize the accomplishments of youth in home, school, and community;

To promote active participation by all members of families in activities involving the family as a unit; and to encourage parents to rededicate themselves to the responsibilities of parenthood;

To encourage organizations and other groups to publicly show their respect for youth;

To encourage the news media to recognize the accomplishments and contributions of youth through regular and special features;

To provide the proper environment for youth, including opportunities for participation in recreational and social activities;

To focus attention on the influence religion and morals have on the lives of youth and to encourage youth to actively participate in spiritual activities; and

To encourage a greater exchange of ideas between adults and youth leading to a broader understanding of each other's problems.

Public Law 92–43 established November 8–14, 1971, as National Youth Appreciation Week. This was the first time that Congress had given official recognition to the program. The response to this act was most impressive. All Governors and mayors of cities with a population of 50,000 or more were contacted and asked to support the 1971 Youth Appreciation Week observances. Data compiled indicates that 30 Governors issued proclamations for Youth Appreciation Week and approximately 50 percent of the mayors contacted issued proclamations. Numerous newspaper articles, radio and television announcements and magazine articles heralded the observance.

The response by the news media indicates that, contrary to popular opinion, the constructive and positive contributions of youth are considered newsworthy. Youth Appreciation Week is more than a publicity gimmick to illustrate the image of good little boys and girls, mimicking the desires of adults. It projects the image of young men and women with plans for tomorrow, solid and constructive plans for improvement. These young citizens are working in school, community, family and church activities, to build a better society.

This is the true picture of the youth of today, in spite of the reports that indicate bizarre behavior. Young people are continuing to aid in the progress of this country, and I am confident they will continue to do so. They deserve recognition, and they deserve encouragement. With these thoughts in mind, the following resolution is offered which authorizes the President of the United States to proclaim the second week of November as National Youth Appreciation Week:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the 7-day period beginning November 13, 1972, is hereby designated as Youth Appreciation Week, and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

I trust that this resolution will be considered promptly and favorably by the House Committee on the Judiciary and that it will then be adopted by the Congress and presented to the President and that he will issue the proclamation called for, just as was done with respect to the resolution last year, to the end that the Youth Appreciation Week program may be continued after getting off to such an auspicious start in 1971.

## SOCIAL SECURITY INCREASE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I would like to commend our distinguished colleague, Chairman MILLS, for his endorsement yesterday of a 20-percent increase in social security benefits. With one-fourth of our 20 million senior citizens living in poverty and an additional one-fourth of them living close to it, an increase of this magnitude is sorely needed, and I am very hopeful that Congress will enact it this year. Certainly, the support of my distinguished colleague from Arkansas—and the Congress foremost expert on tax and social security matters—Chairman MILLS brings this hope closer to reality.

Substantially increased benefits, such as the Chairman has proposed, are most welcome, but the other side of the social security coin, and the side that most Americans see—the growing payroll tax—is less attractive. Even if we change the assumptions on which the payroll tax rate is calculated, putting the system on a pay-as-you-go basis and making allowances for a rising rate of earnings, the social security finance structure will remain basically inflexible, The payroll tax—which will remain the system's only source of revenue—will continue to rise, placing an ever greater and more inequitable burden on lower- and middle-income wage earners. The distinguished chairman's proposal would mean a tax savings in comparison to H.R. 1, as approved by the House last session, but it would still mean a substantial increase in the payroll tax in comparison to present law.

Our Nation's tax structure is growing more and more regressive. We all know of the growing inequities of state and local sales and property taxes. Increases in the social security payroll tax, combined with the steady erosion of the Federal income tax base, only make matters worse. Now the administration is toying with the idea of a value-added tax which would hit poor, lower- and middle-income families the hardest. The lion's share of the Nation's tax burden is rapidly shifting to the shoulders of those who are least able to bear it. We must reverse this trend in our tax policy. Increasing the payroll tax is not the way to do it.

I urge Chairman Mills and my colleagues in the House to give consideration to a proposal I made nearly 3 months ago to combine a 20-percent benefit increase with a shift of one-third of the costs of social security to the general revenues. General revenue financing of social security would mean that, for most Americans, the burden of the payroll tax could be reduced—even in the face of substantial benefit increases—to less than it is now, or will be in the future under present law. The portion of social security costs which would be paid for out of general revenues would be met through the income tax, which is based on ability to pay.

Some may object that this approach would require a general increase in the income tax or an increase in the already exorbitant Federal deficit. However, there is a third alternative—pressing ahead with a truly meaningful tax reform bill, something we should be doing in any event. Fortunately Chairman Mills and other members of the Ways and Means Committee are already moving in that direction.

Through this one action, we could take an important step toward reform of our tax system. We could reduce the increasingly intolerable burden of a regressive tax. We could shift a significant portion of the Federal tax burden away from those who are least able to pay it toward those who have the means to do so. We could begin to return our tax system to the principles of equity and fairness on which it was originally based, and from which, of late, it seems to be straying.

## SECRETARY GENERAL ASSESSES BANGLADESH RELIEF NEEDS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am today inserting in the Record the report of Secretary General of the United Nations, Kurt Waldheim, on the recovery and relief needs of Bangladesh for the remainder of 1972.

The cash position of the relief operation is particularly critical according to the report. To date only $18.1 million has been pledged in cash by all nations to the U.N. Relief Operation in Dacca. Of this amount only $11.6 million is available as operating capital. Pledges in kind to UNROD amount to $76.5 million of which only $22 million has been delivered. The United States has pledged $59.1 million in kind but more than half of that has not been shipped. The gap between the needs and the actual contributions to date is great.

The report of the Secretary General further states:

> To meet but the most immediate needs of the affected area so as to avert the threat of large-scale misery and hunger, additional assistance in excess of $565 million will be required for the remainder of 1972.

Our Government's immediate recognition of the new state would speed U.S. relief efforts which are so badly needed in the devastated country. We must respond to the Secretary General's plea for assistance with immediate recognition of Bangladesh and allocation of our share in the relief effort.

My resolution urging the President to recognize Bangladesh and take steps to secure necessary funds for relief assistance now has 30 cosponsors. I hope it will receive prompt consideration in the Foreign Affairs Committee. As a humanitarian and freedom-loving people we cannot continue to ignore our responsibility.

The report of the Secretary General follows:

### Report of the Secretary General Concerning Bangladesh Relief Needs

1. On 21 December 1971, the Secretary-General submitted a report to the General Assembly and the Security Council (A/8640–S/10466) on the implementation of Assembly resolution 2790 (XXVI) of 6 December 1971 and Council resolution 307 (1971) of 21 December 1971. In that report, the Secretary-General described the situation regarding both the United Nations effort to provide humanitarian assistance to the refugees in India and the United Nations relief operations in Dacca. The present report gives an amount of the action taken since 21 December, the current situation and the plans for the future of those two operations.

### ASSISTANCE TO THE REFUGEES IN INDIA

2. The efforts of the United Nations High Commissioner for Refugees in his capacity as focal point "to relieve the suffering of the refugees in India," as requested by the General Assembly in its resolution 2790 (XXVI), have continued without let-up since the cessation of hostilities in the subcontinent on 17 December 1971. At the same time, and to an increasing degree, the activities of the High Commissioner have been redirected to assisting in the refugees' "return in safety and dignity to their homes," as called for by the Security Council in its resolution 307 (1971).

3. As of 31 January 1972, a total of nearly $187 million, including some $116.6 million in cash and the balance in kind, had been pledged through the United Nations system in response to the Secretary-General's appeal of 19 May 1971. Payments in cash by the focal point to the Government of India, taken together with the value of commodities delivered to India, mostly with the assistance of the United Nations Children's Fund (UNICEF), the World Food Program (WFP) and the World Health Organization (WHO), were estimated at $126.8 million, and items valued at a further $30.4 million had been processed for delivery and were in the pipeline on the way to India. To this should be added contributions pledged or collected by a number of Governments and non-governmental donors outside United Nations channels, estimated at $107.8 million, including $46.4 million collected by voluntary agencies, for an estimated total effort of $290.2 million by the international community, both through the United Nations system and outside it.

4. The focal point has been working in close co-operation with the Indian authorities, which have had full operational responsibility in the execution of the relief programme. The Government of India has kept the High Commissioner informed on a regular basis of the number of refugees registered by it since the events of March 1971. In early December, the number of displaced persons reported to the High Commissioner's representative in New Delhi to have arrived in India totalled 9,898,843. Of these, 6,807,228 were said by the Government of India to have found shelter in some 1,000 camps in the states of West Bengal, Meghalaya, Assam and Tripura, while 3,091,620 were known to the Indian authorities to be living with friends and relatives.

After the cessation of the hostilities between India and Pakistan, the Indian Ministry of Labour and Rehabilitation informed the focal point on 28 December that the "refugee influx had ceased" and that some 188,000 of these persons had already returned to their homeland. As of 14 February 1972, the total number of returnees, as computed by the Government of India, amounted to 7,868,298.

5. As previously indicated (A/8640–S/10466, para. 14), activities in connexion with the voluntary repatriation and resettlement of refugees have been receiving a high priority in the work of the focal point. Soon after the cessation of hostilities, the focal point and the Government of India agreed on certain arrangements concerning the transfer of relief materials across the border in conjunction with the return flow of refugees, contributing to the humanitarian relief and rehabilitation efforts of the United Nations relief operation in the Dacca area. Thus 10 days' to two weeks' food rations were to be given to the refugees for their journey home; this distribution is expected to amount to 26,000 tons of rice and 9,000 tons of wheat when the repatriation process has been completed.

Moreover, the Indian Red Cross, at the request of the Government of India, has transferred more than 7,000 metric tons of milk powder, high-protein food mixes and sugar to the Red Cross authorities across the border. Of the vehicles made available to the Government of India by the focal point, more than 160 have been loaned through Red Cross channels for use in the Dacca area. Since the beginning of the activities of the focal point, 3.5 million blankets and $10 million worth of shelter material had been provided to the refugees in India from United Nations resources and, of these, a substantial part is being taken by the returning refugees across the border. Several hundred thousand blankets have been transferred by UNICEF from Calcutta across the border directly at the request of the Indian Government.

Similarly, 8,700 sets of utensils were moved by truck from Calcutta across the border on 11 February and this movement will continue at the rate of 10 truck-loads a day until 60,400 sets have been delivered. Additional large quantities of clothing and utensils distributed to the refugees in India on the basis of a focal point cash grant are being taken along by the returning refugees. The question of the future use and disposal of all supplies provided by or through the United Nations for the relief of refugees in India is under review and will be decided upon in agreement with the Government of India.

6. The focal point is continuing its representation in Dacca in order to ensure liaison with the United Nations relief operation in that area, more specifically with respect to the movement and integration of displaced persons returning from India.

7. On 20 January 1972, the Government of India transmitted to the focal point an aide-mémoire giving details concerning actual relief costs until 31 December 1971, further anticipated relief costs until repatriation of the refugees has been completed and detailed costs related to repatriation. On 21 January 1972, the High Commissioner transmitted this aide-mémoire to Governments. It has been agreed that, at the end of the relief programme, the Government of India will supply the focal point with a comprehensive official account of aid received from the United Nations.

### UNITED NATIONS RELIEF OPERATION IN DACCA

8. Humanitarian operations were gradually resumed after the cessation of hostilities. On 26 December 1971, the first group of United Nations staff who had earlier been evacuated

returned to Dacca to augment the nucleus who had remained. An immediate stock-taking of the situation was initiated. On 2 January, two-man teams, including UNICEF staff, began to go on field visits and, by the end of January, had visited each of the 19 districts. Reports were prepared on the resettlement of returning refugees, the extent of damage to transport facilities, the food situation and other factors bearing on the relief needs of each area. On the whole, a disquieting picture emerged, pointing to the growing dimensions of a relief problem which had been acute even before the outbreak of war.

9. As stated above, nearly 8 million refugees were reported by the Government of India to have been repatriated by mid-February. Millions of other Bengalis, who had fled their homes during the disturbances and hostilities and had sought refuge in urban areas, were returning to their villages. A massive process of resettlement is currently under way.

10. With agricultural production impaired in recent months, food stocks have been drawn down to a level estimated today at about 350,000 tons. The situation is even more alarming considering the uneven distribution of these stocks, the bulk of which are located in the major urban areas of Chittagong, Khulna and Narayanganj-Dacca. In contrast, only 16 per cent is to be found in local supply depots. Another important adverse factor is that up to 20 per cent of stored grain is believed to be unfit for human consumption.

11. The extensive damage done to the transportation network has seriously disrupted supply lines. The capacity of the port of Chittagong, which prior to the hostilities was equipped to move 170,000 tons per month, was reduced to 70,000 tons, and a fire and explosion aboard a tanker in the harbour on 12 February has reduced this capacity even further. Damaged and sunken vessels hamper entry into the port area. Chalna, the main port in the west, is similarly affected. Rail and road links are cut in many areas, with key spans down, including the famous Hardinge bridge across the Ganges. Ferry service, which is so important in an area dissected by many rivers, is badly curtailed.

12. Significant damage has been done to the microwave facilities linking Dacca and other major urban areas. Terminal stations, towers, antennae and switchboards are in urgent need of repair.

13. In this over-all critical situation, the United Nations relief operation has resumed its activities and today is providing indispensable assistance in the movement of relief supplies. Supplies and equipment which had been delivered under United Nations auspices through the end of November 1971 made possible a prompt response to the needs of the people of the area. Trucks that had been earlier distributed or stored during the hostilities were soon back on the roads. Foodgrains donated to the United Nations by the Canadian Government were moved from silos to central supply depots. This prompt action was possible only because fortunately United Nations stocks and supplies had suffered relatively little damage during the hostilities. In all, 34 jeeps and several trucks were destroyed, some stocks of blankets were burned and some office equipment was lost. The most serious damage was done to the small fleet of vessels which had been carrying humanitarian supplies under United Nations auspices.

14. The staging area of Singapore, where about 40,000 tons of foodgrain, together with 184 vehicles and other items, had been temporarily off-loaded, provided a direct feeder line to the port of Chittagong. Virtually all of the stocks kept at Singapore have now been shipped to Chittagong and farther inland. To assure a steady stream of supplies through the pipeline of commitments made by a number of donors, the United Nations by mid-January began reactivating the movement of commodities and equipment.

15. The prompt remobilization of transport furnished by the United Nations has permitted an immediate movement of food and other relief supplies from the port of Chittagong, which is heavily stocked, to secondary transfer points. At the same time, supplies have been moved to local supply depots and onward to centres of relief distribution. High-value protein mixes, blankets and other items have been released from UNICEF stocks. Various voluntary agencies received United Nations supplies for release through their channels.

16. Today, therefore, the relief operation is well under way. In the Dacca area, there is an international staff of 81, including 44 from UNICEF and four from the Office of the United Nations High Commissioner for Refugees, all forming part of the United Nations operation. Field stations have been established at Chittagong, Jessore, Dinajpur, Sylhet and Khulna; the child-feeding programme executed by UNICEF has been reactivated in six districts; a major vehicle maintenance programme, initiated late last year through UNICEF, is now becoming operational, and preparations have been virtually completed for the establishment of 15 service centres and four zonal garages throughout the country. The UNICEF regular programme is being augmented to cover activities for the rehabilitation of health and educational institutions and water supply facilities. Special arrangements have been made to contract for vessels and airplanes.

17. The importance of the United Nations logistic support effort can be gauged by the fact that ships chartered by the United Nations have a monthly average off-take capacity out of Chittagong of 120,000 tons, supplementing the 70,000 tons being moved by other modes of transportation. To ensure the co-ordination of water traffic movements, a plan has been devised to make optimum use of 15 minibulkers, nine tugs, two ferry barges and a ferry pusher unit, which are all under United Nations charter.

18. Movements on land depend heavily on vehicles provided through the United Nations, since the truck fleet operated by the public sector was heavily damaged during the hostilities. A scheme for the distribution and utilization of trucks furnished by the United Nations is currently being worked out with the local authorities. To date, 401 trucks have been delivered out of 640 purchased.

19. With transport facilities disrupted, millions of dislocated persons to be resettled, food stocks to be replenished, shelter to be provided and rehabilitation work to be undertaken, a much greater international effort is required.

20. On the basis of on-the-ground visits and discussions with local authorities, specific needs have been defined for the balance of 1972, responding to priority requirements of food, transport and shelter. A summary list of requirements is annexed to this report.

21. To alleviate the current and anticipated shortage in foodgrains, taking into account the return of refugees, it is estimated that monthly imports in 1972 will have to average 200,000 tons. This amount will respond to relief needs which are estimated at 80,000 tons per month. It will be earmarked for work relief programmes, will flow into normal channels of distribution and, eventually replenish diminished stocks. Another urgent food requirement is for edible oil.

22. Before the hostilities, authorities in Dacca had estimated a need for 2.5 million housing units. Now, with the increased burden of accommodating refugees and other displaced persons, the estimate is placed as high as 10 million units of simple shelter. As a practical matter, it is estimated that 200,000 tons of roofing sheets can be delivered before the onset of the monsoon in early May so as to provide shelter for slightly under 1 million persons.

23. Priority attention will have to be paid to the transport system which, as noted above, has been gravely disrupted. Salvage operations will have to be undertaken to clear the two major ports and channels. Port off-take capacity will have to be sharply increased and riverine movements accelerated. Unless the waterway system is improved, pending repair of road and rail lines, relief and other supplies will not reach their destination in time. It will, therefore, be essential to keep under constant review the flow of anticipated imports, relating these to the capacity of distribution, including shipping space, lightering facilities, handling equipment and the movement of craft inland. A system of priorities may well have to be established to avoid a glut of supplies at the ports of entry. The United Nations, as indicated above, has chartered various vessels, which should nearly treble the movement capacity at Chittagong.

24. Additional purchases of trucks are also envisioned by the United Nations. Whereas 640 lorries of various sizes have already been purchased nearly 1,000 more are planned. The acquisition of a limited number of planes to carry cargo and personnel is also foreseen to ensure rapid transport to isolated areas.

25. Other activities are also deemed essential. One of the most important is the child-feeding programme initiated by UNICEF in 1971. The plan now is to extend the programme throughout the country on a phased basis to reach 4.5 million children by the end of July 1972. For this purpose and in order to continue it until the end of the year, 110,000 tons of high-protein food will be required. The Co-operative for American Relief Everywhere (CARE) and other voluntary agencies are also providing food for children.

26. Agricultural inputs, such as fertilizer and seed, will have to be provided to help redress the agricultural economy. Aerial spraying also will have to be resumed.

27. An early requirement is to appraise the nutritional and medical condition of the people. A two-phase programme is foreseen, the first involving an over-all survey, which would be completed in three or four weeks, followed by a more intensive survey of family units at the village level. The actual measuring of all children would be performed by the *Quac Stick* method.

28. It should be noted that no attempt has been made by the United Nations to make an inventory of total relief and rehabilitation requirements. The authorities in Dacca have defined over-all sectoral needs. Some refinements have been made in these data to ensure that the United Nations relief operation focuses on the most critical areas and keeps estimates within manageable proportions. Allowance is made for assistance from prospective bilateral donors.

29. Pledges in cash and in kind from the international community are sought not only to sustain the United Nations relief effort, but to give it the substantial means it requires to alleviate the suffering of millions of people and to give an impetus to the restoration of their means of livelihood.

30. The cash position of the relief operation is particularly critical. Of the $18.1 million pledged in cash to date, $3.5 million is in local currency and about $3 million is earmarked for special projects, leaving an operating capital of $11.6 million. Of this amount, about $8 million is already committed and the remainder will be obligated before the end of April. For the balance of the year, cost requirements only for operating and chartering services come to $11 million, and special activities (such as the vehicle maintenance programme) will cost another $5 million. Pledges in kind to date have amounted to $76.5 million. Of this sum, contributors have provided about $22 million worth of materials and foodgrains; the bal-

ance is primarily foodgrains, the bulk of which is still to be released by donors. Projections call for an average monthly delivery of 200,000 tons of food-stuffs for 1972.

31. Over-all costing of items required for 1972 is in excess of $620 million, of which $530 million, or nearly 90 per cent, is for food imports. The balance consists of the following: $14.4 million for transport; $2.3 million for the vehicle maintenance programme; $21.1 million for shelter; $30 million for child-feeding; $6.5 million for agricultural inputs; $6 million for water supply; $5.8 million for the rehabilitation of educational and health institutions and a health survey; $1.4 million for telecommunications; $1.4 million for raw cotton and artisan tools and $2.7 million for general operational requirements. Therefore, taking into account the amounts pledged but not delivered, the new contributions required would total more than $565 million. Additional needs will be identified as surveys and studies are completed. In this connection, the Secretary-General plans to send a high-level group of consultants to Dacca to review requirements in connection with further relief and rehabilitation activities.

OBSERVATIONS

32. As indicated earlier in this report, most of the refugees in India have now been repatriated and the greater part of the activities of the United Nations High Commissioner for Refugees as the focal point for international assistance to those refugees are expected to be completed in the near future. But with the return of the refugees, the volume of assistance required from the United Nations operation in Dacca will greatly increase.

33. Never in the history of the United Nations has international assistance been needed so urgently and in such great amounts. The Secretary-General sees in General Assembly resolution 2790 (XXVI) and Security Council resolution 307 (1971) a clear mandate for him to continue the United Nations relief operation in Dacca, and it is his intention to exert every possible effort to continue to provide emergency relief assistance to the people of the area.

34. To meet but the most immediate needs of the affected area so as to avert the threat of large-scale misery and hunger, additional assistance in excess of $565 million will be required for the remainder of 1972. It is hoped that the international community will provide as great a part as possible of the total requirements, both through the United Nations and through other channels.

35. Substantial additional voluntary contributions, in cash and in kind, will be urgently required if the United Nations relief operation is to continue its humanitarian activities. As indicated above, planning by the United Nations is well under way, and funding should now be provided on an adequate scale.

36. The Secretary-General therefore earnestly appeals to Governments, intergovernmental and non-governmental organizations as well as private sources for further contributions in support of the United Nations relief operation in Dacca.

ANNEX—ESTIMATED REQUIREMENTS FOR BALANCE OF 1972

A. PERIOD FROM FEBRUARY TO APRIL 1972

*Food imports*

Wheat, 480,000 tons.

Rice, 266,500 tons.[1]

Edible oil, 47,700 tons.[1]

*Transport*

Trucks (560), $2,800,000.

Truck tarpaulins (1,500), $20,000.

Aircraft chartering, $105,000.

Vessels chartering, $2,142,000.

Salvage operations, $500,000.

Handling equipment, $380,000.

Navigational aids, $500,000.

Vehicle maintenance, $1,700,000.

Shelter, $21,100,000.

Child-feeding-high-protein food (CSM/WSB) [2] 30,000 tons.[1]

*Agricultural inputs*

Fertilizer (arrangements completed).

Ghorasal urea fertilizer plant, $1,000,000.

Seeds (IRRI–8), 2,440 lbs.

Folier insecticides and fungicides, 15,200 tons.

Water supply (funds available), $2,000,000.

Rehabilitation of educational institutions, $1,000,000.

Assistance to Rural Health Centers, $700,000.

Health survey, $100,000.

Bailey bridge material (survey currently underway), not available.

Telecommunications, $1,400,000.

Raw materials—cotton, 5,000 bales.

Artisan tools and implements, $50,000.

General operational requirements, $726,000.

*N.B.* No provision has been made in the foregoing for any supplies that may be diverted from the focal point in India.

B. PERIOD FROM MAY TO DECEMBER 1972

*Food imports*

Wheat, 840,000 tons.

Rice, 560,000 tons.

Edible oil, 70,000 tons.

*Transport*

Trucks (400), $2,000,000.

Aircraft chartering, $280,000.

Vessel chartering, $5,712,000.

Vehicle maintenance, $600,000.

Child-feeding—high-protein food (CSM/WSB), 70,000 tons.

*Agricultural inputs*

Fertilizer (no requirement on assumption Ghorasal plant will be in operation).

Seeds: IRRI–20, 1 ton; Potato, 1,200 tons.

Pesticides/plant protection equipment: Folier insecticides and fungicides, 800 tons; Power sprayers, $15,000; Aerial spraying, $700,000.

Water supply (funds available), $4,000,000.

Rehabilitation of educational institutions, $4,000,000.

Medicines, drugs etc. (to be determined), Not available.

Bailey bridge material (survey currently under way), Not available.

Raw materials—cotton, 80,000 bales.

General operational requirements, $1,936,000.

*N.B.* No provision has been made in the foregoing for any supplies that may be directed from the focal point in India.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Foley, for Monday, February 28, and Tuesday, February 29, 1972, on account of official business.

Mr. Hagan (at the request of Mr. Davis of Georgia), for Thursday, February 24, 1972, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goldwater), to revise and extend their remarks, and to include extraneous matter:)

Mr. Findley, today, for 5 minutes.

Mr. Halpern, today, for 5 minutes.

Mr. McKinney, today, for 10 minutes.

Mr. Miller of Ohio, today, for 5 minutes.

Mr. McDonald of Michigan, today, for 15 minutes.

(The following Members (at the request of Mr. Denholm), to revise and extend their remarks, and to include extraneous matter:)

Mr. Gonzalez, today, for 10 minutes.

Mr. Rodino, today, for 10 minutes.

Mr. Aspin, today, for 10 minutes.

Mr. Fulton, today, for 5 minutes.

Mr. Teague of Texas, on February 29, for 60 minutes.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mailliard to extend his remarks following Mr. Morgan during 1-minute speeches.

Mr. Frelinghuysen, to extend his remarks immediately following those of Mr. Morgan and Mr. Mailliard today.

Mr. Madden, and to include extraneous material.

(The following Members (at the request of Mr. Goldwater) and to include extraneous matter:)

Mr. Burke of Florida.

Mr. Scherle in 10 instances.

Mr. Hillis.

Mr. Lent.

Mr. McKinney.

Mr. Bell.

Mr. Derwinski in four instances.

Mr. Peyser in five instances.

Mr. Archer.

Mr. Nelsen.

Mr. Duncan in three instances.

Mr. Keating.

Mr. Shoup.

Mr. Wyman in two instances.

Mr. Schmitz in two instances.

Mr. Scott.

Mr. Chamberlain in two instances.

Mr. Halpern.

Mr. Hansen of Idaho.

Mr. Frelinghuysen.

Mr. Bray in three instances.

Mr. Rousselot.

(The following Members (at the request of Mr. Denholm) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Hagan in three instances.

Mr. Rogers in five instances.

Mr. Howard.

Mr. Brademas in six instances.

Mr. Waldie in two instances.

Mr. Dellums in 10 instances.

Mr. Rodino in three instances.

Mr. Bingham in two instances.

Mr. Fuqua in two instances.

Mr. Stokes in five instances.

Mr. Evins of Tennessee.

Mr. Jones of Tennessee in 10 instances.

Mr. Anderson of California in two instances.

Mr. Delaney.

Mr. Drinan in two instances.

Mr. Nedzi.

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[1] Takes into account the following availabilities: Rice, 42,000 tons from India and 11,500 tons from the USSR; Edible oil, 2,300 tons from India; CSM/WSB, 10,000 tons in stock or pipeline; Cotton, 25,000 bales from India.

[2] Corn soya milk/wheat soya blend.

Mr. Long of Maryland.
Mrs. Grasso in 10 instances.
Mr. St Germain.
Mr. Van Deerlin.
Mr. Harrington.
Mr. Annunzio in three instances.

## ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until Monday, February 28, 1972, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

**1651. A letter from the Chairman, Cost Accounting Standards Board, transmitting a copy of proposed standards, rules, and regulations promulgated by the Board, pursuant to section 719(h)(3) of the Defense Production Act of 1950, as amended; to the Committee on Banking and Currency.**

**1652. A letter from the Assistant Director for Technical Services, Bureau of Land Management, Department of the Interior, transmitting a report of negotiated sales contracts for disposal of materials during the period July 1 through December 31, 1971, pursuant to 79 Stat. 587; to the Committee on Interior and Insular Affairs.**

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar as follows:

**Mr. BURTON: Committee on Interior and Insular Affairs. H.R. 9545. A bill to amend the Revised Organic Act of the Virgin Islands to provide that the Legislature of the Virgin Islands shall prescribe the minimum age for membership in the legislature (Rept. No. 92–850).**

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 11185. A bill to amend the Internal Revenue Code of 1954 with regard to the exempt status of veterans' organizations; with an amendment (Rept. No. 92–851). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Interior and Insular Affairs. S. 860. An act relating to the Trust Territory of the Pacific Island; with amendments (Rept. No. 92–852). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Senate Joint Resolution 190. Joint resolution to provide for an extension of the term of the Commission on the Bankruptcy Laws of the United States, and for other purposes; with amendments (Rept. No. 92–853). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11416. A bill to amend the Federal Aviation Act of 1958 to provide for the regulation of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes; with amendments (Rept. No. 92–854). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11384. A bill to extend the act of September 30, 1965, relating to high-speed ground transportation, by enlarging the authority of the Secretary to undertake research and development, removing the termination date thereof, and for other purposes; with amendments (Rept. No. 92–855). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 13370. A bill to establish a Department of Elder Affairs, and for other purposes; to the Committee on Government Operations.

H.R. 13371. A bill to amend title II of the Social Security Act and chapters 2 and 21 of the Internal Revenue Code, and to add a new title XX to the Social Security Act to provide for a minimum annual income of $3,375 in the case of single individuals, and $4,500 in the case of married couples, a 25-percent across-the-board increase with subsequent cost-of-living increases to reduce social security tax rates and provide a more equitable method for their determination and apportionment, to increase old-age, survivors, and disability insurance benefits to reflect the new tax and benefit base, to liberalize the earnings test, to eliminate the existing actuarial reduction in widow's and widower's benefits in case of disability, to include within the term "disability" certain additional conditions requiring substantially continuous care, and to require that future social security benefit increases be disregarded in determining need under the various federally assisted public assistance programs; to the Committee on Ways and Means.

H.R. 13372. A bill to amend title XVIII of the Social Security Act to eliminate all the deductibles, coinsurance, and time limitations presently applicable to benefits thereunder, to eliminate medicare taxes as the method of financing hospital insurance benefits and premium payments as the method of financing supplementary medical insurance benefits (so that all benefits under such title will be financed from general revenues), to provide automatic enrollment in the supplementary medical insurance program for all hospital insurance beneficiaries (with open enrollment for all others eligible), and to provide payment for eye care, dental care, hearing aids, prescription drugs, prosthetics, and certain other items not now covered; to the Committee on Ways and Means.

H.R. 13373. A bill to make needed housing available for the elderly; to the Committee on Banking and Currency.

H.R. 13374. A bill to provide relief to certain individuals 62 years of age and over who own or rent their homes, through income tax credits and refunds; to the Committee on Ways and Means.

H.R. 13375. A bill to establish Federal reinsurance and portability programs to protect employees in the enjoyment of certain rights under private pension plans; to the Committee on Ways and Means.

H.R. 13376. A bill to provide a comprehensive program of employment services and opportunities for middle-aged and older Americans; to the Committee on Education and Labor.

H.R. 13377. A bill to amend the Urban Mass Transportation Act of 1964 to authorize grants and loans to private nonprofit organizations to assist them in providing transportation service meeting the special needs of elderly and handicapped persons; to the Committee on Banking and Currency.

By Mr. ANDERSON of Tennessee:

H.R. 13378. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications of renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of Tennessee (for himself, Mr. Miller of California, Mr. Adams, Mr. Addabbo, Mr. Alexander, Mr. Anderson of California, Mr. Brademas, Mr. Carney, Mr. Corman, Mr. Diggs, Mr. Downing, Mr. Evins of Tennessee, Mr. Hamilton, Mr. Hanley, Mrs. Hansen of Washington, Mr. Howard, Mr. Hungate, Mr. Madden, Mrs. Mink, and Mr. Murphy of Illinois):

H.R. 13379. A bill to require the President to notify the Congress whenever he impounds funds, or authorizes the impounding of funds, and to provide a procedure under which the House of Representatives and the Senate may approve the President's action or require the President to cease such action; to the Committee on Rules.

By Mr. BENNETT:

H.R. 13380. A bill to amend the act of February 24, 1925, incorporating the American War Mothers, to permit certain stepmothers and adoptive mothers to be members of that organization; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 13381. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 13382. A bill to amend the Internal Revenue Code of 1954 to allow an itemized deduction for certain amounts expended for marine sanitation devices which comply with the Federal Water Pollution Control Act; to the Committee on Ways and Means.

By Mr. BLACKBURN:

H.R. 13383. A bill to prohibit the alteration of streambeds unless the Administrator of the Environmental Protection Agency certifies it to be in the public interest; to the Committee on Public Works.

By Mr. BRINKLEY (for himself and Mr. Bob Wilson):

H.R. 13384. A bill to authorize the use of certain authorizations in the Federal Civil Defense Act of 1950, as amended, for the purpose of assisting State and local governments to prepare to cope with the effects of local disasters; to the Committee on Armed Services.

By Mr. CONTE:

H.R. 13385. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board benefit increase, with a $100 minimum primary benefit and susbequent benefit increases based on the cost of living, and to raise the amount of outside earnings a beneficiary may have without suffering deductions from his benefits; to the Committee on Ways and Means.

By Mr. DELANEY:

H.R. 13386. A bill to provide for the issuance of special immigrant visas to certain nationals of Northern Ireland; to the Committee on the Judiciary.

By Mr. DORN:

H.R. 13387. A bill to meet the special financial burdens on school districts which have been required to bus pupils by the courts or by the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. EDWARDS of California:

H.R. 13388. A bill to amend section 612 of title 38, United States Code, to authorize the establishment of residential halfway houses for the treatment of drug-dependent veterans and permit, incidental to their treatment, the necessary treatment of the drug-dependent spouse of a drug-dependent veteran; to the Committee on Veterans' Affairs.

By Mr. FORSYTHE:

H.R. 13389. A bill to amend section 702 of the Housing and Urban Development Act of 1965 to permit water and sewer grants to be made thereunder even though no coordinated areawide water or sewer facilities program is being planned or completed, in the case of a project which otherwise qualifies for such a grant, if there is an urgent need for the facilities involved; to the Committee on Banking and Currency.

By Mr. FRASER:

H.R. 13390. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. GUDE (for himself, Mrs. Abzug, Mr. Dow, Mr. Forsythe, and Mr. Corman):

H.R. 13391. A bill to provide for a study and investigation to assess the extent of the damage done to the environment of South Vietnam, Laos, and Cambodia as the result of operations of the Armed Forces of the United States in such countries, and to consider plans for effectively rectifying such damage; to the Committee on Foreign Affairs.

By Mr. HAMMERSCHMIDT:

H.R. 13392. A bill to repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes; to the Committee on the Judiciary.

H.R. 13393. A bill to amend title 38, United States Code, in order to permit certain veterans up to 9 months of educational assistance for the purpose of pursuing retraining or refresher courses; to the Committee on Veterans' Affairs.

By Mr. KYROS:

H.R. 13394. A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. LANDRUM (for himself, Mr. Flynt, Mr. Brinkley, Mr. Stephens, Mr. Mathis of Georgia, Mr. Davis of Georgia, and Mr. Stuckey):

H.R. 13395. A bill to extend for an additional year certain provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; to the Committee on Public Works.

By Mr. McDADE (for himself, Mr. Dow, Mr. Rooney of Pennsylvania, and Mr. Thompson of New Jersey):

H.R. 13396. A bill to authorize an increase in land acquisition funds for the Delaware National Recreation Area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McKINNEY:

H.R. 13397. A bill to amend the Fair Packaging and Labeling Act to provide for the establishment of national standards for nutritional labeling of food commodities; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA:

H.R. 13398. A bill to provide for Federal grants to States which equalize expenditures for public elementary and secondary schools, to bring about a reduction in local real property taxes; to the Committee on Education and Labor.

By Mr. NICHOLS:

H.R. 13399. A bill to amend the National Trails System Act to authorize a feasibility study relating to the Bartram Trail in Alabama; to the Committee on Interior and Insular Affairs.

By Mr. O'HARA (for himself and Mrs. Chisholm, Mrs. Grasso, Mr. Badillo, and Mr. Thompson of New Jersey):

H.R. 13400. A bill to amend the Farm Labor Contractor Registration Act of 1963, and for other purposes; to the Committee on Education and Labor.

By Mr. O'KONSKI:

H.R. 13401. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER:

H.R. 13402. A bill to amend the Economic Opportunity Act of 1964 to provide a comprehensive child-development program; to the Committee on Education and Labor.

H.R. 13403. A bill to amend the Civil Service Retirement Act to increase from 2 to 2½ percent the retirement multiplication factor used in computing annuities of certain employees engaged in hazardous duties; to the Committee on Post Office and Civil Service.

H.R. 13404. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 13405. A bill to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations; to the Committee on Post Office and Civil Service.

H.R. 13406. A bill to require that an additional $4 per month (reflecting post-1970 across-the-board increases in social security and railroad retirement benefits) be passed along to public assistance recipients, either by disregarding such amount in determining their need or otherwise; to the Committee on Ways and Means.

By Mr. POWELL:

H.R. 13407. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. REID:

H.R. 13408. A bill to provide for the continuation of programs authorized under the Vocational Rehabilitation Act, and for other purposes; to the Committee on Education and Labor.

By Mr. SAYLOR:

H.R. 13409. A bill to relieve veterans of liability upon default or disposal of property obtained with a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code; to the Committee on Veterans' Affairs.

H.R. 13410. A bill to amend section 6302 of the Internal Revenue Code of 1954 with respect to the deposit of certain employment taxes by small employers; to the Committee on Ways and Means.

By Mr. SAYLOR (for himself, Mr. Blanton, Mr. Broyhill of Virginia, and Mr. Goodling):

H.R. 13411. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of "food supplements," and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMSON of Wisconsin:

H.R. 13412. A bill to provide additional panelaties for the use of firearms in the commission of certain crimes of violence; to the Committee on the Judiciary.

By Mr. WAMPLER (for himself, Mr. Downing, Mr. Whitehurst, Mr. Satterfield, Mr. Abbitt, Mr. Daniel of Virginia, Mr. Poff, Mr. Robinson of Virginia, Mr. Scott, and Mr. Broyhill of Virginia):

H.R. 13413. A bill to provide for the establishment and operation of a research center at Blacksburg, Va.; to the Committee on Interior and Insular Affairs.

By Mr. CARTER:

H.J. Res. 1079. Joint resolution to proclaim the last Friday in April as "Arbor Day"; to the Committee on the Judiciary.

By Mr. JONAS:

H.J. Res. 1080. Joint resolution providing for the observance of "Youth Appreciation Week" during the 7-day period beginning November 13, 1972; to the Committee on the Judiciary.

By Mr. KEITH:

H. Res. 845. Resolution expressing the sense of the House of Respresentatives relating to the situation in Northern Ireland; to the Committee on Foreign Affairs.

By Mr. REID:

H. Res. 846. Resolution calling for peace in Northern Ireland and the establishment of a united Ireland; to the Committee on Foreign Affairs.

By Mr. THOMPSON of New Jersey:

H. Res. 847. Resolution providing for the expenses incurred pursuant to House Resolution 213; to the Committee on House Administration.

H. Res. 848. Resolution authorizing the expenditure of certain funds for the expenses of the Committee on Internal Security; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER:

H.R. 13414. A bill for the relief of the estate of Malcolm Gresham; to the Committee on the Judiciary.

By Mr. FULTON:

H.R. 13415. A bill for the relief of the Andrew Jackson Lodge No. 5, Fraternal Order of Police, of Nashville, Tenn.; to the Committee on Public Works.

# EXTENSIONS OF REMARKS

## CZECHOSLOVAKIA

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DERWINSKI. Mr. Speaker, as events follow each other with bewildering rapidity, one finds it difficult to remember many of the important occurrences that have captured the headlines for a few days and then receded into the history books. It is therefore necessary to pause occasionally during our discussions of current events and review what went on in past years.

Of especial interest today is the coup d'etat that took place 24 years ago in Czechoslovakia. The stage for it had been set 2 years earlier, when the election held on May 26, 1946, gave the Communists 2.7 million votes out of a total of 7.1 million. While a good deal short of a majority, this was more than any of the other parties received and the Communists got 114 of the 300 seats in the constituent assembly and a new coalition cabinet was formed by Klement Gottwald, the Communist leader.

On February 25, 1948, after the Communists had infiltrated most of the Government services as well as the trade unions, Premier Gottwald, backed by the Soviet Union, was in a position to seize power. President Eduard Benes was compelled to accept an ultimatum issued by the Communist leader and Communists were placed at the head of all branches of Government except the foreign ministry. Jan Masaryk continued to serve as foreign minister but all his aides were Communists.

As a result of the coup d'etat, Czechoslovakia soon became a Soviet satellite. Not only the Parliament, the administration, and the political parties, but the press, the universities, and even the athletic clubs, were purged over a period of several months.

On May 9 a new constitution, modeled on that of the Soviet Union, was adopted by a Communist constituent assembly. In elections held May 30, the single slate presented by the Communist-dominated national front received 90 percent of the votes in Czech regions and 86 percent of those cast in Slovakia.

Benes resigned on June 7 rather than sign the new constitution. Seven days later Gottwald succeeded him, his election consisting of a show of hands by members of the Parliament.

It was not long before Czechoslovakia became a police state similar to that which had for 25 years existed in the Soviet Union. The Communists took control of educational and religious institutions, 90 percent of the nation's industry was nationalized by rubber stamp parliament, and forced labor campus were established for the punishment of patriotic citizens who opposed communism.

Many lessons can be learned from history, one of the most important being that there can be no compromise with communism. Coexistence with the Soviet Union means extinction for the nation that is foolish enough to try it. Those who enter into coalitions with Communists are purged by one means or another, the firing squad being more merciful than the concentration camp. The people, for whom the Communists speak so eloquently, soon learn that the successors of Lenin, Stalin, and Khrushchev have not mellowed.

Mr. Speaker, the people of Czechoslovakia experienced the horrors of nazism for less than 7 years. True, they were long years, but the hellish nightmare of Nazi terror did finally end. Unfortunately, the new day of freedom that dawned after the eclipse of nazism was followed by what has become more than a quarter of a century of Communist terror. As a student of history, I am optimistic that this terror, like the Nazi terror, will eventually end. Let us pray that it will be soon.

## COMDR. GEORGE EVANS, CHAPLAIN OF THE YEAR

### HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

*Thursday, February 24, 1972*

Mr. SCHWEIKER. Mr. President, Comdr. George Wesley Evans, Jr., of Columbia, Pa., this week received one of the highest awards that can be bestowed on a chaplain who serves in the Armed Forces of the United States of America.

Chaplain Evans, a commander in the Naval Reserve, was presented with the Reserve Officers Association's "Chaplain of the Year" Award. As a fellow Pennsylvanian, I extend to him my sincere congratulations.

The award, presented during the ROA's midwinter conference here, cited Chaplain Evans for "his exemplary devotion to duty" and for "contributing substantially to the welfare of personnel both by precept and example."

Chaplain Evans won the Bronze Star Medal as chaplain of the 11th Marines in Vietnam for demonstrating "exceptional courage and composure under enemy attacks."

After serving as minister in several Lutheran Churches in Pennsylvania, Commander Evans joined the Inactive Naval Reserve and volunteered for active duty in 1966. He is currently stationed at the Marine Corps Base, Camp Lejeune, N.C., where he lives with his wife and three children.

Chaplain Evans is a worthy recipient of the Reserve Officers Association's "Chaplain of the Year" Award, and it is a pleasure to offer my personal congratulations to him.

## FEDERAL GOVERNMENT MUST REGULATE PENSION FUNDS

### HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. ST GERMAIN. Mr. Speaker, a recent congressional study indicated that of the 9.8 million workers supposedly covered by pension plans, less than 500,000 have received any benefits in the last 20 years.

Unless the Federal Government guarantees that workers will receive the pension benefits they have earned, it seems the prospects for those currently covered by pensions will be no better than in the past. These benefits are desperately needed by those who must depend on social security, insurance or other forms of savings as their sole source of retirement income.

Too many pension funds are as likely to pay benefits as a Las Vegas slot machine. All too often the employer has stacked the odds against the worker.

The problem is the worker's lack of vested rights in his pension fund. The key to the problem is for the Federal Government to guarantee the worker a nonforfeitable right to share in the pension benefits, even though he may have left an employer.

Similar Federal guarantees, now protect social security recipients and depositors at banks by the Federal Deposit Insurance Corporation.

I have received a resolution from the distinguished members of the Senate of my State of Rhode Island and Providence Plantations urging the Federal Government to set minimum standards for private pension plans.

I strongly endorse this resolution by Rhode Island State Senator Julius C. Michaelson, and I urge my colleagues in the House to do the same.

The full text of the resolution follows:

#### Memorializing Congress To Set Minimum Standards for Private Pension Plans

Whereas, The Senate Labor Committee of the United States Congress recently revealed that only a fraction of the thirty million United States workers covered by private pension plans will ever receive any payment when they leave work; and

Whereas, This committee's investigation revealed that in the fifty-one percent of the 5.2 million involved who retired or left their jobs early received nothing; and only three percent of this group retired with full pensions; and

Whereas, This investigation also revealed that many pension plans invest their funds in the stock of the parent company, thus if the company should go bankrupt, claims for unpaid pension fund contributions are not entitled to priority in bankruptcy proceedings and these obligations are only partially paid if at all; and

Whereas, Funding alone may not protect employees in the event of plant or company terminations; and

Whereas, It is evident that only a relative handful of the estimated tens of millions of American workers under private pension plans will receive anything from the plans on which they now stake their future; now, therefore, be it

Resolved, That Congress be respectfully requested to support legislation which would guarantee, through Federal reinsurance, that benefits promised under pension plans will be paid by the Federal Government if the employer fails for any reason to meet his obligation; would set minimum standards for funding, vesting after ten years of service and the portability of pensions; would amend the bankruptcy laws to provide for special priority for pension obligations; would recognize that those responsible for the management of pension funds have assumed a solemn obligation to their covered employees and would impose severe criminal penalties for failure of such officials to exercise their fiduciary responsibility faithfully; and be it further

Resolved, That the secretary of state be and he hereby is respectfully requested to transmit duly certified copies of this resolution to the President of the Senate of the United States, the Speaker of the House of Representatives, and to the Rhode Island delegation in Congress.

## DEAN S. LESHER ON A FREE PRESS

### HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. WALDIE. Mr. Speaker, recently I had the honor and privilege to introduce Dean S. Lesher before the members of the Senate Subcommittee on Constitutional Rights.

Mr. Lesher, publisher of a number of California weekly and daily newspapers, spoke on behalf of the Suburban Newspapers of America.

Mr. Speaker, the threats posed to our news media by a government concerned with "backgrounders" and anonymity of sources are very real.

Mr. Lesher, in his statement before the committee, made a strong and convincing case for the public's "right to know" and the press' "right to disclose."

Mr. Speaker, I insert the testimony of Dean S. Lesher in the Record. I think it important that all Members of Congress be given the opportunity to be enlightened on this subject—a subject of deep and abiding interest to all Americans.

The testimony follows:

BEFORE THE SUBCOMMITTEE OF THE U.S. SENATE ON CONSTITUTIONAL RIGHTS

Senator Ervin and distinguished members of the U.S. Senate Sub-Committee on Constitutional Rights:

My name is Dean S. Lesher. I am a publisher in California of six daily newspapers and eight weekly newspapers under the trade name of Lesher Newspapers. These newspapers are in Contra Costa and Alameda Counties in the East Bay and in Merced and Madera Counties in the San Joaquin Valley.

It is a privilege to appear on behalf of the Suburban Newspapers of America. This is the dynamic group of 600 to 700 newspapers in the areas around the metropolitan core cities. This is the fastest growing segment of the American press today. Some have risen to places of dominance in their respective areas.

Mr. Chairman, on behalf of this growing, vibrant, challenging segment of the American press, I come before you to respectfully challenge you and your Sub-Committee to move forward on two closely related legislative fronts to shore up the tottering pillars of our representative form of democracy. In order for representative democracy to survive and serve well the needs of the people, the public must know fully how the government functions and the public must be free to express its individual and collective opinions with respect to such functioning. Both of these activities are closely related and involve freedom of speech and freedom of the press.

Suburban Newspapers of America sincerely support Senate Bill 1311 introduced March 23, 1971 by U.S. Senator Pearson from the State of Kansas. We agree with the purpose and intent of the bill, with the language used in the bill and with the statement made by Senator Pearson upon the introduction of the bill on March 23, 1971 in Volume 117, at Page 41, of the Congressional Record.

Nineteen States now have similar bills granting to newsmen the privilege of sanctity of confidential information received or obtained in their capacities as newsmen engaged actively in the gathering or presentation of news for any newspaper, periodical, press association, newspaper syndicate, wire service or radio or television station.

Protection of this confidential relationship is vital to the gathering and dissemination of news. It is high time that the United States of America recognizes this by an act of Congress protecting said privilege.

In the recent Pentagon Papers Decision by the U.S. Suprme Court, both the public's right to know and the freedom of press were major issues. A study of the various opinions by the Supreme Court Justices in this case shows the need for legislative expression upon the two related subjects of the public's right to know and freedom of speech tied in with freedom of the press.

My extended remarks, a copy of which you have before you for your record, emphasize the need for an enactment by the Congress proclaiming that Freedom of the Press under the First Amendment is an absolute right, subject only to such restrictions as are deemed absolutely necessary where the security of the nation is clearly and immediately threatened. In such event, the burden of proof would be upon the government to establish by a clear preponderance of the evidence (a burden much greater than the mere preponderance of the evidence) that such security is so clearly and imminently threatened that such a restriction, even of a limited nature, should be placed upon freedom to publish in writing or orally

It is the First Amendment that deals with the relationship between the individual and the government on a broad group basis. The First Amendment thus is of primary importance to the continued success of our representative form of democracy, yes, even to the continued existence of our nation in its present form.

The language used has no reservation of any kind, either expressed or implied, and therefore, must have been intended to be an absolute grant of rights and privileges to the press of America. That grant is for the benefit of the public and the welfare of the nation.

We base this position upon the language used in the First Amendment, upon the cardinal rule for construction of documents, and upon the historical background surrounding the enactment of this amendment. We must bear in mind that our forefathers were fearful of a strong central government. They were mindful of the aggressive conduct of the government during the colonial times. They had before them the case of Peter Zenger, the small weekly publisher in New York who dared to criticize the Crown Governor. Andrew Hamilton, a Philadelphia lawyer, won this case by first espousing freedom of the press, a doctrine new to the world.

Each of our forefathers involved in the forging of the Declaration of Independence and of the Constitution had in mind that freedom was the most important right that could be set up and safeguarded in any governmental political document.

Our forefathers were willing to so limit the powers of the central government that they began this union with a loose confederation under the Articles of Confederation. These Articles established such a loose federal organization that the country began to founder. It thus became obvious that a stronger central government needed to be formed and thus the Constitutional Convention met to draft a Constitution for the new United States of America.

At this Constitutional Convention, the founding fathers specifically stated in the body of the Constitution that all powers not specifically granted to the central government were reserved to the people. This was the theme surrounding the drafting of the Constitution.

Even when the Constitution was finally prepared, the body was not satisfied that the rights of the individuals were thoroughly protected.

Dissention arose among the group and it became apparent that the orignal 13 colonies would not ratify the Constitution until and unless the rights of the individuals were spelled out fully and were protected by amendments to the Constitution.

It was in this atmosphere and with this in mind that the authors of the Constitution prepared the first ten amendments of the United States Constitution, known as the Bill of Rights. If these ten amendments had not been drawn, it is doubtful that the Constitution of the United States would have been ratified by the 13 colonies and that this government would have gotten off the ground.

It is with this atmosphere in mind, and the temperament of the authors of the Constitution before us, that we become aware that the intent of the framers of the Constitution was to have freedom of speech and freedom of the press to be an absolute right and privilege. These framers could conceive of no situation requiring the spelling out of any limitation upon such rights and such privileges. Therefore, they specifically did not limit them in any manner.

The only basis we have for limiting them when national security is endangered is the fact that the underlying factor in the setting up of any government is the right of the government to protect itself against enemies, both foreign and domestic. In order to insure of such protection, the central government has the right to act when its security is jeopardized. That right to act supersedes such rights of individuals as freedom of speech and freedom of the press.

However, in order for the central government to so act to suppress or restrict freedom of speech or freedom of press, the duty should rest upon that central government of establishing a weight of the evidence that exceeds a mere preponderance of evidence that the national security is clearly and immediately endangered by such unlimited and unrestricted freedom of speech or freedom of the press. It is only when such a case has been made by the central government that the central government should have the power to restrict in any manner whatsoever absolute freedom of speech and absolute freedom of press.

That the First Amendment was intended to grant an absolute right evolves from the general principle of how to construe documents. Whenever an amendment or an addition is made to a document after it has originally been executed, the amendment or addition controls in the event it is in conflict with, or in derogation of, any part of the original document.

This follows from the very nature of the word amend or amendment. To amend means "to change or modify for the better; to improve". Thus, the very purpose to be served by an amendment is to change or alter the document or to explain the document in clear and understandable language.

This is a recognized principle in determining the meaning of contracts. An addition changing a portion of the original contract prevails over any language in the contract with which the addition conflicts.

The practical principle is that the parties are fully aware of what the original document provides when they draw up the amendment. Since the amendment is later in time and was drawn with this awareness, any change the amendment makes in the original document must have been thoroughly considered by the parties and such change must have been intended.

Illustrations by the hundreds can be used to show the general application of this principle and the basic reasons for doing so. There are specific amendments to the U.S. Constitution in conflict with the general provisions of the Constitution. In each instance, the amendment prevails with respect to such conflict.

The same principle applies to the First Amendment. The framers of the Constitution obviously intended it to be interpreted as written—as a full and complete guarantee of freedom of speech and freedom of press except only in the unusual situation where the national security is immediately and clearly threatened.

While this seems clear to students of law and students of the history of the formation of our nation, it would be well for Congress to spell this out in clear and unmistakable language. This Sub-Committee has now an opportunity to do so and thus perform a worthwhile service to this nation and its people. This could be a great contribution to Constitutional dialogue and to the preservation of the freedoms we enjoy under the U.S. Constitution.

We come then to the second segment of these two closely related subjects. That second segment is the public's right to know what is taking place in the government. It is on this phase that we strongly urge you to strengthen the Freedom of Information statute of 1966 proclaiming the public's right to know about the operation of their government. That right should be circumscribed ordinarily only by clear and immediate threat to the security of the nation and also with respect to matters of diplomacy where a certain degree of secrecy would necessarily be involved. Aside from these limitations, the public would have a right to check, to observe, to hear, to record and to report upon the operation of *their* government at its various levels and in its many phases.

Many States of the nation have statutes known under the general heading of "The Public's Right to Know". California is probably the leader. I am proud that I was the Legislative Chairman of the California Newspaper Publishers Association when it sponsored the first enactment upon this subject.

That Act was introduced by Assembly Speaker Ralph M. Brown of Modesto in 1953, was passed by both Houses of the legislature and signed by the Governor. The scope of that Act has been expanded to cover the activities of the various commissions and legislative bodies of the State at various political sub-division levels.

Mr. Chairman and distinguished members of this Sub-Committee, I would like to read to you the first section of this Act (California Laws 1953, Chapter 1588, Page 3270, Paragraph One):

"In enacting this Chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly."

"The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.

"The people insist on remaining informed so that they may retain control over the instruments they have created."

This clear and unequivocal statement and the enactments since made thereunder have had a salutary affect in California upon deliberations of commissions and legislative bodies at all levels of government and upon the opening of public records to inspection by the public and the press. They are now accepted as a beacon shining upon government activites to keep the public better informed of what their government is doing.

Every member of this committee is aware that our forefathers considered the people to be the government. This philosophy is expressed in every major document they drew. We cannot urge upon you too strongly the enactment of Federal statutes proclaiming this philosophy of government and asserting further the right of the public to know and of the press to keep the public informed.

What are the areas where information is not disclosed to the public or even available to the public? They are many and time permits only of a broad reference to two general categories.

The first is executive privilege, the right proclaimed by the executive department to keep secret too many documents at its own unsupervised discretion. It compounds this by refusing to permit key officials and employees to be questioned on issues either by the public or by the public's representatives, the Congress. This area needs extensive research, study and action. Congressional action to test and limit this privilege is imperative.

This is a sensitive area in view of the historical and constitutional separation of powers between the executive and legislative branches of the government. The issue is critical, however, in view of the growing credibility gap between the government and the public. This gap could produce an atmosphere that would seriously threaten the continuation of our form of government and the nation itself.

Another area applies to the deliberations of Congress itself. Too many matters are heard in executive sessions, too few committee decisions and votes are recorded in detail and too many actions are not available to the press and public. This area involves the always difficult task of self-analysis and self-criticism. It is, however, an area where the public welfare calls for action.

Everyone who has enjoyed this land of opportunity yearns for a chance to make one small contribution toward the continuance of this great form of government. I hope that our small contribution will be to motivate this great Sub-Committee to take a step in each of these directions by expanding the right of the public to know about the operations of its government and by stating that freedom of the press and freedom of speech are absolute except where the security of the nation is clearly and immediately endangered. If you do so, your hearings will have contributed mightily toward shoring up the foundation upon which this government rests.

Our form of representative democracy is under attack at all levels from within and without. Many attacks are fanatical and emotional without any basis whatsoever. The best defense against them and the best way to preserve what we have and enjoy is to insure that the people know the facts, that the people are well informed.

Knowledge is a necessary keystone in the functioning of a representative democracy. Without such knowledge and without full freedom of expression that the First Amendment guarantees, this form of government may begin to totter and shake at its very foundation. You have a great opportunity to shore up this democracy we so dearly love by taking steps in these two proposed legislative fields that will assure to our generation and to future generations a knowledge of what is taking place and an opportunity to express themselves in the light of this knowledge.

It is hoped by the suburban press that you will place this nation upon the pathway to a better understanding by its citizens of how government functions. It is hoped that you will take the steps suggested to eliminate the credibility gap that has grown up with respect to that functioning. Only by the elimination of this credibility gap can our representative democracy have a full and fair opportunity to succeed and to continue.

DEAN S. LESHER,
*California Newspaper Publisher for the Suburban Newspapers of America.*

## FEDERAL SPENDING

## HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. SCOTT. Mr. Speaker, I wish to take this opportunity to highlight findings of the sixth annual survey conducted in the Eighth District of Virginia. My colleagues may be interested in the responses from more than 50,000 homes in my district.

In the economic area, 68 percent felt present wage-price controls are helping curb inflation and 76 percent called for a reduction in Federal spending. Slightly more than half—52 percent—did not favor increasing the Federal minimum wage above the present $1.60, with many respondents explaining their vote by saying any increase would further limit the work opportunities for teenagers, the underskilled, and the partially disabled. Sixty-four percent favored expanded trade in nonstrategic materials with Communist nations. Only one in four favored a federally guaranteed minimum family income.

On questions relating to military involvement in Vietnam, 82 percent said we should continue our present withdrawal plans. Concerning the Middle East, 64 percent felt our foreign policy should be to adopt a neutral position; 65 percent favored a policy to maintain a balance of power.

An expanded role for the Government was approved in the fields of pollution and consumer protection. Eighty-two percent said they believed the Federal Government should protect the consumer by more stringent control in the advertising and selling of manufactured products. On the pollution question, 88 percent opted for enforcing strict standards and controls on all forms of pollution.

The full results of the opinion poll are included in our monthly newsletter to be sent to constituents within a few days and are inserted in the RECORD at this point:

### YOUR CONGRESSMAN BILL SCOTT REPORTS ON FEDERAL SPENDING

You may be interested in the tabulation of the results of our sixth annual opinion poll shown on the other side of this newsletter. Let me add a word of thanks to constituents in the more than 50,000 homes who returned the questionnaire. The results have been shared with colleagues in the Congress and included in the Congressional Record.

### EXTENSION OF GI BILL

You may be interested in a measure introduced some weeks ago to provide up to nine months of educational benefits for unemployed or underemployed veterans over 50 years of age when a refresher course is needed due to technological changes in his vocation or profession. This measure is intended to help the older veteran who loses his job or is forced to take a substantially lower position because of changing conditions. A qualified veteran would be permitted to take a refresher or retraining course as an aid to finding a new position either building upon present skills or transferring to another field. The measure was referred to the Committee on Veterans Affairs and I am hopeful that our Education Subcommittee will give it early consideration. Should you desire a copy of the bill please let me know.

### BUSING OF CHILDREN

Inasmuch as the question of busing of school children to achieve racial balance is one of the most frequently discussed questions, I believe a paragraph in our newsletter should be devoted to this controversy. You will note that those returning the questionnaire are overwhelmingly opposed to busing. One concern over the recent Richmond decision is that it erases city and county boundaries. It further raises the question of whether boundaries can be eliminated for other government functions performed within a city and its suburbs when there is a variance of the quality of service rendered between the two areas.

The neighborhood school, in my opinion, is best for children. It is a factor considered by parents in purchasing a home along with the location of a church and shopping center. Children can learn easier if they are fresh and alert when they arrive at school. Moreover, the money spent on the purchase of buses which would not otherwise be needed could well be spent in the classroom. I am advised that New York City has long had a policy of "open admission" which permits children on a volunteer basis to leave the neighborhood and be transported to the school of their choice. However, only 2% of the black and Puerto Rican children take advantage of the bus option. This indicates that even among those who would supposedly gain the most from busing, the process has little support.

As you know, I joined with others in cosponsoring a bill to prohibit the busing of children for racial purposes and have signed a petition to bring it before the House of Representatives for immediate consideration. The petition now has more than 150 of the necessary 218 signatures. Last month, I also introduced a measure to remove controversies involving the public schools from the jurisdiction of Federal courts and transfer jurisdiction to our state courts. The purpose of the bill is to insure that cases dealing with such a vital local issue as neighborhood schools be heard by judges attuned to problems and needs of the communities. Protection of Constitutional rights of parties to dispute over schools would still be available upon appeal to the United States Supreme Court. The President has attempted to appoint persons to the Federal bench who will strictly construe the Constitution and a test of his success in this field may be when the Richmond school case is finally determined by the Supreme Court.

### REEXAMINATION OF AUTO INSURANCE

While expressing the sense of Congress that regulation of motor vehicle insurance should continue to be under state jurisdiction, a resolution was recently introduced which indicates Congressional desire for "a rational, equitable and compatible reparations system for motor vehicle victims supported and sustained by a similar rational, equitable and compatible private insurance system." Guiding principles: (1) injured party should be paid by his own insurer, (2) benefits should be payable to all accident victims regardless of fault, (3) benefits should cover all reasonable costs, (4) compensation should be adequate but not excessive, (5) motorist should be free to choose own insurer if it provides coverage, and (6) rehabilitation should be of prime importance in the compensation system.

### OPINION POLL

We received more than 50,000 responses to our recent questionnaire and the tabulated results are shown below in percentages:

| | Yes | No | No opinion |
|---|---|---|---|
| 1 Do you believe that present wage and price controls are: | | | |
| (a) Helping to win the fight against inflation? | 68 | 30 | 2 |
| (b) Failing to have any real effect on prices and wages? | 47 | 47 | 6 |
| (c) Not in keeping with the American free enterprise system and should be abandoned? | 24 | 66 | 10 |
| 2. Do you favor increasing the Federal minimum wage above the present $1.60? | 42 | 52 | 6 |
| 3. Our policy in Vietnam should be to: | | | |
| (a) Continue present withdrawal plans | 82 | 17 | 1 |
| (b) Immediately withdraw all troops | 37 | 59 | 4 |
| (c) Retain a limited number of noncombatant troops as advisers to South Vietnam | 49 | 45 | 6 |
| (d) Increase U.S. involvement for military victory | 18 | 76 | 6 |
| 4. Do you favor prompt reduction of U.S. troop strength in Europe? | 44 | 48 | 8 |
| 5. Do you favor busing of schoolchildren to obtain racial balance: | | | |
| (a) Between cities and suburban areas? | 9 | 90 | 1 |
| (b) Solely within a city or county? | 14 | 85 | 1 |
| (c) Under any circumstances? | 7 | 91 | 2 |
| 6. Do you believe this country should expand its trade with Communist nations in nonstrategic materials? | 64 | 29 | 7 |
| 7. With regard to our foreign policy in the Middle East, do you favor: | | | |
| (a) Increasing military aid to Israel? | 36 | 55 | 9 |
| (b) Adopting a neutral position? | 64 | 31 | 5 |
| (c) Providing military aid to the Arab nations? | 5 | 89 | 6 |
| (d) A policy to maintain a balance of power? | 65 | 26 | 9 |
| 8. Do you favor the Federal Government guaranteeing a minimum family income? | 25 | 70 | 5 |
| 9. Do you believe the Federal Government should protect the consumer by more stringent control in the advertising and selling of manufactured products? | 82 | 14 | 4 |
| 10. Do you favor compulsory racial quotas in employment by private industry? | 8 | 89 | 3 |
| 11. In the field of pollution, do you feel the Federal Government should: | | | |
| (a) Encourage private industry to reduce pollution by tax credits? | 69 | 27 | 4 |
| (b) Finance a crash Federal program from tax funds to minimize pollution of air and water? | 45 | 48 | 7 |
| (c) Enforce strict standards and controls on all forms of pollution? | 88 | 8 | 4 |
| (d) Enact no further laws on pollution control? | 14 | 78 | 8 |
| 12. The Government's fiscal policy should consist of: | | | |
| (a) A reduction of Federal expenditures | 76 | 20 | 4 |
| (b) A continuation of present spending regardless of deficit | 9 | 84 | 7 |
| (c) An increase of taxes to balance budget | 31 | 63 | 6 |

13. How do you rate Mr. Nixon's service as President?

Excellent, 23; Good, 40; Fair, 26; Poor, 11.

14. Rate in order of importance the 3 most important problems confronting the country?

1, State of economy; 4, Drug addiction; 3, Vietnam conflict; 6, Labor relations; 5, Welfare reform; 2, Crime control.

### DOCK STRIKE ENDED

The West Cost dock strike has finally ended by agreement of the parties. We do not know to what extent the binding arbitration measure passed by the Congress a few days prior to ratification of the agreement had on the final settlement. While most people would prefer that labor and management settle its own differences, American exports would have been about $600 million higher in 1971, had it not been for this strike. Members of Congress indicated their concern with the adverse effect on farmers, labor-management, and the economy generally when they voted 214 to 139 for binding arbitration. It amounted to an insurance policy against continuation of the strike. This was temporary legislation to fit a particular situation, and it is hoped that our Education and Labor Committee will now bring permanent legislation before the House for consideration to prevent the occurrence of future strikes which will cripple the economy.

### SOMETHING TO PONDER

"I believe in power, but I believe that responsibility should go with power."—Theodore Roosevelt.

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## COMMUNITY LEADERSHIP CONFERENCE

## HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. BINGHAM. Mr. Speaker, the following is an additional portion of the proceedings of the Sixth Annual Community Leadership Conference I sponsored for residents of the 23d Congressional District on November 14, 1971:

[Plenary Session, Gould Student Center Auditorium, Presiding: Congressman Jonathan B. Bingham]

### REMARKS BY SENATOR EDMUND S. MUSKIE, NOVEMBER 14, 1971

Congressman Bingham:

One of the famous couplets of the poet Ogden Nash was, "The Bronx, no thonx." I'd like to have your comment.

Sen. Muskie:

Thank you very much. Thank you, Jack, Dean Borowitz, Miss Furness, my old and good friend Senator Gore, Pat Cunningham, other distinguished guests, and ladies and gentlemen. Well, I suppose the best why that I could respond to that question is in a way that's not identified with my people from Maine, and that is indirectly. Jack told me that this is an issues conference involving two-way communication. And so that I ought not to indulge in any lengthy statements. Nevertheless, I do have a statement that I'd like to read because it has to do with the President's most recent pronouncements on our policy in Southeast Asia. But before doing so, I'd like to respond to Jack's question by telling a little Maine story that I think relates to most of the President's policies. That's the story of an out-of-stater who is walking down a Maine country road after a rainstorm. He came upon a car spinning its wheels in the mud. He stopped and put this question to the driver, who was a native, he said, "Are you stuck?" The driver thought a moment and he said, "Well, I would be if I was going anywhere." (Applause) The theme of this conference is Making Government Work Better. This should mean making it work better on behalf of what the people of America need and request from their leaders. So I hope that before I respond to your questions I may say something about something Americans desperately want, and have wanted for years, but which government for all its predictions and programs and promises has not been able to deliver.

For the past nine years, the United States has been heavily involved in the war in Viet Nam. We know what this involvement has done to our economy, to our society, to our military, to our students, to our faith in one another, to our moral position in the world of nations. Three years ago, the people voted to end that war by electing a President who promised to end it. Four years ago next January 1st Richard Nixon had this to say, as he began the campaign year of 1968—he said, "We need new leadership which would bring the war to a swifter conclusion." Last Friday, three years after that election of 1968, three years after that comment, the President told us where we stood, as of now. In doing so, despite the welcome news of troop withdrawals, he announced a plan of action that by all past experience, will prolong that war indefinitely. When the people chose Mr. Nixon to end the war, they did not anticipate that three years later the negotiations in Paris would remain stalemated; that 15,000 more men would die in combat; and that as many bombs would be dropped upon that tragic country, in the years to come, as all of the tonnage dropped up to that time. Yet all of these things have happened. When I spoke at Bates College in Maine, my alma mater, during the Moratorium two years ago, and urged the President to withdraw from Viet Nam, I never dreamed that two years later 140,000 American soldiers would still be scheduled to stay there after the withdrawal the President announced last Friday; that our prisoners would still be there; that the unrepresentative and corrupt government of President Thieu would still be in power; and that the need for American troops would continue indefinitely.

Yet, this is the reality. This is where we are. This is how government has worked. We were not led to expect this, either in the campaign of 1968 or by the promises that followed. We were told in April, 1969, that the President's plan, so well publicized in the campaign of 1968, was aimed at complete withdrawal of American troops by the end of 1971. Now we know that will not happen. We were told in June of 1969 that the administration could beat the Christmas timetable of withdrawing all combat troops by the end of 1970. This, too, did not happen then, and has not happened yet. The President said last Friday that our combat role is already concluded.

Yet on the very day he said that, American troops were still on patrol, American convoys were being ambushed, American planes were in action over the North, and an American helicopter was shot down. He would have difficulty persuading me that this is not combat. He would have difficulty persuading the troops who are still in danger there, or the troops who still scheduled to be sent to Viet Nam in the months to come, to fight a war we long ago gave up winning and whose purpose is still in doubt. We cannot justify this delay. It is true the curve is in descent and the casualties are coming down. But as long as one American soldier dies in Viet Nam, after nine years of fruitless war, it is too many—because he is a human being with hopes and dreams and loved ones and a life to live. The President may feel that by making new promises the people will forget he did not keep the old ones. I don't think they will, but whether they do or do not, this is not the way to make government work. (Applause.) And it is not the way to win the confidence and the trust of the people in their elected leaders.

I am concerned about his announced plan to keep a residual force of American troops in Viet Nam as long as the war continues. But I'm even more deeply concerned by the disturbing ethic of the discredited theory that by keeping maximum pressure on the enemy we can force him to submit at the negotiating table. Does the President really believe he can negotiate a peace by occasional bombing of North Viet Nam and unlimited bombing of the Ho Chi Minh Trail, despite the clear evidence of history that bombing cannot interdict the infiltration? Despite the historic proof that bombing has only intensified the will of Hanoi to send more troops south to fight? We should know by now that continued air-strikes will only postpone the settlement, increase the suffering, add to the number of Americans in Communist jails, postpone the day when the last of our fighting men come home. And until they come home, how can there really be progress in Paris? More important, can there be progress in America

Interruption from audience (unclear).

Senator MUSKIE. No, that's all right, that's all right.

Continued interruption (Unclear).

Senator MUSKIE. Well I must say that the political climate hasn't changed in the last three years. (Laughter) I'll let the rest of my prepared remarks on . . .

Interruption (Unclear).

Senator MUSKIE. You know, I'm really going to end my formal remarks in just a moment, then all of you can have the microphone. I'll let the rest of my prepared remarks—I was about finished anyway—on Viet Nam—I don't want to cut anymore into your time. (Applause) I guess really the heart of what I had left to say is in the last two paragraphs—really only three sentences. Well I think the people have been patient with the President on this issue of Viet Nam, but that he has not met their expectations. If we cannot change the policy, perhaps we must change the government. And in the end . . . (Applause) And in the end, that may be the only way that government will work.

In respect to the question that was put here—you know, all of us who respond to human tragedy and the depri—deprivation of human life, and human lives, I think respond in the same way to the tragedy of Northern Ireland. But what is posed by that situation, as well as by the situation in South Viet Nam and so many others around the globe, including our own country, is how can we as a country really bring our influence, our instinct for compassion and human decency to bear upon all of the instances of injustice that we can identify across so much of the globe. On the one hand, in response to our intervention in Southeast Asia, our instinct is to withdraw from any and all responsibility for what happens outside our own border. On the other hand, we see that American instinct for decency emerging whenever there is fresh and new evidence that human beings can be brutal to each other. Northern Ireland, the Middle East, Pakistan, Africa, Latin America—and though the past was shakey, the American role in the world in the years that lie ahead is a very difficult and frustrating one. We can't, of course, be sure. We will raise our voices against injustice wherever it occurs. That's something different, I might say, than shaping a policy or a US role in all of these instances. Because we've learned in Southeast Asia that there are limits, even to our undeniably great power. Especially at a time when our influence, because of the misapplication of that power, when our influence has declined.

There was a time that I can remember in my own lifetime when the influence of American ideals and aspirations were so strong, that it lent prestige to our words whenever we raise or raised our voice. And today we see the contrary. At a time when American military power is probably at its peak, our influence, the influence that our words can bring, is at a low point. This is the change in the American posture. We've learned, bitterly and tragically—maybe it comes at a good time in terms of our long-range development as a mature and wise nation—we've learned that power alone doesn't bring prestige, doesn't bring influence, doesn't buy us friends, doesn't intimidate enemies. (Applause) And so I think, really, our challenge in the year ahead is to revitalize that kind of an American influence which is geared to our ideals, to our hopes, to the better example we should set internally in the management of our own affairs than we've set in recent years. If we can once again demonstrate that America wants no war, that America is a symbol of hope to her own people and by that example a symbol of hope on this planet, then I think our influence will once again begin to grow. So that when we are outraged by atrocities, whether it's Northern Ireland or in Pakistan or elsewhere, the fact of our indignation, the fact that we are willing to raise our voices additionally against it, will make an impact that I'm afraid all too often it doesn't make today. (Applause)

Congressman BINGHAM. I would first like to say that as one who has, I think, taken a leadership position in regard to the desirability of the United States working for a free and united Ireland, I am embarrassed by the discourtesy that was displayed here to Senator Muskie. I hope that this will not prejudice him against what I regard as a good cause—and I have a resolution that I have introduced that I would commend to your attention, Senator. (laughter) Now, we have been joined by some other distinguished guests—friends—our own *Bronx Borough* President Bob Abrams. (Applause.)

On the panel invited here to question Senator Muskie are:

Martha Peterson, President, Barnard College;

William Satterfield, President and Chairman of the Board of the Morrisania Youth and Community Service Center, Inc.;

David Condliffe, New York University Undergraduate.

We had expected that Bob Bendiner, a member of the editorial staff of the New York Times, would be with us today. Unfortunately he is ill, so I will relate to the Senator a question that he gave me over the telephone this morning. And it is particularly suitable in the light of the Senator's opening remarks. This is from Robert Bendiner of the Times, Senator Muskie: One of the chief complaints against the Executive Branch in recent years has been the tendency to involve the United States in war without the consent of Congress. How do you draw the line between the Executive's duty to act quickly in the country's defense and the constitutional prerogative of the Congress to decide war?

Senator MUSKIE. First of all, may I say with respect to the interruption—that with regards to the apology, I am not really prepared to (unclear) these things. We live in a time when there are many angry people, many of them have much to be angry about, and I don't object if they use the fact of my presence to gain visibility for their point of view or their grievance or their injustice. Sometimes I'm (applause)—I don't object. (applause) And if they find me a convenient target, that's alright too. I've been that for a long time.

With respect to this question, of course, dilemma which the question suggests is the reason why. Since World War II we've been engaged increasingly in one kind of military involvement after another around the globe, and without the explicit consent of Congress which the Constitution requires (Unclear) main provisions of that document. And the Vietnam war is, of course, the tragic quagmire of that kind of thought. So I think it's the mood of the American people to pull back from that kind of development. You know I can go back over all of the events of World War II and rationalize why we did what we did in the time of the Greek and Turkish difficulties after World War II—at the time of the Berlin airlift—at the time of the Cuban Missile crisis, etc. And the President will always have, no matter how we pull back, how much we pull back from the full development of these powers in South Vietnam, he will always have complete inflexibility to deal with questions, emergency situations directly affecting the security interests of the United States in an emergency way. I'm not concerned about that, and I think that we can deal with that and still pull back substantially and (unclear) from the expansion of Presidential powers in the war making field since World War II, and I think we must, I think that the effort that is underway in the Congress, and in the Senate specifically, to reframe and reshape the role of the President and the Congress with respect to making war ought to be continued, ought to generate public interest, and public support. I think it's a critical constitutional exercise to answer the question put by Mr. Vandina. I don't have the blueprint or the constitutional language at this point, but I think we must pursue this question until we have an answer. Otherwise, we would inescapably be caught up in other similar kinds of situations. (applause)

Question from panel. (unclear).

Senator Muskie. I think Senator ——— (unclear) particularly has focused on the income tax inequity and I've been happy to support him over the years. Sorry he's not still in the Senate so I could continue to support him in this effort. But I find on the questions from women like yourself and others concerned across the country, including my own wife, that the discrepancies against women are so woven into accepted patterns of thought in established laws and institutions, we are really going to have to make a positive effort to dig them all out. And I'm also pursuing that, and I assure you that you've got a spokesman in my own household.

Question from panel. (unclear).

Senator Muskie. Well, it may be that all of the efforts of people who are concerned with these problems are not effectively coordinated as yet. But I would not say that they are alone in their concern, or that they are alone in making an effort to deal with these problems. What you're getting at is the question of coordination. I think that there is great support of the objectives that they pursue and I would encourage them to do that, and I would encourage them to go on and to develop coordination. One of the difficulties, of course, in the Congress is that, well, I can speak mostly for the Senate—that although it is still the greatest deliberative body on the face of the earth, it really doesn't deliberate in the sense that I understand it. We work individually and separately in our committees divorced by and large from formal ties with outside groups to pursue our own legislative interests. The Senators as such don't gather together to deliberate except when they meet on the floor of the Senate to vote at the same time on an issue Even that isn't deliberation.

It's largely simply the confirmation of points of view that have been developing individually up to that time. And we all have our contacts with the outside (unclear) and we work with them to pursue our various interests. And so I expect that well, I agree that what you said is true. There's no formal relationship between the black caucus as such and the Senate itself, or the House itself, and I don't know if there's a way of establishing (unclear) but certainly lines of communication can be established so that we can pursue some of the objectives in some coordinative fashion. And I'd be happy to pursue that.

Question from panel. Would you say that Senator Brooke is one of those you would call (unclear).

Senator Muskie. What . . .

(End of tape).

Senator Muskie. . . . governmental relations to pursue those objectives as well as co-sponsor legislation of Senator Hughes and Senator Ribicoff in this field. And next week I expect that legislation will be reported out dealing with this issue. But I have not been aware that Senator Brooke has been given—or has assumed—the formal role of liaison to the black caucus to pursue this legislation. I know of his interest in this legislation. It matches mine, at least. And I would be happy to, of course, take any lead that he wanted to take.

Question from panel. Unclear (re: Democratic candidates and labor in inflationary period).

Senator Muskie. Well, first, I'm not a candidate—I want to make sure in answering your question that it is not taken as an announcement (applause & laughter) I'd like to pick my own time for that. Well, of course, you have the question with respect to all groups, not only labor. The blacks have interests they're pursuing specifically. Puerto Ricans are. Labor is. Businessmen are. And it's a constant challenge, you know, to maintain your objectivity and independence of judgment at the same time that you seek support of the groups without whom you can't hope to get elected. Now I would hope that I could be objective. I've got a record of, you know, 25 years of public life which gives you some evidence of it. But I don't know that I can, beyond that, prove either the negative or the positive of your question

(Congressman Bingham calls for final round of questions).

Question from panel. Unclear (regarding education).

Senator Muskie. Well, I don't believe it. I think those kinds of pressures can ultimately be resolved and always are. The problem for all educational programs is funding. We've just never adequately measured up to the promise contained in the authorization bill. The President has not requested full funding, the Congress hasn't given the full funding, and budgetary strains have limited funding. So I think it's a question of funding more than differences between points of view as to how money should be spent that really retards the federal effort that ought to be made to help education at all levels.

Question from panel. How can we make the seriousness of our situation known?

Senator Muskie. Well, I think the seriousness is understood, by and large. But the conflicting pressure is the budgetary one and all of the strains on the budget imposed by the military expenditures, the war, and of course, the economic situation which has reduced federal revenues as well as state and local revenues. It's the lack of a wide and effective and sound policy with respect to the war, with respect to the economy that has, one, increased pressures on the government—on the budget—from other directions, and two, reduced the capacity of the economy to sustain federal revenue. Those are the two pressures. You need a wise policy for the economy, end the war, and then re-order our priorities, and I think we can then zero in on some of these problems. (Applause.)

Question from panel. (Unclear) My question then would be in four parts. (1) Would you ask the conservative (unclear) on the Supreme Court to resign? Would you put a black on your cabinet? Third, would you have a black attorney general? Four, what is your opinion of the San Quentin-Attica situation? (Applause)

Senator Muskie. Well, you'll forgive me if I don't cover all of those points exhaustively. (Laughter) I would not direct presidential pressure upon the court to resign . . . any member of the court to resign. Because I believe in maintaining the independence of the Court. (Applause) I mean, once we set the precedent for urging conservative members of the Court to resign, we set one for another president—like the one we have now—to exert pressure upon liberal members of the Court to resign. (Applause) I think the thing a president ought to concentrate on is appointing men of excellence in the first instance—then we don't have to worry. (Applause)

I think that blacks ought to be considered eligible by the next president, whether it's me or someone else, for the position of Attorney General or any other place in the cabinet, and I would consider that they are entitled to active consideration for that purpose. I haven't made up a cabinet yet, but this . . . I make that promise that blacks will be considered for the cabinet on an equal basis with everyone else.

With respect to Attica and San Quentin—to pursue my view of this in greater length. I . . . I'd be glad to refer you to a speech I made at the National Governor's Conference in Puerto Rico a day or two after the incident at Attica, in which I took the view—well, two things. One, that what happened at Attica is a dramatic illustration of the fact that our prisons really harbor the mistakes and the shortcomings and the weaknesses of our society. This is where they end up, all too often. They're not visible to us most of the time, unless tragedies of that kind occur. And so I took advantage—well, I don't know as I want to use that phrase—but I took the occasion of the Attica tragedy to drive home the point that there's so much work to be done to make our society a place of justice and opportunity and promise so that we can deal with the fundamental causes of the human condition that result in Atticas.

Secondly, Attica, of course, demonstrates that we desperately need a real program of prison reform in this country. By prison reform I don't mean simply new and better security measures, but . . . reform directed at making them human institutions which would deal effectively with the problems of rehabilitation. Which would respond sensitively to the fact that any of the mistakes represented there are the product of conditions that were beyond the control of those who are prisoners and that we have to take into account what those conditions have done in reshaping the personalities, the characters, the responses, the habits, the assumptions of those people who are prisoners. Now we have just never done that in this country. Even—you know, 17 years ago when I was governor, 8 years before that when I was first elected for the legislature of Maine, we talked, you know, about making our institutions, whether they were mental hospitals or prisons—about making them places of rehabilitation. The rhetoric has been with us a long time. But we never really addressed ourselves in any fundamental way to achieving that. My one regret about Attica is that it has come and will probably go without our really following through again with this question of making prisons what they ought to be—places that have at least a 50% chance, which they do not now have, of making human beings in fact out of those who are destined to end up behind the walls. (Applause) This gentleman . . .

Question from audience. (unclear) Senator, when is the United States' government going to stop sending billions of our dollars to England, which in turn spends billions of pounds to persecute our people in the north of Ireland?

Senator Muskie. Well, I wasn't aware that we were sending dollars, let alone billions to Britain. We no longer have a foreign aid program that benefits Britain if that's what you are speaking of. There are no formal subsidies of the British government by our government. I'm not sure I understand what you mean.

Questioner. Well, now everybody in the world knows that there wouldn't have been any Britain ——— (unclear) if it hadn't been for the United States government, not alone in recent times but for many years prior to this time. They are the basis of all of the trouble that's going on over in ——— (unclear) Ireland. I am quite sure you know that Mr. Winston Churchill ——— (unclear).

Senator Muskie. Well, we provide no direct assistance to the federal government now. What you are speaking of, Sir, is the program after WW II. It ended quite some years ago.

Question from audience. Two parts: The Mayor of this city has done practically all the things but announce his candidacy for president. How will this affect the Democratic Party? Will the added candidacy of Lindsay cause a repeat of the 1968 loss?

Senator Muskie. Well, I . . . I don't—to answer the last part of that—I don't believe so. Mayor Lindsay will, I am sure, make his own announcement, according to his own preferences. I can understand his interest in changing parties. (Applause) Whether that will lead to further personal plans or political plans, he will have to say. I can understand why he should get fed up with 5½ years of Republican rule in New York City. (Applause)

Question from audience. Unclear (re: too many candidates caused loss in '68)

Senator Muskie. I don't think so. In 1960, for example, I can recall in Feb. of election year being toastmaster at a JJ dinner in Washington when there were 8 actual or potential candidates for the presidency. We went through that period without any difficulty and we finally elected a president. Really, 1968 was sort of an unusual kind of situation. We've always had a surplus of candidates in the Democratic Party—and this year is obviously no exception.

Question from audience. Unclear (re: Abortion).

Senator Muskie. Well, let me just say I support abortion on therapeutic grounds. I do not support it as a birth control device. That doesn't cover all implications of the questions you asked, but I think that's as far as, perhaps, I have time to go at this point.

Question from audience: Senator Muskie, as an older person, I would like to ask a question. Not having a panelist who is an older person, I believe that someone 65 and over should speak. I want to ask . . . I feel that now, since Congress has done little to enable older people to live active, meaningful lives, and I want to know, despite the White House Conference which will be —— (unclear) what would you do as a Congress . . . or Senator to take real steps to catch up, not to go along with a 5% increase in Social Security —— (unclear), not to get a 10% when the Senators making 10-15. The National Council of Senior Citizens call for a 25% increase in the benefits for older people and we need more opportunities all along the line. Now what real steps do you advocate to give us the rights we have to live meaningful, active lives? (Applause.)

Senator Muskie. Well, I support, and have—and I've made several speeches on the subject—to raise benefits . . . substantially above the levels that are being talked about, and I think the Congress will. I think we need to gear those benefits to a cost of living escalator clause so that senior citizens will not have to wait for acts of the Congress to get increases geared to the rise of the cost of living. Recently I . . . I made a proposal that you might be interested in, to change the nature of the Social Security package. I'm afraid at this point that those taxes have reached the point that they are likely to be regressive and inhibit, in the future, the gearing of benefits to the cost of living reality. So I proposed making them progressive by lifting all ceiling on salaries, and making the all salary income subject to the Social Security tax, by permitting allowances for dependents and other similar allowances comparable to those of the income tax law, to make the tax less regressive at the lower income levels—and that restructuring the tax basis of Social Security so that it will respond more equitably and more adequately in the future to the needs of old people. It is a broad and complex subject and I would be happy to send you more details on my views. We're a little pressed for time to do it as thoroughly as you might like now.

### PANEL IV—DOES THE MILITARY HAVE TOO MUCH INFLUENCE?

(Chairman, Congressman Jonathan B. Bingham; panelists, Cyrus R. Vance, Adam Yarmolinsky, J. Daniel Mahoney).

Bingham—opening Panel.

We are very fortunate in having with us a panel to discuss this vitally important question about the influence of the military.

So many of the needs of our community are dependent upon funds. What has to be spent for national defense for the Pentagon. We have quite a remarkable trio, reflecting different points of view. I will introduce them as they speak.

First is Adam Yarmolinsky, who is an author on this subject and has a major work in this area. He is currently Director of a program for the total rebuilding of Welfare Island. He was in the Pentagon for a number of years and served in various capacities—and was one time the Assistant Secretary of Defense.

Yarmolinsky. Since we are here this afternoon to talk about making government work better, I am particularly glad to be taking part in a panel under the chairmanship of Jack Bingham, who has done so much to make government work better.

I looked over the topics for the other three panels to see if I could do better on any of their questions, but I decided they presented the same difficulty as our question: It's easy to see the problem. It's quite a bit harder to pick out a solution, or even a set of partial solutions.

Our question is—Does the military have too much influence? Well I wouldn't be surprised if it turned out that they did—simply as a result of historical circumstances.

The measure of any group's influence in our society is first of all its size and strength. The U.S. Military establishment is the largest organization in the United States, several times larger than its nearest rival. It accounts for 75¢ out of every ten dollar bill in the Gross National Product.

It spends something like ¾ths of all the money that the Federal government lays out for goods and services. It employs roughly one out of every ten wage earners, including men in uniform, civil servants, and defense workers, even without counting the butcher and the baker and the candlestick maker who depend for their livelihood on military bases and defense plants. The military establishment is present in every community in the U.S. where there is a base or a plant working on a contract, or a sub-contract from the Dept. of Defense—not to mention the U.S. military bases scattered around the world.

As a department of the Federal government, the Dept. of Defense overshadows every other department and agency. Where other departments think in millions of dollars, Defense thinks in billions. Where they count their manpower in thousands, Defense counts in millions.

No wonder the military has great influence in the councils of government, in the calculations of Congressmen and in the thinking of citizens. I read, in yesterday's N.Y. Times that the New York State Congressional delegation, which frequently votes to cut military spending, has been pressing the Pentagon not to close down a regional contract administration office that would cost N.Y. City some 800 jobs, and a letter from the bipartisan steering committee of the N.Y. delegation to Defense Secretary Laird complains about N.Y. not getting its fair share of defense jobs.

But if military influence is primarily a function of the size of the military establishment, what are the prospects for a significant reduction in that size? Contrary to popular impression military spending measured in constant dollars, has not been on the upswing over the last few years. As a percentage of GNP only, spending apart from the Vietnam war has been declining steadily since 1962, and even including Vietnam it only exceeded the 1962 figure in the peak year of Vietnam spending, 1968. But it has been declining very slowly. Suppose the military budget were cut very sharply, as proposed by the National Urban Coalition from $80 billion to $65 billion. Or suppose it were cut to $55 billion or $45 billion, or would you believe $35 billion. It would still be the largest single item in the Federal budget, and defense would be only the 2nd or 3rd largest industry in the U.S. Military influence, as measured by the military budget would still be very great.

But is military influence proportional to the military budget a bad thing? I submit that in several important ways, it is:

Military influence tends to keep the military budget larger than it needs to be in order to meet our national security needs.

Military influence tends to encourage military solutions to foreign policy problems that might better be solved by other means.

Military influence works on the military budget mostly by indirection, not like River and Harbor bill—an unhappy process with which our chairman is much more familiar than I. The military as a group proposes, but their proposals go through series of budget reviews. By custom, they can ask for a rehearing on adverse decision, called for some reason, in bastard Latin, a reclama—once, but only once. There are reviews by people outside the Pentagon before the budget gets to White House in proposed final form. There are early interagency reviews introduced by the Nixon Administration, but despite controls, Congress seldom adds on to the military budget. The fact is that when the military budget goes to Congress it just doesn't get examined as critically as say the budget of the Office of Economic Opportunity. This is so I suppose for 2 reasons; First, because of economic power of military establishment. I don't mean reprisals, but simply the need to keep military business for your State, City or district. Second, because the feeling persists that there is something sacred about military requirements. I think we're beginning to get away from that. The pendulum may swing too far. Look at the thirties and F.D.R.'s problem in rebuilding the military for World War II. Perhaps what we need to do is to take a different and broader view of what constitutes our national security.

National security goes to the conditioning of our cities. It goes to education and jobs and public order. We may not be able to solve this problem by money alone, but as Ogden Nash said, "There are lots of things money won't buy, but it's funny, have you ever tried to buy them without money?"

The old action of automatic priority for military spending won't hold up because you can always figure out why you need more and there just isn't enough to go around. We need more public goods than the average public is willing to pay for, so we have to establish priorities on a case-by-case basis.

But military spending isn't the biggest problem of military influence. The problem is that when the military presence looms very large, military solutions are more ready than nonmilitary solutions. It didn't take any great amount of available military force to commit us to a very dangerous course of action in the Dom. Republic or to a disastrous course of action in S.E. Asia. But the fact that we had so much made those apparent, but illusory, solutions seem more attractive. In a world where two or three countries have the power to destroy each other with nuclear weapons, military force is an instrument of very limited usefulness. To the extent that we do need it, we need it largely to discourage other nations from using their military power—as they may believe they need their military to discourage us.

The issue is clearer in the nuclear field than in the non-nuclear. But in both areas, the responsibility of political leadership and of the American people to provide a countervailing force to military influence is an essential element in avoiding international catastrophe. How leaders and constituents can mobilize to that end is a kind of nuts and bolts question, which I understand will be discussed in questions and answers this afternoon.

Bingham introduces Vance.

Cyrus R. Vance—Secretary of the Army, Deputy Secretary of Defense, Special Representative of the President in the Cyprus crisis; one of the two U.S. negotiators at the Paris Peace Conference on Vietnam—Received Medal of Freedom—was in Navy from 1942–46.

(Note.—This is not a verbatim report.)

Cyrus R. Vance—Former Paris Peace Negotiator and Deputy Secretary of Defense.

In answer to the question, "Does the Military Establishment have too much influence?" I guess my answer would be "yes."

First, let me say that I agree generally with the analysis which Adam Yarmolinsky has given. Next, I would like to address myself to the area of military spending and the failure adequately to control it.

I believe this comes about primarily from a failure of our system of checks and balances, and secondarily from the interdependence of the military, Congress and industry. Insofar as the latter is concerned, I want to make it clear that I don't believe that there is a conspiracy among the three.

In the first instance, the defense budget is prepared by the military in the Department of Defense. Senator Phil Hart said:

"A military man is disciplined to overestimate enemy capacity and underestimate his own. He puts an imaginative mind to work trying to anticipate every potential ruse, every combination of weapons. Then it is his job to protect against them, to close every defense chink. If we give him that assignment we have no right to be surprised if he tends to spend heavily."

The size of the proposed figures is also, to a degree, affected by inter-service rivalries. At this point, the civilians in the Department of Defense come into play, particularly those who are appointed by each new administration. It is their task to scrutinize and pare down the size of the initial budget submission.

The technical capacity to do that kind of a sophisticated job didn't exist in the Defense Department until the early 1960's when the experts began to bring the techniques and methods of systems analysis to bear on the weapons selection and budgetary process. But even that kind of analysis does not achieve the desired results. The civilians, as well as the military, have a built-in parochial bias, as they do in all departments and agencies. It is for this reason that we have under our system of checks and balances a budget review by the Bureau of the Budget.

In the 1960's, the burden of proof was on the concerned agency or department to justify the items in the budget which were challenged by the Bureau of the Budget. The only exception to this practice was in the case of the Defense Department. The burden of proof should have been on the Defense Department, but it was not. I understand that this has now been changed . . . I don't know how it is working, but the change is a positive one.

Next the approved budget goes to the Hill where it is reviewed and examined by the Armed Services Committees and the Appropriation Committees of the two Houses. As you know, the budget is very complex and requires skilled technical examination and analysis; unfortunately, Congress doesn't have the technical staff assistance to cope with it. This arises from the fact that the task of budget analysis has greatly changed with the complexity of the weapon systems which have come with the missile age.

What can be done to cope with this problem? First, we should get better trained Congressional staffs with the requisite expertise to deal with the complex technical issues which are presented. This is not easy, but an attempt must be made to do it. Secondly, we might seek assistance from outside the government. Suggestions have been made to have a non-profit organization set up to offer its analytical services to the government to do the kind of work that is necessary, or alternatively to use an existing organization like Brookings.

But even if we do this, we will still face the problem of parochial interests of affected Congressmen. Defense business means jobs in Congressional Districts and this is, of course, important. The result is that when a project is proposed which will be located in a given Congressman's district, he will almost always support it. Thus, a given project will be pushed by the Department of Defense, industry, the services, and the affected Congressman, with the net result that it is very hard not to approve it. This is the interdependence I spoke of earlier.

What is essential for the future is that a determination be made as to our national priorities. If this is done, it will be easier to put in context the true nature of our defense needs.

Bingham introduces Mahoney.

Member of the Board of Directors—American Conservative Union. Spent 3 years in Coast Guard as an ensign and Lieutenant, J.G. Graduate of Columbia Law School and is now State Chairman of the Conservative Party.

Note. (This is not verbatim).

J. Daniel Mahoney. There are some areas of agreement that I have with the two gentlemen who preceded me to the extent that there is an absence of expertise in defense matters and also that the process of submitting a working defense budget leads to the tendency of increased spending.

Since 1968 aside from Vietnam, the level of defense spending has been on a decline.

The Constitutional role of the military has not been changed in recent years. In 1951, it was possible for Douglas MacArthur to challenge the President concerning a question of military policy. Dwight Eisenhower was able to be elected President of the United States. The military stood in higher caste then, than it does today.

In recent years with ROTC gone from colleges, with the campus upsets, there seems to be little broad based support. There is a lessening of respect for people who are engaged in war. The military role in the United States is sharply limited.

The impact on policy is the same. There is a decline in military expenditure as against domestic pressures. Senator Buckley on the Senate floor stated as follows on the debate on bills for increased funding for missiles:—

". . . Since 1966, the United States has deliberately and, I might add, unilaterally, chosen to freeze the size of her strategic forces. Specifically, we have since that date maintained a force level of 1,000 Minuteman ICBM's, 54 Titan II ICBM's and 41 Polaris class nuclear submarines, while reducing the number of our B–52 bombers from about 600 in 1966 to 400 today. Thus, during this 5-year period, there has in fact been a quantitative reduction in our strategic nuclear forces."

This has occurred despite a most dramatic buildup of the Soviet Union's strategic nuclear capability. Indeed this buildup has gone far beyond the requirements of simple deterrence or the achievement of nuclear parity. Since the Strategic Arms Limitations Talks were initiated in early 1968 the Russians have deployed 200 SS–9 ICBM's, a missile for which the United States has no counterpart. Moreover, they have added 400 of their SS–11's, a missile somewhat larger than our own Minuteman. The Soviets have also initiated the deployment of the SS–13, a solid fuel ballistic missile similar to our Minuteman, and are in the advanced stages of the development of a mobile ICBM. All of these recent changes in Soviet forces have been quantitative, and as of today the Soviet Union possesses over 1,600 land-based ICBM's and is continuing to deploy more, while our land-based strategic missiles remain frozen at 1,054.

In terms of payload capacity, the Soviet Union has developed the ability to deliver at least 5,400 megatons of destruction since the Strategic Arms Limitations Talks were initiated in early 1968. This increase alone exceeds the entire U.S. megatonnage by over 1,000. Moreover, only about 1,500 megatons of the entire U.S. force is in the form of ballistic missiles, the remainder being represented by bombs carried by 1955-vintage B–52's.

Moreover, if the Soviet Union were to employ the same warhead technology which we now have on a production line basis for our Minuteman III program the Soviet Union could mount 25 to 30 separate warheads on each of its SS–9 missiles. As the Soviets already have over 900 SS–11's and 300 SS–9's deployed, the potential for a devastating attack on the United States is self-evident. It should, moreover, be kept in mind that much if not most of the missilery is designed to attack not our cities, but our Minuteman silos and B–52 bases with the result that it is now generally conceded that within another 2 or 3 years, if present trends are allowed to continue, the Soviet Union will have achieved the capacity to destroy virtually all of our land-based strategic forces in a preemptive first strike.

We must realize that the major nuclear imbalance must take priority. Serious danger in the area of national policy, and the furor over the military and industrial complex which dangerously obscures defense developments. The Soviet has a superior ABM system; superior in warhead capacity (SS–9) and the United States has been stationary since 1966.

We are dealing with a totalitarian regime which has not changed.

We have a continuing problem, i.e. Philippines, Czechoslovakia.

The present question should not be with relation to military defense policy, as to how much it should be cut, but what we can do about improving the disparity of strategic force, so that we can command respect in the world.

Bingham. Before we continue with a response from Mr. Vance, I would like to say a few words:

Re the Congressional Problem—True any Congressman would try to preserve defense establishment in his own district. This is not a major part of the problem as far as large expenditures are concerned. Defense establishment trying to streamline. Congressmen will fight it to preserve jobs.

Re: inadequate review—Changed to some extent. Automatic approval to Defense Dept. recommendations no longer given by Congress. Changed at time of debate of ABM.

Re: Pendulum swinging too far—may swing too far against military.

Re: Concern over not sufficient applicants who are qualified—for military academies. Only 16 or 18 in 3 congressional districts where we should get 50 to 100.

Re: More expert Staff. Great need for staff—would be more helpful, although caution along these lines—as staff might make recommendations not necessarily followed by members of Congress—i.e. Chairman of Appropriations Committee who is also Chairman of sub-committee on defense—when it comes to military he sometimes overrules staff recommendations in support of General and Admiral programs that are recommended.

Re: Major Expenditures not in strategic weapons.

Re: Natural affinity for those interested in military to want to serve on Arms Services Committee.

VANCE. I disagree with what Senator Buckley said on the Senate floor. We must find a way to reach agreement which would stop the upward spiral. Insofar as the number of missiles which the Soviet Union and the United States have, the question is how much is enough. If our objective is to deter the occurrence of war, you don't need to continue to build in order to have sufficient deterrence.

A conscious decision was taken at the time Mr. McNamara was Secretary of Defense to put a lid on the number of missiles. This action was based on the philosophy that we had enough missiles so that any attack could be retaliated against in such a fashion as to destroy the attacker as a viable society. This provided deterrence against attack from any rational adversary.

YARMOLINSKY. Mr. Mahoney's argument seems to me a case of worst case thinking.

If in calculating the need for nucelar weapons we assume anything that can happen will happen in the way that is most disadvantageous to us and least disadvantageous to an opponent then we are going to come out with a requirement for a nuclear force which will look to our opponents as if we were trying to get ahead of them. So it follows that they will make their own calculations and they will build more weapons and ultimately no one will be more secure, and the spiral will be ready to enter another round. In calculating a reasonable approach, we must ask what would an opponent be inclined to do under stress. It must be clear to him that if he initiated an attack, he would be blown up and destroyed.

MAHONEY. I agree with Vance that what we are looking for is sufficiency. Problem is that Vance & Yarmolinsky simply don't take into account that since 1966 while we stood still, the Soviet Union added more megatons to their arsenal and that by 1975 they will be in a position to wipe out every land based missile. Of course we would still have our submarine based missiles, but we don't know what the Russians are achieving and they certainly are putting more into their efforts. It is now reaching a point where the United States should assess the situation.

BINGHAM. Firstly, the significance of megatons. We have many more weapons than would be required to blast Soviet Union off the face of the earth. What advantage do we gain by piling power on top of it. It doesn't take enormous weapons to destroy missile sites.

United States is not standing still. Is in process of arming land base missile sites and we still have our submarine base missiles.

If our intelligence felt that the Soviet could destroy our land base missiles in one fell swoop, we would be so informed, but that is not a prospect at the moment.

*Question.* To Anyone—It has been suggested in recent years by Prof. Galbraith that the defense industry be nationalized to limit their influence.

VANCE. I have not been convinced that we would have a more effective system. Over the years we developed what are called arsenals for the production of certain army weapons. These arsenals were less efficient than the civilian weapons manufacturers. If you look at that historical analogue, it leaves me with concern about nationalizing these large industries and turning them over to in-house manufacturers.

YARMOLINSKY. I agree with Mr. Vance. I think it may be worthy pointing out in dealing with a variety of defense contractors that a nonprofit institution or even a university is no less eager to expand its empire to get more contracts and maybe even more willing to exert itself.

BINGHAM. Ralph Nader does not approve nationalization of corporate business from point of view of responsibility.

*Question.* History points out that a prefrontal labotomy may be the way, do you think so?

MAHONEY. I suggest it is. I agree that enough is enough. The question is do we have enough, and are the military people the ones to whom we are less likely to heed. I don't know that we face a serious missile problem, but I do know that Kennedy did in 1960.

YARMOLINSKY. I think that we have enough on the nuclear side. I don't believe that the way to protect our national security in the area of nuclear weapons is to increase our arsenal.

BINGHAM. I would like to tell a story in which Mr. Vance took part—some years ago—a carrier was on way back from Vietnam—Navy planned to have it refueled in South Africa and by time we heard about it, it was too late for it to be refueled anywhere else. We were concerned about visit being misunderstood. Commanding officer of ship had arranged shore leave and we also learned that people of S. Africa were making plans to entertain them. We went to see Secy Vance and he called Secy Katzenback—net result was that men had no shore leave, and it was a pretty tense situation.

Mr. Vance—I would like your comment on fact that present administration seems largely dismantled in the operation of the defense department—Mr. Yarmolinsky was concerned about political problems that face the military, which takes action on problems such as the one I just described. Would you like to comment on this?

VANCE. This is an important point. I believe it is essential that the Defense Department have a talented and experienced staff to deal with the interrelated political-military problems which arise on a daily basis. It is essential that in matters of foreign policy the State Department should be the first among equals and take the leadership. However, that does not mean that the Defense Department should not have any role to play. To play its proper role, however, requires that it have the talent to deal with these problems. That is what it had in the Office for International Security Affairs. Unfortunately, I hear that the office has been down-graded.

*Question.* Is there an erosion of our naval strength in the Mediterranean area?

VANCE. Yes, there is. The Russians have increased their strength in the eastern Mediterranean. We have, for many years, had considerable strength there, so it is reasonable to expect, for strategic and psychological reasons, that they would attempt to increase their strength there. As the Middle East area has become hotter, it was also natural that this would come about. I don't consider this a matter for concern.

MAHONEY. In addition to naval build up in that area, it has been said that we do not have anything as far as air build up. This is another area in defense establishment—if we have a situation where Arabs will achieve air superiority over Israel.

BINGHAM. It must be understood that the Foxback is an extremely fast airplane which must operate at high altitude—not good for combat in lower atmosphere. Administration wrong in not giving Israel the F–4 phantoms—although Israel has three trained pilots per plane and the Arabs only 1 per plane and Israel is far superior, better trained and can outfight Egyptians . . . feeling in Congress at present that U.S. should bring pressure on Israel to withdraw request for further supplies of planes.

YARMOLINSKY. Research & Development is careful to make sure that our technical ability keeps us. It is a fact that making large sums of money available to our military establishment doesn't guarantee that we will have the most up-to-date military force that we can have. It is also true that if you are an athlete—you are more likely to be more athletic if you are lean than if you are fat.

*Question.* Is there not a lot of waste in material in the War Dept. Is it not a fact that a lot of research done by war department goes to private industry for their own benefit?

VANCE. There is no question that there has been much waste in our war department, as there is in war departments all over the world. This is a problem that has been attacked in several ways. First, there is an audit agency to try and ferret out where there is waste and to hold those responsible accountable when it occurs. In addition, Congress has the General Accounting Office which monitors waste and inefficiency in the government. Despite these efforts, waste does continue. I know that there are many in the Defense Department who are trying to do their best to prevent waste. It is also true that some patents that are developed under the Defense Department contracts are turned over to the public.

*Question.* What about classification and secrecy of military information?

BINGHAM. There has been excessive use of classification . . . Pentagon papers are a good example. Although there is a tendency on the part of the military establishment to make information classified when the public should be aware, there certainly are elements in our defense establishment, as in our intelligence department, which does need to be protected and for this reason a classification system is therefore necessary. A study is going on arising out of the Pentagon papers as to classification and whether there should not be a rapid declassification.

YARMOLINSKY. Senator Muskie has offered a proposal for an independent classification review board outside of the military establishment which I have been doing some work on.

*Question.* Do you think it wise for Department of Defense to put all its eggs in one basket—is it wise to have total strategic defense on missiles which may not work.

BINGHAM. We don't rely on any one given system. We maintain the B–52 bombers, we have submarine based missiles and as far as my own view is concerned, we will probably rely more on submarine based missiles than on land based missiles as they are more vulnerable to surprise attack. You ask if we might need a conventional force and I say yes we do—and in this area, we have been spending more than is necessary. Carrier fleets are obsolete and all we should need is one or two carriers and not the 15 that the Navy talks about.

YARMOLINSKY. The issue is not whether missiles will work. They might not work. Other weapons might not work. The important question is the views of people on the other side who may be contemplating aggressive action—it is that calculation that we have to make—to decide what is enough.

## ONE-TERM PRESIDENT FOR UNITED STATES?

## HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. CHAMBERLAIN. Mr. Speaker, last July 15, I introduced House Joint Resolution 783 proposing an amendment to the Constitution that would provide for a single 6-year term for the Presidency. As everyone knows, the powers and responsibilities of the Presidency have increased enormously in this century and particularly in the last 40 or so years. The question is whether we as a nation are best served when its Chief Executive is compelled to devote so much of his time and energy to the problems of reelection. After reflecting on this problem for some time, and although recognizing that the 6-year term is no panacea, I believe the time has come for the Congress to reconsider this proposal. I say reconsider because it is not a new idea. In fact, it dates back to the Constitutional Convention of 1787 and even succeeded in passing the Senate in 1913.

I was particularly interested to note that former President Johnson has also come to favor this change as he indicated in a television interview last month. I am encouraged as well by a recent editorial that appeared in the State Journal of Lansing, Mich., February 20, 1972, which offers a thoughtful discussion on this idea, and I commend it to the attention of my colleagues.

The editorial follows:

### ONE-TERM PRESIDENT FOR UNITED STATES?

It is not about to happen in the immediate future, but certainly some stronger consideration should be given in the years ahead to the idea of changing the presidential tenure to a single six-year term.

The proposal is not entirely new but seems to be obtaining increasing support. Among those who have recently added their endorsements are former President Lyndon Johnson and Senate Majority Leader Mike Mansfield, two men who are well acquainted with the problems of Congress and the executive office.

Present constitutional limitations, of course, stipulate that no president can serve more than eight years (two terms) except where there is a vice presidential succession due to the death in office of an incumbent chief executive. This restriction was adopted following the unprecedented Franklin Roosevelt era.

But times have changed and are continuing to change so rapidly that it is questionable whether the nation can afford the persistent deadlocks which so often occur with a first-term president.

It is said that presidential fever is an incurable disease and so it's only natural that when a new president takes office one of the first items on the agenda is to start planning for the next election. Major policy decisions and legislation are often delayed with that ever present second election shadow down the road.

On the other side of the coin, if the new president faces a hostile majority party in Congress as has often been the case in past years, his programs may end up gathering dust in committee files because the opposition does not want to enhance the chief executive's chances of re-election if it can help it.

A president, in short, should not have to spend a major portion of his first term in office laying the groundwork for the next election but should be totally concentrated on getting the job done within one elected term.

Congress likewise might be more prone to cooperate in the interest of the entire nation if the occupant of the White House was limited to a single term.

Another factor is the immense power and prestige which has been accumulated in the office of president during recent decades. The incumbent, whoever it happens to be, has a tremendous advantage over challengers by virtue of the office. A president need only call a press conference, appear on TV or make a casual remark at a dinner to gain instant national and worldwide attention. Challengers simply can't get that kind of exposure under the best conditions.

It is perhaps worth noting that no U.S. president has been turned out of office since 1932 (Herbert Hoover), and that was in the midst of a severe national depression.

Most important, however, is the need to minimize as much as possible the unconscionable stalling which occurs when a new president and Congress go through the political ritual dance of a first term.

Both Congress and the president need a new incentive to get on with the business of the nation instead of forever looking over the horizon at the next election date.

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## INSIDE THE AFRICAN "TERROR ZONES"

## HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. SCHMITZ. Mr. Speaker, no less than 44 pages of the RECORD for February 16 were taken up with a sustained and vehement attack on conditions in southern Africa, including the Portuguese overseas provinces of Angola and Mozambique which I had the opportunity to visit last year. The continuing misrepresentation of conditions in these provinces, coupled with the almost complete lack of on-the-spot investigation by members of the press or of the Congress, is inexcusable. The only way to set the record straight is to hear from people—other than the few revolutionaries—who have actually been there. Consequently I will continue to insert in the RECORD, from time to time, firsthand information on conditions in these provinces of our faithful ally Portugal, to provide an antidote for misrepresentation and a fair basis for judgment on what Portuguese citizens—white and black—are actually doing and how they are actually living in Angola and Mozambique.

Following is another article by Thomas J. Haas, who visited these areas at almost the same time as I did last year, which appeared in the Review of the News for February 2, 1972:

### INSIDE THE AFRICAN "TERROR ZONES"

(By Thomas J. Haas)

Upon arriving in Luanda for *The Review Of The News* I was immediately impressed by the order, the peacefulness, and the cleanliness of this beautiful and busy capital of the Portuguese province of Angola. It was like seeing Lisbon transported south of the equator.

I was of course surprised at the obvious tranquillity, knowing that since 1961 Angola has been the scene of a war between Portuguese troops and terrorists supported and supplied by the American Establishment, the World Council of Churches, Red China, and Soviet Russia. But I quickly learned that the war is limited to areas bordering Portugal's unfriendly neighbors. A similar state of war has existed since 1964 in Mozambique, Angola's sister province in Africa.

The truth of Portugal's claim that Angola and Mozambique are not colonies but integral parts of the Republic of Portugal is confirmed by the fact that all of the people of these provinces are Portuguese citizens. Proof of their awareness of this is the fact that roughly half the men under arms in both provinces are black. These black soldiers are not "good natives" serving as an auxiliary force such as England used in India. They are Portuguese citizens fighting in the army of their country in defense of their nation, the Republic of Portugal.

Most of the news coverage available to the American public on the war in Africa is slanted against Portugal and in favor of the Communist-led terrorists, whom our "Liberal" press calls "freedom fighters." I was on assignment in Portuguese Africa to learn the truth about the war there. In Angola I concentrated my time in the district of Uige, in the north, where the terrorists struck in force on March 15, 1961, and where sporadic fighting continues in the Dembos zone.

Landing in Carmona, the capital of Uige, I was met by Sr. Arnoldo Lopes and Sra. Lourdes Freire, my companions for a week spent traveling by Land Rover through the bush of Uige.

This district is very fertile, and there are abundant coffee farms, owned by both blacks and whites. It is not unusual for a black farmer to sell his coffee crop for a price in excess of $28,000. One such farmer is Alfredo Lando Tete, a former supporter of the terrorists. After Sr. Tete's father, a terrorist leader, was killed by the Portuguese Army, Tete and his brother George fled to the Congo. But, as order was restored in Angola, the Tete brothers began to realize that the only hope for peace and a decent life for themselves and their fellow blacks was under the flag of Portugal. The Tetes returned home, and today Alfredo Tete is a loyal citizen of Portugal and owns a 1,500-acre coffee farm employing fifty-two workers.

The village to which the Tetes belong, Quiongua, is typical of those the government has helped rural blacks to build in place of the ruins left behind by the terrorists. Although by American standards these villages are hardly impressive, by African standards they seem the ultimate in advanced living. Each of the new villages has a chapel, a small town hall, a sanitation clinic, a covered well, and a school.

The school at Quiongua is a one-room structure furnished with simple wooden desks. It lacks a swimming pool and most of the other accessories we have been told are essential for "quality" education. While visiting the school at Quiongua, I selected at random a student copybook by a third-grader, Celestina Benedito. The quality of work, though typical, is so high that I doubt it would today be possible to find a third-grade workbook produced in any public school in America that could compare with it. American teachers who have inspected the workbook tell me it is the equivalent of work done in the sixth grade of our government schools. Celestina's book shows that she has a better grasp of Portuguese than most of our third-graders have of English. Her penmanship is superb, and this little African girl is already doing multiplication, long division, and elementary geometry. The essays in her book reflect strong religious and patriotic themes.

Because Portugal lacks sufficient "regular" teachers, there is a heavy reliance on what are called monitors. I visited a school for the training of these monitors. To be admitted into the program, I learned, one must have completed at least four years of schooling, must be eighteen years of age or older, and must pass an entrance exam. The instructor teaches the prospective monitors exactly what they will teach their pupils. There are no courses in abnormal psychology, social sciences, or blackboard theory; just the basics—reading, writing, arithmetic, history, and hygiene. This "antique" and "slipshod" approach is almost identical to that used in one-room country schools in the United States before John Dewey persuaded us to turn our government schools into factories for the production of revolutionaries and illiterates.

The National Education Association certainly condemns the Portuguese approach to education, but our "Liberal" educators cannot blink the fact that, despite tremendous disadvantages, Portugal is giving a little Bahungo girl living in a bush village in Africa a better education than is being made available to our children, with all our resources, technology, and wealth. In education, as in so many fields, Portugal has held fast to the classical traditions supporting Christian Civilization.

Several days after our visit to Quiongua, we were driving south from Carmona toward the village of Quitexe. As we passed the carefully cultivated and sweet-smelling coffee bushes, the luxuriant banana plants, and the playfully chattering monkey families peacefully grooming themselves in the shade, it was hard to realize that this had been the scene of the unspeakable atrocities about which I had heard and read so much. Today Quitexe is a bustling little place, a bit dusty though orderly and active, despite its location on the edge of the Dembos terror zone. But on the morning of March 15, 1961, nearly every man, woman, and child in Quitexe was massacred.

On that awful day the same butchery was repeated over and over again throughout northern Angola. And the many victims—both white and black, and of all ages—were tortured to death in ways so sadistic and obscene as to prevent a full telling of the tale in any civilized journal. A brief account of the *least* horrifying terrorism includes the following:

At Luvo, all the white people in the village were tied to logs and sawed to pieces by a buzz saw.

At M'Bridge, one man was skinned alive; others—while still living—had their eyes cut out and their hands cut off, were castrated, and their bellies were cut open and entrails pulled out. Also at M'Bridge, babies were thrown into the air and smashed against trees to break their bones; then the bodies of the dying infants were used as balls in a soccer game.

At Mavoio, the arms and legs of an infant still in its crib were hacked off and the child was left to bleed to death.

Many, many other carefully confirmed accounts of these atrocities are simply too horrible to print.

The initial shock of the outbreak weakened Portuguese authority, and in the months before it could be reestablished, anarchy swept the north. Ancient tribal hatreds and petty village squabbles erupted into a rampage of murder and arson that left 15,000 people dead—13,000 blacks and 2,000 whites—and virtually every black village burnt to the ground.

Shockingly, this terrorism can be directly attributed to the support, both "moral" and financial, received from the United States by Holden Roberto, Communist leader of the United People of Angola (UPA). Prior to the uprising of March fifteenth, Roberto visited America, where he was warmly received by Eleanor Roosevelt, John Gunther, the American Committee on Africa, the A.F.L.–C.I.O., and a variety of other groups whose concern for humanity apparently does not extend to little children raped and tortured to death by terrorists. And despite the thousands of atrocities committed against an innocent population made up mostly of blacks, these great "Liberals" still support the terrorists today. They have been joined by the World Council of Churches, the United Presbyterian Church, U.S.A., the Ford Foundation, and others. There is even reason to believe that our Central Intelligence Agency also played an important role in the attempt to undermine our Portuguese ally.

One of the most disturbing aspects of the war is the role played by the "social gospel" missionairies. One such clerical revolutionary told the Quioco people: "Christ was a Quioco, and the Portugese crucified Him." In fact, all the terrorist leaders captured in northern Angola were missionary trained. I had the moving experience of visiting the grave of a young Portuguese paratrooper who was killed by terrorists operating out of a catechist station.

The "social gospel" agitators who have deserted Christ for Marx have much to answer for. As Portugal's Prime Minister Caetano has said, "Lacking grace to obtain Heaven, they are determined to bring Hell upon earth."

In Quitexe I interviewed two women who had been married to terrorists, and who had for ten years lived in the Dembos mountains with their terrorist husbands. I also interviewed two women who, with their children, had been kidnapped by the terrorists. I learned that the terrorists, operating from bases inside the territory of Portugal's Marxist neighbors, Congo Brazzaville, Congo Kinshasa, Zambia, and Tanzania, recruit followers in one of two ways: (1) Young men, many of whom have never even been in the Portuguese provinces, are promised freedom to loot, rape, and murder if they join the Communist struggle for "independence," and they are promised lives of idle luxury after "independence" is gained. (2) Prospective recruits are told that unless they join the terrorists they will be killed on the spot. The number of natives of Angola and Mozambique who voluntarily join the terrorists is virtually nil.

After the "recruits" are trained and armed with the latest in Czech, Russian, and Red Chinese weapons, small groups are infiltrated into the Portuguese provinces and, in the area I visited in Angola, establish themselves in small camps deep inside the broken, jungle-covered mountains. Once there, the terrorists engage in banditry, laying mines, and an occasional ambush.

Although life in the Red base camps where the terrorists are trained is tolerable, with modern medical facilities supplied by the American Establishment, life in the mountain camps is hell. Both of the widows to whom I talked had lost their husbands to one of the many diseases rampant in the terrorists' mountain camps. One of them had also lost a child; the other, all three of her children.

Because the terrorists have to travel so far to reach the zones of activity, they can seldom bring women with them. These "freedom fighters" would never dream of working for themselves, so whenever possible they kidnap local women to serve as slaves. The women I talked with who had been kidnapped had been fortunate enough to escape before their captors got them to the camp. Had they not done so, both they and their children would have been enslaved, and eventually their young sons would have been forced to become terrorists too. The future of such slaves is uncertain to say the least. If a terrorist tires of his slave woman, he may simply murder her when it comes time to move the camp; or, fearing that a baby born to her in the camp might cry and alert a Portuguese sentry, he may kill his own child. Anyone caught trying to escape from the terrorist slave camps is hideously killed and mutilated as an example to others. Nonetheless, such defections are constant.

After concluding my interviews in Quitexe, I made one of three visits deep into the terror zones. These are not areas of terrorist control, but rather zones where the terror has been sporadic. Contrary to reports in the *New York Times* and other vehicles of pro-Communist propaganda, the terrorists do not control so much as a single village.

The Dembos terror zone has numerous busy and productive plantations, many of which—such as the farm of Dr. Manuel Assoreira, which I visited—have been worked throughout the war. When terrorism broke out, these men did not flee; rather they stayed on the land and fought for what was theirs. Today life is still not quite normal for these courageous men and women; there is some danger—but danger no greater than one faces in the streets of an American city after dark.

I drove over to Santa Isabel, a combination plantation and military base twenty-five miles within the Dembos terror zone. In our party were Sra. Freire, Sr. Lopes, O.A. de Pimental Teixeira, the administrator of Quitexe, his two sons, and Dr. Assoreira. At Santa Isabel, as at other places I visited in the African provinces of Portugal, I was informed that I was the first American who had ever been there. Although American magazines and newspapers have published hundreds of articles on Portugal's war in Africa, *The Review Of The News* is one of very few to dare give its readers first-hand coverage.

About seventy-five miles from Quitexe, and outside of the terror zone, I visited the village of Mucaba and spoke to Viegas Nita, João Madeiras Jeronimo, and some of the men known throughout the Portuguese world as the heroes of Mucaba. I was the only American who had visited this Alamo of Angola. Here is their story as they told it to me:

In the early afternoon of April 29, 1961, a plane dropped a message warning that a band of fifty terrorists was heading for Mucaba. The thirty white and black men of the village assembled in their little church, Our Lady of the Immaculate Conception. They had only eighteen guns and a scanty supply of ammunition. As these beleaguered defenders of Mucaba watched, the terrorist force surrounded the church like some jungle fungus gone wild, until it numbered about 3,000.[*] Each new part of this monstrous growth was separate and independently menacing, and each had weapons and a voice. "*Mata*! UPA! *Mata*! UPA!" they chanted over and over. "Kill! UPA!"

At 6:00 that afternoon the first attack came and was beaten back by the defenders—thirty men against three thousand. Hour after hour the screaming horde stormed the church, and each time they were repulsed. The attacks continued throughout the night. In the morning, with the ammunition almost exhausted, several light planes struck the rebels with enough air support to disperse the terrorist. But it was not until five p.m. on April thirtieth, almost twenty-four hours after the first attack, that a column of soldiers arrived to relieve the siege of Mucaba. Although outnumbered a hundred to one, the defenders had killed three hundred terrorists and had lost only one of their own number.

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[*] It was impossible to know exactly the number of the terrorists, and estimates range as high as 6,000. The 3,000 figure is taken from the "Diario de Serviço" of the Administrative Post of Mucaba, dated April 30, 1961.

The significance of the defense of Mucaba is not just in the courageous resistance of the band of defenders in their church, but in the perfect example that it gives of the determination of the Portuguese to hold on to what is theirs. The terrorists made two more attempts in that year, 1961, to capture Mucaba—one on May tenth, the other on June nineteenth; both failed. Today the village is completely free of any danger and a proud monument to anti-Communist resistance in Africa.

Near Mucaba is the village of Bungo and the cattle ranch and coffee farm of Sr. Costas, a real pioneer in the old American sense. Costas came to Angola from metropolitan Portugal as a young man with limited financial resources. Today, through his own hard work in a free enterprise system, he has a large store, farms, processing plants, and many other interests. After visiting Sr. Costas' cattle ranch, we went on to his coffee farm for lunch. In 1961 this whole area was overrun by the terrorists, and UPA maintained a barracks only two miles from the spot where we dined. Yet on the occasion of our visit, because there is no house on the farm, Sra. Costas and her sister drove out to the plantation from Bungo the day before to make preparations for the meal, and the ladies slept alone and unarmed in one of the coffee barns where they later served the meal.

After lunch I went out to talk to the villagers. They told me that they had joined the terrorists in the early days of the warfare, but that they were "good now." They explained that the terrorists had come to their village with many high promises, but the villagers soon learned that they were being lied to and cheated. When I asked what they would do now if a terrorist came into their village, one man said: "We'd tie him up and take him to the authorities." Another responded more enthusiastically. "I'd kill him," he shouted. And there was no doubt he would do exactly that.

I found this same general attitude throughout both Angola and Mozambique. The blacks want nothing to do with the terrorists, and they know that their only chance for a decent life and an improved future is under continued Portuguese authority. As a result, the terrorists have had little success after ten years of fighting a war in which they have every geographical advantage. The majority of the victims of the terrorism are still the very people who are supposed to be "liberated," and a large percentage of the Portuguese Army pursuing the terrorists is made up of the black population. It is clear that at least 90 percent of the black people in Angola and Mozambique support their Portuguese government. If the percentage of support were appreciably less than that, I would most certainly have been killed on one of the many journeys I made unarmed into the bush. Frankly, I would estimate the percentage of black support for the government as high as 99 percent.

Throughout my travels in African Portugal I was impressed by the numerous ways in which the rural tribesmen are being drawn into Christian Civilization. The development and social assistance programs in Angola and Mozambique are the very antithesis of the welfare system as we know it. In these overseas provinces of Portugal there is in the cities a public housing program for the poor, white or black.

However, once a family has rented a house, it cannot be evicted because the family income goes up, and at the end of ten or fifteen years the family receives full title to the home. This is surely the opposite of our approach to federal housing for the poor, which encourages continued poverty and in five years turns new apartment buildings into slums and breeding grounds for crime. The Portuguese system emphasizes individual responsibility and private ownership. There is no dole.

In the bush the Portuguese philosophy is well expressed in the words, "Teach a man to fish, don't give him a fish." I saw this concept in practice at Chai, a village in Mozambique only about seventy-five miles from Communist Tanzania and deep within a terror zone. I visited Chai accompanied by Dr. Fernando Bastos, who is in charge of civil administration for this district. Dr. Bastos, who was born in Mozambique, is an excellent example of the highly intelligent, cultured, and dedicated men representing the Portuguese government. His wife has a doctorate in art, and their home in the small town of Porto Amelia is tastefully furnished and decorated with her fine paintings and many handsome objects of art. Later, while I was visiting the Bastos at home, Dr. Bastos entertained us after dinner with a virtuoso performance at the piano of Debussy's *Clair de Lune* and a beautiful concerto of his own composition.

Dr. Fernando Bastos regularly calls upon his own deep understanding of the principles of Christian Civilization in his efforts to raise the Makonde tribesmen of Cabo Delgado from the stone age. He knows that no step is too small or too insignificant. As we walked through the new village at Chai, in the terror zone, Dr. Bastos pointed out a magnificent tree which had been carefully preserved because of the aesthetic mood it creates in that part of the village. He explained further that the tribesmen had been encouraged to replace the cloth draperies that used to hang in their doorways with wooden doors—with the objective of strengthening family life by giving the residents of the home more privacy. Fernando Bastos also showed me through one of the houses he designed to combine the Western and African styles. This new design has a living room in addition to the traditional sleeping rooms—another small step toward binding the family unit together more closely. The house can be built for $100, but although the Portuguese will give the builder assistance, he must put up the money and do the work. "Teach a man to fish, don't give him a fish," as the Portuguese say.

Because Chai is in the terror zone, a company of soldiers is stationed in the village. During lunch the commander, Captain Carlos de Campos Andrada, told me how he and his soldiers help in small ways to draw the tribesmen toward Western Civilization. The small boys of Chai love to play in the military camp, riding in the jeeps, talking to the men (who are both blacks and whites), and playing at being soldiers. This is generally a good influence on them; but of course many of the boys would rather play in the camp than go to school. So the Captain made a rule that only boys who attend school may come to the camp, and needless to say there is now little truancy. Another small step is the matter of cleanliness. Although most of the boys of the village are provided with several shirts, they will, left to follow their own inclinations, wear one shirt until it literally falls off. So the Captain periodically announces that only boys with clean shirts will be allowed in the camp, and the next day all the boys arrive spick-and-span.

Although these may seem minor and unimportant steps to one who has never seen the life-style of primitive people, such methods are an important part of *drawing* these people into a civilized way of life.

In order to rectify the imbalance between the supply of manpower and the need for it, the Portuguese have developed a system of contract labor whereby an employer contracts with a given number of men to employ them for a term of six, twelve, or eighteen months. For his part, the employee works eight hours a day, six days a week. In return he receives a basic salary (one-fourth of which is paid weekly, with three-fourths paid into a savings account); living quarters; all meals, which must include meat, fresh fish, and fruit; medical attention and insurance; and, traveling expenses to and from the place of employment.

I visited many sites using contract labor and found the conditions to be uniformly excellent, so I was amazed to learn that the system has been under attack. The Left has tried to picture contract labor as a form of modern slavery. This claim is, of course, totally false. There is no labor union which can even pretend to give its members better protection than that guaranteed to these contract laborers by the Portuguese authorities. If one man registers a complaint about conditions—for example, that the food is not adequate—and the complaint is found by investigators to be justified, all the laborers on the farm are sent home at the employer's expense and that employer is never again permitted to hire contract labor. Furthermore, the balance of the savings account which the worker accumulates over the terms of his contract is often enough to enable him on returning home to establish a shop or to start his own farm. Or if, for instance, he is working in northern Angola on a coffee plantation and finds he likes coffee farming, he can go to the district governor of Uige and make application for an abandoned farm, which will become his after five years of working it.

Contract labor is most certainly not a form of slavery; rather it is an excellent way for the rural blacks in provincial Portugal to earn a decent living and to build up capital of their own. Little wonder that the Left hates the system so bitterly.

Another favorite target of American radicals is the Portuguese police, the Direction General of Security. In Angola I had the pleasure of meeting the provincial director of the D.G.S. Here again I was one of very few Americans ever to have requested such an interview. I found the director to be a highly intelligent and progressive law enforcement officer who would do credit to our Federal Bureau of Investigation. I thought of J. Edgar Hoover as my host explained: "The attack on the Portuguese police is not the result of any misdeeds on our part, but is a part of a worldwide drive against all police officers (definitely including those in America) who try to do their duty in protecting the people against a criminal and revolutionary minority." Like the F.B.I., the D.G.S. is vigorously anti-Communist.

In Mozambique I visited an orphanage run by the D.G.S., funded partly out of the police budget and partly from the profits of the farm connected with the orphanage. The deficit is made up by contributions from private citizens and from individual police officers. Once more, I found that no American reporter had ever been there. Wherever I went, among black and whites, I heard nothing but praise for the D.G.S. And they deserve it. Except in the few terror zones, one is completely safe throughout Angola and Mozambique at any time.

Of course African Portugal is not made up entirely of military camps and bush villages. It includes also the large harbors of Luanda, Lourenco Marques, and Beira, around which modern cities have grown up; the rich diamond, copper, manganese, and iron mines; the oil fields and refineries of Cabinda; the huge coffee, tea, sisal, cashew, and sugar plantations; the great dams, most notably that at Cabora Bassa, which when completed will be the largest in Africa and the fourth largest in the world; and, the magnificent parks and reserves.

Angola and Mozambique are many things, but most important they are integral parts of the Republic of Portugal and vital bastions of Christian Civilization. For years the Communists have realized that the destruction of Portugal is essential to the success of their drive for the conquest of southern Africa and the world. Unfortunately, for over eleven years *Insiders* in the American Establishment have been directly aiding the Communist attack against our Portuguese ally. Such men are not only betraying one of this country's staunchest friends, they are betraying the national interests of the United States of America.

When we hear politicians, State Department spokesmen, "Liberal" commentators, and assorted phony authorities rant about Portugal's "colonialist" war in Africa against the native "freedom fighters," we should realize that these individuals are either too uninformed to express an opinion, or are consciously supporting Communist-led savages who wage war by torturing children, raping women, and committing atrocities the like of which the world has seldom seen.

## ESTONIA'S INDEPENDENCE DAY

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DERWINSKI. Mr. Speaker, 54 years ago today, Estonia severed the chains that had held it to the Soviet Union. Independence was a new experience for its people, who had for 700 years been under the rule of Danes, Germans, Swedes, and Russians.

When Estonia declared its independence on February 24, 1918, World War I was still going on and it was not until November 11, when the armistice took effect, that the Germans began to withdraw from its territory. Eleven days later the Bolsheviks began to invade Estonia. The brave resistance of its people, together with support from a British naval squadron in the Baltic, enabled them to clear their land of these latest invaders by the end of January 1919. The Soviet Union, which had recognized the independence of Estonia when it signed the Treaty of Brest-Litovsk on March 3, 1918, granted final recognition on February 2, 1920, when it agreed to the Treaty of Tartu.

Two decades of freedom for Estonia came to an end soon after the Communists and their ideological bedfellows, the Nazis, divided Poland between them. If such a large country could not successfully resist invasion, what hope was there for a small nation such as Estonia?

Its days were indeed numbered. When the Soviet Union threatened to invade Estonia, it was compelled to sign a treaty with its huge neighbor, thereby permitting establishment of military bases and stationing of Russian troops on its soil. Occupation, fake elections, and annexation followed in rapid succession and on August 6, 1940, the tiny Republic was absorbed by the Soviet Empire.

The old adage, "When thieves fall out, just men get their dues," meant nothing to the people of Estonia. When Hitler and Stalin dissolved their marriage of convenience, the Nazis, as one of the results of their invasion of the Soviet Union, occupied Estonia from 1941 to 1944.

While the end of World War II eliminated nazism, it also restored communism to Estonia. Consequently, it did not share in the victory that brought the liberation of many other lands.

Instead of freedom, Estonia experienced the collectivization of its farms, the nationalization of its industries, the communizing of its schools, and the suppression of its churches. The tyrants in the Kremlin deported 120,000 of its people and replaced them with people from other areas of the vast Soviet Empire.

Mr. Speaker, may God grant that it will not be too long before the day of deliverance from Communist domination once more brings freedom to Estonia and its sister Baltic Republics.

## DEFINITION LACKING

## HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DUNCAN. Mr. Speaker, I would like to place in the Record two especially good editorials from the Knoxville, Tenn., Journal, of February 19—the subjects, unemployment, and the FBI.

The articles follow:

### Definition Lacking

As can be expected in an election year, the term "unemployment" will be tossed around wildly during the next several months, with the Democrats exaggerating it and the Republicans minimizing it—both for political purposes.

At the same time other politicians will be howling about either the abuses or deficiencies of the welfare system.

One could quickly get the notion that at least some of these people do not have the foggiest understanding of the subjects about which they are talking. Indeed, "unemployment" may be among the most misunderstood words in the language.

Although there is considerable question about the accuracy of the government's figures, latest reports show total unemployment in the United States to be hovering at or slightly below 6 per cent of the nation's work force.

At the same time, however, more Americans than ever before have jobs. The number of persons holding jobs has climbed above 80.5 million for the first time in history, meaning that in the past five years the U.S. economy has produced almost eight million new jobs.

Why this paradox? How can there be high unemployment and record employment at the same time?

A recent analysis by the Wall Street Journal provides at least a partial answer. It was found that only 40 to 50 per cent of those listed as "unemployed" were jobless because they have been laid off.

Also included are, "in addition to many who have quit their jobs, many more who either have never worked before or have decided to look for a job again after having been out of the labor force for some time. In this group are many teen-agers and housewives."

The classic pattern was found to be that when a man was laid off his wife and often teen-age sons or daughters also went looking for work so that three or more persons would wind up listed as "unemployed" as the result of only one person losing his job.

This and similar circumstances have prompted many within the Nixon administration to suggest that the country actually is in a lot better shape than it might seem from merely looking at unemployment figures. They could be right.

While the official figure may be between 5.9 and 6 per cent, the actual total of prime wage earners out of work apparently falls somewhere between 2 and 3 per cent of the work force. And that's far short of the national crisis some choose to find in the American economy.

But unemployment figures have been so abused by politicians for so long that they do not really prove anything any more.

### It's Everybody's Business

J. Edgar Hoover, director of the Federal Bureau of Investigation, recently sought to enlist American businessmen in an all-out drive against crime in this country. He had good reason to do so.

The Commerce Department has estimated that just plain thievery—like burglaries, bad checks and employe thefts—costs business about $15.7 billion a year in direct losses and in expenses related to crime prevention.

This whopping figure does not include the cost of organized crime, which runs into the billions each year itself, or such "extraordinary" crimes as embezzlement and airplane hijacking.

Last year retail stores suffered the most from "ordinary" crime, with losses estimated at $4.8 billion. Primarily, shoplifting and employe theft were blamed. (Bank robberies, for comparison, produced losses of $10 million.)

Included in this $15.7 billion total is about $3.3 billion spent by businesses each year on private crime prevention, mainly for guard services. But to this should be added the portion of business taxes that go for support of local, state and federal police agencies.

The Commerce Department report was critical of business for being too "passive," especially in the prosecution of criminals. With so high an annual price tag on this so-called "ordinary" crime, it is difficult to see how anyone, business or consumer, can afford to remain passive. Clearly crime prevention is everyone's business.

## ALCOHOL SAFETY PROJECT OF CINCINNATI

## HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. KEATING. Mr. Speaker, the Secretary of Transportation, John Volpe, was a recent visitor of Cincinnati where he personally inspected the Cincinnati alcohol safety project.

This is a demonstration project for the State of Ohio under the Highway Safety Act of 1966 with the city of Cincinnati as the prime contractor.

I was privileged to accompany the Secretary for a detailed inspection of the program and we learned that arrests for driving while intoxicated—DWI—has increased some 600 percent during a comparable period during 1971.

The number of arrests jumped to 168 from 28 during a comparable period last year.

This was due to the fact of an increased patrol activity by a 12-man Alcohol Safety Unit.

Operating under special procedures, Alcohol Safety Unit personnel take automobile drivers, charged and arrested for driving while intoxicated, to a special DWI interrogation facility at the police division headquarters.

During the course of this video-taped interrogation, the arrested individual is asked to submit to a blood alcohol content—BAC—test using a breathalyzer.

Under present Ohio law, refusal to submit to this test automatically results in the loss of driving privileges and a license suspension for 6 months. Should the BAC test reveal a level of 0.05 percent of alcohol content, the charge of DWI is dropped unless there are other overriding circumstances. Ohio law considers BAC levels of less than 0.05 percent to 0.10 percent may or may not be charged with DWI, depending on the circumstances and the degree of impairment observed by the arresting officer. Individuals found to have 0.10 percent or above alcohol content are charged and prosecuted for DWI.

Prearraignment confinement or medical treatment also may be imposed if deemed necessary by the arresting officer.

When the defendant is brought to the Hamilton County Municipal Court, the individual may enter an appropriate plea. In cases of "not guilty," normal court continuances for defense counsel are granted. All DWI cases are prosecuted by a special ASAP element of the Prosecutor's Office.

On a filing of "guilty," the ASAP element of the Hamilton County Municipal Probation Department conducts a presentence investigation to determine whether the individual concerned is a problem drinker.

A convicted nonproblem drinking driver may be required, in addition to the mandatory confinement, to attend a 12-hour driver improvement school operated by the Greater Cincinnati Safety Council. There he will be taught driver responsibilities as well as the dangers of driving while drunk.

Those identified by the court as problem drinkers are referred to a diagnostic center where the problem-drinker diagnosis is confirmed or refuted by additional evaluation.

A special 20-hour behavior modification program, conducted by Cincinnati General Hospital's Alcoholism Clinic, could be part of the recommended plan. This course is designed to help problem drinkers recognize the danger they represent, impress upon them the effects of alcohol on their driving, to change their problem-drinking behavior and to encourage efforts to control this behavior.

The probation department keeps a check on the individual's progress during all stages of this rehabilitation.

After completion of one of these programs, the individual leaves the active program of ASAP.

A significant part of the ASAP is an intensive public information and education campaign. It is designed to increase public awareness of the alcohol problem as it relates to highway safety, to impress the public that alcohol-related accidents and deaths can and must be reduced.

Mr. Speaker, preliminary investigation of the program shows that it promises to be a success not only in singling out drunken drivers who spread havoc on our highways but it also helps in spreading the word to the public the tragic results of drunken driving.

## HUD—COMPLICATIONS

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DERWINSKI. Mr. Speaker, I insert into the RECORD a WBBM—Chicago—radio editorial of February 14 and the replying broadcast of February 18 by Mr. John Waner, director for the Chicago area office of the Department of Housing and Urban Development.

My purpose in directing these two commentaries to the attention of the Members is to, in the process, emphasize that HUD is probably the most poorly administered Department of our Government. It is a classic case of inefficient bureaucracy and waste of public funds in its disregard for congressional intent and, too often, disregard even for the public interest. In my opinion, the Department should be subject to a thorough house cleaning which should begin at the very top with the Secretary himself.

The editorials follow:

### FHA ABUSE

The F.H.A. has a program which provides low income people with the vehicle for owning their own homes. Unfortunately, the people end up as the losers.

Because of the F.H.A. mismanagement and the influx of profit-mongers, the unwary home-buyers are stuck with homes that are decrepit and over-priced. Some of the buyers can't afford to repair defects which never should have passed an F.H.A. inspection. Some of the people have given up and abandoned the homes. Others have held on . . . doing their best to rehabilitate what they thought would be their step up to better living.

In Chicago the West Side Coalition has documented more than 50 cases of flagrant abuse of the F.H.A. program. Indeed, the F.H.A. is quickly becoming the nation's greatest slumlord.

This hardly seems appropriate for an agency which is supposed to help people.

The F.H.A. has become the . . . perhaps . . . unwitting co-conspirator with those unscrupulous realtors who are destroying our city's neighborhoods.

### REPLY TO FHA ABUSE

(Replying to a WBBM editorial deploring the abuse of the FHA home ownership program, here is John Waner, Director for the Chicago Area Office of the Department of Housing and Urban Development.)

FHA insures mortgages made by private lenders. FHA does not buy or sell or repair or inspect homes for code violations. We do not make direct mortgage loans. Our appraisers inspect homes to determine the value of property only.

Currently we rely upon city building inspectors to inspect properties for code violations. Under present procedures, each application for home mortgage insurance must be accompanied by a Certificate of Inspection from the city.

Our office, on single family mortgage insurance alone, processed over 41,000 applications. We recognize that with such a massive work load, there will be some margin of error.

HUD's responsibility is to administer laws enacted by the United States Congress. We cannot administer our programs in a manner that would thwart those objectives. We cannot deny a home purchaser the benefit of an FHA insured mortgage—if he meets all of the eligibility criteria for that mortgage insurance—on the basis of community pressure.

Charges have been leveled at us from white groups who accuse us of accelerating racial change. Conversely, black groups charge exclusion.

We at HUD can only respond by continuing to implement administrative procedures that we believe will produce quality housing on a non-discriminatory basis.

We share the concern and dedication of all local groups interested in achieving quality housing and long range housing goals.

## FATHER DANIEL BERRIGAN

## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DELLUMS. Mr. Speaker, I am submitting for the RECORD the following statement of Father Daniel Berrigan, S.J., upon parole from Danbury Federal Correctional Institution:

### FATHER DANIEL BERRIGAN

On February 24, my first word is, naturally, one of gratitude to Congressman ANDERSON, the lawyers, friends, and fellow prisoners who petitioned, worked, fasted, and prayed to make my freedom possible. Freedom, however, is an unfinished business, whether it be my freedom, the freedom of other prisoners, or the freedom of the Vietnamese. I mean no exaggeration, therefore, when I say that today I am only half free, that a large part of me is still captive in Danbury, still captive in the courtroom at Harrisburg, and still captive to the war makers. It is to this unfinished business of victims and prisoners that I wish to dedicate myself anew.

American prisons are bulging with human misery, attrition, and waste. In Harrisburg the theater of cruelty is playing on and on, an indefinite run, it seems. The imperial lions versus the inedible Christians. And in Asia the war that was supposed to wind down ticks on and on, and its spring tightens by determined duplicity and violence and fear.

Unfinished business, indeed. The President would like to declare the business of the war finished, but we have learned to measure the distance between his words and his deeds, his diplomacy and his bombers, his promises and his jails. We refuse to cover the faces of the dead, refuse to be distracted by his travelogues and his economic games. The war is still the first fact of life for the living, as it was when I went to prison, as it was when I went underground, as it was when I went to Hanoi and Catonsville, as it was when I went into exile. There is no issue comparable to the death of innocent children, neither the economy nor good fellowship in China, nor cancer nor pollution, nor taxes nor political campaigns.

Today we begin another journey together—a pilgrimage to Harrisburg. Let our walk declare the deep resolve of our hearts. We will never rest until sanity has been restored to the mighty and power restored to the powerless. This is our pledge of allegiance to God and to humanity.

Now, Mr. Nixon, hear us. You will harken to the voice of the people, or like your predecessor, you will go the way of political and moral oblivion.

## A POSITIVE POLISH IMAGE

### HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. NEDZI. Mr. Speaker, the Polish-American community of the United States, which numbers several million people, has a tendency to silently endure slights and misrepresentations. It is slow to anger.

One of the unfortunate developments of the 1960's was the growth of the so-called Polish jokes. These jokes were often malicious and almost always a misrepresentation of the basic character of Polish-Americans.

Recently, Businessman Edward J. Piszek, of Philadelphia, and Father Walter Ziemba, of Orchard Lake Seminary in Michigan, have launched a campaign to bring to public attention the vast cultural history of the Polish people and to counter myth with calm and well-reasoned intelligence.

This effort has been appropriately noted by the Washington Star in its editorial of February 22, 1972, which is set forth below:

#### DOWN WITH POLISH JOKES

Let's hear it out there for Edward J. Piszek, a wealthy Polish-American businessman who has launched a one-man campaign to discredit Polish jokes and to tell Americans, including some 10 million Polish-Americans, more than they now know of the glories of Polish heritage.

Stamping out Polish jokes will be a tough job. This is, after all, the age of the smart-mouth. There remains a market for whipping groups, and the Poles of late appear to have replaced others, notably the blacks, as the butt of not-so-funny jokes. No one wants to be called a racist, and that probably accounts for the decline in jokes about blacks. We would suggest that the next time someone starts a Polish joke he be labeled an elitist.

As for the Polish heritage, two things can be pointed out. One is the persistence with which the Poles maintained and built a definable culture down the years despite their location, as with the Dutch and the Finns, at a crossroads for conquerors and their armies. The second is the list of luminaries who grace the history of Poland. Generals Kazimierz Pulaski and Tadeusz Kosciuszko are two. Then on the Mikolaj Kopernik (Copernicus), Maria Sklodowska-Curie, Fryderyk Chopin, Ignacy Jan Paderewski, Arthur Rubinstein and Teodor Josef Konrad Korzeniowski (Joseph Conrad).

We included the full, originally-spelled names to illustrate a dilemma faced by many Polish-Americans, past and present: Change the name or not? There is an exotic quality to all those c's and z's, and it would be a shame to lose them. Yet there is an element of practicality involved, one that Piszek well appreciates. He sells frozen food under the name Mrs. Paul's and it is a question whether he would have done as well with the name Mrs. Piszek's.

A better example is the background of the Democratic Party's front-running candidate for President, a Polish-American who might have the last laugh in November. For it is conceivable that the election outlook could swing on the action years ago of a harassed immigration official who shortened to Muskie the name of the senator's father, Stephen Marciszewski.

## SUPPORT FOR RURAL DEVELOPMENT

### HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. HILLIS. Mr. Speaker, I want to register my wholehearted support for the Rural Development Act of 1972. It aims at improving the economic well-being of this country's rural areas and encourages a redistribution of our country's lopsided population.

Hopefully, this bill will help rural America offer better living conditions and employment opportunities, not only to stop the flow of rural residents to our overcrowded cities, but to reverse that flow.

The facts concerning rural life today are discouraging and give an insight into why we have seen a large migration to our cities. While one-third of the Nation's population lives in rural areas, 60 percent of the country's substandard housing is located in rural areas. Rural areas often do not have available basic fire and ambulance services, nor adequate water and sewage facilities. The per capita income in rural areas is substantially lower than in our cities, and job opportunities are woefully scarce.

Is it any wonder that rural areas have lost population steadily—half of the Nation's counties have reportedly lost population in each of the last three decades. Those who leave for the city often become welfare recipients and end up in the ghetto—but they migrate to where there is a larger chance of work. Most families would prefer to stay in the country, but economic necessities force the move.

Those of us who have lived in or near rural communities, as well as large urban centers, know what outstanding advantages America's countryside has to offer: fresh air, elbow room, relaxation and friendliness. I know that many of the people now crowded into our cities would prefer rural living if they could have modern conveniences, adequate housing, and especially a job. Obviously, urban America has a stake in rural community development efforts, as proposed in the Rural Development Act.

This act basically makes available more Federal funds, through loans and grants, to develop rural areas. Rather than initiating a new rural development bureaucracy, this legislation channels these additional Federal funds through two already existing and very effective programs—the Farmers Home Administration and Soil Conservation Service.

It authorizes new authority for pollution abatement grants to rural residents or farmers, new authority for rural development planning grants, grants for business and economic development, and increases water and sewer grant authority under the Poage-Aiken bill. I frankly would prefer to see this grant money be made available in the form of loans, instead, because I think this could stretch limited Federal resources further, and would not constitute a giveaway program, but a self-help effort.

Besides authorizing cost-sharing for water quality management and watershed projects, this bill requires that priority be given to rural areas in the location of Federal facilities.

This act also raises the $100 million limit on the Agricultural Credit Insurance fund to $500 million, increases the size of farm operating loans from $35,000 to $50,000, and authorizes use of a market value appraisal in place of normal value appraisals for farm ownership loans.

In addition, this legislation insures loans made in connection with Soil Conservation Serivce projects, removes the $4 million ceiling on community water and waste disposal loans, and directs the Secretary of Agriculture to carry out a land inventory and monitoring program in at least 5-year intervals on soil, water, and related resource conditions.

I have long been a supporter of rural development, and am the cosponsor on two other bills, which I believe could supplement the proposed Rural Development Act of 1972. One of my bills would promote more jobs in rural areas, and the other would create a working partnership between Federal, State, and local governments for developing rural America's resources. I would be delighted to see all three of these legislative items passed eventually.

Certainly, this bill cannot do everything for everyone—resources are too limited for that now, but I do believe it can help improve the quality of life in rural America. It indicates a recognition of the value of revitalizing our rural areas, for the improvement of the quality of life of all Americans—both urban and rural. Certainly this is a commendable start and has my full support.

## MEAT PRODUCTION UP

### HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. ZWACH. Mr. Speaker, recent statements by some people in Washington have expressed a need to increase imports in order to have adequate supplies of beef. I, of course, do not agree with these statements and am inserting in the RECORD a recent article published in the Western Livestock Journal which indicates that the number of cattle and calves on feed are up by 10 percent. It just indicates that our livestock people, if given incentives, will fulfill all requirements for meat in our country.

The article follows:

#### CATTLE, CALVES ON FEED IN MAJOR FEEDING STATES UP 10 PERCENT

Cattle and calves on feed February 1 in the six major feeding states totaled 8,193,000 head, up 10% from a year earlier.

Compared with February last year, the number on feed increased in all six states, ranging from 4% in Colorado and Arizona to 16% in Texas. Compared with a month ago, the number in the six states was up 3%.

Kansas (added to the monthly feed report in November) had 1,100,000 head on feed, the same as January 1.

January placements of cattle and calves on feed totaled 1,581,000 head in the six states, up 2% from January 1971. Placements were up in California, Arizona and Texas but declined in Nebraska, Iowa and Colorado during January. Kansas placements totaled 220,000 head.

During January, marketings of feed cattle from the six states totaled 1,378,000 head, a 1% increase from January 1971. Texas, Colorado and California reported increased marketings while Arizona, Nebraska and Iowa showed declines. Marketings from Kansas totaled 220,000 head during January.

January marketings of steers and heifers sold out of first hands for slaughter at seven markets totaled 186,448 head; 110,364 were steers, 76,084 were heifers. Steers averaged 1128 lb., 14 lb. less, while heifers at 959 lb. weighed 13 lb. less than last January.

Average price per 100 lb. live weight during January was $34.76 for steers, up $6.35 from a years ago, and $33.85 for heifers, up $6.26.

Traders and stockmen available for comment after the cattle and calves on feed report was released were nearly unanimous in saying the total numbers on feed was about 2% above general expectations. Placements and marketings were also larger than most had been expecting.

Feeders also pointed out that the excess of 114,000 head was more than accounted for by the jump of 133,000 head in California where January placements doubled.

## FREEDOM OF SPEECH AND ASSOCIATION—A CHECKLIST FOR SURVEILLANCE

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. HARRINGTON. Mr. Speaker, the freedom of speech and association which is so central to a genuinely democratic Government can be threatened in a number of ways. In addition to the danger of overt suppression, there is the chilling effect of official surveillance. Law-abiding citizens, engaged in lawful political activity, can unfortunately be intimidated by the knowledge that their words and actions are being taken down and cataloged for some unknown future purpose by military or law enforcement agencies.

The document which follows these remarks is an example of the sort of indirect suppression in which our Government has unfortunately been engaged. It is a checklist for surveillance which betrays a fundamental misunderstanding of the role of Government in a democracy; it is a document prepared by individuals who seem to regard political activity by American citizens as a danger to be monitored, rather than as a constitutionally protected right which is the highest duty of official agencies to protect.

We have been assured by the executive branch that the days of military surveillance of civilian political activity are over. If that is so, it is only because those of us in the Congress, the media, and other areas of society who believe in our democratic freedoms have fought against this heavy-handed interference with our rights. And I say "if it is so" because it is the sad fact that many of us no longer believe that we can accept unquestioningly what the executive branch says on matters like this.

In any case, Mr. Speaker, I wish to insert this checklist at this point as an illustration of the kind of activity in which our Government has recently engaged which threatens our liberty far more gravely than the activity of any outside source.

The material follows:

(C) SUPPLEMENTAL LEAD SHEET

Paragraph 7 f (Special Instructions) is superseded and the following substituted therefor:

f. In all cases where MI agents are called to AFRES based on a qualification of DD Form 98/398, make every effort to conduct the Subject Interview immediately upon notification. Attempt to develop counterintelligence information on points of qualification, i.e., if the qualification involves any organization cited as subversive by the Attorney General or suspected as potentially subversive, including data on membership, identity of members and leaders, finances, operations, equipment, and any other aspect pertaining to the organization.

a. (C) To procure, evaluate, and disseminate as expeditiously as possible, information relating to actual, potential or planned demonstrations, civil disturbances, dissident activities, disasters and catastrophies which threaten civil order, military security and/or the capability of the Department of the Army to accomplish its mission.

b. (C) To provide overt collection and reporting procedures and readily retrieval data by the following categories according to the combined Essential Elements of Information (EEI) outlined in paragraph 5 below:

CATEGORY CODE AND CATEGORY

A Civil Disturbances.
B Major Disasters and Catastrophies.
C Anti-War/Anti-Draft Activities.
D Militant Organizations.
E Extremists in the Armed Forces.
F Demonstrations, Rallies, Parades, Marches, Conventions, Conferences and Picketing Activities.
G Foreign Element Participation or Influence in Civil Disturbance.
H Strikes and Labor Disturbances.
I Dissidents/Subversives in Civil Disturbances.[1]
J Legal Aspects.[1]
K Thefts of Weapons and Ammunitions.

5. (C) LEADS TO BE DEVELOPED: ESSENTIAL ELEMENTS OF INFORMATION

*Category A, Civil disturbance—CCN: 9036–9944*

Predisturbance Activities

a. Indicators of threatening violence in communities having a discontented populace.

(1) Presence of militant agitators from within a discontented minority community or presence of "outside" militant agitators.

(2) Increase in efforts of extremist minority groups to instigate violence through inflammatory propaganda, either written or verbal.

(3) Increase in number of incidents which reflect minority group rebellion against authority, such as false alarms and vandalism.

(4) Reports and rumors of planned agitation or impending violence related to civil disturbances.

(5) Increase in activity, such as rabble rousing meetings and fiery agitation speeches, of extremist, civil rights groups.

(6) Sharp increase in absentee rate of discontented minority groups.

(7) Increase in incidents of resisting arrest; the gathering of crowds when arrests are made.

(8) Increase in charges of police brutality: increased resentment of law enforcement.

(9) Stepped up activity by gangs characterized by anti-social activity on the part of minority group members.

(10) Increase in assaults on police/fire personnel.

b. Activities preceding planned civil disturbance.

(1) Probable causes, objective, locations, and nature of disturbance.

(2) Probable categories and identification of persons and groups who will create or participate in disturbance.

(3) Estimated number of persons who will be involved. As participants: as observers.

(4) Probable assembly areas and routes. Method of travel.

(5) Leaders identity. Overt and behind the scenes.

(6) Activities, organization, and other plans prepared by the leaders.

(a) How will they exert control?

(b) Will weapons be used? What type? Where, when how?

(7) Identity of newspapers, radio, or television stations, and prominent persons who are friendly with the leaders of the disturbance and are sympathetic with their plans. Will any be present? Participating? How?

(8) Location, kind, and amount of arms, equipment, and supplies available to the disturbers.

(9) Location of other arms, equipment and supplies which, if insufficiently guarded, may be seized by the disturbers in event rioting occurs. Are safeguards against seizure sound?

(10) Location and name of important buildings/facilities that may be threatened. What makes the building/facilities important? Who is owner/responsible for building/facilities? How can he be contacted?

(11) Location and description of communications systems, public utilities, and stores of volatile fuel. Responsible person? How contacted?

(12) Possible threat to Federal property. What? Where? When? By Whom?

(13) Do the facilities in (10), (11) and (12) above have their own physical security? How adequate?

(14) Identification of Department of the Army personnel (military or civilian) who are or may become involved on the side of the disturbers.

c. Indicators of potential violence.

(1) High unemployment or menial work rate among discontented minority groups.

(2) High crime rates for discontented minority groups.

(3) Wide disparity of average income between white and discontented non-white.

(4) Poor relations between law enforcement officials and discontented minority groups.

(5) Migration of large numbers of persons from discontented minority groups into cities.

(6) Lack of means for minority groups to redress grievances and lack of meaningful communications between law enforcement agencies and the minority community.

(7) Protests of minority community to conditions in slum areas, such as: de facto segregation in unions, housing, and schools; lack of jobs; lack of recreational facilities; local merchants and landlords overcharging for housing, goods, or services; police brutality; substandard education facilities and teaching staff.

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[1] As related to Civil Disturbance only.

(8) Efforts by minority groups to upset the balance of power and the political system.

(9) Failure of law enforcement agencies to properly respond due to indecision, lack of manpower, or fear of public reaction.

(10) Inequitable law enforcement, real or imagined, towards minority groups.

(11) Public apathy or negative reaction to issues of civil rights and impartial law enforcement.

d. *Purposes and objectives of dissident groups.*

(1) Overall purpose and objectives. Long-term and short-term objectives and relationships to problems of minority groups and the country. Estimates of plans and objectives; capabilities, resources to be employed.

(2) Specific aims and roles. Coordination with other minority groups and dissident organizations. Support obtained from other agencies.

e. *Capabilities and vulnerabilities of dissident groups.*

Evidence of strengths and weaknesses in terms of ability to create civil disturbance situations, to expand activities to meet emergencies, to enlarge potential for disturbance, and to maintain own internal security.

f. *Funds.* Source and extent of funds, how are they distributed. General purpose for which funds are used.

g. *Organization of dissident groups.*

(1) High Command. Composition and structure of headquarters. Relationship to other agencies. Exact titles, location of functions and responsibilities, lines of authority, organizational charts, rosters of key personnel.

(2) Subordinate elements. Administration, organization, functions, responsibilities, principal and alternate locations, strengths, facilities, lines of authority, organization and key personnel.

h. *Tactics and strategy of dissident organizations.*

How do these elements plan and execute their civil disturbances and related actions. The nature and scope of their tactics and strategy. Proposed or planned deviations from usual or accepted tactics. Internal factionalism and protagonists. Cause themes and appeals.

i. *Personnel.*

(1) Number of active members; breakdown of membership by ethnic groups, age, economic status, education, criminal record. Biographic data on key members.

(2) Potential for increasing membership. Numbers of persons, source of members.

(3) Women members. Age, position within group, authority, biographic data.

(4) Pay. What members receive pay? Are expenses reimbursed? Source of funds?

j. *Administration.* How is organization supervised and controlled? Who is responsible for correspondence and related actions? Does organization produce publications? Identify.

k. *Training.* Are skills useful in creating disturbances and doing violence taught, e.g., fabrication of Molotov cocktails, homemade bombs, firearms, booby traps, and other devices? Judo, marksmanship, communication training, counter-surveillance, infrared photography. Training areas, source of support, instructors.

l. *Logistics.* Sources of supplies, weapons, vehicles. Location, stocks capacity of stockpiles. Methods of resupply.

### Activities During Civil Disturbance

(1) Location, form and extent of violence and damage. Proximate cause for outbreak.

(2) Identification of individuals and groups participating in civil disturbances. Leaders? Government personnel? News media representatives? Spokesman?

(3) Targets or planned targets of violence, burning or looting, e.g., neighborhoods, government buildings, Army installations, department stores, and public utilities.

(4) Patterns of violence which suggest centralized control and organization, e.g., well organized sniping, selective firebombing, and other systematic destruction.

(5) Indications of participation in or instigation of violence by persons or groups known to be subversive.

(6) Expected duration of disturbance.

(7) Motive for the disturbance? Anti-authority? Anti-white? Mixed?

(8) The reserves committed by local agency commanders in the current situation.

(9) The effects on the current situation of reserves that have been committed.

(10) The projected effects of reserves that have been requested but not yet committed.

(11) The ability of the forces currently on the scene to contain the area and intensity of the disturbance.

(12) The direction of the disturbance: whether anti-authority, anti-white, or undirected.

(13) The trends of riot connected activity: sniping, looting, bombing.

(14) The types of attacks on authorities: rock throwing, sniping.

(15) The reactions of authority to attacks: whether withdrawing or counterattacking.

(16) The authorization for use of riot control equipment.

(17) The riot control equipment presently in use.

(18) The use of mass media to influence civil disturbance elements.

(19) The refusal of local agency personnel to respond in disturbed areas or while under fire.

(20) The presence of news media representatives in the disturbed area.

(21) The effect of news media representatives in the disturbed areas.

(22) The extent of reporting from the disturbed area, and its sources.

(23) The communications with personnel in the disturbed area.

(24) The emergence of spokesmen for the minority element.

(25) The indication of organization and central direction of rioters.

(26) The presence of militant leaders and their activities.

(27) The efforts to instigate or perpetuate violence.

### Post-Disturbance Activities

(1) Is disturbance likely to recur?

(2) When can it be expected to break out again? In what locations? In what form? To what degree?

(3) Are factors that precipitated the outbreak still present? What factors? To what extent do they still exist?

(4) What is attitude of minority groups who participated?

(5) Have militant agitators and other leaders left the area of civil disturbances? Where are they currently located?

### *Category B, Major disaster and catastrophies—CCN: 9086–9029*

Provide all available information pertaining to major disasters and catastrophies which may result in the rendering of federal assistance to supplement the efforts of local or state authorities in the following incidents:

a. Explosions

b. Fires

c. Major accidents or wrecks involving public or private carriers

d. Hurricanes

e. Floods

f. Earthquakes

g. Tidal Waves

### *Category C, Antiwar/antidraft activities—CCN: 8051–9291*

a. Full identifying data on individuals/groups who are engaged in such anti-war activities.

b. Type of instruction being given pertaining to qualifying DD Form 98 or DD Form 398 or refusal to complete such forms.

c. Type of instruction or printed guidance being given on how to register as a conscientious objector.

d. Identification of registrants who have received instructions and sources of such instruction on how to avoid the draft or delay induction.

e. Collection of leaflets, booklets, fly sheets, etc., which provide instructions on how to avoid or delay induction.

f. Identification of the personalities and organizations engaged in the publication and distribution of documents referred in para e. above.

g. Establish the relationship of individuals/groups engaged in activities described in para a thru f above with cited organizations or suspected/confirmed subversive organizations.

h. Activities of Army personnel within organizations where actual or potential aims and purposes may be inimical to the best interests of the United States.

i. Hostile activities which are perpetrated at or near military installations.

j. The activities of US Army members connected with or alleged to be connected with cited and extremists organizations are of continuing interest in CONUS intelligence. Reportable CONUS intelligence includes information concerning Army members in connection with any of the following:

(1) Communist Party, United States of America (CPUSA).

(2) Other groups not in affiliation with CPUSA but which have been cited by the Attorney General of the United States as having aims and purposes inimical to the best interests of the United States.

(3) Minority, racist, terrorist, left-wing, right-wing and/or other dissident organizations of possible future intelligence interest which may be potentially detrimental to national defense or public order, even though not cited by the Attorney General.

### *Category D, militant organizations—CCN: 8051–9289*

a. Identification of individual leaders and members of militant organizations at local, state and national level. Include all current background as well as length of membership, official titles or position, if any, membership in other groups, and degree of participation in militant activities not previously reported.

b. Indications of present and future plans, to include the capability of the organizations to effectively carry out such plans. Include specific details concerning the above, including targets of proposed activities, degree of militancy expected, number of participants and coordination with other militant organizations.

c. Indicators as to any joint sponsorship of demonstrations, rallies or other disturbances with civil rights, militant black power groups, and leftist organizations. Reporting should include all available information concerning relations with other extremist groups in all forms of activity, to include planning seminars, discussion group meetings, joint statements to the press and other efforts designed to afford closer coordination among these groups.

d. Training of members and leaders, to include number of participants, type of instruction, duration and tonics of instruction at each training session. Reports should include, insofar as possible, a breakdown of the topics involved with instruction and a brief description of the subject matter discussed.

e. A determination as to the origin of funds utilized by the individuals/organizations to include identification of donors, amount of funds received from each source, and information indicating support from leftist or extremist organizations.

### *Category E, Extremist in the Armed Forces—CCN:* 9036–9945

a. Provide all available information concerning military personnel under military jurisdiction who become involved in the following activities:

(1) Make statements which indicate that they favor violence, if necessary, for Negro attainment of their goals.

(2) Are leaders of racial demonstrators or disturbances during which participants are urged to engage in acts of violence.

(3) Are involved in the thefts of weapons which may be targeted for use by black extremists.

(4) Engaged in recruitment activities for such extremist groups as the Black Panther Party, the Student Non-Violent Coordinating Committee, or the Revolutionary Action Movement.

(5) Any extremist whose background indicates militray training in guerrilla warfare, counterinsurgency, or the use of explosives and demolitions.

b. The following information is desired when personnel are reported under provisions of the preceding paragraphs:

(1) DPOB of the individual

(2) Present duty station

(3) Home of Record (HOR)

(4) Expiration of Term of Service (ETS)

(5) Destination upon ETS (if different from HOR)

### *Category F, Demonstrations, rallies, parades, marches, conventions, conferences and picketing activities—CCN: 8051-9291*

a. Identification by name of extreme right and/or left wing dissident organizations expected to participate in scheduled or anticipated demonstration, and number of participants each can be expected to mobilize for protest activities. This will include information suggesting alliances, ad hoc or more permanent, between such organizations or their representatives.

b. Details concerning specific types of protest activities expected to occur, to include demonstrations, counter-demonstrations, rallies, sit-ins, picketing, and other forms of either non-violent or violent protestations, such as bomb threats within the activity area.

c. Indications of dissident or militant group plans for exploitation of the activities, to include dissident or militant influences on participating, local organizations by militants from other areas of CONUS.

d. Indications that militant factions plan to stage violent confrontations with local law enforcement officials under the pretext of participating in peaceful, anti-demonstrations, either outside or inside the activity area.

e. Identification of all personalities involved, or expected to become involved, in protest activities, to include leaders or "activists" of local dissident groups and leaders, representatives, or speakers of national or regional organizations.

f. Details concerning transportation arrangements made by, or on behalf of, visiting, non-local demonstrators during or prior to the convention to include chartering of and reservations for buses, trains, planes, and private automobiles.

g. Details concerning housing facilities, offices, or bases of operations to be used by visiting demonstrators or groups, to include non-commercial facilities, such as churches and private homes.

h. Themes and issues of protest or demonstration, whether local, national or international, especially when they cite specific foreign sponsorship or agreement, will be identified.

i. Extent of overt financing, as well as covert financing, to include source of funds, extent of funding and planning for utilization of funds available or committed.

j. Any indication of outside (foreign) influence, direction, support or leadership, to include identification of foreign individuals and their role in connection with any activities to disrupt the convention, conference, etc.

k. Any additional information which in the judgment of group commanders may be significantly related to these activities and the disruption of same.

### *Category G. Foreign Element Participation or influence in civil disturbance—Con: 9036-9944*

a. What financial, ideological, political, or propaganda support is being officially offered to American organizations in order to further CONUS civil disturbances?

b. What unofficial support for these organizations is known or suspected?

c. Through what channels and by what methods do official or unofficial support from foreign governments reach American individuals and organizations?

d. What private organizations are engaged in aiding American organizations?

e. What is the nature of support received by American organizations from these sources?

f. What channels of dissemination are used by private foreign organizations in order to support American groups?

g. What position is taken by the news media toward CONUS civil disturbances?

h. To what extent is the position of the news media influenced by the official governmental positions?

i. What effort has been made by organizations to obtain financial support for American organizations?

j. What methods are used to provide this support to American organizations?

k. What conferences, seminars, and other dealings have organizations conducted in order to discuss American civil disturbances or gather support for American organizations?

l. What mass demonstrations have occurred to support American organizations active in civil disturbances or to protest the quelling of these disorders?

m. What are the details of travel and contacts for American activists in civil rights organizations who have attempted to obtain support for these organizations or causes in foreign countries?

n. What organizations and individuals are engaged in financing such travel?

o. How are the visits of such individuals received by the news media and the public?

### *Category H, Strikes and labor disturbances—CCN:8051-9288*

a. Identification of individual leaders and members of the striking union to include background information as well as official titles or position and degree of participation in previous strikes and/or labor disturbances. Only those individuals who are provided news media coverage are of reporting interest. No investigative action is required to satisfy this requirement inasmuch as only that information on leaders available in your local files and through news media contacts is desired.

b. Indication of present and future plans, to include the capability of carrying out any acts of violence or disturbances.

c. Indications of the presence of "underground" labor instigators.

d. Indications of migration of large numbers of leaders to the affected area.

e. Issues, both published and unpublished, involved in the labor dispute or strike.

f. Indications whether the labor dispute is the result of wage and/or employee benefit negotiations without racial issues or arising from disparity of average income between whites and non-whites.

g. Indications of declining rapport between law enforcement officials and the striking union and/or the union leadership.

h. Information concerning degree of opposition that may be expected by Military Forces if called upon to maintain or restore order.

### *Category I, Dissidents/Subversive in Civil Disturbances—CCN: 9086-9030*

a. Formation of a covert subversive organization directed against legally constituted government.

b. Evidence of or attempts by subversive organizations to penetrate and control civil rights or militant organizations composed primarily of non-whites.

c. Collaboration between subversive groups and non-white organizations and groups.

d. Assistance to non-white militant groups from outside the USA, especially from Cuba and Communist China.

e. Indications of movement into extremist, integrationist, and segregationist groups by the Communist Party of the USA, American Nazi Party, Nation of Islam, Knights of the Ku Klux Klan, and the Progressive Labor Movement.

f. Aims and activities of groups attempting to create, prolong, or aggravate racial tensions, such as CORE, NAACP, ANCC, National States Rights Party, Southern Christian Leadership Conference, and Council of Federated Organizations.

### *Category J, Thefts of weapons and ammunition—CCN: 8050-9283*

a. Indicators of possible violence prior to outbreak of civil disorders.

(1) Theft or unexplained loss of any quantity of arms or ammunition from facilities of the Active Army, Reserve, National Guard or the ROTC.

(2) Identification, to include all personalia available, on individuals, groups or organizations known or suspected to be connected with the theft, illegal purchase or acquisition by any other means of arms and ammunition.

(3) Identification, to include all personalia available, on military personnel (Active Army, Reserve, National Guard or former military) who are suspected of or arrested for illegal possession, theft, sale of arms and ammunition in connection with a misdemeanor or felony, known or suspected.

(4) Recovery of arms or ammunition by local, state, federal or military authorities resulting from arrests, raids, and seizure of arms and ammunition.

(5) Theft or unexplained loss of any quantity of arms or ammunition from civilian companies or industries. Include within this category reports to local of state law enforcement officials by private individuals, gun stores or pawn shops of the theft of arms or ammunition.

(6) Indicators as to significance or impact of the inauguration of, or changes to local, state or federal law(s) or ordinances dealing with the sale, possession or employment of arms by individual private citizens, minority groups or white or non-white militant elements.

(7) Indicators as to significance or impact of known or suspected illicit arms traffic into a city, or within a county or state, or among states in relation to an increase in the crime rate among both white and non-white minority groups.

(8) Known, suspected or rumored plans, operations, deployment, tactics and amounts of weaponry in the possession of individuals, groups or organizations whose installations and goals are to reduce U. S. military capabilities of military installations and facilities as well as those elements of a Federal Task Force Pq which has contingency planning responsibilities for the area(s) in question in dealing with a civil disturbance.

b. Indicators during a civil disturbance:

(1) Continue covert collection and reporting on requirements outlined in para a(1) thru (5) and (7) and (8) above.

(2) Additional sources of illegal acquisition and employment of weaponry used by

either white or non-white militants to include price lists for purchase of these arms and ammunition.

(3) Evidence of underground sources of arms and ammunition whether from hidden arms caches within the area or whether brought into the area of the disorder by legal or illegal interstate shipment through dummy (cover) organizations or companies.

(4) Identify source(s) of funds for the purchase of these weapons.

(5) Location of incidents involving sporadic sniping or guerrilla-type armed sweeps into suburban areas outside the area(s) of the initial civil disorders. Subsequent arrest, identification of weapons seized and detailed personalia on any individuals involved with armed violence activities.

(6) Reports of casualties, both of victims and instigators, involved in incidents of armed violence. Include time, place, nature of the incident and identity of any weapons seized from instigators.

(7) Known, suspected or rumored plans, operations or raids on U.S. military installations, armories or other military facilities by either white or non-white militants pertaining to the resupply of arms and ammunition seized from or otherwise lost to the militant elements as a result of aggressive action by local, state, National Guard or Federal Troop elements.

### 6. (C) BACKGROUND INFORMATION

a. References: (1) AR 381–130, 18 Dec 64; (2) AR 500–50; (3) AR 500–60; (4) Section VI, Chapter Four, USAINTC Regulation 380–100; (5) DA Civil Disturbance Plan (U), 10 Sep 68; (6) DA Civil Disturbance Information Collection Plan (U), 2 May 28; (7) USAINTC Civil Disturbance Plan, OPLAN 100–68, 1 Mar 68 and changes 1 and 2 dated 1 Sep 68 and 21 Jan 69; (8) USAINTC Regulation 381–1, 29 Nov 68.

b. Information developed by your Group in response to the EEI outlined in para 5, above, will be reported by Spot Report (electrical message) priority precedence, utilizing the USAINTC Spot Report format outlined in Section III, Chapter Five, USAINTC Regulation 380–100. In forwarding the Spot Report, the address should include reference to the category code indicated in para 4b, above. For example CG, USAINTC, ATTN: SOD–A, C, H. Para 3 of the Spot Report will contain the subject of the report itself (not the subject of this Lead Sheet).

c. Spot reports will be followed up with Agent Reports (DA Form 341) or Summary of Information (DA Form 568), in duplicate, *if appropriate*. The Spot Report Number, plus the Category Code should be included in Item 3, Agent Report (together with dossier number of subject, if known) and in the "Preparing Office" block of the Summary of Information (together with dossier number). For example "108-9071-121-ICP-A, C, H." A partial list of organizations and dossier numbers is included in para 7, below. Agent Reports will accompany all exhibits. The subject of the Agent Report or SOI will be the subject of the report itself (not this lead sheet).

d. A determination whether the Autovon (unclassified) message channel or the classified message channel is to be used will be made based on the content of the message, the need to protect the sources or subsources of the information and the requirement for expeditious onward transmittal by this headquarters of a highly perishable intelligence product to Task Force, CONARC and Department of Army level.

### 7. (C) SPECIAL INSTRUCTIONS

a. Maximum utilization of continuous liaison and all overt sources available will be made to satisfy this requirement.

b. Emphasis on reporting will be continuous within the established priorities, defined as follows:

(1) Priority 1: Information concerning the existing civil disturbance/subversion threat against U.S. National interests, the realization of which could result in large-scale riots and commitment of Federal troops. This category of information is of such importance as to warrant maximum increased effort.

(2) Priority 2: Information concerning a potential civil disturbance/subversion threat against U.S. National interests, resulting from nationwide local racial incidents, deliberate provocations or regional difficulties which could result in limited involvement of U.S. Forces. This category of information is of such importance as to warrant moderate increased effort.

(3) Information concerning natural phenomena and human adaptations, their interrelationships and effects on the civil disturbance situation in the nation. Collection of this information warrants routine effort.

c. Extensive photo coverage of the civil disturbance activity in this plan is desired and will include photos of known or suspected leaders or members of any white or non-white dissident/militant group, organization or element. In all cases full identifying data concerning personalities, elements or activities depicted in the photograph will appear on the reverse side of the photo. Also, the date, time, location and identity of the source of the photo will be included.

d. Full utilization of telephoto lens equipment is directed to minimize the possibility of direct involvement by MI Group personnel in the conduct of peripheral photographic coverage. Liaison with and utilization of local press and press wire-service agencies for the acquisition of photography is encouraged. In this regard, expenditure of ICF is authorized in the accomplishment of this coverage. Photography (both black and white and color, still and motion picture) available through the Task Force Army Photographic Teams may be utilized when the Task Force is committed.

e. Development of covert intelligence collection sources to satisfy the requirements of this lead sheet is prohibited unless specifically authorized by the Commanding General, this Command.

f. In all cases where MI agents are called to AFEES based on a qualification of DD Form 98/398, Agents will endeavor to ascertain whether such qualifications were made based on instructions from an anti-draft group. Extreme care will be taken to determine this information indirectly unless Subject makes an admission to the effect to either AFEES or Agent personnel. Agents will NOT repeat, NOT ask a direct question during the course of the subject interview or during the taking of a sworn statement as to whether subject has been instructed to qualify his DD Form 98/398.

g. Coordination with the local Federal Bureau of Investigation, Secret Service and other federal agencies will be effected in the collection and reporting of information in response to the Essential Elements of Information set forth above. Exchange of information with interested agencies at the local level on a timely, continuous basis is encouraged.

h. The following is a partial list of organizations, with dossier numbers, of intelligence interest. Reports concerning these organizations will be prepared with exact title, as indicated, and with the dossier number. Other subjects will have the dossier number entered by this command, but subject will be the name of the organization, personality or activity.

### ORGANIZATION AND DOSSIER NUMBER

African-American Student Movement (AASM).

Afro-Afro-Americans Against the War in Vietnam (AAWV), ZB 02 21 63.

Afro-Americans Unity Movement (AAUM), ZB 50 28 28.

Afro-Americans Youth Movement (AAYM).

American Friends Service Committee (AFSC), ZB 00 02 00.

American Nazi Party (ANP), ZB 00 93 32.

Americans for Democratic Action (ADA), ZA 00 17 81.

American Mau Mau (AMM), ZB 50 12 19.

Atlanta Alliance for Peace (AAP), ZB 50 12 68.

Anti-Draft Union (ADU), ZB 50 17 04.

American Liberation Front (ALF), ZB 50 13 93.

Black Panther Party (BPP), ZA 02 21 64.

Blackstone Rangers (BR), ZB 50 18 83.

Black Nationalist Party (BNP), ZA 01 87 02.

Black Nationalist Movement (BNM) ZB 02 08 74.

Brown Berets (BB), ZB 50 19 17.

Black Student Union (BSU), ZB 01 85 22.

Committee for Fifth Avenue Vietnam Peace Parade (CFAVPP), ZB 02 12 68.

Committee for Non-Violent Action (CNVA), ZB 00 87 79.

Communist Party, USA (CPUSA), ZB 09 01 10.

Congress of Racial Equality (CORE), ZB 00 14 77.

Chicago Area Draft Registors (CADRF), ZB 50 12 87.

Clergy and Laymen Concerned About Vietnam (CLCAV), ZB 50 05 27.

Draft Resistors Union (DRU), ZB 50 14 59.

Draft Resistance League (DRL), ZB 50 14 59.

Fifth Avenue Peace Parade Committee (FAPPC), ZB 02 12 68.

Fifth Avenue Vietnam Peace Committee (FAVPC), ZB 02 12 68.

Institute for the Study of Non-Violence (ISNV), ZB 50 03 86.

Interfaith Peace Mission (IPM), ZB 50 10 64.

Mau Mau (MAU), ZB 50 43 18.

Minutemen (MM), ZA 01 83 19.

Nation of Islam (NOI), ZB 00 96 10.

National Association for the Advancement of Colored People (NAACP), ZA 00 04 02.

National Committee for a Sane Nuclear Policy (SANE), ZA 00 90 26.

National Coordinating Committee to End the War in Vietnam (NCCEWV), ZA 02 11 81.

National Liberation Front (NLF), ZA 01 40 22.

National States Rights Party (NSRP), ZA 00 90 97.

National Mobilization Committee to End the War in Vietnam (NMC), ZB 50 04 66.

National Socialist White People's Party, ZB 00 93 32.

Peace and Freedom Movement (PFM), ZB 50 20 65.

Peace and Freedom Party (PFP), ZB 50 36 57.

Progressive Labor Party (PLP), ZB 01 40 26.

Revolutionary Action Movement (RAM), ZB 01 11 36.

Resist (R), ZB 00 82 95.

Resistance, The (TR), ZB 00 82 95.

Socialist Workers Party (SWP), ZB 00 00 63.

Southern Christian Leadership Conference (SCLC), ZB 00 87 94.

Southern Student Organizing Committee (SSOC), ZA 01 85 88.

Student Non-Violent Coordinating Committee (SNCC), ZB 01 13 29.

Student Peace Union (SPU), ZA 01 07 70.

Students for a Democratic Society (SDS), ZB 01 64 44.

Students for Democratic Action (SDA), ZA 00 16 32.

US (US), ZB 50 13 48.

US II (USII), ZB 50 p7 69.

Veterans and Reservists to End the War in Vietnam (VREWV), ZA 02 17 70.

Veterans for Peace in Vietnam (VPV), ZB 02 18 03.

War Resistors League (WRL), ZB 00 06 53.

W.E.B. DuBois Clubs of America (DCA), ZB 01 51 19.

Women Strike for Peace (WSP), ZB 01 36 95.

Workers World Party (WWP), ZB 00 95 39.

Young Socialist Alliance (YSA), ZB 00 88 52.

Youth Against War and Fascism (YAWF), SB 01 43 51.

8. (U) CANCELLATION

The following Lead Sheets, DA Form 339, are cancelled upon receipt of this plan:

a. Anti-War Individuals, Organizations and Demonstrations (Non-Militant) Re: Civil Disturbance 1968, dated 23 Feb. 68, Case Control Number 8051–9291.

b. Militant Organizations, Groups or Individuals Re: Civil Disturbance 1968, dated 21 Feb 68, Case Control Number 8051–9289.

c. Strikes and Labor Disturbances Re: Civil Disturbances 1968, dated 21 Feb. 68, Case Control Number 8051–9288.

d. Legal Aspects Re: Civil Disturbances 1968, dated 21 Feb. 1968, Case Control Number 8051–9287.

e. Theft of Weapons and Ammunition Re: Civil Disturbance 1968, dated 28 Feb. 68, Case Control Number 8050–9283.

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## MILITARY BLACKLISTING OF 15 UNIVERSITIES DEPLORED

## HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DRINAN. Mr. Speaker, the blacklisting of some 15 universities by the Pentagon because they have phased out ROTC continues to bring protests from many quarters. I reprint here a letter from Senator EDWARD BROOKE, Republican of Massachusetts, under date of February 17, 1972, both to Secretary John H. Chafee of the U.S. Navy and to the Honorable Melvin Laird, Secretary of Defense.

U.S. SENATE,
*Washington, D.C., February 17, 1972.*

(Identical Letter to Laird)

Hon. JOHN H. CHAFEE,
*The Pentagon,*
*Washington, D.C.*

DEAR JOHN MEL: I have been particularly disturbed by a decision recently taken by the Department of the Navy to "blacklist" fifteen prominent American colleges and universities. Apparently in retribution for action taken by these colleges and universities to phase-out ROTC programs on their campuses, the Department of the Navy has prohibited any of its personnel from pursuing academic degrees at these institutions.

I believe we share a common philosophy of civilian/military relationship: the military serves the nation as a whole, and insofar as it is isolated from any segment of public opinion, its effectiveness is proportionately reduced.

I do not fear that the men and women in our military service who are pursuing academic degrees are in any danger of being "corrupted" by the anti-military arguments. Their presence on campuses where this view is prevalent can, in fact, contribute to the increased degree of understanding which is so vital to the national unity and harmony which we seek.

Furthermore, action such as the Navy has taken in this instance ignores the many other valuable connections which most of these institutions maintain with our military services: the research programs, the advisory roles of faculty members, and in the case of at least one Massachusetts university on the list, a very popular and productive overseas graduate education program for military personnel. Are these programs to be terminated?

The Navy's unilateral action in this instance is not taken at the request of the Congress. It is, in my judgement, an overreaction to one committee's discussion of possible legislative action, which would have to receive the full consideration of both Houses of Congress.

The concern of the Department of the Navy, and of many of my colleagues, regarding certain "anti-military" views which have been expressed in our society are clearly understandable. But actions such as the one to which I refer in this letter can only serve to widen the gap, and to expand the grounds for public criticism.

I urge, most sincerely and urgently, that this action be rescinded.

Sincerely yours,

EDWARD W. BROOKE.

I attach below an editorial from the Boston Globe under date of February 24, 1972, with the title "Childishness in Washington."

CHILDISHNESS IN WASHINGTON

Representative Robert F. Drinan (D-Mass.) has unearthed a story, which Secretary of the Navy John H. Chafee confirmed, that career officers have been banned from taking government-financed graduate courses at 15 colleges and universities because they are phasing out Reserve Officer Training Corps programs.

The list includes four in Greater Boston: Harvard, Tufts, Boston University and Boston College. A similar blacklist of 10 educational institutions has apparently been drawn up also by the Army and Air Force.

Apparently the idea originated during closed hearings of the House Armed Services Committee last July. According to Mr. Chafee, the committee said it was "morally wrong for the military to spend dollars sending students to a particular college or university which has chosen not to cooperate with the military service . . ."

We find it difficult to imagine a more childish and indeed self-defeating reaction on the part of those who decide policy in the Pentagon and in the committee which, during World War II, used to be known on Capitol Hill as "The Store."

For one thing, it seems ludicrously akin to picking up one's marbles and going home. For another, it is bound to impress many a college administration as a bit of attempted blackmail. And for a third, it will provoke a serious question as to whether the military complex is to rule the civilian sector, or vice versa.

We would suggest that the Defense Department might do better to emulate the diplomacy and tact of the State Department, many of whose top career officials received their training at Tuft's Fletcher School of Law and Diplomacy. Such an approach would be more effective than the boycott in ending this nation's divisiveness.

Instead, all that emerged from the Pentagon the last few days was a bunch of contradictory statements that resembled an army marching in all directions.

The concluding words of the Boston Globe editorial to the effect that the Pentagon in the last few days has issued "a bunch of contradictory statements that resembled an army marching off in all directions" has been verified in my experience in trying to get from the Armed Services a straight answer to the question of whether or not they have repealed or even modified the blacklisting of the 15 universities named in my complete explanation of this matter in the CONGRESSIONAL RECORD of February 21, 1972, at page 4755.

On February 22, the Department of Defense issued a statement which indicated that they would, in fact, send individuals to the most appropriate graduate schools if this is in the best interests of the Armed Services. The statement made reference to H.R. 2, a bill passed by the House of Representatives designed to establish a Uniform Services University of the Health Sciences.

This statement of the Defense Department was, however, quickly rescinded due to the fact that the Department of Defense quickly realized that the language of H.R. 2 prohibits individuals from applying to those schools which are blacklisted because they have phased out ROTC.

On February 23, 1972, further mysteries in the position of the Department of Defense developed. In an informal meeting with newsmen by Secretary of Defense Melvin R. Laird and Deputy Secretary of Defense Kenneth Rush, Secretary Laird engaged in the following dialog.

Q. What is your position on whether or not the Defense Department will send graduate students to the Harvard School of Business and the Harvard Medical School?

Secretary LAIRD. I think I made a statement on that along with Congressman Hébert.

Q. What are we to make of the statement that the Pentagon put out yesterday in regard to the same thing, and last night Congressman Hébert said the statement had been withdrawn?

Secretary LAIRD. I understand the statement that was put out yesterday was in error because H.R. 2 does have a provision in it which would prohibit the use of those schools for medical students. I think it's on page 4 or 5 of the bill and the statement yesterday indicated that H.R. 2 did not have such a provision. The statement of yesterday is in error.

Q. What about the first sentence of yesterday's statement? Does that still stand?

Secretary LAIRD. I'd rather stay with the statement that I made which I think was very clear in this regard at the time that I testified before the House Armed Services Committee. Quite frankly I don't have a copy of the statement to which you refer of yesterday before me but I am sure that that statement has been withdrawn because it is in error. H.R. 2 does contain a provision and was passed by the House of Representatives and, as I understand it, several of the people that are criticizing the provision voted for the bill.

H.R. 2 passed by the House of Representatives on November 3, 1971, in a vote of 351 to 31, was designed to establish a Uniform Services University of the Health Sciences and to provide scholarships to selected persons for education in medicine, dentistry and other health professions.

In section 2121(c) this bill provided that:

> Members of the program authorized under the provisions of this chapter shall not be detailed as students to any institution of higher learning if that institution has adopted a policy which bars recruiting personnel of any of the Armed Forces from the premises of that institution only if such institution of higher learning has directed the disestablishment of Reserve Officers Training Corps units at the institution despite the desire of the Armed Forces to continue such training at the institution.

Secretary Laird may have favored this provision when he spoke on February 23, 1972, but the fact of the matter is that an official position statement of the Department of Defense submitted to the Senate Armed Services Committee on February 15, 1972, with regard to H.R. 2 had the following language:

> Q. Please comment on the provisions of the bill which would exclude from participation in the scholarship program, all students who are attending a school that has disestablished an ROTC unit or which bars Armed Forces recruiters from its campus.
>
> A. We do not believe that qualified applicants for participation in the proposed scholarship program should be denied such participation on the grounds that they are enrolled in a medical school that is part of a university which has disestablished an ROTC unit. We believe that many of these students strongly support, or are sympathetic to, our country's national security goals. In addition we are anxious to have as broad a medical school base as possible for our program in order to increase the likelihood of meeting our procurement goals.

The Department of Defense in its testimony of February 15, 1972—but not in the statements of Secretary Laird on February 23—is in agreement with Dr. John A. D. Cooper, M.D., Ph. D., the president of the Association of American Medical Colleges. On December 2, 1971, Dr. Cooper submitted the following statement to Senator JOHN C. STENNIS and the Senate Armed Services Committee:

> Although the House included provisions similar to S. 1317 in H.R. 2, it added one provision—not part of your bill—which is terribly disturbing. This is a proviso in section 2121(c) of H.R. 2 as passed by the House which prohibits scholarship aid for students who attend schools which have barred armed services recruiters from the campus or which have disbanded an R.O.T.C. unit. Such a proviso, if enacted, would limit rather than expand the production of health professionals for the armed services. Furthermore, it would impose an undue financial hardship on someone who had taken no part in (and may even have opposed) the action of a school barring recruiters or disbanding an R.O.T.C. unit. Because of these adverse implications of the House-added proviso, I urge you to omit any such language from the measure you recommend for action by the Senate.

Mr. Speaker, I attach herewith an article from the New York Times of Wednesday, February 23, 1972 which illustrates the confusion about this question on which the Pentagon clearly desires to have it both ways.

> PENTAGON SHIFTS STAND ON SCHOOLS—ROTC UNITS NOT REQUIRED FOR OFFICERS TO ENROLL
>
> WASHINGTON, Feb. 22.—The Pentagon said today that it would continue to send its officers to the best qualified and most appropriate graduate schools regardless of the institution's military posture and despite a pledge of retaliatory legislation by the chairman of the House Armed Services Committee.
>
> "If it is in the best interest of the armed services, they will send individuals to the most appropriate graduate school," read a two-paragraph statement by the Armed Forces Policy Council, whose membership includes the Secretary of Defense, the service secretaries, assistant secretaries of defense and the Joint Chiefs of Staff.
>
> The statement today followed disclosure last week by Secretary of the Navy John H. Chafee that the Navy—at the behest of Representative F. Edward Hébert, Democrat of Louisiana, who is chairman of the House Armed Services Committee—had barred its officers from graduate studies at 15 colleges and universities that have phased out Reserve Officer Training Corps programs.
>
> It was further revealed that the Air Force and Army had curtailed their educational programs at the 15 schools several months earlier after letters to the secretary of each service from Mr. Hébert.
>
> LETTER FROM HÉBERT
>
> In a letter to John Chafee, Secretary of the Navy, Representative Hébert wrote: "It is our hope that it will not be necessary to place a flat prohibition against sending students to these universities which have withdrawn from the R.O.T.C. program when we consider the procurement bill next year but if it is necessary to legislate on that subject then legislate we will."
>
> Public exposure of the letter touched off criticism from several quarters of Congress, including Thomas P. O'Neill, the third ranking majority member of the House.
>
> "If you are asking if we would still send an officer to Harvard for its superior business program in spite of the fact that it has phased out R.O.T.C., the answer is yes, we will."
>
> "But if an officer's choice of schools boils down to two institutions offering the same courses of study but where one had barred R.O.T.C. we would send the officer to the school maintaining the program," another Pentagon official said.
>
> "A HAPPY MEDIUM"
>
> "We are deliberately trying to reach a happy medium between the services' need and Mr. Hébert's," yet another military official said. "Don't forget we have to deal with this man."
>
> Officials said each officer's request to attend a graduate school would be handled on an individual basis and that if a prospective graduate student wished to go to a school that had dropped R.O.T.C. he would probably be allowed to go.
>
> Representative Hébert was in Louisiana when the statement was issued and could not be reached for comment.

In my judgment the least that the Congress of the United States can do is to insist that the authorities in charge of the military services in this country make available to all military personnel the best possible academic, scientific, and professional training in the land. The thought of boycotting certain universities because they have decided to exercise their clear right of no longer participating in ROTC programs should be repugnant to the military and to all fair-minded individuals. This type of pressure and blacklisting of universities introduces Government pressure for military objectives in an unprecedented way into the academic life of this Nation.

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## BELIEF IN THE ESTONIAN STRUGGLE

### HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. RODINO. Mr. Speaker, the heritage, traditions, beliefs, hopes, and dreams of a people bring to a nation its strength, creativity and its dynamism. So long as these embodiments remain, no system of repression, no force of captivity, and no degree of denial can stifle the life of a people. It is most important that we continually speak and act to reinforce these beliefs in the rebirth of freedom and independence, that we continually maintain our firm commitment and support for the final attainment of these ideals.

The 54th anniversary of the Declaration of Independence of the Republic of Estonia must not merely be acknowledged by us today but must be viewed as a time devoted to restating again and again the respect and honor we hold for the individuals of the Estonian Republic. We can never overstate our support for and our belief in their cause.

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## THE RURAL DEVELOPMENT ACT OF 1972

### HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. JONES of Tennessee. Mr. Speaker, yesterday the House of Representatives passed some of the most significant legislation that it will consider this year. The Rural Development Act of 1972 is a master work bill and much of the credit goes to Chairman W. R. POAGE, of the House Agriculture Committee. I believe Chairman POAGE was as pleased with this bill as any he has ever sponsored.

Credit also must go to my urban colleagues here in the House. I had prepared a speech yesterday that would have been used in trying to chide urban Representatives into supporting the bill. I was pleased this speech was not needed. It is a credit to the wisdom of this body that the idea behind this bill was supported by urban interests and rural interests alike. There were disagreements of course, on technicalities and methods, but by and large everyone realized its importance.

And it was important, because if rural America continues to lose population at the rate of 500,000 a year, it will soon be a wasteland. If urban America cannot shed some of its excess population to improved areas it will suffocate. The situation is near the breaking point and that is when we, Americans, generally set our machinery in motion. We have never been much on foresight, but no doubt we can correct the situation with some exertion.

I have spent most of my career wrestling with the problem of developing our great rural resources of land and labor. Since 1940 over 30 million people have left the farm for overpopulated cities. During those years I have seen and worked with dozens of programs to slow this movement. Obviously these plans were something less than successful.

However, my long years of experience tell me that the Rural Development Act of 1972 includes the qualities of a successful program. Enhancing these qualities is the fact that it is an idea whose time has come. The overwhelming support of this bill from the urban and rural, Democratic and Republican, testifies to this.

My optimism is based on several factors, one of which is that most of the program will be administered by an agency with unchallenged expertise. Farmers Home Administration is considered by many low-income rural residents to be one of the Federal Government's few redeeming qualities. This has nothing to do with welfare or handouts. FHA, by providing loans and advice in the correct proportions which in most cases has been more advice than loans, has developed into what is probably the Federal Government's most efficient and pragmatic agency. Now, under this act, FHA will serve more people for a greater variety of purposes.

I want to congratulate, again, Chairman POAGE and others on the Agriculture Committee, the urban Congressmen for their support, and I want to challenge all to see this bill through to implementation.

## SALUTE TO THE ELEPHANT CHEESEBOARD MAN

### HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. McKINNEY. Mr. Speaker, in his inaugural address, President Nixon urged that our efforts to aid the poor be characterized "by extending a hand up and not a handout." The philosophy underlying that phrase has been the guiding motivation of a friend and associate of mine—Bill Sangiovanni.

I reserve this space in the CONGRESSIONAL RECORD to salute Bill's efforts and to use his involvement with the people of Appalachia as an example to others of the type of social endeavor which creates a partnership between men to improve and enrich each other's lives.

Sange, as he is known to his friends, spent his vacation last year with a group of Glenmary Brothers at their mission in Vanceburg, Ky., learning about the people, their customs and their problems. Out of that summer came the firm conviction that the wood products, quilts, and copperware produced by the men and women of Appalachia, if given exposure in areas such as New York and Connecticut, would provide additional work and income for the people in that economically depressed area. With that belief in hand, Sange set out on a friend to friend campaign, displaying the products he had brought back from Appalachia to everyone he came across. In just 6 months, he has gone from a car loaded with quilts, lazy susans, and cheeseboards to a store in Westport, Conn.

His devotion and untiring efforts have not only increased the sale of Appalachian handicrafts but allowed Appalachian Industries to hire additional workers to meet the increased demand.

Sange has involved a wide range of people in this volunteer, nonprofit endeavor. A visit to the store in Westport will uncover young and old together donating a couple of hours of their time a week to man the cash register and chat with customers about Appalachia.

If we need an answer to the question of what is right with America, then let us look to people like Bill Sangiovanni who have seen need and then done something to alleviate that need. All too often we get bogged down in the daily routine of our lives and let opportunities to extend a hand pass by. Yet, here is a man who in spite of a career in political life which, if anything, is time consuming, has made the time to use his talents to aid the less fortunate. His involvement and that of his coworkers should stand as an inspiration to us all that we need not wait on the monstrous bureaucracy of Government to aid the poor but rather that good men willing to work can provide the opportunity for others to improve their living conditions. This is what volunteerism is all about.

## GIANT STEPS TAKEN TO DEVELOP BIG CYPRESS RECREATION AREA

### HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. BURKE of Florida. Mr. Speaker, the Nixon administration last week took a giant step toward preserving a fresh water supply area for millions of south Floridians, and at the same time preserving one of the most unique regions of the country when the President proposed that the Federal Government buy Big Cypress Swamp.

Last fall, I introduced legislation which would establish the Everglades-Big Cypress National Recreation Area so, I was happy when the administration proposed similar action. The preservation of this massive land area is long overdue and we can be thankful that no commercial development had been started near or on this area.

What will ultimately happen in the Big Cypress area, we do not know, but one thing we know is that any piece of land in Florida is subject to development of one form or another, because of the many benefits our State enjoys and the millions of people who wish to live in Florida.

It is strange to note how so few people realize that much of south Florida's fresh water supply stems from the Big Cypress watershed, and with the continued population increase in south Florida, fresh water could well be at a premium in the future.

There is more than a human need for water as we learned from the rash of fires that plagued and endangered the wildlife in Everglades National Park in recent years. The park, a 2,200-square-mile semitropical region, is the only recreation area of its kind in America, and many species of animals, birds, and fauna, not found anywhere else, can be found there.

Almost 56 percent of the Everglades Park water supply emanates from the Big Cypress area, located just north of the park.

Independent fisheries, as well as many Indians of the Miccosukee and Seminole Tribes, are dependent on the Big Cypress for their livelihood. In addition there are many visitors to the area who have found the wilderness excellent for fishing, hunting, camping, or just to get away from the problems of every day city life.

Suggestions have been made to preserve the area, including one that local or State restrictions be placed on the use of any of the land presently owned by some 21,000 different owners. However, regrettably restrictions can often be circumvented or changed to suite the whims of certain groups or individuals. This area is far too valuable to allow it to be corrupted by man.

The Department of Interior and the Council on Environmental Quality, after making studies, recommended that the Federal Government purchase the 546,000-acre area for use as a recreation and watershed area.

Although the estimated cost of $156 million for this land might seem high, I think when one thinks of Florida land it will be, in the long run, a small amount to pay to preserve this last frontier of Florida wilderness.

## ESTONIAN INDEPENDENCE DAY

### HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. HOWARD. Mr. Speaker, today, in this Chamber, we commemorate the 54th Anniversary of Estonian Independence. It is ironic that, while we consider their former independence, the Estonians of today must live under a yoke of bondage—bound as if by heavy chains to the Soviet Union.

The proclamation of Estonian independence in 1918 brought to fruition the hopes of the Estonian people, who, throughout their history had struggled courageously against great odds to maintain their culture and to achieve a national existence. The incorporation of Estonia to the Soviet Union in 1940 brought to a standstill the efforts of a new and progressive government in that country—efforts which were bringing to fulfillment the desires of the people for education, technological productivity and social progress. While destroying their independence, however, this annexation could not destroy the desire in the hearts of all Estonians for freedom and self-determination as a nation. The Estonians of today continue in this heritage of free hearts and minds, despite the dark reality of forcible bondage to the Soviets.

In the free world, hearts and minds go out in sympathetic moral support of these valiant, freedom loving people. We are here today to reaffirm our support and pledge our continuing hope and prayers for their eventual independence.

A poet once said:

> Hope is the belief, more or less strong, that joy will come.

The joy for which we are all hoping is an independent Estonia once again numbered among sovereign nations of the free world community. I know this hope is strongly held by all of us in this Chamber today.

In a reaffirmation of his hope, I would request permission to reprint House Concurrent Resolution 416, passed in the 89th Congress, affirming our support and calling on our Government to bring worldwide attention to the plight of these brave people.

The resolution follows:

HOUSE CONCURRENT RESOLUTION 416 ADOPTED BY THE HOUSE OF REPRESENTATIVES BY A RECORD VOTE OF 298 YEAS TO NO NAYS ON JUNE 21, 1965, AND UNANIMOUSLY PASSED BY THE UNITED STATES SENATE ON OCTOBER 22, 1966

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

*Resolved by the House of Representatives (the Senate concurring)*. That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

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## AN ECONOMIC IMPACT REPORT REGARDING REDUCED TIMBER SALES IN THE FLATHEAD NATIONAL FOREST

### HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. SHOUP. Mr. Speaker, concern for proper management of timber resources on public lands is a vital issue to all Americans. It has special meaning to those who live in western Montana.

The harvesting of timber products from public lands forms the largest share of our economic base. To date an abundance of conservation data has been made available but I have noted a lack of information on the local economic effect of a policy change in timber management.

I feel, as I am sure most do, that before hard and fast decisions are made that all aspects must be investigated in their proper priority.

For this reason, I have requested the chamber of commerce of Kalispell, Mont., a community of some 20,000 people whose prime economic base is timber harvesting to advise me on the economic aspect of proposed timber management policies.

Mr. Speaker, I insert this report in the RECORD, as follows:

AN ECONOMIC IMPACT REPORT REGARDING REDUCED TIMBER SALES IN THE FLATHEAD NATIONAL FOREST

FOREWORD

This report was developed by the special Timber Resources Coordinating Committee of Kalispell, Montana to show the economic effect of reduced timber sales in the F.N.F. as projected by the U.S. Forest Service. It should be pointed out that source material used for this report showed some variation in statistical information and projections developed from that information. Whenever such variations were encountered the most conservative figure available was used.

The committee was formed at the request of Congressman Dick Shoup to determine these economic effects and identify and seek solutions for problems of timber and land management in the F.N.F. which have resulted in reduced timber sales.

The report shows that a very negative effect on employment and the general economic health of the area results when timber sales are reduced. This result becomes even more significant when the fact is considered that Flathead County has been declared eligible to receive Federal assistance through the Economic Development Administration because of chronic high unemployment rates.

The economy of Flathead County is directly related to the forest products industry. Any action which increases or decreases the level of activity for the forest products industry enhances or strains the economy. The 10 year Flathead Working Circle Management Plan adopted in 1969 for the Flathead National Forest has stated the allowable cut to be 181.6 million board feet of log scale. Presently, this plan has been modified to reduce the amount of timber harvested to 129 million board feet or a reduction of 52.6 million board feet. The results of this reduction will have an adverse effect upon the economy of Flathead County.

In 1971 the forest products industry in Flathead County harvested 250 million board feet of timber from Federal, State and privately owned lands. The Montana Employment Security Division estimates that 1,825 people were employed in this effort. This means that for every million board feet of timber harvested and converted to usable forest products, 7.3 man years of labor was required. Therefore, it is realistic to assume that for every million board feet the timber harvest is reduced seven jobs are lost. The proposed reduction of 52.6 million board feet will result in an aggregate loss of 368 jobs. In 1968 the average annual salary for the forest products industry was $6,700. Since wages for this industry have been increasing at approximately three percent per year, a conservative estimate of the 1972 annual wage is $7,300. The reduced employment will result in an annual reduction of $2,687,000 from forest products industry payrolls.

The job loss in the basic manufacturing industry is only the tip of the economic ice berg. For every job in the manufacturing, two jobs in the service field result.[1] That is, store clerks, mechanics and professional people are dependent upon the money the manufacturing segment spends. As the manufacturing work force decreases by 368 jobs the service field reduction is double that amount or 736 annual jobs are lost. The estimate 1972 annual income in this service field for Montana is $5,500.[2] The aggregate payroll loss for the service field segment will be $4,048,000.

By combining the loss of employment for the manufacturing and service segments, a total of 1,104 jobs will be lost due to the reduction of 52.6 million board feet of timber to be harvested. This will cause a total loss of $6,735,000 from the tootal income of the county.

*The effect on County Taxes:* The effect on county taxes is twofold. Unemployment will result in a reduction of tax revenue and an increase in welfare costs. The former can be determined on a specific dollar and cent basis, the latter is more difficult to estimate.

On an average, the wage earner pays $155.08 in county property tax.[3] If 1,104 persons lost jobs due to the direct and indirect effect of reduced timber harvest, tax revenue for the county would decrease by $171,208. This, of course, is assuming that other employment was not available for them. Today unemployment is running approximately 11.4 percent of the county work force so employment for an additional 1,104 persons would be difficult. Only the most skilled would find jobs. The balance would migrate to more lucrative locations or apply for welfare assistance. It has been conservatively estimated that 104 persons would apply for welfare assistance. The average monthly per family payment is $98. Multiply this figure by 104 and a total welfare payment of $10,912 per month is the result. The annual cost would be $122,304.

In 1970 Flathead County collected $379,249 from the Federal Forest Service. By law the county receives approximately 25 percent of the revenue derived from the sale of timber which lies within the county boundaries. This figure is adjusted as KV funds (the cost of thinning and direct stand improvement) are first deducted from the total revenue with the county receiving 25 percent of the remainder. If stumpage prices average $20 per thousand feet log scale, the county's actual portion amounts to approximately $4 per thousand.[4] A decrease of 52.6 million board feet in the timber harvest results in a total reduction of $200,400 ear marked for Flathead County.

It must be acknowledged that the 181.6 million board feet of timber was the scheduled harvest for the forest products industry from the F.N.F. based on the Flathead Working Circle Management Plan adopted in 1969. The revised allowable cut is 129 million board feet. If this latter figure is adopted the forest products industry in the county must reduce its output resulting in a reduction of the present work force or must seek a raw material source from State and private timber holdings which, at best, are not adequate to make up for the amount of the proposed reduction. Further, it is important to the public interest that these state and private lands not receive excessive harvest pressure as will in all probability occur unless timber sales on federal land are raised to a level more in line with the projected sales outlined in the Flathead Working Circle Management Plan.

FOOTNOTES

[1] In 1970, 4,837 people were employed by manufacturing firms or in agriculture whose primary market was exterior to Flathead County. Nine thousand seven hundred twelve persons were employed in the service segment within the County. An apparent ratio of two service related jobs for every manufacturing job can be concluded.

These figures are further substantiated by a report prepared by Business-Economic Advisory and Research, Inc. for the Washington Forest Protection Association titled "the Role of Forest Lands in the Washington Economy". This study indicates a $1.00 increase or decrease in the forest products industry resulting in a $3.00 related increase or decrease in the economy of Washington

State. A 1 to 2 ratio of employment is realistic.

[2] In 1968 income per worker outside the Agricultural segment averaged $5050 annually. A projection of 2.75% increase per year would indicate that in 1972 the average would conservatively increase to approximately $5500.00.

Montana Economic Study Part 1.

The Montana Economy Volume 2 Chapters 2–4.

Bureau of Business and Economic Research, University of Montana; Missoula, Montana, June 1970 pp 3.49

[3] Impact Report—A study authorized and conducted under the supervision of the Flathead County Commissioners. 1971 pp 3.

[4] Average Stumpage cost for Flathead National Forest.

(Per thousand board feet)

| | |
|---|---|
| 1968 | $17.18 |
| 1969 | $30.40 |
| 1970 | $18.24 |
| 1971 | $18.32 |

An estimated cost figure for 1972 of $20.00 per thousand board feet is realistic in light of greater demand for available forest products. Forest Service is presently averaging approximately $25.00 per thousand board feet. The $20.00 cited in this paper is therefore conservative.

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## TVA ACCELERATES STRIP MINE RECLAMATION PROGRAM

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. EVINS of Tennessee. Mr. Speaker, in view of the current wide interest in strip mine reclamation and the importance of reclamation practices and procedures in surface mining, I recommend to my colleagues the annual report for the Tennessee Valley Authority for 1971. This report reviews the measures taken to restore property that has been strip mined under TVA contracts.

This report points out that more than 2,500 acres of strip mined land were planted and seeded and reclaimed last year—including 1,170 acres in Tennessee.

Because of the wide interest in this matter of strip mine reclamation I place in the RECORD herewith excerpts from the TVA Annual Report for 1971 which relate to this subject.

The excerpts follow:

STRIP MINE RECLAMATION

Mine operators complying with reclamation provisions in Tennessee Valley Authority coal contracts have planted and seeded more than 2,500 acres of strip-mined land with trees and grasses in the past year.

Included were 1,239 acres in Kentucky, 1,170 acres in Tennessee, and small acreages in Alabama, Virginia, and Indiana.

The reclamation work carried out by TVA suppliers during the year made a total of more than 10,700 acres where initial water control work and replanting have been completed in the five planting seasons since TVA adopted reclamation requirements in its contract awards for strip-mined coal.

Depending on site characteristics the revegetation may include trees, grasses, and legumes. More than 6 million tree seedlings have been planted.

The mine operator's obligation does not end with this initial reclamation work, but continues until enough time has passed to prove the reclamation effective to the satisfaction of TVA inspectors. So far TVA has issued releases on about 1,000 acres of reclaimed lands where work has been completed.

During the year TVA strengthened its reclamation requirements, taking advantage of experience gained in previous reclamation work and incorporating new technological developments. The new requirements include closer attention to the handling and placement of overburden, more stringent slope restrictions, structures to control water flow and siltation, and a continuous year-round vegetation effort using hydraulically-applied seed, mulch and fertilizer to provide quicker stabilization of disturbed earth.

Approximately one-half of the coal purchased by TVA comes from underground mines, and the balance from surface mines, reflecting the general pattern of production in the states where TVA buys coal. As early as the 1940's, TVA began to encourage reclamation of surface-mined lands, and since 1965 all TVA term coal purchase contracts involving surface mining have required reclamation of the land involved.

Nevertheless, in March 1971, three environmental groups filed suit against TVA, seeking a judgment that TVA's purchases of strip-mined coal do not comply with the National Environmental Policy Act of 1969, and to enjoin purchases of coal under four TVA contracts. TVA has moved to dismiss the suit. Counsel for TVA consider that the agency has fully complied with the Act and that the suit is without merit.

Unreclaimed strip mining can produce serious environmental damage, but TVA believes that use of proper strip mine reclamation practices can prevent this damage and that it is not necessary to abolish this mining method and would be unwise to do so.

Coal procured by the strip mining method is essential to the Nation's energy needs. TVA's policy with respect to strip mining is based on the belief, demonstrated in practice, that the lands from which the coal is taken by this method can be reclaimed to useful conditions as good or better than those existing before mining; that the cost of reclamation must be included in the cost of coal; and that the achievement of reclamation, on a comprehensive basis applicable to all surface mining, can be assured only by stringent legislation, strictly enforced. All states in which TVA purchases coal now have state reclamation laws. TVA helped develop legislation which was pending at year's end to strengthen Tennessee's law.

TVA has promoted the adoption and vigorous enforcement of strip mine laws by each state in which mining is carried on, with regulations tailored to the unique needs of the particular area. However, on a national basis, since many states have failed to enact and enforce adequate controls, TVA favors the enactment of Federal legislation which would recognize state responsibility but provide guidelines and standards that will ensure overall environmental protection.

New developments in TVA's continuing research to develop improved reclamation methods include an innovative "bullet planting" technique. With this method—which has produced favorable results in tests over a 3-year period—pine seedlings grown in plastic tubes ("bullets") are planted with a pedal-operated cylinder or "gun." Studies continue on wildlife plant survival on toxic mine spoils; tests of hydraulic seeding methods; use of silt trap dams; and trials with grasses, legumes, pine trees, and fertilizer.

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## VOTING REPRESENTATION FOR THE DISTRICT OF COLUMBIA

### HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. GUDE. Mr. Speaker, there is great interest in the Washington area in obtaining voting representation in Congress for the residents of the District of Columbia. Many of us believe that such representation is long overdue.

WTOP radio and television broadcast an editorial on February 2 and 3 in support of voting representation and in praise of my Maryland colleague, Congressman LAWRENCE J. HOGAN. As a member of the Judiciary Committee, he has helped push voting representation along. As the editorial notes, he has been "persistent" in his efforts to right this local "perversion of democracy."

Here is the text of the editorial:

A WTOP EDITORIAL

The House Judiciary Committee is scheduled to vote next week on a proposed amendment to the U.S. Constitution which would grant to the District of Columbia full voting membership in both houses of Congress. Such an amendment would have very great merit.

Particular acknowledgment is due the persistent support for the measure by Congressman Larry Hogan of neighboring Maryland, who sits on the committee. Indications are that trouble will develop not in the Judiciary Committee but farther down the road—in the House Rules Committee and in the Senate.

The heaviest flak will be aimed at the part of the amendment which would award the District two seats in the upper chamber. The 50 states, it is said, won't look kindly on a dilution of their representation in the Senate, and incumbent members of the Senate won't welcome any dilution of their considerable power.

The political realities are all too clear, but so is the underlying principle. A couple of years ago, we calculated that in the last three decades D.C. citizens paid upwards of twelve billion dollars into the federal treasury without a shred of political representation in the body which levied those taxes.

That perversion of democracy may have made sense to some people back in the 18th century when the District was home to a relative handful of souls, but it makes no sense at all in the 20th century for a District which contains three-quarters of a million people—more, in fact, than many states.

The dilution argument made about seats in the Senate is vacuous under the circumstances of recent history. Where was that mighty doctrine when the residents of the Territory of Alaska and the Territory of Hawaii were welcomed into the Senate family?

The entire nation needs to be mobilized on this issue to persuade a reluctant Congress to allow 764,000 federal citizens to have a voice in their own federal government.

This was a WTOP Editorial . . . Norman Davis speaking for WTOP.

## THE RETURN OF LOBOTOMY AND PSYCHOSURGERY

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### HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. GALLAGHER. Mr. Speaker, I rise today to insert into the CONGRESSIONAL RECORD one of the most shocking documents I have ever seen. "The Return of Lobotomy and Psychosurgery," by Dr. Peter R. Breggin has not been previously published and represents the first critical review of the current resurgence of this mutilating operation on a wide scale. Dr. Breggin covers the world scene in the first section, concentrates on its use in the United States in the next two sections and concludes with a sensible program for prompt action. His bibliography is extensive and indicates the depth of his research.

Psychosurgery is now being used to control so-called "hyperactive" children and it is even used on children as young as 5 years old. Dr. Breggin describes the frightening use of this surgery on individuals who suffer from "anxiety" and "tension" and other forms of behavior which might be classified as neuroses, and he documents an increasing tendency to select women, older people and now children as targets. He cites dozens of on-going projects.

While there was a strong negative response to the original wave of psychosurgery which claimed up to 50,000 victims in the United States alone, this human revulsion was not widely expressed in the medical literature. I have been informed that the decline of lobotomy in America during the late 1950's was because of the increasing use of electroshock and drugs, not because of any public or professional outcry. This current wave of lobotomy and psychosurgery of all forms should be met with a prompt public interest and, in no case, should it be allowed to spread without informed scrutiny. Dr. Breggin performs a distinct public service by bringing forward an immense amount of information which has hitherto been buried in somewhat arcane journals.

Because of the nature of this unpublished material which I will insert, a few words about Dr. Breggin are in order. He is in private practice here in Washington and is on the faculty of the Washington School of Psychiatry. His training began at Harvard where he majored in social relations and graduated with honors. There he led the first large scale student-run mental hospital volunteer program which became a model of patient rehabilitation in the final report of the President's Joint Commission on Mental Health and Illness—1961. He took his medical training at Case Western Reserve in Cleveland and his psychiatric training at the New York Upstate Medical Center and the Massachusetts Mental Health Center, where he was a teaching fellow at Harvard Medical School.

Dr. Breggin has already written a much briefer paper without a bibliography which will appear in Medical Opinion and Review in March. He will give a paper analyzing the history and politics of psychosurgery at the Fourth International Congress of Society Psychiatry in May, and I am proud that Dr. Breggin has asked me to disclose the full details in a narrative form, complete with names, places, and descriptions of current and planned activities in this area.

Mr. Speaker, I have used the words "shocking" and "frightening" to describe what Dr. Breggin has disclosed. I am especially upset to discover that irreversible brain mutilation is being used on hyperactive children. When my privacy inquiry held a hearing on the use of behavior modification drugs on grammar schoolchildren in September 1970, we learned that there was nothing wrong with these children in the medical sense. It was behavior and behavior alone that created the diagnosis of minimal brain dysfunction and perhaps the only proper definition of that term was presented by Dr. Francis Crinella: "one of our most fashionable forms of consensual ignorance." At least 250,000 children, in all parts of the country, are now receiving drugs to mask the effects of MBD, but the drug therapy can be stopped. Nothing can undo brain mutilation, according to Dr. Breggin, and I am convinced that public debate must take place over the use of such irrevocable destruction of the creative personality.

Mr. Speaker, "shocking" and "frightening" are too mild to describe my reaction to this material. The following article, "The Return of Lobotomy and Psychosurgery," is copyright by Dr. Peter R. Breggin in 1972 and I think many Americans will be grateful to Dr. Breggin for allowing its publication in the RECORD. As a man who has been concerned about the erosion of human values for some 7 years and who has taken effective steps in the past to guarantee our citizens the right to pursue happiness in their own way, let me say that I am personally grateful to Dr. Breggin for his courage, scholarship, and humanity. I am proud to insert his copyrighted article in the RECORD at this point:

### THE RETURN OF LOBOTOMY AND PSYCHOSURGERY

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#### INTRODUCTION

The purpose of this report is to alert the American public to the details of a current resurgence of lobotomy and psychosurgery in America and around the world.

In lobotomy and psychosurgery parts of the brain which show no demonstrable disease are nonetheless mutilated or cut out in order to affect the individual's emotions and personal conduct. In each of the studies presented here, the expressed purpose will be the control of some form of behavior—most often aggressive behavior—or the blunting of an emotion, usually "tension" or "anxiety."

The surgical methods vary widely both here and around the world, including the old-fashioned "modified" pre-frontal lobotomy, essentially a mutilating operation in which the surgeon cuts a narrow slice through the midline base of the frontal lobes, partially incapacitating the highest and most refined functions of the human brain and the human being. These frontal lobes, the highest evolutionary organ in the human being, are also being attacked with ultrasound, electrical coagulations and implanted radium seeds.

Newer operations also attack the amygdala of the temporal lobe of the brain, the cingulum which lies beneath the frontal lobes between the hemisphere, the thalamus, hypothalamus and related structures. As you will see in this survey, the great body of evidence supports the notion that all these operations accomplish the same thing—a "blunting" effect upon the human's emotional responsiveness. They are partial lobotomies.

The first wave of lobotomy and psychosurgery, which claimed 50,000 persons in the United States alone, was primarily aimed at state hospital patients with chronic disabilities. The current wave is aimed at an entirely different group—individuals who are relatively well-functioning, the large majority of them with the diagnosis of "neurosis," many of them individuals who are still living at home and performing on the job.

Women constitute the majority of the patients, with old people and children as other large groups. In Japan, Thailand, and India, children have been large target populations for some time; but now in America, for the first time in many years, numbers of children are again being submitted to psycho surgery, particularly at the University of Mississippi, where O. J. Andy is operating on "hyperactive" children as young as age five.

The current rate of psychosurgery in the United States is difficult to ascertain, but you will be able to make your own estimates from the mass of material presented here, including about 1,000 cases since 1965 which have come to my personal attention during my informal survey and review of the literature. Three American psychosurgeons have accounted for more than 500 among themselves in recent years, and I have counted at least 40 individuals currently involved in psychosurgical projects. In addition, several psychosurgeons who will be quoted have estimated a current rate of 400–600 cases per year, and most important, every psychosurgeon agrees that we are just beginning to witness a massive increase in psychosurgery to rival the wave of 50,000 two decades ago.

There are a number of signals indicating the start of a major resurgence. A new International Association for Psychosurgery has been formed with an American, Walter Scoville, as its head. Many promotional statements are again appearing in print in widely circulated magazines such as *Newsweek*, *Medical World News* and *Psychiatric News*. Current textbooks in psychiatry and current year books of treatment will be found reviving psychosurgery, and major publications such as the *Journal of the American Medical Association* and the *American Journal of Psychiatry* have been offering pro-lobotomy articles based upon inadequate scientific studies.

Current scientific studies will be found as wanting as those which originally led the prestigious Group for the Advance of Psychiatry to condemn the entire body of lobotomy literature as promotional and marred by exaggerations of success and denials of grossly mutilating effects upon the personality. Those few follow-up studies with matched controls (56, 73, 93) will describe a disastrous first wave which leaves little optimism for the future.

The material will be presented in three parts:

I. Current Psychosurgery Around the World, II. Current Psychosurgery in the United States, and III. Newest Advances in Mind Control. It is useful to start with the material around the world because it more clearly documents the menace of psychosurgery.

The bibliography is by far the most extensive published on psychosurgery since 1965. The great majority of articles describe current psychosurgery, while a few are retrospective evaluations, and most refer to the United States (1, 2, 10, 18, 22, 23, 26, 28, 29, 30, 37, 38, 39, 40, 42, 43, 44, 50, 51, 54, 58, 61, 65, 66, 71, 72, 77, 78, 79, 81, 85, 86, 87, 95, 96, 98), England (3, 12, 20, 21, 24, 42, 46, 47, 48, 53, 55, 57, 58, 70, 76, 78, 79, 82, 83, 84, 88, 89, 90), and Canada (4, 5, 7, 18, 52, 56, 59, 60, 88, 89, 90, 91).

Finally, I am grateful to Congressman Cornelius Gallagher for the opportunity to present the body of my research to the general public.

### I. CURENT PSYCHOSURGERY AROUND THE WORLD

Psychosurgery is currently being done in Canada, Australia, France, Spain, Italy, West Germany, Norway, Sweden, Denmark, Finland, Switzerland, Thailand, India, and the world's leaders, Japan, England and the United States, nearly all of whom were represented among the one hundred psychosurgeons gathered in Denmark for the Second International Conference on Psychosurgery in the sumer of 1970 (79–80). Russia outlawed lobotomy and psychosurgery in 1951, and Khachaturian published a lengthy polemic explaining why.

My survey is based upon material which was presented at the International Conference, published in the literature or sent to me by the psychosurgeons with whom I have been in contact here in the United States. It is bound to be selective, since only the better work tends to get published or reported, while the less satisfactory work is discarded or kept out of sight. This will be particularly true in regard to a procedure like psychosurgery that has received considerable negative publicity.

Similarly, the published work and reported cases in any field of medicine are likely to reflect only a small portion of what is going on, and in the field of psychosurgery, the effects of the current promotion may not show up for some time.

Now for a review of psychosurgery around the world.

Some of the most candid reports come from Madras, India, one of the leading medical centers in that part of the world, where several high ranking medical and psychiatric authorities are deeply involved in the psychosurgery of children. The chief investigator is Dr. Balasubramaniam, Honorary Neurosurgeon, Government General Hospital and Government Mental Hospital, Madras. He is well-known among western psychosurgeons, delivered a paper at the Second International and publishes in English language journals.

He headlines his basic theoretical paper "Sedative Neurosurgery" and then opens with one of the most forthright and simplistic descriptions in the lobotomy literature: "Sedative neurosurgery is the term applied to that aspect of neurosurgery where a patient is made quiet and manageable by an operation." P. 377.

Classical prefrontal lobotomy, the operation done on so many tens of thousands, is one variant of sedative surgery, he says. His own up-to-date amygdalotomy and more occasional hypothalamtomy are newer variants. His work heavily involves children who are hospitalized, and he tells us: "The patient who requires this operation may manifest with one of the various behavioral disorders listed below. The commonest is restlessness." B. 377.

You will see that this is not a practice limited to India, and that both Japan and the United States are doing psychosurgery on hyperactive children.

Writing in July, 1970 in the American journal, *International Surgery*, Balasubramaniam summarizes his results with 115 patients, three of them *under age five* and another 36 *under age eleven*. Using diathermy or injections of foreign matter, such as olive oil, to destroy areas of these childrens' brains, he produces this result: "The improvement that occurs has been remarkable. In one case case a patent had been assaulting his colleagues and the ward doctors; after the operation he became a helpful addition to the ward staff and looked after other patients. In one case the patient became quiet, bashful and was a model of good behavior." P 21.

Balasubramaniams sums up in his concluding sentence: "This operation has proved to be useful in the management of patients who previously could not be managed by any other means." P22.

If this turns out to be true, as I believe it will, then cingulotomy surgery will be the ultimate "therapeutic weapon" for any state hospital superintendent or prison warden.

A bizarre report comes out of Thailand, where Chitanondh is also performing amygdalotomies on brain damaged patients, psychotics, neurotics, epileptics and behavior problems under the psychiatrically absurd rubric of "olefactory seizures and psychiatric disorders with olefactory hallucinations." In other words, if he finds a case where the sense of smell is involved in any fashion, then he chops out the amygdala on the grounds that it is involved in smell perception and elaboration. This is the same amygdala that Balasubramaniam mutilates on the grounds that it is involved in aggression. Again and again we will find this phenomenon—that the psychosurgeon picks out the symptom that he wants to focus upon, then destroys the brain's overall capacity to respond emotionally, in order to "cure" the symptom which he focused upon, completely neglecting that he has simply subdued the entire human being.

One of Chitanondh's patients is a nine-year-old boy whom he thinks has an olefactory hallucination but who is obviously involved in a behavioral struggle with his parents. This patient has a "habit" of running away from home, allegedly to smell engine oil in cars!

"Chief complaint of an obsessive smelling habit. For two years before admission he had a strong compulsion to smell engine oil . . . He would not give any reason why he had to do this. The parents punished the patient but he would not give up the peculiar habit." P. 192.

But despite the boy's denial that he was hallucinating, the neurosurgeon performs this "sedative neurosurgery" and of course the boy no longer runs away to smell engine oil.

In a rare show of public disagreement, the discussants quoted after this report seem piqued at their colleague's assault upon this child. One, a neurosurgeon, says: "If the neurosurgeons move psychosurgery from the frontal lobe to the temporal lobe (amygdala), we need to know some elementary psychiatry." P. 196.

Does this mean, as it seems, that it is *not* necessary to know elementary psychiatry if the neurosurgeon sticks to the frontal lobes—literally the heartland of man's highest and most subtle functions?

Another discussant of Chitanondh's work, a Japanese, warns that he, unlike the Thai, only operates on the mentally retarded! In a sentence he thus condemns his own methods as too gross or too inhumane for children of normal intelligence, while at the same time condemning the mentally retarded to sub-human status.

The Japanese have been doing both frontal lobotomies and the newer amygdalotomies (temporal lobotomies) steadily without going underground during the late 1950's and 1960's. They publish their work in English language journals and influence the international and American movement.

Narabayashi and Uno of Tokyo report in 1966 on a follow-up of 27 children ages *five to thirteen* who have had amygdalotomies. They operate on: ". . . children characterized by unsteadiness, hyperactive behavior disorders and poor concentration, rather than violent behavior; it was difficult to keep them interested in one object or a certain situation." P. 168.

Here is a description of the *best* results as achieved in five of their many cases: "(They) have reached the degree of satisfactory obedience and of constant, steady mood, which enabled the children to stay in their social environment, such as kindergarten or school for the feebleminded." P. 167.

Sano, also in Tokyo, reports on 22 cases beginning with the youngest *age four*. His *best* results? "Emotional and personality changes: the patient became markedly calm, passive and tractable, showing decreased spontaneity." P. 167.

Remember these descriptions when we get to the same operation as it is being done to depressed people, obsessive neurotics and a raft of others in the United States. Again and again we will find a kind of "tunnel vision" that allows a psychosurgeon to obliterate the liveliness and spontaneity of the individual while acting as if he is merely attacking a symptom or specific "illness" such as depression or obsessive neurosis.

Professor Sano is not an incompetent whose hypothalotomy operations cannot be trusted for technical expertise. He is an Honorary President of the International Association for Psychosurgery. Sano will be joining several American psychosurgeons (W. H. Sweet, Frank Ervin, Vernon Mark and others) at a large upcoming conference on violence and its treatment at the Texas University Medical School on March 9–11 in Houston (98).

The Japanese have not given up the more traditional frontal lobotomy either. From the recent Second International Conference, Kalinowsky comments "An impressive clinical report of 519 patients was given by the Japanese neuropsychiatrist S. Hirose, who prefers the orbitoventromedial undercutting procedure." This is a more limited, modified frontal lobotomy, involving cuts where they will do the most, in the brain pathways which lie toward the midline underside of the frontal lobes.

I have a summary of Hirose's talk given at the Second International in the summer of 1970 and there he describes 119 cases that he has done since 1957. He says that he operates on neurotics and psychotics, individuals with "protracted emotional tension states, oversensitivity, excessive self-consciousness, and obsessive states."

Much as he did in his 1965 *American Journal of Psychiatry* report, he continues to recommend mutilating the brains of people who are: "delicate, warm-hearted, conscientious, enthusiastic, perfectionistic . . ."

This is important—that even the old-fashioned lobotomists are now advocating their gross forms of intervention for more normally functioning human beings. "A kind of plastic surgery of mental states," Hirose calls it in 1965.

Moving away from the Far East, we find that the West Germans are very active.

Hassler and Dieckmann have been operating on the thalamus of children—13 cases reported in this article—in order to reduce "aggressiveness, destructiveness and agitation."

They also believe they can "treat" specific psychiatric illnesses when they attack and destroy sections of the brain. Their psychiatric rationalizations are extremely crude: "Obsessive-compulsive neuroses are comprised as well of the perpetual repetition of non-sensical ideas as also of the psychomotor phenomenon of compulsion . . . (sic) Thus the irrational activation of thought may result from functional disturbance of the intralaminar nuclei."

The notion that specific neurotic disorders might be traceable to a disturbance in a nucleus within the brain is so crude that even the Russian, Khachaaurian, with his own lack of sophistication, was able to dismiss it two decades ago.

The gross destructiveness of this kind of surgery, despite all apologies to the contrary in the literature, is again indicated by Hassler and Dieckmann's report that it can produce *severe amnesia* which lasts up to *six weeks* after surgery. And in their minds, this is not an untoward side-effect, but an important aspect of the treatment which *helps* the therapeutic result.

This is in fact a common theme—increased damage leads to increased result—in the early lobotomy literature of Freeman and Watts (1950). Freeman (1959) suggests that it is good to damage the intellectual capacity of the neurotic because the neurotic thinks too much (p. 1526); and similarly the West Germans boast of: "alleviation of impulsion and over-subtle reasoning in all cases."

One of their patients became dangerous and attacked two nurses after surgery.

Still in West Germany, F. D. Roeder experimented with lesions in the hypothalamic region in an effort to cure "sexual deviation." The written report is only 25 lines long but the pathology slide takes up half a page, in typical psychosurgical reverence for technology. This is what he accomplished: "Potency was weakened, but preserved . . . The aberrant sexuality of this patient was considerably suppressed, without serious side-effects. One important feature was the patient's incapacity of indulging in erotic fancies and stimulating visions . . ."

He boasts in addition that there was a disappearance of homosexual impulses and that psychiatric commitment could therefore be avoided. Psychiatric commitment avoided by obliterating a man's fantasty life!

Now for the English-speaking world.

In Sidney, Australia, a group including Harry Bailey and John Dowling has published a report of 50 cases of cingulotomy, with a report of 50 more on the way. The patients include a wide variety of people with depressions, including psychotics and obsessive-compulsive neurotics, and the cases were purposely selected to limit them to individuals with "basically sound personality structure" rather than to hopelessly deteriorated individuals.

The Australians report "excellent" results in the form of a statistical outline of psychological test results and impressions of post-surgical adjustment, including comments on the return of professional people to a successful professional life. But there is only one very short clinical description, and we must take their statistics on faith.

Nor can we trust their assertion that many return to professional work, since Freeman (1959) and Sargant and Slater (1964) have already disclosed that modified lobotomies return individuals to professional work but that they function with less sensitivity toward others and even with ruthlessness.

This Australian study also displays the typical lobotomist preference for women: 64% according to a small print footnote to a chart. These psychosurgeons lament public resistance to their work which apparently limits their access to patients. For some unexplained reason, they label this public resistance "the Ben Casey effect."

Nearer to home in the English speaking world, the Canadians are becoming active again. In recent years the old-fashioned modified prefrontal lobotomy has been used on a variety of non-schizophrenic patients by R. F. Hetherington, P. Haden and W. Craig, Departments of Surgery, Psychiatry and Psychology, Kingston Psychiatric Hospital and Queens University, Kingston, Ontario. Their report to the Second International Conference in 1970 admits that the hospital refused to allow them to operate on males because of the unfavorable publicity given to lobotomies in Canada after the negative follow-up studies of McKenzie. But they were allowed to operate on women, 17 in number.

Still in Canada, we find Earle Baker, Assistant Professor of Psychiatry, University of Toronto, reporting in 1970 on "A New Look at the Bimedial Prefrontal Leucotomy." (Leucotomy, or "cutting of the white matter," is used as a synonym for lobotomy.) He describes 44 cases with "hard core functional psychiatric illness," including *six with personality disorders and twenty-five with neuroses,* who have been lobotomized between *1959 and 1968!*

The article is fairly typical of the older literature with the exception of its more modern claim that lobotomy offers something for everyone: ". . . safe and effective method of reducing the symptoms of excessive tension, anxiety, fear or depression in patients with a wide variety of illnesses, including anxiety neurosis, phobic psychoneurosis, obsessional neurosis, neurotic or psychotic depressive reactions and schizophrenia. This operation should be considered in such neurotic, personality and psychotic illnesses when medical treatment has failed." P. 37.

Baker openly acknowledges that the operation produces an organic brain syndrome—a sign of generalized damage to the entire brain. In this instance, it is characterized by "some disorientation, apathy, silliness and denial," lasting up to two or three weeks and sometimes longer. In addition, as in the old days, there are "occasional changes in moral code, anger, sexuality or interpersonal relations," which the authors admit are permanent.

Women are their main targets, too, 27 females and 17 males, age 20–58, and as we continually see, the women "do better," 12 of 25 women accounted for declared to have an "excellent" result, while *only 4* of the 17 men accounted for have an "excellent" result. That's 48% against 23%, but the investigators involved do not even mention this enormous discrepancy. It must be taken out of a chart!

Baker and his associates give us some fascinating vignettes to support their contemporary use of the frontal lobotomy. Case #1 is a suburban housewife who is promiscuous, runs away from home and becomes suicidal on occasion. After her lobotomy she is no longer promiscuous and becomes a faithful partner in her marriage.

These modern lobotomists describe considerable changes in the lives of their patients and make facile moral judgments about these changes. One man sold the family business that he never wanted, one middle aged man went out dating for the first time in his life, two couples came to blows for the first time, and three marriages broke up—all of which the authors put their approval upon as signs that the operations made the patients "more open" and "less dependent."

One of their patients became so liberated that he went on to rob a bank. The judge gave him an extra heavy sentence, presumably to compensate for the moral obtuseness produced by the surgery.

Moore then wrote a response to the *Canadian Medical Association Journal* stating that the judge was wrong in giving the longer sentence because the patient's moral code would be unaltered by an "infinite jail sentence," as a result of his surgery.

But who is in fact morally responsible for that bank robber's actions? I believe that one single legal judgment holding a lobotomy a thing of the past.

Unlike the Far Eastern and some European psychosurgeons, the English by-and-large have retained an *unabated* preference for mutilating the frontal lobes.

The English total is now reaching or surpassing the 20,000 mark. Tooth and Newton took a national census of England and Wales and came up with an official count of 10,827 as of 1954—but even this figure excluded the several hundred done in general hospitals, as well as the unknown hundreds done before 1942.

Extrapolating from Pippard's official count of 400 plus in the year 1961, Sargant and Slater estimate a total of 15,000 by 1962. If that rate remained as constant as it had, we would now be reaching a grand total of 18–19,000 in 1972. But the rate seems to be accelerating! The British surgeon, Geoffrey Knight, for example, presented statistics on 1,050 cases of his own at the 1970 Second International, and much of his work originates after 1960.

I can only give a small sampling of the English literature, for England appears to have led the world since the relative decline of the lobotomy in America.

Knight and his associates seem to be the most busy, at least in the published literature. I add this qualification because Walter Freeman told me of one British surgeon who had done 4,000 without any follow-up studies, published or unpublished! But to return to Knight, his original method is described as a bimedial lobotomy with orbital area undercutting of the frontal lobes, really the old-fashioned modified frontal lobotomy which so many psychiatrists think has been long dead. It is an extensive mutilation of the brain, involving a narrow longitudinal 2 cm. wide by 6 cm. deep cut at the midline of the frontal lobes at about the level of the eyes or orbits. His first series included 550 patients, many of them with depressions.

It is impossible to judge the effects of his surgery, since he is a statistical lobotomist who offers practically no data whatsoever about the people involved. Even a surgeon reporting on a new technique for removing an appendix is likely to tell us something about the general condition of his patients as well as well as the exact kind of appendix he is talking about, purulent, ruptured or whatever. But in taking out pieces of the brain, Knight tells us nothing or next to nothing about the nature of the individuals involved either before or after surgery. It is no surprise then that Kalinowsky, in a phone conversation with me, said that some psychosurgeons read Knight's own data completely differently than he does, in this instance favoring the results of his older surgical methods to his new radiation implants.

Knights new radioactive technique, again applied to hundreds of patients, is simply a more sophisticated method for destroying frontal lobe tissue. He plants radioactive seeds in the areas he might otherwise attack surgically (57, 58, 83). But the actual effects upon the personalities of his patients cannot even be guessed at—except on the basis of our general knowledge about the effects of lobotomy. All we can find in Knight's many journal articles are meaningless lists of one or two word diagnoses paired statistically with equally meaningless categories of improvement.

Knight tells us in a 1966 report that he was inspired to action after reading about the increased admission rate of old people to the state hospitals. What is his solution? Rehabilitation centers? Better housing and more social opportunities for the old? No. His answar is increased lobotomizing of old people, and he has done exactly that.

An article by Sykes and Tredgold follows up another series of 350 patients, some of them apparently done by Knight. Again we have empty statistics, and the general impression that the lobotomy never had a bad side-effect on anyone, or hardly anyone. But one statistic tells us a great deal about the mentality of the lobotomist—only 59 of these 350 patients had a serious trial of psychotherapy before being subjected to surgery.

What is Knight's theoretical justification? It is the same old "reduction of intensity of emotional reaction," Knight tells us in 1969. And the elaboration of the theory behind this is crude and simplistic beyond belief: "Since primitive emotions are damaging emotions, it might be deduced empirically that the interruption of connections from primitive cortical areas would contribute to the results obtained." P. 257.

This theory amounts to nothing more than a *bias*—that strong emotions are bad. He calls these emotions "primitive," when in fact they may be the highest expression of our human development. Indeed, the frontal lobes are integral to all of man's most sensitive, subtle and human qualities—love, empathy, creativity, abstract thinking and such (25, 26, 34, 92). Severing the connections between these lobes and the lower brain does not bleach the lobes of their primitive influences, but in fact ruins the function of these lobes. The lower portions of the brain are no more "primitive" in function than the heart and lungs which phylogenetically pre-date much of the brain's development.

But to return to Dr. Knight, he does give us a paragraph or two, more about the theoretical basis for his operation, drawn entirely now from animal experiments—as if the whole body of lobotomy literature did not exist. But what he says is what the lobotomists have been saying all along anyway. Animal psychosurgery succeeds in producing "quiescence and tameness."

Post and his colleagues are again representative of the statistical lobotomist, reporting on 52 patients in middle and late life who are allegedly helped (40% of them) by the old-fashioned bimedial frontal lobotomy.

Marks and his colleagues somehow came up with twenty-two cases of "agoraphobia"—fear of open spaces—and lobotomized them, again with the bimedial frontal lobotomy. They present no case material, so we can't judge what they mean by "agoraphobia" or why they would destroy a person's brain to cure such a symptom. In fact, agoraphobia as an isolated symptom is so rare that one must distrust their clinical judgment in its entirety. People crippled by such a symptom almost invariably demonstrate a complex of psychiatric symptoms, as do almost all individuals who are psychologically crippled.

The absurd becomes obscene in an unsigned editorial comment in 1969 in the *British Medical Journal* calling for brain surgery for sexual disorders (5). The editorial comment praises German investigators for destroying a portion of the brain (hypothalamus, in this instance) of three male homosexuals, resulting in "a distinct and sustained reduction in the level of sexual drive," and all other drives, of course, though they are unmentioned.

This editorial considers the "need to protect the public," but also suggests that voluntary consent should be obtained. But voluntary consent is a myth when the individual involved is a social deviant subject to the alternative of prison or involuntary mental hospitalization(13).

But why call this editorial obscene? Because the writer brings up the alternative of castration for homosexuals and argues that castration is "open to question on ethical grounds," while lobotomy is not. This Englishman would rather lose his brains than his testicles.

The Manchester Guardian, April 2, 1968, reports that a gambler who has stolen money has been sent from court into psychiatric custody for "voluntary" brain surgery to cure his gambling. The psychiatrist involved was Harry Fleming, senior consulting psychiatrist, Winwick Hospital.

Dr. Fleming did not go uncontested. Another psychiatrist, F.R.C. Casson wrote into the medical journal, *Lancet,* to complain: "I have not previously heard of leucotomy being suggested as a remedy for compulsive gambling. By its reduction of moral inhibitory factors, one would imagine that it might facilitate irresponsible gambling behavior." P. 815.

But Dr. Casson, as usual, is not protesting on ethical grounds, or even on any general principle against lobotomy. Instead he is merely taking care of his own, for he is the "Hon. Psychiatrist to Gamblers Anonymous."

Now for a look at the Americans in some greater detail and depth, and then one final look at the British again with one of their newer more frightening and futuristic techniques of mind control.

## II. CURRENT PSYCHOSURGERY IN THE UNITED STATES

Petter Lindstrom, who has many hospital appointments around the country, including the Children's Hospital and Adult Medical Center in San Francisco, estimates that 400–600 psychosurgical operations are performed each year in the United States, and he personally accounts for 250 in the past five years in a recent letter to me. H. T. Ballantine, a psychosurgeon at the esteemed Massachusetts General Hospital, writes to me that he agrees with this estimate and that he has done 160 since 1965. Both Jack Lighthill and Mr. Hunter Brown in Santa Monica, California, also agree with the estimate and personally account for 110 cases in the past five years.

All the psychosurgeons who have written to me agree that the current rate is going up rapidly and that we are, in the words of one of them, approaching a "second wave" of psychosurgery.

No one knows for sure how many persons were mutilated in the "first wave." Walter Freeman, America's dean of lobotomy, has given me a personal and probably reliable estimate of 50,000. Most chronic mental hospitals—and there are hundreds in the country—have a caseload of old lobotomy patients. The past literature contains hundreds of articles, and many lobotomists and hospitals accounted for several thousand at a time. Freeman, for example, says that he did about 4,000.

Freeman, formerly Professor of Neurology, the George Washington University School of Medicine in Washington, D.C., has come out of retirement with invitations to speak at national and international conferences, including his appointment as an Honorary President of the new International Association for Psychosurgery. In a very recent (late 1971) article in the *British Journal of Psychiatry* he advocates operating upon schizophrenic patients early in their illness rather than as a last resort. This will open the way for another phase of massive institutional lobotomization of young people.

Speaking at the Washington, D.C. Academy of Neurosurgery in 1965 Freeman accurately describes the effects of his surgery when he points out that lobotomy leads to some of the same results as the last stages of deteriorating schizophrenia. When such a patient is so demoralized and deteriorated by institutional life that he no longer gives the ward any trouble, then there's no purpose to giving him surgery. Says Freeman: ". . . a deteriorated schizophrenic looks and acts the same with or without his frontal lobes. When the progress notes on such a patient read, "Gives no trouble on the ward," it is generally too late to expect any substantial result from operation." P. 157.

And Freeman agrees with many modern lobotomists and psychosurgeons that the true aim, the best result, is the blunting of emotions: "A successful operation bleaches the affect [emotions or feelings] attached to the ego, without disturbing intelligence, memory, or personality functions." P. 158.

Lothar Kalinowsky, Professor of Psychiatry, New York Medical College in New York City, has written numerous books on somatic therapy, and more recently has spent considerable time on promotionals for psychosurgery, including the *Psychiatric News* article, plus a publisher panel, and at least one unpublished panel on the West Coast.

In the published panel discussion, Chairman Kalinowsky is again touting lobotomies for "intractable and disabling neuroses, chronic depression unresponsive to other treatments." Panel member Henry Brill, a very well known state hospital psychiatrist from Pilgram State, Long Island, where several thousand lobotomies were once done, spoke with indignation when he defended this treatment as prematurely discarded and "cast aside too cavalierly." Brill also let on that "informal communications with American psychiatrists indicate that the operation has not been abandoned as completely as one might imagine from a casual reading of the literature."

Fritz Freyhand of St. Vincent's Hospital, New York City, James Cattell of the department of psychiatry of Columbia P and S, and Joseph Ransohoff, from Bellevue, both again in New York City, participated in the panel, Dr. Ransohoff mentioning that he'd done 35 lobotomies in the past five years.

Kalinowsky himself refused to give me an estimate on the phone or by mail concerning the number of lobotomy referrals he had done in the past few years. Only a few, he kept protesting, but with further questioning he admitted to having seen three patients in the last week (May 3, 1971) as possible candidates for lobotomy, one or two of whom he said would probably end up under the surgeon's knife.

E. A. Spiegel, Professor Emeritus at Philadelphia's Temple University, has been active as President of the International Society for Research in Stereoencephalotomy and as editor for the annual review called *Progress in Neurology and Psychiatry*. For the first time in many years, in 1970 he allowed psychosurgery to appear in his review book in the form of a three page survey.

Spiegel and his Philadelphia colleague, Henry T. Wycis, are pioneers in stereotaxic brain surgery, but they have done only a few psychosurgical or psychiatric cases in recent years, Wycis reporting at the Second International on four "compulsive neuroses" operated on during the previous four years (79).

Spiegel's *Progress in Neurology and Psyciatry* is not the only annual review to resurrect psychosurgery in America. *The Yearbook of Psychiatry and Applied Mental Health,* edited by Wortis, abstracts an article I will review in this section, and then the American psychiatrist Francis J. Braceland makes an editorial comment: "It is interesting that psychosurgery is once more being considered . . . The followup study is encouraging . . . Nevertheless, these procedures should be used only as a last resort, and after all other methods have failed."

Another major promotional figure in American psychosurgery, William B. Scoville of Hartford Hospital and Yale University, is President of the new International Society for Psychosurgery. In *Medical World News* he reports doing about two a month, (57) and in a letter to me he notes the demand is going up now. This Associate Clinical Professor of Neurology at Yale uses orbital undercutting, a frontal lobotomy not unlike that used by the dean himself, Walter Freeman, so many years ago, except that it is done under direct visualization, rather than through the eyesockets by Freeman's "ice pick method," as some lobotomists have called it.

Writing in 1969 Scoville recommends lobotomy for depressions and for anxiety states, especially in the aged, much as Knight recommends. He also lists some cases of conversion neurosis, severe obsessive-compulsive neurosis, and certain forms of schizophrenia, even though he says the delusions may get worse. And going contrary to many other lobotomists, he suggests it for some drug addicts.

Most important is his recommendation for depression, for depression is one of the most common problems in any psychiatric practice, especially in the elderly for whom he strongly favors lobotomy. His comments are particularly dangerous because he favors lobotomy over repeated courses of electroshock, stating: "More than one or two courses of shock treatment probably causes more diffuse brain damage than the newer fractional lobotomies." P. 153.

He repeats this allegation about electroshock in his promotion of lobotomy in *Medical World News* in January 1971. It is important because electroshock is used so very widely, tens of thousands of patients every year, so that any trend to replace it with surgery would vastly increase the lobotomy population, a trend already apparent in England.

Still in his 1969 article, Scoville argues that all forms of psychosurgery accomplish the same basic mutilation, partial destruction of the "limbic system" or emotional regulating connections between the midbrain and frontal lobes, with a resultant disruption of the emotional component of the mind.

As he succinctly puts it: "All prefrontal surgery probably benefits by a blunting function." P. 456.

Consistent with this, he says: "It is apparent to this writer that different types of mental disease do not require different areas of ablation or tract interruptions. There appears no need to vary location of operation in the neuroses, cyclical depressions and schizophrenia." P. 456.

He adds that the lower down the cut, the more specific the suppression of emotion, while the higher the cut, the more intellectual impairment.

I agree with Scoville that the mind functions as a whole and is disrupted as a whole, and that the basic goal and the basic consequence of psychosurgery are always one in the same—to blunt, tame, quiet, sedate, or otherwise submerge or partially destroy the individual's unique emotional responsiveness.

In *Medical World News,* Scoville is said to have performed over a thousand lobotomies.

J. M. C. Holden, Associate Professor of Psychiatry and Physician Superintendent of the St. Louis State Hospital Complex, offers one of the most extensive and candid reviews of frontal lobotomy in late 1970 in *The American Journal of Psychiatry,* reporting on over 400 cases done some time ago in the St. Louis area. I wrote and asked about the numbers currently being done, and his colleague, L. Hofstatter, replied that the state hospitals no longer do them and that those being done are carried out in private practice.

Holden is very candid about the kind of damage done by the original lobotomy operations. "The frequent effect of such over-operation was irreversible change in mood, emotion, temperament, and all higher mental functions. The more extensive the section, the greater likelihood that such symptoms would develop. Postoperative mortality and morbidity, incidence and duration of confusion, urinary incontience, unequal pupils, facial assymetry, convulsions, and other neurological sequelae were greater when the section had been more extensive. Excessive weight gain and temporary or permanent changes in performance on the rational learning test and conventional intelligence and personality tests after operation were also reported . . . Some patients showed frank clinical deterioration that persisted after operation." P. 595.

He adds that not only did this prefrontal lobotomy destroy areas of the frontal lobe, but that the degeneration reached down into the thalamus.

Holden candidly describes the operation that mutilated tens of thousands in the English-speaking world alone, and then goes on to *praise it* as a necessary phase, a stepping stone, toward the newer, better surgery, and toward a better scientific understanding of the brain.

He recommends experimenting with more limited and localized surgery, but he himself admits that the areas attacked and destroyed—the hypothalamus, the nuclei of the thalamus, the amygdala—are all functionally *inter-related* "to mobilize the total body resources in stressful situations." "Interference with *any part* [my italic] of these circuits is reflected in changes in the homeostasis in others, but the nature of this interdependence and its precise relationship to behavior remains speculative." P. 593.

He acknowledges that some people have raised ethical objections, but he doesn't discuss it himself, and instead concludes that the modified *frontal lobotomy* should be continued in the United States as a "treatment" in neurotic and psychotic states characterized by a high degree of emotionality or tension.

Dr. Arthur Winter of East Orange, New Jersey, will soon be coming out with a book on lobotomies in collaboration with Scoville and with Heath. Winter writes to me that he is doing "stereotaxic prefrontal lobotomies," limited to one side of the frontal lobes, in some instances at least. He would not tell me how many cases he had done, but sent me a detailed report on one 33 year old man with a diagnosis of schizophrenia on whom he had operated in 1969. A photograph provided by him in *Medical World News* shows a good size "1 cm." obliteration looking as large as a walnut squarely in the middle of one frontal lobe.

Winter bases his work in large part on Shobe and Gildea's article in the *Journal of the American Medical Association,* October 7, 1968, a report which describes "excellent" follow up results with a group of largely older private patients with agitated depressions. There are no control groups and insufficient clinical data.

The use of prefrontal lobotomy on individuals with agitated depressions opens the way to massive lobotomization of large segments of the population. The individual with an agitated depression is typically an older woman (18 females to 9 males in Shobe's study) who becomes depressed, hypochondriacal, obsessive and generally tense during her midlife and menopause, and this person has always been a target for whatever current "therapy" someone wishes to push—insulin shock, electroshock, anti-depressants, tranquilizers, and now, lobotomy.

Peter Lindstrom of San Francisco has been reporting for many years on the use of destructive ultrasonic energy as a substitute for the surgeon's knife in frontal lobotomy. He calls it PST for Prefrontal Sonic Treatment. In *Medical World News* he is reported to have done 475 patients over the past twelve years on a variety of people from children age eleven to elderly people age eighty suffering from just about everything—anxiety, depression, obsessive neuroses, phobias, hypochondriasis, addictions and pain.

In a recent as yet unpublished paper presented at the Second International Conference on Psychosurgery (1970) and intended for the forthcoming book, Lindstrom presents this case: "A 13-year-old schizophrenic girl became disabled by progressive anxiety and psychosomatic symptoms in spite of drugs and psychotherapy, and was unable to go to school. Following the PST she was able to return to school and now has attended school regularly for four years, achieving passing grades. She has been helping with the work at home. Both the patient and the parents are pleased with the progress."

Writing in 1964, and talking about a series of 60 psychotics and 154 neurotics, he drops that typical statistic without remarking upon it—72% females among the psychotics, and 80% females among the neurotics.

Lindstrom apparently balks at being called a lobotomist. He says that he has been able to titrate his doses of energy so that he can reach a point where the damage is not grossly perceptable and hence does not constitute a lobotomy. But if he's getting a behavioral effect, he's done a lobotomy, even if it's merely a lobotomy by disruption of the brain chemistry. Otherwise it's a placebo.

Lindstrom, Winter, Scoville, and other lobotomists are making direct attacks on the frontal lobes. This is very likely still among the most popular approaches to the psychosurgery of American patients.

H. T. Ballantine, Jr., is performing cingulotomies at perhaps the most prestigious general hospital in the world, The Massachusetts General of Boston. Scoville says that this type of surgery represents a "fractional lobotomy" (77, 78), and we have seen its "sedative" taming effect on Asian children.

Ballantine also notes that the operation, when done on monkeys, produces "tameness and placidity," which certainly puts it in the class of the lobotomy in this regard.

Scoville, in his introduction to the unpublished Transactions of the Second International, believes that cingulotomy surgery is only successful because it is inaccurate and inadvertently cuts directly into some of the fiber tracts of the frontal lobes.

Ballantine makes references to other surgeons with series of 52 and 16 patients, and briefly describes his own series, mostly psychotics, ages fifteen to eighty-three, with that typical distribution, 26 females, 14 males. He tells us, virtually without explanation, that 22 were usefully improved, 10 were failures and 8 became *symptom free.*

Only dead people are symptom free.

Ballantine writes me that he is still active and has operated on 160 patients since 1965.

M. H. Brown and Jack Lighthill of Santa Monica, California, report in 1968 on another group of patients who have had their cingula obliterated. They have done 110 cases, 71% women. Two thirds of them had intractable neuroses, and 91.9% are considered good results, with little explanation of how this evaluation was arrived at. "Destructive emotional forces were removed," they tell us, including a reduction in anxiety, phobias, depression, hostility and obsessive thinking.

In recent personal correspondence with me, Dr. Lighthill sent copies from letters from other psychosurgeons applauding a "second wave" of psychosurgery around the world. He agreed with Lindstrom, as I mentioned, that 400–600 operations are being done a year in the United States, and said that his own group had operated on 110 patients before 1966, and an equal number, 110, *since* 1966.

Lighthill writes to me and Brown mentions at the Second International, that they see a bright future for operating on criminals, especially those who are *young* and *intelligent,* a promise you will see being fulfilled in Mississippi.

Neurosurgeon Glenn Meyer and psychiatrists at the University of Texas Medical Branch in Galveston have also been experimenting with cingulotomies for the past several years, with a total of 27 performed on "alcoholics" and "drug addicts", as reported in an unsigned front page article in *Psychiatric News,* the official newspaper of the American Psychiatric Association, December 16th, 1970 (71). A psychiatrist, Winston Martin, reports on the data in this article entitled "Psychosurgery Hailed in Experimental Texas Study." The report speaks of results that are "nothing short of spectacular." "The procedure either helps or completely rids the patient of his emotional illness." No side-effects are found whatsoever, but it is noted that 15% of the patients have seizures post-operatively. Their press release announces that a "cure" is found to "diseases" which will go being incurable for some time (71).

Vernon Mark, Frank Ervin and his associates from Boston City Hospital report in 1970 the details of one case of depression in which the psychosurgical operation was a great success but the patient killed herself.

Briefly here is the story. A woman with a long and difficult psychiatric history is brought in for psychosurgery, specifically a thalamotomy, mutilation of an emotion regulating portion of the brain. Her mother is heavily involved with her and with the psychiatrist and surgeon, and is probably a significant force in getting her to submit to surgery. The patient gets obviously worse after the first mutilation is performed, so she is done again with the convenience of her implanted electrode. But after the second mutilation she becomes enraged at her psychiatrist and her neurosurgeon, and refuses to talk with or deal with her neurosurgeon any more. Nor will she ever submit to a suggested *third* operation. Her electrodes are therefore removed, but her rage is dismissed as "paranoid" by V. H. Mark and his associates.

Her mood then improves, as we are told, until she reaches a state of "high spirits." She is allowed out of the hospital to shop whereupon she goes directly to a phone booth, calls her mother to say "goodbye" and takes poison and kills herself.

Her suicide is not seen as the vengeful act of a mutilated soul against her mother and her physicians. Instead her suicide is interpreted as a sign that she was getting over her depression, a "gratifying" result of the operation—the word gratifying cropping up several times. All this is based upon the simplistic notion, sometimes taught to beginning psychiatric residents, that the occasionally observed phenomenon of suicide in the midst of an apparent recovery can be explained by a hydraulic conceptualization of increasing energy permitting the patient to suicide before the depression is fully over. This explanation overlooks the individual dynamics, which cry out in this case.

This is the *only* detailed case report I have found in the entire current lobotomy literature, and I am grateful for this one instance in which enough material is provided for an independent judgment of the "gratifying" effects of psychosurgery.

But I have left something considerably more disturbing for my last detailed report—the mutilation of very young children for the admitted purpose of making them more manageable at home, at school or in the hospital.

Led by Congressman Gallagher's committee hearings, there has been a public outcry against the *drugging* of hyperactive children. Now we have physicians performing mutilating *surgery* upon hyperactive children, sometimes with multiple operations that can lead to gross intellectual deterioration. Surgery, unlike medication, is always permanent! And while only one center in the United States is known to be pursuing this work at the present time, there is the *current* precedent of psychosurgery on hyperative children around the world (8, 9, 19, 62–64, 75) as well as a past precedent for multiple severely mutilating lobotomies on children have in the United States by Freeman, Watts and Williams (25,94). In addition, Ballantine has operated on children as young as fifteen and Lindstrom on children as young as eleven. I also have had personal communications with one well-known American professor of psychiatry who advocates lobotomy on children but feels that "irrational" public resistence would prevent it at the present time, and Brown and Lighthill want to operate on young psychopaths.

O. J. Andy, Professor and Department Director of Neurosurgery at the University of Mississippi School of Medicine in Jackson is currently active in operating on hyperactive children. He is assisted by a psychologist, Marion Jurko, but lists no psychiatrists on his team. In 1966, he decribes his surgery as "under the charge of I. S. Ravdin, Professor Emeritus of Surgery at the University of Pennsylvania and James D. Hardy, Professor and Chairman, Department of Surgery at the University of Mississippi in Jackson.

In a personal letter to me dated May 28, 1971, Andy writes that he has operated on 30–40 patients ages seven through fifty, the *majority* children. In another personel letter to me, his colleagues, Jurko, writes that the age range begins at *five*. The goal is frankly stated by Jurko—to "reduce the hyperactivity to levels manageable by parents"!

Andy and his colleague, Jurko, reported their work at the Second International Conference on Psychosurgery, as well as in American and international journals, but nonetheless Andy appears wary of the accusation that these children have "psychiatric problems." These are not psychiatric cases but "behavioral problems," presumably with neurological causes, he writes to me, though even he admits that he can find nothing neurologically wrong in many of these children, except something as meaningless as difficulty in a specific form of wrist co-ordination (alternating pronation and supination) which any anxious child might fumble with.

Whatever his protests about the non-psychiatric nature of these problem children, he goes on to describe them as suffering from "some form of hyperactivity, aggression and emotional instability." He makes this quite specific: the triology of symptoms is hyperactivity, aggression and emotional instability. As we'll see, *all* of his patients suffer from very well-defined psychiatric problems, and his surgery, thalamotomies and a few cingulotomies, is aimed at nothing more nor less than controlling aggression in difficult children. Andy writes to me:

"In relation to the operative results, the category under aggression appears to be alleviated to a much greater extent than the other two categories [hyperactivity and instability]."

But as Freeman and Watts discovered years earlier in *Psychosurgery* and as Williams and Freeman report in their study of lobotomized children, it can be very difficult to control a child surgically. But you can usually multilate him repeatedly until he stops bothering anyone. Quoting Andy's letter:

"On the other hand, although a child who is somewhat retarded and non-productive can also undergo a very dramatic change from an extremely aggressive and hyperactive individual to one who is cooperative and easily managed, although still not productive." (sic)

Just how hard it is to control a child is illustrated in a case which he reports on two occasions. In 1966 he describes J. M. as follows: "A boy of 9, had seizures and behavioral disorder (hyperactive, combative, explosive, destructive, sadistic)." [His parentheses.]

In the tradition of Freeman's mutilation of children and aggressive adults, he simply operates and operates and operates until the child causes no more trouble. He begins with a bilateral mutilation of the thalamus, and repeats it on one side nine months later. The patient's behavior then "improves" and he can return to special education. After a year, though, "symptoms of hyperirritability, aggressiveness, negativism, and combativeness slowly reappeared," so he brought back and operated on more extensively, this time mutilating the fornix. But now the patient gets worse and shows signs of brain damage from the surgery in the form of the loss of recent memory. So the child's brain is mutilated a fourth time. Now, Andy tells us, "the patient has again become adjusted to his environment and has displayed a marked improvement in behavior and memory."

Because Andy repeats the same four cases in a 1970 report, we find out that J. M., this little boy of 9, had about as bad an outcome as we might have imagined. He is of course still easy to manage. "Intellectually, however, the patient is deteriorating."

Andy operates in Jackson, Mississippi, but does not tell us the race of the children he has operated on.

Andy does not limit his brain surgery to children. The adolescents upon whom he operates, according to Jurko's letter, often have criminal records, with "explosive, impulsive and unpredictable behavior." Thus they are fulfilling Brown and Lighthill's hope for a great future for psychosurgery operating on people with criminal behavior. Jurko does not say, however, whether these adolescents are young *and* intelligent, as Brown and Lighthill would hope for their surgery candidates.

In the absence of an outraged response from the medical and lay public, we will probably be in for a tide of psychosurgical mutilations of children, much as we already have in India, Thailand and Japan!

Andy also operates on adults. Here is how his colleague, Jurko, pictures these adults in a letter to me: "The adults are average to above average in intelligence. Many have held jobs of responsibility prior to and even during their years of increasing discomfort (2–10 years). Most of them have a constant pain syndrome, face, chest quadrant, etc. . . . Most of them will tell you that they are tense, nervous, anxious, depressed, and have strong suicidal thoughts. Many show high specific anxiety and some have evidence of "free-floating" anxiety.

These people sound remarkably like very many psychotherapy patients prior to successful therapy.

Andy's case reports in the literature, so limited in number and simplistic in presentation, yield similar thumbnail sketches: in one case, "alcoholism, drug addiction, attempted suicide, aggressive and destructive outbursts, nervousness, and emotional instability," or in another case, "nervousness, spells of shaking all over, explosive anger, attempted suicide."

Earlier we found Brown and Lighthill advocating the use of psychosurgery for young criminals, and now we find Andy and Jurko are operating upon young individuals with criminal records. And at the time that I am making this report, a project has been uncovered in the California prison system aiming at the use of psychosurgery for the control of prison inmates (66)! A sharp condemnatory response from the press, congressional interest, and the work of the Berkeley Medical Committee for Human Rights (Edward Opton, Jr.) has caused the project to be temporarily tabled. But just today I have learned about the planned conference on violence in Houston sponsored by the University of Texas School of Medicine. Scheduled for March 9–11, this conference will give Sano, Ervin, William Sweet, Mark and other psychosurgeons an opportunity to again impress the public and the profession with the possibilities of pacifying prisoners and criminals by means of psychosurgery (98).

### III: NEWEST ADVANCES IN MIND CONTROL

The psychosurgical techniques in this chapter seem especially suited to totalitarian application on a large scale for a wide variety of citizens, and so I have separated them out for special attention. Each of them has been developed for the specific purpose of controlling the individual without requiring prolonged hospitalization and without preventing him from returning to his family and his work. In each case the blunting of the individual can be carefully tailored to the needs of his family and his job.

The first study involves the direct use of "psychotherapy" by psychiatrists to monitor the gradual, progressive lobotomization of the individual. It first appeared in 1963 in *Current Psychiatric Therapy*, a widely read American yearbook, and it is still continuing.

The work, described as "progressive leucotomy," is reported by three Britishers, H. J. Crow, R. Cooper and D. G. Phillips, Burden Neurological Institute and Frenchay Hospital, Bristol, England.

The technique involves a carefully organized management of the individual patient as he undergoes progressive electrical frontal lobotomy over a period of half a year or more under the direct supervision of a psychotherapist.

The targets of the new technique are people with "anxiety-tension states" and "obsession syndromes," particularly individuals "of good intelligence and personality," who "sometimes have heavy responsibilities." The goal is a carefully titrated lobotomy which blunts the individual's emotional responsiveness without incapacitating him in the performance of these responsibilities.

The technology utilizes 24–36 tiny electrodes which produce small coagulations of tissue when the current is turned on. After they are implanted within the frontal lobes through two holes in the skull, they can then be left in place within the brain for up to seven months, taped to the scalp in a hidden fashion which permits the patient to walk around and even to leave the hospital between his treatments. His physicians can then talk with his family and with the ward staff to evaluate how "good" his behavior has become, before subjecting him to further partial lobotomies.

That these physicians are not talking about minor damage to the brain is indicated by the admission that they "overdid it" in one of their fourteen cases, though they do not tell us what happened to the victim of this error in medical judgment.

As a psychiatrist, I am haunted by one aspect of this technique, the participation of the "psychotherapist," who literally sits beside his patient conducting an interview with him while the neurosurgeons gradually turn up the electrical current. In this manner the "therapist" monitors and titrates the amount of tissue destruction required to change the patient's ongoing emotional reactions. The patient himself cannot tell when his brain is being coagulated, but the therapist can tell immediately, since destruction of frontal lobe tissue is immediately reflected in a progressive loss of all those human functions related to the frontal lobes—insight, empathy, sensitivity, self-awareness, judgment, emotional responsiveness, and so on.

When Freeman and Watts' (1950) operated on their patients without general anesthesia, the patients sometimes cried out that they were dying from the surgery as they felt their vital mental functions being cut away. The surgeons would then tell them to pray or to sing patriotic songs or simply ignore them while going on with the cutting.

The newer methods of these Britishers are much more subtle, but basically the same. The patient is fussed over and given reassurance. And the process is so gradual and remote from him—controlled electrically with no obvious intervention taking place—that the patient never realizes what is happening to him. In fact, the patient gets so much attention from the ward team that other patients on the ward, who cannot discern the gradual extinction of his human qualities, ask if they can have the treatments, too.

H. J. Crow reports again on his work in 1965, and his report is noteworthy as a typical lobotomist article, all technology, a few sparse statistics about his successes, many diagrams, and *not one sentence* that could be called a clinical or human description of a patient. He continues to use "up to 34 separate small electrodes widely spread like a net across each frontal lobe," and has added electrodes in the anterior portion of the cingulum for patents with "obsessional" symptoms, thus performing both lobotomies and cingulotomies on some of his patients.

This article not only leaves out any descriptions of the patients beyond these one and two word diagnoses ("all anxiety syndromes, some having obsessional features"), it also seems to leave out that one disastrous case which they admit they "overdid" in the first article. Thus Crow says, "Of the first 25 cases . . . all have returned to a social life which is more or less normal."

We are told that individual and group psychotherapy goes on during the progressive lobotomization and then that intensive forms of therapy continue afterward for years. What we see described is a very directive influence, the sort we might expect would work with someone who has been brain damaged:

"From my experience, patients at this stage are amenable to, and eagerly seek advice about their future. Common-sense planning of their work and leisure, and advice about more ordinary attitudes in personal relationships, allows them to get started in a workable pattern of new life which they soon stamp with their own new and individual characteristics. They often need reassurance that an appropriate anxiety about, say, health or money is not a sign of returning illness. After an intensive course of advisory therapy an interview, often short, every month or two for half a year with lengthening intervals thereafter, is usually sufficient to help the patient to make and keep his readjustments."

He then says that some of these patients "require support for a long time," and goes on to describe social work, welfare, rehabilitation and psychological services, all of which may be brought to bear upon the patient.

Their lobotomized patients are thus given extensive often long-term services probably made available to very few if any other patients in Great Britain, certainly not to patients suffering from "anxiety syndromes," and yet they never once mention the possibility that whatever useful effects they achieve may be due entirely to these massive efforts mobilizing psychiatry, social work, welfare, rehabilitation and psychological services. And of course they have no control groups with patients who are given these services without lobotomies!

If the patients are not brain damaged, why do they need such intense supportive help in the management of the details of their everyday life? Why would regular psychotherapy be contra-indicated as "unnecessary and unprofitable at this stage, and will at best delay intrapsychic and social adjustments"? Freeman and Watts also found that lobotomy patients needed daily guidance and were poor candidates for psychotherapy, but the reason was obvious in their case—the surgically damaged patients had lost the capacity for insight and judgment.

Crow reassures us that there are no bad side-effects, specifically no "insensitivity in social relationships." But a few pages after this reassurance, he tells us that the surgery sometimes produces "an over-optimistic attitude to his own capacities and to others' good will."

He also seems to imply that this may often be a "permanent euphoria" typical of brain damaged patients:

"This can, of course, be a permanent euphoria, but I have seen cases where it has been a transient phenomenon and seemed to be a true joyfullness of release."

This kind of euphoria from brain damage is apparent in the two largest American studies from the 1950's: Greenblatt, Arnot and Solomon, and Freeman and Watts. Freeman and Watts' book is filled with case histories that read like classic studies of brain damaged individuals. In the other study, Harry Solomon in the introduction speaks of a "joyfulness" much as Crow does, but in a remote portion of the book the psychologist says the clinicians are too biased to be trusted and that the patients are actually brain damaged and "slap-happy." Many followup studies have found severe brain damage and deteriorating states years after lobotomy (23, 59, 61, 93).

Crow has sent me a page summary of his report at the Second International Conference on Psychosurgery, August 1970, in which he reports that he has done 103 patients since 1958. He summarizes a very naive and crude psychophysiological theory to justify his surgery, one in which, for example, a specific region, "the anterior para-cingulate" is "involved in retaining mental items in consciousness, and thus to obsessionalism." Unlike some other lobotomists, he is unwilling to admit the inter-relatedness of human brain and mind functions, and the general blunting function of all psychosurgical interventions.

Implanting electrodes into the brain is at the heart of all of what is called ESB, for Electrical Stimulation of the Brain. The "stimulation" can be mild and probably reversible, or permanently destructive, depending upon the strength of the electrical current.

One of the most active ESB psychosurgeons is Robert G. Heath, Chairman and Professor of the Department of Psychiatry and Neurology at Tulane in New Orleans. He will soon be publishing a new book as part of the revival of psychosurgery.

According to *Medical World News*, which provides a disturbing photograph of one of his patients "wired up," Heath holds this record of 125 electrode implantations at one time, a brain turned into a human pincushion. These tiny electrodes are attached to wires or injection catheters which must also pass through the brain tissue.

Heath claims that these implantations are "harmless," but in an aside he lets on that they are in fact so traumatic that "studies were not initiated until a minimal period of six months following operation, assuring elimination of any variation introduced by operative trauma, e.g., edema, anesthetic effects." 1963, p. 572. Six months is a long recovery time for a non-traumatic procedure. But since Heath will let a patient remain wired up for years, six months may not seem a long duration to him.

The justification for all this is "therapy," and Heath claims that it is never done for any reason except "therapeutic." But if you read his articles, you will find *almost nothing* about therapy in them. Sometimes he doesn't even mention what disease the patient is supposed to have! And many of his "results" offer nothing more than a sentence or two about a curious response of some scientific interest elicited by an obviously non-therapeutic stimulation exercise. And in keeping with this, and typical of most modern psychosurgical literature, his emphasis is almost entirely on developing a new technology. There are pages and pages about technique for every few lines about its effects upon the patient.

In "Electrical Self-stimulation of the Brain," Heath describes individuals who wear their own self-stimulation units on their belts, transisterized packets, which they can take with them as they walk around, even as they go to work outside the hospital. These experiments often involve research into "pleasure centers" within the brain, and sometimes patients will indulge themselves at the rate of more than one thousand stimulations an hour.

In one case a man pressed one of his several buttons in a "frantic" fashion because it built him up toward a feeling of orgasm that he was never quite able to consumate. This particular man's problem was "narcolepsy," a tendency to fall asleep unexpectedly in inappropriate situations, and since he wore his pack on his belt, his friends or other patients could simply press his "wake up" button for him when he began to doze off.

Electrodes can be implanted in pain centers as well as pleasure centers. The totalitarian potential is beyond belief—a permanent set of buttons for pain and pleasure which *other people* can control. And as we'll see when we get to Delgado, these portable stimulators can be manipulated by *remote control*, even by computers at a distance!

As we will also see in Delgado's work, sexual responses seem particularly easy to elicit by ESB. Another of Heath's patients was so subject to this kind of control that he would make a sexual reference whenever one particular electrode was activated. And though

Heath gives us no clinical details about this or any other of his patients' experiences, *Medical World News* reports that Heath has used these techniques to treat homosexuals and frigid women.

On rare occasions Heath elaborates a philosophical basis for his work. Writing in *The Journal of Neuropsychiatry*, for example, he takes a strong moral stand that Einstein's level of thought was better than Christine Keeler's, the woman who created a scandal around her sexual activities with British politicians in 1963. Heath explains that Einstein's thought was of a higher level because Einstein's thought was less pervaded with "emotion and wishes." It is an exact equivalent of Knight's statement that "primitive emotions" are bad emotions. And these men present these observations as their justification for coagulating, radiating slicing up or stimulating the brains of their patients.

In a more recent publication (1968A), again technological rather than clinical, he lists some of the sites of "pleasure responses" and they correspond to the same areas of the midbrain that the lobotomists are now destroying surgically to provide us with more tame mental patients. It appears that the lobotomists may be simply obliterating the patient's capacity to respond pleasurably to life, so that the patient doesn't feel frustrated in his empty life.

Heath's concerns go far beyond the laboratory. He was elected President of the Society for Biological Psychiatry in May, 1969, at their Miami Beach annual meeting. In his presidential address, published as "Perspectives in Biological Psychiatry," he takes the stand that *all* the significant advances in psychiatry have been biological, and he postulates that so-called mental patients suffer from "inappropriate anxiety." Therefore the cure—"instantaneous replacement of irrelevant anxiety with positive pleasure feelings" by psychosurgical techniques.

He becomes quite specific in his presidential address when he talks about drug addiction. Is the root of the problem poverty and racism, since drug addiction around the world and in America is overwhelmingly a problem of the poor! No, it's not that. Is the new phenomenon of drug addiction among middle class youth related to the disaffection of youth from the society? No. Does it relate to the tremendous profits made by criminal groups from promoting drugs among the poor? No. What then is the problem of drug addiction according to Dr. Heath? Drug addiction, he says, is an attempt at self-medication for pleasure in people who have a *neurologic defect in their pleasure centers!* His cure then is corrective surgery or a better, more efficient pleasure producing compound.

Three or four years ago (1968B), Heath had already reported psychosurgical operations on 58 patients, at least 44 with psychiatric illnesses. By now he has most likely done many more. But the influence of his work goes far beyond the clinical through his positions of leadership within the psychiatric world, including his directorship of the Department of Psychiatry and Neurology at Tulane.

Perhaps the first of the new batch of books on electrical psychosurgery is *Depth-Electrical Stimulation of the Human Brain* by Mayo Clinic trained C. W. Sem-Jacobsen, M.D., who has returned to Norway, where he is Medical Director, Gaustad Sykehus, Oslo. Sem-Jacobsen's book is a classic of technology devoid of human considerations. The book can be read from cover to cover without ever gaining a clear idea what purpose all this psychosurgical gadgetry will serve. His discussion of ethics is limited entirely to *medical* considerations, such as not causing undue pain, avoiding unnecessary surgery, showing concern for the patient, and the like, all admirable, but hardly inclusive when dealing with physical control of the human mind.

We learn more about Sem-Jacobsen's work from his unpublished report to the Second International Conference on Psychosurgery, and from a description of it in *Medical World News*. He has operated on at least 132 patients for various psychiatric problems. Feeding half a dozen or more electrodes through a single hole in the skull, he can elicit, he says, almost every mood and emotion—depression, wild euphoria, grave fright, irrational confusion. His methods for treating people involve stimulating the brain electrically until the unwanted behavior is located, and then coagulating the area with electricity.

Though technologically exacting, this method must rank as one of the most anachronistic, considering the outmoded theory behind it—that mental illness can be reduced to foci of disordered brain tissue. That theory was outmoded and even an embarrassment to lobotomist Freeman (1950) when Moniz first proposed it in 1935 to justify the very first mutilations on a large scale. But since Sem-Jacobsen doesn't report anything about his patients' lives—not even the usual thumbnail sketches—in his book or in any sources available to me in the literature, we have no idea what his psychosurgery is actually doing to his clients.

The political potential of lobotomy and electrical stimulation of the brain is promoted outright by Jose M. R. Delgado, M.D., Professor of Physiology at Yale University and author of the recent book *Physical Control of the Mind*, "Toward a Psychocivilized Society," published in 1969 and available in paperback. Delgado was brought to America from Spain by John Fulton, an American physiologist whose animal lobotomy experiments and whose enthusiasm for experimenting on the human brain inspired Moniz and Freeman and whose book, *Frontal Lobotomy and Affective Behavior*, praises Moniz for his courage in defying the outrage of the medical community against his brain mutilations.

Delgado's goal is nothing less than physical exploration and physical control of the mind for the advancement of civilization:

"The thesis of this book is that we now possess the necessary technology for the experimental investigation of mental activities, and that we have reached a critical turning point in the evolution of man at which the mind can be used to influence its own structure, functions and purpose, thereby ensuring both the preservation and advance of civilization. The following pages contain a discussion of what the mind is, the technical problems involved in its possible control by physical means, and the outlook for development of a future psychocivilized society." P. 19–20.

Note that he is specifically talking about tampering with the "structure, functions, and purpose" of the mind and "its possible control by physical means."

After pages of documentation about what has already been done by a few investigators working with very little funds, he then proposes a giant billion dollar government investment in mind control:

"National agencies should be created in order to coordinate plans, budgets, and actions just as NASA in the United States has directed public interest and technology, launching the country into the adventures and accomplishments of outer space." P. 259.

He advocates a complete educational program, from infancy and nursery through adulthood and mass education for the indoctrination of the people into a respect for physical control of the mind:

"The mass media must be mobilized for this purpose, and preparation of entertaining and informative programs should be encouraged and promoted by the neurobehavioral institutes." P. 262.

In his introductory remarks to the section on controlling "behaving subjects" he promotes the ideal of *remote control* of human beings by other human beings. He points out that he can open garage doors from a distance, adjust a television set without leaving our seat, and direct orbiting space craft from earth. Then he makes his point:

"These accomplishments should familiarize us with the idea that we may also control the biological functions of living organisms from a distance. Cats, monkeys, or *human beings* can be induced to flex a limb, to reject food, or to feel emotional excitement under the influence of electrical impulses reaching the depths of their brains through radio waves purposefully sent by an investigator. P. 75. (My Italic.)

But he is aware that this may disturb some of his readers, and so he denies time and again that the human being can be controlled in any "bad" ways, turning them into robots, or the like. But he says outright that the problem fascinates him and preoccupies him:

". . . we have the possibility of investigating experimentally some of the classic problems of mind-brain correlations. In addition to new answers, implanting of electrodes has introduced new problems: Is it feasible to induce a robotlike performance in animals and men by pushing buttons of a cerebral radio stimulator? Could drives, desires and thoughts be placed under the artificial command of electronics? Can personality be influenced by ESB? Can the mind be physically controlled," P. 97.

Delgado is working on the ultimate lobotomy—direct long term physical control of human beings. He has even gone so far as to work it out cosmetically:

"Some women have shown their feminine adaptability to circumstances by wearing attractive hats or wigs to conceal their electrical headgear, and many people have been able to enjoy a normal life as outpatients." P. 88.

Again despite his denials that there is anything reminiscent of 1984 about all this, he has been working on remote control of humans by *computers* which can selectively inhibit various emotions as they are detected and recorded from brain waves:

"A two-way radio communication system could be established between the brain of a subject and a computer . . . anxiety, depression, or rage could be recognized in order to trigger stimulation of specific inhibitory structures." P. 201.

While this is "speculative," it is by no means a remote possibility. If a few men can do what they have done working in isolated labs with little financial support, they might in a crash program develop complete computerized control of humans in a matter of years.

They are well on the way already. Using the computerized remote control technique, they have been able to suppress the activity of a monkey's amygdala simply by putting an inhibitory or negative and painful stimulus into the brain every time the amygdala sent out any signs of activity (p. 92). The amygdala is that portion of the brain which the psychosurgeons cut out in order to tame human beings. There is no doubt that they will soon be able to do this to humans with computers and electrodes by remote control!

The experiments Delgado describes with monkeys have gone further than any he tells us about with human beings, but the model can be easily transferred to human behavior. In groups of monkeys he has been able to activate the followers to depose the leaders, and to activate the leaders in more aggressive activities against the followers.

But he and his colleagues have already done enough to show us what is in store for mankind in the "psychocivilized" society. Not only do we have the work of Heath and Sem-Jacobsen with chronically implanted electrodes and human beings working and living with self-stimulator packs on their belts, but we have the reports of Delgado himself.

In one case, a 36-year-old woman was stimulated electrically:

". . . the patient reported a pleasant tingling sensation in the left side of her body 'from my face down to the bottom of my legs.' She started giggling and making funny comments, stating that she enjoyed the sensation 'very much.' Repetition of these stimulations made the patient more communicative and flirtatious, and she ended by openly expressing her desire to marry the therapist." P. 145.

This was a women who had no interest in her therapist and who showed no unusual behavior when not under ESB. Another woman who was "rather reserved and poised" became "more intimate" with the therapist when under ESB: "This patient openly expressed her fondness for the therapist (who was new to her), kissed his hands, and talked about her immense gratitude for what was being done for her." P. 145.

In a third case, an 11-year-old boy who was otherwise normal in his behavior became so sexually excited about his male therapist while being stimulated electronically that he defied his identity and decided that he would rather be a girl:

"Following another excitation he remarked with evident pleasure: 'You're doin' it now,' and then he said, 'I'd like to be a girl.'" P. 147.

Delgado is also able to control both physical activity and the person's interpretation of that activity. In one case a patient is being stimulated and doesn't realize it, so that when the stimulation makes him turn and look around in robot-like searching behavior, he makes up explanations to justify what he is doing, such as "I heard a noise," or "I was looking under the bed." (p. 116). In another case where the client is being made to flex his hand, he is told to fight the impulse, but he cannot. He admits, "I guess, Doctor, that your electricity is stronger than my will."

In another example, Delgado shows that the subject's state of *anxiety* can sometimes be brought under the direct control of the psychosurgeon: "One could sit with one's hand on the knob and control the level of her anxiety." P. 135.

The degree of overall brain control is then alluded to in experiments which we can only imagine:

"Often the patients performed automatisms such as undressing or fumbling, without remembering the incidents afterward. Some of our patients said they felt as if their minds were blank or as if they had been drinking a lot of beer." P. 174–175.

And then he concludes his section on "Electrical Activation of the 'Will,'" with this portentious pronouncement:

"We may conclude that ESB can activate and influence some of the cerebral mechanisms involved in willful behavior. In this way we are able to investigate the neuronal functions related to the so-called will, and in the near future this experimental approach should permit clarification of such highly controversial subjects as "freedom," "individuality," and "spontaneity" in factual terms rather than in elusive semantic discussions. The possibility of influencing willful activities by electrical means has obvious ethical implications, which will be discussed later." P. 189.

Delgado does discuss these ethical implications and invokes the model of involuntary psychiatric treatment and electroshock therapy (p. 216) as justifications for going ahead with ESB control.

The degree to which Delgado wants to control people comes out most clearly as he summarizes what's wrong with current therapy and how much more effective ESB can be. "Phychoanalysis requires a long time, and a person can easily withdraw his cooperation and refuse to express intimate thoughts." P. 216.

Even electroshock is no good in part *because he can't use it on normal people*: "Electroshock is a crude method of doubtful efficacy in normal people." P. 216.

Now listen to what his methods have to offer compared to analysis or shock:

"Although electrical stimulation of the brain is still in the initial stage of its development, it is in contrast far more selective and powerful; it may delay a heart beat, move a finger, bring a word to memory, or set a determined behavioral tone." P. 216.

He offers us a vision of generals and armies controlled by Electrical Stimulation of the Brain—in the interest of "preventing violence" of course (p. 176). And finally leads himself into sophistries about freedom and individuality which undermine the basic tenets of western political freedom:

"The individual may think that the most important fact of reality is his own existence, but this is only his personal point of view, a relative frame of reference which is not shared by the rest of the living world. This self-importance also lacks historical perspective, for the brief existence of one person should be considered in the terms of the world population, mankind, and the whole universe." P. 236.

He then goes on to *attack* the notion that man has "the *right* to develop his own mind," to develop his own unique potential "while remaining independent and self sufficient." As he concludes:

"This kind of liberal orientation has great appeal, but unfortunately its assumptions are not supported by neurophysiological and psychological studies of intracerebral mechanisms." P. 239.

Delgado is the theoretician of the lobotomists, the great apologist for Technologic Totalitarianism (17), complete with an outright attack on "liberal" politics, meaning not the liberalism of the left, but principles of personal autonomy, independence and freedom, man's "inalienable rights" as annunciated in the Declaration of Independence.

### IV. CONCLUSIONS AND RECOMMENDATIONS

All forms of psychosurgery blunt the individual's emotions and make him more docile. Each technique attacks and mutilates brain tissue that has nothing demonstrably wrong with it, and each does this within the delicately balanced "limbic system" of the brain which harmonizes the most highly developed human capacities, including emotional responsiveness.

While the more advanced methods of brain stimulation have a greater variety of effects, to the extent that they destroy tissue within the brain, they will tend to reduce emotional responsiveness as "partial lobotomies." And of course they subject the individual to the control of others.

Scientifically, lobotomy and psychosurgery have no rational or empirical basis. Empirically, no study has ever been done involving matched control groups. That is, no one has ever taken two similar groups and subjected one to surgery and left one alone for comparison. This is the scientific method at its best and it is totally absent from the hundreds of pro-lobotomy articles in both the first and second waves of psychosurgery.

Three controlled studies have been done retrospectively matching as nearly as possible the surgical groups and the regular hospital population upon which no surgery was done (Robin Vosburg and McKenzie). In all three studies lobotomy was found to have no beneficial effect whatsoever Vosburg, Moser and even pro-lobotomy followups such as Dynes and Miller found that the lobotomy surgery had left the patients with crippling brain damage. Vosburg found that the patients had surgically-produced brain damage as well as their initial psychiatric difficulties and that "In sum, they act as if they have been hurt."

The current literature is as woefully inadequate scientifically as the earlier literature, and in fact bases itself on studies by Shobe, Tooth and Newton and others which fall by every standard of scientific research.

The scientific *rationale* is no more solid than the empirical evidence. As we have seen, psychosurgery is a uniformly damaging operation—exactly what one would expect from mutilating normal brain tissue. There can be no rationale for "helping" an individual by blunting his highest adaptive mechanisms. This method simply hides the individual's failure to adapt by partially doing away with the individual's responsiveness. In every case we are dealing with the eradication of symptoms by partially eradicating the individual. To repeat the obvious, improvement in function cannot follow mutilation of the functioning brain.

In defense of psychosurgery, the alleged biological origin of "mental illness" is often raised. Elsewhere Thomas Szasz and I (14, 15, 17) have raised serious questions about the medical model for human problems. But this distinction is not even relevant here. If we grant that some problems may be biological, it makes even less sense to mutilate the biologic process. Since the brain is such a delicately balanced instrument with unimaginable inter-relations, senseless mutilations of one part or another can only disrupt the harmony still further, resulting in a general subduing of the organism and a general malfunction of his adaptational processes.

Vidor describes how an artist can no longer create after his lobotomy, and the dean of lobotomists, Walter Freeman (1959), tells us how in the newer modified lobotomies creativity is still reduced to zero:

"What the investigator misses the most in the more highly intelligent individuals is the ability to introspect, to speculate, to philosophize, especially in regard to the self." P. 1526.

"Creativeness seems to be the highest form of human endeavor. It requires imagination, concentration, visualization, self-criticism, and persistence in the face of frustration, as well as trained manual dexterity. . . . Theoretically, on the basis of psychologic and personality studies, creativeness should be abolished by lobotomy. . . . On the whole, psychosurgery reduces creativity, sometimes to the vanishing point." P. 1534–5.

He then says that some businessmen can return to work, but that they too are impaired:

"Although they may not become leaders in their professions, they serve adequately and comfortably." P. 1535.

This is not the writing of an anti-lobotomist, but the statements of the world's most experienced psychosurgeon, an Honorary President of the new International Association for Psychosurgery. And the words are written as the definitive statement on psychosurgery in the prestigious source book, *The American Handbook of Psychiatry* (1959).

Ethically, psychosurgery is equally unsound. At best it blunts the individual, and at worst, it destroys all his highest capacities. As Freeman has said on many occasions, this amounts to destroying the "self" of the individual (1950, 1959). The "self" is the ethical foundation of many modern psychological theories, where it often appears in terms of "identity" or "self-insight," and other related concepts. Similarly, psychosurgery blunts or destroys the individual's capacity for autonomy and independence (14). Crow, a very modern British psychosurgeon, describes how his clients need careful guidance and support for years after their surgery in the most simple life problems. Psychosurgery offends the whole western ethical tradition of respect for the individual.

Politically, the dangers from psychosurgery are so vast as to defy summary. In his definitive text in 1950 we can see the political function of psychosurgery in the state hospital system in terms of Freeman's first four categories of success over a fifteen year period (p. 515):

First, "older patients."

Second, women more than men.

Third, Negroes especially, particularly Negro females, his most successful group.

Fourth, "simpler" occupations.

Thus he used the surgery to blunt those people whom the society found most vulnerable and most easily returnable to relatively non-functional or low level tasks within the society.

Greenblatt, Arnot and Solomon blithely sum up that "Freeman and Watts offer the opinion that results of prefrontal lobotomy are slightly better with females, Jews and Negroes." p. 21. Freeman and Watts did not say *slightly*.

Both Freeman and Watts and Greenblatt, Arnot and Solomon in their classic studies say that a major function of state hospital lobotomy is to make it easier and economically cheaper to keep the patients institutionalized! No wonder, as Greenblatt, Arnot and Solomon again quote their colleagues, "Freeman and Watts reported that patients showing the best post-operative results were those who were confused, dull, and retarded for several days after operation." p. 23.

We are again seeing an attempt to revive the use of psychosurgery to blunt and control inmates—Andy with institutionalized children, the California prison system with difficult prisoners (66) and the upcoming Houston conference on psychosurgery approaches to violence and penitentiary problems (98). We are on the verge of a new slaughter of inmates—men, women and children.

But the total political threat of psychosurgery is considerably larger than the institutional threat. In my newest novel, *The Hebrew Disease* (15), I describe a futurist use of psychosurgery for political control within the society. But while I was writing this novel, I had no idea that Delgado had already formulated a political program for the control of the society under an enormous NASA-like project for physical control of the mind. Nor did I know that he and others like Heath were already far along in experimenting with implanted electrodes for the longterm (years!) control of individuals—even by remote control! Nor did I know that a number of social, economic and political problems—drug addiction, alcoholism, homosexuality, depressions of old age—were being dealt with psychosurgically. We are in danger of creating a society in which everyone who deviates from the norm will be in danger of surgical mutilation. The increasing application of these methods to "neurotics" and to people who are already well enough to work and to live with their families raises the specter of wide scale applications, particularly to women, who continue to be the majority of victims.

On a tape recording made for the archives of the American Psychiatric Association Museum and Library, Walter Freeman discusses the original outcry against lobotomy when it first began in Portugal (29). Dismissing this outcry, Freeman laughs and quips "Oh, there's plenty of Portuguese." This is an attitude which cannot be permitted to thrive again in America as it did in the 1940's and 1950's when 50,000 victims fell to psychosurgery. Russia outlawed lobotomy in 1950 (45). We are too far behind them in this regard.

While accepting these scientific, ethical and political objections to psychosurgery in general, some well-meaning physicians and laymen still see a use for psychosurgery in the relief of intractable pain and anxiety in terminal illness (96). But the use of psychosurgery for this purpose borders on euthanasia—a partial destruction of the responsive "self" or "identity" of the living human being—and therefore suffers from all the dangers inherent in euthanasia. But still more important, to allow its use for this one purpose opens up experimentation on thousands of dying patients and further promotes its future use for other more dangerous purposes.

Some individuals with a civil libertarian orientation also believe that while psychosurgery is personally repugnant to them it should nonetheless be left up to individual choice. According to this principle, involuntary psychosurgery would be abolished, but not voluntary psychosurgery. But the distinction between voluntary and involuntary becomes very blurred within psychiatry. We have already found examples of "voluntary" psychosurgery performed on a chronic gambler and upon sexual deviants who were under threat of criminal prosecution. The psychosurgery to be performed upon the prisoners in California was also supposed to be "voluntary." And as I have analyzed in some detail (13) and described at great length in my first novel (15), so-called voluntary treatment is often forced upon the psychiatric patient by threats and outright coercion even in the best of voluntary hospitals.

There is still another reason to prohibit voluntary psychosurgery, and that has to do with its mutilating effect upon the individual's mind. To the extent that psychosurgery "blunts" the individual, I personally feel that it partially kills the individual. If we accept this concept, then we can allow the person the right to suicide or partial suicide but we cannot allow a second party to aid him in the suicide. Just as it is against the law to take a person's life even with his consent, so it should be against the law to take *part* of a person's life, even with his consent.

For these reasons, I believe that all forms of psychosurgery should be outlawed in America as they were in Russia (45).

The outlawing of psychosurgery can be accomplished directly by federal and state legislation. It can also be accomplished indirectly by taking psychosurgeons to court when this seems warranted. Suits might be based upon any tendency to make exaggerated claims, thus leading to "uninformed consent" on the patient's part. Other suits might be brought upon the grounds that the patient has been robbed of his civil rights by being deprived of his mental capacity to exercise them.

In the meanwhile, the public must apply the sort of pressure that has brought a temporary stop to psychosurgery in the California prisons. Psychiatric hospitals, institutions for the mentally retarded and general hospitals (where most are now being performed) must prohibit psychosurgery within their walls. Hospital review committees must be set up where necessary to determine if questionable cases fall into the category of psychosurgery—brain surgery which mutilates healthy tissue for the purpose of blunting emotions and controlling personal conduct.

Well over 100,000 persons have already been subjected to psychosurgery around the world, including 20,000 in England, perhaps 50,000 in America, many more thousands in Canada. We are now in the midst of a resurgence, including multiple forms of psychosurgery upon hyperactive children. It is time to take action before this revival takes on the proportions of the first wave that peaked in the 1950's.

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## THE HISTORICAL BACKGROUND OF CHINA—RARICK REPORTS TO HIS PEOPLE

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### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. RARICK. Mr. Speaker, I recently reported to my people on the historical background of China. I insert my report in the RECORD at this point:

RARICK REPORTS TO HIS PEOPLE ON THE HISTORICAL BACKGROUND OF CHINA

**While this telecast is being made, world attention is focused on Peiping where the President of the United States is visiting and meeting with Communist Chinese leaders. So I thought it would be timely to talk today about China—to consider its historical background so as to understand better the present situation in China to better understand the future.**

**The name for China in Chinese is Chung kuo which means Middle Kingdom. China has traditionally been considered by the Chinese people as the center of the universe, the apex of culture, and the wellspring of civilization.**

**While other civilizations such as the Assyrian, Egyptian, Greek, and Roman have risen and fallen with little remaining which links the present descendants of these cultures with their remote past, the civilization of China stands out in contrast by its unbroken continuity of approximately 4,000 years. This may be explained perhaps by the stoic nature of the Chinese people, their reverence for the elderly, their ancestors, and ancestral homes and by geographical conditions. As you can see from a map, China is geographically closed off from the rest of the world by lofty mountains, thick jungles, deserts, and oceans. This factor of geography has caused the Chinese as a people to have little contact with the rest of the world, to be largely self reliant, and to develop their own civilization.**

**Chinese merchants did, however, engage in a small amount of external trade and were trading with the Philippines and the islands of Indonesia about 500 years before the English, Dutch, and Portuguese. Through trading contacts, Chinese culture reached Japan, Tibet, Korea, Burma, and Thailand and did influence the lives of the people of these countries.**

**Until the Twentieth Century, China was ruled by a series of dynasties ranging in duration from a few years to over 400 years.**

**China's history has been characterized by the rise and fall of these dynasties. Once a strong dynasty had established control, it would hold power for two to three hundred years until a rival power succeeded in overthrowing it. This was always characterized by military action. In some instances, a new dynasty took over the reigns of government at once. In most cases, changes of dynasties were marked by vacancies on the throne or transitional periods lasting from 20 to 40 years or longer. Then there would ensue a long period of peace.**

For example, the Ching or Manchu dynasty lasted from 1644 to 1912.

In 1792, about midway during this period, King George III of England sent an embassy to China. In a description of his travels, the English Ambassador wrote that "everywhere he was struck by the perfect orderliness of life, and by the peaceful industriousness of the people." In the traditional Chinese society everyone had and knew his place and his responsibilities to others. The emperor and his officials recognized the great responsibilities they had towards the people. The smooth functioning of traditional Chinese society depended largely upon a class of scholar-officials known as "mandarins". They were trained in the humanities—studies such as history, literature, art, poetry, and music. Through civil service examinations these scholar-officials competed for positions ranging from village school teacher to the highest office under the emperor.

During the 19th Century and the early part of this century, China underwent several humiliations at the hands of Japan and Western European trading nations as well as internal disorders.

Some of the merchant class who had business dealings with foreign business houses sent their sons abroad to study and to prepare them for the changes that were taking place. Likewise, other families who had for centuries provided scholar-officials to the empire sent their sons to study in foreign universities.

Upon their return to China, these students cast aside the traditional views and looked upon Chinese life and institutions in a more modern way. While all felt that the Manchu dynasty must go, they had varied opinions as to China's future.

Among these foreign-educated students was one who would become the Father of the Republic of China. He was Dr. Sun Yat-sen who was from near Canton in Southern China. With financial aid from abroad and the help of sympathizers within China, Sun Yat-sen and his followers were successful in gaining power and in proclaiming the Republic of China on January 1, 1912, with Dr. Sun Yat-sen as its first President.

It was Dr. Sun's hope that China would quickly become a modern democratic nation. Its Constitution and institutions were to be modeled upon those of the United States and France. Unfortunately, Dr. Sun, as many of the other foreign trained students, were not in touch with the realites of Chinese life.

Instead of becoming united, China underwent a scramble for power by local despots or warlords who used their private armies to try to eliminate each other.

By 1920, China was in a state of confusion. Dr. Sun was a disillusioned man with no source of help in sight to aid him in his struggle. Unexpectedly, the newly formed Union of Soviet Socialist Republics offered to surrender most of the concessions exacted from China by the Russian Tsars and to send military and civil advisers to help Dr. Sun reorganize his party. Dr. Sun accepted the Russian's offer.

Realizing that democracy had not worked in China, Dr. Sun's followers organized the Kuomintang or Nationalist Party modeled on the Russian Communist Party with rigid discipline.

The Chinese Communist Party was founded in 1921. Two of the founders were Mao Tse Tung and Chou En-lai. Dr. Sun did not object to working with the Communists, either Russian or Chinese, and members of the Communist Party could join his Nationalist Party.

In order for Dr. Sun's Nationalist Party to govern China, it was necessary to curb the power of the warlords. To do this, Dr. Sun set out to build a national army. He sent a promising young general named Chiang Kai-shek to Moscow to study advanced military strategy. Upon his return, Chiang Kai-shek headed the Military Academy at Canton to train officers for the National Army. From this Military Academy were graduated most of the generals who would years later fight in the struggle between the Nationalists and Communists for control of China.

General Chiang Kai-shek succeeded Dr. Sun Yat-sen as head of the Nationalist Party upon Dr. Sun's death in 1925.

It is of interest that the widow of Dr. Sun has been Vice Premier of the People's Republic of China since its beginning in 1949 while a sister of hers is the wife of Chiang Kia-shek.

Chiang broke with the Communists in March, 1927. The Russian advisers were sent back to Russia, the Communist Party was outlawed and many of its leaders were arrested or killed. Chou En-lai, narrowly escaped with his life.

The Nationalists established their capital at Nanking. For the next two decades, the Nationalists were occupied fighting a civil war with the communists and a foreign war with the Japanese.

The Communist forces, thanks to the aid of their friends in key positions in the U.S. Government, finally won over the Nationalist forces which either surrendered or were evacuated to the Island of Taiwan or Formosa. On October 1st, 1949, the People's Republic of China was proclaimed in Peking.

The history textbooks and the national news media for some strange reason have not told the American people how from 1945 to 1950 the United States helped the Chinese Communists and undermined the Chinese Nationalists.

In this period when China was being delivered to the Communists, many writers insisted that the Chinese Reds were not Communists but only "agrarian reformers". This in spite of the fact that General Albert C. Wedemeyer had reported that Mao Tse-tung and Chou En-lai called at his headquarters and admitted freely that they were Communists.

General George Marshall in March, 1946, backed up by President Truman, placed an embargo on the sale of arms, ammunition and replacements to Nationalist China. The General boasted that with a stroke of the pen he had disarmed 39 of Chiang's divisions. While General Marshall was disarming the Nationalist Chinese, the Communist Chinese were being armed with Japanese arms which were turned over to them by the Soviet Army in Manchuria. The United States allowed Russia to come into the war against Japan a few days before the end of the war. As a result, the Soviets with practically no fighting were able to take the surrender of the Japanese Army in Manchuria with all of its arms and ammunition.

Since achieving power, Mao Tse-tung, Chou En-lai and the other Communist leaders of the People's Republic of China have sought to consolidate their control by raw power and through destruction of the family, religion, and private property and by liquidating any opposition.

In addition to killing from 34 to 64 million people, Mao and Chou have weakened the traditional strong Chinese family ties by establishing communes. Journalist and China expert Edward Hunter described a commune as an ant heap. "A man stays in his own ant heap. He can be shipped to projects anywhere, but belongs to the commune. He belongs to his commune and his wife does too. He may rarely see her, or not at all, or they are shipped to different places." The children are taken away and put in so-called nurseries.

In testimony before the Senate Committee on Internal Security in 1959, Hunter stated: "The child already is being taken from the cradle. He begins receiving military training as soon as he or she can walk. The intent is to raise a generation of brainwashed human ants that can be depended upon . . . to be sent or used anywhere like janissaries to fulfill unthinkingly whatever instructions come from the top."

In a report entitled "The Human Cost of Communism in China" to the Senate Internal Security Subcommittee in July 1971, Professor Richard L. Walker, a lifetime student of Chinese affairs, unmasked Mao Tse-tung and Chou En-lai as the barbarians and murderers that they are. Their crimes and murders exceed those of Stalin and Khrushchev. Dr. Walker's evidence shows that from the time of the first Chinese civil war starting in 1927 until today, Communism in China has cost a minimum of 34 million lives and that total may go as high as 64 million lives.

During the agrarian reform of 1949–52 several million landlords were executed. Their crime was to have owned land. Then came the campaign against the counter-revolutionaries of 1951–52 during the first 12 months of which it was estimated that 1½ million were executed. There were additional purges from time to time to assure that there was no opposition to the Communist tyrannical rule. Many of the executions took place in public and were deliberately cruel, torturous, and inhumane so as to impress on the populace what would happen to them if they got out of step with the dictatorship.

In 1965–66, Mao launched the Great Proletarian Cultural Revolution which lasted until 1969. This was accompanied by executions, purges, and terror.

And this barbarian treatment of fellow human beings continues today as we learn from a few who have managed to escape from the slave labor camp which is Red China. Even as recently as last summer, troops of the People's Liberation Army machine-gunned scores of their fellow Chinese who attempted to escape to Hong Kong.

Such are the atrocities of the international bandits Mao and Chou with whom our President and Mrs. Nixon are being wined and dined and put on world public exhibition at the expense of the American taxpayers.

Some feel this historic meeting may benefit our President. Most certainly it will benefit the Chinese by dignifying their rule and in tightening their control over the Chinese people.

The American President, who must attribute his success in public life to insinuations that others were "soft on communism," now serves as an apologist for communism.

Perhaps the history of China from the end of the Manchu dynasty in 1911 including the present Red Chinese regime is just a part of the pause between dynasties which has been so characteristic of the centuries old China story. Will Chinese history again repeat itself?

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## LITHUANIA SHOULD BE FREE

### HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 1972*

Mr. COLLIER. Mr. Speaker, ever since the close of World War II, the Soviet Union has violently denounced the Western Nations for practicing imperialism, despite the fact that most of the former British, French, and other colonies have been free for some time. While more than 70 nations have become independent since 1945, the Soviet Union has made no move to free Lithuania, Latvia, and Estonia, the Baltic republics that it seized back in 1940.

Last week many Americans of Lithuanian descent, including a large number who reside in my district, observed the 54th anniversary of the independence of the land of their ancestors. Lithuania had enjoyed a generation of freedom between the two world conflagrations, having declared its independence on February 16, 1918, but a few months after the Bolsheviks had come to power in Russia.

During the summer of 1940, Lithuania was invaded and occupied by its powerful neighbor. One-party elections resulted in a parliament of stooges who voted for incorporation with the Soviet Empire. Lithuania's agriculture was collectivized, its industry nationalized, and its people regimented in every possible way. Its only respite from the horrors of communism came when it was occupied by the forces of National Socialist Germany, which had broken with its ideological brethen and invaded Russia. This was merely an exchange of one set of oppressors for another.

Why should not Lithuania be free once again? Its 3,129,000 people are more numerous than those of some of the new countries that have come into existence in late years.

Why should not Lithuania be independent as it once was? Its 26,173 square miles make it much larger than many of the nations that have recently emerged from colonialism.

Why should not Lithuania's liberties be restored? Surely its inhabitants are entitled to freedom of speech—its language is the oldest living tongue in Europe. Surely they deserve the right to worship God—they were Christians centuries before the gospel had reached many of the remote places where new countries have but recently come into being.

Mr. Speaker, we hear a great deal about the importance of freedom of choice, self-determination, and free elections. It is high time that these noble principles were put into effect in Lithuania and the other Baltic nations.

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## LITHUANIA FREEDOM

### HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. BELL. Mr. Speaker, in further observance of the 54th anniversary of Lithuanian independence, I submit the following editorial from the Los Angeles Herald-Examiner of February 20, 1972:

#### LITHUANIA FREEDOM

A bittersweet observance is underway in Los Angeles this week.

Americans of Lithuanian origin and descent are marking the 54th anniversary of the Republic of Lithuania and the 721st year of the formation of their homeland.

There is little joy in the occasion, however. Lithuania, like its tiny Baltic sister states of Latvia and Estonia, was swallowed by the Soviet Union 30 years ago.

Only indistinct dotted lines denote its borders on the red map of Russia.

The sweet dream of freedom lives on, though, especially in the minds of those Lithuanians who have adopted the United States as their home.

They know what freedom is, and they want it more than ever for the friends and relatives left behind.

All but the youngest remember the brief six weeks of independence wrested from the Russians in 1941—liberty that was smashed by Nazi Germany, and further suppressed by Russia after World War II.

That bright moment in an otherwise dark history will be recalled by Lithuanian Americans at a rally at John Marshall High School today. They also will honor the brave but futile attempt by a Lithuanian seaman, Simas Kurdirka, to seek asylum aboard a U.S. Coast Guard vessel in 1970.

Americans of all ethnic origins would do well to reflect upon their own freedom at this time, and to hope with their Lithuanian neighbors that it one day will return to the shores of the Baltic Sea.

The last words of Kurdirka, spoken after he was sentenced to 15 years at hard labor for his leap to freedom, express that desire:

"I have nothing to add to what I have already said, only one wish, more specifically, a request to the supreme court and the government of the Soviet Union: I ask you grant my homeland, Lithuania, independence."

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## L. C. RINGHAVER

### HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. FUQUA. Mr. Speaker, the February issue of the Jacksonville Seafarer of Jacksonville, Fla., recognized an outstanding public servant as that Florida Port's Man of the Year.

L. C. Ringhaver is one of those dynamic leaders in business who gives of themselves in public service and there is no better example of this selfless spirit than "Ring." Across the length and breadth of the State, he is recognized as one of the great leaders of Florida.

The Cross-Florida Barge Canal is a project for which he worked diligently to complete. The suspension of the project by President Nixon was a great shock to those of us who felt this waterway would be a vital addition to America's transportation system.

Now it is an uncompleted dream.

There are those who have not abandoned the quest, and "Ring" directs the responsible leadership in our State that seeks to have a full debate on the constitutional question of whether a President can completely ignore the decisions made by the Congress.

I would like to pay tribute to "Ring" by having the article from the Seafarer reprinted here, with my personal comment that I feel his selection for this honor was well deserved.

#### L. C. RINGHAVER—MAN OF THE YEAR

The Propeller Club, Port of Jacksonville, presented its 1971 Man of the Year Award January 28 to L. C. Ringhaver, president of Ring Power Corporation, chairman of DESCO Marine Sales, chairman of the Canal Authority of Florida, former president of the Gator Bowl Association, director of Atlantic National Bank and American Heritage Life Insurance Company, director of Seafarer, and leader in numerous other business and civic affairs in Jacksonville.

"Ring", as he is known along the waterfront, has been all those things. He has enjoyed marked success in everything he has done.

The Propeller Club board of governors chose him for the award, however, for the one effort he has not yet won; the one battle which is the most difficult he has ever faced; the one battle he is now most determined to win: Resumption of work on the Cross-Florida Barge Canal.

For the past year, "Ring" has been on the cutting edge of the most significant confrontation in this nation (and perhaps the world) between forces commonly identified as the Ecologists and the Developers.

When President Nixon chose to halt work on the Cross-Florida Barge Canal a year ago, Ringhaver was thrust into the role of the individual who must respond, challenge the president and lead the defense of the project.

There is no more loyal citizen of the United States than L. C. Ringhaver and it is not in his nature to go around challenging the President.

Ringhaver had three real choices. (1) He could just sit, accept the President's decision, and abandon the project which he and his closest friends, including J. H. Coppedge, had worked years to accomplish. (2) He could marshal a team of press agents and sound off, accomplishing little or nothing. Or, (3) he could take the facts into the calm arena of the courtroom.

Wisely, Ringhaver chose the third alternative.

The Ecologists tried to black this move, but failed. Shouts of the fanatics were useless in the muffled chambers of the court. While they protested, Ringhaver quietly set the stage for a full hearing on all the issues—including the constitutional debate over the privilege of the President to ignore the decisions of Congress.

Careful planning and right judgment have made "Ring" successful in all his previous efforts. The Propeller Club believes he made the right decision again when the chips were down in January 1971. They believe he will succeed again, and for this, he was definitely the Port's Man of the Year.

## HON. ED CRAFT

## HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 22, 1972*

Mr. ARENDS. Mr. Speaker, while I have not had occasion to work closely with Ed Craft, as have the members of the Ways and Means Committee, I have seen the handiwork of his fine legal mind and I know about him. His motto has been: "Work unseen; be more than you seem." I know the tremendous contribution he has made over the years as our legislative counsel, and I cannot permit him to retire without expressing to him publicly my very real appreciation of his service to this House.

It is one thing for us to make a decision as to what should be embodied in a bill; it is quite another to have that decision translated into the proper legal language, that it says precisely what we decided, no more and no less. To be able to do this requires more than a lawyer. It requires a "lawyer's lawyer." It requires more than a general knowledge of the law. It requires a technical knowledge and a special skill.

This is especially true in the drafting of our tax law. The Internal Revenue Code of 1954, the Revenue Act of 1962 and the Trade Expansion Act of 1962 are but a few of the major pieces of legislation which are the work of Ed Craft. They do not bear his name. His name does not appear in any of the legislative debate nor in the committee reports. Nonetheless, such measures as these are a product of his knowledge and skill.

Ed Craft became a member of the Office of the Legislative Counsel in December of 1941 and, except for a period of over 2 years in the military service during World War II, he has served in the Office of Legislative Counsel. He became legislative counsel, in charge of the office, on February 1, 1962.

We will miss Ed Craft. We will miss him greatly. I extend to him "thanks" and very best wishes in his well deserved retirement.

## AMERICA'S STRENGTH: ANOTHER VIEW

## HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. LENT. Mr. Speaker, Mr. Joseph Curran of Levittown, N.Y., recently brought to my attention the remarks made by Comdr. Robert T. Molloy of the U.S.S. *Will Rogers* upon the completion of a recent patrol. So that my colleagues may have the benefit of Commander Molloy's remarks, I enter them here:

SOME THOUGHTS UPON RETURN FROM PATROL

As we finish patrol, some of you may wonder what we've really accomplished out here, and was it really worth it. A few may even have misgivings about the need for any military forces at all, feeling that if we lay down our weapons the rest of the world will graciously do likewise. The reasoning runs something like this; if I simply sit in my front yard, bothering no one, reading poetry contemplating nature and eating grapes, then everyone else will blissfully do the same, and we'll all enjoy a quiet, rosey colored cream puff world. Well, well, well. . . . Regrettably, the ways of the world don't choose to operate that way. History is full of examples, century after century, culture after culture of nations that have grown, become strong, and then faded away. The Phoenicians, then the Greeks, the Romans, the Hapsburg Empire—the list could reach as long as you want to make it. The common point of all these cultures, or nations, was that they faded and were demolished because they became weak. They thought they could contemplate nature and eat grapes. They lost sight of the fact that a basic trait of much of mankind, stretching back to the dawn of history has been that the strong prevail over the weak. Whether you believe this situation to be right, wrong or indifferent is immaterial—Why? Because it is a fact, a fact of history as well as of the present. And since there is no evidence to cause belief that the bulk of mankind who subscribe to the "strong will prevail" philosophy will suddenly change their basic nature, then there is little likelihood that the "strong will prevail" philosophy will change in the foreseeable future.

What has all this to do with me you're asking. Only this; as Americans, like it or not, you belong to a society that has created a culture unparalleled in history for its enoblement—yes its enoblement, its enrichment, its glorification—of the dignity and worth of individual human beings. This magnificent culture we call American democracy hasn't happened over night just because we wished it. It's taken work, my friends, hard work, a lot of personal sacrifice and more than a little bit of high principle. In spite of the dark predictions of the French observer Alexis DeTorqueville in the early 1800's that the "American experiment" could not last long because it gave too much power to the people, in spite of the fact that the American people have exercised the substantial power of a free people, our experiment has done pretty well.

We have created a system looked up to by much of the world as a model of free government and responsible personal liberty. Our constitution has stood longer than any other document of similar character except the Magna Carta which was more an expression of principles than a constitutional document. Men risk their lives, abandon their material goods to enter our culture, else how do you explain the 30,000 plus souls who have fled their homes in Cuba to an uncertain future in the United States; the thousands who "voted with their feet" and have risked (and often suffered) death, to escape over the Berlin wall to the West; the abortive attempt by the Lithuanian seaman Simas Jonovich Kudirka to seek political asylum on the coast guard cutter *Vigilant*. You can recall the incidents as well as I of the many people—young, old, male, female, rich, poor—who have faced death and suffering just to get to America—America—the culture that you are all members of simply by circumstance of birth. Think about it—we must have something going for us when thousands of people risk their lives just to get where we already are.

"But I don't like the Vietnam War," someone may be thinking, "and there is some poverty in the United States you know . . ." How about that? Nobody likes the Vietnam War, nor does any rational person espouse poverty as being good. The important thing is that men of good will are trying very hard to correct these, and a thousand other vexous problems. Innumerable persons, both high government officials as well as conscientious private citizens are not simply wringing their hands over these problem areas, but are working and striving, with considerable effort to improve bad situations and thereby make America and the World a better place to live.

The world is not a perfect place, and not likely to become so anytime soon, but a land where individual dignity is honored, the rights of others respected, and vast humanistic attempts are made to help the less fortunate has got to be better (if you put any value on individual worth) than a land of secret police, Siberian concentration camps, and as in China, communal living enforced at the point of a gun.

America is what she is, in the noblest sense, because she is strong enough and has enough moral strength in her people to stand up to the tough guy who lives across the pond, and to any other bully who moves into the neighborhood. The day America sits down, strips away her muscle, lights up her marijuana cigarette, leans back in a fairytale haze and says, "all's right with the world," is the day the tough guy is going to lace up his spiked shoes, pick up his bat, and commence remaking the world—the whole world—over to his liking. What's going to happen to your Democratic institutions then? Where will that "due process of law" have disappeared to? How come "individual worth" will suddenly seem to be subordinated to "the good of the State?" And by the way, what ever did happen to that constitution with that—what did they call it—oh yes, that 5th amendment so many of the "tear it down" boys hid behind.

Well it could happen. It's happened countless times before in the long march of mankind. But it doesn't have to happen—TO YOU, your grandchildren or their grandchildren—if America stays strong. I don't mean strong so we can lord it over our neighbors, but I do mean strong so that our potential enemies can't lord it over us, and thereby strip away the fruits of the finest experiment in human government ever achieved on this planet. No matter how hard one or all of us might wish it, man's basic nature will remain constant, and the strong will continue to prevail over the weak. Aren't we better off to maintain a strength of sufficient magnitude that our institutions, our lives, our religions can carry on in freedom, than to cast aside our weapons and our strength only to find later—tragically later—that we also cast aside our ability to protect the very survival of our institutions, our lives and our religions.

Your presence here, this ship's presence here, the very existence of the Navy all serve to preserve for each of us a life, a family, a land that we can go home to in peace and security. Whether you're a proud professional or a citizen sailor serving your minimum tour, you've all played a significant roll in keeping the tough guy on his side of the pond, and in preserving and protecting the social and political environment under which American democratic institution, as well as you yourselves can live with dignity. Every one of you can stand proud, for you have all contributed to keeping your country standing free.

For those of you leaving the Navy, I thank you for your services. You've been part of what Admiral Nelson called a great band of brothers with long and honored traditions, many of them written with the blood and sweat of your forebears. Don't be tempted by small irritations or petty grievences to disclaim this exposure to tradition and principles, for these traditions and principles have helped weave the fabric of your free America. To those of you sailoring professionals who remain, I can only in an inadequate way express my pride in you and my appreciation of your talents, your service, and your magnificent skill and dedication in doing a tough job well. It is fortunate indeed for the United States of America that men of your caliber—serve—in her protection and defense.

Commander ROBERT T. MELOY,
U.S.S. *Will Rogers*.

## CATALINA AND YUMA HIGH SCHOOL BANDS INVITED TO INTERNATIONAL COMPETITION

## HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. UDALL. Mr. Speaker, the Catalina High School Symphonic and Marching Band of Tucson and the Yuma High School Band of Yuma—more than 180 of my younger constituents in all—have been invited to participate in the first International Band Festival in Vienna, Austria, in July. Thirty of the top 2 percent of high school bands in this country and bands from 50 other countries in the free world will attend and compete.

Dr. William Revelli, former director of the University of Michigan Marching Band, will be music director for the festival. From July 11–17 there will be competition in concert and marching events in Vienna. Trophies for the bands and scholarships for band directors and bandsmen will be awarded. The trip will last 22 days and the bands will travel through other Austrian provinces, Switzerland, Germany, and Italy playing concerts. The festival is part of "Youth Year—1972," sponsored by the Austrian Federal Minister of Education. Both the Yuma and Catalina groups are busily and imaginatively engaged in raising funds for the trip.

I am really proud that both bands for Arizona will be coming from the congressional district I represent. The youths, their directors and chaperones will serve as goodwill ambassadors from Arizona to Europe this summer.

## NEED FOR PARAPLEGIC RESEARCH

## HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. HANSEN of Idaho. Mr. Speaker, last year I was privileged to make the acquaintance of Mr. Alan Reich, the Deputy Assistant Secretary of State for Educational and Cultural Affairs, through whom I was made aware of scientific efforts currently under way to find a cure for paraplegia. To persons who have not been directly affected by the tragedy of an accident or illness resulting in paraplegia, the thought that there is a reasonable basis to someday prevent and cure the affliction comes as a surprise.

Yet, the basis for this hope is sound, and the details are succinctly spelled out in an article appearing in the January 1972 issue of Occupational Health Nursing by Richard P. Veraa, who is a member of the board of directors of the National Paraplegia Foundation. Other information concerning this problem can be found in my own remarks in the July 21, 1971, issue of the CONGRESSIONAL RECORD.

Since that date, Mr. Speaker, I have continued my study of the most appropriate means of mobilizing the needed research and financial assistance. The focal point of my investigation was a luncheon I sponsored October 14, 1971, which was attended by representatives of the scientific community and by key officials of those Federal departments and agencies which will be interested or involved in the needed research program.

I was also pleased that two of my colleagues in the House, Representatives McKAY and BIESTER, were able to meet with us. Many others expressed a strong interest in and support for our efforts.

The conversation and ideas discussed that day were engrossing, and I wish that it were possible to reprint here a verbatim transcript as it would reflect the fact that there was little or no disagreement as to whether there is reason to believe that the goal can be reached. The only area of disagreement was seemingly confined to the question of how we can best work to try to achieve it.

Some expressed the view that the effort should immediately begin on the broadest possible scale, to encompass any and all problems relating to trauma, such as authorizing the creation of a new institute within the existing National Institute of Health. Others expressed the view that the initial mandate should be more narrowly honed in to the specific neuroscientific problem of spinal cord regeneration, with the hope and expectation that the ultimate breakthrough will have beneficial spinoff effects for sufferers of other neurological disorders.

The various possibilities were outlined in a letter which I received from Dr. William Windle following our luncheon. Dr. Windle is one of the Nation's most highly respected research neurologists, and from 1954–60 headed a section on regeneration research with the Laboratory of Neuroanatomical Sciences within the National Institute of Neurological Diseases and Stroke.

Unfortunately, this section was disbanded when he left the institute, and it is my understanding that no such organized effort now exists. I do not mean to imply criticism of the NINDS by mentioning this fact, for as Dr. Windle stated to us, it was only recently that anyone believed that a regeneration program would be of much value, and indeed scientists were not able to propose any detailed program for regeneration research.

However, as we can see from the information contained in the article by Mr. Veraa, the situation has changed and we are now aware of the need for coordinated Federal leadership and support, such as we had several years ago in our efforts to find a cure for polio. Without this dedication and commitment at the Federal level of government, we simply will not be successful.

It is the estimate of Dr. Paul M. Bucy, chairman of the National Committee for Research in Neurological Disorders, that there are between 5,000 and 10,000 young Americans paralyzed by spinal cord injury each year. Surprisingly, almost all of them are young people 18 to 25 years of age, and 85 percent of them are men. Dr. Bucy further estimates that there are approximately 125,000 people chronically paralyzed as the result of injury to their spinal cords living in the United States today. Of these 125,000 are more than 2,200 young men who have been paralyzed by injuries received in Vietnam.

Insurance experts estimate that the financial loss to our society, including hospital and long-term costs as well as loss of income resulting from these yearly injuries per year and maintaining those already paralyzed, exceeds $1 billion annually in the United States.

So, we see, Mr. Speaker, the extent of society's loss. It is staggering both in terms of economic and human values.

We are beginning to recognize that much of this damage can be ameliorated by providing proper early care for these victims. This aspect of the problem will soon be brought to my colleagues' attention by my friend, Congressman STEWART McKINNEY, of Connecticut, who informs me that he will shortly summarize his findings in the CONGRESSIONAL RECORD. I look forward to studying his conclusions regarding the need for proper care subsequent to the spinal cord injury. As he will thoroughly cover the subject, I shall limit my own remarks to the cure aspect of paraplegia.

It would seem that three plans of attack are possible, Mr. Speaker. They are not necessarily mutually exclusive, and we can immediately begin with the most inexpensive and feasible one, as we organize and plan the more complex and long-range approaches.

First, we should, at the very minimum, reestablish a section on regeneration research within one of the existing laboratories at the National Institute of Neurological Diseases and Stroke. Such a section may be composed of three or four scientists and two or three assistants; and would occupy about 1,500 feet of laboratory space.

As this would be a very modest beginning, it is obvious that the range of investigations would be extremely limited, and must be considered only as a temporary measure while a broader research program is being organized. It is my belief that such a nuclei is necessary now to coordinate current intramural and extramural activities, and also to foster and encourage pertinent neuroscientific research in various laboratories throughout the world so that a full interchange of information can be facilitated. It seems reasonable to suggest that such a modest beginning will require no more than $1 million during the next fiscal year.

When the organizational work is completed, and a broader research program becomes possible, we will then be able to establish a Laboratory of Nerve Regeneration within the NINDS. As compared to a section, a laboratory will probably be composed of four or more sections comprising a total of 30 trained personnel.

The value of the laboratory is apparent when we consider that it can encompass sections dealing with biochemistry, physiology, cell biology, and pathology. By bringing scientists from such various disciplines together in a joint effort on a common theme, the interdisciplinary research will obviously be far greater in scope than could be accomplished by one scientist working individually.

This unified effort will unquestionably yield enough valuable data so that eventually we may consider the possibility of establishing a National Trauma Institute, which could not only perform research into regeneration and repair of all types of traumatic injury, but could also establish a tissue bank that could furnish direct assistance to victims of all kinds of disasters.

I think that establishing an institute level of research is certainly the goal which we must strive for. But for the present, I believe that we can do no less than mandate, in this session of the 92d Congress, the sense of Congress that the NINDS must create a section of Regeneration Research within one of the existing laboratories, and we must direct that one of its primary responsibilities will be to come forward within 2 years with specific plans for the establishment of a new Laboratory of Nerve Regeneration, with specific recommendations regarding the amount of money, space, and personnel which will be needed to conduct a full scale attack on the problem.

To this end, I intend to place the above facts before the appropriate committees and the National Institute of Health in hope that sufficient money can be budgeted and allocated for the initial work in fiscal year 1973. In this effort, I enlist the assistance of each of my colleagues.

As a part of my remarks, I would also like to insert an article on this subject, which appeared in the Boston Globe on November 10, 1971, concerning the efforts of Alan Reich, whom I mentioned earlier:

[From Occupational Health Nursing, January 1972]

### NEW HOPE FOR A PARAPLEGIA CURE

(By Richard P. Veraa)

(NOTE.—Mr. Veraa is a member of the Board of Directors of the National Paraplegia Foundation and is President of the South Florida Paraplegia Association.)

The history of spinal cord injury has been a tale of hopelessness for as long as there have been vertebrates on the earth. Until this century there was not even the hope of life. You broke your neck, and you died. Period. A natural law. But medical science in the past 30 years has changed all that, and now a new type of person lives and wheels about the earth—the paraplegic, with 200,000 now living in the United States, and 10,000 new cases added each year.

But what of this paralysis, can't it be cured Ah, no. That is impossible. You damage the spinal cord and you are paralyzed. A natural law. But is it? The possibility that regeneration of severed axons in the central nervous system could occur was first raised almost a century ago.[1,2] Ramón y Cajal[3] was among the first to accurately picture it. It was discovered early that if the spinal cord of a fish it cut, it will grow back by itself—regenerate spontaneously—and the fish will recover.[4,5] The early investigators saw that the spinal cord of a fish is very similar to that of man, and began to wonder if it were possible to make man's regenerate as well. The problem was puzzled over and discussed, but no solution was found, and all that could be said was that some "natural law" made it impossible. Hopeless.

And so the question rested until, after World War II, a new generation of scientists again approached the old enigma. They were able to demonstrate several encouraging findings, most important of which was that after an injury a few feeble little nerve fibers actually *did* spout and try to grow.[6,7] The new fibers seemed to be blocked by scar tissue, and ways were sought to eliminate the block. It was discovered that pyrogen drugs slowed scar tissue formation, and the number of regenerating fibers was increased.[8,9] Later, a sheath of porous material was found to prevent infiltration of scar formation at the site of injury in the spinal cord.[10] Still, a very few axons grew across the break, and though it was shown that they could conduct impulses across the break,[11] and some minimal functional restoration was observed,[12] useful function was never restored. No clinical cure was found, the mystery seemed as inscrutable as ever, and the old "natural law" was invoked, shutting the door on continued research. The few scientists who wished to continue the quest found it difficult to obtain grants for this impossible dream, and most took up new areas of research. A prominent Pennsylvania scientist, recounting those days, said: "Practically everyone . . . had the experience that research proposals in this area have been denied and the only way that work . . . could be done was to disguise its target objective by a title carefully worded to avoid incrimination through relation to central regeneration." Of 30 scientists principally concerned with this problem in 1954, only three were still actively engaged on it in 1969.

It is easy for a paralyzed person (like myself) to condemn the prevailing scientific attitude as close-minded (and I did), but the fact is that little more could have been done at that time. Scientific technology and the state of biological science were simply not far enough advanced to study the problem on the basic level where significant answers were to be found.

In 1962. Dr. W. F. Windle[13] told a conference on paraplegia:

"It is my belief that prospects of . . . a "breakthrough" in the near future are not very bright if we continue to concentrate our effort on mammalian experiments and improvements in surgical techniques. There are too many crucial unknowns, and too little basic work has been done to provide the information that is needed to understand growth and regeneration in the central nervous system. . . . We are going to have to know more about fine-structure and something about chemical and functional differences [among species] . . . to understand the phenomenon of central nervous regeneration.

"Solutions to many human neurological problems certainly depend upon application of the findings of basic sciences. Indeed, in most instances solutions rest upon discoveries as yet unmade in comparative neurocytology and neurochemistry. The enigma of function restitution in the human paraplegic is not going to be solved in the wards of hospitals, but rather in the laboratories of biological scientists. The discoveries that must be made, I predict, will come from investigators who have little or no knowledge of the clinical aspects of paraplegia."

The lowest point was reached after November 1967, when a surgeon in Toronto announced to the press that he had in fact cured paraplegics by a surgical procedure.[14] The reports were almost immediately proved false, and the cruel misunderstanding placed the concept of CNS regeneration in discredit, so that it was looked on by many as the work of charlatans. Still, the few reputable scientific endeavors in this field were beginning to show hopeful, if undramatic, results. More important, while regeneration research had lain dormant, biological science had moved forward in what has been called a "biological revolution." From artificial enzymes to birth control pills and organ transplants, inconceivable developments were commonplace, and the technology of science—the tools and techniques of investigation—expanded on all fronts. Molecular biology, unknown a decade before, became a major branch of science.

Concerned for the poor repute of regneration research in the face of developments holding the possibility of realistic optimism, Dr. Erich G. Krueger, Director of the VA Spinal Injury Service, invited Dr. Windle to address the Seventeenth Veterans Administration Spinal Cord Injury Conference in September 1969.[15] Dr. Windle reiterated the need for research on a basic level of biological science and closed his talk by saying:

"My plea to you is that you stop perpetuating the time-worn cliche, 'regeneration is impossible in the severed spinal cord,' and start stressing the need for more incentives for scientists to conduct research at the basic level. Had the advisors of NASA been as lacking in imagination as those who have been advising agencies administering public funds for health research, I'm sure we would still be earthbound awaiting word of a Russian landing on the moon."

In discussing this talk, Dr. William Geisler pointed out that

"Crick and Watson have shown that the impossible is possible when they discovered the genetic code. Surely the answer to the regeneration of the central nervous system lies in further understanding and elaboration of the potential that exists in the genetic code. . . . We need facilities and money to encourage physicians, mathematicians, geneticists, biochemists, and physicists to join the search."

In view of many expressions of interest, the officers of the National Paraplegia Foundation deemed it advisable to hold a Conference on the Enigma of Central Nervous System Regeneration to reassess the problem, the first such conference since 1954. Twenty-two scientists from the United States and England met in Palm Beach, Florida, in February 1970. They represented many fields of biological science: genetics, neurology, anatomy, immunology, physiology, molecular biology, and others. At first, most of the conferees were frankly skeptical, but as each began to describe recent work in his own field it seemed to fit together with the contributions of others as if each had brought one piece of the same jigsaw puzzle. The interlocking pieces fit, and though there were still many gaps in the picture, the overall pattern was now visible. The result was that the conferees not only agreed unanimously that a cure for paraplegia should no longer be con-

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Footnotes at end of article.

sidered impossible, but they were also able to propose a broad program of attack on the problem. Scar tissue was apparently not the deciding factor. The secret lies in the growth and development of the individual nerve cell, its chemical processes and its genetic makeup.

The published proceedings of the conference concluded.[16]

"The path of future research seems rather clear. The process of collateral sprouting must be investigated physiologically and biochemically as well as histologically. The process of protein synthesis, transport and degradation in neutrons can now be studied biochemically and autoradiographically, and attention needs to be focused on the regulatory mechanisms that determine the relative rates of these processes. Neuronal specificities must be further investigated by biochemical studies in tissue culture. The temporal factors resulting in changes of nerve specificities during embryonic development and perhaps during adult life must be investigated more extensively. Finally, the dynamics of the metabolic or trophic interactions between all cells of the central nervous system, neurons, neuroglia, and vascular elements, must be thoroughly analyzed.

"There is no guarantee that a concerted attack on these problems will resolve the enigma of regeneration in the mammalial central nervous system, much less result in a cure for paraplegia. But as of today the problem should not be considered insoluble. This noteworthy conclusion was agreed upon by all the conferees."

After the conference, one of the participants, Dr. Ray S. Snider, Director of the Center for Brain Research at the University of Rochester, said: "No longer does paraplegia appear to be the hopeless rest-of-your life disease. We have small wedges in the door and it is ajar. Dedicated intelligent work will open it."

Largely as a result of this conference, there has been a resurgence of interest in central nervous system regeneration, which may lead not only to a cure for paraplegia, but for a multitude of forms of central nervous system damage, such as cerebral palsy, brain damage from stroke and trauma, multiple sclerosis, and neurologically-caused blindness, to name a few. No one dares to claim that a clinical cure is around the corner, but the possibility of eventual success is there, and a major effort is certainly called for. Since the 1970 conference, 22 major articles reporting new research in this field have been accepted for publication in one journal, *Experimental Neurology*. Many others have appeared in the hundreds of other scientific journals.

With this auspicious beginning, the National Paraplegia Foundation has begun an exciting new program to stimulate research and renewed interest. A Scientific Advisory Committee established last year has been actively working with the NPF officers to plan the most effective action. This committee, chaired by Dr. Windle, includes Dr. Carmine D. Clemente, Chairman of the Department of Anatomy at UCLA; Dr. Lloyd Guth, Head of the Section on Trophic Nerve Function of the National Institute of Neurological Diseases and Stroke; Dr. Francis O. Schmitt, Chairman of the Neurosciences Research Program at MIT; and Dr. Richard Sidman, Professor of Neuropathology at Harvard Medical School.

At the NPF Convention last June, President Timothy J. Nugent announced the establishment of an annual $10,000 award for the scientist in the world making the most significant contribution toward a cure for paraplegia. The winner will be chosen by a distinguished panel of 18 scientists with international reputations.

The first award will be presented next May at another conference in Palm Beach. This conference will continue the work begun in 1970, and, in view of recent developments, is expected to be even more significant than the previous one in outlining and coordinating future research and in stimulating interest. Principal topics for discussion will be in the areas of genetics, molecular biology, and neurophysiology. Scientists are expected to attend from the U.S., Canada, England, Sweden, and Czechoslovakia, and one of the sessions in the three-day meeting will be led by Sir John C. Eccles, 1963 winner of the Nobel Prize for Medicine.

The National Paraplegia Foundation believes that this will be an extremely important occasion. The conference will present the possibilities for future research, and the annual award will provide an incentive for pursuing this line of investigation.

In announcing the award, Professor Nugent stated that "we have conquered polio and continued to close in on cancer—both, like paraplegia, long considered incurable. Now we must obtain this same national commitment—from the scientific community, from the public, from the government—to battle on behalf of veterans, accident cases, and all others afflicted with paraplegia."

At last there is hope—and NPF is working hard to realize that hope.

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[From the Paraplegia News, January, 1972]

## NPF RESEARCH NOTES

(By Richard Veraa)

This is the first of a series of columns devoted to the quest for the ultimate solution to paraplegia—a cure. Such a cure was considered impossible until quite recently, when new developments in biology, which were discussed at NPF's 1970 scientific conference—as reported in *Paraplegia News* at the time—resulted in the unanimous conclusion by the participating scientists that "it is now entirely reasonable to abandon the view that central nervous regeneration cannot be accomplished in man."

The conferees were also able to propose a broad plan of research that might be expected to accomplish this goal. I will discuss this in some detail in later articles.

The scientists, of course, held out no guarantee of success, and they admit that the quest may take a very long time. But the possibility has now been firmly established, and the hope exists, even if it is a hope that may only be realized by a future generation of paraplegics.

In this first article, I would like to bring up the question of what we, as paraplegics, should do with that hope. Obviously, we must not sit on our backsides to passively await some miraculous cure. On the contrary, we should work all the more energetically in all that we do, and direct our collective efforts toward speeding the day when paraplegics will be cured.

### CAN BE FORCE

Many scientists have dedicated their lives and careers to this task—and we can be an effective force in helping them to achieve it. Simply by our presence—all 200,000 of us—we point out the situation and the need. In addition, we should lose no opportunity to bring the situation, the work that is being done, and the hope that it engenders to the attention of the public and the government—and build a significant national commitment to solve this problem once and for all time.

At the NPF Convention last summer, Dr. William F. Windle, chairman of the NPF Scientific Advisory Committee, pointed out that the money our country spends on all medical research is hardly one-seventh of what we spend for the highways on which most accidents occur.

"And yet," he continued, "some of our leaders in Washington have no qualms about imposing economic restrictions on dollars for medical research, while eagerly supporting . . . other projects; and the reason for this is that they hear no voices from the citizens who are most tragically affected. If advances are to be made in research toward a cure for paraplegia, the Congress must hear from you—loud and clear."

### COMMITMENT NEEDED

At the same convention, Prof. Timothy Nugent, president of NPF, told the delegates, "We have conquered polio and continue to close in on cancer—both, like paraplegia, long considered incurable. Now we must obtain this same national commitment—from the scientific community, from the public, from the government—to battle on behalf of veterans, accident cases, and all others afflicted with paraplegia."

In these articles, I'll be discussing many aspects of research on central nervous regeneration: new developments in current research, historical background on the century of investigation since regeneration was first studied, information on the scientists engaged in this work, and items on the efforts of paraplegics and the public to support this research.

Most important, I hope to hear from you—your questions, your suggestions, items you think should be reported here. I don't pretend to know all the answers, or even many of them, but I can try to find out.

Please address correspondence to: Richard Veraa, 3397 N.W. 33 Court, Fort Lauderdale, Fla. 33309.

[From the Boston Evening Globe, Nov. 10, 1971]

### The $10,000 Spur to Scientists: Cure Sought for Paraplegia

(By Herbert Black)

Alan Anderson Reich, 40, of Sudbury, US deputy assistant secretary of state for educational and cultural affairs, is a paraplegic who runs his world-spanning job from a wheelchair.

He was in Boston recently and aroused much interest in promoting international exchange programs in an address before the American Academy of Dental Science.

That his work is arduous and energy-consuming is indicated by the fact that since 1946 more than 36,000 Americans and 67,000 foreign nationals have participated in academic exchange alone.

But Reich, despite his handicap has other interests in addition to his official duties.

His major outside activity is helping his fellow-handicapped. Since 1967 he has been a director of the National Paraplegia Foundation. During 1969 and 1970 he served as the Foundation president and helped launch an international program to seek a cure for paraplegia.

Reich is one of 200,000 Americans confined to wheelchairs or beds with partial or near-total paralysis due to spinal cord injuries. He lost total use of his legs and partial use of his arms in a diving accident at White Pond, Concord.

But Reich refuses to be sorry for himself and prefers not to talk about his personal misfortune. He feels fortunate about his happy college experiences at Dartmouth, where he played football and was a track star. He studied at Oxford, holds a master's degree in Russian civilization from Middlebury, is a graduate of Harvard Business School and served in the Army in Germany.

He has an attractive wife and four children with whom he now lives in McLean, Virginia. Before going to Washington, Reich was for 10 years an executive with Polaroid Corp. in Cambridge.

What Alan Reich does want to talk about, and he did so in an animated and intense manner, is the National Paraplegia Foundation, and especially the Foundation's award of $10,000 offered to the scientist who contributes the most this year toward finding a cure.

He says much of the effort in the past has gone to pushing for better facilities for paraplegics—such things as better wheelchairs and more ramps for access to buildings. But with 10,000 spinal cord injuries a year the cost to the nation is now mounting to $1 billion annually, including loss of pay and cost of care.

Reich compares the push for a cure to the days of the polio epidemic. He says, "Seeking a cure while we improve care is the same as seeking a polio vaccine at the same time the iron lung was improved."

Nominations for the award now are being received from throughout the world. A distinguished panel of judges has been selected. Nominations will close shortly after the first of the year and the first award will be made in the spring. Headquarters for the competition is National Paraplegia Foundation, 333 North Michigan av., Chicago.

"If ever there was need for a cure, "says Reich, "it is now when 2159 of our young men have become paraplegics or quadriplegics through the Vietnam war."

The Paraplegia Foundation did not sponsor the award without a great deal of soul-searching and consideration. In fact, some members felt this was not the best use of meager resources. Yet with 2000 to 6000 of the 10,000 spinal injuries a year resulting in paraplegia, it was felt a new beginning must be made in seeking a cure. Up to now, very little scientific effort has gone into the search for a cure. For example, the National Institute of Health held a conference in 1955 on possibilities of finding an answer. Another conference was not held until 1970, when the NIR funded a conference sponsored by the National Paraplegia Foundation.

What provides hope for a cure, and what prompts the Foundation to spur the search with its award?

Dr. William Windle of Denison University, a pioneer in the study of spinal cord regeneration and a leader in establishing the award, has this to say. "Last year in our meeting we got 22 scientists together from a number of disciplines. They pooled their knowledge of the latest developments and concluded the problem no longer should be considered insoluble.

The scientist refrained from suggesting any breakthrough in the near future. Nor did they even promise a long-range success. What they said was that the effort is worth trying because of gains in biochemistry and molecular biology over the past 20 years.

Dr. Windle said "I think a new ray of hope is piercing the gloom." He added that the problem revolves about the intact spinal cord, which though crushed is not severed.

Prof. Timothy Nugent, University of Illinois, president of the National Paraplegia Foundation, said there are four main areas into which scientists are probing. These include collateral sprouting, regrowth of neurons, neurotrophic interaction and nerve specificities.

All of these deal with a natural capacity for regrowth which scientists are trying to harness, guide and direct. Studies include cellular interactions, gene expression in cells, muscle fibre enervation and nerve cellactivity.

There have been a few encouraging developments recently. At Hahnemann Hospital in Philadelphia, Dr. Jewell Osterholm has discovered in animals a key mechanism that causes paralysis when the spinal cord is hit, but not severed. With this knowledge, a team of doctors there was a able to prevent paralysis in nearly 100 experimental cats which otherwise would have been totally crippled by spinal injuries.

They reported that a drug injection given 15 minutes after the injury aborted the crippling process. The drug is too toxic for human use but the development is seen as a step toward finding usable drugs.

Already the Paraplegia Foundation of Arizona, working through hospitals, St. Joseph's and Good Samaritan, is concentrating on a search for a cure in addition to treatment.

Liberty Mutual Insurance Company, with headquarters in Boston and a research center in Hopkinton, is among the leaders in this area working on spinal cord problems. It is estimated that the cost of a shattered career can run anywhere from $50,000 to $75,000 to more than $100,000 per year depending on the extent of injuries, the amount of care needed and loss of income.

These are some reasons the Paraplegia Foundation has offered the award for work contributing to finding a cure and selected a panel of distinguished scientists such as Dr. John C. Eccles of the State University of New York; Dr. Edward E. MacNichol, Jr., National Institute of Neurology, Diseases and Stroke, N.I.H.; Dr. Howard A. Rusk of New York; Dr. Francis O. Schmitt of M.I.T., and others to make the award.

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## MEDICAL CARE AS A RIGHT—A REFUTATION

## HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

**Mr. SCHMITZ.** Mr. Speaker, as new giant steps toward socialized medicine in the United States are brought before us under the name of "national health insurance," we should all take a closer look at the basic premises we have in mind as we consider such legislation. Many are assuming, without careful and logical thought, that medical care is a right, on the same order as the rights guaranteed in the first 10 amendments to our Constitution. Yet in fact, necessary though medical care may be, it is not and cannot be any man's right, because that implies that another man—the doctor—may have to give up his rights in order to provide it. This point is ably developed by Dr. Robert M. Sade in the following article which appeared in the December 2, 1971, issue of the New England Journal of Medicine:

### Medical Care as a Right: A Refutation

(By Robert M. Sade, M.D.)

#### ABSTRACT

From man's primary right—the right to his own life—derive all others, including the rights to select and pursue his own values, and to dispose of these values, once gained, without coercion. The choice of the conditions under which a physician's services are rendered belongs to the physician as a consequence of his right to support his own life.

If medical care, which includes physician's services, is considered the right of the patient, that right should properly be protected by government law. Since the ultimate authority of all law is force of arms, the physician's professional judgment—that is, his mind—is controlled through threat of violence by the state. Force is the antithesis of mind, and man cannot survive qua man without the free use of his mind. Thus, since the concept of medical care as the right of the patient entails the use or threat of violence against physicians, that concept is antimind—therefore, antilife, and, therefore, immoral.

The current debate on health care in the United States is of the first order of importance to the health professions, and of no less importance to the political future of the nation, for precedents are now being set that will be applied to the rest of American society in the future. In the enormous volume of verbiage that has poured forth, certain fundamental issues have been so often misrepresented that they have now become commonly accepted fallacies. This paper will be concerned with the most important of these misconceptions, that health care is a right, as well as a brief consideration of some of its corollary fallacies.

#### RIGHTS—MORALITY AND POLITICS

The concept of rights has its roots in the moral nature of man and its practical expression in the political system that he creates. Both morality and politics must be discussed before the relation between political rights and health care can be appreciated.

A "right" defines a freedom of action. For instance, a right to a material object is the uncoerced choice of the use to which that object will be put; a right to a specific action, such as free speech, is the freedom to engage in that activity without forceful repression. The moral foundation of the rights of man begins with the fact that he is a living creature; he has the right to his own life. All other rights are corollaries of this primary one; without the right of life, there can be no others, and the concept of rights itself becomes meaningless.

The freedom to live, however, does not automatically ensure life. For man, a specific course of action is required to sustain his life, a course of action that must be guided by reason and reality and has as its goal the creation or acquisition of material values, such as food and clothing, and intellectual values, such as self-esteem and integrity. His moral system is the means by which he is able to select the values that will support his life and achieve his happiness.

Man must maintain a rather delicate homeostasis in a highly demanding and threatening environment, but has at his disposal a unique and efficient mechanism for dealing with it: his mind. His mind is able to perceive, to identify percepts, to integrate them into concepts, and to use those concepts in choosing actions suitable to the maintenance of his life. The rational function of mind is volitional, however; a man must *choose* to think, to be aware, to evaluate, to make conscious decisions. The extent to which he is able to achieve his goals will be directly proportional to his commitment to reason in seeking them.

The right to life implies three corollaries: the right to select the values that one deems necessary to sustain one's own life; the right to exercise one's own judgment of the best course of action to achieve the chosen values; and the right to dispose of those values, once gained, in any way one chooses, without coercion by other men. The denial of any one of these corollaries severely compromises or destroys the right to life itself. A man who is not allowed to choose his own goals, is prevented from setting his own course in achieving those goals and is not free to dispose of the values he has earned is no less than a slave to those who usurp those rights. The right to private property, therefore, is essential and indispensable to maintaining free men in a free society.

Thus, it is the nature of man as a living, thinking being that determines his rights—his "natural rights." The concept of natural rights was slow in dawning on human civilization. The first political expression of that concept had its beginnings in 17th and 18th century England through such exponents as John Locke and Edmund Burke, but came to its brilliant debut as a form of government after the American Revolution. Under the leadership of such men as Thomas Paine and Thomas Jefferson, the concept of man as a being sovereign unto himself, rather than a subdivision of the sovereignty of a king, emperor or state, was incorporated into the formal structure of government for the first time. Protection of the lives and property of individual citizens was the salient characteristic of the Constitution of 1787. Ayn Rand has pointed out that the principle of protection of the individual against the coercive force of government made the United States the first moral society in history.[1]

In a free society, man exercises his right to sustain his own life by producing economic values in the form of goods and services that he is, or should be, free to exchange with other men who are similarly free to trade with him or not. The economic values produced, however, are not given as gifts by nature, but exist only by virtue of the thought and effort of individual men. Goods and services are thus owned as a consequence of the right to sustain life by one's own physical and mental effort.

If the chain of natural rights is interrupted, and the right to a loaf of bread, for example, is proclaimed as primary (avoiding the necessity of earning it), every man owns a loaf of bread, regardless of who produced it. Since ownership is the power of disposal,[2] every man may take his loaf from the baker and dispose of it as he wishes with or without the baker's permission. Another element has thus been introduced into the relation between men: the use of force. It is crucial to observe who has initiated the use of force: it is the man who demands unearned bread as a right, not the man who produced it. At the level of an unstructured society it is clear who is moral and who immoral. The man who acted rationally by producing food to support his own life is moral. The man who expropriated the bread by force is immoral.

To protect this basic right to provide for the support of one's own life, men band together for their mutual protection and form governments. This is the only proper function of government: to provide for the defense of individuals against those who would take their lives or property by force. The state is the respository for retaliatory force in a just society wherein the only actions prohibited to individuals are those of physical harm or the threat of physical harm to other men. The closest that man has ever come to achieving this ideal of government was in this country after its War of Independence.

When a government ignores the progression of natural rights arising from the right to life, and agrees with a man, a group of men, or even a majority of its citizens, that every man has a right to a loaf of bread, it must protect that right by the passage of laws ensuring that everyone gets his loaf—in the process depriving the baker of the freedom to dispose of his own product. If the baker disobeys the law, asserting the priority of his right to support himself by his own rational disposition of the fruits of his mental and physical labor, he will be taken to court by force or threat of force where he will have more property forcibly taken from him (by fine) or have his liberty taken away (by incarceration). Now the initiator of violence is the government itself. The degree to which a government exercises its monopoly on the retaliatory use of force by asserting a claim to the lives and property of its citizens is the degree to which it has eroded its own legitimacy. It is a frequently overlooked fact that behind every law is a policeman's gun or a soldier's bayonet. When that gun and bayonet are used to initiate violence, to take property or to restrict liberty by force, there are no longer any rights, for the lives of the citizens belong to the state. In a just society with a moral government, it is clear that the only "right" to the bread belongs to the baker, and that a claim by any other man to that right is unjustified and can be enforced only by violence or the threat of violence.

### RIGHTS—POLITICS AND MEDICINE

The concept of medical care as the patient's right is immoral because it denies the most fundamental of all rights, that of a man to his own life and the freedom of action to support it. Medical care is neither a right nor a privilege: it is a service that is provided by doctors and others to people who wish to purchase it. It is the provision of this service that a doctor depends upon for his livelihood, and is his means of supporting his own life. If the right to health care belongs to the patient, he starts out owning the services of a doctor without the necessity of either earning them or receiving them as a gift from the only man who has the right to give them: the doctor himself. In the narrative above substitute "doctor" for "baker" and "medical service" for "bread." American medicine is now at the point in the story where the state has proclaimed the non-existent "right" to medical care as a fact of public policy, and has begun to pass the laws to enforce it. The doctor finds himself less and less his own master and more and more controlled by forces outside of his own judgment.

For instance, under the proposed Kennedy-Griffiths bill,[3] there will be a "Health Security Board," which will be responsible for administering the new controls to be imposed on doctors, hospitals, and other "providers" of health care (Sec. 121). Specialized services, such as major surgery, will be done by "qualified specialists" [Sec. 22(b)(2)], such qualifications being determined by the Board (Sec. 42). Furthermore, the patient can no longer exercise his own initiative in finding a specialist to do his operation, since he must be referred to the specialist by a nonspecialist—i.e., a general practitioner or family doctor [Sec. 22(b)]. Licensure by his own state will not be enough to be a qualified practitioner; physicians will also be subject to a second set of standards, those established by the Board [Sec. 42(a)]. Doctors will no longer be considered competent to determine their own needs for continuing education, but must meet requirements established by the Board [Sec. 42(e)]. The professional staff of a hospital will no longer be able to determine which of its members are qualified to perform which kinds of major surgery; specialty-board certification or eligibility will be required, with certain exceptions that include meeting standards established by the Board [Sec. 42(d)].

Control of doctors through control of the hospitals in which they practice will also be exercised by the Board by way of a list of requirements, the last of which is a "sleeper" that will by its vagueness allow the Board almost any regulation of the hospital: the hospital must meet "such other requirements as the Board finds necessary in the interest of quality of care and the safety of patients in the institution" [Sec. 43(i)]. Hospitals will also not be allowed to undertake construction without higher approval by a state agency or by the Board (Sec. 52).

In the name of better organization and co-ordination of services, hospitals, nursing homes and other providers will be further controlled through the Board's power to issue directives forcing the provider to furnish services selected by the Board [Sec. 131(a)(1),(2)] at a place selected by the Board [Sec. 131(a)(3)]. The Board can also direct these providers to form associations with one another of various sorts, including "making available to one provider the professional and technical skills of another" [Sec. 131(a)(B)], and such other linkages as the Board thinks best [Sec. 131(a)(4)(C)].

These are only a few of the bill's controls of the health-care industry. It is difficult to believe that such patent subjugation of an entire profession could ever be considered a fit topic for discussion in any but the darkest corner of a country founded on the principles of life and liberty. Yet the Kennedy-Griffiths bill is being seriously debated today in the Congress of the United States.

The irony of this bill is that, on the basis of the philosophic premises of its authors, it does provide a rationally organized system for attempting to fulfill its goals, such as "making health services available to all residents of the United States." If the government is to spend tens of billions of dollars on health services, it must assure in some way that the money is not being wasted. Every bill currently before the national legislature does, should, and must provide some such controls. The Kennedy-Griffiths bill is the closest we have yet come to the logical conclusion and inevitable consequence of two fundamental fallacies; that health care is a right, and that doctors and other health workers will function as efficiently serving as chattels of the state as they will living as sovereign human beings. It is not, and they will not.

Any act of force is anti-mind. It is a con-

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Footnotes at end of article.

fession of the failure of persuasion, the failure of reason. When politicians say that the health system must be forced into a mold of their own design, they are admitting their inability to persuade doctors and patients to use the plan voluntarily; they are proclaiming the supremacy of the state's logic over the judgments of the individual minds of all concerned with health care. Statists throughout history have never learned that compulsion and reason are contradictory, that a forced mind cannot think effectively and, by extension, that a regimented profession will eventually choke and stagnate from its own lack of freedom. A persuasive example of this is the moribund condition of medicine as a profession in Sweden, a country that has enjoyed socialized medicine since 1955. Werko, a Swedish physician, has stated: "The details and the complicated working schedule have not yet been determined in all hospitals and districts, but the general feeling of belonging to a free profession, free to decide—at least in principle—how to organize its work has been lost. Many hospital-based physicians regard their work now with an apathy previously unknown."[4] One wonders how American legislators will like having their myocardial infarctions treated by apathetic internists, their mitral valves replaced by apathetic surgeons, their wives' tumors removed by apathetic gynecologists. They will find it very difficult to legislate self-esteem, integrity and competence into the doctors whose minds and judgments they have throttled.

If anyone doubts that health legislation involves the use of force, a dramatic demonstration of the practical political meaning of the "right to health care" was acted out in Quebec in the closing months of 1970.[5] In that unprecedented threat of violence by a modern Western government against a group of its citizens, the doctors of Quebec were literally imprisoned in the province by Bill 41, possibly the most repressive piece of legislation ever enacted against the medical profession, and far more worthy of the Soviet Union or Red China than a western democracy. Doctors objecting to a new Medicare law were forced to continue working under penalty of jail sentence and fines of up to $500 a day away from their practices. Those who spoke out publicly against the bill were subject to jail sentences of up to a year and fines of up to $50,000 a day. The facts that the doctors did return to work and that no one was therefore jailed or fined do not mitigate the nature or implications of the passage of Bill 41. Although the dispute between the Quebec physicians and their government was not one of principle but of the details of compensation, the reaction of the state to resistance against coercise professional regulation was a classic example of the naked force that lies behind every act of social legislation.

Any doctor who is forced by law to join a group or a hospital he does not choose, or is prevented by law from prescribing a drug he thinks is best for his patient, or is compelled by law to make any decision he would not otherwise have made, is being forced to act against his own mind, which means forced to act against his own life. He is also being forced to violate his most fundamental professional commitment, that of using his own best judgment at all times for the greatest benefit of his patient. It is remarkable that this principle has never been identified by a public voice in the medical profession, and that the vast majority of doctors in this country are being led down the path to civil servitude, never knowing that their feelings of uneasy foreboding have a profoundly moral origin, and never recognizing that the main issues at stake are not those being formulated in Washington, but are their own honor, integrity and freedom, and their own survival as sovereign human beings.

### SOME COROLLARIES

The basic fallacy that health care is a right has led to several corollary fallacies, among them the following:

*That health is primarily a community or social rather than an individual concern.*[6] A simple calculation from American mortality statistics[7] quickly corrects that false concept: 67 per cent of deaths in 1967 were due to diseases known to be caused or exacerbated by alcohol, tobacco smoking or overeating, or were due to accidents. Each of those factors is either largely or wholly correctable by individual action. Although no statistics are available, it is likely that morbidity, with the exception of common respiratory infections, has a relation like that of mortality to personal habits and excesses.

*That state medicine has worked better in other countries than free enterprise has worked here.* There is no evidence to support that contention, other than anecdotal testimonals and the spurious citation of infant mortality and longevity statistics. There is, on the other hand, a good deal of evidence to the contrary.[8, 9]

*That the provision of medical care somehow lies outside the laws of supply and demand, and that government-controlled health care will be free care.* In fact, no service or commodity lies outside the economic laws. Regarding health care, market demand, individual want, and medical need are entirely different things, and have a very complex relation with the cost and the total supply of available care, as recently discussed and clarified by Jeffers et al.[10] They point out that " 'health is purchaseable', meaning that somebody has to pay for it, individually or collectively, at the expense of foregoing the current or future consumption of other things." The question is whether the decision of how to allocate the consumer's dollar should belong to the consumer or to the state. It has already been shown that the choice of how a doctor's services should be rendered belongs only to the doctor: in the same way the choice of whether to buy a doctor's service rather than some other commodity or service belongs to the consumer as a logical consequence of the right of his own life.

*That opposition to national health legislation is tantamount to opposition to progress in health care.* Progress is made by the free interaction of free minds developing new ideas in an atmosphere conducive to experimentation and trial. If group practice really is better than solo, we will find out because the success of groups will result in more groups (which has, in fact, been happening); if prepaid comprehensive care really is the best form of practice, it will succeed and the health industry will swell with new Kaiser-Permanente plans. But let one of these or any other form of practice become the law, and the system is in a straitjacket that will stifle progress. Progress requires freedom of action, and that is precisely what national health legislation aims at restricting.

*That doctors should help design the legislation for a national health system, since they must live with and within whatever legislation is enacted.* To accept this concept is to concede to the opposition its philosophic premises, and thus to lose the battle. The means by which nonproducers and hangers-on throughout history have been able to expropriate material and intellectual values from the producers has been identified only relatively recently: the sanction of the victim.[11] Historically, few people have lost their freedom and their rights without some degree of complicity in the plunder. If the American medical profession accepts the concept of health care as the right of the patient, it will have earned the Kennedy-Griffiths bill by default. The alternative for any health professional is to withhold his sanction and make clear who is being victimized. Any physician can say to those who would shackle his judgment and control his profession: I do not recognize your right to my life and my mind, which belong to me and me alone; I will not participate in any legislated solution to any health problem.

In the face of the raw power that lies behind government programs, nonparticipation is the only way in which personal values can be maintained. And it is only with the attainment of the highest of those values—integrity, honesty and self-esteem—that the physician can achieve his most important professional value, the absolute priority of the welfare of his patients.

The preceding discussion should not be interpreted as proposing that there are no problems in the delivery of medical care. Problems such as high cost, few doctors, low quantity of available care in economically depressed areas may be real, but it is naïve to believe that governmental solutions through coercive legislation can be anything but shortsighted and formulated on the basis of political expediency. The only long-range plan that can hope to provide for the day after tomorrow is a "nonsystem"—that is, a system that proscribes the imposition by force (legislation) of any one group's conception of the best forms of medical care. We must identify our problems and seek to solve them by experimentation and trial in an atmosphere of freedom from compulsion. Our sanction of anything less will mean the loss of our personal values, the death of our profession, and a heavy blow to political liberty.

### FOOTNOTES

[1] Rand, A: Man's Rights, Capitalism: The unknown ideal. New York, New American Library, Inc., 1967, pp. 320–329.

[2] Von Mises, L.: Socialism: An economic and sociological analysis. New Haven, Yale University Press, 1951, pp. 37–55.

[3] Kennedy, E. H.: Introduction of the Health Security Act, CONGRESSIONAL RECORD, vol. 116, pt. 22, pp. 30142–30164.

[4] Werkö, L.: Swedish medical care in transition. N. Engl. J. Med. 284:360–366, 1971.

[5] Quebec Medicare and Medical Services Withdrawal. Toronto, Canadian Medical Association, October 19, 1970.

[6] Millis, J. S.: Wisdom? Health? Can society guarantee them? N. Engl. J. Med. 283: 260–261, 1970.

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[8] Financing Medical Care: An appraisal of foreign programs, Edited by H. Shoeck. Caldwell, Idaho, Caxton Printers, Inc., 1962.

[9] Lynch, M. J., Ralphael, S. S.: Medicine and the State. Springfield, Illinois, Charles C. Thomas, 1963.

[10] Jeffers, J. R., Bognanno, M. F., Bartlett, J. C.: On the demand versus need for medical services and the concept of "shortage." Am. J. Publ. Health 61:46–63, 1971.

[11] Rand, A.: Atlas Shrugged. New York, Random House, 1957, p. 1066.

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## MAN'S INHUMANITY TO MAN—HOW LONG?

## HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

## NETWORK NEWSMEN HAVE LITTLE TO SAY AS NIXON LANDS IN PEKING

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DERWINSKI. Mr. Speaker, one of the most knowledgeable observers of the television scene is the Chicago Tribune's Clarence Petersen who, in his column of February 22, very objectively analyzed the manner in which networks have taken covering the President's visit to Peking.

The column follows:

### NETWORK NEWSMEN HAVE LITTLE TO SAY AS NIXON LANDS IN PEKING

(By Clarence Petersen)

By the time President Nixon returns from his historic seven-day trip to mainland China, the three television networks will have spent about $10 million covering the event. That works out to about $1.4 million a day, and frankly, the first day coverage Sunday wasn't quite worth it.

Maybe I missed something by changing channels so often, but the main impression I got—from Walter Cronkite, Dan Rather, Eric Sevareid, Edwin Newman, John Chancellor, Barbara Walters, Harry Reasoner, and Howard K. Smith—was that we probably shouldn't make too much of the small crowds that turned out at the airport to welcome the President.

"What do you make of that?" someone in New York would ask someone in Peking, or vice versa.

"Well, I think it would be a mistake to make too much of it," someone in Peking would say to someone in New York, or vice versa.

Then, on CBS, three experts on China would speculate on the size of the crowd, each in his own way advising that we not make too much of it.

I did not make too much of the size of the crowd.

Other than that, it looked pretty much like every other state visit. The door opened right after the plane rolled smoothly into the terminal, and the President stepped out, smiled and shook hands, and exchanged what one presumes were pleasantries with a receiving line.

Prime Minister Chou En-lai was at the head of the line, but Chairman Mao Tse-tung wasn't there at all. We were told not to make too much out of that either because Chairman Mao does not, according to Chinese protocol, show up at airports very often.

Then the President reviewed a long line of troops. That too was routine altho it occurred to me that perhaps we would have a more peaceful world if that part of the ritual were reexamined. Why should anyone hosting a state visit designed to promote peace start out by showing his guest what a sharp army he has?

But let us not make too much of that because it is a tradition, a matter of inertia; it probably has no significance at all.

Then a Chinese band played our national anthem and also theirs. If my recollections of playing our national anthem four or five hundred times during my two years in an army band are correct, the Chinese band played it at a retarded tempo. They played their own anthem at a spritely pace.

We probably shouldn't make too much out of that either, considering that Chinese musicians haven't had much practice playing our national anthem in the last 20 years.

Then the President went thru a second receiving line. I had NBC on at the time and heard Ed Newman ask Chancellor what that second line was.

Chancellor said, candidly, that he hadn't the slightest idea. Fortunately someone else did have the slightest idea, so Chancellor could explain a moment later that it was the revolutionary committee of the city of Peking. Chancellor explained that they were very important, but he didn't say whether we were supposed to make too much out of that or not. I chose not to.

Then the President got into his car and took the road from the airport, which, according to Harry Reasoner, I think, was officially named "The Road to the Airport" and the name did not change even if you were riding in the other direction.

While the President was riding, we saw pictures along the route taken earlier during a "rush hour." There are lots of bicycles on the road during a rush hour in Peking but very few cars. I thought that was pretty interesting.

Everything was gray and dreary and flat on my black-and-white set. It looked very much like the Illinois countryside in the winter altho I did not notice any smog. The leaves were off the trees—or at least it seemed that way. And the buildings did not look very oriental—no pagodas or dragons or anything like that.

While the motorcade was en route, there developed some differences of opinion between New York and Peking about whether Prime Minister Chou and President Nixon would make any statements upon arrival in Tien An Men Square. As it turned out, there were no speeches.

Later that night—the schedule said 2 a.m. Monday Chicago time—there would be an exchange of toasts at a state dinner.

There would be food for speculation on the dinner menu, it was explained. Its importance could be gauged by the number of courses served and by the number of people who showed up. No one had much advance information. The Chinese newspapers carried only a brief mention of the visit, and the American newsmen had been in Peking for only 48 hours.

It was also mentioned several times that perhaps it was a mistake to make too much of the President's visit itself because the administration had repeatedly emphasized that you do not clear up two decades of hostility in one seven-day visit.

Meanwhile, we shall see some interesting travel films as Pesident and Mrs. Nixon tour the country, so let's enjoy them and try not to make too much of it.

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## THE 54TH ANNIVERSARY OF LITHUANIAN INDEPENDENCE

## HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 1972*

Mr. DELANEY. Mr. Speaker, I am pleased to join my colleagues in marking the 54th anniversary of Lithuanian independence.

Tragically, the great, freedom-loving people now living in Lithuania are unable to join in celebrating this auspicious occasion, as they are forced to live in bondage under the ruthless tyranny of the Soviet Union.

The 700-year-old nation of Lithuania, like her Baltic neighbors, Estonia and Latvia, has for centuries suffered from "the accident of geography," and been under attack from East and West. For more than a century, Lithuanians were under subjugation of the Russian Empire, but were finally successful in gaining independence on February 16, 1918.

However, this peacful and productive interlude of freedom was shattered in June 1940, under the brutal heel of the Soviet army, and Lithuania was forcefully annexed as a part of the Soviet Union. During this period of Communist occupation the people of Lithuania have suffered severe hardship. It is estimated that in just one brief period alone, between June 15 and June 21, 1940, 45,000 of her people lost their lives or were deported.

Despite their long suffering, no amount of repression has succeeded in stifling their inate yearning for and constant dedication to liberty. No better example of this can be shown than the dramatic—but regrettably unsuccessful—attempt by the Lithuanian seaman, Simas Kudirka, to escape from Soviet bondage onto a U.S. Coast Guard vessel.

Hopefully by focusing world attention on the lack of freedom of these noble and courageous people, the Soviet Union will ultimately be forced to loose the chains of slavery, and allow this great nation to once again take her place among the free nations of the world.

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## HON. CARL HAYDEN

## HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 23, 1972*

Mr. MORSE. Mr. Speaker, the Nation has lost a great and good man in the recent passing of Carl Hayden. This distinguished legislator and statesman, elected to the Congress of the United States when Arizona was first admitted to the Union, served his State and his country tirelessly for 67 years. In 1969, when he voluntarily retired, he was missed greatly by the entire Congress, where his wisdom, leadership, and guidance had brought him the admiration of all Americans.

Born in 1877, Carl Hayden began his public life at the age of 25, when he was elected to the city council of his frontier town, Tempe, Ariz. He next served as the treasurer of Maricopa County, and then as sheriff of the county until his election, in 1912, to the 62d Congress as a Member of the House of Representatives. In 1927, he was elected to the Senate, where he served longer than any other person in our history. During these years, he built a record of public service which may never be equaled. Through these years, he saw his home achieve statehood and saw it become one of the most prosperous and fastest growing States in the Union. As the chairman of the Senate Committee on Appropriations for many years, and as President pro tempore of the Senate for 12 years, he brought enormous prestige and dignity to the Congress.

Senator Carl Hayden was a truly great citizen, who has earned the lasting gratitude of all Americans. His immense impact on the development of our country stands as an example for all to follow, and it is with deep regret that I join my colleagues in paying tribute to this outstanding statesman.

## HUNTER COLLEGE ALUMNI ASSOCIATION CELEBRATES THE 90TH ANNIVERSARY OF FRANKLIN D. ROOSEVELT'S BIRTH

### HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mrs. ABZUG. Mr. Speaker, several weeks ago, the Hunter College Alumni Association sponsored a program marking the 90th anniversary of the birth of Franklin Delano Roosevelt. In 1940, as president of the Hunter Student Council, I had the privilege of welcoming this great man to Hunter College, and I am pleased that my alma mater paid tribute to him this year.

F. D. R. became the leader of our Nation when it was struggling through its worst economic crisis; his spirit convinced us all that we could once again stand on our feet; his bold leadership enabled us to institute urgently needed social programs and carried us through a long and terrible war.

I include at the conclusion of my remarks the program of the anniversary observance and two papers—Bernard Shull's "The Economic Policies of the New Deal" and Abba Schwartz's "F. D. R. and Refugee Policy"—delivered there:

FRANKLIN D. ROOSEVELT—A COMMEMORATION OF THE 90TH ANNIVERSARY OF HIS BIRTH

THE PARTICIPANTS

Hertha Dreher Winsch, president of the Alumni Association, credits her officers, board members, committee chairman, and members with successfully moving the Alumni into a closer alliance with the College; broadening and extending the lines of communication; sponsoring memorable or time-honored events such as the Centennial Dinner, the Spring Gala, Homecoming; and innovating new programs such as this Commemoration of Franklin D. Roosevelt. By profession a biology and general science teacher in New York City secondary schools, she is presently program chairman of New Dorp High School, Staten Island.

Anna Michels Trinsey was president of the Alumni Association from 1962 to 1966. Earlier, she was Dean of Students and Associate Professor of English at Hunter College. Since her retirement, she has been active in advancing the opportunity for free public higher education for all through the City University Alumni Coordinating Council and through the Council for Public Higher Education.

Naomi Block Stern was elected president of her class at Hunter and president of the student body. Her friendship with Eleanor Roosevelt began at Hunter before her graduation thirty years ago and lasted until Mrs. Roosevelt's death in 1962. She has been with Revlon since 1955 and is current Director of Retail Services.

Franklin D. Roosevelt, Jr., an attorney and former government official and congressman, is now an automobile company executive. He represented the Twentieth District of New York in the Eighty-first Congress (filling an unexpired term) and was re-elected to the Eighty-second and Eighty-third Congresses. He served as Undersecretary of Commerce and in 1965–1966 as Chairman of the Equal Employment Opportunity Commission. In 1966 he was the Liberal Party candidate for governor of New York State. He holds a lifetime appointment as one of three United States members of the Roosevelt Campobello International Park Commission.

Jacqueline Wexler, President of Hunter College since January 1970, was formerly President of Webster College in St. Louis. A participant in high-level educational conferences and seminars across the nation, she was appointed in 1963 to the President's Advisory Panel on Research and Development in Education, which helped set up Project Head Start. As an educational innovator and believer in educational opportunity for all, she has supported and carried out the policy of open admissions at Hunter. Her publications include articles in educational and general periodicals and the book *Where I Am Going* (1968), a collection of her speeches. Under her administration and guidance, all Hunter alumni have been welcomed as an integral part of the College community.

James L. Whitehead was acquainted with President and Mrs. Roosevelt while a member of the original staff of the FDR Library, serving as Assistant Archivist (his first professional job after doctoral studies in history). After two years, he left Hyde Park in 1942 to perform civilian public service during the war. After the war, he served as Assistant to the Director of the Minnesota Historical Society and from 1951 to 1961 as Director of the Staten Island Institute of Arts and Sciences. From 1961 to 1964 he was Assistant to the President of Pratt Institute in Brooklyn. He has been Curator of the FDR Library since 1967.

George N. Shuster, President Emeritus of Hunter College, welcomed Franklin D. Roosevelt at the time of his visit to Hunter in 1940. He is a distinguished author, scholar, editor, and translator. Since leaving Hunter in 1960 he has served as Assistant to the President of Notre Dame. A multi-faceted educator and administrator, he has been appointed to a long list of national and international organizations and commissions, including the United Nations Educational, Scientific, and Cultural Organization (UNESCO). During his administration at Hunter he negotiated with President Roosevelt for the acquisition of Roosevelt House (the New York City home of the Roosevelt family) as a center for student religious groups.

Meta J. Schechter is now celebrating the sixtieth anniversary of her graduation from Hunter. One of her achievements as an undergraduate was the Dundon Prize for Elocution. An instructor of German, she taught in elementary and high schools in New York City. She is a former first vice president of the Alumni Association and has also served on the Board of Directors and on the Executive Council.

Nora Davis, a college senior majoring in dramatics, is the daughter of the actress Ruby Dee—a Hunter alumna—and of the actor-writer Ossie Davis. Her parents are also noted for their activities in civil rights movements.

Arthur Schlesinger, Jr., has been Albert Schweitzer Professor of the Humanities at The City University of New York since the Fall of 1966, having previously taught at Harvard. His government posts have included service as Special Assistant to President Kennedy (a role he continued in briefly with President Johnson). Earlier, in 1952 and 1956 he had been a member of Adlai Stevenson's campaign staff. Among his publications are the 1946 Pulitzer Prize-winning work *The Age of Jackson* and *A Thousand Days: John F. Kennedy in the White House* (published in 1965 and subsequently the winner of the National Book Award for History and Biography and the Pulitzer Prize for Biography). His most recent books are *The Bitter Heritage: Vietnam and American Democracy 1941–1966* (1967); *Violence: America in the Sixties* (1968); *The Crisis of Confidence: Ideas, Power and Violence in America* (1969); and *History of American Presidential Elections* (1971—edited with F. L. Israel). He is the author of the three-volume work *The Age of Roosevelt: The Crisis of the Old Order*, which won the Bancroft Prize and the Parkman Prize for History in 1957: *The Coming of the New Deal* (1958); and *The Politics of Upheaval* (1960). A fourth volume is in preparation.

Robert S. Hirschfield, Professor and Chairman of the Department of Political Science at Hunter College, is also Director of the Center for Education in Politics, which administers the City University Seminar/Internship Program in New York City Government. Primarily interested in the field of American government and politics, he has also taught at Harvard, New York University, and Fordham. He has lectured throughout the United States and abroad and appears on television as a political analyst and commentator. An active participant in public affairs at the national and local levels, he has served as educational consultant to state and city officials and as an adviser to Mayor John V. Lindsay, Mayor Robert F. Wagner, Senator Robert F. Kennedy, and Adlai Stevenson. His publications include contributions to academic and general periodicals and the books *The Constitution and the Court* and *The Power of the Presidency*.

Bernard Shull, Professor of Economics at Hunter College, served previously with the Federal Reserve Board—as Associate Adviser (1970); Chief, Banking Markets Section (1967–1970); Director of Research Projects and Senior Economist for the Reappraisal of the Federal Reserve Discount Mechanism (1965–1968). He has also had posts as an economist with the Office of the Comptroller of the Currency of the U.S. Treasury Department (1963–1965) and the Federal Reserve Bank of Philadelphia (1958–1963) and has lectured at the University of Pennsylvania. A consultant to the President's Commission on Financial Structure and Regulation (Hunt Commission) and to the Board of Governors of the Federal Reserve System, he is the author of articles on banking and the Federal Reserve System.

John G. Stoessinger is Professor of Political Science at Hunter College and Director of the City University's Institute on the United Nations. At the age of eleven he fled from Nazi-occupied Austria to Czechoslovakia. Three years later he fled again via Siberia to China, where he lived for seven years. In Shanghai he served the International Refugee Organization. He arrived in the United States in 1947 and after completing his academic studies taught at Harvard, Wellesley, MIT, and Columbia. He is Book Review Editor of the periodical *Foreign Affairs* and is a member of the Council on Foreign Relations. His publications include *The Might of Nations: World Politics in Our Times* (awarded the Bancroft Prize in 1963); *The Refugee and the World Community* (1956); *Financing the United Nations* (1964, for the Brookings Institution); *The United Nations and the Superpowers* (1965); and *Nations in Darkness: China, Russia and America* (1971).

Abba P. Schwartz is an international lawyer, a recognized expert on refugee affairs, and a former government official. His interest in refugees began at college in 1940, when he helped organize student assistance for refugees in association with Eleanor Roosevelt. His close relationship with Mrs. Roosevelt continued until her death in 1962. He has served as an official of the Intergovernmental Committee on Refugees (London, 1946–1947); Reparations Director of the

United Nations International Refugee Organization (Geneva, 1947–1949). One of the organizers of the Intergovernmental Committee for European Migration (ICEM), he was its Special Counsel from 1953 to 1962. He was a close adviser to President Kennedy, who appointed him Assistant Secretary of State in charge of the Bureau of Security and Consular Affairs with responsibility for U.S. immigration and refugee policies and programs. He was also a close adviser to Senator Robert F. Kennedy. His book *The Open Society* deals in part with U.S. policy on refugees.

Eli Arthur Schwartz began his autobiographical statement for a Woodrow Wilson Fellowship by recalling his reactions—as a seven-year old—to the announcement on the radio of the death of President Roosevelt. From Hunter he went on to study politics at Princeton and economics and finance at New York University. Since 1963 he has been with Moody's Investors Service. As Financial Economist, he writes about the stock, bond and money markets. His article, warning of a business recession, "The Dark Side of the Boom," appeared in the Summer, 1969, *Hunter Alumni Quarterly*. Currently, he is chairman of the Alumni Association's investments committee. As chairman, he wrote the "Report of the Special Committee for Advising on the Securing for Hunter Graduates a Role in the Governance of their College," reprinted in the Winter, 1970–71, *Alumni Quarterly*. Heading the nominating committee's 1972–75 slate as candidate for president of the Alumni Association, he is the first man put forth for that office in the organization's one-hundred-year history.

### THE ECONOMIC POLICIES OF THE NEW DEAL

(By Bernard Shull*)

The economic policies of the New Deal were shaped by the monumental problems that confronted Franklin Roosevelt on his election in 1933. Memory may have dimmed the magnitude of the economic disaster that occurred between 1929 and 1933, but the cold data still reveal the incredible idling of men and machines—the worst depression in American history.

On taking office, President Roosevelt could look back on almost four years of persistent decline. Real income had dropped more than 30 per cent. Most firms were operating far below capacity, failure rates were high; it would have taken an ingenious man to secure credit and a courageous man to invest it. Gross private investment had dropped from $35 billion in 1929 to $4 billion in 1933. Construction had come to a standstill; no mortgage money was available and the prices of houses had fallen below their reproduction costs. More than 25 per cent of the labor force was totally unemployed, (with perhaps 30 million people directly affected); and, of those men unemployed, almost one-half had been unemployed for 2 or more years. A substantial number of those who were employed worked only part-time.

Farm production during the period had not dropped as had industrial production; in 1933 it was still 95 per cent of what it had been in 1929; but farm prices had fallen 50 per cent and the income of farmers had fallen to only about 35 per cent of what it had been in 1929.

These figures, it should be noted, are averages. In many communities and many industries the decline was much more severe. For example, imagine the effect of an 82 per cent decline in residential construction for construction workers and a 65 per cent decline in automobile production for Detroit. But data such as this reflects only the downward course of the economy, not the irreparable damage that had been done in the course of the decline to the institutions that had supported it. The structures and conventions on which the substantial expansion of the 1920's had been based had come apart. Mass unemployment and poverty of long duration could not be handled in the way unemployment and poverty had traditionally been handled—by relatives, private charity and the local community. The precipitous decline in farm income and the consequent mass delinquency in payment of taxes and debt service could not be handled by forced sale and foreclosure. The international financial system that had supported a substantial volume of foreign trade and capital flows had been abandoned by the major trading countries; it could not be simply or easily be replaced. The banking system and the securities markets were in complete collapse, and the traditional methods of handling illiquidity and insolvency simply made matters worse. And, finally, the quasi-governmental institution in which so much confidence had been placed during the 1920's—the Federal Reserve System—had proved to be of little value in the emergency—in the views of some modern students, worse then useless.

With economic decline and institutional destruction had come a depression of spirit that was extremely inhospitable to economic recovery. There had been repeated disappointments around each corner, rather than prosperity.

The inauguration of Franklin Roosevelt marked an economic turning point. The first contribution of the New Deal was a new confidence. Roosevelt, by his nature and personal characteristics and perhaps by his identification with the distressed, revived hope and altered expectations. The impact of the New Deal was reflected in the change in Walter Lippman's attitude. In 1932 he had found Franklin Roosevelt "without any important qualifications for the office (of President)".[1] But on March 7, 1933—2 days after the declaration of a nationwide bank holiday he wrote:

"The American people have at least had a lucky break. The culminating crisis of the depression has occurred at the precise moment when they are in the best possible position to take advantage of it. . . . The inauguration of Mr. Roosevelt has brought to the Presidency a man who is fresh in mind and bold in spirit, who has instantly captured the confidence of the people, whose power to act in the emergency will not be questioned. . . . Every crisis breaks a deadlock and sets events in motion. It is either a disaster or an opportunity. . . . The present crisis is a good crisis." [2]

To change expectations was, of course, not sufficient. But nevertheless, Lippman turned out to be right in stating that the bank holiday was the culminating crisis of the depression. The economic bottom was reached in March of 1933.

Nevertheless, the economic recovery proved to be excruciatingly slow and painful. Initial emphasis on raising price levels through the devaluation of the dollar in terms of gold and foreign currencies proved to be a false start. Attempts to promote recovery by agreement among private businessmen, labor and government through NRA "codes of fair behavior" proved to be, at a minimum, insufficient.

In retrospect, it is somewhat easier to see now than it must have been at the time that the irreparable damage done to the institutions that supported economic activity precluded a rapid recovery no matter what was done. But in retrospect also it can be seen that what have now become traditional governmental remedies for economic decline—appropriate fiscal and monetary policies—were not effectively implemented. But, then these remedies were hardly "traditional" at the time.

Fiscal policy under FDR was barely more sophisticated (in modern terms) than it had been under Hoover. In the 1929–33 period, the size of the Federal Government's budget relative to the size of the economy was so small as to make an expansionary fiscal policy difficult, even if it had been desired. But it was hardly desired. When the Federal deficit exceeded $2 billion in 1931, President Hoover had called for an increase in taxes. The Revenue Act of 1932 provided the largest percentage tax increase ever enacted in American peacetime history. But FDR, also, had campaigned for a balanced budget, and soon after election reduced government expenditures—principally veterans benefits and salaries of government employees. Throughout the 1930's Federal fiscal policy was erratic in its contribution to recovery. State and local governments, normally constrained by law to balanced budgets, were pushed to bankruptcy and could make no positive contribution. Many increased taxes. Federal Reserve policy which had failed to prevent just the sort of financial panic it was intended to prevent was thought, for the most part, to be ineffective. Nevertheless, relatively easy monetary policies appear to have contributed to recovery for several years after 1933, and monetary restriction contributed to a sharp economic decline in 1937.

Throughout the decade, unemployment remained above 14 per cent. It was not until 1941 that unemployment fell to 10 per cent and Gross National Product began to approximate its full employment potential.

It has been estimated that the lost output in "real" terms between 1929–33 was (in 1929 prices) $75.2 billion. Between 1933–41 it amounted to about $284 billion. In total (in real terms) lost output during the 1929–41 period was over $350 billion. The loss is almost beyond comprehension. It is as if the economy had simply shut down completely in 1929 for about 3 years.

In the repair of institutional structures, however, I believe the New Deal economic policies served better. Each change effected has been, of course, subject to a good deal of criticism: (1) the promotion of trade unions and sanctioning of collective bargaining; (2) the introduction of social security, unemployment insurance and minimum wages; (3) the establishment of TVA and the control of public utility holding companies; (4) the separation of commercial and investment banking; (5) the establishment of Federal deposit insurance; (6) the reorganization of the Federal Reserve; and (7) the regulation of security markets.

The direct contribution of these and other well-known institutional reforms to recovery in the 1930's is difficult if not impossible to calculate. It is possible that their immediate contribution, on balance, was quite small. And yet, it is also likely that at least a number of them were vital—necessary if not sufficient conditions for recovery. And, what is perhaps more important, during the long sustained post World War II boom these repaired and altered institutions proved sufficiently viable to withstand for many years the strains and stresses that continued expansion inevitably generates. It is only within recent years that widespread and fundamental changes appear necessary. Given the life of institutions in the modern age this isn't too bad.

In an open letter to President Roosevelt in 1933, J. M. Keynes, the English economist, pointed out that the New Deal policy involved two objectives—recovery and reform; and of these, recovery was of more immediate importance. But recovery was mysteriously slow, and reform was practicable as well as necessary. If the image of FDR as an economic tactician has been tarnished as a result, the reality of FDR is something different. The truth is that it is still not completely clear why the Great Depression began, why it went on for so long, why it was so severe and what should have been done about it in 1933. (It is much easier to say what should have been done about it in 1929 and 1930.) Of the men who were available for national leadership at the time, it is hardly likely that any would have done better, and difficult to believe that any would have done as well.

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* Professor, Department of Economics, Hunter College, City University of New York.

[1] *New York Herald Tribune*, January 8, 1932.

[2] *New York Herald Tribune*, March 7, 1932.

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### F. D. R. AND REFUGEE POLICY

President Roosevelt has been both condemned for not having done enough to assist the victims of Nazi persecution, principally Jews, and praised for the measures he took to extend relief and a haven which saved the lives of many persecutees. The picture is a mixed one which can be judged fairly only by examination of the economic and political factors which influenced the policies of the United States Government towards refugees between 1933, when Hitler came to power, and the end of World War II.

The restrictionist attitude of the United States toward the admission of refugees evident in the Roosevelt Administration in 1933 was in fact a continuation of the policy adopted by the Hoover Administration in 1930 to curb all immigration to the fullest extent in view of a huge unemployment problem. The immigration law of 1917 excluded from admission to the United States all persons "likely to become a public charge." A strict interpretation of that clause by the Hoover Administration required that an intending immigrant either have personal funds sufficient to support himself or affidavits of friends or relatives in the United States assuring his financial support if he was unemployed, a real likelihood in view of the existing depression.

Anti-immigration sentiment, reflected in the basic 1924 Immigration Law and increased by the economic depression, was so strong that a 1931 immigration bill to reduce by 90% the full immigration quota of 156,000 passed the House and would have passed the Senate if it had come to a vote before the session ended.

With the appointment of Hitler as Chancellor of Germany on President Roosevelt's birthday, January 30, 1933, Jews were subjected to economic boycotts and exclusion from the Civil Service and many professions, so that within a year of Hitler's rule, over thirty thousand Jews had fled Germany into France, Belgium, Switzerland and other Western European countries.

The position of Jews continued to worsen. The Nuremburg laws of September 1935 stripped them of all rights as German citizens and thousands more fled the country.

Responding to this worsening situation, President Roosevelt, despite the continuing anti-immigration sentiment in the country, ordered a liberalization of the interpretation of the "public charge" clause. Consuls were ordered by the State Department to give refugees fleeing Germany "the most considerate attention and the most generous and favorable treatment possible". The result of this and similar additional instructions to the Consuls was a marked increase in immigration from Germany. But with 15 million people—one-fifth of the labor force—out of work in the United States, with people frightened and hungry, public opinion was deeply antagonistic to any action that would appear to increase competition for employment.

The intensified persecution of Jews and other anti-Nazis following Germany's annexation of Austria in March, 1938 triggered an immediate reaction from President Roosevelt. Within ten days, on March 23, 1938, at President Roosevelt's initiative, the State Department invited Western European and Latin American Governments, Australia, Canada, and New Zealand, to join the United States in a conference looking toward the establishment of an international body to facilitate the emigration of refugees from Austria and Germany and to assist in resettling those who had temporary asylum in other countries. At the same time he established the President's Advisory Committee on Political Refugees (PAC) headed by James G. McDonald, with George L. Warren as Executive Secretary to assist in formulating proposals for the conference.

The conference, attended by thirty governments, was held in Evian, France, in July 1938, and marked the first attempt by the United States to stimulate international cooperation in establishing permanent resettlement opportunities for refugees.

Recognizing that there was no chance of obtaining a liberalized immigration policy in the Congress, the State Department's invitation to the governments to attend the conference emphasized that "no country would be expected or asked to receive a greater number of immigrants than is permitted by existing legislation". But in April, before the conference, to alleviate the desperate situation of the persecutees in Austria, President Roosevelt, under existing statutory authority, merged the small Austrian quota into the German quota, making larger quota available to the Austrian persecutees as well as the Germans.

When the Evian Conference met in July 1938, a *Fortune Magazine* poll reported that 67.4% of the persons polled felt that in view of domestic unemployment "we should try to keep them (refugees) out". 18.2% felt we should allow them to come in "but not raise our immigration quotas". At about the same time, the *Brooklyn Jewish Examiner* conducted a poll among Congressmen to raise the immigration quotas 50 or 60% to allow in more refugees. Only two of six Jewish Congressmen who replied favored the proposal.

In what was regarded as a politically dangerous move domestically, the United States at the opening of the Evian Conference announced that it was making fully available to refugees the total combined German and Austrian quotas of 27,370. But thereafter country after country at the Conference stated its inability to accept an increased number of refugees.

Though unsuccessful in obtaining any commitments for increased acceptance of refugees, the Conference did agree to establish a new international organization to assist refugees, called the Intergovernmental Committee for Refugees, to be headquartered in London with membership limited to potential countries of resettlement, thus avoiding the mistake of the League of Nations which in earlier times had been hampered in its efforts to assist refugees by the negative votes of Germany and other refugee-producing states.

The first Director of the Intergovernmental Committee, Mr. George Rublee, negotiated with Germany through Dr. Hjalmar Schacht, President of the Reichsbank, to permit refugees to transfer abroad some of their assets which would have made them more attractive immigrants for whom resettlement opportunities would have opened. Although Rublee's efforts failed, the concept of planned international migration took root; and in a few years it was to become the principal means of resettling millions of refugees dislocated by World War II.

The Roosevelt Administration did not make any serious effort to persuade the Congress to enlarge the immigration quotas, because it was the fear of the Administration and of those groups which favored liberalizing the law to admit greater numbers of refugees that any serious effort to do so would result in imposition of even greater restrictions by the Congress. The reason for this again was less prejudice than the fear of workers, unions, and citizens that an influx of refugees would reduce the number of jobs available to Americans. Only one attempt was made to liberalize the law—the introduction of the Wagner-Rogers Bill to admit 20,000 refugee children under the age of 14, to be sponsored by the Quakers. Despite its humanitarian appeal, the bill never got out of Committee and never reached the floor of the Congress. It was withdrawn when the only basis for its passage was a compromise to charge the twenty thousand children against the quotas for adults.

Throughout the Roosevelt Administration our refugee admissions policy in the thirties and forties was generally indistinguishable from our restrictive immigration policies as reflected in our basic 1924 Immigration Law policies intensified by the Depression.

The failure of the Congress to liberalize the quotas to meet the pressing need of refugees and the failure of the Roosevelt Administration to press hard for remedial legislation reflected public opinion which could not be overcome. A Gallup Poll in 1939 reported only 26% approval for admission of 10,000 German refugee children; 66% opposed; and 8% with no opinion. There was even less support for modification of the quotas in favor of adults. In March 1938, when Germany absorbed Austria only 17% favored admitting "a larger number of Jewish exiles from Germany"; 75% opposed; and 8% had no opinion.

An example of the anti-refugee feeling because of the fear of competition for jobs focussed publicly on department store hiring. Many stores had Jewish owners and were accused of depriving Americans of jobs in favor of newly arrived refugees. The situation was so serious that Macy's, Abraham and Strauss, and others issued public denials. Bloomingdale's executed an affidavit that out of 2,500 workers, it had employed only 11 refugees in three years.

Though the influx of refugees was small in proportion to the population, and all were consumers and less than half wage earners, it wasn't possible to persuade the public or the Congress or the trades unions that their increased admission would not add to the millions unemployed. As a result, proponents of assistance to refugees did not advocate increasing the limited quotas with respect to adults. They concentrated on admission of children outside the quotas, and even that failed.

The Jewish organizations concerned with refugees, the State Department, the leading members of Congress, as well as civic leaders all agreed that efforts to enlarge the quotas would most likely result in further restrictions.

In mid-1940, as Western Europe fell before the Germin armies, the Nazi fifth-column was believed to be a major cause of Hitler's success. As a result, aliens became suspect everywhere, including the United States, and it was believed essential that controls be more carefully enforced against possible entry of Nazi agents into the United States. In an effort to tighten controls over aliens. President Roosevelt asked the Congress in May, 1940 to transfer the Immigration Service from the Labor Department to the Department of Justice, to which the Congress responded immediately. Beginning in the summer of 1940, more stringent controls were imposed on immigration from Germany and Eastern European countries. This fear of subversion resulted in the quotas being unused to the extent of 50%.

With the Congress and public opposed to any remedial legislation, President Roosevelt sought to assist the increasing number of refugees by executive action as the Nazis swept through Europe in 1943. At a conference in Bermuda in April 1943, between representatives of the U.S. and Great Britain, it was decided to channel funds to the Intergovernmental Committee which had been established at the Evian Conference to be used to assist any refugees the Committee could reach. This marked the first time that governmental funds were contributed to an international organization to assist refugees. In the League days, all funds for refugee assistance came from private sources. This effort to assist through the Intergovernmental Committee did not result in any activity until the countries under Nazi domination were liberated.

During all of this time, President Roosevelt left largely to the State Department, which was generally unsympathetic to the refugee problem, formulation of refugee policy. His major concern was winning the war which would solve the refugee problem along with all others.

At the suggestion of Secretary of the Treasury Henry Morgenthau, President Roosevelt in 1944 established as part of his Executive Office the War Refugee Board, a small group composed of the Secretaries of State, War and Treasury with a staff of 20. Its mandate was to take "all measures within its power to rescue victims of enemy oppression who are in imminent danger of death" and "to develop plans and programs and other measures for the rescue, transportation, maintenance, and the relief of the victims of enemy oppression, and the establishment of havens of temporary refuge." Operating with its small staff in Washington and representatives in Switzerland, Sweden, Portugal, Turkey, Great Britain, Italy and North Africa, it was relieved of the usual government red tape and was able to effectively assist through clandestine operations behind enemy lines and to work with underground groups. Among other effective actions, it was able to establish escape routes and to find temporary asylum in unoccupied countries. It rescued some thousands of refugees from Estonia, Latvia, and Lithuania, from Denmark and Northern Germany, and more than 15,000 from occupied Norway. And with State Department approval, it arranged for special negotiations in Switzerland for the release of Jews from concentration camps. As allied military success mounted, some Gestapo officials sought to buy insurance for their personal protections through better treatment for Jews. The Board authorized Mr. Saly Mayer, a Swiss citizen who represented the American Joint Distribution Committee, to conduct negotiations with the Germans. It authorized the transfer of $5 million to Mr. Mayer which he used as bait to persuade the Nazis to send some 1,600 concentration camp victims to Switzerland and to divert to Switzerland and to divert to Austria 17,000 Hungarian Jews who were headed for the concentration camp at Auschwitz. No funds were ever turned over to the Nazis, but these lives were saved. Also among its major rescue measures was the transport, with President Roosevelt's approval, of almost a thousand refugees of all nationalities who had escaped into Italy, to an emergency rescue shelter in Oswego, New York, where they remained until the end of the war when they were permitted to remain permanently in the United States. All of these activities were carried out in close cooperation with American private refugee organizations.

In contrast to our Post-World War II refugee policies when, by a series of special legislative acts, the Congress admitted about a million refugees, from 1933 to the end of World War II, our refugee immigration policy was generally indistinguishable from our basic restrictive immigration laws.

Between 1933 and the end of the Roosevelt Administration, we admitted about 250,000 refugees, including 15,000 visitors who remained as permanent immigrants. Had the fear of subversion not caused the tightening of rules and reimposition of the Public Charge Clause in 1941 and very stringent screening in 1944, thousands more would have found refuge in the United States.

President Roosevelt's decision not to expel 15,000 visitors in 1938 was regarded as a major accomplishment. His merging of the Austrian and German quotas to benefit Austrian persecutees caused Congressional criticism, as did his directive to open the available quotas in full for refugees.

These helpful actions, together with the work of the War Refugee Board, hardly met the refugee crisis. Only by enlarging the quotas could more effective relief have been extended to refugees during the Roosevelt Administrations. Failure to do so reflected the regrettable but firm determination of the Congress, the Trades Unions and public opinion. The policies followed by President Roosevelt might have been improved upon, but they were what the American public wanted. He could have pressed harder but it is doubtful whether he could have achieved more, and in the process he might have endangered other measures essential to the basic objective of stopping Hitler and Nazism.

Considering the times, a great deal was in fact accomplished. The indifference of the majority of the public to the plight of victims of Hitler's persecution was not dissimilar to the indifference in our time of the Government to the plight of untold numbers of Bengalis who suffered at the hands of an invading force the last few months; of indifference to Biafrans who were slaughtered without much outcry or effective action by our Government; and even today of indifference to innocent civilian Vietnamese who are the victims of a discredited war policy universally condemned by the American people.

Today, however, the Executive fails to respond to the enlightened American public's concern. In President Roosevelt's time, the Executive had to strive against the isolationist attitude of the public and the Congress.

## PRECARIOUS POLITICAL POLICY

### HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. SCHERLE. Mr. Speaker, the West German Government under Socialist Chancellor Willy Brandt has isolated itself by its one-sided "Ostpolitik." Brandt's trip to Crimea in September of last year to meet the chairman of the Communist Party of the Soviet Union, Leonid Brezhnev, was not cleared with Germany's Western allies. The concessions he made in the Moscow and Warsaw Treaties in 1970 were granted without the support of the Western world and serve to strengthen the Soviet Union. In pressing for ratification of his treaties with the East European Communists, Brandt has been acting against the interests of the free world.

Even in his own country, Brandt is isolated. His government was not elected by a majority of the voters in 1969, and he won a tiny majority of six votes for his coalition in the Bundestag only by close political maneuvering. With this tiny majority, Brandt initiated his "Ostpolitik" without clear mandate from the German people. He is now pressing for ratification of the Moscow and Warsaw Treaties against strong opposition from the biggest party in the Bundestag, and despite the fact that in the upper chamber of the German Parliament, the Bunderat, his coalition is actually in the minority by one vote. Obviously, his foreign policy is based on very shaky assumptions of support from his constituency, and the United States should be wary of backing him. Nobel Peace Prize or no, Brandt may be rejected by the German people the next time they have an opportunity to express their views in the ballot box.

## SEMINAR ON ENVIRONMENTAL LAW

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DINGELL. Mr. Speaker, I insert into the CONGRESSIONAL RECORD the very fine remarks of a distinguished American, Mr. Timothy B. Atkeson, General Counsel of the Council on Environmental Quality, at the American Law Institute-American Bar Association Seminar on Environmental Law held jointly with the Smithsonian Institution at the National Museum of Natural History on February 17, 1972.

Mr. Atkeson's fine remarks setting out the history of NEPA merit careful reading by all persons interested in environmental law and in the effective accomplishment of a wholesome and decent environment for all Americans.

The remarks follow:

THE NATIONAL ENVIRONMENTAL POLICY ACT: REMARKS OF TIMOTHY B. ATKESON, GENERAL COUNSEL TO THE COUNCIL ON ENVIRONMENTAL QUALITY,* FEBRUARY 17, 1972

"An Overview of the Impact of NEPA on the Federal Government Decision Making Process."

The Act we are discussing tonight, the National Environmental Policy Act ("NEPA"), since its passage has never failed to elicit strong reactions. Perceptive commentators at an early date after its passage, concluded:

> In form, the National Environmental Policy Act is a statute; in spirit a constitution. . . . In sum, it does not seem farfetched to suggest that the National Environmental Policy Act could well become our Environmental Bill of Rights.[1]

At the same time, two other commentators on NEPA were writing articles entitled "NEPA: Full of Sound and Fury . . .?"[2] and "NEPA: A Sheep in Wolf's Clothing?"[3] More recent commentators have had a rapidly growing accumulation of Federal Court opinions on which to base their judgment—we now have over fifty district court opinions and some seventeen Court of Appeals opinions and new NEPA opinions are being handed down at the rate of about one a week. Contemplating the impact of NEPA on the Alaska pipeline permit application one text writer has observed:

> In a case such as this, the National Environmental Policy Act certainly can take on the sobriquet once reserved for the Colt revolver: 'the great equalizer'.[4]

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[*] The remarks of the author reflect his individual views and not necessarily those of the Council on Environmental Quality.

[1] Eva and John Hanks, "An Environmental Bill of Rights: The Citizen Suit and NEPA" 24 *Rutgers Law Review* 230 (1970).

[2] Note, "NEPA: Full of Sound and Fury . . .?" 6 *U. Richmond L. Rev.* 116 (1971).

[3] Note, "National Environmental Policy Act: A Sheep in Wolf's Clothing?," 37 *Brooklyn L. Rev.* 139 (1970).

[4] Arnold Reitze, *Environmental Law* North American International, Washington, D.C. (1972) P. One–113.

Our task tonight is to trace NEPA from the days in 1969 when it passed the Senate on the consent calendar to its present formidable role in Federal Government decisionmaking.

## I. INDICES OF WHAT IS HAPPENING IN THE EXECUTIVE BRANCH

Although the Administration did not seek the passage of NEPA, there has been a strong Executive Branch initiative in implementation of the Act's policies and requirements.

Some of the highlights: a) After using the signing of NEPA symbolically as his first official act of the decade of the seventies, the President appointed a strong environmentally oriented panel as the first three members of the new Council on Environmental Quality created by Title II of NEPA, b) Promptly thereafter the President issued a broad Executive Order (E.O. 11514) giving the implementation of NEPA a strong impetus with public information provisions that went beyond NEPA and by filling the unmet need in NEPA for overall coordination,—assigning this role to the Council on Environmental Quality, c) Making immediate broad use of the Council, the President assigned it the task of being "keeper of our environmental conscience" "with responsibility for ensuring that all our programs and actions are undertaken with a careful respect for the needs of environmental quality." Most significantly he assigned the Council the task of drawing together his annual Environmental Messages and major responsibilities for new program development, d) In the area of project review the President a year later cited the advice of the Council on Environmental Quality and the policy of NEPA as grounds for cancelling the Cross Florida Barge Canal on which over fifty million dollars had been spent.

This month, two years after the Council on Environmental Quality was appointed, we report in the February 102 Monitor—the monthly summary of environmental impact statements the Council publishes in addition to the weekly listings we put in the Federal Register, that the Council has received a cumulative total of draft and final environmental impact statements on about 2,400 actions. (This means we have received over 4,000 environmental impact statements since each action now requires both a draft and final impact statement.) These are now being received at a rate that has averaged over 200 draft or final statements a month in the last six months or about 10 per working day. About half come from DOT (principally on airports and highways). The next largest groups are those on water resource projects (about a fourth of the total) and power (about 100 actions). The general quality of the statements has greatly improved as the agencies have geared up to meet the requirements of NEPA and the Council's implementing guidelines. NEPA procedures, for over 40 agencies or bureaus in agencies—in addition to the Council's overall NEPA Guidelines—have now been published in the Federal Register and responsibility for NEPA compliance have been assigned to a senior level in the Departments principally affected.

Voluntarily or in response to Court order, NEPA is bringing significant changes in the agency decisionmaking process. There can be no doubt that environmental considerations now play a fundamentally new role in AEC's decisions, for example. Interior approaches offshore oil leasing in a very different way than it did in 1968 in the leases that led to the Santa Barbara spill. DOT takes a new view of airport siting and highway location and the Coast Guard carefully evaluates a bridge permit across San Francisco Bay in terms of possible adverse impact on mass transit plans for the area. Corps of Engineers dredge and fill permits have a major environmental input. DOD takes a whole new view of munitions disposal and, as I will note later, NEPA is giving us a handle on the assessment of new technology. The Council is not satisfied that NEPA is having the full effect it should on agency decisionmaking but it would be unrealistic not to describe NEPA's impact to date as considerable and generally useful.

## II. THE ROLE OF CEQ UNDER NEPA

When you read the environmental impact statement requirement in Section 102(2) (C) of NEPA you will note that it is addressed directly to the Federal agencies responsible for taking the proposed action and that the only role expressly assigned the Council is one of receiving copies of the impact statement and the comments thereon. There is the direction in Section 102(2) (B) that agencies in consultation with CEQ identify ways of insuring that presently unquantified environmental values will be given appropriate consideration in decisionmaking along with economic and technical considerations and the potentially significant later direction in Section 102(2) (H) of NEPA that all Federal agencies "assist the Council on Environmental Quality established by title II of this Act" and authority in Section 204 (3) for the Council to review and appraise the various programs and activities of the Federal Government in the light of the policy of NEPA and to make recommendations to the President in this connection. The most direct assignment of responsibility to the CEQ with respect to environmental impact statements is, as I have noted, through Executive Order 11514 where CEQ is assigned its guideline and coordinating responsibilities.

On the CEQ staff the General Counsel's Office has responsibility for the guidelines and for procedural and litigation questions arising under NEPA and a staff of Federal Impact examiners has responsibility for reviewing the substance of impact statements. The Federal Impact Staff is organized under six headings—transportation, water resource projects, energy, lands, community development, and DOD-NASA-AEC. The Council expresses its views on a minority of the statements, sometimes in writing and sometimes by phone or at meetings; usually its views are addressed to the responsible agency but sometimes they are to OMB or the White House. The Council is not a commenting agency under NEPA in the sense that its comments are attached to the impact statement and no inference is to be drawn from the Council's failure to comment. Unlike EPA, whose comments are required by both NEPA and by Section 309 of the Clean Air Act to be public or the other agencies whose comment is required by Section 102, CEQ plays the role of internal advisor to the Executive Branch and the President. Its objectives in the review of 102 statements are principally three: 1. To check agency compliance with NEPA and the Council's Guidelines, 2. To identify environmental problem areas where some general reform via executive order or legislation would be desirable, and 3. To monitor important and highly controversial actions via the 102 process and to keep the White House and OMB advised.

It is sometimes said that the Council should take a more publicly activist posture with respect to environmental impact statements and controversial Government actions. By placing the Council in the Executive Office of the President and making the Council an advisor to the President, Congress opted for a different pattern. It was specifically intended that the Council not become another clearance point in day-to-day operations. The Council's public impact comes through its general directives, analyses and reports,—the 102 Guidelines, the *102 Monitor*, such special reports as those on ocean dumping, toxic materials and innovations in state land use regulation, and more comprehensively in the Council's Annual Environmental Quality Reports. The Council's objective, which is supported by the language and legislative history of NEPA, is to bring the NEPA process in agency decision making as close to a self-enforcing procedure as possible. If an assessment of environmental impacts is available to the decision makers in a timely and intelligible form, if there is ample public notice and opportunity for comment or hearings, if the expert Federal, State and local commenting agencies do their job, there should be little need for CEQ intervention in most cases. While the Council recognizes that we have not yet reached this state of affairs, its objective is to build up the environmental judgment of the agencies rather than to substitute its own.

Since this panel is addressed primarily to the legal implications of NEPA I will not dwell on the policy study and recommendation side of the Council's work or on the very substantial work involved in its Annual Environmental Quality reports. Suffice it to say with respect to the Council's coordinating role that the environmental problems before the Federal Government are still very much multi-agency and are not solved by the consolidation of our major pollution control programs in EPA. On oil spills, for example, it was still necessary for CEQ to issue the Contingency Plan which coordinates the responses of EPA, the Coast Guard, the Geological Survey and the Corps of Engineers. On the Refuse Act Permit Program CEQ has been involved in coordinating the roles of the Corps, EPA, the Fish and Wildlife Service, NOAA and Justice. More recently CEQ has been assisting AEC in obtaining timely responses from the other Federal agencies to its new post *Calvert Cliffs* NEPA procedures and has taken the lead, together with the Council of State Governments, EPA and Interior in developing plans for a National Symposium on State environmental legislation to be held in Washington next month.

## III. COURT ENFORCEABILITY OF NEPA

As we noted in the chapter on "The Law and the Environment" in the Council's Second Annual Report (copies of which are available to you in your Conference materials), most Courts have concluded that the NEPA "102" environmental statement procedure is court enforceable at the suit of interested citizens. The Council takes the view that environmental protection laws carry with them a broad concept of standing to sue and has endorsed citizen suits to enforce Federal environmental legislation. With respect to citizen suits against the Government itself to enforce NEPA I cannot do better than quote a great Republican President:

> "It is as much the duty of Government to render prompt justice against itself, in favor of citizens, as it is to administer the same, between individuals." (Abraham Lincoln)

All of us, I know, will be most interested to study the Supreme Court's forthcoming treatment of the standing issue in the *Mineral King* case now awaiting decision. But with respect to citizen suits under NEPA it should be noted that the Solicitor General's brief in the *Mineral King* case conceded that NEPA carries a legislative background endorsing enforceability by citizen suit.

Whereas at the time last summer we wrote about "The Law and the Environment" there were some 20 reported Federal district court decisions involving citizen challenges to Federal action under NEPA, we now have over 50 District Court opinions on the subject and are approaching the 20 mark for Court of Appeals decisions. Overall we have identified about 160 cases in the following categories: 43 against DOT, 34 against the Corps, 8 against the rest of DOD, 17 against Interior, 15 against USDA, 13 against AEC, 9 against HUD, and the remainder against a scattering of agencies. This surely is one of the most rapidly growing areas of Federal jurisprudence and proves the truth of De-Tocqueville's observation about our country that what would remain issues of political policy or administration in other countries become legal issues in America and are put to the courts for decision.

We have attempted to analyze the significant general NEPA issues handled to date by the courts and they seem to be as follows:

a. *The applicability of NEPA to Federal actions initiated prior to NEPA.* Here the leading opinions among the Circuit Courts are *Calvert Cliffs* 449 F 2d 1109, 2 E.R.C. 1779 (D.C. Cir. 1971), *Penna. Environmental Council* v. *Bartlett* 3 E.R.C. 1421 (3d Cir. 1971), *Greene County Planning Board* v. *FPC* (No. 71-1991 (2d Cir., Jan. 17, 1972)) and there are at least a half dozen district court opinions. We believe that these opinions sustain the position taken in Section 11 of the Council's Guidelines,—that with respect to projects or programs initiated prior to January 1, 1970 where it is not practicable to reassess the basic course of action, it is still important that, by doing an environmental impact statement, further incremental major actions be shaped so as to minimize adverse environmental consequences.

b. *Interpreting the key phrases "major" (action) and "significant" (as in "significantly affecting the quality of the human environment").* To date there have been few cases directly relevant to these problems of interpretation. Our aim is to give greater precision to these concepts via the CEQ Guidelines and more particularly, with respect to individual agency programs, through the agency NEPA procedures. As you know, these agency procedures are published in the *Federal Register* and we have invited comment.

Increasingly we would expect the courts to apply the rule that "[s]uch administrative interpretation cannot be ignored except for the strongest reasons, particularly where the interpretation is a construction of the statute by the men designated by the statute to put it into effect." (*EDF* v. *TVA,* (E. D. Tenn., Jan. 1972), slip opinion at p. 12). Indeed, a very well reasoned opinion of Judge Gignoux has just followed this approach in upholding a Department of Defense determination that no impact statement was needed on a proposed action. *Citizens for Reid State Park* v. *Laird,* No. 13-18 (D. Me. Jan. 21, 1972).

Plaintiffs here seek judicial review of the Navy's determination that no such significant effect would be occasioned by Operation Snowy Beach. The Act plainly commits this preliminary determination to the agency. The statutory language 'significantly affecting the quality of the human environment' is extremely broad and not susceptible of precise definition. The standard of review in such cases is limited; for in the language of the Supreme Court:

> Where the Congress has provided that an administrative agency initially apply a broad statutory term to a particular situation, our function is limited to determining whether the (agency's) decision "has 'warrant in the record' and a reasonable basis in law." *Atlantic Refining Co.* v. *FPC,* 381 U.S. 357, 367 (1965), *citing Labor Board* v. *Hearst Publications, Inc.,* 322 U.S. 111, 131 (1944).

c. *Preparation and content of environmental statements.* Three of the most important NEPA decisions to date are the decisions of the Court of Appeals for the District of Columbia in *Calvert Cliffs Coordinating Committee* v. *AEC,* 449 F 2d 1109, 2 E.R.C. 1779 (D.C. Cir. 1971), *Committee for Nuclear Responsibility* v. *Seaborg,* 3 E.R.C. 1127 (D.C. Cir. 1971), and *Natural Resources Defense Council* v. *Morton* (D.C. Cir. Jan. 13, 1972). Each of those opinions discusses in some detail the function which the 102(2)(C) statement should fulfill and the considerations which should go into preparation of such statements. In *Calvert Cliffs,* the court noted:

> Environmental amenities will often be in conflict with "economic and technical considerations." To "consider" the former "along with" the latter must involve a balancing process. In some instances environmental costs may outweigh economic and technical benefits and in other instances they may not. But NEPA mandates a rather finely tuned and "systematic" balancing analysis in each instance.

In *Committee for Nuclear Responsibility* v. *Seaborg,* the court considered the extent to which an environmental statement must reflect opposing scientific and public opinion. The court elaborated in some detail on an agency's duty to set forth for public consideration responsible views on environmental issues—both favorable and opposing:

> [The statement should set] forth the opposing scientific views, and [should] not take the arbitrary and impermissible approach of completely omitting from the statement, and hence from the focus that the statement was intended to provide for the deciding officials, any reference whatever to the existence of *responsible* scientific opinions concerning possible adverse environmental effects. Only responsible opposing views need be included and hence there is room for discretion on the part of the officials preparing the statement; but there is no room for an assumption that their determination is conclusive. The agency need not set forth at full length views with which it disagrees; all that is required is a meaningful reference that identifies the problem at hand for the responsible official. The agency, of course, is not foreclosed from noting in the statement that it accepts certain contentions or rejects others.

In *Natural Resources Defense Council* v. *Morton,* the court focused on the requirement that agencies consider "alternatives" to the proposed action. The court found that an environmental statement prepared by the Department of the Interior on a proposed sale of offshore oil and gas leases was inadequate in this respect. Agencies must evaluate the environmental consequences of reasonable alternatives to proposed action in order that the ultimate decision-makers—the agency, Congress, or the President—may consider these consequences along with the various other elements of the public interest.

Each of these opinions reaffirm the view that NEPA, at the very least, is a "full disclosure law," requiring conscientious attention to "all known possible environmental consequences of proposed agency action." *Environmental Defense Fund* v. *Corps of Engineers,* 2 E.R.C. 1260, 1267 (E.D. Ark. 1971). In this respect, these decisions make clear that NEPA only requires what should already be implicit in the notion of responsible decision-making. Decisions which ignore adverse environmental effects of proposed actions are excluding relevant costs and disadvantages which can only make them less than fully responsible choices.

d. *Citizen Participation in NEPA.* Although the National Environmental Policy Act does not explicitly refer to securing public participation in the agency's environmental assessments, Executive Order 11514 suggests that agencies develop "procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties," Provisions in the CEQ Guidelines for draft and final environmental statements, and for making such statements available for public comment reflect this concern for public involvement, as do judicial opinions upholding citizen standing to bring suit under NEPA.

The Court of Appeals for the Second Circuit has recently stressed the importance of ensuring that environmental statements are made available for—and ultimately take into account—examination and comment by interested members of the public. See *Greene County Planning Board* v. *FPC,* No. 71-1991 (2d Cir., Jan. 17, 1972). This decision, however, also draws attention to the fact that liberal provision for citizen participation in agency decisions under NEPA carries with it corresponding obligations for citizen adherence to established agency review procedures. Thus the court in *Greene County* refused to halt certain actions allegedly taken in violation of NEPA because "petitioners, having made timely motions to intervene, offered no objections to the construction of the two lines and did not petition . . . for review within [the time provided by statute]." Slip opin. at 1417. Other courts have similarly indicated that citizens who have actual notice of agency procedures designed to secure public participation in the decision-making process, and who fail to take advantage of such procedures, should not later be able to challenge the agency action in a judicial proceeding. See *Sierra Club* v. *Hardin,* 2 E.R.C. 1385, 1396-97 (D. Alaska, 1971). By combining these doctrines of "laches" and "exhaustion of administrative remedies" with broad opportunity for public participation in the agency's environmental assessments, courts are helping to ensure that the agency decision-making process is both responsive to the public and at the same time not subjected to undue and untimely delay.

e. *NEPA's Broadening Effect on Agency Authority.* Not all litigation under NEPA has been aimed at Federal agencies; in some cases, NEPA has been invoked to support, rather than to invalidate, government action. The primary example is *Zabel v. Tabb,* 430 F. 2d 199 (5th Cir. 1970), in which the court reversed the district court's holding that the denial of a dredge and fill permit by the Army Corps of Engineers, on the basis of adverse environmental effects, exceeded the Secretary of the Army's statutory authority. The Fifth Circuit held that NEPA requires that:

> . . . the Army must consult with, consider and reecive, and then evaluate the recommendations of . . . other agencies . . . on . . . environmental factors. In rejecting a permit on non-navigational grounds, the Secretary of the Army does not abdicate his sole ultimate responsibility. Rather in weighing the application, the Secretary of the Army is acting under a Congressional mandate [NEPA] to collaborate and consider all of the [environmental] factors.

Thus NEPA serves to aid Federal agencies which, in the absence of NEPA, might be forced to operate under mandates arguably incompatible with environmentally responsible decisionmaking.

With respect to the role of the courts under NEPA it should be noted that we have not yet had a Supreme Court decision applying NEPA and that to date, apart from the broadened authority NEPA gives agencies as in *Zabel v. Tabb,* NEPA has been treated in the courts essentially as a procedural requirement. Of course there is always the possibility even under traditional standards of review that a court could strike down an arbitrary or clearly unreasonable administrative decision, as was pointed out in *Calvert Cliffs:*

> The reviewing courts probably cannot reverse a substantive decision on its merits, under Section 101 (of NEPA), unless it be shown that the actual balance of costs and benefits that was struck was arbitrary or clearly gave insufficient weight to environmental values.

The view of the courts of their function under NEPA at this time is probably best reflected in the concluding comment in *NRDC v. Morton:*

> . . . In this as in other areas, the functions of courts and agencies, rightly understood, are not in opposition but in collaboration, toward achievement of the end pre-

sented by Congress. So long as the officials and agencies have taken the "hard look" at environmental consequences mandated by Congress, the court does not seek to impose unreasonable extremes or to interject itself within the area of discretion of the executive as to the choice of action to be taken. *Natural Resources Defense Council* v. *Morton, supra* (slip opinion at 19).

I have one further observation about the implications of court enforceability of NEPA. This is that citizen suits under NEPA have given us, *de facto*, a highly potent and omnipresent environmental "ombudsman." With much more independence and effect than any public officer would ever be granted, citizen groups are free to check and test administrative action against the environmental policy of NEPA. To my knowledge no other country has yet experienced this development. We believe that through this process, in addition to the efforts of the Council and the administrative agencies themselves, we will have the most rigorous probing of the environmental impact of government action and of private action subject to government regulation.

### IV. THE ISSUES NEPA POSES FOR THE GOVERNMENTAL DECISIONMAKER

I have left the more difficult questions NEPA poses for the Federal Government decisionmaker to the end of my prepared remarks and with respect to these questions I have only some suggestions:

a. *The problem of getting timely and meaningful data and alternatives to the decisionmaker*, NEPA, the CEQ guidelines and agency NEPA procedures cannot of themselves reform agency decisionmaking. Coupled with court enforcement of NEPA they can delay and harass the administrator who ignores them but they cannot ever equal the impact of agency leadership that sees in NEPA a tool to reshape and revitalize agency thinking and performance. In the Council we have found the environmental policies of NEPA a flexible and far-reaching tool to review government decisionmaking as we put together packages of legislation and administrative action for the President's Environmental Messages.

We have reexamined tax policy, energy policy, land use questions, pollution controls, transportation policies and recreation issues, all under the broad rubric of the "environment." We see in the Interior Department's proposed new organic legislation for management of the public lands, the AEC's more comprehensive and early review of nuclear power plants, and the new Interior-HUD-DOT coordination implicit in the President's revised state land use policy bill the translation of NEPA policies into beter management. My OMB friends say, in a comment I only partially comprehend, "It took NEPA to put PPB into effect," which I take to mean that NEPA can be used to upgrade the quality of analysis of alternatives, consultation and decisionmaking. In short, smart agency leadership should see NEPA as an opportunity rather than a stumbling block.

b. *The problem of coordination of multi-agency action and of getting a multi-agency perspective on alternatives in the NEPA review. Calvert Cliffs* set us an agenda under NEPA for the coordination of such multi-agency actions as nuclear power plan licensing (which involves AEC licensing under the Atomic Energy Act, Refuse Act permits from the Corps and EPA, and major inputs from Interior, NOAA and FPC) that will have application to other Federal decisions such as FPC licensing of hydro facilities involving important Interior and EPA reviews, such multifaceted regional water resources projects as the proposed Tocks Island Dam (Corps and DRBC), recreation area (Interior) and pumped storage facility (FPC) and regional airports such as the new airport for Miami (which involves DOT, Interior and EPA as well as Florida State and local agencies). There is a need to work out lead agency arrangements or special multi-agency preparation of the environmental impact analysis required. CEQ is prepared to assist in this task and has found in the Tocks Island case that an "overview" impact statement—prepared on the basis of Corps, FPC and DRBC impact statements on components—may be the best solution. *NRDC v. Morton*, which requires an analysis of alternatives beyond those available to the action agency, also highlights the need under NEPA for coordination and an early bringing together of the multi-agency elements that are necessary for a government-wide perspective on the options to be considered. (In the *NRDC v. Morton* case, involving an Interior decision on offshore drilling leases, the Court indicated a need for analysis of the alternatives of nuclear power (AEC) of change in the oil import quota (OOEP and Interior) and a change in FPC pricing policy on natural gas as well as a range of other options open to Interior). The Court pointed to the possibility that the Energy Subcommitee of the Domestic Council should have prepared an overall environmental impact statement as a basis for the President's energy message of last June. While we have not yet tried such a broad approach, there has been simultaneous preparation of environmental impact statements on their key legislative proposals by the lead agencies involved in this year's Environmental Message (EPA, Interior, Treasury).

c. *The need for comprehensive energy, transportation and land use policies to resolve the questions posed by NEPA*. A result of NEPA that has been highlighted in the multi-agency coordination and perspective problems is our lack of, and need for, more comprehensive energy, transportation and land use policies.

Without such policies and the underlying analysis that can be incorporated into an impact statement's assessment of alternatives, it becomes painfully clear we are making *ad hoc* "seat of the pants" or inconsistent judgments about significant issues. As I indicated, the DOT highway and airport impact statements constitute 50% of the total volume. How can the important underlying issues be resolved without the sort of state land use policy legislation as the President recommended in this years Environment Message? The same is true of the need in AEC, FPC and Corps of Engineer impact statements on power plants for some such overall framework for decision as the Administration's power plant siting bill. The energy hearings of the Senate Interior Committee are developing the theme that NEPA at present is our only tool for bringing together in decisionmaking the elements of an energy policy. As *NRDC v. Morton* indicates, we are as yet poorly prepared for the task.

d. *NEPA as a tool for technology assessment*. In the concluding chapter of the Council's most recent Annual Environmental Quality Report the Council said:

> Clearly there must be linkage between technology assessment and mechanisms to control the impact of technologies. If we develop tools to predict more accurately the consequences of technological developments, we must also develop policy mechanisms to act upon these findings.

We have found that the environmental impact statement process provides one such link. This year we will see important examples of technology assessment and use of the findings involved in the environmental impact statements done by AEC on atomic waste disposal and the liquid metal breeder reactor, by NASA on the space shuttle, Interior on coal gasification, geothermal steam, and water desalinization, and NOAA and Interior on weather modification.

e. *Handling fundamental issues: e.g. the inevitability or desirability of growth, setting priorities, what is environmental quality? etc.* The NEPA process is not, after all, the oracle at Delphi (although prolonged reading of numerous impact statements is said to induce the same sort of trance the Greeks got from breathing mercury fumes in a windy cave while consulting their oracle). The analysis it produces is unlikely to depart from basic assumptions of our society—however flawed and obsolete some of these assumptions might be. The strong input we are getting from judges—who appear to be fascinated by NEPA—is, however, imparting a very vigorous tone and broad scope to this analysis.

I have the feeling that the NEPA process, if we do not overload the system and if we admit of a reasonable degree of administrative flexibility may surprise us with the variety, usefulness and incisiveness of its results. It is, of course, experimental in nature and we should be able to find ways to sharpen its focus. It is neither a sheep in wolf's clothing, Holy Writ, nor a constitutional provision. But it is one of the most interesting and exciting experiments in governmental self-reform going and we with the Council feel privileged to share in this experience.

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## TOM ANDERSON ON RACISM

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. RARICK. Mr. Speaker, billions of taxpayers' dollars are being spent on busing of schoolchildren, urban renewal, and myriad social experiments based on the assumption that an improvement in the environment will raise the level of intelligence. Anyone who disputes this assumption runs the risk of being labeled as a racist, bigot, or hater.

It should be obvious by now that those who use such trigger words as "racist," "bigot," or "extremist" are not only letting someone else drain their brain but also stand judged by their own utterances. Such trite expressions are intended as psychological ammunition to intimidate the good citizen by cutting off rebuttal or factual discussion, thereby denying him his freedom of speech, press, assembly, association, and petition for grievances. If you understand that racism, bigotry, and extremism are acts of freedom, then you must also understand that they can never be eliminated unless freedom is abolished.

One fearless American patriot who tells the truth as he sees it, even if it is unpopular to do so, is columnist Tom Anderson of Southern Farm Publications in Nashville, Tenn. I include his recent column entitled "Racism Defined" in the RECORD at this point:

### RACISM DEFINED

(By Tom Anderson)

A racist is a person who believes in genetics, history and his eyes. The epithet "racist" is something few people, including many scientists who know that truth is being smothered, can stand to be labeled with.

If "racist" means a person who hates another person because of his race, it applies to very few white people. More Negroes hate whites because they are white than vice versa. My dictionary says racism is "a belief that race is the primary determinant of human traits and capabilities and that racial differences produce an inherent superiority of a particular race." An overwhelming percentage of white Americans obviously are racists, then, whether they admit it or not. As Voltaire said: "Prejudice is opinion without judgement."

To talk of superiority and inferiority today is to mention the unmentionable. Truth has become bigotry. Fact has become racism. Discrimination has become hate. Hereford breeders don't hate Angus cows merely because they don't want to cross breed with Angus.

Mr. ——— honestly believes the average Negro is as good as he is. And I do too. But to get honest comparisons, one must compare average with average, that is, average white with average black.

To feel superior to someone or to a race of people, is not to hate them.

There is no such thing as equality. There is not even such a thing as "equal opportunity." If the same opportunity is offered a child prodigy and a moron, they do not have an equal chance. Everything, including the stars, is unequal. "One star differeth from another in glory." (I Corinthians 15:41.) The baby given to an orphanage at birth hardly has the same opportunity as the baby who has one million dollars put in his name at birth. Although the un-earned wealth *could* turn out to be a disadvantage.

What stable and civilized republic in all history was predominately or even substantially Negro? What high culture have Negroes anytime anywhere produced themselves? What high culture, once achieved, ever *remained* a high culture once it became substantially mixed with Negro bloodlines? What Negro republic or free civilization now or ever has shown the necessary attributes of self-control, self-reliance, self-responsibility and self-help to build and maintain a great civilization? Despite what you've been told, Negro history has not been obliterated. There wasn't any. During the past 5,000 years the history of Black Africa is blank. Not just *here*. Everywhere. It's blank in Africa too. Until other races arrived, there was no literate civilization south of the Sahara Desert. The Black African had not invented a plow or a wheel, domesticated an animal or a crop. He had no written language, no numerals, no calendar or system of measurement.

The only buildings he had ever built were a thatched, windowless mud hut and a stockade. His external trade consisted only of his own slaves, ivory, palm oil and mahogany. He carried things only in his hands or in human skulls. His medicine was administered by witch doctors. He was sometimes cannibalistic. He was, in short, a savage.

Instead of saying the Negro is everywhere and at all times "inferior" to the white man, let us say that he is different. About that there is no doubt. When two things or two groups differ, one has to be better in some ways than the other. The Black, on the average, scores significantly below the White in abstract intelligence. The Negro lacks the White's ability to deal with symbols. He can memorize equally, but he cannot reason equally. He cannot compete with the White in science, statesmanship, arts, literature. Physically, he is equal or ahead.

Most of the Negroes who have achieved greatness had White blood. An exception is Dr. George Washington Carver. But peanut butter is not exactly the invention of the ages.

Color of skin has nothing to do with it. The Japanese, 25 years after suffering one of history's most devastating defeats, are now third, behind the United States and Russia, in national production. They are doubling national output every seven years. They are now the most dynamic society in the world. They now do more with what they've got than any other people. They are *not* equal. They are superior. And *not* white. Even "Liberal" historian Toynbee admits that "when we classify mankind by color, the only one of the primary races . . . which has not made a creative contribution to any one of our 21 civilizations is the Black Race." And then Toynbee apologetically adds that only 6,000 years have elapsed since the first civilizations appeared on earth, which is, perhaps, too early to judge whether the Negro is "in a daydream . . . paralyzed . . . or out of the running." To which another writer rejoined: "If 60 centuries is too short a period for man to draw general inference about his past, then Toynbee's life work has been a waste of time."

Few other races, and least of all the Negro, have even approached the cultural, scientific, material and moral achievements of the Anglo-Saxons. In comparing race, to get a true picture, you must compare average with average, or best with best.

As someone has said: "However weak the individual white man, his ancestors produced the greatness of Europe; however strong the individual black, his ancestors never lifted themselves from the darkness of Africa."

History shows that once the support of other races is withdrawn from the Negro, he retrogresses, as in Haiti.

Washington, Jefferson, Madison, Lincoln, Clay and Franklin all believed the Negro to be basically inferior to whites, unsuited to our society, and all advocated that Negroes be sent back to Africa.

Negro slaves were barbarians, most of whom had been slaves in Africa. They were sold to white traders by other Negroes. And when they got to America, they had never had it so good. The American Negroes came from a race which had never had what could truly be called a "civilization" of its own. Declaring them equal heirs of a civilization Anglo-Saxons had taken thousands of years developing into history's best is as absurd as calling Bishop Pike a Christian.

The best thing that ever happened to the Negro was that he was sold into slavery. Otherwise he'd still be in Central and North Africa.

I'm for allowing the Negro the opportunity to develop himself to his fullest capabilities, to contribute his utmost to mankind, and to develop pride of race which will not let him force himself upon those who do not want to associate with him on equal terms.

Millions of Americans have been brainwashed into believing that the Negro is simply a dark-skinned white man; that all the Negro lacks to live and compete equally in our society is equal environment and equal opportunity. The "Liberal" bleeding hearts have tried to keep it a deep dark secret, but an accumulation of scientific evidence indicates that Negroes possess a genetically lower intelligence potential than Caucasians and Orientals. Dr. William Shockley, Nobel Prize winning physicist, says he fears the Negro's position in American society will deteriorate rather than improve because of a "disproportionately high birth rate among Negroes of lowest potential intelligence." He added that many Negro welfare mothers "have children as pets," and said he believed consideration should be given to sterilization of welfare recipients who produce an excessively large number of children.

Dr. Shockley says a scientific study conducted in London indicates that heredity is about three times more important than environment in determining one individual's intelligence. Emotionalism concerning this subject, he says, has prevented "a sound diagnosis, agonizing though it may be, which might prevent worse agony in the future."

Dr. Shockley is a scientist who is unwilling to be bought off by the educational establishment and the do-gooders.

Ours is the age of distortions, half-truths and Big Lies. Even the panel on the Jefferson Memorial in Washington is a lie—because a deletion has been made which distorts his meaning. President Jfferson's complete statement on slaves, emancipation and future race relations as contained in the "Jeffersionian Cyclopedia," page 816, published by Funk and Wagnalls in 1900, says: "It was found that the public mind would not bear the proposition (gradual emancipation) nor will it bear it even at this day (1821). Yet the day is not distant, when it must bear and adopt it, or worse will follow. Nothing is more certainly written in the book of fate, than that these people are to be free; *nor is it less certain, that the two races, equally free, cannot live in the same government. Nature, habit, opinion have drawn indelible lines of distinction between them, it is still in our power to direct the process of emancipation and deportation, peacefully, and in such slow degree, as that the evil will wear off insensibly, and their place be, 'paripassu', filled up by free white laborers. If on the contrary, it is left to force itself on, human nature must shudder at the prospect held up.*"

The brainwashers' all-out effort to tell it like it ain't, reminds me of when one of the best marksmen in the country was passing through a small town and noticed numerous bulls' eyes drawn everywhere, on fences, trees, walls. Every target had a bullet hole *exactly* in the center. "Who *is* this great marksman?" he asked. They took him to the town idiot.

"This is amazing marksmanship! I've never seen its equal!" enthused the marksman. "How in the world do you do it?"

"Easy, I shoot first and then draw the circle."

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## SAN DIEGO POLICE FOSTER IMPROVED COMMUNITY RELATIONS

## HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. VAN DEERLIN. Mr. Speaker, police everywhere have never been under such close public scrutiny, a generally welcome development if we are to achieve truly responsive law enforcement forces.

Nevertheless, from time to time the police take a bum rap. Bad news, after all, is usually more newsworthy than happier developments, so the sins of some police departments tend to be magnified by unrelenting exposure out of proportion to the inherent virtues of the same agencies.

Far too often the good deeds of the police go unreported, perhaps because they are commonplace.

The police department of my home city of San Diego was recently responsible for a gesture of good will, involving a sizable segment of the community, which I consider significant enough to merit the attention of our colleagues.

This is the force which will have primary responsibility for maintaining order during the Republican National Convention, August 21 to 23 in San Diego. I think the activity which I am about to describe is typical of our fine San Diego force, and it should also prove reassuring to those of you who will be attending the convention.

The program undertaken by our police had a deceptively simple goal: To make Christmas a joyous occasion for more than 1,000 needy San Diego families.

The logistics involved in "Operation 1,000," as the police termed it, were formidable. Great quantities of food and toys had to be located, collected, assembled and stored for distribution just before the holiday.

The drive opened November 22.

News releases were given to all media wherein the goal of "Operation 1,000" was pointed out and the public was informed as to what was being sought.

Reports Police Capt. Ralph M. Davis, an officer in charge of the project. It was decided that police reserves would be utilized to pick up donations, and that a 15-day period, from December 6 through December 20, would be reserved for a sustained effort to bring in the canned goods, food and cash that would make the program a success.

Throughout this effort the cooperation of the media was essential, and according to Captain Davis, it was freely given. Radio and television stations as well as newspapers conducted lengthy interviews on the project, and also counseled would-be donors on how to make contact with the police-sponsors of "Operation 1,000."

The police community relations office remained open from 8 in the morning until 10 at night to take calls from people offering donations; these were then picked up by the reserves and taken to a police warehouse near police headquarters in downtown San Diego. Canned goods and toys were classified and stacked, and unusable toys discarded. Items that were usable but not suitable for "Operation 1,000" were passed along to the Salvation Army or Goodwill Industries.

In its final week, the drive was again perked up by television publicity.

On December 21, the day after the drive ended, volunteers swarmed into the warehouse to prepare for distribution of the great quantities of food and toys that had been collected. First, blocks of goods were prepared for delivery to the outlying areas of San Ysidro and Linda Vista. After those communities were accomodated, preselected members of the general public came in, starting at 9 a.m. on the 22d, to help themselves. The giving continued until 6 p.m. on December 23. In all, 1,120 families were provided with a complete Christmas dinner, including a turkey, two sacks of canned goods, two loaves of bread and a toy for each child. In all—and I find this figure quite awesome—7 tons of turkey were purchased and dispensed. That is 14,000 pounds of bird, acquired through the dedication of the local police.

Besides the 1,120 families who received the full turkey dinners, more than 100 additional families were given modified dinners that featured canned meat products held in reserve for this purpose plus bread and toys.

"Operation 1,000," which actually served nearly 1,300 families, was in every respect an unqualified success—and an outstanding demonstration of police service to the public.

## REPUBLIC OF ESTONIA

### HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. LONG of Maryland. Mr. Speaker, today I pay tribute to the brave Estonian people as they celebrate the 54th anniversary of the Declaration of the Republic of Estonia.

The Estonians have a long history of progress followed by setbacks in their struggle for independence. The country has been occupied alternately by Germans and Russians since it declared its independence in 1918, with intermittent periods of constitutional government.

Despite mass arrests and executions by the Germans and the Russians, the Estonian people have never given up their hope for independence. Estonians continue their annual celebration of the anniversary of their independence.

As we near the 200th anniversary of our own independence, it is appropriate that we call attention to the Estonians and the citizens of other captive nations who do not enjoy this freedom. The United States has always stood for liberty for all people, and I hope that Estonia will be able to celebrate its 55th anniversary as an independent nation.

## BUSING ISSUE TRANSCENDS OLD LABELS

### HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. ARCHER. Mr. Speaker, the question may be legitimately asked these days, "just who is for the busing of children to achieve a racial balance in our Nation's schools?" Not many, if you follow recent polls taken in every section of the country.

The old labels have broken down over this issue, and it is no longer possible to predict the position of whites and blacks, "conservatives" and "liberals," northerners and southerners. The reason is that the people know that individual dignity and opportunity are the essence of America and our Constitution. To try to make any judgments on the basis of skin color makes a mockery of justice to all individuals in this great country. That has become the basis of concern for most Americans. "Busing," is not the real issue at all.

A recent Wall Street Journal column by Vermont Royster puts this problem in greater perspective, and I commend his remarks to the attention of my colleagues:

#### THINKING THINGS OVER—SUFFER THE CHILDREN

(By Vermont Royster)

For anyone with a grisly sense of humor—sick humor, in the current phrase—there is bound to be sardonic laughter in the rise of school busing as a social and political issue outside the South.

For one thing it does is expose some monumental hypocrisy. Over many years those in other parts of the country have treated the issue as one peculiar to the Southern states. Objections to hauling children all over the countryside to obtain a preconceived "racial balance" in the public schools were supposed to stem only from racial prejudice and to be raised only by Southern white racists.

Any other objections to this kind of busing—whether on educational grounds, the disruption of neighborhood cohesion, inconvenience to the children or parents, or considerations of cost—all were disdainfully dismissed as merely the rationalizations of die-hard segregationists. Where, as sometimes happened, blacks in the South likewise objected they were dismissed as "Uncle Toms."

It was treated, in short, as a purely regional issue. The rest of the country looked on with smug equanimity as court decisions, government policy and public pressure forced area-wide school busing on community after community. After all, so said the rest of the country, it's not our problem.

Well, it is now. In the North, the Midwest and even in the Far West, in community after community, there have of late been eruptions of public protest when the same policy of area-wide busing came to be applied. And every poll of public sentiment is now showing that school busing for arbitrary racial balance has become a nationwide issue.

Congress is having to come to grips with it both as a substantive and a political issue. The House has already passed anti-busing legislation; it is also considering a Constitutional amendment banning busing. The Senate to the agony of so many presidential hopefuls is finding it daily harder to avoid the issue because the people back home—all over the country—are forcing it.

In this, too, there is cause for sardonic laughter. Of all those Senate presidential hopefuls with school-age children only Senator Jackson (the most "conservative" of the Democratic aspirants) has his children in a Washington public school. The others, liberals all, send their own children to private schools while proclaiming their devotion to business for everybody else.

But for all this exposed hypocrisy there is, in all truth, nothing to laugh at, sardonically or otherwise. The whole business has become too sad even for sick humor.

A part of the sadness lies in the fact that this great convulsion over school busing comes at a time when the public, in the South and elsewhere, is at long last casting aside old prejudices. Just recently the National Opinion Research Center, as cited in a Wall Street Journal story, found that 80% of the nation (including half of the Southern white population) today accepts integration in schools and other aspects of public life. That is, acceptance of integration and opposition to school busing have grown together.

This paradox is only a seeming one. What the evidence shows is that it is no longer correct to treat the school busing issue as solely a "racist" one. Many blacks, as recent demonstrations witness, also oppose area-wide busing. So too do many whites who are not only not "racists" but actively support racial integration in the school system. The busing issue now transcends the old labels.

This ought to be understandable to anyone who can put aside stereotyped thinking. There is, first of all, something absurd about busing a child, who lives within a few blocks of an elementary school, a half-day's journey across country, with some starting before dawn and returning long after dark. For years the country labored expanding its school system to avoid just this sort of necessity. Now when it isn't necessary we are reverting to it in the name of having the "right" racial quota.

The expense of it is ridiculous. The cruelty of it is that it takes a small child and makes him consume an 8 or 10 hour day for a few hours of schooling, and put him in the position where the friends of his school are not the friends of his neighborhood or vice-versa. He (or she), aged six or ten, has his life disrupted over a social policy of his elders.

And that, I think, gets us to what is really sad about the way we, the elders, have gone about the long overdue and necessary task of ending the segregation and isolation of the blacks among us.

It was a happenstance of history that the first major decision of the Supreme Court striking down the old laws and customs of segregation came in an elementary school case. The other court decisions and the various civil rights laws came afterward. But that happenstance focused the issue, first and foremost, on the school system.

And nowhere have we since applied the pressure as implacably as on the elementary school system. In the schools the courts have said that there is a legally correct "balance" and that if necessary children must be moved around to enforce it.

Were else have we said the same thing? Segregation has been struck down and properly so, at the college level also. But no court has ordered any public college to truck a certain portion of its white students to a black college, or the other way around, to enforce the quota concept.

The courts and the statutes have attacked *de facto* segregation in neighborhood housing by striking down racial covenants and limiting the rights of sellers and renters. But nowhere is there a court decision or a law compelling people to move from one neighborhood to another, by a governmental fiat, in order to achieve some preconceived idea of what constitutes a correct neighborhood balance of the races.

The reason why this has not been done is quite plain. The people, white and black, would consider it outrageous; it could not be done by anything short of a Soviet type dictatorship. And the people would be quite right. The law of a free people ought to prohibit segregation of any of its citizens in any form. A law to *compel* people to move from one place to another would make our society no longer one of a free people.

But what we, the elders, have refused to decree for ourselves and our own lives we have, by some tortured logic, decreed for our children. However you may dismiss the inconvenience or the cost of this wholesale busing, we have asked our children to suffer what we will not. And the wrong of that cannot easily be dismissed.

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## PEYSER WANTS TRANSPORTATION FOR THE ELDERLY AND THE HANDICAPPED

### HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. PEYSER. Mr. Speaker, over the past year, I have become increasingly concerned about the problems facing the elderly and the physically handicapped in the smaller cities and rural areas of our country as pertains to transportation. The sole method of transportation in many of these areas is by bus. These buslines, both public and private, are increasingly having difficulty in maintaining adequate service and reasonable fare rates. In spite of the fact that we in Congress have discussed this problem, we do not seem to be reaching any solution. In order that the elderly and the handicapped have a better opportunity of gaining help in this direction, I am going to add amendments to every bill where, it is applicable, that will call for funds directly aimed at solving this problem. I am presently doing this with the Education and Labor Committee on my bill to strengthen and improve the older Americans act of 1965, on the proposed new manpower bill, and on the new vocational and rehabilitation bill. I hope the other Members of this House will join in support of this program.

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## U.S. ATTORNEY CALLS REFUSE ACT OF 1899 "SUPERIOR ENFORCEMENT TOOL"

### HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. REUSS. Mr. Speaker, earlier this month the administration sent to Congress a lengthy letter signed by President Nixon's two environmental leaders—Mr. Ruckelshaus and Mr. Train—urging that Congress amend the Refuse Act of 1899 so as to limit it to consideration of navigation only.

The letter and attachments are printed in full in the February 11, 1972, edition of the Environment Reporter, pages 1247–1250.

I have previously expressed my opposition to this proposal of the administration—see CONGRESSIONAL RECORD of February 7, 1972, pages 2935–12936. Since then, I have received a copy of Mr. Ross Sandler's excellent speech—entitled "Prosecuting Water Pollution Cases"—which was prepared for the young lawyers' section at the New York State Bar Association meeting, January 29, 1972. Mr. Sandler is the chief, environmental protection unit, U.S. attorney's office for the southern district of New York. Mr. Whitney North Seymour, Jr., is the U.S. attorney for that district.

Mr. Sandler states that the Refuse Act of 1899 "has emerged as the primary pollution abatement statute—of the Federal Government—for the simple reason that it, alone, has proven enforcible and that the Refuse Act has developed into a superior enforcement tool for the betterment of our environment."

What better reason do we need for rejecting the administration's proposal to repeal the Refuse Act as an antipollution tool?

Mr. Speaker, I include at this point in the RECORD the text of Mr. Sandler's remarks:

#### PROSECUTING WATER POLLUTION CASES

For persons genuinely interested in the environment and the abatement of pollution, the last year or possibly two years must surely look like the dawning of a new age. Never before, at least in recent history, have as many people been motivated to do something to save our environment; never before have so many candidates for political office run on platforms calling for massive abatement of water pollution; and never before have so many enforcement agencies at various levels of government been actively and methodically prosecuting polluters.

The distinction in my opinion between today's relatively optimistic picture, and the past, is the emerging consensus that government must use its enforcement powers to bring a halt to pollution and to reclaim our natural environment. By enforcement I mean simply the power to order that something be done, and that, if not done, the imposition of sanctions. A few examples might help explain the distinction.

It is one thing for the federal government to purchase or retain ownership of forest land for recreation and protection of a watershed—it is quite another to enforce pollution abatement by criminally indicting an otherwise reputable industry for using a watershed for its private waste disposal system. It is one thing for the government to spend millions of dollars to build sewers and plants to treat the waste of industries, and homes as well—but it is quite another to enforce sewer codes by cutting off a company's water until the company installs adequate and costly pre-treatment facilities. It is one thing for the government to give industry a tax break for installing pollution control equipment—and it is quite another to enforce pollution abatement by seeking an injunction against the company halting full operation of its plant until the adequate pollution control machinery is installed.

Although bills currently pending in Congress would give the Federal government a comprehensive and detailed scheme of enforcement, the actual work of enforcement currently being carried out by the federal government through the Department of Justice, the Environmental Protection Agency and the Army Corps of Engineers is built upon what is almost a common law of water pollution abatement. The primary federal statute remains the Refuse Act of 1899. That statute says simply, in language that approaches a Biblical commandment, that no one may discharge refuse into the navigable waters of the United States. While there is some legislative history to the contrary it is fairly clear that the refuse to which the statute referred to was primarily the type of refuse which would tend to affect navigation, and not refuse causing pollution. Even as late as 1970, J. Clarence Davies in his book *The Politics of Pollution* could dismiss the Refuse Act with one sentence stating that the 1899 Act was designed only to prevent impediments to navigation, "not to clean up the water" (page 38).

But the Refuse Act has emerged as the primary pollution abatement statute on the federal level for the simple reason that it, alone, has proven enforcible.

In my law school criminal class, the professor repeatedly taught that in criminal law, it was the certainty of being caught and punished that caused people to conform to the law, even more than the harshness of the penalty.

The professor gave as his example of the rule the reputed fact that the Norwegian people during the World War II would engage in the most dangerous partisan activities, but would not turn on their lights during blackouts to lead in Allied aircraft. While there is of course many differences, the analogy holds true; The Refuse Act of 1899 has emerged as the premier anti-pollution statute because of the certainty that persons violating its simple command will be caught and punished.

The certainty is not seen entirely by even a careful reading of the statute. It has taken the courts and imaginative litigation by numerous prosecutors to round out the full meaning of the statute. Let me list some of the clauses which have been judicially read into the statute and which have made real enforcement possible.

1. The Refuse Act appears on first reading to create nothing more than a misdemeanor penal provison and is therefor a status essentially lacking in a credible punishment. The statute provides that if convicted, a defendant can be fined a minimum of $500 and a maximum of $2,500, and, if a natural person, can receive a term of imprisonment of not less than 30 days nor more than one year. Yet the statute has ample teeth, since prosecutors may charge defendants with multiple counts based on the actual workings of the defendant's plant. Thus if a plant has one shift a day, and the polluting discharge virtually stops with the ending of that shift, each day becomes a separate count in the indictment or information.

Recently in the Southern District a defendant felt the full impact of this aspect of the Refuse Act. Anaconda Wire & Cable Co., a division of Anaconda Company, routinely discharged large amounts of copper from its plant in Hastings-on-Hudson. The metal, which is highly toxic to virtually all life, was discharged from the plant as traces in its process water. After hearing the evidence our Special Grand Jury charged Anaconda with 100 counts—an alleged violation of the Act on practically every working day in the first half of 1971. Anaconda pleaded guilty to the indictment, and was fined $2,000 per count for a total fine of $200,000. There is no doubt that a fine of such severity has the desired impact of deterrence. The fine, of course, buys no capital equipment, and the corporation must still pay for and install abatement equipment. Other fines in the Southern District have been relatively as severe, running on the order of $25,000, $50,000 and, in the case of Standard Brands, $125,000.

2. The Refuse Act makes no provision for civil relief. It reads as if it were only a criminal provision. It would appear that the statute was defective as the corner stone of federal enforcement in that it contains no provision for the federal government to require a polluter to abate his pollution. But judicial interpretation has entirely filled that void. Relying on Supreme Court cases under companion sections of the Rivers and Harbor Act which held that the government could sue to enjoin violations, the Department of Justice brought, in March, 1970, the first two cases seeking civil relief under the Refuse Act—one in Florida against Florida Power and Light, and the second in the Southern District of New York, against Oceana Terminals. In both cases the courts upheld the federal government's right to sue to enjoin pollution. Since March of 1970, the Department of Justice has brought 90 additional civil actions. These suits were often brought in conjunction with a criminal action. In all of the approximately fifteen criminal cases brought in the Southern District, we initiated a civil action calling for abatement of the pollution. The only exceptions were cases where the pollution resulted from a one time operation or accident, or where the State or local agencies stepped in with an adequate abatement order.

The civil relief obtained has been designed to abate the particular pollution at issue. In Oceans Terminals, where the problem was oil leaching into the East River from an oil saturated shore, the defendant was required to maintain an adequate boom and to continuously clean the oil from the water, while at the same time he was required to repair the underground leaks from his tanks. In Marathon Battery, the defendant was required to install pre-treatment equipment to clean the toxic metal cadmium from its effluent.

Marathon Battery is a particularly interesting case. Marathon and its predessor companies operated a cadmium-nickel battery plant at Cold Spring, and routinely discharged waste water into a sluggish tidal marsh area in Foundry Cove. The cadmium and nickle built up in the area over a 20-year period, so that today, in some areas the bottom muds are almost 16% cadmium. We have asked the court to order Marathon and its predessors to dredge the bottom muds—virtually cadmium ore—out. The issue is still in litigation; but if we are successful we will have firmly established the principle that a polluter can be held to correct the damage he has caused.

3. The Refuse Act appears defective because it has no standards of any kind written into it. It merely states that it is unlawful to discharge refuse. The absence of fixed standards bothers many people, and in large measure the so-called Muskie Bill is an attempt to create standards. But I really doubt that the Muskie Bill in fact says more in the way of standards than that which has already been developed as standards under the Refuse Act. There have been no Court decisions to deal directly with this problem, yet the prosecutor in enforcing the Refuse Act, works with the only standard that as a practical matter can work—the maximum feasible abatement under the present technology. That is the standard for the relief that we seek in our civil suits and that is the abatement sought by the EPA, as I understand it, in evaluating permit applications.

While I do not wish to seem too cavalier about standards, there really is to my mind much too much made of the fact that no one has precisely stated as law what standards are applicable to each and every discharge under each and every condition. It is ludicrous to observe responsible enforcement officials discussing whether 5 parts or .5 parts per million of copper, for instance, should be the standard for industrial discharge. The fact is that many companies are discharging 50 and 100 parts per million, and that technology exists which can reduce the discharge down to about 5 parts per million or less without exorbitant costs.

In my judgment, the absence of absolute standards is, and has been, no bar to adequate enforcement. As Martin Lang, the Commissioner of Water Resources of New York City stated recently, the only certainty about standards is that they are going to get tougher. Logic and practicality dictate, as a result, that the only acceptable standard for abatement, is the maximum feasible abatement under the present technology.

4. The Refuse Act appears defective in another regard. It creates no laboratories, no investigative arms and no enforcement machinery. No administrative program is included to process and evaluate permit applications These defects were, of course, in large measure corrected with the executive order establishing the Refuse Act Permit Program and by the creation and reorganization of the EPA. But one of the strongest tools of enforcement comes directly from the Refuse Act itself without special proclamations or funding. The Refuse Act is a criminal statute and violation of it may be investigated in same manner as any criminal conduct—by Grand Jury investigation. In the Southern District of New York we have had a Special Grand Jury sitting since September, 1970. It has indicted 15 companies, and investigated many more. It has the power to subpoena anyone it wishes to hear testify. This is a significant power Most potential defendants are corporations, and do not enjoy a Fifth Amendment privilege. In the past, and even today, much of the investigative work by the Corps of Engineers begins and ends with a boat ride and the dipping of a glass jar into some noxious smelling liquid. But the Grand Jury can circumvent that procedure of evidence gathering entirely. It simply subpoenas the corporation's responsible officials before it and asks them to explain under oath just what chemicals and other refuse the plant discharges.

The actual investigation may well take many months, however, since often detailed laboratory tests must be made by the defendant before it can adequately report to the Grand Jury the content of its discharge.

This method of investigation has, for the prosecutor, the added advantage that the defendant cannot readily challenge the evidence against him. Most indictments are based on admissions by corporate officials in the Grand Jury, or on tests made by the defendant at the request of the Grand Jury. By the end of the investigation, there is little left for the defendant to dispute, and, as has been our experience, practically all defendants enter guilty pleas.

It should be obvious that I am of the opinion that the Refuse Act has developed into a superior enforcement tool for the betterment of our environment. An examination of the record of enforcement bears this out.

Criminal indictments are increasingly being voted by Grand Juries around the country. In the two years ending July 1, 1969 a total of 87 criminal cases were brought under the Refuse Act. In the next two years ending July 1, 1971, almost four times as many criminal actions were brought—a total of 320. Once convicted, defendants can expect a substantial fine. As Judge Croake stated when he imposed the $200,000 fine upon Anaconda, no longer can pollution fines be viewed as merely a cost of doing business.

Such actions by the Department of Justice and the United States Attorneys bring credibility to the commitment to clean up. Without the certainty of being caught and punished, there is little left to that commitment, no matter how grand the administrative machinery or how stringent the standards. Business Week magazine reported in its first issue of this year that Dow Chemical spent $30.5 million on capital equipment and operations in 1971 for pollution abatement. GM reported to the Southern District that it was spending $43.7 million on abatement equipment to be completed by 1973. These kind of expenditures will only be made when strong enforcement action creates a climate in which businessmen sense that they must abate or face even sterner action by the government.

Strong enforcement of the Refuse Act, along with the growing momentum brought on by knowledgeable and concerned private citizens and organizations, has in addition created the climate in which local and state governments must now emphasize enforcement to a greater extent than ever before. Practically every municipality running a sewage treatment plant has enacted codes which, if enforced, would reduce the amount of toxic metals and oils passing through these plants into the water.

The State has vast powers and resources both for preventing direct pollution and indirect pollution of the waterways. A United States Attorney who vigorously enforces the Refuse Act, such as has Whitney North Seymour, Jr., in this District cannot help but cause the competitive fires to ignite in these local and state agencies. The same competition works between the EPA and the United States Attorney offices, as well as between United States Attorneys in neighboring districts. While it may not be obvious to even the most well informed people, this has been one of the most important products of the Refuse Act. Competition in the form of concurrent jurisdiction is of course not unusual in law enforcement. But there is probably no other area where the competition fostered by concurrent jurisdiction had a more beneficial effect. The Refuse Act is necessary and has been successful on this basis alone—actions under it have proven enforcement is possible and desirable, and have made others uncomfortable if they were not being equally as tough.

If I were to grade the importance of the Refuse Act and enforcement under it I would list these things as the most important, above even the significant successes of individual cases:

It has and is creating a climate in which industry—the potential defendants—now feels growing certainty that it can no longer pollute with impunity, and;

It has and is creating a climate in which local and state agencies can become more stern in their enforcement policies.

Much remains to be done. But in my opinion, there could not be a more explicit mandate than is now found in the Refuse Act; nor could that be a more workable scheme of enforcement than has evolved under the present statute.

## THE IRRESPONSIBILITY OF FEDERAL DEFICIT FINANCING

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### HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. ROUSSELOT. Mr. Speaker, this Congress, this session, needs desperately to come to grips with the problem of deficit financing. I have spoken on this subject before and I intend to continue this dialog and debate until the 92d Congress takes a more responsible attitude to correct the pell-mell course leading to Federal bankruptcy.

A recent article in the Washington Daily News, which was reprinted in Human Events, February 19, 1972, entitled "Public Is Still Misled by U.S. Budget Figures," reemphasizes many points we should have studied more seriously when we were debating the administration's request to increase the debt ceiling by $50 billion. This Congress decided to increase the debt ceiling by $20 billion.

When Congress votes to constantly increase the debt ceiling, although many of us have stood firm in opposition to that effort, we are in effect creating an inflationary pressure through another form of Government overspending. As this article which appeared in the Washington Daily News states:

> In short, the deficits of the Nixon Administration on the basis of simple arithmetic are stunning enough; but when the inflationary possibilities are counted, they are frightening.

It is time for this Congress to face up to assuming its responsibility under the U.S. Constitution to manage debts and expenditures more responsibly. I ask my colleagues to consider this thoughtful article from the Washington Daily News:

PUBLIC IS STILL MISLED BY U.S. BUDGET FIGURES

According to President Nixon's budget calculations, the 1972 fiscal year (ending June 30) will incur a deficit of $38.8 billion and he projects a deficit of $25.5 billion in his 1973 budget.

This is deceptive.

The Nixon budgets, as did Lyndon B. Johnson budgets in the previous administration, lump all receipts in one pocket—including the trust funds, such as Social Security, unemployment compensation, etc.

The trust funds are special, separate and distinct from general government spending. They are set up for specific purposes. The money belongs to those who are entitled to Social Security benefits or unemployment payments—it is not for general government use.

Moreover, these funds usually have a surplus—it is estimated, for instance, that trust funds receipts in 1973 will total $83.2 billion while outlays will amount to only $72.5 billion. This is why the budget makers lump them in with other receipts—it makes the whole budget look better.

The fact is that without counting receipts and expenditures from the trust funds, the government deficit for this fiscal year would be $45 billion (not $38.8 billion) and for 1973 the deficit would be $36 billion (not $25.5 billion).

This is why it is more accurate to talk in terms of increases in the federal debt—which Mr. Nixon estimates will hit $493.2 billion at the end of June, next year, from its present level of $425 billion. That is the real measure of the government's red ink, as some in Congress now are pointing out—Senate Appropriations Chairman Allen J. Ellender, for instance.

The government also uses the trust funds (Social Security and the others) to bail itself out in another way.

These funds, which have surpluses against future obligations, buy up federal securities. Federal agencies, using trust fund money, own more than 25 per cent of the government's debt, while the Federal Reserve System has around 16 per cent and the general public (banks, individuals and other investors) the rest.

Using trust fund money to help the government with its debt relieves the competition the government faces in the money market in selling its securities. And, to that extent, reduces the pressure on interest rates.

But the new debt created by the government's deficits in the 1971, 1972 and 1973 fiscal years, will be increasingly financed by selling securities to the general public, thus tending to inflate interest rates.

Moreover, as the official budget analysis concedes, when the Federal Reserve System buys government bonds, notes, etc., this leads to an expansion of bank reserves and enlarges the country's money supply. It's like printing money, and it is inflationary.

In short, the deficits of the Nixon Administration on the basis of simple arithmetic are stuuning enough; but when the inflationary possibilities are counted, they are frightening.

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## RESOLUTION FOR DETROIT LITHUANIAN ORGANIZATIONS CENTER

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### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DINGELL. Mr. Speaker, pursuant to permission granted I insert into the CONGRESSIONAL RECORD a letter just received by me from the fine people of the Detroit Lithuanian Organizations Center.

That group of fine Americans of Lithuanian descent has enacted resolutions included in that communication which merit the careful consideration of all.

DETROIT LITHUANIAN
ORGANIZATIONS CENTER,
*Detroit, Mich., February 13, 1972.*

The Hon. JOHN D. DINGELL,
*House of Representatives,*
*House Office Building,*
*Washington, D.C.*

HONORABLE REPRESENTATIVE DINGELL: We, Americans of Lithuanian descent, having gathered on February 13, 1972 at Mercy College's McAuley Auditorium in Detroit, Michigan to commemorate our native Lithuania's Independence Day, and having heard the eminent speakers of this occasion, have unanimously resolved to address and inform you, Sir, that we follow your actions in search of a permanent and just peace for the United States and the whole world with great interest. With confidence we support, and will continue to support, your actions for this cause.

At the same time, however, we find it necessary to focus your attention on the ineffectiveness of appeasement and privileges such as were granted to Hitler and his ally Stalin, as well as to his successors. These attempts for peace only succeeded in bringing the world greater suffering. Appeasement in Munich, and later in Teheran, Yalta, and Potsdam did not bring peace, but instead ate up millions of lives and brought on some of the many wars that are currently raging on battlefields as well as those still being fought in the minds and hearts of all oppressed peoples.

In the history of mankind the perpetrators of appeasement have been marked as short-sighted politicians who have forsaken the main principles of humanity. That inalienable human rights are being abused today as a result of appeasement is being fully demonstrated through such actions as: the trial of Simas Kudirka in Vilnius; the trials of Lithuanian priests in Alytus, Kaunas, and Vilnius; the trials of Jews in Leningrad, Riga, Kiev, and Lithuania's capital Vilnius; and many other similar staged trials which the Soviets have attempted to keep secret.

Therefore be it resolved:

(1) that in the European Security Conference there be no concessions to the Soviets impairng the captive European nations,

(2) that the United States support by all possible means the efforts of Eastern European nations to escape from U.S.S.R. subjugation,

(3) that the State Department not only rescind its decison to abolish the Assembly of Captive Nations, but strengthen its activities.

The motive behind the abolishment of the Assembly is painfully obvious appeasement and not a matter of budget reduction. With billions of dollars being sent to Vietnam and the Middle East, the out-lays for the Assembly are, in comparison, a mere drop in the bucket, while the activities of the Assembly are as meaningful as the fight on the broader plane.

We are confident, Sir, that you will use your power and influence to implement and effect these above resolutions. Thank you.

RAYMOND G. SAKIS,
*D. L. O. C. President.*
VYTAHTAS BAUKYS,
*President of the General Meeting.*

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## ANNOUNCEMENT OF HEARINGS ON THE RESPONSIBILITIES OF FEDERAL POWER COMMISSION IN THE AREA OF CIVIL RIGHTS

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### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. EDWARDS of California. Mr. Speaker, I would like to announce that the Civil Rights Oversight Subcommittee of the House Committee on the Judiciary will hold hearings on the responsibilities of the Federal Power Commission in the area of civil rights. These hearings will commence with testimony from the Federal Power Commission on March 2, 1972, at 10 a.m. in room 2237 of the Rayburn House Office Building. Additional witnesses may be scheduled to testify at later dates.

Those wishing to testify or to submit statements for the record should address their requests to the Committee on the Judiciary, U.S. House of Representatives, room 2137, Rayburn House Office Building, Washington, D.C. 20515.

## OUR NEIGHBORS, BIG INDUSTRY

## HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. WALDIE. Mr. Speaker, I would like to preface this letter that I am submitting for my colleagues' interest and information with a very brief comment.

I find this letter to be a moving and eloquent statement on the right of the American people to a clean environment. It would seem that Mr. Hautala has correctly diagnosed the situation as one in which personal accountability stops short of the really big people in America—namely big industry. His illustration of individual accountability to one's neighbors is an apt one and perhaps it is time we began to think of our industries as just that—neighbors who are accountable to us all for their polluting actions.

The letter follows:

JANUARY 30, 1972.

Representative JEROME WALDIE,
*United States Congress,*
*Washington, D.C.*

DEAR SIR: I cannot know the legislative or legal ramifications of what I propose. Surely someone has had similar ideas, but I feel the need to put them my own way, perhaps with better results.

One of the problems which sums to perplex our society is *pollution*. Whether this problem is real or not I cannot judge. If it is a real problem, as dire as some authorities would have us believe, then we all need to work on it.

If I were to vent my sewage on my neighbor's lawn, he would take immediate legal measures to *force* me to cease and desist. His property rights would be protected by our existing legal framework. Similarly, the people of this nation hold the property rights to the navigable waters and three miles of coastal waters. We have allowed our neighbors to vent their sewage on our property, that which we hold in common. When seen as one issue of property rights the problems of water, air, and land pollution seem easier to handle because the legal means for redress are already at hand.

I am by training a chemist. Because of my specialty, I conclude that the technology for pollution abatement is available. Pollution control is not a question of science but one of economics.

Since the destination of every stream is eventually one of the oceans it is impossible for a polluter to continue his imposition without trespassing on the property rights of the people. The matter of cleanup can be handled like any other debt. The polluter must pay for that which he pollutes. As a goal, the quality of effluent downstream from any user must be equal to or better than the quality of the input. The achievement of this goal would see every user recycle and reuse every natural resource.

To soften the financial blow, give full tax credit for the cost of approved capital investments for pollution control.

In Martinez, the populace has suffered annually from the sulphurous stench of the Fibreboard plant in Antioch when the winter fogs drift down the Sacramento River. The technology for removing this air borne unpleasantness has been known for at least 50 years. Oxides of nitrogen from high temperature combustion can be removed from the exhaust gases of steel mills. The acid used to pickle steel need never enter a stream.

The value of such changes cannot be calculated on the basis of a cost-benefit ratio. What is it worth to see a living pelican, a clear stream or a mountain 40 miles away? Perhaps it is worth the pride of this nation, the mental and physical health of its people.

I do not know if the property of the people can be protected from the encroachments of pollution. If we have a nation governed by law, then one of our pressing needs is legislation which places lighter strictures on the sphincters of pollution emitters.

Sincerely yours,

EARL HAUTALA.

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## HERMAN H. DINSMORE EXPOSES PRESS ROLE IN CONSTRUCTING A STATISTICAL BALANCE OF POWER FOR OUR ENEMIES

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. RARICK. Mr. Speaker, for many years the mass news media of the United States—press, radio, and TV—have been engaged in the practice of intentionally influencing national policy.

Over a period of years, I have noted as the result of an extensive correspondence from many parts of the Nation that our people are no longer hoodwinked by glib journalists, particularly those who rely upon Government press releases instead of doing their news gathering and research. This discernment has markedly increased since the appearance in 1969 of Herman H. Dinsmore's potent volume with the alluring title of "All the News That Fits," which is a critical analysis of the news and editorial contents of the New York Times, published by Arlington House of New York.

A former associate foreign editor of the New York Times and from 1951 to 1960 the editor of its international edition, Mr. Dinsmore writes and speaks with the authority of long experience as well as careful scholarship.

In his first address in New York City since publication of his book, made before the East Side Conservative Club of New York City at the Hotel Lexington, Mr. Dinsmore successfully removed the masks of the "news twisters."

As examples of how the media avoids objective reporting, he tells the story of how the U.S.S.R. got the atomic bomb, how basic Soviet-industrial capacity was created or restored by Western capital and enterprise, and how some of the major tragedies of the last 30 years may be explained by the design of those controlling the news media to form a statistical balance of power against the United States.

In his exposure of press deceits and their disastrous consequences, especially the lives of our youth in no-win wars, Mr. Dinsmore has rendered a service of the highest importance.

In order that our colleagues may have the benefit of his notable February 24 address in New York City, I quote it as part of my remarks:

### CURRENT HISTORY WE NEED TO KNOW

(By Herman H. Dinsmore)

This is an important first in my life. It is the first live face-to-face audience I have addressed in New York City since my book, *All The News That Fits*, was published in June of 1969. I believe it would be fair to say that I had been frozen out, and that at long last I am breaking the ice. We Conservatives may have a long way to go, but we are moving. The first large sign was the election of James Buckley as a United States Senator for the State of New York. I voted for Senator Buckley while I was in Memphis, Tennessee, by absentee ballot with only a prayer that he would win, but win he did, and I may say I am far more satisfied with his actions in the Senate than I am with those of another whom I voted for and who is in the White House. Wtih a deficit of more than $38 billion this year and a proposed deficit of almost that much next year and a balance of payments deficit this year of $29 billion by one method of figuring and $22 billion by another method—with those deficits for the United States, I feel sure that John Maynard Keynes, if he were alive today, would say, How Keynesian can you get! And I think he might even put the nix on that kind of Keynesianism.

But I am here tonight to talk to you about Current History That We All Need To Know if we are going to assess domestic and foreign affairs properly—that is, with safety for ourselves, our children, and, even, above all, for our country, which is the custodian of all of us.

Henry Ford, the founder of the Ford Motor Company, astounded the nation in 1919 when he said, "History is bunk." Lincoln had said in 1862, "we cannot escape history. . . . We of this Congress and tihs administration will be remembered in spite of ourselves. The fiery trial through which we pass will light us down, in honor or dishonor, to the last generation." I prefer Lincoln's estimate of the past to Henry Ford's because it appeals to my most civilized instincts. But I know perfectly well that much of our current history is bunk, and that is why I have chosen to talk on this topic.

News is another name for current history. What I will try to show is that much current history is not regarded as news, and that some highly essential facts about the history of the last thirty years are not known to the general public. You cannot avoid errors by learning from history if you do not know history in the first place. There have been so many omissions, distortions and fabrications that one could not tell them all in one evening, even if one knew them all, and aside from sheer modesty, we know we do not know it all because of a great deal of information that we ought to know is classified as secret by the Government. Nonetheless I will touch upon some startling matters that our news media, in whole or in part, have neglected to tell us.

But just before I get into talking about this, I want to point out a most remarkable thing, and that is that in 1951 John T. Flynn came out with a book called *While You Slept*. In it he said that "this country has become a laboratory for the dark and insidious science of modern revolutionary propaganda. It is difficult for the American to realize that the ideas, the prejudices, the convictions he holds may have been deliberately—though slyly—planted in his mind by men who have a settled purpose in performing that operation, who possess the instruments of thought control and understand how to operate them. Miracles can be wrought by those who know this art." The thing that I find so remarkable about that statement is that here in 1972, 21 years later, I am talking about precisely the same matter that John T. Flynn tried so valiantly but vainly to tell the people. He did not have the whole picture but he had a most important piece of it, and we who toil in this field today must use many of his findings.

One of the tenderest state secrets still among classified documents in Washington is the matter of how the United States came to supply to the Soviet Government information and materials to make the atomic bomb. The decision to inform the Russians that the United States was planning to manufacture atomic bombs was made by someone as early as 1942. Without doubt the Russians received large amounts of information in regard to the American atomic bomb project from spies, but the handing over of atomic materials in massive amounts was done on orders of high United States Government officials and by 1945 the United States had shipped or flown more than 22 million pounds of scarce and needed atomic bomb materials to the Soviet Union.

More than 99 per cent of all Americans, including officials, knew nothing about the United States atomic project until the bomb was exploded in 1945. Yet by 1944 the Russians boasted in the Soviet Union that they too had a Manhattan Project, which was the American name given to the supposedly secret United States atomic bomb project. One American historian called it "sacredly secret." How wrong his history was! W. L. White, another American, wrote a book called *Report on the Russians,* published in 1945. But it was not until March 17, 1950, that he felt able to tell in the *Kansas City Star* that a Russian in Leningrad in 1944 had asked him if he knew about the Manhattan Project in the United States. Of course, the American W. L. White did not even know the name of the American project in 1944.

It is by such a backdoor method that we the people discover that the Russians had an atomic bomb project—or said that they had such a project—as early as 1944. But I did not learn about this Russian knowledge and alleged activity until 1969, 25 years later, and I am supposed to be a newspaper man. *The New York Times* recently published a picture of an atomic reactor that the Russians say they had in 1946, but that is by no means certain. It was in 1969 that I read Mayor George Racey Jordan's *Diaries,* a book which was published in 1952 and which gave the details of our shipments and air cargoes to the U.S.S.R. of 22,958,742 pounds of materials used in the construction of atomic bombs, plus "millions of dollars worth of mining, ore-crushing, and construction equipment." The newspapers unfortunately did not compete with one another for the publication rights to Major Jordan's revelations, and the published reviews treated it as just another book of no great moment, and, in fact, of dubious content.

Who was Major Jordan? Could he really know what he was writing about and speaking about? Did he have the respect of his fellow-officers? The answers are all yes. I know two men who were his fellow officers—a highly respected colonel in the Army and a scholarly captain in the Navy. It was the colonel who suggested that Major Jordan publish his diaries. Major Jordan was a flier with the American Expeditionary Force in France in World War I, and as an Army officer in World War II he was the expediter of materials sent to the Soviet Union to aid it in fighting Nazi Germany. He was a worthy, courageous and altogether admirable citizen who did in fact serve his country above and beyond the call of duty.

The millions of pounds of atomic bomb-making materials sent to the Soviets went by way of Lend-Lease, which was under the direction of Harry Hopkins. Small quantities of uranium ore were sent by the Manhattan Project itself, with the knowledge of Gen. Leslie R. Groves, the commander. General Groves was not trying to help the Russians, and apparently he did not know about the large Lend-Lease shipments to the Russians at the time during World War II. The secrecy about the bomb was so hush-hush that the Russians were able to take advantage of that very situation, and, of course, they had many friends at court. Major Jordan received no medals or Pulitzer Prizes for his efforts to tell the people what went on. On the contrary, he was charged by one writer with having had a suspicious attitude toward the Russians and with making unauthorized inspections of American materials being flown to the Soviet Union. More foolish charges than those cannot be imagined.

Here is a quotation from Major Jordan's Diaries:

"That the Russians found out everything (about the United States atomic bomb project) from alpha to omega, has been established by volumes of proof. Through trials in Canada, England and the United States there has been revealed the existence of an espionage network so enormously effective that Russia, scientists calculated, 'should have been able to make a bomb considerably before September, 1949.' . . .

(It may be that scientists thought that but technologists did not, as I will show later I continue with the quotation:)

"In the light of these disclosures, there stands in plain view the answer to a mystery that troubled James F. Byrnes, (United States) Secretary of State, at the Potsdam Conference (in 1945). Following a session of the 'Big Three,' on the afternoon of July 24, 1945, (President) Harry S. Truman walked around the large circular table to Joseph Stalin's chair. We had perfected a new bomb, (Mr. Truman) said, more powerful than anything known. Unless there was an early surrender, we would use it against Japan.

" 'Stalin's only reply,' writes Mr. Byrnes, 'was to say that he was glad to hear of the bomb and he hoped we would use it. I was surprised at Stalin's lack of interest. I concluded that he had not grasped the importance of the discovery. I thought that the following day he would ask for more information about it. He did not. . . .' [1]

(I again interrupt Major Jordan's quotation to remark that apparently the Secretary of State also had not been informed of the Lend-Lease shipments of atomic-bomb materials to the Russians, though it is hard to see how he could have been ignorant of the fact that the Russians also most probably had been fed numbers of secret documents relating to the atomic bomb. We do not yet know the whole story, but we would have thought the Secretary of State did know it. At any rate here's how Major Jordan concluded his own view of the matter:)

"Stalin probably knew more about the bomb than Truman and Byrnes together. Perhaps (Stalin) was struck speechless by the simplicity of his American guests. What did they take him for, he may have been thinking, not to have informed himself to the last particular regarding a weapon bound to revolutionize war?"

It is hard to believe that President Truman did not then know about the Soviet efforts to build the atomic bomb. He said in 1953, just after leaving office, that he did not believe that the Russians "have the bomb." At any rate, the Soviet Government did know about our atomic work, and the Moscow Government then as now regarded itself as our enemy. Meanwhile, the American people groped in total darkness, since neither the Government nor the press was seeking to keep them informed of this current history. I am not suggesting that the public ought to have been told the secrets concerning the manufacture of the bomb. I am asserting that the people had a right to know what we had given the Russians at some point, possibly some time in 1945 after the issuance of the Smyth Report, which told something about how the bomb was made.

There were without doubt a number of Americans who knew parts of this story, but the newspapers and other communications media—television, radio, periodicals—were not then, nor are they now, bent upon getting and giving the facts in this matter to the public. This is not merely accidental. Dr. Anthony Kubek of Dallas University wrote an excellent book describing the background, entitled, *How the Far East Was Lost.* It was not reviewed in some essential book channels to the people. One organ that omitted any mention of the volume was *The New York Times.* Dr. Kubek wrote:

"On the eve of General Follett Bradley's departure for Moscow (in 1942), (President) Roosevelt turned to him and remarked: 'the important thing to impress on the Russians is that we are wholly realistic about shipments to Russia.' Every effort will be made 'to make deliveries by any and all practical means.' Our position should be to say to the Russians that 'we can let them have almost everything they want.' (I may say here that as it turned out the Russians may well have received everything they wanted. It is not likely that even today we know all that they got.)

"A flood of American Lend-Lease goods began to pour into Russia. . . . 'Our policy,' writes General (John R.) Deane, 'was to make any of our new inventions in electronics and other fields available to the Russians . . .' Each month the General received a revised list of secret American equipment about which Russia could be informed.

"In addition, with the enthusiastic help of Harry Hopkins, the United States shipped, year after year, millions of pounds of atomic bomb material. 'Every possible effort will be made to meet all Protocol commitments at the earliest possible date,' said Hopkins. 'The United States remains firm in the belief that material aid' to the Soviet Union is of 'highest strategical importance.' In 1943 (note that), the U.S. government issued export licenses for the delivery of atomic bomb materials to the U.S.S.R. Restricted orders of the Manhattan Project (under General Groves) were bypassed by the Canadian Radium and Uranium Corporation, an American firm with the 'right' contacts in Washington."

General Groves did everything he could to keep both materials and secrets from the Russians during the war and afterward, but he was not as powerful as President Roosevelt during the war, nor as strong as the Acheson-Lilienthal group which after the war actually wanted to build atomic bomb plants in Russia and elsewhere around the world. That plan was thwarted by Bernard Baruch and others in the United Nations Atomic Energy Commission. That story is well told in Dr. Medford Evans' brilliant book, *The Secret War for The A-Bomb,* a book that was never reviewed by *The New York Times* or any other newspaper in New York, Boston or Washington. It was published in 1953 by Henry Regnery Company, a well-respected book publisher. Dr. Evans is a doctor of philosophy from Yale University and was the security officer of the United States Atomic Energy Commission until he resigned because none of his security measures was accepted.

I will return to Dr. Evans and his amazing charges after the next disclosure. This suggests enormous omissions by the press and other communications media. This information came to me as a thunderous surprise only in November of last year in a work that Dr. Evans in a review called the greatest publication since The Bible. This work, in three volumes, is entitled, *Western Technology and Soviet Economic Development.* It was written by Dr. Antony C. Sutton of the Hoover Institution at Stanford University in California. (I mention California, not because I do not believe that you know that Stanford is in California, but because it seems to me to be especially interesting that this work was *not* produced in an Eastern university. I cannot imagine that it would come out of Harvard, Princeton, Yale, Columbia, or Chicago.) (Nor, of course, would it have come out of the University of California at Berkeley or Santa Barbara, but it did arise out of a university in California rather than in the East.)

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[1] From *Speaking Frankly,* by James F. Byrnes (Harper, 1947), page 263.

Dr. Sutton discloses in *Western Technology and Soviet Economic Development* that virtually all of basic Soviet industry has been restored or created by Western capital and enterprise. This brilliant researcher does this with a methodological virtuosity and comprehensiveness that leave no doubt that the people of the Western world would have been subjected to some remarkable misconceptions in regard to Soviet Russian capabilities in the civilian area, whatever they may be able to do militarily. Even today the Italian Fiat company is building the first large mass-production automobile plant in the Soviet Union, and Soviet leaders are now arranging for Westerners, chiefly Americans, to construct in Russia the largest mass-production truck plant in the world.

The Soviet Union does have large industrial capacity and capabilities, but they have been put there by the West. Why? We will come to that very shortly. Dr. Sutton believes that, "Without capitalism or some variant of a market system, centrally planned systems are doomed to technical stagnation," and that "This is why copying is pervasive and has persisted for 50 years" of Sovietism. That is why, no doubt, one more Russian attached to the United Nations in New York was arrested only recently and accused of seeking information about a United States military plane. Dr. Sutton found also that during the 1930's the United States and other free countries helped the Soviet Government to obtain "30 years of technical development in three years." True, some of this was wiped out in World War II, but here is what the Stanford savant says about that:

"Looking at the picture as a whole, there were two massive injections of Western technology and capacity (into the Soviet Union), in the periods 1930–3 and 1943–5. Even given the extensive destruction of World II, and assuming that 25 per cent of the Soviet economy was destroyed, the Soviets were far better off in terms of both capacity and technology by 1946 than before the war. Destroyed facilities were more than replaced by reparations and Lend-Lease, and, more importantly, replaced with equipment 10 to 15 years more advanced.

"No major technology or major plant under construction between 1930 and 1945 has been identified as a purely Soviet effort . . . . Soviet technology was almost completely a transfer from Western countries; only two major Soviet innovations have been identified: SKB synthetic rubber and the Ramzin once-through boiler; both were supplemented with Western methods by 1945."

Through this penetrating study we get for the first time a clear picture of the strange economy of the Soviet Union. We begin at last to understand why the Soviet regime could show some remarkable technical achievements (offered, of course, entirely as its own) while never certain from year to year that it could feed its people. But we did not learn these vital facts through the national news media. It is a notable fact that we have to go to the *Reader's Digest* to get the news of Soviet revolutionary activity in Mexico. It is also of interest, technically and otherwise, that no pictures of a Soviet atomic explosion have ever been published anywhere. Nor have we ever seen a picture of a Soviet blast-off or landing of a space machine of any kind.

In the autumn of 1971 a Soviet space scientist, Leonid Vladimirov, defected in England, allegedly with hard proofs that the Russian space program is a hoax "aimed at persuading the West that the Soviets had reached a high level of advanced technology comparable with that of the United States," according to an Associated Press dispatch of November 25. This news was not published in the New York Times; nor, apparently, did it make headlines anywhere. The omission is part of an unbroken pattern. How can the Establishment communications media break down the country that they have been at such great pains to build up?

The knowledge of the overriding Western contributions to Soviet economic development came as a great surprise to me, even though for some years I handled the news from Russia for The New York Times and have since tried to keep up with Soviet progress or whatever it is. This ignorance is not hard to understand. Only one newspaper in the world up to December of 1971, had reviewed either one of the first two volumes of Dr. Sutton's great work, and that was the Phoenix *Arizona Republic* to its credit. In other times this work might have been analyzed in *The New York Times* and other newspapers around the country. Now it is the purpose both of the Government and of the national news media to shape the news to fit the preconceived ideas of what the people have a right to know. Books are reviewed or not reviewed to suit this aim.

However, when it fits the purposes of the same media to do so, they will stress a general right of the people to know, as in the case of the purloined Pentagon Papers, so called. The publication of those documents and biased opinions had the specific object for *The New York Times* and its tributary press of discrediting the entire basis of the Vietnam War, even when the President of the United States was withdrawing American forces as rapidly as he deemed consistent with the national interest. This object of *The Times* was shared by the *Washington Post* and some other newspapers.

In the case of Soviet activity, at home and abroad, we can only guess at the extent to which American readers, viewers and listeners have been deprived of the facts of current history. No serious effort has been made to present the truth in the manner achieved by Dr. Sutton, because that is not the aim of *The Times*, the *Washington Post*, the *Los Angeles Times* and other segments of the news media. Recently I asked Dr. Sutton whether he was familiar with Major Jordan's revelations about United States atomic assistance to the Soviets. He said he was, and that he had gone to Washington, D.C., to check the original Lend-Lease invoices with those listed by Major Jordan in his book. He assumed that if the Jordan figures tallied with the original sources in a half dozen cases, then it would be possible to accept the Jordan material as authentic. With Congressional help, Dr. Sutton made a sample check, and he found that Major Jordan's data tallied with the originals. Dr. Sutton said that much work remained to be done and that much of the material involved was still classified.

The Stanford researcher said that it was his conclusion that, technically, the Soviets could not have manufactured an atomic bomb without U.S., British or Swiss assistance because those were the only sources of some of the machine tools needed. What is more, he said, the Soviets could not even manufacture the extrusions needed to build certain aircraft early in the 1940's. I believe that there is no probability or even possibility that the story of our handing over to the Soviet Government to make the atomic bomb is false.

But here is something even more extraordinary—which happened after the United States became the sole possessor of atomic weapons.

Dr. Medford Evans said in his book:

"The classic illustration of the reliability of official U.S. releases was given by Harry Truman in January 1953, just one week to the day after he left the White House.

"'I am not convinced,' the ex-President told an INS reporter in Kansas City—'I am not convinced the Russians have achieved the know-how to put the complicated mechanism together to make an A-bomb work. I am not convinced they have the bomb.'"

It was Mr. Truman as President of the United States who announced to the world the first Russian atomic explosion in 1949. Now he seemed to be saying that he did not believe the Russians were capable of making atomic bombs and that, therefore, what they had exploded were atomic devices. But his statement left open the possibility that the Russians had detonated bombs that they had not manufactured. This would fit in with the theory of Dr. Evans that it is entirely possible and even probable that the first atomic bombs exploded by the Russians were stolen from Los Alamos. He speculates on other possibilities that are far more alarming. In retrospect it is easy to see why Dr. Evans' book got no reviews in New York, Boston or Washington newspapers, or in popular or scholarly periodicals. Obviously he had stumbled into the Establishment Wonderland, where only the Tales of Hoffmann and other grotesqueries and fantasies of the Council on Foreign Relations are permitted. Dr. Evans' book sold only 2,500 copies. It is now out of print; it was never published in paperback; yet it is an absolute must for the intelligent reader, and it can be obtained in libraries. I quote now from page 53:

"Well, it could hardly have been supposed before 1945 that a great nation (the United States) would be intimidated by its own victory and, clearly alone in the first rank, would devote its diplomatic talents to the task of creating a balance of power against itself. It could hardly have been supposed that the inventors and makers of a revolutionary weapon would in the very moment of their triumphant discovery betray abruptly such signs of neurasthenia as, without renouncing war, to attempt to renounce their newest and most powerful instrument of war. The whole atomic policy of the United States since 1945 has been incredible."

Thus Dr. Evans saw clearly and earlier than most of us that the United States was indeed setting up a balance of power against itself. I share his view, and I saw what was happening from 1945 onward. Unfortunately we who opposed the policy of weakening the United States and strengthening the enemy were scattered, isolated and reduced to silence. No newspaper or periodical or radio or television station or network sent reporters to Washington to check Major Jordan's revelations, as Dr. Sutton did. *There* is the proof that the same sources that were so eager to publish the stolen Pentagon papers would not lift a finger to fulfill the public's right to know all about this atomic bomb matter. In fact, they would oppose it on the ground that it would not help to build bridges to the East. What they would really mean is that it might help to upset the balance of power that they have so patiently and clandestinely built up over all the years since the end of World War II. In this balance of power the Soviet Government and Communist China are played off against the Western nations in a terribly costly effort to maintain what is called peace.

Now if the West built the industrial basis of the Soviet Union—as, indeed, it did—then the Soviet leaders are well aware that their country is being used as a counterweight against the West, especially the United States. In other words, the leaders of the U.S.S.R. know that their nation is part of a balance of power set up by elements or forces in the West. Thus, any war involving the use of atomic bombs would in the most literal sense have been *engineered* by the West. If, however, the West should blunder into any war instigated by the Russians, as in Korea and Vietnam, the Russians (and the Chinese Communists) are guaranteed against a Western victory. The balance of power is an ideal setup—for the Communists. Has this phase of current history been clearly presented by the national news media? On the contrary, most persons are given the impression that all the world's troubles are the fault of the United States. That is a massive omission, distortion and fabrication of current history. Why do the news media fail to point out that the industrial part of the Soviet military-industrial complex is highly vulnerable because of its dependence on the West? Is the United States military-industrial complex under attack for that very reason?

I wonder if the people have any understanding of the enormity of this situation. Our great country has been shorn of much of its strength through transference of some of our vital resources to an enemy country. Our prestige has been reduced. We have lost more than 100,000 American lives in two wars that we refused to win, and in which we have suffered more than 400,000 wounded. American youths have been terrorized into believing that they would be sacrificed without limit. The Russians have the run of our country through the United Nations and the Soviet Embassy. They fish out our waters. They interfere with our naval maneuvers. They veto our peace efforts. They engineer all manner of riots and uprisings in our country. They feed the flames of war in Vietnam, as they instigated and officered and carried on the Korean War from beginning to end, knowing full well that they would not be permitted to lose. They have corrupted our press and other communications media, with the eager cooperation of these media.

The President and Vice President of the United States have both commented on the new newspapers. On April 30, 1970, President Nixon said that other Presidents had made more notable decisions than his decision to send American troops into Cambodia. Then Mr. Nixon added:

"But between those decisions (of other Presidents) and this decision (to enter Cambodia), there is a difference that is very fundamental. In those decisions the American people were not assailed by counsels of doubt and defeat from some of the most widely known opinion leaders of the nation."

I don't think there is any doubt as to whom he meant. Vice President Agnew, the alter ego of the President, had been specific on a previous occasion when he said that the "day when network commentators and even gentlemen of *The New York Times* enjoyed a form of diplomatic immunity from comment and criticism—that day is over."

The national news media can build up or hold down an event, a book, a personality or a situation. The mediums of communication can present matters of life and death in a bad light or a good light—such as war. Certain mental stances or bents of mind can be programmed into the minds of the people. This is how the beliefs of the people are fashioned, and not one of us escapes entirely from this programming. With a straight face the very persons and publications that talked about the struggle for the minds of men were systematically engaged in capturing men's minds—by distorting, omitting and fabricating the news. This is mental warfare. The aim of news distortion is to rig the thought control processes of the nation—to mold the minds of the people to a pattern, and to block freedom of thought.

I received some months ago a letter from a distinguished professor at the University of California at Berkeley, Dr. Hardin B. Jones, in which he said:

"Systematic editorial bias of news through the conditioned minds of reflex liberals is a pathetic situation for a civilization founded upon truthful principles, but the deletion of bits of news here and there is a catastrophe when, as you establish, it happens within a recurrent pattern. . . . The communication world is not only literally sick but it is too paranoid to face and be responsible for criticism it must understand."

In 1970 I spoke to two groups of engineers of the Vandenberg Air Force Base in California, and I suggested to them that they would never have put a weather-observing satellite or other planetary object into space, nor would the United States ever have been able to send men to the moon, if the engineers' scientific principles had been arbitrarily changed and made wrong—that is, not truthful. Dr. Jones said our civilization rests upon truthful principles. Precisely. Because much of our society is based upon science, which is a body of truthful principles that cannot be tampered with. So also to poison the well springs of our daily news is indeed a catastrophe.

The miscoverage of the Vietnam War by our national news media is one of the great suppressed scandals of our times (which could be a pun). Time does not permit me to go into this fascinating and ugly chapter of American journalism. But I should like to say that the nation that could lead many other nations to victory in World War II could easily have defeated North Vietnam in a matter of weeks or months with conventional military power if it had been applied against a small country that has no air force worthy of the name, no navy, and no effective supply lines. And it is my opinion that we could have won this war without causing either Communist China or Soviet Russia to intervene more than they were already intervening. We did not win immediately because that would have upset the balance of power. We were not supposed to win.

It is the unassailable verdict of history that a people gets the kind and quality of government that it deserves or that it is capable as a nation of creating. I suppose also that that is the kind of newspaper a people gets. But a people lives according to some well-established rules. When the rules are changed without notice, the people will be deceived. But, as Lincoln said, you cannot fool them all all the time. We can reverse the trend of defeatism and deception by refusing to abandon South Vietnam and by giving it sufficient support to enable it to have a chance to sink or swim. Henceforth we should fight no wars that we do not intend to win. We have had wars since 1945, and we will have them forever until we win one. It is the nature of Communism to bleed us forever. And, quite obviously, it is the nature of some Americans to help the Communists to do this. We must not permit it. What we are witnessing in our news media is a veritable effort to create an artificial world in order to set up concepts that would govern the inner impulses and orderly actions of the people. It is like something out of the Tales of Hoffman.

No one can foretell the future. But one has a right to know what is going on during the present and what has happened in the past. I have tried to show at least *some* of the current history that has been omitted, distorted or fabricated. The media have been at great pains to give the most extensive publicity and coverage to the exploits of Ralph Nader in his charges against the automobile industry and others. The name of this consumer advocate is now a household word. But if he were undertaking to purify the national news media, I can predict without fear or favor that he would be as little known as your speaker—his name, his books, and his words would be among the rare artifacts of the North American continent.

The question has been asked me, What good does it do to tell all these things to the public? It is asserted that the ways of our society have already been set, and that I cannot change them. It is true that we have engaged on this bitter course of appeasement for years. Can anything or anybody dissuade the American public—the whole free world public—to change its course? Yes, I think so. But even if nothing could, it would still be my duty as a journalist to tell you the facts—facts, I may say, which are already in the public domain but have probably not been brought to your attention.

It is my belief that when the people come to know that they have been fed untruths deliberately by a corrupt press, when they come to know that their country is being torn down before their very own eyes in order to construct an artificial world of make-believe, then the people will act with new insights and understanding. The people of the United States always have many ways of expressing themselves, and they *will* be heard. If *I* can know the truth, so can you. If *I* can act on this new and startling knowledge, so can you. Together we can change the course of the country as radically and as beneficially as George Washington did.

John Philpot Curran of Dublin said on July 10, 1970:

"The condition upon which God hath given liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime, and the punishment of his guilt."

The erosion of our liberty is already well under way, and servitude will surely follow unless we are vigilant and active.

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## LEGISLATION IS NEEDED TO IMPROVE PRISON SYSTEM

### HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. HALPERN. Mr. Speaker, the attention which has recently focused on the American prison system has made it apparent that this system is totally inadequate. The President, the Attorney General, and the Director of the U.S. Bureau of Prisons all agree that our prison system has failed. Several of my colleagues in the House and Senate have joined me in criticizing the deplorable conditions in our prisons.

To improve our prison system legislation is needed. A bill I have introduced with 19 cosponsors, H.R. 11290, would provide financial assistance for State and local small, community-based correctional facilities. One of the major features of my bill is the provision for funding research and demonstration projects to help find solutions to the problems of the prisons.

Recently the Washington Post ran an excellent series of articles on our prison system. One of the best was by Ben H. Bagdikian entitled "A Human Wasteland in the Name of Justice." In a carefully researched and documented article Mr. Bagdikian discussed the failings of the prison system and emphasized the need for research in this area:

> For all the public clamor about crime and punishment, this field remains a wasteland of research, the most remarkable void of reliable analysis of any major institution in American life.

I recommend this article to all of my colleagues interested in solving the crisis facing the American prison system:

[From the Washington Post, Jan. 30, 1972]

## A Human Wasteland in the Name of Justice

(By Ben H. Bagdikian)

If today is average, 8,000 American men, women and children for the first time in their lives will enter locked cages in the name of justice.

If theirs is an average experience they will, in addition to any genuine justice received, be forced into programs of psychological destruction; if they serve sentences most of them will not be by decision of judges acting under the Constitution but by casual bureaucrats acting under no rules whatever; they will undergo a significant probability of forced homosexualism, and they will emerge from this experience a greater threat to society than when they went in.

"Justice" in the United States today is so bad that conservative reformers talk openly of salvaging law-breakers by "diversion from the criminal justice system wherever possible" (The American Bar Association Commission on Correctional Facilities and Services).

It so efficiently educates children into crime that one official could say, "It would be better if young people who commit crimes got away with them because we just make them worse" (Milton Luger, Director of the New York State Division of Youth).

American convicts serve a majority of their sentences at the mercy of parole boards whose decisions on which prisoners to release are so irrational that it can be statistically proved that society would be better protected if some passerby pulled names of convicts at random out of a hat.

Coerced homosexualism is merely one of the psychological distortions built into the prison system. It appears to be prevalent among 80 percent of all women prisoners, from 20 to 50 per cent of male prisoners, and an unknown but significant proportion of juveniles.

Ninety-seven per cent of all prisoners are eventually released back into society, where from 40 to 70 per cent of them commit new crimes.

Human prisoners in the United States are more carelessly handled than animals in our zoos, which have more space and get more "humane" care. Eighty per cent of all prison guards in the country are paid less than $8,000; all keepers of animals in the National Zoo in Washington are paid between $8,400 and $9,100.

Almost everyone seems to agree that our prisons are terrible.

President Nixon: "No institution within our society has a record which presents such a conclusive case of failure as does our prison system."

John Mitchell, Attorney General of the United States: "The state of America's prisons comes close to a national shame. No civilized society should allow it to continue."

Norman Carlson, director of the U.S. Bureau of Prisons: "Anyone not a criminal will be when he gets out of jail."

But the change is glacial. In most places there is no change at all.

The system is hardly a true system, but a disjointed collection of buildings and jurisdictions. The smallest is the federal, generally accepted as the more carefully designed, if bureaucratic.

On any given day the prisoner population in federal prisons is about 20,000, or less than 10 per cent of all sentenced prisoners in the country.

The states have 200 facilities, ranging from the big state penitentiaries to an assortment of reformatories, forestry camps and juvenile halls, ranging from some of the most humane in the country to some of the worst. They hold over 200,000 prisoners each day.

There are 4,037 jails and uncounted city and town lockups where the range in conditions runs from fairly good to filthy and dangerous. Technically, "jail" is a place where a person is held awaiting trial, "prison" where he serves a sentence.

The county jails hold about 161,000 persons a day, 5 per cent of them juveniles (usually mixed with adults) and 5 per cent women. Including jails, the total incarcerated population is about 1 million. If one includes town "drunk tanks," 3 million Americans pass through cells each year.

Who are the Americans who find themselves behind bars?

They are overwhelmingly the poor, black and the young. A profound sense of being cheated runs through them. They may have been cheated by the environment they grew up in, by chaotic families, poor neighborhoods, ineffective schools, depressing career opportunities. But this is not the usual reason the average prisoner feels cheated. He feels that he has been unfairly treated by the criminal justice system. He is right.

### A TINY MINORITY OF LAWBREAKERS

The President's Crime Commission in 1967 showed that from 3 to 10 times more crime is committed than is ever reported to police. They cite a survey showing that in a sample of 1,700 persons of all social levels, 91 per cent admitted committing acts for which they might have been imprisoned but were never caught. So most law-breakers are never caught.

If they are, the affluent tend to avoid imprisonment. The concentration in prison of the poor, the black and the young reflects, among other things, a special selection by which we decide whom to put behind bars.

Once found guilty, the fate of a sentenced man is subject to the wildest accidents of fate. Robert Apablaza sold a matchbox of marijuana and happened to find himself in a particular courtroom in New Orleans where he was sentenced to 50 years in prison; hundreds of others have done the same thing elsewhere and not gone to prison.

So every prisoner knows other offenders who received substantially better treatment than he did. He knows, and statistics prove, that justice is not evenhanded.

Once committed to prison, he is still governed by chance. The building he is in may be a 100-year-old fortress with four men in a narrow, dark and damp cell, or he may be in a clean one, one man to a cell. More than a quarter of all prisoners are in prisons 70 years or older.

If he is in Delaware, the state will spend $13.71 a day on his food and custody; if he is in Arkansas, $1.55 a day. If he is in Pennsylvania he will get meat and three vegetables almost every meal; if in South Carolina, meat once a week and other times greens and beans.

In some prisons he will be raped homosexually unless he is strong and has a weapon; in others he will be left alone. In some, the guards will abuse him and turn him over to psychopathic or racketeering fellow inmates, and censor his mail to make sure he gets no word of it to the outside. In other prisons he will be treated humanely and can appeal punishments to an impartial board, including inmates, and communicate with the free world.

The people on whom such uncertain justice is visited are men, women and children who already have been unlucky. At least half have been involved in drugs or alcohol. They are generally of normal intelligence (the median for federal prisoners is 104 I.Q.; for a typical Midwest state, 99.78) but they test out between 7th and 8th grade achievement.

In a typical state 25 per cent are in for burglary, 22 per cent for larceny, 12 per cent for robbery, 8 per cent for forgery, 6 per cent for assault, 5 per cent for drugs, 5 per cent for auto theft, 4 per cent for homicide, and 2 per cent for some sex offense.

### THE PROTECTION OF SOCIETY

The President's Crime Commission showed that in 1965 there were 2,780,000 serious crimes reported to police and 727,000 arrests made and of these 63,000 people imprisoned. Thus just for reported crime, which is a minority, only 2 per cent of criminals went to prison. If they were all released they would not materially increase the law-breaking population.

If they were released the prisoners conceivably could affect the crime rate in another way: by encouraging otherwise inhibited people to commit crimes because they felt they would not be punished.

But nobody knows this or can even guess intelligently.

For all the public clamor about crime and punishment, this field remains a wasteland of research, the most remarkable void of reliable analysis of any major institution in American life. The worst void is prison and prison programs where, in the words of one administrator, "we are sorting marbles in the dark." The American prison system is a monument to mindless procedures in the midst of a society that prides itself on being scientific and measuring everything in sight.

The result is that the lives of millions of prisoners, the billions of dollars spent on them (about $1.5 billion this year), the safety of citizens from crime and the loss of $20 billion to victims of crime, continue to be governed by archaic conventional wisdoms. The only thing we are fairly certain of is that most of these conventional wisdoms are wrong.

It is one of the conventional wisdoms that the current rise in crime is strongly influenced by excessive leniency by prosecutors and courts. Another is that harsh punishment will reduce crime. J. Edgar Hoover told a recent Senate committee, "The difficulty is with district attorneys who make deals and judges who are too soft. Some are bleeding hearts."

According to the FBI, from 1960 to 1965 the crime rate per 100,000 rose 35 percent. Beginning in 1964, federal courts and most state judges began giving out longer sentences. From 1964 to 1970, federal sentences became 38 per cent longer and time served was even more because the federal parole board began reducing paroles. California's sentences have risen 50 per cent.

But from 1965 to 1970 the national crime rate—during the harsher period—rose 45 per cent.

Robert Martinson studied every report on treatment of prisoners since 1945 and analyzed the 231 studies. He concluded:

". . . There is very little evidence in these studies that any prevailing mode of correctional treatment has a decisive effect in reducing recidivism of convicted offenders." "Recidivism" refers to crimes committed by released prisoners.

James Robinson of the National Council on Crime and Delinquency, and Gerald Smith, of the University of Utah, made one of the most rigorous analyses of various treatment of American prisons and concluded:

"It is difficult to escape the conclusion that the act of incarcerating a person at all will impair whatever potential he has for a crime-free future adjustment and that, regardless of which 'treatments' are administered while he is in prison, the longer he is kept there the more he will deteriorate and the more likely is it that he will recidivate."

### A CONFLICT OF MOTIVES

A fundamental reason for confusion is that unlike some countries, the United States has never decided what it wants its prisons to do. There are several motives for criminal punishment:

1. Hurting the prisoner so that he will feel free of guilt, having paid for his act;
2. Using the criminal as a scapegoat for others in society who feel the same criminal impulses within themselves and by punishing the criminal purge themselves;
3. The need of some to feel morally superior by sustaining outcasts in a despised and degraded condition;

4. Keeping the criminal out of circulation;

5. Revenge imposed by the state to prevent the victim or his family from taking private revenge, as in family feuds;

6. Revenge in the name of all society so that the public will not impose its own version of justice, as in lynch mobs;

7. Deterrence of the criminal who, by being hurt, will decide that committing the crime is not worth it;

8. Deterrence of others who, seeing the criminal suffer, will not imitate his crime; and

9. Reforming the criminal so that he will learn to live in peace with society.

Criminal punishment may accomplish a number of these objectives simultaneously. But some are contradictory and cannot be done together. It is not possible to cause a man to respect those who treat him with deliberate cruelty. Scapegoating does not eliminate the illicit impulse; where punishment of the individual is violent and cruel, it promotes violence and cruelty in society at large.

The confusion in goals for prison has its roots in a curious phenomenon: the most damaging practices in criminal justice were started as humanitarian reforms.

The prison itself is an American invention created out of genuine compassion.

For centuries, people were incarcerated only until the local lord or king could impose punishment. Punishment would then be death by hanging, drowning, stoning, burning at the stake, or beheading, usually with a large crowd observing to deter them from imitation.

### A PLACE FOR PENITENCE

In the 1780s, the Quakers of Philadelphia, taking soup to the jails, were appalled by conditions. They organized to pass laws substituting sentences of incarceration in permanent, well-designed prisons as a substitute for death, mutilation or flogging.

They designed the new prisons for solitude and meditation on the prevailing theory that men do wicked things because the devil has invaded them and only through contemplation of their sins could they become penitent and innocent again. The new institutions for penitence were called penitentiaries. The prisoners were forbidden to speak and saw no one, sometimes not even their jailers.

Europeans studying the new country reported on the new institution and adopted it, though some, like DeTocqueville and Dickens, observed that penitentiaries often produced insanity.

In the late 1800s, it was observed that country people on their farms had been law-abiding but after they moved to the impoverished industrial cities they became criminals. It was thought that there might be some connection between environment and crime, that prisons might be a way to counteract bad environment.

The impact of Freud and psychology complicated the view of human behavior, adding to the physical environment the emotional history of the individual. If prison was an opportunity to change the environment, it might also be a place to give the prisoner a more accurate view and control of himself.

But the conflicts have never been resolved between punishment and "treatment," between the purpose of protecting society by keeping the criminal locked up and the goal of protecting society by trying to condition him for peaceful return to the community.

### THE USEFULNESS OF "INDUSTRIES"

Only this continuing confusion could explain the survival of irrationalities like "prison industries" and the decisions of parole boards.

Most work inside federal prisons, for example, is done for an independent corporation called Federal Prison Industries, Inc. It has a board of directors mostly of executives of private corporations who serve without pay. It maintains 52 shops and factories at 22 federal institutions where it employs about 25 per cent of all federal prisoners.

Historically, at the insistence of private business and labor unions (George Meany, head of the AFL-CIO also is on the board of FPI), they do not make goods that will compete with privately made goods, which means that they usually do not develop skills that will let the ex-convict compete in private industry after he gets out.

The chief customer is the federal government. Pay rates are from 19 to 47 cents a day.

FPI in 1970 had earnings of $9.9 million on $58 million in sales, or 17 per cent profit on sales, the highest of any industry in the United States (average for all U.S. industry is 4.5 per cent on sales, the highest being the mining industry at 11 per cent).

FPI has proudly announced that it declared a dividend every year since 1946 and that these dividends total $82 million. To whom was this dividend on captive labor issued? The American taxpayer—the general treasury of the United States.

Federal prison officials agree that a major reason for repeated crime by ex-convicts is their lack of skill in the jobs that are needed in free life—medical and dental technicians and other categories that will hire all the qualified help they can get. They also admit that they lack the money to train significant numbers of convicts in these marketable skills. Yet they have regularly turned back large profits made by prisoner labor.

### THE EFFECTS OF PAROLE

Even prison industries cannot match the performance of parole boards for lack of success and lack of accountability. Parole is another humanitarian reform that was perverted. It was supposed to give the prisoner incentive to improve himself to earn a release earlier than his full term. It was supposed to shorten time spent behind bars. It has lengthened it.

Most prisoners are eligible to apply for parole after one-third of their sentences have been served. Judges and legislatures know that, so they have increased sentences on the assumption that most prisoners will be released in something like one-third their time. The prisoners have not been released at that rate. Consequently, American prisoners serve the longest sentences in the Western world.

But that is not the worst characteristic of American parole boards. Their purpose is to release the prisoner as soon as possible consistent with his own good and protecting society from repetition of crime. The boards are in the position of predicting human behavior, a difficult task for even the most perceptive and wise individuals.

Most parole boards are appointed by governors and include his cronies or former secretaries.

Parole boards regularly release the worst risks, as measured by the best data.

Take the case of Jack Crowell (not his real name, but a real person). He is a stocky, 41-year-old Navy veteran doing 10 years in a Southern state. He had such a good record in the state penitentiary that toward the end of his sentence he was permitted to join the state's work release program.

Under work release he left prison to live in an unlocked dormitory in a city. He got up each morning, drove his boss's truck to work site where he became a master plumber, supervising an assistant. At the end of the day he returned to the dormitory. He earned $140 a week, and had saved $1800. He applied for a parole. The prison system recommended him. He was turned down.

Typically they didn't tell him why except that he wasn't "ready." They did parole some men direct from the state prison who had never had a chance to show that they could hold a good job and handle freedom.

### WHO ARE THE WORST RISKS?

Crowell's is a typical case. One can guess what happened. He was in for manslaughter. Parole boards do not like to parole killers and sex offenders because it makes for bad public relations. They fear the headlines if such men repeat crimes while on parole. But contrary to conventional wisdom, murderers and sex offenders are the most likely not to repeat a crime.

In 1969 parole boards reporting to the Uniform Parole Reports released 25,563 prisoners before they completed their full sentences. Almost one-third of them were burglars who in their first year had their usual rate of repeated crime of 31 per cent. There were 2,870 armed robbers released and in the first year 27 per cent went back to prison. The boards released 2,417 forgers, 36 per cent of whom were re-imprisoned, and they released 2,299 larcenists, of whom 30 per cent went back for various violations. Murders and rapists released had failure rates of 11 to 17 per cent.

These are the failure rates for various offenders as compiled by the most authoritative group, the Uniform Parole Reports of the National Probation and Parole Institutes of the Nation Council on Crime and Delinquency:

| | *Percent* |
|---|---|
| Negligent manslaughter | 11 |
| Willful homicide | 12 |
| Statutory rape | 15 |
| Forcible rape | 17 |
| All other sex offenses | 17 |
| Aggravated assault | 22 |
| Armed robbery | 27 |
| Unarmed robbery | 30 |
| Larceny | 30 |
| Burglary | 31 |
| Forgery | 36 |

(These are failure rates for the first year on parole; the rate increases as the group is out longer but the rank order does not change significantly over the years.)

It appears reasonable for parole boards to be more cautious in releasing violent men. Even if burglars repeat their crimes, theft of property is less harmful to society than killing and raping. But here, too, the data do not support the parole boards: murderers and rapists on their second offense do not commit as many added murders and rapes as do other kinds of criminals. Of 30 cases of willful homicide that sent 1969 parolees back to prison in their first year of freedom, 24 were committed by people not originally in for willful homicide. Six released murderers went back to prison for another killing, but nine burglars went back for murders.

The 511 forcible rapists on parole, to take another example, committed four new forcible rapes; burglars during their paroles committed eight. All men whose original conviction was for property crimes while on parole committed 12 forcible rapes.

The rate of new homicides and rapes by all categories of released prisoners is about the same, approximately one-half of 1 per cent. Since murderers and rapists represent a small proportion of all released prisoners, about 12 per cent for all such categories, their one-half of 1 per cent represents less of a threat to society than do the violent new episodes by other kinds of criminals.

Because they regularly release the worst risks, parole boards would do better picking parolees at random.

Parole boards are not solely to blame. Whatever other notions are in their heads when they make their decisions, they are seriously influenced by public opinion. The police and the general public are outraged at the violent crimes of released prisoners; they don't know that 97 per cent of all prisoners are released anyway and that the longer criminals stay in prison, the more crimes they commit afterwards.

### THE TORTURE OF UNCERTAINTY

In prison after prison, the uncertainty of the sentence was mentioned as the most excruciating part of prison. "Give me a fixed sentence anytime," is common.

Or, "I behaved myself, the warden recommended me, I had a job on the outside, my family said they had a place for me and they turned me down. I ask them why and they say, 'You're not ready.'

"I ask them what that means and they don't say. What am I supposed to do? Give me five, give me ten but let me know how much time I have to do and don't keep me hanging all the time."

Society takes elaborate pains to assure that lawyers and judges are qualified to exercise their power over the freedom of their fellow citizens and that no person is deprived of his liberty without due process of law, including a review of grave decisions. Yet the gravest of decision—a majority of the time a citizen may spend imprisoned—is determined most of the time by untrained persons acting without adequate information in opposition to the best data and without accountability.

During the last few years, the federal parole board has reduced paroles by 20 per cent.

In Louisiana they stopped giving all convicted armed robbers parole, after which armed robberies in the state rose 57 per cent.

It is tragic for the protection of society and the future success of prisoners that carefully selected boards do not use the best available data to decide the issue of liberty or imprisonment. It unnecessarily exposes society to more crime, it stunts the potential for change within convicted criminals and it suffuses American prisons with frustration and bitterness.

### THE LEAST STUDIED INSTITUTION

What remains after the available data on criminality are sifted is the remarkable absence of other good data on American prisons and their effectiveness. Prisons would seem to be ideal laboratories for social scientists—controlled populations in a variety of conditions, available to be measured and compared. But they remain the least scientifically studied of any major American institution.

George Saleeby, associate director of the California Youth Authority, was asked why it is that a society apprehensive about crime, and a country anxious about criminals, did not insist on rigorous study and analysis.

"Wait a minute," Saleeby said. "Wait a minute. Who said society was concerned? Who said they give a damn? They want some people put away and then they want to forget about them."

Why don't prison administrators themselves look carefully at their own results? George Beto, director of Texas prisons, says:

"I know of no institution unless it be organized Christianity which has shown a greater reluctance to measure the effectiveness of its varied programs than has corrections."

The answer seems to be that what happens to prisoners inside American prisons has very little to do with the prisoners themselves or what will happen to them after they are released into the free world. The state of prisons seems mainly determined by the values of the American citizen who considers himself law-abiding.

John Irwin served five years in Soledad Prison for armed robbery. He is now a college professor at San Francisco State College, specializing in penal studies. He says:

"The radicals talk of abolishing punishment, but they really want to start punishing a new population of 'capitalist pigs.' The liberals want punishment but call it 'treatment.' The conservatives are the only ones honest about it, but they want such disproportionate amounts that it's crazy."

It is hard to avoid the conclusion that what goes on inside American prisons tells more about the character of people outside the walls than it does about the inmates inside.

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## A PLEA TO ASSURE SURVIVAL OF THE ARTS

## HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. BRADEMAS. Mr. Speaker, I insert at this point the text of an excellent editorial from the Plymouth, Ind., Pilot-News entitled "A Plea To Assure Survival of the Arts."

The editorial follows:

### A PLEA TO ASSURE SURVIVAL OF THE ARTS

More than 600 million Americans visit museums each year. Over 12 million go to symphony concerts. Millions more attend opera, ballet and other performances. Lincoln Center outsells Yankee Stadium three to one.

All told, we spend about $2 billion annually on the arts and everything that fits under that broad heading.

Yet at the same time, orchestras are in the red, museums are being forced to curtail services and many fine arts organizations are balanced on the edge of bankruptcy.

In spite of increasing interest, the arts are not flourishing. For example, when the Boston Symphony Orchestra was organized 90 years ago, it served a city of 350,000. Today it is still the only major orchestra in a metropolitan area of nearly 2 million.

Unfortunately, broadcasting networks do not lay out great bundles of cash to televise the "Symphony of the Week," etc., as they do with pro football and other sports.

And just as if someone was reaching into the till and taking the money away, inflation is reducing the ability of the arts and of artists to serve the community. The ability of the people to give is being cut by the same inflation.

Business can raise prices when its costs go up. Government can raise taxes. But what are the arts to do? To raise ticket prices beyond certain limits is to exclude the public. To reduce costs is to cut the very services the community demands.

"I believe we must ask for a wholly new priority for the arts in this country," says Amyas Ames, chairman of the board of New York's Lincoln Center for the Performing Arts. "We should do for the arts and humanities in the 1970s what we did for the sciences in the 1940s and 1950s."

Current federal funding for the National Endowment of the arts provides almost $30 million. But this, he argues, is not adequate for a nation of 200 million people. It amounts to about 15 cents a person.

Ames asks support for new legislation to provide federal aid equal to at least 10 per cent of what Americans now spend on the arts. This would be $200 million a year, about $1 a person.

It would compare with $1.40 per person spent on the arts in Canada, $2 in Sweden and Austria and $2.42 in West Germany. It is only 1 per cent of what we spend on roads each year—the cost of about 15 miles of superhighway.

It would still leave 90 per cent of the support of the arts to be paid from ticket sales and from the gifts of individuals, corporations and by local government subsidy.

"What we ask is modest when measured in terms of other federal projects," says Ames. "Above all, what we ask for is a wholly new priority for the arts and humanities—for that which gives our lives richness and meaning."

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## PRICE CONTROL: ITS FAILURE DURING THE AMERICAN REVOLUTION

## HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. CRANE. Mr. Speaker, in his address to the Nation on the rising cost of living on October 17, 1969, President Nixon declared that:

> My own first job in Government was with the old Office of Price Administration at the beginning of World War II. And from personal experience, let me say this: Wage and price controls are bad for business, bad for the workingman, and bad for the consumer. Rationing, black markets, regimentation—that is the wrong road for America, and I will not take the Nation down that road.

When he expressed these thoughts, President Nixon was speaking from the experience of history. What has happened since that time to change his mind and to cause him to adopt the very wage and price controls which he condemned, is difficult to understand. It is unlikely that history's lessons will be shown to be incorrect by our current experience with a state-supervised economy.

Since these historical lessons seem to have been forgotten in our own country at this time, it is important to reflect upon them. One important example is the effort to stop inflation with governmental controls during the American Revolution.

The Continental Congress first authorized the printing of Continental notes in 1775. At that time the Congress was warned against printing more and more of them. But the Congress refused to heed this advice and continued to print paper money.

Prof. Percy L. Greaves, Jr., points out that at that time the price of pork rose from 4 cents to 8 cents a pound. Beef soared from about 4 cents to 10 cents a pound. Prices reached the level of 480 percent above the prewar average.

The Legislature of Pennsylvania, in order to stem the rising tide of prices, decided to try "a period of price control, limited to domestic commodities essential for the use of the army." It was believed that such a policy would reduce the cost of feeding and supporting the Continental Army.

Professor Greaves notes that:

> The controls were quite arbitrary. Many farmers refused to sell their goods at the prescribed prices. Few would take the paper Continentals. Some, with large families to feed and clothe, sold their farm products stealthily to the British in return for gold. For it was only with gold that they could buy the necessities of life which they could not produce for themselves.

This policy occurred during the winter of Valley Forge in 1777. Professor Greaves writes that:

> Valley Forge taught George Washington and the Pennsylvania advocates of price control a very costly lesson. They had hoped for plenty at low prices. Instead they got scarcity and indescribable misery.

By June 1, 1778, the act of regulating prices was wholly suspended.

Those who once knew this lesson so well seem now to have forgotten it. They seem to have forgotten, as Professor Greaves states, that:

> The power of allocating the necessities of life is the power of life and death. Under price control that power is given to the political powers that be. Consumers are entirely at their mercy. Price control is, therefore, the very antithesis of freedom. Price control is economic slavery.

All of us seek to stem the tide of inflation. Such a result cannot come, however, from an approach which has failed repeatedly in the past. The lesson of Pennsylvania during the years of 1777 and 1778 is an important example of this fact from our own past.

I wish to share Professor Greaves' article, which originally appeared in Christian Economics of May 20, 1952, with my colleagues and insert it as it appears in the February 1972, issue of the Freeman in the RECORD at this time:

### FROM PRICE CONTROL TO VALLEY FORGE, 1777–78

(By Percy L. Greaves, Jr.)

Price control has been often tried. It has been strongly enforced. Yet, it has consistently failed to produce the desired results. Our ancestors learned the follies of paper money and price control the hard way. They learned a lesson which many present-day Americans seem to have forgotten. Price controls almost wiped out our independence in the first years of our existence.

Our Continental Congress first authorized the printing of Continental notes in 1775. The Congress was warned against printing more and more of them. In a 1776 pamphlet, Pelatiah Webster, America's first economist, told his fellow men that Continental currency might soon become worthless unless something was done to curb the further printing and issuance of this paper money.

The people and the Congress refused to listen to his wise advice. With more and more paper money in circulation, consumers kept bidding up prices. Pork rose from 4¢ to 8¢ a pound. Beef soared from about 4¢ to 10¢ a pound. As one historian tells us, "By November, 1777, commodity prices were 480% above the prewar average."

The situation became so bad in Pennsylvania that the people and legislature of this state decided to try "a period of price control, limited to domestic commodities essential for the use of the army." It was thought that this would reduce the cost of feeding and supplying our Continental Army. It was expected to reduce the burden of war.

The prices of uncontrolled, imported goods then went sky high, and it was almost impossible to buy any of the domestic commodities needed for the Army. The controls were quite arbitrary. Many farmers refused to sell their goods at the prescribed prices. Few would take the paper Continentals. Some, with large families to feed and clothe, sold their farm products stealthily to the British in return for gold. For it was only with gold that they could buy the necessities of life which they could not produce for themselves.

On December 5, 1777, the Army's Quartermaster-General, refusing to pay more than the government-set prices, issued a statement from his Reading, Pennsylvania headquarters saying, "If the farmers do not like the prices allowed them for this produce let them choose men of more learning and understanding the next election."

This was the winter of Valley Forge, the very nadir of American history. On December 23, 1777, George Washington wrote to the President of the Congress, "that, notwithstanding it is a standing order, and often repeated, that the troops shall always have two days' provisions by them, that they might be ready at any sudden call; yet an opportunity has scarcely ever offered, of taking an advantage of the enemy, that has not been either totally obstructed, or greatly impeded, on this account. . . . we have no less than two thousand eight hundred and ninety-eight men now in camp unfit for duty, because they are barefoot and otherwise naked. . . . I am now convinced beyond a doubt, that, unless some great and capital change suddenly takes place, this army must inevitably be reduced to one or other of these three things: starve, dissolve, or disperse in order to obtain subsistence in the best manner they can."

#### LESSON LEARNED

The severity of the situation increased. Our ragged regimentals were dispersing. In February, 1778, the Pennsylvania Assembly "passed a law appointing commissioners in every city of the state with full power to purchase or to seize, at stated prices, all provisions necessary for the army." But, appeals to patriotism, accompanied by force and threats of more force, failed to bring out the necessary provisions. The farmers just would not trade the fruit of their hard labors for paper money which bought less and less as the weeks passed by.

On April 21, 1778, George Washington wrote a delegate in Congress, "Men may speculate as they will; they may talk of patriotism; they may draw a few examples from ancient history, of great achievements performed by its influence; but whoever builds upon them, as a sufficient basis for conducting a long and bloody war, will find themselves deceived in the end. We must take the passions of men as nature has given them, and those principles as a guide, which are generally the rule of action. I do not mean to exclude altogether the idea of patriotism. I know it exists, and I know it has done much in the present contest. But I will venture to assert, that a great and lasting war can never be supported on this principle alone. It must be aided by a prospect of interest, or some reward. For a time it may, of itself, push men to action, to bear much, to encounter difficulties; but it will not endure unassisted by interest."

Valley Forge taught George Washington and the Pennsylvania advocates of price control a very costly lesson. They had hoped for plenty at low prices. Instead they got scarcity and indescribable misery. Anne Bezanson's valuable book, *Prices and Inflation during the American Revolution, tells us,* "By June 1, 1778, the act of regulating the several articles on the price lists was wholly suspended." Price control had failed.

#### ARMY BETTER FED

This same book informs us that after this date the commissary agents were instructed "to give the current price . . . let it be what it may, rather than the army should suffer which you have to supply and the intended expedition be retarded for want of it." As a result the Army was better provided for in the fall of 1778 than had previously been the case. In the words of Miss Bezanson, "the flexibility in offering prices and successful purchasing in the country in 1778 procured needed winter supplies wanting in the previous year."

In January, 1780, Pelatiah Webster wrote, "As experiment is the surest proof of the natural effects of all speculations of this kind . . . it is strange, it is marvelous to me, that any person of common discernment, who has been acquainted with all the above-mentioned trials and effects, should entertain any idea of the expediency of trying any such methods again.... Trade, if let alone, will ever make its own way best, and like an irresistible river, will ever run safest, do least mischief and most good, suffered to run without obstruction in its own natural channel."

Price control is an attempt to alter God's law of supply and demand. Those who endorse it frequently believe that the supply of goods and human satisfactions can be maintained at prices which are legally set below the free market price. They are ever doomed to disappointment. When a price is set below the free market price, marginal producers will always cease to produce. The available supply is thus reduced. On the other hand, prices held below the free market rates always attract more prospective buyers than the higher market prices. The result will ever be, other things being equal, a decreased supply and an increased demand.

Free prices allocate scarce goods to the highest bidder. In consumers goods, the highest bidder is the person who has best served society. In producers goods, the highest bidder is usually the person who can make the best use of the scarce labor and materials available. He can pay the highest price because he expects society to pay him more for his final product than it will pay for the product of any lower bidder. When the state, or some bureaucratic agent of the state, sets prices, he must also decide who shall have and who shall have not.

The power of allocating the necessities of life is the power of life and death. Under price control that power is given to the political powers that be. Consumers are entirely at their mercy. Price control is, therefore, the very antithesis of freedom. Price control is economic slavery.

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## POSTAL "SERVICE"

## HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DULSKI. Mr. Speaker, a year ago the newly created Board of Governors began the transition of the Post Office Department into the corporate structure of the U.S. Postal Service which was to take over on July 1, 1971.

The complete takeover now has been in effect only since last July, but the official transition began months earlier and the administration team has been in charge for more than 3 years.

Where are we on postal service today? That is a good question which I am asked repeatedly, day in and day out.

I have no answer—and less information than ever. What I do know is that the complaints on postal service never have been as numerous as they are today. And the situation is getting no better.

I advocated postal reform from the outset and there is no doubt that the system needed a major shakeup; it was antiquated. My own approach to reform was different from the system that finally was adopted. I accepted the decision of my colleagues, hoping sincerely that the administration plan might work after all and that my fears of chaos might be mistaken.

So far, we have had little but chaos.

The complaints flow in. Never in my memory has postal service been so unreliable.

One of the arguments for the corporate plan was that it would encourage continuity of management. Where's the continuity. How many of the original management team are still around? Very few.

What we need is more service in the postal service and it can come none too soon.

In my home city of Buffalo, N.Y., a newspaper reports the new Postal Service forgot to collect mail from at least one mailbox the other day and wound up making a refund for the wasted postage on the time-value mail. Does this set a new precedent?

The article follows:

[From Buffalo (N.Y.) Courier Express, Feb. 15, 1972]

### REFUND PROMISED ON MAIL DELAY

An East Side businessman, who will be reimbursed for $4.08 in stamps he lost when collection of time-value mail he placed in a postal box at E. Ferry and Wohlers was delayed, said Monday that evidence that such mail collection delays are not isolated incidents, as implied by the U.S. Postal Service.

Herbert L. Bellamy, president of the Community Service Center, 1490 Jefferson Ave. and owner of a liquor store at 405 E. Ferry St., said it took four days before 40 meeting announcements were collected from the box last Saturday. The meeting, scheduled for Saturday, had to be canceled.

#### "HUMAN ERROR"

James J. Leary, director of the Post Office operations division, claimed the delay was a "human error" caused by a switch last week from motorized carrier to foot carrier.

"I have received at least 15 phone calls this morning reporting similar delays in business districts throughout the East Side," Bellamy said Monday.

"There is just not the same extent of service at collection boxes in these business areas," Bellamy claimed. He said his own survey indicated only one collection a day at boxes at E. Ferry and Masten, E. Utica and Michigan, Humboldt and E. Utica and Clinton and Jefferson, all predominantly black business areas.

#### FREQUENT COLLECTIONS

He said there are at least two and often three daily collections at such locations as Comstock and E. Amherst and Bailey and E. Delavan.

Bellamy quoted one caller, owner of a Clinton St. liquor store, as saying he had stood by the mail box at the time collection was scheduled and the mailman "never showed."

"A mailman told me he would never put mail in these boxes," Bellamy said. "Some people drive to boxes on Main St. to be sure their letters get picked up."

Bellamy said a telegram he sent to Postmaster Joseph D. Sedita on the problem has not been answered.

Sedita is out of town, the Postal Service, 1200 William St., reported Monday.

Leary, informed of Bellamy's charges of generally inadequate service, said his department would investigate the complaints.

#### TELLS OF SURVEYS

"I don't know what he is talking about," Leary said. "Our continual problem is that everyone wants to have a box on his own street."

He said the Postal Service surveys mail volume twice a year and changes its collection schedules accordingly. Changes based on a recent survey, which went into effect last Monday, were responsible for the omission of the E. Ferry and Wohlers collection, Leary said.

He said boxes having only one daily pickup usually indicated another box, often no more than a block away, where mail will be picked up later in the day.

"Mail patterns change continually and I'll be glad to discuss problems with Mr. Bellamy," Leary said.

Earlier this month, the New York Times published an editorial about postal service and promptly reaped a pile of letters to the editor. I am including with my remarks the text of the editorial as well as excerpts from some of the letters—which, incidentally, are typical of the letters and complaints I am receiving.

I also am including a column by Marquis Childs on postal service.

The articles follow:

[From the New York Times, Feb. 2, 1972]

### POSTAL "SERVICE"

The United States Postal Service has been established only a few months and so we suppose it is churlish to voice complaint at this early stage; but it does have nearly 200 years of Post Office Department experience behind it. The mailing and delivery of letters is not exactly a new development, nor for that matter, is the sending of telegrams.

Yet these two simple methods of communication between, for example, two cities within the United States, are obviously becoming steadily more uncertain and less reliable—seemingly in direct proportion to the increasing ease with which man is now communicating with outer space.

Has anyone tried to send a personal Western Union telegram recently? We did, not long ago, and it was delivered by mail a week or two later. Has anyone tried to send a letter by the United States Postal Service recently? We did, by air mail from central Chicago to central Manhattan last week; it was delivered exactly five days after posting.

Or special delivery? We did: a first-class letter was mailed in the Hartford post office about 10 o'clock on a recent Thursday morning; it was postmarked received in New York City at 8:30 Friday night (and was actually delivered to the addressee the following day). Even between post offices, that's approximately 34 hours to travel 120 miles. That's an easy walking pace. Of course, if one walked it, one would be tired. But so, it seems, is the United States Postal Service.

Any other examples?

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[From the New York Times, Feb. 15, 1972]

### NEITHER SNOW NOR RAIN NOR HEAT NOR GLOOM OF NIGHT . . .

(Following is a sampling of letters or excerpts from letters received in response to the Feb. 2 editorial "Postal 'Service.'")

TO THE EDITOR:

I mailed a contract last month in New York on a Wednesday. It arrived the following Wednesday in Manchester, Conn.—too late. I could have walked faster.

KENNETH E. MORSE.
GLASTONBURY, CONN., *February 5, 1972.*

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TO THE EDITOR:

My own most recent example of bad service: A correctly addressed and stamped letter containing tickets for a Thursday evening concert was mailed to me in Manhattan from Huntington, L.I. (about forty miles away), on the Monday preceding the concert. The tickets, alas, did not arrive until the Saturday following.

PAMELA S. BROMBERG.
NEW YORK, *February 2, 1972.*

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TO THE EDITOR:

As a young man while going to school many years ago, I worked for nearly three years as a substitute clerk in the G.P.O. post office at Eighth Avenue and 33d Street. The mail moved swiftly and safely—the reason, "brain and brawn," no computers, no sophisticated machines, and the mail was delivered on time.

W. G. LEBOWITZ.
NEW YORK, *February 3, 1972.*

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TO THE EDITOR:

After everyone else has been flayed to the bone, you gleefully turn once more on the poor old post office.

Since your "experiment" seems to have been wholly frivolous rather than a scientific mailing test, my Special Delivery example of recent date should be as good a sample as yours. I am enclosing a cover that was dispatched from here to Binghamton at approximately 4:45 P.M. on Jan. 18. It was backstamped in New York at 5 A.M. on the nineteenth and was received at the downtown delivery office at 7:30 A.M. The addressee received it the morning of the nineteenth.

RALPH G. CLARK.
TROUT CREEK, N.Y., *February 4, 1972.*

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TO THE EDITOR:

In mid-1971 it took five weeks for a piece of mail, fully addressed with zip code and sent by special handling from New York City, to reach me in Princeton, N.J., which is less than fifty miles away.

(Prof.) BRUCE M. METZGER.
PRINCETON, N.J., *February 2, 1972.*

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TO THE EDITOR:

An absentee-ballot application sent to our daughter at college in New Haven was routed through Columbus, Ohio, and arrived at the New Haven zip code on the envelope a week later than it should have. Our daughter lost her vote.

Our daily letters to our other daughter, in college near Boston, average seven days from and including date of mailing and date of receipt.

A prescription sent to the same daughter, registered, special handling and insured, parcel post, took ten days.

Mr. and Mrs. R. W. MORSE.
CHATHAM, N.Y., *February 6, 1972.*

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TO THE EDITOR:

I am a boxholder at the G.P.O., New York, N.Y. 10001, because local delivery service is so poor. Routine test letters from the mail slot in the G.P.O. intended solely for mail to the G.P.O. zone, New York, NY. 10001, took over 24 hours to get the 200 feet to the other side of the post office in more than one test out of two It has never taken less than twelve hours—in the same building.

VICTOR R. COHEN.
NEW YORK, *February 2, 1972.*

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TO THE EDITOR:

In the Milton-on-Hudson post office, a letter mailed at 5 P.M. or later does not even leave that post office until 5 P.M. the following day—24 hours to rest up for the journey.

JO-ANN HALUSKA.
MILTON, N.Y., *February 6, 1972.*

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TO THE EDITOR:

I have invented a method of delivery that will greatly speed our mail service. It is an original and revolutionary suggestion, but I believe it is worth a try:

A horse stable should be established at Manhattan's main post office. It would be provided with fast horses and young riders of fearlessness and derring-do. First-class mail would be packed in leather saddle bags, and horse and rider would immediately gallop off to, say, Brooklyn.

At the entrance to the Brooklyn Bridge, an auxiliary stable would be established, provided with fresh horses. Upon galloping up, the rider would fling himself from his winded mount, take his saddle bag and leap upon a fresh mount without wasting an instant. He would then gallop off to the Brooklyn post office. The same method could be used for more distant deliveries.

It could be called "Horse Express" or "Equine Express" or something like that.

LAWRENCE SANDERS.

NEW YORK, *February 4, 1972.*

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[From Washington Post, Feb. 22, 1972]

### SEVENTH-CLASS POSTAL SERVICE

(By Marquis Childs)

The theory was that a postal service divorced from the patronage control of Congress would be able to move a letter between two principal cities in, say, a day and a half instead of two to three days. Efficiency, economy—that was the pitch of former Postmaster General Winston M. Blount, a supersalesman who argued that it was time to junk the old mess for a business operation.

Today, nearly two years after the divorce, the turgid mass of the mail moves at the same glacial pace. Nothing so directly touches millions of Americans as the delay and uncertainty in the delivery of the mails. It is everybody's business and yet almost nobody seems able to do anything about it, if only because the process has the same impenetrable bureaucratic look as it had when Congress was calling the shots.

Elmer Cerin, a Washington lawyer who has made himself a postal expert, did a careful study last year on first-class mail delivery. He concluded that a program heralded as making better use of manpower and equipment had resulted in increasing mail handling time by 29 per cent for outgoing letter mail originating and destined for the nation's 10 principal post offices. The Cerin study was put in the congressional record by Sen. Gale McGee (D-Wyo.) chairman of the Post Office and Civil Service Committee, with the threat that the post office reorganization act would be greatly modified or even repealed if things did not look up.

A fair-minded man, Cerin says there has been a slight improvement since he did his duty. But it is almost imperceptible as the P.S. faces the same frozen structure of union rigidity, rapid turnover of personnel and outmoded techniques as under the old system.

The choice is between stepping up efficiency and raising rates in the hope that more money will turn the trick. A business operation, the service was to pay its own way and Congress surrendered control over the mail rates.

In May the first-class letter rate went from six cents to eight cents. The air-mail rate is soon to jump from 11 to 13 cents. Business and banks, the principal users of first-class mail, will simply pass it on to the consumer, which means another upward notch in the inflationary spiral.

The power of the P.S. over rates cuts a wide swath. It threatens to put in further jeopardy the printed word that is now hard pressed under the impact of television. Nothing could illustrate this better than the way the Nixon China expedition is tailored for the cameras with the new technology of the satellite.

Under the old system Congress provided a subsidy for second-class mail covering magazines and newspapers. This was in the belief, advanced in the early days of the republic, in the educational value of the printed word. With that subsidy wiped out the Postal Service is proposing a 142 per cent increase in second-class rates.

In testimony the other day before Sen. Sam Ervin's Subcommittee on Freedom of Information, Andrew Heiskell, chairman of the board of Time, Inc., said the increase would raise the mailing costs of Time's four magazines by $27 million over a five-year period.

And he set this against profits before taxes of the four publications. According to Heiskell, it is even worse, with pretax earnings of $50 million under the gun of a rate increase of $130 million by 1976.

The concept of the subsidy as underwriting education has been stretched a long way, with publications pandering to sensationalism and others that offer thinly disguised political propaganda.

Yet the demise of the printed word is a fact of the television era. Collier's, The Saturday Evening Post, and Look have gone. And Life suffers heavy losses. Metropolitan dailies benefited little, if at all, from the subsidy, since distribution was largely by truck. But weeklies, the specialized periodicals of nationwide organizations and a host of other printed media will feel the heavy hand of the rate increase.

Setting up published service standards late last year, the P.S. promised one-day delivery within a 600-mile radius for first-class mail and a 95 per cent improvement in delivery of air mail. The way is open for infinite improvement.

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## ED PAULEY AND THE UNIVERSITY OF CALIFORNIA

## HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

**Mr. ANDERSON of California. Mr. Speaker, for 8 years, I had the honor of serving as a regent of the University of California.**

**In that capacity, I had the privilege of knowing Ed Pauley as a Californian, as a regent, and as a friend.**

**Mr. Pauley has been particularly devoted to the University of California, and I can personally attest to the many years, months, weeks, and days that he spent helping to build the university.**

**On February 29, 1972, after 32 years' service on the board, Ed Pauley will retire.**

**Mr. Speaker, he will be missed, but the works that Ed played such a major role in establishing will continue to prosper as a tribute to his dedication, his foresight, and his leadership.**

**In the February 22, 1972, issue of the University of California News, Dean Johnson wrote an article recalling the accomplishments of the 32 years Ed Pauley served on the board of regents. At this point, I include this article in the RECORD, and I commend it to the attention of my colleagues:**

### ED PAULEY AND THE UNIVERSITY OF CALIFORNIA

When Edwin W. Pauley retires the end of this month as a Regent of the University of California, he will look back on 32 years of service—almost one-third the time the University has existed.

This Thursday and Friday (February 17–18) he will attend his last Regents' meeting as the senior Regent in terms of years on the Board. His successor will be appointed by the Governor and begin serving March 1.

In Pauley's three decades he has contributed to significant advances in higher education, twice guided UC matters as chairman of the Board, participated in decisions at historic moments in the University's history, and donated more than $2.2 million to UC.

"Regent Pauley over the years has contributed perhaps more than any other member of the Board to the growth and stature of the University," Regents' Chairman William French Smith said. "His has been a strong voice in higher education, and I know he will remain close to the University he has loved and supported for nearly a third of a century."

Pauley was appointed a Regent in 1940 by Governor Culbert Olson, but he really first became a member of the University community in 1919 when he enrolled as a student in UC's Southern Branch, now UCLA. He later transferred to Occidental College, and came to Berkeley in 1921.

"I have been closely associated with the University ever since and the sense of its worth has increased through the years," Pauley reminisced in a recent book. He received his B.S. degree in 1923 and started work toward a master's degree. The following year he left UC to help his father's business, and in 1929 he founded The Petrol Corporation. In 1958 he founded Pauley Petroleum, Inc. He is now its board chairman.

He returned as a Regent, and as UC President Charles J. Hitch commented in a recent testimonial: "So began an association of man and institution remarkable both for its length and for its intensity."

In 1940 there were only two general campuses at Berkeley and Los Angeles. Now there are nine campuses. "That the University has grown so enormously—in size and in stature—is due in no small part to Ed's wise counsel and generous spirit," Hitch said. "He has contributed time, effort, love, and treasure to the growing University, and she will bear forever both the tangible and intangible marks of his generosity." Some of Pauley's contributions:

He gave $1 million toward development of UCLA's Memorial Activities Center; the Pauley Pavilion there was named in his honor. He donated another $1 million toward construction of the Student Union at Berkeley. The Barbara McHenry Pauley Ballroom there is named for his wife.

A $25,000 gift aided development of the Jules Stein Eye Institute at UCLA, which performs research related to vision, cares for patients with eye diseases, and carries on education in ophthalmology.

Use of instructional TV got its start at UC Santa Barbara with Pauley's gift of cameras and other equipment for televised lecture-demonstrations to supplement classroom and laboratory sessions.

Pauley donated funds for scholarships, medical and scientific research, alumni and student facilities, athletics, development of musical talent, and other purposes. His support helped the famed Berkeley band perform in concert tours abroad.

He donated funds for the Chester W. Nimitz Room at Berkeley; the room houses books, trophies and memorabilia tracing Admiral Nimitz's career.

Pauley and his wife have also helped develop the Institute of Marine Biology at the University of Hawaii by donating facilities and providing grants to UC graduates in marine science for a year of research.

Pauley helped inspire and develop UC Berkeley's Lawrence Hall of Science, a center for research and development programs to enhance science education for the nation's youth. The octagonal shaped building high in the Berkeley hills in a memorial to the late Ernest O. Lawrence, nuclear scientist, Nobelist and first director of the Lawrence Berkeley Laboratory. In 1958 Pauley served as chairman of the original planning comittee for the building, and later gave $100,000 toward its development. An area for exhibits and demonstration programs there is named the Edwin W. Pauley Nuclear Science Center.

The gifts are only part of the story. "Regent Pauley understood the potentials of nuclear science," said Dr. Edwin McMillan, Nobel Laureate and current director of the Lawrence Berkeley Laboratory. "His vigorous support helped make possible the extensive intellectual and practical contributions of the Lawrence Berkeley Laboratory and the Lawrence Livermore Laboratory."

With other Regents, Pauley supported creation and development of new campuses at Irvine, San Diego and Santa Cruz. He also helped support creation of special programs, among them Regents and President's Scholarships for outstanding students who need financial aid to attend the University; scholarship assistance for highly talented high school students whose motivation and preparation may not have been adequate to assure University admission; and intercampus exchange programs to bring students throughout UC together for educational and cultural activities.

While a Regent, Pauley served as board chairman in 1956–58 and 1960–62. He has been a member of several regental committees, chairman of the Investments and Finance committees, and chairman of several special committees. "University concerns take up nearly half my time," he wrote two years ago. When he was board chairman, he added, they took up even more.

"He has been one of the hardest working and most dedicated members of the Board," noted Secretary of the Regents Marjorie Woolman. "I think this love for the University results from his deep loyalty and his pride in its achievements and contributions. His and Mrs. Pauley's commitment has been such that the University will remain a vitally important part of their lives."

For many years Pauley was also active in national and international affairs. He was President Roosevelt's personal representative on the first Lend Lease Mission to the Soviet Union when the Nazis attacked the USSR. (So to confer with Stalin, he flew from Scotland around the Cape of Norway to Russia in an unarmed and vulnerable PBY.) He organized and staffed the Petroleum Administration for War which built the first transcontinental oil pipeline from Texas to the fuel-starved East Coast.

He also served in government positions during World War II, culminating in his appointment as President Truman's personal representative and U.S. Ambassador for Reparations; he later attended the Potsdam Conference as a presidential adviser. He then was Truman's Ambassador for Japanese Reparations. The President later appointed me special assistant to the Secretary of Defense," Pauley recalled, "to aid in the organization of the various branches of the military into one department."

In addition to his regental and public service posts, Pauley is a director of Western Airlines, Inc., a member of the Boards of Trustees of Occidental and Pepperdine Colleges and of the Governing Board of Georgia Military Academy. He has received honorary degrees from Pepperdine and Santa Clara University.

Pauley's vision of the future for the University of California could apply to any of his other activities, or to almost any other important human endeavor. In the University's future, he said recently, "challenge—and opportunity—and indeed a splendid destiny await us. We—if we will and if we dare—can bring a vast resource of human spirit and probing mind to bear on problems that beset our day. And out of our effort—if indeed we make the effort and, making it, prevail—will come the promise, better yet, the guarantee of the enduring enhancement of the quality of human life."

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## ESTONIAN INDEPENDENCE DAY

### HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. SARBANES. Mr. Speaker, February 24, 1918, stands as a historic milestone for all men and women who cherish freedom. On that date, after centuries of foreign oppression the Republic of Estonia declared itself sovereign and independent of all foreign rulers. This bold decision in the closing days of World War I was indeed a courageous one for Estonia who was at that time under occupation by foreign armies. The proud, determined Estonians under the leadership of Col. Johan Laidoner rose up to expel their oppressors and of February 24, 1919—the first anniversary of Estonian Independence Day—it could be reported that the occupying forces had been cleared from national territory. The names of Konstantin Pats, Jaan Tonisson, and Jaan Teenant will always be remembered for their contributions to the Estonian independence movement and later to the government of the country.

Bounded on the west by the Baltic Sea, Estonia's land and ports have been desired by foreign nations throughout history. It has been repeatedly invaded and occupied by aggressive neighbors. Despite its tragic history however this small nation and its people survived these repeated onslaughts with a strength and resiliency of character and purpose that preserved its culture and traditions.

Estonia's proud and rich history dates from the earliest days of recorded time. The Roman historian Tacitus mentioned the Estonians in his Germania and the Vikings settled in Estonia in the 9th century A.D. Unfortunately, the country would suffer frequent invasions in subsequent centuries. During the 19th century the Estonians further strengthened and developed their national culture. In 1838, F. R. Faehlmann organized the Estonian Learned Society which collected under the direction of F. R. Kreutzwald the narrative folk songs into a national epic poem, the Kalevipoeg. The first Estonian newspaper, Parnu Postimees, was founded by J. W. Jannsen in 1857. One cannot underestimate the importance of the first national singing festival at Tartu in 1869; such festivals later became a lasting tradition.

The turmoil and confusion at the end of World War I gave the provisional Estonian government the crucial opportunity to declare independence on February 24, 1918. A constituent assembly was elected and, with August Rei as president, approved a new constitution. Many scholars have noted the fair mindedness and sensitivity to human rights which characterized Estonia's Constitution. It has been described as:

> The mature deliberation of a people staunchly devoted to the cause of democracy and impelled to the creation of a regime of social and political liberty by every tradition of a somber past.

One example of this sensitivity to human rights was the guaranteeing to linguistic minorities in the country the use of their own languages in the courts.

Estonia's hard won freedom was shortlived, however, for in the critical days before World War II Estonia was occupied by Soviet Russia. Subsequently, the advancing Nazis were to become the occupying force for most of World War II, but as they retreated at the war's end, the Russians again overran the country to place it behind the Iron Curtain.

The people of Estonia cannot celebrate freely with us on this 54th anniversary of Estonian Independence Day for they are denied the important principles of self-determination, independence and liberty. It is therefore especially important that on this day citizens who cherish freedom share the hope that someday the flame of liberty will once again burn brightly in Estonia.

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## SCIENCE AND GOVERNMENT REPORT NEWSLETTER SHOWS TECHNICAL UNEMPLOYMENT WORSE THAN REALIZED

### HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. BRADEMAS. Mr. Speaker, at a time when many of our serious domestic problems could be at least in part alleviated by the application of scientific and technical solutions, the United States is confronted by disgracefully high unemployment among scientists and engineers. The Nixon administration has tried to downplay the extent of this unemployment, but as noted in the Washington-based and highly authoritative publication, Science and Government Report, the actual extent of joblessness among highly trained scientists and engineers exceeds the official figures. To help illuminate this problem, I place in the RECORD the following article from the December 16, 1971, issue of Science and Government Report:

> Unemployment among scientists and engineers is far worse than government figures indicate, and it is getting still worse.
>
> That is the conclusion that emerges from

an effort by SGR to pin down the source of the "50,000 to 65,000" that administration officials routinely cite as the range of current professional unemployment in the research and development community. Whatever the realism of the numbers, their durability cannot be faulted, though the period over which they have been stated has been characterized by a continuing deterioration in the employment situation. The debut of 50,000 to 65,000 took place last February when the Department of Labor's Division of Labor Market Information issued a special study. Though the information that went into that study was a bit stale at the time, the Division has not returned to the subject, and officials there still recite the study numbers when asked about unemployment among scientists and engineers.

The next appearance apparently was in March, when Malcolm R. Lovell, Assistant Secretary of Labor for Manpower, addressed a meeting of science advisers to state governments. This time, however, technicians were added and the scope was narrowed to aerospace and defense employment. "Our best estimates," Lovell said, "are that these cutbacks have resulted in unemployment for 50,000 to 65,000 engineers, scientists and technicians who formerly worked in defense and aerospace jobs."

Then, on October 27, NSF Director William D. McElroy, apparently talking about scientists and engineers everywhere, but not technicians, told a Congressional committee, "Our current estimates are based on a variety of information which includes Bureau of Labor Statistics (BLS) information and our own just completed surveys. We estimate that there are now about 50,000 to 65,000 unemployed scientists and engineers . . ."

In response to an inquiry, a BLS official said the Bureau does not compile figures on scientists and engineers. "We just cover professional, technical, and kindred personnel in our monthly surveys," he said. "The only detail we have is on engineers, but that's only for administration use. We never publish it." It was learned, however, that the BLS figure for unemployment among engineers is approximately 3 percent, as compared with the 3.4 percent that NSF found in the survey referred to by McElroy. Based on a study conducted for NSF by the Engineers Joint Council, the survey drew a 65 percent response last June and July from 100,000 engineers, which constitutes a 20 percent sampling of a mailing list of members of major engineering society. Into the figure of 3.4 percent unemployed went only those who were out of work and who wanted work. Not included were the 6.9 percent employed in non-engineering work; of this percentage, it is significant to note, about one-third had accepted non-engineering employment since March 1970. In any case, the engineer driving a taxi does not show up in the figures as an unemployed engineer. Nor does the figures cited in October by McElroy reflect the difficulties that recent graduates have encountered in finding employment. According to the November Engineering Manpower Bulletin, published by the Engineers Joint Council, 9 percent of engineers at the bachelor's level were without job offers or "firm plans" at the time of graduation last June. "Although this may not appear high in absolute terms," the publication observes, "it is about double the figure for 1970 and in sharp contrast to the boom years of 1965–1969 when practically every graduate was employed." It also noted that bachelor degree graduates entering military service totaled 14 percent of the group—the highest figure since placement surveys began, in 1958. "If this number of graduates had not gone into the armed forces," the Bulletin states, "they would probably have had to join the group with no job offers."

A far grimmer picture is found in the results of a survey conducted by the American Chemical Society following last June's graduations. "Unemployment among new graduates was the highest reported by the Society in the last twenty years," according to the ACS analysis. "In chemistry, unemployment doubled—from 5.1 percent in 1970 to 10.3 percent this year. Among new chemical engineers, an alarming 12.8 percent were unemployed in 1971. This situation may be one reason why the largest number of chemical engineering students in ACS history (10 percent) reported that they had entered military service."

NSF's study of scientists, drawing on an 85 percent response to questionnaires sent to the 300,000 scientists listed in the 1970 National Register of Scientific and Technical Personnel, was tabulated May 25, and therefore misses out on the fate of last June's graduating class. In addition, the figure that it cites of 2.6 percent unemployment among scientists does not reflect any of the 5.6 percent holding down non-science related jobs. Of these, 1.6 percent had accepted their positions since March 1970, which may fall within the normal order of things, but in science as in engineering, the Ph. D., cabbie doesn't show up in the tabulations of unemployment.

Where, then, does the 50,000 to 65,000 come from? The suggestion of one White House aide is that "it comes out of people's heads"—which may be the case. Working with figures derived from NSF's studies of unemployment among scientists and engineers, one finds the following: NSF put the scientist population at 500,000, and found that 2.6 percent, or 13,000 were out of work; the engineers were estimated at 750,000, which means that with a 3.4 percent unemployment rate, 25,500 were jobless. Grand total: 38,500.

The most realistic estimate of the situation was provided October 26 by Betty M. Vetter, executive director of the Scientific Manpower Commission, in testimony before the Senate Labor and Public Welfare Committee. Mrs. Vetter's numbers and forecasts were indeed grim:

"As nearly as I can determine," she testified, "there are about 60.000 scientists and engineers, including 1971 graduates at all degree levels, who are literally unemployed. Using the generally accepted ratio of seven technicians for each 10 scientists, and additional 40.000 technicians may be jobless.

"There are perhaps half again as many who are employed part-time, temporarily or permanently, at some activity totally unrelated to their scientific training. The majority of these are seeking employment in their fields, or would be seeking such employment if they thought there was any chance of finding it.

"A third group of unknown magnitude are underemployed, in the sense that they are performing work in some way related to their training, but which could be done by persons with lesser training."

Mrs. Vetter concluded that the groups she had described had almost doubled in a year "and there seems little indication that we have yet reached the peak unemployment level in this population."

### SCORECARD ON JOB PROGRAM

Last spring, President Nixon called a press conference at San Clemente to announce that the Department of Labor was establishing a $42-million Technical Mobilization and Reemployment Program (IMRP) to assist unemployed scientists and engineers. What has happened since then? Not much.

As of November 26, a total of 24,013 persons had registered with the program. Of these, 2713 later found employment, presumably with the assistance of TMRP. "Job search grants," providing a maximum of $500 each, have been given to 1670 persons, and "relocation grants," up to $1200 each, have been given to 438.

Little is now heard of the once-touted computerized "Job Bank," in Sacramento, Calif., which was intended to match up the jobless and jobs. As of September 10, the Bank had registered 12,500 applicants and had notifications of 2200 job openings. Referrals to jobs totaled 9700. Placements: 22.

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## FOREIGN AID AND SEIZURES

## HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DUNCAN. Mr. Speaker, I would like to call the attention of Members of this body to an editorial in the Knoxville, Tenn., News-Sentinal concerning our investment in undeveloped countries. I think this is an excellent analysis.

The article follows:

### FOREIGN AID AND SEIZURES

Just as his predecessors did, President Nixon has been encouraging U.S. companies and investors to go into so-called "undeveloped" countries.

But Peter G. Peterson, then the President's assistant for international economic affairs and now named secretary of commerce, says U.S. investment in undeveloped countries has fallen off—from 35 per cent of total investment abroad in 1960 to 28 per cent in 1970.

The reason for this is clear: Too many small-country politicians, or dictators, or military juntas, have been seizing U.S.-owned properties and not even paying for them.

This has happened in Peru, Bolivia, Ecuador and, since Salvadore Allende Gossens became president last year, in Chile.

Under a law passed years ago by Congress, the Government is directed to shut off U.S. aid in such circumstances. But the law never has been enforced, except in one instance (Ceylon, in 1963).

Now President Nixon has indicated he may enforce this requirement. In gist, his statement says that instead of presuming U.S. aid will continue, any country expropriating U.S.-owned property must now presume that assistance will be shut off. Although there are some "ifs" in this—the cutoff will not be automatic.

Expropriation without compensation is nothing less than stealing. The politicians who grab these properties not only commit that offense, but they cheat their own country, because every one of these undeveloped nations needs outside capital to improve itself.

And why should the American taxpayer put up money to help a country which needs help while the short-sighted politicians of that country are plundering property belonging to other American taxpayers It doesn't make any kind of sense.

# SENATE—*Friday, February 25, 1972*

The Senate met at 10 a.m. and was called to order by Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who hast created man in thine own image, grant us grace fearlessly to contend against evil and to make no peace with oppression; and that we may reverently use our freedom, help us to employ it in the maintenance of justice among men and nations, and establish among them that peace which is the fruit of righteousness.

In daily toil, in private life and public ceremony, help us to serve Thee as a people of one nation under God, to the glory of Thy holy name. Amen.

## DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., February 25, 1972.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
*President pro tempore.*

Mr. EAGLETON thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, February 24, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

## DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Robert Stephen Ingersoll, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait, to the State of Bahrain, and to the State of Qatar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman and to the United Arab Emirates.

Mr. MANSFIELD. Mr. President, it was my privilege to meet Ambassador Stoltzfus, Jr., a Foreign Service officer, about 15 years ago in Aden. I was very much impressed with his knowledge, his perspicacity, and his understanding at that time.

I am delighted that Ambassador Stoltzfus, who is now accredited as our representative to Kuwait, has had his jurisdiction extended to include the Sultanate of Oman and the United Arab Emirates.

Ambassador Stoltzfus is a man of extraordinary capabilities, and I want the RECORD to show my high regard for this nomination and my deep appreciation of his courtesy down through the years and his understanding of the area to which he is now assigned.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## ACTION

The second assistant legislative clerk read the nomination of Kevin O'Donnell, of Maryland, to be an Associate Director of ACTION.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

The second assistant legislative clerk read the nomination of William Rinehart Pearce, of Minnesota, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## OVERSEAS PRIVATE INVESTMENT CORPORATION

The second assistant legislative clerk read the nominations in the Overseas Private Investment Corporation, as follows:

Dan W. Lufkin, of Connecticut, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1974;

J. D. Stetson Coleman, of Virginia, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1974.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 602 and up to and including No. 608.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## CLINTON M. HOOSE

The bill (H.R. 1824) for the relief of Clinton M. Hoose, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–635), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE

The purpose of the proposed legislation is to pay Clinton M. Hoose, $3,634.64 in full settlement of all his claims against the United States for the amount equal to a reduction in his salary from October 1, 1962, to October 30, 1964, while he was a contract employee of the Central Intelligence Agency. The reduction was required to comply with then applicable provisions of Federal law relating to restrictions on the concurrent receipt of civilian compensation and military retired pay, which provisions were later rendered retroactively inapplicable to certain retired officers by section 201(g) of the Dual Compensation Act of 1964.

### STATEMENT

The facts of this case as contained in House Report 92–69 are as follows:

The Comptroller General in his report to the committee on the bill made no recommendation as to enactment of the bill. The

Central Intelligence Agency questioned relief.

Mr. Hoose retired for physical disability as a retired regular officer of the Army in 1957. His retirement was effected under section 515 of the Officer Personnel Act of 1947. At the time of his retirement and thereafter until the date of enactment of the Dual Compensation Act, Public Law 88-448, the employee was subject to the limitation on combined military retired pay and civilian compensation contained in said section 212 of the Economy Act of 1932, as amended (5 U.S.C. 59a (1964 ed.)). Following his retirement Mr. Hoose was employed by the CIA as a contract employee and in January 1962 the compensation payable under the contract was $9,215. However, effective October 1, 1962, at the request of Mr. Hoose the compensation payable under the contract was renegotiated to a lower figure, that is, $7,397.68. This lower figure was established to enable Mr. Hoose to receive his full retired pay thereby placing him in a more favorable income tax situation, it being recognized that section 212 of the Economy Act precluded his receiving combined civilian pay and retired pay at a rate in excess of $10,000 per annum. Thereafter the contract was extended through October 30, 1964.

Section 201(g) of the Dual Compensation Act provides as follows:

"(g) A member of any of the uniformed services, serving in the Army or Air Force of the United States without component, under an appointment made under section 515 of the Officer Personnel Act of 1947, in a temporary grade higher than, or the same as, the reserve commission he then held, who, prior to the effective date prescribed by section 403(a) of this Act, was retired for physical disability in such temporary grade, shall not be considered as subject to the restriction on the concurrent receipts of civilian compensation and retired pay contained in section 212 of the Act of June 30, 1932, as amended 5 U.S.C. 59a), for any period following such retirement."

The effect of the quoted statute was to exempt from the application the restriction contained in section 212 those officers to whom the quoted section applied. The exemption granted under the section was retroactive to the date of the retirement of the individuals concerned which completely nullified the restriction in the prior law, and the decisions of the General Accounting Office construing such restrictions, as it applied to such individuals. (See 44 Comp. Gen. 119.)

As pointed out above, effective October 1, 1962, and extending through October 30, 1964, the civilian compensation of Mr. Hoose was reduced voluntarily by agreement of the parties to an amount which when added to his retired pay would not exceed the limitation in section 212 of the Economy Act. While the purpose of such reduction obviously was to avoid violation of section 212, nevertheless, since it was accomplished by a reduction in his civilian compensation by voluntary action of the parties rather than by a reduction in his retired pay by operation of law, section 201(g) of the Dual Compensation Act would not appear to have any application. In this connection, the report of the Comptroller General stated "* * * we concur in the administrative view that legislation is necessary to grant the relief sought by Mr. Hoose."

The committee has determined that this is a proper case for legislative relief. The Central Intelligence Agency has pointed out that the employee agreed to the reduction. The fact that the reduction was made by a renegotiation of the contract rather than by operation of law is the very reason the remedial statute does not accord relief to Mr. Hoose. It also seems unfair to emphasize the fact that the individual made a choice of receiving disability pay due him under applicable law as a retired officer because the choice gave him a tax advantage. This was an advantage accorded him by Federal law and merely served to ameliorate the required reduction. However, that may be, the money to be paid as provided in this bill is still described as salary. In view of these considerations, it is recommended that the bill be considered favorably.

In agreement with the views of the House of Representatives, the committee believes that the bill is meritorious and recommends that it be favorably considered.

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## MRS. ROSE SCANIO

The bill (H.R. 2828) for the relief of Mrs. Rose Scanio, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-636), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE

The purpose of the proposed legislation is to authorize the Postmaster General, on such terms as he deems just, to compromise, release, or discharge in whole or in part, the liability to the United States of Rose Scanio, a window clerk at the U.S. Post Office, Melrose Park, Ill., for the loss resulting from a theft on December 18, 1967, at that post office.

### STATEMENT

The Post Office Department in its report to the House committee indicated that it would have no objection to the bill since it provided the authority for discretionary relief.

As is outlined in the departmental report, on December 18, 1967, there was a loss of $1,511.03 in postal funds as a result of a theft from the post office at Melrose Park, Ill. The postal investigation disclosed that the funds were stolen from a tray or insert from a drawer that a window clerk, Mrs. Scanio, had placed on top of the counter at the service window where she worked. It is established that it was Mrs. Scanio's custom to work with the insert on the countertop. When she returned to the service window, after a brief absence, she discovered the cash was missing. It appears that a thief used a metal clothes hanger to pull the cash container through a 2-inch opening between the countertop and the bottom of the bars on the window.

The Post Office report noted that section 442.21 of the Postal Manual, which was in effect at the time the loss occurred, directed that postal funds be kept in places inaccessible to the public and concealed from view. The regulations further provided that when funds were not under continuous observation, they should be placed in a securely locked receptacle. Under these circumstances, it was concluded that Mrs. Scanio was negligent and liable for the amount of the cash lost by the theft.

In stating it had no objection to the bill, the Department stated:

We believe some relief should be granted to employees in cases of this kind. However, consideration should also be given to the fact that the employee was negligent. For this reason we concur in the language of H.R. 2828 which would authorize the Postmaster General, on such terms as he deems just, to relieve the named employee of liability in whole or in part with respect to the transaction involved. In view of the foregoing, the Postal Service has no objection to the enactment of H.R. 2828.

The committee notes that the relief provided in this bill would be provided by the enactment of language which has previously been approved by the committee. Examples of private laws in the current Congress granting relief in this form are Private Law 92-3, Private Law 92-5 and Private Law 92-7.

The committee agrees that this language provides the most practical means for reaching a just result in this case. It will enable the Postmaster General to grant relief in a manner which will recognize the interest of the Government, and the interest of the employee. In this connection it can be noted that the recently enacted revision of the postal laws now provide authority for relief in section 2601 of revised title 39 of the United States Code. It is recommended that the bill be considered favorably.

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## ROY E. CARROLL

The bill (H.R. 2846) for the relief of Roy E. Carroll was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-637), explaining the purposes of the measure

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE

The purpose of the proposed legislation is to relieve Roy E. Carroll, of Wellesley, Mass., of liability in the amount of $1,365 for overpayment of active duty pay in the period from February 1963 through October 1964 as a result of administrative error on the part of Navy personnel with respect to allotments sent to his mother.

### STATEMENT

The Navy in its report to the House committee stated it would interpose no objection to the bill's enactment. The Comptroller General in the report of the General Accounting Office questioned relief.

The overpayment referred to in this bill occurred when an allotment in the amount of $65 per month was not discontinued, when checkage of Mr. Carroll's account was discontinued. The allotment continued to be paid from February 1963 through October 1964, when the error was discovered, resulting in an overpayment of $1,365. At the time of Mr. Carroll's transfer to the Fleet Reserve on March 18, 1966, all of the overpayment except $727.32 had been liquidated. The remainder of $727.32 had been withheld from his retainer pay at a monthly rate. The final collection was made on July 31, 1967.

In its report to the House committee, the Department of the Navy stated that it is its policy not to oppose private relief legislation in cases of overpayment, which are made through no fault of the recipient, if the overpayment was neither detectable nor could reasonably be expected to be detected. Mr. Carroll's records in the Bureau of Naval Personnel contain two letters which bear on this case, one written by Mr. Carroll on March 16, 1965, prior to his transfer to the Fleet Reserve and another written by him on April 5, 1966. At the time of the overpayments Mr. Carroll was on active duty in the Navy as a photographer's mate first class (E-6). He indicates in these letters that in January 1963 he was transferred to the Naval Photographic Center, Washington, D.C., where his pay was changed from a twice-monthly to a biweekly system. At this time he had also applied for an allotment to his wife. He states that he noticed some irregularity in his pay but was assured by disbursing personnel that it was only a result of the changeover in the pay system. In October 1964 Mr. Carroll was transferred to the Naval Station, Roosevelt

Roads, P.R., where once again his pay was on the twice-monthly system. The discrepancy with respect to the allotment to Mr. Carroll's mother was discovered at this time.

The letters written by Mr. Carroll to the Bureau of Naval Personnel indicate that he did know his mother was receiving an allotment and did suspect that his pay was irregular. However, he appears to have made reasonable efforts to determine the correct status of his pay and was assured that his records were in order.

This committee requested the claimant to submit a statement outlining the details of his claim. The committee is of the opinion that his statement demonstrates that he made reasonable efforts to place the Navy Department on notice that there was an overpayment and that the overpayments were without fault on his part.

The committee has carefully considered the facts referred to in the letter of the Department of the Navy concerning the circumstances surrounding the overpayment. In line with the suggestion of that Department concerning the weight to be given the statements contained in this letter, the committee after consideration has concluded that they justify relief. Accordingly it is recommended that the bill be considered favorably.

### LLOYD B. EARLE

The bill (H.R. 4497) for the relief of Lloyd B. Earle was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–638), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Army Claims Service to consider the claim of Lloyd B. Earle arising out of an automobile accident which occurred on February 20, 1967, involving a vehicle operated by a member of the U.S. Army.

#### STATEMENT

The facts of this case as contained in House Report No. 92–545 are as follows:

"A motor vehicle owned and operated by Mr. Lloyd B. Earle was involved in a collision with an Army vehicle on February 20, 1967. The Army vehicle was operated by an Army officer and in the accident, Mr. Earle was injured and his automobile was damaged.

"Mr. Earle's insurance agent, Palmer H. Goodrich, by letter dated April 18, 1967, notified the Army of Mr. Earle's intended claim against the Government. On May 2, 1967, the Staff Judge Advocate, 1st U.S. Army, replied: "Pursuant to your recent communication by which you indicated a desire to make a claim against the United States, enclosed are four copies of Standard Form 95, Claim for Damage or Injury, for use in formally presenting your claim." An instruction sheet was also enclosed. Neither the claim forms (SF 95) nor the instruction sheet specified a time limit on filing, but Mr. Earle's insurance adjuster erroneously advised the claimant "that he had 3 years to file a claim." Because Mr. Earle did not file his claim with the Army until April 1, 1969, 39 days after the applicable 2 years' time limit had expired, it was disallowed. He then filed an action in the Federal courts, but it was dismissed for the same reason.

"In indicating that it would have no objection to a bill authorizing consideration by the Army Claims Service, the Army stated it is not opposed to a waiver of the statute of limitations in this instance so that the claim may be processed through normal administrative channels. The Department took express notice of the fact that the insurance agent acting in Mr. Earle's behalf gave the Army notice of the claim less than 2 months after the accident. The accident was investigated without delay and therefore the Government's interests were not prejudiced by a late filing of a formal claim. It is for this reason that the Army has stated that it would be equitable under the facts of this case to give the claimant an opportunity to have his claim heard on its merits by the U.S. Army Claims Service. Accordingly, the committee recommends that the amended bill be considered favorably."

In agreement with the views of the House of Representatives the committee recommends that the bill be favorably considered.

### NINA DANIEL

The bill (H.R. 4779) for the relief of Nina Daniel was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No 92–639), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE

The purpose of the proposed legislation is to relieve Nina Daniel, a former cashier in the Accounting and Finance Office of the Stewart Air Force Base of liability of $4,250, based on a loss of money which occurred between October 24, 1969, and October 27, 1969, at the accounting and finance office at that airbase. The bill would authorize the refund of any amounts paid or withheld by reason of the liability.

#### STATEMENT

The Department of the Air Force in its report to the committee recommended favorable consideration of the bill.

The Department of the Air Force in its report stated that—

"From November 1968, until deactivation of Stewart Air Force Base in December 1969, Mrs. Daniel served as a cashier in the accounting and finance office. Her duties included payment of certified vouchers and cashing of payroll checks for members of the uniformed services assigned to the vicinity of Stewart Air Force Base. She normally transacted between $5,000 and $8,000 cash business daily with the volume reaching as high as $30,000 on payday. Prior to her assignment to this GS–5 position, Mrs. Daniel received training in the proper procedures for accounting for funds entrusted to her, for safeguarding the funds and for the proper storage of the funds during other than regular business hours.

"When she reported for duty on Monday, October 27, 1969, Mrs. Daniel noted that it appeared some of the cash was missing. An audit of her account showed a shortage of $4,250. Investigation by the Federal Bureau of Investigation and the Office of Special Investigations failed to provide conclusive evidence as to the person or persons who took the money. A board of officers, convened to determine the proximate cause of the loss, developed that on Friday, October 24, 1969, after accounting for all cash and other transactions, Mrs. Daniel placed the cash in the safe located in the accounting and finance office. After locking the safe, and shortly before closing time, her supervisor requested she make a cash payment to a transient soldier. She unlocked the safe, removed the cash and made the payment. During the board proceedings, she admitted that after making the payment, she might have left the cash out of the safe in an unlocked drawer where she found a small portion of it Monday morning. The board concluded that the loss of $4,250 was caused by Mrs. Daniel's negligence in not placing the cash in the safe and locking it before leaving the office on Friday. The board recommended she be held pecuniarily liable for the loss.

"Through her attorney, Mrs. Daniel appealed the findings and recommendation of the Secretary of the Air Force. Under the law (31 U.S.C. 95a), if the Secretary determines that a loss was in line of duty and occurred without fault or negligence on the part of the individual responsible for the funds, the Secretary may relieve the individual of liability for the loss. In Mrs. Daniel's case, the Secretary determined the loss was the result of negligence on the part of Mrs. Daniel and, therefore, she could not be relieved of liability for the loss under the provisions of the law."

The Air Force states that there are no administrative procedures under which Mrs. Daniel may be relieved of the liability which is the subject of this bill. It is recognized that she incurred this indebtedness as the result of the performance of her official duties with the Air Force. The Department states that the investigation of the loss established that there was no fault on the part of Mrs. Daniel and further that at all times she had demonstrated her good faith in the performance of her duties.

Mrs. Daniel has been employed by the Federal Government for more than 17 years. The Department of the Air Force states that during her service as an employee of the Air Force, she was a diligent, conscientious, and trustworthy employee. After deactivation of the Stewart Air Force Base, she took a job with the U.S. Military Academy at West Point, N.Y. and at the time of the Air Force report was employed at the Academy. The information supplied to the committee indicates that restitution of the loss would cause Mrs. Daniel severe financial hardship because of her relatively low income and because her husband, who had been employed by the Academy, was being considered for retirement from his Government position because of several heart attacks.

In recommending the relief provided in this bill, the Department of the Air Force recognized the financial hardship aspect involved in the case and took notice of Mrs. Daniel's otherwise outstanding employment record. In this connection the Department stated:

"In view of the financial hardship aspects involved, and Mrs. Daniel's otherwise outstanding employment record, we believe it would penalize her severely to require that she make restitution to the United States in the amount of this loss.

"In view of the foregoing, the Air Force recommends favorable consideration of H.R. 4779."

In view of the favorable recommendation of the Department of the Air Force and the particular facts of this case, the committee has concluded that this matter is a proper subject for legislative relief.

The committee is advised that an attorney has rendered services in connection with this matter. Accordingly, the bill contains the customary attorney fee limitation.

### SALMAN M. HILMY

The bill (H.R. 6998) for the relief of Salman M. Hilmy was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report

(No. 92-640), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Comptroller General of the United States to settle and adjust the claim of Salman H. Hilmy, an employee of the U.S. Information Agency, for reimbursement of the amount he was required to pay in settlement of a default court judgment rendered by a local court in Rhodes, Greece. The bill limits the amount which may be allowed in full and final settlement of the claim to $843.33.

STATEMENT

The bill H.R. 6998 was introduced as recommended by the Comptroller General of the United States in a communication to the Speaker of the House of Representatives dated March 24, 1971. The Comptroller General recommended relief for Mr. Salman M. Hilmy in accordance with the Meritorius Claims Act provisions of 31 U.S.C. 236 (act of April 10, 1928; 45 Stat. 413).

In his report, the Comptroller General stated that Mr. Salman M. Hilmy, an employee of the U.S. Information Agency, was assigned to the Radio Program Center on the island of Rhodes, Greece. The bill would make it possible to reimburse him in an amount not to exceed $843.33 for a payment he was forced to pay his former landlord in Rhodes in settlement of a default court judgment taken against him by the landlord. The committee has reviewed the facts as outlined in the communication and as set forth in additional information submitted to the committee by the Comptroller General, and concluded that relief is merited because the default judgment was taken against the employee after he had relied on information given him by his superiors to the effect that he was protected against such a result by reason of his official status.

The history of this matter dates back to April 1, 1966, when Mr. Hilmy entered into a 1-year lease for a house in Rhodes. He was notified by his landlord by letter, dated Febuary 9, 1968, that if he renewed his lease for 1 year, the rent would be increased to a stated amount, and that if he planned to vacate the house, he should notify the agent at least 30 days before expiration of the lease. Mr. Hilmy did not respond to the letter, but did remain in possession of the house after March 31, the expiration date of the lease. The reason for his inaction in regard to the letter was the Government quarters which the U.S. Information Agency was planning to provide, while not ready for immediate occupancy, would shortly be available and that he would be required to move into same. Prior to the expiration of the lease, Mr. Hilmy's superior officer advised him to remain in his house and that because of diplomatic immunity he would not incur any liability to his landlord other than for rent for the period of occupancy. Subsequent to expiration of the lease Mr. Hilmy was notified that his Government quarters would be available for occupancy on July 1, 1967. On May 19, 1967, he wrote to his landlord's agent advising of his intent to vacate the house on July 1, 1967. He was thereafter advised by his landlord, for the first time, that by his holding over after March 31, 1967, he had extended his lease for 1 year and that he would be held liable for the rent for that period, and that this would be enforced by court action if necessary. Mr. Hilmy reported this to his superior officers and was advised that because of his diplomatic immunity he should ignore the threat.

Suit was filed on or about July 19, 1967, in the magistrate's court of Rhodes by the landlord. Mr. Hilmy again consulted his superior officers and was instructed that because of his diplomatic immunity he should not appear in court to defend the suit. This advice was based upon instructions received from the American Embassy in Athens. The Embassy also instructed the USIA office in Rhodes to send a letter to the same effect to the court. Such a letter was sent and included a statement that the U.S. Embassy would submit a note verbale to the Royal Ministry of Foreign Affairs in reference to the lawsuit and to the diplomatic status of Mr. Hilmy. Although the record is not clear in this respect, it indicates that such a note verbal was sent on or about October 20, 1967.

In the meantime, however, a default judgment was rendered on or about September 5, 1967. Attempts to establish diplomatic immunity in this legal action were unsuccessful with the result that Mr. Hilmy's automobile was impounded by the Rhodes authorities in February 1969 for his failure to satisfy the default judgment. A compromise settlement was subsequently negotiated with the former landlord, and the automobile was released in October 1969 upon payment by Mr. Hilmy of $843.33.

Mr. Hilmy submitted a claim to the U.S. Information Agency for reimbursement of the amount expended by him inasmuch as his failure to appear in court was by reason of advice and instructions given by his superiors. The Agency, in submitting the claim to the General Accounting Office, stated:

"The Agency believes that this claim is meritorious, and is perfectly willing to honor it. However, there is doubt as to our legal authority to do so. Therefore, your decision is requested as to (A) whether or not we may properly certify the claim for payment or (B) if not, whether we may pay to Mr. Hilmy an amount not in excess of $843.33 as and for the allowance for quarters to which he would have been entitled had he remained in his landlord's house through March 31, 1968."

There is no basis upon which payment may be authorized by the General Accounting Office since it is an established rule of law that, absent a specific authorizing statute, the United States, as sovereign, may not be obligated or made liable for the erroneous or unauthorized acts of its officers or employees even though expenses may have been incurred by another party as a result thereof. With respect to the question of payment at this time of an amount not in excess of the allowance for quarters to which Mr. Hilmy would have been entitled had he remained in the rented quarters, the Comptroller General noted that the applicable regulations (sec. 132.43, standardized regulations (Government Civilians, Foreign Areas)) require the termination of such allowance on the date immediately preceding that on which the Government quarters are made available, in this case, July 15, 1967.

On the basis of the factual and legal basis detailed above, the Comptroller General concluded that Mr. Hilmy's claim is deserving of consideration by the Congress because of the equities involved in the matter. The committee agrees that under these specific circumstances, it is unfair to compel the employee to bear this financial loss. Accordingly, it is recommended that the bill be considered favorably.

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## ROBERT J. BEAS

The bill (H.R. 7871) for the relief of Robert J. Beas was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-641), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Postmaster General on such terms as he deems just, to compromise, release, or discharge either in whole or in part the liability of Robert J. Beas for the loss of a package of registered mail while he was employed at the U.S. post office at Cleveland, Ohio. In the event of any waiver, the bill would permit the refund of any amounts repaid to the extent of the amount of the relief granted.

STATEMENT

On August 29, 1960, in the course of his duties as an employee of the Cleveland, Ohio Post Office. Mr. Beas was given the task of delivering certain registered mail. The package of registered mail referred to in the bill was a package addressed to Merka Jewelry in Cleveland, Ohio, and was insured for $800. The Post Office Department report on an earlier bill outlines the circumstances of the loss by stating that Mr. Beas placed the package in a sack to be relayed to a storage and collection box and that when he unloaded the relay sack on his postal route the register could not be found. Since the Post Office Department report raised a question concerning the bill and stated that regulations prohibited the placing or registered mail in a postal relay sack, the committee sought additional information.

The information submitted to the committee indicates that the circumstances of the loss may not be as simple as those outlined in the Post Office Department report. In preparing his mail, Mr. Beas was required to work at an aisle in the post office which was located in what was in effect a main thoroughfare to and from passenger elevators. He was in an exposed position and appears to have been given little privacy or security to enable him to protect a registered package such as is involved in this case. However, in order to secure his mail, he had to travel away from his case and make trips up to two-thirds the length of the post office building. In a letter sent by Mr. Beas to the sponsor of a previous bill, Mr. Beas said that he is not certain just what happened to the registered package. He signed the receipt and had it with the letters for the Merka Jewelry Co. He delivered the company's material as a part of the last third of his route. When he emptied the last relay sack, he did not have the package in his mailbag or the relay sack. His custom was to put registered mail in his mailbag. When he found that the Merka Jewelry Co. package was not in his mailbag, he apparently concluded that there was a possibility that it could have been sent out in the relay sack.

The committee has considered this matter in the light of all of the circumstances of this case and has concluded that the best and most equitable manner of resolving this matter would be to confer authority on the Postmaster General, in his discretion, to consider whether relief should be extended in an appropriate degree in this instance.

It appears that Mr. Beas was in no way accused of wrongdoing. The Post Office Department report grounds is opposition on a lack of due caution. The committee understands that Mr. Beas was retained as an employee of the post office.

In the 90th Congress, and in two previous Congresses, the House Judiciary Committee considered bills which would have had the effect of relieving Robert J. Beas of the full amount of the $800 loss. However, the House committee now feels that the language recommended in the bill as passed provides for a full consideration of all aspects in the case. The language has the advantage of permitting a fair resolution of the matter in that the relief granted can take into consideration the entire situation including the existence of any negligence. It will enable the Postmaster General to grant relief in a manner which will recognize the interest of the Government, and the interest of the employee. In this connection it can be noted that the recently enacted revision of the postal laws which will take effect in the future provides similar authority for relief in section 2601 of revised title 39 of the United States Code. This committee is in agreement with the conclusion reached by the House Judiciary Committee, and accordingly recommends favorable consideration of H.R. 7871 without amendment.

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## GOV. REUBIN O'DONOVAN ASKEW

**Mr. MANSFIELD.** Mr. President, one of the men whom I greatly admire in this Nation today is Gov. Reubin O'Donovan Askew of the State of Florida. I think he has done an outstanding job since assuming his duties, a little under a year and a half ago, as Governor of that great State.

He is a man of courage, understanding, and knowledge.

I ask unanimous consent that excerpts from an article published in this morning's Wall Street Journal, entitled "Busing: Governor Askew Takes a Stand," written by Norman C. Miller, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 25, 1972]

### GOV. ASKEW TAKES A STAND

(By Norman C. Miller)

TALLAHASSEE, FLA.—Reubin O'Donovan Askew has come a long way since he shot out of nowhere 16 months ago to win election as governor.

Making good on a campaign pledge, he has pushed through the state's first income tax on corporations over the powerful opposition of big business interests. Despite that bruising year-long tax fight, he has established himself as a remarkably popular governor and emerged as a national figure in the Democratic Party. He has been named keynoter of the party's July convention and he is talked about as a possible vice presidential nominee.

In short, at 43 years of age, the gray haired six-foot native of Pensacola is a rising political star with a brilliant future. But now he is laying that future on the line, taking the unpopular side in an emotion-charged fight that could destroy him politically—or, just possibly, show him to be one of the most persuasive political leaders in the nation.

The fight is over busing for racial balance, the overriding issue of this state's presidential primary campaign. George Wallace's entry in the primary first stirred antibusing sentiment. Then, last week, the state legislature brought the issue to a boil by voting to place an unusual straw-vote measure on the March 14 ballot. It will ask Floridians if they favor an amendment to the U.S. Constitution prohibiting "forced busing" of children.

No politician here doubts that at this moment Floridians would overwhelmingly approve the antibusing amendment. In cities around the state, extensive busing was instituted under court orders last September and more looms next fall. Resentment among white parents is intense, and state legislators, all of whom must run in new districts in November, were playing to that resentment when they passed the straw-vote measure over Gov. Askew's strong opposition.

#### NO VETO, BUT . . .

The governor did not have the votes to sustain a veto, but at his insistence the legislature did approve a companion measure that seeks to offset the forced-busing question. It asks Floridians to affirm a commitment to "equal education opportunity" for all children and to specifically reject a "return to the dual school system." Signing the legislation, Gov. Askew stated his personal opposition to the antibusing measure and urged Floridians to approve the second measure to demonstrate that "Florida is not a racist state."

He could have let it go at that; most politicians here thought he would. Mr. Askew chose otherwise, although nothing in his personal or political history before becoming governor could have foreshadowed his decision.

Born poor, he grew up in the Florida panhandle, a social and political extension of south Alabama, the heart of "Wallace country" today. A Presbyterian and a Mason, he abstains from smoking and drinking. Before becoming governor, he served 12 uneventful years in the state senate, becoming an expert on government finance, but rarely sticking his neck out on issues that could upset his conservative Pensacola constituency.

As governor, however, he has consistently taken progressive, populist stands on a broad range of issues—stands that seem to grow more out of deep personal conviction than on political calculation. "Too many people are analyzing this (the effect of the busing issue) in terms of the campaign," he said during a three-hour interview the other day. "We had better be concerned instead about the effect on the country long after the campaign is over."

"I personally feel that 22 million black people are looking to see if this country is going to keep the faith," he continued, "and go forward with the thrust of the Brown decision," the 1954 Supreme Court decision ordering schools in the South to desegregate. "And we must do that. This country can't stay together unless we learn to live together."

The governor's decision to risk his political future seems rooted in his belief that the emotional controversy over busing, unless checked, could gravely damage the public school system. An intense note enters his voice as he declares that he himself could not have succeeded without his own public school education.

Now he sees the blacks in much the same position as he was himself in the poverty of his youth. Good public education is fundamental to black self-improvement, he believes, and blacks will have no chance without white support of integrated schools. Demonstrating his own commitment, he sends his two children to a public grade school here; it is 40% black.

In political terms, Gov. Askew believes moneyed interests have manipulated historic racial divisions between have-not whites and blacks to keep control of government in much of the South. In his own 1970 race for governor, Mr. Askew upset what he calls the "special interests" and forged a coalition of both whites and blacks. Now he fears the housing issue could irreparably split that coalition.

#### TAKING IT TO THE PEOPLE

So Mr. Askew decided to take his argument to the people. All through last weekend, he and two aides worked on a speech that he hoped would at least cool emotions if not turn the antibusing tide. It was past midnight Sunday when they finished; 13 hours later he would begin to speak.

The occasion he chose, opening day of the Central Florida State Fair at Orlando seemed incongruous. Lighthearted holidayers strolled in the pleasant sunshine. A Navy band played pop tunes. The governor would speak in a county where, in a straw vote accompanying local elections last November, voters had registered 9-to-1 approval of a contstitutional amendment to bar busing.

In this atmosphere, the 25-minute speech Mr. Askew delivered must be considered an act of rare political courage.

"I come before you today to say a few things with which you may disagree," he began, "a few things which are decidedly unpopular, but a few things which I feel must be said in the interest of Florida and her people—all of them. . . .

"I strongly oppose a constitutional amendment to outlaw busing—not because I particularly like it or think it's a panacea for our problems. . . . Busing is an artificial and inadequate instrument of change. It should be abandoned just as soon as we can afford to do so."

Mr. Askew paused, measuring his silent audience, then continued in a rising voice: "Yet by the use of busing and other methods, we've made real progress in dismantling a dual system of public schools in Florida. And I submit that until we find alternative ways of providing an equal opportunity for quality education for all . . . until we can be sure that an end to busing won't lead to a return of segregated public schools . . . until we have those assurances, we must not unduly limit ourselves, and certainly not constitutionally.

"We must not take the risk of seriously undermining the spirit of the Constitution, one of the noblest documents ever produced by man. And we must not take the risk of returning to the kind of segregation, fear and misunderstanding which produced the very problem that led to busing in the first place."

The governor continued quietly. "I certainly hope that the overwhelming majority of Floridians are committed to the goal which busing was designed to pursue. That goal is to put this divisive and self-defeating issue of race behind us once and for all."

The audience remained silent. Mr. Askew continued: "I think we're well within reach of understanding one another, caring for one another and affirming our principles of justice and compassion which made this country what it is today. How sad it will be if we turn back now—not only for minority children—but for all of us.

"Of course we don't want our children to suffer unnecessary hardships. That goes without saying. But neither do we want our children to grow up into a world of continuing racial discord, racial hatred and, finally, a world of racial violence. . . .

"It is my hope that we're moving beyond racial appeals here in Florida and in the rest of the South as well. I say it's time we told the rest of the nation that we aren't caught up in the mania to stop busing at any cost, that we're trying to mature politically down here, that we know the real issues when we see them, and that we no longer will be fooled, frightened and divided against ourselves. . . .

"I hope we can say to those who would keep us angry, confused and divided that we're more concerned about a problem of justice than about a problem of transportation, and that while we're determined to solve both, we're going to take justice.

"It is not my intention to impose my will on anyone," he said quietly. "But it is my intention to give the people of Florida cause for sober reflection, so that they're sure—very sure—before they encourage an amendment to the United States Constitution, one that for the very first time, I believe, would seek to reverse our efforts to make that great document a living testimony to the pursuit of liberty, freedom and justice—for all."

Not a sound had interrupted the governor's speech, but at the end the crowd of 400 stood and applauded him warmly. That did not mean they all agreed with him. "Probably 90% of the people are against him on this issue," snapped one young Orlando businessman as he left the auditorium. "I know I can't go along with him."

But Gov. Askew did accomplish his purpose with some listeners. "I have reservations about some of the things he said, but he made me stop and think," said Gordon Savage of Leesburg, who has three children involved in busing. "I am very much opposed to busing, but the governor opened new vistas for me to consider. I am not as sure of my vote now as I was before."

It is Gov. Askew's ability to convince people of his own sincerity that has accounted for his political success to date.

His campaign for the corporate income tax was the most prominent previous example. In a state where politics had long been dominated by anti-tax business interests, Mr. Askew made the proposed tax the centerpiece of his 1970 campaign. And he beat a bevy of better-known Democrats in the primary, then walloped Claude Kirk, the flamboyant Republican incumbent, in November.

Then, since the state constitution barred all income taxes, Gov. Askew had to undertake another state-wide campaign. Again over the opposition of powerful business lobbyists, he got the legislature to approve a referendum seeking to change the state constitution. Then, campaigning against well-financed opposition, he stumped the state for months; it was time for big business to "pay its fair share," he argued. The voters approved last November by an amazing 70% margin. Finally, the legislature approved the 5% corporate tax and also most of Gov. Askew's proposals to ease certain taxes on consumers.

### AN APPEAL FOR ACCEPTANCE

Perhaps significantly, Gov. Askew's corporate-tax campaign also was endangered by the busing issue at one point. Last August there was widespread speculation in the state that court-ordered busing would result in violence when the schools opened. Then, on the same night that George Wallace and former Gov. Kirk had scheduled antibusing speeches in Florida cities, Gov. Askew appealed for acceptance of busing.

"The law demands, and rightly so, that we put an end to segregation in our society," he said in that Aug. 28 speech. "We must demonstrate good faith in doing just that. . . .

"We must stop inviting, by our own intransigence, devices which are repugnant to us," he continued. "In this way and in this way only will we stop massive busing once and for all."

That speech was widely credited with calming a potentially dangerous situation. Some aides feared the speech would damage the governor's popularity and imperil his tax program; neither happened.

Now some think the busing issue is erupting with more force than ever. The reason, says Cecil Hardesty, superintendent of Jacksonville's school system, is that white parents and their children have actually experienced busing now. Mr. Hardesty expresses admiration for Gov. Askew's stand, but adds gloomily: "He probably is going to destroy himself politically this time."

If Gov. Askew shares this worry he does a masterful job of concealing it. He promises to continue to speak out frequently. "Whatever risks may be in it for me," he says, "are small alongside the risks for the people for their future."

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## VIETNAM AND OUR PRISONERS OF WAR AND MIA'S

Mr. MANSFIELD. Mr. President, I am in receipt of a letter from a constituent in Montana which I should like to read in part at this time.

This young girl writes:

Anyway, I was reading the paper, not really comprehending anything for my mind was concentrating on this "creatures of habit" idea. Americans are slaves to habit. I don't know why, but I think a large part of the answer lies in the fact that we are victims of the status quo. We cling to the way things are because it gives us a sense of security. The idea that our craving for security prevents us from taking innovative action to solve our seemingly unsolvable problems of today is repellent to me but I fear it is true. Change is new—it's foreign, and because of it we view the future between closed fingers held tightly over our eyes.

As I wrote earlier, I was reading the paper this morning and (as usual) I turned to Dear Abby first (despite all the yokes she seems to be a remarkable person). In today's paper Dear Abby wrote a letter to her readers, in contrast to her usual format (truly a remarkable person!). In her letter she asked her readers, who were concerned about our POW's, to write to their Congressmen and Senators, which is what I am doing now. Again, I don't know why for to me there is no conceivable logic in one letter altering even a minute fraction of the United States' policy concerning our POW's.

Nevertheless, with all the hopelessness and futility that has accumulated within me since I first became aware of the war, I am writing to you today, pleading with you to force our government to quit bartering with the lives of our POW's when all that we have to lose is our honor and prestige. If I am wrong in this assumption—if there exists a more convincing reason, please, I would appreciate knowing what it is. I really can't feature the U.S. sweating over a possible loss of national prestige when lives are at stake—lives sacrificed by and for the U.S. People tell me I am naive and smile indulgently at my "idealistic" outrage while they complacently accept the situation because they have grown "realistic" with adulthood. I'm only 17 but the U.S. has made me feel like a very old person. My "idealism" is nearly gone and my conversion into a "realistic" adult is nearly complete. As you can see, I've already assumed the passive, letter-writing role of a "realistic" adult and that will be the extent of my adult "outrage."

P.S.—I'm sorry that this letter is bitter, and I'm sorry that my brother was born mongoloid and I'm sorry that we have slums and I'm sorry that our planet is slowly being destroyed by pollution—but that doesn't change anything. The destruction of our planet, the existence of slums—both are conditions as irreversible as my brother's mongolism. The prisoner of war situation is the same way. Needless to say, I'm sorry for it, too.

Mr. President, I ask unanimous consent to have the text of the entire letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR MR. MANSFIELD: It's 8:30 in the morning where I live, and because I'm a creature of habit, 8:30 in the morning always finds me reading the local newspaper. Since today is Sunday, the paper is especially large. I don't know why it's been that way for as long as I can remember—perhaps the Tribune staff is also a creature of habit.

Anyway, I was reading the paper, not really comprehending anything for my mind was concentrating on this "creature of habit" idea. Americans are slaves to habit. I don't know why, but I think a large part of the answer lies in the fact that we are victims of the status quo. We cling to the way things are because it gives us a sense of security. The idea that our craving for security prevents us from taking innovative action to solve our seemingly unsolvable problems of today is repellant to me but I fear it is true. Change is new—it's not foreign, and because of it we view the future between closed fingers tightly held over our eyes.

I've babbled for nearly a page now so it's time I reached the gist of my letter. As I wrote earlier, I was reading the paper this morning and (as usual) I turned to Dear Abby first (despite all the jokes she seems to be a remarkable person). In today's paper, Dear Abby wrote a letter to her readers, in contrast to her usual format (truly a remarkable person!). In her letter she asked her readers, who were concerned about our POW's, to write to their Congressmen and Senators, which is what I am doing now. Again, I don't know why for to me there is no conceivable logic in one letter altering even a minute fraction of the United States policy concerning our POW's.

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I'm going to quit babbling now. I've stated my plea and I'm going to end this letter and I'm going to try to obliterate forever from my mind that I indulged in such a useless form of protest as letter-writing. But, at least, if anyone asks me if I've done something about the POW situation rather than just complain, I can say I have. Yes, I've written to my Senator and because of my letter and thousands like it, every POW that is in Vietnam will remain in Vietnam. From nowhere to nowhere. It doesn't exactly give me that pat-myself-on-the-back feeling of accomplishment, but what else can I do?

N.C.

P.S.—I'm sorry that this letter is bitter, and I'm sorry that my brother was born mongoloid and I'm sorry that we have slums and I'm sorry that our planet is slowly being destroyed by pollution—but that doesn't change anything. The destruction of our planet, the existence of slums—both are conditions as irreversible as my brother's mongolism. The prisoner of war situation is the same way. Needless to say, I'm sorry for it, too.

Mr. MANSFIELD. I wish to commend this young woman for pouring out her heart to a Senator from her State. I assure her that, so far as I am concerned, I do not intend in any way, shape, or form to give up in my efforts, not only to bring about the release of the prisoners of war and the recoverable missing in action, but also to bring an end to this tragic war, as well.

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania desire to be heard?

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## LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, I should like to inquire of the distinguished majority leader what will be the schedule following the vote on the bill now before the Senate.

Mr. MANSFIELD. Mr. President, in response to the question of the distinguished minority leader, it is the intention of the joint leadership on Wednesday next, following the conclusion of the measure that is pending, or as soon thereafter as possible, to take up conference reports on the Inter-American Development Bank, the Asian Development Bank, and the International Development Association, the conference report on AID, and the nominations of Mr. Kleindienst and Mr. Gray. It is hoped that by that time the equal rights amendment will be ready. If it is not ready, we will then take up the bill to increase the price of gold from $35 to $38 a fine ounce.

Before we get to that controversial legislation, we shall take up one other measure, the bill to increase the debt limit, if it has been reported by the committee.

There is one other measure that I cannot recall at this time, but I shall place it in the Record, to indicate what the complete schedule will be.

Mr. SCOTT. I thank the majority leader. I express the hope that we might perhaps move up to an early date the measure for the revaluation of gold, because I am advised by the Treasury that the sooner that bill is passed, the sooner we can expect a greater stabilization in the currency market.

Mr. MANSFIELD. I will discuss the matter with the chairman of the Committee on Banking, Housing, and Urban Affairs, the distinguished Senator from Alabama (Mr. Sparkman). He has informed me that he will discuss the matter with the ranking minority member of the committee, the distinguished Senator from Texas (Mr. Tower). If there is no opposition—and I know of none at the moment—we will expedite the consideration of that measure in accordance with the wishes of the distinguished minority leader.

Mr. SCOTT. I do appreciate the statement of the distinguished majority leader.

Mr. President, I am not about to move to declare a national holiday to celebrate the event, but I do want to congratulate the Presiding Officer (Mr. Eagleton), who is the Acting President pro tempore. I have heard with delight many times intriguing stories of the enormous clout wielded by him when he was Lieutenant Governor of his State. We are proud to have him in the Chair; but that does not put him in the line of succession to the Presidency, much as I regret it.

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## TRANSACTION OF ROUTINE BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 30 minutes, with Senators being recognized for not to exceed 3 minutes each.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Eagleton) laid before the Senate the following letters, which were referred as indicated:

### Report on Certain Facilities Projects Proposed To Be Undertaken for the Naval and Marine Corps Reserves

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on certain facilities projects proposed to be undertaken for the Naval and Marine Corps Reserves (with an accompanying report); to the Committee on Armed Services.

### Proposed Standards, Rules, and Regulations of the Cost Accounting Standards Board

A letter from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, a copy of propsed standards, rules, and regulations promulgated by that Board (with an accompanying document); to the Committee on Banking, Housing and Urban Affairs.

### Report of Office of Civil Defense, District of Columbia

A letter from the Mayor-Commissioner, District of Columbia, transmitting, pursuant to law, a report of the Office of Civil Defense for the District of Columbia, for fiscal year 1971 (with an accompanying report); to the Committee on the District of Columbia.

### Proposed Environmental Protection Tax Act of 1972

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation entitled "The Environmental Protection Tax Act of 1972" (with an accompanying paper); to the Committee on Finance.

### Report of Governor of Guam

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report of the Governor of Guam, for the year 1971 (with an accompanying report); to the Committee on Interior and Insular Affairs.

### Report on Negotiated Sales Contracts for Disposal of Materials

A letter from the Assistant Director of Technical Services, Department of the Interior, transmitting, pursuant to law, a report on negotiated sales contracts for disposal of materials, for the 6-month period ended December 31, 1971 (with an accompanying report); to the Committee on Interior and Insular Affairs.

### Opinion in Case of Edward White Rawlins v. the United States

A letter from the Chief Commissioner, U.S. Court of Claims, transmitting, pursuant to law, the opinion and findings of fact in the case of Edward White Rawlins v. the United States, Cong. Ref. 1-69 (with accompanying papers); to the Committee on the Judiciary.

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## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Eagleton):

A resolution of the Senate of the Commonwealth of Puerto Rico; to the Committee on Finance:

"S.R. 389

"Resolution to request from the Congress of the United States to amend section 224 of Title II of the Federal Social Security Act (as amended) for the purpose of eliminating everything relative to the Offset Procedure.

"Statement of Motives

"By virtue of section 224 of Title II of the Social Security Act, the social security benefits of the disabled worker and his family may be adjusted from those months from January of 1966 up to the preceding month, inclusive, in which the disabled worker attains the age of 62, under a formula designed to limit the combined monthly total payment of the Social Security and the State Insurance Fund benefits and other disability benefits received from other agencies or from commonwealth organizations up to 80% of the average present income of the worker.

"Due to these adjustments, the workers and employees are going through serious economic problems in times when they are in the most want.

"It is necessary to solve this situation to promote a philosophy of remedial nature so that these workers and employees who have suffered a disability may receive the greater protection and medical care to alleviate in that way the problems endured by their families on account of their condition.

"Considering this problem of federal legislation we think advisable to request from the Congress of the United States adequate legislation in behalf of our working classes.

"Be it resolved by the Senate of Puerto Rico:

"Section 1. To request, as it does request, from the Congress of the United States to amend the Federal Social Security Act for the purposes of eliminating from section 224 of Title II that part which provides for the adjustment and offset procedure.

Sec. 2. Certified copy of this Resolution shall be sent to the Senate and the House of Representatives of the United States of America; to the Governor of Puerto Rico and to the Resident Commissioner of Puerto Rico in the Congress."

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## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ELLENDER, from the Committee on Appropriations, without amendment:

S. Res. 229. Resolution to provide additional funds for the Committee on Appropriations; referred to the Committee on Rules and Administration.

By Mr. BYRD of Virginia, from the Committee on Armed Services, with an amendment:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes (Rept. No. 92-644).

By Mr. MOSS (for Mr. Jackson), from the Committee on Interior and Insular Affairs, with amendments:

H.R. 1682. An act to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station, Lemoore, California, included in said district, and for other purposes (Rept. No. 92-645).

By Mr. SYMINGTON, from the Committee on Armed Services, without amendment:

S. 3244. An original bill to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition (Rept. No. 92-646).

## EXECUTIVE REPORTS OF COMMITTEES

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services I report favorably the nominations of 85 flag and general officers in the Army, Navy, Marine Corps, and Air Force. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered placed on the Executive Calendar, are as follows:

Maj. Gen. Felix M. Rogers (brigadier general, Regular Air Force) U.S. Air Force, and sundry other officers, for appointment in the Regular Air Force;

Maj. Gen. Howard Wilson Penney, U.S. Army, to be assigned to a position of importance and responsibility, to be lieutenant general;

Brig. Gen. William David Tigertt, Army of the United States (colonel, U.S. Army), for reappointment in the active list of the Regular Army of the United States;

Vice Adm. Benedict J. Semmes, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired;

Gen. Raymond G. Davis, U.S. Marine Corps, to be placed on the retired list, in the grade of general; and

Lt. Gen. Earl E. Anderson, U.S. Marine Corps, for appointment to the grade of general while serving as Assistant Commandant of the Marine Corps.

Mr. STENNIS. Mr. President, in addition I report favorably 594 permanent appointments in the Marine Corps in grade of second lieutenant and below; and 206 permanent appointments in the Air Force Reserve in grade of colonel and below. Since these names have already appeared in the Congressional Record, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Lester D. Abston, and sundry other officers, for promotion in the Air Force Reserve;

Arthur A. Adkins, and sundry other Naval Reserve Officers' Training Corps graduates, for permanent appointment in the Marine Corps;

Leo L. Accursi, and sundry other U.S. Naval Academy graduates, for permanent appointment in the Marine Corps;

Stanley F. Dvoskin, and sundry other Navy enlisted scientific education program graduates, for permanent appointment in the Marine Corps; and

Robert M. Black, and sundry other officers, for promotion in the Marine Corps.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PEARSON:

S. 3238. A bill to strengthen certain penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 3239. A bill to amend the Interstate Commerce Act and related statutes, and for other purposes. Referred to the Committee on Commerce.

S. 3240. A bill to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges; and

S. 3241. A bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard. Referred to the Committee on Commerce.

By Mr. BAKER (for himself and Mr. Brock):

S. 3242. A bill to name the bridge being constructed across the Mississippi River linking the States of Tennessee and Arkansas in honor of Hernando DeSoto. Referred to the Committee on Public Works.

By Mr. STAFFORD:

S. 3243. A bill to amend the Railway Labor Act to provide more effective means for protecting the public interest in national emergency disputes involving the railroad and airline transportation industries, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. SYMINGTON, from the Committee on Armed Services:

S. 3244. An original bill to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition. Ordered to be placed on the calendar.

By Mr. BYRD of West Virginia:

S.J. Res. 208. A joint resolution authorizing the President to proclaim the first Sunday in June of each year as "National Shut-In Day." Referred to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PEARSON:

S. 3238. A bill to strengthen certain penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

Mr. PEARSON: Mr. President, when a person takes up a gun in this Nation, he has only three uses for it: sport, self-protection, or crime. The first two uses are sanctioned by law and custom, and with those we have no quarrel. If however, a person carries a firearm with him as he commits a crime, he carries a threat to life itself.

In our Nation last year, 120 police officers were killed by such criminal use of firearms, 27 more than the year before. In 1970, over 10,000 people were murdered in this Nation with hand and long guns.

Our society cannot tolerate this criminal behavior. We must provide effective deterrents in the law to discourage the illegal use of firearms. We must let any potential criminal know that he risks certain imprisonment if he carries a gun.

The bill I introduce today provides more effective deterrents than we now have in the law. While it cannot, because of our federal system, cover violations of State laws, it does prescribe penalties for persons carrying a firearm during the commission of a felony for which he may be prosecuted in a court of the United States.

Mr. President, this bill makes two important changes in the current statutes. It imposes a mandatory minimum sentence of not less than 1 nor more than 10 years for a first conviction. Passage of this bill would, then, put each potential felon on notice that he would be imprisoned simply because he carried a firearm with no chance for a suspended sentence, a concurrent sentence, or probation.

This bill strikes hardest at the individual who is more than once convicted of violating this firearm act. For that person who has twice jeopardized human life, the bill provides a minimum 5-year sentence from which there may be no probation or suspension. This sentence would be in addition to any other penalties prescribed for the felony in which the firearm was used and could not be served concurrently with them.

Mr. President, this bill has a carefully defined target. It is aimed at persons who would risk the lives of innocent citizens by carrying a firearm not for sport or for legally sanctioned self-protection but to steal, assault and possibly kill. Increasing penalties for the illegal use of firearms may not deter all potential criminals from carrying a gun, but if it deters only a few, if it saves only one life, its passage will make this country a little safer for us all.

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By Mr. MAGNUSON (by request):

S. 3239. A bill to amend the Interstate Commerce Act and related statutes, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, at the request of the Interstate Commerce Commission, I introduce a bill to amend various provisions of the Interstate Commerce Act and related statutes.

In introducing this measure, I feel that I must make particularly clear my concern with section 3 which would empower the Commission to impose penalty or emergency charges upon a railroad's use of another railroad's freight cars whenever an emergency shortage of such equipment exists or is threatened.

I have repeatedly stated in public hearings that I believe the Commission to possess power under existing law to impose penalty charges. Indeed, I was privately assured by the chairman and the member of the Commission responsible for freight car matters that the Commission had such power and would use it when the appropriate occasion arose.

Until it is clearly demonstrated that the Commission does not have such authority, I am reluctant to engage the Senate in a wasteful exercise to provide the ICC with what may be unnecessary and redundant authority.

Furthermore, the Commerce Committee presently has under consideration—and has devoted substantial effort—to a very different legislative approach to solution of the freight car shortage problem. This approach, embodied in S. 1729, offers a more effective way of assuring that our Nation's shippers have needed freight cars and adequate service than does the penalty or emergency charge approach. Even assuming that the ICC needs additional per diem authority, until a decision is reached upon that measure, it would be premature to begin action on the penalty charge provision of the Commission's bill. In any event, I am convinced that S. 1729 is likely to have much broader support and do a much more effective job than another per diem bill. Parenthetically, I would add that the last time the Congress approved an ICC recommended change in per diem it took 4 years to implement the act and the benefits that the Commission said would come to pass have yet to occur.

I ask unanimous consent that the explanation provided by the Commission and the text of the bill be printed in the Record at this point.

There being no objection, the bill and explanation were ordered to be printed in the Record, as follows:

### S. 3239

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Interstate Commerce Act Amendments of 1971."

Sec. 2. Section 1(1)(b) of the Interstate Commerce Act (49 U.S.C. 1(1)(b)) is amended to read as follows:

"(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water—from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country or from or to any place in a foreign country, but only insofar as such transportation takes place within the United States."

Sec. 3. Section 1(15) of the Interstate Commerce Act (49 U.S.C. (1)(15)) is amended by striking "(c)" and "(d)" and inserting in lieu thereof "(d)" and "(e)", respectively, and by inserting a new clause "(c)" to read as follows:

"(c) to impose on one or more carriers, when a shortage or threatened shortage of freight cars exists, such charges (in addition to the car-hire, car-rental, or per diem charges, or mileage rates, then in effect) applicable to any type of freight car in any section of the country during such emergency, or threatened emergency, as in the opinion of the Commission are reasonably calculated to relieve such shortage or threatened shortage by encouraging adequate ownership of freight cars by each carrier and by prompting the expeditious movement, distribution, interchange, or return of freight cars, and the additional charges shall be paid by the carrier using such cars to the owners;"

Sec. 4. Section 1 of the Interstate Commerce Act (49 U.S.C. 1) is amended by adding at the end thereof the following new paragraphs:

"(23)(a) Upon application and a showing of an immediate and urgent need for service to a point or points, or within a territory having limited or restricted rail carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a rail carrier. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify, but for not more than an aggregate of one hundred and eighty days. Extension of such temporary authority beyond one hundred and eighty days may be determined by the Commission upon written request by any interested party or it may determine the need therefor upon its own initiative. No temporary approval granted under this subsection shall carry any presumption that corresponding permanent authority will be granted thereafter.

"(b) Pending the determination of an application filed with the Commission for approval of an acquisition or operation of a line of railroad, or any extension thereof, under section 1(18), or a transaction within the scope of section 5(2), the Commission may in its discretion, and without hearing or other proceedings, grant temporary approval, for a period not exceeding one hundred and eighty days, of the operation of the railroad properties sought to be acquired by the person proposing in such pending application to acquire such properties, if it shall appear that failure to grant such temporary approval may result in destruction of or injury to such railroad properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public, or to leave a point or points or a territory having limited or restricted railroad service available with an immediate and urgent need for the operation of the railroad properties sought to be acquired. The Commission may, in its discretion, attach to any order granting such temporary approval such terms and conditions as in its judgment the circumstances surrounding such temporary approval shall warrant. Extension of such temporary authority beyond one hundred and eighty days may be determined by the Commission upon written request by any interested party, or it may determine the need therefor upon its own initiative.

No temporary approval granted under this subsection shall carry any presumption that corresponding permanent authority will be granted thereafter."

Sec. 5. Section (4) of the Interstate Commerce Act (9 U.S.C. (1)) is amended by inserting in the first proviso the phrase "or, if the Commission deems it to be necessary, without such investigation" after the word "investigation".

Sec. 6. Subsection 1 of section 10 of the Interstate Commerce Act (49 U.S.C. 10(1)) is amended by deleting the words "to exceed" in the last clause before the proviso in that section, and by inserting in lieu thereof "less than five hundred dollars nor more than"; and subsections (2), (3), and (4) are amended by deleting from each respectively the words "exceeding five thousand dollars" and by inserting in lieu thereof "less than five hundred dollars nor more than five thousand dollars".

Sec. 7. Section 12 of the Interstate Commerce Act (49 U.S.C. 12(1)) is amended by adding a subparagraph "(a)" thereto to read as follows:

"12(1)(a) Whenever the Commission, upon its own motion or upon application of any interested party, determines that the requirements of this Part, in whole or in part, to any person or class of persons or to any services or transportation performed under this Part is not necessary in order to effectuate the National Transportation Policy declared in this Act or to effective regulation by the Commission thereunder, and would serve little or no useful public purpose, it shall be order exempt such person or class of persons or such services or transportation from the provisions of this Part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the subjugation of the requirements of this Part, in whole or in part, to the exempted person or class of persons or exempted services or transportation is necessary to effectuate the National Transportation Policy and to achieve effective regulation by the Commission and would serve a useful public purpose. No such exemption shall be denied or revoked except after notice and reasonable opportunity for hearing."

Sec. 8. Subsections (9) and (10) of section 16 of the Interstate Commerce Act (49 U.S.C. (9) and (10)) are amended to read as follows:

"(9) Any person whether carrier, broker, shipper, or consignee, or any officer, agent, employee, or representative thereof, who shall fail or refuse to comply with any provision of the Interstate Commerce Act other than any provision of the Act pursuant to which a different specific forfeiture is otherwise prescribed, or to comply with any rule, order, or regulation prescribed under this Act shall forfeit to the United States not less than $1,000 nor more than $20,000 for each such offense. The forfeiture provided for shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States brought in the district where such violation occurred or where the carrier, broker, or lessor, or other person, or any officer, agent, employee, or representative thereof has its principal office, or in any district in which such party was, at the time of the offense operating or is authorized by this Commission, or by this Act, to engage in operation as such carrier, broker, or lessor, or other person; or in any district where such forfeiture may occur; or in the district court where the offender is found.

"(10) It shall be the duty of the various district attorneys under the direction of the Attorney General of the United States to prosecute for the recovery of such forfeitures. All process in any such case may be served in the judicial district whereof such offender is an inhabitant or wherever he may be found. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States."

Sec. 9. Section 17(2) of the Interstate Commerce Act (49 U.S.C. 17(2)) is amended by inserting immediately after the second sentence thereof the following:

"The Commission may also refer to individual qualified employees for decision those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. In cases where such matters are assigned to individual employees of the Commission, any order or requirement of such individual employee shall be subject to the same provisions with respect to reargument and reconsideration, with respect to reversal or modification, with respect to stay or postponement pending disposition of the matter by the Commission or appellate division, and with respect to suits to enforce, enjoin, suspend, or set aside such order or requirement in whole or in part, as are contained in paragraphs (6), (7), (8), and (9) of this section with respect to orders or requirements of a board."

Sec. 10. Section 20a(2) of the Interstate Commerce Act (49 U.S.C. 20a(2)) is amended by adding at the end thereof a proviso to read as follows:

"*And provided further,* That said provisions shall not apply to such carriers or corporations where the value of capital stock or principal amount of other securities to be issued, together with the value of capital stock and principal amount of other securities then outstanding, does not exceed $1,000,000, nor to the issuances of notes of a maturity of two years or less and aggregating not more than $200,000, which notes aggregating such amount including all outstanding obligations maturing in two years or less may be issued without reference to the percentage which said amounts bear to the total amount of outstanding securities. In the case of capital stock having no par value, the value thereof for the purpose of this section shall be the fair market value as of the date of its issue; and in the case of capital stock having par value, the value for the purpose of this section shall be the fair market value as of the date of its issue, or the par value, whichever is the greater."

SEC. 11. The first sentence of section 20a (12) of the Interstate Commerce Act (49 U.S.C. 20a(12)) is amended to read as follows:

"(12) After ninety days from the date of enactment hereof, it shall be unlawful for any person to hold a position of officer or director of more than one carrier except carriers which are lawfully operated under common control or management, or for any director, officer, or partner of any firm, corporation, or partnership to hold the position of officer or director of any such carrier when any other director, officer, or partner of such firm, corporation, or partnership holds the position of officer or director of another such carrier except where the carriers are lawfully operated under common control or management, unless such holdings have been authorized by order of the Commission, upon due showing, in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby."

SEC. 12. Section 204(a)(6) of the Interstate Commerce Act (49 U.S.C. 304a(6)) is amended by adding subparagraph "(1)" to read as follows:

"204(a)(6)(1) Whenever the Commission, upon its own motion or upon application of any interested party, determines that the requirements of this Part, is whole or in part, to any person or class of persons or to any services or transportation performed under this Part is not necessary in order to effectuate the National Transportation Policy declared in this Act or to effective regulation by the Commission thereunder, and would serve little or no useful public purpose, it shall by order exempt such person or class of persons or such services or transportation from the provisions of this Part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the subjugation of the requirements of this Part, in whole or in part, to the exempted person or class of persons or exempted services or transportation is necessary to effectuate the National Transportation Policy and to achieve effective regulation by the Commission and would serve a useful public purpose. No such exemption shall be denied or revoked except after notice and reasonable opportunity for hearing."

SEC. 13. Section 212(a) of the Interstate Commerce Act (49 U.S.C. 312(a)) is amended as follows:

"(1) The second sentence is amended by inserting after the phrase "promulgated thereunder", the words "or under sections 831–835 of title 18, United States Code, as amended".

"(2) The first proviso is amended by inserting immediately after the phrase "or to the rule or regulation thereunder", the words "or under sections 831–835 of title 18, United States Code, as amended".

"(3) The second proviso is amended by inserting "215", immediately after "211(c)".

SEC. 14. Section 216(g) of the Interstate Commerce Act (49 U.S.C. 316(g)) is amended by deleting the proviso therein and by inserting in lieu thereof a new proviso to read as follows:

"*Provided*, That in the case of a proposed increase rate or charge for or in respect to the transportation of property, the Commission may by order require the interested carrier or carriers to keep accurate accounts in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearings and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified."

SEC. 15. Section 303 of the Interstate Commerce Act (49 U.S.C. § 903) is amended by adding a new paragraph, as follows:

"(m) Nothing in this part shall apply to the transportation by water undertaken pursuant to the authorization, regulation, and control of the Secretary of the Interior principally for the purpose of transporting persons in and about the national parks and national monuments."

SEC. 16. Section 304(a) of the Interstate Commerce Act (49 U.S.C. 904(a)) is amended by adding subparagraph "(1)" thereto to read as follows:

"304(a)(1) Whenever the Commission, upon its own motion or upon application of any interested party, determines that the requirements of this Part, in whole or in part, to any person or class of persons or to any services or transportation performed under this Part is not necessary in order to effectuate the National Transportation Policy declared in this Act or to achieve effective regulation by the Commission thereunder, and would serve little or no useful public purpose, it shall by order exempt such person or class of persons or such services or transportation from the provisions of this Part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the subjugation of the requirements of this Part, in whole or in part, to the exempted person or class of persons or exempted services or transportation is necessary to effectuate the National Transportation Policy and to achieve effective regulation by the Commission and would serve a useful public purpose. No such exemption shall be denied or revoked except after notice and reasonable opportunity for hearing."

SEC. 17. Section 403(a) of the Interstate Commerce Act (49 U.S.C. 1003(a)) is amended by adding a subparagraph "(1)" thereto to read as follows:

"403(a)(1) Whenever the Commission, upon its own motion or upon application of any interested party, determines that the requirements of this Part, in whole or in part, to any person or class of persons or to any services or transportation performed under this Part is not necessary in order to effectuate the National Transportation Policy declared in this Act or to effective regulation by the Commission thereunder, and would serve little or no useful public purpose, it shall by order exempt such person or class of persons or such services or transportation from the provisions of this Part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the subjugation of the requirements of this Part, in whole or in part, to the exempted person or class of persons or exempted services or transportation is necessary to effectuate the National Transportation Policy and to achieve effective regulation by the Commission and would serve a useful public purpose. No such exemption shall be denied or revoked except after notice and reasonable opportunity for hearing."

SEC. 18. Section 421(a) of the Interstate Commerce Act (49 U.S.C. 1021(a)) is amended to read as follows:

"(a) Any person who knowingly and willfully violates any provision of this Part, or any rule, regulation, requirement, or order thereunder, or any term or condition of any permit, for which no penalty is otherwise provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than $100 nor more than $500 for the first offense and not less than $200 nor more than $500 for any subsequent offense. Each day of such violation shall constitute a separate offense."

SEC. 19. Section 660 of the Criminal Code (18 U.S.C. 660) is amended to read as follows:

"Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common or contract carrier, person controlling, controlled by, or under common control with such carrier, or whoever being an employee of such common or contract carrier riding in or upon any railroad car, motortruck, steamboat, vessel, aircraft, or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or willfully misapplies or willfully permits to be misapplied, any of the moneys, funds, credits, securities, properties, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or to the use of another, shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defendant may have taken or had possession of such moneys, funds, credits, securities, properties or assets.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts."

SEC. 20. Section 1114 of the Criminal Code (18 U.S.C. 1114) is amended by inserting after the phrase "Federal Food, Drug, and Cosmetic Act" and before the phrase "while engaged in the performance of his official duties," the phrase "any officer or employee of the Interstate Commerce Commission".

### INTRODUCTION TO JUSTIFICATIONS

This Commission is charged with the duty of being the economic regulator of the Nation's surface transportation industry. We are concerned about the condition of that industry; this concern has been expressed publicly and we have suggested ways in which to combat some of the serious problems facing the interstate surface transportation systems. Last June we testified before the Special Subcommittee on Freight Car Shortages on freight car supply and utilization problems. At that time, we set forth our position on legislation proposed to alleviate those problems. Later in the summer, in the course of hearings before the Senate Subcommittee on Surface Transportation, we proposed specific amendments to the Interstate Commerce Act. These proposals, which were sent to Congress, cover matters such as conglomerates, guaranteed loans, restructuring of essential rail service, government rates, and through routes and joint rates. At that time, we stated that additional proposals dealing with amendment to various sections of the Interstate Commerce Act would be forwarded to Congress in the near future. For the sake of convenience, these amendments are incorporated into a solitary proposal; however, encompassed therein are amendments to various parts of the Act. It is our belief that each of these changes is required in order for us to properly carry out our statutory mandate; however, enactment of some of the proposals is more urgent than others. Following are justifications for all sections of the proposal in their respective order of priority. Attached is a guide indicating which section of the proposed bill corresponds to the pertinent section of the Interstate Commerce Act being amended.

### A–1

We recommend that sections 12(1), 204 (a)(6), 304(a), and 403(a) of the Interstate Commerce Act be amended so as to enable the Commission to exempt certain transportation from regulation.

We thoroughly disapprove of regulation for the sake of regulation and believe that the railroads, truckers, and other carriers under our jurisdiction should be subject to the restraints of the Interstate Commerce Act only to the extent that such regulation serves a useful public purpose. However, under the statute's present provisions we have no means of relieving certain services or transportation from the Act's requirements, with the result that we must exact compliance with the franchise, rate, and other regulations of carriers handling traffic that do not occasion such supervision. For example, the interstate motor movement of such commodities as homing pigeons would appear to be of such nature, character, or quantity as not substantially to affect or impair uniform regulation, and exemption of such transportation from regulation would in no wise hinder the effectuation of the national transportation policy or affect materially the welfare of regulated transportation. Likewise, the exclusion from interstate regulation of local mass transit motorbus operations conducted within precisely defined territorial limits would in certain circumstances appear to have little or no effect upon uniform regulation of that segment for the for-hire industry.

While individual and specific legislative recommendations could be submitted from time to time with respect to each commodity or transportation service found by this Commission to be susceptible of statutory exemption, enactment of the proposed general exempting power is believed to be in the best interests of all concerned. Not only would such authority relieve the Commission and the affected carriers of what seems to be an undue regulatory burden, but also would tend to free the Congress of much of the legislative workload that would be encountered by a piece-meal approach. As an example, such authority probably would have eliminated the need for the recently enacted law partially exempting from regulation the emergency transportation of accidentally wrecked or disabled motor vehicles. Additionally, the recommended authority would result in increased flexibility, since any exemption created thereunder would be subject to continuous administrative review and to repeal or modification upon a finding of changed circumstances. Accordingly, we propose that sections 12(1), 204(a)(6), 304(a), and 403(a) of the Act be amended so as to enable us, after notice and opportunity for hearing, to establish exemption from its requirements.

*We recommend that section 20a of the Interstate Commerce Act be amended so as to provide other carriers subject to our jurisdiction with the same exemptions in offering small notes or other securities issues as now is applicable to motor carriers pursuant to section 214 of the act.*

We believe that railroads and other carriers should be relieved of the formalities of securing Commission authorization when offering small notes or other securities issues. The motor carriers long have had the benefit of such an exemption from the normal requirements pertaining to securities issues, and we see no reason why the exemption should not be enlarged. Accordingly, we propose that the Act be amended to extend the exemption now found in section 214, applicable to motor carriers, to rail carriers by inserting it as a provision to section 20a of the Act.

A railroad presently is not allowed any exemption in the issuance of securities except that provided in section 20a(9) in respect of short term notes, and that exempts short term notes only to the extent of 5 percent of the carrier's outstanding securities, excluding short term notes. *See New York, N.H. & H.R. Co. Notes,* 207 I.C.C. 560. Thus a railroad with $1,000,000 of outstanding securities may issue not more than a total of $50,000 of short term notes under this exemption, whereas a motor carrier, under the same circumstances, may issue $200,000 or short term notes or, if it has a large amount of securities outstanding, it may issue not exceeding 5 percent of short term notes under the section 20a(9) exemption, whichever is the greater.

### A2(b)

*We recommend that Part III of the Interstate Commerce Act be amended by adding a new section 303(m) which would exempt transportation authorized by the Secretary of the Interior in and about national parks and monuments from certification or economic regulation.*

The need for such legislation was emphasized by a recent situation called to our attention by Senator Goldwater. Canyon Tours, Inc., has operated sightseeing boats on the Colorado River from Lee's Ferry in Arizona for more than 25 years. Since the construction of Glen Canyon Dam and the formation of Lake Powell, it has operated on Lake Powell from Wahweap, Ariz., to all points on Lake Powell, both in Utah and Arizona, and then returning them to Wahweap. Operations on Lake Powell, which is located within a national park, are subject to the jurisdiction of the Department of Interior National Park Service. The Department of Interior awards the franchises and supervises the rates applicable to such operations. It administers all commercial and recreational activities on Lake Powell and in granting a concession to Canyon Tours, Inc., it has charged the carrier with the responsibility of meeting the public demand for water tours on the Lake. In addition to being subject to the jurisdiction of the Department of Interior, Canyon Tours, Inc., is also subject to the jurisdiction of this Commission under Section 302(i)(1) of the Act, for it operates as a common carrier by water between points in Utah and Arizona. The fact that no passengers are discharged across State lines does not relieve this Commission of the duty of exercising such jurisdiction. The Act now contains no provision which would permit this Commission to refrain from exercising jurisdiction in this situation.

We believe that a new section 303(m) should be added to make inapplicable the provisions of part III to transportation authorized by the Secretary of the Interior of persons in and about the national parks and national monuments. There is no reason why this kind of transportation should be subject to either certification or economic regulation.

*We recommend that section 1(15) of the Interstate Commerce Act be amended so as to permit the imposition of a penalty charge upon a railroad's use of the cars of another line whenever an emergency shortage of such equipment exists or is threatened.*

We believe that we should be given the authority under our emergency powers in section 1(15) of the Act to impose a penalty or emergency charge upon a railroad's use of the cars of another line whenever an emergency shortage of such equipment exists or is threatened. This would enlarge our statutory base of emergency powers. The charge could be applicable to any type of freight car in any section of the country during an emergency or threatened emergency, if the charge is calculated to relieve such shortage or threatened shortage by promoting the expeditious movement, distribution, interchange or return of freight cars. The additional charge would be paid to the owners; failure to make such payments would subject the debtor carrier subject to the penalty provisions of section 1(17) of the Act. Increased car utilization and ownership are of prime importance at this time; hence, we believe that this additional statutory tool is needed to meet this end. This proposal is very similar to section 4 of S. 3223 introduced into the 91st Congress by Senator Magnuson on December 9, 1969, and is aimed at helping to solve the Nation's freight car problems by making more cars available through enforced better utilization.

The proposal would give a clear statutory basis to our authority to impose a penalty per diem charge during times of emergency or threatened emergencies. This could be imposed upon carriers for substandard utilization or misuse of equipment. Presently there is legislation pending before the Congress concerning railroad freight cars and other equipment. Granting the Commission the authority sought herein would provide us with an additional tool to alleviate the overall problem. The authority herein would be utilized in a similar manner as car service orders and would let the Commission act in a preventive manner.

### C

*We recommend that section 212(a) of the Interstate Commerce Act be amended: (1) to make motor carrier operating authorities subject to suspension, change, or revocation for willful failure to comply with any provision of Chapter 39, title 18, United States Code, Explosives and Other Dangerous Articles; and (2) to provide that the Commission may, upon reasonable notice, suspend motor carrier operating authorities for failure to comply with insurance regulations issued by it pursuant to section 215 thereof.*

Section 6(e)(4) of the Department of Transportation Act transferred the Commission's authority relating to explosives and other dangerous articles to the Department of Transportation. Nevertheless, we should have the authority to suspend and revoke certificates for serious violations of such Act. Consequently, section 212(a) should be amended to give the Commission this authority.

The second proviso in section 212(a) provides for the suspension, upon notice, but without hearing, of motor carriers' and brokers' operating authorities for failure to comply with brokerage bond regulations and tariff publishing rules. It does not provide for suspension on short notice for failure to maintain proof of cargo, public-liability, and property-damage insurance under section 215. As a result, the only remedy presently available under section 212(a) is revocation of the carriers' authority. All insurance filings made with the Commission are on a "continuous until cancelled" basis with a minimum thirty-day cancellation provision. The motor carrier is immediately notified of an insurance cancellation and has ample time to make new arrangements. If replacement insurance is not received by the cancellation date, we now must commence lengthy and time-consuming show cause proceedings to obtain compliance or to revoke the operating authority. Approximately 400 such proceedings are commenced annually. The public may be adversely affected should losses occur during these proceedings. Section 410(f) is a counterpart of section 212(a) and contains a provision similar to the second proviso of section 212(a). The second proviso in section 410(f), however, provides for suspension on short notice of freight forwarder permits for failure to comply with the cargo insurance provisions under section 403(c) and the public-liability and property-damage insurance provisions under section 403(d). Our recommendation would bring section 212(a) into further conformity with section 410(f) by removing this distinction.

There is as much reason to require motor carriers to keep their cargo and public-liability and property-damage insurance in force as there is to require freight forwarders to keep their insurance in effect. It is therefore desirable in the public interest that the Commission have the authority to suspend motor carrier rights, on short notice, when insurance lapses, or is cancelled without replacement, until compliance is effected. The prospect of such action by the Commission should act as a deterrent to violations of this nature. An investigation under section 204(c) is not satisfactory since such proceedings can be lengthy and the public may be adversely affected should losses occur while it is pending.

The amendments to section 212(a) would enable the Commission to administer the enforcement provisions of Part II of the Act more effectively.

### D–1

*We recommend that a new section 1(23) (b) be enacted so as to empower the Commission to temporarily authorize the acquisition of one railroad by another pending a final determination of an underlying permanent application.*

Section 210(b) of the Act empowers the Commission to grant temporary authority to the consolidation or merger of the properties of two or more motor carriers, or of a purchase, lease, or contract to operate the properties of one or more motor carriers, if it should appear that failure to grant such temporary authority may result in destruction of or injury to such motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public pending disposition of the application for permanent authority. The Act does not grant the Commission similar authority with respect to railroad carriers, and we propose that the Act be amended to provide for such temporary authority in railroad proceedings.

Applications for permanent authority to consolidate or merge the properties of two or more railroads, or for the purchase, lease, or contract to operate the properties of one or more railroads generally involve prolonged proceedings while applicants and protestants present and develop their cases. A period of several years is not unusual particularly where the parties appeal the results through the various courts as frequently occurs. In the meantime, a railroad applicant often continues to deteriorate financially, its maintenance is neglected, and its service to the public impaired. We propose that the Commission be granted the discretionary authority to grant temporary authority in appropriate cases pending disposition of the application for permanent authority. Such authority would particularly be helpful in proceedings where financially viable railroads seek to acquire through merger, control or purchase, the properties of financially troubled railroads. This would help avoid deterioration resulting from delay in processing applications and would equalize the treatment of motor and rail carriers.

*We recommend that a new section 1(23) (a) be enacted so as to empower the Commission to grant temporary operating authority to railroads, pending the Commission's determination of corresponding application for permanent operating authority.*

Under the Interstate Commerce Act, as presently worded, the Commission cannot authorize temporary railroad operations. Section 210(a) of the Act empowers the Commission to grant temporary authority to motor carriers to operate where there is an immediate and urgent need, pending disposition of an application for permanent authority. Similar authority with respect to railroad operations is highly desirable since applications for permanent authority frequently require a long period of time to be processed, and in the meantime there is a danger that the public could be denied essential railroad service. Such temporary authority is particularly needed with respect to railroads in reorganization. The United States District Courts in several railroad reorganization proceedings have indicated from time to time that they would dismiss the reorganization proceeding before the Court and liquidate the debtor railroad in the event such railroad ran out of cash to operate. If such a point were reached it would be highly important that the Commission be able to grant temporary authority to other railroads to operate essential rail service of the debtor railroad, so as to avoid the lapse of service pending disposition of an application for permanent authority. Such authority was urgently needed in the past when the New York, Ontario and Western Railroad Company and the Tennessee Central Railroad ceased operations due to lack of funds.

### E

*We recommend that section 216(g) of the Interstate Commerce Act be amended so as to provide this Commission with statutory authority to impose refund provisions in proceedings involving proposed increases in rates or charges of motor carriers.*

Part I of the act, section 15(7), contains the authority for the Commission to investigate a proposed rate, charge, and so forth. Ancillary to this authority are the further provisions of that section permitting the Commission to suspend the operation of the proposal for a period not to exceed seven months. If the investigation has not been concluded within the suspension period, section 15(7) requires that the proposed rate, charge, etc., be allowed to go into effect. However, where an increase in a rate or charge for the transportation of property becomes effective in the course of an investigation, section 15(7) empowers the Commission to require by order that the carriers keep an accurate account of all amounts received by virtue of the increase. Upon the conclusion of the investigation, the Commission may then order the carrier, to the extent the proposed rate or charge is found not justified, to make refunds with interest to the persons in whose behalf such amounts were paid.

Section 216(g) of Part II is the analog to section 15(7). However, section 216(g) does not contain the accounting and refund provisions as an adjunct to the investigation and suspension authority. As their costs continue to escalate, motor carriers are filing petitions for increases in rates more frequently. Certainly, after more than 35 years of regulation, the motor carriers should no longer be sheltered from such provisions. The authority sought, it should be noted, would only disturb the status quo to the extent that the increases are later found to be unwarranted. In these circumstances, we believe that shippers moving their property by motor carrier should be afforded at least as much protection as shippers by railroad.

The proposed amendment to section 216(g) is identical to the provisions currently in section 15(7).

### F

*We recommend that section 4 of the Interstate Commerce Act be amended so as to give the Commission discretion to allow long- and short-haul departures when investigation is unnecessary.*

Fourth Section relief can be granted under the present statute only after investigation with the implicit requirement for notice and hearing. The proposed amendment would give the Commission statutory discretion to allow long- and short-haul departures when investigation is unnecessary, thus affording flexibility in railroad rate adjustments.

### G

*We recommend that section 1114 of Chapter 51, title 18, of the United States Code be amended so as to include officers and employees of the Interstate Commerce Commission.*

Employees of the Bureau of Enforcement and of the Bureau of Operations have been subjected to abuse, threat, and possible injury while in the performance of their official duties. Section 1114 of the Criminal Code is designed to protect officers and employees of the United States while those persons are performing their official duties. The statute is specific in that it applies only to those officers of the agencies so designated. We believe that officers and employees of the Interstate Commerce Commission should be afforded the protection offered under this section.

### A

### (Priority Group "B")

*We recommend that section 17(2) be amended as to authorize the Commission to delegate to qualified individual employees, including transportation economists and specialists, those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.*

In addition to a voluminous number of formal cases, we are responsible under the Act for numerous matters of relatively routine and specialized nature. For example, matters relating to extensions of time for filing annual, periodical, or special reports; rejection of tariff publications for failure to give lawful notice or failure to comply with our regulations; and orders assigning cases for hearing, extending dates for the filing of pleadings and postponing compliance dates. Except with respect to assignments to a Division or an individual Commissioner, we may now under section 17(2) delegate such functions only to three-man boards.

When applied to matters of the type described above, the mandatory requirements of section 17(2) are unnecessary and unduly limit our authority in what essentially is an administrative area.

The proposed recommendation has been narrowly drawn so as to affect only the processing of matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. This would authorize us to refer such matters to individual employees who in our judgment would be qualified to receive such delegations. In addition to directors and assistant directors of bureaus, examiners, chiefs of sections, and attorneys who are now eligible under existing law to serve on employee boards and could also receive individual delegations, such personnel as accountants, economists, and other transportation specialists as we might designate could receive individual delegations to handle the limited range of matters covered by this recommendation. The amendment makes it clear that the right of any party to appeal a decision of an individual employee to the Commission or an appellate division thereof is specifically preserved in the same manner as appeals from decisions of employee boards under existing law.

Enactment of the proposed amendment to section 17(2) would enable us to utilize key employees more effectively and would contribute significantly to improved overall administrative efficiency.

### B

*We recommend that section 20a(12) of the Interstate Commerce Act be amended so as to make unnecessary our approval of interlocking directorates between affiliated carriers, and at the same time, clarify that Commission approval must be obtained for interlocking directorates accomplished through different individuals representing a business entity.*

We fully subscribe to the idea, now embodied in the Interstate Commerce Act, that we be apprised of and approve in advance interlocking directorates between carriers subject to our jurisdiction. However, where we heretofore have authorized the one carrier to acquire control of the other, there seems to be little or no reason why we should receive and act on applications approving the election of interlocking directorates between such affiliated carriers. We propose that section 20a(12) be amended so as to make our approval unnecessary in such circumstances. At the same time we suggest that the law be amended to make clear that our approval must be obtained for interlocking directorates accomplished through different individuals representing a single firm, partnership, or corporation.

### C–1

*We recommend that section 660 of the Criminal Code (18 U.S.C. § 660) should be amended so as to make it applicable to contract carriers engaged in interstate commerce.*

We believe the provisions of section 660 of the Criminal Code should be made applicable not only to common carriers but to contract carriers, persons controlled by, controlling, or under common control with such carriers when such carriers have had their moneys, funds, credits, securities, properties, or assets embezzled, stolen, or willfully applied by officers or employees of such carriers engaged in interstate commerce. This section is presently applicable only to common carriers.

### C–2

*We recommend that section 16(9) and (10) of the Interstate Commerce Act be amended so as to provide civil penalties whenever there is a failure to comply with any rules, order, or regulation of this Commission not now covered.*

Revision of sections 16(9) and (10) is necessary to provide an effective forfeiture section for enforcement of an increased number of types of violations for which there would be an alternative civil remedy to presently existing criminal remedies. This would facilitate use of the Federal Claims Collection Act of 1966 and further the objective of that act by relieving the courts of relatively less important matters that are within predictable settlement ranges. Minimum fines would be set at $1,000 and maximum fines at $20,000 providing realistic figures for the very large rail carriers.

Courts have been reluctant to impose criminal penalties for some offenses. These amendments would impose civil sanctions whenever there is failure to comply with any rule, order or regulation of the Commission not now covered. For example, section 6(7) which is in pari materia with the criminal provisions of the Elkins Act can only be enforced under the penal provisions of section 10(1). Many enforcement cases brought under the criminal provisions of the Elkins Act for granting rebates, concessions, advantages, and discriminations would equally be subject to enforcement in connection with section 6(7) if there were an effective civil forfeiture provision which could be exercised against rail carriers. Shippers now are subject to a treble civil forfeiture provision under the Elkins Act while carriers are not. Increased civil forfeitures would permit the Commission to apply an expeditious, cost-saving enforcement tool under Part I with respect to all orders and regulations where no civil remedy presently exists.

### C–3

*We recommend that section 10(1) (2) (3) and (4) of the Interstate Commerce Act be amended so as to provide for minimum fines for violations under Part I of the Act.*

The present section 10(1) fails to provide that its penal sanctions shall be applicable to violations of rules, regulations, requirements, and orders of the Commission under Part I as is true under sections 222(a), 317(a), and 417(a). Rather, these sanctions apply only to violations of the statutory provisions themselves, due no doubt to the fact that many provisions of Part I contain their own penalties. This results in enforcement loopholes. For example, there is no direct penal sanction for violation of a Section 5 order or for orders issued under other sections of Part I.

The penalty provisions of these sections have not been made use of in recent times because of the absence of a minimum amount specified therein. Instead, recourse has been had in most situations to the provisions of the Elkins Act or to other penalty provisions such as contained in section 16(8) of the Interstate Commerce Act, both, however, contain extremely heavy mandatory penalty provisions and, thus, are not as well designed as could be in dealing with less serious violations. For example, failure to observe the Commission's credit regulations by a rail carrier may result in evidence of literally hundreds of thousands of dollars of such violations. In some instances, the enforcement action has been taken under section 16(8) of the Act which calls for a mandatory penalty of $5,000 for each offense. This sum would seem to be totally out of proportion to the type of violation involved and a lower penalty under a different section would represent a helpful enforcement procedure. Most of the provisions found in other sections of Part I prescribing penalties specify minimum amounts, such as section 1(17) (a) and comparable provisions of penalty sections of Parts II, III, and IV of the Act also prescribe more penalties. Hence, it would seem to be in the public interest to make these sections uniform to penalty provisions in other parts of the Act.

### C–4

*We recommend that section 421(a) of the Interstate Commerce Act be amended so as to provide a minimum fine for first offenses by freight forwarders.*

The present maximum penalty of $100 for a first offense by a freight forwarder, as provided in section 421(a), makes it difficult for the Government to prosecute first offenders, since the cost of prosecution will be substantially more than it can hope to derive from the imposition of a penalty.

The present maximum penalty has been in existence since 1942 and is not a sufficient deterrent to restrain violations by freight forwarders. The increased minimum and maximum fines of $100 and $500 for the first offense and $200 and $500 for any subsequent offenses are identical to those fines presently assessed against motor carriers under section 222(a). Addition of the minimum fine to the statute will make it economically feasible to prosecute violations by freight forwarders.

### D

*We recommend that section 1(1) of the Interstate Commerce Act be amended to provide the Commission with jurisdiction over transportation in the United States when the movement is between two foreign countries through the United States.*

At the present time it is possible for railroads to discriminate against domestic shippers by according unwarranted rate concessions to shippers between points in foreign countries, for we have no jurisdiction over such transportation, even to the extent that it is performed within the United States. This regulatory gap has not loomed large heretofore, when the only rail movements between points in foreign countries have been between Mexico and Canada. Now, however, the development of containerized traffic and the concept of land-bridge transportation between European and Asian points gives this matter some importance. We suggest that section 1(1) of the Act be amended to complete our regulatory jurisdiction over railroad transportation within the United States.

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### INTERSTATE COMMERCE ACT AMENDMENTS OF 1971 PRIORITY GROUPS "A" AND "B"[1]

#### *Priority Group "A"*

A. Exemption authority.

1. General exemption authority.

2. If general exemption authority is not granted, the following two specific items should be considered.

a. Exemption for issuance of short term notes.

b. Water carrier operations in national parks.

B. Penalty charge for use of foreign rail cars during period of emergency shortage.

C. Suspension and revocation of motor carrier operating authorities for non-compliance with regulations.

D. Temporary authority under Part I.

1. Merger and acquisition cases.

2. Operating authority cases.

E. Extension of refund provisions to motor carriers.

F. Fourth Section relief without hearings.

G. Protection for Commission employees.

#### *Priority Group "B"*

A. Delegation of authority to individual employees.

B. Revision of provisions relating to interlocking directorates.

C. Enforcement measures.

1. Extension of criminal penalties to employees of contract carriers.

2. Extension of civil forfeiture provisions.

3. Extension of criminal sanctions to Part I rule violations; increase level of fines.

4. Increase fines under Part IV.

D. Rate regulation for foreign shipments (land bridge).

#### *Interstate Commerce Act key to draft bill*

A. Exemptions authority:

1. General exemption authority.

Act, sec. 12(1); proposed bill, sec. 7.
Act, sec. 204(a) (6); proposed bill, sec. 12.
Act, sec. 304(a); proposed bill, sec. 16.
Act, sec. 403(a); proposed bill, sec. 17.

2. If general exemption authority is not granted, the following two specific items should be considered.

a. Exemption for issuance of short term notes:

Act, sec. 20(a); proposed bill, sec. 10.

b. Water carrier operations in national parks:

Act, sec. 303(m); proposed bill, sec. 15

B. Penalty charge for use of foreign rail cars during period of emergency shortage:

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[1] In addition to the proposals previously submitted to the 92nd Congress by the Interstate Commerce Commission, this Bill constitutes the remainder of the legislative recommendations by the Commission to the First Session of the 92nd Congress. To avoid confusion the composite Bill amends the Interstate Commerce Act chronologically, but for the convenience of the Committee we have listed the various recommendations in descending importance in the above outline.

Act, sec. 1(15); proposed bill, sec. 3.

C. Suspension and revocation of motor carrier operating authorities for non-compliance with regulations:

Act, sec. 212(a); proposed bill, sec. 13.

D. Temporary authority under Part I:

1. Merger and acquisition cases:

Act, sec. 1(23) (b); proposed bill, sec. 4.

2. Operating authority cases:

Act, sec. 1(23) (a); proposed bill, sec. 4.

E. Extension of refund provisions to motor carriers:

Act, sec. 216(g); proposed bill, sec. 14.

F. Fourth Section relief without hearings:

Act, sec. 4; proposed bill, sec. 5.

G. Protection for Commission employees:

Act, sec. Sec. 1114, Ch. 51, title 18, U.S.C.; proposed bill, sec. 50.

Priority Group "B"

A. Delegation of authority to individual employees:

Act, sec. 17(2); proposed bill, sec. 9.

B. Revision of provisions relating to interlocking directorates:

Act, sec. 20(a) (12); proposed bill, sec. 11.

C. Enforcement measures:

1. Extension of criminal penalties to employees of contract carriers:

Act, sec. (660 Criminal Code); proposed bill, sec. 19.

2. Extension of civil forfeiture provisions:

Act, secs. 16(9) and (10); proposed bill, sec. 8.

3. Extension of criminal sanctions to Part I rule violations; increase level of fines:

Act, secs. 10(1), (2), (3), & (4); proposed bill, sec. 6.

4. Increase fines under Part IV:

Act, sec. 421(a); proposed bill, sec. 18.

D. Rate regulation for foreign shipments (land bridge):

Act, sec. 1(1); proposed bill, sec. 2.

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By Mr. MAGNUSON (by request):

S. 3240. A bill to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3240

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66, is hereby further amended as follows:

(a) By inserting after the section designation the letter "(a)"; by changing the first sentence to read: "Subject to such standards as shall be promulgated jointly by the Secretary of the Treasury and the Comptroller General of the United States payment for transportation of persons or property for or on behalf of the United States by any carrier or forwarder shall be made upon presentation of bills therefor, prior to audit or settlement by the General Accounting Office, but the right is reserved to the United States Government to deduct the amount of any overcharge by any carrier or forwarder from any amount subsequently found to be due such carrier or forwarder."; deleting the portion of the second sentence preceding the colon and substituting therefor the following: "The term 'overcharges' shall be deemed to mean charges for transportation services in excess of those applicable thereto under tariffs lawfully on file with the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, and any state transportation regulatory agency, and charges in excess of those applicable thereto under rates, fares, and charges established pursuant to section 22 of the Interstate Commerce Act, as amended, or other equivalent contract, arrangement, or exemption from regulation".

(b) By adding the following new subsections to the section:

"(b) Pursuant to regulations prescribed by the head of a Government agency or his designee and in conformity with such standards as shall be promulgated jointly by the Secretary of the Treasury and the Comptroller General of the United States, bills for passenger or freight transportation services to be furnished the United States by any carrier or forwarder may be paid in advance of completion of the services, without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), *Provided*, that such carrier or forwarder has issued the usual ticket, receipt, bill of lading, or equivalent document covering the service involved, subject to later recovery by deduction or otherwise of any payments made for any services not received as ordered by the United States.

"(c) The term 'head of a Government agency' means any individual or group of individuals having final decision-making responsibility for any department, commission, board, service, Government corporation, instrumentality, or other establishment or body in the United States Government.

"(d) This act shall be known as the Transportation Payment Act of 1972."

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GENERAL SERVICES ADMINISTRATION,
*Washington, D.C., January 7, 1972.*
Hon. SPIRO T. AGNEW,
*President of the Senate, U.S. Senate, Washington, D.C.*

DEAR MR. PRESIDENT: There is transmitted herewith, for referral to the appropriate Committee, a draft of legislation "To amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges."

The proposed legislation is an outgrowth of the Joint Agency Transportation Study Report (December 1969) on procuring, paying, auditing, and settling civil agency freight and passenger transportation services. The study was initiated in April 1968 as a result of numerous complaints received from the common carrier industry regarding delays and other problems the carriers were experiencing in receiving payments from civilian agencies for transportation services. It was conducted under the sponsorship of the Joint Financial Management Improvement Program, the leadership of which is provided by the Secretary of the Treasury, the Director of the Office of Management and Budget, the Comptroller General of the United States, and the Chairman of the Civil Service Commission.

The report proposes substantial changes in policies and procedures, many of which have been in existence over many years. The proposed changes will eliminate or alleviate problems both costly and cumbersome to the Government and the carriers. This will be accomplished by facilitating preparation or elimination of documentation, simplification of transportation procurement practices, reduction in number of lost Government bills of lading, improvement of administrative and financial flexibility, reduction of billing problems, and facilitation of the audit function. The report contains 58 recommendations for improving the conduct of the Government's transportation business in both the freight and passenger fields which, when fully implemented, will save an estimated $8.6 million annually.

GSA's Transportation and Communications Service has responded to the report by establishing a special projects division in its Office of Transportation to participate in the Government-wide implementation of the JATS program. However, of the 58 recommendations contained in the report, it is the opinion of GAO that three may not be implemented without changing existing law. These recommendations are as follows:

(a) That the General Services Administration's current system of computer printed Government bills of lading be further refined to show actual, rather than estimated, transportation charges, and that payment be made to the carriers on a periodic basis, without the necessity of carrier billing. This would reduce sharply the administrative costs of both the Government and the carrier.

(b) That the Consignee's Certificate of Delivery be eliminated from the Government Bill of Lading and a carrier's certificate of delivery be substituted therefor. Other more effective types of shipment controls, such as receiving reports and loss and damage reports, have rendered this consignee's certificate unnecessary.

(c) That Government agencies be authorized to pay at origin, from imprest funds for domestic freight, charges not exceeding $25 on commercial bills of lading, provided appropriate records of such transactions are maintained to permit audit by the General Accounting Office. This would reduce the workload for both the Government and the carriers, greatly reducing the costs of documentation, which are sometimes more than the cost of the transportation service.

Section 3648 of the Revised Statutes, which has governed transportation payment policies, practices, and procedures since 1823, prohibits the government from making payment in advance of the receipt of goods and services. In the case of transportation, this requires documentation procedures and accounting processes which are costly to the Government and burdensome to the carriers, inasmuch as they delay payments for inordinately long periods of time. The draft bill would amend section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66, to provide for the payment of transportation charges without regard to section 3648 of the Revised Statutes, thus permitting the implementation of the three recommendations of the Joint Agency Transportation Study Report, to the benefit of the Federal Government and the carriers alike.

Abuse of the privilege would be precluded under the draft bill by joint regulations of the Secretary of the Treasury and the Comptroller General of the United States, which would insure that prepayment is not expected to become the rule, but is rather an exception, and by a provision that any overcharge by a carrier could be deducted from any amount subsequently due the carrier.

We urge prompt and favorable consideration of the draft bill.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely,

HAROLD S. TRIMMER, Jr.,
*Assistant Administrator.*

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By Mr. MAGNUSON (by request):

S. 3241. A bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3241

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That funds are hereby authorized to be appropriated for fiscal year 1973 for the use of the Coast Guard as follows:

Vessels

For procurement and increasing capability of vessels, $81,070,000.

A. Procurement.

(1) replace one icebreaker.

B. Increasing capability

(1) renovate and improve selected buoy tenders.

(2) conduct major repairs on cutter (polar icebreaker) *Glacier*.

(3) renovate two *Wind* class polar icebreakers for interim service.

(4) abate pollution from vessels.

Aircraft

For procurement and extension of service life of aircraft, $11,600,000.

A. Procurement.

(1) two long range search aircraft.

B. Extension of service life.

(1) repair outer wings on nine HC-130 aircraft.

For establishment or development of installations and facilities by acquisition, construction, conversion, extension, or installation of permanent or temporary public works, including the preparation of sites and furnishing of appurtenances, utilities, and equipment for the following, $42,990,000.

(1) Marshfield and Otis Air Force Base, Massachusetts: modernize radio station facilities;

(2) Brooklyn, New York: construct barracks and messing facility at air station;

(3) Fort Hancock, New Jersey: rebuild Sandy Hook Station;

(4) Portsmouth, Virginia: construct new base (phase II);

(5) Islamorada, Florida: construct permanent facilities;

(6) Monterey, California: rebuild Monterey Station and construct moorings at Santa Cruz;

(7) Coos Bay, Oregon: construct new air station;

(8) Cape May, New Jersey: expand electrical capacity at training center;

(9) Yorktown, Virginia: construct barracks at training center;

(10) Cocoa Beach, Florida: establish C-130 aircraft facility at Patrick Air Force Base;

(11) Fort Pierce, Florida: rebuild station;

(12) Port Isabel, Texas: renovate station;

(13) Dana, Indiana: renovate barracks at Loran Station;

(14) Various locations: abate pollution from stations;

(15) Washington, District of Columbia: procure and install National Response Center Information System equipment;

(16) Various locations: aids to navigation projects on selected waterways;

(17) Various locations: automate light stations;

(18) Presque Isle, Maine: construct station for Loran-C development project;

(19) Houston, Texas: establish marine traffic control system;

(20) Various locations: public family quarters;

(21) Various locations: advance planning, survey, design, and architectural services; project administration costs; acquire sites in connection with projects not otherwise authorized by law.

SEC. 2. For fiscal year 1973 the Coast Guard is authorized an average active duty personnel strength of 39,074.

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THE SECRETARY OF TRANSPORTATION,
*Washington, D.C., January 28, 1972.*

Hon. SPIRO A. AGNEW,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a bill, "To authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard."

This proposal is submitted under the requirements of Public Law 88-45 which provides that no funds can be appropriated of vessels or aircraft or the construction of shore or offshore establishments unless the appropriation of such funds is authorized by legislation. Section 2 of the proposed bill responds to section 509 of P.L. 91-441 which directs that Congress shall authorize for each fiscal year the average annual active duty personnel strength of each of the Armed Forces.

The proposal includes, as it has previously, all items of acquisition, construction, and improvement programs for the Coast Guard to be undertaken in fiscal year 1973 even though the provisions of Public Law 88-45 appear to require authorization only for major facilities and construction. Inclusion of all items avoids the necessity for arbitrary separation of these programs into two parts with only one portion requiring authorization.

Not all items, particularly those involving construction, are itemized. For example, those involving navigational aids, light station automation, public family quarters, and advanced planning projects contain many different particulars the inclusion of which would have unduly lengthened the bill.

In support of the legislation, the cognizant legislative committees will be furnished detailed information with respect to each program for which fund authorization is being requested in a form identical to that which will be submitted in explanation and justification of the budget request. Additionally, the Department will be prepared to submit any other data that the committees or their staffs may require.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that enactment of this proposed legislation is in accord with the President's program.

Sincerely,

JOHN A. VOLPE.

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By Mr. STAFFORD:

S. 3243. A bill to amend the Railway Labor Act to provide more effective means for protecting the public interest in national emergency disputes involving the railroad and airline transportation industries, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. STAFFORD. Mr. President, today I am introducing a bill to amend the Railway Labor Act to provide for a more effective means for protecting public interest when a strike in the railroad or airline transportation becomes a national emergency.

The distinguished Chairman of the Senate Committee on Labor and Public Welfare (Mr. WILLIAMS) has announced an executive session of the Labor Subcommittee for March 17 to consider emergency strike legislation. Thus I am offering in the form of legislation some ideas that have come to me during the course of events leading up to the passage of Senate Joint Resolution 187 by the Senate earlier this month.

There are many different proposals pending before the subcommittee which will need long and hard evaluations by the committee members. I feel the ideas I am presenting could possibly lead to a rational solution to this complex problem without infringing too much on the rights of either party while protecting the public.

Being a strong supporter of free collective bargaining and a union's right to strike, I am saddened at the fact that this process of settling a workingman's grievances has deteriorated to the point where congressional action is being called for by the public.

I am in full agreement with Senator WILLIAMS that the complexities of the legislation and the nature of its impending impact on our system of labor-management relations obviates the need for more thorough hearings.

Briefly my bill would guarantee a union's right to selectively strike segments of the railroad industry without fear of a national lockout after procedure under the existing Railway Labor Act has been exhausted. If, as a result of the strike or other circumstance surrounding the dispute, a national emergency developed, then the President could go into Federal court to obtain a Taft-Hartley type of injunction against the strike. Providing a back-to-work order was issued by the courts, then the President would issue an Executive order for Government operation of the industry. Penalties would be invoked against the disputant parties as a result of the Government having to take action. The profits sustained by the carriers involved during the period of Government operation would be transferred to a trust fund. The unions involved would suffer the loss of retroactivity of wages and benefits for that period of U.S. operation. This is a kind of "plague" on both your Houses approach if you cause injury to the public as a result of the dispute.

My bill is premised on the belief that the Government operation procedure is a last resort and that both union and management will find it unsatisfactory and work out their differences in free collective bargaining. I feel, with the union having a guaranteed right to selective strike, the last resort provisions would seldom, if ever, be used.

Mr. President, I ask unanimous consent that the text of my bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3243

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Railway Labor Act as amended (45 U.S.C. 151) is hereby amended by redesignating sections 11 to 14, inclusive, as sections 14 to 17, respectively, and by inserting the following new sections 11, 12 and 13:

"SETTLEMENT OF EMERGENCY DISPUTES"

"SEC. 11. (a)(1) If the parties to a dispute do not reach agreement during the thirty-day period following the making of a report by a Board appointed under section 10, the representative of the employees affected by the dispute may selectively strike any of the carriers or carrier systems to whom such proposal was directed without concurrently striking other carriers to whom such proposal was also directed and who may have been jointly or concurrently involved with the struck carrier or carriers in the previous handling of the dispute under this Act.

(2) For purposes of this section, a selective strike in the railroad industry means (A) a strike of not more than one carrier operating in each of the eastern, western and southwestern regions are struck, (B) a strike of two or more carriers or groups of carriers operating in a system in any one of the eastern, the western, or the southeastern regions are concurrently struck and the aggregate revenue ton-miles transported by all such carriers in any one region who are concurrently struck did not in the preceding calendar year exceed 30 per centum of the total revenue ton-miles transported by all carriers in such regions in such year. If only one railroad carrier is struck in any one region, the revenue ton-miles limitations shall not apply in that region. The eastern, the western and the southeastern regions as used herein mean, respectively, the carriers represented by the Eastern, Western and Southeastern Carriers Conference Committees and any other carriers operating in the territories in which such carriers respectively operate.

"(3) For the purpose of this section a selective strike in the airline industry means a strike of two or more carriers whose total aggregate revenue-passenger miles do not in the preceding year exceed 30 per centum of the total revenue-passenger miles for the United States.

"(b) If the parties to a dispute do not reach agreement during the thirty day period following the making of a report by a Board appointed under section 10, the carrier or carriers to the dispute may make changes in terms and conditions of employment effective without agreement, provided that such changes were originally proposed in accordance with section 6 of this Act by such carrier or carriers.

"(c) Whenever a selective strike occurs under the provisions of this section, it shall be unlawful for any carrier to lock out any craft or class of its employees, or any segment of any such craft or class, or in any manner to diminish its transportation service in consequence of any dispute subject to this section unless such carrier is caused to diminish such service by a strike of all or some portion of its employees; and then only as permitted by applicable agreements and in accordance with the notice and other provisions of such agreement.

"(d) In any dispute subject to the provision of this section, any agreements affecting rates of pay, rules, or working conditions between the employees or their representatives and any carriers which have been struck under this section shall be immediately offered jointly, without change, to all carriers who have been jointly or concurrently involved in the previous handling of the dispute under this Act. If all such carriers do not, within ten days after any such offer, jointly accept such agreements without change, the agreements shall be then offered individually, to each such carrier. If any such carrier does not, within ten days after having received such individual offer, individually accept such agreements without change, the employees affected by the dispute may selectively strike such carrier, subject to the limitations specified in subsection (a) of this section.

"SEC. 12. (a) Whenever, in the opinion of the President of the United States, a threatened or actual work stoppage, if permitted to occur or to continue, will

"(1) imperil the national health or safety; or

"(2) interrupt interstate commerce so as to deprive any section of the country of essential transportation service to an extent beyond that permitted by section 11(a);

he may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such work stoppage or the continuation thereof.

"(b) Upon the filing of a petition under section 12(a), the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, subject to the limitations set forth in section 11(a), and to make such other orders as may be appropriate.

"(c) In any proceeding brought under this section, the provisions of the Act of March 23, 1932, entitled, "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," shall not be applicable.

"(d) The order or orders of a district court of the United States issued under this section shall be subject to review by the appropriate United States Court of Appeals and by the Supreme Court of the United States upon writ of certiorari or certification in accordance with section 1254 of title 28, United States Code.

"Sec. 13(a) Upon issuance of an order by a district court of the United States enjoining a work stoppage under section 12, the President shall issue an executive order for the United States to take possession of and operate, in whole or in part, any carrier involved in the dispute in question, and prescribing the operating procedures to be followed by the parties thereafter and any other actions which he determines to be necessary or appropriate to protect the health and safety of the Nation or that substantial part of the population or territory thereof which is relevant to such labor dispute. Such executive order shall be in effect for the shortest period of time consistent with the emergency and a resolution of the dispute, and shall (1) provide for the maintenance or resumption of operations and service essential to the national or regional health and safety, (2) encourage resolution of the dispute through collective bargaining, (3) encourage and preserve future collective bargaining with industry affected, and (4), to the extent consistent with meeting the emergency, avoid undue interference with the rights of the parties to the dispute. Such executive order shall be immediately transmitted to the Congress.

"(b) During any period of government operation of the carrier under this section, the profits realized (by said carrier) as determined by the Comptroller General of the United States shall be placed in a Labor-Management Trust fund and notwithstanding any other provision of law, only for carrying out the provisions of this Act.

"(c) The penalty imposed upon the unions directly involved in the strike with the industry shall be the loss of the right to retroactivity in pay and benefits for that period of operation invoked under subsection (a).

"(d) Upon the issuance of an order by a district court of the United States enjoining a work stoppage under section 12, no changes shall be made by the parties to the controversy in the conditions out of which the dispute arose, except by agreement, until the procedures set forth in this section have been completed.

"(e) Upon issuance of the order of the district court under section 12, the parties to the dispute shall immediately resume collective bargaining. The National Mediation Board shall give all reasonable assistance to the parties and shall continue mediatory action directed toward promoting a complete and final voluntary agreement.

"(f) When a voluntary agreement is reached, it shall be filed with the President and the district court having jurisdiction of the parties under section 12. The court shall forthwith issue an order dissolving any outstanding injunction or restraining order and order such other affirmative action as may be appropriate. The President shall take whatever action is necessary to return possession and operation of any carrier taken under section 13, to that carrier.

"(g) Nothing in this section shall be construed to limit the right of any employee to resign from his position of employment."

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SECTION-BY-SECTION ANALYSIS OF SENATOR STAFFORD'S AMENDMENT TO THE RAILWAY LABOR ACT

Section 11(a). Permits a selective strike after procedures and time limitations of section 10 have been exhausted. Places a cap on the selective strike of 30% of revenue-ton miles if more than one line is struck in a region. Allow the striking of one line in each region regardless of the revenue-ton mile cap. Airlines are subject to the 30% cap for U.S. revenue passenger miles.

(b) Permits unilateral changes in terms and conditions of employment by carriers after procedures and time limitations of Section 10 have been exhausted, provided such changes were initially proposed by carriers through proper section 6 notices.

(c) Prohibits carriers from locking out as a result of a selective strike unless the particular carrier is struck in whole or in part.

Section 12(a). Authorizes Attorney General to seek injunctive relief in federal district court if the President concludes that national health and safety is imperiled or that permissible limits of selective strike have been exceeded.

(b) Authorizes district courts to prevent or halt a strike by injunction upon appropriate findings.

(c) Makes Norris-La Guardia anti-strike injunction legislation inapplicable to this section.

(d) Order of the District Court is subject to review by the Court of Appeals and Supreme Court.

Section 13(a). Upon issuance of the Court order the President can issue an executive order for the United States to seize and operate the carrier in whole or part for the shortest period of time consistent with the emergency. The order must be transmitted to Congress.

(b) Profits realized by the carriers during the period of government control will be transferred to a Labor Management Trust Fund by the Comptroller General of the U.S.

(c) Unions directly involved in the dispute lose right to retroactivity of pay and benefits for that period of operation.

(d) Status quo reserves during the section 13 procedures.

(e) Duty to continue collective bargaining with reasonable assistance provided by the National Mediation Board.

(f) Where a voluntary agreement is reached it is filed with the President and the district court which takes appropriate action to dissolve proceedings taken under sections 12 and 13.

(g) Law does not prohibit any employee from resigning during a period of government operation.

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S 2135

At the request of Mr. Kennedy, the Senator from California (Mr. Cranston) was added as a cosponsor of S. 2135, a bill to amend title V of the Social Security Act.

### S. 2689

At the request of Mr. Church, the Senator from Alaska (Mr. Stevens) and the Senator from Missouri (Mr. Eagleton) were added as cosponsors of S. 2689, a bill to promote development and expansion of community schools throughout the United States.

### S. 2939

At the request of Mr. Hansen for Mr. Brock, the Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Georgia (Mr. Gambrell), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from Texas (Mr. Tower), the Senator from New Jersey (Mr. Williams), the Senator from Nevada (Mr. Bible), the Senator from Minnesota (Mr. Humphrey), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of S. 2939, a bill to establish a National Commission on Corrections.

### S. 2956

At the request of Mr. Javits, the Senator from Delaware (Mr. Boggs) was added as cosponsor of S. 2956, the war powers bill.

### S. 2995

At the request of Mr. Kennedy, the Senator from South Carolina (Mr. Hollings), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Mondale), the Senator from Wisconsin (Mr. Nelson), the Senator from Rhode Island (Mr. Pell), the Senator from West Virginia (Mr. Randolph), and the Senator from Illinois (Mr. Stevenson) were added as cosponsors of S. 2995, the Victims of Crime Act of 1972.

### S. 3080

At the request of Mr. Kennedy, the Senator from Ohio (Mr. Taft) and the Senator from Kansas (Mr. Pearson) were added as cosponsors of S. 3080, a bill to amend the Lead Based Paint Poisoning Prevention Act.

### S. 3141

At the request of Mr. Metcalf for Mr. Muskie, the Senator from Connecticut (Mr. Ribicoff), the Senator from Tennessee (Mr. Brock), and the Senator from Montana (Mr. Metcalf) were added as cosponsors of S. 3141, the Intergovernmental Personnel Act Amendments of 1972.

### SENATE JOINT RESOLUTION 201

At the request of Mr. Dole, the Senator from Utah (Mr. Bennett), the Senator from Alaska (Mr. Stevens), the Senator from New Jersey (Mr. Williams), and the Senator from Tennessee (Mr. Brock) were added as cosponsors of Senate Joint Resolution 201, to establish a joint congressional committee to investigate the causes and origins of U.S. involvement in the hostilities in Vietnam.

## SENATE RESOLUTION 265—SUBMISSION OF A RESOLUTION TO COMMEMORATE THE WRITING OF THE HYMN "AMERICA"

(Referred to the Committee on the Judiciary.)

### AMERICA

Mr. BROOKE. Mr. President, I submit today a resolution to designate April 9, 1972, as a day to commemorate the patriotic hymn "America."

This well-known hymn, which is sung regularly in public places throughout the Nation, was written 140 years ago by the Reverend Samuel Francis Smith while he was attending the Andover Theological School in Andover, Mass. The school, subsequently affiliated with the Newton Theological School and is now known as the Andover-Newton Theological School, is the oldest theological seminary in the Nation.

The words of this great hymn carry an inspiring message for all Americans. The hymn is truly a patriotic paean exalting the spirit of freedom which marks this Nation's heritage. The shining light of liberty is the theme of the hymn, and is a blessing of which we should ever be mindful and grateful.

By approving the establishment of a national day of commemoration, the Congress could demonstrate its appreciation for the simple but inspiring message which this hymn has brought to hundreds of millions of Americans. I believe that the 140th anniversary of its composition is an appropriate time for the author of the hymn to receive this deserved recognition. I ask that the words of the hymn, and the resolution, be printed at this point in the Record.

There being no objection, the resolution and hymn were ordered to be printed in the Record, as follows:

### S. Res. 265

Whereas the patriotic hymn "America" carries an inspiring message recalling our Nation's heritage in simple but poetic phrases;

Whereas Samuel Francis Smith wrote the words of "America" while a student at the Andover Theological Seminary in Massachusetts one hundred and forty years ago; and

Whereas it would be fitting and proper to establish a national day of commemoration to show respect for the hymn and its author: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that (1) the President should designate Sunday, April 9, 1972, as a national day commemorating the hymn "America" which was written by Samuel Francis Smith one hundred and forty years ago, and (2) that the anniversary of the writing of that inspirational hymn should be celebrated with appropriate ceremonies at the Andover-Newton Theological School in Newton Centre, Massachusetts, and at other public places throughout the Nation.

### America

My Country 'tis of thee,
Sweet land of Liberty,
Of thee I sing:
Land where my fathers died,
Land of the Pilgrims' pride,
From every mountain side
Let Freedom ring!

My Native Country, thee,—
Land of the noble, free—
Thy name I love!
I love thy rocks and rills,
Thy woods and templed hills;
My heart with rapture thrills,
Like that above.

Let music swell the breeze,
And ring from all the trees,
Sweet Freedom's song;
Let mortal tongues awake,
Let all that breathe partake,
Let rocks their silence break;
The sounds prolong.

Our father's God! to Thee,
Author of Liberty,
To Thee I sing.
Long may our land be bright
With Freedom's holy light;
Protect us by thy might,
Great God our King!

The Reverend George Francis Smith.

## SENATE RESOLUTION 266—SUBMISSION OF A RESOLUTION RELATING TO THE RELEASE OF THE FULL AMOUNT OF FUNDS APPROPRIATED FOR 1972 TO THE FARMERS HOME ADMINISTRATION

(Referred to the Committee on Agriculture and Forestry.)

Mr. MONDALE. Mr. President, on behalf of my distinguished colleague from Minnesota (Mr. Humphrey), and myself, and Senators Jordan of North Carolina, Bayh, Burdick, Hartke, Allen, Harris, Church, Cranston, and Chiles, I submit a resolution, and ask unanimous consent that it be printed at this point in the Record together with a statement prepared by Senator Humphrey.

There being no objection, the resolution and statement were ordered to be printed in the Record, as follows:

### Senate Resolution 266

Whereas, Congress appropriated a total of $350 million for the Farmers Home Administration farm operating loan program and $100 million for the Farmers Home Administration water and waste facility grant program for Fiscal Year 1972; and

Whereas, the Office of Management and Budget is still withholding from use $75 million for the farm operating loan program and $58 million for the water and waste facility grant program; and

Whereas, as of this date, 15 states are totally without farm operating loan funds to accommodate pending qualified loan applicants; and

Whereas, many hundreds of family farmers will be forced off their farms if credit is not immediately forthcoming prior to the planting season; and

Whereas, as of this date, 26 states are either totally or are almost without water and waste facility grant funds to help small communities finance needed establishment, expansion or improvement of water and waste facility systems; and

Whereas, the provision of these funds is essential to the health and well-being of people living in small communities: Now, therefore be it

*Resolved*, That it is the sense of the Senate that all appropriated funds for the Farmers Home Administration's farm operating loan program and water and waste facility grant program authorized by the Consolidated Farmers Home Administration Act of 1961 for Fiscal Year 1972 be immediately released by the Office of Management and Budget.

### Administration Continues To Withhold Urgently Needed Farm Operating Loan and Small Community Water and Waste Facility Grant Funds

(By Senator Humphrey)

Mr. President, on February 1, 1972 the President sent his Rural Development message to Congress. In addition to renewing his request that Congress pass his Rural Community Development Revenue Sharing and Reorganization proposals, he offered yet another proposal to establish a $1.3 billion rural credit-sharing program to begin in Fiscal Year 1974. The $1.3 billion authorized under this proposal also includes the existing water and waste facility grant program and some increased authorizations for the farm operating loan program.

Mr. President, it's difficult for me, as I am sure it must be for many other Members of Congress, to lend any creditability to these proposals when the President continues to withhold funds already appropriated by Congress for these same purposes.

As of this date, the President's Office of Management and Budget is withholding from use $75 million in FHA farm operating loan funds appropriated by Congress for this fiscal year, despite the fact that the following 15 states are now totally without such funds:

Alabama, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, North Carolina, North Dakota, New Jersey, Oklahoma, South Carolina, and South Dakota.

Nationally, FHA has more than 8,600 farm operating loan applications now on hand. And it is estimated that $113 million will be required for the balance of this fiscal year to meet expected demands for such loans. This amounts to $38 million more than was even appropriated by Congress this fiscal year for this purpose. The Congress should insist that the $75 million now being withheld by the Administration for this loan program be released immediately.

With respect to the small community water and waste facility grant program administered by the Farmers Home Administration, the following 27 states are either now completely out of such grant funds, or soon will be:

Alaska, Alabama, Arkansas, California, Connecticut, Georgia, Idaho, Illinois, Indiana, Maine, Maryland, Michigan, Nevada, and New York.

North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, and Wyoming.

Currently, there are almost 2,000 applications pending with FHA for small community water and waste facility grants, amounting to $150 million. However, despite all these pending applications, the Administration has announced that it intends to release or make available only $42 million of the $100 million appropriated by Congress for the program this fiscal year.

Again, I urge the Congress to insist that the Administration immediately release the $58 million they are still withholding for this grant program.

I also would like to call to the attention of the Senate that the $300 million Congress appropriated for the FHA water and sewer loan program will likely be totally depleted very soon. Almost 3,500 applications are now pending for such loans totaling $680 million. Unobligated FHA funds for this purpose are currently about $104 million.

A very important thing we must keep in mind about these programs is that they are basically programs of "last resort". When a farm family or a small community turns to the Farmers Home Administration for help to meet their farm operating or community facility needs, they must first be turned down for credit elsewhere. And if they fail to qualify for FHA assistance, or have their approved applications held up for extended periods of time, awaiting funding, they are, as the saying goes, "put out of business". And, Mr. President, it is for this reason that the current Administration's action to withhold these urgently needed funds is so cruel and heartless. Also as I said earlier, such action does not lend any creditability to the Administration's new proposal regarding these programs.

Mr. President, in view of these Administration actions to deprive farm families and small communities of needed financial assistance, I wish to introduce the following Resolution on behalf of myself and several other Senators, which calls upon the Administration to immediately release the funds for these two important FHA programs. I ask unanimous consent to have the Resolution printed at this point in the RECORD.

## ADDITIONAL COSPONSORS OF A RESOLUTION

### SENATE RESOLUTION 230

Mr. KENNEDY. Mr. President, on January 24, 1972, I submitted Senate Resolution 230 to encourage negotiations for a comprehensive nuclear weapons test ban treaty with the Soviet Union.

Basing my suggestion on the past success achieved by President Kennedy in negotiating the Partial Test Ban Treaty, my resolution also urges the President to announce a moratorium on underground nuclear weapons testing to remain in effect as long as the Soviet Union abstains from testing. This step would provide the same climate of mutual accommodation that was so successful in producing an agreement in 1963.

And I am pleased to announce that 12 Senators have now joined me in cosponsoring this resolution.

Therefore, Mr. President, I ask unanimous consent to add the following names as cosponsors of Senate Resolution 230, a resolution to encourage a moratorium on underground nuclear weapons testing and to promote negotiations for a comprehensive test ban treaty.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

LIST OF COSPONSORS

Senators CRANSTON, HARRIS, HUMPHREY, MCGOVERN, HUGHES, JAVITS, MONDALE, RIBICOFF, PELL, WILLIAMS, MAGNUSON, and CHURCH.

## SENATE CONCURRENT RESOLUTION 64—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PROMOTION OF COL. EDWIN E. ALDRIN, JR., USAF

(Referred to the Committee on Armed Services.)

Mr. ANDERSON submitted the following concurrent resolution:

S. CON. RES. 64

*Resolved by the Senate (the House of Representatives concurring)*, That it is hereby declared to be the sense of the Congress that in recognition of the vital contributions made by Colonel Edwin E. Aldrin, Jr., United States Air Force, to the manned space flight program, and particularly his contribution to the outstanding success of the Apollo XI moon flight, the said Colonel Aldrin should be promoted to the permanent grade of major general, and the President is hereby urged and requested to appoint the said Colonel Aldrin to such grade.

## ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

### SENATE CONCURRENT RESOLUTION 33

At the request of Mr. HANSEN for Mr. BROCK, the Senator from Missouri (Mr. EAGLETON) and the Senator from Nebraska (Mr. HRUSKA) have been added as cosponsors of Senate Concurrent Resolution 33 regarding the persecution of Jews and other minorities in Russia.

## SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

### AMENDMENT NO. 945

(Ordered to be printed and referred to the Committte on Finance.)

Mr. JAVITS. Mr. President, I introduce as an amendment to H.R. 1 language identical to S. 961, a bill I had introduced on February 25, 1971, to amend the Social Security Act with respect to exclusion of certain income received by artists and composers from the sale after age 65 of works created prior to their reaching age 65.

The Social Security Act now provides that individuals 65 years and over who are receiving royalty income attributable to copyrights or patents obtained before age 65 may exclude such income from their gross income in determining their social security entitlement.

The amendment I am introducing extends the provision to artists and composers who sell uncopyrighted works, thereby placing them on an equal basis with artists and composers receiving royalty income from copyrighted or patented works. The burden of proof remains upon the individual artist or composer to establish to the satisfaction of the Secretary of Health, Education, and Welfare when the art work or composition was created and when sold.

Although no precise estimates are available as to the number of individuals who would become eligible under this amendment, it should be noted that in order to be eligible, an individual author or artist must have created the work prior to age 65, and that his outside income does not exceed $1,680, the figure at which social security benefits are reduced. Estimates of the numbers of artists taking advantage of the present royalty income exclusion range in the low hundreds.

Thus, we are talking about a relatively few individuals out of almost 26.2 million social security recipients.

This proposal should be relatively easy to administer. By placing the burden of proof upon the individual we have followed the pattern of the 1965 amendments to the Social Security Act. The individual is thus required to prove his claimed exclusion to the Secretary's satisfaction consistent with existing law. Finally, the Secretary already has general rulemaking powers under the law with which to establish an orderly procedure for individuals claiming the right to exclude income under this amendment.

I hope, Mr. President, that the Committee on Finance in its consideration of H.R. 1 will favorably consider this proposal to correct an inequity in the law which penalizes older artists and composers at a time when they are living upon modest fixed incomes and dependent upon social security benefits.

I ask unanimous consent that the amendment be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

### Amendment No. 945

On page 134, between lines 15 and 16, insert the following new section:

DISREGARD, FOR PURPOSES OF EARNINGS TEST, OF CERTAIN INCOME FROM SALE OF COPYRIGHTS, LITERARY COMPOSITIONS, ETC.

Sec. 144. (a) Section 203 (f) (5) of the Social Security Act is amended by inserting after subparagraph (D) the following new subparagraph:

"(E) For purposes of this section, there shall be excluded from the gross income of any individual for any taxable year the gain from the sale or other disposition, during such year, of any property of such individual which is not, by reason of the provisions of section 1221 (3) (A) or (B) of the Internal Revenue Code of 1954, a capital asset of such individual as a taxpayer if—

"(i) such individual attained age 65 on or before the last day of such taxable year; and

"(ii) such individual shows to the satisfaction of the Secretary that such property was created by him, or (in the case such property consists of a letter, memorandum, or similar property) was prepared or produced for him prior to the date such individual attained age 65."

(b) The amendment made by this section shall be effective in the case of taxable years beginning after December 31, 1971.

## EDUCATION AMENDMENTS OF 1972—AMENDMENTS

### AMENDMENT NO. 946

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted an amendment intended to be proposed by him to the committee amendment offered as a substitute for the House amendment to the bill (S. 659) to amend the Higher Education Act of 1965 and related acts, and for other purposes.

### AMENDMENT NO. 948

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to amendment No. 874 intended to be proposed to the committee substitute for the House amendment of the bill (S. 659), supra.

## NOTICE OF HEARING BY COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. MOSS. Mr. President, on behalf of the Senator from Washington (Mr. Jackson), I ask unanimous consent that a statement prepared by him be printed in the Record at this point.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

### Statement by Senator Jackson

Mr. President: I would like to announce to the members of the Senate that the Committee on Interior and Insular Affairs has scheduled an open hearing for March 22 on Title I of S. 921 and on S. 2401, legislation to provide for the management, protection and development of the national resource lands, and for other purposes. Title I of S. 921 and S. 2401, a bill submitted and recommended by the Department of the Interior, both deal with the so-called "organic act" for the public lands managed by the Bureau of Land Management in the Department of the Interior. The hearing will begin at 10:00 a.m. in room 3110 New Senate Office Building.

Outside witnesses were heard last September when the Committee considered these and other bills dealing with a broad range of problems pertaining to our publicly-owned lands, including reformation of the Mining Act of 1872.

However, it appears that it may be necessary to tackle these complex problems one step at a time. I share the views of many others who are familiar with the problems facing the administration of our great public domain lands managed by the Bureau of Land Management. I believe it is essential to provide a statutory charter or what is commonly referred to as an "organic act" to enable the Bureau to properly exercise its stewardship over these public assets. Title I of S. 921 and the Administration bill, S. 2401, both provide for the administration of these national resource lands based upon the concept of multiple use. Our national forest lands and the units of our national park system are guided under a set of principles contained in organic acts for each of those administrative agencies. I believe it is essential that the same type of legislative policy be enacted for the management of the public domain lands under the Bureau of Land Management.

Since the public had an opportunity to testify last September, this hearing will be limited to government witnesses who were not available to testify before.

Senator Lee Metcalf, who is a cosponsor of S. 921 and a strong proponent of this type of legislation, the intent of which seeks to reform our public land laws, will be chairing this hearing before the full committee.

## ADDITIONAL STATEMENTS

## AMTRAK—ON OR OFF THE TRACK?

Mr. COTTON. Mr. President, the Committee on Commerce now has pending before it a bill, S. 2760, which was introduced at the request of Secretary of Transportation Volpe and which proposes to provide the National Railroad Passenger Corporation—Amtrak—with increased financial assistance. The Subcommittee on Surface Transportation of the full committee conducted a hearing on this legislative proposal on October 6 and last November considered it in executive session, reporting to the full committee a subcommittee print containing several amendments.

It is my understanding that the House Committee on Interstate and Foreign Commerce has considered the companion bill, H.R. 11417, in an executive session, and has adopted several amendments.

Senators may recall that the Rail Passenger Service Act of 1970, establishing the National Railroad Passenger Corporation—Amtrak—was the subject of consideration during the 91st Congress. It provided, among other things, for the establishment of a Basic National Rail Passenger System over which Amtrak was required to provide service to July 1, 1973, in order that Amtrak could conduct a nationwide test to determine the appropriate role and level of rail passenger service in the development of a balanced transportation system.

Quite frankly, I supported the Rail Passenger Service Act of 1970 but not without some considerable personal reservations as to its efficacy. Indeed, I believe my views on this matter are substantially in accord with those of the distinguished chairman of the Committee on Commerce, the Senator from Washington (Mr. Magnuson), who, on November 16, 1971, spoke in this Chamber on Amtrak. While acknowledging a place for a limited number of long-distance trains, Senator Magnuson noted, in part, the following:

> I need hardly remind my colleagues that I have always recognized that *urban corridors* are where the passenger train has its greatest potential, and that the major effort in terms of financial investment should be made in those areas. (Emphasis supplied.)

I, too, believe that the greatest potential for effective utilization of passenger trains lies in such high density urban corridors as those located here in the Northeast and possibly on the Pacific coast.

I certainly take no pleasure in seeing some of my earlier reservations concerning the problems confronting amtrak materialize, and I do believe that it should be permitted to fulfill its period of experimentation as originally agreed to by Congress and embodied in the Rail Passenger Service Act of 1970. But I seriously question whether Congress should underwrite any further extension of the period of service mandated or an enlargement upon the role of amtrak unless there is clear and convincing evidence to the contrary.

In this connection and in view of the possibility of consideration by the Senate within the near future of the bill, S. 2760, I ask unanimous consent to have printed in the Record an article published in the Wall Street Journal of January 24 and a letter to the editor of that newspaper, dated January 25, from the president and chief executive officer of the Association of American Railroads. I believe that these documents speak for themselves and may prove to be beneficial to Senators with respect to the consideration of any further amendments to the Rail Passenger Service Act of 1970.

There being no objection, the items were ordered to be printed in the Record, as follows:

### Amtrak Admits Service Is Lousy, and It Blames Roads It Deals With

(By Albert R. Karr)

Washington.—When Amtrak took on the task of saving the nation's passenger trains last May, a nagging doubt arose: Could the public corporation depend for reliable train operations on the very railroads that saw no future for their own passenger service?

Now, nearly nine months later, it appears that the answer is no. One Amtrak official, piqued at what he describes as resistance of the contracting railroads to Amtrak initiatives, snaps. "They weren't successful in passenger business, they don't want anybody else to be successful, and they don't want anything to get in the way of their freight trains."

Amtrak officials say their hope of a bright new era for rail riders is being hampered, seemingly at almost every turn, by railroad reluctance to give passenger service a clear go-ahead.

Partly by favoring freight trains, railroads are allowing passenger trains to run late—at least as late as they ever did, and that was pretty late. An Amtrak executive has been moved to write the Southern Pacific, accusing the road of "poor, if not negligent," dispatching. Southern Pacific passenger trains have been arriving on schedule only 60% of the time.

Among other Amtrak problems: Some major roads have balked at letting Amtrak trains use alternative routes in strikes or other emergencies. They're barring from their tracks many special trains as well as private passenger cars owned by travel agents and others (these can mean attractive business to Amtrak). Railroad employe treatment of passengers is often still inconsiderate, and reservation snafus are common, it is said.

Also, when the railroads saw they were close to dumping passenger trains on Amtrak, they quit servicing equipment, so Amtrak is paying for that neglect in train breakdowns and higher maintenance costs.

Finally, Amtrak men reel off examples of railroads' apparent inflation of train operating expenses, which the corporation pays.

### DEMUR FROM THE RAILROADS

Railroaders insist they're doing all they can to cooperate with Amtrak. They say they've detailed passenger-service experts to help Amtrak operations men, for instance, and will give Amtrak every feasible break.

Louis W. Menk, chairman of the Burlington Northern, declares his road "is firmly behind Amtrak and trying hard to help the new company succeed." The railroad has sent letters and memos to its employes calling for improved performance and underscoring the Burlington Northern's support for Amtrak, Mr. Menk adds.

Nonetheless, a catalog of complaints is being hurled at the railroads. Some items:

Last May and June, before the Amtrak takeover, the Burlington Northern skipped the usual preventive maintenance on passenger cars, by Chairman Menk's own account. Now, as temperatures plunge below zero on the road's northern lines this winter, he himself has said, "I am really concerned about what may happen . . . with the state of the equipment that we are going to have to operate."

Mr. Menk's concern appears justified. On a Christmas-holiday trip from Minneapolis to Chicago, Minneapolis Star Reporter John Greenwald says his Burlington Northern car was cold (probably because of frozen pipes, the porter told him). When he found a seat in a warm, empty private compartment, the porter made him leave. The train arrived two hours late. And on a recent ride from Greely, Colo., to Lincoln, Neb., on the Burlington Northern, Blanchard R. Anderson, a Lincoln real estate man, reports his train was three hours late—heating problems being one reason, according to a station agent.

The experience "leaves a great deal of doubt" about the railroad's intentions, Mr. Anderson says. Despite 40 years of train riding, Mr. Anderson has shelved plans for a West Coast train trip in February.

### FREIGHT TRAIN INTERFERENCE

Though Amtrak contracts call for railroads to give priority to passenger trains, reports to the corporation show "freight-train interference" caused nearly six hours of passenger-train delay, or about 43% of lateness for all causes, in one recent week of Southern Pacific operation; in another week, this share was 38%. When a bridge was knocked out at New Orleans, the Missouri Pacific let the Southern Pacific run its freight trains over MoPac tracks, Amtrak says, but wouldn't allow passenger trains. So passengers heading westward had to travel by bus for 165 miles before transferring to another Southern Pacific train.

And Rep. Lionel Van Deerlin (D. Calif.) reports that on a Jan. 3 journey from New Orleans to Los Angeles on the Southern Pacific's Sunset Limited, his train wound up 13 hours late; one reason was that a freight broke down ahead of it. (In San Antonio, a woman with a small child had to wait three hours in the middle of the night for the train to arrive; she had been told periodically by station personnel that it was only minutes away—before they went home, leaving her by herself.)

Amtrak officials say various railroads have been billing Amtrak for full pay of some employes who spend most of their time in freight work. Some railroads are said to be using more locomotives and more cars than necessary on passenger trains.

But while Amtrak is critical of the railroads, it has its critics, too; they say Amtrak is too timid in dealing with its contractors. Anthony Haswell, chairman of the Washington-based National Association of Railroad Passengers, says, "We may have to take some very drastic public action" against Amtrak. "These people are just abject tools of the railroads."

Rep. Van Deerlin, a member of the House Commerce Committee, which is considering an Amtrak request for an additional $170 million of federal cash, says that before voting in favor, "I want to make damn sure that Amtrak knows what it's doing and that lines like the SP know who's in charge. Right now, the SP is running the show."

Pressure is already being exerted on Amtrak by the Transportation Department. It has sent the corporation back to the railroads to find any cost ballooning or unneeded spending. A department official says Amtrak was instructed to tell the roads, "We can't afford all this expense, particularly if you're going to give us bad service."

Critics insist Amtrak could solve many of its problems by hiring its own station personnel and train crews. It has been reluctant, but it now is taking over some clerks and other station employes. The corporation hopes soon to employ the rest of these, as well as on-train personnel like conductors, and eventually, perhaps, even engineers and firemen.

Amtrak is also planning to push roads for better cooperation. "We're going to make the Southern Pacific sort of a test case," vows an official. But Roger Lewis, Amtrak chairman and president, is said to have decided to fight these battles privately; for public consumption, he usually praises the roads for cooperating.

### LATE TRAINS

Amtrak's biggest problem with the railroads is probably late trains. Officials say so much slack has crept into schedules over the years that railroads should be able to meet them with ease. Yet in the first eight months of operation, only 79.9% of the Amtrak trains ran on time; the others trailed an average of 42 minutes behind schedule.

In the first two weeks of this month, the performance sagged a bit. Only 77.2% of the Amtrak trains ran on time; the others averaged one full hour late. In those two weeks, the Illinois Central trains were only 45.6% on time; the Louisville & Nashville 42.9%, and the SP, Missouri Pacific and Burlington Northern all about 61%.

In the week ended Jan. 15, most or all Amtrak trains were late on seven important long-distance runs, and the on-time performance of all long-haul trains was 51.4%. Though bad weather was partly to blame, an Amtrak man calls this record "totally unsatisfactory."

Amtrak singles out SP's Sunset Limited from Los Angeles to New Orleans as a horrible example of persistent tardiness. Harold Wanaselja, Amtrak operations vice president, recently wrote his SP counterpart, R. D. Spence, complaining of an on-time record of only 13.9% for the train over a 12-week period. Its late arrivals averaged one hour and 42 minutes, and often the Sunset was delayed over an hour by westbound freight trains, Mr. Wanaselja said.

"Needless to say," he wrote, "with sidings on the average of every 10 miles in this territory (for easy freight-train sidetracking before they approach the Sunset), the above record indicates poor, if not negligent, dispatching. It is obvious . . . that Southern Pacific isn't making every reasonable effort to maintain the schedule (of the Sunset) as is required by our . . . agreement."

### A "MARKED IMPROVEMENT"

Robert Jochner, the railroad's general manager for passenger operations, says that Amtrak and SP officials have been meeting on the Sunset problem, and he insists there's been a "marked improvement" in performance recently. He acknowledges considerable lateness by the Sunset previously but says there were a "lot of unusual problems," including equipment breakdowns and heavy passenger and freight-train operations over the single track the train uses. Mr. Jochner adds that some difficulties have been beyond the SP's control, like a knockout of a bridge.

Most sources agree that much of the lateness is traceable to worn-out locomotives and cars, often a result of many railroads' decisions to give up maintenance when they knew Amtrak would be taking over.

W. T. Rice, Seaboard Coast Line chairman, blames his road's poor on-time record in part on frequent delays for emergency repairs. He recalls that when Amtrak couldn't meet an Aug. 1, 1971 deadline for deciding what equipment to buy from the roads, the Seaboard didn't want to spend "a large amount of money to repair a locomotive which we do not know how long Amtrak will use." He adds: "We are paying the price for it right now."

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Association of American Railroads,
*Washington, D.C., January 25, 1972.*

Editor,
*The Wall Street Journal,*
*New York, N.Y.*

Dear Sir: Your January 24 edition carried an article tagged "Deriding the Rails"—and I must agree that is exactly what the story sought to do.

The story rests principally on the comments of anonymous persons identified only as "Amtrak officials." They are not named—a fact which obscures the qualifications of your sources to judge the performance of the railroads involved in running Amtrak trains. The impression that quotations give, and the conclusions which your reporter draws from them, are totally at variance with the position Amtrak officials, in a position to know and willing to be quoted, have just taken in the appropriate forum—the Congressional hearings (before the House Committee on Interstate and Foreign Commerce in December) where these matters were investigated.

The basic premise of this piece—that the railroads "don't want anybody else to be successful" in the passenger business, as one of your anonymous sources supposedly put it—is absurd. If Amtrak can succeed, it will become a valuable customer of the railroads, using railroad facilities and services, paying reasonable compensation for them, and adding to railroad revenues and profits. Its success will in no way reflect discredit on the railroads because of Amtrak's obvious advantages—a reduced system, one national pool of equipment, centralized management, and direct Federal financial support. If Amtrak fails, the railroads will be blamed for the failure, most assuredly, as every railroad man who gives the matter a moment's thought knows.

From the beginning, the railorads have sought to improve Amtrak's chances to succeed. The railroads voluntarily signed a contract decidedly favorable to Amtrak under which Amtrak reimburses railroads for what the Interstate Commerce Commission calls "solely related costs" of the passenger service rendered plus an adjustment to cover other costs which would be avoided if the passenger business were discontinued. Thus, Amtrak pays little or nothing for maintenance of way, real estate taxes, and fixed charges on the railroad right-of-way and operating property used by Amtrak trains. The railroads involved are convinced they lose money on the Amtrak operation under this arrangement.

This unprofitable arrangement with Amtrak is a contribution by the railroads to the public interest. The price the railroads were required by Congress to pay for the privilege of terminating the costly passenger business which they operated is over and above this and is different. Under the statute, the price of terminating passenger operations of their own is a contribution of nearly $200 million to Amtrak, which the railroads are currently paying.

Both Amtrak and the railroads have experienced extremely difficult problems during the period of transition. The Amtrak incorporators, who later became its first Board of Directors, and Amtrak management when it was assembled, did an incredible job in an extremely short time in instituting a nationwide passenger service. They were aided in this by a major study made by the railroads under which problems were anticipated and solutions were recommended in order to permit Amtrak to start on time. The problems of laying out the system, determining the trains to be run, assembling the equipment and agreeing upon operating procedures were incredibly complex. They never could have been solved had not a major effort at cooperation been forthcoming on both sides.

There is no question but what both the railroads and Amtrak still have a long way to go in our joint effort to provide the best of passenger service. While we will undoubtedly continue to have delays for various reasons—equipment breakdowns, bad weather, grade crossing accidents, and the like—we will continue our efforts to hold them to a minimum. These conditions causing delays affect passenger and freight trains alike.

The article dwells at length on assertions that freight trains receive priority over passenger trains. As a matter of policy and sound operating practice, passenger trains, which operate on tight schedules, must get priority over freight trains. Railroad officers testified on this subject at length at the House Committee hearings in December. The proof lies in the statement by Roger Lewis, Amtrak's president, that less than three percent of the delays on Amtrak trains result from a breakdown in this priority.

Your article indicates that the railroads deliberately let passenger equipment run down when the Amtrak take over was assured, and that current delays and inconveniences are the result.

A realistic assessment of the situation reveals that, early in Amtrak's existence, it stated that it planned to acquire about 1,200 passenger cars out of a fleet of 3,000 then in operation. The railroads were ready and willing to do any and all required maintenance on the cars Amtrak wanted. But—quite naturally, I think—they had to know which pieces of equipment were to be continued in service before they could proceed.

As for the specific complaint that the Burlington Northern "skipped the usual preventive maintenance" last May and June, this was not "before the Amtrak takeover," as you reported, but rather after it. And the concern expressed by Louis W. Menk, chairman of the railroad, was over the fact that maintenance "historically done" by the railroad in preparation for the winter season had not yet been approved by Amtrak, with all its other problems. No one denies that there have been incidents where indivduals have been terribly inconvenienced—and no one regrets them more than the railroads. But let's consider just one of the occasions you cited. It involved the washout of a bridge on the Southern Pacific line near New Orleans. Another railroad—the Missouri Pacific—allowed SP freight trains to move over its line during the emergency but would not allow Amtrak passenger trains to do so, according to your report.

You might have gone on to point out that the reason for this was the absence of an agreement with Amtrak indemnifying MoPac against the possibility of an accident. Such agreement are standard among the railroads, and Southern Pacific entered into one with MoPac on this occasion. But Amtrak's policy, still under development, did not permit such an agreement. The indemnification problem, incidentally, complicates the re-routing of trains, the operation of special trains—and, most certainly, of the frequently over-age and out-of-repair "private passenger cars owned by travel agents and others" to which your article refers.

You are very critical of the railroads for not voluntarily increasing expenses to maintain and repair equipment in anticipation of possible Amtrak needs—and then, a moment later, for billing Amtrak for excessive charges under the contracts. I hate to think what your reporter would have said had railroads sought to collect from Amtrak for work done on cars and engines which Amtrak decided not to take.

This problem and the present differences between the railroads and Amtrak on the current financial accounts are aspects of the broader problem of transition. The accounts are under audit and, as Amtrak has said, "to speculate at this stage on the scope of the differences, the dollars involved and how the differences will be resolved is premature."

The railroads and Amtrak are partners in an extremely difficult enterprise. We can only succeed if we work together. Isn't it tme that the railroads and Amtrak are given a fair chance to do their respective jobs?

Very truly yours,

STEPHEN AILES,
*President and Chief Executive Officer.*

## CHILD DEVELOPMENT PROVISIONS OF THE OEO

Mr. KENNEDY. Mr. President, shortly the Senate will be considering anew the extension of the Office of Economic Opportunity. I believe this measure is essential if we are to maintain even the semblance of a commitment to the disadvantaged of this land.

I also believe that many Senators who voted to support the President's veto of the bill last session did so very luctantly. I say that because a reading of the Senate debate indicates, as the New York Times so aptly commented at the time:

> The arguments put forth in the veto message are not convincing.

Although there was disagreement over some of the details of the measure most objections settled on the child development provisions. Yet those provisions offered a chance—not compulsion, simply a chance that does not exist today—to extract preschool children from disadvantaged homes and provide them with stimulating educational experiences during the time it counted most, the years before they entered the public school system.

Supporting the President's veto meant supporting a concept of day care only for welfare recipients, and only for custodial care.

Therefore, I hope that the Senate and House of Representatives will consider this matter again, now free from end-of-session pressures, and will recognize the need for comprehensive child care services and for an expanded Office of Economic Opportunity program.

Mr. President, I ask unanimous consent that the editorial published in the New York Times of December 11, 1971, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### ABANDONED COMMITMENT

President Nixon explained his veto of the child development program by calling the plan too costly, administratively unworkable, professionally ill-prepared and designed to undermine the American family. The sweeping nature of this attack cannot obscure the fact that the concept of child care and development enjoys broad popular support across most of the traditional divisions of politics, class, economics and race.

The arguments put forth in the veto message are not convincing. Initial costs would not have been high. By limiting free services to the welfare level of poverty, Congress had already responded to the Administration's budgetary objections. Contributory fees could readily have been revised later, when operations would have provided a clearer picture of the extent of voluntary participation.

The President's vague reference to an unworkable bureaucracy reflects the Administration's apparent preference for control and management by the states, hardly the best administrative level for action that must be geared to local communities and neighborhoods. Participation by a wide variety of public and non-profit private agencies was one of the attractive features of the plan.

The President's charge that day care weakens the family ingores the realities of much of modern family life. Poor and working-class families normally have to leave their children improperly supervised or entirely unattended for much of the day; families at virtually all other income levels rely heavily on baby-sitters and, in the upper brackets, on a variety of domestic help.

Mr. Nixon is justified in his concern over the lack of trained personnel, but much of the bill's first-year expenditures was to be dovoted to the necessary training. The veto suggests that the President's concept of child care is limited to welfare cases and is only custodial at that. This approach reduces the chances that disadvantaged children will be lifted out of their debilitating environment at an early age.

In his message, Mr. Nixon observed that the proopsal "points far beyond what the Administration envisioned" when it made its earlier commitment of providing healthful and stimulating development for all American children during the first five years of life. But in the absence of a positive program, his veto has reduced that supposed commitment to mere political rhetoric.

## EQUAL JOB OPPORTUNITY

Mr. JAVITS. Mr. President, the Senate's vote last Tuesday to pass the EEOC bill was truly a great step forward in our continuing battle to insure equal employment opportunity for all Americans. I believe the Senate bill is clearly superior to the version passed by the House. For example, the Senate bill extends coverage of title 7 of the Civil Rights Act of 1964 to employees of State and local governments and employers with 15 or more employees, rather than the present 25. Also, the Senate bill does not limit class actions, nor does it make title 7 the exclusive remedy for employment discrimination.

The New York Times in an editorial yesterday commented on the superiority of the Senate bill over the House version. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### BANISHING JOB BIAS

The Government's arsenal of legal weapons against race and sex discrimination in jobs will be strengthened significantly if the bill adopted by the Senate after weeks of Southern filibuster prevails in conference.

Since the passage of the omnibus Civil Rights Act of 1964, the effectiveness of the Equal Employment Opportunity Commission has been gravely weakened by the agency's lack of enforcement authority. It had to rely on actions initiated by the Justice Department when it felt able to document a "pattern" of job bias.

Under the new bill, as passed in both Senate and House, the commission will have power to go to court on its own initiative against recalcitrant employers or unions. Even though civil rights organizations would have preferred to have the E.E.O.C. issue cease-and-desist orders on its own, we believe the court remedy is preferable to reliance on a politically appointed commission whose members change with each new President. No enforcement method will achieve much, however, without a vigorous approach by E.E.O.C. to its no-bias mandate.

The Senate bill in its extension of the commission's jurisdiction to more than ten million employes of state and local government is plainly superior to the version the House approved last September. The House had surrendered to pressure from legislators eager to defeat integration of police and fire departments and other local services. Conference approval of the Senate changes, followed by Presidential signature, would do much to round out the statutory defenses against discrimination based on color or sex.

## HARD-MATCH FUNDING FOR SAFE STREETS ACT

Mr. SPONG. Mr. President, on February 7, I introduced a bill (S. 3137) to amend the Safe Streets Act of 1968 to delay for 1 year the so-called hard-match funding requirement imposed on the States by a 1971 amendment to the law.

Where previously States have been able to provide equivalent value goods and services in lieu of cash, the amended act requires that effective July 1, 1972, at least 40 percent of the non-Federal funding be in money.

Mr. President, as a result of this and other amendments which require the States to assume a greater financial burden in connection with the program, my own State of Virginia stands to lose over the next 2 years about $14 million in Federal action grants which otherwise would be available to it.

Other States are experiencing similar problems. According to a national survey undertaken for the Association of State Planning Agency Directors by Mr. George W. Orr, executive director of the Iowa Crime Commission, 17 States thus far have indicated they will have to reduce their participation in LEAA drug and crime programs or drop out altogether unless some relief is granted. Those States are Kansas, Alabama, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Indiana, Louisiana, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, West Virginia, and Virginia.

The amendment I have introduced will provide only limited relief to the States but it is vitally important in terms of the serious drug and crime problem the program is meant to relieve. Next year, the LEAA program again will be up for authorization. I hope that at that time Congress will give a long, hard look at all the funding provisions, including the State "buy-in."

Delay of the hard-match requirement would be a helpful interim step until then and I would hope early action can be taken on the bill.

## COMMUNITY SCHOOLS

Mr. MONDALE. Mr. President, I am pleased to announce today my cosponsorship of S. 2689, the Community School Development Act. I appreciate the opportunity to work for such legislation because I believe that our educational system could benefit greatly by opening school doors to the whole community, not just to schoolchildren.

The Minnesota Department of Education and some local jurisdictions in Minnesota, notably Duluth and St. Louis Park, have already begun to develop community school programs.

I wholeheartedly support the principle of community schools that are directly responsive to local needs. In working for this legislation I intend to offer amendments that I hope will assure that local needs are met and that the funds are distributed to projects in such a manner as to maximize their effects.

## THE HONORABLE CARL T. HAYDEN

Mr. KENNEDY. Mr. President, it is with deep regret that I mark the passing of our former colleague, the Honorable Carl T. Hayden, a Member of this body for almost half a century. In serving seven terms as a Senator from Arizona, he established a record for longevity of service that is very likely to stand for many years to come. Significantly, prior to his service in the Senate, he spent an identical number of terms in the House of Representatives. And so, his total years in service to his country in Congress number 56—and always, this service was extremely productive.

A master in administrative matters, Senator Hayden rose to prominence initially as chairman of the Senate Committee on Rules and Administration, a position that preceded his tenure as chairman of the Committee on Appropriations. In the latter chairmanship, he became one of the most influential figures in Washington, and an outstanding expert on Federal budgetary matters.

Senator Hayden was a strong supporter of liberal reforms, and new Federal programs, and he presided over the Appropriations Committee during a period of substantial increases in Federal expenditures. He recognized that the rapid growth of the Nation's population required larger Federal budgets each year to keep pace with existing public services, but he was also a strong supporter of additional Federal programs whenever the need became apparent.

Senator Hayden was a leading advocate of social security legislation and of sweeping reform measures in the areas of mining, reclamation, and public lands. He supported the New Deal, the Fair Deal, the New Frontier, and the Great Society, and he gave his strong endorsement to the monumental struggle for civil rights under Presidents Kennedy and Johnson.

In other major areas of his legislative activity, Senator Hayden was one of the most effective supporters of Federal aid to education. He was also influential in securing the enactment of progressive Federal highway legislation and water development programs, two areas of vital concern to the business and consumer interests of his State of Arizona. Indeed, in September 1968, when President Johnson signed into law the Lower Colorado River Basin bill, he singled out Carl Hayden for special Presidential praise, and cited him as the man responsible for that valuable and pioneering piece of legislation.

Senator Hayden's background was deeply tied to the State he loved and served. He was born in 1877, during the administration of President Rutherford B. Hayes. His birthplace was Tempe, Ariz., which had previously been named "Hayden Ferry," in honor of his father. He graduated from the Normal School of Arizona at Tempe in 1896 and attended Stanford University. On returning to Tempe, he opened a flour mill and served a term on the town council. He was a delegate to the Democratic National Convention in St. Louis in 1904 that nominated Judge Alton B. Parker to oppose Theodore Roosevelt. He also served as county treasurer and county sheriff in Arizona before deciding to enter national politics. As sheriff, he developed a reputation for maintaining a quiet county without fanfare.

When Arizona was admitted to the Union in 1911, Carl Hayden ran for the House of Representatives on the Democratic ticket and was nominated over two opponents. In the general election, he was again successful, and he went to Washington as the first Congressman from Arizona.

In his long tenure in both Houses of Congress, Carl Hayden served under 10 Presidents, the first of whom was William Howard Taft, the last of whom was Lyndon Johnson. The first speech he made in Congress was in favor of Federal assistance in fighting forest fires—always a danger in the far West. The first bill he introduced authorized construction of a railroad to Fort Huachuca, Ariz.—an important and historic frontier cavalry post. That bill was symbolic of Carl Hayden's great desire for the improvement of the transportation system in his State. Throughout his career in Congress, he was a consistent advocate of Federal railroad and road-building projects. As the famous story goes, when asked by President Franklin

D. Roosevelt why he was always working for the construction of additional highways, Senator Hayden replied that Arizona had two things that people were willing to drive thousands of miles to see—the Grand Canyon and the Petrified Forest—and the people could not get to see them without roads.

During the New Deal period, Carl Hayden was chairman of the Senate committee responsible for Federal appropriations for highway construction. Under the initial Federal highway legislation, it was necessary for the States to match the Federal funds supplied for road construction. But Senator Hayden protested that the States needed additional Federal help, and that the program was bogging down and was likely to collapse. And so he urged the Federal Government to expand its role in this critical area. His views prevailed, to the advantage of the Federal program and the Nation. Whatever our views on this important issue of national transportation policy in 1972, we owe a great debt of gratitude to Carl Hayden for the extraordinary contribution he made to that policy during his brilliant career in Congress.

In every aspect of Government, Carl Hayden acted with the public interest firmly in mind. He was not only the dean of the Senate, but a great leader, a wise mentor, an outstanding representative of the people of Arizona, and a worthy Senator in every sense.

## TRANSPORTATION CRISIS PREVENTION ACT

Mr. JORDAN of Idaho. Mr. President, the Transportation Crisis Prevention Act introduced by the junior Senator from Oregon (Mr. Packwood) is absolutely essential legislation and I am pleased to be a cosponsor of it.

It has become quite clear in recent months that the Nation can no longer afford the luxury of labor-related work stoppages in the transportation industry. The west coast dock strike which was settled only after Congress enacted legislation to require compulsory arbitration of the dispute cost the country an estimated $2 billion, including a loss of about $1 billion in farm income. This devastating strike was preceded by a crippling rail strike in July of last year and many communities in my State are currently in virtual isolation because of a strike against Hughes Air West.

Despite these recurrent transportation disruptions which are so harmful to the public interest, Congress has failed to act on legislation to prevent them. Current methods for dealing with these situations are wholly inadequate. Each time we have acted in a haphazard, stopgap manner only after the crisis has developed.

It is time that we provide new means for dealing with emergency labor disputes in the transportation industry. Over 2 years ago President Nixon proposed legislation (S. 560) to provide the needed tools for dealing with transportation stoppages. I cosponsored that legislation because it provided an equitable and well-balanced approach to this difficult problem.

The legislation introduced by my distinguished colleague from Oregon (Mr. Packwood) today is similar to the President's proposal, but it improves upon S. 560 in that it applies to regional as well as national transportation disputes. This is an important element because the strike or lockout which is confined to a specific geographic area can be just as destructive as a transportation stoppage that is national in scope. This is clearly illustrated by the west coast dock strike and the "regional" rail strike last July.

Mr. President, the need for favorable action on this legislation is clear. It is necessary to protect the public interest and I am hopeful that the Senate will respond accordingly.

## SUDDEN INFANT DEATH

Mr. MONDALE. Mr. President, when I introduced last week for myself and 14 cosponsors, the joint resolution on sudden infant death, the final two paragraphs of my opening statement were mistakenly omitted in the printing of the Congressional Record.

In order to remedy that error, I would like to repeat, in its entirety, my statement.

I am pleased to introduce today with Mr. Kennedy, Mr. Beall, Mr. Cranston, Mr. Hughes, Mr. Javits, Mr. Magnuson, Mr. Nelson, Mr. Packwood, Mr. Pell, Mr. Randolph, Mr. Schweiker, Mr. Stevenson, Mr. Weicker, and Mr. Williams a resolution which I hope will stimulate a major initiative to solve one of the most tragic and perplexing problems that threaten American families—crib death or sudden infant death syndrome.

Crib death takes the lives of an estimated 10,000 infants in this country each year. It is the leading cause of the death of infants between 1 month and 1 year old, striking 3 out of every 1,000 children in this country.

The families of the innocent children who die of SIDS suffer not only the heartbreak associated with the death of any loved one but also the anguish of accepting a death with no known cause and explaining it to their relatives, friends, and the public officials who question them about it.

On January 25, the Subcommittee on Children and Youth, of which I have the privilege to be chairman, held a hearing on SIDS. I was shocked and ashamed to learn that the Federal Government's concern about this major killer of infants is so low that experts cannot even agree on its incidence.

I listened to the stories of parents who had lost children to SIDS; who could not at first help blaming themselves for the death of their child; and who were even accused by public officials of negligence or criminal behavior. And then I was told by officials of HEW that currently only one medical research grant—in the amount of $46,258—is directed specifically to discovering the cause of SIDS.

The testimony at the hearing convinced me that we must marshal all the available resources of medical technology and expertise to seek the cause and cure of SIDS. We must actively encourage researchers to work in this field, and train qualified researchers if an adequate number is not available.

But medical research can be a slow and painstaking process, and meanwhile we know that thousands of families who have already lost children or who will lose children to SIDS will continue to suffer.

We also have an obligation to relieve their suffering by making available information about SIDS and by educating professionals who come in contact with SIDS cases about the needs of stricken families. Until the day when we can offer families the consolation of an explanation of why their child died, we must make a special effort to humanize the procedures surrounding the death.

For the purpose of encouraging and carrying on research, and in order to meet the needs of the families of SIDS victims, I plan to request an additional appropriation of $10 million in the budget of the Department of Health, Education, and Welfare.

In support of that appropriation request, I submit today a resolution which I hope spells out my concerns and those of the cosponsors about the need for immediate action on the problems raised by SIDS.

Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in my remarks.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 206

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the purpose of this joint resolution to assure that the maximum resources and effort be concentrated on medical research into sudden infant death syndrome and on the extension of services to families who lose children to the disease.

Sec. 2. The National Institute of Child Health and Human Development, of the Department of Health, Education, and Welfare, is hereby directed to designate the search for a cause and prevention of sudden infant death syndrome as one of the top priorities in intramural research efforts and in the awarding of research and research training grants and fellowships; and to encourage researchers to submit proposals for investigations of sudden infant death syndrome.

Sec. 3. The Secretary of Health, Education, and Welfare is directed to develop, publish, and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers, and similar personnel and parents, future parents, and families whose children die, to the nature of sudden infant death syndrome and to the needs of families affected by it.

Sec. 4. The Secretary of Health, Education, and Welfare is further directed to work toward the institution of statistical reporting procedures that will provide a reliable index to the incidence and distribution of sudden infant death syndrome cases throughout the Nation; to work toward the availability of autopsies of children who apparently die of sudden infant death syndrome and for prompt release of the results to their parents and to add sudden infant death syndrome to the International Classification of Disease.

## SENATOR CARL T. HAYDEN

**Mr. ALLEN. Mr. President, it was not my privilege to serve in the Senate with Carl Trumbull Hayden. The circum-**

stances were such that I began my first term in the Senate on the date of his retirement on January 3, 1969, shortly before his 91st birthday. Nevertheless, Carl Hayden was a legendary figure known and respected in Alabama, and his many friends in the Senate left no room for doubt that Carl Hayden was a most admirable man with an enviable record of public service and significant accomplishments.

It is difficult for one to grasp the significance of an unbroken span of public service covering a period of 61 years. This record is even more significant when it is considered that he was elected to 8 successive terms in the House of Representatives and 7 successive terms in the U.S. Senate, and that his service in the Senate was crowned with the honor of serving as President pro tempore of the Senate from January 1957 to January 3, 1969.

This statement of service does not suggest the human factor behind his steady climb to recognition and fame, which began when Carl Hayden first set out on a career of public service in 1902 as a member of the Tempe, Ariz., Town Council. In 1904 he was elected delegate to the Democratic National Convention and served as treasurer of Maricopa County from 1904 to 1906, and as sheriff of the county from 1907 to February 19, 1912, which office he vacated by reason of his election to and the assumption of duties in the 62d Congress.

But neither does a mere statement of his service nor a recitation of the beginnings of his remarkable political career suggest the strength of character and admirable qualities of the man that evoked the confidence and affection of the countless friends and constituents which accounted for his continuance in office.

I believe that a part of Carl Hayden's storied success is attributable to his philosophy of life—one particularly characteristic of that hearty brand of men who first settled and tamed our western frontier. It is known that he truly loved the Southwest and the people of Arizona whom he so ably represented, and that he believed in and lived by the pioneer virtues of individuality and self-reliance. I am convinced, as was he, that we need today a resurgence of the pioneer spirit of self-confidence which leads to the conviction that each man is captain of his soul and the master of his fate.

It was such a spirit and such a philosophy that contributed so much to the successful transformation of the West from frontier to modern society.

Carl Hayden did more than subscribe to and live by this philosophy. He had also the vision to see the near unlimited potential in the Southwest which inspired him to do more than perhaps any other individual to help shape and cultivate the potential of that section of our Nation. It is most fitting that he lived to see his vision fulfilled.

In peace and in war, Carl Hayden served his State and Nation with selfless devotion. The imprint of his achievements are etched on the landscape of the Southwest in the form of highways, dams, irrigation and reclamation projects, military installations, railroads, parks, and recreational developments. Just prior to Carl Hayden's retirement, he was to realize the fulfillment of a long cherished dream with the passage of the Lower Colorado River Basin Act. This dream had meant very much to Carl Hayden and I am glad to say that his public career ended with success just as it began in 1902.

I sincerely wish that I had the privilege of knowing Carl Hayden as a friend and colleague in the Senate. That wish being denied, I am content to subscribe to his philosophy and strive to emulate the splendid example he set of devoted service to his State and Nation.

On behalf of the people of Alabama, I salute the memory of Carl Trumbull Hayden.

## THE NEED FOR ADVISORY COMMITTEE LEGISLATION

Mr. ROTH. Mr. President, on May 26 of last year, I introduced S. 1964, the Federal Advisory Committee Standards Act. This bill, introduced in the House as H.R. 4383 by Representative MONAGAN of Connecticut, resulted from hearings which took place before the House Government Operations Subcommittee on Special Studies during the spring of 1970. Extensive hearings have also been held in the Subcommittee on Intergovernmental Relations of the Senate Government Operations Committee on similar legislation during 1970 and 1971.

The intent of S. 1964, S. 2064 offered by the Senator from Illinois (Mr. PERCY) and S. 1637 introduced by the Senator from Montana (Mr. METCALF) is to establish a system governing the creation and operation of advisory committees throughout the Federal Government. This need results from the proliferation of advisory and interagency advisory committees which has accompanied the increasing complexity of governmental decisionmaking. It is estimated that at least 2,600, and possibly as many as 3,200, such committees exist in the Federal Establishment today.

The executive branch has been taken note of the multiplication of advisory committees. Basic guidelines for their establishment have been provided by the Office of Management and Budget and its predecessor, the Bureau of the Budget, through Circular A-63-1964, and revisions of A-63 in 1965. During 1971, OMB Director Shultz issued a memorandum defining management oversight for Presidential advisory committees. OMB was further involved during 1971 in the preparation of a new circular aimed at bringing more order to the operation of Federal advisory committees.

I am impressed by the draft of this still unpromulgated circular. Further, I admit that the Executive has primary responsibility to solve this essentially administrative problem. Still I feel that we in Congress should provide general mandates for reform when the Executive has been slow to act. This should not, of course, preclude leaving sufficient administrative flexibility to the President and his appointees.

The responsible committees and their staffs in both Houses are currently attempting to put together legislation for floor action. At this time, I would like to briefly outline the form which I hope this legislation will take.

First and most important, it is essential that we write into any advisory committee bill the automatic termination of a committee's existence after 2 years, unless it is continued by the President or sponsoring agency. This proviso will force the executive branch to continuously review the need for various advisory committees, thus slowing down the proliferation of unneeded and overlapping bodies.

Second, I urge that the legislation stress the improvement of the ability of OMB and agency heads to effectively manage advisory committees reporting to the President, Congress, or various Federal agencies. In order to fulfill its responsibilities, OMB should allot adequate staff resources for the purpose of committee management. It might also be constructive for OMB to direct that each advisory committee file a charter describing its functions, membership, period of authorization, operating costs, agency relationships, et cetera, with the head of its sponsoring agency.

Further, I would urge that the executive branch be required to assign to the Domestic Council or some other agency the task of evaluating and, where appropriate, taking action on the recommendations of Presidential advisory committees. We must make a more serious effort to make sure that we benefit as much as possible from committee reports, which, after all, are expensive in terms of manpower and money.

The emphasis should be on the control of committees which include members who are not officers or employees of the Federal Government. Additionally, it would be advisable to limit the role of advisory committees with public members to wholly advisory functions unless otherwise stipulated by legislation or Presidential directive.

Third, it is important, I feel, for Congress to take part in reviewing the creation and operation of advisory committees. This can be done through assigning to the standing committees of Congress an oversight responsibility for committees falling within the jurisdiction of each. The President should also provide Congress with an annual report containing information on the status of all advisory committees—including information on funding, authorizations, terminations, membership, functions, reporting, and dates of meetings.

Next, in putting together a bill for the management of advisory committee affairs the Congress should take care to protect the openness of advisory committee proceedings to public scrutiny. Requirements for public notice of meetings, open meetings within the reasonable limits of available facilities, public minutes, the availability of records to the Comptroller General, and the deposit of reports in the Library of Congress would seem sufficient to accomplish this end.

The President should be allowed to specifically exclude committee meetings or records from these provisions on the grounds of national security, personal privacy, or commercial privacy. While I would not advocate that citizens who serve on Government advisory committees be required to report their financial dealings in detail, I can see value in the disclosure of any relationships, economics or otherwise, which might raise questions of conflict of interest.

Finally, congressional committees and the OMB in their oversight of advisory bodies with public members should generally acquire that membership be fairly balanced in terms of the tasks of a particular committee. To my mind, it would be neither constructive nor effective to direct that a definite percentage of membership be representative of the public or the consumer.

The purpose of these remarks has been to urge both Houses of Congress to move expeditiously in acting on legislation to improve the management of Federal advisory committees. It is my hope that the result will not only be an organizational improvement, but that it will protect the right of the people, their representatives in Congress, and the press to know how public decisions are made.

## AMERICA'S HEALTH CARE CRISIS—THE DEATH OF ELIZABETH MEINDERS

Mr. KENNEDY. Mr. President, an eloquent article published in the Washington Post of February 6 points out a vivid example of the callousness and inefficiency often faced by those who must use a hospital bed in America today. Mr. Gary Potter tells of the tragic circumstances he and his wife encountered when it was necessary for his wife's grandmother, Mrs. Elizabeth Meinders, to seek medical treatment.

It has long been understood in our society that those who are poor cannot obtain decent medical care, but we are also beginning to understand that frequently, even those who can afford such care are unable to obtain it. The fact that Mrs. Meinders was given less than adequate care, in spite of the fact that her granddaughter could afford to pay whatever was necessary, is a good example of one of the most serious aspects of our crisis in health care—the crisis in quality. It demonstrates that the problem of health care is more than just a problem of providing people with the money to pay for care. It is also a problem of insuring that decent care is provided.

Mr. President, the experiences related in this article reveal much about the inadequacies of our modern system of medicine. For too long, we have tolerated these inadequacies because as consumers and citizens, we ignore the basic malfunctions within the system until we are confronted with them from the wrong side of a hospital bed.

Mr. Potter's article focuses attention on the widening gap between the need for good medical service and the care that is available. I believe that all Senators will find this article to be of interest. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sunday, Feb. 6, 1972]

### THE DEATH OF ELIZABETH MEINDERS: 1878–1971

(By Gary Potter)

*The writer is editor of Rough Beast, a monthly non-ideological journal of ideas and political and social commentary, from which the following is excerpted.*

Last Nov. 6 a 5-megaton nuclear warhead was exploded at Amchitka Island, Alaska. That same day, my wife's grandmother was killed in a nursing home in Iowa. Opponents of the Amchitka test were, generally speaking, persons who believe that the number of technical interventions made in the environment during recent times has reached such a dangerous level that irreparable harm is about to be done to the world. I think some of them must have expected dramatic consequences from the Amchitka test; a few might actually have hoped for them. But the earth did not crack. California did not sink. There were no tidal waves.

I think the expected signals can be read in the death of Elizabeth Meinders.

Mrs. Meinders was born in Iowa and lived there her whole life. The Iowa and the United States where she was born were rather different from the state and nation of today. When Mrs. Meinders was born, Rutherford B. Hayes was President of the United States (of which there were then 38); Queen Victoria would reign for two more decades over a vast and mighty empire; the last Russian tsar, still a boy of 10, was years away from ascending his throne; Kaiser Wilhelm II, the last German emperor, was not yet even crown prince. Since 1878, a very great deal was changed in the world.

Mrs. Meinders was fully aware of the changes. Until the onset of the troubles which led to her death, she read a newspaper every day. Her view of affairs was remarkably detached. It was not that she was unresponsive to the world; the world simply no longer shocked her.

What great issue or event agitating us in recent days had she not already had occasion to consider? The war? Already a lady of 40 at the end of the first World War, Mrs. Meinders had witnessed six of seven foreign wars waged by the United States. Racial conflict? She could remember being scooped up and bundled into the house by her mother when some Indians suddenly appeared nearby—Little Big Horn had happened only a couple of years before, Wounded Knee was years in the future. Presidential assassination? Could the one in 1963 seem as momentous to her as it did to many when she could personally recall two of the three others in our history?

Born as she was before the advent of electric lighting, the automobile, the telephone, radio, the newer prodigies of science and technology did not impress her overmuch. I once asked her what she thought of seeing men on the moon, live, in color. "Oh," she said, "I suppose it's all right." Her many years had clearly made her extremely tolerant.

Intact as were her mental and spiritual faculties, the sheer weight of her 90-plus years did bear on her body. Though far from being bedridden (merely two summers ago she was capable of the long car trip from Iowa to Washington), she did have difficulty at times walking and she recently made frequent use of a wheelchair. If you asked her how she felt, she would reply, "I'm all right, but I used to be able to run like a deer." There was wistfulness in the remark, and resignation, but also a subdued note of anger, as if she felt she had been betrayed—by her own body—and who could doubt her word? Yet there was no one still living who remembered her running.

From the fact that so many she'd known and loved had already passed on and from her religious devotion was derived another characteristic: prudence. She deemed it prudent to devote much of her energy these last years to preparing for the inevitable. This, also, must have accounted for her apparent detachment. She was preparing to put behind her the things of this world; she was detaching herself from them. In her 93 years she'd seen a great deal of death and she must have acquired an understanding of it. It surely seemed that death, no more than anything else, would not surprise her. Yet it did, it did.

Dying was once something accomplished at home. That was the case for even the poorest of men. In 1878, say, there simply was no place else to die, no more than there was another place, besides the open field, to give birth. Also, dying being part of life, home seemed a suitable place to do it since that is where one had done the rest of one's living. Unless he were caught fatally by hazard far from home, every man could expect to die there—in the bosom of the family, as the expression went. Loved ones actually held your hand, they wiped your brow. You were going away; they tried to ease it for you.

I've said Mrs. Meinders was as aware of the world from which she died as the one into which she was born, but she must have expected, must have prayed, that her death would be the sort she knew best and which she had schooled herself to accept, if perhaps with ever so slightly rebellious a spirit, as she accepted the infirmity of an aged body. By rights, such a death ought to have been hers.

Like all really wise persons, Mrs. Meinders had made it a lifelong policy to avoid doctors, except in direst need, and to stay completely away from hospitals or any other institution purporting to care for the unwell or infirm. She was not alone in her feeling about such places. Her daughter, my mother-in-law, had her in her home, as she had for a number of years, when her final difficulties began in August. That is, unlike many others who, by virtue merely of years, find themselves in "nursing" homes at a certain point in their lives. Mrs. Meinders was not in one. Inasmuch as she required no "nursing," was not unwell, never truly infirm, why should she have been? Also unlike many others, of course, she had a daughter who was willing to have her at home and to see after her wants, which were always limited.

In August, Mrs. Meinders complained of some pains. My wife, who was visiting her mother and grandmother at the time, told me on the phone that the family doctor was away, that others had been consulted, and they recommended that Mrs. Meinders be taken to a local hospital for an examination, one more thorough than could be done at home. There should have been nothing alarming in the idea of hospitalization for no more reason than a thorough physical. Surely the reason for Grandma's pain could be more easily and accurately discovered in a hospital than at home. Yet Virginia (my wife) and I were both uneasy at the idea. She was herself less than enthusiastic.

As Virginia and her mother left her on the first evening of her first hospital stay, my mother-in-law said, "Well, we're going."

"And leave me in the presence of mine enemies?" said Mrs. Meinders. It was a line from the best known, and Mrs. Meinders' favorite, of all the Psalms.

She was in the place for merely a few days. Because Virginia and her mother thought they discerned a casualness, even a certain callousness, in the institution's treatment of Mrs. Meinders, they were quite pleased when the doctors told them there was no need for worry, Grandma could go back home.

The doctors at the hospital had failed to detect a massive internal abscess which burst in the evening soon after Grandma's return. I was later appalled to learn that small Iowa cities of 30,000 population are apparently no different than New York or Washington on one score: Despite all the pleas of Virginia and my mother-in-law, no doctor would come to the house. All through the night the two women carried on as best they could. The blood and matter was coming in prodigious quanties. Every convenient receptacle—basins, bowls, pans, even a kitty litter box—was put to use; Veronica, our 15-month-old daughter, upset by the turmoil, began to cry but could not be coped with—there was no time even to empty the pans as Virginia and her mother worked in tandem; the gory containers overflowed the bathroom and kitchen floors, had to be set out in the garage.

Finally, at dawn, a doctor agreed to a house call. This gentleman's professional contribution to the situation, seeing the pans spread before him on the garage floor: "That's impossible. If she lost that much blood she'd be dead."

She was in fact so weakened that the doctor would not advise what doctors today always automatically advise, what the doctors a few days before advised: he would not recommend her being moved to the hospital, not then.

Yet, weak as she was, she was also strong. Anyone, it seems when you consider it, must be marvelously strong simply to live 93 years. It was her strength that undid her. Why couldn't the end have been that night? It would have been far better. There were moments when Grandma actually cried out for it to be. She was too strong, however. Her God had made her so strong she was yet to endure a death unlike any she had ever expected.

It was necessary, however, finally to readmit her to the hospital.

It surely was necessary, wasn't it? The abscess had to be completely cleaned, it had to be healed. The doctors wouldn't treat Mrs. Meinders at home, no more than they'd do anything else there, even examine her.

It was in the hospital that I last saw her. She had been there, in bed, for two or three weeks. I was deeply distressed after seeing her. Never had I seen her so enervated, so listless. Never before had I seen her listless, period. And her eyes! A 93-year-old junkie, was that possible?

My wife explained that the nurses gave Mrs. Meinders drugs, "to keep her quiet."

"Quiet! How noisy can a bedridden 93-year-old woman be?"

"No, it's just that if she asks for anything when it's not scheduled it disturbs the routine. They're busy."

"Oh, c'mon. What? A glass of water?"

"I know. But what can we do?"

What indeed?

The members of my wife's family are not numerous. For several generations the family's children have been born at 30-year intervals, rather than the common 20. Thus, Mrs. Meinders, though already past 90, had no great-grandchildren until the birth of Veronica, my daughter. The two of them, the old lady and the infant girl, had a close and warm relationship.

In the morning after that first crisis, after the doctor had left, before anyone could stop her, Veronica climbed onto Mrs. Meinders' bed. She grabbed a crumpled Kleenex lying there and with it wiped some sweat from her great-grandmother's forehead. My wife has told me that it wasn't until days later that she saw Veronica's gesture in the light of the act once performed by her namesake.

During those days, as Mrs. Meinders recovered something of herself, there were countless games of peek-a-boo, the child standing at the foot of the bed, Mrs. Meinders frequently racked by pain nobody nearly a century old is meant to bear. How did she bear hers? Her heart, her lungs, all her organs were extraordinary fit, we were told.

Her low morale was not the only thing troubling about Mrs. Meinders' condition. We noted a vicious bruise, actually an open wound, on one elbow (an old person's skin can be exceedingly tender). There were similar bruises elsewhere on her body. We inquired of the nurses how the bruises had been inflicted. Blithely, we were told she bruised herself trying to get out of bed. The bed in question had high railings all around it. An old lady who's lately needed a wheelchair to get around tried by herself, in a drugged state, to climb over those barriers? That's what we asked. We were told: Yes!

Mrs. Meinders was clearly not popular with the staff. She was a nuisance; so it seemed. But as Virginia asked, what could we do? We didn't want to take her home simply to die. We wanted her to live comfortably and well. For that she needed healing. The alleged healers said the only place for the healing was here, in the hospital.

Mrs. Meinders was most of all a nuisance about the catheter. My mother-in-law, who'd cared for her for years, knew she was not, had never been, incontinent, yet a catheter had been inserted in her uretha. This did spare the nurses having to attend to a bedpan but it created another problem. Mrs. Meinders was evidently offended by the plastic tubing, especially inserted as it was in a part of her body she probably regarded as not merely private but inviolate (nothing could more accurately reflect her 19th-century upbringing). When she was sufficiently undrugged, she pulled the catheter out. Not once. At least three times. Incredible. I flinched whenever I imagined the pain her action must have caused. I don't know if the nurses considered the pain, but they were furious. When Virginia and I discovered the catheter removed on one of our visits and foolishly reported it ("Please don't make trouble for them, Grandma. You'll only make them mad.") we were banished from the room, saw nurses, faces rigid with anger, rush into it. We heard Grandma scream as they jammed the damned thing back in, but the first nurse out the door met our gaze with equanimity, even smiling. What to do? We felt trapped.

The last time I saw my wife's grandmother alive was with my mother-in-law. When we reached the floor, we found no one at the floor desk. We went straight to Grandma's room. She wasn't there. Wondering where to look, we heard Grandma's voice from the room down the corridor where sitz baths were given. My mother-in-law pulled me back as I was about to step through the door; she wanted to hear what was being said.

Grandma was saying, "Why can't I talk?"

"Because I want to read the paper," the nurse replied.

When we did go into the room, I saw the nurses's paper was turned to the funnies page.

I returned to Washington, leaving Virginia with her family. Mrs. Meinders was in the hospital a while longer. The hospital then asked that she be removed.

I couldn't believe it when Virginia told it to me on the phone.

There had been a letter to the hospital from Medicare, it seemed. Formerly, hospitals might keep patients indefinitely, as long as necessary to get the job done, the job that needed doing; that's why the patient was there. Today, the Medicare "benefits" are exhausted, and that's it. Out. Unless maybe you're actually dying. Ginny quoted a doctor at the hospital, speaking of Mrs. Meinders' case: "Hopefully, we'd thought that she'd have slipped away by now." Those were his exact words. Since she hadn't "slipped away" as scheduled by Medicare, she'd have to leave. I was speechless.

Even as Mrs. Meinders was expelled from the hospital the doctors expressed the view that if she were taken home she'd require the attention there of two full-time nurses. That was out of the question. Accordingly, Virginia's mother and aunt surveyed most of the nursing homes in the area and finally settled on one; it was going to cost the family $1,000 a month. As it happened, Mrs. Meinders was there but a few weeks.

After helping her mother and aunt install Mrs. Meinders in the place, Virginia came home to Washington. She told me all about the home. It was clean and bright, the newest built and supposedly best equipped home in the vicinity, but she'd found the same routine use of drugs as at the hospital. Every evening everyone got his stupor pill; undisturbed quiet would reign for the rest of the night; no one would be any trouble for anyone else, particularly the staff (in addition to professional staff there was considerable volunteer help—Girl Scouts earning badge points, that sort of thing).

I was struck by one detail; persons feeling badly often must be encouraged to eat; that is as true of old persons as anyone else. At this "nursing" home where Mrs. Meinders now lived, no one did anything to encourage eating; food, I gathered, was simply left with the inmates; there it is if you want it. The result was that the relatives or friends of many inmates, including my mother-in-law, visited the establishment twice a day to feed the inmates. A thousand dollars doesn't buy much anymore, I reflected.

Three weeks after Virginia got home the phone rang at 3 o'clock one morning. It was Virginia's mother. Grandma had been killed. She was scalded to death in the bathtub. In a sitz bath. I wondered what nurse this time had been busy reading the funnies.

No one had actually been reading the paper. It might as well have been the case, however. Beyond the fact that someone had been grossly negligent we shall perhaps never know exactly what happened. Either someone had simply put Grandma into water already scalding hot and abandoned her despite her protests, or she was left unattended while a malfunctioning electrical device heated up the water. As chance had it, both my mother-in-law and her sister arrived at the "nursing" home, for a visit, within minutes of the event. The place was in turmoil. In the moment's excitement, one nurse was extremely candid. She blurted: "We heard her screaming but we were all too busy to go in." When the remark was reported to us, Virginia and I recollected the scream we'd heard in the hospital corridor, and the satisfied look of the nurse afterwards.

Grandma lingered, in agony, for twelve hours. She was back in one of those beds with the high metal barriers; both her daughters were with her. She complained very little about the pain she was feeling, but it had to be great. Her boiled flesh had turned black and was falling away. A curious thing happened in those hours. Though Grandma was Iowa-born, her first language was German, until the age of 8. No one living had ever heard her speak it. Now at the end, it was suddenly the language in which she prayed. Then, her very last words were: "Give me a kiss." Neither of her daughters could reach over the barriers of the hospital bed to give it. That was all.

When we buried Grandma her pastor said that everything he knew about her indicated that she was now with God. It is hardly possible to believe otherwise. All signs, her devotion and piety, her prudence, indicated that she understood her very long life to be a gift from God, which He meant her to use in preparing to meet Him. Not everyone receives such a gift. Consider the case of a young man wiped out driving to work. Yet Grandma' death was more nearly akin to the young man's than it surely was to that of, say, her grandfather. But Grandma's case was not unique, you know that. That most of us will have her institutional kind of dying, or the young man's violent death, and almost no one of us the older kind of demise, an 1878 death—there is the material for meditation.

Death has always been the ultimate correction of men's lives: it is the wages of sin; but unless all accounts of past dyings have been falsified, it does seem that death, the process of having one's sins corrected, was once easier to bear. It seems to have involved some tears and sincere repentance, and that was about it. Did its relative ease correspond to the sins it corrected?

That young man driving to work, is he aware his life is in God's hands? Chances are that if he has any thoughts at all about his life being in anyone's hands he thinks it is in those of the General Motors engineers.

And if so wretched a death as Grandma's can be visited even on that dear, amiable, God-fearing lady, what chance have the rest of us to avoid her fate, the young man's, or worse? Tears and repentance, then, sweet death? No, for most of us it's going to be the freeway crackup, or the lonely, bitter death of a terminal ward—or the scalding sitz bath.

Why should God, capable as He is of infinite subtlety, arrange for the top of the world to blow off at Amchitka? He can arrange for every man a personal Amchitka. I believe that is possibly just what He's doing. I'm suggesting that the American way of death may in fact be His punishment for our way of life. If you don't believe in Him, let's just say that it's nature fighting back.

## CATTLE PRICES, MEAT PRICES, AND MEAT IMPORTS

Mr. CURTIS. Mr. President, I am very much indebted to Mr. Ray Kissinger for some reliable facts concerning cattle prices and meat prices. Mr. Kissinger knows whereof he speaks because he is very knowledgeable and he has had years of experience as a cattle feeder.

Mr. Kissinger went to the Hastings, Nebr., Daily Tribune and looked up the prices of cattle on January 9, 1952. He also looked up and read in the same issue the ads of a supermarket concerning the prices they were charging for meat.

Then Mr. Kissinger secured the same prices for February 16, 1972.

The table prepared by Mr. Kissinger is most striking. It shows that the prices for cattle that farmers and feeders are receiving at the present time are in the range of what they were 20 years ago. Who else in America would work for the wages he or she received 20 years ago? It is about time that government policies were directed toward further increasing farm income.

Some misguided persons have suggested that the import quotas on meat ought to be increased. They are advocating greater imports of meat for our country. Such a move would be indefensible.

Increased meat imports would be damaging not only to ranchers and cattle feeders, but also to grain farmers. Every time a pound of meat is placed on the table it means that there has been a market for 16 or 17 pounds of grain or perhaps more.

The taxpayers and the general public would be damaged if our meat imports are increased. Our farm program has many problems. We have surpluses, particularly in the grains. Farmers are required to cut back their acreages. It costs considerable money to run the farm program. Now is no time to move a greater portion of our agricultural production out of the United States and into a foreign country. That is what we do when we increase meat imports.

We also owe it to the consumers to see to it that they have a wholesome product. In truth and in fact, imported meat does not meet the high standards of sanitation and inspection which are met by our domestic industry. The foreign countries who are meddling in our domestic affairs and urging an increased quota of meat imports ought to refrain from doing so, because they are wrong in their contention.

Mr. President, the table prepared by Mr. Kissinger eloquently speaks for itself. I ask unanimous consent to that it be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

*Cattle and retail meat prices*

Source: Hastings Tribune, Hastings, Nebr.

[Price Per Hundredweight]

JANUARY 9, 1952

Prime cattle—$39
Most choice to prime—$35.50–$38

FEBRUARY 16, 1972

Prime cattle—$38
Most choice to prime—$34–$37

Retail prices from same supermarket in years quoted.

JANUARY 9, 1952

Swiss steak, .85
Hamburger, .49
Rib steak, .79
Beef stew, .79
Sirloin steak, .85
Round steak, .98
Beef roast, .65
Prime rib, .69

FEBRUARY 16, 1972

Swiss steak, $1.69
Hamburger, $.98–$1.19
Rib steak, $1.59
Beef stew, .98
Sirloin steak, $1.63
Round steak, $1.38
Beef roast, $1.19
Prime rib, $1.29

## STRICT RACIAL BALANCE IN PUBLIC SCHOOLS

Mr. TALMADGE. Mr. President, despite long and loud disclaimers to the contrary, the wisdom of efforts to achieve strict racial balance in our public schools is being questioned by voices outside the South. A comment published in the New York Times of February 11, 1972, dramatically underscores this fact.

It is indeed interesting to note that this newspaper, which has long been the bible of the most adamant proponents of forced busing, winces, and "waffles" when confronted with the suggestion that desegregation guidelines and standards already implemented in the schools of the South be applied to schools in New York City and New York State.

Mr. President, the double standard is alive and flourishing in the editorial offices of the Times.

I think this editorial deserves the attention of all Senators. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DUBIOUS INTEGRATION PLAN . . .

The Fleischmann Commission has properly given high priority to the racial integration of the state's public schools, and it has clearly described the disturbing trend of increasing segregation as the school population of the major cities turns predominantly black and Puerto Rican.

It is unfortunate, however, that the commission has proposed actions likely to create a maximum of conflict and in any case are quite unrealistic.

The key to the proposed approach is to create in every school a strict ethnic balance that approximates the racial pattern of total pupil population. In New York City, where the white enrollment now constitutes less than 40 per cent, this would mean that a white minority of roughly that proportion would have to be maintained in every school. Such a redistribution could be accomplished only by either transporting large numbers of white children into the presently predominantly black schools or by phasing out all schools in such areas. Both approaches would run into massive opposition on the part of black as well as white parents.

Equally questionable is the commission's proposal to bring about an ethnic balance among each system's teachers and administrators to reflect the racial profile of the total population. We have long urged effective measures to train and recruit greater numbers of educators among the minorities, along with the elimination of licensing procedures which result in racial discrimination. But to impose a relatively rigid ethnic balance is to mandate a quota system with its inherently discriminatory and divisive consequences.

Although the report thus seems flawed in important respects, it nevertheless contains many worthwhile recommendations, such as the avoidance of rigid ability-grouping within schools and stress on integrated faculties and an integrated curriculum, all of which are indispensable in the battle against racial isolation. Especially pertinent is the commission's insistence on adequate Federal and state financing of desegregation efforts, at a time when Congress, in a senseless backlash maneuver, is trying to prohibit the expenditure of such funds for busing. Even worse, Albany has already wiped out its own meager integration funding.

Perhaps the commission's most appealing suggestion is the construction of special regional schools on the cities' outskirts to give black and white parents a genuine opportunity to send their children to schools which combine educational innovation with full integration.

## TRIBUTE TO CARL T. HAYDEN

Mr. BROOKE. Mr. President, one of the great privileges for a junior Member of the United States Senate is the opportunity to serve with some of the men and women who have personally shaped our country's destiny and participated in its great and glorious history.

Carl T. Hayden was such a man. Born and raised in the western frontier, he retained and used to the Nation's advantage throughout his life those qualities of independence, flexibility and superb judgment which mark a man of action and integrity.

When I first met Carl Hayden, he had already served in the Congress of the

United States for 55 years, 40 of those years in the United States Senate. His accomplishments in that time are legion. His concern for the welfare of the American people, his dedication to the cause of better living standards and equal opportunities, his commitment to a strong and constructive role for America in the world, have helped to shape this Nation and make us strong.

It is fitting that Carl Hayden's colleagues and countrymen should join in tribute and lasting remembrance to a man whose life has made such a difference in the life of our land.

## ADDRESS BY LAWRENCE F. O'BRIEN TO NEW MEXICO LEGISLATURE

**Mr. ANDERSON.** Mr. President, on February 15, 1972, Mr. Lawrence F. O'Brien, chairman of the Democratic National Committee, addressed a joint session of the New Mexico State Senate and House of Representatives in Santa Fe, N. Mex. We were glad to have Mr. O'Brien address the joint session of our legislature, and I believe that his remarks will be of interest to other Members of the Senate. Therefore, I ask unanimous consent that Mr. O'Brien's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### ADDRESS BY DEMOCRATIC NATIONAL CHAIRMAN LAWRENCE F. O'BRIEN TO A JOINT SESSION OF THE NEW MEXICO SENATE AND HOUSE OF REPRESENTATIVES, HOUSE CHAMBERS, SANTA FE, N. MEX.

I must confess that I had one difficult moment on receiving this invitation from Governor King. For some reason, he thought it necessary to tell Larry O'Brien that the address was to be "non-partisan." And I had to search high and low for someone on my staff at the Democratic National Committee who could tell me what that word means.

But now I don't feel so bad about my ignorance. For I found out that Bruce King had to look up the word before sending me that telegram.

And so, my fellow Republicans—and you Democrats, too—I shall try my hardest to abide by the Governor's request.

Actually, it's not so difficult. There is much, in this fateful political year for America, that we must discuss together not as Republicans and Democrats, but as activists who have chosen to dedicate our lives to politics and public service.

At the end of 1971, I attempted to take an objective view of the state of the Democratic Party and of the two-party system on the eve of this election year.

I said at the time that I hoped it was a candid and forthright analysis of presidential politics, 1972—but that I hoped it would be something more. And that "something more" is what I want to share with you in my brief message today.

That is my overriding concern for the health, even the survival, of the American two-party system as it has existed for the past century and one-third.

Since assuming the national chairmanship of one of the two major parties in March 1970, I have had to face directly this manifold challenge to our democratic system of government: the alienation of millions of voters; a creeping lethargy that afflicts our youngest voters and those who have the most to gain from active political participation; the impact of television; the corrosive effect of political fundraising—and, I'm sorry to say, the rising tide of distrust of government and public officials of all persuasions. And I have become increasingly concerned for the future of this great nation.

The challenge is yours and mine—and it is immediate.

For it is with us once again—another year of reckoning—the quadrennial test of man and system.

Yes, it is 1972, and the determination of America's destiny is before us once more.

Now, it occurs to me, as it may to many of you, that there probably has never been an election year when it was not said that the future of America depended on the outcome . . . that America's destiny truly lay, in whatever year it happened to be, in the decision of millions of citizens as they privately registered their choice for President of the United States.

But in the year of 1972, I submit that our destiny as a nation is on the line—perhaps as it has not been since the Civil War.

We as a nation have survived many crises, many critical tests, since that dark period in the mid-19th Century. But now, as a democracy approaching its 200th year, we could well be facing our greatest test.

Yes, there is far more than an election at stake in 1972. The American political system itself is on trial.

For I am convinced that millions of Americans have become dubious to the point of despondency at the capacity of this system ever again to produce strong, compassionate, and trustworthy leaders. The public opinion polls will tell you: "Politicians never keep their word."

Events of recent months and years have spawned a grim cynicism among our fellow citizens toward the most basic tenets of our form of government. Many—and perhaps most—simply *don't believe* that the people govern themselves . . . that their voices and needs are heard by their elected leaders . . . that their's is indeed a government not of men, but of laws.

We are, in a sense, asked this year to evaluate the American experience—all of it, since the 17th Century—and to judge whether this unique experience has any relevancy to the extraordinary demands and challenges of contemporary America.

For all of our past glories, we cannot evade the question: has the American system outlived its usefulness? Should it be discarded?

There, my friends, is the question being posed to both major political parties today. And that challenge is the reason I am involved as national chairman of one of them.

You may be forgiven if you happen to believe my purpose in life is solely to win elections; it's a reputation that's hard to shed.

So let me indulge in what might seem, to some of my associates, to be heresy. I simply have no interest—none whatever—in merely dislodging an incumbent President of the opposite party from the White House if the alternative is just to be more of the same.

Yes, I want the Democratic Party to regain the presidency—but only if the change produces a leader who will lead; who will command the trust and confidence of the American people, and who will offer a solid, tangible, and positive alternative that will restore the faith of Americans in their government.

It is a time for greatness, for vision, for boldness—in the White House, in the Congress, and in the legislative and executive chambers of states like New Mexico. And yet it is a time for steady, reasoned leadership that unites rather than divides, that does not seek to startle the people with sudden, ill-thought-out shiftings of course.

Above all, in seeking to regain the confidence of the people in their elected representatives and leaders, we must be certain pects politicians to keep their promises anyway."

A distinguished political analyst recently wrote of this syndrome:

"Some politicians . . . have bespoken the glory of the dream, convinced obviously that this was what many Americans wanted to hear. The corollary, inevitably, was that bad news, limited promises, ordinary visions could not be offered.

"As a people, we should by now have seen the folly in this course. Dreams, like everything else, have their price. Things gained too easily at the outset cost much more later. America's resources are running thin. The social burdens of pollution and the ravaged land are mounting. . .

"Our leaders are supposed to be our wise counselors. If they are over-promisers, as some of them surely are, they are cruel deceivers. They must know better. On the threshold of 1972, America is still rich in the substance of good living. Its people have great qualities. But there needs to be less fanciful dreaming and more hard effort, more payment on the high price of great dreams."

And so we shall, as representatives of the two major parties, have our differences this year. For there is a significant difference in philosophy between the two parties, in their views on the relationship of government to the people, and in their approach to the governing process.

It is easy to be misled by the middle ground. There *is* an area of overlap. But it is a deliberate overlap—and, I believe, a healthy one. Leaders of the two major parties consciously must strive to frame policies that appeal to and benefit the greatest number of persons.

Any other approach—any attempt to snub or exclude any segment of the population, to invoke rule by an extremist minority—is doomed to failure. Americans want to be consulted; they never have and they never will tolerate a government in which they have no say.

A philosopher once said there is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than the introduction of a new order of things.

But I think all of us will agree that the 1970s cry out for a new order of things in American society.

So, while I recognize the crisis of confidence that has befallen our political system in America, I remain confident that we can meet it and prove once again the greatness, the durability, and the honor of the finest political system man has ever devised.

For I believe the American people know in their hearts what their political leaders seem too seldom to realize: that we must always, in the final analysis, rely on human decency, human intelligence, and human will—always allowing for human fallibility.

The people, in 1972, want desperately to know where this nation is going—and where it is taking them, as individual human beings. And now it is up to us to provide the answers and lead the way.

This is my commitment—and I know it will continue to be yours.

## SENATOR CARL HAYDEN

**Mr. FULBRIGHT.** Mr. President, it is with sadness that I join my colleagues in paying respect and tribute to our former colleague, Senator Carl Hayden.

Those of us who had the privilege of being associated with Senator Hayden remember him as a dedicated public servant. He served his State in Congress for over 50 years, longer than any other man that we do not promise too much on the cynical assumption that "nobody really ex- in history. The growth and development of Arizona is a monument to his effectiveness.

Yet, his achievements were not limited to helping his home State. Among his accomplishments was the legislation authorizing the Farmers Home Administration which has been so important in revitalizing our Nation's rural areas.

As chairman for 14 years of the Senate Appropriations Committee, Carl Hayden became one of the most influential men in the Congress. He worked hard at his job and he did it well.

A quiet, unpretentious man, Senator Hayden's advise to his colleagues was "Keep quiet, be a workhorse, and speak only when you have the facts." Carl Hayden practiced what he preached.

## PUBLIC SCHOOL DESEGREGATION

Mr. MONDALE. Mr. President, I invite the attention of the Senate to a courageous article entitled "Integration is Working," written by Mr. Richard A. Pettigrew, speaker of the Florida House of Representatives, and published in this morning's New York Times.

Mr. Pettigrew's children—Mr. Pettigrew and his family are white—have attended formerly all-black schools in two Florida school districts desegregating under law. His article is eloquent testimony to the value of public school desegregation. If Congress provides the kind of leadership to the Nation which Mr. Pettigrew and Governor Askew have given to the State of Florida, school desegregation will be an educational success.

Mr. President, I ask unanimous consent that Mr. Pettigrew's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### INTEGRATION IS WORKING

(By Richard A. Pettigrew)

TALLAHASSEE, FLA.—During recent years, Florida and the South have made giant strides toward ending the deep divisions that have persisted. We have tried to resolve the issues that arose out of human slavery as widely practiced during Colonial days and during the first 75 years of this country's existence.

An ancestor of mine charged up a hill at Gettysburg in the left flank of Pickett's Charge and was fatally wounded. General Pettigrew's men made the wall at the top of Cemetery Ridge. No man on the field of battle had ever demonstrated greater courage. Tragically, few men have died for meaner goals than to sustain the right to inflict slavery on other human beings.

After Emancipation of all slaves in Florida and other Southern states, the Reconstruction period was very badly handled and the vanquished in the South were deprived of their civil rights. The slaves were freed but no programs of any significance existed designed to improve the lot of former slaves. And so most returned to menial tasks and were placed in tenant shacks on farms or thrown into ghetto-type areas in cities.

For the next ninety years, public schooling was provided on a segregated basis and until the early fifties the schools and the teachers and the facilities for blacks were poorer than those provided to whites. Inescapable evidence led the U.S. Supreme Court to determine that such separation of children by race in the public school system resulted in unequal education of the children of the former slaves.

There are some who still disagree with that decision. I agreed with it at the time. I agree with it today.

Since that time, efforts have been made by many national, state and local leaders to carry out the nationally established goal of educational quality for every child in this country. The effort has been complicated particularly in urban areas by the continuation of segregated housing patterns which have not been susceptible to much change. The effort to provide educational equality has faced the problem that ghetto schools are located inside the ghetto and suburban schools are located wholly within white neighborhoods. And the only practical way that courts and school boards have been able to develop to integrate the school system has been to transport children in school buses out of the ghetto to formerly all white schools or into the ghetto into formerly all black schools.

For example, George Washington Carver Elementary School, where my son has been attending first grade, was formerly all black and Sunset Elementary School, which is two and a half blocks from my home, was formerly all white. There was great concern by parents in my neighborhood about sending our children to George Washington Carver because of the fear that, in that particular rundown neighborhood, there might be personal danger and certainly definite inconvenience to the parents of white children who must be sent under the plan developed under the court order. But a year later, most parents of children sent to George Washington Carver Elementary School are satisfied that:

1. Sufficient police protection has been afforded. There have been no incidents.
2. There is excellent teacher and student morale in the school and a good educational climate has been developed.
3. The perspectives of the children in an integrated classroom have been enlarged and the education of white children has not suffered, while significant improvements in the quality of schooling available to black children has occurred.

Since coming to Leon County for this legislative session, I moved the family to Tallahassee and my son attends Riley Elementary School, a formerly all-black elementary school, and my daughter attends Griffin Junior High, a formerly all-black junior high. Although they have not been going there very long, the principal adjustment they are having to make thus far has been moving at midterm into a new community and not to the location of the schools.

Thousands and thousands of white parents had faced this problem pursuant to court orders. After initial fears had died down, many, many parents have taken active parts in P.T.A.'s, have worked with school officials to solve the problem of the drastic changes wrought by integration orders. Elected school members have grappled and in most instances have worked very responsibly to try to solve the problems of integrating school populations. Some plans that have been developed were poorly thought out and poorly executed and have not worked well. In some instances, violence has occurred and adequate protection has not been given. But on the whole, because of the sacrifices of numerous white and black Southerners, integration is working and, with the continued courage and support of parents, teachers, school officials, state legislators and progressive, responsible governors, we will solve this problem and wipe out the last vestiges of slavery from this land.

## SENATOR HAYDEN

Mr. CHURCH. Mr. President, I share the sadness being expressed by Senators upon the occasion of the death of Carl Trumbull Hayden at the age of 94.

We in the Senate have missed his presence since he retired nearly 4 years ago.

When I entered the Senate in 1957, the justly acclaimed reputation of Senator Hayden, then Appropriations Committee Chairman, was already firmly enshrined. He first became active, as a young man, in the affairs of the Arizona territory, where he served as a member of the Tempe Town Council and subsequently as Sheriff of Maricopa County. He was elected as a member of that State's first delegation to Congress, taking his seat in the House of Representatives in 1912. When Carl Hayden was elected to the Senate in 1926, I was then 2 years old.

As a freshman member of this distinguished body, I was pleased to have been able to learn from Senator Hayden, both by means of his sage counsel and by observing his effective, low-keyed legislative performance.

His words were few, but well-chosen, and he truly knew that silence can be golden and the currency of his words were thereby enhanced. His farewell to the Senate—and to the Congress—were characteristic. Announcing his intention to retire, Senator Hayden concluded with a paraphrase of an Old Testament quotation:

There's a time of war and a time of peace
A time to keep and a time to cast away,
A time to weep and a time to laugh,
A time to stand and a time to step aside.

As I said in the beginning, we in the Senate miss Carl Hayden but we appreciate him for his contributions to the Congress of the United States, wherein no one has served as long as he.

## AVENA SATIVA

Mr. FULBRIGHT. Mr. President, thousands of Americans have at one time or another tried to stop smoking cigarettes. Many methods for breaking the smoking habit have been suggested and tried, but I am not aware of any that have been consistently successful.

I recently learned of a remarkable experiment, which, I believe, certainly appears to be deserving of further study. Amazingly, the experiment involved the use of decoction of common oats—Avena sativa—to break the smoking habit.

The story behind the experiment is a rather interesting one, as related by Dr. C. L. Anand in a letter to the editor of the British Medical Journal and in a brief article in the British magazine, Nature. While in India in 1967 he came across a practitioner of ancient Ayurvedic medicine who was using a secret formula to cure the opium habit. Intrigued by the success of the cure, Dr. Anand investigated, and discovered that the formula was actually a decoction of green oats.

Thereafter, he undertook a test among 26 cigarette smokers, including health volunteers and chronic patients in the chest wards of Ruchill Hospital, Glasgow, Scotland. In his article, Dr. Anand reports on the results of the study. Each patient kept a daily record of cigarettes smoked, commenting on any changes in the craving for cigarettes. By random allocation, 13 patients received the drug and the others received placebo for 28 days. No psychotherapy was used and no patients were taking any other drugs which could affect smoking. The two groups were comparable in age, sex and smoking history.

In the drug group the total daily consumption by 13 patients was 254 cigarettes; at the end of the trial it was 74. Five had stopped smoking, seven had reduced it to less than 50 percent and in one no change had occurred. In the placebo group, the total daily consumption was 215 at the start and 217 at the end. Smoking had been stopped by none, reduced to above 50 percent by six and increased by three; four reported no change.

Dr. Anand concluded:

> In the drug group various degrees of loss of craving for cigarettes were reported. The drug seems to reduce the number of cigarettes smoked per day, along with diminished craving for smoking. Moreover, the reduction in smoking seems to continue even 2 months after the termination of the drug. The drug has never been used in dealing with the problem of smoking and, as this was the first instance of its use in smokers, its role and significance are worthy of further investigation.

Mr. President, I would certainly agree that the results of this study merit further investigation, and I hope that competent agencies within the National Institutes of Health and elsewhere in Government will give the matter serious consideration.

It would truly be an interesting turn in history if common oats did prove to be the basis for an effective way to break the smoking habit.

In view of the fact that Dr. Anand observed that this decoction was being succesfully used in curing the opium habit, I think its possible use in helping to control drug problems in this country should also be pursued, particularly because of the relationship between opium and heroin.

I have corresponded with Dr. Anand, as has Dr. R. J. Pearson, Attending Physician to Congress, and I ask unanimous consent, that Dr. Anand's letter to me of February 9, 1972; his letter to the British Medical Journal of September 11, 1971; the article entitled, "Effect of Avena sativa on Cigarette Smoking"; and an undated news article from the Guardian be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

BOARD OF MANAGEMENT FOR
GLASGOW NORTHERN HOSPITALS,
*Ruchill Hospital, Glasgow, February 9, 1972.*

Senator J. W. FULBRIGHT,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR FULBRIGHT: I am grateful for your very kind letter of 31st January '72 and I am extremely grateful for your interest in my work with Avena sativa. I had, in fact, heard from Dr. R. J. Pearson, Attending Physician to the Congress, two months ago and I had sent him information that I have regarding the use of Avena sativa extract on cigarette smoking and opium addiction. I am sorry to learn that Dr. Pearson has not been able to obtain any fresh oat plant. I suggest that perhaps you can use the Indian variety of Avena sativa which I believe is about ready now. The harvest in my part of the country, that is North India, is ready for cutting in early April so I am sure at this stage, or in a few weeks from now, the plant should be ready for extraction. Other interested people have obtained the plant from Australia, South America and South Africa and they are working with the extract. The drug could be easily made in India and it involves a very simple process of extraction, as I have detailed in my letter in Nature, which Dr. Pearson has. I am sure that with your good offices you will be able to get the requisite amount of drug made either in India or in any other country where the plant is ready and mature at present. This could easily be found by your information agencies. The person who extracted this plant for my initial trials in India, Professor Sharma, is available for your services, if so required. Presently he is in Jullundur City, Punjab. At present the only other information available is its chemistry, which has been done by Professor Tschesche at the Department of Organic Chemistry, University of Bonn, and he has isolated some novel steroid saponins called Avenacosids which he hopes are responsible for the anti-craving function of this plant. More than this at present is not known. As you can appreciate, I am awaiting anxiously the results of other people's experience with this plant at present.

Thanking you once again,
With best regards,
Sincerely yours,

C. L. ANAND.

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### EFFECT OF AVENA SATVIA ON CIGARETTE SMOKING

In 1967, in India, I came across a practitioner of ancient Ayurvedic medicine who successfully used a decoction of common oats (*Avena sativa*) to cure the opium habit. While using an alcoholic extract of the plant on a group of opium addicts, several patients reported a loss of interest in smoking. The drug is listed in the United States Dispensatory and National Formulary[1,2], yet no reference has been traced regarding its application on smokers (Library of the Pharmaceutical Society of Great Britain, personal communication). I have therefore studied the effect of this drug on a group of smokers.

The active drug was an extract of healthy, fresh plant *Avena sativa* selected just before harvest. I used 1.5 parts of the crushed whole plant by weight in 5 parts by volume of 90% ethyl-alcohol, kept at room temperature with frequent agitation for 72 h and then filtered. The active constituent has not been identified.

Twenty-six cigarette smokers including healthy volunteers and chronic patients in the chest wards of Ruchill Hospital, Glasgow, including tuberculous patients, participated in the trial. The total duration of their smoking and the average number of cigarettes smoked per day in the proceeding six months were recorded.

They were told that a drug was being tested which might affect their smoking, and that they were not to make any conscious effort to alter their smoking during the trial.

TABLE 1.—NUMBERS OF CIGARETTES SMOKED DURING TRIAL

| Group I (drug) Cigarettes per day | | Group II (placebo) Cigarettes per day | |
|---|---|---|---|
| Before trial | After trial | Before trial | After trial |
| 20.0 | 20.0 | 22.0 | 19.0 |
| 25.0 | 10.0 | 30.0 | 28.0 |
| 10.0 | 0 | 18.0 | 18.0 |
| 12.0 | 0 | 14.0 | 14.0 |
| 11.0 | 0 | 18.0 | 17.0 |
| 9.0 | 0 | 17.0 | 18.0 |
| 35.0 | 3.0 | 17.0 | 18.0 |
| 25.0 | 7.0 | 8.0 | 18.0 |
| 22.0 | 0 | 18.0 | 18.0 |
| 20.0 | 7.0 | 20.0 | 18.0 |
| 25.0 | 7.0 | 15.0 | 14.0 |
| 20.0 | 10.0 | 10.0 | 9.0 |
| 20.0 | 10.0 | 8.0 | 8.0 |
| 19.5 [1] | [1] 5.7 | [1] 16.5 | [1] 16.7 |

[1] Average.

Each patient kept a daily record of cigarettes smoked, commenting on any changes in the craving for cigarettes. By random allocation, thirteen patients received the drug and the others received placebo for 28 days. The alcoholic extract (1 ml.) was diluted to 5 ml. and each oral dose was 5 ml. of this dilution given four times a day. No psychotherapy was used. No patients were taking any other drugs which could affect smoking. The patients in both groups were comparable in age, sex and smoking history.

The results of the trial are given in Table 1. In the drug group the total daily consumption by thirteen patients was 254 cigarettes; at the end of the trial it was seventy-four. Five had stopped smoking, seven had reduced it to less than 50% and in one no change had occurred. In the placebo group the total daily consumption at the start was 215, at the end it was 217. Smoking had been stopped by none, reduced to above 50% by six and increased by three; four reported no change.

The two groups were comparable in their smoking habits, since group I "before" (mean $19.5 \pm 2.0$ s.e.) is not statistically separable from group II "before" (mean $16.5 \pm 1.7$ s.e.); $t = 1.33$, $0.30 > P > 0.20$. Group I "before" is significantly different from group I "after" (mean $5{:}7 \pm 2.0$ s.e.); $t = 5.21$, $P < 0.001$. *Group* II "before" is not different from group II "after" (mean $16.9 \pm 1.4$ s.e.); $t = 0.180$, $0.90 > P > 0.80$. The mean differences between the groups due to treatment (group I "before"—group I "after") and (group II "before"—group II "after") are naturally equally significant; $t = 5.73$, $P < 0.001$. All these calculations are based on Student's $t$ test.

In the drug group various degrees of loss of craving for cigarettes were reported. The drug seems to reduce the number of cigarettes smoked per day, along with diminished craving for smoking. Moreover, the reduction in smoking seems to continue even 2 months after the termination of the drug. The drug has never been used in dealing with the problem of smoking and as this was the first instance of its use in smokers, its role and significance are worthy of further investigation.

I thank Dr. G. J. Addis for help with statistical analysis and Professor V. D. Sharma for extracting the drug.

C. L. ANAND.

47 GLARENDON STREET, *Glasgow NW.*
Received June 4, 1971.

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[1] United States Dispensatory, twentieth ed., part II, 1513 (1918).

[2] National Formulary of the United States, seventh ed., 60 (1942).

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### TREATMENT OF OPIUM ADDICTION

SIR.—In the Punjab in 1967 I came across a Hakim who was employing a self-dispensed liquid medicine to cure the drug habit in opium addicts. His results, which were quite successful, intrigued me and I ultimately succeeded in getting the secret recipe of the liquid. It turned out to be a decoction of green oats.

I found it listed in the *National Formulary*[1] and the *United States Dispensary*[2] as *Avena sativa*, but there was no mention there of therapeutic properties. No formal record has so far been traced with regard to its use in opium addicts. An alcoholic extract of the whole plant excluding the root was obtained. A clean, healthy mature plant was selected just prior to harvest. An extract of the fresh plant was made in the ratio of 1.5:5 parts of 90% ethyl alcohol at room temperature over a period of 72 hours. During this time the mixture was frequently shaken. Finally, the solution was filtered. The active principle has not been identified. No other opium derivatives, barbiturates, or any form of psychotherapy was used. A 2-ml dose of the extract, suitably diluted, was given t.i.d.

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[1] American Pharmaceutical Association. *National Formulary of the United States of America*, 7th Ed., p. 60. Washington, American Pharmaceutical Association, 1942.

[2] *Dispensary of the United States of America*, 21st Ed., Part I, p. 208. Philadelphia, Lippincott, 1921.

Ten chronic opium addicts who had attended a clinic at the Susheela Mehra Memorial Hospital, Jullundur City, Punjab, for other medical reasons were asked if they would consider trying a drug to break the opium habit. They were not very enthusiastic of the final outcome as previous treatments had uniformly failed. However, they all gave their consent. All the patients were men, and the trial took place in 1968–9. The average age was 42 years. The length of the habit varied from 3 to 20 years (average 10–8 years), and the oral ingestion of opium per day varied from 0.5 g to 4.0 g. Average daily intake was 1.65 g at the start of treatment. During its course most patients were able to reduce the opium intake gradually. "Restless legs," mainly at night, were observed in six of the 10 patients; there was also difficulty in falling asleep during the reduction of opium.

All these patients had in the past tried various treatments to come off opium and they were extremely dubious of getting any result. The drug was thus taken without any bias or expectations. No manner of psychotherapy, opiates, or any other substitution therapy was employed. Under the effect of the extract the patients could reduce their daily opium intake themselves, and this reduction was made on the patients' own initiative. They were never asked to reduce their opium intake. They had free access to opium and no control on its availability to them was either possible or applied. Thus, there was no supervised or graded withdrawal which is known to be an effective management of opium addiction.

No serious withdrawal symptoms were noticed nor were there any side effects attributable to the drug. The observation that nine out of ten patients continued with their work during treatment excluded any marked changes in behaviour and general well being. The *Avena sativa* treatment varied from 27–45 days (average 34 days), after which it was not repeated.

At the end of the trial six had given up opium; two had reduced it, and two showed no change. At the last follow-up, which varied from 3–19 months (average 7.7 months) after the cessation of treatment, the daily average intake was 0.56 g. Six patients were still off opium or any of its derivatives or barbiturates; two had reduced their opium intake; and two showed no change.

The drug has never been applied in the management of the opium habit and as the problem of addiction remains so distressing and formidable, a detailed study of the role of this drug seems justified.

During this treatment some patients also lost their craving for cigarettes. A study in cigarette smokers is under way.—I am, etc.,

C. L. Anand.

Glasgow N.W.

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### Porridge Oats Can Stop You Smoking

(By Bryan Silcock)

An alcoholic extract of common oats, the sort used to make porridge, has a dramatic effect on smokers' craving for cigarettes, according to a report in the journal Nature. If further trials bear out the results of preliminary experiments the drug that all would-be non-smokers have been hoping for may actually become available.

"I came across someone giving opium smokers a decoction of oats plants to cure the habit in India in 1967," says the author of the report, Dr. C. L. Anand, of Ruchill Hospital, Glasgow.

"I tried it myself on 10 opium smokers and the results were encouraging, so I thought I'd try it on ordinary smokers."

Twenty-six smokers took part in the trials, some healthy, some from the hospital chest wards. Half received the oats extract, half an indistinguishable dummy mixture. None of the volunteers knew which they were getting.

After 28 days, the average cigarette consumption of the 13 people receiving the oats extract was down from about 20 to about six a day. Five had given up entirely, and all but one of the remainder were smoking less than half as many as at the beginning of the experiment. But average consumption among the smokers getting the dump mixture was virtually unchanged.

"The drug seems to reduce the number of cigarettes smoked per day, along with a diminished craving for smoking," writes Dr. Anand. "Moreover, the reduction in smoking seems to continue even two months after the termination of the drug."

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## HARTFORD TIMES EDITORIAL

Mr. RIBICOFF. Mr. President, we are now entering the third year of debate over the question of national school integration. During that period a lot of time and money have been expended, but the Senate has no positive solution to offer a nation badly in need of leadership.

As I have warned repeatedly during the course of these debates, the absence of either congressional or Presidential initiative would force the Nation's judiciary to act. The courts are beginning to assume the initiative we should have taken. As a result they are also absorbing the emotional opposition to progressive action we were elected to bear.

Don O. Noel, Jr. the editor of the Hartford, Conn. Times editorial page, has written a perceptive analysis of this regrettable situation which I believe Senators will find most interesting.

As Mr. Noel says:

> Most of us recognize the problem, even though differing on solutions. Given leadership, frank public dialogue, and an honest searching together, we could unite behind a reasonable program; could even take pride in some sacrifice in behalf of the principles and ideals we all profess.
>
> But leadership is essential—not the kind of abdication that leaves the job to the courts, and then castigates the courts.

I ask unanimous consent that Mr. Noel's editorial, published in the Hartford Times of February 19, 1972, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Must Courts Take the Rap for Legislative Failure?

(By Don O. Noel Jr.)

The Congress is considering telling the Supreme Court to stop doing what Congress itself has not had the guts to do and I think we are in trouble.

A great many people thought, or hoped, that the Supreme Court would go away and stop reiterating our Constitutional principles once Mr. Nixon got his hands on it; maybe Mr. Nixon even thought so. But Mr. Nixon has gotten his hands on the Court—four of the nine men are now his appointees—and the Court has not gone away, nor has it stopped calling us to the best in our American traditions.

What the courts have been doing is what our elected officials have been afraid to do:

No one doubted that state legislatures were ill-apportioned that, in state after state, rural districts with a minority of the population held sway over the urban and suburban majorities. But no one did anything until the "one-man, one-vote decisions."

No one doubted that the property tax was grossly inequitable, a vestigial remnant of a rural society. But no one did anything about it—nor, in fact, are most state legislators and governors doing anything yet, until their very own court gives them their very own order.

No one really doubts that poor black children were given inferior educations in the South as a matter of deliberate policy, written into law and the same children in the rest of the country suffer the same disadvantages as a result of tradition and far more subtle legal barriers.

That last item is the one Congress is upset about. A number of Senators and Representatives are rounding up votes to declare school segregation off-limits for court action.

Such a law is of dubious Constitutionality; it has been done only once before, and it is far from clear that the present "strict constructionist" Supreme Court would stand for it again.

But that is almost beside the point.

The most outrageous facet of the current drive is the failure of Congress, and state legislatures, and Presidents and governors, to offer any solutions of their own.

Court orders are, by their very nature, heavy-handed.

For instance: I think the one-man, one-vote decisions have resulted in an unworkably rigid and legalist set of guidelines. Because legislatures refused to create representative districts of approximately equal size, the courts have now demanded districts of exactly legal size.

As a result, in Connecticut, we are about to have districts that make mincemeat of town borders, and therefore mincemeat of town committees and town nominating conventions and the like.

We are about to have state Senate districts that bear no relationship to state House districts: You and one near neighbor may elect a representative together, while you and another neighbor a few blocks the other way may elect a senator together.

Blame the courts?

Not really. Blame the Legislature itself.

About schools:

In Richmond, Virginia, a federal court has ordered the consolidation of the (predominantly black, predominantly low-income) city school district with two (predominantly white, predominantly upper-income) county districts. The purpose: To provide equal educational opportunity for all children.

Richmond's court order is hardly academic to us. A similar suit, here in Hartford, seeks a similar court order. The legal grounds are nearly identical. There is every reason to suppose a similar ruling will, in due course, issue here.

There are some minor differences. In Richmond, it was the city school board itself that brought suit and forced the issue.

In Hartford, neither the city School Board nor the City Council has even joined the suit, although a majority of elected officials on both bodies will tell you off the record they think it is a sound suit, and does what needs to be done.

In neither Virginia nor Connecticut has any state official—neither the State Boards of Education, which in both states have the unquestioned power to consolidate school districts, nor the State Legislatures—made the least move in this direction.

On this issue, as on a great many others, responsible officials know what needs to be done.

But they are afraid to do it, because they fear the outraged reaction of a constituency with whom they have carried on no dialogue; a constituency they have not tried to educate; a constituency with whom they have not tried to share the difficult task of finding solutions.

There have been very few exceptions. One of them is Abe Ribicoff, the senior Senator from Connecticut, who has consistently and courageously urged that elected officials grapple with the problems, and stop shunting responsibility off onto the courts.

Reuben Askew, the courageous governor of Florida, has taken much the same kind of stand only this week.

But few are listening.

President Nixon, to his credit, dampened enthusiasm for a Constitutional amendment in private sessions just before leaving for China. Vice President Agnew has been more explicitly opposed. So are many Congressional leaders.

But they are still casting around for ways to steer the courts away from busing.

That evades the central issue. The Supreme Court in 1954 ordered no solutions to the inequity of segregated schooling; it merely ordered "all deliberate speed" in finding local solutions.

Courts began ordering busing only because what followed was so clearly not speed, although it appeared deliberate. As with the one-man, one-vote issue, the judiciary has acted only when no one else would.

There may be no solution without some busing. The acceptance and success of our own Project Concern tells us all busing isn't bad.

But if there is to be any solution save court orders, our elected leaders must grasp this painful nettle.

Most of us recognize the problem, even though differing on solutions. Given leadership, frank public dialogue, and an honest searching together, we could unite behind a reasonable program; could even take pride in some active sacrifice in behalf of the principles and ideals we all profess.

But leadership is essential—not the kind of abdication that leaves the job to the courts, and then castigates the courts.

## SHOULD WE BELIEVE GOVERNMENT STATISTICS?

Mr. PROXMIRE. Mr. President, since the cancellation of the BLS press conferences on unemployment and prices early last year, I have been convinced that the credibility of Government statistics was being seriously eroded. Termination of the press briefings coupled with the personnel shuffling in the key statistical agencies have led both the press and the public to question whether or not the administration was doctoring the data to make a weak mediocre recovery look stronger.

However, up until now most economists and professional business analysts have dismissed these implications and have insisted that the integrity of the statistics was being maintained. Yet an excellent but disturbing article in today's Journal of Commerce claims that many economic analysts have begun to suspect that agencies are shading their statistical releases for political purposes. The Journal suggests that there is considerable evidence that Washington for some time has been endeavoring to brainwash businessmen and consumers into believing that economic conditions and the economic outlook are more favorable than they actually are."

I do not mean to call into question, nor does the Journal of Commerce, the integrity of Government technicians who prepare these data. A Journal editorial on the same subject states that—

> Any and all suggestions that there may be a little politicking in all this doubtless create grief and indignation in the government's statistical agencies which are, after all, probably the best in the world. But we are not blaming the agency staffs for whatever political shading is done, whether inadvertently or not.

If there is any political maneuvering taking place, the responsibility lies with the political chiefs and not with the Indians. According to the Journal of Commerce:

> If there is blame to be placed it must be placed elsewhere, which necessarily means on the upper echelons of the Administration itself.

Mr. President, I believe that the integrity of our Government statistics should be a completely nonpartisan issue; and I sincerely hope that these charges are untrue. But if they are, indeed, true, and the actual data are being tampered with, then, as the Journal so aptly stated:

> Eventually, "murder will out," and the end-result of doctoring the official business data could prove to be extremely unfavorable.

Mr. President, I ask unanimous consent that the article and editorial be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### DATA IN A DOUBTFUL CONTEXT

A number of people have begun to wonder of late whether the administration is trying to shade for political purposes the statistics its agencies publish regularly for the benefit of those who are trying to discern meaningful trends in the economy. Several reasons for this wonderment are set forth elsewhere in these pages.

The possibility that something like this may be going on is not strictly new. It was certainly under consideration throughout much of last year as the White House began on its own to announce what it considered to be the more favorable figures while leaving it to the Council of Economic Advisers to explain that the "other figures really weren't as bad as they looked. It was weighed even more heavily when, on orders from higher up, the Bureau of Labor Statistics abruptly abandoned the technical briefings its staff experts had traditionally conducted for the news media. Henceforth the chiefs would handle this; not the Indians.

No one seemed to have unearthed any conclusive evidence that politics was worming its way into the official economic data. But no one suspecting its presence had any reason to believe it was making an exit, either.

Last year most of the questions that cropped up at all involved the manner in which the figures were disclosed. Now comes a nagging question of the manner in which they are put together for presentation to the public.

One particular instance cited elsewhere in this issue provides a case in point. An increase of nearly 8 per cent in new orders for durable goods between December and January is a dramatic development when the economy is hanging in a balance as uneasy as this one is now. And the discovery that the new durable orders were running most heavily in the transportation industry was equally—if not more—so.

The reason ought to be plain enough. If the transport industry is beginning to order new equipment in volume, the usual assumption is that it is doing so in the expectation of a lot of new business. It would not entertain such expectations without assurances from shippers that a significant upswing in traffic would be forthcoming. Ergo, the big increase in the January orders for new transportation equipment could only mean one thing—that the long anticipated business upswing was imminent.

Now it is true that the Commerce Department did not put quite this construction on its own figures. But neither did it indicate that anyone putting such a construction on them would be seriously mistaken. For investigation showed that the real cause of the January upswing in orders for new durables was not to be found in a renewal of business confidence but in a bunching of orders from the Department of Defense for defense-related shipping. The overall totals were also swelled by new orders for "defense product" industries.

It may be argued, of course, that no particular harm is done by gilding the rather tired-looking lily in this way. For one thing, there will always be those who will probe behind the figures and find the answers. For another, the November elections are still in the future and there is practically no way in which an administration bent on making things look rosier than they are could extend the deception—if it was a deception—indefinitely. The February figures are yet to come, and the more those of January were inflated by defense orders, the worse the next figures are going to look by comparison. Sooner or later the truth will out.

But there is another factor that Washington may well have considered. By the time the official data bring economic trends into proper focus the momentary joys of the previous month's figures have probably been forgotten. For example, it is comforting to think that the Federal Reserve's industrial production index for January is 107.9, as against 107.6 for December—comforting, that is, unless one remembers that the December index was originally estimated at 107.8. It is much the same story with housing starts. Things seem to be rather consistently presented in such a way as to make them look a shade better than they are.

Any and all suggestions that there may be a little politicking in all this doubtless create grief and indignation in the government's statistical agencies which are, after all, probably the best in the world. But we are not blaming the agency staffs for whatever political shading is done, whether inadvertently or not. If there is blame to be placed it must be placed elsewhere, which necessarily means on the upper echelons of the administration itself.

If it should be discovered however, that there is no basis whatever for the suspicions entertained by the administration's critics, there is one way of dispelling them that should create no difficulties for anyone. Administration officials from now on should deliberately lean over backward to avoid giving the impression that their figures are being doctored, shaded or assembled in odd sequences designed to give the impression that current trends are not precisely what they seem.

A clear directive from the White House to this effect should help measurably in clearing the air.

### VALIDITY OF U.S. STATISTICS ON BUSINESS QUESTIONED

The question recently has arisen, with some apparent justification, whether it now has become official Washington policy to deliberately cloud the statistics on various phases of business activity, in a concerted effort to convince the public that what actually has all the earmarks of a sluggish economy is a booming economy.

It has been readily apparent, ever since the civil service employes who assemble the business statistics were muzzled and forbidden to express their views on the economic significance of the statistics, that the administration designated spokesmen have strenuously endeavored to make even the most unfavorable business developments appear to be favorable.

And, as evidenced by the headlines and lead paragraphs on stories of economic developments filed from Washington, the spokesmen have met with a considerable measure of success in this.

Among economists and economic analysts who utilize the official business statistics, it always has been maintained that the essential integrity of the statistics was unquestioned and that such misinterpretation as they might be given was solely due to the politically-minded official spokesmen.

### STATISTICS "DOCTORED"?

Very recently, however, some economists and economic analysts have begun to entertain the suspicion that, as a result of administration pressure, the business statistics now are being "doctored" at the agency level to make business appear to be considerably better than it actually is and thereby strengthen the confidence of businessmen and consumers.

These are very serious charges, and it is quite understandable that those who have begun to entertain such suspicions are unwilling to voice them publicly.

It is a well known fact, of course, that some authoritarian governments boost their statistics on industrial and agricultural production in attempts to convince their own people and the rest of the world that conditions are much better than they actually are.

While there always have been some here who have questioned the reliability of official Washington business statistics, particularly when business appears to be less strong to them than indicated by the official reports, this is the first time so far as is known that even a small number of economists and economic analysts have begun to suspect the possibility that the official business statistics are being doctored.

Of necessity, economists and economic analysts have to rely on the essential integrity of the official business statistics. Otherwise, they are lost".

### "DOWNWARD REVISIONS"

While recognizing this, those who recently have become somewhat suspicious feel that it is considerably more than a coincidence that, primarily as a result of "downward revisions" of the data for December, the reports on industrial activity and housing starts for January indicated strength that actually may have been nonexistent.

For January, the Federal Reserve Board index of industrial production was reported at 107.9 (base 1967 equals 100) as compared with 107.6 for December.

But, the original FRB index for December was 107.8 or not significantly different from the preliminary January index. And, it is reasoned that, of the index for December had to be revised downward, the index for January also may have to be revised downward.

Housing starts, a very important leading business indicator, "continued to boom in January" as reported from Washington. The seasonally adjusted annual rate of starts was reported at 2,549,000 dwelling units as against 2,333,000 in December.

However, the starts rate for December originally was placed at 2,517,000 or practically the same from a statistical standpoint as the preliminary January estimate. With downward revisions now apparently the order of the day, there seems reason to suspect that the January rate may be revised downward to near the revised December rate.

Those economists and economic analysts who recently have become suspicious of the integrity of the official Washington business statistics hold that, by successive downward revisions of previous data, business activity can appear to be moving ahead briskly from one month to thhe next even though it actually may be all but a standstill.

New orders for durable goods, a very important leading business indicator, reportedly showed a huge increase of close to 8 per cent in January from December. If real, this would indicate that a sharp, upsurge in industrial activity is close at hand.

However, those economists and economic analysts who have become suspicious of the integrity of Washington business statistics are much inclined to feel that the huge rise in January new durables orders was "managed" in order to swell the leading indicator composite and enable Washington spokesmen to once again endeavor to convince the public that business is booming or will boom soon.

For, it was discovered after considerable runaround that most of the new orders in the "transportation" industry, which apparently originated in the private sector of the economy, actually represented orders for ships for military use, this in addition to a large increase in new orders in the "defense products" industries.

Many months and possibly several years will elapse before some of these defense orders influence business activity.

### FRESH SLUGGISHNESS

It may have been only a coincidence, of course, that the Defense Department handed out a huge volume of new orders in January, and it may have been only a coincidence that the Department of Commerce report on new durables orders indicated that much of these had originated in the private sector of the economy, at the very time that the private sector of the economy had begun to display fresh sluggishness.

However, some economists and economic analysts feel that there have been altogether too many "coincidences" recently to write this off as one of those things that happen from time to time.

There is considerable evidence that Washington for some time has been endeavoring to "brainwash" businessmen and consumers into believing that economic conditions and the economic outlook are more favorable than they actually are. It is to be hoped that the suspicions of some economists and economic analysts, with respect to the integrity of the official business statistics, are groundless even though there seems to be basis for such suspicion.

Eventually, "murder will out", and the end-result of doctoring the official business data could prove to be extremely unfavorable.

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## REPRESSION AGAINST EAST PAKISTAN

Mr. STEVENSON. Mr. President, following my recent visit to India and Bangladesh I spoke, both in sorrow and in anger, of the grave damage done to the prestige and good name of the United States by the Nixon administration's complicity in the barbaric campaign of repression carried out by the forces of Yahya Khan against the people of East Pakistan.

The consequences of American policy in this tragic episode are explored by C. L. Sulzberger in a dispatch from Dacca in today's New York Times. I commend Mr. Sulzberger's lucid article to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A JOB TO BE DONE

(By C. L. Sulzberger)

DACCA, BANGLADESH.—Diplomats stationed in Asia are saying to each other nowadays that the Indian subcontinent's traumatic experience, including Pakistan's mass slaughter of Bengalis here and its subsequent defeat by India, proved three things: that Russia can be trusted, that America cannot be trusted, and that China need not be feared.

This is more a contemporary *bon mot* of the kind diplomats like to specialize in than an accurate historical summation. Nevertheless there isn't the slightest doubt that the reputation of the United States for sagacity, generosity and justice is at a new low in India and nonexistent in the Government of the 75 million inhabitants of Bangladesh. As for Pakistan—the so-called western wing left over from what was never anything more than a boastful geographical expression—the regime likes Washington but could easily switch with events.

After all, President Bhutto was once renowned as a Yankee-baiter. If the two comes, as it probably will, when Washington refuses him arms and massive aid, he may resume old habits. The popular trend is not running our way anywhere in this immense area of three quarters of a billion people. There is even a sizable slice of extreme left-wing opinion in Pakistan, above all in the Pathan and Baluchi provinces, that is by no means in love with us.

This is especially sad for Americans who, unlike the British, would rather be loved than respected. At this moment and in this area we are neither loved nor respected and the Russians are wreathed in smiles at their current acclaim. Furthermore, after Uncle Sam has poured much more money into this part of the world than he invested in the entire Marshall Plan, he must feel particularly rueful at contemplating the wreckage.

Indian newspapers lambast the United States every day and Indian officials dribble out the snide remarks for which they have a special talent. People once known as firm friends of America are now proving their patriotism by vicious attacks. In Pakistan there is of course considerable sympathy and gratitude for United States help in the recent ill-fated war but people cannot help but note the assistance bore little fruit.

And in Bangladesh, the victim of the special kind of unbelievable savagery which can suddenly storm like a monsoon through this region, Americans are individually liked by the good-natured Bengalis but the United States Government is detested. The brutality let loose here was at least equal to that of the nineteen-forties when British India was partitioned amid torrents of blood. When these people are angry they slaughter each other in unimaginable ways, which is all one can say of the horrors committed here by Pakistani troops.

The fact that the United States Government made no protest and at the same time continued a one-shot weapons program to rearm Pakistan, is held in moral contempt in India and Bangladesh. A well-known telegram of protest at American policy was sent by the members of the United States consulate general staff here to the State Department.

It is obvious that President Nixon did everything possible to prepare a favorable ground for his China visit and that Pakistan was well viewed by Peking. But now the trip is on; what will come will come; and American policy must speedily rectify the lopsided situation prevailing in this region. Nixon himself acknowledged earlier this month that "we have under study our whole relationship with the subcontinent."

Financial generosity is not enough. We are going to have to grant diplomatic recognition to Bangladesh, which is a political reality—and the sooner the better. We are going to have to retilt policy sufficiently to appear at least objective and we are going to have to cultivate the *amour propre* of all three nations in this area with some serious diplomatic huckstering, dispatching eminent, likable and cultivated leaders to visit these parts.

Even in *realpolitik* and the conceptual approach to power balances it is necessary to honor the old-fashioned virtues of kindness, mercy, sympathy, which are those American society is taught to honor and which appear to have been lacking. It is essential that when we set about polishing our image we pay attention to rectifying the reality of that image and not merely its reflection.

## COSPONSORSHIP OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I take great pleasure in cosponsoring legislation to implement the Genocide Convention. In joining my distinguished colleagues, the Senator from Pennsylvania (Mr. Scott) and the Senator from New York (Mr. Javits), I must say that it has been a painfully slow journey to get to this stage and all due haste should be made toward ratification.

In 1967 I believed it necessary to speak in favor of ratification every day the Senate was in session. At that time, 5 years ago, ratification of the treaty was already long overdue. Today our hesitation is all the more obvious and all the more shameful.

With the legislation now before the Senate, all the misconceptions and petty indecisions must be dispelled. There can be no doubt as to the positive merits of the treaty. The details for implementation, for the prevention and punishment of genocide, are now presented in black and white. Further delay could not be justified. Debate should be swift.

Although I am delighted to be a cosponsor of this legislation, I will remain unsatisfied until it is enacted into law. Let us be party to this humanitarian convention to outlaw genocide.

## COMPENSATION TO VICTIMS OF CRIMES

Mr. CRANSTON. Mr. President, I am pleased to join as a cosponsor of S. 2994, a bill introduced by the distinguished Senator from Arkansas (Mr. McClellan) to provide compensation to victims or crime; to make grants to States for the payment of such compensation; to authorize death and disability insurance benefits for public safety officers; to provide civil remedies for victims of racketeering activities; and for other purposes.

California, I am proud to note, was the first State to pass a law to compensate individuals who suffer losses because of violent crime. California has two compensation programs. One program aids the victims. The other, which I originated, aids those who were injured while trying to prevent a crime or helping apprehend a criminal, commonly known as the "Good Samaritan Law." Since the Compensation to Victim of Crimes law became effective in 1967, 330 claims totaling $521,000 have been paid. Under the "Good Samaritan Law," there have been 50 claims since 1965, of which 32 were granted for a total of $137,000. The highest award, for $79,500, went to a man who was shot and paralyzed while trying to prevent a husband from shooting his wife.

The concept of compensation for victims of crime is not new. Even in ancient times, under Mosaic Law and the Code of Hammurabi, there were provisions for public reparation for individuals who suffered criminal assaults. Hammurabi's Code Section 23 (Circa 2038 BC) for example, provided that: If a robber is not caught, the Mayor in whose territory or district where the robbery has been committed shall replace whatever was lost. Over the centuries, however, crime has come to be viewed primarily as an offense against society rather than against the individual. Criminal actions are filed by the State in the name of State against John Doe, rather than the Victim against John Doe. Victims therefore are left with little recourse for remuneration except to file civil suits against criminals, few of whom have any financial resources. Many criminals, unfortunately, are never even apprehended, so victims of crimes often face serious financial hardship.

The President's Commission on Law Enforcement and the Administration of Justice reported that poor people are the most likely victims of crime. Their study also showed that violent crime occurs most often in the poverty stricken areas of our cities. The President's Commission estimates that loss of earnings and the medical expenses of victims of crime amounts to $800 million a year. Their annual property losses exceed $4 billion. As crime rates rise, society's neglect of the victims of crime creates an increasingly urgent problem that is national in scope.

Society pays a price for failing to remedy losses suffered by victims. These losses cause financial insecurity, unemployment, and social disruption. Our neglect of the victims of crime is inconsistent with our policy of compensating victims of the social dislocations of our industrial society: Workmen's compensation for people injured on the job, unemployment compensation for those thrown out of work, social security for the aged, and disability insurance for the disabled. We are now even considering no-fault insurance to compensate victims of auto accidents. Crime compensation programs should surely parallel our other social programs.

The crime index rate for the United States rose from 2,477 offenses per 100,000 inhabitants in 1969 to 2,740, an increase of 11 percent in the victim rate. The crime index for California alone rose from 4,307 offenses per 100,000 inhabitants in 1969 to 4,376 in 1970, an increase of 6.8 percent. The national crime rate, which is the measure of a person's chances of being victim of these crimes, increased 144 percent between 1960 and 1970.

The President's task force report indicates that crime statistics now fail to pick up a significant number of crimes because many are never reported to the police. The National Opinion Research Center survey showed that the actual amount of crime in the United States today is several times greater than that listed in the United Crime Report. Victim compensation plans should encourage the reporting of crimes since victims would not be able to get financial help unless they reported a crime and cooperated with the police.

Only seven States have enacted victim compensation laws. A contributing factor to this slow progress may be lack of funds. By offering financial grants to States that adopt a Victim Compensation Act, this bill should encourage States to consider this form of remedy.

I strongly urge the Judiciary Committee to hold hearings promptly on this legislation. Our rising crime rate shows the need for crime compensation programs. This is a crises of order and justice under law, one that requires comprehensive action. Certainly those who abide by the law should have protection from those who break the law.

## NIXON'S RIGHTEOUS BALONEY

Mr. CHURCH. Mr. President, by now, this administration has reversed itself so often, on so many fronts, that President Nixon should go down in history as the whirling dervish of American politics.

The turn-abouts occur with such rapidity that the American people seem transfixed by the blur in public policy. The devaluation of the dollar is made to appear like the greatest fiscal triumph since the discovery of gold. Record-breaking national deficits are hidden behind the facade of a self-proclaimed "businessman's administration." There is constant talk of revenue sharing even though there is no revenue to share.

President Nixon speaks of gratifying progress toward peace and asks for more money for arms. He assures the country that our economy is growing stronger and announces an unheard-of-hemorrhage in our balance of payments of nearly $30 billion, combined with the first deficit in our balance of trade in this century.

Henry G. Gay, writing in the Shelton-Mason County, Wash., Journal, recently observed that Mr. Nixon has apparently discovered the secret of how to fool most of the people most of the time. His editorial, captioned "Nixon's Righteous Baloney," deserves much wider reading than his newspaper's limited circulation can give it. Accordingly, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Nixon's Righteous Baloney

(By Henry G. Gay)

President Nixon has apparently discovered the secret of how to fool most of the people most of the time.

His advisers concluded, cynically but correctly, that Americans' critical faculties are numbed while they watch television.

A viewing public that will accept "All in the Family" as a crusade against bigotry, or swallow the claim that cigarettes and cigars are sexual magnets, will accept failure as success if it is presented to them as such on the boob tube.

We have thus been presented with a series of administration failures labeled as successes, the lastest being Tuesday night's death rattle of Vietnamization, trumpeted as the latest victory in a three-year search for peace.

You will remember the aftermath of the unsuccessful raid on a North Vietnamese prisoner of war camp. President Nixon appeared on television pinning medals on the chests of officers whose intelligence system was so faulty they risked the lives of their men to invade a compound that contained not one prisoner.

If President Grant had availed himself of this technique, General George Custer would have been buried on the White House grounds following the massacre of the Little Bighorn.

When his original economic game plan failed disastrously, the president appeared on the tube and told the unemployed and the hard-pressed elderly that they must bite the bullet as soldiers in the war against inflation, which was being won.

When this bit of rhetoric failed to stem mounting inflation and unemployment, he appeared to tell us that his efforts to end the war had been so successful that the switch from a wartime to a peacetime economy called for a grand new program of wage and price controls which really didn't mean that his former plan had failed because he really didn't believe in wage and price controls and would use them only long enough to stop inflation and get the economy moving again so he could return to his former game plan which was really best all along and then the country would once again be the champion of free enterprise throughout the world and he would lead us ever-onward ever-upward.

Phase I of the wage-price freeze was chaotic. Phase II is an incomprehensible mess of exemptions, exceptions, favoritism, and practically a total lack of enforcement. The only positive aspect of the new economic game plan is the tax cut portion, which assured that the rich get richer and the poor get poorer.

When this farce has run its course, President Nixon will once again appear in our living rooms to tell us the wage-price freeze has worked so well he is abandoning it now that the light can be seen at the end of the inflation tunnel.

Tuesday night's exercise in trickery was especially sickening, because it involved deception about a war in which the United States has lost tens of thousands of men and killed hundreds of thousands.

The president's message was that we have lost the war in Southeast Asia and that his program of Vietnamization has failed. But this message was presented as a super expose of the secret efforts of a band of good guys who have been foiled at every step by a gang of bad guys.

In other words, more righteous baloney. The kind of righteous baloney that sent Lyndon Johnson down the tube and put Richard Nixon in the White House. (Lyndon, of course, had not discovered the secret of television selling.)

The cruel truth of this lengthy charade is that when Richard Nixon ends the war he will have to do it in just the way critics of the war have been advocating for years—get the hell out.

He should have done it in 1969. If he had, 19,000 Americans would not have died in vain during the three years he has been in office

But, then, 1969 wasn't an election year.

## THE 1972 SENIOR WORLD CHAMPIONSHIP GAMES

Mr. CRANSTON. Mr. President, from June 4 to 25, 1972, one of the fastest growing and most complex sporting events in the world, the annual Senior World Championship Games, will be held in California. Under the sponsorship of Senior Sports International, the city and county of Los Angeles, and the cities of Culver City and Santa Barbara, the 1972 Senior Games will provide competition in 22 popular sports for men and women from throughout the world who are in the 35-and-over age bracket.

The Senior Games were developed in 1970 with the goals of promoting healthier and more productive lives for adults through sports; broadening the base for international understanding; bringing adults and youth together in a positive environment; and recognizing the adult athlete by giving him the opportunity to experience the excitement of world championship competition. From a miniscule beginning of 225 competitors in two sports, the games' scope had substantially broadened—encompassing 2,000 competitors in 22 sports this year—as greater numbers of adult athletes return to the competitive arena. When the program is fully developed, it is expected that adult athletes will compete in some 40 sports.

As a track and field competitor myself, I am delighted to see this surge of interest on the part of our senior athletes.

I extend a cordial invitation to Senators and their constituents to attend the Senior World Championships. If there are any potential senior athletes among us, I urge them to enter and compete.

## VACCINE EFFICACY

Mr. RIBICOFF. Mr. President, the Department of Health, Education, and Welfare has today announced in the Federal Register that the Federal agency which has responsibility for regulating vaccines for human use—the Division of Biologics Standards—DBS—has been given responsibility for the first time to insure that vaccines sold and administered to the public actually work.

On October 15, 1971, and again on December 8, 1971, I released documents prepared by James Turner and Dr. J. Anthony Morris which indicated that no Federal agency was actually responsible for seeing that vaccines were effective. These documents revealed serious questions about the effectiveness and safety of several vaccines widely used in this country.

I, therefore, urged HEW Secretary Elliot Richardson to require the Division of Biologics Standards to guarantee that vaccines sold to the public are effective.

HEW's response to that request has apparently corrected an intolerable situation. I have directed the staff of my Government Operations Subcommittee on Executive Reorganization and Government Research to continue to study the documents released by the Department to determine whether all necessary steps have, in fact, been taken to give DBS the authority to keep vaccines that are not effective from reaching the market.

As I announced in December, I have also asked the General Accounting Office to investigate the question of vaccine efficacy and several other related questions concerning the performance of the Division of Biologics Standards. That report will be forthcoming in the near future.

I ask unanimous consent that the text of the HEW announcement be printed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

[Office of the Secretary]

HUMAN DRUGS WHICH ARE BIOLOGICAL PRODUCTS—REDELEGATION OF AUTHORITY TO ADMINISTER CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

The following authority delegated to the Assistant Secretary for Health and Scientific Affairs by the Secretary of Health, Education, and Welfare under section 6 of Reorganization Plan No. 1 of 1953 and section 2 of Reorganization Plan No. 3 of 1966 is hereby redelegated to the Commissioner of Food and Drugs and the Director, National Institutes of Health, as follows:

1. Effective this date, each of you is hereby concurrently redelegated the authority vested in me to administer, enforce, and apply all applicable provisions of the Federal Food, Drug and Cosmetic Act, as amended, with respect to those human drugs that are biological products as defined in, and subject to licensing under, section 351 of the Public Health Service Act, as amended (42 U.S.C. 262) and the regulations thereunder, 42 CFR Part 73.

2. This authority shall be exercised in accordance with the attached Memorandum of Understanding between the Commissioner of Food and Drugs, and the Director, National Institutes of Health, which memorandum sets forth with particularity the functions to be undertaken by each agency.

3. Any prior delegation, statement of organization, functions and delegations of authority, or chapter of the Department of Health, Education, and Welfare Organization Manual inconsistent with this delegation or the attached Memorandum of Understanding is hereby superseded to the extent of such inconsistency.

4. The authority delegated in paragraph 1, other than the authority to promulgate regulations, may be redelgated as, in the judgment of the Commissioner of Food and Drugs or the Director, National Institutes of Health, may be necessary or advisable for the effective administration of such authority by them.

*Effective date.* This redelegation of authority shall be effective immediately.

Dated: February 18, 1972.

MERLIN K. DUVAL,
*Assistant Secretary for Health and Scientific Affairs.*

Memorandum of understanding between the Food and Drug Administration and the National Institutes of Health concerning authority to enforce applicable provisions of the Federal Food, Drug, and Cosmetic Act with respect to human drugs which are biological products.

*Background.* Every virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product applicable to the prevention, treatment, or cure of diseases or injuries of man (henceforth referred to as biological products) is subject to the licensing provisions of section 351 of the Public Health Service Act enforced by the Division of Biologics Standards (henceforth referred to as DBS) of the National Institutes of Health. These biological products are also human "drugs" as that word is defined under the Federal Food, Drug, and Cosmetic Act enforced by the Food and Drug Administration (henceforth referred to as FDA). Section 951 of the Public Health Service Act contains a statement indicating that "nothing contained in this Act shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act." Section 902 (c) of the Federal Food, Drug, and Cosmetic Act contains a comparable statement with respect to its effect on the Public Health Service Act. Biological products and the manufacturers of such products are therefore subject to both section 351 of the Public

Health Service Act and the human drug provisions of the Federal Food, Drug, and Cosmetic Act.

Responsibility for the enforcement of these statutory provisions is vested by law in the Secretary of Health, Education, and Welfare. With respect to section 351 of the Public Health Service Act, this authority, except for the revocation of licenses, has been delegated to the Assistant Secretary for Health and Scientific Affairs, who in turn has made a delegation to the Director, National Institutes of Health. The Secretary's authority over biological products pursuant to the Federal Food, Drug, and Cosmetic Act has contemporaneously with this memorandum been delegated concurrently to the Comissioner of Food and Drugs and to the Director, National Institutes of Health.

*Purpose.* The purpose of this Memorandum of Understanding is to establish the Department's policy to be followed by FDA and DBS concerning authority to enforce provisions of the Federal Food, Drug, and Cosmetic Act with respect to biological products which will foster the utmost public protection.

*Agreement.* It is agreed by both agencies that:

1. DBS, in addition to establishing standards designed to insure the continued safety, purity and potency of biological products pursuant to section 351 of the Public Health Services Act, has primary responsibility for enforcing all applicable provisions of the Federal Food, Drug, and Cosmetic Act with respect to a biological product, except for sections 302 and 304 of that Act.

2. In emergency situations involving protection of the public against a biological product which may be dangerous to life or health that cannot adequately be handled through section 351, DBS will request FDA to take appropriate enforcement action to remove the product from the market.

3. FDA will not enforce any provisions of the Federal Food, Drug, and Cosmetic Act with respect to a biological product unless requested to do so by DBS.

4. If either agency, through inspection or otherwise, becomes aware of any information which indicates that a drug subject to the jurisdiction of the other agency may be in violation of the law, it will report that information to the other agency.

5. Any complaints or reports received by either agency with respect to a drug subject to the jurisdiction of the other agency will be reported to that agency.

6. All regulations promulgated by FDA under the provisions of the Federal Food, Drug, and Cosmetic Act with respect to all human drugs will be applicable to biological products. Regulations issued under the authority of the Federal Food, Drug, and Cosmetic Act pertaining only to human drugs which are biological products will be promulgated by DBS after approval of FDA.

7. DBS and FDA will each appoint one liaison representative and one alternate to facilitate carrying out the above provisions.

Dated: February 18, 1972.

CHARLES C. EDWARDS,
*Commissioner of Food and Drugs.*

Dated: February 18, 1972.

ROBERT Q. MARSTON,
*Director.*
*National Institutes of Health.*

[FR Doc. 72-2769 Filed 2-24-72; 8:49 am]

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## THE PRESIDENT'S SUMMIT TALKS

Mr. McGEE. Mr. President, there may be a tendency on the part of many Americans to expect more of the President's summit talks than will be apparent to most of us once the President returns to the United States and reports to us the results of this historic event. There may be a tendency on the part of many to write off the effort as being all for naught.

However, I would warn those individuals not to expect anything of a spectacular nature to be announced. At least it will not be spectacular on the surface. There are so many subtleties involved in a venture of this nature by the very fact that it happened at all. The opening of dialog between the United States and the People's Republic of China has already had a spectacular impact on the rest of the world and certainly will have an impact on the future course of world politics.

This morning's Washington Post contains an excellent analysis of what is really involved in the summit talks between the President and the Chinese leaders. The column, written by Chalmers M. Roberts, sets the President's trip in the proper perspective.

I ask unanimous consent that Mr. Robert's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### "THE SPIRIT OF PEKING"—ANSWERING SOME QUESTIONS; A LOOK BEHIND THE "MYSTERIOUS EAST" SYNDROME AND THE BIG TV SPECTACULAR AT SOME OF THE LONG-TERM POSSIBILITIES

(By Chalmers M. Roberts)

Vietnam was the first war to enter the American living room, thanks to television. Now from China, day and night, we see diplomacy in living color. Deeds on the battlefield, however, seem more finite and easier to fathom than words in the conference room. How does one contemplate Mao Tse-tung, Richard Nixon, Chou En-Lai and Henry Kissinger together? Gymnasts and dancers, farms and factories, chopsticks and tea, the Great Wall and the Forbidden City all add to the confusion as we watch the glowing tube.

It is indeed a historic event as we have been told again and again by the TV commentators, many of whom seem to have fallen into the "mysterious East" syndrome. The President has indulged in his usual hyperbole: "What we do here can change the world." Offstage, we are told, there are grumbles in Moscow and Hanoi and anxiety in Tokyo, New Delhi and elsewhere.

The China summit is a grand spectacle. It *will* have world-wide effects. Already the term "spirit of Peking" is on the airwaves. What can one make of it all at this distance?

History is a series of seemingly disjointed events largely the work of man. Historians have the luxury of hindsight. They examine the public record, seek out the hidden notes and memoirs, place the events in the context of their age and usually end up with a grand sweep of national or international relationships. It is a long and arduous process. Yet even when it is done someone will come along to challenge the result. George Washington was debunked earlier in this century. Currently the revisionist historians are telling us we have been wrong about what has occurred since World War II.

Television, however, is instant, here and now. You see it and then it dissolves. There is an inevitable dichotomy betewen this instant history on the screen and the long term meaning of the President's trip to China. One needs a guide en route. Perhaps this will help.

Q. Why is this meeting being held?

A. Because it serves a purpose for Mr. Nixon and because it serves a purpose for Mao and Chou. A central Nixon purpose these past three years has been to lower the American profile abroad, to reposition the United States, to disengage from Vietnam, but all without diminishing the American role in the world. This requires, among other things, a relatively stable working relationship with China.

Q. And if he achieves that?

A. It can be pictured as removing the Chinese threat to the rest of Asia, the threat used as a major justification for Vietnam. In Peking the President has publicly absolved China, in his phrase, from seeking to stretch out its hand to "rule the world." A new stable relationship can be pictured as fulfilling Mr. Nixon's campaign pledge to "win the peace in the Pacific." In turn, for many Americans it will reduce Vietnam to the status of a minor affair. It will demonstrate that Mr. Nixon has moved "from an era of confrontation to an era of negotiation," one of his stated aims.

Q. And for the Chinese?

A. A central Chinese purpose of the summit must surely be to help protect itself from its hostile neighbor, the Soviet Union, which has stationed nearly a million men on its long border with China.

Q. How does the summit do this?

A. By playing the oldest diplomatic game in the world, balance of power politics. For a long time the Kremlin has fathered the American image of China as a nation led by dangerous men willing to risk a nuclear war. Because Americans were isolated from China, we had only Moscow's view to abet our imagination and beliefs. Now Mao and Chou have chosen to break out of that isolation and to deny the Moscow view by finding a live-and-let-live relationship with America. Of late Moscow has begun to worry about Chinese-American "collusion" against Russia. Mao and Chou doubtless are happy to keep that worry active in the Kremlin even while denying any such collusion.

Q. Such "collusion" seems ridiculous. Why should Moscow worry about it?

A. If you were in the Kremlin could you be sure where the Peking summit will lead? Who thought President Truman would go to war in Korea? And who in the Kremlin can forget how quickly Germany and Japan changed from being enemies to being America's allies? The Russians, like the Chinese, take a long view of history. It is a reasonable assumption that Moscow will be less rather than more likely, after the Peking summit, to strike a blow at China. A new balance of power will be in play.

Q. But what does this do to Soviet relations with the United States? After all, the President is going to Moscow in May.

A. That's a hard one. There has been some loose talk in Washington that a successful Peking trip would put pressure on Moscow to come to terms on such issues as strategic arms limitation, the Middle East and East-West troop reductions in Europe. History indicates, however, the opposite is more likely. The Kremlin may get its back up if it really believes there is a new Chinese-American collusion aimed at the Soviet Union.

Q. But hasn't Mr. Nixon said he was not trying to play Moscow off against Peking or Peking against Moscow?

A. Yes, he said that and he will repeat it in Moscow. But many even in his own administration believe that is exactly what he is doing. The indications are that many in Moscow believe it, too. Mao and Chou probably also believe it. What people think is a fact often is more important than the fact itself. Divide and conquer is an old rule of international relations. Mr. Nixon is not out to "conquer" anybody, least of all the Soviet Union or China. But he and Kissinger are playing balance of power politics. Don't let anybody kid you about that. Given the kind of world we live in, it isn't necessarily bad, either.

Q. You said a central Chinese purpose for the summit was to protect itself from the Russians. Is that the only purpose in making up with the Americans?

A. No. Chinese-American relations for long have been impaled on the issue of Taiwan. China says the United States is occupying one of its provinces, the island held by Chiang Kai-shek. The United States has a mutual defense pact with Chiang's China. For years Washington said Chiang was the true ruler of all of China. But Mr. Nixon has retreated from that, in effect conceding that Chiang speaks only for Taiwan. Most important, the President has said the issue between Mao and Chiang should be settled by the Chinese themselves. That is close to what Peking wants. And it is another evidence of the Nixon retrenchment policy. Peking recognized that and undoubtedly it was a major reason why the President was invited to China.

Q. Then it has been the United States, not China, that has changed its policy?

A. Basically, yes. Mao and Chou, seeing this and worrying about the Russians, have ended China's recent isolationism and reentered the international diplomatic arena. They saw their opportunity and seized it in self-interest. Mr. Nixon acted in a way to encourage that.

Q. So when the President's trip to China is over and the official communique on the talks has been issued it will be clear that a new day has dawned?

A. No. The Chinese-American problem is too complex. For one thing, Mr. Nixon is not about to renounce the treaty with Chiang. There can be no formal diplomatic relations until the Taiwan issue is fully resolved. But clever men, and those meeting in Peking all are clever, can find a way to move in that direction if each side decides that is in its own interest. Probably this was outlined during the earlier Kissinger visits to Peking.

Q. That what is the test as to whether this has been a useful summit?

A. The way the wind blows. Note specifically the mechanism the two countries agree on to carry on from the summit. A dialogue began before the summit and continued there. Its continuation is vital and the modalities of how that is to be done should tell us something. Watch for how the Chinese handle the joint announcement. If the words seem vague, as they may be, read the experts on what they mean, reporters such as The Washington Post's Stanley Karnow now in China. But don't jump to conclusions.

Q. What about that "spirit of Peking"?

A. Spirits are evanescent, as were the "spirit of Geneva" in 1955, the "spirit of Camp David" in 1959 and "the spirit of Hollybush" in 1967. Yet those summits served a purpose even though they resolved no specific problems at the moment. The China summit probably will fall into that category rather than in the disastrous mood of the Kennedy-Khrushchev summit of 1961 or the Paris summit of 1960 that collapsed before it began.

Q. You're leaving a rather ragged edge to this summit, then?

A. Yes, and deliberately so. It won't be over when the TV coverage ends. There are too many uncertainties, in China, in the United States, elsewhere. At the most we should get a sense of direction. Remember that diplomats and journalists never suffer from technological unemployment. Both will be dissecting the China summit for years. And then will come the historians. Take a long view of history. You've had a glimpse of it.

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## THIEU DETERMINES U.S. POLICY IN VIETNAM

Mr. CHURCH. Mr. President, the chairman of the Business Executives Move for Vietnam Peace and New National Priorities, Mr. Henry E. Niles, recently sent out a letter concerning America's present policy and position in Indochina. Mr. Niles aptly asks:

> Who determines U.S. foreign policy?

In light of President Nixon's support of the Saigon regime, Mr. Niles' answer is on target:

> President Nixon has given President Thieu what is, in effect, a veto of U.S. foreign policy concerning Vietnam.

I ask unanimous consent that Mr. Niles open letter to all Senators be printed in the RECORD.

There being no objection, the open letter was ordered to be printed in the RECORD, as follows:

### AN OPEN LETTER TO ALL SENATORS

FEBRUARY 16, 1972.

MY DEAR SENATOR: Who determines U.S. foreign policy? President Nixon or Thieu or the U.S. Senate?

President Nixon last week surrendered. He surrendered the sovereignty of the United States to determine when and under what conditions the U.S. troops will be withdrawn from Vietnam. He stated that "under no circumstances are we going to make any further proposals without consultation with and agreement with the Government of South Vietnam." Thus President Nixon has given President Thieu what is, in effect, a veto of U.S. foreign policy concerning Vietnam.

The President should put U.S. and world interests ahead of continuing support for Thieu. We are not defeated by our foes but our President has surrendered our right to self-determination to President Thieu.

On February 10th Thieu declared that South Vietnam would make no further peace concessions despite the assertion of Secretary of State William P. Rogers that the allied position was flexible. Thieu said that if Mr. Rogers meant what he said "it is a serious violation of Vietnamese sovereignty. I will talk with Mr. Nixon about it." Thieu repeated his "Four No's"—no land concessions, no Communist political parties in South Vietnam, no neutrality, and no coalition. He is arrogantly demanding U.S. military aid to support his position.

A White House spokesman states that those who criticize the President's Vietnam Peace Proposals are consciously aiding the enemy and prolonging the war. Actually, the critics advocate a prompt ending of the war, subject only to the return of the POW's. It is President Nixon who is continuing the war by his subservience to President Thieu.

We hope that the Senate will act effectively against President Nixon's surrender of power to Thieu and that it will vote strong measures to force an end to the war subject only to the return of the POW's.

Sincerely,

HENRY E. NILES,
*Chairman.*

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## LEGISLATIVE SUCCESSES OF SENATOR SCOTT

Mr. BOGGS. Mr. President, the Evening Journal of Wilmington, Del., recently published a column which recounts the successes of our distinguished minority leader, Senator HUGH SCOTT, of Pennsylvania. The column was written by Nick Thimmesch and syndicated by Newsday.

In his article, Mr. Thimmesch praises Senator SCOTT for his successes in welding together a unified Republican position in the Senate. He tells how Senator SCOTT "shepherded his Republican flock to a near perfect rate of support on bills where the President took a position."

Mr. President, I know that many Senators would agree with this column and who would enjoy reading it. For that reason, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wilmington (Del.) Evening Journal, Feb. 19, 1972]

### SENATE RESPECTS HIM—SCOTT'S COOPERATION GENUINE

(By Nick Thimmesch)

WASHINGTON.—Youth gets encouraged and cheered so much these days that it's a delight to discover a senior citizen scoring big and being praised for it. That's what's happening to Pennsylvania Sen. Hugh Scott, who, at 72, has been around as long as this century and is now roundly saluted for his performance as Senate minority leader.

President Nixon, never part of Scott's liberal wing of the GOP, is eminently pleased with the high level of support he's getting from the Senate's 45 Republicans and expresses his gratitude to Scott regularly. GOP Senate liberals and conservatives testify that Scott has unified them like never before. And majority Leader Mike Mansfield willingly praises Scott for his co-operation from across the aisle.

All this amounts to an era of good feeling for Scott, who has been in Congress since 1940, and also recognition for his undramatic wisdom and experience—qualities which don't always sell well in the current political market.

A few seasons back, the President wasn't sure of support from his own Republican senators; Scott wasn't sure he could overcome conservative opposition to his re-election as minority leader; and some senators at both ends of the GOP spectrum were almost beserk in public rage with Mr. Nixon. The nominations of Judges Clement Haynsworth and Harrold Carswell, the Cambodian invasion and the uncertain direction of the Administration had much to do with this, and Scott had to roll with the punches.

In the last seven months, however, the Administration's course is clearer, and Scott, using his painfully earned skills, shepherded his Republican flock to a near perfect rate of support on bills where the President took a position. The most notable win occurred when the Republicans chased the Democrats right out of the Senate with their scheme for campaign fund raising by a $1 income tax checkoff.

Scott helped get Mr. Nixon's most recent conservative Supreme Court nominees overwhelming support by GOP senators. Lewis Powell got all Republican Senate votes, and William Rehnquist lost only the votes of Sens. Edward Brooke, Clifford Case and Jacob Javits. Even the controversial nominee for secretary of agriculture, Earl Butz, got all but four Republican votes for his confirmation.

So all's well for the moment with Scott. "The President's image with Republican senators has greatly improved since he took the initiatives on China, the Soviets and the economy," Scott explains. "Republicans have stopped bellyaching that they have nothing to campaign on this year.

"The President's trips put a seeing eye in both countries on the dangers in Asia and give opportunity for all parties to have gradual withdrawal of military aid in Asia. The Soviets send North Vietnam 80 per cent of their military equipment, interestingly enough, through China, and China provides the rest. Anyway, the public feels Mr. Nixon makes pleasing moves for peace, and they think he's moved on the economy, too.

"I doubt very much that Democrats will

attack his trips unless they come out adversely. They won't know what was said in those meetings, and they better have meritorious criticism if they are going to speak out. President Kennedy had a complete flop in his Vienna summit with Nikita Khrushchev and we kept pretty quiet about that."

Scott isn't a flamboyant leader like his predecessor, the late Sen. Everett Dirksen, but he's a pretty good overseer. He is irked over the gross absenteeism of Democratic presidential aspirants and can deliver sarcastic attacks. In a heated exchange with Oklahoma's Fred Harris over the campaign checkoff proposal, Scott noted that only a handful of senators were around for the final debate on Butz, and cracked: "You get a far bigger crowd for the sweet smell of green money . . . you're partisan without principle."

Where Dirksen pretty much ran the whole GOP show, Scott delegates leadership duties to other Republican senators, and allows younger senators to serve as floor managers for legislation. He's also arranged with Mansfield for "morning" speeches to be cut from a 15-minute limit to 3 minutes, and for all "extraneous material" trivia to be put in the record at the end of the day, thus expediting Senate business. By a 21–17 vote, he established the rule that ranking (senior) senators can only serve on one committee, and took himself and two other GOP leaders (Sens. Robert Griffin and John Sherman Cooper) off of committees. The seniority reform didn't set well with Sen. Javits.

"I enjoy being the pastor of the flock," Scott says. There are no atheists here now, but some backsliders don't go to church every Sunday. We're a happier flock. The liberals don't want to embarrass me, and the conservatives are respectful. Many of the ideas liberal and moderate Republicans generated in the 1966–68 period have been picked up by the President, and that's one reason we have such unity. I don't expect 100 per cent because I, myself have never been 100 per cent for anything or anybody in politics. When I am, I should be voted out of office."

## FRAUD IN WELFARE PAYMENTS AND FOOD STAMPS

Mr. BYRD of Virginia. Mr. President, the Colorado Springs Sun of November 8, 1971, included a fine news article and column based on the experiences of a reporter who easily obtained welfare payments and food stamps by fraudulent means.

The reporter, Peggy Schultz, received a $175 welfare check and $42 worth of food stamps, plus medicaid authorization cards for herself and two fictitious children.

In a column accompanying the story by Peggy Schultz, Bill Woestendiek, editor and publisher of the Sun, points out that the ease with which the reporter obtained welfare support illegally demonstrates the laxity of administration in our welfare programs.

The administration is urging Congress to adopt a revision of welfare laws which would double the number of persons on welfare, add more than $5 billion to the annual cost of the programs and add 80,000 employees to the Department of Health, Education, and Welfare to administer it. It seems to me that if the present program is operated in as lax a manner as the reporter in the Colorado Springs Sun indicates, then an expanded program would be subject to even greater abuse.

I feel strongly that our welfare system must be changed, and that the administration of the program must be tightened. But before we adopt an expanded program, we must be sure that it can be efficiently administered and that it represents a real improvement.

I ask unanimous consent that the column by Bill Woestendiek, entitled "Thinking Out Loud," and the article by Peggy Schultz, entitled "Reporter Applies for Welfare and Gets It," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### THINKING OUT LOUD

(By Bill Woestendiek)

Everyone should be disturbed by Sun Reporter Peggy Schultz's story on this page today.

Peggy proved, altogether too easily, how easy it is to cheat on welfare. And if she can do it that easily, guess how many dishonest people are pocketing welfare checks every month.

Peggy walked in and told lies. She lied about her name, about her marriage, about her children, about her home, about her address, about her bank account, about her Social Security number. Any kind of check on her would have shown welfare authorities that she was a fraud.

Not only did welfare apparently check nothing, but Peggy was given $42 worth of food stamps, told that her nonexistent children would receive free Christmas presents, and then received the first of her $175 checks that presumably would continue to come to her—except for the fact she, of course, is not going to accept them.

The food stamps and the check will be returned to welfare this morning. Peggy proved the point that so many have alleged and that some welfare officials have denied; there is cheating going on in welfare in our town.

If a young girl reporter can get away with cheating the government so easily, think of what those who work at defrauding the government must be doing with the taxpayers money. And it is an additional commentary on our system that so many people can make more money by cheating on welfare than by doing an honest day's work.

As Reporter Schultz writes in her first-person description of how she did it, "almost anyone can get on welfare if he plays his cards right."

That situation has to be corrected. It's understandable that soft-hearted welfare workers might fall for any story, but it's unforgivable that the Welfare Department doesn't run more thorough checks on its applicants.

It's essential that the thousands of needy who deserve welfare assistance for legitimate reasons should get it. But those who are "working welfare" for handouts should not.

The Sun and Reporter Schultz did not go through this little deception to embarrass anyone, but to show dramatically how the welfare program is abused and to prove how easy it is to abuse it. Hopefully, it will lead to a tightening of the rules, closer checking on applicants, and put a halt to the giving away of money to people who do not deserve it. Certainly, there are many, many people and institutions that badly need money, far too many for our government to be giving it away to deadbeats or anyone else who has found it easier to live off welfare than to go to work.

Another strange aspect of the welfare program is the conflicting testimony one gets here and around the country. Some people in desperate straits seem to get the runaround and have to wait for days or to come back at another time.

As expressed in a recent article in Time Magazine, "rage, hysteria, and tears are all staples of the U.S. welfare system . . . in countless cities around the country welfare is a maddening mix of compassion and callous bureaucracy, penny-pinching and shocking waste—the shame of a nation."

President Richard Nixon described the American way of welfare in his State of the Union message as a "monstrous, consuming outrage."

The welfare program in Colorado Springs is better than in many cities, but it obviously is far from what it ought to be. Certainly, some form of assistance program is necessary throughout our nation, but it should be a humanitarian, successful program. Our present system, while it helps many, has to be considered a failure.

### REPORT APPLIES FOR WELFARE AND GETS IT

(By Peggy Schultz)

I received a $175 welfare check this week. The check was mailed to an address where I don't live to help support two children I don't have.

The check came less than a week after my El Paso County Department of Public Welfare caseworker didn't visit the house where I don't live—even though such an investigative visit is required by federal regulation.

I also have $42 worth of food stamps and Medicaid authorization cards for myself and the two fictitious tots. The check, stamps and cards aren't made out in my name, however. I lied about that too.

Almost anyone can get on welfare if he plays his cards right. The rules are fairly simple: have a good imagination, convincing personality and hope for a cooperative social worker.

I applied with thirteen other persons on a recent Tuesday morning and went through the new group intake process. It took a good four hours to complete the requirements, but it was worth the trouble. I was immediately handed papers to qualify me for the food stamps. And I was able to pick these up just an hour after leaving the welfare office.

Applying for welfare was neither degrading nor unpleasant. A cheerful social worker greeted us in the waiting room of the El Paso County Welfare Department's family services building at 310 S. Cascade Ave. We were taken to a yellow room which had walls decorated with posters bearing inspiring phrases like "people are the most important things in the world" and "love and happiness."

"We won't mention your names out loud unless you volunteer them," we were assured by a social worker who explained that group intake, although impersonal, speeded things up appreciably. However, several names were mentioned by the two social workers present.

Each person or family was handed a file which included many papers to be filled out with name, address, income, number of children, insurance, assets and other essential information which the welfare people would supposedly use in determining eligibility.

It was emphasized that information should pertain only to "what circumstances are today." At no time was verification of any kind asked for, although the two social workers directing the session said several files would be completely verified item by item.

After this phase there was a break and everyone was provided free coffee. At this time the plight of the some of applicants was revealed.

There was a furniture salesman who had just come out of a hospital and would be going back for more treatment. A young and attractive mother was just getting a divorce and her husband was sending no money for their children.

A girl who'd just come from Georgia lacked child support money also. She said she's been a hairdresser and that the welfare people had told her she should return to this field. However, she didn't want to and hoped she might go through college on welfare money.

Another woman had been working as a bookkeeper for the University of Alaska but could find no related work in Colorado Springs. She said she'd been looking hard. Her husband had left her years ago and she had no idea where he was.

Obviously, there were those who just wanted a handout, but most, it seemed needed aid for legitimate reasons.

After the break we were given another file. We were asked to sign our name as we ordinarily do. There was a special form for authorization of an attorney to get child support money from a husband if he was not providing it. And we had to indicate whether we wanted special social services such as dental assistance, help in finding a job or being trained for one, additional recreation, instruction in learning to be a single parent.

One of the social workers remarked, "It takes me 20 hours of paper work to give somebody $5. She said it would take her one full day to fill out all the forms for each person applying for AFDC (Aid to Families with Dependent Children, commonly known as ADC).

After all the papers were explained and filled out, there was a long wait for applicants while the two social workers appraised the answers just supplied. Then, they met with each person and told whether or not he or she qualified.

We were advised that if anyone was rejected the social worker would be glad to help with their personal problems anyway. During the time I was waiting for my verdict only one girl was refused and she said this was because she had a job.

After a two-hour wait I was called into a cubbyhole office by a reassuring and sympathetic social worker. She asked about my husband and I said he had deserted me unexpectedly. Next, she asked if I had looked for work and I gave what I understood to be the usual line about having looked, found nothing, and having to pay a babysitter if I did find something. She made some quick calculations.

"You should have little trouble. We should be sending you a check for $175 in about ten days."

Then she asked if I was interested in food stamps and I said yes. She proceeded to fill out the necessary forms. I did have to sign a form stating that if my situation changed in any way I would immediately contact the welfare people.

I was told that the only other thing I would have to do would be to schedule a visit with a social worker in my home because this is a federal requirement.

On leaving I went to the food stamp center and was given my stamps with no questions asked. I paid 75 cents for $42 worth. I was told casually to sign them but was not forced to do so at the time.

The day of the visit by the social worker I received a letter in my mailbox stating that my application had been approved effective November 1971.

For some reason, the social worker was unable to visit me as I had understood was necessary. I called her about it and she said she would not bother unless I particularly wanted her to come. I said no but accepted an offer for free Christmas presents for my children.

About a week after completing my application for welfare, a check for $175 arrived.

## DELAY OF COMMUNIST OFFENSIVE IN VIETNAM

Mr. McGEE. Mr. President, in this morning's Washington Post, columnists Rowland Evans and Robert Novak offered an excellent analysis as to why the much-publicized potential Communist offensive in South Vietnam has been unable to get off the ground thus far.

Both columnists also warn us that even if a spectacular Communist offensive of limited duration is brought off, it should not delude us into believing that Vietnamization has not been a success, and that, therefore, now is the time to abandon the course of responsible withdrawal from Indochina the President has pursued the past 3 years.

Tied to any Communist offensive is the belief on Hanoi's part that we are so wearied by this war that we would accept a settlement completely on their terms—that being a complete dismantling of the South Vietnamese Government, paving the way for a complete takeover on the part of the North Vietnamese.

I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### WAITING FOR TET OFFENSIVE

(By Rowland Evans and Robert Novak)

Delayed beyond President Nixon's arrival in Peking by sluggish logistical preparations and relentless U.S. bombing, the still-pending Communist winter offensive in Vietnam is now clearly aimed at one political goal: Forcing U.S. acceptance of its new and suddenly escalated asking price for peace.

A largely overlooked clarification of its latest negotiating proposals strips bare the fact that Hanoi now demands nothing less than total dismantling of South Vietnam's governmental apparatus. Scarcely by coincidence, this diplomatic escalation is accompanied by preparations for the biggest Communist offensive since the fateful Tet campaign of 1968.

This is the classic Communist technique of fight-and-talk. In the view of experts here, the Hanoi politburo would not dare demand so much in Paris if it did not anticipate gains on the field of battle. Indeed, North Vietnam hopes such military success may help elect a Democratic president who would probably be more receptive to their proposals than Mr. Nixon.

Involved here is point two in the revised seven-point peace plan submitted by Vietcong negotiators at Paris Feb. 2. Besides requiring the immediate resignation of President Nguyen Van Thieu, point two insists that Saigon "disband at once its machine of oppression and constraint against the people."

This, in turn, was clarified Feb. 3 by Nham Dan, the authoritative Communist party daily in Hanoi. In a remarkable editorial which has received all too little attention here, Nhan Dan said: "The Saigon administration must end its bellicose policy, and the oppressive and coercive apparatus in South Vietnam must be abolished immediately."

That apparatus, acocrding to the editorial, consists of the following: "Over a million puppet troops, civil guards, spies and (a) system of puppet administration and secret agencies from the central level in Saigon down to every village and hamlet."

The meaning is unmistakable. Setting a date certain for withdrawal of U.S. military forces, long demanded by American war critics, is no longer enough to bring peace and release U.S. prisoners. Nor is the ouster of Thieu. Instead, Hanoi says for the first time it wants Saigon's army and police disbanded and its national administrative network destroyed *before* the fighting stops.

The audacious public escalation beyond anything demanded by the Communists during now-concluded secret negotiations in Paris is indigestible even for moderate doves in the United States, much less the President. Thus, Hanoi knows that only some significant Communist battlefield success—exceedingly rare since 1968—could generate congressional and press demands for acceptance of these terms.

This intent always eclipsed the highly publicized motive of embarrassing Mr. Nixon's arrival in Peking as the principal political goal of the 1972 Tet offensive, in the opinion of many analysts—a view gaining credence how that the President has gone to China without any accompanying Communist salute from the Vietnam front.

But even if Hanoi had wanted its new offensive to coincide with the China visit, it lacked the capability.

Although a few U.S. policymakers are skeptical, the consensus among those military and civilian officials is that the bombing jumbled Hanoi's military timetable. Besides this, present plans for still more bombing may mean still more delay.

But nobody in authority here doubts that, however delayed, the blow will come—probably in the Central Highlands. It is inconceivable that Hanoi would undertake the agonizing labor of sending south heavy reinforcements and supplies without intending to make some noise. Indeed, the Communist artillery buildup in the Central Highlands continues at this writing.

Militarily, the situation is not greatly different from a month ago. Barring a calamitous and wholly unexpected collapse of South Vietnamese troops—the 1972 Tet offensive cannot score strategic gains—but temporary tactical successes in the Central Highlands may reap great political benefits among war-weary Americans, perhaps including pressure here for acceptance of Hanoi's ever-clearer demands requiring total capitulation by South Vietnam.

## A WORLD STATESMAN

Mr. DOLE. Mr. President, an editorial published recently in a Kansas newspaper provides great insight on one of the most important undertakings in our history. The newspaper, the Emporia Gazette, carried the editorial written by W. L. White, son of the famous late William Allen White. His writing concerns itself with the true meaning of President Nixon's current trip to mainland China.

I believe that the editorial is in keeping with the long standing tradition of journalistic excellence for which the Emporia Gazette and the White family have been renowned during the last several decades. This latest message from Mr. White should be of interest to each Member of this body, as it should be to every American.

I have always known admiration for Mr. White's keen ability to shed the light of truth on complex matters of national and international importance. He has once again demonstrated this skill in his editorial about President Nixon's journey in pursuit of peace.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A WORLD STATESMAN

This morning this editor went back to reporting when just as day dawned (7 o'clock) via shortwave radio he got the President's speech coming live from the hall where the Chinese had staged his welcoming banquet. This speech was superb. The Chinese had, up to this point, played the Nixon visit down. It was barely mentioned in the Chinese press and on their radio. No crowds lined the boulevard from the airport to the guest house as the visitors passed.

It was not quite low-key enough to be insulting, but observers compared it to the Peking welcome given the head of the Pakistan government a few weeks back, when he came to lick his wounds after his defeat in the war with India.

But last night (or this morning) our President's speech pulled everything alive. Before he came there had been some question as to whether Chairman Mao would see him at all—might only see him on his way home from China. But, as it developed, Mao saw him—first, for an hour immediately after he came, and then for a second hour a few hours later.

Now this is important. It means that the President has impressed the Chinese as being not just an American politician looking for votes at home, but as a world leader of deep sincerity and with something to say. Of course they were surprised—and pleased.

This sincerity came through in the speech which I heard this morning and which you will read this afternoon. It was not so much its hard content as its tone. It has deeply impressed the outside world. West German comment on it is that President Nixon, in this Peking summit for which he asked, has staged the summit to end all summits.

Up to now this editor has been mistrustful about this summit—fearful that he might start trading which would sell our old friends in the Pacific down the river—South Vietnam, Taiwan, Japan. We are now delighted to change our mind: we were wrong. It was a noble and inspiring speech—just what needed to be said, and it laid the basis for communication which can produce peace.

Richard Nixon has stepped into his stride as a world statesman of the first rank.

## VICE PRESIDENT AGNEW ADDRESSES THE NATIONAL GOVERNORS' CONFERENCE

**Mr. CURTIS.** Mr. President, on Wednesday our distinguished Vice President addressed the opening session of the National Governors' Conference.

I found the Vice President's remarks to be a profound and highly important analysis of the role of the Federal Government in providing services and what has gone wrong in that process in our country today.

I think the Vice President has hit the target, as he so often does, in terms of how we have gone about setting and achieving national domestic priorities, and I am especially in sympathy with his remarks regarding the OEO legal services program.

I ask unanimous consent that the text of the Vice President's address be printed in the RECORD. I hope that each of my colleagues will take the time to read the address if he has not already done so.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE VICE PRESIDENT OF THE UNITED STATES, NATIONAL GOVERNORS' CONFERENCE OPENING SESSION, WASHINGTON, D.C., FEBRUARY 23, 1972

This morning I am pleased to announce another step in the President's continuing effort to improve the intergovernmental comprehensive planning process and the Federal response to regional needs. He has authorized me to invite the seven Governors of the Arkansas-Mississippi Valley area to form a "whole-state" regional commission for their area.

Rather than being restricted to portions of these States, this commission would consist of the entire States of Arkansas, Kansas, Missouri, Oklahoma, Louisiana, Mississippi and Tennessee. It would represent a cooperative Federal-State effort to help solve the economic problems of the region and would operate in a manner similar to other regional commissions now in existence. The commission would function under Title V of the Public Works and Economic Development Act of 1965, as amended until the passage of the Rural Special Revenue Sharing proposal, after which it would operate, as would the other commissions, as a part of that program.

At the same time, the President has asked me to invite the Governors of existing Title V commission States to convert their commissions to a "whole-state" basis. This would allow them to begin planning now for the use of both general and special revenue sharing funds, as well as other grant programs, on a comprehensive statewide basis. The Appalachian Regional Commission, the pioneer of such groups and not a Title V creation, would be an exception in that it would continue to function on a non-"whole-state" basis and regardless of geographic overlap with other regional commissions that may have been converted to a "whole-state" basis.

The President also invites those of you whose States are not presently in a regional commission to consider forming one for the convenience of planning and promotion of interstate projects of specific interest to your regions.

My remarks today may reflect a certain nostalgia for the days when I was privileged to sit in this group as the Governor of Maryland. In those days, I was totally uninhibited by national responsibility and found it relatively easy to identify the Federal Government as the tormentor who was causing many of my frustrations. I might say that that was not exactly an unusual position for a Governor to take at that time—and I would guess that no sudden immunity from such criticism has enveloped Washington since I left this Council.

Now I am faced with the plain fact that I am charged with the task of rectifying intergovernmental deficiencies—or at least with articulating a strong and definitive recommendation for their correction. I have thought long and hard about the specific problems and, in doing so, have come to the conclusion that the general problem too often has been obliterated by intense concentration on specific program intricacies.

In my judgment, we frequently seek solution to our basic difficulties by superimposing a melange of cosmetic detail on a hopelessly unworkable basic concept. This proliferates red tape, which in turn camouflages the problem and makes it nearly impossible for the governmental professionals charged with its solution to cope with it. They are so busy playing with the elaborate machinery—so fascinated with the surveys, studies, interim conferences and verbose reports, replete with meaningless words such as "meaningful," "viable," "relevant" and "interface"—that they actually forget that they are there to solve a problem. In some cases, they even have trouble remembering what the problem is.

So let us consider for a moment the very basic and general problem—achieving the simplest and most efficient delivery of appropriate governmental services to the people and doing so within the framework of our tripartite system.

Fundamentally, there are two obstacles. First, there is a procedural maze to be penetrated and dismantled. This is difficult, but not impossible; and I will discuss it first. But inextricably entangled in the mechanics is the second problem, the deep philosophical questions which are not so easily solved—for example, which level of government can most effectively render a service, how that service should be funded, and whether one level of government is justified in going around or over another to achieve its objective. First, let us consider the easier side of our quandary.

As all of you are aware, one of the basic goals of the Nixon Administration during the past three years has been to make federalism more workable—to simplify and streamline our three-level system that, in the last decade, has begun to stagger under an ever increasing burden of unnecessary complexities.

It is a goal that you, the Governors, as well as elected officials at the county and city levels have seen clearly and have worked with us to achieve.

I believe we have made significant progress. There is every indication that the Congress this year will enact general revenue sharing—the keystone of our efforts to strengthen State and local governments and thus revitalize the Federal system.

But I would suggest to you that now is no time to become overly optimistic or to relax in our efforts to insure that the bill that emerges from the Ways and Means Committee is a strong one. It should, at the very least, write into law the basic principle of revenue sharing that all of us have worked hard and long to achieve.

We are at a point now where details of the bill still are being negotiated and amended. Perhaps, you may find it worth your while during your stay here to express again to Congressional leaders your keen interest in the legislation and in the form it will take.

Lest there be any feeling that enactment of general revenue sharing is a foregone conclusion this year, let me remind you that at this time last year the whole subject was being written off as a dead issue by the media pundits and by many of the leaders in Congress. Only your strongly expressed interest kept the principle of revenue sharing alive.

There is another side to the President's revenue sharing proposals that is just as important as general revenue sharing to our efforts to make government more flexible and locally oriented, but that side has not attracted as much of your attention and enthusiasm. I would recommend that you give it serious consideration in your discussions this morning. I refer to the proposed improvement in the grant system that we call special revenue sharing.

Let me review briefly what is involved here. Even though you are familiar with many of the details, they will bear repeating.

We went from 44 Federal grant-in-aid programs in 1960 to 530 such programs in 1970, thus bringing chaos out of confusion.

Special revenue sharing, in its simplest form, represents the conversion of more than 130 of these narrow categorical grant programs into six broad areas of national concern, with most of the red tape cut away and with the elimination of the requirement that State and local governments match Federal contributions in order to receive the funds. Also eliminated would be the frustrating, wasteful delays of months and sometimes years now occasioned by the need to obtain advance Federal approval for each grant. And, equally important, the deceptively stricturing maintenance of effort requirement would be abolished. Because of maintenance of effort, many Governors have found themselves locked into programs where actual year-end costs exceeded budgeted costs by two and three hundred percent.

By no stretch of the imagination is this a dismantling of the Federal grant system, as some critics have charged. After all, it affects only one-third of the existing categorical grant programs. It is rather an improvement of the grant system by making it more workable, by leaving at the Federal level those programs which require a national approach, but moving to the State and local levels the resources and authority to administer those programs that can be handled better there than in Washington.

These programs are now languishing in their second year before the Congress. They have much merit; and we feel sure that, with your help, they can be enacted. Again, it may be necessary to compromise on some of the details. But as in general revenue sharing, if we can get the principles enacted we will have scored a major triumph in making government more workable.

In the special revenue sharing program areas, these principles should apply:

Automatic distribution of the funds through a needs based formula.

Conversion of related narrow categorical grants into the special revenue sharing program to give State and local officials the option of changing the programs to best fit their areas.

Elimination of requirements for State and local matching funds as a condition for receiving such aid.

Elimination of requirements for prior Federal plan approval.

These are principles that I know you believe in and can endorse, however you may feel about any particular grant or proposed grouping of grants under special revenue sharing. I urge you again to make those views known to the Congress while you are in Washington.

We are facing some basic decisions, gentlemen. We need to decentralize government in areas where there is a Federal-State clash and the best time to do it is now, while you have an Administration in Washington committed to helping you achieve that objective.

Most of us know that for many years prior to the Nixon Administration, the trend of power in government was all one way—toward Washington. And it has bred some monstrous results.

You may be familiar with some of them, such as:

A neighborhood health center in Louisville spent $50,000 a year just to apply to the various funding authorities which supported it.

One State had 93 people on its payroll who did nothing but apply for Federal education grants.

And remember the 2½ foot high, 56-pound stack of paper that Secretary Romney displayed as a single urban renewal application.

The local welfare worker in Los Angeles who had to wade through 110 pounds of regulations—50 pounds more than the American GI carries into combat—in order to carry out her responsibilities.

And the discovery that in Oakland, California, only fifteen percent of the Federal funds went through the Mayor and other elected government officials.

And I'm sure you have your own homegrown horror stories to match or top these.

The name of the game has been grantsmanship. We are simply trying to change it. The new name is Revenue Sharing—and it will not require gamesmanship of any kind.

Now, let us return to the more vexing problem that I previously mentioned—the matter of clashes between levels of government over such competitive subjects as the allocation of tax resources, or what government provides certain basic services, or the subsidization of private activist groups.

Never in our history has the Federal Government been more generous in sending money to help the States and localities; but never in our history has the Federal Government been more arrogant, insufferable and self-serving than it is in dispensing this largess.

There has been a heavy-handed intrusion into the judgments that Governors and Mayors were elected to make.

Never before has bureaucratic grantsmanship caught Governors and Mayors in such a crushing vise, to the end that they are damned by their political opponents if they do not snatch up every available dollar from Washington, whether or not commitment to that program suits their priorities.

Never, until the Great Society, had the Federal Government funded unelected activists to "defend" their communities against the very officials elected by the majority to protect those communities.

Gentlemen, these are conditions the Nixon Administration would like to correct. Revenue sharing will help, but a grass-roots rejection of the idea that career elitists in Washington should make decisions for every Governor, Mayor and County Official is sorely needed.

The difficulty is that some of these programs, in part, serve a useful purpose. I would like to close by discussing with you one that impacts on all levels of government. This particular program has much to commend it. It's aims are altruistic, and a considerable portion of its performance cannot be faulted. But its accomplishments are good reason to reform it; to be sure that certain inherent weaknesses are corrected before they destroy it. I speak of the OEO Legal Services program, which I have had occasion to examine recently.

There is no doubt that the provision of legal services to the poor is a worthy undertaking. But the problem with the Legal Services program, as now structured, is that it has great potential for political mischief and can be abused so as to frustrate the basic function of government.

Before I proceed to define the hazards, I want to make it very clear to everyone here—every public official, every guest of this Conference, every newsman—that I am very much in favor of providing legal services for the poor. And I am not in the least opposed to suits against governmental agencies to redress grievances. But I am opposed to grinding the processes of government to a halt through dilatory legal maneuvers—especially where the object of the suit is a social result that is more important to the subsidized poverty lawyer than to his clients.

In fairness, I think it is important to note that almost 98 percent of the law suits brought under the Federally-funded Legal Services program concern day-to-day legal problems such as divorce, fraud, contract, eviction and such matters. These are not at issue.

It is in the other two percent of the cases, brought against governmental bodies or agencies, that the potential for mischief-making and frustration of the will of the people—the majority of the people, if you will—is to be found. And may I point out that the majority of the people is a heterogeneous mass consisting, among other groups, of substantial segments of the poor.

Notwithstanding the demonstrated benefits of the Legal Services program, there are some inherent weaknesses which operate to the detriment of the poor and of the total community as well.

Specifically, through the present system we have provided for those few persons who would abuse the program the opportunity to do so.

We have provided a vehicle whereby Federal funds can be used to pursue the political objectives of a few, rather than the legal rights of the poor.

We have provided funds which can be diverted to harass, harangue and thereby prevent duly elected officials from fulfilling their responsibilities through the exercise of the authority vested in them by the electorate—in short, funds which can be used to deprive them of the political power which our system of government bestows through the ballot box.

We have provided for those few who would do so the opportunity to advance their own personal causes, with their client, the poor, receiving at best secondary consideration and at worst merely being the means to finance political ambitions.

I believe, as I know you do, that State and local governments should be fully accountable to every American for their actions or inaction. But just as the poor must be protected from unfair governmental actions, they also must be shielded from those who would misuse worthy programs to their own political ends.

Last year, in his Legal Services Corporation message, the President recognized the very critical need for changing the present system. Unfortunatley, the bill rewritten by Congress was so irresponsibly structured that it could not be accepted. As the President noted at that time, the door was "left wide open to those abuses which have cost one anti-poverty program after another its public enthusiasm and public support." An example of such abuse is the recent suit in Massachusetts by one Federal anti-poverty agency against another—both paying their legal fees from the Federal tax dollar.

We continue to support a reasonably structured corporation. The rationale and thrust of the President's message are as appropriate today as they were last year. We must have change, and we must have improvements in the program.

We must seek to provide a system wherein the rights of the poor and the general citizenry can be protected without at the same time preventing State and local governments from carrying out and exercising their legitimate duties and responsibilities.

We must devise a legal and governmental balance to avoid situations where the rights of the majority are violated in our efforts to ensure the rights of a few. I would request that you, the Governors, along with your State and local bar associations, examine the operations of this program within your States and let us have your recommendations for improvement.

One matter that should be considered is the very sensitive, very real problem of the lawyer-client relationship.

A basic quandary of the Legal Services program—both in design and in operation—is that the professional independence of the lawyer, grounded in the Code of Professional Responsibility, is in direct conflict with the concept of a centrally directed and controlled social program. Yet, insofar as the Legal Services program is designed to attack the root causes of poverty through litigation and not merely provide legal representation for individual poor people, it is undeniably a social program of the broadest possible scope. The program has always consisted only of a mechanism with a broad mandate. There have been no policy decisions at the top focusing the program's resources on certain problems or otherwise directing the activities of the individual lawyer.

Because of the requirements of the Code of Professional Responsibility, any restrictions on the activities of individual lawyers would be, and have been, vigorously opposed. Without some kind of control and decisionmaking at the top, however, you have a Federal Government project using public monies for public purposes but without public direction and accountability. Individual lawyers or local project directors make the key decisions on what social causes to pursue as well as the means and degree of pursuit.

This is publicly-funded social activism without public accountability. It perhaps reaches its zenith in the role of the Legal Services lawyer as general spokesman and advocate for the poor as a group on basic community issues. Since there is no organized method, such as polling or election, to determine the interests of the poor on any issue, Federal funds can be used by some lawyers to advocate their own opinion of what is in the best interest of the poor and the community. Thus, the Legal Services program not only moves basic social decision-making from the legislature into the courts; it also changes the moving force from a public figure to a private one.

It is imperative that this social action orientation be understood and properly dealt with in order to prevent abuses. The utilization of taxpayers' money by non-accountable persons for social purposes requires careful surveillance. Who decides what is in the public interest—whether elected officials, Legal Services lawyers or others with valid claim to some say in the matter—is a serious question which deserves careful analysis. This is not the average client walking into a lawyer's office for representation. This is a social action program.

Again, let me emphasize that I am in no way questioning the right of every American, rich or poor, to access to our legal institutions. What I am saying is that the Legal Services program, with its great potential for impact on our society, requires careful administration. There are 2,000 lawyers with an excess of 60 million dollars of Federal funds carrying out the objectives of this program in every State in the Union. Our societal fabric is carefully woven with the threads of our legal system and careless tampering with that system could unravel the entire structure.

Legal Services lawyers operating without the normal economic constraints, and with the enormous resources of the Federal treasury, must be better supervised by the bar associations and must be held to a higher standard of conduct if the Federal Government is to meet its obligations to its constituents.

The basic issue is the social action direction of the Legal Services concept. If we are to provide Federal funds to attack social problems through litigation by Legal Services lawyers, we must realize that we are turning over the identification of such problems and their solutions to the Legal Services program. And we should require a broader input in the determination of national goals for that program.

Most importantly, I submit it is totally fallacious to argue that nobody may question the activities of these lawyers on grounds that to do so is a breach of the Code of Professional Responsibility. That reasoning completely ignores the social action nature of this program and the fact that it is operated with national programmatic goals. In fact, carried to its logical extreme, this argument when added to the social orientation of the program, effectively endows Legal Services lawyers as the only social reformers beyond public scrutiny.

I have raised questions here that I have not attempted to answer. I don't, in fact, have the answers. But I have seen the danger signals flying from this vehicle that has been created with the very noble and worthwhile objective of serving the interests of the poor; I have seen its potential for great harm and obstruction to the efforts of representative, elected government to do a job for the benefit of the whole community. And I suggest that the program deserves our most careful scrutiny and consideration for improvements.

We should not, we cannot, stand idly by and allow the perversion of our system by a few who would determine on their own what is best for society and work their will at the expense of the taxpayers without ever having to go through the traditional electoral process or in any other manner account for their actions.

The genius of the American Federal system lies in its adaptability to the needs of the people it serves. That is fundamental to our way of life. The Nixon Administration remains dedicated to the goal of keeping our Federal system responsive and effective so that today, as it has for nearly two centuries, that system will continue to provide the greatest good for the greatest number of people.

## THE COURSE OF THE BRANDT TREATIES SHOULD BE CORRECTED

Mr. HRUSKA. Mr. President, Americans are closely and somewhat fearfully noting the debate which is now underway in the West German Bundestag over the ratification of Chancellor Willy Brandt's treaties with Russia and Poland. They are a matter of great interest to Members of this body as well as our people. They would appear to involve some basic principles which are of concern to the entire free world in its struggle against the relentless expansionist and imperialistic policies of the Soviet Union.

It is no secret that ever since World War II, Russia has sought to expand its hold on Europe by moving in the direction of West Germany. One of the principal reasons why it has not been successful is the commanding presence of the NATO Alliance and a strong, stable West Germany firmly dedicated to the principles of the free world. It is widely feared that ratification of these treaties will be a major step backward for West Germany and the western alliance. I join in such grave misgivings.

Dealing with the Soviet Union can be a tricky business, and it would appear the treaties now under discussion are molded along familiar lines—filled with concessions to the Communists but containing little in the way of safeguards against further Communist aggression.

The West German Government, like any sovereign nation, certainly possesses the right to modify or abandon its political positions as it sees fit.

Nevertheless, we who have stood side by side with West Germany for the past 25 years have a very personal stake in that country's position insofar as it involves Russian aggression.

To me, any action in which favorable positions are surrendered by a free nation to the Soviet Union and the countries of the Communist bloc is a matter of great concern to the United States. I greatly fear that such will be the net result of the treaties which are now under discussion.

Surrender by West Germany of any of its bargaining power with Russia weakens the entire structure of the free world, of which she has been a stanch and constructive member. While the free world has no Breshnev doctrine providing that any country which is free must remain free, we do believe it is in the interests of every country to stay free. We also believe it is in the interest of every free nation to maintain rather than weaken their psychological, political, legal, moral, economic, and military positions with the Communists.

We of the free world are all in this together and we therefore should have a vital interest in the West German treaties which are proposed for ratification.

In blunt terms, Germany is in acute danger, through its Ostpolitik, of acting against the best interests of the countries of the free world. Its proposed actions not only abandon its own position with regard to the Soviet Union, but it also directly damages the ability of other free nations to maintain their positions.

In the treaties in question, the Bonn government confirms the existing Soviet domination over central and eastern Europe. It confirms the existing regimes, it confirms the Communist system. The West German Government was the first government officially to upgrade the Communist regime in Prague after the Soviet occupation of that country in 1968. And if the treaties with Moscow and Warsaw are ratified, the Bonn Government is said to be planning to conclude a treaty with the Husak regime in Czechoslovakia.

Czech and Slovak peoples at home and in the free world will vigorously oppose and deplore such negotiations which would upgrade the Communists who today dominate their home countries through the force of the Soviet Army. They know the Brandt treaties recognize the illegal and immoral occupation of their country. They see that the times when Germany had agreements with the Communists were disastrous for them and all Europe. Furthermore they see no improvement in economic and technological aid to the Prague regime as the result of such agreement.

The alternative to an isolated Ostpolitik would better appear to be a common, unified policy by the entire Western alliance, such as that suggested by the Christian Democratic Social Union of Germany. This party has suggested a most reasonable position which would give concessions only in return for counter concession—and above all a policy which would reject final recognition of Communist rule over central and eastern European peoples.

In my opinion, the West German Government will be in serious error if it legalizes the Communist domination over Europe. Confirming the rule of Communist dictatorship will bring no advantage to Germany and none to the free world.

Mr. Alfred Dreggert, chairman of the CDU in Hessia, declared in the newspaper Die Welt, on September 8, 1971:

> The aim of an European eastern policy can be only peace and freedom for the whole of Europe; i.e., the preservation of world peace and the regainng of self-determination for all European nations which would mean the end of the infamous Breshnev doctrine.

It is in this spirit that agreements with the Soviet Union should be negotiated. To that end, I concur with the views of the CDU that the United States should provide no support for ratification of the current treaties and should urge the West German Government to renegotiate the current arrangements with the purpose of equalizing the benefits.

## SEX DISCRIMINATION IN EDUCATION

Mr. HART. Mr. President, on behalf of the distinguished Senator from Indiana (Mr. BAYH), I ask unanimous consent that a statement by him, accompanied by an article with footnotes, on the subject of sex discrimination in education be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### Statement by Senator Bayh

The Valparaiso University law review of my own State of Indiana published an edition last year wholly devoted to the question of women and the law. The articles are excellent. I recommend the entire volume as interesting reading for Senators and commend the Valparaiso University Law School for undertaking such a needed study.

One article is particularly relevant to my amendment No. 874 (which I intend to call up early next week), to the Higher Education Act prohibiting sex discrimination in education. The article, written by Pauli Murray, professor of American Studies at Brandeis University, documents sex discrimination in education and employment; it also reviews present and proposed enforcement mechanisms to end sex discrimination.

### Economic and Educational Inequality Based on Sex: An Overview

(By Pauli Murray*)

#### INTRODUCTION

Sexual inequality is the oldest and most intransigent form of discrimination in human culture; indeed, it has provided models for the subordination of other oppressed groups.[1] As in the case of racial bias, the individual's status is defined at birth, and legal and social disabilities are imposed by virtue of visible, permanent physical characteristics which identify one's sex. For many purposes, laws and social customs treat *all* women as a separate class inferior to that of men. At the same time, however, unlike a racial or ethnic minority, women are distributed evenly with men throughout the entire population and share the class characteristics of the men with whom they are closely associated as wives, mothers or daughters. This duality of status partly obscures the pervasiveness of discriminatory treatment which cuts across all classes and affects more than half of the population. Notwithstanding a total impact which is far more extensive than other forms of bias, there is a strong tendency to minimize sex discrimination, to avoid the moral implications of so vast a social injustice and to afford it greater immunity from public condemnation.[2]

The most demonstrable inequality to which millions of working women are subjected is economic discrimination. It lends particular force to the argument that women are an oppressed group because it contributes to the powerlessness to deal adequately with other inequalities. As one writer has put it, "[w]omen have less economic power than men and in a money society personal power is directly related to economic power."[3]

The case for national action in this area was summarized in the report of President Nixon's Task Force on Women's Rights and Responsibilities in April, 1970. The Task Force pointed out that the United States "lags behind other enlightened, and indeed some newly emerging, countries in the role ascribed to women," and the Government should be as seriously concerned with sex discrimination as race discrimination and with women in poverty as men in poverty. Observing "that long-established policies of Federal agencies base their efforts to alleviate poverty and discrimination on the assumption that race discrimination is more inflammatory than sex discrimination," the report declared:

> Sex bias takes a greater economic toll than racial bias. The median earnings of white men employed year-round full-time is $7,396, of Negro men $4,777, of white women $4,279, of Negro women $3,194. Women with some college education both white and Negro, earn less than Negro men with 8 years of education.
>
> Women head 1,723,000 impoverished families, Negro males head 820,000. One-quarter of all families headed by white women are in poverty. More than half of all families headed by Negro women are in poverty. Less than a quarter of those headed by Negro males are in poverty. Seven percent of those headed by white males are in poverty.
>
> The unemployment rate is higher among women than men, among girls than boys. More Negro women are unemployed than Negro men, and almost as many white women as white men are unemployed (most women on welfare are not included in the unemployment figures—only those actually seeking employment.)
>
> Unrest, particularly among poor women and college girls, is mounting. Studies show that 39 percent of the rioters in Detroit were women and in Los Angeles 50 percent were women. The proportion of women among the arrestees was 10 and 13 percent respectively. Welfare mothers are using disruptive tactics to demand greater welfare payments. Radical women's groups, some with a philosophy similar to that of the Students for a Democratic Society are mushrooming on college campuses.
>
> Essential justice requires the Federal government to give much greater attention to the elimination of sex discrimination and to the needs of women in poverty.[4]

The Task Force report was issued against a background of growing militancy of women's groups which increasingly have resorted to organized pressures and direct action as well as to administrative and judicial remedies to bring their grievances to the public's attention. The purpose of this article is to highlight some of the economic disparities which have precipitated this development and to focus primarily upon sex inequalities in education, an area integrally related to economic opportunity and which has received relatively little consideration by the law.

#### ECONOMIC INEQUALITY

Job discrimination became the focal point of renewed feminist protest during the early 1960's. Underlying this upsurge of feminism are the dramatic changes in women's role in the economic system, which sociologist Alice Rossi sees as the chief factor in "the renascence of the women's rights movement . . . after forty years of dormancy."[5] In 1920 women represented only 1 of every 5 workers. By 1970 the 31.2 million working women constituted 38% of the total labor force.[6] Since 1940 they have contributed the greatest share in the growth of the labor market. Available figures from the 1970 census indicate that 43% of all adult women are now either employed or seeking employment compared with 37% in 1960, 34% in 1950 and 23% in 1920. During the 1960's they filled 8.4 million, or nearly two-thirds, of the 13.8 million new jobs which developed.[7]

Moreover, contrary to the lingering sterotype that "woman's place is in the home," married women are a permanent and growing sector of the work force. The Bureau of Labor Statistics reported that for the year ending March, 1969, wives supplied 775,000 and married men 400,000 of the 1.8 million increase in the labor force. The proportion of families in which both the husband and another member of the family (most likely to be the wife) worked jumped from 43% in 1960 to 52% in 1969.[8] Inequality in employment opportunities became increasingly oppressive to growing numbers of women who head families (11% of all families in the United States have female heads) or whose earnings were necessary to lift the family income above the poverty level or raise its standard of living.[9]

A second factor in the growing protest is the head-on collision between the rising expectations of a generation of college-trained women and the continuing climate of opinion in which it is taken for granted by many employers that women will be assigned to inferior positions. This knowledge often comes as a profound shock to a bright young woman who obtains a bachelor's or even master's degree and seeks a job related to her training. She typically experiences the more offensive for what it implies than for the skill involved)[10] and is offered secretarial work while her male counterpart with the same degree is considered for positions in which he can utilize his training and with higher entering pay.

A 1969 survey showed that of 208 companies recruiting at Northwestern University only 63% were considering female graduates.[11] The Women's Bureau of the United States Department of Labor reports that the average monthly starting salaries being offered by 110 business firms to 1970 women college graduates in six fields of interest ranged from $10 to $86 less than those being offered to male college graduates in the same fields.[12]

The legal profession is one of the worst offenders in this respect. Professor James J. White's study[13] of female and male law school graduates in the classes of 1956 through 1965 found that the males make a lot more money than the females. The differential in present income is approximately $1,500 for those in their first year after graduation, and, with the passage of each year, the males increase their lead over the females until they pass off the graph of the class of 1956 with a $17,300 to $9,000 lead and with no substantial appearance of abatement in their rate of gain. In 1964, 9% of the males earned more than $20,000, but only 1% of the females had reached that level; 21% of the males exceeded $14,000, as compared with only 4.1% of the females. The converse is true at the levels below $8,000, where one finds 56.3% of the females but only 33.6% of the males. These figures are not distorted by the inclusion of housewives or others who are not employed full time at a paying job because only those employed full time at a paying job were included.[14]

The income differential could not be accounted for by reference to prestige of law schools attended, class standings, law review participation, type of work sought and type of work performed, since the male and female samples did not differ significantly in these respects.[15] An analysis of the responses of law school officials showed that of 63 deans and placement officers who answered Professor White's questionnaire, 43 believed that discrimination against women law school graduates is "significant," 14 stated that it is "extensive" and only 6 felt that it is "insignificant."[16]

Of the female respondents who replied, 38.2% stated they were "certain" they had been discriminated against; another 9.6% were "almost certain," and 17.6% felt that they were "probably" discriminated against. One question asked how many times an employer had stated to the individual respondent a policy against hiring women as lawyers. The replies indicated that on 1,963 separate occasions such a policy had been stated by potential employers. The combined evidence convinced Professor White "that discrimination against women lawyers by their potential employers is at least a substantial cause, and probably the principal cause, for the income differential which we have observed between men and women."[17]

Traditionally, women are concentrated in jobs which have less prestige or policy-making power than those to which men have access. The Equal Employment Opportunity Commission's (EEOC) first nationwide survey of patterns of employment in American industry based upon official employers' reports for 1966[18] revealed that while women account for more than two-fifths of all white collar jobs, they hold only one in ten managerial positions and one in seven professional jobs. Conversely, they fill nearly 45%

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Footnotes at end of article.

of the lower paying service jobs. The Women's Bureau estimate is even higher: in 1969 women were 59% of all service workers (exclusive of private household employees) compared with 40% in 1940. In 1969, less than 5% of all full time women workers earned over $10,000 per year compared with 35% of all male workers, while 14.4% of women but only 5.7% of men earned less than $3,000.[19]

The pattern does not change significantly in the employment of women by the Federal Government, despite a federal policy of equal employment opportunity without regard to sex which has existed since 1963. Studies by the United States Civil Service Commission show that although women constituted 34% of all full time white collar employees in the federal service in 1967, they filled 62.5% or more of the four lowest grades and only 2.5% or less of the four highest grades.[20] In October, 1969, of the 665,000 women in full time white collar civil service positions (33.4% of the total), 77.8% were in grade levels GS–1 through GS–6, while less than 2% were in GS–12 through GS–18. The average grade level for males was GS–9.6; for females, GS–5.2. In the three-year period 1966–1969, women's share of jobs in grade levels GS–13 and above rose only from 3.5% to 3.8%.[21]

Women in the professions in the United States have not kept pace with women in other countries. In the Soviet Union, for example, women constitute 79% of the physicians, 36% of the lawyers and 32% of the engineers compared with 7%, 3% and 1% for these professions respectively in the United States.[22]

As previously indicated, unemployment rates and the incidence of poverty are consistently higher for women than for men. In 1969, the average rate of unemployment for adult women was 4.7, compared to 2.8 for men. Among Negro women the unemployment rate was 7.8, compared to 5.3 for Negro men. Among Negro teenagers, the unemployment rate for females was 27.1; among males, 21.3.[23]

Despite the greater need for job opportunities among disadvantaged women, inequities continue to exist in the manpower training programs of the federal government. The President's Task Force reported that only 31.7 percent of the 125,000 trainees in the on-the-job training programs conducted under the Manpower Development and Training Act in the fiscal year 1968 were women; only 24% of those hired in the JOBS (Job Opportunities in the Business Sector) program were women; and only 29% of the 33,000 enrollees in the Job Corps in June, 1968 were women. Meanwhile, by 1968 the number of unemployed young women (16 to 24 years of age) had increased to 697,000, and the unemployment rate for young women had increased while decreasing for young men in the same age group. Slight improvement in some training programs was reported in 1970.[24]

At the bottom of the economic ladder are the 1.6 million (1969 figures) employed as private household workers—including babysitters—about two-thirds of whom are nonwhite and whose median wage for full-time year-round employment in 1968 was $1,523. Nearly 200,000 of the women in this occupation were heads of families in March, 1969, and almost three-fifths of the women who reported private household work as the job longest held during 1968 had incomes below the poverty level. These women are the least protected of all workers. While they are eligible for coverage under the Social Security Act, they are not covered by the Federal Fair Labor Standards Act and are generally excluded from the benefits of labor standards legislation and social insurance which most other workers enjoy.[25]

The foregoing figures are illustrative and point to disparities which cannot be explained by purely social and cultural factors; nor can they be explained by differences in education. In March, 1968, the median number of years of school completed by women in the work force was 12.4 compared with 12.3 for working men. Of the total number of working women, 7.4% had completed 4 years of college compared with 7.7% of all working men. Only in the category of workers with 5 or more years of college education was there a noticeable difference between the sexes: 3.1% of all women workers and 5.9% of all male workers were in this group. In March, 1969. the median years of school completed for female and male workers in clerical occupations were identical: 12.6. But the median salary of full-time women workers in clerical jobs was only 65.1% ($5,187) of that of male workers ($7,966) in the same field.[26] The conclusion seems inescapable that a principal factor in the inferior economic position of women who work is the persistence of extensive patterns and practices of discrimination based solely on sex in the major institutions responsible for training and employment. In view of the massive public investment in higher education as the chief means of economic advancement, opportunities for women in this area are crucial to their achievement of economic equality. We turn, therefore, to a consideration of the position of women in higher education.

### INEQUALITY IN EDUCATION

Colleges and universities play a strategic role in employment opportunity because the educational process determines *access* to professional training and careers. "Undergraduate and graduate programs in universities are analogous to the training and apprenticeship programs of industry," Congresswoman Martha Griffiths has pointed out.[27] The integral relationship between training and employment has led women to focus attention upon the paradox of continuous emphasis upon higher education as the gateway to economic opportunity while simultaneously there exists in our colleges and universities what Dr. Bernice Sandler, psychologist, has described as *"a massive, consistent and vicious pattern* of sex discrimination." [28]

Obviously, the more highly trained a woman is, the greater has been her investment in preparing for a career and the more likely she is to seek permanent employment and be concerned with career advancement. Work force participation of women increases at every level of education. In 1968 it ranged from 71% of all women with 5 or more years of college to only 17% of those women with less than 8 years of elementary school education.[29] Dr. Helen S. Astin's study of 1,547 women who had received their doctorates in 1957 and 1958 revealed that 91% were in the labor force in December, 1965.[30]

Yet it is precisely in those areas which require intensive training that women are most vulnerable to both overt and unconscious discrimination—namely, in academic life and the leading professions. The Equal Pay Act of 1963,[31] which amended the Fair Labor Standards Act, is limited by the exemption of "executive, administrative, or professional employees, including those employed as academic administrative personnel or teachers in elementary or secondary schools." [32] Academic women are not covered by Title VII of the Civil Rights Act of 1964,[33] which does not apply to any "educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution." [34] Title VI of the Act, which prohibits discrimination in federally assisted programs and activities, does not refer to sex discrimination.

Pressures for remedial action by Congress led to extensive hearings in June and July, 1970 before the House Special Subcommittee of the House Committee on Education and Labor.[35] The Subcommittee, chaired by Congresswoman Edith Green, developed more than 1250 pages of testimony and statistical data which substantiated Dr. Sandler's indictment. Although the scope of the hearings covered economic discrimination against women generally, in government, private industry and the professions, the bulk of the testimony and exhibits related to women in academia and in law and medicine. With respect to college and universities, representatives of women's groups called for investigation and remedial legislation particularly in the following area: 1) admission quotas in undergraduate and graduate schools; 2) discrimination in financial assistance for graduate study (scholarships, fellowships, research grants, teaching assistantships, etc.); 3) hiring practices; 4) promotions and 5) salary differentials.[36] What follows is a sampling of the information received by the Subcommittee which illustrates the dimensions of the problem.

### *Discriminatory admissions policies*

The charge that women are subjected to higher admission standards than men throughout the levels of higher education was supported by considerable evidence. Dr. Peter Muirhead, Associate Commissioner of Education, Office of Education, Department of Health, Education and Welfare, told the Subcommittee that, according to the annual survey of college freshmen by the American Council on Education, women enter college with slightly better high school records than men. This background of higher achievement continues at graduate levels, "suggesting a tendency to require higher standards of women for admission." He noted that a 1965 sampling by the Office of Education of graduate degree-credit students in the arts and sciences revealed that 68% of the women but only 54% of the men had *B* or better undergradate grade averages.[37]

Dr. Ann Sutherland Harris of Columbia University, citing a report on women at the University of Chicago as "evidence that it is easier for a man than for a woman to get into graduate school," testified:

> The most conclusive evidence is the grade point average of the women, which is significantly higher than the men. 9.1% of the women reported straight A averages compared with 6.8% of the men; 24.9% of the women reported A– averages compared with 20.1% of the men; and 32.2% of the women had B+ averages compared with 31.6% of the men. Only 30% of the women compared with 41% of the men had grade averages of B or lower.[38]

A correspondent from Cornell University informed the Subcommittee that there were quotas on women applicants operating at all the schools in the institution. For example, in the State School of Agriculture "quotas exist such that the mean SAT scores of entering women freshmen are higher than those of men by 30–40 points." [39]

Dr. Muirhead's testimony showed that restrictive admissions policies against women are applied at public universities as well as private institutions:

> We know that many colleges admit fixed percentages of men and women each year, resulting in a freshman class with fewer women meeting higher standards than it would contain if women were admitted on the same basis as men. At Cornell University for example, the ratio of men to women remains 3 to 1 from year to year; at Harvard/Radcliffe it is 4 to 1. The University of North Carolina at Chapel Hill's fall 1969 "Profile of the Freshman Class" states, "admission of women on the freshman level will be restricted to those who are especially well qualified." They admitted 3,231 men, or about half of the male applicants, and 747 women, about one-fourth of the female applicants. Chapel Hill is a State-supported institution.[40]

It should be noted here that discriminatory policies of state-supported institutions violate the equal protection clause of the fourteenth amendment.

The application of the "equal rejection"

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theory is apparently widely accepted by graduate and professional schools' admissions officers. For example, a university insists that it is not biased if it accepts 50 of 100 male applicants and only 10 of 20 female applicants. The inference of overt discrimination in admissions policies is strengthened by the fact that the faculties and college administrators who make these decisions are predominantly male. Significantly, the Cornell correspondent pointed out "that when a woman professor in one graduate field was put in charge of graduate student admissions, the ratio of women admitted to her field alone approached 50%. In other fields the ratio is very low."[41]

A consistent use of discriminatory quotas to limit the admission of women to medical school was revealed in data submitted by Dr. Frances S. Norris, M.D.[42] She testified that while women applicants to medical school have increased over 300% since 1930, the proportion of women accepted has fallen. From 1930 to 1939, women's share of the total number of admissions rose only from 4.5% to 9.7%, but the percentage of women applicants actually accepted over this same period *decreased* from 65.5% to 46.5%. Of the 2,097 women who applied for admission to medical school in 1968–69, only 976 were accepted. A study published in the *Journal of Medical Education* comparing men and women applicants between 1960 and 1969 shows that the number of women entering has been limited to a range of 7% to 10% of the total admissions.[43]

Dr. Norris charged that the low percentage of women accepted to medical school results from admitted prejudice on the part of medical school admissions committees and the use of the equal rejection formula. "Interviews with admissions officers at 25 northeastern medical schools" revealed that "19 admitted they accepted men in preference to women unless the women were demonstrably superior." The segregation of male and female applicants into two categories and the rejection of an equal percentage of each means that women applicants "are not judged on an equal competitive basis, but are placed in a disadvantageous category requiring special justification for acceptance." Studies of medical school admissions policies make it "apparent that the women rejected from the small female applicant pool were equal to or better than men accepted and that they were rejected because their sex quota was filled."[44] Dr. Norris also pointed out that these discriminatory policies are carried out with government aid. Federal grants to medical colleges in 1968–69 totalled $775 million, or more than half of the total expenses of these institutions.[45]

Similarly, the woman applicant to law school receives "special attention." "Although no law school uses either a formal or informal quota system to limit the number of females enrolled," writes Beatrice Dinerman, "they do admit to scrutinizing female applicants more closely for ability and motivation. Some schools give close consideration to the marital status of women before granting admission, and other schools take into account that a female student might not graduate and continue to practice. It follows that a male applicant is often chosen over an equally qualified female."[46]

### *Financial assistance*

Although women have voiced strong suspicions that they are discriminated against in financial aid, evidence of bias in this area has been more difficult to obtain than in the area of admissions. Data from the Office of Education indicated that women undergraduates share in student assistance funds in approximately the same proportion as their percentage of enrollment. Dr. Muirhead stated that 43% of college undergraduates are women; that women constitute about 43% of all students receiving national defense loans, 49% of students benefiting from the work-study college program, 40.2% of those receiving equal opportunity grants and 36.5% of those participating in the guaranteed loan program.[47]

Complaints of discrimination have centered upon financial assistance for graduate study. Scattered testimony suggested that women fare slightly worse than men in receiving graduate fellowships. In 1969 women represented 33% of the graduate student population; they received 28% of the awards given under the NDEA Title IV fellowship program for graduate students and 29.3% of graduate academic awards under NDEA Title VI.[48] Other testimony indicated that women are less likely to receive graduate fellowships than men because they are less likely to complete their doctoral programs than men are,[49] or because of the departmental judgment "that among Ph.D's women are less likely than men to make full use of the training throughout their lifetimes and that accordingly scarce fellowship money should be given more frequently to men."[50] Women refute this argument by pointing to the the high proportion of women with Ph.D's who are working.[51] They also charge that attrition rates among women graduate students are aggravated because of disparagement and lack of support from the faculty.

The higher rate of attrition among women than men in college and graduate degree programs cannot be explained by any lack of high degree of commitment on the part of women students if the findings of a report on women at the University of Chicago are typical. A 1969 study of students at that institution produced responses "challenging the commonly held notion that women are less committed as students than men."

When asked what they expected to be doing ten years from now, 91 percent of the women respondents expected to be involved in a career as compared with 94 percent of the men. Only 5 to 6 percent of our women respondents said they would like or expected to be occupied with family alone ten years from now. Women and men appear to feel equally favorable about going to or being in graduate school. Furthermore, 62 percent of the women and 53 percent of the men respondents indicated that they would be "very disappointed" if they left school before completing their education.[52]

Dr. Harris, commenting on the report, pointed out that the average difference in attrition rates among men and women was 5% which she believed to be "statistically insignificant" and noted that at the College of Physicians and Surgeons at Columbia University, for example, the attrition rate of men students was equal to or greater than that of women students. She asserted that, in the opinion of those who have thought about this problem, the slightly higher attrition rates of women than of men graduate students . . . are largely explained by the lack of encouragement and by the actual discouragement experienced by women graduate students for their career plans. They are continually told that they will not finish, that women's minds are not as good as men's minds, that the "difficulties of combining the career (sic) of marriage and motherhood with a career as a scholar and teacher" will be beyond the physical and mental energies of all but the "exceptional woman" (but never, of course, of men, who are presumed to spend no time at all being husbands and fathers). Women are told that they are welcome first and foremost as decoration for the male academic turf. Even in academe, women are sex objects. . . . It is not surprising that some women decide that they are not cut out to be scholars or teachers. Rather it is surprising that the dropout rates are not far higher than they are. That they are not I take to be evidence of women graduate students' higher degree of commitment, produced as a natural defense mechanism in response to the sexual discrimination that they are meeting in their daily lives.[53]

The point was made that the higher attrition rate of women is used as an excuse to deny fellowships, which will "almost certainly increase their attrition rate, thus making the prophecy self-fulfilling."[54]

Women are further disadvantaged because they tend to be concentrated in those fields where aid is lowest. Jo Freeman of the University of Chicago suggested "that there is a relationship between those fields into which women are channeled by their undergraduate advisers and social expectations and those fields which have lower social and economic prestige as indicated by the funds available in such fields."[55] Another disadvantage is the failure of scholarship programs to make provision for part time study. Dr. Sandler testified:

> Practically all Federal scholarship and loan aid is for fulltime study—a practice that works to virtually eliminate married women with families from receiving such aid, since they need a part-time schedule. Indeed, many schools forbid or discourage part-time study, particularly at the graduate level, thus punishing women who attempt to combine professional training and home responsibilities simultaneously.[56]

Direct evidence of discrimination in the award of scholarships and fellowships was presented against two institutions. The Women's Rights Committee of the New York University Law School submitted a statement pointing out that until the women's group pressed for reforms in 1969, "NYU had totally excluded women, for more than 20 years, from the prestigious and lucrative Root-Tilden and Snow Scholarships. Twenty Root-Tilden Scholarships worth more than $10,000 each were awarded to male "future public leaders" each year. Women, of course, can't be leaders, and NYU contributed its share to making that presumption a reality by its exclusionary policy."[57] A similar charge against Cornell University stated that the Cornell catalogue lists scholarships and prizes open to Arts and Science undergraduates totalling $5,045 annually to be distributed on the basis of sex. Women are eligible to receive only 15% or $760 of this amount compared with $4,285 for men.[58]

### *The problem of disparagement*

Despite the high potential demonstrated by superior achievement records at high school and undergraduate school, numerically women steadily lose ground as they move up the academic ladder. In 1968, women were 50.4% of high school graduates, 43.4% of those receiving B.A. degrees, 35.8% of those awarded master's degrees, 12.6% of those receiving doctorates, and 4.6% of those receiving first professional degrees.[59] Dr. Muirhead, while recognizing that "his pattern of dropping percentages of women as the degree scale goes up results from a complex mix of factors," stressed the role of admissions policies and disparagement. He told the Subcommittee:

> Both the reality and fear of higher admissions standards certainly play a part.
>
> Women are generally encouraged to think of themselves as potential wives and mothers, and discouraged from thinking of themselves as potential professionals. Professors, counselors, and parents often discourage women from taking postgraduate training, except in "women's fields". They may argue that it is too hard for a woman to get a job in the professions, that she's only get married and stop working anyway, and so on.[60]

Other testimony also emphasized the negative effects upon women students of low expectations on the part of faculty and apathy on the part of counselors.[61]

The fact that many remarks addressed to women students by male faculty are often meant to be humorous does not remove the sting or the impact of the disparagement. Dr. Harris told the Subcommittee, "When President Nathan Pusey of Harvard realized that the draft was going to reduce the num-

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ber of men applying to Harvard's graduate school, his reaction was "We shall be left with the blind, the lame and the women." She asserted that the Chicago report on women "confirmed what most of us have known from personal experience for a long time, namely, that women receive significantly less support for career plans than men do." [62]

The most common manifestation of disparagement is the failure of male faculty members to take women students "seriously." Dr. Harris declared:

One remark above all is repeatedly made to women students . . . [who] are asked again and again "Are you really serious?" Since the vast majority of women students are as serious as the men students, the women start questioning themselves. Are they supposed to be more serious than men are? Are male students more serious than women students? How serious do you have to be? It is even asked of women who have completed their PhD's at great personal and financial cost when they apply for their first job.[63]

Typical remarks collected and reported by women students on various campuses are illustrative of the low expectations of faculty:

"You're so cute, I can't see you as a Professor of anything."

"Why don't you find a rich husband and give all this up."

"There are already too many women in this Department."

"We expect women who come here to be competent good students, but we don't expect them to be brilliant or original."

"Women are intrinsically inferior." [64]

The impact of such remarks is described in an analysis by a group of women graduate students at the University of Chicago, which stated in part:

Comments such as these can hardly be taken as encouragement for women students to develop an image of themselves as scholars. They indicate that some of our professors have different expectations about our performance than about the performance of male graduate students—expectations based not on our ability as individuals but on the fact that we are women. Comments like these indicate that we are expected to be decorative objects in the classroom, that we're not likely to finish a PhD, and if we do, there must be something "wrong" with us. . . .

Expectations have a great effect on performance. Rosenthal and Jacobson (1968) have shown that when teachers expected randomly selected students to "bloom" during the year, those students' IQs increased significantly above those of a control group. . . . It would be surprising to find that graduate schools are immune to this phenomenon. When professors expect less of certain students, those students are likely to respond by producing less.[65]

The enormous waste of talent and human resources in this process is indicated by a National Manpower Council report that only one of 300 women in the United States who have the potential to earn a Ph.D. degree actually obtains it, compared to one in 30 men.[66]

*Placement*

College placement officials are also charged with acquiescence in the discriminatory practices of private employers. Since colleges and universities are important recruiting centers for employment, one witness stressed the impact of the refusal of educational institutions to recommend students to potential employers with a record of sexual discrimination. "I cannot think of any single action that would have more beneficial effect for women than for all institutions of higher education to refuse to cooperate with sexist employers," she told the Subcommittee.[67] Dr. Sandler called attention to the "blatant discriminatory ads" labelled "male only" and "female only" contained in the *College Placement Manual* published by the College Placement Council to which over 1,000 colleges and universities belong. Noting that this publication is used on practically every college campus as well as by the Department of Defense and that such advertising violates Title VII of the Civil Rights Act of 1964 as well as Executive Order 11246, as amended by Executive Order 11375, Dr. Sandler observed:

University administrators who would be horrified if a placement bulletin for their students listed job openings for "whites only," apparently see little or nothing wrong with job openings that read "male only." [68]

*Faculty appointments, income, promotions, and tenure*

Inequities based upon sex exist at every level of the teaching profession. Although teaching in elementary and secondary schools is commonly considered to be a "woman's field," as in other areas women are concentrated at the lower levels. More than two-thirds (67.6%) of the teachers in the elementary and secondary schools are women, but they constitute only 22% of the elementary school principals and only 4% of the high school principals. A recent survey by the National Education Association (NEA) reported that of 13,000 school superintendents only 2 women were found.[69]

At the college faculty level the attrition noted in the degree ladder becomes even more pronounced. They are not only a small minority but also tend to remain in the lower, non-tenured positions, are promoted more slowly and paid less than their male colleagues. Women view discrimination in this area as particularly blatant because of the highly select group of well qualified academic women who complete their doctoral programs against numerous odds and because,[70] "contrary to academic mythology, a higher percentage of women with doctorates go into college teaching than do men with doctorates." [71] Noting that the rigorous preselection process and other disadvantages to which women students are subjected are such that "only the hardiest survive," Dr. Harris told the Subcommittee:

As a group, women Ph.D.s have higher IQs, higher G.P.A.s, and higher class rank, than their male counterparts. How ironic that women who have demonstrated such promise and such dedication to their chosen fields should continually be treated as though their work is and should be peripheral and of secondary importance to society. Like all women, even this select group is treated as second-class citizens.[72]

Reports from various institutions [73] revealed that while the number of women receiving doctorates is steadily increasing, the proportion of doctorates awarded to women bears little relationship to their opportunities for faculty positions. For example, a study of Columbia University showed that from 1957 to 1968 the proportion of doctorates earned by women rose from 13% to 24%, but the percentage of women in tenured positions on the graduate faculty remained constant—at slightly over 2%.[74] A 1970 report on the University of Wisconsin revealed that the proportion of women in the Ph.D. programs in ten departments varied from 26% to 58%, but that the proportion of women faculty members in these departments ranged from 9.6% to 19.3%.[75] In 1968-69, women constituted 22% of the graduate students and were awarded 19% of the Ph.D.'s in the Harvard University Graduate School of Arts and Sciences, but there were no women among the more than 400 tenured professors of that graduate school.[76]

Dr. Alice Rossi's study of 188 graduate departments in sociology in 1968-69 graphically illustrates the downward spiral of women in sociology as they move from undergraduate majors to the chairmanship of a graduate department of sociology. According to her findings, women are:

[In percent]

| | |
|---|---|
| Of college seniors planning graduate work in sociology | 43 |
| Of master's candidates in graduate school | 37 |
| Of Ph.D. candidates in graduate school | 30 |
| Of full-time lecturers and instructors | 27 |
| Of full-time assistant professors | 14 |
| Of full-time associate professors | 9 |
| Of full-time professors | 4 |
| Of chairmen of graduate sociology department | 1 |
| Of the 44 full professors in the five elite departments (Berkeley, Chicago, Columbia, Harvard, Michigan) [77] | 0 |

A similar nationwide survey of the position of women in English and modern foreign language departments conducted by the Modern Language Association's Commission on Women in 1970 produced findings strikingly similar to those of the Rossi study. Replies from 595 questionnaires, or 60% of the sample, showed that while women represented 69% of all seniors planning graduate study in foreign languages, 65% of those planning graduate study in English, 55% of the graduate students in modern languages, 55% of the master's degrees awarded in the past five years and 31% of the Ph.D.'s received in the past five years, they constitute only 33% of the faculty with full-time appointments and only 18% of the full-time professors.[78]

A nationwide study of degree-granting institutions conducted by NEA in 1966 found that women represented 18.4% of the full-time faculty, distributed as follows: 32.5% of instructors, 19.4% of assistant professors, 15.1% of associate professors and 8.7% of full professors.[79] These figures, however, do not reveal the complete picture. Women comprise 40% of the facilities in the teachers colleges and 10% or less in the prestigious private institutions and large state universities.[80] A report on the distribution of women faculty at ten high endowment institutions of higher education in 1960 showed that the proportion of women faculty ranged downward from 9.8% of instructors to 2.6% of full professors.[81] Similarly, in ten high enrollment institutions, women comprised 20.4% of all instructors, 12.7% of all assistant professors, 10.1% of all associate professors and 4.3% of all professors.[82]

Other testimony noted that more than half of all academic women are concentrated in the fields of English, fine arts, health, education and physical education; that they are more likely to teach beginning college students—freshmen and sophomores—than upperclassmen or graduate students, and that they tend to cluster in the lower non-tenured ranks.[83] While it was suggested that "concentration in the untenured ranks may be attributed to fewer advanced degrees among women, to their youth, to the recency of appointment, or to the fact that it is not always easy to find a woman in the proper field," [84] other testimony stressed discriminatory hiring patterns and policies of promotion as significant factors in the lower percentage and low status of women on college facilities. It was also charged that women are losing ground to men even in faculty positions at women's colleges, which traditionally have provided the best teaching opportunities for women.[85]

Law schools, particularly, have made a poor showing in hiring women as faculty. The enrollment of women in law school has almost tripled from 1962 to 1969, when women numbered 5,000, or 6.9% of the 72,000 students enrolled in law school.[86] The White study showed that in 1966, of 2,355 teaching faculty members in 134 accredited law schools, only 51 women were full-time teaching faculty members in 38 law schools—slightly over 2%.[87] No appreciable change has

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occurred since 1966. The 1969–70 Directory of Law Teachers lists 53 women full-time faculty in 45 of a total of 144 accredited law schools.[88]

The pattern of inequality continues in the area of academic salaries. A 1965–66 NEA survey found that the median annual salary of female faculty members was 16.6% lower than the median salary of men: $7,732 compared with $9,275.[89] In every faculty rank women earned less than their male counterparts. The median salary for women full professors was $11,649 compared with $12,678 for male full professors. Differentials ranged from 6% among instructors to 8.8% among full professors.[90] Dr. Muirhead concluded from these and other facts that even taking into account such factors as low expectations, lack of day care centers, or institutional practices, "the inequities are so pervasive that direct discrimination must be considered as paying a share, particularly in salaries, hiring, and promotions, especially to tenured positions." [91]

Prejudice against hiring academic women is manifested in departmental practices as well as in the attitudes of hiring officials. The use of the informal grapevine to fill job openings almost automatically excludes women. For example, [t]he cliche opening, "Do you know a good man for the job", results in continuous but largely unconscious discrimination against women. Most of the men who use this phrase would deny vigorously that they are discriminating and would not also consider a "good woman," but the "good man" is an effective subconscious roadblock because the image we all tend to carry in our minds of a scholar is a masculine one.[92]

Graduate faculties "receive regular requests for graduate students with all but their PhDs completed, man preferred." [93] Professional organizations accept "male" openings. Dr. Lawrence A. Simpson discovered in his study of attitudes of hiring agents—deans, departmental chairmen and faculty—that while a statistically significant number of females were preferred over less qualified males, when men and women were equally qualified, hiring officials strongly favored the selection of males for faculty appointments. "Women should recognize," he concluded, "well in advance of their adventure into the academic marketplace, that they typically may not be selected on an equal basis with men. Prospective academic women must recognize that they should, in effect, *be more highly qualified than their male competitors* for higher education positions." [94]

Simpson's findings are consistent with the Astin study of women with doctorates.[95] One-third of the respondents listed that employer discrimination had been a problem in their career development. The types of discrimination most frequently encountered were: differential salaries for men and women with the same training and experience (40%), differential policies based on sex with respect to tenure, seniority, and promotions (33%), unwillingness to delegate administrative responsibility and authority to professional women (33%), and prejudices against hiring women (25%). Significantly, the Astin study also found that the women who reported employer discrimination were more likely to have more publications to their credit and more honors and awards for professional achievement than those who did not. The high correlation between achievement and the reporting of discrimination by employers suggested that these women's "complaints cannot be interpreted as a form of rationalization or as an excuse for their failure to achieve recognition. Furthermore, their comments are not based on hearsay, but reflect their own experience as professionally active women." [96]

Evidence of discrimination in promotions was substantiated by studies of differences in rates of promotion of men and women with similar training who have spent comparable periods of time in their professions. Drawing upon the Harmon 1968 study of Ph.D.'s, Dr. Rossi developed a table which confines attention to those men and women whose employment has "always" been academic, and compares the ascent to the pinnacle of full professorship of men holding social science doctorates with that of single women and of married women. *After twenty years of an academic career, 90 per cent of the men had reached a full professorship, something achieved by only 53 per cent of the single women and 41 per cent of the married women.* From these data it seems clear that it is sex and not the special situation of married women that makes the greatest difference to career advancement.[97]

A similar conclusion was reached by women investigating rates of promotion of men and women faculty members at a single institution. Dr. Harris described the study as follows:

> At Columbia, we tried the crude but we think useful procedure of simply counting the numbers of men and women on the faculty in fulltime positions who received their PhDs in the 1960s and then studying their distribution by rank. There were 195 male faculty at Columbia who received doctorates in the 1960s. 47% are assistant professors, 38% are associate professors and 15% are full professors. There are 25 women fulltime faculty at Columbia in the same category. 96% (24) are assistant professors, one is an associate professor (tenure granted this year, PhD 1961); there are no female full professors who obtained their PhD in the 1960s at Columbia. Well over 50% of the men who earned their PhDs in 1963 and 1964 have been given tenure. None of the women in that group has been promoted to the rank of associate professor with tenure, although one woman is an assistant professor with tenure, an anomaly brought about by the extreme reluctance of her department to promote her. These differences in promotion rates are too great for discrimination against women not to be a large part of the story.[98]

### *Anti-nepotism rules, "no-inbred-hiring" rule, tenure system*

Rules against nepotism, the "no-inbred hiring" rule and the tenure system are cited as among those policies which perpetuate discriminatory patterns. While nominally neutral, these rules fall more heavily upon women, who are already a disadvantaged group. About one-half of all institutions of higher education and over two-thirds of the large public colleges in the United States have regulations which prohibit or restrict the employment of more than one member of a family, according to a recent study by the American Association of University Women.[99] Originally formulated to discourage favoritism based upon family relationships, anti-nepotism rules impose a disproportionate burden upon academic women married to academic men. In many instances a faculty wife holding a Ph.D. is barred from teaching at the same university in which her husband holds an appointment. If employed at all, she is likely to hold a temporary or part-time position in a low category, work as a research associate or teach in a department outside of her own field. A report on nepotism at the University of California, Berkeley, included a survey of 23 faculty wives with Ph. D.'s, and found that "most feel that their talents are not fully utilized in their present positions, and that they are actually qualified for regular positions on the University faculty." [100]

A committee on the status of women of the American Political Science Association has recommended that rules against nepotism be abolished, that employment and advancement be based solely upon professional qualifications, and that consideration be given to the formulation of "conflict of interest rules to serve the legitimate functions nepotism rules served in the past." [101]

According to Dr. Ann Scott of the University of Buffalo, the "no-inbred-hiring" rule, under which a department or university refuses to hire any person who holds a degree from that university, "works like the nepotism rule, to deprive women of equal employment opportunities." The rule penalizes women who may marry faculty men and move to universities where their husbands have been appointed and who may wish to start or complete their studies. It also penalizes women graduate students who marry faculty men. When these women earn their degrees, Dr. Scott pointed out, they discover that the university will not employ them. She felt that the "no-inbred-hiring" policy "by its very existence, discourages many women from coming back for degrees at all, because there seems to be simply no way of using a long and expensive training." In her view, the rule was established in an era when there was much less movement from campus to campus, when universities were smaller in every respect, and when there was much less variety in subject, discipline and approach. "Today's university, however, needs no such discriminatory restrictions." [102]

Dr. Scott characterized "the anterioscleroic tenure system" as "one of the most powerful and unexamined areas of discrimination against women in the university world." The thrust of her complaint is that the system is culturally biased against women because of its emphasis upon "production" and the secret conditions under which selections are made, all of which "create a competitive situation in which her cultural conditioning puts her at the greatest disadvantage." Dr. Scott argued that the criterion of publication emphasized in tenure proceedings is "inherently favorable to men" because, as studies indicate, "the professional work of women, regardless of quality, is granted less credence than that of men, publication is probably harder for women to achieve when they do produce, especially in a world of male dominated editorial boards." While recognizing that the University cannot "automatically repeal cultural conditioning," nevertheless in the matter of tenure it can effect some reforms to bleed the system of sexist bias. It can adopt a broader base of tenure criteria to include emphasis upon teaching service to the University and the community, and the necessity of women as visible life models. Because tenure means promotion, and because the patterns clearly show that as presently practiced it discriminates against women as a *selection system,* the whole tenure procedure should be subjected to a validation study on this basis alone.[103]

Reforms of the tenure system are long overdue and, in fact, would benefit men as well as women. The medieval flavor of secret proceedings in which a candidate's future career is decided *ex parte* seems incongruous in an institution dedicated to free and open inquiry. There is support for the view that tenure proceedings should be modified to permit a candidate to appear before the ad hoc tenure committee and answer questions, defend his or her record, or present his or her views, as is common practice in other personnel situations. An analogy to such a proceeding is the appearance of a doctoral candidate to defend his or her doctoral thesis.

### ADMINISTRATION

If women fare poorly in academic posts, they fare even worse in college administration. Dr. Scott, describing the "progressive evaporation of women as we climb the academic ladder" at the University of Buffalo, noted that while women are only 5% of the full professors at that institution, they are only 1% of the top administration.[104] "The

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almost total exclusion of women from visible responsible positions in the administration of Columbia and all other institutions of higher education (with the possible exception of some women's schools) is clear evidence of discrimination against women," declared Dr. Harris.

As Dr. Rita W. Cooley, professor of political science at New York University said, "The universities tend to think automatically in terms of men when filling a new position. In a sense it's like racism. This discrimination exists at an unconscious level. There is no opportunity for women in administration. We are up against a strong cultural phenomenon, mass male chauvinism. If a women wants to be an administrator, the field is very narrow."[105]

## EFFECTS OF UNDERUTILIZATION OF TRAINED WOMEN

As the foregoing discussion indicates, colleges and universities are deeply implicated in the systematic process which prevents women from fully realizing their potential as individuals in a society which boasts of its upward mobility. These institutions contribute to the vast waste of human resources and must share responsibility for some of the results.

An obvious result of this cumulative process is that women frequently work at jobs unrelated to their training or for which they are overqualified, or they perform the duties of a higher position without the benefits of advanced rank and higher pay. An analysis of women graduates form the College of Letters and Science at the University of Wisconsin illustrates this point:

> [I]n 1964, of 9 working female former economics majors, 1 reported herself a welfare aid worker, 2 were secretaries, 1 a traffic assistant, 1 a clerk, 1 a recreation aide, 1 a physical education teacher, while only 3 held positions vaguely related to their economics training. Of the 63 male economics graduates who began working that year, needless to say none were secretaries or clerical workers; most were company trainees. . . . Even in English, a 'woman's field', several reported themselves as secretaries while their male counterparts were doing considerably better in range of job area and remuneration. In mathematics that year, all male working graduates except 1 Peace Corps volunteer were in jobs related to mathematics; of the 7 working female mathematics graduates 1 reported as a welfare aide and 1 as a waitress.[106]

This analysis is consistent with the report of the Women's Bureau that in March, 1969, a startling 7 percent of employed women who had completed 5 or more years of college were working as service workers (including private household), operatives, sales workers, or clerical workers. Nearly one-fifth [19%] of employed women with 4 years of college were working in these occupations, as were some two-thirds [69%] of those who had completed 1 to 3 years of college.[107]

A more far-reaching result for which colleges and universities are directly responsible is the continued lack of "role models" to encourage younger women to raise their goals and expectations and the perpetuation of the stereo-type that women are not a good academic investment. As the report on women at Columbia University pointed out:

> We are puzzled by the Graduate Faculties' commitment to train women, but not to hire them. We know from experience as students and teachers that it is vital for women students in graduate school to see women engaged in the academic profession as naturally as men are. . . . By the obvious scarcity of women training graduate students, the institution acclimatizes women students to their professional expectations: low rank, low pay, low status, a slower rate of promotion than their male colleagues, and a more difficult tenure hurdle.[108]

Similarly, the report on women at Harvard University noted that the "scarcity of women scholars in the senior ranks at Harvard tends to discourage the professional aspirations of women students and junior faculty."[109] Thus, the self-fulfilling prophecy continues to operate. "Since women have a visibly lower chance of success than men," said Dr. Scott, "fewer women are inspired to try, lowering in turn the numbers of women available" for academic positions.[110]

## REMEDIES AGAINST SEX DISCRIMINATION IN EDUCATION

### *Judicial approaches*

The enormous extent to which the federal government subsidizes sex discrimination in higher education can be measured by the 1969 National Science Foundation report that 2,174 colleges and universities received $3,367 million from the federal government for the fiscal year 1968.[111] Citing these figures, Congresswoman Martha Griffiths charged that "it is a national calamity that agencies of the Federal Government are violating our national policy, as well as the President's Executive Orders, by providing billions of dollars of Federal contracts to universities and colleges which discriminate against women both as teachers and as students."[112]

Since colleges and universities are specifically exempted from present federal legislation with respect to discrimination based on sex, women must pursue available remedies through constitutional litigation or through the policies of the executive branch of the federal government. State-supported institutions of higher education, of course, are agencies of the state, and discriminatory policies of these institutions constitute state action within the purview of the equal protection clause of the fourteenth amendment. In *Kirstein v. Rector and Visitors*,[113] a lower federal court ruled that the exclusion of women applicants from the all-male campus of the University of Virginia was a denial of equal protection where the facilities available to women were not equal. The application of the fourteenth amendment to compel equalization of Negro teachers' salaries in the state school systems[114] and to prohibit racially discriminatory practices within state universities[115] may be extended to comparable issues of sex discrimination in appropriate cases.

The question arises whether discriminatory policies of *private* educational institutions receiving federal grants come within the scope of the due process clause of the fifth amendment. Here, too, by reference to precedents relating to racial discrimination, it is arguable that these institutions perform a public function and that the public character of the institution combined with direct involvement of the government through financial aid is sufficient to bring the fifth amendment into play.[116] This theory warrants greater consideration by lawyers concerned with women's rights. It should be pointed out, however, that the infrequency of constitutional attacks upon sex-based discrimination in institutions of higher education may be partly explained by the traditional attitudes of judges in the federal courts. As Mary Eastwood points out,[117] the Supreme Court and some of the lower federal courts have often applied different standards to sex discrimination and race discrimination.[118]

### Executive Orders 11246 and 11375

A potentially powerful remedy is provided by Executive Order 11246,[119] as amended by Executive Order 11375,[120] which became effective October 14, 1968. The Order prohibits discrimination in employment because of race, color, religion, sex or national origin by federal contractors and subcontractors and on federally assisted construction contracts. Contractors are required to take affirmative action to ensure equal employment opportunity which "shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."[121] Under regulations issued by the Department of Labor, federal contractors with a contract of $50,000 or more and 50 or more employees must develop a written plan of affirmative action to prevent the prohibited discrimination.[122] The Order is administered by the Office of Federal Contract Compliance (OFCC) in the Department of Labor, and the Secretary of Labor is empowered to cancel present contracts or declare the ineligibility for future contracts of contractors and subcontractors found guilty of discrimination. Sex Discrimination Guidelines were issued by OFCC on June 9, 1970.[123]

While overall responsibility for the enforcement of Executive Order 11246 remains with the OFCC, each contracting agency is primarily responsible for obtaining compliance with OFCC regulations with respect to contracts entered into by such agency. In October, 1967, the Department of Health, Education and Welfare (HEW) was designated by OFCC as "Compliance Agency" for all universities and colleges holding federal contracts. A Contract Compliance Division was established in HEW's Office of Civil Rights which began assigning field staff in July, 1968.[124]

During 1969 only three individual complaints charging sex discrimination were received by HEW.[125] Since January 31, 1970, however, the Women's Equity Action League (WEAL) and the National Organization for Women (NOW) have taken the initiative in filing complaints on behalf of women as a class against approximately 350 colleges and universities and several professional organizations.[126] The complainants seek affirmative action programs to upgrade all women employees as well as women professors and administrative workers, to develop policies of vigorous recruitment of women for faculty positions, to achieve salary equity between men and women in similar academic positions, to raise the number of women admitted to all levels of higher education and to eliminate sex-based discriminatory advertising. By May, 1971, compliance reviews were underway or had been initiated at an estimated 190 institutions of higher education, including Harvard, M.I.T., Brown, Tufts, University of Maryland, George Washington University, City University of New York (CUNY), the state university system of New York (SUNY), University of Pittsburgh, University of Michigan, University of Wisconsin, Yale University, University of Southern Illinois, Bryant College and Providence College in Rhode Island, several colleges in California, several institutions in Florida, Georgia and North Carolina and at least one in Arizona.[127]

Although the threat of withdrawal or suspension of government funds can be an effective instrument against discrimination in higher education, experience under Executive Order 11246 has already revealed serious weaknesses of coverage and enforcement. The order is directed to employment, and the question arises whether the requirement to ensure equal opportunity in "selection for training and apprenticeship" is broad enough to cover college admissions and other inequities experienced by women students. As suggested earlier, college training is analagous to apprenticeship training and should be considered an integral part of the employment process. This is particularly true of admissions to graduate and professional schools since such training is a prerequisite to academic employment. Graduate status is also required for appointment to teaching or research assistantships. The issue of graduate school admissions arose in compliance negotiations between HEW and the University Michigan and has been referred to Secretary

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Elliot Richardson for interpretation. At this writing no official interpretation has been issued [128]

*Order No. 4: Goals and timetables*

A second disputed issue has arisen with respect to the general enforcement of the sex provisions of Order 11246. What has been described as "the heart of OFCC's enforcement procedure" [129] is Order No. 4, which became effective January 30, 1970 and sets forth detailed requirements of the contents of affirmative action programs to be developed by federal contractors. Order No. 4 declares in part:

> An acceptable affirmative action program must include an analysis of areas in which the contractor is deficient in the utilization of minority groups and, further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus to increase materially the utilization of minorities at all levels and in all segments of his work force where deficiencies exist.[130]

Order No. 4 specifically includes "sex," and the Rules and Regulations governing "Obligations of Contractors and Subcontractors" were amended on January 17, 1969, to provide: "The term 'minority group' as used herein shall include, where appropriate, female employees and prospective female employees." [131]

Since underutilization is one of the chief complaints of academic women, they argue that there is nothing in the Executive Order, the Rules and Regulations or in Order No. 4 which "indicates that women should have different or separate treatment or that priorities of enforcement should be establish." [132] Nevertheless, on July 25, 1970, at a meeting between Secretary of Labor James Hodgson and representatives of women's groups concerned with equal employment opportunity, the Secretary gave no "assurance . . . that goals and timetables would be applied against sex discrimination." He reportedly told the group that the "employment problems of women are different" and must be "handled on a different basis." He indicated that Order No. 4 was "designed for racial minorities" and that the Labor Department had "no intention of applying exactly the same approach to women in Order No. 4." On July 30, 1970, a group of angry women picketed in front of the Waldorf-Astoria Hotel in which 350 members of the National Association of Manufacturers met for a closed "video-teleconference" briefing being conducted by the OFCC and being telecast simultaneously from Washington to 14 cities. Women also demonstrated against the Department of Labor in each of the other 13 cities. [133]

On July 31, 1970, Secretary Hodgeson issued a statement declaring that while the Guidelines on Sex Discrimination and Order No. 4 are both directed to the same result and both require affirmative action on the part of Government contractors to attain that result. [t]he primary procedural distinction between the two is the requirement set forth in Order No. 4 that Government contractors analyze their work force and their potential work force recruitment area and where deficiencies in the utilization of minorities exist, that goals and timetables be set to which the contractors' efforts shall be directed to eliminate these deficiencies.

> . . . It is clear that utilization of the concept of goals and timetables as an anti-sex discrimination tool is appropriate. It is equally clear that the exact goals and timetables development procedure set forth in Order No. 4 is not sufficient to meet the more difficult and elusive problems of sex discrimination.
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> . . . [A]ccordingly, different criteria must be employed in examining work force patterns to reveal the deficiencies in employment of women than are used in revealing racial deficiencies. Such criteria may well include the availability of qualified women in the employer's own force and the interest level expressed in respective occupations, as evidenced by applications for employment in those occupations. . . . The Department plans to engage in an immediate series of consultations with interested parties. Representatives of women's groups, employers, and unions as well as acknowledged authorities on human resources will be invited to participate. . . . The information thus obtained [from the consultative groups] will be utilized by the Department in expanding and further defining its approach toward employing affirmative action to achieve an equal employment opportunity for women among Government contractors and by applying the concept of goals and timetables.[134]

*The "immediate"* consultations did not materialize. An advisory group of representatives from women's organizations, labor, management and authorities on human resources has been named and will meet in four separate committees beginning in early May, 1971, to consider the question of determining availability of women under Order No. 4. The groups may then meet together to formulate a report and recommendations to the Department of labor.[135] Meanwhile, the important issue of goals and timetables as applied to sex discrimination remains unclarified.

*Limited resources of Office of Civil Rights, HEW*

A serious overall problem is the meagre extent to which an agency with limited staff and resources can enforce compliance in an area of widespread and long entrenched patterns of sex discrimination, of resistance to change, and in the face of competing claims of other disadvantaged minorities covered by the Executive Order. As Daniel Zwerdling pointed out in an article reviewing HEW's compliance efforts at the University of Michigan, HEW has the zeal but not the money or staff to make its order stick. . . . HEW has only 27 people to investigate contract compliance at thousands of universities and hospitals under its jurisdiction around the country. They have to worry not only about sex, but race, national origin . . . and religion as well, HEW devoted an extraordinary amount of time to the first phase of negotiations with Michigan, but can't possibly follow up on the University's progress. Complaints against 200 [now approximately 350] more colleges are sitting in its files. "Our investigations now are hit and miss," says James Hodgedon, HEW's Chicago regional director.[136]

HEW does not deny this estimate of the situation. Although seeking an expansion of its staff, the Office of Civil Rights presently has only two to three investigators in each of its ten regional offices which must cover the entire United States. It must deal with the recalcitrance and evasions of educational institutions which, while they seek government funds, have traditionally resisted any type of governmental regulation. Zwerdling reported that Harvard University refused to cooperate with HEW investigators until government funds were held up and that while HEW has blocked contracts to four universities so far, only two—Michigan and Pittsburg—have presented remedial programs.[137] In these circumstances the inability of HEW to exercise continuous supervision over contract compliance in thousands of colleges and universities makes the potential relief granted under Executive Order 11246 a slender reed upon which to rely.

*Proposed legislation*

It seems clear that congressional action with adequate funding is necessary if women are to achieve full equality of opportunity in higher education. Several legislative proposals toward this objective introduced in the 91st Congress were not acted upon. The most comprehensive proposed legislation now pending before Congress is H.R. 916, the Mikva Bill, introduced in the House on January 22, 1971. Hearings on the bill were held before Special Subcommittee No. 4 of the House Judiciary Committee in March and April, 1971.[138]

Among other things, the Mikva Bill would provide for:

(1) amendment of Titles IV and IX of the Civil Rights Act of 1964 [139] to authorize the Attorney General to institute suits or to intervene in actions brought to eliminate sex discrimination in public facilities and in education;

(2) amendment of Title VI of the 1964 Act to prohibit sex discrimination in federally assisted programs;

(3) amendment of Title VII of the Act to extend coverage to state and local governments and to educational institutions, and to empower the Equal Employment Opportunity Commission to issue enforceable orders;

(4) amendment of the Fair Labor Standards Act to apply the equal pay provisions [140] to executive, administrative and professional employees;

(5) requirement that the Commissioner of Education make a national survey of public and private schools and colleges at all levels of education (including technical and vocational as well as academic institutions) to determine the extent of denial of equal educational opportunity by reason of sex and to report the results of the survey with recommendations for legislation to Congress within eighteen months of the date of enactment.

The Nixon Administration has introduced legislation (H.R. 5191; S. 1123) to amend and extend the Higher Education Act of 1965.[141] Section 1001(a) of the bill provides:

> No person in the United States shall, on the ground of sex, be discriminated against by a recipient of Federal financial assistance for any education program or activity. The preceding sentence shall not, however, preclude differential treatment based upon sex where sex is a bona fide ground for such differential treatment.

Critics of the bill point out that the loosely worded exception can virtually nullify the objective of the bill. Section 1001(b) prohibits discrimination in employment on grounds of sex by recipients of federal financial assistance for any educational program or activity.[142] Federal agencies empowered to extend federal financial assistance to educational programs or activities are directed to administer the provisions of section 1000 by issuance of rules, regulations or orders which shall not become effective unless and until approved by the President.[143]

The Administration bill does not extend the coverage of Title VII to educational institutions but provides for the administration of the equal employment opportunity provision by federal contract granting agencies. The language of the BFOQ exception differs from that of Title VII covering the same subject matter. The variance of language and the multiplicity of agencies involved in the administration of the equal employment opportunity provision may cause confusion and lack of uniformity in the interpretation and application of the provision.[144]

An alternative to the Administration bill is the proposed Higher Education Act of 1971 (H.R. 7248) introduced by Congresswoman Edith Green. The bill would amend Title VI of the Civil Rights Act of 1964 to prohibit sex discrimination against any person under any educational program or activity receiving federal financial assistance. The bill, however, exempts from coverage any "educational institution in existence on the date of enactment of this subsection at which on that date substantially all the students are of the same sex." This exception is so broad that conceivably it could be interpreted to exempt from coverage law schools, medical schools and other professional schools which present-

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ly have only a few women students enrolled. The word "substantially" should be omitted. The bill also provides a 5-year exemption for schools now in the process of changing from one-sex to coeducational institutions, and certain religious institutions are exempted.

The Green bill would also amend section 701(b) of Title VII of the Civil Rights Act to cover teachers in public and private institutions; it would amend the Civil Rights Act of 1957 [145] to extend the jurisdiction of the United States Commission on Civil Rights to sex discrimination, and would amend the Fair Labor Standards Act to apply the equal pay provisions to executive, administrative and professional employees.

Meanwhile, the modest gains which women have made during the period of rapid expansion of higher education are seriously threatened. The predicted number of teaching positions in the 1970's will be fewer than the Ph.D.'s available.[146] Moreover, most colleges and universities are in financial difficulties, and many of these institutions are beginning to reduce their professional and administrative staffs. In view of women's marginal position in academic institutions, they are highly vulnerable to retrenchment policies. In addition, an unprecedented number of trained women will be seeking employment during the 1970's. The prospects look bleak unless women press vigorously for effective legislation to protect their foothold in higher education and reinforce their legitimate claims through organized protests.[147]

As this entire discussion has intimated, the present unrest among women, particularly in the academic world, has a valid basis and shows no signs of abatement. Failure to deal with this national problem can have serious consequences, for as Dr. Rossi has warned:

> Should these protections against discrimination on the basis of sex not be enacted, we can predict increased militancy by American women. Such militancy among women, as among blacks, will not be evidence of psychological instability but a response to the frustration of rising expectations. Militant women in the 1970s may be spurned and spat upon as the suffragists were during the decade before the vote was won for women in 1920. But it must be recognized that such militant women will win legal, economic, and political rights for the daughters of today's traditionalist Aunt Bettys, just as our grandmothers won the vote that women exercise today.[148]

It is in the best interests of the Nation to heed this warning.

FOOTNOTES

[*] Professor of American Studies, Brandeis University.

[1] *See, e.g.*, Freeman, *The Legal Basis of the Sexual Caste System*, 5 Val. U.L. Rev. 203 (1971).

[2] For a discussion of the unique characteristics of sex inequality see Rossi, *Sex Equality: The Beginnings of Ideology*, in Voices of the Feminism 59 (M. Thompson ed. 1970).

[3] Note, *"A Little Dearer Than His Horse": Legal Stereotypes and the Feminine Personality*, 6 Harv. Civ. Rights—Civ. Lib. L. Rev. 269 (1971).

[4] President's Task Force on Women's Rights and Responsibilities, A Matter of Simple Justice 18–19 (1970). For proposed legislation in the 92d Congress to implement the recommendations of the Task Force, see the Mikva Bill, H.R. 916, 92d Cong., 1st Sess. (1971). *See* note 135 *infra* and accompanying text.

A more recent report from the Women's Bureau on 1969 wage and salary income showed that the gap in median earnings of full-time year-round (worked 35 or more hours a week for 50 to 52 weeks) female and male workers had narrowed slightly since 1968. In 1969 women's median wage or salary income was 60.5% ($4,977) of that of men ($8,227) compared with 58.2% ($4,457) of that of men ($7,664) in 1968. However, the gap was still wider than it was in 1955, when women earned a median wage or salary income of 63.9% of that earned by men. U.S. Dep't of Labor, Women's Bureau, Fact Sheet on Earnings Gap 1, Feb., 1971. The table reproduced below from the report indicates that women earn substantially less than men with the same education.

TABLE 1.—MEDIAN INCOME IN 1969 OF FULL-TIME YEAR ROUND WORKERS, BY YEARS OF SCHOOL COMPLETED

[Persons 25 years of age and over]

| Years of school completed | Women | Men | Women's income[1] |
|---|---|---|---|
| Elementary school: | | | |
| Less than 8 years | $3,603 | $5,769 | 62.5 |
| 8 years | 3,971 | 7,147 | 55.6 |
| High school: | | | |
| 1 to 3 years | 4,427 | 7,958 | 55.6 |
| 4 years | 5,280 | 9,100 | 58.0 |
| College: | | | |
| 1 to 3 years | 6,137 | 10,311 | 59.5 |
| 4 years | 7,396 | 12,960 | 57.1 |
| 5 years or more | 9,262 | 13,788 | 67.2 |

[1] As percent of men's income.

Source: U.S. Department of Commerce, Bureau of Census: Current Population Reports, P-60, No. 75. Id. at 3.

[5] The most recent analyses that attempt to explain [the new feminist movement] . . . have stressed the impact of participation in the civil rights movement upon younger women, who drew the same lessons their ancestors did from involvement in the abolitionist cause in the 19th century. Without detracting from the significance of this point at all, I would only point out that this holds for only one group within the younger generation of women now involved in women's liberation, and that the emergence of the liberation movement all told postdates other significant signs of an awakening among American women much earlier in the decade. In fact, I would argue that it was the changed shape of the female labor force during the period beginning with 1940 that gradually provided the momentum that led to such events as the Kennedy Commission on the Status of Women, and eventually to the formation of new women's rights organizations like the National Organization for Women. So long as women worked largely before marriage while they were single, or after marriage only until a first pregnancy, or lived within city limits where there was a diversity of activities to engage them, there were feeble grounds for any significant movement among women focused on economic rights, since their motivation in employment was short-lived and their expectations were to withdraw when they became established in family roles. It was the gradual and dramatic change in the profile of the female labor force from unmarried young women to a majority of older married women that set in motion a vigorous women's rights movement. It is only among women who either expect or who find themselves relatively permanent members of the work force whose daily experience forced awareness of economic inequities on the grounds of their sex. This is changing now under the influence of women's liberation groups among the young, but this movement did not exist to trigger the larger movement early in the last decade.

Address by Alice S. Rossi, Barnard College Conference on Women, April 17, 1970, reprinted in *Hearings on Section 805 of H.R. 16098 Before the Special Subcomm. on Education of the House Comm. on Education and Labor*, 91st Cong., 2d Sess. 1060 (1970) [hereinafter cited as *1970 Hearings*].

Section 805 of H.R. 16098 proposed to amend the Civil Rights Act of 1964 to include "sex" in Title VI prohibiting discrimination in federally assisted programs, to extend the provisions of Title VII relating to equal employment opportunity to educational institutions, to extend the jurisdiction of the United States Civil Rights Commission to include "sex," and to apply the equal pay provisions of the Fair Labor Standards Act to "executive, administrative or professional employees, including those employed as academic administrative personnel or teachers in elementary or secondary schools." The bill was not acted upon by the 91st Congress. Similar provisions are contained in the Mikva Bill (H.R. 916) and in the Green Bill (H.R. 7248) currently pending in the 92d Congress. Hearings on the Mikva bill were held before the Special Subcommittee No. 4 of the House Committee on the Judiciary in March and April, 1971. *See* notes 138–44 *infra* and accompanying text.

[6] U.S. Dep't of Labor, Women's Bureau, Women Workers Today 1 (1970). Congresswoman Edith Green, chairman of the House Special Subcommittee on Education, stated in her opening remarks on section 805, H.R. 16098, that as of April, 1971, "there were 31,292,000 women in the labor market constituting nearly 40 percent of the total." *1970 Hearings* 2.

[7] N.Y. Times, Apr. 11, 1971, at 1, col. 3.

[8] Waldman, *Marital and Family Characteristics of the U.S. Labor Force*, Monthly Labor Rev., May, 1970, reprinted in *1970 Hearings* 977, 978.

[9] Most women work to support themselves or others. Of the 37 million women who worked at some time in 1968, 17 percent were widowed, divorced, or separated from their husbands; many of these women were raising children in a fatherless home. Another 23 percent of the women workers were single. In addition, married women whose husbands' incomes are inadequate or barely adequate to support their families often are compelled to seek gainful employment. Eight percent of all women who worked in 1968 had husbands with annual incomes below $3,000. An additional 22 percent had husbands whose incomes were between $3,000 and $7,000 at a time when the annual income necessary even for a low standard of living for an urban family was estimated at $6,567.

U.S. Dep't of Labor, Women's Bureau, Underutilization of Women Workers 1 (1971) [hereinafter cited as Underutilization].

[10] Traditional counseling emphasizes women's adaptation to their traditional roles in society. Cornell's [University] placement office maintains a "special" bulletin board labeled "Opportunities for Women" which describes "Exciting Secretarial Opportunities" followed by a list of typing school scholarships, with no mention of executive training programs except where it is in a uniquely feminine field like clothes merchandising. . . .

Cornell placement has also allowed visiting recruiters to request to see only male applicants for positions which women are equally qualified for.

Kusnetz & Francis, The Status of Women at Cornell, 1969, reprinted in *1970 Hearings* 1078, 1081.

[11] *Special Report: Why Doesn't Business Hire More College Trained Women?* Personnel Management—Policies and Practices (April, 1969), reprinted in *1970 Hearings* 174.

[12] Underutilization 13. In engineering, monthly starting salaries were $844 for women, $872 for men; in accounting $746 for women, $832 for men; in economics and finance, $700 for women, $718 for men; in mathematics and statistics, $746 for women, $733 for men. *Id. See generally* U.S. Dep't of Labor, Women's Bureau, Fact Sheet on the Earnings Gap, Feb., 1970. A more recent report just released, however, shows that the jobs and salaries to be offered to June, 1971, college graduates (in a survey conducted in November, 1970, and covering 191 companies) indicates that while women are consistently offered salaries lower than men, the gap has narrowed somewhat; the 1971 gap

"ranges from $68 down to only $1 per month difference in engineering." Women's Bureau Report, *supra* note 4, at 5–6.

[13] White, *Women in the Law*, 65 Mich. L. Rev. 1051 (1967). The study was based upon usable questionnaires returned from 1,298 female and 1,329 male respondents drawn from 108 law schools. *Id.* at 1053.

[14] *Id.* at 1057.

[15] *Id.* at 1070–84.

[16] *Id.* at 1085.

[17] *Id.* at 1087. Note that 982 of 1,298 female respondents reported that at least one statement of a policy against hiring women had been made to them. *Id.* at 1086.

Wage differentials in federal employment are reflected in grade differentials. The National Association of Women Lawyers, in an analysis of figures obtained from the United States Civil Service Commission, found that in 1964 the 634 female attorneys represented 6.2% of the total general attorneys employed by the federal government. "1969 showed a grade distribution difference between men and women attorneys that would indicate about one grade difference for all the levels. Thus, a woman attorney could expect to be hired at a lower grade and/or raised at a slower level." Statement of Margaret Laurance, *1970 Hearings* 1120, 1121. *See* Dinerman, *Sex Discrimination in the Legal Profession*, 55 A.B.A.J. 951 (1969); Sassower, *Women in the Law: The Second Hundred Years*, 57 A.B.A.J. 329 (1971).

[18] Equal Employment Opportunity Report No. 1, Job Patterns for Minorities and Women 1966 (1969).

[19] Table 2.

[20] U.S. Civil Service Comm'n, Bureau of Managemet Services, Study of Employment of Women in the Federal Government 1967 at 17 (1968).

TABLE 2.—EARNINGS OF FULL-TIME YEAR-ROUND WORKERS BY SEX, 1969

| Earnings | Women | Men |
|---|---|---|
| Total | 100.0 | 100.0 |
| Less than $3,000 | 14.4 | 5.7 |
| $3,000 to $4,999 | 36.2 | 9.8 |
| $5,000 to $6,999 | 29.7 | 18.2 |
| $7,000 to $9,999 | 14.9 | 31.2 |
| $10,000 to $14,999 | 4.2 | 23.9 |
| $15,000 and over | .7 | 11.1 |

Source: U.S. Department of Commerce, Bureau of the Census Current Population Reports, P-60, No. 75. Women's Bureau Report, supra note 4, at 3.

TABLE 3.—MEDIAN WAGE OR SALARY INCOME OF FULL-TIME YEAR-ROUND WORKERS, BY SEX AND SELECTED MAJOR OCCUPATION GROUP, 1969

| Major occupation group | Median wage or salary income | | |
|---|---|---|---|
| | Women | Men | Women's as percent of men's |
| Professional and technical workers | $7,309 | $11,266 | 64.9 |
| Nonfarm managers, officials, and proprietors | 6,091 | 11,467 | 53.1 |
| Clerical workers | 5,187 | 7,966 | 65.1 |
| Salesworkers | 3,704 | 9,135 | 40.5 |
| Operatives | 4,317 | 7 307 | 59.1 |
| Service workers (except private household) | 3,755 | 6,373 | 58.9 |

Source: U.S. Department of Commerce, Bureau of the Census: Current Population Reports, P-60, No. 75. Women's Bureau Report, supra note 4, at 2.

[21] Statement of Irving Kator, Assistant Executive Director, U.S. Civil Service Commission, in *1970 Hearings* 727–34.

[22] In comparison to world-wide or even black and other minority groups in the United States, these figures [on women lawyers] could not be more depressing. Of the nation's 320,000 lawyers, 8,000 are women and approximately 3,000 are Negroes. . . . This means that one of every 7,300 Negroes is an attorney and only one of every 12,500 women is an attorney. A United Nations Commission report ten years ago shows that in Denmark where women comprise approximately the same proportion of the population as they do in the U.S., 50% of the lawyers are women. In the Soviet Union 36 percent of the attorneys are women, and in Germany women are 33 percent of the lawyers. France has 14 percent women attorneys and Hungary claims 9 percent of its public prosecutors are women, while Poland indicates that 25 percent of its judges are women.

Statement of Margaret Laurance, *supra* note 17, at 1127, *citing* 1959 U.N. Commission on the Status of Women Report. The Laurance statement also cites the *Directory of American Judges*, indicating that in 1967 there were only 200 women of 9,000 judges on the bench. *Id.* at 1122. *See also* Statement of the Women's Rights Committee of New York University School of Law, reprinted in *1970 Hearings* 584.

In 1965, women constituted 6.7% of all physicians in the United States, significantly lower than the Philippines (24.7%), Finland (24.2%), Israel (24%), Thailand (23.8%), Germany (20%), Italy (18.8%), Scotland (17%) and England and Wales (16%). Of 29 reporting countries only 3 (South Vietnam, Madagascar and Spain) had a smaller percentage of women physicans than the United States. *See* U.S. Dep't of Labor, Women's Bureau, Facts on Prospective and Practicing Women in Medicine (1968), reprinted in *1970 Hearings*, 523, 538–39. *See also* note 45 *infra*.

[23] Underutilization 17–19.

[24] President's Task Force, *supra* note 4, at 20–21. Dr. Ann Scott testified at hearings held on H.R. 16098 on June 19, 1970, that of 278,000 registered apprentices under the Bureau of Apprenticeship Training in 1968, less than 1% were women; of the 370 occupations represented, women were being trained for only 47. *1970 Hearings*, 209, 211. On July 31, 1970, Mrs. Elizabeth Duncan Koontz, Director of the Women's Bureau, testified at the hearings on H.R. 16098, and in answer to a question by Mrs. Green, Chairman of the House Special Subcommittee on Education, as to whether there had been any improvement of women's position in the various job training programs, replied:

I think the percentage of increase, according to our latest figures out of 1969, do suggest some increases.

Mrs. Green. Do you know what—and in manpower training or retraining programs?

Mrs. Koontz. In the various programs under MDTA, 44 percent, and on the job, 35 percent. I feel the New Careers program, indicating 70 percent at this time, is one of the most encouraging. With the Job Corps, it is still 29 percent, which indicates room for much improvement and encouragement.

*1970 Hearings*, 691, 700.

[25] U.S. Dept. of Labor, Women's Bureau, Women Private Household Workers, May, 1970, reprinted in *1970 Hearings*, 357. For data on the special problems of Negro women, see U.S. Dep't of Labor, Women's Bureau, Negro Women in the Population and the Labor Force, December, 1967; U.S. Dep't of Labor, Women's Bureau, Fact Sheet on Educational Attainment of Nonwhite Women, May, 1967; President's Commission on the Status of Women, Report of Consultation on Problems of Negro Women (1963); Pressman [Fuentes], *Job Discrimination and the Black Woman*, Crisis, March, 1970, at 103; Murray, *The Liberation of Black Women*, in Voices of the New Feminism 87 (M. Thompson ed. 1970); Reid, "Together" Black Women, 1970, unpublished study prepared for the Black Women's Community Development Foundation, Washington, D.C.

[26] *See* U.S. Dep't of Labor, Women's Bureau. Background Facts on Women Workers in the United States 11–12, Tables 7 and 8, 1970. *See also* Table 3, *supra* note 19.

[27] 116 Cong. Rec. H1588 (daily ed. March 9, 1970).

[28] Statement to the House Special Subcommittee on Education, in *1970 Hearings* 298, 301 (emphasis in original). Dr. Sandler, who is Chairman, Action Committee on Federal Contract Compliance in Education, WEAL, summarized women's activities to eliminate discriminatory practices as follows:

"Women on campuses all over the country have begun to form groups, across departmental and professional lines. They are beginning to do more than complain; they are examining their own university's commitment and treatment of women. Women faculty, women staff, and women students are all participating. Women's rights are being included in a variety of student protest activities.

"Women in the professions are becoming highly sensitive to the need for the recognition of the inequities within their professions. At the Fall 1969 meeting of the American Psychological Association, women psychologists charged that organization with accepting male job openings (WEAL [Womens' Equity Action League] has since filed formal charges against the American Psychological Association and the American Personnel and Guidance Association for this very reason). The women proceeded to form a new group, the Association for Women Psychologists. In other professional organizations such as the American Sociological Association, the Modern Language Association. The American Historical Association, the American Political Science Association, the American Society for Microbiology, and the American Association for the Advancement of Science, women have begun to form caucuses and organize as pressure groups to end discrimination within their respective professions. In April 1970, a Professional Women's Caucus emerged which will represent all professional women. These are but a few examples of activity by women in the academic and professional worlds."

*1970 Hearings* 307.

[29] U.S. Dep't of Labor, Women's Bureau, *supra* note 6, at 3. Of all women with 8 years of elementary school education, 31% are in the work force; of those with 4 years of high school education, 48%; of those with 4 years of college, 54%.

[30] Astin, *Factors Associated with the Participation of Women Doctorates in the Labor Force*, Personnel & Guidance J., Nov., 1967, reprinted in *1970 Hearings* 843. *Compare* the statement of Dr. Muirhead of the Office of Education, Health, Education and Welfare, citing a 1966 OEO study which found that 85% of women receiving doctorates between 1958 and 1963, were working full time. *1970 Hearings* 645. According to Dr. Sandler, "79% of women Ph.D.'s have had uninterrupted careers."

[31] 29 U.S.C. § 206(d) (1964). For a discussion of the Equal Pay Act, see Berger, *Equal Pay, Equal Opportunity and Equal Enforcement of the Law for Women*, 5 Val. U.L. Rev. 326 (1971).

[32] 29 U.S.C. § 213 (1964).

[33] 42 U.S.C. §§ 2000e et seq. (1964). *See* Fuentes, *Federal Remedial Sanctions: Focus on Title VII*, 5 Val. U.L. Rev. 374 (1971); Mink, *Federal Legislation to End Discrimination Against Women*, 5 Val. Rev. U.L. 397 (1971).

[34] 42 U.S.C. § 2000e-1 (1964).

[35] *See* note 5 *supra*.

[36] *See* Letter from Nancy E. Dowding, President, Women's Equity Action League, to Hon. George P. Schultz, Secretary of Labor, Jan 31, 1970, reprinted in *1970 Hearings* 742.

[37] *1970 Hearings* 642, 643. A ten-year survey (1961–1970) of graduates of the School of Arts and Sciences at Brandeis University showed that during that period women were awarded 49.1% of all degrees conferred but

took 51.7% of all honors and 40.2% of the highest honors. *Id.* at 336.

[38] *Id.* at 242, 248–49.

[39] Letter from Shiela Tobias, then assistant to the vice-president for academic affairs at Cornell University (now Associate Provost, Wesleyan University) to Hon. Edith Green, July 12, 1970, reprinted in *1970 Hearings* 1077.

[40] *1970 Hearings* 643.

[41] Tobias letter, *supra* note 39.

[42] *1970 Hearings* 510–79.

[43] *Id.* at 526, 574. In 1968–69, of 19,021 male applicants to medical school, 9,116, or 47.9% were accepted. *Id.* at 574.

[44] *Id.* at 511–12.

[45] *Id.* at 522–23. A 1968 report of the Women's Bureau emphasized an urgent need for the training of additional health workers, including physicians, to meet the growing health needs of the nation due to continuing population growth, increased longevity, expanded medical services under medicare and medicaid programs and increasing awareness of the health problems of disadvantaged groups. The United States Public Health Service estimated that 400,000 physicians would be needed by 1975—100,000 more than were active in 1968. Tables in the report compared the proportion of women graduates from medical schools in the United States with other countries in 1965. The 503 women graduates from medical schools in the United States for that year constituted only 7.3% of the total. By contrast, the Republic of Germany reported 921 women graduates from medical school, or 35.8% of the total. In India, Thailand, Austria and the combined countries of England, Scotland, and Wales, women represented one-fourth or more of the total medical school graduates in 1965. In 10 additional countries, they were between 10% and 20% of the total. In only 2 (New Zealand and the Republic of China) of 22 reporting countries was there a smaller proportion of women graduates than in the United States. *See 1970 Hearings,* 537–38.

[46] Dinerman, *supra* note 17, at 951.

[47] *1970 Hearings* 645.

[48] *Id.* at 646.

[49] Statement of Dr. Ann Sutherland Harris, Assistant Professor of Art History, Columbia University [Hereinafter cited as Harris statement], in *1970 Hearings* 247.

[50] Report of the Committee on University Women, Women in the University of Chicago 43, May 1, 1970, reprinted in *1970 Hearings* 753, 804 [hereinafter cited as Chicago Report].

[51] *See* note 30 *supra* and accompanying text.

[52] Chicago Report, *supra* note 50, at 43, reprinted in *1970 Hearings* 805.

[53] Harris statement, *supra* note 49, in *1970 Hearings* 247.

[54] *Id.*

[55] Chicago Report at 116, reprinted in *1970 Hearings* 878.

[56] Statement of Dr. Bernice Sandler, in *1970 Hearings* 301.

[57] Statement of Mrs. Diane Blank and Mrs. Susan Deller Ross, in *1970 Hearings* 584, 588.

[58] Kusnetz & Francis, The Status of Women at Cornell, 1969, in *1970 Hearings* 1078, 1080.

[59] Statement of Peter Muirhead, in *1970 Hearings* 643.

[60] *Id.* at 643–44.

[61] *See 1970 Hearings* 200–01, 289, 805, 810.

[62] Harris statement, *supra* note 49, in *1970 Hearings* 243, 246.

[63] *Id.* at 246.

[64] *Id.* at 245.

[65] *Id.* at 245–46, citing R. Rosenthal & L. Jacobson, Pygmalion in the Classroom: Teacher Expectation and Pupil's Intellectual Development (1968). For a discussion of psychological barriers to female achievement, see Horner, *Fail: Bright Women,* Psychology Today, Nov., 1969, reprinted in *1970 Hearings* 896.

[66] Shaffer & Shaffer, *Job Discrimination Against Faculty Wives,* 36 J. of Higher Educ. 10–15 (Jan., 1966). *See also 1970 Hearings* 1022–23.

[67] Harris statement, *supra* note 49, in *1970 Hearings* 256.

[68] Statement of Bernice Sandler, in *1970 Hearings* 320.

[69] Muirhead statement, *supra* note 59, in *1970 Hearings* 644.

[70] *See* Harris statement, *supra* note 49.

[71] *1970 Hearings* 739.

[72] *Id.* at 249.

[73] See *1970 Hearings* for statistical reports and statements on the status of women for the following colleges and universities: Brandeis, *id.* at 336; University of Buffalo, SUNY, *id.* at 212; California State College at Fullerton, *id.* at 202; University of California at Berkeley, *id.* at 1143; University of Chicago, *id.* at 753, 994; Columbia University, *id.* at 242, 260; Cornell University, *id.* at 1077–78; Eastern Illinois University, *id.* at 1222, 1223; Harvard University, *id.* at 183; University of Illinois, *id.* at 1225; Kansas State Teachers College, *id.* at 1226; University of Maryland, *id.* at 1024; New York University Law School, *id.* at 584; University of Wisconsin, *id.* at 190.

[74] Muirhead statement, *supra* note 59, in *1970 Hearings* 645. A comparison of doctorates earned by women in various departments of Columbia University and the percentage of women in full time faculty positions in these departments showed the following:

*French:* 66.6% of their doctors go to women—no full-time female faculty.

*Art history and archeology:* 54% of the doctorates are earned by women, 26% of the tenured faculty and 71% of the non-tenured faculty are women.

*Biological Sciences:* 45% of the doctorates are awarded to women; 9.5% of the tenured faculty and 33% of the non-tenured faculty are women, *i.e.,* 2 men and 1 woman.

*Anthropology:* 44% of doctorates go to women—no full-time female faculty.

*Psychology:* 36% of doctorates go to women—no female faculty.

*English and comparative literature:* 27% of doctorates are earned by women. One tenured woman listed in Graduate Faculty (4% of the tenured faculty).

*Sociology:* 26.6% of doctorates go to women; one woman assistant professor (1967–68).

*History:* 17% of doctorates earned go to women. One tenured woman; one non-tenured woman.

*Philosophy:* 17% of doctorates go to women; no women on faculty.

*Public law and government:* 16% of doctorates earned by women; one female instructor (non-tenured). There are 35 men in the department, 26 of whom are full professors.

Columbia Women's Liberation, Report From the Committee on Discrimination Against Women Faculty, Columbia University, reprinted in *1970 Hearings* 260, 264.

[75] Report of Women's Research Group, Women's Group, Women at Wisconsin (1970), reprinted in *1970 Hearings* 190, 196.

[76] Sandler statement, *supra* note 68, in *1970 Hearings* 299. *See also* Preliminary Report on the Status of Women at Harvard, March 9, 1970.

[77] Rossi, *Status of Women in Graduate Departments of Sociology 1968–1969,* 5 American Sociologist, Feb., 1970, reprinted in *1970 Hearings* 1942, 1252.

[78] Report on the Status of Women, Modern Language Association Commission on Women (undated), circulated in April, 1971. Available in manuscript from F. Howe, Goucher College, Towson, Md. 21204.

[79] Muirhead statement, *supra* note 59, in *1970 Hearings* 644.

[80] *See* statements of Hon. Martha Griffiths and Dr. Bernice Sandler, in *1970 Hearings* 299, 739.

[81] Harris statement, *supra* note 49, in *1970 Hearings* 253, citing study by John Parrish. The ten high endowment colleges were: Chicago, Columbia, Cornell, Harvard, Johns Hopkins, M.I.T., Northwestern, Princeton, Stanford and Yale. Parrish's figures were based upon eight reporting institutions. *Id.*

[82] *Id.* The ten high enrollment institutions were: Berkeley, C.C.N.Y., Indiana, Illinois, Michigan, Michigan State, Minnesota, N.Y.U., Ohio State and Pennsylvania State.

[83] Testimony of Miss Virginia Allan, Chairman, The President's Task Force on Women's Rights and Responsibilities, in *1970 Hearings* 450, 453, citing Simpson, Sex Discrimination in the Academic World (Business and Professional Women's Foundation, 1970).

[84] Testimony of Dr. Victoria Schuck, Professor of Political Science, Mount Holyoke College, in *1970 Hearings* 469, 471.

[85] Only Wellesley, in fact, of the Seven Sisters colleges has more female than male faculty in tenured ranks and in chairmanships. In the rest, male faculty dominate the upper levels and in some cases the lower levels as well. At Vassar, women have dropped from 55.6% of the faculty in 1958–59 to 40.5% in 1969–70. The number of women with full professorships has dropped during the same period from 35 to 16. At Vassar it was thought that a co-educational faculty provided a healthier atmosphere for the women students. The reverse does not apparently apply to Harvard, Princeton, Yale or Brown. Barnard has two more female than male full-time faculty but the men have 78% of the full professorships and chairmanships. . . . Women learn to confine their job applications to co-educational institutions and to women's schools. Men may work anywhere, on the other hand, and can even expect to receive preferential treatment at the best women's colleges.

Harris statement, *supra* note 49, in *1970 Hearings* 252.

[86] Statement of Margaret Laurance, National Association of Women Attorneys, in *1970 Hearings* 1125. In 1962, there were 1,800 women, or 3.8%, of the 49,000 students enrolled in law school.

[87] White, *Women in the Law,* 55 Mich. L. Rev. 1051, 1112 n.107 (1967).

[88] Laurance statement, *supra* note 86, in *1970 Hearings* 1124. The Women's Rights Committee of N.Y.U. Law School reported only 35 women faculty members in 36 leading law schools for the period 1968–1970. It also noted that 20% of the N.Y.U. Law School 1971 graduating class are women but that the percentage of female faculty at N.Y.U. is only 1.3%. *Id.* at 586, 591.

[89] National Education Association, Research Division, *Salaries in Higher Education Continue to Grow,* NEA Research Bulletin, May 1966, at 50–57. *See also* Bayer & Astin, *Sex Differences in Academic Rank and Salary Among Science Doctorates in Teaching,* J. of Human Resources, Spring, 1968, reprinted in *1970 Hearings* 1031.

[90] National Education Association, *Salaries in Higher Education 1965–1966,* Research Report 1966-R 2, Feb., 1966. *See also* U.S. Dep't of Labor, Women's Bureau, Fact Sheet on the Earnings Gap, Feb., 1970, reprinted in *1970 Hearings* 17.

Comparison of the salaries of male and female academicians at the University [of Illinois] is possible based on responses to a questionnaire distributed by the American Association of University Professors. Approximately 400 questionnaires were sent to all known female academicians and a sample of males who matched them on department membership rank. For all 84 matched pairs of respondents, the mean salaries reported for 1969–70 were $11,830.38 for men and $10,461.05 for women. These data strongly suggest that men and women within the same departments, holding the same rank, tend not to be paid the same salaries: women on the average earn less than men.

Loeb, Report on the University of Illinois, Urbana-Champaign, Ill., in *1970 Hearings* 1225.

[91] *1970 Hearings* 645.

[92] Harris statement, *supra* note 49, in *1970 Hearings* 256.

[93] *Id.*

[94] Simpson, *A Myth is Better Than a Miss: Men Get the Edge in Academic Employment,* College and University Business, Feb., 1970, reprinted in *1970 Hearings* 920, 922 (emphasis supplied). *See also* Simpson, A Study of Employing Agents' Attitudes Toward Academic Women in Higher Education, Sept., 1968 (unpublished doctoral thesis, the Pennsylvania State University).

[95] H. Astin, The Woman Doctorate in America (1969) reprinted in *1970 Hearings* 968.

[96] *Id.* at 971–73.

[97] Rossi, *supra* note 77, in *1970 Hearings* 1250 (emphasis in original). *See also* Harmon, Careers of Ph.D.'s: Academic versus Nonacademic (Career Patterns Report No. 2, National Academy of Sciences) 1968.

[98] *1970 Hearings* 253.

[99] Shaffer & Shaffer, *supra* note 66. *See also* 1970 Hearings 1022, 1023. The Modern Language Association's Commission on Women reported that during 1969–70, five women filed a class action for declaratory judgment challenging the validity of the Arizona Board of Regents' anti-nepotism regulation at the University of Arizona. Upon the advice of the state's attorney's office that the anti-nepotism regulation was probably constitutionally indefensible, the Regents rescinded the regulation during the litigation and the plaintiff's suit was subsequently dismissed as moot. MLA Commission on Women, "On Nepotism" (undated). *See* note 78 *supra* and accompanying text.

[100] Committee on Senate Policy, Report of the Subcommittee on the Status of Academic Women on the Berkeley Campus, May 19, 1970, reprinted in 1970 Hearings 1143, 1154. For additional statements and data on nepotism regulations, see 1970 Hearings 209, 223–24, 1153–58.

[101] 1970 Hearings 494.

[102] *Id.* at 223–24.

[103] *Id.* at 226.

[104] *Id.* at 210.

[105] *Id* at 225. "We found [at Cornell University] . . . that among nonacademic employees there are no high-level women in the administration. Typically the female applicant for a job (with or without B.A. or M.A.) is given a typing test; the male employee is given an aptitude test." Tobias letter, *supra* note 39.

[106] Women's Research Group, Women at Wisconsin, 1970, reprinted in *1970 Hearings* 190, 192.

[107] Underutilization, *supra* note 9, at 17.

[108] Columbia Women's Liberation, Report from the Committee on Discrimination Against Women Faculty, Columbia University, reprinted in *1970 Hearings* 260, 263.

[109] Women's Faculty Group, Preliminary Report on the Status of Women at Harvard, March 9, 1970, reprinted in *1970 Hearings* 183, 186. *See also* Kusnetz & Francis, The Status of Women at Cornell, 1969, reprinted in *1970 Hearings* 1070, 1081.

[110] *1970 Hearings* 214.

[111] National Science Foundation, Federal Support to Universities and Colleges, Fiscal Year 1968 (Report No. NSF–69–12, Sept., 1969).

[112] *1970 Hearings* 738. *See* 5 U.S.C. § 7151 (1964) which declares: "It is the policy of the United States to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex or national origin. The President shall use his existing authority to carry out this policy." *Cf.* Williams v. McNair, 316 F. Supp. 134 (D.S.C. 1970) (three-judge court), *aff'd,* 91 S. Ct. 976 (1971).

[113] 309 F. Supp. 184 (E.D. Va. 1970). *See also* White v. Crook, 251 F. Supp. 401 (M.D. Ala. 1966) (holding invalid exclusion of women from state jury service); United States *ex rel.* Robinson v. York, 281 F. Supp. 8 (D. Conn. 1968); Commonwealth v. Daniel, 430 Pa. 642, 243 A.2d 400 (1968). The *Robinson* and *Daniel* decisions invalidated state statutes providing for more severe criminal penalties for women than for men convicted of certain offenses.

[114] *See, e.g.,* Alson v. School Bd., 112 F.2d 992 (4th Cir. 1940); Thomas v. Hibbitts, 46 F. Supp. 368 (M.D. Tenn. 1942); McDaniel v. Board of Pub. Instruction, 39 F. Supp. 638 (N.D. Fla. 1941); Mills v. Board of Educ., 30 F. Supp. 245 (D. Md. 1939).

[115] *See, e.g.,* McLaurin v. Oklahoma State Regents, 339 U.S. 737 (1950).

[116] *See, e.g.,* Evans v. Newton, 382 U.S. 286 (1966) (applying the "public function" theory to a racially segregated private park). *See also* Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961) (applying "state involvement" test); Bolling v. Sharpe, 347 U.S. 497 (1954) (applying the concept of equal protection through the fifth amendment to the federal government).

[117] Eastwood, *The Double Standard of Justice: Women's Rights Under the Constitution,* 5 Val. U.L. Rev. 281 (1971). *See* Diaz v. Pan American World Airways, Inc., 3 F.E.P. Cas 337 (5th Cir. 1971) (reversing lower court holding that sex is a bona fide occupational qualification for position of flight attendant). The appellate court, construing § 703(e) of Title VII, emphasized that the words "in those certain cases" and "reasonably necessary to the operation of that business" were chosen by Congress to limit the scope of the section and implied that the absence of such a limitation might open an enormous gap in the law which might "largely emasculate the act." *Quaere,* would the absence of this language in the Administration Bill, if enacted, have any emasculating effect?

[118] Hoyt v. Florida, 368 U.S. 57 (1961); Goesaert v. Cleary, 335 U.S. 464 (1948). *See also* Emerson, *In Support of the Equal Rights Amendment,* 6 Harv. Civ. Rights—Civ. Lib. L. Rev. 225 (1971); Dorsen & Ross, *The Necessity of a Constitutional Amendment,* 6 Harv. Civ. Rights—Civ. Lib. L. Rev. 216 (1971); Brown, Emerson, Falk & Freedman, *The Legal Basis of Equal Rights for Women,* 80 Yale L.J.—(1971).

[119] 3 C.F.R. 339 (1965). Executive Order 11246 became effective October 24, 1965. Part I of the Order applies the policy of equal opportunity to federal government employment; Part II applies to employment by government contractors and subcontractors.

[120] 3 C.F.R. 320 (1967). Executive Order 11375 amended Executive Order 11246 by substituting the word "religion" for "creed" and by adding "sex" as a prohibited basis of discrimination.

[121] 3 C.F.R. 339, 340 (1965).

[122] See 41 C.F.R. §§ 60–1.1 et seq. (1970).

[123] 35 Fed. Reg. 8888 (1970).

[124] Muirhead statement, *supra* note 59, in *1970 Hearings* 659.

[125] *Id.*

[126] Statement of Chairman, Action Committee on Federal Contract Compliance in Education, WEAL, April 16, 1971.

[127] Fields, *Federal Probes Into Sex Discrimination Provoke Controversy on Campuses,* Chronicle of Higher Education, March 22, 1971. Information obtained from Dr. Bernice Sandler and Dr. Ann Scott, Federal Compliance Coordinator for the National Orgonization for Women (NOW), April 30, 1971.

[128] Telephone inquiry to Mr. Joseph Wiley, Chief of Contract Compliance Field Coordination, Office of Civil Rights, HEW, Washington, D.C., April 28, 1971. *See also* Zwerdling, *Sex Discrimination on Campus: The Womanpower Problem,* The New Republic, March 20, 1971, at 11–13.

[129] Scott, *Feminism vs. the Feds: Woman's Place in the Work Force,* 2 Issues in Indus. Society 39 (1971).

[130] 35 Fed. Reg. 2586 (1970).

[131] 41 C.F.R. § 60–1.3(2) (1970).

[132] Scott, *supra* note 129.

[133] *Id.*

[134] *1970 Hearings* 695. Read into the record by Mrs. Elizabeth Duncan Koontz, Director of the Women's Bureau, Department of Labor.

[135] Information obtained from Dr. Ann Scott, *supra* note 129.

[136] Zwerdling, *supra* note 128.

[137] Some institutions are voluntarily developing affirmative action plans without governmental intervention. Ohio State University and the University of Southern California are two examples. Scott, *supra* note 129.

[138] On April 29, 1971, Special Subcommittee No. 4 approved the proposed Equal Rights Amendment (H.J. Res. 208) but temporarily postponed consideration of Representative Abner J. Mikva's bill. N.Y. Times, April 30, 1971, at 6, col. 4.

[139] 41 U.S.C. §§ 2000a et seq. (1964).

[140] 29 U.S.C. § 206(d) (1964).

[141] 42 U.S. §§ 2751 et seq. (Supp. 1V, 1968).

[142] Section 1001(b) provides:

> No recipient of federal financial assistance for an education program or activity shall, because of an individual's sex—(1) discharge that individual, fail or refuse to hire (except in instances where sex is a bona fide occupational qualification) that individual, or otherwise discriminate against him or her with respect to compensation, terms, conditions or privileges of employment; or (2) limit, segregate, or classify employees in any way which would deprive or tend to deprive that individual of employment opportunities or otherwise adversely affect his or her status as an employee.

*Compare* the language of the BFOQ exception above *with* that of section 703(e) of Title VII of the Civil Rights Act of 1964 which permits a BFOQ 'in those certain instances where . . . sex . . . is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. 42 U.S.C. § 2000e–2(e) (1964).

[143] Section 1002(a) provides:

> Each Federal department or agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of Section 1001 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President.

[144] *See* notes 142–43 *supra*. Note also that the Administration Revenue Sharing Bills (H.R. 6181; S. 1234) provide that revenues shared under the proposed act shall be considered federal financial assistance within the meaning of Title VI of the 1964 Civil Rights Act (42 U.S.C. § 2000d) which, as presently enacted, does not include a prohibition against sex discrimination.

[145] 42 U.S.C. §§ 1975 et seq. (1964).

[146] *See* Rossi, *Discrimination and Demography Restrict Opportunities for Academic Women,* College & University Business, Feb., 1970, reprinted in *1970 Hearings* 923.

[147] *Id.*

[148] Rossi, *Job Discrimination—And What Women Can Do About It,* Atlantic Monthly, March, 1970, reprinted in *1970 Hearings* 927, 930. This militant mood is not unique. The following comment is typical:

> More and more of us are refusing to be insulted by arthritic attitudes about women, whether they come from government, management, or union. If the price of being a lady is to earn 73 cents an hour less as a selector-packer than as a forklift truck operator, then we are going to take the 73 cents and the forklift. If having our cigarettes lighted and our doors opened means we earn half as much as the man who does these things for us, then we will open our own

> doors and carry our own matches, and lady be damned. If the government will not help us, then we will picket, sue, confront, lobby, and demonstrate until it does its job.
>
> Scott, *supra* note 129.

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## W. DON ELLINGER

Mr. KENNEDY. Mr. President, shortly before Christmas, a friendly face appeared in my office and asked:

> What is the best organization to which private funds can be sent to assure that they are used to feed, clothe, and house the Bangladesh refugees?

A few such organizations were suggested, and the gentleman was asked what project he was working on now. In his unassuming way, he told us that it was not really a project at all—just a little family undertaking; he explained that every year, each of his nine children saved an amount of their money for donation at Christmas time to a charity or cause of their choosing; that each year he matched the amount of his children's savings; and that the total was sent as a Christmas gift to those whom his family together had decided were most in need.

Always sensitive to the need of others, always sacrificing to fill those needs, always involved, always humble himself, yet always proud of each of the members of his family, Don Ellinger left my office.

When Don left, he left us, as always, full of admiration and respect. He left all of us with an example to follow, an example of how the unselfish and tireless efforts of one man can make such a difference even to those he had never met.

This brief story tells a lot, I think, about the life of Don Ellinger. That life ended on February 12, 1972, when he suffered a sudden heart attack and died at his home in Washington at the age of 56.

Many of the Members of this body knew him well and all of us mourn his loss. Throughout his career, his ability to get things done for the right reasons was recognized by many. Born and raised in Webster Groves, Mo., Don worked his way through Washington University. After his graduation in 1937, he became an organizer for the International Ladies' Garment Workers union in St. Louis, Mo., and later, in Dallas, Tex.

During World War II, he served as field representative for the Fair Employment Practices Commission, created by President Roosevelt, to eliminate job discrimination in some of this country's defense plants. Following the war, Don became an organizer for the CIO in Texas where his talents were quickly recognized, and he was elected president of the Texas State Industrial Union Council in 1947 and 1948. In this capacity he worked in the 1948 election campaign. He became area director for the CIO's political action committee with headquarters at Houston and was involved in many of the key congressional races in the Southwestern United States. After the merger of the AFL and the CIO, he joined the AFL–CIO Committee for Political Education—COPE—and served as director of its five-State Southwest region.

In 1961, Don came to Washington to work under Attorney General Robert Kennedy on the President's Committee on Juvenile Delinquency and Crime. He also assisted in developing President Kennedy's domestic Peace Corps and helped in the development of antipoverty legislation.

On the nomination of AFL–CIO President George Meany and COPE Director Al Barkan, Don was named labor director of the Democratic National Committee for the 1964 congressional elections.

In February 1966, Don was appointed national director of the machinists nonpartisan political league. Since that time, the MNPL has been recognized as one of the most effective and dynamic organizations of political action within the trade union movement.

Those who knew him at various stages of his life spoke eloquently of the Don Ellinger they remembered.

President Floyd Smith of the International Association of Machinists and Aerospace Workers said:

> Our union is stronger for the good work Don did; our country is a better place to live for the good work he did. Few men can claim as much.

The Reverend Wallace Ellinger, who officiated at Don's requiem mass at the Nativity Catholic Church, said of his brother:

> Epistle: From Mass of St. Joseph The Worker (May 1st): "Whatever you do, work at it with your whole being." (Colossians 3:23).
>
> Gospel: "I assure you, as often as you did it for one of my least brothers, you did it for me." (Matthew 25-31-46).
>
> Each of us is not called to be "the man for all seasons," as poetic touch has labeled the great St. Thomas More. Each of us is called to be "the man for this season"—the time of our lives.
>
> Don "had the time of his life." We know he enjoyed challenge. We know he enjoyed his work. We know he enjoyed life.
>
> Don's season in this world has ended. He had a sense of integration. I don't mean racial integration, although that was obviously there. He had learned to integrate to some happy extent a great love of life ("Whatever you do, work at it with your whole being") and the call to duty ("I assure you, as often as you did it for one of my least brothers, you did it for me").
>
> He respected life so much that he chose not to wear a uniform in World War II.
>
> He respected life so much that he used his life, not just "to make a living," but in the service of other men and women, as well, in the labor movement.
>
> He respected life so much that, while the atmosphere of our fleeting moment in this world whizzes by, tending toward casual killing of the unborn, he and Ruth shared with us nine beautiful works of their and God's creation—all of whom sit here this morning in the shock of loss we all share.
>
> He respected life so much that it was not enough that others live at the "minimum level of peace and justice," and so he accepted a call to help organize the ordinary working people to grow in the love of the Lord—justice.
>
> He respected life so much that human freedom of conscience and action among his children and friends was paramount—even while he tried to "organize them" into his way of thinking.
>
> He respected life so much that, while he often had "problems of Faith"—which would not budge or get out of the way for the god of "scientific evidence"—he, nevertheless, to the last, "persevered in the Faith."
>
> He accepted the Divine Life Jesus gave in Baptism as a necessary adjunct to life in this world, if a living relationship would exist with life in the hereafter.
>
> Work is an honorable activity. But we all have learned that every work is neither equally rewarding, nor even of equal value. And, some works of drudgery have very little to recommend them to rational man.
>
> The history of industrial development, of the labor movement and of big government, is familiar.
>
> Pope Leo XIII (1891) must have done many things, but one that still rings out in his call 80 years ago to re-examine the socio-economic arena so that each workingman gets a fair shake.
>
> Other Popes have added their "amens" to Leo:
>
> Pius XI in his Quadragesimo Anno in 1931;
>
> Pius XII in his Mystici Corporis in 1948;
>
> John XIII in his Mater et Magistra of 1965; and
>
> Paul XI in his Call to Action of 1971.
>
> Through documents of such depth, the Church has sought to express those principles of justice that the labor movement has steadily worked for.
>
> The front-rank labor organizers have been the men of action, seeking that fair sake for the ordinary people. The action folks.
>
> Don has been marching with solidarity over the years with many, seeking social justice—because only through justice can there be peace.
>
> A further word about Don and the Church. He, like all, re-examined his Faith many times over the years. If, today, the ambiguous phrase "liberal Catholic" means anything definite—Don was a "liberal Catholic" long before we heard the phrase.
>
> One could say that the more relaxed Catholic Church of today reflects the kind of Catholic Don has been.
>
> Perhaps his penchant for organizing tells why. He has worked some 35 years organizing men and women to obtain justice. His vision of God's Church-plan had to include good organization—a scene of Faith in Jesus, a set of goals that were within vision, an organized plan of operation. While others have found the Church wanting in their vision, Don remained the life-time combination of real-idealist,—or ideal realist—that found Jesus and His Church a necessary part of his one-time walk on this planet.
>
> He saw that not only unions were concerned about horizontal or vertical ways of functioning, but that also man must be always concerned both about the vertical relationship to the Father and the horizontal relationships with all of our brothers and sisters across the world.
>
> Don has now joined a whole list of persons—some famous—some known only to a small group, who have stepped out of active life here.
>
> As lovers of the Father we believe the Father sent His Son, as Messiah, to "bring us home" to the Father.
>
> Don has now taken that one little step ahead of us. He spent his life serving others.
>
> Jesus says to him: "I assure you, as often as you did it for one of my least brothers, you did it for me."
>
> In truth, Don has had "the time of his life."

At the requiem mass, Gordon Cole, editor of the Machinist, read to those in attendance the words which John McCully, Don's close friend from Texas, had written of him:

> For 20 years in Texas and other southwestern states—but primarily in Texas which was his home base—Don was deeply involved in every liberal political activity of any moment. He was a superb political strategist and analyst. He was a political pragmatist but not to the extent that his pragmatism

got in the way of his liberal idealism or his loyalty to the labor movement. I know former Senator Ralph Yarborough spoke the thoughts of many Texans in a telegram to the Ellinger family yesterday when he said: "For 20 years we have worked as brothers for better government for all Americans. Don was noble in thoughts, words and deeds. His accomplishments will aid all American life for generations." That testimonial was echoed this past weekend in the many calls and telegrams from the Texans who knew him well and who still considered him one of their own despite his Missouri birth and his move to Washington. As a national poiltical worker, he still kept his hand in—and rightfully so—when things were happening in Texas. This was demonstrated only recently when he was informed that Senator Yarborough was going to run for his old seat in the Senate. Don's immediate reply was: "We'll be there with him." Now Don, in person, won't be there to help, but he will be there in plans heretofore made and in the spirit of dedication and of work which he has passed along to others.

Although Don Ellinger spent his political years with labor and liberals in the higher echelons, he was no stranger to the drudegry and difficulties down where it finally counts—at the local level. He put in his years as an organizer and in the precincts. He walked the picket line. He was on the receiving end of beatings by antiunion thugs. Don Ellinger was a union man through and through, just as he was a political man through and through.

But above all, Don was a family man, and his nine children and lovely wife are testimony to that. They didn't always agree themselves—what 11 people, however close, do agree? But they argued their respective positions in calmness and without rancor, without lasting bitterness, albeit heatedly and with determination. He was a fierce competitor, a persuasive proponent of what he believed to be the right path to take—and he seldom, if ever, lost an argument . . . or at least admitted to losing.

Family man, political realist, union advocate—these things Don Ellinger was, but, most of all, he was a warm, loving human being with love and sympathy and understanding of his fellow humans.

Mr. Cole, in his own words, then said of Don:

> Don Ellinger was an important part of the Machinists Union Family for the last six years. He taught us a great deal and we came to think of him as one of the better things that has happened to our union. Under his direction, the Machinists Non-Partisan Political League matured and grew. No organization is more effective in its field.
>
> He was creative and energetic. He had courage—whether it was starting us on a campaign to rewrite Federal tax laws or arguing with the International President over an adequate budget for MNPL. He took pride in his professionalism, in being the IAM's "POL"—as he called himself. And he was the best.
>
> He was known far and wide and, to this day, I have never heard anyone speak of him in anger or resentment. His love for other human beings was boundless. He had already sent his check for the relief of the Bangladesh.
>
> Don would have been a star on any trade union staff. He was our star.
>
> Yet, I think most of us will miss him for more personal reasons: For being such a convivial drinking partner and traveling companion; for his store of machinist-type jokes that assured him the attention of any audience, for his good parties and his gamesmanship—whether it was those damned word games or his chess.
>
> We'll remember Don as the man who talked so affectionately of his wife and nine children.
>
> And we'll remember him for the plain and simple fact that he was one of the nicest guys to be with, such good company wherever he was.

For myself, I knew Don Ellinger as a man who epitomized all that is decent and good about political action in the labor movement. He recognized that many of the broad social and economic reforms designed to benefit all the people could be secured only through political action. His ideals were high, his approach realistic. He was a persuasive advocate and an eloquent educator in his own quiet way.

He was persistent in his commitment to those whom he represented and tenacious in espousing the causes of those who had no representative. Yet, he was always patient and understanding with those who disagreed with him. No one who knew Don Ellinger could be cynical about politics. No one who knew Don Ellinger could think of the trade union movement as one of special interest. With humble dignity, he worked all his life for the good of others. He was a political activist who saw his role in the labor movement as a means by which he could help working men and women to cooperate with men and women in all walks of life in order to improve the welfare and quality of the whole society.

He loved his job, he loved politics, he loved his friends, he loved his family, he loved life itself. And those who were privileged to be in his company had to love life also, if only for the reason that life had afforded them the opportunity to know Don Ellinder.

He was a close friend and advisor to my brothers as he was to me. To his wife, Ruth, to their nine children, to his sister, and two brothers, to his many friends, I offer my deep sympathy knowing personally of the loss which they all feel.

Just as on that day when he left my office, Don left us, as always, full of admiration and respect. He left all of us with an example to follow, an example of how the unselfish and tireless efforts of one man can make such a difference even to those he had never met.

## PERSPECTIVE ON JAPAN

Mr. SYMINGTON. Mr. President, one could only read with interest an editorial entitled "Perspective on Japan," published in the Wall Street Journal of February 23.

Having visited in that country recently, I read with unreserved approval the following last paragraph of that outstanding editorial:

> We most assuredly do want good relations with the People's Republic, but it will be a great loss if some quirk of the public mind, some lapse in perspective, means that this occurs at the expense of our strong relations with Japan.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### PERSPECTIVE ON JAPAN

In the flood of television specials on the China trip, we've noticed at least two that have revived anti-Japanese film footage from World War II. While this does provide some kind of historical perspective in which to view relations with China, the current trip also means there is more than ever a need for perspective in our relations with Japan.

The type of film in question was used to propagate a spirited hate of the Japanese and a profound sympathy for the Chinese, e.g. Japanese soldiers terrorizing Chinese villages, bayoneting civilians and prisoners of war. Of course, such incidents are part of history, and this kind of propaganda had its place in galvanizing American patriotic fervor during the war. But we hope viewers retain a good grip on how little it tells about the present moment.

Especially so since it was only a year ago that the American public was led to clamor against the threat of Japan Inc., which was flooding the United States with imports and throwing American workingmen out of their jobs. There was undoubtedly some cause for this clamor, but now may be a good time to observe that much has occurred in U.S.-Japanese relations in the past year. Japan has conducted itself most admirably throughout this period of "Nixon Shock," the surprise announcement of the Peking trip and the new economic policy of Aug. 15.

Clearly, Japan has since done everything the United States reasonably asked it to do and much that must have seemed unreasonable to the Tokyo government.

It agreed to a 16.88% revaluation of the yen, a quite astonishing realignment to absorb in one swallow. Then, in the bilateral trade negotiations just concluded, Japan made concessions that Treasury Secretary John Connally indicates "will probably help our trade situation to the extent of $600 million to $650 million a year." Mr. Connally observed that "they were sympathetic, considerate, and they went about as far as they thought they could go at this time."

He could have added that while a number of U.S. trading partners in Western Europe continue to gripe about "the dollar overhang" in Europe, pushing the United States to restore convertibility of the dollar into gold or other reserve asset, Japan has been solicitous, undertsanding and most reasonable.

Clearly these recent Japanese actions should be regarded as important signals that they want to continue and strengthen their ties with the United States. In any event, whatever the history of World War II, Japan today is not only a vastly important Asian power but a nation that has, compared to the record of most of the world and particularly of Mainland China over the past few decades, governed itself through humane and civilized procedures.

We most assuredly do want good relations with the People's Republic, but it will be a great loss if some quirk of the public mind, some lapse in perspective, means, that this occurs at the expense of our strong relations with Japan.

## CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

## EDUCATION AMENDMENTS OF 1972

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, S. 659, which the clerk will read by title.

The assistant legislative clerk read the bill by title as follows:

A bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

The ACTING PRESIDENT pro tempore. The pending question is on the adoption of the amendment by the Senator from Minnesota (Mr. MONDALE) as amended by the amendment of the Senator from Montana (Mr. MANSFIELD) and the Senator from Pennsylvania (Mr. SCOTT).

Mr. MONDALE. Mr. President, I ask for the yeas and nays on my amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. MONDALE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I call up as a perfecting amendment to the Mondale amendment, amendment No. 919.

The ACTING PRESIDENT pro tempore. The clerk will read amendment No. 919.

The ASSISTANT LEGISLATIVE CLERK. Mr. ERVIN, for himself, and Mr. ALLEN, proposes, as a perfecting amendment to amendment No. 936 by Mr. MONDALE to the committee amendment offered as a substitute for the House amendment to S. 659; before the word "all" on page 1, line 1, insert the following:

> "No public school student shall be assigned to or required to attend, or forbidden to attend, a particular school because of his race, creed, color, or economic class.
>
> "The prohibition shall prevent such action by the Federal Government and all agencies, bureaus, departments, and courts thereof."

Mr. ERVIN. Mr. President, I should like to state at this time that I am going to vote against the Mondale amendment, despite the fact that I think we ought to have the same laws in the South, the North, the East, and the West. I am going to vote against it because the Supreme Court of the United States declared 23 times in the Swann case that Congress has no power to legislate in respect to de facto segregation—23 times. I will read one time it said that. On page 12 of the original opinion in the Swann case the Court said:

> To do this as an educational policy is within the broad discretionary powers of school authorities. Absent a finding of constitutional violation, however, that would not be within the authority of a Federal court.

In other words, the Federal court has nothing whatever to do with the assignment of children to public schools in the States in the absence of a finding that there has been what we call, for want of a better name, de jure discrimination.

Mr. President, on yesterday the Senate indulged in a lot of verbal camouflage by adopting the Scott-Mansfield or Mansfield-Scott amendment, which does not change in one iota any existing provision of law other than a little matter that is mentioned in section (c). When you take all of the gobbledygook out of section (a) in the Scott-Mansfield or Mansfield-Scott amendment, it comes down to this and nothing more—that no Federal funds shall be spent by a State to desegregate a school unless the State agrees to do so.

That was the law before we passed the amendment. It will be the law until the last lingering echo of Gabriel's horn trembles into ultimate silence, unless we abolish the States as separate governmental entities from the Federal Government.

So it does absolutely nothing except to create some camouflage which is designed to conceal from the general public the fact that it does nothing whatever.

The same observation is true with reference to subsection (b) of the amendment. The first section of this amendment says, when its linguistic gobbledygook is reduced to plain English, that there will be no busing of children at the order of the Federal Government except in those cases where the Constitution, as interpreted by the courts, requires it. Well, that is the only instance now in which we have any busing of children at the instance of the Federal Government. So that provision does not change a single jot or tittle in the law, and it is just so much verbal camouflage to delude people into thinking that Congress did something.

The second section of subsection (b) of the amendment is likewise a do-nothing provision because it says, laying aside all the linguistic camouflage and gobbledygook, busing shall not be required under the circumstances set forth in the Swann case. So this subsection (b) does nothing except to deceive some people.

Subsection (c) is likewise almost entirely a do-nothing provision, except in one respect: It does away with the House provision which required that there be a stay of a decision requiring busing until appeals had been exhausted or the time for appeals had expired. This provision restricts that, and applies to only one case, so far as I know, that has ever arisen in the United States, and that is the case in Virginia where Judge Merhige crossed the boundary lines between different subdivisions of Government and ordered a consolidation of the school systems of two independent counties and an independent city for busing purposes—for the purpose of busing 87,000 little schoolchildren.

But subsection (c) expires even as to the Virginia situation at midnight on the 30th of June, 1973; and before this case involving the schools of Richmond and Henrico and Chesterfield Counties can reach the Supreme Court, the 30th day of June, 1973, will be a part of history.

So we have got so much verbal camouflage, so much linguistic exercise calculated to do only two things: To deceive the public into thinking that Congress has done something when it has done nothing, and to postpone this whole question of whether the little children of this Nation are going to be granted any relief against Federal tyranny beyond the next election.

I do not call this an exercise in futility; I call it an exercise in duplicity, because it is done clearly to deceive the general public into thinking that Congress is doing something to relieve, to some slight degree, little children from fearful tyranny.

"Oh," they say, "we have got to mix little children racially; we have got to send out the Armed Forces, the police forces, the U.S. marshals, or some other coercive force to mix the little children together to show that the schools are opened to people of all races."

Mr. President, it would be just as sensible, just as intelligent, to send a U.S. marshal out to arrest adults of both races, all races, and make them all go swimming in the same public swimming pool at the same time, just to show that the public swimming pool has been desegregated.

But, you know, politicians will not do that to adults. Adults have votes, but children under the age of 18 years do not. In the city of Charlotte, under the decision in the Swann case, little first, second, third, and fourth grade children, thousands of them, are bused out of their neighborhoods into strange neighborhoods. Many of them have to leave their home around 6 o'clock in the morning, and many of them do not get back to their homes until 5:30 or 6 o'clock in the evening. I do not know what other Senators may say or believe, but I say that the Senator from North Carolina, as long as the good Lord enables him to retain the faintest glimmer of intelligence and the faintest sense of fairplay, is not going to support any such tyranny.

I want to try to clear up another species of hokum which has pervaded this debate. It has been said that many States voluntarily bus children, and that is true. But the distinction between the kind of busing the States do and the kind of busing which is required by the Federal Government is very marked. The difference between Tweedledum and Tweedledee is as wide as the gulf which yawns between Lazarus in Abraham's bosom and dives in hell, as compared to any similarity which exists between these two types of busing. The States bus in order to transport children to the nearest school available for the education of children of their ages and educational abilities. The Federal Government orders busing in order to transport the children away from the nearest school to some other schools, many of them greatly distant, not to enlighten their minds but to integrate their bodies. The only theory offered to justify this is the theory which is an insult, a rank insult, to black children. The theory is that a black child cannot acquire an adequate education unless he has the enforced companionship of white children, even if those white children or the black children have to be hauled long distances on buses in order to integrate their bodies.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ERVIN. I yield 7 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that my name be listed as a cosponsor of amendment No. 919 offered by the distinguished Senator from Alabama and the distinguished Senator from North Carolina.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I wish to speak, of course, in support of the amendment, because the amendment would do what has been intended here and what has been described in the morning press—as having already been accomplished that is, that we have faced up to the issue, that we have eliminated discrimination, that we have avoided a constitutional amendment, and instead enacted a great statute which is the leadership compromise, as they call it.

This amendment, by the Senator from Alabama and the Senator from North Carolina, provides:

> No public school student shall be assigned to or required to attend, or forbidden to attend, a particular school because of his race, creed, color, or economic class.

It is merely a rewording of the constitutional provision under the 14th amendment. It continues:

> This prohibition shall prevent such action by the Federal Government and all agencies, bureaus, departments, and courts thereof.

Mr. President, I did not know that was going to be the pending question, in a sense, when I came to the floor; but it is easy to compare it to the Mondale amendment. Specifically, the Mondale amendment is drawn with design; and like the octopus when it is caught in a jam, it squirts out its ink and steals away in the dark of that ink.

I have the highest regard for the distinguished Senator from Minnesota, because I think he is sincere, talented and a very able Senator. I have a hard time explaining him down in South Carolina, because every time I stand up for something, he is on the other side, or vice versa. He said, "Look what we're going to do. We have a provision that all requirements established under this Act shall be applied on a uniform basis to conditions of segregation, whether de facto or de jure, throughout the Nation.

When we debated that issue for some 4 to 5 weeks a year ago, when there was really a chance to find out the true colors as to whether they wanted equal application and equal justice under law—the Stennis-Russell-Hollings amendment—the Senator from Montana said, "Let's study it." This is a very, very complex thing. What we ought to do is start studying this thing and get a committee and really hear the people out. I do not believe we have heard from the people.

Well, he had not. He was just beginning to hear from the people in Minnesota and New York and Jackson, Mich., what we had been saying in Jackson, Miss., for several years. So he got his committee together. In the meantime, the decision came out in the case of Swann versus Mecklenburg County, on de facto busing, and it said that you could not legislate on this particular score.

So the Senator from Minnesota said, "Well I will tell you what. It really would not mean anything. The Supreme Court—Chief Justice Burger—has already said it, so I can get on the side of the angels in the Stennis amendment for equal application," which we fought here and for which he got a study committee. He said, "I can write that down and go around and tell everybody that is what I have been for all along. So I will write down that it shall be applied on a uniform basis to conditions of segregation, whether de facto or de jure, throughout the Nation, and I will get credit for that, knowing all along that under the Supreme Court decision it just would not happen. The provision would not last 5 minutes before the Supreme Court."

The distinguished Senator from North Carolina has already pointed it out. He was of counsel for the Mecklenburg County teachers. It all occurred in his backyard. So we can clear our record on that particular score.

If we try to come out for equal application, using the expression used by Chief Justice Burger, it shall not apply. Then if there is any doubt about what is really intended, he is going to get together with the cosponsors—now indicted—the distinguished Senator from Pennsylvania and the distinguished Senator from Montana, the leaders on this point, who put up the leadership amendment; and he says, "I'm going to copy down verbatim, word for word, the leadership amendment." And you are going to see where it leads.

Our insurance lawyer no doubt drafted it. It says in three sections, on which we had three votes yesterday, substantially this, and this is why we opposed it.

Certainly, if the country is confused on one thing, it is confused on busing, and it is really due to our great friends in the news media. They do not follow the story; they do not read the story; they do not understand the story; and they have in the headlines this morning, all over America, that those who opposed busing are for it and those who are for it opposed it. I can point out any news story in Washington or go down to my home town and show the same confusions.

Let us not confuse the fundamental constitutional right. What is really involved is not the bus. We pointed that out yesterday. It is what is on the end of the bus line—the school and the facility.

We, as politicians, are mobile; we move, buy and sell homes, live in different places and have different roles in public life and other endeavors. The average American buys a home. That is his constitutional right. That is what he works for—his security and his family and a home in a neighborhood of his own choosing. Then, having worked all his life and acquired his mortgage, he moves into the home and settles down. He makes friends, and his children make friends, and all is well until some group of Washington politicians and Federal judges say, "No, you're not really in a neighborhood. You're unconstitutional over here. We have to take your children from Virginia and run them to the District of Columbia." That is the Richmond decision. Or, "You have to run them up to Maryland, because they don't have quality education."

All the Democratic Presidential candidates are running around and babbling, "Quality, quality, quality." It is not quality. It is safety.

Mr. President, will the Senator from North Carolina yield me additional time?

Mr. ERVIN. I yield not more than 5 minutes to the Senator.

Mr. HOLLINGS. I would like to emphasize the Washington Post article. In St. Louis, Mo., they built a structure for the poor, and it contained 11 stories. Some architect designed foyers on each floor, so the building would be esthetically appealing. They were raping so much in the foyers of the 11-story building for the poor that they had to wire off and block off the foyers. Then they were so subject to being burglarized, bilked, robbed, and rolled that the poor would not go into the building.

Now they have taken an acetylene torch and are cutting down that 11-story building, which is in the backyard of the Presiding Officer, cutting it down to five stories, for safety.

The people of Forest Hills are not racists. They want to live in a safe neighborhood. And that is their constitutional right. At 8 o'clock in the morning, every mother has a constitutional right to get rid of the children and get them out of the house and send them safely to a school in a safe atmosphere. If this Senate and the House of Representatives does not understand that constitutional right, they will be sent home and there will be another group up here. That is a constitutional right, to give the child peace of mind, safely to go to school in a safe area, which the parents have selected and in an area where they have invested their life savings.

Yet we run around babbling "quality" when there is no quality at all. It is not world peace; it is peace in the home. That is what we have disrupted and with this mish-mash, crisscross busing operation, the people of America want the leadership to stand foursquare, face the issue, and eliminate the discrimination.

In section 1 they say, in clear-cut fashion, that in those areas where the school authorities request the funds, there will be busing, but where they do not, there will not be busing. So if Johnny lives where they have not requested the funds, Johnny asks his mother, "Why can't I ride a bus because Mary on the other side of town does," the answer would be because the authorities over there requested funds, so Mary rides.

Well, any freshman law student can knock that out. Any insurance lawyer knows about that. We will talk about eliminating discrimination but we will write discrimination into the first section, knowing it will not last the time of day. Bam—No. 1, it is gone.

The second provision is the Country Club of Fairfax provision. It tells the politicians—and this is what George

Wallace is talking about and why he makes sense, "You are not facing up to it in Washington at all." Of course, we are proving that. The leadership, Republicans and Democrats, can agree on very few things but they can agree on one thing. "Take care of our crowd—Take care of our children."

Mr. ERVIN. Mr. President, I yield 5 additional minutes to the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized for 5 additional minutes.

Mr. ERVIN. If the Senator will yield there, they agree there should be no busing in Pennsylvania but there shall be busing in South Carolina and North Carolina.

Mr. HOLLINGS. Oh, yes. Oh, yes. We will get to that. There will be busing in South Carolina. There will be busing in North Carolina, but none in Pennsylvania, none in Minnesota, none in Jackson, Mich.—but in Jackson, Miss.—yes.

So they put that in and say, "You are not going to transfer them across the district line into an inferior area. We have taken care of the suburbanites and the politicians in Washington." They are not disturbed. Of course, they can get a majority vote in the Senate, as they did yesterday and as the report showed in the morning newspapers.

Was that not great, that they got together on restricted busing? Yes, that is what they agreed to—the majority of Republicans and Democrats.

Then they say, "Look, we have us a real problem. We have got to limit what we are doing. So what we will do in the third section will be to stay everything. We will not have any orders. Just let us do away with court procedures."

Here, in the name of facing up, look at the verb in the sentence there. The verb is the word "postpone."

All these glowing things said by the leadership as to how they faced up. But the last phrase in here says "postpone." We just are not going to face up to anything. We are going to postpone. They say, "Ah, reelect us all. Reelect me. Reelect President Nixon. Reelect the Senator from Pennsylvania. Then, after they are all reelected next year, in 1973, lower the boom and let the court fall on them again."

Mr. ERVIN. Mr. President, I yield 5 additional minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER (Mr. CHILES). The Senator from South Carolina is recognized for 5 additional minutes.

Mr. SPONG. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. I yield.

Mr. SPONG. I should like to ask the distinguished Senator from South Carolina if, in studying the legislation which the Senate adopted yesterday for the time being, he could find anything in that legislation that improved the educational opportunity for a black child in the city of Chicago?

Mr. HOLLINGS. Nothing whatever. Do not be disturbed. That is right. Have no fear. We will take care. We will take care of the de factos. The constitutional rights and all the other phrases, they are included in it. This does nothing but says that the Congress of the United States will not face up, that it will continue discrimination and will not disturb anyone until after the election.

Mr. SPONG. If it does nothing for educational opportunity for a child in Chicago, would the Senator from South Carolina say that the legislation is not really concerned with equal educational opportunity?

Mr. HOLLINGS. None whatever. The question of the Senator from Virginia goes right to the heart of the matter. It is not equality. I see some other friends of mine around here on their feet, getting ready to talk. I have heard all about the striving, who has stayed up nights, who has sweated, who the racists are. I learned that at the hands of Thurgood Marshall. Thurgood Marshall says, "No child shall be denied admission. No child shall be forced on a bus on account of race." That is fundamental in this country. We are not going the change the 14th amendment here. But, of course, they do not want it to go into their backyards. The freedom of choice statute that we copied down home we copied from New York, where there is still an 8- by 44-block area that is 99 percent black. There is no unitary school in Brownsville. I have been there. I have been down in Harlem, Brooklyn, and Brownsville. Go down there and they can all find lessons to give us Southern brethren and we will get equal justice under law. Do away with discrimination. Then they come around writing this sort of amendment and they say that they have faced up to the problem. They know differently. They have avoided, evaded, weasel-wormed around in every fashion possible. If we are going to face up to this problem, as I stated here yesterday, the answer is: Build a better mouse trap. We will develop quality education by putting more money into schools, and by paying teachers more money.

We have done that in South Carolina. We have tried it. We put on a 3-percent sales tax, which is now 4 percent. We have put on every tax that any other State ever thought of. We have done much more at the State level and with State effort. South Carolina has made far greater State effort on State school comparably, for example, than has Rhode Island in trying to build and bring in quality education. That is what we are talking about here. If we get a good school building and good teachers, a good curriculum, a good athletic program and build them all up—and I am willing to vote the money to put those things into ghetto areas where it will be necessary—then those in the country club will pitch in and buy a bus to get their children down to that good school, because we all want the best education for our children. But the other way will be to destroy, in the name of eliminating discrimination, our fundamental rights.

I yield back any remaining time I have to the Senator from North Carolina with many thanks.

Mr. PELL. Mr. President, I must say that I enjoy listening to the Senator from South Carolina. I would be delighted to yield on my time, because it is a delight to be attacked by him. It reminds me of Friar Tuck of Robin Hood's band who was known for his ability to lay his staff upon people. The victims almost enjoyed being belabored by him because he did it with such grace and good humor.

I think that many of the points the Senator makes are valid. What the Scott-Mansfield amendment lacks in the view of the Senator is that it does not get to the red letter word—busing. The word which is of such great concern to our country. The Scott-Mansfield amendment recognizes that busing is one of the means of trying to achieve an integrated school system.

This pending amendment gets to the fundamental question as to whether we should have an integrated school system. There are varying and different views on this question. There are those in this body who do not believe we should have an integrated system. There are some who think that we should. And, amongst those who think that we should, there are those who think that it should have happened yesterday, today, tomorrow, or the day after tomorrow.

The essential point is that the pending amendment, if approved, would stop in its tracks our efforts to achieve an integrated school system. If we believe an integrated school system is undesirable, then we should vote for the amendment. However, if we believe that our goal should be an integrated school system, then the amendment should be opposed.

In regard the Senate adoption of the Scott-Mansfield amendment, I would agree with the Senator from South Carolina that it is a complicated piece of legislation whose meaning needs interpretation.

I thought there was a very good one-paragraph description of the amendment in the New York Times today in an article written by John Herbers, who did what many of us find difficult, he made the complicated seem simple.

I would like to read that one paragraph of the article into the RECORD. It reads:

> The Mansfield-Scott legislation would deny the use of Federal funds for busing except at the request of local authorities; order the Federal authorities to refrain from ordering busing if it would impair the health of a child or take him to a school inferior to the one in his neighborhood; and delay, pending appeal, enforcement of any court decision ordering desegregation across school district lines. This third provision would not apply beyond June 30, 1973.

Mr. ERVIN. Mr. President, would the Senator yield for a question?

Mr. PELL. Certainly.

Mr. ERVIN. Mr. President, did not the law prior to yesterday prevent the use of Federal funds to integrated schools unless the State accepted those funds?

Mr. PELL. Would the Senator repeat his question?

Mr. ERVIN. My question was whether the law did not prior to yesterday provide that no Federal funds could be expended by a State to integrate its schools unless the State agreed to accept those funds?

Mr. PELL. My understanding of the law is that that is not correct. However, I stand to be corrected by those who are lawyers.

Mr. ERVIN. The second sections deals

with State funds. The first section deals with Federal funds. What the amendment adopted yesterday, in the first section in the ultimate analysis means is that no Federal funds will be given to a State and spent for integrated busing unless the State agrees to accept the funds and use them for that purpose. Has that not always been the law?

Mr. PELL. If that is a question of law and not of interpretation, I would defer to the former judge and lawyer, the Senator from North Carolina. My understanding of the law is that that was not the case.

Mr. ERVIN. The first section does not deal with anything except Federal funds. I would tell my good friend, the Senator from Rhode Island, that this is what has always been the law and is still the law, and that is that Federal funds cannot be used by a State to integrate schools unless the State is willing to accept the funds for that purpose.

Mr. PELL. The Senator's question is whether the first section has changed the law?

Mr. ERVIN. The Senator is correct.

Mr. PELL. My understanding is that the first section has changed the law.

Mr. ERVIN. How?

Mr. PELL. By saying that it would require the local authority to opt to spend the funds. There is mention of a Court in the second section. However, on this question, I would like to defer to the judgment of the Senator from North Carolina, who is a former judge, and to the Senator from Minnesota (Mr. MONDALE) who is a former attorney general of the State of Minnesota. I note that the Senator from Minnesota is on his feet.

Mr. ERVIN. There is not any word about a court in the first part except that it states that no court can make a State spend funds, except funds it does not want to spend on its own—that is, Federal funds.

Mr. MONDALE. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I will yield to the Senator from Minnesota. However, I think the Senator is asking whether this has changed the law. I said it had. The Senator asked me how. I said that I think it has changed. I ask the Senator from Minnesota to correct me if I am wrong.

Mr. MONDALE. I think one of the questions here surrounds the clarification of the law in a complex situation.

To make it clear, funding can be made available to local school districts that want it. Several attempts have been made to change the committee amendment, but the classic one would prohibit the Federal Government from making funds available to any school district, whether it is desegregating under court order and wants the funds, whether it is desegregating under an administrative order and wants the funds, or whether it is desegregating on its own without any regard to any court or administrative order because the local community wants to have an integrated school system.

There are nearly 1,500 school districts in this country today which are desegregated under court or administrative order. Eleven million schoolchildren are in those school districts. And these school districts, whatever we do here today, that are under orders to desegregate are in the middle. They have no choice. They have to desegregate. The question is whether we are going to help them or not.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. MONDALE. I will yield as soon as I finish my point. I want the Senate to listen to what the superintendents in the school districts are asking for. They are asking for money. And we want to make it clear that under the Mansfield-Scott amendment they are eligible to have the money if they want it.

This is what the head of the Dade County, Fla. school system says:

> If we are to survive as a county or as a school system, we are going to have to lick the battle of desegregation, regardless of where it is located or what type of desegregation it is . . . this is a massive thing. We are trying to change attitudes that have been building up for 200 or 300 years, and we are not going to change them overnight unless we have some help.
>
> I think the initial step, though, has to come from us. We have to offer the leadership . . . so that is our responsibility. But once we take that responsibility, we have to have some financial help because these problems are monumental.

He then said:

> The financial impact of desegregation is placing severe demands and burdens on the affected school systems.

Mr. President, other school superintendents agree. For example, superintendents from Tampa, Fla., Savannah, Ga., Dayton, Ohio, and Rochester, N.Y., pleaded before the Select Committee on Equal Education Opportunity, for funds to support transportation for integration.

The amendment we adopted yesterday makes it clear that we want those districts to receive assistance. Regrettably, it is the policy of the present administration not to help them, even though they are under Federal or State order to desegregate.

I think it is a very salutary clarification.

Mr. ERVIN. My question is whether the Senator from Minnesota contends that there has ever been any law in effect in this country that the Federal Government could require a State to accept funds from the Federal Government and spend them for any purpose unless the State was willing to accept those funds.

Mr. MONDALE. I am not sure the Senator got my point. There is an administrative decision. This is a complex issue, not alone one of court orders, but administrative policy, as well. It is the administrative policy that regrettably tells the school districts that are desegregating that they will or will not receive any help, even if the law says they should.

In my opinion, what the leadership tried to do in this amendment was to make clear that the school districts which want help and are eligible to receive it under the law will do so.

Mr. ERVIN. The Senator did not answer my question yet.

Mr. MONDALE. I have tried to do so.

Mr. ERVIN. I mean no offense, but the Senator has not accomplished anything in his effort to answer the question.

Mr. MONDALE. I do the best I can with my limited legal background.

Mr. ERVIN. Has there ever been any law in existence in this country whereby the Federal Government could compel a State or State agent to accept funds when the State agent was not willing to accept them?

Mr. MONDALE. My point was that there is now an administrative ruling which prohibits offering such help, even where they are requiring busing, and we are trying to make clear by this amendment that those districts that want it shall receive it.

Mr. ERVIN. The question is: Where did such an administrative ruling originate?

Mr. MONDALE. From the administration.

Mr. ERVIN. What part of the administration?

Mr. MONDALE. I think very high up.

Mr. ERVIN. I would tell the Senator from Minnesota that the first article of the Constitution states that all legislative power of the Federal Government is vested in the Congress and none is vested in the executive branch of Government, so there could not be any ruling made by the executive branch.

Mr. MONDALE. That may be true, but $12 million we appropriated has been impounded, in my opinion illegally, and I join the Senator in objecting to that.

We had an amendment here a year ago to provide help for busing under court order and this administration refused to do so. I think the leadership was trying to say whatever else we do we should not turn our back on those districts caught in the middle and provide no help. That is the least we can do.

Mr. ERVIN. The Senator from Minnesota stated a moment ago that the perfecting amendment we brought to his amendment is designed to prevent desegregation of the schools. I read that amendment:

> No public school student shall be assigned to or required to attend, or forbidden to attend, a particular school because of his race, creed, color, or economic class.
>
> This prohibition shall prevent such action by the Federal Government and all agencies, bureaus, departments, and courts thereof.

The Supreme Court has declared that the State is required to establish a unitary school system. It stated in Norcross against Board of Education of Memphis that the unitary school system is one "within which no person is to be effectively excluded from any school because of his race or color."

All we are trying to do is to require the establishment of unitary school systems. It is surprising to the Senator from North Carolina, and I think also the cosponsors of this amendment, that the Senator from Rhode Island and the Senator from Minnesota are opposing an amendment which requires the establishment of the unitary school system in which no person shall be excluded from any school.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I have listened with great interest to this colloquy. The point that has been left out completely is the fact that this applies not to States but to local school officials, and most States are divided into localities.

The reason for the provision is one-half as the Senator from Minnesota explained, in the affirmative—that is, to enable the school district, whatever their States may feel, to obtain help to desegregate pursuant to court order.

The other half is that here is the Department of Health, Education, and Welfare exercising its power to cut off funding; they may be able to cut off funding if a local school district did not request what HEW thought it should request according to a mandate for desegregation. This would clarify that matter and enable the school district to make up its own mind, because the law will allow it not to request such funds.

Mr. HOLLINGS. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Not yet, but I will yield in a moment.

The PRESIDING OFFICER. The Senator from New York has been recognized.

Mr. JAVITS. Beyond that, I am interested in the argument that all the Senator from North Carolina is trying to do is to give us who are contending for the bill the opportunity to have unitary school systems. The complete fallacy in that argument, and what makes this amendment completely unconstitutional, is the fact that the courts are dealing with segregation which has existed; they are not dealing with the creation of new unitary school systems. They are dealing with repairing the evils of the past, and those evils are performed not only in the South, but also in the North and in the West.

The court decided in the Green case in 1968 that in order to effectuate the 14th amendment and deal with previous evils it had to move affirmatively, and it had to order a segment of students to schools because that was the only way to redeem the sins of the past.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. JAVITS. I shall yield in a moment.

This amendment is designed to completely inhibit that process. It is to cut off the ability to repair what has been done that is wrong. It is as simple as that and, regardless of any veneer that is placed on it, that is what it will do.

The Senator is trying to help us to have the unitary school system by eliminating in one stroke the only way the Court has said there can be a unitary school system, where the dual system has been assigned for decades; that is the real nub. How can you correct discrimination if you are going to eliminate the means for correction? The question is that if this amendment is agreed to will there be a unitary school system or not?

Mr. HOLLINGS. The Senator talks about redeeming the sins of the past. I do not know that that is necessarily constitutional. But assuming it is, what about New York? When are they going to redeem the sins in New York in that 8 by 44 block area where there is no unitary school system? What is the Senator's answer with respect to that?

Mr. JAVITS. I have been here a long time. I argued civil rights acts, since 1957. There is always the argument that New York, Chicago, and San Francisco failed to measure up to any standard the court has set. We measure up to stronger standards because the court threw out an effort to inhibit the Commissioner of Education to bring about racial balance through legislation stronger than anything here.

New York will stand up quite well when placed side by side with what is being perpetuated in other States. If the entire country were following the standards that New York is endeavoring to follow we would have fewer problems. We have tremendous difficulties, just as they have in other parts of the country. We would be a lot further advanced along this line than we are if we had the kind of Federal Government support contemplated by this bill. I am sorry, but I cannot accept the Senator's argument.

Suppose New York blatantly violated the law as Mississippi did in 1956, 1957, or 1958. Is that any excuse for Mississippi? Of course not.

Is the fact that there are a lot of drug pushers around in New York, San Francisco, or other places any reason why drug pushers should not be jailed in Washington, D.C., or Peoria, Ill.? Of course not.

I cannot accept that argument. It has been used here time and time again. It does not stand up on the facts, and I do not think it can guide or prevail upon the judgment of any Senator worthy of the name.

Mr. HOLLINGS. Perhaps; of course, the Senator talks about a red herring, but it is more or less a red fact. We were in violation in the school in my backyard. My alma mater now has 45 percent black enrollment. This is a red fact. When the Senator talks about redeeming the sins of the country, when we look at the words, as they say, what counts is not what we say but what we do.

But let us move ahead, because the Senator from New York is a good lawyer and is a constitutionalist. When section (a) says "except on the express written request of appropriate local school officials," does not that discriminate between a child on the one hand whose school officials ask to get Federal funds to have him bused and a child whose school officials do not ask for busing money? Does not that make it unconstitutional?

Mr. JAVITS. I do not think it does. What the courts have been dealing with and what we are dealing with is unconstitutional discrimination, not any discrimination. I discriminate when I go to the Senate restaurant and not go downtown to another restaurant. We discriminate every day. The question is: What is unconstitutional discrimination? And the unconstitutional discrimination inheres in the perpetuation of a system of public educational discrimination against the particular child.

What we are doing now in this particular amendment is regulating a source of funds for that purpose. I would like to point out that when it comes to State and local funds, which is in section (b), the qualification is very distinctly reduced, unless constitutionally required. That is on page 2, line 21.

Mr. HOLLINGS. The Senator agrees that that perpetuates it——

Mr. JAVITS. If the Senator will just let me finish, it seems to me that that indicates our care, our solicitude and concern that funds should not be cut off, and that we are cutting off funds in (a), unless requested by the local educational agency.

Mr. HOLLINGS. Does it not perpetuate it if my school officials do not ask for busing and the child cannot get a ride to that school?

Mr. JAVITS. What it does, as I say, is cut off that particular source of financing the change. If the courts order it, there is some use of funds of the educational agency other than Federal funds?

I am not pretending by any means that this compromise is other than a compromise. I do not like the idea that Federal funds are cut off. I do not like susbection (a), and I do not like subsection (c).

Mr. HOLLINGS. Oh——

Mr. JAVITS. If the Senator will let me finish.

Mr. HOLLINGS. Yes.

Mr. JAVITS. It is on my time. I have yielded. I have been courteous. The Senator will at least let me finish the sentence.

All I am saying is, sure, this is a compromise, but those who would break the back of this bill by eliminating—which is what the purpose is—the single most important instrument to try to bring about better conditions—not the optimum, not the best, but better conditions—are not quite the people who should be arguing in the Senate that we are compromising something, that we are letting down some things, that we are not doing as good as we ought to do. This is a very old technique that I am familiar with. You ask for the ultimate and you break the back of what is possible, what can be done.

So we have fashioned, to the best of the ability of the leadership and those who have supported the leadership, this compromise in order to get the maximum progress forward in this particular field.

I have just pointed out, in the differences between subsection (a) and subsection (b), why I feel this is a bad compromise, considering the situation we face, and I believe it is constitutional for those reasons.

Mr. HOLLINGS. At least we know now the Senator does not like subsection (a).

What about subsection (b) with respect to risking the health of a child or significantly impinging on his or her educational process? Does the Senator think that race would impinge on the educational process or destroy the health in any way of a white child who was to go with a black child, or of a black child who was to go with a white child?

Mr. JAVITS. I think these abstractions relate to questions for the Court—answers will vary from case to case—and by subparagraph (b) we have introduced the criteria by which they may be judged. I think those criteria are essentially the criteria as set out in the Swann case, with the qualification which we have made here which I think is a critically important aspect in this whole measure and which, unfortunately, is inadequately noted. That is that the Congress, if this becomes the law, has now introduced the criteria that impinging upon the educational process of the children in the school to which the child is bused also becomes a pertinent element here and a criteria upon which the courts and government departments can judge.

To me, that represents a critically important expansion of the idea which begins to be phrased in the Swann case. I think that is a very significant, perhaps the most substantive, to me—I speak as one Senator—aspect of this amendment.

Now, as to the question respecting the educational process which the Senator has raised, I can only refer the Senator to a very interesting case, the case of Lee against Nyquist, which is a case decided by a three-judge Federal district court in my own State, and which subsequently was affirmed by the U.S. Supreme Court without opinion. That was a case respecting an effort to limit the power of the Commissioner of Education of the State of New York to correct racial imbalance where he felt there was educational deficiency. The legislature sought to restrict his authority in that regard, and that was stricken down as unconstitutional. I cite that opinion because I think it is critically important to our discussion here, because we have said it time and time again, and we say it in the matter before us, but it is very interesting. I read from the opinion, on page 714, where it says:

> Although there may be no constitutional duty to undo de facto segregation, it is by now well documented and widely recognized by educational authorities that the elimination of racial isolation in the schools promotes the attainment of equal educational opportunity and is beneficial to all students, both black and white.

I think that is an extremely pertinent conclusion come to by a Federal court in respect of the substantive aspect of our argument.

Mr. HOLLINGS. Well, if the distinguished Senator from New York will yield, I was talking about health. I think it is a rather insulting thing to infer in this second section that it is unhealthy for a white child to go with a black child or for a black child to go with a white child. In New York City the Fleischmann report called for an ethnic balance in the New York City schools.

Mr. JAVITS. The amendment infers no such thing about health. The Senator always uses his own words—strict ethnic balance.

Mr. HOLLINGS. It is what the report calls for.

Mr. JAVITS. No. I agree with the policies of the Commissioner of Education of the State of New York in respect to making those regulations, within the law of my State, which he believes will be most conducive to the best educational opportunity for its children. It is by no means the optimum. It is by no means the strict ethnic standard.

But there has been an effort, by mobilizing the kind of students in given schools, to try to improve the educational process over what it was.

Mr. HOLLINGS. The report said "ethnic balance."

In the report the New York schools would be 40 percent white and 60 percent black. We do not find any request for busing to get the children out of that 8 by 44 block area to those schools.

Be that as it may, one final question. I am not trying to belabor the Senator from New York; I am trying to get to the question. What is supposed to happen by June 30, 1973, other than the presidential election will have taken place?

Mr. JAVITS. I cannot tell the Senator why that date was fixed, because the date is not the product of my mind. The reason that I voted for it, the only thing that I can answer for, is because it was a part of the package of compromise, and this was distinctly a compromise, and one which does not leave me very happy, but which nonetheless I felt in conscience represented a possibility for compromise in the Senate, and it seemed to me, therefore, to be a way out of the ballpark, in view of the incidents in the Richmond case, to give the court an opportunity for limiting the maximum period within which that basic question as to transportation between the city and the suburbs—in other words, the issue of metropolitanization, so-called—should be decided. I did not want to put any restraints upon it, but if it was a part of a compromise, I felt in conscience I had to support it. I did not consider the problem, in the final analysis, in providing for more than a year, to be an unreasonable ceiling upon the decision of that question, notwithstanding the feeling that this is a new, very important question, and that the courts should be given a chance, at the highest level, to decide it. That was the only rationale that I can find.

Mr. HOLLINGS. Then the Senator from New York and the Senator from North Carolina can agree that we are both unhappy with section 1 and we are both unhappy with section 3, and as to section 2, we rather go along with the superintendent of schools in New York, than the Fleischmann report.

Mr. JAVITS. Well, the Senator from South Carolina and the Senator from New York do not agree at all, because they do not agree on the total, apparently. I hope one day we will be able to agree. The total, in my judgment, is that the complete amendment, the so-called Scott-Mansfield amendment, materially advances the educational opportunity for all children. That is my firm conclusion. If the Senator agrees with me in that, that is fine. I gather he does not. But I will not be led into some particularized statement about one phrase or one particular provision of the total amendment, when we particularly disagree about the total thrust of that amendment.

Mr. HOLLINGS. The Senator from New York knows as well as I do that this whole amendment is a cop-out. Where does the advancement come from?

Mr. JAVITS. The Senator from New York knows no such thing, and the Senator from South Carolina knew it when he said it. I say to the Senator most emphatically, I am a trial lawyer, too, and I do not happen to be your witness, so do not ask me leading questions. I still disagree.

It is no cop-out; yesterday was one of the most substantive, one of the most effective, and one of the finest hours the Senate ever had, and despite all the venting of emotion, including by some very worried people, millions of very worried people, the Senate was standing in judgment; and notwithstanding the fact that the amendment was split up in separate votes, and the fact that I might not have liked this period or that comma, I voted in conscience because I knew it was in the best interests of the country, whatever had been the advertising about how hot an issue this was. I thoroughly disagree with the idea that it is a cop-out or a pretense or any such thing.

It was decent human beings trying to come to an accommodation with other decent human beings and millions of Americans who were very worried. And I believe that the rank and file of Americans today feel better about the issue and better about the Senate than they did the day before yesterday. That is what the Senator from New York believes.

Mr. HOLLINGS. But, in the Senator's own words, he was unhappy with two-thirds of the Senate's finest hour.

Mr. JAVITS. Mr. President, I might be unhappy with the Saturn rocket, but very happy with that small tip of it that finally gets to the moon. That is the situation here. What difference does it make? I voted for it. I thought it the best for our Nation, and the best course that we could take.

Mr. HOLLINGS. I thank my colleague for yielding.

Mr. ERVIN. Mr. President, I yield the Senator from Michigan such time as he may require of the time that remains in favor of the proposal.

Mr. GRIFFIN. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 28 minutes remaining. The Senator from Rhode Island has 24 minutes.

Mr. GRIFFIN. I thank the Chair.

Mr. President, there are many, in and out of the Senate, who say they are against busing for the purpose of altering racial balance. Many of those people have registered their opinions in various polls and surveys that have been taken throughout the country. Almost every survey that I am aware of reveals that a majority of blacks as well as whites favor busing if the busing contributes to quality education. On the other hand, they are against busing purely for the purpose of achieving some artificial racial mix.

The Nation's attention has been focused upon whether or not a constitutional amendment should be adopted to do something about the Federal courts' abuse of the busing remedy. Many people say we should not adopt a constitutional amendment; that we should deal with the problem by statute.

Today, Mr. President, Members of the Senate are going to have an opportunity to decide, when my amendment comes up, whether or not they really want to do something by statute.

As I indicated yesterday, the amendment offered by the two leaders does absolutely nothing, except for subsection (c), which postpones the effective date of some court orders until all appeals have been exhausted. That is the only significant and substantial part of the Scott-Mansfield amendment. Otherwise, that amendment actually retreats from statutes already in effect. I refer to section 2000c–6 of the Civil Rights Act of 1964, where Congress provided:

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

That language is already in the law, and I would say that as a statement of congressional intent, that language is stronger by far than the language the Senate adopted yesterday. But the courts have had no trouble interpreting this provision. They have held that it does not take any powers away from the courts. The question is, Can we really take any powers away from the courts by statute, or can this be done only by a constitutional amendment?

Mr. President, it seems that there is only one way we might be able to do this constitutionally by statute, and that approach is embodied in the amendment I have offered. It is a very carefully tailored amendment. It does not go beyond the remedy of busing, but it does seek to withdraw from Federal courts jurisdiction to impose busing as a tool in dealing with questions involving desegregation of public schools.

How is it that Congress could do this? Well, there was a time when Congress believed that the Federal courts were abusing the use of injunctions as a remedy in labor disputes. The result of this congressional dissatisfaction was enactment of the Norris-LaGuardia Act.

In passing the Norris-LaGuardia Act in 1932 Congress did not take away the authority or the jurisdiction of the Federal courts to decide cases involving labor disputes. It did not take away the power of the Federal courts to use or employ any other remedy. But it did say that the Federal courts did not have jurisdiction to issue injunctions in labor disputes. It took away from the Federal courts that one remedy because Congress believed that it was being abused by the Federal courts.

Now, in 1972, the people of this country—if not Congress—believe that the Federal courts are abusing the remedy of busing to deal with the situation of school desegregation; and Congress, if it wishes, can exercise the constitutional power it has under article III to withdraw the power of Federal courts to order busing. This action would leave to the Federal courts other ways—the limited redrawing of attendance zones, for example—to deal with the problem of segregation.

This action would indicate the conclusion of Congress—and it certainly is the conclusion of the junior Senator from Michigan—that busing is an unreasonable penalty to impose upon children and that it does not make sense to require children to be bused, unless the busing is productively related to the achievement of a quality education.

The news media has given the erroneous impression that under the Scott-Mansfield amendment, busing would only be involved if it was voluntarily requested by the local school district. This interpretation is ridiculous. This is not at all what the Scott-Mansfield amendment provides. The Scott-Mansfield amendment merely says that Federal funds cannot be used for busing except where expressly requested by local school officials.

But, of course, that is not the question. The question is whether or not busing has been or will be ordered by a court. If a court orders busing, why would not the local school district ask for and accept whatever funds are available, from any source, to meet the financial needs of that community?

That particular subsection of the Mansfield-Scott amendment provides further:

> No court or agency shall order a local district to request funds.

That language is an insult to anyone who reads that section. To say that a court shall not order a local district to request funds is the most meaningless statement of the entire amendment.

However, I point out one interesting thing. In that particular language of the Scott-Mansfield amendment, the proponents are utilizing the same approach that is embodied in the amendment of the junior Senator from Michigan. They are attempting, even in a very limited way that has no substantial meaning, to limit the jurisdiction of the Federal courts because that language actually seeks to deny a court the power to do something. So, in effect, it seems to me that the proponents are admitting that Congress can limit the courts' powers even though that particular limitation is very insubstantial.

Mr. President, this will be a very important and perhaps historic vote that will be taken today, and it will put many Senators on record as to whether or not they want to do something effective by statute to stop the abuse of busing. I think the vote will be close. I wonder whether the presidential candidates who are going around the country telling the people they are against busing—but that they do not favor a constitutional amendment—are going to be here today. I wonder whether they are going to take this opportunity to help pass an effective statute to stop forced busing.

Unless this amendment is adopted—if the only thing we do is to adopt the Mansfield-Scott "compromise"—then it seems to me that it can be said that Congress will be waffling on the issue of busing.

Someone in the cloakroom observed, with tongue in cheek, that a field of combat is sometimes referred to as a gridiron, but that as a result of the parliamentary maneuvering and acceptance of the Scott-Mansfield amendment yesterday the Senate floor has been turned into a waffle iron.

Mr. President, I think that the vote on the amendment which I have proposed will be the best opportunity the Senate will have to take a strong and meaningful stand on the busing problem.

I thank the Senator from North Carolina, and I yield the floor to him.

Mr. SPONG. Mr. President, will the Senator yield me 2 minutes?

Mr. ERVIN. I yield.

Mr. SPONG. I thank the Senator from North Carolina.

Mr. President, yesterday, in an exchange with the Senator from New York, I mentioned that I would insert in the RECORD during the course of this debate a listing of the segregation statutes and laws as they have applied State by State in the United States. I do this because there has been some mention here of past sins, and some of us believe that the emphasis is more on curing past sins than on providing equal educational opportunity now.

I believe the information in this listing is most pertinent to the current debate, for it indicates specifically the superficiality of the distinction between de facto and de jure segregation. It indicates that as few as 5 years prior to the decision in Brown I (1954), States such as Arizona and Indiana had discriminatory statutes; within 20 years of the decision, States such as New Mexico and New York maintained discriminatory laws. Yet, at the moment, the distinction between de facto and de jure segregation is often made on the basis of an arbitrary date, 1954. Those States which did not have statutes in effect requiring or permitting discrimination in 1954 generally are considered de facto and generally have not been required to bear burdens of finance and inconvenience imposed upon other States. The distinction between de facto and de jure segregation persists despite the fact that recent court decisions in Denver and in Detroit have found evidence of official action conducive to segregation by race. The distinction persists despite the fact that statistics tell us that there is currently more racial isolation in many cities of the North and West than in cities of the South. The distinction persists despite the fact that it is obviously inequitable to require citizens of the South—both black and white—to bear the financial and inconvenience burdens associated with racial balance and massive enforced busing of public school students, while other parts of the Nation, where there is greater racial isolation and where there are fewer efforts to overcome it do not have the same burdens.

I believe the Scott-Mansfield amendment, as well-intentioned as it may be, fails to deal with the distinction between de facto and de jure segregation, and in doing so merely becomes a holding play for some parts of the country.

Furthermore, I believe the Scott-Mansfield proposal fails to deal adequately with the confusion which continues to exist over precisely what is required in terms of school desegregation. Like the Swann decision, it fails to come to grips with such questions as what constitutes a unitary school system and when precisely the health and safety of schoolchildren is threatened. Consequently, it continues to permit district court judges to act with a maximum of discretion and a minimum of guidance. The obvious result of this situation is that there are no uniform requirements and there is continuous confusion. If Congress and the courts allow this situation to persist, I believe we will have done a disservice to public education throughout our Nation.

Mr. President, I ask unanimous consent that Appendix C which Judge Walter E. Hoffman attached to his opinion in *Beckett* v. *School Board of City of Norfolk*, 308 Fed. Sup. 1274, be printed at this point in the Record. As Judge Hoffman noted:

> The list is not intended to be inclusive: for example, where there was mandatory segregation in public schools, other segregation or discriminatory laws were not included. It does not refer to housing ordinances and deed restrictions legalized in many states. Furthermore, it is impossible. through research of the cases and statutes alone, to uncover all examples of discriminatory action by public officials regardless of what the state laws required.

I commend this appendix to my colleagues, for I believe it illustrates that school desegregation problems are national problems and that we are only deluding ourselves if we refuse to face that fact.

There being no objection, the appendix was ordered to be printed in the Record, as follows:

## Judge Hoffman's Appendix

A list of states with discriminatory laws or judicial decisions, excluding Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, in which mandatory school segregation laws existed on May 17, 1954.

### ALASKA

In *Davis* v. *Sitka School Board,* 3 Alas. 481 (1908), it was held that semi-civilized Indians did not have to be admitted to public schools. It went on to find that the stepchildren of "an industrious, law-abiding, intelligent native" Indian, who operated a store "according to civilized methods," and had adopted the white man's style of dress; spoke, read and wrote the English language; and was a member of the Presbyterian Church; were not civilized enough to attend white schools because they still lived with other members of their tribe.

*Sing* v. *Sitka* School Board, 7 Alas. 616 (1927), upheld separate but equal schools for Indians.

### ARIZONA

*Arizona Code Ann.* (1939), section 54–416, provided for mandatory segregation in *elementary* schools. Under section 54–918, there was permissive segregation in *high* schools, where there were more than 25 blacks in the high school district and if approved by a majority vote of the electorate. By an amendment in 1951, section 54–416 was made permissive and section 54–918 was repealed.

### ARKANSAS

*Ark. Stat. Ann.* (1947), section 80–509(c), required the establishment of separate schools for white and colored.

### CALIFORNIA

While laws enacted in 1869–70 and 1880–81 provided (1) mandatory separate schools for Negro and Indian children, and (2) permissive separate schools for children of Mongolian or Chinese descent, a statute enacted in 1943 but repealed in 1947 reenacted the permissive separate school provision and provided that, if separate schools were established for Indian children or children of Chinese, Japanese or Mongolian parentage, they could not be admitted to any other school. *Cal. Educational Code,* section 8003 (Deering's 1944.) *See* also: *Cal. Laws* 1869–70, p. 838; *Cal. Political Code,* section 1662 (Deering's 1885.)

### COLORADO

Miscegenation statute, *Col. Stats. Ann.* c. 107, sections 2, 3 (1935.) Jackson v. Denver, 109 Col. 196, 124 P. (2d) 240 (1909) holds that an otherwise valid common law marriage between a black and a white was declared to be "immoral" and justified a conviction under a vagrancy statute defining same to include leading an "immoral course of life."

### CONNECTICUT

*Conn. Const.,* Art. VI, section 2 (1818), limited the electorate to white male citizens owning property. In 1845 the property qualification was deleted. In 1876 the Constitution was amended by removing the requirement that electors be white.

### DELAWARE

*Del. Const.,* Art. X, section 2 (1915) provided for separate schools. By the Del. Rev. Code, Ch. 71, section 9 (1935), two kinds of separate schools were authorized; "those for white children and those for colored children."

### DISTRICT OF COLUMBIA

*D.C. Code,* title 7, sections 349, 252 (1939 Supp.), authorizing separate schools for white and colored in the District.

### IDAHO

*Idaho Const.,* Art. 6, section 3 (1890), prohibits Chinese or Mongolians, not born in the United States, from voting, serving as jurors, or holding civil office.

Miscegenation statute: 1867, p. 71, section 3; R. S. section 2425, reenacted Rev. Code section 2616; amended 1921, Ch. 115, section 1, p. 291.

### ILLINOIS

*Ill. Const.,* Art. II, section 27 (1919), limited the electorate to white males.

Although no statute respecting school segregation has been located, history is replete with evidence of discriminatory practices in operating separate schools for many years. *See* Ming, *The Elimination of Segregation in the Public Schools of the North and West,* 21 J. Negro Ed. 265, 268 (1952); B. H. Vallen, *Racial Desegregation of the Public Schools in Southern Illinois,* 23 J. Negro Ed. 303 (1954); Shagoloff, *A Study of Community Acceptance of Desegregation in Two Selected Areas,* 23 J. Negro Ed. 330 (1954). *See* also: *United States v. School District 151 of Cook County, Ill.,* 301 F. Supp. 201, 217 (1969).

Thus, Illinois, without a specific statute, practiced segregation in public schools prior to 1954, almost as much as in the "Deep South."

### INDIANA

Ind. Stat. Ann., section 28–5104 (Burns 1933), provided for the establishment of separate schools for Negroes if the school authorities believed it to be necessary or proper, but, if no separate schools were established, Negroes could attend white schools. In 1949, the separate school law was repealed, *Laws,* 1949, Ch. 186, section 11.

### IOWA

*Iowa Laws,* Ch. 99, section 6 (1846), provided that schools were to be open to all white persons.

*Iowa Laws,* Ch. 52, section 30 (1858), called for the education of colored children in separate schools except where there was unanimous consent of all attending the school to allow Negroes to attend the white school. This act was declared unconstitutional in *District v. City of Dubuque,* 7 Iowa 262 (1858), on the ground that the Constitution gave the power to legislate with regard to education to the Board of Education and not to the General Assembly. Thereafter, the Board of Education provided education for all "youth" and in *Clark v. The Board of Directors,* 24 Iowa 266 (1868), this was construed as requiring admission of Negroes into white schools.

The *Iowa Const.,* Art. II, section 1 (1858), provided that only white males could be electors. Iowa Code, Ch. 130, section 2388 ff. (1859), stated that no colored person could be a witness.

### KANSAS

Kan. Gen. Stat., Section 71–1724 (1949), gave authority to establish and maintain separate primary schools for whites and Negroes throughout the state, and separate high schools in Kansas City. See: *Brown v. Board of Education,* 347 U.S. 483 (1954).

### KENTUCKY

*Ky. Const.,* Section 187, *Ky. Rev. Stat.,* Section 158.020 (1946), required separate schools for white and colored children.

### MARYLAND

*Md. Code Ann.,* Art. 77, Sections 124, 207 (1951) required the county boards of education to establish one or more separate schools for Negroes, provided that the colored population of any such district warranted, in the board's judgment, an establishment of separate colored educational facilities.

### MASSACHUSETTS

In *Roberts v. City of Boston,* 59 Mass. 198 (1849), the court stated that separate schools had been maintained for colored children "for half a century."

The court upheld the school committee in denying admission to a white school by a Negro child. However, six years later Massachusetts by statute abolished the practice of excluding on account of race, color or religion.

### MICHIGAN

A dissenting opinion in *The People v. The Board of Education of Detroit,* 18 Mich. 400 (1889), states that in 1841 separate schools for colored were established in Detroit. The court was construing an amendment to the general school law which provided that all residents had an equal right to attend schools and the statute was held to apply to Detroit.

In *Day v. Owen,* 5 Mich. 520 (1856), the court upheld a regulation excluding a Negro from the cabin of a steamer solely for the reason of his race.

*People v. Dean,* 14 Mich. 406 (1866), held that only whites, or those at least three-fourths white, could vote.

Miscegenation statute, C. L. 1857, 3209, C. L. 1871, 4724, prohibited marriages between whites and Negroes until the statute was amended in 1883.

### MINNESOTA

*Minn. Rev. Stat.,* Ch. 5, section 1 (1851), and Minn. Const., Art. VII, section 1 (1858), excluded Negroes from voting until amendment of November 3, 1868.

### MISSOURI

*Mo. Const.,* Art. XI, sections 1, 3 (1875), and *Mo. Rev. Stat.,* section 163.130 (1949), required separate schools and "it shall be unlawful for any colored child to attend any white school or for any white child to attend a colored school." These provisions were repealed in 1957, three years *after Brown I.*

### MONTANA

Mont. Ter. Laws, 1872, p. 627, provided for separate schools of children of African descent when requested by at least ten such children. This statute was repealed in 1895.

Miscegenation statute, *Mont. Rev. Code*, section 5700, (1935).

### NEBRASKA

*Neb. Rev. Stat.*, Ch. 48, section 8 (1866), imposed upon the local school directors the duty of taking an annual census of unmarried *white* youth between the ages of five and twenty-one for the purpose of school assignments. *Neb. Rev. Stat.*, Ch. 48, section (1886), establishing the school system states that it is "for the purpose of affording the advantage of a free education to all *white* youth of this territory," and further provides that all colored persons shall be "exempted from taxation for school purposes." These laws were repealed in 1869.

Miscegenation statute. *Neb. Rev. Stat.*, section 42-103 (1943).

### NEW JERSEY

*N.J. Com. Stat.*, pp. 4791-92, Schools sections 201-204, pp. 4814-16, Schools sections 262-267 (1911), established an industrial school for blacks.

In M. T. Wright, *Racial Integration in the Public Schools in New Jersey*, 23 J. Negro Ed. 282 (1954), there is reference to an 1850 statute permitting a township in Morris County to establish separate schools for colored children.

In Williams and Ryan, *Schools in Transition*, p. 122 (1954), it is said: "A survey of 62 school districts, initiated in the spring of 1948, revealed that two-thirds had segregated schools sanctioned by local custom and practice."

*N.J. Const.*, Art. II, section 1 (1844), limited suffrage to white males.

### NEW MEXICO

*N.M., Stat.*, section 55-1201 (1941 Annot.) allowed school boards to place children of African descent in separate schools if the facilities were equal.

### NEW YORK

*N.Y. Consol, Laws*, c. 15, section 921 (Cahill 1930), provided that trustees of any union school district organized under a special act "may establish separate schools for colored children provided that the facilities are equal." On March 25, 1938, this law was repealed.

### NORTH DAKOTA

Miscegenation states, N.D. Rev. Code, section 14-0304 (1943).

### OHIO

Under *Ohio Stat.*, Ch. 101, section 31 (1854), separate schools for colored children were authorized and required when there were more than thirty school-aged colored children in a township. This statute was repealed in 1887. It was held in *Garnes* v. *McCann*, 21 Ohio St. Rep. 198 (1871) that the existing statute deprived the Negroes of the right to admission at white schools.

Separation of races on an educational level under the separate but equal theory was upheld in *State ex rel. Weaver* v. *Trustees*, 126 Ohio St. Rep. 290 (1933).

### OKLAHOMA

Mandatory separate but equal schools required for black and white children. *Okla. Const.*, Art. I, section 5, Art. XIII, section 3; *Okla. Stat.*, Title 70, Section 5-1 (1949 Supp.).

### OREGON

Miscegenation statute. *Ore. Comp. Laws Ann.*, section 63-102 (1940). Statute repealed 1951.

### PENNSYLVANIA

In *Hobbs* v. *Fogg*, 6 Watts 553 (Pa. 1837), the Court held that a free male Negro was not a freeman entitled to vote under the Pennsylvania Constitution providing that all freemen could vote. In 1838, the *Pennsylvania Constitution*, Art. I, restricted voters to white freemen. In 1874 this restriction was removed.

While unable to locate the statute, H. M. Bond, *The Education of the Negro in the American Social Order*, p. 378 (1934), states that in 1854 Pennsylvania enacted an optional separate school law where there were more than twenty Negroes in a district. This law was reportedly repealed in 1881.

### RHODE ISLAND

*Ammons* v. *Charlestown School District* 7 R.I. 596 (1964), held that Indian tribes were not entitled to send their children to local public schools since the state had provided schools for Indians through a special state appropriation.

### SOUTH DAKOTA

Indians were required to attend federal schools established for them whenever such schools were available. S.D. Laws Ch. 138, sections 290-293 (1931): S.D. Code, Section 15.3501 (1939).

### TENNESSEE

Mandatory separate schools for colored children. *Tenn. Const.*, Art XI. Section 12; *Tenn. Code*. Section 2377, 2393-9 (1932).

### TEXAS

Mandatory separate schools for colored children. *Tex. Const.*, Art VII, section 7; *Tex. Ann. Rev. Civ. Stat.*, Articles 2719, 2900 (1925).

### UTAH

*Utah Laws and Ordinances*, 1851, An Ordinance to Incorporate Great Salt Lake City, section 6, provided "all free white male inhabitants are entitled to vote . . ."

Miscegenation statute. *Utah Code Ann.*, Section 40-1-2 (1934).

### WEST VIRGINIA

Mandatory separate schools for colored children. *W.Va. Code*, ch. 18, Art. 5, Section 14 (1931).

### WISCONSIN

Indians required to attend separate schools where such schools were available. *Wisc. Stat.*, section 40. 71, (1949). Repealed in 1951.

Under *Wisc. State.*, section 75. 14(4), restrictions surviving the issuance of tax deeds (after tax sales) which were valid and enforceable included those regarding the "character, race, and nationality of the owners." Statute repealed in 1951.

### WYOMING

*Wyo. Comp. Stat. Ann.*, section 67-624 (1945, but originally enacted in 1876), provided that the school boards could establish separate but equal schools for Negroes.

### SUMMARY

Only as to the states of Maine, New Hampshire, Vermont, Washington, Nevada, and Hawaii does it appear from this nonexhaustive research that no discriminatory laws appeared on the books at one time or another. No consideration has been given to Puerto Rico, Virgin Islands, Canal Zone or Guam.

Mr. SPONG. Mr. President, the position of the Senator from Virginia is that any legislation passed by this Congress, by this Senate, should be national in application. There was nothing in the amendment adopted yesterday that, in my judgment, would provide any better educational opportunity for many disadvantaged children outside the South.

The Senator from Virginia has pointed out that where there have been specific cases in the North and West, and courts have gone into this, they have found that there was discrimination. This has been true in Michigan, in California, and just a day or two ago, in Nevada. So I think any policy has to be national in application.

In my opinion, the amendment that was adopted yesterday fosters a policy of distinction between de jure and de facto segregation that in turn fosters a policy of hypocrisy that I do not believe the people of Virginia and other parts of the United States will sustain for very long.

Mr. TALMADGE. Mr. President, will the Senator from Virginia yield at that point?

Mr. SPONG. I am pleased to yield to the Senator from Georgia.

Mr. TALMADGE. Is it not a fact that at one time every State in the Union had segregated schools?

Mr. SPONG. The Senator from Virginia is now placing in the record a State-by-State survey of segregation statutes. I do not know that I am prepared to say all did, but most had laws that separated the races.

Mr. TALMADGE. Is it not also true that there has been no such thing as de jure segregation in America since 1954?

Mr. SPONG. In my judgment; that is true.

Mr. TALMADGE. So, the myth of de jure and de facto segregation is totally invalid at the present time; is it not?

Mr. SPONG. In my judgment; yes.

Mr. TALMADGE. If we want to consider it valid for Virginia because they were segregated in 1954, would we not also have to hold it valid for Massachusetts because they, too, at one time also had de jure segregation?

Mr. SPONG. I think we would. The point the Senator from Virginia is trying to make, which somehow escapes some of my colleagues, is that the burden of proof in this matter is different where Virginia is concerned and where Massachusetts is concerned, because until we have a law that is nationally applicable there is a presumption that something has gone wrong in any locality in Virginia, but there is not the same presumption in Massachusetts and certain other States.

Mr. ERVIN. If I may interject there, did not the Swann case say, in respect to a State which had legal segregation at the time of the Brown case, that if we could identify a school as being a black school or a white school, that was prima facie evidence of discrimination, so that if we take that to New York, we could find a prima facie evidence of discrimination in scores and scores and scores of instances there; is that not correct?

Mr. SPONG. There are colleagues here who have cited statistics on desegregation in various parts of the Nation as being red herrings. They are not red herrings, they are facts. The cities of Richmond and Norfolk today have more desegregation and are providing better educational opportunities for the disadvantaged than dozens of other major cities throughout the United States.

The Senator from Connecticut (Mr. RIBICOFF) put his finger on the problem when this debate began, although I do not know that I share completely his views as to the methods to be used to rectify the situation. I do, however, think we are deluding ourselves today if we think that what we did yesterday is anything but waffling on this issue.

Mr. HOLLINGS. Mr. President, will the Senator from North Carolina yield me 1 minute?

Mr. ERVIN. I had promised to yield the remainder of my time to the distinguished Senator from Tennessee (Mr. BAKER).

Mr. BAKER. I will be glad to yield to the Senator from South Carolina.

Mr. HOLLINGS. I thank the Senator very much.

Mr. President, I only wish to state, in voting on the Mondale amendment, that I do so because of the original language:

> All requirements established under this Act shall be applied on a uniform basis to conditions of segregation, whether de facto or de jure throughout the Nation.

The Senator from Connecticut (Mr. RIBICOFF) had put his finger on it, that this was the issue. As for the Stennis-Russell-Hollings amendment, whenever we get a chance to vote for it, I will vote for it. I still do not accede to the provisions of the Scott-Mansfield amendment as any kind of finest hour, or compromise solution, or step in the direction of quality education. But I would vote for the Stennis amendment or for the original Mondale amendment while resisting the rest, knowing at that time that resistance has been overcome and that the Senate already acted favorably on the remainder of the amendment.

I thank my distinguished colleague from Tennessee for yielding me this time.

Mr. BAKER. Mr. President, I think that today it is not inappropriate to repeat some of what I tried to say yesterday, and on more than one occasion, to try to put this issue in perspective.

We are now approaching a significant vote on an important amendment of the junior Senator from Michigan (Mr. GRIFFIN), and I think it bears directly on the possible consideration of that amendment. What I said yesterday and repeat today is that I believe busing as ordered by the Federal judiciary is inappropriate and counterproductive in our further efforts to eliminate institutional segregation from the landscape of the United States and to create an opportunity for all of our citizens.

I do not believe that busing was eliminated as such a tool in the amendment adopted yesterday. I do believe that the amendment to be offered by the junior Senator from Michigan (Mr. GRIFFIN) will accomplish that purpose.

I believe that there has been a concerted effort by many in this Chamber to equate opposition to busing as an appropriate effort in opposition to civil rights, to equate antibusing with antiblack, to say that no busing will move us backwards toward repeal of the Brown decision, and any other number of such possibilities and allegations.

My reply is, that that is untrue so far as the senior Senator from Tennessee is concerned at least and, it does not face squarely the issue before the country; namely, the issue of busing.

Mr. President, I have some firsthand knowledge of the busing situation as the courts have decreed it, because in Tennessee, in Nashville, there is judicially ordered busing. The U.S. district judge there has required the busing of students throughout the metro-Davidson County, which is a consolidated city-county system representing Davidson County and the city of Nashville. It might be of interest to my colleagues to know that 49,000 students are now being bused in Nashville—49,000 students out of 88,000 who are being bused as a result of that court order.

I think it might also be interesting to note that as a result of that court order, the Davidson County metro school system is now operating on a double shift basis because it was impossible for them to comply with the orders of the court to procure enough buses in order to bus all the students because of the great distances required in that judicial determination and have a conventional school system.

As a result, we have two school systems. One starts at 7 o'clock in the morning and ends at 1 o'clock. The other starts at 10 o'clock in the morning and ends at 4:30.

That means that those children who start their day at 7 o'clock are clearly on the streets, waiting for buses, long before daylight.

It may seem to be an inconsequential matter, but they are also released earlier from school than is normal. This means that many mothers, or families where both the father and the mother are working, are ill equipped to receive their children at home from school at 1 o'clock or 2 o'clock, or even 2:30, as they do now in Nashville as a result of the necessity for staggered or tiered terms in the school system.

Some of these children are bused as much as 1 hour each way each day, a total of 2 hours in the course of the day.

I do not cite these statistics and these observations from our experience in Nashville, of something now of just less than a full school year, in order to try to roll back the clock to a time prior to the Brown decision. I do not say this to be antiblack. I do not mean to say that all of the Swann decision is bad. I rather say it, hopefully, with exactitude; namely, that I believe busing has been demonstrated to be unworkable and to be inimical to the best interests of the educational opportunities of schoolchildren in the United States as we have seen it in Nashville, Tenn., and as it is being seen in other parts of the country.

I would hope that we would face up to the issue before us because my colleagues are certainly aware that if we do not face the issue, the people will certainly see that we do, in due course. The people, I am convinced, feel very strongly on this issue. I think they are right.

It was once said about our form of government that the people are sovereign and we can doubt the sovereign's judgment but we cannot doubt his authority.

Mr. President, in this case the street people are speaking on the issue of busing. However, I think it is important that we not misunderstand what they are saying. They are not saying that we have turned into a pack of reactionaries on civil rights. They are not saying that we want to undo all the progress that has been accomplished throughout the country with regard to the integration of our school systems.

They are saying what the courts in the Swann case finally said, after repudiating a number of decisions. The Supreme Court of the United States, having specifically refused to accept busing as a means of accomplishing desegregation, in the Swann case said they can use busing in certain limited circumstances.

They are not saying that even the decision in the Swann case was wrong, except in that particular and that respect.

I think the people are saying that busing is not a necessary requirement for civil rights and a requirement for our country.

It was pointed out once by the Supreme Court that separate schools are not equal, but are inherently unequal and that the separation of the races created inherently unequal situations. I think that is true. Some whites and some blacks do not think it is true. However, I do.

I believe not only in a desegregation of our systems but also in an integration of the educational system in the United States. However, that does not have a thing to do with the point of whether busing is or is not in furtherance of a solution of the problem.

I believe it is not. However, just as it is said that separate schools are not equal, but are inherently unequal and that, therefore, something must be done under the Constitution to create equality of educational opportunities, I suggest now that busing for an hour each day, leaving to go to school at 7 in the morning and getting home at 1 in the afternoon, results in many instances in neither the father nor the mother being home to look after those schoolchildren.

I suggest that busing visited upon a number of children to satisfy some numerical equality and satisfy some judicially decreed proportion of so many whites and so many blacks is also inherently unequal and that busing under these circumstances creates the same lack of opportunity cited in the court decision rendered in the Brown case of 1954.

Someone pointed out in the debate yesterday that busing was used in times past to perpetuate the segregation of black children by busing them to all black schools. Is it not strange that blacks and whites are being bused again, not for the sake of rendering equality in education, but for the sake of establishing what the court conceives to be a judicial determination of a mathematical ratio?

Some have said that is not so, that the Supreme Court specifically disavows any mathematical kind of ratio. And that is true. The Supreme Court does disavow any kind of mathematical ratio. But that is not what the district courts do. The district courts, by clearly expressed determination in their decrees, require, as they put it, a beginning ratio. I think that is wrong.

The issue is narrowly defined. It has nothing to do with progress in civil rights. It has to do, rather, with declaring that busing is an appropriate tool. I suggest that it is not.

I will support the amendment of the junior Senator from Michigan.

Mr. ERVIN. Mr. President, I withdraw my amendment.

Mr. GRIFFIN. Mr. President, will the Senator withhold that request?

Mr. ERVIN. Mr. President, I withhold my request.

Mr. GRIFFIN. The Senator from Colorado would like to have a few moments. However, he has left the floor momentarily and he will be back shortly.

Mr. ERVIN. Mr. President, my time is exhausted, all of it.

Mr. PELL. Mr. President, I yield 5 minutes or as much time as he requires to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, I think that the remarks by the Senator from Tennessee help to underscore the importance of what we are speaking about. The Select Committee on Equal Educational Opportunity heard from the superintendent of the Nashville school system, and it is indeed true that the present situation in Nashville is intolerable. However, the reason it is intolerable is that the Federal Government is not providing any help for the tremendous expenses involved in busing. If it did, the school system could afford enough buses to run the schools on a regular basis and do away with the double session school system.

As the Nashville superintendent of schools said, the parents, neither those who support integration nor those who tolerate integration, will permit their children to endure the hardship brought about by inadequate transportation services.

The committee amendment, which the Scott-Mansfield amendment attempts to preserve would bring totally justified, and long overdue financial relief to school districts, 1,500 of which are caught completely in the middle while the politicians wrangle and while the courts rule. No matter what we do today, those districts must eliminate discriminatory segregation.

The question is whether we will continue to posture or whether we will bring help to the school districts who are under court order and who have no choice, school districts in which 11 million schoolchildren go to school.

There is much discrimination remaining in school districts today throughout the country, North and South. It is not a rare phenomenon. This is part of American school life, regrettably. I have talked before and I will talk again about recent cases, recent court cases in California, in Illinois, and elsewhere showing that there is an outrageous, deliberate policy of separating children on the basis of race and that busing is used as a tool to separate the children.

What is the court to do when faced with that kind of a situation? We have been led to believe in the debate that U.S. Supreme Court Justices are seized with some kind of insanity, some kind of total escape from reality, that they have become fixated on a national course of homogenization of the American schoolchildren.

We are led to believe that Chief Justice Burger and the other Justices have lost their senses, that most district court judges are irrational, and that we must somehow restrain them from visiting bizarre apparitions upon the schoolchildren of America.

We are dealing today with the same problem that we have dealt with for 20 years. The issue is discrimination, the policy of separating children on the basis of race.

The Senator from Michigan has offered an amendment which, if it is effective—but it will not be because it seeks to amend the Constitution—would prevent the court from trying to eliminate discrimination even when a clear case of discrimination has been proved.

In my opinion, we cannot amend the Constitution by statute. In my opinion it is wrong to even attempt to do so. The courts have the right and the responsibility of hearing cases which reach these constitutional issues. To attempt to deny them the right to exercise constitutional judicial duties is very futile, and a very unwise public policy.

In my opinion, if the Griffin amendment were effective—and I do not see how it could possibly be—it would be the most racially regressive measure adopted by Congress since adoption of the 14th amendment. It would roll back 18 years of Supreme Court decisions seeking to eliminate discriminatory school systems in this country. It would deny the Justice Department or the Department of Health, Education, and Welfare tools essential to the elimination of discrimination.

This amendment can only be called an attempt, however futile an attempt, to endorse discriminatory segregated school systems throughout our country.

This morning we read in the New York Times a remarkable statement by the speaker of the House in the State of Florida, Richard A. Pettigrew, in which he points out it would be wrong educationally and wrong legally to try to roll back the effort to bring about school systems which do not discriminate. This remarkable and courageous statement by the speaker of the House of Representatives in Florida is parallel to the leadership of the Governor of that State. It is quite clear that they, in their experience, do not feel we should proceed with the kind of measure represented by the Griffin amendment.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. RIBICOFF. I oppose the Griffin amendment, but I sat here with a sense of irony as I listened to the Senator from Minnesota.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. RIBICOFF. Will the Senator from Rhode Island yield to me?

Mr. PELL. I yield 5 minutes to the Senator from Connecticut.

Mr. RIBICOFF. The distinguished Senator praises the Speaker of the House and the Governor of the State of Florida. These two men belong to a very small band that have the courage of their convictions. Such courage has not always been found on the floor of this body.

As I stated yesterday, I think the Scott-Mansfield proposal bids a fond farewell to desegregation in education. We have begun a long road back to where we were before 1954. History will prove that the vote yesterday is a step toward repudiating 18 years of work. The Senate has failed to show the courage that has been shown by the Supreme Court and judges across this land.

Governor Askew and Speaker Pettigrew stood up in Florida where the issue is hot and explosive, in support of racial equality. That took courage. A similar show of concern would have rejected the Scott-Mansfield amendment yesterday. The distinguished Senator from Minnesota, for whom I have the greatest respect, himself made a great speech a week ago and pointed out the weaknesses of the proposals that were subsequently adopted in the Scott-Mansfield measure.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIBICOFF. May I have 2 or 3 additional minutes?

Mr. MONDALE. I yielded for a question and not for what seems to be a speech.

Mr. RIBICOFF. I have the greatest respect for the Senator from Minnesota.

Mr. PELL. I believe I control time.

The PRESIDING OFFICER. I have only 14 minutes remaining. I yield first to the Senator from Minnesota. How much time?

Mr. MONDALE. Four minutes.

Mr. PELL. I yield to the Senator from Minnesota for 4 minutes and I shall reserve the remainder of my time for the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, I have great respect for the Senator from Connecticut. I support his amendment, which I think he will be offering again, which seeks to try to reach a national policy bringing about quality integrated neighborhoods. I think that objective is exceedingly important to the health of this country. But I think the central dispute that is involved in this debate is whether the country is going to abandon its fight against discrimination found in the school systems of this country.

In this bill we come out for a system of quality integrated education for the first time in the history of Congress, and we try to provide funds to assist school districts to establish such school system and try to encourage multidistrict cooperation.

If we can maintain unsullied the fight against discrimination wherever it may exist, in the North as well as in the South, and I think we have done that completely and without any doubt today, and if we can do it completely and without any doubt tomorrow, and if we can adopt the measures which bring about quality integration and adopt the amendment which I believe the Senator from Connecticut will offer, and which I intend to support, I think it could be one of the greatest days in the history of the Senate.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. PELL. As I previously indicated, I have committed the remainder of my time to the Senator from Colorado.

Mr. ALLEN. Mr. President, is there any additional time remaining?

The PRESIDING OFFICER. There is no additional time.

The Senator from Colorado is recognized for 10 minutes.

Mr. ALLOTT. Mr. President, would it be in order if the Senator from Rhode Island feels he is bound, that we ask for an additional 5 minutes on this matter?

Mr. PELL. As far as I am concerned it would be in order.

The PRESIDING OFFICER. It would require unanimous consent.

Mr. ALLOTT. I do ask unanimous consent.

The PRESIDING OFFICER. Is there objection? The request is that the time be extended for 5 additional minutes.

Mr. PASTORE. Mr. President, reserving the right to object, and I do not object, but the leadership is not on the floor. I hope this will not be considered as a precedent.

Mr. PELL. The Senator makes a very good point.

The PRESIDING OFFICER. The Chair hears no objection, and it is so ordered.

Mr. PELL. In that case I have 15 minutes remaining, and I yield 5 minutes to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I would like to ask the distinguished Senator from Minnesota a few questions that I tried to address to the majority leader yesterday when time ran out.

The Scott-Mansfield amendment talks about not requiring a child to go to a school "substantially inferior" to the one he would have attended under a nondiscriminatory system of school assignments based on geographic zones established without discrimination.

Who is to say what is an inferior school?

Mr. MONDALE. Let me say to the Senator: The full amendment provides—I do not have it here—that that situation obtains only where a school district is not discriminating. In other words, wherever it is found that a school district is separating children on the basis of race, the normal remedies, judicial, and administrative remedies, apply. A careful reading of that amendment leaves us in exactly the same position we are in today.

I would not have used that language myself. It was not my amendment. But the operative legal fact is to leave the law as it is today.

Mr. RIBICOFF. Is it not true that the amendment the Senator supports puts the burden of resolving the problem of racial isolation on the courts and encourages continuous appeals? Does not the Scott-Mansfield amendment require every community across this land, North and South, to take appeals to the Supreme Court on questions of desegregation, with automatic stays? Would not we still have complete confusion and really torpedo any possibility of desegregating schools, certainly until July 1, 1973? Is that not true?

Mr. MONDALE. That particular provision applies only in one limited class of cases; namely, cases which are multidistrict in impact. As far as I know, there is only one case in which such an appeal is involved in the country, and possibly there will be a second case in Detroit.

The reasoning, as I understand it, of the Scott-Mansfield sponsors was the revolutionary nature of the change in school district organization which is involved, in these multidistrict cases—and they would allow the Supreme Court to rule on the question before the court orders are put into effect. That is the one place in the amendment where it can be said that there has been some restriction on court jurisdiction. I have some question about whether even that is valid, but that is the only example.

But the total bill—returning to that point—if the Senator reads it, is an affirmation of the U.S. policy of eliminating discrimination in this country.

Mr. RIBICOFF. Who is to be the authority on what is a nondiscriminatory system of school assignment? I am at a loss to understand from the phrases in the amendment, who is going to set the standards, and who is going to determine what an inferior school is.

Talk about the litigation that followed the Brown against Board of Education decision in 1954. As a result of what we have done in the Senate, litigation across the country will start all over again after 18 years. After 1972 we will be back to where we were in 1954. That is what has happened as a result of the Scott-Mansfield proposal.

Mr. MONDALE. The amendment says where discrimination is found—which is the only jurisdiction the court has, which is the only jurisdiction under title VI—there is no change in the law. There is not a single change found in the amendment that affects the present law against discrimination in one iota. Therefore, one can be totally and enthusiastically against discrimination, as I am, and be in favor of that amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLOTT. Do I have 10 minutes?

The PRESIDING OFFICER. It is the understanding of the Chair that that time was to be given to the Senator from Colorado.

Mr. PELL. Mr. President, in accordance with the previous understanding, I have allotted the time requested to the Senator.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLOTT. Mr. President, yesterday I voted for the Scott-Mansfield amendment. I did so for two reasons.

First, although the amendment is inadequate as an answer to the busing problem, it is better than nothing. Since it was the first vote on this issue, it was a useful occasion for signaling my determination to find effective legislative means of expressing opposition to massive busing used solely to achieve racial balance.

Second, this amendment, although only a small step toward a solution to the busing problem, is a step in the right direction. It puts us on the path toward a more full and adequate solution.

Mr. President, the proper next step down that path, a giant step that may provide the solution that the vast majority of Americans, both white and black, desire, is before us now. It is the amendment proposed by the distinguished junior Senator from Michigan (Mr. GRIFFIN).

I intend to vote for this amendment. If the Griffin amendment passes, the parliamentary situation will be such that we will be called upon to vote again on the Scott-Mansfield amendment. That vote will be by way of a choice between the Griffin amendment and the Scott-Mansfield amendment. Given that choice, I shall vote against the Scott-Mansfield amendment and for the Griffin amendment.

Mr. President, I have given two reasons why I voted for the Scott-Mansfield amendment. At this point I want to explain why I think that amendment is inadequate.

The Scott-Mansfield amendment has three sections. Each is flawed; but each is a small first step in the right direction.

Section (a) forbids the spending of money for busing that risks the health or impinges on the educational opportunities of the children. This is a fine sentiment but it leaves crucial judgments in the hands of persons and agencies which, in the past, have rendered judgments that seem to me highly unsatisfactory. Clearly we cannot rest here.

Section (b) forbids any agency of the Federal overnment to order busing "unless constitutionally required." It is not clear what this proscription will achieve. Section (b) also forbids the Federal Government to order the transfer of a child from one school to another that is "substantially" inferior. This is another hazy judgment which we are entrusting to agencies whose previous judgments have put the Nation into a divisive quandry.

Section (c) is especially disappointing to me because it does not offer any relief to Denver. This section delays until all appeals have been exhausted the implementation of all busing orders involving the consolidation of school districts or the shuffling of children between the jurisdictions of various school boards.

That is the significance of the phrase "local educational agency" in the sentence which begins this way:

> Notwithstanding any other law or provision of law, in the case of an order to the part of any United States District Court which requires the transfer or transportation of any student or students from one local educational agency to another, or which requires the consolidation of two or more local educational agencies for the purpose of achieving a balance among students with respect to race, sex, religious or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted. . .

This brings me to the first and most immediate reason for supporting the Griffin amendment. This amendment—specifically, section 903—grants a delay which would ease the costly and divisive burden on Denver pending completion of appeals relating to busing.

Beyond this, the Griffin amendment has much to recommend it.

First, the Griffin amendment continues the tradition of the great landmark decision in the Brown case 18 years ago. The Griffin amendment, like the Brown case, insists that the law be colorblind. It took us far too long as a people to face up to the inequities inherent in laws which take note of the color of a citizen's skin. We should not allow any agency of the Government, however humanely motivated, to pull us back into the bramblebush of discrimination—even if it is "reverse discrimination"—and "quotas"—even if they are benevolently intended.

Second, Mr. President, the Griffin amendment, and opposition to massive busing in general, is consistent with the Brown decision in another way.

The Brown decision struck down the dual school systems whereby the races were kept separate in the assignment of children to public schools. This great decision ended the policy of forced busing to keep the races in a particular relationship. I was, in 1954, and today I remain opposed to forced busing to achieve a particular racial composition of a public institution.

Perhaps I am old fashioned in believing that the great civil rights fights of recent years were correctly focused on the noble project of ending all practices whereby the law takes cognizance of the race of the citizen. I participated in every one of those fights for civil rights, and I am proud of my participation. I have no intention today of reversing my position to accord with whatever passing sociological fad is supposed to mandate this or that kind of racial balancing.

This is why, Mr. President, two years ago I opposed the so-called Philadelphia plan which called upon the Federal Government to impose racial "quotas" in certain hiring practices. To paraphrase the poet, a quota is a quota is a quota. It is a form of discrimination. And discrimination is discrimination is discrimination. I oppose discrimination period. I do not oppose discrimination with any ifs, ands, or buts. I do not want the Government of the United States involved in policies which make use of racial categories.

If my views are old fashioned, so be it. The law should be colorblind. Racial or other ethnic or religious quotas are wrong. And the senior Senator from Colorado will not change his views on that subject, even if some Federal judges become convinced to the contrary. That is another reason why I support the Griffin amendment's prohibition against courts requiring "that pupils be transported to or from school on the basis of their race, color, religion, or national origin."

Mr. President, a third reason for supporting the Griffin amendment is my growing conviction that the distinction between de jure and de facto segregation is crumbling. Or, to be more exact, this distinction, in the hands of certain members of the judiciary, is unworkable, and is giving these members of the judiciary excessive latitude to legislate their preferred social arrangements.

Not very long ago the distinction between de jure and de facto segregation was the distinction between racial isolation intentionally imposed directly upon schoolchildren by the laws of the State.

Recently, however, some persons have attempted to identify de jure segregation in every instance of racial imbalance. There seems to be at work a presumption of State guilt wherever the racial composition of a school is imbalanced. There seems to be the presumption that the law has connived at separating the races if it has not positively worked to integrate them.

In short, there seems to be a willingness to infer de jure segregation wherever there is evidence of racial composition that is, by some uncertain measure, "out of balance." The socioeconomic factors that result in housing patterns which give rise to local schools which reflect neighborhood composition—these factors are ignored or, more confusingly still, they get subsumed under the category of de jure segregation. When this happens, the distinction between de jure and de facto segregation becomes a distinction without a difference. These two classifications become classifications that do not classify. Everything can be attributable to some action—or, more often, some inaction by the State. Thus everything becomes de jure and nothing becomes de facto.

When this happens, the Government gets caught in an inexorable undertow, drawing it deeper and deeper into the dangerous business of sorting out the races. The end result is that the law is no longer colorblind. The blindfolded statue of justice removes her blindfold in order to notice the color of the citizen's skin. This is not tolerable.

I suspect that this distinction between de jure and de facto segregation might have been rendered unnecessary, and much confusion and waste might have been avoided, had the Brown decision been cast in another way. It would have been better had the Court not relied on sociological data about the effect of segregation on the quality of education, and instead asserted the plain—and obvious—point that laws which are not colorblind are unconstitutional.

That is the spirit of the Brown decision. The Griffin amendment asserts that spirit.

Mr. President, I support the Griffin amendment as a sensible, reasonable, prudent attempt to prohibit busing solely to achieve racial balance. I firmly believe that the purpose of this amendment enjoys the support of the majority of all Americans. After all, all Americans, regardless of race, have a stake in the neighborhood schools. And all Americans, regardless of race, are sensitive to, and embarrassed by, the pernicious and essentially racist doctrine that a black child can only enjoy proper educational advantages if he or she is sitting next to white children.

But, Mr. President, a prohibition of busing is just that, and nothing more. Just as busing is not education, so, too, a prohibition is not a policy.

We still need an educational policy responsive to the clear and present danger posed by the gross inadequacies of education in poverty areas.

The one good thing that has come from the misguided policy of busing to achieve racial balance is that it has called the Nation's attention to a clear injustice.

It is clear that there are in America intolerable inequalities in educational opportunity. I do not think it would be prudent or just to insist that education everywhere must be "equal" in all respects. Indeed, it is hard to know what that means.

But while we do not want to mandate a stultifying equality, we do want to eliminate gross inequalities. We need a policy to cope with the schools which poor Americans attend. What we face is not a question of race, but a question of poverty. It is well to remember that most of the poor people in America are white. And it is imperative that we remember that the effects of poverty know no color line.

Mr. President, busing will not eliminate the horrible deprivations and handicaps of poverty. Indeed, education itself probably cannot do this. But opposition to busing does not solve the problem which busing attempts—misguidedly, divisively and futilely—to solve.

Mr. President, those of us—and we are the overwhelming majority of Americans—who favor the neighborhood schools should get to work. We should attempt to devise a program whereby the neighborhood school in the poor neighborhood is better than the neighborhood.

Instead of establishing "quotas" of racial blocs to be shuffled around our communities, we should ignore race and concentrate on poverty.

Poverty is colorblind in this country. The law should be colorblind—and a determined enemy of poverty-stricken education of the sort that typifies too many of our schools in poor neighborhoods.

Mr. President, it is clear that various forces are converging on this issue. The recent court decisions—in California and Texas concerning reliance on the property tax for support of local education highlight the problem. I do not want to address myself to the merits of these decisions in any way. But I do want to emphasize the obvious commonsense point that if property values are low, this will have consequences on schools financed by local property taxes.

Whether the effect is sometimes intolerably deleterious is an empirical question, and I am not speaking to it. Whether the effect is constitutionally impermissible is a theoretical question, and I am not speaking to it either.

I only touch upon this matter because I know that the whole question of property taxes—their intolerable rise, and their possible inefficiency in meeting educational needs—is a problem uppermost in the minds of those at the very highest levels of the Nixon administration.

I think we are on the verge of a fresh new look at how we treat the Nation's children—and how we burden those, the taxpayers, who are, in the final analysis, the real support for the rising generations of Americans. I welcome this fresh reappraisal. But before we can get started on this, we must clear our heads and the agenda. And we must back out of the deadend street represented by busing. We must end this practice which is inefficient and divisive, and which is souring the public spirit of America.

I believe—and I know there is a lot of

encouraging evidence to support this—that racial views are moderating in America. There are enormous reserves of goodwill ready to be tapped. And there is a strong tradition of great support for public education at all levels. But busing is poisoning the wellsprings of American thinking.

Americans are now alert to the problems of insupportable inequalities in educational opportunities. To repeat, busing—its futility, its hardships, its capriciousness—gets part of the credit for focusing public attention on this problem. Now let us move ahead constructively.

Let us support the Griffin amendment, thereby laying to rest the justifiable feeling that Americans are losing their control over—and their stake in—their schools.

Let us get Americans out from under the gun; let us get them out from under the cloud of recrimination and bitterness that stems from justifiable resentment of busing programs which waste time and money, and even waste our most precious resource—the educational opportunities of the rising generation.

Mr. President, let us resoundingly support the Griffin amendment, thereby asserting the intention of Congress to cooperate with local authorities in making neighborhood schools a vibrant source of pride, and an efficient instrument for ameliorating our most enduring and pernicious inequalities.

It seems especially appropriate today to recall the old Chinese proverb that says a journey of 10,000 miles begins with a single step. The Griffin amendment is a big first step, and the right first step on our journey to more efficient and equitable education for all Americans. I urge all Senators to support the Griffin amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ERVIN. Mr. President, after consulting with the Senator from Alabama (Mr. ALLEN), we have agreed that at the present time, we will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Now that the amendment of the Senator from North Carolina is withdrawn, is a further perfecting amendment to the Mondale amendment in order?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. This is the same amendment which was offered earlier in a different form as an amendment to the Allen amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN's amendment is as follows:

In the text of the Mondale amendment, after the words "uniform basis" insert a period, strike the remainder of the sentence, and add the following:

SEC. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 903. No department, agency, officer, or employee of the United States, empowered to extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 904. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority or which requires the consolidation of two or more local educational agencies for the purposes of achieving a balance among students with respect to race, color, religion, or national origin, the effectiveness of such order shall be postponed until all apepals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

SEC. 905. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. GRIFFIN. Mr. President, the parliamentary situation, as I understand it, until this most recent amendment was offered, was that we would have voted on the Mondale amendment, as amended by the Mansfield-Scott amendment so that the vote, if it had occurred—at least in the interpretation of the junior Senator from Michigan—would have been a repetition of the vote we had yesterday.

It seems to me that such a vote probably would have served no useful purpose, and I think that most Senators, after this morning's debate are now ready to vote on the so-called Griffin amendment. This amendment is now the pending business, and I am ready to yield back the remainder of my time.

Mr. SPONG. Mr. President, will the Senator from Michigan yield for one question?

Mr. GRIFFIN. I yield.

Mr. SPONG. Does the amendment as offered today contain a modification regarding consolidation which the Senator from Michigan accepted yesterday?

Mr. GRIFFIN. I would say to the Senator from Virginia that it does retain that language.

Mr. MONDALE. Mr. President, I oppose the amendment of the distinguished junior Senator from Michigan.

Amendment No. 915 seeks to deprive Federal courts and agencies of all power to require transportation of students in order to eliminate racially discriminatory school assignment policies. This amendment is unconstitutional. And it attempts to protect racial discrimination of the clearest sort.

The courts require desegregation only where it is necessary to correct past racial discrimination. Yesterday I discussed several examples of intentionally segregated public education. In Pasadena, Calif., for example, a Federal district court found that the school district had:

Intentionally gerrymanded attendance zones to concentrate black students in particular schools, and white students in other schools.

Provided transportation to permit white students to avoid integration.

Contributed to the racial identifiability of its schools by assigning the great majority of its black teachers and administrators to predominately black schools—even assigned substitute teachers on a racial basis—and concentrated less well educated, less experienced and lower-paid teachers in majority black schools.

Denied advancement to administrative positions on a racially discriminatory basis.

Regulated the size of schools to assure that integration would not take place—and located portable classrooms at black elementary schools to prevent the assignment of students to adjoining white schools.

Permitted transfers out of "neighborhood schools" when the stated purpose was clearly to foster segregation.

Residential segregation in Pasadena was no accident. From 1948 until 1968 the court found that virtually every Pasadena realtor refused to sell homes to Negroes located in white residential areas. In fact, Pasadena realtors interpreted the realtors' code of ethics to render such sales unethical.

Mr. President, no one likes transporting children to school. But it is a fact that 40 percent of the schoolchildren of this country—well over half when those riding public transportation are included—are transported to school.

It is also a fact that total busing has increased very little, if at all, as the result of desegregation. Between September 1968 and September 1970 the Southeastern States—where most desegregation was taking place—experienced an increase in pupils bused of less than 3 percent, while the Midwestern States—where very little desegregation was taking place—experienced gains of over 5 percent.

In Alabama, Mississippi, and South Carolina the number of students bused decreased. In Louisiana and Florida although the number of students bused increased, the average distance decreased substantially. Mr. President, I ask unanimous consent that statistics on pupil transportation compiled by the Department of Health, Education, and Welfare and the Department of Transportation may appear in the RECORD at the conclusion of my remarks.

The issue is not busing. The issue is whether we will move ahead to make desegregation work educationally—as title VI of the committee amendment, the Emergency School Aid Act, would do—or whether we will try to turn back the constitutional clock, as the pending amendment would do.

And amendment No. 915 is plainly unconstitutional as it applies to courts. The equal protection clause does in some instances require reasonable transportation to overcome past racially discriminatory student assignment practices.

As the Supreme Court held in Swann against Charlotte-Mecklenburg:

> We find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in school.

And as the Court held in reversing a North Carolina statute similar to amendment No. 915:

> Just as the race of students must be considered in determining whether a Constitutional violation has occurred, so also must race be considered in formulating a remedy. . . . We likewise conclude that an absolute prohibition against transportation of students assigned on the basis of race, "or for the purpose of creating a balance or ratio" will similarly hamper the ability of local authorities to effectively remedy Constitutional violations . . .
>
> . . . As transportation has long been an integral part of all public educational systems, and it is unlikely that a truly effective remedy could be devised without continued reliance upon it. North Carolina against Swann (1971).

The Constitution deals only with segregation which is the result of racially discriminatory official action. But once school officials have taken account of race in assigning students and locating schools, an effective remedy cannot be achieved without taking race into account—and reasonable transportation may also be needed.

Amendment 915 attempts legislative repeal of the Swann decision, handed down by the Supreme Court last March. But it has been clear at least since Marbury against Madison was decided in 1803 that Federal statutes which violate constitutional standards are void.

It cannot be argued that the clause authorizing legislation "necessary and proper" to enforce the 14th amendment provides authority for altering the amendment's requirements as determined by the courts. The Supreme Court settled that issue in 1965, in deciding Katzenbach against Morgan:

> Section 5 [the necessary and proper clause of the 14th Amendment] does not grant Congress power to exercise discretion . . . in effect to dilute equal protection and due process decisions of the Court . . . Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by Section 5—a measure to "enforce" the Equal Protection Clause since that clause by its own face prohibits such State law.

Nor can it be argued, on the basis of Ex Parte McCardle (1803) that amendment No. 915 is a valid effort to limit the jurisdiction of the Federal courts under article III of the Constitution.

There is some question whether McCardle would be affirmed today. See Justice Douglas' dissent in Glidden against Zdanok (370 U.S. 530). But at any rate amendment No. 915 is not an effort to limit "jurisdiction" as that term is used in McCardle and article III.

In McCardle, Congress removed the Supreme Court's entire appellate jurisdiction over habeas corpus cases. Amendment 915 does not attempt to limit the power of the courts to hear a particular class of cases. The amendment attempts to limit the remedies which may be imposed once a case has been heard and a constitutional violation found.

If statutory efforts to alter constitutional rights and remedies could be made successful merely by reciting the word "jurisdiction" the Congress could overrule any court decision, and the Constitution would be just a piece of paper.

Mr. President, the enactment of amendment No. 915 would pit the Congress against the courts—and the confusion it would create would be a tragedy for the 11 million children now attending 1,500 desegregating school districts.

I urge the Senate to defeat this harmful amendment.

Mr. TALMADGE. Does the Senator from Michigan desire the yeas and nays?

Mr. GRIFFIN. Yes; I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I am prepared to yield back the remainder of my time.

Mr. GRIFFIN. Mr. President, I am prepared to yield back the remainder of my time on this side.

Mr. President, I withdraw that. I reserve the time for a quorum call, and I suggest the absence of a quorum. Except for that, I yield back the remainder of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

The question is on the adoption of amendment No. 934 by the Senator from Michigan to the amendment of the Senator from Minnesota, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) is absent on official business.

On this vote, the Senator from Louisiana (Mr. LONG) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Minnesota would vote "nay."

On this vote, the Senator from Arkansas (Mr. MCCLELLAN) is paired with the Senator from New Jersey (Mr. WILLIAMS). If present and voting, the Senator from Arkansas would vote "yea" and the Senator from New Jersey would vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from California (Mr. TUNNEY), the Senator from Maine (Mr. MUSKIE), the Senator from Washington (Mr. JACKSON), and the Senator from Indiana (Mr. BAYH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER), the Senator from Oregon (Mr. PACKWOOD) and the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

If present and voting, the Senator from Ohio (Mr. SAXBE) would vote "nay."

The result was announced—yeas 43, nays 40, as follows:

[No. 61 Leg.]

YEAS—43

Allen
Allott
Baker
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Proxmire
Randolph
Roth
Smith
Spong
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—40

Aiken
Anderson
Bellmon
Boggs
Brooke
Burdick
Case
Church
Cooper
Cranston
Eagleton
Gravel
Harris
Hart
Hatfield
Hughes
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Percy
Ribicoff
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Weicker

NOT VOTING—17

Bayh
Hartke
Humphrey
Inouye
Jackson
Long
McClellan
McGovern
Miller
Mundt
Muskie
Packwood
Saxbe
Sparkman
Taft
Tunney
Williams

So Mr. GRIFFIN's amendment to Mr. MONDALE's amendment, as amended, was agreed to.

Several Senators addressed the Chair.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ALLEN. Mr. President, I move to lay that motion on the table.

Several Senators addressed the Chair.

Mr. MONDALE. Mr. President, I ask for the yeas and nays.

Mr. MANSFIELD. Mr. President, I believe the request for the yeas and nays was made before the motion to table.

The VICE PRESIDENT. There is a sufficient second. The yeas and nays are ordered.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. GRIFFIN. Mr. President, what is the vote on?

The VICE PRESIDENT. The vote is on the motion to table the motion to reconsider.

Mr. GRIFFIN. The vote is on the vote to reconsider or the motion to table?

The VICE PRESIDENT. The vote is on the motion to table.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MANSFIELD. It is my understanding from a visual observation that as soon as the distinguished Senator from North Carolina made the motion to reconsider, the distinguished Senator from Minnesota asked for the yeas and nays, and then it was followed by the motion to table.

Mr. ERVIN. Mr. President, the Senator from Alabama made a motion to lay the motion on the table.

Mr. ALLEN. Mr. President, a point of order.

The VICE PRESIDENT. In response to the Senator from Montana, the Chair will consult the Parliamentarian a moment.

The Chair is advised by the Parliamentarian that if the motion to table fails, we will get back to the motion to reconsider, on which there will also be a rollcall vote.

The question is on the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) is absent on official business.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON), and the Senator from Indiana (Mr. BAYH) would each vote "nay."

On this vote, the Senator from Louisiana (Mr. LONG) is paired with the Senator from Minnesota (Mr. HUMPHREY).

If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Minnesota would vote "nay."

On this vote, the Senator from Arkansas (Mr. MCCLELLAN) is paired with the Senator from New Jersey (Mr. WILLIAMS).

If present and voting, the Senator from Arkansas would vote "yea" and the Senator from New Jersey would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting the Senator from Ohio (Mr. SAXBE) would vote "nay."

The result was announced—yeas 44, nays 41, as follows:

[No. 62 Leg.]

YEAS—44

Allen
Allott
Baker
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Proxmire
Randolph
Roth
Smith
Spong
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NAYS—41

Aiken
Anderson
Bellmon
Boggs
Brooke
Burdick
Case
Church
Cooper
Cranston
Eagleton
Gravel
Harris
Hart
Hatfield
Hughes
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Percy
Ribicoff
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker

NOT VOTING—15

Bayh
Hartke
Humphrey
Inouye
Jackson
Long
McClellan
McGovern
Miller
Mundt
Muskie
Packwood
Saxbe
Sparkman
Williams

So the motion to table was agreed to.

Mr. ERVIN and Mr. JAVITS addressed the Chair.

The VICE PRESIDENT. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, on behalf of myself and Senators ALLEN, BAKER, BENNETT, BROCK, BYRD of Virginia, EASTLAND, ELLENDER, GAMBRELL, GURNEY, HOLLINGS, JORDAN of North Carolina, LONG, MCCLELLAN, SPARKMAN, STENNIS, TALMADGE, THURMOND, and TOWER, I send to the desk a perfecting amendment to the Mondale amendment and ask that it be stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

> Before the word "all" on page 1, line 1, insert the following new sentence:
>
> No court, department, agency, or officer of the United States shall have jurisdiction or power to order or require by any means whatever the State or local authorities controlling or operating any public school in any State, district, territory, Commonwealth, or possession of the United States to deny any student admission to the public or private school nearest his home which is operated by such authorities for the education of students of his age or ability. The Congress intends this statutory provision to apply to every court, department, agency, or officer of the United States, and to every State or local authority, public school system, public school, student, or person, and to every circumstance and situation to which or to whom the Congress has the constitutional power to make it applicable, and to this end the Congress declares that its invalidity in particular respects or in particular applications shall not impair in any way its validity in other respects or in other applications.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on this perfecting amendment.

The PRESIDING OFFICER (Mr. STEVENSON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I yield myself such time as I may use from the time allotted to me.

This is a very simple amendment. A hue and cry has arisen throughout this Nation where the Federal courts or the Department of Health, Education, and Welfare have insisted that little children be denied the right to attend their neighborhood schools.

This amendment provides that no court, no department, no agency, no officer of the United States can require a local school board to deny to any child in the United States or its possessions admission to his neighborhood school—that is, the school nearest to his home which is open for the education of children of his age and educational standing.

The Brown case laid down the proposition that it is a violation of the equal protection clause of the 14th amendment for State school authorities to deny any child admission to any school on account of that child's race. The recent decisions on this question have said that the 14th amendment requires a State to establish a unitary system, and that a unitary system is a school system in which no child is effectively denied admission to any school on account of the child's race. That is the definition used by Chief Justice Burger in the Norcross against Memphis case. It is also the ruling in all of the other cases on this subject.

It is an ironical thing that when the local school authorities comply with the requirements of the 14th amendment by admitting children of all races, all religions, and all national origins to their neighborhood schools, a Federal court or the Department of Health, Education, and Welfare should inject itself into the picture and require a school board to deny to a child admission to his neighborhood school on account of the child's race or religion or national origin.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. ERVIN. I yield.

Mr. PASTORE. I do not think the Senator says anything about race or national origin in his amendment.

Mr. ERVIN. It says "any child."

Mr. PASTORE. It says "any child," or "deny any student admission." Should not the Senator put the language in the amendment "because of race, national origin, or religion"? In other words, what if the school is not big enough for all the neighborhood children? That is the point.

Mr. ERVIN. Yes.

Mr. President, I ask unanimous consent that I may modify my amendment by inserting on line 3 of page 2, between the word "student" and the word "admission" the words "of any race, religion, or national origin."

Mr. SCOTT. Mr. President, reserving the right to object, would the Senator first designate the number of his amendment, so I may follow it?

Mr. ERVIN. It is a modification of amendment 916. It is 916, as I understand it, modified to make it a perfecting amendment to the Mondale amendment.

Mr. SCOTT. If the Senator will indulge me, I will see if I can find No. 916. The Senator is so prolific in his amendments.

The Senator seeks to modify it on page 2, line 3, in what degree?

Mr. ERVIN. On line 3, page 2, I ask unanimous consent to modify the amendment by inserting after the word "student" and before the word "admission" the words "of any race, religion, or national origin."

Mr. SCOTT. Mr. President, I reserve the right to object, but I will not object, because the Senator's amendment is so shriekingly bad that anything will improve it.

Mr. ERVIN. I regret very much that the Senator from Pennsylvania entertains the same opinion about my amendment that I entertain about his amendment.

The **PRESIDING OFFICER.** Without objection, the amendment will be modified as requested.

Mr. ERVIN. Mr. President, I think that one of the worst tyrannies that has been practiced by the Federal Government is the tyranny of denying little children the right to attend their neighborhood schools. In the city of Charlotte in my State, the court entered an order denying that right to thousands and thousands and thousands of little children, mostly black, who were in the first grade, the second grade, the third grade, and the fourth grade, and not only ordered that these little children should be denied the right to attend their neighborhood schools but also that they should be bused substantial distances to other schools, merely to change the racial composition of the neighborhood schools and the racial composition of the other schools.

As a result of that order, the household arrangements of thousands of the families of the city of Charlotte, of which these little children are members, are disarranged by the tyrannical action, and many of these little children are required to arise at an early hour of the morning, go out into the rain and into the sleet and into the snow, and await the arrival of school buses to transport them from their home areas, away from their friends, and away from their families, to distant schools. Many of them, in order to be ready at the school bus sites, leave their homes as early as 6 o'clock in the morning.

Many of them do not get back home until 5:30 or 6 o'clock in the afternoon. And, mind you, these are small children, first grade children, second grade children, third grade children, and fourth grade children.

There is something in the King James Version of the Bible about that it is better for a man that a great millstone be hanged about his neck and he be drowned in the depths of the sea than that he should wrong a little child. What this amendment proposes to do is exempt these little children, little children all through the United States, from being denied, at the instance of the Federal Government, the right to attend their neighborhood schools which are open for the education of children of their ages and their educational standards.

When a Federal court orders a school board to deny a little child admission to his neighborhood school on account of his race, on account of his religion, or on account of his national origin, it is ordering the school board to violate the equal protection clause of the 14th amendment.

Mr. PASTORE. Mr. President, will the Senator yield for another question, for clarification?

Mr. ERVIN. I yield.

Mr. PASTORE. Would this amendment in any way prevent a State or local authority in the case, let us say, of a black child who lives in more or less a black area the right to be bused, if that child and his parents felt it desirable, let us say, to a white area?

Mr. ERVIN. No, I drew this amendment specifically for that purpose. If the Senator will notice, it only relates to the nearest school.

Mr. PASTORE. I would like to go over that. In other words, while it may be that this does protect a white child, let us say, in his neighborhood school, when that neighborhood happens to be completely white, the argument has been made that there are some schools in areas, that have been deliberately constituted that way, where a black child is confined to going to, let us say, a black school, even sometimes against his own will.

This amendment is a restriction upon a court and a restriction upon a Federal agency, as I understand it; but let us assume that, for the tranquallity of a community, a school board should wish to take some black children out of a black area and, with the consent of those black children and their parents, send them to a white school in another area. Is there anything in this amendment that would prevent that?

Mr. ERVIN. Not at all, because this amendment does not relate to the action of the local authorities whatsoever.

Mr. PASTORE. In other words, what the Senator is doing here is protecting the neighborhood schools and the right of the children within the neighborhood to go to those schools and not to be disturbed against their will?

Mr. ERVIN. That is right.

Mr. PASTORE. But he is not preventing, let us say, a State authority from transporting black children to that white school?

Mr. ERVIN. Not at all. In other words, this places no limitation whatever upon the authority of the local officials; and moreover, there would be no limitation upon the Federal courts where district lines have been artificially devised for the purpose of enforcing segregation.

In other words, that is the reason I use the words "the school nearest his home," rather than "the school system."

Mr. PASTORE. Is it fair to assume, then, that this amendment would not disturb the quality of the good schools, but would enable the child who is in a school of lesser quality to be transferred to a better school?

Mr. ERVIN. It would not affect that question at all. It would not keep him from being transferred.

Mr. PASTORE. In other words, if the local school board saw fit to do so?

Mr. ERVIN. That is right. In other words, this amendment does not disturb in any respect the authority of the local school officials to do whatever they please in assigning children to local schools where they think it would improve their educational advantages.

Mr. SCOTT. Mr. President, will the Senator yield further on that subject?

Mr. ERVIN. I yield.

Mr. SCOTT. What actually would happen here would be that if you had a school in an all-white neighborhood, and freedom of choice were exercised to the extent that all the children in the all-white neighborhood elected to go to that school to its capacity, the school would end up all white, is that not true?

Mr. ERVIN. No, the Senator is wrong in that assumption.

Mr. SCOTT. Why?

Mr. ERVIN. Because this refers only to the right of a child to go to the school nearest his home.

Mr. SCOTT. That is true.

Mr. ERVIN. And I put that in deliberately, because in the situation mentioned by the Senator from Pennsylvania, if the school authority ran the lines of the school district in such a way as to protect segregation, then the Federal courts would be left free to act.

Mr. SCOTT. But if all of the homes adjacent and closest to that school happened to be white homes, would not all of the children who go there, to the capacity of the school, be white? How does the Senator get away from that?

Mr. ERVIN. Well, the Senator is laying down some principles that prevail pretty substantially in his home city of Philadelphia, where the white schools are largely white and the black schools are largely black.

Mr. SCOTT. Well, the Senator is not correct on that, either.

Mr. ERVIN. Perhaps the Senator from North Carolina has not heard over the radio of the great controversy that is going on in some of the suburbs of Philadelphia.

Mr. SCOTT. If the Senator wants to say that the situation is as bad in parts of the North as in parts of the South, I agree with him, but two wrongs do not make a right. Will not the Senator admit that his so-called freedom of choice amendment is an attempt to repeal the Civil Rights Act?

Mr. ERVIN. It is nothing of the kind. It merely says that the Federal Government cannot deny a little child of any race, any religion, or any national origin admission to his neighborhood schools.

Mr. SCOTT. Which is a repeal of a part of the Civil Rights Act; is it not? The Senator is a great constitutional lawyer; he knows it is a repealer.

Mr. ERVIN. No, it does not affect the Civil Rights Act of 1964. It is in harmony with that act.

Mr. SCOTT. The Senator is convinced that the effects of his amendment would in no way alter the operation of the previous Civil Rights Act; is that correct?

Mr. ERVIN. I cannot see where it would alter it.

Mr. SCOTT. Because if he is, I would have to ask him why he is offering his amendment.

Mr. ERVIN. The Civil Rights Act of 1964 really has very little to do with this subject, because the Civil Rights Act of 1964 was interpreted by the Supreme Court, in the Swann case, to have no relation to anything except de facto segregation.

Mr. SCOTT. De facto segregation?

Mr. ERVIN. De facto segregation. In other words, the Supreme Court handed down the astounding decision in that case that when Congress enacted the Civil Rights Act of 1964, it was legislating with respect to de facto segregation, and it stated 23 times that it did not apply to the only kind of segregation that Congress could legislate in respect to, and that was discriminatory segregation.

Mr. SCOTT. Well, the Senator's amendment applies to segregation situations whether de jure or de facto; does it not?

Mr. ERVIN. And applies in like manner to all children of all races, all religions, and all national origins, and treats them exactly alike. For that reason, it is in harmony with the equal protection clause of the 14th amendment.

Mr. SCOTT. And the Senator says it would put a halt to the segregation process?

Mr. ERVIN. It would put a halt to this theory of denying them the right to attend their neighborhood schools for no reason whatever except integrating purposes.

Mr. SCOTT. The Senator has answered the question. I want to be sure that he is convinced as to what he is up to, and now we both know what he is up to.

Mr. ERVIN. The Senator from North Carolina is up to the very fine purpose of giving liberty to little children to attend their neighborhood schools regardless of their races, regardless of their religions, and regardless of their national origins. It does not affect the power of Federal courts to deal with situations where there are discriminatory practices, because it has nothing to do with the laying of district lines as to the school nearest their homes.

I yield the floor and reserve the remainder of my time.

Mr. SCOTT. Mr. President, will the Senator from Rhode Island yield 5 minutes to me?

Mr. PELL. I yield 5 minutes to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, the distinguished and very able Senator from North Carolina opened up by referring to a hue and cry. Well, I am "hue-ing" and I cry, but I cry not for myself. I weep for the Senate, because, indeed, as I predicted in the celebrated interview in U.S. News & World Report, which has been adverted to so often here, the Senate was prepared to waffle on this issue of busing.

The Mansfield-Scott amendment was submitted to put an end to the waffling. It was submitted in order that we might have a definitive opinion of the Senate, which we obtained, following which we have an amendment adopted which has enabled Senators now to take the other side of the issue and waffle—to take a position which would repeal title VI of the Civil Rights Act.

Following that victory, which I sincerely hope is temporary, the next move is to repeal most of the Civil Rights Acts as they pertain to education. That is done by device. It is done by a time-honored device of finding words which have a very pleasant meaning and affixing those words to your motivations, to your actions. So the movement is plausibly but misleadingly entitled "Freedom of Choice," which means here, in effect, freedom to abolish the Civil Rights Act.

It is pleasing, indeed, to the person not learned in the law, for example, to hear that all the distinguished Senator from North Carolina wants to do is to pat little children on the head and take them by their hand and escort them to the little red schoolhouse, where he will leave them all happily ensconced under his freedom of choice plan, until the time comes for them to return home in the sunset. This is a very pretty picture. It has nothing whatever to do with the issue.

What the Senator from North Carolina is seeking to do here, in effect, is to turn the clock back, to repeal the civil rights provisos, to terminate all the long and hard fought gains which have been achieved in an imperfect world and in an imperfect fashion in the United States of America, to turn them aside because presently there is a great emotional issue, an issue which concerns all of us, which we all share, an issue which involves the busing of little children.

Our amendment, it is true, put limitations on the form of busing, and we defer the operation of the actions of the courts until final appeal to a date certain; so that we have gone as far as we think we can. But freedom of choice ought to be given a more apt definition. All it is is a decision to enable the all-white schools to remain all-white under all circumstances and to put everybody neatly into their places, to compartment them and divide them and keep them that way. That is what freedom of choice would mean, because it divests the Federal court of any authority in this field. It divests the State government, by implication, if the 14th amendment can be so tampered with, and it divests the school district and the local community. It says nobody shall do anything except to let the parents decide where they want their children to go, with the result that some schools will be overcrowded and some will be abandoned, with the result that some school establishments and facilities will be emptied and others will be overcrowded. That is what happens to the little children for whom the Senator from North Carolina weeps so convincingly. That is all this does.

This now is the boldest and the most daring attempt we have seen in the 92d Congress to rescind what previous Congresses have done with so much difficulty and over so many years.

We have heard the argument that it affects one section of the country more than another. That does not move me, because it is true. It is true that the fault exists in the North and in the South. It is true that there are people in all these areas who would gladly jump on this issue, in the hope that they will ease the concerns of the parents and of the public by saying to them, "We voted against busing." The public never does get to understand that what they did was also to vote against all the actions we have taken in all these previous Congresses. I have been here for 13 years, and in 13 years we have struggled and argued and sought gains and achieved them.

Much of that gain would be turned back by the Ervin amendment. This amendment is the worst amendment yet. But if Senators are going to come in here and vote "yea" on any amendment, again I say that I weep for the Senate; because this "yea-vote-for-every-amendment" is bound to result in concern and the question of consistency. Every Senator has a right to vote as he wishes. I do not criticize that. But I would like us to vote selectively. I would like us to vote for something that will work.

I think that the Senator from North Carolina, as a great constitutional lawyer, is well aware of the fact that once the court gets their hands on the previous amendment and this, they will go out the window as unconstitutional.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PELL. I yield 1 additional minute to the Senator.

Mr. SCOTT. Meanwhile, some 5 years or more will elapse before the courts will get around to sustaining the charter of our liberties, the 14th amendment. That is what will happen here.

The freedom of choice amendment will go down the drain if it proves to be in contravention of the 14th amendment. The amendment previous to this one will go down the drain by divesting the courts of any authority in this field, if that proves to be in contravention of the Civil Rights Act and the 14th amendment.

Mr. ERVIN. Mr. President, in any free society—and I emphasize the words "free society"—children should have the right to attend the school nearest their homes. That is all I am fighting for.

I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. BROCK. Mr. President, I am interested in this debate, and I am most interested in the comments of the Senator from Pennsylvania, for whom I have enormous and continuing respect and regard.

When he says, in this instance, that he weeps for the Senate, I, frankly, would weep for a nation whose senate was not responsive to the will of that nation. That appears to be the case with respect to our children and what is happening to them as a result of judicial abuse in this country.

The amendment which is proffered at this point by the distinguished Senator from North Carolina would afford a child, if he chose, the right to go to the school which is nearest to his home—nothing more, nothing less. It would do nothing to limit the application of the 1964 Civil Rights Act. As a matter of fact, rather than limit the rights of children, it would enhance those rights, because today they have no rights. Too often they are being treated as wards of the state.

I would remind the Senate that in 1925 the Supreme Court ruled on a complex constitutional question regarding the schools in the State of Oregon. The State legislature in Oregon had required, by law, that every child in that State should go to a public school. That was done in an age of intense religious bigotry and in an effort to eliminate all parochial schools in Oregon. The Supreme Court invalidated that law with the comment—that such a law was unconstitutional because "children are not creatures of the state."

I agree with that ruling. It was right, yes, in 1971 the Court reversed itself and the effect of the 1925 decision, as well as the effect of the 1954 Brown decision. Today busing for numerical balance is nothing less than treating children as "creatures of the state" as they are transported for racial, not educational, purposes.

In 1954 the court said, "You shall not discriminate against a child because of his race." That was an absolutely, fundamentally, morally sound decision to make. It eliminated the so-called dual system which required busing to maintain segregation. In 1971 that decision, too, was reversed. Today, in Nashville, Tenn., and in other communities around the country, children are being bused because of their race. That is the only criterion used.

I would ask those who are so positive in support of the concept of compulsory busing whether they are not treating these children as creatures in fact of the state rather than as children of their parents.

By what conceivable logic can one argue that a child of his parents should not have the right to attend a neighborhood school?

By what conceivable arrogance can one say that a certain mixture, a certain ratio, a certain statistical balance is necessary for the well-being and maturation of a black child simply because he is forced to sit beside $x$ percent of whites? How condescending, how patronizing, how racist can you be?

I cannot imagine the Senate's refusing to support an amendment such as this. I cannot imagine, in effect, supporting those decisions which say that children are nothing but pawns to be moved on a Federal chessboard by a Federal judge who has no knowledge of or concern for the situation.

It is incredible to me that some do not take a look at what is actually happening—not the theory but the fact.

Why does not someone talk to the child in my community of Chattanooga who was beaten up last week by two students who had been bused to his school, two students the child had never seen before. He was beaten up, not because they knew him, or because they hated him, but because of the total climate of hate inculcated into that institution as a result of judicial abuse over which neither the child nor his parents had any control.

Why does not someone talk to the mother of three children in Nashville, Tenn., whose youngest child goes to school at 6 o'clock in the morning, and because the mother works, the child gets home at noon to stay, alone, for 4 hours, and whose second-grade child goes to another school at 10 o'clock and thus is home alone for 3 hours. Are they now being treated as "creatures of the state" because of the excesses of a Federal judiciary which has run amuck.

I support the amendment of the Senator from North Carolina because I think it is an attempt to restore to our children and their parents a voice in the community and in the educational process. This is the exercise of freedom.

If there is any such thing as abuse of freedom in this country, it is at that time when that voice is removed from that family and that child.

I commend the Senator from North Carolina for offering this amendment and I support him in it.

Mr. ERVIN. Mr. President, I am going to withdraw the amendment temporarily and offer it again as an independent amendment on Monday next.

Mr. SCOTT. Mr. President, before the Senator withdraws his amendment, will he give me a moment to discuss it further. I shall not be a minute. It is in line with what the Senator said. He has a right to withdraw his amendment and bring it up again on Monday so it can be considered with all its impact, pro and con, in the news media between now and Monday, which will give me a chance to issue invitations to absentee Senators to be here on Monday next.

I know we do not have time to get the amendment engraved and send it down to Florida where there is a primary going on, or to New Hampshire where there is another primary going on, but there are five presidential Senators whose absence probably made the difference on the last amendment.

I believe a number of those five Senators have made statements indicating opposition to what the last amendment tried to do, indicating strong support for civil rights and opposition to any repeal of any part of what has been sought by the authors of these amendments in opposition to the Scott-Mansfield amendment.

They are noble statements, but they will vary whether they are made in Florida or in New Hampshire. They will vary more when they get to Illinois.

But as long as the Florida primary is now pending, at least five senatorial Presidents or presidential Senators-to-be, who find it inconvenient to attend sessions of the Senate, are responsible for the loss of that last amendment. I serve notice on them now that we are going to have to meet the issue some time. If they are responsible for the adoption of the freedom of choice amendment on Monday, and if these five presidential Senators or senatorial Presidents-to-be are satisfied with their rhetoric and wish to avoid action on the floor of the Senate, which I deplore and would not charge them with, but if they want to avoid it, they are on notice now that this difficult question of freedom of choice will have to be decided. They may want to stay in Florida or in New Hampshire or in Illinois, but the place to be is in this Chamber to vote for or against. In this Chamber is where they are paid to be, at $42,500 a year plus a modest travel allowance and a stationery fund.

It would not hurt to have them here. We welcome them. There are times when we can do business without them a little better and a little more expeditiously, but when we have critical votes coming up in the Senate I would rather hear those Senators' views on the floor of the Senate than have to read in the newspapers what they said in Florida today, in effect, that they were against busing; and then they go up to New Hampshire and I read in the newspaper that a Senator may be on the other side of that issue.

I have said it before, let us face the fact that adoption of freedom of choice will be to repeal all the gains we have made in the educative field in civil rights legislation. It deserves to fail.

How ironic it would be for a man who wants to be President to allow one of the great issues of the day to go up or down because of his absence, because of his inability or his unwillingness to face the music.

I should like to inform these presidential Senators or senatorial Presidents-to-be that the music is here. The band is here, in this Chamber. If we are not a symphony, at least this is the place where the action is. Nothing else counts and nothing else should count.

If I were a voter in New Hampshire or Florida, Illinois or Wisconsin, I would want to know that my Senator was on the floor and I would want to know what Senators were here to vote, what Senators will dare to vote, will dare to be a Daniel, will dare to do the right thing—because Daniel's absence is no Daniel. Daniel's presence may be uncomfortable as the devil, but he is here and doing his job.

Mr. President, I have had to face many tough votes. This one gives me a great deal of sadness because it divides both parties. It gives me a great deal of concern because I wish I could agree with my colleagues, whom I respect so much. I honor them for their strongly held views, but I have held the very same views for 13 years in the Senate, and before that in the other body, so I suppose it is too late for me to change. In any event, I am stuck with them. However, the views I hold are known to the people of my State. They conducted a poll about it and of 100 percent it showed that 61 percent of the people said, "We do not agree with Scott on some of the busing issues." Of the same 100 percent, 58 percent of the people inteviewed, however, said on being asked whether they approved generally of Senator SCOTT, said, "Yes, we agree with Senator SCOTT. He is doing the right things as a Senator. We are for him."

And 10.8 percent said they did not agree, and the rest did not know.

If I had the names of those who do not know, I would write them. It is good to know that a lot of the people statewide agree with me. A lot of people do not agree with me on busing, and I freely admit it and say so to the opposition. However, the same majority say that I am doing the right thing on my whole record, because I am going by my principles.

And I am saying that many of my colleagues are standing up for the right thing. Many of them are torn by this amendment. I have no feelings as to how anyone votes. I am speaking as a believer and as an advocate. It is better to be able to speak as an advocate and a believer. That does not mean that I know what will happen. It only means that I know what I would like to see happen.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. COOPER. Mr. President, I am always delighted to listen to my distinguished minority leader. I compliment him on his frankness and his forthrightness with respect to his civil rights position throughout the years and I have voted with him throughout the years.

Is it not true that some of the Senators who are candidates for President have been very critical of what they call the vague proposals of the President on busing?

Mr. SCOTT. That is quite true.

Mr. COOPER. Mr. President, our President has proposed—and I do not know whether it is workable, but at least it is a straightforward method—approaching this problem by means of a constitutional amendment. That is straightforward, is it not?

Mr. SCOTT. Some of the President's advisers have suggested that the President is considering that as one option, as well as other approaches.

Mr. COOPER. Mr. President, if it should go that way and if a constitutional amendment should be adopted, that is perfectly straightforward and constitutional. It means that Congress would act upon it and that the legislatures would act upon it. That is forthright.

I think also that it has been proposed that in cases before the court, that the Department of Justice could argue certain points for their consideration and for their persuasion. I do not see anything wrong with that.

If the administration and the Department of Justice believe that they should argue, for example, the questions of age, health, the length of the journey, safety, the quality of the schools, and perhaps other factors, it is perfectly straightforward and legal.

Mr. SCOTT. Yes, indeed.

Mr. COOPER. Mr. President, I wanted to make the point that those are straightforward methods. And I believe those candidates who now complain about busing could make themselves a little clearer on this issue.

Mr. SCOTT. I agree with the distinguished Senator from Kentucky.

Some of them have accused the administration of being insufficiently clear and have said that they have strong views about the matter. This is the forum by which they can work to put their views into effect. However, they show a strong unwillingness to do so, whatever their reason may be.

Mr. COOPER. Mr. President, although I have voted against the so-called antibusing amendments, I must say that I think the proposal of the Senator from Michigan (Mr. GRIFFIN) is certainly a straightforward one. It is an attempt to take jurisdiction away from the courts.

The amendments offered by our colleagues, the distinguished Senators on the other side, particularly those from the South, are certainly understandable. While I have not voted for them they present issues which we can understand. I compliment them for that, although they do not get much attention on their arguments.

I must now be critical. I do not feel that way about the Mansfield-Scott amendment. I think it is all over the lot.

If a Senator is against busing, then I think he ought to be against it. If he is for busing, I think he ought to be for it. If Senators feel that some modifications ought to be made, we ought to submit amendments which are constitutional. Earlier, I heard the Senator from Minnesota (Mr. MONDALE) say that the amendment did not turn back from the progress that has been accomplished in all of these years. I think it turns back. It is a retreat. I am sure it is not the intention of the Senator from Pennsylvania or the Senator from Montana. Both Senators have said forthrightly that, they would like to have the time that the amendment provides to review the issue of busing and determine what could be done about solving it.

But Senators have made the point. That is understandable and has merit. However, I think that the argument that other provisions of the amendment, if constitutional would have no effect upon school desegregation is incorrect.

Mr. SCOTT. Mr. President, I thank the distinguished Senator from Kentucky.

Mr. BROCK. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield now to the distinguished Senator from Tennessee.

Mr. BROCK. Mr. President, in the last colloquy the Senator from Pennsylvania has demonstrated again that he not only has the respect which has been evidenced by all Members on this side of the aisle, but also that he has the respect of his people.

I appreciate the Senator's comments. The Senator knows that if I were one of those who had been interviewed, I would be in the 61-percent group opposing his position on this matter.

Yet, I respect the Senator for his forthrightness on this issue and his support from the people of Pennsylvania, and I respect his beliefs.

Mr. SCOTT. Mr. President, I thank the Senator from Tennessee. I am extremely grateful. I have to admit that my constituency is rather heavily against me at the moment. However, these things come and go. If I am working to do something a month from now, it may be something which they all want and which I want. I will be glad to be as affirmative on that. However, they have to let this one through.

Does the Senator from North Carolina desire any time?

Mr. ERVIN. No; I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCOTT. Mr. President, what is the parliamentary situation with this amendment withdrawn?

The PRESIDING OFFICER. The question is on agreeing to the Mondale amendment as amended.

Mr. HART. Mr. President, the Senate is now engaged in what has become an annual debate on the busing of students as one way to help bring school systems segregated by law or public policy into compliance with the Constitution.

Today the debate is over legislative proposals to curb or prohibit the use of busing for this purpose. Later this year the debate may be over a constitutional amendment dealing with the same question.

I shall oppose any bill or constitutional amendment which will make more difficult or impossible our responsibility to end segregation in public schools through reasonable integration plans.

To vote otherwise would be to condone a step backward from the 1954 decision of the Supreme Court in Brown versus the Board of Education, a decision which through subsequent interpretations finds that the doctrine of "equal but separate" as relates to all governmental action and race is unconstitutional.

Equally important, such a step could be interpreted as a weakening of the Nation's commitment to the even broader concept that in the eyes of government all men are equal and free to be minorities of one in thought, belief and expression.

I reach that conclusion this way.

If we say we refuse to fix—or refuse even to try to fix—a school system segregated by public action, are we not accepting a Government policy which has divided people by race?

And even if we say we are willing to improve the quality of all schools, are we not pursuing a Government policy based on the concept of racially separate but equal public facilities?

The answer to both question is "Yes."

Correctly, the courts have found such policies unconstitutional.

Wisely, a vast majority of Americans have rejected such an approach to government.

In support of the latter contention, I refer you to the results of the National Opinion Research Center's latest poll of attitudes toward racial integration. The center, which has been conducting this survey at ten year intervals for 30 years, found that 8 of 10 whites from Northern States and 75 percent of whites from all States believe schools should be integrated. The results of the study are printed in the December 1971 edition of Scientific American.

Even if you assume that some of those polled answered on the basis of what they thought they ought to say rather than what they believed, the findings still indicate a strong public awareness that we ought not to pursue a policy of separate but equal.

And I suspect that some straight talk and public leadership on the question of how school busing relates to the discredited concept of separate but equal would be well received by many who now oppose any and all school busing for purposes of dismantling segregated school systems.

Government policy which separates people by race, which is nothing more than an accident of birth, should be rejected because it is arbitrary and therefore serves no useful or fair purpose.

In a perfect world, in which all men are perfectly fair, what useful purpose would separation by race serve? None.

But one does not have to go that far to reject such a policy.

It is enough to recognize that we live in an imperfect world governed by fallible men and women. In such a world, history shows that when people are officially separated by race or religion, the results, whatever the motive might have been, have been regrettable in terms of human dignity and fair treatment.

We need only look at our own Nation's experience following the Civil War and the events which led to passage of the 14th amendment for an example of how such separation works in reality.

Even closer to us in time, we only have to look at the world around us today to know that nations with two-part societies are less than successful in protecting individual freedoms or in insuring domestic tranquility. To the extent we allow a two-part society continue in our country, we threaten our future.

So then, on moral and pragmatic grounds, a government policy which seeks to separate by race while claiming it will provide equal facilities and services must be rejected.

The only way to guard against the insidious harm, the potential dangers and the possible spread of such a policy is a complete constitutional ban and a never-weakening commitment to try to correct any situation arising from such a policy.

To do less can only be interpreted as a step back from the noble concept that in the eyes of government all men are created equal.

And once that step is taken, it will be difficult to limit it to blacks in public schools. The effects will ripple out into every sector of society in which we have attempted to eliminate racial discrimination. It could even erode support for the protections the Constitution gives any minority against arbitrary action by government. And if we remember that as long as we believe in freedom of thought and speech, each of us is a minority, then each of us should be concerned that such protections not be weakened.

In attempting to weigh these concerns against the effects of busing, real and imagined, I think it might be well if we kept these thoughts in mind.

Busing is neither automatically good nor bad, as evidenced by the fact that as many as 40 percent of all public school students are now bused for a variety of reasons.

Experience shows that court-ordered desegregation plans involving busing have not, despite the rhetoric of some antibusing supporters, increased "massively" the amount of busing carried out in affected areas. As pointed out by Senator MONDALE in his floor speech:

> The proportion of children riding buses to school in the Deep South is less than 3 percent above the national average, and barely 7 percent above the average for the Northern and Western States. And recent HEW studies show that aggregate busing has not increased as a result of desegregation. In Louisiana and Florida, although the total number of students bused has increased, the average distance traveled has decreased substantially.

Experience has shown that busing is expensive and that additional teacher training and counseling are helpful in making integration programs work—but that is an argument for Federal funds, it is an argument against some of these amendments which would prohibit Federal funds being used for these purposes.

Studies indicate that under a program of school integration, carefully planned and properly carried out, the child from a poor family progresses faster than he does in a segregated school while the quality of education for middle-class students does not suffer.

A proper integration plan recognizes that effects on the health and education of a child limits the amount of busing which can be required and that educationally advantaged students should not be assigned to schools with a disadvantaged majority.

Experience shows the actions of adults can have as much if not more to do with any violence connected with integration than the attitudes of students.

And finally, in a perfect world, I agree that neighborhood schools are desirable, though even then I suspect many parents would put their children on a bus if it meant an opportunity for a better education.

But at any rate, we are not in a perfect world; we are governed by a Constitution designed to protect individuals against the imperfections of man, and we must move to correct such imperfections to the extent we can.

Chief Justice Warren Burger, writing for the unanimous Supreme Court decision in the Charlotte-Mecklenburg busing case, put his thoughts this way:

> Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system.

Other people may base their opposition on the contention that dual school systems means inferior education for the minority—as I believe they do—but I return to the even more basic and valid premise that in any governmental action, a separate but equal policy based on race is wrong.

Let us then look at busing as useful but limited means of helping to correct a wrong.

Busing will cause concern and uncertainty, but concern and uncertainty which can be eased through public leadership and cooperation in the community and among communities.

Busing may be inconvenient, but how much more "inconvenient" will it be for our children tomorrow if we do not move now to heal the split which threatens this Nation today.

And yes, a child does not learn to multiply while riding the bus, and busing alone will not insure a quality education, but life will not be very good for the best multiplier if indeed our country is at war with itself when he or she becomes an adult.

If we can recognize the dangers that "a separate but unequal" society holds for us, can we not then recognize busing even for the little it can accomplish and get about the task of providing a better education for all children?

We can. We must, for the more important questions are how to offer and how to finance quality education for all children.

## ADDITIONAL TIME FOR COMMITTEE ON RULES AND ADMINISTRATION TO FILE REPORTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate Committee on Rules and Administration have until midnight tonight to file reports on a number of money resolutions and housekeeping items.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT UNTIL 10 A.M. MONDAY, FEBRUARY 28, 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE THE UNFINISHED BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

### AMENDMENT NO. 947

Mr. SCOTT. Mr. President, at this time I send to the desk on behalf of the Senator from New York (Mr. JAVITS) and myself a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> In the text of the Mondale amendment, after the words "uniform basis," insert the following: "No provision of this Act shall be construed to require the assignment of transportation of students or teachers in order to overcome racial or ethnic imbalance".

Mr. SCOTT. Mr. President, I will not discuss this matter at any length until the Senator from New York (Mr. JAVITS) is present.

I ask that the time on this amendment be allotted, as far as the proponents are concerned, to the Senator from New York (Mr. JAVITS).

I would assume that the time for opposition would be allotted to the manager of the bill, if he is opposed to the amendment. If not, I would like to know if the Senator from North Carolina would like to assume the time. Would the Senator from North Carolina wish to assume the time on this perfecting amendment offered by me on behalf of the Senator from New York and myself, which is at the desk?

Mr. ERVIN. May I look at it? I did not see it.

Mr. SCOTT. Yes. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I will yield back all time in opposition to the Mondale amendment.

Mr. CHILES. Mr. President, the Senator means to the perfecting amendment.

Mr. ERVIN. I yield back all time to the perfecting amendment.

Mr. PELL. Mr. President, is it in order for me to suggest the absence of a quorum.

The PRESIDING OFFICER. It is.

Mr. ERVIN. On the Senator's time?

Mr. PELL. On our time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. I ask unanimous consent, having consulted with the Senator from North Carolina (Mr. ERVIN) and the Senator from Alabama (Mr. ALLEN), that the amendment I have previously offered on behalf of myself and the Senator from New York (Mr. JAVITS) may be modified by changing the word "of" prior to the word "transportation" to "or", so as to make it read "the assignment or transportation of students".

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Pennsylvania.

Mr. MANSFIELD. Would the Chair have the clerk read that amendment again? I was not in the Chamber when it was presented.

Mr. BYRD of West Virginia. Mr. President, would the Chair clear the well?

The PRESIDING OFFICER. Senators will take their seats. The Senate will be in order.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania (Mr. SCOTT), for himself and the Senator from New York (Mr. JAVITS), proposes an amendment to the perfecting amendment by Mr. MONDALE to the text proposed to be stricken out by the Allen amendment to S. 659.
>
> In the text of the Mondale amendment, after the words "uniform basis," insert the following:
>
> No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial or ethnic imbalance.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, but may I state that in view of an agreement which was reached in good faith, I would anticipate that another amendment might be forthcoming; and if one is not forthcoming, this will be a live quorum.

Mr. SCOTT. Mr. President, on my time, I wish to make it clear that I was prepared to vote on the Ervin amendment at the time it came up; and, when the Ervin amendment was withdrawn, it is quite possible that some Senators who wished to be recorded against a freedom-of-choice amendment might no longer have been available.

Therefore, our concern is that we ought to bring up some amendment, other than an amendment on busing, on which we can go to the merits of a $24 billion bill, and then resume consideration of these busing amendments on Monday, in fairness to all the Senators who may have left.

I am not going to be a party to submitting amendments and withdrawing them after I thought we were going to get a chance to vote. I am willing; I am here; I am able to vote. But I have an obligation to the other Senators to protect their position, too.

Here it is nearly 3 o'clock on a Friday afternoon, and I think we ought to be voting on some other part of this bill rather than on a busing amendment on which, as of this time, we have no warning. I do not know what amendment it will be. That is why we have a perfecting amendment in, to give us an opportunity to try to arrive at some agreement.

The majority leader and I have an amendment pending, if we can get to it at the proper time. It is an amendment so important a part of this procedure that it ought to be voted on when we have a number of Senators here prepared to vote.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. MANSFIELD. Would the Senator consider the possibility of beginning to vote on the amendments which have been agreed to and which are still pending on Monday?

Mr. SCOTT. I would have to defer to the Senators who are managing the bill—that is, the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), and the Senator from New York (Mr. JAVITS). If the Senator would state that in a few minutes, I have no objection.

Mr. MANSFIELD. If the Senator would allow me, then, and on his time, I would like to suggest the absence of a quorum and to warn the Senate that it may be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that my amendment at the desk be temporarily withdrawn and that the amendment of the Senator from Hawaii (Mr. FONG) be substituted and that, thereafter, my amendment become the pending order of business——

Mr. GRIFFIN. Mr. President, reserving the right to object——

Mr. SCOTT. For the time being.

Mr. GRIFFIN. Mr. President, reserving the right to object, I should like to inquire, what is the subject matter of the amendment of the Senator from Hawaii?

Mr. FONG. It only puts the Trust Territories into the bill. It has nothing to do with busing.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee will state it.

Mr. BAKER. Does it affect section 901 or some other section of the bill?

Mr. FONG. No. This section just adds the Trust Territories to the bill.

Mr. BAKER. Mr. President, the point I am trying to reach is whether the Fong amendment would be, in effect, laying aside the present section of the bill now under consideration, or whether it is proposed to be added to section 901.

Mr. MANSFIELD. It is a new section.

Mr. FONG. It is a new section.

Mr. SCOTT. Amendment No. 933.

Mr. PELL. It is an addition to language in the bill.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. ALLEN. Mr. President, reserving the right to object, at what stage of the proceeding would we return to the amendment on section 901, and how much time is to be allocated to it?

Mr. MANSFIELD. There are 2 hours to each amendment and the amendment which has been temporarily laid aside we would be returning to at that time; but, in the meantime, I would like to have some conferences with other Members.

Mr. ALLEN. I do not want to agree to laying aside the busing amendments unless there is a time certain for the return of the busing amendments.

Mr. MANSFIELD. As soon as this amendment is out of the way, it is my understanding that we return to the Scott amendment which is attached to the busing amendment.

Mr. ALLEN. Mr. President, would that be done this date, today?

Mr. MANSFIELD. It could be. However, I want to have a talk in the meantime. Otherwise it is pending.

Mr. ALLEN. What is pending?

Mr. MANSFIELD. The Scott amendment which he is trying to lay aside to allow the Senator from Hawaii to bring up an amendment.

Mr. ALLEN. Lay it aside for the rest of the day?

Mr. MANSFIELD. The Senator is correct.

Mr. SCOTT. Mr. President, I have a suggestion. We could always adjourn.

Mr. ALLEN. And then on Monday, we would return to the busing issue.

Mr. MANSFIELD. We probably would. However, I would like to have a conference in the meantime.

Mr. ALLEN. Mr. President, I would have to suggest the absence of a quorum if there is not going to be any return to the antibusing issue.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, in view of the fact that this situation has developed and that there are only 10 minutes left on the pending amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, now, if I could meet with some of the interested Members, I would like to have a conference.

## QUORUM CALL

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PELL. Mr. President, I ask unanimous consent that the time be equally divided.

Mr. ALLEN. We have no time.

Mr. PELL. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BYRD of West Virginia. Mr. President, is there any remaining time on this amendment out of which a quorum call could come?

The PRESIDING OFFICER. Nine minutes remain on this amendment. The yeas and nays have been ordered. Who yields time?

Mr. PELL. Mr. President, I yield the remainder of my time to the distinguished Senator from Montana (Mr. METCALF).

The PRESIDING OFFICER. The Senator from Montana is recognized.

## SECRETARY LAIRD SOUNDS A RETREAT IN A NEW KIND OF WAR

Mr. METCALF. Mr. President, only a week ago, in hearings before the Senate Subcommittee on Intergovernmental Relations, Congress and the American people learned that the Department of Defense was involved in a far different kind of war—a war against skyrocketing increases in utility rates, particularly, those involving electricity and telephone services. The awesome prestige and expertise of that great agency was being asserted in defense of the utility consumers, the taxpayers and the businessman who would have to shoulder the burden of over $5 billion in rate hikes approved or pending before Federal and State regulatory agencies. Indeed, it was DOD's intention to level its guns at the inflationary problem brought on by utility price increases.

On February 15, an official DOD spokesman—Curtis L. Wagner, Jr., Chief of the Regulatory Law Office, Department of the Army—told the subcommittee:

> There are enormous rate increases going into effect all over the nation and we, of course, are alarmed at them. I can tell you at this point that we are filing a petition with the Price Board . . . protesting the level of increases that has been granted by the States to utilities and we are going to ask the Price Board to roll them back.

When the Federal Communications Commission dropped its massive investigatory case into the fairness of American Telephone & Telegraph rates, the Secretary of Defense, speaking on behalf of all Federal executive agencies, said in a prepared statement:

> This (investigation) cannot by any stretch of the imagination be allowed or justified solely on the basis of budgetary and staffing problems. The public interest demands a full and complete investigation of AT&T's practices and procedures.

DOD's subcommittee witness put further teeth into that position by telling the Congress that the Department had, since 1967, officially offered the Federal Communications Commission the use of its 3,200 auditors for a full scale probe into the A.T. & T.'s records, all of whom were "well experienced," according to the spokesman. And he said the Department was ready and willing to provide what auditors were needed right today, if the FCC really wanted to investigate A.T. & T.

Both these issues: the fight before the Federal Price Commisson; and the intention to seek a full audit of A.T. & T. were dramatic gestures by the Department which could only have been cleared at the highest level.

But Mr. President, what has happened in the last few days smacks of a scandal.

First, I have just been told that DOD's top regulatory lawyer whose briefs and petitions were fully prepared was today summarily ordered by DOD's General Counsel not to appear or file any position with the Price Commission. This is indeed a cop-out, and one can only imagine why. The heat being generated through Ma Bell's wires to the Secretary, not only by Ma Bell, but by the big utilities, must have been tremendous.

The appearance of DOD before the Price Commission was anticipated by the staff of the Commission, by this subcommittee, and by all those concerned with President Nixon's new economic policy against inflation, to be a special and serious event. By bugging out, Secretary Laird has let down not only his Chief Executive's own policy but the American people.

But this is not all, Mr. President.

A few days ago, I received an official letter dated February 16, 1972, from the DOD witness Mr. Wagner, who appeared before the Subcommittee on Intergovernmental Relations which seems to attempt to straighten out the record, but instead raises the spectre of an even greater fiasco. Mr. Wagner said in his letter:

> The thrust of my testimony was that the Department of Defense . . . had the capability and was willing to conduct an audit of the Bell System under auspices of the Federal Communications Commission. I testified that this offer had not been withdrawn and was still outstanding.

Wagner went on:

> Upon checking this morning—

That is February 16, the morning after his testimony and the morning that the Washington Post broke the story on page 1—

> I found that I misspoke myself on this latter point. The Department of Defense no longer has auditors available to conduct an audit or investigation on behalf of other agencies. I further found that the Department of Defense does not currently even

have the manpower available to do the job on a reimbursable basis, a procedure followed in assisting other departments or agencies under extenuating circumstances. I deeply regret that my information on this point has proven inaccurate.

Now who is trying to kid whom? This is an outright put-on and an insult to the integrity of the Congress. Again, it smacks of a scandal.

DOD's witness came to the subcommittee hearing on February 15, accompanied by designated legislative officials of the Department—fully prepared and authorized to be responsive to my examination as to the Department's offer to audit the books of A.T. & T. I have specifically verified that.

But when the news broke, and the heat turned to fire, the signals were switched. And this letter to me is an attempt to lock the barn after the horse has been stolen.

But there is something more sinister here. The February 16 letter means that the DOD has again copped out on a vital commitment. The offer of the auditors is no longer valid; and that means the DOD power to prosecute the A.T. & T. rate investigation has been emasculated.

This is another betrayal of the American consumer and taxpayer. The Secretary—or someone at that level must have ordered this abrupt change in policy, and again one can only conjecture where the pressure came from. The greatest threat to A.T. & T. were those 3,200 auditors going through their books. A.T. & T. knows that DOD has never audited its books because A.T. & T. has never allowed DOD to do it—despite the fact that it is one of the largest defense contractors.

A.T. & T. is hardly worried about FCC's auditors, whose numbers are minimal. A.T. & T.'s biggest fear is DOD. If DOD is no longer serious about the A.T. & T. investigation which it previously demanded, it had best straighten out what its plans are in detail for the coming months in the FCC.

You can be assured that I shall not let this travesty on the consumers and on the country go by without a continuing and in-depth investigation. I urge all public interest parties in the A.T. & T. case, and in all other cases where the Department of the Defense or the General Services Administration are involved to be on the alert. What last week we thought was our defender in the battle against utility rate increases has now turned to become perhaps our worst enemy.

I note and am sympathetic to the Price Commission's desire to improve procedures and policies without adding another layer of regulation. To attain that objective, immediate attention must be given to the present regulatory crisis.

During the past 10 days I have conducted five hearings, for the Senate Subcommittee on Intergovernmental Relations, at which Federal regulatory commission chairmen and former chairmen discussed their increasing workload, diminishing staff and funds and personnel reductions forced by the Office of Management and Budget. The situation among State commissions, which have even more regulatory responsibility and less staff, is much worse, as previous hearings by the subcommittee documented.

Mr. President, I ask unanimous consent that Mr. Wagner's letter dated February 16, 1972, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of the Army,
*Washington, D.C., February 16, 1972.*

Hon. Lee Metcalf,
*U.S. Senate, Acting Chairman, Government Operations Committee, Subcommittee on Intergovernmental Relations, Washington, D.C.*

Dear Mr. Chairman: Reference is made to my appearance before the Committee on Government Operations, Subcommittee on Intergovernmental Relations yesterday on S. 448 and to the article appearing on Page 1 of this mornings Washington Post reporting the hearing and indicating that the Department of Defense would supply the Federal Communications Commission all the auditors necessary for a full investigation of the expenses and investments of the American Telephone and Telegraph Company's charges for long distance interstate telephone service.

The thrust of my testimony under questioning by you and Committee Counsel Turner was that the Department of Defense in connection with its difficulties in obtaining access to American Telephone and Telegraph Company's records advised the Federal Communications Commission that the Department of Defense had the capability and was willing to conduct an audit of the Bell System under the auspices of the Federal Communications Commission. I also testified that this offer had not been withdrawn and was still outstanding to the Federal Communications Commission. Upon checking this morning, I found that I misspoke myself on this latter point. The Department of Defense no longer has auditors available to conduct an audit or investigation on behalf of other agencies. I further found that the Department of Defense does not currently even have the manpower available to do the job on a reimbursable basis, a procedure followed in assisting other departments or agencies under extenuating circumstances. I deeply regret that my information on this point has proven inaccurate.

Again I wish to take this opportunity to thank the Subcommittee on Intergovernmental Relations for the courtesies extended me during my appearance.

Sincerely yours,
Curtis L. Wagner, Jr.,
*Special Assistant to the Judge Advocate General and Chief, Regulatory Law Office.*

Mr. SCOTT. Mr. President, would the Senator yield?

Mr. METCALF. I would be delighted to yield to my friend, the Senator from Pennsylvania.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

### UNANIMOUS-CONSENT AGREEMENT

Mr. SCOTT. Mr. President, I have been asked by the leadership and all other Senators concerned to make a unanimous-consent request.

I ask unanimous consent that the order for the yeas and nays on the pending amendment be revoked.

The PRESIDING OFFICER. Is there objection? The Chair hears none. and it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent further that upon the completion of the time allowed for this amendment, the Senator from Hawaii (Mr. Fong) be recognized and in addition, that it be the pending business, with the understanding that if it is finished today we revert to the debate on section 901 and relevant matters pertaining to busing on Monday after the morning hour. If the Senator has not completed his amendment today, his amendment is to be laid aside and we still revert to section 901 and relevant matters on Monday.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. JAVITS. That would be the Senator's pending amendment.

Mr. SCOTT. Yes; we revert to the pending amendment of the Senator from New York (Mr. Javits) and the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

### AMENDMENT NO. 933

Mr. FONG. Mr. President, I call up my amendment No. 933 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 547, lines 8 and 11, insert "the Trust Territory of the Pacific Islands," after "American Samoa," in each case.

On page 582, line 18, strike out the quotation marks and period at the end of such line.

On page 582, between lines 18 and 19, insert the following: "(9) The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

The PRESIDING OFFICER. Who yields time?

Mr. FONG. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. FONG. Mr. President, this amendment, if adopted, would make the Trust Territory of the Pacific Islands eligible for grants and loans under the higher education facilities construction program, as codified under S. 659, the "Education Amendments of 1972."

At present, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam are included in the Higher Education Facilities Act. The Trust Territory is the only outlying area under U.S. administration not now eligible under the act for financial assistance for the construction of educational facilities.

There is at present only one community college in all of the trust territory, a vast geographical area in the Pacific covering roughly the size of the continental United States. The "campus" of the Community College of Micronesia is a crowded site on the edge of an elementary school on Ponape Island. All of the buildings, with the exception of one modest structure, are surplus metal buildings transported from Eniwetok Atoll. "Dormitories," if they can be called such, are crowded and barely adequate.

Under its master plan, the college seeks a much-needed campus at another location on the same island. Federal funds under the Higher Education Facilities Act would assist the American-administered trust territory government to establish the new college.

The college is a 2-year institution specializing in elementary teacher education with a current enrollment of about 130 from all parts of the trust territory. An increasing number of teachers must be trained for the steadily rising population of 100,000 Micronesians. But beyond its present role of training elementary teachers, the college plans to offer courses in the liberal arts in order to become an accredited junior college. To offer such programs, the college must have a student body of at least 350; thus the need for expanded facilities.

My amendment would assist the Micronesian people to build an adequate community college. I urge its adoption.

Mr. President, I have discussed the amendment with the chairman of the committee. I understand he is willing to accept it.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I have studied the amendment of the Senator from Hawaii, and I find it acceptable. I commend the Senator for his efforts to assure that the higher education offered to the youngsters in the Trust Territory of the Pacific is of the finest order by including them under the provisions of the Higher Education Facilities Act. This amendment will aid the Community College of Micronesia in its effort to meet the needs of the students. It is a laudable aim, and the Senator is to be congratulated for offering the amendment.

I am delighted to be handed an amendment not concerned with busing. This major higher education bill, has all the attention of the United States, for whatever it is worth, centered on its busing aspect, while a major breakthrough in the field of higher education is not spoken of.

I thank the Senator, and I am glad to recommend that the amendment be accepted.

I yield back the rest of my time.

Mr. FONG. I thank the Senator. I yield back my time.

Mr. PELL. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Beall). Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I should like to address a question to the Chair. What is the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 933 of the distinguished Senator from Hawaii (Mr. Fong).

Mr. SCOTT. I thank the Chair.

Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. SCOTT. I ask unanimous consent that the time for the quorum be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, how much time remains to the two respective sides on the pending amendment?

The PRESIDING OFFICER. The Senator from Hawaii has 45 minutes remaining. The Senator from Rhode Island has 20 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that 10 minutes be yielded to the distinguished senior Senator from Massachusetts, the time to come from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONDITIONS IN BANGLADESH

Mr. KENNEDY. Mr. President, just a week ago, I returned from a visit to Bangladesh. I traveled to this newest nation at the invitation of the government of Sheikh Mujibur Rahman. As chairman of the Judiciary Subcommittee on Refugees, the main purpose of my visit was to assess firsthand the immediate relief and rehabilitation needs of the Bengali people—especially the 10 million refugees returning from India to Bangladesh, and the millions of others displaced within the boundaries of their homeland.

To travel in Bangladesh today is to better understand the immensity of past tragedy, and to better comprehend the challenges which now face the Bengali people and those around the world who will help the people of Bangladesh to help themselves.

Tragedy and triumph are everywhere present. You see tragedy in the massive devastation of the countryside, in the broken lives of destroyed families, in the eyes of maimed children, in the whitened skeletons of mass graves, and in the faces of millions who must start life anew in the aftermath of a repression which created the most appalling tide of human misery in modern times.

You see triumph in the joy of a people relieved that a nightmare of fear and violence has come to an end, and in the hope of a people who have courageously won a victory for self-determination and democratic principle. Dacca University—a primary target in the early days of the repression—reopened its doors just 3 weeks ago. More than 10,000 students are registered. The vice chancellor and many of the students were among the refugees I visited in eastern India last August.

In devastated Kushtia town—some 90 miles northwest of Dacca near the Indian border—the rubble is being cleared. And even though the local resources are meagre and the food stocks very low, returning refugees have started to rebuild their shops and homes and lives. What is happening in Kushtia is fairly typical of what is happening all over Bangladesh. And if one doubts the remarkably fast and smooth return of the refugees, you need only visit the Salt Lake refugee camp outside Calcutta, which I did on the day following my visit to Bangladesh. Last August this largest camp in India was filled with a teeming mass of humanity—some 300,000 Bengali refugees. Last week, Salt Lake was a ghost town, with little more than 10,000 people remaining—and they were preparing to leave.

I spoke with an Indian priest who succeeded reasonably well in running a medical center during the refugee influx. But he spoke of how only a few months ago he thought that the refugees would never return. He spoke of the despair that he and the other voluntary agency personnel felt in trying to battle an unending tide of refugees, disease, and squalor. Last week, he was also preparing to leave. His work done. He was returning to his regular assignment with village health centers in rural India.

Mr. President, because I shall soon file a definitive report on the findings and recommendations of my field investigation, I shall not burden the Record with more lengthy comment at this time. But the urgency of immediate humanitarian needs in Bangladesh, and the policy of unconscionable silence which still governs the administration's attitude toward this new nation and all of South Asia, prompt me today to speak out in behalf of the Bengali people and the vast humanitarian needs which are so readily apparent in Dacca and the countryside of Bangladesh.

I am distressed that our national leadership persists in rationalizing the past policy of support for a shabby and shameful enterprise by a military regime—and all but ignores the appeals of Sheikh Mujib for international assistance in helping to feed and rehabilitate the refugees in Bangladesh. I am even more distressed that on February 2, representatives from the administration could appear before the Subcommittee on Refugees and put a cloak of normality on conditions in Bangladesh, and bluntly tell the Subcommittee that—

> Nothing—including America's failure to recognize Bangladesh—is standing in the way of the movement of relief supplies.

Well, they should go to Bangladesh. For I can say, Mr. President, their testimony runs counter to the facts in the field. Congress and the American people have been misled again.

After speaking with the Prime Minister and officials in his government—after speaking with countless representatives of the voluntary agencies, the Red Cross and the United Nations—and after speaking with the head of the American mission in Dacca and members of his staff—there can be little doubt that our Government's failure to recognize Bangladesh is standing in the way of America's leadership and contribution to the emergency humanitarian needs of the Bengali people.

Lack of recognition is the main stumbling block, paralyzing the new allocation or shipment of U.S. relief supplies and funds to Bangladesh. It has made our consul general in Dacca an official leper, unable to represent the American people in humanitarian programs of the Bangladesh Government, the United Nations, and other international bodies. It has crippled the ability of American voluntary agencies in organizing relief projects, especially those involving the needed distribution of food commodities under the Public Law 480 program. And it has endangered the continued functioning of many valuable long-term U.S. humanitarian projects in Bangladesh, such as the Cholera Research Laboratory—one of the world's finest cholera control organizations—due to the absence of bilateral programs. Moreover, the United States has traditionally supplied the largest share of food imports into Bangladesh under bilateral Public Law 480 programs, generating local funds that have been used for a variety of essential humanitarian and developmental projects. Today, that program is suspended, waiting the day of recognition.

Three weeks ago, during the subcommittee hearing on February 2, administration witnesses said our Government was poised to help Bangladesh, but that our commitment was waiting an appeal from the United Nations. On February 16 that appeal was made by the Secretary General in behalf of the United Nations Relief Organization/Dacca. Today, 1 week later, there is nothing on the record to suggest we are responding.

On January 31, a similar appeal for relief aid—mainly for the Bihari and other minority communities—was made by the International Committee of Red Cross in Geneva. Today, some 3 weeks later, there has been no response.

On January 21, the United Nations High Commissioner for Refugees issued an appeal for additional assistance in repatriating the refugees in India. Today, more than a month later, there has been no response.

Why the delay, Mr. President? What does our country have to gain by waiting even 1 more day before responding to the international humanitarian appeals to help the refugees and the people of Bangladesh? What can the world think of an America, known for its humanitarian leadership, but standing immobilized before a massive people problem that grows worse each day with the approaching monsoon?

And what, Mr. President, does our Nation have to gain by delaying its recognition of the existence, as well as the humanitarian needs, of Bangladesh? For even if we respond today or tomorrow or next month to the international relief appeals for Bangladesh, the United States cannot resume its even more important tradition of bilateral assistance to the Bengali people if we do not recognize Bangladesh.

The time is long overdue for this administration to turn its priorities around in South Asia. Already we have heard, and the Congress has been informed, that the administration has given considerable thought and planning to resuming bilateral assistance to Pakistan. But what of the other nations of South Asia? What of Bangladesh whose needs are equally as great and even more pressing? What of India, which carried nearly single-handedly a massive refugee burden created by the Pakistan military repression of last year? Why cannot this administration give the same sense of priority to the needs of all the peoples of South Asia? Are we to learn that our great Nation, with its long tradition of humanitarian service, will actually resume bilateral military assistance to Pakistan before it resumes bilateral food assistance to Bangladesh?

American policy in South Asia is in shambles. Recent actions and pronouncements from the administration suggest, however, that little is being done to change this. But it must change, Mr. President, if the administration is to remain true to America's traditions and ideals.

So let us begin anew in South Asia—let us start with Bangladesh. Let us recognize this new nation and the urgent humanitarian needs of its people.

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## QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided, as previously.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished Senator from Massachusetts may be recognized for not to exceed 20 minutes and that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized for 20 minutes.

Mr. KENNEDY. Mr. President, I am dismayed that this Senate has moved to accept the provisions offered by the junior Senator from Michigan (Mr. GRIFFIN). The three principal features of that amendment have the effect of ending all federally supported efforts to end segregation in our Nation's public schools.

First, that amendment would interfere with the court's attempt to apply remedies required to end the effects of deliberately segregated school districts.

Unfortunately, this amendment has passed in a climate of tension that we have not seen for many years. It was passed in that climate because national leadership failed last summer. At a time when the Nation was beginning to focus its sights on truly difficult issues of how to achieve quality education for schoolchildren, the voice of the President was heard.

On August 3, he offered to adopt the traditional position of those opposed to end segregated education. In those four short paragraphs, the President did not once mention equal education. But he did say,

> I am against busing as that term is commonly used in school desegregation cases.

And to back that up, he pressed for, and obtained in the House, a prohibition against the use of funds in the emergency school aid bill for busing.

Not surprisingly, his stand was criticized by school administrators across the Nation who understood that the Nation was now going to turn back to the separate but equal doctrine.

They understood that the Supreme Court had spoken not once but a dozen times and each time it repeated its view that racial discrimination would be eliminated root and branch.

And they urged the President not to deny them Federal funds. They need those funds and they pleaded for those funds so that at the end of the bus ride the best possible educational program could be offered to all children, black or white, chicano or Chinese.

And so the great busing controversy is before us. But in fact, all of the amendments under debate and the symbolic attachment of both proponents and opponents demonstrate that it is not merely busing, nor education, that is being discussed.

What is being proposed is that the Nation turn its back on the past 18 years' experience in providing civil rights for black Americans.

I would urge the Senate to remember a few names and places of the past two decades:

In 1954, there was Brown against Board of Education.

In 1955, there was a woman in Montgomery, Ala., who refused to ride in the back of the bus.

There was Autherine Lucy in 1956 at the University of Alabama.

There was Little Rock, Ark., in 1957 and a President who demanded that the Constitution be upheld.

There were four young college students at a Woolworth's cafeteria in Greensboro, N.C., in 1960.

Then there was a bus in Anniston, Ala., and young men and women pulled from their seats. Fortunately, another President intervened to demand that the Constitution be upheld.

In 1963, there were the dogs of Bull Connor, a man in the doorway at Tuscaloosa, and the bombing of a church in Birmingham. And later there was the bridge at Selma.

Those were difficult, harrowing years for the Nation. But national leaders spoke out firmly and set a model which a majority of the Nation's citizens responded to. And there were men of greatness, such as Dr. Martin Luther King, Jr., who helped carry the Nation forward.

There were results. There was the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Voting Rights Act of 1970.

And I firmly believe that what is being asked now in the issues before the Senate—to prohibit the busing of children to end the evil of segregation—is that we turn the clock backward.

What is being asked is that the Senate of the United States stand in the schoolhouse door to deny equal rights to its minority citizens.

And if we permit that to occur here, it will be difficult to ever put the genie back in the bottle.

Because no one can deny the truth of the words of former Chief Justice Earl Warren. He wrote in Brown against Board of Education;

> In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms.

Yet, the amendment which we have just passed seeks to straitjacket the judicial branch of our Government—to interfere with its duty to enforce constitutional rights.

What future erosion of the separation of powers and constitutional principles will tempt Congress tomorrow? Tampering with the Court's enforcement of the Constitution has always proven to be a Pandora's box.

Second, this provision affects the basic ability of school administrators to use the best possible methods for educating youngsters, and it clearly limits black children's access to a decent education. This provision is exceptionally biased and unfair. It will insure that whites may use any means necessary to obtain an adequate education—including busing. But it is a bold and calculated denial of those same resources to black Americans. The amendment would legislatively establish a barrier to adequate education for 10 million black children by limiting the authority and the capability of innovative school administrators in bringing comprehensive educational benefits within the reach of all children.

When we adopt measures which prohibit courts from issuing orders for feasible measures to end discrimination in the schools, then we would deny the basic right of equality and justice to black children. If black Americans cannot gain redress for discrimination in the courts, then where should they turn?

Those who find it expedient to turn their back on integration do not use the discredited phrase "separate but equal." But that is where they would lead us. Men who know better talk of equal opportunity, yet act as if they never heard of Brown against Board of Education. Brown was a landmark in America's struggle with its conscience. For almost 20 years, not a single Justice of the Supreme Court has dissented from the principle that deliberate racial separation inherently harms minority children and must be eliminated. In his 1970 education message to Congress President Nixon reaffirmed his belief that this decision was legally sound and morally correct.

Of course we must work to improve the quality of education in all schools. Obviously it is most important to upgrade substandard schools and to provide assistance according to a child's educational needs. But the choice proffered by pundits between "desegregation or compensation" is a false choice. We must proceed with both efforts if we are to remain a Nation under law—and if we are to become a society at peace with itself.

Those who are prepared, for whatever reason, to repudiate brown and retreat to a "separate but equal" solution should at least be honest with themselves and with the American people. And those who are preparing to stand in the schoolbus door should recall the tragic experience—written in tears and blood—when political leaders played on inflamed passions with talk of massive resistance and slurs on the courts. The same signals can be given with quiet code words, as well as redneck rhetoric.

The position is—that the provision offered by the Senator from Michigan, would clearly set back the fundamental goals of all civil rights legislation.

The second provision of the Senator's amendment is equally regressive. If a district under a desegregation order is denied Federal aid, then what is accomplished? Nothing, except to force cuts in the local education budgeted for whites and black children or to force higher taxes? Can there be a more illogical example of cutting off one's nose to spite one's face? What of the many communities that are quietly and successfully achieving integration on a voluntary basis. Should their initiative be denied Federal assistance?

The third and final provision of the amendment would postpone any court order requiring that school districts undo the damage caused by segregated schools. Apparently this provision is based on the assumption that busing is inherently bad. Moreover, it appears to be falsely based on an assumption that the courts have ordered busing in the past. But in fact, the courts are not imposing "massive busing to achieve racial balance," or to engage in "social experiments." These are misleading slogans. The real question is this: If the courts find officially maintained segregation, in violation of the Constitution, do we fix it or do we sweep it under the rug of a new ghetto schoolhouse and forget it? As Chief Justice Burger stated for a unanimous Court:

> The objective today remains to eliminate from the public schools all vestiges of State-imposed segregation. . . . Absent a constitutional violation that would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes.
>
> But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation.

When the rhetoric of forced busing is stripped away, what is still being said is "I do not want my children going to school with black children." And the effect of the amendment passed today would be to tell black Americans that there will be no further official Government efforts to end segregated schools.

If the abhorrence of busing were the issue it is made out to be, then why didn't many of the States welcome the order to desegregate, because it meant less busing, not more.

In Mississippi, in those districts which had achieved 12-percent desegregation as of 1968–69, the number of students bused was down 2,000 and the number of miles traveled was down 200,000.

In Tennessee, in the same category of districts, there were 20,000 less students bused and 2 million less miles than 4 years earlier.

In Georgia, total mileage was down 500,000 and despite a 90,000 hike in enrollment, the number of students who were bused was only up by 15,000.

In the South, where clearly the greatest amount of school desegregation has occurred, the proportion of children riding buses to school is less than 3 percent above the national average.

And it would be tragic if at this time, when the inequities that have existed in northern school districts are being forcefully attacked for the first time, that the Nation were to turn away from the requirement of equal opportunity for all.

HEW statistics demonstrate that the dual system exists in the North as well as the South. They show that, while 43.9 percent of the black students in the South now attend majority-white schools, only 27.8 percent of the black students in the North and the West attend such schools.

We now must recognize that there is a national problem which must be resolved, a problem which does not end at the Mason-Dixon line.

What is being asked by the courts and by the Constitution is that equal education opportunity be assured for all citizens, whether they live in Birmingham or in Boston.

And it should be emphasized that the courts have not demanded massive, unreasonable busing to achieve that end. The Swann decision is explicit in its statement that busing should not be required if it were to "either risk the health of the children or significantly impinge on the educational process."

Here is a forthright statement by the court designed to prevent whatever excesses have occurred in the past where courts or agencies have failed to act "reasonably."

But the answer to unreasonable actions by lower courts or executive agencies is found in the court decision and not in the proposed constitutional amendment nor in most of the amendments proposed to the bill at hand.

They raise the yellow school bus to the center of the controversy and seek to demonstrate that the schoolbus, regardless whether it merely is carrying children six blocks instead of three, 20 minutes instead of 5, should be halted if it is carrying children to end segregation.

It is fraud, pure and simple, on the American public to act as if there were something evil and un-American about the school bus. It is as much a part of American education as the textbooks and blackboards and erasers.

And the truth is that for years, black and white students were bused out of their own neighborhoods to insure that black children were not educated in the same school as white children.

And for years, rural schoolchildren depended on school buses as the only means of transportation. It meant that the better facilities of a larger school in a centralized school district would be available to them.

And all that is being argued today is that at times black and white children will be riding buses to avoid segregated education and to bring them to a school where they can receive quality, integrated education.

Our concern and our attention should be focusing not on how they get to school but on how to make the process of learning when they enter the classroom rewarding, exciting and beneficial.

For the Nation, the ultimate end product of these years of trial must be quality integrated education for all of our children.

The counsel of Florida's Governor Askew merits our attention. He declared:

> The law demands, and rightly so, that we put an end to segregation in our society . . . we must demonstrate good faith in doing just that. We must demonstrate a greater willingness to initiate meaningful steps in this area. We must stop inviting by our own intransigence, devices which are repugnant to us.

The Governor has recognized, as we hopefully will also, that in those communities seeking to carry out voluntary integration plans and in those communities under court order to desegregate, busing is merely one tool among many, one which has been with us for generations.

We are a nation that has struggled mightily out of the decaying discrimination of the past and it would be tragic for us to slide back once more.

Mr. President, the effect of modern civil rights efforts has been to turn around deliberate racial segregation. And the members of the Senate have consistently supported those efforts because they embody the fundamentals of human justice. But, there is no way that we can explain the action of this Senate in that regard in light of the vote today that resulted in the adoption of a very regressive amendment. I am appalled that the Senate has voted to interfere with judicial procedures aimed at ending segregation in the school. For, the effect of the amendment offered by the junior Senator from Michigan may prevent courts from seeking a just remedy for proven cases of discrimination.

Further, I am dismayed that the results of the vote will permit Federal funds to continue flowing into the coffers of those school districts that deliberately deny adequate educational opportunities to children who are not white. That provision will authorize Federal funds to aid in continuing the barriers against the value of an optimum educational delivery system.

I can only hope that as the debate on this issue continues, the final action of the Senate will be to affirm our national goal of justice and equality for all citizens.

Mr. President, I suggest the absence of a quorum, with the time for the quorum call to be divided equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REFERRAL OF A BILL

Mr. JAVITS. Mr. President, I have had pending on the desk since last year S. 2962, a bill to amend the Manpower Development and Training Act of 1962 to provide financial assistance for a special manpower training and employment program for criminal offenders and for persons charged with crimes, and for other purposes, which is subject to referral. I should like to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. If the bill is referred sequentially to the Committee on Labor and Public Welfare and to the Committee on the Judiciary, does that mean that it will move from the Committee on Labor and Public Welfare to the Committee on the Judiciary and then will not move to the floor until it leaves the Committee on the Judiciary?

The PRESIDING OFFICER (Mr. BEALL). The Senator is correct.

Mr. JAVITS. Having cleared this procedure with the chairman of the committee, the ranking minority member, and the chairman of the appropriate subcommittee, I ask unanimous consent for that reference for S. 2962.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

## QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair, with the understanding that the recess not extend beyond 5:30 p.m. today.

The motion was agreed to; and at 5:02 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 5:18 p.m. when called to order by the Presiding Officer (Mr. CHILES).

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator from Rhode Island yield me not to exceed 5 minutes?

Mr. PELL. Mr. President, I yield such time as he desires to the majority leader.

## UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, after some 3 hours of discussion, a number of us have come up with something which we would like to call to the attention of the Senate at this time.

I ask unanimous consent that the pending Allen amendment and all amendments now pending to section 901 have action deferred thereon until the further consideration of S. 659 on Tuesday next and that upon the further consideration of S. 659 on Tuesday next, the time on any further amendments be limited to 30 minutes, the time to be equally divided and controlled as presently prescribed by the present consent agreement; and provided further that during the further consideration of this measure on Monday next only amendments not dealing with the desegregation of schools or the transportation of pupils to schools on the basis of race, religion, color, or national origin will be in order on that day, and that time on all amendments considered on Monday to any section of the committee substitute will be limited to 60 minutes, the time to be equally divided and controlled as previously described; and further that the Senator from Tennessee (Mr. BAKER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Florida (Mr. CHILES) and the Senator from Georgia (Mr. GAMBRELL) shall have the opportunity on or after Tuesday to offer an amendment on any matter to any section of the committee substitute, with the time on the Fulbright amendment being limited to 2 hours and the time on the

Chiles, Gambrell, and Baker amendments to 40 minutes, the time equally controlled and divided as previously prescribed and further that a motion to table shall be applicable to all amendments; and provided further that nothing shall foreclose amendments to any section of the committee substitute at any time on or after Tuesday; and provided further that at 12 o'clock noon on Tuesday next, if the pending Allen amendment and all the other amendments now pending thereto and to section 901 have not been disposed of, then the Senate shall proceed immediately to a vote on these amendments without any other intervening perfecting or substitute amendments to the Allen amendment or the language to be stricken thereby, and further, that prior to the final vote on the disposition of section 901 a further period of debate of 30 minutes be made available with the time divided and controlled as previously prescribed and provided further that the previous agreement remains in effect except as modified herein.

The PRESIDING OFFICER (Mr. Symington). Is there objection?

Mr. ALLOTT. Mr. President, reserving the right to object, and I shall not object, I would like to ask the majority leader a question with respect to the timing of this vote. He is aware, of course, that the timing of the vote at noon on Tuesday comes just prior to the meeting of the Policy Committee at 12:30 p.m. I would like some assurance that we would have the time at least from 12:30 until 1:30 for that meeting.

Mr. MANSFIELD. Mr. President, I realize the situation in which the distinguished acting Republican leader finds himself. As one of the Republican leaders, he, of course, has been quite consistent in this particular matter which he has called to the attention of the Senate. But may I ask personally on this occasion, as I did on another matter a few days ago, because of the importance of the bill before us, and because of the fact that there will be votes on that day, that he would give us the benefit of the doubt on this occasion, especially in view of the fact that the luncheon which the Republican Conference has every Tuesday will be only a matter of a few feet away from the floor.

As the Senator is aware, we have a great deal more to consider in the way of legislation. This is a most pressing national problem. The interest in it is great, and I would hope that he would find in his heart the opportunity to allow us, as an exception this time, to consider this matter on the basis outlined, after 3 hours of conference and negotiations.

Mr. ALLOTT. Mr. President, reserving the right to object, I did yield to the overwhelming persuasiveness of the majority leader the other day on another matter. I would simply like to point out that this is a request not made for the Senator from Colorado.

Mr. MANSFIELD. I understand exactly; on instructions.

Mr. ALLOTT. I am not even acting on instructions at the moment. I am acting in behalf of the entire Republican membership of the Senate. It is the one time, the one occasion each week when we do meet for the transaction of business, and I really must say, with all deference, that it does not seem to me that requesting that 1 hour be kept free, not for the Senator from Colorado or for any other individual Senator, but for the sake of the entire minority in the Senate, is really not too much of a request or concession to ask for.

Mr. MANSFIELD. If the Senator will yield further, a number of Republicans, a goodly number of Republicans, were in on this discussion. What I have proposed met with their approval. It is a small matter, for it really will not, in my opinion, inconvenience too much the Republican Senators; and I would again express the hope that the Senator, because of the overriding importance of this question, would give us another lease on life, so to speak, on this occasion.

I assure the Senator, so far as I am concerned, whenever possible, and that is almost always, the majority leader has raised matters so that discussions, debates, and votes would not interfere with the luncheon of the Republican Policy Committee.

We will be as charitable—if that is the word—on each occasion as we can be.

Mr. ALLOTT. Mr. President, I do not think we particularly want charity. I hope the Senator is using "charity" in the original meaning which it had in the Bible, which is love and affection.

Mr. MANSFIELD. It is, and also on a time basis.

Mr. ALLOTT. But with the assurance that every effort will be made as far as possible to permit the meeting to go on. We cannot get the luncheon area on other days of the week at this late time and there are other schedules we cannot avoid. We will go upon his assurances this time.

But I must say while the distinguished majority leader has been very cooperative, in the past there have also been times when I think unnecessarily others who might not have been conscious of things going on, have taken this time to set particular matters for voters, and it is my intention as chairman of the Republican Policy Committee to continue to hold these meetings at 12:30 on Tuesday and have all Republican Members of the Senate present. I would hope that would be borne in mind under the charity which the Senator bears to all of us, using "charity" in its original biblical sense again.

Mr. MANSFIELD. Mr. President, that will be kept in mind and we will do our very best to cooperate. I thank the Senator.

The PRESIDING OFFICER. Is there further objection? Without objection, the unanimous-consent request is agreed to.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii (Mr. Fong).

Mr. PELL. Mr. President, as manager of the bill, I have been convinced of the merit of the amendment of the Senator from Hawaii and have already released my time. I think, actually, no time remains. I would suggest that the question be put.

The PRESIDING OFFICER (Mr. Chiles). The question is on agreeing to the amendments of the Senator from Hawaii en bloc.

The amendments were agreed to en bloc.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from New York.

Mr. JAVITS. Mr. President, is there any time remaining on that amendment?

The PRESIDING OFFICER. All time has been yielded back.

Mr. JAVITS. By whom? I have not yielded back any time.

The PRESIDING OFFICER. On that amendment.

Mr. JAVITS. Mr. President, to regularize the matter, I am prepared to accept for that amendment whatever is the time limitation on Tuesday. As that amendment goes to the merits, I will withdraw it at this time. In order not to leave the Record absolutely blank overnight, I would like it understood, or make whatever request the Chair might suggest, that that amendment carry the new time limitation of 30 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that further consideration of the amendment by the Senator from New York (Mr. Javits) be postponed until Tuesday next.

Mr. JAVITS. Under the unanimous-consent agreement.

Mr. BYRD of West Virginia. Yes, and that time for the remainder of this day may be yielded from time on the bill to any Senator for general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR TALMADGE AND SENATOR THURMOND ON TUESDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, following the remarks of the distinguished minority leader, the distinguished Senator from Georgia (Mr. Talmadge) be recognized for not to exceed 15 minutes, to be followed by the distinguished Senator from South Carolina (Mr. Thurmond) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT FROM MONDAY NEXT TO TUESDAY NEXT AT 9:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in adjournment until 9:30 a.m. on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

### S. 635 MINERAL RESOURCES RESEARCH

Mr. MOSS. Mr. President, of the domestic problems that beset us, none can be more pressing than finding the way to obtain the necessary energy producing natural resources of this country and at the same time to protect and preserve our land's natural beauty and usefulness. My Subcommittee on Minerals, Materials, and Fuels has spent endless hours in examination of the surface mining problems. Much research is needed into mining methods, and processes, methods of handling excavation and overburden, reclamation of spoil, its handling and site grading, erosion control and protection of water quality.

In July of last year the Senate passed S. 635, which authorizes matching support for one institution in each State for research directed to mined-land reclamation, underground reservoir utilization, mineral economics, related environmental matters, and the training of an adequate supply of scientists, engineers, and technicians in such fields.

From the field trips and the hearings which have been held by my committee, I recognize that nothing could be of more importance to the people trying to resolve the problems of surface mining in our States than to have all the technology available on a State-by-State basis which S. 635 could provide.

The States themselves are pleading for assistance in these matters and the problems of each State are unique to those States.

Much progress has been made in solving surface mining problems, but a better job must be done and innovations found through research. Strip mine reclamation is a relatively new art and for this reason alone there is a great need for education and training of the people involved. Research and training would help the operators and the regulatory agencies in all phases; from planning prior to mining to postmining reclamation. Variations in site requirements even within a State and over short distances make it imperative that our efforts should go to assisting each State in developing appropriate research centers.

We now have a situation before us in which the Senate has passed two bills, S. 635, above discussed, and S. 659, the higher education bill, both of which contain provisions in conflict with each other and having to do with establishing research centers. S. 659, when it passed the Senate, did not contain any such provisions, but in conference, provisions were added establishing 10 regional mineral institutes and authorizing financial support therefor.

For the reasons already indicated, I think it is imperative that the Senate conferees require the deletion of the provisions added to S. 659 in conference to set up 10 regional centers. I urge their adherence to the provisions of S. 635 as passed by the Senate in July of last year.

In my own State, the University of Utah College of Mines & Mineral Industries stands ready to play an important role in meeting the great challenge facing the mineral resource industries in the coming years. The efficient utilization of natural resources, and the proper control of geological hazards are measures within the purview of a specific State, and the Congress can be of great assistance through passage of S. 635.

My colleagues who serve with me on the Committee on Interior and Insular Affairs are well aware of the problem which I have here raised and I expect will have something to say about it. It is a question where the Senate must stand firm for the bill we have already passed.

### TITLE X OF S. 659 AND S. 635

Mr. ALLOTT. Mr. President, I wish to bring to the attention of the Senate and the conferees to be appointed, a matter which will be before the conference to be held on the higher education bill, S. 659.

I wish to commend the Senator from Utah on his remarks, with which I am sure all of us on the Interior and Insular Affairs Committee agree, at least so far as I know, about a matter which has come up and will come up on the Higher Education Act, S. 659.

The House-passed version contains provisions relative to the establishment of regional mineral institutes. However, Senators will recall that on July 19, 1971, the Senate passed a measure dealing with the subject, S. 635. That bill has been referred to the House Committee on Interior and Insular Affairs, and hearings were held on November 11, 1971. Subsequent to those hearings the Subcommittee on Mines and Mining reported S. 635 and other companion measures to the full House Interior Committee. It is my understanding that the House Interior Committee intends to act upon the bill or one of the companion measures, H.R. 6788 or H.R. 10950, at its March 1 executive session.

At this point, I should like to point out that there is some confusion with respect to the number of the title in the House-passed version of S. 659, amendments to the Higher Education Act, which relates to the establishment of mineral institutes. During the House floor debate on the bill, it was title XI, and in hearings before the House Committee on Interior and Insular Affairs it was referred to as title XI. However, according to the February 3, 1972, Senate committee print the mineral institutes title is shown as title X on page 338 of that print. It remains somewhat of a mystery as to how the title number was changed from XI to X as the bill moved from the House and the Senate. Later, I intend to insert in the RECORD a letter from the chairman of the House Committee on Education and Labor. In that letter he identifies the title relating to mineral institutes or mineral education as title XI.

I have taken the time of the Senate for this explanation in an effort to reduce the confusion. In the remainder of my statement I shall refer to title X of S. 659, which conforms with the Senate committee print; however, some of the materials I shall insert in the RECORD will refer to title XI. The point is that all references to "title X" and "title XI" in connection with mineral institutes are references to the same title.

Mr. President, it should be noted that a favorable report from the Department of the Interior has been received relating to the companion House measures, which, according to the report "also applies to S. 635, which has a similar purpose." The departmental report suggested certain minor amendments but supported the general thrust and substance of the bill.

The House Education and Labor Committee did not hold hearings on title X nor did it request or receive departmental reports on title X. On the other hand, at the Senate hearings on S. 635, oral statements were received from 25 witnesses and numerous other communications were received. These statements came from a broad cross-section of college deans, professors, and leaders of industry, and all were favorable. And as I stated before, the administration favors the bill.

Mr. President, in order to complete the record, I ask unanimous consent that the report of the Department of the Interior, dated November 11, 1971, and the statement of the Assistant Secretary of the Interior, Hollis M. Dole, before the House Interior Committee, be printed in the RECORD at this point.

There being no objection, the report and statement were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., November 11, 1971.*

Hon. WAYNE N. ASPINALL,
*Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for this Department's comments on H.R. 6788 and H.R. 10950, identical bills "To establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the Act of December 31, 1970, and/or other purposes." It also applies to S. 635, which has a similar purpose.

We recommend that H.R. 6788 or H.R. 10950 be enacted if amended as discussed below.

The declared purpose of H.R. 6788 and H.R. 10950 is to stimulate research and training of engineers and scientists in the fields of mining, mineral resources, and technology.

Title I would authorize to be appropriated annually to the Secretary of the Interior $500,000 to assist on a matching basis each participating State to establish and maintain a mining and mineral resources research institute.

It also authorizes $5 million to be appropriated in each of the fiscal years 72–76 inclusive for grants to the institutes for specific research and demonstration projects of industry-wide application which could not otherwise be undertaken.

Title II authorizes to be appropriated $10 million in FY 1972 (increasing by $2 million each of the next 5 years and continuing at $20 million annually thereafter) for grants or contracts to educational institutions, private foundations, Federal, State or local government agencies to undertake research into any aspects of mining and mineral resources problems not otherwise being studied.

S. 635 is similar in its approach, authorizing two basic Federal programs:

(1) matching categorical grants of up to $100,000 in FY 1972 (increasing by $50,000 annually up to $250,000) to support a minerals research and training center in each State.

(2) $1 million in FY 1972 (increasing by $1 million annually up to $5 million) for special mineral resource research projects.

In addition S. 635 authorizes $5 million to purchase equipment facilities and library materials and $1 million annually for administrative expenses and for printing and publishing the results of the research.

The prosperity and future welfare of this Nation depend upon its non-renewable mineral resources much as they do upon its renewable agricultural resources. In the case of the latter, Federal and matching State funds have continually supported education and research on agricultural resources at a university in each State since the first Hatch Act of 1887. As a result, significant progress has been made in fields such as watershed, crop, and wildlife management. The Federal Government has also supported research and training programs at many universities in a variety of other important fields such as water quality, forestry management, and marine resources which promote the national interest through the supply of new technologists and technology. In the case of our mineral resources, we have lacked such foresight. Domestic production of essential materials has fallen with a commensurate increase in dependence upon foreign sources. During the decade of the sixties, the net value of mineral imports over exports tripled. This has occurred partially as a result of the neglect that we have shown to research in the field of mineral resources and related areas.

The seriousness of the situation can be evaluated only when considered in conjunction with projected future demands for mineral raw materials. The United States is the largest single consumer of minerals and fuels in the world. With only 6 percent of the world population, the United States consumes between 30 and 40 percent of world mineral production. In fact, during the past 30 years, this Nation has consumed more mineral raw materials than the entire world in all previous time. Furthermore, projections based on population growth indicate that by 1985 the total mineral requirements of the United States will increase by about 50 percent; for some commodities, requirements will double. The growing needs of the rest of the world will be even more dramatic as the standard of livng in developing countries increases at an accelerated rate. The competiton for available mineral materials will become significantly more intense.

More alarming than the rapid depletion of domestic mineral reserves is the decline in the development of the mineral technology needed for their profitable production and processing. The major conclusion of a recent study on mineral science and technology conducted by The National Academy of Sciences, The National Academy of Engineering, and The National Research Council, was that "despite the key role of minerals in our society, the vastly increasing worldwide demand for mineral products, mineral technology in the United States is in a declining state, and serious trouble lies ahead for the country unless corrective actions are taken promptly." The extent to which traditonal domestic sources can fulfill increasing and changing demands for minerals and fuels will be determined by the size and scope of the investment in minerals research and the abilty to develop innovative mineral extraction technology.

As our mineral resources problems have increased in severity, the number of mining departments in our universities has decreased. Mining departments decreased from 26 to 15 in the 7-year period 1962–69. Yet, departments in colleges of agriculture, such as horticulture and agronomy, continue to carry on strong programs, largely by virtue of continuing Federal and State financial support.

An additional factor affecting the need for strong educational programs in the minerals sciences is the Nation's vital concern for the quality of our environment. This concern has three facets as it relates to the minerals industry: mine health and safety, protection of the environment from the adverse effects of mining operations, and the assurance of an adequate, dependable supply of minerals and fuels. All of these facets are high priorities in the Nixon Administration. All require large numbers of trained personnel, both to administer Federal and State regulatory programs and to develop and implement the technology necessary to solve the problems.

We support, therefore, the objectives of these three bills. We recommend, however, some amendments to H.R. 6788.

We feel that it will be unlikely that all fifty States will be willing to provide matching funds to establish or maintain a minerals resources research institute. Nor do we believe that the national priorities require an institute in each State. Therefore, we recommend that the authorization for matching grants should be stated as a fixed annual sum to be allocated by the Secretary of the Interior. We recommend that this sum start at $2 million and increase by $2 million annually until it reaches $10 million, continuing at that level thereafter. We also recommend a limit on the amount that any one institute can receive of $500,000 and a provision that only one institute per State receive such matching grants. This would provide flexbility to permit the Secretary to allocate the funds where they can best meet the Nation's needs.

To accomplish this we would:

(1) amend lines 15–16, page 2 to read: "not more than $2 million increasing by $2 million annually to a level of $10 million and continuing at that level thereafter to assist in establishing";

(2) amend line 20, page 2 to read: "at colleges or universities selected by the Secretary on the basis of the criteria contained in subsection (b)";

(3) striking lines 20, page 2 through "concerned" on line 2, page 3;

(4) amend the second proviso (beginning in line 5, page 3) to read "no more than one college or university may be selected in any State";

(5) amend the third proviso (beginning in line 14, page 3) to read: "no institution shall receive more than $500,000 under this section";

(6) delete "within the State" in line 20, page 3;

(7) add a fifth proviso at the end of line 21, page 3 as follows: "and (5) Federal grants under this section shall be for research project purposes";

(8) amend lines 22–24, page 3 to read: "(b) In selecting institutes for grants under this section the Secretary of the Interior shall consider the ability of the institute to con-"; and

(9) add after "experiments" in line 1, page 4 "on mineral resource problems having industry wide application."

With respect to the authorization for special research and demonstration projects in section 101 and the more general contract and grant authority in title II, this Department already has broad enough authority to accomplish these objectives. Accordingly, we recommend that section 101 and all of title II be deleted.

In section 102 we recommend, for clarification, changing "States" in line 23, page 5 to "institutes" and striking "to their designated institutes" in lines 24 and 25, page 5. We also recommend striking all of that section following the semicolon in line 14, page 6, since we feel that this administrative detail is more appropriately covered by regulations. The semicolon in line 14 should be changed to a period.

A final amendment to section 102 is the deletion of the sentence "The Secretary may designate a certain proportion of the funds authorized by section 100 of this Act for scholarships, graduate fellowships and post doctoral fellowships." and the words "to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields; set forth policies and procedures." To the extent that these types of student grants are research project oriented they would fall under the general authority of section 100. To the extent they are not research project oriented, we do not consider them an appropriate expenditure of Federal funds under this program. To conform to the above an "s" should be added to "assure" in line 9, page 6.

The second paragraph of section 104 should, we feel, be deleted as containing unnecessary administrative detail best left to regulation. For the same reason we would revise the third paragraph of that section to read simply:

"The Secretary shall report annually to the Congress on activities under this Act."

We would add the following sentence to the first paragraph of section 104 which is self-explanatory:

"The Secretary is determining the qualifications of each institute and the amount of assistance to be accorded to it is authorized to seek the advice of the National Academy of Engineers or some similar independent professional organization concerned with the fields of mineral science or engineering."

Title II of H.R. 6788 and H.R. 10950 contains miscellaneous provisions most of which we feel are better covered in regulations. Sections 300, 301, 304, and 305, contain assurances against duplication of research, duplicates a function now being performed by the Smithsonian Institution and the Department of Commerce. In addition the administrative procedures prescribed are in many cases already in effect. Accordingly, we recommend that sections 300, 301, 304, and 305 be deleted.

Section 303 deals with the free public access to information resulting from activity financed under this Act and it is unnecessary in view of the fact that the President has enunciated a comprehensive policy, binding all Federal agencies which accomplishes the same objectives as section 303. Therefore we recommend that section 303 be deleted.

Section 306 requires the appointment of an advisory committee composed of certain designated persons. We recommend that this committee be optional and that its memberships be chosen by the Secretary. We therefore recommend that section 306 be amended to read:

"The Secretary of the Interior may appoint an Advisory Committee on Mining and Minerals Resources Research to advise him in carrying out his responsibilities under this Act."

Finally, we recommend an additional section as follows:

"There is authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to administer the provisions of this Act."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HOLLIS M. DOLE,
*Assistant Secretary of the Interior.*

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STATEMENT OF HON. HOLLIS M. DOLE, ASSISTANT SECRETARY, MINERAL RESOURCES, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON MINES AND MINING OF THE HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE, NOVEMBER 11, 1971

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to appear before you today to discuss proposed legislation—including H.R. 6788, H.R. 10950, and S. 635 that has already passed the Senate—which authorizes Federal financing of minerals research and education at universities and colleges in the several States.

The Department of the Interior strongly supports the objectives of these legislative proposals. All are welcome efforts to solve the difficult problems posed by the decline in minerals education and research. However, our preference is for H.R. 6788 (which is identical to H.R. 10950) with the amendments that have been suggested in our letter to the Committee.

The United States faces three fundamental and interrelated problems with regard to its mineral requirements. The first is that these requirements are large and growing rapidly. We are six percent of the world's people and we consume one third of its minerals. Per capita, our consumption of mineral resources is five times the world average, and several multiples above that of the developing nations.

Between now and the year 2000, our consumption of primary minerals is expected to increase four fold. Demands for certain metals, such as aluminum and titanium are expected to increase six fold. Demand for energy will triple. This means, among other things, that over the next thirty years we shall need seven billion tons of iron ore, more than a billion tons of aluminum ore, a billion tons of phosphate rock, 100 million tons of copper, 250 million barrels of oil, and 100 trillion cubic feet of gas—assuming that we can obtain it.

Although these are projections, and subject to the vagaries of future events, it is clear that they involve quantities of imposing magnitude. And they immediately raise the question as to how our mineral industries and our Nation can provide these unprecedented quantities of minerals that are basic to our society and to national security.

The Nation is currently ill-prepared to meet this challenge. The drain on our richest natural resources has been severe. The most accessible minerals and fuels have been consumed at an accelerating rate to meet demands of armed conflict, cold war, and better living conditions for an expanding population. The burgeoning pressures have made the United States increasingly dependent on foreign supplies of essential minerals.

The second fundamental problem—on which the first is largely based—is our failure to advance domestic mineral technology at a fast enough rate.

The United States is not running out of mineral resources in the sense that domestic supplies will become completely exhausted. This never happens. But every analysis indicates that we are grossly neglecting the mineral technology needed for their economical production and processing in the face of widening world competition. The seriousness of this critical situation is emphasized in the major conclusion of the recent study on mineral science and technology conducted by the National Academy of Sciences, the National Academy of Engineering, and the National Research Council, entitled *Minerals Science and Technology; Needs, Challenges and Opportunities*. The report warns that "despite the key role of minerals in our society, and the vastly increasing worldwide demand for mineral products, mineral technology in the United States is in a declining state, and serious trouble lies ahead for the country unless corrective actions are taken promptly."

The United States was once a leader in mineral technology, but since World War II industrial research and development have lagged to the point where the U.S. industry has produced few new minerals recovery processes and techniques, and has turned to other countries for ideas and processes. By way of example, foreign developments have included basic oxygen steelmaking, flash smelting of copper sulfide concentrates, the zinc-lead blast furnace, continuous refining of crude lead, the hydrocycline for separating fine mineral particles from fluids, autogenous grinding, and electroslag melting for producing high quality alloy steels. The technology for these processes has come from such nations as Germany, Austria, Sweden, Canada, Finland, the Soviet Union, Holland and Britain.

The lag of minerals technology is further evidenced by the fact that many of our present minerals recovery techniques are relics of the past and are still being used today with only minor modifications. The cyanide and amalgam processes for recovering gold date from the last century; flotation techniques for concentrating minerals are nearly 60 years old; the original patents for the processes used to produce aluminum were issued in the 1870's. It is generally recognized that the Nation is not finding conventional petroleum reserves to keep pace with growing demand, yet we are a good ten years behind where we should be in the technology for producing synthetic liquid and gaseous fuels from alternate sources such as coal, oil shale, and tar sands. Automation has been introduced into coal mining without the necessary complementary training and technology for improving the health and safety of the miners.

Only through the use of imported processes and with the economies of size—mostly the product of aggressive equipment manufacturers—has the U.S. minerals industry survived. Each year, however, domestic production has supplied a decreasing proportion of the minerals required by the U.S. economy.

Technologic change and development, energetically applied, is a powerful force that can be exerted to improve the competitive position of the U.S. minerals production industry. The extent to which domestic sources can fulfill increasing and changing demands for minerals and fuels will be determined by the size and scope of the investment in minerals research and development including mined land reclamation and other environmental challenges, and to the extent that new innovative, and economic techniques can be developed.

This brings me to the third fundamental problem—to which these bills are more directly addressed—the problem of technical manpower.

Technologic advance is the daughter of research, and for a dynamic research program it is necessary to have an adequate number of competent, trained people.

Awareness of the dearth of people trained in the mineral fields that are available to the minerals industry has been reflected by numerous articles in the technical press. In the previously mentioned National Academy of Sciences report, which reviews and documents this urgent situation, it is pointed out that the whole broad area of minerals science and engineering has been woefully undersupported during the last 15 to 17 years when other scientific fields have experienced a growth of unequaled proportions. During this time no significant action has been taken by industry, the States, or the Federal Government. As a result, the number of mining schools has decreased from 36 to 17 in only 10 years, and during the same period the number of mining engineers graduated annually has dropped from 239 in 1960 to a low of 114 this past year. Twenty years ago nearly 500 mining engineers were produced each year. Similar trends hold for petroleum engineers, extractive metallurgists, and geological engineers.

We view the developments I have just described with deep concern. During the 1950's American universities and colleges graduated approximately 2,000 mineral specialists each year. During 1967 only 1,350 minerals specialists were graduated. If this trend continues, fewer than 1,000 specialists will be graduated in 1985.

Approximately 70,000 mineral specialists were employed in the United States during 1967. Thus, only one new specialist was trained for every 50 that were employed. Obviously this ratio is too low to maintain the present technical labor force. Between now and 1985, over 40,000 persons trained in minerals science and technology would have to be available to the labor market in order to sustain this technical labor force at the current level. However, based on present trends, fewer than 20,000 new mineral specialists will be trained.

In examining these problems, one is inevitably led to the conclusion that we have a great challenge before us. How do we solve these problems that I have discussed? If this is a Federal responsibility—and it is certainly a Federal concern—what type of program is likely to be most successful?

The Federal Government currently supports research and training programs at universities in many fields such as agriculture, water quality, forestry management, marine resources, and the health sciences. We believe that this support has paid handsome dividends in terms of technologic development. It is, therefore, altogether appropriate that similar support—such as proposed in H.R. 6788—be extended to the minerals schools.

Mr. Chairman, this concludes my prepared statement, and we shall be pleased to answer any questions you or the other Committee Members wish to address to us. I want to note before closing, however, that we are deeply grateful and appreciative of the interest shown by the sponsors of the three bills under discussion at this meeting. We all have a common concern—which is how best to restore our minerals technology and education to the sound footing which is critical to our national strength and growth. We have taken different approaches to the solution of some of the problems involved. I am sure that resolution of these differences can be effected, and to this end the Department of the Interior recommends favorable consideration of H.R. 6788 or H.R. 10950 with the amendments that we have proposed.

Mr. ALLOTT. Mr. President, there are significant differences between the approach of title X of the House-passed version of the higher education bill, S. 659, and the Senate-passed mineral institute bill, S. 635, which is an amendment to the National Mining and Minerals Policy Act of 1970.

I shall not dwell on the recognized need for mineral institutes, since both the House and the Senate have acknowledged the need by passing legislation dealing with the subject.

Title X of S. 659 provides for only 10 institutes, and the program is administered by the Commissioner of Education.

By contrast, S. 635 authorizes matching support for one institute in each State, and provides for administration of the program by the Secretary of the Interior. The Senate Interior Committee recognized that some elements of the research program authorized in section 3 of S. 635 would have application in every State, while a substantial part of the research contemplated under this program may have application in many regions, much of the research will have a local application, dealing with problems unique to a particular area or State.

Title X fails to recognize the diversity of problems based upon topography, geology, climate, degree of industrialization, concentration of population, and many other factors between the States, and the need for a local institute to direct its research efforts to find answers to those local problems.

It is true that some of those research results may have application in other localities. S. 635 provides for the publication and dissemination of research results to interested parties, both Government and non-Government. It is important that those who need to know about research results receive the information as soon as possible so that new data, findings, and processes can be applied at an early date. Under section 9 of S. 635 the Secretary of the Interior, who has broad responsibilities with respect to natural resources, is made the focal point of the research conducted under the program, and as such acts as a central clearinghouse and coordinator for research results.

Title X of S. 659, as passed by the House, provides for no such clearinghouse for research results nor does it provide for coordination of research. Under its provisions, the Secretary is granted 30 days to review applications for grants and to make recommendations. In other words, the research is conducted on a helter-skelter basis, uncoordinated with research conducted at other institutes, which may or may not have relevance to urgent mining or environmental problems, and which may be wastefully duplicative.

Certainly, the Congress should not enact two measures which purportedly achieve similar purposes in the same session. That would compound duplication.

Mr. President, I ask unanimous consent that pages 27 through 29 of the House Interior Committee hearings on S. 635 and similar House bills—H.R. 6788 and H.R. 10950—be printed in the Record at this point.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Mr. Edmondson. I understand the chairman wants to make a statement.

Mr. Aspinall. Thank you very much, Mr. Chairman.

As we start our hearings this morning on these bills to which you have made reference. I believe that the record should reflect the recent developments which have taken place in connection with this particular legislation.

Last week the House passed the Higher Education Act including title XI, which does substantially the same thing as the legislation we have before us today. Major differences between title XI of the House-passed bill and the legislation that we are considering in the bills referred to are as follows:

1. Responsibility for administration, and
2. The number of research and training institutes established.

Title XI would be administered by the Commissioner of Education in the Department of Health, Education, and Welfare, while the legislation we are considering would be administered by the Secretary of the Interior.

Title XI would establish a maximum of 10 research and training institutes, whereas our legislation would provide for an institute in each State and in Puerto Rico.

The purposes and objectives of title XI and our legislation are substantially the same, the purpose of both being to support, enhance, and stimulate mining and mineral research and to assist the training of scientists and engineers in the mining and mineral field.

May I say that it would be the intention of course, to bring these operations up to date, keeping in mind the value of protecting the environment and the ecology, as well as taking the resources from the earth. During the consideration of the Higher Education Act last week, the chairman of this committee, Mr. Edmondson, made a point of order against title XI on the ground that the subject matter of the title was under the jurisdiction of the Committee on Interior and Insular Affairs.

However, regardless of the fact that he made a very fine presentation, his point of order was overruled. Thus, today we find ourselves in a rather awkward situation. We have the Senate-passed bill, S. 635, and two which are the subject of these hearings while House bills pending before our committee the House has already passed legislation to accomplish substantially the same purpose.

Obviously, it would not be appropriate for both title XI and our legislation to be enacted by the same Congress, and I may advise my colleagues that there is a question at this time as to what the conference committee will do.

The Senate-passed bill, of course, does not carry the legislation referred to and the Senate, as I understand, is in a quandary as to how they are going to proceed in the conference report. There is a good possibility that they may ask for title XI to be stricken and that they will stand on that position.

Therefore, Mr. Chairman, while I agree that we should go ahead with this hearing and get into the record the administration's position on the legislation and insert the various statements that have been presented to us, I believe that we should not proceed with the markup of the legislation until we know what is going to happen to title XI of the Higher Education Act, but rather that we should send our record after today's hearing, together with the bills and the proposed amendments, to the full committee so that if the legislation is not contained in the final conference report and approved by both Houses, we will be ready to move immediately and take jurisdiction on what we have thought—and which I still think—we should have jurisdiction over in the legislative process.

Mr. Edmondson. I appreciate the chairman's statement and concur wholeheartedly with the questions as to the strategy to be followed by the committee.

I yield to the gentleman from Pennsylvania, the ranking minority member of the committee.

Mr. Saylor. Mr. Chairman and members of the committee, while in principle I agree with the general statement that the chairman has made, there are several points on which I disagree.

First, I agree that this committee does have jurisdiction. I think that the parliamentarian erred in not sustaining the point of order that was made by Mr. Edmondson against inclusion of this section in the higher education bill. But I do not believe that we should merely sit idly by and leave this bill in limbo.

Very frankly, for a number of years, Secretary Dole has been talking to me, and I am sure to other members of this committee, on the need for upgrading the educational institutions in this country to take care of the minerals industry. The fact of the matter is, before he became Secretary he was in my office on one occasion and talked to me about this. Shortly after, Dr. Osborn became head of the Bureau of Mines and he talked to me concerning the same matter and, as a result of those conversations, I introduced the bill which I introduced early this year; namely, H.R. 6788.

Now, the hearings which we are holding on this bill are the first hearings that have ever been held on this matter. The House Education and Labor Committee included it in their higher education bill but they never held a hearing on it, on that section, just as they never held hearings on a good many other sections of what was included in the higher education bill and, of course, you know the fiasco that occurred on the floor upon consideration of the higher education bill when that committee transgressed on the jurisdiction of a half dozen standing committees of the House. It was a typical example of poor legislative practice.

I think the Senate—I want to congratulate the Senate for having taken action on this bill. I think that maybe after this is over we should take a look and determine whether or not we want to go as far as this present bill goes, but I sincerely believe that if this committee, which has responsibility for mines and the minerals industry of this country, is going to do its job, it has to report out this bill and turn this matter over to the Secretary of the Interior.

If not, and we sit back and let the Committee on Education and Labor assume the jurisdiction of this committee, then I can tell you that there will be nothing done or so little done as far as the minerals industry is concerned that it will amount to a nonentity.

Why do I say that? That section of the bill to which the point of order was made and overruled by the Parliamentarian is a miniscule part of the overall higher education bill and I am satisfied that when the time comes for HEW to go before the Office Management and Budget for their funds that the minerals industry will be forgotten, they will try and take care of the overall picture and forget about the thing for which we are responsible and for which these hearings are being held.

Therefore, I would hope that in addition to marking it up that this committee would act and report the bill out and ask for a rule and have it out on the floor. Even though the distinguished chairman of the Rules Committee has sent out a notice to the chairman and ranking members that we have to have all bills in by a certain date, be left a great loophole in that notice, matters which are considered matters of urgency. I am sure that as far as I am concerned, and this committee should be concerned, this is a matter of urgency, the Senate having passed the bill.

If we pass it on the floor of the House, send it to the President to be signed, then the conferees in the higher education bill will certainly be in a position to say there is no reason to include it in their bill and will delete it.

Mr. Aspinall. Will my colleague yield?

Mr. Saylor. I will be happy to.

Mr. Aspinall. Will my colleague agree with me it is better to send it to the full committee?

Mr. Saylor. Oh, yes; I want it sent to the full committee, and I would like to see the full committee act on it and send it on to the floor.

Mr. Aspinall. We will have it so that 2 weeks from yesterday we can act upon it if we wish to.

Mr. Saylor. Yes, sir; we can bring it up under suspension and I think we can pass it, accept the Senate version, or sit down in conference with the Senate and have that done before the conferees on the higher education bill act.

Thank you, Mr. Chairman, for this opportunity.

Mr. Edmondson. Any other members desire to comment or be heard? If not, the Chair recognizes our distinguished Assistant Secretary of the Interior, the Honorable Hollis M. Dole.

I meant to insert H.R. 6788, the text of it, in the record also. Is there objection?

Hearing none, without objection, so ordered.

Mr. ALLOTT. As Chairman Aspinall remarked, there has been some question as to how the Senate should proceed in conference. However, I am happy to report that recent events in the House have apparently created a situation whereby a solution is now in the offing.

Mr. President, I shall quote from a letter written by the chairman of the House Committee on Education and Labor (Mr. Perkins) and addressed to

Mr. Lloyd, a member of the House Committee on Interior and Insular Affairs, who has urged the enactment of S. 635 or a similar measure. He says:

> I would think, therefore, that the preference of your mineral educators could be best served by action on the part of your Commitee in moving the bill now before it. Assuming that the bill is reported and passed, I doubt there would be any willingness on the part of our conferees to insist on one Title XI.

Mr. President, I ask unanimous consent that the full text of that letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C.,
*February 9, 1972.*

Hon. Sherman P. Lloyd,
*House of Representatives,*
*Washington, D.C.*

Dear Colleague: This is in response to your letter of January 20 regarding Title XI (Mineral Education Act) of the Higher Education Act Amendments, as passed by the House last November 8.

I am aware of the Senate action with respect to the passage of a related measure, and also aware that the House Committee on Interior and Insular Affairs has not yet reported such legislation. I can also appreciate that mineral educators in your State might prefer the Senate version and the contemplated version of your Committee, as well as the reasons for this preference.

As you know, the Higher Education Act Amendments are in the process of reconsideration by the Senate and it may be some time before a conference committee can resolve the differences between the two bills—including the title relating to mineral education. I would think, therefore, that the preference of your mineral educators could be best served by action on the part of your Committee in moving the bill now before it. Assuming that bill is reported and passed, I doubt there would be any willingness on the part of our conferees to insist on our Title XI. In the absence of that action, however, I believe our conferees are likely to insist on some version of Title XI being included in the Higher Education package.

I hope I have been helpful in expressing what I view to be the position of the supporters of Title XI. Our objectives are obviously in accord, and the question seems only to be which is the most expedient procedure of achieving them.

With best wishes,
Sincerely,

Carl D. Perkins,
*Chairman.*

Mr. ALLOTT. I think it is clear from Chairman Perkins' letter that the House Committee on Education and Labor has recognized the urgent need for the establishment of mineral institutes or mineral research centers, and has expressed a strong interest in insuring that such legislation is enacted during the Congress. As author of S. 635, I share that interest. The problem has been that two committees have been proceeding down similar roads at about the same time, which has lead to complications in the parliamentary situation. However, as I stated earlier, a solution looms on the horizon.

I have received a copy of a committee memorandum addressed to all members of the House Interior and Insular Affairs Committee. The substance of that memorandum is that H.R. 6788 and H.R. 10950, bills which are similar to S. 635, are scheduled for full committee consideration on Wednesday, March 1, 1972. It should be noted that H.R. 6788, introduced by Mr. Saylor, is cosponsored by Mr. Dent, the author of a bill which ultimately became title X of S. 659, the bill now pending before us. Mr. Dent as well as Mr. Saylor is also a cosponsor of H.R. 10950, introduced by Chairman Aspinall. The fact that the chairman, Mr. Aspinall, and ranking Republican member, Mr. Saylor, of the full committee, and the chairman, Mr. Edmondson, and ranking Republican member, Mr. McClure, of the Subcommittee on Mines and Mining have cosponsored one or both of the House bills on mineral institutes, displays a sincere interest and intent of the House Interior and Insular Affairs Committee to take definitive action on the legislation. It appears that it has just been the unfortunate parliamentary situation which has evolved which has delayed action up to this time.

I ask unanimous consent that the memorandum be printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Memorandum, February 24, 1972

To: All Members, House Interior and Insular Affairs Committee.
From: Sidney L. McFarland, Staff Director and Chief Clerk.
Subject: H.R. 6788 and H.R. 10950 Section-by-Section Analysis.

The Subcommittee on Mines and Mining has referred to the Full Committee H.R. 6788 and H.R. 10950, to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of Dec. 31, 1970, and for other purposes.

Pursuant to Committee Rule 5(d), a copy of H.R. 6788 and H.R. 10950, along with the analysis are enclosed.

This bill will be scheduled for Full Committee consideration on Wednesday, March 1, 1972.

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### SECTION-BY-SECTION ANALYSIS (PURSUANT TO COMMITTEE RULE 5(d))

H.R. 6788 and H.R. 10950, to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of Dec. 31, 1970, and for other purposes.

### TITLE I—STATE OF MINING AND MINERAL RESOURCE RESEARCH INSTITUTES

Section 100. (a) authorizes the appropriation of $500,000 to the Secretary of the Interior for FY 1972 and each succeeding year thereafter for the purpose of assisting States in establishing and maintaining mining and mineral resource research institutes. Such Federal money would be matched by non-Federal funds. The research institutes would be established at one State or college in a State. The college selected would be a Land Grant College established in accordance with the Act of July 2, 1862. Where there is more than one qualified college in a State, the Secretary may, upon designation by the Governor, select one. Two or more States could cooperate in the designation of a single institute to serve the participating States.

(b) Each institute would affiliate with a component of a College or University for research and other matters.

Section 101. (a) authorizes the appropriation of $$5,000,000 for 1972 and the four succeeding years for the institutes to meet expenses of specific research and demonstration projects of industry-wide application.

(b) Establishes criteria for the grants made under subsection (a).

Section 102. establishes criteria for use and payment to States and their institutes.

Section 103. authorizes the use of funds for printing, publishing and planning and direction in addition to research and investigations.

Section 104. charges the Secretary with proper administration of the Act and authorizes him to promulgate regulations to carry out its provisions and to report annually to Congress.

Section 105. is a disclaimer of Federal control of a College or University or the relationship of a College or University to a State.

### TITLE II—ADDITIONAL MINING AND MINERAL RESOURCE RESEARCH PROGRAMS

Section 200. authorizes the appropriation of $10 million in FY 1972 (increasing by $2 million each year for 5 years and continuing at $20 million annually thereafter) for grants or contracts to educational institutions, foundations, Federal, State or local government agencies for research in minerals programs that would not otherwise be undertaken.

### TITLE III—MISCELLANEOUS PROVISIONS

Section 300. directs the Secretary to cooperate with other Federal agencies, State agencies and private institutions to eliminate duplication and to coordinate activities.

Section 301. is a disclaimer of authority or surveillance of the Secretary of the Interior over other Federal mineral programs of other governmental units.

Section 302. permits contracts or other work under this Act to be conducted without regard to Sec. 3684 Revised Statutes (31 U.S.C. 529) when the Secretary finds advance payments of initial expenses are required.

Section 303. contains a provision that patents or processes developed will be available to the public.

Section 304. provides for the establishment, by the President, of a center or clearinghouse for cataloging current and projected minerals research.

Section 305. provides for clarification of agency responsibility and coordination of research by the President.

Section 306. (a) (b) and (c) provides for the establishment of an Advisory Committee, the membership, duties and responsibilities as well as payment and reimbursement of its members.

Mr. ALLOTT. In light of all of the events I have discussed, it appears unnecessary for the conference committee to concern itself too much with title X, except to insist that it be deleted from the conference report, since the House Interior Committee will be taking action on the other legislation (S. 635, H.R. 6788, and H.R. 10950), which will obviate the need for title X in the pending bill. I have taken the time of the Senate to explain the situation and call attention to recent events so that the conferees on S. 659 will be fully informed.

I am particularly pleased that the manager of the pending bill is in the Chamber at the present time, and has been able to listen to these remarks and the subsequent history which will obviate the necessity of having title X in the bill when this measure goes to conference.

Mr. President, I yield the floor.

Mr. HANSEN. Mr. President, title X of the Higher Education Act as passed by the House of Representatives provides for the establishment of Mineral Resources Conservation Institutes. I have noted that this title was stricken from the legislation by the Senate committee, and I commend and support this action.

I am taking the Senate floor today to inform my colleagues of the reasons why I think title X of S. 659 as passed by the House should not be enacted and to urge that the Senate conferees hold firm to the Senate deletion of title X from the legislation.

I am strongly in favor of the concept establishing mineral resources institutes. For this reason, I cosponsored S. 635, legislation to establish such institutes throughout the Nation.

This legislation was considered by the Senate Interior and Insular Affairs Committee and passed the Senate on July 15, 1971. The bill is expected to be considered shortly in the House of Representatives.

The Mineral Resources Research Institutes established under S. 635 are patterned on the highly successful Water Resource Research Institutes for which the Congress provided several years ago. This program has been highly successful, and there is every reason to believe that a similar program for mineral resource research would be successful also.

The approach provided in S. 635 is far superior to title X of S. 659 which provides the mineral conservation education program that is not adequate and in addition very clumsy and indirect since it would be administered by the Commissioner of Education only with the advice and consent of the Secretary of the Interior. Is the middleman truly necessary? Furthermore, since S. 635 is an amendment to the Mining and Minerals Policy Act of 1970, in which the responsibility of the Secretary of the Interior with respect to the state of domestic mining and so forth, is clearly stated, the Secretary should also be designated as the administrator of a mineral research and training program authorized by the Congress.

In addition, the provision of S. 635 will insure that research conducted under the program is not diluted and that the research and development under the program will provide valuable results. Much productive activity can be and is being undertaken at the graduate level. With the Federal assistance under S. 635, this effort can be materially increased and in time there can be sufficient feedback so as to furnish incentive for instructional activities at the advanced undergraduate level.

The very real concern for environmental impact which all mining activities must demonstrate is more than sufficient justification for this program of research and training. It is timely, and I strongly urge that the Senate conferees refuse to accept title X of the House-passed legislation and instead insist on a program for mineral research and development as established under S. 635, legislation previously passed by the Senate and to be shortly considered by the House of Representatives.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for Monday next is as follows:

The Senate will convene at 10 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business.

The unfinished business will be the committee amendment in the nature of a substitute to the House amendment in the nature of a substitute to S. 659. By virtue of the unanimous-consent agreement which was entered into earlier today, the pending amendment by Mr. Scott and Mr. Javits will not be the pending question on Monday; but that amendment will go over until Tuesday, along with all other so-called civil rights amendments. On Monday, the committee substitute will be open to further amendment with respect to so-called noncivil rights amendments, on which there will be a time limitation of 1 hour on each amendment.

Mr. President, there is a possibility of rollcall votes on Monday, and the program for Tuesday next will be stated on Monday.

## ADJOURNMENT UNTIL 10 A.M. MONDAY, FEBRUARY 28, 1972

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. on Monday next.

The motion was agreed to; and at 5:53 p.m. the Senate adjourned until Monday, February 28, 1972, at 10 a.m.

## CONFIRMATIONS

**Executive nominations confirmed by the Senate February 25, 1972:**

### DEPARTMENT OF STATE

**Robert Stephen Ingersoll, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.**

**William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait, to the State of Bahrain, and to the State of Qatar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman and to the United Arab Emirates.**

### ACTION

**Kevin O'Donnell, of Maryland, to be an Associate Director of Action.**

### OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

**William Rinehart Pearce, of Minnesota, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.**

### OVERSEAS PRIVATE INVESTMENT CORPORATION

**The following-named persons to be members of the Board of Directors of the Overseas Private Investment Corporation for terms expiring December 17, 1974:**

**Dan W. Lufkin, of Connecticut.**

**J. D. Stetson Coleman, of Virginia.**

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# EXTENSIONS OF REMARKS

## NATIONAL ECONOMIC POLICY

## HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

*Friday, February 25, 1972*

Mr. BYRD of Virginia. Mr. President, the Wall Street Journal of February 18 contains an excellent editorial on the subject of national economic policy.

The editorial focuses on the recent remarks of Mr. Herbert Stein, Chairman of the Council of Economic Advisers, before the National Press Club. It is pointed out that while Mr. Stein was able to deal with the Nation's economic problem in a clever and humorous way, the thrust of his message was deeply serious.

The editorial stresses that much hard work will be required if we are to achieve economic stability and at the same time maintain economic freedom.

I ask unanimous consent that the editorial entitled, "Economic Fun and Games," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### ECONOMIC FUN AND GAMES

According to recent advices from Washington, some administration officials complain that the press paid all too little attention to some remarks by Herbert Stein, the President's principal economist. If so that's a defect that we'll help correct.

Mr. Stein, after all, is an economist to treasure, since he firmly believes that economics need not be a dismal science. In his remarks at the National Press Club, for instance, he suggested that Democratic presidential hopefuls now were busily lining up economic advisers: "Senator Muskie has offered Senator McGovern Arthur Okun and a first round draft choice from the 1972 crop of Ph.D.s in exchange for Kenneth Galbraith, but McGovern says it's no deal unless Okun grows a beard."

When Mr. Stein gets to the heart of his topic he can also be rather humorous, though perhaps less intentionally so. The basic situation, as anyone can see, does have its elements of comedy.

To begin with the Nixon administration came into office proclaiming the virtues of free enterprise, the folly of constant manipulation of the economy. For a while the Nixon men were almost as good as their word, but then they began to reap the results of the inflation inherited from the Democrats.

So what did the Republicans do? For a while they tried to work both sides of the street. In 1971 B.C. (Before Controls) financial policy became highly expansive, but administration officials even now would like everyone to believe otherwise.

In explaining why Mr. Nixon finally opted for wage-price controls, Mr. Stein puts it this way, without even cracking a smile: "If we had been concerned only with inflation we could have stuck it out with a classic prescription of fiscal and monetary restraint."

On August 15, when controls were imposed, the government had recently finished a fiscal year with a budget deficit of $23 billion, compared with less than $3 billion the year before, and it was beginning to sink even deeper into red ink. The Federal Reserve System, meanwhile, was inflating the money supply at a merry pace. That's the sort of restraint that most classicists would disown.

Despite the Republican policy of unrestrained restraint, the Democrats were still snipping at them. Inflation, unsurprisingly, was roaring right along and the economy, also unsurprisingly, was finding it hard to make headway among the confusion.

The Democrats' proposals were also predictable: even more economic intervention. It was surely a joke on the Democrats when the GOP largely took their opponents' advice.

At least Mr. Stein seems to find it pretty funny. "Does anyone propose a more stimulative fiscal policy if that means a bigger deficit?" he asks. Do the "Democrats propose to control wages more rigorously?" So far as we've noticed, no Democrat has been able to come back with a clever reply.

The Nixon administration, Mr. Stein boasts, is "running the biggest budget deficit ever, except for World War II. . . . We have the most comprehensive price-wage control system ever except during the Korean war and World War II. . . . We have suspended the convertibility of the dollar" and, through negotiation, achieved devaluation. How, he implies, can the Democrats do anything more?

Mr. Stein is probably right when he suggests that many of the Democratic presidential hopefuls will wind up by promising to do about what the Republicans are doing but somehow to do it better. "Me-too" plots have never been especially successful in politics, but they seem to be a staple of political farce.

Politicians find economic intervention more fun than the hard work needed to eliminate even the excuses for such manipulation. If unions and businesses possess excessive power, set up elaborate controls to police them; don't bother to try to reduce the power. If there isn't enough spending to keep the economy perking along, take the money from the public in taxes and inflation and spend it; the people don't know what's best to do with their money.

Heading back toward economic freedom won't be easy, even if the politicians finally find the will. However delightful it may be to have a little comic relief in the dismal science, economics was never meant to be all fun and games.

## EFFORT TO KILL EUROPEAN RADIO STATIONS

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DERWINSKI. Mr. Speaker, I direct the special attention of the Members to the unfortunate impasse in the House Senate Conference on the bill to provide assistance to Radio Free Europe and Radio Liberty.

The impasse is caused by the obstinacy of one individual, that person being the chairman of the Senate Foreign Relations Committee. In my judgment, the determination by Mr. FULBRIGHT to kill Radio Free Europe and Radio Liberty is as poor a behavior as I have ever seen in the Congress. It represents a monumental setback for the necessary programing of news to the captive peoples of communism.

Mr. Speaker, I insert at the conclusion of this statement a letter addressed to Senator FULBRIGHT by the chairman of the German Christian Democratic Party's Defense Policy Committee which is pertinent to the remarks I have just made:

DEAR SENATOR FULBRIGHT: Yesterday, we received the news of your speech in the Senate in which you requested that the radio stations "Free Europe" and "Liberty" should terminate their operations.

Since we know of your political importance and influence, Senator Fulbright, many people in my country were deeply disturbed by the news of your speech. They saw in your request to terminate the operations of these radio stations—in spite of the continued stifling of liberty and freedom in Eastern Europe—another manifestation of American disengagement. We noticed with deepest regret that another result of your speech would be the termination of the practically irreplaceable "Institute for the Study of the USSR". The scholarly activities of this Institute have very essentially assisted in spotlighting the actual meaning of Soviet reality which would have otherwise remained hidden in its carefully fostered semi-obscurity.

If the news which we received is correct, you referred to the activities of these two broadcasting stations as "anachronistic". I regret to say that many of my friends and I myself fail completely to understand how you could possibly arrive at such a conclusion. For what reasons do you wish to deprive those who assist us in breaking down the barriers isolating Eastern Europe from their sources of information of the very means which enable them to continue their work? Incidentally, the very concept of such an isolation is alien to men of western civilization. Why do you say that their work is anachronistic? Don't you understand, Senator Fulbright, what it means to millions of people in East Central Europe, in the Balkans, in great parts of the Soviet Union, in the Baltic countries, and in the wide open spaces of Siberia, to hear in their own languages sound information with up-to-date comments during day and night?

Indeed, there are many millions for whom the news of the stations "Free Europe" and "Liberty" are the only connection with the non-Communist world. They are the only voice which reaches them from the far-away countries in which liberty and freedom prevail. For these millions, stations "Liberty" and "Free Europe" are the only means to hear from the West specific news of what happens in their own countries and in the "Socialist block." Have you forgotten, Senator Fulbright, that stations "Liberty" and "Free Europe" were the first ones which in December 1970 broadcast the terrifying news of what happened in the Polish-renamed ports of Danzig, Stettin and Zoppott when the Communist dictatorship had hundreds of desperate workers shot and killed? The news was broadcast by these two stations in a way which made it impossible to obscure these events any longer. At that time, all of Poland heard the voice of the free world. And this voice of the free world came from the two American broadcasting stations, "Free Europe" and "Liberty."

Needless to say, we are aware of the furious opposition fostered for many years by those who—in the name of Marxism-Leninism—have deprived their peoples of their liberty and freedom. We know that you have asked for many years over and over again that the transmissions of the broadcasting stations "Free Europe" and "Liberty" be terminated. We know that you say that the continued broadcasting of information from the free world amounts to a manifestation of the cold war.

There are also some individuals in my country who would like to cooperate in accomplishing the goals of Communist propaganda, namely to silence those whose voice continues to maintain the hope of enslaved and oppressed peoples that freedom and human rights cannot be permanently suppressed.

Dear Senator Fulbright, I myself have no connection whatsoever with any of the aforementioned institutes or stations.

I write this letter exclusively in my capacity as a freely elected member of the parliament of the German people because I can still recall how during the Nazi regime my parents and I listened to English broadcasting stations each night in order to renew our hope that a dictatorship will not and cannot prevail over freedom. I also write this letter to you because I know that the last rays of hope would be extinguished in Eastern Europe if your proposal should be accepted. Please remember that hundreds of thousands of intellectuals and even many members of the ruling Communist bureaucracy listen to the broadcasts of the stations "Free Europe" and "Liberty".

I appeal to you to support policies which are intended to multiply the outlets for the distribution of free instead of manipulated information. Please do not support those whose only wish is the utter destruction of the means by which free information can be distributed.

Sincerely yours,

Dr. WERNER MARX,
Chairman of the Committee of the CDU/CSU Parliamentary Party for Foreign-, All-German, Defense-, and Development Policy. Chairman of the Federal Committee of the CDU for Defense Policy

## FAIRFAX COUNTY, VA., UNDERTAKES EXPERIMENTAL SOLID WASTE PROGRAM IN THE MOUNT VERNON AREA

## HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

*Friday, February 25, 1972*

Mr. SPONG. Mr. President, public understanding and appreciation of the economic and social costs of solid waste is increasing, and a concept of solid waste management is evolving. The growing technology and affluence of American society have laid a heavy burden on solid waste facilities. Refuse collected in the Nation's urban areas has increased from 2.75 pounds per person per day in 1920 to more than 5 pounds today. It is expected to reach 8 pounds by 1980.

According to a bulletin from the National Center for Resource Recovery, a nonprofit corporation organized by industry and labor to monitor and coordinate technology and research in the area of solid waste:

People are increasing at a rate of 1 per cent, solid waste at 4 to 6 per cent. What is

> particularly worrisome about this pollution is that at the same time this trash increases resources shrink. . . . We must develop a total system—in which we reduce the production of waste, reclaim useful materials and recover the value of discarded resources.

The Environmental Action Committee of the Mount Vernon area of Fairfax County has translated a concern over the solid waste problem into action. The citizens' group approached the Fairfax County Board of Supervisors with a proposal for an experimental recycling program. The board agreed, and instructed county officials to implement the program.

The result is a 10-week experiment during which the county will collect paper, glass and aluminum placed at the curb by homeowners in three subdivisions of the Mount Vernon area. The materials will be sold by the county for recycling and reuse.

While this is only a trial program, it is tangible evidence of a willingness by local government to undertake a recycling program. It also represents an excellent example of a citizens' group working in concert with local government to solve a serious problem.

Mr. President, the County of Fairfax and the Environmental Action Committee of the Mount Vernon area are to be commended for their joint effort on this matter. An article published January 15, 1972, in the Alexandria Gazette explains the program in greater detail, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Experimental Recycling To Start Monday

The first collection in the Fairfax County experimental recycling program begins Monday and will continue for 10 weeks in Hollin Hills, West Grove, and Tauxemont. It is an innovative attempt to solve the solid waste problems of a growing suburban area.

County trucks will pick up newspapers tied in bundles, glass containers rinsed and sorted by color—clear, brown, and green, and aluminum. All recyclable materials of this type are to be placed at the curb by the homeowner and will be picked up by the county the day before the regular collection day. Containers used to hold the recyclable materials will not be picked up. The county will sell the materials they collect. Such items are reused in a variety of ways including making recycled paper and building materials.

This program was instituted as a direct result of work by the Environmental Action Committee of the Mt. Vernon area, a citizens group concerned with local and state environmental problems. Herbert E. Harris II, Fairfax County supervisor from the Mt. Vernon district, endorsed the program and requested the Public Works Department to implement a pilot program. V. Tielkemeier of the Division of Solid Waste organized the experimental program. If it is successful the plan will be expanded around the county.

During World War II it was common practice to recycle and reuse as much material as possible. After the war the practice was discontinued.

The National Center for Solid Waste Disposal, Inc., a nonprofit corporation in Washington, D.C., is concerned with finding practical solutions to the solid waste problem. It provides services, primarily educational, to the general community and performs research and development of the technological needs for reclamation and recycling. Their preliminary studies indicate that the concept of disposal must be abandoned and be replaced with plans for resource recovery.

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## A TRIBUTE TO FRANCIS X. GALLAGHER

## HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. SARBANES. Mr. Speaker, it is with great sadness that I bring to the attention of my distinguished colleagues the tragic death of Francis X. Gallagher, one of Maryland's truly outstanding citizens. Francis Gallagher died on Friday, February 11, in Baltimore after an extraordinary career of service to his community, his church, and his fellow man. It was a career all the more unique and all the more tragic because it lasted for so brief a time. Had he lived, today would have been Francis Gallagher's 44th birthday.

Occasionally, Mr. Speaker, we are fortunate to have in our midst someone whose mind and heart and character exemplify all that we hold to be good and true in our own lives. Francis Gallagher was such a man. To have known him and the warmth of his spirit, the keenness of his mind, the depth of his faith, and his commitment to a just and decent society was indeed to have been fortunate. He brightened the lives of all with whom he came in contact and left upon each a lasting and enriching impression. It is upon such men that the strength of our Nation rests and his passing leaves our democracy lessened and our spirit diminished.

Mr. Speaker, at the funeral last week in the Cathedral of Mary, Our Queen, two deeply moving tributes, both included below, were paid to Francis Gallagher. The first was given by His Eminence, Lawrence Cardinal Shehan, Archbishop of Baltimore. The second by his brother, Father Joseph Gallagher. They are important not only because of what they say about Francis Gallagher, but also because of what they say, in speaking of him, about the meaning of a good life. I hope that all will take a few moments to read these tributes.

In addition, Mr. Speaker, much was written in the press about Francis Gallagher's accomplishments and contributions. I have set out below a portion of those comments so that those who did not know him might have a better understanding of how very much he meant to our community. His passing is a tragic loss and we shall all miss him deeply. My wife joins me in extending our deepest sympathy to his widow, Mary, his five children, and the other members of his family.

### Homily Given by Lawrence Cardinal Shehan at the Funeral Mass for Francis X. Gallagher

The vast gathering here is in itself a sufficient homily for the occasion because it teaches us the value of the life that we have lost. The passing of Francis Gallagher who is so recently a part of our lives, a part of the Church, and of this Archdiocese is a mystery to us. It is almost unbelievable that he who so recently played so active a part in this community has now passed from us and will be with us no more.

There is a certain mystery to his going at such a young age with so much promise ahead, so much to do, and with so many who depended upon him. The mystery is solved only in terms of our Christian faith.

Our Lord and Saviour Jesus Christ accomplished his mission from the heavenly father in fewer years than were granted to Francis Gallagher. The Gospel tells us that unless the seed falls to the ground to die it remains only a seed. If it does die, new life springs forth. Again, the same Gospel indicates to us that our life is to be valued in terms of our service to God and our fellow man and in terms of Christian faith and hope.

When we think back on the life of Francis Gallagher our first memory is likely to be his brilliant mind, ready wit, and pleasant humor; a mind capable of sizing up a situation in its entirety and going to the very heart of it. Beyond this, we think of his great devotion to so many people. He accomplished so much during the short span of his life. But we value a man, not for what he has accomplished but for what he is, the qualities he develops in his life.

Francis Gallagher was a man of great and singular integrity; his word was his bond; he was trusted implicitly; a man of his own conscience. Although his loyalty to his country was sincere and above all suspicion, and although he was united to the Catholic Church with bonds of strongest faith; he was not the Government's man; nor was he the Archbishop's man; he was his own man with his own conscience. He was a man of deep faith, one might say unquestioning faith, if such a thing can exist today. But it was in his all-embracing love that the quality of his Christian character shone most brightly. He had the ability to see a spark of goodness in every man. He was beset by many; I have never known him to turn from any man because he considered him unworthy of his interest, his attention, his help.

He was in many ways like the great Christian lawyer, St. Thomas More. He had the same unbounded energy, the same embracing character of St. Thomas More. When More mounted the scaffold to lay his head on the block, he protested that he died "the king's good servant but God's first." So Francis Gallagher could have said that he lived the State's good servant and the Church's good servant—but God's first.

Like More, too, he had his own martyrdom—a long life of constant and often excruciating pain from which the best in medicine proved incapable of bringing him relief. This pain, however, never interfered with his work nor with that spirit of good will and pleasant humor which was so characteristic of his life. We shall miss him indeed, and we shall remember him tenderly.

We express our profound sympathy to his wife and children, his mother and his brother Joseph, and to all his family and many relatives and friends. While we mourn his passing our hearts are filled with the hope that springs from the knowledge that to a Christian death is but the beginning of a better life—a life in which all of us one day will join with him.

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### Eulogy Given at the Mass for Francis X. Gallagher by Father Joseph Gallagher, the First of His Many Brothers

In the name of my brother's stalwart wife and his five captivating children, in the name of my mother, who first taught him tenderness, and of my younger brother and sister and myself, who were the first to profit from his manly and fortifying presence, I wish to thank all of those people, starting with Cardinal Shehan, who have honored my brother so highly, mourn him so deeply, and have consoled his family so heartfully.

The profoundest wellspring in my brother was a passionate love for life—despite all its aches and shadows, with which he was not unacquainted, and of which I never heard him complain.

What he loved most about life was people, people as people, in all their wonderfully wild variety—black and white, Protestant, Catholic and Jew, believer and unbeliever, "important" people, and just plain people, Democrats and, as he would probably say, "even" Republicans.

What he loved most about people was the chance to befriend them in their need, to ease their pain even though it magnified his own—that pain which he never outwitted, but which he held in heroic contempt. By the alchemy of his boundless drive, resourcefulness, generosity and availability, he transmuted his own sufferings into a soothing medicine for countless others.

The truest comfort to be found in our present pain is the astonishing and blazing witness of the healing use to which he always cheerfully put his own.

We are none of us surprised that his great heart gave out, for his heart was giving out all his short life long, and that was the part of himself he used the most.

After big holiday meals, my brother loved to quote the words: "We thank you, Lord, for this brief repast; many a man would have called it a meal." Grateful for the feast of him, we might aptly say today as our Grace After Him: "We thank you, Lord, for his brief sojourn; many a man would have called it a lifetime."

Perhaps one of his beautiful children spoke most simply and eloquently for us all. Learning of his father's death, he said in a tone of measureless loss: "He was so nice." So he was. So he truly was.

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[From the Evening Sun, Feb. 14, 1972]

### FRANCIS X. GALLAGHER

Francis X. Gallagher's bubbling good nature disarmed his opponents and warmed his allies. It was a quality which, coupled with an intelligence that showed him quicker than most where the real truth lay, marked him for leadership in his church, in politics and in civic life. Men smiled when Francis Gallagher appeared; but they stopped to hear what he had to say. Only close friends understood two other qualities which ran largely unseen behind the jolly, perceptive exterior. One was a purposeful morality, a determination to speak up for the weak when the weak needed help and, for the strong, to steer them in the direction of their better instincts instead of their worse. But from a darker side Mr. Gallagher was surely destined to move as high in public affairs as anyone of his generation. This side was a series of debilitating physical illnesses which, time after time, cut him back just when the hour seemed to strike for him to move for the top. As it was, he died at 43 with more substantial accomplishments behind him than most men his age but with his great potential still unrealized.

Annapolis knew him in the late 1950's as a darting young legislator, unafraid of change when reform was in the air. Joe Tydings and young Tommy D'Alesandro were larger men, and more successful campaigners, because in the background of each stood Frank Gallagher and his human wisdom. Later, it was the Catholic Church which benefited and turned more flexible—notably in its attitude toward racial relations—because of the Gallagher advice. Death caught him, characteristically, hard at work defending Father Wenderoth and Father McLaughlin in their Harrisburg trial.

Cardinal Shehan hit it right when he spoke of Frank Gallagher's "courage" and of the "better place" the world is because of it. What a still better place it could have been but for the frailties which held him back and which stopped him in the end. But what a special courage it took, in the circumstances, to carry him as far as he went.

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[From The Sun, Feb. 14, 1972]

### FRANCIS X. GALLAGHER

It is always shocking to hear that a vital community figure has been fatally stricken in the prime of life. The fact that Francis X. Gallagher was able to pack so many achievements into his brief 43 years makes it no less disturbing.

As chief legal adviser for the Baltimore Archdiocese, he served Cardinal Shehan during a restless period that saw the church move closer to the temporal mood of the times. When Pope John XXIII initiated the Ecumenical Movement, Mr. Gallagher was available to open local channels with other men of goodwill. If civil rights activists justly sought wider employment opportunities for blacks, he quickly set the machinery in motion. His character sharply reflected that which is decent in contemporary America.

In that regard, Mr. Gallagher worked eagerly through most of his life in the political community. As a member of the Maryland House of Delegates, then people's counsel to the Public Service Commission, and finally as adviser to numerous candidates for office, he lifted politics and public service to a higher level. Whatever the goal, he always seemed to deliver twice the effort of any normal man. And to his tasks he brought a sharp wit and warmth that constantly reminded the vain and the mighty that they were merely mortal.

He was the product of a "typical, Irish-Catholic family," whose offspring went to parochial schools and some on to Loyola High School and College. Such training, when it took, fitted a man with self-discipline, generosity and moral courage. It was understandable that he would be working, practically up to his death Friday, on further proposals for state aid to parochial schools. In a very real sense, Francis Gallagher represented the best that system had to offer.

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[From the Baltimore Evening Sun, Feb. 12, 1972]

### FRANCIS X. GALLAGHER DIES AT AGE 43

Francis X. Gallagher, the witty, indefatigable attorney, political organizer and advocate of liberal social reform died last night of a heart attack at Johns Hopkins Hospital. He would have been 44 February 25.

At the time of his death, Mr. Gallagher, long-time attorney for the Archdiocese of Baltimore, was a defense attorney for the two Baltimore priests accused in the Harrisburg antiwar conspiracy trial.

#### MASSIVE HEART ATTACK

John Evelus, Mr. Gallagher's law partner since 1962, said the attorney was admitted to the intensive care unit at Johns Hopkins Hospital Wednesday after complaining of indigestion and an upset stomach.

He died at 11 P.M. yesterday after suffering a massive heart attack.

A spokesman for the family said Mr. Gallagher was not known to have a heart condition prior to his admission to the hospital.

#### SERVICES TUESDAY

Funeral services were tentatively set for 10 A.M. Tuesday at the Cathedral of Mary Our Queen.

Cardinal Shehan is scheduled to be chief concelebrant at the services.

In the weeks before his admission to Johns Hopkins Hospital, Mr. Gallagher commuted almost daily to Harrisburg, where he was assisting in the defense of the Rev. Joseph Wenderoth and the Rev. Neil McLaughlin, both of the Archdiocese of Baltimore.

Mr. Gallagher became involved in the Harrisburg trial at the request of Cardinal Shehan.

#### RAN FOR GOVERNOR

During his political career Mr. Gallagher was an unsuccessful candidate for governor in the legislative election in 1969, a one-term delegate to the General Assembly, and a campaign official for Senator Joseph Tydings, President Lyndon Johnson and presidential candidate Robert F. Kennedy.

Mr. Gallagher grew up in Baltimore, the oldest of four children in what his brother, the Rev. J. Joseph Gallagher, described as a "typical, Irish Catholic family."

#### GREGARIOUS SCHOLAR

Father Gallagher said his older brother early earned a reputation as a gregarious scholar. He excelled in debate when he attended Loyola High School and became, according to a fellow student, "Mr. Everything" at Loyola College.

Before graduating magna cum laude from that institution, he edited both the school newspaper and the yearbook, was active in the debating and dramatic societies and was elected president of Alpha Sigma Nu, the national Jesuit honorary society.

While studying law at the University of Maryland he was elected to his first political position—delegate to the Democratic State Convention of 1952.

#### CITY SOLICITOR

Upon admission to the bar he was appointed city solicitor of Baltimore.

Six years later he was elected to the General Assembly from the city's Third District, receiving more votes for the House of Delegates than any other candidate in the city.

In 1961 Mr. Gallagher resigned his seat to become the first people's counsel to the Maryland Public Service Commission. While holding that office, he argued a number of cases successfully, including an appeal against a telephone rate hike.

Mr. Gallagher was noted as a raconteur and as an advocate—often behind the scenes—of liberal causes including civil rights and housing.

But, as representative of the archdiocese, Mr. Gallagher split with liberals when he fought against abortion and for government aid to parochial schools.

#### SERVED WITH TYDINGS

Mr. Gallagher served in the House of Delegates with Joseph Tydings. He later became a law partner with Mr. Tydings and served as campaign treasurer in the successful 1964 Tydings campaign for the United States Senate.

Senator Tydings was Mr. Gallagher's contact with President John Kennedy and, after the assassination, with Robert Kennedy.

During the 1968 campaign Mr. Gallagher headed the Kennedy forces in Maryland and at the Chicago convention cast his vote for Senator Eugene McCarthy.

He served in a number of civic and public offices. In 1966 he became the president of the Hospital Council of Maryland, and in that same year was appointed acting chairman of Baltimore City Hospitals.

In the early 1960's he was vice president of the Maryland Reapportionment Commission. Later he was a delegate to the Maryland Constitutional Convention.

The attorney was frequently cited for his civic activities.

In 1961 the Junior Association of Commerce of Baltimore awarded him its distinguished service award as outstanding young man of the year.

That same year he received the first annual Metropolitan Civic Society Award. The National Conference of Christians and Jews presented him with a special citation in 1967.

Mr. Gallagher was married to the former Mary Inez Kelly in 1951.

In addition to his wife, Mr. Gallagher is survived by his daughter, Mary Ellen and four sons Francis, Jr., John Joseph, Patrick Edward and James Lawrence, his mother, Ellen M. Gallagher, of Baltimore, two brothers, the Rt. Rev. J. Joseph Gallagher and Thomas Galvin Gallagher, Los Angeles and a sister, Mrs. Mary Burdell, Dundalk.

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## NO HOLDS BARRED

## HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. DULSKI. Mr. Speaker, the kidnapping of a 70-year-old woman by two teenagers very understandably has aroused the ire of the editor of a suburban Washington, D.C., newspaper. His observations are worthy of reading:

[From the Enquirer-Gazette, Upper Marlboro, Md., Feb. 17, 1972]

### NO HOLDS BARRED

The kidnapping this week of a 70-year-old woman by two 13-year-olds causes us to look with dismay at the decadence of this nation over the past 50 years which has finally reached down to the cradle.

Up until that time this great nation was a safe place to live in, even in the ghetto sections of our large cities. This was achieved by adhering to strict laws and restrictions, thoughtfully designed by our forefathers to protect the innocent and punish the guilty. This even reached down into our school systems where the children were punished for misbehavior and when they went home they were repunished by their parents.

Certain crimes were punishable by life imprisonment or death penalties to keep persons capable of such crimes out of society.

This left very little chance for unmanageable children to do serious harm and criminals very little chance to become repeaters.

Since that time some social critics decided that our laws were cruel and inhumane and somehow sold the ideas to those in power that everyone should have a second chance (which now amounts to a third, a fourth, etc.).

Parents were urged to use psychology on their children instead of the rod and teachers were hardly allowed to correct them. This generation has now reached maturity and with the mellowing of the penalties for crime, many do not know the meaning of fear or forced restriction which is so essential to the preservation of society.

A great many of these youngsters are so disturbed that they are on dope, they have no care about their appearance and they do not care about the future. Their parents shun their duties and ship them off to some special school to mingle with others with the same illness. Once they are out of these schools, they do not know right from wrong.

For instance, one recent young man who was killed in the commission of a crime, had in his possession a little book recording 50 rapes, a former capital punishment crime.

A 21-year-old man who killed two adults and a child was tried under juvenile law and, even though convicted, will be back out on our streets in less than a year.

If it is cruel or inhumane to keep this kind of people out of society, then let's look at the other side of the picture. What about the victims of these robbers, rapists, kidnappers and perpetrators of heinous crimes?

Are they not also members of this great land of the free? Under our Constitution aren't they guaranteed protection from the irresponsible law-breakers who are seeking to have their pleasure at other's expense?

If it is not too late, we had better reverse this trend before we completely revert to the law of the jungle.

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## RESOLUTIONS OF THE ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS

## HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. BEGICH. Mr. Speaker, one of the 12 regions established in the Alaska Native Claims Settlement Act, which recently became law, is the Association of Village Council Presidents. This region, which represents numerous villages along the Lower Yukon and Lower Kuskokwim Rivers, has long been one of the strongest, most organized and vocal of the various Native regional organizations.

Recently, I received in my office a number of resolutions passed by the AVCP at a recent regional meeting. While the resolutions are too lengthy for complete inclusion here, I have prepared a list of the positions taken in these resolutions which I want to share with my colleagues.

I take pride in doing so for two reasons. First, I believe these resolutions indicate the broad range of issues already being addressed by the regional organizations. Second, I hope that my colleagues will note the substantive merits of these positions. Complete copies of all resolutions will be available in my office for all those who wish more details:

### LIST OF POSITIONS

No. 72-1: Appointment of Organizing Directors for new regional corporation.

No. 72-2: Designation of new AVCP geographical area.

No. 72-3: Notification of all future musk-oxen transplants.

No. 72-4: Re: Cooperative retail store in Bethel.

No. 72-5: Improved air carrier services in the Bethel area.

No. 72-6: Request for village radios for the communities of Kotlik and Chefornak.

No. 72-7: Reallocation of B.I.A. funds for student scholarships at the University of Alaska.

No. 72-8: Designation of subsistence and hardship land use for Scammon Bay, Chevak and Hooper Bay and prevention of subsurface exploration in the Clarence Rhodes Wildlife Range.

No. 72-9: PHS assistance for water well for the village of Kwigillingok.

No. 72-10: Assistance in procurement of tractor for the village of Kwigillingok.

No. 72-11: Request for "seed money" for grocery store from the National Campaign for Human development of the Catholic Church of America.

No. 72-12: Request for installation of telephone on porch and a private line at the YUT Housing office.

No. 72-13: Support for project to provide recreation, gathering place and social activities in Bethel Heights area.

No. 71-25: Village of Crooked Creek radio schedule and radio ownership transfer.

No 71-26: Request for travel funds for Human Service Aides of State Department of Health and Social Services, Division of Family and Children Services.

No 71-27: Release of land for Brown Slough/Bethel seawall project.

No 71-28: AVCP's recognition and designation of YUT Regional Housing Development Corporation as regional housing development mechanism.

No. 71-29: Request for secondary road construction between Napakiak, Oscarville and Bethel.

No. 71-30: Opposition to and request for repeal of State statute to permit subsistence fishing.

No. 71-31: Designation of AVCP Education Board as policy advisory board for the Bethel Broadcasting Corporation.

No. 71-32: Establishment and support of Executive Director and Administrative Director positions for the Yukon-Kuskokwim Health Corporation and approval of salary levels for these positions.

No. 71-33: Assistance for road improvement of Stony River.

No. 71-34: AFN consultation with AVCP board for actions pertaining to AVCP region.

No. 71-35: Radio-telephone request from State of Alaska for the village of Stony River.

No. 71-36: Electric generator request by village of Stony River for radio use.

No. 71-37: Request for funds and construction of sidewalks for the village of Toksook Bay.

No. 71-38: Implementation of Crooked Creek Airport proposal . . . at an earlier date.

No. 71-39: To inform legislators, state and federal agencies of the need for bridges over two creeks at the village of Crooked Creek.

No. 71-40: Request for BIA housing at the village of Kongiganak.

No. 71-41: Request for State of Alaska to build 3,000 feet of sidewalk through the village of Kipnuk.

No. 71-42: Request for Wein Consolidated Airlines to build cargo and waiting room at village of Mekoryuk.

No. 71-43: Land eligibility and selection rights for people on Nunivak Island.

No. 71-44: AVCP to purchase land with settlement funds.

No. 71-45: Request that portions of Alaska Native Claims Settlement Act of the House which eliminates subsistence hunting and fishing be eliminated.

No. 71-46: Request for new school at the village of Alakanuk.

No. 71-47: AVCP release of lands to the village of Kwethluk.

No. 71-48: Establishment of Native Health Task Force to investigate mercury and other metal contamination of marine biology.

No. 71-49: Request for the PHS and YKHC to construct water well for the village of Marshall.

No. 71-50: Request for legislators and FAA to complete airfield at the village of Chefornak.

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## FLUSHING AIRPORT

## HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. ROSENTHAL. Mr. Speaker, the city of New York, with the help of Federal funds, plans to spend upward of $11 million to upgrade and expand an airport that should instead be closed at once as a safety hazard.

I have long opposed not only the expansion but the mere existence of Flushing Airport as a threat to the safety of persons living nearby and a potentially dangerous source of increased air traffic in already overcrowded airways.

The Flushing Airport Development Study made for the city by R. Dixon Speas Associates actually supports my position that Flushing Airport is another example of city hall's misconception of progress and its callous disregard for the wishes and welfare of the residents of an area affected by its building programs.

This time it plans to spend millions and millions of dollars to provide a place for corporate executives to land their private planes 5 minutes closer to their plush Manhattan offices.

This amounts to sacrificing public safety on the altar of corporate convenience. This facility is also a haven for those private pilots who wish to avoid too rigorous safety regulations of a controlled field such as LaGuardia. How many pilots using Flushing Airport actually take advantage of the control tower at LaGuardia, and how many simply fly in unannounced?

If Flushing Airport is so vital and so important, then perhaps it should have its own control tower. But why do not we hear Commissioner Leedham ask for one? Is it because the pilots who use Flushing do so because they want to avoid just that? LaGuardia has the closest control tower, but it does not handle Flushing traffic except as requested by a random flight.

I will tell you why, in one word, I oppose Flushing Airport. Safety. I will repeat that word for those who didn't hear it or find it alien. Safety.

I believe, I am convinced that Flushing Airport, in its present location, is a hazard to the safety of the community around it and to air traffic as well.

The Federal Aviation Administration shrugs off criticism of Flushing Airport with the same disdain it shows for air and noise pollution caused by aircraft. The FAA is traditionally oblivious to the public interest, preferring to act like a client of the industry it is supposed to regulate rather than the watchdog it was set up to be.

There are those who say that opposing Flushing Airport is opposing progress. That is tantamount to saying that fighting pollution is being opposed to technological growth. Both contentions are equally ridiculous.

I do not question the need for an airport such as Flushing, only its location. There is a definite need for reliever and satellite fields, but they must be located at safe and reasonable distances from the busy air traffic centers they are supposed to avoid. Flushing does not meet those criteria. To put a satellite reliever in close proximity to a terminal hub airport defeats its basic purpose. That is the case of Flushing Airport. Located as it is under the wing of LaGuardia, one of the world's busiest, Flushing is inhibited and it puts a crimp in LaGuardia as well.

Flushing Airport must be moved to a safer, more suitable site, or it must be closed.

Flushing Airport's location at the center of one of the world's most highly traveled aviation crossroads as well as its proximity to LaGuardia Airport raises the danger of midair collisions.

In 1968, the FAA began granting immunity from enforcement action to persons reporting near mid-air collisions—NMAC. They got about as many reports that year alone as in all 3 previous years put together for the New York City area. Some 89 were deemed by FAA to be "hazardous incidents."

Everytime we fly we are needlessly exposed to danger because the present air traffic system is based on the concept of equal rights for all pilots.

Three-hundred fifty passengers flying at 600 miles an hour in an incredibly complex and fragile airliner have no more priority in the congested airspace over New York than a Cessna 150, the Volkswagen of the sky, flown by a pilot with 35 hours of training and without radio, radar, or anything other than $10 an hour to rent this "flivver."

How private pilots can misuse this airspace as can be seen from an analysis of the near-miss reports received by the FAA. Most involved at least one private plane. All—and everyone knows the reported number is a small fraction of the total near-miss—represent a deadly hazard to innocent people on the ground or on airliners.

I do not question the private pilot's "right" to fly, although I do not believe that public policy, the rights of the majority, or minimal commonsense should allow him to fly amidst the jets.

A partial answer is limiting private planes to certain airports or banning them entirely from places like Chicago's O'Hare or New York's Kennedy Airport. But, this just pushes the same number of small planes from one home base to another. They still use—and misuse—the same congested airspace over our urban areas. Such limitations do, of course, reduce air congestion to the immediate airport area, which is a help to people who are airport neighbors.

I propose that the Federal Aviation Agency use the power it has to restrict private planes and pilots over our large cities. This can be done by:

First, requiring small planes to have the same equipment we demand of airliners. Those small planes and pilots which can meet the tougher rules should be allowed to fly with the airliners. This means, basically, that all planes would be under positive control of the air traffic system.

Second, giving airliners an explicit priority in the skies, especially over our cities. Three hundred and fifty passengers in a jetliner should have rights, by virtue of their number, over two passengers in a private plane when it comes to using the airspace over large cities. The first step in giving this priority, however, is to be able to control all planes by the equipment and pilot standards recommended above.

Compared to automobile travel, what I suggest for airspace control is quite modest. Instead of having planes fly absolutely wherever they want, they would, over urban areas, fly specified routes, with equipment and pilot training like that protecting the majority of air passengers who fly the airlines.

If we let autos use our land surface as private planes use airspace, we would have cars driving across lawns, through stores and houses, under the single condition that they do not hit one another.

Private pilots, and their defenders in FAA, will howl at these restrictions. I already have impassioned and bitter letters from private pilots who want to "ground" me from further incursions into their area of private pilot "rights."

But, unless we "thinout" our airspace by allowing only pilots with higher minimum standards to fly planes equipped with basic navigation and communications equipment, under the same flight rules airlines must follow, we will have more and more near-misses, and their eventual product: midair collisions and planes plummeting down on unsuspecting citizens.

Increased traffic for already overcrowded skies is but one of the predictions apparent in the Speas study of Flushing Airport. That study fails dismally in its efforts to gloss over the flaws and shortcomings it detects at Flushing Airport, such as:

Dangerous proximity to one of the Nation's busiest air terminals.

"Extremely poor" subsurface soil conditions that would require millions of dollars and years of effort to overcome.

The hazards of surrounding obstructions.

Uncertain sources of funds for capital expansion and operations.

Threats of noise and air pollution.

Vocal and vigorous public objection to the airport.

It calls for spending $11 million to upgrade Flushing's facilities in 1969 dollars, which would actually be more like $12 or $13 million today.

Projections of the airport's success hang, to a large degree, on the city's nubulous plans to develop a college point industrial park adjacent to the site.

The following, in detail, are some of the reasons why Flushing Airport should not be expanded but instead closed; all are based on the Speas report itself:

At a time when the airways around New York City, and especially over Queens, are saturated, this study proposed quadrupling the number of small airplanes weaving in and out of the jet-congested skies.

It talks of improving and extending runways while one of the present strips is closed to all traffic because a Western Electric plant is being built at one end of it. Unless Western Electric puts its plant on hydraulic lifts and lowers it beneath ground level or plans to tear down its new plant, it will continue to be a barrier to traffic taking off into the northeast or landing from that direction.

Instrument operations are not feasible at Flushing, the report points out. This means that bad weather would force aircraft bound for Flushing Airport to divert to already congested LaGuardia Airport, making a bad situation worse.

Fill and drainage would cost more than $6 million—1969 dollars—because of extremely poor subsurface soil conditions. It would be necessary, according to the study, to institute a hydraulic overfill project to raise elevation. The overfill will settle for many years and will require periodic runway overlays. Place of fill and construction of runways will require an estimated 3 years for completion.

The development program for the airport is limited by both operational and environmental factors which include the following:

First. The site offers limited area for development and poor foundation soils.

Second. The access road—20th Avenue—offers limited opportunity for realinement.

Third. Proximity to LaGuardia Airport results in less than ideal airspace availability.

Fourth. The rising terrain and existing development surrounding Flushing Airport present obstruction in excess of 100 feet in elevation within 2,000 feet of the site.

Fifth. There is a reticence to condemn additional property to achieve desirable runway lengths and ideal parallel alinement with LaGuardia Airport.

The airport operator has had to set a number of operating restrictions because of such problems as proximity to LaGuardia Airport, ground obstructions, and the lack of specialized equipment.

The report states:

> Safe operation of the two airports (Flushing and LaGuardia) would require improvements in the form of visual approach aids.

The major control problem encountered in the operation of Flushing Airport is keeping arrivals of runway 36, the primary direction at Flushing, separated from arrivals on runway 31 or departures on runway 13 at LaGuardia. With the refurbished Flushing Airport attracting more and more itinerant traffic, generally unfamiliar with the field this situation will become more critical, according to the Speas study.

Flushing, as proposed, will not be able to handle the corporate jets and heavier twin-piston or turboprop aircraft, the study contends. This statement is made in the face of the projection that more than one-third of the aircraft to be based at Flushing would be business planes. In light of the corporate trend to jets and other heavier aircraft, Flushing would apparently be useless to one-third of its projected customer-users. What assurances are there that Flushing would not eventually be developed into a corporate jetport? Just because it is not written in any master plans now or because of some verbal denials, there still are no firm guarantees that this expansion program is not the first step in the development of a corporate jetport.

Revenue projections are shaky and appear based on imagination more than anything else. They envision such things as $7.56 million in State and Federal aid to expand the airport, increased fees and rentals, additional traffic and prosperous concessions such as a restaurant and parking lot.

Estimates of the economic impact of closing Flushing Airport are outrageously exaggerated. The city would lose less than $20,000 a year—a small price to pay to insure the safety of thousands, if not millions of persons.

The airlanes over Queens are saturated with traffic now and cannot take any additional burden. The swarm of planes makes the skies nearly as congested as the streets below.

Flushing is a primitive, non-tower airport located 2 miles from LaGuardia, one of the Nation's busiest terminals. As long as this airport exists, private planes will be drawn into an already overworked air traffic pattern over our city.

This report proposes spending $11 million—more than half of it to shore up extremely poor subsurface soil conditions—to expand the airport to handle more traffic in 2 hours than it now handles in a full day. It calls for quadrupling the present traffic, from approximately 54,330 annual operations to about 200,000.

The report tries to dismiss the noise problem created by Flushing and totally ignores the pollution question.

It says "noise generated by 98 percent of the activity—at an expanding Flushing airport—would be insignificant" and "essentially no complaints" are expected from area residents although the noise may "interfere occasionally with certain activities."

This leads me to think that the guiding philosophy behind this study was "My mind is made up, do not confuse me with the facts."

The researchers would have had to do their work in a soundproof booth not to be aware of the noise produced by the airport and the protests of its neighbors and victims.

They dismiss the noise problem by saying the din probably would be absorbed or drowned out by noise from LaGuardia and Whitestone Expressway.

Safety, however, is the most important factor. Because of the proximity to LaGuardia, aircraft using Flushing are relegated to a pattern tucked below that of the neighboring field. Straight-out departures are prohibited. Special turns and maneuvers to avoid LaGuardia traffic are necessary. Flushing's operations must conform to LaGuardia's active runway use.

The current airport operator is an aviation veteran with admirable credentials and a fine professional reputation. He is a vigorous advocate and practitioner of air safety.

But all his talent, efforts, and dedication cannot overcome the inherently unsafe situation of Flushing Airport. And what will happen after he is gone?

As long as this airport is allowed to operate, it will attract private pilots of varying degrees of experience and with widely diverse equipment on their planes. Bringing such pilots and planes into the New York City airspace and over congested residential areas is dangerous and cannot be made otherwise.

The presence of unknown traffic, such as the mail planes flying in and out of Flushing, operating in heavily congested air terminal areas such as LaGuardia presents a hazard to navigation and a threat of mid-air collisions.

Although the city has said it has no plans to expand Flushing Airport in the near future, it continues to harbor the thought, as evidenced by the Speas study. Pressures for expansion will continue as long as Flushing remains open.

Plans to improve and not close Flushing Airport represent a grievously disordered sense of public priorities. Any plans to modernize or expand it should be abandoned and a phaseout program designed and executed. The safety and welfare of the residents of Queens demand nothing less.

I will continue to oppose city-sponsored plans for the expansion of Flushing Airport and will use all the influence I have to see that no Federal funds are committed to maintaining or enlarging an essentially defective and unsafe air facility.

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## AMERICAN SOCIETY OF INTERNATIONAL LAW'S STUDY PANEL PROPOSES INTERNATIONAL MONETARY REFORMS

### HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. REUSS. Mr. Speaker, a distinguished panel of economists, lawyers and Government officials, sponsored by the American Society of International Law, last week issued a thoughtful report on long-term international monetary reform. The specific thrust of the study was to propose improved methods of adjustment among nations' currencies. The opening sections of the panel's report—the explanatory forward, the introduction, and an outline of the proposal itself—follow:

AMERICAN SOCIETY OF INTERNATIONAL LAW PANEL ON INTERNATIONAL MONETARY POLICY

FOREWORD

The American Society of International Law decided in 1969 to convene a study Panel on International Monetary Policy, a panel which would be interdisciplinary in composition and forward-looking in concept. It focused its concern on the reforms which should be made in the international monetary and trade structure to deal with persistent imbalances in international payments and to provide for improved methods of adjustment among currencies.

The Panel's discussions of this subject have benefited by the interaction of international lawyers and international economists and by the preparation of a number of working papers by members of the Panel.

A principal result of the Panel's deliberations has been the conception and drafting of a "Proposed Economic Policy Coordination Amendment to the Articles of Agreement of the International Monetary Fund." The amendment is designed to help avert the sort of international monetary crisis which has gripped the world in recent months, especially since August of 1971. It is the belief of Panel members that, if the amendment were adopted, the International Monetary Fund and the governments of the world would be in a significantly better position to deal with problems of currency adjustment in a manner which would maximize international trade and the common welfare.

This report consists of an introduction of the problem, the text of the proposed amendment, and an extended commentary upon it. That commentary draws upon some of the working papers which Panel members were good enough to prepare, notably papers by Professor Andreas Lowenfeld, Mr. Frank Schiff and Professor Thomas D. Willett. The material drawn from their papers is acknowledged by footnotes in the body of the text.

The Panel's Report binds no member of the Panel, still less any institution with which he or she is or was associated. The Report does express the consensus of the deliberations of the Panel, a consensus reached through discussion and not voting. It does not necessarily express the views of every member. In no measure does it express the views of the American Society of International Law—which does not take positions as a Society on problems of public concern—or any other institution.

The members of the Panel (whose affiliations are noted only for the purposes of identification) are: Hans Aufricht, formerly of the International Monetary Fund; Bruce Bassett, Columbia University; Murray J. Belman, of the District of Columbia Bar; Roy Blough, Columbia University; David E. Bodner, Federal Reserve Bank of New York; Michael Bradfield, United States Treasury (Rapporteur of the Panel); Mitchell Brock, of the New York Bar; Richard N. Cooper, Yale University; William B. Dale, International Monetary Fund; Thomas L. Farmer, of the District of Columbia Bar; Richard N. Gardner, Columbia University School of Law; Dr. Hendrik S. Houthakker, Harvard University; Robert H. Knight, of the New York Bar; John M. Letiche, University of California (Berkeley); Cynthia C. Lichtenstein, Boston College Law School; Andreas F. Lowenfeld, New York University School of Law; Lawrence C. McQuade, PROCON Incorporated; M. C. Miskovsky, of the District of Columbia Bar; John Rhinelander, Department of State; Walter S. Salant, The Brookings Institution; Frank W. Schiff, Committee for Economic Development; Fred B. Smith, Syracuse University Research Corporation; Stanley S. Surrey, Harvard Law School (Chairman of the Panel); Walter Sterling Surrey, of the District of Columbia Bar; Thomas D. Willett, Cornell University; and Alan W. Wolf, United States Treasury.

This and many other study panels of the Society are funded by a grant of The Ford Foundation. On the Society's behalf, I should like to express its deep appreciation and that of the members of the Panel to the Foundation.

STANLEY S. SURREY,
*Chairman, Panel on International Monetary Policy.*

### PART I—INTRODUCTION

The Panel on International Monetary Policy of the American Society of International Law first met at a high point in international monetary cooperation. On that day—September 26, 1969—the Board of Governors of the International Monetary Fund approved a resolution calling for the allocation of $9.5 billion Special Drawing Rights over a period of three years beginning on January 1, 1970. Yet it was clear even then that the international monetary system was undergoing extreme strains and needed fundamental changes to function effectively. In a relatively short span of time preceding the first meeting of the Panel two major currencies—the pound sterling and the French franc—had been devalued; after a major crisis, an extensive revision of the gold market had been devised over a weekend, and two major outbursts of speculation in the German mark, accompanied by closed markets and massive movements of funds, had occurred. While the technical problem of providing adequate liquidity for the system had been solved, it was widely agreed that the international monetary system as a whole was not working as it should.

President Nixon's actions on August 15, 1971, suspending convertibility of the dollar into reserve assets and imposing a 10% surcharge on imports, made it clear to all that the international monetary system must be reconstructed with major changes. From a lawyer's viewpoint, the system was indeed in grave difficulty. Two fundamental provisions of the Fund Articles—Article IV on par values and exchange rate margins, and Article VIII governing convertibility—were deemed by a large number of members to be so out of touch with economic realities that their legal obligations had to be ignored. The General Agreement on Tariffs and Trade faced similar difficulties as its provisions prohibit surcharges but permit quotas which tend to be even more restrictive.

With the Group of Ten agreement on a new pattern of exchange rates which was reached in Washington on December 18, 1971, the immediate job of finding an interim solution to set the system working again has been done. The task of devising a reformed system will take time—probably some years, judging from the complex issues involved. The Panel's efforts have been directed to this task of long-range reform in the hope that a contribution could be made to reconstruction of the international economic-legal system which is so crucial to world prosperity and security.

The Panel started from the premise that the system had worked well but was now in need of change to meet the requirements of a greatly changed world. It was recognized that many of the key objectives of the Bretton Woods planners have been achieved—the years since World War II have seen an unprecedented reduction in tariff barriers and in quantitative restrictions. They have also seen the elimination of almost all exchange restrictions among industrial countries (even, in most cases, on capital account), and restoration of external convertibility. These developments played a major role in permitting an unprecedented expansion of world trade—from $55 billion in 1950 to $311 billion in 1970.

Yet today's world is far different from that in which the Bretton Woods planning went forward. August 15 was not only a demonstration of American economic power, it was also an explicit recognition that American dominance had been successfully challenged by the growth of other centers of great wealth and economic strength: the European Common Market and Japan. Yet, at the same time that this welcome diffusion of economic power has occurred, there has also been a burgeoning growth of restrictionism that has put some of the fundamental precepts of Bretton Woods in full retreat. It would be fair to say that the Common Market—particularly its common agricultural policy, its growing framework of preferential arrangements, and its restrictions on Japanese imports—has not been as outward looking in trade matters as had been promised by its most fervent supporters at home and abroad. Japan, the other great industrial center, can hardly be said to have been following liberal trade policies. Regional groupings are growing up in many areas of the world, which may also turn out to have a restrictionist bias. In many countries—both developed and less developed—there is increasing resort to import substitution policies and governmental subsidies for exports.

The actions taken on August 15 were also an expression of a widespread feeling in the United States that the growing restrictions and export incentives employed by other countries had resulted in a trading system that was biased against this country. This feeling reinforced growing domestic pressure for restrictions on imports, and numerous products have been put under voluntary or mandatory quotas—most recently woolen and man-made textiles. In addition, the countervailing and anti-dumping duty laws have been given more vigorous enforcement and, of course, the President imposed a 10% surcharge on imports, as a balance-of-payments measure. Further evidences of this trend are the favorable votes in the Senate during the debate on the Revenue Act of 1971 on quota and surcharge authority, on authorizing discrimination in the application of the Job Development Credit and on authority to apply the excise tax on automobiles solely to foreign vehicles. These actions demonstrate that there is increasing support in the Congress for more restrictions on imports. Not only has there been an increasing pressure for restrictions on imports, but Congress has also recently authorized the establishment of Domestic International Sales Corporations (DISC) to give a tax incentive to increase exports.

Restrictions have also appeared in the field of capital movements. In the United States various selective measures to limit capital outflows have been imposed—the Interest Equalization Tax, the Foreign Direct Investment Program, and the Federal Reserve Voluntary Restraint Program for banks and other financial institutions. Recently Europe and Japan resorted to extensive programs of restricting capital inflows as a means of limiting or preventing appreciation of their currencies.

The tendency toward increasing restrictions on international trade and payments, already evident in 1969, has today become a matter of serious concern for both economic and political reasons. In many quarters fear is being expressed that a trade war will develop and that the Western World will break up into hostile regional monetary and trade blocs employing various kinds of restrictive devices to assure inter-bloc balance in trade and payments relationships—with an eventual adverse impact on political relationships. The possibilities of this eventuality are real, although they have diminished as a result of the Group of Ten agreement on exchange rates. To assure that further restrictions do not develop, it will be necessary to make mutual adjustments that will lay the foundation for bringing the texts of international agreements into conformity with new realities and new objectives. Some fundamental changes of perception will be required, and it will take more than technical devices such as wider margins and more freely movable parities to make the system work smoothly.

The international monetary and trading system worked fairly well and with a minimum of consultation on or coordination of countries' economic policies only so long as the United States and the rest of the world were prepared to accept large and continuing international payments imbalances. After many years of U.S. deficits, and a severely declining trade account, it has become abundantly clear that continuation of the imbalances is neither politically nor economically acceptable to this country and its trading partners.

Yet it is not clear that the free world economy can function without restrictions unless a substitute is devised for the role the United States has played over the last thirty years. As Professor Richard N. Gardner has stated, American post-war planners "were prepared to devote a considerable amount of American wealth, influence, and energy toward the achievement"[1] of a freely flowing system of international trade—and they in fact did so over the ensuing three decades. But, if instead, all countries seek to maximize exports and minimize imports, can the world economy continue to function or will it fall into the disarray that characterized the period between the two World Wars? The Panel's judgment was that the effective functioning of a highly integrated world economy utilizing a system of relatively stable but movable exchange rates with a minimum of restrictions on trade and payments requires a fundamental commitment to a high degree of consultation on and coordination of domestic economic policies aimed at fairly-shared growth while avoiding persistent balance-of-payments surpluses or deficits.

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[1] Gardner, Sterling-Dollar Diplomacy (1969), page 12.

The task could be made easier by the very recent development of a less reluctant attitude toward the adjustment of unrealistic exchange rates as well as by the agreement on wider margins for exchange rate fluctuation. But this would not eliminate the need for close consultation and coordination of economic policies. The difficulties of reaching agreement on exchange rate realignment clearly show that the same problems involved in reconciling differing national objectives as part of coordinating economic policies also exist with respect to the setting of exchange parities.

The Panel, composed of lawyers and economists, turned its attention to this problem of improving the international adjustment process in the hope that its particular perspective—a concern for procedure and the techniques of institutional development—could prove useful both in pointing out what is wrong in present adjustment processes and in finding a method of helping the system to function more smoothly in the future. It is the Panel's conviction that success in this field is crucial to the maintenance of a liberal non-discriminatory world trading system.

The Panel concluded that reliance on *voluntary* cooperation and on consultation on countries' economic policies—a procedure that has achieved a considerable degree of sophistication and refinement in such institutions as the International Monetary Fund and the Organization for Economic Cooperation and Development—is no longer satisfactory. It set as its objective the development of additional techniques for closer consultation on and coordination of economic policies affecting countries' balances of payment and for obtaining full compliance with the judgment of the international community on the policies that should be followed.

As a result of its work toward this objective, the Panel drafted a proposed amendment to the Articles of Agreement of the International Monetary Fund. In summary, the amendment—the text of which is presented in Part II of this paper—propose a new organizational form for accomplishing economic policy consultation and coordination within the Fund. Panels would be established in the Fund composed of Governors of the Fund representing countries whose economies are highly inter-related. Each panel would conduct a general review of international economic trends affecting its member countries and would annually review each member's economy as it affects others in the group. The panel could make recommendations of an informal nature to a member and, where the situation warranted, a special review could be conducted which could result in formal recommendations where a country's economy was having an adverse impact on others. The panel would have the power to recommend to the Board of Governors that a specific currency be allowed to float, that a specific new par value for that country's currency be set at a particular time, and that export subsidies or import restraints be allowed. The panels could also recommend to the Board of Governors that joint measures be taken by all Fund members to induce compliance by surplus or deficit countries which have failed to follow formal panel recommendations. These joint measures could consist of a tax to be placed on imports of the goods or on the reserves of the member concerned if the problem was its persistent surplus, or limitations on new financing in the case of a deficit country.

The details of the amendment are explained in Part III of this paper. It must be emphasized what the amendment is not. It is not intended to be a definitive solution to all of the problems raised. On each of the provisions there were varying views on the correct solution to the problem posed. The amendment text is intended as an illustration of some of the choices that could be made. Other solutions raised in the Panel discussion are described in Part III. Moreover, it is not intended as an amendment in the formal sense of its being a provision that could be inserted without more into the existing Fund Articles of Agreement. While broadly assuming the existing structure of the Fund, including its decision-making bodies and voting system, no attempt has been made to conform the proposed Amendment to the Articles of Agreement of the Fund.

## PART II—THE PROPOSAL

The following text sets out in full the proposed amendment to the Articles of Agreement of the Fund.

### *Article I—Purposes*

(a) The members of the Fund agree that their economic policies and measures often have significant effects on other members and the functioning of the international economy through their impact on members' external balance of payments positions.

(b) Accordingly, the members recognize the need for closer consultation on their economic policies and measures and for coordination of policies and measures having a significant effect on the balance of payments positions of other members.

(c) In order to achieve this objective, the Fund has a responsibility to make recommendations to members to assure a smoothly functioning international balance of payments adjustment process consistent with the purposes of the Fund and, as may be necessary, to offer incentives and require members to apply disincentives in order to achieve compliance with such recommendations.

(d) The members agree that strengthening the opportunities for consultation about and coordination of members' economic policies and measures should be accomplished without impairing member countries' choice of economic priorities or social systems.

### *Article II—Organization*

1. *Consultative Panels.*

(a) A group of members who face common economic problems and whose economies are so interrelated that an individual member's actions have a highly significant impact on other members of the group may apply to the Board of Governors of the Fund to form a consultation and coordination panel.

(b) Members who are participants in regional international agencies operating in the economic and financial field may, with the approval of the Board of Governors, register such agencies as panels for the purposes of this Agreement. Only Fund members may participate and vote in actions taken by such qualifying panels when acting in their capacity as panels under the Agreement.

2. *Rules Governing Panels.*

(a) Each member may have one representative on a panel. Representatives shall be Governors or alternate Governors, or temporary alternate Governors.

(b) Each panel may choose a representative who shall participate without vote in the meetings of all other panels.

3. ***Voting.*** Each Governor, alternate Governor, or temporary alternate Governor on each panel shall exercise the same number of votes as the country he represents has allocated to it.

4. ***Role of Managing Director.*** The Managing Director (or his representative) shall participate in each of the panels. The Managing Director shall have no vote.

### *Article III—Economic policy reviews and recommendations*

1. *Periodic Reviews.*

(a) Panels shall periodically conduct a general review of international economic trends as they affect panel members and of events that may have significant effects on the international economy.

(b) In particular, each panel shall review the functioning of the economy of each member of the panel annually for the purpose of examining the effect of fiscal, monetary, income, trade, aid, capital flow, balance of payments and other policies of that member on other members and on the functioning of the international economy as a whole.

2. *Recommendations.*

(a) As a result of reviews conducted under section 1 of this Article, panels may make informal recommendations with respect to members' measures, goals, or policies affecting the balance of payments position of other members.

(b) As a result of reviews conducted under section 1 of this Article, panels may, with the approval of a majority of the total voting power of the panel, initiate a special review under Article IV of a panel member's economic policies. A special review initiated in this manner need not meet the reserve change criteria of Article IV, Section 1.

### *Article IV—Special reviews*

1. *Increases or Decreases in Reserves.* Panels shall hold a special review of the economic policies of a panel member whose monetary reserves increase or decrease by more than X% per month for Y successive months. This review shall focus primarily on the causes of the increase or decrease, the impact of the increase or decrease on the functioning of the international economy and the prospects for the continuance of the increase or decrease.

2. *Recommendations.* As a result of the review provided for in this Article, the panel may take the following actions:

(a) A panel may suggest specific areas of action to be taken to remedy the increase or decrease in reserves or to correct any other situation having an adverse impact on the functioning of the international economy.

(i) Such action may take the form of informal suggestions directly to the panel member or members or formal recommendations to the Board of Governors of the Fund.

(ii) Formal recommendations must be approved by a qualified majority vote of the total voting power of the members of the panel. Formal recommendations shall not become effective until approved by 70% of the total voting power of the Fund.

(b) By a qualified majority vote of the total voting power of the panel, a panel may recommend to the Board of Governors that a member or members be released from the obligation of Article IV, Sections 3 and 4, to assure that exchange transactions shall not differ from parity by more than the permitted margin, for such period of time as the panel considers desirable, and subject to any necessary safeguards to promote the purposes of Article I of this amendment and the purposes of the Fund. Unless within 24 hours such authorization is opposed by 50% of the total voting power of the Fund, no further authorization shall be required before the member or members may take the recommended action. A panel may at any time recommend to the released member or members that it or they should promptly propose a new par value for adoption by the Fund and may also recommend the specific par-value which should be adopted. Such a recommendation must be approved by a qualified majority vote of the total voting power of the panel.

(c) Notwithstanding the provisions of any other agreement, a panel may recommend to the Board of Governors, by a qualified majority vote of the total voting power of the panel, that a member be authorized to subsidize exports or restrict imports on such terms and conditions as the panel may specify, but such subsidy or restrictions shall be applied only to the degree necessary to eliminate the excessive decrease in reserves.

(i) No subsidy or restriction pursuant to a panel recommendation shall enter into effect until approved by Governors exercising at least 70% of the voting power of the Fund.

(ii) Any authorization granted hereunder shall be reviewed periodically by the panel recommending the authorization to determine whether it should be revoked.

(iii) A panel may revoke an authorization by a qualified majority vote of the total voting power of the panel.

*Article V—Compliance procedure*

1. *Further Review.* In any case in which a panel has made formal recommendations and the member does not carry out the panel recommendations and the member's external payments position continues to affect adversely the functioning of the international economy, there shall be a further special review of that member's adjustment policies. A decision to conduct a further special review under this Article shall be made by a weighted majority vote of the panel members on the basis of a proposal by the Managing Director.

2. (a) *Action With Respect To Surplus Countries.* As a result of the review provided for in section (1), the panel may, by a qualified majority vote, recommend to the Board of Governors in the case of a surplus member:

(i) that all Fund members levy a charge on all purchases of goods from the members concerned;

(ii) that the Fund impose a charge on the member concerned on all reserve increases above a base figure set by the Board, and such charge shall be deducted from the member's holdings of Special Drawing Rights.

(b) The Board of Governors may adopt a resolution requiring all members to impose a tax under Section 2(a)(i) above or to authorize the Fund to impose a tax under Section 2(a)(ii) above only by 70 percent vote of the total voting power of the Fund.

3. *Action With Respect To Deficit Countries.* In the case of a deficit country, the panel may recommend, by a qualified majority of the voter power of the panel, to the Board of Governors, for adoption by it by a vote of 70% of the total voting power of the Fund, any of the following steps:

(i) a declaration of ineligibility to use the resources of the Fund;

(ii) a prohibition on new financial assistance by members inconsistent with any Fund action;

(iii) a prohibition on members' renewal of existing financial assistance as it matures.

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## NEWS ARTICLE POINTS OUT THE FRAUD AND INEQUITY OF THE NIXON ECONOMIC PROGRAM

### HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mrs. ABZUG. Mr. Speaker, an item appearing in this morning's Christian Science Monitor provides new evidence that Richard Nixon's economic stabilization program is a fraud.

It is a fraud because the only thing that is really being "stabilized" is the wages of working men and women. Prices and rents, while nominally subject to stabilization, are pretty much allowed to run rampant, thus allowing businessmen to further fatten their wallets at the expense of the salaried and the fixed-income people of this country.

The article follows:

[From the Christian Science Monitor, Feb. 24, 1972]

LEAKAGE IN PRICE CONTROLS HITS CONSUMER

(By David R. Francis)

WASHINGTON.—In ancient Babylon, the ruler Hammurabi commanded that anyone who disobeyed his orders fixing prices and salaries was to be drowned. In the Middle Ages, craft guilds sometimes banished or pilloried price gougers.

And yet even such drastic measures have failed to make wage-price curbs dramatically successful, historians say.

So in modern, prosaic Washington, the ruler Nixon and his men had no great expectations when he launched his own wage-price controls. The most stringent penalties, after all, are fines of up to $5,000 per violation, restitution ordered by the courts, and, under some circumstances, suits for treble damages.

Administration officials still emphasize the voluntary nature of the controls—even as the Cost of Living Council insists that 81.8 percent of the consumer-price index remains covered by the controls, with 18.2 percent uncovered.

(Those critics who claim that the controls ought to have more "bite" point out that the 18.2 percent uncovered includes taxes, food in the form of raw agricultural produce, and the costs of buying a home, water and sewer rates, using the postal system, sending children to colleges and private schools, and mortgage interest.)

Nevertheless, the economic stabilization program (abbreviated to ESP), has had some impact; it is said:

It has satisfied the public's desire for some direct government action against inflation. This may boost President Nixon's chances for re-election, depending on results.

It has reduced public expectations for inflation.

That change is reflected in a dramatic drop in interest rates in recent months. To some extent the "inflation premium" has been knocked out of the rates.

But the man in the street does not always appreciate that. Even C. Jackson Grayson Jr., chairman of the seven-member Price Commission, cautions that in the past month or six weeks some of this psychological gain has been lost.

Some people, he said, do not understand that in the current Phase 2, unlike the freeze of Phase 1, prices were expected to rise somewhat. Thus some people were disappointed when they noticed various price hikes.

Chairman Grayson cautions that it may be April before the impact of Phase 2 controls on inflation is clearly seen.

"Controlling a trillion-dollar economy," he says, "is a little like steering a battleship. You throw the helm hard over, and nothing happens. The momentum forward fights the rudder. Then, very slowly, the change of course becomes visible."

A recent public-opinion survey commissioned by the Wall Street Journal found 54.7 percent of 760 adults quizzed thought price controls were not working and 48.7 percent of them figured the same for the wage controls.

Yet, said Mr. Grayson in an interview, many people no longer regard a high rate of inflation as inevitable.

Public attention has been directed to the need to increase productivity (output per man-hour) to dampen inflation.

CONTRADICTIONS HIGHLIGHTED

"I view this as an important focus this program has given the country," commented Mr. Grayson.

It takes some 600 civil servants to grind out the multitudinous rules and decisions of the Price Commission. And the Pay Board has another 130 officials mostly poring over the details of wage contracts. The two bodies even have their own offset press, on the fifth floor of the nondescript, just-completed, eight-floor commercial office building that houses the new flock of extremely hard-working bureaucrats. The press churns out news releases and other printed documents at a great rate.

Around the nation, some 3,000 employees of the Internal Revenue Service are working full time to see that the stabilization controls are enforced. Another 13,452 revenue agents and 6,094 revenue officers help in performing the duties that are the modern equivalent of Hammurabi's enforcement officers.

To a lesser extent, the wage-and-price control program has highlighted contradictory inflationary elements in the nation's economic policies.

Meat-import quotas, for instance, were in the headlines last week. The limitation on imports tends to boost meat prices. Thus the Cost of Living Council—the body at the head of the wage-price-control pyramid—has been considering allowing more meat imports to prevent meat prices from rising further.

Economists have also lately spoken of the inflationary impact of oil- and textile-import quotas, the Davis-Bacon Act requiring that the government pay "prevailing wage rates" on government-backed construction projects, laws protecting the domestic shipping industry, etc.

FULL REVIEW URGED

"This is an appropriate time to examine afresh all of the federal legislation, rules, and regulations which interfere with competition, unduly raise prices, or otherwise give our economy an inflationary bias," a former Assistant Secretary of the Treasury, Murray L. Weidenbaum, told a Senate subcommittee Jan. 19.

In an election year, however, economists have little hope that the administration or Congress will do much about politically sensitive "structural" defects in the economy.

And they are skeptical about the direct impact of the economic-stabilization program on the rate of inflation.

After surveying dozens of economists, the Wall Street Journal led a story on the results: "Many economists view President Nixon's venture into wage-price controls much the way Shakespeare once viewed life: full of sound and fury, but signifying very little indeed."

With high unemployment and much slack industrial capacity, economists had expected the rate of inflation to decline this year regardless of whether controls were imposed or not.

The Price Commission's Dr. Grayson, on a year's leave-of-absence from being dean of the business school at Southern Methodist University, says he is "optimistic" that the program will work—that is reduce the rate of inflation by half to a 2.5 percent annual rate by the end of this year.

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## VOICE OF DEMOCRACY CONTEST

### HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. BEGICH. Mr. Speaker, Rose Mary Petranovich, a senior attending East Anchorage High School, recently participated in the Voice of Democracy contest conducted by the Veterans of Foreign Wars and its ladies auxiliary.

Miss Petranovich was among the

nearly 500,000 high-school students who competed in this contest by writing a speech on this year's theme, "My Responsibility to Freedom."

As you read Miss Petranovich's poignant contribution to the Voice of Democracy contest, which I am proud to insert in today's RECORD, I believe you will readily see why her speech was chosen to represent the State of Alaska in this competition.

Her theme follows:

### My Responsibility to Freedom

(By Rose Mary Petranovich)

As I walk down the road of life, my feet tire and I grow weary. I fall, but I get up. The road abounds with cracks, but I trudge on. I see blotches of dried blood spilt by those before me. A sign comes into view. It bears a warning: Obstacles Ahead. I cross a wobbly bridge whose wood components have rotted with time. The bridge needs reinforcement. An idea formulates in my mind. I must strengthen the bridge so that others may cross, but I'm not strong enough. I seek help. I convey my thoughts to other travelers. Together we repair the bridge. Then while walking on it, someone slips off. It was a mistake not to have put up a guard rail. The next bridge will have a guard rail. Pausing at the top of a hill, I catch sight of a pool below. I hurry to the pool only to find that it cannot quench my thirst. I look back. It seems I've covered little ground. I look ahead. I have far to go. I continue to walk.

Ideals often conflict with reality. Man has dreamed of a utopia; he has wandered in search of a perfect place. He has encountered problems and has utilized his knowledge to cope with them. Man has made a wealth of mistakes, and he has learned from each one.

The past must be present to find a future. Happenings of the past cannot be ignored—and one cannot turn away from the present depending on the future to hold the answers. By taking past events into consideration and by investigating the present situations, one can shape the course of the future.

Change occurs. Established systems cannot always adapt to an ever-changing society. Governmental services may be faulty. They may not meet the needs and desires of the people. Patterns for living call for improvement. Things that are not all good should not simply be discarded. They can, perhaps, meet basic needs and provide a form of security until something better comes along. Methods can be improved; new ways can be tried. Foundations can be built up. It is not necessary to tear down—totally rejecting the present and seeking something right for all purposes. That something may not be found.

Expression of public opinion is vital. People reflect approval or dissatisfaction. People offer challenges and in doing so, contribute. This ensures the evolution of a more efficient and productive society.

Experimental crops of new ideas are planted. The results are harvested. I owe my spore of thoughts to other people. I must also listen to them. My seed of ideas may not grow. Proper conditions may not prevail. There are limitations to its growth, as there are limitations to freedom. My seed just might germinate. It's worth a try, and that is my responsibility to freedom.

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## POLLUTION, POLITICS, AND PROTEST

## HON. WAYNE N. ASPINALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. ASPINALL. Mr. Speaker, on October 6, 1970, Charles L. Gould, publisher of the San Francisco Examiner, San Francisco, Calif.; presented a speech at the National Association of Real Estate Boards in San Francisco in which he discussed the environmental controversies.

I have been greatly concerned over the lack of balance in the study of current environmental issues, for our confrontation has led us to emotionalization rather than to reason and responsibility. Mr. Gould has, in the following speech, put the various aspects of the current environmental revolution into a new perspective. In the interest of formulating the best plans and programs relating to our environmental questions, I urge my colleagues to study, with care, the following remarks:

### Pollution, Politics, and Protest[1]

(By Charles L. Gould[2])

(NOTE.—Discussion open until March 1, 1972. To extend the closing date one month, a written request must be filed with the Executive Director, ASCE. This paper is part of the copyrighted Engineering Issues—Journal of Professional Activities, Proceedings of the American Society of Civil Engineers, Vol. 97, No. PP1, October 1971, Manuscript was submitted for review for possible publication on June 16, 1971.)

I was present a few weeks ago when Dr. Joseph Boyle made an impressive address to this audience on the environmental problems of our times. In addition to other charges, Dr. Boyle told an appalling story of hundreds of workers in a California nylon processing plant who had contracted cancer—as a result of their work—and who had been retired to a company sick farm to live out their remaining few years.

Following the luncheon address, I asked Dr. Boyle for the name of the offending company. I felt a story of such horrendous proportions should be reported in our newspapers. Dr. Boyle was pleased with my interest and regretted that he did not have the specific information with him. However, he assured me that he would direct it to me when he returned to Los Angeles. I followed this request with a long letter restating my interest in exposing the contemptible conditions of the nameless company. That was more than two months ago. Thus far I have received no answer. Please understand—I do not questiton Dr. Boyle's sincerity. I do not question that he heard the story he reported to this audience. Such stories are in full flood. And they tend to be expanded with each retelling.

We in the press are not without sin in this regard. When a man of science makes a statement concerning disturbing conditions within our environment, too often the statement is quoted without obtaining complete and unequivocal confirmation.

The recent tuna fish scare is a case in point. The authority for the report on mercury contamination was a department of the United States government. Thus, the story carried appropriate credentials Subsequent investigation revealed, however, that all fish contain some traces of mercury. Tests made on fish frozen half a century ago were revealed to contain more mercury than the levels reported in the recent scare.

The current issue of Fortune Magazine carries an impressive report on various forms of mineral pollution. Deep in the story is the statement that nature releases about 5,000 tons of mercury into the environmental chain each year. That equals—or surpasses—man's record in this regard.

Those who have said Lake Erie was so contaminated that fish could not live in it failed to check with the fish. Last year the catch was one of the largest in the history of the lake.

The public reaction to yesterday's tragic oil spill in San Francisco's harbor is reminiscent of the tremendous outcry when the tanker Torrey Canyon poured millions of gallons of oil into the Atlantic Ocean off the coast of England. It is reminiscent, too, of the very proper public concern when the channel at Santa Barbara was covered with tens of thousands of gallons of raw oil from a ruptured drilling rig. In the Torrey Canyon case you will recall that some scientists said the beaches of France and England might be oil-polluted for half a century. At the time of the Santa Barbara disaster, the charge was widely circulated that the harbor's marine life would be adversely affected for years to come and that some beaches might be unusable for a dozen years. Happily, the actual results were not as dire as those predicted. Nature cleared most of the French and English beaches in less than six months. Ironically, those that were treated with cleansing chemicals took longer.

Three months ago the Examiner unearthed a lengthy and costly study made by university scientists on the effects of the Santa Barbara oil spill. We published the report at that time. Happily, it reappeared again this past weekend on one of the wire services. This scientific report made it clear that early reports of lasting damage to the environment as a result of the Santa Barbara oil spill were grossly exaggerated. It went on to point out that natural oil seepage had been present in the channel for hundreds of years. In fact, it showed that spills traceable to man during the 17 months from the start of the major eruption totaled 7,100 barrels while natural seepage for the same period exceeded 20,000 barrels. This is not intended to minimize in any way the seriousness of the oil spill in San Francisco harbor . . . or elsewhere. It is lamentable that it occurred. None regrets the disaster more than the oil company that owns the offending ships.

I do wish to make it clear that the spill is a passing tragedy. It will be erased. Those of my age well remember the daily reports during the first months of World War Two when German subs were sinking an average of two oil tankers each day along the Eastern Coast of the United States. Hundreds of miles of beaches were black with oil. Fortunately, time and nature worked complete cures.

Now that I have moved into the past, let me try to put some other aspects of the environmental revolution into a new perspective by attempting to flesh out some cold statistics from the record books of other years.

#### ITEM ONE

It is approaching dawn on the morning of July 15, 1347. . . more than 600 years ago. We approach the harbor of Genoa, Italy. The tortured cries of a small child break the morning stillness. The baby's perspiring face is covered with festering sores. The squalid room reeks with the ugly odor of the open blotches. The mother lifts the small child and gently bathes its fevered face. But it will not be calmed. An hour later the cries of the child are no more but the sorrowful sobbing of the parents is a poor exchange. The baby is dead. Carried by rats in the cargo of a Levantine ship from Constantinople, the black plague has found a home in continental Europe. Before the day is out a dozen citizens will be stricken. Before the week is out. a thousand deaths will be reported and frightened peasants fleeing the black death will carry the seeds of the putrid pestilence to Rome and Naples and a hundred other communities throughout the area.

In less than a month, the breath of death will sweep into Spain and France and Belgium. It will leap the English channel and spread from port cities to the verdant countryside. Day after day for five long years, a thousand cities throughout Europe will echo to the moans of the dying and the sobbing of the bereaved. An endless parade of heavily loaded wagons will rattle over the cobblestones carrying their grim cargoes to the human dung-heaps on the outskirts of the villages. The stench of death is everywhere and hope has fled from the hearts and homes of the rich and poor alike. Before the dread pestilence has run its course—according to the Encyclopedia Brittanica—it will have claimed the lives of more than 25 million men, women and children. One of the most terrifying tolls in human suffering in the history of the world.

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[1] Presented at The National Association of Real Estate Boards, San Francisco, October 6, 1970; Sacramento Rotary Club, October 15, 1970; San Diego Chapter, Freedom's Foundation, October 28, 1970; and San Francisco Rotary Club, January 19, 1971.

[2] Publisher, San Francisco Examiner, San Francisco, Calif.

The proper amount of DDT properly used in the proper places in the proper manner might well have destroyed the germ-carrying fleas and rodents that brought the Black Death to Europe in the 14th century.

### ITEM TWO

The scene shifts to another world and another century. It is March 17, 1877. The poor peasants of Lanchow, a small city in the foothills of the KunLun Mountains, almost in the shadow of the Great Wall of China, rejoice as they are greeted by a bright sun for the tenth day in a row. It has been a long, cold winter with heavy snows and the promise of an early spring and early planting is reason for happiness. Their joy, though, is short-lived. An ominous roar from the valleys and gorges high in the mountain is a signal for fear. The unseasonable hot spell has melted the mountain snow and as giant ice dams give way, torrents of water breach the banks of the Hwang-Ho River. First an inch, then a foot, then a yard . . . higher and higher it creeps until it crests at more than [illegible]0 feet above normal. Like a tidal wave it sweeps all before it. Even as the people of Lanchow are burning incense to their ancient gods, the raging waters carry them, their animals, and their homes to oblivion.

Yianching, Pinghiang, Weinan and a hundred other villages are devastated and destroyed as the flood waters cover more than five million acres of lowland in its pell-mell race to the Yellow Sea.

None will ever know the total toll of the 1877 excursion of the rampaging Hwang-Ho River. Famine and pestilence followed in the wake of the flood waters and the Encyclopedia Brittanica puts the death toll at more than nine million men, women, and children.

The proper water-retention dams in the proper places at the proper times might have saved many of these nine million lives.

### ITEM THREE

Again these shifts. The year in 1846. The month is October. The place is Ireland. The potato crop has failed. A fungus infection that kills the root fruit of the tuber has swept across the tiny nation from Londonderry in the north to Cork in the south. There were empty larders and empty hearts and empty stomachs in Ireland that year. And as famine marched through the towns and villeges, death marched with it. Men, women, and children weakened and died. A thousand. Ten thousand. Half a million. A million. And still the toll mounted. The Encyclopedia Brittanica reports that between two and three million persons perished in the great potato famine.

The proper pesticides and fertilizers used at the right time in the right way in the right amounts might have prevented the scourge that swept across the Emerald Isle.

### ITEM FOUR

In four weeks last autumn, raging fires blackened millions of acres in California. Tens of thousands of trees were destroyed, hundreds of homes were ruined.

I do not say this so—but—is it not conceivable that the removal of a few hundred trees at the proper time in the proper places to provide fire breaks might have saved some of the precious treasures that were destroyed?

Now, let me make it clear that I do not make a sweeping endorsement of DDT. I raise no clarion cry for more dams or more fertilizer or more pesticides. I do not wish to eliminate any trees. I fight to preserve them. Mine is a cry for reason. It is a cry for truth and logic. It is a cry for study. It is a cry for action based on research rather than emotions.

You in this room today can be a powerful force for reason and responsibility in these matters. Speak out. And speak up. Urge your representatives to make all possible speed in the crusade for environmental betterment . . . but urge them first to formulate plans and programs based on sound and serious study.

Dr. W. T. Pecora, Director of the United States Geological Survey, puts some aspects of our burgeoning pollution problems into a new perspective when he states that "nature is the worst offender." Contrary to the popular belief that nature eternally strives to restore herself to purity, Dr. Pecora documents the tuth that compared to mankind. "Mother Nature is a very messy housekeeper." In the last five years we have been exposed to countless reports testifying to the many ways that man is damaging the earth through the careless and casual disposition of waste salts and sodium and calcium compounds. Dr. Pecora raises some scientific and nonscientific eyebrows when he submits evidence that rainfall each year pours more than 4,000,000 tons of table salt on the United States . . . plus 2,500,000 tons of sodium sulphate and 36 million tons of calcium compounds.

While not minimizing the polluting effects of noxious gases emitted by automobiles, Dr. Pecora pointed out that three volcanic eruptions in the past 90 years—Krakatoa in 1883, Mount Katmai in 1912, and Iceland's Helka in 1947—ejected more dust, ashes and gases into the atmosphere than has all of mankind since the beginning of time.

In my own research for today's remarks I developed some rather remarkable statistics about land, people, and congestion. First, on the subject of land. Including Alaska and the Hawaiian Islands, there are slightly over 2¼ billion acres of land in the United States. However, more than 750,000,000 acres of this total is owned by Uncle Sam. One of every three acres throughout the width and breadth of our 50 states is in Federal ownership. An additional 150,000,000 acres are owned by city, state, and county governments.

Uncle Sam owns 96% of the land in Alaska; 86% of the land in Nevada; 66% in Utah, and 64% in Idaho. Here in California well over half the land is owned by federal, state, or county governments. I do not intend to shock or disturb you with these figures. I do not deplore this massive ownership of land by the government. I do, though, deplore—and I do protest—the charges made by some conservationists that ruthless business interests are gobbling up all the land in our nation and depriving our people of adequate park and recreational areas. Other self-proclaimed experts present frightening reports on the imminent threat of famine in our nation if population growth is not brought to a grinding halt.

While I am not a champion of unlimited population expansion in our nation . . . or in the world, I believe it is incumbent on responsible authorities to seek out the truth so that predictions can be based on facts rather than fears. For example, while our nation's population continues to rise, it should be made clear that the present birth rate is the lowest in the history of the nation and has actually declined 25% in the last ten years.

### CONGESTION

In this age of instant communications most of us are trained to have an emotional knee jerk reaction to certain words and phrases. One is the word congestion. In environmental discussions congestion normally prompts a mental image of millions of Asiatics crowded together in conditions of abject squalor.

While it is true that every large city in Asia—and, in fact throughout the world—suffers from overpopulation, it may come to you as a surprise to learn that one of the most congested large areas on any continent is right here in the United States. And the people living there find it exceedingly pleasant. They would be shocked to learn they are environmentally underprivileged.

I am talking about New Jersey, the Garden State of our nation. With seven and one half million people, New Jersey is far more congested than China, India or Japan. If all of the people of the United States were moved to the State of Texas, it would be far less densely populated than New Jersey is today. If the population of California were increased by 140,000,000 people it would have approximately the same density as New Jersey. Now, we are talking about New Jersey's congestion on a statewide basis but the interesting truth is that more than half of the state is virtually undeveloped. The pine barrens covering several million acres of land in the southern part of the state are essentially as unpopulated as they were when Columbus discovered America.

While I would not recommend it, all of the people on earth today—all 3½ billion of them—could be placed on the New Jersey barrens and each person would have about five feet of space between him and his nearest neighbor.

I am presenting these dramatic—and some what shocking—truths as a means of driving home the need for reasonable and responsible approaches to all statistics dealing with conservation and environmental improvement. Please do not, however, gain the impression that I minimize the potential dangers inherent in overpopulation. Unabated growth over a long period of time can be a serious affront to living conditions throughout the world.

I challenge not the goals of those who set high standards in these fields. I do protest those—who, in search of headlines—march off in all directions and pervert good causes by futilely flailing at the windmills of legitimate change. Make no mistake about it, the environmental problems that confront our nation and the world are of major magnitude. But—they are not insurmountable. They can and will be solved. However, they will not be solved through protest marches and confrontations. They will be solved by harnessing the best brains of science, chemistry, physics, and engineering and then providing sufficient funds to cover the essential research and proper implementation. The price tag for these endeavors will be high. This burden—as in all things—will be borne by the public. However, the Federal Government will undoubtedly establish the priorities and push through a majority of the programs. Thus, at a time when many citizens are rebelling against the high cost of government, we can expect federal spending to continue its upward spiral as Washington comes to grips with this latest challenge.

### FEDERAL FUNDS

Let's take a moment to examine the flood of funds that annually pours through the counting houses on the Potomac. To put the picture in proper perspective, let me read the primary plank in the election year platform of one of our major political parties . . . and I quote:

"We advocate an immediate and drastic reduction in Governmental expenditures by abolishing useless commissions and offices, consolidating departments and bureaus and eliminating extravagance to accomplish a saving of not less than 25 per cent in the cost of Federal Government."

That—gentlemen—was the pledge and the promise of the Democrat Party in 1932. Federal expenditures in that historic year were $4 billion. A reduction of 25% was advocated; keep that dollar figure in mind. The bare bones figure for the new fiscal year that commenced last July first calls for expenditures of $205 billion. Can the human mind comprehend the magnitude of $205 billion?

How does it relate to expenditures of the past? Let us take the administrations of Washington, Adams, Jefferson, Madison, and Monroe. Let us take all of the administrations from the Revolutionary War, through the Civil War, through the Spanish American War, through World War One. Let us take all federal expenditures—for all purposes—through the 150 years of this nation's history . . . let us take them through and including 1941, the year that brought the United States into World War Two. In those momentous years of war and peace, of prosperity and depression, of growth and expansion, your Federal Government spent 25 billion fewer dollars than the total that will be expended in this current year. In fact, the interest on the Federal debt in this one year will exceed $15 billion . . . that's more than twice the cost of running the entire Federal Government in all its departments just thirty years ago.

Where does the money go? Who gets it? And why? It touches the rich. It touches the poor. It goes for payrolls. It goes for research. It goes for parks, housing, education, and social services. It lubricates the wheels of the free enterprise system as billions go to General Motors, Ford, Chrysler, Lockheed, Douglas, and other corporations for defense contracts. I do not propose to use a shotgun technique in tossing out statistics, but I do submit that the following human tabulations give a revealing measure of the depth and scope and range and size of some of our social programs that are financed with tax dollars.

This year the total cost of federal, state and local welfare programs will exceed $120 billion.

Each day 19,000,000 youngsters will receive school lunches.

Nearly 3,000,000 civilians will draw federal paychecks.

Another 3,000,000 in uniform will draw government checks.

Our defense industries—underwritten by Uncle Sam—pour paychecks into 4,000,000 homes.

Two and one half million farmers receive price-support loans.

Nine million families receive surplus food.

More than 19,000,000 persons receive government medical aid.

Twenty three million citizens receive Old-Age Insurance checks.

Tens of millions receive aid, assistance, and pay through Federal highway programs, housing, ship construction, and social rehabilitation programs.

And so it goes—across the width and breadth of our fair land. In large cities and small. In rural areas . . . in fishing villages in every social, economic, political, religious, and ethnic group you find increasing evidence of the role government is playing in the most expansive and most expensive womb-to-tomb social dream in the history of the world.

And—the end is not yet.

### MORE PROGRAMS

In the months and years ahead, you can expect Uncle Sam to:

1. Increase subsidies for public education.
2. Extend public schooling through an additional four years.
3. Expand public employment to reduce or eliminate the jobless.
4. Fight for guaranteed annual incomes for all workers.
5. Extend medicare to the young as well as the old.
6. Establish a reverse income tax to provide cash benefits for those below a certain income level.

The list is long and ambitious. And—make no mistake about it—the lights burn late in many government offices as these far-out dreams are put into blueprint form for launching when the time is right. Are these social programs good? Do they serve the best interests of the greatest number? In some areas, I have doubts . . . but . . . certain facts are self-evident. None can deny these truths. Today, more people in these United States have more money than ever before. We earn more, save more, spend more—yes, and owe more—than ever before. In the past ten years we've experienced a national boom that staggers the human imagination. Since 1960, total gross national output in the United States have been increased $400 billion. That's nearly 80%. Corporate profits—after taxes—soared $25 billion. Up more than 80%. Personal incomes increased $300 billion and the number of people employed jumped a whopping 10,000,000. Personal savings skyrocketed $35 billion. In short, my friends—despite the current recession—the average guy in the street never had it so good. By his personal standards, therefore, we cannot knock, indict, and condemn the pump-priming social concepts that now maintain. These truths place a special burden on management in every area of business. For—as the costs of government increase, so, too, do the costs of private business. And—at this point—I regret to report that I can see no indication of a lessening of labor and tax pressures. You must, therefore, anticipate steadily rising costs and prices in all facets of our economy.

There is the hope and the expectation that mortgage money will ease in the months immediately ahead and there should be a slight softening of interest rates in the near future. This combination should be a stimulant to real estate sales and building construction.

Now, it is sad and ironical that despite the business boom of the past decade and despite monumental expenditures by the Federal Government, pockets of poverty still remain throughout the nation. One official report from Washington states that 8,735,000 families in the United States are impoverished. Now—what vision does your mind conjure? Do you picture a tidal wave of Negro families living in slum conditions? Well— revise your vision. Sixty six percent of these impoverished families—two out of every three—are white.

The uplift and improvement of these people—black and white alike—while preserving the dynamic strength of the American way—and while preserving individual rights and freedoms is a rewarding challenge for all of us.

We must give priority to transferring millions of men and women from relief rolls to payrolls. By so-doing we will create new sources of production and—at the same time—develop new markets for the goods that are produced.

### I PROTEST

Now, in the closing minutes of my remarks, let me up-date some observations I made to this group three years ago. Let me once more address myself to the critics of our society and of our nation.

I am unalterably opposed to those who desecrate our flag, denounce our Constitution and extoll the virtues of Godless ideologies of other lands.

I protest those who campaign and petition and parade for individual rights but have no tolerance for the rights of those who oppose them.

I protest those who profess to champion peace but resort to terror, violence, and blackmail to make their points.

I protest those men of God who sow the seeds of conflict and encourage disrespect for temporal law and authority.

I protest broadcast commentators and newspaper writers who feed the flames of fear by allowing rumors, guesses, speculation, and conjecture to masquerade as fact.

I protest whites who preach hatred of blacks just as I protest blacks who preach hatred of whites.

In short, I protest those groups and individuals within our country who champion any system at variance with the basic concept of equal rights and equal opportunities—and equal responsibilities—that must be the hallmarks of our way of life.

Let me make it clear I have no apologies to make for my country or my generation. Never before in history or in any other land has a people accomplished so much, given so much, and asked so little. Four times in one lifetime we have involved ourselves in foreign wars. We have poured the flower of our manhood and the fortunes of our citizens into these battles against aggression, injustice, and tyranny. In these endeavors, we have never coveted a single acre of land nor sought to add a dollar to our national wealth.

Quite the contrary. We have used our material strength and financial fortunes to bind the wounds of the vanquished and we have given aid and sustenance to the impoverished in a hundred nations around the globe. Friend and foe alike. We have battled, too, for progress and betterment on the home front. In one generation we have conquered or controlled diphtheria, smallpox, typhoid, polio, measles, tuberculosis, and pneumonia. No longer do these ancient scourges sweep across our land leaving death and tortured limbs and minds and hearts in their wake.

We have built more schools and colleges and hospitals and libraries than all other generations since the beginning of time. We have trained and graduated more scientists, doctors, surgeons, dentists, lawyers, teachers, engineers, and physicists than did our forebears for a thousand years before. We have raised our standards of living and lowered our hours of work. Luxuries that were beyond the dreams of princes and potentates a generation ago are now available to all our people. The automobile, the radio, the telephone, the airplane, the computer, television, antibiotics, and a hundred other miracles have come to full flower in one generation.

We have taxed ourselves unmercifully to bring hope and health to our sick, our indigent, our young, and our aged. Each year our personal gifts to private charities exceed $14 billion . . . more than fifteen times the cost of running the entire Federal Government the year I was born.

### OPPORTUNITY

We have done more to bring dignity and equality and opportunity to all minority grounds than any other generation has ever done in any nation since the dawn of history. Please understand I do not minimize the need for greater efforts in these areas. We have an urgent moral responsibility to move decisively in correcting injustices that have too long prevailed. At the same time, we must not minimize the progress that has been made.

A recent official report shows that since 1960 the number of Negro families earning more than $7,000 a year has increased more than 100%. In just four years the number of Negroes hired for professional jobs has climbed 35%. Total Negro employment has jumped more than 20%.

Today the average Negro in our nation is more likely to go to college than the average citizen—white or black—in England, Germany, Belgium, Denmark, Italy or Spain. We have more than 300 Negro millionaires in our nation. We have more Negroes sitting as judges . . . more in Congress . . . more in state legislatures . . . more in our city halls . . . and more in positions of power than all the Communist nations of the world combined.

Yes, don't let anyone sell you the idea that ours is a sick society. It's far from perfect, but it is also far and away the most enlightened, most unselfish, most compassionate in the history of the world. I know what our generation has done. I'll stand on our record. We may not have scored as high as we hoped. But we scored higher than ever before.

And the end is not yet. There is still work to be done. There are still challenges to be met. There are still hopes to be realized. There are still goals to be attained. They'll not be attained by the preachers and teachers of despair. They'll not be attained by sniffing flowers or staging love-ins or hate-ins. They'll be attained by the unsung heroes of every generation. The workers who can dream. And the doers who can hope. They'll be attained by the men and women who believe in God, The Ten Commandments, our Constitution and our way of life; men and women who believe in a better and brighter tomorrow and are willing to work to that end.

## TRIBUTE TO ABRAHAM LINCOLN

### HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. ESCH. Mr. Speaker, at a recent Lincoln tribute dinner here in the State of Michigan, our Governor, the Honorable William G. Milliken, delivered what I believe to be one of the more significant contemporary statements on the meaning of Lincoln's life. Although it is not my normal policy to habitually place speeches in the CONGRESSIONAL RECORD, I believe Governor Milliken's remarks are such that all of us without respect to partisan differences, can read with great profit. Thus it is my honor to share the following remarks of Governor Milliken, who, in his own right, has been a leader in the fight to end enslavement throughout his public life:

REMARKS BY GOV. WILLIAM G. MILLIKEN

LADIES AND GENTLEMEN: Five minutes is a pitifully short time in which to pay tribute to Abraham Lincoln, and yet, perhaps it is enough. What can one say about Lincoln in an hour that can't be said in five minutes, or even less for that matter? The central fact, the important fact, about him was his greatness, his nobility of spirit, a rare intelligence, and a moral passion that lifted him above other men—all combined with an abiding humility which kept him close to all men.

He was a good Republican, to be sure, but we have no right to claim him as our Party's personal property. For the fact is that he belonged then, belongs now, and will continue to belong to all Americans. The truly great men that our country has produced cannot be classified by party labels, for their greatness transcends the narrow limits of party programs and party philosophies. Lincoln himself turned continually to Jefferson in his continuing search for the meaning and the promise of America.

What would Lincoln do if he were alive today? I don't pretend to know, but one thing is certain—he would try to make things better, as he always strove to make himself better. Lincoln grew. It is no secret that he did not always believe in the emancipation of the slaves or the equality of the races. As much as any man, he was afflicted with the moral blindness of the time in which he lived. But he broke through the attitudes of his younger years to see the truth—that all men should be free.

He believed in the System; he worked within the System; and he fought to save the System. We despair now, some of us, anyway, that this system of ours is too flawed to work. But think of the System then, when Lincoln lived—a nation half-slave and half-free. Lincoln saved the Country because he believed in the System, and he believed in the System because he believed in the people.

In his first extended message to Congress, he said that the leading object of the government was "to elevate the condition of men—to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life . . ." That was how he saw the government—a government of the people that served the people and that would guarantee any person, even a person of the humblest origins, the right to occupy the White House.

In his deep and genuine humility, Lincoln would say to his audiences: "I presume you all know who I am. I am humble Abraham Lincoln. If elected, I shall be thankful; if not, it will all be the same."

Of course he was wrong, because if he had not been elected, this country would not be the same. He freed the slaves, and in the process, began the emancipation of the whites from the attitudes that enslaved them, too. As he changed and grew, so the people of this country continue to change and grow until one day, I am convinced, we shall have the society of equal justice and equal opportunity that Lincoln struggled and died for. Until that day, his truth goes marching on, and we can only follow it.

## MAN'S INHUMANITY TO MAN—HOW LONG?

### HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

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# HOUSE OF REPRESENTATIVES—*Monday, February 28, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Forgive us our trespasses as we forgive those who trespass against us.*—Matthew 6: 12.

Our Father God, in this hallowed moment of prayer we come to Thee seeking light for our way, love for our hearts, and life for our souls.

Forgive us that so often we have not responded to the gentle touch of Thy spirit nor have we been receptive to the call of Thy Word to proceed in peace and to live in love.

During these holy days of Lent may we open wide the doors of our hearts and have our whole being flooded with the beauty and glory of Thy presence, then help us to forgive as we are forgiven, to love as we are loved, and to serve as we want to be served.

We pray for our President, may his efforts for peace and cooperation among the nations be fruitful in all good works and in all good ways: to the glory of Thy holy name. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1824. An act for the relief of Clinton M. Hoose;

H.R. 2828. An act for the relief of Mrs. Rose Scanio;

H.R. 2846. An act for the relief of Roy E. Carroll;

H.R. 4497. An act for the relief of Lloyd B. Earle;

H.R. 4779. An act for the relief of Nina Daniel;

H.R. 6998. An act for the relief of Salman M. Hilmy; and

H.R. 7871. An act for the relief of Robert J. Beas.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2423. An act to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of carriers and foreign air carriers in foreign air transportation, and for other purposes.

## PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE REPORTS

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the Committee on House Administration have until midnight tonight to file reports on certain privileged matters.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## U.N. SECURITY COUNCIL AGAIN SHOWS BIAS AGAINST ISRAEL

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, the United Nations Security Council has again demonstrated its prejudice and bias against Israel. Early today it issued a resolution demanding that Israel immediately desist and refrain from its attacks upon Lebanese terrorists. Terrorists operating from Lebanon and unrestrained by the Lebanese Government—indeed encouraged by that Government—have been responsible recently for the deaths of two civilians, a husband and wife and two Israeli soldiers within the State of Israel. The Lebanese Government has repeatedly been warned that it would be held responsible for terrorist actions emanating from Lebanese territory. The Lebanese Government on such occasions piously stated by way of excuse that it was not able to control those actions. The Israelis, exercising the right of self-defense provided for under international law, and indeed the very charter of the United Nations itself, have undertaken to do what the Lebanese Government says it is not about to do; namely, strike at the terrorists in their camps located in Lebanon.

What an outrage it is that the Security Council, which stood by and failed to come to the defense of or speak out in support of real victims of oppression such as Hungary in 1956, Czechoslovakia in 1968, genocide in Pakistan, or the invasion by India, now condemns the State of Israel for exercising its right of self-defense. It comes with particular little grace from China and the U.S.S.R. who are constantly engaged in hostilities on their borders declaring on each occasion that it is the other who invaded and they who are responding in self-defense—to condemn a clearcut case of self-defense when it is the State of Israel that is involved. Is it any wonder that Israel has stated that it could never ever rely for its security on the assurances of the United Nations in any of its forms? Thank God at this point in time the Israelis are able to defend themselves from aggression and terrorists.

## PRESIDENT'S CHINA TRIP DISAPPOINTING

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, the announced results of the President's trip to Communist China are very disappointing. Apparently he has made additional concessions without reciprocal action. One of these, which may signal the intention to abandon Taiwan, is shocking. There is nothing in return to indicate that the Red Chinese are prepared to cease their support of the North Vietnamese, or to withdraw the Chinese troops which are now in Laos, or to end their belligerence and aggression elsewhere.

The American people have a right to expect realistic returns from the concessions which are being made to Red China by President Nixon. Until this is an actuality his efforts must be called a costly failure. It would have been much better had the President relied more on diplomatic procedures and had he advised with the committees of Congress on his China program.

I am afraid it must be said that the much publicized trip to Communist China largely portrays the danger of summitry just for the sake of being there.

## THE LATE DR. GEORGE W. CALVER

(Mr. HALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL. Mr. Speaker, it is my sad duty to report to the Members today the loss in death of Dr. George W. Calver, M.D., the former Capitol physician.

Many of you knew the admiral better than I, but perhaps it is appropriate, as one of the doctors in the House, that I call your attention to his unexpected passing to his reward.

For over 38 years he was the attending physician of the Congress. He was one of the first, and I know that Admiral Pearson and his staff would join with me and the other doctors in the House, in saying that he laid well the groundwork for an expanded care facility for the health of the Nation's legislators.

He is survived by his wife Jessie at their home on Ellicott Street NW., and his two lovely daughters.

He was a particularly outstanding man not only in the profession, but as an officer of the Navy, a statesman, as well as a physician.

As family doctor to the Congress, he was not above chiding Members—of the other body in particular—to undertake lesser hours and see that they eat less, filibuster less and walk more. This was proper and in keeping with his early work in electrocardiography and particularly as a cardiac specialist and a graduate of George Washington Medical School in 1913.

He came here by chance. It is interesting, Mr. Speaker, that during the year of his arrival as a young "resident" before the days when we had formal residencies, there were 22 Congressmen who died in that year of coronary heart attacks as we would recognize them today.

In 1965 through his preventive maintenance or second echelon care, he was happy to see in his final year that they went through, without a single loss from a coronary heart attack.

All of us revere the work that Dr. George Calver did, and it was my pleasure to work with him personally and professionally, long before I came to the Congress.

Mr. Speaker, I know all Members will join Mrs. Hall and me, in expressing to his loved ones our regret at his passing.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. HALL. I am glad to yield to the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, Dr. Calver was the Capitol physician when I came to Congress. As he did with all of us, he immediately contacted me to get me on the rolls for the kind of extra care which has been helpful to all Members of Congress during his period of service.

I can say without hesitation that the services rendered by him and his associates were of great help not only to me but to literally hundreds of others who have served in the House of Representatives. His interest in all of us was not only beneficial in a personal way to us, but beneficial to our constituents, because we were kept well in order to do a better job.

The progress that has been made in the Capitol physician's office over a long period of time can be attributed to the ideals of Dr. Calver and those who have followed him.

I join the gentleman from Missouri (Mr. HALL) in extending to his family my deepest condolences at his passing.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. HALL. I am glad to yield to the distinguished majority whip.

Mr. O'NEILL. Mr. Speaker, on December 8, 1928, Lt. Comdr. George Wehnes Calver, Medical Corps, U.S. Navy, was assigned as the physician in attendance to the U.S. House of Representatives as the result of a resolution of the House. A similar resolution was soon passed by the Senate, so that Dr. Calver became the first physician to administer officially to Members of Congress.

When first assigned he had no office; his center of operations was the Democratic cloakroom of the House. By the time Vice Adm. Calver retired in 1966, his staff had increased to two medical assistants and several corpsmen and nurses.

During his 38 years tenure, Dr. Calver had many sage words of advice for his constituents, among them were his "10 Commandments of Health":

1. Eat wisely.
2. Drink lots of water and fruit juices.
3. Eliminate thoroughly.
4. Bathe cleanly.
5. Exercise rationally.
6. Accept inevitables.
7. Play enthusiastically.
8. Relax completely.
9. Sleep sufficiently.
10. Check up occasionally.

Admiral Calver had a distinguished career in the military service, commissioned June 18, 1913, as lieutenant junior grade, retiring as vice admiral, September 30, 1966. In addition, he was a fellow in the American College of Physicians, a member of many professional organizations and served as president of the American College of Cardiology. He was a past grand paramount carabao in the Military Order of the Carabao.

During his 38 years he made many close friends among the Members of the Senate and House.

His widow Jessie of Washington, D.C., and two daughters, Mrs. Paul F. Dickens of Washington, D.C., and Mrs. Elder

Carl Swanson of Green Cove Spring, Fla., survive.

Mrs. O'Neill joins us in expressing our deepest sympathy to Mrs. Calver and the family.

### GENERAL LEAVE

Mr. HALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the life and service of the late Dr. Calver.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

### REAL SPENDABLE EARNINGS AT AN ALL-TIME HIGH

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, we all know that inflation reduces purchasing power. However, there is another side to this coin. If the weekly earnings of the average worker increases at a faster rate than prices do, then purchasing power increases. Each consumer dollar may buy a little less due to inflation, but the worker and his family will have more dollars to spend.

This is exactly what has been happening recently. Department of Labor data covering 60 percent of the employed labor force show that the average worker's real spendable earnings were at an alltime high in January. Real spendable earnings are the amount left over each week after deduction of Federal social security and income taxes and after allowance for consumer price changes. It is a good measure of the purchasing power available to the average worker and his family.

Consumer prices rose almost 3.5 percent over the 12 months ending in January. But spendable average weekly earnings rose almost 7 percent—twice as much—over the same period. Consequently, the average worker had a greater amount of purchasing power at his disposal in January than he did a year ago or ever before.

We should recognize such important economic developments. The real spendable earnings data indicate the average worker is staying ahead of inflation. Of course, he will be much further ahead if inflation is eliminated altogether. This is why the President implemented the phase II program. Moreover, the data indicate that the phase II system has not brought the rise in earnings to a halt. On the contrary, it is allowing purchasing power to increase while working to restrain upward price pressures.

I would hope that those who are claiming otherwise would look at the facts.

### THE CHINA COMMUNIQUE

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DERWINSKI. Mr. Speaker, a predictable number of the Members are taking to the floor today to voice their analyses of the results of President Nixon's trip to China. I cannot help but wonder if some are not being a bit careless in their oratory.

While I share the concern that many have expressed over the possibility that President Nixon has made unilateral concessions and that the Red Chinese did not concede anything in return, we should not lose sight of the fact that communiques after summit meetings do not tell the full story. Even his severest critics acknowledge the fact that Richard Nixon is not stupid.

It is my personal view that the President should not make any concessions to the Red Chinese without obtaining their effective support in bringing about, under acceptable conditions, the termination of all hostilities in Southeast Asia. It is also my strong personal view that public opinion in this country and certainly congressional opinion, especially in the House, continues to support the Government of the Republic of China on Taiwan. Any idea that the results of the President's trip would be to turn the 14 million people on Taiwan over to the Red Chinese to be subjected to the misery of a Communist dictatorship is unthinkable, and the President knows this.

Therefore, Mr. Speaker, I voice the hope that we will, in proper time, be fully appraised of the total results of the President's trip, and that these results will be favorable for our Nation and for the cause of world peace and freedom. I certainly hope that too many of my colleagues will not have placed their foot in their mouths by succumbing to the temptation of voicing partisan comments.

### TRAGEDY AT LORADO

(Mr. HECHLER of West Virginia asked and was give permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Speaker, on Saturday morning, February 26 at 8 a.m. the sludge, silt, and slime from a slag pile broke loose and virtually obliterated many mining towns in Buffalo Creek Valley, Logan County, in my district. Hundreds of people are dead or missing and thousands are today homeless.

The Lorado disaster should or could have been prevented. I have asked the Corps of Engineers to make a thorough inquiry and make recommendations under their flood control powers as to what can be done in order to prevent similar disasters. This slag pile hung like the sword of Damocles over the people of Buffalo Creek Valley.

Yesterday in inspecting the incredible scene of destruction, I could only conclude that too many people in these areas are still prisoners of the coal industry. The slag pile was not a dam, it was just the garbage heap created for the waste products of coal. For too long, the coal industry has polluted the air, water, and politics of West Virginia. Federal and State officials have handled the coal industry with kid gloves, and allowed the industry to get away with close to murder, whether it concerns mine safety, or strip mining, or slag piles.

I think it is outrageous that the Bureau of Mines, for example, and other Federal and State agencies have failed to demonstrate sufficient concern for the protection of the safety of the people who work in the mines and live in mining communities. Whenever anybody points out the evils of strip mining, or the threats to human safety caused by ancient coal company practices that go back to the 19th century, those Federal and State officials responsible for protecting the public will scream: "Energy crisis." or "We need the jobs."

Mr. Speaker, we are simply going to have to decide that the lives and safety of human beings are more important than the production of 1 ton of coal.

West Virginia has had more than its share of disasters of this nature. There are always those who apologize for the reckless, careless practices of the coal companies, as they did after the Farmington disaster which killed 78 coal miners on November 20, 1968. Today, there are some people who write off the Lorado disaster as an act of God which can always occur anywhere. I say that the Lorado disaster should have been prevented. Unless Federal and State agencies and elected public officials change their attitude toward the coal industry, there will be more Farmingtons and Lorados. It is high time that we start putting the value of a human life above coal company profits. It is high time that every Federal and State agency place a higher priority on protection than production.

Today, I also sent the following telegram to the Director of the U.S. Bureau of Mines:

FEBRUARY 28, 1972.

Dr. ELBURT F. OSBORN,
*Director, Bureau of Mines,*
*Department of the Interior,*
*Washington, D.C.*

Bureau regulations of May 22, 1971, for surface areas of underground coal mines provide in sec. 77.216(a): "if failure of a water or silt retaining dam will create a hazard, it should be of substantial construction and shall be inspected at least once each week," by the operator.

Urge that you take steps to initiate an investigation under section 103 of the Fed. Coal Mine Health & Safety Act, including a public hearing to determine whether the dam was of "substantial construction", whether it was inspected on a weekly basis, and whether the operator violated the law.

Urge that you seek the help of the geological survey and the Corps of Engrs. in the investigation.

Please provide to me a list of all other coal mines in W. Va. which have a dam of this type and indicate to me whether the operator of such mines is in compliance with this section of the regulation.

Congressman KEN HECHLER.

### APPOINTMENT AS MEMBERS, BOARD OF VISITORS, U.S. COAST GUARD ACADEMY

The SPEAKER laid before the House the following communication from the chairman of the Committee on Merchant Marine and Fisheries:

WASHINGTON, D.C.,
*February 24, 1972.*

Hon. CARL ALBERT,
*The Speaker, House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: Pursuant to Section 194 of Title 14 of the United States Code, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as members of the Board of Visitors to the United States Coast Guard Academy for the year 1972:

The Honorable Frank M. Clark of Pennsylvania;

The Honorable Alton Lennon of North Carolina; and

The Honorable James R. Grover, Jr., of New York.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex officio member of the Board.

Sincerely,

EDWARD A. GARMATZ,
*Chairman.*

## APPOINTMENT AS MEMBERS, BOARD OF VISITORS, U.S. MERCHANT MARINE ACADEMY

The SPEAKER laid before the House the following communication from the chairman of the Committee on Merchant Marine and Fisheries:

FEBRUARY 24, 1972.

Hon. CARL ALBERT,
*Speaker, House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: Pursuant to Public Law 301 of the 78th Congress, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as members of the Board of Visitors to the United States Merchant Marine Academy for the year 1972:

The Honorable Thomas N. Downing of Virginia;

The Honorable John M. Murphy of New York; and

The Honorable Charles A. Mosher of Ohio.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex officio member of the Board.

Sincerely,

EDWARD A. GARMATZ,
*Chairman.*

## SPECIAL COMMITTEE TO INVESTIGATE CAMPAIGN EXPENDITURES

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 819 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 819

*Resolved,* That a special committee of five Members be appointed by the Speaker of the House of Representatives to investigate and report to the House not later than January 11, 1973, with respect to the following matters:

(1) The extent and nature of expenditures made by all candidates for the House of Representatives in connection with their campaign for nomination and election to such office.

(2) The amount subscribed, contributed, or expended, and the value of services rendered, and facilities made available (including personal services, use of advertising space, radio and television time, communications media, office space, moving picture films, and automobile and any other transportation facilities) by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, to or on behalf of each such candidate in connection with any such campaign or for the purpose of influencing the votes cast or to be cast at any convention or election held in 1972 to which a candidate for the House of Representatives is to be nominated or elected.

(3) The use of any other means or influence (including the promise or use of patronage) for the purpose of aiding or influencing the nomination or election of any such candidates.

(4) The amounts, if any, raised, contributed, and expended by an individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, including any political committee thereof, in connection with any such election, and the amounts received by any political committee from any corporation, labor union, individual, individuals, or group of individuals, committee, or partnership.

(5) The violations, if any, of the following statutes of the United States:

(a) The Federal Election Campaign Act of 1971.

(b) The Act of August 2, 1939, as amended, relating to pernicious political activities, commonly referred to as the Hatch Act.

(c) The provisions of section 304, chapter 120, Public Law 101, Eightieth Congress, first session, referred to as the Labor-Management Relations Act, 1947.

(d) Any statute or legislative Act of the United States or of the State within which a candidate is seeking nomination or reelection to the House of Representatives, the violation of which Federal or State statute, or statutes, would affect the qualification of a Member of the House of Representatives within the meaning of article I, section 5 of the Constitution of the United States.

(6) Such other matters relating to the election of Members of the House of Representatives in 1972, and the campaigns of candidates in connection therewith, as the committee deems to be of public interest, and which, in its opinion, will aid the House of Representatives in enacting remedial legislation, or in deciding contests that may be instituted involving the right to a seat in the House of Representatives.

(7) The committee is authorized to act upon its own motion and upon such information as in its judgment may be reasonable or reliable. Upon complaint being made to the committee under oath, by any person, candidate, or political committee, setting forth allegations as to facts which, under this resolution, it would be the duty of said committee to investigate, the committee shall investigate such charges as fully as though it were acting upon its own motion, unless, after a hearing upon such complaint, the committee shall find that the allegations in such complaint are immaterial or untrue. All hearings before the committee, and before any duly authorized subcommittee thereof, shall be public, and all orders and decisions of the committee, and of any such subcommittee, shall be public.

(8) The Clerk of the House of Representatives is authorized and directed when carrying out assigned responsibilities under the Federal Election Campaign Act of 1971 that prior to taking enforcement action thereunder, to initiate a request for consultation with and advice from the committee, whenever, at his discretion, election campaign matters arise that are included within sections (1) through (6) above and may affect the interests of the House of Representatives.

(9) The committee is authorized and directed to consult with, advise, and act in a timely manner upon specific requests of the Clerk of the House of Representatives either when he is so acting on his own motion or upon a written complaint made to the Clerk of the House under oath setting forth allegations of fact under the Federal Election Campaign Act of 1971. The committee or a duly authorized subcommittee thereof when acting upon the requests of the Clerk shall consult with him; shall act jointly with him; and shall jointly investigate such charges as though it were acting on its own motion, unless, after a hearing upon such complaint, the committee or a duly authorized subcommittee thereof shall find the allegations in such complaint are immaterial or untrue. Consultation with the committee or a duly authorized subcommittee thereof may be either in executive or in public sessions, but all hearings before the committee when acting jointly, shall be public, and all orders and decisions and advice given to the Clerk of the House of Representatives by the committee or a duly authorized subcommittee thereof shall be public.

For the purpose of this resolution, the committee or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Ninety-second Congress, to employ such attorneys, experts, clerical, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, and to take such testimony as it deems advisable. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by such chairman, and may be served by any person designated by any such chairman or member.

(10) The committee is authorized and directed when acting on its own motion or upon a complaint made to the committee, to report promptly any and all violations of any Federal or State statutes in connection with the matters and things mentioned herein to the Attorney General of the United States in order that he may take such official action as may be proper. The committee or a duly authorized subcommittee thereof is authorized and directed when acting upon the specific request of the Clerk of the House to render advice promptly in order to give the Clerk of the House of Representatives the prior benefits of its advice and in order that he may then take such official action under the Federal Election Campaign Act of 1971 as the Clerk of the House of Representatives deems to be proper.

(11) Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default, or who having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties prescribed by law.

That said committee is authorized and directed to file interim reports whenever in the judgment of the majority of the committee, or of the subcommittee conducting portions of said investigation, the public interest will be best served by the filing of said interim reports, and in no event shall the final report of said committee be filed later than January 11, 1973, as hereinabove provided.

Mr. O'NEILL (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The SPEAKER. The gentleman from Massachusetts (Mr. O'Neill) is recognized for 1 hour.

Mr. O'NEILL. Mr. Speaker, I yield myself such time as I may need and at the conclusion of my remarks I yield 30 minutes to the gentleman from California (Mr. Smith).

Mr. Speaker, House Resolution 819 is to create a Special Committee To Investigate Campaign Expenditures. The committee has been appointed every election year since the Legislative Reorganization Act of 1946. The resolution is similar to those which have been adopted by the House previously with the exception of paragraph (8), beginning at line 9, page 4. This paragraph was included because of the campaign expenditures legislation passed last year dealing with the communications media.

The main function of the committee has been to make investigations upon complaints filed under oath. It has served a good purpose.

Mr. Speaker, I urge the adoption of House Resolution 819.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Aside from paragraph 8, as the gentleman has previously stated, this is the same resolution that the House has adopted year after year in the past, is that correct?

Mr. O'NEILL. The gentleman is correct; yes.

Mr. GROSS. I thank the gentleman.

Mr. O'NEILL. I yield to the gentleman from California (Mr. Smith).

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

As stated by the gentleman from Massachusetts (Mr. O'Neill) this is a resolution which we pass every 2 years in anticipation of the election. There are some changes this time, as the gentleman from Massachusetts has said.

Specifically, the words "communications media," on line 12, page 1, and also line 22, page 2, subsection (a), which spells out "The Federal Election Campaign Act of 1971." are added.

Then all of section (8) on page 4 and section (9) on pages 4 and 5 are new and, of course, line 17, page 5, is changed to the "Ninety-second Congress" instead of the Ninety-first, and then in section (10) on page 6, lines 1 to 3, there is new language, "when acting on its own motion or upon a complaint made to the committee,"; and then in section (10) on page 6, line 7 to line 14, the last sentence of the section, is added.

Then the date on page 7, line 4, is changed to "January 11, 1973," to bring it up to date.

Mr. Speaker, I know of no objection to the resolution. It is necessary that we set up this committee, and I urge adoption of House Resolution 819.

Mr. O'NEILL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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## COMMITTEE ASSIGNMENT PRAISED

(Mr. NICHOLS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. NICHOLS. Mr. Speaker, the selection of our colleague, the Honorable Tom Bevill, for a position on the House Appropriations Committee has received wide acclaim in our State.

Tom has established a splendid record during his service in the House. Those of us who know him well expect him to be a valuable member of the Appropriations Committee.

He has my congratulations on his new responsibilities with this vital committee and my best wishes for success in his challenging work.

His selection inspired editorial comments in the Decatur, Ala., Daily which mention the key support by Hon. Richard Fulton, of Tennessee. We are grateful for Representative Fulton's efforts and we are proud to see his interest recognized by this newspaper outside his home district.

The editorial from the Decatur Daily follows:

### Selection of Bevill Critical to Area

The election of Rep. Tom Bevill of Jasper to a position on the House Appropriations Committee is an extremely fortunate event for this area, our state, our region and our nation.

Competition was keen for the vacancy on the committee resulting from the death of Rep. George Andrews of Union Springs.

A number of members from the South expressed active interest in the vacancy. It fell to Rep. Bob Jones of Scottsboro as dean of the Alabama delegation in the House, to convince others to unite behind Tom Bevill. Mr. Jones's tremendous influence from his countinuous accommodation to the other members helped the cause along the way.

By the time the question got to the Democratic members of the House Ways and Means Committee, the group responsible for selection of Democratic congressmen to the various committees, the Southern states were firm behind Bevill as a result of Bob Jones's work but the head counts in the committee were one shy of the required vote.

It was at this point that Congressman Richard Fulton of Nashville took up the cause and was able to convince his Democratic colleagues on the ways and means committee of the merit in the assignment for Tom Bevill.

The case was won and Congressman Bevill is due hearty congratulations for his victory.

A large commendation, however, is due Congressmen Jones and Fulton for the vital work they did, first, clearing regional competition and, then, nailing down the assignment.

The selection of Tom Bevill is significant for the region now. This committee considers and passes on funding requests. More important, his election to the appropriations committee will have much greater significance in the years ahead as he gains in seniority. Only two of the 19 junior Democratic members of the committee are from the South. This is balanced at the moment by the fact that 8 of the 13 most senior Democratic members are from the Southern area.

The entire region will soon be looking to Rep. Bevill to give voice in the appropriations committee for funding of efforts of particular interest. His assignment to the committee can be marked as one of the vital moves in the House of Representatives.

Congressman Fulton, from our neighboring state of Tennessee, has our enthusiastic thanks for his key role in assuring the move.

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## THE FEDERAL COURTS MUST BE RESTRAINED

(Mr. WHITTEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. WHITTEN. Mr. Speaker, I urge my colleagues to sign Discharge Petition No. 9, to bring to a vote the constitutional amendment to prohibit forced busing against the wishes of parents.

I urge this action because, judging from past experience, the passage of a legislative measure simply will not restrain either the Department of Education or the Federal judges who have made a shambles of quality education. Of course, I support pending bills for this purpose.

If a statute or law would control the Department of Education or the courts, we would long since have had relief, for Congress enacted into law the amendments which I offered last year and the year before.

These provisions of law—sections 309 and 310 of Public Law 92–48, making appropriations for the Offices of Education for the current fiscal year, are as follows:

Sec. 309. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Sec. 310. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

If the Federal judges would abide by an act of Congress, we would never have been in this fix, for the Civil Rights Act of 1964, Public Law 88–352, 78 Stat. 246, would have held the courts and the President in check and prevented present educational chaos—for that act provides:

### TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

#### DEFINITIONS

Sec. 401. As used in this title—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance. . . .

These provisions are simply being ignored. I have called on President Nixon to support the action of the Congress. This I did in October 1971, and again in December 1971—I received promises from his assistant but no action.

Congress has spoken many times on this issue. I quote here from the Congressional Quarterly of December 11, 1971, page 2559, which carried an article entitled "Busing Opponents: New Friends in the House." Under the title appear the following references:

### REFERENCES

1971—Anti-busing amendments to higher education-desegregation aid bill, Weekly Report p. 2386, 2310, 2276; President Nixon on busing, p. 1830, 1829; Whitten amendments to education appropriations bill, p. 1468, 1304, 843, 842; Supreme Court decision on busing, p. 928; desegregation statistics, p. 199; vote 236(T), 239(T), p. 2332; 2333; vote 31(T), p. 875, 874.

1970—Whitten amendments to education appropriations bills, 1970 Almanac p. 266, 264, 262, 260; 144, 143, 142, 141, 133; vote 106, p. 40–H, 41–H; vote 20, p. 8–H; 9–H; CQ book, *Civil Rights: Progress Report* 1970, p. 49–52.

1969—Whitten amendments to education appropriations bill, 1969 Almanac p. 554, 553, 549, 548; vote 167, p. 78–H, 79–H.

1968—Whitten amendments to education appropriations bill, 1968 Almanac p. 603, 600, 598; vote 214, p. 92–H, 93–H.

Mr. Speaker, we all know the attitude of the affable chairman of the Judiciary Committee. I went before his committee this morning where I was treated with the utmost courtesy—but we all know a constitutional amendment prohibiting forced busing has as much chance of being approved by the chairman as a snowball has in you know where.

Therefore, I urge all Members to sign Discharge Petition No. 9, let us save the public education system.

We have seen the courts destroy property rights, law enforcement, and our schools—let us act before it is too late.

The article referred to follows:

### BUSING OPPONENTS: NEW FRIENDS IN THE HOUSE

Long-time opponents of busing school children to desegregate public schools found themselves the core of a new majority in the House of Representatives in 1971.

As some southern members had predicted, many Representatives from outside the South—in 1971 for the first time feeling real pressure for school desegregation in their districts—ignored their past statements and voted to delay or bar the use of busing for desegregation.

A prime example of this shift was the position adopted by James G. O'Hara (D. Mich.), for years one of the leaders of the floor fights to cut anti-busing language out of appropriations bills.

Late in September, a federal judge ordered that a metropolitan-areawide desegregation plan be developed for Detroit, where he found the schools deliberately segregated. Within weeks, O'Hara was assuring his constituents—chiefly working-class Detroit suburbanites—that he felt court-ordered busing exceeded constitutional requirements. He said he stood ready "to do whatever is necessary by way of further legislation or a constitutional amendment to prevent implementation of the (Detroit desegregation) decision by cross-district busing."

### DESEGREGATION PRESSURE MOVES NORTH

Detroit was not the only non-southern city feeling pressure. The *de jure-de facto* distinction which had shielded the North from desegregation requirements was crumbling before the findings of federal courts. Judges were holding that school segregation in non-southern cities was often just as much the result of official action (*de jure*) as that in the South and was thus within the reach of court orders.

When school opened in the fall of 1971, the South—where statistics showed desegregation progress had moved far ahead of the rest of the country—was relatively quiet compared to bus bombings in Pontiac, Mich., protesting a desegregation plan and the Chinese-American-led boycott of the San Francisco schools, which were desegregating through busing.

Even before the Detroit ruling, a federal judge had found the city schools of Indianapolis, Ind., deliberately segregated. He suggested that a metropolitan-areawide desegregation plan, almost inevitably requiring substantial busing, be developed.

The Department of Health, Education and Welfare (HEW) had begun proceedings to terminate federal funds to several non-southern school districts charged with violating federal school desegregation requirements. The districts included Ferndale, Mich., Wichita, Kans., Prince Georges County, Maryland, and Boston, Mass.

And as these moves kindled adverse reaction to desegregation outside the South, anti-busing sentiment was given additional impetus in August when President Nixon reaffirmed his opposition to busing for racial balance in the schools. Chief Justice Warren E. Burger a few weeks later said that, although the Supreme Court had upheld the use of busing and racial ratios as interim means of eliminating segregation, it had not required that every school be racially balanced.

### THE BUILDING OF A MAJORITY

The new anti-busing majority showed its muscle on several votes in 1971, most impressively in November when it succeeded in adding strong anti-busing language to a massive, higher education-desegregation aid bill enacted by the House. These amendments:

Postponed—until all appeals had been settled or the time for them had expired—the effective date of any federal court order requiring busing.

Forbade the use of all federal education funds for busing to overcome racial imbalance and forbade federal pressure on local school agencies to spend state or local funds for busing.

A substantial majority of House members—235 and 233, respectively—approved these amendments. More than half of those votes were cast by Representatives from states outside the South. Fifty-six Democrats from northern and western states—considered the most liberal voting group in the House—voted for the first amendment, which five of their number sponsored; 50 voted for the second. Only half that number had ever supported anti-busing proposals before those votes.

Development of this anti-busing majority can be traced through the years 1968–1971 by comparison of seven key House votes on anti-busing provisions during those years. (Chart p. 2560–2561)

1968. The federal government began to move its desegregation efforts north in 1968. The Justice Department filed its first non-southern desegregation suit in April against an Illinois district, followed by suits against Indianapolis, Tulsa, Okla., and East St. Louis, Mo. HEW announced revised school desegregation guidelines, for the first time they applied to northern as well as southern districts.

But on the key anti-busing vote in the House in October, only 71 non-southern members—12 of whom were Democrats—opposed a move to weaken anti-busing language. The House voted, 167–156, virtually to nullify a provision it had earlier approved as part of the Labor-HEW appropriations bill. The provision forbade HEW to withhold funds from districts in order to require them to move further, by busing or other methods, to desegregate their schools. This provision was called the Whitten amendment after its author, Jamie L. Whitten (D Miss.).

Among the non-southern supporters of the Whitten amendment were nine California members, 11 from Pennsylvania, eight from Ohio, Edward J. Derwinski (R Ill.)—in whose district the first non-southern desegregation suit had been filed—and William G. Bray (R Ind.)—whose district included part of Indianapolis.

1969. There was little significant change in members' positions on the busing issue in 1969, a fact not indirectly related to the ambiguity which surrounded the new Administration's school desegregation policy. Aside from issuing a warning to Chicago that it must speed up the desegregation of its public school faculties and filing suits against the schools of Waterbury, Conn., and Madison, Ill., the Administration took little action outside the South on the matter.

Once again the House version of the Labor-HEW appropriations bill contained the Whitten amendments, but the House in December adopted Senate-added language to nullify them. On the key vote, the House rejected. Only 75 non-southerners—17 of whom were Democrats—voted for the motion.

1970. The first key vote closely resembled the 1969 vote, coming during final House consideration of the second Labor-HEW appropriations bill for that year. (Mr. Nixon vetoed the first.)

The second bill also contained the Whitten amendments to which the Senate had added weakening language. Once again anti-busing forces were defeated when the House voted 164–222 to reject a motion to kill the proposal that the House accept the weakening language.

Only 61 non-southerners voted for the motion, but a significant number of them, 26, were Democrats.

Perhaps the most significant of the position changes registered by northern Democrats on this vote, in early March, was that of Roman C. Pucinski (D Ill.), a high-ranking member of the House Education and Labor Committee and—until 1966—champion of every civil rights measure which came to the House floor.

The racial fears of his predominantly white constituency, reflected in a close re-election fight in 1966; brought about a shift in Pucinski's position. The federal warning to the school system of his hometown of Chicago may also have had its effect. In 1970, Pucinski cast his first record vote with anti-busing forces; by 1971 he was one of the leaders of the anti-busing majority.

In February, a desegregation order for Los Angeles was handed down, requiring substantial busing; in March, a similar plan was ordered for Pasadena, Calif.; in April, the HEW Department moved to cut off federal funds to Ferndale, Mich., schools, and the Detroit school board sparked vehement protest by changing school district boundaries in order to foster more desegregation.

In June, the House cast its second key vote on the busing issue. For the first time on a significant vote, the anti-busing forces prevailed. The House agreed, 191–157, to kill a motion which required House conferees on the education appropriations bill to agree to

Senate action dropping the modified Whitten amendment. The provisions were retained, but the victory was chiefly symbolic: HEW officials said the language would have no effect.

Ninety-nine non-southern Representatives—only 18 of them Democrats—joined the anti-busing forces in this victory. Significant among these were H. Allen Smith (R Calif.) who represents part of Pasadena and William S. Broomfield (R. Mich.) who represents Ferndale.

1971. Anti-busing forces won again in April when the House refused, 149–206, to cut the Whitten amendments from the education appropriations bill for fiscal 1972. Among those voting with the opposition were 108 non-southern members, 23 of whom were Democrats.

By the time the House voted in November on the anti-busing amendments to the higher education-desegregation aid bill, the uproar in San Francisco and Pontiac, Detroit, Indianapolis and other urban and suburban neighborhoods had been translated into constituent pressure. The impact was obvious:

Michigan Representatives voted 15–1 for the Broomfield amendment delaying the effect of court orders requiring busing. Six other Michigan Representatives, including O'Hara sponsored the amendment.

Reflecting similar shifts, the delegations of Connecticut, Illinois, Indiana, New York, Ohio, Pennsylvania and Wisconsin voted lopsidedly for the amendment.

Most long-time opponents of busing were delighted with the new majority position which they had attained with the votes of their northern allies. But some were disgruntled by the immediate success of the northern protest. The Alabama and South Carolina delegations split on the Broomfield amendment, 5–3 and 3–3; the Georgia delegation voted against it 1–6.

Jack Edwards of Alabama (R) cast one of the negative votes, explaining: "We are busing all over the 1st District of Alabama. . . . A lot of people say to me, 'How in the world are we ever going to stop this madness?' I say, 'It will stop the day it starts taking place across the country, in the North, in the East, in the West.'

"And so busing is ordered in Michigan and the first things the members from Michigan do is come in with this amendment and ask us to delay it for them. But, my friends, we are not going to stop the busing as long as we let them off the hook the minute it hits them. Let it hurt them, and we will get their votes as we try to stop busing once and for all."

### ANTIBUSING MAJORITY

1968. Labor-HEW Appropriations Bill, fiscal 1969. Motion to adopt Senate language weakening Whitten amendment barring HEW from withholding federal funds to force busing or other actions to desegregate schools beyond freedom-of-choice plans. A vote against the motion was a vote for restrictions on busing. Adopted 167–156; R 67–77; D 100–79 (ND 96–12; SD 4–67), Oct. 3, 1968. (*Vote 214, 1968 Almanac p. 92–H, 93–H*)

1969. Labor-HEW Appropriations Bill, fiscal 1970. Motion to table (kill) motion instructing House conferees to agree to Senate action weakening Whitten amendments. A vote for the motion was a vote for restrictions on busing. Rejected 181–216: R 90–84; D 91–132 (ND 17–216; SD 74–6), Dec. 18, 1969: (Vote 167, 1969 Almanac p. 78–H, 79–H)

1970 (1). Labor-HEW Appropriations Bill, fiscal 1970. Motion to table (kill) motion instructing House conferees to agree to Senate action weakening Whitten amendments. A vote for the motion was a vote for restrictions on busing. Rejected 164–222: R 63–107; D 101–115 (D 26–110; SD 75–5), March 3, 1970. (Vote 20, 1970 Almanac p. 8–H, 9–H)

1970 (2). Office of Education Appropriations Bill, fiscal 1971. Motion to table (kill) motion instructing House conferees to accept Senate action deleting Whitten amendments. A vote for the motion was a vote for restrictions on busing. Adopted 191–157; R 107–35; D 84–122 (ND 18–117; SD 65–5), June 30, 1970. (Vote 106, 1970 Almanac p. 40–H, 41–H)

1971 (1). Office of Education Appropriations Bill, fiscal 1972. Amendment to delete Whitten amendment. A vote against the amendment was a vote for restrictions on busing. Rejected 149–206; R 35–117; D 114–89 (ND 108–23; D 6–66), April 7, 1971. (Vote 31 (T), Weekly Report p. 874–875)

1971 (2). Higher Education Act of 1971. Amendment delaying the effective date of any court order requiring busing, until all appeals have been acted upon or the time for them has expired. A vote for the amendment was a vote for restrictions on busing. Adopted 235–125: R 129–17; D 106–108 (ND 56–90; SD 50–18), Nov. 4, 1971. (Vote 236(T), Weekly Report p. 2332, 2333)

1971. (3) Higher Education Act of 1971. Amendment barring the use of federal funds for busing or of federal pressure to require school boards to spend state or local funds for busing. A vote for the amendment was a vote for restrictions on busing. Adopted 233–124:R 125–20; D 108–104 (ND 50–94; SD 58–10), Nov. 4, 1971. (Vote 239(T), Weekly Report p. 2332, 2333)

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1968—Whitten amendments to education appropriations bill, 1968 Almanac p. 603, 600, 598; vote 214, p. 92–H, 93–H.

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## PRISONER-OF-WAR CONDITIONS

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, consider with me the following two items, the first from John Roche's column of Saturday, February 26, and the second from the Washington Post of Friday, February 25:

> One of the most bizarre—terrifying—scenes in Aleksandr Solzhenitsyn's masterpiece, "The First Circle," describes a visit to a Soviet prison by a distinguished American, a woman with high political connections. A group of prisoners are put through a special drill for her benefit, dressed decently, put in a clean cell with an ikon, and told by the police that if they don't perform, zap! They did go through with the charade and the American visitor left with a high opinion of Soviet justice. (from John P. Roche column, *Washington Post*, Feb. 26, 1972)

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> NEW YORK.—Nobel Prize winner Dr. George Wald returned from North Vietnam and said that its government "is way ahead of the Geneva Conventions" in its treatment of American prisoners of war. He told a news conference that he based his judgment on a "private, undisturbed" meeting he had last week with two downed American pilots in Hanoi. (*Washington Post* news item, Feb. 25, 1972)

Mr. Speaker, either Dr. George Wald is a dupe or Hanoi is a dope. For if Hanoi is "way ahead of the Geneva Conventions" in its treatment of American prisoners, why would it be keeping this secret to itself all these years? And it would be an especially difficult secret to keep when you consider that the Geneva Convention on the Treatment of Prisoners calls for international inspection of POW facilities. What international organization inspected these facilities, what were its findings and why have these not been revealed to the public?

If North Vietnam is bettering the Geneva Conventions in its treatment of American prisoners of war, why has it not released a full and official list of the prisoners being held to the International Red Cross or other impartial body, as required by the conventions? Why has it not allowed for the free exchange of mail as required by articles 71 and 76 of the conventions? Why has it not repatriated the seriously sick and wounded as required by articles 109 and 110 of the conventions? Why has it subjected American prisoners to public humiliations and attack, and private isolation and torture which is prohibited by article 13, and Articles 89 through 98 of the conventions?

Article 13 reads in part:

> Prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Now listen to the testimony of former American POW Lt. Col. Norris M. Overly, U.S. Air Force:

> I was double-timed from village to village the rest of the day. In each village, the person who had captured me would make a brief speech about me and either leave me tethered in the center of the village or tied up in a hut. Then the villagers were free to do whatever they wanted to me. . . . People hit me; they kicked me; they urinated on me; they spit at me as they filed by me tied up in this hut. (From Air Force Magazine, Nov., 1970)

Article 13 also reads in part:

> Measures of reprisal against prisoners of war are prohibited.

Now listen to the testimony of former American POW Lt. Robert Frishman, U.S. Navy:

> The North Vietnamese tried to get Lieutenant Commander Stratton to appear before a press delegation and say that he had received humane and lenient treatment. He refused because his treatment hadn't been humane. He'd been tied up with ropes to such a degree that he still has large scars on his arms from rope burns which became infected. He was deprived of sleep, beaten, had his finger nails removed and put in solitary, but the North Vietnamese insisted that he make the false humane treatment statements and threw him into a dark cell alone for 38 days to think about it. . . .
>
> All I'm interested in is for Hanoi to live up to their claims of humane and lenient treatment of prisoners of war. I don't think solitary confinement, forced statements, living in a cage for three years, being put in straps, not being allowed to sleep or eat, removal of finger nails, being hung from a ceiling, having an infected arm which was almost lost, not receiving medical care, being dragged along the ground with a broken leg, or not

allowing an exchange of mail to prisoners of war are humane. . . .

I feel as if I am speaking not only for myself, but for my buddies back in camp to whom I promised I would tell the truth. I feel it is time people are aware of the facts.

Perhaps Dr. Wald should have seriously studied and considered these actual cases of inhumane treatment and coercive tactics before drawing the conclusion on the basis of his discussions with two prisoners that North Vietnam is way ahead of the Geneva Conventions in its treatment of American prisoners of war. Perhaps Dr. Wald should have first read those conventions before making such a statement.

Mr. Speaker, both the House and Senate have now passed a resolution calling for a National Week of Concern for Prisoners of War/Missing in Action for March 26 to April 1, 1972. As one who introduced this measure in both the last session and this session, it is my sincere hope that the real plight of these prisoners will be portrayed for all the world to witness so that the pressures of world opinion can be brought to bear on Hanoi to live up to their claims of humane treatment in accordance with the Geneva Conventions of 1949.

I include the following:

### HELD CAPTIVE IN HANOI—AN EX-POW TELLS HOW IT WAS

(By Lt. Col. Norris M. Overly, U.S. Air Force)

Approximately three years ago, I was shot down over North Vietnam, captured, transported to Hanoi, detained in the "Hanoi Hilton," transferred to several other camps in the Hanoi area, and subsequently released.

All of this happened within the span of five months.

There ends the similarity between myself and those unfortunate individuals who are still imprisoned in Hanoi, and I would like to call attention to the fact that some of these are men now going into their sixth year in what were once French prisons in the city of Hanoi.

I was shot down on September 11, 1967, while attempting to bomb a convoy of trucks on a road near Dong Hoi, in North Vietnam. As I pulled out of my dive, I felt my B-57 lurch and realized the controls had been shot away. I had been hit by four 57-mm gun positions. I couldn't pull out of the dive, so I ejected. My parachute opened and I hit the ground almost simultaneously.

To this day I have no idea what happened to the guy in the back seat of my aircraft.

Two hours of rescue attempts were unsuccessful, and I was captured by North Vietnamese civilians. I tried to hide in a rice paddy, but immediately after landing I heard many voices and realized I was in a populated area.

The helicopters tried repeatedly to get over the area, but were unable to do so because of the intensity of the ground fire. Then I was captured by these civilians and taken to a line of trees and put into an underground bunker. The rest of the night was spent with some Vietnamese picking the leeches off of my body.

When daybreak came, I was double-timed to the next village. They gave me back my flight suit and proceeded to take pictures of me being escorted in and out of the village under heavy guard. My guards were young, heavily bandoliered girls with rifles.

I found out later that a favorite North Vietnamese trick is to portray the aviator in as humiliating a position as possible.

I was then double-timed from village to village the rest of the day. In each village, the person who had captured me would make a brief speech about me and either leave me tethered in the center of the village or tied up in a hut. Then the villagers were free to do whatever they wanted to me.

You have to realize that this was during the height of the bombing of North Vietnam. People hit me; they kicked me; they urinated on me; they spit at me as they filed by me tied up in this hut.

The people I feared most were the women, the children, and the old people—little children in particular. They would pick up rocks and come right up to you and bash you in the face.

This is the type of treatment I had for the next three and a half days as my captors marched me from village to village.

I was finally turned over to the military. They pointed to a paragraph that said, "You are now in the hands of the North Vietnam Army. Any attempt to escape would be injurious on your life."

By now I didn't have to be convinced of that!

The evening of the fourth day, they double-timed me further inland until we came to a road. We waited by the road, where we could see the southbound convoys of ammunition and guns going down toward the DMZ. At first they didn't want me to see this, but they had a little parley and finally decided to let me watch.

As the trucks went south, the soldiers pointed at me and laughed. Finally a northbound convoy came along, and they stopped the first truck and put me in the back.

Each of these trucks was manned by civilians who had been conscripted to drive them, and each truck had a military guard. In the back of each truck was a fifty-gallon drum of fuel. They would strap me to the fifty-gallon drum with my arms around it and wire me to it. We traveled only at night. Whenever we had an air raid, and these were frequent, they would pull the truck over to the side of the road and jump out, leaving me tied to the fifty-gallon drum.

This was the sort of thing that happened in the first week, until the roads became impassable due to the oncoming monsoons.

During this week, the villagers would file in and sit and observe me as I sat, tied over a board at one end of a hut. Some of them would come up and feel my hair or my arm and then jump back. Some of them would come up to me and make menacing gestures. It was the guard's duty to keep these people from me, and in some cases this took some doing.

After a week in this area, we proceeded on north. As we came into Vinh in the daylight hours, we searched for a hut in which to stay for the day. No sooner did we get in the hut than 400 or 500 people gathered around, trying to tear the hut down to get at me.

To save my life, as well as his own, the guard had to go out and get some of the local militia to keep the civilian populace away. The militia backed a truck up to within 100 feet of the front door of the hut and, on a signal, the guard and I ran and dove into the back of the truck with the engine running, and the truck went off in the daylight. We circled around trying to keep concealed as much as possible until nighttime. At nightfall, we proceeded north again.

Soon I had become too ill to travel. So they stopped somewhere north of Vinh, and I was placed in a temporary prison, which consisted of a little hut on the edge of a village. This little hut was divided into twelve bamboo cells. I was placed in one of these cells, on my stomach with my feet in wooden stocks, such as were used in Salem, Mass. My arms were tied behind me with wet ropes, and I stayed in that position for the next twenty-nine days, except for two periods each day when I was allowed to relieve myself and was fed a bowl of rice.

My normal weight is 170 pounds, and I estimate that, when I came out of there twenty-nine days later, I was down to about 115 pounds.

After having been there for two weeks, I became aware that they had another American pilot in this same little hut. I didn't see him, but as a prisoner you live in a world of sounds, and I realized they had another man there.

Finally, after the twenty-nine days, we were introduced to each other in a little temple on the side of a steaming rice paddy. The North Vietnamese officers spoke to us in English, and for the first time I was able to see this other American. He had been out in the bush longer than I, and there he sat with his arm in a huge cast. I estimated that he weighed about 110 pounds. He had a long, straggly beard, and his eyes were well sunken into his head.

As I looked at him in disbelief, I believe he was looking back at me in disbelief. We were then informed we would be put on the back of a truck and taken to Hanoi. This was the first time I realized I wasn't near Hanoi. The guard told us that if either of us tried to communicate with the other, we would be executed on the spot. Needless to say, we did not communicate with each other.

About three days later, in the middle of the night, we arrived in Hanoi. The truck pulled over in a residential area and waited until daylight. When daylight came, the truck proceeded through the city to the "Hanoi Hilton." It was very incongrous as we drove through the city, blindfolded and lying flat on the back of the truck, to hear the noise of trolley cars, the horns of automobiles, and people laughing and chatting.

After about a thirty-minute drive, I would estimate, we arrived at the entrance of the "Hanoi Hilton." I was unloaded first, and I could see over the top of my blindfold that I was being taken inside a building of French architectural design.

This was where most of our flyers had their initial interrogation. Prisoners are also classified here before being shipped out to other camps. I stayed here until November 5, when I was sent on to another camp.

Now, the "Hanoi Hilton" is not like anything we have known before. It is not at all like the famous Stalag we see on the television program every week. It is not like anything we know of that existed in Germany. It is not like what I know existed in Korea. This is an actual French prison, and our men are kept in prison cells.

Each cell is only wide enough for two men. Many of the cells have leg irons at the foot of the bedboards. The daily life in the "Hanoi Hilton" starts with the gong that wakes you up at approximately 6:00 o'clock in the morning. This is followed by the Radio Hanoi broadcast, on which I will comment later, which lasts for about thirty minutes.

Then they open one cell door at a time, and you are allowed to empty your honey bucket. Later on in the morning, you are allowed to go wash for approximately five minutes, and then the rest of the time you wait until the time to eat, which is approximately 10:30.

The diet consists of watery soup accompanied by bread. Still, I was able to get some of my weight back because there the diet was a little more substantial than I had been getting before. However, when I was released, I weighed only 135 pounds. I would estimate that most of the men I saw (and it was very seldom that I saw another prisoner) were approximately thirty pounds under their normal weight.

The gong rings at noon, and you are supposed to lie down and take a nap for approximately two hours. At 2:00 o'clock the gong rings again and you can get up and spend some time with your own thoughts until it is time to eat again, which is approximately

4:00 o'clock. The meal is exactly the same as you had in the morning. At night, at approximately 8:30, they have more Radio Hanoi, and then the gong rings once more and it is time to go to bed.

Now, this is what our men have been going through, some for as long as six years.

In the middle of November, I was called out in the night and informed that I was going to move to another camp and that my new cell mate was a very seriously wounded man who needed help. I was chosen to take care of him because I was an able-bodied man.

I was transported to this other camp, and this camp unlike the "Hanoi Hilton," was probably a converted French garrison, but all the prisons had been converted to hold two or three or a maximum of four men in each cell, and this was the general theme in the camp.

Everything in the way of prisoner activity was done on an isolated basis. For example, when it was our turn to go to wash, the cell door would be opened and we would be escorted down to the location and escorted back and the cell door closed before any other cell door was opened.

It is safe to say that our men in Hanoi have had little or no chance to get together with the other prisoners and reinforce each other.

The type of things you see in movies or on television is strictly propaganda. Occasionally, they bring prisoners together at Christmas time, but the primary purpose is for propaganda, and the way you enter the theaters used for these gatherings is selective.

For example, the theater will be dark and you will fill the theater up from front to back, and down the middle will be a bed sheet so you can't look to the left or right and identify anyone else. There will be nobody sitting directly in front of you, and there will be a guard about every third prisoner so there is little chance to communicate. But Yankee ingenuity being what it is, the people would be communicating.

I stayed in this camp until February of 1968 when I was released. To this day, the best answer that we can come up with as to why nine Americans have been released is that we believe Hanoi is very sensitive about their world image.

In 1967, they were accused of inhumane treatment, as evidenced by the fact that they paraded our men through the streets, and also some unfavorable publicity occurred in some of our national magazines.

We feel the decision was therefore made to release some relatively healthy prisoners who had not been there long, as proof positive to the people back here that they do have humane treatment.

I am here to tell you that their efforts failed, because our country can see through that sort of thing.

The idea of releasing somebody who had been in a short time was that he wouldn't have much to tell.

Now, I would like to say a word about propaganda. I have described our daily life in each camp very briefly, but I left out one point and that is that inside each cell or each room is a loudspeaker, over which we received the Radio Hanoi broadcast twice a day and endless hours of propaganda.

Radio Hanoi is a half-hour radio program that is being broadcast to our troops in South Vietnam in order to destroy their morale. These programs have heavy racial overtones. I am sure that some of the things I heard on these programs had been taped in the United States. The programs were edited for our purposes as prisoners in Hanoi.

Now, the rest of the day was spent in reading ridiculous propaganda statements to us. And one of the most cruel things I have ever observed occurred almost weekly, and that is that they have letters that have been taken from the bodies of our men killed in battle in South Vietnam. Perhaps a man had just written a letter home, went out on a mission and was killed, and the letter was found in his pocket.

These letters found their way to Hanoi, and they would be read to us with a brief history of the man, followed by a propaganda statement.

I would like to call your attention to the fact that we were not treated as prisoners of war: we were treated as criminals. Upon arrival in Hanoi, on the back of the first cell I entered, there was a set of regulations with a preamble that went like this: "Under the new policy, the criminal will. . . ." and then they had four regulations you had to memorize. Each one started out by saying, "The criminal will do this and the criminal will do that."

Any attempt on our part to bring up the fact that we were prisoners of war entitled to certain rights under the Geneva Convention resulted in it being very forcibly brought to our attention that we were not prisoners but criminals, because our country had not declared war, and had to answer for this.

The North Vietnamese did not, in any sense of the word, comply with the Geneva Convention. This is evidenced by the fact that they have never seen fit to publish an official list of known prisoners of war so that the people back here in the United States can know the fate of their loved ones and get on with their lives, whatever choice that leaves them.

This, in my opinion, is the most diabolically cruel act that Hanoi has heaped upon our society back here today. We have approximately 1,000 families who are in the limbo of the missing-in-action category, and I can't think of a more excruciating category to be in.

The North Vietnamese have not complied with the Geneva Convention in the mail situation either. Mail has been very sporadic. It has been better lately, but still sporadic.

In conclusion, I think we can safely say that the North Vietnamese will go down in history as the most inhumane and cruel enemy we have ever fought because of the sheer number of years they are making so many of our men suffer.

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## LEGISLATION TO REGULATE THE MANUFACTURE AND SALE OF COSMETICS

(Mr. EVANS of Colorado asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EVANS of Colorado. Mr. Speaker, cosmetics are used by every man, woman, and child from the day they are born to the day they die. Every time we wash our face, brush our teeth, use deodorant, wash our hair with shampoo, put oil on to protect our skin from the sun, put our children in a bubble bath and then dry their skin with baby powder and cleanse it with hexachlorophene we are using some of the thousands of cosmetics products now on the market. Yet this multibillion-dollar industry is virtually unregulated. Under the law these products are broadly defined to include all "articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleaning, beautifying, promoting attractiveness or altering the appearance." It has been estimated that annual expenditures for cosmetic goods and services in this country amounts to $6.5 billion and that the per capita expenditure for these products is $32.40, which is $7.98 more than the per capita expenditure for prescription drugs. Because of this widespread use it is imperative to strip away the fiction that these products are sufficiently regulated to assure the safety of the consumer. The National Commission on Product Safety has pointed out that approximately 60,000 are injured by cosmetics annually, with injuries ranging from skin eruptions to loss of hair, severe allergic reactions, burns, itching, and lacerations. They further stated that a survey of American insurance companies found that cosmetics are the basis for the second largest group of household personal injury claims.

Furthermore, in the last 6 months there has been increasing doubt cast upon the safety of various cosmetics products as serious questions have been raised about the sufficiency of preservative systems in certain eye makeups, the safety of propellants in cosmetics sprays, the utilization of ammoniated mercury and of course the safety of hexachlorophene and certain red dye in lipsticks.

This concern is not surprising considering that at the present time anyone however unqualified can become a manufacturer of cosmetics. Furthermore, whether a bathtub or a multimillion-dollar plant is utilized to produce the finished product there is no requirement that any safety testing be carried out to assure the protection of the consumer. Therefore, in the words of Representative LEONOR SULLIVAN the public becomes the guinea pig to test the safety of cosmetics.

This situation should not be allowed to continue. Therefore, today I am introducing legislation to close the loopholes in the present law. In order to protect the public my legislation will require:

First, mandatory registration of all cosmetic companies;

Second, disclosure of all cosmetic formulas to FDA. This provision will remedy the present situation in which certain ingredients in a particular cosmetic are found to be dangerous, and yet FDA is unable to protect the public as it is unable to know whether these ingredients are found in the formulas of other cosmetic products still on the market.

Third, premarket safety testing of all cosmetics. This provision will end once and for all the present situation where the American public is in effect the guinea pig utilized to test the safety of cosmetics.

Fourth, ingredient labeling of cosmetics. As Dr. Alexander Fisher the author of an important text on contract dermatitis has written:

> All cosmetics companies should be required to label their ingredients so that sensitized individuals can be advised as to what cosmetics to avoid. Such labeling should be made mandatory and would be of great aid to physicians. Labeling particularly of photosensitizing chemicals . . . should be a "must". Many photosensitized patients become persistent light reactors and have to avoid sunlight for months or years even though they no longer come in contact with the offending cosmetic.

Fifth, FDA inspection of consumer complaint files. At the present time FDA has no right to inspect the complaint files of cosmetic companies. Commissioner Edwards of FDA has made clear that access to these files is critical stating that—

> At this time the FDA receives only a fraction of the total number of cases of adverse reactions. The feedback simply must be greater and the industry can help by opening their complaint files to us. I do not see any workable alternative if we are going to estabish a valid base for preventive actions.

Sixth, release of information to poison control centers. The FDA will provide sufficient information to poison control centers so that they will be able to adequately treat anyone suffering from the effects of swallowing or inhaling cosmetics.

Seventh, stringent penalties for selling defective cosmetics. At the present time the penalty structure of the Food, Drug and Cosmetic Act is so weak as to be virtually useless in deterring the unscrupulous or unconcientious manufacturer. Therefore increased penalties are a necessity if this act is to be fully effective.

It has been suggested that voluntary action by the cosmetics industry can solve these problems. Though voluntary action is an important temporary stopgap until legislation is passed, these issues are so critical it is imperative that FDA have the power to assure 100 percent compliance by the cosmetics industry. There is no legitimate reason why any cosmetic company should be allowed to refuse to comply with these provisions; for it is the very companies whose business practices are questionable which are the least likely to comply with a "voluntary" program. After soliciting the opinions of doctors, consumer groups, the affected industry, and FDA, it is now my strong belief that without these mandatory regulations the consumer will never be fully protected. Thus, I hope in the coming weeks comprehensive hearings will be held on this legislation in order to assure greater protection for the consumer.

## THE PRESIDENT TAKES US BACK TO A ONE-CHINA POLICY

(Mr. RARICK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

**Mr. RARICK.** Mr. Speaker, the leaders of our country have certainly pursued a perfidious China policy. Since October of last year we have gone from a one-China policy to a two-China policy and now as of yesterday, we are back again to a one-China policy, all in a time span of less than 6 months.

It is little wonder that our allies question our sincerity when the American people do not even understand what is going on or what justification can be offered for the recent decisions or how they can be in the best interests of the American people.

If repudiation of our free China allies on Taiwan was a publicly announced concession, most Americans are wondering what secret agreements and long-range plans were made. The American people are hearing about how much their leader gave away, but are still waiting to hear what the Red Chinese gave in return. Air Force 1 returned without even picking up two Americans held as POW's by the Red Chinese.

Business as usual has become the policy of our country under the present leadership rather than honor, morality, commitment to obligations, and defense of freedom.

I join with all Americans in breathing a sigh of relief that President and Mrs. Nixon have returned to their native soil; but, like most Americans, I ask, "Was the President's trip worth as much to him as that which the American people have already lost?" Who knows the true cost of the China trip?

I include in the RECORD the full text of the public communique issued by Nixon and Chou following my remarks:

### TEXT OF NIXON-CHOU COMMUNIQUE

SHANGHAI (AP).—Following is the text of the communique issued Sunday:

President Richard Nixon of the United States of America visited the Peoples Republic of China at the invitation of Premier Chou En-lai of the People's Republic of China from Feb. 21 to Feb. 28, 1972. Accompanying the President were Mrs. Nixon, U.S. Secretary of State William Rogers, Assistant to the President Dr. Henry Kissinger, and other American officials.

President Nixon met with Chairman Mao Tse-tung of the Communist party of China on Feb. 21. The two leaders had a serious and frank exchange of views on Sino-U.S. relations and world affairs.

During the visit, extensive, earnest and frank discussions were held between President Nixon and Premier Chou En-lai on the normalization of relations between the United States of America and the People's Republic of China, as well as on other matters of interest to both sides. In addition, Secretary of State William Rogers and Foreign Minister Chi Peng-fei held talks in the same spirit.

President Nixon and his party visited Peking and viewed cultural, industrial and agricultural sites, and they also toured Hangchow and Shanghai where, continuing discussions with Chinese leaders they viewed similar places of interest.

The leaders of the People's Republic of China and the United States of America found it beneficial to have this opportunity, after so many years without contact, to present candidly to one another their views on a variety of issues. They reviewed the international situation in which important changes and great upheavals are taking place and expounded their respective positions and attitudes.

### U.S. POSITION

The U.S. side stated:

Peace in Asia and peace in the world requires efforts both to reduce immediate tensions and to eliminate the basic causes of conflict. The United States will work for a just and secure peace; just, because it fulfills the aspirations of peoples and nations for freedom and progress; secure, because it removes the danger of foreign aggression.

The United States supports individual freedom and social progress for all the peoples of the world, free of outside pressure or intervention. The United States believes that the effort to reduce tensions is served by improving communications between countries that have different ideologies so as to lessen the risks of confrontation through accident, miscalculation or misunderstanding. Countries should treat each other with mutual respect and be willing to compete peacefully, letting performance be the ultimate judge. No country should claim infallibility and each country should be prepared to re-examine its own attitudes for the common good.

### INDOCHINA

The United States stressed that the peoples of Indochina should be allowed to determine their destiny without outside intervention; its constant primary objective has been a negotiated solution; the eight-point proposal put forward by the Republic of Vietnam and the United States on Jan. 27, 1972, represents a basis for the attainment of that objective; in the absence of a negotiated settlement the United States envisages the ultimate withdrawal of all U.S. forces from the region consistent with the aim of self-determination for each country of Indochina.

### KOREA, JAPAN, INDIA

The United States will maintain its close ties with and support for the Republic of Korea to seek a relaxation of tension and increase communications in the Korean peninsula. The United States places the highest value on its friendly relations with Japan; it will continue to develop the existing close bonds. Consistent with the United Nations Security Council Resolution of Dec. 21, 1971, the United States favors the continuation of the cease-fire between India and Pakistan and the withdrawal of all military forces to within their own territories and to their own sides of the cease-fire line in Jammu and Kashmir; the United States supports the right of the peoples of South Asia to shape their own future in peace, free of military threat, and without having the area become the subject of big-power rivalry.

### CHINA POSITION

The Chinese side stated:

Wherever there is oppression, there is resistance. Countries want independence, nations want liberation and the people want revolution—this has become the irresistible trend of history. All nations, big or small, should be equal; big nations should not bully the small and strong nations should not bully the weak. China will never be a superpower and it opposes hegemony and power politics of any kind. The Chinese side stated that it firmly supports the struggles of all oppressed people and nations for freedom and liberation and that the people of all countries have the right to choose their social systems according to their own wishes and the right to safeguard the independence, sovereignty and territorial integrity of their own countries and oppose foreign aggression, interference, control and subversion. All foreign troops should be withdrawn to their own countries.

### INDOCHINA

The Chinese side expressed its firm support to the peoples of Vietnam, Laos and Cambodia in their efforts for the attainment of their goals and its firm support to the seven-point proposal of the provisional revolutionary government of the Republic of South Vietnam and the elaboration of February this year on the two key problems in the proposal, and to the joint declaration of the summit conference of the Indochinese peoples.

It firmly supports the eight-point program for the peaceful program for the peaceful unification of Korea put forward by the government of the Democratic People's Republic of Korea on April 12, 1971, and the stand for the abolition of the "U.N. Commission for the Unification and Rehabilitation of Korea."

### JAPAN

It firmly opposed the revival and outward expansion of Japanese militarism and firmly supports the Japanese people's desire to build an independent, democratic, peaceful and neutral Japan.

It firmly maintains that India and Pakistan should, in accordance with the United Nations resolutions on the India-Pakistan question, immediately withdraw all their forces to their respective territories and to their own sides of the cease-fire line in Jammu and Kashmir and firmly supports the Pakistan government and people in their struggle to preserve their independence and sovereignty and the people of Jammu and Kashmir in their struggle for the right of self-determination.

There are essential differences between China and the United States in their social systems and foreign policies. However, the two sides agreed that countries, regardless of their social systems, should conduct their relations on the principles of respect for the sovereignty and territorial integrity of all states, nonaggression against other states, noninterference in the internal affairs of other states, equality and mutual benefit, and peaceful coexistence.

International disputes should be settled on this basis, without resorting to the use, or threat of force. The United States and the People's Republic of China are prepared to apply these principles to their mutual relations.

### AREA OF AGREEMENT

With these principles of international relations in mind the two sides stated that:

Progress toward the normalization of relations between China and the United States is in the interest of all countries;

Both wish to reduce the danger of international military conflict;

Neither should seek hegemony in the Asia-Pacific region and each is opposed to the efforts by any other country or group of countries to establish such hegemony; and

Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

Both sides are of the view that it would be against the interests of the peoples of the world for any major country to collude with another against other countries, or for major countries to divide up the world into spheres of interest.

### "SERIOUS DISPUTES"

The sides reviewed the long-standing disputes between China and the United States.

The Chinese side reaffirmed its position: the Taiwan question is the crucial question obstructing the normalization of relations between China and the United States; the government of the People's Republic of China is the sole legal government of China; Taiwan is a province of China which has long been returned to the motherland; the liberation of Taiwan is China's internal affair in which no other country has the right to interfere; and all U.S. forces and military installations must be withdrawn from Taiwan.

The Chinese government firmly opposes any activities which aim at the creation of "one China, one Taiwan," "China, two governments," "two Chinas" and "independent Taiwan" or advocate that "the status of Taiwan remains to be determined."

### U.S. POSITION

The U.S. side declared:

The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves.

With this prospect in mind, it affirms that ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes.

The two sides agreed that it is desirable to broaden the understanding between the two peoples. To this end, they discussed specific areas in such fields as science, technology, culture, sports and journalism, in which people-to-people contacts and exchanges would be mutually beneficial. Each side undertakes to facilitate the further development of such contacts and exchanges.

### FACILITATE TRADE

Both sides view bilateral trade as another area from which mutual benefits can be derived, and agree that economic relations based on equality and mutual benefit are in the interest of the peoples of the two countries. They agree to facilitate the progressive development of trade between their two countries.

The two sides agree that they will stay in contact through various channels, including the sending of a senior U.S. representative to Peking from time to time for concrete consultations to further the normalization of relations between the two countries and continue to exchange views on issues of common interest.

The two sides expressed the hope that the gains achieved during this visit would open up new prospects for the relations between the two countries. They believe that the normalization of relations between the two countries is not only in the interest of the Chinese and American peoples but also contributes to the relaxation of tension in Asia and the world.

President Nixon, Mrs. Nixon and the American party express their appreciation for the gracious hospitality shown them by the government and people of the Peoples Republic of China.

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## PRESCRIPTION FOR POLITICAL LEADERSHIP

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

**Mr. BRADEMAS.** Mr. Speaker, this morning's edition of the New York Times contained a timely and perceptive essay by William V. Shannon, a member of the Times editorial board.

Mr. Shannon's topic was the role of political rhetoric in striking a balance between hope and fear in the public mood. He points out that "words provide the voters with their principal clues in judging the strength and sincerity of a candidates underlying convictions," and compares the climate of the present presidential campaign with those of the recent past.

Mr. Speaker, in this uncertain age of "watch what we do, not what we say," Mr. Shannon's comments are most welcome. In order that other Members may share his thoughts I include his essay in the RECORD at this point:

### OF HOPE AND FEAR

(By William V. Shannon)

MIAMI.—In a democratic society, the task for a political leader is how to encourage and sustain people's hopes while taking account of their fears. The busing issue which now dominates the Florida primary defines that difficult task at the moment for the Democratic Presidential contenders. But busing is not unique.

Candidates have to strike the right balance between hope and fear in many different fields. The people yearn for peace but they understandably fear the intentions of the Communist powers. They recognize that military spending is an awful waste and yet they realize their own ignorance about the military budget.

People want inflation stopped but would like a raise for themselves. They want improved public services but fear higher taxes.

To win a Presidential election in this vast, diverse country requires a man to have an unusual sensitivity to public opinion, a good sense of timing, and skill in phrasing his own position on an issue. Once he is elected, to govern a nation, requires in addition a set of fundamental convictions which inform and guide a leader's tactical skills. Words are also critical. A slight change in wording can make hope billow or fear quiver. Words provide the voters with their principal clues in judging the strength and sincerity of a candidate's underlying convictions.

The last Democrat to strike the right balance was John F. Kennedy. As with most master politicians, there is ambiguity in his record. He can be rememberd as the man who raised the "missile gap" issue in 1960, demanded that we "stand up to Castro," made a man on the moon a top national priority, enlarged the armed forces and edged this country into Vietnam.

Or he can be remembered as the man who instituted the Peace Corps and the Food for Peace program, proclaimed an Alliance for Progress with Latin America, signed the Nuclear Test Ban Treaty, agreed to the neutralization of Laos and avoided irrevocable military action.

Both sets of memories are valid. Kennedy was a peacemaker abroad and a liberal at home. But in dealing with his nation's adversaries and his own political antagonists, he was always wary, searching for the defensible posture, trying to find the right balance.

Two of President Kennedy's close colleagues are rivals this year—Senators McGovern and Jackson. In their different ways, each is an excellent public servant. Their campaigns are weak chiefly because each stresses different factors which Kennedy in his time kept in balance.

Senator McGovern is pre-eminently the candidate of hope. Whether it is Vietnam or amnesty or legalizing marijuana or cutting the military budget, he states the hopeful, humanitarian, ideal course that could be followed. There is really no mystery as to why the McGovern campaign does not get off the ground. Too many people who admire his ideas do not feel that his prescriptions square with their own perceptions of the orneriness and unpredictability of human nature.

By contrast, Senator Jackson is the Hobbesian candidate. More missiles for the United States, more Phantoms for Israel, a constitutional amendment against busing, a tough approach to street crime—none of these is an unreasonable concern, but taken together they add up to a grim picture of human beings and their future.

Senator Muskie, the front runner, is regarded as a "centrist." The difference between him and his rivals cannot really be found in their stated philosophy or voting records. The difference is that he tries to keep in touch with many currents of opinion, conservative and moderate as well as liberal. His definition of his positions reflects his continuing effort to strike that elusive balance between hope and fear, between the hunger for change and the fear of change.

An observer who spent several days recently traveling across Florida with Muskie was unexpectedly reminded of Adlai Stevenson in 1952. At that time, when the Korean War was winding down and McCarthyism was heating up, Stevenson tried to cut through the fear and demagoguery and appeal to what is best in men's natures. Muskie has been making much the same kind of appeal.

"The doubts, the divisions which this war has caused stand between us and our future . . . as Americans, we have to live together and reach out to each other and build a country together. We cannot do it if we erect walls between the young and the old, the white and the black. . . . We have to build on our hopes and not our fears."

"Sermonettes" the reporters call these extemporaneous speeches. Recalling the optimism of the Kennedy years, Muskie said, "We can rekindle that spirit in the 70's and by the end of the decade reach not the moon but one another's hearts."

It will be much further along in the primaries before we know whether Muskie or any candidate can elicit a fresh response this year in the unending dialogue between fear and hope.

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## RADIO FREE EUROPE AND RADIO LIBERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. STEELE) is recognized for 10 minutes.

Mr. STEELE. Mr. Speaker, the Senate and House conferees on legislation to continue Radio Free Europe and Radio Liberty are hopelessly deadlocked because the Senate conferees insisted on their version of S. 18, a version which would be disastrous to the continuation of the two radios and which would destroy the position that the House conferees were instructed to uphold. The intransigence of the Senate conferees, led by Senator FULBRIGHT, is clearly aimed at killing these vitally needed radio stations. The House conferees reported that the Senate's position and actions are perverting the legislative process.

One of the most disturbing sidelights of this effort to kill Radio Free Europe and Radio Liberty is the suppression of evidence by the staff of the Senate Foreign Relations Committee. I refer to the two voluminous reports on the operations of the radios which were compiled at considerable expense to the taxpayers by the Congressional Research Service of the Library of Congress. Only a few sentences of these reports have leaked out to the public—just enough to show that the expert findings of their authors are highly favorable to the radios.

I estimate the cost to the taxpayer of the Congressional Research Service reports as $20,000. They were compiled on a crash basis by two senior analysts at the Library of Congress who devoted months to the task. In addition to the expense of their salaries, the reports also represent the cost of travel by both men to Munich, Germany, to observe the work of Radio Free Europe and Radio Liberty on the spot. I understand that in order to meet the rush deadline set by the Foreign Relations Committee these gentlemen even sacrificed their annual leave last year.

These reports were originally commissioned by the chairman of the Senate Foreign Relations Committee at a hearing he conducted in that committee back in May of last year. His remarks at the time leave little doubt that he expected them to put the "radios" in a bad light The manuscripts of the reports were delivered to Mr. Robert Dockery of the committee staff in mid-January, and as far as I can find out they have just been sitting there ever since, seen only by a handful of outsiders. However, a New York Times reporter who got a look at them printed the following:

> The report on Radio Liberty, written by Dr. Joseph G. Whelan, a specialist in Soviet and East Eupropean affairs, said that the station's basic policy had shifted from its early "liberation" of the Soviet Union to "liberlization" as conditions eased within Soviet society.
>
> "The professionalism of the staff," the report said, "is apparent in the quality of their research product, their multilingual facility, the unique combination of American and Western scholarship with the native talents of former Soviet citizens, and finally the existence of an organizational spirit that seems to arise from a conviction of participating in creating positive change in the Soviet Union."
>
> "The reality of Radio Liberty," the report continued, "conflicts with its popular image. It is neither a cold war operation nor is its staff a group of cold warriors. On the contrary, Radio Liberty accepts all Soviet institutions, though not its ideology, and seeks to bring about peaceful democratic change from within."
>
> Mr. Whalen said that if Radio Liberty was disbanded, the Soviet people "will have lost a free press for the inflow of information" that could not be duplicated by officially sponsored government radios. He said it would also bring the loss of a means of dissemination of "samizdat" or underground writings, throughout the Soviet Union "with the consequences that this liberalizing movement will unquestionably receive a serious setback."
>
> Similar praise for Radio Free Europe was expressed by James R. Price in his Library of Congress report.

The columnists Evans and Novak have written:

> Those voluminous reports explain precisely why Eastern Europe experts are concerned by Senator Fulbright's action. Radio Free Europe, says one report, "contributes substantially to preserve the reservoir of good will toward the U.S." by the Eastern Europeans. "In some cases, regimes have grudgingly adopted some features desired by their publics and supported by Radio Free Europe."
>
> The other Library of Congress report suggests "Radio Liberty encourages detente, amelioration of international differences through negotiations, strengthening of the United Nations as an instrument of peace and creation of a world system based on the rule of law."

In the face of this evidence, the chairman of the Senate Foreign Relations Committee stated on national television last Wednesday that—

> Over my dead body am I going to take that new provision, that new bill—because they are relics of the Cold War and ought to be liquidated. They are $35 million. There is no excuse for continuing to broadcast propaganda in these areas as long as the President is trying to, you know, make peace with them.

In a speech in the Senate on February 17, the chairman denied he had suppressed the reports. But the fact is that the reports had not been sent to the printer. They have not been circulated to members of the House Foreign Affairs Committee on which I serve, and they have not been made available to the general public.

In his speech on February 17, the Senate Foreign Relations Committee chairman made much of the fact that staff members of the House Foreign Affairs Committee were given the favor of a briefing on the reports. That is, they were told about the reports but they and we have not been allowed to have copies of them, with the explanation that the reports were only in draft form. Mr. Speaker, this high-handed procedure is an insult to the House of Representatives and our Committee on Foreign Affairs. There is no justifiable reason why the House Committee cannot have copies of the reports, even if they are draft versions, especially when there is every indication that their completion has been deliberately delayed. The public and the Congress cannot operate in an informational void.

Ironically, Mr. Dockery of the Foreign Relations Committee staff gave an interview to the Arkansas Democrat last October in which he said:

> These studies are important and their conclusions will be acted on . . . The committee clearly looked on the $35 million authorization as stop-gap legislation, and the conclusions of these studies will help determine how much, if any, is authorized next year.

Instead of acting on this pious promise, Mr. Speaker, certain people on the other side of the Hill have chosen to suppress these costly and revealing documents. These individuals evidently hope that they can liquidate the national assets represented by these radios before the Congress and the public can learn the facts. I call on the Senate Foreign Relations Committee to proceed forthwith with publication of the reports in full and untampered form. I call on the Congress of the United States to keep Radio Free Europe and Radio Liberty alive until we and the public can have ample time to study these findings.

When President Nixon visited the Great Wall of China last Thursday, he spoke these good words:

> What is most important is that we have an open world. As we look at this Wall we do not want walls at any time between peoples, and I think one of the results of our trip—we hope—may be that the walls that are erected, whether they are physical walls like this, or whether they are other walls, or ideology or philosophy, will not divide people in the world; that people, regardless of their differences in background and their philosophies, will have an opportunity to communicate with each other, know each other, and share with each other those particular endeavors that will mean peaceful progress in the years ahead.

I call on President Nixon to confer immediately on his return from China with the leadership of both House of Congress to take emergency action to save Radio Free Europe and Radio Liberty from a most untimely death.

The Senate version of S. 18, the radios' authorization bill, on which the Senate conferees have been insisting, will at this late date in the fiscal year not help the radios. Only the authorization through fiscal 1973 which our House bill offers will give people time to study the evidence

Mr. Speaker, let voices be raised in the Congress and throughout the land to prevent this attempted frustration of the will of Congress and the American people by certain individuals bent on having their own way.

There has been much sincere concern in both Houses of Congress, under this and previous administrations, about getting the executive branch to consult with us more regularly on foreign policy matters. I submit to you, Mr. Speaker, that the kind of irresponsible shenanigans with the public trust that I speak of here are one of the greatest obstacles in widening Congress' role in foreign affairs.

## GUIDELINES FOR LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing, along with most of my distinguished colleagues from Chicago, a bill which will provide several new guidelines for the Law Enforcement Assistance Administration. This bill was first introduced by my good friends from Ohio, the Honorable JAMES V. STANTON, and the Honorable JOHN SEIBERLING, on November 16, 1971. This bill is a well researched, technically superior piece of legislation, and I heartily congratulate Mr. STANTON and Mr. SEIBERLING and their staffs on their initiative. It has come to my attention that the distinguished chairman of the House Judiciary Committee, the Honorable EMANUEL CELLER, intends to conduct hearings on the bill in the near future. Basically, the bill would instruct the State planning agencies in the LEAA network to distribute its block-grants locally to high crime urban areas, on a percentage computed by weighing crime rates twice as heavily as population proportions. It also would provide a high impact, temporary grant of $5 per capita to high crime urban areas, to fill in the wide gaps that now exist in the fight against crime.

Mr. Speaker, the Law Enforcement Assistance Administration has enjoyed up to now only mediocre success in dealing with the problems of crime control in our largest cities. Since its inception in 1968, this agency has often used its funds unproductively. It has become bogged down in excessive bureaucratic structures at the State level. These State agencies have, at times, concentrated their efforts in areas where success could be statistically manipulated for glamorous publicity. In short, LEAA's influence in the area of crime control has fallen short of our expectations.

We all realize that money injudiciously spent is useless. Yet our remedy for this problem of wasted money has been simply the approval of larger budget requests. The real impasse to effective use of Federal aid to crime control lies in the widespread inefficiency of the State planning agencies spawned by LEAA. These State agencies have become a superfluous layer between the Federal and local governments. It is time for Congress to intercede; to provide the LEAA with viable legislation guidelines to give our cities the attention and money they deserve. As a spokesman for the National League of Cities has stated, "the States should be conduits, not another layer of bureaucracy."

According to the stipulations of the Omnibus Crime Control Act of 1970, several new formulas for LEAA block-grant distribution will become effective July 1, 1972. The act provided for a flexible pass-through requirement; that is, the percentage of money passed through by a State to its units of local government would be in proportion to the law enforcement expenditures in that State. This formula is unsophisticated in that it does not reflect the true crime rates in our cities, but rather how much money our cities were able to spend in the previous year. Moreover, each State planning agency still has to categorically approve or disapprove individual projects proposed by units of local government. It is my point of view that rather than stopping at the State level, the block-grant concept should be extended all the way down to the city level. It provides for block-grants directly to high crime urban areas. In other words, the people with the expertise on local big city crime will be the same people who administer the Federal funds. This only makes good sense.

Allow me to cite my own city of Chicago as an example of the confusion caused by State review of local plans. According to recent evidence from the Chicago-Cook County Criminal Justice Commission, 49.42 percent of the residents of Illinois live in the Chicago-Cook County area, where 81 percent of all violent crime in Illinois occurs. Yet, the entire Chicago-Cook County district has received only 20 percent, to date, of the Federal action and planning grants available. Responsibility for this situation lies with the Illinois Law Enforcement Commission, the agency charged with the administration of LEAA programs in Illinois. It approves those programs it wants to with little regard for the priorities insisted on by the Chicago-Cook County Criminal Justice Commission. I do not hesitate to surmise that other big cities have encountered similar problems in obtaining funds from their State planning agencies.

In summary, Mr. Speaker, we are attempting with the introduction of this bill, to eliminate a good deal of the confusion that exists at the State level, to increase the efficiency of LEAA money distribution, to allow funds to get quickly to where they are needed, and to allow local government a reasonably free hand in determining how to fight local crime.

## MORE ON FEMALE PAGES FOR THE HOUSE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, last week I advised our colleagues of my letter to you of February 19 in which I raised with you the question of changing the House practices so as to permit the employment of female pages. I was delighted to receive your reply this morning and am inserting it in the RECORD so that our colleagues will know your thoughts on this matter. I am also urging the Members to publicly support the immediate hiring of female pages.

It is my understanding, Mr. Speaker, that the House Administration Committee met today and has agreed to work out a program for the employment of female pages. I want to commend the committee for having undertaken that action and wish to reiterate my hope that there will be an immediate implementation of that policy. I hope, Mr. Speaker, that you will lend your support to this issue so that whatever committees are yet to act on the matter will do so in an expeditious and affirmative way.

The letter follows:

THE SPEAKER'S ROOMS,
U.S. HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 23, 1972.*

HON. EDWARD I. KOCH,
*House of Representatives,*
*Washington, D.C.*

DEAR ED: Thank you for your recent letter concerning the appointment of girl pages in the House of Representatives. I share your view about equal opportunity and equal remuneration for women. I have always supported, and will continue to support, any and all legislation which will serve to advance the opportunity of the women of America.

I personally have no prejudices as regards hiring young women as pages in the United States House of Representatives. As you know the business day of these young people begins with opening of our legislative day and at times lasts late into the night. We do not have housing for girl pages and I would be concerned about their safety. Of course, any applicant for the position of page regardless of sex would be required to meet the already existing standards of excellence and character. In addition, the applicant must receive the approval of the House Committee on Patronage. The matter is under consideration but no decision has been reached.

Thanks again for taking the time to write on this matter.

Sincerely,

CARL ALBERT,
*The Speaker.*

## ACCELERATED PUBLIC WORKS COULD BE A NECESSARY HUMAN INVESTMENT AT THIS TIME

(Mr. McFALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McFALL. Mr. Speaker, the distinguished Washington Post business and financial editor, Hobart Rowen, in his column yesterday has again underlined the need for public works type projects to help soak up heavy unemployment in hardest-hit communities.

After introducing H.R. 13300 last week, many of my colleagues have expressed an interest in cosponsoring this measure when I reintroduce it next week.

I include at this point in the RECORD Mr. Rowen's article appearing in the Washington Post, February 27, 1972.

### NIXON MAY BE FORCED TO BOOST JOB PROJECTS

(By Hobart Rowen)

The Nixon administration, which seems to specialize in doing things that earlier it said never, never would be done, may have to junk the old rhetoric once again.

This time, the question relates to emergency legislation providing "accelerated public works" in order to soak up heavy unemployment, still around 6 percent overall—a serious political liability.

Last June, President Nixon vetoed Senate Bill No. 575, which would have provided $2 billion for a program of accelerated public work in local communities with excessive unemployment. The money would have been ticketed for such things as storm drainage systems, sidewalk improvements, community centers and so on.

But the President was following what proved to be the bad advice of his economic team, which kept suggesting that prosperity was just around the corner. Thus, the veto message argued that public works projects historically take a long time to get under way, and lead to wasteful, "marginal, hurriedly planned" projects.

President Nixon didn't say so directly, but he was scornful of what the Republicans like to label a big boondoggle—the WPA-type project, which brings to mind leaf-raking or, even worse, creative art projects.

But President Nixon is a pragmatic man, and things could change. For example, the same President who condemned the Red Chinese, insisted on budget balance, and turned aside from wage and price controls, also rejected a bill for public-service employment when first presented by congressional Democrats in 1970.

But Mr. Nixon turned full circle on that one by mid-year, accepting as a face-saving device the definition of public-service employment as "transitional," that is, a temporary substitute for private sector jobs.

The persistence of high unemployment, however, may bring the President face-to-face with the public works approach. Rep. John McFall (D-Calif.) has just introduced legislation (H.R. 13300) that would add nearly $500 million to expand projects in high-unemployment areas. Another bill (H.R. 12011) would substantially expand last year's public-service employment concept.

The secret Treasury staff study prepared Jan. 28 by economist Herman Liebling for a presidential task force studying the unemployment problem skirted the question of public-service jobs because "(this proposal) does not appear to meet the requirement of any long-run impact on the demand for labor."

But Assistant Treasury Secretary Edgar R. Fiedler specifically asked the task force for judgments on "what is and can be done to put the unemployed to work for the government, a la WPA."

No one pretends that more government jobs is the whole answer to the problem of unemployment in 1972—but it would appear to be at least part of it. As the hearings before the Joint Economic Committee last week continued to demonstrate, the unemployment-inflation dilemma is a complicated one which will need a many-fold solution. But WPA, or PWA, could be a necessary human investment at this time.

The need to pinpoint an attack on joblessness came through vividly in an excellent JEC panel discussion which included Federal Reserve Board Governor Andrew Brimmer, Duke University Economics Prof. Juanita Kreps, and Vicente T. Ximenes of the National Urban Coalition discussing the problems of blacks, women and Spanish-speaking people.

Brimmer showed that discouragement over job prospects has kept increasing numbers of blacks out of the labor force. For the first time in a decade, the number of blacks holding jobs in 1971 was below that of the previous year. Black employment in this country is heavily concentrated in lower-paid, blue-collar industry jobs. Hence, when manufacturing activity recedes as it did in the past two years, black employment in total suffers.

Mrs. Kreps effectively demonstrated that women suffer from some of the same prejudices applied to blacks. But the special discrimination against women is that they are over-educated for most of the jobs they have to take. They still must buck the employer tendency to regard them as readily expendable in time of recession.

Ximenes cited figures showing that jobless rates among Spanish-speaking persons, like blacks, are twice as high as the national average. The parallels of Chicanos with the blacks—in underemployment, failure even to become part of the labor force—are striking.

What it all means is that the administration cannot merely point out that reducing the rate of unemployment in today's society is difficult. It must do something about it. It must consider public works; it must not be deterred from an expansionist fiscal-monetary policy due to excessive fears of inflation; it should heed the warning of Otto Eckstein that quotas and protectionist policies reduce competition, and hence make the achievement of full employment even more difficult.

And on the public relations front, it had better persuade Labor Secretary James Hodgson to drop the suggestion that unemployment is only "the hole in the doughnut." As Prof. R. A. Gordon of Berkeley said tartly:

"Secretary Hodgson's analogy was apt. Unemployment is indeed a hole in the lives of some five million American who cannot find jobs."

## WYOMING'S NEW JOHN D. ROCKEFELLER MEMORIAL PARKWAY

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I take pleasure today in introducing legislation which would establish the John D. Rockefeller, Jr., Parkway to link Yellowstone National Park and Grand Teton National Park in my State of Wyoming.

The parkway would use existing paved roads from the West Thumb area of Yellowstone to the south entrance of Grand Teton. Given the fact that most of the people who vacation in the northwest corner of Wyoming visit both Yellowstone and Grand Teton National Parks, an adequate roadway and off-road facilities are needed between these two parks. In 1970, over 1,500,000 persons made the drive between Yellowstone and Grand Teton—and the area has developed recreational facilities for 2,000 people at the most.

Second, it would be only good sense to provide management continuity within the parkway area by transferring the 23,000 acres involved from the Department of Agriculture to the Department of the Interior. Both Departments are in favor of such a transfer.

Third, this proposal takes into consideration the esthetic values of this beautiful area, by withdrawing all lands within the parkway from location, entry, and patent under the U.S. mining laws. The area will also continue to be closed to oil and gas development.

Finally I know of no more fitting time for Congress to act on the establishment of the John D. Rockefeller, Jr. Parkway than 1972, the 100th anniversary of Yellowstone, our first national park.

## LAND AND WATER CONSERVATION FUND CHANGE URGED

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, today I am introducing legislation which would amend the Land and Water Conservation Fund Act of 1965 to equalize recreation opportunities in the United States of America. The amendment which I propose would allow for the recreation planning, acquisition, or development of indoor, as well as outdoor, facilities.

At the present time the Land and Water Conservation Fund provides Federal moneys to State recreation commissions with which the respective commissions can provide matching fund grants for the development of community recreation facilities—but only for facilities which are outdoors. One of the most common uses for such funds has been to construct swimming pools.

The Land and Water Conservation Fund Act allows for excellent recreation programs in many areas of this Nation, and it is a policy which I highly commend. However, my State of Wyoming suffers injustice under the act.

The reason for this injustice is simple—outdoor swimming pools in Wyoming are a pretty uneconomical venture. In several of Wyoming's cities and towns, an outdoor pool can only be used during the heat of the day through July and August—and even during these months temperatures drop to the high 30's or low 40's in the evenings. During the remaining 10 months of the year freezing weather can be expected any night. Under such conditions, outdoor swimming is neither possible nor is it a pleasure.

I am hopeful that Congress will see fit to amend the Land and Water Conservation Fund Act to allow for indoor facilities and I am hopeful this proposal will receive prompt consideration.

## SOMETHING TO DEPEND ON

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman from New York (Mr. Conable) in a recent column has made a very thoughtful contribution to the debate now getting underway on increasing social security benefits. I commend it to all Members for study:

### Something To Depend On

Washington, March 2.—Older Americans depend pretty heavily on the Social Security System. Working Americans contribute to it with scarcely a complaint, looking on their payroll charges as an investment rather than a tax. Retirement plans are built around the assurance that a dependable, tax-free check from Social Security will arrive every month, regardless of what happens to other savings.

The Chairman of my Committee, Wilbur Mills of Arkansas, has just filed a bill providing for a 20 percent across-the-board increase in Social Security benefits (instead of the 5 percent increase provided by the Welfare Reform Act now in the Senate) and a *decrease* in Social Security taxes. He proposes that this be accomplished quickly by amendment of the Welfare Reform Act in the Senate and subsequent acceptance of the amendment by the House without public hearings or full Committee action. His is a commanding voice; his reputation for responsibility is beyond question. It is unlikely that the Senate will not hear him.

Mr. Mills says his proposal is possible because of over-financing of the Social Security fund. The "over-financing" largely results from the actuarial assumption that benefits and earnings will remain constant, rather than continuing to rise as they have during the life of the system. This assumption has permitted occasional modest increases in benefits after it was ascertained that earnings (and tax contributions) had, in fact, increased. Changing the actuarial assumption will mean that we will be mortgaging future earnings increases to pay for immediate benefits. An interesting side effect, under the unified budget concept we have now been using for the past five years, will be an increase in next year's budget deficit of over $6 Billion, since we count income and outgo of the trust funds as well as of the general treasury in determining deficits.

I am unwilling to say that a 20 percent increase of benefits and a tax reduction spread over the next forty years is incorrect and unsound at this time. I simply don't know. Just because the Advisory Council on Social Security recommends changing the system doesn't automatically make it the thing to do.

Even the Chairman's recommendation and the great respect we all feel for him does not absolve me from using my judgment and inviting outside opinion and testimony from knowledgeable people. I certainly would not rely on the Senate for this decision, with all the pressures they're subject to.

In addition to the substantive, economic and actuarial issues which this proposal raises, I think we have a further obligation to the American people. If government is generally suspect, it is particularly so in an election year. In earlier election years the parties have gotten into a "numbers game" on Social Security, bidding against each other in the promises made to politically sensitive senior citizens. Social Security is too important to be made into a political footfall, but it is also terribly important that people have confidence in its soundness. In other words, basic changes should not be made casually or under circumstances which appear to be casual or political. We should have full hearings and careful congressional consideration, abhoring shortcuts.

If, having done this, we decide to change our actuarial assumptions, we then should decide whether the best use of the money is an across-the-board benefits increase. Maybe we would decide to eliminate the earned income ceiling, permitting people to work after age 65 and still draw Social Security. Maybe we would decide to reduce the retirement age. Maybe we would decide to treat working wives more fairly than we do now. Maybe we would even decide to weight the benefit scale differently than we do now, establishing a different relationship of moneys paid in and pension benefits. It's just possible (Eureka) that we would want to reduce Social Security taxes.

We ought to think about this whole question of how to distribute any discovered actuarial surplus, rather than automatically foreclosing any idea of system reform by a straight percentage benefit increase. I hope we'll think about this thing carefully, and not rush to the easy and superficial political advantage to be gained from manipulating a retirement system on which we all depend, not just this year but for generations to come.

### NEW ORDERS FIGURES CONFIRM ECONOMIC EXPANSION

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, increases in new orders for durable goods customarily foreshadow a general pickup in economic activity. The Department of Commerce recently released new data showing that in January the dollar value of new orders received by manufacturers of durable goods increased 8 percent over the previous month to a seasonally adjusted level of nearly $35 billion. This is the largest monthly increase since December 1970, and the highest level of new orders on record.

The most heartening aspect of this increase is that orders for producers' capital goods—the machinery and other equipment used in the production of goods and services—soared 16 percent over the month. This reflects a confidence on the part of the business sector in the future of the economy. Moreover, it has beneficial implications for employment. More labor will be required to meet the increased demand for the equipment, and once the additional capital goods are on line, employment opportunities and labor productivity will be enhanced.

We must not place too much reliance on a single economic indicator in a single month. However, there are reasons to believe that this new orders data is a significant measure of our economic prospects. The December Commerce-SEC survey of anticipated business spending on plant and equipment reveals that business expects to spend 9 percent more this year than last. The new orders figures signify that businessmen are already beginning to step up their investment in line with their intentions.

There may be some declines as well as advances in these monthly figures as the year wears on. But the recent new orders data combined with the strong January rise in personal income and the continued high level of housing starts indicate a strong underlying trend toward a healthy rate of economic expansion this year.

### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Denholm (at the request of Mr. O'Neill), for this week, on account of official business.

### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Baker), to revise and extend their remarks, and to include extraneous matter:)

Mr. Steele, today for 10 minutes.

(The following Members (at the request of Mr. Mathis of Georgia), to revise and extend their remarks, and to include extraneous matter:)

Mr. Rostenkowski, today, for 10 minutes.

Mr. Gonzalez, today, for 10 minutes.

### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Baker), and to include extraneous matter:)

Mr. Gubser.
Mr. Crane in five instances.
Mr. Esch.
Mr. Schwengel.
Mr. Steele.
Mr. Pelly in five instances.
Mr. Conte.
Mr. Schmitz.
Mr. Derwinski in three instances.
Mr. Springer.

(The following Members (at the request of Mr. Mathis of Georgia) and to include extraneous matter:)

Mr. Begich in three instances.
Mr. Gonzalez in three instances.
Mr. Stokes in five instances.
Mr. Edwards of California in five instances.
Mr. Carney.
Mr. Garmatz.
Mr. Boland in two instances.
Mr. Hagan in three instances.
Mr. Rodino in two instances.
Mr. Rogers in five instances.
Mr. Kluczynski in three instances.
Mr. Fountain in three instances.
Mr. Miller of California in five instances.
Mr. Mazzoli.
Mr. James V. Stanton.
Mr. Van Deerlin.
Mr. Rarick in three instances.
Mr. Scheuer in five instances.
Mr. Roncalio.

### ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2714. An act for the relief of Mrs. Kayo N. Carvell;

H.R. 2792. An act for the relief of Juanita Savedia Varela;

H.R. 3093. An act for the relief of Mrs. Crescencia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna;

H.R. 4319. An act for the relief of Josephine Dumpit;

H.R. 5179. An act for the relief of Soo Yong Kwak;

H.R. 6506. An act for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber;

H.R. 6912. An act for the relief of William Lucas (also known as Vasilios Loukatis);

H.R. 7316. An act for the relief of Mrs. Norma McLeish;

H.R. 8540. An act for the relief of Eleonora G. Mpolakis;

H.R. 8699. An act to provide an Administrative Assistant to the Chief Justice of the United States.

H.R. 9180. An act to provide for the temporary assignment of a United States magistrate from one judicial district to another; and

H.R. 11738. An act to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America in connection with Boy Scout Jamborees, and for other purposes;

## SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 960. An act to designate the Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, State of Arizona;

S. 2896. An act to amend chapter 83 of title 5, United States Code, relating to adopted child; and

S.J. Res. 189. Joint resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War or Missing in Action" and to designate Sunday March 26, 1972, as national day of prayer for these Americans.

## ADJOURNMENT

Mr. MATHIS of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Tuesday, February 29, 1972, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1653. A letter from the Secretary of the Army, transmitting a report on Department of the Army aviation personnel above the grade of major, covering the period July–December 1971, pursuant to 37 U.S.C. 301(g); to the Committee on Armed Services.

1654. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various facilities projects proposed to be undertaken for the Air National Guard, pursuant to 10 U.S.C. 2233(a)(1); to the Committee on Armed Services.

1655. A letter from the Deputy Assistant Secretary of Defense (Installations and Logistics), transmitting a report of Department of Defense procurement from small and other business firms for July–November 1971, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

1656. A letter from the Commissioner of the District of Columbia, transmitting the annual report of the Office of Civil Defense of the District of Columbia, pursuant to section 6 of Public Law 686 (81st Congress); to the Committee on the District of Columbia.

1657. A letter from the Director, U.S. Information Agency, transmitting a draft of proposed legislation to authorize appropriations for the U.S. Information Agency, and for other purposes; to the Committee on Foreign Affairs.

1658. A letter from the Director, Office of Legislative Affairs, Agency for International Development, Department of State, transmitting the quarterly report on the programing and obligation of contingency funds, covering the period ended June 3, 1971, pursuant to section 451(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1659. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

1660. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

1661. A letter from the Assistant Secretary of the Interior, transmitting the 1971 annual report of the Governor of Guam to the Secretary of the Interior on the Guam Economic Development Fund, pursuant to section 6 of Public Law 90–601; to the Committee on Interior and Insular Affairs.

1662. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in dockets Nos. 27–A and 241, the *Delaware Tribe of Indians and the Absentee Delaware Tribe of Oklahoma, Plaintiffs*, v. *The United States of America, Defendant*, pursuant to 25 U.S.C. 70(t); to the Committee on Interior and Insular Affairs.

1663. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to encourage the preservation of coastal wetlands, open space and historic buildings and to encourage the preservation and rehabilitation of all structures, and for other purposes; to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and references to the proper calendar, as follows:

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 822. Resolution to provide funds for the Committee on the Judiciary (Rept. No. 92–858). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 823. Resolution providing for expenses of conducting studies and investigations authorized by House Resolution 109 (Rept. No. 92–859). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 824. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 243. (Rept. No. 92–860). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 825. Resolution to provide funds for the expense of the investigations and studies authorized by House Resolution 5 and House Resolution 19 (Rept. No. 92–861). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 826. Resolution to provide funds for the second session, 92d Congress, for the expenses of the investigations and studies authorized by House Resolution 217 (Rept. No. 92–862). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 827. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 18 Rept. No. 92–863). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 831. Resolution to provide funds for the expenses of the investigations and studies by the Committee on House Administration (Rept. No. 92–864). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 835. Resolution providing additional compensation for services performed by certain employees in the House Publications Distribution Services (Rept. No. 92–865). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 837. Resolution to provide additional funds for the expenses of studies, investigations, and inquiries authorized by House Resolution 114 (Rept. No. 92–866). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 847. Resolution providing for the expenses incurred pursuant to House Resolution 213 (Rept. No. 92–867). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 849. Resolution authorizing the expenditure of certain funds for the expenses of the Committee on Internal Security (Rept. No. 92–868). Referred to the House Calendar.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. H.R. 1974. A bill for the relief of Mrs. Gloria Vazquez Herrera; with an amendment (Rept. No. 92–856). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 2052. A bill for the relief of Luz Maria Cruz Aleman Phillips; with an amendment (Rept. No. 92–857). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL (for himself, Mr. FORSYTHE, Mr. DOWNING, Mr. STUBBLEFIELD, Mr. JONES of North Carolina, Mr. BIAGGI, Mr. GRIFFIN, Mr. ANDERSON of California, Mr. TIERNAN, Mr. METCALFE, Mr. SIKES, and Mr. CONTE):

H.R. 13416. A bill to designate certain lands in the State of Alaska as units of the national wildlife refuge system; to the Committee on Merchant Marine and Fisheries.

By Mr. EVANS of Colorado:

H.R. 13417. A bill to amend the Federal Food, Drug, and Cosmetic Act in order to provide for the registration of manufacturers of cosmetics, the testing of cosmetics, and the labeling of cosmetics, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HALPERN (for himself and Mr. FRENZEL):

H.R. 13418. A bill to provide for the issuance of $2 bills bearing the portrait of Susan B. Anthony; to the Committee on Banking and Currency.

By Mr. HALPERN (for himself, Mr. MADDEN, Mr. WYDLER, and Mr. STEIGER of Arizona):

H.R. 13419. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. HALPERN (for himself, Mr. COTTER, and Mr. GRAY):

H.R. 13420. A bill to promote the peaceful resolution of international conflict, and for other purposes; to the Committee on Government Operations.

By Mr. MATSUNAGA:

H.R. 13421. A bill to provide for the payment of losses incurred by domestic growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates in food after extensive inventories of foods containing such susbtances had been prepared or packed or packaging, labeling, and other materials had been prepared in good-faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on the Judiciary.

By Mr. PRICE of Illinois:

H.R. 13422. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. PRYOR of Arkansas:

H.R. 13423. A bill to provide that certain expenses incurred in the construction of the U.S. Highway 65 Expressway through Pine Bluff, Ark., shall be eligible as local grants-in-aid for purpose of title I of the Housing Act of 1949; to the Committee on Banking and Currency.

By Mr. RONCALIO:

H.R. 13424. A bill to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 13425. A bill to amend the Land and Water Conservation Fund Act of 1965 to allow for the recreation planning, acquisition, or development for indoor facilities; to the Committee on Interior and Insular Affairs.

By Mr. ROSTENKOWSKI (for himself, Mr. ANNUNZIO, Mr. COLLINS of Illinois, Mr. KLUCZYNSKI, and Mr. PUCINSKI):

H.R. 13426. A bill to provide for greater and more efficient Federal financial assistance to certain large cities with a high incidence of crime, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMPSON of New Jersey:

H. Res. 849. Resolution authorizing the expenditure of certain funds for the expenses of the Committee on Internal Security; to the Committee on House Administration.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

317. By the SPEAKER: Memorial of the House of Representatives of the State of Washington, relative to amending the Soil Conservation and Domestic Allotment Act, as amended, to include a Columbia-Snake-Palouse conservation program; to the Committee on Agriculture.

318. Also, memorial of the Legislature of the State of Oklahoma, relative to exempting businesses which furnish ambulance services from the Federal wage and hour law provisions requiring the payment of overtime; to the Committee on Education and Labor.

319. Also, memorial of the Legislature of the State of Colorado, relative to maintaining the free market price system and quota import system on red meat products; to the Committee on Ways and Means.

320. Also, memorial of the Senate of the Commonwealth of Puerto Rico, relative to the offset procedure provided for in section 224 of the Social Security Act; to the Committee on Ways and Means.

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# SENATE—*Monday, February 28, 1972*

The Senate met at 10 a.m. and was called to order by Hon. LAWTON CHILES, a Senator from the State of Florida.

### PRAYER

Dr. Frederick M. Lange, president, Dallas Community Chest Trust Fund, Dallas, Tex., offered the following prayer:

Almighty God, eternal in the heavens, who holds in Your hands the destiny of nations and of men, we thank You for the privilege and power of prayer by which we may ascend as on wings to the very steps of Your throne and receive Your blessings.

Accept our humble thanks for the free world in which we live. Make us truly appreciative of the heritage of our fathers, the open Bible, our free institutions, our civil and religious liberties.

Counsel those in authority. Make them worthy of this great trust. May they, as true statesmen, have the wisdom to discern what is right and the courage to defend it. Help us so to believe and live that we may pass on the torch of liberty and light, as contained in Your Holy Word, to succeeding generations.

In the name of Christ, our Saviour. Amen.

## DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
*Washington, D.C., February 28, 1972.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. LAWTON CHILES, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,  
*President pro tempore.*

Mr. CHILES thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, February 25, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## DISPOSITION OF JUDGMENT FUNDS FOR CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 609, H.R. 6291.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 6291) to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets numbered 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–642), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### PURPOSE

The purpose of H.R. 6291 is to authorize the disposition of judgment funds awarded in favor of the Confederated Tribes of the Colville Reservation in dockets 178 and 179 of the Indian Claims Commission. The gross amount available is approximately $5,540,598.00. The money has been appropriated, but it may not be used until authorizing legislation has been enacted.

The bill provides for a per capita distribution of the entire sum. There are about 5,309 tribal members, about half of whom live away from the reservation.

The Committee on Interior and Insular Affairs held open hearings on October 7, 1971, on S. 1104, the Senate companion measure which was sponsored by Senator Jackson.

In addition to some technical amendments, the House of Representatives amended H.R. 6291 to permit a $950 per capita payment to be made immediately to each enrolled member, without waiting for the completion of the roll and the resolution of contested applications. This will leave about $100,000 to take care of enrollment appeals and additions to the roll, and if the entire amount is not needed for that purpose, the remainder will be distributed with future per capital payments. The Senate Interior and Insular Affairs Committee concurs in this action.

COST

The enactment of the bill, H.R. 6291, will require no further Federal appropriation.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs unanimously recommends that H.R. 6291 be enacted.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

## U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

## U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

## U.S. NAVY

The second assistant legislative clerk read the nominations of Vice Adm. Benedict J. Semmes, Jr., U.S. Navy, to be a vice admiral.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## U.S. MARINE CORPS

The second assistant legislative clerk read the nominations of Gen. Raymond G. Davis, U.S. Marine Corps, when retired, to be placed on the retired list in the grade indicated, and Lt. Gen. Earl E. Anderson, U.S. Marine Corps, for appointment to the grade indicated while serving as Assistant Commandant of the Marine Corps, in accordance with the provisions of title 10, United States Code, section 5202, to be generals.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

## NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE AIR FORCE AND IN THE MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force and in the Marine Corps, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

## PRESIDENT NIXON'S TRIP TO CHINA

Mr. SCOTT. Mr. President, in 1967, if any one of us had been asked to say which was the more likely to occur, the landing of a man on the moon or our President visiting China, I think most people would have said that we would eventually get a man on the moon and no one would have predicted that we would have had a President in China in so short a time.

In fact, until recently, I had been of the mind that we might not open up relations with China for decades.

Now it has happened.

The frank, earnest, and joint exchanges of views contained in the communique represent, I think, reasons for some uplift of hope. Of course, some caution, also. But surely the President's decision to indicate our intention ultimately to withdraw our forces from Asian soil is entirely consistent with the Nixon doctrine enunciated at Guam.

It was there said that we renounce any territorial aspirations and we have never had any—and that it is our intention not to engage in wars on Asian land. Therefore, this comes as a consistent statement. It does not indicate that this will happen precipitately, but that it will happen is a normal consequence of the Nixon doctrine.

I believe that there will be as many minds as there are men—as the Latin phrase has it, "Quot Homines, Tot Sententiae" with regard to the meaning of the communique. Some will downgrade it. Some will tend to be too euphoric. The important thing is that they met. Here the median is the message. Beyond meeting, there were agreements. Those agreements included the formalization of exchanges, the encouragement by the two governments for the opening of trade, the establishment of diplomatic mechanisms for continued contact, the joint statement of some general principles in international relations and the joint statement of some basic approaches to the views of the world with respect to the section which includes reference to Jammu and Kashmir—all matters that would have been considered unthinkable at the time of the invitation to the ping-pong team.

Thus, we have moved forward.

How much more advisable it would have been if, 30 years ago, at the end of World War II, the United States and Russia, the emerging super powers of the world, had come to a similar frank understanding not only of the differences which divide their systems but also of their similarities.

So I am glad that they have met and I do congratulate the President on this epoch-making journey.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished minority leader in making some comments today relative to the presidential visit to the People's Republic of China.

Mr. President, I have had the opportunity to read the text of the United States-Chinese communique and I wish to make a few comments thereon.

I believe that out of this visit by the President has emerged the possibility of a better relationship between China and the United States and also the beginnings of a peaceful era in that part of the world. There is reference to the situation concerning Taiwan and a statement to the effect that the United States plans to withdraw its forces and military installations as tensions in the area lessen. Both Peking and Washington now see China as one entity and it is interesting to note that this has long been the view not only of Mao Tse-tung but also of Chiang Kai-shek.

It has been indicated that we will reduce our presence on Taiwan, a process which, incidentally, began sometime before the President's visit so that, as I recollect, the number of military personnel has already been cut from 10,000 to 8,000. Furthermore, for several years now the Taiwan Strait has been patrolled by only one destroyer and possibly two on occasion, and at times no U.S. naval craft at all. The United States-Formosa Treaty runs indefinitely, subject to termination on 1 year's notice, and, as indicated, it will be honored. In return, the Peking Government has recognized the de facto situation "as is" which may suggest that it has the patience which will permit time to cope with the final settlement of the one China question.

Important possibilities were raised for increased trade and exchanges of the citizens of both countries and by the agreement to allow a senior U.S. representative to visit Peking from time to time to discuss matters of substance. The communique also emphasized there were differences which, if not solved, were at least faced up to frankly. The gate has been opened and the process of bridge building has begun. The Presidential visit was, in my opinion, very much worthwhile. While some may have expected additional results to have emerged in the way of substance, it is my feeling that more came out of the meetings than many of us had anticipated beforehand.

The factor of equality and mutuality was emphasized in the visit, and the readiness on the part of each country to recognize the other's interest in the Asian-Pacific region was apparent. I believe the President achieved much in the way of understanding. He has opened the way to bring about in time—and the sooner the better—an era of peace and stability throughout East Asia.

I commend him for undertaking the long journey which was both arduous and demanding, and I also commend Mrs. Nixon for the outstanding and gracious part she played in representing our country along with her husband, the President of the United States. The Senate joins in welcoming the return of the President and Mrs. Nixon and we look forward to the possibility of his addressing the Nation at an early date with his personal comments on the visit to China.

Mr. SCOTT. Mr. President, if the distinguished majority leader would yield, I ask unanimous consent for the unusual privilege of having us jointly request that the communication be printed in the Record.

There being no objection, the communication was ordered to be printed in the Record, as follows:

### TEXT OF UNITED STATES-CHINESE COMMUNIQUE

Shanghai, February 27.—Following is the text of the communique issued today at the conclusion of the meetings between President Nixon and Premier Chou En-lai:

President Richard Nixon of the United States of America visited the People's Republic of China at the invitation of Premier Chou En-lai of the People's Republic of China from Feb. 21 to Feb. 28, 1972. Accompanying the President were Mrs. Nixon, U.S. Secretary of State William Rogers, Assistant to the President Dr. Henry Kissinger, and other American officials.

President Nixon met with Chairman Mao Tse-tung of the Communist party of China on Feb. 21. The two leaders had a serious and frank exchange of views on Sino-U.S. relations and world affairs.

During the visit, extensive, earnest and frank discussions were held between President Nixon and Premier Chou En-lai on the normalization of relations between the United States of America and the People's Republic of China, as well as on other matters of interest to both sides. In addition, Secretary of State William Rogers and Foreign Minister Chi Peng-fei held talks on the same spirit.

President Nixon and his party visited Peking and viewed cultural, industrial and agricultural sites, and they also toured Hangchow and Shanghai where, continuing discussions with Chinese leaders, they viewed similar places of interest.

The leaders of the People's Republic of China and the United States of America found it beneficial to have this opportunity, after so many years without contact, to present candidly to one another their views on a variety of issue. They reviewed the international situation in which important changes and great upheavals are taking place and expounded their respective positions and attitudes.

The U.S. side stated:

Peace in Asia and peace in the world requires effort both to reduce immediate tensions and to eliminate the basic causes of conflict. The United States will work for a just and secure peace; just, because it fulfills the aspirations of peoples and nations for freedom and progress; secure, because it removes the danger of foreign aggression. The United States supports individual freedom and social progress for all the peoples of the world, free of outside pressure or intervention.

The United States believes that the effort to reduce tensions is served by improving communications between countries that have different ideologies so as to lessen the risks of confrontation through accident, miscalculation or misunderstanding. Countries should treat each other with mutual respect and be willing to compete peacefully, letting performance be the ultimate judge. No country should claim infallibility and each country should be prepared to reexamine its own attitudes for the common good.

The United States stressed that the peoples of Indochina should be allowed to determine their destiny without outside intervention; its constant primary objective has been a negotiated solution; the eight-point proposal put forward by the Republic of Vietnam and the United States on Jan. 27, 1972, represents the basis for the attainment of that objective; in the absence of a negotiated settlement the United States envisages the ultimate withdrawal of all U.S. forces from the region consistent with the aim of self-determination for each country of Indochina.

The United States will maintain its close ties with and support for the Republic of Korea. The United States will support efforts of the Republic of Korea to seek a relaxation of tension and increase communications in the Korean peninsula. The United States places the highest value on its friendly relations with Japan; it will continue to develop the existing close bonds. Consistent with the United Nations Security Council Resolution of Dec. 21, 1971, the United States favors the continuation of the cease-fire between India and Pakistan and the withdrawal of all military forces to within their own territories and to their own sides of the cease-fire line in Jammu and Kashmir; the United States supports the right of the peoples of South Asia to shape their own future in peace, free of military threat, and without having the area become the subject of big-power rivalry.

The Chinese side stated:

Wherever there is oppression, there is resistance. Countries want independence, nations want liberation and the people want revolution—this has become the irresistible trend of history. All nations, big or small, should be equal; big nations should not bully the small and strong nations should not bully the weak. China will never be a superpower and it opposes hegemony, and power politics of any kind.

The Chinese side stated that it firmly supports the struggles of all oppressed people and nations for freedom and liberation and that the people of all countries have the right to choose their social systems according to their own wishes and the right to safeguard the independence, sovereignty and territorial integrity of their own countries and oppose foreign aggression, interference, control and subversion. All foreign troops should be withdrawn to their own countries.

The Chinese side expressed its firm support to the peoples of Vietnam, Laos and Cambodia in their efforts for the attainment of their goals and its firm support to the seven-point proposal of the Provisional Revolutionary Government of the Republic of South Vietnam and the elaboration of February this year on the two key problems in the proposal, and to the Joint Declaration of the Summit Conference of the Indochinese Peoples.

It firmly supports the eight-point program for the peaceful unification of Korea put forward by the Government of the Democratic People's Republic of Korea on April 12, 1971, and the stand for the abolition of the "U.N. Commission for the Unification and Rehabilitation of Korea." It firmly opposes the revival and outward expansion of Japanese militarism and firmly supports the Japanese people's desire to build an independent, democratic, peaceful and neutral Japan. It firmly maintains that India and Pakistan should, in accordance with the United Nations resolutions on the India-Pakistan question, immediately withdraw all their forces to their respective territories and to their own sides of the cease-fire line in Jammu and Kashmir and firmly supports the Pakistan Government and people in their struggle to preserve their independence and sovereignty and the people of Jammu and Kashmir in their struggle for the right of self-determination.

There are essential differences between China and the United States in their social systems and foreign policies. However, the two sides agreed that countries, regardless of their social systems, should conduct their relations on the principles of respect for the sovereignty and territorial integrity of all states, nonaggression against other states, noninterference in the internal affairs of other states, equality and mutual benefit, and peaceful coexistence. International disputes should be settled on this basis, without resorting to the use or threat of force. The United States and the People's Republic of China are prepared to apply these principles to their mutual relations.

With these principles of international relations in mind the two sides stated that:

Progress toward the normalization of relations between China and the United States is in the interests of all countries.

Both wish to reduce the danger of international military conflict.

Neither should seek hegemony in the Asia-Pacific region and each is opposed to the efforts by any other country or group of countries to establish such hegemony; and

Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

Both sides are of the view that it would be against the interests of the peoples of the world for any major country to collude with another against other countries, or for major countries to divide up the world into spheres of interest.

The sides reviewed the long-standing serious disputes between China and the United States.

The Chinese side reaffirmed its position: The Taiwan question is the crucial question obstructing the normalization of relations between China and the United States; the Government of the People's Republic of China is the sole legal government of China; Taiwan is a province of China which has long been returned to the motherland; the liberation of Taiwan is China's internal affair in which no other country has the right to interfere; and all U.S. forces and military installations must be withdrawn from Taiwan. The Chinese government firmly opposes any activities which aim at the creation of "one China, one Taiwan," "one-China, two governments," "two Chinas" and "Independent Taiwan" or advocate that "the status of Taiwan remains to be determined."

The U.S. side declared: The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves. With this prospect in mind, it affirms the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes.

The two sides agreed that it is desirable to broaden the understanding between the two peoples. To this end, they discussed specific areas in such fields as science, technology, culture, sports and journalism, in which people-to-people contacts and exchanges would be mutually beneficial. Each side undertakes to facilitate the further development of such contacts and exchanges.

Both sides view bilateral trade as another area from which mutual benefits can be derived, and agree that economic relations based on equality and mutual benefit are in the interest of the peoples of the two countries. They agree to facilitate the progressive development of trade between their two countries.

The two sides agree that they will stay in contact through various channels, including the sending of a senior U.S. representative to Peking from time to time for concrete consultations to further the normalization of relations between the two countries and continue to exchange views on issues of common interest.

The two sides expressed the hope that the gains achieved during this visit would open up new prospects for the relations between the two countries. They believe that the normalization of relations between the two countries is not only in the interest of the Chinese and American peoples but also contributes to the relaxation of tension in Asia and the world.

President Nixon, Mrs. Nixon and the American party express their appreciation for the gracious hospitality shown them by the government and people of the People's Republic of China.

## TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 30 minutes, with a limitation of 3 minutes on each Senator being recognized.

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE GRIFFIN ANTIBUSING AMENDMENT

Mr. ALLEN. Mr. President, on tomorrow the Senate will decide whether it will agree to the Griffin antibusing amendment—an amendment which will withdraw jurisdiction from the courts over the entering of forced busing decrees for the purpose of creating a racial balance—or it will approve the Scott-Mansfield amendment which, in the judgment of the junior Senator from Alabama, is nothing more nor less than a probusing amendment. It is a cruel hypocrisy and a cynical smokescreen that restates rulings of the Supreme Court permitting busing, and it does nothing to prevent busing which the people of this country are demanding.

Mr. President, the fact that the Scott-Mansfield amendment is a probusing amendment is indicated by an interview which the distinguished Senator from Pennsylvania (Mr. SCOTT) had with reporters from the U.S. News & World Report, excerpts of which were published in the Birmingham News issue of February 21, 1972, headlined "Senator SCOTT Says Congress To Avoid Busing Showdown."

Mr. President, if we adopt the Scott-Mansfield approach, we will definitely have avoided a busing showdown and, if nothing else, the distinguished Senator from Pennsylvania will have been proved to be a prophet, with or without honor, in his own home State. The junior Senator from Alabama does not profess to know which, but the Senator would be correct if the Scott-Mansfield amendment is adopted.

Mr. President, I read from the interview of the distinguished Senator from Pennsylvania:

> But to put it bluntly, Congress is going to avoid final clarification of this controversy in 1972 simply because this is an election year.

Mr. President, I agree with the distinguished Senator from Pennsylvania. If we adopt the Scott-Mansfield approach, we will have avoided a final clarification of this issue. However, if, on the other hand, we adopt the Griffin amendment, we will have clarified the issue, and we will have deprived the courts of jurisdiction to order mass, forced busing of school students in order to create a racial balance.

Mr. President, the President of the United States before going to China indicated that he was going to recommend measures that would put an end to busing for the purpose of creating a racial balance.

Mr. President, we have not heard from the President. He is coming back to Washington tonight, and it is to be hoped that by tomorrow sometime he will have clarified his position on this matter. He has often said that he is against forced busing for the purpose of creating a racial balance. Now is the time for him to translate his words into action, and come out in favor of the Griffin amendment and repudiate this vicious Scott-Mansfield amendment that does nothing to solve this great issue.

Mr. President, this morning I sent a telegram to the President of the United States, urging him to endorse the Griffin amendment and stating:

> In view of your oft-repeated opposition to busing to create a racial balance, I respectfully submit that your support of the Griffin amendment will translate words into actions.

I also stated in the telegram:

> I am sure that you share my feelings that education of children, not transportation of children, should be our paramount concern.

Mr. President, I ask unanimous consent to have printed in the RECORD the telegram I sent to the President of the United States today; two editorials which were printed in the Nashville Banner on February 25, 1972, and February 26, 1972; and a newspaper article entitled "Senator Scott Says Congress To Avoid Busing Showdown," published in the Birmingham News on February 21, 1972.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 28, 1972.

The PRESIDENT,
*The White House,*
*Washington, D.C.:*

Respectfully urge you to endorse Griffin amendment to higher education bill now pending in the Senate. This amendment withdraws from the courts jurisdiction to order busing for creating racial balance in our schools. Of all pending amendments this amendment seems most likely to be effective in putting an end to mass forced busing of school children. I am sure that you share my feelings that education of children, not transportation of children, should be our paramount concern. With your help the amendment will probably pass in the Senate. In view of your oft repeated opposition to busing to create a racial balance, I respectfully submit that your support of the Griffin amendment will translate words into actions.

Respectfully submitted,

JAMES B. ALLEN,
*U.S. Senator.*

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[From the Nashville Banner, Feb. 25, 1972]

### BUSING COMPROMISE NO HELP AT ALL

The compromise anti-busing amendment adopted by the U.S. Senate Thursday is unacceptable. It provides absolutely no relief for educational systems—Metro Nashville schools included—brought to their knees by massive court-ordered cross-town busing of school children.

If this is the Senate leadership's idea of a "compromise," they have badly underestimated the extent of the busing problem, have failed to comprehend the urgent need of Congress to resolve this educational crisis, and totally ignored the demand of an outraged public to terminate this high-handed ukase of social folly.

The compromise amendment is a cold, mindless response to a problem that cries out for a solution, which more realistic amendments—already introduced—would afford.

A man dying of thirst in a desert encountered a person who could help him. He begged for water but was given instead a stale loaf of bread. The Senate has handed the people a stale loaf of bread, good for nothing.

Opponents of the compromise version, including Tennessee Sens. Howard Baker and Bill Brock, recognize the amendment for the hoax that it is.

"They just collected a bunch of stuff to create the illusion of attempting to stop busing," Baker said.

The amendment "would not stop the abuse of children that is going on today . . . it would almost freeze it in law," Brock stated

"Let's not fool ourselves," declared Sen. John Stennis, D-Miss., "it doesn't clear up anything."

Sen. Hugh Scott, Republican leader of the Senate, and Sen. Mike Mansfield, Democratic leader, co-sponsors of the amendment, said the measure is a "compromise" because it does not satisfy the "extremes" in the busing controversy.

That is where Senate leaders show how little they know of the practical effects of busing. Senators and individuals who would seek to prohibit busing in Nashville, say, are considered "extreme" by Scott's interpretation.

Scott and others suffer from thinking on this matter a decade or more behind times. They would picture busing opponents as individuals standing in the school house door to prevent desegregation.

In the South, the question of desegregation has been affirmatively resolved. Forced busing far exceeds desegregation; it transcends racial considerations, for white and black parents alike deplore this massive busing that takes their children past their own area schools into remote and strange neighborhoods, often to inferior schools.

Senate leaders need not delude themselves into thinking they have given opponents anything Shakespeare, writing in Macbeth, could have been in the Senate gallery Thursday watching this compromise debacle: "Full of sound and fury, signifying nothing."

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[From the Nashville Banner, Feb. 26, 1972]

### SENATE RESPONDS TO PUBLIC OUTRAGE

The United States Senate showed Friday it has an ear to the ground.

Responding to an outraged constituency that stretches from Boston to Nashville to San Francisco, the Senate voted Friday to strip federal courts of their authority to order racially-based school busing.

With the landmark 43–40 vote, the Senate spoke for the vast majority of Americans, serving notice that the days of massive, disruptive court-ordered busing are nearing an end. The public has stomached this social folly as long as it intends to and so has Congress, if Friday's vote is any indication.

The fight, of course, is not over. Senate liberals, jolted by the action, are regrouping to try to overturn the amendment next week. If it emerges then, it faces House action.

Regardless of the outcome of those verdicts, the Senate vote Friday demonstrates the depth of concern in Congress over the busing issue, far greater than ivory tower liberal members ever thought.

The amendment sponsored by Sen. Robert Griffin, R-Mich., and backed to the hilt by Tennessee Sens. Howard Baker and Bill Brock, sets forth the most iron-clad busing ban ever adopted by either the House or the Senate. It says:

"No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion or national origin."

The Constitution clearly gives Congress the authority to limit the authority of federal judges.

Framers of the Constitution established the judiciary and its powers in Article Three. They included this limitation: "The Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

The Senate has voted to make an exception.

Limiting the jurisdiction of federal courts is the quickest and most direct way to rid the public of the busing menace.

This concept took root in Tennessee last year when the disastrous effects of busing became apparent here. State officials, both Democrats and Republicans, lined up behind the proposal.

Mayor Beverly Briley recommended this route last summer as an orderly, yet prompt method of halting the court-ordered busing. Rep. Richard Fulton of Nashville, keenly aware of the problems associated with a busing plan that has torn his district's educational programs asunder, introduced legislation in the House to bring this about.

The language adopted by the Senate Friday may be the only way Congress will ever be able to give Nashville and the rest of the nation any relief from the oppressive obsession of federal courts with racial ratios.

Nashville parents rejoice in the Senate verdict. They can testify vividly of the personal hardships imposed, of the educational hazards erected and of the fruitbasket turnover life style thrust upon them and their children from dawn to dusk by an arbitrary court order.

The vigorous efforts put forth by Sens. Baker and Brock deserve special commendation. No two senators have represented their state any better on this issue.

Both Baker and Brock worked tirelessly behind the scenes to influence undecided Senators. "Howard Baker deserves more credit than any other person," Brock said after the vote Friday. "He made the difference because he persuaded a number of Senators to change their votes."

On the Senate floor a short time before the landmark vote, Baker cited "intolerable" conditions in Nashville as ample evidence of the need to halt the runaway busing orders. His vivid account brought a concession from one of the Senate's most outspoken liberals, Walter Mondale of Minnesota, that Nashville school children face "intolerable" circumstances.

Senate liberals will fight next week to overturn Friday's decision. The five Democratic senators running for president who did not vote Friday will probably determine the outcome, one way or the other.

Three of the senators, Ed Muskie of Maine, George McGovern of South Dakota and Vance Hartke of Indiana, have endorsed busing time and again. But Sens. Henry Jackson of Washington and Hubert Humphrey of Minnesota lately have said they oppose busing. The way they vote next week will show the public with unusual clarity how the candidates stand.

The expected vote next week is free of vagueness. The question before the Senate is clear-cut: Who is for busing and who is not?

A solution to the tragedy of court-ordered busing is within grasp. The Senate should pave the way for final enactment by reaffirming next week its landmark vote of Friday.

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[From the Birmingham News, Feb. 21, 1972]

### SENATER SCOTT SAYS CONGRESS TO AVOID BUSING SHOWDOWN

WASHINGTON.—Congress will pass some type of school busing legislation this year, but will avoid a showdown on the issue because it is an election year, says Senate Republican Leader Hugh Scott.

Scott also predicts Congress will not approve a constitutional amendment to ban busing as a means of bringing about racial balance in schools.

The Pennsylvania senator's comments appear in copyrighted interview in the current issue of U.S. News & World Report magazine.

"There will be a fight over the use of federal funds for busing ordered by the courts," Scott said. "In the end, I think money for court-ordered busing will be approved.

"But to put it bluntly, Congress is going to avoid final clarification of this controversy in 1972, simply because this is an election year."

Asked if he was saying Congress would "waffle" on the busing issue, Scott said:

"Yes, sir, I'm saying just that. It is partly because congressmen are uncertain what the will of the people is. Another reason is that they see forces in Congress in the process of realignment."

"In the end," Scott said, "I expect that the courts will solve the problem—not Congress.

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## QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## IS THE GRIFFIN AMENDMENT CONSTITUTIONAL?

Mr. GRIFFIN. Mr. President, a question has been raised, in and out of the press, about the constitutionality of the amendment which I proposed and which was adopted by the Senate last Friday. I wish to take a few minutes this morning to speak to that question.

Mr. President, of course, those who favor forced busing of schoolchildren on the basis of race will be against the Griffin amendment regardless of the answer.

But those who believe forced busing is wrong will want to support the Griffin amendment as the one way—short of a constitutional amendment—for the Congress this year to deal effectively with an abuse that has aroused the determined opposition of a vast majority of the American people, black and white.

In this session the Senate is almost evenly divided on passage of a statutory amendment. Obviously, the necessary two-thirds vote will not be available—at least until next year—for adoption of a constitutional amendment. Furthermore, most people prefer to curb this abuse by statute, if it is possible to do so.

There is ample precedent for the statutory approach embodied in the Griffin amendment. If enacted into law, the challenge of its constitutionality could, and should, be put before the Supreme Court very quickly—this year.

The Griffin amendment provides that—

> No court . . . shall have jurisdiction . . . to issue any order . . . to require that pupils be transported to or from school on the basis of their race, color, religion or national origin

Article III of the Constitution declares that—

> The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish.

The power of Congress to establish or to abolish lower Federal courts clearly includes the power to prescribe or limit their jurisdiction.

Article III also provides that the Supreme Court shall have original jurisdiction in cases affecting Ambassadors and in which a State is a party. But in all other cases—

> . . . the Supreme Court shall have appellate jurisdiction . . . with such exceptions, and under such regulations as the Congress shall make.

In 1932 when Congress concluded that Federal courts were abusing their power to issue antiunion injunctions in labor disputes, the Norris-LaGuardia Act was passed. It provides that—

> No court . . . shall have jurisdiction to issue any . . . injunction in a case involving or growing out of a labor dispute . . .

Of course, the Norris-LaGuardia Act does not deprive Federal courts of all jurisdiction to deal with labor cases. It merely withdraws or limits court jurisdiction to employ one particular remedy which, in the opinion of Congress, was being abused. All other remedies continue to be available to the courts.

In 1868 Congress even went so far as to withdraw jurisdiction from the Supreme Court to review writs of habeas corpus. In Ex Parte McCardle this far-reaching exercise by Congress of its Constitutional power to restrict jurisdiction was upheld by the Supreme Court in an opinion, which said in part:

> We are not at liberty to inquire into the motives of the Legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this Court is given by express words. (6 Wall. 318)

What could the courts still do in school segregation cases if the Griffin amendment were enacted?

Looking at the Pasadena, Calif., case, as an example, the Court found there that—

First. School officials has intentionally gerrymandered attendance zones so as to concentrate blacks in some schools and whites in others. The Court could order attendance zones to be redrawn.

Second. School officials had provided for busing of white children beyond their neighborhoods to avoid integrated neighborhood schools. The Court could order that busing on the basis of race be stopped.

Third. School officials contributed to racial consciousness by assigning black teachers to only black schools. The Court could order that teachers be hired and assigned on a color-blind basis.

Fourth. School officials denied advancement to administrative positions on a racial discriminatory basis. The Court could order that promotions be based on merit, without discrimination on the basis of race.

Fifth. School officials permitted transfers out of neighborhood schools when the purpose was obviously to foster segregation. The Court could order a stop to such practices.

It should be obvious that after enactment of the Griffin amendment Federal courts would still be left with an abundance of reasonable tools and remedies to deal with situations of racial discrimination.

Only one remedy—busing—would not be available, the Congress having determined that it is unduly burdensome and unreasonable as a matter of public policy.

In final analysis, the Griffin amendment is not only constitutional, but it would provide the Supreme Court with a convenient, face-saving way out of a horrible mess it has created. By merely adhering to established precedents, the Court could get off the busing hook and find its way back to the solid, sensible ground staked out in Brown against Board of Education: That Government at all levels should be colorblind.

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## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. CHILES) laid before the Senate the following letters, which were referred as indicated:

### REPORT ON FINAL SETTLEMENT OF CERTAIN INDIAN CLAIMS

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on the final settlement in Docket Nos. 27–A and 241, The Delaware Tribe of Indians and the Absentee Delaware Tribe of Oklahoma, Plaintiffs, v. The United States of America, Defendant (with accompanying papers); to the Committee on Appropriations.

### REPORT ON CERTAIN FACILITIES PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE AIR NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on certain facilities projects proposed to be undertaken for the Air National Guard (with an accompanying report); to the Committee on Armed Services.

### REPORT ON DEPARTMENT OF THE ARMY AVIATION PERSONNEL

A letter from the Secretary of the Army, transmitting, pursuant to law, a report on Department of the Army Aviation Personnel, for the six-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

### REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms, for July–November, 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

### REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Needed in Financial Activity of the Federal Hydroelectric System in the Missouri River Basin", Department of the Interior, Department of the Army, dated February 28, 1972 (With an accompanying report); to the Committee on Government Operations.

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## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL (for Mr. CANNON), from the Committee on Rules and Administration, without amendment:

S. Res. 244. A resolution authorizing additional expenditures by the Committee on Banking, Housing, and Urban Affairs for inquiries and investigations (Rept. No. 92–650);

S. Res. 253. A resolution authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations (Rept. No. 92–649);

S. Res. 227. A resolution authorizing additional expenditures by the Committee on Agriculture and Forestry for inquiries and investigations (Rept. No. 92–648);

S. Res. 231. A resolution authorizing additional expenditures by the Committee on Interior and Insular Affairs for inquiries and investigations (Rept. No. 92–655);

S. Res. 250. A resolution authorizing additional expenditures by the Select Committee on Small Business (Rept. No. 92–660);

S. Res. 241. A resolution continuing, and authorizing additional expenditures by, the Select Committee on Nutrition and Human Needs (Rept. No. 92–662);

S. Res. 247. A resolution authorizing expenditures by the Select Committee on Equal Educational Opportunity (Rept. No. 92–661);

S. Res. 251. A resolution continuing and authorizing additional expenditures by the Special Committee on Aging (Rept. No. 92–663);

S. Con. Res. 62. A concurrent resolution authorizing the printing of additional copies of Senate Document Numbered 56, entitled "State Utility Commissions—Summary and Tabulation of Information submitted by the Commissions." (Rept. No. 92–672);

S. Res. 243. A resolution authorizing the printing of the report entitled "Report to the President and Congress on Noise" as a Senate document (Rept. No. 92–669);

S. Res. 254. A resolution authorizing the printing of additional copies of the committee print entitled "International Negotiation—the Impact of the Changing Power Balance" (Rept. No. 92–670);

S. Res. 255. A resolution to provide additional funds for the Committee on the Judiciary for routine committee expenditures (Rept. No. 92–667);

S. Res. 257. A resolution authorizing additional expenditures by the Committee on Government Operations for routine purposes (Rept. No. 92–668); and

S. Res. 229. A resolution to provide additional funds for the Committee on Appropriations (Rept. No. 92–665).

By Mr. PELL (for Mr. CANNON), from the Committee on Rules and Administration, without additional amendment:

S. Res. 236. A resolution authorizing the Committee on Veterans' Affairs to employ additional clerical assistants (Rept. No. 92–664).

By Mr. PELL (for Mr. CANNON), from the Committee on Rules and Administration, with an amendment:

S. Res. 245. A resolution authorizing additional expenditures by the Committee on Commerce for inquiries and investigations (Rept. No. 92–651);

S. Res. 228. A resolution authorizing additional expenditures by the Committee on the District of Columbia for inquiries and investigations (Rept. No. 92–652);

S. Res. 249. A resolution authorizing additional expenditures by the Committee on Public Works for inquiries and investigations (Rept. No. 92–659);

S. Res. 248. A resolution authorizing expenditures by the Committee on Post Office and Civil Service (Rept. No. 92–658);

S. Con. Res. 60. A concurrent resolution to print additional copies of hearings on "Environmental Protection Act of 1971" (Rept. No. 92–671); and

S. Res. 252. A resolution authorizing additional expenditures by the Committee on Armed Services for routine purposes (Rept. No. 92–666).

By Mr. PELL (for Mr. CANNON), from the Committee on Rules and Administration, with amendments:

S. Res. 235. A resolution to provide additional funds for the Committee on Labor and Public Welfare (Rept. No. 92–657);

S. Res. 256. A resolution authorizing additional expenditures by the Committee on the Judiciary for inquiries and investigations (Rept. No. 92–656);

S. Res. 258. A resolution authorizing additional expenditures by the Committee on Government Operations for inquiries and investigations (Rept. No. 92–654); and

S. Res. 237. A resolution authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States (Rept. No. 92–653).

Mr. SPARKMAN. Mr. President, from the Committee on Banking, Housing and Urban Affairs, I report favorably a committee bill (S. 3248) to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance to local governments in support of community development activities, and for other purposes, and I submit a report (No. 92–647) thereon.

I ask unanimous consent that the report be printed, together with individual views, and that the committee have until midnight to deliver the copy for printing purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. CANNON, from the Committee on Commerce:

Whitney Gilliland, of Iowa, to be a member of the Civil Aeronautics Board.

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## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MANSFIELD:

S. 3245. A bill for the relief of Loretto B. Fitzgerald. Referred to the Committee on the Judiciary; and

S. 3246. A bill to amend title 38, United States Code, to authorize payment of dependency and indemnity compensation to survivors of veterans who were in receipt of compensation for service-connected disability at the time of death. Referred to the Committee on Veterans' Affairs.

By Mr. BELLMON (for himself and Mr. HARRIS):

S. 3247. A bill to declare the certain land of the United States is held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN:

S. 3248. An original bill to consolidate, simplify, and improve the laws relative to housing and housing assistance, to provide Federal assistance to local governments in support of community development activities, and for other purposes. Placed on the calendar.

By Mr. SCHWEIKER:

S. 3249. A bill to provide that the Secretary of Transportation and the Interstate Commerce Commission require common carriers under their jurisdiction to require that smoking aboard aircraft, railroad cars, buses, and vessels carrying passengers, shall be limited to and permitted only in areas that shall be designated for that purpose. Referred to the Committee on Commerce.

By Mr. EAGLETON:

S. 3250. A bill for the relief of Victoria Vergel. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 3251. A bill to designate Veterans Day, the fourth Monday in October, as the day for Federal elections. Referred to the Committee on Rules and Administration.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BELLMON (for himself and Mr. HARRIS):

S. 3247. A bill to declare that certain land of the United States is held by the United States in trust for the Cheyenne-Arapahoe Tribes of Oklahoma. Referred to the Committee on Interior and Insular Affairs.

Mr. BELLMON. Mr. President, I introduce today, for myself and the senior Senator from Oklahoma (Mr. HARRIS), a bill to declare that certain land of the United States be held in trust for the Cheyenne-Arapahoe Tribes of Oklahoma.

For the past 3 years the Cheyenne-Arapahoe Tribes have been involved in a project to construct tribal community buildings in each of 10 tribal districts. In one district the land selected for the site of the community building is presently held by the Indian tribes under a lease agreement with the United States. This lease is for a relatively short period of time and is subject to termination upon 30 days' notice. It has been determined that this property is surplus to the needs of the United States. The legislation would allow the transfer of this land to the tribes under trust status.

I ask unanimous consent that a copy of a resolution from the Cheyenne-Arapahoe Tribes concerning the need for this legislation be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

COUNCIL RESOLUTION No. 281–R17

Whereas, the Cheyenne-Arapaho Tribes of Oklahoma are desirous of constructing and maintaining a Tribal Community Building and recreation grounds for members of the Tribes in the vicinity of Fonda, Oklahoma, and

Whereas, there is certain Government Reserve Land in said vicinity located in Dewey County, Oklahoma, and described as follows:

Beginning at the Southwest corner of Lot 2 in the NW/4 of Section 7, Township 19 North, Range 14 West of the Indian Meridian in Oklahoma, thence East 20 rods, thence North 40 rods, thence West 20 rods to the West line of said Lot 2, thence South 40 rods to the place of beginning, containing 5 acres more or less,

Whereas, the Tribes have been advised that said land is surplus to the needs of the Bureau of Indian Affairs and other governmental agencies, and

Whereas, the Tribes have entered into a Revocable Permit with the Government covering said land and are in the process of making final arrangements for the construction of the Tribal Community Building thereon, and

Whereas, said Revocable Permit by its terms does not extend beyond five years from its date of approval and the Tribes wish to obtain permanent rights in and to said land because of the improvements to be made thereon at Tribal expense,

Now, therefore, be it resolved, that request is hereby made that the Bureau of Indian Affairs and other appropriate governmental agencies take such steps as may be necessary in coordinating and cooperating with the Oklahoma Congressional Delegation and other members of the Congress in the introduction and enactment into law of appropriate legislation declaring that all of the right, title and interest of the United States in and to the above described land shall be held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and

Be it further resolved, that request is hereby made that the members of the Oklahoma Congressional Delegation introduce and work for the enactment into law of legislation accomplishing that foregoing, and

Be it further resolved, that although the Tribes do hereby express their preference that the above described land be declared to be held by the United States in trust for the Tribes, the Tribes are agreeable to taking title to said land in fee simple status if such a requirement or determination is made by the Congress, and

Be it further resolved, that copies of this resolution be promptly forwarded to appropriate members of the Oklahoma Congressional Delegation and through appropriate channels of the Bureau of Indian Affairs and the Department of the Interior, and

Be it further resolved, that the Chairman and such other officers or delegations of the Business Committee as may be designated by the Chairman be, and they hereby are, authorized to take such actions as may be necessary or appropriate in seeking the introduction and enactment into law of the legislation sought by this resolution.

CERTIFICATE OF SECRETARY

I, the undersigned, as secretary of the Business Committee of the Cheyenne-Arapaho Tribes of Oklahoma, hereby certify that the Business Committee is composed of 14 members of whom 8 constituting a quorum were present at the meeting duly and regularly called, noticed and convened and held on the 4th day of December, 1971, and that the foregoing resolution was adopted at said meeting by the affirmative vote of 10 for, 0 against, 0 not voting, and that said resolution has not been amended nor rescinded in any way.

ALVIN R. HART,
*Secretary.*

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By Mr. SCHWEIKER:

S. 3249. A bill to provide that the Secretary of Transportation and the Interstate Commerce Commission require common carriers under their jurisdiction to require that smoking aboard aircraft, railroad cars, buses, and vessels carrying passengers, shall be limited to and permitted only in areas that shall be designated for that purpose. Referred to the Committee on Commerce.

PUBLIC TRANSPORTATION SMOKING SECTION ACT

Mr. SCHWEIKER. Mr. President, I introduce a bill to provide that the Secretary of Transportation and the Interstate Commerce Commission require common carriers under their jurisdiction to require that smoking aboard aircraft, railroad cars, buses, and vessels carrying passengers shall be limited to and permitted only in areas that shall be designated for that purpose.

The purpose of this legislation is to require that all mass transit facilities which carry passengers provide a designated area for the seating of passengers who wish to smoke. This bill would require that special smoking areas be set aside. The Department of Transportation and the Interstate Commerce Commission would be responsible for setting regulations under this legislation.

Several common carriers have already taken steps in this direction. For example, four airlines—United, American, Pan American, and Trans World—voluntarily set up smoking and nonsmoking sections. The Interstate Commerce Commission is now considering requiring that bus operators provide a separate smoking section in the rear of buses. I believe this should be required in all mass transportation facilities.

Interestingly, an unpublished Government study done by the Federal Aviation Administration and the National Institute for Occupational Health and Safety, indicated that 43 percent of all airline passengers think smokers should be separated from nonsmokers. It should be noted that, while tests have found that the amount of carbon monoxide, hydrocarbons, and particles were found to be far less than in the average urban environment, airplane passengers still were annoyed by tobacco smoke in airplane cabins.

Furthermore, the latest report on smoking and health by the U.S. Surgeon General, Dr. Jesse L. Steinfeld, found that tobacco fumes may be dangerous to nonsmokers who inhale them. The Surgeon General's report indicated that nonsmokers in enclosed areas absorb a significant amount of the components of cigarette smoke. The report also indicated that exposure to cigarette smoke can result in the impairment of time-interval discrimination, visual discrimination, and certain physiological stresses on persons with heart disease. As most nonsmokers know, and the report points out, smoking often causes nasal irritation to nonsmokers. In fact, the report indicated that nonsmokers experience more nasal irritation than ocular or visual irritation as compared with smokers exposed to similar amounts of smoke in the atmosphere.

A report published in 1970 by the Inter-Society Commission for Heart Disease Resources recommended a prohibition against smoking in large meetings and mass transit facilities.

Another aspect of this problem beyond the relationship of smoking and health which ought to be considered is the problem of fire prevention. This is particularly important in an airplane, where the passengers have nowhere to go in case of fire. Confining cigarette smoking to a particular section of the cabin can help to localize the area in which a fire could potentially occur.

Mr. President, I believe there is substantial evidence of both the medical desirability and the desire of passengers in mass transportation facilities to separate smokers from nonsmokers. The Surgeon General's recent report has added a new dimension to this problem by pointing out the significant impact tobacco fumes can have on nonsmokers. Thus, the problem goes beyond the personal desires of smokers, and it is time for us to act to protect the rights of those who do not to breathe clean air.

Mr. President, I ask unanimous consent that the full text of my bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

### S. 3249

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act shall be known as the "Public Transportation Smoking Section Act".

Sec. 2. The Secretary of Transportation shall prescribe such reasonable rules and regulations as may be necessary to require that each air carrier under the jurisdiction of the Civil Aeronautics Board shall require that smoking aboard every aircraft operated by it in the carriage of passengers in interstate, overseas or foreign air transportation, shall be limited to and permitted only in areas that shall be designated for that purpose.

Sec. 3. The Interstate Commerce Commission shall prescribe such reasonable rules and regulations as may be necessary to require each common carrier by railroad, each common carrier by motor vehicle, and each common carrier by water under the jurisdiction of the Commission to require that smoking aboard every railroad car, motor vehicle, or vessel, as the case may be, operated by any such common carrier in the carriage of passengers in interstate commerce, shall be limited to and permitted only in areas that shall be designated for that purpose.

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S. 325

Mr. BEALL. Mr. President, on January 27, 1971, I introduced S. 325, which would establish a survivor annuity program for widows of military personnel.

Thirty-four Members of the Senate are cosponsors of this measure and I am pleased that Senator Bellmon and Jackson have joined in cosponsorship. I ask unanimous consent that at the next printing of the bill their names be added.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

### S. 1566

At the request of Mr. Cranston, the Senator from Utah (Mr. Moss) and the Senator from Illinois (Mr. Stevenson) were added as cosponsors of S. 1566, a bill to amend the Federal Aviation Act of 1958 in order to provide for more effective control of aircraft noise.

### S. 2052

At the request of Mr. Thurmond, the Senator from California (Mr. Cranston) was added as a cosponsor of S. 2052, a bill to amend title 38, United States Code, in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes.

### S. 2813

At the request of Mr. Tower, the Senator from Iowa (Mr. Miller) was added as a cosponsor of S. 2813, a bill to provide improved vocational rehabilitation services to individuals.

### S. 2825

At the request of Mr. Pearson, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 2825, establishing a government administered life insurance policy for all Vietnam era veterans.

### S. 2923

At the request of Mr. Moss, the Senator from New Jersey (Mr. Williams) was added as a cosponsor of S. 2923, a bill to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes.

### S. 3181

At the request of Mr. Church, the Senator from Maine (Mr. Muskie), the Senator from Illinois (Mr. Stevenson), the Senator from Nevada (Mr. Bible), and the Senator from Pennsylvania (Mr. Schweiker) were added as a cosponsors of S. 3181, a bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes.

### S. 3195

At the request of Mr. Mondale, the Senator from Wisconsin (Mr. Nelson) and the Senator from Maine (Mr. Muskie) were added as cosponsors of S. 3195, a bill to provide price support for milk at not less than 90 percent of the parity price.

### SENATE JOINT RESOLUTION 135

At the request of Mr. Tower, the Senator from Iowa (Mr. Miller) was added as a cosponsor of Senate Joint Resolution 135, designating "National Law Officers Appreciation Day."

### SENATE JOINT RESOLUTION 170

At the request of Mr. Bayh, the Senator from California (Mr. Cranston) was added as a cosponsor of Senate Joint Resolution 170, a proposed amendment to the Constitution lowering the age requirements for membership in the Houses of Congress.

### SENATE JOINT RESOLUTION 181

Mr. BEALL. Mr. President, on December 6, 1971, I introduced Senate Joint Resolution 181, to establish a Joint House-Senate Committee on Aging.

In addition to its other responsibilities, this committee would be given the specific assignment of following up on the White House Conference on Aging.

I am pleased to add the names of Senator Miller and Senator Mathias to those who have agreed to cosponsor this measure and I ask unanimous consent that at the next printing of the bill their names be added.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

### SENATE JOINT RESOLUTION 200

At the request of Mrs. Smith, the Senator from Nebraska (Mr. Curtis) was added as a cosponsor of Senate Joint Resolution 200, proposing and amendment to the Constitution of the United States with respect to the attendance of Senators and Members of the House of Representatives to the sessions of Congress.

## SENATE RESOLUTION 267—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE SECRETARY OF THE SENATE (S. REPT. NO. 92–673)

(Placed on the calendar.)

Mr. PELL (for Mr. Cannon), from the Committee on Rules and Administration, reported the following original resolution, and submitted a report thereon:

### S. Res. 267

*Resolved*, That in carrying out the duties imposed by the Federal Election Campaign Act of 1971 (Public Law 92–225, approved February 7. 1972), the Secretary of the Senate is authorized until June 30, 1972, or until the date on which the Legislative Branch Appropriations Act, 1973, becomes law (whichever date is later), in his discretion (1) to make expenditures from the contingent fund of the Senate, (2) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of such department or agency, (3) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions to the extent applicable as a standing committee of the Senate may procure such services under section 202(1) of the Legislative Reorganization Act of 1946, and (4) to incur official travel expenses.

Sec. 2. The expenses of the Secretary of the Senate under this resolution, which shall not exceed $38,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.

### SENATE RESOLUTION 268—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO WILLIAM NEWTON PEMBERTON

(Placed on the calendar.)

Mr. PELL (for Mr. CANNON), from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 268

*Resolved,* That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to William Newton Pemberton, widower of Lena Pemberton, an employee of the Senate at the time of her death, a sum equal to eight and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

### SENATE RESOLUTION 269—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO JENNETTE V. BANNER

(Placed on the calendar.)

Mr. PELL (for Mr. CANNON), from the Committee on Rules and Administration, reported the following resolution:

S. RES. 269

*Resolved,* That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Jennette V. Banner, mother of Marjorie F. Banner, an employee of the Senate at the time of her death, a sum equal to one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

### SENATE RESOLUTION 270—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO FRANCES P. LANIER

(Placed on the calendar.)

Mr. PELL (for Mr. CANNON), from the Committee on Rules and Administration, reported the following resolution:

S. RES. 270

*Resolved,* That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Frances P. Lanier, widow of William M. Lanier, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

### THE EDUCATION AMENDMENTS OF 1972—AMENDMENTS

AMENDMENTS NOS. 949 THROUGH 952

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself, Mr. ALLEN, Mr. BAKER, Mr. BENNETT, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, and Mr. TOWER) submitted four amendments intended to be proposed by them jointly to the committee amendment offered as a substitute for the House amendment to the bill (S. 659), to amend the Higher Education Act of 1965 and related Acts, and for other purposes.

AMENDMENT NO. 953

(Ordered to be printed.)

Mr. HARRIS proposed an amendment to the committee amendment offered as a substitute for the House amendment to the bill (S. 659), supra.

AMENDMENT NO. 957

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted an amendment intended to be proposed by him to the committee amendment offered as a substitute for the House amendment to the bill (S. 659), supra.

### SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

AMENDMENT NO. 954

(Ordered to be printed and referred to the Committee on Finance.)

Mr. RIBICOFF (for himself and Mr. SCHWEIKER) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State Public Assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 955

(Ordered to be printed and referred to the Committee on Finance.)

MEDICARE COVERAGE FOR REHABILITATION SERVICES

Mr. STEVENSON. Mr. President, in July 1970, the President's Task Force on the Physically Handicapped issued a report recommending that "governmental programs such as medicare and medicaid should provide reimbursement to a greater extent for rehabilitation services." On behalf of myself and Senators WILLIAMS, BROOKE, CHURCH, EAGLETON, HART, HUGHES, MAGNUSON, MCGOVERN, PERCY, and STEVENS, I introduce an amendment to H.R. 1 designed to move us another step toward that goal.

The President's Task Force report estimates that there are 6 million disabled Americans aged 65 or over who need rehabilitation services but are not receiving them. Of that group, the ones who need intensive outpatient rehabilitation services the most are those being discharged from a hospital or extended care facility. Very often such persons have been cured but not rehabilitated: the fracture is on the mend, but the leg remains weak. The lag between hospital discharge and rehabilitation can be especially acute among elderly medicare beneficiaries.

The purpose of this amendment is to provide comprehensive post-hospital rehabilitation services to an estimated 100,000 medicare beneficiaries annually—and to do so as efficiently and inexpensively as possible. This is accomplished in two ways: by making rehabilitation facilities direct providers of post-hospital services, thereby streamlining existing procedures; and by explicitly recognizing that the full range of medical rehabilitation services are reimbursable under medicare. In addition to physical therapy, the amendment explicitly covers occupational therapy, speech therapy/audiology, use of prosthetic and orthotic devices, medical social services, professional nursing services, and physician services—all under part A of medicare.

Under the amendment, the patient will be reimbursed for up to 100 visits to a rehabilitation facility during the 1 year immediately following his discharge from a hospital or extended care facility. These restrictions and limitations are substantially identical to those applicable to post-hospital home health care services under existing law.

The International Association of Rehabilitation Facilities, which supports the amendment, estimates the gross annual cost at $75 million. The net cost, however, could be significantly less because persons will no longer have to prolong their hospital stays so as to have their rehabilitation services covered by medicare. There is no question that overutilization of hospitals is a major contributing factor to spiraling part A costs. This amendment addresses itself to that problem by creating a relatively inexpensive alternate to in-patient rehabilitation services.

The amendment makes sense in human terms as well as economic terms and medical terms. With the difference between full rehabilitation and a broken life estimated at $750 per patient, the choice is clear: for full rehabilitation, for the patient, and for a more equitable and comprehensive medicare system.

I ask unanimous consent that the text of the amendment, and a number of statements in support thereof be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 955

On page 281, following line 18, insert the following new section:

POST-HOSPITAL OUT-PATIENT REHABILITATION SERVICES

SEC. 275. (a) Section 1861 of the Social Security Act is amended by adding the following new subsections at the end thereof:

"(z) The term 'rehabilitation facility services' means the following items and services furnished to an out-patient of a rehabilitation facility by such rehabilitation facility—

"(1) Based upon diagnostic procedures carried out in the hospital, and utilizing such procedures to the maximum degree possible, continuing comprehensive evaluation of medical and other health related factors for the purpose of: appraising the current general health status of the individual; establishing the nature and extent of the disability; determining how and to what extent the disabling condition may be expected to be removed, corrected, or minimized by medical or medically related services; and the nature and scope of other services needed to achieve maximum ability to function;

"(2) Physical therapy, occupational therapy, and other medically necessary therapies;

"(3) Speech pathology and audiology;

"(4) Testing, fitting or training in the use of prosthetic and orthotic devices;

"(5) Medical social services;

"(6) Nursing care provided by or under the supervision of a registered professional nurse;

"(7) Such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the rehabilitation facility as are ordinarily furnished by such facility for the care and treatment of patients; and,

"(8) Such other services necessary to the health of the patients as are generally provided by rehabilitation facilities."

"(aa) The term "post-hospital rehabilitation facility services" means rehabilitation facility services furnished an individual on an out-patient basis within one year after his most recent discharge from a hospital of which he was an in-patient for not less than 3 consecutive days or (if later) within one year after his most recent discharge from an extended care facility of which he was an in-patient entitled to payment under part A for post-hospital extended care services, but only if a plan covering the rehabilitation facility services (as described in subsection (z)) is established by the rehabilitation facility within 30 days after discharge from such hospital or extended care facility."

"(bb) The term "rehabilitation facility" means a public agency or private organization or a subdivision of such an agency or organization which—

"(1) provides integrated and coordinated delivery to handicapped, disabled persons of post-hospital out-patient rehabilitation facility services defined in subsections (z) and (aa) above.

"(2) provides the professional and other personnel necessary to the integrated and coordinated delivery of post-hospital out-patient rehabilitation facility services;

"(3) has policies, established by a group of professional personnel, including one or more physicians associated with the rehabilitation facility and one or more qualified therapists, to govern the services it provides;

"(4) provides all services under a prescription from or formal supervision of a physician, or under the supervision of another qualified professional;

"(5) maintains clinical records on all patients;

"(6) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing; and,

"(7) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization; except that such other requirements may not be higher than the comparable requirements prescribed for the accreditation of rehabilitation facilities by the Commission on Accreditation of Rehabilitation Facilities (subject to the second sentence of section 1863); and except that such term shall not include a private organization which is not a non-profit organization exempt from Federal income taxation under Section 501 of the Internal Revenue Code of 1954 (or a subdivision of such organization) unless it is licensed pursuant to State law and it meets such additional standards and requirements as may be prescribed in regulations."

(b) Section 1812(a) of the Social Security Act is amended by changing the period at the end of paragraph (3) to a comma and inserting the following immediately thereafter:

"(4) post-hospital rehabilitation facility services for up to 100 visits during the period described in Section 1861(z) after the beginning of one spell of illness and before the beginning of the next."

(c) Section 1812 of the Social Security Act is amended by redesignating subsections (e) and (f) thereof as subsections (f) and (g) respectively and inserting the following new subsection immediately after subsection (d):

"(e) Payment under this part may be made for post-hospital out-patient rehabilitation facility services furnished an individual only during the one-year period described in section 1861(aa) following his most recent discharge which meets the requirements of such section, and only for the first 100 visits in such period. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items or services described in section 1861(z), shall be determined in accordance with regulations."

(d) The first clause of the redesignated subsection (f) of Section 1861 of the Social Security Act is amended to read as follows:

"(f) For purposes of subsections (b), (c), (d), and (e),".

(e) Section 1814 (a)(2) of the Social Security Act is amended eliminating the "or" at the end of clause (D), adding an "or" at the end of subsection (E), and inserting the following new subsection immediately thereafter:

"(F) in the case of post-hospital outpatient rehabilitation facility services, such services are or were required to promote the medical rehabilitation of handicapped, disabled persons who have received, in connection with their handicap or disability, inpatient hospital services (or services which would constitute in-patient hospital services if the institution met the requirements of paragraphs (6) and (8) of section 1861 (e)) or post-hospital extended care services; a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and such services are or were furnished while the individual was under the care of a physician."

(f) The last sentence of Section 1814(a) of the Social Security Act is amended to read as follows:

"To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes certification of the kind provided in subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations."

(g) Section 1861(u) of the Social Security Act is amended by inserting "rehabilitation facility", immediately after "extended care facility".

(h) Notwithstanding any other provision of law, home health agencies may provide to a patient being served in his home any post-hospital rehabilitation services which that patient would be eligible to receive under this amendment as an out-patient at a rehabilitation facility.

(i) The amendments made by this section shall be applicable with respect to services furnished after June 30, 1972.

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## THE PROVISION OF OUTPATIENT REHABILITATION SERVICES

(Statement of the International Association of Rehabilitation Facilities)

Mr. Chairman: The International Association of Rehabilitation Facilities is the principal institutional membership organization devoted to strengthening the organization and development of rehabilitation facilities. There are more than 600 facilities and agencies, representing every state, holding membership in IARF. These facilities serve over 800,000 disabled citizens every year.

In contrast to our usual position of speaking in behalf of the member agencies and institutions, we are at this juncture speaking for those people who are presently or may in the future be clients of these facilities.

### PROBLEM

Under present law, medical rehabilitation services are not specifically covered by Medicare. These services, in addition to diagnostic and other physician services, include physical therapy, occupational therapy, speech, pathology and audiology, rehabilitation nursing, and other medically necessary therapies, including training in the activities of daily living. Regulations issued by the Social Security Administration recognize such services as eligible only when provided in an acute care hospital, in an extended care facility, or by a certified home health agency. As a result, Medicare does not cover medical rehabilitation services unless the patient requires the full level of care provided by one of these types of providers.

This quirk in the law results in gross inequities. For example, Medicare will cover rehabilitation services for a stroke victim so long as he or she is a patient in an acute care hospital, an extended care facility, or under the care of a home health agency. When acute care hospitalization is no longer required but an extended care facility or home health agency is not available, Medicare will not cover the continued provision of required services by a rehabilitation facility on an outpatient basis.

The International Association of Rehabilitation Facilities supports the Stevenson Amendment to H.R. 1. We believe it will provide the Bureau of Health Insurance with a clearer legislative basis for determining eligibility and appropriate intensity of care. This amendment establishes medical rehabilitation as a categorical service and rehabilitation facilities as primary providers. It further defines those individual services which comprise medical rehabilitation and describes those facilities in which rehabilitation most often occurs. IARF is joined in this support by the National Rehabilitation Association, the American Congress of Rehabilitation Medicine, the American Academy of Physical Medicine and Rehabilitation, The National Easter Seal Society for Crippled Children and Adults, the Chicago Heart Association, the American Association of Retired Persons, the National Retired Teachers Association, United Cerebral Palsy, the American Speech and Hearing Association and the National Association of Speech and Hearing Agencies.

The International Association of Rehabilitation Facilities would like to compliment the Bureau of Health Insurance, Social Security Administration, for the diligent effort which has resulted in the draft of proposed guidelines to be used by fiscal intermediaries in determining eligibility in hospital stays for rehabilitation care. These guidelines will do much toward alleviating one situation, namely retroactive denial of reimbursement for provided services, which has been working a severe hardship on a significant portion of Medicare recipients.

Many facilities that meet the proposed definition for "rehabilitation facility" are presently providers of services under other categories. For example, many inpatient facilities are categorized as "specialty hospitals" or "extended care facilities" while a number of outpatient facilities are categorized as "home health agencies."

However, outpatient rehabilitation facilities have experienced great difficulty in providing services as certified home health agencies since their unique service-giving capacity has not been fully recognized under the provisions of Title XVIII. A significant number of rehabilitation facilities are not certified as providers under Medicare. This further contributes to the pattern of geographic scarcity of health care providers that is a major flaw in the health care delivery system. While this amendment will result in a slight broadening of services, it will provide clearer alternatives to high cost hospital care and will help to alleviate the geographic maldistribution of available services that has resulted in a lack of availability of services.

According to the National Center for Health Statistics,* in January 1970 there were 2,311 home health agencies of which 54 percent (1,334) were official state health agencies (public health nurses), 24 percent (552) were visiting nurse associations, 4 percent (102) were combined government and voluntary agencies, 9 percent (202) were hospital based, and the remainder (121) were based in rehabilitation facilities, extended care facilities, retirement villages and in other types of agencies. As these figures point out, the majority of certified home health agencies are public or private nursing agencies that are designed and have the ability to provide services within the patient's domicile. Under the present law free-standing outpatient rehabilitation facilities can only be certified providers of service as home health agencies. In order to operate in an economical and clinically efficient fashion, outpatient rehabilitation facilities must provide services within their own walls. Again, under present law only one component service of rehabilitation, physical therapy, can be provided in this manner.

Due to the different facility utilization patterns which this amendment establishes, the allowable time period for developing a plan covering rehabilitation services is extended from 14 days in the case of home health agencies to 30 days for outpatient rehabilitation services. The extra time allows for adequate evaluation and to find solutions to logistic problems that may arise such as transportation.

### EFFECT OF PROPOSED AMENDMENT

The proposed amendment would modify Section 1861 of Title XVIII of the Social Security Act by adding a new subsection, Subsection Z, which would establish medical rehabilitation as a specific category of service covered by Medicare and recognize outpatient rehabilitation facilities as primary providers. The amendment delineates the types of services in addition to diagnostic and other physician services to be covered as follows:

1. Physical therapy, occupational therapy and other medically necessary therapies including activities of daily living
2. Speech pathology and audiology
3. Use of prosthetic and orthotic devices
4. Medical social services
5. Required professional nursing care
6. Required drugs, biologicals, supplies, appliances and equipment.

### BENEFICIARIES

The adoption of the amendment would most benefit persons requiring medical rehabilitation but who do not require hospitalization or residence in an extended care facility or the services of a home health agency. The amendment also recognizes that in many rural areas and smaller communities these alternate levels of care do not exist and that a person covered by Medicare should not be denied essential rehabilitation services as a result. It is estimated by the International Association of Rehabilitation Facilities that initially in excess of 100,000 elderly persons would utilize rehabilitation services annually under the authority of this amendment at an estimated cost of $50,000,000.

H.R. 1, as passed by the House of Representatives, broadens Medicare benefits to include disabled beneficiaries of Social Security. The Social Security Administration estimates that over one million persons will be brought under Medicare as a result of this change in the law at an overall cost of $100,000,000. While this group will be covered by the amendment, their rehabilitation service requirements will be small. This is because this group is comprised of chronically handicapped persons whose disabilities are relatively stable. The primary rehabilitation service requirements will be infrequent outpatient services. The International Association of Rehabilitation Facilities' cost estimate for outpatient rehabilitation services for this group is $25,000,000.

### COST

All benefits under this amendment would be subsequent to hospitalization and would therefore be Part A benefits. It should be recognized that while the amendment expands benefits as described above, many of its provisions simply codify existing policies of the Social Security Administration under which medical rehabilitation services are provided through hospitals, extended care facilities, and home health agencies. Thus, the principal expansion of service is in the form of outpatient care—the least costly level of care. The International Association of Rehabilitation Facilities estimates that the total additional cost to the Social Security Administration will not exceed $75,000,000 per year. This estimate is probably high since under current practice some patients are retained in high cost hospital beds or extended care facilities as a means of qualifying them for medical rehabilitation services. The coverage of service on an outpatient basis by Medicare will result in somewhat lower utilization of these expensive levels of care. Further, any additional cost to the Social Security Administration will be nominal when measured against the gains in productivity and heightened independence of the people assisted by effective medical rehabilitation.

### CONCLUSION

The experience of the past 30 years shows that early rehabilitation results in savings of both financial resources and human dignity. Dr. Fred Kottke, past president of the American Congress of Rehabilitation Medicine, stated the following in his editorial in the July 1971 Archives of Physical Medicine and Rehabilitation:

"Without regard to the humanitarian consideration of dependency versus function for the victim of the stroke, the public needs to understand that the accumulated data in the medical literature indicates that 50 per cent of the stroke patients who survive for one month will be alive at the end of 3 years. If they remain completely dependent, as approximately one-third of these patients do without rehabilitation, the cost of care in a nursing home is in the range of $8,000 per year, and the three-year cost is $24,000 for maintenance in a state of complete dependent helplessness, discomfort, and unhappiness. On the other hand, rehabilitation after the stage of acute hospital care requires on the average, about four weeks at a cost of approximately $75 per day. Only five per cent of stroke patients who have received rehabilitation remain completely dependent. The cost of nursing home maintenance for these rehabilitated patients varies between $3,000 and $5,500 per year. Even at the higher cost, $5,400 will be saved on each rehabilitated patient, while for those patients who achieve independence the savings will vary from $12,000 to $24,000 per patient.

To paraphrase Dr. Kottke, physical handicaps and resulting disabilities are expensive both in the loss of human potential and in dollars spent on medical care. The most effective method yet discovered for reduction of this loss is a vigorous medical rehabilitation program applied at the proper time. To delay or deny these services costs the American people much more in the end.

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NATIONAL ASSOCIATION OF
HEARING AND SPEECH AGENCIES,
*Washington, D.C., February 18, 1971.*

Hon. ADLAI E. STEVENSON III,
*Old Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR STEVENSON: The National Association of Hearing and Speech Agencies is in full support of the proposed amendment to H.R. 1 which would establish medical rehabilitation including speech and hearing services as a categorical service to Medicare. We also support the provision that would establish rehabilitation facilities as primary providers to the act.

We understand this amendment is being supported by the International Association of Rehabilitation Facilities and the National Rehabilitation Association as well as other national organizations. We wish to lend our full support.

In addition, we should like to recommend that you consider utilization of the quality control offered by the standards of the Commission on Accreditation of Rehabilitation Facilities for medical rehabilitation services, including hearing and speech services, purchased after 1974 or 1975 under Medicare.

Sincerely,

TOM COLEMAN,
*Executive Director.*

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AMERICAN ACADEMY OF PHYSICAL
MEDICINE AND REHABILITATION,
*Chicago, Ill., February 14, 1972.*

Hon. ADLAI STEVENSON III,
*Old Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR STEVENSON: This is to inform you that the American Academy of Physical Medicine and Rehabilitation is in full support of the proposed amendment to H.R. 1 sponsored by the National Rehabilitation Association and the International Association of Rehabilitation Facilities.

The Academy, whose nearly 800 members are board-certified physician specialists in physical medicine, believes most emphatically in the need for the amendment, which would establish rehabilitation medicine as a categorical service under Title 18 of the Social Security Act.

Sincerely yours,

ARTHUR S. ABRAMSON, M.D.,
*President, American Academy of Physical Medicine and Rehabilitation.*

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CHICAGO HEART ASSOCIATION,
*February 16, 1972.*

Hon. ADALAI E. STEVENSON III,
*U.S. Senate,*
*Old Senate Office Building,*
*Washington, D.C.*
Attention: Mr. Jeff Binder.

DEAR SENATOR STEVENSON: The Chicago Heart Association supports the amendment to H.R. 1 fostered by the National Rehabilitation Association and the International Association of Rehabilitation Facilities, which establishes rehabilitation facilities as primary services reimbursable under Medicare and Medicaid regulations.

Sincerely yours,

MARK H. LEPPER, M.D.,
*President.*

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AMERICAN CONGRESS OF
REHABILITATION MEDICINE,
*Chicago, Ill., Feb. 14, 1972.*

Hon. ADLAI STEVENSON III,
*Old Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR STEVENSON: I am writing on behalf of the 1,700 members of the American Congress of Rehabilitation Medicine to advise you of the ACRM's enthusiastic support of the proposed amendment to HR 1 sponsored by the National Rehabilitation Association and the International Association of Rehabilitation Facilities.

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* Health Resources Statistics, Health Manpower and Health Facilities 1970, HEW, H.S.M.H.A., National Center for Health Statistics, February 1971, U.S. Government Printing Office.

The establishment of medical rehabilitative services as a categorical service under Title 18 of the Social Security Act is regarded by our members as absolutely essential if the nation's health care goals are to be realized.

Sincerely,

Leonard D. Policoff, M.D.,
*President, American Congress of Rehabilitation Medicine.*

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Bethesda, Md.,
*February 18, 1972.*

Senator Adlai E. Stevenson,
*Old Senate Office Building,*
*Washington, D.C.:*

The American Speech and Hearing Association supports the general intent of the amendment to H.R. 1 proposed by Senator Stevenson which would designate rehabilitation facilities as primary providers of medical care and health related services under medicare title 28. Such an amendment would enhance the delivery of speech and hearing services to communicatively handicapped Americans by many of the 14,000 members of the association.

Kenneth O. Johnson,
*Executive Secretary.*

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National Rehabilitation Association,
*Washington, D.C., February 16, 1972.*

Hon. Russell B. Long,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Long: We are most interested in the provisions of H.R. 1 which affect disabled people and their rehabilitation and believe that they contain many constructive approaches to the problems of the handicapped.

There are, however, three aspects on which we would like to comment. The first involves the proposed Section 2015 of the Social Security Act which would place on State vocational rehabilitation agencies the responsibility for making disability determinations. That section also provides for the Secretary of Health, Education, and Welfare to pay the State agency for the cost of providing vocational rehabilitation services to the individuals referred who are eligible under the State plan for vocational rehabilitation.

Although there are no age limitations in the Vocational Rehabilitation Act, the objective of that Act is to provide vocational rehabilitation services to fit disabled individuals for employment. Consequently, vocational rehabilitation services are not provided to young children under the State plan for vocational rehabilitation. Appropriate services may be available through other State programs.

We concur with the provisions relating to disability determinations. These are similar in concept to those of Title II of the Social Security Act which are carried out in almost all States by State vocational rehabilitation agencies and which include disability determinations for children as well as adults.

We believe, however, that further provisions may be needed to provide services to young children to prevent or minimize dependency in their adult years. I am attaching a draft which suggests an orderly way of assuring the provision of appropriate rehabilitation services to young children.

Second, we heartily endorse the provisions in H.R. 1 which extend medicare to disabled beneficiaries. We want to point out, however, that rehabilitation facilities are a major service-giving resource for treatment of the disabled and have experienced some difficulties in providing services under the Medicare program since their significance as a unique type of agency in the field of medical care is not fully reflected in Title XVIII of the Social Security Act. We feel that the problem will become more acute with the extension of Medicare to disabled beneficiaries. Consequently, we are joining the testimony of the International Association of Rehabilitation Facilities to the effect that it would be well to recognize rehabilitation facilities as a separate category under the providers of service.

Third, Section 1902 (a) (1) (A) of the Social Security Act provides for entering into cooperative arrangements with State health agencies and State vocational rehabilitation agencies looking toward maximum utilization of their services in the provision of medical assistance. We subscribe to the principle of cooperative arrangements to prevent duplication or fragmentation of services and to make maximum use of all available resources, but we believe that instead of making medicaid residual to vocational rehabilitation services in the field of medical care, vocational rehabilitation should be residual to medicaid. This is consistent with the provisions of H.R. 1 relating to medicare for disabled beneficiaries and the payment for vocational rehabilitation services under Titles XX and XXI.

Sincerely yours,

E. B. Whitten,
*Executive Director.*

## TEMPORARY INCREASE IN PUBLIC DEBT LIMIT—AMENDMENT

### AMENDMENT NO. 956

(Ordered to be printed and referred to the Committee on Finance.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (H.R. 12910) to provide for a temporary increase in the public debt limit.

## ADDITIONAL COSPONSORS OF AMENDMENTS

### AMENDMENTS NOS. 800 AND 801

At the request of Mr. Eagleton, the Senator from Illinois (Mr. Percy) was added as a cosponsor of Amendments Nos. 800 and 801, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

### AMENDMENT NO. 804

At the request of Mr. Tower, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of amendment No. 804, intended to be proposed to the bill (H.R. 7117), to amend the Fishermen's Protective Act.

### AMENDMENT NO. 953

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished Senator from Oklahoma (Mr. Harris), I ask unanimous consent that the name of the distinguished Senator from Indiana (Mr. Hartke) be added as a cosponsor of amendment No. 953, by Mr. Harris.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOTICE OF HEARINGS ON NOMINATIONS

Mr. EAGLETON. Mr. President, the Committee on the District of Columbia will hold public hearings on the nominations of Tedson J. Meyers to be a member of the District of Columbia Council and John J. Gunther and Willie L. Leftwich to be members of the board of directors of the District of Columbia Redevelopment Land Agency on March 6, 1972, at 9:30 a.m. in the committee hearing room, 6226 NSOB. Persons wishing to testify on any of these nominations should contact Robert Harris at the committee office.

## NOTICE OF HEARINGS ON S. 3148—THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1972

Mr. BAYH. Mr. President, as chairman of the Subcommittee to Investigate Juvenile Delinquency, I wish to announce hearings on S. 3148, the Juvenile Justice and Delinquency Prevention Act of 1972. This bill is designed to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency.

These hearings have been scheduled for March 2 and 3, 1972, at 10 a.m. The March 2 hearing will be held in room 2228 New Senate Office Building; the March 3 hearing will be held in room 5110 New Senate Office Building.

Those who wish to file statements for inclusion in the record of the hearings should contact Mrs. Mathea Falco, staff director and chief counsel of the subcommittee at 225–2951.

## ADDITIONAL STATEMENTS

### A HARD LOOK AT ULMS IS NOW ASSURED

Mr. PROXMIRE. Mr. President, the Senate Armed Services Committee announced Friday that it had voted unanimously to turn down the administration's $35 million supplemental budget request for accelerated development of the Navy's ULMS submarine program.

The chairman of the committee, the distinguished Senator from Mississippi (Mr. Stennis), stated that the extra money for fiscal 1972 would be considered in conjunction with—but not before—the $942 million in new ULMS funding requested in the fiscal 1973 Defense Department budget. This action was being taken, he explained, to avoid a premature commitment to ULMS before an in-depth study of the program has been concluded.

I commend the chairman and other members of the committee for this most welcome action. Too often in the past, pro forma approval of initially small money requests has been cited later as evidence of a congressional commitment to dubious new weapon system projects.

And as I have said before, ULMS shows many signs of being a rather dubious project. Not that a follow-on to our Polaris and Poseidon submarines will not some day be needed. But do we need one now, when our present submarines are less than a decade old, when there is no foreseeable threat to their prelaunch survivability, and when they are already programed to have enough firepower to penetrate even a heavy ABM defense?

There may be other problems, too, with the specifics of the administration's request—the cost overruns implicit in the accelerated schedule and new gold-plated design which the Navy has fastened on in recent months; the danger that ULMS itself might be outmoded if an ASW breakthrough does occur; and the prospect that much more sensible alternative sea-based initiatives could still be undertaken at this time.

The committee's in-depth study of the program may convince it that these problems do not exist. It is still early, and I do not want to prejudge the outcome of the committee's investigation. But the committee's recent action has now provided time in which that investigation can proceed, in which the mystery still surrounding ULMS can be brushed away and all the facts laid out. Whatever the merits of the ULMS program itself, the merits of the committee's action are already clear.

I ask unanimous consent that a New York Times article on this subject be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Feb. 26, 1972]

### Senate Unit Bars Submarine Funds

(By John W. Finney)

Washington, February 25.—The Senate Armed Services Committee rejected today the Nixon Administration's request for additional funds now to accelerate development of a new class of missile-launching submarines.

The committee also turned down a request for emergency funds to purchase four 747 jets to serve as airborne command posts and denied the Administration authority to lend seven ships to Spain for 10 years as part of disagreement on military bases.

Senator John C. Stennis, Democrat of Mississippi, the committee chairman, said in an interview that the actions reflected a critical attitude being assumed by the committee toward Pentagon requests for major new weapons.

In a recent speech questioning the need for a $6.3-billion increase in the defense budget, Senator Stennis said that the committee would give "the closest sort of scrutiny" to weapons and manpower programs and that the actions today were the first manifestations of that policy direction.

The committee was also challenging the Pentagon argument that the Soviet strategic build-up necessitated emergency action to accelerate procurement of a new fleet of missile submarines and a squadron of planes to serve as airborne command centers for the President in event of a nuclear attack.

This, in itself, represented a significant change in attitude. In the past such emergency requests, particularly dealing with planes for the President, have generally received the almost automatic approval of the committee.

#### MOVE TO SWAY SENATE

Earlier this year, Defense Secretary Melvin R. Laird asked Congress to appropriate $35-million immediately in supplementary or emergency funds to accelerate devlopment of the new submarine, known as ULMS.

For undersea long-range missile system.

At the time, Mr. Laird said that this "major new strategic initiative" must be undertaken to "signal to the Soviets and our allies that we have the will and our allies that we have the resources to maintain sufficient strategic forces in the face of a growing Soviet threat."

In part, as suggested by the Laird statement, the request for the supplementary funds for the submarine program was designed to influence the Soviet Union to accept a limitation on missile-launching submarines in the agreement on limitation of strategic armaments that the two sides are near to concluding.

A restriction on missile-launching submarines has proved to be one of the major points of difference in the negotiations, and one of the Administration's purpose was to serve notice on the Soviet Union that, if it would not accept limitations, the United States was prepared to go ahead with a new class of submarines capable of firing ballistic missiles at Soviet targets.

Rather than accept this argument, the Senate committee decided to consider the submarine program as part of the regular budget for the next fiscal year, starting July 1. Senator Stennis explained that the committee had decided unanimously that such a major new weapon program required "further in-depth hearings."

In addition to the supplementary funds, the Administration has requested $942- million in the regular budget for the submarine program, representing the first big installment on a weapon system that will cost billions of dollars.

The new submarine, each of which is expected to cost nearly $1-billion, is designed to replace the present Poseidon vessel. Mr. Laird has estimated that the accelerated development sought by the Administration this fiscal year would permit the first submarine to go into operation in 1978, two to three years ahead of the present schedule.

#### SOVIET "THREAT CITED"

The committee similarly deferred until the regular budget consideration of the Administration's request for $128.8-million in supplementary funds to start purchasing four Boeing 747 jumbo jets to replace the current fleet of Boeing 707 airborne command craft.

In requesting the emergency funds, Mr. Laird expressed concern that the present emergency command system could be paralyzed by the electro-magnet pulses given off by large nuclear explosions and said, "The growing threat from Soviet strategic forces makes early improvements to our national command and control system imperative."

Senator Stennis said the committee took the position that purchases of the planes had not been authorized by Congress and that there was no emergency dictating an immediate start on them.

#### FIVE-YEAR LIMIT IMPOSED

Technically, the Pentagon had not asked the Senate committee for legislative authorization for the supplementary funds. Rather, it had sought the committee's informal approval. In view of the committee's action, however, it was regarded as doubtful that the Senate Appropriations Committee, of which Senator Stennis is a senior member, would approve the requested funds.

In an attempt to impose some Congressional constraints on the Administration's ability to enter into military agreements with other nations, the Armed Services Committee also approved a bill placing a five-year limit on the loan of 10 destroyers and six submarines to Spain, Turkey, Greece, South Korea and Italy. The Administration had asked authority to lend the ships for five years, with the President having the option to extend the lease for another five years.

In legislation passed late last year, the House imposed a four-year limitation on the loan of the ships. In opposing the restriction, the Defense Department contended that it would make it difficult to carry out a 1971 agreement extending American base rights in Spain. In the executive agreement, the Administration, without informing Congress, promised to lend Spain five destroyers and two submarines for up to 10 years in return for a similar period of base rights in Spain.

Senator Stennis said the committee took the position that, if the Administration wanted to extend the ship loans beyond the five years, it should come back to Congress for Approval.

## CARL HAYDEN OF ARIZONA

Mr. AIKEN. Mr. President, of all the men who have served in the U.S. Senate, none has been held in greater respect than Carl Hayden, of Arizona.

Representing his State from the time of its acceptance into the Union, Carl not only was a distinguished Representative for Arizona, but as time went on, after he came to the Senate, the entire Nation looked to him for guidance and consideration.

As chairman of the Committee on Appropriations in his later years, he carefully considered all requests for appropriations from every part of the country and, provided their requests were reasonable, was helpful to needy States and communities which otherwise might have been left out in the cold.

This is not to say that he was wasteful, because he recognized the value of a dollar full well.

In Senator Hayden's passing, not only the people of Arizona but also the people of innumerable communities and many States lost a respected and understanding friend.

The country would be better off if we had more Carl Haydens to take his place.

## PATHWAY TO JOBS, NEW PROGRAM BY WBAL–TV, BALTIMORE

Mr. BEALL. Mr. President, I recently received an announcement by the Maryland State Department of Education with respect to a new series undertaken by WBAL–TV of Baltimore, Md.

This series, entitled "Pathway to Jobs," began on February 20 at 3 p.m. and will continue for a period of 12 weeks.

The television series aims to show prospective high school graduates how to secure employment and what is expected from employers of them. The series was assembled jointly by WBAL and the American School Counselors Association with the cooperation of a number of commercial and industrial employers. I salute all of those responsible for this program. It illustrates a needed and creative use of television.

## INTERSTATE COMMERCE COMMISSION'S INVESTIGATION OF DAMAGE CLAIMS

Mr. MANSFIELD. Mr. President, one of the most persistent complaints I have received from my constituents in Montana is the problem of obtaining satisfactory compensation for cargo loss and damage claims. In recent years, it seems that all of the responsibility has been placed on the shipper with little liability insofar as the carriers are concerned. I believe that this is entirely the wrong approach. The carrier has a definite responsibility to the shipper, and he should be required to handle the cargo properly; if not, he must be responsible for any damage. As I have indicated on several occasions, I am quite concerned about the deterioration of shipping in this country.

The Interstate Commerce Commission, I am pleased to report, has instituted an investigation into current practices of regulated carriers. I wish to compliment the Commission for its initiative in this area because this is the kind of thing the Commission should be doing in fulfilling its responsibility in regulating surface transportation.

Mr. President, I ask unanimous consent that the text of the letter circulated on February 24 by Chairman George M. Stafford be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INTERSTATE COMMERCE COMMISSION,
*Washington, D.C., February 24, 1972.*

SIRS:

This Commission is alarmed by the mounting frustration and dissatisfaction associated with cargo loss and damage claims involving carriers subject to our regulation. Indeed, during the period January 1969 through March 1970 we received 25,294 individual pleas for assistance concerning various facets of the problem. We were also deeply concerned when associations of railroads, motor carriers, and freight forwarders adopted, on their own, rules purporting to restrict their members' liability on cargo claims for concealed loss or damage.

As a direct result of these concerns, we instituted an investigation specifically designed (1) to inquire into the nature of all claims rules and practices of regulated carriers; (2) to investigate the effect of such rules and practices; (3) to determine this Commission's jurisdiction with respect thereto; (4) to consider whether we should adopt rules and regulations governing these and other matters relating to the handling and processing of loss and damage claims; and (5) to take such other and further action, including the possible recommendation of any legislation, as the facts and circumstances may justify or require.

I am pleased to enclose a copy of our completed report in Ex Parte No. 263, Rules, Regulations and Practices of Regulated Carriers with Respect to the Processing of Loss and Damage Claims, which thoroughly treats the above-mentioned considerations. Also enclosed is a copy of our news release of this date concerning the report.

Drawing on the full measure of the powers conferred upon this Commission by the Congress, we have prescribed claim-processing standards to be observed by regulated carriers. Under these standards, carriers are required to acknowledge receipt of each loss and damage claim and to complete the investigation and disposition of claims promptly. Carrier rules and practices contrary to or inconsistent with their duties as regulated carriers are found to violate the Interstate Commerce Act and are ordered discontinued. Further, carriers have been ordered to file for review by this Commission any rules and regulations they may promulgate concerning the processing of loss and damage claims and any agreements with respect to claims matters.

Perhaps the most compelling and troublesome issue presented in Ex Parte No. 263 is the injustice inherent in the inability of shippers and receivers of freight to obtain prompt and effective redress for disputed claims attributable to lost or damaged shipments. The major quarrels shippers and receivers have with the presently available judicial avenue to an impartial determination as to the merits of a disputed claim include: (1) the overall cost of litigating a claim usually exceeds the amount recovered; (2) it is frequently necessary to engage an attorney whose fee alone may well exceed the amount in controversy; (3) attorneys' fees are presently not recoverable in claims litigation; (4) since the average amount in dispute is usually less than $100, there is an open invitation to the unscrupulous to unfairly decline responsibility for damage on the theory that the claimant cannot afford to litigate the matter; (5) personnel in key production positions can seldom be spared to testify in court trials; (6) the length of time required to conclude litigated claims occasioned by heavily congested court dockets results in a significant burden; (7) courts with their jurisdictional boundaries are unable to direct a meaningful nationwide effort to improve the cargo claims situation; and (8) strict accountability for cargo claims is most difficult, if not impossible, to achieve.

After exploring the possible alternatives to the vexing problems described above, including compulsory arbitration and no-fault insurance, we concluded that disputed claims should be submitted for determination by this Commission in the first instance under a simplified procedure. Such determination would be based principally upon documentary evidence in order that the expenses, attorneys' fees, and lost production time of key personnel necessitated by presentation of evidence in court or before an arbitrator could be avoided. As a positive adjunct to this procedure, meaningful data on claims could be gathered and electronically catalogued in order to define particular problem areas. On the basis of this information particularized claim-prevention programs could be implemented on a national scale.

A specific legislative recommendation is made a part of the report (see Appendix F, Part 1) which, if enacted into law, would vest in this Commission authority to adjudicate in the first instance all unresolved cargo loss and damage claims filed against carriers subject to the Interstate Commerce Act. In the manner more fully described in the report, the prompt, impartial adjudication of cargo claims and electronically cataloguing claims data can serve a threefold purpose: It would provide an effective legal remedy to claimants where none now exists; the administration of justice would be more efficiently achieved in a factually technical area of civil litigation; and valuable data could be gathered on a national scale which may be employed to develop a national policy with respect to the prevention of cargo loss and damage claims and the consequent waste of our Nation's resources.

While this Commission is convinced of the need to adopt the proposed bill vesting claims jurisdiction in it, the task cannot, in all candor, be undertaken with our current manpower and budgetary resources. Without tools commensurate to the task, we could not be expected to achieve any worthwhile or lasting improvement in the perennial loss and damage claims problem.

In a second specific legislative recommendation, the Commission places before the Congress for its consideration, a proposal to allow this Commission to adopt regulations to require maintenance by rail and water carriers subject to the Act of adequate insurance to protect the shipping public for loss and damage claims. Pursuant to existing authority this Commission presently requires motor carriers and freight forwarders subject to parts II and IV of the Act to maintain sufficient insurance in this respect; the proposed legislation (Appendix F, part 2) would extend the power to carriers subject to parts I and III of the Act. In other portions of our report we reiterate our position on attorneys' fees legislation which already is well known to the Congress; pitfalls of creating courts of limited jurisdiction to deal with cargo claims matters are examined; we pledge to institute a rulemaking proceeding for the purpose of investigating reasonable dispatch in the transportation of perishable commodities; and the practices of carriers in inspecting commodities and packaging when they are involved in concealed loss and damage claims are analyzed.

Many of the inquiries you may have received from your constituents have been answered or commented upon in the enclosed report. To the extent, however, that the powers of this Commission do not go far enough to provide effective remedies for dealing with the discontent that prevails throughout the country in these cargo claims matters, this Commission has endeavored to meet its duty to the Congress and the public by responding to what it concludes is a public demand and need for remedial legislation in the claims area.

If you have questions not covered by this letter, I shall be happy to forward a prompt reply.

Sincerely yours,
GEORGE M. STAFFORD,
*Chairman*

## RADIO FREE EUROPE AND RADIO LIBERTY PROMOTE DETENTE

Mr. PEARSON. Mr. President, I observe that time is running out for the two "Radios" which constitute the best link available between the West and the peoples of Eastern Europe and the Soviet Union.

The operation of Radio Free Europe and Radio Liberty are an essential ingredient to meaningful detente in Eastern Europe. These radios reach out to the peoples of the put down nations of the East. They give them information about developments which are likely to affect their lives. All too often these peoples are denied such news by the censorship of their totalitarian Communist governments.

It is conceded that these radios are not cherished by the states of Eastern Europe or the Soviet Union. However, the fact that these governments do object to the broadcasts, and that the broadcasts have a regular audience of 30 million in Eastern Europe alone, suggests the extent of their appeal.

The Eastern European nations have resorted to expensive measures to stop the broadcasts of the radios. They have jammed them at huge cost and have even attempted retribution. With the West German Government's recent initiatives or "Ostpolitik" there arose a chorus of Eastern European governmental demands for the demise of Radio Free Europe. But the Germans have held firm. They recognize that these radios are not at all injurious to detente but, in fact, serve to promote it.

The opponents of RFE and RL have questioned their effectiveness by suggesting that they cannot get support for their operations from NATO power governments. Let me point out that these governments have their own radios which are intended to serve their national interests quite specifically. The peoples of Eastern Europe know this. The character of Radio Free Europe and Radio Liberty would be quite changed and its credibility to the Eastern Europeans diminished if its funding were to fall to governments whose historic relations with the East may be less than fondly remembered. The nonofficial funding from the United States, plus the Radios' several decades of objective reporting, have resulted in their remarkably great credibility and widespread use among the peoples of Eastern Europe and Russia.

Several Senators have raised objections to the fact that the Radios have received funding through the Central Intelligence Agency. I do not believe that such funding has forever tainted these Radios. Strong evidence would suggest that the audiences in Eastern Europe and the Soviet Union continue to evaluate the broadcasts they receive on the basis of content alone. They have continued to listen to the Radios and have—in a number of cases—sent messages of distress at the prospect of their termination.

I believe that it would be a squalid breach of faith for the Congress of the United States to deny millions of Eastern European and Russian listeners their sole source of uncensored information about the world they live in. This blow, in my opinion, would adversely affect the diplomatic moves now being undertaken by our President with regard to the Soviet Union.

Detente, if it comes, will be the widening of the West's contacts with the East. Surely, it does not imply that we must aid the totalitarian governments of the Communist nations in their intent to keep their peoples sealed off from the West. Detente must lead to the exchange of words and ideas, and of goods and peoples. And this I submit is the essential business of Radio Free Europe and Radio Liberty.

The atmosphere between East and West today does not require us to demonstrate our willingness to talk. We are ready. The Russians are ready. Discussions at the highest level are scheduled for mid-May in Moscow. Any idea that we should allow Radio Free Europe or Radio Liberty to cease broadcasting now is gratuitous. It would be without reward for improved East-West relations.

I urge the Senate to call for an end to the deadlock of the conference committee and pass a bill which will fund these excellent Radios for the duration of this fiscal year and for a second fiscal year as well. I applaud the fact that we have terminated their funding from CIA, but I cannot approve their demise. It would be my hope, Mr. President, that the Senate will exhibit the leadership appropriate to save these Radios from an untimely death by neglect.

## ABUSE OF ELECTION CAMPAIGN FUNDS

**Mr. FANNIN.** Mr. President, the Federal Election Campaign Act of 1971 is one of the most dismal pieces of legislation enacted by Congress. It was supposed to provide campaign reform. Instead, it will encourage the continuation of the greatest campaign abuse in our Nation.

Labor unions will continue to exact funds from their members, and these funds will be allocated by the union leaders to the candidates of their choice. We have not taken a step forward in reforming our campaign system; we have slipped backward.

Mr. President, this fact was brought sharply into focus in a column by Victor Riesel. I ask unanimous consent that Mr. Riesel's column, published in the Arizona Republic February 18, 1972, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### UNION DUES FOR POLITICAL ACTION

WASHINGTON.—It's a happy band of political warriors who are gathered in the snug Bal Harbour Fla. midwinter war council headquarters these days. They are labor's most influential chiefs.

For the first time in generations they can legally plan to raise and spend as much as $100 million in a presidential year to defeat those they consider their enemies (Richard Nixon) and to reward their friends (most of Congress).

For the first time there appears little doubt they can use their central union treasury dues money for direct action in federal elections.

And they can use these dues dollars to set up separate political organizations, nonpartisan leagues—with such acronyms as COPE units, SPAD outlets, DRIVE committees. And labor leaders can spend time directing these units while being paid by their unions.

It will all be very legal to use union dues for such political action beginning 60 days after Feb. 7, going into effect then will be the Federal Election Campaign Act of 1971. It's all there in the small print.

What it says in effect is that members' dues can be used for direct political communication with members and their families to fund the creation of separate committees dates in the primaries as well as regular elections. And the dues money can be used to fund the creation of separate committees —which was illegal under the 1947 corrupt practices section of the Taft Hartley Act.

There are some meaningless conditions. The new law says no union officers can threaten a member with violence or hit him or threaten to have him fired or discharged if the member doesn't contribute voluntarily.

The funds of the committees such as COPE, the AFL–CIO's Committee on Political Education—headed by George Meany himself—must be segregated, not commingled with regular union funds.

But the union officials can commingle. Such a powerful labor chief as the Seafarers' Paul Hall, who also heads the 8-million-member AFL–CIO Maritime Trades Department, can as the Seafarers' president and as an AFL–CIO vice president also head SPAD—Seafarers Political Activity Donation Committee.

There will be some contraversy over reports that the labor movement—and this means the independents: the Teamsters, the Auto workers and the Miners, et al.—will spend scores of millions of dollars this year on municipal, state, and federal elections.

Notice a Jan. 24 letter dispatched by the militant Al Shanker, president of United Federation of Teachers (NFT) Local 2 of Dave Selden's American Federation of Teachers (AFL–CIO).

The communication reports that the union's "Delegate Assembly of the UFT overwhelmingly voted to endorse the collection of $10 from each UFT member for COPE . . . I urge you to give $10 to COPE."

There are 75,000 members of Local 2. They therefore are being asked to raise $750,000. Even if the drive falls short, they will still raise half a million. And this is only one local, albeit the nation's largest.

* * *

And there are some 50,000 to 60,000 local unions in the U.S. Certainly not all of these wil' collect $10 from each member (of whom there are some 20 million). But the money will roll in.

In the 1968 presidential campaign, Meany's COPE and local unions distributed 115 million pamphlets and leaflets attacking George Wallace and Richard Nixon and praising the erstwhile vice president.

And on election day COPE had 94,457 men and women running car pools, acting as baby-sitters, doorbell-ringers, and literature distributors. And there were special units in 31 large concentrated black communities.

## FEDERAL DEFICITS: WHO'S RESPONSIBLE?

**Mr. MOSS.** Mr. President, much has been said in the press recently about the Democratic Party's financial problems, especially its difficulty in raising funds for this year's presidential campaign. All too little attention, I believe, has been focused on the Republican debt of the last 3 years.

I am not talking about their party treasury. Everyone knows that Republicans can draw on the biggest fat cats in the country to support their ticket. What I am talking about are the taxpayers' debts, something with which we all have to contend. According to the President's most recent budget message, joblessness, alone, will have added an astounding $84.6 billion to the national debt by the end of the next fiscal year.

This kind of figure must have a devastating impact on citizens who have had to scrimp and save during this country's recent hard times. It is not enough, however, to express concern. We have got to get to the root causes of these massive deficits.

To begin with, I do not think the present administration can pass the buck any longer on the country's economic and fiscal condition. To continue to blame previous administrations for the big Federal deficits is an insult to the intelligence of the American public.

The overriding cause of the deficits is massive unemployment. The President's own budget message makes that point all too clear. If the administration's economic policies had done what the President predicted, if joblessness had been kept to the 4-percent level—instead of being allowed to rise and hover at the 6 percent level for all these long months—the deficits would not have arisen. Full employment revenues would have wiped out the red ink. During fiscal 1971 and 1972, and as projected for 1973, $84.6 billion of the expected $87.3 billion deficit has been caused by high unemployment.

Nor can the administration blame the Democrats for the other half of the Government's fiscal picture: spending. Since the Republicans took office in 1969, the Democratic-controlled Congress has consistently appropriated less, not more, than President Nixon has requested. In fiscal 1970, Congress cut the President's budget proposals by $8.27 billion. The following year it cut them by $3.5 billion. In the current fiscal year, Congress is expected to cut Mr. Nixon's spending proposals by $2.8 billion.

But the real villain in the last 3 years has been joblessness. Unemployment and lagging production have so cut the Nation's tax base that a balanced budget is almost out of the question. With unemployment at its highest level in a decade, with more than 5 million men not working, with only 72.3 percent of our factory capacity being utilized, it is not hard to figure out what is happening to Federal revenues. There is simply not enough income to tax.

When it comes to joblessness, the record also shows clearly where the responsibility lies. When President Nixon took office in January of 1969 the economy enjoyed essentially full employment. Twenty-eight months later, poor executive management has brought the Nation to the highest unemployment rate since the Eisenhower recession of 1960.

In the face of this sharp rise in joblessness, the administration adamantly refused to act. Following his now discredited game plan the President vetoed the accelerated public works, a bill which would have given work to over 200,000 American workers in cleaning up the environment and constructing needed public facilities. In December of 1970, the President vetoed another bill which would have produced an equal number of public service jobs. Even as late as July 1971, the President threatened to veto the Emergency Employment Act of 1971, a modified version of an earlier manpower bill. By that time, however, the economy had gotten to a real emergency situation. The administration had no choice but to abandon its resistance to direct Federal action on the employment problem.

Unemployment is certainly not the only crippling economic blow the economy has suffered since this administration took office. In the short space of 3 years, we will see the greatest peacetime Federal deficit in history, the greatest international payments deficits in history, and the first time since 1893 that the United States imported more than it exported. All of this comes in addition to the highest unemployment in 10 years and the worst price inflation in 20. If that is fiscal responsibility, spare us from the irresponsible.

## NOMINATION OF RICHARD KLEINDIENST TO BE ATTORNEY GENERAL

Mr. DOMINICK. Mr. President, I am pleased to support President Nixon's nomination of Richard Kleindienst to the office of Attorney General. His record, both in private life and since he has been in Washington, demonstrates that he will be an excellent Attorney General, as was John Mitchell. His academic record is distinguished; his reputation as a practicing lawyer is excellent; and his performance as Deputy Attorney General has been superb.

I am aware that some of the media—particularly the Washington Post—may not share my view that he has been an excellent Deputy Attorney General and that he will be an excellent Attorney General. I would be nervous if they did. I would suggest, however, that anyone who has not made up his mind in this regard, and is interested in doing so objectively, should look at Mr. Kleindienst's record rather than at the editorial page of the Post.

Mr. Kleindienst's record at the Justice Department speaks for itself. Under the Attorney General's and his own leadership, the Department made unprecedented progress in a number of important areas. A large portion of the Department's increased budget—$437.5 million in 1968 to $1.5 billion in 1972—has been used to finance improvements in police agencies, courts, and correctional systems at the State and local level through the Law Enforcement Assistance Administration. The new strike force concept, in conjunction with the Organized Crime Control Act of 1970, has had a substantial impact on organized crime. Nearly 5,000 defendants in Federal organized crime cases have been indicted over the past 3 years. About 600 indictments were returned against more than 2,000 defendants in 1971. This compares with 296 indictments against 800 defendants in 1968.

Significant progress has been made against drugs through implementation of the Comprehensive Drug Abuse, Prevention, and Control Act of 1970, and through agreements with France, Turkey, Mexico, and Canada to cooperate in slowing down illegal international drug traffic.

The Department has continued to move forward in the area of civil rights. In 1969, 186 suits were filed dealing with housing, public accommodations, criminal interference, and school desegregation. The comparable figure in 1968 was 131. The antitrust laws were likewise aggressively enforced.

The Washington Post's editorial coverage of Deputy Attorney General Kleindienst does have some amusement value, though. It is no secret that the editors did not look with favor on his appointment. They took every opportunity to foster, if not create, the "Mr. Tough" myth about him. It is interesting to note that those who know something about him say that while he is indeed outspoken and forceful, he has a good sense of humor and is tolerant of views differing from his. Perhaps the Post prefers public officials who are less candid.

In any event, the first issue the Post seized upon to illustrate their "Mr. Tough" characterization of him was the Justice Department's time-log project which required attorneys to fill out daily sheets indicating the time allocated to each category of cases worked on. Even though similar time-accounting systems have long been utilized by private accounting and legal firms, as well as by the Agriculture Department, the Interior Department, and the Federal Aviation Agency, the Post accused Mr. Kleindienst of "bureaucratic nitwitism" and suggested that the attorneys should refuse to cooperate. This issue—if it can be called an issue—received more attention from the Washington Post than any other in which Deputy Attorney General Kleindienst has been involved.

This is interesting, as well as amusing, for several reasons. First, the Post chose not to mention that the time-log project had, in fact, been formulated by the Director of the Administrative Division under Attorney General Ramsey Clark. Deputy Attorney General Kleindienst had merely not stopped its implementation. That so much editorial space was devoted to such a trivial matter suggests either that there were not any important issues to write about in 1969, or that the Post was really "gunning" for the Deputy Attorney General. More significantly, if the time-log project was the biggest fault the Post could find with the Deputy Attorney General during his more than 3 years of helping to administer one of the most controversial Federal agencies, he must have been doing a pretty good job. Finally, the fact that Mr. Kleindienst was able to ignore this niggling, carping kind of criticism shows that as well as being a competent administrator, his powers of restraint are nothing short of remarkable. If the past is any guide, those powers will be severely tested in the future.

Mr. President, I am pleased that his nomination was reported unanimously by the Judiciary Committee, and I am confident that it will be quickly confirmed.

## GOVERNMENT SUBSIDIES: WHO GETS THE $63 BILLION

Mr. PROXMIRE. Mr. President, in January the Joint Economics Committee published a staff study entitled "The Economics of Federal Subsidy Programs." The study, on a long-neglected subject, has aroused great interest in the press, among economists and scholars, and among the public at large. It is a valuable piece of work prepared by Mr. Jerry J. Jasinowski and Dr. Carl Shoup.

It found and identified, as a preliminary figure, some $63 billion in Federal subsidies. And this is a rock bottom preliminary, conservative figure. As time goes on billions will be added to the amount as additional programs and subsidies are identified.

Now Mr. Taylor Branch, an editor of the Washington Monthly, has written an article for the March issue entitled "Government Subsidies: Who Gets the $63 Billion?" Mr. Branch has taken the cold figures and statistics in the Joint Economic Committee study and translated them into a bright, interesting, and revealing article. He has popularized this otherwise dry-as-dust subject in a way that is needed if the public is to be informed and aroused to do something about those subsidies which are excessively costly, which fail to meet the purposes for which they were originally designed, or which end up as windfall profits in the pockets of those who were originally not intended to receive them.

I ask unanimous consent that this interesting and lively article by Mr. Branch be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### GOVERNMENT SUBSIDIES: WHO GETS THE $63 BILLION?

(By Taylor Branch)

Ever since Teapot Dome, the average man and woman have suspected that there must be a more satisfying way to do business with the government than just paying taxes, and they dream of more lucrative government securities than their W–2 forms. The average man is beginning to reconsider the longstanding public consensus that the corridors of independent business are the best path to riches. To be sure, his actual contact with the authorities still consists primarily of draft notices and Series E savings bonds and license plate lines at city hall, fully in keeping with the grim reputation of the law and its servants. But he has a feeling that there is something more behind the impoverished look of the postman and the tribulations of the policy analyst—something to explain why campaign contributors seem content with their investment even after suffering the skyrocketing costs of a share in a political candidate, and why today's hustler is likely to be a junior pol instead of a junior salesman. He sees through the loopholes and wired contracts only dimly, but every time he sets out into private enterprise to seek a fortune where it is supposed to be, the crosshairs of some farsighted financial instinct intersect over a public coffer. Although he is not quite ready to turn his stockbroker or his time card in for a lobbyist, something in his bones says that the last rainbow has plunged into Washington and that others have beat him to a treasure which he does not yet fully understand.

These inklings of the average man were recently firmed up by solid evidence in a historic study by Senator William Proxmire's Joint Economic Committee. Proxmire's staff man Jerry Jasinowski has been working for more than a year to assemble a compendium of all large government subsidies—all the modern opportunities for the informed person to beat the IRS by taking home more than he sends in. Jasinowski says that his work so far has merely "dented the surface" of money paid to special groups, but his preliminary figures show that more than $63 billion in subsidies flows from the federal government out through particular veins in the economy every year. The discovery of this huge sum—about one fourth of the total federal budget, and growing—promises to have a jolting impact on the way we think of public economics.

Economists have always focused on the broad government policies designed to promote the general economic welfare, as opposed to the more individually tailored benefits which now seem to weigh heavily in the budget. (As economist Carl Shoup told the Proxmire committee, "Federal subsidies are the great fiscal unknown. The federal budget presents no comprehensive summary of subsidies. Most public finance textbooks in the United States either do not even list the word 'subsidy' in their indexes or give only a page or two of reference. There has been no monograph on subsidies in the English language—there are several in German—until the recent work of this committee.") The folklore of capitalism has apparently wiped the idea of a government handout from the minds of economic scholars, but the Proxmire study may one day be looked back upon as a declaration both of *de facto* socialism and a fundamentally inequitable formula for socialist distribution.

### RISING BRIBES AND SUBSIDY'S COUSINS

The Joint Economic Committee defines a subsidy as any government financial assistance aimed at inducing particular private groups to alter their behavior in the marketplace, and the value of the subsidy is that portion which is "undeserved" by the harsh standards of private enterprise.

Subsidies can take the form of direct cash payments, such as a $5 million bonus for dairymen and beekeepers meted out by the Agriculture Department. There are also "back door" tax subsidies, such as a $55 million boost for companies that operate primarily in Latin America or the $1.5 billion depletion allowance for the oilmen and their mineral colleagues. There are all kinds of credit subsidies, such as the $179 million Rural Electrification program, which has been putting up telephone poles out in the country since the Depression. Finally, the government provides "benefit-in-kind" subsidies by buying and selling goods and services on more favorable terms than the customers could find on the market. If you know how to tickle the right places in the Agriculture Department, for example, you may get the government to build a lake on your land at far less than cost under the $78 million Watershed Works of Improvement program.

The volume of payoffs in the Proxmire study becomes even more remarkable when you consider the sums that the Joint Economic Committee has omitted for various reasons. The survey does not include outright welfare payments and transfer payments, such as the $9 billion federal share of public assistance and all of Social Security. "We want to be able to distinguish between government assistance that is ostensibly buying something for the money, as with a subsidy," explains Jasinowski, "and welfare payments that are only meant to improve the living standard of the poor or disabled. The two should be evaluated somewhat differently; the subsidy is successful if it gets the market performance it bargained for as cheaply as possible, whereas a welfare payment is successful if it efficiently redistributes income to the poor. Of course, a subsidy program that yields no return to the taxpayers may in effect only be transferring income to the wealthy, in which case we have a welfare payment to the rich." If welfare payments are defined out of the study, others are abandoned because of measuring difficulties. For example, the $63 billion does not account for waste, a comprehensive program by which the government pays more than it should (often intentionally) for items like weapons systems and operations research analysts. Nor does it include a wide range of what Jasinowski calls "regulatory subsidies," such as trade restrictions, licensing policies, and industry regulation—most of which amount to indirect payments from consumers and taxpayers to special groups. The oil import quota system alone is estimated to place about 5 billion regulatory dollars in the accounts of the petroleum industry each year. When you add waste and welfare and quotas and pensions to the at least $63 billion uncovered thus far in intentional subsidies, it is safe to conclude that the federal government had its discretionary teeth deep into the little fibers of the economy long before the wage-price controls.

Of course, it it no news to discover that the government plays a large role in the economy—ever since President Kennedy had to roll out the nukes and the space ships to achieve prosperity, the private economy has seemed lame in spots. But the new, vitally important contribution of the Proxmire effort is that it will begin to show in detail exactly how the budget affects people in all their individuality.

That is where the average man should perk up, for he can use the preliminary Proxmire findings to calculate that his interests are not uppermost in the minds of those who design subsidies. For every one of those controversial programs that give aims to the poor or to him, it turns out there are several that grant blessings primarily to those with incomes above the $10,000 median citizen. Although high incomes are supposed to make people bribe-proof and relatively immune to material weaknesses (as is frequently asserted by congressmen who want their salaries raised), this principle has not yet drifted out into the population at large, where bribes, like champagne, remove scruples in proportion to the amount of the luxury consumed. The average man, having learned not to expect decent, honest treatment from any association of professionals and degreeholders (that he is not a member of), having realized that truly remunerative work is one part show business and two parts terminology, and having divined that complaints about problems like unsanitary food only bring a diet of more chemicals, is now confronted with documentary evidence that he is being screwed by the government buck. Like hot air, the federal dollar floats upward, attracted by large buildings, as the average man contemplates from the bewilderness.

### THE FOOD TRANSFUSION

As he scrutinizes the Proxmire report, the average man's mind may dwell on all the reminders of subsidies that he encounters in his day. His contact with subsidy program begins early in the morning when he is likely to eat a Wheatie, and thus becomes acquainted with an agricultural subsidy structure that the study puts at $5 billion a year. (The Nixon Administration plans to increase this figure by about $700 million next year.) In addition to these payments, federal crop limitations have the effect of raising all crop prices about 15 per cent above the market level. This costs people who don't grow their own food about $4.5 billion annually—so that the combined payment and control programs for agriculture take about $10 billion to the farm every year.

Economist Charles Schultze, former budget director under President Johnson, has completed perhaps the first precise measurement of the effects of this $10 billion on the distribution of farm income. He shows that the wealthiest seven per cent of farm families receive federal benefits averaging $14,000 apiece (raising their net farm income from $13,400 to $27,500), while the poorest 40 per cent receive an average benefit of $300 (boosting them to a net farm income of $1,100.) Schultze also calculates that the poorer half of the farm population receives 9.1 per cent of the total federal subsidy, while the wealthiest 19 per cent takes home 62.8 per cent of the federal money.

The average man may have trouble with his breakfast as he ponders the figures. His government is selecting the richest farmers, with market incomes already above his own, and writing checks to double their pay up to $27,500. Thus, Uncle Sam places these farmers in the top five per cent of families by income in the United States. (In 1970, only six per cent of all families had total money earnings greater than $25,000.) Meanwhile, the small farmer—for whose protection the entire system was ostensibly designed—receives only miniscule tribute. The arrangement appears especially senseless when one reflects that the government could take the $5 billion in direct payments alone and distribute an income floor of $3,000 to the smallest 1.8 million farmers who comprise 60 per cent of the total. Food prices would fall an average of 15 per cent without the government production controls, and the benefits of this $4 billion saving would accrue most heavily to the poor because people spend a declining fraction of the family budget on food as income grows. The abolition of price supports would be like repealing a 15 per cent sales tax on food—a tax now collected basically according to the need to eat and distributed to farmers according to their volume of production.

### A BOOST FOR KEY BISCAYNE

After breakfast, the average man may pause on his doormat to consider the $8,425 billion in housing subsidies that staff man Jasinowski has unearthed. Congress has been passing laws since 1949 declaring universally adequate housing to be a national goal, and most people, supporting this endeavor, have been distressed that an invisible wrecking ball has laughed at the effort. From the plans of every low-income unit and public housing formula has mushroomed a high rise, from every model city a shopping center, until the unhoused poor fear urban renewal more than they fear the landlord. But at least the generous citizen feels a murmur of warmth because the purpose has been noble and the subsidies aimed at those who need them.

The oldest housing subsidies, however, may have escaped his attention: the federal income tax deduction for property taxes and mortgage interest payments, two stimulants for home-ownership hidden in the tax laws. The distributive effects of these subsidies, which are available only to those who itemize deductions, have been pointed out repeatedly by former Assistant Secretary of the Treasury Stanley S. Surrey. In 1968, Surrey succeeded in persuading the Treasury to begin publishing an annual compendium of "tax expenditures," reasoning that all deductions and exemptions are equivalent to direct government appropriations and should be evaluated in the budget as if the taxes had been collected and then paid out to the beneficiaries of the tax breaks. Surrey's demystification of the mortgage interest deduction, for example, shows how the current program would be designed if it were transferred over to the Department of Housing and Urban Development:

For a couple making more than $200,000 a year, HUD pays the bank about $9,800 of the mortgage interest payments on their $200,000 home.

For a couple making $25,000 a year, HUD pays $1,000 of the interest payments on their $50,000 home.

For a couple making $10,000 a year, HUD pays the bank $350 of the interest on their $25,000 home.

For a couple too poor to pay income tax, HUD pays nothing to the bank at all, leaving the couple to talk things over with the loan officer.

The same formula now applies to all property taxes: the federal government pays 70 per cent of local taxes and interest payments for the rich, 20 per cent for the average man, and nothing for the poor.

If itemizing homeowners are increasingly pleased with this law as their incomes rise and their houses expand, so are the bankers. The Treasury's generous underwriting of borrowing costs increases the demand for bank money, drives up the interest rate, and generally increases the return to capital in the economy.

The property tax and mortgage interest deductions cost $5.4–5.7 billion annually, as calculated by Jasinowski and the Treasury Department. Treasury estimates indicate that about 70 per cent of the tax assistance goes to families with incomes greater than the average man's $10,000. *And these two tax subsidies give away more housing money every year than all the grand housing laws of the last twenty years combined.*

Although the distributive effects of these tax subsidies may deflate the average man's pride in the public crusade for universally adequate shelter, he may still applaud the objective that was in mind when the subsidies were created, namely, to increase home-ownership. But the payments are grossly inefficient because they fail to concentrate benefits on those people who would *not* own a home if their subsidy were a bit smaller and on those who *would* own a home if their subsidy were a bit larger. Instead of pinpointing assistance for those who are in need of shelter, the program now gives far more help to those in need of a winter home in Key Biscayne or even a third hideaway in San Clemente—more for a sitting room than for a furnace, more for an orchid greenhouse than for indoor plumbing. By conferring the vast preponderance of assistance on people who are of such means that they would own their homes regardless of tax breaks, these subsidies operate so little toward increasing the number of homeowners that they are essentially welfare payments, distributed—like White House invitations—inversely according to need.

### SUBSIDY POLLUTION

As the average man leaves his relatively unsubsidized house for work, the fresh air and nature's odors may remind him of the $3,225 billion listed in the Proxmire survey as subsidies for natural resources. He may recall the $130–140-million payment to timber producers, for example, which results from a special law that their income is to be taxed at capital gains rates rather than at the rates for ordinary income. In 1943, Congress passed a bill that gave capital gains treatment not only to tree-growing but also to the returns from the seemingly more ordinary tasks of logging and processing. President Roosevelt vetoed the act, saying that the timber provisions provided relief "not for the needy but for the greedy." But Congress overrode the veto, convinced that the new subsidy would rescue the large number of small tree growers on the margin of insolvency. (According to government sources, five large companies—Weyerhauser, Boise Cascade, Georgia Pacific, U.S. Plywood, and International Paper—now receive about $100 million of the $140 million timber subsidy.)

One angle tossed to the Congress by the tree people was that the subsidy would place their industry on a more equal footing with the rest of the natural resources field, which was enjoying the percentage depletion allowance. This curiously named tax advantage allows the processors of natural resources to deduct, rather than depreciate, their capital costs. In addition, they can deduct a percentage of their revenues instead of their actual investment costs, which usually means that they deduct more costs than they have. The U.S. Treasury estimates the annual subsidy value of percentage depletion as approximately $1 billion. Percentage depletion has been added to so many mineral products—like ball and sagger clay—that it is easier to specify what is excluded than what is depleted. The law itself rules out "soil, sod, dirt, turf, water, mosses, minerals from sea water, the air, or similar inexhaustible sources."

While the tree subsidy and the depletion allowance may hurt the environment by stimulating faster use of natural resources, a few smaller subsidies work in the opposite direction by encouraging people to clean up. The only water pollution subsidy given private polluters by the federal government is a provision in the 1969 Tax Reform Act allowing rapid depreciation schedules for investments to clean up the environment, costing $15 million a year. Two tax lawyers at Boston University have recently shown that the distributive effects of this measure lean, as usual, toward high finance. The subsidy means that the average corporation that purchases a $150,000 certified pollution control facility will receive a direct government payment of:

$11,952, if company profits are above $25,000,

$5,479, if company profits are between $0 and $25,000,

$0, if the company has no profits, or a loss,

$0, if the company spends its pollution control money on measures that involve no capital expense, such as using low-sulfur fuel.

The subsidy operates on three principles: that the costs of pollution control are to be borne by the public rather than by the producers and consumers of the product, that a capital investment is to be favored over all other forms of control, and that the companies which need assistance the least will get the most. Senator Albert Gore tried to eliminate accelerated depreciation on the floor of the Senate, arguing that its distributive effects were intolerable, but he lost decisively after Senator Muskie stated that "this tax relief is only a stimulative to industry to make the investments called for by air and water quality standards." Gore said that industry may need stimulating and pollution certainly needs controlling, but that the Senate and the public could no longer afford to let a worthwhile purpose blind them to the outrageous impact of some government actions on the distribution of income.

### THE SAILOR'S SCOTCH HIGHBALL

The average man, perhaps a bit groggy from the more than $20 billion in upward-bound subsidies he has already encountered, may think about travel subsidies while riding to work. He will have an ample selection, since the Proxmire study has already uncovered $1.231 billion in annual transportation subsidies. Much of this money is new, such as $270 million in mass transit subsidies, so that its distributional effects are not yet known. But the $482 million to the maritime industry has effects that have been roughly measured.

The federal government pays $224 million each year to some 14 shipping companies to cover the entire wage differential between the earnings of an American merchant seaman and a foreign one. In other words, the companies pay Japanese wages out of their own pockets, and the taxpayers make up the difference to cover the seaman's living, which one source from the Maritime Administration estimated at $16–30,000 a year. Needless to say, there is little incentive for the companies to hold down wages, since the government picks up the tab. The result is that each seafaring job is subsidized approximately $12,000.

The government also pays $238 million a year to subsidize the construction of ships for the merchant marine, a curious program resting on arguments of military necessity (but not included in the military budget). About 13,000 workers in the industry are subsidized an average of $8,000 apiece by the construction payments. Finally, $250 million of indirect, "ship American" payments that are not yet included in the Proxmire study bring the total maritime payoff to more than $700 million each year.

Access to these $700 million in government benefits is carefully protected for the few companies that have always been enrolled, and these companies present a united front to the government in alliance with the three major seafaring unions. As Joseph Albright has written in *Newsday*, the maritime subsidies have been repudiated on national defense, welfare, and balance of payments grounds—leaving the merchant marine's government income floating on tradition, sentiment, and one of the most politically potent lobbies in Washington. Of the Seafarers' International Union, Albright writes that "although it represents only 20,000 jobs, the Seafarers' Union's political kitty is bigger than that of any other union in America and four times as big as that of the million-member United Steelworkers Union of America." The maritime unions dole out more than $1 million each election to members of Congress, who are moved to nautical hyperbole in approving appropriations each summer and who are always trying to increase the subsidy. The companies, which don't miss out on the federal benefits, throw in some contributions, too, and the result is a tiny, well-knit lobby with almost nuclear powers per man. Albright quotes former Maritime Administrator Nicholas Johnson's appraisal of its achievement: "They have succeeded in getting congressional authorization for a pipeline into Fort Knox from which they are all sucking gold. With laws like that, you don't need to be dishonest."

The costs of this gold drain don't seem like much when you think of the contributions as spread out among every single person in the country, as former Maritime Administrator Emory S. Land told Albright: "The operating differential subsidy, per capita, amounts to the cost of one scotch highball. The construction differential subsidy may amount to the cost of one bottle of beer. It seems to me we might relinquish two libations per annum and support a proper shipbuilding industry and a prosperous U.S. merchant marine."

The average man is attracted to the image of the subsidy programs as a kind of round-robin highball, but it seems that friendly libations go only to those who have earned them through conscientious lobbying, and that he serves only as a credit card for many mutual kindnesses among his betters. With dry lips, he may reflect on some of the smaller maritime subsidies, such as the free medical care the federal government has given all merchant seamen since President John Adams pushed the program through Congress in 1798.

### TAKING YOUR MEDICINE

The average man cannot enter his doctor's office with the financial nonchalance of a sailor, and he may be reminded that the Proxmire study has recorded $9.406 billion a year in subsidies to medicine (roughly 6.25 billion scotch highballs). Health, like adequate housing, is a national goal, and any distortions of the private medical market should be aimed at providing care to those people who otherwise would not have it. The health system, of course, is a disaster, but Proxmire's work shows that what federal help there is tends to go to the right people, with some exceptions.

Medicaid (health assistance for the poor) and Medicare (for the aged) have subsidy costs of $3.110 billion and $2.070 billion a year, respectively, taking up the majority of health subsidies. Both are financed by non-progressive taxes, but the benefits of the programs are so progressively distributed that they are, on balance, pro-poor and pro-old people. In 1966–67, the average Medicaid patient received $34 in care for every dollar he paid into the program. In the same period, the average Medicare recipient got $3.40 in care on the dollar.

While Medicaid remains triumphantly pro-poor regardless of the scrutiny directed at it, Medicare withers a bit. A recent study by economists Bruce Stuart and Lee Bair shows that when benefits are discounted by care forfeited from other programs and by administrative charges, Medicare patients receive almost no subsidy at all:

After the medical assistance programs, the largest federal health subsidies arise from the tax deductions allowed for medical expenses and medical insurance programs, totaling $3.150 billion annually. Because these programs include some progressive limitations—only the first $150 in insurance premiums and expenses above three per cent of income may be deducted—they have long been considered relatively even-handed, as a boost to medical care without problems for the public conscience. At last, it seems that a subsidy may be designed to aid those who need care most based on their ability to pay—and that there may be a subsidy to help the average man with his medical bills. Preliminary estimates from the Treasury Department, however, show that the government pays about $23 of the average man's doctor bills through the tax system, while paying $110–$150 for people with incomes above $50,000 and only about $1.50 a year for the poor. Since these figures are smoothered out by all the people who don't get sick, they indicate that a person with a major medical expense will get no help from the tax system if he is poor, and that a wealthy person will receive four to six times the assistance meted out to the average man. The average man may get a share, but for those on either side of him the tax law says that we value a summer rest in Florida (travel expenses deductible, if prescribed) more than the poor person's chest x-ray. The regressive impact of the tax deductions more than offsets the net progressive gain from Medicare.

The Treasury Department has estimates for the income distribution effects of tax subsidies, such as the medical ones, but they have not been released to the public, nor are they available upon request. After refusing to supply the numbers as a matter of policy, one Treasury official was asked how his superiors would respond to an official Freedom of Information request for them. "I suppose they'd probably say that 'satisfactory figures are not now available,'" he replied candidly. "If you were the chairman of the House Ways and Means Committee, you might get them, but it still might take a long time."

### IT'S BETTER THAN WORKING

If the distribution of benefits from the medical tax subsidies foreshadows all the other tax expenditures, the Treasury has good reason for withholding the estimates. The unequal benefits of the $19,388 billion on subsidies for commerce might be hard for any Administration to live with. Secretary Connally's reticence with the figures may be futile, however, because economists Joseph Pechman and Benjamin Okner have produced reliable estimates from the large sample of tax returns at the Brookings Institution. The Pechman-Okner study, commissioned by the Joint Economic Committee, shows that the largest subsidy for commerce comes from the special tax treatment given capital gains, which may be viewed as a $13.708 billion payment from the Commerce Department directly to stock traders, astute investors, and others who can keep Wall Street paper floating above par for six months and a day.

The recipients of capital gains gets a bonus on their take-home pay—above the spending-money they would get if their check came from hourly earnings at an auto shop instead of appreciation in Ford stock. This bonus comes to $12,320 *a week* if they are millionaires. Those making $500,000 to $1 million get extra weekly grocery money of $3,173, a figure 30 per cent greater than the amount being bandied about as a yearly guaranteed annual income for the poor. Those making $100,000 to $500,000 get only $435 each Saturday, and the benefits trail off from there down to the average man's compensation of 17 to 46 cents per week. Although the average man's weekly check would nearly be exceeded by the postal charges required to mail it, many common citizens applaud the capital gains provisions as a compliment to their investment genius and as at least a little something to help with the bills—eyes riveted on the quarter flowing into the left pocket while a buck is extracted from the right one to reward the holders of high-volume capital. Such self-interest must sustain the capital gains tax subsidy alone, because the consensus among economists is that the public as a whole receives few extra benefits from capital gains treatment and would not suffer if they were taxed like ordinary income. In other words, special tax advantages are not needed to induce people to make money through investments instead of through work. (This view holds as long as certain measures that encourage investment risks, such as the deductibility of capital losses, remain in force.)

In the Revenue Act of 1971, President Nixon pushed through his proposals for adding the largest single boost to the parade of commerce subsidies in more than 40 years—$6 billion a year in tax credits and accelerated depreciation for corporations, which amounted to a 10 percent cut in corporate taxes. The average man will reflect that these two gifts will be granted to companies in accordance with how much they do not need them, like the write-offs for pollution equipment. The corner dry cleaner and small manufacturer will probably get nothing, but General Motors will get a great deal—both absolutely and in proportion to its income. The Investment Tax Credit was repealed on President Nixon's recommendation in 1969, because, as he explained, 15 per cent of plant capacity was then idle and the companies needed demand, not new investment. Besides, there has been no economic evidence that the credit significantly increases national output. Nevertheless, in 1971, when the percentage of idle plant equipment had nearly doubled to 28 per cent, the President changed the name of the tax credit to Job Development Credit and passed a measure to throw money at the wealthiest corporations as an incentive for them to buy even more equipment. It was an idea worthy of the Sheriff of Nottingham.

### LEARNING BY PAYOFF

By the time the average man gets home from work, he may decide that he needs more education to earn a subsidy in an economy that requires some skill and a little clout to get a fiscal handshake. He will then eyeball the $3.574 billion of education subsidies in the Proxmire study.

Most federal education subsidies fall short of the required-for-education criterion, but not nearly as regressively as some programs the average man has encountered while thinking about the Proxmire study. The $300 million subsidy value of national defense and guaranteed student loans, for example is distributed almost evenly among the population—with the richest quarter receiving a bit more than the poorest quarter. This indicates that there are some wealthy students receiving subsidies who would remain in school without them, in which case the federal money reduces their costs but does not add to the total amount of education received. On the other hand, there are some poorer students for whom the absence of a subsidy is the only factor keeping them out of the university. Thus, the country could increase the overall amount of education received by the young simply through a redistribution of subsidies so that they hit where they are most critical.

Some federal programs are more regressive than the loans, such as the $500 million paid out through the additional personal exemption for students—which gives money according to income and thus is a kind of special reward for wealthy parents who educate their children. The 164-million cash payment for Higher Education Work Study is hailed as a very progressive measure, since all the money goes to poor students, whom the government pays to do chores around the campus. The poor students like the program because it guarantees them a way to work through college, but they are not the prime beneficiaries. Essentially, the federal government is bribing the universities to let poor *students,* rather than ordinary workers, perform the menial tasks of operation. The money saved by the university on labor costs can be applied to lowering overall operating expenses, or lowering student fees. Thus, the university gets full tuition from all students, the poor students get a trifling wage for their labor, and the non-poor students come out as the real something-for-nothing beneficiaries by getting a government-sponsored reduction in charges. The amount of money in the program is so small that it is not a monstrous outrage, or even necessarily a bad program, but a close look does show how some efforts that are passed off as "aid to the needy" are not what they seem.

The regressive features of federal grants to public universities are mirrored in state systems, where most of the educational benefits go to wealthier people. Since state taxpayers subsidize about one third of university tuition costs from revenues collected on a roughly proportional basis in most states, and since the child of a wealthy parent is more than three times as likely to enroll in a state university as a child of a poor parent, the benefits of state higher education are distributed about like those from the medical deductions, angling upward. A study of California education by economists Lee Hansen and Burton Weisbrod shows that families with children in the University of California have higher incomes than families with children at the California state and junior colleges. The university families receive a subsidy of $1,700 a year, while paying a total of $910 in all state and local taxes, for a net gain of $790. The poorer families with children in the poorer quality state and junior colleges also receive a net subsidy over taxes, although a much smaller one. Families without children in state higher education pay the costs. The paying families have a lower average income than the receivers, and they in effect subsidize the families of the students—giving progressively more subsidy to the families with higher incomes and with children in the higher quality institutions. The California system is widely hailed as progressive and pro-education because the state pays almost all college fees for its students, but the Hansen-Weisbrod analysis shows why the large public contributions to higher education are not necessarily equitable, much less a boon to the poor.

According to Brookings economist Robert Hartman, the state of Ohio has recently enacted a plan for financing state higher education that would do two things. First, it would provide loans to all students who want them and who qualify for state universities. Second, it would require that all instructional subsidies be paid back to the state. The repayment is a small percentage of the student's income, beginning only when and if income reaches $7,500 per year and increasing in mildly progressive steps for higher incomes. Hartman writes that "on pure equity grounds it would be hard to beat this proposal," but the executive director of the American Association of State Colleges and Universities called the Ohio Plan "a reversal of what public higher education has stood for for more than 100 years."

## TREASURY WELFARE

The average man who takes a mental stroll through the Proxmire study is perplexed by all the subsidies and income redistribution he sees whirling around him. He sees money being taken from most people and given to the oilmen and to ball and sagger clay, from single people and childless couples to the parents of school children, from jobholders to the Job Development Credit, from the poor to rich farmers, from the payroll tax to Medicare, and from everyone to the capital gain. He sees the regressive Social Security tax rising several billion dollars a year so that it may catch the Pentagon budget in a year or two, while corporate taxes fall by $6 billion of new subsidies in a single year. He finds that the effective tax rate for all the federal assessments ranges from 25.6 per cent for the very poor to 29.9 per cent for the average man to 33.6 per cent for those making 25 to 50 grand, and that in the United States the distribution of income is not noticeably different after taxes than it is before them. He concludes, in short, that a nose for subsidies is second only to the possession of a degree as an asset in finding a soft job, that the economy breathes, floats, and circulates prestige based on bonuses paid from the grand central subsidy of the Congress, and that one of the chief incentives for a person to become rich must be to get the inside track on a wide variety of relatively free subsidies—an inside track that the average man appreciates by running his counting finger over the Proxmire ledger.

On his journey through the subsidy galaxy, one might form several notions about public bribes that deserve some thought during TV commercials. The first one is that anyone who receives an incentive payment to accomplish some social objective should be accountable for how well he spends the taxpayers' money. The oil industry, for example, should not be allowed to take federal dollars as a subsidy for domestic exploration and then refuse, as a private enterprise, to provide access to records that are needed to determine whether the public is getting its money's worth in new oil.

Of course, the government itself has not made much of an effect to measure the effectiveness of all the subsidies that have accumulated piecemeal over the years—how much new housing is produced by the housing subsidies, how many small farmers get substantial aid under the farm programs, and so on. This vital service to the citizenry has been overlooked partly out of ignorance and partly because so many of the subsidies are concealed in the tax laws, where the substantive committees of Congress and the reponsible agencies of the Executive branch never see them. Normal education appropriations must pass through the education and appropriations committees each year, where they can be scrutinized and criticized and adjusted. But if the same measures are rewritten as tax subsidies, as virtually any program can be, the education committees and HEW will never have authority over them, and may not even see the bill as it passes through the Treasury and the Senate Finance Committee and Wilbur Mills. And the tax subsidies are almost always permanent, handed out through the Treasury every year regardless of performance.

Tax subsidies suffer the additional fault of falling under Stanley Surrey's maxim that 'the wealthier individual the greater his assistance under the program," so that even a justified subsidy is likely to be a disaster for the average man if it is designed by the Treasury. The laws are not only written to favor the wealthy, but they are often so complicated that maximum rewards go to those who can hire a lawyer to gain a toehold over the tax digest, leaving, the average man, as usual, screwed by the abstruse.

To the extent that they transfer money without pushing behavior toward the stated subsidy goals, tax subsidies are equivalent to welfare payments. Author Philip Stern, among others, testified before the Joint Economic Committee that the welfare content is preponderant, after confessing that his own private fortune enabled him to evaluate tax breaks quite closely. Stern testified, using Brooks Institution figures, that the weekly welfare check from all tax subsidies, including pro-poor ones like the tax exemption for welfare and Social Security income, is graduated far more steeply than the federal income tax: $.31 a week to the poor; $12.52 to those earning $10,000–15,000; $229.07 to those earning $50–100,000; and $13,854.78 to millionaires.

Joseph Pechman and Benjamin Okner have calculated from IRS returns that $77 billion in federal revenues would be recovered by canceling all the tax subsidies and returning to a flat progressive income tax with no preferences. To stay at current levels of government expenditure, this $77 billion would permit an overall tax cut of about 50 per cent—reducing the rate of seven per cent at the lowest taxable level and 43 per cent at the highest. This would still leave substantial subsidies of other kinds in need of evaluation, but it would end the longstanding travesty of huge gaps between nominal and effective rates at the higher levels.

## KNIGHTHOOD IN THE CLOSET

A second notion that strikes the average man on perusing the Proxmire report is that programs to supplement the income of the little person tend to get subverted unless they are tied only to his income and not to his occupation. Thus, our sympathy for the little farmer lines the pockets of large corporate farmers, and the rescue mission for the little treegrower winds up mainly as a transfusion for the five largest timber companies in the country. And the Pechman-Okner report reveals that federal transfer payments—social security, railroad retirement, welfare, workmen's compensation, unemployment benefits, and veteran's disability compensation—give $7 billion more in supplements to people with incomes above $10,000 than below. The startling fact is that people who make below $5,000 receive $296 per person from such income maintenance payments, while those making $25–50,000 get $1,146 per person, or nearly three times as much.

If Congress wants to help people because of their hardship—that is, if it is more concerned with the recipients of the money than with accomplishing some broad social goal—it makes a great mistake by not transferring the money directly to the recipients based on their low income alone. The negative income tax is the most efficient way to do so, for it provides income supplements without loopholes for the big timber companies to sneak through. The average man is blamed for blocking the negative income tax, as more enlightened citizens bemoan his bigotry and Draconian social values. National polls show, however, that more average people support a guaranteed annual income than do people in higher brackets. More than 80 per cent of the five to 10 granders, the lower ranks of the average man, support a guaranteed job at the minimum wage for all capable people willing to work. This would cost $21 billion in wages for nine million workers, according to the Urban Institute, a poverty think tank that compiles comprehensive statistics on income maintenance. This sum is almost exactly equal to the subsidy cost of one single tax advantage in the Pechman-Okner report: income splitting, by which married couples are allowed to divide their joint income to get into lower tax brackets. About $7 billion of this subsidy goes to one group alone, the five per cent of the population that makes between $25,000 and $50,000 a year.

If we can bless the 25-granders with $7 billion for being married, we can certainly spend an equivalent amount to eliminate malnutrition. To guarantee every family a standard of living at the poverty level or above would cost $27 billion. This would not only eliminate poverty as currently defined, but it would also be an enormous step toward achieving other national goals related to poverty, such as housing, medical care, and nutrition. Furthermore, it would enable the country to cut back the growing kudzu of a poverty bureaucracy in government and its mirror apparatus in consulting land.

For conservatives, a guaranteed annual income would be pleasant because it would restore a modicum of work incentive to the poverty population, which now faces a system of outright discouragement. Jodie Allen of the Urban Institute has shown that if a welfare mother of three in Chicago increases her income from $4,000 to $5,000, the extra $1,000 will net her $98. She thus pays a marginal tax rate of 90 per cent by losing welfare benefits. Her next $1,000 in earnings will actually give her a net decrease of $147 in disposable income, for a marginal tax rate of 115 per cent. This situation may be compared with the current subsidy arrangement for people at the other end of the income scale, where a skillful operator can combine capital maintenance expenses with a capital gain in such a way as to show a tax loss while making a profit. The tax loss may be applied against other earnings to produce a tax rebate on what would otherwise be paid to Uncle Sam. Each dollar of capital gains is thus not only tax free but it produces a tax bonus that rises according to the operator's bracket—truly a negative income tax for the wealthy. No guaranteed annual income plan will produce that kind of incentive for the Chicago mother, but it will give her 50 cents of every earned dollar to keep.

For the average man, the guaranteed annual income would get liberals off his back for awhile, allowing him to concentrate on his own advancement without having his conscience pricked by the words of people who make more money than he does. His consent to the plan is required not only because of his political attachment to the work ethic, but also because he will have to contribute modest sums to pay for it. This fact will have to be faced regarding any substantial income maintenance program, because the whole scheme cannot be financed from increased taxes on J. Paul Getty. Since only six per cent of families earn more than $25,000 and only 29 per cent earn more than $15,000, the income groups just above the average man will have to come up with some of the cost, and the average man will have to kick in a little, too. Of the $77 billion generated in tax subsidies in the Pechman-Okner calculations, 47 per cent came from the handful of the population with incomes greater than $25,000, and 43 per cent came from those with incomes between $10,000 and $25,000. The first group gets about six times as much subsidy per capita as the second, but the more numerous "middle class" group comes out with nearly the same amount of federal gratuity.

I mention this unpleasant situation only to point out the nonsense that many young people like myself fall prey to in thinking that all the poor can be fed from the drippings off David Rockefeller's table. There is something strange about those of us who long to smite the filthy rich and crusade for the poor, while at the same time fully expecting to earn incomes that will place us in the richest 10 per cent of the population (assuming that a decent living wage is $20,000 or so). The contradiction can be concealed, as it is far easier for students to hide their affluence while identifying with the poor than for the poor to get away with the trick in reverse. But it pokes out every now and then with overtones of hypocrisy—somewhat analogously to our demonstrating against the war while utilizing the college deferment to transfer its burden elsewhere. Our kinky moral position should check the full battle cry against the robber barons—it is like going to the barricades with a proclamation of knighthood tucked away back home in the closet. The upshot of the distributive picture is that you can expect the majority of tax subsidies, and the other ones as well, to be rebated if necessary from those far richer—but you should be prepared to throw in a little yourself, just like a bad guy.

### POLITICAL WALL STREET

The average man may derive a third notion from the Proxmire report—that nearly every federal bill has an impact on the distribution of income, and that people may like the substance of a proposal for business or pollution or education, but not the unnecessary effects on income distribution. These effects are now considered carefully only by those special groups who stand to gain from them, and yet their cumulative weight is critical to almost everyone's standard of living. In fact, the subsidy study will begin to provide the knowledge which may show that the selective smiles and favors of government have more influence on the economy than the broad fiscal and monetary policies that have preoccupied people since Keynes. In other words, whether you have a job or an adequate standard of living may depend not on the Federal Reserve's interest rate policy or the general level of government expenditure, but on whether Uncle Sam has slipped you a little booster with your own name on it. You may be scratching down through the dust in the chicken yard of private enterprise, hoping for the magistrates to sprinkle a few well-chosen policies around to make things more fertile for everybody—but the real morsels may be bartered over in the next field, where you must jockey with your style, educated poise, organization, confidence, and any other attributes that might convince people you deserve something. With fiscal and monetary policy, officials have scrupulously tried to follow the old principle that government actions should treat people equally, and it is a great sin of conventional morality to use economic measures which discriminate among groups of people. In the subsidy-filled economy, however, there is no stigma attached to special benefits. Like on old rotary seed-planter, the federal budget splits them out to those who position themselves well, and everyone in your neighborhood is likely to get a different amount.

Engrossed in the intricate demands of all the separate beneficiaries of government, the politician simply has nothing of substance to say to the people in general anymore. He now speaks to people in smaller groups, where he lets it be known that a livelihood or a subsidy or at least a small fiscal hypo can be had for votes, or money. Thus, the average man is becoming exposed to a process that will make him regard Washington as he has always regarded Wall Street: he knows that in general his fortune may be indirectly determined there, where the economy is kept churning, but in particular he senses that he is being screwed. Like his poorer underlings, he may not see very well, but he can feel.

The citizen will now have more than his traditional reasons to curse Washington, but ultimately he lifts his eyes there in time of war, recession, accident, unemployment, and general malaise—and the insults he directs at the politicians are a measure of their significance.

### THE RICH MAN'S PURPLE HEART

While staring at a politician, the average man may have his fourth revelation about Senator Proxmire's work on subsidies—that the politics of subsidies are stacked against him, and that the whole situation has arisen with a push from more gnarly forces than economic miscalculation. As Senator Fred Harris testified before the Joint Economic Committee, "Subsidies are to modern politics what patronage was to the politics of the 19th century. Subsidies, in other words, are the lifeblood, tainted to be sure, of our electoral system, and this is precisely the reason why it is so hard to eliminate them." The analogy is an apt one, although the current subsidy arrangement is so thorough that one might say subsidies are to modern *society* what patronage was to 19th century politics, spelling out how each person gets along and where he fits in.

The average man will observe the politics buzzing as soon as he begins to question any of the premium payments to a special interest. The challenged group will marshal its forces and begin reciting its virtues in such a way as to transmit little information that would enable one to measure the value of the subsidy.

If pressed for specific justifications, the recipients will respond with four predictable arguments. World Bank economist Jeremy J. Warford catalogs them in *Public Policy Toward General Aviation*, his book on subsidies to the owners and operators of private airplanes. Private, or general aviation, aircraft account for 98 per cent of the 130,000 planes in the country, with the regular airlines owning the rest. They make about 75 per cent of all landings and take-offs requiring the facilities of FAA control towers, and 80 per cent of the private flights are deductible as business expenses for the executive owners. And Warford concludes that the owners of private planes receive about $640 million per year in subsidies for air traffic control, airport construction, and the like, above their aircraft taxes and fees. (About $500 million of the net subsidy comes from Washington, the rest from state and local governments.) Over the next decade, Warford estimates that the subsidy will cost about $3,500 per aircraft per year. Although the owners of private airplanes would seem to have a fairly rough assignment in justifying taxpayer gratuities for the owners of executive jets, they make their four arguments with the confidence of people who have won skirmishes with the public before.

Highest Common Denominator. If you can get the Aircraft Owners and Pilots Association to admit that its members are subsidized, the first riposte will be that other forms of transportation receive subsidies—autos and bicycles through the construction of public roads, and so on—and that equity demands similar treatment for those who traffic privately in the sky. This line of reasoning skirts every question regarding wether the subsidy is justified and efficient, but it is politically potent. It is known as the subsidy multiplier, because once any gratuity becomes effective this mechanism is used to extend the benefits to any group that can claim the remotest likeness to the original beneficiary. Thus, subsidies seek the highest common denominator in the process which enables percentage depletion to seep into every mineral scarce enough to have any economic value.

Don't Hurt the Little Guy. The airplane people next hold forth that any tampering with the subsidies would place unconscionable burdens on the airborne small fry, the Piper Cubs and single-engine jobs. Strictly speaking, this is an argument for a welfare payment, based on human tenderness for the less fortunate fliers, and it should really carry no weight in the luxury field of air travel, but it apparently does.

Most interests were once hesitant to make the little-guy point because it appears too socialist in its sympathies. However, the experience of Medicare doctors has led many supporters of free enterprise to realize that socialism is not so bad if it combines socialized costs with capitalist benefits in a kind of guided collectivism. They have relaxed their capitalist principles enough to take advantage of the attention the hardship argument will win in the media.

Extraordinary Public Benefits. Every subsidized group has a favorite "public interest" rationale for its Treasury income. According to Warford, the aircraft operators have decided that "general aviation helps to arrest the decline of sparsely populated regions, thereby conferring benefits . . . for which the society as a whole, rather than the aircraft operators themselves, should be called upon to pay." This argument, arising contemporaneously with rural nostalgia, means that it would be a good idea to build airports out in the country so that private plane owners can touch the bellies of their Lear jets down out there and check rural depopulation. There is a shred of validity in the assertion that private airports stimulate rural industry location, but it is largely specious upon examination and ludicrously short of justifying such an enormous subsidy.

National Defense. No self-respecting special interest group can expect to get anywhere without at least one argument that can be located on the flag. (This is perhaps the critical shortcomings of welfare proponents, who do fairly well with arguments one through three.) The private skymen have risen to the occasion with the claim that they constitute a kind of unorganized reserve air force, whose mobility would be of great military value if the airfields were knocked out and the bigger planes couldn't operate for lack of adequate runways and facilities. As one pilot put the strategy to the Secretary of Transportation: "It would be a major advantage to the Communist plan to eliminate the vast facilities and National Defense Capabilities of general aviation's fleet of over 110,000 planes. Nearly all of these planes are capable of flying and operating from dirt strips, sections of streets and highways to anywhere in the country. As recently proven, Communist-led and controlled civil rights mobs rioting, burning and looting are capable of closing entire cities. It would be a very minor job for them to riot and burn the few major airline terminals. . . ." This is the core of the argument, although it is usually toned down a bit in congressional hearings. Each executive in the informal air reserve can imagine himself hopping into his Cessna at a moment's notice, strafing militants, and saving the day. He requires neither medals nor draft notices to make military sacrifices for his country—needing only a small subsidy, a rich man's Purple Heart, which the pilots might prefer to call an advance against hazardous duty pay.

When the Aircraft Owners and Pilots Association and the National Business Aircraft Association troop before Congress to support the federal payments to themselves—their measly 400 million scotch highballs—the average man is not likely to be well represented at the gathering. He probably doesn't yet know about the subsidy, for one thing, or about the character of the benefits. If he did, he might reason that it wouldn't be worth trooping all the way to Congress to contest his tiny pro rata share of two jiggers. And if he decided to hire a public interest advocate like Ralph Nader, he would find that the costs of saving his two jiggers are not tax deductible, whereas the lobbying costs of corporate jet owners and all other corporations have been deductible since 1962. And even if payments to a public interest lobby were tax deductible, the average man would not benefit as much as most corporations because he is in a lower tax bracket—because, in effect, the subsidy for lobbying is unfairly designed. So the average man who decides to fight pays 48 per cent of the jet owners' lobbying expenses as a taxpayer and all of his own as an unsubsidized private citizen. The upshot of all this is that the hearings are lopsided enough for the private airmen to sell their putrid arguments easily and take home the cheese.

Once enacted, a subsidy is even more securely entrenched than the balance of forces at the hearing would indicate, because campaign contributions from the recipients give many politicians a deaf ear for the average man. These donations are the gyroscopes of subsidies, given not so much to obtain new benefits as to protect old ones. If a subsidy is a public bribe and a campaign contribution is essentially a private one, cleaned up, the mutual transaction makes sense only because the special interest groups get back more than they put in. If the airmen contributed as much as one per cent of their $500 million Treasury payment, they would have a political war chest of $5 million. This money would be well spent on friendly candidates, since the group would be buying dollars with pennies. (Of course, it is highly unlikely that such maintenance costs approach one per cent of the bonus, even for the maritime industry.) The candidates would take the contributions and use them to convince the voters of their dedication as public servants. Meanwhile, the average man would provide the fuel for the whole affair by coming up with the subsidy for the special group, a tiny portion of which would be kicked back to the politician to pay for his TV spots. The arrangement is a model of circular stability, and economists should give up study of the business cycle to focus on the rhythm of election finance.

The political obstacles weigh heavily against any effort to rearrange federal outlays fundamentally, but it is not impossible. If by some odd contrivance the average man succeeds in recovering these public favors, only to re-confer some of them on the poor, he will remain a screwed and unique citizen—absorbed with his labors, grabbing a little on the side—but his government will be a lot easier to swallow. And if a truly fair distribution of the subsidy largesse is beyond his immediate grasp, the practical implication for the average man is that he had better get in there and scrap.

## U.S. AID PROGRAM IN LAOS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a most interesting article on Laos, written by Mr. T. D. Allman, and published in the New York Times of Friday, February 25, 1972, be printed in the Record. I urge Senators to read the article carefully. It is highly educational and should be considered in relation to the U.S. aid program in Laos and very likely elsewhere.

There being no objection, the article was ordered to be printed in the Record, as follows:

### In Laos AID Marches On

(By T. D. Allman)

Vientiane, Laos.—Some time ago, I had my introduction to the self-perpetuating interregnum of suspended time, space and perception occupied by the United States Agency for International Development, and its sister agencies, Clandestine Client State Division, when I paid my first call on the genial, perennial A.I.D. director in Laos, Charles Mann.

His office then was located in a small, misleadingly ramshackle building in the Na Hai Diao Compound in suburban Vientiane. The compound is a self-contained cantonment which shelters, besides A.I.D. headquarters, the centers of the C.I.A. bombing and military advisory efforts in Laos, a swimming pool, supermarket, American bar and restaurant, movie theater, popcorn machine and microwave tower, all encased in a six-foot chain link fence and patrolled by units of the U.S. Embassy's 500-man strong, blue-uniformed private army.

The most noticeable thing, upon first visit, about the compound was that in a country where every house is open to catch the faintest breeze, each American building was sealed off, windowless. When the buildings did have windows, they were painted over in white, locked, barred and curtained from the inside.

In Mr. Mann's office, there were no windows at all, just a series of maps, displaying neat arrows, insignae, code keys and statistics showing the visitor exactly what was happening in Laos from the vantage point of A.I.D. activities to command.

Mann, whose ability to attune A.I.D. activities to the requirements of U.S. intervention had made him A.I.D. director in South Vietnam, Cambodia and the Congo, did not discuss his organization's activities as a front for the C.I.A. I had been told in advance.

However, his conversation—his talk, an explanation of how the U.S. supported the kip, the Laotian national currency, at a steady rate of 500 to the dollar was interesting enough. I was able to discern that the kip operation essentially consisted of exchanging annually $20 to $30-million for valueless kip, and burning the collected kip. The program acted as a straight-forward giveaway. It moved the Laotian economy no closer to self-sufficiency, indeed perpetuated dependence on the United States.

As a result, the country was flooded with imported consumer goods; "re-exportation" of some of them on the black market kept the business community content; there was little inflation. Laos, Mann seemed to be saying, for obvious reasons preferred living at a standard it could never by itself afford to the evils of Communist aggression.

I asked if the kip would have any value if the program ran out of money. Yes, he conceded, if the dollars were cut off the kip would not be worth the paper on which it was printed.

Now, three and a half years later, things are a little changed in the Na Hai Diao Compound. A.I.D. headquarters has vacated the ramshackle building and settled a few yards away in Vientane's most unusual indestructible building.

With the devaluation of the dollar and the anti-A.I.D. vote in the Senate, A.I.D. has learned that empire has its financial limitations.

Following the Senate vote, the U.S. Embassy devalued the kip by 20 per cent. Unless Congress has a change of heart, or the rich Japanese and Europeans pay more to keep it up, the kip will be devalued again, or be left to find its own value, and A.I.D.'s most cherished program will be gone.

The new A.I.D. headquarters gives the impression of eternity, if not grace. It has no windows at all, not even a painted-over one, throughout its three stories.

Locals call the new building "the white cube," "the cinder block," but most often "the windowless building." Its number on the embassy roster is 500—will they change the number with the devaluation to 600, I could not avoid wondering, and then perhaps to 1,000, to keep up with the kip? The building, A.I.D. officials say, cost only $394,000, and, one said, "will pay for itself in reduced air-conditioning charges." Unofficial estimates by local contractors put the building's cost at millions. The air-conditioning runs off A.I.D.'s private generators; the U.S. Mission consumes more electricity than the rest of the country combined. The A.I.D. telephone directory contains more entries than the Laotian Post and Telegraph telephone book, but the A.I.D. switchboard, preoccupied with internal communications, still cannot be reached from an outside line for most hours of the day.

The new windowless building is off-white, eyeless, bomb-proof, impregnable to climate and contains its own furnace for destroying secret documents. Hundreds of bureaucrats, their maps and coffee-makers, presumably could subsist within it, never leaving, for years.

## ADDRESS BY SENATOR HANSEN BEFORE CALGARY, ALBERTA, CHAMBER OF COMMERCE

Mr. CURTIS. Mr. President, on February 15, the distinguished Senator from Wyoming (Mr. Hansen) addressed the Chamber of Commerce of Calgary, Alberta, Canada.

Senator Hansen paid tribute to the high degree of good relations which have always existed between the governments and the people of Canada and the United States. He discussed the increasing importance of the need for energy supplies to support the growth of both nations.

Senator Hansen illustrates the dependence of the Canadian crude oil production on United States markets and compares this to Canada's embargo, last November, on further natural gas exports to the United States. This, he observes, could affect United States contributions to both oil and gas exploration in Canada.

It was exactly this disparity of treatment which occasioned my introduction of Senate Resolution 208, on December 6, 1971, proposing studies to reach satisfactory trade relations between Canada and the United States for the long term. I am delighted to ask unanimous consent that Senator HANSEN's remarks be printed in the RECORD and to accept their support for my resolution.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### WHAT'S NEW IN THE NEIGHBORHOOD

(Remarks by CLIFFORD P. HANSEN, U.S. Senator, Wyoming)

It is an honor, a great pleasure, and a very timely privilege to have this opportunity to talk to the business leaders who comprise the Chamber of Commerce in The Oil Capital of Canada.

Canada and the United States are bound together by many interests—in historical kinship, in our economic interests, in our political idealogies which value foremost the individualism and initiative of our people.

We are bound together in a mutuality of interest involving our joint security.

We are partners in freedom, and no two Nations have pursued their individual and joint commitments to freedom in closer proximity, with better cooperation, for longer years, in greater harmony, with better fruits to show for the effort.

I am pleased and proud that present U.S.-Canadian relationships, our historical ties, and cultural and ethnic commonalty have meant a great deal to our two countries.

There is evidence that we are continuing to establish mutually beneficial trade relationships, including auto and coal production and electrical power generation.

We must work to build on these on-going programs in order to establish a freer flow of commerce and exchange of technical and professional talents.

In this atmosphere of trust and cooperation, we can speak openly and candidly to each other. In that spirit, I would like very much to share with you some of my thinking on a very complex challenge in which the United States and Canada share a vital interest. That, stated simply, is the proposition of maintaining an adequate secure supply of the basic energy fuels that are so fundamental to our security, and to the continued economic progress of our industrialized societies.

An adequate energy supply means, basically, a capability to produce and deliver the oil and gas required to meet the rapidly accelerating demands for these fuels in the years just ahead.

To fulfill these needs will require a vigorously healthy and expanding petroleum producing industry both in the United States and in Canada. More and more, the hard dollar decisions by management as to whether to explore and develop turn on the energy policy decisions by Governments. This is true whether the Government is in Washington or in Ottawa—in Alberta or in Wyoming. In 1970 the world petroleum industry spent $21.5-billion in capital investment, but the expenditures for production were only $7.2 billion, and for exploration only $1.3 billion.

All other expenditures for processing, marketing and transportation were up from the previous year's level, while production and exploration expenditures were down. The funds spent on exploration and production represented the lowest proportion of capital spending on record. This does not bode well for the seventies when we know that we must more than double the capital expenditures of the sixties to find enough oil and gas to meet the growing demand.

However, rather than talk in terms of our growing needs for oil and natural gas, it is more accurate and realistic to talk in terms of our growing needs for liquids and gaseous fuels. The swift pace of change, involving choices among fuel sources and new technology that has us talking in terms of "synthetic" gas and liquid fuels, introduces a whole new perspective of the energy-producing industries. These changes, in turn, promise to broaden the international character of the energy business.

This accelerating change involves Governments in even more decisions that will affect the future course of energy development, and it imposes on Governments a greater responsibility to construct policies that are sound, consistent and productive. In many respects, and this is particularly true in the United States, there are many who view virtually every energy policy decision as being in collision with environmental policy.

I am among those who believe we can carry forth a commitment to develop sufficient energy supplies consistent with a commitment to improve our environment, or, stated another way, that mankind can restore and maintain an acceptable environment without repealing civilization. But we must accept that, for the time, the conflicts between the need for more energy and the demands of some environmentalists have not been resolved. The result, in many cases, is that we have policy vacuums that mean interminable delays—if not stalemates—in essential energy development such as offshore leasing in areas of the Continental Shelf, and in essential transportation such as the Trans-Alaska pipeline.

This is but one of many elements where public policy is confused, indecisive or inadequate—and but one reason that the United States if not the entire North American continent is heading toward an "energy gap" which, if current trends go uncorrected, will reach regrettably intolerable proportions in the decade of the 1970's.

Indecisiveness or failure by either Canada or the U.S. in developing adequate and reliable sources of energy can only serve to make our country and yours more dependable on insecure and volatile foreign sources. And the militantly nationalistic policies and attitudes of many major oil producing countries could not only bleed our consumers but also lead to very serious security problems for both the United States and Canada.

Rather than attempt to cover the many aspects of the current dilemma as to energy supplies and policies, I will discuss a more narrow range of issues that are of joint concern to Canada and the United States—and to the petroleum industries of Canada and the United States. In response to the general worsening of our energy supply position, the President of the United States sent to Congress the first Presidential message dealing solely with energy problems and policies on June 4, 1971.

Under a section headed "Imports from Canada," the President's energy message stated:

"Over the years, the United States and Canada have steadily increased their trade in energy. The United States exports some coal to Canada, but the major items of trade are oil and gas which are surplus to Canadian needs but which find a ready market in the United States. The time has come to develop further this mutually advantageous trading relationship. The United States is therefore prepared to move promptly to permit Canadian crude oil to enter this country, free to any quantitative restraints, upon agreements as to measures needed to prevent citizens of both our countries from being subjected to oil shortages, or threats of shortages. We are ready to proceed with negotiations and we look to an early conclusion."

The United States policy of limiting oil imports, in the interest of national security, has recognized the relative security of Canadian oil. The administration of our oil import program has provided Canadian oil with preferential treatment. This preference has not been altruistic but rather designed to best serve our own national interests in the U.S. In 1972, provision was made for an increase of 100,000 barrels daily in U.S. oil imports in the area east of the Rocky Mountains. Two-thirds, or 65,000 barrels daily of this permissible increase, was reserved for Canadian oil.

In 1959, when President Eisenhower implemented the Mandatory Oil Import Program, U.S. imports of Canadian oil averaged 160,000 barrels daily. Our receipts of Canadian oil totaled 835,000 barrels a day in 1971, and will approximate 900,000 barrels daily in 1972—an increase of more than 450 percent during the period of oil import controls. I might say that another major producing nation on the Western Hemisphere—Venezuela—is vocally angry at the arrangement Canada enjoys under our program and has taken action to vent that anger.

It is clear that the U.S. oil import program has favored Canadian oil and served to encourage development of the Canadian industry. Well over half of Canadian production is marketed in the United States; U.S. markets have helped to encourage the Canadian oil industry and this is all to the mutual well-being of our sister countries.

There should be no disagreement that adequate petroleum supply is essential to the joint security of the United States and Canada. I believe there is no disagreement on that score, although there may be different concepts of security. I happen to be among those who believe that secure, uninterrupted supplies of basic fuels are vitally important to industry, and to ordinary consumers. Insecure energy supplies are as much a threat in peace, as in war.

Once there is agreement that the United States and Canada have a similar interest in secure oil supplies, then there ought to be agreement that both countries have a similar interest in encouraging the development of secure oil and gas supplies.

If adequate oil supplies are important to security, then our two Governments should have an equal stake in encouraging a healthy petroleum industry in both Canada and the United States. This is the crux of the President's statement of the need for measures to prevent citizens of both countries from being subjected to oil shortages, or threats of shortages, and his pledge to remove quantitative restraints on imports of Canadian oil once such agreement can be satisfactorily concluded.

It is my understanding that since President Nixon's energy message discussions have continued between our two Governments, with the hope remaining—on the part of the United States—for arrangements that will lessen the vulnerability which results from the policy of dependence on foreign oil of Quebec and the Maritime Provinces.

I recognize that this is old ground. It was put succinctly almost four years ago, in June 1968, by a highly respected native Canadian who happens now to be a resident of my State of Wyoming, Mr. Glenn E. Nielson, of Husky Oil Company. Mr. Nielsen said:

"It is difficult to understand why Canada allows almost half its domestic requirements to be imported, while its own production facilities are restricted. The long-term policies of both countries should be to cooperate and create sufficient incentives to the oil industry to discover satisfactory reserves in North America to meet future market needs and remove any reliance on changeable foreign nations for oil in the event of war."

I believe this observation by the Board Chairman of Husky Oil Ltd. whose company has been one of Canada's aggressive smaller oil explorers, remains as valid in 1972 as it was in 1968.

As we seek separately in our own ways, and jointly where practical, the economic climate and the policy atmosphere that encourages development of U.S.-Canadian energy resources, we can expect—and respect the fact—that there always will be a Canadian view and a United States view of developments.

I am one who believes that we should express and compare those different viewpoints. From this, I am convinced, will emerge the understanding and the long-term progress that will best serve the vital interests of both countries.

I might quickly refer to two views regarding two current situations that involve U.S.-Canadian relationships, by way of expressing the hope—and the confidence—that these views will resolve into mutually beneficial accord in the longer term that will accommodate the practical necessities.

Oil and natural gas, as those who seek them know, are the joint products of a singular process—petroleum exploration. If I am correct that special consideration of Canadian oil under the U.S. oil import program has encouraged the search for oil, then it has also inevitably encouraged the finding of some gas. This being the case, the action of the Canadian Government, in November, that in effect placed a restriction on further shipment of Canadian natural gas to the United States was disappointing. It could lead to a strong reaction in the United States which might change the pattern of purchasing their requirements. While there are those who would say "we don't have anywhere else to go," they might be surprised at Yankee ingenuity. Although the reserves of oil in the United States are great, recent discoveries have not kept pace with consumption and we are more and more having to seek new sources of supply. Discussions with Russia, involving American investment in transporting and importing LNG—which I oppose—illustrate what I'm talking about.

In the trade field, we buy 66 percent of Canada's exports and supply 71 percent of your imports. We had a trade deficit with Canada of $2.5 billion in 1971. I realize that the very size of the U.S. economy, with which Canada is so closely associated, has created, a special desire for Canadians to nourish your own economic identity. But if this leads to nationalistic, self-defeating policies, I ask you honestly—who will be hurt more—Canada or the United States?

I would hope that the longer term goal of both the United States and Canada of arrangements that would justify removal of barriers on the movement of oil, also would include natural gas where there is a need to be filled and a supply available to a willing buyer from a willing seller.

There is the question of the happenstance of geography having placed the largest U.S. oilfield on the Alaskan north slope, where the companies which have invested well over $1-billion have yet to sell a barrel of oil because of a lack of transportation. They have been waiting four years, which is a considerable wait to begin receipt of a return on such investments. They will wait at least two, maybe three years more, if they can look to the quickest and most visable means of moving that oil—which is the Trans-Alaska pipeline.

There is a view among some Canadians that tanker shipment of Alaskan oil to the lower 48 States would present an environmental hazard to the Canadian Pacific coast. This is an understandable concern, but reason would indicate that the real threat is no greater than that to which the U.S. East Coast has been exposed from tankers moving more than a half million barrels of foreign oil daily to the Canadian Maritime provinces. We have suffered no ecological damage as a result of these movements over a span of many, many years—so I can therefore report that the risk is indeed minimal. Again, neither of us can afford to seek self advantages by denying the others reasonable needs. It does not necessarily follow that transportation to the lower 48 States must be achieved by this method. As I reflect upon the enormous untapped and undiscovered reserves in northwestern Canada the need to consider seriously an alternative—a trans-Canadian pipeline—is obvious.

The United States increased its oil imports by more than 400,000 barrels daily in 1971, and will increase them by almost a half million barrels a day in 1972, including large increases in residual fuel imports. Our dollar outflow for oil exceeds that of any other commodity, and represents an adverse factor of about $3 billion a year in our balance of payments account. This was a significant factor in 1971 when the United States experienced its first overall trade deficit since 1888 of $2 billion. As already stated, our deficit with Canada alone was in the magnitude of $2.5 billion. We acted on August 15 to impose a 10 percent import surcharge and let the dollar float. If we are forced to act again to defend our balance of payments, I suspect it will be with broad scale import quotas which, as you may know, are perfectly "legal" under Article XII of the GATT to protect a country's balance of payments. We want to avoid this if possible. That is one further reason why it is imperative to get North Slope oil on stream as early as practical, and without delay caused by unjustified fears.

It would hardly be proper for a speaker from the United States to avoid some mention of that perennial subject, the concept of a "Continental Energy Policy." Not much progress has been made toward establishing a coordinated U.S.-Canadian energy policy despite several years of talk, and I tend to think the term itself suggests possibilities that are too much to expect.

The question has been asked occasionally by realists on both sides of the border, I believe with some perception, something like this: "How can two countries, neither of which has a discernible, workable energy policy in its own right, expect to construct a 'coordinated energy policy'?"

This may have a negative ring of futility, but it certainly brings home the impracticality of entertaining hopes that are too ambitious in the short run. And I would be the first to admit that the United States has been somewhat of an under-achiever in attending to its own energy policies and problems.

While a broad all-encompassing coordinated energy policy may be beyond practicality in the near term, certainly the vital interests of the U.S. and Canada require that we seek to construct our individual policies in ways which best serve our mutual interests. I believe the long-term best interests of both countries require and justify policies which will encourage the full development of North American energy resources, consistent with our growing requirements and with our joint concerns for the environment.

Our potential for developing secure energy resources, under constructive and proper Government policies in both countries, is great indeed. On the Canadian side, that potential is dramatized by reference to the fact that the geologic sedimentary area covering Alberta, Saskatchewan, and much of Manitoba and the Yukon, encompasses about 800,000 square miles—equivalent to the oil States of Texas, Louisiana, California, Oklahoma and Wyoming combined.

I want to see that great expanse of sedimentary rock explored, along with those areas of the Canadian and Alaskan Arctic which hold such great promise. I feel, a responsibility to use such influence as I may have to encourage the development of secure energy resources as an alternative to dependence for essential fuels on such unstable areas as the Middle East, and I would hope that would be the goal of citizens of Canada and the United States, and of both our Governments.

## WHAT IS SENILITY?

Mr. PERCY. Mr. President, we frequently hear the word "senile" used to describe elderly people who have become forgetful, careless in their personal habits, and generally confused about what is going on around them.

If a middle-aged person continually forgets where he lays his glasses or where he puts the matches, we say he is absent-minded; if an elderly person does the same thing, we say he is senile.

In an article which appeared in Wednesday's Chicago Tribune, writer Jo Thomas of Knight newspaper service made some interesting observations on the question of senility.

Mr. President, I bring this article to the attention of Senators, particularly my fellow members of the Committee on the Aging, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### "SENILE"—THE CRUELEST LABEL

(By Jo Thomas)

In an age which crams men into pigeonholes, the more scientific-sounding is the label on the slot, the easier is the conscience.

Depending on sex, income, job, place of residence, or race, people are expected to perform like "housewives," "disadvantaged," "blue collar workers," "suburbanites," or "militants."

The cruelest label of all is reserved for the elderly. It is all the more heartless because it has an antiseptic medical ring to it. With a clear conscience, it can be laid on an elderly person to rationalize almost anything done to him. The label is "senile."

It is not going unchallenged, however. A small voluntary agency in Buffalo has set up a project to counteract senility. Kenneth Pommerenck, its director, calls senility "one of the most damaging self-fulfilling prophecies ever devised."

Pommerenck contends that senility is a form of social withdrawal much more often than it is the end result of physical deterioration.

A person forced to retire on substandard income, robbed of his identity and some of his purpose and crushed in spirit, adjusts to a hostile environment the best way he can. Society labels this behavior "senile." The elderly person is frightened into believing his brain really is deteriorating, and eventually he behaves as if it were.

The project is encouraging efforts to rescue elderly people from custodial care and return them to independent living. Pommerenck also wants to warn well-meaning relatives and friends that many symptoms of senility may be nothing of the kind. He cites several so-called symptoms and what to do about them:

Sympton: He forgets his own name, at night and wanders around the house, sometimes talking to himself.

Reality: He's alone all day with nothing to do. He catnaps and putters around. At night, he isn't tired. There's no longer any real differences between night and day so he follows the same pattern of catnapping and puttering. The solution would be some day time activity significant to him and preferably away from home. It should tire him out enough to sleep at night.

Symptom: He repeats the same statement or question a number of times, apparently without realizng it.

Reality: He has little contact with other people and lives more and more in his own imagination, eventually confusing thoughts and actions. The solution would be regular activity, contact with others, and a chance to take responsibility for his own affairs, go places, and be drawn out of himself.

Symptom: He loses track of the time and day of the week and becomes very confused about this.

Reality: He no longer has a fixed schedule to keep him oriented. The rest of us are constantly reminded of time and place. On vacation, we delight in forgetting the date, but in an older person we see this is a sign of serious deterioration. A solution would be activities, places to go, and some fixed responsibilites.

Symptom: He talks incessantly, makes constant demands for attention, and seems to feel others exist for his convenience.

Reality: Everyone needs the attention of others. If we lack positive, constructive, socially acceptable attention-getting devices, we create less desirable ones. The solution would be to redirect his energies into activities with a variety of people.

Symptom: He forgets his own name, which seems to be the ultimate in disorientation.

Reality: Most of us have "gone blank" on introductions because of anxiety. In an elderly person anxiety can reach a paralyzing level of blotting out his own name. A solution is to treat the person with respect and dignity, helping him to rebuild a positive identity. It's also possible to practice social situations which produce anxiety—such as making introductions or paying bills.

In the 16 months Pommerenck's project has been working out of the state Communities Aid Assocation, he says a great number of people who were diagnosed as suffering from chronic brain damage have been taken out of custodial care.

"Nobody's claiming that every elderly person can run a 100-yard dash or be a computer programmer," says Pommerenck. "But many people who are considered vegetables could be living productive lives."

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## GENOCIDE: DESTROYING GROUPS IN WHOLE OR IN PART

Mr. PROXMIRE. Mr. President, in the past there has been some confusion concerning article II of the Genocide Convention of 1948. This section defines the crime of genocide as the "intent to destroy, in whole or in part, a national, ethnical, racial or religious group." The point of debate has focused around the term "part." Opponents of the treaty believe that the concept of partial destruction is too ambiguous to be included under the genocide treaty. They wonder whether the murder of one or two members of a particular group might unjustly arouse the cry of genocide. S. 3182 remedies this dilemma by explaining the full extent of genocide, in whole or in part, in the following passage:

> Substantial part means a part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

The murder of one or two people is an insanely inhuman act which all civilized nations deplore and punish. But, according to this new understanding of genocide, such acts need not fall under the articles of the treaty. Rather, the intent to destroy a "substantial part" as explained above is the yardstick by which this international crime is to be judged.

Consequently, there can be no doubt as to the meaning of the Convention's use of the phrase "in whole or in part." The atrocity is no longer ill-defined, and therefore I urge Senators to expeditiously move to ratify this treaty and pass the implementing legislation.

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## U.S. POLICY IN SOUTH ASIA

Mr. ROTH. Mr. President, the knowledgeable New York Times columnist, Mr. C. L. Sulzberger, has been traveling in South Asia, where he has interviewed Prime Minister Gandhi of India, President Bhutto of Pakistan, and Prime Minister Mujibur Rahman of Bangladesh. Mr. Sulzberger's reporting provides some valuable insights into the thinking of these three important leaders. What they told him was of special interest to me because of a speech on our policy in South Asia that I delivered here earlier this month.

At that time I urged that we adopt a balanced approach in South Asia. By that I meant that we should avoid involvement in the internal disputes of the region and should seek the friendship of all the nations located there.

Mr. Sulzberger's dispatches offer reassuring evidence that this is indeed a feasible course for us. Each of the leaders interviewed was receptive to measures that would improve relations with the United States.

Even Bangladesh Prime Minister Mujibur Rahman, who castigated our Government for "sending arms to the Pakistanis who were murdering us," stressed his determination that Bangladesh maintain a nonalined position that would permit friendly ties with all nations including the United States.

In my earlier speech, I also pointed out that one of the major hindrances to good relations with both India and Pakistan was our provision of arms to those countries. I explained how time and again our participation in the arms trade had involved us in the longstanding quarrels of India and Pakistan.

That these dangers are still with us becomes very clear from reading Mr. Salzberger's interview with President Bhutto. The Pakistani leader stated plainly that he hoped to get American aid to rebuild Pakistan's armed forces. No doubt our Government will sooner or later be forced to decide whether to provide the arms Mr. Bhutto is seeking.

The case for doing so is a weak one. It will be difficult to justify new arms shipments on the grounds we have used in the past; namely, that we are combating Communist expansionism and that we must support those who are allied with us against the Communist threat. In his remarks Mr. Bhutto makes clear that he wants arms for protection not against China or the Soviet China but against India. And insofar as existing alliances are concerned, Mr. Bhutto says he personally believes Pakistan should withdraw from SEATO and CENTO. The burden of proof clearly lies with the advocates of arms shipments to explain why resumption would be in the interests of the United States.

Mr. President, I believe that the full reports of Mr. Sulzberger's interviews would be great value to the many Senators who are concerned about South Asia. I ask unanimous consent that they be printed in the Record.

There being no objection, the reports were ordered to be printed in the Record, as follows:

### Interview With President Bhutto of Pakistan

Rawalpindi, Pakistan.—Following are excerpts from an interview with President Zulfikar Ali Bhutto of Pakistan conducted in English by C. L. Sulzberger of The New York Times.

Q. What has been the value to Pakistan of the CENTO and SEATO alliances and the bilateral defense agreement with the United States?

A. Certainly the alliances did not come into operation either during the present crisis or the 1965 war. And the latest conflict, in which India was supported by another power, was even more severe. Nor was there any dispute about the fact that we were the victims of aggression. As an ally we surely didn't expect to be dismembered with out help. So in the future we hope that our own military defenses will be more secure.

We want to improve our relations with all countries but, particularly, we base our hopes on new relationships with the United States, a turn for the better. We are already grateful for your recent actions. The enemy's onslaught against West Pakistan would have continued unabated if the United States had not given a firm ultimatum warning the hostilities must cease. The Soviet Union understood the signal and then pressed India to accept a cease-fire. I know this is true. I have just been in Peking and Chou En-lai confirmed this to me.

Therefore I think that the world and my own people should know that the United States, in the interests of peace and civilized conduct among states, did put its foot down. If there had been no U.S. intervention, India would have moved hard against Azad Kashmir [the part of Kashmir under Pakistani control] and also on the southern front in Sind.

Unfortunately, under the supine and stupid leadership of Yahya Khan [the previous president, now under arrest] our people were given no direction. They were subjected to confused and contradictory orders that could only have been issued under the sway of Svengali.

#### VALIDITY OF TREATIES

Q. Do you regard the two alliances and the bilateral pact with the U.S.A. as still valid?

A. Certainly they remain legally valid. But politically and militarily they have become ineffective. I do not plan to make any formal changes in our own relationships. I would prefer to leave the final determination on these questions to the National Assembly, especially while Indian forces continue to occupy part of West Pakistan and all of the East. But my personal view is that the bilateral understanding with the United States can be kept intact—with a clearer understanding of each country's obligations. This will require a meeting of minds, and also some redrafting. After all, a qualitative change has taken place in this region since the 1971 treaty signed by India and the Soviet Union. This allows India a chance to create greater havoc in the entire area from Nepal to Afghanistan, Iran and the Persian Gulf. Our own physical dismemberment now exposes other countries to arrogant Indian expansionism.

We must look for new arrangements. Obviously the United States has an interest in Asia and doesn't want to see a drastic shift in the balance of power. And we want a genuine dialogue with the United States on this new situation.

Of course we have good and fraternal relations with the other CENTO members just the way we want to retain friendly links with Britain although we have left the Commonwealth. But I feel—as I made plain in my party manifesto before I was President—that we should withdraw from CENTO and SEATO. This is only a personal feeling. That is unless, on reconsiderating CENTO, we can revitalize it. And I would like to strengthen our bilateral U.S. agreement. SEATO is of less concern to West Pakistan and its future depends on what happens in the East.

### ROLE OF UNITED NATIONS

Q. What value is the U.N. to the victim of aggression?

A. I am sorry I used harsh words before the U.N. but our situation was then desperate and I felt far away. Nevertheless, I don't feel differently now. The U.N. has been rendered ineffective by misuse of the veto. I only hope the General Assembly can be made more active under the uniting for peace resolution. This should assume a mandatory rather than a recommendatory character.

Q. Are you seeking to negotiate any new pacts—with the United States or China, for example?

A. Certainly this would be to our interest and, as I told you, I hope something can be done with your country. I also put the subject up to the Chinese, even before I went to Peking on my recent trip. China already knew there were many public demands here for a defense pact. But when I discussed this with the Chinese leaders they stressed that it was common interest rather than pacts which mattered.

They pointed out that they had had a defense pact with another Communist country, the Soviet Union, and now look where that stands. They said their policy was now averse to pacts but that mutual interests were better and produced more binding ties.

And I must admit we saw this ourselves in CENTO and SEATO. India marched into Dacca on the back of the Soviet Union and certainly CENTO should have acted. And in developing our foreign policy now we must henceforth assume that India is no longer acting independently but makes all its moves in accordance with its 1971 treaty with the Soviet Union. We must assume that they are acting in concert.

### COMMONWEALTH RELATIONS

Q. What have you lost by leaving the Commonwealth?

A. When I was Foreign Minister I saw the necessity of analyzing historic trends and basing policy on them. Thus one could see the American mood was turning against pacts and wanted to recast policy from the bases of the nineteen-fifties. Balance of payments position was bad. There was the horror of Vietnam, a feeling that the U.S.A. was overstretched, a refusal to be a world policeman. Likewise Britain felt overstretched and saw that it belonged to Europe. It was no longer a great power and could not even hope to play Greece to the American Rome because the U.S.A. understands the game better.

Thus it was inevitable for Britain to change its position. And Commonwealth conferences are useless. They just let off steam and vernom. I'd rather work out problems on a more rational, bilateral basis. I want to improve relations with Britain bilaterally and grow culturally. But we won't reopen the Commonwealth chapter.

Q. What was the upshot of your trip to Peking this month?

A. China has stood by us as a friend and neighbor in two wars, 1965 and 1971. We want a profound dialogue with them just as we want one with the United States. And in Peking I found encouragement on this. The Chinese understood our viewpoint and liked it. I found a sympathetic atmosphere for such a dialogue.

Q. I have heard reports here of new troop movements in Kashmir and the possibility of another crisis there. Is this so?

A. Yes. This is causing concern. The Indians are moving in. And you musn't forget they have staged seven aggressions in 24 years. They attacked Pakistan in 1947, 1965 and 1971. They had their row with China. They attacked in Hyderabad and Kashmir. They seized Goa. Now India would like to see Kashmir more completely in its hands. They are pouring in money and propaganda and staging worrisome military movements. I am going up there soon myself to see.

### NIXON'S CHINA TALKS

Q. Do you expect Pakistan will be discussed by President Nixon in Peking?

A. Not Pakistan as such, but the whole subcontinent: India's intentions and actions. Everyone sees the need to prevent these licentious conquests.

Q. What do you hope for as a result of Nixon's China trip?

A. We've had a long association with the Chinese leaders. My last meeting with Mao was the third. I have had many, many meetings with Chou-En-lai. And I can tell you there won't be masses of people in the streets to greet Nixon because, after all, you don't recognize China. But the talks will be fruitful and productive, of that I'm confident.

You are two great powers on the same ocean, the Pacific, and you have had a long association in the past. This Nixon trip is a welcome development. The dialogue will be welcome. Nothing sensational will come of the talks but that is good. Nobody wants an earthquake. Let the stream flow gently and build relations gradually on the basis of mutual confidence. Nixon showed admirable statesmanship in moving for this meeting. You know, I have made mistakes in my life and one of them was in 1950 when, as a young student at the University of California, I campaigned against Nixon on behalf of Helen Gahagan Douglas. I was very wrong. He has made a great contribution.

Q. What is being done about returning prisoners from the recent war?

A. We have less than 1,000 Indians and they have almost 100,000 of ours. Yet I have taken unilateral steps to help Bangladesh—sending food, releasing Sheik Mujibur Rahman without conditions. I could have held him as part of a bargain on prisoners. But India does nothing to respond to these moves except make pious talk. I hope they won't try to barter on prisoners' lives. We have asked other states to help us diplomatically but the Indians show no magnanimity and keep talking about conditions.

### TIES WITH BANGLADESH

Q. Are you contemplating any new offers to keep some kind of relationship with Bangladesh, something like confederation?

A. It's premature for that. You must have voluntary solutions. The feeling for this must grow. New ideas can gain strength only after the existing animus comes to an end. Mutual respect must gradually flow from the soil. Patience and deeds are needed, rather than words.

Q. What do you think Soviet ambitions are on the subcontinent?

A. India will lose from its aggression, in the long run. It has sown the seeds and will reap a bitter harvest in India itself. By sponsoring Bangladesh you will see that India will lose West Bengal and Assam. And it is preposterous to think that, in an association with a great power like Russia, the great power's own interests will not prevail. It is absurd of India to think that with its ancient wisdom and the rope trick it can lasso the Soviet Union.

The Soviet Union will demand its full pound of flesh. There will not be anything immediate and sensational like Soviet bases. There will just be an undercurrent of subtle gains. The Soviet Union looks above all at China. It is bound to gain influence in Indian West Bengal. India's own miserable citizens already sleep on the streets of Bengal and stave off starvation with food provided by the United States. And if our links with East Pakistan remain permanently broken, that part of the world too will come under Communist influence, either Soviet or Chinese. In either case it will be red.

Q. And the Pathan [North West Frontier] and Baluchistan regions of West Pakistan? I have heard reports that Soviet propaganda and agents are now active there?

A. You may simply say that I preferred not to answer that question, to comment on it.

### HELP IN REBUILDING

Q. Are you now seeking help in rebuilding your military strength? Above all, are you seeking U.S. help?

A. There is certainly a new situation now. India got all its equipment from the Soviet Union but complained every time we got the smallest thing from the U.S.A. Now we have had great losses. I certainly don't want to embarrass your Administration during an election year. But we desperately need arms to defend ourselves. And if I find that it is not embarrassing to your Administration, I assure you I am ready to start talks on all this tomorrow.

Q. Can you tell me something about your internal program?

A. We have already placed all heavier industries under state control but we want a strong private sector. We are tightening discipline on banks and I'd like to nationalize insurance, compensating foreign companies. An agrarian reform program will start at the end of this month. I want to reduce the holdings and power of the zamidars [large landowners]. The first election in our history was in 1970 and it exploded pent-up frustrations. Therefore I don't want a new election yet. Our tradition is for a vote every five years. I could sweep the polls now but I don't want to. I want the present assembly, acting as a constituent assembly, to draw up a new constitution. This must be so drafted as to avoid any future challenge by a political adventurer, military or civilian. After all, we have had four dictatorships in 24 years. I want a referendum to approve the steps I've taken so far, my reforms. This will be held soon, before the year is over. And then there will be a second popular referendum after the constitution has been framed.

I want to take the power from the elite, without denuding them. I want to get the army out of politics. And I want to limit the political power of big business, which floated the generals. I have no ideology that can be described in a simple phrase.

I have always been sickened by poverty and economic injustice. I have always had a fire in my heart and a desire to revolutionize our society, to throw away dead weights and to build a beautiful new face. And we are building. We are reducing the tyranny and cruelty. I can't define my doctrine. Doctrines everywhere are becoming flexible. You can't define things. How do you define Communism? In Russia? In China? In Yugoslavia? In Albania?

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### INTERVIEW WITH PRIME MINISTER GANDHI OF INDIA

NEW DELHI.—Following are excerpts from an interview with Prime Minister Indira Gandhi of India conducted by C. L. Sulzberger of The New York Times:

Q. It is obvious that the Soviet Union strongly supported India during the recent crisis, both politically and militarily. Do you think this indicates that India feels obligated to demonstrate its gratitude in any tangible way?

A. Well, one of our faults is that we are unable to display gratitude in any tangible sense for anything. I think you know that. And I might add that it would be a very different kind of aid if it were based on the expectation of gratitude. Countries help one another because they need one another. Obviously, countries are not disinterested when they help one another. But I don't think the record shows an inclination to display tangible gratitude here.

Q. Am I right in deducing from your statement that Indian policy still remains firmly based on nonalignment—despite the 1971 treaty with Moscow?

A. Yes. Certainly. It is firmly based on nonalignment. I must point out, however, that your country—and the West as a whole—gives its own meaning to that word, nonalignment. We regarded nonalignment as a form of neutralism or noninvolvement.

For us, nonalignment only means that we don't belong to any military bloc. We started this policy of ours when there were two military blocs in the world. Things have changed since then, but our policy remains the same. We reserve the right to make our own judgments and to take our own decisions despite what other countries may wish.

Q. Is India anxious to improve its relations with China and the U.S.A., both of which are currently not very good?

A. We are always anxious to improve our relations with other nations. And I would like to point out that we have always had the greatest admiration for the United States in particular.

We would also like normal relations with China. They are not very warm now. But they are not really any worse today than they were before, for quite a long time.

Q. Would India welcome a U.S. initiative to open the kind of high-level dialogue mentioned by President Nixon?

### WOULD-WELCOME DIALOG

A. We always welcome a dialog. I would welcome efforts to make a new start. Naturally, we would hope to see signs of a serious effort to make a new start.

Q. Just where did Indian-United States relations go wrong? After all, for years there has been talk of an American desire to rely on India as a democratic counter-poise in Asia to China.

A. I suppose your attitude toward India changed when your policy toward China changed.

I think the United States always has had difficulty in understanding India. Western nations have a habit of regarding the West as the center of the world. But obviously, we can't see always through the same eye.

And even when the United States spoke of supporting India, it was arming Pakistan.

I think the United States made many wrong assessments from the start. It tended to look at things in terms of being Communist or non-Communist and not in terms of what people were actually doing.

I don't want Communism for my country. But if someone calls himself a Communist and at the same time really behaves like a democrat I don't have anything against him.

### SAYS EXTREMISM WANES

We have won our country away from all forms of extremism by our own policies. I suspect that, if we had followed the ideas of extremism, large parts of this country would by now be Communist and other parts would have fallen under the control of the extreme right wing.

Q. Is it accurate to say that the first serious break in your hormonious relations with China came when the Chinese occupied Tibet?

A. Well, we had a border dispute with China and that was deadlocked. They took a very definite view of this question around 1954. And that was also the time they moved into Tibet.

And when they took over Tibet, refugees including the Dalai Lama came to India. They mistook our sympathy for the refugees as an act of hostility. But we have always sheltered those who ask for shelter. We welcomed the Dalai Lama in that spirit and we told him he was free to carry on all his religious activities here. Nevertheless, the Chinese accused us of politics in this instance.

Q. Do you agree with those who predict that left-wing centrifugal forces in West Bengal and Assam will be encouraged by the creation of Bangladesh and might endanger Indian unity?

A. As a matter of fact we have more extreme leftists here in India than there are in Bangladesh. The people in Bangladesh are worried about our extreme leftists going there—I mean people like the Naxalites and Communists party. Bangladesh has nothing to do with this.

If those extreme leftist movements grow it will be because of other factors. They are certainly strong now and it is a concern to us, but I think we are gradually beginning to get them under control. I think there is less danger now than there was a year ago. The great thing is that we have been able to arouse public opinion on this issue. For a considerable time when extremists were accused of violations they had to be released by the courts because no one would come forward to give evidence against them. People were frightened, but now they are taking courage and this is helping a great deal.

Q. I understand that all Indian troops will be withdrawn from Bangladesh by March 25. When will the process begin?

A. Oh, it has already begun. It began right away after the fighting stopped. Within the first two weeks almost half our troops were pulled out. And we will go ahead on schedule.

Q. What are the necessary preconditions—if any—for the repatriation of Pakistani prisoners from India?

A. Obviously talks are needed first. And there have not been any talks. As far as I know, we have not yet received any official request from Pakistan suggesting such talks.

Q. I was recently in Pakistan and heard reports of menacing Indian troop movements in the region leading toward Kashmir. Would you comment on this?

A. There is no truth at all in such reports, I can assure you there is nothing in it. And I would know.

Q. Does India wish to modify the border with West Pakistan or is India prepared to leave that border the same as it was prior to the recent war? I include the de facto frontier in Kashmir when I refer to the prewar border.

A. There should be some adjustment. There is no doubt that certain adjustments are required. Some do exist and they must be eliminated. But this is not a major question. I am not talking about major changes.

You must remember that the cease-fire border in Kashmir was designed to preserve peace. But if peace cannot be preserved there, it must be changed in order to achieve its objective.

Q. Is there any evidence that the Naxalites [extreme left revolutionaries] in India receive support or encouragement from China?

A. That is very difficult to prove. How can you conclusively prove such a thing? Of course, the Naxalites constantly use the name of Mao Tse-tung. They proclaim "Mao is our chairman."

They are really a very mixed movement. You know, they include a hard core of young people, young intellectuals, from very well-to-do families. And then they also include many extremely poor people from have-not and landless families.

And sometimes students get taken in by this. And the trouble is that they are not allowed to leave when they wish to leave.

Q. What is your reaction to reports that Indian policy during the war was to distintegrate West Pakistan or even today wishes to break up West Pakistan?

A. There is no basis to this. We would like to see an independent and strong Pakistan, but this cannot come about except on the basis of friendship with India. We don't want to see a weak Pakistan.

Q. I am sorry to get back to this, but I wonder once again if you could elaborate your comment concerning West Pakistan. There have been reports that India planned to destroy Pakistan's armed forces and to seize that portion of Kashmir controlled by Pakistan.

A. I can assure you that the only policy we had toward Pakistan during the recent war was a holding operation in the West without any thought of an offensive major penetration. Our policy was only a holding operation, I repeat.

I hear there are reports that a "Cabinet paper" was seen by certain U.S. intelligence agents, a paper which claimed that we were planning to destroy West Pakistan. Well, I can guarantee you there was no such Cabinet paper because I see all Cabinet papers. Maybe there was some kind of a plan drawn up for theoretical circumstances by the military. You know, there are contingency plans of this sort always. But there was certainly nothing that was Indian policy of this sort.

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## Interview With Prime Minister Mujibur Rahman of Bangladesh

(By C. L. Sulzberger)

DACCA, BANGLADESH.—Sheik Mujibur Rahman, Prime Minister of the enormous new state of Bangladesh, said in an interview today that he would welcome an internationally arranged population exchange with Pakistan, enabling non-Bengalis now living in this fledgling country to depart.

Such a step, he said, would facilitate the return here of Bengalis now in the Islamic nation that, as West Pakistan, controlled this country until the independence struggle and the Indian invasion in December.

Sheik Mujib estimated that the minority of non-Bengalis who would wish to be transferred out of Bangladesh amount to 750,000 people.

The general belief is that there are perhaps two million Biharis in Bangladesh in a population of 75 million. The Biharis—Bihari is the general term to denote non-Bengali Moslems—are widely detested. They contributed much active support for, and collaborated, with the Pakistani military and civilian authorities in the bloody campaign against the Bengalis' autonomy movement.

The Prime Minister said that he thought the United Nations was the proper authority to administer such a population exchange and that he would enthusiastically welcome it. Nevertheless, he took pains to insist that the minority here was being treated tolerantly by the majority despite recent horrors.

Notwithstanding Sheik Mujib's assurances, it is known that the Biharis live in great fear and that some have been badly treated since independence.

Sheik Mujib is an unusual man. The word "sheik," an honorific similar to "esquire," denotes his middle-class, land-owning antecedents. Mujib, the diminutive of his first name, expresses the universal affection felt for the national leader.

He is an emotional man of 55 years with gleaming black eyes, graying hair and mustache and a vigorous demeanor. Tall for Bengalis, he stands almost 6 feet. He smiles readily and likes to talk, waving the pipe he always clutches. During the interview, in English, he showed friendship for the American people but none for the American Government.

He seems to have survived 11 years of imprisonment for his political opinions without a scar. Nine years were in solitary confinement, often without books; when he had them, he said, they were his only friends.

He said he always slept easily and well, even falling off to a full night's rest an hour after he was seized last March 25 by the Pakistani authorities, who were believed ready to kill him. "I was at ease," he observed. "If a man is ready to die, how can you kill him?"

The Bengali leader is not given to intellectual formulations but to vague enthusiasms or, as in the case of Pakistan or the Nixon Administration, passionate dislikes.

The "I's" flash through his sentences like telephone poles besides a speeding train, but he gives the impression that, rather than being conceited, he simply associates himself with his nation.

Thus Sheik Mujib may say, when discussing economic prospects: "I have jute. I have tea. I have hides and skins. I have forest products. I have natural gas. I have fish."

He insists that he is a pragmatist, saying: "I am not a philosopher, I am a practical man. First I am a nationalist. Second I am a democrat. Third I am for secularism. And fourth I am a socialist. But it is my own socialism and not imported from abroad."

But questions about his practical plans draw a blank. He says the economy is fundamentally good although Bangladesh needs emergency aid to recover from the recent holocaust. If the American people—not the Government—wish to help, he would want food, medicine, transport equipment and emergency housing materials to erect huts replacing the millions of houses destroyed. He wants it all if possible before the rainy season begins in May.

He is vague about finances and administration. Seventy per cent of Pakistan's small stock of gold and hard money belongs to Bangladesh, he insisted, and he spoke about drawing up an indemnity bill to be charged to Pakistan both for Bangladesh property and for the immense damage caused.

He said the civil service and the brand-new diplomatic service were functioning well, but others are less optimistic. He expects Bangladesh to have a "modest" defense force.

In foreign policy, the Prime Minister insisted, Bangladesh will remain nonaligned, and he wants to be friendly with all nations, including China and the United States, once they recognize his regime. But he is clearly wedded to a close attachment to India and to the Soviet Union.

Sheik Mujib sternly recalls that while Moscow was protesting Pakistani repression and using its veto in the United Nations to defend the Indian-Bangladesh cause in the war, President Nixon was "not protesting but sending arms to the Pakistanis who were murdering us."

"Yet he knew what was going on," the Prime Minister continued. "He had his consulate and his C.I.A. here reporting to him. But when his Consul General told the truth, he was taken away and sent somewhere else."

According to the Prime Minister, law and order prevail and there is no abnormally high crime rate. No guerrilla bands exist as such any more, he added, except for "a few hooligans armed by the Pakistanis." His authorities control all districts, he maintained.

He said Bangladesh was satisfied with her borders and had no territorial claims.

Discussing the Pakistani military action he used figures that are questioned by neutral authorities.

"A minimum of three million people died here," he said. "Just today in one town a thousand skulls from decapitated bodies were found. Two hundred thousand girls were raped."

He said several thousand "collaborators," all civilians, would be tried under civil law in open court. There will also be trials of what he appeared to estimate as several hundred "war criminals," all Pakistani military men who are thought to be in Indian prisoner-of-war camps. Sheik Mujib said they would be tried in special courts under a law not yet drafted.

Summing up his views, Sheik Mujib said he intended to create "a society without exploitation."

"I don't want any cartels or capitalistic controls," he added. "I love humanity."

## THE JOINT COMMUNIQUE ON CHINA

**Mr. KENNEDY.** Mr. President, I am confident that the joint communique ending the President's trip to China will be recorded as one of the most progressive documents in the long and distinguished tradition of American diplomacy and foreign affairs, a fitting end to the historic visit that has done so much to renew the long and tragically interrupted friendship between the American and Chinese peoples. There is no question in my mind that, whatever the course of future events in our policy toward China, the bridge that has now been built to Peking will be a lasting monument to the Presidency of Richard Nixon. I commend the President for the visit, and I commend as well the important contributions that Dr. Kissinger and Secretary Rogers have also made.

Most especially, I welcome the progress on Taiwan announced in the communique. The administration has now delivered the coup de grace to its old discredited two-China policy, and I hope that there will be an early and rapid withdrawal of American forces from that island.

At the same time, it is not ungenerous to say that the initiative toward China is more a window than a door. For all its eloquent rhetoric, the communique is a document of hope, not expectation, of promise, not fulfillment, of beginning, not conclusion.

We must insure that the bonds we have begun to build do not jeopardize our relations with nations like India and Japan and the Soviet Union. We must not let the new initiative distract us from all the important domestic issues we have to face at home.

And so, although there has been progress from the visit, this is not a time to rest on any laurels. Instead, it is a time for the new and harder work that must follow on, if we are to make genuine and lasting achievements on all the great issues that have divided America and China in the past, and that divide us still today. Soon, perhaps, if we are successful in our work, there will be an American Ambassador in Peking, and a solution to difficult issues like Vietnam, Korea, Taiwan, nuclear control, and all the other great questions before us.

In sum, the trip is a success because of the challenge it gives us in the months and years ahead. Let us meet the challenge. Let us resolve that the communique will not be simply a document that keeps the word of promise to our ear, and breaks it to our hope.

## CARL HAYDEN

**Mr. BELLMON.** Mr. President, I am pleased to join other Members of the Senate in offering a brief message of tribute to the memory of a former distinguished Member of this body, the late Carl Hayden of Arizona.

Unlike many Senators, I did not have the opportunity of serving in the Senate with Carl Hayden. However, his long tenure in the Senate and the many contributions that he made as a lawmaking pioneer left a legacy felt by those who have come after him.

Of all the fine things written about this man, what impressed me most was an observation by a Los Angeles Times staff writer, who wrote in April, 1971:

> The real truth is that Carl Hayden, despite two-thirds of a lifetime in the rarefied air of the Nation's Capital, never did shake the Arizona desert from his hightop shoes.

In these words is a lesson for all of us. We must never forget the land from which we came, we must never forget the roots from which we sprang, if we are to remain true to the people we serve.

## HIGH COST OF INCREASED ARMAMENTS

**Mr. STEVENSON.** Mr. President, billions of dollars spent in the name of national security can contribute to our national insecurity. Herbert Scoville, Jr., a former Deputy Director of the CIA and the Arms Control and Disarmament Agency, supports an adequate defense. He also perceives the high costs and many perils of impulsive efforts to increase U.S. armaments. He lays bare some of the current myths about the relative strengths of the United States and the U.S.S.R. in a New York Times article of February 24, 1972. I commend the article to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### ARMS LIMITATION OR ARMS RACE?

(By Herbert Scoville, Jr.)

WASHINGTON.—President Nixon's $6-billion new defense requests call for an increase of more than a billion dollars for new strategic weapons. At the same time, concrete results on the Strategic Arms Limitation Talks have again been postponed, at least until he goes to Moscow.

Why the urgency on new weapons programs and interminable delays on a mutual halt to the arms race? Why wait until May? Are national politics controlling our security decisions?

An advanced airborne command post and a future generation submarine missile system headed the list of defense programs which he believes cannot even wait until next year. What has happened since last summer to require, on an emergency basis, a new airborne command and control system for the President and top officials? Certainly we have always assumed that Russian submarines would be deployed in locations which would permit their missiles to reach Washington, just as our Polaris missiles have been stationed for years within range of Moscow.

Secretary of Defense Laird now tells us that our present command communication systems are vulnerable to Electromagnetic Pulse, the high intensity radiation pulse produced by a large nuclear explosion. But this phenomenon is not new. It has been observed in our nuclear tests for more than twenty years. We have had extensive research programs to limit its effects. In 1968 the Defense Department issued an unclassified handbook for the benefit of manufacturers who wished to build more resistant electronic equipment.

Either we are seeing another example of a fabricated danger to keep the military-industrial complex active, or our defense planners should be accused of dereliction in their duties. Although Electromagnetic Pulse is widely advertised as the new menace, the initial procurement under supplemental appropriations will be for four large aircraft, presumably Boeing 747's the first three of which will be fitted with old electronic equipment, not items newly designed to resist Electromagnetic Pulse.

Similarly, we should ask the question: What emergency suddenly requires supplemental funds and big new expenditures for a new submarine missile system? Secretary Laird recently said this was not subject to negotiation at the talks on strategic arms because it was a replacement for the Polaris submarines. But we are still converting at a cost of $5 billion the Polaris submarines to launch the advanced Poseidon missile. Why—if Polaris is becoming obsolete? Actually, even the Poseidon is unnecessary unless the Russians build a large ABM system which would take many years and which would be banned if President Nixon's optimism on a treaty limiting ABM's is realized.

Defense authorities at all levels have stated that our submarine forces are not threatened by Soviet anti-submarine warfare. Secretary Laird says our Polaris deterrent is "highly survivable." We have even no concept of the nature of such a potential threat since the required technology is as yet undiscovered. While a new submarine missile system may take seven years to build, the lead time for effective antisubmarine warfare deployment is much longer, if it can be done at all. Spending large sums now on a new submarine and missile may prematurely commit us to much larger amounts for weapons designed against the wrong threat.

What is the rush about? No new, unforeseen danger to our deterrent has developed. The Soviet ICBM program is way behind that predicted by Secretary Laird in 1969. Then we started the Safeguard ABM because of estimates that Russia would add about 150 ICBM's to its arsenal each year and that more than a third of these would be the large SS–9's. President Nixon now states that only 80 ICBM's were added last year—only a handful of these were SS–9's. In August, 1969, the Russians were reported to have more than 275 SS-9-type launchers operational or under construction; now, two and one-half years later, the number is only about 300.

The Soviets have not yet tested a missile with multiple warheads which could be aimed accurately at several targets (i.e., MIRV's), and thus threaten our Minutemen. Yet when President Nixon first justified our ABM program, he expressed fears that such testing started in 1968.

True, the Russians are building up their fleet of missile submarines at the rate of nine to ten per year, not a large increase over Secretary Laird's prediction of six to eight per year in 1969. When those under construction are completed, they will have approximate numerical parity with the United States but not with the combined NATO fleet. However, our Polaris-Poseidon missile system is vastly superior to the Russian one.

Furthermore, such submarines cannot attack our Polaris deterrent or in any way make it obsolete so that it would have to be replaced by a new one. We must avoid the puerile notion that because the Russians are building a weapon we must have a similar program even though our security doesn't require it. This is "keeping up with the Joneses" on a billion-dollar scale.

Are we still so naive as to think we can scare the Russians into halting their programs? Delay in an agreement only ensures larger Soviet force levels. By May the Russians may have added another 100 missiles to their arsenal and the United States another 200 warheads. Bargaining chips bought for arms control negotiations are never cashed and lead only to an accelerated arms race. We should put the extra effort into improving our security by a mutual limit on arms now, not in May or not next November.

## SEX DISCRIMINATION IN SCHOLARSHIP AID

Mr. BAYH. Mr. President, a recent study by Educational Testing Service has demonstrated that scholarship aid is an area in which women are subjects of consistent discrimination by their schools. Although many have assumed that such discrimination exists, ETS has provided conclusive proof of the existence of differential treatment according to sex.

The findings in the report are startling: In spite of equal financial need of men and women in the survey, more lucrative campus jobs and higher financial awards were assigned to men as compared to women. For example, financial aid is in the form of single awards of grants, loans, or jobs, or packaged awards consisting of combinations of those aid categories. Women received average single awards of $518 compared to $760 for men. The discrepancy was even larger for packaged aid: $1,173 for women compared to $1,465 for men.

As an inevitable result, more women took out loans than did men and their families bore a larger share of the financial burden of college tuition than did the families of men. In addition, the effort to offset these debts by working were frustrating to women: During the academic year, women averaged $439 in off-campus jobs, while men averaged $713; during the summer, women averaged $538 while men earned $869 or 61 percent more than women.

As a general conclusion, women received an equal number of awards, but the value of each award was consistently lower than that for men with one exception—loans. The need for sex-neutral scholarship assignments is clear. I ask unanimous consent that an abstract of the study, provided by one of the authors, Dr. Elizabeth W. Haven, and the accompanying tables be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### ABSTRACT OF STUDY[1]

#### GENERAL

The main purpose of this study was to examine how students and their families financed a year of postsecondary education. Included is a detailed accounting for the 1969–70 academic year of the resources and expenditures of unmarried full-time students, most of whom were college sophomores. Major emphasis was placed on the institutional practice of packaging (or combining) grants, loans, and jobs, and the relationship of student indebtedness to persistence in college and plans for continuing education on the undergraduate and graduate levels.

The group contacted (a total of 8,618) was a good cross section of fall 1968 college freshmen. These were among the 19,612 high school juniors who participated in the fall 1966 norming of the Preliminary Scholastic Aptitude Test (PSAT) and who were later verified as enrolled in a postsecondary institution in the fall of 1968.

The sample in this study (a total of 3,363 returns) was representative of the group location and type of high school attended. The respondents were also similar to the universe of fulltime undergraduates in the proportions attending the four types of institutions. Their reported family incomes for 1969 were distributed in about the same way as those for families of college students as reported by the U.S. Census.

In this study, the unmarried respondents who were fulltime students during 1969–70 included 1,168 men and 1,234 women, a higher proportion of women (51%) than that which exists in the college population. It is important to note here that there were no significant differences (5 percent level) in the socio-economic status, based on the mother's education and the father's occupation of the sexes. It is also noteworthy that about the same percentage of both sexes had family incomes below $10,000.

In this study, the private men and women were represented in equal proportions in public and private four-year institutions: about half in public and slightly more than one-fourth in private college and universities. The remaining students attended public two-year colleges and other types, with higher percentages of men than of women in public two-year colleges.

#### SEX COMPARISON

In examining the resources of men and women in this study, the parents of women contributed 51 percent toward the resources available for their college education as compared with 38 percent by parents of men in the study. Substantial numbers of the women worked, as shown in Table 7;[2] however, their average earnings were less than those of the men. In the case of jobs administered by colleges and universities, the average earnings of women was $401 as compared with $712 for men. In the case of other jobs obtained by men and women during the academic year but not funded by institutions, women averaged $439; men averaged $713.

Table 7 also shows the average awards received by men and women in grants and scholarships, and in loans by source. Here we see a pattern of smaller average awards for women than for men in scholarship aid but larger average awards for women in most loan types.

In this study, the financial assistance received by men and women is separated into that which came from institutions and that which came from other sources. About the same percentages of men as of women, 37 and 38 percent respectively, received financial assistance from institutions in the form of single awards of grants, loans, or jobs, or combinations of two or more of these aid forms. The latter type of aid form is packaged aid. More of the awards for women than for men were packaged. Despite the fact that packaged awards are larger than single awards—this fact has ben substantiated in other studies too—this study showed that fewer of the female packaged awards (52 percent) exceeded $1,000 than awarded to men (63 percent). It was also true that more women had package awards that included job aid than did men.

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[1] Haven, Elizabeth W. and Horch, Dwight H. *How College Students Finance Their Education: A National Survey of the Educational Interests, Aspirations, and Finances of College Sophomores in 1969–70*. New York: College Entrance Examination Board, January 1972.

[2] Haven, Elizabeth W. and Horch, Dwight H. *How College Students Finance Their Education, Supplementary Tables*. New York: College Entrance Examination Board, January 1972.

(NOTE.—This study was conducted by Educational Testing Service with funds from the College Examination Board.)

Table 14 shows that the average single award given by institutions to women was $518 as compared with $760 for men. For women, the average packaged award was $1,173 as compared wtih $1,465 for men. In the overall picture, the average female award was $215 less than that for men.

Table 15 shows the mean awards by sex for the seven types of aid identified in the footnote. Here, we find that, except for loans, men averaged more in awards from institutions than did women. It was also true that in the packages including loan aid (Types IV, VI, and VII), the average proportions of loan money to the total package was higher for women than for men.

While men were somewhat more likely to be in debt than women, in all but public two-year institutions, women borrowed more on the average than men regardless of the type of institution attended (Table 9).

During the summer of 1970, 89 percent of the men and 71 percent of the women were employed. The average summer earnings reported by men were $869; for women, $538.

The women in this study reported higher college grades than did the men: 54 percent of the women as compared with 41 percent of the men had an average grade of B or better in their total college work.

TABLE 7.—NUMBERS AND MEAN AWARDS TO FULL-TIME SINGLE STUDENTS IN STUDY: 1969–70 ACADEMIC YEAR

| Resource | Total group (N=2,402) | | | Sex | | | | Race | | | | Status | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Men (N=1,168) | | Women (N=1,234) | | Black students (N=116) | | White students (N=2,213) | | Residents (N=1,581) | | Commuters (N=821) | |
| | Number | Percent | Mean | Number | Mean | Number | Mean | Number | Mean | Number | Mean | Number | Mean | Number | Mean |
| Grants and scholarships: | | | | | | | | | | | | | | | |
| Educational opportunity grants[1] | 188 | 8 | $605 | 78 | $681 | 110 | $550 | 39 | $684 | 143 | $597 | 141 | $640 | 47 | $498 |
| Scholarships and grants from college[1] | 430 | 18 | 589 | 205 | 671 | 225 | 515 | 34 | 965 | 382 | 565 | 327 | 657 | 103 | 375 |
| State scholarships and grants | 351 | 15 | 537 | 162 | 576 | 189 | 504 | 4 | 704 | 336 | 532 | 250 | 539 | 101 | 533 |
| Private scholarships and grants | 164 | 7 | 492 | 84 | 543 | 80 | 437 | 7 | 693 | 153 | 463 | 117 | 555 | 47 | 334 |
| Loans: | | | | | | | | | | | | | | | |
| National defense student loans[1] | 287 | 12 | 558 | 141 | 578 | 146 | 539 | 39 | 488 | 240 | 568 | 237 | 579 | 50 | 462 |
| College loans[1] | 39 | 2 | 419 | 15 | 303 | 24 | 491 | 7 | 343 | 30 | 457 | 36 | 436 | 3 | 208 |
| Guaranteed loans | 202 | 8 | 984 | 97 | 943 | 105 | 1,022 | 16 | 887 | 183 | 991 | 156 | 1,000 | 46 | 929 |
| Educational loans from other organizations not guaranteed by state or Federal Government | 39 | 2 | 784 | 13 | 664 | 26 | 844 | 2 | 873 | 37 | 799 | 32 | 804 | 7 | 692 |
| Other loans | 226 | 9 | 865 | 120 | 876 | 106 | 854 | 15 | 650 | 206 | 883 | 143 | 904 | 83 | 799 |
| Jobs: | | | | | | | | | | | | | | | |
| Term-time jobs awarded as part of aid package[1] | 471 | 20 | 544 | 216 | 712 | 255 | 401 | 49 | 443 | 406 | 565 | 337 | 503 | 134 | 646 |
| Other term-time jobs | 1,089 | 45 | 584 | 579 | 713 | 510 | 439 | 24 | 497 | 1,030 | 576 | 596 | 354 | 493 | 863 |

[1] These types of financial assistance are administered by institutions.

TABLE 9.—TOTAL MONEYS BORROWED FOR EDUCATION BY COLLEGE SOPHOMORES IN STUDY SINCE LEAVING HIGH SCHOOL

| Subgroup | Public 4-yeqr | | | Private 4-year | | | Public 2-year | | | Other | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Base N | Percent in debt | Mean debt | Base N | Percent in debt | Mean debt | Base N | Percent in debt | Mean debt | Base N | Percent in debt | Mean debt |
| Men | 622 | 34 | $1,162 | 321 | 44 | $1,696 | 258 | 20 | $1,142 | 39 | 44 | $1,225 |
| Women | 640 | 33 | 1,327 | 361 | 42 | 1,932 | 198 | 23 | 1,210 | 98 | 31 | 1,364 |
| Residents | 922 | 39 | 1,298 | 559 | 43 | 1,833 | 89 | 34 | 1,818 | 95 | 37 | 1,387 |
| Commuters | 340 | 19 | 940 | 123 | 43 | 1,750 | 367 | 18 | 885 | 42 | 29 | 1,351 |

TABLE 14.—SUMMARY OF STUDENT AWARDS FROM INSTITUTIONS FOR SUBGROUPS IN STUDY: NUMBER, PERCENTAGES, AND MEANS FOR SINGLE, PACKAGED, AND TOTAL AWARDS: 1969-70 ACADEMIC YEAR

| Subgroups | Number of awards | | | Percents of total[1] | | | Mean awards | | |
|---|---|---|---|---|---|---|---|---|---|
| | Single | Packaged | Total | Single | Packaged | Total | Single | Packaged | Total |
| Men | 283 | 147 | 430 | 24 | 13 | 37 | $760 | $1,465 | $1,001 |
| Women | 278 | 192 | 470 | 23 | 16 | 38 | 518 | 1,173 | 786 |
| Black students | 26 | 50 | 76 | 22 | 43 | 66 | 1,021 | 1,483 | 1,325 |
| White students | 514 | 279 | 793 | 23 | 13 | 36 | 629 | 1,279 | 858 |
| Residents | 365 | 282 | 647 | 23 | 18 | 41 | 660 | 1,372 | 970 |
| Commuters | 196 | 57 | 253 | 24 | 7 | 31 | 604 | 945 | 681 |
| Public 4-year | 241 | 142 | 383 | 20 | 12 | 32 | 550 | 1,100 | 754 |
| Private 4-year | 175 | 158 | 333 | 26 | 24 | 50 | 769 | 1,557 | 1,147 |
| Public 2-year | 107 | 25 | 132 | 26 | 6 | 32 | 607 | 896 | 662 |
| Other types | 38 | 14 | 52 | 30 | 11 | 41 | 716 | 1,037 | 802 |
| Total | 561 | 339 | 900 | 23 | 14 | 37 | 640 | 1,300 | 889 |

[1] Based on number of respondents in each subgroup.

TABLE 15.—MEAN STUDENT AWARDS IN INSTITUTIONAL AID BY TYPE FOR SELECTED SUBGROUPS IN STUDY: 1969–70 ACADEMIC YEAR

| Subgroups | Type of award[1] | | | | | | | Total |
|---|---|---|---|---|---|---|---|---|
| | I | II | III | IV | V | VI | VII | |
| Grants | | | | | | | | $682 |
| Men | $663 | | | $863 | $682 | | $1,097 | 769 |
| Women | 571 | | | 599 | 596 | | 717 | 608 |
| Black students | 1,291 | | | 837 | 709 | | 1,114 | 1,027 |
| White students | 587 | | | 687 | 632 | | 800 | 646 |
| Residents | 709 | | | 731 | 694 | | 934 | 755 |
| Commuters | 448 | | | 618 | 395 | | 411 | 462 |
| Public 4-year | 533 | | | 533 | 427 | | 592 | 518 |
| Private 4-year | 809 | | | 926 | 915 | | 1,068 | 909 |
| Loans | | | | | | | | 554 |
| Men | | $734 | | 512 | | $528 | 505 | 573 |
| Women | | 653 | | 447 | | 569 | 553 | 536 |
| Black students | | [2] 1,083 | | 499 | | [2] 308 | 451 | 488 |
| White students | | $691 | | $467 | | $608 | $555 | $566 |
| Residents | | 706 | | 493 | | 582 | 557 | 573 |
| Commuters | | 659 | | 388 | | 318 | 348 | 456 |
| Public 4-year | | 628 | | 441 | | 522 | 445 | 505 |
| Private 4-year | | 844 | | 549 | | 590 | 584 | 611 |
| Jobs | | | | | | | | 544 |
| Men | | | $874 | | $490 | 711 | 434 | 712 |
| Women | | | 432 | | 381 | 376 | 357 | 401 |
| Black students | | | 710 | | [2] 323 | [2] 448 | 362 | 443 |
| White students | | | 650 | | 441 | 634 | 400 | 565 |
| Residents | | | 587 | | 408 | 586 | 403 | 503 |
| Commuters | | | 728 | | 482 | 508 | 281 | 646 |
| Public 4-year | | | 555 | | 445 | 707 | 456 | 540 |
| Private 4-year | | | 675 | | 369 | 294 | 369 | 469 |

[1] Type I: Grant only; Type II: Loan only; Type III: Job only; Type IV: Grant-loan combination; Type V: Grant-job combination; Type VI: Loan-job combination; Type VII: Grant-loan job combination.

[2] Means based on n's less than 10.

## EFFICIENCY IN THE ADMINISTRATION OF JUSTICE

**Mr. GURNEY.** Mr. President, for sometime I have been concerned about the efficiency of the administration of justice in this country. I have sponsored pending legislation which aims at assistance to State judicial systems. I intend to introduce shortly a bill aimed at improving procedures involving habeas corpus petitions in Federal courts. Such legislation represents, of course, only a part of the answer to a growing national problem of crisis proportions.

The Florida Bar Journal for February 1972 contains an article entitled "Delay and Congestion in the Criminal Courts," written by Charles H. Wilson, Jr., a Washington, D.C. attorney. Mr. Wilson accurately describes some of the serious problems existing in the administration of criminal justice today and proposes some solutions. While I would not necessarily endorse all of Mr. Wilson's proposals, I do feel that they are worthy of serious consideration by the Senate. I therefore ask unanimous consent that Mr. Wilson's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### DELAY AND CONGESTION IN THE CRIMINAL COURTS

(By Charles H. Wilson, Jr.)

The administration of criminal justice in this country has, in recent years, entered into what appears to be a permanent state of crisis—a crisis which raises the fundamental question of whether the quality of justice has been strained beyond the breaking point by spiraling crime rates and antiquated judicial procedures. In too many of our cities, where the increasing incidence of street crime has become of overriding concern, the judicial machinery is grinding to a virtual standstill under the pressure of congested calendars and growing backlogs. Society is demanding urgent action to bring violent crime under control, but the courts respond with a system of slow motion justice that provides justice to neither the innocent nor the guilty. In a very real sense, our courts are confronted by a crisis of confidence in their ability to acquit their responsibility to deal fairly and expeditiously with those accused of crimes. In some cities, the judicial machinery can fairly be said to be on the verge of a total breakdown.

The evidence of the breakdown, imminent or otherwise, is inescapable. Courts each year increase the number of cases they dispose of, but their backlogs continue to grow at alarming rates. Between 1966 and 1970, the Los Angeles County Superior Court almost doubled its felony dispositions—from 18,000 to more than 32,000. But, during the same period, its felony backlog grew from 2,700 cases to more than 6,500 cases. In Baltimore, the backlog of criminal cases grew from 2,000 to more than 4,800 in two and one-half years, and 58 percent of the outstanding cases in July 1970 had been on the docket for more than one year.

#### THE CONSEQUENCES

The inevitable consequence of such calendar congestion is delay in the judicial process. For those who are innocent of the crime charged, delay means that they must bear the stigma of the criminal accusation—and all of its devastating implications for an interminable period until they get their day in court. For the guilty, delay destroys the deterrent impact of the criminal sanction. If deterrence is to remain a viable goal of the criminal sanction, punishment need not be severe, but it must be imposed swiftly and surely upon those adjudged guilty of crime. Too often today, punishment is nothing more than a remote prospect that the guilty must confront in the uncertain future.

Delay and court congestion have a debilitating impact on the participants in the criminal judicial process, and on the process itself. Some defendants languish for months in overcrowded jails waiting for the judicial process to catch up with them. A survey of city and county jails by the Bureau of Standards last year produced the startling statistic that 52 percent of the individuals in those facilities were being held for reasons other than criminal conviction. Those jails serve only as holding facilities, indiscriminately mixing the hardened criminals with first offenders and providing neither recreational nor rehabilitative services.

Our defendants are not so unfortunate. They manage to qualify for bail or pretrial release and spend weeks and months on the streets until the courts finally hear their cases. Delay in bringing these defendants to trial jeopardizes the safety of society at large. Another Bureau of Standards study revealed that a defendant released for 120 days pending trial is twice as likely to commit a new crime as one released for only 60 days.

Complainants and witnesses to crimes also suffer the consequences of delay. They make repeated trips to the courthouse, only to discover that their case has been postponed to another day. At best, the passage of time that accompanies delay causes a witness' memory of events to dim, thus reducing the value of his testimony. At worst, the witness tires of the repeated trips to court and simply does not appear one day, requiring that the charges be dismissed.

#### PROBLEM GROWS

Eventually, the causes and effects of court delay and calendar congestion begin to blur. Defendants held in jails without rehabilitative facilities become more thoroughly criminalized and more likely to commit additional crimes when they return to society. Defendants freed on bail for inordinate amounts of time commit new crimes and thus contribute to further congestion. Witnesses who go to court several times—each time finding their trip has been in vain because of some breakdown in the system—contribute to further breakdowns when they finally decide against returning.

Court congestion—and the pressures it generates—has produced an adjudicatory process markedly different from the ideal in which a court's decision of guilt or innocence is made on the basis of informed and thorough deliberation. Today's glutted judicial system has become dependent on obtaining guilty pleas simply to avoid total collapse. In some urban courts, guilty pleas represent more than 70 percent of all case dispositions and 90 percent of all convictions.

Guilty pleas serve as the safety valve which enables overburdened courts to hold their own against the floodtide of cases confronting them. However, the high incidence of such pleas—and the growing dependence of courts on obtaining large numbers of such pleas—are disturbing signs.

The plea is a device by which the guilty can bargain for lighter sentences than they might otherwise receive. In theory, those lighter sentences are reserved for those who are repentant and who thus show greater promise of rehabilitation. In practice, however, the leniency accompanying a guilty plea is frequently offered to any defendant who is willing to save the prosecutor and the court the time and expense of a trial. As a result, a defendant is likely to receive a sentence that is not necessarily compatible with the interests of justice.

#### GUILTY PLEA A THREAT

A judicial system dependent upon the guilty plea also presents a threat to personal liberty. There is a very real danger that a system requiring large numbers of pleas for survival will be able to induce such pleas from the innocent as well as the guilty. That danger was illustrated by Life magazine's sobering account of a defendant being buffeted by the conflicting demands of an overworked judicial system. Accused of robbery and assault, the defendant listened uncomprehendingly as his attorney explained the options open to him. He was told that if he pleaded guilty, he would probably be sentenced to a year but would be freed immediately on the basis of time served in jail awaiting trial. However, if he protested his innocence and insisted on a trial, he would probably have to spend several more months in jail waiting for a trial date. And, if he were found guilty at trial, his sentence could be as high as 15 years in prison. Astounded, the accused asked his lawyer: "You mean if I'm guilty I get out today . . . But if I'm innocent, I got to stay in?"

#### REFORMS ARE POSSIBLE

The causes of court congestion and delay are as complex as the criminal courts themselves. Some of the causes are beyond the power of the courts to correct. For example, legislatures have given courts the responsibility for dealing with a wide range of human conduct—such as conduct regulated by victimless crimes—which does not respond to the criminal sanction and with other matters—such as traffic offenses and landlord-tenant disputes—that could as easily be handled by administrative agencies. There are, however, a variety of reforms that can be implemented within the judicial process and that, if implemented, could have a measurable impact on congestion and delay. I will devote the remainder of my remarks to some possible reforms in the judicial process.

#### *1. Restoring judicial control*

The techniques employed by courts to manage their criminal business contribute significantly to calendar congestion and delay. Criminal cases appear to plod along at an agonizingly slow and erratic pace without any apparent control or direction. Too often it is only by happenstance that all necessary parties are brought together in a courtroom on a given day.

An essential prerequisite to making the goal of speedy adjudication a reality is restoring judicial control over the pace with which a case moves through the criminal judicial process. In too many courts, judges have lost that control. Faced with staggering workloads themselves, the judges become too responsive to requests by overworked prosecutors and defense counsel for additional time to prepare their cases. The master calendar, which is still employed by a majority of courts, frustrates efforts to restore firm judicial control. Because each phase of a particular case can be assigned to a different judge under the master calendar system, no single judge has the power or the incentive to keep the case moving toward a speedy disposition. The parties tend to exploit this weakness of the master calendar system when delay is to their advantage.

These defects of the master calendar can be cured by an individual calendar system, under which each case is assigned to a single judge for all purposes through to final disposition. Courts which have switched from the master to the individual calendar uniformly report more expeditious disposition of cases. At a time when the number of new criminal cases increased by 65 per cent, the Philadelphia Criminal Court was able to reduce its enormous backlog through the individual calendar—leaving each judge with a manageable average of 23 cases. In the United States District Court for the Southern District of New York, case dispositions increased by 42 per cent during an experiment with the individual calendar. The experiment was so successful that the entire court has changed to that system of assignment, and it expects its criminal docket to become current this year.

Courts have also been slow in adapting modern technology to their special needs. Computers can be invaluable aids to judges in their efforts to regain control over the movement of cases. The Court of Common Pleas in Philadelphia uses computers to schedule cases, subpoena witnesses, notify counsel and bailed defendants of trial dates, keep track of the number and age of all cases handled by each attorney practicing in that court, pinpoint the stages at which cases are backing up and, provide the court with detailed histories of defendants. As a result, the court has reduced delays caused by nonappearing parties, unavailable courtrooms and conflicting court appearances by attorneys. The court has also been able to identify and take action against attorneys who enter appearances in more cases than they can possibly handle.

### FIX TIME LIMIT

Another technique for accelerating the disposition of criminal cases is to fix a firm time limit in which all cases must be brought to trial. In many jurisdictions today, cases are brought to trial only when all of the preliminary proceedings have been completed, but no deadlines are set for the completion of those preliminary proceedings. At least three states—California, Iowa and Washington—have a statutory requirement that all cases be tried within 60 days of their initiation. Their experience has shown that such time limits are realistic and workable. Similar legislation is now pending in Congress for federal criminal cases. Other courts—most notably the Second Circuit Court of Appeals and the New York Court of Appeals—and Florida have imposed time limits by court rule. The statutory alternative is probably the preferable approach, since the legislation can make provision for the added manpower and resources that a court might need to comply with such time limits.

### *2. Modifying court procedures*

Some of the procedures now employed in processing criminal cases contribute significantly to court delay and calendar congestion. Modification of three such procedures could significantly accelerate the judicial process without depriving defendants of their full range of procedural rights.

The criminal judicial process generally encounters its first significant delay when defense counsel requests time to prepare and file pretrial motions and the prosecutor asks for time to respond. Depending on the complexity of the issues and the ingenuity of defense counsel, it can take two to four months to bring the pretrial motions to a hearing. And, if counsel have done their job well, additional time is consumed while the judge considers and decides the various motions.

Much of the time now consumed by pretrial motions can be saved if the incentive for filing written motions is eliminated. This, at least, has been the experience in those courts that have adopted the Omnibus Hearing procedure initiated five years ago in the United States District Court in San Diego. Under that procedure, the judge considers at a single hearing all preliminary matters connected with a criminal case—including matters normally presented by written motion. Requests for discovery, suppression, severance and the like are presented orally at the hearing, and the judge rules immediately on all such requests. The Omnibus Hearing permits disposition in a single proceeding of matters that formerly required several proceedings. Courts which have adopted the Omnibus Hearing have found that attorneys make far fewer motions orally than when motions are made by written submission—suggesting that the written motion is more a device to obtain delay than to assert a defendant's rights.

### ELIMINATE GRAND JURIES

A second time-consuming procedure is indictment by grand jury to initiate the criminal process. In the federal system and in a number of states, the grand jury is the only permissible method for charging a defendant with a serious crime. In those jurisdictions, the indictment process significantly slows down the criminal process. Studies have shown that, in the District of Columbia and Philadelphia, the delays can be as long as six and seven weeks in most cases. For some categories of offenses in the District of Columbia, delays of up to six months are common.

The grand jury was initially designed to protect a defendant by screening out unfounded charges. It seldom performs that function today, and too often it acts simply as a rubber stamp for the prosecutor. In Cleveland, the grand jury refuses to indict in only about seven per cent of the cases presented to it. The comparable figures in Philadelphia and Baltimore are about two per cent. Since the grand jury no longer acts as an independent check on the prosecutor, the delay that the indictment process engenders is simply not justified. England, which gave birth to the grand jury, eliminated it in 1935 without any significant diminution in individual liberties. Twenty-three states now make the grand jury optional—preserving the indictment process for cases in which it is appropriate, but giving the prosecutor the option of proceeding by information. A similar reform in the remaining 27 states would contribute to the goal of speedier criminal adjudication.

A third procedure that requires reform is the method of selecting petit juries. In most criminal courts, the defense and the prosecution are permitted to engage in extensive questioning of each prospective juror—almost to the point of trying every crucial aspect of the case before a full jury is seated. In its extreme form, that voir dire procedure produces extreme delays. At the Bobby Seale trial in New Haven, more than 1,000 potential jurors were examined over a four-month period before 12 jurors and two alternates were selected. Jury selection in the celebrated Charles Manson trial in Los Angeles consumed one month. In other jurisdictions in more routine cases, jury selection takes as long as the actual presentation of evidence. The time consumed by lengthy voir dire examination needlessly diverts manpower and resources that should be employed in reducing calendar congestion.

The preferred alternative is to permit the trial judge to examine the potential jurors *en banc*, with the prosecution and defense counsel allowed to submit written questions in advance. The federal courts and ten states now follow that procedure; the American Bar Association has recommended it in its Minimum Standards for Criminal Justice. There has been no evidence presented to show that juries selected by such a procedure are less impartial than those selected after questioning by the attorneys.

### *3. Accelerating the appellate process*

The goal of speedy adjudication in criminal cases is also frustrated at the appellate level. Merely by filing an appeal, criminal defendants in most jurisdictions can postpone the day of final judgment for one or two years. The problem of delay at the appellate level is becoming increasingly acute in those jurisdictions where growing numbers of convicted defendants—including those who plead guilty—seek relief in the appellate courts.

Delays in the appellate process have a debilitating impact on the goals of deterrence and rehabilitation that underlie criminal punishment. For the defendant who is freed on bail pending appeal, such delays are another indication that punishment is only a remote possibility. Studies have shown that he is more likely to commit new crimes than a defendant freed pending trial. For a defendant who is imprisoned while his appeal is being considered, the lingering hope that the appellate court might overturn his conviction can make him less responsive to rehabilitation.

### ACCELERATING APPEALS

There are a variety of techniques available to appellate courts for accelerating their disposition of criminal appeals. I should like to focus on three such reforms.

The first significant delay in the appellate process is encountered before a case ever leaves the trial court. In many jurisdictions, it takes the court reporter several weeks to prepare the transcript of the trial court proceedings—the essential prerequisite for preparation of an appeal. The common explanation for this delay is that court reporters are seriously overworked. A more basic explanation is that we employ a transcription system that has failed to keep pace with modern technology. We now have available in the development or operational stage several technological alternatives to the present transcription system that promise to eliminate such delays.

Perhaps the most promising alternative is computer-aided stenotyping. This system employs a modified stenotype machine which transmits its impulses to a magnetic tape as well as to the roll of paper in the machine. The magnetic tape is fed into a computer, which can produce a printed transcript within minutes after a day's court proceedings are completed. This new system is now being tested by two companies that have developed it, and the initial test results are promising. Other technological alternatives are tape recording and video taping of trials. Both systems can reduce the delays now caused by the present transcription system, but each has peculiar disadvantages compared to the stenocomputer system.

The second significant delay in the appellate process occurs in the preparation of written briefs. In certain classes of criminal cases, it is time to ask whether written appellate briefs serve any useful function. The cases I refer to are those generally lumped under the rubric of street crime—robberies, burglaries, larcencies, muggings and assaults. The legal issues in such appeals are rarely complex, and the pertinent constitutional and substantive rules of law are generally well settled. One distinguished appellate judge in Washington has made the following observation concerning the briefs he receives in such cases:

"I think most of the briefs that I read are a waste of time on the part of the lawyers who write them and a waste of the court's time in reading them. In the average felony case, aside from changing the caption and the court number, the briefs are almost identical. They are like the menus in some restaurants. All that ever changes is the date."

In such cases, written briefs could be eliminated. In lieu of a brief, the defendant's attorney should be required within ten days to two weeks of entry of judgment by the trial court to submit to the appellate court a short designation of the errors he wishes reviewed—accompanied by appropriate transcript references and citations to relevant prior decisions. Such a designation of error will adequately apprise the appellate court of the issues on appeal. That court can retain the option of requesting after argument written briefs on particular issues that require further exposition.

If briefs are eliminated in such cases, greater flexibility will be necessary in the time alloted for oral argument. The only limitation on oral argument should be considerations of relevance. It can be expected that, when attorneys are no longer tied to written brief, oral argument will provide a more meaningful dialogue on the issues of critical importance.

A third point of delay in the appellate process occurs when the court takes the case under advisement and begins preparation of its written opinion. Just as there is no justification for lengthy briefs in the typical criminal appeal, there is likewise no need for lengthy essay opinions. Unless a novel point of law is at issue, such appeals can be disposed of by an order or a brief, unsigned opinion. In New York, Michigan and Minnesota, where signed opinions are the exception rather than the rule, appellate courts have been singularly successful in disposing of appeals expeditiously while keeping pace with heavy workloads—suggesting that signed opinions are a contributing factor in appellate delay.

### MANAGEMENT TECHNIQUES

The reforms that I have discussed have focused on the procedures employed by most courts in handling criminal cases and on proposals for streamlining those procedures. For some courts, such a comprehensive package of reforms can bring about a significant reduction in the delays and congestion that now characterize the criminal judicial process. Other courts will have to do more than implement such reforms. They will need additional manpower, resources and facilities to reduce existing backlogs. And all courts can benefit from the employment of specially trained court administrators who can introduce modern management techniques to clerks' offices.

Whatever direction reform takes, the need for reform in our criminal courts is inescapable. The legal profession has not always been responsive to calls for change in the institutions and procedures it has developed and nurtured. It is said that lawyers are uniformly in favor of progress and uniformly opposed to change. But change is essential today if our criminal courts are to make the necessary progress toward the goal of providing fair, expeditious and compassionate justice for those accused of crime.

## AASA HONORS BILL COSBY AND MARY NAGLE

Mr. BURDICK. Mr. President, on Lincoln's Birthday, Mr. Bill Cosby proclaimed to all who would hear that the door to his personal emancipation had been opened by his fifth-grade schoolteacher, Mrs. Mary Forchic Nagle.

The occasion was the mammoth Atlantic City convention of the American Association of School Administrators, a feature of which is the presentation of "Golden Key Awards" to a prominent person, and to the teacher selected by that person as having had the greatest impact on the life of the honoree.

The Golden Key Awards are presented by six national organizations: American Association of School Administrators; Council of Chief State School Officers; Education Industries Association; National Congress of Parents and Teachers; National Council of State Education Associations; and the National School Boards Association. The National School Public Relations Association is the coordinating agency for the awards.

Honorees in the past have included persons such as President Eisenhower, Wally Schirra, David Brinkley, and Whitney Young. This year's recipients were Bill Cosby and Mrs. Nagle, who, as Mary Forchic, had been Bill's fifth- and sixth-grade teacher in the Philadelphia school system. Mr. Cosby called it no reflection on his other teachers, that Mary had been his first, second, and third choice as the person who had influenced his life most decisively.

He said that, in fact, she had done the work of three persons; that her academic teaching was innovatively outstanding; but that in addition, she implanted the desire for education and had made Bill feel at one with society. Although he grew up in Philadelphia, Mr. Cosby said he had never been downtown until Mary took him to the biggest movie palace, to a restaurant and home in a taxi, a type of travel used, he said, only by those of his neighbors who were very sick.

I find personal satisfaction in the honors coming to Mr. Cosby and Mrs. Nagle because I have a high regard for Mr. Cosby and because I have known the Nagles since I first came to Washington in 1958 as a Representative. We have remained good friends since then.

Mr. President, I ask unanimous consent to have printed in the RECORD the article about Mr. Cosby and Mrs. Nagle which was published in Parade magazine on February 6, 1972.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### BILL COSBY'S FAVORITE TEACHER

(By Herbert Kupferberg)

The first day that Bill Cosby was in Mary Nagle's fifth-grade class in North Philadelphia, she said: "I'm going to write a dirty, four-letter word on the blackboard for you."

Then she picked up a piece of chalk and while the gaping class looked on wrote: "WORK."

"That's what we're going to do around here," she said.

Bill Cosby, who until then hadn't got on too well with his teachers, got the message so well that he eventually became famous as a television comedian and actor, with credits ranging from the *I Spy* adventure series to the educational *Electric Company* show.

### PRESENTATION OF AWARD

Next Saturday at the annual convention of the American Association of School Administrators in Atlantic City, N.J., both Cosby and Mrs. Nagle will receive the Golden Key Awards for 1972, an honor that salutes U.S. teachers who have helped shape the lives of their pupils. Six educational organizations join in making the awards, which consist of symbolic gold keys, plus $500 to the teacher.

Cosby, now 34, says he came into Mary Nagle's class with a reputation as the "clown and con man" of the Mary C. Wister school in a nearly all-black neighborhood.

"Take a good look at me," Mrs. Nagle told him when he cut up for the first time. "I'm the comedian in this room. If you want to be a comedian, grow up and get educated, then maybe you can make your living as one."

"What she did was absolutely fantastic," says Cosby. "In a few months she not only taught us, but she was able to break our old bad habits. She wouldn't let me get away with being a little con man, so I had to work. It was like taking the New England Patriots football team in their first year and making them Super Bowl champions. She never gave up on a kid. It wasn't so much what she taught, but the way she instilled pride in us. When we did badly, she'd say: 'I think you're worth more than that. What do you think?' She didn't just let you ride along on C's and and D's like so many teachers do; you had to do better than yourself.

### OMNIPRESENT FORCE

"It rubbed off on us outside of school, too. It wasn't as if she was looking over your shoulder, but the things she laid on you about pride were still there when you got home. If you were ever tempted to lift a loaf of bread in the supermarket, you weren't worried about the police. You were worried about what Mrs. Nagle would say."

Mrs. Nagle, now retired from teaching and a resident of Washington, D.C., remembers Bill Cosby vividly.

"When he left my class I told him: 'Either you'll be a lawyer or an actor because you lie so good.'"

To Mary Nagle, the essence of good teaching is trying to relate what goes on in the classroom to the lives of the pupils.

"You can't talk to them about ancient Troy," she says. "You have to take your ideas from what's going on in the community. Your big responsibility isn't to the principal or to the Board of Education. It's to the children. I was an innovator in my day, and the Board didn't like it."

Bill Cosby says Mrs. Nagle carried her sense of responsibility to the point of feeding and clothing some of her pupils.

"Well," she admits, "I always had the feeling that everybody is entitled to see the better side of life at least sometime. I saw to it that every child went downtown to eat at one of the better restaurants at least once a month. We did a lot of cooking in class, too. We had hot plates, I brought in food, and everybody got a good breakfast if they needed it. I even cut their hair sometimes. I used to cut my own, and if it was good enough for me, it was good enough for them."

### VISITED IN HOMES

Says Cosby: "She was the only teacher I ever knew who regularly went to the pupils' homes to eat there and to talk to the parents. You know, most kids never see their teachers as human beings. We sure saw her that way. She rolled up her sleeves and scrubbed with us."

Mrs. Nagle believes that the same teaching techniques and principles that worked for Bill Cosby and his classmates some 20 years ago still have validity. Asked what advice she'd give to a young teacher starting in today, she says:

"Don't believe half the things they tell you in pedagogy. Have a cool approach—don't get hysterical. Or at least don't show it. Consider every day an adventure. Look at children as if they were human beings, and love every one of them."

Mrs. Nagle says that her basic belief is that every child has a destiny and that it's up to the teacher to help him reach it.

She's especially pleased that Cosby is devoting so much of his time these days to his work on the *Electric Company*, the Public Broadcasting Service's new program designed to aid elementary school children, especially those in deprived areas.

"I'm glad he feels the way he does about the schooling he got, and that now he's giving something back," she says.

As for Cosby, he's delighted that his old teacher is getting public recognition for the help she brought to his generation.

"If I know Mary Nagle," he says, "she's going to take her $500 award and buy about 350 kids lunch with it."

## SPEECH BY BARBARA WARD BEFORE NATIONAL WOMEN'S DEMOCRATIC CLUB

Mr. STEVENSON. Mr. President, we profit too little from history. Mistakes too often are repeated, not learned from. And only rarely do voices exalting us to new and higher levels of common purpose rise above the clamor over such transistory questions as the busing of school children.

Barbara Ward's is such a voice. In a recent speech at the National Women's Democratic Club she spoke pointedly of the lessons of Europe in the 1840's. She spoke of our choices ahead. I commend her speech to the Senate and ask unanimous consent that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### Speech at National Democratic Club by Barbara Ward

The chief immediate importance of the world's mounting interest in the environment may be that it brings us new ways of looking at old problems. For thousands of years sages and prophets have talked of the unity and brotherhood of man. For over half a century, leaders have paid at least lip service to the idea of a functioning international order. But hitherto it has proved easy to evade the political necessities and easier still the moral ones.

Today scientists tell us that the world's really inescapable unities are those of a shared and finite "biosphere" of air and soil and water. Quite suddenly we are beginning to see new boundaries beyond the national frontiers that we are used to. We can see ahead the limits of poisons and dirt we can unleash in the air, the wastes and toxic materials we can flush our rivers into the oceans, the heat we can generate without melting ice caps, the soils we can erode without hastening famine—and all these risks effect not simply particular areas but the safety of the whole planet. This is a new, inescapable imperative of unity which, even a decade ago, had not impinged on the imagination of man.

The issue of boundaries is critical. And ultimately limited biosphere lacks resources of soil and water and minerals to provide for unlimited numbers of people. Within the life of our grandchildren it may reach a threshold beyond which further *physical* expansion becomes impossible. This prospect raises in a quite new way one of the oldest of man's social dilemmas—how is wealth to be shared? How are the poor to be raised up? What in justice and generosity are the permissible differences between fortune and misfortune within a society? We have yet to work out satisfactory local solutions. What are the limits when the society in question is the whole planet? When the dream of solving everything by continuing unlimited economic growth and letting enough of it "trickle down" to the poorer groups begins to reach a ceiling of numbers and resources that cannot be passed?

These are new dimensions to old problems. Many are so new that we are tempted to think that the oceans ahead of us are without charts and that we lack any directions for a safe land-fall. But although Santayana's aphorism, "Those who will not learn from history are destined to repeat it," may have become a cliche, it is after all a fact that truisms are true." We *can* learn from human experience. We *must* learn from historical experience and in the crisis before us—of growth and transformation and pressure and modernization in our planetary society—I believe we *have* models, quite recent ones, that can help us how to think about our new directions. They may also help us to avoid the calamitous errors we have made before.

We tend to look back on the 19th Century as one long boom of growth optimism and progress. But when the then developing lands of the Atlantic world had gone through about three to four decades of industrialization, there was a general crisis of hope and social confidence. I refer, of course, to the 1840s, the "Hungry Forties" which ended in the revolutionary explosion of 1948. Different prophets projected different dooms for different reasons. Malthus had forecast people outstripping resources. The middle 1840s were famine years. Could he be right?

Ricardo said the price of food would rise, pushing up wages, rewarding non-investing landlords and squeezing out industrial profits. Investment would cease. The 1840s saw the first great inter-Atlantic depression. Could Ricardo be right?

And Marx, that unique combination of a classical economist and a Hebrew prophet, argued that the private proprietors, by engrossing the surplus of the new industrial system, would never provide enough purchasing power to the oppressed and alienated working class to create a big enough market for the new goods. In the slump of the 1840s, all over Europe, starving weavers, dispossessed cottagers, unskilled workers were adding unemployment to all the other evils of the new, filthy, disease-ridden industrial quarters. Marx wrote his *Communist Manifesto* in 1847? Could he be right?

Next year, the year of revolutions, every throne in Europe—save in Britain—was shaken. Some fell. The system, built by Metternich after 1815, crumbled. The kings, the princes, the grand dukes, busy with ceremony and show and formal diplomacy, had not noticed that the ground was giving under their feet. They forgot the common life of their people. They missed the banking up of the social furnace. They had been playing at politics. The real politics blew them away.

I think these are analogies for us to ponder. Two-thirds of humanity are reaching that stage in their modernization and development that much of the presently developed world had reached in the late 1830s. The problems they face are infinitely more difficult and obstructive. Population grows twice as fast as in the nineteenth century. So does the work force. In spite of great gains through the so-called Green Revolution, food supplies are not secure for the numbers crowding into the world. The shadows of famine gather in parts of Asia. Unemployment is no longer a chance of the trade cycle—of alternating boom and bust. It is the permanent condition of perhaps 25 percent of the work force in the exploding cities of the developing world. And as for markets, "marginal men" in the *favellas* and stagnant countrysides of developing lands are indeed too poor to enter the market effectively. Yet providing for them even in a minimal way eats into the margins for saving. Malthus, Ricardo, especially Marx would recognize the picture. And they would foretell despair, radical violence and the coming of revolution.

And, in some measure, contemporary political reactions reflect the last days of the Metternich System. We are living through an age of princes when they travel to meet each other and discuss politics and spheres of influence and balances of power and alliances and counter alliances. Many are absorbed in public and secret diplomacy. There have never been so many summits in so short a span. And, apart from officially welcoming China into the place it has in fact been occupying for the last 22 years, the diplomacy is largely concerned with the preservation and elaboration of the post-war, post-colonial settlement of the Fifties.

I fear I am a little reminded of Thomas Carlyle who after a long tea with muffins to eat and small talk to listen to, cried out: "I sat and thought that through all those cobwebs I saw staring the awful eyes of death and hell." In other words, the common life of the peoples of our physically united and interdependent globe is sinking in to deeper misery, deeper contradiction, deeper catastrophe while on the surface we pursue "the sport of kings."

What should be done? I know that for many justified reasons the idea of foreign aid or economic assistance or cooperation for development has fallen on evil days in America—although as Bernard Nossiter remarked recently, "it is alive and well in other countries." But the reasons for its discredit are because it became too entangled in old fashioned national diplomacy. It shored up governments instead of peoples. It went to swords, not ploughshares. It was used in diplomatic poker games and even blackmail. It only marginally dealt with the deepening problems of the planet's common life. So perhaps its virtual demise as one more weapon in a Machiavellian armory should not distress us too much.

But this does not mean that with it you should throw away the vital fundamental concept of all responsible democracy—that the rich help the poor, the well, the sick, the strong, the weak, the fortunate, the miserable. If, in history, 1848 was not followed in many countries by continuous unrest and revolt, it was that little by little the common life of the people *did* become the center of politics. Sharing by taxation was introduced. Health, education, housing, insurance, welfare—these moved from the limbo of royal politics to the central issues of democratic life. There were other factors, naturally. The Atlantic world received, in the words of Mr. Lester Pearson, a vast "bonanza" in the shape of all the world's temperate land to settle, a 40 million immigration from Europe to the New World and colonial control of practically everywhere. This vast input of resources took the sting out of Malthus for a time. Internal reform took the sting out of Marx.

History therefore does not tell us that we *have* to have a total catastrophe. But it does tell us that without justice, without redistribution, without a global effort of sharing comparable to our domestic effort, we look like going the way to revolt, disruption, disintegration and the deepening risk of war. Equally, it tells us that if we institutionalize, on a proper scale and at the international level, the kinds of transfer and mobilization of resources needed for development before the year 2000, we can hope to repeat at the planetary levels some resemblance to our domestic realities and to what we have learned about survival in our national communities. Seen in this context, a one percent transfer of rich nations' GNP to development for the poor is the beginning of a planetary income tax. Carried out through international agencies, it is the first step towards a permanent objective effort of world redistribution.

The moment could be propitious. We may be about to impose, through SALT, some limits on our senseless pursuit of the weapons of overkill. We have a network of international institutions whose efficiency we are beginning to see how to improve. We have development policies which are beginning to put their chief emphasis not on "trickle down" from the rich but on direct investment in the skills and health, in the population policies and urban needs of the masses of the poor. If every Senator who has conscientiously voted out foreign aid will now vote in America's share of a world development effort, we have a chance at least of directing our planetary life away from the precipices of social disintegration and towards a somewhat less uncomfortable future for the species, man.

In this, America's part is critical. The basic fact is that, with all your domestic difficulties, you remain uniquely well endowed. For six percent of the world's peoples, you still command at least 32 percent of the world's income and at least a quarter of your gross national product is now produced in other countries. You can, if you so decide, face the coming decades in the spirit of that remarkable but shortlived monarch, Louis Philippe, who said to his aspiring bourgeoisie: "Enrich yourselves." The result was 1848. I think an America, through its multinational corporation, its investment banks and its unparalleled economic power, doing nothing but this, is heading in the same direction.

But there is another strain in American life, a strain that enables the American people to survive in the imagination of the less fortunate lands with admiration and respect in spite of the worst errors of America's "princes." This strain is expressed in the hope of the Founding Fathers—the hope that they could found a country where the freedom and good fortune of ordinary men and women might become the basis of the state itself. Through all the turmoils of two centuries, through all the fake talk of "manifest destiny" and the "American century," even through all the reality of the use and misuse of American power, the image remains of a country in which men count, not monarchs, in which the common life of suffering, striving humanity is ultimately what politics is all about.

The malaise of American youth, the self-questioning of America, the spectacle of the greatest power asking itself whether it has used that power in the greatest way—all this keeps that image alive. But the world needs more than your doubts and questions. It needs your cooperation, a share in your extraordinary wealth, an equal partnership in discovering the operating directions for the world's future venturing, a commitment to continue with all of us the voyage of discovery in our united and precious biosphere, a reaffirmation of our common life on the single planet that is all we have to share. America was not made for the monarchial tradition. Its friends await with passionate eagerness to take up with it again the shared and creative labours of man's daily bread.

## THE HONORABLE A. WILLIS ROBERTSON

Mr. KENNEDY. Mr. President, it is an honor to pay tribute to the late Senator A. Willis Robertson, of Virginia, one of the most influential statesmen and Senators of our time. Of all his distinguished qualities, I shall never forget his unfailing courtesy toward me when I first entered the Senate, his willingness to welcome a new young Member in this Chamber. Senator Robertson stood in the fine tradition of Virginia statesman going back to Washington, Jefferson, Madison, and Monroe, and Virginia is richer today because of the dedicated service he gave her people.

Few men of our time have had such a long and brilliant career in public service. Born a minister's son in Martinsburg, W. Va., Willis Robertson graduated from high school in Rocky Mount, Va., and went on to win both academic and athletic honors at Richmond College. After earning a law degree there, he opened his practice, and in 1915 he was elected to the Virginia State Senate from Rockbridge and Bedford Counties. Taking leave to volunteer for World War I as an Army officer, he served in the State senate until 1922 when he became commonwealth's attorney in Rockbridge.

In his career in Congress, Senator Robertson became a renowned authority on taxation and international trade, but he was also proud of his efforts to protect the outdoor life he so enjoyed.

He once said:

> My wildlife conservation work is the happiest I have attempted to do. I would be happy if history records my efforts on behalf of conservation as being a worthwhile contribution to my day and generation.

Throughout his long career in State and Federal service, Willis Robertson served the cause of conservation well and he has left many lasting monuments to his concern.

As a distinguished member of the House Ways and Means Committee for a decade, Mr. Robertson established a reputation as a strong and effective advocate of fiscal responsibility, control of Government spending, and a balanced national budget. Upon the death in 1946 of Senator Carter Glass, whom he had greatly admired, Mr. Robertson was nominated for the Senate by acclamation of the Virginia Democratic Convention to complete the unfilled term. He was elected easily to the seat, and 2 years later he was elected to his first full term in the Senate. During his two decades in this Chamber, he served on the Appropriations Committee and as chairman of the Senate Banking and Currency Committee. He was a consistent champion of economy in Government spending, and a strong advocate of private investment to help developing nations.

Senator Robertson had an extraordinary insight into the problems of the economy as they affected millions of ordinary citizens. He championed the view that inflation was the cruelest policy a Government could inflict on its people, old and young alike. In recent years, many of Senator Robertson's predictions on the state of the American economy have been fulfilled—including the instability of the dollar on the world market and some of the worst inflation and budget deficits the Nation has ever suffered.

In addition to his expertise on economic affairs, Senator Roberston was a dedicated internationalist. He advocated increased private American investments abroad, and he also supported substantial American foreign aid. In many respects, he was far ahead of his time. For example, he was one of the first to argue that our foreign aids should be made multilateral, by channeling it through international agencies such as the International Monetary Fund and the World Bank, a view that is only now beginning to be widely accepted in Congress and the Nation. Indeed, upon his retirement from the Senate in 1966, Senator Robertson served as a consultant for the International Bank for Reconstruction and Development until just before his death.

Although Senator Roberston and I often differed on certain issues, I respected his wisdom and knowledge, and I deeply enjoyed our years together in the Senate. Senator Robertson served the people of Virginia well, and Virginia and the Nation can take pride in his lifetime of brilliant and dedicated achievement.

## THE PRESIDENT'S HISTORIC TRIP TO CHINA

Mr. BENNETT. Mr. President, the President of the United States returns home this evening following his historical trip to China. A joint communique has been issued and for many weeks and months into the future, politicians, scholars, and the American people will be attempting to interpret what the communique really says.

Before I comment on that topic may I briefly say that President Nixon's major accomplishment during the China trip was the establishment of a dialog with Peking. This I feel was very necessary. While I remain strongly opposed to their political system and the philosophy of communism, we cannot ignore the fact that China is the largest nation in the world. It is now a nuclear power and will soon possess an adequate delivery system. Therefore, I think it was mandatory the United States had a way to begin to communicate with China and its leaders. The interests of peace, the interest of the United States demand it.

Years ago when the United States established diplomatic relations with the Soviet Union, I, together with many Americans, felt that this was a mistake. But now, looking back, I think no one will argue with the fact that while we have had our differences with the Russians, there have been times when our communications have been productive and essential to the preservation of world peace. Thus I think President Nixon has taken a giant step forward toward eliminating misunderstanding and miscalculation with Peking. Let us hope that it is also a step toward peace in Asia.

I have no illusions that this single visit will make China and the United States fast friends. The communique which was issued by the President and Premier Chou En-lai clearly stated the areas of disagreement which still exist. It may be years or decades before any of these can be successfully resolved.

Now on the issue of Taiwan: I am concerned that Taiwan may have been caught in the crunch. It is obvious that any reconciliation of differences between the world's most powerful nation and the world's largest nation would require some adjustments in our past positions. Furthermore, the United States cannot allow the self-interests of a small country such as Taiwan to outweigh its foreign policy or its national interests. On the other hand, it is clear from the communique that the U.S. position regarding U.S. presence in Taiwan clearly gives to the President the necessary flexibility to meet our obligations to that country. It points out that reductions in U.S. forces would occur as tensions in the area diminishes. I am sure the President understands this to mean that the United States alone will be the judge as to when the tensions have been decreased.

Furthermore, the language in the communique, while not explicitly restating the American commitments, is totally consistent with the view set forth by the President in his state of the world report wherein he pointed out that the United States would stand by its present treaty obligations.

## CONSUMER CONFIDENCE REMAINS HISTORICALLY LOW

Mr. MOSS. Mr. President, the American consumer continues to demonstrate his lack of confidence in the Nation's economic future. If that tendency persists, even massive Federal deficits will be unable to stimulate a full-fledged recovery.

Recent Department of Commerce data on personal savings level indicate a growing public desire to "hoard" funds which would normally go to purchases of new goods and services. This could have a devastating impact on current national expectations. Sales will continue to fall off. New orders will be called back. Eventually new investment plans will have to be reduced substantially.

This is bad news for the formulators of "New Economic Policy." Even the enormous tax-relief legislation passed in the last session will have little effect on consumers and investors who refuse to part with their extra cash. Unfortunately, recent studies by the Census Bureau show that "hoarding" is on the rise. New annual figures show that 1971 was an historic year for personal savings. Consumers held back about 8.2 percent of their incomes, a record high for the post-World War II period.

The trend has apparently continued through the current year. January retail sales figures demonstrate the absence of any strong recovery in consumer spending. This data contains a serious warning for national policymakers. Even towering budget deficits may not be able to generate sufficient private sector expenditures to expand production and employment. The administration's new fiscal policies will fail to stimulate the needed investment and consumption. Joblessness will continue to plague the Nation.

The importance of this "consumer confidence" factor has been raised in the past. I continue to hope for the kind of concerted, understandable national economic program which would inspire faith in the future. In the February 24 issue of the Washington Post, Hobart Rowen again brought this "hoarding" phenomenon to the surface. I ask unanimous consent that his thoughtful article be published in the Record so that others may become more aware of this most serious national economic consideration.

There being no objection, the article was ordered to be printed in the Record, as follows:

### The Puzzling Economy

(By Hobart Rowen)

One of the most puzzling aspects of the economy is why enormous Federal deficits—nearly $40 billion for this fiscal year and $25.5 billion for next—are having so little effect in bringing about economic recovery.

It is even more mysterious than the ease with which President Nixon shifted from being a budget-balancer to history's biggest deficit-spender. At least, one can find a political motivation for the President's dramatic conversion.

The failure of deficit spending to have the intended stimulative effect requires closer analysis. What is becoming clear is that pumping a lot of expansionary power into people's hands by fiscal or monetary means can be disappointing if other considerations induce saving rather than spending.

Consumer buying is anything but enthusiastic, and there are now serious doubts that the "consensus" forecast for a $100 billion growth in Gross National Product this year can be achieved.

Economic recovery on the business side has also been weak, despite all sorts of tax giveaways that were provided in the hope that businessmen would then borrow more, spend, and expand.

Instead, the nation's banks are loaded with money—helped along by an easy credit policy.

White House adviser George Shultz explained it to a congressional committee this way:

"You say to the banks: 'You have this money, you want to get it out on loan. Instead of waiting around for people to come in, as you have been accustomed to in the tight money era, get out—get off your duff—drum up customers, cut your prices, cut your interest rates'."

But businessmen respond to the real world, not to political exhortation. They'll borrow money when they see rising sales; and the bankers will be happy to make the loans.

When you get right down to it, the administration is expecting too much from fiscal policy in much the same way that it relied excessively on the magic of monetary policy in the past.

When it came into office in 1969, the administration made the mistake of assuming that all it had to do was to tighten up the money supply, and this would automatically whip inflation. But as leading monetarist Milton Friendman confessed in December in a speech to the American Economic Association, the policy didn't work: people just didn't believe that inflation would be licked, and they spent money in a way that made their expectations come true.

Similarly, the monetarists—led by George Shultz—figured a year ago that all the Fed had to do to bring the economy out of the doldrums was to push the button on the money machine. That didn't work either, because consumers lacked confidence in the economy.

The simple "confidence" factor that Fed Chairman Arthur F. Burns has been stressing must be given more weight than the conventional theorists will concede.

First of all, there is a credibility gap. When the First National City Bank of New York says that Mr. Nixon's budget scenario "strains credulity," it sums up the general opinion that the administration can't possibly spend as much money as quickly as it claims it can.

In any event, the real stimulative effect of the budget has been overstated by the traditional box-car deficit numbers the administration now proudly cites. When calculated on the more sophisticated national income accounts, the full employment deficit rate actually declines this way (calendar years):

1972, 1st half, $9.4 billion; 1972, 2nd half, 4.0 billion; 1973, 1st half, 0.9 billion.

These figures, from the Economic Council, show the budget will be less expansive in 1973. We should be having the maximum impact right now.

That apart, the old rules of economics don't seem to work, as Burns says. Unemployment is high, but wage rates don't go down. Capacity is under-utilized, but prices are high. Money is cheap and abundant, but people save it. (That casts doubt on the usefulness of the Muskie-Okun idea of a new $100 tax credit per family.)

Meanwhile, the Federal Reserve has been trying—and failing—to expand the money supply again. Instead, despite all the expertise at its command, the Fed pushed interest rates lower than it wanted to.

What this appears to suggest is that economists—in office or private life—know relatively little about the complex U.S. economy.

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## ARMS LIMITATION NOW

Mr. CHURCH. Mr. President, as the arms race between the United States and the Soviet Union continues its upward spiral, it is necessary to apply as much brake as possible to inhibit this dangerous contest. In this regard, I fully agree with the conclusion of Mr. Herbert Scoville, Jr., formerly the Deputy Director of the CIA and ACDA, regarding a limited arms control agreement. He asks:

> Are we still so naive as to think we can scare the Russians into halting their programs?
>
> Delay in an agreement only ensures larger Soviet force levels. By May the Russians may have added another 100 missiles to their arsenal and the United States another 200 warheads. Bargaining chips bought for arms control negotiations are never cashed and lead only to an accelerated arms race. We should put the extra effort into improving our security by a mutual limit on arms now, not in May or not next November.

I ask unanimous consent that Mr. Scoville's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Feb. 24, 1972]

### Arms Limitation or Arms Race?

(By Herbert Scoville, Jr.)

Washington.—President Nixon's $6-billion new defense requests call for an increase of more than a billion dollars for new strategic weapons. At the same time, concrete results on the Strategic Arms Limitation Talks have again been postponed, at least until he goes to Moscow.

Why the urgency on new weapons programs and interminable delays on a mutual halt to the arms race? Why wait until May? Are national politics controlling our security decisions?

An advanced airborne command post and a future generation submarine missile system headed the list of defense programs which he believes cannot even wait until next year. What has happened since last summer to require, on an emergency basis, a new airborne command and control system for the President and top officials? Certainly we have always assumed that Russian submarines would be deployed in locations which would permit their missiles to reach Washington, just as our Polaris missiles have been stationed for years within range of Moscow.

Secretary of Defense Laird now tells us that our present command communication systems are vulnerable to Electromagnetic Pulse, the high intensity radiation pulse produced by a large nuclear explosion. But this phenomenon is not new. It has been observed in our nuclear tests for more than twenty years. We have had extensive research programs to limit its effects. In 1968 the Defense Department issued an unclassified handbook for the benefit of manufacturers who wished to build more resistant electronic equipment.

Either we are seeing another example of a fabricated danger to keep the military-industrial complex active, or our defense planners should be accused of dereliction in their duties. Although Electromagnetic Pulse is widely advertised as the new menace, the initial procurement under supplemental appropriations will be for four large aircraft, presumably Boeing 747's, the first three of which will be fitted with old electronic equipment, not items newly designed to resist Electromagnetic Pulse.

Similarly, we should ask the question: What emergency suddenly requires supplemental funds and big new expenditures for a new submarine missile system? Secretary Laird recently said this was not subject to negotiation at the talks on strategic arms because it was a replacement for the Polaris submarines. But we are still converting at a cost of $5 billion the Polaris submarines to launch the advanced Poseidon missile. Why—if Polaris is becoming obsolete? Actually, even the Poseidon is unnecessary unless the Russians build a large ABM system which would take many years and which would be banned if President Nixon's optimism on a treaty limiting ABM's is realized.

Defense authorities at all levels have stated that our submarine forces are not threatened by Soviet anti-submarine warfare. Secretary Laird says our Polaris deterrent is "highly survivable." We have even no concept of the nature of such a potential threat since the required technology is as yet undiscovered. While a new submarine missile system may take seven years to build, the lead time for effective antisubmarine warfare development is much longer, if it can be done at all. Spending large sums now on a new submarine and missile may prematurely commit us to much larger amounts for weapons designed against the wrong threat.

What is the rush about? No new, unforeseen danger to our deterrent has developed. The Soviet ICBM program is way behind that predicted by Secretary Laird in 1969. Then we started the Safeguard ABM because of estimates that Russia would add about 150 ICBM's to its arsenal each year and that more than a third of these would be the large SS–9's. President Nixon now states that only 80 ICBM's were added last year—only a handful of these were SS–9's. In August, 1969, the Russians were reported to have more than 275 SS–9-type launchers operational or under construction; now, two and one-half years later, the number is only about 300.

The Soviets have not yet tested a missile with multiple warheads which could be aimed accurately at several targets (i.e., MIRV's), and thus threaten our Minutemen. Yet when President Nixon first justified our ABM program, he expressed fears that such testing started in 1968.

True, the Russians are building up their fleet of missile submarines at the rate of nine to ten per year, not a large increase over Secretary Laird's prediction of six to eight per year in 1969. When those under construction are completed, they will have approximate numerical parity with the United States but not with the combined NATO fleet. However, our Polaris-Poseidon missile system is vastly superior to the Russian one.

Furthermore, such submarines cannot attack our Polaris deterrent or in any way make it obsolete so that it would have to be replaced by a new one. We must avoid the puerile notion that because the Russians are building a weapon we must have a similar program even though our security doesn't require it. This is "keeping up with the Joneses" on a billion-dollar scale.

Are we still so naive as to think we can scare the Russians into halting their programs? Delay in an agreement only ensures larger Soviet force levels. By May the Russians may have added another 100 missiles to their arsenal and the United States another 200 warheads. Bargaining chips bought for arms control negotiations are never cashed and lead only to an accelerated arms race. We should put the extra effort into improving our security by a mutual limit on arms now, not in May or not next November.

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## AMERICAN BAR ASSOCIATION FAVORS CONSTITUTIONAL EQUALITY FOR MEN AND WOMEN

Mr. BAYH. Mr. President, I am pleased to bring to the attention of my colleagues the fact that the American Bar Association has recently endorsed constitutional equality for men and women. At its meeting in New Orleans just 2 weeks ago, the house of delegates of the bar association adopted, virtually unanimously, the following resolution proposed by its section on individual rights and responsibilities:

> Be it resolved, that the American Bar Association supports constitutional equality for women, and urges the extension of legal rights, privileges and responsibilities to all persons, regardless of sex.

Mr. President, this action is further evidence, if further evidence is needed, that the country expects and demands that the Senate will approve the equal rights amendment. Tomorrow the full Judiciary Committee will meet and will, I hope, report favorably to the floor the equal rights amendment without change. The Senate will then have the opportunity to follow the lead of the House and overwhelmingly approve the fundamental principle that "equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex."

The report of the ABA's section of individual rights and responsibilities recommending adoption of the resolution I just read, is a useful, brief summary of the reasons the equal rights amendment is needed. The report explains what women in this country know too well already: The criminal laws, business, and labor laws, and the educational policies of many States unfairly discriminate on the basis of sex. This is the evil at which the amendment is directed. The report also shows that judicial action under the 14th amendment for the equal rights amendment. In the report's words:

> Even today, application of the Equal Protection Clause of the Fourteenth Amendment to women is narrowly construed, as demonstrated by the opinion in *Reed* v. *Reed,* — U.S. — (40 LW 4013, November 22, 1971). The Court's holding therein was limited to invalidating one sex discriminatory statute, in effect in only two states, and did not declare sex a "suspect classification".

Mr. President, I ask unanimous consent that the report and recommendation of the American Bar Association Section on Individual Rights and Responsibilities be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION SECTION ON INDIVIDUAL RIGHTS AND RESPONSIBILITIES RECOMMENDATION

FEBRUARY 1972.

The Section on Individual Rights and Responsibilities recommends the adoption of the following resolution:

"Be it resolved, that the American Bar Association supports constitutional equality for women, and urges the extension of legal rights, privileges and responsibilities to all persons, regardless of sex."

REPORT

Under the early common law, women had few legal rights and virtually ceased to exist as legal persons following marriage. Because the United States Constitution was drafted while such concepts prevailed, passage of the Nineteenth Amendment was necessary in order to give women their sole right under the Constitution, that of suffrage.

Even today, application of the Equal Protection Clause of the Fourteenth Amendment to women is narrowly construed, as demonstrated by the opinion in *Reed* v. *Reed*—U.S.—(40 LW 4013, November 22, 1971). The Court's holding therein was limited to invalidating one sex discriminatory statute, in effect in only two states, and did not declare sex a "suspect classification."

Although Married Women's Property Acts and other remedial legislation is now in force in many states, there are still substantial limitations on women's right to contract after marriage, their right to consortium and grounds for divorce. The lack of a domicile apart from her husband may prevent a woman from voting where she actually lives, and may subject her to payment of non-resident tuition fees although she is a *de facto* resident.

Woman may not serve on juries in some states without first filing a written request with court officials, and little or no effort is made to inform women of this prerequisite. There are instances of criminal statutes dealing differently with women despite two 1968 state court decisions nullifying as unconstitutional indeterminate sentences for women which were not applicable to men.

In some community property states, the wife, who is powerless to compel her husband to pay federal income taxes or obtain funds to pay them, has nevertheless been held liable for tax deficiencies, *United States* v. *Mitchell,* 403 U.S. 190 (1971). Even though she is regarded as being a one-half owner of the community, she is not entitled to an accounting during the marriage, and cannot dispose of community assets unless special circumstances are present.

With respect to employment rights, it was not until 1963, when the Equal Pay Act was passed, that sex discrimination in that field was forbidden. The Equal Pay Act, like Title VII of the Civil Rights Act of 1964, prohibited certain discriminatory practices, but also contained exemptions of large groups of women workers. There appears to be no rationale for excluding women from coverage of these Acts other than a reluctance to make sex discrimination an unlawful employment practice throughout the labor market.

Moreover, other titles of the Civil Rights Act of 1964, such as Title VI, proscribing discrimination on the basis of race, color, national origin or religion by recipients of federal grants, ignores sex discrimination. These legislative omissions have been thoroughly studied and documented, and are ripe for immediate action.

Most of the discriminatory laws reflect a social and economic system of a bygone era when most of the population was concentrated in rural areas, and women did not work outside the home or have access to educational facilities. Today, there is a growing acceptance of additional avenues for women to participate as contributing members of the society. As a result, women comprise approximately 40% of the work force. Unfortunately, women are underutilized, and have yet to realize their full potential in terms of promotions of remuneration. Nonetheless, by availing themselves of new educational and employment opportunities, women have established their willingness to undertake the responsibilities which come with full participation.

The Section on Individual Rights and Responsibilities believes that the American Bar Association should adopt this resolution, and thereby assist women in securing the full and responsible citizenship they seek.

Respectfully submitted,

CECIL F. POOLE,
*Chairman.*

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## QUORUM CALL

Mr. GRIFFIN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

## EDUCATION AMENDMENTS OF 1972

The ACTING PRESIDENT pro tempore (Mr. CHILES). Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Educational Act of 1963, and related Acts, and for other purposes.

The Senate proceeded to consider the bill.

## QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may speak on a nongermane matter at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## DR. GEORGE W. CALVER, FORMER ATTENDING PHYSICIAN AT THE CAPITOL

Mr. MANSFIELD. Mr. President, as Members of the Senate are aware, the former attending physician at the Capitol, Dr. George W. Calver, died quietly at home early yesterday morning, February 27.

On December 8, 1928, Lt. Comdr. George Wehnes Calver, Medical Corps, U.S. Navy, was assigned as the physician in attendance to the U.S. House of Representatives as the result of a resolution of the House. A similar resolution was soon passed by the Senate, so that Dr. Calver, became the first physician to administer officially to Members of Congress.

When first assigned, he had no office; his center of operations was the Democratic cloak room of the House. By the time Vice Admiral Calver retired in 1966, his staff had increased to two medical assistants and several corpsmen and nurses.

During his 38 years tenure, Dr. Calver had many sage words of advice for his "constituents." Among them were his "10 commandments of health":

1. Eat wisely.
2. Drink lots of water and fruit juices.
3. Eliminate thoroughly.
4. Bathe cleanly.
5. Exercise rationally.
6. Accept inevitables.
7. Play enthusiastically.
8. Relax completely.
9. Sleep sufficiently.
10. Check up occasionally.

Admiral Calver had a distinguished career in the military service. He was commissioned on June 18, 1913, as lieutenant junior grade, and retired as vice admiral on September 30, 1966. In addition, he was a Fellow in the American College of Physicians, a member of many professional organizations, and served as president of the American College of Cardiology. He was a Past Grand Paramount Carabao in the Military Order of the Carabao.

During his 38 years as attending physician at the Capitol, he made many close friends among the Members of the Senate and House.

His widow Jessie, of Washington, D.C., and two daughters, Mrs. Paul F. Dickens of Washington, D.C., and Mrs. Elder Carl Swanson of Green Cove Spring, Fla., survive him.

I wish to express my deep regret at the passing of this man who served the two Houses of Congress so well over such a long period of time. His retirement was a sad occasion; his passing is a sadder one. To his family, we extend our condolences in their hour of sorrow.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a brief biography of Dr. Calver.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

### VICE ADM. GEORGE WEHNES CALVER, MEDICAL CORPS, U.S. NAVY, RETIRED

George Wehnes Calver was born in Washington, D.C., November 24, 1887, a son of Dr. Thomas Calver and Lizzie Wehnes Calver. He attended Eastern High School and George Washington University in Washington, and was graduated in 1912 from the Medical School of that University. He entered the United States Naval Reserve on June 18, 1913, and was commissioned Assistant Surgeon with the rank of lieutenant, junior grade, Medical Corps, and transferred in the same rank to the Medical Corps, U.S. Navy, on April 10, 1914. He subsequently advanced through the grades to Medical Director with the rank of captain, as of May 30, 1934. On October 9, 1945, he was promoted to rear admiral, for temporary service, and on November 1, 1947, he transferred to the Retired List of the Navy in that rank. He was promoted to vice admiral effective September 30, 1966.

Upon reporting for active duty in 1913, he had instruction at the Naval Medical School, Washington, D.C. This course completed in May, 1914, he joined the USS SUPPLY at San Francisco, and one year later he was detached and ordered to the Asiatic Station for assignment. During the next two years he served at the Naval Stations, Guam, and Cavite, P.I., on the Yangtze Patrol aboard the USS PALOS and the USS GALVESTON, and in January, 1917, he was ordered to the Naval Hospital, Yokohama, Japan, for three months.

Throughout World War I, and until December, 1919, he served in Charleston, South Carolina, three months at the Navy Yard, and thereafter as Executive Officer of the Naval Hospital, Charleston.

He had duty with Destroyer Flotilla 2, Atlantic Fleet, from December, 1919, to February, 1922, successively in the USS BRIDGEPORT, the USS THOMAS, and again in the BRIDGEPORT. Ordered to the Hospital Corps Training School for Pharmacist Mates, at the Naval Hospital, Norfolk, Virginia, he served until May 29, 1925, when he joined the USS HENDERSON and was Senior Medical Officer of that transport until detached in February, 1927. He then reported to the Naval Dispensary, Navy Department, Washington, where he was Medical Inspector from April, 1927. He remained in that assignment ten years, with additional duty from December, 1928, in attendance at the House of Representatives during sessions of Congress.

From May 10, 1937, until July 14, 1941, he served at the Naval Medical Center, Washington, D.C., with additional duty as before as Attending Physician at the Capitol.

He was relieved of duty at the Naval Medical Center, but continued his duties as Medical Officer in attendance on the Congress. He also served as consultant in the Bureau of Medicine and Surgery, Research Division, before and during World War II. In addition to his primary duty of providing medical attendance to the membership of both the House and Senate, he has devoted himself diligently to medical research at the Naval Medical School, as well as serving actively as special consultant in internal medicine to the Naval Hospital, Bethesda. His retirement became effective on November 1, 1947, but he has remained continuously on active duty as before.

Vice Admiral Calver has the Victory Medal; American Defense Service Medal; American Campaign Medal; and World War II Victory Medal.

He married in 1916 Miss Jessie Willits, daughter of the late Admiral and Mrs. A. B. Willits, USN. They have two daughters, and reside at 3135 Ellicott Avenue, N.W., Washington, D.C.

Doctor Calver is a member of the American Medical Association, and in 1926 was elected a Fellow of the American College of Physicians. He was elected to the American College of Cardiology in 1951 and has served as President of the College of Cardiology. He is a Fellow of the American Geriatrics and Gerontological Societies and is certified by the American Board of Internal Medicine (1944).

Mr. GRIFFIN. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. Mr. President, on behalf of the leadership and the membership on this side of the aisle, I wish to associate with the remarks of the distinguished majority leader.

Dr. Calvin was not only an outstanding physician but, as the distinguished majority leader has said, he was also a close and valued friend of Senators and Members of the House of Representatives. He will be missed, and I join in extending sorrow and condolences to his family.

Mr. MANSFIELD. Mr. President, I thank the Senate for allowing us to make these few remarks.

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GAMBRELL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. it is so ordered.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

Mr. BEALL. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 448, line 23, strike "June 30, 1973," and insert in lieu thereof "June 30, 1974".

Mr. BEALL. Mr. President, this is a very uncomplex amendment and not nearly so controversial as those we have been considering recently.

It simply changes the termination date for the section. Section 123 provides emergency assistance for institutions of higher education, those institutions having financial difficulty in surviving today's escalating costs.

When we passed the bill last year, we wanted to make it a 2-year program and have the program until 1973, because it was then 1971. It is now 1972, and we still want a 2-year program. The amendment simply changes the date from 1973 to 1974.

Mr. PELL. I have studied the amendment of the Senator from Maryland. I think it has great merit. I recommend to the Senate that we accept the amendment. I yield back the remainder of my time.

Mr. BEALL. Mr. President, I thank the Senator from Rhode Island, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Maryland. (Putting the question.)

The amendment was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I would like to ask the manager of the bill to state as a matter of legislative history the procedure for administering the basic education opportunity grant program and the way in which the basic grant program would be related to the present student assistance programs.

Mr. PELL. The bill passed by the Senate does not deal with the specific administrative mechanism for the basic educational opportunity grant program. This matter is omitted because provisions in present law give the Commissioner of Education authority for administering this program under contractual arrangements. When the Committee on Labor and Public Welfare considered S. 659 in executive session, the method by which the basic grant program was administered was considered specifically. The committee believed that the administrative mechanism should be left under the authority of section 411(b) of the General Education Provisions Act. That section reads as follows:

(b) In administering any applicable program, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

Under this provision it is intended that the Commissioner will contract with colleges and universities at which basic grant recipients are in attendance for the administration of the program in each of the schools.

Within the colleges and universities, it is probable that student financial aid officers will administer the basic grant program. The student financial aid officers would receive copies of the schedules promulgated by the Commissioner as provided in the bill, and individual students seeking basic grants would make application through the financial aid officers. The student financial aid officers would then calculate, on the basis of the Commissioner's schedules, the amount which the student's family could reasonably be expected to contribute to his or her postsecondary education. Once that amount is calculated, the student will automatically receive the difference between that amount which the family is reasonably expected to contribute and $1,400. It is not foreseen that the basic grant program will be any more "Federal" than the present student aid programs are. It is probable that the basic grant program could not be operated without the services of student financial aid officers.

It is also expected that the Commissioner will carry out an intensive dissemination project in order to inform potential students of their rights under the basic grant program, and that he will provide technical assistance to institutions, aiding them in the administration of the program. The Commissioner has authority to carry on these activities under sections 412, 413, and 414 of the General Education Provisions Act.

The contract authority of the Commissioner of Education under section 411(b) of the General Education Provisions Act provides that the Commissioner must pay for the services of contractors. Therefore, the Commissioner will pay the administrative expenses of institutions of higher education for their activities under the basic grant program.

These funds will be paid to the institutions from appropriations for salaries and expenses of the Office of Education under section 401(c) of the General Education Provisions Act.

I would emphasize that the basic grant program is not a discretionary program. If a student qualifies for a basic grant under the law and the schedules established by the Commissioner, that student has a right to a grant in the amount established under those schedules. The student aid officer may not deny the student a grant to which he or she is entitled.

The basic grant program is intended to be a floor supporting the present student aid programs. It definitely is not intended to replace the present programs. As the bill is drafted, there is a separate authorization for the present programs apart from the basic grant entitlement. Any attempt to shift funds from present student aid programs to the basic grant program would be contrary to the intent of the committee.

In fact, the success of the basic grant program will be directly dependent on the continued funding of the present educational opportunity grant program, as well as on the work-study program and direct loan program, because these programs are intended to supplement the basic grant program. These supplementary programs must be used to give financial assistance to two categories of students: First, the supplementary programs will be used to provide additional financial assistance to those students of extreme need for whom the basic grant is insufficient to enable them to complete a postsecondary education program. Second, the supplementary programs will also be used for students who go to more expensive institutions of higher education who have need for assistance, but who are not eligible for basic grants.

There is no intent on the part of the committee that the total package of student aid programs serve only basic grant recipients.

Mr. BEALL. Mr. President, I thank the Senator.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. CRANSTON. Mr. President, on behalf of the following Senators, who join me as cosponsors—Senators WILLIAMS, MONTOYA, and KENNEDY—I offer an amendment, send it to the desk, and ask that it be read.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk proceeded to read the amendment offered by the Senator from California for himself and other Senators.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. DOMINICK. Mr. President, reserving the right to object, unless it is an extremely long amendment, would the Senator care to have it read? I would like to know about it, because I have had long discussions about it.

Mr. CRANSTON. I can explain it, but if the Senator wishes it read, we can do that. However, I will be glad to give him a copy to read while I am explaining it.

Mr. DOMINICK. If the Senator has a copy of it, fine.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

The amendment offered by Mr. CRANSTON for himself and other Senators is as follows:

On page 635, beginning on line 16, strike out all down through line 6, on page 636, and insert in lieu thereof the following:

(5)(A)(1) The General Education Provisions Act is amended—

(I) in section 402 (as such section is added by clause (2) of subsection (a)), by adding at the end thereof the following new subsection:

"(c)(1) In order to enable the Commissioner to carry out the purpose and duties of the Office of Education, the Commissioner is authorized, during the period beginning July 1, 1972, and ending June 30, 1975, to make grants to, and contracts with, public and private institutions, agencies, and organizations for the dissemination of information, for surveys, for exemplary projects in the field of education, and for the conduct of studies related to the management of the Office of Education.

"(2) From the sums appropriated pursuant to section 401(c) for any fiscal year, the amount available for the purposes of this subsection shall not exceed $25,000,000.".

(II) in section 421 (as so redesignated by clause (1) of subsection (a)), by adding at the end thereof the following new subsection:

"(c)(1)(A) Except in the case of a law which—

"(i) authorizes appropriations for carrying out, or controls the administration of, an applicable program, or

"(ii) is enacted in express limitation of the provisions of this paragraph,

no provision of any law shall be construed to authorize the consolidation of any applicable program with any other program.

"(B) No provision of any law which authorizes an appropriation for carrying out, or controls the administration of, an applicable program shall be construed to authorize the consolidation of any such program with any other program unless provision for such a consolidation is expressly made thereby.

"(C) For the purposes of this subsection, the term 'consolidation' means any agreement, arrangement, or the other procedure which results in—

"(1) the commingling of funds derived from one appropriation with those derived from another appropriation,

"(ii) the transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation,

"(iii) the use of any practice or procedure which has the effect of requiring, or providing for, the approval of an application for funds derived from different appropriations on any basis, or according to any criterion, other than that for which provision is made in the law which authorizes the appropriation of such funds, or in this title, or

"(iv) the making of a grant or contract involving the use of funds derived from one appropriation dependent upon the receipt of a grant or contract involving the use of funds derived from another appropriation.

"(2)(A) No requirement or condition imposed by a law authorizing appropriations for carrying out any applicable program, or controlling the administration thereof, shall be waived or modified, unless such a waiver or modification is expressly authorized by such law or by a provision of this title or by a law expressly limiting the applicability of this paragraph.

"(B) There shall be no limitation on the use of funds appropriated to carry out any applicable program other than limitations imposed by the law authorizing the appropriation or a law controlling the administration of such program; nor shall any funds appropriated to carry out an applicable program be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law authorizing the appropriation.

"(3) No person holding office in the executive branch of the Government shall exercise any authority which would authorize or effect any activity prohibited by paragraph (1) or (2).

"(4) The transfer of any responsibility, authority, power, duty, or obligation subject to this title, from the Commissioner to any other officer in the executive branch of the Government, shall not affect the applicability of this title with respect to any applicable program.";

(III) by amending the heading of such section 421 to read: "ADMINISTRATION OF EDUCATION PROGRAMS".

(ii)(I) The provisions of section 421(c) of the General Education Provisions Act shall be effective upon the date of enactment of this Act. No provision of any law which is inconsistent with such section 421(c) shall be effective nor shall any such provision control to the extent of such inconsistency, unless such a law is enacted after the date of enactment of this Act and in express limitation of such section 421(c).

(II) Nothing in such section 421(c) shall be construed to authorize any activity not prohibited thereby.

(B)(1) There is hereby established, within the Office of Education, a Bureau of Elementary and Secondary Education (hereinafter in this subparagraph referred to as the "Bureau") which shall be responsible for the administration of the programs authorized by titles I, II, III (except section 306), V, VII, and VIII of the Elementary and Secondary Education Act of 1965, by section 222(a)(2) of the Economic Opportunity Act of 1964, by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) and the Act of September 30, 1950 (Public Law 874, Eighty-first Congress). Within the Bureau there shall be—

(I) a Division of Compensatory Education with responsibility for the administration of the programs authorized by titles I and VIII of the Elementary and Secondary Education Act of 1965 and section 222(a)(2) of the Economic Opportunity Act of 1964;

(II) a Division of Bilingual Education with responsibility for the administration of the programs authorized by title VII of the Elementary and Secondary Education Act of 1965;

(III) a Division of School Assistance in Federally Affected Areas with responsibility for the administration of the programs authorized by such Acts of September 23, 1950, and September 30, 1950; and

(IV) a Division of Assistance to States, with responsibility for the administration of the programs authorized by titles II, III, and V of the Elementary and Secondary Education Act of 1965.

(ii) The Bureau shall be headed by an Associate Commissioner who shall be appointed by the Commissioner and who shall be placed in, and compensated at the rate specified for, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and each of the Divisions described in division (i) shall be headed by a Director who shall be placed in grade 17 of such General Schedule; and in addition, there is hereby created, and assigned to the Bureau, four additional positions to be placed in grade 16 of such General Schedule. The positions created by this division shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code.

(C)(i) During the period beginning on the date of enactment of this Act and ending June 30, 1974, the Commissioner is authorized, notwithstanding paragraph (1) of section 421(c) of the General Education Provisions Act, to use funds available for the purposes of—

(I) section 306 of the Elementary and Secondary Education Act of 1965;

(II) part D of title V of the Higher Education Act of 1965; and

(III) except as is provided in division (ii), section 402(c) of the General Education Provisions Act;

for assisting local educational agencies in planning, developing, and operating education renewal sites. Such assistance shall be used to support innovative projects carried out in one or more schools in the field of elementary and secondary education designed to bring about comprehensive reform in the educational process. Such projects may include, among other activities, the training and retraining of teachers and other educational personnel, including the payment of such stipends as the Commissioner may determine to such persons (including allowances for subsistence and other expenses for such persons and their dependents) while participating in such training or retraining.

(ii) The funds available under section 402(c) of the General Education Provisions Act for the purposes of division (i) shall be that part of the appropriation under such section which the Commissioner certifies to the Congress is not needed to carry out (I) the statistical operations of the Office of Education, (II) surveys and studies by the Office of Education, and (III) the continuation, during the fiscal years ending June 30, 1973, and June 30, 1974, of the educational television programs popularly known as "Sesame Street" and "The Electric Company".

(iii) Nothing in this subparagraph shall be construed to authorize the funds made available for education renewal sites under division (i) to be used for any activity not authorized by the law authorizing the appropriation of such funds.

(iv) The Commissioner is hereby authorized to request appropriations under the authority of section 401(c) of the General Education Provisions Act to supplement the funds made available to him under division (i) for education renewal sites.

(D)(i) The Commissioner is hereby authorized, consistent with the amendments made by this paragraph (5), to provide assistance to local educational agencies, during the fiscal years ending June 30, 1973, and June 30, 1974, in order to continue the program known as "Right To Read" which is designed to improve reading programs and end illiteracy, which assistance shall be used to identify exemplary reading programs and support local educational agencies which adopt such exemplary programs. The Commissioner is authorized to request, under the authority of section 401(c) of the General Education Provisions Act, such sums as are needed to implement this subparagraph (D).

(ii) None of the funds authorized to be appropriated under subpart 4 of title IV–A of the Higher Education Act of 1965 shall be used for the program known as "Right To Read".

Mr. CRANSTON. Mr. President, the amendment I offer is designed to clear up a very confusing and unnecessarily complicated situation which has developed in the Office of Education in the past 5 or 6 months. The Commissioner of Education is proposing reorganizational schemes, new funding patterns, and program consolidations in order to implement the so-called educational renewal site strategy.

The Commissioner has stated that the fundamental purpose of the Office of Education is to assist school systems to improve educational achievement and that the Office of Education must be an active participant in education reform, a purpose which I support when he uses procedures authorized by law. The major component of the Commissioner's strategy was described as a simply a new "administrative procedure." However, upon examination, this administrative procedure involves a great more than a simple internal organizational matter—it is a reorganization which is designed to change education programs now authorized by law in a manner, which I believe and the chairman of the Education Subcommittee (Mr. PELL) believes, is inconsistent with the intent of Congress. A major part of the strategy involved the consolidation of four programs—the teacher training institutes under the Education Professions Development Act, the dropout prevention program, and the Federal share of title III of the Elementary and Secondary Education Act—into a single program, that is the education renewal site program.

At the same time, in order to accomplish this purpose, three bureaus of the Office of Education were completely disrupted and reorganized, joining and separating programs without regard for the interests of the education community or the intent of the Congress.

It was intended that the Commissioner would establish 200 education renewal sites in fiscal 1973, and that the number would be increased each year until 1,000 sites involving 10,000 schools would be in operation throughout the country. This was intended to be accomplished without authorizing legislation.

A number of members of the Committee on Labor and Public Welfare and of the House Committee on Education and Labor became concerned about the Commissioner's activities in this area. Both the House and Senate reports on the pending bill expressed concern about this proposal and questioned the legal authority of the Commissioner to carry it out without congressional approval. In spite of these reports, the Commissioner proceeded with the project, with no consultation with the Congress.

On October 14, 1971, the Commissioner announced to Office of Education employees his final approval of the project and on October 15 transfers of personnel were begun. Shortly thereafter, State educational agencies and selected local educational agencies were notified that they were to prepare for the new program.

The chairman of the Education Subcommittee (Mr. PELL) then made inquiries on this matter and pointed out that, at least with respect to the dropout prevention program and the bilingual education program, the Commissioner's plans were not authorized by law. Finally, on January 7 the Commissioner informed the chairman that the bilingual education program and the dropout prevention program were to be omitted from the project. At that time, the chairman was informed that only about 30 initial sites were planned.

Exactly 2 weeks later, the Commissioner's subordinates contradicted the Commissioner's letter to the chairman in a telegram to State educational agencies and at a meeting with the council of the great city schools. In the first place, no notice was given that the bilingual program was no longer to be consolidated; in the second place, the bilingual program was specifically mentioned as being one of the "programs under one blanket—renewal"; and the number of renewal sites was changed from about 30 to "about 60."

When the budget for fiscal year 1973 was submitted, that also contradicted the Commissioner's statements in his letter to the chairman. In fact, the language of the budget request was such that the Office of Education was asking for approval of its new program by way of an appropriation act rather than by authorizing legislation, as the rules of the Senate and the House of Representatives provide.

On two occasions, the chairman of the subcommittee requested that the Commissioner defer any further action on the renewal site proposal. In spite of this, school districts were informed of application deadlines and the project continued. I might note, Mr. President, that, in spite of assurances from the Commissioner that he was obeying the law, the procedures being used in these application procedures were blatantly illegal. Section 421 of the General Education Provisions Act requires application procedures to be published in the Federal Register 30 days before the procedures take effect.

With this by way of background, I would like to express my particular concern about the future of the bilingual education program. Even though the Commissioner has assured us that it will not be consolidated into the renewal program, his subordinates still talk about bilingual education funds as part of the renewal site concept.

The bilingual program is a congressionally mandated single purpose program of major importance to California as well as to other States having large numbers of Spanish-speaking children. It is nowhere near achieving its goal, but it is making a spendid start. A recent report of the U.S. Commission on Civil Rights indicates that we need a much higher priority for bilingual-bicultural education in the Southwest and across the Nation. Bilingual education needs increased visibility rather than subversion under the renewal program.

It is a program of major concern to California, where at least 5.6 percent of the population is Spanish-surnamed and there are 646,000 Spanish-surnamed children in elementary and secondary schools.

I am not convinced that we can be sure of preserving the integrity of the bilingual education program so long as it is associated with the education renewal program.

Therefore, I am offering an amendment which would permit the Commissioner to initiate an education renewal strategy, and to provide specific legislative authority for the "Right To Read" program, but which would restore the Office of Education to its former structure until such time as legislation is enacted altering its structure organizationally.

The amendment I am offering contains the following provisions:

First, it authorizes specific funds to carry out the Commissioner's education renewal strategy.

Second, it provides specific legislative authority for the "Right to Read" program.

Third, it prohibits unauthorized program consolidations and unauthorized meddling with provisions of authorization legislation.

Fourth, it continues the organization of the Office of Education along the lines existing prior to the time education renewal reorganization occurred.

Fifth, it gives increased status to the bilingual education program in order to preserve its integrity.

Another matter along this same line will be dealt with by my amendment. The Congress has supported the Upward Bound program during the past 5 years. No one has questioned its success. Now, without benefit of legislation, the Commissioner has begun siphoning off Upward Bound funds for the Right to Read program. The Right to Read program has admirable goals with which I agree; however, it ought to be funded separately under specific legislation and not by funds appropriated for other purposes. My amendment will make this possible and, at the same time, preserve the Upward Bound program.

I would urge the adoption of my amendment if for no other reason than that it preserves congressional prerogative. It seems the Department of Health, Education, and Welfare has, in this instance, held the Congress in rather low esteem. It has disregarded statutes. It has ignored obvious legislative intent. It has failed to inform and consult with the Congress. The proper role of the Congress in making education policy must be established and maintained. With this amendment, the Congress will reassert its proper role in making policy decisions relation to the Nation's education systems.

In view of the interest of HEW and many others in this matter, a meeting was held in my office this morning with Secretary Richardson, attended by members of his staff, by members of my staff, by members of this committee's staff, by members of the Appropriations Committee staff, and other interested persons, to discuss this amendment and the situation that has caused me to prepare it.

The Secretary indicated his concerns about the amendment, and hoped that we might be able to agree upon a procedure to deal with the concerns that many of us in the Senate and many people involved in education in the country have over this situation, in a way that could resolve the matter without legislative action.

I have great respect for Secretary Richardson, and sympathize with many of the views he expressed. We finally reached an understanding that I would proceed to call up the amendment today and seek its adoption. We were partly in a straitjacket on time, today being the only time when this amendment can be called up before the bill moves beyond this stage, and there would be no opportunity in the foreseeable future during this legislative year to deal with this situation if we did not deal with it today.

We agreed that subsequent to the time that the Senate agrees to this amendment, if it does, and prior to the conference, if we could reach an agreement with Secretary Richardson spelled out in writing that would achieve what he wishes to achieve short of actual legislative action, but would also achieve what many of us in the Senate wish to achieve without the necessity of legislative action, and if those assurances were satisfactory to those Senators who have expressed concern over these matters, then I would not press in conference for the adoption of this amendment by the conferees.

Mr. President, I ask unanimous consent that a section-by-section analysis of the amendment be printed in the Record at this point, followed by pertinent correspondence and other materials regarding the Office of Education's renewal site strategy.

There being no objection, the material was ordered to be printed in the Record, as follows:

## ANALYSIS OF THE AMENDMENT RELATING TO EDUCATION RENEWAL SITES AND "RIGHT TO READ"

This amendment rewrites paragraph (5) of section 301(b) of the Committee Amendment by—

(1) conforming the provisions of paragraph (5) in the Committee Amendment with the other parts of the General Education Provisions Act;

(2) prohibiting unauthorized program consolidations and limitations on appropriated funds;

(3) establishing by statute the former Bureau of Elementary and Secondary Education;

(4) specifically authorizing an education renewal site strategy for the reform of education; and

(5) specifically authorizing funding for the program known as "Right to Read".

The amendment contains four subparagraphs as follows:

*Subparagraph (A)* contains amendments to the General Education Provisions Act. The General Education Provisions Act, under present law, contains those general provisions which control the administration of education programs for which the Commissioner of Education has administrative responsibility. The Committee Amendment amends that Act by adding provisions which establish an Education Division in the Department of Health, Education, and Welfare (consisting of the Office of Education, the National Foundation for Postsecondary Education, and the National Institute of Education), and which authorize survey, studies, and demonstrations in the field of education. This latter provision is rewritten by this amendment.

*Division (i)* of subparagraph (A), in clause (I) thereof, inserts a new subsection (c) into section 402 of the General Education Provisions Act, which section 402 is previously created in order to act as an organic statute for the Office of Education. This new section 402(c) is comparable with the proposed section 421(d) of the General Education Provisions Act in the Committee Amendment. Such section 402(c) provides, in paragraph (1), that in order to enable the Commissioner of Education to carry out the purpose and duties of the Office of Education, he is authorized, during the period beginning July 1, 1972, and ending June 30, 1975, to make grants and contracts for the dissemination of information, for surveys and for exemplary projects in the field of education and grants and contracts for the conduct of studies related to the management of the Office of Education. Public and private institutions, agencies, and organizations are eligible recipients of such grants and contracts. Paragraph (2) of such section 402(c) limits the amount of the appropriation under section 401(c) of the General Education Provisions Act which may be used for the purposes of such section 402(e) to $25,000,000 for any fiscal year. Such section 401(c) authorizes to be appropriated, as part of the salaries and expenses of the Office of Education, such sums as may be necessary to carry out the General Education Provisions Act. Such section 402(c) of the General Education Provisions Act differs from the section 421(d) proposed in the Committee Amendment in that—

(1) it states explicitly that the purpose of the subsection is to enable the Commissioner to carry out responsibilities vested in him by the organic statute of the Office of Education; and

(2) it makes clear that appropriations for the purposes of the subsection are to be part of the general appropriation for the General Education Provisions Act, in contrast with appropriations for the National Foundation for Postsecondary Education and the National Institute of Education, which are intended to be separate appropriations.

In *clause (II)*, division (i) of subparagraph (A) amends section 421 of the General Education Provisions Act (which section 421 is section 411 under present law and is redesignated as section 421 by clause (1) of section 301(a) of the Committee Amendment) by adding a new subsection (c) thereto prohibiting unauthorized program consolidations and unauthorized limitations on funds appropriated for education programs. The proposed section 421(c) contains four paragraphs as follows:

Paragraph (1) of such section 421(c) provides, in subparagraph (A), that no provision of any law shall be construed to authorize the consolidation of any education program with any other program, except when such a consolidation is expressly authorized by—

(1) a law which authorizes the appropriation, or controls the administration of, an education program; or

(2) a law which is enacted in express limitation of such paragraph (1).

Paragraph (1) of such section 421(c) further provides, in subparagraph (B), that no provision of any law which authorizes an appropriation for carrying out, or controls the administration of, an education program shall be construed to authorize the consolidation of any education program with any other education program unless provision for such a consolidation is expressly made in a statute authorizing appropriations for an education program.

In this analysis the term "education program" is used to refer to any program to which the General Education Provisions Act is applicable.

Subparagraph (C) of paragraph (1) of such section 421(c) defines the term 'consolidation'. The term 'consolidation', for the purposes of subsection (c) of section 421, means any agreement, arrangement, or other procedure which results in any of four actions, namely—

(1) the commingling of funds derived from one appropriation with those derived from another appropriation,

(2) the transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation,

(3) the use of any practice or procedure which has the effect of requiring, or providing for, the approval of an application for funds derived from different appropriations on any basis, or according to any criterion, other than than for which provision is made in the law which authorizes the appropriation of such funds, or in the General Education Provision Act, or

(4) the making of a grant or contract involving the use of funds derived from one appropriation dependent upon the receipt of a grant or contract involving the use of funds derived from another appropriation.

Paragraph (2) of such section 421(c) relates to the waiver and modification of requirements set forth in authorizing legislation, and to the imposition of limitations on appropriations other than, or inconsistent with, limitations placed in authorizing legislation.

Subparagraph (A) of section 421(c)(2) provides that no requirement or condition imposed by any law which authorizes appropriations for carrying out any education program, or by any law controlling the administration of any such program, shall be waived or modified unless such a waiver or modification is expressly authorized in one of these three statutes:

(1) A waiver or modification may be authorized by the law authorizing the appropriations for the program for which the waiver or modification is authorized; or

(2) A waiver or modification may be authorized by the General Education Provisions Act; or

(3) A waiver or modification may be authorized by a law which expressly limits the applicability of paragraph (2).

Subparagraph (B) of such section 421(c)(2) provides that there shall be no limitation on the use of funds appropriated to carry out any education program other than limitations imposed by the law controlling the administration of an education program. Such subparagraph (B) further provides that funds appropriated to carry out an education program shall not be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law authorizing the appropriation.

Paragraph (3) of such section 412(c) provides that no person holding office in the executive branch of the Government shall exercise any authority which would authorize or carry out any activity prohibited by paragraphs (1) and (2) of section 421(c).

Paragraph (4) of section 421(c) provides that if any responsibility, authority, power, duty, or obligation subject to the General Education Provisions Act is transferred from the Commissioner to any other officer in the executive branch of the Government, such transfer shall not affect the applicability of the General Education Provisions Act to the education program with respect to which such responsibility, authority, power, duty, or obligation applies.

*Clause (III)* of division (i) of subparagraph (A) of paragraph (5) makes a conforming amendment to the capition head of section 421 of the General Education Provisions Act.

*Division (ii)* of subparagraph (A) of paragraph (5) relates to the effectiveness of section 421(c) of the General Education Provisions Act, which is added by clause (II) of division (i) of such subparagraph (A).

*Subdivision (I)* of such division (ii) provides, in the first sentence thereof, that the provisions of section 421(c) of the General Education Provisions Act shall be effective upon the date of enactment of the bill, S. 659. The second sentence of such subdivision (I) provides that no provision of any law which is inconsistent with such section 421(c) shall be effective, unless such a law is enacted after the date of enactment of S. 659, and then only if such a law is enacted in express limitation of such section 421(c). In the case of a law which is only partially inconsistent with such section 421(c), that law shall not be effective to the extent of such inconsistency.

*Subdivision (II)* of such division (ii) provides that nothing in such section 421(c) shall be construed to authorize any activity not prohibited in such section 421(c).

*Subparagraph (B)* of section 301(b)(5) establishes within the Office of Education the Bureau of Elementary and Secondary Education. Its area of jurisdiction, as set forth in division (i), includes the administration of the programs authorized by titles I, II, III (except section 306), V, VII, and VIII of the Elementary and Secondary Education Act of 1965, by section 222(a)(2) of the Economic Opportunity Act of 1964, by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) and the Act of September 30, 1950 (Public Law 874, Eighty-first Congress).

The second sentence of division (i) divides the Bureau as follows:

(1) a Division of Compensatory Education with responsibility for the administration of the programs authorized by titles I and VIII of the Elementary and Secondary Education Act of 1965 and section 222(a)(2) of the Economic Opportunity Act of 1964;

(2) a Division of Bilingual Education with responsibility for the administration of the programs authorized by title VII of the Elementary and Secondary Education Act of 1965;

(3) a Division of School Assistance in Federally Affected Areas with responsibility for the administration of the programs authorized by the Acts of September 23, 1950, and September 30, 1950; and

(4) a Division of Assistance to States, with responsibility for the administration of the programs authorized by titles II, III, and V of the Elementary and Secondary Education Act of 1965.

*Division (ii)* of subparagraph (B) of section 301(b)(5) specifies the personnel organization of the Bureau of Elementary and Secondary Education. The Bureau shall be headed by an Associate Commissioner who shall be appointed by the Commissioner and who shall be placed in, and compensated at the rate specified for, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and each of the Divisions described in division (i) shall be headed by a Director who shall be placed in grade 17 of such General Schedule. In addition, division (ii) creates and assigns to the Bureau four additional positions to be placed in grade 16 of such General Schedule. The positions created by division (ii) shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code.

*Subparagraph (C)* of such paragraph (5) authorizes the Commissioner to carry out an educational renewal site strategy. Such subparagraph contains four divisions as follows:

*Division (i)* of such subparagraph (C) provides, in the first sentence thereof, that during the period beginning on the date of enactment of S. 659 and ending June 30, 1974, the Commissioner is authorized to use funds available for the purposes of—

(1) section 306 of the Elementary and Secondary Education Act of 1965;

(2) part D of the Higher Education Act of 1965 (the Education Professions Development Act); and

(3) section 402(c) (as added by clause (I) of section 301(b)(5)(A)(i) of S. 659) of the General Education Provisions Act;

for assisting local educational agencies in planning, developing, and operating education renewal sites. The second sentence of division (i) describes the activities to be carried out in education renewal sites. Assistance under the first sentence of division (i) may be used to support innovative projects in the field of elementary and secondary education which are carried out in one or more elementary or secondary schools to bring about comprehensive reform in the educational process. Such projects may include, among other activities, the training and retraining of teachers and other educational personnel, including the payment of such stipends as the Commissioner may determine, to such persons while participating in such training or retraining.

*Division (ii)* of subparagraph (C) limits the extent to which funds available under section 402(c) of the General Education Provisions Act may be used for education renewal sites. The Commissioner must first use appropriations for the purposes of such section 402(c) for—

(1) the present statistical operations of the Office of Education;

(2) maintenance of the surveys and studies of the Office of Education at the present level; and

(3) the continuation, during the fiscal years 1973 and 1974, of the educational television programs popularly known as "Sesame Street" and "The Electric Company".

Any funds appropriated for the purposes of section 402(c) which remain available after carrying out the above activities shall be available for education renewal sites.

*Division (iii)* of such subparagraph (C) provides that funds available under division (i) of such subparagraph for education renewal sites must be expended for the purposes of the program for which they were appropriated.

*Division (iv)* of such subparagraph (C) authorizes the Commissioner to request, under the authority of section 401(c) of the General Education Provisions Act, appropriations to supplement the funds made available to him under division (i) of such subparagraph (C) for education renewal sites.

*Subparagraph (D)* of paragraph (5) of section 301(b) authorizes the Commissioner to continue the program known as "Right to Read" during fiscal years 1973 and 1974 with funds requested and appropriated under section 401(c) of the General Education Provisions Act. Expenditures of funds under the Right to Read program shall be to identify exemplary reading programs and support local educational agencies which adopt such exemplarly programs. Such subparagraph (D) specifically prohibits funds authorized for Upward Bound, Talent Search, and the program of Special Services for the Disadvantaged from being used for the Right to Read program.

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Department of Health, Education, and Welfare, Office of Education,
*Washington, D.C., December 8, 1971.*
Hon. Alan Cranston,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Cranston: Enclosed is a copy of a letter I recently sent Senator Pell describing plans to implement our educational renewal site strategy, and how they meet the mandates of existing law. I know our planning has aroused considerable interest, and we have received a great many inquiries about the specifics. I hope this letter will be helpful in answering any questions you may have.

As the cornerstone of the Office of Education's effort to assist school districts in carrying our comprehensive reform. I believe the renewal site concept is absolutely crucial to Federal education leadership in the years ahead. If you have further questions about this important new strategy, I would be glad to answer them.

Sincerely yours,
S. P. Marland, Jr.,
*U.S. Commissioner of Education.*

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Department of Health, Education, and Welfare, Office of Education,
*Washington, D.C., December 3, 1971.*
Hon. Claiborne Pell,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Pell: This is in further response to your recent letter requesting information on the legality and impact on present Office of Education (OE) programs of my plans to reform the administration of certain OE programs. We are replying separately to concerns expressed in copies of telegrams attached to your letter pertaining to the transfer of functions within the Office of Education involving the ESEA Title II program.

I believe my specific plans can best be understood in the context of my view of the role of the Office of Education. It is my firm conviction that the fundamental purpose of OE is to assist the school systems of this country to improve the educational achievement of the students who attend them. The Office of Education must be an active participant in the continuing process of educational reform and change that is required to achieve this goal. To assure that OE will be of significant help to local school systems, I have been developing a general reform and renewal strategy for the Office. That strategy, which has been enthusiasticcally endorsed by Secretary Richardson, will require changes in the administration of some OE programs. All changes will be consistent with existing education legislation and will enable the Office to carry out the programs authorized by the Congress in a much more effective manner.

The major component of my renewal strategy is something that we have termed "Educational Renewal Sites." We intend this new administrative procedure (which will become operational in Fiscal Year 1973) to be the key element advocate of renewal and reform in American education.

Simply stated, the renewal site strategy is as follows. Several existing Office of Education elementary and secondary project grant programs will be administratively coordinated in the future. The funds from these programs will continue to be available to local school districts. Some number of schools from within each district that is a successful applicant under this approach will be selected as an "educational renewal site" and the Federal funds will be concentrated in the "site." The specific OE programs that will be administered under this new approach are: (a) Bilingual education programs (Title VII of the Elementary and Secondary Education Act); (b) the Dropout Prevention Program (Section 807 of Title VIII of ESEA); (c) the 15 percent of the Title III ESEA Program which is for special programs and projects (Section 306 of Title III of the Elementary and Secondary Education Act); and (d) Part D of the Education Professions Development Act (Title V of the Higher Education Act).

To receive funds under this arrangement, a school district, in addition to meeting the normal requirements for the separate programs, will agree to:

Involve all the appropriate members of the local community (teachers, administrators, parents, students, community groups, etc.) in the educational efforts at the renewal site;

Make an assessment of all the educational needs of those schools which will comprise the renewal site; and

Develop a comprehensive program designed to meet and overcome the problems discovered in the needs assessment.

Federal funds from the programs noted above will enable the schools comprising the site to develop the overall strategy, hire outside consultants, obtain the necessary materials and prepare teachers to use whatever techniques are needed to carry out the comprehensive educational program that has been developed for the site. These funds will be in addition to, and will not replace, the funds received by the district from State and local taxes, and from other Federal grant programs (e.g., impacted areas). Our objective is to enable school districts to use these major sources of funds in a more effective way under the impetus of the renewal site strategy. Such coordinated Federal funding will, be believe, encourage comprehensive planning and integrated programs on the local level.

The single most compelling reason for the development of this particular strategy is the assistance it will give to local school systems in their attempts to serve the educational needs of their students. This new approach will, we hope, lead to a measurable improvement over time in the educational achievement of students in the sites. In addition, it can instill in local schools an appreciation of the necessity for a continuous *process* of reform and give them the capacity to engage in self-evaluation and productive change even after the termination of Federal support.

In response to the legitimate concerns of school administrators over myriad and complicated Federal grants procedures, the renewal site strategy is designed to simplify such procedures at the local level. School districts which seek Federal funds for activities authorized under the above-referred to statutes will be able to submit a single application form. Such application will be reviewed against eligibility criteria which will, to the greatest extent consistent with pertinent enabling statutes, be integrated into a single regulation. Although some of the details of operational procedure have not yet been finally determined, I have listed in an enclosure to this letter some basic decisions respecting the manner in which specific aspects of existing legislation relating to such matters as advisory councils, accounting procedures, etc. will be handled. As you will note, all such matters will be administered consistently with legislative intent.

Some specific concerns have been expressed about the future disposition of programs authorized by the Education Professions Development Act (EPDA). As noted above, the EPDA programs affected by the educational renewal site strategy will be those authorized by Part D of Title V of the Higher Education Act. Any other parts of that Title for which funds are appropriated by the Congress, e.g., the Teacher Corps, will continue to be administered as separate programs.

The renewal site strategy has been reviewed by HEW's Office of General Counsel, which has advised that it finds no legal infirmity in the basic concept underlying this approach. As we formulate the procedural details of this program, we shall be working in cooperation with the Office of General Counsel to assure that (1) rules of eligibility for program grants under the pertinent appropriations will be consistent with standards of eligibility in the corresponding enabling statutes and (2) sufficient accounting procedures on the part of the grantee and the Office of Education will be followed to ensure that the purposes for which funds were appropriated and granted are satisfied by the grantees' expenditures.

The coordination of the programs affected by the renewal site strategy will be implemented within the Office by having them administered by a single unit reporting to the Deputy Commissioner for Development. These programs (Bilingual Education, Dropout Prevention, fifteen percent of Title III ESEA, and Part D of EPDA) will be administered by the new unit which we have named the National Center for the Improvement of Educational Systems. This unit will provide organizational coherence for the educational renewal site strategy.

Everything that I have done thus far as Commissioner of Education, and everything that I propose to do in the future, has one major goal—to assure that the Office of Education can effectively aid the school systems of our country to increase the educational achievement of children. I intend to make the Office an energetic agent of renewal and reform in education at all levels consistent with our statutory mission. The changes in OE practices and procedures that I have discussed in this letter are essential components of my renewal strategy.

I earnestly request your understanding of and support for these changes in OE so that our mutual desire to improve the education of all our children can be made a reality.

Sincerely,

S. P. Marland, Jr.
*U.S. Commissioner of Education.*

Enclosure.

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### Educational Renewal Sites

1. *Existing Programs and Projects.*—The Office of Education has made some moral commitments to school districts under existing legislation to fund certain programs (e.g., Career Opportunities Program and Urban/Rural Program under EPDA) for several years. These commitments are subject to the usual understanding that Congress must appropriate sufficient funds for such programs each year and that the local school district must continue to carry out the program according to the legislative intent.

All such commitments will be honored. School districts to which the Office has made such a commitment of funds extending through and beyond Fiscal Year 1973 will have two options: (1) they may continue existing projects as part of the more comprehensive renewal site approach; or (2) they may continue these existing projects as separate programs and not have them become part of the new site approach. In no instance will there be any arbitrary termination of an existing project.

2. *Funding Authorizations*—All funds appropriated for the separate OE programs that will be administered as part of the educational renewal site strategy will be spent for the purposes for which they were appropriated. Thus, for example, whatever amount of money is appropriated by the Congress for the Bilingual Education programs authorized by Title VII of the Elementary and Secondary Education Act will be spent for such programs.

3. *State Educational Agencies*—Under existing legislation, State educational agencies have a variety of roles to play in the programs to be administered under the educational renewal site strategy.

Under the Bilingual Education Act (Title VII of ESEA) and Title III, (i.e., the fifteen percent administered by the Commissioner under Section 306 of ESEA) applications cannot be approved by the Commissioner unless they have been submitted to the appropriate State educational agency for comments and recommendations.

Dropout Prevention projects must be approved by the appropriate State educational agency (Section 807 of ESEA).

Part D of EPDA requires consultation with State educational agencies to satisfy the State agency that the program or project will be coordinated with programs carried on under Part B of EPDA (see Section 531 (a)).

Accordingly, State educational agencies will be requested, in all instances, for their nominations for educational renewal sites and for their comments and recommendations on the programs of possible sites. Since the ultimate responsibility for approving sites and programs rests with the Commissioner of Education, it is possible that some sites, in unusual circumstances, may be selected which have not been nominated by a State agency. Even in those circumstances, however, the projects will be subject to State educational agency comment or approval wherever the applicable statute requires such comment or approval.

4. *Accounting for Funds*—Existing legislation requires such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant. This requirement will be met in at least two ways:

1. OE will keep track of what amount of funds from each categorical program go to each renewal site. In a hypothetical case, a $100,000 grant to an LEA might consist of $25,000 from funds appropriated for Bilingual Education, $25,000 from section 306 of Title III funds, $25,000 from Dropout Prevention funds, and $25,000 from Part D of EPDA funds. This breakdown, of course, would depend upon the nature of the funded activities, as determined by OE.

2. Each site will have to adhere to customary Federal accounting procedures. Specific items of expenditures will be attributed to funds coming from specific categorical programs.

5. *Regulations and Guidelines*—The regulations and guidelines for the several programs to be administered under the educational renewal site strategy will be combined into a single set. The unified regulations and guidelines will contain all the specific requirements that the separate authorizing acts mandate, e.g., that Federal funds supplement, and not supplant, State and local funds (Section 304(a)(3) of Title III of ESEA); that programs be of a size and scope that will make a substantial step toward achieving the purposes of the legislation (Section 705(a)(3) of Title VII of ESEA); that effective procedures be adopted for evaluating the effectiveness of programs (Section 807(b)(3) of Title VIII of ESEA); etc.

6. *Reports and Evaluations*—All educational renewal sites will have to meet current legislative requirements for annual reports. All will be subject to an evaluation of results. But grantees will submit a single report (not four or five separate ones on each categorical program) and a single evaluation of the site's comprehensive program.

7. *Advisory Council*—Existing legislation provides for the following Advisory Councils in connection with the programs involved in the renewal site strategy.

A National Advisory Council on Supplementary Centers and Services (Section 309 of Title III of ESEA).

An Advisory Committee on the Education of Bilingual Children (Section 708 of Title VII of ESEA).

A National Advisory Council on Education Professions Development (Section 502 of Title V of the Higher Education Act).

All these Councils will be expected to give advice on the general renewal site strategy and the relation of their particular programs to it. All will continue to fulfill any other statutory obligation, e.g., the Title III Council submits an annual report to the President and the Congress, the Bilingual Council develops criteria for the approval of applications, etc.

8. *Eligible Applicants*—A variety of agencies are now eligible for Federal funds under the programs involved in the educational renewal site strategy: local educational agencies (all programs); institutions of higher education which may apply jointly with a local educational agency under the Bilingual Education Act; institutions of higher education and State educational agencies under Part D of EPDA; nonprofit institutions or organizations of Indian tribes under Section 706(a) of the Bilingual Education Act; and the Secretary of the Interior for Indian schools under Section 706(b) of the Bilingual Education Act.

All these agencies will continue to be eligible to apply for funds under the educational renewal site strategy. Although priority will be given to applications reflecting the renewal site approach, some applicants unable to meet the comprehensive requirements of this approach will also receive assistance.

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January 27, 1972.

The Honorable Claiborne Pell,
*Chairman, Subcommittee on Education,*
*U.S. Senate,*
*Washington, D.C.*

Dear Mr. Chairman: Commissioner Marland has sent me a copy of his letter to you of December 3, responding to your inquiry about the proposed Educational Renewal program. I am glad you are asking these pertinent questions, though I am not reassured by the Commissioner's response. Indeed, the correspondence raises additional questions which I believe deserve discussion by the Subcommittee.

I am particularly concerned about Title VII of the Elementary and Secondary Education Act, the Bilingual Education title. As you know, this program is of major importance to California. This Congressionally-mandated, single-purpose program has made a splendid start. However, it is nowhere near achieving its goal. In fact, the recent report of the U.S. Commission on Civil Rights, reviewing Mexican-American education, indicates that we need a much higher priority for bilingual-bicultural education in the Southwest and across the nation.

We must step up both funding and staffing for Title VII. Its consultant roster should be expanded. Successes and failures need more thorough documentation and analysis. Dissemination programs—for curriculum development, research, and public information—must be strengthened and broadened. These items, and more, must have greater attention if we are to meet our firm commitment to gaining educational equity for bilingual-bicultural children.

Achieving these objectives demands increased visibility for Title VII. We need steady oversight by the Congress to match words with action. I am not yet persuaded that either of these needs will be met under the Renewal program.

In the past, program consolidation has too often led to sacrifice of program integrity and dilution of effort, along with staff reduction and administrative budget cuts. The Teacher Corps is a case in point. Just last year, the Committee was forced to rescue it by legislating its independence from other Office of Education programs. From the Corps' beginning in 1965, the Committee had feared that competition with other education programs would eclipse the Corps and compromise its mission. In 1971, seeing the Corps receive less and less attention and focus within the Office, the Committee—in its report on the Higher Education Amendments—observed that the Corps staff had been cut from 75 to 37 permanent slots and its administrative budget had dropped from $385,111 to $97,000.

We have no guarantees that a similar fate will not await bilingual education under the Renewal strategy, resulting in an impairment at a most critical time. We must not allow this to happen.

There is another serious issue involved in the Renewal strategy. The program consolidates several of the Office of Education's most important categorical programs, including Environmental Education, Drug Abuse Education, Dropout Prevention, and Follow Through. I feel that a reorganization of this magnitude is a matter upon which the Congress should be consulted, not instructed. This transfer and merger of programs within the Office suggests the need for enabling legislation, yet no such legislation has been asked. The plan also reprograms funds, although the Senate Labor-HEW Appropriations Subcommittee must approve such reprogramming. It has not. These issues should not be ignored.

I am further concerned about the resemblance of the Renewal program to the President's plan for education revenue sharing. As you know, the Subcommittee has this plan under consideration. Hearings are not complete. We have not reported the bill. Both the National Education Association and the American Federation of Teachers, among others, oppose it in its present form. Yet, Commissioner Marland—writing in the January 10 edition of *The New York Times*, calls the Renewal program "a packaging process similar to the education revenue-sharing bill President Nixon has proposed as a means for the more efficient and effective delivery of formula grant funds to the states."

While I appreciate the Commissioner's candor, I am disturbed by the implication of his statement.

Mr. Chairman, I urge you to continue pressing for a better, clearer explanation of the Renewal strategy and its effects on existing programs than we have so far received. I know that every member of the Subcommittee commends Commissioner Marland for his commitment to educational reform and will work diligently with him to achieve it. The Congress and the Executive, however, are partners in the important work of education. Congressional silence on this issue will amount to acquiesance to a program that needs full discussion.

With best regards,
Sincerely,

Alan Cranston.

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January 27, 1972.

Dr. S. P. Marland, Jr.
*U.S. Commissioner of Education,*
*U.S. Office of Education,*
*Washington, D.C.*

Dear Commissioner: Thank you for your letter of December 8 enclosing the letter and memorandum to Senator Pell regarding the Educational Renewal program.

As you know, Section 707(b) of the Bilingual Education Act stipulates that the "Advisory Committee shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the development of criteria for approval of applications thereunder." I would appreciate knowing what the Council's comments and recommendations were with respect to including bilingual education in the Renewal program.

I am attaching a letter I have sent to Chairman Pell setting forth some general concerns I have about your proposal. I would appreciate any comments you might have.

Sincerely,

Alan Cranston.

Enclosure.
cc: Honorable Claiborne Pell.

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Department of Health,
Education, and Welfare,
Office of Education,
*Washington, D.C., February 17, 1972.*

Hon. Alan Cranston,
*U.S. Senate, Washington, D.C.*

Dear Senator Cranston: Thank you for your letter of January 27 regarding the relationship of the Bilingual Education program to our proposed Educational Renewal Sites.

The Bilingual Education program authorized by Title VII of the Elementary and Secondary Education Act is not an integral approach. Local school districts will decide whether to include this program as part of a comprehensive Renewal Site. No district will be forced to do so.

I have enclosed for your information, copies of two letters (dated January 7 and February 10) I have sent to Senator Pell about Renewal Sites. Senator Pell's incoming letters are also enclosed. I believe they will clarify many of the points raised in your January 27 letter to Senator Pell which you enclosed with your letter to me.

We have not yet had an opportunity to consult with the Advisory Committee for the Education of Bilingual Children on this matter. Title VII establishes a 15-member committee; only three members have been appointed so far. Accordingly, there is no effective Advisory Committee yet in being. However, as noted earlier, I believe any possible misunderstanding as to the relationship between Title VII and the Renewal Site approach has now been resolved. We will, of course, bring this matter to the attention of the full Advisory Committee when all members have been selected.

Sincerely,

S. P. Marland, Jr.,
*U.S. Commissioner of Education.*

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February 10, 1972.

Hon. Claiborne Pell,
*Chairman, Subcommittee on Education, Committee on Labor and Public Welfare,*
*U.S. Senate, Washington, D.C.*

Dear Senator Pell: Thank you for your letter of January 27 expressing your concern with the plans of the Office of Education for carrying out an educational renewal strategy, as reflected in our prior correspondence and in the President's Budget request for Fiscal Year 1973.

I agree that it is highly unfortunate that confusion continues concerning our renewal plans. Perhaps much of the confusion arises because the Office of Education has used the term "renewal" to refer to several different things. The term has been used in at least four different contexts:

1. *The effort I am making to instill in all appropriate OE activities a sense of the need actively to assist local schools to serve their students in a more effective manner. In this sense, the term can encompass everything the* Office does.

2. *The Educational Renewal appropriation.* As you know, for purposes of budget presentation, the Office of Education's programs are grouped in several appropriations. One of these appropriations for Fiscal Year 1973 is called "Educational Renewal." This appropriation contains most of the Office's discretionary programs at the elementary and secondary level—only a limited number of which would be involved in Educational Renewal Sites. Our earlier discussions concerning renewal have been limited to our plans for such sites.

Most of the programs included in the "Educational Renewal" appropriation are *not* a part of the "educational renewal site" approach. They are administered by various Deputy Commissioners. The appropriation also includes for Fiscal Year 1972 some programs which we propose would be administered by the National Institute of Education, if Congress should create that agency. For your information, I am enclosing a list of all programs included under the "Educational Renewal" appropriation and their placement within the Office.

3. *The Deputy Commissioner for Renewal.* One of my Deputies, Don Davies, has this title. He is responsible for the administration of several OE programs, such as the statistics program, educational technology (e.g. Seseme Street), and other programs, which are unrelated to educational renewal site activities. He also administers those programs which will form the basis for educational renewal sites.

4. *Educational Renewal Sites.* As noted in my earlier letters, the educational renewal site concept is a new approach to using some of the funds authorized under existing legislation. The Appendix to the Budget shows an item for "Site personnel development," drawing funds from Part D of the Education Professions Development Act. Some of these funds may be used in Fiscal Year 1973 for educational renewal sites. Added to these funds will be funds from the discretionary portion of Title III of the Elementary and

Secondary Education Act and from the Cooperative Research Act, as I stated in my letter to you of January 7. No other programs will form the basic funding of Educational Renewal Sites.

If a school district is receiving funds under another Federal program—Bilingual Education, Drug Abuse Education, Dropout Prevention, or Vocational Education Research, for example—it will be free to include such programs in the activities conducted at the Educational Renewal Site. Such a decision would be solely that of the school district receiving the funds. As the Appendix to the Budget states, "local school districts *will be able* to submit a single application for a comprehensive grant." [Emphasis added.] No school district will be *required* to do so, and no preference to these programs will be given to a district that chooses to submit a comprehensive application. All programs listed in the Appendix under the heading of "Education Renewal," except for those included in "Site personnel development," will continue to be administered as discrete entities, pursuant to the terms of their authorizing legislation. Further, several other programs included within the "Site personnel development" appropriation will also continue to be funded as discrete entities since they involve the continuation of existing OE commitments to grantees. These include the Career Opportunities and Urban Rural programs.

Since each local school district will be undertaking educational renewal in areas of its greatest need, I cannot enumerate all the activities which might be undertaken in a renewal site. However, I am enclosing a paper which discusses activities appropriate to an educational renewal site which should serve to illustrate how a sample site might work.

In a more perfect world, our use of terminology might be less confusing. However, I hope that I have been able to clarify that "educational renewal sites" are one piece of a much larger effort and are by no means equivalent either to the Educational Renewal appropriation or to the jurisdiction of the Deputy Commissioner for Renewal.

Your letter also expresses concern that the Renewal Site approach will be conducted without adequate regulations or guidelines. Let me assure you that we fully intend to develop regulations and guidelines for this approach, reflecting the various provisions of the three underlying legislative authorities, before the Renewal Site program is begun in Fiscal Year 1973. I agree with you that local educational agencies seeking Federal assistance for educational renewal sites must have comprehensive guidelines in order to enable them to prepare their applications and conduct their activities according to the law and Congressional intent.

I would like to reiterate that the Office of Education is *not* establishing a new program called "educational renewal sites." The renewal site approach is a *process*, not a *program*. We are asking States and local school districts if they would wish to use funds authorized under existing programs in accordance with the purposes of that legislation, but concentrated in some small number of schools within a school district, through a step-by-step process of assessing needs, determining programs to meet those needs, and involving the parents, teachers, and community in the process. The renewal site approach is intended to be a more effective way of using resources, not a new program.

Finally, your letter inquires about the final disposition of the bilingual education program. The Bilingual Education Program will be elevated to the status of a Division. This will be the first time that the program has achieved Division status since its enactment. I would like to assure you that its integrity will be preserved in the new organizational structure. Indeed, the change should enhance the program's stature in the country, reflecting the high priority the Office of Education places on bilingual education.

I hope that this letter has been responsive to your concerns about our plans for Educational Renewal. I feel that it is important to maintain a dialogue about our plans, as they develop. If you have any further concerns or questions, please feel free to call on me.

Sincerely,

S. P. Marland, Jr.,
*U.S. Commissioner of Education.*

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### Current Location of Activities Included in Educational Appropriation

Part D, EPDA, Deputy Comm. for Renewal.

Bilingual Education, Deputy Comm. for Renewal.

Dropout Prevention, Deputy Comm. for Renewal.

Personnel Development, Deputy Comm. for Renewal.

Follow Through, Deputy Comm. for School Systems.

Educational Technology, Deputy Comm. for Renewal.

Drug Abuse Education, Deputy Comm. for Renewal.

Right to Read, Exec. Deputy Commissioner.

Career Education Model, Deputy Comm. for Renewal.

Environmental Education, Deputy Comm. for Renewal.

Library Demonstrations, Deputy Comm. for Higher Educ.

Other Priority Programs, Deputy Comm. for Renewal.

Data Systems Improvement, Deputy Comm. for Renewal.

Product Identification and Dissemination, Deputy Comm. for Renewal.

Planning and Evaluation, Deputy Comm. for Management.

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### The Eucational Renewal Site

#### A BRIEF DESCRIPTION

This a brief description, for illustrative purposes, of an Educational Renewal Site under the proposed renewal strategy of the Office of Education. It has three sections: (1) a description of the organization of the Education Renewal Site, (2) a description of possible functional and program components and activities at the Site, and (3) a statement about the process of renewal.

#### ORGANIZATION

The Educational Renewal Site will normally be selected as a grantee by the Office of Education from among nominations made by its State Education Agency, and will be comprised of a cluster of schools (elementary, junior and senior high) varying in number from approximately 8 to 20 according to the characteristics of the communities served. It could be a portion of a large urban school district, an entire rural town, or several rural villages combined. The number of pupils involved could vary similarly. In order to merit selection the Site will have to meet certain criteria of need, readiness, low-income, etc., established by the Office of Education and the State education agencies in accordance with enabling legislation.

The Site will have an Educational Renewal Council which shall provide project direction, including needs assessment, planning, and project implementation and evaluation, within the framework of existing State and local school board regulations. The Council will be created by the local school board, and will be representative of the school community, including, for example, the staff of participating schools and universities, parents of the community served by the participating schools and other appropriate segments of the school district. Final authority and responsiiblity for the operation of the project funded rests with the local school board.

#### FUNCTIONAL ELEMENTS

Fundamental to the Site's activities and effectiveness will be a comprehensive assessment of the needs of students and the educational personnel that serve them, a determination of available resources and priorities—local, State, and Federal—and the development of a comprehensive plan to meet those needs.

As determined by the local assessment of need, there may be a center at the Site serving as a primary resource for educational personnel in the Site schools. In a location separate from the schools, but within or near the Site, it could serve as a mobilization point for technical assistance, training and retraining, evaluation expertise, dissemination of information about products of research and development, and other resources needed to meet the needs of the schools. In any case, the center would be administered by the Site director under the Educational Renewal Site Council.

The kinds of activities at an Educational Renewal Site will be determined by its assessment and continuous reassessment of need, and by its Educational Renewal Site Council's growing awareness of the reasons their schools are not fully effective. The Council will have access to extensive resources for orienting itself to educational issues.

Program components for pupils and appropriate training for teachers and others may vary greatly from Site to Site. The Educational Renewal Site Council may make use of colleges and universities to help with training, which will usually be conducted in the Site schools. The Educational Renewal Site Council may also call upon business, industry and other community agencies for help. The Site schools may be utilized as preservice training centers for prospective teachers and paraprofessionals. All Office of Education renewal site funds will be used for developmental purposes rather than to increase permanent per pupil expenditures. OE renewal funds will be phased out after a period of approximately five years, as negotiated with the school board. Among others, these program components might be supported:

Orientation of parents to the 24-hour nature of education, and the extension of the schooling process to the homes.

Maintaining 10-hour daily open schools as learning and social centers for parents and pupils alike.

Extensive use of parents as visitors and paraprofessionals in the schools.

Emphasis on reading: high school pupils teaching elementary school pupils, etc.

Capability for meeting needs of "exceptional" children, particularly those who have learning disabilities.

#### THE PROCESS OF RENEWAL

Renewal is viewed as a continuous self-sustaining process of educational change and decision-making to cope with unsatisfactory as well as constantly changing conditions in the schools. Its ultimate objective is to provide in the Educational Renewal Site schools—and later spread throughout each State—education which is responsive to the needs of the pupils and which reflects the concerns of their parents. It should improve significantly the school performance of those children.

What goes on at an Educational Renewal Site will be different from what has been done heretofore with Office of Education monies, for these reasons:

By concentrating Federal, State, local and private resources, it will simplify the process and lessen duplication and fragmentation of efforts.

By involving the States at every point in the process, the likelihood of combining other resources with those available from the Office for Development and the likelihood of spreading renewal throughout the State are greatly increased.

By restricting the effort to a limited number of schools in a large urban district, for example, and by utilizing an Educational Renewal Site Council which strongly represents that particular area, it will be possible to build and increase the sense of community at the Educational Renewal Site and draw on the parents, and others for their share of the task of educating their children.

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U.S. SENATE,
*Washington, D.C., January 27, 1972.*

Hon. SIDNEY P. MARLAND, Jr.,
*U.S. Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C.*

DEAR MR. COMMISSIONER: Thank you for your letter of January 7 relating to education renewal sites. I am most appreciative of the dialogue which we have been able to create on this subject. I had hoped that we could have resolved the problems raised by the education renewal site program by communications between the Office of Education and the Education Subcommittee. However, your letter of the 7th, and more importantly, the recently submitted budget raise further questions which work against the resolution of the issues.

In your letter dated January 7, you have indicated a scaled-down proposal. However, that letter does not deal with the final disposition of the bilingual education program, nor with the fundamental question of activities for which Federal funds will be spent. The submitted budget lists certain programs under "education renewal" about which no mention has previously been made. In addition, the appropriateness of initiating a program without legislation or regulations or guidelines is subject to questions of a scope which I, as Chairman of the Education Subcommittee, cannot pass upon without consultation with my fellow Senators and with our colleagues in the House of Representatives.

Therefore, I would hope that you would defer any further action in implementing this proposal until such time as this confusion may be properly disposed of. My staff informs me that the Department has indicated a desire to circulate your letter dated January 7 as evidence of a resolution of any differences which may have arisen. You may circulate that letter with this response. However, I would think that it would be appropriate to include as well all previous letters and communications on the subject in order that further confusion may be avoided.

Thank you very much for your consideration.

Ever sincerely,

CLAIBORNE PELL.

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### MAJOR RENEWAL PROGRAM STRATEGY*

The Office of Education has launched a new strategy for educational reform which rests upon two cornerstones—a reform philosophy which addresses problems rather than mounts programs and a management rationale which eliminates duplication and fragmentation.

1. The goals:

The three primary goals of this strategy are:

1. To significantly reduce or eliminate the present gaps in achievement that exist between school children in low-income and rural communities and those in more affluent communities.

2. To demonstrate a process of educational change and decisionmaking which creates a self-sustaining reform mechanism throughout the educational system.

3. To establish an educational communication system that provides rapid linkage between students with educational needs and policymakers, service agencies, and research institutions that serve education.

To reach these goals, the objectives for the immediate years are:

1. To focus the major resources of Office of Education discretionary programs in a coordinated, comprehensive, and concentrated fashion in those communities where the educational needs are the greatest.

2. To accelerate the installation and maintenance of promising educational products and practices in school through a new network of educational extension agents.

2. History:

This renewal strategy is not an abrupt shift in direction; it is rather a logical development based on recent experiences of the Bureau of Educational Personnel Development and other Office of Education Programs such as the Career Opportunities Program, Urban/Rural School Development Program, and Training of Teacher Trainers (TTT) as a result of their deep involvement in low-income communities, have clearly demonstrated some of the complexities of educational problems: the gap between educational needs and the delivery of services; the inadequacy of the single-focused, isolated program approach; the inability of temporary programs directed from the national level to effect permanent and systematic change. These two programs have attempted to meet the problems of their constituencies by increasing the length of service time and the level of funding. But, of themselves, such programs do not have the resources necessary for lasting and meaningful change.

Simultaneously, several Federal efforts, such as TREND and Model Cities, have tried to address the problems of change and reform through packaging specific community needs. Both the successes and the failures of these efforts contribute to a body of knowledge and experience which can be built upon at this time.

Finally, this strategy for renewal occurs at a time when the probability for success is as high as it has ever been. Education faces a serious crisis of financing and credibility. Institutions and administrators resistant to change in the past are now forced to examine new methods and new alternatives of education. It is the intent of this strategy to lend as much assistance as is possible to resolving this crisis in those areas where the problems are most severe.

Before adopting the present strategy, serious consideration was given to the experience of previous efforts at educational reform. This analysis of the Ford Foundation's efforts, those of the Office of Education and others has revealed several key factors which have led to the failure of those efforts to institute any widespread educational reform. The present renewal strategy attempts to take each of these factors into account and to avoid repeating the same mistakes.

#### COMPREHENSIVENESS

Most reform efforts in the past have been too narrowly based to affect the educational system within which they took place. A typical project would be an innovative method of teaching reading to elementary school children in a single classroom in each of several schools. This may have improved the ability of those children to read, but there was no follow-up in other classes nor were other teachers and administrators of the system involved in any meaningful way.

The renewal strategy is designed to institute innovation and reform in context; in context with the whole range of educational needs within a system and in context with the resources and experience of the teachers, students and community. This accomplishes two things. It first of all insures that the children will be receiving programs that are built into a total plan which does not stop and start in isolated classrooms or in isolated curricula. Secondly, it involves all the key people who make up the educational decision-making process for that system. The reforms and innovations that are instituted will be instituted for a reason—to assist in the improvement of the educational environment for the children, and everyone will be represented in the process of identifying problems and selecting methods for solving them.

#### RELEVANCE

Previous reform efforts have been characterized by their focus on an innovator (such as Ford) or an innovation (computer-assisted instruction) rather than a problem (an escalating drop-out rate within a school system). Exciting new programs have been introduced from the top down into a system. Supported by external funds, they have accomplished little more than temporary readjustments—unrelated to the total systematic characteristics of a particular system. When the outside support was withdrawn, the innovative program normally disappeared.

The renewal effort will address this failing by bringing innovations into a system only in response to needs clearly articulated by that system. Innovation thus becomes identified with a process geared toward solving a problem. An innovation is more likely to be accepted and continued if it is part of a coherent problem-solving process than if it is perceived as being the "special program" of the Office of Education.

#### COORDINATION

Too often in the past, reform efforts have occurred with little or no interaction or coordination with other reform efforts. Not only have States, Ford, Carnegie, GE, and others carried out unrelated reform programs, but within the Federal government innovations, demonstrations, and reform efforts have been fragmented. This methodology, or lack of it, leads to redundancy, overlap and repetition, wasting time and effort, and accomplishing little.

Starting at home, the renewal strategy attempts to insure closer coordination of the reform efforts through the consolidation of most of the Office's discretionary programs to be managed and administered by the Deputy Commissioner for Development according to this strategy. Furthermore, the renewal process will identify and coordinate with other innovative programs to make this an incremental and supportive effort rather than a redundant one. Finally, when the Office of Education extends assistance to disadvantaged children it can now do so with a more effective mechanism designed to bring the best available assistance from all of its resources.

#### CONCENTRATION

Given the complexity of the renewal task at any particular site, reform efforts designed to solve a single part of that problem at each of many scattered locations is not sufficient nor is it necessarily functional. Unless substantive progress is made toward improving the education of the kids for whom the legislation is really passed, there is no return on the investment being made by diverse, scattered, uncoordinated programs. Under the renewal strategy, the small amount of discretionary money available will not only be coordinated, it will be utilized in a concentrated fashion on those school systems whose children are in greatest need of improved learning opportunities. This allows the effort to be large enough and broad enough to actually make an impact. Furthermore, such concentrations will allow better, more conclusive monitoring both in terms of fiscal responsibilities and in terms of the process of educational change.

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*Paper prepared for OMB, November 1971.

### FEEDBACK

Finally, reform has progressed slowly because there has not been any effective mechanism to feed the results back to the researchers and policy-makers in such a form as to be meaningful enough to act upon. The success or failure of a single project, in a single school, at a particular moment in time does not tell us very much about whether that experience could or could not be repeated in another school, at a different time and with a few variations. Most reform efforts have given us data regarding an isolated reform attempt—this strategy will provide us documentation about the process of reform and about the mobilizing of resources to bring systemic change geared toward solving educational problems.

This renewal strategy and organization is designed to provide the action linkage between Revenue Sharing and the National Institute of Education. Fully developed, it is that mechanism that can deliver, in a responsive, effective manner, the products and practices developed in NIE in a way that institutionalizes a process within the educational framework and accelerates the delivery of those products to the places they are most needed. The money distributed by Revenue Sharing will only be effective in terms of resolving the educational needs of children if there is an effective method of bringing better practices into the classroom. NIE can develop these, OE, through the renewal effort, can get them installed.

3. Process:

There are 2 critical new concepts in this strategy as it is manifested operationally: the Renewal Sites (plus Educational Resource Center-Teacher Centers), the Education Extension Agent. Each is new, but has resulted from a long gestation period, and each contributes to the overall strategy.

### THE RENEWAL SITE

The renewal site will be primary focus of the renewal strategy. As such it will be the grantee for a single comprehensive five-year grant based upon a plan designed to meet that site's educational priorities. A "site" would be a part of a local school system that would typically average 10 schools (K–12), and about 5,000 children and might be a total system or a part of a system.

The process of selecting the site is part of the strategy in that it involves and articulation by the Regions and the States of those systems within their jurisdiction most in need of assistance. Having identified them, a planning grant is used to produce an up-to-date, comprehensive educational needs assessment for the site. Again, this design impacts the strategy for it requires two major inputs:

1. An identification of all resources presently available to that site and what they are being used for.

2. The equal participation of teachers, community, university and administrators in the articulation of the needs.

The first step will produce a clear picture of that system's resources and needs as well as the beginning (or continuation) of a participatory dialogue among those elements who in fact make up the decision-making process for that system.

The second step is the designing of a five-year plan addressed to meeting the needs that have been identified. With State and Federal help this plan will be substantive in nature and designed in terms of problems to be solved. The dollars to meet the needs of the plan will be supplemented by a five-year phased input of approximately $3 million of "glue" money. Discretionary support will be totally phased out after the fifth year leaving the site to continue funding the process from its other resources.

The plan will form the basis for a single grant from OE. The money, materials, technical assistance, training, etc., will be drawn from merged programs at the Federal level. This administrative step, previously necessary at the local level for comprehensive funding, will not be accomplished administratively in OE, relieving the field of that impossible task (only one school district, Louisville, has ever been able to begin to wade through the morass of Program by Program guidelines, requirements, funding cycles, etc., on its own).

Having had its plan accepted, the site's first responsibility is to fund an Educational Resources Center (Teacher Center) for the purpose of coordinating the input of materials, assistance, training, ideas, etc., from OE and from others. Each site must have such a Center. This will be a place outside of the schools and will be the point of contact between and among teachers, administrators, consultants, information, materials, etc. Here, depending upon the need structure, will reside one or more experts representing Right to Read, Bilingual Education, Staff Development, etc., as well as an Educational Extension Agent. Administered by a small staff, it will provide space and facilities for training, lectures, information retrieval, etc. As the five-year plan progresses, the Center will increase its store of resources and its ability to identify various forms of community resources available to assist the site in its problems.

What is it, then, we have bought at a site of about 10 schools serving 5,000 disadvantaged youngsters for $3 million after 5 years?

1. For those children, a significant increase in the average achievement and a significant increase in their attitudinal response toward education and school.

2. For those children, a significant decrease in any previous achievement gap between them and surrounding middle-class schools.

3. For those children and teachers, substantial involvement with some of the newest and most promising educational innovations.

4. For those teachers and that system, a new process for addressing themselves and their resources to their educational needs.

5. For that community, a new sense of confidence regarding their schools and their ability to assist in the educational process.

6. For that local system and that State, a five-year involvement in a process designed to better manage their resources in response to educational needs.

7. For the Federal Government, incremental data and analysis of the process and prospects of educational reform.

4. The Educational Extension Agent:

The Educational Extension Agent is a concept derived from the present understanding of innovation and reform. Experience has demonstrated that unless a responsible individual has personal knowledge of or contact with an innovation, there is little probability that he will be motivated to adopt that innovation. The written word is not a strong enough catalyst to achieve widespread adoption of an innovation, regardless of the strength of the words. Previous OE efforts at dissemination of education products and practices known to be superior to existing prevalent methods, have been ineffective because of reliance on the printed word, a film strip, a print-out, etc. The Education Extension Agent is designed to be the missing link. Housed at a Teacher Center in a Renewal Site, he will cover other schools in the area on a face-to-face basis. He will listen to problems and will perform two-way translation services between the constituent and the information base. He can discuss innovations on a personal level, can generate interest, and most importantly, can follow-up on that interest by supplying materials, experts, etc., to the interested party.

Finally, he can provide feedback on obstacles and aids to adoption and those contribute to a better understanding of that process.

At the outset, this extension agent will be funded by the Federal Government in order that his value can be proven to the systems he serves and to allow sufficient testing of the basic models regarding type of candidate, reporting and control procedures and territory size. It is anticipated that the agents would eventually be supported by one-third Federal money, one-third State and one-third local. This is consistent with the long-standing Agricultural model and appears reasonable at this time. The number of agents cannot yet be absolutely defined due to the many variables which must be analyzed but we expect to have at least one per renewal site (State and local). We would also expect to continue a one-third funding role beyond the time of renewal site activities.

The concepts embodied in the renewal strategy are not yet fully field-tested. Various aspects of the various elements within the plan will require careful evaluation and adjustment before absolute judgment can be made about them. At this point in time, they reflect an intention to use our resources, our experience and our knowledge in the most effective manner possible in order to improve the educational opportunities for disadvantaged children.

FY 1972 will be devoted toward the work and planning necessary to enter FY 1973 with as sound a process as is possible. That work has begun both in terms of the conceptual aspects of the strategy as well as the operational mechanics of grants consolidation, site selection procedures, guideline development, etc. By the end of FY 1973, we intend to have begun this process in at least 200 sites by building upon the programs that are already operational in them.

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State of California,
Department of Education,
*Sacramento, Calif., December 23, 1971.*

The Honorable Alan Cranston,
*U.S. Senate,*
*New Senate Office Building,*
*Washington, D.C.*

Dear Senator Cranston: At its meeting on December 21, 1971, the California Educational Innovation Advisory Commission, ESEA Title III, unanimously approved the attached resolution and instructed me to forward a copy to you.

In essence the Commission urges maintenance of the integrity of the Title III funding in support of a separate and identifiable program for the promotion of innovation in education.

We respectfully request careful consideration of our position on this issue.

Sincerely,

Lloyd N. Morrisett,
*Chairman, Educational Innovation Advisory Commission, Title III, ESEA.*

Attachment.

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State of California,
Department of Education,
*Sacramento, Calif., December 12, 1971.*

### RESOLUTION

On October 14, 1971, the U.S. Commissioner of Education announced his intention to transfer his ESEA Title III 15 percent discretionary funds from the Bureau of Elementary and Secondary Education to the new Office for Development. The effective date of this transaction was set in the Commissioner's bulletin as October 27, 1971.

The effect of this action is the reallocation of the Commissioner's 15 percent of the ESEA Title III appropriations to a new and separate agency different from the bureau responsible for over-all management of the Title III program.

The California Educational Innovation Advisory Commission vigorously opposes the transfer of ESEA Title III funds to the U.S.

O.E. Office of Development for the following reasons:

1. The reassignment of a portion of Title III funds to the Office of Development violates the intent and language of the Elementary and Secondary Education Act of 1965 as amended.

2. The action by-passes the Congress by rerouting funds appropriated for other purposes. The Office of Education plan to set up and fund an Office of Development should have been presented to Congress through regular legislative channels. It should be established only after favorable action of Congress in respect to principle and funding. Any administrative action of this nature that by-passes Congress is contrary to the public interest.

3. The action will weaken the Title III program by siphoning off funds for other purposes.

4. It fragments control and will predictably result in a loss of coordination of the Title III effort.

5. It effectively eliminates local participation in the design, development, and operation of innovative ESEA Title III projects funded by the Commissioner's 15 percent of the appropriations.

6. The effectiveness of the state and national Advisory Councils has been seriously eroded by the failure of the U.S. Office of Education to involve these agencies in the planning, funding, and establishment of the Office of Development.

For the foregoing reasons, the California Educational Innovation Advisory Commission recommends that the Commissioner of Education rescind his order transferring ESEA Title III funds to the Office of Development. It further orders that copies of this resolution be forwarded to the Commissioner, to the Secretary of Health, Education and Welfare, to the chairmen of the House and Senate Committees on Education, and to the members of the California Congressional delegation.

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DECEMBER 15, 1971.

Hon. ALAN CRANSTON,
*U.S. Senate,*
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR CRANSTON: In 1967 the legislature enacted into law what was to become a milestone in American educational history—the Bilingual Education Act, Title VII, ESEA. This act would provide communities across the country the opportunity to receive education while they learned their second language, English. Monies have just begun to be allocated to school districts across the nation to implement the noble goal of bilingual bicultural education in an effort to preserve the many national tongues spoken in the United States. Language as a national resource has only just begun to be tapped.

Will the efforts and aspirations of hundreds of educators, legislators and other interested citizens be drained and weakened by a new consolidation plan entitled "Renewal Centers"? The program under consideration at present and headed by Dr. Don Davies proposes to consolidate all discretionary funds under one department and would include Title III, Title VII, Title VIII, and NDEA. This program is presently only in a planning phase and dissemination about it has just begun as Dr. Davies and his staff meet with Project Directors across the country.

It is my contention that this consolidation plan for Renewal Centers provides no guarantees for the preservation of Title VII funding. Unfortunately, bilingual education does not head the priorities lists of many people's books. The Bilingual Education Act was passed through a long fight involving years of hard work on the part of key legislators and educators. When all of these funds are lumped together into one basket, would it not stand to reason, that monies formerly allocated to bilingual education might be diffused into other less necessary programs which do not specifically implement a bilingual-bicultural approach? Holding a specific title certainly does not guarantee appropriation of funds for that program, but it does provide a designated program to be implemented. Specific objectives have been required of bilingual programs under Title VII and it has been one of the most heavily evaluated programs in governmental history. To amalgamate it, without any indication of what is going to happen to bilingual education, is unreasonable.

A plan for consolidation in itself is not at fault. Certainly, one sees reasons for attempts to reduce governmental bureaucracy. The idea of training centers for teachers functioning as integral parts of these "Renewal Centers" is sound. My question is: what are the guarantees that these Renewal Centers will be focused for the most part around bilingual bicultural education?

For those of us who are intimately involved in bilingual education, there is the danger that we may well lose to bureaucratic expediency, the dream of educating our youth in two languages.

This dream is not just the dream of project directors but of many citizens as well. It is most urgent that all of us including the bilingual offices at the state level throughout the nation, become actively involved in this planning phase and that we as a group to work together to seek the answers to these basic questions which may have such a great impact on the future of bilingual education. Certainly where a state office of bilingual education exists, these offices should be empowered with appropriate funding to make the state organization an effective cooperating agency with the USOE for the implementation of bilingual education programs. As a group, I do not think our opinions have been solicited or our involvement been achieved. Indeed, so vague is the Renewal Center plan, we all may well be caught by surprise when it is implemented while we are caught unaware.

Since you represent people who are concerned about bilingual education, I think this plan should be carefully investigated to assure all involved that planning will be done with state and local agencies and that in the event Title VII is amalgamated, explicit assurances will be made to determine extent of funding for bilingual education.

As a concerned educator, I urge you to seek out information about the proposed "Renewal Centers" as it is quite possible that a rose by any other name may not smell as sweet and indeed that as time goes by bilingual education may be plucked out of the educational bouquet altogether. It is my humble opinion that Title VII as a unique national program should remain an entity unto itself with specific designated funding so that monies are not diffused into other categories that masquerate as bilingual-bicultural education.

Yours sincerely,

FRANCES VARGAS,
*Bilingual Program Director,*
*Del Valle I.S.D.*

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NATIONAL SCHOOL BOARDS ASSOCIATION,
*Washington, D.C., February 25, 1972.*

Hon. ALAN CRANSTON,
*New Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR CRANSTON: Your office made an inquiry about the NSBA's position with respect to the new Office of Education concept of Education Renewal Centers.

We applaud the idea that local school districts would be given the opportunity to develop their own training and retraining programs in such a way that it is responsive to the needs of the community. All too often in the past, teachers and administrative staff attended classes or seminars in a university setting miles away both in a physical sense and a philosophical sense. Our support of the concept, however, is not without some real and strong concerns. They are as follows:

1. We view with alarm any effort which would subvert the operation of valuable ongoing programs. The President's budget request for 1973 indicates the Bilingual Program will be placed under the renewal concept. This raises questions that perhaps some of our minorities, especially the Spanish speaking children, may end up losing both their identity and special funding. We have similar concerns with respect to the Dropout Prevention Program and the operation of the Teacher Corps.

2. In a similar vein, we are concerned that OE effort is but another fanfare at the national level which will raise expectations and not succeed in developing solutions to educational problems. It is evident that there is very little if any new money in the renewal program, but it is being funded out of existing monies. That being the case, a local school district would find itself just switching between programs (i.e., existing ones to renewal with no new money).

3. Federal legislation on education is not a minuet. While form is important one must look to the substance. Therefore, the federal government should not be able to proceed in an indirect fashion in a manner which has been forbidden directly. With this preamble, may I turn to Title III of the Elementary and Secondary Education Act. In 1965, the Elementary and Secondary Education Act was enacted with five basic titles. Title III authorized federal support for supplementary centers and services. Educational renewal centers could easily fit into the definition of an eligible application under the original Title III. In 1965, Title III was administered exclusively and directly by the U.S. Commissioner of Education—a concept which was justified in part on the basis that state departments of education had not been strengthened enough to operate this highly innovative concept. However, this procedure raised many problems with respect to our cherished concepts of federalism and local control of education because it set up a direct Washington-to-local school district link. In 1967, the law was changed wherein 85 percent of the money would be administered directly through state plans with 15 percent reserved to the Commissioner of Education. It now appears that the Office of Education may be trying to accomplish indirectly through its renewal concept that which the Congress of the U.S. forbade in 1967.

The link to Title III is becoming more clear because we have already received information from school districts that they will be asked to put a part of their Title III monies as a condition for receiving a renewal site grant.

We view the general Educations Provisions Act, Section 422 (i.e., the prohibition against federal control of education) more than a mere boiler plate, and are concerned that the Office of Education may be trying to control the administration of education at the local level through its renewal centers and renewal agents which it intends to send into the field.

4. Our worries with respect to federal control and inadequate funding are also in part accentuated by the fact that we have not seen new official rules, regulations, etc. published in the Federal Register as required by the Pucinski amendment in P.L. 91–230. A full disclosure by the Office of Education of its specific desires would, I am sure, greatly resolve some of our anxieties.

We hope that the renewal concept can be made viable and ask that you try to assure that this concept is not pushed at the expense of on-going programs or our cherished concept of local control of education which President Nixon strongly defended in his State of the Union Address.

Sincerely,

AUGUST W. STEINHILBER,
*Director, Federal and Congressional Relations.*

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senator from California (Mr. TUNNEY), be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I understand that the Senator from Colorado (Mr. DOMINICK), the ranking minority member of the Education Subcommittee, is presently reading the text of the amendment off the floor. He may have some comments to make. Meanwhile, I am delighted to see that the distinguished chairman of the subcommittee (Mr. PELL), who has handled this bill on the floor so magnificently over such a long period of time, is on his feet seeking recognition.

Mr. PELL. I thank the Senator from California.

Mr. President, I commend the senior Senator from California for bringing this amendment before the Senate. As chairman of the Subcommittee on Education I have been most concerned about the Office of Education's plan to establish so-called education renewal sites—entities not authorized by statute.

The staff of the Subcommittee on Education has at my direction been investigating this subject since last July when rumors began to circulate about a "National Educational Renewal Centers" program. Indeed, both the Committee on Labor and Public Welfare and the House Committee on Education and Labor in their reports on the respective higher education bills were concerned enough about Office of Education activities that they expressed reservations about the legal authority of the Office of Education to conduct "National Educational Renewal Centers."

In spite of the reservations expressed in the two committee reports, the Commissioner of Education continued his plans to begin an educational renewal program and on October 14, 1971, the Office of Education was administratively reorganized to reflect the renewal concept. This reorganization was carried out without consultation with either the House or Senate committees having jurisdiction over the Office of Education, as has been the case in the past. As the result of this action on the part of the Office of Education, I made an inquiry as to the statutory authority of the Commissioner's proposal and ask unanimous consent that my letter of November 3, 1971, be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 3, 1971.

Hon. SIDNEY P. MARLAND,
*U.S. Commissioner of Education, Office of Education, Department of Health, Education and Welfare, Washington, D.C.*

DEAR MR. COMMISSIONER: The tentative plans of the Office of Education to consolidate certain authorized programs into the so-called NERC proposal has generated much concern throughout the nation and in my own State of Rhode Island.

I understand that you have spoken with the staff of the Subcommittee on Education of the Senate Committee on Labor and Public Welfare. I appreciate your doing so; however, needless to say, consultation does not indicate approval. I would urge you to very seriously consider the steps you may plan to take: first, from the legal question as the whether you have the statutory authority to consolidate the present programs; and, second, the impact of such consolidation upon the successful projects now being carried on in the field. I would appreciate your views on this matter.

Enclosed are two telegrams on this NERC proposal which I have received from individuals in my State.

Ever sincerely,

CLAIBORNE PELL,
*Subcommittee on Education.*

Mr. PELL. On November 19, 1971, the Commissioner of Education replied, requesting our indulgence for a short period of time before responding to my inquiry of November 3, 1971. I ask unanimous consent that the letter of the Commissioner of Education, dated November 19, 1971, be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
*Washington, D.C., November 19, 1971.*

Hon. CLAIBORNE PELL,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PELL: Thank you for your letter of November 3 requesting information on our plans to consolidate some of the programs which we administer.

I would appreciate your indulgence for a short period of time before I respond to your specific questions on this matter. The matters discussed in your letter are complex, and I have asked appropriate staff members to provide information to be embodied in our reply.

You will be hearing from me in the near future.

Sincerely,

S. P. MARLAND, Jr,
*U.S. Commissioner of Education.*

Mr. PELL. On December 3, 1971, the Commissioner responded to my inquiry as to the statutory authority of the Office of Education to carry out the renewal program. By this time the name of the project had been changed to "Education Renewal Sites." In his letter of December 3, 1971, the Commissioner of Education gave a simplistic explanation of his plans on this matter and assured me that there was no "legal infirmity" to the basic theory underlying the renewal-sites concept and stating that all of the matters relating to the programs he sought to consolidate would be administered consistent with legislative intent. I ask unanimous consent that the Commissioner's letter of December 3, 1971, be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION,
*Washington, December 3, 1971.*

Hon. CLAIBORNE PELL,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PELL: This is in further response to your recent letter requesting information on the legality and impact on present Office of Education (OE) programs of my plans to reform the administration of certain OE programs. We are replying separately to concerns expressed in copies of telegrams attached to your letter pertaining to the transfer of functions within the Office of Education involving the ESEA Title II program.

I believe my specific plans can best be understood in the context of my view of the role of the Office of Education. It is my firm conviction that the fundamental purpose of OE is to assist the school systems of this country to improve the educational achievement of the students who attend them. The Office of Education must be an active participant in the continuing process of educational reform and change that is required to achieve this goal. To assure that OE will be of significant help to local school systems, I have been developing a general reform and renewal strategy for the Office. That strategy, which has been enthusiastically endorsed by Secretary Richardson, will require changes in the administration of some OE programs. All changes will be consistent with existing education legislation and will enable the Office to carry out the programs authorized by the Congress in a much more effective manner.

The major component of my renewal strategy is something that we have termed "Educational Renewal Sites." We intend this new administrative procedure (which will become operational in Fiscal Year 1973) to be the key element in our effort to make the Office of Education a forceful and effective advocate of renewal and reform in American education.

Simply stated, the renewal site strategy is as follows. Several existing Office of Education elementary and secondary project grant programs will be administratively coordinated in the future. The funds from these programs will continue to be available to local school districts. Some number of schools from within each district that is a successful applicant under this approach will be selected as an "educational renewal site" and the Federal funds will be concentrated in the "site." The specific OE programs that will be administered under this new approach are: (a) Bilingual education programs (Title VII of the Elementary and Secondary Education Act); (b) the Dropout Prevention Program (Section 807 of Title VIII of ESSA); (c) the 15 percent of the Title III ESEA Program which is for special programs and projects (Section 306 of Title III of the Elementary and Secondary Education Act); and (d) Part D of the Education Professions Development Act (Title V of the Higher Education Act).

To receive funds under this arrangement, a school district, in addition to meeting the normal requirements for the separate programs, will agree to: Involve all the appropriate members of the local community (teachers, administrators, parents, students, community groups, etc.) in the educational efforts at the renewal site; make an assessment of all the educational needs of those schools which will comprise the renewal site; and develop a comprehensive program designed to meet and overcome the problems discovered in the needs assessment.

Federal funds from the programs noted above will enable the schools comprising the site to develop the overall strategy, hire outside consultants, obtain the necessary materials and prepare teachers to use whatever techniques are needed to carry out the comprehensive educational program that has been developed for the site. These funds will be in addition to, and will not replace, the funds received by the district from State and local taxes, and from other Federal grant programs (e.g., impacted areas). Our objective is to enable school districts to use these major sources of funds in a more effective way under the impetus of the renewal site strategy. Such coordinated Federal funding will, we believe, encourage comprehensive planning and integrated programs on the local level.

The single most compelling reason for the development of this particular strategy is the assistance it will give to local school systems in their attempts to serve the educational needs of their students. This new approach will, we hope, lead to a measurable improvement over time in the educational achievement of students in the sites. In addition, it can instill in local schools an appreciation of the necessity for a continuous *process* of reform and give them the capacity to engage in self-evaluation and productive change even after the termination of Federal support.

In response to the legitimate concerns of school administrators over myriad and complicated Federal grants procedures, the renewal site strategy is designed to simplify such procedures at the local level. School districts which seek Federal funds for activities authorized under the above-referred to statutes will be able to submit a single application form. Such application will be reviewed against eligibility criteria which will, to the greatest extent consistent with pertinent enabling statutes, be integrated into a single regulation. Although some of the details of operational procedure have not yet been finally determined, I have listed in an enclosure to this letter some basic decisions respecting the manner in which specific aspects of existing legislation relating to such matters as advisory councils, accounting procedures, etc. will be handled. As you will note, all such matters will be administered consistently with legislative intent.

Some specific concerns have been expressed about the future disposition of programs authorized by the Education Professions Development Act (EPDA). As noted above, the EPDA programs affected by the educational renewal site strategy will be those authorized by Part D of Title V of the Higher Education Act. Any other parts of that Title for which funds are appropriated by the Congress, e.g., the Teacher Corps, will continue to be administered as separate programs.

The renewal site strategy has been reviewed by HEW's Office of General Counsel, which has advised that it finds no legal infirmity in the basic concept underlying this approach. As we formulate the procedural details of this program, we shall be working in cooperation with the Office of General Counsel to assure that (1) rules of eligibility for program grants under the pertinent appropriations will be consistent with standards of eligibility in the corresponding enabling statutes and (2) sufficient accounting procedures on the part of the grantee and the Office of Education will be followed to ensure that the purposes for which funds were appropriated and granted are satisfied by the grantees' expenditures.

The coordination of the programs affected by the renewal site strategy will be implemented within the Office by having them administered by a single unit reporting to the Deputy Commissioner for Development. These programs (Bilingual Education, Dropout Prevention, fifteen percent of Title III ESEA, and Part D of EPDA) will be administered by the new unit which we have named the National Center for the Improvement of Educational Systems. This unit will provide organizational coherence for the educational renewal site strategy.

Everything that I have done thus far as Commissioner of Education, and everything that I propose to do in the future, has one major goal—to assure that the Office of Education can effectively aid the school systems of our country to increase the educational achievement of children. I intend to make the Office an energetic agent of renewal and reform in education at all levels consistent with our statutory mission. The changes in OE practices and procedures that I have discussed in this letter are essential components of my renewal strategy.

I earnestly request your understanding of and support for these changes in OE so that our mutual desire to improve the education of all our children can be made a reality.

Sincerely,

S. P. MARLAND, Jr.,
*U.S. Commissioner of Education.*

EDUCATIONAL RENEWAL SITES

1. *Existing Programs and Projects.*—The Office of Education has made some moral commitments to school districts under existing legislation to fund certain programs (e.g., Career Opportunities Program and Urban/Rural Program under EPDA) for several years. These commitments are subject to the usual understanding that Congress must appropriate sufficient funds for such programs each year and that the local school district must continue to carry out the program according to the legislative intent.

All such commitments will be honored. School districts to which the Office has made such a commitment of funds extending through and beyond Fiscal Year 1973 will have two opinions: (1) they may continue existing projects as part of the more comprehensive renewal site approach; or (2) they may continue these existing projects as separate programs and not have become part of the new site approach. In no instance will there be any arbitrary termination of an existing project.

2. *Funding Authorizations.*—All funds appropriated for the separate OE programs that will be administered as part of the educational renewal site strategy will be spent for the purposes for which they were appropriated. Thus, for example, whatever amount of money is appropriated by the Congress for the Bilingual Education programs authorized by Title VII of the Elementary and Secondary Education Act will be spent for such programs.

3. *State Educational Agencies.*—Under existing legislation, State educational agencies have a variety of roles to play in the programs to be administered under the educational renewal site strategy.

Under the Bilingual Education Act (Title VII of ESEA) and Title III (i.e., the fifteen percent administered by the Commissioner under Section 306 of ESEA) applications cannot be approved by the Commissioner unless they have been submitted to the appropriate State educational agency for comments and recommendations.

Dropout Prevention project must be approved by the appropriate State educational agency (Section 807 of ESEA).

Part D of EPDA requires consultation with State educational agencies to satisfy the State agency that the program or project will be coordinated with programs carried on under Part B of EPDA (see Section 531 (a)).

Accordingly, State educational agencies will be requested, in all instances, for their nominations for educational renewal sites and for their comments and recommendations on the programs of possible sites. Since the ultimate responsibility for approving sites and programs rests with the Commissioner of Education, it is possible that some sites, in unusual circumstances, may be selected which have not been nominated by a State agency. Even in those circumstances, however, the projects will be subject to State educational agency comment or approval wherever the applicable statute requires such comment or approval.

4. Accounting for Funds—Existing legislation requires such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant. This requirement will be met in at least two ways:

1. OE will keep track of what amount of funds from each categorical program go to each renewal site. In a hypothetical case, a $100,000 grant to an LEA might consist of $25,000 from funds appropriated for Bilingual Education, $25,000 from section 306 of Title III funds, $25,000 from Dropout Prevention funds, and $25,000 from Part D of EPDA funds. This breakdown, of course, would depend upon the nature of the funded activities, as determined by OE.

2. Each site will have to adhere to customary Federal accounting procedures. Specific items of expenditures will be attributed to funds coming from specific categorical programs.

5. Regulations and Guidelines—The regulations and guidelines for the several programs to be administered under the educational renewal site strategy will be combined into a single set. The unified regulations and guidelines will contain all the specific requirements that the separate authorizing acts mandate, e.g., that Federal funds supplement, and not supplant, State and local funds (Section 304(a)(3) of Title III of ESEA); that programs be of a size and scope that will make a substantial step toward achieving the purposes of the legislation (Section 705(a)(3) of Title VII of ESEA); that effective procedures be adopted for evaluating the effectiveness of programs (Section 807(b)(3) of Title VIII of ESEA); etc.

6. Reports and Evaluations—All educational renewal sites will have to meet current legislative requirements for annual reports. All will be subject to an evaluation of results. But grantees will submit a single report (not four or five separate ones on each categorical program) and a single evaluation of the site's comprehensive program.

7. Advisory Council—Existing legislation provides for the following Advisory Councils in connection with the programs involved in the renewal site strategy.

A National Advisory Council on Supplementary Centers and Services (Section 309 of Title III of ESEA).

An Advisory Committee on the Education of Bilingual Children (Section 708 of Title VII of ESEA).

A National Advisory Council on Education Professions Development (Section 502 of Title V of the Higher Education Act).

All these Councils will be expected to give advice on the general renewal site strategy and the relation of their particular programs to it. All will continue to fulfill any other statutory obligation, e.g., the Title III Council submits an annual report to the President and the Congress, the Bilingual Council develops criteria for the approval of applications, etc.

8. Eligible Applicants—A variety of agencies are now eligible for Federal funds under the programs involved in the educational renewal site strategy: local educational agencies (all programs); institutions of higher education which may apply jointly with a local educational agency under the Bilingual Education Act; institutions of higher education and State educational agencies under Part D of EPDA; nonprofit institutions or organizations of Indian tribes under Section 706(a) of the Bilingual Education Act; and the Secretary of the Interior for Indian schools under Section 706(b) of the Bilingual Education Act.

All these agencies will continue to be eligible to apply for funds under the educational renewal site strategy. Although priority will be given to applications reflecting the renewal site approach, some applicants unable to meet the comprehensive requirements of this approach will also receive assistance.

Mr. PELL. On December 10, 1971, the Commissioner, at his request, came to see me in order to discuss the educational renewal site proposal. At that time I told him that I had no authority to approve or disapprove of what he was doing unofficially; that the only way the Congress could act was by law, and that if the Office of Education wished to continue with the education renewal site program, the Commissioner should perhaps submit legislation to the Congress. I also promised the Commissioner that I would give the Office of Education a fair hearing to any legislative proposal submitted on this subject. During the course of that meeting I indicated to the Commissioner that I was not speaking against the concept of "renewal," but that I did question the method by which the program was being established. Indeed, I indicated that certain statutory authority could perhaps presently be utilized for a limited pilot-type program. At this meeting the Commissioner delivered a letter explaining how the reorganization had affected library and educational technology programs. I ask unanimous consent that at this point in the RECORD there be inserted the Commissioner's letter of December 9, 1971.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
OFFICE OF EDUCATION,
*Washington, D.C., December 9, 1971.*
Hon. CLAIBORNE PELL,
*Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further response to your recent letter enclosing copies of telegrams you have received pertaining to the transfer of functions within the Office of Education involving the ESEA Title II program.

In order to bring about the most effective coordination of the various education programs which deal with libraries and the training of librarians, the Office of Education is creating a Bureau of Libraries which will bring together the Office's activities relating to this effort. Included in the Bureau will be those programs authorized by the Library Services and Construction Act (which services public libraries), Title II of the Higher Education Act (dealing with college library resources and library training), Title II of the Elementary and Secondary Education Act (dealing with libraries at elementary and secondary education levels), and the Library Research Program conducted under the authority of the Cooperative Research Act.

This realignment of the library services will centralize in one organization responsibility for library programs which serve all clientele levels—elementary and secondary, higher education, and the general public. This realignment will have the effect of strengthening the professional relations among the various library groups and agencies and will bring the library programs of the schools into closer contact with the public libraries. Thus, without in any way diminishing existing channels of coordination with the curriculum of the schools, the reorganization will facilitate new types of coordination at the local level between school and public libraries, including the introduction of new forms of media and learning resources for all school children. This realignment is consistent with the mandate in the Library Services and Construction Act to coordinate "school, public, academic, and special libraries and special information centers for improved services of a supplementary nature to the special clientele served by each type of library or center." It does not in any way preclude the use by libraries of educational technologies appropriate to the programs administered by the Bureau.

Under these circumstances and since what is involved is simply a restructuring of administrative functions within the Office of Education, we think that these actions are well within the authority of the Office of Education, and have so been advised by counsel. Grantees and applicants under these programs will continue to be funded on the same bases and will be subject to the same procedural and substantive requirements, as set forth in existing statutes, regulations, and guidelines.

The educational technology portion of the former Bureau of Libraries and Educational Technology, which deals primarily with educational broadcasting, is being assigned to the Deputy Commissioner for Development as part of our emphasis upon educational renewal. I am enclosing for your information tables detailing the programs to be transferred to the proposed Bureau of Libraries and those which will become part of the National Center for Educational Technology, together with appropriate budget information.

I am confident that the new Bureau of Libraries will give a vigorous response to the national needs of our school and public libraries and that this move will strengthen our library programs. I would be most happy to discuss the matter further with you at your pleasure.

With best regards,
Sincerely,
S. P. MARLAND, Jr.,
*U.S. Commissioner of Education.*

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PROPOSED BUREAU OF LIBRARIES

| | Fiscal year appropriations (in thousands) | | | |
|---|---|---|---|---|
| | 1969 | 1970 | 1971 | 1972 |
| Public libraries | $40,709 | $40,709 | $40,709 | $49,209 |
| Services: | | | | |
| Grants (LSCA I) | 35,000 | 35,000 | 35,000 | 46,568 |
| Interlibrary (LSCA II) | 2,281 | 2,281 | 2,281 | 2,641 |
| State institutional (LSCA IV-A) | 2,094 | 2,094 | 2,094 | (2) |
| Handicapped (LSCA IV-B) | 1,334 | 1,334 | 1,334 | (2) |
| Construction | 9,185 | 9,185 | 7,092 | 9,500 |
| College library resources (HEA II-A) | 25,000 | 20,750 | 9,900 | 11,000 |
| Librarian training (HEA II-B) | 8,250 | 6,833 | 3,900 | 2,000 |
| Planning and evaluation | | 89 | 400 | 400 |
| School libraries (ESEA II) | 50,000 | 50,000 | 80,000 | [3] 90,000 |
| Library research (cooperative research) | (1) | 2,171 | 2,171 | 2.750 |
| Total | 133,144 | 129,737 | 144,172 | 164,859 |

[1] Included in general education under cooperative research.
[2] Consolidated into public library services (LSCA title I.)
[3] Would be transferred from the Bureau of Elementary and Secondary Education.

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PROPOSED NATIONAL CENTER FOR EDUCATIONAL TECHNOLOGY

| Program (fiscal year 1972) | Authorization | Funds |
|---|---|---|
| Improvement and expansion of educational TV and radio facilities. | Public Broadcasting Act, as amended, title I. | $13,000,000 |
| Media specialist training | Pt. D, EPDA | 1,800,000 |
| Childrens Television Workshop (CTW): | | |
| (a) Sesame Street ($5,000,000). | "Cooperative Research Act," Pt, IV ESEA. | 7,000,000 |
| (b) Electric Company ($2,000,000). | | |
| Total | | 21,800,000 |

In 1970, the Office of Education implemented a reorganization plan to consolidate library and education technology activities within a Bureau of Libraries and Educational Technology under EPDA. The combining of these two groups was done in the belief that it would be more efficient to administer both of the educational resources programs as one, so that State and local agencies could interface with just one administrative arm. Although there was initial opposition to this combination, based on the belief that each group would be eclipsed by the other, the marriage of the two has worked out rather well.

This year, in formulating plans for a reorganization to strengthen OE's ability to effect a renewal strategy, it was decided to split off the Educational Technology section and put it under the proposed Deputy Commissioner for Renewal. This change is needed because technology will play a vital role in implementing many facets of the renewal strategy. Shifting the Educational Technology section to the Deputy Commissioner for Renewal will, in effect, raise it one level in the OE organizational structure.

At the same time, OE is also going to coordinate and consolidate its library activities further. In a new Bureau of Libraries, it will be possible to bring about more effective coordination of the various education programs which deal with libraries and the training of librarians.

Included in the consolidation will be those programs authorized by Library Services and Construction Act (which services public libraries), Title II of the Higher Education Act (dealing with college library resources and library training), Title II of the Elementary and Secondary Education Act (dealing with libraries at elementary and secondary education levels) and the Library Research Program which is conducted under the Cooperative Research Act.

This realignment of the library services will centralize in one organization responsibility for library programs which serve all clientele levels—elementary, secondary, higher education, and the general public. This realignment will have the effect of strengthening the professional relations among the various library groups and agencies and will bring the library programs of the schools into closer contact with the public libraries. Thus, without, in any way diminishing existing channels of coordination with the curriculum of the schools, the consolidation will facilitate new types of coordination at the local level between school and public libraries, including the introduction of new forms of media and learning resources for all schoolchildren. This consolidation is completely consistent with the mandate in the LSCA to coordinate "school, public, academic, and special libraries and special information centers for improved services of a supplementary nature to the special clientele served by each type of library or center."

Mr. PELL. On December 13, 1971, I wrote the Commissioner in order to clarify our conversation of December 10, 1971. In that letter I pointed out that to include the bilingual education program and the dropout prevention program in the renewal program would be contrary to the intent of Congress. I ask unanimous consent that my letter of December 13, 1971, be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON LABOR
AND PUBLIC WELFARE,
*Washington, D.C., December 13, 1971.*
Hon. SIDNEY P. MARLAND, Jr.,
*U.S. Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C.*

DEAR MR. COMMISSIONER: I would like to clarify the situation with respect to our conversation on education renewal sites which took place last Friday, December 10, in my office.

I have asked staff to review the authorizing legislation involved with your proposal on renewal sites. At this time, as we understand present law, authorizations which can be used for renewal sites are the Cooperative Research Act, the Federal portion of title III of the Elementary and Secondary Education Act of 1965, and part D of the Education Professions Development Act. To some extent, the authority for the Dropout Prevention Program can be used. However, the legislative history for the Dropout Prevention Program indicates that only a relatively small number of projects in areas of outstanding need in which there are high concentrations of school dropouts may be funded. It was thought in 1967 that this program would be limited to eight or ten projects each year. Any attempt to spread the dropout prevention money to the extent necessary to fund more than twelve projects would certainly be beyond the intent of the Congress.

As I view the Bilingual Education Program, to subsume its appropriations for education renewal sites would definitely be to divert the program from its primary purpose under the law.

During our conversation, I suggest that you might wish to experiment with twelve projects using the "free money" under the three authorities where the renewal site concept is permissible. Counsel informs me that the conferees on S. 659 could possibly inhibit some of this "free money" authority for future fiscal years. At the same time, if Senators are inclined to offer amendments to S. 659, the result may be that you would no longer have the authority to conduct experiments such as we discussed.

In order to prevent such a situation from arising inadvertently, I would be inclined to exercise my prerogative as Chairman of the Subcommittee on Education, and put forward an amendment which would satisfy the concerns of those Senators, clarify the law with respect to consolidation of programs, and explicitly authorize funds for experimentation of the type you would like to conduct. Such an amendment may also serve to prevent further amendments in the House, where I understand opposition to the renewal site proposal may be stronger than it is in the Senate.

At any rate, I believe that the decision must be made on the merits rather than by poorly considered amendments which do not deal with the merits of your proposal. I would say that any proposition involving the number of sites you propose, however, would constitute more than an experiment. I know you stated that a small number of sites would not be sufficient to have an impact on the country as a whole. In my opinion, I would question whether an experimental program ought to have an impact on the country as a whole, until it has been proven by experimentation.

It is unfortunate that the education renewal site proposal has been caught up in such great confusion. However, I am of the opinion that the confusion could have been avoided if the proposal had been advanced as a legislative proposal rather than as an administrative reorganization proposal. Hopefully, this confusion has not brought the situation beyond control, and we can cooperate in getting authority to experiment, even though it is not of the scope you would like.

Ever sincerely,

CLAIBORNE PELL.

P.S. I have received your letter of Dec. 9 concerning school nutrition and health services. I want to thank you for consideration of this matter. Please be assured that I appreciate mutual cooperation with you on matters of concern to us both.

Mr. PELL. On December 13 the Commissioner of Education wrote me a letter in which he enclosed two items designed to further illustrate the renewal ideas of the Office of Education. One of these items was a copy of the publication called "Education U.S.A." in which the statement was made that the approval of the renewal site strategy was being sought. This furthered my conviction that the Commissioner of Education, by informal conversations with me, was seeking official approval of the Congress. I then decided that the best thing to do was to ask the Commissioner of Education to defer any further action on the renewal site strategy until the Congress had had time to review the situation. I ask unanimous consent that the Commissioner's letter and material of December 13, 1971, be inserted at this point in the RECORD, and that my response of December 20, 1971, also be inserted at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE U.S. COMMISSIONER OF EDUCATION,
*Washington, D.C., December 13, 1971.*

Hon. CLAIBORNE PELL,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PELL: Enclosed are two items that may not have come to your attention. They have to do with further illumination of our renewal idea as discussed with you last Friday.

I appreciate the time and thought that you gave to our discussion and felt that both of us came closer to an understanding of each other's respective positions.

I continue to feel strongly that if we are really going to be very effective in this Office, something akin to the renewal concept must be launched. I believe that this can be done in such a way to insure the integrity and preservation of key legislative authorities being considered for inclusion in the renewal design. We are seriously mindful of your counsel in any steps that we may ultimately take.

Sincerely,

S. P. MARLAND, Jr.,
*U.S. Commissioner of Education.*

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### RENEWAL PROGRAM AIMED AT 10,000 SCHOOLS

*Sweeping changes in 10,000 schools with 5.5 million disadvantaged children*—this is the 14-year goal of U.S. Commissioner of Education Sidney P. Marland's new "educational renewal" plan. Marland spelled out details of the program at the annual meeting last week of the Council of Chief State School Officers (CCSSO) in Louisville, Ky. Plainly eliciting support and cooperation from the 37 assembled "chiefs," Marland said his plan "could, over time, amount to probably the most significant change in the style and character of the U.S. Office of Education (USOE) since its beginning." He also predicted that it would end the "generally disappointing record of federal research and development efforts." APPROVAL OF THE STRATEGY IS NOW BEING SOUGHT FROM CONGRESS.

*"Our intention," Marland said, "is to assist a limited number of schools in installing totally new programs involving all aspects of the school."* The new emphasis is on "all." Efforts at innovation in the past, he said, "have been isolated, noncomprehensive, aimed at improving only one aspect of a school." Each program will be funded for a five-year period, "assuring the experiments a solid chance to become successfully launched and, after the initial five-year period, to fly on their own with combined state and local assistance." Marland says he hopes the evident success of each project, as it is established and begins to function, will prompt the state school superintendents to spread the lessons quickly to other schools.

*Other highlights of the plan:* the state chiefs will "nominate" districts for participation; final selection will be made by USOE in cooperation with the states; all projects must have large concentrations of disadvantaged children; two-thirds of the schools will be in urban areas and one-third in rural areas; each state will be assured at least one renewal project in the first year of the program; a district's proposal to be a renewal project can be submitted in a single application. Marland said "we will be open to any proposal that makes sound educational sense and ask only that proposals conform to three criteria: evidence of state and local commitment, such as a willingness to undertake sweeping renewal or change and to increase, or at least maintain, current spending in the target schools; comprehensiveness, involving all aspects of affected schools; program objectives stated in measurable terms, such as raising average student achievement by a definite percentage over that to be expected in a normal school year."

*Marland said the program would begin in 1973–74 at 200 "sites"* (each site will average 10 schools and could be either a school district or a subdistrict within a larger district). The first year's effort, involving 1 million children, would be financed by $150 million gathered in one package from most of USOE's discretionary or uncommitted funds. It would then expand with 100 additional sites each year. At its peak in 1977, the program would be funded at $350 million per year to operate 600 sites. A total of 1,000 sites will have been involved when the program is completed in 1986. The entire program is being developed by USOE in cooperation with a special CCSSO task force headed by John W. Porter, Michigan state superintendent. Porter, an enthusiastic supporter of the plan, wants the states to play a major role in the new effort. Most "chiefs" were neither hostile nor enthusiastic. They seemed to be saying: "We'll believe it when we see it."

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### AN INTERIM ACCOUNTING[1]

(By S. P. Marland, Jr.)

H. M. Tomlinson, the English novelist, authored a comment on the pitfalls of oratory that every public speaker should paste in his hat. "How many grave speeches," Homlinson write, "which have surprised, shocked, and directed the Nation, have been made by Great Men too soon after a noble dinner, words winged by the press without an accompanying and explanatory wine list."

A sobering thought, to be sure, and one that compels me to spend my time with you this morning not in grave oratory about future achievements, but in discussing promises I have already made as Commissioner, and accounting for such progress in their fulfillment as I can claim. It is, after all, rather early in the day for futuristic scenarios. As Tomlinson suggests, they tend to go down better in a convivial, postprandial atmosphere. In specific terms, I would like to offer you this morning an interim accounting on progress to date in reaching a goal of considerable significance to us in the O.E. and to you in the States—that of developing and implementing a truly effective program of educational research and development in our time, and our accompanying concept for an educational renewal strategy.

I use the word *interim* because our plans cannot be considered as cast in bronze. Certainly, we are still deeply engaged in the complex business of winning approval for the scheme we have proposed for reordering and redirecting a good share of our discretionary funds, a plan that could, over time, amount to probably the most significant change in the style and character of O.E. since its beginnings. We have found ourselves doing a lot of explaining to the White House, to HEW, to education officials, and organizations, and most particularly to the men and women on Capitol Hill. The congress is naturally concerned that we in the Bureaucracy carry out rather than skirt the intent of educational research and development legislation. As I shall explain in a moment, our plan, I am personally convinced, would carry out that intent with far greater precision and effectiveness in serving you and the schools than he present arangement under which the Office has been dispensing developmental funds, an arrangement which has left a clear field for improvement.

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[1] Before the Annual Meeting of the Chief State School Officers, Executive Motor Hotel, Louisville, Kentucky, Tuesday, November 16, 1971, 9:00 a.m.

But whatever organizational headaches are involved for us in the Office of Education in putting the renewal program together are a small price to pay for the results we envision. During the time—nearly a year now—that I have been in Washington, I have found that assuming certain institutional disorder and pain at our level may result in a relief of disorder and pain at yours—and correspondingly favorable results for the school children of this country. Avoiding simple expediency and administrative calm and reaching out for good ideas, informed veteran opinions—indeed, every piece of intelligent advice that we can lay our hands on—tends to keep our Washington pot boiling. It is in this context that I have listened closely to wise and able old—and young—hands in assessing our research and development history.

If you seek to pinpoint the reason for the generally disappointing results of the Federal R&D effort in education to date, if you search for explanations as to why more than $1 billion in Federal research and development expenditures have produced so little in the way of tangible results in our schools, then I believe you will begin to understand the nature of our quest and to begin to catch the spirit of our present thrust for change.

Up to now we have not been willing to go fast enough or far enough in introducing validated new processes in our educational system. Nor have we had a sufficiently respectable or dependable or systematic resource for *performing* research and development and then, following its validation, delivering its products to you for installation and advancement. We have sprinkled our R&D dollars like seeds, hopefully but thinly, enthusiastically but improvidently, not so much working systematically for a new order of educational efficiency as wishing one might suddenly burst into luxuriant blossom from the seed we've scattered. And, as you might expect, it hasn't happened.

Virtually all of our research and development activities fall, in one way or another, in our modest discretionary budget, whether specifically in the National Center for Educational Research and Development, or less directly in the Bureau of Educational Personnel Development, Experimental Schools, the Right To Read, Bilingual Education, our 15-percent setaside under Title III of the Elementary and Secondary Education Act, or whatever. As I said to you at the AASA meeting in Atlantic City last February, our intention at that time was to stop short, to clamp down on expenditure of all such discretionary funds not already firmly committed, to think through the reasons for the failure of generalized innovation in the 1960's. Above all, our intention was to commit no more dollars to nontargeted R&D no matter how appealing the proposals and to spend only when convinced that such expenditures would produce effective change in the classroom.

In the days since Atlantic City we have developed a renewal strategy to accomplish that broad objective. We have responded to the President's call for educational reform through a strategy that reflects not simply the experience and convictions of those of us within O.E. or within HEW, but that embodies the wisdom and interests of the States and localities, of public officials and private persons, of individuals and groups such as yours. And I would acknowledge at this point our profound indebtedness to the advice and counsel provided by a task force from the Chiefs chaired by Superintendent John Porter of Michigan, individuals who have been close to this issue. The quality and the volume of the assistance we have received from this group in this extremely important undertaking are to me the most persuasive guarantors of its success. We cannot in our field of work brew schemes in dark secrecy and then spring them upon 16,000 school systems and two million teachers and expect anything good to happen. It simply will not. Indeed, as I said moments ago, we will continue to solicit your reactions to our plans as I discuss them and as Don Davies and his staff explain them to you in still greater detail. And we gratefully intend to go on meeting with Superintendent Porter and his committee as the development of this strategy moves forward.

The essence of our approach to educational renewal is best stated in one word—*concentration*. We are taking our many discretionary parts, as distinct from formula programs, and putting them together in what I hope will be a critical mass of intelligent power. Efforts at innovation in the past have been isolated, noncomprehensive, aimed at improving only one aspect of a school, such as teacher-training, curriculum, or class organization. Though such experiments often had a temporary success, the greater weight of traditional practice snuffed out piecemeal change as time went on. Our intention now is to assist a limited number of school systems in installing total new programs involving *all* aspects of the school, its staff, and its clientele, employing the most responsive and the most effective techniques that can be devised for each individual system. We will fund each of these sites for a five-year period, assuring the experiments a solid chance to become successfully launched and, after the initial five-year period, to fly on their own with combined State and local assistance. As each site is established and begins to function, we hope its evident success will prompt you as the chief education executive in each State to spread its effect quickly to other sites.

The renewal effort will impact directly on the lives of five and one-half million of the most deprived—and therefore the most educationally resistant—children in the United States over the next 14 years, with built-in performance goals for each child. The national objective of serving the educationally disadvantaged remains the overriding goal of this action. The success that we hope to achieve with the five and one-half million can then be extended throughout the country, generating a body of knowledge and understanding that can be applied to an infinitely broader number of youngsters for an infinite number of days and years to come.

In addition to sharpening our focus through concentration on fewer school systems and fewer children, we are also concentrating our discretionary funds, which have been spread all over the Office of Education's operating bureaus, into a single operating division under the direction of the Deputy Commissioner for Development, Don Davies. With a few deliberate exceptions, the other divisions of O.E. have assigned their discretionary dollars to Don's office. Consequently we have a comparatively impressive war chest which—presuming we win the approval of Congress for our strategy—we can now focus in a unified comprehensive attack on major educational problems.

No longer will it be necessary for the State or local school superintendent to deal with the infinite array of documents and the numerous individual program managers in each area of interest in O.E.—whether dropout prevention, Title III of the Elementary and Secondary Act, education professions development, bilingual education, or other concerns. No longer will it be necessary to fill out individual forms for each program, work out complicated relationships with unrelated and randomly located staff, attempt to coordinate differing funding cycles, and be responsible for an endless series of separate evaluative reports, year after year.

No longer, in sum, will it be necessary to do what the school superintendent of this very city, Louisville, Kentucky—Dr. Newman Walker—was forced to do early in 1970 as he and his assistants sought help from Washington in solving school problems as severe as those of almost any city in the Nation. But it was the very success of Dr. Walker and his chairman of school operations, Dr. Frank Yeager, in overcoming our seemingly necessary bureaucratic obstacles that brought us to the point of doing away with them altogether. Louisville's achievement in establishing a prototype site-concentration technique convinced us in the Office of Education that the renewal strategy we were contemplating could work as well as we expected and that it could work for *all* State education agencies and local education agencies. In Louisville it *is* working and I recommend that any of you interested in obtaining first-hand information on the method confer with Dr. Walker and visit his target schools.

Dr. Walker came back from Washington with a coordinated package of no less than 18 separate Federal education programs with which he has begun to turn his entire school system around. Funds made available through the package totaled $4.6 million for last year and $5.3 million this year. With the exception of Title I formula grant funds under the Elementary and Secondary Education Act, all are discretionary programs. Louisville thereby became the Nation's first city to tap so many separately funded and administered Federal education programs and to use the grants in a consolidated attack on its educational problems. The remarkable story of Dr. Walker's journey through the labyrinth of grantsmanship at 400 Maryland Avenue is published in the December issue of the very excellent magazine of the Office of Education, *American Education*. I recommend it as an account of a very enterprising team of individuals in what is generally and wrongly regarded as the stodgy learning industry, and also a brilliant example of what we believe our renewal strategy can accomplish in approximately 200 renewal sites in 1973–74, the initial year of operation. I think it is important to add that, contrary to the unflattering stereotype, lively and imaginative bureaucrats at 400 Maryland Avenue have had a large hand in putting this package together. It is to their everlasting credit that they are ready to sweep aside the comfortable and familiar routines of program management in its numerous and job-secure parts, and grow with the task themselves.

Each site will have an average of 10 schools, all of them in areas where there are large concentrations of disadvantaged children. About two-thirds of these schools will be in urban areas, the other third in rural. A needs assessment—developed not by us in Washington, but by the education officials, teachers, students, parents, and residents in the communities themselves—will be the basis for the package of programs funded by O. E. In other words, we will *ask* the communities to tell us what they need, rather than us telling them, the usual configuration up till now. Further, the States and the communities will have selected *themselves* for this action. We will share in the final determination of what shall be a site, but first the site community will have invited our engagement.

We will be open to any proposal that makes sound educational sense and ask only that proposals conform to three criteria: First, evidence of State and local commitment, such as a willingness to undertake sweeping renewal or change and to increase or at least maintain levels of current spending in the target schools; second, comprehensiveness, involving all aspects of the affected schools; third, program objectives stated in precise measurable terms—such as raising average student achievement by a definite percentage over that to be expected in a normal schoolyear, or decreasing the gap in achievement between disadvantaged and middleclass in the same district by a stated percentage.

Presuming that a community's needs assessment and its proposed solutions meet these broad requirements, the proposal can be submitted in a single application, no matter how many components it includes. Local research, teacher-training, development of paraprofessional aides, audio-visual materials, medical and dental examinations, family involvement, curriculum and organizational change—all can be lumped together in one document.

I want particularly to point to the substantial part that your State departments will play in this renewal plan, a marked departure from the present procedure in which the principal exchange in between Washington and the grantee, with the State having a very peripheral involvement. The States, to begin with, will identify the renewal sites. While the procedure isn't as yet wholly worked out, I would guess that we will invite each of the Chiefs to nominate districts within their jurisdictions that seem to combine both need and strong willingness and potential for solving their problems. We could, I would guess, count on receiving 500 or 600 nominees for the initial 200 awards, with the final selections a matter of close examination and negotiation between your offices and mine. While the extremely deprived areas that we are aiming at are obviously not distributed equally throughout the country, each State will be assured of at least one renewal site in the first year and very likely several more before the program closes out in 1986.

The State department will also house at least half the total number of "educational renewal extension agents." The function of these persons, who will be key figures in the renewal strategy, is based on a borrowed concept, the very successful system of agricultural extension agents who carried to the farmers information on government-developed agricultural research and development, those techniques that helped to revolutionize farming in this country starting early in this century. The educational extension agents, operating either from the State Department or from Teacher Centers located at each renewal site, would tie practitioners to Federal, State, and local researchers in what we hope will be a most productive partnership. The agents would not be there to tell the teachers what to do, but to ask them what help they need, what sort of ideas do they want to explore, what kinds of problems they are running into, what we have in our Federal resources that they might not know about.

This information would be channeled back to Washington where it could be determined what resources were available to help each individual case and how the experience could tie in with target tasks in research and development in the newly created National Institute of Education. Just as his agricultural counterpart showed the American farmer of a half-century ago how to rotate crops, contour-plow, and employ proper fertilizers to achieve greater yields, the educational agents will work with the teachers to help them achieve greater classroom yield—how to break through the reading problem, how to overcome learning difficulties of racial and ethnic minorities, how to start a boy or girl on a course leading to personal fulfillment and career success. These are the everyday, down-to-earth problems that any program of educational reform worthy of the name must address and solve.

What I have attempted to describe to you this morning is a new structure for the Office of Education, growing out of the vast new powers of the National Institute of Education, the implicit prestige of the kind of quality work that will be done there, and from a new determination within the Office of Education itself to get the new products of educational research to the teachers. This is not merely a passing project of the Federal Government—it is a new dimension of educational leadership and service—on call to all who need help.

That, in roughest outline, is our plan for educational renewal. You cannot call it revolutionary, and perhaps that is just as well. I would prefer calling it systematic myself, for I would guess that in the long history of man, sound systems have accomplished far more than revolutions. This will not be hit-or-miss, and it will not be scattershot, but a careful, concentrated, and responsive approach to devising reasonable, workable, permanent solutions to the toughest educational problems we face today. It responds to the President's mandate, as noted earlier; it responds to the Secretary's insistence that all HEW research and development be translated into action—or else; and I hope that it responds to the compact between each of you and me that we increase swiftly the effective teaching and learning of the poor and the minorities.

One more modest accounting of progress before I close. You will recall that at our meeting in June I laid out in a very preliminary way our concept of an integrated system of educational statistics for Federal, State, local, and institutional planning and management. We called the proposed system *Common Core of Data for the 70's*. The idea was to provide current, reliable data for the entire educational structure, whether local, State, or Federal, (including our very important client, Congress), with the cost to be shared by all three.

I am happy to report that the concept is moving ahead. CCD–70 has begun to take shape, having, I can predict with some optimism, successfully negotiated the Fiscal Year 1973 budget review in the Office of Education and in HEW and, hopefully, in the Office of Management and Budget. While we can anticipate only modest amounts of money for planning purposes in the current fiscal year, we look to significant funding in FY '73. At the very least we expect to be able to fund three States on a demonstration basis, and hopefully a number more. The purpose would be to build within each demonstration State an information-collection system that would be completely responsive to the needs at the State level as well as totally articulated with a national system.

A number of the Chiefs have written me or Dorothy Gilford expressing their interest in becoming an early part of CCD–70. We appreciate that expression of faith and we look forward as you do to the creation of an information system that will finally link all States and the O.E. in a constructive partnership in the unification, production, and employment of relevant educational statistics. I believe that in the decades ahead the crucial substance of education will stand so high among our public values and concerns that this instrument will be a least as significant a force for public policy decisions as the Bureau of Labor Statistics.

These are small benchmarks of advancement that I have come to tell you about this morning, these efforts to strengthen and redirect our research and development effort and our data gathering procedures. Our renewal program is estimated to entail expenditures of a little more than $150 million in the first year of operation, a trifle more than three percent of the total O. E. budget. Obviously this is nothing upon which to mount grandiose rhetoric, the sort of overpromising that has produced a boomerang of public disenchantment too often in our profession. I get the impression that the public is not as tired of the rising cost of education as of the rising rhetoric.

And yet I am pleased to be able to report to you that we have made these steps forward. Because when you consider the others that we are taking, I believe that substantial forward movement is evident. I am speaking of the National Institute of Education which has been approved by both houses of Congress, and the career education theme which has received enthusiastic acceptance nationally, following your reassuring endorsement six months ago, and from my individuals and groups both in and out of the education profession. And I would say that there is much more activity underway—at all levels of governmental and private endeavor—that argues impressively for progress and accomplishment.

I believe that my perhaps naively optimistic statements, made early in the game, have turned out to be as on-target as I could have hoped. In those statements I expressed total faith that the leaders—the good men and women of education—particularly the professionals who are working in the Office of Education and in the State departments of education—can advance our profession swiftly in a nondefensive spirit of reform and regain the high faith of the people. Naively optimistic? Perhaps, but it's beginning to happen.

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U.S. Senate,
*Washington, D.C., December 20, 1971.*

Hon. Sidney P. Marland, Jr.,
*U.S. Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C.*

Dear Mr. Commissioner: Thank you for your letter of December 13, in which you enclosed your speech on "Interim Accounting" before the Annual Meeting of the Chief State School Officers on November 16.

I find the speech helpful in trying to figure out what is to be done in an education renewal site. I am hopeful that you will provide me with further information which will indicate the types of activities for which you propose to expend Federal funds.

However, your letter raises a question in my mind about our conversation on Friday, December 10. As I understood our discussion, you were proposing that the various authorities in present law be used to experiment with education renewal sites, and that legislation authorizing the program be brought out after you had had an opportunity to see how these experiments worked out. From the materials you enclosed, I fail to find an indication that your proposal is experimental, or that you envision legislative authority for the program. As I stated in our meeting, I find your proposal for establishing renewal sites very interesting, and, as I stated in my letter of December 13, I believe the proposal should be considered by the Congress on its merits. But I cannot commit the Committee on Labor and Public Welfare or the Congress to favorable consideration of any legislative proposal.

In addition, I believe that I have a responsibility to prevent the Congress from being presented with a "fait accompli" which would tend to force favorable consideration of legislation. It is my belief that if you proceed with the education renewal site program until 1973 or 1974 and then ask for legislation ratifying the program, the Congress will be placed in the awkward position of deciding whether to continue the program, when it ought to be in the position of deciding whether the program ought to be begun. In 1973 the persons responsible for education in the executive branch and the legislative branch of the Government may be entirely different from those now responsible. If I am not Chairman of the Subcommittee on Education in 1973, and if I permit the education renewal site program to be begun, I would be in effect committing my successor to a course of action which was never properly considered by the Subcommittee on Education, where hearings and deliberations by the Subcommittee are considered the normal procedure for initiating an educational program.

Under present circumstances, I would like to consult with my fellow members of the Education Subcommittee on this matter. It may be that they would wish a public hearing. I would also like the advice of the education community. It may also be that the Subcommittee would like the advice of the General Accounting Office on the legal implications of the matter.

It appears that we can not have these consultations until the Congress returns in January. Therefore, I would hope that further proceedings by the Office of Education on the education renewal site proposal are delayed until the Subcommittee on Education has had an opportunity to consider this matter. I would also hope that we could maintain our communications until that time.

Ever sincerely,

Claiborne Pell,
*Chairman, Subcommittee on Education.*

Mr. PELL. On January 7, 1972 the Commissioner of Education wrote to me stating that the Office of Education was scaling down its plans for education renewal sites and that the bilingual education program and the dropout prevention program would not be included in the education renewal site concept. The Commissioner of Education specifically stated that only about 20 to 30 renewal sites would be made fully operational. I ask unanimous consent that the Commissioner's letter of January 7, 1972, be inserted in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Health,
Education, and Welfare,
*Washington, D.C., January 7, 1972.*

Hon. Claiborne Pell,
*Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.*

Dear Mr. Chairman: This is in further response to your letters of November 3 and December 13 and 20 and our conversation of December 10 concerning the plans of the Office of Education to reform the administration of certain discretionary programs through the establishment of Educational Renewal Sites. I believe we are very close to agreement on this subject, and that it is only necessary to clarify a few basic points.

One issue is fundamental in our concept of the educational renewal site—it must be responsive to the needs and desires of States and local school districts. No district would be required to administer educational programs under the renewal site concept. Participation would be entirely voluntary and would be undertaken in consultation with the States as well as the applicant districts.

As we discussed in our December 10 meeting, the Office of Education intends to implement this strategy on a limited, pilot basis. We would hope to provide planning funds for the development of possible renewal sites in all States that wish to participate, beginning in Fiscal Year 1973. However, our current estimate is that only about 20–30 pilot local educational renewal sites would actually be fully operational by the end of that fiscal year.

As suggested in your letter of December 13, we have reconsidered the legislative authorities under which educational renewal would be carried out. It is our present intention to utilize appropriations under the Commissioner's discretionary program of Title III of the Elementary and Secondary Education Act, Part D of the Education Professions Development Act (Title V of the Higher Education Act of 1965), and the Cooperative Research Act. Of course, school districts receiving funds under other Federal programs would be free to carry out the purposes of those programs in the context of the educational renewal site approach.

I would like to reemphasize the important place this approach has in my plans to invigorate the Office of Education and make it a useful instrument of reform in American education. I am pleased that you share my commitment to innovation and change in education. You may be assured that we will keep you and your Committee fully informed of our progress in developing and perfecting the renewal approach.

Sincerely,

S. P. Marland, Jr.,
*U.S. Commissioner of Education.*

Mr. PELL. About the middle of January, the staff of Senator Joseph M. Montoya made available to my office a letter from the Commissioner of Education which was not consistent with the Commissioner of Education's letter to me of January 7, 1972, as it related to bilingual education. I became further concerned. For it appeared that the Commissioner of Education was not taking my suggestion that further action on renewal site programs be deferred. Furthermore, when the budget for fiscal year 1973 was submitted, the Appendix to the Budget, page 443, proposed an education renewal program to be acted on by the Appropriations Committee which was entirely inconsistent with that outlined for me by the Commissioner of Education.

The continued investigation by the staff of the Subcommittee on Education revealed that the Commissioner's subordinates were explaining the renewal site project in a manner inconsistent with the Commissioner's letter to me of January 7, 1972. A telegram dated January 21, 1972, from Dr. Don Davies, Acting Deputy Commissioner for Development of the Office of Education, and Dr. William Smith, Acting Associate Commissioner for Educational Personnel Development of the Office of Education, informed State educational agencies that there would be about 60 educational renewal sites rather than 20 to 30, as the Commissioner of Education stated. On January 21, at a meeting with representatives of the Council of Great Cities Schools, representatives of the Commissioner of Education indicated that both bilingual education and dropout prevention would be included in the renewal sites project. On that same day, January 21, 1972, the Office of Education set as the final application date of renewal sites, February 14, 1972. These events of January 21, 1972, contradicted three important points of the Commissioner of Education's letter of January 7, 1972 to me: First, the number of sites; second, the inclusion of bilingual education and dropout prevention programs; and third, and most importantly, the Commissioner of Education's statement that the Office of Education would follow congressional intent. On this latter point, by setting closing dates of applications, the Office of Education violated those provisions of title III of the Elementary and Secondary Education Act which specify that application dates be set by regulations published in the Federal Register. Also involved was a violation of section 421 of the General Education Provisions Act, which requires that all regulations be published in the Federal Register 30 days prior to their effective date.

On January 27, 1972, I again wrote the Commissioner of Education asking him to defer further action on the renewal site project, and I ask unanimous consent that my letter of January 27, 1972, be inserted in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
*Washington, D.C., January 27, 1972.*

Hon. Sidney P. Marland, Jr.,
*U.S. Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C.*

Dear Mr. Commissioner: Thank you for your letter of January 7 relating to education renewal sites. I am most appreciative of the dialogue which we have been able to create on this subject. I had hoped that we could have resolved the problems raised by the education renewal site program by communications between the Office of Education and the Education Subcommittee. However, your letter of the 7th, and more importantly, the recently submitted budget raise further questions which work again the resolution of the issues.

In your letter dated January 7, you have indicated a scaled-down proposal. However, that letter does not deal with the final disposition of the bilingual education program, nor with the fundamental question of activities for which Federal funds will be spent. The submitted budget lists certain programs under "education renewal" about which no mention has previously been made. In addition, the appropriateness of initiating a program without legislation or regulations or guidelines is subject to questions of a scope which I, as Chairman of the Education Subcommittee, cannot pass upon without consultation with my fellow Senators and with our colleagues in the House of Representatives.

Therefore, I would hope that you would defer any further action in implementing this proposal until such time as this confusion may be properly disposed of. My staff informs me that the Department has indicated a desire to circulate your letter dated January 7 as evidence of a resolution of any differences which may have arisen. You may circulate that letter with this response. However, I would think that it would be appropriate to include as well all previous letters and communications on the subject in order that further confusion may be avoided.

Ever sincerely,

Claiborne Pell.

Mr. PELL. The Commissioner responded on February 10, 1972, with a further explanation of what was intended, but gave no indication of plans to defer further action. I ask unanimous consent that the Commissioner's letter of February 10, 1972, be inserted in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
*Washington, D.C., February 10, 1972.*
Hon. CLAIBORNE PELL,
*Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.*

DEAR SENATOR PELL: Thank you for your letter of January 27 expressing your concern with the plans of the Office of Education for carrying out an educational renewal strategy, as reflected in our prior correspondence and in the President's Budget request for Fiscal Year 1973.

I agree that it is highly unfortunate that confusion continues concerning our renewal plans. Perhaps much of the confusion arises because the Office of Education has used the term "renewal" to refer to several different things. The term has been used in at least four different contexts:

1. *The effort I am making to instill in all appropriate OE activities a sense of the need actively to assist local schools to serve their students in a more effective manner.* In this sense, the term can encompass everything the Office does.

2. *The Educational Renewal appropriation.* As you know, for purposes of budget presentation, the Office of Education's programs are grouped in several appropriations. One of these appropriations for Fiscal Year 1973 is called "Educational Renewal." This appropriation contains most of the Office's discretionary programs at the elementary and secondary level—only a limited number of which would be involved in Educational Renewal Sites. Our earlier discussions concerning renewal have been limited to our plans for such sites.

Most of the programs included in the "Educational Renewal" appropriation are *not* a part of the "educational renewal site" approach. They are administered by various Deputy Commissioners. The appropriation also includes for Fiscal Year 1972 some programs which we propose would be administered by the National Institute of Education, if Congress should create that agency. For your information, I am enclosing a list of all programs included under the "Educational Renewal" appropriation and their placement within the Office.

3. *The Deputy Commissioner for Renewal.* One of my Deputies, Don Davies, has this title. He is responsible for the administration of several OE programs, such as the statistics program, educational technology (e.g. Sesame Street), and other programs, which are unrelated to educational renewal site activities. He also administers those programs which will form the basis for educational renewal sites.

4. *Educational Renewal Sites.* As noted in my earlier letters, the educational renewal site concept is a new approach to using some of the funds authorized under existing legislation. The Appendix to the Budget shows an item for "Site personnel development," drawing funds from Part D of the Education Professions Development Act. Some of these funds may be used in Fiscal Year 1973 for educational renewal sites. Added to these funds will be funds from the discretionary portion of Title III of the Elementary and Secondary Education Act and from the Cooperative Research Act, as I stated in my letter to you of January 7. No other program will form the basic funding of Educational Renewal Sites.

If a school district is receiving funds under another Federal program—Bilingual Education, Drug Abuse Education, Dropout Prevention, or Vocational Education Research, for example—it will be free to include such programs in the activities conducted at the Educational Renewal Site. Such a decision would be solely that of the school district receiving the funds. As the Appendix to the Budget states, "local school districts *will be able* to submit a single application for a comprehensive grant." [Emphasis added.] No school district will be *required* to do so, and no preference in these programs will be given to a district that chooses to submit a comprehensive application. All programs listed in the Appendix under the heading of "Educational Renewal," except for those included in "Site personnel development," will continue to be administered as discrete entities, pursuant to the terms of their authorizing legislation. Further, several other programs included within the "Site personnel development" appropriation will also continue to be funded as discrete entities, since they involve the continuation of existing OE commitments to grantees. These include the Career Opportunities and Urban Rural programs.

Since each local school district will be undertaking educational renewal in areas of its greatest need, I cannot enumerate all the activities which might be undertaken in a renewal site. However, I am enclosing a paper which discusses activities appropriate to an educational renewal site which should serve to illustrate how a simple site might work.

In a more perfect world, our use of terminology might be less confusing. However, I hope that I have been able to clarify that "educational renewal sites" are one piece of a much larger effort and are by no means equivalent either to the Educational Renewal appropriation or to the jurisdiction of the Deputy Commissioner for Renewal.

Your letter also expresses concern that the Renewal Site approach will be conducted without adequate regulations or guidelines. Let me assure you that we fully intend to develop regulations and guidelines for this approach, reflecting the various provisions of the three underlying legislative authorities, before the Renewal Site program is begun in Fiscal Year 1973. I agree with you that local educational agencies seeking Federal assistance for educational renewal sites must have comprehensive guidelines in order to enable them to prepare their applications and conduct their activities according to the law and Congressional intent.

I would like to reiterate that the Office of Education is *not* establishing a new program called "educational renewal sites." The renewal site approach is a *process*, not a *program*. We are asking States and local school districts if they would wish to use funds authorized under existing programs in accordance with the purposes of that legislation, but concentrated in some small number of schools within a school district, through a step-by-step process of assessing needs, determining programs to meet those needs, and involving the parents, teachers, and community in the process. The renewal site approach is intended to be a more effective way of using resources, not a new program.

Finally, your letter inquires about the final disposition of the bilingual education program. The Bilingual Education Program will be elevated to the status of a Division. This will be the first time that the program has achieved Division status since its enactment. I would like to assure you that its integrity will be preserved in the new organizational structure. Indeed, the change should enhance the program's stature in the country, reflecting the high priority the Office of Education places on bilingual education.

I hope that this letter has been responsive to your concerns about our plans for Educational Renewal. I feel that it is important to maintain a dialogue about our plans, as they develop. If you have any further concerns or questions, please feel free to call on me.

Sincerely,

S. P. MARLAND, Jr.,
*U.S. Commissioner of Education.*

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## CURRENT LOCATION OF ACTIVITIES INCLUDED IN EDUCATIONAL RENEWAL APPROPRIATION

Part D, EPDA, Deputy Comm. for Renewal.

Bilingual Education, Deputy Comm. for Renewal.

Dropout Prevention, Deputy Comm. for Renewal.

Personnel Development, Deputy Comm. for Renewal.

Follow Through, Deputy Comm. for School Systems.

Educational Technology, Deputy Comm. for Renewal.

Drug Abuse Education, Deputy Comm. for Renewal.

Right to Read, Exec. Deputy Commissioner.

Career Education Model, Deputy Comm. for Renewal.

Environmental Education, Deputy Comm. for Renewal.

Library Demonstrations, Deputy Comm. for Higher Educ.

Other Priority Programs, Deputy Comm. for Renewal.

Data Systems Improvement, Deputy Comm. for Renewal.

Product Identification and Dissemination, Deputy Comm. for Renewal.

Planning and Evaluation, Deputy Comm. for Management.

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## THE EDUCATIONAL RENEWAL SITE—A BRIEF DESCRIPTION

This is a brief description, for illustrative purposes, of an Educational Renewal Site under the proposed renewal strategy of the Office of Education. It has three sections: (1) a description of the organization of the Educational Renewal Site, (2) a description of possible functional and program components and activities at the Site, and (3) a statement about the process of renewal.

### ORGANIZATION

The Educational Renewal Site will normally be selected as a grantee by the Office of Education from among nominations made by its State Education Agency, and will be comprised of a cluster of schools (elementary, junior and senior high) varying in number from approximately 8 to 20 according to the characteristics of the communities served. It could be a portion of a large urban school district, an entire rural town, or several rural villages combined. The number of pupils involved could vary similarly. In order to merit selection the Site will have to meet certain criteria of need, readiness, low-income, etc., established by the Office of Education and the State education agencies in accordance with enabling legislation.

The Site will have an Educational Renewal Council which shall provide project direction, including needs assessment, planning, and project implementation and evaluation, within the framework of existing State and local school board regulations. The Council will be created by the local school board, and will be representative of the school community, including, for example, the staff of participating schools and universities, parents of the community served by the participating schools and other appropriate segments of the school district. Final authority and responsibility for the operation of the project funded rests with the local school board.

### FUNCTIONAL ELEMENTS

Fundamental to the Site's activities and effectiveness will be a comprehensive assessment of the needs of students and the educational personnel that serve them, a determination of available resources—and priorities—local, State, and Federal—and the development of a comprehensive plan to meet those needs.

As determined by the local assessment of need, there may be a center at the Site serving as a primary resource for educational personnel in the Site schools. In a location separate from the schools, but within or near the Site, it could serve as a mobilization point for technical assistance, training and retraining, evaluation expertise, dissemination of information about products of research and development, and other resources needed to meet the needs of the schools. In any case, the center would be administered by the Site director under the Educational Renewal Site Council.

The kinds of activities at an Educational Renewal Site will be determined by its assessment and continuous reassessment of need, and by its Educational Renewal Site Council's growing awareness of the reasons their schools are not fully effective. The Council will have access to extensive resources for orienting itself to educational issues.

Program components for pupils and appropriate training for teachers and others may vary greatly from Site to Site. The Educational Renewal Site Council may make use of colleges and universities to help with training, which will usually be conducted in the Site schools. The Educational Renewal Site Council may also call upon business, industry and other community agencies for help. The Site schools may be utilized as preservice training centers for prospective teachers and paraprofessionals. All Office of Education renewal site funds will be used for developmental purposes rather than to increase permanent per pupil expenditures. OE renewal funds will be phased out after a period of approximately five years, as negotiated with the school board. Among others, these program components might be supported:

Orientation of parents to the 24-hour nature of education, and the extension of the schooling process to the homes.

Maintaining 10-hour daily open schools as learning and social centers for parents and pupils alike.

Extensive use of parents as visitors and paraprofessionals in the schools.

Emphasis on reading: high school pupils teaching elementary school pupils, etc.

Capability for meeting needs of "exceptional" children, particularly those who have learning disabilities.

### THE PROCESS OF RENEWAL

Renewal is viewed as a continuous self-sustaining process of educational change and decision-making to cope with unsatisfactory as well as constantly changing conditions in the schools. Its ultimate objective is to provide in the Educational Renewal Site schools—and later spread throughout each State—education which is responsive to the needs of the pupils and which reflects the concerns of their parents. It should improve significantly the school performance of those children.

What goes on at an Educational Renewal Site will be different from what has been done heretofore with Office of Education monies, for these reasons:

By concentrating Federal, State, local and private resources, it will simplify the process and lessen duplication and fragmentation of efforts.

By involving the States at every point in the process, the likelihood of combining other resources with those available from the Office for Development and the likelihood of spreading renewal throughout the State are greatly increased.

By restricting the effort to a limited number of schools in a large urban district, for example, and by utilizing an Educational Renewal Site Council which strongly represents that particular area, it will be possible to build and increase the sense of community at the Educational Renewal Site and draw on the parents, and others for their share of the task of educating their children.

Mr. PELL. Mr. President, I have done everything possible in my capacity as chairman of the Subcommittee on Education to handle this situation without legislation. However, the activities of the Office of Education, giving one impression to me, another to Senator MONTOYA, a third to school officials indicates that legislation on this subject may be necessary. Generally, I am opposed to legislation of the type the Senator from California is proposing, because I think these things are best handled by negotiation between honorable men. This is an exceptional situation and, therefore, I would recommend to the Senate that the amendment of the senior Senator from California (Mr. CRANSTON) be accepted. I might add that if I were not floor manager of this bill, I would be tempted to offer the amendment of the Senator from California. I would hope that if the Senate accepts this amendment, the Commissioner of Education would be prompted to take the concern of the Congress a little more seriously, and that the officials in the Office of Education have some regard for the intent of the Congress when it enacted a program. It is possible that between now and when the conferees on this bill make a decision on the Cranston amendment, some sort of agreement can be reached about the future of the Office of Education with regard to education renewal sites. Nevertheless, in order to insure that present programs are administered as the Congress intended, I recommend adoption of the Cranston amendment.

The PRESIDING OFFICER. Does the Senator from Colorado wish to be recognized?

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. I yield myself 10 minutes.

Mr. President, this amendment comes as a surprise to me. Without intending to attack either the amendment or the Senator from California, I wish he had consulted me, as the ranking member of the Education Subcommittee, prior to offering it. I do know that he had a discussion with the Secretary and that the Secretary, on being informed of certain situations, indicated that if they could arrive at an agreement by letter, the Senator from California, as I understand it, would not push it in conference and that we would be able to move forward on that basis.

Since that time, however, a reading of the amendment, which was printed sometime last week—I believe last Wednesday—so far as the printer is concerned, but never submitted, indicates that there is a good deal more in it than had been anticipated either by the staff or by the Secretary. This makes it very difficult.

Perhaps what I should do is to start in a somewhat different way. This all arose, as I understand it, because the Commissioner of Education and the Secretary of HEW decided that the programs which have been put into effect up to date under title I and under many other titles simply did not pinpoint enough funds in the schools which had educational quality not as good as other schools in order to bring those inferior schools up to the level of the better ones. So that they started considering a program called Renewal, under which they would mobilize the resources of HEW which are available to them in a discretionary way and then pinpoint a fairly substantial sum of money into certain preselected school areas as pilot programs, to see whether this infusion of technical assistance, training programs, new funding, and a variety of other efforts would upgrade the quality of that school.

I discussed this at some length with Commissioner Marland several weeks ago. At that time, he indicated that some people, including Senator CRANSTON, had expressed concern because they were afraid that money which otherwise would go into specific contractual programs, such as bilingual education and others, would be funneled out of those programs into the so-called renewal concept and thereby not be promoted to the degree that they felt they should be.

There was consideration of having committee hearings to determine whether we ought to authorize the renewal program. Obviously, no committee hearings were called, and no committee discussion has taken place of this particular series of programs up to this date.

This amendment, which deals with this matter—I hope the Senator from California will correct me if I am wrong—not only refers to the renewal program and is designed, as I understand it, to authorize such a program, but also, for the first time, in a legislative way, adds on a total Bureau of Elementary and Secondary Education. Not only does it do that, but also, it goes so far as to specify what the compensation shall be of each person within the administrative function of the Bureau. Up to date, this obviously has not been considered by the Committee on Post Office and Civil Service.

Second, what it does is to decrease vastly the flexibility within the Office of Education.

I say to the Senator from California that I do not think there would be any particular difficulty in our being able to arrive at an agreement, provided that the section dealing with the Bureau of Elementary and Secondary Education was deleted from this program.

I am concerned that if it is not, we will have a really difficult problem in trying to put it into effect and thereby arouse the hackles, if we may say so, of most of the administrators of HEW; so that, if adopted, when we got to conference, we would find the whole group alined against the entire amendment.

It seems to me that this is not going to accomplish the objective the Senator from California is seeking, which is to strengthen bilingual education wherever possible.

As the Senator from California may or may not recall, I happened to be a cosponsor of this particular bilingual study program and effort program for schools with the former Senator from Texas, Mr. Yarborough, when it was first introduced. I have worked at it very hard. We have need for it in my State. In fact, the whole of the Southwest States need it, as well as California. It is one of the questions I brought up when I discussed this with Commissioner Marland. He said that obviously wherever the pilot program would authorize this or would indicate its need, we are going to be using bilingual education as part of the program for renewal because what we are looking for is quality. In the particular pilot project we are talking about, we want to increase the quality of education which is not only available but which is absorbed by the students.

Let us take as an example a school with a large number of minorities—Puerto Ricans—in New York—using bilingual education there, or going to California where there are a larger number of Spanish-speaking students, as we will be using the bilingual education system there as well, and I have been supporting it all the way through. But I do not see why, in the interest of having to do something of that kind in an effort to support them, we have to set up a whole new administrative agency within the HEW by legislation, trying to show them what the administrative format should be from committee. It does not make much sense to me.

I would say, therefore, while we are trying to get further word from downtown as to what their position is, that this would be more easily worked out if the Senator from California would simply delete what is now designated as either (b) or (c), starting on page 6 of the printed version of his proposed amendment.

Mr. President, I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, I well understand and am thoroughly acquainted with the deep interest of the Senator from Colorado in bilingual education. I know of his commitment to and his actions on behalf of that program. We share that interest. We have worked on behalf of that program. We share that interest. We have worked closely together on many matters. The only reason the Senator from Colorado was not consulted on this particular matter was that the Senator from New York (Mr. JAVITS), the ranking majority member of the full committee, was carrying the burden for the minority on the bill. We had fully briefed his staff on it. Senator JAVITS was represented by the minority staff director of the committee in the meeting with Secretary Richardson this morning. I am convinced at this point that the only way we can ensure that bilingual education achieves the status and impetus it deserves is by statute—by doing what we propose to do in the pending amendment.

Actually, there are other new bureaus in the bill, some of them, I believe, with the Senator's active support, such as the Occupational Educational Bureau and the Indian Education Bureau. Actually, the Bureau of Elementary and Secondary Education is already in existence. This simply legislates it as it now is and includes bilingual education within it.

I fully understand the desire of the Secretary not to have these matters determined legislatively and I would totally agree with his desire to do it otherwise, if we could achieve it otherwise.

As I stated in my opening remarks, when the Senator from Colorado was unavoidably absent from the floor, we agreed this morning that if we could reach full agreement on how to proceed to meet the administration's objections, and also the objections stated by many Members of the Senate, and if the assurances we receive from the Secretary satisfy the objections of the Senators expressly interested in this matter to their satisfaction, I would not press in conference the proposed amendment.

Mr. DOMINICK. I am sorry I did not hear what the Senator said.

Mr. CRANSTON. Basically, to restate part of what I just said, the only way to give bilingual education sufficient status and priority by statute, to do what is done here. The bill contains some new bureaus that are in it, as I understand it, with the Senator's active support, such as the Occupational Educational Bureau and the Indian Education Bureau. The Bureau of Elementary and Secondary Education is already in existence. The amendment is not creating a brand new bureau, but is providing a firm statutory footing for the bilingual program under it.

At the meeting this morning with the Secretary, we agreed that if we could come to an understanding on how to meet his desires, and also to meet the concerns of Senators expressly concerned about this matter, and if the assurances were satisfactory to those Senators who have expressed concern over this matter, I would not press this amendment in conference. I believe it would then be possible to drop the amendment and achieve what all of us would like to achieve without statutory action.

The principal issue is, as the Senator well knows—and I specifically note that this is one of his deep concerns—to retain congressional prerogative and insure that congressional policy is followed, particularly in the use of money after authorization actions are taken by the authorizing committee. It is very plain that despite perhaps the best of intentions, that has not been the case in matters we are here concerned with.

There have been conflicting and very confusing actions taken and statements made by people at the various HEW levels. We have been trying for the past few months to work this out, without legislative action. But we found it impossible to do that until matters were precipitated by the suggestion that I introduce this amendment which, perhaps, may give us the opportunity to resolve the matter without final legislative action. But the legislative problem, as the Senator from Colorado knows, is that we have gotten down to the point today where either we had to take this action or no action would be taken at all, since this will very likely be the final day on any amendments, other than busing, to this bill.

So we have little choice. The situation we face today is really one precipitated by actions of the excutive branch which were contrary to the intent of Congress.

Mr. DOMINICK. Mr. President, I yield myself another 5 minutes, if the Senator is through.

Mr. CRANSTON. Yes, I have finished my comments.

Mr. DOMINICK. Mr. President, it is my understanding that we are going to have a debate with the Senator from Arkansas (Mr. FULBRIGHT) tomorrow on my own foreign service scholarship program and that is all we will be doing tomorrow, other than on the busing, I suspect, although I do not know whether, under the unanimous-consent agreement, we are barred from any other kind of amendments.

Mr. PELL. Mr. President, may I state to the Senator that my recollection of the unanimous-consent agreement is that four Senators are protected. However, other amendments to the bill will lie after we dispose of amendments to title IX.

Mr. DOMINICK. A parliamentary inquiry, Mr. President. I understand that the distinguished Senator from Tennessee (Mr. BAKER) reserves the right to amend any other section.

Mr. PELL. That right was given to him.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER (Mr. McINTYRE). The last part of the agreement reads as follows:

> *Provided further* that nothing shall foreclose amendments to any section of the committee substitute at any time on or after Tuesday, and that a motion to table shall be applicable to all amendments.

Mr. DOMINICK. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Mr. President, that would indicate that after Tuesday we could offer amendments to any other section in the bill in any form we wanted. Is that correct?

The PRESIDING OFFICER. If the Senator involved obtains the floor and is recognized for that purpose, the Senator from Colorado is correct.

Mr. PELL. Mr. President, as the manager of the bill, that was my understanding of the agreement we reached. The agreement reached was that there were four Senators with specific proposals that were being protected, with the final vote on Wednesday, at 2 o'clock.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is the parliamentary situation such that no so-called busing amendments will be considered on today and that on tomorrow and Wednesday, prior to 2 o'clock and final passage, according to the previous order, busing and similar amendments will be considered, except that Senators BAKER, CHILES, GAMBRELL, and FULBRIGHT are accorded the specific opportunity, notwithstanding that we may not have disposed of section 901, to offer other amendments to other sections of the bill as amended.

The PRESIDING OFFICER. The Senator from Tennessee is correct.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is it correct that no other Senators except those named may offer an amendment, other than to section 901, after noon on Tuesday and prior to final passage?

Mr. DOMINICK. Mr. President, I ask unanimous consent that the time for parliamentary inquiries may not be considered within the time limitation established on this amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will read the agreement.

The assistant legislative clerk read as follows:

*Ordered,* That further action on all the pending amendments to sec. 901 of the committee substitute for S. 659 be deferred until Tuesday, Feb. 29, 1972.

*Ordered further,* That on Monday, Feb. 28, 1972, during the further consideration of S. 659, only amendments not dealing with the desegregation of schools or the transportation of pupils to schools on the basis of race, religion, color or national origin will be in order and that time on such amendments to any section of the committee substitute will be limited to 60 minutes to be equally divided and controlled as provided in the agreement of Feb. 22, 1972, on S. 659.

*Provided further,* That the Senators from Tennessee (Mr. Baker), from Arkansas (Mr. Fulbright), from Florida (Mr. Chiles), and from Georgia (Mr. Gambrell) shall have the opportunity on or after Tuesday to offer an amendment on any matter to any section of the committee substitute with the time on the Fulbright amendment to be limited to 2 hours, and on the Chiles, Gambrell and Baker amendments to 40 minutes each to be equally divided and controlled under the same conditions as prescribed in the agreement of February 22. Debate on all other amendments on Tuesday and Wednesday to the committee substitute shall be limited to 30 minutes each with the time to be equally divided and controlled as prescribed in the agreement of February 22; and provided further that nothing shall foreclose amendments to any section of the committee substitute at any time on or after Tuesday, and that a motion to table shall be applicable to all amendments.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, after hearing the unanimous-consent agreement read, I frankly was not aware of the last sentence that was just read, to the effect that nothing in this order would prevent the offering of amendments to any other section of the committee substitute.

In that view, is it accurate to say that beginning at Tuesday noon, only the four Senators mentioned, but also any other Senator can offer an amendment to any section of the committee substitute, notwithstanding its contents and regardless of whether or not the Senate has disposed of section 901 or not.

The PRESIDING OFFICER. It is the understanding of the Chair that the pending amendments to section 901 would have to be disposed of beginning at noon on Tuesday, after which any other amendments would be in order.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, to make sure that I clearly understand the distinction between the rights of the four Senators named and the rights of any Senators not named in the unanimous-consent agreement, beginning at Tuesday, at any time within this period, regardless of whether or not section 901 has been disposed of or not, those four Senators named may offer amendments to other sections of the bill.

The PRESIDING OFFICER. The Chair understands that beginning at 12 o'clock on Tuesday, we will begin to dispose of the amendments that are pending to section 901. After they are disposed of, we come back to the four Senators whose time is guaranteed as stated in the unanimous-consent agreement; and then the committee substitute will be open to amendments generally and the time limitation is 30 minutes each.

Mr. BAKER. Mr. President, to make sure that I fully understand that particular portion of the order to which I thought I had agreed, I propound this parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is it the parliamentary situation that beginning at noon on Tuesday, we will consider amendments to section 901?

The PRESIDING OFFICER. The Senator is correct; that is when we begin voting on them if they have not been disposed of at that time.

Mr. BAKER. Controlled time against the amendments will start running at 12 o'clock Tuesday.

The PRESIDING OFFICER. I read further from the agreement:

*Provided further,* That at 12 o'clock noon on Tuesday, Feb. 29, 1972, if the pending Allen amendment and all other amendments now pending thereto and to sec. 901 have not been disposed of, the Senate shall proceed to vote on these amendments without any other intervening perfecting or substitute amendments to the Allen amendment or the language to be striken out thereby; and that just prior to the final vote on the disposition of sec. 901, further debate for a period of 30 minutes shall be available, with the time to be equally divided and controlled as prescribed in the agreement of February 22.

Mr. BAKER. Mr. President, is it the ruling of the Chair that no amendments to section 901 are in order after Tuesday?

The PRESIDING OFFICER. They are not in order until the amendments pending have been disposed of.

Mr. BAKER. But they are in order after that time.

The PRESIDING OFFICER. That inquiry is impossible to answer at this time. That depends on what disposition is made of the pending amendments.

Mr. BAKER. Mr. President. I have one last parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is it the ruling of the Chair that section 901 perforce must be disposed of finally after the last vote is taken on any pending amendment to section 901 as it now exists?

The PRESIDING OFFICER. The Senator will have to restate that inquiry for the Parliamentarian.

Mr. BAKER. Mr. President, as basis for the parliamentary inquiry is that if it is the ruling of the Chair that we will have final disposition of section 901 by a series of votes to pending amendments beginning at noon on Tuesday, is it the further ruling of the Chair that no other amendments are in order, or in the alternative is it the ruling of the Chair that we will proceed to final disposition of section 901 as soon as the pending amendments are disposed of beginning at noon on Tuesday?

The PRESIDING OFFICER. Not necessarily. We have to dispose of the amendments that I mentioned in the agreement beginning at 12 o'clock; then, after they have been disposed of the question of another amendment would depend on what action had been taken by the Senate on the four pending amendments.

Mr. BAKER. The point being, if that is the case, if it is possible there are other amendments to section 901, we revert to the question: Are any other amendments to other sections of the bill available to other Members of the Senate except the four Senators named in the order, prior to disposition of section 901?

The PRESIDING OFFICER. It depends greatly on what develops from the four amendments we will be disposing of. Amendments to other parts of the committee amendment would be in order.

Mr. PELL. Would it not depend on whether or not the four amendments and the work on section 901 had been completed? If it had been completed we could move on; if it had not been completed other amendments could not be introduced to the bill. The four amendments have to be disposed of first.

The PRESIDING OFFICER. Depending on the amendment offered.

Who yields time?

Mr. BAKER. Mr. President, one further parliamentary inquiry before controlled time begins again.

Referring to the order, which I read to be that the four Senators named shall have the opportunity on or after Wednesday to offer an amendment to sections other than section 901, is there any jeopardy to the right of those four Senators to offer amendments to sections other than section 901 if we have not completed disposition of section 901 prior to any time before final action on Wednesday?

The PRESIDING OFFICER. It is my understanding that these four amendments do not go necessarily to section 901.

Mr. BAKER. They may be taken up on either Tuesday or Wednesday?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. Mr. President, a further parliamentary inquiry before we yield time. It is my understanding from reading this agreement—and I must say I am somewhat confused with regard to it—and I invite the attention of the Senator from Tennessee to this proposal—that if the amendments of the Senator from Tennessee (Mr. BAKER) and others dealing with section 901 have not been disposed of by noon tomorrow we start voting. Is that correct?

The PRESIDING OFFICER. We will start to vote on the pending amendments to section 901 at 12 o'clock noon.

Mr. DOMINICK. Going back to controlled time, I hope everyone is as clear on this matter as I am. That means I do not know what is going on. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. DOMINICK. Mr. President, I ask the attention and consideration of the Senator from California and the Senator from Rhode Island in connection with certain specific provisions which are in this amendment.

As I understand it, the amendment states that the sums appropriated, the amounts available, shall not exceed $25 million.

Mr. CRANSTON. Where is the Senator reading?

Mr. DOMINICK. I am reading from page 2.

Mr. CRANSTON. I thank the Senator.

Mr. DOMINICK. Then, I go further down, to (c)(1)(A) where it states:

> Except in the case of a law which (i) authorizes appropriations for carrying out, or controls the administration of, an applicable program or (ii) is enacted in express limitation of the provisions of this paragraph, no provision of any law shall be construed to authorize the consolidation of any applicable program with any other program.

Then, the amendment goes on and there is a definition of consolidation which results in the "comingling of funds."

I gather what the Senator is saying in this amendment, and I am asking for guidance, is that they cannot tax $x$ dollars from one program and $x$ dollars from another program and lump it in and call it the renewal program; that what has to be done is to set up a whole set of new administrative people and take that money and say, "Very well. That is bilingual, this is special quality education, and then still another is for teacher training, another going into community homes," so that you have technicians and supervisors in every program instead of putting it together into a package and going to a school to do some good with it. That bothers me very much.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DOMINICK. I invite, on the Senator's time, any reply he wishes to give.

Mr. CRANSTON. The problem which gave us concern was with respect to certain funds being transferred to the proposed education renewal sites. Adequate money has not been appropriated for programs we funded, such as Upward Bound, bilingual Talent Search, and special services for the disadvantaged, and we wish to make plain that there should be hearings and discussions, knowledge of what is being done, and an opportunity for the Congress to agree or disagree.

If the Senator will turn to page 7 of the amendment and look at paragraph (C)(i) and then clauses (I), (II), and (III) below, there is a provision stating that notwithstanding the paragraph to which the Senator has referred, there is authority to use funds available for the purposes identified as education renewal sites, which deals with the problem the Senator raised.

Mr. DOMINICK. I understand it deals only in part. It authorizes the use of funds from title I and title V of the General Education Provisions Act. I am not sure what that is. I think it is general training and technical assistance. Is that correct?

Mr. CRANSTON. And research.

Mr. DOMINICK. So the Senator is saying they cannot put in any money from a bilingual fund or other funds which are available specifically. In other words, a certain amount for these programs has been reserved, and it states they cannot put those funds in for the purpose of renewal unless they are called by their own names and have their own technicians running around the school.

Mr. CRANSTON. For them to do that would be inconsistent with the legislation we have enacted.

Mr. DOMINICK. No; I understand our legislation provides if we authorize and appropriate funds for bilingual education and use it for that purpose it will help education. They are still using that to help the education of people who cannot speak English. I do not see anything wrong with that.

Mr. CRANSTON. We have no assurance under the new procedure that that will happen. We have evidence in California that it is not happennig.

Mr. DOMINICK. We do not have a renewal program going yet. We are trying to get started. We have had tentative probes, but we have not really put it together.

Mr. CRANSTON. They have already announced applications for this and the guidelines they have given out do not cover the point the Senator and I seem to agree should be covered.

Mr. DOMINICK. I only agree this should be put in a package. If it is not we will have so many administrative oversights it will be an unfeasible program to start with. There will be more supervisors to start with and it will be like the poverty program where 75 percent goes to supervisors and 25 percent does any good for the people who need it.

Mr. CRANSTON. The procedure we are discussing would not preclude packaging. What we want is adequate assurance that there will be accountability legally for whatever is done with the funds, if they decide to proceed in these new directions, and we have not been given such assurances.

Mr. DOMINICK. It would seem to me, without trying to create more of an argument than we have already had, that any program that is going on this way is either going to be beneficial to the students in the area or is not going to be beneficial to the students in the area. If it is beneficial to all of them, for which an easy accounting can be taken, I do not care whether the money comes from the President's emergency fund, the bilingual fund, or anything else, because the purpose that the Senator and I both are trying to work toward is improving the quality of education. We are not going to get it, it seems to me, by simply setting up a bureaucratic structure which requires accounting and channeling funds through certain levels in order to determine whether those funds are to be used at all. That is what the whole problem with the program is.

Mr. PELL. Mr. President, on the time of the Senator from California (Mr. CRANSTON), let me say I share the concern of the Senator from Colorado, not being one who in the committee always favors this categorial approach. I favor a degree of amalgamation, although not to the extent he would like. But in this particular case there has been considerable upheaval and concern in the local communities which have seen signs that certain programs are having their emphasis changed, perhaps one portion of the program phased out and another portion increased.

Those of us who are particularly interested in the bilingual program, as I am in my own State, want to be sure that the same amount of money is spent and the same emphasis is continued.

My hunch would be, as I said in my statement, that if the amendment is accepted and the administration can assure the conferees, by the time of the conference, that all is in order and that the will of the Congress is being carried out, I then would not be a bit surprised if this amendment were dropped in conference.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time for which I ask be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I ask at this time how much time is left to either side.

The PRESIDING OFFICER. The proponent has 12 minutes; and the opponent has 3 minutes.

Mr. DOMINICK. The opponent being me. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PELL. At the moment.

Mr. DOMINICK. I hope it has more support.

I would hope that if time for a quorum call is to be taken out of my time, more time will be taken out of the proponents' time than mine.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I have no objection to four-fifths of the time coming from my time, if the clerk can keep track of that.

I suggest the absence of a quorum, and ask unanimous consent that four-fifths of the time be charged to the proponents and one-fifth to the opponents.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Washington (Mr. MAGNUSON) on the pending amendment.

The PRESIDING OFFICER. Without objection, the statement will be printed in the RECORD.

### STATEMENT BY SENATOR MAGNUSON

As Chairman of the Senate Labor-HEW Appropriations Subcommittee, I must say that this proposed amendment establishing a statutory base with its own funding authority may go a long way toward solving some of the problems we have with the education renewal plan as presently proposed.

There is no doubt in my mind that the education renewal idea is a good one, and that it deserves our support. The main objection I have had is that the money presently will have to be withdrawn from existing discretionary programs in a way that could work to the disadvantage of many schools and school districts.

As I understand the Administration's proposal, this would mean that in my state of Washington we might, or we might not, be allocated one of the renewal sites which are proposed for the coming fiscal year. The fact is that elementary and secondary school districts throughout Washington and other states could lose the discretionary money which they are now receiving under various programs, such as Upward Bound, bilingual education, dropout prevention and Follow Through. These and other discretionary programs have been carefully designed by the Congress to meet particular needs which exist in schools throughout the states. To have the available funds withdrawn and concentrated in just a few school districts is not, it seems to me, necessarily in the best interests of the schools when viewed as a whole.

In this year when we are faced with proposals in the Administration's budget which would eliminate or reduce funds for several of the programs which provide benefits to schools and colleges generally, such as Title III of NDEA, the impacted areas program and Title VI of HEA, it seems to me that it would be especially unfortunate to withdraw the discretionary funds from their present recipients who are having such a tough struggle at the local level, so as to concentrate them in a very few sites. I feel that it will be far better to establish a statutory base for the program and then have the Administration ask for the necessary funding to do this new job properly. If my Subcommittee receives such a request, I know it will receive as sympathetic a hearing as may be possible.

For these reasons, Mr. President, I support the amendment and urge its passage.

Mr. PELL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from New Mexico (Mr. MONTOYA) on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

### STATEMENT BY SENATOR MONTOYA

I rise today in support of the Amendment to the Higher Education Act offered by the Distinguished Senator from California, Mr. Cranston, which I am pleased to join in sponsoring.

As an original sponsor of Bilingual Education, I have long been concerned with the method of implementation of this program by the Office of Education. My immediate concern, Mr. Chairman, is that funds allocated for Title VII are not being used for purposes for which they were designed.

It has come to the attention of myself and other members of this body that not all the funds specifically earmarked for Bilingual Education have been utilized for that purpose. No specific proof exists of the truth of these allegations. It is enough that apprehentions have been created, as to the eventual fate of Bilingual Education funds. It is imperative that we guarantee that no diversion of these funds is made. This is the goal that Senator Cranston and myself have pursued.

In order of preserve the integrity of Bilingual Education, he and I believe that it must be given divisional status.

I am aware, Mr. President, of the tentative agreement reached by Secretary Richardson and Senator Cranston to the effect that if an understanding is reached by the Office of Education and Senator Cranston which satisfies the concern over Bilingual Education, then the Amendment would not be pursued in a House and Senate Conference on this measure.

I fully concur in this agreement, and I am hopeful that Bilingual Education can be protected without legislative action. It must be made clear to the Office of Education, Mr. President, that unless legislative mandates relating to education are strictly followed, I will not hesitate to use the legislative machinery to ensure strict adherence to Congressional authority.

I urge the adoption of the Amendment offered by the Senator from California.

Mr. CRANSTON. I yield back the remainder of my time.

Mr. PELL. I yield the time in opposition to the Senator from Colorado.

Mr. DOMINICK. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. McINTYRE). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON).

The amendment was agreed to.

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## MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 960. An act to designate the Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, State of Arizona;

S. 2896. An act to amend chapter 83 of title 5, United States Code, relating to adopted child;

H.R. 2714. An act for the relief of Mrs. Kayo N. Carvell;

H.R. 2792. An act for the relief of Juanita Savedia Varela;

H.R. 3093. An act for the relief of Mrs. Crescencia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna;

H.R. 4319. An act for the relief of Josephine Dumpit;

H.R. 5179. An act for the relief of Soo Yong Kwak;

H.R. 6506. An act for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber;

H.R. 6912. An act for the relief of William Lucas (also known as Vasilios Loukatis);

H.R. 7316. An act for the relief of Mrs. Norma McLeish;

H.R. 8540. An act for the relief of Eleonora G. Mpolakis;

H.R. 8699. An act to provide an Administrative Assistant to the Chief Justice of the United States;

H.R. 9180. An act to provide for the temporary assignment of a United States magistrate from one judicial district to another;

H.R. 11738. An act to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America in connection with Boy Scout Jamborees, and for other purposes; and

S.J. Res. 189. Joint resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War, Missing in Action" and to designate Sunday March 26, 1972, as national day of prayer for these Americans.

The message informed the Senate that, pursuant to the provisions of section 194, title 14, United States Code, the chairman of the Committee on Merchant Marine and Fisheries and appointed Mr. CLARK, Mr. LENNON, and Mr. GROVER, and members of the Board of Visitors to the U.S. Coast Guard Academy, and Mr. GARMATZ, ex officio member.

The message also informed the Senate that, pursuant to the provisions of Public Law 301, 78th Congress, the chairman of the Committee on Merchant Marine and Fisheries had appointed Mr. DOWNING, Mr. MURPHY of New York, and Mr. MOSHER, as members of the Board of Visitors to the U.S. Merchant Marine Academy, and Mr. GARMATZ, ex officio member.

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## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Educational Act of 1963, and related acts, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 946

Mr. CHILES. Mr. President, I call up my amendment No. 946.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill add the following new title:

## TITLE X—ELEMENTARY AND SECONDARY EDUCATION PRIZE SCHOOL PROGRAM

### SHORT TITLE

SEC. 1001. This Act may be cited as the "Elementary and Secondary Education Prize School Act of 1972".

### STATEMENT OF PURPOSE

SEC. 1002. It is the purpose of this title to strengthen the concept of the neighborhood school through a program of financial assistance for use in meeting the special needs of educationally disadvantaged children in such schools and for establishing such schools as educational and cultural centers for a better community.

### DURATION OF ASSISTANCE

SEC. 1003. The Commission shall, in accordance with the provisions of this Act, make payments to State educational agencies for grants to local educational agencies for the period beginning July 1, 1972, and ending June 30, 1976.

### BASIC GRANTS AMOUNT AND ELIGIBILITY

SEC. 1004. (a) There is authorized to be appropriated for each fiscal year for the purpose of this subsection an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 1008, other than payments under such section to jurisdictions excluded from the term "State", by this subsection. The Commissioner shall allot the amount appropriate pursuant to this subsection among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, according to their respective need for such payments. The grants to which a local educational agency shall be eligible to receive pursuant to this subsection shall be allotted as the Commissioner determines will best carry out the purposes of this Act

(b) (1) In any case in which the Commissioner determines that satisfactory data are available, the maximum grant which a local educational agency shall be eligible to receive under this Act for any fiscal year shall be an amount equal to the Federal percentage (established pursuant to subsection (d)) multiplied by the average per pupil expenditure in that State or, if greater in the United States, and multiplied by the number of children enrolled in the neighborhood schools of such agency who are age five to seventeen years, inclusive.

(2) In any other case, the maximum grant for any other local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grant for all such agencies in any county in which the school district in which the particular agency is located which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children enrolled in such neighborhood schools and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria of the Commissioner.

(c) For the purpose of this subsection, the term "neighborhood schools" means any public elementary or secondary school in which—

(1) not less than 75 per centum of the children enrolled in such school are assigned to that school on the basis of residence within a specified geographic area which that school serves and not more than 25 per centum are assigned to such school on the basis of voluntary request by the parents or guardian of such children or by reason of an order of a court of competent jurisdiction; and

(2) (A) not less than 40 per centum of the children enrolled in such school are (i) in families having an annual income of less than the low-income factor, (ii) in families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, or (iii) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted for the purpose of a grant to a State agency, or being supported in foster homes with public funds; or

(B) not less than 40 per centum of the children enrolled in such school are members of a minority group.

(d) For the purpose of this section, the "Federal percentage" is 65 per centum and the "low-income factor" is $4,000 for the fiscal year ending June 30, 1973, and shall be increased by the Commissioner to an amount in excess of $4,000, reflecting an increase in the cost of living factor as determined by the Commissioner after consulting with the Secretary of Labor.

(e) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (d)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in execss of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) to the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(f) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available), of all local educational agencies in the States, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(g) For the purpose of this section, the term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

### USES OF FUNDS

SEC. 1008. Funds available for grants under this title shall be used only in neighborhood schools for programs and projects designed to meet the special educational needs of educationally deprived children and new or innovative school and community educational and recreational programs designed to strengthen community involvement in a more effective use of the neighborhood schools including—

(1) remedial and other services to meet the special needs of children attending the neighborhood schools, but especially the educationally disadvantaged children;

(2) the provision for additional professional or other staff personnel with a special emphasis on recruiting parents and other local community members to assist in achieving the educational goals of such schools;

(3) comprehensive guidance, counseling, and other personal services for educationally disadvantaged children;

(4) development and employment of new instructional techniques which appear likely to succeed in meeting the needs of such children;

(5) career education programs using neighborhood people both in and outside the school whenever found in the interest of the educational goals of such schools;

(6) innovative school-community educational and recreational programs designed to stimulate further community interest and involvement with the education process;

(7) provision for using the school for instructional purposes, including special tutoring for remedial students, after normal school hours, and for furnishing such professional and other community staff as will contribute to the success of such an effort;

(8) provisions for professional staff home consultations with the parents and students, where feasible and desirable;

(9) special administrative activities such as rescheduling teachers or students, and furnishing information on programs of such schools to parents and other members of the community served by that school; and

(10) appropriate planning and evaluation programs.

### APPLICATIONS

SEC. 1006. (a) A local educational agency may receive grants under this title for any fiscal year only upon application approved by the appropriate State educational agency, upon its determination consistent with such basic criteria as the Commissioner may establish—

(1) that programs and activities for which assistance is sought will be administered by

or under the direct supervision of the applicant;

(2) that such assistance will be expended only in neighborhood schools and described with particularity the programs and activities for which such assistance is sought;

(3) that policies and procedures will be established to assure the Federal funds made available under this Act for any fiscal year (A) will not be commingled with State funds, and (B) will be so used as to supplement and, to the extent practical, increase the level of funds that would in the absence of such Federal funds, be available for the purposes described in section 1005, and in no case supplant such funds;

(4) that effective procedures will be adopted for evaluating at least annually the effectiveness of programs and activities assisted under this Act;

(5) that fiscal control and fund accounting procedures will be established as may be necessary to assure proper disbursal of, and accounting for, Federal funds paid to the applicant under this title;

(6) reasonable reports will be furnished in such form and containing such information as the Commissioner may reasonably require and such records will be kept and access furnished thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The State educational agency shall not finally disapprove, in whole or in part, any application for funds under this title without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

### ASSURANCES FROM THE STATE

SEC. 1007. (a) Any State desiring to participate under this Act shall submit through the State educational agency to the Commissioner an application, in such detail and accompanied by such information as the Commissioner deems necessary, which provides satisfactory assurance—

(1) that payments under this title will be used only for programs and activities in neighborhood schools which have been approved by the State educational agency pursuant to section 1006 and which meet the applicable requirements of that section and that such agency will, in all other respects, comply with the provisions of this Act;

(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this title; and

(3) that the State educational agency will make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 6(a)(4) evaluating the effectiveness of payments under this title and of particular programs assisted under it, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this Act (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

### PAYMENTS

SEC. 1008. (a)(1) The Commissioner shall, subject to the provisions of section 9, pay to each State, in advance or otherwise, the amount which that State and the local educational agencies of that State are eligible to receive under this title. Such payment shall take into account the extent, if any, to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to that agency.

(2) From the funds paid to it pursuant to paragraph (1), each State educational agency shall distribute to each local educational agency of that State which has submitted an application approved pursuant to section 1006 the amount for which such application has been approved, except that this amount shall not exceed the maximum amount determined for that agency pursuant to section 1004.

(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title (including technical assistance for the measurements and evaluations), except that the total of such payments in any fiscal year shall not exceed—

(1) 1 per centum of the total maximum grants for State and local educational agencies of the State as determined for that year; or

(2) $150,000 or $25,000 in the case of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

whichever is the greater.

(c)(1) No payments shall be made under this title for any fiscal year to a State which has taken into consideration payments under this Act in determining the eligibility of any local educational agency in the State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding final year.

### ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

SEC. 1009. If the sums appropriated for any fiscal year for making payments provided in this title are not sufficient to pay in full the total amount which all local educational agencies are eligible to receive under this title for such year, allocations shall be made to local agencies on the basis of computations in accordance with section 4(b) as ratably reduced. In case additional funds become available for making payments under this title for that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify him the amounts for which the applications of educational agencies have been or will be approved by the State. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency prescribed by the Commissioner, such Agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this Act in such manner as the respective State educational agencies shall prescribe.

### WITHHOLDING

SEC. 1010. Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to a grant recipient under this Act, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision,

the Commission shall notify such recipient of his findings and no further payments may be made to such recipient by the Commissioner until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Commissioner may authorize the continuance of payments with respect to any programs or activities pursuant to this title which are being carried out by such recipient and which are not involved in the noncompliance.

### JUDICIAL REVIEW

SEC. 1011. (a) If any State or local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 1007, or with his final action under section 1010, such State or local educational agency may within sixty days after notice of such action file with the United States court of appeals for the circuit for which such agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner shall file promptly in the court the record of proceedings on which he based his action, as provided for in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

### PROHIBITIONS AND LIMITATIONS

SEC. 1012. (a) Nothing contained in this title shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

(b) Nothing contained in this title shall be construed to authorize the making of any payment under this title for the construction of facilities as a place of worship or religious instruction.

### ADMINISTRATION

SEC. 1013. (a) The Commissioner may delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Office of Education.

(b) In administering the provisions of this title, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

### DEFINITIONS

SEC. 1014. As used in this title—

(1) the term "Commissioner" means the Commissioner of Education;

(2) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law;

(3) the term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State;

(4) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

(5) the term "secondary school" means a day or residential school which provides secondary education, as determined under State law;

(6) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(7) the term "The State Education Agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law;

(8) the term "minority group" means persons who are Negro, American Indian, Spanish surnamed American, Portuguese, or Oriental; and

(9) the term "Spanish surnamed American" means persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestor.

The PRESIDING OFFICER. How much time does the Senator from Florida yield?

Mr. CHILES. Such time as I need to explain the amendment.

Mr. President, amendment No. 946 would provide an amendment to the substitute to provide for moneys to be given to disadvantaged schools.

Presently, many disadvantaged schools have been closed because that was the simplest remedy that school boards could find, once they got into busing, and where it became necessary, where we had an all-black school. Rather than try to bus any white children into that all-black school, in most instances, the school boards found that it was more expedient to close that school and bus all those children out of that school.

Now that Congress is facing up to the issue of busing and is trying to determine to what extent we are going to have busing, it appears that we are not going to have the amount of busing and the kinds of busing that heretofore was going on. So, we are going to have many neighborhoods that are deprived of schools, and the neighborhoods that are deprived of schools are universally the disadvantaged neighborhoods.

This amendment would attempt to provide that there could be a school in a disadvantaged neighborhood and it could be a prize school. In the old days where we had our separate but supposedly equal system, we had a dual system, but it was not equal. It was never equal, and all the deprived schools certainly were inferior schools. This would provide the impetus and make the funds available to make a prize school.

Again, in the disadvantaged neighborhoods, when we close that school, we not only close the seat of learning; we also close, in many instances, the community center, the only focal place in that neighborhood which was a gathering place and which could be a center. Amendment No. 946 provides that this not only could be used for a superior school but also could provide recreational equipment and other equipment and facilities that would allow this to be a place of pride in the neighborhood.

The amendment provides that in those areas in which 75 percent of the children from the neighborhood are attending the schools and in which the parents of 40 percent of those children earn less than $4,000 a year, the neighborhood would qualify for these extra funds. The extra funds would allow the Federal Government to provide up to 65 percent of the average cost per pupil or of the national or State average cost per pupil, whichever was higher, as an input into those schools, which would provide the impetus; and then through the Commissioner of Education, programs could be designed to require a lower pupil-to-teacher ratio, with vocational technical equipment to be provided, the best teachers could be hired, and more money would be available for the pay of teachers—all of the things that could help disadvantaged pupils and providing a superior facility for the neighborhood in which it would go.

I think, as many of us approach the situation of busing, while many of us feel that mandatory, forced busing is not the answer, quality education is the answer. This would provide a method and a means whereby the disadvantaged pupil could obtain a quality education.

Mr. PELL. Mr. President, I first saw the Senator's amendment on Friday last and have spoken to him about it very briefly. As I understand it, the amendment would establish special funding for schools teaching a large portion of disadvantaged children. Their education is a very real problem all over the country not only in the Senator's own State but in many other States. I congratulate the Senator from Florida for bringing before the Senate this worthwhile concept. However, the problem is part of a larger one, that of elementary and secondary school financing, one which the subcommittee is studying at this time.

Adoption of this amendment without hearings would, I believe, not be wise, especially when one thinks of the amount involved—over $4 billion, I believe, would be authorized. It is for a good purpose, for the education of our children, but I think an amendment containing this large amount of money should be considered by the Senate only after committee hearings. It should not be accepted from the floor. For these reasons, much as I commend the Senator for his initiative, I intend to recommend to my colleagues that they not accept it at this time.

Mr. CHILES. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I yield.

Mr. CHILES. I appreciate the Senator's remarks in regard to the effect and the thrust of the amendment. I understand that the pending bill deals with subject matter which is higher education. The distinguished Senator from Rhode Island realizes that while that is the purport of the subject matter of the bill, it has now been opened up considerably beyond the subject of higher education.

Mr. PELL. Yes. I would agree with the Senator. His amendment is absolutely germane to the bill.

Mr. CHILES. We are not dealing expressly with secondary education when we raise the subject matter of busing and transportation. I wonder whether the Senator from Rhode Island would agree with the Senator from Florida that I think it is timely and important that in this bill and in the subject matter we are dealing with on busing, we also express ourselves that we intend to have quality education, that we are not trying to step backwards, and that we should continue to keep our eye on whether we are providing a quality education.

Mr. PELL. That is correct. We had many hearings in committee on the $1,350,000,000 emergency school aid bill, to try to help desegregated schools. Busing now is being considered, which is really extraneous to this subject. The busing amendments I feel, personally, are not germane to the bill, although the Senator's is. But the busing amendments do not involve the expenditure of such a large sum of money as is contained in the Senator's amendment. It is in view of the amount of money involved, that I cannot support the amendment, noble as its objective is.

Mr. CHILES. I appreciate the Senator's comments in regard to a portion of the bill that deals with the emergency funds and the extra funds for desegregation that appears to be the impetus on which we have been trying to federally fund these areas. It is the opinion of the Senator from Florida that in addition to funding for that purpose, it certainly is germane and we certainly should provide funds for the disadvantaged schools. We do not want every child who lives in a disadvantaged neighborhood to have to be transported or to leave his neighborhood in order to obtain a quality education.

Mr. PELL. May I make myself clear, that the amendment is germane and there is no criticism of it in that regard. I am saying that the reason I could not accept it is that we have not had hearings on it, and the amount of money involved is so large.

I am willing to yield back the remainder of my time.

Mr. CHILES. Mr. President, I think the distinguished junior Senator from South Carolina (Mr. HOLLINGS) desires some time so, Mr. President, at this time, I ask unanimous consent that there be a quorum call with the time to be equally divided between both sides.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, upon the introduction of my amendment in the form of a bill, I received several communiques, one of which came from the Tampa Black Caucus, which is a steering committee of the black leadership in the city of Tampa, Fla., in which they informed me that the members of the steering committee of the Black Caucus had read about the bill I had introduced calling for direct aid to disadvantaged schools.

The Black Caucus is committed to fighting to achieve excellent schools and excellence in education. They supported this legislation and stated it would help in the situation in Tampa, Fla., in which both of the high schools in the black community had been closed. And they had been working for a long period of time trying to see that those schools were reopened. They wanted them reopened on a quality basis. That would be exactly what could be achieved if legislation such as the amendment I have offered could be agreed to.

Mr. President, I ask unanimous consent that a copy of the letter from the Black Caucus, together with an article entitled "Black Caucus Organized To Fight School Integration Plan," published in the Florida Sentinel-Bulletin on August 3, 1971, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHILES. Mr. President, the amendment that we are dealing with would provide for moneys to be provided for disadvantaged schools and those schools in which 40 percent of the pupils attending were members of families with an income of $4,000 or less and where 75 percent of the pupils attending the school came from the neighborhood itself. They would be able to get additional funds.

Mr. President, at this time I modify my amendment on page 5, line 1, to strike this figure 65 and insert in lieu thereof the figure 20.

The PRESIDING OFFICER. The amendment is so modified.

Mr. CHILES. Mr. President, if the Senator from Rhode Island would listen at this point, with the modification of the amendment, the funds that would be required for all of these schools subject to receiving additional funds and being in the neighborhood, if all of those funds were used, would be cut to approximately $1.7 billion, rather than approximately $5 billion. A little over $1.5 billion would be required. However, by pumping these funds into the schools, we would provide an impetus whereby we would be saying to the citizens, "We want quality education to be provided in all neighborhoods. We do not want to just close down all ghetto schools and provide that those children must be transported out of their neighborhoods and not be allowed to go to the schools in their neighborhoods."

But we will be saying, "We want to have quality education where every child who comes from a deprived neighborhood or has been in a deprived school in the past can take advantage of it."

We would aid that school, because we would provide funds for the best teachers, the best recreational equipment, and the best kind of things that could possibly be provided for the training necessary to help those children catch up. And they would be able to catch up in the area in which they live without being denied that right and being forced to be transported to other areas.

Mr. President, I reserve the remainder of my time.

EXHIBIT 1

TAMPA BLACK CAUCUS,
*Tampa, Fla., September 23, 1971.*

Hon. LAWTON CHILES,
*Federal Office Building,*
*Lakeland, Fla.*

SENATOR CHILES: The members of the Steering Committee of the Tampa Black Caucus (see enclosed information) read in the newspapers recently where you were introducing a bill in the Senate calling for direct federal financial aid to "ghetto" schools.

The Black Caucus is committed to fighting to achieve excellent schools within the Black community. We recognize the need for quality education if our people are going to achieve orderly progress in this society. Such progress, most of us believe, is not taking place at the present time, and will not begin to take place until we gain quality, adequately-financed schools imparting a quality and relevant education to our young people, and to our community as a whole.

We believe that your bill involves an approach which is absolutely necessary if inadequacies in "ghetto" schools are ever going to be corrected. The Tampa Black Caucus strongly supports such a measure as you have proposed, and offer you our active backing in getting one passed.

We look forward to discussing this matter with you further and in person.

Sincerely,

TAMPA BLACK CAUCUS,
OTHA L. FAVORS, JR.,
*Acting Chairman.*

Miss Gloria Murphy, Acting Secretary; Moses Mackey, Acting Treasurer; Ernest Spivey, Commander, American Legion Post No. 167; Mrs. Bessie Murphy Spotsford, Sunlight Pallbearers No. 34, 200; Mrs. Emma Warren, Willing Workers Social Club; Miss Josephine Smith, Ricky Thomas, Michael Smith, Miss Brenda Ross, Jesse B. Hudson, Hillsborough Black Students Rights Committee; Billy Felder, Spokesman, Ye Olde Tymers, Middleton High; Mrs. Freddie Jean Cusseaux, Start Together On Progress; Mrs. Eleanor Morris, Sunlight Pallbearers No. 200; Center for a United Black Community, Charles Arline, Paul Barney, Charles Sapp, Mrs. Geraldine Hall, Sylvester, Harris, James Hargrett, Jr.; Steering Committee.

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### BLACK CAUCUS ORGANIZED TO FIGHT SCHOOL INTEGRATION PLAN

Sunday afternoon at Middleton High School a steering committee was organized from a cross section of the black community organizations to address itself immediately to the problem of school integration. The group unanimously selected as their primary objective the reestablishment of Middleton and Blake as high schools.

This group, in an attempt to cement total community support, met for several hours with Mr. C. Clyde Andrews, pioneer community leader and president of the Florida Sentinel Bulletin. Mr. Andrews pledged total support to the group and its efforts.

This group plans massive, community mobilization efforts to achieve their objective. Protest meetings will be held in various sections of the community in order to gain support for mass demonstrations prior to school board meetings. An audience with the school board will be sought. The committee, in an attempt to solicit the support of 10,000 concerned citizens to demonstrate from the black community, will make every effort to contact all clubs, social organizations, churches, civic and community organizations and interested citizens. The committee is meeting daily in an effort to achieve its goal.

Speakers at the meeting held Sunday were Mrs. Mary Alice Dorsett, representing Task Force For Community Development; Rev. W. F. Tanner, representing the Ministers' Alliance; Connie Tucker, JOMO of St. Petersburg; Atty. James Sanderlin, representing NAACP Legal Defense Fund of St. Petersburg; and Ernest Spivey, American Legion Post 167.

Those meeting with Mr. Andrews Monday morning concerning the effort to stop the closing of Middleton, Blake and other black schools were Rudolph Harris, teacher, Hillsboro County; Mrs. Emma Warren, Willing Workers Social Club; Omali Lumumba, Center For United Black Community; Mr. Spivey, Miss Josephine Smith, Black Students Rights Committee; Mrs. Eleanor Morris, Sunlight Pallbearers No. 200; Mrs. Bessie Mae Murphy and Mrs. Gloria Murphy, Sunlight Pallbearers No. 34; Mrs. Bessie Murphy, representing Sunlight Pallbearers Nos. 34 and 200; Rufus Cromoty, Ye Old Tymers. Other members of the temporary steering committee who were not present at Monday morning meeting are Mrs. Dorsett, Mrs. Freddie Jean Cusseaux, representing Tampa Chapter STOP and Harold Reddick, Tampa Chapter NAACP.

Mr. Andrews in pledging his support expressed strong feelings relative to the concept of integration which always place Black students in a minority, such as the 80 per cent white and 20 per cent black in ALL schools. He feels that this percentage can be reversed in compact black residential areas.

Mr. PELL. Mr. President, I appreciate the good will of the Senator from Florida in reducing the amount to 20 percent. He would reduce the cost to approximately $1.5 billion. However, that is still a good deal of money.

Mr. President, I do not believe we can accept the amendment in this way without study and without hearings. Accordingly, I must continue to say that in my own view we should not accept the amendment at this time.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. DOMINICK. Mr. President, the Senator from Florida has a most interesting idea. There is in the other body another interesting idea proposing that children would get $x$ number of dollars to go anywhere they wanted, to neighborhood schools or schools across town.

I think it is an interesting idea. However, I think there are a lot of problems connected with it. I might say, in order to experiment with this type of renewal program that we were discussing before the Senator was here, in connection with the amendment of the Senator from California (Mr. CRANSTON), this renewal project was designed to proceed with an influx of money together with the technical assistance and training programs to actually improve quality education to minority schools, disadvantaged schools, wherever they may be. I hope they will use some in the rural areas, as well.

It strikes me that we can do that under the renewal concept which they are moving forward with under the programs already in existence.

I would hesitate at this point without hearings and not knowing how the program will come out to say that the answer to the problem, either in terms of busing or quality education, should be necessarily the influx of more money into just the neighborhood school concept.

I think it is a good idea and an interesting idea. However, I think it is too early to do that, if I may say so with all due respect to the Senator from Florida.

Mr. CHILES. Mr. President, I appreciate the remarks of the Senator from Colorado. I wonder if the Senator would yield for a question.

Mr. DOMINICK. I would be happy to yield to the Senator on his time.

Mr. CHILES. We are dealing with the subject of busing in the pending bill. I think it is pretty clear that some legislation in that regard is going to pass in connection with the bill, and there is, therefore, going to be some public policy enunciated by the Congress with regard to that question.

The junior Senator from Florida thinks it extremely important that when we speak to that question of busing and there is some limitation placed on the question of busing that at the same time we speak clearly and that we not go back to the old dual system in which we had separate but not equal schools, but that we speak clearly to the fact that we want quality education for all children regardless of whether they are in a deprived neighborhood or not.

I know of no amendment proposed, other than my amendment, that speaks to this question and that says that we are going to try to provide some funds for the disadvantaged schools.

I would like to have the Senator's views in that regard.

Mr. DOMINICK. Mr. President, I would say to the Senator from Florida that I can understand his concern, a concern that we all share.

I have supported the antimassive busing programs, as did the Senator. I am equally concerned that we make sure we are going forward to provide more quality education for everyone, regardless of whom it may be or where the school may be located.

We have in the higher education bill a provision for the emergency school program which does deal with schools that are under court desegregation orders. It is not as extensive as the pending proposal. However, there is some money provided to try to implement the programs and to try to provide quality education. It does not deal directly with it.

I think the Senator's idea is a good idea. However, I would hesitate to move forward until we have a good deal more experience than we have when dealing with this massive 750-odd page bill. Of course, amendments are also being added to the proposal at this time.

Mr. CHILES. Mr. President, I thank the Senator from Colorado. The junior Senator from Florida thinks that it is in order that the Senate speak to that question at the same time we are putting some limitation on busing—that we do speak clearly, and that we are not trying to step backward. I have voted for some busing amendments because I do not think compulsory busing to have a mathematical ratio is good for education. However, I do not want to speak out of one side of my mouth and say at the same time that I am going to be for a child remaining in his neighborhood area or to require that a child in a deprived area automatically have to leave his neighborhood and get on a bus rather than being placed in a school in a neighborhood where he lives.

For that reason, I think the amendment is a good amendment, and I urge that it be agreed to. I am ready to yield back my time.

Mr. PELL. I am willing to yield back the balance of my time.

Mr. CHILES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Florida. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington, (Mr. MAGNUSON), the Senator from North Dakota (Mr. BURDICK), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS) and the Senator from Arizona (Mr. FANNIN) are detained on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "nay."

The result was announced—yeas 14, nays 65, as follows:

[Leg. No. 63]

YEAS—14

Baker
Bentsen
Byrd, W. Va.
Chiles
Cook
Cooper
Fong
Gambrell
Griffin
Hollings
Mansfield
McGee
McIntyre
Weicker

NAYS—65

Aiken
Allen
Allott
Anderson
Bayh
Beall
Bellmon
Bennett
Bible
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cotton
Cranston
Curtis
Dominick
Eagleton
Eastland
Ellender
Ervin
Goldwater
Gravel
Gurney
Hansen
Hart
Hatfield
Hruska
Hughes
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NOT VOTING—21

Boggs
Burdick
Church
Dole
Fannin
Fulbright
Harris
Hartke
Humphrey
Inouye
Jackson
Javits
Magnuson
Mathias
McClellan
McGovern
Mundt
Muskie
Packwood
Randolph
Spong

So Mr. CHILES' amendment (No. 946) was rejected.

Mr. MONDALE. Mr. President, I would like to engage in a colloquy with Senator PELL, chairman of the Education Subcommittee and floor leader on the higher education bill for the purpose of establishing some legislative history with respect to the provisions in S. 659 concerning the establishment of a National Foundation for Higher Education.

My inquiries concern the recommendations contained in the recent report of the American Association of State Colleges and Universities task force on innovations in higher education.

Generally, I would like to ask the distinguished junior Senator from Rhode Island whether the proposals contained in this task force report are consistent with the purposes of the national foundation as created in S. 659 and permissible under the provisions of this legislation.

Mr. PELL. Yes; the Senator is correct.

Mr. MONDALE. Then as I understand the chairman, it is possible under this legislation, and consistent with the intent of our bill, that regional advisory boards could be established; that emphasis on the administration of this program could be placed on institutional accountability; that funding could go through the president of the institution in addition to funding through a department, professor, or other subunit; and that block-type grants for creative institutional innovations and change would be authorized.

Mr. PELL. The Senator is correct. I would emphasize however, that the bill does not require that all funding go through the president of an institution. Clearly, funding of this nature is authorized and intended but not in an exclusive sense. The intent is to permit the foundation to fund in a variety of fashions: To presidents of institutions; to subunits; to professors, and indeed, to recipients which may not be part of a university or college.

Mr. MONDALE. Mr. President, I would like to thank the chairman for engaging in this colloquy to help clarify the intent of the Senate with respect to the National Foundation for Higher Education. I ask unanimous consent that a copy of a letter which I requested from Secretary Richardson be included at this point.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
*Washington, D.C., February 28, 1972.*
Hon. WALTER F. MONDALE,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR MONDALE: Thank you for your letter of February 1 regarding the position paper on the National Foundation prepared by Chancellor Mitau and President Spenser for the American Association of State Colleges and Universities.

Chancellor Mitau discussed with me several months ago his plans for establishing Minnesota Metropolitan State College. I thought his conception of this new institution was extraordinarily exciting. Having met him and learned what he has done, I can't think of anyone better qualified to address the issue of how the proposed National Foundation can best encourage reform and innovation in post-secondary education.

The statement of the need for and purpose of the National Foundation which is contained in the Mitau report is about the best I have read. It conforms precisely to our view that venturesome educators need a new source of risk capital, and that neither present programs nor institutional aid nor the National Institute of Education can be this source. We agree that Federal project grants for innovation, administered through a foundation-type organization, are an indispensable part of a balanced Federal role in higher education for the 1970's.

As to the specific recommendations of the report which you cited in your letter, they are all generally compatible with our view of the structure and operations of the Foundation. I am reluctant to endorse specifics at this point because I believe that the Director and the Board should have ample opportunity to consult with the Department on the modes and procedures which seem most appropriate to them. But I am pleased to state some of our current thinking pertaining to the recommendations:

*Regional advisory boards.* We are very concerned that the Foundation be open and responsive to all—not simply the powerful and prestigious. Regionalization of some of the Foundation's advisory functions strikes me as a very appropriate and desirable way to achieve both open access and the advantages of local contracts and local knowledge. We could establish either the precise structure recommended, or some variation of it, within the framework of the present Senate bill. I will propose to the new Director and Board that we do so.

*Institutional accountability in place of Federal guidelines.* This concept of how Federal controls should be exercised conforms very much to our view that the Foundation should be a responsive institution, which awards funds on the basis of the quality of ideas presented rather than pre-conceived notions of what should be done. Thus, we are planning for a mode of operation in which the Foundation Director and staff will be working within an evolving framework of priorities established by the Board and the Department rather than within the confines of narrow categorical programs. The review procedures for specific proposals, of course, will vary with the size and nature of the request. At one extreme, there might be a "small grant window" where funds would be available with an absolute minimum of review and delay. At the other extreme, a proposal for a new technologically based system for delivering educational programs might well be extensively reviewed by one or several ad hoc working teams of carefully-selected advisers.

*Funds to the institution—not to the Department, Program, or professor.* We, too, believe that Federal research grants to individual faculty members have weakened the cohesion of universities and frequently distorted the balance between teaching and learning. We presume that the autonomy, independence, and cohesion of institutions will be something which the Foundation Board will wish not only to protect but to encourage. However, rather than flatly ruling out grants to deans, faculty members, or students, I believe that the Board and Director would be better advised to be guided by the statement on page seven of the report that decisionmaking on campus should be a shared process. It seems to me that the Foundation could devise review procedures for proposals which would fully protect institution-wide perspectives while simultaneously offering encouragement and support to all those engaged in teaching and learning. I should also point out that the Foundation will be open to organizations beyond the campus—testing and accrediting organizations, State planning agencies, groups wishing to establish new services, etc.

*Block-type grants.* We are confident that the Foundation will make block-type grants in response to innovation proposals made by institutions through the office of the president. As stated earlier, however, we do not intend that this be the only function of the Foundation nor the only type of grant which will be made.

I welcome your attention to the Foundation, and hope that this response provides the kind of indication of the Department's posture which you had in mind. Please convey to Chancellor Mitau our considerable appreciation for his contribution.

With kindest regards,

Sincerely,

ELLIOT L. RICHARDSON,
*Secretary.*

Mr. MONDALE. Mr. President, permit me at this point to add my appreciation for the creative leadership and patience that the distinguished junior Senator from Rhode Island has provided through the long and controversial consideration of this legislation before us. As a member of the Education Subcommittee who has worked closely with him on all aspects of this bill, I would like to commend him for the way in which he has managed this measure. This is truly a landmark piece of legislation and I think all of us interested in education are grateful to Senator Pell.

### VETERANS COST OF INSTRUCTION PAYMENTS: INCENTIVES TO PROMOTE GREATER GI BILL PARTICIPATION—PARTICULARLY BY DISADVANTAGED VETERANS

Mr. CRANSTON. Mr. President, in behalf of myself, the Senator from New Jersey (Mr. WILLIAMS), the Senator from West Virginia (Mr. RANDOLPH), the Senators from Minnesota (Mr. HUMPHREY and Mr. MONDALE), and the Senator from Montana (Mr. METCALF), I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be waived. I have discussed it with the distinguished ranking minority member of the Education Subcommittee (Mr. DOMINICK), and there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON's amendment is as follows:

On page 489, strike out the close quote and the last period on line 10, and insert after line 10 of the following:

"VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 420. (a) (1) During the period beginning July 1, 1972 and ending June 30, 1975, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year, if the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institutions during any academic year, equals at last 110 per centum of the number of such recipients who were in attendance at such institutions during the preceding academic year.

"(2) During the period specified in paragraph (1), each institution which has qualified for a payment under this section for any year shall be entitled during the succeeding year, notwithstanding paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least 105 per centum of the number of such persons who were in attendance at such institutions during the preceding academic year. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence shall be deemed, for the purposes of any such year succeeding the year for which it is so entitled, to have been entitled to a payment under paragraph (1) during the preceding fiscal year.

"(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year; and

"(B) in addition, $150, except in the case of persons on behalf of whom the institution has received a payment in excess of $150 under section 419, for each person who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year.

"(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis.

"(c)(1) An institution of higher education shall be eligible to receive the payments to which it is entitled under this section only if it makes application therefor to the Commissioner. An application under this section shall be submited at such time or times, in such manner, in such form, and containing such information as the Commissioner determines necessary to carry out his functions under this title, and shall—

"(A) meet the requirements set forth in clauses (A) and (B) of section 419;

"(B) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

"(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

"(iii) to carry out active outreach, recruiting, and counseling activities through the use of funds available under federally assisted work-study programs, and

"(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38.

The adequacy of efforts to meet the requirements of clause (B) in the preceding sentence shall be determined by the Commissioner in accordance with criteria established in regulations by the Commissioner after consultation with the Administrator of Veterans' Affairs.

"(2) The Commissioner shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (B) of paragraph (1) within the first academic year during which it receives a payment under this section.

"(d)(1) The Commissioner shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section. Payments under this subsection shall be made in not less than three installments during each academic year and shall be based on the actual number of persons on behalf of whom such payments are made in attendance at the institution at the time of the payment.

"(2) If, during any period of any fiscal year, the appropriations for making payments pursuant to this subsection are insufficient to pay the amounts to which all institutions are entitled at that time, the funds of the National Service Life Insurance Fund, created and continued under section 720 of title 38, United States Code, shall be available to make such payments. The Administrator of Veterans' Affairs and the Secretary of the Treasury shall transfer to the Commissioner from such Fund such funds as may be necessary to satisfy the entitlements which are created by this section and which are unsatisfied by appropriations for such purpose. The Commissioner shall guarantee repayment of any funds transferred to him under the preceding sentence. Such repayment shall be deposited in the National Service Life Insurance Fund, subject to the same terms and conditions as premiums deposited in the Fund. In order to enable the Commissioner to discharge his responsibilities under any guarantees issued by him under this paragraph, he shall issue to the Secretary of the Treasury notes or other obligations which shall not bear interest. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued under the preceding sentence.

Mr. CRANSTON. Mr. President, the amendment I offer today, with my distinguished colleagues, to S. 659, the Higher Education Amendments of 1972, would provide for cost-of-instruction grants to institutions of higher education on the basis of the number of veterans receiving GI bill educational assistance or vocational rehabilitation who are enrolled at each recipient institution. This amendment would include veterans among the "federally assisted" students whose education is encouraged by "following" Federal institutional aid which would be provided under the pending committee bill. This amendment recognizes the special readjustment problems of Vietnam era veterans—particularly the large numbers of disadvantaged veterans—and seeks to make GI bill assistance available, for far more veterans as an effective instrument of readjustment assistance.

It is distressingly clear that to date the GI bill has fallen far short of meeting the educational needs of the approximately 4 million Vietnam era veterans now in the United States. Large numbers of these veterans have suffered from a vicious cycle of disadvantagement. Unlike middle- and upper-class men, with relatively ready access to college and, until recently, deferment from the draft, the least educated men have been the most likely to enter the Armed Forces, to go into combat, and—if they return—to have the most difficulty in continuing their education and training or finding other than menial jobs.

Yet, despite a recent increase in the overall participation rate under the GI bill, the utilization of benefits has been in shockingly inverse proportion to the degree of individual need for readjustment assistance. Almost 30 percent of all Vietnam era veterans have a high school diploma or less upon discharge. However, as of February 1971, a mere 13.4 percent of the veterans with only preservice high school were enrolled in college. In contrast, 48.8 percent of those veterans with 1 to 3 years of college prior to service were reenrolled in college.

Studies by the American Association of Junior Colleges, which has played such a key role in aiding the readjustment of returning servicemen, indicate that as many as 50 percent of Vietnam era veterans require further education or training to compete realistically in the employment market. And yet, those veterans who face the least readjustment problems, those who have had preservice college, are more than three times as likely to continue their training under the GI bill than are veterans who are only high school graduates, and more than four times as likely to do so than veteran high school drop-outs.

The social and individual cost of these numbers are clearly reflected in the distressing unemployment statistics of Vietnam era veterans. The Bureau of Labor Statistics—whose figures often seem to represent a minimum rather than a maximum—estimates the unemployment rate for all veterans aged 20 to 29 at 10.1 percent, as of January 1972. This figure is significantly higher for the most recently returned veterans.

The Veterans' Administration recently contracted Louis Harris to examine the current plight of the Vietnam era veteran. The result, "A Study of the Problems Facing the Vietnam Era Veterans on Their Readjustment to Civilian Life," places this unemployment situation in a considerably more distressing light. This survey found that the total unemployment rate of Vietnam era veterans is at least 15 percent, and runs as high as 31 percent for veterans without a high school diploma. In cities such as New York, 40 percent might well be a more accurate figure.

Mr. President, who can doubt that this unemployment rate, whatever the exact figures may be, is reflected in the crime and drug abuse statistics which have had such an impact on our everyday life.

In light of the failure of the GI bill to meet the needs of very large numbers of Vietnam era veterans, I worked in 1969 and 1970 with many Members of the House and Senate, including my distinguished colleague in the House, the Honorable OLIN TEAGUE, for passage of Public Law 91–219, a bill which was accepted unanimously by both Houses and signed by the President on March 26, 1970.

Public Law 91–219 raised the level of GI bill benefits by about 35 percent, although not as high as I and many of my colleagues thought necessary. The law also created several new programs which I authored to help the majority of Vietnam veterans who are either high school dropouts or who are disadvantaged and lack the educational and job skills necessary for their advancement after their return to civilian life. Let me review several of the parts of this law:

### 1. PREP

Sections 1695–1697 added by the law to title 38, United States Code, were intended to help men still in the service, by enabling them to complete their high school education or to undertake deficiency, remedial, refresher, or preparatory work in order to continue their education. We conceived PREP, the "predischarge education program," as a way to help tens of thousands, perhaps hundreds of thousands of young servicemen to continue their education while they still have time, while in service, and to begin planning for their futures.

### 2. REMEDIAL REFRESHER COURSES

Section 1691 added by the law was an amendment to the previous law, to permit veterans to complete high school—or grammar school—and to take necessary refresher, deficiency or preparatory courses needed to prepare for a postsecondary program. They receive their GI educational assistance allowances while enrolled in such programs, but these allowances are not charged against their GI bill entitlement. Thus, after completing this secondary level or remedial work, these veterans still have a full 36 months of GI benefits to draw upon.

### 3. TUTORIAL ASSISTANCE

Section 1692 added by the law was intended to help veterans enrolled in college but having academic difficulties, by permitting them to draw up to $50 a month for up to 9 months for individualized tutorial assistance in their courses.

### 4. A MUCH GREATER EMPHASIS ON VETERANS OUTREACH

A new subchapter IV was added to chapter 3 of title 38 to insure that the Veterans' Administration would expand and improve its programs for veterans outreach, so that all returning servicemen, and especially the disadvantaged, would be fully informed of all benefits available to them. The last sentence of section 240(a) added by the law is particularly pertinent:

> The Congress further declares that the outreach services authorized by this subchapter is for the purpose of charging the Veterans Administration with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

Mr. President, I very much regret to report that 2 years after the President signed Public Law 21–219, the potential of these programs to answer at least partially the needs of our economically and educationally disadvantaged servicemen and veterans has been grossly underutilized.

On the one hand, as I pointed out in my floor statement of June 17, 1971, these programs have struggled along in the context of lethargy, delay, and footdragging by both the Veterans' Administration and the Department of Defense. I plan shortly to introduce amendments which will help to make PREP a more workable program.

I will continue to urge the Department of Defense in particular, as well as the VA and other Federal agencies, to make a greater effort to implement these programs which have been law for almost 2 years now.

On the other hand, institutions of higher learning have had neither the resources nor the incentive to actively recruit veterans, particularly those who are ill prepared to make the transition from the service to an academic setting. Unlike other Federal educational assistance programs, the GI bill pays the veteran recipient student directly and has been intended primarily as a subsistence allowance for the veteran while he is attending school.

In the absence of direct Federal institutional aid for veterans programs, colleges and universities have paid insufficient attention to the particular educational needs and frequent educational deficiencies of the Vietnam veteran.

Indeed, this situation has been aggravated by a pattern of Veterans' Administration redtape and delay in the payment of educational assistance benefits, which has frequently made veterans tardy in the payment of tuition and thus a somewhat unwelcome administrative problem for the institution. S. 740 which I introduced a year ago and which passed the Senate 18 months ago as S. 3657, would deal with this deficiency, if enacted, by providing for advance payment of GI bill benefits.

Often hindered by a lack of publicity about new programs and by the complex and restrictive regulations of the Veterans' Administration and the Department of Defense, colleges and universities have been slow in establishing programs such as those provided for in sections 1691, 1692, and 1695–1697 added to title 38 of the United States Code by Public Law 21–219.

Mr. President, the latest available figures illustrate the small number of men to whom these programs have been made available. As of June 30, 1971—the latest available figures—only 8,468 veterans were enrolled in the refresher, remedial, or other special educational assistance courses provided for by section 1691. To that date, only 51,215 veterans had received training under this section. I have requested updated figures from the Veterans' Administration but have not yet received them.

The underutilization of the PREP program has been even more pronounced and gravely disturbing to me. As of June 30, only 5,841 servicemen had been trained under that program. At that particular time a total of only 294 servicemen were receiving PREP training.

Mr. President, the same underutilization is characteristic of the tutorial assistance program which new section 1692 established. As of the last quarter of 1971, I understand of approximately 648,000 November 1971 GI college trainees that only 2,208 veterans were being paid benefits under this program. This figure includes three veterans receiving VA tutorial assistance in Rhode Island, 10 in Washington, D.C., 12 in Connecticut, 24 in all of New York State, 275 in all of California, and so on. Nationally, this is a participation rate of three-tenths of 1 percent.

The amendment I am submitting today seeks to provide institutions of higher education with the motivation and the money to recruit and to prepare veterans for post-discharge education, and to realize more fully the potential of existing programs which have been established, funded, and intended by Congress to facilitate this readjustment process.

This amendment does not simply create entitlement for colleges and universities for veterans already enrolled. It would require a continuing commitment by recipient institutions both to increase the enrollment of veterans and to establish programs suited to their immediate educational needs, programs which were enacted into law 2 years ago next month.

Under my amendment, each institution of higher education would be entitled to a Federal grant during each of fiscal years from July 1, 1972 to June 30, 1975, only if the number of undergraduate veterans who are receiving assistance under chapter 34 or 31 of title 38 and are enrolled during the first counting year exceeds the number of veterans thus enrolled during the preceding year by 10 percent. In other words, a school with 1,000 GI trainees enrolled in the school year 1971–72 would have to increase this enrollment to 1,100 during the school year 1972–73.

Any institution which has qualified for this Federal assistance entitlement for any year during the cited period would be entitled to continue to receive this aid during subsequent years, provided that the number of such veterans enrolled in that institution increased by at least 5 percent each year over the prior year's veterans enrollment.

In addition to the above criteria, this amendment conditions the entitlement to Federal institutional assistance on each applicant institution satisfying the Commissioner of Education that it has made an adequate effort—determined in accordance with its enrollment and resources—in the following areas:

First, to establish and maintain a full-time office of Veterans' Affairs, with responsibility for veterans outreach, recruitment, and special educational programs and counseling;

Second, to establish a program for post-secondary education for educationally disadvantaged veterans under subchapter V of chapter 34 of title 38, and, in the case of any institution located near a military installation, to establish a PREP program under subchapter VI of chapter 34;

Third, to carry out active outreach, recruiting, and counseling activities with funds available under federally assisted work-study programs;

Fourth, to maintain an active tutorial assistance program under section 1692 of title 38. For the second and fourth area, Federal moneys are already fully available as GI bill entitlements. For the third area, Federal work-study funds would be supplemented by the veterans work-study program proposed in my bill, S. 740. And, for the first area it would be expected that schools would use a significant part of their veterans' cost-of-instruction payments to set up and run active veterans' affairs offices.

Each applicant institution that met all these requirements in the amendment would be entitled to a Federal grant of $300 for each enrolled veteran who is receiving benefits under chapter 31 or 34 of title 38, United States Code, and, generally, to an additional grant of $150 for each veteran receiving educational assistance under either subchapter V or subchapter VI of chapter 34. This $150 would not be paid in the case of a veteran on behalf of whom the institution has already received a payment under section 419 of these amendments in excess of $150.

Mr. President, assuming that the anticipated number of veterans receiving chapter 31 and chapter 34 benefits during fiscal year 1972–73 are all enrolled at institutions of higher learning which meet the criteria of entitlement established by this amendment, the approximate cost of the Federal grants provided for by this amendment would be as follows: California institutions of higher learning would receive roughly $41,147,865; the national figure would be about $183,184,100. These estimates are derived by multiplying the number of GI bill and vocational rehabilitation college level trainees as of November 1971—647,515—plus 14,780 chapter 31 college level trainees as of April 1971—by 110 percent and again multiplying by $300 for 70 percent estimated full-time trainees and $150 for 30 percent estimated part-time trainees; for nationwide figures; and 143,218—plus 3,269 estimated chapter 31 college trainees—for California figures.

We, as a nation, are committed to equality of opportunity for all our citizens. Today, the opportunity for a college education is an essential aspect of this equality of opportunity. It is my hope that through the adoption of this amendment, the Higher Education Amendments of 1972 will make a higher education a realistic possibility for all Vietnam era and post-Korean conflict veterans, rather than the false hope that it has been to so many of these men.

In line with this goal, I was pleased to join Senator HARTKE, the distinguished chairman of the Veterans' Affairs Committee, in introducing S. 2161 during the last session. This proposed legislation provided for an increase of 27 percent in the basic rate of educational assistance payments to veterans under the GI bill and an increase of about 40 to 50 percent in the amount by which those payments are increased for dependents.

As welcome an improvement as were the GI bill increases provided for by Public Law 21–219 2 years ago over the previous, totally unrealistic rate schedule, I remain convinced that the level of GI bill benefits continues to be inadequate. Despite this rate increase of 2 years ago, the cost of a higher education continues to be prohibitive for great numbers of veterans, particularly the disadvantaged, many of whom must support a family while going to school.

I believe that the incentives which this amendment, if enacted, would provide for institutions of higher education to recruit and train veterans underlines the importance that these men receive a level of assistance which will allow them to take full advantage of available educational opportunities. I plan to continue to work closely during this session with Senator HARTKE in the Veterans' Affairs Committee to enact a very substantial increase—considerably above those increases proposed in S. 2161, which was prepared a full year ago—to make GI bill assistance generally comparable to the level of assistance provided under the World War II GI bill program.

The cost of a college education must cease to be the insurmountable obstacle that it is to so many Vietnam era veterans today. The amendment I am proposing coupled with a major GI bill assistance increase in the next few months, should remove that obstacle.

Mr. President, I ask unanimous consent that a section-by-section analysis of the amendment be set forth in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

### ANALYSIS OF THE AMENDMENT TO PROVIDE FOR VETERAN'S COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

This amendment adds a new section 420 to subpart 5 of title IV–A of the Higher Education Act of 1965, as proposed in the Committee amendment, to create entitlements for institutions of higher education at which certain recipients of veterans' benefits under title 38 of the United States Code are in attendance. Such subpart 5, in the Committee amendment, entitles institutions of higher education to cost-of-instruction allowances on the basis of the number of Basic Grant recipients, under subpart 1 of such title IV–A, who are in attendance at such institutions.

The new section 420 contains four subsections: subsection (a) creates the entitlements in institutions of higher education; subsection (b) controls the amount of the payments to which such institutions are entitled; subsection (c) sets forth the manner in which such institutions may become eligible for the payments to which they are entitled; and subsection (d) provides for making payments to institutions which have established their eligibility.

*Subsection (a)* of new section 420, which creates entitlements, contains two paragraphs: paragraph (1) controls the first year during which an institution receives payments under section 420, while paragraph (2) controls subsequent years during which an institution receives such payments.

*Paragraph (1)* of subsection (a) creates in institutions of higher education entitlements on the basis of the number of persons in attendance at such institutions who are recipients of veterans' benefits under chapters 31 (vocational rehabilitation) or 34 (educational assistance) of title 38, United States Code. The period during which such annual entitlements are created begins July 1, 1972 and ends June 30, 1975. Each institution of higher education shall be entitled to a payment under section 420 during any fiscal year, if the number of persons who are veterans receiving benefits under chapters 31 or 34 of title 38, United States Code, and who are in attendance at such institution as undergraduate students during any academic year, equals at least 110 percent of the number of such persons during the preceding academic year. In order to be qualified to be counted for computing eligibility for entitlements under paragraph (1), a veteran must be (a) receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or (b) receiving educational assistance under chapter 34 of such title 38.

*Paragraph (2)* of subsection (a) relates to institutions of higher education which have qualified for and received payments under section 420 during the preceding year. The first sentence of such paragraph (2) provides that, prior to July 1, 1975, in the case of any institution which has qualified for, and received, a payment on the basis of an entitlement created under paragraph (1) of section 420(a), that institution shall be entitled, during succeeding fiscal years, to a payment if the number of persons receiving veterans' benefits in attendance at the institution during any academic year equals at least 105 percent of the number of such persons during the preceding year.

The second sentence of paragraph (2) of section 420(a) provides that once an institution has qualified for a payment by reason of paragraph (2), it may continue to qualify under such paragraph so long as it continuously maintains eligibility under that paragraph—that is, 5 per cent above the previous year. If during any year an institution has qualified under paragraph (2), and then during any subsequent year it fails to do so, it must, if it wishes to receive payments under section 420, reestablish its qualifications under paragraph (1) of section 420(a)—that is, a 10 per cent increase.

*Subsection (b)* sets the amount of payments to which institutions are entitled for any fiscal year. An institution of higher education which has qualified for a payment on the basis of subsection (a) of section 420, and which has submitted an approvable application under subsection (c), is eligible for a payment computed under subsection (b).

*Paragraph (1)* of new section 420(b) provides that an institution of higher education shall be entitled to a payment for any fiscal year in an amount equal to the amount determined under clause (A) of such paragraph, plus the amount determined under clause (B) of such paragraph.

*Clause (A)* of paragraph (1) provides that each institution shall be paid $300 for each person who—

(1) is in attendance at such institution as an undergraduate student; and

(2) is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38.

*Clause (B)* of such paragraph (1) provides that, except in the case of persons on behalf of whom the institution has received a payment in excess of $150 under section 419, each institution shall be paid $150 for each person who—

(1) is in attendance at such institution as an undergraduate student; and

(2) has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38.

*Paragraph (2)* of new section 420(b) relates to students counted under paragraph (1) who are not in full-time attendance at institutions of higher education. Such paragraph (2) provides that in any case where a person on behalf of whom a payment is made under new section 420 attends an institution on less than a full-time basis, the amount of the payment on behalf of that student shall be reduced in proportion to the degree to which that person is not attending on a full-time basis.

*Subsection* (c) of new section 420 describes the method by which institutions become eligible for the payments to which they are entitled. The first sentence of such subsection (c) requires that an institution, in order to be eligible for the payment to which it is entitled under new section 420, must make application for such payment to the Commissioner.

The second sentence sets forth the procedure by which institutions are to make application for their entitlements. An application under section 420 shall be submitted at such time or times, in such manner, in such form, and containing such information as the Commissioner determines necessary to carry out his functions under title IV. In addition, the application is specifically directed to:

(1) meet the requirements set forth in clauses (A) and (B) of section 419;

(2) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

(A) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

(B) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (i) under subchapter V (pre-college preparatory and elementary and secondary training) of chapter 34 of title 38, United States Code, and (ii) in the case of any institution located near a military installation, under subchapter VI (PREP) of such chapter 34,

(C) to carry out active outreach, recruiting, and counseling activities through the use of funds available under federally assisted work-study programs, and

(D) to carry out an active tutorial assistance program (including full dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38.

The third sentence of such subsection (c) of new section 420 is concerned with responsibility for judgment of the adequacy of efforts to meet the requirements of clause 2 above, which relates to maintenance of effort of certain specified activities. The adequacy of such efforts is to be determined by the Commissioner, in accordance with criteria established in regulations by the Commissioner after consultation with the Administrator of Veterans' Affairs. Such regulations would take into account variations in schools' total enrollments and available resources.

*Subsection* (*d*) of new section 420 provides the method for making payments to institutions of higher education.

*Paragraph* (*1*) of such subsection (d) provides that the Commissioner shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under section 420. Payments under such subsection (d) must be made in installments. There must be at least three such installments during each academic year, and the amount paid in each installment must be based on the actual number of persons on behalf of whom the payment is made who are in actual attendance at the institution at the time of the payment.

*Paragraph* (2) of such subsection (d) makes provision for making payments when appropriations are not available for making necessary payments.

The first sentence of such paragraph (2) of new section 420(d) provides that if, during any time during any fiscal year, the funds available for making payments under subsection (d) are insufficient to make payments sufficient to satisfy all entitlements under new section 420, the funds of the National Service Life Insurance Fund, created and continued under section 720 of title 38, United States Code, shall be used to make such payments. The Administrator of Veterans' Affairs and the Secretary of the Treasury are directed, by the second sentence of such paragraph (2), to transfer to the Commissioner from that Fund such funds as may be necessary to satisfy all unsatisfied entitlements under new section 420.

The third sentence of such paragraph (2) of new section 420(d) requires the Commissioner to guarantee repayment of any funds transferred to him under the second sentence of such paragraph. Such repayments shall be deposited in the National Service Life Insurance Fund, which repayments shall be subject to the same terms and conditions as premiums deposited in that Fund.

The fourth sentence of such paragraph (2) relates to the manner in which the Commissioner guarantees repayments to the National Service Life Insurance Fund. In order to enable the Commissioner to guarantee such repayments, he must, when necessary, issue to the Secretary of the Treasury such notes or other obligations as may be necessary. Such notes and obligations shall not bear interest. Under the fifth sentence of such paragraph (2), the Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued by the Commissioner under the fourth sentence of such paragraph (2).

Mr. PELL. Mr. President, I think the amendment of the Senator from California is meritorious. It tries to make sure that those veterans who go to institutions of higher education have the same attractions going with them as do youngsters who will receive the basic educational opportunity grant—a cost of education allowance.

I should like to put one question to the Senator from California, and that is to the funding of this amendment. As I understand it, it would take more money, but that money would come out of the Veterans' Administration funds. Is that correct?

Mr. CRANSTON. Yes, initially.

Mr. PELL. In view of that, and in view of the fact that it really carries even further the intent of the Higher Education Act as we suggest it be amended in making sure that an added incentive is attached to youngsters who have been receiving Federal assistance. I recommend to Senators that the amendment be adopted.

Mr. BEALL. The ranking minority Member is absent, but he has asked me to express his agreement with this amendment. There is unanimity in the desire that we make sure that returning veterans are given the same opportunity—and perhaps better opportunity—than other youngsters in our society.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. CRANSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. MONDALE. Mr. President, last Friday, by a vote of 43 to 40, the Senate temporarily adopted the so-called Griffin amendment.

First, the Griffin amendment is a blatantly unconstitutional attempt to prevent enforcement of the U.S. Constitution by U.S. courts. In the face of express rulings by a unanimous U.S. Supreme Court, the amendment tries to prohibit Federal courts from requiring any transportation as a device for achieving school desegregation. Even its principal sponsor has been reported as admitting that his amendment may be unconstitutional.

Congress cannot repeal the 14th amendment by statute. But we can cause confusion and uncertainty in 565 school districts desegregating under Federal court order. We can create still another round of angry litigation—which may drag on for years. And so we can do permanent damage to the lives of 8½ million children attending those school districts.

In addition, the amendment provides all the excuse that is needed for the Justice Department to stop trying any school desegregation cases at all.

Second, the Griffin amendment would work the effective repeal of title VI of the Civil Rights Act of 1964 by imposing similar limitations on administration of that law—in effect withdrawing the executive branch of the Federal Government from the effort to end officially imposed segregation in public schools.

Under title VI plan 2.4 million children are attending 880 school districts. Adoption of the Griffin amendment would be an open invitation for their school systems to return to segregation. Confusion and bitter feeling will erupt. And for these children, next fall may be a living hell.

And third, the Griffin amendment makes a bitter mockery of the Emergency School Aid Act, contained in the pending bill, and designed to assure that school integration moves forward in a sensible and educationally beneficial manner.

While the act would create a national policy in support of stable, quality integration, the Griffin amendment would establish a national policy of support for segregation.

While the act would move forward to help make desegregation under law educationally successful, and to encourage voluntary integration, the Griffin amendment seeks not only to halt law enforcement in its tracks, but also to roll back much desegregation which has already been accomplished.

Mr. President, the Griffin amendment not only attempts to freeze any further efforts by courts or Federal agencies to eliminate officially sponsored segregation—but it would be a plain signal for 1,500 school districts under court order and title VI plan, serving 11 million children, to undo all that has been accomplished to date.

Federal courts—and Federal agencies, which apply the standards developed by Federal courts—do not require school desegregation out of any abstract desire to improve human brotherhood, or even education. They act on the basis of hard evidence that black and other minority group children have been intentionally segregated from the remainder of the school population on the basis of race or national origin.

In the South, this was accomplished by State law—and by a decade and a half of so-called desegregation plans which accomplished desegregation for only 14 percent of black children, before the Supreme Court acted in 1968 to provide a new and tougher set of rules.

In many northern communities, segregated schools have been established by subtler but no less effective means.

In South Holland, Ill., for example, a U.S. district court found public agencies deeply involved in fostering school segregation.

Schools were located in the center rather than at the boundaries of segregated residential areas in order to achieve school segregation.

School assignment policies were adopted under which black children living nearer to white schools attended black schools, and white children living nearer to black schools attended white schools.

School buses were used to transport students out of their "neighborhoods" in order to achieve segregation.

Teachers were assigned on a racial basis.

And in Pasadena, Calif., a Federal district court found:

School zone boundaries were gerrymandered to concentrate black students in particular schools and whites in others—and transportation was provided to permit white students to avoid integration.

The size of schools was regulated to assure that integration would not take place—and portable classrooms were located at black elementary schools to prevent assignment of students to adjoining white schools.

Transfers out of neighborhood schools were permitted where the purpose was clearly to foster segregation.

The great majority of black teachers and administrators were assigned to black schools—and even substitute teachers were assigned on a racial basis.

Less well-educated, less experienced, and lower paid teachers were concentrated in black schools.

Qualified black teachers were denied advancement to administrative positions on the basis of race.

And residential segregation in Pasadena was no accident. The court found that from 1948 until 1968 virtually every Pasadena realtor refused to sell homes in white residential areas to Negroes. In fact, Pasadena realtors interpreted their code of ethics to render such sales unethical.

I could cite examples from Boston, Mass.; Ferndale and Detroit, Mich.; San Francisco, Calif.; Indianapolis, Ind., and other school districts across the Nation. Without some transportation, officially sponsored segregation in these school districts would continue.

Where students have long been assigned on the basis of race, where schools have been located and their capacities determined to serve particular racial populations, where minority parents have long been denied access to homes in white neighborhoods, the Supreme Court has held that transportation may be required to overcome the results of past discrimination.

And 40 percent of American public school students—well over half when those riding other forms of public transportation are included—are transported to school. Even in city school systems busing is common to even out pupil populations among schools as the school populations of some neighborhoods decline and those of other neighborhoods rise.

Last April, in Swann against Charlotte-Mecklenburg, the Supreme Court held, in a unanimous opinion by Chief Justice Burger, that reasonable busing may be required as one device for ending officially sponsored public school segregation. In the words of the Court:

> We find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in school.

The Chief Justice observed that:

> Bus transportation has been an integral part of the public education system for years, and was perhaps the single most important factor in the transition from the one-room schoolhouse to the consolidated school.

And in reversing a North Carolina statute similar to the Griffin amendment the Court, again unanimously, held:

> We . . . conclude that an absolute prohibition against transportation of students assigned on the basis of race . . . will . . . hamper the ability of local authorities to effectively remedy Constitutional violations . . . transportation has long been an integral part of all public educational systems, and it is unlikely that a truly effective remedy could be devised without continued reliance upon it. (*North Carolina* v. *Swann* (1971).)

There can be only one reason for denying the use of so common a tool as transportation. That reason is support for segregated education.

The Griffin amendment's attempts to limit the authority of Federal courts to enter remedies required by the Constitution are clearly unconstitutional.

Sponsors of the amendment have argued, on the basis of the Supreme Court's 1869 decision in ex parte McCardle, that the amendment is a valid effort to limit the jurisdiction of the Federal courts under article III of the Constitution.

There is even some question about whether McCardle would be affirmed today—see Justice Douglas' dissent in *Glidden* v. *Zdanok* (370 U.S. 530). But at any rate the Griffin amendment is just not an effort to limit jurisdiction as that term is used in McCardle and article III.

In McCardle, Congress removed the Supreme Court's entire appellate jurisdiction over habeas corpus cases. But the Griffin amendment does not attempt to limit the power of the courts to hear a particular class of cases. Instead, the amendment attempts to limit the remedies which may be imposed once a case has been heard and a constitutional violation found.

If statutory efforts to alter constitutional rights and remedies could be made successful merely by reciting the word "jurisdiction," the Congress could overrule any court decision, and the Constitution would be just another scrap of paper. It has been clear at least since the Court decided Marbury against Madison in 1803 that this is not the case.

Nor can it be urged that the clause authorizing legislation "necessary and proper" to enforce the 14th amendment provides authority for contradicting the amendment's requirements as determined by the courts. The Supreme Court settled that issue in 1965, in deciding Katzenbach against Morgan:

> Section 5 [the necessary and proper clause of the 14th Amendment] does not grant Congress power to exercise discretion . . . in effect to dilute equal protection and due process decisions of the Court . . . Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by Section 5—a measure to "enforce" the Equal Protection Clause since that clause by its own face prohibits such State law.

The Senate's duty is clear. Our responsibility is to support the courts and the Constitution.

Supporters of the Griffin amendment would have us believe that the Supreme Court is incapable of making responsible judgments about this issue.

I do not believe that is so. It is not Chief Justice Burger, or Justices Blackman, Rehnquist, Powell, Brennan, White, Douglas, Marshall, and Stewart who are irresponsible. It is the Senate which appears to be in danger of losing its head.

But I would also ask where the administration stands on this issue. Only months ago the administration actively supported the Emergency Aid Act now included in the pending bill—and actively helped to defeat amendments very similar to the so-called Griffin amendment. Are we to take their silence now as tacit approval of the Griffin amendment?

Tomorrow, beginning at 12 o'clock, we will begin a series of votes which will affect the lives of 11 million children, in 1,500 school districts now undergoing desegregation. Those votes may do more to teach them what this country stands for than all the American history classes they will attend.

Mr. President, in my view there is not a dime's worth of difference between the Griffin amendment and the position taken by George Wallace.

I ask the Senate to shoulder its responsibility to these children, and reject the Griffin amendment.

### AMENDMENT NO. 874

Mr. BAYH. Mr. President, I call up my Amendment No. 874.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place in the bill, insert the following new title:

### TITLE X—PROHIBITION OF SEX DISCRIMINATION

SEC. 1001. (a) No person in the United States shall, on the basis of sex, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(2) in regard to admissions to educational institutions, this section shall not apply for one year from the date of enactment, nor for six years thereafter in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education;

(3) this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization; and

(4) this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine.

(b) For purposes of this title an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each school, college, or department.

SEC. 1002. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1001 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 1003. Any department or agency action taken pursuant to section 1002 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1002, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

SEC. 1004. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

SEC. 1005. (a) Clause (1) of section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)(1)) is amended by inserting at the end thereof the following: "(except that this clause shall not apply with respect to employees of a State, or a political subdivision thereof, employed in an educational institution)".

(b) Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) is amended by (1) inserting the words "educational institution," after the word "association," wherever it appears in such section, and (2) by inserting a period after "religious activities" and deleting the remainder of the sentence.

SEC. 1006. Sections 401(b), 407(a)(2), 410, and 902 of the Civil Rights Act of 1964 (42 U.S.C. 2000c(b), 2000c–6(a)(2), 2000c–9, and 2000h–2) are each amended by inserting after "religion" the following: "sex".

SEC. 1007. The Commissioner of Education shall conduct a survey of educational institutions throughout the country in order to determine the extent to which equality of educational opportunity is being denied to citizens of the United States by reason of sex. At a date no later than December 21, 1973, the Commissioner shall submit to Congress the results of his survey along with recommendations for action to guarantee equality of opportunity in education between the sexes. Such report shall include a recommendation, made after affording interested parties an opportunity for hearings and investigation, as to the feasibility of extending the requirements of section 1001 of this title to those educational institutions which are presently exempted, in whole or in part.

SEC. 1008. Paragraphs (1), (2), (3), and (4) of subsection (a) of section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a)) are each amended by inserting immediately after "religion" the following: "sex,".

SEC. 1009. Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by inserting after the words "the provisions of sections 6" the following: "(except section 6(d) in the case of paragraph (1) of this subsection)".

SEC. 1010. (a) Paragraph (1) of subsection 3(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (r) (1)) is amended by deleting "an elementary or secondary school" and inserting in lieu thereof "a preschool, elementary or secondary school".

(b) Section 3(s)(4) of such Act (29 U.S.C. 203(s)(4)) is amended by deleting "an elementary or secondary school" and inserting in lieu thereof "a preschool, elementary or secondary school".

Mr. BAYH. Mr. President, the Higher Education Act which is before the Senate now is an important piece of legislation reflecting the hard work done by the Subcommittee on Education. I commend the Senator from Rhode Island (Mr. PELL), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from New York (Mr. JAVITS), for their leadership in fighting for such an innovative and necessary legislative proposal. I also appreciate the cooperation all three Senators have given me and my staff regarding this amendment to prohibit sex discrimination in education.

Mr. President, one of the great failings of the American educational system is the continuation of corrosive and unjustified discrimination against women. It is clear to me that sex discrimination reaches into all facets of education—admissions, scholarship programs, faculty hiring and promotion, professional staffing, and pay scales. Indeed, the recent "Report on Higher Education" funded by the Ford Foundation concluded,

> Discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community.

The only antidote is a comprehensive amendment such as the one now before the Senate.

Amendment No. 874 is broad, but basically it closes loopholes in existing legislation relating to general education programs and employment resulting from those programs. The amendment also authorizes necessary ongoing studies of sex discrimination in education. More specifically, the heart of this amendment is a provision banning sex discrimination in educational programs receiving Federal funds. The amendment would cover such crucial aspects as admissions procedures, scholarships, and faculty employment, with limited exceptions. Enforcement powers include fund termination provisions—and appropriate safeguards—parallel to those found in title VI of the 1964 Civil Rights Act. Other important provisions in the amendment would extend the equal employment opportunities provisions of title VII of the 1964 Civil Rights Act to educational institutions, and extend the Equal Pay for Equal Work Act to include executive, administrative and professional women.

To insure continued study of this problem, the Commissioner of Education will be required to conduct a thorough study of existing sex discrimination, and to make recommendations for legislative remedies, and the jurisdiction of the Commission on Civil Rights is extended to include sex discrimination. Finally, the Attorney General is authorized to sue and to intervene in certain cases of sex discrimination.

This amendment has received careful preparation based on a thorough discussion with national education groups and other interested parties. I believe it represents a completely responsible and reasonable solution to the problem of sex discrimination. Nearly all groups which have contacted me agree on the necessity for the various provisions in this amendment; in fact, most of the provisions were recommended in April 1970 by President Nixon's Task Force on Women's Rights and Responsibilities. In addition, the administration included sex discrimination provisions in its proposed Higher Education Act.

As my colleagues know, a similar amendment on the House side was the center of some controversy because many felt that the admissions policies of too many schools were covered without sufficient study and debate. Because of time pressures on the House side, long preparation was not possible. One result of the House approach is that all single-sex elementary and secondary institutions of education—both public and private—would be required to become coeducational. While this may be a desirable goal, no one even knows how many single-sex schools exist on the elementary and secondary levels or what special qualities of the schools might argue for a continued single sex status. Therefore, my amendment narrows the coverage of admissions policies somewhat—pending a thorough study by the Commissioner of Education—and makes explicit that admissions to public undergraduate institutions and to vocational and professional and graduate institutions, where the most insupportable discrimination lies, would be covered.

I urge the Senate to adopt this amendment which provides a less disruptive but equally effective remedy designed to root out, as thoroughly as possible at the present time, the social evil of sex discrimination in education.

### I. SCOPE ON THE PROBLEM

It is difficult to indicate the full extent of discrimination against women today. The field of education is just one of many areas where differential treatment has been documented; but because education provides access to jobs and financial security, discrimination here is doubly destructive for women. Therefore, a strong and comprehensive measure is needed to provide women with solid legal protection from the persistent, pernicious discrimination which is serving to perpetuate second-class citizenship for American women.

The rationale for denying women an equal education is vague, but its destructive presence is all too clear. As a study by an independent task force, formed by the Ford Foundation, reported in March of 1971:

> Discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community.

We are all familiar with the stereotype of women as pretty things who go to college to find a husband, go on to graduate school because they want a more interesting husband, and finally marry, have children, and never work again. The desire of many schools not to waste a "man's place" on a woman stems from such stereotyped notions.

But the facts absolutely contradict these myths about the "weaker sex" and it is time to change our operating assumptions. First of all, the percentage of entering undergraduate students who graduate in 4 years is about 15 percent higher for women than for men—and their grade averages are also higher than those of men. Second, 70 percent of female college graduates do secure jobs, thus giving the lie to assumptions that they are not serious students. More than half the mothers of school age children work. At age 35, women with husbands can expect to work fully 24 years.

For those women who go on to receive graduate degrees, their work records demonstrate a clear dedication to their careers. Female Ph. D.'s rarely give up their careers; 91 percent of the women with doctorates are working today, 81 percent of them full time. Moreover, in a study of 2,000 women 10 years after they received their doctorate, 79 percent had not interrupted their careers at any time. The diligence of these women is worthy of note: By way of contrast, 10 percent more men than women had interrupted their careers within 10 years of completing the doctoral program. Furthermore, research shows that married women publish more than men.

And yet a vicious and reinforcing pattern of discrimination persists.

I ask unanimous consent that a table which appeared in the New York Times on January 10, 1972, be printed in the Record to indicate the continued second-class status of women in education despite a decade devoted to civil rights.

There being no objection, the table was ordered to be printed in the Record, as follows:

WOMEN AND HIGHER EDUCATION—STUDENT ENROLLMENT (1969 STATISTICS)

| | All institutions | | Junior colleges | | Graduate | |
|---|---|---|---|---|---|---|
| Year | Total | Percent [1] | Total | Percent [1] | Total | Percent [1] |
| 1950 | 727,270 | 32 | 77,599 | 36 | 65,262 | [3] 27 |
| 1955 | 931,194 | 35 | 112,021 | 36 | 73,608 | [4] 29 |
| 1960 | 1,339,367 | 37 | 170,325 | 38 | 97,373 | [5] 28 |
| 1965 | 2,173,697 | 39 | 321,712 | 38 | 196,000 | [2] 32 |
| 1970 | 3,135,000 | [2] 41 | 593,000 | 40 | 347,000 | [2] 37 |

[1] As a percent of total enrollment.

[2] Estimated.

[3] 1949 to 1950.

[4] November 1955.

[5] 1959 to 1960.

Source: American Council on Education.

EARNED DEGREES

[In percent]

| | All degrees | | Bachelor's | | Master's | | Doctor's | |
|---|---|---|---|---|---|---|---|---|
| Year | Male | Female | Male | Female | Male | Female | Male | Female |
| 1949–50 | 76 | 24 | 76 | 24 | 71 | 29 | 90 | 10 |
| 1955–56 | 65 | 35 | 64 | 36 | 66 | 34 | 90 | 10 |
| 1959–60 | 66 | 34 | 65 | 35 | 68 | 32 | 90 | 10 |
| 1965–66 | 62 | 38 | 60 | 40 | 66 | 34 | 88 | 12 |
| 1968–69 | 60 | 40 | 58 | 42 | 63 | 37 | 87 | 13 |

Source: American Council on Education.

[In percent]

| | All institutions | | 2-year college | | 4-year college | | Universities | |
|---|---|---|---|---|---|---|---|---|
| | Male | Female | Male | Female | Male | Female | Male | Female |
| Faculty rank: | | | | | | | | |
| Professor | 24.5 | 9.4 | 7.1 | 3.6 | 22.0 | 11.2 | 30.1 | 9.9 |
| Associate | 21.9 | 15.7 | 10.1 | 13.4 | 23.3 | 17.1 | 23.8 | 15.1 |
| Assistant | 28.2 | 28.7 | 15.2 | 17.0 | 30.8 | 31.6 | 29.4 | 30.7 |
| Instructor | 16.3 | 34.8 | 38.7 | 45.6 | 15.8 | 29.6 | 11.5 | 35.7 |
| Lecturer | 3.3 | 4.6 | .8 | 1.3 | 5.2 | 6.5 | 2.7 | 4.0 |
| No ranks | 3.4 | 3.3 | 23.1 | 14.6 | 1.4 | 1.4 | .3 | .3 |
| Other | 2.3 | 3.5 | 5.0 | 4.6 | 1.4 | 2.5 | 2.2 | 4.2 |

| | All institutions | | 2-year college | | 4-year college | | Universities | |
|---|---|---|---|---|---|---|---|---|
| | Male | Female | Male | Female | Male | Female | Male | Female |
| Basic salary: | | | | | | | | |
| Below $7,000 | 6.2 | 17.0 | 10.9 | 16.6 | 6.0 | 17.8 | 5.3 | 16.2 |
| $7,000 to $9,999 | 21.7 | 45.6 | 35.7 | 52.7 | 30.0 | 48.8 | 13.1 | 38.8 |
| $10,000 to $11,999 | 20.6 | 17.6 | 22.2 | 15.4 | 24.1 | 15.7 | 17.9 | 20.7 |
| $12,000 to $13,999 | 17.4 | 9.9 | 18.8 | 9.8 | 15.9 | 8.8 | 18.1 | 11.3 |
| $14,000 to $16,999 | 15.5 | 6.1 | 10.5 | 4.6 | 12.5 | 5.5 | 18.6 | 7.4 |
| $17,000 to $19,999 | 9.1 | 2.0 | 1.2 | .1 | 6.3 | 1.8 | 12.7 | 3.2 |
| $20,000 to $24,999 | 6.3 | 1.2 | .4 | .1 | 3.7 | 1.0 | 9.3 | 2.0 |
| $25,000 plus | 3.1 | 0.5 | .2 | .7 | 1.5 | .6 | 4.9 | .3 |

Source: American Council on Education.

Mr. BAYH. In the summer of 1970, Representative Edith Green, chairman of the House Special Subcommittee on Education, held extensive hearings on discrimination in education and related areas—hereafter referred to as the 1970 hearings. Over 1,200 pages of testimony document the massive, persistent patterns of discrimination against women in the academic world. Yet despite a situation which approaches national scandal, the problem has gone unnoticed for years. Today, many would deny that it exists.

But discrimination against women in education does exist. Moreover it prospers. Alan Pifer, president of Carnegie Corporation of New York, has pointed out that women actually have lost ground in education over the years.

> If we compare the participation of women in higher education today with the situation of 40 years ago we find, rather surprisingly, that it has considerably worsened. In 1930 47 percent of undergraduates, as opposed to today's 38 percent, were women; 28 percent of the doctorates were won by women as against today's 13 percent, and at many institutions, the proportion of women faculty members was higher than today.

I believe it is important to survey in some detail the scope of the problem in certain fundamental areas—hiring, scholarships, and admissions.

### A. DISCRIMINATION IN HIRING AND PROMOTION OF FACULTY AND ADMINISTRATORS

Discrimination against females on faculties and in administration is well documented and widespread abuse is clear. I have been dismayed to learn of the double standard the academic community has applied to those women who choose to make education their life work. In spite of high academic standards, a woman who has met the rigorous standards for a Ph. D. program may suddenly find that these same schools do not have sufficient confidence in their own standards to hire the graduate to teach. A recent report on Columbia University practices found that although the percentage of doctorates awarded to women rose from 13 to 24 percent between 1957 and 1968, the percent of women in tenured positions at the graduate facilities have remained constant—at slightly over 2 percent. Similar situations exist, according to testimony during the 1970 hearings, at numbers of other schools.

Although women comprised 6.9 percent of those enrolled in law school in 1969, a survey of 36 prominent law schools during 1968–70 showed that out of a total of 1,625 faculty members, only 35 or 2.1 percent were women, and 25 percent of those 36 were classified as librarians. I ask unanimous consent that a table documenting these proportions be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DISTRIBUTION OF WOMEN FACULTY AT LEADING AMERICAN LAW SCHOOLS

| School | Number of women | Total number of faculty |
|---|---|---|
| Boston University | 1 | 50 |
| Columbia University | 1 | 63 |
| Cornell University | 0 | 23 |
| Duke University | 0 | 19 |
| Fordham University | 0 | 31 |
| Georgetown University | 1 | 70 |
| George Washington University | 2 | 88 |
| Harvard | 1 | 62 |
| Indiana University: | | |
| Bloomington | 1 | 25 |
| Indianapolis | 1 | 21 |
| Loyola University (California) | 1 | 34 |
| Marquette University | 1 | 21 |
| New York University | 2 | 140 |
| Ohio State | 1 | 39 |
| Rutgers (Camden and Newark) | 4 | 43 |
| St. John's University | 0 | 37 |
| Stanford University | 0 | 36 |
| Temple University | 1 | 48 |
| University of California, Berkeley | 1 | 45 |
| University of Chicago | 1 | 39 |
| University of Connecticut | 0 | 41 |
| University of Florida | 2 | 37 |
| University of Iowa | 0 | 34 |
| University of Maine | 0 | 12 |
| University of Maryland | 0 | 30 |
| University of Michigan | 1 | 62 |
| University of Minnesota | 0 | 38 |
| University of Missouri: | | |
| Columbia | 1 | 17 |
| Kansas | 2 | 23 |
| University of North Carolina | 0 | 26 |
| University of Oregon | 0 | 16 |
| University of Pennsylvania | 0 | 38 |
| University of Southern California | 3 | 53 |
| University of Texas | 1 | 52 |
| University of Virginia | 1 | 52 |
| University of Wisconsin | 1 | 40 |
| Wayne State | 1 | 31 |
| Yale | 2 | 60 |
| Total | 35 | 1,625 |

Note: The following table is a breakdown of the number of women faculty (35) according to professional title:

| | |
|---|---|
| Assistant or associate professor | 8 |
| Instructor or lecturer | 6 |
| Librarian or librarian-assistant professor | 9 |
| Professor | 7 |
| Research assistant professor | 1 |
| Visting associate professor | 4 |
| Total | 35 |

Source: All of the above statistics have been compiled from the Association of American Law Schools Directory of Law Teachers, 1968–70.

Mr. BAYH. Furthermore, the rule is that once hired, women do not receive advancement as often as men. While almost half of the male teachers are given the status of full professor, only 10 percent of the women make it that far. As a result, the highest faculty ranks are weighted with men; the lowest rank with women:

[In percent]

| Present rank | Men | Women |
|---|---|---|
| Professor | 24.5 | 9.4 |
| Associate professor | 21.9 | 15.7 |
| Assistant professor | 28.2 | 28.7 |
| Instructor and below | 25.3 | 46.2 |

Note: From Simon & Grant's Digest of Educational Statistics, 1969.

Finally, those women who are promoted often do not receive equal pay for equal work. In 1965–66, at the instructor's level, the median annual salary of women was $410 less than that of male instructors; at the assistant professor's level it was $576 less; at the associate professor's level, $742 less; and at the level of full professorship, it was $1,119 less. "Fact Sheet on the Earnings Gap," U.S. Department of Labor, Women's Bureau, 1970. According to testimony submitted during the "1970 Hearings," the women at the University of Pittsburgh calculated that the University was saving $2,500,000 by paying women less than they would have paid men with the same qualifications.

Preference for men over women to fill administrative posts is just as clear. For instance, Dr. Peter Muirhead, Associate Commissioner of Education, testified during the "1970 Hearings" that more than two-thirds of the teachers in elementary and secondary schools are women, but they constitute only 22 percent of the elementary school principals and only 4 percent of the high school principals. According to a recent study by the National Education Association, only two women can be found among 13,000 school superintendents.

In higher education, female administrators are virtually nonexistent. Dr. Ann Scott, from the University of Buffalo, highlighted the "progressive evaporation of women as we climb the academic ladder" by pointing out that while women are only 5 percent of the full professors at that institution, they are even less—1 percent—of the top administration "1970 Hearings." Even at women's colleges there has been a decline in recent years in the number of high administrative posts held by women. And as Dr. Bernice Sandler pointed out in a recent speech, if it were not for female presidents at Catholic colleges, the number of women college presidents would be less than the number of whooping cranes.

### B. DISCRIMINATION IN SCHOLARSHIPS

Although documentation of discrimination in scholarship aid is less conclusive than in other areas, a recent study by the Education Testing Service found that although men and women need equal amounts of financial aid in college, the average awards to men are $215 higher than to women. In addition, concern was expressed during the "1970 Hearings" that programs of compensatory education for disadvantaged students are often weighted toward male disadvantaged students. Of the 26 students accepted in 1968–69 for a program run by Brandeis University, all were male. Regarding graduate studies, testimony suggests that women fare slightly worse than men in receiving financial assistance. Claims have also been made that rules permitting only full-time students to receive aid discriminate against women who are going to school while running a household.

### C. DISCRIMINATION IN ADMISSIONS

Of course, the area where discrimination affects the greatest number of women is in admissions—admissions to undergraduate, graduate, professional, and vocational institutions of education.

I am concerned that in 1970 the percentage of the female population enrolled in college was markedly lower than the percentage of the male population—40.5 percent of males between the ages of 18 and 21 were enrolled whereas only 28.6 percent of the females of the same age were enrolled. For the ages of 22–24 years, 20.6 percent of the males were enrolled whereas only 8.9 percent of the females were going to college. I ask unanimous consent that a more detailed table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PERCENT OF THE POPULATION 16 TO 34 YEARS OLD ENROLLED IN COLLEGE, BY AGE, RACE, AND SEX: OCTOBER 1970

[Civilian noninstitutional population]

| Age and sex | All races | White | Negro |
|---|---|---|---|
| Both sexes: | | | |
| 16 and 17 years | 3.4 | 3.5 | 2.1 |
| 18 to 21 years | 34.0 | 35.8 | 20.9 |
| 18 and 19 years | 37.3 | 39.3 | 21.8 |
| 20 and 21 years | 30.4 | 31.9 | 19.9 |
| 22 to 24 years | 14.3 | 15.1 | 7.0 |
| 25 to 29 years | 7.0 | 7.2 | 3.8 |
| 30 to 34 years | 3.7 | 3.8 | 2.6 |
| Male: | | | |
| 16 and 17 years | 3.4 | 3.5 | 2.0 |
| 18 to 21 years | 40.5 | 43.2 | 20.6 |
| 18 and 19 years | 40.2 | 43.1 | 17.6 |
| 20 and 21 years | 40.9 | 43.4 | 24.4 |
| 22 to 24 years | 20.6 | 22.0 | 8.0 |
| 25 to 29 years | 10.6 | 10.8 | 4.9 |
| 30 to 34 years | 4.8 | 4.8 | 3.6 |
| Female: | | | |
| 16 to 17 years | 3.4 | 3.4 | 2.3 |
| 18 to 21 years | 28.6 | 29.5 | 21.1 |
| 18 and 19 years | 34.6 | 35.7 | 25.4 |
| 20 and 21 years | 22.3 | 23.0 | 16.3 |
| 22 to 24 years | 8.9 | 9.2 | 6.2 |
| 25 to 29 years | 3.7 | 3.8 | 2.8 |
| 30 to 34 years | 2.6 | 2.3 | 1.7 |

Mr. BAYH. The reasons for disparity in enrollment are of course complex and by no means entirely due to overt discrimination. Surely some of these differences result from sex-role expectations in our society. However, there are indications that discrimination does exist at many schools. The 35 schools which are considered by one college handbook to be the most selective in the country, admitted a freshman class in 1970 which was only 29.3 percent female. This figure compares very poorly with the national admissions rate of 41 percent women. In the 25 leading graduate departments of history, rated by the American Council on Education, women comprised only 30 percent of 1970 first-year enrollees; in the 32 leading biochemistry departments, women comprise only 31 percent of 1970 first-year enrollees. I ask unanimous consent that two comparative tables be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

UNDERGRADUATE ADMISSIONS, 1970, TO THE MOST SELECTIVE SCHOOLS [1]

| School | Total | Men | Women |
|---|---|---|---|
| Amherst | 319 | 319 | |
| Barnard College | 460 | | 460 |
| Brandeis University | 453 | 248 | 205 |
| Brown University | 1,129 | 800 | 329 |
| Bryn Mawr College | 231 | | 231 |
| California Institute of Technology | 220 | 290 | 30 |
| CarletonCollege | 463 | 249 | 214 |
| Chicago University | 632 | 366 | 260 |
| Columbia College | 1,362 | 892 | 470 |
| Cornell University | 4,013 | 2,672 | 1,341 |
| Dartmouth College | 828 | 828 | |
| Harvard | 2,308 | 1,928 | 380 |
| Harvey Mudd College | (1) | | |
| Haverford | 179 | 179 | |
| Johns Hopkins | 780 | 505 | 275 |
| Massachusetts Institute of Technology | 948 | 857 | 91 |
| Middlebury College | 451 | 270 | 181 |
| Mount Holyoke College | 438 | | 538 |
| New College | 224 | 107 | 117 |
| Pembroke College (public) | 513 | 305 | 226 |
| University of Pennsylvania | 3,565 | 1,971 | 1,604 |
| Pomona College (public) | 1,083 | 647 | 436 |
| Princeton University | 980 | 803 | 177 |
| Radcliffe College | (2) | | |
| Reed College | 342 | 194 | 148 |
| Rice University | 577 | 429 | 148 |
| Oberlin College | 680 | 363 | 317 |
| St. John | 1,870 | 1,198 | 672 |
| Smith College | 644 | | 644 |
| Stanford | 1,395 | 885 | 510 |
| Swathmore College | 303 | 168 | 135 |
| Vassar College | 518 | 183 | 335 |
| Wellesley College | 469 | | 469 |
| Wesleyan University | 385 | 276 | 109 |
| Williams College | 342 | 324 | |
| Yale | 1,248 | 1,019 | 229 |

| | Percent of places for women | Men | Women |
|---|---|---|---|
| Total: | | | |
| Total admissions | 29.3 | 19,193 | 11,281 |
| Admissions to most selective coeducational institutions | 32 | 18,876 | 8,939 |

[1] The standards of selectivity are a measure of the scholastic potential of the student body, an indication of the hurdles a student will face in applying for admission, and the level of intellectual competition he will meet after matriculation. (Ratings were taken from James Cass & Max Birnbaum, "Comparative Guide to American Colleges," Harper & Row, 1970-71.)

[2] Not listed.

SELECTED GRADUATE ADMISSIONS—LEADING INSTITUTIONS, BY RATED QUALITY OF GRADUATE FACULTY—GRADUATE ADMISSIONS—HISTORY

| School | Total | Men | Women | Percent of places for women |
|---|---|---|---|---|
| Harvard [1] | [2] 41 | 33 | 8 | 21 |
| Yale | 38 | 29 | 9 | 24 |
| California (Berkeley) | 129 | 80 | 49 | 38 |
| Princeton | 22 | 19 | 3 | 14 |
| Columbia | 59 | 35 | 24 | 41 |
| Stanford | 23 | 19 | 4 | 17 |
| Wisconsin | 86 | 53 | 33 | 40 |
| Chicago | 67 | 44 | 23 | 34 |
| Michigan | 132 | 96 | 36 | 27 |
| Cornell | 19 | 12 | 7 | 37 |
| Johns Hopkins | 20 | 13 | 7 | 35 |
| California (Los Angeles) | 193 | 131 | 62 | 32 |
| Indiana | 76 | 46 | 30 | 40 |
| Northwestern | 8 | 6 | 2 | 25 |
| Pennsylvania | 13 | 11 | 2 | 15 |
| North Carolina | 66 | 39 | 27 | 41 |
| Brandeis | 26 | 18 | 8 | 30 |
| Brown | 12 | 9 | 3 | 25 |
| Duke | 48 | 36 | 12 | 25 |
| Illinois | 50 | 39 | 11 | 22 |
| Washington (Seattle) | 73 | 59 | 14 | 19 |
| Minnesota | 35 | 27 | 8 | 25 |
| Texas | 96 | 75 | 21 | 22 |
| Virginia | 90 | 60 | 30 | 33 |
| Rochester | 28 | 18 | 10 | 36 |
| Total | 1,450 | 1,007 | 443 | 30.4 |

GRADUATE ADMISSIONS—BIOCHEMISTRY

| School | Total | Men | Women | Percent of places for women |
|---|---|---|---|---|
| Harvard [1] | [2] 27 | 26 | 1 | 4 |
| California (Berkeley) | 25 | 18 | 7 | 28 |
| Stanford | 6 | 5 | 1 | 17 |
| Rockefeller | 4 | 4 | | 0 |
| Wisconsin | 29 | 21 | 8 | 28 |
| Cal Tech | 3 | 3 | | 0 |
| Massachusetts Institute of Technology | | | | |
| Brandeis | 11 | 8 | 3 | 27 |
| Cornell | 4 | 4 | | 0 |
| Johns Hopkins | 11 | 5 | 6 | 54 |
| California (Los Angeles) | 11 | 8 | 3 | 27 |
| Duke | 13 | 6 | 7 | 54 |
| Californis (San Diego) | | | | |
| Washington (Seattle) | 24 | 14 | 10 | 41.5 |
| Yeshiva | 1 | | 1 | 100 |
| Chicago | 7 | 6 | 1 | 14 |
| Illinois | 24 | 16 | 8 | 33 |
| Princeton | 6 | 3 | 3 | 50 |
| Case Western Reserve | 8 | 4 | 4 | 50 |
| New York University | 8 | 4 | 4 | 50 |
| Pennsylvania | 11 | 7 | 4 | 36 |
| Washington (St. Louis) | 7 | 4 | 3 | 48 |
| California (Davis) | 20 | 16 | 4 | 20 |
| Michigan | 12 | 9 | 3 | 25 |
| Yale | | | | |
| Columbia (New York) | 5 | 2 | 3 | 60 |
| Purdue | 44 | 28 | 16 | 36 |
| Michigan State | 40 | 26 | 14 | 35 |
| Minnesota | 16 | 12 | 4 | 25 |
| Indiana [3] | | | | |
| Vanderbilt | 4 | 3 | 1 | 25 |
| Oregon | 4 | 3 | 1 | 25 |
| Total | 385 | 265 | 120 | 31 |

[1] The ranking of institutions was taken from "A Rating of Graduate Programs" by Kenneth D. Roose and Charles J. Anderson, American Council of Education.

[2] 1st year enrollment figures were taken from "Students Enrolled for Advanced Degrees Fall 1970," by Mary Evans Hooper, Higher Education Surveys Branch, HEW.

[3] No graduate enrollment for 1970.

Mr. BAYH. More generally, a 1970 study of 240 random schools conducted at the University of Wisconsin indicated that at lower levels of ability, applications from men are markedly preferred over identical applications from women. Dr. Peter Muirhead, of the Office of Education, testified during the "1970 Hearings" that consistently higher records of female students at undergraduate and graduate schools "suggest a tendency to require higher standards of women for admissions."

For professional schools, Dr. Francis S. Norris testified during the same hearings that although the number of women applying for admission to U.S. medical schools increased by more than 300 percent between 1929–30 and 1965–66—while male applications increased by only 29 percent—the percentage of women applicants who were accepted actually declined during the same time period. I ask unanimous consent that a table documenting this fact be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ACCEPTANCE DATA ON MEN AND WOMEN APPLICANTS TO U.S. MEDICAL SCHOOLS FOR SELECTED SCHOOL YEARS 1929–30 TO 1965–66

| | Women | | | | Men | | |
|---|---|---|---|---|---|---|---|
| School year | Number of applicants | Number accepted | Percent accepted | As percent of total acceptances | Number of applicants | Number accepted | Percent accepted |
| 1965–66 | 1,676 | 799 | 47.7 | 8.9 | 17,027 | 8,213 | 48.2 |
| 1964–65 | 1,731 | 824 | 47.6 | 9.1 | 17,437 | 8,219 | 47.1 |
| 1960–61 | 1,044 | 600 | 47.5 | 7.0 | 13,353 | 7,960 | 59.6 |
| 1955–56 | 1,002 | 504 | 50.3 | 6.3 | 13,935 | 7,465 | 53.6 |
| 1950–51 | 1,231 | 385 | 31.3 | 5.3 | 21,049 | 6,869 | 32.6 |
| 1940–41 | 585 | 303 | 51.8 | 4.8 | 11,269 | 6,025 | 53.5 |
| 1935–36 | 689 | 379 | 55.0 | 5.5 | 12,051 | 6,521 | 54.1 |
| 1929–30 | 481 | 315 | 65.5 | 4.5 | 13,174 | 6,720 | 51.0 |

Source: The Journal of Medical Education, vol. 42 No. 1, January 1967, Association of American Medical Colleges, Datagram, vol. 7, No. 8, February 1966.

Mr. BAYH. In 1966–67, only 18 out of 89 medical schools in the country had more than 10 percent women students.

Admissions to vocational programs and institutions is another area where discrimination on the basis of sex can be documented. Unfortunately, the Office of Education does not keep complete statistics on the number of programs or classes which are restricted in terms of sex; however, a survey of city boards of education indicated that sex separation is the rule rather than the exception. In the State of Massachusetts, there are 17 secondary vocational schools for boys and three secondary vocational schools for girls. Although the board of education in New York City has tried to institute a coeducational policy where practicable, out of 25 vocational high schools, 12 are for boys only, and five are limited to girls. And in Detroit, I am told that all four vocational schools are for boys only. In addition, many new vocational classes which are run as part of an academic high school program are sex segregated.

The discriminatory effect of sex segregation in vocational education is that many fields which are designated for females such as cosmetology or food handling are less technical and therefore less lucrative than fields such as TV repair and auto mechanics "reserved" for males. And yet it is only tradition which keeps women out of these fields. Enrollment figures show that across the Nation, no field of study is limited to only one sex any more: enrollment in home economics programs was 13.3 percent male in 1969; enrollment in agriculture was 2 percent female in 1969. If women can receive agricultural, electronic, or mechanical training in some programs, they should be able to receive that same training in all programs.

### II. SUMMARY OF AMENDMENT

The amendment we are debating is a strong and comprehensive measure which I believe is needed if we are to provide women with solid legal protection as they seek education and training for later careers, and as they seek employment commensurate to their education. The amendment is designed to expand some of our basic civil rights and labor laws to prohibit the discrimination against women which has been so thoroughly documented.

### A. PROHIBITION OF SEX DISCRIMINATION IN FEDERALLY FUNDED EDUCATION PROGRAMS

Central to my amendment are sections 1001–1005, which would prohibit discrimination on the basis of sex in federally funded education programs. Discrimination against the beneficiaries of federally assisted programs and activities is already prohibited by title VI of the 1964 Civil Rights Act, but unfortunately the prohibition does not apply to discrimination on the basis of sex. In order to close this loophole, my amendment sets forth prohibition and enforcement provisions which generally parallel the provisions of title VI.

Under this amendment, each Federal agency which extends Federal financial assistance is empowered to issue implementing rules and regulations effective after approval of the President. These regulations would allow enforcing agencies to permit differential treatment by sex only—very unusual cases where such treatment is absolutely necessary to the success of the program—such as in classes for pregnant girls or emotionally disturbed students, in sports facilities or other instances where personal privacy must be preserved. Failure to comply with the regulations may result in the termination of funding. However, termination must be preceded by notice and opportunity for a hearing, as well as by a determination that voluntary compliance cannot be secured. The effect of termination of funds is limited to the particular entity and program in which such noncompliance has been found, and judicial review is provided under either specific legislation or the Administrative Procedure Act.

This portion of the amendment covers discrimination in all areas where abuse has been mentioned—employment practices for faculty and administrators, scholarship aid, admissions, access to programs within the institution such as vocational education classes, and so forth. The provisions have been tested under title VI of the 1964 Civil Rights Act for the last 8 years so that we have evidence of their effectiveness and flexibility.

My amendment allows some exemptions, pending the completion of more extensive investigation of certain specific problems. First, military and merchant marine schools, as well as religious institutions where compliance would not be consistent with the religious tenets of the organization, are exempted. In addition, the admissions policies of certain institutions of education are exempted until further study can be made. As a matter of principle, our national policy should prohibit sex discrimination at all levels of education. However, problems are presented by the fact that many schools—particularly private undergraduate schools of higher education—have established over many years an identity or tradition as single-sex institutions. As a result, they argue that a change such as requiring a sex-neutral admissions policy would be disruptive both in terms of the academic program and in terms of psychological and financial alumni support.

I do not have sufficient information to answer either of these claims. But since private institutions of higher education rely on private gifts and endowment income for 17.6 percent of their operating expenses and public moneys for only 6.8 percent of expenses—as opposed to public institutions which rely on public moneys for 52.5 percent of their operating expenses, and on private gifts and endowment for only 2.7 percent of expenses—it seems reasonable to allow time for a careful and specific study of the financial repercussions which these schools claim would occur if they were covered by this amendment. For instance, if private gifts decrease, is the Federal Government prepared to make up the difference to these schools?

In view of the problems described, one suggestion has been to exempt admissions policies for substantially single-sex schools. However, an exemption based on the standard of "substantially single sex" has many inequitable applications. For instance, a number of traditionally male schools have begun to admit women in the past few years—often against substantial alumni—hence, fiscal—pressures; others have not yet made the decision to become coeducational but they have been urged to do so. These schools which have made no effort to open their doors to women would be allowed to continue to discriminate under a single-sex exemption, while those schools which have begun to reform voluntarily would be subject to Federal controls which they might have avoided by being less progressive.

Thus it appears fairer to require all schools to adopt sex-neutral admissions policies. In any event, I believe specific hearings are needed to answer these questions which had not been raised at the time of the 1970 hearings. Since there are also a number of high schools which are single sex, a similar study is needed on the question of requiring them to admit students of both sexes. I have been amazed to learn that the Office of Education does not even keep statistics on how many elementary and secondary schools—even public schools—are restricted in admissions to one sex. After these questions have been properly addressed, then Congress can make a fully informed decision on the question of which—if any—schools should be exempted.

In the meantime, the amendment I am proposing covers admissions to institutions of graduate, professional, and vocational educational institutions and public undergraduate institutions. No one can argue that these schools have any justifiable reason to discriminate against one sex or the other. Admissions policies of other schools are temporarily exempted until further study can be made as to the feasibility of requiring that all admissions policies be sex neutral. For the purposes of such study the amendment requires that the Commissioner of Education conduct a study, with open hearings, on the desired extent of section 1001's coverage, and that he make recommendations to Congress by the end of next year on this question.

My view is that many of these exemptions will not be supportable after further study and discussion. In fact, I hope and expect that the prospect of this study will serve to remind educational institutions that the discussion of their admissions policies is not closed. There has been commendable progress by many institutions in the last few years, but we have a long way to go before the many injustices are corrected. In the meantime, there are other areas in education where the path to justice is clear and has not been followed.

### B. PROHIBITION OF EDUCATION—RELATED EMPLOYMENT DISCRIMINATION

Title VII of the 1964 Civil Rights Act has been extremely effective in helping to eliminate sex discrimination in employment. Unfortunately it has been of no use in the educational field, because the title by its terms exempts from its protection employees of educational institutions who "perform work connected with the educational activities" of the institution. Therefore, the second major portion of this amendment would apply title VII's widely recognized standards of equality of employment opportunity to educational institutions.

In addition, to make sure that both men and women employees receive equal pay for equal work, my amendment would extend the Equal Pay Act of 1963 to include administrative, executive, and professional workers, including teachers, all of whom are presently excluded. One of the purposes of the Higher Education Act is to encourage as many students as possible to seek a full education so as to be self-sufficient and contributing members of society. It is of little comfort for women to know that they are encouraged to further their schooling but that in spite of a fine education, they will be earning far less than male colleagues for the rest of their lives.

Both of these provisions to expand existing law and protect women were recommended by President Nixon's Task Force on Women's Rights and Responsibilities. The provision amending title VII was approved previously by the Senate, but since its fate in conference is uncertain, the provision has been retained in my amendment. I urge the Senate to approve both provisions so that two more pernicious and unfortunate loopholes in existing laws can be eradicated, and both academic and nonacademic women who have made the decision to seek higher education and specialized training can expect to receive both nondiscriminatory access to better jobs and equal pay for equal work.

### C. STUDIES OF SEX DISCRIMINATION

The third set of provisions in my amendment would require two different types of studies, a specific analysis of the effects of sex discrimination on educational institutions and students, and an ongoing review and analysis of the nationwide effects of the problems.

First, the Commissioner of Education would be required to make an immediate study of sex discrimination in education, just as he did for other forms of discrimination under title IV of the Civil Rights Act. This proposal was a priority of President Nixon's Task Force on Women's Rights and Responsibilities. This study by the Commissioner of Education would finally give us a clear picture of the exact nature of sex discrimination in education, its pervasiveness and its cost to society. In addition, the Commissioner's study would also provide an open forum for a thoroughgoing discussion of the proper role—if any—for single sex institutions of education. The Commissioner would be charged with submitting to Congress by the end of next year his report, together with the extent to which it would be advisable to eliminate the present exemptions under section 1001 of the amendment.

Second, for purposes of long term study and action, the U.S. Civil Rights Commission will have continuing authority to study and collect information, make investigations, and appraise the laws and policies of the United States concerning the denial of the equal protection of the laws by reason of sex, just as it now studies discrimination on the basis of race, color, religion, or national origin.

This part of my amendment was suggested by President Nixon's Task Force on Women's Rights and Responsibilities, and the President personally recommended this expansion of the powers of the Civil Rights Commission in his state of the Union address. Not only would study by the Civil Rights Commission assist us in determining where the most egregious discrimination lies, but it would provide an independent analysis of the wisest way to attack interrelated problems of discrimination in education, employment, and counseling or training. This Nation's need for a central clearinghouse and authority on all questions relating to sex discrimination has become very clear to me during my work on this particular amendment, the equal rights amendment, the Women's Equality Act, and the proposal to provide universal child care. Congress has already been asked to enact major pieces of legislation relating to women; in the next few years it will have to evaluate the progress made under this legislation and to consider new proposals. To insure a well-informed perspective, I believe we should expand the Commission's responsibility now to include the area of sex discrimination.

### D. SUITS BY THE ATTORNEY GENERAL

There are, of course, other loopholes in the Civil Rights Act where sex was not mentioned. To correct one more, this amendment would permit the Attorney General to initiate litigation concerning the denial on the basis of sex of admission to or continued attendance at a public college, and to intervene in litigation already commenced by others regarding the denial of equal protection of the laws on the basis of sex. The Attorney General already has both these powers in regard to discrimination on the basis of race, color, religion, or national origin; again sex was left out. President Nixon's Task Force on Women's Rights and Responsibilities recommended that these loopholes in the law be closed, so that the Justice Department can help develop case law in such a vitally important area.

### CONCLUSION

Many of the provisions of this amendment have been discussed on the Senate floor in the past. Some have been passed by either the House or the Senate.

But the simple, if unpleasant, truth is that we still do not have in law the essential guarantees of equal opportunity in education for men and women. When I proposed an amendment similar to this last August it was ruled "nongermane." Now I am coming back to the Senate with this comprehensive approach which incorporates not only the key provisions of my earlier amendment, but the strongest points of the antidiscrimination amendments approved by the House.

While the impact of this amendment would be far-reaching, it is not a panacea. It is, however, an important first step in the effort to provide for the women of America something that is rightfully theirs—an equal chance to attend the schools of their choice, to develop the skills they want, and to apply those skills with the knowledge that they will have a fair chance to secure the jobs of their choice with equal pay for equal work. I ask unanimous consent that a section-by-section summary of the amendment and a fact sheet be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### SUMMARY

### AMENDMENT NO. 874 TO THE HIGHER EDUCATION BILL, S. 659

SEC. 1001. *Basic Prohibition*. Provides that no person may be discriminated against on the basis of sex in any education program receiving Federal financial assistance, except that:

(1) in regard to admissions to educational institutions, this section shall apply only to institutions of graduate, professional, and vocational education, and to public institutions of undergraduate education, (2) admissions to institutions changing from single-sex to coeducational enrollment are exempt from this section for 7 years if operating under a plan approved by the Commissioner of Education,

(3) this section shall not apply to religious institutions where compliance would not be consistent with the religious tenets of such organization, and (4) this section shall not apply to military and Merchant Marine schools.

SECS. 1002–1004. *Enforcement and Related Provisions*. Each Federal agency which extends Federal financial assistance is empowered to issue implementing rules and regulations effective after approval of the President. Compliance may be effected by funds termination or other means. Termination must be preceded by notice and opportunity for hearing, and a determination that voluntary compliance cannot be secured. The effect of termination of funds is limited to the particular entity and program in which such noncompliance has been found. Judicial review under specific legislation or the Administrative Procedure Act is provided. Contracts of insurance or guaranty programs, such as FHA loans, are not altered. These provisions parallel Title VI of the 1964 Civil Rights Act.

SEC. 1005. *Employment Discrimination*. Amends the Civil Rights Act of 1964 to bring employment in public and private educational institutions within the coverage of the Equal Employment Opportunity provisions of Title VII. (Recommended by President Nixon's Task Force on Women's Rights and Responsibilities)

SEC. 1006. *Suits by Attorney General*. Amends Title IV of the 1964 Civil Rights Act by adding discrimination by reason of sex to the present grounds on which the Attorney General can initiate legal proceedings on behalf of individuals alleging that they have "been denied admission to or not permitted to continue in attendance at a public college." Also extends to cases of sex discrimination the Attorney General's power to intervene in litigation already commenced by others. (Recommended by President Nixon's Task Force on Women's Rights and Responsibilities)

SEC. 1007. *Study by Commissioner of Education*. Requires the Commissioner of Education to investigate sex discrimination at all levels of education (public and private) and report his findings, together with recommendations for action to guarantee equality of opportunity in education between the sexes. The report shall include a recommendation as to the feasibility of extending the requirement of Section 1001 of this Title to those institutions which are presently exempted, in whole or in part. (The study and legislative recommendations were recommended by President Nixon's Task Force on Women's Rights and Responsibilities)

SEC. 1008. *Civil Rights Commission Jurisdiction*. Broadens the jurisdiction of the Civil Rights Commission to include sex-based discrimination. (Recommended by President Nixon's Task Force on Women's Rights and Responsibilities and in the 1972 State of the Union Message.

SEC. 1009. *Equal Pay for Professional Women*. Amends the Fair Labor Standards Act by eliminating the present exemption of individuals employed in executive, administrative, or professional capacity from the equal pay for equal work provisions. (Recommended by President Nixon's Task Force on Women's Rights and Responsibilities).

SEC. 1010. *Preschool Inclusion*. Expands the definition of "enterprise" under the Fair Labor Standards Act to add "preschool" to the existing list of "elementary or secondary schools" as types of activities performed for a business purpose or engaged in commerce.

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### SEX DISCRIMINATION IN HIGHER EDUCATION

### FACT SHEET

Discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community." (Report on Higher Education, an independent task force report to HEW, funded by the Ford Foundation, 1971.)

40% of boys with high school grades of C or lower make it into college; only 20% of the girls with the same grades make it to college.

In the 35 most selective schools in the country (as rated by Cass & Birnbaum, Comparative Guide to American Colleges, 1970–71), women comprised only 29.3% of entering freshmen in 1970.

Although men and women need equal amounts of financial aid in college, the average awards to men are higher than to women:

| | Men | Women |
|---|---|---|
| Average single award (scholarship, loan, or job in the institution) | $760 | $518 |
| Average packaged award (grant with a job or loan) | 1,465 | 1,173 |

Note: Study by Education Testing Service, 1969-70.

Undergraduate grade averages for women are significantly higher than for men—34% of the women average A or A—, as opposed to 27% of the men; 41% of the men average less than B+, as opposed to 30% of the women. However, far more men than women get into graduate school, particularly professional schools:

[In percent]

| Degrees conferred in all fields, 1968-69 | Men | Women |
|---|---|---|
| Bachelors | 44.5 | 55.5 |
| Professionals (medical, law, theology, etc.) | 96.0 | 4.0 |
| Masters | 63.0 | 37.0 |
| Ph. D's., Ed. D., etc. | 87.0 | 13.0 |

"The bias against women professors and administrators in colleges and universities has denied both professional women a just opportunity for work and students a chance to observe 'model' of female achievement." (Report of the Women's Action Porgram, Department of Health, Education and Welfare, January, 1972.)

In 36 prominent law schools, only 35 out of 1625 faculty members are women, and 25% of these are librarians.

Highest faculty ranks are weighed with men; the lowest ranks with women:

| Present rank | Men | Women |
|---|---|---|
| Professor | 24.5 | 9.4 |
| Associate professor | 21.9 | 15.7 |
| Assistant professor | 28.2 | 28.7 |
| Instructor and below | 25.3 | 46.2 |

Note: From Simon & Grant's Digest of Educational Statistics, 1969.

Although female teachers hold the same qualifications, they often receive substantially less pay than their male counterparts:

The difference in median salaries for men and women is more than $3,000 in chemistry, physics, mathematics, economics, and the biological sciences.

In 1965-66, at the instructor's level, the median annual salary of women was $410 less than that of male instructors, at the assistant professor's level it was $576 less, at the associate professor's level $742 less and at the level of full professor it was $1,119 less.

The U.S. has far fewer women professionals than other countries:

According to Alan Pifer, president of the Carnegie Corporation of New York, only 3.5% of lawyers, 2% of dentists, 7% of physicians and less than 1% of engineers are women By contrast, in Sweden women make up 24% of lawyers, and in Denmark 70% of the dentists. In Britain, 16% of the physicians are women; in France, 13%; in Germany, 20%; in Israel, 24%; and in the Soviet Union, 75% of the physicians are women.

Mr. BAYH. Mr. President, I should like to explore further some of the hard facts which cause the Senator from Indiana to ask his colleagues to support this amendment.

I do not suppose many in this body, recognize the tremendous impact that sex discrimination has on our educational institutions today. Perhaps a few facts would bring this discrimination and its weight on society into better focus.

For example, if we look at the way boy and girl students are treated, it is interesting to note that 40 percent of boys with high school grades of C or lower make it into college, but only 20 percent of the girls with the same grades make it to college.

In the 35 most selective schools in the country, as rated by Cass and Birnbaum, in the study entitled "Comparative Guide to American Colleges 1970–71," women comprise 29.3 percent of entering freshmen in 1970; although men and women need equal amounts of financial aid in college, the average awards to men are significantly higher than awards to equally qualified women. For example, the average single award such as scholarships, loans, or jobs in an institution, to a man student in 1970 was $760, and to a woman student $518.

If we look at the broader types of financial assistance—various packaged awards, such as grants with jobs, or loans—it shows that the average such package award in 1969–70 to the average man student was $1,465 and to the average woman student it was $1,173.

I do not think we have any evidence at all to support the contention that it costs less to clothe, house, feed, and educate a woman. Yet there is obvious discrimination when it comes to passing out the scholarship dollars.

Looking at the degrees conferred in all fields, we find that women receive a slightly larger percent of degrees in the undergraduate fields, in the bachelor fields; but when we get into the graduate school fields such as medicine, law, theology, we find that 96 percent of the degrees go to men and 4 percent to women. On masters degrees, 63 percent go to men and 37 percent to women; of Ph. D.'s, in similar fields, degrees go 87 percent to men and 13 percent to women.

The other day I noticed that in 36 prominent law schools recently polled, only 35 out of 1,625 faculty members were women. Twenty-five percent of these were librarians. So it is not only a matter of administration of scholarships and loans, so far as discrimination is concerned. In addition, employment within the institution shows that discrimination does exist there.

Alan Pifer, president of the Carnegie Corporation of New York, conducted a study not too long ago and he pointed out that in this country, only 3.5 percent of lawyers are women, 2 percent of dentists are women, 7 percent of physicians are women, and less than 1 percent of engineers are women. That is the percentage of trained women utilized in these important skills in the United States of America.

Compare this, if you will, Mr. President, with the fact that in Sweden, women make up 24 percent of lawyers; in Denmark 70 percent of dentists; in Britain, 16 percent of physicians are women; in France 13 percent; in Germany 20 percent; in Israel 24 percent; and in the Soviet Union 75 percent of the physicians in that country are women.

So what this measure does is to strike a death blow at discrimination where it is most severely felt, where there is discrimination against women in having equal access to the kind of education they need to provide for themselves and their families.

### THE STATUS OF WOMEN

Mr. President, as a background for my amendment, No. 874, to the higher education bill which would prohibit discrimination on the basis of sex in education, I am submitting a paper on the status of women which was recently given by Dr. Bernice Sandler before the annual meeting of the Association of American Colleges. Dr. Sandler is presently the executive associate and director of the project on the status and education of women for the Association of American Colleges; she previously earned an outstanding reputation in the field of women's rights as compliance officer of the Women's Equity Action League—WEAL—which has filed more than 260 complaints against American universities and colleges alleging discrimination on the basis of sex.

Dr. Sandler has been working on the problem of sex discrimination in academia for several years and has a wide perspective on the problems which confront women in education. I ask unanimous consent that her paper "The Status of Women: Employment and Admissions" be printed in the Record at this point in hopes that it will be instructive to those Senators who wish to study the subject in more detail.

There being no objection, the paper was ordered to be printed in the Record, as follows:

### The Status of Women: Employment and Admissions

(By Dr. Bernice Sandler)

For many of us, the words "women's liberation" evoke images of radical, man-hating, bra-burning women. My friends in the women's movement—and many of them are married, to men—tell me that bras were never burned, and that the more serious and important activities of the women's movement rarely get the attention of the press.

Women and men too are becoming increasingly concerned and aware about discrimination in education. How many of us know that formal charges of sex discrimination have been filed against more than 360 colleges and universities in the past two years? How many of us know that none of these charges have yet been refuted by the Department of Health, Education and Welfare in its subsequent investigations? Some of our finest institutions have been charged—Columbia University, Harvard University, Yale University, the University of Michigan, the University of Wisconsin, the University of Minnesota, the University of Chicago, and the entire state university and college systems of the states of New York, California and Florida.

I don't want to imply that these institutions or any others that I mention today are worse than others for they are not, or that our campuses are worse than the rest of society. But certainly, of all the areas in our society that have come under criticism for its treatment of women, the most frequent target has been higher education. Perhaps because education holds out the promise of equality and equal opportunity, women are most angry. They have discovered that the promise, for them, is broken, and that the myth of equality is just that—a myth. They were told that education is a woman's field, and they have now seen study after study, report after report which clearly indicate that women are second-class citizens on the campus. The anger and the discontent of women are sharpest in academia.

Half of the brightest people in our country—half of the people with the capacity for the highest intellectual endeavor—are women. Hearings before Representative Edith Green's Special Subcommittee on Education showed that these women will find it difficult to obtain the same quality education that is the birthright of their brothers; these talented girls and women will encounter discrimination after discrimination as they try to use and develop their talents in the university world.

Representative Green's hearings documented that women are discriminated against when they first apply for admission; when they apply for scholarship and financial aid; when they apply for positions on the faculty. In too many institutions, if hired, they will be promoted far more slowly and receive less money than their male counterparts, even though the women are equally qualified.

Discrimination in the academic community is so widespread that many women say it is a national scandal. Yet until very recently it has gone unnoticed and unchallenged.

Despite the academic myth that things have been getting better for women, the position of women on the campus is NOT improving: it has been deteriorating steadily for years. The percentage of women graduate students is *less* now than it was in 1930. The expansion of faculty in the postwar period was largely one of male expansion: the proportion of women faculty has dropped continuously over the past one hundred years, from a third of the positions in 1870 to less than a fourth today. In many of the most prestigious institutions, women faculty are less than 10%. Many institutions have a lower proportion of women faculty NOW than they did in 1930. Even worse, at least one prestigious mid-Western university has a lower proportion of women on its faculty now than it did in 1899.

In June and July of 1970, Representative Edith Green, Chairman of the House Special Subcommittee on Education, held extensive hearings on discrimination against women, the first ever held that dealt directly with sex discrimination in education. These hearings documented a widespread and massive pattern of discrimination against women at every level, and confirmed what many academic women had known for years: that things were very bad, and that they were getting worse, not better.

Women are far more likely to be hired by the lower-paying, less well-known institutions. When they are hired, they are likely to be promoted far more slowly than men. The higher the rank, the fewer the women. Women are 32% of the instructors, 19% of the assistant professors, 15% of the associate professors, 8% of the full professors, and very few of the departmental chairmen. Study after study has documented the fact that women with the same qualifications as men are hired less frequently, promoted more slowly, and receive less pay than their male colleagues. Ninety percent of the men with doctorates and 20 years of experience will be full professors; for women with the identical qualifications, barely half will be at that rank.

Salary differences are the rule, rather than the exception. At one Western state university, for example, women earned an average of 15–20 percent less than their male colleagues. At a large state university in the Midwest, the differences averaged 32%, and in some instances it ranged up to 50% less. At one large Eastern institution, statisticians on a Women's Faculty Rights Committee estimated that by keeping women in low-level teaching and staff positions, the university saved 2–4 million dollars annually. While this is admirable from a budgetary standpoint, it represents money that should have been paid to women but was not.

Some of you may ask if the reason for the low pay and the lower rank is that perhaps women are not as well-qualified as the men. Several studies have examined academic criteria in great detail, such as the number of books published, number of articles written, papers read at meetings, honor, and the like, and still women earn less and are promoted more slowly. At one university a sophisticated statistical analysis which examined a variety of these factors concluded that all other things being equal, a women's sex cost her $845 per year, even though identically qualified. At another institution a similar analysis showed that women equally qualified to men earned an average of $100 per month less.

Should anyone think that academic women are really not as well-qualified as academic men, I refer you to studies such as the one done by the National Academy of Science which reported that women doctorates have somewhat greater academic ability than their male colleagues.

Supposedly, women marry, retire from academic life and waste their years of expensive training. Supposedly, they just aren't as committed to work the way men are. The facts do not support this myth: fully 91% of women doctorates work, 81% of them full-time, and 79% of them had not interrupted their careers in the ten years after they got their doctorate. Lest you think that 91% working is not a satisfactory figure, let me point out that only 81% of all men work, and of men with doctorates, only 69% work full-time in their field of study. One of the witnesses, at Representative Green's hearings put it succintly when she pointed out that women do not undergo the rigors of graduate training in order to become more charming wives or companions. They want degrees for the same reasons that men do: for a professional career. What is truly amazing is that women are indeed committed to their work, despite the fact that they can look forward to working in lower positions, at less prestigious institutions, with less pay, and a slower rate of promotion than their male counterparts.

Academic myths about women do not die easily or fade away. One of the more popular myths is that women don't publish as much as men. Research data show that the differences are very slight. In fact, married women published more than men, although unmarried women published slightly less.

Still another myth is that there is a "shortage" of qualified women. This is the reason given for the lack of women on the campus. Of course, if there were no discrimination in admissions, there would be more qualified women available. Still, on too many campuses, women are not hired in any number approaching the actual number of doctorates awarded to women.

Let me give you an example. In psychology, women receive 23% of all doctorates; that is about the same percentage of women listed as psychologists in the National Register of Scientific and Technological Personnel. In 1970–71 at Rutgers, the percentage of women faculty in psychology was 9%; at the University of Maryland, 6%; at the University of Wisconsin, 3%; at Columbia University, zero percent, despite the fact that Columbia awarded about 36% of its own doctorates in psychology to women. These are fairly typical figures; these institutions are no worse than others. At one well-known California institution, the two women hired this year were the first females hired for the faculty of the psychology department since 1964. The problem is not limited to psychology or to the institutions named. It is a pattern that can be found in institution after institution, in department after department.

The more prestigious and better known the institution, the worse the status of women. Women are far more likely to end up at the lesser known institutions and in junior colleges, where they constitute 40% of the faculty, and where the opportunity for research and professional advancement are less, and where the salaries are lower.

Sometimes women are not hired because they are supposedly poorer risks in terms of greater absenteeism and have a supposedly higher rate of turnover. That, too, is a myth. Forty-five percent of women doctorates had the same job in the first ten years after they received their degrees, 30% had changed their job only once in the ten years. Several studies indicate that academic women are less likely to change their jobs than men.

The Women's Bureau of the Department of Labor analyzed absenteeism and high turnover rate and found that turnover and absenteeism were more related to the level of the job and to factors other than sex. Unskilled jobs had the highest turnover and absenteeism; at the professional level, turnover rate and absenteeism decreases and is the same for both sexes. As a matter of fact, men lose more time off the job because of hernias than do women because of childbirth and pregnancy.

In administration, women are virtually non-existent. Few women head departments other than the strictly "female" fields such as home economics and nursing. The number and percentage of women in administrative positions is less NOW than it was 25 or even 10 years ago. Of the 50 largest academic libraries, not one is headed by a woman. Women college presidents are decreasing; even many women's colleges are openly looking for a male president. If you know any young woman who would like to be a college president—and why shouldn't a young woman aim at this?—the best advice would be "get thee to a nunnery," for almost all of the women presidents are at the Catholic institutions. In fact, if it were not for the Sisters, the number of women college presidents would be less than the number of whooping cranes. Less than 1% of our college presidents are women; perhaps we ought to declare women presidents as an endangered species.

In the larger, well-known institutions, there are approximately three women who are academic deans. This represents an enormous increase from last year when there was only one.

Academic policies are often discriminatory in their effect. Nepotism rules—written or unwritten—almost always limit the wife's ability to hold a comparable job at the same institution as her husband. Often the rules are circumvented to allow her to be hired but at a lower rate of pay, with no possibility of tenure, and often with no fringe benefits. Recently, Stanford, Oberlin, and the Universities of Michigan, Maine and Minnesota have revised or abolished their nepotism rules so that husbands and wives can work in the same institutions and in the same department, provided that both meet the standards of employment and that neither is involved in making employment decisions about the other.

Fringe benefits also penalize women. On some campuses, wives of faculty members can get maternity coverage on their health insurance, but women faculty members cannot get the same benefit. In other places, women cannot use sick leave for childbirth, nor do they retain their job if they leave, even for a short period for childbirth or childrearing. Women who leave their jobs for a year or two of childrearing are viewed very differently from the young men who spend two years away from their job because of the draft.

Similarly, TIAA and other retirement benefits, based on actuarial tables, pay women less, even though they have contributed the same amount as the men they have worked alongside. The rationale is that women live longer. However, the mortality gap between whites and blacks is far greater than that of men and women, yet we would all be up in arms if insurance companies were to have differential benefits based on race.

Discrimination against students is equally widespread. Girls need higher grades and higher test scores to get into colleges. Although the percentage of women undergraduates has been increasing since the 1950's so that it is now 41% it is still less than the percentage of women undergraduates that we had in 1920, when girls were 47% of the undergraduates, or in 1899, when 53% of all undergraduate degrees went to women. Oberlin, which was the first college to admit women in 1837, has a lower proportion of women students now than it had in its undergraduate class of 1899. Penn State University is not unusual with its artificial quota of 2½ men to every woman.

About 75–90 percent (depending on the particular study) of the well-qualified students who do not go on to college are women. The proportion of boys who make it to college despite high school grades of C or lower, is double that for girls, 40% to 20%. In one study done by researchers at the University of Wisconsin, bogus applications were sent to 240 institutions, with the sex of the applicant varying, so that in some instances the applicant was listed as male, and in others, female. Males were preferred over females, particularly at the low ability level. At the high ability level there was little difference—at the undergraduate level the exceptionally gifted woman will not face very much discrimination in admission. But since most students are not exceptionally gifted, and indeed more students are in the "low ability" group, it is clear that many women are discriminated against in admission. Essentially, many institutions place a ceiling on the number of qualified women they will admit, while permitting admittance of men with lower qualifications. One woman bitterly phrased it this way: "Admission to college is not based on ability only, but also on the particular set of reproductive organs that one possesses. Such artificial quotas based on sex hurt women just as much as artificial quotas based on race hurt minorities."

One way in which education is denied to girls is through the excuse of dormitories or the lack of dormitories: "We'd love to have more girls but we just don't have the room for them." Yet dormitories, like hotels, apartments and houses, are not built any differently for one sex or the other. When Yale converted some of its previously all-male dormitories for women students, it only added new locks and full-length mirrors. Even the presence of urinals in previously all-male dormitories has posed no problems for inventive women students at other institutions: the urinals make marvelous planters and the university is spared the expense of removal. Dormitories can easily be changed from one sex to the other merely by administrative fiat, unless one wants to arbitrarily limit the number of women students. All that is really needed is adding the letters W–O in front of the word "MEN." Women's groups have noted that some institutions that claim a shortage of dormitories for women often refuse to let their women students live off-campus, although men students have that privilege.

On too many campuses, women students are treated differently, with far more restrictions in terms of hours and the freedom to live off-campus. Gynecological services are not available for women students, although urological services are available for male students. On some campuses women students clean their own dormitories, while men's dorms are provided with cleaning services. Many students are denied leave for pregnancy and childbirth. Honorary societies are often segregated by sex, with the men's honoraries being far more prestigious than the women's. On at least one campus, the women need to be better qualified for admission to the women's honorary than the men need to be for admission to the men's honorary.

Women students, like women faculty, are enveloped in blanket of myths. They are believed to have a higher attrition rate than men. Yet, the percentage of entering women undergraduates who graduate in four years is 15% higher for women than for men. At the graduate level, attrition for all students is usually higher in the humanities where there are more women concentrated. When data on attrition are collected by departments, the differences between men and women are much smaller, and in some instances are higher for men than for women. Add to this equation the lower amount of financial support and the lack of encouragement afforded to women students and the wonder is that the rate of continuation is as high as it is. At the graduate level particularly, mobility may play havoc with the statistics. I myself took graduate work at five separate institutions as my husband and I moved about. Undoubtedly, I'm listed as a dropout in the first four universities.

Another myth is that men do better in school. Yet at the University of Michigan, for example, girls had higher GPA's than boys as well as a higher success rate in completing the degree within four years.

Perhaps most serious of all is the lack of encouragement given to young women students. Too many of our brightest women have lower aspirations when they leave college than when they were freshmen: girls who wanted to become doctors decide to become medical technicians instead; a prospective biologist decides to become a high school science teacher, an aspiring writer becomes an editorial secretary.

Many young women are actively or subtly discouraged from considering serious academic or professional endeavor. Professors are not exempt from believing erroneous stereotyped notions about women students. Women are sometimes denied admission to graduate school because of logic like this: "If she's NOT married, she'll get married." "If she *is* married, then she'll probably have children." "If she has children, she can't possibly be committed to study." "If her children are older, then she's too old to begin training, and what a pity it is that she didn't start sooner."

Supposedly, education is wasted on women for they marry and give up their careers. Yet the truth is that 70% of women college graduates work. The average working woman today is married. More than half the mothers of school-age children work. Women are nearly half of the labor force, about 40%. At age 35, women with husbands can expect to work fully 24 years. At the same age, 35, women who are widowed, separated or divorced, have a worklife expectancy of 28 years, only a half year less than a man of the same age.

Sex discrimination is the last socially acceptable prejudice. Sex prejudice is so ingrained in our society that many who practice it are simply unaware that they are hurting women. Much of it is unconscious and not deliberate. A department chairman who would not dream of advertising for a "white professor" see nothing wrong in advertising for a "male professor." He sees nothing wrong in asking his colleagues if they know of a "good man" for the job. He sees nothing wrong in paying a woman less because she's married and therefore doesn't need as much, or paying her less because she's not married, and therefore doesn't need as much.

Many of the most ardent supporters for civil rights of blacks, Indians, Spanish-speaking Americans and other minorities simply do not view sex discrimination as "real" discrimination. They fail to notice that half of each minority group are women. I am reminded of a program for disadvantaged students which provided a transitional year at one of our major universities.

All 30 of the disadvantaged students turned out to be male. Too often helping minorities has meant helping minority males only, and helping women has meant white women only. It helps minority women little to say that the reason we keep them out of a program is not because of their race, but just because of their sex. Representative Shirley Chisholm, and Pauli Murray, a noted Negro civil rights attorney, have both stated that they have suffered far more from being a woman than from being black.

Sex discrimination on the campus is real. I could tell you of women who have been "temporary" employees for more than ten years; of women who have been assistant professors, without promotions, for more than twenty years; of women who earn as little as half of what their male colleagues earn, and yes, even of women who have worked for no pay at all. And I can tell you of letters that say "Your qualifications are excellent, among the best we've seen. But frankly, we're looking for a man for this position. I hope you won't consider that discrimination."

Such discrimination against half of our citizens is wasteful and shameful. But it is all legal. There are no federal laws that forbid such discrimination. Title VII of the Civil Rights Act of 1964 which forbids sex discrimination in employment exempts faculty in educational institutions. Title VI of the same Act forbids discrimination in federally assisted programs, but it only applies to race, color and national origin, not sex. The Equal Pay Act excludes professional, executive and administrative employees. Even the U.S. Commission on Civil Rights has no jurisdiction over sex discrimination; it is limited by law to matters pertaining to race, color, religion and national origin, but not sex.

The only remedy that women have is the Executive Order which forbids federal contractors from discriminating. It does not cover universities or colleges that have no federal contracts, nor does it cover discrimination against students. It is an administrative remedy at best, and does not have the status of law. Moreover its enforcement by the Department of HEW has been the subject of bitter criticism on the part of institutions and women. Several women's groups have even called for a Congressional investigation of HEW's handling of the sex discrimination investigations on the campuses.

Nevertheless, as word has gone out to the academic community that institutional pocketbooks may well be endangered through the loss of contract funds, and as women on the campus have begun to exert pressure for change, administrators on many campuses are beginning to take a new look at the status of women on their campus, and to develop affirmative action plans for women. Women are a new advocacy group on the campus. Women students, staff and faculty are banding together, and asking for fair treatment, and they will be satisfied with nothing less than that. In the years to come women will be far more militant than previously. The so-called "dumb blonde" is disappearing like the so-called "Uncle Tom" of yesteryear. We can expect to see more women who are unashamed to use their mind to the fullest, women who care, women who do women who are full human beings and not the empty caricatures of the mass media.

Just as we have had to make a conscious, deliberate effort to end racial discrimination, all of us will have to make a conscious, deliberate effort to change the barriers that deny women education and equal employment opportunity.

Women themselves will take an active role in struggling against discrimination. They are forming new groups on the campus and in their professional organizations, despite the fact that on some campuses it is still dangerous to fight sex discrimination. I know of numerous women whose jobs were terminated, whose contracts were not renewed, and some who were openly and directly fired for fighting such discrimination.

Hardest of all to change will be our own attitudes and assumptions about women, about what women are really like, what women really want, and what women really need. We—women and men both—are going to have to work with women in ways in which we perhaps have never done before, in full partnership. Our society is such that we have all been trained so that women and men can only relate to each other as marriage partners, as lovers, or in an up-down relationship, such as the male boss and the female assistant.

If we are to come to grips with the problems of population control, we are going to have to train our young women to do something else with their lives other than extensive childrearing. If the only alternative to childrearing is discrimination in education and a low-paying job, then, despite the increase in birth control information and the dissemination of the pill and other devices, too many women will continue to choose to have too many babies.

The lives of men and women are inextricably joined together. We cannot escape each other, nor do we wish to do so. We are wife and husband, mother and son, father and daughter. The women's movement affects us all. It is not going to be a passing fad or a flash in the pan, because so many women care, and so many men care, too.

Our society changes slowly. Old roles persist side by side with new roles. All of us, women and men, will need compassion and patience as we grope together to work out the problems that arise as women's traditional roles shift toward greater equality of opportunity. It will not be easy, but we have no other choice. No longer will women weep when discrimination hurts. No longer will women grow bitter when denied the opportunities that are the birthright of their brothers. For women have something else to do. They are learning that the hand that rocks the cradle can indeed rock the boat. And the campus will never be the same.

Mr. BEALL. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. WEICKER). The Senator from Maryland is recognized for 5 minutes.

Mr. BEALL. Mr. President, to supplement the statistics cited by the Senator from Indiana—and I compliment him on his amendment—we are all anxious that the barriers which exist against equal treatment on account of sex be eliminated from our society today. It is interesting to note that while over 50 percent of high school graduates are women, yet 40 percent of college undergraduates are women and only 10 percent of doctoral candidates are women.

There are, of course, many coed schools which have a quota system detrimental to women. Only this morning I heard a radio broadcast to the effect that some schools have a quota system requiring a higher standard of admission for women candidates than for men candidates.

It is also interesting to note that women graduate students, as a percentage, is a lower figure than in 1930. But we also learn that among graduate students in the arts and sciences, 68 percent of the women who had undergraduate training had grades on the average of B or better, and only 34 percent of men measured up to that standard.

Mr. President, the U.S. Office of Education, for instance, states that women account for one-fifth of the Nation's 53,000 faculty members, but recent surveys show that 35 percent of faculty women are at the rank of instructor, which is the lowest on the academic ladder, while 9 percent are full professionals. Among male faculty members, 16 percent are instructors, and 75 percent are full professors.

This further illustrates the need for legislation in this area. But I would say also to the Senator that there is a precedent for this kind of action. Under the Health Manpower Act—Public Law 92–157—passed in 1971, under the jurisdiction of the Health Subcommittee of the Committee on Labor and Public Welfare, a similar amendment—not similar in wording but in intent—was added to the legislation to make sure there was no sex discrimination where the Federal Government was involved in assisting medical schools in dealing with serious problems of increasing the availability of health manpower. So we have established a precedent for this type of amendment, and I am hopeful that the Senate will proceed to adopt it as it may be further amended.

Mr. BAYH. Mr. President, I certainly appreciate the helpful contribution of the Senator from Maryland. He emphasizes even further the size of the problem we have to solve and I appreciate his contribution very much.

I do want to mention one other matter of some significance, for myself and our colleague from New York (Mr. JAVITS). I feel a responsibility to deal with one aspect of the pending amendment.

For various reasons, the Senator from Indiana has excepted military schools from the provisions of this measure, but I hasten to point out that from the standpoint of the Senator from New York (Mr. JAVITS)—and I share his concern—this amendment in no way lessens or affects the authority that institutions run by the U.S. Government in the military area now have to provide educational opportunity for women students. This matter is being debated now; this amendment should not affect that debate.

Frankly, as one Member of the Senate, I hope that women who want to follow a military career have the opportunity to get the best education available to permit them to reach the top of that profession. But this measure which is presently before us does not apply to military institutions in the various States. On my own behalf, and on behalf of the Senator from New York (Mr. JAVITS), I want to emphasize that this in no way lessens the responsibility of those who are presently charged with administering our Federal military academies to provide education for women applicants.

The PRESIDING OFFICER. Who yields time?

Mr. BEALL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be divided equally between both sides.

Mr. BENTSEN. Mr. President, would the Senator withhold that request.

Mr. BEALL. Mr. President, I withhold my request.

Mr. BENTSEN. Mr. President, I offer perfecting amendment No. 948 to the amendment under consideration and ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Until all time has been yielded back or used, it would not be in order for the amendment to be accepted by the Chair. Do the Senator from Indiana and the Senator from Maryland yield back their time?

Mr. BEALL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided between both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Am I right in saying that a private undergraduate institution which seeks to limit admissions to all of one sex, or a limited amount of one sex, would be excluded from the provisions of the amendment of the Senator from Indiana?

Mr. BAYH. The Senator is correct. This amendment does not apply to the admissions policies of private undergraduate institutions.

Mr. PELL. Thank you. Sections 1001 (a) and (b) include all educational institutions which receive Federal assistance. This includes elementary and secondary schools as well. With regard to private undergraduate colleges, the Senator has excluded from coverage their admissions practices. Does the same exclusion apply to nonpublic institutions at the elementary and secondary level?

Mr. BAYH. At the elementary and secondary levels, admissions policies are not covered. As the Senator knows, we are dealing with three basically different types of discrimination here. We are dealing with discrimination in admission to an institution, discrimination of available services or studies within an institution once students are admitted, and discrimination in employment within an institution, as a member of a faculty or whatever.

In the area of employment, we permit no exceptions. In the area of services, once a student is accepted within an institution, we permit no exceptions. The Senator from Rhode Island asked about admissions policies of private secondary and primary schools. They would be excepted.

Mr. PELL. That is in the area of nonpublic elementary and secondary schools.

Mr. BAYH. The Senator is correct. Ths is one of the exceptions.

Mr. PELL. Mr. President, do I understand the Senator to say that the faculty of private schools would have to reflect a sexual balance?

Mr. BAYH. This amendment sets no quotas. It only guarantees equality of opportunity. The Senator from Indiana cannot be sure about the sexual balance in any faculty, but as far as employment opportunities are concerned, the answer would be "Yes."

Mr. PELL. The Senator means that a private school for girls, for the sake of argument, would have to accept men teachers, or vice versa?

Mr. BAYH. Someone would have to prove that they did discriminate against teachers first. The Senator is correct insofar as he is saying that discrimination on the basis of sex would be forbidden.

Mr. PELL. Would this apply to a parochial school where they have nuns as teachers?

Mr. BAYH. No. There is an explicit exception for educational institutions controlled by a religious organization.

Mr. PELL. What about a boys' prep school? Would there have to be women on the faculty there?

Mr. BAYH. The answer is "Yes." That does not guarantee a balance, as the Senator knows. However, if discrimination can be proven, the answer is "Yes."

Mr. PELL. Mr. President, I refer to a preparatory school such as Peekskill Military Institute which is at the high school level. Would that school be expected to have women teachers?

Mr. BAYH. I am not sure. Is this a military school?

Mr. PELL. It is a military school. However, it is at the high school level.

Mr. BAYH. All military schools are excluded.

Mr. PELL. The overall merit of the Senator's proposal is good. As the Senator knows, I said to him earlier that I intended to support the position he has advocated in conference with the House. He has chosen to bring the amendment before the Senate now. As floor manager of the bill, noting the particular point that we have just covered, and with the understanding that the Bentsen amendment will be accepted, I would recommend to the Senate that we accept the Bayh amendment.

Mr. BAYH. Mr. President, as I said earlier, the military schools are excluded, not because of the feelings of the Senator from Indiana, but because I think this exception will greatly increase the chance of getting the measure passed. Frankly, I do not see a very great amount of discrimination going on in this area. It is isolated discrimination. I would rather have the program across the board than have an exception. However, there are a few isolated instances where a girl might want to get into a military school.

Mr. BEALL. Mr. President, the minority side is willing to accept the amendment. For myself, I hope it is the intent of the Senate in adopting the amendment that we are desirous of eliminating the sex discrimination that has taken place in education. As we eliminate this, I hope that we are not establishing still another form of bias. I hope that what we are saying is that we want everyone to be treated fairly and equally so far as the requirements for admission or employment are concerned. We do not answer that by saying that we want to have the faculty composed 50 percent of women and 50 percent of men.

Mr. BAYH. I appreciate the Senator's bringing out that point. I had said earlier that amendment does not require a 3 percent or a 55 percent balance. It tries to speak directly in regard to women students who do want access to institutions.

There is no way we can or want to force women to attend an institution they are not capable of attending. Let everyone go to the schools they are qualified to attend.

### BPW SUPPORTS THE BAYH AMENDMENT

Mr. BAYH. Mr. President, the Business and Professional Women's Clubs have provided essential support to major legislation affecting women and have led the effort to inform women across the country about bills which directly affect them.

I ask unanimous consent that a letter from the National President, Osta Underwood, in support of my amendment No. 874, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The National Federation of Business and Professional Women's Clubs, Inc. of the United States of America,
*Washington, D.C., February 28, 1972.*

The Honorable Birch Bayh,
*U.S. Senate,*
*Washington. D.C.*

Dear Senator Bayh: The National Federation of Business and Professional Women's Clubs, Inc. is pleased to add its strong support to the amendment, No. 874, which you intend to propose to S. 659, the Higher Education Act. It has long been the goal of our organization to eliminate all traces of discrimination on the basis of sex in education, as well as in other areas of American life. Your amendment would go a long way toward making that goal a reality.

We believe that discrimination solely because of sex is indefensible anywhere it is practiced. But sex discrimination in education is particularly damaging because it places limits, often at a very early age, upon women which restrict them from achieving their full potential and from making important contributions to our society.

As the President's Task Force on Women's Rights and Responsibilities pointed out in its report, "A matter of Simple Justice": "Discrimination in education is one of the most damaging injustices women suffer. It denies them equal education and equal employment opportunity, contributing to a second class self image."

Women are not encouraged to enter colleges and universities. When they do, they may be welcome to major in the humanities, education, library science, nursing, or the social sciences, but they often are discouraged from pursuing studies in science, mathematics, business administration—areas in which they could expect better positions and higher pay in our technological society.

In a less obvious, direct fashion, schools reinforce family and societal patterns which fashion discrimination from kindergarten through graduate school. Women are subtly (and sometimes not so subtly) discouraged from pursuing careers other than marriage and home. They are not counselled to seek professional careers in the way that men are, nor are women encouraged in professional excellence. Too often, teachers and textbooks reinforce stereotype male and female images that inhibit personal development and fulfillment (for males and females both, for that matter, since poetic and artistic talent is often discouraged in men as being too feminine, in the same manner that science and engineering are discouraged in women).

According to the "Report of the Women's Action Program," U.S. Department of Health, Education, and Welfare: "Women seeking higher education at both undergraduate and graduate levels are subject to unequal consideration and treatment by colleges and universities—in admissions, in the classrooms, in financial aid and fellowships, and in continuing education opportunities." This report also points out that vocational education and job training programs perpetuate a sex-typed role of women and that women do not have the same opportunity for vocational training and employment offered to men.

While we do not hold educational institutions entirely to blame for this situation, they could and should assume some leadership to remedy the attitudes which exist in our society. Certainly, strong legislation in this area by Congress would help in this regard. It is long overdue.

While we were appreciative of the fact that the House-passed Higher Education Act made some steps toward eliminating sex discrimination in education, we were most disappointed that undergraduate institutions were exempted entirely from the ban on sex discrimination in Federally-funded education programs. We do not believe the Federal Government should finance *any* program under which discrimination on the basis of sex is permitted.

Your amendment, which covers admissions policies of institutions of graduate, professional, and vocational education and of public undergraduate education, and which calls for a study by the Commissioner of Education of sex discrimination at all levels of education, both public and private, is, in our opinion, a great improvement on the House-passed version. We assume this study would also cover the problems of sex discrimination in military and Merchant Marine schools. Education at these schools, which are now barred to women interested in military careers, is most important to the upward mobility of men in the services.

Your proposal to permit the Attorney General to initiate legal proceedings concerning denials of admission to or continued attendance at public colleges for reasons of sex discrimination is much needed. The Attorney General now has the right to do this in cases of discrimination on the basis of race, color, religion, and national origin. It is only logical that this authority be enlarged to include sex, which is no less discriminatory.

Because our organization is composed entirely of working women—our members number about 175,000 and live in all the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands—we are naturally greatly concerned with the discrimination against women in employment. Thus, we are wholeheartedly behind those provisions of your amendment which would make sex discrimination in employment illegal.

Since women in large numbers major in education and pursue careers in that field, we think the extension of coverage under Title VII of the Civil Rights Act of 1964 to teachers in both public and private institutions is especially important. Teaching is the largest single professional occupation for women, but the salaries of women teachers are less than those for men at all levels.

We note, too, that disproportionately fewer women are hired as professors and administrators in institutions of higher education, and that the trend appears to be away from employing women in administrative positions in elementary and secondary education—the better paying and more responsible positions. We agree with the observation in the Report of the Women's Action Program that "bias against women professors and administrators in colleges and universities has denied both professional women a just opportunity for work and students a chance to observe 'models' of female achievement." This is true, we believe, at elementary and secondary school levels as well.

The extension of the Equal Pay Act of 1963 to executive, administrative, and professional employees has long been a goal of our Federation. We supported the very first major Equal Pay Act, which was introduced at the end of World War II, and we continued our support until 1963, when a bill was finally passed. At that time, in order to secure passage of the bill, we accepted half a loaf—equal pay coverage co-extensive with minimum wage coverage. But we have never ceased our efforts to have this most important provision extended to executive, administrative, and professional employees.

In the most recent "Fact Sheet on the Earnings Gap" published by the U.S. Department of Labor, statistics show that women who were professional and technical workers (those most likely to be affected by the extension of the Equal Pay Act) earned a median wage in 1970 of $7,878, or only 66.7 percent of the $11,806 earned by men. And this was the closest that women came to earning the same wages as men. Women in other job categories, many of whom would also be covered by the proposed extension, had median incomes of between 42.8 percent and 64.4 percent those of men in comparable employment.

The earnings gap between all men and women employed full-time in 1970 was 59.4 percent, wider than the 60.5 percent gap in 1969 and much, much wider than the 63.9 percent difference in 1955. Thus, the span in earnings between men and women is growing. We believe strongly that an extension of the Equal Pay Act to executive, administrative, and professional employees will help to eliminate this discrepancy.

Finally, we would like to express our support for the provision in your amendment which would give the Civil Rights Commission the authority to study sex discrimination. Discrimination on the basis of sex is a fact of life for the American woman. In the job market, in education, in property rights, in a hundred different ways, the American man and the American woman do not have equal legal rights.

The extent of this discrimination is not fully known. The President's Task Force on Women's Rights and Responsibilities, which recommended the change you propose, pointed out that the hearings and reports of the Commission "would help draw public attention to the extent to which equal protection of the laws is denied because of sex" and stated that "perhaps the greatest deterrent to securing improvement in the legal status of women is the lack of public knowledge of the facts and the lack of a central information bank."

Because of its unique position of independence and impartiality, the Civil Rights Commission can explore all areas of sex discrimination. As it does now with race, color, religion, and national origin, the Commission can be a clearinghouse for information concerning discrimination on the basis of sex in all areas of American life. And its important and widely-read reports to the President and to Congress can do much to create a climate in which all traces of discrimination can be wiped out.

In conclusion, we want to re-emphasize that our organization strongly supports your anti-sex discrimination amendment to S. 659. Discrimination on the basis of sex has no place in our country. Your amendment is most important to all women—indeed, to all Americans—and it will make an important contribution toward helping to erase those remaining pockets of inequality in our nation. We urge its adoption.

Sincerely,

OSTA UNDERWOOD,
*National President.*

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. BEALL. Mr. President, I yield back the remainder of my time.

AMENDMENT NO. 948

Mr. BENTSEN. Mr. President, I send to the desk a perfecting amendment No. 948 to the Bayh amendment and ask unanimous consent that they be read and considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The second assistant legislative clerk read as follows:

On page 2, line 15, strike out the word "and".

On page 2, line 19, strike out the period and insert a comma and the word "and".

On page 2, between lines 19 and 20, insert the following:

(5) in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. BENTSEN. Mr. President, the purpose of my amendment is to exempt from the Bayh amendment the undergraduate admissions policies of public institutions of higher education which have from their establishment been "traditionally and continually" for students of only one sex.

I am informed there are only four of these institutions in the country, one in Texas, two in Virginia, and one in Mississippi. The one, in particular, that I am thinking about is Texas Woman's University, located in Denton, Tex. This is a college with some 6,500 women. From its inception in 1901 it has been admitting students of one sex only. In the same community there is another large State-supported university, North Texas State College, which is coeducational, and which has some 14,000 students.

Texas Woman's University has no wish to admit men and is forbidden by State law from doing so. If the Bayh amendment were agreed to and survived in conference, this institution would have to go to court to fight for its right to continue to exist as a women's institution. I do not think it should have to do that. The women attending this institution do so voluntarily because they wish to have the experience of attending an all-female institution. If they did not want to attend, they could go to North Texas State or another institution of higher education in Texas.

Is this really a civil rights issue? I do not think in this instance it is. Texas Woman's University has a higher percentage of minority students than any institution in the State. It has a cohesiveness that other institutions do not have. It is a unique and distinctive institution, and it should be allowed to exist.

Quite frankly, the problem is this: If the Bayh amendment passes, the pressures will build for the college to admit men, and what will be accomplished? Very little, compared to what could be lost.

If Federal funds are cut off, it is the students who will suffer. This university now receives over $250,000 in educational opportunity grants; it receives $83,000 for college work-study programs. The thrust of the amendment is obviously to prevent discrimination against women in public higher education, and yet the effect of the amendment may well be to legislate against those single-sex institutions such as this one which have been traditionally for women only. I am sure that is not the purpose of the amendment of the junior Senator from Indiana. I know he does not wish to see these institutions coerced into changing their admission policies.

Let me also say, Mr. President, that I believe HEW should allow for some flexibility in interpreting the Bayh amendment and other antisex discrimination provisions in Federal law. These amendments were not directed at the traditionally single-sex institutions; they had quite another purpose. Unwittingly, the sponsors of these amendments may have caused some unfortunate results they had not counted on.

I believe that my amendment will clarify the provisions of this particular bill as they pertain to undergraduate admissions policies.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. BENTSEN. I am pleased to yield to the Senator from Virginia.

Mr. SPONG. Mr. President, I commend the Senator from Texas for offering this amendment to the Bayh amendment. Two of the institutions which would benefit from the Senator's amendment are in the State of Virginia, Longwood College and Radford. Both are traditional female institutions, as is the case of the Texas institution which the Senator mentioned.

I think they should be excluded as the language of the Senator's perfecting amendment would provide. I join the Senator from Texas in the hope that, as has been indicated, this perfecting amendment will be accepted by those handling the bill.

Mr. BENTSEN. I thank the Senator.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. BENTSEN. I am pleased to yield to the senior Senator from Texas.

Mr. TOWER. Mr. President, I commend my colleague from Texas and express my thanks to him for introducing this amendment to the Bayh amendment, and I express the further hope that it will be accepted.

The university that the Senator has referred to is the alma mater of my wife. She graduated from Texas Woman's University and received a very fine education from A to Z there.

One of the problems that has been discussed by the Senator from Indiana and the Senator from Rhode Island is that coeducational institutions have not provided the right kind of counseling that would prepare women for professions that we usually think of men being engaged in. I think Texas Woman's University affords an excellent opportunity for channeling women into the professions and remedying this oversight that has occurred in college counseling for so long. I think that institutions like Texas Woman's University should be encouraged. Therefore, I support the amendment of my friend from Texas and I ask that my name be added as a cosponsor of the amendment.

Mr. BENTSEN. Mr. President, I am pleased to include the name of the Senator as a cosponsor of the amendment and I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent also to add the name of the Senator from Virginia (Mr. Spong) as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, before closing my remarks I wish to commend the Senator from Indiana for the diligent work he has done for equal rights for women during his distinguished career in the Senate. I know of the great part he has played in the authorship of measures for equal rights for women, which are due here shortly, and which I intend to support.

Mr. BAYH. Mr. President, I express appreciation to my colleague from Texas for his laudatory remarks and I express gratitude for the kind of support on equal rights efforts I have had from the Senator from Texas. As I look at the tremendous problem in the country today, as far as women being discriminated against in education, I do not see that much of that can be attributed to the institutions to which the Senator refers. Thus, I have no objection to the amendment.

Mr. President, earlier the Senator from Oklahoma (Mr. Harris), the Senator from Minnesota (Mr. Humphrey), and the Senator from Maine (Mr. Muskie), joined me in cosponsoring this amendment. I now ask unanimous consent that the Senator from Kentucky (Mr. Cook), the Senator from Michigan (Mr. Hart), the Senator from Oregon (Mr. Hatfield), the Senator from New Mexico (Mr. Montoya), the Senator from California (Mr. Tunney), and the Senator from Minnesota (Mr. Mondale) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I congratulate the Senator from Indiana in his efforts on behalf of women's rights and equal opportunity. I know of the Senator's tenacity over the years. Few men have had the record of achievement and success he has had in this body.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question now occurs on the amendment of the Senator from Indiana, as amended by the perfecting amendment of the Senator from Texas.

The question occurs first on the amendment of the Senator from Texas.

The perfecting amendment (No. 948) of the Senator from Texas to Amendment No. 874 of the Senator from Indiana was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Indiana, as amended.

The amendment, as amended, was agreed to.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I call up my amendment to the pending substitute amendment, to amend title VI, relating to youth camp safety.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 685, line 17, strike all of title VI and insert the following in lieu thereof:

### TITLE VI—INVESTIGATION OF YOUTH CAMP SAFETY

Sec. 601. The Secretary of Health, Education and Welfare shall make a full and complete investigation and study to determine (1) the extent of preventable accidents and illnesses currently occurring in youth camps throughout the Nation, (2) the contribution to youth camp safety now being made by State and local public agencies and private groups, (3) whether existing State and local laws adequately deal with the safety of campers in youth camps, (4) whether existing State and local laws relating to youth camp safety are being effectively enforced, and (5) the need for Federal laws in this field.

### REPORT

Sec. 602. The Secretary of Health, Education and Welfare shall make a report to the Congress before January 1, 1973, on the results of his investigation and study under this title. Such report shall include his recommendations for such legislation as may be necessary or desirable.

### AUTHORIZATION OF FUNDS

Sec. 603. There is authorized to be appropriated $300,000 for carrying out the purposes of this title.

Mr. TOWER. Mr. President, instead of the language now in the bill, my amendment would insert the language in the House version of the higher education bill. On November 4, 1971, the House debated the issue of youth camp safety during the debate on their version of the pending bill. Congressman Pickle of Texas offered an amendment striking the language approved by the House Education and Labor Committee and sought to insert thereof, language calling for a study to be conducted by the Secretary of Health, Education, and Welfare so that Congress might be advised of the scope of preventable camp accidents, the contribution presently being made by State and local agencies and private groups. The Secretary was then to determine whether or not there exists a need for Federal action in this area and report his findings to the Congress. This amendment was passed by the House.

I believe that the House action was a wise step and it is for that reason that I am raising this issue in the Senate today. I am sure that there is no legislator in either body of the Congress who is against safety, particularly when it concerns the youth of the Nation. However, it seems to me that it is a prudent policy to first determine the desirability of Federal Government action before we allow the Department of Health, Education, and Welfare the opportunity to become involved in a particular area of public policy. The sponsor of the pending Senate provision on camp safety (Mr. Ribicoff) has spoken at length from his experience as Secretary of Health, Education, and Welfare on the problems in that Department and the difficulty in arriving at cohesive administration of the programs that it administers.

Mr. President, I honestly do not know whether there is a need for the Federal Government to take an active role in the area of youth camp safety. There are obviously those who are firmly convinced that the aid of the Federal Government is direly needed to improve the health and safety conditions of our camps. For instance, Senator Ribicoff has made notice of the fact that there are little or no State statutes dealing with camp safety. Yet from my experience and knowledge in my State of Texas, I know that our camps have a good safety record and must comply with various regulations promulgated by the State Department of Health that are not strictly implemented in the name of camp safety, but rather are enforced as part of the general State program to insure adequate safety and health conditions for all Texans.

Camps in my State have not shirked their responsibility in providing the safest environment for their campers. If we are to assume that camp administrators and camp organizations are going to meet safety problems with the least possible cost and effort, and I categorically reject such an assumption, it is still quite clear that it serves the best interests of those who run the camp to provide safe and healthy conditions for their campers. In an industry such as the camping industry, one fatality or one serious accident would mean the end of the camp.

Mr. President, I trust that Senator Ribicoff will speak on this matter and will clarify some of the ambiguities that have come up with respect to the pending Senate provision. As I understand the pending title on camp safety, the Secretary of Health, Education, and Welfare would be directed to establish Federal safety standards which would serve as a focusing point for the States and interested groups to follow. The States are reserved the option to participate in a Federal-State partnership on camp safety. If the State decides to participate the Federal Government will pay 50 percent of the costs with the maximum amount allocated to a State for a 1-year period being $50,000. If a State does not desire to participate they will have no relationship with the Department of Health, Education, and Welfare and the camps within that State will not be forced to meet any standards that would be promulgated under the provisions in title VI of this bill. Furthermore, as I understand it, States will be allowed to submit their own standards if they wish to participate and will not be forced to strictly adhere to the standards that will be set by the Secretary of Health, Education, and Welfare. The standards set by HEW then would serve only as a guide for the State's response to the incentive offered by the Federal Government.

Let me say that this proposal represents a great improvement on the proposal submitted to the House of Representatives by the House Education and Labor Committee. The proposal submitted by that committee, which was later struck by the House, authorized the Secretary of Health, Education, and Welfare to enforce a Federal program even if a State did not want to participate. In effect such a plan would mean complete federalization of camp safety regulations. I say that the Ribicoff provision is far superior to the one just described above because, in my mind, camp safety is one subject of public policy that is of a State interest and not one of primarily Federal responsibility. If this Nation is to adhere to the principles of federalism set down by our Founding Fathers then it would seem that such subjects as camp safety regulation should be reserved to the States. Usurpation on a mandatory basis of this function by the Federal Government would only further strengthen the increasingly convincing idea that State power has eroded and there is really no longer a viable federal system. I completely sympathize with this idea for I have seen in my 10 and a half years a continuation of such Federal usurpation of certain functions that have traditionally been reserved to States and local governments.

I have viewed such action by the Federal Government in a negative light since I find it potentially to be destructive to our system of government and our way of life. Yet, while I view the pending Senate provision as a vast improvement on the original House proposal, I still feel that the amendment that I am now presenting which has already passed the House is a far better approach than what is contemplated in title VI of the pending bill. The burden to show the need for legislation should be on those that propose the legislation. This burden should also include the type of activity government should become involved in once the need for action has been demonstrated. Even if the need can be convincingly presented today, I believe it is wise for the Congress to again be presented with the direction of the governmental activity and the type of standards that are deemed to be needed in accordance with the conclusions of safety experts at the Department of Health, Education, and Welfare. It is only after such conclusions are presented that Congress can act in a responsive manner to the needs of the American people.

Mr. President, my amendment would give the executive branch and the Congress the opportunity to decide what exactly is needed to be done. To the best of my knowledge, hearings on youth camp safety have never been held in the Senate. The last national study on this matter was made over 40 years ago. The study envisioned by my amendment would serve as a substitute for congressional hearings and would give us some direction in which to plan future action.

Again, let me emphasize that I am not raising this matter in order to procrastinate on a very important matter. I am for safety as much as anyone. Yet, we as legislators should not enact legislation simply because it seems to be the right thing to do. We must be sure of what we are doing because it is almost a certainty that the legislation that we pass will be around for a long time. It may later be recognized that the legislation was not desirable. Certainly I am in complete agreement with the intent of the sponsors of this youth camp safety title. However, before I endorse it I would like to be sure that the specifics of the proposal are drawn up so as to insure the best possible results for improving the lives of America's youth.

Mr. President, I raised these issues because I believe they are important to our young people, to our camping organizations, and to the fundamental nature of our Government.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. TOWER. I yield to my colleague.

Mr. BENTSEN. Mr. President, I wish to associate myself with the remarks of the senior Senator from Texas on the question of youth camp safety.

I am certainly not going to stand here and argue against the need for safe camps, and I fully appreciate the concern which led the distinguished senior Senator from Connecticut (Mr. RIBICOFF) to offer this legislation last August when the higher education legislation was being debated.

All of us are for youth camp safety. I cannot conceive of a single Senator arguing against the principles underlying the Ribicoff amendment to the higher education bill.

But I believe there are legitimate questions which can be raised concerning the substance of the Ribicoff amendment and the procedures which were used to introduce it in the Senate.

I believe I am correct when I say that not a single day of hearings was held on this measure in the Senate, and yet the Ribicoff amendment would establish a major new Federal-State effort in a field which has yet to receive serious nationwide study.

Indeed, Mr. President, at the time the distinguished Senator from Connecticut introduced this bill, he said:

> The only real camp safety survey took place 42 years ago when a group of distinguished youth leaders and camping enthusiasts met in New York City to discuss camping in general.

The House of Representatives, in voting on a stronger camp safety measure in November, voted to accept a substitute which called for a survey of youth camp safety such as that mentioned by the Senator from Connecticut. HEW is to conduct the survey, then report to the Congress before January 1, 1973, with recommendations for legislation on this subject if the survey determines that such legislation is necessary.

Of course, there are some who will claim that this is nothing but a delaying tactic to put off acting on this subject. But I submit, Mr. President, that before we act to set up a program to combat a problem, we should first know the scope of the problem and give some serious thought to the possible remedies if a problem exists.

I fully agree with Congressman PICKLE of Texas, who sponsored the substitute. During the debate in the House, Congressman PICKLE said:

> I will readily admit and even support legislation which might save the life of even one child away at camp. . . . However, I think we first need to know the size, the scope and the seriousness of the problem of camp safety. This legislation today would have us charging out with an answer when we do not even know what the question is.

Mr. President, the Ribicoff amendment was adopted by a voice vote in just a few minutes of Senate debate. I doubt if more than half dozen Senators were on the floor at the time. It has little if any relation to the other programs in the higher education bill.

In my view, it is unwise for the Senate or any legislative body to tack on unrelated amendments of this kind, which have implications far beyond the scope of the legislation being considered, without hearings and without adequate debate and study.

Mr. President, in my view, the House amendment, which has been offered by the senior Senator from Texas, is the more responsible way to handle the problem. The statistics we have on youth camp safety are vague and incomplete, and the subject requires a thorough review. If the study reveals that a need exists for Federal standards for camps, I shall be among the first to support such a program, but first I believe we have to establish the need and the best possible legislative remedies to meet the need if it exists.

That is why I support the amendment offered by the senior Senator from Texas and that is why I shall urge my colleagues who are conferees on this measure to support the House version.

Mr. RIBICOFF. Mr. President, will the Senator yield me 5 minutes?

Mr. PELL. I yield 5 minutes to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I have been listening with great interest to the discussion by the two distinguished Senators from Texas. I appreciate the fears expressed by the Senators from Texas that the Federal Government is going to come into each and every State and impose standards on its camps.

Nothing of this nature will occur under title VI, as there is no requirement that any State adopt the standards prepared by the HEW Advisory Council. The Federal Government simply uses its money and manpower to study the problem, propose solutions, and offer them to the States. If a State chooses to join in the program, the Federal Government will assist it financially. If it chooses not to join, it does not have to.

Under title VI, the Secretary of Health, Education, and Welfare, in consultation with camping and safety experts, would establish camp safety standards after surveying existing safety standards published by State and private organizations and the effects of these standards.

The Federal Government will not itself certify camps. This will be done by the States.

After publication of the standards, each State will be encouraged to establish its own camp safety program. If the State's plan meets Federal standards, the Secretary is authorized to pay up to 50 percent of the cost—but not more than $50,000 in any fiscal year—of developing and administering the State program.

I agree with the Senator from Texas that a new study of the problem is needed. But action is also needed.

Title VI would authorize both the study and the action. The replacement of title VI with a simple study provision such as my colleague proposes will only serve to delay genuine camp safety standards even further and place millions of children in unnecessary danger.

Last summer nearly 7½ million boys and girls spent part or all of their summer vacation at camp. For the vast majority of these youngsters, it was an experience they will long remember. For a few, however, it meant injury or death—a nightmare neither child or parent can ever forget.

The basic reason these tragedies occurred is the almost complete lack of safety standards for our Nation's 10,000 camps. Undoubtedly thousands of camps are safe and we would not hesitate sending our children or grandchildren to them. The problem is how to find the safe camps.

I ask unanimous consent to have printed in the RECORD at this point a communication which I received from the American Camping Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN CAMPING ASSOCIATION,
*Martinsville, Ind., July 7, 1971.*
Hon. ABRAHAM RIBICOFF,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR RIBICOFF: Since 1910, when this Association was first founded, the members of the American Camping Association have striven continuously to improve the youth camps which they direct and manage, and to make them safer and better in every way for the children of America.

In the formulation of standards, in the training of camp directors and camping personnel, the encouragement and support of appropriate legislation, and in the bringing together of the leaders of youth camping, the American Camping Association has led the way. It is now the largest, most influential and most representative of all the camping organizations of America.

Forty-seven (47) different kinds of camps belong to this Association. They are represented by more than 7,000 members and more than 3,000 boys and girls camps which we have visited and accredited.

In February 1971 you, with Mr. Bayh, Mr. Case, Mr. Javits, Mr. McIntyre, Mr. Magnuson, Mr. Muskie, and Mr. Pell, introduced to the 92nd Congress, First Session, S. 922, a bill to provide Federal leadership and grants to the states for developing and implementing state programs for youth camp safety standards. The American Camping Association acted as your consultant in many aspects of this bill, and called a consultation of national camping leaders to study it and make recommendations in 1966.

At the direction of the officers and the National Board of Directors of the American Camping Association, I have been instructed to write to you expressing our appreciation for this bill and offering our wholehearted support and best wishes for its passage.

Sincerely,

ERNEST F. SCHMIDT,
*Executive Director.*

Mr. RIBICOFF. The American Camping Association, which is the largest, most influential, and most representative of all the camping organizations in America, approved this proposed legislation and certified the need for it.

Most States provide little or no supervision to protect children from the kind of accidents that can cripple or kill. Based on the best information available, the leading cause of camp fatalities is drowning, which kills an estimated 40 youngsters each summer. Yet 40 States have no requirements for counselors who oversee water activities.

Twenty-four States require no license or set no standards for camps. Only 15 States have any camp safety legislation. Only 26 regulate sanitation and 46 have no laws concerning personnel.

This almost complete absence of State regulations has meant that private camping organizations have had to establish and police their own standards. The American Camping Association, the scouting organizations, the Association of Private Camps and church-orientated groups have all made a substantial contribution to better camping. These organizations are to be commended for taking the initiative where the government has failed.

Too many camps across the Nation, however, do not belong to any of these organizations and do not follow their advice. Even if a camp does belong to one of the organizations, the organization can do little to enforce its standards.

The failure to establish adequate standards for many of our camps has had tragic consequences across the Nation. Ever since I became active in this field, I have heard enough horror stories to convince me that governmental protection for our youngsters is an absolute necessity.

The only real camp safety survey took place 42 years ago when a group of distinguished youth leaders and camping enthusiasts met in New York City to discuss camping in general. It was the consensus of this group that the time had come to establish minimum standards for camp health and safety.

The group commissioned a nationwide camp safety study which remains today the only full study of the situation. The report concluded that 65 percent of all accidents at camp could have been prevented by better supervision or higher standards of camp maintenance and administration. Only a quarter of the accidents were attributable to the camper's negligence, and half of these could have been prevented with more adequate supervision.

A high percentage of the injuries covered by this report were due to faulty structures, dangerous pathways, and the very location of the camp itself. Despite this report, however, the call for action issued in 1929 has never been answered.

This deplorable situation was brought to my attention by Mitch Kurman, a constituent of mine from Westport, Conn.

In 1965, Mr. Kurman chose an upstate New York camp which offered canoe trips for his 15-year-old son. Like every other parent, he simply assumed the camp was safe and that his boy would have a wonderful summer.

One night he received word that his son had drowned in a canoeing accident on a branch of the Penobscot River in Maine. On checking into what was first considered to be an unfortunate accident, he learned from other campers on the trip and from Ontario and Maine police that his son's young counselor had previously had a narrow escape on a river he had been warned against and that a forest ranger had specifically warned the same counselor not to challenge the Penobscot. The counselor ignored all these warnings and led his charges down a stretch of river which has been described as "wilder than the Niagara gorge" in canoes that lacked fast water safety equipment such as life preservers or ropes.

It has been almost 7 years since Mr. Kurman's son died. The question which must be asked is how many other youngsters have also perished in camping accidents during that time and how many more will die before we take action.

We can no longer play Russian roulette with the health and safety of our children and grandchildren. The camping industry has done its utmost to police itself, but has found it to be an impossible task. The industry supports title VI, concerned parents support title VI, and I would hope that the U.S. Senate will continue its support.

I realize that many camps in the State of Texas, for the reasons that have been set forth by the Senators from the State of Texas, are not members of the American Camping Association. There is nothing in title VI requiring the State of Texas or its camps to participate in any way in the Federal program.

I should be more than pleased, as a part of this colloquy, to answer any questions which the Senator from Texas may have.

Mr. TOWER. Mr. President, I thank the Senator from Connecticut. He has certainly made some important legislative history here. I think it should be adequately understood that States with camps would not be compelled to follow this Federal standard, that discretionary authority would still lie in the States, and the States could make their own determinations about whether or not to adopt these Federal standards.

I am aware of what the committee's position in this matter is, and, noting that the matter is in conference, I am hopeful that the conferees——

Mr. DOMINICK. Mr. President, will the Senator yield me a few minutes before he makes any further comment?

Mr. TOWER. I yield to my colleague from Colorado.

Mr. DOMINICK. I have made this request because I was concerned, before we develop the record here, that the Senator might say something we might not all agree with.

I do not know whether I can go into this in any real detail, but one of the camping outfits with which I have been very closely connected, and have been endorsing as strongly as I can, is the so-called Outward Bound schools, which I think are probably some of the greatest instrumentalities for challenging the ability of each individual to his own particular limit of any such group that I know of. I would suppose that the average citizen would say that in no way is that program "safe." It is deliberately designed to be non-safe, to push you to the limit of your athletic and mental ability to overcome challenges one after another.

I would certainly not want to see an occupational health and safety bill which would have the effect of nullifying what those camps are trying to accomplish by way of their program. I would like to hear the comments of the Senator from Connecticut on that.

Mr. RIBICOFF. Mr. President, there is no question that what I have in mind is not the challenging type of camp the distinguished Senator from Colorado talks about. May I point out that the council that HEW will call on for advice should be composed of 18 leaders in the camping field.

I would strongly recommend—and I hope that the Secretary will be reading this colloquy—that he would have represented on the advisory council of 18 a representative of the Outward Bound type of camp, who bring to the council's attention the particular curriculum offered by these camps.

I have here an example of the type of problem that we face, a mountain climbing situation which I imagine the Senator from Colorado is familiar with.

One warm day in July a few years ago a group of touring youngsters from an American camp paused on their way up an 11,000-foot mountain in Canada's snowcapped Rockies. At 8,600 feet their adult leader dropped out of the climb, but he gave the boys permission to scale the peak that is shunned even by skilled alpinists in warm weather.

Clad lightly, 11 of the 16 youths had struggled to 9,500 feet when sun-softened snow rumbled above them for an instant and then swept seven boys to their deaths 1,000 feet down the mountain.

I am sure that the type of camp the Senator talks about would surely have the type of leader who would not abandon a group of inexperienced youngsters from the city to climb that type of mountain without preparation and guidance.

Mr. DOMINICK. The Senator is totally correct, as to the initial phase. However, after young men and women have been there for awhile, they send them out on what they call survival journeys, which is just the kids alone, with no one with them whatsoever, with each person alternating in leadership to determine whether they can lead the people through these particular difficulties.

It is not just mountain climbing. They have a program in Maine, for example, which involves water survival in the ice-cold North Atlantic. They have them in Minnesota, in the northern areas, for canoeing and survival in the wild.

When I look at the definitions in the bill, what I am concerned with is that this type of challenge to an individual may be caught up in the logic of trying to provide maximum safety for kids who attend a camp who do not know anything about what they are doing, and that we get this type of outfit caught up in the middle of them.

I was concerned with that. I do not know, really, what we need to do in order to clarify that situation.

Mr. RIBICOFF. I think we are clarifying it by way of the colloquy.

There is definitely room in America for camps such as Outward Bound and I do not want to restrict the type of challenging experience where a youngster goes into the program with his eyes wide open and with the knowledge and consent of his parents.

I am concerned about the situation where a parent sends a child to a camp with swimming instructors, for example, who do not even know how to swim, with people in charge of canoe trips who do not know how to handle a canoe. What the Senator is talking about certainly is not within my contemplation, and I would definitely recommend, right here and now, that the Secretary, in setting up his 18-man advisory council, would have represented on it someone from the Outward Bound type of camping program, who would explain the difference between a camp on a lake in Connecticut and a camp in the rugged mountains of Colorado designed for developing a certain type of character.

Mr. DOMINICK. I thank the Senator from Connecticut. I think that will be a great help in developing congressional intent on this issue, because there have been persons hurt, and I think one person killed, on this Outward Bound program. But, as the Senator says, they have done it with their eyes wide open, and with parental knowledge and consent.

Mr. RIBICOFF. I thank the Senator. I differ, as I say, with the Senator from Texas, but I think there is no difference of opinion as to the value of this type of program.

Mr. PELL. Mr. President, may I have 4 minutes?

Mr. RIBICOFF. I yield the Senator 4 minutes.

Mr. PELL. Mr. President, I had failed to take into account the Outward Bound type of program when we reported this measure out of committee. I think the Senator from Colorado is correct. I believe very strongly, as he does, in Outward Bound and its aims. Indeed, one of my sons helped work on Hurricane Island, the Maine Outward Bound camp, and my oldest son completed the course and was his section's watch officer. I sought to get the Outward Bound philosophy and viewpoint accepted in the OEO and failed some years ago.

I think this colloquy is very useful, because it should show that we specifically mean that the Outward Bound camps are excluded from the viewpoint of the congressional intent, from the coverage of this act. And in doing this, we recognize that accidents have occurred in the Outward Bound program.

I think that, when we compare the drawbacks with the hundreds and thousands of improved characters and improved people who have been developed by this program, it is apparent that the Outward Bound program should not only be continued, but expanded. Accordingly, it is to the advantage of the youngsters and the Nation that the camps be excluded from the provisions of this measure.

Mr. TOWER. Mr. President, in view of the colloquy that has taken place here, and in view of the position of the committee, I simply hope, since this will be in conference, that some consideration be given by the Senate Members to the House provision; and I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Who yields time?

Mr. MONDALE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 495, line 21, renumber SEC. 438, SEC. 438(a).

On page 496 between lines 18 and 19 insert the following subsection (b):

"(b) The United States Commissioner of Education will publish a list of state agencies which he determines to be reliable authority as to the quality of vocational education in the several states for the purpose of determining eligibility for all federal assistance in the matter of scholarships, work-study programs, Federal Education Opportunity Grants, student loans including National Defense Student Loans and other matters of federal assistance in higher education",

and renumber the succeeding subsection accordingly.

On line 19 strike out "subsection (a)" and insert in lieu thereof "subsections (a) and (b)".

Mr. MONDALE. Mr. President, this is a technical amendment, to which I understand the administration may have no objection. It deals with the limited question of the certification of vocational and technical schools under the accreditation provisions of this act.

Under present HEW policy area vocational-technical schools of the State of Minnesota are being denied participation in higher education and postsecondary education programs because they have not received academic accreditation as elementary or secondary schools, or as institutions of higher education.

If the HEW policy is continued, these excellent schools will not be allowed to receive financial assistance under the committee amendment, which would be contrary to what we intended. The whole purpose underlying this higher education bill was to extend these programs to institutions of higher learning and post secondary and vocational schools, which I believe are important.

My amendment would authorize and instruct the Commissioner of Education to publish a list of those State education agencies which in his opinion will be reliable authorities as to the quality of vocational education institutions in their States. If a State educational agency on that list certifies the quality of vocational education in an institution within its State, that institution will have the same status as a regionally accredited institution for purposes of Federal educational assistance.

Mr. President, I am hopeful that the manager of the committee substitute will accept this amendment, which is completely consistent with the legislation the committee has approved, and which simply seeks in a responsible way to correct an injustice to vocational schools which, although of high vocational quality, do not have sufficient academic course content to qualify for academic accreditation.

Mr. PELL. Mr. President, the Senator from Minnesota and I discussed this amendment earlier. His State has suffered a particular and unintentioned hardship under the present procedure, and his argument has merit.

I recommend the acceptance of the amendment, and I welcome the view of the ranking minority member.

Mr. DOMINICK. I thank the Senator from Rhode Island.

May I just ask Senator MONDALE one question. The U.S. Commissioner of Education, as I read the amendment, is required to publish a list of State agencies which he determines to be reliable authority as to the quality of vocational education. Where would he publish this and how—in a list which would be available to any organization that wanted it?

Mr. MONDALE. Yes. He would print this in the Federal Register, which is the standard source.

Mr. DOMINICK. What would happen to the so-called accreditation procedures which are used by many schools to determine whether the educational quality meets the standards of that particular association?

Mr. MONDALE. The accreditation standards for institutions, elementary and secondary schools, higher education, remain untouched by this amendment. We are simply trying to deal with the area of vocational technical schools, which I do not think we focused on at the time we were preparing this, to permit the changes that need to be made to provide for the accreditation of high quality vocational schools which do not come within the accreditation procedures of the other institutions. We leave it entirely up to the Commissioner of Education to be sure that we maintain high standards.

The reason for the amendment is this: It is generally conceded that in Minnesota—and many other States may have this, because we had no testimony on it—is one of the finest systems of vocational schools in the country. Yet, the way the bill is framed, they would not be accredited under the present accreditation standards. So we would like to have a system which would permit the Commissioner of Education to establish adequate alternatives when it comes to vocational schools.

Mr. DOMINICK. I think that clears the record in very fine shape, and I appreciate the comments of the Senator from Minnesota.

I gather that what we really are saying here, for the purpose of the RECORD, is that there is not at the present time any accreditation association outside this amendment which has the ability to determine the quality of those schools and therefore accredits them as it is in elementary and secondary and higher education. Therefore, the Senator is putting it up to the U.S. Commissioner of Education.

Mr. MONDALE. That is correct. I believe that, generally speaking, in our consideration of educational programs, we have tended unnecessarily to underemphasize the vocational training and technical schools; and in this case we did not focus on the issue which this amendment raises. So I would hope that this would close that loophole.

Mr. DOMINICK. I congratulate the Senator from Minnesota. I think he has brought up an amendment which is going to be most helpful. I have no objection to it.

Mr. MONDALE. I thank the Senator. I hope the amendment will be adopted.

Mr. PELL. Mr. President, I yield the remainder of my time.

Mr. MONDALE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. BELLMON. Mr. President, I call up my amendment, which is at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 439, line 4, strike the following: "on or near an Indian reservation", and in lieu thereof insert: "in Alaska, California, or Oklahoma or on, or in proximity to, an Indian reservation".

Mr. BELLMON. Mr. President, one of the problems my State of Oklahoma has is that frequently when we draft legislation relating to problems of Indian citizens, we limit the application of these programs to or near Indian reservations.

My State of Oklahoma has more Indians than any other State in the Union. The last census shows that we have 97,731 Indian citizens, California has 91,018 Indians, and Alaska has 51,528 Indians. Yet, neither of these States has Indian reservations. Our Indian citizens are mingled throughout the population. When legislation is passed limiting programs to Indians who live on or near reservations, these Indians are excluded.

The total Indian population of the three States of California, Alaska, and Oklahoma is 240,277, or roughly one-third of all the Indians in the country.

The purpose of this amendment is to make certain that Indians who do not live on or near reservations but who are intermingled with the total population will be given the same kind of advantages, the same kind of attention, as Indians who do live on or near reservations.

This amendment has been discussed with both the minority and majority members. It is similar to language which appears on page 638 of the bill, and I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, this matter has been discussed. I think the arguments made by the Senator from Oklahoma are excellent, and I suggest to my colleagues that the amendment be accepted.

I am prepared to yield back the remainder of my time.

Mr. DOMINICK. Mr. President, I am very glad that the Senator from Oklahoma (Mr. BELLMON) caught this. We had it in the other version of the bill and I am very glad that we now have it in this. The Senator from Oklahoma has done a very good job.

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. WEICKER). Does the Senator from Oklahoma yield back his time?

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment.

The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BELLMON).

The amendment was agreed to.

Mr. TAFT. Mr. President, will the Senator from Rhode Island yield me 3 minutes to discuss a matter of legislative interpretation?

Mr. PELL. I am happy to yield to the Senator from Ohio for that purpose.

Mr. TAFT. I thank the Senator for yielding me this time.

The reason I rise is to get into the question relating to title X, and specifically section 1019, which refers to the establishment of new community colleges and the expansion of present community colleges.

The reason I raise this question is that in Ohio there has been a great growth of the community college concept rather than of the separate community college, of which we have some. By the large, the expansion has occurred with branches of the State university on a 2-year college course basis.

My understanding, from the language in the bill, on page 609, is that such branches would be included, particularly if they qualify with the 2-year credit requirement. I therefore wondered whether the Senator from Rhode Island could confirm if that was the understanding of the committee in regard to this language and this definition, and also whether he could comment on whether, if a branch university has a 4-year educational program, it would still be a branch that would be qualified as a community college if it met the other requirements.

Mr. PELL. In answer to the Senator's first question, the branch is included in the definition.

In regard to the second point, as to whether the branch could be a community college, whether a 4-year school could be considered a 2-year school, that I do not quite understand.

Mr. TAFT. The language of the definition which seems to be somewhat ambiguous in this regard states, in line 23, "other educational institution (which may include a 4-year institution of higher education or a branch thereof) in any State which—".

Then on page 610, section 3, "provides a 2-year postsecondary educational program leading to an associate degree, or acceptable for credit toward a bachelor's degree, and also provides programs of postsecondary vocational, technical, occupational, and specialized education;".

What I am concerned with is the fact that some of the branches may, as they develop the 2-year course, develop into a 4-year program as well. I am not saying that the 2-year requirement would not be met. I am saying that on the same campus there might be a 4-year course as well, and I am asking if it has a 2-year course requirement at present, that would not preclude it from having a 4-year course later on, would it?

Mr. PELL. That would not be precluded.

Mr. TAFT. I thank the Senator from Rhode Island very much for his explanation. I appreciate it very much.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, insert:

### TITLE XI—ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SEC. 1101. (a) section 3(a) of the Act entitled "An Act to establish an Advisory Commission on Intergovernmental Relations" approved September 24, 1959 (42 U.S.C. 4271 et seq.), is amended—

(1) by striking out "twenty-six members" in the matter preceding paragraph (1) and inserting in lieu thereof "twenty-eight members"; and

(2) by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and by inserting after paragraph (7) the following new paragraph:

"(8) Two appointed by the President from a panel of at least four elected school board officials submitted by the National School Boards Association."

(b) Section 3(b) of such Act is amended by adding at the end thereof the following new sentence: "Of the members appointed under paragraph (8) of subsection (a) of this section not more than one shall be from any one political party and not more than one from any one State."

SEC. 2. (a) Section 4(c) of such Act is amended by striking out "and (7)" and inserting in lieu thereof "(7)" and "(8)".

(b) Section 4(e) of such Act is amended by striking out "Thirteen" and inserting in lieu thereof "Fourteen".

SEC. 3. Section 7(a) of such Act is amended by inserting "or of school boards" after "county governments".

SEC. 4. Such additional members shall serve for two years.

Mr. EAGLETON. Mr. President, my amendment would give locally elected school board officials a voice in the Advisory Commission on Intergovernmental Relations. The Commission will be advising the President on the intergovernmental relationship aspect of the financial problems which presently beset our Nation's elementary and secondary school system.

The President, in his state of the Union message, referred to two complex and interrelated sets of problems with which school systems are now confronted. He spoke of their financial problems and he mentioned the possible affects that any type of tax reform might have on the basic relationships of Federal, State, and local governments.

In addressing the intergovernmental relations aspects of these problems, the President announced that he had enlisted the aid of the Advisory Commission on Intergovernmental Relations, and, quite accurately, he pointed out that the Commission is composed of Members of Congress, representatives of the executive branch, Governors, State legislators, local officials, and private citizens.

However, there is one group whose voice in this body is conspicuously absent—the voice of locally elected school board officials. They have no representation whatsoever.

In the month period since President Nixon charged the Advisory Commission on Intergovernmental Relations to study alternate methods of financing public education, that body has met twice. Because of these meetings, the need for school board representation thereon is an imminent one. First, ACIR has expanded by eight nonvoting members—consisting of Governors, mayors, county executives, and State legislators. This move reemphasizes the lack of sensitivity which that body has demonstrated for those who may have to make education policy decisions on its recommendations.

Second, the time for immediate action is further necessitated because the Commission has begun to move. It has received from the White House staff a series of questions, and has prepared its own as well. The essence of its recommendations for the reform of school finance will apparently arise from its continued treatment of these questions.

At this point, an obligation arises for the Congress to take the initiative in the management of what is perhaps the biggest domestic crisis—and program—with which it will have to deal in 1972. Any action taken on the recommendations of ACIR will affect 5 million employees, 50 million schoolchildren, the direct expenditure of some $20 billion—and indirectly involve State and local expenditures of another $25 billion. In short, any legislation in this area has to be as foolproof as possible. A long stride in this direction can be taken, if ACIR's recommendations are made with both the counsel and membership of two school board members.

As presently constituted, the Advisory Commission consists of 26 members—three of which are appointed from the Senate and three from the House of Representatives. The remaining 20 are appointed by the President as follows: three must be officers of the executive branch and three must be private citizens; four are appointed from a panel of at least eight Governors submitted by the Governor Conference; three are appointed from a panel of at least six members of State legislative bodies submitted by the Council of State Governments; four are appointed from a panel of at least 8 mayors submitted jointly by the American Municipal Association and the United States Conference of Mayors; and three are appointed from a panel of at least six elected county officers submitted by the National Association of County Officials.

My amendment would simply expand the number of members of the Advisory Commission from 26 to 28 and provide that two members shall be appointed by the President from a panel of at least four elected school board officials submitted by the National School Boards Association.

I think that this is a reasonable and equitable proposal. The President himself expressed his commitment to the principle that local school boards must have control over local schools. I agree wholeheartedly.

However, I would like to extend this principle by giving locally elected school officials a voice in formulating the national policies which will ultimately affect their local school districts.

By adopting this amendment we will be extending the same privileges to elected school officials that are now enjoyed by elected officials from virtually every other level of government and we will be making the Advisory Commission on Intergovernmental Relations a more effective advisory body as well.

Mr. PELL. Mr. President, I thank the Senator from Missouri for his contribution. I find the amendment has merit. It recognizes the tremendous contribution that the elected school board officials of our country make. I recommend to the

Senate that we accept the amendment pending the remarks of the Senator from Colorado.

Mr. DOMINICK. Mr. President, I have no objection. In fact, I applaud it. It was only when former Senator Morse was chairman of our Education Subcommittee, prior to the distinguished Senator from Rhode Island taking over that position, that we ever had a formal invitation to school board members to testify on any education bill.

It seems to me, with the deep involvement of the secondary and elementary schools, that this is long past due. It also recognizes their importance in dealing with our financial structure.

Mr. President, I think the amendment is well deserved.

Mr. EAGLETON. I thank the Senator from Colorado and the Senator from Rhode Island.

Mr. PELL. I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 953

Mr. HARRIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRISIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARRIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, ordered to be printed in the RECORD, is as follows:

### AMENDMENT No. 953

At the end of the bill add the following new title:

### TITLE 12—STUDENTS ON BOARDS OF TRUSTEES

SEC. 1201. It is the sense of the Congress: (a) that student participation should be encouraged on the governing boards of institutions of higher education; (b) that to this end there should be at least one student member on the governing board of every institution of Higher Education in America; (c) that she or he should have the rights and privileges of full members of said board; and (d) that the method of appointing the student member should permit the students of said institution to participate, either directly or through directly chosen student representatives, in the selection and approval of the appointment of the student member.

SEC. 1202. The Secretary of Health, Education, and Welfare shall issue a report to the Congress concerning the representation of students on the governing boards of institutions of higher education; said report shall indicate the number and percentage of institutions with students on their governing boards, and shall report on the results of such student representation. Said report shall be due 12 months from the date of enactment of this title.

Mr. HARRIS. Mr. President, are we on limited time?

The PRESIDING OFFICER. The Senator from Oklahoma has 30 minutes.

Mr. HARRIS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 10 minutes.

Mr. HARRIS. Mr. President, the pending amendment, although not mandatory, would state it to be the position of Congress that those institutions of higher education receiving Federal funds, described in the amendment as public institutions, would be encouraged to have full voting student members on their boards of regents, boards of trustees, or other governing bodies.

I wish to acknowledge the assistance of Steve Risto and Sherry Jones in the preparation of this amendment and the assembling of information connected with it.

Today students are coming from increasingly different backgrounds. They are facing problems which earlier generations of students have not had to deal with. Yet the major policymaking boards of most colleges and universities still reflect the image of the wealthy white male, the student of 40 years ago and successful alumnus.

In a recent issue of the Association of Governing Boards of Universities and Colleges Report, Morton Rauh analyzed the composition of boards of trustees. He found that 86 percent of all trustees are male, and 75 percent are over 50 years of age. A mere 5 percent are under 40, while only 1.3 percent are black.

The average trustee has an income between $30,000 and $50,000 a year. He is most likely to be an executive of a manufacturing corporation—17 percent—or an executive of a banking or investment firm—11.2 percent.

Young people are convinced this system of selecting trustees does not serve the best interests of education. And they are right. If the idea of the university as a community of scholars is going to have any credence at all, if universities are going to be something more than mills turning out people for big business, representation on boards of trustees has to be more broadly based. Certainly students must also have a voice.

In fact, over a dozen schools around the country—including Oberlin College, Princeton University, and the City University of New York—have already found the appointment of students to their boards of trustees to be most successful. Also, Governor Sargent of Massachusetts, Governor Wallace of Alabama, and Governor Curtis of Maine have supported the appointment of students to the governing boards of their States' universities.

Clearly the addition of a single student will not directly change the actions of these boards. Nevertheless, the additional perspective available to students and trustees alike through the liaison activities of the student member may bring about better communication and understanding.

It is for this reason that I am introducing an amendment to S. 659, the Higher Education Act, which states that it is the sense of the Congress that student representation on the governing boards of public institutions of higher learning ought to be encouraged.

The amendment states that to this end all public institutions of higher learning ought to have at least one student member on their governing board. And it calls upon the Secretary of Health, Education, and Welfare to issue a report on the success of institutions of higher education which now allow students to serve on the governing board.

This amendment is not mandatory. I wish it were. I prepared it originally in mandatory form, leaving some leeway to those State colleges and universities which would require some change in the law or the Constitution, but I was fearful that that amendment could not be agreed to. I think it important that we encourage student members on governing boards, and that can be done in most States by appointment of the Governor. Some colleges and universities have already moved in this direction and some States have begun to move in that direction. I want to express the intent of Congress and give the encouragement of Congress that others should do so well. While this amendment is not mandatory I believe it can have an important salutary effect.

The amendment would be a clear signal to students and their universities that the Congress shares the view that students have a right to participate in decisions which most affect their lives. By authorizing a public report on this matter, the amendment also would help university leaders around the country to see what some of the more progressive schools have already done and the success they have enjoyed.

Since I first declared a few days ago that I intended to offer this amendment, the response from the student world has been literally unanimous. I have received calls of support from various sections of the country. Participation in the institutions that affect them is clearly an issue that brings all students—conservative or liberal—together.

We are not talking about control of the institution by students. We should, however, recognize that a college or university community is made up not just of faculty, not just of administration, not just of alumni, not just legislators and those that represent the public, as, for example, boards of regents appointed by Governors, but also it includes students. They should be recognized as full members of that community and therefore should be involved in the decisionmaking process.

The National Student Lobby strongly supports the amendment I am proposing. So do student leaders throughout the country. At the local level, I held a press conference with student leaders from colleges in the Washington area on February 24. They agreed that this amendment, although not mandatory, would spur on the movement which we all must support to enable students to participate in those institutions which affect their lives.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRIS. I yield myself 2 minutes more.

Today many universities throughout the country have charters which specifically prohibit students from serving on their governing boards. This amendment would encourage States and universities to revise those charters.

Today many State political leaders agree that it is desirable for students to serve on the governing boards of universities but are seeking a clear sign of national support. This amendment would give this to them.

Mr. President, today's generation of young people are the most mature in our history. Scientific studies confirm that young people are reaching physical maturity at an earlier age than ever before. In the 19th century a young woman did not reach physical maturity until she was 17. Now that age has dropped to 14.

Mentally, no generation of Americans has ever been better educated. In 1940 less than 40 percent of those between the ages of 25 and 29 had a high school education. Today that figure is approaching 78 percent. There has been an educational revolution in this country and it is about time that our institutions began to reflect this.

That is particularly true since we in Congress have recognized the right of young people to vote at the age of 18. If they should have the right to vote for their leaders, for the Members in this body, at that age, they should have the right to participate as members of the governing boards in the colleges and universities.

I, therefore, urge the Senate today to take the first step toward the recognition of some new realities—the political, mental, and social sophistication of young Americans. We can take this step by passage of the amendment I am offering today.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, will the Senator yield me 10 minutes?

Mr. PELL. I yield 10 minutes to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I listended to the Senator from Oklahoma with great interest. Once again it proves, if I may say so, the old adage that any time you put Federal money into a situation, the Federal Government starts taking over. Here we are going ahead now trying to say, from Congress, just who is going to be on the governing boards of the major higher educational institutions in this country. In fact, it does not have to be major; it can be minor. In our State, for example, we elect a board of regents. We elect them on a statewide basis. We have the 18-year-old vote in our State, just as in other States. As a matter of fact, I put in a proposal for years to lower the voting age, and I could not get it past the Democratic leaders of the committee in the State legislature. We finally have the vote for the 18-year-olds.

We cannot, in any way I can see, effectively say to the people of the State of Colorado what should or should not be in their constitution with respect to the governing boards of the institutions within their own State. We do it on a partisan basis. Perhaps that is not the right way, but it seems to me it is up to the people to say it. Perhaps it should not be Democratic or Republican regents. Last year we ran one candidate who was just barely out of college, and he was beaten by a 75-year-old Democrat who had been on for a considerable time. So it was obvious that the young people did not gather around him and support him: they did not want him; they chose the Democrat. I regret this, but that is what the people said in Colorado.

I do not want the Congress to report to the people of Colorado that their system is wrong and that we in the Federal Government should determine who should be on those boards or the qualifications of the people who are going to run those institutions.

I, as well as some other Members of this body, graduated from Yale. Yale has a corporation that I tried to get on three times. I tried to get on the nominating committee. I was not able to. But why should we in Congress say what the people on those bodies should be, what type of people they should be, or what creed, race, color, or anything else they should be? Why is that not for the people concerned with their university to decide? Why should we tell them what to do, except for the reason that the student organizations will welcome this? I was not surprised that the student associations would be in favor of this proposal, but why should we in Congress jump right off the bat to determine how each university should operate? It just seems to me to be totally wrong.

If we are going to have a vote on this proposal, I am going to vote "no" on it. It cannot see any reason for it, unless the Senator from Oklahoma has more reasons that I do not know about at this point.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I commend the Senator from Oklahoma for his initiative in this regard and also for making his amendment a voluntary one, a sense-of-the-Senate resolution, and not mandatory. My own view is that student membership on college boards does serve a very useful purpose if institutions of higher learning have the consumer of the product or the consumer of the process represented on the board of trustees, they are bound to be more responsive.

I know that I myself have long believed that for a governing board to get an accurate appraisal of the impact of a particular rule or a particular policy which will affect younger people, it is advisable that there be a younger person on that board. I believe it makes sense, and for that reason intend to support the amendment of the distinguished Senator from Oklahoma.

Mr. DOMINICK. Mr. President, will the Senator yield me another 10 minutes?

Mr. PELL. I yield such time as the Senator desires.

Mr. DOMINICK. I yield myself another 2 minutes, and perhaps some more later, because I think we are really going down the wrong road on this one.

Section 422 of the General Education Provisions Act states as follows:

> No provision of the Act of September 30, 1950, (Public Law 874, 81st Congress), the National Defense Education Act of 1958, the Act of September 23, 1952, (Public Law 815, 81st Congress), the Higher Education Facilities Act of 1963, the Elementary and Secondary Education Act of 1965, the Higher Education Act of 1965, the International Education Act of 1966, or the Vocational Education Act of 1963 shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curricula, program of instruction, administration, or personnel of any educational institution, school, or school system,

And so forth.

We are not doing this as a department, or agency, or officer, or employee, except to the extent that we are paid by the taxpayers, but we are certainly going against the direction that we have indicated in the General Education Administration Act before this time in the provisions that we have in this bill which says we are not supposed to do any of this, either.

This refers, I point out, not only to the curriculum, but to the administration. What the Senator from Oklahoma is saying is that we should say, as a body of Congress, that we think that a particular age group should be represented in every governing board for the administration of the institutions. I do not think that is any of our business. It is up to the private universities to determine what they want to do under their own rules and regulations, and for the life of me I cannot see why Congress should get involved in that type of subject. So again, I respectfully decline to go along.

Mr. HARRIS. Mr. President, I yield myself 1 minute.

I understand the sentiment expressed by the distinguished Senator from Colorado. I simply point out again that this amendment is not mandatory. I wish it were, but it is not. It is simply to encourage voluntary action on the part of boards of regents, boards of trustees, and other governing bodies of colleges and universities. It expresses the sense of Congress that young people ought to be more involved as full, true members of the university community, not in the control of the institution, but involved in decisionmaking. I think that would have a wholesome result. I repeat, It is not mandatory, but voluntary on the part of the colleges and universities.

I am prepared to yield back the remainder of my time.

Mr. PELL. Mr. President, I yield myself 1 minute.

I believe, as does the Senator from Oklahoma, in the importance of achieving this result. I realize that we should not doing it in a mandatory way, but this resolution is not mandatory. The amendment simply provides that it is the sense of Congress that there should be young persons on the boards of institutions of higher education. I believe there should be one on each board, if for serving no other role than that of interpreter of what younger people think should or should not be done. It is not going to change the overall direction of the boards, but will give them a greater perspective. Therefore, I support the amendment.

I yield back the remainder of my time.

Mr. HARRIS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Weicker). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma (putting the question).

The Chair believes that the response indicates the possibility of a tie vote, which would mean that the amendment is rejected.

Mr. HARRIS. Mr. President, I ask the Chair to put the question one more time. I think perhaps we can make that more distinct.

Mr. PASTORE. I thought it was distinct enough, depending on who is in the Chair.

The PRESIDING OFFICER. The Chair asks for a division. All those in favor of the amendment——

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRIS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the rollcall vote on the pending amendment occur tomorrow at 11:45 a.m. This would give exactly enough time prior to the votes which are to begin at 12 o'clock noon on the first of the four pending amendments mentioned in the agreement of last week.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Weicker). Without objection, it is so ordered.

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## UNITED NATIONS CONFERENCE ON HUMAN ENVIRONMENT

Mr. BAKER. Mr. President, in June of this year, representatives of over 130 nations will convene in Stockholm for the first United Nations Conference on the Human Environment.

As chairman of the Secretary of State's Advisory Committee on that Conference, I seek the full and active participation of each of my colleagues in the Congress and of the interested public in our efforts to solicit public input and advise the Secretary of State on U.S. positions prior to the Stockholm conference which begins June 5. With the conference only 3 months away, the committee plans to conduct three parallel data collection efforts—hearings, written input, and interviews—ending in late March, as the basis for our final report to the Secretary on April 21.

The committee will hold six regional public hearings, March 2 to 22—schedule follows—each on a focal topic although other Stockholm-related matters may be discussed. Any written views, in lieu of a hearing appearance, would be most helpful by March 22 when most of our public input will be concluded. If you are unable to testify at a hearing or present written views, we will attempt to arrange an interview with our staff. You may wish to recommend U.S. policies on the issues identified in the proposed Declaration on the Human Environment and the issue papers prepared by our staff on the six agenda topics—enclosed; or to recommend other international or national initiatives. We would also be interested in any conferences, seminars or meetings which interested groups are scheduling on Stockholm-related topics. Names and addresses of our staff are enclosed for convenience in arranging hearing appearances, interviews, other meetings or submitting written views.

I would appreciate your extending this invitation to other interested persons and organizations or notifying us so that we can contact them.

The enclosed staff summary papers were developed by the staff of the Advisory Committee, based on review of preliminary documents for the Stockholm Conference prepared by the Secretariat in Geneva. They are not intended to be conclusive as to the issues which will be considered at the Conference. On the other hand, the text of the Declaration is that which will be considered at the United Nations Fourth Preparatory Conference in New York City beginning March 6.

The final documentation from the Geneva Secretariat will not be available until some time in March. We also hope to have available in March up-to-date texts of any conventions which will be considered at the Conference.

In view of this schedule, please feel free to discuss fully all issues relevant to the Conference.

Any written views you wish to submit should be addressed to: Richard A. Hellman, Executive Director, Secretary's Advisory Committee, 2201 C Street, N.W., Room 6807, Washington, D.C. 20520

We have an excellent opportunity to influence the development of U.S. positions for the Stockholm Conference—we look forward to your sharing this opportunity.

I ask unanimous consent that the following related materials be printed in the Record at this point.

First. Hearing schedule.

Second. Declaration on Human Environment.

Third. Issue papers:

Institutional arrangements.

Development and the Environment.

The Planning and Management of Human Settlements for Environmental Quality.

The Eduactional, Social and Cultural Aspects of Environmental Issues.

The Identification and Control of Pollutants and Nuisances of Broad International Significance.

Environmental Aspects of Natural Resource Management.

There being no objection, the related material was ordered to be printed in the Record, as follows:

### Hearing Schedule

FOCAL AREA, DATE, PLACE, AND CONTACT

"Institutional Arrangements and the Declaration on the Human Environment"; March 2–3; U.S. Mission at the United Nations, 799 U.N. Plaza, 2nd Floor, New York City; Mr. Milner Ball (404) 542–2511.

"Development and the Environment"; March 6–7; Denver Post Office, Room 269, Denver, Col.; Mr. Carl Harris (202) 632–9267.

"The Planning & Management of Human Settlements for Environmental Quality"; March 9–10; Ceremonial Court Room, 19th Floor, Federal Building, San Francisco, Calif.; Mr. Robert Agus (202) 632–8272.

"The Educational, Social and Cultural Aspects of Environmental Issues"; March 13–14; U.S. Customs House, 610 South Canal Street, Room 704, Chicago, Ill.; Mr. Chauncey Olinger or Miss Carol Lynne Glassman (202) 632–2418.

"The Identification and Control of Pollutants and Nuisances of Broad International Significance"; March 16–17; City Council Chamber, City Hall, Houston, Tex.; Mr. Lee Rawls (202) 632–2418.

"Environmental Aspects of Natural Resource Management"; March 21–22; Public Works Committee, Room 4200, New Senate Office Building, Washington, D.C.; Mr. Ken Tapman (202) 632–9267.

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### Draft Texts of a Preamble and Principles of the Declaration on the Human Environment

PREAMBLE

The United Nations Conference on the Human Environment, having met at Stockholm from 5 to 16 June 1972, and

Having considered the need for a common outlook and common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment,

PROCLAIMS

1. Man is both creature and moulder of his environment. His physical needs and capacities are conditioned by age-long evolution in his terrestrial home. But his intellectual and his social and moral nature have set him free from time immemorial to transcend and transform wild nature and to build his own society and culture, and thereby create for his progeny a better and more fully human life. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights—even the right to life itself.

2. Man has constantly to sum up experience and go on discovering, inventing, creating and advancing. In our time he has acquired, through the accelerating advancement of science and technology, the power to transform his surroundings in countless ways and on an unheard of scale. Used wisely, this power can bring to all peoples the benefits of development and the opportunity to enhance the quality of life. Wrongly or heedlessly applied, the same power can

do incalculable harm to the human environment. We see around us growing evidence of man-made harm in many regions of the earth: dangerous levels of pollution in water, air, earth and living things; major and undesirable disturbances to the ecological balance of the biosphere; destruction and depletion of irreplaceable resources; and gross deficiencies in the man-made environment of human settlements.

3. In our time also, the growth of population in certain areas, through both migration and unprecedented natural increase, has accelerated to rates which could frustrate all efforts to conquer poverty and under-development and to maintain a decent human environment, whereas other areas have not yet reached population density conducive to economic efficiency and the high productivity that will permit the rapid increase of standards of living.

4. Meanwhile immense resources continue to be consumed in armaments and armed conflict, wasting and threatening still further the human environment.

5. Thus a point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance or indifference we can do massive and irreversible harm to the earthly environment on which our life and well-being depend. Conversely, through fuller knowledge and wiser action, we can achieve for ourselves and our posterity a better life in an environment more in keeping with human needs and hopes. What is needed is an enthusiastic but calm state of mind and intense but orderly work. For the purpose of attaining freedom in the world of nature, man must use knowledge to build in collaboration with nature a better environment. To defend and enhance the human environment for present and future generations has become an imperative goal for mankind—a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of world-wide economic and social development.

6. To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future. Local and national governments will bear the greatest burden for large-scale environmental policy and action within their jurisdictions. A growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive co-operation among nations and action by international organizations in the common interest.

### PRINCIPLES

States the common conviction that:*

1. Man has the fundamental right to adequate conditions of life, in an environment of a quality which permits a life of dignity and well-being and bears a solemn responsibility to protect and enhance the environment for future generations.

2. The natural resources of the earth, including the air, water, land, flora and fauna, and especially natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

3. The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.

4. The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion.

5. The discharge of toxic substances, or of other substances in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be checked to ensure that serious or irreversible damage is not inflicted upon ecosystems.

6. Economic and social development is essential for ensuring a favourable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

7. Environmental deficiencies generated by the conditions of under-development pose grave problems and can best be remedied by and in the course of development.

8. The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries or hamper the attainment of better living conditions for all and appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures.

9. Resources should be made available to preserve and enhance the environment, taking into account the particular requirements of developing countries and any costs which may emanate from their incorporating environmental safeguards into their development planning and the need for making available to them, upon their request, additional international technical and financial assistance for this purpose.

10. Relevant environmental considerations should be integrated with economic and social planning to ensure that development plans are compatible with the need to protect and enhance the environment.

11. Rational planning constitutes an essential tool for reconciling and conflict between the needs of development and the need to protect and enhance the environment.

12. Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and obtaining maximum social, economic and environmental benefits.

13. Demographic policies, which are without prejudice to basic human rights and which are deemed appropriate by Governments concerned, should be applied in those regions where the rate of population growth or excessive population concentrations are likely to have adverse effects on the environment or development or where low population density may prevent enhancement of the human environment and impede development.

14. Appropriate national institutions must be entrusted with the task of planning, managing or controlling the environmental resources of States with the view to enhancing environmental quality.

15. Science and technology must be applied to the identification, avoidance and control of environmental risks and the solution of environmental problems, in the furtherance of economic and social development.

16. Education in environmental matters, especially for the younger generations, is essential in order to broaden the basis for an enlightened opinion and responsible conduct by individuals, enterprises and communities in protecting and enhancing the environment.

17. Research and the free exchange and transfer of scientific and other knowledge and experience must be promoted to the fullest extent practicable in order to facilitate the solving of environmental problems taking particularly into account the needs of developing countries.

18. States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

19. States shall co-operate to develop further the international law regarding liability and compensation in respect of damage which is caused by activities within their jurisdiction or control to the environment of areas beyond their jurisdiction.

20. Relevant information must be supplied by States on activities or developments within their jurisdiction or under their control whenever they believe, or have reason to believe, that such information is needed to avoid the risk or significant adverse effects on the environment in areas beyond their national jurisdiction.

21. Man and his environment must be spared the serious effects of further testing or use in hostilities of weapons, particularly those of mass destruction.

22. Co-operation through international agreements or otherwise is essential to prevent, eliminate or reduce and effectively control adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the interests of all States.

23. States shall ensure that international organizations play a co-ordinated, efficient and dynamic role for the protection and enhancement of the environment.

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FEBRUARY 18, 1972.

## SECRETARY OF STATE'S ADVISORY COMMITTEE ON THE 1972 UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

### STAFF ISSUE PAPER ON INSTITUTIONAL ARRANGEMENTS

The following is a summary outline of the broad issues involved in organizational arrangements for the post-Stockholm period. A series of questions is appended to the outline.

### I

Preparations for the Stockholm Conference have proceeded on the assumption that form follows function, i.e., first decide what must and can be done and then shape institutions to do it. The major possible functions which an international environmental unit might be designed to carry out are:

Stimulation and co-ordination of environmental activity:

Of U.N. agencies.

Of nations.

Of inter- and non-governmental organizations.

Of regional groups (e.g. economic commissions and new environmental bodies).

Through policy planning.

Through funding.

Through negotiated agreements.

Through identification of needs.

By focussing attention on problems and possible solutions.

Knowledge acquisition and assessment:

By use of ad hoc groups of experts composed of both U.N. and non-governmental personnel (as has been done in conference preparation).

By supporting at the national level attempts to bridge the gap between science-technology and economics-sociology-politics.

By support of national actions in the fields of technical co-operation, education and training, and public information.

By evaluation and forecasting through support of research, an international information exchange (using the data bank at Geneva), location of monitoring needs, and co-ordination of monitoring activity.

*Dispute prevention and settlement:*

Through advisory and good offices.

Environmental quality management.

By goal setting.

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*Note: The order in which the paragraphs appear below was not discussed and is therefore provisional and subject to change.

By consultation on national actions with potential environmental consequences.

By international agreement.

II

If these are the possible tasks for an international environmental unit, then the general institutional alternatives for carrying them out are:

*An intergovernmental body in the U.N.:*

Such a body would either be a subsidiary of the Economic and Social Council (ECOSOC) or of the General Assembly (GA). The former might provide flexibility; the latter more prestige. A compromise would be to create a new unit as a subsidiary of the GA but reporting to the GA through ECOSOC. Its composition might be patterned on the precedent of the 27-member Preparatory Committee.

*A Secretariat:*

The Secretariat would service the intergovernmental unit. It could be a department of ECOSOC or a separate part of the U.N. Secretariat. The latter would provide both prestige and flexibility. The Secretariat would administer funds, implement actions, coordinate efforts, contract for studies, highlight issues, etc.

*Funding:*

A central, voluntary environmental fund would be established for new programs, special research, and "seeding". Operations costs (salaries, administration, etc.) could come from this voluntary fund or from the regular U.N. budget. Additional costs of incorporating environmental emphases in development would not be paid from this fund but would come from other sources (included as part of original capital outlay: World Bank; regional development banks; etc.) The fund could be administered by the intergovernmental body, by the Secretariat or by the Secretariat under the supervision of the inter-governmental body.

*Marine pollution:*

This is a special problem. Perhaps, in the future, there might be an Oceans Authority. Now there might be monitoring and research and co-ordination with other activities. Whatever is done must take account of the 1973 Law of the Sea Conference.

III

Some of the principal questions at stake are:

There seems to be little realistic chance that Stockholm would propose any type of international environmental institution outside the U.N. (because of the developing countries and because this will be a U.N. conference). But should an extra-U.N. organization be considered further (for substantive as well as strategic reasons)?

Assuming that the international environmental unit is kept within the U.N., where should it be placed in the administrative structure? Discussion has focused on a subsidiary of ECOSOC or the General Assembly. But could there be a new agency, an option earlier rejected? A special commission?

Where should the Administrator/Secretariat (the officer and staff to service the intergovernmental body) be placed administratively? Regardless of where the intergovernmental body is placed, what position would provide the Administrator with the most freedom and greatest potential for action? Should he not be within the U.N. Secretariat instead of in an ECOSOC department?

If there is to be a body, in addition to the intergovernmental unit, which will co-ordinate the environmental activities of the various U.N. agencies, what and where should it be? A new body? An arm of the Administrative Co-ordinating Committee (ACC)? Should it be chaired by the Administrator? By the Secretary-General of the U.N.?

How permanent should any organization be which issues from Stockholm? Should it be limited in time by a fixed fund cut-off date? By another Stockholm-type conference in 2–5 years? By allowing it to last as long as there appears to be interest?

Could there be too much co-ordination? Is the good of the environment better served by an uncoordinated diversity of governmental and non-governmental activity?

Should the operations costs of the intergovernmental body and secretariat come exclusively from the voluntary fund? Would smaller nations feel they had a stake, howsoever small, in the environmental body if administrative funds came from the regular U.N. budget? Or is the U.N. budget now so limited that it could bear no new expenses?

Consideration of a World Environmental Institute has dropped into the background. Should it be raised anew? What is the interest of the scientific community? Could there be regional institutes? Instead of a World Institute, could there be a research institute (political, scientific, etc.) to evaluate and report on the changing state of the environment?

Should there be some international equivalent to impact statements? Required of U.N. agencies? Solicited from governments? The idea of "impact statements" has not figured in current debate about post-Stockholm arrangements; it was raised earlier but receded into the background.

Instead of receiving impact statements, should an international unit offer environmental check-lists (e.g. a "dam list" to be consulted before building a dam)?

How can regional (bi- and multi-national) activity be most fruitfully encouraged? What responsibility rests with regional groups and what with an international body?

What should be the authority of an international unit? How will it be institutionally limited? What should its authority not be?

MILNER BALL,
*Director, Subcommittee on Institutional Arrangements.*

Enclosure: U.N. Document: International Organizational Implications of Action Proposals.

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FEBRUARY 18, 1972.

SECRETARY OF STATE'S ADVISORY COMMITTEE ON THE 1972 UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

### STAFF ISSUE PAPER ON DEVELOPMENT AND THE ENVIRONMENT

As preparations began for the United Nations Conference on the Human Environment, it became immediately apparent that participation at the Conference would be limited to the industrialized nations unless certain fears of the developing world were rapidly dispelled. Those fears centered around their contention that environmental concern was an industrialized hang-up which inevitably would retard the economic growth of the developing countries if such concern were translated into development costs. The developing world visualized the industrialized nations negotiating strict international agreements which would result in insurmountable trade disadvantages for them in the market place as well as seemingly unbearable development costs. They threatened a boycott of the Conference and consequently threatened any chance of success that the Conference might have had. But that was roughly a year ago and much has changed since then.

Maurice Strong, the Conference Secretary General, quickly realized the magnitude of the problem and acted accordingly to dispell the fears by organizing a panel of international economic experts representing developed and developing nations of the world. That panel met last June for two weeks in Fournex, Switzerland, and produced the much acclaimed Fournex Report. That report listed in precise terms the economic risks involved with the integration of environmental quality with development processes and made recommendations on how the resulting economic costs might be handled. That document was to serve as the bases for four regional seminars in Africa, Asia, Latin America, and the Middle East on Development and the Environment also sponsored by the U.N. Conference Secretariat to allow the developing world to express their views, not only on the Fournex Report but also on the types of environmental problems facing their respective countries.

The result of those meetings was a unanimous stamp of approval for the Fournex Report and its expression of the problem.

With this background in mind, we might examine some of the questions raised by the Fournex Report.

(1) Is it possible for the developing nations of the world to incorporate environmental concern into development processes without retarding economic growth?

(2) Should the developing world bear the full costs of complying with minimum environmental standards if such costs would mean a reduction in the expenditures for desperately needed health care facilities, etc.?

(3) Should the United States pay a portion of such costs through aid programs, favored nation trade agreements, or other means?

(4) Should the United States require exports of the developing world to conform with U.S. environmental guidelines if such exports are intended for sale in U.S. markets?

(5) Should American industry comply with U.S. statutory guidelines in locating abroad?

(6) Should American industry be allowed to seek pollution havens in developing countries where environmental guidelines are nonexistent?

(7) Should the United States recommend that minimum environmental standards be set by the developing nations so as to discourage the indiscriminate importation by those nations of polluting industries?

(8) What initiatives should the United States take to incorporate environmental concern into foreign assistance programs?

(9) Should the United States specify environmental conditions necessary for obtaining such aid programs or projects?

(10) What broader implications are involved with the integration of environmental quality and economic development, i.e., massive dislocation of people producing social and political considerations?

(11) What role does population growth play in the integration of the two processes?

(12) What effect would the rapid introduction of western technology have on the culture of the developing nations . . . particularly, pollution abatement technology?

(13) Do developing countries really control their own rate of growth or are they dependent upon the assistance of the industrialized world?

(14) Is the gap between the developing and developed world widening, remaining roughly the same, or shrinking?

(15) Does the developed world have a vested interested in retarding the economic growth and development of the world's developing countries?

CARL HARRIS,
*Director, Subcommittee on Development and the Environment.*

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FEBRUARY 18, 1972.

SECRETARY OF STATE'S ADVISORY COMMITTEE ON THE 1972 UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

### STAFF ISSUE PAPER ON HUMAN SETTLEMENTS

I. Introduction:

The basic theme of the Human Settlements agenda area at the Stockholm Conference is expected to be the need for the establishment of "comprehensive environmental development" (CED) approaches by all levels of government. Such approaches are necessary because of the existence of two major factors: (1) The demand for new shelters caused by the increasing population and internal migration to urban areas; and (2) the human need to place the shelters in functioning communities where there are the opportunities for work, human dignity and privacy. The CED approach, which aims at the establishment of minimum acceptable environmental conditions, depends upon a horizontal interaction between factors such as population, housing, health, education, etc. and a vertical interaction between planning and implementation.

The paper then presents the various topical areas, combined with repeated pleas for the corrective response—a comprehensive planning/implementation system that will lead to a more human environment.

II. Need for Action:

The statement proceeds to a description of the present crisis by first defining "human settlements" as man's territorial habitat, i.e., the places where he lives, works, raises a family and seeks his biological, social, spiritual and intellectual well-being. Because of our failure of knowledge about environmental effects, or our indifference to them or even our inability to take corrective measures we have produced the present crisis. It is characterized by settlements and networks of settlements featuring inefficient resource utilization, overconcentartion of structures, poor land use, high development cost and unequal distribution of both the costs and benefits of the economic and social factors. Human settlers are forced to endure pollution, congestion, noise, waste removal problems and shortages of water and energy.

These problems can be dealt with only by balancing the social and economic aims of development. The measuring standards ought to be those necessary for the establishment of "minimum environmental conditions": shelter, employment, biological needs and, to a lesser extent, social and cultural needs.

B. The Special Problems of Less Industrialized Countries:

Contrary to common belief, environmental problems are much more severe in the less industrialized countries because it is there that not only the needs for development are greatest but also the costs of environmental degradation are most severe. Moreover the lack of financial resources, poor organizational framework and the need for basic social changes (e.g. income redistribution) make the process of "comprehensive environmental development" all the more difficult. Such countries must attempt the balance of pressures for rapid development with the concomitant total environmental problems caused by unplanned development.

III. Key Aspects of the Settlements Problem:

A. Population Growth and Distribution:

In a listing of the specific problems for settlements the highest priority must go to the explosive growth of the world's population and the even more uncontrollable projections for the future. While the growth alone causes great problems for a suitable environmental development they are greatly exacerbated by the universal trend toward urbanization. Larger and larger settlements on less and less of the surface available are multiplying the causes and effects of environmental degradation. A serious effort to retard both the growth and the constant migration to the large cities is an absolute necessity.

In four distinct areas the problems of growth and urbanization are clearly present. Uncontrolled growth in the urban settlements, where the greatest growth has centered, has resulted in great human misery and environmental degradation. The centers of the cities, once the locus of a dynamic mix of the parts of human life, have become the centers of the worst pollution, the greatest noise, the ugliest construction. However, even more horrendous conditions for human existence, where the barest of essentials are present, exist in the temporary or transitional urban settlements where new, poor immigrants are forced to spend their lives. Finally, the draining of people and physical resources together with few developmental opportunities has left behind, in the world of rising expectation, the rural areas.

The one single answer to these conditions is the need for comprehensive planning that looks forward to patterns of controlled growth and development. Land use policies that rely upon both controls and incentives to control growth of the cities and to encourage the development of new growth poles in the rural areas are the suggested method. The emphasis is on a unified approach leading to a decentralized development in order to lessen the movement from the rural areas to the existing cities.

B. Other Factors:

In confronting problems of human settlements we must consider a number of factors other than the population. Industry has an enormous impact because of two reasons: (1) often by its very processes it produces environmental problems, e.g. use of resources and subsequent pollution; and (2) often it attracts people toward the large, crowded, overconcentrated centers and disrupts the social/cultural life of the nation. The answer is not to fight industrialization but rather to submit it to the planning process; one desirable approach is to use industry as the basis for a new town or new settlements as a growth pole.

Housing, the single most important environmental element, is also the area of greatest need. While there is a tremendous need for adequate shelter there is also a growing polarization between the location and quality of housing available to different groups of people. The poorest housed are also those who are provided with the poorest environmental services so that the problems are worsened. The suggested solution is the establishment and the implementation of national housing policies as a high priority.

Similarly in the area of transportation the lack of priority and poor planning has produced a true crisis for the movement of goods, people and ideas (communication) which is the key to human settlements. While public transit is often inflexible and inadequate the true villain, in industrialized countries, is the automobile which, by its noise, pollution and sheer physical presence, has driven people away from the streets, the sidewalks, and the squares. It is often the leading factor in the destruction of not only the physical but the spiritual health of the city. Other modern transportation vehicles, airplanes and ships, also contribute heavily to environmental degradation. Once again the answer is a comprehensive environmental development plan that considers transportation at the earliest stages.

In the area of water the world community increasingly shares a two-fold problem: while an adequate supply of fresh water is an absolute life necessity there is an increasing shortage of such supplies and a growing pollution of those that remain. In addition, the disposal of waste, solid and liquid, remains the most perplexing (and ironic) of modern problems. Regulation and research are the twin solutions proposed.

The construction industry, selected because of its impact on the physical environment, contributes to the present crisis in two ways. First, its process is one of great noise, consumption of resources and pollution of the ground and air, second, its products are often not conducive to an environmentally sound settlement. The paper contains the suggestion of movement toward the use of both local materials and labor intensive methods.

Needless to say, the report touches on the problems of physical and mental well-being created by our present human settlements. Evidence mounts daily as to the detrimental physical and psychological effects of such dysfunctional factors as pollution, overcrowding, poor sanitation, noise, ugliness, the lack of recreational space and the absence of communal feelings. More study of the cause/effect relationships together with the development of better working conditions and the provision of recreational/cultural facilities, especially for children, is suggested.

Finally, the major factor next to war in the crisis of human settlements is the natural disasters such as floods, earth quakes, volcanic eruptions, typhoons, etc. These occur with greatest regularity and intensity in the "disaster prone arc" which cuts through most of Asia, part of Africa and Latin America—the less industrialized parts of the world. In an Appendix to the statement there are a series of recommendations for action to reduce the damaging impact of these disasters. Basically they call for international action in forecasting, in prevention and in relief work.

IV. The Means for Action:

Having identified the major elements of the "crisis" the report discusses how change can be effected. The *sine qua non* of the entire process is, not surprisingly, overall comprehensive interdisciplinary planning combined in a "dynamic relationship" with implementation. For the first time in the statement reference is made to local level planning which can be conducted in many ways including advocate planning and responsive planning (solution hypotheses are present to interested groups from whom a consensus develops).

To buttress the planning/implementation process we are encouraged to develop the necessary legislation and organization arrangement. A central body at the national level that makes policy, coordinates and promotes decisions is to be matched by groups on the regional and local levels that will be the administrator and executors of policy. Finally, research and training on interdisciplinary problems and a massive campaign to educate and involve the public are recommended.

V. Recommendation for Action:

In this concluding section there is a review of the steps recommended at both the national and international levels. At the national level the order is as follows:

(1) adoption of comprehensive environmental development approach;

(2) legislation and administration changes;

(3) establish national policy on population growth and distribution

(4) set target dates for water supply improvement;

(5) allocate greater resources for housing;

(6) establish regional and sub-regional growth poles;

(7) development of appropriate mass media channels;

(8) adoption and implementation of land use policy;

(9) provision of educational and recreational facilities; and

(10) mobilize public support and participation.

On the international level the guide is to support work on the national level and to deal with those problems that cross the boundaries. More specifically the ideas are:

(1) ask all development assistance agencies to set a high priority on the problems of human settlements;

(2) establish a U.N. based "international program for environmental improvement areas";

(3) encourage bilateral and regional consultation;

(4) establish a body in U.N. to coordinate and initiate research;

(5) encourage visits, institutes, etc. to exchange information;

(6) establish training centers;

(7) work to mitigate losses from natural disasters;

(8) have the WHO take the lead in work on the water supply; and

(9) insure that human settlements will be considered at the 1974 World Population Conference.

Critique on the Statement: An outline:

1. The statement reflects a heavy bias in favor of "professional planning" as opposed to a more "organic/people based" approach.

2. There is an unexamined commitment to growth and progress as universal goals without much consideration to changing value orientations within existing cultures and of course among the different cultures.

3. There is no discussion of the idea and role of *community* as a basic human element in social life and how it relates to the processes of development.

4. The paper never really confronts, let alone defines, the issue of what is the nexus between human settlements and the environment—for some reason the helpful concept of the "ecology" is not mentioned.

5. Therefore, the statement shifts back and forth from a discussion of some physical environmental problems to general discussions of planning without delving much into either area. A more substantive discussion of the environmental area would be in order while in a discussion of planning more attention to the different goals and methods should have been attempted.

6. There is much too little discussion of the role of communication as a tool in environmentally sound settlements or of the type of research that might lead to more ecologically sound technology (e.g. new building materials).

7. There is a clear, but unexamined, view that size is bad and that crowding and noise are more severe in today's cities but is this true when compared with the ancient cities?

8. There is little discussion of new concepts of settlements that would meld the values of rural and urban or other new ideas such as the "beehive".

9. The paper deals with generalities to an extreme and thereby misses the opportunity to examine new ideas, concepts, and theories.

ROBERT E. AGUS,
*Director, Subcommittee on Human Settlements.*

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FEBRUARY 18, 1972.

### SECRETARY OF STATE'S ADVISORY COMMITTEE ON THE 1972 UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

### STAFF ISSUE PAPER ON THE EDUCATIONAL, SOCIAL AND CULTURAL ASPECTS OF ENVIRONMENTAL PROBLEMS

The following is an effort to suggest the scope and depth of the discussions anticipated on the educational, social and cultural aspects of the environment at the 1972 United Nations Conference on the Human Environment. It is based on a study of various documents prepared for the Conference.

The following questions are for consideration in reviewing the summary of issues:

1. What is your evaluation of the position presented in the summary? Are there other matters which should be covered under the rubric of the educational, social and cultural aspects of the environment?

2. What is your response to the recommendations given in the last section?

3. How important do you consider the cultural changes that occur when economic development is carried out in underdeveloped areas?

4. The Subcommittee on this topic is particularly interested in responses to the recommendations on the establishment of international institutional means for making available throughout the world expanded access to the growing body of environmental knowledge; the Subcommittee is also interested in recommendations concerning the best national institutional means by which the United States could participate in such international efforts, i.e., through what already established governmental or non-governmental organizations in the United States or through what new organizations might the United States best contribute its enormous resources in environmental knowledge to the rest of the world. Specifically:

(a) What United Nations institutional arrangements should be established for the exchange of environmental information?

(b) Which national, governmental or non-governmental organizations should link United States Efforts to such United Nations institutions?

(c) How should the United States organization be funded and who should be responsible for its operation?

(d) Should environmental knowledge be "qualitatively" stratified in some way, e.g., for application within different cultural or economic contexts?

5. Since the United States will be called upon to supply a large portion of the manpower for the training of other nationals in the environmental field, should the United States establish a national Environmental Personnel Reference Base which would list both programs and personnel, in the environmental area, in both the private and public sectors, to be used for the training of such nationals in our country and abroad?

6. Do you favor the establishment of a National Environmental Center which would conduct multidisciplinary research, for national and international use, on the social, cultural and economic aspects of environmental issues?

7. Do you favor the establishment of a National Environmental Data Clearing House for the collection, comparison and distribution of all published research in the environmental field, both for national and international use?

If you are unable to present your views at the hearings, please forward your responses to these questions and any other recommendations you may have to:

Chauncey G. Olinger, Director, Subcommittee on the Educational, Social and Cultural Aspects of Environmental Problems, Secretary of State's Advisory Committee, Room 6807, Department of State, Washington, D.C. 20520.

The summary of issues follows:

#### INTRODUCTION

The social, cultural and educational aspects of the problems of the environment may be the most crucial matters to be examined at the Conference on the human environment in Stockholm. Indeed, it has been argued that, for many environmental problems, the science and technology for their solution is currently available and that, for many others, solutions are available simply through the cessation of certain human activities, so that the *outstanding* problems are:

(a) an analysis of the social, psychological, economic, political, moral and religious assumptions that have undergirded the human activities that have led to the crisis of the environment;

(b) the development of an ethic of the environment;

(c) a carefully conceived program of education, training and public information (as well, of course, as a continuing program of research); and

(d) the mobilization of the relevant political forces to the end of achieving through governmental action an end to the conscious and unconscious policies of wasting the earth and destroying the well-being of hundreds of millions of men.

Whether or not one is willing to accept this rather thorough reduction of the problems of the environment essentially to the relevant socio-cultural questions, there can be no doubt of the central importance of these issues. The many threats of impending environmental doom and the continuing failure to deal with them with available technical equipment and processes are forcing us more and more to look at the beliefs and attitudes of men that have led us to the present situation and at the means by which they might be changed. Perhaps this point can be put most simply by saying that we must answer the challenge which is implicit in so much of what man does today: what has posterity ever done for me?

The problems of the environment have arisen from man's growing success in dealing with the challenges which nature presents to man's survival and well-being. These problems raise fundamental questions about the restrictions men and states will be willing to place on themselves for the sake of future generations, as well as the efforts they will be willing to make to ensure that the future development of our world environment will satisfy the human aspirations for well-being, liberty, justice and beauty.

A—*The Necessity for Action: The Socio-Cultural Dimensions of the Problems of the Environment:*

The environment, obviously, is not a simple grouping of natural conditions; it is both the imprint of the human societies which have shaped it with their beliefs, their myths and their dreams as well as the matrix from which they draw the breath of life and existence. Human societies and their environments are profoundly related to one another; the appearance at any moment of a deterioration in the quality of certain elements of the environment accentuates the correlated socio-cultural changes. When the seriousness of the deterioration reaches a certain degree, it reveals serious social and political tensions. These tensions are emergent now throughout the world.

Historically, man has struggled to master the earth for his own advantage. It is only recently, however, that the magnitude of man's efforts has begun significantly to violate nature's own organic unity and to reflect back upon man a lessened well-being. This lessened well-being is made manifest to us, in the usual case, only when we are confronted with some inconvenience such as oily beaches, the unavailability of certain seafoods or noxious air. Many, however, can remain essentially unaffected by such inconveniences while extremely serious environmental problems develop.

And environmental problems are now ubiguitous. In one form or another, they now manifest themselves throughout the world, be it overpopulation and starvation, the waste of material resources, the degradation of the land, the fouling of the oceans and the atmosphere or the eradication of cherished species of animals.

What is particularly noticeable throughout the world is that environmental problems present themselves differently according to the level of a country's economic development. In the more economically developed countries, the environmental problems concern comfort and mental health, the pollution of land and water and air, and the utilization of space. In the less developed countries, the search for well-being is characterized by more elementary aspirations: how to improve the use of biological resources to satisfy the needs for nourishment.

And these economic aspects are important in considering the future of development as it is related to the environment. It has been a preoccupation with production, immediate profitability and efficiency that has meant that the negative, secondary environmental effects have been overlooked in the developed countries. The problem for the developing countries is whether or not to follow, in their own pending development, the Western models of economic growth which, while bringing considerable material improvement, have also brought serious social and psychological problems. The question raised here is not so much the question of limiting economic growth—economic growth will be required to assure even a minimum level of material well-being to the people of the developing nations—but rather of discovering patterns of growth which will achieve as rapid an economic development as possible consistent with a healthy environment.

But the problem is a difficult one. Nothing expresses more strikingly the crisis of the environment than the degradation that has occurred to human communities in urban agglomerations created by the demands of industrialization. Historically, industrialization has reduced, and currently continues to reduce, the need for human labor on farms and to increase the need for it in cities around the machinery of production and its organization. This agglomeration of men has profoundly uprooted traditional life patterns and local cultural values, so that it is at least plausible to consider whether the gains in material comfort and convenience, in health, and in individual autonomy may not have been balanced by an increasing sense of isolation, anomie, crowding and standardization of life—in short, balanced by the "cultural aggressions" implicit in the whole system of industrialization.

Indeed, a kind of quasi-idolatry of technology and industrialization has allowed men to develop materially without adequate consideration of the immediate and deferred, secondary effects of technical and industrial processes. This tendency in the West has developed under the influence of Judeo-Christian religious convictions, according to which God created man in his own image and gave him the earth to subdue. In this view, man stands, in a significant sense, above nature and science becomes the means for the domination of nature.

This approach to nature must be contrasted with that of certain societies where men have developed a view of the world in which they coexist in a spirit of equilibrium with nature, and, in some societies, protect and venerate trees, streams and animals as reincarnations of their ancestors. We are thus called to a thorough reexamination of the assumptions upon which we in the West, for some time, have relied as the basis for our use and exploitation of nature.

Simultaneous with this examination of the sociocultural assumptions which have led to the environmental crisis, there must be a consideration of authoritative structures at all levels to the end of encouraging, through these structures, the choice of environmentally sound values that reflect the general interest and not simply that of special concerns.

Finally, underlying the search for a satisfying environment are such drives as the search for security, physical as well as psychic, the aspiration towards an environment rich with familiar symbolic meaning, a search, by turns, for intimacy, solitude and community, and the avoidance of environmental "aggressions" against human well-being, such as noise pollution, crowding and ugliness or "aesthetic pollution." To achieve these goals in the modern world with an environmentally sound perspective raises the possibility of fundamental social and cultural changes, indeed, raises the possibility of a redefinition of the work of civilization proper to each country.

B—*What We must Do:*

But we must do more than simply begin the analysis, from an environmental point of view, our socio-cultural assumptions and attitudes; we must outline the range of things that must be done to improve the environment.

On a planetary level, we must preserve the biosphere from catastrophic modification. We must restore local balances in the biosphere that have been destroyed. Pollution of the oceans and atmosphere and the poor management of natural resources must cease. Science and technology, whatever damage their thoughtless use may have occasioned in the past, must be used to restore and improve the environment.

But the prevention of total ecological disaster is not enough. We must continuously seek to improve the quality of life. We must further the struggle against death and disease as well as the development of hygiene to check the propagation of pathogenic agents. Likewise, physical-chemical pollution of food, water and the atmosphere must be halted.

More generally, we must promote total human development. Concern for man's physical, biological and psychological integrity implies the elimination of specific harmful features of the environment, such as excessive noise, vibration, crowding, etc. Further, full human development implies an environment which maintains a human scale, open space, coherent architectural forms and a meaningful urban landscape.

Although constraints on activities which harm the environment will, in a sense limit our freedom, on a deeper level, a healthy environment will increase our freedom to develop fully our potentialities for meaningful and constructive self-realization. Further, the creation of beauty and cultural value in the environment can awaken sensitivity to these values and increase a creative participation in life.

And, although many factors of modern life work to rob the individual of a sense of responsibility about the conditions which shape his life, still we must encourage men to assume responsibility and to exercise their freedoms to protect the environment. We share this responsibility for the patrimony of future generations with all who now share existence on "spaceship earth."

The achievement of a healthy and satisfying environment is linked to the achievement of a greater social justice, of a lessened inequality among men and nations, and to the guarantee that every man's dignity will be taken into account, that every man will enjoy a freedom, an autonomy and a constructive participation in life within a milieu which supports his highest aspirations. This achievement, from an environmental perspective, presupposes new rights for enjoyment along with corresponding duties toward others and towards a community enlarged to the entire globe—rights and duties of which the Declaration on the Human Environment could be the international charter.

Finally, the achievement of a fulfilling human environment will require the development of an ethic of the environment, or rather, perhaps, the reformulation of certain aspects of traditional Western ethics in the light of what we now know of the dangers of uncontrolled exploitation of our physical environment, so that we may maintain the traditional values of freedom, dignity, diversity and self-realization.

C—*The General Means of Action*:

As one looks at the wide spectrum of actions that will be required to deal with the crisis of the environment, those in the educational, social and cultural fields appear as fundamental to long-term success. Just as significant physical actions taken in the environment "reverberate" throughout the affected physical realm as well as in the lives of the men living within that realm, so actions, which are essentially socio-cultural, effect not simply the spiritual and mental lives of men, but also ultimately produce physical ramifications. This is to say, actions taken in the socio-cultural areas cannot be viewed as having only intellectual and spiritual consequences, but physical consequences, too: thus, to improve environmental education is inevitably to affect the ways in which those educated will treat the environment in practice.

And, if it is the case that actions carried out in the socio-cultural realm thereby enter the complex interrelatedness of the total environment, nothing is a stronger argument for the view that the *content* of educational and informational efforts in the environmental area should itself be designed to reflect the complex interrelatedness both of nature alone and of man and nature in communion one with another. It follows, then, that research, educational and informational efforts in the environmental field must be strongly interdisciplinary efforts.

We can deal here only with several of the most general possibilities of action in the socio-cultural field—increasing environmental knowledge, environmental education, programs of environmental information and the political and institutional implications of concern for the environment.

In the area of increasing human knowledge and awareness of the environmental context, what appears to be required is an assembly and comparison of the research thus far performed throughout the world on both the physical and the social aspects of man's interaction with his environment to the end of developing an initial and adequate balance sheet of the total environmental situation and the establishment of ongoing and expanded research in both areas, so that a continuing social diagnosis of the environment will be available as a guide for action.

As we look for a principle of environmental education, we discover that, under one isolated subject matter or another, various aspects of the environment have been taught and studied for a long time. The vast formal structure of nature and the exquisite beauty of many of its natural forms, as well as the form and beauty of man's constructions, have in more or less separated contexts always had the attention of teachers and students. Now, however, the growing recognition of the complex systems of interrelatedness that tie natural and humanly constructed things and processes together, more and more encourages us to view environmental education in a thoroughly interdisciplinary manner. Thus, whether we are introducing children to nature for the first time or training specialists in environmental management, the determinative principle must be the achievement of a clear conception of the complex interrelatedness of man and nature.

In more specific terms, the problems of the environment confront us with the need for education and training in many areas and at many levels. Briefly, the need is for the education of researchers and teachers on the graduate and undergraduate levels, the training of broadgaged environmental decision makers and field specialists, as well as the training of operational personnel at all levels and in all areas.

And, every effort must be made to insure that the information and knowledge which is rapidly growing on the subject of the environment is made available in the appropriate form to specialists and decision makers around the world as well as to the public. For those who are already well-trained in environment matters as well as for those who seek to become so, it is of crucial importance that no current means of information exchange be neglected and that new ones be established and developed; too often experiences which are rich in instructional value, whether they be successes or failures in the environmental field, remain unrecognized, on the one hand, depriving some of the sources of inspiration and, on the other hand, permitting others to make almost identical mistakes. For the public in general, both governments and private organizations must assume the responsibility for raising the level of awareness and knowledge of the dimensions of the environmental problem so that the public support will be available for sound environmental actions.

Finally, any act of management of the environment, any intervention in the relationship between man and his surrounding milieu, any judgment of the values in question and any evaluation of the quality of the environment implies decisions of a political nature. Whether certain actions are to be required, permitted or opposed, and whether by individuals, groups, corporations or governments, decisions in the environmental area concern the social and economic interests of those involved. Environmental decisions are, hence, ineluctably political and inevitably become associated with political ideologies, and, thus, whoever wishes to pursue the achievement of a sound environment must be prepared to deal with the relevant political factors. And because we are confronted with a variety of political contexts in the world, each with different political assumptions and goals, we may expect to be confronted with differing economic, social, moral and, finally, political justifications for similar actions taken with respect to the environment. In any case, those who care about the future of man must be prepared to provide the justification that is necessary within each particular system for the accomplishment of the corrective environmental action needed.

If environmental decisions are innately political, then it follows that they are, especially in democracies, the concern of both organized groups and individuals who are concerned with a good life. These groups and individuals can influence these decisions by direct pressure on political decision makers, by their purchases as well-informed consumers, by serving as monitors of threatened environmental situations and by alerting public opinion.

But, the major decisions in the environmental field are taken by states. Quite apart from decisions placing limitations on pollution, on the hunting of rare species, or encouraging population limitation, etc., states can help, in the task of providing harmonious life settings, by the construction of public monuments and buildings which are worthy cultural manifestations, by the constant encouragement of high levels of excellence in artistic and cultural fields in all the media, and by the identification and preservation of the principal natural, aesthetic and historical wealth in the physical environment.

Whatever domain of intervention is chosen, the role of the states in the matter of the environment appears to be a determining one. But we must recognize that their actions, effected within the setting of their national jurisdictions, will assume the most varied forms in conformity with their own particular political spirit. Further, we must contemplate that there will be situations where non-state organizations can be assigned certain environmental tasks by states with great effectiveness, and that many environmental actions will require the cooperation of several states.

It is no doubt the case that environmental problems require world-wide cooperation and that solutions of these problems will lead inevitably towards a reapproachment and towards world unity which is one of the principal *raisons d'etre* of the United Nations. But unity cannot exclude diversity, the diversity of cultures and approaches which are sources of enrichment for all and which provide a demand for mutual understanding.

CHAUNCEY G. OLINGER,
*Director, Subcommittee on the Educational, Social and Cultural Aspects of Environmental Issues.*

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FEBRUARY 18, 1972.

SECRETARY OF STATE'S ADVISORY COMMITTEE ON THE 1972 UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

## STAFF ISSUE PAPER ON POLLUTANTS AND NUISANCES OF BROAD INTERNATIONAL SIGNIFICANCE

Enclosed, for your comment, is a summary of recommendations expected to be covered at Stockholm and the more obvious issues raised by these proposals. Both the recommendations and issues have been broken down under the following headings:

(1) Information—(a) Research, (b) Monitoring, (c) Data Processing, (d) Technical Assistance.

(2) Control—(a) National, (b) Regional, (c) International; Assessment, Guidelines, Review.

It should be stressed that the above categories represent more than convenient subheadings for grouping potential agenda items. Taken as a whole, they represent a conceptual framework that may produce the global consensus needed to tackle those problems that defy national and regional solutions. This framework calls for the assessment of hard scientific data (gathered by research and monitoring efforts and stored in improved information systems) to serve as a basis for the establishment of legally non-binding guidelines for pollutants of international significance. These guidelines, continually reviewed in the light of new research and control technology, are, in turn, to serve as guidance for national and regional standard setting.

### POLITICAL CONSIDERATIONS

Utilization of legally non-binding guidelines may circumvent two of the major stumbling blocks to effective global environmental action. These are the rights of sovereign nations and the apprehension of Third World countries, who often view the current uproar over the environment as a ploy on the part of the developed nations to deny them their chance at rapid economic growth. It is further hoped that technical assistance programs will enhance the developing nations' environmental vision, and alleviate some of their fears.

Besides these political considerations, there are several other recurring questions that arise from reviewing the Committee's recommendations:

*The Little Step vs. the Big Step.* This issue relates to whether the Preparatory Committee has properly struck the balance between the need for strong, quick environmental action and the political realities that surround the pursuit of such action. Do we want small, sure steps that represent psychological victories and important precedents, or strong, comprehensive plans which will entail extended discussion, and possibly less chance of success? Particularly with regard to control measures, the question is whether small steps provide a base for further action or, since treaties are difficult to amend or repeal, only serve to clutter the landscape, hindering future negotiations.

### INSTITUTIONAL NEEDS

Closely related to the little vs. big step issue is the problem of whether existing international institutions are capable of the expansion and flexibility needed to halt the disintegration of the biosphere. Questions which need answering include: Is there too much fragmentation? Too many conferences? What new mechanisms are needed? Do we need independent, apolitical scientific bodies to act as advisory boards to the U.N.?

### PRIORITIES

A corollary to both the "step" and institutional issues is that of priorities. The need to list priorities not only relates to these two questions, but also to the extensive lists of research and monitoring projects proposed by the Committee. This involves both determining those pollutants that pose the greatest threat, and providing the best mix between the state of the art in research and monitoring and available funds. A further question, closely related to the big vs. little step issue is whether global monitoring is best served by a pragmatic, "first things first" approach, or a more elaborate, holiest, systems attack.

### SUMMARY OF PROPOSALS AND ISSUES

#### *Information*

(a) Research—*Proposals:*

(1) There is an intense need for massive research efforts in the following areas; Health and Food, Air and Climate, Terrestial Ecology, The Oceans.

(2) Research projects in the above areas should include;

(a) Long term studies of the effects of low dosages of pollutants;

(b) Effects of different levels of pollutants on the biosphere;

(c) The impact of pollutants on human health, especially in regard to genetic and birth defects, cancer, and the interaction of pollutants which cause greater harm in concert than alone;

(d) Broad geographical studies;

(e) Follow-up studies on highly exposed populations;

(f) Animal studies.

(3) There is a need to standardize measurements, and insure the compatibilty of research techniques to allow for effective information exchange.

(4) The major burden of these increased research efforts is to be borne at the national level.

(5) Existing international units are to provide coordination by setting priorites, scheduling projects, and minimizing duplication. They should also foster collaborative research projects.

(6) Consideration should be given to establishing an international institute for tropical marine studies.

#### ISSUES

(1) Is the U.N. the best organization for harmonizing international research efforts? Are there existing international scientific bodies that could do a better job?

(2) Which projects deserve priority?

(3) How justified is the hope of many people that increased scientific data will give us objective, apolitical solutions, allowing us to avoid the political thicket of international control measures?

(4) Does increased knowledge offer solutions, or merely expose value judgments that lie at the heart of a controversy (for example, DDT)?

(5) Can we wait for the results of research (particularly long-term) before taking action?

(6) What legal arrangements are necessary to establish unfettered international research (and monitoring networks)?

(b) *Monitoring Proposals:*

(1) International monitoring networks should be formed from existing national and international systems.

(2) Pollutants that deserve special attention are: micro-organisms, additives and contaminants in food and water, heavy metal and organo-chloric compounds (including DDT and PCB), air pollutants having a climatic impact.

(3) Monitoring should include: details on exposures, pathways and sources of key contaminants, trends, studies of biological indicators (organisms that give crucial information either through accumulation of pollutants or changes in population size) to give an early warning capability.

(4) The institutional base for co-ordinating and implementing monitoring programs should be provided to the maximum extent possible by existing U.N. agencies.

(5) The jurisdictional breakdown between national and international networks would have activities carried out on national territories the responsibility of the countries concerned, with responsibility shared in areas outside national jurisdictions, such as space and the oceans.

(6) Two pressing needs are:

Establishment of 10 baseline and 100 regional stations to monitor global trends in atmospheric constituents and properties which may affect the climate. Regional stations should utilize less sophisticated instrumentation so that countries with modest resources may participate.

Establishment, through reorganization of existing U.N. and international organizations, and the beginning of a global marine monitoring network.

(7) Monitoring should assist resource management and development by providing data on the following: (a) world forest cover, (b) environmental effects of energy use and production, (c) impact of pollutants on wildlife, (d) environmental needs of fisheries.

(8) Global monitoring networks by providing information to assist in the control and mitigation of natural disasters.

(9) There is need for further assessment of the possibilities of remote sensing devices for use in monitoring networks.

### ISSUES

(1) Given the expense of establishing monitoring networks, and the uncertain state of the art, should the U.S. endorse full-fledged networks, or possibly several pilot projects?

(2) Of all the possible monitoring networks which should have priority?

(3) Does the time lag involved in developing monitoring capabilities in nations where they presently do not exist pose any problems that might hinder the success of international networks?

(4) Can environmental problems wait for the development of international networks?

(5) Does the comparmentalization of networks under national and international jurisdictional controls, and also by media (air, water and land) present any problems to tracing major pollutants from source to sink?

(6) Would the use of monitoring networks to aid resource management involve hidden risks of exploitation and promotion on the part of data-gathering services?

(7) Does the gap between man's knowledge of the oceans as a resource and as an ecosystem portend trouble for the oceans' future?

(8) How crucial is the involvement of developing nations in environmental monitoring?

(c) Data Processing—*Proposals.*

(1) Information systems:

(a) There is need for improved methods for collecting, storing, and exchanging data gathered by the expanded research and monitoring activities called for above.

(b) National and regional centers are to serve as the primary storage areas.

(c) The U.N.'s task is to establish referral and information linkages that will allow for the rapid, widespread dissemination of pertinent data.

(2) Social science inputs:

(a) There is need for improved studies by social scientists regarding: cost-benefit analyses to improve allocation of resources, particularly where resources are scarce, cost-data breakdowns of major polluters, studies on the feasibility of transfering, successful control technology and strategies between nations.

### ISSUES

(1) What is the feasibility of such information exchange systems?

(2) What are the possibilities of nations releasing accurate industrial data?

(3) How much of the present environmental problem results from an inability to get information that exists?

(4) A great deal of the hope placed in information systems parallels that vested in monitoring and research—the hope of success through knowledge. How valid is this hope?

(5) What potentially transferrable technology or control strategies merit most consideration?

(1) Increased research and monitoring entails assistance, training, and financial support to ensure effective involvement of appropriate countries, without regard to economic development.

### ISSUES

(1) How crucial is the involvement of developing nations in global environmental programs? What is the cost, and how should it be borne? What are the proper channels for assistance?

(2) Should the assistance needed to develop national pollution abatement programs be achieved through additional aid, or a reassignment of priorities among existing aid programs? Should the aid be financial, technical, or merely educational?

### *Control*

(d) Technical Assistance—*Proposals:*

(a) *Mandatory Regulation*—

(1) Since most sources of pollution lie within national boundaries, and international agreement on discharge levels is unlikely, the major onus for enacting control measures must be placed on voluntary national actions.

(2) Potential national control actions fall into the following categories and subtopics:

(a) *Mandatory Regulation*—

(1) Mandatory standards.

(2) Complete prohibitions.

(3) Licenses or permits.

(4) Discharge warrants (negotiable instruments sold by a control agency to the highest bidder).

(5) Land use control.

(6) Best practicable means.

(7) Liability and insurance.

(b) *Charges*—

(1) Effluent charges.

(2) Levies on polluting products.

(3) Misc. boycotts, fines, moral suasion, and adverse publicity.

(c) *Incentives*—

(1) Tax incentives.

(2) Soft credit terms and grants.

(3) Awards and recognition.

(3) The exact form a national control strategy will take should be dependent on national priorities, level of economic development, social and cultural values, institutional framework, and leadership.

(4) The existence of variances in national standards should not serve as an excuse for the adoption of tariff barriers.

(5) Where variances in national standards act as nontariff barriers to world trade, the following steps may ameliorate the problem:

(a) Early warning mechanisms by the enacting nation to allow time for production changes.

(b) Establishment of consulting mechanisms between trading partners, with possible discussion of compensatory actions.

### ISSUES

(1) Are there any areas where the U.S. could show leadership by example?

(2) How high a priority should the U.S. give to funding international environmental action?

(3) Which of the above national control strategies shows the greatest promise? Which can be best transferred among nations? Are there any mixes of strategies that offer particular hope?

(4) Do divergent national standards present a real threat to international trade? Are early warning and consulting mechanisms sufficient? Should there be mandatory international controls? For what items would international standards be better than national ones in easing non-tariff trade barriers and the flight of capital to escape national standards?

(b) *Regional Proposals:*

(1) Where problems, either due to distribution of pollutants, or proximity, are beyond the capacities of one state to solve, regional solutions should be attempted.

(2) Examples of successful regional responses include the 1959 Antarctic Treaty and the 1963 Test Ban Treaty.

### ISSUES

(1) Are any of the previously listed national control strategies available at the regional level?

(2) Are there any pressing problems demanding regional control that could be brought up at the Stockholm Conference?

(c) *International Proposals:*

(1) Problems that now demand international action include: (a) Marine pollution, (b) Contamination of food and water supplies, (c) Widespread distribution of persistent heavy, metal and chemical compounds, (d) Atmospheric pollution—particularly the possibility of climatic impact.

(2) International control action should involve a three stage process—

(a) *Assessment*—This involves the evaluation of data to determine risks, pathways, and sources of pollution. There is a need for international assessment mechanisms. There is also a pressing need for assessments. of organochlorine and heavy metal compounds. New chemical compounds should be assessed prior to their release into the environment.

(b) *Guidelines*—Legally non-binding recommendation for national and regional control measures should be promulgated for priority pollutants. There is an immediate need for working limits for water and air, and increased efforts in the current work to establish standards for foods (e.g. pesticide tolerances and additives). Primary protection standards are needed for toxic metal and organochlorine compounds. The issues of ocean exploitation and discharges of oil at sea are expected to be deferred to the upcoming IMCO and Law of the Sea Conferences in 1973.

(c) *Review* — International guidelines should be continually reviewed in the light of new scientific knowledge and advances in technology. Registries listing international standards and the inputs of chemical and radioactive substances into the biosphere should be established. Data on the distribution and production of key pollutants for both the assessment and review stages should come from national sources.

This three stage control process should be the responsibility of competent international committees.

### ISSUES

(1) Does the reliance of both the assessment and review process on national production and distribution data represent a weakness in the Preparatory Committee's framework?

(2) Are there elements in the assessment process, particularly the determination of risk vs. benefit, that are properly the function of political processes, and should not be left solely to committees of experts?

(3) What actions can be taken other than legally nonbinding guidelines?

(4) Should all marine control measures be deferred to the International Maritime Consultation Organization (IMCO) and the Law of the Sea (LOS) Conferences?

(5) Should we make any recommendations for the establishment of permanent marine regulatory mechanisms to insure co-ordination between the IMCO, LOS, and later conferences? Is there need for an institution that deals with all forms of marine pollution?

(6) What kind of inducements, and forms of leverage are available to the U.S. in bargaining for international agreements on the environment?

(7) Should the U.S. assume a leadership role, or take a lower profile and lend support to the initiatives of other nations? How crucial is it that we involve the developing world in control efforts? Would we have more success by confining our efforts to developed nations? Are there any areas where our knowledge is complete enough to initiate action for the promulgation of international control measures?

LEE RAWLS,
*Director, Subcommittee on the Control of Pollutants and Nuisances of Broad International Significance.*

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FEBRUARY 18, 1972.

### SECRETARY OF STATE'S ADVISORY COMMITTEE ON THE 1972 UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

### STAFF ISSUE PAPER ON ENVIRONMENTAL ASPECTS OF NATURAL RESOURCES MANAGEMENT

This area is designated as subject area II for the Conference and is subdivided into the following topics:

Integrated management of natural resources.
Agriculture and soils.
Forests.
Wildlife, parks and other protected areas.
Fisheries.
Water.
Mining and primary mineral processing.
Energy.

Consideration of the topics at the conference will be based on the detailed action papers prepared for each subject area. The action paper presents the primary considerations for action and recommendations for both national and international action for each topic. The following is a summary of the primary considerations for each topic and the major issues we expect to be considered in developing and implementing action recommendations.

#### INTEGRATED MANAGEMENT OF NATURAL RESOURCES

This establishes the parameters within the area of natural resource management within which action can be taken. The use of resources is based on the laws of supply and demand. Up until this point in the development of resources, little recognition has been given to the finite character of the resources. Thus, the economic considerations of development have been short range and not concerned with environmental factors.

The aim of dovelopment is to improve the quality of life for man. In developed nations the interest now lies in additional amenities while in developing nations the interest lies in establishing minimum living standards. Ths choice of goals will affect the priorities of production as well as the distribution of cost priorities. The use of the cost-benefit concept in planning will reflect the status of the particular national interest. Therefore, it is anticipated that the developing nations will not place as high a benefit figure on environmental considerations as will the developed nations.

The present power structures and concepts of sovereignty are accepted and recognized as the only effective means of action. It should be noted, however, that participation in regional organizations like river basin commissions is recommended.

Some general issues are as follows:

1. Should tariff and non-tariff trade sanctions be used to stimulate environmental action in other nations?

2. With respect to technical and financial aid, public and private development *et al.*, should the donor or recipient nation set environmental guidelines? Should U.S. policy be to refuse to grant a guarantee of investment without environmental action guarantees?

3. Should U.S. multinational corporations comply with U.S. standards or standards of the nation where they will operate? Should they comply with the more stringent?

4. What should U.S. policy be with respect to economic sanctions, penalties, or liabilities regarding actions with detrimental extraterritorial effects?

5. How should the U.S. participate in any international fund?

6. Will U.S. national laws and standards apply to U. S. exports, i.e, if the use of DDT is banned in the U.S. should the U.S. allow manufacture and sale to a foreign nation?

7. While recommending that nations use the cost-benefit approach in the use, development and conservation of resources, what weighting factors should be suggested?

8. Should the objective of a self-sustaining economic unit be the goal for renewable resources management?

9. What should the U.S. position be with respect to establishing international standards dealing with the conservation of natural resources and insuring that all national action be, at a minimum, consistent with these standards?

10. What should the U.S. position be with respect to allocating the economic burden of scientific research and technology, recognizing that the primary resource lies in developed nations while the natural resources and problems areas often lie in developing nations?

11. Where development is sought by a nation with U.S. assistance, who should pay any added costs for environmental protection actions?

12. How should the interests of developing and developed nations be reconciled with regard to use of synthetics and recycling?

13. Where the U.S. can afford implementation of technological advance, but a developing nation says it cannot, what should U.S. action be?

14. What should be the U.S. position on developing natural resource processing at the site of origin, as opposed to transporting raw materials to developed nations?

15. If the international community adopts the position of "keep clean as you go," who will pay for this in a developing country?

16. How should world assessments and minimum environmental needs and standards be developed?

17. How should maximum production be balanced with minimum damage to the environment and consistent with cleaning up past abuses?

18. What should be national and international responsibilities towards conservation of natural resources for future generations?

19. How should the international community decide what should be conserved? Who should make the selections? And once choices are made, who should be responsible for conservation and any costs resulting from conservation actions?

#### AGRICULTURE AND SOILS

In this area we are dealing with a renewable resource which is the primary basis for the world's food production, as well as other agricultural products (e.g. paper). Primary considerations are to maximize production while minimizing environmental damage and to improve both rural living standards and product quality. A significant technological gap exists between the developed nations and the developing nations, especially in tropical areas. Efficient production could lead to economically self-sustaining agricultural units which contribute significantly to bearing the costs of environmental actions. The major issues involve:

1. Achieving maximum production with minimum environmental damage often requires actions beyond the economic or technological capability of the individual farmer. How should the economic burdens of environmental actions among the individual farmer, agro-industries, and government be distributed?

2. In considering how any given land area will be used, should recognition be given to the inherent limitation of the area and utilization only to maximize natural potential, or, should the area be significantly altered through some type of development project (e.g., irrigation, fertilizers, industry)?

3. Long term productivity and environmental considerations are not always consistent with short term production and economic goals; especially with respect to crop selection, fertilizers, pesticides, etc. How can the international community reconcile long and short range goals?

4. The use and development of agrochemicals (e.g., pesticides, fertilizers, drugs and antibiotics) must be reconciled with respect to both long and short-range objectives. Recognizing that technological advancements will come from developed nations where the unit cost factor may not be as significant as in a developing country, how should existing knowledge and chemicals (e.g., DDT) be utilized in developing nations, and which nation's standards of use should be applied?

5. What actions should be taken by the international community concerning the treatment and use of agricultural wastes and the possible recycling of agricultural products and wastes?

6. What action can be taken to resolve the problem of pollution from the production of agricultural products (e.g., paper and pulp production)? How is the cost burden to be allocated?

7. What should the guidelines be in connection with evaluating natural and synthetic products, especially with respect to conservation, balance of trade, and development?

#### FORESTS

Forests are a renewable agricultural resource although basically non-food producing. The primary use of forests is for the timber and wood products, in addition they provide indispensible protection of the land and other resources, contribute to the balance of the biosphere, and affect the climate. The economic burden of environmental action in connection with forests does not involve the problem encountered in the agricultural and soils area since 70% of the forests are in public ownership. Public ownership is consistent with an integrated management approach and can be most effective in dealing with the following major problems:

1. What positions can the international community take in connection with the following areas, and how can national action be reconciled with these positions?

a. making forests self-sustaining economic units through a multiple use approach.

b. land use decisions, especially in reference to forest renewal versus development of cleared lands.

c. pollution control of forest industries.

d. experimentation and implementation of farming and breeding technologies and cost thereof.

e. fire, pest and disease control problems.

2. Technology, management skills, legal and institutional, are relatively well defined in developed temperate zone countries while developing tropical countries need assistance. Is it a feasible position that developed countries bear the economic burden of technological advances while developing countries bear the burden of project costs?

3. Further study of the relationship of forests to the biosphere should be made to

determine whether there are minimum acceptable limits for forest cover, and if so, how can this minimum acceptable level be protected? How can national actions be coordinated on an international or regional basis?

### WILDLIFE, PARKS AND OTHER PROTECTED AREAS

Wildlife:

Wildlife plays an integral part in any ecosystem, is a source of food and animal byproducts, and is a basis for tourism and recreation. Wildlife is threatened by man's population and his occupation of land and water. It is further threatened by man's use of land and water territories which results in altered ecosystems. The major dangers come from pollution and trade exploitation. Management is primarily a national problem while conservation is of international scope, especially in connection with water and migratory species.

1. How should actions distinguish between economically self-sustaining species and wildlife?

2. What is the proper balance in land use between food needs and maintenance of natural ecosystems?

3. Can wildlife be managed as a self-sustaining resource with respect to gene pools, food, tourism and recreation, and animal products? How can long and short range goals be reconciled?

4. Whaling merits special attention with the suggestion of a 10 year moratorium. How can enforceable international agreement be reached on this topic?

Parks and other protected areas:

Protected areas, be they parks, wildlife refuges, natural areas, wilderness areas or recreation areas, are essential for the preservation of certain ecosystems as well as providing sanctuaries for basic flora and fauna gene bases. In addition, they are invaluable in relationship to the ever expanding urban populations by providing tourist, recreation, and educational areas.

1. How should these values be weighed against development of land areas for other uses?

2. Can protected areas be managed to maintain a degree of economic self-sufficiency? If not self-sustaining, who should bear the economic burden, especially with regard to developing nations?

3. What management guidelines should be developed with respect to tourism and pollution?

4. Special cooperation appears necessary for border areas, water areas, and protected areas for water and migratory species. What arrangements should be developed in this connection?

5. Recreational, natural, historical and cultural bases of mankind need to be protected for continued scientific and cultural utilization. With expertise in a developed nation and the natural resource and economic benefit in a developing nation, who should bear the economic burden? How should national and international programs, including assistance to developing nations, be balanced?

### GENETIC RESOURCES

Genetic diversity is essential for survival by adaptation to environmental changes. In addition, it provides a basic tool for maximizing the efficiency of living organisms in a given environment. Some basic gene resources of the world are threatened by man and his development as certain agricultural plants, forest species, aquatic and microorganisms, insect and animal species are faced with possible extinction. Once this ancestry is lost it is unrecoverable.

1. Gene pools and research are scientific in orientation and are not self-sustaining resources, unless the research product is considered a commodity. The major scientific expertise and facilities existing in this area are in the temperate and developed areas while the majority of raw materials and basic gene pools are in the tropical and developing areas. How can agreement on materials and information exchange be reached and how should the economic burdens be allocated?

2. Practically an infinite number of gene species exist and selection must be made because all of them cannot be preserved. Noting that the selection priority will be based on usefulness for:

a. breeding improved crops for production

b. breeding species resistant to disease and pests

c. developing insects for pest and disease control

d. improving productivity for plants and animals.

Who should make the selection and bear the cost of selection and how should this be done?

3. During the selection stage, conversation is essential so that no basic gene pools are lost. How should this be balanced against development and if conservation entails a cost by limiting development, who should pay?

### FISHERIES

Provides a renewable primary food resource and play an integral part of any water ecosystem. They are threatened by pollution, overfishing, marginal land development, and off shore development. Water and its inhabitants are not restricted to national territory. Most water resources are interrelated and are subject to multinational actions. There are many existing multinational organizations as well as fishing and trade agreements. Due to the extraterritorial nature of fisheries and water, agreement and enforcement of national actions is difficult. It should also be noted that, although an international resource, technology for exploitation lies mainly in developed countries.

1. In what areas and how can multinational agreements be reached and enforced?

2. How should international resources be divided?

3. How should estuarine areas in which many economic species reproduced be treated by a nation?

4. How should actions on the following major areas develop?

a. pollutants and wastes, with any extra territorial effects.

b. expanded research in fish farming and transplantation without damaging natural ecosystems.

c. guidelines for development projects which will effect water flows and water quality.

d. research into acquaculture and recycling and conservation of beneficial wastes.

e. treatment of coastal areas, wetlands, and offshore territorial lands and waters.

5. Should the international community allocate the fisheries resource? If so, how can fisheries be managed and how should economic responsibility be allocated? Can fisheries be managed as a self-sustaining resource on an international basis?

### WATER

Water is a replenishable though finite resource which is essential to the environment. Provision of the requisite amount of water at the right time in the right place in the right quality is the primary objective. Extra-territorial waters such as seas, oceans, and certain rivers may be distinguished from purely inland waters. The relationship of sovereign rights as applicable to ocean waters must be considered. Legal considerations, management, and enforcement over actions in international or multi-national waters are more complicated.

1. In regard to extraterritorial waters, what agreements and actions should be taken with respect to:

a. water resource allocation between uses,

b. water pollution, including waste control, and

c. effect of development and other land uses on water quantity and quality, especially in coastal and off shore projects.

2. With respect to multinational funding as well as international agreements, should participation be on an equal basis although other participants fail to comply with our national standards?

3. What is the national responsibility for insuring the water quality of water flowing into another jurisdiction.

4. How should the economic burden, which may be beyond the individual or national economic capacity, be allocated?

5. How can the real cost of water be established?

### MINING AND PRIMARY MINERAL PROCESSING

Minerals are a non-renewable resource essential to maintaining current production and increasing development. While depleting the natural resource, the mining of the raw material generally only requires temporary occupation of the land. This leaves the way open to directed renewal of the land area to a natural state, although perhaps altered from the original state. Conflicting with the renewal approach is the fact that mineral mining and processing tend to be the first stages of urban development which means permanent occupation of the land and ensuing problems like pollution. While almost wholly within national boundaries, coastal, off-shore and deep sea processing involve multinational issues.

1. What position should be taken with regard to mineral importation from developing nations, recognizing that the raw product is often an essential element in the balance of trade? In addition, who should bear the cost of site restoration?

2. What international actions can be taken to insure that mining practices do not harm the global environment?

3. What emphasis should be placed on the balance of trade in an analysis of natural versus synthetic products and in connection with recycling?

4. Should international guidelines for integrated management be established in regard to the problems of sequential land use and pollution in the mining, processing, and transportation phases of international mineral development?

5. Should international standards be established and can costs be allocated for miners health and safety.

### ENERGY

Contemporaneous with minerals, energy is a prerequisite for production and development. Historical development of energy resources has been from wood to coal, fuel oil, natural gas, electricity and atomic energy, with each resource significantly depleted at each stage. Energy resources at present appear finite. Conservation of finite resources non-renewable in light of increasing demand requires a multiple approach through (a) increasing efficient use and production, (b) conservation of resources and demands, and (c) exploration of new energy sources.

1. In developed nations the minimum demand would be at present levels. In developing countries production of energy is a basic source for economic growth. Should demand be limited? How can the international community balance these competing demands on the world's energy resources?

2. Should a depletion allowance concept on an international level be developed with economic proceeds channeled to research and other environmental concerns?

3. Who pays for research to explore energy recycling and how can international guidelines be established for the resulting trade ramifications?

4. How should the international community approach these major problems:

a. pollution in production, transportation, and use of energy, especially concerning the internal combustion engine and accidents. Is an international accident liability approach warranted?

b. how should demand and consumption be regulated. especially in developed nations and urban areas?

c. allocation of costs resulting from both conservation of energy resources and other environmental protection?

5. Under present technology, the world's energy resources are finite. How should the international community balance long and short range objectives in the use and conservation of energy resources?

6. How should a clear independent evaluation of the energy resource status of the world be made and paid for? Should present technological limitations, which indicate that energy resources are finite, dictate our actions, or, should we assume advancing technology and either new sources or successful recycling will make energy resources infinite?

7. What is responsibility to future generations with respect to energy resources?

Kenneth Tapman,
*Director, Subcommittee on Environmental Aspects of National Resources Management.*

## ORDER FOR ADJOURNMENT TO 9:15 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR McGOVERN TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, after the two leaders have been recognized tomorrow, or their designees, the distinguished Senator from South Dakota (Mr. McGovern) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT TO 9:45 A.M. ON WEDNESDAY, MARCH 1, 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business on tomorrow, it stand in adjournment until 9:45 a.m. on Wednesday, March 1, 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR ROTH ON WEDNESDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized on Wednesday next under the standing order, the distinguished Senator from Delaware (Mr. Roth) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection. it is so ordered.

## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that Senators may speak out of order and without the time being charged to either side during the remainder of the afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXTENSION OF TIME FOR FILING REPORT BY THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, I ask unanimous consent for an extension of time for filing the report of the Special Committee on Aging, "Developments in Aging—1971, and January through March, 1972," until April 15, 1972. This postponement will enable the committee to deal with significant developments expected to occur this year as followup activity to last year's White House Conference on Aging.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

## SCHOOL BUSING BINGE

Mr. BYRD of West Virginia. Mr. President, the Senate now has before it the issue of busing pupils to bring about racial balance in the public schools.

The busing of children is really not the bedrock, basic issue. In fact, it is but the surface manifestation of the fundamental issue involved—it is really just the tip of the iceberg. That submerged part of the iceberg which is of more basic significance—and which does not immediately surface in the emotion-packed discussions and speeches by legislators, Governors, and outraged parents—is simply the issue of assignment of pupils to the public schools on the basis of race. In other words, it comes down to the rudimentary equation of forced integration versus voluntary integration.

I shall direct my attention, however, for the time being to the more volatile subject of busing.

I have nothing against busing, as such, where it is required to bring children from rural areas or from outlying sections of a community into the nearest neighborhood school. We have had such busing for decades, and it will continue to be necessary for the foreseeable future. I myself rode a school bus in Mercer County, W. Va., 40 years ago. But it was a circumstantial matter, the nearest high school being 7 miles away. That, however, was a different circumstance from today's denial of access to a neighborhood school and today's forced attendance—based solely on a child's race—of a school 7, 10, 15, or 20 miles away just to satisfy some arbitrary formula regarding racial balance.

Today's advocates of mass busing to promote racial balance point to the years, prior to 1954, when some degree of school busing occurred in support of school segregation. They are fond of citing this fact as a basis for today's busing to bring about racial balance.

This argument is unsound on its face and morally unworthy of expression. How can the mass busing of today be defended by citing, for its support, an unconstitutional precedent of the past? Two constitutional wrongs do not make a constitutional right. If it was wrong for the purpose of maintaining racial imbalance, to force children—only because of their race or color—to ride buses and attend schools other than their own neighborhood school prior to the Brown I decision of 1954, it is just as wrong today to force children—only because of their race or color—to be bused to public schools away from their own neighborhood to promote racial balance. The wrong that is being perpetrated today is all the more compounded in that it accelerates—if not, in some instances, indeed, generates—the exodus of white taxpayers to the suburbs. The concomitant resegregation of the inner city schools is almost as complete as was the segregation of the schools originally.

The upshot of it all is that the inner city black schools are as black as they were before 1954, the used-to-be white schools are gone, and, in addition, the former inner city tax resources have, largely, fled to suburbia. This is the inevitable result of misguided attempts by HEW bureaucrats and some Federal courts to use the power of government in an area of social planning which will lend itself only to voluntary action supported by the Constitution. In other words, no amount of pressure will force the overwhelming majority of people permanently and willingly to accept governmental policies to which they are strongly opposed, especially when it is their children who are primarily involved. The government and the courts are dealing with people's children. And parents do not want to have the government tell them that their children cannot attend the nearest neighborhood school but, instead, must attend a school miles across town, where the social atmosphere is often unfriendly, or at best, unknown, and where their children may be subjected to racial tensions and racial conflict.

As for the school segregation which required the school busing of yesteryear, it was the law of much of the land in that day. Enforced segregation was required by State statute and by many State constitutions. It was upheld by court decisions based on the interpretation of the U.S. Constitution, and it was countenanced by Federal law. The people generally, black and white, accepted school segregation in some parts of the Nation as the law. Apparently, the people of those States generally were satisfied with the law as it was, and wanted it that way, and were willing to pay the financial cost of whatever busing was required to maintain a segregated school system.

Now, the situation has changed. The U.S. Supreme Court, in 1954, ruled that forced segregation, based on race, in the public schools was unconstitutional. The people, north and south, have now generally accepted that decision as the right one. But they are unwilling to pay the financial cost of a senseless busing binge, and arbitrary assignments and attendance ratios based purely on race, all of which are unsupported by the Constitution and not required by any law enacted by their elected representatives in Congress, but forced upon them, rather, by a few overzealous HEW bureaucrats and by a few super-liberal judges in the lower Federal courts.

Speaking of white flight to the suburbs, one need only look at the public school system in Atlanta, Ga., which was 70 percent white and 30 percent black just 14 years ago, in 1958. Successive desegregation orders during the intervening period have resulted in an exodus of white pupils out of the inner city. Enrollment in the public schools in Atlanta is today exactly the reverse of 14 years ago—30 percent white, 70 percent black.

The same thing has happened in Washington, D.C., since the 1954 court decision. When I came to this city in January 1953—almost 20 years ago—the population of Washington, D.C., was approximately 35 percent black. Today it is close to 75 percent black. The Washington, D.C., school population today is 95 percent black.

How tragic that some of the courts and governmental social planners have been so blind, until it is too late, to the reality that thoughtful parents, black, oriental, and white, simply do not intend to trust the welfare, safety, and education of their most priceless possession—to the experimental whims and prejudices of judges and HEW officials.

Mr. President, we are told that racial balance is important as a means of teaching the races to live together in peace. But will it? Judging from the many racial incidents of fighting, knifing, and shooting that are increasingly occurring in the Nation's high schools, there is cause to question the efficacy of such forced race mixing as a way to achieve racial peace and understanding. Would not voluntary integration—based on freedom to choose the closest neighborhood school—be the wiser, more commonsense approach?

Can anyone seriously contend that, to uphold and enforce the constitutional right of Negro students to equal protection, they must be uprooted and forced to travel against their own wishes—by foot or by bus—away from their own neighborhood schools and to some distant school, merely that they may attend classes with white children? How utterly nonsensical the courts have become. What a distorted, twisted interpretation of the equal protection clause.

Any Negro child has a constitutional right to attend the public school of his choice, and State authorities ought to be bound to guarantee and, if need be, enforce that right. It would also seem to be just as clear that any act of the State to force that child, because of his race, to attend a particular school against his wishes and in preference to the school of his choice is violative of his constitutional rights.

It is preposterous to maintain that those who wrote the 14th amendment intended that a Negro child should be forced by the State to attend a public school in which his race is in the minority when he may desire to attend his neighborhood school where his race is in the majority. He may just prefer to be with his own race. And why should he not be allowed to be, if that is his preference? How can any court seriously contend that it protects that child's constitutional rights when it forces his school to be closed, and forces him to attend, only because of his race—on foot or by bus—a school which is to his cost and inconvenience and which he does not want to attend?

Does the Constitution, in fact, countenance pupil assignment on a racial basis?

Let us go back to December 9, 1952, when the five cases ultimately decided under the name of Brown against Board of Education were first argued before the U.S. Supreme Court. Mr. Thurgood Marshall, then the chief counsel for the NAACP, arguing the case of Briggs against Elliott, from South Carolina, made some interesting comments. His point was that what the plaintiffs wanted was the voiding, on constitutional grounds, of the South Carolina statute requiring school boards to segregate children by race. He told the Court:

> If this Court would reverse and the case would be sent back, we are not asking for affirmative relief. That will not put anybody in any school. The only thing that we ask for is that the state-imposed racial segregation be taken off, and to leave the county school board, the county people, the district people, to work out their own solution of the problem to assign children on any reasonable basis they want to assign them on.

I think it reasonable to state that none of the other attorneys representing Negro plaintiffs said anything to contradict Mr. Marshall's assertion that all they sought was an invalidation of school assignments by race or color and an affirmative requirement that assignments be on a nondiscriminatory basis, through districting or proximity of schools or some such neutral standard. And that, in essence, is the relief which the plaintiffs properly received in the Brown decisions.

Today, however, an amazing transformation has been wrought. Now it is not the absence of discriminatory standards in assignment which is the keystone of desegregation law. Indeed, race must be taken into account, because what is now apparently forbidden are all-white or all-black schools or schools made up predominantly of one race or the other—although the Court in Swann did not go this far. Pupils, teachers, and supporting staff must now be assigned by race, and by race alone. Racial ratios have become the order of the day. School boards are not required to be color-blind; they must be color-conscious. The educating of minds is to be secondary; the primary objective appears to be the integration of bodies.

It need hardly be said that when the States and localities are required to operate school systems to serve the primary purpose of integration rather than education, and to conduct one long complicated experiment in sociological leveling, public support of public education is bound to suffer.

Polarization of the races is also intensified when neighborhood and school identities are destroyed and when students find that they cannot compete successfully with other students who may have had superior educational opportunities in the past.

What is most likely to be achieved by busing and forced integration is increasing mediocrity in education. A leveling process will have been set in motion which can have the effect of stifling incentive for the bright and gifted student while discouraging the less well prepared student and the slow learner.

It should be obvious that the way to improve educational opportunities for blacks is to improve the schools which they attend. Educational funds should be spent equally, per capita, on blacks and whites, on the suburban school and on the city school. That is what the courts and the Government really should be concerned with. As long as each child can go to the school of his choice, and if one school is treated equally, with respect to educational funding, to every other school in a given area, the constitutional mandate of equal protection is met.

Moreover, commonsense would seem to dictate against the extremes to which children are being forced to leave their own neighborhood schools and ride buses over icy roads to attend distant schools at the direction of Federal judges and Federal bureaucrats who set themselves up as super school boards.

In many instances, these same Government officials send their own children and grandchildren to private schools, while other Negro, oriental and white parents, less fortunate financially, are denied the option and must send their children to schools not of their own choice. Is it not evident that much of the talk about quality education and much of the Government intervention is sheer hypocrisy?

Furthermore, after pouring hundreds of millions of dollars into the purchase of school buses and the employment of personnel to carry out mass busing, what is there left to show for this expenditure by the school boards throughout the country? Nothing but gasoline and repair bills and worn out, second-hand buses that have to be replaced by new buses with the same expenditures over and over again.

Instead of wasting vast amounts of money to purchase and operate great fleets of school buses why would it not make far better sense to spend these funds for better salaries for teachers, new equipment, and improved neighborhood school buildings, thus providing the opportunity for true quality education for all students, black and white?

Where the imposition of mass busing and racial quotas in the public school system necessary to conform to the equal protection clause of the 14th amendment, of course, no fair-minded individual could legitimately complain. But can it be seriously contended that in a city, the population of which is, say, 65 percent white and 35 percent black, the Constitution requires the placement of 520 whites and 280 blacks, or some comparable ratio, in each school throughout the length and breadth of such city—with all of the cross-city busing that would be entailed? Does it not all become a little silly to argue that the Constitution requires such?

Yet, this is precisely what is being done, and one has only to look at the Richmond school desegregation case to see the preposterous extremes to which such a theory will lead. In that case—Bradley against School Board of the City of Richmond, Va.—the court required the merging of a metropolitan area—two suburban counties and the city of Richmond—into one school district and the resultant busing of students across county and city lines.

It is important to focus on the one paragraph stating the conclusions of law found by U.S. District Judge Robert Merhige in Bradley:

> The Court concludes . . . that the duty to take whatever steps are necessary to achieve the greatest possible degree of desegregation in formerly dual systems by the elimination of racially identifiable schools is not circumscribed by school division boundaries created and maintained by the cooperative efforts of local and central State officials. The Court also concludes that meaningful integration in a bi-racial community, as in the instant case, is essential to equality of education, and the failure to provide it is violative of the Constitution of the United States.

The real basis for the merging of the Richmond metropolitan area into one school district is the court's finding that:

> Meaningful integration in a bi-racial community . . . is essential to equality of education, and the failure to provide it is violative of the Constitution of the United States.

On page 85 of the Bradley decision, this conclusion of law is clarified as to which constitutional deprivation the court is asserting. For there the court says:

> Not only is meaningful integration in a bi-racial community, such as we have here, essential to equality of educational opportunity, but it is required by the Constitution of the United States.

It is only in this context that the court finds it necessary to include Chesterfield and Henrico Counties into the Richmond school system. The court goes beyond the city of Richmond school district as its frame of reference because it cannot find meaningful integration in the city school system that is 69-percent black and 31-percent white, and so must bring in the predominantly white suburban counties to achieve a balance that, in the court's mind, will produce the meaningful integration in the biracial community that the Court envisions.

Let us briefly examine such a concept. It has been consistently held that the constitutional deprivation attacked in the entire line of school desegregation cases since Brown has been that state-imposed segregation by race in public schools denies equal protection of the laws. No one denies the Supreme Court's decision of May 17, 1954, that:

> In the field of public education, the doctrine of "separate but equal" has no place. . . . Therefore, we hold that the plaintiffs and other similarly situated persons are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. . . .

The 14th amendment has never been held to grant as a constitutional right "meaningful integration in a biracial community." It has always been held in the school desegregation cases that the constitutional deprivation involved in state-imposed, segregated education was a violation of equal protection of the law.

In Swann against Board of Education—one of the two Supreme Court cases that Judge Merhige cites often as underpinning for the Bradley decision—the distinction as to the 14th amendment constitutional right involved is clearly drawn:

> The constant theme and thrust of every holding from Brown I to date is that state-enforced separation of races in public schools is discrimination that violates the Equal Protection Clause.

The remedy was to dismantle dual school systems.

> We are concerned in these cases with the elimination of the discrimination inherent in the dual school systems, not with myriad factors of human existence which can cause discrimination in a multitude of ways on racial, religious, or ethnic grounds. The target of the cases from Brown I to the present was the dual school system. The elimination of racial discrimination in public schools is a large task and one that should not be retarded by efforts to achieve broader purposes lying beyond the jurisdiction of school authorities. One vehicle can carry only a limited amount of baggage. It would not serve the important objective of Brown I to seek to use school desegregation cases for purposes beyond their scope, although desegregation of schools ultimately will have impact on other forms of discrimination.
>
> Our objective in dealing with the issues presented by these cases is to see that school authorities exclude no pupil of a racial minority from any school, directly or indirectly, on account of race; it does not and cannot embrace all the problems of racial prejudice, even when those problems contribute to disproportionate racial concentrations in some schools.

The Court then went on to discuss racial balancing within the individual schools and found no error in the district court's limited use of a mathematical ratio as a starting point in the process of shaping a remedy in the Charlotte school system, but the Court stated:

> If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse. The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole.

Thus, again we see in a case cited by Judge Merhige as basis for the Bradley decision, the unequivocal statement "constitutional command to desegregate schools" is the 14th amendment deprivation that the Court is addressing itself to and not the contention that the 14th amendment demands "meaningful integration in a biracial community."

If this theory of "meaningful integration" were accepted as a constitutional right, would we then not find a situation in which many of our citizens would have a constitutional right without a remedy? For to achieve "meaningful integration in a bi-racial community," many metropolitan situations would require exactly what is being done in Richmond, that is, the merging of suburban counties' school systems with that of the inner-city.

For instance, the school system of Washington, D.C., being 95 percent black, would not the black children of the Nation's Capital, therefore, be deprived of "meaningful integration in a bi-racial community" by being forced to attend their schools within the District of Columbia? Would not the only way to achieve "meaningful integration" be to cross-bus with Montgomery County, Md.; Prince Georges County, Md.; Arlington, Va.; and Fairfax County, Va., schools? Certainly, the same "bi-racial community" which Judge Merhige envisions in Richmond, Chesterfield and Henrico Counties, would be encompassed in the biracial community of Washington, D.C., and its suburban bedroom counties. However, the Constitution recognizes sovereign States, thus denying the black children of Washington, D.C., the ability to be bused to Maryland or Virginia schools. But the black children of Richmond, Va., would be allowed to be bused to county schools because they happened to be within the same State of Virginia. Thus, while the Negro children of Washington, would have such a constitutional right as was espoused in the Richmond case, they would have no such constitutional remedy.

Pursued further, would not such a reading by Judge Merhige of the 14th amendment require a restructuring of minorities throughout the entire country? For who is to determine what is the "community" in which we are to achieve "meaningful integration"? In the Richmond case, the Judge deemed it to be the city and two counties.

How many counties surrounding Philadelphia would be deemed the "community"? Or is the "community" the entire State?

What about metropolitan areas bordering on State lines? How is the "meaningful integration" to be achieved in such a biracial community? Would not children then have to be bused across State lines?

I will not belabor the problems that would arise from such a reading of the 14th amendment; they are barely alluded to here only to show that such a reading has never been the law and should not now become the law.

Mr. President, in Swann, the district court had imposed a racial balance requirement of 71 percent to 29 percent on individual schools—the same percentage as existed within the entire school system. The Supreme Court, addressing itself to this problem of racial balance within the city of Charlotte, said:

> If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular

degree of racial balancing or mixing, that approach would be disapproved and we would be obliged to reverse. The constitutional command to desegregate schools does not mean that every school in every community must reflect the racial composition of the system as a whole.

In my judgment, the law of Swann, as stated, not only does not uphold Bradley but would seem even to undermine Judge Merhige's concept of merging three separate governmental units in order to achieve a "better" racial composition in the metropolitan area of Richmond. For when the Supreme Court said in Swann that "the constitutional command to desegregate schools does not mean that every school in every community must reflect the school system as a whole," this was within a one-county situation. Judge Merhige not only demanded that they do, but went further and expanded the community by adding two counties, and then said they all must reflect the system as a whole. For without the two counties, the Richmond school system at the present time does fairly accurately reflect the racial balance of the city of Richmond.

And so, Mr. President, as one may see from the Richmond school desegregation case, the extreme feeds upon the extreme and no end is yet in sight. If such a decision should ever be upheld in the Supreme Court, which God forbid, and its impact fully felt throughout the country, there would be such a rising tide of indignation in all the land as to shake the Senate to its foundations if it did not then come forth with a constitutional amendment so clear in its prohibition of mass busing, racial assignments, and racial quotas that even the poorest reader in the fifth grade would know and understand. All this may be avoided if the Senate will take a strong and forthright and firm stand now against mass busing to promote racial balance in the schools. Mine will be one vote in the expression of such a stand.

## QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the unanimous-consent orders recognizing Senators tomorrow, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:15 a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated:

Senators McGovern, Talmadge, and Thurmond.

At the conclusion of the unanimous-consent orders recognizing Senators, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business.

At 11:45 a.m., the Senate will proceed to a rollcall vote on the amendment of the Senator from Oklahoma (Mr. Harris).

At 12 o'clock noon, the Senate will proceed to a vote on the pending Allen amendment and all other amendments now pending thereto to section 901.

This means that there will be at least five yea and nay votes in fairly quick order.

Following disposition of these amendments, other rollcall votes can occur on any amendments called up. Senators are alerted to the fact, therefore, that there will be several rollcall votes tomorrow.

## ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:15 a.m. tomorrow.

The motion was agreed to; and at 5:02 p.m. the Senate adjourned until tomorrow, February 29, 1972, at 9:15 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate February 28, 1972:

### U.S. Air Force

The following-named officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10, of the United States Code:

*To be major general*

Maj. Gen. Felix M. Rogers, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. George H. McKee, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. John C. Giraudo, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. John B. Hudson, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Charles W. Carson, Jr., [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Sanford K. Moats, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. John W. Roberts, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Maurice R. Reilly, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Robert E. Hails, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Jimmy J. Jumper, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Robert W. Maloy, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Robert E. Huyser, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

*To be brigadier general*

Brig. Gen. Lawrence J. Fleming, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Harold L. Price, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John F. Gonge, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Howard M. Fish, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. George G. Loving, Jr., [redacted] (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Oliver W. Lewis, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Ralph S. Saunders, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Louis O. Alder, [redacted] RF (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Ray B. Sitton [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. William A. Dietrich, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James A. Knight, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Jack A. Robbins, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Howard M. Lane, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Charles E. Williams, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Colin C. Hamilton, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Edward P. McNeff, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Henry L. Warren, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Robert F. Trimble, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Edward Ratkovich, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Howard P. Smith, Jr., [redacted] 3618FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James E. Paschall, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Harry M. Darmstandler, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Eugene L. Hudson, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Levi R. Chase, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Charles C. Pattillo, [redacted] FR (colonel, Regular Air Force) U.S. Air Base.

Brig. Gen. Cuthbert A. Pattilo, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James M. Breedlove, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Lee M. Paschall, [redacted]FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Donald G. Nunn, [redacted] [redacted]FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Walter R. Tkach, [redacted]FR (colonel, Regular Air Force, Medical) U.S. Air Force.

The following-named officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10, of the United States Code:

*To be major general*

Brig. Gen. James E. Hill [redacted]FR, Regular Air Force.

Brig. Gen. Jonas L. Blank, [redacted]FR, Regular Air Force.

Brig. Gen. James A. Bailey, [redacted]FR, Regular Air Force.

Brig. Gen. Donald H. Ross, [redacted]FR, Regular Air Force.

Brig. Gen. William A. Jack, [redacted]FR, Regular Air Force.

Brig. Gen. Jessup D. Lowe, [redacted]FR, Regular Air Force.

Brig. Gen. Vernon R. Turner, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Warren D. Johnson, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Peter R. DeLonga, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Charles I. Bennett, Jr., [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Harold E. Collins, [redacted]-FR, Regular Air Force.

Brig. Gen. Benjamin N. Bellis, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Lew Allen, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Charles C. Pattillo, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. James R. Allen, [redacted]FR, Regular Air Force.

Brig. Gen. Walter R. Tkach, [redacted]FR, Regular Air Force, Medical.

Brig. Gen. Bryan M. Shotts, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Leroy J. Manor, [redacted]FR, Regular Air Force.

Brig. Gen. Roger Hombs, [redacted]FR, Regular Air Force.

Brig. Gen. Lawrence W. Steinkraus, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Eugene L. Hudson, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Walter T. Galligan, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Edward Ratkovich, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Frank W. Elliott, Jr., [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Daniel James (NMI), Jr., [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. John F. Gonge, [redacted]FR, Regular Air Force.

Brig. Gen. John W. Pauly [redacted]FR, Regular Air Force.

Brig. Gen. John J. Burns [redacted]FR, Regular Air Force.

Brig. Gen. Kenneth R. Chapman, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Bryce Poe II [redacted]FR, Regular Air Force.

Brig. Gen. Cuthbert A. Pattillo, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. George G. Loving, Jr., [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Oliver W. Lewis, [redacted]FR, Regular Air Force.

Brig. Gen. Marion L. Boswell, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Kenneth L. Tallman, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. Otis C. Moore, [redacted]FR, Regular Air Force.

Brig. Gen. Frederick C. Blesse, [redacted] [redacted]FR, Regular Air Force.

Brig. Gen. James V. Hartinger, [redacted] [redacted]FR, Regular Air Force.

### U.S. ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

*To be lieutenant general*

Maj. Gen. Howard Wilson Penney, [redacted] [redacted] U.S. Army.

The following-named officer for reappointment in the active list of the Regular Army of the United States with grades as indicated, from the temporary disability retired list, under the provisions of title 10, United States Code, sections 1211 and 3447:

*To be colonel, Regular Army, and brigadier general, Army of the United States*

Brig. Gen. William David Tigertt, [redacted] [redacted] Army of the United States (colonel, U.S. Army).

### In the Navy

Vice Adm. Benedict J. Semmes, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

### In the Marine Corps

Gen. Raymond G. Davis, U.S. Marine Corps, when retired, to be placed on the retired list in the grade of general.

Lt. Gen. Earl E. Anderson, U.S. Marine Corps, for appointment to the grade of general while serving as Assistant Commandant of the Marine Corps in accordance with the provisions of title 10, United States Code, section 5202.

### In the Air Force

The nominations beginning Lester D. Abston, to be colonel, and ending Mary L. Pitt, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on February 16, 1972.

### In the Marine Corps

The nominations beginning Robert M. Vlack, to be chief warrant officer (W-4), and ending Kenneth P. Zrubek, to be chief warrant officer (W-2), which nominations were received by the Senate and appeared in the Congressional Record on February 16, 1972; and

The nominations beginning Arthur A. Adkins, to be second lieutenant, and ending Alfred W. Webber, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on February 17, 1972.

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# EXTENSIONS OF REMARKS

## AMERICAN AEROSPACE INDUSTRY A NATIONAL ASSET

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. CONTE. Mr. Speaker, the American aerospace industry is one of our greatest national assets. It has provided a sound economic base for the overall growth and development of our free enterprise system. It is a vital component in the national effort to provide a continuous improvement in our standard of living.

While the voices of doom and gloom continue to bemoan all that is wrong today, it is encouraging to hear the emphasis properly placed on the positive side of the ledger. John Shaffer, Administrator of the Federal Aviation Administration, fully understands the great value of our aerospace industry. In his remarks before the American Institute of Aeronautics and Astronautics in Los Angeles on January 20, he delivered a positive message on this subject which merits broader dissemination. He talked about the great economic value of our aerospace industry and why it is vital to our national interest that it remain highly innovative, productive, and competitive. I include his speech at this point in the Record, and I commend it to your attention:

#### Remarks By John H. Shaffer

It has become the fashion of late, in some quarters, to say, what difference does it make whether the United States is number one in aircraft production and export, number one in air transport, in space, in electronics manufacture, or in anything else for that matter?

The answer is, of course, it does make a very great deal of difference. As a Nation, it isn't necessary that we be number one in everything; but we should try to be in those product areas we do best because when we quit believing excellence isn't important we'll cease to be a great Nation. Further, we enjoy the highest standard of living in the world because we have consciously maintained the world's broadest and most advanced technical base. Because of this, aerospace and other basic American industries have been able to support high labor rates and still successfully compete in domestic and international markets at an overall advantage to this Nation.

The detractors of America's industrial prowess seem to have lost sight of the fact that it is industry, with its large employment, that provides the tax base which pays for the social reforms and which an advanced society like ours so badly needs; and I include here low cost housing, health and medical care, welfare reform, pollution control, national defense and, of course, a strong and balanced transportation system. All of these social programs absorb tax dollars but do not create national revenue in the same sense as do the basic industries.

During the "Sixties," the United States enjoyed a synthetic sort of prosperity deeply rooted in the politico-military mire of Vietnam. Jobs were created in defense-related industries, and young men who ordinarily would have entered the labor market were called to military duty. During the past four years there has been a steady withdrawal from our involvement in Vietnam. Gradually we are moving away from physical confrontations with Russia and China and toward a condition which all Americans understand and certainly prefer—competition. But in this battle, too, we must be prepared. The United States, economically, must be at its best. Our economy must be strong, productive, and *competitive*.

Conversion to a peacetime economy entailed the displacement of more than two million men and women from the Armed Forces and from defense-related industries. In an economy that employs some 80 million workers, these veterans and workers represent 2.5 per cent of the Nation's workforce. If they were still employed in their wartime activities, the dwindling unemployment rate today would be considerably lower than it is. Notwithstanding this, I might add, the unemployment rate during the Nixon Administration has been less than the *average* of the "Peace Years" of the early 1960s.

While it is not my purpose before this group of scientists and engineers to engage in political oratory, I do want to point out that when President Nixon took office in January 1969, inflation raged unchecked. During the years 1959–1964, the wholesale price index was stable, fluctuating no more than one per cent in any one year. From 1964 to 1969, however, wholesale prices soared. True, Americans were receiving higher wages and profits than ever before, but these were consumed by a rate of inflation without parallel in recent American history.

And, as all of you know, since the end of World War II, the dollar has been accepted internationally as a reserve currency, that is, a currency to which other nations have pegged their own currencies—a yardstick by which the values of other currencies have been measured. Confidence abroad in the American dollar, however, began to erode due to the long series of deficits in the U.S. balance of payments. Foreign goods increasingly penetrated our markets. Our leadership in the automotive industry, internationally, had already evaporated by 1969. We now import almost 1.5 billion more automotive products yearly than we export. And maritime shipping, once an industry employing hundreds of thousands of U.S. citizens, has defected to Europe and to the Far East. Our electronics and computer industries and products, a direct spinoff from aerospace, are now in large part stamped "Made in Japan."

It became essential that inflation be checked if confidence in the dollar were to be restored and, dear to the employment of us all, if American goods were to remain competitive in the world markets—or even with imports in our own markets. I don't believe I need to recount here the steps taken by Government to strengthen the economic posture of the Nation domestically and abroad. And I am of the persuasion that all of us, regardless of political proclivities which may separate but not divide us, are determined that our Nation will enjoy full employment without inflation.

To the aerospace community, user and producer of its products as well, this determination comes in good time. For, as you are aware, this segment of American industry plays a unique role in the economic structure of the United States. More than any other, it is tied to the requirements of national policy and the effects of international events. While the list of critical problems facing this industry is not long, it is both serious and compelling. Among the factors compounding this industry's poor economic condition are: the high risk/low profit environment in which it must operate; the allowance of costs on Government contracts; its high level of debt financing; and, of course, its requirements for a high degree of labor specialization in management, supervisory, and production line areas.

The airline industry, too, faces a financial "crunch." Perhaps this is an oversimplification, but the fact remains that while airline prices are regulated, its costs are not. In 1961, the Civil Aeronautics Board set 10.5 per cent as a fair and reasonable annual return on annual investment. Yet, since that time, major domestic airlines achieved the 10.5 per cent level only in one year. Its ten-year average has more closely approximated five per cent.

The socio-economic significance implicit in the aeronautical product area and associated civil air transport activity is of vital concern to the national security. Additionally, the Nation's aerospace and airline industry, in combination, are America's largest employer. Therefore, a rejuvenation of these important economic enterprises has been, and continues to be, high on the list of national priorities. In the vanguard of programs to accomplish this task is an impressive rebuilding—expansion and modernization—of the National Aviation System. Under terms of the President's Airport and Airway Act of 1970, a Federal expenditure of $5.4 billion, matched by equal private sector expenditures, will see a minimum of $11 billion spent during the decade of the Seventies for new airports and expansions to existing facilities; more and better communications, whether information, etc.

For example, as you may know, air traffic control services and air carrier communications for oceanic flights are directly dependent upon the performance of the HF ground-air communication system currently in use. This system is obsolescent and is approaching saturation. Our studies indicate that by the mid- and late-1970s the air traffic control/air carrier demands will exceed the available communication capacity. To our air carriers, this means expensively increasing delays, very likely flow control restrictions, and undoubtedly less preferable routing and altitudes.

This situation has been understood for many years and the universal conclusion is that the way to improve oceanic communications, and improved surveillance, is through aeronautical communication satellites located in synchronous orbit over the Atlantic and Pacific areas.

There has been somewhat less than universal agreement on the frequency to be used on the aircraft-to-satellite link: VHF or UHF.

The FAA, with assistance from the Department of Transportation, State, and NASA, have been exploring the possibilities of a joint pre-operational aeronautical satellite system—AEROSAT—with ten European countries, represented for this purpose by the European Space Research Organization (ESRO), and with Canada, Australia, and Japan.

A proposal to proceed with a specific program of two satellites each in the Atlantic and Pacific and with first launches in 1975 was made to the White House in November. Now under intensive review by the Administration, a decision is expected momentarily.

This is one hurdle; next is Congress. We cannot, of course, enter into formal agreements in connection with AEROSAT pending a full discussion of the matter with appropriate congressional bodies.

The paramount responsibility of the Federal Aviation Administration, of course, is aviation safety. This is probably nowhere more apparent than in the operation of the air traffic control system (ATCS). The evolution of our present system has been based on the concept of operating a ground-based system to provide for the safe, efficient, and expeditious movement of those aircraft which operate within its control jurisdictions.

We are constantly and acutely aware of the threat of midair collisions. The primary thrust of our research and development program in the ATC area is directed toward the three goals of: (1) enhancing the system's excellent safety record, (2) while increasing system capacity, and (3) minimizing cost to the user in terms of airborne equipment and procedures.

Our major program in the air traffic control system, therefore, is the development and implementation of the automated terminal and en route systems. I am of the persuasion that each dollar spent for midair accident preventions simply means a dollar less remaining for accident prevention. (The final page of my prepared text comprises a chart showing why. I suggest you obtain a copy.) Nevertheless, the FAA has also been directly involved in the search for workable collision avoidance systems (CAS) and pilot warning indicator (PWI) systems. Based on experience and knowledge gained to date we have arrived at the following conclusions:

The availability of operational CAS equipments is extremely limited. Further, CAS is too expensive and complex for wide-spread general aviation use, which greatly limits its safety value. As for pilot warning indicator systems, there is no feasible system at the present time.

More appropriate and more practical, we believe, is a new application of computer technology now undergoing accelerated FAA tests at Knoxville. We are presently evaluating a new application of computer technology. The associative processor, at Knoxville's McGee-Tyson Airport. If it proves to perform as the manufacturer anticipates, the associative processor could provide a greatly improved means of insuring aircraft separation in terminal areas.

Evaluation of this computer application will be completed during March 1972. Briefly, pilots request information on other air traffic from the terminal air traffic controller who identifies the aircraft to a computer which is also receiving radar inputs from other aircraft in the area. The computer determines when an advisory should be given and automatically generates and issues a machine-made voice message to the aircraft. Besides providing for automated radar advisory service, this experimental computer also includes the capacity for detecting conflicting flight paths between aircraft and resolving these conflicts—first by notifying the controller and subsequently, by direct contact with the aircraft via data link.

In another important area of aviation safety, the FAA will shortly award contracts totaling $3 million to six companies for the initial phase of a planned five-year program to develop a new common civil-military microwave landing system which we call MLS.

The development of a microwave landing system is a major step forward in aviation technology. In addition to its many operational and safety benefits, such a system also will ease noise problems over airport communities by eliminating the need for straight-in approaches, thus permitting aircraft to follow low noise routes on takeoff and arrival.

Unlike the present instrument landing system (ILS), which provides a single approach path, the microwave landing system provides a broad area coverage with a number of available flight paths. This permits operational procedures that can increase the airport acceptance rate as well as reduce noise over the surrounding communities. Further, it is less subject to siting and environmental interference problems than present equipment. In addition, it will be capable of providing pilots with continuous distance information, thus eliminating the need for marker beacons which presently provide limited progress information on final approach. As a result, land acquisition costs for MLS installations would be lower than for the ILS.

Total cost of the five-year microwave ILS program is estimated at approximately $91 million—including both industry and Government programs cost. Assuming that the proposed development schedule is met, the first replacement microwave systems should be available in mid-1978.

The AEROSAT Program, our progress in developing techniques and hardware for use in aerial collision avoidance, as well as the not too distant installation of microwave landing systems, are but a few of the very great many programs FAA is able now to pursue under the President's Airport and Airways Development Program. Now let me reduce some of the significance of the Airport/Airway Act to the local level. Construction of the magnificent new Dallas-Ft. Worth

Regional Airport already represents an investment of more than $300 million. But aside from the economic impact of the facility, which is expected to reach $636 million annually by 1975, it has also generated a billion dollar development boom throughout the two-city area. Developers have announced more than a dozen major projects including a $500 million residential project in North Dallas, two $150 million residential developments in areas adjacent to the airport, a $150 million century 21 city to be built on 320 acres ten miles south of the airport, a $150 million part central hotel-office-retail complex, and a $250 million business park covering 500 acres near the airport.

On the other side of the ledger, however, the failure to build a new and badly needed jetport in New Jersey may cost that state several billions of income and hundreds of thousands of jobs. A report prepared in 1968 for New Jersey's Governor Hughes' Economic Evaluation Committee called for an intercontinental jetport and adequate general aviation and short-haul transport facilities. Despite the fact that this comprehensive report declared it doubtful that the state could maintain the pace of the Nation's economic growth without these facilities; that the total estimated income generated by a new jetport would approximate $1.9 billion for 1975 and $6.2 billion annually by 1985, the plan was rejected.

The three bay area airport of San Francisco in 1970, not considered a vintage year by any standard, nevertheless pumped nearly $1.3 billion into Northern California's economy. Some 30,000 employees of San Francisco International, San Jose Municipal, and Oakland International earned a payroll of some $322 million. Bay area airport businesses contributed another $20 million in local taxes, and bought more than $140 million in fuel, parts and equipment from San Francisco suppliers.

In Kansas City, Trans World Airlines, which makes its headquarters there, is the area's largest employer. And in Miami, aviation employs more than 70,000 people who earn an annual payroll exceeding $500 million. In fact, aviation is Dade County's largest employer and represents over one-quarter of the entire county's salary and wage dollars. In Indiana, the state's Aeronautics Commission and its Department of Commerce jointly, have recommended a $112 million statewide airport development program in a report entitled "Economic Development and General Aviation." The study concludes "few major corporations are without business aircraft. Consequently, few major corporations will select a location where their aircraft cannot operate. Thus, any Indiana community without convenient and adequate airport facilities will be at a severe disadvantage in competing nationally for business investment and employment."

The point of this financial rhetoric is, ladies and gentlemen, we have entered the "air age." State and city officials are beginning to recognize the threat of sophistical dissenters and political demagoguery to the economical and social well-being of American communities. The more thoughtful authorities are countering the dissenter and the demagogue with facts of airport blessings locally and aviation's importance nationally. And it is high time, for America is heavily dependent upon the aviation industry. Our economic strength domestically, and in international markets, depends upon an all pervasive arterial network of airports and airways linking town to city, city to city, and coast to coast. Within the national context, then, air transportation is viewed as vital by the Government and adequate aviation development as imperative.

The aviation industry, indeed all industry, is running against an anti-technology tide. There is an insistent demand that technology pay full attention to the minimization of noise, exhaust pollution and other costs in terms of ecological and environmental effects. The fact is, the public is rightfully demanding that its aviation community be good citizens in every sense. Perhaps in our haste to be first, with the most and with the best, the aviation industry unwittingly has contributed to making the natural world a less attractive and less healthy place in which to live. But I am of the persuasion that the ills aviation has created are being corrected—and rapidly.

It may never be possible to completely eliminate aircraft noise, but engineers have made great strides in reducing it to acceptable levels. I think you will all become acutely aware of this shortly with the more common operation of our new "gentle giants," the wide-body jets, the Boeing 747, McDonnell-Douglas DC–10, and the equally impressive new Lockheed L–1011. And, regarding air pollution, more than a decade ago aircraft manufacturers cut engine exhaust emissions by half, in converting from piston-powered aircraft to jets. In 1970, airline plane emissions, and that small percentage is decreasing steadily because of improved engine technology.

This is being achieved in two ways. By modifying the most commonly used airline jet engine—the JT8D which powers the Boeing 727 and 737 and McDonnell-Douglas DC–9. Secondly, engines powering new technology aircraft are designed to be virtually smoke free. Our new transports, the 747, DC–10, and L–1011 represent distinct advances in pollution control as well as in noise abatement. So, as you can see, we are making steady, impressive progress, but we've got to do better still if our industry is to refire America's excitement in the importance of the social and economic significance of aviation and air transport.

While our aerospace industry has gone through, to say the least, a traumatic financial convulsion as a result of the switch from a wartime to peacetime economy, the situation is stabilizing. North American-Rockwell rolled out its B–1 mockup in November, a program contemplating production orders in the billions; Lockheed is rapidly closing on certification of another magnificent flying machine, the L–1011; and President Nixon has just given the green light to NASA's Space Shuttle Program which proposes the building of recoverable spacecraft to the Congress. Along with the $5.4 billion already earmarked for FAA's Airport/Airway Modernization Program, plans for a total outlay of more than $22 billion for aerospace and related industry equipment manufacture will come under consideration of Congress during the second half of its 92nd session this year.

So the pump is primed and Government's effort to aid in restoring this Nation's largest employer to the preeminence it has previously enjoyed, indeed, the public's involvement in the logic of being number one in the international industrial community is gathering momentum. And this is important for, with specter of war hopefully disappearing, our Nation now faces a battle on a new front—competition. And the era of competition into which we are moving is formidable indeed. Today, the only area in which American industry really still holds an edge is in aviation, though this edge has eroded badly. In 1958 we produced 85 per cent of the transports in the Free World. By 1969, the U.S. share had dropped to 76 per cent. And I must say our failure to win public support and congressional approval for manufacture of the Supersonic Transport didn't help matters in the long term either. Sir George Edwards in an address last month before the American Chamber of Commerce predicted that the British/French Supersonic Transport "CONCORDE" would gross $75 billion in airline orders before production of the type runs full course.

If our industry is to regain its strength, if our Nation is to remain strong economically—and we will—we must once more become highly innovative, highly productive, and highly competitive. Today we are still ahead, and I am of the persuasion we shall remain ahead but there's no time for sympathetic introspection. The great nations of Europe are joined together in one of the most powerful economic blocs that the world has ever seen. The Soviet Union is the second strongest economic power in the world. Japan, prostrate after World War II, has now recovered to become the third strongest; and Germany is rapidly becoming a formidable competitor on all industrial fronts.

Ladies and gentlemen, it has been America's passion for research, its determination to build a better way of life for all of its citizens, its willingness to forge ahead on all fronts, that have made this country great. The roots of America's phenomenal productivity lies in its free and incomparable economic system. I am absolutely convinced that American ingenuity and technology will produce the solutions to all of the economic and social problems which currently perplex us.

With the talents, the skills possessed by our industry, there is no cause for America's position in world leaderhip—economically, socially, politically, or morally—to falter.

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## PITT ECONOMICS PROFESSOR NAMED TO CEA

### HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. MOORHEAD. Mr. Speaker, Dr. Marina V. A. Whitman, former professor of economics at the University of Pittsburgh, has been appointed to the Council of Economic Advisers, by President Nixon.

This is indeed an honor for Dr. Whitman and the university where she labored so diligently.

In noting her appointment, C. Jackson Grayson, Jr., Chairman of the Price Commission, praised Dr. Whitman's work on that body.

At this time, I would like to include in the RECORD a Price Commission news release containing Mr. Grayson's comments:

> C. Jackson Grayson Jr., Chairman of the Price Commission, commented today on the White House appointment of Dr. Marina V. N. Whitman to the Council of Economic Advisors. He said, "Marina Whitman has served the Price Commission with complete dedication and a great sense of integrity. She is an original thinker and has great patience. Her presence on the Commission has been a great asset to the nation. I'm sure she will carry those qualities to her new assignment. I speak for all the members of the Commission and the staff when I thank her for the wonderful job she's done here and wish her our best in her new task."
>
> Dr. Whitman, an authority on international trade and investment, will be the first woman ever to serve on the three-member Council of Economic Advisors. In 1970–1971, Dr. Whitman served the Council as Senior Staff Economist. On October 26, 1971, she was sworn in as a member of the Price Commission. She will leave the Price Commission some time before joining the Council of Economic Advisors and will take a leave of absence from the University of Pittsburgh, where she is a Professor of Economics.

## CLEAN AIR IS A MATTER OF LIFE OR DEATH

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## HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. SYMINGTON. Mr. Speaker, clean air is really a matter of life and death for many Americans with respiratory diseases. Consequently, the Clean Air Act and its automobile emission standards are both safeguards for the Nation's health as well as the environment. The House Public Health and Environment Subcommittee held oversight hearings in late January on the administration of the Clean Air Act and the automobile manufacturers' request to delay the act's emission standards until 1976 model cars are produced. The Public Health and Environment Subcommittee, under the able leadership of Representative Paul Rogers, of Florida, has made tentative plans to hold additional oversight hearings on the whole problem of air pollution later this year.

An article detailing the subcommittee's recent hearings has come to my attention. It is an account of the fine work Paul Rogers has performed as chairman of the Public Health and Environment Subcommittee. The item appeared in the February 15, 1972, issue of Conservation News, which is published by the National Wildlife Federation.

I would also ask my colleagues to note a related news item that appeared in the St. Louis Post-Dispatch, February 17, 1972, dealing with the Clean Air Act and emission standards. At this point, I insert the articles in the Record:

### Despite Protest, Nation's Car Makers Can Meet 1975 Deadline

Despite their objections, a "way out" for the Nation's auto-makers with regard to meeting the standards of the 1970 Clean Air Act was shown during three recent days of Congressional hearings.

That possibility was uncovered during the Jan. 19–21 hearings, held to determine whether or not the car makers should be granted a one-year time extension to meet the 1975 deadline. The law requires a 90 percent reduction of vehicle emissions of hydrocarbons, carbon monoxide, and oxides of nitrogen by the 1975 model year. However, the law also allows the Environmental Protection Agency to grant an extension of that deadline on or after January 1, 1972, based on its own findings and on recommendations from the National Academy of Sciences.

The oversight hearings were conducted by Rep. Paul Rogers (Fla.), chairman of the House Public Health and Environmental Subcommittee, in order to review the auto manufacturers' progress in meeting the vehicle emission standards set by the Clean Air Act, and to study the EPA's progress in all areas of air pollution. Witnesses heard included EPA Administrator William D. Ruckelshaus, spokesmen from the National Academy of Sciences and the American Petroleum Institute, and representatives from the "Big Four", Ford Motors, General Motors, Chrysler Corp., and American Motors.

As expected, all of the car companies testified that there was probably no way that they could meet the 1975 deadline under the current standards. D. A. Jensen, director of Ford's emissions office, said that none of the four exotically-named experimental engines it had designed to reduce pollution (i.e., "The Kitchen Sink", "The Dual Bed Catalyst", "The Proco", and "The Lean Burn") will meet the requirements. While all "show promise" of achieving the required 90 percent emission reduction, none of the tested catalytic converters have as yet passed the 50,000 mile durability test. However, Jensen did indicate that preliminary tests have shown that Ford's "Proco" converter can meet the deadline if durability (ability to perform without "gumming up") is required for only 25,000 miles.

Rep. Rogers seized this opportunity in questioning and suggested that the 50,000 mile requirement may be unnecessarily posing a problem:

Rogers. "Do you now guarantee any of your cars for 50,000 miles?"

Jensen. "No, sir."

Rogers. "Do you now guarantee any of your automotive parts for 50,000 miles?"

Ford Legislative Counsel. "No. We never have."

Rogers. "Well then, why can't you simply put your best converters into production and then replace the catalysts at 25,000 miles at no additional cost to the consumer. That way you could meet the 1975 standards on time, rely on the dependability of your converters, and go a long way towards solving our air pollution problem."

The additional cost to the car companies of replacing coverters could easily be absorbed by cutting back on annual styling changes, Rep. Rogers declared. "If the money currently plowed each year into styling changes could be partially redirected into safety and environmental research costs, you could probably offset those additional costs," he said. Although styling change expenditure estimates were not immediately available from the auto-makers, it was estimated that Ford Motors will spend approximately $130 million for research in 1972 and General Motors has budgeted nearly $235 million. "It could even be voluntarily done just for a year or two across the board, with all the companies proportionately cutting back," he added. "I'm sure the Department of Justice wouldn't mind."

The major auto companies and the Automobile Manufacturers Association were charged by the Justice Department in 1969 with conspiring to suppress the development and installation of emission-control systems. The suit ended in a consent agreement in which the defendants promised not to engage in specific practices, but did not concede that they had ever conspired.

At this writing, no formal applications have been filed for an extension of the 1975 time deadline. General Motors previously filed a two-page letter which it considered a "formal request" for an extension, but the EPA returned it for supporting information and it hasn't as yet been resubmitted. If an extension petition is filed by a car company, EPA has 60 days in which to make a decision. Administrator Ruckelshaus has indicated that any petition would be made available to the public for open hearings. He did indicate, however, that EPA was giving some consideration to amending the petition's disclosure policy in order to provide full public disclosure and yet guarantee the protection of certain trade secrets.

On January 1, 1972, the National Academy of Sciences filed its first semi-annual report on which EPA will base its decision on the technological feasibility of the car companies to meet the 1975 deadline. The report said that while "there is no certainty today that any 1975 model year vehicles will meet the requirements of the Act", it may be possible if three conditions are met: 1. provisions are made for catalyst replacement, 2. averaging of emissions throughout the day rather than just for the first trip, and 3. general availability of non-leaded gasoline.

Besides Rep. Rogers' suggestion for the catalyst problem, the other two National Academy of Sciences' conditions may also see early solutions. Changes in the EPA testing procedure, beginning with 1975, will encompass the average of the emissions from all the trips taken in a day rather than just the emissions from the first trip (The first four to six running minutes emit the greatest amount of pollutants.). EPA officials feel that this change will "more accurately reflect the driving experience of the average motor vehicle in major urban areas."

In addition, the oil industry will apparently have little or no trouble making non-leaded gasoline generally available for use by 1974. Although presently available in limited quantities, there has been some question whether it could be produced on a mass basis. When questioned during the hearings about whether the oil industry can get the lead out within the deadline period (the experimental converters work only on unleaded gas) an American Petroleum Institute spokesman said "No question about it." "The bill means changes, and that's what we're doing is changing," he added.

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### Air Cleanup

Washington, February 17 (UPI).—Despite Government promises to enforce a 1975 clean-air deadline, at least 18 states have requested two-year postponements and appear likely to get them.

In applications made to the Environmental Protection Agency, most of the states involved, said that urban areas could not meet the standards without limiting downtown traffic. They indicated a reluctance to impose such traffic controls.

When EPA Administrator William D. Ruckelshaus announced the air quality standards April 30, he emphasized that many cities would have to curb traffic.

"I don't anticipate any delay in their implementation," Ruckelshaus said of the standards.

But in an interview yesterday, the EPA official in charge of reviewing state applications said that the agency probably would forgo the deadline rather than force traffic restrictions that might be unpopular with commuters.

"If you need traffic control you probably can get a two-year extension," said B. J. Steigerwald, director of the EPA's stationary source pollution control program.

"Traffic control isn't easily imposed," Steigerwald said. He said that cities would need mass transit to replace automobiles. "You just don't install mass transit in three years," he said.

Experts from the EPA and other agencies have estimated that car exhaust causes at least 50 per cent of air pollution, the most harmful concentrations being in downtown areas.

Richard E. Ayres, who has studied the state plans for the Natural Resources Defense Council, a private environmental group, said that any delay in curbing urban auto pollution would undermine the entire air cleanup program.

"What they're saying is that they'll meet the standards where there isn't any pollution and delay them where the problem is most severe," Ayres said.

Many states said that if given until mid-1977, the car-pollution problem largely would go away because of progressively stricter federal requirements for exhaust clean-up devices on new cars.

The first such devices were installed on 1968 models. Under the same Clean Air Act, which mandated the 1975 air clean-up standards, 1975 model cars must cut carbon monoxide and hydrocarbon emission by 90 per cent, compared with 1970 models, and 1976 cars must reduce nitrogen oxide emissions 90 per cent, too.

Although the law allows a one-year extension of these standards if car-makers cannot meet them, and although all four U.S. car companies have requested such a delay, the EPA permitted states to presume in drawing up their plans that the 1975 and 1976 auto deadlines would be met.

Steigerwald indicated that he was using the same presumption in reviewing state applications.

"By 1977, car emission limits will allow many cities to meet the air standards," Steigerwald said. "Does it make sense for us to demand significant traffic controls by 1975 when two years later they could meet the standards without traffic controls?"

However, Steigerwald said, "About 15 cities won't meet the standards even in 1977 without traffic controls." He did not name all the cities but said that they included New York, Chicago and Los Angeles.

The law required each state to give EPA by Jan. 30 its plan for meeting limits on six air pollutants—sulfur oxides, particulate matter, carbon monoxide, photochemical oxidants, nitrogen oxide and hydrocarbons.

The EPA must approve or disapprove the plans by May 30. The law says the limits must be met by July 1, 1975, unless EPA grants the state a two-year extension.

The plans are hundreds of pages long and no one in Washington has read them all. United Press International compiled the list of 18 states seeking extensions from EPA sources and from reporters in state capitols.

Most of the 18 sought no over-all extensions, but rather a two-year delay in meeting standards for carbon monoxide and hydrocarbons—which come mostly from cars—in urban areas.

Steigerwald said that about 15 states did promise to work on some form of traffic controls—reduced parking space, higher bridge tolls, inspections, mandatory installation of antipollution devices on older cars—but few included them as firm parts of an enforcement program.

## GOD BLESS THE PRESIDENT ON HIS TRIP TO CHINA

### HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. GUDE. Mr. Speaker, as we prepare to welcome the President back from his history-making trip to China, I would like to share with my colleagues the following letter from a constituent of Maryland's Eighth Congressional District. I feel it is particularly noteworthy in that it is not simply a partisan, "rubber stamp" letter of support, but one which expresses the views of a thinking, responsible American citizen. This kind of thoughtful letter is further evidence that there exists widespread support for President Nixon's meetings with China's leaders, and that, truly, all the Nation's prayers have been with him on this journey:

God Bless the President on His Trip to China

Chevy Chase, Md.,
*February 17, 1972.*

Hon. Gilbert Gude,
*House of Representatives,*
*Washington, D.C.*

Dear Congressman Gude: I have written many letters to you, over the years, that could be considered critical in the sense that they expressed my frustration about what our government has done in Vietnam.

Because—the President's trip to China is a day for hope, I wish to express words of favor for the present Administration and party in power which I do support from time to time, as follows:

1. I believe the President *is* trying (at some risk) by this China effort to find an end to a war which in all fairness we should admit he does not bear the major responsibility for.

2. I believe he understands the domestic needs of the American economy should now have top priority over do gooding abroad, and that he will act to help to restore the world leadership we once enjoyed as the most capable country in the production of goods and services, here at home.

There are, of course, a lot of things happening in the government which I do not agree with, political and otherwise, and I am sometimes concerned that our very form of government is under severe test.

I do want the President to succeed and I want you gentlemen to succeed in the sincere efforts you are demonstrating. I choose this day of hope to express confidence in you.

Yours sincerely,

John W. Malley.

## CONTINUE RADIO FREE EUROPE

### HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. STEELE. Mr. Speaker, I wish to direct the attention of the Members to the following editorial from the Hartford Courant on the future of Radio Free Europe and Radio Liberty. The editorial presents an incisive analysis of the current congressional struggle to keep the Radios alive and makes a telling argument for continuing their vital operations.

The editorial follows:

Radio Free Europe Faces Cutoff

It seems more than a little ironic that in this country where freedom of information and the right to know are so fervently cherished, the Congress is haggling over whether Radio Free Europe and Radio Liberty should be continued or not.

In some ways the hangs-up is a technical one. The House and Senate are at odds, the former being willing to finance the two stations for two more years, the latter wanting to cut off funds after one year.

The real stumbling block is a matter of foreign policy, and not just whether the country should spend $36 million annually to run the two operations. If Senator Fulbright has his way, the funding will not be renewed. He says "These radios should be given an opportunity to take their rightful place in the graveyard of cold war relics."

And of course, ever since it came out that the Central Intelligence Agency had been financing Radio Free Europe and Radio Liberty, their names have been mud—not only in Russia and Eastern European countries naturally, but here at home among those who think there is something villainous about the CIA.

Yet when Senator Fulbright asked for studies by the Library of Congress on the effectiveness of the two stations, he was set back on his heels. "The reality of Radio Liberty," the Library of Congress reported, "conflicts with its popular image. It is neither a cold war operation, nor is its staff a group of cold warriors. On the contrary, Radio Liberty accepts all Soviet institutions, though not its ideology, and seeks to bring about a peaceful democratic change from within."

The report on Radio Free Europe was in kind. And the truth of the matter is that the two stations for a generation now have been broadcasting factual news. What has aroused the ire of the Communist regimes is that there are plenty of facts these governments don't want their people to know. This is plain enough from the rigid control exercised over news media in Russia and its satellite countries.

If Radio Free Europe and Radio Liberty are disbanded, the peoples of these countries will have lost a free press for the inflow of information that certainly is not going to be duplicated by officially sponsored government radios. Millions of persons have listened to news over Radio Free Europe and Radio Liberty, which would have been completely censored by Communist governments.

As has been remarked, before Congress decides whether it believes these radio stations are relics of the cold war, it might be well to wait until after President Nixon returns from Moscow. The cold war itself may not prove to be the vanished spectre some persons would have us believe. An American foreign policy substituting negotiation for confrontation is a very nice idea but it still takes two to tango.

## NATIONAL JUDICIAL CONFERENCE ON STANDARDS FOR THE ADMINISTRATION OF CRIMINAL JUSTICE

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. RARICK. Mr. Speaker, the 4-day National Judicial Conference on Standards for the Administration of Criminal Justice took place on the campus of Louisiana State University in Baton Rouge, February 1–4, 1972.

More than 300 appellate court judges and justices attended the conference which considered the improvement of the criminal justice system through the implementation of 17 sets of standards, 15 of which had been approved by the American Bar Association's House of Delegates.

Included in the discussions were the revamping of the Nation's bail system, pretrial release, and electronic surveillance; speedy trials, police function, prosecution function, defense function, trial by jury, criminal appeals, probation, and postconviction remedies.

So that our colleagues may have more information about this important and extraordinary conference, I insert in the Record at this point news accounts as appearing in the Baton Rouge daily newspapers:

[From the Baton Rouge State Times, Feb. 11, 1972]

Better Justice System Said Legal Profession

(By Jack Lord)

The president of the American Bar Association said today that the improvement of the criminal justice system is "the greatest challenge our profession has faced in this country."

Keynoting the opening session of the four-day National Judicial Conference on Standards for the Administration of Criminal Justice at LSU, Leon Jaworski of Houston, Tex., called for implementation of the new ABA standards as one of the key means of bringing about improvement of the criminal justice system.

About 300 appellate court judges and justices have registered for the conference which is featuring an ABA push for an overhaul of the criminal justice system.

Jaworski pointed out that the standards are suggested guidelines to be applied in the states and the federal jurisdiction.

"The ultimate objectives they seek to attain are to promote fair, balanced justice, effective law enforcement and adequate protection of society—and at the same time to delineate and safeguard the constitutional rights of those suspected of crime," Jaworski declared.

### SEVENTEEN STANDARDS SET

Seventeen sets of standards have been drafted. Fifteen have been formally approved by the ABA's policy-making House of Delegates, while the remaining pair is expected to be approved at the ABA annual meeting in August.

Jawoski said three pilot states were chosen for implementation to provide planning and feedback experience.

The states, he said, were Arizona, where implementation is accomplished largely by court rule; Texas, where criminal procedure is dependent exclusively on statute, and Florida, which implementation comes from both the supreme court and the legislature.

"The valuable lessons learned were used to develop guidelines to assist other states in their planning, and to enable them to avoid pitfalls and fruitless activity in their implementation programs," Jaworski said.

The ABA overhaul, Jaworski said, "is the first time any such endeavor had been attempted for criminal justice."

He said, "From a procedural standpoint especially, the system by and large had been substantially untouched for almost two centuries. Chief Justice Warren E. Burger diagnosed maintenance.' "

### M'KEITHEN SPEAKS

Gov. McKeithen was one of several Louisiana dignitaries who welcomes the judges to the conference.

McKeithen, referring to himself as "an attorney who will return to the practice of law in May," congratulated those who are attempting "to keep the judical system entuned to the changing needs of our society."

Referring to his eight years as governor and a total of 24 years in public office, McKeithen said he could "appreciate fully the promotion of reform or change."

Associate Justice William H. Erickson of Colorado, chairman of the ABA Section of Criminal Law, gave a basic rundown of the 17 ABA standards which will be explained in depth in future sessions.

U.S. Dist. Judge William J. Jameson of Montana, chairman of the ABA Special Committee Standards, reviewed the background of the eight years of activity leading to the proposals.

He said more than $1 million had been spent on the project—$500,000 from two private foundations and $527,000 from the American Bar endowment fund.

Other speakers on the morning program included Chief Justice Howard McCaleb of the Louisiana Supreme Court who introduced Jaworski; Associate Justice Joe W. Sanders of Louisiana and Dean Paul Hebert of the LSU La School who both made opening remarks.

Sponsors of the conference are the ABA, the LSU Law School, the Appellate Judges' Conference of the ABA, and the Louisiana Commission on Law Enforcement and Administration of Criminal Justice. Sessions are being held at the LSU Union.

In an interview on the eve of the conference, Colorado Supreme Court Justice William H. Erickson said the standards already are being felt in the criminal courts in the country.

"The situation is starting to improve," Erickson, who heads the ABA's criminal law section, said, "and I think with the completion of the standards . . . we will not see utopia but a system of criminal justice we can all be proud of."

### SEVENTEEN STANDARDS

The ABA's 17 standards for criminal justice, which, Erickson said in an interview, "go completely across the field of criminal justice," were complied to cope with "practices that are different in nearly every state.

"We've had what's been described as a revolution in criminal justice with decisions such as the right to counsel in every case and search and seizure protections which came about because many states did not afford to an accused the basic minimum rights that our constitution dictates," Erickson said.

"We have had during a period of some 25 years a 50 per cent increase in population and during that same period we've had a 400 per cent increase in crime," he said. "If the rights of society are to be protected, we've got to see that there's a finality to the criminal prosecution.

"That means the defendant who is a threat to the public is confined," he added, "that the defendant who can be rehabilitated is and is placed back in a productive fashion in the society from which he came, and that the same time the person on the street can feel some safety."

The standards, Erickson said, ranging from right right to a speedy trial to the handling of probation, were compiled by "the top lawyers, judges and professors in the country and they show a cross section of the criminal justice process." They have been universally accepted, he added.

There have, in recent years, been "grave differences" in the way states administered justice in criminal cases, Erickson said.

"One of the reasons for this is that some police practices are antiquated. The standards of criminal justice suggest remedies that see to it police practices are not only uniform but are upgraded.

"And, for example, in Texas and Missouri the jury still imposes the sentence of the defendant. That's hardly consistent with our modern practice of thinking that punishment will be meted out to fit the crime," Erickson said.

"You see," he went on, "up until the 1930s the states were largely free to handle their criminal business any way they saw fit. After that, the U.S. Supreme Court began to impose constitutional limitations.

"The standards we have now are trying to bring up to date criminal justice machinery so that the guilty can be convicted, the innocent can go free and the public can take pride in seeing that justice is administered promptly and efficiently," he added.

The ABA's standards, Erickson said, begin "from the release decision, that, is whether a person should be out on bail. Then there's the speedy trial issue. They cover the fair trial-free press issue and the question of discovery and procedure before trial.

"Before the trial, there is a means of expediting the case so we can avoid cases like the Manson trial where we wasted months selecting a jury. So there are new and modern methods of jury selection. And these are standards relating to the trial judge, so he would know how to handle a disruptive defense like the case with the 'Chicago.' "

The conference is divided into a series of meetings to discuss each of the standards, then a number of group workshop sessions to give the jurists present a chance to comment on the standards.

President Nixon and Chief Justice Warren Burger had been invited but said they could not attend. Retired U.S. Supreme Court Justice Tom C. Clark, who stepped down from the high court in 1967, is honorary chairman for the conference and will speak at a dinner Saturday evening.

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[From the Baton Rouge State Times, Feb. 12, 1972]

### Jurists Eye Proposals at LSU Judicial Meet

Some of the nation's most respected jurists looked at proposed standards covering police function, defendants hearings and speedy trial at the National Judicial Conference on Standards for the Administration of Criminal Justice at LSU yesterday.

Other standards the group discussed included revamping of the nation's bail systems, pretrial release, and electronic surveillance.

Six of 17 proposed standards were discussed yesterday. Other standards were to be discussed today. The meeting, which includes chief justices from courts throughout the country, will last through tomorrow.

Standards governing police function suggest the authority of policemen be better spelled out and their professional role, including ability to go on strike and take part in political activity be clarified.

Keith Mossman, an attorney from Iowa who addressed the group on the matter, said many things citizens and public officials expect policemen to do are "improper or illegal."

### MARRIAGE PROBLEMS

He said a study has shown 60 per cent of police time is spent solving marital problems, an area in which they actually have little authority.

He said of all areas of criminal justice, the policeman has the most discretion. The policeman sees a drunk on the street, said Mossman, and has the option of picking him up or just letting him go. If he picks him up, he has the option to take him to jail, or take him home, the attorney said.

If he brings him home, says Mossman, he has the option of driving up with his light and siren and let all neighbors know that "Old John" has gotten drunk again or going to the back door and saying quietly, "Mary, I think John had a little too much to drink last night."

In cases such as drunks, prostitutes and private gambling, the courts often tell policemen they aren't interested, because they are overloaded with more important matters, Mossman said.

The policeman is then left in a dilemma. On the one hand he has vowed to enforce the law, and on the other, his superiors and the judges he must send violators to tell him not to bother.

### POLICE NEEDS CITED

The police need to be given resources to take care of such things as drunks and prostitutes, and specialists to handle problems like marital disharmony which takes up so much of their time, says the ABA.

Another recommendation is that defendants should be allowed to have closed hearings in cases where the evidence to be presented might not be admissible if a jury was present. The jurist were warned, however, that overuse of this provision could bring about a serious confrontation between the court system and the nation's press.

### COULD WAIVE JURY TRIAL

The code covering the press also suggests that the defendant may wave the right to a jury trial and be tried by a judge . . . one if the case had been given national publicity and it is felt by the judge that even with a change of venue that an untainted jury could not be readily found.

This section of the standards also suggests limits on what information attorneys, court personnel and police officers should give to news media from the time of arrest until after a case has been tried.

It suggests that these groups should adopt policies of giving no information about witnesses, lie detector tests, prior criminal record or opinions on the merits of the case.

At the same time it suggests obligation by these groups to give information concerning identification of defendants and victims, circumstances of arrest and physicial evidence found there, a brief description of the offense and scheduling of hearings and other court dates.

SUGGESTS CONTEMPT STEP

The standards also suggest that newspapers be cited for contempt of court when they disseminate information which intentionally endangers of the defendant's right of a fair trial or shows a reckless disregard of consequences.

It said the money from these fines should be used to reimburse the defendant if the publication of this material causes the need for another trial.

In its standards relating to the nation's bail systems, the ABA suggests that the rule should no longer be to keep the defendant in custody, but should be to release him without bail in most cases.

The rule should be to release the defendant on his own recognizance, unless there is reason to believe that he will cause harm or not show up for the trial, according to the proposal.

Jails are being filled up at public expense, said B. James George, professor of the Wayne State University Law School. In most of these cases, he said, it is not necessary for the completion of justice or for the safety of the community.

He said the ABA proposal has proven that people with roots in the community will show up for trial if released without bail.

This stops discrimination against the poor, problems of men losing their jobs and their families having to go on welfare and what has wrongly become a mechanical process of setting up bail by the seriousness of the crime and not by what it will take to assure the court that the defendant will appear for trial.

Police officers should be required to issue citations for all misdemeanors, instead of bringing persons to jail, unless there are extenuating circumstances, according to the ABA.

More serious cases should require that the alleged violator be brought to police headquarters, where his records can be checked by someone with more authority and then, if it is reasonable to believe that he will show up for trial, be released, says the ABA.

NO ROOM FOR MONETARY BAIL

The standards leave no room for monetary bail, which the ABA finds ineffective in cases where people would flee trial anyway, since the money is usually put up by bonding companies and not the individual.

On speedy trial the ABA suggests time limits by which the trial date must be set from the time of arrest. Consequences for not having a speedy trial must be dismissal of a case, since there is no other effective measure to enforce the rule, they suggest.

The system, they say, has proven effective in two test states.

They also suggest that continuances be granted only on good causes, and that the prosecutor must make periodic reports on delayed trials.

Sparing use of electronic surveillance was also urged by the ABA, adding that yearly reports to the public of the number run in a state should be made by its attorney general.

The group also suggested that individuals must be informed within 90 days that they have been under electronic surveillance and that permits allowing law officials to use such surveillance be only issued when probable cause is shown and be good for only 15 days.

The 15-day permit could then be renewed twice, for 30 days each, and then as long as necessary in 30-day periods, provided that probable cause is shown each time.

The standards also contain sections to protect against use of privileged information, such as talks with doctors or lawyers, and a section governing the handling of tapes to protect them from tampering.

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[From the Morning Advocate, Feb. 13, 1972]

## JUDGES LISTEN HERE—ABA STANDARDS HOPE TO END "LEGAL CHARADES"

Cutting out of some "legal charades" and adoption of a requirement that a defendant himself must enter a plea of guilty if it is to be valid were among the standards advocated Saturday by the American Bar Association.

The ABA is holding a conference on criminal justice at LSU, with some of the most renowned appellate justices in the nation present. Purpose of the conference is to urge the use of 17 standards governing the field proposed by the ABA.

In Saturday's session the standards relating to a defendant's plea, joinder and severance, pretrial procedure and the judge's function were discussed.

The ABA standards suggest that the defendant's lawyer not be allowed to enter a plea for the defendant but that the defendant do so himself in open court. It then puts responsibility on the court to find out whether it is based on evidence.

The standards leave room for present practices of plea agreement, where the defendant agrees to plead guilty for certain considerations from the prosecutor. They suggest, however, that the trial judge not participate in these discussions, but that he may permit the disclosure to him of tentative plea agreement and indicate whether or not he will concur with the arrangements made.

SUGGESTS QUESTION

The ABA suggests that when a guilty plea is entered the judge ask the district attorney and not the defendant if any agreements have been reached. This says the ABA is to cut out "charades" in which the defendant says there have been no plea agreements when there obviously have.

The standards say that unless the defendant enters a plea of guilty or nolo contendere, which is not withdrawn, that the fact that he has engaged in plea discussions should not be received as evidence.

The standards provide that the defendant be allowed to plead guilty to all of the cases he is facing in that state at one time, provided the prosecutor agrees, in order to save time for both the court and the defendant.

Moving to joinder and severance William Erickson, associate justice of the Supreme Court of Colorado, said that these standards were the most difficult to draft of all the 17 groups.

"A great time-saving occurs where offenses and defendants are joined for trial," he said, but added that the defendant in some cases finds that joinder sometimes causes "prejudice either by guilt by association or by guilt connected with the perpetration of multiple offenses."

The standards suggest that the prosecutor be allowed to join offenses of similar character, even if not part of a single plan, but that the defendant have an "absolute right" to severance in such cases.

SEVERANCES

In cases where defendants or offenses are directly linked the standards suggest that severances be granted when "deemed appropriate to promote a fair determination of the defendant's guilt or innocence of each offense," if the trial has not yet started, and when "deemed necessary" to achieve a fair trial, once the case has already gone to court.

In cases where several crimes were committed at one time, such as several shootings during one robbery, the standards suggest that the prosecutor should not have the tactical advantage of trying each charge before a different jury.

Discussion on the pretrial procedure standards centered around the omnibus hearing, a main point in the ABA plan.

This type of hearing can dramatically speed up court proceedings, said Adrian Spears, chief judge of the Western Texas District Court where the omnibus hearing has been given a trial run.

The hearing eliminates most written motions, which lawyers looking down a list of the most common ones instead, and choosing the ones they wish to file.

Also the omnibus hearing makes workable the law that the prosecution is required to give information beneficial to the defendant to his lawyers. Under this concept, said Spears, lawyers from both sides make full disclosures before arraignment.

The law had been useless in many cases, because prosecutors were not giving the information to defense attorneys until it was too late for them to use it.

TRIAL DISRUPTIONS

The standards relating to the functions of the judge, discussed by Frank Murray, U.S. District Court of Massachusetts judge, centered around trial disruptions.

"The judge is the key," he said, indicating that the temperament of the man on the bench can do a lot to disruptions.

He quoted the standards as saying that it is the responsibility of the judge to exercise self-restraint, be restrained, patient and calm. No real standard can be written on this subject, he said, just guideline.

CONFERENCE EYES WORK FOR SUNDAY

Judges attending the Sunday conference on criminal justice here will eye three more standards proposed by the American Bar Association.

Beginning at 10 a.m. in the Union Theater at LSU the judges will hear main points on the standards relating to probation, appellate view of sentences and sentencing alternatives and procedures.

After a group luncheon in the Union Ballroom the judges will again break into discussion groups, as they did Saturday, to discuss fine points of the standards.

Sunday evening Baton Rouge law firms will host buffets for the judges. The conference is slated to adjourn around 4:30 Monday afternoon.

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[From the Baton Rouge Morning Advocate, Feb. 13, 1972]

## RULE CHANGES URGED BY RETIRED JUSTICE

(By Bob Anderson)

Require legislatures to amend their rules and if they don't, amend them yourselves, retired Supreme Court justice Tom Clark told the largest gathering of appellate judges ever assembled here Saturday night.

The judges, some 300 strong, are part of an American Bar Association conference now going on at LSU aimed at adopting standards to revamp the American process of criminal justice.

The judges, some 300 strong, are part of an American Bar Association conference now going on at LSU aimed at adopting standards to revamp the American process of criminal justice.

Clark told the judges that some of the 17 standards proposed by the ABA can be an effective deterrent to crime. Such things as the bail, pre-trial and probation techniques advised in the standards can save many first offenders from the "stigma of prison," said Clark.

The white-haired jurist defended the judiciary from common attacks that they are the cause of the increased crime rate in the country, because of the light sentences that they hand out, and the length of time they take to get around to trying cases.

He attributed the rise in arrests, of which the law enforcement officials brag, and the crowded court dockets to a large increase in law enforcement personnel, while there has been no increase in personnel for the judiciary.

In a prepared statement before the speech Clark stated that a recent study had also shown that American judges do not give light sentences, but actually mete out the severest sentences in the world.

### RAPS PENAL SYSTEM

The former justice also raked the nation's penal system as a "total failure" saying that they have become a "clearing house for crime, where techniques of criminality are exchanged and perfected."

"Until our system of corrections is changed we shall continue to experience an increasing rate of recidivism and a corresponding increase in crime," he said.

Calling the LSU meeting the most important meeting of the judiciary ever held, Clark urged the judges to go back to their states and continue the improvements that have already begun to show success in criminal justice.

He told them to ask the proper authorities in the states to make the revisions that the judges deemed necessary, and told the judges that if the revisions were not made to use their "inherent right" to make the changes themselves.

He said the people of the nation are aroused about crime and about having to lock their doors and told the criminal judges that they could do something about it if they take the initiative.

Earlier in his statement, Clark suggested that the laws governing drunkenness, prostitution, gambling and marijuana be investigated with an eye toward abolishment where they were not connected with organized crime.

In cases where these "victimless criminals" still need attention Clark suggested that they be given it through medical facilities and not through the courts.

Clark said that his stay in Baton Rouge had been unlike King Henry IV's stay in Ireland where he was met by priests, who needed $50,000 to finish building a chapel.

The King gave them $10,000, but when he woke up in the morning he read in the newspaper that he had given $50,000.

Shortly the priest came, very apologetic that a mistake had been made in the newspaper story. They promised Henry, however, that there would be a correction in the next day's paper.

To this the king bid them reconsider, and finally, rather than lose his face in Ireland, agreed to give them the complete $50,000 provided that they allow him to put any Bible verse that he chose above the church door.

The priests, ecstatic at the thought of being able to finish their chapel, readily agreed.

When the chapel was completed, Henry sent them the inscription: "I came, and ye took me in."

Clark said, "I came to Baton Rogue and ye took me in," but added quickly, "in a different way."

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[From the Baton Rouge Morning Advocate, Feb. 14, 1972]

## Public's Trust Must in Courts, Says Californian

(By Jim LaCaffinie)

A distinguished gathering of jurists assembled in Baton Rouge for an unprecedented, monumental undertaking of reforming the administration of criminal justice was told Sunday that "more than anything else we need public confidence in the (courts) system."

The remark before the largest assemblage of appellate jurists ever was by Associate Justice Lynn D. Compton of the California Court of Appeals, in his commentary on one of 17 sections of standards, 15 of which have been approved by the American Bar Association, to improve the administration of criminal justice.

A longtime prosecutor himself before being named to the appeals court in 1970, Justice Compton attributed the public's disenchantment with the courts to delays in administering justice and a lack of realistic sentencing.

Justice Compton was joined by Professor Peter W. Low, associate dean of the University of Virginia Law School, in Sunday's discussions of two sections of standards, one section dealing with "Sentencing Alternatives and Procedures and the other, "Appellate Review of Sentences."

Earlier Dale Bennett, professor of law at LSU, discussed the American Bar Association's Standards Relating to Probation.

### FOUR MORE SECTIONS

Completion of the three sections Sunday leaves four more to be taken up Monday in the windup of the four-day national judicial conference which has brought more than 300 appellate judges to LSU.

The two most important changes recommended in the standards reviewed Sunday are providing for appellate review of sentences and the removal from trial juries the responsibility for sentencing, a responsibility put in the hands of juries in about a dozen states.

More than a dozen states have appellate review of sentences, Professor Low told the conference and by extending review to all the states, he said, it would help develop a greater uniformity of views among the judges.

The Virginia professor feels that both the prosecutor and the defense attorney should have the authority to appeal for an increase or decrease in the sentence imposed by the trial judge. Low did not approve of the states which still leave the responsibility of the sentencing with the juries. In his state which provides for jury sentencing, it is unlawful for a jury to put a defendant on probation.

Both he and Justice Compton hit at the criminal law which in most states has grown over the years into a hodgepodge of disparities and unrealistic penalties.

### CITES REFORM NEED

Professor Low cited the statutes of two states which he did not name to illustrate the need for reform through the sentencing standards—addressed primarily to the legislatures of the 50 states.

In these two states, he remarked, with an aside that this should be of particular interest in football-loving Louisiana, that bribery of a judge, juror or witness carries a maximum penalty of five years but bribery of a football player carries a maximum of 10 years.

He pointed out another example—this one involving California's criminal law—that the maximum of 15 years can be imposed as a sentence for breaking into a car but only 10 years for stealing the car.

"Something has got to be done about that," Professor Low explained in his presentation on the sentencing authority section which, he said, is the only one of the 17 directed primarily at the legislatures.

The ABA standards now eight years in the making have been hailed by the speakers at the conference as guidelines which hopefully the 50 states will implement.

The most distinguished of the jurists taking part in the conference, retired U.S. Associate Justice Tom C. Clark is urging judges to become more aggressive in promoting the standards and to carry the ball in this first national conference on criminal justice standards.

Speakers have left the impression that the judges must act not only for reforming the system but also they must take the offensive since they have been tagged with some of the blame for the growing crime rate and disrespect for the law.

### NEEDS MORE JUDGES

Justice Clark says that if the dockets are backlogged, it's because stepped up police forces are bringing in more offenders yet there has been no commensurate increase in judges and their supporting personnel to handle the increased dockets.

The justice, who is honorary chairman for the national conference and who will return to give the closing remarks Monday afternoon, feels that the select gathering of jurists should set the example in their states for implementation of the standards.

If the standards are to be implemented effectively, they must rely on the judges, more specifically high caliber judges. U.S. District Judge Frank J. Murray of Boston, Mass., told an earlier session of the jurists that the ABA standards are only as good as the jurist on the bench.

Of the two sections of standards waiting ABA acceptance, a part of one has been approved—this one being the part dealing with trial disruptions in the Standards Relating to the Judge's Function. The judge's function section and the entire section on Standards relating to the Police Function will go before the ABA in August. The national conference at LSU follows the ABA's midwinter conference which closed in New Orleans Tuesday of last week.

### PUBLIC INTEREST

Justice Compton, in his presentation Sunday, said that, although he supports the standards on the sentencing authority, it should be noted that the decreeing of minimum and maximum sentences has come about because of the judiciary itself. He said the people expect appropriate sentences for the crimes committed and they speak through the legislatures.

"The public interest must be considered," he said.

As for the death penalty, he said there is evidence that the courts are using it in increasing numbers, contending that it is those who have been delaying the execution of the penalty who are saying the courts are not using it.

Professor Low feels that the length of sentences in this country are in need adjustment.

"We impose the longest sentences in the world by a longshot and we have not been rational about the way we do it," he said.

One of the standards on the sentencing authority reads: "The legislature should not specify a mandatory sentence for any sentencing category or for any particular offense."

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[From the Baton Rouge Morning Advocate, Feb., 14, 1972]

## ABA Likes Probation for Courts

An advisement that the court should be authorized to use probation in place of a jail sentence in every criminal case is part of the standards discussed Sunday at the National Judicial Conference at LSU.

The code on probation is one of 17 that the American Bar Association is presenting to appellate judges from across the nation, in hopes that the judges, with the help of lawmakers and the citizenry, will put the standards into use to better the criminal court process.

### APPELLATE REVIEW

The judges also discussed standards relating to appellate review of sentences and sentencing alternatives and procedures in the second to last day of the conference.

"The legislature should authorize the sentencing court in every case to impose a sentence of probation. Exceptions to this principle are not favored and, if made, should be limited to the most serious offenses," says the ABA standards.

The probation code also suggests that upon revocation of probation the court should have the same sentencing alternatives available that it did at the time of sentencing.

"The court should not be required to attach a condition of supervision "to probation, says the ABA, if the court's judgment "supervision is not appropriate for the particular case."

The ABA says that probation is a better alternative than sending a man to jail in appropriate cases because it can provide supervision of a man, thereby protecting the public, while he still has a great degree of liberty.

### REDUCES COSTS

Probation, says the ABA, helps in rehabilitation, avoids the "stultifying effects of confinement," reduces the financial cost of running penal systems and "minimizes the impact of the conviction upon innocent dependents of the offender."

Looking at appellate review, the ABA told judges that "in all cases . . . review of the sentence should be available on the same basis as review of the conviction."

The sentencing judge, says the ABA, should be required to state his reasons for selecting the sentence he did.

The authority for the reviewing court should extend to the propriety of the sentence, with regard to the nature of the offense, the character of the offender, the protection of the public interest, and the manner in which the sentence was imposed, including accuracy of the information on which it was based, says the ABA.

### VESTED IN TRIAL JUDGE

The Standards Relating to Sentencing Alternatives and Procedures open with this principle: "Authority to determine the sentence should be vested in the trial judge and not in the jury."

In general principles on the statutory structure addressed in the main to legislatures, the ABA recommends:

"All Crimes should be classified for the purpose of sentencing into categories which reflect substantial differences in gravity. The categories should be very few in number. Each should specify the sentencing alternatives available for offenses which fall within it. The penal codes of each jurisdiction should be revised where necessary to accomplish this result."

The standards note that it should be recognized that in many instances in this country the prison sentences which are now authorized and sometimes required are significantly higher than are needed in the vast majority of cases in order adequately to protect the interests of the public.

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[From the Baton Rouge Morning Advocate, Feb. 14, 1972]

## LAW PROFESSOR SEES 1968 STATUTE TENDING TO WIDEN WIRETAPPING

(By Tom Jory)

An expert on electronic surveillance says wiretapping and bugging, both by private persons and law enforcement officers, is as common today as before enactment of restrictions in the Safe Streets Act of 1968.

"I think the reality of it is that wiretapping and bugging have been authorized today by statute and this, I think, may have the tendency to even broaden wiretapping rather than restrict it," Georgetown University law professor Samuel Dash told The Associated Press.

The law, and standards subsequently adopted by the American Bar Association, Dash said, "give the aura of respectability" to wiretapping. "Prior to the safe streets act and the ABA standards," he said, "there was really no authorization whatsoever. It was all prohibition. When you enact legislation which legitimizes wiretapping and bugging, then it gives that kind of permissive appearance."

The statutes and the standards, he said, will begin to take hold of the problem only "if law enforcement officers would be law-abiding citizens. Law enforcement includes enforcement of constitutional rights of an individual as much as it means making sure people who commit crimes are caught."

But, Dash said, "I talk to policemen all over the country, and I think the really good detective today feels wiretapping is very useful to him as an investigative tool, rather than to produce evidence in court."

Dash was interviewed during a break in the four-day conference here on the ABA's standards of criminal justice. He addressed the more than 300 appellate court judges Friday on the electronic surveillance standard, which he said seeks to set some "regulation" and is an "aim in the right direction."

The conference, being sponsored by the ABA and the law school at LSU continues through Monday. It follows the close last Tuesday of the ABA's midyear convention in New Orleans.

To restrict wiretapping and bugging by statute and standard, Dash said in the interview, "It was important to present the electronic surveillance issue as not licensing wiretapping or permitting bugging but to start out by saying that what we're really after is protective privacy."

There is a difference of opinion toward the standards, he said, not only among law enforcement officers but within the legal profession, "especially lately because we've had this increased concern of the emergency of crime.

"A number of people in the legal community," he said, "have been willing to say, 'Well perhaps in bygone days we could afford such luxuries as constitutional rights, but today in order to protect the safety of our citizens, we have to give up some of these things.'"

The real danger of electronic surveillance, he said, "can be expressed in a way that's somewhat intangible but is very real.

"It isn't the fact that the police may be listening in on individuals. I think the real danger is that the use of wiretapping and bugging has a real chilling effect on conversation and communication among citizens."

And, Dash said, "in a free society where people have that kind of fear that government is listening in on them, or somebody's listening in on them, then that chilling effect lessens the degree in which we are a free society. It can make us a people who live in fear rather than in freedom.

"Perhaps," Dash said, "I would say it was never really private, and with modern technology it becomes less private. With legislation that authorizes electronic surveillance, perhaps that leads in the direction of less privacy.

"The only way in which we can bring back some measure of privacy," he added, "is through an upgrading of the professional view of the police role and the prosecution role."

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[From the Baton Rouge Morning Advocate, Feb. 14, 1972]

## MORE STANDARDS DUE DISCUSSION

The concluding sessions Monday of the four-day National Judicial Conference on Standards for the Administration of Criminal Justice will deal with four sections of the American Bar Association's standards.

The first session at 9 in the morning will have Winslow Christian, director for the National Center for State Courts, discussing the Standards Relating to Trial by Jury.

All sessions will be in the LSU Union Theater.

He will be followed by John F. Onion, Jr., presiding judge of the Texas Court of Criminal Appeals, who will review the Standards Relating to Criminal Appeals.

Chief Justice Edward E. Pringle of the Supreme Court of Colorado will open the 10 a.m. session on Standards Relating to Post-Conviction Remedies.

The final section to be reviewed is the one on Standards Relating to the Prosecution Function and the Defense Function. Associate Justice Walter F. Rogosheke of the Supreme Court of Minnesota will discuss "The Defense Function" and John M. Price, district attorney, Sacramento, Calif., will review "The Prosecution Function."

Upon completing the sections, the jurists will take a luncheon break and then return for the closing sessions with retired U.S. Associate Justice Tom C. Clark presiding.

Ben R. Miller, Baton Rouge attorney, will be moderator for the morning sessions.

The closing remarks for the afternoon sessions which have as their general theme, "The Job Ahead," will be delivered by Francis C. Sullivan, associate dean of the LSU Law School.

Sponsors of the national judicial conference, the first of its kind ever to be held, are the Appellate Judges' Conference of the ABA Section of Judicial Administration, the ABA Section of Criminal Law, the Criminal Justice Program of the LSU Law School and the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

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[From the Baton Rouge State Times, Feb. 14, 1972]

## LSU LEGAL MEET—APPEAL TIME LAG LASHED BY JUDGE

If any threat exists in the administration of criminal justice, it is the delay between the trial and the appeals procedure, the National Judicial Conference on Standards for the Administration of Criminal Justice was told here this morning.

Judge John F. Onion of the Texas Court of Criminal Appeals, speaking on the closing day of the four-day conference at LSU, said some studies have shown an average delay of 10 to 18 months. "That's far too long," he said.

Onion asked, "What good are speedy trials if we don't have speedy appeals?"

Onion's address concerned the new American Bar Association standards relating to criminal appeals. He suggested that where judges find new ways to speed up the appeals process, they do so without hesitation.

### NEW PROPOSALS

He said the new standards provide for appeals in cases where pleas of guilty or no contest are entered. But he noted that a vote of the people will be required in a number of states before many of the recommendations can be implemented.

Discussing the ABA standards on trials by jury, Judge Winslow Christian of the California Court of Appeals and director of the National Center for State Courts, pointed out that only about one in seven felony prosecutions are disposed of by jury trial.

He said exemptions from jury service are too broad and vague in many jurisdictions. He said the examination of prospective jurors in many states turns out to be "a lengthy process of brain-washing by counsel."

The standards provide for the trial judge to conduct the initial examination of prospective jurors, Christian said, similar to the federal court procedure.

Chief Justice Edward E. Pringle of the Colorado Supreme Court, speaking on post-conviction remedies, said the disposition of applications should be made on the underlying merits rather than on technical grounds.

He said that unfortunately some states with excellent post-conviction procedures still have problems with the federal courts on their procedures.

### NEW ABA STANDARD

Pringle said the new ABA standards envision a single post-conviction procedure and relief encompassing all facets of a case, whether factual or legal in nature.

Associate Judge Walter F. Rogosheske of the Minnesota Supreme Court said the ABA committee dealing with the defense function had as one of its goals to "erase some misconceptions which stigmatize the defense relation."

He said the defense function is often the weak one in the American system of justice, "which sometimes results in unequal justice."

Rogosheske said a popular misconception of the defense counsel is that "he is in league with the crook." In reality, the defense attorney should be viewed as "the learned friend of the accused," he declared.

There is a great disparity not only in the quality of prosecution but in the equipment available to prosecutors, said Dist. Atty. John M. Price of Sacramento County, California.

He pointed out that of the 3,400 prosecutive offices in the nation, only 63 are located in population centers of 500,000 or more.

### MOSTLY ONE-MAN OFFICES

"The vast majority are one-man offices," Price said. "One place has non-lawyer prosecutors."

He contrasted this with Los Angeles County, where the prosecutor has 440 lawyers in 13 area offices.

Price opined that the prosecutor is "probably the most important in the criminal justice process."

"If we are ever going to improve the quality of justice in this country, we're certainly going to have to improve the quality of the defense bar as well as the prosecution bar," he said.

Price said California now has in effect most of the 17 standards being recommended by the ABA, "but I think we're still in big trouble—regardless of what most Californians will tell you."

He said adoption of the ABA standards is about 15 years overdue.

The conference has attracted over 300 appellate judges from across the nation who are being briefed on 17 suggested guidelines to be applied to criminal justice in the state and federal jurisdictions.

Yesterday, Associate Justice Lynn D. Compton of the California Court of Appeals attributed the public's disenchantment with the court to delays in the administration of justice and a lack of realistic sentencing.

Peter W. Low, a University of Virginia law professor, spoke on two of the key recommendations—appellate review of sentencing and the removal from the trial juries of the responsibility for sentencing.

### JURY SENTENCING

About a dozen states put the responsibility for sentencing on the jury, Low said. More than a dozen states provide for appellate review of a sentence.

Low said he believes that both the prosecutor and the defense attorney should have the right to appeal for an increase or decrease in the sentence imposed by the trial court.

Retired Supreme Court Justice Tom Clark, who has urged judges to campaign for adoption of the ABA standards, defended the judiciary from charges that they are the cause of the country's high crime rate because of the light sentences they hand out and the length of time they take to get around to trying cases.

Clark said the backlog of cases stems from stepped up efforts by law enforcement agencies and that increases in law enforcement personnel have not been matched by increases in judicial personnel.

He said a recent study has shown that American judges do not give light sentences, but actually mete out the severest sentences in the world.

### PENAL SYSTEMS RAPPED

The former associate justice also rapped the nation's penal systems as a "total failure" saying that they have become a "clearing house for crime, where techniques of criminality are exchanged and perfected."

"Until our system of corrections is changed we shall continue to experience an increasing rate of recidivism and a corresponding increase in crime," he said.

Clark has suggested that laws on drunkenness, prostitution, gambling and marijuana be investigated in light of possible abolition except where organized crime is involved.

The judges also heard ABA recommendations dealing with probation.

"The legislature should authorize the sentencing court in every case to impose a sentence of probation. Exceptions to this principle are not favored and, if made, should be limited to the most serious offenses," the standards say.

Probation, says the ABA, helps in rehabilitation, avoids the "Stultifying effects of confinement," reduces the financial cost of running penal systems and "minimizes the impact of the conviction upon innocent dependents of the offender."

The ABA standards note that it should be recognized that in many instances in this country, the prison sentences which are now authorized and sometimes required are significantly higher than are needed in the vast majority of cases in order to adequately protect the public interest.

### PLEA ENTRY

The ABA standards also suggest that the defendant's lawyer not be allowed to enter a plea for the defendant but that the defendant do so himself in open court. This puts the responsibility on the court to find out whether the plea was voluntary and whether the evidence warrants it.

The standards leave room for present practices of plea agreement, where the defendant agrees to plead guilty for certain considerations from the prosecutor.

They suggest that the trial judge not participate in these discussions, but that he may permit the disclosure to him of tentative plea agreements and indicate whether or not he will concur with the arrangements.

The ABA suggests that when a guilty plea is entered the judge ask the district attorney and not the defendant if any agreements have been reached.

The four-day conference, which has attracted over 300 judges from across the nation, ends tonight.

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[From the Baton Rouge Morning Advocate, Feb. 15, 1972]

## IMPORTANCE OF FAST APPEALS STRESSED AT JUDICIAL MEETING

Speedy appeals are as essential as speedy trials if the integrity of the judiciary is to be preserved, a national conference at LSU was told Monday.

The observation came in the discussions on four sections of standards to complete review of the American Bar Associations 17 sections of standards, developed and designed to improve the administration of criminal justice.

John F. Onion Jr., presiding judge of the Texas Court of Criminal Appeals, said in his commentary on Section XV covering the ABA Standards on Criminal Appeals that if any threat exists in the administration of criminal justice, it is the delay between the trial and the appeals procedure. "What good are speedy trials if we don't have speedy appeals?"

More than 300 appellate judges Monday wound up four days of deliberations at LSU in an unprecedented conference on the standards. They heard experts discuss the sections and then got together in workshop discussions to go over the principles in detail.

Other sections taken up in the final day included Section XIV on Standards Relating to Trial by Jury, Section XVI on Standards on Post-Conviction Remedies and Section VII on Standards on the Prosecution Function and the Defense Function.

### ACT UNHESITATINGLY

In the presentation on the section on criminal appeals, Judge Onion suggested that where judges find new ways to speed up the appeals process, they do so without hesitation.

He said the new standards provide for appeals in cases where pleas of guilty or no contest are entered. But he noted that a vote of the people will be required in a number of states before many of the recommendations can be implemented.

Discussing the ABA standards on trial by jury, Judge Winslow Christian of the California Court of Appeals and director of the National Center for State Courts, pointed out that only about one in seven felony prosecutions are disposed of by jury trial.

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He said that unfortunately some states with excellent postconviction procedures still have problems with the federal courts on their procedures.

Pringle said the new ABA standards envision a single post-conviction procedure and relief encompassing all facets of a case, whether factual or legal in nature.

### ERASE MISCONCEPTIONS

Associate Judge Walter F. Rogosheske of the Minnesota Supreme Court said the ABA committee dealing with the defense function had as one of its goals to "erase some misconceptions which stigmatize the defense relation."

He said the defense function is often the weak one in the American system of justice, "which sometimes results in unequal justice."

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"The vast majority are one-man offices," Price said. "One place has non-lawyer prosecutors."

He contrasted this with Los Angeles County, where the prosecutor has 440 lawyers in 13 area offices.

Price feels that the prosecutor is "probably the most important in the criminal justice process."

"If we are ever going to improve the quality of justice in this country, we're certainly going to have to improve the quality of the defense bar as well as the prosecution bar," he said.

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[From the Baton Rouge Morning Advocate, Feb. 15, 1972]

### JURISTS EXHORTED TO PUSH REFORMS IN COURT SYSTEM

(By Jim LaCaffinie)

The four-day high-powered conference on the administration of criminal justice drew to a close at LSU Monday evening with exhortations to the leading jurists of the 50 states to flex their muscles to bring about full implementation of reforms in the American judiciary.

Veteran jurist Alfred B. Murrah, director of the Federal Judicial Center, took a cue from Dist. Atty. John M. Price of Sacramento, Calif., an earlier speaker during the day, to call on the judges to use some of their power to get the American Bar Association standards—17 sections of them representing a distillation of topnotch legal thought during a period of eight years of study—adopted in their states.

Retired U.S. Associate Justice Tom C. Clark, who presided over the wrapup session, asked the more than 300 appellate judges to go back to their states and start the work on those standards procedural in nature and to get with their legislatures to adopt rules which are substantive.

And where they should run into obstacles, the noted jurist suggested that they use their power as decision makers of the judicial branch of government by incorporating the rules in their decisions.

#### FORCEFUL APPEAL

Judge Murrah, who was first nominated to the bench in 1935 by President Franklin Delano Roosevelt, was most forceful in his appeal to the jurists to push the implementation of the standards.

"You don't realize how strong you are until you flex your muscles," he told the appellate judges to include the chief justices of the 50 states.

"This is the right time," Judge Murrah, who also presides as an appeals court jurist for the 10th Circuit in Oklahoma City, said. "The time or the climate—or the time and the climate is propitious. The public is roused. The legislatures are roused. Now is the right time—unless we are weak-kneed."

"The Job Ahead," the general theme of the concluding session, would not be easy as the speakers indicated because opposition to change is always strong.

"Whether you like it or not, lawyers are basically opposed to change and the standards embody change," said Albert J. Datz, Florida attorney who is chairman of his state's Committee to Implement ABA Standards for Criminal Justice. Florida is one of three pilot states for implementing the standards.

Why change, Datz asked and then gave this answer: "But lawyers are willing to adopt changes only when they are convinced that they are in the best interests of society."

He called for a full-scale assault to get the job of implementation done. "There can be no doubt that adoption of the standards will enhance the administration of criminal justice in the United States."

Associate Justice Richard W. Ervin of the Florida Supreme Court reviewed the pilot project for implementation of the standards in his state, a project which, he said, got under way in March of 1970 and hopefully in another 60 days with the conclusion of the Florida legislative sessions, the standards will be implemented. "We had so many problems there that needed some kind of modernization."

The chairman of the ABA Section of Criminal Law, Associate Justice William H. Erickson of the Colorado Supreme Court said the courts are suffering from deferred maintenance.

"The public has been upset and justly so because our courts have been jammed with cases that have not been brought to speedy trial," he said.

He urged speedy action on the standards to avoid letting them collect dust. "The Standards of Criminal Justice are the laws of tomorrow and will make our courts the best in the world."

Any smack of federalism in these standards should be refuted, Judge Murrah said.

"There's nothing new or novel about these standards. There isn't one that hasn't been used successfully somewhere in this country. They are the product of experience. No one can go home and say these are federal rules," he said.

Justice Clark, who served as honorary chairman for the four-day officially titled National Judicial Conference on Standards for the Administration of Criminal Justice, told the jurists: "We must not permit this conference to be only another exercise in futility. We must give life to what we learn here."

"Now is the time" he said, "for all of us to come to the aid of the judiciary. Unless we do, we may soon find others taking the initiative and the courts suffering the consequences."

Other speakers for the concluding session included Neil Lamont, executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice; Associate Justice Harry A. Spencer of the Supreme Court of Nebraska; Justice James D. Hopkins of New York; and Francis C. Sullivan, associate dean of the LSU Law School and director of the Institute of Continuing Legal Education and the Criminal Justice Program at the university.

Sponsors of the conference included the Appellate Judges' Conference of the ABA Section of Judicial Administration, the ABA Section of Criminal Law, the LSU Law School's Criminal Justice Program and the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

#### DISTINCTION FOR LSU

The conference, the first of its kind ever held in this country, was a distinction for the university and the state.

The appellate judges in the final minutes of the conference adopted a resolution, without a dissent, commending the university's Dean Sullivan and his staff and the Louisiana commission for their efforts.

Justice Hopkins offered the resolution which also expressed appreciation to Gov. McKeithen, the local and state bar associations for their roles in the conference.

The highest representative from the national government in attendance for the final two days of the conference was Donald E. Santarelli, Associate Deputy Attorney General of the United States.

After four days of study, the jurists will take in the Mardi Gras festivities in New Orleans Tuesday before departing for their respective states. They and their wives will be transported to New Orleans in busses leaving at 6:40 and 7 a.m. from their quarters at the Howard Johnson Motor Lodge and the Prince Murat Inn, respectively.

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## HEALTH CARE—PARALLELS IN HEALTH NEEDS IN EAST HARLEM AND RURAL NIGERIA

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## HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. BADILLO. Mr. Speaker, Dr. Nicholas Cunningham, at the Wagner Child Health Station in East Harlem in New York City, is putting into practice health care methods he developed while working with the poor in rural Nigeria. While at first glance it would seem that New York City and rural Nigeria can scarcely have much in common, the fact that Dr. Cunningham's approach is successful should, I believe, lead to a reexamination of our approach to the providing of health care at all levels and in all the localities in our Nation.

For the information of my colleagues, I am placing in the RECORD an article in the February 19 New York Times describing the East Harlem project. I am certain that all of my colleagues who are concerned about the present health care crisis in our Nation will find this article very informative.

The article follows:

### CLINIC USES HEALTH CONCEPTS TESTED IN NIGERIA

(By Charlayne Hunter)

While medical problems in East Harlem and rural Nigeria bear little resemblance, low-cost medical concepts developed and tested successfully in Nigeria are being applied to a small segment of the mostly black and Hispanic population here.

During the last year, the Wagner Child Health Station at 2367 First Avenue has revamped health services for 1,800 preschool children. The new program promises to provide a model for other areas.

"Some of the concepts are old, some are new," explained Dr. Nicholas Cunningham, a pediatrician who is the director of a project, who spent a year establishing a similar clinic in Lagos, a Nigerian city of about a million people.

#### A PEACE CORPS VOLUNTEER

He said that while working as a Peace Corps volunteer, he had heard of the work of Dr. David Morley, an English physician who set up a clinic in rural Nigeria, utilizing the services of Nigerians.

After meeting Dr. Morley at the London School of Public Hygiene, where he was studying tropical public health, Dr. Cunningham returned and tried a similar approach in Lagos.

"In the Peace Corps, we had a team of 18, and I was the director of the first medical project in Togo," Dr. Cunningham recalled recently during a relatively quiet day at the clinic.

"We brought in masses of first-class American equipment and drugs, but Africa taught me that this was not the way. It was too much for a little, poor country. Expensive medical care couldn't be maintained, and they couldn't afford to provide drugs or experienced personnel." He said the Togolese trained in his project were sent by the Government to other parts of the country and the Government relied on his people while they were there.

Dr. Cunningham, who is also assistant professor in the Department of Community

Medicine at Mount Sinai, explained that it was after he met Dr. Morley that he realized first-class medicine was a failure if it did not provide care for people.

### MIDWIVES UTILIZED

"What Dr. Morley did was create a system not built around doctors who are not around or who do not enjoy being there when they are, but around people who like living there—using indigenous midwives rather than models from Paris, Moscow or New York."

By eliminating a lot of diagnostic tests, cutting down on giving a lot of expensive drugs and emphasizing both preventive and curative medicine that can be administered at home, the cost of visits averaged out to about 15 cents a visit and less than $5 a child a year, according to Dr. Cunningham.

Among other things, he said, the families were taught about disease, how to hydrate, before dehydration makes hospitalization an absolute necessity, how to treat minor burns and infections by cleaning them in the home, and how to stop diarrhea.

### SANITATION A PROBLEM

"Sanitation there is a problem," Dr. Cunningham explained, "so you could place your emphasis on getting money for new pipe systems, but there is no money. Or you could wait until the child gets sick and send him to the hospital—the Western way. Or you could teach the people that mild diarrhea is self-limiting, that instead of stopping water, you increase it and add a little salt.

"A doctor dealing with the problem does not usually involve the mother in solving it. A nurse explains, the mother becomes involved in solving the problem and next time she knows and doesn't have to ask."

And while mothers in East Harlem may not have to deal with poor sanitation as a problem, the process in dealing with problems is the same.

### HEALTH TEAM EMPHASIZED

At the Wagner Project which is supported under the Model Cities Treating Physicians Program, acting through the Health Services Administration, and by Mount Sinai as well, emphasis is placed not on the doctor but on the health team, which includes nurses, community aides and mothers and fathers. Doctors and nurses were either hired for the project or provided by the Department of Health.

Dr. Cunningham's co-director, Kim Thomstad, a nurse, has found out that the community health workers—most of whom are bilingual and live in the area—are much better at talking to patients with problems—both medical and domestic—than the nurses, "despite our years of studying interviewing techniques."

Miss Thomstad also said the paraprofessionals, who earned $7,000 to $8,000 a year, also learned laboratory work—now to conduct various tests—and go into the home, as well.

Health workers and parents praise the facility, a brightly decorated eight-room apartment on the ground floor of the Wagner Housing Project. About half of their patients come from there, the other half from nearby tenements. There are about 20,000 families in Health Area 17—north of 119th Street and east of Third Avenue.

"It's the only place that you don't have to spend two carfares to get to when your baby is sick," said Mrs. Lynne Williams, who is organizing the mothers in the area. "And when your baby is well, you see the same doctor each time, so that you don't have to explain things over and over and you don't have to wait."

Dr. Cunningham said he strongly favored health stations that serviced small geographical areas and provided comprehensive medical care.

"It's not second-class medicine," he said. "It's simply adding to the system. And while it is a good solution for inner-city children, today it is becoming necessary for everybody—from migrant workers to people in Scarsdale. If people in the suburbs start this kind of care early, too, they might find some answers, like why their kids are getting on drugs."

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## VOICE OF AMERICA

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. DERWINSKI. Mr. Speaker, the Voice of America very rarely talks about itself. But the dual anniversary of the Agency's first broadcast in February 1942, and its initial broadcast in the Russian language 5 years later elicited a broadcast commentary that I think many of us may find extremely interesting. I insert in the RECORD these anniversary remarks of John Albert of the VOA staff:

### VOICE OF AMERICA

On February 17, 1947—twenty-five years ago—the Voice of America beamed its first Russian-language broadcast to the Soviet Union. On February 24, 1942—thirty years ago a week from today—VOA came into existence with a broadcast to wartime Germany. It seems appropriate to use this double anniversary to say a few words on one's own behalf.

"The purpose of our broadcasts," the Soviet listeners were told twenty-five years ago, "is to give listeners in the U.S.S.R. a picture of life in America, to explain our various problems and to point out how we are trying to solve these problems." In addition, of course, the broadcasts were to contain the latest world news, feature stories about the United States and musical selections.

There was nothing extraordinary in this announcement. VOA broadcasts to all areas of the world contain basically the same fare. However, there are various ways of doing this job. When VOA went on the air for the first time on a dreary winter day of 1942, amidst a whole series of Allied military disasters, it promised the German people to tell the truth, the good and the bad. This has been VOA's philosophy ever since. There were some fainthearted among us who wondered how telling the truth would work against Dr. Goebbels and his impressive propaganda machine. Well, they have learned that telling the truth can be a very effective propaganda weapon.

There have been many in this country who questioned whether money from the American taxpayers should be used to tell the world of America's problems and shortcomings. After all, VOA and its parent organization, the U.S. Information Agency, are a part of the Government and paid for by taxes. This concern, and the ingrained distrust of the American people for "propaganda" still exists today, and the VOA budget has gone through many a crisis. However, over the years it has become clear that VOA is more than a mere voice of the administration in power. Many on the VOA staff have by now worked under six Presidents, from Roosevelt to Nixon.

Our listeners know that they do not have to turn to another international broadcaster to find out that there is opposition to President Nixon's Vietnam policy, as there was to that of President Johnson; that we are far from having solved our major problems, of discrimination, of crime and unemployment, of environment and civil rights. Our listeners also know, however, that only VOA will explain in such detail the positive achievements, and the foreign and domestic aims of the administration.

We also have learned that telling the truth is far from enough. To make developments in this country understandable to foreign audiences, perspective is needed. We do not seek out the spectacular headlines, the negative, we don't look for dissent. But we do report it when it is significant. And that brings us back to our Russian-language broadcasts. It did not take the Soviet Government under Stalin long to decide that the Soviet people should not hear them. And so "jamming" was started. It went on until 1963 when Chairman Khrushchev decided that jamming was neither effective nor needed. For a few years it looked as if a new era in U.S.-Soviet communications had arrived. But, alas, with the invasion of Czechoslovakia by Soviet and other Warsaw Pact forces in 1968 jamming was reinstituted in a vain attempt to keep the truth from the Soviet people. It has been going on ever since, though with less intensity and even less effectiveness than under Stalin. It is, of course, in clear violation of the U.N. General Assembly resolution of 1960 which condemned jamming "as a denial of the right of all persons to be fully informed concerning news, opinions and ideas regardless of frontiers."

It seems to us that twenty-five years of Russian broadcasts have provided ample evidence of Soviet listening to VOA despite intermittent jamming, and it also seems to us that the time has come for the Soviet Government to stop jamming because it is both ineffective and an insult to the intelligence and maturity of the Soviet people.

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## THE COMING SACRIFICE OF TAIWAN

## HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. SCHMITZ. Mr. Speaker, "Quotations from Chairman Mao Tse-tung," on page 44, says:

> People of the world, unite and defeat the U.S. aggressors and all their running dogs! People of the world, be courageous, dare to fight, defy difficulties and advance wave upon wave. Then the whole world will belong to the people. Monsters of all kinds shall be destroyed.

On February 21, 1972, the President of the United States, once a leading "monster" in the eyes of Chairman Mao, arrived in Peking with the ubiquitous Henry Kissinger to sit down for talks with the man shown by his widely circulated sayings to be probably the most inveterate and determined foreign enemy the United States has ever had. The initial enthusiastic news reports quickly focused on the major "obstacle" to progress in the American experiment in cooperation with this man and his regime: he wants Taiwan. His primary immediate objective is to eliminate Free China from the face of the earth. To quote the Washington Post story on the February 21 meeting:

> Spelling out his main condition for such a development ['normalization' of Chinese-

> American relations], Chou made it clear that the United States must recognize Peking's sovereignty over Taiwan, the island redoubt of Chiang Kai-Shek's rival Nationalists.

The Post story went on to comment:

> The administration has been edging in that direction since the fall. On November 30, in a significant switch from previous United States policy, White House national security adviser Henry Kissinger explained that the United States now holds that Peking and "the government of Taiwan" should negotiate the settlement of their differences directly. . . . His statement implied that the administration now regards the Taiwan issue as a Chinese problem to be resolved without American interference. That effectively means that the administration believes that there is only one China—which is not far from Peking's claim.

Last year, in a meeting in Peking which went unreported in the world press, Kissinger consulted with former State Department "China hand" John Stewart Service, who was spending 46 days in China as a guest of those whom one sympathetic reporter called "his old friends, Chou En-lai and Mao-Tse-tung." During the 1940's, Service along with several like-minded men high up in the State Department's Foreign Service insisted that the only hope for "democracy" and "peace" in China was a coalition government between the Nationalists and the Reds—the tried and proven Communist technique for seizing power. These men advocated sending U.S. military equipment to the Chinese Communists and produced a steady flow of papers dwelling on the real or imagined deficiencies of Chiang and praising Mao.

Service later admitted passing classified documents to a man identified as a Soviet agent. After repeated administrative reviews, he was finally removed from government employ by the adverse findings of the loyalty review board of the Civil Service Commission. But by the time of last year's change in our China policy, he was being proposed by the New York Times' C. L. Sulzberger and others as an ideal first ambassador to Red China.

All this gives particular significance to the February 8 UPI report quoting Service as saying, regarding Taiwan, that:

> The real crux of the matter has already been resolved.

As proof, he pointed to Kissinger's statement, mentioned above, that the United States is not going to insist "that Taiwan remain separate from China." Asked about our defense treaty with Taiwan, Service said we could cancel it, adding:

> I believe that we should let Mao know that we are prepared to see Taiwan become a part of China, that we're not going to interfere, that the Chinese can work it out among themselves, that we're not going to support a free Taiwan or two Chinas.

The final sacrifice of the last 15 million free Chinese on the altar of appeasement is being prepared. Unless President Nixon hears far more protest than has yet come his way, that sacrifice will almost certainly be made.

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## THE LIMITS OF GROWTH

## HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. SCHEUER. Mr. Speaker, the New York Times of February 27, 1972, reported on a new study, conducted at the Massachusetts Institute of Technology and published by Potomac Associates, titled "The Limits of Growth."

This unprecedented and controversial project uses mathematical models to study the future of the world system. It is ironic that while the Congress cannot even agree on the establishment of a Joint Committee on the Environment, this study demonstrates the imminent dangers threatening the very existence of human life on this planet. I commend this report to the thoughtful attention of my colleagues:

### STUDY WARNS OF PERILS IN WORLD GROWTH

(By Robert Reinhold)

CAMBRIDGE, MASS., Feb. 26.—A major computer study of world trends has concluded, as many have feared, that mankind probably faces an uncontrollable and disastrous collapse of its society within 100 years unless it moves speedily to establish a "global equilibrium" in which growth of population and industrial output are halted.

Such is the urgency of the situation, the study's sponsors say, that the slowing of growth constitutes the "primary task facing humanity" and will demand international cooperation "on a scale and scope without precedent." They concede such a task will require "a Copernican revolution of the mind."

The study, which is being sharply challenged by other experts, was an attempt to peer into the future by building a mathematical model of the world system, examining the highly complex interrelations among population, food supply, natural resources, pollution and industrial production.

The conclusions are rekindling an intellectual debate over a question that is at least as old as the early economists, Thomas Malthus and John Stuart Mill:

Will human population ultimately grow so large that the earth's finite resources will be totally consumed and, if so, how near is the day of doom?

The study was conducted at the Massachusetts Institute of Technology under the auspices of the Club of Rome. In the findings, to be published next month by the Potomac Associates under the title "The Limits to Growth," the M.I.T. group argues that the limits are very near—unless the "will" is generated to begin a "controlled, orderly transition from growth to global equilibrium."

The study would seem to bolster some of the intuitive warnings of environmentalists. In Britain last month, for example, a group of 33 leading scientists issued a "blueprint for survival," calling on the nation to halve its population and heavily tax the use of ray materials and power.

But others, particularly economists, are skeptical.

"It's just utter nonsense," remarked one leading economist, who asked that he not be identified. He added that he felt there was little evidence that the M.I.T. computer model represented reality or that it was based on scientific data that could be tested.

Another economist, Simon S. Kuznets of Harvard, a Nobel Prize-winning authority on the economic growth of nations, said he had not examined the M.I.T. work first hand, but he expressed doubt about the wisdom of stopping growth.

"It's a simplistic kind of conclusion—you have problems, and you solve them by stopping all sources of change," he said.

Others, like Henry C. Wallich of Yale, say a no-growth economy is hard to imagine, much less achieve, and might serve to lock poor cultures into their poverty.

#### MALTHUS AGAIN AND AGAIN

"I get some solace from the fact that these scares have happened many times before—this is Malthus again," he said.

Malthus, the 19th-century British economist, theorized somewhat prematurely that population growing at exponential rates that could be graphically represented as a rising curve would soon outstrip available food supply. He did not foresee the Industrial Revolution.

Prof. Dennis L. Meadows, a management specialist who directed the M.I.T. study—which is the first phase of the Club of Rome's "Project on the Predicament of Mankind"—conceded that the model was "imperfect," but said that it was based on much "real world" data and was better than any previous similar attempt.

#### DON'T HAVE ALTERNATIVE

The report contends that the world "cannot wait for perfect models and total understanding." To this Dr. Meadows added in an interview: "Our view is that we don't have any alternative—it's not as though we can choose to keep growing or not. We are certainly going to stop growing. The question is, do we do it in a way that is most consistent with our goals or do we just let nature take its course."

Letting nature take its course, the M.I.T. group says, will probably mean a precipitous drop in population before the year 2100, presumably through disease and starvation. The computer indicates that the following would happen:

With growing population, industrial capacity rises, along with its demand for oil, metals and other resources.

As wells and mines are exhausted, prices go up, leaving less money for reinvestment in future growth.

Finally, when investment falls below depreciation of manufacturing facilities, the industrial base collapses, along with services and agriculture.

Later population plunges from lack of food and medical services.

All this grows out of an adaptation of a sophisticated method of coming to grips with complexity called "systems analysis." In it, a complex system is broken into components and the relationships between them reduced to mathematical equations to give an approximation, or model, of reality.

Then a computer is used to manipulate the elements to simulate how the system will change with time. It can show how a given policy change might affect all other factors.

If human behaviour is considered a system, then birth and death rates, food output, industrial production, pollution and use of natural resources are all part of a great interlocking web in which a change in any one favor will have some impact on the others.

#### INTERRELATIONS STUDIED

For example, industrial output influences food production, which in turn affects human mortality. This ultimately controls population level, which returns to affect industrial output, completing what is known as an "automatic feedback loop."

Drawing on the work of Prof. Jay W. Forrester of M.I.T., who has pioneered in computer simulation, the M.I.T. team built dozens of loops that they believe describe the interractions in the world system.

They then attempted to assign equations to each of the 100 or so "causal links" between the variables in the loops, taking into account such things as psychological factors, factors in fertility and the biological effects of pollutants.

Critics say this is perhaps the weakest part of the study because the equations are based in large part on opinion rather than proved fact, unavailable in most cases. Dr. Meadows counters that the numbers are good because the model fits the actual trends from 1900 to 1970.

The model was used to test the impact of various alternative future politices designed to ward off the world collapse envisioned if no action is taken.

For example, it is often argued that continuing technological advances, such as nuclear power, will keep pushing back the limits of economic and population growth.

To test this argument, the M.I.T. team assumed that resources were doubled and that recycling reduced demand for them to one-fourth. The computer run found little benefit in this since pollution became overwhelming and caused collapse.

### ASSUMPTIONS TESTED

Adding pollution control to the assumptions was no better; food production dropped. Even assuming "unlimited" resources, pollution control, better agricultural productivity and effective birth control, the world system eventually grinds to a halt with rise in population, falling food output and falling population.

"Our attempts to use even the most optimistic estimates of the benefits of technology," the report said, "did not in any case postpone the collapse beyond the year 2100."

Skeptics argue that there is no way to imagine what kind of spectacular new technologies are over the horizon.

"If we were building and making cars the way we did 30 years ago we would have run out of steel before now I imagine, but you get substitution of materials," said Robert M. Solow, an M.I.T. economist not connected with the Club of Rome project. "It is true we'll run out of oil eventually, but it's premature to say therefore we will run out of energy," he added.

At any rate, the M.I.T. group went on to test the impact of other approaches, such as stabilizing population and industrial capacity.

Zero population growth alone did very little, since industrial output continued to grow, it was found. If both population and industrial growth are stabilized by 1985, then world stability is achieved for a time, but sooner or later resource shortages develop, the study said.

### SYSTEM SUGGESTED

Ultimately, by testing different variations, the team came up with a system that they believe capable of satisfying the basic material requirements of mankind yet sustainable without sudden collapse. They said such a world would require the following:

Stabilization of population and industrial capacity.

Sharp reduction in pollution and in resource consumption per unit of industrial output.

Introduction of efficient technological methods—recycling of resources, pollution control, restoration of eroded land and prolonged use of capital.

Shift in emphasis away from factory-produced goods toward food and nonmaterial services, such as education and health.

The report is vague about how all this is to be achieved in a world in which leaders often disagree even over the shape of a conference table.

Even so, critics are not sanguine about what kind of a world it would be. Dr. Meadows agrees it would not be a Utopia, but nevertheless does not foresee stagnation.

"A society released from struggling with the many problems caused by growth may have more energy and ingenuity available for solving other problems," he says, citing such pursuits as education, arts, music and religion.

Many economists doubt that a no-growth world is possible. Given human motivations and diversity, they say, there will always be instability.

"The only way to make it stable is to assume that people will become very routine-minded, with no independent thought and very little freedom, each generation doing exactly what the last did," says Dr. Wallach. "I can't say I'm enamored with that vision."

"Can you expect billions of Asians and Africans to live forever at roughly their standard of living while we go on forever at ours?" asked Dr. Solow.

Dr. Wallach terms no-growth "an upper income baby," adding "they've got enough money, and now they want a world fit for them to travel in and look at the poor."

The M.I.T. team agrees there is no assurance that "humanity's moral resources would be sufficient to solve the problem of income distribution." But, they contend "there is even less assurance that such social problems will be solved in present state of growth, which is straining both the moral and physical resources of the world's people."

The report ends hopefully, stating that man has what is physically needed to create a lasting society.

"The two missing ingredients are a realistic long-term goal that can guide mankind to the equilibrium society and the human will to achieve that goal," it observes.

Collaborating with Dr. Meadows in writing "The Limits to Growth," were his wife, Donella, a biophysicist; Jorgen Randers, a physicist, and William W. Behrens 3d, an engineer. They were part of a 17-member international team working with more than $200,000 in grants from the Volkswagen Foundation in Germany.

The major conclusions of the study have been circulating among experts for a few months. The full details are to appear in next month's publication and in future technical documents. This Thursday, a symposium on the study will be held at the Smithsonian Institution in Washington.

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## WILL WE RUN OUT OF WATER?

## HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. DINGELL. Mr. Speaker, the Washington Post of February 28, 1972, carried a column by Claire Sterling under the heading "Within a Century: Will We Run Out of Water?" The information contained in the column is disquieting, to say the least. So that my colleagues will have an opportunity to see the column, I include its text at this point in the Record:

### Within a Century: Will We Run Out of Water?

(By Claire Sterling)

Rome.—The U.N. Food and Agricultural Organization has just issued a report for the coming Stockholm environment conference saying that the human race is going to run short of water within a century. Jaded though we are about such pronouncements, this one still has some zing. Practically every state on earth is starting to worry about water, a recurrent theme in some 75 country reports for this planet-wide Stockholm meeting. Not all of them have a whole century to turn around in, either.

Among the planet's thickly settled regions already afflicted by water shortages are Spain, Italy south of Lombardy, the Dalmatian Coast, Greece, the Anatolian Plateau, all Arab states save Syria, most of Iran, West Pakistan, Western India, Taiwan, Japan, Korea, the Western and Southern belts of Australia and New Zealand, the Northwest and Southwest African coasts, the American Southwest, Panama, Northern Mexico, Central Chile and the Peruvian Littoral. Among those heading for trouble by the year 2000 are all of Soviet Russia except Siberia, most of Eastern, Central and Western Europe, the Northern parts of Great Britain, Ireland and the United States, nearly all the rest of India, the central Thailand Plains, Tasmania, the islands of Java, the rest of the American continent except Northern Canada and Alaska, the larger Caribbean islands, the rest of Mexico, and parts of Brazil and Argentina.

By FAO reckoning, the planetary shortage will be getting serious in just another 30 years, when the world's population will have doubled (from 3½ to 7 billion) and demands for water nearly tripled (from 2,000 billion to 5½ thousand billion cubic meters yearly). The demands in this case mean everything from swimming and fishing in it to making plastics and steel with it, cooling nuclear reactors, irrigating, flushing away residues of pesticides, fertilizers and livestock faeces, carrying off industrial and human waste and, of course, drinking.

Whether because they haven't enough water or are fouling, squandering or driving beyond reach too much of what they do have, rich and poor, industrial and agricultural, capitalist and socialist states are pretty much in the same boat. A dozen or more African states along a 4,000 mile front are losing precious groundwater irrevocably to the encroaching Sahara year after year, in good part because of over-grazing. Kenya and India, the one under and the other over-populated, are both preoccupied, if for different reasons. East and West Germany have almost identical problems. Holland, at the receiving end of the dirty Rhine, is hardly worse off for drinking water than Rumania and Hungary, depending on the dirty Danube for four-fifths and nine-tenths of their supply respectively. Nowhere, in fact, is the problem's universality more stunningly clear than in Soviet Russia's pre-Stockholm report to the U.N.'s Economic Commission for Europe.

More generously endowed with water than most—Lake Baikal alone, in Siberia, is thought to hold about a fifth of the whole planet's fresh water reserves—the Soviet Union is a lesson to us all. At present, says the Russian report, nearly 25 billion cubic meters of waste water are dumped into the country's rivers and reservoirs every year. By 1980 the volume will be two and a half times bigger, and by the year 2000 about 15 times bigger: 375 billion cubic meters. Even if all the waste water were to be purified in advance, with a lot better techniques than those available now, it would still have to be diluted with at least six times as much pure water. That is only half of the 12-fold volume needed for purification now. *"But it would still use up the whole of Soviet Russia's river flow, or 2½ times more than there is now in the steady flow."*

Meanwhile, the actual river flow is declining, while levels of lakes and inland seas are falling: the Caspian has dropped two meters in the last two decades, and the Aral Sea has lost 1,000 billion cubic meters of water.

This is believed to be happening because too much water is taken off the river system by people and industry; too many hydro-electric dams divert still more; rivers and reservoirs are silting up with flood-borne sediment; and the floods themselves are carrying millions of tons of unrecuperable water off to sea. These floods are largely man-made too, provoked by erosion caused in turn by de-forestation: what with the trees that Russians have cut down and not replaced, and raging forest-fires, 45 million acres of Soviet forest have been lost in the last quarter of a century.

Assuming the Russians can find enough water to purify enough water to keep themselves going 30 years from now, they still couldn't eliminate the polluting substances entirely. About a fifth of the strongest pollutants would remain with even the costliest cleansing methods, their report says; and cleansing techniques so far are lagging behind the inexorably growing volume of polluted water. All, in all, the report goes on, this water-polluting process is "the greatest danger for humanity." There is "widespread expectation of an inevitable exhaustion of rivers, and an awareness of the necessity to substitute new sources of water supply: desalination of sea water as well as melted ice from polar glaciers . . . but can this take the place of river waters? And can we . . . allow rivers to become qualitatively exhausted and, in fact, turn them into waste-water collectors?"

The Kremlin's answer, worthy of the Sierra Club or Friends of the Earth, is "no." Sooner or later, known methods to treat waste water are bound to prove invalid, it says. Distillation and de-salination will certainly be in use, but at steep cost. In the end, it concludes, the only answer is simply to stop dumping waste water into rivers and reservoirs.

How Russia or any other country can do that is something nobody has quite faced up to yet. The implication, though, it that water problems alone may be enough in the end to force world society to stop growing. Human excrement alone is peculiarly hard to get rid of. More people mean more livestock to feed them, adding to the excrement; more irrigation to grow more food, producing more run-off laden with DDT and nitrogen compounds; more mechanized farming for the same purpose (and a tractor needs more water than a mule); more energy requiring more hydro-electric dams and nuclear cooling; and more manufactured goods relying on more advanced technology requiring still more water (plastics need ten times more than steel, and world plastic production is doubling every 5 or 6 years now).

The question is not just whether the moment may come in our lifetime when we forget what real water tastes like—millions are forgetting already—but whether humans just one generation removed, though surrounded by a chemical substance known as $H_2O$, will be hard put for a drop to drink.

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## THE FIRST LADY—AND CHINA

## HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. MICHEL. Mr. Speaker, as the President and his official family continue their homeward bound trip from the momentous week in China to what I know will be a warm and friendly welcome tonight at Andrews Air Force Base, I want to express my agreement with those who take the position that it will be some time in the far distant future before we really know and understand the impact of the talks last week between the President and the leaders of the most populous nation on earth.

One aspect of the trip however is already clear and was most evident to those who had the opportunity of watching the unfolding of events on our television screens. I am speaking of the tremendous performance of our gracious First Lady, Pat Nixon.

This great lady, with her natural warmth and friendly manner, probably accomplished more in clearing up any misconceptions the Chinese people may have had about Americans as a result of the propaganda hurled at them for years now by their leaders about what terrible people were in positions of leadership in the United States, and I want to salute her for a job well done.

An editorial appearing in today's edition of the Chicago Sun-Times discusses Mrs. Nixon's contribution to the success of the trip and I insert the text of the editorial in the RECORD at this point.

The editorial follows:

### THE FIRST LADY—AND CHINA

The great Trip to China turned out to be a people-to-people saga. The one clear-cut agreement that came through perfectly clear in the joint communique issued Sunday concerned the broadening of understanding between the people of the United States and the People's Republic of China.

Both sides reiterated their positions on world affairs and their own roles in the world; the talks obviously made each side's position clear to the other but no real shift in either position is indicated. China should have been encouraged somewhat by a clarification of the U.S. view on Taiwan—that the United States intends to reduce its influence in the area by the eventual withdrawal of U.S. forces there (as in Vietnam). This may be regarded as a shift in American policy but it is in keeping with the United States' more recent policy concerning the Far East and its new, if still tentative, relationship with mainland China.

This was the one sticky area affecting China-U.S. relationships. By tagging the Taiwan problem as one that must be solved by the Chinese without outside (that is, United States) influence, Mr. Nixon takes a big leap forward in improving relations with Peking. It also is in keeping with the new U.S. position that it cannot police the world.

There are many semantics involved in the other sections of the communique—words obviously mean one thing to the Communists and something else to the Western world. But even the exchange of words augurs well for better relations, and they help bridge the people gap. Of even greater help in bridging that gap was the performance of America's First Lady in China. Pat Nixon's exploration and gracious interest in the doings of ordinary humans in their everyday lives, communicated to the peoples of both countries by TV, surely had a good effect on both sides of the Pacific.

President Nixon, too, must have been a revelation to the Chinese TV watchers. They had hardly been conditioned to expect a smiling, hand-shaking chief of state, curious about all things Chinese. But it was Mrs. Nixon who visited at the levels where people live—schools and factories and markets, peoples' commune and theater and sports festival.

It was obvious that the Chinese saw Mrs. Nixon as an elegant, important, visitor, but they also saw her as a warm and compassionate woman interested in children, families, working conditions, schools, health and all the other things that men and women must be concerned about regardless of the political systems under which they operate. There is nothing more universal or more quickly understood than the affection Mrs. Nixon showed children and their response. And by looking over her shoulder by way of TV satellite, Americans saw the Chinese through her eyes.

Every First Lady develops her own style and image and Mrs. Nixon has been, until recently, pretty much in the background. But her assignment to Africa showed her naturalness in meeting and empathizing with other peoples. She had an even greater opportunity to promote good will in China. In turn, Premier Chou En-lai paid her the great compliment of putting food on her plate with his own chopsticks.

As the communique showed, it will take more than such gestures of good will and the mutual friendliness and consideration that became almost routine as the President's party toured China. But at least the people of China and the people of the United States can now begin the long journey toward normalizing official relations without the psychological handicap of stirred-up hatred that has been fostered by both sides for so long.

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## LET'S GET THE CORPS OF ENGINEERS INTO THE ENVIRONMENTAL FIGHT: WASHINGTON STAR

## HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. REUSS. Mr. Speaker, for some time I have been urging that the resources and the proven skills of the Army Corps of Engineers be directed to the problems of reclaiming our abused environment. The Washington Star focused its editorial attention on this approach on Sunday, February 27, and found that the corps should, indeed, "have a much larger role to play in environmental redemption." The Star editorial follows:

### THE ENGINEER AS ENVIRONMENT-FIXERS

By now everyone knows it is much more than a fad. Nothing has so captivated modern Americans as the idea of cleaning up and repairing their environment—of reclaiming the vast spoiled spaces and decayed cities, and making the air and water clean again. It is almost a new religion, and large public outlays are in prospect to satisfy it.

But more than money and idealism will be required; there also must be muscle and know-how. There must be a strong force of trained people to go out and tackle the mammoth and complex tasks that await. And in considering where such an organization might be found, the gaze of some officials is falling on the Army Corps of Engineers.

Especially is Representative Henry S. Reuss of Wisconsin, chairman of the House Conservation and Natural Resources subcommittee, entranced by the idea of a new role for the engineers. He sees them as the logical depollution and reclamation task force—the environmental army, so to speak. Legislation he introduced last year would launch them on that assignment, by giving them the job of removing pollution from the nation's waters. "Instead of putting all their resources and skilled manpower into increasingly marginal navigation, flood control and power projects," Reuss told the House, "let us turn the Corps loose on building the sewerage systems and waste disposal plants which the nation so desperately needs if we are ever to enjoy clean water again."

Those resources and manpower are both large and effective. The Corps is in fact the world's biggest engineering organization, with 40,000 civilian employees in addition to its military personnel. Its skills for planning and building a fantastic diversity of civil projects, ranging from picnic grounds to the largest dams and most elaborate industrial waterways, have been proven time and again. It has tamed the great wild rivers, including the Mississippi. In the Corps' proud record are more than 3,200 civil projects, including 350 dams and reservoirs, 9,000 miles of levees and 19,000 miles of inland and intracoastal waterways now in use.

In short, the Engineers are in more kinds of work than they can easily keep track of, and much of it already has to do with environmental protection and upgrading. But their more expensive endeavors—the dam-building and carving of commercial waterways—are under heavy attack. Both the environmentalists and federal budget guardians are zeroing in on these huge projects, and the effects could be dramatic.

The first heavy blow fell early last year when the Nixon administration sided with environmentalists and killed the Cross-Florida Barge Canal, which had been widely damned as an ecological disaster. It wasn't an easy decision; 26 miles of the shipping canal had already been dug at a cost of $50 million. But the President decided that natural values in that case should take precedence over economic ambitions, and the Engineers had to give up a large and cherished enterprise.

Other bullseyes were scored swiftly by the environmentalists. The main one was an injunction stopping construction of the Tennessee-Tombigbee Waterway, which would connect the Tennessee River to the Gulf of Mexico, via Mississippi and Alabama. It would extend 253 miles, and the plan is the pride and joy of some powerful congressmen and senators and has the support of President Nixon. But his Environmental Protection Agency holds the sharply contrary view that this industrial channel would be of "questionable economic value," causing heavy pollution and damage to natural assets.

The Engineers well might wish, however, that court challenges to their projects (14 at present) were their only worry. Major political obstacles are rising up here in Washington, where they once enjoyed enormous power because of the ability to deliver majestic projects sought by legislators. Now the representative who gets an Engineer dam for his district is likely to find that about half of his constituency is vociferously opposed to it. Hence the zest for new dams isn't what it used to be on the Hill.

And over at the executive branch, the Corps is menaced even more. Traditionally the Engineers have been able to compute the benefits of their projects against the costs so as to maximize the number of new works that could be approved. Some projects thereby have passed the benefit-cost test by the thinnest of margins. Soon, however, this practice may be merely a memory. The President's Office of Management and Budget is favoring a tough new feasibility formula that might make most of the Corps' plans for dams and navigation channels impossible to justify.

So, if that comes to pass, what is the future of the mighty civil arm of the Army Engineers? Reuss and others pose the tantalizing question: Why can't the Corps be diverted from carving up and inundating the land to the tasks of depollution, restoration, beautification? Could it not reclaim the fouled Great Lakes, restore the two million acres that have been ravaged by strip mining, redeem derelict waterfronts, and help cities with their problems of adequate pure-water supply, sewerage and solid-waste disposal?

This turns out to be a most ticklish question, because bureaucracies by nature resist change and fear competition from other agencies. Indeed the Corps, reading the signs of the times, already is emphasizing and expanding its environmental contributions. By far its most ambitious excursion into this field was the initiation last year of waste-treatment studies in five major metropolitan areas.

But before long, the sparks began to fly, and in October the Environmental Protection Agency chief, William D. Ruckelshaus, posted a firm message to the secretary of the Army: Pull the Engineers off those studies. Ruckelshaus, subsequently scorched by some influential congressmen, backed down in a few weeks and the Engineers are continuing the project. But the word is out that the EPA fears the Engineers will try, more and more, to horn in on its antipollution jurisdiction.

For their part, the Engineers want it both ways. They seem to envision a much larger environmental role, while continuing with the big-dam, big-ditch projects that are becoming ever more dubious, and that often collide with ecological wisdom. The chief of Engineers, Lieutenant General Frederick J. Clarke, sees the Corps as becoming "a catalyst" in the environmental movement, as "the engineering agent for EPA" and conductor of studies to help state and local governments. But the work itself is viewed as strictly a state and local responsibility (facilitated by federal matching funds, perhaps), and the Engineers obviously want no changes in their own structure and prerogatives.

Some changes are, however, being dimly visualized. For example, the President's departmental reorganization legislation contemplates a merging of the Corps' civil functions with the proposed Department of Natural Resources. But the merger wouldn't be total, and the mechanics are vague. Obviously, much room has been left for administration bargaining with Congress over this.

Hearings on the proposal will afford an excellent opportunity for Congress to begin considering a redirection of the Corps' vast energies and talents. The idea that only state and local governments should carry out large environmental projects also deserves serious rethinking, because of the obvious limitations of many of those governments.

The Engineers should have a much larger role to play in environmental redemption, perhaps through civilianization, certainly in well-defined collaboration with the EPA. That definition must come from Congress, and the sooner the better.

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## RAY KINNEY, A RICH HAWAIIAN VOICE, IS STILLED

### HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. MATSUNAGA. Mr. Speaker, I believe it can be safely said without contradiction that there is a certain incomparable sweetness about the music of Hawaii. It is for this reason that I have in my own little way tried to encourage the preservation of Hawaiian music. Fortunately there have been great Hawaiian performers who have done much to preserve the music of the Aloha State. One of them who did more than almost any other was Ray Kinney, a personal friend, whose death earlier this month brought me great sorrow.

For more than half a century, Ray Kinney entertained Hawaii and the Nation with his songs about the islands. Shortly after launching his career on his 15th birthday, he composed perhaps his most famous song, "Across the Sea," which became his theme song. Before his retirement he recorded almost 600 songs, many of which he had written himself.

Those of my colleagues who were Members when Hawaii was admitted as America's 50th State may remember that Ray Kinney and his troupe were flown to Washington in 1959 to participate in various programs celebrating the event.

Ray Kinney was a vital force in Hawaiian music, and he will be sorely missed.

Mr. Speaker, at this point I offer for inclusion in the Record several articles about Ray Kinney from Honolulu and Washington newspapers:

[From the Honolulu Advertiser, Feb. 7, 1972]

**Veteran Isle Singer, Ray Kinney, Dies**

Veteran entertainer Ray Kinney, who for 55 years treated audiences to his warm, personal brand of Hawaiian music, died yesterday. He was 71.

Mr. Kinney, a familiar figure in Waikiki nightclubs, was noted for his storytelling of old Hawaii in addition to his singing and ukelele strumming.

He was the first singing voice on the radio program "Hawaii Calls" in the 1930s, and had since recorded hundreds of Hawaiian songs, many that he wrote himself.

His theme song was "Across the Seas" which he performed thousands of times on numerous Mainland tours dating back to 1924.

Mr. Kinney, who was born in Hilo, began his career in show business there on Sept. 26, 1915. It was his 15th birthday. He never stopped singing since then and estimated a few years ago that he had entertained in every city in the nation with a population of 25,000 or more.

The veteran entertainer had many credits to his name. Among them, he sang "Sweet Leilani" in the Bing Crosby film "Waikiki Wedding"; he appeared in the original Broadway production of "Hellzapoppin," and he was vocalist for Harry Owens and the Royal Hawaiians.

Mr. Kinney, who resided at 808 Olokele St., is survived by his wife, Dawn Hanakaulani; sons, Rayner and Rankin; daughters, Mrs. Meymo Straus, Mrs. Raylani Akau and Mrs. Melvienne Lindsey; brothers, Oliver, Robin and David, and 22 grandchildren.

Friends may call at Williams Mortuary from 6 to 9 p.m. Sunday and after 7:30 a.m. Monday. Services will be held at the mortuary at 10 a.m. Monday, under the auspices of the Church of Jesus Christ on Latter-day Saints, followed by burial at Hawaiian Memorial Park.

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[From the Honolulu Star-Bulletin, Feb. 2, 1972]

**Composer-Singer Ray Kinney Dies; Wrote "Across the Sea"**

Ray Kinney, who sang, composed and played the music of Hawaii for 55 years, died yesterday. He was 71.

Mr. Kinney died of cardiac complications in Kaiser Hospital. He had been hospitalized since Jan. 6.

Mr. Kinney was born on Sept. 26, 1900 in Kaumana on the Big Island.

At the age of 15, Mr. Kinney was working his way to the Mainland aboard the Matson ship, Wilhelmina. In a moment of homesickness he wrote these lines:

"Across the sea
"An Isle is calling me,
"Calling to the Wanderer to return . . . "

"Across the Sea" was just one of many songs he wrote. Other hits were "Hawaiian Hospitality" and "Not Pau."

Mr. Kinney returned to the Islands in 1924 and was the leading man in the operetta, "Prince of Hawaii." The popular Hawaiian wedding song, "Ke Kali Nei Au," came from that show.

In 1927, Mr. Kinney was a member of a group of singers, dancers and musicians who performed at the opening of the Royal Hawaiian Hotel. He was later the vocalist for Harry Owens and appeared on the first broadcast of "Hawaii Calls" in 1930.

Much of Mr. Kinney's career was spent on the Mainland. While at the Hawaiian Room of New York's Hotel Lexington, he introduced many Hawaiian performers to the public. At one time the trade paper Variety rated Mr. Kinney's band No. 1 in popularity in New York.

He also performed on NBC radio and took part in Broadway's original "Hellzapoppin' " production.

"I guess if I couldn't entertain, I'd pass out," Mr. Kinney said in an interview in 1968. At that time he was featured in the Maile Lounge of the Kahala Hilton Hotel. "I don't think there is a city in the nation of 25,000 or more population that I haven't played."

Mr. Kinney said the biggest thrill of his career came in Chicago in 1942.

"I was playing in the Oriental Theater and the boys from Hawaii's 442nd were in the audience. When I sang 'Across the Sea,' all I could see were white handkerchiefs. The boys from the Hawaii unit all broke down and wept.

"I love to sing the old Hawaiian songs and put the English lyrics to them," Mr. Kinney would say. "Hawaiian came natural to me because that was the only language my mother spoke. My mother was almost pure Hawaiian, a little Pake (Chinese). My father was haole."

Mr. Kinney's favorite instrument was an old Nunes ukulele.

"This ukulele is over 100 years old," he said in 1968. "Each scratch can tell a story. It's an original Nunes uke. He was the first maker of ukuleles in Hawaii. I make all my records with it."

Up to last summer Mr. Kinney was giving ukulele lessons at the Hilton Hawaiian Village. He headlined the hotel's Tapa Room show a year ago for a short, interim period. He also was a longtime performer at the Halekulani Hotel.

Mr. Kinney is survived by his wife of 46 years, Dawn; sons, Raynor and Rankin; daughters, Mrs. Wray (Meymo) Straus, Mrs. Douglas (Raylani) Akau and Mrs. Norman (Leimana) Lindsay; borthers, Oliver, Robin and David, and 21 grandchildren.

Williams Mortuary is handling funeral arrangements.

A wake will be held at the mortuary Sunday from 6 to 9 p.m. an on Monday from 7:30 a.m. to 10 a.m. Services will be held at 10 a.m. Monday. Burial will follow at Hawaiian Memorial Park.

[From the Washington Post, Feb. 3, 1972]

### RAY KINNEY, NOTED FOR HAWAIIAN SONGS, DIES

HONOLULU, February 2.—Ray Kinney, who entertained Hawaii and the nation for more than a half-century with his songs about the islands, is dead at the age of 71.

Mr. Kinney was admitted to Kaiser Medical Center here a month ago for a heart ailment. He died Monday.

Mr. Kinney composed what became his most popular song, "Across the Sea," soon after launching his career on his 15th birthday, earning $5 for an appearance at the Gaiety Theater in Hilo on Hawaii Island, where he was born in 1900.

In 1927, he joined a six-member troupe of Hawaiian musicians, singers and dancers playing at the Royal Hawaiian Hotel at Waikiki. They caught the eye of a New York City theater manager and were booked a week later at New York's Roxy Theater with one of the singers, Alfred Apaka, featured.

Back in Hawaii, Mr. Kinney, with his ever present ukulele, became a vocalist with bandleader Harry Owens. He later appeared from 1930 to 1934 on the "Hawaii Calls" radio program.

His recording career began in 1933, winding up with nearly 600 recordings before he went into semiretirement several years ago.

Mr. Kinney and his Hawaiian entertainers were flown to Washington, D.C., in 1959 by the Honolulu Chamber of Commerce to participate in various programs celebrating Hawaii's admission as the 50th state.

Mr. Kinney is survived by his wife, Dawn, two sons, and three daughters.

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## REPORT OF CONGRESSMAN G. V. MONTGOMERY ON SEVENTH TRIP TO SOUTH VIETNAM

## HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. SPRINGER. Mr. Speaker, during the past 7 years, a member of the House Committee on Armed Services, G. V. MONTGOMERY, has made continued inspection trips to Southeast Asia. After his seventh trip, he has made a general report to Members of Congress, as of February 28, 1972, entitled, "Report of Congressman G. V. MONTGOMERY on Seventh Trip to South Vietnam."

I believe that the report is of sufficient importance that it should be included in the CONGRESSIONAL RECORD so that those who read the CONGRESSIONAL RECORD may have the same information as has been imparted to Members of Congress.

Mr. MONTGOMERY has shown an unusual interest in the Southeast Asian situation, and I know that he has tried to present an accurate picture as he has found it:

### REPORT OF CONGRESSMAN G. V. MONTGOMERY ON SEVENTH TRIP TO SOUTH VIETNAM

#### WITHDRAWAL

During the Christmas recess, I had the opportunity to make my seventh inspection trip to South Vietnam. I expect this to be my last trip for I am convinced that American participation in the Vietnam conflict will be minimal by the year's end. I continue to believe that the South Vietnamese people will be able to make it on their own, even after the United States has completed its troop withdrawal program.

American withdrawal is continuing in an orderly fashion and in a manner that will offer the most protection for our few remaining troops. I was particularly impressed with the efficient way in which the military is returning American equipment and supplies. We are doing a much better job in this area than we did at the end of World War II when tons of our equipment were pushed into the Pacific Ocean or buried in the farmlands of Europe. The return of this military tonnage will be of tremendous benefit to our Reserve and National Guard units which are in need of modern and up-to-date equipment.

I am, of course, hopeful that President Nixon's new peace initiatives will succeed, resulting in total withdrawal of all U.S. and Allied forces from Southeast Asia and release of all prisoners of war and information on those listed as missing in action. However, my realistic estimate is that we will have between 25,000 and 50,000 troops in South Vietnam after July 1, 1972. The vast majority of these Americans will consist of technicians and advisors.

Until the time when peace can be negotiated based on the plan presented by President Nixon on January 25, or a compromise thereof, it is my observation that escalated military aggression by the North Vietnamese can be expected in almost the whole of the Southeast Asia area. There is no doubt that the North Vietnamese are effectuating a build-up of troops and supplies in the Central Highlands and will attack, but I believe the South Vietnamese forces will be able to repel any offensive drives.

#### LAOS AND CAMBODIA

The extent of our involvement in Laos is through the activities of the Central Intelligence Agency, air strikes requested by the Royal Laotian Government and our financial help. We have no American military personnel in Laos. The nation is currently in a very precarious position, and it is my judgment that Laos could easily fall in the face of a concentrated enemy offensive.

America's involvement in Cambodia is limited to less than 50 military personnel in a logistic capacity. We do furnish air strikes when requested, plus financial assistance. The Khmers have more of a desire to remain free than their neighbors, and I believe they can survive a Communist invasion.

#### MORALE AND DRUGS

The morale of our troops in South Vietnam is excellent. I believe the principal contributing factor is that the end is in sight and our servicemen realize they will be coming home in a matter of months. I had the opportunity to visit the USS Coral Sea and was particularly impressed with the morale and efficiency of the carrier's officers and men.

The drug control program established in South Vietnam within the last year has been highly successful. Current data reveals that about 4.5% of Army personnel being tested are users of drugs, a significant decrease from levels of one year ago. Since the number of drug users among senior NCOS and officers has been negligible, the military is giving serious consideration to concentrating mainly on those men in the lower ranks and 18 to 25 year age bracket.

There is still a bottleneck in obtaining information for the doctors and chaplains on the progress being made by our servicemen to kick the habit once they return to the United States. Obviously such information should be provided the doctors and chaplains who have counseled these young men and have a very sincere interest in their future well being. Steps are being taken to furnish the necessary information.

#### PRISONERS OF WAR/MISSING IN ACTION

There has been considerable debate, and rightfully so, on the wisdom of continued air strikes against selected military targets in North Vietnam. This has been especially true in view of North Vietnamese statements that our prisoners of war will not be released until the air strikes are halted. Judging by the past actions of North Vietnam during our bombing pauses, I do not believe we have any reason to trust their hollow promises. In the past, the North Vietnamese have used the bombing pauses initiated by President Johnson and President Nixon to build up troops and supplies to be used against U.S. Servicemen. In my opinion, it is even more important that we take steps to prevent the build-up of enemy troops and supplies in view of the greatly reduced forces we have in South Vietnam. We cannot risk endangering the lives of our few remaining men. I also believe that the past actions and recent statements of the North Vietnamese are further proof that they have no intention of releasing, or discussing the release, of our prisoners of war whether there is a bombing halt or not. I wish it were otherwise, but I feel that the facts of the situation warrant no other conclusion.

In my opinion, the North Vietnamese, Viet Cong and Pathet Lao will not release our prisoners of war or provide information on our servicemen listed as missing in action until they are forced to do so by other nations—most notably, Russia and Red China.

The plight of our POWs/MIAs is no longer a military issue. It is now purely political. As we withdraw, we do not have the military force to gain their release. It will have to be accomplished through negotiation, world opinion and pressure on the North Vietnamese. I trust and pray that the fate of our POWs/MIAs will continue to be the priority item on President Nixon's agenda when he meets with the leaders of the Soviet Union and People's Republic of China.

### EUROPE

On my return trip home, I had an opportunity to spend three days in Germany in order to familiarize myself with the conditions facing U.S. troops committed to the North Atlantic Treaty Alliance. Since this was my first inspection visit to Europe, I unfortunately do not have prior firsthand knowledge of the situation by which to make a comparison.

The morale of the troops with whom I visited appeared to be good. It would be my opinion that morale has probably increased somewhat within the last month or two because of the recent significant pay raise for members of the military. This would be particularly true of the servicemen in the lower ranks and those who are married.

Racial problems appeared to be isolated incidents and not as prevalent as one would believe from reading press reports. There is certainly, however, still room for improvement, and the military is working toward that goal. I was told that racial problems were most likely to occur in those units where the officer and NCO leadership is not as strong as it could or should be.

Drug usage is confined mainly to hashish and marijuana. Some of the commanders told me that the problems from overindulgence in alcoholic beverages were almost as numerous as those from the use of drugs. Use of drugs appears to be no more a problem in Europe than on any military base in the United States.

### OVERVIEW

I offer this report, not as an authority, but only as a presentation of the facts as I found them. This, along with other information at your disposal will, hopefully, help you to reach valid decisions on Southeast Asia in fulfilling your official responsibilities. It has always been my intention to share the information I gain with my colleagues. I appreciate being given the opportunity to make such a report.

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## MAN'S INHUMANITY TO MAN—HOW LONG?

## HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

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## VIEWS OF SEVEN SCIENTISTS ON FEED ANTIBIOTICS OVERLOOKED AS FDA RELEASES TASK FORCE REPORT

## HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. SCHWENGEL. Mr. Speaker, on January 31, the Food and Drug Administration released the report of its Task Force on the Use of Antibiotics in Animal Feeds. At the same time, FDA announced its plans for implementing the recommendations of the task force. In essence, the Federal agency proposed steps to limit the use in feeds for food-producing animals—cattle, sheep, swine, and poultry—of those antibacterial drugs which are also used in human clinical medicine. Manufacturers of these drugs will be required to provide FDA with proof that the continued low-level use of these drugs in animal feeds does not result in a health hazard to the American consumer.

It is not my purpose today to review the intricate details of the task force report, nor of FDA's implementation proposals. The report and related documents released by FDA numbered hundreds of pages, attesting to the complexity of the scientific issues involved. It has come to my attention, however, that in the process of making the task force report public one significant document has been overlooked. I refer to what might be characterized as a "minority report" signed by seven of the task force's 15 members.

This document stresses the absence of persuasive evidence linking increased resistant organisms in animals with any human health problem. It notes that the occurrences in a case cited by the task force were not related to the use of antibiotics at low levels in animal feeds, but rather to excessive therapeutic dosages.

The seven scientists who subscribe to those views urged that research be initiated to generate reliable data "on the questions that have troubled this particular task force." I am confident that the Food and Drug Administration is moving ahead toward the expeditious conduct of such research. I am certain, too, that American consumers can continue to consume domestic meat and poultry products with complete confidence in their purity, wholesomeness, and safety. I include the statement signed by the seven task force members in the RECORD:

### VIEWS ON THE REPORT OF THE TASK FORCE ON THE USE OF ANTIBIOTICS FOR FOOD ANIMALS

It is not unusual for individuals with scientific background to review the same set of data, particularly when the evidence is not clear-cut, and come up with different conclusions based on those data. There is general agreement on the Task Force that the use of certain antibiotics at low levels, when administered to food producing animals, does result in selection for resistance with a resulting increase in the percentage of resistant organisms recovered from those animals.

However, there is no solid evidence that this increase in resistant organisms in animals has caused disease problems in man which have not been present prior to the development of resistance. The primary case cited in support of the thesis that resistance has caused fatalities in many is the work of Anderson (8) (Append. B, page 5). However, it should be noted that this episode was not related to low level feeding of antibiotics. A number of antimicrobial compounds were used at excessive as well as at therapeutic levels to treat the calves involved. No evidence of transmission or possible mode of transmission of the organisms from animal to the humans was presented, but the humans studied were infected with the Salmonellae of the same phage type as those isolated from the animals. No record of the treatment of the patients was available to determine whether these organisms responded differently than sensitive strains. It is apparent that the possibility of the occurrence of incidents of this type would not be affected by either the deliberations or the recommendations of this Task Force.

We do not agree that the evidence presented warrants the unqualified statement that resistant organisms are as virulent as sensitive organisms (page 4, item C and Append. B, page 11, item 9). Evidence was presented by Jarolmen and Kemp (83), indicating that the resistant organisms were not as virulent as the sensitive. Watanabe (176) presented evidence that, while the percentage of resistant Shigella organisms isolated in Japan was increasing dramatically, the incidence of mortality and morbidity due to Shigellosis was decreasing. In discussing this paper (personal communication), Watanabe attributed these results to:

1. The general level of the economy in Japan has increased and more of the people are seeking medical care.
2. The medical profession has become more skilled in treating this disease.
3. There is a possibility that the resistant organisms may be less virulent.

In addition, the documentation (Append. C, page 3) indicates that the percentage of resistant organisms decreases after the antibacterial drugs are withdrawn from the feed. This phenomenon, in itself, argues that the sensitive organism are more virulent than the resistant.

There is a great deal of emphasis on Salmonella infactions in this report. Figures are presented on number of cases, number of deaths due to Salmonellosis and economic loss due to this disease (Append. B, page 6). The report from the National Academy of Sciences on page 39, using data from investigated outbreaks makes the following statement: "Almost all of these fatalities occurred in young infants, the elderly, and persons severely ill with other diseases." They have also stated that "the rate of isolation rises to an incidence greater than 100 isolations per 100,000 population between two and four months of age and gradually declines to an incidence of 30 per 100,000 in eleven months." This is in a period when the infant is not likely to be exposed to foods of animal origin that have not been sterilized. No evidence is presented which would indicate the low-level feeding of antimicrobial agents with the case incidence of Salmonellosis in animals or in humans. Further, it was stated in the Task Force meeting that there is no evidence of increased resistance to the antibiotic, Chloramphenicol, which is commonly used in treating Salmonellosis in humans.

The statement is made that "the continuous feeding of certain antibiotics to animals has been reported to compromise the treatment of certain animal diseases" (page 9, item 5). Opinions were also expressed to the contrary, that is, that there has been no loss of effectiveness of the antibiotics used in treating animal diseases. A survey of the deans of schools of veterinary medicine, made by the Chairman of the Task Force, indicated that they do not have data bearing on this question. A logical recommendation would be that controlled data be obtained on this question.

The statement is also made that the percentage of resistant *E. coli* isolated from poultry increased from 3.5% in 1957 to 63.2% in 1960 and it is indicated that this coincided with increased use of tetracyclines in broiler feeds (Append. C, page 2). The use of tetracyclines at low levels had actually decreased prior to this period, and any increase in the use of tetracyclines for poultry was at the therapeutic level (Skamser, personal communication). Therefore, we cannot ascribe this increase in resistance in *E. coli* to the low level use of tetracyclines.

The considerations discussed in this brief analysis do not permit us to agree with the Summary of the Human Health Problems Committee. The evidence presented does not support the statement that there is, in fact, an "imminent hazard" to human health caused by the low-level feed use of antibiotics for food-producing animals. In view of the preceding comments and in line with the charge to the Task Force, we feel that research should be initiated to generate reliable data on the questions that have troubled this particular Task Force.

We, the undersigned, subscribe to the preceding "Views on the Report of the Task Force on the Use of Antibiotics for Food Animals."

Dr. Jake L. Krider, Professor, Dept. of Animal Sciences, Purdue University, Lafayette, Ind.

Dr. Edwin Goode, Jr., Assistant Administrator, Agricultural Research Service, U.S. Dept. of Agriculture.

Dr. Richard P. Lehmann, Director, Div. of Nutrientional Sciences, Bureau of Veterinary Medicine, Food and Drug Administration.

Dr. William W. Wright, Jr., Director, Division of Drug Biology, Bureau of Drugs, Food and Drug Administration.

Dr. Harold L. Wilcke, Vice President, Director of Research, Ralston Purina Company, St. Louis, Missouri.

Dr. Alan E. Smith, Deputy Director, Div. of Anti-Infective Drug Products, Bureau of Drugs, Food and Drug Administration.

Dr. Edward B. Seligmann, Jr., Chief, Laboratory of Control Activities, Division of Biologics Standards, National Institute of Health.

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## REMARKS OF HON. JOHN DINGELL TO CONFERENCE ON ENVIRONMENTAL LAW

## HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. PELLY. Mr. Speaker, the second annual Conference on Environmental Law was held in Washington on February 17, 18, and 19, 1972, under the sponsorship of the Smithsonian Institution and the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association.

The conference focused on one crucial issue, that of striking a balance between the demands of economic and technological progress and ecological necessities. During the course of the conference eminent lawyers, industry executives, Government officials, and law professors discussed all phases of the law regulating the use and preservation of natural resource, the factors involved in making decisions affecting the environment, and the procedures by which such decisions are made in the courts, the legislatures, and the administrative agencies.

The sponsors wisely invited the House author of the National Environmental Protection Act of 1969, my friend and colleague, Congressman JOHN D. DINGELL, to be the principal speaker at its banquet meeting on the evening of February 17. In his remarks, Congressman DINGELL made a strong case for the concept that a high-quality environment is not something which stands in the way of economic prosperity.

I found Congressman DINGELL's comments to be quite persuasive and I would like to share them with my colleagues. Therefore, I insert the text of Congressman DINGELL's speech at this point in the CONGESSIONAL RECORD:

REMARKS OF HON. JOHN DINGELL

I am delighted to appear here tonight and wish to extend a well deserved word of praise to the sponsors of this Second Annual Conference on Environmental Law.

The Smithsonian Institution, the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association merit praise of high order for convening a conference on a matter so crucial to national and international survival.

In the selection of the themes of the different meetings, I believe they have struck the major social, political, economic and legal questions faced by this Nation in its relationship to the environment.

Like most readers of Time Magazine, recently I was appalled to read the article in the section on environment entitled "The Worst Is Yet To Be?"

That article followed several computerized paths and moved MIT computer expert Dennis Meadows to the grim conclusion "all growth projections end in collapse." I might add, either economic or environmental.

The article based on computer studies to be released shortly by the prestigious, and I would stress, conservative Club of Rome directed itself to the fundamental question of human survival. Put differently the question was how long could population and technology continue to grow exponentially. The answer, reduced to overly simple terms, was not very long.

Two computerized conclusions are that either through exhaustion of resources by somewhere around the year 2020, followed by a period of almost total economic collapse, or, and I am not sure this is appreciably better, further economic and technological growth to a point somewhere after that the atmosphere is so poisoned as to make economic and human activity impossible according to the standards and quality that we know and appreciate today.

Lest I appear some sort of a doomday freak, I might reiterate a point I made earlier, the Club of Rome is a most prestigious business oriented body of international businessmen. Time put it succinctly, "It is as if David Rockefeller, Henry Ford and Buckminster Fuller suddenly came out against commerce and technology."

Hopefully this conference will shed some light on the wisdom or unwisdom of our national policies as they relate to the delicate balance of economics and technology versus a clean and wholesome environment. No finer service could be provided for officials of government at all levels, for industry, for the working man, and for the ordinary citizen. It is high time that all elements of our society understand a clearly charted course leading ultimately to the best balance of these apparently conflicting national needs and goals.

Unfortunately, devices to arrive at objective values, to establish wise national goals, to plot true courses in this environmental versus economic question are either primitive or totally lacking. Where wise and careful debate is needed a near babble of ill informed and conflicting emotional voices arise.

Recently I had occasion to compare the voices of two distinguished Americans, members of the present Administration, who because of their prominence can raise their voices enough to have them heard over the din and confusion on the subject of human survival, a wholesome environment, and an adequate standard of living.

The first, we might call the "wait a minute" man, expresses views of appeal to a particular interest:

"It is high time for the entire nation to weigh the needs against the demands and say: 'Wait a Minute, here—what are our priorities?' We need to weigh our technological capabilities against the demands for immediate change and say: 'Wait a Minute—can we really get there from here?' We need to weigh each specific proposal against economic reality and say: Wait a Minute, how do the benefits compare with the costs?'

* * * * *

"Isn't it time for someone to say 'Wait a Minute?' Are the environmental dangers so imminent, so critical, that we have to throw thousands of productive people out of work? Are the dangers so great, so immediate, that whole communities must be run through the economic wringer?

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"The Environmental Protection Agency has reported to Congress that we simply do not have the technology to comply with some of the standards that have been set in accordance with law. To try to achieve these standards will result in millions of dollars of added costs, which inevitably have to go into higher consumer prices. If we try to solve our environmental problems more quickly than our technology permits, not only will we raise costs sharply and suddenly, but we will also increase the number of false steps that we take along the way . . . So isn't it time to say: Wait a Minute. Let's weigh each need against the technological realities and let's not impose any more arbitrary deadlines that can't be met with the technology in sight."

The second voice, that of Chairman Russell Train of the Council on Environmental Quality, speaks words viewed in this gathering, I am satisfied, with a great deal more approval:

"There are those who see environmental policies as a threat to economic growth and to jobs. There are those who charge environmentalists with responsibility for stopping echnological progress, with blocking important projects, and generally retarding progress. There are those who claim that concern for the environment is being carried too far. And finally, there are those who make a practice of describing environmentalists as wild-eyed extremists, crusading zealots who will bring our society and our economy crashing down about our ears.

"Like most such generalizations, this is nonsense. It can be dangerous nonsense if we permitted it to distract us from the real needs of our time.

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"As our environmental programs have developed and become increasingly effective, it is right and, indeed, essential that we pay increasingly careful attention to the economic costs involved . . . (However,) the cumulative expenditures over the six-year period (1970–1975) are expected to be less than one percent of Gross National Product.

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"Industry air and water pollution control costs will generally be less than one percent of the value of shipments. And we must remember that the environmental control costs of one firm tend to represent income and revenues to other firms and workers, and there should be no significant impact on total employment because of the effort to control pollution.

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"It is important for many reasons that we have a clear understanding of such costs before making far-reaching decisions. The public . . . is entitled to know the relationship of the costs it is paying to the benefits it will receive. Secondly, accurate information on costs is important because there may be more economical and more efficient ways of achieving the same environmental objectives. Indeed, there may be other environmental objectives which should receive a higher priority. Finally, the nation's resources are finite and an intelligent allocation of those resources among an almost infinite set of desirable goals demands careful cost analysis. *This is not to say that cost must be the determining factor in setting environmental standards.* . . . (Emphasis added.)

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"If we balance the overall costs and benefits of our pollution control programs, I am personally confident that we would find a net economic gain; indeed, that we would also find that many more have gained than have lost. There is a net profit to our society in cleaning up the environment. It is time that we stopped looking at environmental programs simply as a problem and start seeing them as an opportunity."

Certainly there is urgent need to balance the benefits of industry and technology with the curse of pollution and to establish intelligent control over the kind of cancerous growth of technology and industry that serves no genuine purpose, except to provide a favorable financial balance sheet thus lining the pockets of some unconcerned entrepreneur.

I believe Americans living in crowded, smog-ridden cities enjoying the doubtful benefits of urban sprawl, recreating in parks and public areas afflicted with all of our current urban problems of litter, pollution and crowding might properly have substantial doubts about the blessings of this technological age.

The aesthetic benefits of a wise relationship to the environment should be clear to all—clear air, clean water, woods and wholesome open spaces, fish and wildlife, undefiled mountains bring an undefined sense of well being to each of us as we find ourselves at peace with and surrounded by nature.

Technology brings us many benefits—more and better of everything at competitive costs. Sometimes however they are provided whether we need it or not.

In the case of technology, urbanization, industry, and men's commercial activities many of the costs are concealed, ignored, or simply not understood enough to be included in the cost benefit ratio involved here.

Excellent estimates of costs were included in the Second Report of the Council on Environmental Quality, and using them as a base, the National Wildlife Federation pointed out that the total national bill for air and water pollution is $28.9 billion annually. This is a per family cost of $481 per year.

A reasonable cleanup in the field of air and water would be $10.2 billion per year. One family's share would be $170.

This level of pollution cleanup would reduce damages by about $22.2 billion for a per family share of $370.00. Calculating roughly from this, a measure of cost benefits would be that a family would pay $170 per year for cleanup and realize benefits of $370.00 per year. That is a net saving of $200 per year. As a bonus the citizenry would, after a reasonable period of time, get clean air, pure water, fish, wildlife, more places to recreate, longer and more healthful life and other undefined aesthetic values. In addition to this we might assume that new industries providing hard goods and soft ware for the cleanup would come to flourish and provide new needed services.

We are approaching what has been the long term goal of the Subcommittee on Fisheries and Wildlife Conservation, which I have the honor to chair—a movement to the cost benefit and systems approach in man's relationship to the environment.

Towards this end I would like to shift my attention to the National Environmental Policy Act and its implementation. As we all recall, just two years, two weeks and a few days ago NEPA was signed into law by the President in which he announced with a flourish the beginning of the "decade of the environment."

That legislation, cosponsored by Senator Jackson of Washington in the Senate, and by myself in the House, had a difficult and arduous path through the legislative halls, and some of my friends have indicated to me that its journey would certainly have been more difficult than it was had many influential and prominent Americans realized the actual effects of that statute. Certainly the consequences of NEPA have not endeared it to broad and influential groups of Americans bent on quick and easy exploitation of natural resources and on insensate economic development without full consideration to the environmental consequences.

The Council on Environmental Quality, its Chairman, Russell Train, and members Robert Cahn and Gordon McDonald have performed with energy and distinction in this difficult area. Their guidelines for implementation of Section 102(2) (C) have provided valuable instructions to government agencies on proper handling of environmental impact statements. The careful attention of CEQ to implementation of the guidelines and Section 102(2) (C) has done much to make this statute work. The Council has provided good leadership, individually and collectively, on an abundance of environmental issues most of which have not reached the public eye.

The Annual Report is an excellent catalog of environmental opportunities and problems facing the nation, useful both as textual matter and as a fair and authoritative reflection of government policy on the environment.

The Annual Report reflects a problem associated with the Council. As an intimate part of the White House apparatus, the Council lacks the kind of total freedom, innovativeness and vision that the needs of the times demand.

Certainly this is a problem, and it is one that was foreseen by the Subcommittee on Fisheries and Wildlife Conservation in writing NEPA. Unfortunately, no resolution was seen to the problem at that time and while no criticism can be fairly directed at CEQ, no fair and effective resolution seems easily available now. Perhaps how to achieve independence, innovation and proper structuring within the Executive for CEQ could be a subject of discussion at this gathering. It must be recognized that the Annual Report of the Council and the Council itself have contributed greatly to the broad public awareness of environmental problems.

Under NEPA there have been significant accomplishments and great victories for those working for a wholesome environment. The Calvert Cliffs case, the Trans Alaska Pipeline, the termination of the Cross Florida Barge Canal and the halting of the Tennessee Tombigbee project are well known. That most agencies routinely file environmental impact statements of greater or lesser value is helpful. However, a better quality, a more innovative, albeit a more standardized approach, to achieving excellence in environmental quality considerations through impact statements is an urgent need. Nonetheless, that the decision making process has been compelled, even if grudgingly and imperfectly, to consider environmental impact at every stage of the decision making process is a noteworthy triumph for NEPA.

Equally great benefits to the public interest lie in the requirements of NEPA—and the guidelines—that comments of agencies of special expertise and jurisdiction shall accompany the impact statement, and that statements and accompanying documents, with rare exception, shall be open to the public.

If we are to have a wholesome approach to the environment, the public must be brought fully into the decision making process on environmental questions.

Court review of environmental impact statements has provided new and totally unforeseen dimensions in environmental law, and has provided new and previously unheard of opportunity for citizen participation. It also has had an extraordinarily salutory effect on Federal decision makers. Indeed the entire 102 process has had a salutory effect. One must contemplate the dilemma of a Federal administrator determined towards a certain course of action. In the old days the decision would have been made and the impact, good or bad, on the environment totally disregarded. Today the bureaucrat not only must consider the adverse effects, but must consider alternatives, and how the potential damages from the action may be mitigated. And he must make a statement with regard to all of this available to the public.

This is not to say that the millenium is upon us. The 102 policy requirements are often grudgingly complied with behind a facade of false enthusiasm. The term grudging and pro forma can properly be applied to many examples of compliance with 102 requirements. Peril exists that a new race of environmental impact statement writers will spring up, totally lacking in vision and concerned only with robot like pro forma compliance of Section 102.

A more immediate peril is at hand. Lack of understanding of NEPA and its goals is leading to confusion and obfuscation in most of the Federal agencies. The mandate of NEPA is that it shall be the policy of the Federal Government to provide a decent and wholesome environment to every American. The requirement therefore is that NEPA's policies become entwined with a part of the organic laws of every Federal agency and this is leading to both willful or unintentional violation of the spirit or the letter of the law. Agencies are refusing to recognize that the statute requires them to consider environmental values at every stage of the decision making process. In this they are not only thwarting the proper utilization and application of the environmental impact statement, but they are making NEPA less meaningful. They also are making their task in compliance with the statute much harder and ofttimes are leading themselves into court reviews consuming much time and money.

The fallout from this last failure by Federal agencies has been a feeling of outrage on the part of project backers and influential legislators. This has created a real and present danger of attacks on the provisions of Section 102(2) (C) of NEPA. Two examples of this peril are before the Congress at this moment. The electric power industry has sought, with a real measure of success, in the Subcommittee on Communications and Power of the House Committee on Interstate and Foreign Commerce to secure for itself an exemption from environmental consideration in general and from the provisions of Section 102(2) (C) in particular. The argument used for such exemption is of course the present or impending power crisis, and the alleged fact that complying with Section 102 is far too time consuming to be imposed on power plant construction. One must ask how giving consideration to environmental impact is too time consuming in a program for construction of a power generating facility the planning of which takes seven to ten years.

I feel compelled to observe that were the National Environmental Policy Act being faithfully carried out by Federal agencies and by the builders of facilities like the power plants in question, the environmental concerns would be before the parties at every stage in the deliberation and that all possible alternatives—including not building the facility or taking other steps to mitigate environmental damage—would be before the parties at every stage of the proceedings.

Another attack on NEPA and on the requirement for filing an environmental impact statement goes forward at this minute. The Council on Environmental Quality itself and the Environmental Protection Agency contend that the issuance of environmental impact statements is too burdensome an administrative load in issuing permits to discharge pollutants into the navigable waters of the United States. They have tried to gain support for this view within the House Committee on Public Works.

In like fashion under attack in the House Committee, and its counterpart in the Senate, in connection with the same water pollution control bill are two kindred statutes, the Refuse Act of 1899 and the Fish and Wildlife Coordination Act. As you recall, from these two statutes flowed the memorable memorandum of understanding between the Interior Department and the Corps of Engineers which has done so much to convert the Corps' permit program under the 1899 Act from a ruthless exploiters tool to a highly quality conservation and resource protection program.

The precise form of these attempts to weaken important conservation and environmental statutes is unclear at this time since the final draft of the House bill is not available at this time. But the threat is sufficiently present that national conservation organizations, the League of Women Voters, major labor organizations and other interested groups have gathered together to let the Congress know of their concern.

Recently another Congressional Committee held hearings on paperwork which ties up Federal projects. This body found some 8,000 different environmental matters had to be considered before building a Federal aid highway to comply with NEPA and other statutes. Considering that highway builders have been preeminent in environmental destruction and degradation I do not regard that as an excessive requirement. However, antienvironmentalists, a vigorous and growing movement, point to it as a reason for doing away with NEPA or eliminating its consideration with regard to highway construction projects. The very number of different environmental aspects to be considered in connection with highway construction makes it imperative to me, apart from the sad record of the Federal Highway Administration, that the fiber and being of NEPA be preserved intact until it is either no longer necessary or until we have evolved better mechanisms for protecting the environment from technological advance or abuse.

A reading of the National Environmental Policy Act leads one to an appreciation of the remarkable depth and breadth of that statute. I have attempted in earlier comments to set out some of its features and attributes. Fundamentally the statute recognizes and seeks to implement through instructions to all agencies of government that "the Congress recognizes each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment." In the statute the Congress directs that "to the fullest extent possible the policies, regulations and public laws of the United States be interpreted and administered in accordance with the policies of the Act."

Those we can now properly denominate as antienvironmentalists totally overlook the fact that NEPA not only requires consideration of environmental aspects of proposed action but also requires consideration of adverse environmental effects which cannot be avoided, alternatives to the action, relationship between local short term uses of the environment and maintenance and enhancement of long term productivity and any irreversible commitment of resources which would be involved in the proposed action.

NEPA goes further however by requiring that full scale consideration be given to economic impact—including economic losses caused by pollution—and that careful attention be given to the social, health and other goals of the Nation and directs the Council to include this in its Annual Reports to the Nation.

My Subcommittee is continuing its review of the activities of government agencies under NEPA. We have a careful performance audit going forward of the activities of a group of selected governmental agencies by the General Accounting Office. It is anticipated that this review will be in the hands of my Subcommittee within ten weeks so that hearings may be held on it and on the general performance of the agencies sometime previous to the adjournment of the Congress this year. At that time it is my hope that we will have a better appreciation of how NEPA is being used, how it is not being used, and how its utilization could be improved to promote the essential "balance between population and resource use which will permit high standards of living and wide sharing of life's amenities" as the statute does require.

In our process of reasoning together, we might now direct ourselves to a consideration of further actions to be taken to make this nation go to an intelligent systems approach to the environment. NEPA hopefully will move us in that direction, but it is apparent that NEPA alone without additional statutory changes in the Federal structure cannot have the success we desire.

Earlier this year the House passed and sent to the Senate legislation to set up a National Environmental Data System. My friend and Senate counterpart, Senator Jackson, is holding hearings on that bill at this time. Briefly the bill requires collation, collection and storage of environmentally valuable information and data and that to the degree appropriate this information be stored in computers intertied as a part of a national net utilizing compatible storage methods in computer language. The Federal Government, under this statute, would be directed to make this information readily and cheaply available to governmental units, educational institutions and private citizens.

Included in that bill is a new concept of environmental quality indicators. These would enable policy makers and executives in all areas, public and private, to exercise informed judgment as to the direction in which we are moving environmentally. In addition to this the bill mandates the development of predictive environmental modeling. In my view this is one of the very important steps we should take to arrive at an intelligent judgment as to where we are going.

Concerned environmentalists must continue to look beyond NEPA for other needed legislative actions. I have the feeling that the courts will ultimately reject administrative action where the NEPA impact statement indicates environmental consequences far too disastrous to be tolerated in view of economic gains to be derived from the project. I have yet to see a court decision which indicated this intent with clarity. I do feel however that this question will have to be resolved sooner or later, either by executive, by judicial or by legislative action. In the case of the Cross Florida Barge Canal, I believe the President's judgment reflected a decision made on this precise basis. I must make the statement that I feel ad hoc decisions of this kind may be good, especially when done in the full glare of publicity as required by NEPA and by the CEQ guidelines. However, I must point out, that I feel it would be better to begin developing some mandatory statutory framework in which this can be handled on other than an ad hoc basis.

Part of the development of a rational approach to environmental concerns will be to have a non legislative Select Committee within either of the Houses of Congress or a Joint Committee like the Joint Economic Committee comprising outstanding representatives of both sides of the Capitol.

Certainly the Congress with the conflicting jurisdictional responsibilities of its committees, as well as the tremendous workload of the legislative committees, needs a body of broad vision and wide ranging responsibility to inquire into environmental questions without regard to narrow jurisdictional bounds. One must ask how, for example, environmental concerns are going to be adequately met when the tax structure directs itself towards stimulation of the consumptive portion of the economy and not towards recycling. Put differently, how is this nation to be improved in its environment when it is cheaper and economically more advantageous, especially from a tax standpoint, to mine new sand and iron ore or to extract petroleum products than to recycle used products made from these commodities? How is this nation to have a more wholesome environment when lower freight rates are afforded newly mined commodities than are afforded scrap? How can this nation clean up its waste when tax laws don't provide the proper incentive for construction of waste treatment works in connection with industrial facilities but instead encourage outfalls on the rivers and waters of the nation? These are some of the questions to which a select or joint nonlegislative committee could direct its attention and thereby provide assistance, guidance and research to the Congress.

In conclusion, I think you can see from my comments tonight that I feel a high quality environment is not something which stands in the way of economic prosperity. Indeed, it is my view, and I believe this is set out with clarity in NEPA, that the national goal should be one of establishing the best possible balance of environmental quality in the context of economic opportunity for all of our people. The collapse of one side of this equation most assuredly means collapse of the other, and I am satisfied that this is something no thinking person wants. Perhaps when NEPA is read in this light, and when our people understand more fully the oneness of this equation, we will begin moving more rapidly towards the rational balance so desperately important to real quality in life. Perhaps this will occur before Americans find themselves occupying the largest and most effluent slum in the world. Perhaps it will come before the economic or environmental collapse portended by wise thinkers occurs. I hope so. Towards this and I believe we should utilize our best effort and the nation looks to you for the kind of leadership that you can and must give. Thank you very much.

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## ACTIVITY REPORT—COMMITTEE ON MERCHANT MARINE AND FISHERIES

## HON. EDWARD A. GARMATZ

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. GARMATZ. Mr. Speaker, the members of my committee are justifiably proud of the legislative record of this committee during the first session of the 92d Congress. I would like to briefly outline some of the more salient activities and accomplishments.

### MERCHANT MARINE

In its continuing drive to revitalize the American merchant marine and the maritime industry, the committee has been actively striving to assure the success of the Merchant Marine Act of 1970. That act, which embodies a comprehensive program to rebuild our merchant fleet, contains many incentives and proposals, but the basic goal is to construct approximately 300 highly productive ships over a 10-year period.

Since a detailed explanation of that program was provided in our activity report on the second session of the 91st Congress, additional explanations are unnecessary at this time. The committee has been acutely aware, however, that it will be useless to build these ships unless there is some guarantee that adequate cargo will be available for these ships to carry. Consequently, the committee has held and is currently holding an extensive series of hearings to develop methods by which more cargo can be attracted to the fleet.

During the first session of the 92d Congress, the committee held 13 days of cargo hearings and heard testimony from 22 witnesses. The importance of this subject is best illustrated by the fact that, in 1969, American-flag ships only carried 3 percent of the total commercial cargo moved by ships in America's foreign trade. In other words, foreign-flag vessels carried approximately 97 percent of U.S. commercial cargo imported and exported in that year. These statistics, developed by the committee during the cargo hearings, present an alarming picture; the committee's investigation also documented the fact that there is a definite trend of continuing decline in the American-flag ships' share of this Nation's trade. For instance, during the last 5-year period for which statistics can be obtained, America's market share declined from 5.6 percent in 1964 to 3 percent in 1969, while total shipments have increased by 31 percent, from 276 million long tons in 1964 to 361 million long tons in 1969.

The cargo hearings have helped produce a number of proposals to improve this situation, and some legislation has already resulted from the hearings. One of these is a bill introduced by me and cosponsored by several of my colleagues to require that at least 50 percent of all oil imported into this country on a quota basis be carried aboard American-flag ships. Since the demand for petroleum imports is heavy now, and is expected to increase dramatically in the next decade, it is important that American-flag tankers carry a fair share of that cargo.

Several other pieces of legislation were introduced as a result of the cargo hearings. One of these would require that 100 percent of all Government-generated cargo be shipped aboard American-flag vessels when there is no substantial difference in rates between American and foreign vessels. Two other bills of a rather technical nature, which were designed to amend the cargo preference statutes, were also introduced. More cargo hearings will be held in this session of Congress, and the above bills will be discussed—together with other proposals that have been advanced—before the committee takes further legislative action.

In another move to provide more cargo for American-flag vessels, I suggested that certain provisions be included in the Revenue Act of 1971, to provide incentives to U.S. exporters to use American-flag ships. These recommendations were made in a letter to the House Ways and Means Committee, and—as a result of this suggestion—the original revenue bill was amended; the final version provides that U.S. firms which set up Domestic International Sales Corporations—DISCS—not only get tax breaks on the export of U.S. products—they also get certain benefits for shipping those products on American ships.

Another important maritime matter considered by the committee during this session was the problem of what to do with seven American passenger ships that are now laid up. Most of these vessels have been inactive for almost 2 years because it is no longer economically feasible to operate them in competition with foreign passenger vessels. Despite prolonged hearings and informal discussions with management and labor, no justification or solution for the continued operation of these vessels could be found. The committee reluctantly reported a bill to authorize the sale to foreign interest of five of these ships—the *Brasil, Argentina, Santa Paula, Santa Rosa,* and the *Constitution.* This bill, which passed the House December 1, 1971, also would require the Government to purcase the *United States* for layup in the National Defense Reserve Fleet, or for sale to American operators; it also excluded the *Independence* from authorization for sale foreign, because certain American interests have expressed a desire to purchase that vessel for operation under the American flag. At the conclusion of the first session of the 92d Congress, similar legislation was still pending in the Senate.

Another of the committee's important responsibilities is the annual authorization of appropriations for certain activities of the Maritime Administration.

Annual authorization hearings were held by the committee, and the authorization bill it reported to the floor passed the House and subsequently became Public Law 91–53.

As enacted, the maritime authorization bill for fiscal year 1972 included a total of $507,820,000 for the following categories of activities: construction subsidy, $229,687,000; operating subsidy, $239,145,000; research and development, $25 million; reserve fleet expenses, $4,318,000; maritime training at the Merchant Marine Academy at Kings Point, N.Y., $7,300,000; and State Marine Schools, $2,370,000.

The committee also approved a supplementary authorization bill totaling $80 million for the operating subsidy program of the Maritime Administration for fiscal year 1971. This bill was enacted as Public Law 92–21.

### COAST GUARD

As usual, the activities of the Subcommittee on Coast Guard, Coast, and Geodetic Survey and Navigation—under the able chairmanship of the Honorable FRANK M. CLARK—were varied and comprehensive.

One of the primary responsibilities of the subcommittee each year is to authorize appropriations for the Coast Guard for procurement of ships and aircraft and to construct new shoreside and offshore facilities and improve old ones. In addition to these traditional fundings, the committee also included in the bill for fiscal year 1972 considerable funding for aids to navigation and pollution control.

The committee's total authorization bill, as passed by the House, called for $219,750,000. Included in this figure were $60 million for the funding of the second of four polar icebreakers; $57 million for the construction of three high endurance cutters; and $3,250,000 for an additional administrative jet aircraft for the use of the Coast Guard.

Since the Senate version of the Coast Guard authorization bill did not agree with the House version, a conference was necessary. The final conference report figure was $19,460,000 over the House-passed bill, and an increase of $139,710,000 over the budget request. The final appropriation figure was $97,682,000.

For the first time in fiscal year 1972, the committee also assumed the authorization responsibility for the annual active duty personnel strength of the Coast Guard. In accordance with this new responsibility, it authorized 38,284 men as the average active duty personnel strength of the Coast Guard for fiscal year 1972.

Perhaps the principal thrust of the Coast Guard's subcommittee activities recently has been toward promoting safety and preventing pollution.

In the area of marine safety, one of the most important bills considered by the committee was the Federal Boat Safety Act of 1971, which passed the House July 8, 1971; this legislation passed the Senate July 12, 1971, and was signed by the President August 10, 1971, to become Public Law 92–75.

The act provides a national recreational boating safety program. The need for such a program is emphasized by the fact that over 9 million recreational boats are now owned by Americans, and that—during 1969, 1,300 fatalities occurred as a result of small boating accidents. In 1970, the last year for which statistics are available, the Coast Guard reported that 1,418 Americans lost their lives in boating accidents.

The act is designed to promote safety through a 5-year program of Federal funding to the States. It seeks to encourage the individual States to establish boating safety programs, and it imposes minimum performance and construction standards on boat manufacturers. The act provides for the allocation of Federal funds to the States as follows: $7½ million is authorized to be appropriated for the fiscal year ending June 30, 1972, and $7½ million for each of the 4 succeeding fiscal years.

Another important piece of maritime-safety legislation acted upon by the committee was the bridge-to-bridge bill. This legislation passed the House July 21, 1971, passed the Senate May 4, 1971, and was signed by the President August 4, 1971. It is now Public Law 92–63.

In addition to promoting maritime safety, this act is considered a significant step toward preventing pollution, because it is expected to help prevent many marine collisions which subsequently result in serious pollution, especially from oil released by tankers involved in such collisions. Basically, the act requires bridge-to-bridge communication, by radiotelephone, between certain vessels while they are navigating on specified waters of the United States. Prior to this act, the only requirement for communication called for an exchange of whistle signals to be sounded by vessels approaching each other, even in areas of heavy marine traffic.

H.R. 8140, commonly referred to as the Ports and Waterways Safety Act, is another important piece of legislation—from the standpoint of both marine safety and pollution prevention. Following extensive hearings by the committee, this legislation was reported to the floor, and it passed the House April 29, 1971. The legislation is designed to give the Coast Guard broad authority to enforce regulations which will help prevent marine collisions and pollution, especially in congested port and waterway areas. Marine traffic patterns, loading and unloading operations and many other marine activities which might prove hazardous to safety or to the environment are also considered in this comprehensive legislation. Although this legislation passed the House, it is still pending in the Senate.

### FISHERIES AND WILDLIFE CONSERVATION

Environmental problems and matters affecting conservation of natural resources, fish and wildlife, have continued to play a prominent committee role—as they have in the past—primarily through the varied activities of the Subcommittee on Fisheries and Wildlife Conservation, chaired by my distinguished colleague, the Honorable John D. Dingell.

One of the most controversial and important pieces of legislation considered by the subcommittee during this session was H.R. 10420, referred to as the Marine Mammal Protection Act. This bill, which was designed to prohibit the harrassing, catching, and killing of marine mammals by U.S. citizens, was the subject of a comprehensive series of hearings.

Although protection for marine mammals is badly needed, it was difficult to obtain a consensus from various interested factions; despite certain areas of disagreement, the subcommittee did finally report to the full committee—after lengthy executive sessions—a bill which was considered to be a reasonable approach to this extremely complex problem. The full committee ordered the legislation reported, and on November 30, 1971, the bill was brought up on the floor of the House for a vote under Suspension of the Rules. Although the bill actually received a majority of favorable votes—199 for and 150 against—the legislation was defeated because it failed to receive the required two-thirds majority vote. Since the committee feels strongly that protective legislation is needed for ocean mammals, additional committee action to expedite passage of this legislation in the second session of the 92d Congress can be anticipated.

Another important piece of conservation legislation acted upon by the committee in the first session of this Congress was H.R. 5060, to prohibit the hunting of fish and wildlife from aircraft.

This legislation—which has now been enacted—makes it unlawful for anyone, while airborne, to shoot or attempt to shoot, for the purpose of capturing or killing, any bird, fish or other animal, or to harass any bird, fish or other animal, or to knowingly participate in using an aircraft for any of the forementioned purposes.

The recent disclosure that hundreds of eagles were wantonly shot from airplanes over Wyoming created a public furor and focused the spotlight of attention on the need to institute tougher penalties for such destruction of our valuable wildlife resources.

H.R. 5060, which is now Public Law 92–159, makes violators subject to a $5,000 penality or 1-year imprisonment, or both—prior penalties were only $500 or 6 months imprisonment, or both. In addition, violators holding an airman certificate are now subject to having their certificate revoked.

A large variety of other conservation-type bills are now pending before the committee. In the first session of this Congress, several class action bills, fish disease bills, farm-raised fish bills, and fish and wildlife coordination bills were introduced; final action, however, has not yet been taken. It is the committee's intention to continue consideration of all these important subjects, and to see that these bills are enacted into law.

The protection and promotion of the U.S. commercial fisheries fleet is another area of concern to this subcommittee, and there was considerable activity in that area.

For instance, the subcommittee held hearings on and reported out H.R. 7117, a bill designed to aid American tunaboat fishermen, who have been constantly harassed and endangered by illegal seizures of their fishing boats by foreign nations.

This legislation would expedite the reimbursement of fines and other monetary losses incurred by American fishermen as a result of these illegal seizures. The same legislation would also make it mandatory for the Secretary of State to deduct—from the foreign aid funds programed to any foreign nation which illegally seizes and fines our vessels—the same amount that the offending country extracts from our fishermen.

Our Nation's commercial fishing industry, which is suffering from obsolescense and serious decline, sorely needs help, and the committee is doing its best to provide that help. Hearings have been held, for instance, on methods of developing tuna fishing, improvement of fish harvesting techniques, on various problems of the fishing industry, on the possible impact of the proposed Alaska pipeline on Alaskan fishermen, and on ways of controlling and punishing foreign fishing fleets that illegally fish off our Nation's coasts.

One of the primary responsibilities of the committee is its legislative oversight responsibility regarding the Federal Government's administration of the National Environmental Policy Act—NEPA—which was a product of the committee's work.

On June 29, 1971, the committee submitted an extensive report based on hearings held by the subcommittee as part of its oversight responsibility of NEPA. The report, which consisted primarily of a review of the activities of the various Government agencies responsible for administering NEPA, made a number of recommendations for specific action by those agencies. The committee will continue to discharge its responsibility in overseeing the administration of NEPA.

### JOINT HEARINGS

Two joint hearings held by the committee were extremely important from a standpoint of protecting the environment.

On January 18, 1971, two U.S. flag tankers, the *Arizona Standard* and the *Oregon Standard*, collided in dense fog several hundred yards west of the Golden Gate Bridge in San Francisco Bay. Both vessels were extensively damaged, and approximately 800,000 gallons of fuel oil escaped, causing massive oil pollution and disruption of the ecology of the entire bay area, which is rich in fish and waterfowl resources.

Since the committee had not at that time formally convened for the 92d Congress, I appointed a special subcommittee for the purpose of investigating the collision. The special subcommittee held hearings in San Francisco on February

8 and 9, 1971, and over 100 witnesses testified at the hearings, which were chaired by the Honorable John D. Dingell. The purpose of the hearings was twofold: to investigate the collision from the standpoint of its relevance to pending legislation—such as the bridge-to-bridge bill and the Ports and Waterways Safety Act, already discussed above; and to document the extent of ecological damage, as well as to evaluate the adequacy of the Federal response to this massive pollution incident—with particular emphasis upon coordination during this emergency between all levels of government, the owner of the vessels, and the private sector.

In addition to emphasizing the need to improve response capabilities, in order to better mobilize and utilize human and material resources to cope with future serious pollution incidents, the hearings also documented the absolute need for enactment of the bridge-to-bridge bill and the ports and waterways safety legislation.

In another important environmental area, the committee—spurred by the critical need for legislative action to protect the world's oceans from irreversible pollution—held extensive hearings on the problems of ocean dumping. Three days of hearings and seven executive sessions were held jointly by the Subcommittee on Oceanography, chaired by the Honorable Alton Lennon and the Subcommittee on Fisheries and Wildlife Conservation, chaired by the Honorable John D. Dingell.

During these comprehensive hearings, a total of 39 different bills—which covered, in varying degrees, the subject of waste material disposal into the oceans, Great Lakes or internal tidal waters—was considered by the committee.

On July 13, 1971, the full committee reported to the House a clean bill, H.R. 9727, which reflected many views, but was basically designed to ban the indiscriminate dumping of harmful waste materials into America's coastal and offshore waters.

On September 9, 1971, the bill was passed by the House, with several clarifying amendments. In addition to placing a prohibition on all forms of ocean dumping, the legislation also includes provisions for establishing so-called marine sanctuaries, which would enable the Secretary of Commerce to set aside coastal areas considered irreplaceable from a standpoint of conservation, recreational, ecological or esthetical values. Since the Senate subsequently passed an ocean dumping bill that was significantly different from the House version, a conference was necessary. The House-Senate conferees have met twice without resolution of their differences, and further meetings will be held in the second session of the 92d Congress.

### OCEANOGRAPHY

Under the capable leadership of its chairman, the Honorable Alton Lennon, the Subcommittee on Oceanography has continued its efforts to provide momentum to a national oceanographic program. In line with these objectives, the subcommittee met in executive session on April 22, 1971, to consider H.R. 2587, which was designed to establish a National Advisory Committee on Oceans and Atmosphere, referred to as NACOA—hearings had been held on this legislation during the 91st Congress. The bill was reported favorably to the full committee, then subsequently ordered reported by the full committee to the House, where it passed on May 14, 1971. The Senate subsequently passed an amended version of the House bill, the House concurred in the Senate amendments, and the bill was approved by the President August 16, 1971, to become Public Law 92–125.

In compliance with the act, the President has appointed 25 members to the NACOA committee, who represent State and local governments, industry, science, and other appropriate areas. The purpose of this committee is to serve in an advisory capacity to the Federal Government in monitoring the total national effort in the oceans and atmosphere; it will provide the essential link with the Government and with other sectors—both public and private, in order to assure that the future national oceanographic effort will be properly coordinated.

Although its primary concern has been the development and exploitation of deep ocean resources, the subcommittee has also been active in any related areas. An excellent example of this broad outlook are the extensive hearings held by this subcommittee on legislation to establish a national coastal zone management program.

Eight days of hearings were held on a number of similar bills, all of which have a common goal: The intelligent management, beneficial use, protection, and development of the water and land resources of the Nation's coastal and estuarine zones.

The proposed legislation would provide Federal funds, in the form of grants, to assist the individual States in developing long-range programs and in making intelligent decisions on how best to manage these invaluable areas. In addition to funds for program development, the legislation proposes to authorize a maximum of $50 million in the first year of authorization for program implementation grants, and $6 million per year from fiscal year 1972 through fiscal year 1976, for matching grants on a 50-50 basis; these grants would provide for the acquisition and operation of not more than 15 estuarine sanctuaries, which would be set aside as natural field laboratories for investigation and study purposes. A more detailed description of all provisions of the proposed legislation will be found in the committee's complete activity report, which will be printed at a later date. Further committee action on this legislation is expected in the second session of the 92d Congress.

The subcommittee also held 4 days of oversight hearings concerning the organization and programs of the National Oceanic and Atmospheric Administration—NOAA—which was established by Reorganization Plan No. 4 of 1970.

Testimony regarding program responsibilities and future plans of NOAA was received, and further subcommittee action is anticipated in the second session.

### OTHER NONLEGISLATIVE ACTIVITIES

On November 29, 1971, the Subcommittee on Panama Canal initiated a series of hearings to discuss future canal treaty proposals being considered by negotiators for the United States and Panama.

The primary purpose of the hearings was to establish the jurisdiction of the House of Representatives with respect to the disposal of real property, in any treaty which will eventually be considered by the Senate and the administration.

The subcommittee intends to continue to discharge its legislative oversight responsibility in regards to the continued effective operation of the Panama Canal.

The committee continued its role of watchdog during the first session of the 92d Congress—as it has in the past—to assure, as far as possible, the continued maintenance and operation of the remaining Public Health Service Hospitals.

At my request, the general counsel of the Department of Health, Education, and Welfare—HEW—submitted a legal opinion relative to its legal responsibility to continue the operation of the PHS hospitals. A legal opinion dated June 21, 1971, submitted by HEW's general counsel, maintained that HEW did have the authority to close these hospitals. I referred this opinion to the Comptroller General, Elmer Staats, asking for his legal opinion. On February 23, 1971, I received an eight-page legal opinion from the Comptroller General which indicated, among other things, that HEW does not have the authority to close all of the PHS hospitals.

Meanwhile, HEW has continued to press ahead with its plan to phase these facilities into community management and use. Information developed by this committee indicates that these conversion proposals are fraught with administrative, legal, and economic problems, and the committee intends to keep a watchful eye on the progress of HEW's current proposals.

Since the committee has a responsibility to see that merchant seamen and Coast Guard personnel and dependents are guaranteed adequate medical care under the PHS system, it intends to continue to discharge its responsibility in this area.

Mr. Speaker, attached to this report is a table reflecting the number of bills reported by the Merchant Marine and Fisheries Committee during the second session of the 92d Congress. As I said earlier in this report, a more detailed account of all committee activities during that period will be found in a formal committee report to be printed at a later date.

Finally, I feel that the members of the committee should be commended for this committee's record of accomplishments and activities, and I want to take this opportunity to thank each of them for the important role they played in making this fine record possible.

BILLS REPORTED BY THE MERCHANT MARINE COMMITTEE—92D CONG., 1ST SESS.

| Bill No. | Title | House Report No. | Senate Report No. | Public Law No. |
|---|---|---|---|---|
| H.R. 19 | To provide for a coordinated national boating safety program. | 92-324 | | 92-75 |
| H.R. 56 | To amend the National Environmental Policy Act of 1969, to provide for a National Environmental System. | 92-203 | | |
| H.R. 155 | To facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel. | 92-119 | 92-417 | 92-163 |
| H.R. 701 | To amend the Migratory Bird Hunting Stamp Act of Mar. 16, 1934, to authorize the Secretary of the Interior, in his discretion to establish the fee for such stamp. | 92-424 | 92-578 | 92-214 |
| H.R. 755 | To amend the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, to convert criminal penalties to civil penalties in certain instances, and for other purposes. | 92-478 | | |
| H.R. 760 | To revise and improve the laws relating to the documentation of vessels. | 92-378 | | |
| H.R. 2587 | To establish the National Advisory Commission on the Oceans and Atmosphere | 92-201 | 92-333 | 92-125 |
| H.R. 3304 | To amend the Fishermen's Protective Act of 1967 to enhance the effectiveness of international fishery conservation programs. | 92-468 | 92-583 | 92-219 |
| H. R. 4724 | To authorize appropriations for certain maritime programs of the Department of Commerce. | 92-62 | 92-132 | 92-53 |
| H.R. 5060 | To amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft. | 92-202 | 92-421 | 92-159 |
| H.R. 5208 | To authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard. | 92-124 | 92-278 | 92-118 |
| H.R. 5352 | To amend the act to authorize appropriations for the fiscal year 1971 for certain maritime programs of the Department of Commerce. | 92-63 | 92-106 | 92-21 |
| H.R. 6239 | To amend the maritime lien provisions of the the Ship Mortgage Act of 1920. | 92-340 | | 92-79 |
| H.R. 6479 | To provide for the licensing of personnel on certain vessels. | 92-125 | | |
| H.R. 7117 | To amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of U.S. vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other puposes. | 92-426 | 92-584 | |
| H.R. 8140 | To promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States. | 92-563 | | |
| H.R. 9756 | To amend the Merchant Marine Act, 1936 | 92-688 | | |
| H.R. 10384 | To amend the act of Sept. 28, 1962 (76 Stat. 653), as amended (16 U.S.C. 460k-460k-4) to release certain restriction on acquisition of lands for recreational development at fish and wildlife areas administered by the Secretary of the Interior. | 92-706 | | |
| H.R. 10420 | To protect marine mammals; to establish a Marine Mammal Commission; and for other purposes. | 92-107 | | |
| H.R. 10577 | To authorize the foreign sale of certain passenger vessels. | 92-519 | | |
| H.R. 11589 | To authorize the foreign sale of certain passenger vessels. | 92-167 | | |
| S. 699 | To require a radiotelephone on certain vessels while navigating upon specified waters of the United States. | 92-346 | 92-78 | 92-63 |

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## DISEASE CALLED COOLEY'S ANEMIA

### HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. GIAIMO. Mr. Speaker, on Wednesday, February 23, I included in the CONGRESSIONAL RECORD a statement that provided information about a little-known but tragic disease called Cooley's anemia. If any of my colleagues have not had an opportunity to read that statement, may I suggest their reading of it. It is on page 5353. Reading time is less than 3 minutes.

The statement presents some startling data. It tells us that hardly anyone with Cooley's anemia reaches the age of 21, that there are now well over 100,000 Cooley's anemia victims in the United States, and although the disease was peculiar only to persons of Mediterranean backgrounds at one time, it has through intermarriages of our American people become a hereditary disease that anyone could have if the traits have been genetically formulated in parents. Americans of Swedish, Hebrew, Oriental, and German descent are just as susceptible to the disease as are Americans of Italian, Greek or other Mediterranean heritages.

Cooley's anemia is not the same as sickle cell anemia. The only thing which both diseases have in common is that they are blood disorders. The modes of research, treatment, and training differ. However, there is now a bill in the House Interstate and Foreign Commerce Committee which will provide fiscal assistance for sickle cell anemia. If this bill, delivering around $125 million, is extended to include funds for Cooley's anemia, then perhaps the cure for both fatal diseases can be achieved simultaneously so that the victims of Cooley's anemia, mostly children, can also have an equal chance for survival. It is a significant fact that while sickle cell anemia seems to be confined to a racial group, the forward and spreading surge of Cooley's anemia seems to accept no limits. If not checked, Cooley's Anemia can eventually affect more people than sickle cell anemia.

To develop further understanding of Cooley's anemia, may I bring to the attention of my colleagues two documents which I received from the Cooley's Anemia Blood and Research Foundation for Children, a private, national organization based in New York City. One is a reprint of a New York Times article, which provides some background information. The second item is more significant. It is a rough breakdown of the fiscal needs of Cooley's anemia, spread across a 5-year period. I believe this outlay shows that while the medical need is desperately urgent, the fiscal costs required to match the need are not so extraordinary that their inclusion in the sickle cell bill would appear extravagant.

I urge my colleagues to develop an awareness of Cooley's anemia and to join me in efforts to combat this disease by supporting an extension of the sickle cell bill.

I insert the two items to which I have referred in the RECORD at this point.

The articles follow:

FOUNDATION OFFERS HOPE TO CHILDREN NEAR DEATH

(By Dudley Dalton)

Sixteen years ago, Frank J. Ficarra had a butcher shop in Brooklyn. Across the street was a fish store owned by Joseph Caltabiano. They were both merchants and both of Italian descent, but it was something much more personal that drew them together. Their children had thalassemia major, more commonly known as Cooley's Anemia.

The disease, which primarily affects people of Mediterranean descent, is incurable and usually fatal, a fact that the Ficarras and Caltabianos had accepted, but the costs were exorbitant.

The Ficarras had two children afflicted with the disease and the Caltabianos had one. Each child required transfusions of blood every two to four weeks and it cost $35 a pint in 1954.

The three children are dead, as is Mr. Ficarra, who had a heart attack, but the work started by these two families, along with five others they had met in hospitals, is providing hope for thousands of children with Cooley's Anemia.

Since its birth in Brooklyn, the organization started by these families, the Cooley's Anemia Blood and Research Foundation for Children, has awarded thousands of dollars for medical research into the disease, has sponsored blood drives to lighten the financial burden on the families and has held two seminars on Cooley's Anemia to enable physicians from around the world to exchange information on the disease.

Tomorrow, the foundation, which has grown to thousands of members with chapters or branches in Brooklyn, Staten Island, Nassau, Suffolk and Westchester and in Southern California, Illinois, Pennsylvania, New Jersey and the Southern states, will officially begin its annual fund drive with a goal of $250,000.

Some advances have been made. In 1930, five years after Dr. Thomas B. Cooley of Detroit identified the disease, the life expectancy of a child with Cooley's Anemia was little more than a year. Today, it is more than 20 years.

Edward D. Paradiso, national president of the foundation, which has headquarters in New Hyde Park, L. I., said that in addition to the medical advances that have been made the big difference between today and 1954 was that more information about the disease is available.

"It was very difficult for parents to make decisions then," he said.

The great danger, in the view of Lawrence Rosano, president of the Long Island chapter, is that interest in the disease will wane and that it will spring up again in unexpected places.

Mrs. Ann Freedman, executive director of the foundation, stressed Mr. Rosano's point that Cooley's Anemia could not be considered restricted to any one ethnic group when she recalled meeting a young boy suffering from the disease who had red hair, freckles and a thoroughly Irish name.

TWO FORMS OF DISEASE

The severe form of the disease is called thalassemia major. A child afflicted with this form is handicapped to the extent that he cannot engage in strenuous physical activities. Another form of the disease is thalassemia minor, which has little or no effect on the carrier.

At present, there are 100,000 children in the United States, including 700 in the New York metropolitan area, with thalassemia major in the United States as well as hundreds of thousands elsewhere in the world. The word thalassemia comes from the Greek thalassa, meaning sea.

Dr. Edward C. Zaino, chairman of the advisory committee of the foundation, said that while there was no cure in sight at present for the severe form of the disease, progress has been made.

Dr. Zaino, who is affiliated with Meadowbrook Hospital in East Meadow and Mercy Hospital in Rockville Centre, said that one problem is that the transfusions create excess amounts of iron and that they are now working on ways to break down this iron, which collects in the liver, heart, pancreas and other organs.

COOLEY'S ANEMIA FOUNDATION NEEDS

I Patient Services:

A. Pilot Projects Clinics: (transfusion and screening), (one clinic); $1,250,000 5 yrs.

5 year program—$250,000 annually.

1. Free laboratory tests.
2. Free screening tests.
3. Genetic counseling, psychologist & psychiatrist.
4. Free transfusion clinic.

B. Help to families:

1. One agency for blood requirements.
2. Automatic payment of medical bills.
3. Payments for transportation to clinics and areas of medical therapy.
4. Payment for expenses of family seeking medical care elsewhere.

II Research—5 year program:

A. Increase in research grants; 1 million annually for thalassemia research, $5,000,000, 5 yrs.

B. Medical research for chelating agent 1000 children in program; $21 per week per child ($3 per injection); $100,000 for first year (daily injections); $500,000, 5 yrs.

C. Research with animal models (chelating agent); $75,000—one year, $375,000, 5 yrs.

D. Research in dental problems; Dental checkup; 100 children in program—$100,000—one year; $500,000, 5 yrs.

E. Cooley's Anemia Fellowship; $750,000, 5 yrs.

To be set up in medical schools or university hospitals, about 10 in each of our cities with many cases of Cooley's Anemia: $15,000 each annually—$150,000 first year.

III Potential Survey—1 year; $85,000 1 yr.

One research person, to do professional survey.

Staff of ten, to complete survey for administrator.

IV Mass Education, $75,000.

A. Two new educational films for laymen, Medical—for residents and interms.

B. Additional brochures for government agencies.

V Foundation Office Staff Increase; $152,000 5 years.

Medical case worker
Secretary
Office expenses, $8,687,000.

## MARK EVANS WELCOMES MARIE ANTOINETTE

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## HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. RONCALIO. Mr. Speaker, last week I inserted into the RECORD several items marshaling certain facts regarding this community which in my opinion support the conclusion that the plans for a sports arena and convention center south of Mount Vernon Square ought to be abandoned summarily.

Mr. Mark Evans, the vice president and director of public affairs for Metro Media, Inc., of Washington, D.C., was quick to respond. In the event my position held some unfair or inaccurate matters, I am sure that Mr. Evans' letter would correct the record. I therefore am pleased to insert it into the RECORD. It follows:

METRO MEDIA, INC.,
*Washington, D.C., February 25, 1972.*

Hon. TENO RONCALIO,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN RONCALIO: My attention was drawn to some remarks of yours which were printed in the Congressional Record.

I am at a loss to explain the half truths that you chose to expound on the floor of the House of Representatives. Mr. Congressman, I have spent more than thirty years on the Washington scene. Much of those thirty years have been spent trying to make this city a better place in which to live. The allegation that I and the Board of Trade, in a heartless manner, are suggesting that the poor people of Washington might "eat cake", a la Marie Antoinette, is probably the most outstanding example of demagoguery that I have ever seen in the thirty years I have been here.

You single me out, for some reason, even though I am no longer the Chairman of the Commission. You are obviously getting your information second hand, and it is obviously substantially biased information. In the first place, if you read my testimony, you will know that I did not shift metaphors."

Mr. Congressman, I have visited eight of the fifteen major cities in the United States to see what the Sports Arena and Convention Center have meant to downtown areas. Coming from Wyoming, you no doubt have seen what Salt Lake's Ice Palace has done for that city. From there, you might check on Atlanta, New Orleans, Kansas City or St. Louis to see what has happened to run down mid-town areas. Let me assure you, the people who are screaming the loudest are people who have their own dollar interests in mind.

The Chinese community is to be protected. I am sure you can clear this with Congressman Gray for whom you evidenced considerable admiration.

My suggestion to you, my Western friend, is to taken a few minutes and drive the area involved. I have witnessed the deterioration over the last twenty years. Those people who are most upset feel that the Convention Center is vital to the city. They simply want it placed somewhere else. Most of them suggest, as did the Washington Post, the use of Union Station. When this was originally proposed, the Black Community in that area came out four square against it.

I was amazed at your stating the Booz-Allen report was "pie in the sky" stuff. Let me assure you, there are over one hundred conventions who want to come to the National Capital. I imagine some of them might even come from Wyoming. A conventioneer spends approximately $200 during his stay in the city. One convention alone, the National Educators Association, is talking of 10,000 people. I am sure you can appreciate what this would mean to the income of this city, an overwhelming percentage of which reaches the pockets and pocketbooks of the people who live and work here.

I find it an easy task to criticize. Let me assure you, your attack on me personally is most discouraging. I own only my home in the District of Columbia. I have nothing whatsoever to gain in trying to bolster the city's future. With opposition such as you have articulated, I am strongly inclined to roll over and play dead and join the list of critics instead of those who want to produce something that will make this a healthier city.

You are too important a man not to know the facts of this matter. I would be honored to bring to you the details of this project which I cannot help but believe you would support. Let me assure you, the Mayor, Congressman Fauntroy, the City Commission, the Washington Post, the Evening Star, the new Black Chairman of the Bicentennial Commission, the Chairman of the Black Chamber of Commerce, many of the responsible Chinese as well as the entire business community support the project. I am sure the majority of the public at large feel it is a must.

I am flattered that you would single me out, but I really feel I should share this honor with the above names of those who believe "the poor people should eat cake." If I have one suggestion, it will be for you to get together with Congressman Gray and his staff and allow us to come and delineate the true facts. I can only assume that your staff aide didn't want to be "confused with the facts as his mind must have been made up."

Most sincerely yours,
MARK EVANS.

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## PLIGHT OF THE BIHARS

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## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. DERWINSKI. Mr. Speaker, while the press has been consistently reporting on the complications involving India, Pakistan, and the internal developments in Bangladesh—East Pakistan—there is growing evidence that a great deal of the internal turmoil continues in that area.

Many of the guerrilla units have refused to turn in their arms as requested by Sheikh Mujibur Rahman, and, as a result, lawlessness, terror, and violence periodically erupt.

One of the special complications involves those in what is now Bangladesh that did not support the guerrilla Indian army efforts to wrest the area from Pakistan. An especially dangerous situation faces the Biharis, a non-Bengali group of Muslims. Their plight is eloquently told in an editorial carried in the Christian Science Monitor of February 23.

The editorial follows:

PLIGHT OF THE BIHARS

In its first two months of independence Bangladesh has built up a considerable stock of international goodwill. More than 30 states have recognized it diplomatically. Its President, Sheikh Mujibur Rahman, is widely respected as an intelligent and capable leader. Most of the 7 to 10 million refugees, who fled to India to escape from Pakistani Army reprisals last year, have now moved back to their homeland and the remainder will follow shortly.

It would be most unfortunate if Bangladesh were to mar this favorable beginning by persistent persecution of the minority in its midst—the Urdu-speaking Biharis. This group of Muslims from the state of Bihar, who number about 1,500,000, chose to settle in East Bengal when Britain partitioned the subcontinent between India and Pakistan. But they have never integrated with the native Bengalis. In language and culture they are akin to the (West) Pakistanis and therefore they tended to support the Pakistani Army in its abortive drive to stamp out the Bengali separatist movement. Since the liberation scores of Biharis have been killed in clashes with Bengali troops and guerrillas.

Probably most of the Biharis would now like to be transferred to Pakistan, but there is little hope of such a solution.

Sheikh Mujib has his own plan for the minority. He wants to break up the ghetto areas and disperse the Biharis throughout the country on the ground that it will thus be easier for them to integrate with the local people.

But if he does this, he must see that persecution of the minority stops and that the Biharis are accorded equal rights with the Bengalis, wherever they are sent.

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## STATEMENT ON H.R. 1 BY THE GOVERNOR OF MISSOURI

### HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. SYMINGTON. Mr. Speaker, I would like to draw the attention of my colleagues to a statement by Hon. Warren E. Hearnes, Governor of Missouri before the Senate Finance Committee. In this testimony, Governor Hearnes described the financial and administrative problems faced by the States under the current welfare system, as well as his suggestions for possible amendments to the welfare reform bill, H.R. 1.

The statement follows:

STATEMENT BY HON. WARREN E. HEARNES, GOVERNOR OF MISSOURI

During recent years the need for reform in our welfare system has assumed crisis proportions. This has been brought about by three specific developments: sharply increasing welfare rolls; growing recognition of the inequities and problems of the system itself; and the resultant crippling fiscal burdens on the states.

In Missouri during the last ten years state costs of welfare have increased by 117 per cent, while the welfare rolls have about doubled. This is particularly true of the AFDC program which, during this period, increased by 153 per cent in caseload and 138 per cent in state costs. The spiraling costs of welfare have imposed severe fiscal problems on the states which demand urgent and immediate consideration. Failure to relieve the states of this staggering fiscal burden could cause widespread distress to the detriment of other basic and essential state services.

Although the welfare reform program, as presently constituted, offers some improvements and constructive changes in the welfare system, it contains certain restrictions and inequities, which I oppose, and offers false hopes that the transition to federal administration is the panacea for all our welfare problems.

The administration, in its desire for congressional approval of welfare reform, has placed much emphasis on "workfare" rather than welfare. While few will argue against the need to place all able-bodied welfare recipients in remunerative employment and self-sufficiency, the implication that a large number of persons on welfare are employable has no basis in fact. This is certainly true in Missouri where almost nine out of ten persons on welfare are the old, the young, the sick and disabled, none of whom could work if jobs were available. To say that the welfare rolls can be substantially reduced as a result of the work features in HR 1 is strictly a myth and nothing more. Even for those who are referred for job training in preparation for employment, the question arises concerning the availability of work in view of a national unemployment rate of about 6 per cent, which is even greater for certain groups such as the young and the black.

For those who are able to work, a job should be assured either in public or private employment at a rate not less than the applicable minimum wage. This would require a vast public works program substantially larger than the 200,000 public service jobs provided for in HR 1. It would also require ample day care facilities for mothers needing day care for their children. As a further incentive for employable mothers to find full time employment, day care should be provided for up to one year. Both the public works program and day care should be funded 100 per cent through federal funds.

On a number of occasions I have advocated complete federal funding of the welfare program which, in my opinion, would provide national standards of eligibility and need, as well as equitable payment levels regardless of geographic location. This would eliminate the wide disparities which now exist among the states in need and payment standards and would, accordingly, treat all needy persons on an equitable and fair basis.

However, I do not support federal takeover of the administration of the welfare programs. The bill before you provides for a multiple system of administration with the adult programs placed under the Social Security Administration and the present AFDC program separated with Part A—Opportunities for Families Program—placed under the Department of Labor; and Part B—Family Assistance Plan—placed under the Department of Health, Education, and Welfare. This fragmented arrangement, in my opinion, will only add to present administrative complexities associated with these programs, and cause widespread confusion and inconvenience to persons seeking help. The administration of these services should be consolidated in one place as much as possible so that people are not shuttled from one office to another. I would suggest that the states continue to administer these programs under federal guidelines and supervision, but with federal funding of administrative costs. This would follow the pattern established for the administration of the Employment Security program.

The basic Federal floor guaranteed by this legislation is inadequate. The annual payment of $2,400 for a family of four on welfare rolls is substantially under the poverty level and is the same amount to be paid an adult couple after 1974. The basic family payment should be increased to at least $3,000 annually for a family of four. *In making this suggestion, however, I must point out to the Committee that I have some misgivings as to any guaranteed annual floor, and would certainly be opposed to such a condition if working poor are included in the legislation. The danger, as I see it, is that prior to every election the Members of the Congress would be subjected to intense pressure to increase the floor. And, such periodic increases, if made, could very well break down the entire system within the next few years.*

Another problem is that the bill provides for optional supplementation of the federal welfare payments with no federal matching. This would affect approximately 50,000 adult cases in Missouri whose present OAA–OASDI combined payments are in excess of the federal maximums of $130 for single persons and $195 for couples, the first year. We estimate the amount of this supplementation at $25.0 Million per year, which will have to come entirely from state funds. In order to insure no reduction in benefits, states should be required to supplement payments above the federal maximums with the federal government matching these payments at 50 per cent.

No provision is made for single persons or childless couples who are not eligible under one of the adult programs. These persons should be included in the bill.

HR 1 provides a cost-of-living adjustment for social security benefits, but freezes welfare payments by the federal government for five years. A cost-of-living factor for welfare payments should be included in this legislation.

In view of the magnitude of the welfare reform proposals, I suggest that changes be made on a gradual or phased basis. Considering the additional cost and numbers involved, it would be advisable to eliminate the "working poor" from the bill at this time. As the program develops and matures, a better perspective can be gained of its success in correcting present welfare problems and the feasibility of expanding its services in scope and coverage.

The rule-making authority granted to the Secretary of Health, Education, and Welfare under this bill should be curbed. Although provision for a certain degree of flexibility and judgment in the administration of the welfare program is essential, unlimited authority can lead to unreasonable and arbitrary demands upon the states. This has occurred in the past and should be prevented in the future.

With respect to the Title XIX Medicaid provisions, I would recommend the removal of the following restrictions:

1. Section 1902(d) of Title XIX relates to the maintenance of state fiscal effort. Under this provision, a state wishing to reduce the scope or extent of care or services provided under its medical assistance plan must submit an application by the Governor and approval by the Secretary of Health, Education, and Welfare. In the application the Governor must certify that the amount of non-federal funds expended in providing medical services in the year following the modification is not less than the amount of such funds expended in the year prior to the quarter in which such modification became effective. This provision works a hardship on states which must reduce welfare costs since medical assistance payments from non-federal funds must be maintained at the prior year level. This means that other welfare services must share a disproportionate reduction in order to keep expenditures within available funds. This restriction should be removed in order to provide more flexibility and latitude to the states in the expenditure of state funds.

2. As presently written, Section 207 would decrease the federal medical assistance percentage by one-third after the first 60 days of care in a general or TB hospital. This would result in a loss of federal funds, particularly for patients in a TB hospital.

This section would also reduce the federal percentage by one-third after the first 60 days of care in a skilled nursing home, unless the state establishes that it has an effective utilization review program. Whether this would result in a loss to the state, and if so, how much, would depend on the federal regulations which would define an "effective utilization review program."

3. There is also a decrease in federal matching by one-third after 90 days of care in a mental hospital, plus the 275 day life-time maximum. This would severely reduce the Title XIX Program of payments to state mental hospitals.

4. With respect to the adults, under "optional state supplementation" there is a statement that states could, but would not be required to, under Medicaid, cover persons made newly eligible for cash benefits under HR 1. We believe it would be extremely difficult to impose such a limitation and have some recipients in the state not covered by Medicaid, even though this may be optional with the state. If there is no "hold harmless" provision, this would become a very costly addition in the future.

In order to provide adequate and comprehensive medical care to all our people, a national universal health insurance program should ultimately be established. Such a plan would replace the present Medicare and Medicaid programs which have proven inadequate to properly meet our medical needs, particularly in the area of prevention and rehabilitation. Pending the establishment of a national health program, the Federal government should assume the full cost of the Title XIX Medicaid program.

As I indicated in my testimony before the Senate Finance Committee on September 10, 1970, with reference to the welfare reform measure, I have strong reservations about the workability of the administration bill and believe it should be thoroughly tested through pilot projects before put into effect on a nation-wide basis. These pilot projects should be carried out out in selected cities presenting diverse problem areas and administrative structures.

The rising costs of welfare are forcing Missouri, and I am sure most other states, to the brink of financial disaster. Unless substantial fiscal relief is provided by the federal government soon, severe restrictions will need to be placed on payments and services to persons on the welfare rolls.

We believe it imperative that federal relief in the form of a "hold harmless" provision; the rebate to the states of a certain amount of dollars for each welfare recipient; or an increase in the formula which governs the amount of federal matching funds available for each of the categories, should come about during the current fiscal year ending June 30, 1972. The financial problem is here now and is acute, and must be remedied.

## THE SCANDAL OF ABORTION

## HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. HOGAN. Mr. Speaker, I have become greatly troubled by the direction the national debate over abortion appears to be taking.

The trend toward casual, unthinking acceptance of abortion is nearly as scandalous as the act of abortion itself, which is the destruction of a helpless unborn human being. The people who argue that an abortion is just another operation such as a tonsillectomy have either overlooked or ignored the scientific and medical facts and the frightening ramifications of abortion, which are discussed by Dr. Kenneth M. Mitzner in a powerful article entitled "The Scandal of Abortion." The article appears in Ideas, and I now insert it into the RECORD:

### THE GROWING SCANDAL OF ABORTION

(By Dr. Kenneth M. Mitzner)

What is an induced abortion? It is the killing a distinct, irreplaceable, unique human individual. *At best,* it is equivalent to killing a person in his sleep. And, as we all know, killing a person in his sleep, even without inflicting any pain, is a more serious offense than causing him painful injuries which are not fatal. This is because *the offenses lies in depriving the individual of the rest of his life.*

### THE BASICS OF THE ISSUE

At what exact moment does a new human being come into existence? Nobody knows for sure. There are competent medical researchers and ethicists, men sincerely devoted to the cause of respect for human life, who question whether an individual is present during the first fourteen days after conception, the period when twinning is possible.[1,2] The issue, reduced to very simple terms, is this: Does twinning represent the development of two individuals from a matrix which is only "potential" human life, or is it the formation of a second individual where one individual exists? [3]

In the absence of a clearcut answer (and it is possible we will never have one), it is our duty to give the living, growing human cells the benefit of a doubt. *We must protect human life from the moment of conception,* not because we are *sure* that an individual is present, but because we cannot be sure of the contrary. This means rejecting some of the new birth control techniques, such as the intrauterine device and *some* varieties of the pill, which allow conception but prevent implantation in the uterus. There are plenty of other methods to take their place.

There still arise some tragic cases in which the right to life of the unborn child is outweighed by the right to self-defense of the mother, and in these cases abortion can be justified. Such situations are rare and becoming rarer. St. Louis City Hospital, in 1966–68, did one abortion to 5,101 live births and had zero maternal mortality.[4] Margaret Hague Maternity Hospital in Jersey City, where the religious convictions of most of the patients reinforced (and even molded) the conservative attitude of the doctors, reduced the abortion rate to one in 17,500 before abandoning therapeutic abortion altogether.[5,6] Any justification which does exist for taking the baby's life will vanish with the advent of "artificial wombs" now under development.[7]

Most of the situations which arise today are covered by the letter of laws allowing abortion to protect the life of the mother. In fact, the choice is usually between saving the life of the mother and losing both lives. Situations in which the danger to the mother is non-lethal but still drastic enough to justify self-defense are covered by specific court decisions and by the reluctance of district attorneys to indict. Indeed, the laws allowing abortion to protect the life of the mother have in practice been stretched to encompass a considerable number of abortions—many in highly respectable hospitals—where there is no threat to the mother's life or health.[8,9]

*But there is not a place in America today where the unborn child has the protection he deserves.*

### THE BABY AS VICTIM

Conception occurs about halfway through a woman's menstrual cycle. By the time she has strong reason to suspect she is pregnant, there is already no question but that her body houses, a distinct new human individual. By the time the presence of the baby can be verified—usually in the fourth week after conception [10,11]—his heart is beating, the three principal regions of his brain have begun to differentiate, and all other organs are present in at least primitive form.[12,13,14]

In practice, it is rare for pregnancy to be verified and an abortion performed less than six weeks after conception. A woman tends to wait for the second missed period before going to the doctor—especially if she doesn't want to believe she's pregnant. Abortion at six weeks kills a little human being with arms and legs, fingers and the beginning of toes.[15] His head may appear outrageously large compared to his body, but this is only because of the rapid rate at which his brain is developing. At this age will already respond, by flexing his neck and trunk, if his lips or nose are stroked lightly.[16] His brain waves can be observed with modern electronic devices.[17]

There are two standard techniques for killing a baby at this age. In a dilation and curettage (D and C), the abortionist reaches into the womb with a sharp instrument (curette), cuts the baby and his associated membranes into small pieces, and scrapes them out. Dr. Alan Guttmacher, one of the leading advocates of abortion, has described this process in detail. He compares the removal of recognizable "fetal parts" to "tonging for oysters." [18]

The D and C is being displaced by suction curettage, in which the baby is torn from the wall of the uterus by a small but very powerful vacuum cleaner. The doctors who use this device frequently refer to it by the affectionate term "baby-scrambler."

A six-week fetus is only about an inch long and may pass through the baby-scrambler in one piece. The method is used, however, up to about 3½ months, when the baby is three of four inches long, and the older babies are torn to pieces by the suction. The doctor who does the abortion never has to look at the results of his work. However, after a legal abortion, the pieces have to be examined in the pathology laboratory, just as a tonsil or an appendix has to be examined. Needless to say, many pathologists are revolted by this task and have been very cooperative in providing photographs of the dismembered babies for use by anti-abortion groups.[19]

The head, the rib cage, and the limbs are usually separate and recognizable. The eyes are frequently popped. The abdomen has been torn away and the viscera emptied out, but in some specimens the heart and the intestine are identifiable. A skilled doctor can do this to fifteen babies a day and still have plenty of time to play golf.

At best, we said, abortion is equivalent to killing a person in his sleep. But the victim of the baby-scrambler is no silent sleeper. Depending on his age and inclination, his last moments may be spent swimming in his watery surroundings, drinking some of the fluid, learning to coordinate the movement of his hands, sucking his thumb, or making faces.[1,20] Certain types of anesthetic, given to the mother, will also knock the baby out,[21] but the trend is toward giving her a local anesthetic which usually has no significant effect on the baby.

Beyond fourteen weeks, the most popular method of abortion is "salting out." [22] A needle is inserted through the wall of the mother's abdomen into the bag of waters surrounding the baby. Some of the fluid is removed and replaced by a concentrated salt solution. The salt solution draws out the baby's body fluids and sears his skin. It also creates pressure imbalances which cause hemmorhage of the brain and of other internal organs. Death is slow and painful.

How slow? The younger babies, whose skin is very thin and delicate, probably last only a few minutes. Older babies have lived through almost two full days of immersion in the salt solution and then have been

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Footnotes at end of article.

born alive. It can safely be assumed that all intermediate gradations exist.

*One little girl in New York survived and was put up for adoption.*[23] In California, the best known case is that of Baby Girl Wolfe. She was sixteen inches long and weighed three pounds. According to her death certificate, for twelve hours she was a citizen of the United States. "Last occupation: Infant." "Number of years in the occupation: Life." For twelve hours, she was a constituent of State Senator Anthony Beilonson, who wrote the law under which she was exterminated.

Perhaps Baby Girl Wolfe would be alive today if the hospital where she was born had had adequate facilities for treating live babies. The attending nurse did everything possible to save her life, but her superior told her she couldn't transfer the baby to another hospital without the permission of the attending physican. Without the permission of the doctor who had worked for two days to kill the baby. The nurse finally called the fire rescue squad, but it was too late.

When the doctor is present, he can usually prevent any attempt to save the baby. Fortunately, it is standard procedure for the doctor to not be there when the woman gives birth to the salted-out baby. Just as with the suction curettage, the doctor need never directly confront the fruit of his labors.

How painful is salting out to the baby? the fact that unborn babies react strongly to pain has been well established in the course of research on giving them blood transfusions.[24] The babies who are killed by saline abortion are all well beyond the age at which almost the entire body surface is sensitive to touch and to pain.[25] [26] The exception is the top and back of the head, the regions which receive the roughest handling in birth. These areas are completely insensitive until after birth.[26] Apparently the child is so strongly affected by pain that sensitivity in these regions would reduce his chance of survival.

The last of the popular methods of abortion is hysterotomy. This operation is very much like a Caesarian delivery.[27] the main difference is the intent. Hysterotomy is the principal method used on babies beyond the age at which salting out is effective. Since the doctor is present, embarrassing rescues can be avoided. Sometimes the baby is just left to die, sometimes drowned, sometimes wrapped tightly in a surgical towel until he stops moving.

Some of the old-timers in the abortion industry, like Dr. Leon Belous of Beverly Hills, prefer hysterotomy to salting out. Incidentally, Dr. Belous, who now has a multi-million dollar legal abortion practice, was being represented in an illegal abortion case by the law firm of Beilenson and Leavy at the same time Beilenson was promoting "abortion reform" out of sheer altruistic interest in the plight of reluctant mothers.[28]

* * * * *

If the reader still has any doubt that abortion is the killing of a human being, consider the testimony of Malcolm Watts, M.D., the passionately pro-abortion editor of *California Medicine*, official journal of the California Medical Association. Dr. Watts puts it this way in a recent editorial:

"The very considerable semantic gymnastis which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices." [29]

Paul Ehrlich, the insect biologist turned messiah who leads the Zero Population Growth movement, is one of the few pro-abortion leaders who has tried to deny in writing that the fetus is a "human being." In the same sentence, he defines the fetus as an "unborn child." [30]

### THE RIGHT TO LIFE

The laws of the United States and the several states protect the right to life of Jews, Gypsies, Negroes, Mexicans, Puerto Ricans, old people, cripples, imbeciles, and various other classes of human beings which are considered undesirable or burdensome to large elements of our society. It would therefore seem reasonable that these same laws should protect the right to life of the unborn baby.

It would seem reasonable, that is, if it were not for the incessant clamoring of those who have made a cult out of killing the unborn. We are bombarded from all sides by propaganda praising abortion as the cure to all the world's ills, and denouncing those who oppose it as reactionaries, hide-bound puritans, woman-haters, lackeys of the Pope, and horror of horrors, enemies of ecology. It is by no means easy to stand firm in the face of this barrage.

Perhaps then it would be a useful exercise to examine the principal arguments of those who would deny the protection of law and society to the unborn child and to see where they go astray.

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The most grotesque of their arguments is the "unwanted child" argument. It is better, they say, to be dead than to be unwanted or poor or handicapped. They usually back his argument up with inflated psuedo-statistics on the number of battered children and imply that battery is the common fate of the unwanted.

Perhaps the best answer to their argument was given by the New Jersey Supreme Court in the case of Gleitman vs Cosgrove [31] In 1959, Jeffrey Gleitman was born with substantial defects in sight, hearing, and speech, the result of German measles. His parents claimed that they would have procured an abortion if Drs. Cosgrove and Dolan had not given a "reassuring answer" every time Mrs. Gleitman asked about the effects of her illness on the baby. Therefore, the Gleitmans sued the doctors for damages, on their own behalf and on behalf of Jeffrey. In rejecting all claims, the court reasoned as follows:

"The infant plaintiff is therefore required to say not that he should have been born without defects but that he should not have been born at all . . . In other words, he claims that the conduct of defendants prevented his mother from obtaining an abortion which would have terminated his existence, and that his very life is 'wrongful' . . . It is basic to the human condition to seek life and hold on to it however heavily burdened. If Jeffrey could have been asked as to whether his life should be snuffed out before his full term of gestation could run its course, our felt intuition of human nature tells us he would almost surely choose life with defects as against no life at all. 'For the living there is hope, but for the dead there is none.'"

President Nixon, in recent excellent statement against abortion [32], put it this way:

"A good and generous people will not opt, in my view, for this kind of alternative to its social dilemmas. Rather, it will open its hearts and homes to the unwanted children of its own, as it has done for the unwanted millions of other lands."

His statement was in part motivated by an open letter he received from eighteen prominent professors, physicians, and clergymen who summed up their position in these words: [33]

"We find bone-chilling similarities in the anti-life stance of sectors of American society and the Nazi propaganda and practice but a third of a century ago. Yesterday it was 'unwanted' Jews, Gypsies, political and religious dissenters, and the mentally or physical handicapped. Today in America for the moment it is only our 'unwanted' unborn. But tomorrow it may be our 'unwanted' aged or defectives and those who have outlived their usefulness. We face the specter of the manipulation of human beings from their genes to the life-goals."

The signers included Prof. Leo Alexander, who was an expert witness for the prosecution at the Nuremberg trial of Nazi medical war criminals and who is well known for his psychological studies of these men.[34] [35] [36] Another signer was Arthur Dyck, Professor of Population Ethics at Harvard. So much for the unwanted child argument.

* * * * *

Next we have the right-of-the-mother-to-do - what - she - wants-with-her-own-body argument. This argument not only ignores the fact that the unborn child is a separate individual, it also ignores the existence of a whole body of restrictive law on such subjects as prostitution, narcotics use, and selling oneself into slavery.

A related argument is the "viability" argument, which says that, since the child is completely dependent on the mother until he is viable in the outside world, the mother should have the right to dispose of him if she sees fit. The helplessness of the victim is used to justify his destruction.

* * * * *

The "defeatist" arguments have played a major role in the progress of the abortion movement. The essence of these arguments is that laws against abortion are ineffective and women who want abortions will get them anyway, so we may as well make the procedure legal and save the "thousands of women a year who are being killed by illegal abortionists.

First, let's get rid of this myth about thousands of women a year dying of illegal abortions. In 1965, before any state had an easy abortion law, there were 235 known deaths from illegal, legal, and spontaneous abortions. The doctors at the 1967 International Conference on Abortion—representing all positions from strong pro-abortion to strong anti-abortion—concluded that, allowing for unreported cases, 500 abortion deaths a year would be a reasonable overall figure.[37]

Five hundred deaths a year is five hundred too many. But does an attempt to save these women justify over 200,000 babies a year just in California and New York?

Make no mistake about it. Many of these abortions, perhaps most of them, perhaps an overwhelming majority of them would never have taken place if it were not for the permissive laws. It takes a massive mechanism of publicity, advertising, propaganda in the newspapers and the women's magazines, referral services, kickbacks to school nurses, pressure from social workers, and welfare fraud to feed the abortion mills of California and New York. In California, the domestic supply of babies for adoption has been dried up almost completely by abortion and babies are being imported from Asia and Latin America.

Frequently, a woman is under tremendous pressure from her family or husband or boy friend to have an abortion she doesn't want. Where the law is on her side, she may resist successfully. Where abortion is easy to come by, when the abortion mentality is rampant, she doesn't have much chance.

* * * * *

Much of the success of the abortion movement has been due to the overpopulation hysteria. We are shown pictures of the teeming streets of Calcutta and told that the whole world will look like in a few years unless we Abort! Abort! Abort! Nobody points out that India is only half as crowded (in people per square mile) as New Jersey, and that India's problems stem from abysmally poor

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Footnotes at end of article.

use of the human resources it has. Nobody points out that it will take the United States as a whole over two hundred years to reach the level of population density which is now sustained quite comfortably by New Jersey. Nobody points out that countries like Ireland and Spain, where abortion is almost non-existent, have much lower rates of population increase than the United States.

Fortunately, the hysteria is beginning to die down. America is taking a second look at Prof. Ehrlich's proposals that we solve our social problems by applying the principles of insect control. Even the Commission on Population Growth and the American Future, which is well stocked with enthusiasts of imposed population control and absortion such as Sen. Packwood, had to conclude that "There is little question that the United States has the resources, if it chooses to use them, to meet the demands of a population growing at the current rate as well as to correct various social and economic inequities . . ." [38]

* * * * *

The pro-abortionists frequently neutralize prospective opponents by making them feel guilty about "imposing their moral views on other people" or "trying to legislate morality."

I must plead guilty to being the type who likes to impose his morality on other people. Even as a child, I supported American participation in the war against Hitler. I am glad we liberated the concentration camps instead of allowing them to continue on a local option basis. If I saw a man on the street trying to murder an infant, I would do everything I could to stop him, even if the infant's mother asked me not to interfere, even if the murderer were a respectable doctor.

### SOCIETY AS VICTIM

The consequences of abortion to society as a whole can be disastrous. As we've already seen, the leaders of the abortion movement are well aware that they are killing human beings. Furthermore, in addition to their interest in abortion, they usually advocate other measures and attitudes which involve the killing of innocent human beings. Dr. Watts made his frank comments about abortion in the course of an editorial in which he told doctors to "prepare to apply" a "new ethic" in which "it will become necessary and acceptable to place relative rather than absolute values on human lives." Under this new ethic, doctors would practice "death selection and death control" based on criteria which may include "personal fulfillment" and "betterment of the species." [29]

Three years ago, when the "Green Revolution" in agriculture was already under way, Paul Ehrlich wrote that the most "cheerful" future he could envision for the world involved letting up to a half-billion people starve to death, many as a result of willful decisions not to send food relief.[39] Now some of the developing countries are already looking forward to food surpluses.[40]

Alan Guttmacher, the doctor who likes to tong for human arms and legs, is best known as the head of Planned Parenthood and the man who turned it from an anti-abortion position ("An abortion requires an operation. It kills the life of a baby after it has begun. It is dangerous to your life and health. It may make you sterile . . .") [41] to a key role in the abortion establishment. Guttmacher is also on the Advisory Council of the Euthanasia Education Fund, which favors mercy killing for "physical or mental or spiritual disability." [42]

A recent meeting of the American Society of Anesthesiologists considered the question of whether a physician should try to resuscitate a sickly new-born "in view of recent liberalization of abortion laws, and the national concern over the population explosion." [43]

Twenty-two years ago Prof. Alexander described the first link in the long chain of Nazi medical war crimes with these words:

"It started with the acceptance of the attitude, basic in the euthanasia movement, that there is such a thing as life not worthy to be lived." [44]

It is any wonder that he and his associates are worried about what is happening in America today?

Exactly what did happen in Germany? The abortion movement began before 1900 and had significant support in intellectual circles by 1911.[41] An overpopulation psychology began to develop at about the same time. After Germany's defeat in World War I, there was a complete collapse of social and ethical values. Abortion, strongly promoted by certain intellectual groups, became rampant, although still illegal.[45] [46] [47] A "euthanasia" movement, more accurately a movement for medical killing of "worthless people," was launched in 1920.[48]

By the time Hitler came upon the scene even as a bit player, Germany society was saturated with the anti-life mentality. Hitler just perfected the techniques. His first program of mass killing was the extermination of over 275,000 Germans in a "euthanasia" program.[34] [48]

Abortion for non-Aryans was promoted and even forced. The war crimes tribunals judged these abortions to be *crimes against humanity.*[49] It is interesting that some Nazi doctors balked at doing abortions beyond 20 weeks [50] but many American doctors do not.

### THE FRENCH PHILOSOPHER

Let's go back a little further in history to revolutionary France in 1795 and the man who, as far as we can determine, was the first in the modern Western World to promote abortion as a means of population control and a matter of woman's rights:

"This state will forever be poor, if its population surpasses the means by which it can subsist . . . Do you not prune the tree when it has overmany branches? . . . but it is not at the moment that man reaches maturity one must destroy him in order to reduce population. It is unjust to cut short the days of a well-shaped person; it is not unjust, I say, to prevent the arrival in the world of a being who will certainly be useless to it." [51]

"The penalty against child-murdering mothers [in Europe] is an unexampled atrocity. Who then has a greater right to dispose of the fruit than she who carries it in her womb? . . . To interfere with the usage a woman chooses to make of it is stupidity carried beyond any conceivable extreme." [53]

Does anyone really believe France was overpopulated in 1795? Does anyone really believe that the Marquis de Sade made these statements because of a humanitarian concern for the welfare of society?

And, knowing the great literary influence Sade had on such diverse authors as Swinburne, Dostoyevski, and Baudelaire,[53] can anyone doubt that his political philosophy has also had a profound effect on modern political thought—not just in connection with abortion, but in many areas?

If you doubt it, let me suggest the following experiment. Read Sade's political pamphlet "Yet Another Effort, Frenchmen." [54] Then read Edgar A. Mowrer's contemporary account of Germany on the eve of Hitler's rise to power.[55]

Then look around you at America today. And shudder . . .

### FIGHTING SADES' DISCIPLES

To be sure, those in and out of the medical profession who today advocate abortion-on-demand are usually Sadists only in the technical, historical sense. Although they are advocating a point of view first articulated by the villianous French Marquis, it would be unfair to accuse them all of harboring similar evil motives. Typically, the abortion proponent expresses his position in terms heavily larded with humanitarian and liberal sentiment. He asks us to believe in the purity of his motives—and probably believes in it himself. But, whatever his motivation, the practice he is advocating is nothing less than "an appurtenance of murder," in the words of the Dr. Israel Unterman, Chief Rabbi of Israel.

It is entirely fitting to quote the Chief Rabbi in this context since the issue of abortion is *inter alia* a profoundly religious one. Today much of the opposition to our current abortion scandal is coming from religious sources. On May 8 of this year, the Rabbinical Council of America, the major organization representing the one and one half million Orthodox Jews of this nation reasserted the traditional Jewish position against all but therapeutic abortion and urged state legislatures "to submit their abortion statutes the serious evaluation in view of the experiences of several states during the past year." Calling attention to New York City where 100,000 unborn children have been aborted, the rabbis condemned "permissive abortion laws" which contribute to "the general deterioration of moral values in our society." (For a complete study of the Jewish position on abortion, the reader is referred to the article, "Jewish Law and the Abortion Controversy" by Michael S. Kogan which appeared in IDEAS, Vol. 1, No. 1 (Autumn, 1968).)

Other religious bodies have also spoken up against abortion-on-demand. The opposition of the Catholic Church is well-known—although, unfortunately, weaker now than formerly; and certain traditional Protestant denominations have expressed their alarm at the new permissive abortion laws. It is significant that in his statement of April 3. President Nixon based his view that "abortion [is] an unacceptable form of population control" on his own "religious beliefs" and on the fact that "ours is a nation with a Judaeo-Christian heritage."

Today, united action is called for from all those who cherish the moral and ethical values of that heritage. One concrete result of such action is the Birthright program, now operating in cities all across the United States and Canada. This agency provides women with the counseling and assistance they need to resist the abortion mentality, and bring their babies to term.

Such programs and attitudes must be encouraged if we are to successfully turn back the advances of the heirs of de Sade. Speaking out of nearly four thousand years of Western moral tradition, we answer their deadly philosophy with the words of Moses: "Behold, I set before thee this day life and death. Therefore choose thou life!"

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## LET OUR GOVERNMENT SHOW ITS INTEREST

## HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 8, 1972*

Mr. SIKES. Mr. Speaker, like many of my colleagues, I come from a seafood producing district. I am aware of the economic plight of that industry. It occurs to me that it will be well to remind our colleagues of some startling facts. For instance, 60 to 70 percent of all the seafood products utilized in the United States are imported, and of these imports, the highest percentage is of edible seafood products. This is a situation which is not improving. In fact, it is getting worse. While this is happening, the world's supply of some of the most important food fish is constantly getting scarcer. This includes tuna, cod, haddock, perch, salmon, and even shrimp.

The serious consequences of a shrinking market for American producers should receive careful thought. The reasons for today's unhappy situation are easy to comprehend. Domestic production is becoming more costly as wages and prices increase and as the cost of vessels and equipment go up. There has been little interest on the part of the government toward strengthening import policies although there is a definite need for barriers to stem foreign competition. This means less production by U.S. fishermen.

An equally serious problem is that coastal fisheries beyond the 12-mile limit are being fished harder and harder by other countries whose vessels are more modern and whose operations are subsidized by their governments. Actually there are hundreds of foreign vessels in traditionally American fishing grounds. This has created massive difficulties. Foreign fleets do not always enter into direct competition for the seafood sought by American fishing vessels but their method of fishing depletes or destroys fish, creating serious conservation problems. The smaller, shore based U.S. fishing vessels cannot compete with the fleet supported trawlers of Russia and Japan. In addition to depleted catches, American fishermen suffer the loss of expensive fishing equipment which is destroyed because of the methods used by foreign vessels.

Sports fishermen also are adversely affected. This has an effect on the seafoods industry in general which cannot be ignored. Japanese and other commercial long-line fishermen have operated in competition with sports fishermen in the northern Gulf of Mexico. While the interests of these fishermen have been primarily for tuna and similar seafood fish, sport fishermen are convinced that commercial long-line operations in the vicinity of their accustomed fishing grounds markedly reduce catches of marlin and sailfish. Obviously large catches of food fish in the area also upset the present favorable balance for fishing in the gulf and help to deplete these waters of food fish. At my instigation, the Department of State has taken up the problem with appropriate Japanese authorities, and assurances have been forthcoming from the Japanese that their fishing operations would be conducted with more consideration for the interests and concerns of America's sports fishermen. It remains to be seen how this informal understanding will actually work in practice.

One area which is thought to offer promise is to establish a wider market for seafood products which are still in good supply such as mullet. Unfortunately, this has met with indifferent success. This is difficult to understand by people brought up in mullet country who consider it an excellent product. Commercial seafood farming has been explored and there appears to be promise from shrimp rearing operations. Such an undertaking is now in progress at Saint Andrews Bay in Panama City, Fla. These and other efforts to expand and improve the seafood market should receive vigorous support from State and Federal research agencies.

The principal problem appears to be from commercial operations in waters adjacent to our own shores. U.S. fishermen are fed up with the tender care which our Government has extended to foreign fishing vessels. A number of South American nations have declared jurisdiction over their coastal waters to the Continental Shelf with territorial waters extending out 200 miles. Vessels in the U.S. fishing fleet have been harassed and forced to pay fines for operating in those waters. In contrast, the United States requires observance only of a 12-mile limit. Most of the problems being created off our own waters are within the 200-mile limit. It is time for the United States to protect the interests of its own people by establishing a 200-mile limit and by placing import duties on foreign produced fish to equalize the market for domestic producers. To accomplish these changes it will be necessary for U.S. commercial fishermen to insist through their Senators and Representatives on new policies by our Government. Otherwise, the American seafood industry faces a bleak and dwindling future.

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## SCHLESINGER CHALLENGES CONGRESS TO OPPOSE EXECUTIVE SECRECY

## HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. MOORHEAD. Mr. Speaker, Arthur Schlesinger, writing in a recent edition of the New York Times Sunday

Magazine, joins the growing list of individuals who recognize that this Nation's Government is doing its citizens a disservice by hiding far too much information behind the cloak of official secrecy.

Schlesinger challenges the Congress to assert its right, and the people's right, to information generated by the executive branch by passing legislation which defines more narrowly those areas which the executive can keep from public scrutiny. The Foreign Operations and Government Information Subcommittee, which I chair, has been investigating this matter for many years.

In 1967, under the leadership of my friend, the gentleman from California, Mr. JOHN MOSS, the subcommittee reported the Freedom of Information Act. Last year I chaired 7 days of hearings following the Pentagon papers controversy.

Next week, the subcommittee will begin a long series of hearings into the Freedom of Information Act and related matters which affect the amount of information available to the Congress and to the American people. We must be resolute in ending this frustration of the democratic process through excessive secrecy.

I would like to introduce Mr. Schlesinger's article in to the RECORD at this time:

### THE SECRECY DILEMMA

(By Arthur Schlesinger)

"A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both."—James Madison (to W. T. Barry, Aug. 4, 1822).

It says in the 29th chapter of Deuteronomy, "The secret things belong unto the Lord our God." This has not been a view, however, wholly accepted by the American press last month, when Jack Anderson published classified documents showing how the Nixon Administration really felt about the Indo-Pakistani war, he observed an established tradition of journalism. At the same time he transgressed an established tradition of government. Here were the two solemn principles, disclosure and confidentiality, equally portentous and equally venerated, in sharp collision. The conflict of principles left many Americans, I would think, considerably baffled.

It should have given some too a sense of intellectual discomfiture. Republicans who denounced Anderson might have remembered their own delight when The Chicago Tribune printed secret defense plans of the Roosevelt Administration shortly before Pearl Harbor. Democrats who applauded Anderson might have remembered their intense displeasure over equivalent journalistic audacity when they were in power. Still, both Republicans and Democrats probably agree that you cannot run a government if every internal memorandum is promptly handed to the press. And both probably agree that you cannot run much of a press if it is a crime to publish anything stamped secret by the Government. The question is whether between these extremes it is possible to discern further guiding principles.

One principle surely is that the Government's case for a measure of secrecy is not altogether frivolous or self-serving. "The Federalist" is generally worth consulting on these matters; and its authors clearly specified two fields where secrecy seemed to them essential. The first was diplomatic negotiations: "It seldom happens in the negotiation of treaties, of whatever nature, but that perfect secrecy and immediate *dispatch* are sometimes requisite." Woodrow Wilson, it is true, later appeared to repudiate this doctrine when he said that "diplomacy shall proceed always frankly and in the public view" and called for "open covenants of peace, openly arrived at." Before World War I the French Assembly did not know the secret clauses of the Franco-Russian alliance; nor did the British Foreign Secretary inform even his own Cabinet of the military understandings between the British and French General Staffs. This is what Wilson hoped to abolish.

But, as he himself made clear at Versailles, he really meant by "diplomacy" not the processes but the results of negotiation. In practice he favored plenty of talk out of "the public view" but no concealment of results—i.e., open covenants secretly arrived at. As for the negotiating process, Jules Cambon, who was French Ambassador to Berlin before World War I and whom that acute student of diplomacy Harold Nicolson regarded as perhaps the best professional of the century, was only mildly exaggerating when he wrote, "The day secrecy is abolished, negotiation of any kind will become impossible." His recent trans-Atlantic shuttling suggests that Henry Kissinger would agree. Whether blowing the secrecy destroys his capability for future private negotiations is a problem that one hopes Mr. Kissinger has pondered.

A second field noted in "The Federalist" as requiring secrecy was that of intelligence: "There are cases where the most useful intelligence may be obtained, if the persons possessing it can be relieved from apprehensions of discovery." Contemplation of these two fields led "The Federalist" to conclude: "So often and so essentially have we heretofore suffered from the want of secrecy and dispatch, that the Constitution would have been inexcusably defective, if no attention had been paid to those objects." In such terms "The Federalist" vindicated the right of the executive branch to conduct negotiations and, by inference, intelligence operations, without any immediate obligation to supply Congress or the people the detail of what it was doing.

So from the start the American Government has been into secrecy. War of course, provided a third category of legitimate restriction. The National Archives tells us that such classifications as "secret," "confidential" and "private" can be traced back to the War of 1812. Military plans, movements and weaponry remain items that can be plausibly withheld from immediate publication. A fourth category includes information that might compromise foreign governments or leaders or American friends or agents in foreign lands. The case for withholding such information is obviously strong; as too is the case, in a fifth category, for withholding personal data given to the Government on the presumption that it will be kept confidential—tax returns, personnel investigations and the like. A sixth category includes official plans and decisions which, if prematurely disclosed, would lead to speculation in lands or commodities, preemptive buying, private enrichment and higher governmental costs. One doubts whether the most righteous opponent of official secrecy would seriously argue that Government must at once throw open its files in these six categories.

Yet no one can doubt either that a legitimate system of restriction has long since escalated into an extravagant and indefensible system of denial. The means by which this has been done is primarily the device of "security classification"—i.e., restricting access to public information on the grounds of national security. In 1962 the House Committee on Government Operations found there were "more than a million Government employees [permitted] to stamp permanent security designations on all kinds of documents," adding that few of them seemed to heed Secretary of Defense Robert McNamara's sensible injunction, "When in doubt, underclassify." The General Accounting Office estimates that the security system costs taxpayers from $60- to $80-million a year.

Testifying last summer before Congressman William Moorhead's Foreign Operations and Government Information Subcommittee, William G. Florence, a retired Pentagon security officer, portrayed the contemporary condition of the classification frenzy. The Pentagon's top security officer, he said, believed that the classification system should even extend to information in the public domain; and zealous security-stampers, particularly in the Navy, had been discovered classifying newspaper clippings. Florence estimated that the Pentagon files contained about 20 million classified documents and that "the disclosure of information in at least 99.5 per cent of those classified documents could not be prejudicial to the defense interests of the nation." He later changed this estimate to read that 1 to 5 per cent "must legitimately be guarded in the national interest," but this hardly affects the point. The classifiction system has plainly got hopelessly out of control.

And the reason for this is evident enough—it is that the only control over the system has been exercised by the executive branch itself. The legal basis for security classification was first provided by general orders of the War and Navy Departments; then by a 1940 executive order of President Roosevelt's still confined to military intelligence; then by a 1951 executive order of President Truman's, extending the system to nonmilitary agencies and authorizing any executive department or agency to withhold information it considered "necessary in the interest of national security"; then in 1953 by President Eisenhower's executive order 10501—"The bible of security-stamping," Florence calls it. It was as a result of this order that the system got completely out of hand, for it provides no effective control over the classification of documents and no feasible method for their declassification once the sacred stamp has been placed on them.

Neither the Truman nor Eisenhower executive orders were based on specific statutory authority; but, as Eisenhower's Commission on Government Security argued in 1957: "In the absence of any law to the contrary, there is an adequate constitutional and statutory basis upon which to predicate the Presidential authority to issue Executive Order 10501." This very formulation implies, however, that Congress has the power to control the classification system should it wish to do so.

Since Congress has not wished to do so, the executive branch has had a free hand in dealing with classified information. Naturally this has made it vulnerable to its own worst instincts. "Every bureaucracy," Max Weber has written, "seeks to increase the superiority of the professionally informed by keeping their knowledge and their intentions secret. . . . The concept of the 'official secret' is the specific invention of bureaucracy." If secrecy in some cases remains a necessity, it also can easily become the means by which Government dissembles its purposes, buries its mistakes, safeguards its reputation, manipulates its citizens, maximizes its power and corrupts itself.

The secrecy system, once out of control, offers temptations few governments have the fortitude to resist. I suppose there may be situations of dire emergency when governments have no alternative but to deceive the people. But uncontrolled secrecy makes it easy for lying to become routine. And, even short of lying, governments can hardly resist exploiting secrecy to their own advantage. There have been few greater frauds, for example, than the idea put over by the executive on Congress and public opinion that only those with access to classified information know enough to have a judgment on questions of foreign policy. Actually 99 percent of the information necessary for intelligent political judgment is available to any careful reader of The New York Times. We would have been far better off in Vietnam during the Kennedy years had our Government confined itself to reading newspaper dispatches and never opened a Top Secret cable signed Harkins or Nolting. The myth of inside information—"if you only knew what we knew"—is essentially a trick to obstruct democratic control of foreign policy and defend the monopoly of the national security bureaucracy.

As Justice Potter Stewart has observed, a secrecy system constructed on present lines will inevitably be "manipulated by those intent on self-protection and self-promotion." It will also inevitably invite defiance. Indeed, given Congressional apathy, defiance remains about the only recourse when legitimate secrecy balloons into illegitimate secrecy and an administration runs the system in the interest not of the nation but of itself. So, as a corrective, aggrieved citizens through our history have felt themselves morally warranted in violating what they have seen as a system of secrecy laid down unilaterally by the executive branch for its own protection. In 1844 the Tyler Administration, anxious to avoid public debate over the acquisition of Texas, tried to sneak a treaty of annexation through the Senate in executive session. Senator Benjamin Tappan of Ohio, irate at this procedure, wrote his brother Lewis, the New York abolitionist: "Suppose I send you the Treaty & Correspondence, will you have it published in the Evening Post in such a way that it cannot be traced back?" Lewis Tappan, a little apprehensive, consulted with Albert Gallatin, who had served as Jefferson's Secretary of the Treasury and later as minister to Paris and to London. The elder statesman told him to go ahead. William Cullen Bryant published the treaty in an Evening Post extra, and Tyler's stratagem was defeated. Were the Tappans, Gallatin and Bryant to be condemned? Or, did Tyler's abuse of secrecy justify their action?

The answer might well be that the functioning of democracy requires some rough but rational balance between secrecy and disclosure, between official control of information and public need for it. When the Government upsets that balance by deceiving the public, lying to it or withholding information essential for informed debate and decision, a healthy democracy is likely to move, in one way or another, to re-establish the balance, whether through the agency of dissenting officials, indignant legislators or resourceful newspapermen. "Secrecy can be preserved," Justice Stewart has reminded us, "only when credibility is truly maintained."

This principle of re-establishing the balance is confessedly elusive. Anyone who acts on it is taking a chance. Only the aftermath can prove him right or wrong in deciding that government has violated its part of the contract. "The line of discrimination between cases may be difficult," as Jefferson wrote in a discussion of the question whether the violation of written law was ever justified; "but the good officer is bound to draw it at his own peril and throw himself on the justice of his country and the rectitude of his motives."

The Anderson case suggests the problem. Has the Nixon Administration really fulfilled its part of the contract? Has it maintained the credibility that Justice Stewart tells us is necessary to justify the preservation of secrecy? Has it given the nation the kind of information it needs if democratic control of the Government is not to become a fiction? Here is a President who last year held five formal press conferences, plus four last-minute chats with White House correspondents; who in the year before held four formal conferences and one at the last minute. Here is an executive branch which old Washington hands regard as the least open the country has seen for years. Then came the Indo-Pakistani war—with the President in an evident pet; with a valuable Assistant to the President for National Security Affairs saying in private "the President does not want to be even-handed," demanding in private that his colleagues "tilt" American power in favor of Pakistan, while telling the press, "There have been some comments that the Administration is anti-Indian. This is totally inaccurate" (and while the State Department, if that body matters any longer, was proclaiming in public a stance of "absolute neutrality"); and with a proven military dunderhead, still inexplicably blessed with great responsibility, wrong once again in his military forecasts. Here, above all, was an Administration dead against internal or external debate in the face of highly controversial decision.

Given this situation, what recourse was there? If the Anderson columns display the kind of Government we have, it is surely appropriate in a democracy that we know it; it is definitely *not* the function of a secrecy system to shield public officials from accountability for their tantrums, folly or mindlessness. Nor did the dsclosure jeopardize on-going negotiations or intelligence operations or military plans. Worst of all, by outlining the 'tilt" policy only behind locked doors, the Nixon Administration deprived Congress and the electorate of the opportunity—one might say the right—to discuss President Nixon's pro-Pakistan program on its merits. This was the unpardonable sin; and some anonymous, disgusted and courageous bureaucrat, with the help of Jack Anderson, was trying to rectify the situation and to re-establish the balance.

What can be done to save the republic from the perennial need for restoring the balance in such desperate ways? Government has the right to preserve for a period both the confidentiality of its internal processes and the security of information in those categories where security is vital. It has manifestly abused that right. Writing in 1953, Harold Nicolson said, "I am confident that, in the Free World at least, the age of secret treaties is behind us." He was wildly optimistic; and it is ironic that secret covenants should have enjoyed so rich and rank a revival in Woodrow Wilson's native land. The contents of the so-called Hyde Park Aide-Memoire concerning the uses of atomic energy, signed by Roosevelt and Churchill at Hyde Park on Sept. 18, 1944, were not known in this country until published by the State Department in 1960. The Symington subcommittee in the Senate has unearthed a parade of secret agreements withheld from Congress and the people—Ethiopia in 1960, Laos in 1963, Thailand in 1964, South Korea in 1966, Thailand again in 1967, not to mention secret annexes to the Spanish Bases Agreement of 1953. Senator Clifford Case has now introduced a bill—or rather revived a bill the Senate passed in 1955—that would require the President to transmit all executive agreements to the foreign affairs committees of both houses. If the President deems an agreement too sensitive for publication, he can hand it over under the seal of secrecy; but he can no longer lock it up in his own office and tell no one.

In addition to the control of secret agreements, we urgently need a rational and orderly system for the classification and declassification of official documents and for the withholding and release of nonclassified documents. The Nixon Administration has recently shown itself aware of the need for reform. In the wake of the Pentagon Papers, President Nixon asked Congress for $636,000 to begin the declassification of World II papers—a vast mountain of material, 160 million pages in 49,000 cubic feet of storage space. This was to have launched a declassification program that would have employed 110 persons for five years at a cost now set at $6-million. Congress has thus far not provided the funds, though it is expected to do so this year.

The legislative hesitation may well be justified. The National Archives estimates that at least 95 per cent of the classified documents of World War II would be declassified as a result of this program. Thus we would be spending at least $6-million (in all likelihood the ultimate cost would be much greater) to identify that 5 per cent of World War II documents that must, it is supposed, be kept secret for a few years longer.

"Systematic declassification," William L. Langer has written, "is patently impossible: The records are so voluminous that it would take large teams of highly qualified personnel years to complete the assignment." Professor Langer is not only the leading American historian of European diplomacy, he also served as chief of the Research and Analysis Branch of the Office of Strategic Services, in an equivalent post in the Central Intelligence Agency and as a member of the President's Foreign Intelligence Advisory Board. His testimony cannot be dismissed as that of a naive scholar who has spent his life in the stacks and doesn't understand the realities of public affairs.

Document-by-document declassification will not do. An automatic declassification procedure was nominally instituted in 1961; but this system, however praiseworthy in intent, left so many exceptions as to become substantially meaningless. What we must have is a system which after a stated period (of which more later) automatically declassifies practically everything, including information on diplomatic negotiations and military planning. A longer period—probably a very much longer period—should apply to documents that describe intelligence operations, compromise foreign citizens or invade the privacy of American citizens, that is, the materials in categories two, four and five of legitimate restriction. (The allegation that declassification would expose our diplomatic and military codes is now a bogeyman. With the domination of cryptography by sophisticated computers, the old ciphers have been abandoned, and the new ones, David Kahn, the author of "The Codebreakers," tells us, "are, in all practical senses, unbreakable.")

The schedule of automatic declassification should be accompanied by some form of appellate procedure. That is. if a department or agency feels that disclosure in a particular case would injure the nation, it should have an opportunity to claim exemption before an independent review board. But the burden of proof must always be on those who wish to lock the information up.

The executive has it within its power to establish such a system immediately on its own initiative. If it does not do so, then Congress must pass legislation defining the criteria for classification and declassification and providing for Congressional oversight of the results. If Congress is by any chance serious in its big talk about reclaiming lost powers it ought to pass such legislation anyway. (One difficulty is that Congress's own record in making public its own papers and proceedings is far from inspiring.)

The question remains how long the closed period should be. Practice abroad varies widely. Denis Mack Smith, the best English historian of Italy, has just published a book entitled "Victor Emanuel, Cavour and the Risorgimento" dealing with events in the period from 1840 to 1870. In conducting his research, he was denied access to the papers of Count Cavour and to the royal archives. Cavour died a solid 110 years ago; Victor Emanuel died 94 years ago. This would seem an excess of caution. In the Soviet Union, though the Bolsheviks threw open the Czarist files, they have clamped down hard on their own; a scholar doing research in Moscow runs the risk of being expelled as a spy.

But other nations are responding to the pressures for access. Until very recently the French required specific clearance for the use of official documents after 1871; in a burst of liberalization, the Archives Diplomatiques have now accepted a 30-year rule in principle. The British for a long time had a 50-year rule; Sir Alec Douglas-Home, as Prime Minister, once remarked that his inclination "would be rather to tighten up the 50-year rule than to relax it." But Harold Wilson's Labour Government, in one of its few visible achievements, reduced the closed period (except for Home Office papers and other records breaching personal privacy) to 30 years. The Heath Government has recently in one brilliant stroke opened the Cabinet records and other departmental papers for World War II—the period which the Nixon Administration would keep closed for five more years until its declassification teams slog through the snow-drifts of records, drift by drift.

Moreover, Mr. Justice Caulfield's historic decision in the recent prosecution of The London Sunday Telegraph and Jonathan Aitken for publishing a secret report about Biafra has greatly damaged the old Official Secrets Act; now the Government has appointed a Committee of Inquiry under Lord Franks to review the whole problem of Government secrecy. It should be added that in Sweden, as always an admirable country, almost all records, I understand, including very recent papers and excepting only royal documents of the King in council, can be examined by any citizen.

For most of its history, the United States has led the world in permitting access to official archives. That indispensable series, "Foreign Relations of the United States," began the publication of diplomatic dispatches in 1861. Until nearly the end of the 19th century, the new volume each year published official secrets of the year preceding, with no perceptible harm to national security. The 1870 volume ran a dispatch of that same year from George P. Marsh, the American Minister in Florence, in which he criticized the Italian Government for its "vacillation, tergiversation and duplicity." The dispatch was reprinted in an Italian newspaper on the very day that Marsh was dining with the Minister of Foreign Affairs. "Was Mr. Marsh handed his passport?" William M. Franklin, the able present Director of the State Department Historical Office has written. ". . . No, as Mr. Marsh had to admit, the only result was that the Italians treated him better than ever. He continued happily and successfully in his Italian post until his death 12 years later." Perhaps candor is a more negotiable diplomatic commodity than those State Department officials understand who in recent years have tried to prevent the publication in "Foreign Relations" of dispatches 20 or more years old because they contain frank comment on men still active in the public life of their countries.

Partly for this reason and even more because budgetary allocations to the Historical Office have failed to keep pace with the swelling flood of documentation, the series has fallen behind even the 20-year rule it set for itself after the war. The year 1971, for example, saw the publication of volumes for 1946; and subsequent years will be even further delayed until the delayed until the Nixon Administration decrees the release to the State Department of the National Security Council records of the Truman Administration. The situation is made worse by the fact that scholars are not permitted access to State Department files before the "Foreign Relations" volumes for the year have been released (and access is permitted only on a restricted basis for the several years preceding). Nevertheless "Foreign Relations" remains an impressive achievement. Most other nations committed to documentary series are still bogged down in the prewar period.

Concerned with the delays, President Kennedy wrote Secretary of State Dean Rusk on Sept. 6, 1961, "In my view, any official should have a clear and precise case involving the national interest before seeking to withhold from publication documents or papers 15 or more years old." If our Government had lived up to the Kennedy rule, historians would be much happier. Its failure to do so has contributed to the recent pressure for much more rapid disclosure. Other events, of course, have intensified the pressure, including the disclosures by Jack Anderson, Neil Sheehan, and Daniel Ellsberg. In addition, the knowledge that Government officials do not hesitate to show classified documents to members of Congress or newspapermen when they find leaking to their own or their department's advantage, or when they are trying to combat their own Government's policy, has increased outside skepticism about the sacrosancity of the secrecy system. Undoubtedly the proliferation of memoirs in which former Presidents, diplomats and even Special Assistants to Presidents break the official deadline with impunity has also encouraged people to question the 20-year or even the 15-year rule.

Now we have the apparition of Dr. Edward Teller, who not too long ago was hounding J. Robert Oppenheimer as a security risk, suddenly asking, "Can we and should we keep any secret for more than a year?" He evidently received this revelation as a member of a Task Force for Security set up by the Pentagon in 1970 under the chairmanship of Frederick Seitz, the physicist and former president of the National Academy of Sciences. The Task Force itself concluded more formally that it was unlikely "that classified information will remain secure for periods as long as five years and that it is more reasonable to assume its knowledge by others in periods as short as a year through independent discovery, clandestine disclosure or other means." It added: "Classification establishes barriers between nations, friendly as well as not, creates areas of uncertainty in the public mind on public issues and impedes the flow of useful information within our own country." The Task Force even reflected that "more might be gained than lost if our nation were to adopt, unilaterally if necessary, a policy of complete openness in all areas of information" but decided that, "in spite of the great advantages that might accrue from such a policy, it is not a practical proposal at the present time." Instead it recommended a 90 per cent decrease in the amount of scientific and technical information under classification.

The idea of no secrets at all is an arresting one. It is perhaps true that our secrecy system has kept more things from the American people than it has from the enemy. The North Vietnamese, the Chinese and the Russians knew all about the C.I.A. war in Laos; only the American Congress and electorate were kept in the dark. It is also true that the secrecy system has been a fertile source of blunder and folly in foreign policy. Without secrecy, the British would not have got into Suez nor the Americans into the Bay of Pigs, nor would it have been so easy for successive administrations to deepen American involvement in Indochina.

Moreover, the abolition of secrecy might well diminish international tensions by making it harder for one power to place the most sinister possible interpretation on the actions of another. Ignorance makes it easy to conclude the worst; but the worst may not always be the most accurate. We begin to see today that both America and Russia did things in the early Cold War that each government saw as modestly defensive in purpose and that the other government saw as intolerably aggressive and hostile. If a series of Pentagon Papers and Kremlin Papers, recording in Sheehan-Anderson detail what these two governments were actually saying and planning in their inner councils, had been published, say, in 1949, each side might have reconsidered its view that the other was fanatically bent on world conquest. Herbert Feis, after half a career in the State Department and the other half as a historian and therefore with intimate knowledge of both interests, recently and, I believe, correctly observed of the conventional objections to shortening the closed period. "Earlier publication of the American record would, on the whole, dispel suspicion and mistrust of our policies rather than nourish them.

But I guess that Dr. Seitz and his comrades are right. The abolition of official secrecy presupposes a different world. If rigorously carried out, it would make international negotiation difficult and personal privacy impossible. But it is an excess in a good direction; and the same kind of skepticism about secrecy has recently produced a number of more moderate schemes for a still drastic abbreviation of the closed period. Congressman Moorhead, whose instructive hearings have thrown much light into the more shadowed recesses of the secrecy system, recently proposed that any paper stamped Secret should become public in two years; Top Secret would take three years. He would also empower a Congressionally appointed commission to make exceptions. Senator Muskie would set up an independent board authorized to transmit classified documents at any time to Congress and, when they are two years old, to make them public. George Ball, the former Under Secretary of State and an astute and experienced public servant, has advocated a five-year rule.

Yet such ideas raise problems—problems which the total abolition of secrecy would raise in even more acute form. It is important, for example, that disclosure not be so precipitate as to inhibit Government officials from making unorthodox suggestions. The McCarthy period had a dismal enough effect on the public service; think what that effect would have been if members of the Foreign Service knew that everything they put on paper or said at a meeting would be submitted to Roy Cohn in the next two or three years. It is also important that disclosure not be so rapid as to invite fishing expeditions by one political party in the files of its predecessor. And, from the viewpoint of the historian, it is urgently important that the system of disclosure not tend to dilute the research quality of documentary records. Herman Kahn—not the thermonuclear Herman Kahn, but the Herman Kahn now at Yale, whose services as head of the Franklin D. Roosevelt Library and later of the Presidential libraries system have benefited a generation of scholars—recently said, "My own conviction is that there has been a decline in the qualities of frankness and honesty in our records to a considerable degree because of the great pressure to make everything immediately available to historians and journalists who want to do historical writing about what happened yesterday, last month or last year." Too much eagerness on the part of historians for instant access may well defeat their own long-term interests.

This perhaps is one reason why some historians have taken a more circumspect position. Professor Langer suggests that confidential and secret documents be made available "to qualified scholars" after five or 10 years. James MacGregor Burns proposes eight to 10 years. My own vote would be for 10 years—i.e., two and a half Administrations—

with some type of appellate procedure to permit extensions in categories two, four and five and other exceptional cases. I am strengthened in the belief that a decade would be about right by the remarks of Winston Churchill in the House of Commons on May 15, 1930: "When we come to the question of how far these matters are affected by the lapse of time I would point out that it is nearly 10 years ago. That is a very long time." With the increase in the velocity of history, it is an even longer time 40 years later. Yet the Nixon Administration refuses to make a blanket declassification of World War II documents after 27 years!

If Congress declines to make a frontal attack on the secrecy system, it is still not without means of improving public access to official records. The Freedom of Information Act, passed in 1966 after a decade's labor and perseverance by Congressman John Moss of California, is based on the proposition that disclosure should be the rule, not the exception, and that, in Moss' words, "the burden should be on the agency to justify the withholding of a document and not [on] the person who requests it." The act further provides for judicial review when access is denied. However, the act also allows for nine categories of exception, the first of which is for matters "specifically required by executive order to be kept secret in the interest of the national defense or foreign policy." When Julius Epstein of the Hoover Institution on War, Peace and Revolution tested the statute in his laudable campaign to secure the release of the Operation Keelhaul documents—a file dealing with the forced repatriation of Soviet displaced persons after World War II—the courts rejected his plea. In practice, the Freedom of Information Act has simply not affected classified information. The Moorhead subcommittee will hold hearings this spring with a view of amending the act and restricting the range of exceptions.

Another means of legislative action lies in the narrowing of the use of "executive privilege" as a means by which the executive branch withholds information. Members of Congress ordinarily can obtain classified documents on request, at least when it serves the purpose of the executive branch. The effect of classification is usually less to deny secret information than to prevent public discusion and debate of such information (and also to make it harder to know what to request). Congress also on occasion may request unclassified material—internal memoranda, minutes of meetings and so on—that might reveal disagreements within the executive branch or expose bureaucrats advocating unpopular views to Congressional retaliation. Immediate Congressional or public access to the internal communications of the executive would undoubtedly end the full and frank exchange among Government officials on which wise policy depends. When Government wants to turn down Congressional requests for material, classified or unclassified, and if methods of bureaucratic attrition fail, it may threaten or invoke executive privilege.

Obviously executive privilege is essential to protect the inner workings of Government. Obviously also it is liable to grave abuse. A decade ago President Kennedy tried to end the practice by which lessor officials in the executive branch assumed this authority on their own cognizance. "Executive privilege," he wrote Representative Moss in 1962, "can be invoked only by the President and will not be used without specific Presidential approval." However, when President Nixon's Secretary of Defense cried executive privilege last summer as an excuse for not showing the Senate Foreign Relations Committee, even on a confidential basis, the Pentagon's five-year plan for military assistance, the sorely tried chairman, Senator Fulbright, responded by introducing legislation requiring the President to take personal responsibility for the use of executive privilege and to explain his reasons in detail. Senator Sam Ervin, as usual a mighty fortress on such issues, held hearings on the Fulbright bill last autumn before his Subcommittee on the Separation of Powers.

The problem is that the secrecy system has been unilaterally determined and controlled by a major party at interest—the executive branch of the Government. The result is that Government has been able to move rather easily from legitimate to illegitimate uses of secrecy. Harold Nicolson, we have seen, lost no opportunity to emphasize the essentiality of secrecy in negotiations. But he distinguished sharply between negotiation and policy and always added, with equal emphasis, that policy "should never be secret, in the sense that in no circumstances should the citizens of a free country be committed by their Government to treaties, engagements, promises or commitments, of which they have not had full knowledge," which the press has not had full opportunity to publish and the legislature to debate and approve. "I feel it to be the duty of every citizen in a free country," Nicolson declared, "to proclaim that he will not consider himself bound by any treaty entered into by the Administration behind his back."

This was President Nixon's particular offense in the Indo-Pakistani affair—keeping his policy secret from the American people. But he was far from the first offender. Every President since the war has done much the same thing at one point or another. If governments were always wiser than citizens, such a course might be justified. But the theory of democracy is that they are not; and the practice of recent years generally verifies the theory. Illegitimate secrecy has corrupted our conduct of foreign affairs and deprived the people of the information necessary for the democratic control of foreign policy. So long as the executive branch persists in these abuses and so long as Congress remains unwilling to assert itself, the courage of the Andersons, Sheehans and Ellsbergs would seem to provide the only restraint and recourse if we are to get our democracy back into working equilibrium. However, with intelligence and determination, we can surely think up a better way.

## CONSIDERING FIRST PRINCIPLES

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. CRANE. Mr. Speaker, as our society proceeds to discuss the necessity to reorder priorities, pursue this goal or that, to enact a particular piece of legislation, to impose upon individuals new restrictions and rules, it is rarely done within the context of what our society is meant to be and what its view of man really is.

We are guilty, as a result, of endlessly viewing events and policies in the short run, wondering how they will effect the next election, or the next statistical survey of the Department of Labor or some other bureau.

The unfortunate fact is that unless we review our philosophy of man and government we are in serious danger of seeing both eliminated. That danger presents itself in many forms, the end result of each being a situation in which man becomes a cog in a collective society and is subject to whatever whim a legislature or bureaucrat seeks to impose upon him.

In his essay, "The Role of Rules," Leonard Read, president of the Foundation for Economic Education, reflects upon this situation. He notes that the Founding Fathers believed that:

> Men's rights to life, livelihood and liberty are endowed by the Creator. These rights are part of our very being. . . . Each man participates in an order which confers upon him certain prerogatives which other men should not impair.

Mr. Read also considers the Founding Fathers' real meaning in their use of the phrase, "All men are created equal." He points out that:

> This phrase has been seized upon by the Declaration's detractors to "prove" how nonsensical its writers were in whatever they declared, including the Creator concept.

Discussing the meaning of the concept of equality as it was used in the Declaration, he writes that:

> What they had in mind was the profound idea that all men are equal before the civil law as they are before God. This relegates civil law to its proper place. Without this concept of equality before the law, justice is out of the question and civil law is out to get you and me.

If law is unlimited, if the executive and the legislature can exercise its will upon the American people without the traditional constitutional restraints, then we have arrived at the point where we live under the rule of men, and not of law. In such a situation, freedom is a temporary and illusory phenomenon.

Mr. Read states that:

> Those who aspire to a good society must (1) Understand and obey the basic principles of rules of morality and ethics, and (2) Establish and limit the scope of civil law so as to insure liberty and justice for all.

I wish to share Mr. Read's essay with my colleagues, and insert into the Record at this time.

### The Role of Rules

(By Leonard Read)

It is an accepted notion in some circles that there are no norms or guidelines for human action. We are, it is said, creatures of impulse, responding to whatever notions pop into mind. "Radical relativism," as it is called, invites reexamination of the way of life founded on rules and principles. There seems to be considerable confusion about the nature and purpose of rules.

An aphorism may help put the point in focus: "Rules are meant for those expected to obey; principles for those expected to think." This seems to suggest that rules are made by dictators to be obeyed by slaves and that principles are the findings of philosophers to be savored and pondered by thinkers. But such a conclusion is far too shallow.

The principle of a thing is a verbal formulation of its nature and its workings; a rule is a homely guide to action deducted from the principle.

There are good rules and bad rules precisely as there are true and false principles. A good rule: "Do not unto others that which you would not have them do unto you." A bad rule: "The king can do no wrong." Now to principles: "The earth revolves on its axis and around the sun" (Copernicus) is a principle upon which man may rely. An earlier theory, "The sun revolves around the earth" (Ptolemy) has now been rejected as a true principle because it has been proved to be inadequate. Rules derived from the principles of Copernicus may be followed with assurance and may not safely be ignored.

Ptolemy's theory afforded no basis for the law of gravitation. Rules deduced from such a theory would prove disastrous. Example: a medical officer attached to the Air Force in the Far East during World War II told me of a B–29 Captain whose mission was to transport some fifty Chinese coolies to a labor assignment. Half way to his destination and at 18,000 feet, he visited the cabin to check on his charges. Some missing! How come? Later, from a peekhole position, he observed that they had opened a hatchway. Two of them made a saddle of their hands on which one of their buddies would sit, all three laughing as they tossed him out! These people knew nothing of the law of gravitation and, of course, could not observe the results. To them, it was only to fly through the air like a bird!

No one knows precisely how to explain gravitation, yet many of us know that it works and we frame countless rules accordingly: for instance, we do not jump off the Empire State Building. To disregard these rules is to court disaster.

Principles, discovered by philosophers and scientists, abound by the thousands. Yet, most of us are unaware of many of these principles. Even the vast majority of philosophers and scientists have not the slightest idea about each other's formulations. Who among them, for instance, knows of the subjective and marginal utility theory of value or the principle of freedom in transactions? Perhaps one, now and then—a rarity! Had we no way of abiding by principles except as we understand them, man would perish from the earth.

One of the world's great astronomers comes to mind. In his field he is tops. And because he sees more through his little peekhole than others with similar peekholes, he ventures with self-assurance into politico-economic matters about which he knows next to nothing. Over and over again we witness geniuses in their particular specializations assuming a knowledge of areas in which they have no competence. Follow this astronomer in astronomy and become enlightened; follow him in political economy and become enslaved. Specialization, when coupled with man's arrogance, leads toward such danger.

What then is our saving grace? Rules! Do not touch a red hot stove or a live wire; do not jump out of a plane without a parachute; do not cheat, lie, steal, kill; do not feather your own nest at the expense of others. I do not have to know that "the volume of a gas varies inversely as the pressure to avoid a bomb exploding in my face. I only need to know the rule, "Don't play with bombs."

Let us now turn to the idea that "rules are meant for those expected to obey." True, perhaps, but what is the nature of these rules? There are two divisions—poles apart and each requiring its distinct kind of obedience. Rules in the first category are psychological in nature and obedience consists in practicing self-discipline; those in the second are sociological in nature and obedience consists in submitting to external authority.

Take the Golden Rule, which is a maxim in the first category. This is the oldest ethical proposition of distinctly universal character. If one is intelligent enough to see the wisdom of this rule and if he has the strength of character to heed it, he obeys. Otherwise, not! Each individual makes his own decision to obey or not, and there is no external authority on earth, no government, that has the slightest power to exact obedience to such a rule. Intelligence and strength of character are never the products of external compulsion but are exclusively voluntary and of one's own making. Is this not self-evident?

The Commandment, "Thou shalt not covet," is but another of countless ethical and moral rules—a rule that is obeyed or not as the individual chooses. A gun at my head could not keep me from coveting another's achievements or possessions. These are secrets of the soul, intellect, and conscience. Such secrets are not necessarily revealed to others or understood by them. No matter how stupid or wrong my secret longings, they are not subject to correction by external compulsion. In these matters each decides on the rules to be accepted or rejected and he prospers or fails in life's purpose according to how intelligently he identifies the rules and obeys them.

Once we recognize our shortcomings in understanding and obeying these ethical and moral rules and guidelines—an area in which the individual is in complete command and without interference—we must conclude that man by nature is imperfect. Regardless of how well we know these rules and how obediently we serve them, we will, to some extent, offend the rights of others. Perfect harmony in society is not possible, even among the moral and spiritual elite. And pronounced indeed is the disharmony caused by those who have no scruples—no rules of their own!

This poses the necessity for rules of the second kind, those that are sociological in nature. These are meant to take effect if and when moral laws are ignored or violated; they are designed to cope with the antisocial as distinguished from the peaceful actions of citizens, that is, with those actions which cause injury to others. Injury, as the term is applied in this context, must be carefully defined by rules, which if properly drawn and obeyed, would assure a fair field and no favor. In this category of rules, we are expected to obey *not necessarily* what our conscience suggests but, rather, what an external authority dictates. As distinguished from moral law, this is civil law; it punishes those who trespass against their fellows, but it presupposes that there are men who behave ethically a good part of the time.

It is utter folly to believe that there can be a good society without the rule of law—civil law, that is. Yet, this category of rules is loaded with the possibility for evil as well as good results. Civil law can, and often does, lead to total statism—enslavement—or it can, but rarely does, lead to securing individual liberty. Nonetheless, the free society is out of the question in the absence of civil law; to have even the remotest chance of the good society requires that we assume the risk that civil law might go askew. To achieve the best, we must face and overcome grave dangers. There is no alternative!

Wherein lies our hope? Is there, indeed, a certain narrow course which, if scrupulously followed, would secure liberty to all alike and which would, at the same time, steer away from lawless anarchy on the one side and all-out statism on the other? If so, what is it?

There is definitely and explicitly such a course and it can be ours if we are not blind to it. The price tag, however, is the ability to see and, having seen, to stay on course.

This high road has as its foundation what many early Americans believed—and I devoutly believe—to be a wholly reasonable presupposition, namely, that men's rights to life, livelihood, and liberty are endowed by the Creator. These rights are part of our very being; and our being, although it is compounded of elements deriving from our society and other ingredients that link us with nature, is rooted in a reality which transcends both nature and society. Each man participates in an order which confers upon him certain prerogatives which other men should not impair.

This proposition gains confirmation as we reflect on the absurdity of its only possible alternative, namely, that men's rights to life, livelihood, and liberty are endowed by a human collective which, in this context, is government. Of what is government composed? Persons no more graced with virtues, talents, and omniscience than you or I! For any human being to believe that our rights to life, livelihood, and liberty are or could be derived from him is nothing less than egomania.

This inherent rights principle, affirmed in the Declaration of Independence, has fallen by the wayside so far as comprehension and acceptance are concerned. Giving the reasons, beyond a growing egomania, is no less difficult than trying to explain the decline in religion, that is, the rejection of an Infinite Power or Intelligence over and beyond our little, finite minds.

There is, however, an easily misunderstood companion idea in the Declaration that may have lead many people astray: ". . . that all men are created equal." That has been seized upon by the Declaration's detractors to "prove" how nonsensical its writers were in whatever they declared, including the Creator concept. Of course men are not equal in a single personal attribute. This is so obvious that the authors of the Declaration took no pains to say so. They were not writing to fools. What they had in mind was the profound idea that *all men are equal before the civil law as they are before God.* This relegates civil law to its proper place. Without this concept of equality before the law, justice is out of the question and civil law is out to get you and me. As Professor Benjamin Rogge puts it, "The blindfolded Goddess of Justice is encouraged to peek: 'Tell me who you are and I shall tell you what your rights are.' "

Finally, these two kinds of rules work one on the other—they are interacting. It is ridiculous to believe that any set of civil laws can be devised to bring about the good society among a people having no moral and ethical scruples. On the other hand, whenever a first-rate citizenry carelessly permits the civil law to go beyond its principled scope of maintaining the peace of the community, it will deprive them of their liberty and self-responsibility. In this event, they will degenerate into lawbreakers, black marketeers, connivers.

Those who aspire to a good society have no manner of realizing their goal except as they (1) understand and obey the basic principles or rules of morality and ethics, and (2) establish and limit the scope of civil law so as to insure liberty and justice for all.

Thus, the first-rate citizen has a dual role to perform as related to the role of rules.

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## THE 50TH ANNIVERSARY OF THE CHICOPEE, MASS., RED CROSS

### HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. BOLAND. Mr. Speaker, the Chicopee, Mass., chapter of the American Red Cross has just celebrated its 50th anniversary. Chartered on October 21, 1922, the chapter has played a vital role in Chicopee's community life ever since, offering services that range all the way from disaster relief to first aid training.

I had the honor of taking part in a dinner the chapter held on February 18 to mark its 50th anniversary, Mr. Speaker, and I can testify personally to the dedication and enthusiasm of the chapter's staff and volunteers.

The following history, written by chapter historian Raymond P. Snyder, outlines the growth of the Chicopee Red Cross over the past half century:

### HISTORY OF CHICOPEE CHAPTER AMERICAN RED CROSS, 1922–72

(By Historian, Mr. Raymond P. Snyder)

Chicopee was a branch of the Hampden County Chapter of the American Red Cross until May 27, 1922, at which time it was decided that Chicopee have its own Chapter. A balance of $600.46 was turned over to the Chicopee Chapter which had Charles C. Ludden as its first Chairman and John B. Knight as its first Treasurer.

A Charter was applied for and received on October 21, 1922. The Chapter then prepared to have its first drive for membership. It resulted in a membership of 1145, with Nelson Carter as Chairman of the drive. That year, the Chapter contributed to the Near East and Russian Relief Funds. In 1924, it started a yearly contribution to the Hampden County Tuberculosis Society for work at the Chicopee T. B. Hospital which was then situated in the Alderville section.

In October of 1927, there was a flood in the Mississippi Valley and Chicopee sent $5189.00 to aid the victims of this disaster. This work was done by the Chairman and the Executive Committee since the Chapter could not afford an Executive Secretary at that time. A small office on the second floor of the Chicopee Savings Bank was used as headquarters.

The Chapter continued its work in Home Service and its drive for membership each year. In March of 1936, Chicopee had its own disaster in the form of a flood which inundated the sections of Chicopee called Ferry Lane and Willimansett. Under the direction of the National Field Representative, Miss June Lonas, and the disaster team sent by National and headed by Miss Ruth Kernodle, relief and rehabilitation were put into immediate effect. An office was set up in the Starzyk Building and social workers from all parts of the country were hired. Many Chicopee residents served as volunteers.

Many families were cared for in shelters set up in schools, church basements, and halls. Kitchens and dining areas were set up to feed them. As the water receded and the damaged homes cleaned of mud, repaired, or replaced, families started to return to their homes.

The section called Ferry Lane was completely inundated. The only material objects showing were the tops of electric light poles. Police, National and Coast Guard units used motor boats to search the area for those who might not have been able to leave their homes. Some were taken off roof tops. National Red Cross sent funds to aid the Chapter to pay for the damage. It also replaced many animals such as cows and horses which people needed for their livelihood.

After the flood, the Chapter went back to its daily routine, but at this point, it was felt an Executive Secretary was needed on a full time basis. Miss Helen James, who had worked for National Red Cross during the flood, was hired by the first complete slate of officers which had been elected that year. It was composed of Charles C. Ludden, Chairman; Eugene O'Neil, Jr., Vice Chairman; John B. Knight, Treasurer; and Raymond P. Snyder, Secretary. Mr. Snyder served as Secretary from that time until 1954 when he was elected Vice Chairman and later Chairman.

In September of 1938, disaster again struck Chicopee in the form of a hurricane which did a great deal more damage than the flood of 1936. Shelters and kitchens were again set up to care for the homeless. Chicopee Falls steel bridge was washed away, light and power supplies were shut off and this put many out of work. It was estimated that the damage was in excess of one million dollars.

In 1939, the second slate of officers was elected. Dr. Louis Mannix was elected Chairman and Mr. Louis Beauchamp, Treasurer.

Two years later, World War II was declared and the Chapter started its war programs. First Aid classes were demanded, but since Chicopee had no instructors, National sent an instructor, Dr. Newbaker, to prepare future instructors. A class of 34 was organized. It was composed of school personnel, members of the Fire and Police Departments, etc. These classes were held at the Cabot Street Fire Station five nights a week. Among the members who became instructors were: Mr. Nap St. Francis, Jr., now retired Director of Health, Safety, and Education in the School Department; Mr. Edgar Canty, now retired Deputy Chief of the Fire Department; Mr. Joseph M. Grise, Jr., retired Funeral Director, and Mr. Raymond P. Snyder. The 34 instructors were immediately assigned classes which were held in Industry, Schools, Fire and Police Departments.

Volunteer Services were organized under the Chairmanship of Mrs. Katherine Wilson and later Mrs. Charles Bray who held this position untiringly for many years. The first year they produced 750 hand knit sweaters, 250 layettes, 200 hospital bed shirts, and 500 woolen dresses for women and little girls. The cloth was sent to the Chapter by National Red Cross.

A Motor Corps was organized with Mrs. Louis Mannix as Chairman. She also continued in this position for many years. Life Saving and First Aid were also organized with Mr. Nap St. Francis as Chairman, a position he too held for many years.

The Blood Bank Program was not active until recent years. Mrs. Loula Topulos and Mrs. Edwina Stroshine served as temporary Chairman for a time until Mrs. Lucille Messier was named Chairman, a position in which she has given untiringly of her time and effort. Mention of the Blood Program would not be complete without a very special mention of Miss Linda Baker who has given 63 years of service to the Red Cross as a Registered Nurse and who did extensive work with our Bloodmobiles.

Miss James resigned to return to school and Mrs. Katherine Wilson replaced her on a temporary basis until the second Executive Secretary was chosen. Miss Annette Bernardin was appointed. She remained a year and then left to return to her home city of Lawrence, Massachusetts where she became Executive Secretary of that chapter. Mrs. Mary D. Connell then replaced Miss Bernardin.

During Mrs. Connell's many years of faithful service, the Chapter headquarters were moved from the Chicopee Savings Bank building to 127 Main Street, Chicopee Falls. It remained there for several years and then purchased the present Chapter House which was named for Mrs. Connell for her dedication to Chicopee and the Red Cross.

Since Mrs. Connell's untimely death, the following have served the Chapter as Executive Director: Mr. John Carter, Mr. Richard Lawrence, and the current Director, Colonel William Wolfendon.

The goal of the Chicopee Chapter is to aid in time of disaster, to conduct a Blood Program, Safety Programs, a Junior Red Cross Program, aid to Veterans and their dependents, and aiding military personnel and dependents. Particular mention should be made of the services rendered to the military personnel at Westover Air Force Base throughout the years. The Chicopee Chapter has aided literally thousands of these servicemen and their families through counselling, communications, financial assistance and material aid. In addition to this aid being a part of the mission of the Red Cross, we believe we have made a significant contribution to good Base-Community relations through our efforts. Our assistance to Westover personnel and other Armed Forces personnel and their families will continue.

In order that this brief history not become too lengthy, the following is a list of names of those who should also be mentioned for their devotion and long hours of dedication to the Chapter. If any names are omitted, it is not intentional.

Mrs. Ike Alpert (deceased).
Mr. George Atkinson.
Mrs. Marie Aubrey.
Mrs. Gertrude Austin.
Miss Linda Baker.
Mr. Frank Beardsell (deceased).
Mr. Frank Beasley (deceased).
Mr. Paul H. Benoit.
Mr. Stephen Berestka (deceased).
Mrs. Eva Bergeron.
Dr. Olen Bielski.
Mrs. W. R. Blair.
Mr. Robert Boulay.
Mayor Edward Bourbeau (deceased).
Mrs. Alene Bowman.
Mrs. Charles Bray.
Mrs. Marion Brown.
Miss Rhea Campbell.
Mr. Raymond Carignan.
Mrs. Leona Caron.
Mr. Nelson Carter.
Mrs. Olive Champagne.
Miss Sophie Chmura.
Miss Victoria Cyran.
Mr. John J. Desmond, Jr.
Mr. Arthur M. Donaldson.
Mr. John Fitzpatrick.
Mrs. Mary Fleury.
Mrs. George Fontaine (deceased).
Mr. Roger Gallant.
Mrs. Nancy Gemme.
Mr. James Hafey (deceased).
Mrs. Beatrice Haley.
Mrs. Pearl Hayes.
Miss Esther Hebert.
Mr. Colonel Holgate.
Mrs. Laura Hontz.
Mrs. John Kirby (deceased).
Mr. George Lewis.
Mrs. Josephine MacDonald.
Mr. Thomas McElhorne.
Mrs. Jane Maciolek.
Mrs. Anna Mahoney.
Mrs. Ray Marcille.
Mrs. Lucille Messier.
Mrs. Wilfred Messier.
Mrs. Mabel Midura.
Mrs. C. Mitchell.
Capt. Robert Murray.
Atty. Joseph Nowak, Sr.
Mrs. Claire Ouimette.
Mrs. Hazel Pickup (deceased).
Mrs. Mary Polom.
Mrs. Frank Pikula.
Miss Rita Rodden.
Mrs. Bertha Robinson.
Mrs. Ann Rose.
Mr. Edmund Roy.
Mr. Leo Roy.
Mr. James Sebolt.
Mr. John Shea.
Atty. Walter Shea (deceased).
Dr. Smolczynski (deceased).
Mrs. Edwina Stroshine.
Mr. Thaddeus Szetela.
Mr. Henry Tessier.
Mr. Harkness Usher.
Mrs. Merle Usher.
Mrs. Thomas Wilson.
Mrs. Elizabeth Wright.
Mr. Stanley Ziemba.
Miss Eugenie Trumbell.

Our thanks to the above generous and dedicated volunteers who have made the Chicopee Chapter an instrument of service to the community trhough the past fifty years.

#### PAST CHAPTER OFFICERS

*Chairman*

Mr. Charles A. Ludden, 1922–1937.
Dr. Louis Mannix, 1938–1941.

Mrs. James E. Marshall, 1942–1945.
Mr. Walter J. Trybulski, 1946–1950.
Mr. Nap St. Francis, Jr., 1951–1954.
Mr. Francis P. Rogowski, 1955.
Atty. Thomas D. Murphy, 1956.
Lt. Col. Maurice Trdjanowski, 1957.
Mr. Raymond P. Snyder, 1958–1960.
Mr. Joseph P. Quinlan, 1961–1965.
Mr. Stanford Celatka, 1966.
Mr. Thaddeus Wegrzyn, 1967–1969.
Present chairman: Mr. Thaddeus Budynkiewicz.

### *Vice-chairman*

Mr. Eugene O'Neil, Jr., 1937.
Mrs. William R. Blair, 1938–1939.
Mrs. Thomas Wilson, 1940–1944.
Atty. Joseph W. Nowak, 1945 and 1952.
Mr. Nap P. St. Francis, Jr., 1946–1950.
Mr. Henry B. Fay, 1951 and 1953.
Mr. Raymond P. Snyder, 1954–1956.
Mr. Anast Giokas, 1956–1957.
Mr. Joseph P. Quinlan, 1958–1960.
Mr. Stanford Celatka, 1961–1965.
Mrs. D. J. Hanifan, 1966–1971.
Present Vice-Chairman: Mrs. D. J. Hanifan.

### *Treasurer*

Mr. John B. Knight, 1937.
Mr. Louis T. Beauchamp, 1938–1943.
Mr. Roland J. Majeau, 1944–1957.
Mr. Mitchell Kuzdzal, 1958.
Mr. Anthony Krystofik, 1959–1960.
Mr. Deonysias G. Dulchinos, 1961–1965.
Mr. Thaddeus R. Wegrzyn, 1966.
Mr. Edward Fitzgerald, 1967–1968.
Mr. D. R. Zajchowski, 1969–1970.
Mr. Raymond Arbour, 1971.
Present treasurer: Mr. Raymond Arbour.

### *Secretary*

Mr. Raymond P. Snyder, 1937–1953.
Mrs. Josephine M. DeGowin, 1954–1960.
Miss Marilla Huot, 1961–1966.
Dr. Olen A. Bielski, Jr., 1967–1968.
Mrs. Loula Topulos, 1969–1970.
Present secretary: Miss Rita Rodden.

### COMMITTEES OF THE BOARD OF DIRECTORS

### *Blood program*

Lucille Messier, Chairman; Leona Caron, Mary Fleury, Josephine McDonald, Mary Polom.

### *Budget and finance*

Raymond Arbour, Chairman; Robert Boulay, Ted Wegrzyn.

### *Community involvement*

James Mercer, Chairman; Edward Breton, Ruth Campbell, Al Beaupre, Sophie Chmura, George Haggerty, Raymond Snyder, William Wolfendon.

### *Disaster services*

Ray Carignan, Chairman; Raymond Arbour, Dr. Olen Bielski, Robert Boulay, Mitchell Jasinski, Theodoer Erdhart, James Sebolt.

### *First aid*

Mitchell Jasinski, Chairman; Raymond Carignan, James Sebolt, David Turgeon.

### *Nominating*

James Mercer, Chairman; Raymond Arbour, William Coscore, George Haggerty, Rita Rodden.

### *Membership and funds*

Raymond Arbour, Chairman; Robert Boulay, Ted Wegrzyn.

### *Personnel practices and policies*

Thomas Murphy, Chairman; Raymond Arbour, Dr. Olen Bielski, Stanford Celatka, William Coscore.

### *Properties*

Raymond Snyder, Chairman; Ruth Campbell, George Haggerty, Mrs. D. J. Hanifan, Samuel Jameson, Rita Rodden.

### *Service to military families*

Vera LaFleur, Chairman; Anne Batson, Kathy Hogan, Edwina Stroshine.

### *Water safety*

Ted Budynkiewicz, Chairman; Mary Hill, Raymond Deforge, Christine Merigan, C. V. Rivest, Joan Sullivan, David Turgeon, Alexander Vyce, Judy Wolcott.

### *Youth service*

Sophie Chmura, Chairman; Victoria Cyran, Rita Rodden.

### FIFTIETH ANNIVESARY COMMITTEE

Chairman, Vera LaFluer.
Publicity, William Wolfendon.
Historian, Raymond Synder.
Guests, Robert Janulevicz.
Decorations, Loula Topoulas.
Refreshments, Edward Wall.
Tickets, Marguerite Dearness and David Turgeon.

The chapter's annual report for 1971–1972 reveals the broad range of services now offered:

## FIFTIETH ANNIVERSARY ANNUAL REPORT, AMERICAN RED CROSS, CHICOPEE, MASS.

### DEDICATION

Fifty years is a major milestone for any organization, institution or way of life. The Traditional ideals and services of the Red Cross have become a reality in our community during these years. But the accomplishments of the past—and the hopes of the future—would not be possible were it not for the thousands of volunteer workers who have given so generously of time, energy, and spirit in the preceding half century. So to them—the Red Cross volunteers—we dedicate our 50th Anniversary Meeting.

The American Red Cross is the instrument chosen by the Congress to help carry out the obligations assumed by the United States under certain international treaties known as the Geneva or Red Cross Conventions. Specifically, its Congressional Charter imposes on the American Red Cross the duties to act as the medium of voluntary relief and communication between the American people and their armed forces, and to carry on a system of national and international relief to prevent and mitigate suffering caused by disasters.

All the activities of the American Red Cross and its chapters support these duties.

Nationally and locally the American Red Cross is governed by volunteers and it is financed by voluntary contributions.

### OFFICERS

Mr. Thaddeus Budynkiewicz, Chairman.
Mrs. D. J. Hanifan, Vice Chairman.
Mr. Raymond Arbour, Treasurer.
Miss Rita Rodden, Secretary.

### BOARD MEMBERS

*(Terms Expire 1973)*

Mr. Raymond Arbour, Mr. Robert Boulay, Mr. Edward Breton, Mr. William Coscore, Mr. Richard Demers, Mr. George Haggerty, Mr. Samuel Jameson, Mrs. Vera LaFluer.

*(Terms Expire 1974)*

Mr. James Allen, Mr. Ted Budynkiewicz, Miss Sophie Chmura, Mrs. D. J. Hanifan, Mr. Donald Heroux, Mr. Robert Janulevicz, Mr. Mitchell Jasinski, Mr. James Mercer, Mr. David Turgeon, Mr. T. R. Wegrzyn, Mr. John Woods, Mr. Edward Wall.

*(Terms Expire 1975)*

Mr. Stanley Bigda, Dr. Olen Bielski, Mr. Raymond Carignan, Atty. Thomas Murphy, Mr. George Ouimette, Miss Rita Rodden, Mr. Raymond Snyder, Mrs. Loula Topulos.

Honorary board member: Miss Linda Baker.

### STAFF

William Wolfendon, Executive Director.
Mrs. Marguerite Dearness, Secretary.
Miss Esther Hebert, Volunteer Staff Aide.

### CHAIRMAN'S MESSAGE

Once the idea for establishing an organization to be called the Red Cross became a fact in Geneva, Switzerland in 1865, it so strongly appealed to the best instincts in man that it was predestined to spread widely. The Red Cross movement has grown both in size and service to mankind throughout the world.

Our own chapter came into being in 1922 with the issue of our charter from American Red Cross National Headquarters. On this, our 50th Anniversary it is proper that we recognize the ideals of the Red Cross and recognize the volunteers and career staff of the Chicopee Chapter who have through the years carried out the Red Cross programs.

In spite of serious and persistent financial problems, the Chapter through its volunteers has continued to provide its service to the community, both military and civilian. I see no immediate relief from these financial problems; yet the tasks of the future must be accomplished.

I am proud to serve as your Chapter Chairman and am confident that our dedicated and loyal volunteers and staff will meet the challenges of the future as they have so ably in the past fifty years.

THADDEUS BUDYNKIEWICZ,
*Chapter Chairman.*

### SERVICE TO MILITARY FAMILIES

In accordance with the terms of its Congressional Charter, the Red Cross is charged with the responsibility of acting as the medium of relief and communication between the American people and their Armed Forces.

We believe this responsibility has been adequately discharged by our chapter during the past year as it has in the past 50 years of its existence.

Our case load is always high due to the proximity of Westover AFB but we are happy to be of service to the fine men of Westover and their families. As in the past, our aid has taken the form of counseling, emergency communications, health reports, and financial assistance.

Breakdown of case activity is as follows:

| | |
|---|---|
| Loans to servicemen and their families | $3,480 |
| Total loans | 27 |
| Total number of cases serviced | 187 |
| Total number of requests for limited service | 132 |
| Total cases | 319 |

VERA LAFLUER,
*SMF Chairman.*

### DISASTER SERVICE

In accordance with our Congressional Charter, the Chicopee Chapter Disaster Action Team stands ready now to assist in times of personal or community crisis as it has during the past 50 years of its existence. Our assistance to the victims of disaster includes temporary lodging, food, and clothing—all a GIFT of the Red Cross.

At this time when the Chicopee Chapter observes its 50th Anniversary, I think it appropriate to recognize the efforts of the National and International Red Cross and its Disaster relief for over one hundred years. The record speaks for itself.

Many thanks to the trained and dedicated volunteers who serve on our Disaster Action Team.

RAYMOND L. CARIGNAN,
*Disaster Chairman.*

### OFFICE OF VOLUNTEERS

At the time of this observance of our 50th Anniversary, I would like to recognize and commend the thousands of volunteers who, through the years, have accomplished the mission of the Red Cross in our community. Only when it is realized that there are but two staff employees in the Chapter, does the scope of the work of our volunteers become apparent.

Volunteers in the past have left to our present corps of volunteers, a legacy of service to their fellow man. We accept the challenges and tasks of the present and the future in carrying out the Red Cross ideals in the best traditions of 50 years of service to our community.

LOULA TOPULOS,
*Chairman of Volunteers.*

### FIRST AID

Throughout the 50 years of our existence, our volunteer instructors have trained thousands of people in the art of First Aid. We are proud of this service to our community and intend to continue it.

During the past year, we conducted courses for 150 people as follows:

| | Courses | Certificates |
|---|---|---|
| Junior first aid | 1 | 32 |
| Standard first aid | 7 | 66 |
| Advanced first aid | 1 | 52 |

MITCHELL JASINSKI,
First Aid Chairman.

### BLOOD PROGRAM

It is with a great sense of personal satisfaction that I serve as your Blood Program Chairman. It is wonderful to see blood donors come forth, many for the first time, and see them leave with pride knowing their donation of blood is the gift of life to people in need.

It has been a great pleasure to work with the heads of clubs, lodges, college, and industrial plants who are so cooperative with our Blood Program.

We have had 25 blood banks during the past year and have collected 1072 pints of blood. A total of 2224 volunteer hours were served.

A big "Thank You" to my wonderful and faithful volunteers who cooperate 100% with me.

LUCILLE MESSIER,
*Blood Program Chairman.*

### WATER SAFETY

Volunteer Water Safety instructors conduct courses for people of all ages in swimming and lifesaving.

More than 1200 persons were reached by demonstrators and given instruction on personal safety in, on, and around the water. The Chicopee Red Cross is justly proud of its Water Safety Program. We are proud of the corps of volunteer instructors and of the excellent work they have done. It is our goal to "water-proof" Americans through our Water Safety Program.

| | Courses | Certificates |
|---|---|---|
| Beginner swimming | 51 | 392 |
| Advanced beginner swimming | 27 | 244 |
| Intermediate swimming | 28 | 152 |
| Swimmer | 16 | 75 |
| Advanced swimmer | 1 | 2 |
| Junior life saving | 15 | 69 |
| Senior life saving | 15 | 86 |
| Water safety aide | 1 | 2 |
| Total | 154 | 1,022 |

THADDEUS BUDYNKIEWICZ,
Water Safety Chairman.

### NURSING PROGRAM

Our volunteer nurses continue to serve with dedication and skill at our blood banks. They served 480 hours at the 25 blood banks.

I extend my own thanks and those of the chapter to these fine volunteer nurses.

Miss LINDA BAKER, R.N.,
*Chief Nurse.*

### FINANCIAL REPORT—FISCAL YEAR ENDING JUNE 30, 1971

*Income*

| | |
|---|---|
| Allocation from United Fund (chapter portion only) | $17,397.00 |
| Miscellaneous income | 217.00 |
| Total income | 17,669.00 |

*Expenses*

| | |
|---|---|
| Salaries and related expenses | $12,529.74 |
| Office maintenance and operations | 3,156.50 |
| Activities and services | 3,523.34 |
| Total expenses | 19,209.58 |
| Excess of expenses over income | (1,540.58) |
| Total allocation from United Fund | 31,000.00 |

### BEQUESTS TO THE RED CROSS

Pursuant to its Congressional Charter, the Red Cross is a national corporation and the chapters are its local units.

The following basic forms are recommended for making a testamentary gift to the national organization or a local chapter.

For a bequest to the national organization:

"I give, devise, and bequeath to the American National Red Cross the sum of . . . dollars" (or otherwise describe the gift).

For a bequest to the local chapter:

"I give, devise, and bequeath to the American National Red Cross the sum of . . . dollars (or otherwise describe the gift) for the use of Chicopee Chapter."

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## RARICK TESTIMONY ON THE BUSING PROBLEM

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. RARICK. Mr. Speaker, I was privileged to testify today before Subcommittee No. 5 of the House Judiciary Committee in support of legislation proposing an antibusing amendment to the Constitution prohibiting the assignment of any public school student to a particular school because of his race, creed, or color. Ratification of such an amendment—which would, I believe, come swiftly—would restore the right of freedom of choice to the American people, which is, after all is said and done, what America is all about.

I insert my testimony in the RECORD at this point:

### STATEMENT OF JOHN R. RARICK

Mr. Chairman, Members of the Subcommittee, I welcome this opportunity to testify today as you begin consideration of legislation to correct the inequities of forced busing to achieve "proper racial proportions," a problem that threatens freedom in America by dividing our people and demoralizing our educational system.

Forced busing to achieve theoretical racial proportions is both morally and legally wrong; it is an abrogation of the basic American right of freedom of choice and a denial of the rights of the American citizen to choose the society in which he will live, work, and raise a family, a society where he can pass on his heritage and culture in peace and harmony with his chosen friends.

Forced busing is a practice which, if demanded of adult Americans, would be immediately condemned and stopped. It is no more moral for society to apply to children the force which, if it were applied to adults, men would know immoral. What charity, what compassion, what morality is there in forcing a child as we would not force his father. Anyone can see that to apply such force to American adults would make our society a police state.

One of the best statements exposing the immorality of busing school children to achieve racial balance appeared in the Wall Street Journal of February 26, 1971. Two key passages of this editorial are worth noting at this point.

The editorial begins with a very definite statement: "Surely it is time to face up to a fact that can no longer be hidden from view. The attempt to integrate this country's schools is a tragic failure." The article concludes with a statement of its principal theme, a theme that is very relevant to the legislation now before this Subcommittee:

"So long as he does not encroach upon others, no man should be compelled to walk where he would not walk, live where he would not live, share what company he would shun, think what he would not think, believe what he believes not."

Mr. Chairman, I ask that the text of this editorial, "Forced Integration: Suffer the Children," be inserted at this point in my testimony.

[From the Wall Street Journal, Feb. 26, 1972]

### FORCED INTEGRATION: SUFFER THE CHILDREN

(By Vermont Royster)

"Surely it is time to face up to a fact that can no longer be hidden from view. The attempt to integrate this country's schools is a tragic failure."

The words of Stewart Alsop in Newsweek will serve as well as any. They are startling, honest and deeply true. Whatever anyone else says otherwise, however shocked we may be, we know he is right.

The proof lies in the fact that Congress, in a confused sort of way, has made it clear that it no longer thinks forced integration is the way to El Dorado. Since Congress is a political body, that in itself might be evidence enough. But Mr. Alsop has also put the statement up for challenge to a wide range of civil rights leaders, black and white, ranging from Education Commissioner James Allen to black militant Julius Hobson, and found none to deny it. Beyond that, we have only to look around ourselves, at both our white and our black neighbors, to know that the failure is there.

But that only plunges us into deeper questions. Why is it a failure? And why is it tragic? Why is it that something on which so many men of good will put their faith has at last come to this? Where did we go wrong?

And those questions plunge us yet deeper. For to answer them we must go back to the beginning. It is the moment for one of those agonizing reappraisals of all our hopes, emotions, thoughts, about what is surely the most wretched of all the problems before our society.

#### A SIMPLE PROPOSITION

We begin, I think, with a simple proposition. It is that it was, and is, *morally* wrong for a society to say to one group of people that because of their color they are pariahs—that the majesty of law can be used to segregate them in their homes, in their schools, in their livelihoods, in their social contacts with their fellows. The wrong is in no wise mitigated by any pleas that society may provide well for them within their segregated state. That has nothing to do with the moral question.

In 1954, for the first time, the Supreme Court stated that moral imperative. Beginning with the second decision the judges in a series of decisions struck down the legal underpinnings of segregation.

Since emotions and prejudices are not swept away by court decisions, there were some white people in all parts of the country who resisted the change. But they were, for all their noise, in the minority. The great body of our people, even in the South where prejudice had congealed into custom, began the talk of stripping away the battens of segregation. Slowly, perhaps, but relentlessly.

Then some people—men of good will, mostly—said this was not enough. They noticed that the mere ending of segregation did not mix whites and blacks in social intercourse. Neigborhoods remained either predominantly white or black. So did schools, because our schools are related to our neighborhoods. So did many other things. Not because of the law, but because of habit, economics, preference—or prejudices, if you prefer.

From this came the concept of "de facto" segregation. This Latin phrase, borrowed from the law, describes any separation of whites and blacks that exists in fact and equates it with the segregation proscribed by law. The cause matters not. These men of good will concluded that if segregation in law is bad then any separation that exists in fact is equally bad.

From this view we were led to attack any separation as de facto segregation. Since the first attack on segregation came in the schools, the schools became the first place for the attack on separation from whatever cause. And since the law had served us well in the first instance, we chose—our lawmakers chose—to use the law for the second purpose also. The law, that is, was applied to compel not merely an end to segregation but an end to separation by forced integration.

It was at this point that we fell into the abyss. The error was not merely that we created a legal monstrosity, or something unacceptable politically to both whites and blacks. The tragedy is that we embraced an idea *morally* wrong.

That must be recognized if we are to understand all else. For what is wrong about forced integration in the schools is not its impracticality, which we all now see, but its immorality, which is not yet fully grasped.

Let us consider.

Imagine, now, a neighborhood in which 95% of the people are white, 5% of them black. It is self-evident that we have here a de facto imbalance. We do not have legal segregation, but we do not have integration either, at least not anything more than "Tokenism."

Let us suppose also that for some reason—any reason, economics, white hostilities, or perhaps black prejudice against living next door to whites—the proportion does not change. The only way then to change it is for some of the whites to move away and, concurrently, for some blacks who live elsewhere to move into this neighborhood. One is not enough. Both things must happen.

### CREATING AN IMBALANCE

Or let us suppose the proportion does change. Let us suppose that for some reason—any reason, including prejudice—large numbers of white families move out of the neighborhood, making room for black people to move in, so that after a few years we have entirely reversed the proportions. The neighborhood becomes 95% black, 5% white.

Again we have an imbalance. Again we do not truly have segregation, but call it that, if you wish; de facto segregation. In any event we do not have integration in the sense that there is a general mixing together of the blacks and whites.

Now suppose that we act from the assumption that this is wrong. That it is wrong to have the neighborhood either 95% white or 95% black. That the mix to be "right," must be some particular proportion.

What action is to be taken? In the first instance, do we by law forcefully remove some of the white families from the neighborhood so that we can force in the "proper" number of black families? Or; in the second instance, do we by law prohibit some of the white families from moving out of the neighborhood? If we do either, who decides who moves, who stays?

The example, of course, is fanciful. We do none of this. No one has had the political temerity to propose a law that would send soldiers to pick people up and move them, or to block the way and prevent them from moving. No one stands up and says this is the moral thing to do.

Stated thus badly, the immorality of doing such things is perfectly clear. No one thinks it moral to send policemen, or the National Guard, bayonets in hand, to corral people and force them into a swimming pool, or a public park or a cocktail party when they do not wish to go.

No one pretends this is moral—for all that anyone may deplore people's prejudice—because everyone can see that to do this is to make of our society a police state. The methods, whatever the differences in intent, would be no different from the tramping boots of the Communist, Nazi or Fascistic police states.

All this being fanciful, no one proposing such things, it may seem we have strayed far from the school integration program. But, have we?

The essence of that program is that we have tried to apply to our schools the methods we would not dream of applying to other parts of society. We have forced the children to move.

There are many things wrong with the forcible transfer of children from school to school to obtain the "proper" racial mix. It is, for one thing, wasteful of time, energy and money that could better be applied to making all schools better.

To this practical objection there is also the fact that in concept it is arrogant. The unspoken idea it rests upon is that black children will somehow gain from putting their black skins near to white skins. This is the reverse coin of the worst segregationist's idea that somehow the white children will suffer from putting their white skins near to black skins.

Both are insolent assertions of white superiority. Both spring from the same bitter seed.

Still, the practical difficulties might be surmounted. The implied arrogance might be overlooked, on the grounds that the alleged superiority is not racial but cultural; or that, further, both whites and blacks will gain from mutual association. That still leaves the moral question.

Perhaps it should be re-stated. Is it moral for society to apply to children the force which, if it were applied to adults, men would know immoral? What charity, what compassion, what morality is there in forcing a child as we would not force his father?

It is a terrible thing to see, as we have seen, soldiers standing guard so that a black child but cringe in shame that only this way is it done. But at least then the soldiers are standing for a moral principle—that no one, child or adult, shall be barred by the color of his skin from access to what belongs to us all, white or black.

But it would have been terrifying if those same soldiers had been going about the town rounding up the black children and marching them from their accustomed school to another, while they went fearfully and their parents wept. On that, I verily believe, morality will brook no challenge.

Thus, then, the abyss. It opened because in fleeting from one moral wrong of the past, for which we felt guilty, we fled all unaware to another immorality. The failure is tragic because in so doing we heaped the burdens upon our children, who are helpless.

### MUST WE TURN BACK?

Does this mean, as many men of good will fear, that to recognize as much, to acknowledge the failure of forced integration in the schools, is to surrender, to turn backward to what we have fled from?

Surely not. There remains, and we as a people must insist upon it, the moral imperative that no one should be denied his place in society, his dignity as a human being, because of his color. Not in the schools only but in his livelihood and his life. No custom, no tradition, no trickery should be allowed to evade that imperative.

That we can insist upon without violating the other moral imperative. So long as he does not encroach upon others, no man should be compelled to walk where he would not walk, live where he would not live, share what company he would shun, think what he would not think, believe what he believes not.

If we grasp the distinction, we will follow a tragic failure with a giant step. And, God willing, not just in the schools.

### Resumption of Testimony Before the Subcommittee

Forced busing to overcome racial imbalance is illegal; it is, on the face of it, in violation of the law of the land. But what is the "law of the land"?

We start with the Constitution of the United States, where the law of the land is defined in no uncertain terms in what is called the supremacy clause, found in article VI.

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby . . ."

The crucial provision of our Constitution is:

"This Constitution and the Laws of the United States which shall be made in pursuance thereof . . . shall be the supreme Law of the Land . . ."

Nothing is provided about Supreme Court decisions being the law of the land. On the other hand, judges are bound by acts of Congress.

Now Congress has enacted laws pursuant to the Constitution which are the law of the land. One of these laws goes right to the heart of our school problems today and points out the usurpation by the Supreme Court's ruling on busing.

Title 42 of the United States Code, section 2000 C–6(a)(2) reads:

". . . provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or the school district to another in order to achieve racial balance or otherwise enlarge the existing power of the court to insure compliance with Constitutional Standards."

42 U.S.C. 2000C Definition (b) reads:

"Desegregation means the assignment of students to public schools and within such schools without regard to their race . . . but desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance."

And then to make sure that the intent of Congress was not misunderstood, when we appropriated money to operate the Department of Health, Education, and Welfare, we wrote into that law—in English so plain no one can misunderstand—a provision forbidding HEW to misuse taxpayers moneys in busing to achieve racial balance.

The language of the HEW Appropriations Act reads:

"No part of the funds contained in this Act may be used to force busing of students, abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance."

I would particularly point out here, Mr. Chairman, that part of title 42, U.S.C. that specifically provides that no Federal court shall "otherwise enlarge the existing power of the courts, to insure compliance with

Constitutional Standards." Certainly this passage, which is existing law, calls into question the Supreme Court's very justification for its actions in the Swann-Mecklenburg decision.

These laws forbidding the use of forced busing or the assignment of students to public schools in order to overcome racial imbalance have never been declared unconstitutional. They are the law of the land, and courts which hold to the contrary are in direct disobedience of the very law which they have sworn to uphold.

The problem confronting this Committee and the Congress is, then, involved with the relationship between the separate branches of the government. It is evident that the Federal judiciary will not on its own iniative return to the law of the land. It is, therefore, up to us—the representatives of the people assembled in Congress—to restore the basic right of freedom of choice to the American people and rescue them from judicial tyranny.

Mr. Chairman, it is worth pausing a moment here to take note of Jefferson's remarks on the dangers of judicial tyranny. He said:

"The Constitution is a mere thing of wax in the hands of the judiciary.

"The great object of my fear is the federal judiciary. That body, like gravity, ever acting, with noiseless foot, and unalarming advance, gaining ground step by step, and holding what it gains, is engulfing insiduously the special governments into the jaws of that which feeds them.

"I am sensible of the inroads daily made by the federal judiciary into the jurisdiction of its co-ordinate associates, the State governments. The legislative and executive branches may sometimes err, but elections and dependence will bring them to rights. The judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass.

"Our government is now taking so steady a course as to show by what road it will pass to destruction, to-wit: by consolidation first, and then corruption, its necessary consequence. The engine of consolidation will be the federal judiciary; the two other branches, the corrupting and corrupted instruments.

"It has long been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our federal government is in the constitution of the federal judiciary; an irresponsible body (for impeachment is scarcely a scare-crow), working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the States, and the government of all be consolidated into one. To this I am opposed; because, when all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the centre of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated."

There are, as you are all well aware, steps that we, the elected representatives of the people assembled in Congress, can take to check the power of the judiciary and satisfy the cry of the people raised against the use of forced busing to overcome racial imbalance.

There is incontrovertible evidence to indicate that a vast majority of Americans are opposed to forced busing to achieve some ridiculous notion of "proper racial proportions." In the Gallup Poll of September 1971, the results indicated that 73% of the American people oppose the use of forced busing to achieve some idea of proper racial mixture. Only 19% indicated that they favored the continued use of busing, with 8% indicating no opinion on this issue. I would dare say that the number of Americans opposing forced busing has increased over the past school year with the further implementation of Swann-Mecklenburg and the recent Richmond decision.

One of the means available to the Congress to check the power of judiciary is through Constitutional amendment. 146 Members, as of February 25, 1972, have indicated their support for this approach to the problem of busing through the signing of discharge petition 9, calling H.J. Res. 620 from the consideration of this Committee. This bill proposes an amendment to the Constitution reading, in essence, "No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school."

I speak today in support of this or similar legislation. I repeat, there is no need of further laws prohibiting the use of busing to achieve "proper racial balance"—it is already against the law of the land, clearly stated in incontrovertible language. The problem is caused not by our laws, but by a Federal judiciary that has virtually ignored the laws it has sworn to uphold. Our Constitution, the very foundation of the American system, is quite clear on this—one sure means available to the Congress to check the power of the judiciary is through Constitutional amendment, to restate to our friends on the bench that the people want the Constitution to mean what it says.

I would, in conclusion, again point out that passage of this legislation and eventual ratification as part of the Constitution will restore the basic right of freedom of choice to the American people and will protect them from judicial tyranny by restoring to them the right of private property, the right to reap the benefits of ownership and/or residence in a place of their own choosing.

Finally, Mr. Chairman, I would point out one further effect that ratification of such a Constitutional amendment would have. It would be an effective curb on such decisions as rendered in the Richmond case and suggested in the earlier Atlanta decision wherein the Federal judge or judges ordered the merger of an inner city school system with the school systems of surrounding counties, again to achieve and maintain "proper racial proportions." I am sure that you are all well aware of the fact that such a decision will, through implementation, force wholesale busing of school children to achieve some unrealistic notion of racial proportions.

Mr. Chairman, I urge you and the Members of the Subcommittee to give favorable consideration to H.J. Res. 620, or similar legislation proposing an amendment to the Constitution prohibiting the assignment of any public school student to a particular school because of his race, creed, or color. Ratification of such an amendment—which would, I believe, come swiftly—would restore the right of freedom of choice to the American people, which is, after all is said and done, what America is all about.

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## HUCKSTERS IN BLOOD

## HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. VEYSEY. Mr. Speaker, in my remarks on my bill, H.R. 11828, I have often referred to Dr. J. Garrott Allen as an expert on many aspects of blood banking. He has been involved in this field for nearly 20 years as a laboratory and clinical researcher, a blood bank administrator, and now as professor of surgery at Stanford Medical Center. Dr. Allen's long and varied experience in this field has led to a strong conviction that volunteerism is indispensable in blood banking.

"Hucksters in Blood" is a well written statement of Dr. Allen's views. Particularly important is Dr. Allen's conviction that labeling blood as to its source is crucial to quality blood for all recipients of blood. I commend this article to the attention of my colleagues.

The article follows:

### HUCKSTERS IN BLOOD

(By J. Garrott Allen, M.D.)

The main hazard of a blood transfusion is the hepatitis it may produce. Blood, like milk, may be bought and sold. Unlike milk, not all sources of blood are Grade A. The quality of milk is better regulated by the Food and Drug Administration than is the quality of blood, regulated by the Division of Biologics Standards of H.E.W. Milk is a product that carries an implied warranty as to the health of the herd. Milk itself is tested daily at the dairy for quality, and for bacteria four times in six months, according to the USPHS Milk Ordinance of 1965. There is no such ordinance governing the production of blood and blood products. National standards for milk apply in every state, but this is not true for blood, except when interstate shipment is involved. Blood, produced and sold within a state, may be governed by few, if any, regulations as to quality.

The problem is so serious that physicians, blood banks and hospitals have become gun-shy about transfusions, until protective legislation can be developed. Quietly, laws have been passed in state after state which protect the medical profession, including blood banks, against the liability that may be incurred when a patient develops transfusion hepatitis. Already, in more than 25 states, such laws have been passed which strip the patient of his right to sue. These laws attempt to guarantee immunity for the doctors, blood banks and hospitals from any and all ill effects that may arise from the administration of blood or its derivatives. Many, if not all, of the states have been stimulated to pass similar laws, after the Illinois State Supreme Court, on September 29, 1970, handed down its decision on the Cunningham vs. MacNeal Memorial Hospital case.

This decision granted permission for the local court to try the case in which Cunningham had filed suit for damages sustained from transfusion hepatitis, allegedly contracted from a transfusion at the MacNeal Memorial Hospital in 1960. The blood was from a commercial donor.

It is estimated by the National Research Council and the American National Red Cross that approximately 30,000 cases of hepatitis occur each year. The mortality rate is about 20% in patients over 40, and three-fifths of the blood given is to patients 40 years and older. This could be reduced by 90% if all blood were from volunteer donors.

Volunteer donors are friends, relatives, or any other persons, who give blood without pay as a civic duty, as a replacement without pay for a friend or who participate in a volunteer blood assurance program. In our affluent society, many patients elect to pay for blood rather than to ask their friend to volunteer as donors. This has been a mistake because a large proportion of purchased blood is from the lower socio-economic groups, which include Skid-Row and addict donors as well as prison donors. These donors carry, on the average, about 10 times the risk of transmitting hepatitis as does a population of similar size of volunteer, unpaid donors.

The sine qua non of the commercial donor is that he has been paid or that he is a prisoner. The commercial donor is willing to sell his blood for from $5 to $10 or, in the case of prisoners, to buy time. These people, living under crowded and unsanitary conditions, tend to be exposed to hepatitis. Whether or not they develop the disease, many carry the infectious agent in their blood for many months to many years, perhaps a life time. There is no test that will satisfactorily detect most of these carriers who otherwise usually appear in good health. The common use of the needle among drug users is a notorious way in which hepatitis of this kind is transmitted. It is money that these people need to obtain more drugs or alcohol. Commercialism in blood is a national problem. For the above reasons, the most important information about blood, other than typing and cross-matching, is whether it has been purchased.

If blood were labelled according to its origin, whether it had been purchased or donated, the doctor would have a basis upon which to make a rationale decision. He could then request a unit of blood from a volunteer donor, or he could perhaps use a less dangerous fluid. The National Institutes of Health and the National Research Council appear unwilling to consider this simple safeguard. Apparently, to do so would acknowledge that there are two kinds of donor populations, high-risk and low-risk. And there are.

The point of law in question is whether blood is a service or a product. Legally, a product is subject to warranty, in that its producer guarantees its quality. A service is not. So blood is declared a service for the purposes of those who manufacture this "service". Therefore, there has been a scramble by the legislatures of many states to pass laws in which blood transfusions are declared a service, from donor to patient.

### PROTECTIVE LEGISLATION

It does not seem fair that the doctor, the hospital and the blood bank should be protected against the risk of transfusion hepatitis and the patient not. Ironically the present laws are directed against the health of 100 per cent of our population and against the financial interests of 98 per cent of their constituents—those not engaged in the service of blood transfusion. In California the following law was passed in 1964:

"Section 1623. Blood, etc.; processing, distribution; service, not sale. The procurement, processing, distribution, or use of whole blood, plasma, blood products; and blood derivatives for the purpose of injecting or transfusion the same, or any of them, into the human body shall be construed to be, and is declared to be, for all purposes whatsoever, the rendition of a service by each and every person, form or corporation participating therein, and shall not be construed to be, and is declared not to be, a sale of such whole blood, plasma, blood products, or blood derivatives, for any purpose or purposes whatsoever."

This law certainly can not be said to be in the interests of our patients, and it is no credit to medicine or blood bankers. It is proposed to amend the law in California in 1971 more sternly against the patient by the passage of AB 2889.

Whether a transfusion represents a product, a service or a combination of both is irrelevant to the patient if he contracts transfusion hepatitis. He may be mildly ill, moderately ill, severely ill, or he may die.

Once such protective legislation has been passed, there is no stimulus for the physician, the hospital or the blood bank to improve the quality of blood. They need only maintain the status quo. Although the patient has eleven or more times the risk rate of contracting serum hepatitis from commercial blood than if only volunteer blood is used, by law the blood bankers are saying that all blood carries equal risk. Medically, as physicians, we know this is not true.

The patient has no choice as to whether he receives blood from a commercial high-risk donor population or a low-risk volunteer population. Even if the patient brings in volunteer donors in advance of his need, there is no guarantee that this responsible act will receive any consideration when he is transfused, even though his donors are of his own type. In no state do the laws require that blood banks are obligated to provide such patients with blood from volunteer sources in return for the patient's effort and foresight.

The California law does nothing to encourage blood banks, hospitals and physicians to improve the quality of blood they are now using. Backing similar legislation in Illinois are the American National Red Cross, the American Association of Blood Banks, the State Medical Society, the State Hospital Association, the Midwest Chapter of the National Hemophilia Foundation, and a variety of lesser medical or paramedical organizations. This seems strange.

Better they unite to form a vigorous national all-volunteer program, producing blood and its products that are uniform in excellence, and labelling it as unpurchased.

### FACTORS DISCOURAGING VOLUNTEER BLOOD PROGRAMS

Would this country support an all-volunteer blood program? With vigorous leadership, almost certainly yes. The USA is the only country, in the western hemisphere and most of western Europe, in which a national volunteer blood program does not exist. We have not even attempted to form one. True, one can get blood through the Clearing House Program of the American Association of Blood Banks, but this does not mean that quality blood, given at one point, will be quality blood administered at another. The Clearing House system introduces a bias in favor of commercialism. If we had an all-volunteer program, Clearing House activities would be unnecessary, and quality blood donated would be quality blood delivered.

Another contributor to the use of commercial blood is blood insurance, issued as a part of many commercial health policies. These policies provide for the cost of blood and, in many cases, for its services. Such insurance can only lead to the assurance that more patients will receive commercial blood. Because the patient need not replace his blood, the insurance companies pay the hospitals, the hospitals in turn pay the blood banks which, then, pay commercial donors. Approximately 76 million people are insured under commercial policies, 70 million under Blue Cross, a little more than 20 million by Medicare and an unknown number by the Veterans Administration.

The Director of the Health Insurance Council of America informed me that, if the commercial insurance companies did not provide for the costs of blood in their policies, blood banks would provide their own insurance. This statement may well be correct because there have been several insurance policies offered by blood banks in different parts of the country. The matter of conflict of interest is easily circumvented through simple legal maneuvers. This does not change the fact that conflict of interest does exist and, while it can be swept under the legal carpet, the patient remains the potential victim of the hucksters of blood.

In the sale of blood, profits are large even for non-profit blood banks. Commercialism discourages volunteer donations. Many patients would rather buy blood than to bother their friends, although their friends usually would welcome the chance to give. Commercialism takes all the satisfaction out of giving.

### TRANSFUSION: A BUSINESS OR A SERVICE

Our present commercial system is unique in that the poorer the product, the higher the price. Usually price is quality-related. A filet mignon costs more than a hamburger. In blood banking in the United States, the question is not so much between a service and a product as it is between a service and a business. Some establishments issue stock.

Most commercial blood banks are incorporated as "not-for-profit", the profits being consumed by large salaries, expansion and in the name of research. Getting to the bottom of the financial practices in blood banking is about as difficult as it is to ferret out the activities of the Mafia.

In the recently published book by Titmuss, entitled *The Gift Relationship*[1], he points out the much greater efficiency in the use of blood and its products in England than in the United States. However, no one is losing any money in this country because of this inefficiency, but we do lose about 8 times more blood, in proportion, than England does. In England, blood banking is a national service. In the United States it is a competitive business. In our country, each time a particular unit of blood is cross-matched, the cost of a new typing fee and a new cross-match is added. The potential financial yields can run in excess of $100 for each pint of blood (see Table I).

### SKID-ROW AND THE AU ANTIGEN

Most agree that we could reduce our incidence of transfusion hepatitis by nearly 90% if we used an all-volunteer system. To do this means that blood must be labelled, when it is drawn, as voluntarily given or purchased. Such distinctions would tend to eliminate the use of prisoners and Skid-Row and addict populations as donors. Money for drugs or alcohol, or buying time from a prison sentence, are the urgent needs of these people and why they show up so frequently at blood banks using commercial systems.

Beginning in 1961, Dr. Baruch Blumberg,[2] discovered an antigen in the blood of an Australia aborigine which was not recognized as being related to transfusion hepatitis until 1965. Since then a number of similar tests have been developed, but none, by whatever method currently used, discovers more than 25 to 30% of infectious carriers of hepatitis when routinely used. The failure to achieve better detection of infectious donors would seem to indicate that the Australia antigen is but one of several antigens that may cause transfusion hepatitis. The work of Krugman[3] would seem to verify this. Indirectly, the work of Prince[4] supports it too. He has found that his technique detects only one out of four potentially infectious donors. Compared to my clinical observations in which I found the attack rate for transfusion hepatitis from prison blood to be eleven times that recorded for volunteer blood,[5] Prince found his Au antigen test to be positive twelve times more frequently for blood from commercial sources.

In the results of Au testing, as of May 1971, about 75% of possibly infectious donors escape detection. One would expect that the results of our clinical experience would show disease, in any susceptible patient receiving infectious blood, to be four times greater than the laboratory results of Prince would have indicated. This indeed proved to be true.

Perhaps the Au antigen accounts for only about 25% of hepatitis associated with transfusion. This possibility should not be overlooked.

### INFORMED CONSENT AND STRICT TORT LIABILITY

Informed consent has no medical value in the case of transfusion hepatitis for several reasons. It is impossible for the lay patient to be informed adequately of the risk of hepatitis that transfusion may carry, and it is unreasonable to expect him to understand the full range of complications of hepatitis. Furthermore, the patient may be under anesthesia before the decision is made

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Footnotes at end of article.

to give him a transfusion, or he may be brought into the hospital unconscious and in urgent need of blood. With these acknowledged deficits, one nonetheless should carry out the charade of informed consent. But it would be much simpler for the patient's doctor to know the source of the blood before he gives it. He needs to balance risks against gains in making this decision, without this knowledge, he can not.

The strict tort liability theory assumes that there is a certain liability inherent in the cost of doing business. When there are so many at risk for transfusion hepatitis, why should not all share in the costs of the few who contract the disease? In our everyday life we have solved similar problems by suitable procedures, which also involve services that can be life-saving. For example, we do not, as individuals, pay each time we use the Fire Department or the Police Department. Taxation insures that a person will not be charged for the service of putting out a fire in his home. In our community, the average cost of a fire call is $2,900. These costs are shared community-wide, and as citizens, we are happiest when we have not had to use these services. Why not also "tax" for unavoidable accidents in Medicine?

### FINANCING TORT LIABILITY

About thirty-thousand cases of posttransfusion hepatitis occur each year, according to the estimates of the National Research Council and the American National Red Cross. This is a reasonable guess. Further, they estimate that if an all-volunteer program were used, only about 3,000 cases would occur. This too is probably correct, assuming that doctors use blood more conservatively than at present. If each of the 3,000 patients who develop posttransfusion hepatitis were awarded an average of $20,000 each, the national total would be $60,000,000. This may be more than most blood banks make in profit.

But the strict tort liability theory could help enormously to improve our national blood program, if it were properly used. Costs of $60,000,000 per year could be readily met if one added $1.00 per year per person to each of the hospital insurance policies covering the 180,000,000 people currently insured, and the total of $1.00, divided three ways among the doctor, the hospital and the blood bank, for each transfusion given. This would tend to limit the administration of blood to only those patients who really needed it. This would also create a large nest-egg of $186,000,000 per year, or about three times what is needed to get started. Later these charges could be reduced according to experience (illustrating this possibility are the data shown on Table II). A scheme such as this could cover other unavoidable medical accidents, and these considerations are not far away. Since the patient will already have paid his part, the costs to the doctor, hospital and blood bank should not be permitted to be passed on to the patient.

This plan seems a more reasonable approach than to introduce legislative methods that are designed to protect the selective interests of only 2 per cent of our total population who one day also may need blood.

### TABLE I

*Average charges for blood around the Bay Area*

*Possibility I:* Income from one unit of blood, given to first crossmatched patient: $25 1 unit of blood, each; plus $16 processing fee, each unit; plus $8.75 crossmatching fee, each unit equals $49.75 and $2.50 ABO grouping, each new patient; plus $4.50 Rh-typing, each new patient; totals $56.75.

*Possibility II:* Income from one unit of blood, given to fifth crossmatched patient: (According to the blood bank, one unit of blood averages to be crossmatched 5 to 6 times before it is actually given. Surgeons order blood for most operations, but do not use it): $8.75 crossmatching fee, plus $2.50 ABO grouping, plus $4.50 Rh typing, equals $15.75 times 5 patients, equals $78.75, plus $25 one unit of blood, $16 processing fee; total $119.75.

*Possibility III:* Charge to patient for one unit of blood ordered, but not given: $8.75 crossmatching for each unit ordered (usually more than one unit); plus $2.50 ABO grouping (once on each new patient); plus $4.50 Rh typing (once on each new patient) equals $15.75.

*Possibility IV:* Out-dated blood can be returned to the supplier (who uses it for fractionation) with no cost to the hospital.

### TABLE II

*Sources of Fund to Offset Costs for Tort Liability*

Professional contributions per transfusion: $2 million from practicing physicians (estimated 250,000 each); $2 million from blood banks (estimated 5,500 facilities); $2 million from hospitals (estimated 7,800 nationwide); totals $6 million.

Patient contributions at $1 per annum (each insured person, all ages): $76 million through commercial insurance companies; $70 million through Blue Cross insurance; $21 million through Medicare; $13 million (approx.) through Veterans Administration; totals $180 million from insured patients (approximate total).

$180 million patient contribution per annum, plus $6 million professional contribution per transfusion equal $186 million, approximate total yield, minus $60 million estimated for tort liability awards ($20,000 × 3,000 cases) equals $100 million annual surplus.

### FOOTNOTES

[1] R. M. Titmuss, The Gift Relationship: from Human Blood to Social Policy (Pantheon Books, New York, January 1971).

[2] W. T. London, M. Difiglia, A. I. Sutnick, B. S. Blumberg, New Eng. J. Med. *281,* 571 (1969).

[3] S. Krugman, J. P. Giles, J. Hammond, J.A.M.A. *200,* 365 (1967).

[4] C. E. Cherubin and A. M. Prince, Transfusion, *11,* 25 (1971).

[5] J. G. Allen, Cal. Med. *104,* 293 (1966).

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## TEMPLE ANSHE EMETH OF YOUNGSTOWN, OHIO, CELEBRATES GOLDEN JUBILEE

## HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. CARNEY. Mr. Speaker, on Sunday, February 20, 1972, Temple Anshe Emeth of Youngstown, Ohio, celebrated 50 years of service to the community. In 1919, a handful of people founded Anshe Emeth Congregation: Messrs. and Mesdames Max Fish, Max Frankle, J. Schwartz, David Rand, and Messrs. J. D. Feldman and Philip Isenberg. Anshe Emeth or "Men of Truth" was decided upon as the name for the congregation, with the understanding that it would be orthodox in ritual and conservative in nature.

These dedicated men and women chose to establish a new congregation because they were dissatisfied with the type of religious education their children were receiving in the congregations which existed in Youngstown at that time. They worked, fought, struggled, sacrificed, and contributed until in September 1922, the first new building was completed. The ultimate objective of erecting a house of worship was realized in June 1927, when the cornerstone of Temple Anshe Emeth was laid amid great rejoicing.

The original goal of Anshe Emeth Congregation has never been forgotten nor forsaken. The education of their children is still the primary function and responsibility of the congregation. Today, Temple Anshe Emeth has risen to the forefront as the leader of Jewish education for children in Youngstown.

Another reason Temple Anshe Emeth came into being was the desire of some people to end segregated seating to enable women to sit with the men. As a result, women are a vital part of this congregation, not only as sisterhood members, but also as an integral part of the religious services and the administration of the temple.

I join with Rabbi Samuel Meyer, 50th Anniversary Chairman Irwin A. Marks, President Allen H. Goldstone, and Sisterhood President Mrs. Alvin Finesilver in wishing the entire congregation of Temple Anshe Emeth "Mazal Tov" and a second 50 years as successful as the first 50 years.

The names of the charter members, synagogue family, patrons and 50th Anniversary Committee of Anshe Emeth Congregation follow:

### CHARTER MEMBERS

Max Fish, George Isroff, Ignace Schwartz, Eugene Crow, S. J. Yarmy, A. M. Frankle, Joseph S. Schagrin.

### TEMPLE PAST PRESIDENTS

Max Fish, 1919–22.
Ignatz Schwartz, 1922–26.
John N. Scott, 1926.
Mose Frankle, 1926–29.
Harry M. Krause, 1929–32.
Leon J. Knight, 1932–35.
Murray Nadler, 1935–38.
David Schneider, 1938–40.
Murray Nadler, 1940–44.
Sigmund Yarmy, 1944–45.
Marvin Itts, 1945–47.
Emanuel Katzman, 1947–49.
Harry M. Krause, 1949–51.
Joseph Ungar, 1951–54.
Reuben Segall, 1954–56.
Joseph Ungar, 1956–57.
Max Harshman, 1957–59.
David Schwebel, 1959–61.
Charles Zeigler, 1961–63.
Myron J. Nadler, 1963–65.
Barnard L. Linder, 1965–66.
Irwin Marks, 1966–71.

### SISTERHOOD PAST PRESIDENTS

Mrs. A. M. Frankle, 1920–25.
Mrs. B. H. Bernstein, 1925–26.
Mrs. A. M. Frankle, 1926–27.
Mrs. Mose Frankle, 1927–34.
Mrs. Leon J. Knight, 1934–38.
Mrs. Irwin Elder, 1938–41.
Mrs. Jack Tamakin, 1941–43.
Mrs. Nat La Tuchie, 1943.
Mrs. Leon J. Knight, 1943–44.
Mrs. Cecil Welford, 1944–45.
Mrs. Max Marks, 1945–46.
Mrs. George Green, 1946–47.
Mrs. Ben Rome, 1947–49.
Mrs. Victor Weiss, 1949–50.
Mrs. Ben Rome, 1950–51.

Mrs. Jacob Eigner, 1951–54.
Mrs. Isadore Polonsky, 1954–57.
Mrs. Irwin Marks, 1957–59.
Mrs. Donald Ungar, 1959–61.
Mrs. Louis Fish, 1961–62.
Mrs. Samuel Fine, 1962–64.
Mrs. Bernard Linder, 1964–66.
Mrs. Sidney Sniderman, 1966–68.
Mrs. Saul Eichenbaum, 1968–70.
Mrs. Robert Ackerman, 1970–71.*
Mrs. Alvin Finesilver, 1970–71.*

### COUPLES CLUB PAST PRESIDENTS

Charles Schwartz, 1968–70.
Jack Rusnak, 1970–71.

### USY PAST PRESIDENTS

Lenore Harskovitz, 1954–1955.
Ileane Oblonsky, 1955–1956.
Florine Fish, 1956.
Deena Scholsser, 1956–1957.
Judi Ocker, 1957–1958.
Greta Davidson, 1958–1959.
James Schwartz, 1959–1960.
Eugene Simon, 1960–1961.
Ruth Segall, 1961–1963.
Joel Moranz, 1963–1964.
Karen Engel, 1964–1966.
Julianne Luntz, 1966–1968.
Judy Krauss, 1968–1969.
Ann Dee Hasden, 1969–1970.
Marilyn Marks, 1970–1971.

### Our Synagogue Family

Rabbi Samuel Meyer.
Cantor Ernest Gottesman.
Allen Goldstone, President.
David Hollander, Vice President.
Allen Udell, Vice President.
Cantor Saul Eichenbaum.
Dr. Milton Greenberg, Vice President.
Kenneth Burdman, Treasurer.
Charles Schwartz, Secretary.

### BOARD OF TRUSTEES

Sidney Allen, Michael Harshman, Meyer Hasden, Stanley Katz, Milton Miller, Abe Roth, Dr. Samuel Safier, Bert Tamarkin.

Abe Averbach, Dr. James Elder, Philip Fein, Alvin Finesilver, Dr. Larry Glass, Peter Grinstein, Arnold Oblonsky, Howard Sniderman.

Dr. Melvin Fader, Dr. William Gordon, William Gross, Louis Harskovitz, Julian Sharlet, Louis Sniderman, Marvin Solomon, Fred Wittow.

### *Honorary Members*

Jack Ardman, Jacob Eigner, Samuel Feldman, Harry Giber, Jacob Protetch, Bernard Schwartz, Max Schwartz, Jacob Silver.

### RELIGIOUS SCHOOL TEACHERS

Mrs. Mino Vaturi, Rabbi Samuel Meyer, Shlomo Moskovits, Cantor Saul Eichenbaum.

### SUNDAY SCHOOL TEACHERS

Miss Rebecca Biller, Mrs. William Cohen, Mrs. Saul Eichenbaum, Richard Klein, Eugene Mallen, Mrs. James Pazol.

Jack Rusnak, Mrs. Louis Wine, Mrs. Abe Solomon, Mrs. Allan Caplan, Miss Carol Harshman, Assistant, Miss Elaine Sieradzki, Assistant.

### ANSHE EMETH SISTERHOOD OFFICERS—1971–1973

President, Mrs. Alvin Finesilver.

Vice President (Youth), Mrs. Michael Harshman.

Vice President (CEAC), Mrs. Arnold Oblonsky.

Vice President (Funds), Mrs. Irving Perlin.

Recording Secretary, Mrs. Alan LaTuchie.

Corresponding Secretary, Mrs. Charles Schwartz.

Treasurer, Mrs. Samuel Safier.

Assistant Treasurers, Mrs. Louis Kugelman Mrs. Louis Harskovitz.

Financial Secretary, Mrs. Charles Shorr.

### COUPLES CLUB OFFICERS

President, Paul Schwartz.
Vice President, Paul Schatz.
Treasurer, Mrs. Herbert Schlau.
Secretary, Mrs. Sidney Allen.

### USY OFFICERS 1971–1972

President, Nancy Hasden.
Religious Vice President, Bruce Greenberg.
Cultural Vice President, Betsy Chevlon.
Social Vice President, Maureen Rosen.
Treasurer, Jon Tamarkin.
Recording Secretary, Mark Wittow.
Corresponding Secretary, Elaine Sieradzki.

### Patrons

Mr. and Mrs. Jack Ardman.
Atty. and Mrs. B. Richard Burdman.
Mr. and Mrs. Kenneth Burdman.
Mr. and Mrs. Ronald Burdman.
Mr. and Mrs. Marcel Dreyfus.
Mr. and Mrs. Jacob Eigner.
Dr. and Mrs. Stanlely S. Engel.
Dr. and Mrs. Melvin Fader.
Mr. and Mrs. Elvin Finesilver.
Mr. and Mrs. Louis Fish.
Mr. and Mrs. Harry Giber.
Mr. Sam Giber.
Mr. and Mrs. Allen Goldstone.
Mr. and Mrs. Abe Harshman.
Mr. and Mrs. Max Harshman.
Mr. and Mrs. Meyer Hasden.
Mr. and Mrs. Bernard Hollander.
Mr. and Mrs. Louis Hollander.
Mr. and Mrs. Mervyn Hollander.
Mr. and Mrs. Walter Hollander.
Mr. and Mrs. Henry Kozokoff.
Dr. and Mrs. Norman Kozokoff.
Mr. and Mrs. Robert Krauss.
Mr. and Mrs. Ben Lazar.
Mr. and Mrs. Jacob Levy.
Mr. and Mrs. Philip A. Levy.
Mr. and Mrs. Stanley Malkoff.
Mr. and Mrs. John Masternick.
Mr. and Mrs. Edward Miller.
Mr. and Mrs. Murray Miller.
Mr. Murray Nadler.
Mr. and Mrs. Myron Nadler.
Mr. and Mrs. Sidney Nusbaum.
Dr. and Mrs. Melvin Polk.
Mr. and Mrs. Harry Rulin.
Dr. and Mrs. Samuel Safier.
Mr. and Mrs. David Schwebel.
Mr. and Mrs. Joseph Schwebel.
Dr. and Mrs. Seymour Shagrin.
Mr. and Mrs. Julia Sharlet.
Mr. and Mrs. David Sniderman.
Mr. and Mrs. Howard Sniderman.
Mr. and Mrs. Louis Sniderman.
Mr. and Mrs. Harold Stein.
Mrs. Max Stone.
Mr. and Mrs. Oscar Taub.
Mr. and Mrs. Allen Udell.
Mr. and Mrs. Fred Wittow.
Dr. and Mrs. Milton Yarmy.

### Silver Patrons

Mr. and Mrs. Irwin Elder.
Mr. and Mrs. David Hollander.
Mr. and Mrs. Irwin Marks.
Mrs. Jacob Rosky.

### Gold Donors

Mr. and Mrs. Milton Miller.
Mr. and Mrs. Nathan Monus.
Mr. and Mrs. Harry Post.
Mrs. Charles Shorr.
Mr. and Mrs. Bert Tamarkin.
Mr. and Mrs. Jack Tamarkin.

### Fiftieth Anniversary Committee

Irwin A. Marks, General Chairman.

Commemorative Program Book, Paul Schatz, Chairman; Paul Schwartz, Co-Chairman.

Historical Information, Mrs. Jack Tamarkin, Chairman; Mrs. Irwin Elder, Co-Chairman.

Historical Research, Jerry Fish, Chairman; Louis Harskovitz, Co-Chairman.

Banquet Tickets, Fred Wittow, Allen Udell, Co-Chairmen.

Sunday Banquet Program, Bert Tamarkin, Milton Miller, Co-Chairmen.

Friday Night Service, Abe Averbach, Chairman; Marvin Peskin, Co-Chairman.

Banquet, Mrs. Alvin Finesilver, Chairman.

Photography and Publicity, Dr. William Gordon, Chairman.

Invitations, Mrs. Kenneth Burdman, Chairman; Mrs. Jerry Fish, Co-Chairman.

Decorations, Mrs. Ben Reiff, Chairman.

Hospitality, Max Harshman, Chairman.

Ad Book, Alex Gross, Mervyn Hollander, Co-Chairmen.

### COMMITTEE MEMBERS

Mr. and Mrs. Sidney Allen, Harry Alter, Kenneth Burdman, Mrs. Allen Caplan, Mrs. Samuel Fine, Alvin Finesilver, Mr. and Mrs. Louis Fish, Mrs. William Gross, Mrs. Louis Harskovitz, Meyer Hasden, Nancy Hasden, David Hollander, Mrs. Mervyn Hollander, Walter Hollander.

Robert Krauss, Gerald Marks, Mrs. Irwin A. Marks, Mrs. Milton Miller, Murray Nadler, Mrs. Jacob Rosky, Dr. and Mrs. Samuel Safier, Mr. and Mrs. David Schwebel, Joseph Schwebel, Mr. and Mrs. Howard Sniderman, Albert Solomon, Mr. and Mrs. Marvin Solomon, Victor Sperling, Mr. and Mrs. Fred Wittow, Stanley Katz.

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## A MESSAGE FOR MILITANTS

## HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. VAN DEERLIN. Mr. Speaker, the congregation of St. John's Episcopal Church in Chula Vista, Calif., recently dedicated a shrine to Americans who are prisoners of war or missing in action in Southeast Asia.

There had been rumblings that antiwar groups might seize the occasion to demonstrate their militancy outside the church. Happily, no such inappropriate actions occurred. Yet if persons so inclined had attended the service that morning, they would have heard a message directed straight to the questions they often raise.

St. John's rector, the Reverend Gerald H. Graves, is no apologist for the adventure in Vietnam. But like many of his fellow Americans, Father Graves does not equate his desire for peace with a license to trample the flag, burn draft cards or obstruct commerce.

In hope of achieving a wider audience for his views, I asked Father Graves to provide a copy of the sermon he preached following dedication of the prayer shrine, for inclusion in the Record. The sermon follows:

### A Sermon Preached by the Reverend Gerald H. Graves, Rector, St. John's Episcopal Church, Chula Vista, Calif., on Sexagesima Sunday, February 6, 1972

Today, in churches throughout the Nation, "Four Chaplains Sunday" is being observed. Early on the morning of February 3, 1943 the United States troop transport Dorchester was in icy seas off Greenland. Most of the 900 men or board were asleep below decks. Suddenly, a torpedo struck the flank of the ship. Frantically climbing up the ladders, the men milled in panic and confusion on the decks.

In those dark moments, the coolest men aboard were four Army Chaplains—Clark V. Poling (Reformed Church of America), Alexander D. Goode (Jewish), John P. Washington (Roman Catholic), and George L. Fox (Methodist). The four chaplains led the men to boxes of life jackets, passed them out, then quietly slipped off their own life preservers, put them on four young soldiers and told them to jump.

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* Presidium.

Twenty-five minutes later, the Dorchester went down in a great rumble of steam. Some 600 men were lost, but the heroic chaplains had helped save over 200. The last anyone saw of them, they were standing on the slanting deck, their arms linked, in prayer, to the one God Whom all of them served.

It is appropriate that on the Sunday nearest the 29th anniversary of that display of faith and courage, we remember with gratitude, all those who have laid down their lives in the service of our Country, and to remember with special concern the estimated 1,600 prisoners of war in southeast Asia, as well as all those who serve in our armed forces. So, here in St. John's Church, we have formally dedicated and blessed a prayer shrine in their honor.

We live in a critical time, when some zealots take it upon themselves to demand that our state and national leaders do and say what they tell them to do and say. Others make no apologies for publicly ripping to shreds, or burning, the symbol of the United States of America, in the name of "personal right" and "personal freedom."

I have conversed with some who have been convinced that this is perfectly legitimate behaviour, because "the Flag," they say, "is nothing more than a piece of cloth; dyed, cut, and turned-out with thousands of others from a banner factory."

In the same way, the figure of the crucified Christ which hangs above the altar in this parish church is nothing more than a piece of carved wood—just as the other statues, crosses, and banners which surround us are mere pieces of wood, or metal, or cloth shraped into particular forms.

And so, many of those who destroy the flag will tell you that they still "love this Nation", and that they are only "demonstrating to us how too much emphasis is placed upon symbols and 'things'." This kind of reasoning I find difficult to accept.

In a room in the rectory, I have a picture of my beloved father, now departed. If I should hold that picture before you, tear it from its frame, then shred it to bits, or burn it, I doubt that you would put much faith in my protestations of "how much I loved my father," because you would recognize the fact that the photograph was a representation—a symbol of something much more precious and important than "just a piece of paper."

And that's why the shrine we've just dedicated and set apart today is important. It isn't "just an altar" adorned with flags of the Armed Forces and a figure of the risen living Christ. It isn't "just a place lighted with candles." It's a symbol, an outward and visible sign of our constant and outgoing care and concern for those who are too often forgotten—those who've won, and are winning, for us (be we "conservative," "moderate," "liberal" or "revolutionary") the freedoms we enjoy as citizens of this land.

Our Lord once gave a commandment which, like so many of the others He gave, we tend to forget: *"Render to Caesar the things that are Caesar's; and to God, the things that are God's."* That means, "Respect both your God, and your country."

St. Peter wrote these words to the early Christians: "Brethren, be subject for the Lord's sake, to *every* human institution; whether it be to the emperor as supreme, or to governors. For it is God's will that by doing right, you can put to silence the ignorance of foolish men. Live as free men, yet without using your freedom as a pretext for evil, but live as servants of God. Honor all men. Love the brotherhood. Honor those in authority over you".

Order is Heaven's first law. We owe allegiance to spiritual powers, but we also owe it to temporal powers. The same Lord who commands us to obey the divine law, likewise expects us to uphold the laws of the land. And of all the people on the face of the earth, Americans should display special willingness to submit to the law and show a true loyalty to this Nation and its institutions.

Is this to say that America is perfect? No, for certainly, it is *not*. Nor is the Church perfect, for like the Nation, it's governed by men. Still, I have never forgotten the words of a Hungarian who escaped to the United States a few years ago, and who said to me: "My God! Do those Americans who cry out constantly against their own country realize what they're saying?" In Budapest, he'd been a certified public accountant. Now, in Southern California, he's a baker's apprentice, having left half his family in Hungary, murdered by the Communists. Like countless others, he had fled to the only land he trusted to offer him freedom and compassion.

Ours isn't a large parish, but this past week I had occasion to look closely at our communicant list as I compiled some statistics. Here, in this single church we find English, French, Irish, German, Mexican, Oriental, Polish, Russian and Italian names—a reminder that all of us are the heirs of millions of foreign-born Americans to whom this nation has been the priceless possession of their souls. No person is truly an American who doesn't place America before himself. Those of us who are Americans must serve America. It must never be expected always to be serving us.

Still, when we speak with pride about our Country, we should never do it in a spirit of "putting down" another. (Unfortunately, there are too many "Archie Bunkers" among us). We who live here enjoy the assimilation of the best things of the spirit which others have brought to America from other lands and civilizations. These we should never repudiate. These we should always welcome. We dare not lose sight of the reverence we owe to the civilizations which lie back of so many of those who have immigrated to the United States. There is no reason why peoples and races and faiths of the world should surrender and abandon their individuality after coming here.

But loyalty to the American Ideal we should, and can expect. There's an intimate relationship between reverence and obedience. Among members of the military, we find obedience to higher authority, because they reverence what the authority represents: this nation, under God.

It is both unfair and unfortunate that some television and motion picture producers deliberately attempt to picture military people as either "bumbling half-wits" or as egomaniacs who are itching to begin a nuclear war. I have been the rector of three parishes during the past nineteen years, and in each of them there have been many who have made the military services their careers. I have never known any individuals more dedicated to the cause of peace. If there are any human beings who truly loathe mortal combat and conflict, the servicemen and their families head the list. And yet they full recognize the fact that the surrender of one's personal integrity, or the surrender of a nation's integrity, is suicide.

And so, today, we have blessed and dedicated this Shrine of Prayer—as far as we know, the first of its particular kind in America. We have set it apart in a spirit of gratitude for the privilege of living in a land built upon a basic faith in Almighty God; a land still young in comparison with most other nations of the earth, and still experiencing its "growing pains," yet still one where each individual person is free to believe and to worpship—or not—in his own way. We have dedicated this shrine with the prayer that we who are here today, enjoying all the benefits of American Freedom, will not allow ourselves to neglect in our thoughts or prayers the approximately 1,600 Americans who are held as Prisoners of War—imprisoned as a result of their efforts, on our behalf, to preserve all that we possess.

We bless it with a renewed determination to work, and pray, and given to assist other people to maintain their own freedoms from tyranny. May this shrine be a place where each one of us will stop frequently to remember in our private prayers the prisoners, as well as all those who serve our country and those who have given their lives that the ideals of the United States of America may be openly shared with all the peoples of the world.

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## STANLEY SIEGWALD, UNDAUNTED BY PERSONAL ADVERSITY

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. MAZZOLI. Mr. Speaker, I would like to call the attention of my colleagues to the courage and fortitude exhibited by a resident of my district, Mr. Stanley Siegwald of Shively, Ky.

Life has dealt to Mr. Siegwald what many would consider to be cruel and demoralizing blows. One of his children, a son, Mike, suffered from spastic paralysis and lived but 9 years. Mr. Siegwald, himself, was stricken with cancer of the throat in March 1969. He since has been subjected to a program of cobalt therapy which, in turn, has caused a number of painful and debilitating side effects.

But Mr. Siegwald's answer to personal adversity has not been discouragement or self-pity. Instead, he has redoubled his efforts to help others. He has involved himself in the Scouting movement and has compiled a commendable record of service to the young people of his community.

Last year he was named a winner of the St. George Medal "for outstanding contribution to the spiritual phase of Catholic scouting."

Mr. Speaker, I include the following article, which first appeared in the Record, the newspaper of the Roman Catholic Archdiocese of Louisville, in the CONGRESSIONAL RECORD:

CANCER VICTIM LEADS SCOUTS TO AWARDS

Faith, aid from his family and the inspiration he received from his spastic child were credited by a scout leader at St. Helen parish for an apparent victory in his battle against cancer. Along the way, he led 15 Scouts to their Ad Altare Dei Crosses and was awarded the St. George Medal, Catholic Scouting's highest award.

"I've been more inspired by him than anyone I've known in my entire life," said Stanley Siegwald as he talked about his spastic son, Mike, who died two years ago at the age of nine.

"He couldn't walk, he couldn't talk and we couldn't get through to him," Siegwald said, "but we knew he was intelligent by his reactions and the way he'd smile at us when we'd talk to him."

Siegwald added that when he was coaching the Scouts from St. Helen's Troop 31 in his home—and when one of the steps toward the Ad Altare Dei Cross involved a discussion of what other than material poverty may lessen the dignity of man—he would point to Mike.

'The idea was that I was trying to urge the boys to recognize there is a poverty of the body which they can aid and that trying to help others is what Scouting is all about. Mike made them appreciate their own healthy body, too."

A native of New Albany, Siegwald, 47, of 3516 Park Row in Shivley, is a graduate of New Albany High School and a veteran of three years U.S. Army service in World War II.

After his return to civilian life, he attended a radio and TV engineering school and received his Federal Communications Commission license in 1948. For four years he was on the staff of WKYW and then joined WHAS as a radio and TV broadcast technician, where he is currently employed.

In 1952 Siegwald and his brother, Kenneth, were converted to Catholicism. A year later, Siegwald and his wife, Thelma, were married. They moved to Shively and since then have been members of St. Helen parish.

It was when their older son, Stanley, now 14 and a freshman at Bishop David High School, was a Cub Scout that Siegwald got inolved in the Scout program at the parish. When his son moved into Scouting, Siegwald served on various Scout committees. He was involved in the program when in March, 1969, it was discovered he had throat cancer.

Doctors ordered a series of cobalt treatments which they believe have cured the cancer and have halted its spread. But side effects from the cobalt, including a series of infections, have resulted. The side effects "knocked out my hearing for several months," Siegwald said.

It was in early 1970, just as he was about to take the course to qualify as an Ad Altare Dei counselor, when cobalt infections sidelined him again. Several months later, although still in pain, he completed the course.

Unable to talk above a whisper and in pain most of the time Siegwald counseled two groups of five Scouts through step one of the Ad Altare Dei preparation. Then, unable to speak loud enough for the group to hear, he taped the four hours of instruction for steps two, three and four. The scouts would come to his home and listen to his taped instructions and counseling.

By this means, Siegwald guided 10 Scouts, including his son, to their Ad Altare Dei Crosses in 1970. They were the first Scouts in the St. Helen Troop to receive the honor.

This year he has guided five of the 13 Scouts who will receive the award from Archbishop Thomas J. McDonough at a 3 p.m. ceremony Sunday, Feb. 13 at the Cathedral of the Assumption.

Through it all—his weeks in the hospital and his months of being unable to work except for brief periods of time—Siegwald said his wife and son have been sources of strength. And, he added, "I have a great deal of faith. My family and my faith helped me to survive."

For his efforts, Siegwald was one of only four persons in the Kentucky Home Council last year to receive the St. George Medal "for outstanding contribution in the spiritual phase of Catholic Scouting." But Siegwald explained that the only reason he told of having received the honor was "to express my appreciation to those who made is possible for me to receive the award."

Roy Dobbs, chairman of the Ad Altare Dei committee for the Archdiocesan Catholic Committee on Scouting, praised Siegwald for his efforts. And Mrs. Charles Rasche, whose husband is the Scoutmaster of the St. Helen parish troop, called Siegwald and his wife "two of the grandest people in the world."

Siegwald minimized his efforts and gave the credit to the Scouts.

"They were willing to work and wanted it (the Ad Altare Dei Cross). They just needed some guidance and someone to work with them."

## THE CHILD IS THE FATHER OF THE MAN

### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. STOKES. Mr. Speaker, if Spring Mill Elementary School is reflective of the broad education American children are now offered, I have great hopes for the future of our country.

On February 18, 1972, toward the end of Negro History Week, I had the privilege to address the students of Spring Mill Elementary School in Silver Spring, Md., on the subject of past and current black history.

In my presentation, I elected to concentrate upon men and women whose contributions were great but whose names would, I thought, be unknown to the children. To my vast delight, I was mistaken in my assumption.

When I mentioned Garrett Morgan, the inventor of the traffic light and the gas mask, I asked the children if they had ever heard of him. Hands shot up all over the room. Such was the case with Dr. Daniel Hale Williams, Benjamin Banneker, Phillis Wheatley, and Mary McLeod Bethune.

Whereas I, and others of my generation, had to learn black history on our own, children are now studying black, ethnic, and American Indian history in their classrooms. This development is significant, particularly in a suburban school like Spring Mill which is only 11 percent black.

The children whom I addressed did not have time for prejudices of any sort. It was easy to see that they were involved in a learning adventure, and that they were perfectly receptive to information about all kinds of people.

After the question and answer session, I had some questions of my own that needed resolution. I wanted to know who was behind this fine and energetic program.

The answer lay with the principal and faculty of Spring Mill Elementary School.

Mrs. Dorothy Coburn, the school's principal, has been with Spring Mill since its inception 8 years ago, and has been a principal for 14 years. She is a native Washingtonian who received her B.S. and M.Ed. degrees from the University of Maryland.

Mrs. Coburn has a deep commitment to the idea of awakening children to the multifaceted character and background of our country. When the Montgomery County schools were initially desegregated, she hired the first black teacher in an all white school, with the belief that children deserved a broader education than they were receiving in a segregated system. Since that time she has held various positions in the field of human relations training, recently teaching a course on the subject of American University in cooperation with Howard University.

Five years ago, Mrs. Coburn instituted her own social studies curriculum at Spring Mill. Each year the students are permitted to choose whether they prefer to study black, ethnic, or American Indian history. The program is carried out under the theme, "America is Made Up of Different People." In honor of Negro History Week, the entire school spent 2 weeks learning about black historical figures and black history.

The contribution made by Mrs. Coburn and the faculty is greater than they may realize. They are engaged in an exercise of consciousness changing. They are not only educating their students; the lessons will also extend to the students' parents and, ultimately, to the students' children.

One day, we may all live together in peace, through the efforts of such committed individuals as Mrs. Dorothy Coburn and her staff. I salute Spring Mill Elementary School.

## DO AS I SAY, ETC.

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. DERWINSKI. Mr. Speaker, the Life publications serving suburban Chicagoland carried, in their February 20 issue, a very succinct commentary on governmental behavior during a period when economic contrcls have been placed on the economy. The practical nature of the editorial is obvious. The editorial follows:

#### Do As I Say, Etc.

Federal, state and local governments, the principal causes of inflation with their swollen budgets and uninhibited spending, have been exempted from price control regulations under the Economic Stabilization Program.

While wages and prices are controlled for nearly every other phase of the economy and payment of extra dividends are curbed for those successful businesses, the governmental sector is allowed to continue business as usual.

Is it any wonder that there is a tax revolt psychology among all classes of taxpayers? The theory seems to be in government that the old adage applies, "Do as I say, not do as I do."

## ENVIRONMENTAL PROTECTION AGENCY

### HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. SYMINGTON. Mr. Speaker, on February 7, 1972, I placed in the RECORD a statement of my concern over this administration's antipollution effort. The entire budget for the Environmental Protection Agency—EPA—represents less than 1 percent of the total Federal budget. This compares with the 34 percent of the budget going for externally oriented national defense. The administration proposes $2.4 billion for EPA and $80 to $85 billion for the Department of Defense. While the Environmental Protection Agency is not the only Federal antipollution effort, its sole purpose is to enforce antipollution laws. Thus, EPA's budget is a reasonable measure of the kind of priority this administration refuses to place on antipollution programs.

Moreover, the administration has impounded $47 million from last year's EPA budget. Congress should closely monitor the funds it authorizes and appropriates for environmental work since this administration has not done enough to alleviate pollution.

I would call to the attention of my colleagues two excellent accounts of EPA's budget and the Federal approach toward the environment. The first is an editorial by Charles C. Johnson that appeared in the February 1972 issue of the Nation's Health; the second article appeared in the February 15, 1972, issue of Conservation News, which is published by the National Wildlife Federation.

At this point I place the items in the RECORD:

[From the Nation's Health, February 1972]

### EPA Budget Reveals Weakness in Federal Approach to Pollution

(By Charles C. Johnson, MSCE, Associate Executive Director)

Because of the many areas in which "environment" appears in the President's budget for FY 1973, it is pretty well impossible to discern what really constitutes the total federal support for these activities. Perhaps, for comparative purposes, the Environmental Protection Agency budget request can be used as representative of the extent of government effort at this time to correct our many environmental ills.

Although there are some positive changes in program emphasis, there is no actual increase in EPA's total 1973 budget over the 1972 budget. A budget for similar activities in FY 1971—just prior to formation of EPA—was $300 million. Two years later, the budget for these items (exclusive of construction grants) has only been raised to $440 million. This raises a question as to the degree of emphasis being placed on a problem regarded by many as a major national crisis.

A further question concerns the distribution of effort within EPA itself. When one separates the $2.16 billion for water pollution control—construction grants and program direction and support—from the total budget request of $2.45 billion, relatively little money remains for the pursuit of other activities associated with air pollution, solid waste, pesticide, radiation, and noise control. The solution is not to reduce the funds earmarked for urgently needed water pollution control activities, but to provide greater support in the other environmental pollution problem areas.

The 33 per cent reduction (from $35.8 to $23.3 million) in solid waste program activities suggests a failure to even grasp the scope of the problem, let alone recognize what is required to develop means for its solution. The ten per cent reduction in pesticide programs, even though a modest $2 million, suggests that we are nearing control of this very pervasive problem—and this is simply not so. Full implementation of the Clean Air Amendments Act of 1970 requires substantially more dollars than have been requested.

The question remains, can we really be serious about making an impact on our environmental pollution problems when we have such an undersupported and unbalanced approach?

[From Conservation News, Feb. 15, 1972]

### Budget Up, Environment Down

In his State of the Union Message Jan. 20, President Nixon promised "new initiatives to fight pollution" and to develop "clean environmental resources" in 1973. However, what emerged a few days later in the Administration's 1973 budget request was anything but a "new initiative".

Compared to the fiscal 1972 version, there is not much change and, in fact, the total proportionate share allotted to the Environmental Protection Agency actually dropped. The new budget request, released on Jan. 24, lists 14 functional categories for funding purposes. "Natural Resources and the Environment" shows up 14th and dead last. Although ample room was found for various new and exotic items, such as the $5.5 billion intended for a space shuttle program, the EPA budget stayed essentially the same, dropping to only one percent of the total.

In his Feb. 3 testimony before the Subcommittee on Fisheries and Wildlife, Senate Committee on Appropriations, NWF Executive Director Thomas Kimball said that the new budget looks like a "patchwork of programs put together in response to pressures." He added that despite obvious national environmental needs, it seems that the groups with the greatest political clout get the most attention when funding time rolls around, especially in an election year."

The disappointingly low figures intended for the environment thus sets the stage for much political wrangling, with conservationists questioning the sincerity of the President's commitment to environmental quality. Congress has already authorized much higher levels for EPA for fiscal 1973 and is about to increase the total. For example, air pollution legislation passed in 1970 sets a 1973 ceiling of $465 million on spending—greater than the total operating budget of $439.3 million sought by the Administration for all EPA activities. (The rest of the EPA budget request is directed toward Construction Grants and Scientific Activities Overseas.) And new water pollution legislation which has already passed the Senate and awaits House action is certain to authorize another big increase for EPA.

Sharp increases were seen in the Administration's request for spending for public works by the Army Corps of Engineers and the Bureau of Reclamation. For its construction budget, the Corps is asking new spending authority of $164 million, nearly five times the comparable EPA figure. In addition, the largest item in the Department of the Interior budget request is for the Bureau of Reclamation. It is seeking $516 million which exceeds the 1972 level by more than $100 million.

Besides the limited budget and lack of priority given to the environment by the President, Kimball was also concerned about another factor—the freezing of funds. Several times in the past, what few funds for the environment have been pushed through Congress and eventually signed by the President have been held up by the Office of Management and Budget (OMB). "The present practice of impounding funds by the Executive Branch actually dupes the American public and thwarts the will of Congress," Kimball said. "The President should inform the Congress when he impounds funds, and why." Kimball cited instances where money had been allotted to various conservation efforts, but was never released by OMB.

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## TAX ASSISTANCE FOR POW'S

## HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. VANIK. Mr. Speaker, on Tuesday, February 29, 1972, the House of Representatives will consider under the Consent Calendar procedure, H.R. 9900, a bill to provide income tax exclusion for military and civilian prisoners of war.

The purpose of the bill is to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

A number of persons who have relatives who are prisoners of war have contacted me and expressed support for the bill. The Department of Defense was very warm in its endorsement of this proposal. I would like to quote portions of a letter which I received from the Department of the Navy's Office of Legislative Affairs on June 1, 1971:

> The principal goal of this bill is to express deep-felt national concern for the well-being of imprisoned or missing servicemen. It would give special recognition by a grateful nation of the sacrifices that have been made and that are continuing to be made by these men.
>
> With respect to the servicemen involved, there is simply no way that they can be financially compensated for the deprivation of human dignity and the mental and physical torture to which we know they are being subjected. Viewed in this light, it seems grossly unfair for the Government to insist on taxing their income while they are enduring unspeakable hardship. It is unfeeling and parsimonious for the United States to insist on the payment of income tax on a portion of the military pay of any service member in captivity. The forgiveness of the residual income tax is in part a token gesture to these men and their families in recognition of the very great sacrifices which they are making on behalf of this nation. Enactment of this bill will provide tangible evidence of this nation's concern for a group of Americans who are undergoing ghastly experiences as a result of having faithfully served our country.

The bill was reported unanimously by the Ways and Means Committee and the Treasury Department has indicated that it has no objection to the enactment of this legislation.

As the committee notes in its report accompanying this bill—House Report 92–825—the legislation will provide significant relief to our prisoners of war when they are returned and at a time when they may be facing particular economic hardship.

I hope that all the Members of this body will help support the passage of this legislation.

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## VOLUNTEER DAY: FEBRUARY 29

## HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, February 28, 1972*

Mr. JAMES V. STANTON. Mr. Speaker, every day the American spirit of generosity and selflessness is evident in the efforts of the many people who, with no thought of personal gain, volunteer their time and energy for the advancement of a worthy cause. Several Red Cross officials, including Miss Eileen Madigan, Mrs. Robert Chamberlin, and Mr. Thomas Kiousis, Jr., have proposed that one day each year be set aside as Volunteer Day, to honor those who so contribute to the betterment of this community.

Mayor Ralph Perk of Cleveland, the commissioners of Cuyahoga County, and others have endorsed February 29 as the first Volunteers Day, and I join with them in saluting these citizens for their fine work.

To commemorate Volunteer Day, I would like to insert into the Record the following article and proclamation:

### Now February 29 Will Be Day for Volunteers

If all goes well, Sadie Hawkins may have to share her day—Feb. 29—with millions of volunteers throughout the country.

Volunteer Recognition Day, suggested by the Greater Cleveland Red Cross, will be proclaimed in Cleveland this year, and, perhaps by 1976, will be on the national calendar.

Mayor Ralph J. Perk issued the proclamation this morning, praising the thousands of volunteers throughout the city who "as unpaid helpers truly represent a gift of self to their neighbors in need."

The mayor said, "It's appropriate that we salute these volunteers who give extra time on this extra day of the year."

In accepting the proclamation, Mrs. Robert W. Chamberlin, Red Cross chairman of volunteer, replied, "People visiting our country have referred to volunteering as the first wonder of America. True, some volunteer work is performed in a spectacular manner, but more often it's done quietly in ordinary, commonplace jobs.

"Why a volunteer day on Feb. 29. Why not?" asked Mrs. Chamberlain. "We recognize Sweetest Day, Valentine's Day and many others. Why not recognize people who help people?

"Some agencies give their volunteers pins or certificates of appreciation, but what about the thousands of volunteers who go unrecognized and unthanked?

"For those people, satisfaction for helping is their best reward. However, our community can and should publicly acknowledge them. We hope other communities will do the same."

Volunteer Recognition Day was suggested by Miss Eileen Madigan, director of Volunteer recruitment and placement for the Red Cross.

"I've always hoped to see some kind of official day recognizing volunteers," she said. Then, I thought, "Leap Year, the extra day on the calendar would be the day.

"I checked the library and they couldn't find any volunteer recognition day. After that, we started a serious campaign."

The mayor of Akron and some suburban mayors have said they would issue proclamations. Next step, says Miss Madigan, is to suggest that Ohio Gov. John J. Gilligan issue a proclamation.

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### City of Cleveland—Proclamation

(Designating February 29, 1972, as "Volunteer Day" in the city of Cleveland)

Whereas, the "extra" day given to us on February 29th is symbolic of the "extra" time which every volunteer gives during the year, and further symbolizes the "plus" that each volunteer puts into his tasks; and

Whereas, this gift of service is essential to the life of the community and the individual; and

Whereas, volunteering is the very core of the American way of life and vital to the well being of the nation and the city; and

Whereas, this proclamation was requested by the Greater Cleveland Chapter of the American National Red Cross to recognize all volunteers in every facet of community life,

Now, therefore, I, Ralph J. Perk, Mayor of the City of Cleveland, commend these civic and service minded volunteers for their continuing efforts to strengthen the city and nation, and hereby urge volunteer participation by every citizen able to give of his extra time.

In witness whereof, I have hereunto set my hand and caused the Corporate Seal of the City of Cleveland to be affixed this 20th day of January, 1972.

Ralph J. Perk,
*Mayor.*

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### Resolution Declaring February 29 Volunteer Recognition Day

Be it herewith resolved that Tuesday, February 29, 1972, be known as "Volunteer Day" in the County of Cuyahoga, State of Ohio.

Be it further resolved that this particular date be used to publicly acknowledge and recognize the men, women and youth who actively participate in a vast variety of significant tasks, freely giving their time and energy to constructive action in helping people.

Be it also resolved that the date of February 29, 1972, was selected because it symbolizes the "plus" that the volunteers give to tasks, because as unpaid helpers they truly represent a gift of self to their neighbors in need, and,

Because, this gift of service is essential to the life of the community and the individual, and

Because, volunteering is urgently needed in every conceivable avenue of human service, across the street and across the nation, and,

Because, volunteering is the very core of the American way of life and vital to the well-being of the nation and the country, we hereby urge volunteer participation by all citizens and commend those who are doing so, and,

Because, this proclamation was requested by the Greater Cleveland Chapter of the American National Red Cross to recognize all volunteers in every facet of community life, we commend and recognize this volunteer service agency for their continuing efforts to strengthen the nation and our county through community volunteer programs.

Signed and sealed by the office of the County Commissioners, State of Ohio on this —— day, February 1972.

High Corrigan.
Frank Pokorny.
Seth Taft.

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# SENATE—*Tuesday, February 29, 1972*

The Senate met at 9:15 a.m. and was called to order by Hon. James B. Allen, a Senator from the State of Alabama.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, whose kingdom is an everlasting kingdom, whose dominion spans all time and eternity, help us to work not only for our time but for all time, not only for our generation but for all generations, and to do it under Thy judgment and in accord with Thy spirit. Prepare us for the surprises of providence, the unexpected turns in the historical process. Give us wisdom to exploit sudden change for Thy kingdom's sake. Teach us how to be both kind and firm in the right, reverent in the use of power, and strong in the things of the spirit. Draw us together here and the leaders of the nations everywhere in a resolute devotion to the ways of peace and the life of Thy kingdom.

In the Master's name. Amen.

## DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Ellender).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
*Washington, D.C., February 29, 1972.*

*To the Senate:*

Being temporarily absent from the Senate, I appoint Hon. James B. Allen, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

Allen J. Ellender,
*President pro tempore.*

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 28, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The nomination on the Executive Calendar will be stated.

## CIVIL AERONAUTICS BOARD

The second assistant legislative clerk read the nomination of Whitney Gillilland, of Iowa, to be a member of the Civil Aeronautics Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

### ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished Senator from Ohio desire recognition on the part of the minority?

Mr. SAXBE. No.

### ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent, due to the unavoidable temporary absence of the distinguished Senator from South Dakota (Mr. McGOVERN), that the distinguished senior Senator from Georgia (Mr. TALMADGE) be recognized at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

At this time the distinguished Senator from Georgia is recognized for not to exceed 15 minutes.

### THE AMERICAN LEGION

Mr. TALMADGE. Mr. President, I join my colleagues in the Senate today in paying tribute to the American Legion. I congratulate the American Legion for its outstanding accomplishments. It has been my pleasure to work with the Legion, first, as chairman of the Finance Committee's Subcommittee on Veterans' Legislation, and now as second-ranking member of the new standing Committee on Veterans' Affairs.

The American Legion does its homework in looking after the medical, social, and economic needs of the Nation's veterans. This organization has always taken the lead in helping Congress formulate effective and beneficial programs. But aside from its legislative efforts, the American Legion is an organization composed of men and women who represent the spirit of America. The American Legion is an organization of unwavering patriotism. It believes in America. It is steadfast in its allegiance to principles that have made our country free, strong, and prosperous.

The American Legion is not afraid to stand up and be counted. Legionnaires—from the national commander, State officers, and on down through rank and file membership—are not afraid to champion a cause in which they devoutly believe. It may not always be a popular cause, but that has never stood in the way of the American Legion.

The Legion's main concern is Americanism. That has always been a cause worth championing. Considering the state of the world and the United States today, I might say that Americanism and patriotism are very badly in need of friends like the American Legion.

We need more people who stand for flag, for country, for God, and a strong America. We need more loyal Americans.

By that, I do not mean sunshine patriots or fair-weather friends. I mean people who are ready and willing to speak out for the American way of life, in good times and bad, and to defend it against its enemies—whether they be foreign or domestic.

I salute the American Legion for its dedication to a stronger and more patriotic America, and wish it well in its work.

### QUORUM CALL

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### ORDER OF BUSINESS

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from South Carolina (Mr. THURMOND) for not to exceed 15 minutes.

### AMERICAN LEGION DAY ON CAPITOL HILL

Mr. THURMOND. Mr. President, today more than 1,000 National and State department officers and members of the American Legion will gather in Washington for their annual pilgrimage to the Nation's Capital.

They will spend 3 days meeting on various phases of Legion business, highlighted by a day on Capitol Hill. The national commander, John Geiger, of Illinois, will lead a contingent of several hundred in an appearance before the Senate Veterans' Affairs Committee, where the 1972 legislative program of the American Legion will be presented.

As Republican ranking member of the Senate Committee on Veterans' Affairs, I have had an opportunity to become familiar with the accomplishments and goals of this largest of servicemen's organizations, and I want to take this opportunity to pay tribute to this great patriotic group of veterans.

Since World War I, they have demonstrated their dedication and love of country which they fought to preserve. Time after time during the last 50 years, when America's institutions have been attacked, the Legion has always been steadfast in demanding that the principles of freedom and democracy as outlined in our Constitution not be destroyed.

These men hate war more than anyone else in the country because they have experienced it. While their dislike of war is well known, they have never hesitated to support our Commander in Chief as they realize the necessity of remaining strong to deter further aggression.

I commend the national commander of this great organization, John Geiger, of Illinois, and I also want to pay tribute to the loyal Legionnaires of South Carolina, who have through the years, supported the ideals and principles of the United States by their activities in this fine organization.

I know that Comdr. Oral O. Cox and the other officers of the Legion in South Carolina, including E. Roy Stone and James A. Hamilton, Sr., who are here in Washington to participate in this annual pilgrimage, have given long and dedicated service to their community, State, and Nation, through their activities in the American Legion.

Mr. President, it is a pleasure and honor for me to welcome the American Legion to Washington and to congratulate the Legion for their outstanding example and splendid service to our Nation and our Nation's veterans.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### AUTHORIZATION FOR STAR PRINT OF S. 3059

Mr. THURMOND. Mr. President, I request authority for the Secretary of the Senate to make a star print of S. 3059. This print is necessitated by typographical errors in the original bill which were not corrected before being sent to the printer. The revisions are now available, and I ask unanimous consent that a star print be made.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SAXBE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. SAXBE. Mr. President, I suggest that the Senate proceed to the consideration of routine morning business for a period of 30 minutes, in accordance with the previous order.

The ACTING PRESIDENT pro tempore. Does the Senate request action with respect to the 15 minutes allotted to the Senator from South Dakota?

Mr. SAXBE. The Senate has waited 15 minutes on the Senator. If he does appear and there is no routine morning business, I would agree to a unanimous-consent request that he be recognized.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Ohio? The Chair hears none, and it is so ordered. The Senate will proceed now to the transaction of routine morning business for a period not to exceed 30 minutes, with statements by Senators therein limited to 3 minutes.

Mr. SAXBE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

### Proposed Department of State Appropriations Act of 1972

A letter from the Acting Secretary of State, transmitting a draft of proposed legislation to authorize appropriations for the Department of State, and for other purposes (with accompanying papers); to the Committee on Foreign Relations.

### Proposed Improvement of Organization of the Department of State

A letter from the Acting Secretary of State, transmitting a draft of proposed legislation to strengthen and improve the organization of the Department of State, and for other purposes (with accompanying papers); to the Committee on Foreign Relations.

### Proposed U.S. Information Agency Appropriations Authorization Act of 1972

A letter from the Director, U.S. Information Agency, transmitting a draft of proposed legislation to authorize appropriations for the U.S. Information Agency, and for other purposes (with accompanying papers); to the Committee on Foreign Relations.

### Report of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Causes of Shipbuilders' Claims for Price Increases," Department of the Navy, dated February 28, 1972 (with an accompanying report); to the Committee on Government Operations.

### Proposed Increase of Appropriations for Continuing Work in Upper Colorado River Basin

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior (with accompanying papers); to the committee on Interior and Insular Affairs.

### Proposed Increase of Authorization for Appropriation for Completing Work in the Missouri River Basin

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to increase the authorization for completing work in the Missouri River Basin by the Secretary of the Interior (with accompanying papers); to the Committee on Interior and Insular Affairs.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution adopted by the Common Council of the City of Buffalo, New York, relating to the removal of British troops from Northern Ireland and unification of that country; to the Committee on Foreign Relations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary, with an amendment:

S. 2094. A bill for the relief of Colonel Charles V. Greffet (Rept. No. 92-674).

By Mr. STEVENS, from the Committee on Commerce, with amendments:

S. 1297. A bill to authorize the State of Alaska to operate a foreign registered ferry vessel between ports in Alaska and between ports in Alaska and ports in other States for a period not to exceed three years (Rept. No. 92-680).

By Mr. BURDICK, from the Committee on the Judiciary, with amendments:

S. 2713. A bill to amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released (Rept. No. 92-675).

By Mr. McCLELLAN, from the Committee on the Judiciary, without amendment:

S.J. Res. 117. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day" (Rept. No. 92-676).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 12910. An act to provide for a temporary increase in the public debt limit (Rept. No. 92-679).

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. 2013. A bill to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans (Rept. No. 92-677).

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. 3160. A bill to provide for the modification in the par value of the dollar, and for other purposes (Rept. No. 92-678), together with individual views and views of the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, in connection with my reporting of S. 3160, I ask unanimous consent that the committee have until midnight tonight to file the text of the report. I also ask unanimous consent that the views of the Foreign Relations Committee and any individual views of members of that committee, to which the bill was informally referred, be included and be printed as a part of the report of the Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Richard G. Kleindienst, of Arizona, to be Attorney General (Exec. Rept. No. 92-19), together with individual and separate views.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The VICE PRESIDENT announced that on today, February 29, 1972, he signed the following enrolled bills and joint resolution, which had previously been signed by the Speaker of the House of Representatives:

S. 7. An act to provide for the establishment of the Buffalo National River in the State of Arkansas, and for other purposes;

S. 960. An act to designate the Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, State of Arizona;

S. 1857. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended;

S. 2896. An act to amend chapter 83 of title 5, United States Code, relating to adopted child;

S. 3122. An act to extend certain provisions of the Federal Water Pollution Control Act through June 30, 1972, and others through April 30, 1972;

H.R. 2714. An act for the relief of Mrs. Kayo N. Carvell;

H.R. 2792. An act for the relief of Juanita Savedia Varela;

H.R. 3093. An act for the relief of Mrs. Crescencia Lyra Seras and her minor children, Maria Minde Fe Serna, Sally Caroza Serna, Gonzalo Garoza Serna, and James Garoza Serna;

H.R. 4319. An act for the relief of Josephine Dumpit;

H.R. 5179. An act for the relief of Soo Yong Kwak;

H.R. 6506. An act for the relief of Mrs. Hind Nicholas Chaber, Georgette Nanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber;

H.R. 6912. An act for the relief of William Lucas—also known as Vasilios Loukatis;

H.R. 7316. An act for the relief of Mrs. Norma McLeish;

H.R. 8540. An act for the relief of Eleonore G. Mpolakis;

H.R. 8699. An act to provide an Administrative Assistant to the Chief Justice of the United States;

H.R. 9180. An act to provide for the temporary assignment of a U.S. magistrate from one judicial district to another;

H.R. 11738. An act to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America in connection with Boy Scout Jamborees, and for other purposes; and

S.J. Res. 189. Joint resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday, March 26, 1972, as national day of prayer for these Americans.

## REPORT OF ACTIVITIES OF THE JOINT COMMITTEE ON DEFENSE PRODUCTION

Mr. SPARKMAN submitted the 21st annual report of the activities of the Joint Committee on Defense Production, which was referred to the Committee on Banking, Housing and Urban Affairs.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND:

S. 3252. A bill for the relief of Renato M. Dioquino; and

S. 3253. A bill for the relief of Mrs. Clementina De Loya de Kronenfeld. Referred to the Committee on the Judiciary.

By Mr. NELSON:

S. 3254. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require the submission of certain additional information by applicants for new drugs; to require the inclusion of certain additional information in drug labeling; and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. ANDERSON:

S. 3255. A bill to designate the Blue Range Wilderness, Apache National Forest, in the States of Arizona and New Mexico; and

S. 3256. A bill to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S. 3257. A bill for the relief of Gary Wentworth, of Staples, Minn. Referred to the Committee on the Judiciary.

S. 3258. A bill to amend the Agricultural Marketing Agreement Act of 1937, as amended, to include citrus for freezing and canning and the products thereof among the commodities which may be regulated. Referred to the Committee on Agriculture and Forestry.

By Mr. KENNEDY:

S. 3259. A bill to authorize the Council on Environmental Quality to carry out a county government environmental control demonstration project. Referred to the Committee on Public Works.

By Mr. FANNIN:

S. 3260. A bill to amend section 2039 of the Internal Revenue Code of 1954 (relating to estate tax treatment of annuities). Referred to the Committee on Finance.

S. 3261. A bill to amend the Internal Revenue Code of 1954 to make clear the tax treatment intended for guaranteed renewable life, health and accident insurance contracts in the case of life insurance companies. Referred to the Committee on Finance.

By Mr. CURTIS (for himself, Mr. HRUSKA, Mr. BAKER, Mr. DOLE, Mr. HANSEN, Mr. PEARSON, and Mr. TOWER):

S. 3262. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. McGOVERN:

S. 3263. A bill to amend the National School Lunch Act to provide for a universal school lunch pilot program. Referred to the Committee on Agriculture and Forestry.

By Mr. HOLLINGS:

S.J. Res. 209. A joint resolution proposing an amendment to the Constitution of the United States with respect to the power of Congress to enforce the 14th amendment with respect to public schools. Referred to the Committee on the Judiciary.

By Mr. McCLELLAN:

S.J. Res. 210. A joint resolution to authorize the President to issue a proclamation designating the last full calendar week in May of 1972 as "Clean Waters for America Week." Referred to the Committee on the Judiciary.

By Mr. SPARKMAN (for himself and Mr. PROXMIRE):

S.J. Res. 211. A joint resolution to amend title IV of the Consumer Credit Protection Act establishing the National Commission on Consumer Finance. Referred to the Committee on Banking, Housing and Urban Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON:

S. 3254. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require the submission of certain additional information by applicants for new drugs; to require the inclusion of certain additional information in drug labeling; and for other purposes. Referred to the Committee on Labor and Public Welfare.

### SUBMISSION OF BIOLOGICAL DATA BY APPLICANTS FOR NEW DRUGS

Mr. NELSON. Mr. President, for nearly 5 years, the Monopoly Subcommittee of the Senate Select Small Business Committee has conducted hearings on competitive problems of the drug industry. A long list of witnesses from industry, Government agencies, universities, hospitals, and private practice have testified.

Much of the testimony has centered on questions pertaining to the quality of drug products and the ability of different brands of the same drug—which might vary greatly in price—to be therapeutically effective and safe when administered to patients for their intended purposes. The great preponderance of testimony asserted that the vast majority of drugs which meet the standards of the U.S. Pharmacopeia or the National Formulary are in fact therapeutically equivalent.

A number of the witnesses, however, have indicated that there is a gray area in that some drugs may comply with the chemical standards and yet not perform satisfactorily when administered to humans.

Our hearings have attempted to identify the scope or magnitude of these exceptions by establishing how many drugs and which drugs might be so involved.

We have over 8,000 pages of printed testimony which have been presented before the subcommittee, and yet only a very few such drugs have been brought to the subcommittee's attention. Although such differences have been detected only in a few drugs to date, practitioners responsible for prescribing, dispensing, and administering drugs to patients are understandably concerned that similar differences may exist among other drugs which as yet have not come to light.

This element of uncertainty is causing concern among physicians, pharmacists, and others whose first interest is the patients they serve. This uncertainty has also prevented the most economic use of tax dollars in procuring drugs under various Government programs, including purchases for the military as well as drugs for use in Veterans' Administration and Public Health Service hospitals and in reimbursement programs such as medicare and medicaid. Regrettably, some spokesmen and groups within the pharmaceutical industry have seized upon this relatively insignificant element of uncertainty and have repeatedly exaggerated it and publicized it to further their own economic interests.

Uncertainty exists simply because of a lack of information about the biological performance characteristics of drugs on the market in the United States. The absence of such information is the subject of recurring concern to many leading physicians, pharmacists, pharmacologists, medical educators, pharmaceutical scientists, FDA officials, and consumers who testified before the subcommittee. If such data were available, it would remove this element of uncertainty concerning the equivalence of drugs.

The lack of such information has been a matter of concern to various professional groups. In 1969 the House of Delegates of the American Pharmaceutical Association adopted a policy statement which had been formulated earlier by the APhA Academy of Pharmaceutical Sciences stating in part that

> . . . every manufacturer should be obligated to perform tests which are appropriate and sufficient to demonstrate the clinical safety and efficacy claimed for that manufacturer's product and to make a summary of this information readily available to the medical and pharmaceutical professions. . . .

In 1969, a committee of the National Academy of Sciences/National Research Council published a "White Paper on the Therapeutic Equivalence of Chemically Equivalent Drugs" in the Journal of the American Medical Association expressing the concern of that group as to the absence of data bearing on the biological activity of chemically equivalent drugs.

The HEW Task Force on Prescription Drugs, at the direction of then President Johnson, undertook an extensive review of the problems connected with including the cost of prescription drugs under medicare, not only noted the lack of availability of such information but as one of its 25 recommendations urged the Department of Health, Education, and Welfare to undertake a testing program on a high priority basis to develop such information.

The review committee subsequently appointed by former HEW Secretary Finch at the beginning of the present administration arrived at similar conclusions, and all of these groups have expressed the unanimous belief that inadequate information is made available to the physician, the pharmacist, or the consumer by pharmaceutical manufacturers.

In its final report to the Commissioner of the Food and Drug Administration, the National Academy of Sciences/National Research Council described the quality of evidence of efficacy as submitted by drug manufacturers as follows:

> The lack of substantial evidence based upon well-controlled investigations by experienced investigators was conspicious.

In referring to the quality of the labeling of drugs, the NAS/NRC concluded:

> In brief, the majority of package inserts were found to fail in their primary purpose of providing the physician and pharmacist with authoritative and objective guides to prescribing or dispensing the drugs in question.

Although the reports were published at least 2 years ago, the pharmaceutical industry has done nothing whatsoever on a voluntary basis to provide such information and to correct this deficiency.

To remedy this deficiency, I am introducing a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for inclusion of such biological performance data by manufacturers as part of their new drug application and to require the inclusion of such biological performance information in the labeling which accompanies the drug in order that it will be readily available for reference purposes by physicians and pharmacists.

This proposal will set the ground rules so that when a drug is developed the manufacturer will have to inform the FDA on the biological performance characteristics—such as concentration of the drug in the blood—that are necessary in order for that drug to be effective. Current requirements of the Food, Drug, and Cosmetics Act do not require manufacturers to reveal such information either to the FDA in applying for approval to market their product or to physicians and pharmacists who prescribe and dispense these products. Moreover, if in the judgment of the manufacturer no biological performance characteristic is important for that drug when it is used in patient therapy or if such data has not been determined, the manufacturer would be required to make a positive statement to that effect.

Although this bill would require the manufacturer to state what, if any, special biological performance characteristics pertain to the drug product he wishes to market, this bill would not compel him to make any public disclosure of the processes, techniques, or procedures he uses to produce a drug product with these performance characteristics. Hence, I would emphasize that adequate safeguards remain regarding any trade secrets. Our intent is simply to compel the manufacturer to provide a clear, specific statement of claims associated with his product in terms which will be meaningful and useful to health-care practitioners.

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By Mr. ANDERSON:

S. 3255. A bill to designate the Blue Range Wilderness, Apache National Forest, in the States of Arizona and New Mexico; and

S. 3256. A bill to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex. Referred to the Committee on Interior and Insular Affairs.

Mr. ANDERSON. Mr. President, I am today introducing legislation which proposes to include the Black Range primitive area in the Gila National Forest in New Mexico in the national wilderness system.

This area, to be renamed the Aldo Leopold Wilderness, is located astride the crest of the Black Range of southwestern New Mexico and encompasses 188,095 acres of land predominantly valuable for its wilderness character.

The proposed wilderness, with its long mountain range, deep canyons, and sharp ridges descending from the crest in many directions, is unusual in this part of the Southwest. The varied contrast provided by distant view of arid lands, of timbered benches below the ridge lines, and outstanding scenery from many vantage points give this area superb wilderness character.

Elevations ranging from 6,300 feet to 10,165 feet make this wilderness a biotic storehouse of plant and animal life.

Past history adds to the enchantment of this proposal. The area was the home of several Apache chiefs and their people. The movements of settlers and miners into this portion of the Southwest began in the 1870's but made little imprint on the proposed wilderness. Few were hardy enough to challenge the wily and well-armed Apaches and the inhospitable ruggedness of the mountains.

The late Aldo Leopold, who began his career with the Forest Service in the Southwest in 1909, sensed the need to preserve some areas from the encroachment of man. While employed as assistant district forester in Albuquerque, an inspection trip took him to the Gila National Forest in 1922. Here he found a vast expanse of unspoiled land that he felt must be preserved as wilderness. As a result of his pleas and a convincing inspection report, the Gila Wilderness—which included the present Black Range primitive area—was designated in 1924 by District Forester Frank Pooler, becoming the first area of the type. My bill would certainly contribute to the aspirations of Mr. Leopold, the man who presented the opportunity to see much of nature unspoiled by man.

Today I am also introducing legislation which proposes the addition of the Blue Range primitive area in the Apache National Forest to the national wilderness preservation system.

The Blue Range Wilderness, located in the Blue Range of east-central Arizona, 65 miles northwest of Silver City, N. Mex., encompasses approximately 177,200 acres of primitive land.

The proposed wilderness offers a variety of wilderness characteristics and attributes, including outstanding scenery, broad expanses of conifer forests, spectacular rock formations, and a wide range of ecological zones from the semidesert in the rough, broken country below the famous Mogollon Rim to the typical high mountain conditions common above the rim.

The area proposed as wilderness contains the eastern end of the Mogollon Rim, which was made famous in Zane Grey's writings as the "Tonto Rim." The uniqueness of this rim, from a geological and ecological standpoint, is further enhanced by the spectacular Blue River Canyon and the Blue River itself.

Here in the "Blue," a pleasing mix of all the resources combines to make the area outstanding as a wilderness where the mark of man and his activities is relatively obscure. A visitor can virtually isolate himself from the stresses of modern civilization and gain spiritual refreshment through self-evaluation. The solitude and a sense of being close to creation make this area unique in its setting.

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By Mr. HUMPHREY:

S. 3258. A bill to amend the Agricultural Marketing Agreement Act of 1937, as amended, to include citrus for freezing and canning and the products thereof among the commodities which may be regulated. Referred to the Committee on Agriculture and Forestry.

### NEW MARKETING APPROACHES FOR THE CITRUS INDUSTRY

Mr. HUMPHREY. Mr. President, I am introducing today a bill to amend the Agricultural Marketing Act of 1937 to include citrus for freezing and canning and the products thereof among the commodities which may be regulated under this particular act.

The citrus industry has for more than 30 years been operating under a marketing order program which permits that industry to self-regulate grades and sizes of fresh citrus for shipment. More recently, other order programs have been initiated to regulate marketing volumes. However, all of these orders apply to fresh fruit shipments.

The purpose of the legislation I am introducing today is to make it possible for the citrus growers to establish marketing orders for citrus that has been processed.

Enactment of this legislation is important to both the citrus growing industry and to the people of our Nation, especially our young. To citrus growers, it could mean the development of "concentrate pools" to accommodate surplus supplies of citrus in years of overproduction and to supply regular markets in years when crop failures and short crops occur. Establishment of such pools also would make it possible for citrus producers to develop secondary markets for their products by selling a portion of the pool supply at reduced prices in markets such as schools and other institutions providing feeding services.

To children and other people receiving all or a portion of their daily diets through institutional feeding programs, having such reduced priced citrus juices made available to them can substantially contribute to meeting their basic nutritional needs.

By the mid-1970's there will be more than 750,000 tree-bearing acres of land in Florida alone devoted to the production of oranges. Under optimum weather conditions, about 200 million boxes of oranges can be expected to be produced from this acreage, far in excess of potential markets.

This year's production of oranges in Florida is estimated to be 136 million boxes or about what is expected to be marketed this year.

However, the citrus industry in this country, is expected to produce increasingly large surpluses in future years and as of now, has too few tools available to it to work out the problems that accompany such surpluses. Enactment of these amendments to the Agricultural Act of 1937 will give them some of the tools they will need in that regard. And it will help them work out their overproduction problems in a way to give themselves some insurance against future crop failures in addition to being able to supply added nutrition to many who need it the most and who can afford it the least.

While development of a reserve concentrate pool could be undertaken under the Orange Stabilization Act of Florida, the act has no provision for allotments or set-asides in order to develop a pool. Also pooled products under the current State act can only be utilized in the event of a freeze or similar natural disaster. Pooled products could not be sold under the State act into secondary markets such as the school market.

Mr. President, vitamin C and the other important nutritional elements provided by citrus products are vitally important to the health and well-being of the people of our Nation, particularly among our young people as they go through their early formative years of growth and development. Enactment of this legislation can result in a major step being taken in improving their nutrition, an opportunity we should be eager to take advantage of.

Mr. President, it also should be noted that these amendments to the Agricultural Act of 1937, is mere enabling legislation. Enactment of these amendments will not result in any Federal or taxpayer funds being expended now or in the future. Producers of these products will merely be permitted, by reason of these amendments, to self-administer some new marketing programs for themselves. No Federal control or subsidies would be involved. It would help citrus producers help themselves—and in so doing, help others receive the benefits provided by their products.

In view of the many benefits to be derived through the enactment of these amendments. I hope my Senate colleagues will join me cosponsoring and in securing passage of them.

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By Mr. KENNEDY:

S. 3259. A bill to authorize the Council on Environmental Quality to carry out a county government environmental control demonstration project. Referred to the Committee on Public Works.

### COUNTY GOVERNMENT ENVIRONMENTAL CONTROL DEMONSTRATION PROJECT ACT

Mr. KENNEDY. Mr. President, I am introducing today a bill to establish a county government environmental control demonstration project. I am pleased to announce that Congressman SILVIO CONTE of the First District in Massachusetts is introducing an identical bill in the House of Representatives today.

Mr. President, the bill I introduce today authorizes the Council on Environmental Quality to fund $1 million annually over a 3-year period to Berkshire County in the Commonwealth of Massachusetts to carry out a demonstration project. Berkshire is a uniquely beautiful area and one most suitably qualified for this project.

Berkshire County, which has its own natural boundaries, is a good example of the delicate balance between man and his environment with its cities and towns and industrial and recreational developments intertwined with the mountains and valleys, rivers and streams and forests and farms. It seems to me that if we are to begin to deal effectively with the problems of the environment, new approaches must be explored and all governmental units must become involved in effecting the solutions. County government, burdened with functions better handled by the State governments, has been neglected and ignored as a tool in preserving and protecting the fragile quality of our environment.

But the deepening crisis of the urban centers is now encroaching on the counties and so much of what plagues metropolitan residents has now spilled past the city, past the suburbs, into the rural areas of the counties. Dirty rivers run through city and county alike. Superhighways are no more welcome in quiet rural areas than in residential sections of the city. And crime and poverty and pollution touch rural as well as urban residents. The time has come to determine if the county governmental unit may become an effective instrument in leading hte cities out of crisis and protecting our natural resources.

A rejuvenated county government aiding the cities need not conjure images of dragging city garbage to landfill dumps in the county, or redirecting city traffic through quiet country settings, or of shifting housing and industrial developments to more scenic surroundings. Nor do we suggest that massive Federal Government support and funding is not crucial to solving our environmental problems or that the local town that lives with its problems daily has no ideas for solving them. But it seems clear that county government is uniquely qualified to establish priorities in terms of environmental needs, to direct Federal funding into those priorities and to evaluate the difficulties and the resolutions for both the urban and rural areas within its jurisdiction.

The bill I introduce today will provide a model for: First, rejuvenating and strengthening county governments throughout the Nation in their ability to deal with environmental problems;

Second, dealing with such environmental problems as waste of land, forest and wildlife resources, soil erosion, and flood hazards;

Third, solving such problems in cooperation with and with the assistance of the Federal, State, and local governments; and

Fourth, establishing priorities in solving countywide environmental problems.

The county commissioners of Berkshire County who have over the years demonstrated their concern and their interest in reducing environmental hazards would be required by this legislation to submit their plan for carrying out the demonstration project to the Council on Environmental Quality. A project commission would include the county commissioners, at least 10 experts in county government or the environment selected from institutions of higher education or from business, one representative from each town or municipality in the county, and one representative each from the Berkshire Natural Resources Council, the Berkshire Industrial Development Commission, and the Berkshire Regional Planning Commission.

In addition to establishing priorities in the environmental problems of the county, the Commission would work out a schedule for completing at least the highest priority projects during this 3-year period of Federal funding and also provide study data to serve as a blueprint for other county governments.

The county government environmental control demonstration project can bring new hope to those of us concerned and anxious over the prospects for our environmental future. And if these problems of the environment are found to be best solved at the county level, then perhaps other problems such as transportation, poverty, and crime control can most effectively be handled at the county level.

The greatest resource in Berkshire County is its citizens. If county government is to be revitalized, if cooperating governmental units are to deal with environmental problems, if a model of environmental priorities is to be worked out to serve as a model for the rest of the Nation—it is the citizens of Berkshire County who will do it. Over the years we have seen them work diligently to preserve the individual character of their area, facing down ventures which presented environmental hazards, and steadily becoming overwhelmed with polluted air and water—the unique gifts of our way of life in this century. This legislation is designed to give these citizens an effective means of overcoming these devastating odds, of turning back the enormous thrust of polluted resources, and of demonstrating to all the concerned citizens in the Nation that it can be done.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3259

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "County Government Environmental Control Demonstration Project Act".

#### STATEMENT OF PURPOSE

SEC. 2. The purpose of this Act is to authorize a demonstration program which will provide a model for—

(1) rejuvenating and strengthening county governments throughout the Nation in their ability to deal with environmental problems;

(2) dealing with such environmental problems as waste of land, forest, and wildlife resources, soil erosion and flood hazards;

(3) solving such problems in cooperation with, and with the assistance of, the Federal and State and local governments; and

(4) establishing priorities in solving county environmental problems.

#### AUTHORIZATION FOR DEMONSTRATION PROJECT

SEC. 3. (a) The Council on Environmental Quality is authorized to enter into such arrangements as it may determine with the county commissioners of Berkshire County, Massachusetts, for a three year demonstration project to carry out the purpose of this Act.

(b) Except as provided in subsection (c), no funds shall be paid to such county pursuant to this Act until such county commissioners submit to the Council a plan for carrying out such project which the Council determines to be satisfactory for the purpose of this Act and which—

(1) provides for a project commission, meeting the requirements of section 4, which will carry out such plan subject to the supervision of the county commissioners;

(2) establishes priorities for the solving of the county's environmental problems and establishes a schedule for completing at least the highest priority projects in the plan

during the three-year period of Federal assistance pursuant to this Act and provides assurances satisfactory to the Council that such schedule will be followed and that such county will continue to carry out the plan after such three-year period;

(3) provides adequate assurances of necessary cooperation by the Commonwealth of Massachusetts and any local government entities within the county, including the enactment of any necessary legislation;

(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds supplied pursuant to this Act; and

(5) provides for making an annual report and such other reports, in such form and containing such information as the Council may require and for keeping such records and for affording such access thereto as the Council may find necessary to assure the correctness and verification of such reports.

(c) Not to exceed 15 per centum of the funds authorized in section 5 may be paid to the County to cover costs of preparing the plan required by this section.

(d) The three year period provided in this section shall begin on the date the plan required by this section is approved by the Council.

### PROJECT COMMISSION

SEC. 4. (a) The Project Commission required pursuant to section 3(b)(1) shall include—

(1) the County Commissioners of Berkshire County;

(2) at least ten experts in county government or the environment selected from institutions of higher education or from business;

(3) one representative from each town or municipality in the County; and

(4) one representative each from the Berkshire Natural Resources Council, the Berkshire County Industrial Development Commission and the Berkshire County Regional Planning Commission.

(b) The members of the Project Commission shall select one member to be Project Commissioner and may select such other officers and provide for such subcommittees of the Commission as they determine to be necessary.

### AUTHORIZATION

SEC. 5. There is authorized to be appropriated the sum of $3,000,000 for payments to Berkshire County pursuant to this Act, and such sums as may be necessary for the administration of this Act by the Council on Environmental Quality.

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**By Mr. FANNIN:**

S. 3261. A bill to amend the Internal Revenue Code of 1954 to make clear the tax treatment intended for guaranteed renewable life, health and accident insurance contracts in the case of life insurance companies. Referred to the Committee on Finance.

Mr. FANNIN. Mr. President, I introduce a bill to clarify congressional intent with respect to the tax treatment intended for guaranteed renewable health insurance contracts in the case of life insurance companies.

There are several types of health insurance contracts, as follows: First, noncancelable health and accident insurance contracts—that is, a contract which the insurance company is under an obligation to renew or continue at a specified premium—second, guaranteed renewable health and accident insurance contracts—that is, a contract which is not cancelable by the insurance company but under which the insurance company reserves the right to adjust premium rates by classes, in accordance with its experience under the type of policy involved—and third, cancelable health and insurance contracts—that is, a contract which a company may cancel. When Congress passed the Life Insurance Company Income Tax Act of 1959, it was concerned with the treatment of health insurance contracts under that act. For example, it was specifically provided in the law, section 801(e), that guaranteed renewable health and accident insurance contracts were to be treated under the 1959 act in the same manner as noncancelable health and accident insurance.

There are several other instances of congressional concern regarding health insurance contracts under the 1959 act. Under section 809(d)(5), the Congress provided a deduction for nonparticipating policies. The basic purpose of this provision was to permit stock life insurance companies to compete on a comparable basis with mutual companies which issue participating policies. This deduction for nonparticipating policies is as follows: the greater of first, 10 percent of the increase in life insurance reserves or second, 3 percent of premiums for nonparticipating policies which are issued or renewed for a period of 5 years or more.

It is interesting to note that the 3 percent of premium provision was added by the Senate Finance Committee during the deliberations on the 1959 act. This provision was added after testimony by a number of companies that, for various forms of insurance, a 3-percent premium test was a more reasonable approach than the 10-percent reserve test for obtaining competitive equality. Again, among the proponents of the 3-percent premium test were insurers that sold noncancelable health insurance and guaranteed renewable health insurance.

Thus, in my opinion, Congress thought it had equated noncancelable and guaranteed renewable health insurance contracts.

Congress further evidenced its concern regarding health insurance contracts in another provision in the 1959 act. Section 809(d)(6) provided a deduction of 2 percent of the premiums of group accident and health contracts. In 1962, this deduction of 2 percent of premiums was extended to premiums attributable to individual accident and health insurance contracts—unless they were of the nonparticipating type and were issued or renewed for periods of 5 years or more, in which case present law already allowed a deduction of 10 percent of the increase in reserves for nonparticipating contracts or, if greater, 3 percent of the premiums attributable to nonparticipating contracts. The explanation of this amendment, as contained in the Senate Finance Committee report was:

> This amendment will be of special benefit to smaller life insurance companies which generally do not write substantial group accident and health insurance contracts but which are active in the individual accident and health insurance market, where risks frequently are greater. S. Rep. No. 1720, 87th Cong., 2d Sess. 4.

It should be noted that these deductions for health insurance contracts are not absolute deductions. Rather, they are only "temporary" deductions since they must be added to the deferred tax base the code provides for life insurance companies. Thus, the amount of these deductions will be restored to a company's tax base and subject to the corporate tax in the future.

It has been brought to my attention that the Internal Revenue Service has issued two revenue rulings, Revenue Ruling 65-237 and Revenue Ruling 71-368, which negate the intent of Congress as to the tax treatment of guaranteed renewable health and accident insurance contracts. The Internal Revenue Service has concluded that guaranteed renewable health and accident insurance contracts do not qualify for either the 3 percent premium deduction under section 809(d)(5) or the 2 percent of premium deduction under section 809(d)(6). In other words, all forms of health insurance contracts—group or individual, noncancelable or cancelable—will qualify for either the 3 or 2 percent of premium deduction but one—guaranteed renewable health insurance.

This result is clearly contrary to the intent of the Congress. It defeats the purpose of Congress in enacting sections 809(d) (5) and (6). Moreover, it gives a company a greater tax incentive to sell cancelable health and accident insurance rather than guaranteed renewable health insurance. Under guaranteed renewable health and accident insurance the insured is guaranteed the policy cannot be terminated merely because he has become an uninsurable risk. The reinstatement of the 3 percent premium deduction will encourage companies to provide guaranteed renewable health insurance. This is in the public interest.

It was because the congressional intent seemed so clear to me in this area that after I heard of these ruling of the Internal Revenue Service I decided to introduce a bill making more specific what I believe is the intent of Congress in this regard. The bill I am introducing amends section 809(d)(5) of present law so that it specifically includes guaranteed renewable life, health, and accident insurance contracts for purposes of the 3 percent of premium deduction. This amendment, since it is clarifying in nature, is made applicable with respect to the effective date of the Life Insurance Company Income Tax Act of 1959; namely, taxable years beginning after December 31, 1957.

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**By Mr. CURTIS (for himself, Mr. HRUSKA, Mr. BAKER, Mr. DOLE, Mr. HANSEN, Mr. PEARSON, and Mr. TOWER):**

S. 3262. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes. Referred to the Committee on Labor and Public Welfare.

### TOWARD A FAIRER OCCUPATIONAL SAFETY AND HEALTH LAW

Mr. CURTIS. Mr. President, on the 29th day of December, 1970, a little over 1 year ago, an Act of Congress pertaining to the health and safety of employees in their occupations became law.

This law, Public Law 91–596, known as the Occupational Safety and Health Act of 1970, was ordered reported by the conferees of the House and Senate on December 16, 1970, and thus received final congressional action in the waning days of the 91st Congress.

At the time that the Occupational Safety and Health Act was considered in the Senate, a better proposal was under consideration. This proposal had the support of the administration. It was introduced by Senator DOMINICK of Colorado in the nature of a substitute for the bill that was passed.

Had it been enacted into law, the Dominick substitute would have done much more to advance the cause of industrial health and safety. It was a bill that our people could live with. It placed more emphasis on cooperation and education, which are essentials if any program is to work.

The Dominick substitute, if it had been enacted, would have avoided much of the trouble that we are now experiencing with the present law. This amendment, however, was defeated by a rather close vote. On a vote of 41 to 39, the motion to table the Dominick substitute was carried. I supported the Dominick amendment and I regret that it did not prevail.

Now, a year later, we are seeing the results of the law in action, and it is becoming abundantly clear that there are major defects in the law.

Last December 14 I said, in a statement here in the Senate, that I intended to propose remedial action to cure some of the defects which have been called to my attention. I know other Senators have also received mail regarding the inequities of the act. I have been investigating the problems and their causes, and have found that, contrary to the belief of some, the problems are not basically due to ill-advised administrative actions by the Secretary of Labor in carrying out the law. The problems are rooted in the basic law which Congress passed. It is, therefore, not a matter which the Secretary of Labor or the President can remedy. Rather, the problems to which I refer are the responsibility of Congress.

Today I am introducing a bill that I believe includes the amendments necessary for a responsible reform of the 1970 act while reinforcing the basic purpose for which it was enacted.

There is no doubt in my mind that these amendments will hasten the day when employers will have taken all necessary steps to provide for the health and safety of their employees as they carry out their jobs, because the act would be rewritten to retain the goal of further protection. But my amendments would end or lessen the effects of provisions which have proven to be completely unworkable and unfair to the employers, especially the owners of small businesses, who, struggling to keep pace with competition, are laboring under the additional paperwork burdens imposed by Federal wage and price control requirements, equal employment opportunity requirements and myriad other such Federal laws.

Businesses, as a result of the 1970 Occupational Safety and Health Act, are deluged with a multitude of so-called health and safety requirements with which they must comply or face sanctions that include civil and criminal penalties and even the closing down of their businesses.

These requirements have been imposed upon them en masse, without any administrative determination whatsoever that they will improve occupational health and safety, that they are necessary or even that they are the best way of accomplishing the desired result. I am speaking of what the act denominates as "national consensus standards." These are various criteria and guidelines which in the past have been set forth by a number of private organizations. The act Congress passed, in effect, made these rules the law of the land without a prior specific review of them to see what they do, how they should be applied, or whether or not they are adequate. As a guide or base point, these standards could serve a useful purpose, but the result of adopting all of them, without an administrative rulemaking procedure, is that the employers of the country have been required to find out what the rules are and which ones—if any—apply to them, and to expend time and money in trying to put them into effect when the employer very well knows in many cases: First, that they will not improve employee safety, or second, there are better ways of doing it, or third, there are less expensive ways of doing it, or fourth, that all three of these statements apply to the particular rule with which he must comply. The final irony is that, sometimes, employers simply find it impossible to comply.

I mentioned some examples in my previous statement, and it is necessary to mention examples again because it is so evident from these relatively few examples that there must be thousands of other instances of similar nature which have been thrust upon employers by this act, detracting from, rather than adding to, the purpose of the law.

Employers are required to install coat hooks in toilet compartments. In the first place, I do not believe this qualifies as a "safety" requirement. Secondly, even if it does it has been applied to businesses where the employees have no use for such hooks and the employer knows they will not be used.

Under another rule, employers are required to color code switches red and green even though they may already have their plants and equipment color coded with other different colors which their employees have been using for years and understand. To change over to red and green and the resulting loss of equipment time will cost many employers thousands of dollars.

A similarly ridiculous regulation imposed upon farmers requires every farm truck to contain a first aid kit and a fire extinguisher. As one of my constituents pointed out, neither is likely to be there "the night after we mount them in the vehicle because they will be stolen." He further points out that, in my State of Nebraska, the first aid kit required will cost $16.

Protections for window openings in building construction, which may be appropriate in the construction of multistoried buildings, are required for all construction—even a one-story residence where the distance to the ground is no more than a few feet. The employer knows there is no reason he should have to spend his funds to comply, but the regulations make no provision for such in-business differences.

A load moment computer is required to be installed at considerable expense on all existing cranes. The ostensible purpose is to advise when the crane will tip over, but the requirement fails to reflect the status of the essential factor—the base of the crane—with the result that it obviously does not fulfill the intended purpose. Nevertheless, the act required the Secretary of Labor to put this regulation into effect.

Under the national concensus standards, which the 1970 act required the Secretary of Labor to adopt, farmers must install a roll bar on their tractors. However, no provision is made for the many tractors on which the roll bar cannot be attached, or for those to which it can be attached but the place of attachment is too weak to allow the roll bar to hold up in a rollover. Neither is there any consideration given to the fact that the roll bars, which in my State I am advised, run from $200 to $250 each, will in many instances cost more than the tractor itself is worth. Nor is any allowance made for the physical area or conditions where the tractor is being used or might be expected to be used. Many of my farmers advise me that their tractors are never driven on anything but level land and blacktop roads. Why impose the same requirements under these conditions that are imposed on tractors used on hilly or terraced terrain, or under other circumstances which might logically lead to an upset? Why? Because, as in the other cases, without any idea that Congress would ever make it an all-encompassing requirement, some safety-standard-setting organization once set it forth as a good idea, thinking, of course, about specific tractors, probably new ones, and specific conditions where an effective roll bar might prevent death or injury. I ask: Is it in the farm employee's best interest to have him believe that he is protected by the roll bar that will not protect him, or the crane operator to believe the load moment computer will protect him when it will not? I think not. It is better that the employee drive the tractor or operate the crane with the caution that full knowledge of the facts gives. It is far better for us to be fully assured that every dollar we require an employer to spend is for a needed and useful safety requirement in his particular field, and that this determination is made pursuant to the usual rulemaking procedures prescribed by the Administration Procedures Act.

Right now, many of the requirements employers must meet are known to be ones which will be replayed at a future date, resulting in loss of the investment made in meeting them. The conference report called these national concensus standards, only interim standards, and the act makes provision for their later replacement.

The Senate report said of these "national consensus standards" which were foisted upon employers:

> These standards may not be as effective or as up-to-date as is desirable, but they will be useful for immediately providing a nationwide minimum level of health and safety.

I repeat, the majority of the Labor and Public Welfare Committee concluded that these standards, which the law required to be put into operation immediately, likely were not the best and were probably out of date.

Nevertheless, the law requires the employers to spend the time and the money necessary to understand them and to put them into effect.

This does not, in my judgment, promote respect for the law in this country, in general, and specifically will work against the improvement of employee health and safety and further constitute an intolerable burden upon employers.

Or take another example of the inequities of the law. Employers are not given actual notice in the mail that they must take various required and specific steps in their business operation, as they are with respect to withholding taxes, for instance. Instead, they are supposed to read the reams of requirements, which the law says the Secretary need only publish in the Federal Register, and then try to figure out, at their own peril, which ones apply to them. Parenthetically, I might say here that there is no requirement of notifying the employers that they are even expected to meet certain requirements which they will find in the Federal Register. It is "presumed" that every person in the country who has an employee and is thus an "employer" knows this and can and will do it. For the man who is a carpenter by trade and employs a helper, the pharmacist who has his own pharmacy and an employee to help him, or the farmer with hired hands, for instance, we are talking about something which is too much to expect. Yet it is what the law requires.

What happens when one of these people writes the Secretary of Labor wanting to know just what he or she must do? As an example, I have a letter before me from the Labor Department responding to such an inquiry. It is short and to the point. I quote:

> Your request for a visit to your shop . . . can be arranged in the near future.
>
> However, if a compliance officer visits your place of employment, he is obligated to conduct a complete walk around inspection. . . . If he finds any alleged violations it could subject the company to assessment of monetary penalties.
>
> If you still desire a visit under these conditions, please let us know.

This person requested assistance in complying with the act and received in reply a threat of the imposition of sanctions, together with a suggestion that he reconsider his request. Does this lead to the improvement of the health and safety of employees? Hardly: But it is the position in which the 1970 act puts the Labor Department. I think we need an affrmative provision in the act to encourage voluntary compliance, with the assistance of the Labor Department. That assistance should include interpretations of rules, an indication of which rules apply and how to comply with them, and flexibility for the Department, if it finds the employer is out of compliance at the time of his request for assistance, not to institute sanctions. After all, that is the reason the employer seeks and needs help—because he believes he may not be in compliance and because he wishes to obey the law.

My bill seeks to give us a law which employers, employees, administrators, courts, and the public will respect. Without such respect, this Occupational Safety and Health Act will fail to achieve its purpose.

The amendments which I propose as the "Occupational Safety and Health Act Amendments of 1972" are as follows:

First. An amendment to exempt small employers, both agricultural and nonagricultural, from the act. I propose to exempt businesses of 25 or fewer employees from the rigors of this national safety law. Congress has exempted businesses with 25 or fewer employees from the Equal Employment Opportunities Act, which we have recently had under consideration. The same reasoning which sustains that exemption supports the exemption I propose for employers under OSHA.

My perusal of the hearing records in the Senate and the House in considering the 1970 act indicates little attention was given to this question, and I assume the reason is that the witnesses, other than those from the administration, were mainly representing big business and big labor while the corner druggist and the small farmer could not afford to appear, even if they knew of the hearings and had an idea what was in store for them, which they did not.

The administration bill in both Houses did have an exemption for small employers, but that practical and precedented suggestion from the Department of Labor was completely disregarded in the reported bills.

I did find a statement in the hearings by a representative of one of these private setting organizations, whose relations are with big business, who said that he saw no reason for the exemption of small business. But when that statement was made, the witness was talking about the bills then before the committee, which were quite a bit different from the final act insofar as their effect on a small businessman is concerned. He, of course, was also speaking without the benefit of the experience which has developed since this act became law.

When then Secretary of Labor Shultz testified before the Senate committee, he supported an exemption for small business and he mentioned the lack of experience with the law as one reason. The last year has certainly proven the administration right in that regard, and I think that if we are going to have the unreliable, "trial and error," off-again-on-again, standard setting procedure the present law provides, we should exempt small businesses, at least until such time as the bugs are worked out and the standards have been shifted and sifted and made more reasonable in form. It is bad enough to subject any employer to this sort of standard setting, but, in my opinion, these people who are in business for themselves with only a couple of employees simply cannot afford even to try to keep track of what the requirements are. Imagine a man in business for himself—a TV repairman with one helper, for example. As an employer, he stays up all night to read up on the safety regulations, with which he has heard he must comply, only to find out that the coat hook in his bathroom does not measure up to national standards. How many more nights is he going to stay up to read these volumes?

Why should a small farmer have to install some alleged safety device on his tractor when he and the same employee have been driving tractors over the same farmland for the last 15 years and can do it with their eyes closed? Those regulations are for big companies and big farming businesses where there is a constant turnover of employees, who work on different equipment from day to day, who are under different supervisors and are generally participating in our automated society.

I mentioned the witness who said he saw no reason why small employers should not be covered by the act. I would have asked him why, in that case, the law should not be equally applicable to the man who works by himself without employees? That question was not asked; yet neither the witness nor those who eliminated the small business exemption suggested these requirements should apply to one-man businesses. Against the background of that unanswered question, I feel the reason for the small business exemption is brought sharply into focus, and the action of Congress is shown to have been quite arbitrary. Congress many times in the past has recognized that small business should, and must, be distinguished from big business.

Second. An amendment to delay for 1 year the effectiveness of the act with regard to the employers who have more than 25, but fewer than 100 employees. In my part of the country, at least, it is going to be impossible for businesses in the category to meet the requirements of the act overnight. Not only would the financial burden drive many out of business, but, for those who could afford the modifications, there simply is not the expertise available to accommodate the overnight changes. One of the few qualified safety engineers in Nebraska advises me that the act covers matters requiring the expertise of fire engineers, safety engineers and industrial hygienists. Yet there is not a single industrial hygienist in the entire State, only a few qualified fire engineers and almost no safety engineers or safety consultants to aid trade associations and small employers in bringing their operations into compliance.

He estimates it would take 15 qualified people working 3 years to prepare Nebraska for the act through training academies, actual inspections and close work with trade associations. But there are not 15 qualified persons in the entire State.

Third. An amendment to section 6 of the law which required the Secretary of Labor to put all these national consensus standards into effect without complying with the usual rulemaking procedures. This amendment would not set aside the procedure which Congress elected but, instead, would require the Secretary of Labor to evaluate all of the regulations, distinguish the various facets of a given general form of business, and determine if the rule should apply to each facet. Experience shows that requirements which may be reasonable for a "hazardous" form of business can be oppressive when applied to a "nonhazardous" facet, and that the current requirements often fail to make appropriate distinctions.

In the construction business, the difference between "heavy construction" and "light residential construction" is a case in point.

The farming industry provides a different sort of example. Here, the requirement of a half-inch mesh screen shield on all motors and power ventilating fans may be appropriate for some enterprises, but in the poultry business, the feathers and down would completely plug such screened outlets in a matter of 2 or 3 days. Such arbitrary rigidity cannot possibly be so beneficial to health and safety as to outweigh the damage it does to the peoples' respect for law and lawmakers.

Fourth. A further amendment to section 6 to require the Secretary of Labor to publish as to each present and future rule, the estimated maximum and average cost of compliance, and to determine that it is in fact possible to comply.

I do not see how anyone can quarrel with the idea that the Secretary should at least know the cost and feasibility of compliance and second, that the employer should be given some idea of what the cost will be, as contemplated by the Secretary, and assured there is a device or procedure available that will permit him to comply. There is no such provision in the law at present.

Fifth. An amendment to require the Secretary of Labor to provide technical advice and consultation to employers of 100 or fewer employees to assist them in complying with the act.

I have chosen the figure of 100 or fewer employees to denominate those which will receive this help. As I said, the Equal Employment Opportunities Act presently exempts all employers from its operation if they have 25 or fewer employees. I propose the same exemption for OSHA. However, I do feel that for small businesses in the 25 to 100 employee bracket, we are going to see compliance with the requirements much more quickly and easily if they get some help.

I quoted earlier a letter received by one employer from the Labor Department when he asked for help. He was told that the result likely would be a finding that he was in violation of the act, together with the imposition of penalties.

Large businesses may be able to afford lawyers and engineers to advise them on what is required and how it should be done, but these small employers cannot. As long as Congress included them in the act, it is incumbent upon Congress to help them, particularly in view of the imposition of these consensus standards which the Committee Reports call "out-of-date" and subject to almost immediate replacement. This is the fair way of getting employees in these small businesses covered.

Sixth. An amendment providing that as to these "national consensus standards" or any other non-emergency requirements, they shall not have equal status with other requirements which were adopted in the usual rulemaking proceedings, by specifying that no penalty or other action will lie as to such deficient requirements unless the Secretary has seen to it that the employer actually receives a copy of the requirement and was given 30 days in which either to comply or to request an administrative review.

Right now the occupational safety and health law provides only for publication of these requirements in the Federal Register and, when the requirements were not even adopted pursuant to the Administrative Procedures Act, it is not fair to expect the employer to know of them and to have complied with them the day an inspector happens to walk in.

In "Additional Minority Views" in the House, Representative SCHERLE and five other committee members said of the Occupational Safety and Health Act provisions:

> When Congress passed the Administrative Procedures Act we recognized the importance of requiring government agencies to follow uniform procedures . . . that compelled fair methods of developing and enforcing regulations.

In the reported bills and the act, however, Congress cast aside the procedures it had established, and, in so doing, cast aside the fairness which the "adversary" agency rulemaking procedures were intended to insure.

The procedure in the act which gave the Secretary authority to block a national consensus standard was of no merit. To be able to use it, the Secretary, on his own volition, was required to isolate a specific standard out of the multitude and to make a judgment that there was no possible way it could be of benefit. There is no procedure specified and, if he did make such a judgment, the Secretary had to do it without the benefit of a hearing or other airing of the pros and cons. He also must have done it in face of the committee report language which said Congress knew the standards were likely deficient, and contemplated their promulgation, regardless. In effect, he would have been overriding a congressional determination.

Now that these requirements have been put into effect without the usual procedures and we have observed the results, I propose to inject some fairness by my amendment. I do not think Congress should have directed that the Administrative Procedures Act be abrogated, and this amendment is an alternative to repealing the rules adopted pursuant to the act's "irregular" requirements.

Under my amendment, by publishing the rules he believes are proper, and adopting them in the usual form prescribed by the Administrative Procedures Act, the Secretary can relieve himself of the responsibility of actually sending each employer the regulation and giving the 30-day period for corrections.

I hope the Secretary will subject each requirement to the test of the usual agency procedures, if this amendment is adopted, and I believe he will.

I cannot accept the reasoning which supports the different procedures for "national consensus standards" on grounds they were adopted by the private agency under circumstances where interested parties could participate. There was nothing involved in the events surrounding adoption of these standards by the private standard-setting agencies which gave notice to every affected employer in this Nation that what the agency was doing was at some later date going to become a binding Federal rule, adopted without the usual administrative procedures for nationwide application. Furthermore, if some employer had suspected that might happen, and had sued the private organization to get the standard changed because it might later be a Federal rule, that employer would have landed on his ear outside the courthouse. Finally, given the "nonmandatory" nature of the rules adopted by private standard-setting agencies, many employers would not have taken the trouble to participate, even if they knew of the proceedings.

Seventh. An amendment to compensate employers for the additional expense of having to comply, initially, with one rule, and then having to comply with a different one when the first one had not been adopted pursuant to the Administrative Procedures Act.

At the beginning of this statement, I quoted the incredible statements in the committee reports indicating the committees knew many of the initial requirements imposed upon employers were probably out of date and were not the proper ones, with the result that they later would have to be replaced. This means that an employer can be required to install one safety device by the rules Congress required to be put into effect and then will have to take that device off or alter it to comply with later substitute rules adopted under normal procedures. If those normal procedures had been followed in the first instance, they likely would have resulted in the correct requirement being adopted initially. I believe the Federal Government, not the employer, should pay the extra expense in such instances.

The Department of Labor submitted to both committees a 1968 Labor Department Report on the status of safety standards adopted by private organizations—page 1444, Senate hearings. That report clearly stated:

> (1) 32% of the standards were 10 or more years old.
>
> (2) 28% of the standards were 5 to 10 years old.
>
> (3) Only 40% (were) considered current.
>
> (4) In the first two categories, 60% were in need of 'revision, updating or faster action.' In the second category, 14% would pass out of the 'current' classification by 1969.
>
> (5) It can be anticipated that the current backlog will increase.

This is the background for the admissions in the committee reports and the reason the additional costs of meeting two or more safety changes instead of one must be a Federal obligation. It is also another reason for the exemption of small business from this act, as I propose, and it fortifies the arguments for most of my other proposed amendments as well.

My amendment would not apply to cases where the replacement requirement could not have been adopted initially, as in the case of newly discovered procedures or devices. It also does not apply to cases where the normal rulemaking procedures were followed in adopting the first requirement.

Eighth. An amendment providing that if the usual administrative procedures for adoption of rules were not followed, the failure to comply with the rule cannot be used as evidence of negligence or wrongdoing on the part of the employer.

It is a usual rule of law that where a person is injured and he can prove a relationship between his injury and the absence of compliance with a governmental safety requirement, the fault of the person who failed to comply is presumed, so that the burden is upon him to prove he was not at fault. In the case of the safety rules which were not adopted pursuant to the usual governmental procedures, it is my belief that this rule of evidence should not apply. It appears it could cause unnecessary litigation and should be answered in the same law which created the problem.

Ninth. An amendment to relieve employers from the absolute liability provisions of the act.

At present many of the regulations require the action of employees to implement them. The employer may have done everything in his power to get the employee to do what he should, but if the employee fails to do so, the employer is still held responsible and subject to fines or the closing of his business.

My amendment would permit an employer who is assessed a penalty under the act to show that he has posted notices and exerted all reasonable efforts in accordance with rules to be adopted by the Secretary to cause his employees to comply with the regulation.

If the employer cannot establish that he did this, he will still be held responsible, but he should have this right.

Tenth. An amendment to provide that no employer shall be responsible for fines and other penalties under the act if he can prove that the requirement he is alleged to have violated would not have effectively constituted an improvement of the health and safety of his employees.

Particularly because these consensus standards were adopted without following the Administrative Procedures Act, there are many requirements which clearly do not effectively improve health and safety at all—again I come back to the example of the bathroom coat hooks.

Additionally, there are many requirements that may appear necessary when trying to set up national guidelines, but when a specific employer in a specific factual situation sees them, it is clear to him and his employees that compliance will not do a whit of good for employees safety and health in his given factual situation. As a matter of fact, in many cases the employer may have a safety device which he has chosen to fit his specific needs and which is far superior to the one adopted by people totally unfamiliar with what this particular businessman actually has or is doing. I do not think it takes any imagination at all to be able to see why the act is hopelessly deficient without the specific availability of this defense.

I would hate to learn that an employee has been hurt or killed by a machine which had had an effective safety device removed in order to install one required by a national standard which did not take into account vital distinctions in a particular employer's operation.

Eleventh. An amendment to permit the Secretary, where appropriate, to make provision for initial medical exams for employees and followup exams thereafter at periodic intervals. This will assist the recordkeeping proviso of the bill and enable the employer and the Secretary to better ascertain the effects of a particular job upon employee health.

Twelfth. An amendment to aid the purposes of the act by permitting the formation of employee safety committees to identify areas of concern at a particular business and to endeavor to find the best solutions for their health and safety.

Although this seems a logical and beneficial way of particularizing employee health and safety, other laws, particularly the National Labor Relations Act, appear to prohibit it or to establish preconditions. Thus, it is necessary to grant specific authorization to permit the employees to so participate in order to further the purposes of the Occupational Safety and Health Act.

Thirteenth. Last, an amendment to assure the earliest compliance of employers with the safety and health requirements by making available to the Secretary of Labor, in the case of an alleged violation, the option of entering into an agreement with the employer for prompt compliance, in lieu of using the present provisions and imposing a penalty for having failed to comply.

In some cases, to protect himself legally under the present act, an employer who learns he is believed not to be complying with an applicable standard is deterred from prompt compliance because to do so may constitute a tacit admission that he was out of conformity, which fact can be used against him in imposing penalties and sanctions.

If such an employer was not willfully violating the act, the best way to achieve the purposes of the act may well be for the Secretary to forego collecting the penalty or imposing other sanctions in exchange for the employer's prompt agreement to do what is necessary. This procedure is common in other areas, and in this case, besides accomplishing the change in the shortest period of time, it may avoid a shutdown of the business and loss of income to the employees. Such an amendment could also avoid unnecessary expenses to the Government in litigation and in trying to convince a court that the employer was not in compliance.

My amendment does not require this procedure; it only makes it available as a tool to the Secretary of Labor for use in appropriate cases.

I will, of course, welcome any cosponsors who find my bill suited to the relief of their own constituents, as I strongly believe many will. And even those whose constituents have not yet felt the injustice of its provisions will, I believe, share with me a concern for making this act respectable law.

Abraham Lincoln once said, in a speech at Springfield in 1837:

> I know the American people are much attached to their government. I know they would suffer much for its sake; I know they would endure evils long and patiently before they would ever think of exchanging it for another—yet, notwithstanding all this, if the laws be continually despised and disregarded . . . the alienation of their affections from the government is a natural consequence. . . .

As lawmakers entrusted with the duty of securing the common good of all and living in a time when disrespect for law is of growing concern, we can ill afford the luxury of enacting legislation which imposes arbitrary, capricious, and unnecessary burdens upon the people, further alienating their affections from representative government. The rectifying of this Occupational Safety and Health Act may well become a major test of our good faith in this regard.

Mr. HRUSKA. Mr. President, it is with tremendous interest and much sympathy that I listened to the remarks of my distinguished colleague from Nebraska concerning the Occupational Safety and Health Act.

My mail has been heavy with complaints about the unfair application of this law, about the way that small businessmen have been harassed. These are complaints from sincere, hardworking businessmen who have no quarrel with improvements in safety and working conditions, but who also know that the application of this law has produced true chaos and heavy burdens.

Senator CURTIS' proposed amendment to this act may not be in its final form, but it will bring about a thorough discussion of all the points that need to be raised so that this law can be made workable. It is with these thoughts in mind that I have agreed to be a cosponsor of his bill. It is my hope that quick action will be taken.

Mr. HANSEN. Mr. President, I am pleased to join with my colleague Senator CURTIS in sponsoring this important legislation. Full credit needs to be given to Senator CURTIS for his full recognition and keen analysis of the significant problems that have come forward from the Occupational Health and Safety Act which was passed by Congress in 1970.

As my colleagues will remember, this legislation was passed by Congress and signed by the President with the intent of improving the working conditions of American employees. I fully support and endorse this objective and I voted for the bill on final passage after the Dominick substitute was tabled by a vote of 41 to 39.

However, Mr. President, the Occupational Safety and Health Act has turned into a nightmare for the small businessman.

As implemented by the Department of Labor, many small businessmen in my State are asking if the objective of the Occupational Safety and Health Act is to eliminate work, not improve working conditions for the employee.

Mr. President, I think it is extremely unfortunate the act has been administered and implemented in a way that has created such a burden on small business.

The alarming part of this is that the original legislation was not intended to be oppressive to small business. That was not the intention. But it has been the result.

The problem seems to lie with the regulations that have been promulgated by the U.S. Department of Labor and the manner in which the act has been administered in the several States. It is in this area where my constituents are facing real problems and I am most sympathetic to their dilemma; thus the Curtis-Hansen bill.

Unfortunately, small businesses—with only a few employees—simply do not have any way to go through thousands uopn thousands of words of regulations in order to try and find out how and why and where their businesses are not in compliance; and, more significantly, in a number of instances already called to my attentiton, these same businessmen will not be able to put together enough capital to bring their businesses into compliance with the new regulations once they do learn where they are in violation.

For example, Mr. President, how many of my colleagues had any idea that there would be seven pages of Federal Register regulations on stepladders alone as a result of this act?

This, to my mind, avoids th real intent of the act—safety for employees—and only adds an intolerable extra layer of unneeded, and sometimes, unfair, bureaucracy.

Mr. President, the legislation which I am joining with my colleague, Senator CURTIS, in sponsoring would amend the Occupational Safety and Health Act. It would not disturb the basic concept of that act, but it would reorient the thrust of the legislation to one of education for the employer and employee and help the employer come into compliance with the Department of Labor's regulations.

Our amendment to the act would redirect enforcement to assist the employee in situations where major problems exist, not harass the small businessmen.

I am pleased to join in this effort and hope that it will receive favorable consideration so that the original intent of the Occupational Safety and Health Act can be carried out.

Mr. President, on Saturday, February 26, 1972, Senator CURTIS and I met for over an hour with the Secretary of Labor to inform him of the hardship which rules and regulations promulgated by the Department is working on the citizens in Wyoming and Nebraska. In my opinion, many of these standards are uncalled for and do not lead to healthier and safer working conditions for employees.

I urged the Secretary to institute a program to inform all employers of the provisions of the law and the rules and regulations and to direct labor officials to work with employers to protect their employees rather than harassing employers to take action which has little if any, relation to employee health and safety.

The Secretary recognized that a problem exists in the application of the Occupational Safety and Health standards to small employers. He assured me that the Department is now working to correct this problem. The Secretary promised to arrange for labor officials to visit cities in Wyoming to inform employers of the new standards and exchange views with them.

For example, a meeting is set for Riverton on March 16.

The Secretary indicated that it was the intention of the Department to work with employers and not to intimidate them and that he would work to see that this policy is carried out in the field.

Recent developments have convinced me that the Occupational Safety and Health Act of 1970 must be amended to correct inequities. If left unchanged, I believe many small businesses will close and their employees will be out of work. Therefore, Senator CURTIS and I introduced legislation following our meeting with the Secretary of Labor to remedy the situation.

Our proposal would exclude all employers with fewer than 25 employees from the provisions of the act. All employers covered by the act would be given a 1-year phase-in period to comply with the law.

It would require the Secretary of Labor to make certain determinations before adopting a new standard and provide for flexibility in the application of the standard.

In enforcing the standards, the Secretary would have the burden of proof to show that negligence or wrongdoing of the employer arose out of the violation charged.

Our proposal would also provide the employer with four affirmative defenses to charges that he is in violation of the act.

All Americans support healthy and safe working conditions for our workers.

I regret that legislation intended to promote the health and safety of employees is so broad and new standards so inflexible that it has become an unreasonable and unnecessary burden. The application of standards not resulting in healthier and safer working conditions in a specific case only serves to endanger the survival of the business, to cause the loss of jobs by employees in that business, and to increase costs to consumers.

I hope that the Secretary of Labor will do what he can to mitigate the burden and I intend to do everything I can to see that the Congress enacts legislation which will provide a permanent solution to this problem.

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By Mr. McGOVERN:

S. 3263. A bill to amend the National School Lunch Act to provide for a universal school lunch pilot program. Referred to the Committee on Agriculture and Forestry.

### PILOT UNIVERSAL SCHOOL LUNCH

Mr. McGOVERN. Mr. President, today I introduce a bill calling for the establishment of a pilot universal school lunch program as a step toward providing every American schoolchild one nutritious meal a day.

The bill closely follows recommendations laid out in a recent comprehensive Select Committee Study on the National School Lunch Program, "Hunger in the Classroom: Then and Now."

Representative CARL PERKINS, chairman of the House Committee on Education and Labor, is introducing a similar bill in the House of Representatives today.

It should be clear that the present structure under which the national school lunch program operates has failed to achieve its stated goal of safeguarding "the health and well-being of the Nation's children." Progress in reaching the hungry has generally been too little, too late. Assurance that all children receive at least one nutritious meal a day has not yet been attained. At a time when it can now be said that adequate income does not guarantee an adequate diet, we have yet to at least reach the point where those with a clearly inadequate income are provided with just a portion of their minimum daily nutritional requirements.

The time has come for a thorough reconsideration of the child nutrition concept. The recent report of the select committee has been aimed at a complete review of our progress, an account of our shortcomings and the recommendations stated are meant only to deal with the immediate problems under the present structure. More fundamental problems exist which these recommendations cannot deal with. In the coming year it is apparent that the universal school lunch concept, a free meal for every schoolchild in America regardless of his family's income, is likely to be at the center of the debate as to the basic structural deficiencies in our present efforts. Legislation to this effect has been introduced in both Houses of Congress and has been endorsed by many prominent members of the interested public.

Those who oppose the universal school lunch program do so because of its cost; or, because they feel that the role of feeding the child should not be taken away from the family by the State. Those who favor the program point out that adequate nutrition during childhood acts as a preventive medicine—it reduces medical problems and the expenses necessary to correct them; it reduces dropout rates and disciplinary problems in school; and, it teaches children proper eating habits. In short, they say, tax money spent on the child is tax money saved when many of the problems associated with malnutrition subsequently fail to appear. Proponents claim that, given the current state of nutrition education, adequate income does not guarantee adequate nutrition; and that only with a universal program will all of the needy truly be fed, and only then will the economic segregation of the present system also disappear.

Change is needed. What form that change should take must be more thoroughly evaluated. The Select Committee on Nutrition and Human Needs has approved plans to thoroughly investigate the validity of the arguments stated above. In order to complement our investigations the following pilot programs should be established so that an accurate appraisal of the cost, necessity, and value of the universal school lunch concept may take place.

For that reason, I am introducing this bill today. A bill that was prepared in cooperation and consultation with citizens groups, the food service and management industries, and the American School Food Service Association. This bill would:

First, study the concept of a universal school lunch program under which all preschool, elementary, and secondary school students in the United States would be provided free lunches, to determine the feasibility of such a program, to identify and seek solutions to problems of establishing and operating such a program, to evaluate the nutritional, educational, health, social, and other benefits of such a program, and to determine the probable cost of such a program the Secretary is authorized and directed to establish in geographically dispersed areas of the United States, pilot programs, under which all preschool, elementary, and secondary school students in the areas will be provided free lunches;

Second, authorize pilot programs in 10 different schools throughout the United States, two such programs would be carried out in schools located in each of the U.S. Department of Agricultural regions. One of the schools selected in each such region would be an elementary school and one a secondary school;

Third, in carrying out the pilot programs, direct the Secretary to:

(a) utilize various innovative food delivery systems to determine the most efficient means of preparing, distributing, and serving nutritious, appetizing, and economical meals to large numbers of students;

(b) utilize student preference tests to determine the types and kinds of foods that will be appealing as well as nutritious and economical. Explore the use of engineered foods, fortified foods, and use the latest technological advancements in food preparation facilities and equipment;

Fourth, authorize the pilot projects for fiscal years 1973, 1974, and 1975 at $7.5 million per year; and

Fifth, direct the pilot programs to seek the advice and cooperation of the various segments of the private food industry.

The pilot programs shall complete their operation by June 30, 1975, and the Advisory Counsel shall report, not later than October 30, 1975, their recommendations regarding the feasibility and desirability of a nationwide universal free school lunch program. In the interim, the Advisory Counsel shall submit annual reports to the President and to the Congress regarding the progress and results of such programs.

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S. 350

At the request of Mr. HATFIELD, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 350, the American Forestry Act.

### S. 2574

At the request of Mr. McGEE, the Senator from California (Mr. TUNNEY) and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 2574, the National Voter Registration bill.

### S. 2951

At the request of Mr. PERCY, the Senator from Minnesota (Mr. MONDALE) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 2951, a bill to amend the Labor-Management Reporting and Disclosure Act of 1959 with respect to the terms of office of officers of local labor organizations.

### S. 2981

At the request of Mr. AIKEN, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Indiana (Mr. HARTKE) were added as cosponsors of S. 2981, a bill to amend the Bankhead-Jones Farm Tenant Act and Watershed Protection and Flood Prevention Act.

### S. 2994

At the request of Mr. McCLELLAN, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

### S. 3063

At the request of Mr. SCOTT, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 3063, a bill to amend the Internal Revenue Code of 1954 so as to permit certain tax exempt organizations to engage in communications with legislative bodies, and committees and members thereof.

### S. 3152

At the request of Mr. CHILES, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 3152, a bill to amend the Internal Revenue Code of 1954 to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer or employee of the United States.

### S. 3182

At the request of Mr. SCOTT, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 3182, a bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide.

### S. 3212

At the request of Mr. GAMBRELL, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 3212, a bill to amend the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970.

### S. 3227

At the request of Mr. TUNNEY, the Senator from Illinois (Mr. STEVENSON) and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 3227, a bill to amend the Internal Revenue Code of 1954 to allow a business deduction under section 162 for certain ordinary and necessary expenses incurred to enable an individual to be gainfully employed.

### SENATE JOINT RESOLUTION 15

Mr. NELSON. Mr. President, I ask unanimous consent that the name of the Senator from Florida (Mr. CHILES) be added as a cosponsor at the next printing of Senate Joint Resolution 15, a joint resolution designating Earth Week, 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Thus far, 70 Senators with wide bipartisan representation have cosponsored the Earth Week resolution, and additional cosponsors are welcome.

This year, Earth Week will be April 17–23.

### SENATE JOINT RESOLUTION 67

Mr. ALLOTT. Mr. President, I am pleased to join as cosponsor of Senate Joint Resolution 67, to authorize the President to issue a proclamation designating the last full calendar week in April of each year as National Secretaries Week.

Secretaries comprise one of the largest and most significant components in the work force that makes America function. Indeed, we in Government can appreciate, perhaps even better than most persons, just how vital is the role played by secretaries.

One thing is certain: the first duty of representative government is to communicate with its constituents. In this process, our many secretaries are the vital link that makes democracy vital.

To the extent that our cumbersome Government works at all, and is responsive to the needs of our constituents, the dedicated and competent secretaries in Congress deserve a large share of the credit.

I urge all Senators to acknowledge our common debt to our secretaries by supporting National Secretaries Week.

### SENATE JOINT RESOLUTION 117

At the request of Mr. McCLELLAN, the Senator from Mississippi (Mr. EASTLAND), the Senator from Florida (Mr. GURNEY), the Senator from Michigan (Mr. HART), and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Joint Resolution 117, to establish "National Hunting and Fishing Day."

## ADDITIONAL COSPONSOR OF A RESOLUTION

### SENATE RESOLUTION 232

At the request of Mr. CHILES, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of Senate Resolution 232, expressing the sense of the Senate that the remainder of a the amount appropriated for the rural electrification program for fiscal 1972 be immediately released by the Office of Management and Budget.

## SENATE CONCURRENT RESOLUTION 65—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PROTECTION OF THE CAPITOL COMPLEX

(Referred to the Committee on Rules and Administration.)

Mr. GRAVEL submitted the following concurrent resolution:

### S. CON. RES. 65

*Resolved by the Senate (the House of Representatives concurring)*, That the Architect of the Capitol, under the direction of the Committee on House Administration and the Senate Committee on Rules and Administration, is authorized and directed to procure and install security apparatus for the protection of the United States Capitol, including the procurement and installation of a video surveillance system, an intrusion detection system, and a parcel inspection system, in the Capitol Buildings, as such term is defined in section 16(a)(1) of the Act of July 31, 1946, as amended (81 Stat. 277; 40 U.S.C. 193m(a)(1)). The cost of the acquisition and installation of such security apparatus, not to exceed $3,000,000, shall be paid from the contingent fund of the House of Representatives.

## SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

### AMENDMENT NO. 958

(Ordered to be printed and referred to the Committee on Finance.)

### H.R. 1 AND NURSING HOMES

Mr. RIBICOFF. Mr. President, I am submitting today a series of amendments to H.R. 1 to insure that medicare and medicaid standards for nursing homes are not weakened. My proposal would also require the Department of Health, Education, and Welfare to develop a single set of standards for medicare and medicaid nursing facilities, and would authorize the establishment of nursing home pilot projects to test out innovative methods of providing care to elderly citizens in community as well as institutional settings.

One million elderly Americans live in nursing homes—sometimes referred to as extended care facilities. Perhaps the majority of these senior citizens receive adequate care. They will spend their remaining days of life in comparative comfort. But thousands of others will find their waning days filled with despair, filth, boredom and unsafe conditions in what have been called halfway houses between life and death.

Of the 4,500 medicare-approved nursing homes, nearly 3,300 have significant deficiencies. These homes are allowed to operate because they are in "substantial" compliance if not "full compliance" with Federal standards.

A 1970 survey by the Associated Press confirmed that poor conditions and services abound in American nursing homes. Physician care for the nursing home patient was found to be extremely scarce. One-seventh of the drug prescriptions to nursing homes were administered improperly. Heavy use of tranquilizing drugs to make patients easier to handle and less expensive to care for was found.

The National Fire Prevention Association lists nursing homes as the most unsafe places in which to live. Study after study—by groups ranging from a Ralph Nader Task Force on Nursing Homes to nursing home crusaders in Congress—has found filth and patient neglect to be the rule rather than the exception. President Nixon recognized the problem when he called for a massive upgrading of nursing homes last August.

H.R. 1 would bring many of these nursing homes into compliance with Federal law by lowering certification standards rather than by requiring the homes to improve their quality and performance. Our senior citizens deserve more than this avoidance of the problem.

My proposals would delete those sections of H.R. 1 that weaken medicare and medicaid standards for nursing care institutions. A discussion of the specific changes follows.

### SOCIAL SERVICES

The aging patient entering a nursing home has left his home, his friends, and his family behind. He is likely to be confused, frightened, and alone and needs personal attention which doctors cannot provide. The social workers can alleviate this suffering and fright by providing counseling, letterwriting assistance, consultation with the family, and companionship. The social worker in the nursing home assures the patient that there is someone to care for his personal and emotional needs.

Present regulations specify that an extended care facility must have effective arrangements with a public or private agency to provide social service consultation. The nursing home industry claims that many facilities have had difficulty obtaining such services and that they are often expensive.

Section 265 of H.R. 1 deletes the provision of medical social services as a condition of participation for a nursing home.

Most extended care facilities currently licensed by medicare are privately owned and operated for profit. They tend to meet only the minimum requirements set by medicare and do not, as a rule, provide optional, extra services for their patients. If section 265 were enacted, many facilities would therefore eliminate social services. Figures in December 1969 showed that the highest number of nursing home deficiencies, 37 percent, occurred under the social services requirement for extended care facilities.

My amendment, therefore, continues the requirement that social services be provided.

The northern Connecticut chapter of the National Association of Social Workers has described to me the effects of section 265. I ask unanimous consent that this statement be inserted at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Without objection, it is so ordered.

(See exhibit 1.)

### MEDICAL STAFFING REQUIREMENTS

Mr. RIBICOFF. Mr. President, skilled nursing homes under medicaid must now have at least one full-time registered professional nurse on their staff.

Section 267 of H.R. 1 authorizes a waiver of requirement for a full-time nurse where the nursing home is in a rural area, the facility is necessary to meet patient needs and is making a good faith effort to comply with the requirement. My amendment deletes section 267 and retains the requirement that a full-time registered nurse be on the staff.

At any time of day or night major medical problems can strike a nursing home patient. Without the assistance of skilled medical personnel to meet these problems, the quality of care offered by "skilled nursing homes" would be little more than custodial. The shortage of skilled nurses does not justify eliminating the requirement that skilled nurses be present on a 24-hour basis.

The absence of 24-hour nursing service has proved to be one of the major deficiencies of nursing homes applying for participation in medicare. Seventeen percent of the deficiencies in nursing homes were traceable to nursing services, according to the December 1969 survey. The Federal Government is paying out over a billion dollars in medicare and medicaid payments to "skilled nursing homes." At the very least it should require that these homes be staffed by skilled nurses.

### ADMINISTRATIVE QUALIFICATIONS

Administrators of skilled nursing homes under medicaid must presently be licensed by the State, which involves satisfactory completion of a licensure examination.

Section 269 of H.R. 1 permits States to establish a permanent waiver from licensure requirements for those persons who served as nursing home administrators for the 3-year period prior to the establishment of the State's licensing program. My proposal retains the requirement that all administrators be subject to the licensure requirements.

The provision permitting permanent waiver would throw the licensing programs of the States participating in title XIX into chaos. States have already licensed thousands of administrators, some of these provisionally. To obtain their permanent licenses, provisional licensees have been required to complete preparatory educational programs. Section 269 would negate these efforts and costs expended in establishing education programs specifically designed to prepare provisional licensees for licensure by examination.

A competent administrator should be able to undergo a test of his skills as a condition for continued receipt of Federal funds. The December 1969 survey indicated that deficiencies in clinical records accounted for 13 percent of deficiencies.

The American College of Nursing Home Administrators has taken the responsible position that the present licensing system should be continued. As the college stated:

> It must be realized that an individual's exposure to an administrative position alone is an insufficient measure of his ability to provide proper patient care. Education and demonstrated ability in addition to the successful passing of a specifically designed process must also be required.

### COORDINATION OF MEDICARE AND MEDICAID STANDARDS

At the present time there is one set of standards for medicare-approved nursing homes and a less stringent set of requirements for medicaid-approved homes which provide care to those receiving public assistance or classified as "medically indigent." As in so many other programs, the poor receive a lower standard of service.

The difference in nursing home standards for medicare and medicaid patients results from the fact that two different agencies administer these programs. Medicaid is a public assistance program administered by the Medical Services Administration of HEW's Social and Rehabilitation Service. Medicare is administered by the Social Security Administration.

My proposal would require HEW to develop a single, comprehensive set of regulations applicable to both medicare and medicaid nursing home facilities. The applicable standards would be no less than the higher of the medicare or medicaid standard applicable under the present system.

### NURSING HOME PILOT PROJECTS

We must begin to look at our entire system in light of increasing evidence that the care provided for our elderly citizens is inadequate, demeaning to human dignity and a waste of tax dollars.

Nursing homes as they are operated today are a self-perpetrating system that assures that the elderly will have a chronic need for chronic health care. Our extended care institutions all too often reduce our elderly citizens to a state of permanent dependence on the institution, rather than providing varying levels and types of care and services that would encourage the elderly to remain a part of their community.

At least 15 to 20 percent of those elderly citizens presently institutionalized are absolutely misplaced according to the Levinson Gerontological Policy Institute of Brandeis University. In Massachusetts, for example, where intensive studies of nursing home disability evaluations have been made, it was found that only 37 percent of the nursing home residents in the State require full-time skilled nursing care. Fourteen percent needed no institutional care whatsoever for medical reasons. Another 26 percent required minimal "supervised living," and 23 percent needed limited or periodic nursing care that might, for some, be provided on a home visit basis.

Approximately $2 billion is expended annually for nursing home care, one-fourth to one-half of which is now spent for patients who do not, medically, need such care. A more flexible use of funds now narrowly channeled into traditional nursing home settings would encourage the development of more imaginative and innovative forms of care for the elderly.

My proposal authorizes a series of pilot projects to explore new methods of providing care for the elderly. The purpose of these demonstration programs would be to generate alternatives to long-term, institutionalized nursing home care. Such programs would include: maintenance and care services provided in noninstitutional, neighborhood settings; increased use of home health and maintenance care; continuing care at various stages of illness through a coordinated program utilizing acute care hospital facilities, extended care facilities, "day" hospital services, and home care; and ongoing community responsibility and involvement in such programs.

These pilot projects would provide field testing of differing solutions in varied demographic and health care delivery areas. Other issues to be explored in field tests would include the administrative issues involved in setting up innovative personal care organizations, definition of the optimal population to be covered, testing of alternate quality control measures, analysis of manpower alternatives, and measurement of cost levels.

The costs of providing adequate care for the elderly are rising dramatically. We cannot continue to waste and misallocate the limited resources we have to devote to this problem. More effective programs must be developed. Working with such programs in action is the only way this can be done.

I ask unanimous consent that a report prepared by the Levinson Gerontological Policy Institute describing a model alternative to present nursing home care be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

## MOBILIZING COMMUNITY RESOURCES TO PROVIDE ALTERNATIVES TO NURSING HOME CARE—A MODEL DEVELOPED BY THE LEVINSON GERONTOLOGICAL POLICY INSTITUTE, WALTHAM, MASS., OCTOBER 1971

### INTRODUCTION

### *Necessity for alternatives to institutional living**

Studies of the characteristics and needs of the nursing home population in Masachusetts and elsewhere in the country indicate that 15–20 percent of such persons are absolutely misplaced in the institutional environment.[1] Their residence in such settings is directly associated with the absence of intermittent services and flexibility applied home care supports to daily living in the neighborhood from which they came.[2]

One out of six Massachusetts elderly is a recipient of public welfare. Thirty thousand of these 103,000 are in licensed nursing homes, chronic hospitals, and public medical facilities as recipients of Medicaid. On the basis of systematic disability evaluations of nursing home patients, the Massachusetts Department of Public Health has disclosed that only 37 percent of the residents require full-time, skilled nursing care. Fourteen percent needed no institutional care whatsoever for medical reasons: another 26 percent required minimal "supervised living;" and 23 percent needed limited or periodic nursing care that might, for some, well be provided on a home visit basis. (Figures are not printed in RECORD.)

A complementary study of the use and misuse of nursing homes in the Buffalo, New York area indicated that 27 percent of that institutionalized population did not need this type of care. Most significantly, of nursing home residents in the 65–74 age group, 41 percent of former city residents were inappropriately placed as opposed to only 20 percent of those whose former homes had been out of city, or rural.[3]

The national implications of this research are that the absence of supportive persons and services to the elderly and disabled living especially within highly urban environments forces decisions to institutionalize on doctors, social workers, families, and friends.

The persons now in institutions represent only a small fraction of the seriously disabled population in Massachusetts and in the United States. From the larger base is drawn the continously growing institutional population. Inadequate efforts to deal with disability while individuals still live in their own homes represent a basic failure in prevention. This does not mean that no institutional care is ever needed—it often is—but lack of attention during the pre-institutional phase leads to an over-use or abuse of institutions, and results in a tendency to use the most costly, but not necessarily the most beneficial forms of care. Thus, the total population of the disabled—the source of difficulty—requires as much attention as the number currently in long-term or nursing institutions.

In addition to the currently institutionalized population, it is estimated that at least 16 percent (or 2.9 million) of the 19 million non-institutionalized elderly in the United States are unable to carry out their daily activities as a result of chronic disease and disability.[4] Provision of organized community services and personal helpers for these senior citizens, in addition to the nearly 3 million younger disabled, is whimsical and meagre. Translated into Massachusetts figures, this means at least 100,000 disabled elderly and at least 75,000 younger persons living at home but unable to carry on their daily activities. Their management at home is dependent upon the durability and accessibility of helping relatives, neighbors, and friends. Little assistance is provided to prevent the ultimate bankruptcy of these natural supports

### I. LIMITATIONS OF PARTIAL SOLUTIONS

### *A. Medicare and medicaid*

It is becoming apparent that disproportional amounts of Medicare and Medicaid money is being spent to maintain elderly and disabled in institutions. The allocation of public monies toward institutional rather than neighborhood solutions to the plight of the elderly and disabled becomes apparent by contrasting the 32 percent of vendor payments which go to nursing homes with the 0.3 percent provided to Home Health Services under Title XIX alone.[5] Public expenditure to nursing homes, nationally, amounted to $1.8 billion in 1970. In Massachusetts nearly $100 million per year is being spent for nursing home care by the Department of Public Welfare. An increase of 137 percent in Medicaid dollars to nursing homes was reported for the whole country from 1965–1968,[6] and the supposed policy of increasing choice, by states with major welfare rolls, turns out to be the transfer of elderly acute and chronic hospital patients to nursing homes rather than to attempt alternative community placement.

It is widely reported that Medicare's attempts to provide a national network of Home Health Agencies has been relatively ineffective as an alternative to institutionaliza-

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Footnotes at end of article.

tion. The excessively restrictive service benefits and the limitations on duration of stay for those elderly who qualify for home health services severely limits the usefulness of this portion of the program. Program and professional responsibility is for the episode of illness, rather than for the long-term support of the elderly individual in his home environment.

What has not been appropriately recognized is that this long-term support predominantly requires social-maintenance rather than specifically medical types of services. Home Health Aide personnel currently employed by Medicare-certified agencies are legislatively limited to medical care related tasks and are, therefore, not able to be responsive to the continuing multiple needs of the individual or his family unit.

### *B. Housing*

Public housing, nationally, had provided approximately 140,000 residential units especially for the elderly at the beginning of 1970.[7] It has become apparent, however, that this housing is for the "well elderly."[8] While housing authorities have not necessarily discouraged on-site services and have, in some cases, provided space, no active planning, coordinating or sustaining role has been assumed by housing authorities for the provision of needed services, personnel or facilities within their publicly funded shells.

Modern housing has typically been built, in Massachusetts and other states, which, in its design, severely limits the development of personal care alternatives within a living unit. Efficiency apartments, which dominate these structures, make mutual help living arrangements between related and/or non-related adults virtually impossible. Further, the absence of personal care services, available in the neighborhood on an intermittent basis, exacerbates the difficult living conditions of the vast majority of aged who do not reside in public housing.

### *C. Existing community agencies*

Public and private health and welfare agencies which operate within local areas respond to individual crises with specific limitations on the services they can afford to provide. They are aware but ill-equipped to deal with the ongoing human needs which the elderly and disabled sustain in choosing to remain in their own homes. The historically defined roles of existing agencies do not allow for flexibility. Invited intrusions in life problems of a known neighborhood population of elderly and disabled is atypical and antithetical to established referral mechanisms. Agencies usually wait for the elderly to come to them, to avoid intrusion into their privacy; but the elderly are usually reluctant to approach an unknown social agency first.

### *D. Coordination of Services*

It has long been assumed that coordination of services will produce a more efficient system, relying on existing programs without requiring the creation of new ones. This approach assumes that the requisite programs do, in fact, exist to lend themselves to coordination. The foregoing analysis of Medicare, housing, and voluntary agencies has already outlined some of the flaws in this assumption. The fallacy is reinforced by a recent survey of homemaker and accredited home health agencies available in a survey month in eastern Massachusetts.[9]

Forty-seven major home health and homemaker agencies were identified in public listing. On inspection, only fourteen of this number actually employ and provide home aides; the remainder purchase such services through contract with these working fourteen. In a survey month, the total volume of delivered home health aides and home helps reached only 2.5 percent of the persons estimated to be in serious need of these services. A similar study in New York found about 10 percent actually served.

This gap between supply and demand is even more pronounced in less populous and in rural areas. Coordination can contribute little to the solution of this problem until this gap is closed by an increase in the supply of alternative programs.

## II. A PROPOSED PERSONAL CARE SERVICE SYSTEM: THE MASSACHUSETTS MODEL

The absence of adequate existing alternatives to nursing home and institutional care has led the Massachusetts Department of Public Welfare, burdened by enormous vendor payments to institutions, to consider the development of a Personal Care Service System. A model of such a system, testable for the Department in a clearly defined community and for a designated population, has been proposed by The Levinson Gerontological Policy Institute, Brandeis University.

Based upon a careful analysis of needs and resources, it appears to the Institute and the State Department of Public Welfare that public money could be more advantageously spent in the provision of maintenance and care services for the elderly and disabled in non-institutional neighborhood settings.

Underwriting a personal care service system promises a reduction in the inappropriate use of both long-term care and acute care institutions, especially if it is made readily available to all who are found in need of such services. With the State Department of Public Welfare functioning in a planning and contracting capacity, a contract would be made with at least one local agency to provide a range of core services essential to maintain the disabled and the partially disabled elderly in their homes, complementing the natural helping relationships which already exist. Such a local Personal Care Organization (P.C.O.) would assume responsibility for the population at risk in its "catchment area," focusing, initially, upon the recipients of Old Age Assistance and Aid to Blind & Disabled. For each case deemed eligible, the Department of Welfare would reimburse the P.C.O. a flat sum each month in return for which the P.C.O. assumes full responsibility for providing or developing alternatives to institutional care wherever that seems desirable.

### *A. Nature of Needed Services*

Practioners and researchers in gerontology and long-term care concur that the most needed services to the aged and disabled at home are intermittent home helpers. The Levinson Gerontological Policy Institute surveyed the current utilization of available "homemaker-home health aide" personnel in the State of Massachusetts. Based upon a reasonable conservative estimate of the elderly population at risk in the state (i.e., that proportion unable to perform usual daily tasks), only one in forty elderly in probable need of such services were receiving personal care assistance.[10]

The types of maintenance and support needs that could be met by a local Personal Care Organization include assistance with food shopping and meal preparation; mobility assistance within and outside of the home; transportation to health services or delivery of prescription drugs; assistance with laundry or home maintenance; dressing and personal care; guidance in financial, legal and relocation matters; counseling of client and family on available health and social services (including completion of written forms); and telephone availability in crisis. A recent Columbia University study of patients on home health services indicated that 85 percent of those over the age of 55 needed help to shop or cook.[11]

As is apparent from this listing, a Personal Care Organization would consist, dominantly, of non-professionals supervised by appropriate professional staff, but offering a very diverse and flexibility delivered range of homely and personal tasks.

The location of better residential accommodation and providing minor structural improvement and adaptation of existing housing for the elderly and disabled population would be another package of tasks for a Personal Care Organization. Such service activities have been fragmentary and unsystematic to date, even in the Model Cities programs, although they could easily tap into the existing skills of the retired and the youth.

Current programs tend to emphasize the more complex and costly services, since they have been dependent upon physical, that is medical perceptions. A comprehensive personal care service can be established which will give proper weight to simpler home care tasks which are social and not medical in nature. Appropriate incentives can be introduced for the Personal Care Organization to use the simpler and more homely services wherever these will serve the needs of the disabled person.

### *B. Estimated costs per case*

Current assessments of the cost of providing a corps of personal care service personnel are based upon experiences in Massachusetts and elsewhere with "homemaker-health aide" categories. An aggregate cost for the state is dependent upon variables which have yet to be explored in the proposed pilot service. These include: the distribution of services by complexity and intensity or volume; the average per capita cost per day; case turnover and average case load; and cost of administration, supervision and overhead to provide an on-going staff of full-time and part-time personnel ready to serve a known population.

Massachusetts' local experience with "homemaker-home health aides" indicates the average current client receives ten hours per week of service at a per client cost of $3.00–$4.00 per hour, inclusive of administration. This range tends to be supported in other, albeit service-limited, programs around the country. A complete personal care system is necessary to find out whether this is a realistic average; or whether many can be helped with less time, to offset the needs of a few for much more service.

### *C. Source of financial support*

Appraisal of existing budgetary allocations by the Massachusetts Departments of Public Welfare and Public Health indicates the potential availability of adequate funds to maintain an on-going, if initially selective, program. However, the earmarked character of much public money and the statutory limitations on alternate use of these moneys is, at this point, a substantial stumbling block in the development of a deliverable personal care service system. The capacity of State agencies to influence Federal and State legislatures and, administratively, to effect transfer of costs and savings between hitherto separately funded programs is a continuing problem.

Despite these obstructions, a significant part of current expenditures for institutional care, now paid by Medicaid and by assistance funds, can be shifted to support a part of the present welfare population in their own homes. Such a shift will provide the stable financial foundation for a personal care system.

In Massachusetts, direct monthly payments to "skilled" nursing home vendors amounted to $395 per patient in fiscal 1970. The average annual cost per case ranged from $3850 in nursing homes to $4900 in chronic hospitals; a substantial portion of this is attributable to overhead, plant maintenance and non-professional personal care services. The estimated average monthly cost for maintaining a welfare client in a skilled nursing home is $512 per month. By contrast, the maximum basic budget available to

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Footnotes at end of article.

Old Age Assistance recipients is approximately $230 per month in Massachusetts. The margin of $280 between nursing home and basic relief costs should be more than sufficient to support the organization of an improved range of services needed to maintain welfare recipients in non-institutional community settings.

### *D. Estimates of population to be covered*

Firm estimates of the population which might be covered by the proposed program are difficult to establish with present data, since the point of eligibility can be varied by legislative and administrative policy. However, usable working estimates can be derived from studies already cited. One target population could be the 40 percent of those 30,000 Medicaid recipients now in nursing homes, chronic hospitals and public medical facilities, who, in the words of the Massachusetts Department of Public Health survey, either need no institutional care for medical reasons or who require minimal supervised living—a total of 12,000 persons in a given month. Some of these are too demoralized from long institutional life, or are too confused for a normal residence, having lost all family and friendship supports long ago; but the proportion who are thus limited is unknown at this writing. Ten thousand represents a more realistic minimum figure.

At the next higher estimate level, one could add perhaps another 6,000 new admissions or applicants for admission to nursing homes each year, who do not require such care for medical reasons but who will be admitted if present programs are not altered. These cases represent the best opportunity for preventive intervention in the institutionalizing cycle.

At the highest estimate level, one would have to add all those elderly who have severe functional handicaps due to physical disability—perhaps 100,000 aged in Massachusetts. However, many of these have substantial family supports, or require only such minimal help as can be given by neighbors. In projecting a workable program, this population must be studied in the context of a working personal care-home care system to ascertain how many require and would use a P.C.O. and how many could afford to pay for its services out of personal or family income.

### *E. Criteria for selection of client population*

Concern for the problem of defining the appropriate recipient for personal care services suggests the need to review criteria used in establishing disability by such programs as the Veterans Administration. That agency's experience with an "Aid and Attendants" program for homebound veterans sets a precedent for the Massachusetts proposal and may provide organizational and administrative experience. Assessment of functional capacity with respect to activities of daily living and behavior that is instrumental to health and social maintenance is particularly complicated in the case of the elderly. Many have ongoing and multiple chronic diseases and disabilities which only partially or periodically impair function. A personal care service must be sufficiently flexible to take on a case at first contact even though the service requirements may change later, since the elderly are particularly loath to deal with red tape. Equally, a procedure needs to be devised for periodic review of needs for addition or elimination of services. Consideration needs to be given both to the types of decisions and the locus of the decisionmaking in the proposed Personal Care Organization.

An openness to sources of referral and provision of services implies a new approach to administrative controls, one which concentrates on desired results but which is not overly rigid as to details. Such questions as: who decides on the range and amount of services to be provided, frequency of review, and the nature of reviewing mechanisms need to be addressed.

At the start, medical personnel, especially those in hospitals and in health maintenance organizations, will play a key part in deciding what patients could remain in or could be discharged to their own homes. The Personal Care Organization will have its own criteria as to the range of difficulty it can handle. The Department of Public Welfare staff must decide that the referred case is eligible for public support (i.e., is an assistance eligible case).

From this point of view, the Personal Care Organization would be free to do whatever is necessary, in its judgment, to help the patient/client maintain himself in his home for as long as he wished. Full use, of course, would have to be made, as it is today, of medical and rehabilitation services, but the Personal Care Organization would work, within the money assigned to each referred case, trying whatever seems necessary and not restricted by arbitrary limitations on what specific services will or will not be paid for.

A disability rating scheme is thought to be feasible for the population here at risk. Early considerations of the distribution of disability among the aging and disabled suggests that the largest proportion of potential clients would generally be only slightly disabled. Finer selection criteria, which incorporate environmental as well as personal-physical limitations to function, will evolve as the Department of Public Welfare works with the Personal Care Organization and with health professionals. For example, a chronically ill client whose domicile is over three miles from the nearest store might be considered to have an environmental disability qualifying him for periodic transport or delivery services. Similarly, a hemiplegic or arthritic client whose apartment is on a third floor could qualify for different and perhaps more frequent ambulation assistance than a comparably afflicted client whose residence has immediate access to the street.

This proposal is designed to complement the appropriate role of nursing homes, access to which by the very disabled will be enhanced. The focus is on appropriate use of institutions and the creation of real choice for the elderly and the disabled as to where they will live.

### *F. Projected program costs*

Program cost estimates, as distinguished from case costs, can only be roughly estimated for reasons noted above—variability in eligibility criteria, uncertainty about variations in volume of services which can accomplish chosen results, etc.

If one accepts recent Massachusetts experience, the following estimates can be made, assuming that per case costs of home health agencies are reliable and that estimates of the nursing home population who can live in their own homes are accurate.

*Estimate Level 1:* For 10,000 persons now in nursing homes who are presumed capable of living elsewhere; $19,200,000 per year. Against this can be offset an estimated $40,000,000 probably spent in 1971 by Massachusetts for nursing home care for this population.

*Estimate Level 2:* Add the 6,000 persons reasonably likely to seek admission to institutions for conditions no more severe than those noted in Estimate 1. (Some of these, of course, will replace persons who die or who are discharged from nursing institutions; while others represent new additions to the nursing home population): $11,520,000 plus $19,200,000 listed for Estimate 1—a total of $30,720,000. Note that this figure is still over nine million dollars below the estimated expenditures for the unnecessarily institutionalized in 1971.

These calculations must be seen as indicative only of the potential in the new program. The costs and their distribution among the under 65 as well as among the over 65 who are disabled need to be firmed up in an operating program, as must the average case costs. However, these estimates are believed to be conservative, and permit true alternatives to develop within the limits of current expenditures and appropriations.

### *G. Agency linkages*

Implicit in the proposal for a Personal Care Organization system is the requirement that it provide the linkages to services (e.g., medical care) which are not included in its own portfolio. Perhaps the greatest inadequacy of the present multiple agency system in the United States is the inability or unwillingness of a single agency to act as ombudsman for the multiple needs of its clients or patients. A form of capitation system is here being proposed which would hold the Personal Care Organization accountable for a specified population to help them remain at home if they chose to.

This organization, once it accepts a referred case, is held accountable, by its contract with the Department of Public Welfare, for taking *whatever action is called for* to keep its client well at home. Such actions include: flexible use of its own staff, which are paid for under the contract; procuring medical or rehabilitation services from other agencies; etc. The sum paid the Personal Care Organization is expected to be adequate to cover a variety of such tasks.

### *H. Alternatives in Administration*

The Massachusetts pilot program for a Personal Care Organization is to be administered through the Secretary of Human Services and his State Department of Public Welfare, since it controls a major allocation of funds for the population under consideration. It is believed to be essential that State level planning and control be required to assure maintenance of equal standards and the guarantee of ongoing support to local communities. Once established, this program will be available to other than relief recipients: those with modest incomes able to pay part or full cost for these services.

The choice of the appropriate agency to transform itself into a Personal Care Organization is a matter of community history and style. In one locale, a Visiting Nurse Association may, with guidelines and consultation, be quite ready, able, and acceptable to develop and adapt its program. In another locale, a community action group or senior citizens organization may already be providing the nuclear services needed for its population of elderly and disabled residents. A family service agency, a health maintenance organization, even a proprietary organization (such as Homemakers, Inc., of The Upjohn Company) could equally well develop into a P.C.O. In any event, room should be made for a wider policy voice from senior citizen organizations. They can provide advisory resources, members for policy positions, and can act as ombudsmen.

### *I. Manpower Requirements and Implications*

Whatever the service agency of choice, a new flexibility with regard to personnel selection and use is imperative for a program such as is proposed. Just because the areas of greatest service need and greatest underemployment coincide in the most urban settings, new opportunities for full- and part-time employment could well be one of the social and economic by-products of a Personal Care system for the elderly and disabled. An urban area with one to three million residents could well generate several hundred, and even several thousand part-time of full-time jobs. These jobs range from those requiring little skill and limited special training, to jobs which require certain organizational, administrative, or technical skills. This range provides for career growth and personal improvement for those seeking it. It also can assure stable employment for those who supplement family income by part- or full-time work.

These jobs differ from the conventional maid service—daily housecleaning performed by an hourly or daily maid. The jobs are related to a definable physical condition; their content is determined by professional personnel—medical and supervisory; performance is subject to quality control by supervising staff and by opportunity for consumer opinion expression. Above all, these positions carry with them the dignity and compensation of regularized employment: a respected status, regular pay, regular hours of work, fringe benefits of insurance, vacation, etc.

Employment of the elderly themselves, application of construction skills by youth, and the reimbursement of present occasional helpers who are neighbors, friends and relatives would provide a new dignity to human caretaking tasks.

### III. ROLE OF FEDERAL GOVERNMENT

The Federal government is already embarked on a major overhauling of provisions for medical care and for welfare services, some of which are now financed by state or local governments, some by private individuals, and the balance by Federal grants. In the search for a better model for both health and welfare, the requirements of the disabled occupy a strategic position.

The role of the Federal government, in taking advantage of this strategic position, is a blend of policy guidance, financial support, and research to fill in vital knowledge gaps. It can clearly articulate a policy of choice in alternatives to institutional care; it can provide incentives which will help a personal care system come into being; it can support experiments which will test our alternate populations which are to be covered, alternate service modules, and alternate control systems.

In the development of models for a Personal Care service system, it will be necessary to commit specific funds for demonstration and evaluation purposes. Equally vital is a relaxation of constraints over the use of funds from hitherto rigidly separated programs. For example, a more free use can be made of funds presently allocated to Medicaid and Old Age Assistance, but only if administrative staff is free to use—and to account for—both sets of funds on behalf of alternate living arrangements for the sick elderly. Under present accounting procedures, obstacles exist which interfere with a free choice to move sick persons into or out of nursing homes.

Given the economic and social implications of a system which could minimize both the short and long-term use of institutions, the Federal government, perhaps via the Social Security Administration or the Social and Rehabilitation Service, should provide the monetary incentives to States, both to design personal care systems and to support evaluation of such programs. A particular need will be for start-up money to allow for States and localities to shift present dollar allocations, retain requisite personnel and reorder past program emphasis.

Specific areas of programming which will need to be evaluated in connection with a personal care system have to do with: (a) the staging of inclusions of population segments at risk or of expanding feasible and needed services; (b) alternate methods of linking existing programs (e.g., rehabilitation, medical services, and housing); (c) substitutions of personnel and services which reduce program costs (e.g., provision of housing repair and relocation service, family and neighborhood care-training programs, etc.); (d) alternative reallocations of local and State funds to maximize service flexibility; and (e) mechanisms for control of utilization and cost.

### SUMMARY

A Personal Care Service system is proposed for the purpose of maximizing residential choice for the elderly and disabled. The objectives of such a service would be to decrease inappropriate institutionalization and to optimize the capacity of the elderly and disabled to function in the housing and neighborhoods of their preference.

The mechanisms by which such a service would be delivered is seen to be a single, localized organization, accountable to a state-level agency and responsible for a specifiable population within an explicit geographic area.

Services to be dispensed would be defined in terms of the intermittent functional needs of residents and incentives would be provided to encourage flexibility of methods and innovative solutions. Maximum use of existing natural helping relationships and services within a community would be encouraged.

### FOOTNOTES

* Developed by institutional staff Dr. Francis Caro, Dr. Sandra Howell, Mrs. Helen Kistin, assisted by Dr. Ruth Berger, Dr. Susan Pettiss, and Miss Elizabeth Harris.

[1] Pettigrew, A., and D. Kinlock, *Background Information* for Long-Term Care Facilities Proposal. Prepared for internal circulation, Massachusetts Department of Public Health, 1971.

[2] Trager, B., "Home Health Services and Health Insurance," *Medical Care,* vol. IX, No. 1 (January-February 1971), pp. 89–98.

[3] Davis, J. W., and M. J. Gibbs, "An Areawide Examination of Nursing Home Use, Misuse, and Nonuse," *American Journal of Public Health,* 61 (1971), pp. 1146–1155.

[4] National Center for Health Statistics "Chronic Conditions and Activity Limitations," Vital and Health Statistics, Public Health Service Publication No. 1000, Series 10, No. 17 (1965).

[5] U.S. Department of Health, Education, and Welfare. Social and Rehabilitation Service. *Medicaid, and Other Medical Care Financed from Public Assistance Funds.* Selected Statistics, 1951–1969, NCSS Report B–6 (1951–1969). Washington, D.C.: Government Printing Office, 1970.

[6] U.S. Department of Health, Education, and Welfare. Social and Rehabilitation Service. *Number of Recipients and Amounts of Payments Under Medicaid, 1968,* NCSS Report B–4 (CY68).

[7] Robbins, I. S., "Background Paper on Housing for the 1971 White House Conference on Aging," chapter IV, p. 9 (1970).

[8] Lawton, M. Powell. Statement on Housing, Institutions, and Older People's Relationship to Their Environment. Prepared for the National Goals Research Staff, November 1969, pp. 19–20.

[9] Morris, Robert and Elizabeth Harris, "Home Health Services in Massachusetts, 1971: Their Role in Care of the Long-Term Sick," Working Paper, Levinson Gerontological Policy Institute, Brandeis University (July 1971).

[10] This statistic is based upon a survey conducted by Miss Elizabeth Harris and disability estimates made by Dr. Francis Caro, both of the Levin Gerontological Policy Institute staff.

[11] Van Dyke, F. and V. Brown, "Home Health Services Study," Columbia University School of Public Health and Administrative Medicine. Unpublished report submitted to Associated Hospital Service of New York, Health Research Council of the City of New York, and Social Security Administration, U.S. Department of Health, Education, and Welfare (April, 1971).

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### EXHIBIT 1

### STATEMENT OF THE NORTHERN CONNECTICUT CHAPTER, NATIONAL ASSOCIATION OF SOCIAL WORKERS

If given the choice, most will certainly do away with social service in their facility as such service is designed to serve the patient and not the needs of the facility. It is unfortunate that the majority of our extended care facilities are built to appease the guilt by pleasing the eye of the elderly patient's family with little thought given to anything but the basic physical care of the individual who is placed there. The patient is expected to conform to the facility routine and if he does not, he is treated as a deviant. An individual in the process of aging, who has left his home, his friends, his family and his roots is quite a bit more than a physical hulk to be attended. He is lonely, confused, hostile or host to countless other emotions which the best of all possible medications simply will not help. It is in these areas, the areas of social and emotional needs, that social service makes its greatest contribution to the elderly patient and his family. The contribution cannot be tagged with a price. If it could, I am sure you would find it more than reasonable.

Some of the services provided by social workers in extended care facilities include group counseling, individual counseling, rehabilitation planning if possible and inservice training for staff as to needs of the elderly in geriatric institutions. Consultation with staff and families is an important on-going function of the social service consultant and is aimed at clarifying the social and emotional needs of individual patients. The social worker is the only consultant in the facility who's only function is to insure that the social and emotional needs of each patient is being met. He is the liaison, the advocate, the referral agent and the interpreter of such needs. He is also the only staff consultant who attempts to deal with the patient as a total person by dealing with the older person's total environment, both inside and outside of the geriatric facility.

It is hard enough for the elderly to adjust to the aging process, illness, convalescence, death or geriatric institutions. It is even harder to adjust to a return to the community after a major illness. We must not make these adjustments harder by allowing for reductions in professional services which deal with these problems. Extended care like all geriatric facilities are necessary and yet grim reminders of our own mortality and the fact that all too soon we will also be old and in need of someone who understands. I hesitate to estimate the value of such understanding for the elderly person who so desperately asks for it. It is for them and not the administration or ownership of the facility, our service is provided.

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### AMENDMENT NO. 959

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

### AMENDMENTS NOS. 962 THROUGH 971

(Ordered to be printed and referred to the Committee on Finance.)

### SOCIAL SECURITY AND MEDICARE AMENDMENTS

Mr. HUMPHREY. Mr. President, I am introducing today a series of amendments to H.R. 1, the Social Security Amendments of 1972. My amendments have four purposes: First, to immediately lift those elderly presently living in poverty, out of poverty; second, to insure that no social security and railroad retiree reaches old age in disappointment and despair; third, to cut the financial burdens of social security and medicare; and fourth, to begin to change the attitudes of young and middle aged people toward the elderly.

I propose that we amend H.R. 1 to increase the minimum monthly payment to old age, blind, and disabled recipients to a federally funded level of $165 for a single individual and $215 for a couple, effective January 1, 1972. This amendment would make it a national policy that there will be no elderly poor.

Statistics can not tell of the tragedies of poverty—but they can give it some dimensions. During the past 3 years, approximately 100,000 elderly citizens have been added to the numbers of older poor. And, elderly Americans account for more than 25 percent of the Nation's poor.

We can and must change this intolerable situation.

There are other necessary amendments to our social security system. I propose that we change the definition of disability to make it more realistic for a person who is disabled to get assistance. I believe that we must increase the retirement earnings income ceiling—the amount of money older Americans can earn before they begin to have reduced benefits from $1,680 to $3,000. Too many senior citizens quit their jobs for fear of losing social security benefits.

There are additionally needed measures. I see no reason why a widow should receive anything less than 100 percent of his or her spouse's benefits. I do not believe that benefits should be reduced if older Americans marry. And, I will propose legislation to give workers extra dropout years—for we should be trying to increase the average benefits, not make it more difficult to get less.

Finally, we need an immediate 25-percent increase in benefits across the board. I have previously proposed legislation that would increase benefits and begin a system of general revenue financing. It is to this goal that I believe we must move now—for increases in social security must surely come each year, and the payroll tax burden on current workers—under present assumptions and present financing rates will become onerous. Changing our thinking, providing more for those who have less, lifting all elderly Americans out of poverty—these are honorable goals.

To complement these social security changes, I have introduced a series of medicare reforms. I believe that medicare must pay the full cost of prescription drugs, eyeglasses, hearing aids, and dental care.

I believe that the $50 deductible for supplementary medical insurance must be removed, as must the insurance premium you pay for doctors insurance.

The hospital copayments must be frozen at existing levels—not allowed to escalate and bite into fixed social security incomes.

And I intend to shortly introduce a comprehensive home health care program—so that care can and will be available in your homes and apartments, not a remote hospital.

Mr. President, it is wrong that 5 million senior citizens live in poverty, it is wrong that social security does not pay an adequate income, it is wrong that medicare costs are increased every year just because some Federal budget figure is not correctly balanced.

Life does not stop at 65. We must have the basic dignity, identity, and security that elderly Americans need and deserve.

Mr. President, I ask that the following list of Humphrey social security, railroad retirement, and medicare reform proposals be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

HUMPHREY SOCIAL SECURITY, RAILROAD RETIREMENT, AND MEDICARE REFORM PROPOSALS

1. Immediate 25 percent increase in benefits.
2. Immediate payment of $165 per single individual and $215 per couple for Old Age, Blind, and Disabled recipients.
3. $100 minimum social security payment.
4. Raising the limitation on retirement earnings from $1,680 to $3,000.
5. Increasing the contribution ceiling to $15,000.
6. Providing additional drop out years for years of covered service.
7. Cost of Living Escalator.
8. General Revenue Financing to cut Payroll Cost.
9. Changes in definition of disability, and reduction of waiting period to receive benefits.
10. 100 percent widows or widowers benefits.
11. Elimination of the $50 deductible.
12. Elimination of the doctors insurance premium.
13. Freezing of the hospital copayment.
14. Comprehensive Home Health Care.
15. Home Nutritional Care for the Elderly.
16. Elderly Social Security Pass Thru Provisions
17. Prescription Drugs, Eyeglasses, hearing aids, dental care paid by medicare.
18. Additional life time reserve years.
19. No reduction of benefits if Older Americans Marry.
20. Hospital Insurance for Uninsured.

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## AMENDMENT OF THE COMMUNICATIONS ACT OF 1934—AMENDMENT

### AMENDMENT NO. 960

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. McCLELLAN submitted an amendment intended to be proposed by him to the bill (S. 2993) to amend the Communications Act of 1934 with respect to the renewal of broadcasting licenses.

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## PROVISION OF HOME HEALTH SERVICES—AMENDMENT

### AMENDMENT NO. 961

(Ordered to be printed and referred to the Committee on Finance.)

### TREATMENT OF SPEECH AND HEARING DISORDERS FOR THE ELDERLY

Mr. HUMPHREY. Mr. President, I am introducing legislation today to provide treatment in the home and in community centers for 5 million elderly Americans with speech and hearing disorders, under medicare. This bill would permit these millions of elderly Americans to receive the treatment which is so essential to their health and continued participation as active citizens in society, without having their retirement savings destroyed and their retirement incomes decimated.

When I introduced S. 3107, I stated that it was imperative to remove the 3-day hospital stay provision as a requirement for receiving home health care services under medicare. I have discovered, however, that the provision in S. 3107 which requires that home health care services be covered only under the prescription of a physician, discriminated against those elderly with speech and hearing disorders. Speech pathology and audiological diagnosis and treatment are usually not physician prescribed and supervised. Treatment in the area of speech and hearing disorders is most commonly handled by speech pathologists and audiologists, and not necessarily by physicians. Thus, this provision of S. 3107 does not eliminate the inequities inherent in coverage of the elderly suffering from these kinds of medical problems. This is unjust and must be remedied.

Currently in the United States, there are 2½ million elderly Americans with severe bilateral hearing loss of sufficient magnitude to interfere with communication. Approximately 2 million other Americans suffer from unilateral hearing impediment. With respect to speech disorders, there are approximately one-half million elderly Americans suffering from various degrees of aphasia, a speech disorder which is most commonly caused by strokes. Almost 100,000 elderly suffer from various other speech problems. Thus, the legislation which I am currently introducing will permit almost 5 million elderly speech and hearing handicapped Americans to receive the treatment which is essential to their health and continued participation as active citizens in society, without having their retirement savings destroyed, and their retirement incomes decimated.

As I said when I introduced S. 3107, senior citizens have contributed a great deal to this country. We live in relative comfort and enjoy the fruits of technological advance because the generation of Americans who came before us sacrificed and worked to make this country what it is. Is it not now time that we say thank you to our senior citizens, say thank you by letting them enjoy their retirement years in dignity, free from the burdens of medical costs which can so easily and quickly destroy the dreams of a lifetime. I believe it is. It is fair, it is just, and it is necessary. Thus, I urge this Senate to give every consideration to the amendment I am offering today, and to the bill to which it is attached.

## EDUCATION AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 972

(Ordered to be printed and to lie on the table.)

Mr. BROCK submitted an amendment intended to be proposed by him to the committee amendment offered as a substitute for the House amendment to the bill (S. 659) to amend the Higher Education Act of 1965, and related acts, and for other purposes.

## ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 870

At the request of Mr. Nelson, the Senator from California (Mr. Cranston) was added as a cosponsor of amendment No. 870, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 924

At the request of Mr. Gambrell, the Senator from Virginia (Mr. Spong) and the Senator from Texas (Mr. Bentsen) were added as cosponsors of amendment No. 924, intended to be proposed to the committee substitute offered to the House amendment to the bill (S. 659), the Education Amendments of 1972.

## NOTICE OF HEARINGS BEFORE THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, I wish to announce the resumption of hearings on bills relating to the general subjects of compensation for victims of violent crime and group life insurance programs for persons engaged in law enforcement and related fields. The bills to be included in the hearings are:

S. 16, to provide civil remedies to victims of activities prohibited by title IX of the Organized Crime Control Act of 1970. [Senators McClellan and Hruska]

S. 33, to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers. [Senator Kennedy]

S. 750, to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation. [Senator Mansfield]

S. 1946, to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement and firefighting officers. [Senator Humphrey]

S. 2087, to provide benefits to survivors of police officers killed in the line of duty. [Senators McClellan and Hruska]

S. 2426, relating to crimes involving property in interstate or foreign commerce to provide a civil action for damages resulting from violations of section 659 of title 18, U.S.C. [Senator Bible]

S. 2748, to provide benefits to survivors of police officers, prison guards, and firemen killed in the line of duty. [Senator Boggs, et al.]

S. 2856, to provide for the compensation of persons injured by criminal acts. [Senator Hartke]

S. 2994, the Victims of Crime Act of 1972. [Senator McClellan, et al.]

S. 2995, the Victims of Crime Act of 1972. [Senators Kennedy, Hart, Humphrey, Metcalf and Moss]

The hearings are scheduled for Tuesday, March 7, 1972, at 10 a.m., in room 1202, New Senate Office Building.

Although we have held two previous sessions of hearings on this general area, I feel that an additional day is necessary to afford other interested Members and other persons to appear or submit statements. I know interest in the subject is widespread because I have been joined by 39 cosponsors of the omnibus Victims of Crime Act of 1972.

Any individual who wishes to testify or submit a statement during this hearing should communicate with the staff of the Subcommittee on Criminal Laws and Procedures, room 2204, New Senate Office Building, telephone 202-225-3281.

## NOTICE OF HEARING CONCERNING REPRESENTATION IN CONGRESS OF GUAM AND THE VIRGIN ISLANDS

Mr. BURDICK. Mr. President, for the information of Members of the Senate and others, I wish to announce that the Subcommittee on Territories of the Committee on Interior and Insular Affairs has scheduled a hearing for Thursday, March 16, to consider H.R. 8787 and S. 1400, to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

The hearing will begin at 10 a.m. in room 3110, New Senate Office Building. Anyone who wishes to be heard in connection with the legislation should contact the committee staff in order that a witness list may be prepared.

## ADDITIONAL STATEMENTS

### AMERICAN LEGION DAY ON THE HILL

Mr. COOK. Mr. President, it is a pleasure for me to speak today in recognition of the outstanding contribution of the American Legion to almost every aspect of contemporary American life. While inevitably associated with veterans and their particular problems and needs, few organizations have done so much for so many as consistently as the American Legion during the past 53 years of its existence. Let me urge every Senator and Representative to take the time to talk with those Legion representatives who have come to the Capitol today. I am confident that the scope and depth of their involvement in many of the most pertinent issues of today will be of tremendous values and interest to each of us on Capitol Hill.

Patriots who have given much in defense of this country and in the interest of peace and freedom throughout the world, the members of the American Legion who have come here today have earned our interest and deep respect.

### EARTH WEEK

Mr. NELSON. Mr. President, Earth Week this year will be April 17-23. Early indications are that it will be widely observed as a continuing educational effort in our schools and communities.

We anticipate that the President will proclaim Earth Week nationally once again this year.

Also, the chances are excellent that 45 if not all 50 of the Governors will proclaim the week, as well as many Mayors.

In Congress, 70 Senators are cosponsoring a resolution for Earth Week, representing wide bipartisan support across the country.

The national environmental and education organizations are again strongly supporting Earth Week. Their joint statement describes the purposes of Earth Week this year and indicates how states and communities might observe it.

I ask unanimous consent that the national Earth Week statement be printed at this point in the Record, along with a list of the 70 Senators who have cosponsored Senate Joint Resolution 15, a congressional resolution for Earth Week, and a list of the Governors who have already confirmed they will proclaim or support Earth Week.

There being no objection, the items were ordered to be printed in the Record, as follows:

EARTH WEEK, 1972—APRIL 17-23—A STATEMENT OF SUPPORT

Earth Week in April of 1971 was a nationwide success. This second annual environmental observance was proclaimed by the President, 40 Governors, and more than 150 Mayors, and was widely supported by both parties in Congress.

Thousands of grade schools, high schools and colleges participated in Earth Week, highlighting their environmental studies with special projects.

In its short, three-year history, Earth Week has come to symbolize the new ecological consciousness of our nation and the growing concern of all mankind in preserving the capacity of this planet to sustain life.

As a consequence of this new citizen awareness, now, for the first time in history, the issue of environment is a part of the political dialogue of the country, with public leaders at all levels addressing environmental concerns.

With this coming of age the environmental issue, some successes have been achieved, including tougher laws, bigger budgets, stronger agencies, and greater consideration of the environment in our decision making.

Grass roots action all across the country are establishing new policies on air and water quality, land and resource use, transportation, technology, and urban and population growth.

But actually restoring and protecting the environment will be a matter of decades, not years, requiring a sustained commitment by all citizens and institutions.

Thus, we believe Earth Week should be established as a continuing educational effort, a time each year to renew the nation's environmental awareness, and for local environmental inventories and reviews as well as special public and media reports.

In this election year, Earth Week can also provide state and local groups the opportunity to determine the positions and actions of political candidates on environmental issues.

Furthermore the nationwide review of environmental issues and our future needs provided by Earth Week would be especially useful in view of the United Nations Conference on the Human Environment scheduled for June in Stockholm.

Earth Week, 1972, will be April 17–23. All indications are that the week will be even more widely observed than it was last year.

We strongly encourage the support and participation in Earth Week of our schools, communities, churches, public leaders and citizen groups, and all interests including business, labor and government.

As was the case last year, the success of Earth Week will depend on participation at the community level, with local and statewide groups utilizing their own resources and establishing their own priorities for the observance. Because of Earth Week's grass roots emphasis, there will not be a national headquarters, and interested persons should contact environmental and citizen organizations at the state and community level to make Earth Week plans.

In an effort to preserve the integrity and livability of the American environment, and to join with all countries in meeting this task worldwide, a successful Earth Week in 1972 will be a timely and important step.

U.S. Senator Gaylord Nelson, United States Senate, Room 221, Washington, D.C. 20510.

Citizens Committee on Natural Resources, 1346 Conn. Av., N.W., Washington, D.C. 20036.

Defenders of Wildlife, 2000 N St., N.W., Washington, D.C. 20036.

Environmental Action, Inc., Room 731, 1346 Conn. Av., N.W., Washington, D.C. 20036.

The Izaak Walton League of America, 1800 N. Kent Street, Arlington, Virginia 22205.

Zero Population Growth, 620 C St., S.E., Washington, D.C. 20003.

National Audubon Society, 1130 5th Av., New York, N.Y. 10028.

National Recreation and Park Association, 1700 Penn. Av., N.W., Washington, D.C. 20036.

National Wildlife Federation, 1412 16th St., N.W., Washington, D.C. 20036.

Sierra Club, 235 Mass. Av., N.E., Washington, D.C. 20002.

The Wilderness Society, 729 15th St., N.W., Washington, D.C. 20005.

National Education Association, 1201 16th St., N.W., Washington, D.C. 20036.

The Population Institute, 100 Maryland Av., N.W., Washington, D.C. 20036.

American Federation of Teachers, 1012 14th St., N.W., Washington, D.C. 20005.

The Conservation Foundation, 1717 Mass. Av., N.W., Washington, D.C. 20036.

Ecology Center Communications Council, 2000 P St., N.W., Washington, D.C. 20003.

Friends of the Earth, 620 C St., S.E. Washington, D.C. 20003.

League of Conservation Voters, 620 C. St., S.E., Washington, D.C. 20003.

National Parks and Conservation Association, 1701 18th St., N.W., Washington, D.C. 20009.

Washington Ecology Center, 2000 P St., N.W., Washington, D.C. 20036.

### LIST OF COSPONSORS

The 70 Senators who have cosponsored Senate Joint Resolution 15, for Earth Week:

Gordon Allott (R) Colo.
Howard Baker (R) Tenn.
Birch Bayh (D) Ind.
J. Glenn Beall (R) Md.
Henry Bellmon (R) Okla.
Lloyd Bentsen (D) Tex.
Alan Bible (D) Nev.
J. Caleb Boggs (R) Del.
Quentin Burdick (D) N. Dak.
Robert Byrd (D) W. Va.
Howard Cannon (D) Nev.
Clifford Case (R) N.J.
Lawton Chiles (D) Fla.
Frank Church (D) Idaho
Marlow Cook (R) Ky.
Norris Cotton (R) N.H.
Alan Cranston (D) Calif.
Robert Dole (R) Kans.
Peter Dominick (R) Colo.
Thomas Eagleton (D) Mo.
Sam Ervin (D) N.C.
Hiram Fong (R) Hawaii
J. William Fulbright (D) Ark.
Mike Gravel (D) Alaska
Edward Gurney (R) Fla.
Fred Harris (D) Okla.
Clifford Hansen (R) Wyo.
Philip Hart (D) Mich.
Vance Hartke (D) Ind.
Mark Hatfield (R) Oreg.
Ernest Hollings (D) S.C.
Harold Hughes (D) Iowa
Hubert Humphrey (D) Minn.
Daniel Inouye (D) Hawaii
Henry Jackson (D) Wash.
Jacob Javits (R) N.Y.
B. Everett Jordan (D) N.C.
Edward Kennedy (D) Mass.
Warren Magnuson (D) Wash.
Mike Mansfield (D) Mont.
Charles Mathias (R) Md.
John McClellan (D) Ark.
Gale McGee (D) Wyo.
George McGovern (D) S. Dak.
Thomas McIntyre (D) N.H.
Jack Miller (R) Iowa
Walter Mondale (D) Minn.
Joseph Montoya (D) N. Mex.
Frank Moss (D) Utah
Edmund Muskie (D) Maine
Robert Packwood (R) Oreg.
John Pastore (D) R.I.
James Pearson (R) Kans.
Claiborne Pell (D) R.I.
Charles Percy (R) Ill.
William Proxmire (D) Wis.
Jennings Randolph (D) W. Va.
Abraham Ribicoff (D) Conn.
William Roth (R) Del.
Richard Schweiker (R) Pa.
Hugh Scott (R) Pa.
William Spong (D) Va.
Ted Stevens (R) Alaska
Adlai Stevenson (D) Ill.
Stuart Symington (D) Mo.
Robert Taft (R) Ohio
Strom Thurmond (R) S.C.
John Tower (R) Texas
John Tunney (D) Calif.
Harrison Williams (D) N.J.

### LIST OF GOVERNORS

Governors as of this date planning to proclaim or support Earth Week 1972:

Alaska, William A. Egan
California, Ronald Reagan (Will Support)
Colorado, John A. Love
Delaware, Russell W. Peterson
Florida, Reubin Askew
Hawaii, John A. Burns
Kansas, Robert B. Docking
Maine, Kenneth M. Curtis
Minnesota, Wendell Anderson
Montana, Forrest H. Anderson
Nevada, Mike O'Callaghan
New York, Nelson Rockefeller
Ohio, John Gilligan
Oregon, Tom McCall
Pennsylvania, Milton J. Shapp
Tennessee, Winfield Dunn
Utah, Calvin L. Rampton
Virginia, Linwood Holton (Will Support)
Wisconsin, Patrick J. Lucey
Wyoming, Stan Hathaway

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## A GROWING GLOBAL DILEMMA—WILL WE RUN OUT OF WATER?

Mr. PACKWOOD. Mr. President, another provocative article by Claire Sterling, dealing with the rapidly dwindling global supply of clean water, appeared in the Washington Post on February 27. The article serves as another of the growing landslide of reminders pointing out the problems being faced by most nations and the entire planet as a result of our continuing exponential rate of growth and resultant impact on the natural environment.

So many of our resources, particularly the globally ubiquitous ones like air, and to a somewhat lesser extent water, have all been taken pretty much for granted in the past. When scarcity or pollution descended upon these resources, much of the reaction has been to brush it off as a local affliction. But it has become greatly disconcerting in more recent years to become aware that much of what we thought to be local was, in fact, being repeated everywhere; there are in fact few global islands today which are free of these mounting problems of scarcity and pollution.

The frightening thing is the rate at which these problems are mounting, and the complexities we seem to face in bringing about their resolution. Certainly, we as a nation, and hopefully we as a planet, are beginning to recognize that there are physical limits to growth of any type in the finite space in which we live. There must be an optimum balance somewhere, and we surely need to find it and avoid exceeding it.

The biggest problem we currently face is whether we will recognize the seriousness of these problems with a sufficient sense of urgency to bring on corrective measures with enough potency and speed to reverse these adverse trends. It will not be an easy task, and it will unquestionably involve some strong changes in our ways of thinking and doing things.

If we are really concerned about our quality of life now, and what it will amount to in the near and distant future, we ought to get more methodically on with the task of identifying what we want, and then identifying what human forces we will have to redirect in order to assure the achievement of that quality on a sustained basis. There are many constraints we will have to face up to, and better now than later, as delay only makes the problems ever more difficult to solve.

I believe that all Senators will find this article of provocative interest. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### WITHIN A CENTURY—WILL WE RUN OUT OF WATER?

(By Claire Sterling)

ROME.—The U.N. Food and Agricultural Organization has just issued a report for the coming Stockholm environment conference saying that the human race is going to run short of water within a century. Jaded though we are about such pronouncements, this one still has some zing. Practically every state on earth is starting to worry about water, a recurrent theme in some 75 country reports for this planet-wide Stockholm meeting. Not all of them have a whole century to turn around in, either.

Among the planet's thickly settled regions already afflicted by water shortages are Spain, Italy south of Lombardy, the Dalmation Coast, Greece, the Antatolian Plateau, all

Arab states save Syria, most of Iran, West Pakistan, Western India, Taiwan, Japan, Korea, the Western and Southern belts of Australia and New Zealand, the Northwest and Southwest African coasts, the American Southwest, Panama, Northern Mexico, Central Chile and the Peruvian Littoral. Among those heading for trouble by the year 2000 are all of Soviet Russia except Siberia, most of Eastern, Central and Western Europe, the Northern parts of Great Britain, Ireland and the United States, nearly all the rest of India, the central Thailand Plains, Tasmania, the islands of Java, the rest of the American continent except Northern Canada and Alaska, the larger Caribbean islands, the rest of Mexico, and parts of Brazil and Argentina.

By FAO reckoning, the planetary shortage will be getting serious in just another 30 years, when the world's population will have doubled (from 3½ to 7 billion) and demands for water nearly tripled (from 2,000 billion to 5½ thousand billion cubic meters yearly). The demands in this case mean everything from swimming and fishing in it to making plastics and steel with it, cooling nuclear reactors, irrigating, flushing away residues of pesticides, fertilizers and livestock faeces, carrying off industrial and human waste and, of course, drinking.

Whether because they haven't enough water or are fouling, squandering or driving beyond reach too much of what they do have, rich and poor, industrial and agricultural, capitalist and socialist states are pretty much in the same boat. A dozen or more African states along a 4,000 mile front are losing precious groundwater irrevocably to the encroaching Sahara year after year, in good part because of over-grazing. Kenya and India, the one under and the other overpopulated, are both preoccupied, if for different reasons. East and West Germany have almost identical problems. Holland, at the receiving end of the dirty Rhine, is hardly worse off for drinking water than Rumania and Hungary, depending on the dirty Danube for four-fifths and nine-tenths of their supply respectively. Nowhere, in fact, is the problem's universality more stunningly clear than in Soviet Russia's pre-Stockholm report to the U.N.'s Economic Commission for Europe.

More generously endowed with water than most—Lake Baikal alone, in Siberia, is thought to hold about a fifth of the whole planet's fresh water reserves—the Soviet Union is a lesson to us all. At present, says the Russian report, nearly 25 billion cubic meters of waste water are dumped into the country's rivers and reservoirs every year. By 1980 the volume will be two and a half times bigger, and by the year 2000 about 15 times bigger: 375 billion cubic meters. Even if all the waste water were to be purified in advance, with a lot better techniques than those available now, it would still have to be diluted with at least six times as much pure water. That is only half of the 12-fold volume needed for purification now. *"But it would still use up the whole of Soviet Russia's river flow, or 2½ times more than there is now in the steady flow."*

Meanwhile, the actual river flow is declining, while levels of lakes and inland seas are falling: the Caspian has dropped two meters in the last two decades, and the Aral Sea has lost 1,000 billion cubic meters of water. This is believed to be happening because too much water is taken off the river-system by people and industry; too many hydro-electric dams divert still more; rivers and reservoirs are silting up with flood-borne sediment; and the floods themselves are carrying millions of tons of unrecuperable water off to sea. These floods are largely man-made too, provoked by erosion caused in turn by de-forestation: what with the trees that Russians have cut down and not replaced, and raging forest-fires, 45 million acres of Soviet forest have been lost in the last quarter of a century.

Assuming the Russians can find enough water to purify enough water to keep themselves going 30 years from now, they still couldn't eliminate the polluting substances entirely. About a fifth of the strongest pollutants would remain with even the costliest cleansing methods, their report says; and cleansing techniques so far are lagging behind the inexorably growing volume of polluted water. All in all, the report goes on, this water-polluting process is "the greatest danger for humanity." There is "widespread expectation of an inevitable exhaustion of rivers, and an awareness of the necessity to substitute new sources of water supply; desalination of sea water as well as melted ice from polar glaciers . . . but can this take the place of river waters? And can we . . . allow rivers to become qualitatively exhausted and, in fact, turn them into waste-water collectors?"

The Kremlin's answer, worthy of the Sierra Club or Friends of the Earth, is "no." Sooner or later, known methods to treat waste water are bound to prove invalid, it says. Distillation and de-salination will certainly be in use, but at steep cost. In the end, it concludes, the only answer is simply to stop dumping waste water into rivers and reservoirs.

How Russia or any other country can do that is something nobody has quite faced up to yet. The implication, though, is that water problems alone may be enough in the end to force world society to stop growing. Human excrement alone is peculiarly hard to get rid of. More people mean more livestock to feed them, adding to the excrement; more irrigation to grow more food, producing more run-off laden with DDT and nitrogen compounds; more mechanized farming for the same purpose (and a tractor needs more water than a mule); more energy requiring more hydro-electric dams and nuclear cooling; and more manufactured goods relying on more advanced technology requiring still more water (plastics need ten times more than steel, and world plastic production is doubling every 5 or 6 years now).

The question is not just whether the moment may come in our lifetime when we forget what real water tastes like—millions are forgetting already—but whether humans just one generation removed, though surrounded by a chemical substance known as $H_2O$, will be hard put for a drop to drink.

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## SENATOR CARL HAYDEN

Mr. HARRIS. Mr. President, I was deeply saddened by the news of Carl Hayden's death.

Carl Hayden was an outstanding man, both in his professional and private life. He served his State and its people as loyally as any man can.

One of the greatest honors a State can bestow on a citizen is to elect and reelect him to public office. Carl Hayden won every office he sought during his 67 years of public service. He served longer in the Senate than any other man in our history. A man who continuously earns the respect and love of his fellow countrymen over such a long period is a rare person.

Carl Hayden lives on through the legislation and the other accomplishments he is responsible for, which will continue to benefit Arizona and America for generations to come.

I extend my sympathy to the Hayden family and to the citizens of the State of Arizona for the loss of this unusual American.

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## PHYSICAL VIOLENCE IN DESEGREGATED SCHOOLS

Mr. BROCK. Mr. President, I am proud of the progress my State and others in the South have made toward achieving desegregation. In fact, my hometown of Chattanooga, Tenn., led the way in desegregation of public schools, even before the courts so ordered.

Because this is so, our parents and children are today reacting with unbelievable restraint in situations of violence in our schools created by the recent imposition of compulsory busing.

One such incident is related in a letter from Raymond Payne, whose son, Robert, a student at Brainerd High School, was beaten up last week by two students who had been bused to his school, two students the child had never seen before. He was beaten up, not because they knew him, or because they hated him, but because of a climate of hate inculcated into an institution as a result of judicial abuse over which neither the child nor his parents had any control. I ask unanimous consent that Mr. Payne's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

FEBRUARY 16, 1972.

Hon. WILLIAM E. BROCK III,
*Old Senate Office Building,*
*Washington, D.C.*

DEAR BILL: My 17 year old son Robert is a student at Brainerd High School. As he was leaving school the afternoon of January 19th, he was beaten by two black students that he did not even know, had never said a word to before, during, or after the assault.

Robert is studying Bible and music and plans to make some form of youth ministry his life work, so it is highly unlikely that either of the boys who beat him could have had any reason for the assault.

My son received a cut left upper lip that goes up to the skin line of his face on the outside and nearly to his nose on the inside of his mouth. He has two teeth that are loose and Dr. Nichols is not yet certain he can save these teeth. His nose was swollen and we were afraid that it was broken at first, but thank the good Lord this was not the case. He was in a lot of pain for several days, could not eat solid food for a week, and the cut lip required over a dozen stitches to close. The plastic surgeon says Robert may never again have any feeling in this side of his jaw as the nerves may not knit back.

The students that did this to my son are bused in to our school. We have been able to identify only one of the boys and Dr. Von Schaff has suspended him and I have brought charges against him in our local Juvenile Court.

Integration was beginning to work in this school until last year when extensive busing of students was started. Since that time there has been trouble. The assaults on individual white students such as occurred to my son are not rare. Randy Thompson who was at Brainerd last year was assaulted by 5 blacks in the rest room. Another friend of Robert's, Paul Daniels was also assaulted by blacks.

The day that I took Robert to our family doctor Dr. Royal (this was immediately after the beating.) Dr. Royal's nurse told me that her daughter had been assaulted by black girls in her gym class the week before.

Neither my son nor any other member of my family are racists. He has had several good Negro friends at Brainerd Jr. High and at Brainerd High. Several of my most loyal friends are Negro.

Busing has brought evils to Brainerd High that simply were unheard of years ago, even a very few years ago. One of the members of the Chattanooga School Board told me that his own daughter who is a student at Brainerd is afraid to eat in the cafeteria and like many other girls in this school, takes her lunch from home and eats it in study hall.

My son has been afraid to go to the rest room in this school for over a year. I had heard him tell of students being beaten, and thought that it was just teen gossip, but now I have had my eyes opened.

The white boys are afraid to fight back when attacked because they do not want to be suspended from school. At the time my boy was jumped, he was surrounded by several of the bused students and he would have been a fool to have fought.

I am at the end of my patience with our federal judiciary and must admit that Australia is looking better all the time. You can be sure that my daughter will not attend Brainerd High School, and that she will be bused only over my dead body.

All that keeps me holding on to my hope for this country is the knowledge that you and several fine men like you are trying to stop this outrage that our children are being exposed to.

Enclosed you will find a picture of Robert made the night after the beating, showing his cut lip, bruised eyes, and yellow bruises about his face.

Sincerely yours,

RAYMOND D. PAYNE Jr.

(P.S.—I must add that Dr. Von Schaff who is the principal at Brainerd High is a wonderful man and is doing a superb job under terrible handicaps. I would not have his job for $10,000.00 a month even if it were tax free.)

## LONG ISLAND SOUND STUDY

Mr. RIBICOFF. Mr. President, I am pleased to announce that beginning March 1, 1972, the New England River Basins Commission's Long Island Sound Study Office will be located at 270 Orange Street, New Haven, Conn. 06511.

As the congressional sponsor of the commission's comprehensive study of the future of Long Island Sound, I believe that the decision of the commission, which is headquartered in Boston, Mass., to move its study team to a site close to the sound and the people who know it best is a wise one. The 3 years allotted to the study is a relatively short time to develop ways to reverse the deterioration of the sound and the maximum use of its time and funds is essential to the program's success. In that regard, I am hopeful that the Congress will approve the full $1.6 million budget request submitted by the administration for fiscal year 1973.

## TRIBUTE TO THE AMERICAN LEGION

Mr. BEALL. Mr. President, today is a significant day for one of our Nation's most prestigious and patriotic organizations. Today is "American Legion Day on the Hill," when Legionnaires from throughout our country visit the offices of their elected representatives to discuss the many issues with which all of us are so deeply concerned.

As a proud member of the American Legion, I wish to join Senators on this special occasion in recognizing the fine and unselfish accomplishments of the Legion. Since its incorporation by an act of Congress in 1919, no group has done more to advance the principles upon which the Nation was founded. In countless ways, they have contributed greatly to the strength of character of our people. In short, the American Legion, in effective and nonpartisan fashion, has worked steadfastly for 62 years to promote those ideals which make our Nation great.

Foremost among the goals of this dedicated aggregation is to render aid and assistance to its sick and disabled comrades. Working tirelessly to promote the cause of all veterans, the Legion's success has been seen in the establishment of an adequate medical program, education and training programs, and compensation and pension benefits which have enabled our disabled veterans to remain self-sufficient members of their community. But in spite of all the successes, much still needs to be done for our former servicemen who have sacrificed so much. Thus, the American Legion continues its work for the veterans of this land. Let us in Congress heed their cry, and do all we can for our veterans. That would be the highest tribute possible to the Legion.

In addition, the American Legion labors continually to strengthen the future of our society by developing our youth intellectually, spiritually, and physically. I can think of no better investment. Of particular note is the Boys State program, an activity of high educational value, born out of a need for youth training in practical citizenship. It has been my good fortune to be able to participate in the last three Boys State programs held in Maryland, and, thus, I have firsthand knowledge of the splendid work done by the Legion with the youth of our country. Other programs, such as American Legion baseball, National High School Oratorical Contest, school medal awards, education and scholarship program and Boy Scouts, to name a few, further attest to the organization's devotion to youth. By these efforts they are planting the seeds for another generation of responsible and patriotic Americans.

Mr. President, the American Legion cares about America. They know what is necessary to maintain our Nation's strength now and in the future. I commend them on their devotion to duty. May this country never forget the principles for which they stand.

## CHIPPEWA, WIS., HERALD-TELEGRAM QUESTIONS HIGH DEFENSE BUDGET

Mr. PROXMIRE. Mr. President, the Chippewa, Wis., Herald-Telegraph, on February 24, published an editorial entitled "Tell Us Why," concerning the astronomical $83.4 billion requested for national defense in the 1973 budget.

At a time when the incremental costs for Vietnam have fallen from $26 billion to the $5 to $6 billion range, when President Nixon tells us that from now on our friends and allies will have to provide a greater share of the manpower for defense, when 1.1 million men and women have been discharged from the military services and personnel reduced from 3.5 to 2.4 million, and when our commitments to Taiwan, Korea, and other places have been reduced, why is the military budget going up? That is what the editorial asks.

For $70 billion a year this country could provide general purpose forces equal to those we had before Vietnam, pay for the all-volunteer army, and provide a strategic force with an assured destruction capability sufficient to reduce the Soviet Union to rubble if she were so foolish as to launch a "first strike" attack on the United States.

The editorial concludes:

> Before any taxpayer supports an increase of $6 billion between the estimate of the 1972 fiscal defense budget and the request for 1973, we think this explanation must be forthcoming.

Why should we pay out $83.4 billion when everyone from former Deputy Secretary Packard to the blue ribbon panel charges waste and overruns in procurement?

Why should the taxpayers be burdened with this colossal spending when we have excessive and redundant bases overseas?

Why should the American taxpayer pay through the nose for the defense of Western Europe when the developed European countries pay half as much in support of military forces as we do?

Why should we continue to pay, pay, pay—for fighter planes which cost 10 times what they should, for carriers vulnerable to both surface-to-surface missiles and attack subs, and bomber defenses which are redundant?

As the editorial states, "Tell Us Why."

I ask unanimous consent that the Chippewa Herald-Telegram editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### TELL US WHY

In 1971, experts on military spending ranging from Wisconsin's senior Senator, William Proxmire, to the Brookings Institution, presented a detailed study which showed that the defense budget of the United States could be lowered to at least $70 billion.

In 1970, a study done for the United States Arms Control Agency set a figure of $60 billion, and, in fact, Senator Proxmire has often talked of a security sound defense budget in the area of $50 to $55 billion.

With all of these facts in mind, the Herald-Telegram was saddened to see Wisconsin's own very bright Melvin Laird join the ranks of previous defense secretaries, like Clark Clifford and Robert McNamara, and call for a 1973 fiscal year defense budget of $83.4 billion.

Said Defense Secretary Laird, "This figure is the absolute minimum amount necessary to safeguard our national security."

If the Laird statement is to be taken seriously we would, at first suggest that the Defense Department get more precise in much of the rest of its budgeting. If the amount is $83.4 billion—and that is a very precise figure—then before the Defense Department can suggest that the American people are going to buy the accurateness of that number, they're going to have to stop being so incredibly inaccurate with cost overruns and projections of costs in getting new weapon systems, etc.

Second, and more important, the real heart of strategic protection from the United States in our nuclear weapons arsenal. Yet, it is interesting to note that nuclear weapons amount to only about one-tenth of the total defense budget, and that there would have to be no increase in fiscal 1973, if we're only talking about nuclear weapons since that category of the budget is not going up greatly at all.

Moreover, we firmly believe that the Defense Secretary owes the American taxpayer, who must come up with such an astronomical figure as $83.4 billion, a substantial explanation of why such responsible and pro strong defense experts at the Brookings Institute, the U.S. Arms Control Agency, and our own senior Senator cite a figure that is so much below the supposed "absolute minimum" that Laird requests for '73.

In that defense, Mr. Laird should also explain to the American public what he is proposing this country do to get out of the business of maintaining large, general purpose forces. The maintenance of these kinds of forces led us into the folly of Viet Nam.

Surely every American wants this country to be strong, and within that regard, we know the absolute necessity of having strategic forces around the world on bases that protect our national security.

Just as surely, however, the last decade in Viet Nam should have taught every American of every political persuasion the folly of our using hundreds of thousands of our men to fight the wars of other countries only to find that we really weren't wanted by our friends or our foes.

Before any taxpayer supports an increase of $6 billion between the estimate of the 1972 fiscal defense budget and the request for 1973, we think this explanation must be forthcoming.

## A SALUTE TO THE SPARTAN BAND

Mr. PACKWOOD. Mr. President, it gives me a great deal of pleasure today to bring the outstanding accomplishments of the Spartan Band of Hillsboro Union High School in my State of Oregon to the attention of the Senate.

The Spartan Band has the signal honor accorded to a select few of being invited to participate in the International Band Festival in Vienna, Austria, this summer.

Less than 2 percent of the high school bands across the United States were even considered by the Festival Invitation Committee, and the Hillsboro band is the only one chosen from Oregon. We all are proud of the musical prominence this band has attained, and I am sure our Nation as well as the State of Oregon will be proud to have the Spartan Band represent them at the international festival.

Fine bands are a tradition at Hillsboro and I think much of the credit goes to band leader, Mr. Carl A. Gutmann. Under his direction the past 20 years, the band has established itself as one of the outstanding bands in the Northwest. And, certainly, each member of the Spartan Band deserves our applause and best wishes.

## ALASKA NATIVE CLAIMS CONTROVERSY

Mr. McGOVERN. Mr. President, the January issue of Field and Stream magazine contains an editorial which was extremely derogatory to the Indians, Aleuts, and Eskimos covered under the terms of the Alaska Native Claims Act. It is my hope, Mr. President, that the Nation's fine sportsmen who read this otherwise outstanding publication will agree with me that the editorial was a hastily conceived and ill-advised venture in bad taste. It is also my belief that the editorial was also an affront to Congress, which passed the bill, to both the Senate and House Committees on Interior and Insular Affairs, and to the Department of Interior, which all worked so long and hard on this legislation.

The National Congress of American Indians has responded to the editorial in a point-by-point analysis of the shortcomings and outright errors. I commend Franklin Ducheneaux and Leo Vocu, of the National Congress of American Indians, for their excellent response. I ask unanimous consent that it be printed in the Record.

There being no objection, the response was ordered to be printed in the Record, as follows:

January 7, 1972.

Clare Conley,
*Editor, Field and Stream,*
*New York, N.Y.*

Dear Mr. Conley: Re your editorial in the January, 1972 issue of *Field & Stream* concerning the long overdue settlement of the land claims of the Indians, Eskimos, and Aleuts of Alaska by the Congress. A fair assessment of that editorial is that, where you are not in apparent ignorance of the facts, you have intentionally misrepresented them. In addition, you either disregard or are abysmally ignorant of the American Native, the non-Indian settlement of this land, and the relationship between our people and the United States.

The United States has generally failed to live up to its treaty obligations to provide the Indian people with an adequate education. However, even with this shortcoming, perhaps we can instruct you in some history you should have learned in *your* schools.

It is said that Alaska was "discovered" in 1741 by some wandering Russians. In truth, Alaska was discovered by our ancestors when your ancestors were living in the chalk caves of southern France and hunting the mastodon with stone spearheads.

After "discovering" Alaska, the Russians established a few small settlements in the Aleutian chain and along a small part of the immense coast of mainland Alaska and, on that basis, claimed ownership of and dominion over the vast land mass of Alaska. That is tantamount to an Indian buying a copy of *Field & Stream* (Why he would do so, I do not know) and, on that basis, claiming ownership of the entire publication (Why he would want to, I do not know).

Somewhat akin to Ivory soap, the land mass of Alaska was 99 and $^{1}/_{100}$ per cent pure of white settlement and exploration in 1867. Yet, in that year, the United States purchased Alaska from Russia for $7,200,000. Russia did not own Alaska, even the small part they were squatting on, and therefore did not have the right to sell it. The United States knowingly purchased property for which the seller had no title; in short, stolen property. But it is a known fact that concepts such as ownership, justice, and morality fly out the window when two thieves are engaged in a transfer of stolen property.

But even thieves have their moments of morality and conscience. In the thieves agreement between the United States and Russia—officially designated the Treaty of Cession of March 30, 1867 (15 Stat. 539), the parties agreed that:

"The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time, adopt in regard to aboriginal tribes of that country."

While this may sound like more of the racial immorality of the thieves, it should be noted that it does not confer the rights on a racial basis and admits that if there are "civilized tribes", they, too, are entitled to protection of their property under the law of the thieves. It was a small foot in the door granted by the thieves in a weak and foolish moment.

But worse was yet to come for the mighty white hunters and fishers of 1972. In the Act of May 17, 1884 (23 Stat. 24), organizing Alaska as a territory of the United States, the Congress recognized that:

"The Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress . . ."

The Natives have used and occupied the Alaska peninsula for over 10,000 years. They claimed it then—they claimed it in 1867—they claimed it in 1884—they claimed it when Alaska was admitted to statehood—and they claimed it—all of it—prior to passage of the Alaska Native Land Claims Settlement Act of 1971.

What are they going to get?

The 1970 Census indicates that there are 52,062 Natives in Alaska which has a total population of 300,382. The Natives, the true owners of Alaska, represent approximately 15% of the total population.

Out of the greatness of the American heart, they are being awarded 40,000,000 acres of their own land. Alaska has a total acreage of 365,481,600 acres. So the Alaska Native—the owner of Alaska from time immemorial—must accept less than 11% of the total 365,481,600 acres stolen from them.

Congress, of course, did make a payment on the 100 year use of the Native's land and for their loss of the remaining 325,481,600 acres. The payment is set at $962,500,000. Your editorial implies that this is fantastically outrageous compensation and a raid on the taxpayer's pocketbook. First, let us tell the truth about the compensation.

$462,500,000 is to be directly appropriated from the United States Treasury: $12.5 million in the first year; $50 million in the second year; $70 million in each of the third, fourth, and fifth year; $40 million in the sixth year; and $30 million in each of the next five years. These are, in effect, annuity payments and, as such, must be discounted to arrive at present worth. The discounted value figures out to be less than $350 million.

The Natives are then reluctantly permitted to have a 2% overriding royalty on all mineral revenues derived from leases of Alaska lands which are now public under the Mineral Leasing Act of 1920, as amended and supplemented, up to a total of $500,000,000. The time needed to arrive at that total may be up to 50 years—or even more. That sum, too, must be discounted. It would probably wind up being around $300 million in current value. So, at discounted rates, they are receiving about $650 million.

For what?

During the hundred years the whites have illegally used Alaska, they have probably taken out untold billions of dollars worth of gold, various other minerals, timber, fish, and other wildlife one cent of rent or lease being paid to the owners. Locked up in the 325 plus million acres of land the Natives have, in effect sold to the United States for a paltry sum are billions of dollars of oil deposits and trillions of dollars of other ntaural resources. If the United States got a bargain when they knowingly purchased stolen merchandise for $7,200,000, they are now getting a fantastic windfall to get it all from the real owners for a paltry billion dollars—nondiscounted, at that.

Now to your specific misrepresentations.

You state in the third paragraph of your editorial that the Natives are being given an almost unlimited right to select the 40 million acres anywhere they wish out of the 365 plus million acres available in Alaska. You state further that there are only 80 million acres of land in Alaska below the 3000 foot level and that the Natives will, quite naturally, select all their 40 million acre entitlement from this 80 million acres, leaving only (only?) 40 million acres for the use of the great white hunter and fisher.

Here again you show a total ignorance or disregard for the facts. Under the Act, the 40 million acres of land is to be divided between the 220 existing Native villages and 12 regional corporations. Each village will receive surface title to 18½ million acres on the following basis:

*Population and acreage entitlement*

| | |
|---|---|
| 25 to 99 | 69, 120 |
| 100 to 199 | 82, 160 |
| 200 to 399 | 115, 200 |
| 400 to 599 | 138, 240 |
| 600 or more | 161, 280 |

In addition, the villages will receive surface title to an additional three and a half million acres to be divided among the villages by the regional corporations on some equitable basis, making a total of 22 million acres for the villages.

The regional corporations, in addition to receiving the subsurface title in all lands selected within their region, will select an additional 16 million acres for their own use and development. A further 2 million acres is to be used for special purposes, such as retaining title to existing Native cemeteries and historical areas or for Natives who are not members of existing villages. This is a total of 40 million acres.

Had you read the Act, you would know that the Natives *do not* have an unrestricted right of selection. The 18½ million acres to be selected by the villages and the 16 million acres to be selected by the regional corporations must come from the 25 townships surrounding each of the 220 villages. For your information, a township is a survey unit of 36 sections of land at 640 acres per section for a total of 23,040 acres per township. In addition, the Natives are precluded from selecting any land upon which there are currently existing valid rights or from any land now in the National Park system or withdrawn for national defense purposes, except the Naval Petroleum Reserve Numbered 4.

Your point, now shown to be almost totally inaccurate, was that the Natives (Those sly, shifty devils.) would select all the good lands, particularly those valuable for hunting and fishing and leave none for the white sportsmen. Quite obviously, the 40 million acres remaining below 3000 feet is not enough for the hunting and fishing crowd. Your editorial does not mention that a large part of the sports hunting and fishing activity in this country takes place above 3000 feet.

But suppose you were right. Suppose a choice had to be made between the white hunter and the Native people. Where does the equity lie?

The Alaska Native has lived upon the peninsula of Alaska from time immemorial. They hunt and fish for their very existence. That activity provides them with their daily food, their housing, clothing, utensils, and their trade goods, not to mention their recreation. Deprived of this right, their race might well become extinct. During the thousands of years they have lived in this fashion, they have not been the cause of the extinction of a single species of animal life—they have not killed or trapped an animal for which they did not have an immediate and pressing use or which they did not put to the most efficient use in sustaining their livelihood—nor have they polluted the rivers and streams, eroded the land, or destroyed the balance of the ecology. Rather, they have lived in, been a part of, and conserved and preserved their land and its resources.

And the great white hunter? What is his equity in the land?

Once or twice a year, he must prove his manhood and emulate his chalk-cave ancestor. Instead of a spear with a stone head, he uses a high-powered repeating rifle equipped with a high-powered scope to make the killing easier. Having already destroyed the land, air, and game potential of his own environs with fumes, chemicals, buildings, and people, he yearly treks into the virgin, unspoiled wilderness with his beer cans, whiskey bottles, gas fumes, and other mementos of this "civilization" for the brief pleasure of the chase and the momentary thrill of sending a 180 grain, 30–06 bullet crashing and tearing through the heart of some frightened, desperate bear or moose or deer. Why? So he can cut off the head and skin as visible, living-room proof of his manhood while the flesh, sinew, and bone of the animal rots and whitens in the wilderness sun—flesh, bone, and sinew that may well have supported a Native family for a month.

And now for the Big Lie. In your last tear-jerking paragraph, you state: "Friends, we are victims of the biggest hoax ever perpetrated in the name of the Noble Savage by any legislative body." What, allegedly, is the big hoax and fraud upon the American people? Let us quote your fourth paragraph:

"But there is more to this unforgivable bit of law making. The Naval Oil Reserve near Point Barrow—"

If you had read the Act carefully, which obviously you did not, you would know the official name for this area is Naval Petroleum Reserve Numbered 4:

"Was not exempted from the land the Indians could grab up. There are a million acres up there that will be worth billions of dollars."

Back to your last paragraph:

"Actually, the big corporation—largely oil—were strongly behind this Indian grab bag, because getting it settled takes the big stumbling block out of the way of the Alaska pipeline, and because it will be easier to get at the oil and other resources if the land is privately owned. The oil companies could not drill for oil known to exist in the Naval Oil Reserve, which is right beside the Prudhoe Bay field."

The Eskimos of the Arctic North Slope deserve every drop of oil below the surface of their land the whites call Naval Petroleum Reserve Numbered 4. But the truth—the mind-sickening, gut-twisting truth—is that the Natives have been cheated of their right to this resource under their land by the Act. I direct your attention to Section 12 (a)(1) of the Act which reads in the last proviso as follows:

"When a Village Corporation selects the surface estate to lands within the National Wildlife Refuge System or Naval Petroleum Reserve Numbered 4, the Regional Corporation for that region may select the subsurface estate in an equal acreage from other lands withdrawn by subsection 11(a) within the region, if possible."

And you can bet the Secretary of the Interior, whoever he may be, will determine that it is "possible" because the Senate-House Conference Report on H.R. 10367 as set out in the December 13, 1971, Congressional Record states on page 46592 that:

"No subsurface estate is granted in Naval Petroleum Reserve Numbered 4 or in the National Wildlife Refuge, but in lieu selection of subsurface estate in an equal amount of acreage *outside* (emphasis added) these areas is provided for the regional corporation."

Furthermore, the Natives will not be able to benefit from the oil under their lands through the revenue sharing provisions. The Conference Report states, on page 46592 of the December 13, 1971, Congressional Record that:

"The Natives will be paid . . . an additional $500,000,000 from mineral revenues received from lands in Alaska hereafter conveyed to the State under the Statehood Act, and from the remaining Federal lands, *other than Naval Petroleum Reserve Numbered 4,* in Alaska." (Emphasis added)

In short, the Natives will not benefit at all from the oil reserves under their lands in Naval Petroleum Reserve Numbered 4.

If your magazine was devoted to the principles of professional journalism, you either knew or should have known the true facts as stated above and should have reported them in your editorial, regardless of the interpretation you chose to place upon them. That you did not means you either lied or distorted and twisted the truth beyond recognition or engaged in totally irresponsible journalism.

The rest of your untruths, half-truths, misrepresentations, and distortions in the editorial we will write off to emotional fervor with unfortunate racial overtones and unprofessional, irresponsible journalism.

Most people associated with the Indian cause in the United States regard the settlement of the Native land claim to be inadequate and a sell-out of their rights. A few, such as yourself and your readers, regard the settlement as a windfall for the Natives. Your readers, great white hunters all, would have been indignant enough with the truth. There was no reason to distort it as your editorial did.

We invite you to make such use of our letter as you deem appropriate.

Sincerely,

LEO W. VOCU,
*Executive Director.*
FRANKLIN DUCHENEAUX,
*Legislative Consultant.*

## MANPOWER TRAINING

**Mr. BROCK.** Mr. President, on February 7, 1972, President Nixon sent a message to Congress urging the swiftest review and enactment of his Manpower Revenue Sharing proposal. The purpose of this measure is to decategorize, decentralize, and consolidate existing Federal and federally assisted manpower programs.

The President's proposal for enactment of manpower Revenue Sharing has already sat through the first session of Congress while unemployment hovered around the 5-million mark.

The development of the manpower training effort originated with the initial passage of the Manpower Development and Training Act of 1962. Today, there exist at least a dozen separate, narrow grant programs funding 10,000 direct grants and contracts with public and private organizations. These programs have attempted to meet needs as identified in continuing and new surveys of the unemployed. These programs include among others, MDTA institutional training, MDTA on-the-job training, Neighborhood Youth Corps, New Careers, Operation Mainstream, JOBS, and the Concentrated Employment Program.

Ten years ago the Nation was emerging from the psychological shock that emerges from a pair of back-to-back recessions. The doubts of the strength of the economic system were as strong as some would have us believe they are today.

Today we have in hand a manpower training effort which in fiscal year 1970 recorded first time enrollments in federally assisted work and training programs of 1.8 million persons. In fiscal 1971 enrollments were expected to reach the 2-million-person mark and if manpower revenue sharing had been available, it would have funded enrollments of 2.3 million persons in work training programs in fiscal year 1972.

This effort has concentrated especially in the area of training the disadvantaged. About a third of all enrollees during 1970 were receiving public assistance at the time they entered the program or in the case of youth in the Neighborhood Youth Corps program were from families on public assistance.

Thus, the program has grown from one adopted in despair and doubt 10 years ago to one committed to the maximum best use of our most important resource, the human resource today. Our economy, rather than falling by the way since 1962 has passed the 1-trillion mark in its production of goods and services.

Ten years ago the program was an experiment; today manpower training is an integral part of the Nation's effort to foster sustained real peacetime economic growth.

Ten years ago States and counties were convinced only the Federal Government could solve the complex problems of a stagnant economy; today, the States and counties urgently look to the Congress to return decisionmaking back to them in the form of revenue sharing.

Manpower revenue sharing, to be funded at $2 billion for its first year, takes into account the wide diversity in community employment, unemployment, and training problems. It relieves communities of the requirements to continue funding types of programs unfit for their individual needs, freeing community training programs to be more relevant to community needs. Manpower revenue sharing strips bare the thousands of requirements, rules, regulations and guidelines that have siphoned off limited State and local government resources in an effort to force individual community needs into rigid categorical training programs. In its place, it provides a flexible 100 percent financing program, a new partnership between the Federal and local governments.

Under this partnership, the program would:

First, allow city governments to bring jobless ghetto residents onto city payrolls in education, health safety and antipollution work while preparing them to move into permanent jobs;

Second, allow State governments to reach out to isolated rural poor people with training and job programs shaped to their special need; and

Third, allow county governments to provide skill training and transitional employment to welfare recipients to move them toward self-support.

My colleagues in the Senate Subcommittee on Employment, Manpower, and Poverty have scheduled hearings for this piece of legislation for March 6 and 8, 1972. At a time when the President is being criticized, for what his critics term inaction in reducing unemployment, swift review, and enactment of manpower revenue sharing would serve to enforce the Nation's conference that Congress shares its concern. The American economy can maintain peacetime economic growth while I remain convinced that retraining the disadvantaged as well as persons seeking to upgrade their employment skills.

## SENATOR CARL HAYDEN

**Mr. PEARSON.** Mr. President, all of us in the Senate are aware of the role of this great body in the shaping of the Nation's history. Yet rarely has any Senator had a broader or more significant impact on the development of his State and country than did Carl Hayden during his illustrious career.

Beginning as a country sheriff when Arizona was still a territory, becoming its first Congressman upon statehood, elected to the Senate in 1926, Senator Hayden's influence spanned a turbulent and crucial time, one which demanded the highest quality of leadership and perseverence. Through it all, the prestige of this unpretentious and dedicated man grew, culminating in coveted committee chairmanships and the unbounded respect of his colleagues.

Of his many legislative accomplishments, perhaps one of the most significant was enactment of his proposal creating the Farmers Home Administration, a major factor in the revitalization of our rural areas. Other achievements congressional approval of major legislation involving conservation and minority rights, as well as passage of the Hayden-Cartwright Act, which opened the way for construction of sorely needed highways in the West and the Southwest.

In spite of his great power and influence, however, Senator Hayden was ever an accessible and helpful individual, particularly to younger, less experienced legislators. In this regard, I will always fondly recall the assistance and consideration he afforded me during my early years in the Senate.

Mr. President, Carl Hayden leaves behind him a legacy of achievement and service unparalleled in the history of this Nation. In his lifetime, he not only helped shape history, but he was also, in a very real sense, a part of history itself. With his passing, the State of Arizona and the Nation have lost a courageous and honorable spokesman.

## PROTECTION OF MARINE MAMMALS

**Mr. PACKWOOD.** Mr. President, the Senate Subcommittee on Oceans and Atmosphere has been holding hearings during the past several weeks on a variety of proposals for the protection of marine mammals. Recently, I had the opportunity to testify before this subcommittee in behalf of S. 2639, the Marine Mammal Protection Act of 1971.

Mr. President, I ask unanimous consent that my remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT OF BOB PACKWOOD

### MARINE MAMMAL PROTECTION ACT OF 1971

Mr. Chairman, and members of the Subcommittee, I would like to thank you for asking me to appear before you today, and for holding hearings on this important legislation.

There is certainly no controversy, either here or on the other side of the Capitol, over the fact that marine mammals need more attention and enlightened protection than they have received in the past. I am certain that you have heard adequate testimony on this point already.

To meet this problem, two alternatives have been urged upon this Subcommittee. One, generally described as the "protectionists'" view, and encompassed by Senator Harris' bill, S. 2579, would impose an absolute ban upon the taking or importing of all marine mammals. The other, sometimes described as a "managers'" bill, represented by my bill, S. 2639, and also by similar legislation proposed by Senators Williams, Stevens and Hollings, would respond to the problem by authorizing an extensive and intensive program of management of species and stocks of marine mammals.

The controlling issue in the controversy between these two views must necessarily be what is best for the animals themselves and for the ecosystems upon which they, and possibly we, depend. Under this criterion, I can only conclude that enlightened, effective management of marine mammals is the better course of action to pursue at this time.

Critics of management programs point to failures of other management programs, such as the International Whaling Commission, as evidence that the concept itself is no good. While it is undeniable that some programs—including the IWC—have been inadequate, it is no more rational to conclude from this that the management concept should be abandoned than it would be to throw out our system of criminal justice because miscarriages of justice have occurred in the past. The answer, it seems to me, is to improve the system, and not to scrap it altogether. My bill, and the other similar bills, attempt to do just this—to see that management systems are devised—in ways, I might add, that have never been tried before—which will be responsive to the needs of society and of the animals themselves.

A notable, and I believe, basic defect in the proposal of the protectionists lies in its complete lack of a research program designed to improve our knowledge of these animals. You have already heard evidence of the almost nonexistent research efforts that have been developed by the Federal Government in the past—with the exception of the Alaska fur seal program, which must surely stand as an outstanding example of what can happen under a sound management program.

The significance of an adequate research program becomes apparent when one considers the fact that the species and stocks of animals described in this legislation are almost without exception migratory and/or international—or at the very least live in waters that may go beyond the territorial limits of U.S. jurisdiction. What this means, of course, is that these animals may be, and often are, considered "fair game" by citizens of other countries: citizens for whom a self-imposed U.S. ban would mean only that there would be more animals for them to take. While I understand the temptation to adopt a moralistic posture, banning all killing of marine mammals by U.S. citizens, and to urge all other nations to follow our lead, I think that we must recognize the cold reality that they will not do so today.

A case in point might be the recently negotiated treaty to regulate the catching of Antarctic seals. We were very clearly told by the other 11 nations at the London conference early this month that they were not at all interested in creating an Antarctic preserve for seals. Faced with scientific statements that there may be as many as 50 million seals in the waters of Antarctica, the decision was made by all the countries present to permit limited and controlled taking of Antarctic seals, with that taking heavily weighted toward conservative limits, pending the development of more and better information to tell us how these resources can be best used without sustaining serious damage.

Few other nations of the world consider themselves as highly favored as we are today, having adequate supplies of protein and other raw materials. For the less favored countries, marine mammals are not a luxury, but are rather a potential source of food or cash. I doubt if anyone here likes the idea, but it does no one any good to pretend that it is not there.

I believe that such nations can be reached, however, by being shown that marine mammals are resources which can be depleted by overuse, and that this will result in long-term losses for all concerned. The fable of the goose and the golden eggs is told in many other languages than English.

This is in fact the argument that finally seems to be prevailing with respect to the great whales, although even here it appears that there is no lack of opportunists who may be quite willing to destroy resources for all time for the sake of a quick return.

For this reason, and since we know that the pressure for exploitation of these and other resources is on the increase, it becomes imperative that we develop a sound, broadly based research program to define accurately the limits of what can safely be done without endangering the resources themselves.

I do not think that it would be a responsible act for this Congress to adopt legislation which imposes a flat ban on our taking of marine mammals without providing a sound research program to help us plot a course for the future. I say this not because I am unsympathetic with the motives and concerns of the protectionists, but because I am convinced that their proposal just will not work. And that therefore it is not responsible to the best interests of the animals themselves.

I might add that the position of the ostrich is not only undignified, but it is extraordinarily vulnerable.

There are elements in each of the "management" proposals now before the committee which have much to commend them. By way of putting my own bill into perspective, I might say that it was introduced as a "first generation" effort, at a time when it appeared that Senate hearings might be imminent and when no alternative was available for consideration by the committee. I would say that many of the modifications that have been proposed upon my original bill have improved considerably upon it.

It appears to me that the essential elements of a sound and responsible bill for the long-term protection of marine mammals would at least include these:

First, a management program, open to full public review and keyed to the needs of the animals themselves;

Second, a comprehensive research program already described;

Third, the existence of an independent agency, to review the ongoing program without management responsibilities and with some research capability of its own; and

Fourth, adequate controls to prevent misbehavior of U.S. citizens and agencies, coupled with a flexible capacity to restrict imports from other nations where less responsible management programs may be in effect.

If this committee can produce legislation which will satisfy these basic objectives, I think that it can justifiably be proud of having done a responsible job. No doubt there are improvements that will suggest themselves in the future, and it may be that total protection will ultimately become possible. In the interim, this bill will prevent the loss or significant diminution of animal species and stocks—insofar as we are able to do so today.

## GENOCIDE: THE THREAT OF MENTAL HARM

Mr. PROXMIRE. Mr. President, article II of the Genocide Convention states that:

> The crime of genocide shall include the act or the intent to cause serious bodily or mental harm to members of the group.

Although this would seem self-explanatory there are critics of the Convention who question the use of the phrase "mental harm." This, they maintain, is far too ambiguous for inclusion in an international agreement.

For most the language of the treaty itself is quite straightforward, but the implementing legislation recently introduced disspells any remaining doubts. Mental harm is described as:

> Any act which causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or psychological needs, surgical operation, introduction of drugs . . . or psychiatric treatment calculated to permanently impair the mental process.

The atrocity which is herein described could be condoned by no civilized society. Nor can there be any doubt as to what is meant by the phrase "mental harm" for the implementing legislation is explicit. We need only remember the activities of Nazi Germany 30 years ago to find wretched examples of the most inhuman mental torture. Brainwashing and brainbreaking are not unknown to our civilization.

Therefore, to prevent the recurrence of these horrible crimes against humanity, I call upon Senators to move swifty to approve this implementing legislation and ratify a very necessary treaty to outlaw genocide.

## PERSECTION OF JEWS IN THE SOVIET UNION

Mr. McGOVERN. Mr. President, reports emerging from the Soviet Union indicate that conditions for Jews in that country are intolerable.

Reliable word indicates that Vladimir Slepak, a leading Jewish scientist who has been trying to emigrate to Israel, has been under orders to report to work as a laborer in a Moscow concrete construction factory. His refusal could bring in a charge of "Parasitism," an offense which carries a year's prison sentence.

Many young Jews in Leningrad are being denied entrance to their synagogue and are prevented from congregating near the only institution through which they can express their Jewish religious or cultural identity. The local militia has gone to the extreme of barring access to these young people.

Numerous other instances of harassment paint a discouraging picture of continued denial to Jews of their right to live as Jews in the Soviet Union or to leave.

The mass trial in 1970 of the Leningrad "hijackers" resulted in an international outcry against this mock injustice and put the Soviet Government on notice that the world is watching. The new tactic of picking off individual Jewish activists must be met with similar indications of protest. Silence can only mean indifference.

We must sustain the worldwide protest. It has helped in the past. It will help now.

Mr. President, I ask unanimous consent that two releases issued by the American Jewish Conference on Soviet Jewry, which describe in detail the alarming new developments in the plight of Soviet Jews, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### JEWISH SCIENTIST THREATENED WITH PRISON BY SOVIET UNION

NEW YORK, N.Y.—The National Conference on Soviet Jewry has learned that Vladimir Slepak, a leading Jewish scientist who has been trying to emigrate to Israel, was ordered by Soviet authorities to report to work as a laborer in a Moscow concrete construction factory. If not, he was threatened, he would be put on trial charged with "Parasitism" with the possibility of going to prison for a year.

The 44-year-old Slepak, a physicist, electronics engineer and graduate of the Aviation Institute, applied for an emigration visa in March, 1970. He was subsequently fired from jobs in the Geophysics Trust and in the Institute of Organic Chemistry of the Russian Academy. He has been completely unemployed since September, 1971.

According to a telephone call from Moscow, Slepak was summoned, and without warning, on the afternoon of February 23rd to a special meeting of the executive council of the Frunze district in Moscow. In the presence of the district procurator, a resolution the council had already adopted was read which accused Slepak of being a "parasite." The resolution ordered him to go to work in a concrete construction factory in any job the factory manager wished to assign him.

(The law on "parasitism" went into effect in the early 1960's and was originally intended to be used against alcoholics and similar socially "undesirable cases." In the past, it has also been used against some non-Jewish dissenters in the Soviet Union. As far as is known, this is the first time the law has been invoked against a Jewish dissident.)

Slepak refused the order and was informed by the procurator that he would have five days to reconsider. If he did not accept the job, he was told, his case would be sent to the courts and, under law, he could be sent to prison for a year.

Slepak has a wife and two children. In similar cases, the families of such persons are made to suffer because of the stigma attached and because they become economically deprived.

Slepak has been among the most vocal of the Jewish activists in Moscow. He was present in the home of Professor Alexander Lerner in Moscow when U.S. Representative James H. Scheuer was arrested and detained by Soviet police as a suspected "dangerous criminal" on January 12th. Professor Lerner, a leading Jewish scientist, has also been periodically harassed by the KGB (secret police) since he expressed his desire to emigrate to Israel.

Jerry Goodman, executive director of the National Conference on Soviet Jewry, branded the action against Slepak as "part of what appears to be an ominous trend by the Soviet authorities to move against Jewish activists in Moscow. On February 7th, the police arrested Ilia Glezer, a Moscow State University student, at his home on vague and uncorroborated charges of 'anti-Soviet activity' and of 'defaming the Soviet state and system'. Glezer is still being held in prison until the completion of an investigation now underway by the KGB.

"Unlike the Leningrad trials of a year ago, when 11 Jews were sentenced to prison, the Soviet authorities now seem to be isolating the Jewish activist leaders in Moscow and harassing them one by one. In this way they may be trying not to generate attention and to avoid the glare of negative worldwide publicity that greeted the Leningrad and other trials last year."

Mr. Goodman called for widespread protests to Soviet officials "to discourage these and any other moves against individual Jewish activists and to forestall further direct Soviet police action against Jews that may foreshadow new trials in a campaign against so-called 'parasites'."

The National Conference on Soviet Jewry represents a mobilization of 34 major national Jewish organizations as well as of local Jewish community councils and federations in support of Soviet Jews.

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### Soviet Security Authorities Reported Setting Up Fraudulent Movement To Provide Arrests of Jews

New York, N.Y.—The National Conference on Soviet Jewry has learned of rumors circulating in Moscow that sometime last month—the exact date is unknown—several Jews and Russians met to create "The People's Liberation Movement of Jews in the Soviet Union."

According to the Conference, Moscow Jews have expressed their fear and suspicion that these rumors are a provocation by Soviet security organs who may be preparing the background for a new campaign of arrests and trials of Jewish activists in the Soviet Union, especially those who want to go to Israel.

Jerry Goodman, executive director of the National Conference on Soviet Jewry, said that "there is reason to suspect, if reports from Soviet Jews are accurate, that this new move is really a provocation by Soviet authorities.

"What the Jews in the Soviet Union fear is that the so-called 'movement' will be a creation by the Soviets themselves to be used against Jews who have been trying to leave the Soviet Union legally.

"The suspicion now is that an organization, obviously illegal, will give the secret police (the KGB) an excuse for moving against and arresting Jews for eventual trial in order to destroy the Jewish activists and the movement for emigration.

"This suspicion is strengthened in the wake of recent police actions against Jews throughout the Soviet Union."

In Kiev, four Jews were tried and sentenced to 15 days in prison for alleged "hooliganism" when, together with about 60 young Jews, they tried to enter a synagogue on February 19th. The police refused them admission on the grounds that "this is not for young people." There have been other recent instances of police actions against Jews at the synagogues in Kharkov and in Sverdlovsk.

Furthermore, in recent days, several OVIR offices around the country have reportedly denied exit permits for Jews, who were qualified to leave. In most instances, no reason was given, but blunt and brusque refusals were announced.

Mr. Goodman pointed out that "the Jews in the Soviet Union have, in the past two years, been struggling defiantly and boldly, but it has always been in the open and, therefore, legal. All the petition seekers were acting legally under Soviet law. They themselves have denounced illegal activities."

The National Conference on Soviet Jewry represents a mobilization of 34 major national Jewish organizations as well as of local Jewish community councils and federations in support of Soviet Jews.

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## SENATOR CARL HAYDEN

Mr. MILLER. Mr. President, for more than a half century, our late and beloved colleague, Senator Carl Hayden, served with distinction and honor in these Halls of Congress. His devotion to public service and to his State and country was reflected in his being returned to Congress by his Arizona constituents for term after term for 56 years, a record which long will stand.

Senator Hayden was a taciturn man, not given to making long and flowery speeches; he felt that his deeds—and they were many—spoke louder than words. He was proud of the fact that he was a "workhorse" and not a "showhorse." And his ability to obtain legislation of benefit to his State as well as the Nation was legendary.

Senator Hayden left a mark on the books of history which will never be forgotten.

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## LITTLE MUDDY CREEK

Mr. PACKWOOD. Mr. President, it is always a source of pride to me when I learn that citizens in my home State of Oregon are able to work together in order to solve their common problems. The Upper Willamette Valley resource conservation and development project in western Oregon typifies this kind of unified effort.

One of their most important undertakings has been the control of flooding along Little Muddy Creek. This creek used to flood farmlands in the broad, flat valley of the Willamette River in western Oregon several times each year. The flood water washed away fertilizer, reducing seed yields, and making pastures unusable for days at a time.

The Upper Willamette resource conservation and development project has helped to solve this problem. I recently read an article which tells the story of the Little Muddy watershed project. The author is Lynn Barnes, a seed producer in the Willamette Valley, and chairman of the Little Muddy Water Control District.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Little Muddy—No More a Menace

(By Lynn Barnes)

The author: Lynn Barnes is a seed producer in the Willamette Valley, south of Portland, Oregon. He is chairman of the Little Muddy Water Control District, which sponsors the Little Muddy Watershed Project in the Upper Willamette Resource Conservation and Development Project.

The area: The Upper Willamette RC&D Project area in west central Oregon, includes Linn, Lane, Benton, and Lincoln Counties and part of Douglas County. The area—5,509,440 acres—is predominantly forest land. Privately owned land mostly in the valleys and foothills totals 2,762,229 acres.

The broad, flat valley of the Willamette River in western Oregon has been my home since I was a boy. My neighbors and I make our living mostly by raising grass and legume seed—ryegrass, bluegrass, orchardgrass, and white clover, to mention a few. Ryegrass is the principal grass seed crop because much of our land is poorly drained and wet for days, especially after flooding. We raise sheep, too, because sheep fit in with the production of grass seed.

Little Muddy Creek flows through our area, and every year, for as long as I can remember, it flooded not once but two, three, four, or more times. The floodwater washed away fertilizer and cut down on our seed yields. It deposited weed seed on our land and reduced the quality of the seed we grew. Many times it drowned out a newly established stand of grass. And it made our pastures unusable for days.

The flooding damaged farm fencing and roads. On Powerline Road, one of our main routes, traffic would be stopped until the water went down. School buses, mail trucks—everything and everyone had to go around the floodwater.

Our efforts to control flooding along Little Muddy Creek, which wasn't little then—it was a mile wide in some places—brought us into the Upper Willamette Resource Conservation and Development Project.

There are 142 farms in the Little Muddy watershed, and most of the farmers are interested in our RC&D project. Not all the farms get flooded, but most have excess water.

When the Upper Willamette RC&D Project was announced, we realized we had a chance to get something done. Most of us along the Little Muddy had long been cooperators with the Linn Lane Soil and Water Conservation District, a sponsor of the RC&D project. The Soil Conservation Service, already familiar with our problems, had developed a Little Muddy Creek watershed work plan. Because of the project size and cost—about $600,000—it was decided to spread out the work over a 4-year period.

Our application for assistance with this watershed work was accepted by the RC&D sponsors early in 1964. Our next step was to form a water control district because we needed a legal instrument to carry our plans forward. O. E. Mikesell, head of the Linn County Extension Service, was a great help to us.

Owners of more than half the acreage in the Little Muddy Creek watershed signed petitions favoring a water control district. The Linn County Commissioners, after hearing all the opposition, declared the Little Muddy Creek Water Control District formed.

Mrs. Lucille Foster, who owned 93 acres adjoining my land, was one of the opponents at this time. The acreage she owned was part of a farm her grandfather, John Cogswell, homesteaded in 1872. Mrs. Foster was active in several conservation organizations including the Nature Conservancy. She and the Currin Millers, who owned adjoining land, felt deeply about disturbing the natural values along the stream.

Dr. Stanton Cook, a professor at the University of Oregon in Eugene and head of the Nature Conservancy chapter in Oregon, was interested in the Foster tract because it is relatively undisturbed and considered an ideal place for studying the plants and animals of this area. Mrs. Foster in time deeded the acreage to the Nature Conservancy.

Though the Water Control District law allowed us to condemn property to get necessary easements, we moved slowly, hoping we could work out solutions through conference. Time after time we met with those few who questioned the need for the plan as we had developed it.

I can't say enough about the cooperation we got during these months. Jim Cuykendall, SCS project engineer, and Frank Gurgurich, SCS district conservationist at Harrisburg, were always ready to help the Water Control District Board, as were other SCS people from the agency's state office in Portland. And the board members, Stan Davidson, Dean Gustafason, Dave Malpass, Merle Cook, Orie Kropf, Ben Christensen, Floyd Kropf, George Lynch, and our attorney, John Bock, worked hardest of all. I seometimes called meetings on an hour's notice and at an inconvenient time. Still, I don't recall ever having a meeting of the board attended by less than seven members. We paid innumerable visits to the creek with opponents to the plan, seeking friendly ways to settle differences.

SCS engineers came up with several ways of doing the job. We settled on one that called for the improvement of only 75 feet of the channel running through the Nature Conservancy tract and for the construction of a low 2-foot dike on their northern boundary.

The Nature Conservancy assumed responsibility for maintaining its part of the channel and dike following completion of the work. In this way, the conservation group could control any disturbance in that area. Fortunately, nearly all of this stretch of channel was large enough to handle the volume of floodwater most of the time.

The contract for the first phase of the project went to a road contractor, Roy Norquist of Sweet Home. We couldn't have asked for greater care in the job that Norquist did.

The right-of-way reached 20 feet back from the stream on either side. Trees that offered esthetic value were marked and left untouched wherever possible. Shaped streambanks were seeded and mulched immediately after completion.

Spoil from the work went into oxbows no longer used by the stream. These areas were leveled and seeded to ryegrass and fescues.

We had to call on power companies, the gas company, the State Highway Department, the Pacific Bell Telephone Company, and the Southern Pacific Railroad to move power and pipe lines and give us the necessary easements. Linn County built two bridges and awarded contracts for the construction work.

Last winter and early in spring when heavy rains fell, the work done on Little Muddy got a thorough test. Water in the creek stayed within the banks where the channel has been improved.

The improved channel curves gracefully through the countryside. There are fish in the creek—bass, perch, catfish, and carp.

When the work is completed in another year, any of us can begin to grow higher return crops if markets are available. These would include clover, beans, and small grains—crops we could not consider before because of soil wetness.

Since the flooding was controlled, I have titled 15 acres as an experiment in improving drainage. That area, now safely fenced, is perfect for a lambing pasture for my ewes. The animal waste stays on the pasture and is absorbed for the organic contribution it will make. Water flowing into Little Muddy from the drainage system is crystal clear and free of contamination.

Economists say our total saving in flood damages will be about $55,000 a year. My guess is that, when you consider all the improvements, it will amount to much more. The good part is we accomplished our task with patience, communication, and understanding. Its a process we heartily recommend.

## RESTORATION OF THE RIGHT TO HOLD GOLD

Mr. ALLOTT. Mr. President, I continue to receive a steady flow of reasoned support for S. 3162, my bill to restore to Americans the right to hold gold.

Recently I received a copy of a fine editorial from the Milwaukee Sentinel of February 23, urging the passage of this measure. I ask unanimous consent that the editorial be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Lift Ban on Gold

What do heroin and gold have in common? Sen. Gordon Allott (R-Colo.) asks this question in connection with a bill to permit American citizens to own gold.

The answer is obvious: The American government forbids Americans to hold either gold or heroin in this country.

Of course, many things distinguish heroin and gold, Allott points out, including the fact that the government forbids Americans to hold gold abroad but does not forbid them from holding heroin abroad.

Allott has joined Rep. Philip Crane (R-Ill.) in introducing legislation to restore to Americans the right enjoyed by most people in the world, and the right enjoyed by Americans until 1934—to hold gold, at home or abroad.

"To my mind," remarks Allott, "there never has been any valid reason for denying individuals the right to own gold. There never has been a valid reason for treating gold any differently from peanut butter in this regard."

There is, to be sure, a reason why President Franklin D. Roosevelt expropriated privately held gold and why administrations ever since have continued to deny citizens the right to hold gold. That reason is to enable the government to indulge in the deficit spending that is the root cause of the inflation now threatening to consume the nation.

The damage has been done. Whether restoring the right to private ownership of gold would undo any of the damage is debatable. It certainly wouldn't hurt to try. The ban on American citizens holding gold should be ended forthwith.

Mr. ALLOTT. Mr. President, it is my earnest hope that the Committee on Banking and Currency will move with appropriate dispatch in scheduling hearings on this popular and equitable measure. Such hearings will satisfy the impatience of the many Americans who are anxious for the long overdue restoration of the right to hold gold. The justifiable desire for the restoration of this right should be satisfied soon, one way or another.

## KOREAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, on March 1, 1972, the Korean community of Chicago, which numbers more than 10,000, will join with Koreans everywhere in celebrating Korean Independence Day.

This year marks the 53d anniversary of the Korean Declaration of Independence of March 1, 1919.

The Korean March First Independence Movement proved to be a binding force in the friendship which has long existed between the United States and South Korea.

Most of the Koreans in Chicago emigrated to this country within the last 20 years, and in that short time they have made a significant contribution to the commercial, religious and cultural life of the city. The Korean Association of Chicago, under the able leadership of Yung Joon Chang, deserves special praise.

Chicago is honoring the anniversary with a city council resolution designating March 1 as Korean Independence Day in the city. Governor Ogilvie will hold ceremonies which will include the issuance of a proclamation commemorating the day.

I am pleased to have this opportunity to pay tribute from the Nation's Capital to our fine citizens who are celebrating Korean Independence Day.

## BISHOP JAMES ARMSTRONG

Mr. McGOVERN. Mr. President, the February 1972 issue of the Christian Advocate contains a sensitive and perceptive article by Bishop James Armstrong, Methodist bishop for the area of North Dakota and South Dakota, concerning the role of a religious leader in political action. In my view, the bishop embodies the best attributes of a clergyman and a concerned American voter, and I should like to have Senators share his views. I ask unanimous consent that the text of Bishop Armstrong's article, entitled "A Churchman's Involvement in Partisan Politics," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### A Churchman's Involvement in Partisan Politics

(By Bishop James Armstrong)

Who can forget 1968? Eugene McCarthy, New Hampshire, and "the children's crusade." . . . LBJ's dramatic withdrawal from the presidential race. . . . Sirhan Sirhan and Senator Kennedy in a pool of blood. . . . Chicago (the one word says it all). . . . Richard Nixon's promise to "end the war" and "pull us together."

Now—four years later—the fever is upon us again. Will the President be reelected? What will Mr. Agnew's fate be? Who will emerge from the plethora of Democrat candidates to be his party's standard bearer? What can a clergyman do to affect the outcome? What *should* he do? Does a clergyman have a right to become involved in partisan politics?

The precedent has been long established. In January of 1776, Pastor J. P. G. Muhlenberg pronounced the benediction in his German Lutheran church, stripped his pulpit robe from his back, and stood before his congregation in a colonel's uniform of the Continental army. John Witherspoon, Presbyterian minister recently arrived from Scotland, signed the Declaration of Independence and the Articles of Confederation. Revolution is partisan politics.

In the 1850s, Boston's Theodore Parker railed against slavery and urged Americans to disobey the Fugitive Slave Act. Civil disobedience is political.

Bishop Matthew Simpson of the Methodist Episcopal Church was Abraham Lincoln's confidante. The president used him to try to convince his cabinet of the tragic severity of the developing Civil War and later to modify Secretary Stanton's bitter antagonism toward Confederate sympathizers in the border states. Hobnobbing with presidents is political.

Today more ministers are becoming involved in partisan politics than ever before in this nation's history. They are working as precinct committeemen, sitting on platform committees, endorsing candidates, and running for office. A *New York Times* reporter after talking with Bob Hope about his political activism, wrote, "He feels that the country is in such a crisis that ordinary rules do not apply."[1] Many clergymen would agree.

But, what are the rights and responsibilities of the clergymen? Because of the delicate nature of his leadership role, should he, like a judge or civil service employee, remove himself from the political arena? Or should he, in seeking to demonstrate the meaning of involved concern, be willing to run the risks of partisan struggle?

The minister of Jesus Christ does not surrender his citizenship at the time of his ordination. *It is my firm conviction that he has the perfect right to advocate those causes and support of those candidates that reflect the values of the Christian faith as he understands and experiences them.* But, there are some stringent provisos involved.

First, *as the clergyman becomes politicized, is he willing to be honest with himself?* Does his new association with persons and issues in the news provide for neurotic, ego-needs that have little to do with faithful obedience? Does he relish the controversy that sometimes accompanies his public posture? Does this commitment to political action offer a substitute vocation for him? Ironically, activism can be a cop-out. It can provide an escape hatch for the man who has grown weary of the emotional and spiritual drain of a truly person-centered ministry. Political action should be viewed as the logical expression and extension of discipleship into a real world and not as an alternative for those who have given up on the ministry.

Second, *the clergyman must understand the element of compromise present in virtually every political decision and relationship.* Ministers are accused of oversimplifying issues and of being inexcusably naive. Too often the accusations are true. The person who does not see compromise as a legitimate Christian strategy should have nothing to do with public affairs.

Political rhetoric aside, politicians are not new messiahs. They are imperfect men proposing imperfect programs. The John F. Kennedy revealed in the "Pentagon Papers" was partially responsible for the insanity of the Indochinese war. Time and again Eugene McCarthy seemed to put petulance above principle in the 1968 campaign. And by his use of Vice-President Agnew and Attorney General Mitchell, Richard Nixon has appeared to deliberately violate his promise to unite us all.

Faithful Christians have supported each of these men because they have assumed that the good has outweighed the bad, but the clergyman, of all persons, should refuse to deify candidates for public office or canonize legislative programs. Robert Hudnut writes, "It is silly to talk about being 'above politics.' . . . Politics is the same as the rest of life, only rubbed a little rawer, perhaps. There is self-interest and compromise and fighting. But these are in the church, too, and throughout life. The important thing is to channel this self-interest and compromise and fighting into laws for the betterment of man."[2]

Third, *the clergyman should accept the fact that his political judgments can be wrong.* Reinhold Niebuhr's early bitter criticism of Franklin Roosevelt changed to a deep appreciation for his role in history. Most of us who have taken stands on issues or identified with public figures have come to regret some of our actions. Babe Ruth was the greatest home-run hitter baseball has known. He struck out a lot, too. Jesus, in selecting his disciples, made one glaring mistake. Anyone who bears heavy responsibilities and acts boldly runs risks and will make mistakes.

Who can review the present issues before the American people: Viet Nam, foreign aid, welfare, busing, poverty, racism, and desegregation, attitudes toward Africa and Latin America, drugs, sexuality, and family life, and say, "My views on each of these issues have remained unchanged over the past ten years. And I've been right—100 percent right"? Yet, these are the issues that will shape our earthbound destinies. Should we refuse to face the issues and act upon them, because at some points time may prove us wrong?

Fourth, *we must understand that our public actions will have unavoidable consequences.* During the ten years I served a parish in Indianapolis, I was embroiled in a good bit of controversy. There was the House Un-American Activities Committee film *Operation Abolition* and the Supreme Court decision on prayer in public schools. There was racial strife, urban renewal, and Viet Nam. There was public support for a "reform" candidate for mayor and efforts on behalf of Senator McCarthy in 1968. Without question, these activities affected some fine church people. Their relationship to me as their pastor and to their church was affected. To take pride in this alienation, to see it as some sort of prophetic "victory," is to misunderstand the meaning of pastoral responsibility.

Shortly after his appointment, I wrote my successor in Indianapolis: "I made many mistakes in my administration at Broadway. Perhaps I was too active in community affairs and partisan political action. . . . But I believe in personal involvement and in the risks of democracy, so time will have to judge the propriety of these approaches to churchmanship." Since leaving the local church, I have continued my activities in the public sector. Time will be the judge.

I share this with you only to suggest that responsibility for alienation and misunderstanding should not rest lightly on the shoulders of any minister. If we choose to be involved, we must be willing to live with the consequences, appealing not only to time but to God as the judge of all things.

Fifth, *do we see ourselves primarily as reconcilers?* In the central declaration of the faith (II Cor. 5:16–21 NEB), Paul says, "[God]" has reconciled us men to himself through Christ, and he has enlisted us in this service of reconciliation. It is for this reason we will not turn our pulpits into political platforms, no matter what our private convictions or activities. This is why we will bend over backward to be fair to those who disagree with us and will try to understand and sympathize with those who challenge the free exercise of our citizenship responsibilities.

We talk about the freedom of the pulpit. The pew must be free also. The prophet who is not a pastor first, who does not grieve when his people are offended, has not carefully read the words, "I may give away everything I have, and even give up my body to be burned—but if I have not love, it does me no good." (I Cor. 13:3 GNMM)

But finally, *the faithful clergyman must accept the fact that the Christian faith is incarnational.* Unless the word becomes flesh, it remains abstraction. One of our fine young South Dakota ministers ran for the state legislature in 1970. In explaining his decision, he wrote: "God did not express himself in a resolution. He expresses himself through a created world and through human lives. . . . For me to seek to be a responsible disciple in a broken world means that I must be willing to choose those actions which are incarnational and which share in the brokenness, even it it means being labeled 'American' and 'Democrat.' These labels do not define the limits of my loyalty (in the same way that 'Jew' did not define the limits of Jesus' concern); rather, they are the vehicles through which I seek to live out my commitments. To be concerned religiously about the life of man is to be active politically in the life of man."

Most of us will not run for public office, but if we take the Word made flesh seriously, we will seek to demonstrate our faithfulness in that political domain where life-and-death issues (and they are literally that) are being resolved.

Have I made your choices more difficult for you? I hope so. To remain politically uncommitted and inactive is a frightfully serious choice in 1972. To become a political activist is equally serious. The style and form of our response may well measure the validity of our ministry in today's world.

## AMERICAN LEGION DAY ON THE HILL

Mr. ALLOTT. Mr. President, today is American Legion Day on the Hill, a day when Legionnaires visit us to share their views on veterans' legislation and other matters.

This is public-spirited civic action at its best. It is a privilege for us to receive the wise counsel of those men who have served their country well, and whose dedication to its welfare is such that they travel to Washington to help us.

This is a good day for all of us in Government, and for all Americans everywhere, to pledge renewed dedication to serving our veterans—with jobs, with aid, and with the respect which they have done so much to earn.

## SENATOR CARL HAYDEN

Mr. ANDERSON. Mr. President, it was with pleasure that I worked in Congress with Senator Carl Hayden. Because we both represented Southwestern States and had been good neighbors, we were naturally drawn together into many areas of endeavor where cooperation was not only a political necessity but a natural bond.

Upon arriving in the Senate in 1949, I found the hand of friendship extended by Senator Hayden—a gesture which was entirely typical of this great leader and which was the start of many years of kindnesses on his part.

During those years, Senator Hayden and I had occasion to work together on many, many issues of minor and major significance, on both the national and regional level. Perhaps because we were from neighboring States, rather than despite it, we had occasion to disagree, but with Senator Hayden that could be done without being disagreeable. He had an ability to perceive areas of accommodation and to offer solutions which often brought accord out of discord. In short, he represented the best qualities of the U.S. Senate, and the people of Arizona evidenced its recognition of that fact by repeatedly returning him to his senior position in Congress.

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[1] *The New York Times Magazine*, October 4, 1970, p. 87.

[2] Robert K. Hudnut, *The Sleeping Giant* (Harper & Row, New York, 1971), p. 87.

The public, the Presidents whom he counseled, the Members of Congress with whom he worked so long and so well—all of us are the poorer for his absence.

## ESTONIAN INDEPENDENCE DAY

**Mr. PERCY.** Mr. President, the 54th anniversary of Estonian Independence was celebrated on February 24. We should pay homage to the people of Estonia who have suffered Soviet domination since the beginning of the Second World War.

During its period of independence from 1918 until 1940, Estonia was the very model of a democratic state. Estonia fought valiantly for independence against both the Russians and the Germans and adopted a democratic constitution in June 1920. Following this the lands previously held by the Russian nobility were distributed to the common people of Estonia. Then, in 1940, the troops of the Soviet Union occupied Estonia.

But the fact remains that while modern Estonia has been under Soviet domination since then, the Estonian people have clung to their heritage and preserved their traditions. They deserve the admiration of freedom-loving men everywhere.

Mr. President, as Estonian Independence Day is commemorated, let us express our support for the Estonian people and reiterate our belief in the ultimate victory of freedom.

## BENGAL TACKLE EYES MUSICAL CAREER

**Mr. SCOTT.** Mr. President, when Mike Reid played football at the Pennsylvania State University, his defensive play struck terror into the opposing team and joy into the hearts of the Penn State fans.

Mike graduated with a degree in music and thereupon became a professional on the keyboard as well as a professional on the football field with the Cincinnati Bengals. Mr. Reid is a classic example of the great versatility of youth today who make such great contributions to society. To further point out Mike Reid's individual achievements, I ask unanimous consent that an article published in the Christian Science Monitor be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Christian Science Monitor, Jan. 25, 1972]

### BENGAL TACKLE EYES MUSICAL CAREER

(By Robert A. Wilkin)

One evening last April Mike Reid, the sensational defensive tackle of the Cincinnati Bengals, eased his 260 pounds of steel and sinew into flared pants and dinner jacket.

Dwarfing the concert grand at Cincinnati's ancient Music Hall, and flanked by one of the world's great musical organizations, the Cincinnati Symphony Orchestra, he attacked with competence and feeling the formidable "Funerailles" by Liszt.

That gave impetus to what may be called the "cultural side of professional football." It also spawned a phenomenon—the necessity for news media to double-team this versatile young man.

No longer is it wise for sports writers to attempt solo interviews with Mike Reid, football player. Without his paper's music critic in tow, a sportswriter may well find himself treading water in a sea of musicology.

In one typewriter breath, it is hard to cover all the gridiron accomplishments of Mike Reid, an athlete, who refers to himself as an erstwhile "fat little kid trudging through the snow to take piano lessons at 50 cents a half hour" back home in Altoona, Pa.

#### MAXWELL, OTHER TROPHIES

Enroute to a degree in music at Penn State University in 1969, his innovation and blinding speed enleashed trauma in so many enemy backfields that he was named to every All-America team, was the top lineman considered in Heisman Trophy voting, earned the Maxwell Trophy, the Outland Trophy as the outstanding interior lineman in college football, the Washington, D.C. Touchdown Club's Lineman of the Year accolades, and the designation Player of the Year in the Eastern College Athletic Conference.

First draft choice of Paul Brown's Cincinnati Bengals in 1970, he muscled down a starting position at defensive tackle his rookie year. And, although sidelined with a knee injury a good part of the season, he was third in NFL Rookie-of-the-Year voting. His propensity for sitting on quarterbacks and nipping opponents' plays in the bud found Mike, as a sophomore, twinned with Pittsburgh's mean Joe Greene as 1971's top defensive tackle in the American Football Conference.

One may venture the observation that the mutual exclusiveness considered to exist between physical mayhem and the performing arts may be a myth. One might even conclude that hands capable of stretching a thirteenth on a piano may just as easily stretch a quarterback on the ground.

#### MUSIC IS AN EXPRESSION

"Football," explains Mike Reid, "is an emotional game—at least it is with me. And music is an expression, or perhaps an outlet, of one's emotions."

Self discipline, motor coordination, and a limitless pool of motivation are indispensable to both endeavors. Mike Reid has these credentials in abundance and is employing them in the pursuit of two distinct careers. The predominant career at the moment represents the best in footballmanship. The other, the best in Baldwin pianomanship.

But the years will pass. And what will happen when Mike's astounding reflexes are no longer equated with lightning, and his muscle tone vibrates at less than perfect pitch—when the locker door clangs shut for the final time?

Offers to coach undoubtedly should be plentiful for this thoughtful, extremely articulate man. But, he says: "I sincerely want to end up in some facet of music."

As a concert pianist? No—he shakes his head at the prospect of "six, eight, 10 hours a day at the keyboard."

#### A TREADMILL OF PRACTICE

There are long, lonely blocks of virtual solitary confinement in the life of a concert artist. A treadmill of practice—alone. To see Mike Reid is to see an intense, creative individual with a need to share more of himself with other people than a concert career might allow.

Other areas of creativity beckon. He is a composer of serious promise. He is at ease and comfortably in command of the situation when dealing with large groups of people. His voice is pleasing and he has recently released a 45 single recording on which he sings and plays several of his compositions.

Immediate plans, however, call for him to appear in concert. His 1972 season will include performances with the Cincinnati Symphony and the San Antonio Symphony. He is in demand for television and has appeared on a host of shows at the network level.

Last July Mike appeared at Riverfront Stadium in Cincinnati in a pop concert featuring an artist of international stature, Van Cliburn. It's a wise piano player who knows that in such a situation a second piano player is one piano player too many. The audience thoroughly enjoyed another facet of Mike Reid as he narrated the poem "Abraham Lincoln!"

## WORLD WATER CRISIS

**Mr. MOSS.** Mr. President, in 1967 I published a book entitled "The Water Crisis" which detailed the extent to which this generation is abusing a great natural resource, "is raiding the rivers and lakes, attacking the estuaries, and threatening the bays and seas which touch our land."

The well is running dry, I said, in many parts of the United States. Because of misuse, other areas are running out of water of acceptable quality. The lack of water, the misuse and competing use, and the conflicts growing out of water use, I called our "most critical national problem."

I mentioned briefly that elsewhere in the world people were facing similar water problems—that in many areas water was already a matter of "life and death."

The dimensions of the worldwide water crisis have now been delineated in a report issued by the U.N. Food and Agriculture Organization which has just been issued for the environmental conference soon to be held in Stockholm, Sweden. This report predicts that the human race as a whole will run out of water in a century.

Claire Sterling writes of this frightening possibility in the Washington Post of February 28, under the heading "Will We Run Out of Water?" She does not pull any punches. I commend her column to Senators who may not have seen it, and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### WITHIN A CENTURY—WILL WE RUN OUT OF WATER?

(By Claire Sterling)

ROME.—The U.N. Food and Agricultural Organization has just issued a report for the coming Stockholm environment conference saying that the human race is going to run short of water within a century. Jaded though we are about such pronouncements, this one still has some zing. Practically every state on earth is starting to worry about water, a recurrent theme in some 75 country reports for this planet-wide Stockholm meeting. Not all of them have a whole century to turn around in, either.

Among the planet's thickly settled regions already afflicted by water shortages are Spain, Italy south of Lombardy, the Dalmation Coast, Greece, the Anatolian Plateau, all Arab states save Syria, most of Iran, West Pakistan, Western and Southern belts of Australia and New Zealand, the Northwest and Southwest African coasts, the American Southwest, Panama, Northern Mexico, Central Chile and the Peruvian Littoral. Among those heading for trouble by the year 2000 are all of Soviet Russia except Siberia, most of Eastern, Central and Western Europe, the Northern parts of Great Britain, Ireland and the United States, nearly all the rest of India, the central Thailand Plains, Tasmania, the islands of Java, the rest of the American continent except Northern Canada and Alaska. the larger Caribbean islands, the rest of Mexico, and parts of Brazil and Argentina.

By FAO reckoning, the planetary shortage will be getting serious in just another 30 years, when the world's population will have doubled (from 3½ to 7 billion) and demands for water nearly tripled (from 2,000 billion to 5½ thousand billion cubic meters yearly). The demands in this case mean everything from swimming and fishing in it to making plastics and steel with it, cooling nuclear reactors, irrigating, flushing away residues of pesticides, fertilizers and livestock faeces, carrying off industrial and human waste and, of course, drinking.

Whether because they haven't enough water or are fouling, squandering or driving beyond reach too much of what they do have, rich and poor, industrial and agricultural, capitalist and socialist states are pretty much in the same boat. A dozen or more African states along a 4,000 mile front are losing precious groundwater irrevocably to the encroaching Sahara year after year, in good part because of over-grazing. Kenya and India, the one under and the other over-populated, are both preoccupied, if for different reasons. East and West Germany have almost identical problems. Holland, at the receiving end of the dirty Rhine, is hardly worse off for drinking water than Rumania and Hungary, depending on the dirty Danube for four-fifths and nine-tenths of their supply respectively. Nowhere, in fact, is the problem's universality more stunningly clear than in Soviet Russia's pre-Stockholm report to the U.N.'s Economic Commission for Europe.

More generously endowed with water than most—Lake Baikal alone, in Siberia, is thought to hold about a fifth of the whole planet's fresh water reserves—the Soviet Union is a lesson to us all. At present, says the Russian report, nearly 25 billion cubic meters of waste water are dumped into the county's rivers and reservoirs every year. By 1980 the volume will be two and a half times bigger, and by the year 2000 about 15 times bigger: 375 billion cubic meters. Even if all the waste water were to be purified in advance, with a lot better techniques than those available now, it would still have to be diluted with at least six times as much pure water. That is only half of the 12-fold volume needed for purification now. *'But it would still use up the whole of Soviet Russia's river flow, or 2½ times more than there is now in the steady flow."*

Meanwhile, the actual river flow is declining, while levels of lakes and inland seas are falling: the Caspian has dropped two meters in the last two decades, and the Aral Sea has lost 1,000 billion cubic meters of water. This is believed to be happening because too much water is taken off the river-system by people and industry; too many hydro-electric dams divert still more; rivers and reservoirs are silting up with flood-borne sediment; and the floods themselves are carrying millions of tons of unrecuperable water off to sea. These floods are largely man-made too, provoked by erosion caused in turn by de-forestation: what with the trees that Russians have cut down and not replaced, and raging forest-fires, 45 million acres of Soviet forest have been lost in the last quarter of a century.

Assuming the Russians can find enough water to purify enough water to keep themselves going 30 years from now, they still couldn't eliminate the polluting substances entirely. About a fifth of the strongest pollutants would remain with even the costliest cleansing methods, their report says; and cleansing techniques so far are lagging behind the inexorably growing volume of polluted water. All in all, the report goes on, this water-polluting process is "the greatest danger for humanity." There is "widespread expectation of an inevitable exhaustion of rivers, and an awareness of the necessity to substitute new sources of water supply: desalination of sea water as well as melted ice from polar glaciers . . . but can this take the place of river waters? And can we . . . allow rivers to become qualitatively exhausted and, in fact, turn them into waste-water collectors?"

The Kremlin's answer, worthy of the Sierra Club or Friends of the Earth, is "no." Sooner or later, known methods to treat waste water are bound to prove invalid, it says. Distillation and de-salination will certainly be in use, but at steep cost. In the end, it concludes the only answer is simply to stop dumping waste water into rivers and reservoirs.

How Russia or any other country can do that is something nobody has quite faced up to yet. The implication, though, is that water problems alone may be enough in the end to force world society to stop growing. Human excrement alone is peculiarly hard to get rid of. More people mean more livestock to feed them, adding to the excrement; more irrigation to grow more food, producing more run-off laden with DDT and nitrogen compounds; more mechanized farming for the same purpose (and a tractor needs more water than a mule); more energy requiring more hydro-electric dams and nuclear cooling; and more manufactured goods relying on more advanced technology requiring still more water (plastics need ten times more than steel, and world plastic production is doubling every 5 or 6 years now).

The question is not just whether the moment may come in our lifetime when we forget what real water tastes like—millions are forgetting already—but whether humans just one generation removed, though surrounded by a chemical substance known as $H_2O$, will be hard put for a drop to drink.

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## THE PRESIDENT'S VISIT TO CHINA

Mr. ALLOTT. Mr. President, President Nixon has just returned from a sojourn in which he has been a polite and businesslike guest in an appalling country.

His trip was a bold and pragmatic gamble for peace. It was also an educational experience for all Americans, who now have had a glimpse of what really thoroughgoing totalitarians can do in their ceaseless effort to snuff out the freedom that makes mankind human.

Mr. President, in the flood of ink that the President's trip to China has caused to be spilled, no ink has been better used than that which printed the thoughts of the editors of the Wall Street Journal.

I quote from the editorial "China Chic" of last Friday:

> The enormity of the problems China has come through should give us at least some pause in applying to it the standards that come naturally to anyone reared in Western civilization.
>
> Still, are those standards meaningless, mere happenstance differences between West and East, democracy and Maoism? Or is there yet some meaning and validity in such touchstones as art for the sake of art, free educational inquiry, the inviolability of the home and above all, the dignity of individual man? No, these standards are not happenstance, they are what mankind has been struggling for throughout these millennia. And it is most doubtful that ever before have they been so systematically crushed, that man has been so completely dehumanized, as in China today.
>
> So yes, for the most excellent reasons we should seek the most cordial relations with the People's Republic of China, relations governed by the spirit of each nation allowing the other to live as it will. But unless our own cultural sickness has reached the point where we can make no judgments at all, unless our failure of nerve has eroded even the bedrock standards, we must judge that what Communist China represents is not some new object of chic, but the antithesis of what civilized man has struggled to win.

Mr. President, so that all Senators can examine the full text of this admirable editorial, I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Feb. 25, 1972]

### CHINA CHIC?

In sorting some sense out of the images and impressions flooding out of China this last week, it helps to separate two questions. The easier one is what relations the United States should seek with the People's Republic. The more profound one is what judgments we should make about Communist China as a culture and civilization.

Keeping these two questions separate is of course difficult, especially, it seems, given American history and habits of mind. There is a natural tendency to assume that judgments about whether a given state is ruled by good guys or bad guys ought to be the controlling factor in our diplomatic relations with it. Thus if we strike the necessary alliance of convenience against Hitler, we start to think of Stalin as "Uncle Joe."

In fact, policymakers are wiser to pay fairly little attention to the internal character of a regime, whether Chinese or Greek, and to concentrate instead on how its foreign policies affect the world order and American interests. That China builds a domestic system with an eerie resemblance to Orwell's "1984" is not in itself of crucial importance. What is of crucial importance is whether China wants to export that system by force, or whether it is willing to live side-by-side with far different societies.

The significance of the presidential trip is that China has made the latter decision, and that the Americans recognize as much. There are those who argue that the Chinese were all along interested purely in internal development, and that their apparent designs of world revolution were a figment of the American imagination. We are far from convinced of that; nor, given the history of instability in China and the unsolved problems of succession, are we entirely confident its present mood will prove permanent.

Still, it is a great leap forward if China and the United States do deal with each other seeking whatever overlapping interests they can find. President Nixon is quite right to do whatever he can to foster such realistic dealings, for they are the stuff from which a stable world order is made. And this hope is the great promise in the handshakes with Mao Tse-tung and the smiles from Chou En-lai.

None of which means we need to think of "Uncle Mao" or "Uncle Chou," or join the period of China chic that seems to impend in the smart department stores and apparel shops. For the stories and pictures out of China also show regimentation and indoctrination carried to appalling lengths—art reduced to political polemic, education reduced to mindless chants, even family relationships reduced to siring children for the greater glory of the state.

This is the picture that the Chinese leaders want to portray to the world; presumably the idea is that China is unified, disciplined and internally strong, and that Mao-think has produced a new, unselfish, higher form of the human animal. Well, we have little doubt whatever that in those chanting school children lurks a great deal more plain human cussedness than their leaders would have us believe. And though the regimentation draws on both unquestionably wide support for the present regime and vastly deep Chinese traditions of communal devotion, the restraint of this cussedness rests ultimately on force and terror. It is only short years now since the bodies were floating down the river to Hong Kong during the great cultural revolution.

Even after all this has been said, the question of how to judge today's China and its leaders is no easy one. Mao and the rest have, after all, extended effective rule over 800 million people where chaos or near-chaos reigned before; they are at least feeding their huge population better than it had been fed before, and they have restored to a great people some measure of their historic pride.

Certainly this marks Mao and his followers as one of the most remarkable groups of men of our century. Whether their methods were necessary to their achievements we shall never know. A good part of the achievement owes to the native ability of the Chinese people; while the problems of Taiwan were obviously far less the achievements have been dramatically better. But the enormity of the problems China has come through should give us at least some pause in applying to it the standards that come naturally to anyone reared in Western civilization.

Still, are those standards meaningless, mere happenstance differences between West and East, democracy and Maoism? Or is there yet some meaning and validity in such touchstones as art for the sake of art, free educational inquiry, the inviolability of the home and above all, the dignity of individual man? No, these standards are not happenstance, they are what mankind has been struggling for throughout these millennia. And it is most doubtful that ever before have they been so systematically crushed, that man has been so completely dehumanized, as in China today.

So yes, for the most excellent reasons we should seek the most cordial relations with the People's Republic of China, relations governed by the spirit of each nation allowing the other to live as it will. But unless our own cultural sickness has reached the point where we can make no judgments at all, unless our failure of nerve has eroded even the bedrock standards, we must judge that what Communist China represents is not some new object of chic, but the antithesis of what civilized man has struggled to win.

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## ABRAHAM LINCOLN THE POLITICIAN

Mr. GOLDWATER. Mr. President, February certainly is the most appropriate of all months for an Arizonan to pay tribute to one of this Nation's greatest Presidents. Not only was Abraham Lincoln born in the month of February, but on February 24, 1863, he signed the official declaration which made Arizona a territory of the United States.

We all know, Mr. President, that thousands upon thousands of words have been written and spoken about Abraham Lincoln over the years. However, I do not recall having seen a paper devoted entirely to Mr. Lincoln's attributes as a politician. He was, of course, a politician and an extremely able one.

And recently, one of my State's most prominent and beloved citizens, Dr. J. F. "Pop" McKale, who is known to thousands of students and alumni of the University of Arizona for his long and unusual record of athletic attainments, has addressed himself to this phase of former President Lincoln's career. He has written a highly informative and interesting booklet entitled "Abraham Lincoln—The Politician." I ask unanimous consent that it be printed in the Record.

There being no objection, the story was ordered to be printed in the Record, as follows:

### ABRAHAM LINCOLN: THE POLITICIAN

(By J. F. McKale)

The University of Arizona Lettermen's Club, in tribute to Dr. J. F. "Pop" McKale, dedicates this tablet on November 8, 1964, in respect and gratitude for his fifty years of service to our alma mater as director and director emeritus of athletics and as teacher-coach and loyal friend for his manifold contributions to students and alumni and to athletic progress. His name will be honored always.

### A WORD ABOUT THE AUTHOR

Few men have had the opportunity and tenacity to carry on a constructive work continuously for a period of over five decades, in one of the most vulnerable of occupations, in a multiplicity of capacities, in one city, and at one institution.

James Fred McKale, affectionately known as "Pop" to the thousands of University of Arizona students and alumni, is nationally recognized for his unusual record of college athletic attainments. He served for extended periods of time—at the beginning of his University career in 1914—as director of athletics, manager of athletics, and as the one-man coaching staff of football, basketball, baseball, and track. This was in itself an extraordinary achievement. I doubt if this record can be matched by any other man who was ever engaged in a directing and coaching athletic career.

"Pop's" youthful character was moulded, eastern style, at Michigan's Albion College, but his conservative manner and dress were gradually adapted to western life after his arrival in Tucson in 1911 to teach history and coach all sports at Tucson High School. This personal transition was brought about by his intimate association with such well known local characters as A. M. "Jake" Meyer, Charles P. Beach, Charles U. Pickrell, and Warren Grossetta.

Dr. McKale's alert mind and agile tongue have always been as quick to strike as an Arizona rattler. His retentive memory is often compared to that of an elephant. His wholesome humor, spontaneous wit, and appropriate stories have entertained hundreds of gatherings from coast to coast. His pen has been an artistic producer of intelligent, factual, and descriptive word pictures in the world of sports, politics, and history. And finally, his intense dedication to a chosen profession, which makes men out of boys, has won the admiration, respect and friendship of the entire University community, the collegiate world and the citizenry of Arizona. I am proud to have been one of his boys.

Orville "Speedy" McPherson,
UA 1917—Football 1913–14–15–16.

### ABRAHAM LINCOLN—THE POLITICIAN

You may disagree with many of the statements I make, except the following:

The state of Arizona has neglected and been very unkind to the memory of Abraham Lincoln. There is not a forest, mine, village, town, city, or railroad siding; a mountain, valley, hill, pass, desert, or mesa; a river, lake, creek, or wash named after the man who signed the declaration making Arizona a territory of The United States on February 24, 1863.

Each year we pause to pay homage to America's greatest statesman and patriot. It will be my purpose to attempt to show you that Abraham Lincoln was also America's foremost and persistent politician and office-seeker.

I make no claim of being an authority. Many of the statements I will make you have heard before. I will quote from experts on the life of Lincoln, and not give them credit. I am not concerned whether or not you agree with me, and admit that I am speaking of Abraham Lincoln as I like to think of him.

The life of Abraham Lincoln presents a theme upon which much has been written and spoken, with many tributes paid. His humble beginning and his marvelous career has been eulogized by more than sixty authors who have attempted to be his biographer. I will not try to analyze his personality or his character. This would be impossible because his life was so full of contradictions, inconsistencies, and opposites.

Abraham Lincoln was one of the strangest characters in history—a man rated by the eminent English historian, H. G. Wells, as the fifth greatest person in the world following: Christ, Shakespeare, Aristotle, and Galileo.

To show you how inconsistent this man was, consider, for example, the temperance and prohibition question which was particularly acute during his entire life. We find him taking both sides at different periods. At times, he spoke against liquor, at other times, he sold grog.

Lincoln was physically lazy; he hated all forms of manual labor, but on the other hand we find that he was one of the best wrestlers and broad jumpers in Illinois. He did not shy from physical combat. Lincoln was also mentally lazy on small occasions. As a lawyer he often failed to prepare for cases in the minor courts, but in the Supreme Court of Illinois his record was second to none.

We know that Lincoln's habits and morals were beyond criticism and far beyond the average of the statesmen and politicians of his time, but we find also that he kept firm and lasting friendships with freethinking, bold fellows who got howling drunk, and who frolicked in sex.

We are led to believe that there never was a national leader who was such a stickler for the laws and the Constitution of the United States. Whether they were right or wrong, he expected them to be obeyed, and yet we hear him make this statement: "This country, with its institutions, belongs to the people who inhabit it. Whenever they shall have grown weary of its existing government, they can exercise their constitutional rights of amending its framework, or their revolutionary right to dismember or overthrow it." Our present day pink fellow-traveler does not desire more.

In his home life Lincoln had little control of his family, but in his political life he had power to bend the strongest of wills to his manner of thinking. He took two failures from private life and made them military heroes. Grant was a bankrupt woodtrader, and Sherman was an unknown school teacher whose sanity was questioned. He chose great men for his cabinet officers, although too many of his minor officers were thorough scoundrels.

We have read that Lincoln was ungainly, awkward, and homely; and yet as you stand by his statue, look at his photographs, or view the Lincoln Memorial, you must admit that he was a man of form, dignity, and majesty. He was a man who played marbles with street urchins, but a man who never was addressed as "Abe"—it was always "Lincoln" or "Mr. Lincoln."

You are familiar with his native wit and humor. Hundreds of stories are accredited to him. Then you learn he was a man of sadness, sorrow, and suffering, a man who wondered at the time of his death if he were not a great mistake; a man who by his own admission at a certain period in his life did not carry a pocket-knife inasmuch as he had contemplated suicide; a man who, after winning a small lawsuit, was so happy that as a prank he stole a dinner bell from a hotel and played a French harp while riding on top of a bus en route to the depot.

You are inclined to believe that he was a statesman, and he was. In his cabinet were the most brilliant statesmen to ever surround any President, and Lincoln was easily their leader. Then you find that his only experience in national politics (outside of state and county) was as a country postmaster without a post office, carrying letters in his hat, and two years in Congress where he did not shine.

This man, who really was so kindhearted that he disliked to kill a chicken, gave this country a blood-bath in which one-half million casualties occurred, the majority of whom were boys under twenty-one years of age; and yet he was not bloodthirsty. After the war ended he said, "Let there be no retribution; these men are our brothers. They read the same Bible and pray to the same God. . . . With malice toward none; with charity for all let us bind up the nation's wounds. . . . Judge not, that ye be not judged."

Mr. Lincoln often spoke of equality between men, and said in his Gettysburg speech, "All men are created equal," but he never believed that a Negro was equal to a white man, and that there was any equality between the active and the idle, the intelligent and the dull, the frugal and the improvident.

We know that he was an inventor. The United States Patent Office credits him with two contrivances: one to rock a baby cradle and the other to remove a boat stuck on a sand bar. Neither of these inventions was useful.

You look upon Lincoln as a military genius, and so he was. It is no insult to the memory of Grant and Sherman to say that from the first day at Fort Sumpter to the end of the war at Appomattox Courthouse, Lincoln was the mastermind who moved the armies and navies of the Union. Then you find that his only previous experience in the art of warfare was as a captain of a volunteer company in the Black Hawk War where he neither engaged the enemy nor heard a gun fired in anger, and the only Indian he encountered was dead.

Lincoln was a lover of nature. He took great pleasure in roaming the woods and following the streams; but he landscaped his home only once, and the shrubs died from lack of attention the following year.

His biographers tell you that he was not a man of letters, that he had practically no schooling and was illiterate. Then you read his Gettysburg Address, which is one of the best literary efforts of the century. Edward Everett, America's great orator on this occasion spoke two hours. Lincoln spoke two minutes, yet Lincoln still speaks. This was the first piece of American literature generally studied in English universities—ten sentences and two hundred and sixty-eight simple words.

We know he was a great debater, but he failed as a lecturer on the Lyceum Circuit.

We know he hated slavery and freed the slaves, but at a time when John Brown, Sumner, Garrison, and Phillips were denouncing slavery and demanding its abolition, Abraham Lincoln, born in a slave state but representing the free state of Illinois in Congress, voted to extend the fugitive years before becoming President, he defeated slave law into the District of Columbia. Three years before becoming President, he defeated in court a slave owner who attempted to return his slave from Illinois to Kentuccky.

We know that Lincoln was a staunch Republican, but he wasn't one of the founders of the party. Earlier he had been a Whig. We find that before he came to Illinois he was a believer in the democracy of Andrew Jackson and Thomas Jefferson.

We know he was a failure (aside from law) in everything he ever attempted except for being a great executive in Washington.

We know that Lincoln was not a member of any church, any creed, and had no well-defined religious convictions. We also know that he never denied that he was an infidel and that on occasions he severely rebuked the clergy. Then you find that he had a steadfast belief in Divine Providence shaping the affairs of men, and that he turned to the Holy Bible and to prayer for daily guidance. In his own words, when he was having a hard time in the White House, he said, "I was often driven to my knees because I had no other place to go."

Finally, you give it up and admit that his personality cannot be analyzed. So without any attempt at analysis, let us try to find a truth for today.

It seems to me that the lesson in the life of Abraham Lincoln is that the love of a great heart, whether for an individual or a native land, is the greatest thing in the world. The motivation of Lincoln's life was his love for the Union. It was the keystone of all his acts, and his pride and ambition were cast aside for his country.

When Lincoln chose his first cabinet—his war cabinet—he was expected to select his faithful followers, men who had helped him in his political fortunes, or inferior men who would have been putty in his hands, following instances where small men are chosen who will not overshadow their chief. Lincoln chose his governmental family orators, statesmen, scholars and even his political rivals. The press felt certain that this brilliant collection of minds would far outshine this man of homespun, this country lawyer. They were his rivals; they had been his rivals before, and they had it in their hearts to be his rivals still. They regarded his nomination and election as a political blunder and did not propose to see it repeated. This Lincoln knew. Was it because he lacked ambition and pride that he chose these men?

Seward, the scholar, did not tell Lincoln he would accept the position of Secretary of State until nine o'clock the morning of the inauguration. Stanton, the War Secretary, told another cabinet member, referring to Lincoln, "We will have to get rid of that baboon in the White House."

Lincoln said, "Did Stanton say that?"

The informer replied, "Yes, and I would not endure the insult."

"Insult?" said Lincoln. "He did not insult me. That is only a matter of opinion." Then he added, "The only thing that embarrasses me is that Stanton is usually right."

A member of Lincoln's cabinet complained that the cabinet was being overbalanced. Lincoln, as a Republican, had appointed three of his own party and four Democrats who had recently become Republicans. "But Mr. President," said the cabinet member, "as the first President of a new political party you have an excellent opportunity to build an effective organization."

Listen to Mr. Lincoln's reply. Every American should know it. "We will save the country first, and then build a party out of what is left." This is as appropriate now as it was in 1861.

Lincoln was proud and ambitious. No president ever desired a second term more than did Lincoln. Why did he choose his rivals for the cabinet, and then endure their insults? It was because he knew their hostility to him could be made an asset for his country in this hour of need; because he knew that these strong men, leaders of divergent factions, could unite all factions for the saving of the Union; and because he loved the Union more than he loved Abraham Lincoln as an individual.

Abraham Lincoln was basically a politician. He was a statesman, but before that he was a politician. Let us see if this was not true. Every year for the last thirty-three years of his life (he died at the age of fifty-six), he was a holder, seeker, or intended to be a seeker of a public office.

At twenty-three years of age he was a candidate for the legislature and was defeated. In his twenty-fourth year he was candidate for the appointment of postmaster of New Salem and was successful. In his twenty-fifth year he was a candidate for appointment of deputy county surveyor and was successful. In his twenty-sixth year be was again a candidate for the legislature, and this time he was elected. At the age of twenty-eight he was for the third time a candidate for the legislature, and for a second time he was elected. In his thirtieth year he was for the fourth time a candidate for the legislature, and for the third time he was elected; in this year he was also a candidate for Speaker of the House and was defeated. In his thirty-second year he was for the fifth time a candidate for the legislature and for the fourth time elected, and again he was a candidate for Speaker of the House and for the second time was defeated.

At the age of thirty-four he was a candidate for Congress and was defeated. At thirty-five he was a candidate for the presidential elector and was defeated. At thirty-six he was for the second time a candidate for Congress and this time he was elected.

Finally, at thirty-eight years of age, he decided not to run for Congress because he thought he could not be elected since he had voted against the Mexican War. At thirty-nine he resumed his political career as a delegate to the Whig National Convention. At forty he was a candidate for appointment as Commissioner of the General Land Office and was unsuccessful. At forty-three he was again a candidate for presidential elector and was defeated. In his forty-sixth year he was for the sixth time a candidate for the legislature and for the fifth time was elected, but he resigned to become a candidate for the United States Senate and was defeated by Senator Trumbull.

At forty-seven he was a candidate for the vice-presidency on the Fremont or Whig ticket, and although he received one hundred and ten votes in the convention, he was defeated. At forty-nine he was for the second time a candidate for the United States Senate, and for the second time was defeated. The successful candidate was Stephen A. Douglas. At fifty-one, a hero in defeat, he was nominated for the Presidency, and with his election, became the leader of the people and saviour of the nation.

What is there about Abraham Lincoln's life up to this point that would make people turn to him at the time of his country's greatest agony? He did not like being a farmer, or following the occupation of his father, a carpenter. He failed as a flatboatman, losing his cargo. He was a bankrupt merchant, and it took fifteen years to pay off his debts. He was a member of the legislature which gave the state of Illinois some of its poorest and most corrupt legislation. He had been a failure in Congress, and had been defeated twice for the Senate. He had been an unsuccessful lecturer, but had, however, made a success in law. He had not been president of a village, mayor of a city, or governor of a state.

Why did the people turn to Lincoln? Some of it was luck, some of it was because of his great character of known honesty, and some of it was the term "rail splitter" which appealed to the common people. Every president had been a man of education, birth, breeding, wealth, or a military hero. Many of the people wanted a president like themselves. "Rail Splitter" fitted his time, although as a matter of fact he didn't split many rails, for he hated any form of manual labor.

Abraham Lincoln was a politician, a professional politician. He was a holder of office and a seeker of office. Lincoln did not wait for the people to find him as their leader. He was continually planning for future higher offices. Does this fact dim the luster of his fame? Find your answer in the almost national observance of a birthday when a nation unites to pay homage to the memory of a man who was a politician and a patriot, too. If we read our history correctly, we can thank God that Lincoln was a politician. Had it not been for his activity in townships, county, and state politics, and had it not been for his stump speeches before the little grocery store in New Salem, there would have been no joint debate between Stephen A. Douglas and Abraham Lincoln. At the time of his nation's agony, he might have only pondered this agony as he rode his lonely lawyer's circuit over the prairies of Illinois, instead of settling this agony in a masterful way in Washington.

And yet it is a singular fact—a fact not less sad than singular—a most remarkable fact in the history of self government, that today, only a few years after the closing of that masterful life while Lincoln's memory is still fresh in the hearts and minds of his countrymen, it has become unfashionable and unpopular in these United States to be known as a politician. The word *politician* has become almost a term of reproach. There is a certain amount of stench connected with it. Young men are counseled by those concerned for their safety and success to have none of it, and men of affairs, men of parts, men of intellect, and men of prominence in many communities, boast of belonging to no party and take no interest in politics. Well, that's changing now, and changing because of the income tax.

Abraham Lincoln was a politician. He did not consider himself either too great or too good to take an active part in the affairs of his state and community. But the young man of today says, "No such opportunity can come to me as came to Lincoln. He happened to live in the time of crisis. He was a man of destiny."

But a crisis did come in World War I, a second crisis came in World War II, the third crisis came in the Korean incident, and now we have Vietnam. Who knows if another great domestic crisis is not in the making? No man with open eyes who dares to look can fail to see the peril of today. It has grown at a frightful pace in the last few years, partly because of the great wars and partly because it has been pampered in high places. It is not new. It is the old conflict between those who have too little and those who have too much.

I believe this peril was held in check—if not lessened—shortly before World War I, and it was due to the coming into public life of one man, a man who like Lincoln was a politician, a holder of office, and a seeker of office, a man who when his opportunity arose, jumped into public life and threw a challenge to every form of oppression and wrong. I don't know what you think of Theodore Roosevelt, but I, for one, believe he did more to quell the rising tide of discontent among the poor and humble of this country, and to stop the growing peril that springs from such discontent than has been done by any other fifty so-called statesmen since the turn of the century. He did it by showing that neither wealth nor brute force, but law still is on the throne. He was an exponent of practical politics known as the "square deal." If I were forced to suggest a cure for the social, political, and industrial problems of today, I would turn to the Roosevelt prescription—a "square deal" and a "big stick" to be taken together.

Theodore Roosevelt was considered a traitor to his own wealthy and ruling caste. When his term ended in Washington and he left to hunt lions in Africa, the *Wall Street Journal* wrote, "we hope every lion will do its duty." Some sixty years ago the Englishman Kipling wrote the poem "Recessional." Kipling was worried about his country. He saw the British Empire as proud, rich, self-sufficient, ruthless, and arrogant. His poem was a warning and a prophecy. The first verse is:

> God of our father, known of old,
> Lord of our far-flung battle-line,
> Beneath whose awful Hand we hold
> Dominion over palm and pine—
> Lord God of Hosts, be with us yet,
> Lest we forget—lest we forget!

May we, at this time the greatest republic in the world, pay heed to this prophecy and warning which Kipling gave England. The greatest nation in the world does not have a remedy for serious problems such as political gangsters and mob control, crime and coddling of criminals, corruption in high places, racial struggle, and many others. Decay is apparent in national honesty and morals. We have nine men in Washington, D.C., who appear to want to function in place of Congress. It took us over one hundred and seventy-five years to learn that we did not know how to elect our legislators. The First and Fifth Amendments to our United States Constitution have been mangled beyond recognition.

In the light of the most complicated problems that have ever faced America, in the sharpest confusion of differences that have ever faced political life in this country, I commend to you the attitude of Abraham Lincoln. I think the welfare of his country is assured if we forget not the spirit and the lessons of this man. I am old-fashioned enough to believe that the Constitution of this country is not outworn or moss-covered. I think that we should strike at every attempt to disorganize the American institution, to abandon American ideals, and to substitute a lot of "nostrums", "isms", and socialistic slop for our fundamentals of government. And I appeal to you in the language of Mr. Lincoln when he said, "That we here again now, in the face of critical problems, renew our devotions to our government and the institutions which have grown up under it, that the government of the people, for the people and by the people, shall not perish from the earth."

As we study the many-sided life of Abraham Lincoln, his wit and his sadness, his smiles and his tears, his many endearing weaknesses and his colossal strength; as we see this humble form, with bent shoulders beneath an old gray shawl, standing in the rain at his first inauguration; as we see him as Commander-in-Chief of the Army and Navy of the proudest republic the world has ever known; as we find him in that mud-chinked cabin with one door, one window, one room, and a dirt floor; and finally as we remember him in the White House until his untimely end, there comes back to us the one lesson that life teaches so well—that the loyal love of the great heart, whether for individual or native land, is, above all, the greatest thing in the world. Under its influences a soldier becomes a hero, a priest or a missionary becomes a martyr, and so, too, a politician may become a patriot.

### J. F. "POP" MCKALE IN 1942

Athletic Director Emeritus at the University of Arizona 1957—; Director of Athletics and Physical Education for Men, 1914–57; head football coach 17 years, baseball coach 34 years, basketball coach 6 years, track coach 7 years. Tucson Conquistadores Award 1955; Lefty Gomez Award 1963; Arizona Sportsmen Hall of Fame 1959; Voted Outstanding Faculty Member of the University of Arizona 1956–57; Helm's Baseball Hall of Fame 1953; President of the American Association of College Baseball Coaches 1950–51; President of the Physical Education Association 1941. Co-founder of newspaper *Collegiate Baseball* (1947—); President of the Rotary Club of Tucson 1933–34; member of Elks, Masonic Lodge, Sigma Nu fraternity, Phi Delta Kappa fraternity (educational).

## THADDEUS KOSCIUSZKO

Mr. HUMPHREY. Mr. President, this month the United States pays tribute to the Great Emancipator, Abraham Lincoln. The month of February also marks the anniversary of the birth of another great man in American history. I wish to join some 12 million Americans of Polish descent in paying tribute to General Thaddeus Kosciuszko. His passion for liberty and justice brought him to these shores in the early stages of the American Revolution. His contribution to that great cause in training the Continental Army and his personal leadership of men were quickly recognized by Gen. George Washington. In 1777, after the Battle of Saratoga he was promoted to the rank of general. In the field of logistics and artillery there was no equal in the Continental Army.

But his contribution to the American Revolution was not limited to the field of battle. It was his passion for liberty and justice that set him apart even from his contemporaries. One of his contemporaries, Thomas Jefferson, himself no stranger to oppression and tyrrany, described him:

> He was as pure a son of liberty as I have ever known and of that liberty which is to go to all and not the few or to the rich alone.

After the American Revolution, Gen. Thaddeus Kosciuszko returned to his native Poland, already partitioned among her more powerful neighbors. In that same spirit which led him to participate in the American Revolution, he led an uprising against czarist Russia. After a brilliant victory over the superior Russian forces at Raclawica in 1794, General Kosciuszko issued a manifesto abolishing the indiscriminate exploitation of the Polish serf.

Indeed, for all those of Polish American descent, he was and is to Poland what Abraham Lincoln is to us. We do well to honor these two great men in the same breath.

Mr. President, I also wish to invite the attention of the Senate to a letter I wrote to the Secretary of the Interior asking him to have the National Historical Sites Advisory Board reconsider the decision not to name the Thaddeus Kosciuszko home in Philadelphia as a national historical site.

I ask consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., February 20, 1972.*
Hon. ROGERS C. B. MORTON,
*Secretary of the Interior,*
*Department of the Interior,*
*Washington, D.C.*

DEAR MR. SECRETARY: I am writing to you again in regard to the recognition of the Thaddeus Kosciuszko Home in Philadelphia as a National Historic Landmark. The Kosciuszko Home, as I pointed out in my previous letter, symbolically represents the proud heritage found in the birth and development of this nation by Polish Americans. It represents the struggle and efforts that Polish Americans have undertaken to help build this great nation of ours.

Kosciuszko came to America in 1776 to aid in our Revolutionary War. For his unselfish service to our country he received the official thanks of Congress. There is only one building in the United States where General Kosciuszko spent any time—his Pine Street Home in Philadelphia.

Your office has released—for Sunday, February 20, 1972—a list of 78 historical landmarks added to the National Historic Landmarks Register. I am greatly disappointed that the Kosciuszko home was omitted from this list. This is an unfortunate failure to honor one who has served our nation honorably.

I appeal to you again to call this omission of the Kosciuszko home to the attention of your advisory board.

Sincerely,

HUBERT H. HUMPHREY.

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## PRICES

**Mr. DOLE.** Mr. President, our news media continues to carry many stories about the high price of cattle and about the high prices the consumer has to pay for meat in the supermarket.

I have to agree that this makes good copy for them, as there are far more consumers than producers. But at the same time, few headlines have been given to the fact that these high cattle prices are merely the same price that producers were receiving 21 years ago in 1951. How many people in the United States would be willing to work today for the same wages they were receiving in 1951?

The prices the farmer has to pay for his feed ingredients, his chemicals, his tractors, and implements have more than doubled in that same period of time—all his costs of production and living have increased, but he still receives the same price for his production of 20 or 30 years ago.

The February 23 and 24 issues of the Wichita Eagle carried a two-part series by Jerry Fetterolf, that publication's agricultural editor, which goes a long way in telling what the farmer is up against in rising costs—and slipping profits.

Mr. President, I ask unanimous consent that these two feature articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### COSTS RISE FOR FARMER, PROFITS SLIDE, UNITED STATES SAYS

(By Jerry Fetterolf)

Consumers registering complaints about food costs, are met at the other end of the scale by farmers who complain that costs of production have gone up more rapidly for them than the cost of food to the buyer.

U.S. Department of Agriculture research figures show cost of food in 1930 took 24 percent of the average working man's disposal income. By 1940 the figure had been reduced to 22 per cent, and by 1960 it was down to 20 per cent.

USDA figures indicate that in 1971, the average housewife spent only 16 per cent of the family's disposable income on food. Estimates for 1972 is that this figure will be decreased by 15.6 per cent.

These statistics have developed while rents have gone up 50 per cent since 1950, health costs 136 per cent, and wages 122 per cent. Combining the rent, health and wage figures show other costs have risen 2½ times more than food in the 20-year period.

Beef seems to be the main target of consumer anger in the eastern United States. Yet, per capita consumption of beef has grown from 60 pounds in 1950 to 114 pounds in 1971. The forecast is for continued rising consumption.

C. W. McMillan, executive vice president of the American National Cattlemen's Association (ANCA), says producing this required 21 billion pounds of beef for United States' tables has turned picturesque cowboys and ranch owners into quieter and technology-wise business managers.

"Computers and management consultants have found their places in the beef business," McMillan said. "The picturesque ranchhands you've seen on TV and in the movies now are dieticians, chemists and range conservation specialists.

"Cattlemen have absorbed the added costs of producing beef through business efficiencies. The price they receive for their cattle has only just reached the 20-year-ago levels while they have had a 125 per cent increase in production costs."

Fed-cattle prices in 1951 were in the $32 to $33 per hundredweight range. Prices have fluctuated from $20 to $30 a hundredweight since that time, but had not topped the 1951 level until recently.

Attempts to hold the line on inflation hasn't meant much to farmers either, they say. They cite a series of increases in prices allowed for farm-machinery builders since Phase 2 began.

International Harvester Corp. requested a 4.29 per cent increase, and was allowed a 3.93 per cent hike Nov. 30.

John Deere requested a 4.82 per cent increase and was allowed 4.56.

White Motor Co. farm equipment division requested 6 per cent and was granted 6.

Ford Motor Co. tractor division asked for 5.9 and got it.

Massey-Ferguson's farm, industrial and construction divisions asked 4.82 and received it.

Allis-Chalmers asked 13.3 and got that.

John Cringderff, manager of the Ingalls Feed Yard just west of Ingalls, Kan., estimates operating costs in the 32,000-head feedyard there have gone up 15–20 per cent in the past three years.

His figures show:

The cost of a mill to prepare feed for cattle has gone up 30 per cent. A feed truck that cost $11,000 four years ago now costs more than $15,000. Steel for gates, bunk rails and corner posts is up 30 per cent. Labor cost is up 20 per cent in the past three years

Veterinary supplies are up slightly. Repairs and repair labor costs are up 40 per cent. Costs of going to market have gone up, too, with truck-loaded, per-miles cost now 65 cents a mile, compared with 60 cents a mile a year ago.

William Turrentine, Garden City, Kan., a typical combination irrigation and dryland farmer on 1,820 acres estimated his costs have gone up an average of 6.43 per cent a year since 1964. He raises sugar beets, wheat and milo.

If Turrentine computes from 1960 through 1971, his cost accounting system shows an increase of 11.80 per cent per year for the 11-year period.

John Weber, a Sedgwick County farmer, said farmers are getting only 72 per cent of a fair price for their production, citing USDA reports on parity—that price which is equal to prices received by other segments of the economy.

Beef prices are at 88 per cent of parity, Weber said. Hog prices are at 76 per cent, turkeys 68, lambs 72—and eggs are only 49 per cent.

Turning to grains, Weber pointed out that USDA reports show prices for grains, compared with parity levels, are: corn 56 per cent, milk 69, soybeans 72, rye 53 and grain sorghum 59 per cent.

Wheat—which makes up about one tenth of a loaf of bread—is selling for 45 per cent of parity, according to the reports quoted by Weber.

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### FARMERS FEELING BOXED AS CONSUMERISM BUILDS

(By Jerry Fetterolf)

Consumerism, production costs, quality controls and politicking have formed a deadly quadrangle for the low on the totem pole—the basic agricultural producer.

However, farmers—who are the largest users of petroleum, steel, rubber, machinery, and fertilizer in the nation—believe they somehow have been left out of the consumer protection parts of the nation's advance. Their costs keep going up.

The press of what is called consumerism struck full force in Washington in early February when the various costs of production, processing, wholesaling and retailing finally reached grocery store counters.

The price of beef at the production level, on an incline during 1971 and 1972 had, at last passed 1951 levels—so it became the prime target.

Donald Rumsfeld, director of the Cost of Living Council, tipped the administration hand with a declaration that price controls on farm produce might become necessary.

The gate was open. Immediate reaction from Australia and New Zealand was a demand that all bars to imports of beef should be withdrawn.

The biggest bar, apparently, is the new "consumer protection" regulation providing for stiffer inspection of red meat imported into the United States. Import quotas in 1970 and 1971 were not reached although the United States is the second highest importer of red meat in the world.

Voluntary quotas negotiated by nations exporting meat into the United States for 1970 had been 1.6 billion pounds. The nations exported 1.153 billion pounds.

In 1971, with a voluntary quota of 1.6 billion again, the exporting nations came up with 1.112 billion pounds of red meat considered consumer safe.

Secretary of Agriculture Earl L. Butz responded quickly to the Rumsfeld opinion and the urging of meat-exporting nations to lower quality standards for U.S. meat import. To continue the rules for consumer protection, he promised USDA Consumer and Marketing Service will continue an aggressive policy of meat inspection.

But also pointed out that in 1951, one hour of labor would buy 1.7 pounds of beef, while now an hour of labor will buy 3.3 pounds of beef.

Changing import quotas would have little or no effect on prices either, since total red meat imports allowed under law is 6.7 per cent of U.S. consumption. Exporting nations have come up with 4.5 per cent to date, USDA reports show.

Declaring farm produce prices are still too low, Butz said that in the past decade wages and costs have doubled, purchasing power is up 60 per cent and disposable income is up

71 per cent while food purchase prices have gone up only 38 per cent. The percentage of consumer income spent for food in the decade since 1960 has gone down 3.5 per cent, he said.

Another point Butz made against attempts to put a ceiling on farm produce was that seasonality of crops, variables in supply and demand, and marketing patterns would make the cost of administering any such regulation more expensive to taxpayers than normal price increase patterns in foodstuffs.

Beef producers, the target of consumers wanting a ceiling on "at farm level" pricings, say there is more beef and better quality beef than ever before.

Wayne J. Madill, president of AID Inc., the largest single cattle-feeding firm in Kansas, contends quality is the finest, production is growing more rapidly than ever and the housewife is getting the best bargain in history.

Jan. 1 reports show 6 per cent more replacement beef heifers were kept for reproduction this year than last year. The Jan. 1 reports of 1970 and 1971 each showed 4 per cent gains in replacement herd cows.

Kalo Hineman, Dighton cattleman and president of Kansas Livestock Association, said in a telegram to the President and secretaries of agriculture and the Treasury, that in Kansas alone beef production has increased by 197 per cent since 1965.

He also said that livestock production is more than a billion-dollar business and "builds a 5.5 multiplier into the state's economy." Farming and agribusiness is a necessity for economic livelihood in the state as in much of the midsection of the nation, he indicated.

Kansas State Department of Agriculture calculates the farming industry is worth about $6 billion annually, according to reports at the end of 1970.

Wilton Thomas, extension economist at Kansas State University, presents the problem of rising farm costs versus a lid on farm prices another way. An average of costs in the 1963–65 triennium compared with 1968–70 appeared this way for 11 counties in southern Kansas:

Machinery inventory per farm—$11,116 in the first period, $16,018 in the second.

Machinery inventory per crop acre (depreciated value, not new cost)—$9.15 and $23.84.

Machinery expense per crop acre, including gas, oil and repairs—$11.14 and $13.28.

Repair costs per farm—$1,870 and $2,533.

Total farm expense—$21,279 and $29,679.

The best farmers in south central Kansas were making about 4 per cent annual return on investment by 1970, Thomas said. Those farmers managed an average investment of $256,000 a year on their farms.

Farther west, where farms are larger and risks greater, a medium-sized farm of 1,800 acres would have a minimum capital investment of $500,000 and get a 1 to 3 per cent return.

An economist with Federal Reserve Bank of Kansas City, C. Edward Harshbarger, says gross farm incomes may be higher in 1972 but that it is likely that net farm incomes will remain about the same because of higher operating costs.

In predicting 1972 red meat prices, Harshbarger said he believes fed cattle will level off at about 1971 levels, hogs will decline again to about the $20 level, dairy prices will be about equal to 1971 and lamb prices will be near or slightly above 1971 averages. With exception of soybeans grain crop prices are likely to be about the same too, he said.

## FRANK E. SCOTT, PRESENTED FREE ENTERPRISE AWARD

Mr. CANNON. Mr. President, I invite the attention of the Senate to a singular honor which has come to one of my constituents, Frank Scott, who has been in the forefront of Nevada's business enterprise and one of those responsible for Nevada's designation as the Nation's fastest growing State.

Recently, Mr. Scott accepted the Free Enterprise Award from southern Nevada industry organizations for his contribution to the growth and progress of southern Nevada. His enterprise and creative imagination were cited in this honor as well as his commitment to the free enterprise system.

Mr. Scott is a land developer, a builder, and a dynamic force for the continued growth of the southern part of my State. My acquaintance with him spans a generation during which this region of the great Southwest has seen its growth. Few individuals have given so unselflessly their energy and creativeness to those projects which have made the community grow, prosper and meet the needs of its citizens.

Mr. President, I ask unanimous consent that the citation presented to Mr. Scott be printed in the RECORD.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

### CITATION

In recognition of his contributions to the growth and progress of Southern Nevada and in testimonial of his adherence to the principles of American capitalism in the conduct of his business as evidenced by his foresight, his initiative, his inventiveness and by his acceptance of the risks and rewards inherent in the competitive American society, this Free Enterprise Award is made to Frank E. Scott, this 28th day of January, 1972.

## ADDRESS BY CLAY T. WHITEHEAD, DIRECTOR, OFFICE OF TELECOMMUNICATION POLICY

Mr. ALLOTT. Mr. President, on February 17, 1972, Mr. Clay T. Whitehead, Director of the Office of Telecommunications Policy, spoke to the Colorado Broadcaster's Association. His remarks have been quoted and interpreted quite widely during the last week because of the candor with which he addressed the proposal of the Federal Trade Commission that the Federal Communications Commission initiate "counter advertising."

So that Senators may have the benefit of reviewing Mr. Whitehead's remarks in their entirety, I ask unanimous consent that the full text of his statement be printed in the RECORD.

We all know the Federal Trade Commission is vested with procedures to deal with deceptive advertising. It has been, and to my knowledge, still continues to be the position of the Federal Communications Commission that advertising should be regulated as a business practice by the Trade Commission and that this is not the job of the FCC.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### REMARKS OF CLAY T. WHITEHEAD, DIRECTOR, OFFICE OF TELECOMMUNICATIONS POLICY, EXECUTIVE OFFICE OF THE PRESIDENT, BEFORE THE COLORADO BROADCASTERS ASSOCIATION

From all the reports I've seen, last year was not a great financial success for broadcasting, but it was not as bad as some expected when a future without cigarette billings seemed to be a very bleak future indeed. That's the business side; nothing very exciting in 1971, but the economic prospects look good for the coming year. On the government, or regulatory side, broadcasters were beset by threatening developments at the FCC and in the courts: license renewals, fairness and access, cable television, spectrum reallocations, and children's programming among other issues. But serious as these developments are, they are being overshadowed by a new problem.

The problem I refer to is the regulation of broadcast advertising and the conditions the advertiser finds when he chooses the broadcast media for his messages. Try this list of issues: advertising and the Fairness Doctrine; mandatory access for editorial ads; advertising in children's programs; licensee responsibility as to false and misleading advertising; campaign spending limits on broadcast ads and political advertising in general; ads for certain types of products; and counter advertising. The nature of commercial broadcasting depends heavily on how these and other similar issues are resolved. What is commonly called "free" broadcasting is actually advertiser-supported broadcasting, and the regulatory framework for broadcast advertising deals with the economic core of our private enterprise broadcast system. Similarly, advertising is now so dependent on broadcasting that the issues faced by the advertising industry have been transformed into broadcast-advertising issues.

Of course, there were ads before there was broadcasting and, of course, many of the ads in the pre-broadcasting days were crude deceptions.

Deceptive and misleading advertising is still an important issue, but now the overall issue is much broader than the traditional concerns about questionable advertising. If it were only a case of advertising taste or excessive "puffery," I think most people would take advertising with the proverbial grain of salt that one relied upon in listening to the "medicine men" at country fairs or reading the back pages of comic books and other popular literature. But now broadcasting, especially TV, has raised the advertisement to a popular art form. TV advertising is not only pervasive, it is unavoidable. That special impact that characterizes the television medium provides a natural attraction for the techniques, usually associated with advertising. It seems that the TV advertising spot is the most innovative and almost inevitably appealing use of the television medium.

In these circumstances, it seems that advertising itself has become an issue. Some people tend to view it as the means by which an insidious business-advertising complex manipulates the consumer and leads public opinion to goals that are broader than simply purchasing the products being advertised. Some feel that what is being sold the American people is a consumption-oriented way of life. This becomes a political issue that is a fit subject for government redress—a remedy in addition to the traditional controls on false and misleading advertising.

I think that some of these broader concerns about TV advertising are now motivating the Federal Trade Commission. The FTC filed comments in the FCC's Fairness Doctrine inquiry, proposing that there be compulsory counter advertising for almost all broadcast ads. The FTC's counter advertising proposal would provide an opportunity for any person or group to present views contrary to those raised explicitly and implicitly by product ads. In the Trade Commission's own words, counter advertising "would be an appropriate means of overcoming some of the shortcomings of the FTC's regulatory tools, and a suitable approach to some of the present failings of advertising which are now beyond the FTC's capacity." The Trade Commission wants to shape the Fairness Doctrine into a new tool of advertising regulation and thereby expand the Doctrine's already chaotic enforcement mechanism far beyond what was originally intended and what is now appropriate.

The Trade Commission would have the FCC require responses for four types of ads:

(1) Those that explicitly raise controversial issues, such as an ad claiming that the Alaska pipeline would be good for caribou;

(2) Those stressing broad, recurring themes that implicitly raise controversial issues, for example, food ads that could be taken as encouraging poor eating habits;

(3) Those ads that are supported by scientific premises that are disputed within the scientific community, such as an ad saying that a household cleanser is capable of handling different kinds of cleaning problems; and

(4) Those ads that are silent about the negative aspects of the products, so that an ad claiming that orange juice is a good source of vitamin C may be countered by a message stating that some people think rose hips are a superior source of that vitamin.

The Trade Commission also suggested that broadcasters should have an affirmative obligation to provide a substantial amount of free air time for anyone wishing to respond to product ads. This goes beyond the requirement in the *BEM* case that broadcasters must allow persons or groups to purchase time. In a business sense, that is not too intrusive on the broadcasters' operations, and some right to purchase time for the expression of views on issues would serve an important purpose. But a requirement to provide "free" time in response to paid advertising time would have all the undesirable features of any market in which some people pay and some do not. It is, in any event, misleading to call this free time. There would be a hidden subsidy and the public would end up paying for both advertising and counter advertising messages.

Even if there were no problems with a broad free time requirement, we would be critical of the FTC for suggesting that "Fairness" responses be required for ads involving disputes within the scientific community and ads that are silent as to the negative aspects of products.

We all know that, if an advertiser falsely implied that a scientific claim was well established or failed to disclose a material negative aspect of his product, the FTC could use its own procedures to deal with this type of deceptive advertising. The Trade Commission could even use its new corrective advertising weapon, and require the advertiser to clear up misleading claims in past advertising. This is now being done in the Profile Bread ads.

The FTC, however, doesn't think that these regulatory tools are effective enough or thinks that they are too troublesome to apply. It is disturbing, however, that the agency charged with overseeing the content of advertising in all media has stated that the FCC is better able to achieve the Trade Commission's regulatory goals for the broadcast media. Of course, the Trade Commission would like to bring the FCC into the process and by-pass the difficult job of making factual determinations concerning advertising deception. The FTC is constrained by all sorts of procedures which safeguard the rights of advertisers accused of deception. It is much easier to subject the suspect advertiser to a verbal stoning in the public square, but is it responsible for a government agency to urge this type of approach? This Administration thinks not.

Perhaps private, self-styled spokesmen for the public interest cannot be faulted for advocating compulsory counter advertising without coming to grips with all the complexities and consequences involved. But a regulatory agency cannot afford the private litigant's luxury of dismissing the enormous practical difficulties of its proposal by simply asserting without support that it would be workable. Nor can an agency ignore or dismiss difficult and sensitive First Amendment problems, the underlying economic structure of the industries it is dealing with, or the detailed balancing of competing public interest considerations.

If you have any doubts as to the workability of the FTC's proposals, listen to some typical examples of the type of "negative aspect" counter ads the FTC had in mind.

"In response to advertising for small automobiles, emphasizing the factor of low cost and economy, the public could be informed of the views of some people that such cars are considerably less safe than larger cars. On the other hand, ads for big cars, emphasizing the factors of safety and comfort, could be answered by counter-ads concerning the greater pollution arguably generated by such cars. In response to advertising for some foods, emphasizing various nutritional values and benefits, the public might be informed of the views of some people that consumption of some other food may be a superior source of the same nutritional values and benefits. In response to advertising for whole life insurance, emphasizing the factor of being a sound 'investment,' the public could be informed of the views of some people that whole life insurance is an unwise expenditure. In response to advertising for some drug products, emphasizing efficacy in curing various ailments, the public could be informed of the views of some people that competing drug products with equivalent efficacy are available in the market at substantially lower prices."

The FTC capped this list of examples—which related to products that alone account for 40 per cent of all TV advertising—by asserting that "the list could go on indefinitely"! Can the FTC be oblivious to the fact that this is precisely the problem with compulsory counter advertising? Without doubt our overriding goal in this area should be to provide consumers with information that will enable them to make intelligent choices among products. But *any* broadcast advertisement could start an endless round of debate and disruption based on opinions regarding the products being advertised. This isn't the kind of information that is most helpful to consumers. Although it may seem that the Trade Commission's counter advertising proposal serves consumers' interests, the public would be done a disservice if all that counter advertising achieves is a bewildering clutter of personal opinions thrust before consumers every time they turn on their radios and TVs. And who is supposed to protect the public from false and misleading material in the counter-ads?

The advertisers will still have the content to their presentations regulated by the Trade Commission to weed out deception, but who is to guard against the excesses of counter advertising by irresponsible or uninformed groups? When this question was raised, the FTC's Director of Consumer Protection indicated that the agency might have to "monitor" counter-ads, but this may become "ticklish" since a First Amendment problem may be involved. Ticklish indeed! One would have hoped that a Federal agency would have been more sensitive to this problem before proposing a requirement of counter advertising.

It is also disturbing to see that the counter advertising position is not unique to the FTC. Others in government seem to be advocating an end to the broadcast ban on cigarette ads just to bring back anti-smoking spots!

The figures show that per capita cigarette consumption in the U.S. decreased when anti-smoking spots were aired in large numbers and increased in 1971, when there were no cigarette ads and a lower level of anti-smoking spots. Bigger increases are predicted for 1972. The Department of Agriculture has attributed the increased consumption to a decrease in anti-smoking spots. This may indicate that advertisers are better off not using the broadcast media when there is a counter advertising requirement. If the cigarette advertising ban were lifted, the advertisers might well choose not to buy time and, thereby, underwrite the anti-smoking campaign. Naturally, there would be some who would respond to this public interest crisis by requiring cigarette companies to advertise on radio and TV. Broadcasters wouldn't mind this at all, but if the FTC had its way you would have to require all advertisers to use TV and even NAB couldn't pull that one off.

This wouldn't be a very constructive approach to advertising's problems, but one is sorely needed. The public expects to see actual and substantial progress made by the advertising industry's belated efforts at self-regulation. Advertising has made significant contributions to our economic well-being and our material worth. But if advertising is to continue to make these contributions it must reassess its role in our society.

We do not want to see advertisers respond to these problems by fleeing the broadcast media either voluntarily or involuntarily. Advertisers might be able to survive without broadcasting, but broadcasting could not survive without advertising. Advertising revenues make possible all of the public service, news, information, and entertainment programs. I do not agree with those who believe that commercial broadcasting is impervious to the adverse economic effects of regulation. You really can kill the goose that lays the golden egg; and it doesn't matter that it's killed by well-intentioned people.

This does not mean that the abuses and excesses of broadcast advertising should not and cannot be prevented. Broadcasters themselves are moving to correct problems in children's advertising and problems with deceptive and offensive ads. The advertising industry itself is following the broadcasters in the essential route of self-regulation. The record of self-regulation has not always been free of problems; and it never will be. Public vigilance is needed too, and the FCC and the Trade Commission have proper roles in seeing to it that that vigilance is maintained effectively.

The FCC has taken an approach that I strongly support. The FCC believes that advertising should be regulated as a business practice by the Trade Commission and this is not the FCC's job. Product ads should not be regulated, TV or not, as expressions of ideological, philosophical or political viewpoints. On the whole the FCC has recognized this and has implemented its regulatory power over broadcast advertising in a reasonable and responsible manner.

In its area of responsibility, the Trade Commission must use its regulatory tools to preclude false and deceptive advertising. The public is entitled to protection from the unethical business practices and from the occasionally misleading hyperbole of advertising agencies. But the FTC's responsibilities should not be expanded to include the responsibility for finding a solution to the philosophical problem that advertising in general poses for some consumer advocates. I think the FTC realizes that this would be beyond the scope of its regulatory authority; and it should be kept that way. Government agencies must realize that they cannot solve all of society's problems, that the Fairness Doctrine is not a panacea for fairness, much less all of our ills, and that when they go too far with social engineering they do more damage than good.

This Administration does not believe that advertising is inherently evil. We do not believe that advertiser support of commercial broadcasting is polluting the minds of America. This Administration believes in a strong and free private enterprise system of broadcasting for our country and in effective but responsible government. We intend to work to keep it that way.

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## SENATOR HUMPHREY'S ADDRESS BEFORE THE SENIOR CITIZENS OF ST. PETERSBURG, FLA.

Mr. HUMPHREY. Mr. President, on Tuesday, February 29, 1972, I was privileged to speak before a senior citizens rally in St. Petersburg, Fla. It was a special honor for me because I feel so strongly about the issue of dignity, adequate income, and a decency for the older Americans of this country.

I tried to stress in my speech the kinds of changes that must be made in our present social security and medicare laws if that decency, dignity, and adequate income are to be guaranteed.

I said it was time to bring 5.4 million Americans out of poverty, that it was time to increase social security benefits by 25 percent, that it was time to bring general revenue financing so the crush of payroll taxes could be raised, that it was time to reform medicare so that cost to the elderly could be cut.

And, I said it was time that young and middle-aged Americans began to realize that life does not end at 60 or 65—that this is but a beginning.

Mr. President, I ask unanimous consent that my address be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY, SENIOR CITIZENS RALLY, ST. PETERSBURG, FLA., FEBRUARY 29, 1972

The time has come for this nation to recognize that its 20 million elderly citizens are not a special class of people.

The time has come to recognize that their needs are not privileges—but rights. Not something to be given by a generous society, but something to be provided all Americans regardless of age.

If our senior citizens are forgotten today it is because this nation has failed to back up words with a commitment of resources. It is time we had a President who is willing to stand up and say to you:

It is wrong that five million of you live in poverty.

It is wrong that millions of you don't have transportation to go to the places you want and need to go.

It is wrong that you live in fear because the police seem to have forgotten the elderly.

It is wrong that you are strapped by high property taxes, sales taxes, and all the other financial burdens that eat up a fixed income.

It is wrong that you can't get good hospital and doctor care. And when you can, it is too expensive.

It is wrong that you aren't given adequate job training and employment opportunities to continue as productive members of society.

It is wrong that you can't afford to buy a house because their prices are outrageous, and

It is wrong that young and middle age Americans too often treat you as second class citizens after you have given so much to them and your country.

Not only should a President stand up and say these things, but he must also say: "I'm going to correct these wrongs. I'm going to ask the Congress and the nation to join with me in giving a new deal to the elderly citizens of America."

These unspoken words are the main reason why too many of our elderly citizens spend their remaining years of their lives in solitude.

Today I want to outline an action program that will at last change the underfunded and fragmented programs which are supposed to help older Americans but always fall short of the mark.

I believe that the nation's first priority is to lift out of poverty 5.4 million elderly Americans.

These Americans account for 25 percent of the nation's poor—but they make up only 10 percent of our population.

And during the past three years, approximately 100,000 citizens have been added to the large numbers of elderly poor. In 1970, 51 percent of older women living along fell below the poverty level. By the end of last year, that number had jumped to 63 percent.

Statistics can't tell of the tragedies of poverty—the tragedy of ill-health, poor diets, shabby apartments, fear of being a crime victim, and just simple loneliness.

We can change this intolerable situation. I will soon offer legislation to increase the minimum monthly payment to Old Age, Blind and Disabled recipients to a federally funded level of $165 for a single individual and $215 for a couple—effective January 1, 1972.

Now there is no Federal minimum. Now each state determines the level it will pay.

My amendment would guarantee that every eligible elderly individual could avoid the degradation of poverty with a fixed minimum income.

This amendment makes it a national policy that there will be no elderly poor.

But this is not enough.

Adequate incomes for elderly Americans cannot become a reality until we reform our social security system.

Too many millions of social security beneficiaries reach old age in disappointment and despair.

The hard-earned money put aside in the hope of obtaining an adequate retirement income proves instead to be a poverty payment.

And we all know that inadequate social security benefits—more than any single factor—are the cause for the continuing hardship of millions of elderly.

A fixed social security income can't fight inflation. And you have diminishing purchasing power.

It can't fight rising property and sales taxes. And you may have to give up your home.

It can't fight excessive medical, food and housing costs and you may not go to the doctor, buy the food you need or the house you deserve.

I propose we take the following steps immediately:

One, we guarantee a $100 minimum benefit and a 25 percent immediate increase in social security benefits with a cost of living escalator to provide elderly citizens with a weapon to fight inflation.

Two, we must take one-third of the cost of social security benefits from the federal treasury. This would cut the payroll tax workers now pay by two thirds. Working people would save an average of $175 a year.

**Three, we must increase from $1,680 to $3,000 the amount of money older Americans can earn before they begin to have reduced benefits.** Too many senior citizens quit their jobs for fear of losing social security checks.

**Four, we must not reduce benefits if older Americans marry.** I have been told of phony divorces taking place so that elderly people can avoid economic disaster. Marriage should not reduce your benefits. I pledge myself to halt this inequity which forces many senior citizens to live against their moral code.

Finally, I see no reason why a widow or widower should receive anything less than 100 percent of his or her spouse's benefits. To provide only 82 percent as it now done is grossly unfair.

Social security reform is only the first step to more productive and decent lives for elderly Americans. With these five basic proposals we have solved only part of the problem.

The next step is to make major changes in medicare.

You pay on the average $800 a year in medical expenses.

Let's face it, the costs of good medical care are still a great burden for all of you—despite medicare.

Here is what we must do now to cut the financial burdens of medical care:

First, I have introduced legislation to have medicare pay the full cost of your prescription drugs, the full cost of eye glasses, hearing aids, and dental care. Why should medicare pick up only part of the costs of staying healthy? And why should anyone go to a doctor and then be unable to afford the medicine he prescribes? This is wrong

Second, we should eliminate the $50 deductible for supplementary medical insurance.

Mr. Nixon and his Republican friends want to increase this unfair charge. I say there is no reason for the poor and the elderly to pay the first $50 out of their own pockets when some can't afford to pay for transportation into town.

Third, I want to eliminate the insurance premium you have to pay for doctors insurance.

Fourth, I intend to offer legislation that will freeze your share of hospital co-payments—they are high enough now and the Nixon Administration's planned increases are unfair.

I am also going to introduce an expanded comprehensive Home Health Care Program to be paid for by medicare.

There is no reason you must go to the hospital and clinic for every illness. Care should be available where you live—in your homes or apartments, not in a remote hospital.

These are the steps we must take now.

Medicare reform is only makeshift reform. What is truly needed is a comprehensive National Health Security Program for every American. This is the only real answer.

But we must also correct this system which now says: we recognize some of your needs but we will not give you what you are due by right—decent and healthy life.

The time has come to stop penalizing Americans when they grow old and when they get sick.

We need action now on all of these fronts; increased old age assistance, increases in railroad retirement and social security benefits, and medicare reform.

But we cannot move forward with these great tasks without strong efforts from the leadership of this nation to change the attitudes of young and middle aged people toward the elderly.

Until we make this nation realize that life does not stop at 60, or 65, we will not have provided the basic dignity, indentity, and security that elderly Americans need and deserve.

As Franklin Delano Roosevelt once said: "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

Enough promises have been made. The time has come for action and national commitment.

## ANNOUNCEMENT OF POSITIONS ON VOTES

Mr. MILLER. Mr. President, because of a long-standing commitment in my State, it was necessary for me to be absent from the Senate during part of Tuesday, February 22. Several record votes were taken at that time on matters pertaining to the equal employment opportunities bill. If present, I would have voted as follows:

Legislative No. 53—amendment No. 907, making the prohibition upon preferential treatment applicable to other executive agencies engaged in enforcing equal employment opportunities laws—"nay."

Legislative No. 54—amendment No. 844, removing from coverage of the bill employment practices of all educational institutions—"nay."

Legislative No. 55—amendment No. 908, giving litigants the right to demand trial by jury of actions brought under the act or title VII of the Civil Rights Act—"nay."

Legislative No. 56—final passage of S. 2515, Equal Employment Opportunities Enforcement Act of 1971—"yea."

Legislative No. 57—final passage of H.R. 1746, the House companion bill—"yea."

I ask unanimous consent that the permanent Record reflect my positions.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RAILROAD REORGANIZATION

Mr. TAFT. Mr. President, none of us want to subsidize America's railroads. The taxpayers of this country have enough burdens without having to undertake the financial rescue of these large corporations which could be profitmaking ventures if they had the ability to streamline their operations.

Since March 3 of last year I have been calling for fundamental reform of the laws which affect our Nation's railroads. In particular, I have called attention to the need to abandon unprofitable branch lines which have no possibility of ever generating a profit. The continued operation of these unproductive facilities places a severe drain on the remainder of the systems and forces America's shippers and consumers to subsidize unprofitable operations. In addition, I have been calling for a thorough overhaul of the freight rate structure which is archaic, confusing, and in many instances, discriminatory.

America's shippers are confronted with a maze of approximately 43 trillion rail freight rates on file at the ICC. Professor Moore, in his study for the Brookings Institution, has estimated that America's consumers pay up to $7 billion per year in excess freight rates, largely because of overregulation.

The railroads, however, are not getting rich by virtue of this rate structure. On the contrary, these high rates are necessary to justify practices which have been too long tolerated by rail management and regulatory authorities.

On February 15, 1972, the trustees of the Penn Central Transportation Co. filed a report with the U.S. District Court for the Eastern District of Pennsylvania. That report concludes that the Penn Central can be successfully reorganized, but only if the Penn Central is allowed to abandon its unproductive branch lines, eliminate unnecessary labor costs, and be fully compensated for continuing passenger losses.

With respect to unproductive branch lines, the trustees noted that while the Penn Central operates 20,000 route miles, approximately 80 percent of its freight business comes from only 11,000 of those route miles. Because of these unproductive branches, the Penn Central has the lowest freight revenue per mile of line of any major railroad in the East. This report estimates that had Penn Central operated only those 11,000 route miles in 1970, it would have produced net railway operating income of approximately $94 million, in contrast with an actual net railway operating loss of $104 million.

The report also indicates that the Penn Central is forced to employ approximately 9,800 employees who are not needed for operations. These employees are retained solely because of labor agreements and "full-crew" laws. The excess labor costs, at 1972 levels, approximates $150 million per year.

Consequently, the Penn Central is saddled with excess costs of approximately $348 million per year as a result of these two items alone.

I do not believe that American taxpayers want to subsidize such inefficient operations.

I do not believe America's consumers want to subsidize these practices through higher freight rates.

Five major railroads have gone into bankruptcy since 1967. The time has come for railroad management, railway labor, the ICC, and Congress to recognize how critically important these reforms are.

Unless railroads, such as the Penn Central, can be successfully reorganized, we will continue to jeopardize the tax base upon which many of our school systems have been dependent for many years. We will also jeopardize the jobs of many of America's railroad employees.

I ask unanimous consent that there be printed in the Record the report of the trustees to which I have referred, together with exhibit A, "A Report on 1971," by William H. Moore, president, Penn Central Transportation Co.

There being no objection, the report was ordered to be printed in the Record, as follows:

[In the U.S. District Court for the Eastern District of Pennsylvania, No. 70–347]

### Report of Trustees on Reorganization Planning, February 15, 1972

(In the Matter of Penn Central Transportation Company, Debtor, in Proceedings for the Reorganization of a Railroad)

The Court on November 3, 1971, extended the time within which to file a plan of reorganization to April 1, 1972, and instructed the Trustees to file by February 15, 1972, a report on the prospects for reorganization of the Debtor (Order No. 475). This is that report.

### SUMMARY

The basic question put to the Trustees by the Court is whether, in their judgment, a successful reorganization of Penn Central[1] is probably feasible.

The short but carefully considered answer to this question is that in the Trustees' judgment Penn Central *can be* successfully reorganized.

The rest of the answer is that this conclusion is based on and depends on two elements which must be made unequivocally clear. One is the attainment of the projections which have now been made regarding the volume of traffic and freight revenues which can be reasonably forecast for Penn Central during the next five years—taking account of (i) prospective general business conditions, and (ii) Penn Central's ability to advance in the highly competitive transportation market. The other is the accomplishment of three basic changes in the Penn Central situation which will require action beyond the sole competence of the management, the Trustees, or this Court: rationalization of the Penn Central plant, removal of unnecessary labor costs, and full compensation for continuing passenger service losses.

Since the prospects of a successful reorganization depend on making these three clearly basic changes, a serious time factor is involved here. The changes require the concurrence in one form or another of various interests, government and private. The benefits of some of the changes will by nature of the circumstances be postponed, in part, even after the arrangements are completed and authorized. And additional obligations (for currently deferred taxes, interest charges and other claims) are being incurred by the Debtor at the rate of approximately $100 million each year. This means an accumulation of prior charges against the estate before values available for pre-bankruptcy interests.

The Trustees' conclusion regarding the prospects for reorganization gives full account to these time factors. We believe that there is reasonable prospect that the three changes can be accomplished in substantial part during 1972 and 1973, and that virtually full benefits from the changes can be realized by the end of 1975. Accomplishment this year or next would enable the Trustees promptly to begin at least partial payment of obligations now deferred (*e.g., current* state and local taxes).

On these assumptions, the Trustees now conclude that Penn Central may be expected (i) to begin generating substantial income available for fixed charges[2] in 1974, and (ii) to show, by 1976, income available for fixed charges between $220 million and $290 million. This provides, in the Trustees' judgment, a basis for reorganizing the Debtor and for preparing their plan of reorganization.

If these three changes were not to be made—or if there were undue delay in making them—there would not be, in the judgment of the Trustees, the basis for reorganizing the Penn Central as a private enterprise. This conclusion is based on studies and analyses which show that maximally effective self-help measures alone—taken with the most reliable available estimates of traffic increases in the future—would result in continued losses during the next four years and would show only marginal earnings by 1976. That would be too little and too late—for there would have been unconscionable and possibly unconstitutional erosion of the Debtor's estate in the meantime. This judgment could only be invalidated by an unlikely confluence of favorable developments including a spectacular and sustained increase in revenues far beyond what is here forecast.

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[1] As used in this Report, the term "Penn Central" refers to the Debtor in reorganization: Penn Central Transportation Company.

[2] As used in this Report, "income available for fixed charges" is calculated after deduction of equipment lease rentals.

The prospect of reorganization therefore hinges on achieving, in significant degree, the three changes which have been identified as requiring the participation and cooperation of interests other than the Penn Central management, the Trustees, or the Court, as well as, of course, the utmost efforts on the part of the management and the Trustees.

1. The proposed rationalization of the Penn Central plant involves (i) taking advantage of the potential for increased efficiency made possible in theory by the 1968 merger but never realized in fact, (ii) abandonment of those freight lines which have neither business nor public service justification, and (iii) making appropriate arrangements for continuing those freight lines found to be essential to the public service but inoperable on a sound business basis.

The Penn Central system presently covers approximately 20,000 route miles.

Approximately 80% of Penn Central's freight business comes from 11,000 of those route miles. This is graphic reflection of the fact that the Penn Central system has the lowest freight revenue per mile of line of any major railroad in the East.

Thus, 11,000 miles have been taken, for purposes of this reorganization feasibility determination only, as a "core" system—with full recognition that this alone would not constitute a full-service system, taking all interests into account. Similar analyses are being made of larger "core" systems.

With respect to the remaining 9,000 route miles, virtually all shippers have abandoned well over a third of them. This should be recognized by appropriate abandonment certificates from the Interstate Commerce Commission, and its newly revised procedures should expedite this result.

The remaining route miles which still serve a useful purpose can continue to be operated—some of them, hopefully, by a revitalized Penn Central itself, some with help from those interests, either public or private, which are prepared to underwrite the losses. A particular branch line may be of sufficient importance to the shippers or communities it serves that contracts assuring continued service at a price that makes Penn Central whole can be negotiated. Under these circumstances, the Trustees would not be compelled to seek abandonment of any mileage which serves a substantially useful purpose.

No simple or single quantification of the benefits of the rationalization we propose is possible—there are too many variables.

2. The proposal with respect to personnel reductions is that only those train and engine service employees determined to be necessary to safe and efficient freight operation be employed.

Collective bargaining on this issue is now in progress. If it fails, as it has in the past, the Trustees will accept—as has already been indicated to the National Mediation Board—an independent third-party determination of the issue.

The issue here is whether approximately 9,800 employees presently required to be employed by prior labor agreements (and by "full-crew" laws) are necessary for safe and efficient operation.

The cost involved here, at 1972 levels, approximates $150 million per year.

The Trustees propose that the reductions in question will be gradual and that protection will be afforded present employees.

3. The proposed change in compensation for providing passenger service is that Penn Central be fully reimbursed for the costs of providing that service. The reorganzation of Penn Central can and should provide whatever passenger service is necessary in the public interest. At the same time, the burden which that service imposes on the system should be eliminated as present arrangements are renegotiated or new ones entered into. Present arrangements with Amtrak fall far short of enabling Penn Central to recover its current costs, even aside from any return on its investment. It should be recognized, for example, that passenger service as a whole in the Washington-New York-Boston corridor is not provided as a by-product of freight service but is, rather, the principal service and should be paid for accordingly. Even greater losses are being sustained in commuter service.

The reimbursement factor involved here amounts to $87.2 million on a 1972 basis (exclusive of return on investment).

The Trustees fully appreciate the significance of these three proposed changes. They are commended by the dictates of that fairness and equity which must characterize any plan of reorganization. Major progress in these areas, along with increased business volume, means the difference between viability and non-viability, between feasibility and non-feasibility of a successful reorganization.

So far as the more immediate cash flow prospects are concerned, the Trustees believe that Penn Central will remain from here on—barring unforeseeable adverse developments—in a position to continue operations, but only on a bankruptcy basis. The timing of its ability to do better, and to meet presently deferred obligations such as taxes, will depend on the promptness with which the three essential changes described above are made.

The remainder of this Report details what is summarized here and considers additional matters identified in Order No. 475, including the alternatives to reorganization.

The question of alternatives warrants particular notice, and it has played a significant role in the Trustees' consideration of this matter. The Trustees oppose the alternative of nationalization. The bill for it would be billions of dollars. It would embalm present inefficiencies and inadequacies which the Trustees' proposals would correct. We have developed an alternative to nationalization which requires simply tough, spartan, private self-discipline, and the cooperation of those public and private agencies and groups whose interests are involved here. Nationalization would be a sorry, needless price to pay for lack of the exercise of common, ordinary good sense and responsibility.

## I. PROGRESS IN ELIMINATING OBSTACLES TO THE VIABILITY OF THE DEBTOR

Penn Central's problems lie in two areas. Some obstacles to a successful enterprise are within management's competence to overcome. But there are certain conditions with regard to which self-help—in the present context, by management, the Trustees, and the Court—can be effective to only a limited degree because of constraints imposed by law, regulation, or other external factors.

### *A. Management accomplishments*

Where obstacles to viability can be overcome by better management, progress has been substantial.

Stricter internal controls have enabled the Trustees to curtail the rate of cash attrition which they encountered at the beginning of their stewardship. The Court, acting under the Bankruptcy Act, has permitted the deferral of both post- and pre-bankruptcy expenses which could not have been met out of operating revenues.

Tighter controls have brought the railroad's operating ratio (percentage of operating revenues consumed by operating expenses) for the first 11 months of 1971 down to 88.32%, compared with 92.11% for the same period in 1970.

Employment, which was 90,319 in January 1971, was reduced to 83,322 by January 1972, or by 7.7%.

Equipment utilization has been substantially improved. The railroad is making more use of its own cars and correspondingly less use of foreign line equipment, and is handling more net ton miles per average car day on line. Faster turnaround for repair work has sharply increased locomotive availability.

All this, plus equipment acquisition and improvement of roadway and facilities, now gives the railroad the capacity to solicit and handle an increased volume of traffic. Further details are set out in "A Report on 1971," issued on December 22, 1971 by Mr. William Moore, president of Penn Central, a copy of which is attached hereto as Exhibit A.

This is not to suggest that we have any feeling of complacency, or that the possibilities for progress have been exhausted.

Railroads, and Penn Central in particular, have lost much ground which can and should be recovered. Of the total ton miles of freight in the United States, the share carried by railroads declined from 62.0% immediately prior to World War II to approximately 40% in 1970. The eastern railroads' share of the total United States rail revenue ton miles declined from 38.6% in 1958 to 33.3% in 1970. Penn Central (that is, the three systems which preceded it) had 34.9% of the ton miles carried by eastern railroads in 1958, but only 33.0% in 1970. Between 1966 and 1970, originating tonnage on the Penn Central fell by 14.8%, while on other eastern railroads it decreased by only 0.6%; on southern and western lines it rose by 12.0% and 4.6% respectively.

While Penn Central's tonnage decreased from 282 million in 1970 to approximately 261 million in 1971, freight operating revenues increased from $1,392 million to approximately $1,535 million.

The competitive picture is starting to change. Penn Central handled 34.8% of the net ton miles of rail traffic in the eastern district during the first nine months of 1971, compared with 32.9% during the same period in 1970.

Penn Central is now making important exceptions to across-the-board freight rate increases. Moreover, it is reducing rates selectively whenever the evidence indicates that this will result in greater contribution to earnings by attracting more volume. At the same time, it has not hesitated to file increases in those instances in which rates are below costs.

Penn Central is becoming a more effective competitor. Divergence of views regarding piggyback service on the part of the former New York Central, Pennsylvania, and New Haven, and unfulfilled commitments after the merger—along with increases in piggyback rates almost twice as great as increases in truck rates—resulted in a post-merger drop in Penn Central piggyback business from 520,000 trailers in 1968 to 420,000 trailers in 1971. In the last half of 1971, when Penn Central's new services and reduced rates began to take effect, that trend was reversed. It could be reversed faster if transportation costs could be cut by 10 to 15 percent by using three-man train and engine crews.

The Trustees have moved vigorously to achieve the objective of divesting the estate of non-rail assets without sacrificing maximum realization of values. Principal efforts are reflected in proposals, to be brought before the Court, for the sale of certain Park Avenue properties and the transfer of the Trustees' stock in Pennsylvania Company. Other major real estate sales have been made, although, because of encumbrances, there has not been material progress thus far in making the proceeds of sales available for capital expenditures.

### *B. External Constraints*

Given the volume of traffic which can reasonably be projected for Penn Central over the next five years, as explained below, the principal obstacles to viability involve elements beyond the exclusive control of management and the Trustees. While self-help is required in these areas as well, outside cooperation and assistance is necessary to achieve (1) changes regarding the physical plant, (2) the complete elimination of redundant labor, and (3) full reimbursement for the costs of furnishing passenger service.

There has been some, although relatively little, progress regarding these obstacles. A good deal has been done about each of them, but the results as of now fall far short of the goals. Most progress has been procedural.

1. *Plant Rationalization.* So far as restructuring Penn Central's plant is concerned, applications have been filed, since January 1, 1971, to abandon 995.7 route miles, and approvals covering 350.9 miles have been received. Filing of applications to abandon an additional 829.2 miles has been approved by the Trustees.

This piece-meal approach obviously is not the answer. Even the new and welcome streamlined Interstate Commerce Commission procedures are not enough to fully achieve the plant rationalization which is a necessary part of a Penn Central reorganization.

2. *Surplus Personnel.* So far as concerns Penn Central's redundant manpower situation, the Trustees' report of August 31, 1971 covers most of what has taken place—and has not taken place.

Negotiations at the national level regarding the fireman manning issue have not been active. The procedures of the Railway Labor Act have been exhausted, and either party is free to resort to self-help measures.

The critical train crew consist negotiations are proceeding under the rules of the Railway Labor Act and have been carried forward diligently. The National Mediation Board has now, as the last step in the mediation process, urged both parties to submit the dispute to binding arbitration. Penn Central has agreed to do so. The United Transportation Union has not yet responded. We mark time—at an estimated unnecessary cost of almost a half million dollars a day.

Agreement has been reached with the United Transportation Union and the Brotherhood of Locomotive Engineers to change several outdated work rules regarding interdivisional assignments, the elimination of radio arbitraries as such, and a liberalization of road-yard, switching limits and interchange rules. The contract with the Union has been signed (on January 27, 1972), and the Trustees have been authorized by the Court to implement these work rule changes. The ultimate annual savings that will result from these changes will be approximately $15 million. Full realization of the benefits will be achieved in progressive stages.

Under the several 1971–1972 labor contracts, most of the other work rules in dispute are referred to various labor-management Standing Committees. In general, there has been little progress through the Standing Committees procedure.

The New York "full-crew" law has been repealed. The Ohio legislature is considering repeal, but there can be no further action now until it reconvenes on March 8, 1972. In Indiana, the legislature amended the full-crew law on February 9, 1972, in a manner which would materially improve the situation in that State.

3. *Passenger Losses.* There has been *partial* progress regarding the passenger service drain on Penn Central's resources.

The Amtrak contract of April 1971 provides for reimbursement of expenses which are "solely for the benefit of Intercity Rail Passenger Service . . . plus all other costs reasonably and necessarily incurred in connection therewith . . . which are shown . . . to be avoidable costs" (Sec. 5.1). The Trustees accepted this formula as an interim measure pending establishment of a long-run basis for continuing inter-city service. Under this contract, Penn Central is currently receiving, in addition to reimbursable expenses which are "solely for the benefit" of inter-city passenger operations, $7.9 million annually as supplemental payments. The Trustees cannot accept these supplemental payments as an equitable measure even of "avoidable costs"—that is, costs which could be eliminated if the service were terminated. Preliminary studies of avoidable maintenance-of-way costs in the Boston-Washington corridor are now being reviewed by Amtrak. The contract provides for arbitration if agreement cannot be reached. But, in any event, it should be noted here that, as discussed below, "avoidable costs" are not an appropriate basis for compensation in the case of Penn Central.

Penn Central also continues to sustain heavy losses in commuter service. Even where some reimbursement is being received, it does not in most areas cover the full costs of operating the service, much less a return on investment. The Trustees are aggressively attempting to cure this situation.

4. *Other external constraints.* Penn Central's competitive position could be further improved if it had more freedom to control its own rates. Managerial initiative and judgment, within reasonable limits, no longer need to be frustrated by a regulatory scheme adopted in an era of monopoly, which has now been replaced by vigorous intermodal competition. Canada, Great Britain, and most of Europe now permit contract rates in varying forms, in return for shipper commitments to use rail services. United States railroads should be free to enter into similar arrangements.

Divisions of rate for traffic moving between the East and points in the South and certain areas of the West are disproportionate to the service rendered by the Eastern lines, at a cost to Penn Central of tens of millions of dollars annually. The Trustees have proposed an amendment to Section 15(6) of the Interstate Commerce Act—not to change the present standards for fixing divisions, but rather to provide a faster procedure for resolving divisions disputes on their merits.

With respect to taxes, the Trustees note that railroads generally bear an unreasonable burden of property taxes, impairing their ability to compete for freight traffic now moving on the highways. The practice in most States of taxing railroad property as though it could be sold for other use costs Penn Central many millions each year. Moreover, railroad rights of way are generally taxed while those of the trucks and barges are not.

In short, there has been progress—real progress—in areas within management's control. Penn Central "made do" in cash flow terms to such an extent in 1971 that not going back to the Congress for more money—as had been expected—was one of the significant, unnoticed "non-events" of the year.

There are critical areas which require the cooperation and assistance of others.

Nevertheless, the progress management has made is the basis for combining our response to the Court's question about the future viability of the Debtor with our advice regarding the probable feasibility of reorganization to which we now turn. We understand the term viability, and use it in this Report, as referring to an economically successful railroad enterprise which generates enough earnings to provide for a reasonable level of fixed charges, to permit reinvestment as necessary in rolling stock and fixed plant, to provide a reasonable rate of return for an equity interest, and by virtue of all that to attract new capital as necessary.

We find no obstacles to viability in those terms, or to a feasible plan of reorganization, which appear to us insurmountable.

## II. THE PROBABLE FEASIBILITY OF SUCCESSFUL REORGANIZATION

The probable feasibility of successful reorganization—or the creation of a viable railroad enterprise—necessarily involves two questions. The first is whether a plan can be devised which will, when consummated, result in a viable railroad company; the second is whether, assuming such a plan, it can be consummated within a reasonable period of time—that is, soon enough so that continued operations before consummation do not so erode the Debtor's estate as to be either practically or constitutionally impermissible. It is not enough simply to see light at the end of the tunnel; the length of the tunnel is also critically important.

### *A. Can a successful reorganization plan be devised?*

The Trustee's answer is Yes.

Two possible sets of assumptions must be dealt with here.

1. It would be one matter whether, assuming maximum self-help efforts alone, and without the cooperation of others in removing or reducing external constraints, the railroad would become viable in a reasonable time. The Trustees' considered conclusion is that on this assumption there would be no reasonable prospect of a successful reorganization of the Debtor. The present Penn Central plant, burdened with uneconomic lines, manned by redundant labor, and absorbing continued passenger service deficits, could not be put back in shape within the time available, or perhaps ever.

This conclusion is based essentially on a study forecasting Penn Central's revenues and expenses up to 1976 on the assumption that there would be no important progress in dealing with the three principal external constraints previously referred to.

The study has taken into account (i) predictions as to future traffic on a detailed commodity by commodity basis, checked against inquiries as to the expectations of major shippers; (ii) various available economic models providing overall predictions as to the economy, with particular reference to the northeastern United States; (iii) the vulnerability of rail traffic generally to competition; and (iv) the probable effects of wage and price inflation on the Debtor and on competitive modes of transportation. The study hypothesizes significant increases in traffic—which are believed reasonable.

The key element in such projections is, of course, the volume of traffic to be expected in future years. The Trustees have retained the firm of Temple, Barker & Sloane to project traffic and business trends over the next decade. For purposes of this Report, it was necessary to make the best informed judgment possible on the short-term prospects of volume. After exhaustive discussions and analyses with the management, staff and independent consultants, it appears reasonable to the Trustees to predict that freight volume will reach between 307 million and 322 million tons annually by 1976. A continued growth is anticipated beyond that time, but at a slower pace.

While the study predicts some net railway operating income for the first time in 1975 and 1976, the amount is not large enough, soon enough, or certain enough to permit serious consideration of reorganization on the existing system basis. Major unpaid post-bankruptcy claims would continue to accumulate until 1975.

The study does not project sufficient income available for fixed charges in 1976, in the judgment of the Trustees, to support new securities sufficient, after post-bankruptcy claims and equipment debt were satisfied, to assure anything of substance for pre-bankruptcy interests.

2. The key question thus becomes whether Penn Central can be successfully reorganized,

if reasonable and reasonably attainable success is achieved in dealing with the three principal external constraints previously referred to—a task which will require continuing maximum efforts of management and Trustees and critically necessary cooperation of others.

The Trustees advise the Court that the Penn Central can be successfully reorganized if the requisite changes are made, and furthermore that there is reasonable prospect of their being made. As to that prospect, however, it is the Trustees' understanding that the Court contemplates—by the procedure prescribed for the distribution of this Report—that a fuller basis for evaluating that prospect will be obtained from the reactions to the Report.

Successful reorganization depends, then, on achieving, in significant degree, three changes.

(a). *Plant Rationalization.* The Penn Central track system must be restructured (i) to realize the increased efficiency made possible by the 1968 merger, (ii) to eliminate those freight lines the operation of which cannot be justified in terms of either sound business practice or the necessities of public service, and (iii) to make appropriate arrangements for the operation or underwriting of those freight lines which the public interest warrants maintaining but which cannot be operated by Penn Central for its own account.

Penn Central's plant has a much lower traffic density and a much lower freight revenue per mile of line than any other major eastern railroad. When compared with the C&O/B&O and N&W, for instance, Penn Central is lower by 16% to 44%. Penn Central's business volume is too low, and its plant too large. Approximately 80% of the Debtor's 1970 freight operating revenues can be identified with movements between origins and destinations on the railroad (including interchange points with other railroads) linked by approximately 11,000 of the railroad's approximately 20,000 route miles. Had such a "core" been in existence in 1970, it would have had high traffic density and a revenue level per mile of line in keeping with the line leading eastern railroads.

Further analysis of this theoretical higher-density "core" in relation to operating practicalities appears to indicate (the studies are still in progress) that a great preponderance of the Debtor's freight traffic could continue to be realized from this "core" system. There is basis for the expectation that further development of this approach, including more refined marketing and operating analysis, will result in some enlargement of the present hypothetical "core" system.

Calculation of the cost of operating such a freight "core" is an extremely complex matter, and the continuing studies will produce more sophisticated estimates on that question.

Those studies will also permit a more precise identification of potential revenues and costs of additional lines. Up to now, because of time pressure, the allocations of costs among the various lines has had to be on a generalized basis, involving system averages in many instances, which may distort the results so far as particular lines are concerned. The Trustees are preparing analyses of larger "core" systems.

The analysis made thus far indicates that had a "core" freight railroad system of approximately 11,000 route miles been in operation in 1970, and had it retained some 80% of the freight revenues of that year, it would have produced net railway operating income in the neighborhood of $94 million, which, after addition of an approximate $37 million (non-operating income less miscellaneous deductions), would have resulted in some $131 million of income available for fixed charges. The $94 million income figure contrasts with an actual net railway operating loss for that year from freight operations on the existing system of approximately $104 million.

These calculations have been made on the basis of income from freight operations alone, and thus do not reflect the existing losses from passenger service. They also assume various operating efficiencies and economies which were not in effect in 1970, but which have since been put into effect.

The "core" concept does not assume termination of all facilities on the remainder of the Debtor's present system. Other lines in the system may, on the basis of the studies presently under way, properly form part of, or be operated by, a reorganized Penn Central. They may, in the alternative, remain in operation through acquisition or underwriting either by other interests including shippers, or by local governmental bodies. In the latter case, the rail service could be operated either independently or by Penn Central under contract, or through other arrangements which would be fully compensatory. In addition, piggyback arrangements can be expanded to provide freight service to many localities and industries presently served by uneconomic branch lines.

The plan of reorganization itself, when approved, as it must be, by the interstate Commerce Commission, can provide the necessary authority and procedure for much of this restructuring. The Commission can approve a plan of reorganization which authorizes the abandonment of lines if no compensatory basis can be obtained for their continuance. The plan can provide, in order to protect the public interest, that any line so designated for abandonment be operated for a reasonable time to enable interested parties to submit proposals for compensating Penn Central for continued operations. It can provide, to the extent necessary, renegotiated arrangements with leased lines to permit operations on them to continue. And it can provide for sale to or operation of segments by other interests whenever specific terms have been arrived at prior to approval of the final plan.

The Trustees recognize that the feasibility of contract services with public bodies depends on requisite appropriations being made at the local, state, regional or perhaps Federal level.

(b). *Work Force.* A second condition which must be met to achieve a successful reorganization of the Debtor is a major reduction in its work force.

Management has recognized this, and in respect of employment within its control, has achieved significant reductions, as indicated above, and contemplates further reductions.

Excess manpower remains in areas where Penn Central confronts restraints imposed both by labor agreements and by state "full-crew" laws. These agreements and laws involve outdated requirements for the use of firemen on locomotives in freight and yard service, and constraints against reducing the number of trainmen or yardmen assigned to road and yard crews.

The Penn Central position is that normal freight road and yard operations require a train and engine crew of *no more than three* men. On this basis, Penn Central employs approximately 9,800 crewmen in excess of those needed for safe and efficient operation.

Almost half of these 9,800 train and engine service crewmen are in Ohio and Indiana.

The Trustees' evaluation of this situation is reinforced by the results of the national manning dispute which culminated in the 1963 award of Arbitration Board No. 282 created by Act of Congress. That award found that firemen were not required in yard and freight service except on a relatively few engine assignments. It also found substantial overmanning of trains and established a procedure, which expired in 1966, for independent third-party determination of the consist of yard and branch line freight train crews. Arbitrations under this procedure, including many on lines of the Penn Central, found two trainmen appropriate in most instances. Operations pursuant to these awards were entirely satisfactory from the standpoint of safety and efficiency.

In the case of excess firemen, the history and current status of this long-standing dispute was described in the Trustees' Report of August 31, 1971 to the Court. It will suffice to note here that Presidential Emergency Board No. 177 concluded that:

"It was unanimously found by the public neutral members of all previous boards that there is no need for firemen on freight and yard diesel locomotives except under rare operating conditions.

"The new evidence presented to this Board is not sufficiently compelling to warrant a contrary conclusion. . . . Neither the new evidence relating to safety or work burden supports the asserted need for restoration of firemen."

At projected 1972 wage and employment levels, excess labor adds about $150 million to the Penn Central's annual costs.

(c). *Passenger Service.* The third change required for a successful reorganization is the elimination of the large continuing drain from passenger service, both intercity and commutation. The Trustees do not seek to discontinue such service. Their position is simply that the passenger service which is to be continued cannot be permitted to remain a financial burden.

It is widely assumed that Amtrak has relieved the railroad of unprofitable intercity passenger service. However, Penn Central is in fact subject to a continuing major drain on its resources in supplying this service.

While the Trustees will continue their efforts to secure proper reimbursement under the present Amtrak contract, they believe that its terms do not reflect accurately the special characteristics of the Boston-Washington corridor. The present contract, for example, does not provide for any sharing between Amtrak and other services of common maintenance-of-way-costs—despite the fact that passenger service accounts for more than two-thirds of the train miles operated in the corridor. With only minor exceptions, all main trackage is used jointly by intercity, commuter and freight services. Even on that part of the corridor where freight traffic is the heaviest, two main tracks would suffice for that traffic; but the demands of the passenger service are such that up to six tracks are required.

Nor does the present contract permit any charge to Amtrak for common costs incurred in providing passenger service. The "avoidable cost" concept now incorporated in the Amtrak contract means that in situations in which Penn Central's tracks are used for freight, intercity passenger, and commuter service, Penn Central has to pay 100% of the costs which ought to be allocated among all three services. Finally, the present Amtrak contract gives no recognition whatever to investment in property used in the pasenger service.

The basis for compensation in the present contract is subject to change July 1, 1973, for which purpose negotiations may begin in May 1972. The Trustees will seek appropriate changes in the Penn Central contract. They recognize that Amtrak has not been adequately funded to meet the additional reimbursement which is warranted. Some form of relief from the burdens of intercity passenger service *must* nevertheless be provided. Until it is, the contract payments fall short, on the basis of fully allocated costs, by approximately $32.5 million per year at 1972 levels of service, wages and prices, exclusive of return on investment.

There is increasing recognition that commuter services are indispensable to many major metropolitan areas. In spite of this, the Trustees estimate that at 1972 levels of service, wages, and revenues from all sources, Penn Central's commuter service was rendered at a loss of $54.7 million relative to fully allocated costs, exclusive of return on investment. (Fare increases pending or in preparation, if effectuated promptly, would reduce this figure by an estimated $10 million.)

The combined effects of intercity and commutation passenger service are thus imposing a burden of $87.2 million, not including return on investment.

This analysis of what is required to put Penn Central on a viable basis is regrettably involved. But there are no short-cuts to the right answers—except across quicksand.

What this all comes down to is that on the "core" basis described above, with passenger costs fully compensated (exclusive of return on investment) and unnecessary labor costs eliminated, Penn Central would have produced, on 1970 traffic levels, net railway operating income of approximately $181 million—instead of the $237 million net railway operating loss actually incurred in that year.

This analysis has been prepared entirely on the basis of 1970 freight rates, revenues and costs. It remains to project its results to 1976. On an extremely rough basis it can be estimated that, with the plant rationalized and all passenger costs compensated and unnecessary labor costs eliminated, income available for fixed charges by 1976, including non-operating income, will be—depending on the traffic volume assumed—between $220 million (at 1970 traffic levels) and $290 million (at management's 1976 projected traffic levels).

These figures assume that the changes are made promptly enough to make their effects fully available by the beginning of 1976. Because of the time required to realize those effects, implementation of the Trustees' proposals will have to begin promptly in order to produce the indicated results by 1976.

Elimination of the further constraints on viability which are referred to in Section I would contribute further to a successful reorganization.

The figures projected in this section as income available for fixed charges exclude income from assets owned by Pennsylvania Company but include income from the Debtor's other non-rail assets. The continued availability of such income for railroad operations cannot be ensured if the railroad cannot ultimately be made viable.

The Trustees have proceeded aggressively toward the liquidation of non-rail assets, on the basis that the implementation of the proposals in this Report will create a situation in which the proceeds from the sale of such assets may be used for purposes relevant to the restoration of the viability of the Penn Central.

### *B. Can such a plan be consummated soon enough to be practicable, fair and equitable, and constitutional?*

The second aspect of feasibility—whether a plan can be consummated within an acceptable period of time—raises additional questions. The Trustees believe, however, that it can be, if the necessary changes are made promptly.

The problem arises from the continuing accumulation of unpaid administration claims which has been taking place since bankruptcy. Although the rate of operating losses has decreased, service of equipment debt has been maintained and the cash position has stabilized, the estate available for pre-bankruptcy creditor and equity interests has been diminished through the end of 1971 by approximately $100 million in accumulated post-bankruptcy real estate and corporate taxes, $75 million thus far in the Trustees' Federally guaranteed borrowing, and up to $50 million in leased line rentals under leases which may eventually be affirmed. Thus, the estate available for such pre-bankruptcy interests has already been diminished by up to $225 million from these factors.

On the present basis, unpaid administration claims are continuing to accumulate at the rate of about $100 million per year. This diminution of value affects most adversely the junior pre-bankruptcy interests which are not protected by liens.

It should be recognized that asset values have been enhanced by capital improvements and reductions in the principal indebtedness on equipment obligations. Yet continued accumulation of high priority administration debts cannot continue indefinitely. On the other hand, if there is, as the Trustees believe, a reasonable probability that a plan of reorganization can be formulated which will both provide for the post-bankruptcy obligations, including equipment debt, and produce adequate values for pre-bankruptcy interests, deferral of administration claims can continue for a reasonable time so as to permit attainment of that prospect.

In a plan of reorganization, the values for pre-bankruptcy interests should be at least in a fair equivalence to the liquidation value of the estate. Those who invested in or lent money to a regulated utility may be forced to make some sacrifice, but it is not acceptable that the entirety of pre-bankruptcy interests be wiped out if substantial values could have been preserved for them by liquidation.

The Trustees have given careful but not as yet fully conclusive consideration to the remarkable, indeed startling, variety of valuation estimates which result from invoking one theory of valuation or another.

Although cessation of rail operations over the entire Penn Central system is an unreal prospect, the Trustees have for purposes of analysis commissioned studies of the scrap value of physical assets and the present discounted value for non-rail purposes of other assets in order to provide the Court and interested parties with the basis for a judgment as to the minimum values which are approached as a limit as one assumes less and less of the Penn Central system continued in rail service. As is summarized in Exhibit B, the present discounted value of the Penn Central Transportation Company for scrap and other non-rail purposes, plus the net value of its interests in other companies, is in the range of $1.427 billion to $1.858 billion.

Yet it is possible, on a reproduction-cost-less-net-depreciation theory approach, to reach a figure as high as $14 billion for the entire Penn Central system, including leased lines and operating subsidiaries. That figure has no presently practical meaning.

The liquidation value of the property owned by the Debtor, including the net value of its interests in other companies, depends in large part on what assumptions are made as to how much of the existing Penn Central system would be taken and continued in operation for railroad purposes by governmental agencies, other private-enterprise railroads, or both.

Portions of the Penn Central system may have substantial enterprise values, particularly if there is taken into account, in assessing such values for purposes of a governmental taking, those elements of value which have been reduced or eliminated as a result of governmentally imposed constraints. It might be assumed, if only for purposes of analysis, that rail service would be continued on portions of the system on a basis involving reasonable compensation. It is also possible that substantial prices might be paid for individual segments by other railroads.

On the other hand, liquidation values for portions of the system where rail service would not be continued would be held down by a number of factors. Most of the bridges and tunnels and some of the buildings in the Penn Central system have no value for purposes other than railroad purposes, and a substantial portion of the real property interests is held under easements or other titles providing for reversions if and when rail operations cease. Furthermore, the very substantial real property assembled in the Penn Central system could not be disposed of for non-rail purposes except over a substantial period of time and with substantial expenses for holding and disposition. As a result, the discounted present value of real property interests for disposition for non-rail purposes would be far less than the aggregate present value of the parcels to be disposed of.

Assuming the actions identified in this Report as necessary are taken within a reasonable time, the accumulation of prior charges against the estate available for pre-bankruptcy interests could be stopped. The benefits of passenger service relief would reduce losses from the moment such benefits were obtained, even though the benefits from concentration of plants and changes in work rules would take some time to be fully realized after the right to make the changes had been established.

Once the benefits from the action proposed by the Trustees have been substantially realized, there will be significant income available for fixed charges. All projections are subject to infirmities. However, the order of magnitude of projected income available for fixed charges—from $220 million to $290 million—would support a new capital structure for a reorganized Penn Central adequate to cover post-bankruptcy claims and equipment debt and still provide pre-bankruptcy interests protection greater than they would receive from any assured liquidation value of the estate.

The values to be achieved for pre-bankruptcy interests in the proposed reorganization cannot be attained, however, unless the three obstacles to viability are substantially and promptly overcome. It should be possible for Federal, state and local governments and all interested parties to analyze the situation as presented in this Report and to come to conclusions as to whether they are prepared to cooperate in achieving the changes necessary to allow the Penn Central to continue as a private enterprise. If an adequate response should not be forthcoming, the Trustees will be prepared to advise the Court that this reorganization proceeding is producing a result for which Section 77 was not intended and could not constitutionally have been intended. We do not expect that default.

### III. VARIOUS ALTERNATIVES IN THE EVENT A TYPICAL, INCOME-BASED REORGANIZATION APPEARS UNLIKELY

The Trustees have stated their firm belief that an income-based plan of reorganization is feasible. It clearly is, unless there is a failure of response and cooperation.

Nationalization of the Penn Central would be error compounded. Nationalization of this railroad in its present condition would as a practical matter perpetuate the inefficiencies and inadequacies which the Trustees' proposals would eliminate. The cost to the American taxpayers would be, furthermore, literally billions of dollars. Even if the Government moved in such a way as to hold the cost of acquisition to the lowest possible level, the value of Penn Central's assets for further railroad use would be enormous.

There are "intermediate" possibilities of one kind or another which would arguably not involve, in themselves, "nationalization." But if they were taken it would be, as the Trustees view this situation, only the consequence of failure to face up to the hard but plain imperatives that the right things be done. They would be in essentially the same pattern of improvisation—resorting to interim patches and palliatives in order to postpone the day of ultimate reckoning—which carried the Penn Central into bankruptcy. The reorganization approach proposed by the Trustees is simply to make Penn Central a system which makes sense and to operate it with the employees it needs.

It would be the worst mistake, with the Penn Central in its present extremity, not to use that extremity to do all that needs to be done. Resorting instead to measures which would only buy a little more time would be wrong.

Although the Trustees have necessarily and properly focused their consideration on the interests directly involved in these proceedings, they have recognized this case as presenting—in the public's mind and indeed in fact—the issue of whether free enterprise, incorporated and unionized, is going to work.

A country which may have momentarily lost some of its essential self-confidence would take what could well prove infectious pride and satisfaction from seeing this crippled corporate giant put back on its own feet and made to stand upright. That just makes sense.

Respectfully submitted.

GEORGE P. BAKER,
RICHARD C. BOND,
JERVIS LANGDON, Jr.
WILLARD WIRTZ.

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## EXHIBIT A. A REPORT ON 1971

(By William H. Moore, President, Penn Central Transportation Co.)

### FINANCIAL PICTURE

The year 1971 was marked by a careful husbanding of Penn Central's cash resources. While the railroad is still suffering a cash drain, a spartan management program has resulted in noteworthy progress since the railroad's reorganization began. As a result, the Trustees were able, on December 9, 1971, to advise United States Senator Vance Hartke, Chairman of the Senate Subcommittee on Surface Transportation as follows:

"So far this year Penn Central has drawn down $75 million of the $100 million guaranteed loan made possible by the Emergency Rail Transportation Act of 1970, and our planning had contemplated that the remaining $25 million would be needed in the month of December, 1971. The present prospect is, however, that we can forego the $25 million credit in 1971 and have $35 million in cash at the end of the year.

"It is still contemplated that Penn Central will have a sizeable cash drain in the first quarter of 1972. With the availability of the $25 million credit just referred to, Penn Central, given reasonably good luck should be able to survive this first quarter without further borrowing, although, in order to be safe, we may be compelled to seek the Court's permission to apply for a so-called Amtrak loan under the Rail Passenger Service Act of 1970.

"Once past the first quarter, Penn Central should be able to make the rest of the year but only on a bankruptcy basis with the continued deferral of State and local taxes, leased line rentals, and other obligations. When such additional payments can no longer be deferred, Penn Central faces another cash problem which we are planning to deal with in the reorganization plan to be filed April 1, 1972."

There has also been improvement in reducing deficits. For the entire year 1971 the deficit, on a fully accrued basis and before extraordinary items, is estimated at $275,000,000 as compared with a deficit of $325,739,148 for 1970.

Because of freight rate increases granted during the year and a more favorable traffic mix, revenues for the first 10 months of 1971 (latest figures available) were $1,290 millions compared to $1,176 millions for the same 1970 period. This, however, was greatly offset by a sharp decline in traffic volume and staggering increases in wage rates and cost of materials.

In the generally slack national economy, freight traffic volume for the first 10 months of 1971 decreased 6.5 per cent in net ton miles, or from 72 to 67 billions. For the full year the decrease, including the devastating effect of the coal and dock strikes, may be even greater.

Penn Central was faced with the following cost increases:

*Increased costs, 1971 over 1970*

| | *Millions* |
|---|---|
| Wage increases | $86.9 |
| Material price increases | 9.3 |
| Payroll tax | 7.1 |
| Health and welfare | 7.0 |
| Total | 110.3 |

It is significant that Penn Central has shown any improvement in the face of these two adverse factors (decline in volume and cost increases).

A significant reason for the improvement is a close control of expenses which for the first ten months of 1971 produced a reduction in the operating ratio (percentage of operating revenues consumed by operating expenses) from 91.76 to 88.06 per cent. Most of this improvement occurred in the freight transportation ratio, down from 48.2 to 44.6 per cent.

Reflected in these improved ratios are reductions in personnel. The average employment in 1970 was 93,788 and our target for 1971 has been an average of 87,900. But so far Penn Central is ahead of target. We should end the year with an employment of about 84,300, or 1,000 less than our year-end goal of 85,300.

The financial drain from passenger service was partially curtailed during the year. In addition to an estimated $16 million in net cash payments during the year from Amtrak, the National Railroad Passenger Corporation, the railroad also realized net benefits of approximately $8.5 million on an avoidable cost basis from discontinuance of unprofitable intercity passenger trains not selected for the Amtrak network.

We are definitely making progress—solid progress. But it cannot be concluded that the Penn Central crisis has passed. Our progress must not obscure the fact that the railroad is deferring many priority claims, principally taxes, for which provision on a current basis cannot be indefinitely postponed.

As noted earlier, we expect a temporary financial crunch to occur sometime in March or April of 1972. However, if the 2.5% emergency freight rate increase and further selective increases are granted without undue delay and if business picks up as predicted by many economists, the railroad should be able to operate through 1972 without infusion of cash from outside sources.

### EQUIPMENT ACQUISITION AND REPAIR

Two key steps in restoring good service to the railroad are:

1. Equipment acquisition and repair to meet customer requirements.
2. Increased property maintenance for greater transportation speed and efficiency.

The added financial stringencies imposed, as the year progressed, by a discouraging national economic picture and strikes in key industries, forced us to curtail some programs of equipment and roadway maintenance. Nevertheless, Penn Central will begin 1972 with sufficient transportation capacity to handle substantially more traffic—which we are determined to get. A continuing program of equipment acquisition and maintenance of right-of-way has been laid out for 1972, within our financial limitations.

During the past year, Penn Central acquired some 7,500 new freight cars and 187 locomotives through long-term lease arrangements.

By the end of 1971 we will have rebuilt and made heavy repairs on some 11,400 freight cars, and upgraded an additional 11,470 freight cars, a total of 22,870 cars. The $39.6 million spent for these programs was paid out of operating revenue, whereas in 1970 much of this work was financed with borrowed funds.

In 1972, we plan to acquire, through long-term leasing, 6,700 new freight cars, including general service box cars, equipped cars (for high value merchandise), covered hoppers (for grain), and some 1,500 open top hoppers (mainly for coal and ore), valued at $130 million.

The railroad plans to rebuild 1,000 freight cars, make heavy repairs on 6,940 and upgrade 6,900 more, for a total of 14,840 in 1972.

These amounts are calculated to meet volume forecasts, taking into account that during the year Penn Central will also scrap 8,200 freight cars which are beyond repair.

The railroad also plans long-term lease of 200 new locomotives in 1972 valued at $47.8 million.

### IMPROVEMENT OF ROADWAY AND FACILITIES

The railroad has continued to make essential improvements in plant despite severe restrictions imposed by bankruptcy law on the normal use of proceeds from sales of real estate and other assets for such purposes.

This year we laid 53,0000 tons of new rail (or 218 miles) vs. 49,000 tons (200 miles) in 1970. We plan to match our 1971 program in 1972.

In 1972 we are budgeting $15.5 million for yard improvements, including continued work at our key Midwest gateway classification yard at Elkhart, Ind., our Selkirk, N.Y., classification yard, and our Buckeye Yard at Columbus, Ohio.

### TRANSPORTATION SERVICE

The vast improvements in our service made during 1971 have restored the respect and confidence of shippers. We are delivering their cars without delays, and have greatly reduced costly derailments. Post-bankruptcy claims are now being settled on a current basis.

We initiated a quality control system using computer analysis to monitor our daily performance and are now checking tens of thousands of cars each week, moving from 232 terminals which originate volume shipments. This enables us to pinpoint trouble spots immediately and take quick corrective action.

We are running more and shorter trains which speed delivery to terminals and interchange connections. This gives us faster turnaround of equipment, and in turn, greater car utilization. It also reduces yard congestion and overtime expenses. Even with substantially more train service and increased wage and material costs, total transportation expenses in 1971 were about the same as in 1970.

In the first 11 months of 1971 the railroad ran 20,000 more trains than for the same period in 1970, or an increase of 5 per cent. Our average train speed has increased by about 12 per cent. Our car days on line per loaded cars handled decreased by 7.5 per cent.

Our on-time performance in making interline connections has improved sharply. In the first nine months of 1971, for example, Penn Central trains made connections at Chicago 82 per cent of the time, vs. 55 per cent in 1970, and at Cincinnati, 88 per cent of the time in 1971 vs. 72 per cent in 1970.

Greater availability of locomotives helped to make this possible. Working on a much faster turnaround time for equipment repair, our shops reduced locomotives undergoing and awaiting repairs by some 36 per cent (October 31, 1971, vs. October 31, 1970). The percentage of locomotives out of service of the total fleet was 6.5 per cent vs. 10.1 per cent for the same time in 1970.

The same program of speeded-up repair and better utilization of equipment made the equivalent of many hundreds of extra operable freight cars available to customers.

The increasing effectiveness of Penn Central's maintenance and inspection program helped the railroad cut its major accidents for the first nine months of the year by almost 50 per cent, as compared to the same period in 1970.

One of the most gratifying results in 1971 railroad operations is our growing file of complimentary letters from shippers. During the year, our service complaints have declined from an average of 50 a week to four or five a week at year-end, with steady improvement throughout the year.

### SALES AND MARKETING PROGRAMS

With first-rate service to sell, the company launched an innovative sales and marketing campaign—including selective rate reductions, new services and more trains, and new opportunities in industrial development for our customers. Our objective is to meet and outperform competitors.

#### *Selective Rate Reductions*

On June 19, 1971, we made across-the-board cuts in our TrailVan (piggyback) Plan II½ and III ramp-to-ramp rates, averaging about 6 per cent. Since that time a 6.1 per cent cumulative decrease in this type traffic (compared to the same period in 1970) has turned into a slight cumulative increase (as of the end of October), despite the dock strike and depressed economy. We expect to strengthen this upswing in 1972.

More recently, Eastern railroads (including Penn Central) jointly approved a new scale of iron and steel hauling rates, with an average rollback of 8 per cent. Penn Central hauls $100 million of this traffic annually, and with the new rates tailored to be competitive with truck industry rates in quantities of 40,000 pounds or more, we stand to gain a great deal more of this traffic. We will implement the new rate structure on January 8, 1972.

Grain hauling has benefited from the virtual doubling of our fleet and from substantial rate changes to accommodate our shippers. This is sparking a strong comeback in recovery of grain tonnage, which is best indicated by the fact that in the last quarter of 1971 our grain business will have doubled, vs. the same period of 1970.

#### *More Trains and New Services*

In 1971 Penn Central was able to schedule 42 new trains—all aimed at either substantially improving present service or at offering new service where volume potential exists or new services to specific customers.

We are rebuilding our TrailVan (piggyback) service which dropped in volume during 1970 and early 1971. As noted, we cut rates in several areas and we also improved our overall on-time performance by 30 per cent. We increased our all-TrailVan trains by more than 15 per cent, adding six new schedules in the past year. Examples are new services between New York and Boston, between New York and Rochester-Buffalo, and between Chicago and Cincinnati.

In preparation for an expected substantial upturn in TrailVan traffic, we are doubling our capacity to handle traffic at the Kearny TrailVan terminal near New York. We have expanded our Kearny gatehouse from four to seven lanes, and have provided space for 40 more working car spots to be serviced with four "piggypacker" loading cranes. We are completing an additional 50-car track at North Kearny for loading and unloading, with storage space for 400 additional trailers.

In another area, Penn Central increased its Flexi-Flo tonnage more than 30 per cent in 1971, and has even greater expectations for 1972. Flexi-Flo is a coordinated rail-highway service for high-value bulk commodities such as chemicals, foods and cement, and is operating to and from 12 key geographical distribution points.

In 1972, we will substantially expand the Flexi-Flo program, by establishing terminals in several more cities (including Philadelphia), and enlarging our existing terminals.

Penn Central has started and will expand in 1972 an entirely new service to its shippers called FACTerminal.

Freight agents serving specified territories will be able to move about freely to render "on-the-ground" services to shippers. Backup computer and communications equipment to support these agents will be installed in key cities across the railroad system in "Freight Agency Coordinated Terminals" (FACT) to centralize all paperwork. We will better serve our shippers through more efficient use of our employees and improved supervision of transportation functions. We estimate that the FACTerminal program can save the railroad several million dollars annually.

#### *Industrial Development*

In the first 10 months of 1971 Penn Central helped locate on its lines 411 new, temporary or expanded industrial facilities, with investment totaling $668 million. These plants create jobs in local communities, as well as build our traffic volume.

For 1972, some 295 industries have already expressed bona fide interest in locating along our lines. We expect continuing heavy activity as the year goes on.

We are making a special effort to encourage new industrial parks along our lines. We now serve 302 industrial parks, which have some 70,000 acres available for plant locations. Also, our Penn Central "land bank" offers 188 separate parcels in 14 different states totaling about 20,000 acres for new industries.

### EXCESS CREW LAWS

In collaboration with other railroads, we are continuing our vigorous efforts to obtain repeal of antiquated state laws requiring unnecessary personnel on freight train operating crews. In Penn Central territory, these laws are now in force in only two states, Ohio and Indiana. A New York law requiring a freight train crew of five men was repealed during 1971.

Ohio requires a five-man crew. Indiana requires a six-man crew on freight trains of 70 cars or more. These two laws cost Penn Central approximately $25 million in 1971.

A Bill to repeal the Ohio law has passed the House and has been carried over for action in January, 1972, by the State Senate. A repeal Bill has been filed with the Indiana General Assembly and will be before the 1972 Session when it convenes in January.

Savings inherent in repeal of these laws will not be realized until settlement on a national basis of the locomotive firemen issue and displacement through attrition of employees involved.

### PROGRAM TO RATIONALIZE THE PLANT

Studies are underway to determine the viable sections of the Penn Central. In this regard more than 90 per cent of our gross ton miles is handled on about 60 per cent of our route mileage. However these studies may come out, it is vitally important that we discontinue non-productive lines which cannot be justified.

To date, we have determined there are 163 such lines covering 1,732 miles of railroad. Applications for abandonment of 117 of these lines have already been submitted to the Interstate Commerce Commission. We have orders approving 45 of them. Approximately 3,000 additional miles of line are being studied to determine whether abandonment should be proposed.

In continuing studies, we will consider several thousand miles of feeder and tributary segments of our railroad. We need to weed out functionally duplicative lines and mileage not required in terms of future traffic patterns.

### AMTRAK CONTRACT SERVICE

Since May 1, payments from Amtrak for intercity passenger service have aided our cash flow. By the end of the year we will have received an estimated $16 million in net cash payments, after provision for our monthly payments on purchase of Amtrak stock in order to join the corporation.

We feel there is inadequate compensation for us in the present contract especially in the Northeast Corridor for passenger expenses we incur which are common with freight service such as maintenance of way, signaling, communications, etc.

We hope during 1972 to being renegotiating our present contract with Amtrak to provide more adequate compensation for our costs of these operations.

### COMMUTER SERVICE

During 1971 Penn Central continued to move in all of its commuter areas toward the assumption by public authorities of total financial responsibility for providing these essential passenger services. Until this objective is accomplished, our commuter service deficits are being minimized through a variety of contractual agreements with State or regional transportation authorities in Boston, New York, Philadelphia, and northern New Jersey.

We are trying in Boston and northern New Jersey to have reinstated fare increases granted but suspended because of the national economic program. A 3 per cent increase on the New Haven Division will become effective on January 1 and a fare increase in the Philadelphia area is pending.

On January 1, 1971, we entered into agreement with the States of New York and Connecticut for these States to assume the former New Haven commuter service between New York City and New Haven, Connecticut.

A similar agreement with New York State for commuter services on our Hudson and Harlem branches was recently disapproved by the U.S. District Court in charge of our reorganization. We are now working to resolve this problem.

In the Philadelphia area, the Southeastern Pennsylvania Transportation Authority has recognized in our 1970–71 contract many more of our avoidable expenses. Our current contract includes an understanding that SEPTA will assume full financial responsibility for operating this service after July 1, 1972.

In northern New Jersey, where 83 passenger cars have been purchased with State funds, we are negotiating for additional State aid and have begun work on a plan for takeover by the State of the North Jersey Coast service.

In Boston, we are negotiating with the Massachusetts Bay Transportation Authority for continuation of that city's rail commuter network on a permanent basis. At the same time, we are working out arrangements for keeping this service operating until a takeover is accomplished.

### BUSINESS AND LABOR CLIMATE—1972

In 1971 Penn Central received $170 million less in revenues than originally projected, mainly because of strikes in key industries and the generally sluggish national economy.

The 1972 outlook in this regard is much brighter. All major industries served by the Penn Central (such as autos, steel, coal) have contracts with labor unions which run at least through the whole year. Moreover, many economic experts in the nation look for a business upturn in 1972, and this should add to the railroad's gross revenues.

A 5 per cent increase in gross revenues would bring in approximately $90 million more. Each percentage point increase above that could add $18 million.

Penn Central would be a major beneficiary if 1972 brings good business and peaceful labor relations.

### SALES PROSPECTS FOR 1972

Penn Central is geared in 1972 to handle a much greater volume of business while sustaining the same high standards of service the railroad achieved in 1971.

In the year ahead, we will seek greater, profitable traffic volume, for we now have the capacity to handle substantial increases with a minimum increase in transportation expense. We intend to be fully competitive vis a vis other modes of transportation by selective freight rate increases and decreases (where warranted), in combination with special services tailored to individual shipper and commodity requirements.

In summary, during 1971 Penn Central became notably more competitive in all aspects of its operations. Our sales program in 1972 will reflect our renewed capabilities.

## THE PRESIDENT'S VISIT TO CHINA

**Mr. MATHIAS.** Mr. President, myths and legends have surrounded our concept of the Orient since the most ancient times. In spite of all the miracle of modern communication, contemporary China has been as misty and remote as far-off Cathay of olden days. A measure of the popular curiosity and the lack of general knowledge is the fact that Marco Polo is still a folk hero of the Western World 700 years after his trip to China.

In a week, much of that is changed. The walls of the Forbidden City were pierced by the beams of television lights sending an instantaneous and vivid picture of the successors to the Ming and Manchu emperors meeting the leader of a great Western power on an equal footing and with candor on both sides. Nothing like it has ever happened in 4,000 years of Chinese history, nor in the considerably shorter chronicles of Western civilization.

And it is in the long view of history that President Nixon's trip to China must be judged. It is to the President's great credit that he has employed the great scale of history to govern his action, and has spurned the short-term gains that could result in long-term loss. Unlike some of the critics of the Shanghai communique, the President has acted in terms of decades, not in terms of days.

By setting his actions in a large historical context, President Nixon has, of course, nominated history as the final judge of his policy. We may have to wait a long time for that ultimate verdict. Meanwhile, we must each make our own decision as to whether we support the President in the position he has taken. After much study and thought on this subject, I am confident that the President is right in this matter and I offer him my wholehearted support.

Th new China policy will naturally create much discussion in the days ahead, and this is both natural and desirable. As a contribution to this debate, I ask unanimous consent that an editorial from today's Washington Post be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### “Sellout” of Taiwan?

Already it appears that President Nixon, of all people, will have to defend himself against the charge that in Peking he somehow sold out Taiwan. The basis of the charge seems to be that in the joint communique released in Shanghai, he did not reiterate the American treaty commitment to Taiwan, even while he pledged to withdraw all American forces and military installations from Chiang Kai-shek's island redoubt. Regular readers of this page know that we have had our reservations about the Peking summit. The charge that the communique presages the abandoning of Taiwan to a Communist onslaught, however, strikes us as insupportable. There may be other questions to raise—of these, more in time—but hardly this one.

Would Premier Chou En-lai have signed a document in which the United States asserted a commitment to defend against Peking's “armed attack” a government which Peking regards as an interloper on territory of its own? Of course not. In a news conference in Shanghai, however, Henry Kissinger, the President's chief adviser, said: “We stated our basic position with respect to this issue in the President's world report in which we say that this treaty will be maintained. Nothing has changed on that position.”

In that report, Mr. Nixon said: “With the Republic of China, we shall maintain our friendship, our diplomatic ties, and our defense commitment.” If it is contradictory for him to seek improved ties with Peking and at the same time to maintain a treaty commitment to Taiwan, then it is a contradiction which Peking is ready to accept in the interim for other reasons—mostly anti-Soviet reasons—of its own.

Look closely at the allegation that, by finally acknowledging publicly and unequivocally that “there is but one China,” Mr. Nixon has undermined Chiang Kai-shek. On the contrary, this has been Chiang's (as well as Mao's) contention all along. Logic may some day demand that the United States grant one or the other's claim to represent that “one China.” Politics tolerates, at least for now, the compromise—suspended judgment—which Mr. Nixon has just struck.

Look closely, too, at President Nixon's pledge in the Shanghai communique to withdraw American forces from Taiwan. He described withdrawal as an “ultimate objective”—no timetable, no tie to any other event—and said it was being pledged with the prospect of a peaceful settlement of the Taiwan question by the Chinese themselves in mind. “In the meantime,” forces will be reduced, he went on, “as the tension in the area diminishes.” The context and Mr. Kissinger's later comment made plain that Washington alone will be the judge of whether “tension in the area” diminishes; moreover, that “area” involves “the general state of relationships in Asia and in the world.”

Then, the United States has never promised to keep troops and run bases in Taiwan, only to help to defend it (“in accordance with its constitutional processes”) against “armed attack.” Article VII of the U.S.-Taiwan mutual defense treaty, written in 1954, gave Washington “the right to dispose such United States land, air and sea forces in and about Taiwan and the Pescadores as may be required for their defense.” But, Secretary of State Dulles told the President and Senate, Article VII “does not make such disposition automatic or mandatory.” Reporting out the treaty, the Senate's Foreign Relations Committee added: “We are free to station forces or not, as circumstances may indicate.”

As it is, until the Vietnam war there were never more than a few hundred American personnel on Taiwan, the low number reflecting an American consensus that no Communist attack was likely. Some 9,000 or so extra Americans were sent there to support operations in Vietnam; their ranks had already begun to be thinned as requirements in Vietnam diminished. Having previously celebrated that thinout as proof of the success of Vietnamization and as evidence of the Nixon Doctrine at work, the Nixon administration is now giving it a third outing, this time as a gesture of accommodations to Peking.

In all, we see no substantial grounds for any charge that Mr. Nixon is abandoning Taiwan. The striking fact is that China was willing to receive him *without* securing a firm American pledge on withdrawal; this lapse we attribute chiefly to Peking's wish to warm relations with Washington in order to stand off far harsher pressures from Moscow. If anyone is to suffer politically for the communique's statements on Taiwan we suspect it will be Chou En-lai.

## ADDRESS BY SENATOR HUMPHREY BEFORE NATIONAL FARMERS UNION CALLS FOR ADVANCE FEED GRAIN PAYMENTS

**Mr. MONDALE.** Mr. President, yesterday in Houston, Tex., my distinguished colleague from Minnesota (Mr. Humphrey) addressed the National Farmers Union convention. He called upon the administration to begin making advance payments to producers who have signed up for participation in this feed grain program. He asked that at least one-half of the payment each producer is entitled to receive under the program be paid to him immediately. In that payments under this year's program are estimated to total $2 billion, such a move would add $1 billion to the pocketbooks of farmers, and subsequently to the cash registers of thousands of main-street businesses.

Mr. President, Senator Humphrey's request points out the need for this type of resolution. With planting time approaching, farmers will be faced with heavy expenses. They will need all the cash that can be made available to them. I am introducing a Senate joint resolution on this matter so that the entire Congress can join us in calling upon the administration to implement advance payments to feed grain program participants.

Mr. President, I ask unanimous consent that Senator Humphrey's speech be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### Remarks by Senator Hubert H. Humphrey, Farmers Union National Convention, Houston, Tex., February 28, 1972

It is always a great pleasure for me to be among my Farmers Union friends, especially at one of their National Conventions.

My only regret on this occasion is that your Vice President, and my close and dearest friend, Ed Christianson is still ill and can't be with us.

Already Dr. Butz is out on the campaign trail trying to tell farmers how good they have it and claiming that 1972 will be a banner income year for farmers.

Well, the Administration isn't going to get away with it.

The Nixon record on the needs of farmers and the needs of rural America is one of failure and neglect—no ifs, ands, or Butz.

It's time for Mr. Butz to start levelling with the American farmer.

It's time for him to level about his personal efforts to kill the House Grain Reserve bill and the 25 percent increase in loan rates for 1971 and 1972 feed grain crops.

It's time for him to start levelling about the fact that he has opposed nearly every bill in Congress to improve farm income.

It's time for him to start levelling about the fact that the Nixon Administration continues to sit on nearly half a billion dollars in funds appropriated by Congress that could truly help farmers and rural America: $75 million in farm operating loan funds; $58 million in water and waste facility grant funds; $107 million in REA loan funds; $240 million in Forest Service funds.

It's time for him to admit the total failure of the Administration's so-called "set-aside" program for wheat and feed grains last year, and the fact that dependence on the program again this year is going to result in economic destruction for many grain producers.

It's time for Mr. Butz to start levelling about the fact that Administration negotiators in international trade discussions are relying on low-priced farm commodities to subsidize U.S. trade balances.

In short, it's time the Administration realized that the American farmer is in deep economic trouble. He needs help now.

The Agriculture Department already has estimated that feed grain producers will agree to set aside sufficient cropland to qualify for payments of approximately $2 billion.

I call on the Administration to release at least half of this money now to provide cash for farmers at planting time when their expenses are greatest.

The practice of providing an early partial payment of the subsidy is standard practice under the old 1965 farm act.

The Department is going to pay this money out in July anyway. If we make it available to our farm families now when they are spending heavily to prepare for planting, it will have a significant effect on the rural economy at a time when it desperately needs help.

The early payment release is just one of a series of measures the Administration should adopt now if it is really serious about helping the American farmer.

Instead, the Administration is trying to peddle a phony election year line that these are good times on the farm. You and I know better. The Nixon Administration farm record is riddled with Butz.

In addition to the early subsidy payments I call for:

Passage of my new grain reserve bill with its mandatory provisions to increase by 25 percent the loan rates for wheat, feed grains and cotton.

Increasing this year's dairy price support level to not less than 90 percent, a proposal I have introduced in the Senate.

Immediate release of funds appropriated by Congress for farm and rural development purposes.

Passage of the Humphrey-Talmadge Consolidated Rural Development Credit Act, to provide funds for a wide range of urgent rural development projects from education to medical care to recreation and conservation.

Seventy million Americans or 35 percent of the nation's population live in Rural America. They live and work on our farms, work in our forests and in our smaller communities.

The needs of these people are not much different from those of other Americans. They need decent housing, good jobs, adequate health care, a good education and the opportunity to live a happy and secure life in a free society.

Yet many of the people living in Rural America today do not experience the fulfillment of those basic wants.

Half the nation's poor live in Rural America despite the fact that only 35 percent of the nation's total population reside there.

Rural America accounts for 66 percent of all substandard housing units in the country, but receives only 16 percent of all federal housing assistance.

Federal per capita outlays for health services are four times greater in metropolitan areas than in rural areas.

Per capita federal outlays for training and development are three times greater in metropolitan areas than in rural communities.

Close to 30,000 small communities in this nation are in need of new or improved water and waste disposal systems.

And the list goes on and on . . . all pointing up one basic fact—people living on our nation's farms and in our nation's rural areas and smaller communities have been left behind and abandoned and forgotten by federal and state governments.

We must all work to change that now.

But this Administration isn't going to act. And President Nixon is the only man I know who consistently comes up with revolutionary programs to maintain the status quo.

The man who is elected President this year will be setting the policies that will make or break the American farmer not only in the next four years, but throughout the 1970's.

The next President must be a man who understands the American farmer and his problems, a man who cares about the continuation of the family farm system and its importance not only to rural America, but to the entire nation and countries around the globe.

Throughout my public life, I have fought the battle for decent farm income and for equality of rural opportunity. I don't intend to abandon that fight now.

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## DELAYS IN LITIGATION

Mr. GURNEY. Mr. President, like so many lawyers today, I am deeply troubled by the shocking delay which presently occurs regularly in our courts. The civil litigant faces near interminable delay in pressing a simple personal injury action. The criminal defendant may spend half of what eventually becomes his sentence merely waiting for his trial to take place.

Our judges—particularly on the appellate level—spend considerable time at their jobs. Much time, however, is lost because of multiple sittings at simple hearings, poor scheduling, and an insufficient number of jurists.

Judge George Edwards, presently of the U.S. Court of Appeals for the Sixth Circuit and a former member of the Supreme Court of Michigan, has written a most cogent article on appellate court delay. It appears in the February 1972 issue of the American Bar Association Journal.

While I do not agree with all the proposals discussed by Judge Edwards, I recommend the article to Senators and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Exorcising the Devil of Appellate Court Delay

(By George Edwards)

The United States Court of Appeals for the Sixth Circuit has taken steps to make better use of judicial time. Legal research, legal scholarship and time for judicial contemplation are essentials for sound appellate decision making, but a court must manage its own docket, and a judge must manage his own time. The Sixth Circuit employs appellate argument as an intimate part of the decisional process of the court.

Life being what it is in these United States in 1972, judicial time is one of the most critical items in our society. A recent leading article concerning the federal appellate courts has termed their crowded dockets a threat to the national law.[1]

In a lifetime I have seen efficiency studies of almost every aspect of American life, from how to mop a floor to how to teach mathematics or how to manage a giant corporation. But discussion of efficiency and economy in the employment of court time and time for judicial decision making are topics that until recently have seemed largely taboo. The reason, of course, that no judge wishes to run the risk of being accused of advocating production-line justice.

I yield to no one in my desire to see the appellate courts of our country pursue justice with care and devotion. I deeply believe in individualized justice and consider legal research, legal scholarship and time for judicial contemplation to be essentials for sound appellate decision making. But I also believe in court management of the court's own docket and in a judge's management of his own time.

#### WHY EFFICIENT COURT MANAGEMENT IS IMPORTANT

A concern for efficient court management to achieve current dockets and to prevent duplication of judicial effort is as important in judicial affairs as it is in any other aspect of modern life. There are measures that lead toward more effective employment of judicial time without in any way decreasing the quality of appellate justice. They require the skilled use of all of the tools of the judicial trade. Judicial efficiency should not be regarded as reflecting adversely on the quality of a judge's decision making any more than the use of modern tools is a reflection on the craftsmanship of a carpenter.

My concern for efficient judicial procedures comes from sheer necessity. It is based on experience that many appellate judges will find typical. My first appellate work was in the Supreme Court of Michigan. There, as a member of a state court of final jurisdiction consisting of eight members, I sat in 300 to 350 cases a year, plus 600 to 800 motions. Most years I wrote between fifty and sixty formal opinions. That workload, I might add, seemed to me intolerably high and destructive of the possibility of effective and concerned review of every case by every member of the court. Along with other members of the court, I spent a good deal of time advocating the creation of an intermediate court of appeals, which has now come into being.

For the past eight years I have been a member of the United States Court of Appeals for the Sixth Circuit. We now have nine judges, but, according to federal law, we divide our membership into panels so that the working courts consist of three judges, unless the full court itself determines to sit en banc. Nonetheless, with the vastly increasing caseload of the federal courts, our judges are now sitting in 200 formally argued appeals a year, and I again find myself writing fifty to sixty opinions a year, not including dispositions by orders. Like many judges, I have had to get used to an appellate production schedule of better than one opinion a week. As a consequence, I would travel (and have traveled) miles to listen to anyone who might tell me how to save five minutes a day. Indeed, in regard to what follows, I have borrowed ideas from every source available.

#### APPELLATE COURT DOCKET MANAGEMENT

From 1960 through 1970 the appeals filed with our court tripled—from 306 to 921. The number of our active judges increased by only two—one third. By 1967 our backlog had tripled. In 1966, aware of the trend, our then chief judge, Paul C. Weick, appointed a committee to look into possible docket manage-

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Footnotes at end of article.

ment techniques that might aid the court in performing its work more expeditiously.

My assignment was to see what other courts were doing. I read the rules of the United States Supreme Court and the local rules of all the other circuits, and we proceeded to borrow every idea that appeared to have any possible merit.

By this process we added to our local rules: (1) Rule 7(e) providing for a summary calendar for cases deemed to need only fifteen minutes' argument on a side; (2) Rule 8 providing for dismissal of frivolous appeals whenever by motion or otherwise such an appeal came before a panel of the court; and (3) Rule 9 providing for motions to dismiss appeals for want of jurisdiction or to affirm a judgment on the ground that it is manifest that the questions sought to be reviewed are so insubstantial as not to need further argument. All of these rules are borrowed. But my recollection is that no circuit then employed them all.

We then added a rule (Rule 3(e)) that we devised. It provides:

"(e) *Docket Control.* In the interest of docket control, the chief judge may from time to time, in his discretion, appoint a panel or panels to review pending cases for appropriate assignment or disposition under Rules 7(e), 8 or 9 or any other rule of this court."

Under Rule 3(e), routinely at each hearing session two panels of judges screen all cases (half of the cases to each panel) scheduled for hearing at the next hearing session. They are aided by a staff law clerk memorandum. At these sessions we note and dismiss under Rule 8 appeals in habeas corpus cases in which the district judge denied relief for appellant's obvious failure to exhaust state remedies, or where a *pro se* appellant has filed a diversity suit without meeting the jurisdictional requirements, or where some party is appealing in the face of recent and patently controlling Supreme Court decision. At these sessions we also catch and remand to the district court before appellant hearing some postconviction motions in which the court has denied a hearing but the pleadings and record appear clearly to demand one. Frequently, also, we decide procedural motions that might take appellate hearing time or occasion an appeal to be scheduled for hearing and then be postponed.

Over and above this, in relation to all the cases that appear ready for hearing, we decide which should go on the regular docket for an hour's argument and which should be assigned to the summary calendar for a half hour (fifteen minutes on each side). Our present chief judge, Harry Phillips, who along with Judge Wade H. McCree was a member of the court committee that recommended these rules, has been able to increase the total number of cases scheduled for argument by 30 per cent in the past three years. All our active judges have cooperated fully in this docket management effort.

The results of all this (plus, of course, the addition of two judges and co-operative work on the part of our three senior judges) are dramatically portrayed below:

| Fiscal year | Filed | Terminated | Pending |
|---|---|---|---|
| 1961 | 340 | 324 | 215 |
| 1962 | 394 | 329 | 280 |
| 1963 | 374 | 341 | 313 |
| 1964 | 513 | 404 | 422 |
| 1965 | 638 | 497 | 563 |
| 1966 | 603 | 510 | 656 |
| 1967 | 717 | 687 | 686 |
| 1968 | 793 | 818 | 661 |
| 1969 | 868 | 947 | 582 |
| 1970 | 921 | 1,004 | 499 |

Our backlog of appeals pending peaked in 1967 at 686 cases. In 1968, 1969 and 1970, in spite of continued substantial increases in filings, the court cut substantially into the backlog by dint of even greater increases in dispositions. On July 1, 1970, the backlog of pending appeals was down to 499. In the 1970 June term our court heard every appeal that was ready for argument for the first time in thirty-five years. Since then we have managed to maintain that record, and we hope to be able to continue to do so indefinitely.

The fiscal year of 1971 (ending June 30) has not changed the picture appreciably. We have continued to hear all or practically all of the appeals ready for argument at each term of court. For the second year in our history, court dispositions totaled over 1,000 cases. The increase in cases filed, however, pushed filings to another all-time high and added fourteen cases to the backlog.

### INCREASING THE JUDICIARY IS ONE BASIC ANSWER

It has become popular in judicial circles to say that increases in the number of judgeships are not the solution to the problem of crowded dockets. While I do not think that the sole answer to handling court workloads is increasing the judiciary, it certainly is one basic answer of continuing importance. There has been a tendency to suggest or agree that the number of judgeships should be expected to increase in ratio to the increases in population. On the contrary, it is much more logical for judicial manpower to be increased in relation to increases in litigation—the workload of the courts—and increases in litigation seem much more likely to follow real increases in gross national product than to parallel population statistics. In any event, our court would not have achieved the current status of its docket had we not recommended and had Congress not approved the addition of three judges, one of whom was inducted in 1966, another in 1967 and the last in 1971.

The fact that our court is current with its docket makes possible some time saving that otherwise could not take place. First, appeals that are designed only for delay hardly are worth the effort. Second, we now frequently avoid repetitive handling of complex appeals. If injunctive relief is sought pending hearing on the merits of a case, by stipulation or order we simply may preserve the *status quo* and advance the case for final hearing on the merits. The decision to advance the *Upjohn* case (*Upjohn* v. *Finch*, 422 F. 2d 944 (6th Cir. 1970)) and hear it on the merits is typical of many instances in which, much to their surprise, some litigants have found that they not only could obtain quick hearing before our court but a quicker hearing than they may have wanted.

While the innovations I have described have made genuine contributions, some longstanding traditions of the Sixth Circuit have helped.[2] Our court has jurisdiction over appeals from four states—Michigan, Ohio, Kentucky and Tennessee. Cincinnati is the most central large city in our circuit, and we meet there five times a year, three weeks at a stretch, for appellate hearings. Most judges stay all three weeks. We lunch together at one big table every working day. During hearing sessions we are in constant contact and are always available to each other, not only at the formal sessions, but in our offices, at lunch and frequently in the evenings. It makes for far simpler and more efficient conduct of business if one can walk into a fellow judge's office and work out a problem, than if one has to put the problem down on paper and depend on an exchange of letters to settle it.

This system of court operation has been in existence in the Sixth Circuit for many years. It may well account for the fact that social amenities in our court always have been given high priority. Courtesy and friendliness do not diminish devotion to principle by any member of our court. But it is true that we don't snarl at each other in competing opinions, and no judge goes out of his way to impede, complicate or delay another judge's work. There is a tendency freely to share ideas and suggestions with the judge who is writing the opinion and a general willingness on that judge's part to accept another's ideas in an effort to avoid multiple opinions.

### TIME SAVING FOR THE INDIVIDUAL APPELLATE JUDGE

Every appellate judge has his own system of work. I do not suggest that mine is superior to that of any other judge or that it would necessarily work for him. But I would like to know his system on the chance I could use some portion of it. In any event, here are my observations on management of judicial time drawn from experiences on our court.

*Preparation for hearing.* We have five hearing terms a year. At each term each judge sits in forty appeals. We receive the briefs and records in our assigned cases at least three weeks in advance. It is our tradition that each judge be prepared in advance for oral argument. This means, of course, that we shall have read the briefs, the trial judge's opinion or order and the appendices to the extent that seems necessary and possible. (We have antitrust and patent cases in which the appendices come in boxes!) Frequently, particularly in criminal cases, one or more judges on the panel will have read the entire record—sometimes to the embarrassment of lawyers who have not.

By the time of oral argument I try to be ready for actual decision making. I have read the briefs, appendices and authorities to the extent possible. My law clerks have done the same thing (each as to half of the cases on which I sit), and I have a written memo prepared by a clerk on each case. In a couple of pages the clerk seeks to state the facts, outline the important issues and list what he believes to be the authorities relied upon by the competing parties. I will have read his memo and employed it to determine in part what else to read. Prior to hearing I rarely write anything.

*Appellate hearing.* I seek to employ the appellate hearing as part of the decisional process. Most of my colleagues do, too. Few lawyers are allowed the luxury of a jury argument before our court. If they are able to follow the organized presentation they may have contemplated, it is because they have planned to meet rather than to avoid the difficult questions in their case. If the difficult questions are ignored in an appellate argument, they almost certainly will be asked by some member of the court.

I know that in a more relaxed day the tradition was different, and an interruption of flow of an appellate argument was felt to call for an apology. But, just to give one example, I know no reason why three judges—all of whom have read the briefs, presumably the party's best organized and most comprehensive statement of his case—should sit through half an hour of argument on the merits of a dispute when they have grave doubts that the lower court had jurisdiction of the case in the first place. The questions I ask are the ones that are going to bother me in deciding the case. When I get a chance, I tell the lawyers of the Sixth Circuit they ought to look on appellate argument as a chance to participate for an hour in the decisional conference of the court, with voice but without vote.

At this point our court procedures part company with those of our brothers in the Fifth Circuit. Following our adoption of the court rules referred to above, the Fifth Circuit adopted similar ones. In both case and article references judges of that circuit have pointed to resulting docket gains.[3] But it is clear that their summary calendar classification has been employed to dispense with oral argument in a substantial number of cases—at least some of them being cases that could not be described as "frivolous".[4]

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Footnotes at end of article.

### ORAL ARGUMENT IS ALWAYS OF GREAT IMPORTANCE

Our court values oral argument and, like the Second Circuit, relates its worth directly to the court's decisional conference. In a book entitled *Appeals to the Second Circuit*, prepared by a committee of The Association of the Bar of the City of New York, we find these comments:

"The oral argument is always of great importance. For the appellant to forego oral argument is usually considered by the judges as a confession of the weakness of the appeal. The Second Circuit does not encourage submissions without argument: the Court will listen to one side even if the other submits. Only 2% of the cases are submitted, a smaller percentage of submissions than in any court except the Supreme Court.

"The importance of oral argument is emphasized by the fact that in about 75% of the arguments the case is finally decided in accordance with the impression which the judges have as they leave the bench. Probably 20% is a fair estimate of the proportion of cases in which the judges have no firm impression one way or the other at the conclusion of the argument. In the remaining 5% of the cases the decision finally arrived at is contrary to the impression after oral argument. While it is quite true that the impression after oral argument derives from the reading of the briefs as well as from the argument, it is also true that the impression from reading the briefs is frequently changed or modified by the oral argument.[5]"

This comes close to applying to the Sixth Circuit also. The only cases we do not schedule for oral argument are those that we feel appropriately could be termed "frivolous", although we may employ the more polite language of Rule 8. The only cases that are submitted on briefs in any number are prisoner appeals in postconviction remedy cases in which the court has already decided a direct appeal or at least one petition for postconviction review, and the subsequent postconviction petition has not been deemed of sufficient substance to warrant appointment of counsel.

I believe that oral argument is of great assistance to the court. It is particularly valuable in arriving at a "court" decision rather than a one-judge decision or separate decisions by three judges arrived at individually.

*Court conference and assignment*. Our conference on argued cases occurs imdiately after the day's hearings close. We approach it with the intention of arriving at tentative decisions in as many as possible of the four or five cases we have just heard.[6] There is a tradition of frank and open expression of individual judges' views, and while many cases look essentially the same to all members of the panel, as to others there is lively discussion and debate. Decisions are recorded in well over a majority of the cases at this conference. There are many instances when subsequent study and further conferences serve to reverse the original tentative decision, but the percentage of these changes is small.

An effort is also made at this conference to agree on assignment for opinion writing of all cases as to which there is tentative decision.

Immediately after the conference, one of the panel (we rotate the job) writes a report on each case to the chief judge. This panel report is served on each active member of the court (including senior judges) and encompasses a brief statement of the facts, the issues, the tentative decision and the recommended assignment if any has been reached. After the three weeks of hearings, the chief judge sends out the assignments for the past term. Each judge receives an average of thirteen cases, usually divided about evenly between opinions and *per curiams* or orders. And he knows that five or six weeks later he will begin another term when he will sit in another forty cases. Can the need for efficiency be debated?

Posthearing memorandum. The most useful single tool in the handling of appellate work is the posthearing memorandum. I prepare this memorandum the afternoon of the hearing. I record the essential facts, attempting to state the decisive issues, record what I believe to be the possibly controlling authorities and note any issues on which additional research seems needed. And I put down my own thoughts on the merits of the case—tentative or definite as they may be—as well as the views of my brethren on the panel.

In any later contact with the case, whether assigned to me or to another judge, this posthearing memorandum is the working paper with which I start. In a case assigned to me for disposition, in which the panel has reached what it felt to be a clear-cut decision following established precedent, sentences from the memorandum may be adapted to represent an order of the court disposing of the case. I also fashion some *per curiams* by a careful reworking of this posthearing memorandum. Most *per curiams* and all opinions, however, I write entirely by hand. But even with these, the posthearing memorandum is useful in unfreezing the pen, in stating the posture of the appeal and in getting started on the statement of facts.

One of the greatest advantages of the posthearing memorandum may be realized in dealing with opinions written by brother judges. In particularly difficult cases there tends to be some delay in writing and circulation. If an opinion arrives several months after argument, memory of the case may have become dim. The words of my brother, however valid or eloquent, may do little for my own recollection. But all I have to do is pick up my own posthearing memorandum, and memory of the facts and the issues as I saw them on the day of hearing and the conference comes flooding back.

Recently I had occasion vividly to renew these impressions. One of my fellow judges served a lengthy opinion in a somewhat difficult patent case involving a lengthy record and a great deal of money. I read it with dim recollection of the case. On reading my own two and a half page posthearing memorandum, however, I remembered the case and its problems.

The law of evidence and the science of psychology both testify to the great value in stimulation of memory of a memorandum written contemporaneously to past events. Knowledge which the mind has grasped is retained in great detail for a day or two, but useful memory of specific facts and impressions diminishes rapidly thereafter.[7] The law of evidence, in making contemporaneously written memoranda available to refresh the memory of a witness,[8] testifies to the value of these writings in stimulating memory.

*Judge's agenda*. No one has the authority to tell an appellate judge when he must make a decision. As a consequence, we sometimes have a staggering problem of self-discipline. I could not deal effectively with that problem without daily and weekly agenda.

On receipt of our opinion assignments, I determine by what I know of the cases assigned to me (the posthearing memorandum helps on this) what I think I can accomplish prior to the next hearing term. To each assigned opinion I seek to allocate a full week, with a day to several days to each *per curiam* opinion. I try to write orders immediately on assignment.

On Monday of every week the agenda tell me what opinion I must seek to write. Invariably I make a serious effort in that direction but sometimes fail. There are cases of such moment as to take months of work. There are, however, many more cases of less magnitude which nonetheless do not lend themselves to resolution without study and thought and delay for contemplation. But even as to this last category, I rarely reach the following Monday without a rough draft opinion that contains at least the facts and the issues, even if I have not yet been able to resolve them to my satisfaction. This type of case I lay aside for rumination. Frequently on coming back to it two or three weeks later I find that what seemed so difficult has now become much easier and that a solution is within grasp.

Most mornings I prepare the agenda for that day and try to cross off the items before I leave at night. But the opinion scheduled for that week heads all daily agenda.

*Law clerks*. Law clerks are the most obvious aid to the time-pressed appellate judges. I use the two the Federal Government now allows me to save time in every way consistent with judicial duty. But no law clerk has ever written an opinion for me—or ever will. And I reject the incorporation in an opinion of language from a law clerk's memorandum. If I write a sentence, I know what it means. If I copy a sentence, I am by no means so certain.

My clerks live with the cases assigned to me in much the same way I do. They write a prehearing memorandum on each case, and it almost invariably proves to be a valuable part of my preparation for the hearing of the case. I never encourage their writing for disposition of a case before oral hearing and the court's conference. After assignment of the cases, I may assign specific legal issues for in-depth research by the law clerks. From this point forward, I encourage them to think toward disposition and freely to argue for whatever point of view they may reach. I find our oral discussion of issues to be stimulating and helpful. Usually I read rough drafts of my opinions to my clerks and invite, receive and frequently use comments, suggestions and criticism.

Aside from reasoning with them, I use my law clerks ruthlessly to save my time. As the first item, the clerk who is working with me on a case accumulates and leafs every case that may be in point for decisional purposes. When I reach a particular issue, I sit down at the library table with anywhere from several to twenty-five cases at hand and read them through—usually at one sitting—and frequently while dictating notes or page citations.

### LAW CLERKS HELD RESPONSIBLE FOR ONLY THREE THINGS

I value and cherish my clerks, but I hold them absolutely responsible for only three things: (1) running the citator on every case I cite, (2) meeting me on time whenever I ask them to and (3) getting along with my invaluable secretary.

*Office machinery*. These time-savers are even more obvious ones. How did we used to run law offices without copying machines, electric typewriters and dictating equipment? I carry a portable dictating machine with me most of the time and use it constantly—at home, in hotels and in planes. The item that needs to be finished tomorrow is put on the agenda and is finished. The decisional phrase that I think of at 6 a.m. is saved for a subsequent opinion draft.

We now type only an original copy of an opinion. All corrections are made on that copy, and the final version is run through the copier. I cannot estimate how much time the portable dictating machine and the modern copier have saved for me and my staff.

The clerk of the Supreme Court of Michigan when I joined that court in 1956 had for a lifetime employed the most efficient correspondence method possible. He handled all correspondence from lawyers by dint of writing the answer on the bottom of the lawyer's letter and simply mailing the letter back to him. When I discovered that our court had no correspondence files and no record of the clerk's actions, I took some steps to get the court to change this practice. But I never lost a sneaking admiration for its efficiency. We in the Sixth Circuit now use this system extensively in intracourt communications, but the copier allows us quickly and inexpensively to maintain our records, too.

### WE CANNOT AFFORD TO IGNORE BRITISH EXAMPLE

Lest this discussion of speed, production techniques and efficiency may have caused some mental anguish, I close with this memory of a legal system well known throughout the world for a concern for due process and individualized justice.

In 1963 I served as a member of the American team in the British-American criminal trials teams exchange. For three weeks our British counterparts—judges, prosecutors, defense lawyers and police personnel from Scotland Yard—showed us the operation of British criminal justice. It was an impressive and, comparatively speaking, a highly civilized display. Not the least impressive day we spent on benches in the High Court of Criminal Appeals hearing oral argument in four important felony cases. This was Britain's general equivalent of our Supreme Court as far as these litigants were concerned.

In each of the four cases the three justices listened extensively and attentively to the barristers who argued the cases and questioned them with interest and vigor. At the end of the argument of each case, the three justices conferred together on the bench, occasionally consulting legal volumes. And then in each case the distinguished Lord Chief Justice of England, then Lord Parker of Waddington, delivered the opinion and the final judgment of his court orally from the bench. In no one of the cases had more than four months elapsed from the time of the bringing of the original charge to the final decision of the highest court.[9]

I know many reasons why we cannot and probably should not compete with that record. We should not, of course, forget that our country was born in revolt against the British government as it then existed. Some of the most cherished aspects of American democracy (for which Britain has no counterparts) are a written Constitution, separation of powers of government and the Bill of Rights. Our forefathers designed these as checks on governmental authority. They may require somewhat slower court procedures than the British courts employ.

But when British courts take months for final disposition of a case, there are some court systems in our country in which disposition of the same case would take an equal number of years. While this can be said, we cannot afford to ignore the British example or to disregard any appropriate means of eliminating needless appellate delay.

FOOTNOTES

[1] Carrington, *Crowded Dockets and the Courts of Appeals: The Threat to the Function of Review and the National Law*, 82 HARV. L. REV. 542 (1969); see also Shafroth, *Survey of the United States Courts of Appeals*, 42 F.R.D. 242 (1968).

[2] See Phillips, *A Survey of the United States Court of Appeals for the Sixth Circuit*, 1970 U. TOL. L. REV. 63.

[3] *Groendyke Transport, Inc.* v. *Davis*. 406 F. 2d 1158 (5th Cir.), *cert. denied*, 398 U.S. 1012 (1969); Bell, *Toward a More Efficient Federal Appeals System*, 54 JUDICATURE 237 (1971); Bell, *Expedite the Disposition of Litigation*, 10 TRIAL JUDGES' J. 1 (1971).

[4] See *Murphy* v. *Houma Well Service*, 409 F. 2d 804 (5th Cir. 1969); *Huth* v. *Southern Pacific Company*, 417 F. 2d 526 (5th Cir. 1969).

[5] COMMITTEE ON FEDERAL COURTS, THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, APPEALS TO THE SECOND CIRCUIT 33 (1970).

[6] See Molinari, *The Decisionmaking Conference of the California Court of Appeal*, 57 CAL. L. REV. 606 (1969).

[7] Hutchins and Slesinger, *Some Observations on the Law of Evidence Memory*, 41 HARV. L. REV. 860 (1928).

[8] 3 WIGMORE, EVIDENCE § 758 (Chadbourn rev. 1970); 4 JONES, EVIDENCE § 964 (5th ed. 1958).

[9] See KARLEN, ANGLO-AMERICAN CRIMINAL JUSTICE, 177, 228 (1967).

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## RULES OF THE COMMITTEE ON PUBLIC WORKS

**Mr. RANDOLPH.** Mr. President, section 133B of the Legislative Reorganization Act of 1946, as amended by section 130(a) of the Legislative Reorganization Act of 1970, requires the rules of each committee to be published in the CONGRESSIONAL RECORD not later than March 1 of each year. Accordingly, I ask unanimous consent that rules of the Committee on Public Works be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

### U.S. SENATE, COMMITTEE ON PUBLIC WORKS

### I. RULES OF PROCEDURE

Rule 1. *Regular Meeting Days.*—The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 a.m. except that if there be no business before the Committee, the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman. Subcommittee meetings shall be called by the chairman of the respective subcommittee. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking minority Member. Such 24-hour notice may be waived in an emergency by the Chairman with the concurrence of the ranking Minority Member.

Rule 3. *Open Committee Meetings and Executive Sessions.*—Meetings of the Committee, including hearings shall be open to the public except during executive sessions for marking up bills or for voting, or when the Committee, by majority vote, orders an executive session, or as required by section 133A(b) of the Legislative Reorganization Act of 1946, as amended.

Rule 4. *Presiding Officer.*—(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking majority Member who is present at the meeting shall preside.

(b) Subcommittee chairmen shall preside at all meetings and hearings of their respective subcommittees, except that in the absence of the subcommittee chairman, the Vice Chairman or ranking majority member of the subcommittee who is present at the meeting shall preside.

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

Rule 5. *Quorums.*—(a) Except as provided in subsections (b) and (d), nine Members, one of whom shall be a Member of the minority party, shall constitute a quorum for the conduct of business.

(b) Quorums for the conduct of business by the subcommittees shall be a simple majority of the membership of the subcommittee with at least one minority member present.

(c) Once a quorum as prescribed in subsections (a) and (b) has been established for the conduct of business in executive session, the Committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in (a), one Member shall constitute a quorum for the purpose of conducting a hearing.

Rule 6. *Proxy Voting; Polling.*—(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any subcommittees. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultation with the ranking minority Member, Members who are unable to be present and whose vote has not been cast by proxy may later have their position recorded on any vote.

Rule 7. *Public Announcement of Vote.*—Whenever the Committee by rollcall vote reports any measure or matter or acts upon any measure or amendment thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

Rule 8. *Announcement of Hearing.*—The Committee, or any subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the Committee Chairman or subcommittee chairman, with the concurrence of the ranking minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours shall be given.

Rule 9. *Statements of Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing of the Committee or any subcommittee thereof shall file a written statement of his proposed testimony not later than noon of the last business day preceding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal Government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness not read his written testimony and to confine his oral presentation to a summary of his statement.

Rule 10. *Regularly Established Subcommittees.*—The Committee shall have five regularly established subcommittees as follows:

Subcommittee on Flood Control—Rivers and Harbors.

Subcommittee on Air and Water Pollution.

Subcommittee on Economic Development.

Subcommittee on Roads.

Subcommittee on Buildings and Grounds.

Rule 11. *Special Subcommittees.*—With the concurrence of the ranking minority

Member the Chairman shall, from time to time, establish such special subcommittees as he deems necessary to expedite Committee business.

Rule 12. *Subcommittee Membership.*—Following consultation with the majority Members and the ranking Minority Member of the Committee, the Chairman, shall announce selections for membership of the Subcommittees referred to in Rules 10 and 11.

Rule 13. *Environmental Impact Statements.*—No project shall be approved or other action taken unless the Committee has received an environmental impact statement relative to it, in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with Section 309 of the Clean Air Act.

Rule 14. *Naming of Public Facilities.*—No building, structure or facility, authorized by the Committee shall be named for any living person, except former Presidents of the United States or former Members of Congress over 70 years of age.

Rule 15. *Committee Resolutions.*—(a) The Chairman is authorized to certify and pass on Committee resolutions for review of flood control and river and harbor reports and resolutions for studies of public building projects, and forward the resolutions to the appropriate Federal agency.

(b) Proponents of Committee resolutions shall submit appropriate evidence showing need for review of reports on river and harbor and flood control projects.

Rule 16. *Amendment of Rules.*—The rules may be added to, modified, amended or suspended by a majority of the Committee Membership.

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## ATTORNEY GENERAL JOHN MITCHELL

**Mr. FANNIN.** Mr. President, shortly we are scheduled to vote on the nomination of a new Attorney General.

Today I wish to pay tribute to the marvelous work done by a great American, Attorney General John Mitchell, during the past 3 years. Under his leadership, the Department of Justice pursued a program which has put quality performance above rhetoric. He has been instrumental in carrying forward President Nixon's pledge to place the administration of justice at the top of our national priorities.

The Justice Department, under Attorney General Mitchell, made progress on all fronts—against street crime, against organized crime, against narcotics, against discrimination, against environmental pollution, and against possible monopolies.

Obviously, the Attorney General has sought to insure more than simple law and order. He has sought to bring us law and order and justice.

Responsibilities of the Department of Justice increased tremendously in recent years, and Attorney General Mitchell was more than equal to the challenge. Under his leadership the size of the Department has increased by more than one-third. Size alone, however, is no indicator of the effectiveness of a Government agency. It is my belief that the vigor and the effectiveness of the Justice Department has grown at a greater rate than the number of employees or the appropriations.

Under Attorney General Mitchell, we have a new spirit, or perhaps the revival of an old spirit, that laws are to be respected and obeyed, and that there are no groups of people—either very poor or very rich—who have an inherent right to break the law with impunity.

One of the great problems facing our Nation when Attorney General Mitchell was sworn in on January 22, 1969, was the growing international traffic in narcotics. During the past 3 years we have seen a vigorous attack on this problem. It was apparent to him that we would have to cut off the narcotics at the point of origin in foreign countries if we were to be successful in the long run. Early efforts were aimed at the United States-Mexico border area. Soon the officials of Mexico began cooperating in programs to help stamp out the illegal narcotics sources in thier country.

Likewise, we have seen great progress in winning the cooperation of authorities in Turkey and France to cripple the supply lines for illicit heroin.

Within the United States the Department of Justice has stepped up its program to apprehend and prosecute smugglers and pushers.

As Chairman of the President's National Council on Organized Crime, Attorney General Mitchell led the attack on organized crime. Strike forces were increased from seven to 18. In 30 months the number of attorneys fighting organized crime increased from 75 to 123. And this brought results—266 organized crime figures were indicted in the first 6 months of last year.

During the same period, more than 1,100 individuals were arrested as a result of grand jury actions. In 18 months, the Justice Department indicted or obtained convictions against nearly half of the estimated 25 heads of organized crime "families" in the United States.

The Law Enforcement Assistance Administration was reorganized to make it more effective in aiding State and local governments in the battle against street crime and lawlessness.

To fight pollution, the Justice Department implemented new environmental laws and dusted off some old statutes to make them effective in protecting our land, air, and water. The Refuse Act of 1899 became an especially potent instrument in this crusade.

The Department of Justice carried out vigorous programs in the fields of antitrust and civil rights. These both are delicate areas where, I believe, it is necessary to have effective but reasonable enforcement, Attorney General Mitchell made it clear that he meant business in enforcing the law in these areas.

The Justice Department also has provided the legislative initiative that has aided Congress in coping with the complexities of the 1970's. We are indebted to the Department for help in formulating such bills as the Organized Crime Control Act of 1970, the District of Columbia Reform and Criminal Procedures Act, and the Comprehensive Drug Abuse, Prevention, and Control Act.

Attorney General Mitchell has served well as an advocate of reform legislation as well as an administrator.

John Mitchell served as the 67th Attorney General of the United States. He added considerably to the stature of this office. He not only served the President well, but he did a splendid job for the entire Nation. We should all be grateful.

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## RULES OF COMMITTEE ON FOREIGN RELATIONS

**Mr. FULBRIGHT.** Mr. President, in accordance with the provisions of section 133B of the Legislative Reorganization Act of 1946, as amended, I ask unanimous consent to have printed in the Record the rules of the Committee on Foreign Relations. These rules were adopted by the committee on March 1, 1971, and no amendments or changes have been proposed during the past year.

There being no objection, the rules were ordered to be printed in the Record, as follows:

### RULES OF THE COMMITTEE ON FOREIGN RELATIONS, ADOPTED MARCH 1, 1971

#### COMMITTEE AND SUBCOMMITTEE MEETINGS

1. The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

2. Six Members shall constitute a quorum for the purpose of transacting Committee business.

3. Proxy voting will be permitted on all matters, except that no measure or recommendation shall be reported unless a majority of the Committee were actually present.

4. The Chairman of the Committee on Foreign Relations, or the Chairman of any Subcommittee thereof, is authorized to fix the number of Members who shall constitute a quorum for the purpose of taking testimony.

5. Except when funds have been specifically made available to the Senate for a Subcommittee purpose, no Subcommittee of the Committee on Foreign Relations shall hold hearings involving reporting expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee.

6. Unless otherwise authorized by law or Senate resolution, Subcommittees shall be appointed each Congress by the Chairman. They shall be of three general types: consultative, "study" or "oversight," and ad hoc.

Consultative subcommittees are created primarily for purposes of consultation and not for the consideration of legislation.

Study or Oversight subcommittees are created to deal with specific problem areas which may or may not require legislative action originating with the Committee.

Ad hoc subcommittees are created to act on behalf of the full Committee on specific legislation or treaties.

#### COMMITTEE TRAVEL

No Member of the Committee on Foreign Relations or staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the ranking minority Member. Requests for authorization of such travel shall state the purpose and when completed, a full report shall be filed with the Committee.

#### NOMINATIONS

1. Unless otherwise directed by the Chairman, the Committee on Foreign Relations shall not consider any nomination until six days after it has been formally submitted to the Senate.

2. Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

3. No nomination shall be reported to the Senate unless the nominee has been accorded security clearance on the basis of a full field investigation by the Federal Bureau of Investigation, and, in appropriate cases, has filed a confidential financial statement with the Committee.

### TRANSCRIPTS

1. The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

2. If the Chairman so determines, the oral presentation of witnesses shall be limited to ten minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

### TRANSCRIPT REGULATIONS

1. Maintenance and security of classified transcripts.

a. The Chief Clerk of the Committee shall have responsibility for the maintenance and security of the classified transcripts.

b. A record shall be maintained of each use of the classified transcripts.

c. Classified transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons. They must never be left unattended and must be returned to the Chief Clerk promptly when no longer needed.

d. Classified transcripts shall be permitted to leave the Committee offices only in the possession of authorized persons. Delivery and return shall be made only by authorized persons. They shall not be permitted to leave the city or the country, unless adequate assurances are made to the Chairman for their security.

e. Transcripts classified secret or higher shall not be permitted to leave the Committee offices.

f. Extreme care should be exercised to avoid taking notes or quotes from classified transcripts. Their contents must not be divulged to any unauthorized persons.

2. Persons authorized to use classified transcripts.

a. Members and staff of the Committee, in the Committee rooms, or, by permission of the Chairman, in their offices.

b. Senators not members of the Committee, in the Committee's Capitol offices, by permission of the Chairman.

c. Members of the executive departments in the departments, or, in the Committee's Capitol office, by permission of the Chairman.

3. Declassification of executive transcripts and other executive records.

Executive transcripts and other executive records of the Committee shall be released to the National Archives and Records Service for unclassified use in accordance with the policies of that Agency whenever all members of the Committee at the time such transcripts or records were made shall no longer be living or shall no longer be members of the Congress, and shall have given their permission for such use.

### REGULATIONS FOR THE USE OF CLASSIFIED MATERIAL—OTHER THAN TRANSCRIPTS

Receipt and distribution of classified material.

1. All classified material received or originated by the Committee shall be keyed in at the Committees' offices in the New Senate Office Building, and except for material classified as "Top Secret" shall be filed in the NSOB offices for Committee use and safekeeping.

2. Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached, indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

3. Distribution of classified material among offices shall be by Committee Members or staff only. All classified material sent to Members' offices, and that distributed within the working offices of the Committee, shall be returned to Room 4229 NSOB. No classified material is to be removed from the offices of the Members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

4. Material classified "Top Secret," after being indexed and numbered, shall be sent to the Committee's Capitol offices for use by the Members and staff in those offices only.

5. The Chief of Staff is authorized to make such staff regulations as may be necessary to carry out the provisions of these regulations.

### STAFF REGULATIONS

The Committee recommends that the following concepts serve to guide the staff in its activities:

1. The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Chief of Staff.

2. Any Member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

3. The staff's—as, indeed, the Committee's—primary responsibility is with respect to bills, resolutions, treaties, and nominations.

4. The staff and the Committee also have a responsibility under Section 136 of the Legislative Reorganization Act which provides that ". . . each standing committee . . . shall review and study, on a continuing basis, the application, administration, and the execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee." In the case of foreign relations, there is an additional responsibility deriving from the advice and consent clause of the Constitution. By the same token, there are limitations deriving from the President's special constitutional position in regard to foreign relations.

5. In addition to carrying out assignments from the Committee and its individual Members, the staff should feel free to originate suggestions for Committee or Subcommittee consideration, making it clear in every case that the decision lies with the Committee or Subcommittee concerned. The staff should also be free to make suggestions to individual Members regarding matters of special interest to such Members.

It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

6. In carrying out the responsibilities in paragraph 5, the staff should bear in mind the workload of Senators and attempt not to deal in trivia but to limit itself to broad questions of basic policy, or specific matters which point up a question of basic policy.

7. The staff should pay due regard to the constitutional separation of powers between the Senate and the executive branch. It should, therefore, try to help the Committee bring to bear an independent, objective judgment on proposals to the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff must avoid impinging upon the constitutional prerogatives of the executive branch in the day-to-day conduct of foreign affairs.

8. In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by Members of the Committee and of the Senate. The staff must bear in mind that under our constitutional system it is the responsibility of the elected members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

9. The staff should regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee staff relationship is to be a satisfactory and fruitful one, the following criteria are suggested:

a. The staff must be completely nonpartisan and responsible only to the Committee. Staff members should be hired and fired by the Committee solely on the basis of merit and without regard to political considerations.

b. Members of the staff must not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group.

c. Members of the staff must not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Chief of Staff, or in his case, from the Chairman and the ranking minority Member. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action.

d. The staff must in no circumstances discuss with anyone the proceedings of the Committee in executive session or conversations with individual Senators without specific, advance permission from the Committee or the Senator concerned.

### PROVISIONS OF LEGISLATIVE REORGANIZATION ACT

In addition to the foregoing, the Committee on Foreign Relations is governed by the standing rules of the Senate and the rules and procedures set forth in the Legislative Reorganization Act of 1946, as amended.

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## SENATOR CARL HAYDEN

Mr. **HUGHES**. Mr. President, one of my great regrets in public life is that I did not have the opportunity to serve in the Senate with the late Carl Hayden before his retirement. Yet so monumental and far-ranging were his achievements in the Congress that one feels his close presence even though he has departed.

In addition to his lasting contributions to his country and his State, he lived a life that was an American epic in itself—a colorful life characterized by courage, zest, and constructive purpose. He was truly one of the great ones. Only a great man could have thanked the people of his State so honestly and simply when he announced his retirement. He said:

> You have given me the opportunity to serve with ten Presidents; take a front row seat at the most important events in mankind's greatest century; and to vote on and help fashion the legislation that helped build a State and a Nation.

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## UNION LEADERS IGNORE RIGHTS OF RANK AND FILE

Mr. **FANNIN**. Mr. President, union officials who are angered over the administration's refusal to bow to their every whim have launched a vindictive campaign to defeat President Nixon this year.

Some of these union leaders have acted like the virtual dictators they are, ignoring the rights of the rank and file. These leaders have tried to make it sound as though the full membership of their union is opposed to the President when in fact the percentage may be relatively small.

Even if there were a membership majority of 51 percent against the administration, it still would be wrong for union officials to try to throw the full weight of their organization into such a campaign.

Union dues are paid by persons of both political parties and by union members who are strong supporters of the President. It is wrong that their money should be used in an effort to thwart their political wishes.

It is especially ironic when a union that purports to represent Government workers should take an irrational stand with the election still many months away and there being no firm idea as to the candidates. This is a glaring example of irresponsible union leadership.

Mr. President, the Wall Street Journal yesterday published a thoughtful editorial on this matter. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### JUST IMAGINE

Chutzpah is a Yiddish word meaning unmitigated gall. A classic illustration is provided by the mythical story of the son who murders his parents and then throws himself on the mercy of the courts because he is an orphan.

Most real life examples of chutzpah don't go quite so far, of course. But a recent good one involves the National Association of Government Employes, some of whose locals are imprinting the motto "Defeat Dick Nixon in 1972" on envelopes containing union business mail.

Imagine the hullabaloo that would greet any disclosure that a civil service union was campaigning for Richard Nixon's reelection. There would be a public outcry faster than you could holler "spoils system." Yet there has been no similar outcry that workers on the public payroll are using the public mails in hopes of defeating a duly elected President.

All but forgotten is that civil service employes enjoy job security far beyond anything enjoyed in the private sector, a benefit bestowed in part because federal employes are prohibited by the Hatch Act from participating in partisan political activities. To argue now, as some NAGE officials do, that the Hatch Act prohibits individual but not collective politicking by federal employes, certainly is to abuse the spirit of the 33-year-old law.

In the minds of some NAGE officials, it seems civil service gives government employes rights (or is it powers?) that would be the envy of their counterparts in the private sector. Just imagine how many private employes would love to start a campaign to fire the boss.

## TAIWAN

Mr. SCOTT. Mr. President, some commentators have raised alarms over several clauses in the joint communique referring to Taiwan. It is important that the statements contained in the communique be judged in the context of today's situation of lessening hostility and Taiwan's greatly increased capability for self defense and not judged instead in the context of the atmosphere of the early 1950's.

In the rush to pronounce judgment on the results of the President's trip there has been much erroneous commentary. There has been a tendency to concentrate on the minutiae of immediate pluses and minuses and to judge the trip on that basis. Events of epic dimension such as this trip should be judged not by the rhetoric and the immediate pronouncements accompanying the event, but rather by the new opportunities for peace created and their impact on the course of history.

It should be pointed out that the Chinese have been moved to a fundamental shift in their position on Taiwan. Until very recently their position has been unshakeable that there could be no relations with the United States on any level while the United States continued to support the Taiwan regime. The historic communique of yesterday reveals the Chinese willingness to undertake new relations with the United States while the United States retains its firm treaty commitment to Taiwan.

One of the greatest developments of the President's initiatives has gone overlooked. Until very recently the clear and proclaimed policy of China toward Taiwan was to retake Taiwan by force. The communique of yesterday suggests that China has abandoned plans to reunite Taiwan with the mainland by any but peaceful means. It also makes clear that the U.S. presence on Taiwan is conditional upon the level of tension in the area. What more assurances could be provided to our allies?

Some commentators have completely misinterpreted the communique's reference to Taiwan as a part of China. The U.S. position does not endorse Taiwan as a province of China but rather leaves the status open to future negotiation by stating that the United States does not challenge the contention of both the mainland and the Taiwan Chinese that Taiwan is, in fact, a part of China.

The brilliance of the communique lies in its clarifying without yielding the points of difference between China and the United States while pointing to future areas of possible agreement and reconciliation of opposing views. The establishment of such a relationship and such a process greatly enhances U.S. flexibility in dealing with China and other world powers.

The communique establishes a more stable context for our continuing firm defense treaty commitment to Taiwan. By bringing up to date our relations with mainland China we enhance our ability to defend an adequate security assistance program for Taiwan, prevent domestic pressures against our treaty commitments, and greatly increase the credibility, and hence the value of our defense commitment to Taiwan.

The statement of U.S. policy toward Taiwan contained in the communique is an excellent illustration of the Nixon doctrine in practice. Taiwan has made great strides in shouldering the burden of its own defense. The United States, while diminishing the role of U.S. forces will not weaken its defense commitment to Taiwan, and will continue to provide the necessary security assistance and support. The fiscal year 1972 budget provided more than $100 million in security assistance to Taiwan. This level will not be reduced in the fiscal year 1973 request.

## A PERSONAL TRAGEDY AND THE VICTIMS OF CRIME ACT OF 1972

Mr. McCLELLAN. Mr. President, on December 11, 1971, on behalf of myself and 16 colleagues, I introduced S. 2994, the Victims of Crime Act of 1972. Title I of S. 2994 would provide compensation to needful innocent victims of certain violent crimes. It recognizes the moral responsibility of society to assist the innocent victims whose financial security is impaired as a result of crime.

Mr. President, I would like to bring to the attention of the Senate a letter I recently received from the widow of a retired Federal employee who was ruthlessly and senselessly murdered in cold blood within a few blocks of this very Chamber. It is distressing to hear the actual stories of the hardships imposed on innocent citizens by crimes. But it is something that needs to be called to our attention. It is a dimension of crime not always developed in the newspaper articles we read that tell only of the murder and subsequent police action.

At approximately 8 p.m. last October 15, on a well lighted street seven or eight blocks north of the Capitol, John P. Lee, who was on his way home from the supermarket, was attacked and beaten with an iron pipe by two youths. Mr. Lee, 67, was an assistant in the information office of the Spanish Embassy and previously worked for the Federal Government. On October 27 he died; according to the doctors, had Mr. Lee lived he would have had brain damage and been partly paralyzed.

Mr. and Mrs. Lee had tried to plan reasonably for their financial security. Mrs. Lee says that she and her husband had raised six children so had had little chance to save. They also lived abroad, due to Mr. Lee's Government service, so that they had not been able to buy a home until they returned to the States permanently 6 years ago. After returning to the United States, they saved the salary Mr. Lee made for 2 years and bought a small house on Capitol Hill. The Lees decided that their best investment would be real estate. Consequently, they began purchasing another house in which they lived with the expectation that Mr. Lee could work long enough to pay for that house and then the rent from the first house could be used to supplement his pension and social security. But Mr. Lee was murdered practically at his doorstep.

It would be highly presumptuous of me to attempt to portray the physical and mental sufferings of victims and their loved ones when such brutal and senseless crimes take lives, cause permanent disabilities or disfigurements. But we can get some notion of the financial harm done: Doctor bills, hospital bills, medicine bills, loss of wages or employment. Mrs. Lee had to face all these expenses—yet upon her husband's death his pension was cut to $63 a month; as of the first of the year she had not received any payments from social security. Because Mrs. Lee could not meet the payments on the house in which she and her husband were living, she had to sell that house. She is now temporarily living with a daughter in Florida and forsees returning to Washington to live in the basement efficiency apartment of the first house the Lees purchased and, apparently, to live on the rent from the remainder of the house, and whatever pension and social security payments that she is entitled to.

It is distressing to consider the difference between the life Mrs. Lee now faces and the life which she and her husband had planned and had conscientously worked toward. But those dreams were destroyed by the indescribable brutality of two young delinquents. It is a mark of her concern, too, that Mrs. Lee wrote to tell her story knowing that a bill passed in the future would not benefit her. She only wanted to tell how helpful such legislation would be to others in the same appalling circumstances.

Mr. President, we must give that help to those others. Imagine the state of those who do not own a house, who are not eligible for social security. The experience of New York State in the development of its successful compensation program indicates that the damage to a victim or his family does often force honest, hardworking people onto the welfare rolls. What a bitter blow that to one's pride, self-respect, and independence.

Mr. President, we must alleviate the suffering of these people who have done no wrong but are so severely injured by the vicious criminal. We must all contemplate the fate of the innocent who suffer at the hands of the criminal, and we should act to help those innocent victims by seeing that S. 2994 receives prompt and serious consideration.

Mr. President, I conclude by noting that there are now 39 cosponsors on S. 2994 and that we welcome other Senators to our ranks.

I ask unanimous consent that the text of Mrs. Lee's letter and the newspaper account of her husband's murder be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 5, 1972.

Hon. JOHN L. MCCLELLAN,
*Senate Office Building,*
*Washington, D.C.*

DEAR SIR: A former neighbor has sent me a clipping describing the bill you propose to aid innocent victims of violence and their families. I thought that you might be interested in hearing what happened to my husband and what it has meant to me and what a life-saver such help would have been.

As you will see from the enclosed clipping, my husband worked for the Spanish Embassy and was attacked by two teen age boys on his way home from the Safeway, almost at his own front gate. This was on October 15, at about eight at night on a street having the new intensive lighting, a policeman at Hines School, and many people around. The doctors say he was struck by an iron pipe. On October 27 after every possible measure to save him had been taken, he died suddenly of a blood clot. Had he lived, they tell me he would have been partly paralyzed and his brain damaged. He was a man in perfect health and ought to have lived for many more years.

Because he was so healthy and I was the one who was not we planned our future on the basis that he would outlast me. His job was such that he could continue it as long as he wished (he edited the Spanish News Letter). We had raised six children which meant that there had been little chance to save, and lived abroad a good deal so that we had never been able to buy a home here until six years ago when we returned permanently. We saved for two years all that I earned by working in an editorial capacity for the American Association of Retired Persons, and at that time bought a small house on Tenth Street, S.E. With some more saving and a small bequest a year ago we bought a second, much larger and pleasanter house at 704 N. Carolina Ave., S.E. where we were living at the time of the attack.

The only way we could see for two people our age to make their future somewhat secure was to invest in these two houses since property on the Hill can be counted to rise steadily in value. We gambled on having five years to pay off the improvements we had borrowed money to make at the new house, and worked hard fixing it up, my husband doing much of the less skilled work himself, as he had in the first house. With a small pension he had from the State Department, $126 a month, and the rent on the other house and an efficiency in the basement, we would have had that security, if it had not been for his murder. Instead, we had only a year and a half. Because he worked for an Embassy my husband had to pay his own insurance—$4,000. They gave me one extra pay check beyond what he had earned by all of his department doing his work for one month. If it had not been for that kind act, the paycheck he received for October, would have been the last.

My husband's pension was cut in half upon his death. I have yet to receive a single check from Social Security. The balance of the doctors' bills not covered by Medicare and Blue Shield keep coming in along with the obligations we assumed, on the assumption my husband's fine health assured him many more years of earning power. To say nothing of funeral expenses. Even the Bureau of Internal Revenue pursued me, though they turned out to be unexpectedly kind and human and things were straightened out quite easily.

Because I could not begin to meet the payments on the North Carolina house out of what I would have, I had to sell it. This included all the furnishings as well.

At present I am living with a daughter in Florida, but expect to return to D.C. in April. My roots are there. All my friends. My church—Christ Church on G Street, S.E. Where I am going to live I do not know. Probably in the basement efficiency of the Tenth Street house although it is not among most of my friends who are located in the North Carolina and Seventh Street area.

The point is, if there had been any kind of cash settlement and help for me in those early days, maybe I could have saved my real home, still been among dear friends who would have helped me to adjust. Instead I am among strangers, except for an unmarried daughter.

My husband and I were married for forty-six years. We both worked hard, lived through the depression, raised six children, and did our best to be worthy citizens of a country we both loved. It is not fair that my husband has been so brutally murdered, and even less so that the small security we had every right to look forward to and had sacrificed to try to obtain should have been shattered by that blow. The two murderers are still at large although a lot of people were willing to be involved. There seems to have been considerable lack of efficiency in the police department. After all, my husband was not particularly important, except to me. But to me he was my whole world. I never expect to go to the moon, nor did he, but it would have seemed reasonable to have expected to go in safety to and from that Safeway.

Good luck with your bill.

JESSICA LEE.

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[From the Evening Star, Oct. 28, 1971]

### AIDE AT EMBASSY DIES 13 DAYS AFTER BEATING

(By Timothy Hutchens)

John P. Lee, 67, an assistant in the information office of the Spanish Embassy, died in Sibley Hospital yesterday, 13 days after two youths beat him during an attempted robbery near his Capitol Hill home.

After doing some shopping in the Safeway opposite the Eastern Market on 7th Street SE., he was walking around the corner to his home at 704 N. Carolina Ave., when two youths attacked him beneath one of the area's high intensity lights at about 8:30 p.m.

"He didn't have any money with him because he paid by check," his wife, Jessica, said.

The attack took place about 100 feet from the Lee's door. A taxi driver saw one of the youths swing a bat or a stick at Lee, who fell to the ground and later said that he never saw his assailants.

The cabbie drove onto the sidewalk to scare the boys away. They ran, and some policeman near Pennsylvania Avenue gave chase. Mrs. Lee remembered that a boy was caught in the chase, but she said that the police had to turn him loose because all that the cabbie could say was that one of the attackers was wearing a white shirt.

Lee picked himself up and despite severe head injuries, made it home. But at 10:15 p.m. his wife took him to the hospital. An autopsy was scheduled for today. Presumably, he will be listed as the District's 231st murder victim of the year once the autopsy is completed.

"We feel very safe because there are lights," Mrs. Lee said. They had lived in the house for a year and a half and previously lived farther south and east on Capitol Hill at 519 10th St. SE.

A week before the assault, Mrs. Lee said, "we were in Europe on vacation where we walked the streets of Vienna and Frankfurt in safety at all times."

Lee had worked for the Spanish Embassy for eight years. Previously, he was with the U.S. Information Service in Brazil and Ebasco International (Electric Bond and Share Company).

He was brought up in South America and Central America, and spoke Spanish and Portuguese. Along the way, he picked up magic as a hobby and was vice president of the Society of American Magicians.

He was born in Manila. His father was supervisor of schools in the Philippines and worked for the State Department, retiring as consul general in Brazil.

Lee had six children. Funeral services will be at 11 a.m. Saturday at Christ Church, 620 G St. SE.

"I don't feel any bitterness," Mrs. Lee said. "But I hope the police catch those boys before they kill somebody else."

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## THE AMERICAN LEGION

Mr. HOLLINGS. Mr. President, at a time when some scoff at patriotism, the American Legion retains its pride of country—a pride that has accounted for much of the success of this very worthy organization. At a time when some go off to form their own select little cliques and refuse to even talk with those who disagree, the Legion works on the basis that the more varied the group, the better the chances of real achievement.

I know of no group that can boast such unique membership. The American Legion includes members from every racial, religious, and socioeconomic background in the country. Its members are blue-collar workers. They are white-collar workers. They are conservative. They are liberal. The are sometimes rich. They are sometimes poor. Its rolls list people from every walkway of life. And as I look around this Chamber today, I am proud to see many of my colleagues who are members of the Legion. So are many Members of the House of Representatives. So, too, is the President of the United States.

The Legion traces its history back to the years just after the First World War. Its organizers met in Paris over half a century ago to found a society that would preserve the spirit of comradeship that soldiers had discovered in the fires of that war. A few months later—in St. Louis—the Legion adopted a constitution and elected its first officers. It adopted the motto, "For God and Country." These are the words which have inspired over half a century of good and patriotic works. And these are the words which will continue to inspire the legionnaires of the present and the future.

From its first-year membership of 648,000, the Legion has grown to over 2,316,000. From that first organizational meeting, it has grown to over 16,200 posts throughout the major cities of the world. I have been on many of those posts, and I know firsthand of the many good works they are involved in.

The Legion's budget has grown to over $8 million a year. That budget is an investment in the future. This money is spent on a wide range of activities—humanitarian, legislative, and social. We are all familiar with the work performed on behalf of the disabled or wounded in helping these men toward a sound and productive life wherever possible. The rehabilitation program gives treatment to all veterans and their dependents.

The Veterans' Administration is also doing excellent work in aiding the sick and the handicapped generally. It has inaugurated programs for the protection and well-being of the Nation's children. And it has launched advanced education and training for veterans under the GI bill. That bill, Mr. President, is one of the most forward-looking pieces of legislation ever passed by Congress.

The American Legion is vitally interested in putting returning veterans into productive lives at home. Its concern is that our fighting men should return to a healthy and prosperous economy—an economy capable of providing jobs and the dignity that goes with productive work. To this end, the Legion has established a top priority program called jobs for veterans. It is an effort to bring returning veterans and prospective employers together. Good results have occurred, even given the sluggish state of the American economy. Jobs for veterans pilot projects were begun in 17 States. They have now expanded to include practically every State in the Union.

The American Legion has been in the forefront in the serious questions of national security. It knows full well that vigilance and an unmatched military power are the price we must pay for the continuation of our freedoms. Today the Legion is leading the way in insisting that we build our military might to a more effective level. The evidence is all around us that the United States has been losing significant ground militarily in the past several years, and unless we commit ourselves now to regaining the advantage, we might never be able to catch up again.

One of the greatest achievements of the legionnaires is their community work with community programs for the youth of this country. The lives of thousands upon thousands of boys and girls have been made happier by the programs that the Legion sponsors. There are over half a million boys that have been affiliated with the junior baseball program, and over 5,000 boys are in American Legion sponsored Boy Scout troops.

One aspect that I am very familiar with is the Boys and Girls State and Boys and Girls Nation. This activity organizes and operates a mythical state and national government to teach high school leaders about the obligations and responsibilities of citizenship. It shows the functions of self-government in this mythical setting. I have spoken to many of these groups and have talked with its participants. These are the kinds of activities that we need more of to teach the roles of good citizens in maintaining good government.

We are here today to pay tribute to the members of the American Legion, and thank them for their past accomplishments. The Legion is a leader in the field of community services. The members have involved themselves in far-reaching programs of assistance to help with the problems of our society. The American Legion has made its presence felt in the past and I only hope that it will continue to proceed with the same success in the future.

## AMERICAN LEGION DAY ON CAPITOL HILL

Mr. FANNIN. Mr. President, I wish to join Senators who are welcoming veterans on this American Legion Day on the Hill.

The American Legion is a great organization which has done a wonderful job of promoting patriotism over the years.

Recently in the so-called intellectual press it has become fashionable to attack the American Legion as an organization that is old-fashion and out-of-step with today's America.

Mr. President, I do not think that patriotism is old-fashioned.

And as for being out of step, I believe that the critics of the American Legion are like the young recruit who observed that everyone else in his unit was out-of-step, except for him.

I am proud of our veterans—the older ones who fought in World War I, the middle-aged who fought in World War II, and the young fellows who were in Korea and more recently in Vietnam.

All of these men were carrying out a commitment to freedom. They were called to serve for a high purpose. And they served well.

I salute them.

## PROPOSALS BY SENATOR HUMPHREY TO LIFT ALL OLDER AMERICANS OUT OF POVERTY

Mr. HUMPHREY. Mr. President, on February 24, 1972, I wrote a letter to the chairman of the Committee on Finance (Mr. Long), asking the committee to take immediate action on my proposal to increase the minimum assistance payment for old age, blind, and disabled recipients to $2,000 a year for a single individual and $2,600 for a couple.

I ask unanimous consent that the release and my letter be printed in the Record.

There being no objection the items were ordered to be printed in the Record, as follows:

### Humphrey Proposes Major Increases in Old Age Assistance Benefits

Washington, February 24.—Senator Hubert H. Humphrey today proposed major increases in the Old Age Assistance program to lift some 5.4 million elderly Americans and more than 1.5 million blind and disabled out of poverty.

Senator Humphrey's proposals were contained in a letter to Senator Russell Long, chairman of the Senate Finance Commitee. Humphrey said he would elaborate on his recommendations early next week.

Humphrey said he would offer an amendment in the Senate that would increase benefits to an elderly individual to a minimum of $2,000 a year, and benefits for an elderly couple to at least $2,600 a year. This would mean immediate benefit increases in more than 30 states and fiscal relief to taxpayers in a number of other states.

Following is the text of Senator Humphrey's letter:

* * * * *

Dear Mr. Chairman: It is one of the sad tragedies of our time that millions of our elderly citizens lack sufficient income to live a decent life—a life free from the frightening fear that they will not have enough money to purchase basic living necessities. These same elderly Americans have contributed much to our country. Now, in their later years, it is only fair that our society show them the respect they deserve.

For this reason, I ask the Senate Finance Committee to take rapid and positive action on an amendment I soon intend to offer that would immediately lift these 5.4 million elderly, and over 1.5 million blind and disabled out of poverty, as defined by the Office of Economic Opportunity.

My amendment would increase the minimum monthly payment for Old Age, Blind, and Disabled recipients to a federally funded $165 per single individual and to $215 per eligible couple, effective retroactively to January 1, 1972. Presently a federal minimum monthly payment does not exist; each state determines the level of assistance it wants to pay and this assistance varies among the states from a low of $60 to a high of some $200 a month.

My amendment would mean that an eligible elderly individual would have at least an income of $2000 a year and an elderly couple would receive a minimum of $2,600 a year. This amendment would mean immediate increases in income benefits for elderly recipients in more than 30 states, such as Florida, Arkansas, Delaware, Georgia, Indiana, Maryland, Maine, Wisconsin, Oregon, and West Virginia. For other states such as Ohio, Pennsylvania, New York, California, New Jersey, my amendment would mean state fiscal relief to the taxpayer of more than $2 billion dollars.

This amendment plus the extensive changes I have suggested before in social security financing, the increase in percentage benefits, the automatic cost of living escalator, and the increase in the earnings limitations ceiling should go a long way towards achieving a decent living standard for our elderly without overburdening our current workers.

In my travels around our country, I have been alarmed by the plight of the elderly living in poverty and near poverty. In our quest to reform the public assistance programs and to make the American living standard available to all, we can and should begin now by passing my amendment.

I do sincerely hope that the Finance Committee will act on it shortly.

## AMERICAN LEGION DAY ON CAPITOL HILL

Mr. McCLELLAN. Mr. President, I am both proud and honored to have this opportunity to pay tribute to the American Legion and to all veterans who have served our country so well in time of threat or danger. Our people are weary of war but our esteem and reverance for those who have borne our heaviest burdens in military conflict will never be dimmed.

Since the Minutemen shouldered their muskets in answer to Paul Revere's urgent call to arms almost two centuries ago, Americans have been forced to repeatedly march into battle to protect their homes and freedoms. The brave still make sacrifices in this cause. In Vietnam since 1961, over 45,000 young Americans have been killed and more than 302,000 wounded.

For those of us who served in World War I or World War II, or in Korea, it is difficult to realize that the American Legion will soon be 53 years old—that it has given over a half century of service to our veterans and to the Nation.

War-tired and homesick, members of the American Expeditionary Force met in Paris from March 15, to March 17, 1919, to form the nucleus of the organization that was to provide the structural framework and the ideals that have sustained the Legion down through the decades until now. The preamble to the Constitution adopted a short time later, clearly set the organization on its course of service to God and country:

> To uphold and defend the Constitution of the United States of America;
>
> To maintain law and order;
>
> To foster and perpetuate a one hundred per cent Americanism;
>
> To inculcate a sense of individual obligation to the community, state and nation;
>
> To make Right the master of Might;
>
> To promote peace and goodwill on earth.

These same concerns occupy the American Legion today—and I am indeed proud to include myself among its members, having joined in 1919 and held continuous membership therein ever since.

The Legion today is as vital as it was when it was founded. It is the world's largest veterans organization, with 2.7 million members enrolled in more than 16,000 posts throughout the United States and overseas. Vietnam veterans are joining just as did World War II and Korean war veterans—and are achieving positions of leadership.

Much more important than statistics, however, is the Legion's outstanding record of service. The Legion has accomplished much on behalf of veterans—working for the establishment of the Veterans' Administration in 1930 and congressional approval of the GI bill of rights after World War II. Much has also been done to alleviate the burdens of the widows and orphans of those who have made the supreme sacrifice.

Mr. President, the work we do on behalf of our veterans is the work of pride. No accomplishments that I have made in my 29 years as a Member of the U.S. Senate gives me greater pride than my work on behalf of my fellow veterans. Certainly I was proud—to have President Johnson, at my urging, approve special tax relief for servicemen in Vietnam in 1965;

To have cosponsored the law to provide additional pensions, job training, and educational assistance for our Vietnam veterans;

To cosponsor legislation in the current session to exclude from gross income the entire amount of pay received by members of the Armed Forces who are being held prisoner or are listed as missing;

To have introduced an amendment to this legislation granting special bonuses to men in these categories.

President Coolidge once said that—

> The nation which forgets its defenders will itself be forgotten.

We have no intention of forgetting the men who have defended our country. I am proud to join Senators in tribute to these gallant men by saluting with deep affection and admiration, their splendid organization—the American Legion.

## AMERICAN LEGION DAY ON THE HILL

Mr. HUGHES. Mr. President, everybody knows about the American Legion in terms of its service to veterans and its concern with national defense. But I have found that comparatively few people know about its extra dimensions of service in building a better American society. I think particularly of its imaginative programs for children and youth and its service in years past to the migratory poor. Such efforts contribute significantly to the well-being of our society and in no small measure to our national security.

## EQUAL RIGHTS AMENDMENT

Mr. DOLE. Mr. President, I was gratified to learn that the Committee on the Judiciary has today—by a vote of 14 to 1—favorably reported the Equal Rights Amendment. This overwhelming support for the measure assuring full and unquestioned equality for women in America is both significant and welcome. The significance of this action lies in the fact that one of the last hurdles to congressional approval has been cleared. And this action is all the more welcome because such a strong endorsement gives the amendment a congressional momentum it has not had since introduction by Senator Charles Curtis of Kansas nearly 50 years ago.

I have previously expressed my support for the Equal Rights Amendment and take this opportunity to reaffirm my endorsement. I am hopeful the Senate can take up consideration of the amendment at an early date and join the House in approving it without inhibiting or crippling amendments. Following such congressional approval, I am sure the State legislatures will be quick to provide ratification and thereby put an end to any question of the legal and constitutional status of American women.

## THE AMERICAN LEGION'S LEGISLATIVE PROGRAM

Mr. TALMADGE. Mr. President, this afternoon Mr. John H. Geiger, the National Commander of the American Legion, the largest of the Nation's veterans organizations, very ably presented the Legion's 1972 legislative program to the Senate Committee on Veterans Affairs.

I commend Commander Geiger's remarks to the Senate and ask unanimous consent that the text of his statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

### Statement of John H. Geiger, National Commander, the American Legion, Before the Committee on Veterans' Affairs, U.S. Senate, Tuesday, February 29, 1972

Mr. Chairman and Members of the Committee: I appreciate the opportunity of appearing today before this distinguished Committee of the Congress to represent The American Legion, the largest of the nation's veterans organizations, composed of over 2,700,000 veterans in more than 16,000 Posts located throughout the country. Included among its members, who have served in four wars, are nearly 500,000 veterans of the Vietnam Era. The organization in 1971 recorded its seventh consecutive year of membership growth.

My appearance here today is a milestone in the history of The American Legion. It is the first appearance of an American Legion National Commander before the new Senate Committee on Veterans Affairs to outline our legislative program.

The establishment of a Senate Committee on Veterans Affairs was an objective of The American Legion for many years. The Senate, like the House of Representatives, has always demonstrated an interest in and a sensitivity to the needs of the nation's veterans and their dependents. The present veterans benefits program attests to that fact. However, it has long been the position of The American Legion that the sheer number of American veterans, and the importance of legislation affecting their welfare and well-being, has indicated the need for a particular committee in both Houses that could devote itself to veterans legislation. In its wisdom, the Senate has now agreed with this thinking and the Committee on Veterans Affairs has been established. It will be our pleasure in this and subsequent years to present here on veterans affairs legislative program as developed by Legionnaires from throughout the country through National Conventions and the National Executive Committee.

As a result of the work of both Senate and House, the program of veterans benefits that has been enacted into law through the years is nothing short of monumental. At no time in the history of the world has a nation taken such keen interest in the readjustment of the citizen soldiers who fight it wars, and made such extensive provisions to facilitate that readjustment.

American veterans are fortunate in many ways in consequence of having performed the highest duty of citizenship—that of bearing arms in defense of the republic. But they are most fortunate because they are part of a people represented by a Congress that has never ignored them once their service was completed.

And may I say that this particular Committee has most certainly met its responsibilities in the best tradition of its distinguished predecessors. We of The American Legion are grateful to you, Mr. Chairman, and to all of you who serve on the Veterans Affairs Committee. We appreciate your efforts—we look to you for leadership—and we pledge to you our full resources in the preparation and consideration of constructive legislation, and also in the task of bringing to the attention of the American people the extent and nature of the nation's responsibilities to its veterans.

I cannot compliment this Committee without at the same time expressing the thanks and appreciation of The American Legion to the Committee's very able Staff Director and the entire Committee staff. Their expertise in the field of veterans affairs, and their complete cooperation with The American Legion and its staff, are invaluable in enabling us to meet our responsibilities to the nation's veterans.

### SPECIAL COMMITTEE ON VETERANS MEDICAL CARE

The first matter of importance that I have to discuss this morning is the future of the Veterans Administration medical care program. It is the considered opinion of The American Legion that the medical care program is in jeopardy. And if we are correct in that estimation, we wish to make one further point in that regard. That is, that the VA medical care program, as it is now constituted, will be defended by The American Legion with all of the energies and resources this organization will be able to muster.

The present unparalleled medical care program administered by the Veterans Administration has been developed through a period of fifty years until it has reached its present position of proficiency and effectiveness. It is at present a great national resource, and The American Legion does not intend to see it disappear, either as a result of being dismantled or by being absorbed into some other comprehensive medical care plan that the Congress may see fit to adopt.

The American Legion has seen this potential threat to the VA medical care program developing on the horizon for some time. At our 1971 National Convention the delegates decided that it was time to openly and formally recognize the existence of this threat as we face the growing debate on the subject of National Health Insurance.

The National Convention adopted Resolution No. 113, a copy of which is appended to this statement. Resolution 113 directed the National Commander to establish a Special Committee that would report to the 54th National Convention in Chicago next summer.

A Special Committee, composed of distinguished Legionnaires, all knowledgeable in the field of veterans' affairs and rehabilitation, has been appointed. The Committee has held many meetings, including one informative session with members and staff of this Committee.

My travels throughout the country, conferring with Legionnaires and with other Americans from all walks of life, have convinced me that the results of the work of the Special Committee cannot wait to be reported at our National Convention in August 1972. I therefore reqeusted our Committee to step up the pace of its labors, and it will issue an interim report this week. We will keep you informed of our position.

The American Legion will do all in its power to thwart the danger to the VA medical care program, and we will look to this Committee for support and assistance. I have every confidence that the Veterans Affairs Committee will respond, because I know that the dedication of each of you to the health and welfare of the nation's veterans is as great as is our own. And I am satisfied that, working together, we can defeat any threat to the existing VA medical care program.

### EDUCATIONAL ASSISTANCE PROGRAM FOR VIETNAM VETERANS OF OUR ARMED FORCES

Approval on March 3, 1966 of the "Veterans Readjustment Assistance Act of 1966" established an educational assistance program for the Post-Korean Conflict and Vietnam Era veteran. Since then, educational assistance payments have been increased by seventy-five percent. Despite these increased payments, cost of living increases and rising costs of education continue to bar many veterans from using their eligibility for educational assistance. Many of those veterans who use their eligibility do so at considerable financial cost to themselves or to their families.

Your Committee has under consideration several measures with a variety of approaches to the problem—to increase the present educational assistance allowances; to provide direct payments to education and training schools or institutions to cover cost of tuition, fees, books, and other charges; to provide a combination of subsistence and direct payment to education and training institutions, or a combination of both; or to make other improvements in the current educational assistance program.

Although there may be some divergence of philosophy between other groups and organizations, The American Legion continues to adhere to the original concept associated with the World War II G.I. Bill, that the educational assistance provided was never intended to cover all costs but that veteran students were expected to supplement these costs from their personal funds or from other sources. We believe, though, that educational assistance—a combination of subsistence and direct institutional payments—should bear a reasonable relationship to the total costs, be they incurred in public or private education or training institutions.

Based on this belief, The American Legion at its 1971 National Convention approved Resolution 342. This manadate seeks four basic changes in the current GI education program administered by the VA—

(1) Direct payment to the educational institution of three-fourths of the costs for tuition, books, and other fees, but not more than $1,000 in any one ordinary school year

(2) VA-guaranteed educational assistance loans

(3) Direct VA loans to veterans who cannot obtain guaranteed commercial loans under conditions and terms acceptable to the VA

(4) Continuance of the present educational assistance allowances as monthly subsistence payments.

It is recognized that some abuses of the institutional direct payment provision of the original GI Bill occurred. These, we believe, were a direct result of laxity in the law, poor administration and confusion in regulation, inadequate supervision by State Approval Agencies and VA officers, and general inexperience on the part of the Federal Government in its initial venture into a unique and tremendous program of education and readjustment assistance.

In our opinion, a recurrence of these abuses is preventable by restrictions of subsequent and current law, VA experience in administration of education and training programs, and expertise in State Approval Agencies.

We do not propose that the program be so liberal as to stimulate veterans to enter the program merely for the purpose of subsistence allowances, but that it be sufficient to motivate veterans to enter and pursue to completion programs of education or training.

In urging these changes in the current GI education provisions, The American Legion was motivated by the concept that the Veterans Administration should be a one-stop agency to service those veterans who desire to enter programs of education or training by providing them with—

Subsistence;

Direct payment to institutions of education or training to cover costs of tuition, fees, books and other charges on enrollment;

Guaranteed and direct educational loans.

We urge, Mr. Chairman, that you give us an early opportunity to appear before your Committee to present more detailed support of our views.

### INCREASED RATES OF COMPENSATION FOR SERVICE-DISABLED VETERANS

At present, Chapter 11 of title 38, United States Code, authorizes payment of compensation of $450 monthly to those veterans whose wartime service-connected disabilities are evaluated at 100 percent.

Under the authority of this Chapter the Administrator of Veterans Affairs adopts and applies a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries, including disease residuals. These ratings are based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations.

Disability compensation payments were last increased by Public Law 91–376, effective July 1, 1970. At that time the increased payments for 100 percent disability compared favorably with spendable average annual earnings of production or nonsupervisory personnel in private nonagricultural payrolls.

To maintain the veteran's purchasing power, these payments must respond to cost-of-living increases. As published by the Bureau of Labor Statistics, Department of Labor, the July 1, 1970 index was 116.7, and by December 1971 it had advanced to 123.1, an increase of about 5.5 percent. Current estimates are that the consumer price index will advance at an annual rate of 3 percent. In view of the fact that disability compensation rates do not automatically respond to changes in the cost of living, legislation proposed should anticipate increases that will occur in the interval between enabling legislation granting offsetting increases.

Mr. Chairman, we urge this Committee's consideration of increasing the monthly rates for 100 percent to $500. This amount would materially assist these severely disabled veterans in meeting today's cost of living at a standard which is not demeaning to their status as veterans. A similar percentage increase in monthly compensation payments should be authorized those with disability evaluations of less than total.

### DEVELOPMENT AND MAINTENANCE OF AN ADEQUATE SYSTEM OF NATIONAL CEMETERIES

At present there are four separate cemetery systems administered by federal agencies: the national cemetery system operated by the Department of the Army; a number of cemeteries adjacent to its facilities controlled by the Veterans Administration; the National Park Service of the Department of Interior; and overseas cemeteries under the American Battle Monuments Commission.

We believe that this division of jurisdiction is responsible for the absence of a clear policy on the present and future development of a system of national cemeteries.

Our statement of February 22, 1972 before your Committee in connection with national cemetery legislation urged the following course of action—

(1) Congress transfer all active cemeteries to the jurisdiction and supervision of the Administrator of Veterans Affairs

(2) The Administrator undertake and complete a study of national cemetery needs based upon a demographic study of the veteran population, and submit his findings and recommendations to the Congress within a reasonable period of time

(3) The Administrator be empowered to acquire, by gift, purchase, or condemnation, necessary lands for use as national cemeteries.

Legislative accomplishment of these objectives would, in our judgment, assure that every veteran and serviceman who wants the honor should have the right to burial in a national cemetery reasonably close to his family home.

In addition, we suggest that the enabling statute or its legislative history specifically bar the Administrator of Veterans Affairs from issuing orders limiting burial of eligible veterans, such as is now the case in Arlington National Cemetery, so long as burial sites are available.

Mr. Chairman, we urge your Committee's favorable consideration of our views, and that action be taken to assure early consideration by the Senate.

### INCREASE THE AMOUNT PAYABLE BY VA TOWARD THE COST OF BURIAL AND FUNERAL EXPENSES

Chapter 23 of title 38, United States Code, provides that the Administrator of Veterans Affairs may pay not to exceed $250 to cover the burial and funeral expenses of a deceased veteran, and the expense of preparing the body and transporting it to the place of burial.

The amount of this burial benefit was last increased on August 18, 1958, from $150 to the present $250.

According to the latest information published by the National Funeral Directors Association of the United States, Inc., the average prices for adult funerals rose from $661 in 1958 to $926 in 1969. Bureau of Labor Statistics reports show that between December 1969 and December 1971, adult funeral prices increased by 7.7 percent. These averages do not include vault, cemetery or crematory expenses, monument or grave marker, or miscellaneous items such as flowers, burial clothing, additional transportation charges, honorarium for the clergyman, or newspaper notices.

We believe that the increased costs of funeral and burial services established that there is a compelling need to increase the Veterans Administration burial benefit to $500.

Mr. Chairman, times does not allow a more detailed presentation to you of the Legion's legislative objectives in veterans affairs. Readjustment and rehabilitation of the young veterans is a continuing problem. As you know, we are actively supporting both legislative and administrative programs to meet their housing needs, assure them job opportunities and placement, and preference in federal employment.

Mr. Chairman, time is running out. If we are to have a meaningful GI Bill this year then action must be taken without further delay. This is an election year, with primaries and political conventions. The Congress is pointing for an early adjournment. Unless it moves forthrightly, we may end up with no improvement in the education and vocational training benefits for the Vietnam veteran in 1972. The American Legion is depending on this Committee to assist these young men in their efforts to further their readjustment to civilian life.

In conclusion, may I again express appreciation to this Committee, to the Congress, and to the President of the United States for the understanding of the problems of our veterans and of their dependents and survivors. This understanding was reflected again in the recent enactment and approval of laws to improve the income maintenance of pensioners and of the parents, widows and children receiving dependency and indemnity compensation.

I would like to remind each of you that it will be the pleasure of The American Legion tomorrow evening to host all of the Members of Congress at our annual dinner in the Grand Ballroom of the Sheraton Park Hotel. Many of you have attended these dinners in past years. I hope you will agree they are pleasant affairs, and that you will be our guest again on this occasion. More than 1600 members of The American Legion, and the American Legion Auxiliary, are in attendance at our Annual Washington Conference. The dinner tomorrow evening will provide them with an opportunity to greet the Members of Congress from their home states.

Once more, I extend my warmest invitation to each of you to join us tomorrow evening—to have dinner, and to meet the Legionnaires from your particular areas.

Mr. Chairman and Members of the Committee, thank you again for this opportunity, and for the time you have given us.

Our beloved nation is living through difficult days. This is an election year, and there will be great debates on the issues. That is good in a democracy. However, for The American Legion, in all that is said and done, certain verities remain. Devotion to flag and country—devotion to the ancient principles of our heritage from our forefathers—dedication "to care for him who shall have borne the battle, and for his widow and his orphan"—these things are—for us—above the debate. And we shall be true to them as long as there is an American Legion.

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[From the 53d annual national convention, the American Legion, Houston, Tex., Aug. 31–Sept. 1, 2, 1971]

### RESOLUTION NO. 113

Authorizes and directs the national commander to appoint a special committee to be known as the Special Committee on Veterans Medical Care

Whereas, The American Legion, for the entire period of its existence, has been committed to the need for a single agency of the federal government to handle all veterans affairs; and

Whereas, an integral part of that agency, designated the Veterans Administration, has always been the veterans medical care program; and

Whereas, through the years the Veterans Administration medical care program and its hospital system, with the support of The American Legion, has developed into the finest single system of health delivery service in the world; and

Whereas, a continuing and intense concern of The American Legion is and has always been the maintenance of the integrity of the Veterans Administration medical care program; and

Whereas, there is a real possibility that proposals will be made to merge or associate the Veterans Administration medical care program with other national health delivery systems that are or will be brought into being by the federal government; and

Whereas, such a prospect creates in The American Legion a sense of alarm and concern; and

Whereas, it appears that it would be provident for The American Legion to examine into the situation now existing with reference to national health delivery systems and their possible impact on the Veterans Administration medical care program; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 31, September 1, 2, 1971, that The American Legion is irrevocably committed to the need for the maintenance of the Department of Medicine and Surgery within the Veterans Administration, and to the need for the preservation of the Veterans Administration medical care program and its hospital system as the single agency for providing health care services to the nation's war veterans; and be it further

Resolved, that The American Legion will oppose with all of its energies and resources any effort to materially weaken, restrict or reduce the Veterans Administration medical care program in the face of the apparent needs of the nation's war veterans; and be it further

**Resolved, that this Convention does hereby authorize and direct the National Commander to appoint a special committee to be known as the Special Committee on Veterans Medical Care; the members of the Special Committee to be drawn from the Veterans Affairs and Rehabilitation Commission, and to include representatives from among Department Rehabilitation Directors and Department Service Officers, and the Committee to be provided with staff support drawn from the staff of the National Veterans Affairs and Rehabilitation Division of the National Headquarters, and with professional and qualified consultants as may be necessary; and be it further**

Resolved, that the National Executive Committee is hereby instructed to provide, from the funds of the national organization, such moneys as may be necessary to enable the Special Committee to complete its assigned task; and be it further

Resolved, that the Special Committee on Veterans Medical Care is charged to—

(1) examine into the adequacy of the Veterans' Administration medical care program

(2) consider the potential impact on the Veterans' Administration medical care program of a national health insurance plan

(3) restate, following thorough research, the reasons for the continuing necessity of an independent medical care program within the Veterans' Administration

(4) study and examine any and all other matters relating to veterans medical care; and be it finally

Resolved, that the Special Committee on Veterans Medical Care shall submit its report, findings and recommendations to the 54th Annual National Convention of The American Legion.

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### RESOLUTIONS THAT REQUIRE LEGISLATIVE ACTION

#### POLICY

#### *A. Increase mileage allowance for VA beneficiaries*

1970 Convention Resolution No. 476 (P.R.) urges that the Administrator of Veterans Affairs pay a mileage rate of 10 cents per mile for expenses incurred by beneficiaries while traveling pursuant to a Veterans Administration authorization.

#### *B. Conditional discharges*

1970 Fall NEC Resolution No. 31 seeks legislation to establish eligibility to VA benefits of those veterans conditionally discharged or released from active service who immediately reenter such service.

#### *C. Funds for the operation of the Veterans Administration*

1971 Convention Resolution No. 420 (Ill.) urges the Congress to give a high priority to the budgetary needs of the VA to insure that sufficient funds will be made available to carry out this nation's commitment of providing first quality medical and hospital care for veterans.

### *D. Cabinet rank for Administrator of Veterans Affairs*

1970 Convention Resolution No. 399 (Texas) seeks legislation to raise the office of the Administrator of Veterans Affairs to that of Cabinet rank.

### *E. Oppose the merging of VA programs with social security program*

1970 Convention Resolution No. 487 (Alabama) urges opposition to any legislation or administrative attempts to merge programs administered by the Veterans Administration with Federal Social Security benefits program.

### *F. Mustering-out payments for Vietnam era veterans*

1971 Convention Resolution No. 194 (Ohio) seeks legislation to provide that each member of the Armed Forces who served on active duty during the Vietnam Era, and who is discharged or released from active duty under honorable conditions, shall be eligible for mustering-out payments.

### *G. Commissary privileges for certain widows*

1971 Convention Resolution No. 980 (Maryland) seeks legislation to authorize commissary and post exchange privileges for the widows of those war veterans who die of a service-connected disease or injury after separation from active duty with the Armed Forces.

### *H. Opposition to hospitalization of nonveterans in VA hospitals*

1970 Convention Resolution No. 570 (Va.) urges opposition to legislative and administrative efforts to authorize the hospitalization of nonveterans in VA hospitals.

### *I. Recovery of overpayments*

1970 Fall NEG Resolution No. 34 seeks legislation to provide that there shall be no recovery of payments or overpayments of any benefits (except servicemen's indemnity) under laws administered by the VA from any person, where, in the judgment of the Administrator, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience.

### *J. Oppose removal of limitations on existing attorney or agent fees*

1970 Fall NEC Resolution No. 35 urges opposition to the enactment of legislation that would remove the attorney or agent fee limitations imposed by 38 USC 3404 or strike the penalty provisions of 38 USC 3405.

### *K. Special clothing allowance be provided certain disabled veterans*

1970 Fall NEC Resolution No. 37 seeks legislation to provide for payment of a special clothing allowance to those veterans eligible to receive an artificial limb or brace from the VA.

### *L. Amend the Dual Compensation Act*

1970 Fall NEC Resolution No. 38 seeks legislation exempting the Veterans Administration from the Dual Compensation Act as it applies to retired military personnel desiring employment with the Veterans Administration Department of Medicine and Surgery.

### *M. Transportation costs for burials of certain veterans*

1971 Spring NEC Resolution No. 12 seeks legislation to provide that when any retired member of an Armed Force dies while a patient in a United States hospital, the cost of transporting the body to the place of burial shall be borne by the Secretary of such Armed Force.

1971 Convention Resolution No. 215 (Nebr.) seeks legislation to provide that where an eligible veteran dies in a State Veterans Home, the Administrator of Veterans Affairs shall pay the cost of transporting the remains to place of burial.

### *N. Military honors at burial of veterans*

1971 Spring NEC Resolution No. 15 seeks legislation to provide for full military honors at burial services of veterans.

### *O. Opposition to closing of United States Public Health hospitals*

1971 Spring NEC Resolution No. 48 urges the Congress and the President of the United States to restore to the budget funds needed to continue the operation of these hospitals.

### *P. Veterans Memorial Hospital in the Philippines*

1971 Convention Resolution No. 339 (Philippines) seeks legislation to extend beyond June 30, 1973 the grants-in-aid program to the Veterans Memorial Hospital in the Philippines.

1971 Convention Resolution No. 350 (Philippines) seeks legislation to extend beyond June 30, 1972 the grants-in-aid for research in the Veterans Memorial Hospital in the Philippines.

### *Q. Government-issued grave markers*

1971 Convention Resolution No. 388 (Missouri) seeks legislation to provide that the cost of setting government-issued grave markers, not to exceed $100, be borne by the Department of Defense.

## NATIONAL CEMETERIES

### *A. The national cemetery policy of the American Legion*

1970 Convention Resolution No. 452 (N.Y.) seeks legislation to: (1) Transfer to the Administrator of Veterans Affairs existing national cemeteries presently under the jurisdiction of the Department of the Interior, and Department of the Army; (2) provide the Administrator of Veterans Affairs with authority and responsibility for the operation, care and maintenance of these cemeteries; (3) direct the Administrator of Veterans Affairs to plan a system of national cemeteries and to establish a program of expansion and distribution of national cemetery sites shall, at all times, be sufficient to assure burial in a national cemetery for those who so desire; (4) authorize the Administrator of Veterans Affairs to acquire such lands as are needed—by gift, purchase, condemnation, transfer, or by any other means; and, (5) provide that jurisdiction of national cemeteries be placed under those committees of the United States Senate which have jurisdiction of veterans affairs; and, (6) petitions the President, the Congress of the United States, and the Secretary of Defense to rescind the discriminatory order of February 10, 1967, which limited burials in Arlington National Cemetery.

### *B. Burial sites at Custer Battlefield National Cemetery*

1971 Convention Resolution No. 100 (Wyoming) seeks legislation to provide additional burial sites at the Custer Battlefield National Cemetery.

## CLAIMS AND RATINGS

### *A. Burial allowance*

1970 Convention Resolution No. 104 (Montana) urges opposition to those legislative proposals that would amend 38 USC so as to reduce burial benefits.

1971 Convention Resolution No. 199 (Ohio) seeks legislation to provide that the burial allowance be increased to $500.

### *B. Armed forces retirement payments*

1970 Convention Resolution No. 180 (Okla.) seeks legislation to remove the restriction against the receipt of Armed Forces retirement pay, due to length of service, concurrently with VA compensation.

### *C. Aid and attendance allowance to children*

1970 Convention Resolution No. 195 (Md.) seeks legislation to provide aid and attendance allowance at the rate of $50 per month to a child who is in receipt of death compensation or dependency and indemnity compensation, if such child is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

### *D. Improve the disability compensation program*

#### Seven-year Presumption for Progressive Muscular Atrophy

1970 Convention Resolution No. 577 (Va.) seeks legislation to provide that progressive muscular atrophy developing to compensable degree within 7 years of separation from wartime service shall be considered to have been incurred in or aggravated by such service.

#### Special Compensation for Veterans Requiring Hemodialysis

1970 Fall NEC Resolution No. 36 seeks legislation to provide that a special monthly compensation be payable to those veterans whose chronic service-connected kidney condition requires hemodialysis on a continuing basis.

#### Presumption of Service-connected Death in Certain Cases

1971 Convention Resolution No. 370 (Va.) seeks legislation to provide that the widow, children and dependent parents of any person who died from natural causes after a service-connected disability had been rated total and permanent for 10 years shall be entitled to dependency and indemnity compensation.

#### Two-year Presumption for Psychosis

1970 Convention Resolution No. 541 (Minn.) seeks legislation to provide that a psychosis developing a ten per centum degree of disability or more within two years from the date of separation from war service shall be considered to have been incurred in or aggravated by such service.

#### Increase Statutory Awards Rate

1971 Convention Resolution No. 71 (Ky.) seeks legislation to increase the statutory awards of compensation payable under 38 USC 314 (k) from $47 to $75.

#### Increased Compensation (A. & A.) While a Nursing Home Care Patient

1970 Convention Resolution No. 573 (Va.) seeks legislation to provide that a person shall be considered to be entitled to increased disability compensation under title 38, USC, 314 (l) if he is a patient in a nursing home for a service-connected disability.

### *E. Improve the disability and death pension program*

#### Comprehensive Improvements

1971 Convention Resolution No. 217 (Nebr.) seeks legislation to improve the death and disability pension benefits program for veterans of World War I, World War II, the Korean conflict, and the Vietnam era, and for their widows and children.

#### Oppose Supension of Payments to Veterans Residing Outside the U.S.

1970 Fall NEC Resolution No. 32 urges opposition to any legislation which seeks to suspend or discontinue payments of disability pension to any war veteran residing outside the United States.

#### Income Exclusion for VA Pension Benefits

1970 Fall NEC Resolution No. 39 seeks legislation to exclude from pension annual income determinations the additional railroad retirement annuity payable for dependents in the family group.

#### Effective Date of Disability Pension

1971 Convention Resolution No. 310 (Calif.) seeks legislation to provide that the effective date of disability pension shall be the date permanent and total disability is established if an application is received within one year from that date.

### *F. Guerrilla recognition program of the Philippines*

1971 Spring NEC Resolution No. 11 seeks legislation for the reopening of the guerrilla recognition program of the Commonwealth of the Philippines by the Department of Defense of the United States.

### *G. Payments to hospitalized incompetent veterans*

1971 Spring NEC Resolution No. 17 seeks legislation to provide that in any case in which an incompetent veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds $2,000, further payments of pension, compensation, or emergency officers retirement pay shall not be made until the estate is reduced to $1,000.

### *H. Improve administrative discharge procedures*

1971 Fall NEC Resolution No. 14 seeks legislation to further improve and insure due process in the Administrative Discharge Procedure followed by the Armed Forces and the U.S. Coast Guard.

## MEDICAL AND HOSPITAL

### *A. Extend Nursing Home Care to Nine (9) Months*

1970 Convention Resolution No. 587 (Va.) seeks legislation so as to extend community nursing home care at VA expense to nine months.

### *B. Hospital Care in Civilian Facilities of Certain Veteran Dependents*

1970 Fall NEC Resolution No. 40 seeks legislation to provide that the surviving dependents of those war veterans who die of a service-connected disability after discharge from active duty in the Armed Forces, as well as the wives and children of permanently and totally service-connected disabled veterans, shall be authorized hospital and outpatient care in civilian medical facilities at Government expense.

### *C. Medical Services for Non-Service-Connected Disability*

1971 Spring NEC Resolution No. 9 seeks legislation to provide that the Administrator of Veterans Affairs, within the limits of the Veterans Administration facilities, may furnish such medical services as he finds reasonably necessary to any war veteran for a non-service-connected disability.

### *D. Establishment and improvement of State Medical Schools*

1971 Spring NEC Resolution No. 18 seeks legislation to authorize the Administrator of Veterans Affairs to provide certain assistance in the establishment of new state medical schools and the improvement of existing medical schools affiliated with the Veterans Administration.

### *E. Direct Admission for Nursing Home Care*

1971 Convention Resolution No. 619 (Convention Committee) seeks legislation to provide that the Administrator of Veterans Affairs may authorize direct admission to any public or private institution which furnishes nursing home care, or care at the expense of the United States.

## EDUCATION AND TRAINING

### *A. Education Benefits for Wives and Widows*

1970 Convention Resolution No. 193 (Md.) seeks legislation to authorize educational assistance at the secondary level for eligible wives and widows; and that such training be provided without charge to any period of entitlement.

1971 Spring NEC Resolution No. 14 seeks legislation to permit eligible wives and widows to enroll in correspondence courses.

1971 Convention Resolution No. 544 (Miss.) seeks legislation so as to extend apprenticeship and other on-job training benefits to eligible wives and widows, and wives of prisoners of war and missing in action.

### *B. Educational assistance and vocational rehabilitation programs*

1971 Spring NEC Resolution No. 44 (superseded, in part, by 1971 Convention Resolution No. 342) seeks legislation to improve the education assistance and vocational programs to (1) increase the maximum period of eligibility to 48 months, and (2) increase the monthly subsistence allowance for vocational rehabilitation to a level commensurate with today's cost of food, housing, transportation and other necessities.

1971 Convention Resolution No. 342 (Md.) seeks legislation to improve the educational assistance program to (1) pay the cost of tuition, and such laboratory, library, health, infirmary, books, supplies, equipment, and other necessary expenses, excluding board, lodging, other living expenses, and travel, but in no event shall the payment authorized exceed 75 percent of such tuition cost and fees or $100, whichever is the lesser, for an ordinary school year, (2) a veteran eligible for such tuition, costs, and fee shall be paid monthly assistance allowance, and (3) establish VA guaranteed and direct educational loans for Vietnam era veterans.

1971 Convention Resolution No. 471 (Idaho) seeks legislation to provide that vocational-technical students not be required to make monthly certification of attendance.

## INSURANCE

### *A. Reopen NSLI for one year*

1970 Fall NEC Resolution No. 30 supports legislation to reopen, for a one-year period, the right to apply for National Service Life Insurance for those insurable and service-disabled veterans of service between the inclusive dates of December 7, 1941 and September 2, 1945, and of June 27, 1950 and July 27, 1953, under policies providing for a premium charge that will include administrative costs.

### *B. Special term (RS) insurance be made participating*

1970 Fall NEC Resolution No. 33 supports legislation to make policies of insurance issued to veterans under section 723, title 38, USC, participating; and, asks that the Administrator of Veterans Affairs determine the amount in the revolving fund which is in excess of the actuarial liability, including contingency reserves, and pay such excess as a dividend without interest less the annual administrative cost per policy.

### *C. Special government insurance for Vietnam era veterans*

1970 Fall NEC Resolution No. 41 supports legislation to provide a Special Government life insurance program for Vietnam era veterans.

### *D. Effective date for increase in servicemen's group life insurance*

1971 Convention Resolution No. 22 (La.) seeks legislation to provide that the effective date of the increased Servicemen's Group Life Insurance shall be June 1, 1971.

### *E. Statutory total disabilities*

1971 Convention Resolution No. 501 (Texas) seeks legislation to provide that kidney and heart transplants shall qualify as statutory total disabilities for waiver of premiums and payment of monthly benefits for those insured who purchased a total disability income provision rider.

## DEPARTMENT OF DEFENSE

### *A. Extend delimiting date for correction of a military record*

1970 Convention Resolution No. 486 (Ala.) seeks legislation to delete the delimiting date for applying for a correction of a military, naval, or air service record.

## VIEWS OF PROF. STEVEN WEINBERG ON THE ABM

Mr. COOPER. Mr. President, on February 17, the Senator from Michigan (Mr. HART), the Senator from Missouri (Mr. SYMINGTON), and I placed in the RECORD our views upon the importance of continuing the practice begun during the ABM debate of bringing distinguished scientific witnesses to the Senate to give their views upon important problems of public policy that involve technology. On February 17, we placed in the RECORD replies from a number of distinguished scientists, replies which were in answer to questions we asked about the ORSA report. By inadvertence, a reply by Prof. Steven Weinberg, professor of physics, Massachusetts Institute of Technology, was not placed in the RECORD at that time. I ask unanimous consent that this excellent reply be placed in the RECORD. The quality of Dr. Weinberg's answer seems to me a credible answer to any criticism made of his integrity by the ORSA report.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MASSACHUSETTS INSTITUTE
OF TECHNOLOGY,
*Cambridge, Mass., December 3, 1971.*

Hon. JOHN SHERMAN COOPER,
Hon. PHILIP A. HART,
Hon. STUART SYMINGTON,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATORS COOPER, HART, AND SYMINGTON: Thank you for your letter of November 15, asking for my views on a recent report of the Operations Research Society of America, which deals with the ABM debate. I was one of the scientists criticized by the Ad Hoc Panel, so I was unable to read the ORSA report with an entirely open mind, but I will try to keep this reply as impartial as possible.

Before dealing with your list of specific questions, I would like to take this opportunity to comment on one point that does not seem to have been emphasized in the various remarks on the Ad Hoc Panel report. I am concerned that the public may receive an impression that this is a case of a scientific society finding scientific errors in matters within their area of technical competence. This is not so. The Panel Report states that "Operations Research is an experimental and applied science devoted to observing, understanding, and predicting the behavior of purposeful man-machine systems."

No one has observed an all-out nuclear war, so the emphasis here must be on prediction, and these predictions must be based on assumptions as to the physical capabilities of missiles, radars, and computers. Much of the Panel Report consists of judgments on the assumptions made by ABM opponents and proponents on such technical capabilities: the MIRV-carrying capabilities of the SS–9; the feasibility of offensive and defensive missile re-programming; the kill probability of SS–9 warheads; the feasibility of launching Minuteman missiles while nearby missiles are being attacked; the reaction time of bombers: the feasibility of "pin-down" tactics; etc. These are *not* matters of operations research, but of engineering judgment and evaluation of technical intelligence data, for which operations research provides no special expertise.

The statement of the dissenting minority of ORSA Council Members on p. 1256 of the Ad Hoc Panel report states that "the content [of the report] is outside the technical competence of many of the ORSA Council". Of course, the members of the Ad Hoc Panel have a right to their opinions on engineering as well as operations-research questions. However, they do not have the right to cloak themselves in the mantle of an irrelevant expertise, in passing judgment on the opinions of others.

Now, to deal with your specific questions.

1. *Was the technical scope of the Ad Hoc Committee report sufficiently broad to be able to evaluate the fundamental questions before the Congress: whether there was a need for deployment of the Safeguard ABM system at this time; its value as a protection of Minuteman against probable Soviet threats; and whether Safeguard was as good a system for protection of Minuteman as alternatives to the Safeguard ABM system such as "Hardsite".*

Definitely not. The Ad Hoc Committee focused on a strange assortment of peripheral issues. For instance, they dealt at length with the capability of Soviet missile forces to destroy our Minuteman forces, although it was generally conceded on all sides that if the Soviets made the effort, they could develop MIRV's with sufficient numbers, accuracy, and yield to put Minuteman at risk sometime during the 1970's. (In any case, the Soviet first-strike capability must be a matter of conjecture even for the Soviets. This is not to say that such problems should not be considered, but only that operations research does not provide any special techniques for their solution.) With regard to the value of Safeguard against probable Soviet threats, the Ad Hoc Committee expressed an unsubstantiated disagreement with some of the specific criticisms of ABM opponents, and ignored other criticisms, such as the vulnerability of the Spartan components of the defense to radar blackout and penetration aids. The Ad Hoc Committee did not analyze the over-all effectiveness of Safeguard as a defense of Minuteman, nor did they compare it with "dedicated" ABM systems such as Hardsite, which many Safeguard opponents would not have opposed. Finally, they did not address themselves at all to what I regard as one of the major issues in the ABM debate (and which was the main subject of my own article in *ABM—An Evaluation*)—the question whether an ABM system, which has defense of the population against light attacks as one of its stated objectives, and which incorporates components like the Spartan which are specifically designed for this purpose would have a destabilizing effect on the arms race.

2. *Was it possible to make a meaningful judgment considering the narrowness of the inquiry?*

No, for the reasons given above. To be fair, it must be noted that the Ad Hoc Committee disclaimed any intention to pass judgment on Safeguard. However the tone of their report as a whole is favorable to Safeguard, and they must have realized that their report would be widely interpreted as a defense of Safeguard.

3. *In protecting the vulnerability of Minuteman, much was believed to depend upon whether one considered "reprogramming of Soviet missiles for failure" and simultaneous attack on U.S. missiles and bombers through "pindown" to be plausible Soviet tactics. Is the plausibility of these tactics a question of operations research or was it one of strategic analysis more broadly requiring consideration of many other factors? All things considered, do you believe that "reprogramming" and "pindown" were plausible Soviet tactics for the mid-seventies?*

The crucial question concerning the "reprogramming" and "pindown" tactics is not how valuable these tactics would be if feasible (a point to which the ORSA report gives much attention) but rather whether these are in fact feasible. This is not at all a matter of operations research or system analysis, but of engineering judgment, assessment of intelligence information, and guesswork as to Soviet strategic doctrine. For instance, in order to judge the "pindown" issue, one must consider the actual physical vulnerability of Minuteman to various radiation, electromagnetic, and blast effects of nuclear explosions; the ease of difficulty of removing any such vulnerabilities; the command-and-control problems of coordinating a first strike from Soviet submarines thousands of miles from Soviet territory; the vulnerability of such massed Soviet submarine fleets off our shores to U.S. ASW efforts; and above all, the extent to which the Soviets would be willing to risk their survival on what must for them be a conjectured vulnerability of U.S. ICBM's in an ill-understood nuclear environment. The Ad Hoc Committee report states that "this type of joint bomber and missile pindown attack may well be feasible" but it does not indicate that the members of the Committee have considered all these issues, or that they have the technical competence to do so. I am personally not sufficiently familiar with the details of Minuteman design or submarine command-and-control systems to judge whether "pindown" is feasible *in principle*, but on the basis of my experience with a variety of strategic problems, I would say that it is far too risky a tactic to be adopted by either side at any time.

Re-programming is another matter. At the cost of complicating their command-and-control system, the Soviets could keep back some fraction (say, 20%) of their first-strike force to use as replacements for ICBM's that fail to launch properly. I also presume that missiles that misfunctioned prior to thrust termination could be replaced, if the failure were known to the on-board guidance computer and if this information was successfully communicated to the launch site. However, there would always be some finite probability for a non-re-programmable failure, either caused by a failure of the guidance computer or communications down-link, or by failure to re-enter properly, or by failure of the fusing mechanism. The actual value for the non-reprogrammable failure probability of Soviet ICBM's is a matter of educated guesswork, probably even for the Soviets, but even the ORSA Ad Hoc Panel felt that Foster's estimate of a 5% probability for all non-re-programmable failures was too low. (Incidentally, here again they were basing their criticism of a participant in the ABM debate, in this case the Director of Defense Research and Engineering, not on any special operations research analysis, but on their own intuition.) My own guess would be that any adversary power, in planning a first strike, would want to allow at least 15–20% for non-re-programmable errors.

One final point on "pindown". I believe it is true that this tactic is not discussed in *ABM—An Evaluation.* However, to the best of my knowledge, *no* unclassified description of this tactic had been made public prior to the publication of this book. In preparing *ABM—An Evaluation,* we took great pains to avoid even the possibility of a breach of security, and perhaps we erred on the side of over-caution. However, the Ad Hoc Committee report shows a complete lack of appreciation for the constraints imposed during the ABM debate by security considerations. Indeed, many of the Ad Hoc Committee's criticisms of the ABM opponents' arguments on ICBM accuracy, Sprint reprogramming, etc. seem to amount to a complaint that we should have been less careful with classified data.

4. *Was the Administration misleading in choosing a particular level of threat against Safeguard; and not considering larger or smaller threats? Is it correct that Safeguard's effectiveness is only evident against a very narrow band of threats?*

The range of threat against which Safeguard would be effective is indeed very narrow, and the Administration did seriously mislead the public and the Congress in tailoring their hypothesized threat to fit the assumed capability of Safeguard. The Ad Hoc Committee report does take the Administration gently to task for this failure, but then goes on to excuse them on the grounds that Safeguard can after all be expanded to meet a growing Soviet threat. However, the Congress and the public were being sold a particular system at more-or-less definite cost, and were not informed that this was just the first installment on a much larger system. If the Administration had provided honest estimates of the future expansion of Safeguard that might be needed and of its cost, the ABM opponents would have been only too glad to shift the argument to one of cost-effectiveness. It should be added here that Safeguard may *not* be expandable after all, if the U.S. and the U.S.S.R. reach an agreement at SALT limiting the number of defensive missiles on both sides. In this case the strategic irrelevancy of Safeguard will be permanent.

5. *Do you believe that the proponents of Safeguard have now conceded that the opponents were right in insisting that smaller, cheaper, and less vulnerable radars be developed?*

The "Hardsite" program is still in the research and development stage, so perhaps it is too early to say that the Administration has conceded this point *publicly*. However, in private discussion I find that even ABM proponents will concede the inadequacy of the present Safeguard design.

6. *Did the Ad Hoc Panel make full use of all the information available to the responsible Committees—the Armed Services and Foreign Relations Committees—both classified and unclassified, concerning the Soviet threat and Safeguard ABM performance capabilities against a range of Soviet threats?*

I have not been able to judge from the Ad Hoc Panel report what information was available to the Panel and what part of this information they actually used. The report refers to official estimates, but the source of these estimates is not explained.

7. *Was the inquiry by the Ad Hoc Panel technically correct and competent in its findings?*

In my opinion, the Panel report displays an incompetence in three respects: in engineering judgment, in operations research itself, and in adherence to the general standards of good scholarship.

With regard to engineering judgment: the Panel appears to rely throughout on "official" estimates from unspecified sources and on their own intuition, without displaying any independent consideration of the relevant technical details. To be fair, they could not have gone very far into these matters on an unclassified level, but they could at least have given the reader a better feeling for the uncertainties involved. In my opinion, they are incorrect in their assessment of the cost of ICBM re-programming; the feasibility of "pindown" tactics; the effectiveness of Sprint re-programming; and the incremental cost of deploying large numbers of RV's on a MIRV'ed SS–9. A realistic discussion of these matters would have to be held on a classified level.

With regard to operations research: the greatest failure of the report is in its unwillingness to come to terms with the really important issue of Safeguard capability as a defense of Minuteman. (See question 4 above). This failure indicates either incompetence or bias or both. In addition, the Panel was frequently guilty of the fallacy of misplaced concreteness. That is, they expressed disagreement with the precise values of various parameters (accuracies, kill probabilities, costs, lead times, vulnerabilities, etc.) used as illustrations by the ABM opponents, without assessing the over-all strategic relevance of a change in these parameters, or the intrinsic uncertainties in these estimates. (For an example, see the answer to question 7 below.)

With regard to scholarly standards: the Ad Hoc Panel report persistently fails to give precise references for statements it quotes, both of ABM opponents and of official sources. For instance, who is being quoted on p. 1229? What literature on Sprint re-programming is referred to on p. 1222? What plots of N vs. Y are referred to on p. 1189? Also, the Ad Hoc Committee was careless in not quoting sources accurately. I will restrict myself here to two instances in which the report misquoted statements of my own:

(a) On p. 1222, the Report says that "The possibility of preventing the destruction of substantial parts of the Minuteman force by merely launching it on the basis of warning of an impending attack, has been proposed by, among others, Wiesner and Weinberg in the Chayes-Wiesner book." I believe that anyone reading this would get the impression that Wiesner and I had proposed that the U.S. should consider launch-on-warning as a possible U.S. doctrine. This is not so. In my article "What Does Safeguard Safeguard?" in the Chayes-Wiesner book, I point out that an attack on our bombers and Minuteman is difficult because Minuteman might be launched not merely on the basis of radar warning, *but only after destruction of our SAC bombers*. (This is the contingency which the "pindown" tactic is supposed to prevent. Actually, I would not propose that the U.S. should adopt this doctrine, but only that the Soviets would have to reckon with this as a possible U.S. tactic.) In the "Overview" chapter in *ABM—An Evaluation*, Chayes, Rathjens, Wiesner, and I do mention "launch on warning", but only as a possibility that would have to worry an adversary planning a first strike on the U.S.

(b) On p. 1198, the Report refers to a footnote in my article "What Does Safeguard Safeguard? (in the book *ABM—An Evaluation*), as follows: "The reference made by Weinberg to Packard's testimony of March 20 is to a passage in which Packard does *not* say that an SS–9 20MT warhead would have a 0.8 single-shot capability against a Minuteman. He said that it would have that single shot kill probability if the CEP were 'in the range of 0.6 to 0.8 mile'" Later, on p. 1199, the report concludes that I ascribed official validity to a purely hypothetical kill probability. Anyone reading the above statement would conclude that I had misquoted Packard by omitting an important qualification concerning CEP. This is not so. In fact, my footnote (which is actually quoted correctly on p. 1195) reads "In testimony before the Senate Armed Services Committee on March 20, 1969, Deputy Secretary Packard stated that an ICBM *with a CEP of 0.6 to 0.8 miles* would have to carry a 20MT war head if it is to have an 80 percent chance of destroying a hardened Minuteman silo." (Emphasis added.) Also, I never ascribed "official validity" to this kill probability. Anyone reading my article would see that 80% was chosen purely for the purposes of illustration, and that a kill probability of even 100% would still lead to the same conclusion, that Safeguard could easily be overwhelmed. In this context, it was perfectly legitimate to quote Packard to show, not that 80% was an "official" estimate of the kill probability of SS9 RV's, but that it was a reasonable number to use for purpose of illustration.

In fact, the Ad Hoc Committee does not seem to realize that there is no such thing as an officially valid SS–9 kill probability, but only a range of educated guesses.

8. *Should the inquiry by the Ad Hoc Panel have evaluated the testimony and statements of all witnesses pro and con who were called before the two committees? Should the Ad Hoc Panel have made use of such studies as the Report of the Ad Hoc group on Safeguard for FY 1971 (the O'Neill report) submitted to the Secretary of Defense on January 27, 1970?*

Certainly the Ad Hoc Panel, by ignoring most testimony (*and* all Presidential statements) on the ABM, could not reach a balanced view of the ABM debate or of the ABM itself. Of course, if they had found serious flaws in the performance of some ABM opponents, it would be no excuse to point out that they could have found worse errors in the statements of the President or Administration spokesmen. However, the selective way in which the Ad Hoc Panel chose its targets reveals a bias, which I hope will warn the public against taking any of the conclusions of this report seriously. (With regard to the O'Neill report, I do not know whether the Ad Hoc Panel could have had access to this report during the preparation of their own report.)

9. *Did the ORSA Panel apply the same standard of judgment to all witnesses who testified, both pro and con?*

No. I believe that the bias of the Panel will be apparent to any impartial reader.

In looking back over the ABM debate, I am rather proud of the case we made in opposition to Safeguard. I hope that some day the entire debate may be subjected to a competent and impartial review.

Very truly yours,

STEVEN WEINBERG,
*Professor of Physics.*

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## U.S. NEWS & WORLD REPORT INTERVIEWS SENATOR ERVIN

Mr. MANSFIELD. Mr. President, our Founding Fathers preciously guarded the freedom of the individual when they insisted upon the first 10 amendments to the Constitution. Those individual liberties are being championed now by the Senate's most vigorous protector of the Bill of Rights, the distinguished senior Senator from North Carolina (Mr. ERVIN). A remarkably candid interview with Senator ERVIN appears in this week's issue of U.S. News & World Report and gives insight into the depth of the commitment of Senator ERVIN to these individual liberties and the need for constant vigilence to their erosion.

I ask unanimous consent that the interview with Senator ERVIN be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

### INVASION OF PRIVACY—HOW BIG A THREAT?

(Interview with Senator SAM J. ERVIN, JR., of North Carolina)

Q Senator Ervin, your Subcommittee on Constitutional Rights has dug deeply into the issue of what some people call "Government snooping." How serious do you think it is as a threat to our constitutional rights?

A I think it's a very grave threat. This arises out of the fact that when people know or suspect that the Government is spying on them and collecting information about them, they refrain from exercising their right to associate with other people for the accomplishment of purposes they believe in and their right to assemble with other people and to petition Government for redress of grievances.

The Supreme Court has recognized this in a number of cases, and it's undoubtedly a fact. Most people are afraid of the Federal Government.

Q Afraid of it?

A Yes. It has what they call a "chilling effect.

Q. What governmental agencies appear to be the main offenders?

A. Well, I hate to say it, but the Bureau of the Census is one of them—not when it collects the information it is required to take, but when it collects information at the instance of various other agencies of the Government, such as the Veterans Administration and the Department of Health, Education and Welfare.

I think that the Passport Office was an offender, because it had a file of undesirable people who might apply for passports. This was particularly true in the days when they had limitations on travel by Communists. States even filed with the Passport Office the names of fathers who had abandoned their wives and children and were wanted on nonsupport charges.

Almost every department of Government now collects information on citizens, some of which, of course, is necessary, as in the case of HEW in administering the Social Security Act and the Medicare Act, and certainly on the part of the Internal Revenue Service in the administration of the tax laws.

Then you have the Secret Service, which, after the assassination of President Kennedy, began to collect files on suspicious characters that they thought might endanger the President or other people in high position. It would have been amusing if it hadn't been tragic—the people that were included in that collection. They asked for information about anybody who would gate-crash at parties, or about people who petitioned high Government officials for redress of grievances, real or imagined, or about people who spoke in harsh terms of high Government officials.

Q. Do you mean that people were listed just for speaking critically of, say, the President?

A. Yes, for talking as Senators and Congressmen do every day. I don't think they'd put Senators and Congressmen on the list, though.

Q. How do Government agencies go about this snooping?

A. A lot of the snooping is done by issuing questionnaires, a lot of it by compelling applicants for Government employment to submit to psychological tests and in some cases to lie-detector tests. That's a particularly prevalent practice in the Central Intelligence Agency and the National Security Agency. But the most aggravated and inexcusable form of snooping that's been done by the Federal Government in recent years was the use of the Army in 1967 and 1968 to spy, both covertly and overtly, on citizens whose only offense was that they were exercising their First Amendment rights to assemble and petition Government for redress of grievances and to protest policies of an Administration they didn't like, such as the Vietnam war and the draft.

Q. Are you satisfied that this Army snooping has been stopped now?

A. Well, we ve been assured by the Army that it's been stopped I expect that temporarily, at least, it's been stopped.

You know there's an old couplet that says, "When the devil was sick, the devil a monk would be, but when the devil was well, the devil of a monk was he." And I think that the Army has stopped this, at least as long as the Subcommittee on Constitutional Rights keeps its eyes on it.

Q. What triggered the Army investigation? What was its purpose?

A. The excuse given was that the President needed to know what was going on in the country so he could anticipate where there might be some kind of insurrection against the Federal Government or against a State government, or where there might be some violence that would prevent the enforcement of federal laws. Under such circumstances the President could use the armed forces, except that in the case of a State he has to be requested first by the State authorities.

And they said this snooping was necessary for the President's information. I think it was totally worthless, however, because they just stored the information in computers.

Q. Did you ever trace the origin of the order to do such things?

A. Not with the way the Army has concealed the thing. But the President is Commander in Chief of the Army and the Navy, and the chief legal adviser to the President is the Attorney General. And it's inconceivable to me that all of this went on without the President authorizing it and without it being known to the Attorney General. We have asked the Department of the Army to send down some generals who could tell us something about this, but they won't do it.

Q. Why would the present Secretary of Defense, who is in a Republican Administration, resist telling you something that went on in a previous Democratic Administration?

A. I asked that question I said: "Here, you're Republicans, and you're not supposed to love Democrats overmuch. And here you are trying to make yourselves accessory after the fact to some Democratic misdeeds by suppressing information and giving a haven of refuge to the Democrats who did these things."

The inference I draw from it is you have some men in the military intelligence who would like to keep these things secret and who have an uncanny persuasive power over the present Administration. That's an inference only. They won't allow the generals to come down here so we can ask them that.

### WHEN INFORMATION IS EXCHANGED

Q Senator, is information that is gathered by one federal agency shared with another agency?

A The evidence before the Subcommittee showed that there was a constant interchange. The information gathered by the Army concerning civilians not affiliated in any way with the Army was interchanged not only with the Federal Bureau of Investigation but also with local law-enforcement officers. And I think we had evidence to indicate that on one occasion they interchanged information with the CIA.

Q Are there other agencies that interchange information?

A Yes. You take FBI interchanges: It maintains a national bank of crime information, and it exchanges information with State officials. In fact, it gathers information for State officials and, in turn, transmits information to State officials. And some of this is very harmful.

For example, when I was a judge in North Carolina, the attorneys who prosecuted criminal cases before me got FBI reports on persons coming before the court. Many of them listed a man as having been arrested for a certain crime at such-and-such a place on such-and-such occasion, but it never showed whether he was ever brought to trial or, if he was brought to trial, whether he was acquitted.

This kind of report is very harmful to a man, and in many cases I think it finds its way into employment agencies and is very detrimental to him in getting a job.

Q Is this interchange of criminal records illegal?

A I don't know of any law that prohibits it.

Q Is it dangerous, in your view?

A It's very dangerous. Much of the information is inaccurate—not verified.

Q How about the information gathered by the Census Bureau? Is that exchanged with other agencies?

A The Census Bureau gathers information sometimes at the instance of a private organization. A few years ago, at the request of the American Bar Association, the Bureau sent questionnaires to selected lawyers throughout the country—wanted to know how their practice was divided percentagewise between trial work and counseling, and how it was divided between civil and criminal practice, and, on some occasions, how much they paid their secretaries, and a whole lot of things like that.

They send a lot of questionnaires out to small-business men, and these small-business men go to great expense to collect information abut their affairs. They think they have to do it.

There's a census statute that provides that anybody who doesn't furnish the information which the Bureau of the Census is required to collect is guilty of an offense and can be put in jail, I believe, for 30 days or fined $100.

The Census Bureau never tells the person they send the questionnaire to whether this is something that's required. It leaves them under the impression that they are subject to fine or imprisonment if they don't respond. I introduced a bill to provide that the Bureau of the Census has to advise people whether it is voluntary or compulsory information they are seeking.

Q. What happened to the bill?

A. The bill never made any advancement.

Q. Is it your view, then, that the Census Bureau goes too far in the range of the questions it asks?

A. Oh, yes. They asked certain questions—at the instance, I suppose, of the Veterans Administration—that frightened all of the veterans into thinking that if they didn't answer these questions they'd have their disability allowances canceled. This shows how people are afraid of the Federal Government.

Then, at the request of HEW, they sent out a questionnaire which I'd call in many respects a very foolish questionnaire about things that are none of the Government's business. They asked retired people how often they called up their relatives on the telephone, and how often they went to a beauty parlor or to a barber shop, and how many newspapers and magazines they subscribed to, and things of that kind.

The Bureau of the Census asked people if they have a flush toilet, and things like that.

Such questions are evidently put in there at the request of industry that wants to find out whether there's going to be a good market for their products.

Q. Senator, many people in the country have a fear that their Social Security number is used, or can be used, by the Government to snoop. Is that fear justified?

A. Oh, yes. I think the Social Security number is becoming a universal identification number, because of a lot of banks demand that the man furnish his Social Security number when he applies for a loan, or insurance companies require him to furnish it when he applies for insurance.

And yet the Government assured people, in effect, that it would only be used to identify people for Social Security purposes and tax purposes.

Q. Isn't there a move to use a man's Social Security number as his serial number if he enters the Army?

A. Yes—I understand that is partially the practice now. And, of course, the trouble about dealing with people on the basis of numbers is that you soon get to think of them as numbers—and that most of them are zeros.

### "NO LAWS" FOR NEW HAZARDS

Q. Government agencies are increasingly using data banks and computers as central storehouses for information about individuals. Is this raising new dangers?

A. Yes. You see, there are no laws on this subject.

There are no laws which require information that is collected, outside of Social Security purposes and things like that, to be accurate. It's not verified. Much of it is collected by people who are not trained and have no knowledge of what is accurate and what is not accurate. There are no laws which ordinarily restrict access to the information to people who have only a legitimate purpose to be served by having access to it. There are no laws prohibiting its dissemination, except in very rare instances.

The trouble with computers is that fundamentally a computer has multiplied man's capacity to store and retrieve and analyze and disseminate information millions and millions and millions of times. The threat to privacy which the gathering and use of information of this kind entails was not so great before the advent of the computer, because then you had to keep it in paper files, which were bulky, and very few people had access to them. But now you have all this information collected by the Government.

In addition, you have all these credit agencies that are engaged in collecting information on individuals all over the country—millions and millions of people. And there is no way to know whether some of it is accurate or not.

Take credit information: Its largely based on reports of shopkeepers. And if a storekeeper has had a dispute with a customer over a bill, and the customer may have rightly claimed that he got shoddy merchandise, the shopkeepers information goes in the credit report and the customer has no knowledge about it. He doesn't know why he can't get credit.

Q Doesn't the customers complaint go in the record?

A No—his complaint doesn't go in. So you need some laws so that where derogatory information of that kind is collected a man must be apprised of it and given an opportunity to explain it. The way it works now, its sort of condemning the man without allowing him to face his accusers.

Q What about lie detectors? Are they a dangerous invasion of privacy?

A I have frequently described the use of a lie detector as "twentieth-century witchcraft." I think that a brazen liar can pass a lie-detector test without difficulty, but a truthful man who happens to be a little nervous or resentful of insulting questions, such as are frequently asked in these tests, would probably flunk it. If a lie detecter could really do all that is claimed by people who advocate it, we could just disband all our criminal courts and just let the lie-detector test be the judge and the jury.

Q Would you limit the use of lie detectors in law enforcement?

A I would let law-enforcement officers use them in their investigations, but I wouldn't let the courts admit the test results as evidence against a man.

Q Aren't some private business companies using the lie detector as a pre-employment test of individuals?

A Yes, some companies do.

Q Would you limit lie detetcors used by the Government in employment?

A Yes, I have introduced a bill to forbid it.

Q And how about private companies?

A I would do the same thing with respect to private companies that are engaged in activities which affect interstate commerce. That would be the limit of the Congress' legislative power in this field.

Q. Do you think federal employees need special protection against Government snooping into their affairs?

A. Yes, because Government employees are particularly in a position where they could be made "guinea pigs." And I hate to say it, but they have been made guinea pigs.

For example, a few years ago the Civil Service Commission, acting at the instance of President Johnson, issued directives to various agencies of the Government directing them to encourage their employees in their off hours to get out and do things that would assist in the implementation of the policies of the Johnson Administration.

For example, the Department of the Treasury had a directive issued to its employees that they should go to their local city councils and try to persuade them to pass open-occupancy ordinances; go to school boards and try to get the school boards to put certain things in the curriculum; organize tours of "ghettos" so they could encourage people to support housing programs of the Government.

It even went so far as to help out Lady Bird Johnson's beautification program by suggesting that these Treasury employees should take their own money and buy some flower seeds and grass seeds and give them to people to plant grass and flowers to beautify the community, and even buy paint and paint brushes to paint the houses.

Now, another thing: The Maritime Administration got a directive from the Civil Service Commission which was construed as requiring that employes be requested, at least, to go out in their spare time and help to encourage the adoption of governmental policies. The employes were required to report back to the head of the maritime agency.

And I was sent a notice from a bulletin board down in Norfolk, Va., where they said that on such-and-such a date some professor was going to deliver a lecture on some policy of the Government such as integration, and that all the civilian employes in that division were invited to the meeting—that attendance was not compulsory but that note would be taken of all those not in attendance. Then they brought pressure on federal employes to make contributions to charitable causes—to buy bonds.

At the hospital at Andrews Air Force Base [Md.], where they have many civilian employes, they circulated a card among them which had three squares on it. Employes were to mark the squares. It was in connection with a bond drive. The first square said, "I am now buying Government bonds, but will step up my purchases." The second one said, "I am not now buying Government bonds, but I will proceed immediately to do so." The third one said, in effect, "I am unwilling to accept my fair share of the responsibility for assisting the President in making this bond drive a success."

I thought one of the worst examples came from Vietnam. I got a letter from a captain out there who said his superiors had given him a quota of Government bonds to sell to members of his outfit. But he and his outfit had been up in the fighting for three or four weeks, and he was too busy fighting to sell any bonds. When he got back, he said they threatened him with a bad efficiency report because he hadn't come up to his quota in his bond sales.

### "ALL FREEDOM IS ALWAYS IN DANGER"

Q. Lately, one hears a lot of talk about freedom of the press being endangered by Government officials. Is this true, in your opinion?

A. I think all freedom is always in danger. I think freedom of the press can be endangered in several ways. The objective of freedom of the press is to make certain that we have an informed electorate, because an informed electorate is necessary to make our institutions of government function properly. Now, that purpose can be frustrated in several ways.

One way is that you have all of these public-relations employes of the Federal Government who are employed to make the actions of the executive branch appear in their best light. And newspapermen are like some members of Congress: They have got today's work to do, and the quicker they can do it the better for them—or so they think. So they accept these Government handouts. And these Government handouts, in many cases, deceive the people about what their Government is doing or how efficiently their Government is operating. I think that is a threat to the freedom of the press.

Then another threat to the freedom of the press is that a lot of people in public office confer honors on members of the press. And I think that creates a sort of unholy alliance that tends to deny people the right to know what their Government is doing.

Then, of course, you can have freedom of the press threatened not only by favors but by implied threats, and that's particularly true in the broadcast media. The printed word is not quite as susceptible to coercive practices to control it as the broadcast media, because anybody can set up a newspaper if he's got the finances. But nobody can operate anything in the broadcast field without first getting a license from the Federal Communications Commission, and the FCC has authority under certain circumstances to revoke licenses or deny their renewal if it doesn't fully approve of the broadcasts. I think that is a Damoclean sword that hangs over the broadcast media all the time.

Q. Senator, do you think there is too much classification of documents by the Government?

A. Oh, it's carried to ridiculous extremes. There has been testimony before one of the House committees by a man who used to help do the classifying that only about 4 or 5 per cent of the papers that are marked "classified" should really be marked classified.

I had an experience in this field some years ago:

I have been interested in the textile problem, and was interested in how the voluntary quotas the Japanese imposed upon their exportation of textile products to the United States were working. And I got a note from a man in the textile field saying that if I could get hold of a copy of a report from the American consulate in Kobe, Japan, that I would get some very illuminating information on this point. So, taking a shot in the dark, I wrote both the State Department and the Department of Commerce asking for a copy of this report. I got a copy from each Department.

The State Department's copy was marked "confidential" and was accompanied by a statement to the effect that I was furnished a copy upon the understanding that I would not make any public use of it whatsoever.

But the same report was not classified at all by the Commerce Department. And what it stated was that some of the Japanese industrialists manufactured shirts—except they didn't sew the buttons on them. They sent the shirts and the buttons over to Hong Kong to a firm that sewed the buttons on and then exported the shirts to the United States as Hong Kong—rather than Japanese—products.

Of course, the State Department has always tended to be very solicitous about the interests of foreigners, and they wanted to suppress this information that indicated the voluntary quotas were being evaded.

### "THE FBI HAS A PRETTY GOOD RECORD"

Q Returning a minute to the FBI—many people express alarm about the FBI's operation as invading personal privacy. What is your view?

A I would have to say the FBI has a pretty good record of keeping its reports confidential—with the exception of disseminating records of criminal arrests and criminal convictions. And, of course, the dissemination of records of criminal convictions, I think, is perfectly legitimate and enables the proper enforcement of law, because a man's past record of conviction of crime is a relevant factor to be taken into consideration in imposing sentence on him.

The FBI collects a lot of trivia. It doesn't profess to analyze its reports.

Nobody has ever brought me any hard evidence that would indicate the FBI has ever exceeded its legal authority. Now, mind you, its legal authority is very broad:

It has full authority to investigate people—the conduct of people who it believes have committed crimes.

It also has the full legal authority to investigate the conduct of people who it has reason to believe are about to commit crimes.

It also has authority to exercise surveillance over domestic subversion—whatever that is. I have never been quite sure what subversion is. I think some people think at times I'm a subversive, since I don't like some governmental tyranny.

So I think it's very difficult for the FBI to exceed its authority.

I do think that some of the trivia they collect, such as some of that which was revealed by the papers that were found in the FBI office at Media, Pa., would indicate that they were really collecting information about political activities and political thoughts of people. But they may have had full authority to do that on the theory that those people were subversive—or about to get subversive.

### WIRETAPPING: "DIFFICULT" PROBLEM

Q. Do you think the FBI exceeds its authority in the use of wiretaps?

A. The wiretapping proposition is a very difficult one.

I was one of the cosponsors of the omnibus crime bill—some people call it "the ominous crime bill." It was a good bill in one respect on wiretapping. Up until that time, under the law it was legal for anybody to wiretap anybody or to exercise electronic surveillance over anybody. The only restriction on wiretapping was that you could listen but you couldn't tell anybody what you heard. And, of course, in the Department of Justice what one official of the Department of Justice told another was not communicating to anybody else, in their theory.

This omnibus crime bill makes it illegal for anybody to wiretap except for law-enforcement purposes, and therefore it improves the right of privacy to that degree. It requires—with the exception of an emergency situation—that before the Federal Government can exercise electronic surveillance in law enforcement a court order must be obtained on a showing that the surveillance is justified—that certain serious crimes are involved. It leaves it up to the States to have their own wiretap laws.

Now, as I recall the bill, it does not attempt to deal with foreign subversion, foreign espionage or domestic subversion. And the Department of Justice has taken a position that the President has an inherent right to have electronic supervision or surveillance exercised on any person for domestic subversion. I just don't believe that the Constitution permits that, because I don't think the President can suspend the Fourth Amendment. And I think the Fourth Amendment protects the right of privacy for persons' thoughts and what they say in their homes, just as it does their papers and effects.

Fortunately, although some of the lower district courts had split on that question, there's a very fine opinion in a case from a Michigan circuit judge that holds that the President has no such power. The Supreme Court has agreed to review that case, and we'll probably get a decision in this session.

Q. Senator the Judiciary Committee has pending before it more than two dozen proposed amendments to the Constitution. Are you concerned about this, or do you think our Constitution really needs a lot of amending?

A. I think it needs very little amending. I hate to say this, but I think the people who drew our Constitution were much more knowledgeable in the fundamentals of sound government than are many of those who now occupy high office in the United States.

They had more time to think. They spent more time reading history than they did political platforms. They were not subject to a whole lot of pressure groups. So they wrote their own convictions. And they had studied the history of mankind's fight for freedom and the right of self-government, and they had learned important lessons.

The people who drew the Constitution went through all the great documents of history that secured the liberties of the people. They went through all the principles of the common law. And they were determined that none of the liberty ever wrested by the people in their centuries-long contest with arbitrary power should be lost. So whatever they found in these great documents of history they inserted in the Constitution.

People, politicians who take dictation from pressure groups are not very well qualified to write constitutional principles, because the pressure groups are looking to achieve selfish objectives. The people who wrote the Constitution were trying to secure rights for all men.

### "PERIL" IN RIGHTS AMENDMENT

Q Would you discuss some of these proposed amendments? What about the one on women's rights, for example?

A I am the legislative fool who rushes in where legislative angels fear to tread.

That amendment passed the House with only 16 dissenting votes, and 83 Senators were cosponsors of it. But I think this amendment would imperil the future security of the United States.

It would rob women who elect to be wives and mothers—and who unfortunately become widows—of necessary legal protections. It poses serious threats to the privacy of men and women and boys and girls. It poses serious threats to the ability of Congress to declare certain sexual offenses, like the rape of a woman by a man and the seduction of an innocent, virtuous woman by a man. It poses serious threats to the power of the States to enact such laws.

So I spoke against it.

Once, after I made a speech against this amendment, a delegation of ladies from the National Women's Party asked for an audience with me to point out the error of my ways. They were very charming ladies of about my vintage, and they asked what objections I had to the amendment. And I said: "One objection—and a very crucial one—is this: It would prohibit every legal distinction between men and women. Therefore, under this amendment Congress couldn't draft men without drafting women for military service. It couldn't enlist men for combat service without enlisting women for combat service. It would have to convert the service academies into coeducational war colleges. And I think that would imperil the security of the country."

They said: "Oh, but we want to be drafted."

And I said: "Now, ladies, I have always made it a practice to try to be a gallant gentleman insofar as making references to the age of a lady is concerned, but I'm going to vary my practice, on this occasion, because I am compelled to infer that notwithstanding your youthful appearances you are probably a few months above the draft age. And if you want to convince me that women want to be drafted, you are going to have to send some sweet young things within the draft age up here to do it."

I can't see why the business and professional women wish to take away from their sisters who elect to be wives and mothers—and unfortunately become widows—the protection which the law now throws around them.

Felix Frankfurter [late Supreme Court Justice], who in my book was a pretty wise man, said that, as a general rule, law should deal with people of both sexes simply as persons, but that the Creator had made certain distinctions between men and women, and that in any rational society the law was going to recognize these differences.

Q. How about the proposed amendments to bar busing of schoolchildren for racial balance in school enrollments?

A. I favor such an amendment because I consider that, unfortunately, we don't get laws constitutionally and soundly interpreted nowadays in racial questions. Our political climate is rather foggy. And the Supreme Court of the United States and other judges have piled so much judicial and intellectual rubbish on top of the equal-protection clause of the Constitution that you can't even see it any more.

The equal-protection clause, in my honest judgment—if rightly interpreted—outlaws busing of children for integration purposes or at the instance of the Federal Government for any other purpose. All the judicial rubbish that has been piled on it hasn't altered the meaning of the equal-protection clause.

The equal-protection clause is probably the simplest clause in the Constitution. All it means is this: No State shall treat differently people similarly situated.

Now, when a federal court orders a school board to bus children for the purpose of mixing races in the schools, it violates the equal-protection clause in two respects:

In the first place, the federal court says to the school board: "You've got to divide the children residing in this school district or this attendance zone into two groups. You can let the first group attend their neighborhood schools in the district, but you must refuse to permit the other group to attend the neighborhood schools in the district." Now, that clearly violates the equal-protection clause because it treats children similarly situated in a different manner.

It violates the equal-protection clause in another way. The Supreme Court held in the 1954 school-desegregation ruling that the equal-protection clause prohibited the State from excluding any child from a particular school on account of the child's race. Oceans of judicial sophistry cannot wash out the plain fact that that is denying the children who are bused of their right to attend their neighborhood schools on account of their race.

So the forced busing of schoolchildren by an order of the federal court is a violation of the equal-protection clause for school-integration purposes, and the Federal Government has no jurisdiction over assignment of children on any other basis.

Q Do you predict that some kind of antibusing amendment will be adopted?

A Well, Senator John C. Stennis [Democrat, of Mississippi] has been predicting for a long time that when they applied the same law in this respect to the North—or the same requirements to the North—that they did to the South, we might have some sanity restored to this field.

And one Senator, whose name I shall not call, voted against the antibusing amendment I offered last April and spoke against it. But a short time ago he stated he was now against busing because they had started busing in his State. So I went over, and I congratulated him on seeing the light. He said:

Yes, my own ox has been gored.

You know, I used to say about some of these civil-rights acts that I envied members of the Senate who would weep about the sins of the far-distant South because it blinded them to the sins on their own doorsteps. And you can always endure with a great deal of complacency tyrannies that are being practiced on people who are far off, but when those same tyrannies are practiced on your people at home you have a different attitude about it.

### TOWARD A "DOSSIER SOCIETY"

Q Senator, a final question: You expressed concern about a year ago that we were headed for a "dossier society" in which everybody would have a number, and under that number would be filed all the information on him. Do you think that the process of creating such a society has been slowed or reversed?

A No. I think it has been accelerated virtually every day.

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## GRASSROOTS THINKING

Mr. MILLER. Mr. President, on February 7, 1972, Mr. V. O. Figge, President of the Davenport Bank & Trust Co. of Davenport, Iowa, presented his annual report to the stockholders.

I ask unanimous consent that an extract from this report be placed in the RECORD as a matter of interest in the grassroots thinking of a community leader in one of our midwestern cities.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

As we move into the seventies, it might be well to reminisce and also to look beyond the immediate horizon.

We live in an age when prognostications on both domestic and international affairs are senseless and meaningless. This has lately been proven again by the utterances of high government officials, including the president, and those so-called experts in business and in the world of finance, and by economists who have become too numerous to mention.

We live in an age when "sights" are set for virtually only a day at a time—and when tomorrow's headlines may bring startling changes, which were not generally foreseen nor planned for.

Just a short time ago devaluation of the dollar was unthinkable. Our dollar was supposedly sacred—devaluation was not even to be mentioned in "nice" circles—it would have been thought sacrilegious—but we *have* devalued the dollar, and unless we mend our ways we may in the future devalue it *again* and *again*. Actually, our dollar had already been devalued for us by important foreign governments who recognized our dilemma before we did—formally. *They* knew that inflation had gotten out of hand in this country; *they* knew that because of extremely high costs our products were not competitive in world markets; *they* knew we were not realistic in the management of our affairs.

A few months ago the president forecasted a balanced budget, with a small surplus, but at the end of the fiscal year 1971, the Treasury's own figures showed a deficit of twenty-three billion dollars. His estimate was based on full employment, which has not materialized. Today we have unacceptably high unemployment figures. We are presently faced with an unconscionable budget deficit, which will run, perhaps, forty billion dollars or more, and for the year 1973 we have already had an official projection of an additional twenty-five billion dollar deficit which, based on past record, could conceivably run twice that much. These deficits during the present administration alone will total possibly ninety to one hundred billion dollars! This, added to our present debt, brings us to the alarming and astronomical total debt figure of approximately five hundred billion dollars! The annual interest on this debt alone will run twenty-five to thirty billion dollars.

This unenviable record is not unique to the present administration. It is the history of other administrations preceding this one, regardless of party.

High officials in government and important people in industry have repeatedly said that we would not resort to controls. Controls, they said, would not work and we would not use them—but we now have imposed controls. Perhaps, these controls will mitigate to some extent the impact of inflation—but not for long. In spite of the controls, inflation is still with us, and, of course, it has been running unchecked for many years. This is the real crux of our trouble.

We have talked at length about halting ruinous inflation, but so far it has been purely talk. We haven't done it, and seemingly no one has the intestinal fortitude to do it, especially in an election year—and, for politicians, every year is an election year.

We are still living in an age when crime is running rampant throughout the country.

We are still living with all of our social problems. They have not been solved.

We are still at war, even though on a reduced scale, and we are still living in an age when the threat of war is with us constantly all over the globe. We are still living beyond our means at all government levels, and as individuals. We continue to spend vast sums of money promiscuously, domestically and around the world, and there is no end in sight.

We have many men in government in Washington today, who neither know how to balance budgets, nor do they very much care. Men who in private life have never held a job of importance, neither have they ever run a business, nor have they ever met a payroll. These are the men who, in an election year especially, will vote to spend additional billions for vote-getting schemes, completely disregarding the budgetary results. This is nothing short of total fiscal irresponsibility. These are the men of both parties who represent us in the Senate and in the House, and who, in the final analysis, must approve or disapprove all major expenditures. These are the men who are running the biggest business on earth—our government.

What would you think of a business man who is forced to come to the market to borrow large sums of money, when he has to admit to his creditors that he has been operating in the red, with sizeable losses year after year? Who would take his promise to pay and advance him much needed money—unless he gets his house in order? That is the exact position of our government—at all levels. We must come to the market to raise huge sums—billions of dollars—to finance our deficits. We have been piling up debt so fast, and raising debt limits so high that our dollar remains suspect in international circles. In the face of these huge deficits, how can inflation be controlled—deficits themselves spell out inflation with capital letters! There may come a time, and in the not too distant future, when *our own government's* promise to pay will not be acceptable in the market place. Should that time ever come, all of us will have a rude awakening, an awakening which even at a very late date might conceivably be a blessing in disguise.

These are just some of the things we live with and face today—and every day. Some of these problems in time can be solved if properly and honestly approached. Some of them on the other hand will not be solved in our day, and, importantly, some of them, if not solved, can easily, over a period of time, ruin us.

V. O. Figge, *President.*

## PEOPLE-TO-PEOPLE PROGRAMS

Mr. MILLER. Mr. President, in recent years, there has been a healthy development of interest on the part of our citizens in people-to-people programs with other members of the family of nations. This has generated a large number of exchange student programs, of which, I am advised, Youth for Understanding is the largest.

Founded in 1951, more than 30,000 students from over 40 countries have participated, and the program continues to grow. There are over 200 hundred YFU students currently living with families in my State of Iowa, and a comparable number of Iowa students living with families overseas.

Youth for Understanding cooperates with the Bureau of Educational and Cultural Affairs of our State Department, and under the dynamic leadership of its founder, Mrs. Rachel Andresen, who is presently its executive director, with offices at Ann Arbor, Mich., many interested young people between the ages of 16 and 18 will be providing the leadership tomorrow which will help achieve the understanding needed to secure the world peace all of us pray for.

I ask unanimous consent that an extract from the February revision of YFU's brochure be printed in the Record.

There being no objection, the extract was ordered to be printed in the Record, as follows:

### History of Youth for Understanding

Youth for Understanding began in 1951 when the Detroit, Michigan area Rotary Clubs agreed to host 75 German teenagers who were selected for an exchange experience by the United States State Department. When it became apparent that the participating Rotary Clubs could not find sufficient homes for these students among their membership, Mrs. Rachel Andresen, the Executive Director of the Ann Arbor Council of Churches, was asked to lend her assistance. Her educational and professional background in the area of social work and her extensive experience with a variety of state and community organizations well suited her to cope with this challenging situation and to find the necessary homes which met with the State Department requirements.

In January, 1952, the Rotarians and the State Department asked her to officially supervise the program for the remainder of the year. A request for more German students for Michigan for the following school year was granted on the condition that Mrs. Andresen would be made the permanent supervisor and that the program function on a statewide basis. The Ann Arbor Council of Churches received permission to act as the official agency from the Michigan Council of Churches and named this area of their activities "Youth for Understanding." Mrs. Andresen, as Executive Director of the Ann Arbor Council of Churches, was responsible for the total operation of the Council, as well as its new exchange project.

During the next five years, the Occupation Budget was utilized for the selection and financing of students brought to Michigan. The role of YFU continued to be that of home placement and supervision. In 1956, the State Department continued to select students, but withdrew its subsidy as a result of the termination of Germany's occupation status and its normal establishment as an independent republic. However, some funds were made available for program development and in this way continuation of the program on a private selection basis was encouraged. Although most of the students at that time were from Germany, it was during this period that other countries were being added to the program.

In 1955, the second phase of operation was added to the exchange program. American teenagers were taken to European countries for ten weeks of their summer vacation. Returned exchange students from previous years found placements for them with the help of their parents. Although only a few students participated in this phase of the program the first few years, they brought favorable accounts of their experiences back to their communities and schools and because of their enthusiasm, Youth for Understanding began to grow.

This growth included the addition of the third phase of the program, a youth chorale. The Youth for Understanding Chorale consisted of a group of Michigan teenage musicians recommended by their school music departments and also meeting the general requirements of all other exchange students. Beginning in 1957, this group met every week for practice in Ann Arbor, Michigan, starting in the fall. During the summer of 1958, the teenage musicians toured Europe, performing before public audiences and in the European schools. During their tour they were housed in the homes of families who were found by the returned exchange students from previous years. The musical group was well received and has continued as an integral part of Youth for Understanding since that year. It alternates its tours, traveling one year to Europe and the next year to South America. It will tour Germany, Austria and Yugoslavia in the summer of 1972.

During these years of expansion into other countries, emphasis was placed on the development of local committees to oversee the program in their respective areas. The development of organized local committees came about through contacts with interested individuals who had either heard of the program through returned students or had deliberately been contacted and asked to help.

Throughout the United States, a system of regions and areas have been set up. There are five general responsibilities for area representatives.

Primarily, the area representative acts as the liaison between local communities and the Youth for Understanding national headquarters. This involves forming community committees by contacting local high schools and members of the community who are interested in publicizing Youth for Understanding, selecting host families and American exchange students, and who can provide supervision and a well-rounded experience for international students in the community. The area representative then works with the community committee, supplying them with information, materials, travel and counseling consultation and problem-solving, coordinating activities with the Ann Arbor office.

Secondly, the area representative finds homes in the local communities for international students, matching interests, home atmospheres and community activities with those of the student. Schools are consulted to insure that they will take these students in and can work with the area representatives and host families in solving problems which may arise.

Thirdly, the area representative selects recommended American students for the summer and year programs abroad, working with the community committee to determine the qualifications of each student.

Fourthly, the area representative sets up a scholarship committee as part of the community committee, which works on fund raising to help worthy students in the area participate in the Youth for Understanding program.

A fifth responsibility is to provide the overall supervision for the Youth for Understanding program in that area, using guidelines set forth by the Supervisor of Area and Field Representatives in Ann Arbor.

The committees are not isolated in their own communities since they are in constant contact with the central office in Ann Arbor and with each other. Committee chairmen are encouraged to offer advice as to the direction the program will take and conferences are held at necessary intervals with committee members for purposes of evaluation and recommending different procedures.

These committees are under the supervision of 90 area representatives.

Although it is not regarded as a separate phase of the program, the development of exchange programs with South American countries represents the values gained by Youth for Understanding from person-to-person contact. Some Uruguayan students had taken part in the exchange program in the earlier years, but a large-scale exchange program had not developed previously because of school difficulties. The reversed seasons between South and North America created a school year calendar opposite to ours. Thus, in order to complete a full year of school in the United States, a South American student had to leave his school before the year was finished and return during the next year, which his classmates had already begun. Because of this, South American countries were requiring that any of their students who participated in an exchange program would have to make up two years of school. Thus, not very many South American students applied as exchange students.

The tour of South America by the Youth for Understanding Chorale in the summer of 1960 resulted in the opening of many new contacts in these countries and stimulated renewed interest in exchange programs. A committee was formed in Uruguay which worked out a compromise plan with the Uruguayan Minister of Education. Uruguayan students were permitted to finish their school year in December, take part in the exchange program in the United States for the rest of the American school year and return to their own school and go on with their original class. This plan is now the normal calendar pattern of exchange of Youth for Understanding with all South American countries. Students from the United States, however, visit South American countries on the same basis as they visit those in Europe and Asia.

An important part of the American overseas program is the Thirteenth Year Abroad Program. It started in 1961 when six American students went overseas. It permits American high school graduates to attend a European secondary school and live with a family for a period of fourteen months. A total of 435 American students have participated in this experience.

A new program known as the Community College Program was begun in December, 1967. It permits older foreign exchange students to attend community colleges in the United States. Currently eleven students are attending community colleges in California, Iowa, and Michigan.

Youth for Understanding effectuated a major change in its orientation and evaluation policies for outgoing and incoming students in the summer of 1970 with the introduction of the Saginaw Valley College sessions. Approximately 6,170 exchange students participated in the sessions last summer. They were held on the campus of Saginaw Valley College, a state-supported, four-year college located near Saginaw, Michigan, which Youth for Understanding rented for the summer. There were three basic programs: (1) orientation for outgoing American students, (2) evaluation sessions for returning European and South American students, and (3) orientation for incoming European students. (See Appendix B for more information.)

The planning and development of Youth for Understanding has been industrious and imaginative. The program is flexible, allowing new phases to be introduced when desirable and developing new ideas that are unique to the exchange student programs. The variety of programs offered illustrates this point.

As a result of its increase in size, particularly the addition of the South American program, Youth for Understanding was incorporated as a non-profit organization in 1964. However, it still receives moral support for its activities from the Michigan Council of Churches and the Ann Arbor Council of Churches.

The central office, which was originally housed in Lane Hall in a room donated to the Ann Arbor Council of Churches by the University of Michigan, has made a series of moves, and is now located in a former fraternity house of the University of Michigan known as the "Hoover Mansion." The program is administered by an Executive Director, Mrs. Rachel J. Andresen, governed by a Board of Trustees, employs 50 full-time office and staff workers, and has leaders involved in each of the communities which participates in the program.

In addition to the involvement of 45 countries, exchange students have been placed or selected from committees in 42 different states of the United States. This has been due to a large extent to the movement of persons out of Michigan who have carried with them the knowledge and enthusiasm about the program. Youth for Understanding welcomed its 20,000th exchange student, a girl from Finland, in August, 1969. The latter occasion was attended by the Honorable John Richardson, Jr., Assistant Secretary of State for Educational and Cultural Affairs. As of February 1972, more than 30,000 students had participated.

## CARL HAYDEN: ARIZONAN

Mr. HANSEN. Mr. President, I wish to pay respect to the late distinguished Senator from Arizona, Carl Hayden, whose years of public service to community, State, and Nation, alone more than matched the life expectancy of most men.

Carl Hayden's life can be marked almost step for step with the development and history of his native State of Arizona. He was born in the Arizona Territory when the great city of Tempe still was known as Hayden's Ferry.

Before Arizona became a State, Carl Hayden had acquired a college education, been in business as a merchant and miller, served on the Tempe Town Council and as treasurer, and then became sheriff of Maricopa County.

He was elected to Congress when Arizona was admitted into the Union as a State and served there until his retirement from the Senate in 1969. Carl Hayden was a distinguished Member of the Senate and a distinguished Arizonan. His memory will be long cherished by the grateful people of Arizona and by those of us who had the good fortune to know him.

## ARIZONA LEGISLATURE SEEKS RESTORATION OF VETERANS DAY OBSERVANCE TO NOVEMBER 11

Mr. GOLDWATER. Mr. President, I certainly cannot speak for other Senators, but I myself always feel a little lost when November 11 rolls around each year. Perhaps, I spent too many years celebrating that day as a memorial observance for the signing of the armistice which ended World War I and later marking that day as a traditional day of observance for the veterans of American wars.

It is with a great deal of sympathy that I call the Senate's attention today to a memorial adopted by the 30th Legislature of the State of Arizona urging that the President and the Congress give consideration to the prompt enactment of legislation to return Veterans Day to the traditional day of observance, November 11 of each year.

Mr. President, I ask unanimous consent that the memorial passed by the Arizona Legislature be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

ARIZONA MEMORIAL 1004: A MEMORIAL RELATING TO VETERANS DAY; URGING CONGRESS TO ENACT LEGISLATION RETURNING OBSERVANCE OF VETERANS DAY TO NOVEMBER 11

To the Congress of the United States:

Your memorialist respectfully represents:

Whereas, the Congress of the United States in 1968 enacted legislation which changed observance of Veterans' Day from November 11, the date of the armistice ending World War I and the traditional day of observance of that historical event; and

Whereas, the change of Veterans' Day to the fourth Monday in October for the sole purpose of adding a three-day weekend to the holidays of the year is not a sufficient reason for breaking with tradition, memories, sentiments, and history and the reduction which follows in participation in patriotic ceremonies.

Wherefore you memorialist, the Senate of the State of Arizona, prays:

1. That the President and Congress give their most earnest consideration to the prompt enactment of legislation which would result in the return of Veterans' Day to the traditional day of observance, November 11, of each year.

2. That the Honorable Wesley Bolin, Secretary of State of the State of Arizona, transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation.

Passed the Senate February 3, 1972 by the following vote: 27 Ayes, 3 Nays, 0 Not Voting.

Approved by the Governor—February 3, 1972.

Filed in the Office of the Secretary of State—February 3, 1972.

## CARL HAYDEN

Mr. GRAVEL. Mr. President, Arizona and the Nation have lost one of their great leaders with the passing of Carl Hayden. He quite literally gave the bulk of his life to the public service, first at his home in Tempe, Ariz., and then to the Nation.

He represented the State he loved from the time of its entrance into the Union until 1969, when he voluntarily retired from the Senate. Behind him stands a record of national service, first in the House of Representatives and later in the Senate, that all men can honor and few can equal.

I did not have the pleasure of serving in the Senate with Carl Hayden because his retirement and my election coincided. Yet I know the benefit of his service is felt in the Senate today and will continue to be.

## DEATH OF DR. GEORGE W. CALVER, RETIRED CAPITOL PHYSICIAN

Mr. SCOTT. Mr. President, I was deeply sorry to learn that Dr. George W.

Calver, the first official physician to Congress, passed away early Sunday morning, February 27.

Dr. Calver served Congress for 38 years, from 1928 to 1966. He was first assigned to the House of Representatives, where his only office was the Democratic cloakroom. Two years later the Vice President requested that he also be allowed to administer to the Members of the Senate, and a special Office of the Attending Physician was established in the Capitol.

Dr. Calver was a good friend as well as a good physician to Members of Congress during those 38 years. We have missed him since he retired, and we will miss him even more now.

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## U.S. DISENGAGEMENT FROM SOUTHEAST ASIA

Mr. SCOTT. Mr. President, an excellent appraisal of the circumstances that led the Nation into the war in Southeast Asia and the efforts being made by President Nixon to disengage and bring the troops home is published in the January 29, 1972, issue of the Economist. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE LAST PEACE PLAN

On Monday it will be four years since the Vietcong commando squad slipped out of the building opposite the American embassy in Saigon, and the great Tet offensive had begun. That is as long as it took in the second world war to get from the German occupation of Jugoslavia and Greece to Hitler's suicide in Berlin, and it is almost as long as the whole of the first world war. This week, just before the fourth anniversary of Tet, Mr. Nixon made public what is almost certainly the last offer of a compromise it is open to him to make. He suggested that the communists should put up their man for a new presidential election in South Vietnam, and help to supervise the election, and that the present president should step down a months before the voting. By Thursday both North Vietnam and the National Liberation Front still seemed hostile to the order. That in itself speaks volumes about the legitimacy of their political claims in Vietnam. The four years since Tet are long enough for the conclusions that many people came in to the panic of 1968 to have been put to the test, and for a start to be made on a balance-sheet of this war.

### THE NEW STALEMATE

Unless there is a total collapse in the morale of the South Vietnamese army, or in the will power of the three or four men who have been running North Vietnam since Ho Chi Minh's death, the fighting seems to have reached something close to deadlock. But it is a deadlock of a sort that would have seemed inconceivable in 1968, or indeed at any time in the 1960s: a deadlock that leaves most of South Vietnam, and the great majority of its people, outside the control of the communists. The area the North Vietnamese army and its local allies undisputedly control consists of little more than eastern Laos and north-eastern Cambodia, and the neighbouring fringes of South Vietnam, and is largely unpopulated.

It is not easy to see how either side is going to break the stalemate with the forces now at its disposal. The South Vietnamese have not yet found out how to fight this sort of war well enough to destroy the army that North Vietnam keeps in its enclave. But then it is not strictly necessary for them to do so: the war as it is being fought at the moment costs them about 15,000 soldiers killed a year, which seems to be a figure they can bear, and it does keep the communists at arm's length. It is the North Vietnamese who have to break the deadlock if they are to avoid the failure of their war policy. They can probably occupy the rest of Laos any time they want to. But that is not going to help them much unless it has an effect on the war in Cambodia and South Vietnam. And with the forces they now have available in those two countries—about 70,000 men in Cambodia, against a Cambodian army of 200,000, and perhaps 275,000 available for use in South Vietnam, including the divisions stationed just over the border in North Vietnam itself, against a South Vietnamese army of more than a million supported by American aircraft—it is not at all clear that they have the weight to swing the fighting back their way.

There are two things that could still win the war for the North Vietnamese. The first would be to call up enough extra men, and spend enough extra money, to double the size of their army in the south. But that would mean reversing the decision they took in 1970, to divert resources from the war in order to give their people a slightly better standard of living. It is a change they have so far refused to make. The second is to hope that the number of men they are putting into the war at the moment will be enough to reconstruct some of the base areas in South Vietnam which the communists lost after the fighting in 1968, and that the Saigon government will then make a big enough mess of its job for these base areas to become the springboard for another great offensive later on.

That means starting all over again from where things were at the beginning of the 1960s. It is asking a great deal of the men who are being invited to live the life of a guerrilla for several more years. But it seems to be the policy North Vietnam is following. It is presumably hoping that the process can be speeded up if General Giap's men can inflict some sharp defeats soon on the South Vietnamese army, and thereby start the disintegration of morale in the south that this policy depends on. No doubt that is the aim of the attacks the North Vietnamese are expected to make in the next couple of weeks. Nobody who has followed the course of this war is going to say flatly that these attacks will not succeed. But the chances are better than even that they will not, and that North Vietnam will still be left holding the short end of the stick when the rains start again in May.

### THE RECEIVED IDEAS

This description of the state of the war will now be fairly widely accepted, even by people who would not have admitted it a year ago; and plainly it does not square with the received idea that the Americans have demonstrably failed in Vietnam. That is the trouble with received ideas: by the time everybody is nodding sagely and saying how true they are, events have generally left them behind. But the charge of failure is made at another level as well. The Americans, it is said, have suffered an irreparable defeat to their self-confidence, and self-respect, whether or not they eventually turn out to have achieved the purpose for which they originally sent their army to Indochina in 1965.

Certainly they made some major mistakes in the way they tried to fight the war between 1965 and 1968, and the realisation of error hits the Americans ever harder than it hits most people. The original mistake was to believe that the best way to make it a quick war would be to make it a big war. That is why their army went plunging around the countryside looking for an enemy to fight; why so many civilians were killed; and why the slow accumulation of carelessness and nervousness made it statistically almost inevitable that, in the end, there would be an atrocity like My Lai. It is why the Americans placed so much reliance on air power before they realised how limited a weapon air power is in a war like this.

### WHAT THE WAR DID NOT DO

These were all valid reasons for arguing that the war was being fought the wrong way, or even for arguing that the wrong methods had made it so bloody that it ought to be abandoned. They did not mean that the Americans should never have got involved in the war at all. The basic facts about the fighting in South Vietnam remain what they were in 1965: that the government of North Vietnam had had a hand in it from the beginning; that the communists were winning because of their superb military efficiency, but that this was no more a measure of the desirability of the political system they were fighting for than the superb military efficiency of Hitler's army was, or Mr. Brezhnev's army is now; and that most of the other countries of south-east Asia believed that the outcome of the fighting would have an important effect on their own future. Those things have not been made untrue by all the agony of conscience the war has produced.

It is not unreasonable to hope that the Americans will begin to see this, as their country's part in the war recedes into the past. They may even be willing to re-examine the other piece of false conventional wisdom about Vietnam, which is that the war was the main cause of the social crisis the United States is going through.

Of course, the war was one of the things that contributed to that upheaval. But there were at least two other causes which had nothing to do with Indochina. There was the crisis over the status of the blacks, which had led to large-scale rioting in a number of American cities in 1964, the year before President Johnson sent his army to fight in Vietnam. And there was the brief rebellion of the young against the middle-aged, which was a result of the great secular change that the whole of western society is going through in the second half of this century, and which was certainly not an exclusively American phenomenon. It is worth remembering that the one western government the students did almost manage to overthrow in 1968, General de Gaulle's, was also the one that had openly come out against the Americans over Vietnam. The fact is that the American crisis of the 1960s happened because the United States was hit by three separate problems at the same time. The result was spectacular, partly because the American system of government is a particularly flexible one, which rises and falls to every wave it meets, and partly because a lot of Americans proved to be incapable of facing a rough sea. That is something the allies of the United States are going to remember. But they should also remember that there would certainly have been an American crisis over the past few years even if there had never been such a place as Vietnam.

What the historians eventually say about the war will depend not on what happened in America but on what the Americans were trying to do in Vietnam itself, and whether in fact they managed to do it. One American government after another has got itself into trouble by giving different explanations of its motives for being in Vietnam. There is nothing unusual about that: most wars are fought for a number of different if complementary purposes, and public opinion oftens gets confused about which is which. In this war the United States seems to have had two main aims.

### WHAT IT MAY HAVE DONE

The first was to stop the expansion of communist power in south-east Asia. That is not just a phrase: it meant preventing another communist party from coming to power by the use of force in another country which had not previously been governed by communists. The whole broader rationale of American policy came under this heading. The government of the United States wanted to demonstrate to its allies in other parts of the world that it was prepared to stand by the undertakings it had made to them. It wanted to preserve an American sphere of influence on the mainland of Asia for the coming period of manoeuvring between the three superpowers, which was already foreseeable in the middle of the 1960s. But, above all the United States had to justify these wider considerations by showing that it was in the interest of the south-east Asians themselves that the region should not fall under communist control. If there is one main theme running through all the different things President Johnson said about Vietnam when he sent the troops in, it is that he wanted to keep alive in the area the conditions in which the liberal idea of democratic government might take root.

The usual reply of the critics of the war, when they are faced with this argument, is that South Vietnam was not a democracy in 1965, and that there is no real difference between a market dictatorship and the messy little military dictatorship the Saigon regime had deteriorated into at the time. But there is a difference. Perhaps the biggest single lesson the world has learned about politics in the past generation is that once a communist party has screwed itself into power it is a desperately hard business to unscrew it again. The quite extraordinary concentration of power that Lenin gave to the handful of men at the top of the party in the Soviet Union in 1917, which has been imitated in every other communist country since then, is almost impossible to dismantle. Chairman Mao tried to do it with his cultural revolution in 1966, and Mr. Dubcek tried it in 1968, but at the end of the day both China and Czechoslovakia found they were still being run by a handful of men wielding a monopoly of power in the name of the single permitted party. Even the Jugoslavs, in the present trouble in Croatia, are discovering that there is no appeal against the judgment of President Tito.

By comparison with this, even the sort of right-wing dictatorship that South Vietnam has become in the mid-1960s does hold out some prospect of moving towards democracy if the conditions are right. It does so because there are important centres of power which remain outside the control of the men at the top of the government. There are capitalists, and landowners, and religious leaders, and local barons, and maybe trade union bosses, all of whom are very likely tyrants in their own domains, but who do at least wield some independent power which has not been absorbed into the power of the single all-competent party, as it would be in a marxist country, and who therefore keep the possibility of choice alive. That is the heart of the pluralist system of politics, and it is the decisive advantage of pluralism over one-party communism. It provides the necessary conditions out of which competing parties, a free vote and the rest of the democratic structure may one day emerge.

### THE ONE CLEAR FAILURE

And in fact that was what began to happen in South Vietnam after 1965. The second main war aim of the United States was not just to hold open the possibility of a democratic Vietnam, but actually to create one while the war was still being fought. The South Vietnamese constitution of 1967, and the election of a president and parliament that year, were an attempt to bring representative government to Saigon. No doubt President Johnson insisted on elections in Vietnam partly because he thought they would please American public opinion. Certainly both President Thieu and the Saigon parliament have proved to be imperfect specimens of the democratic idea. But the attempt was made, and those who know Mr. Johnson would be prepared to bet that the attempt was not entirely a domestic calculation on his part.

It is this second aim of American policy that looks like being the most certain casualty of what has happened to the Americans since Tet in 1968. The presidential election held in Vietnam last October, the second under the system set up in 1967, was a failure because Mr. Thieu disqualified one of his opponents and the other dropped out of the race rather than be steamrollered at the polls. Pretty clearly Mr. Thieu had drawn his own conclusions about the withdrawal of the American army from Vietnam. He was willing to go along with the experiment with democracy so long as the Americans were fighting half the war for him. It became a luxury he was not prepared to afford if the war had to go on indefinitely and the Americans were going to help him with little more than some bombers and some logistics specialists.

The same reaction has been visible among the Americans' allies all around eastern Asia. The Cambodian parliament dissolved itself in October. The generals in Thailand dismissed their parliament in November. The president of South Korea declared a state of emergency in December. There are local circumstances that help to explain each of these actions, but it is unlikely that any of them would have happened if the Americans were not pulling out. Quite possibly the eventual judgment on the Americans' part in the Vietnam war will be that they kept the prospect of democracy alive in the area by intervening in 1965, and then delayed its arrival for a generation by panicking in 1968.

That is how the balance-sheet is starting to take shape. Whether it will look even as good as that when the final account is struck now depends almost entirely on the fighting men. The last chance of a negotiated settlement has probably disappeared if the communists really do reject the terms Mr. Nixon offered on Tuesday.

The central issue in Vietnam has always been whether the communists would submit their hopes of coming to power in Saigon to some kind of vote, or insist on fighting their way in at bayonet-point. *The Economist* has argued ever since 1966 that a place would have to be found for the National Liberation Front in the political structure of South Vietnam, including a place on the ballot forms, but that at first the front would have to accept that it was a minority, and accept the role of an opposition. As long ago as 1969 President Thieu offered to let the front run in an election, and join in a commission to supervise the election's fairness. Now he proposes to withdraw from the presidency a month before the voting takes place. It is hard to see what further concessions he can make, short of accepting the communists' demand that he should hand over the government—without an election—to a "provisional coalition" which they would certainly expect to dominate.

Perhaps it is no bad thing if the apparent rejection of Mr. Nixon's offer does define the matter as starkly as this. At least it may remind the Americans of the issue involved in Vietnam, and that may make it easier for Mr. Nixon to keep a residual force there—including the American aircraft the South Vietnamese army still cannot do without. This is a war that has been stripped down to its essentials. The South Vietnamese have lost most of their American help; by the end of April Mr. Nixon will have brought home all but 69,000 of the more than half a million troops who were in Vietnam when the Tet offensive broke out four years ago. But the North Vietnamese have lost the parts of South Vietnam they controlled before they were beaten in the Tet offensive; they have lost many of their Vietcong allies in the south, who were killed in the savage fighting in 1968; and since 1970 they have had to fight the Cambodians as well as an expanded South Vietnamese army. It could still go either way.

### THE TWO UNDERLYING FACTS

Which way it goes can still be affected by a recognition of two things. The first is that there can be no such thing as a politically neutral government in Vietnam, "provisional" or permanent. The issue is being fought between two fundamentally different ideas, and it is impossible for a government to represent neither of them, or both. The question is whether the issue is to be settled by superior force, or by trying to find out which idea most people actually prefer. The second is that the North Vietnamese still have their army fighting on the soil of three neighbouring countries, when the Americans have taken almost all theirs away. The connection between these two things is clear enough, and should not be ignored. The Americans have expended a great deal in Indochina, but they can still preserve their intellectual self-respect.

## A PREVIEW OF THE NATIONAL PARK CENTENNIAL CELEBRATION

**Mr. HANSEN.** Mr. President, the 100th anniversary of the establishment of the first national park is 1972. That first park, which continues as the most famous in the world, is, of course, Yellowstone National Park, which was carved out of Wyoming's northwest corner.

While the centennial celebration will be observed throughout the Nation, at all our national parks, the special emphasis quite naturally is upon Yellowstone—unique, the oldest, and most beautiful. Wyoming is proud to be a key part of the centennial celebration.

Several million Americans visit Yellowstone annually, and the park season of 1972 will be no exception. People from all over the world will be visiting Yellowstone during the centennial celebration.

Those who anticipate visiting Yellowstone and those who may not be able to visit Yellowstone, but wish to know about the natural beauty of this great park, will be able to see a preview of some of the fishing available in the park.

The American Broadcasting Co. televised a special program entitled "American Sportsman" on Sunday afternoon, February 27. It featured a fishing trip for native cutthroat trout on Yellowstone Lake in the park. Those doing the fishing were Peter Kriendler, manager of the 21 Club in New York, and Curt Gowdy, the internationally known sports commentator.

Mr. Gowdy, a native of Cheyenne, Wyo., most recently broadcast from Japan the results and commentary of the winter Olympics. Mr. Gowdy was the first sports announcer honored by the National Television Academy of Science and Letters for excellence in television broadcasting.

Mr. President, I hope Senators viewed the program Sunday afternoon and saw trout fishing at some of its best, and the scenic beauty of Yellowstone Park that is second to none.

## SENATOR CARL HAYDEN

Mr. STEVENS. Mr. President, Carl Hayden left the Senate prior to my appointment in December 1968. However, I had occasion to know him when I was with the Department of the Interior between 1956 and 1960.

Many Senators have already told of the character and the accomplishments of this great American. I will not add to them except to say that, if the measure of the man is the extent of his accomplishments, Senator Hayden's greatness is reflected throughout the State of Arizona and the entire United States. His work in land reclamation and other worthy areas will provide a lasting tribute.

But more than that, he was a man truly loved by all, whether Senator or citizen, Democrat or Republican, Easterner or Westerner. He was, indeed, a good man and a good friend.

## THE AMERICAN LEGION

Mr. STEVENS. Mr. President, I join with Senators in extending a warm welcome to the members of the American Legion who are in our Nation's Capital this week for their annual Washington conference. Some of the men who are here are officers of the Legion from my State. Under the leadership of Comdr. Bob Blair, the American Legion in Alaska is doing a fine job this year in its programs of service to the veterans and to the State.

The American Legion is justly proud of the fact that its 2.7 million members make it the largest organization of war veterans in the world. Included among its members, who have served in four wars, are nearly 500,000 veterans of the Vietnam era. The organization in 1971 recorded its seventh consecutive year of membership growth. Today the Legion is presenting its legislative program to the Veterans' Affairs Committees of both Houses of the Congress.

Since the American Legion was chartered by the Congress in 1919 it has had a significant impact on American life. As a "voice of the veteran" the Legion has a notable record of supporting legislation not only for the benefit of veterans and their dependents but also in the interest of our Nation.

The American scene and the world have undergone profound changes since the Legion was founded. The American Legion has changed too in its outlook and in its dimensions. It is today a four-war organization. It has not changed, however, in its patriotic character, in its ideals, in its objectives, and in its integrity. It is still true to the original purposes set forth so vividly in 1919 in the preamble to its constitution.

As the "voice of the veteran," the Legion has a notable record of supporting legislation for veterans and their dependents. The justly famous GI Bill of Rights, enacted in the closing days of World War II, bears the mark of the Legion, as does the Veterans' Administration, established in 1930.

The American Legion and its auxiliary, which number over a million members, have a right to be proud of their accomplishments during the past five decades.

But legionnaires and auxiliary members are not looking back to past accomplishments. They are looking forward, marching with the same sure step and with the same concern for veterans and their dependents, for all children and youth, and for the Nation itself.

The Legion now is caught up in high intensity activity for our younger veterans. Legionnaires are doing all they can to secure employment for the Vietnam era veteran, to assist him in his educational aspirations, to help him with his rights and benefits and to welcome him home from what has proven to be a very unpopular war.

Thousands of American communities are better places in which to live and rear children because of the civic works of the Legion's 16,500 Posts. I salute my fellow legionnaire on this occasion and wish them continued success as they continue to serve our Nation and our Nation's veterans.

## SALUTE TO LITHUANIANS

Mr. TUNNEY. Mr. President, the people of Lithuania have engaged in a long and fearless struggle against tremendous odds in an effort to gain independence for their country. I would like to join my distinguished colleagues in saluting these courageous people, during the month most important in their history.

Lithuania has been subjugated to foreign control for all but 22 years of its existence. Yet the spirit which prevailed in 1251, when the Lithuanian principalities were united into one kingdom by Mindaugas the Great, has never ceased to unite these people. Following World War I, a democratic government was established in Lithuania. The taste of freedom was savored for less than a quarter of a decade. Invading German and Soviet armies crushed the structure of Lithuania's democracy, but force alone could not conquer the spirit of freedom. Throughout the war, the people prayed for the reestablishment of peace and independence. With the defeat of fascism, a new form of tyranny gripped the Baltic nation. Stalin moved rapidly into Lithuania, and the tiny country became a satellite colony of the giant Communist power.

No amount of terror and oppression has succeeded in destroying the hope of Lithuanians that they will one day be able to live in a democratic state once again. Individual liberty remains their goal. I share the dream of Lithuanians all over the world that one day we may again witness the joyful celebration of a free, democratic government in Lithuania.

## ALASKA NATIVE CLAIMS

Mr. STEVENS. Mr. President, three items have recently appeared in the Federal Register that will be of considerable interest to the people of Alaska.

On February 4, 1972, in volume 37, No. 24 of the Federal Register at pages 2679–80, proposed regulations concerning the preparation of the Alaska Native roll were published. These will be promulgated pursuant to section 25 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, Public Law 92–203).

As noted, public comments and expressions are sought. They are due within 30 days from February 4 and should be filed with the Commissioner of Indian Affairs.

In the Saturday, February 5, 1972, Federal Register—volume 37, No. 25—at pages 2818–20, General Order No. 1 of the U.S. Court of Claims was printed. This set up the procedure under which claims for fees and expenses under the Alaska Native Claims Settlement Act (Public Law 92–203, 92d Congress, first session, December 18, 1971, 84 Stat. 688), are to be processed.

On Friday, February 11, 1972, in volume 37, No. 29 of the Federal Register at page 3056 appeared Public Land Order 5156 withdrawing lands and formal reservations in Alaska from all forms of appropriations under the public land laws. These lands were also withdrawn from mineral leasing. This withdrawal is to last until December 18, 1973, unless sooner modified or terminated. These lands include all of the lands and water areas in the reserves set aside by legislation. Executive and secretarial orders for Natives use or for administration of Native affairs, including those created under the act of May 31, 1938 (52 Stat. 503), which was revoked by section 19(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 710, Public Law 92–203).

Because the regulations under 25 CFR part 43h, the procedures for claims for fees and expenses, and the land withdrawal order are of such importance to the people of my State, Mr. President, I ask unanimous consent that they be printed in the RECORD in their entirety

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### PROPOSED RULEMAKING

DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, [25 CFR PART 43h], ENROLLMENT OF ALASKA NATIVES—APPLICATIONS, PREPARATION, AND APPROVAL OF ROLL

Notice is hereby given that it is proposed to revise Subchapter F, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in section 25 of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, Public Law 92–203.

The purpose of this revision is to provide regulations to govern preparation of a roll of Alaska Natives.

Since this revision will affect the rights of Alaska Natives to participate in the Alaska Native Claims Settlement and imposes a deadline for applying for enrollment, public comment and expression are deemed advisable. Accordingly, all persons who desire to submit comments, views, or arguments in connection with the proposed revision shall file the same with the Commissioner of Indian Affairs, Bureau of Indian Affairs, Washington, D.C. 20242, not later than 30 days after publication of this notice in the FEDERAL REGISTER.

Subchapter F of Chapter I, Title 25 of the Code of Federal Regulations, is revised to include Part 43h which shall read as follows:

### PART 43h—PREPARATION OF A ROLL OF ALASKA NATIVES

Sec.
43h.1 Definitions.
43h.2 Purpose.

43h.3 Requirements for enrollment.
43h.4 Enrollment in regions.
43h.5 Enrollment in a 13th region.
43h.6 Applications for enrollment.
43h.7 Determination of eligibility.
43h.8 Appeals.
43h.9 Preparation, certification, and approval of the roll.
43h.10 Establishment of a 13th region.
43h.11 Non-Tsimshian Metlakatla Community members.
43h.12 Special instructions.

AUTHORITY: The provisions of this Part 43h issued under 5 U.S.C. section 301; R.S. §§ 463 and 465, 25 U.S.C. sections 2 and 9; and sec. 25, 85 Stat. 688, 715.

### § 43h.1 Definitions.

(a) "Act" means the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, Public Law 92–203.

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(d) "Area Director" means the Area Director, Bureau of Indian Affairs, Juneau, Alaska, or his authorized representative.

(e) "Coordinator" means the head of the Enrollment Coordinating Office, Pouch 7–1971, Anchorage, Alaska 99501, having the responsibility for coordinating all activities regarding preparation of the roll.

(f) "Roll" means the roll of Alaska Natives prepared pursuant to the Act.

(g) "Native" means a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians whose Alaska Native ancestry predates the Treaty of March 30, 1867, and who are not enrolled in the Metlakatla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group.

(h) "Village" means any tribe, band, clan, group, village, community or association in Alaska listed in sections 11 and 16 of the Act, or which meets the requirements of the Act, and which the Secretary determines was, on the 1970 census enumeration date (April 1, 1970) composed of 25 or more Natives.

(i) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska composed of less than 25 Natives, who comprise a majority of the residents of the locality.

(j) "Region" means the geographic area covered by the operation of one of the 12 existing Native associations recognized in section 7(a) of the Act, or its successor regional corporation, and may include the 13th region if established as provided by section 7(c) of the Act.

(k) "Permanent residence" shall mean the place of domicile on April 1, 1970, which is the location of the permanent place of abode intended by the applicant to be his actual home.

(l) "Regional Solicitor" means the officer in charge of the Anchorage Region of the Office of the Solicitor, Department of the Interior.

(m) "Sponsor" means a parent, recognized guardian, next friend, next of kin, spouse, executor or administrator of estate, the Area Director or other person who files an application for enrollment on behalf of another person. It does not include an enumerator.

### § 43h.2 Purpose.

The regulations in this part are to govern exclusively the preparation of a roll of Alaska Natives pursuant to section 5 of the Act. The provisions of Parts 2 and 42 of Title 25 of the Code of Federal Regulations shall not be applicable to enrollment procedures and appeals provided for in this Part 43h.

### § 43h.3 Requirements for enrollment.

The roll shall consist of the names of all persons who meet the definition of Native and who were born on or before and were living on December 18, 1971.

### § 43h.4 Enrollment in regions.

(a) *Residents of Alaska.* A Native residing in Alaska at the time of filing his application for enrollment shall be enrolled in the region in which he was a permanent resident on April 1, 1970.

(b) *Nonresidents of Alaska.* A Native who at the time of filing his application for enrollment is not a permanent resident of one of the regions in Alaska shall be enrolled according to the following order of priority:

(1) In the 13th region, if it is formed and he so elects, or

(2) In the region where he resided on April 1, 1970, if he had resided there without substantial interruption for 2 or more years, or

(3) In the region where he previously resided for an aggregate of 10 years or more, or

(4) In the region where he was born, or

(5) In the region from which an ancestor came.

A Native may be enrolled in a different region when necessary to avoid enrolling members of the same family in different regions or otherwise avoid hardship.

(c) Eligible children born on or after April 2, 1970, and on or before December 18, 1971, shall be enrolled in the region in which one of their parents is enrolled.

### § 43h.5 Enrollment in a 13th region.

A Native eligible for enrollment who is 18 years of age or older and is not a permanent resident of one of the 12 regions may, on the date he files an application for enrollment, elect to be enrolled in a 13th region for Natives who are nonresidents of Alaska, if such region is established pursuant to subsection 7(c) of the Act. If such region is not established, he shall be enrolled as provided in subsection 4(b) of these regulations. His election shall apply to all dependent members of his household who are less than 18 years of age, but shall not affect the enrollment of anyone else.

### § 43h.6 Applications for enrollment.

(a) All applications for enrollment shall be in writing on forms provided by the Bureau of Indian Affairs and shall be signed by or for the head of each household, spouse, and/or the dependent members of his household under 18 years of age. A separate application shall be completed and signed by or for other members of a household 18 years of age or older.

(b) The application shall contain, among other information, the applicant's social security number, name, address, sex, date and place of birth, residence as of April 1, 1970, the village from which his ancestors came, and for a nonresident of Alaska, his election regarding establishment and enrollment in a 13th region. Social security numbers and cards will be issued to those persons who do not have them.

(c) Completed applications must be filed with the Coordinating office (Kaloa Building, 16th and C Streets), Pouch 7–1971, Anchorage, AK 99501, not later than March 30, 1973. For purposes of these regulations, "filed" means received by the Coordinating Office.

(d) *Residents of Alaska.* Enumerators shall be sent to the principal villages to assist in the completion and filing of applications and centers will be established in urban areas to furnish assistance in the completion and filing of applications. Persons who are missed by the enumerators may apply to the Coordinating Office by mail or in person.

(e) *Nonresidents of Alaska.* Natives not residing in Alaska shall be furnished application forms, together with instructions for completing the forms, upon request made to the Commissioner, the Area Director, or the Coordinator.

### § 43h.7 Determination of eligibility.

Determinations of eligibility shall be made by the Coordinator. Each applicant shall be notified in writing of the decision. If such determination is favorable, the name of the applicant shall be placed on the roll. If the decision is adverse, the applicant or sponsor shall be notified by certified mail, return receipt requested, of the decision together with the reasons for rejection and of his right of appeal.

### § 43h.8 Appeals.

Appeals from rejected applications must be in writing and filed with the Coordinating Office not later than 45 days after the date of receipt of the rejection notice. Prior to submission of the appeal to the Regional Solicitor, the Coordinator may reconsider the prior determination and may enroll the applicant. If the Coordinator does not enroll the applicant, he shall forward the appeal, application, and all pertinent information to the Regional Solicitor. Determinations on appeals should be made by the Regional Solicitor on behalf of the Secretary and shall be final. The applicant shall be notified in writing of such decision.

### § 43h.9 Preparation, certification and approval of the roll.

The Coordinating Office shall prepare a roll listing enrollees by village or appropriate region. The roll shall contain for each person, his Social Security number, name, last known address, sex, date of birth, degree of Native blood, residence as of April 1, 1970, and the village and/or region in which he is enrolled. Upon completion the Coordinator shall affix to the roll a certificate indicating that to the best of his knowledge and belief the roll contains only the names of persons who were determined to meet the requirements for enrollment as Alaska Natives. The roll shall be submitted to the Secretary for approval.

### § 43h.10 Establishment of a 13th region.

If a majority of all eligible Natives 18 years of age or older who are not permanent residents of Alaska elect, pursuant to subsection 5(c) of the Act, to be enrolled in a 13th region for Natives who are nonresidents of Alaska, a region for the benefit of the Natives who elected to be enrolled therein shall be established and they may establish a regional corporation pursuant to the Act.

### § 43h.11 Non-Tsimshian Metlakatla Community members.

Applications for non-Tsimshian Native Alaska members of the Metlakatla Indian Community will be conditionally accepted subject to a determination of their eligibility for inclusion on the Alaska Native roll.

### § 43h.12 Special instructions.

To facilitate the work of the Area Director, the Commissioner may issue special instructions not inconsistent with these regulations.

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

FEBRUARY 1, 1972.

[FR Doc. 72–1710 Filed 2–3–72; 8:49 am]

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## U.S. COURT OF CLAIMS [GENERAL ORDER NO. 1], ALASKA NATIVE CLAIMS SETTLEMENT—CLAIMS FOR FEES AND EXPENSES

FEBRUARY 2, 1972.

Procedure in claims for fees and expenses pursuant to sec. 20 of the Alaska Native Claims Settlement Act (Public Law No. 92–

203, 92d Cong., First Session, Dec. 18, 1971, 84 Stat. 688), before the Chief Commissioner, United States Court of Claims.

1. *Purpose.* The purpose of this order is to establish guidelines and procedures applicable to the filing of claims and answers thereto before the Chief Commissioner, pursuant to the enabling Act cited in the caption. This order may be amended or supplemented and subsequent orders will issue pertaining to procedures beyond the pleading stage.[1] Where rules of the U.S. Court of Claims are cited in any General Order, they are adopted by reference. (Section 20(d) (7) of the enabling Act.) The rules may be obtained from the Clerk or found in title 28, United States Code.

2. *Captions.* The role of the U.S. Court of Claims in these matters is ministerial and only to provide the facilities and personnel for adjudication of these claims without itself being involved in the decision-making process. None of the claims are before the court and none are subject to any judicial review. (Section 20(d) (8) and (10.) Accordingly, all papers of the parties shall be captioned as follows and designated as either (i) for fees and expenses (for attorneys and/or consultants) under section 20 (b), (c), and (d) or (ii) for native association costs under section 20(g):

Before the Chief Commissioner of the U.S. Court of Claims, pursuant to the Alaska Native Claims Settlement Act, section 20, Public Law No. 92-203, 85 Stat. 688.

No. ------------

John Doe, or ------------ Association of Natives, Claimant.

Attorney (and/or Consultant)[2] Fees and Expenses (section 20 (b), (c), (d)) or Native Association Costs (section 20(g)).

(Filed: ------------, 1972)

3. *Attorneys.* Individual parties, including bona fide associations of natives, may present their own claims or may be represented by an attorney duly admitted to practice law before the U.S. Court of Claims or who, with his petition, certifies to the Clerk that he is a member in good standing of the bar of the highest court of the Jurisdiction of the United States in which admitted. If a claim for a native association is presented by a nonattorney, such petition shall have attached thereto a power of attorney from the association identifying him as a member thereof and satisfactorily showing that he has authority from the association to prosecute the claim and to accept service on behalf of the association of all papers in connection therewith. Said power of attorney shall be executed by an officer of the association authorized to do so and shall be authenticated by a person authorized to administer oaths and affix his seal thereto.

4. *Pleadings allowed; filing; service*—(a) *Generally.* Every claim shall be commenced by the filing of a petition with the Clerk of the U.S. Court of Claims, 717 Madison Place NW., Washington, DC 20005, and by payment of the filing fee specified by Rule 221. The Clerk will docket and serve the petition as required by section 20(d)(5) of the Act. (Rules 22(a) and 23.) Those served may answer as shown in paragraph 6 of this order. Claims under section 20(b), (c), and (d) and under section 20(g) of the Act shall not be combined in the same petition, nor shall answers thereto, if any, be so combined. Claims under section 20(g) shall not include any amount for attorney and consultant fees and out-of-pocket expenses. Claims for attorney and consultant fees and out-of-pocket expenses under section 20 (b), (c), and (d) shall not include any costs claimable under section 20(g).

(b) *Signature; oath.* All pleadings and papers shall be signed and sworn to under oath. The manner and effect of signatures will be as further described by Rules 42 and 203.

(c) *Service; time.* Date of service shall be the date of filling with the Clerk. At the time of serving a pleading or other paper, the Clerk shall enter the fact of service on his docket and this record, together with the date stamped on the paper, will be final and conclusive evidence of the date of filing the same and service thereof. Time will be affected as shown by Rule 25 (a) and (d). Claims not filed within the times limited by the Act are forever barred. (From December 18, 1971: 1 year for attorneys and consultants; 6 months for native associations. Section 20 (c) and (g).)

5. *Content of petition.* Each pleading shall be simple, concise, direct, in separate numbered paragraphs (Rule 34 (b) and (c)), and meet, insofar as possible, the following basic minimum requirements:

(a) The name and address of any person or association making claim for services rendered or expenses incurred shall be shown and an explanation shall be given of the capacity of such a person or association to claim, whether as an attorney duly admitted to practice in a given jurisdiction, or as a consultant, or as a bona fide native association.

(b) The name and address of the individual, or entity on whose behalf the services were rendered or expenses were incurred, shall be stated.

(c) There shall be a statement of the time and place where the claim arose, and the items and amounts claimed. Where the claim is based upon a written contract, a certified true copy thereof shall be annexed to the petition.

(d) The claim shall state in detail the nature of the service rendered or expenses incurred and explain the reasonableness thereof, the time and labor required, the need for providing the service or incurring the expenses, whether the same was intended to be, in whole or in part, a voluntary public service or compensable, and the relationship of the service or expenses to the enactment of proposed legislation identified by bill number, title, hearing dates, report numbers, committees, and Congress. (Section 20(d) (2) and (3).)

(3) Any action taken on the claim by Congress or by any department or agency of the United States, or by claimant's client, including reimbursement or compensation made in whole or in part, shall be stated. (Section 20(d)(1). If the claim is predicated in whole or in part upon services or expenses in connection with an action dismissed before any court or Government agency by this Act, a copy of the order of dismissal shall be attached.

(f) If the claim is based on or supported by any books of account, time, or other records, the petition shall so state and shall be accompanied by a statement (schedule), under oath by the author thereof. This statement shall itemize the basic figures, costs, and rates of the claim and include a computation of the total amount of each item that is based upon or derived from books of account or other records. Each separate portion of the statement shall contain a reference showing the particular books and records and pages thereof from which it was taken. Where the statement includes items based upon allocations of entries, it shall itemize the same for the period involved and shall show the accounting method or principle upon which the allocations were made. The statement shall be accompanied by a declaration that the books and records upon which it is based (including ledgers, journals, payrolls, original invoices, vouchers, checks, notes, and other records and documents needed for a verification of amounts asserted) will be made available for examination on direction of the Chief Commissioner or his designee. The statement shall show the address where such records may be examined or offer to submit them for audit to the Chief Commissioner or his designee in Washington, D.C., and shall further show the name and address of the person who prepared the records and who will be made available for the furnishing of information in connection with the examination. Where books and records supporting a claim are not identified and made available as required herein, the commissioner in his discretion may refuse to receive them in evidence or may prohibit their use otherwise.

(g) Where the claimant is the owner by assignment or other transfer of the claim, in whole or in part, he shall attach to the petition a certified true copy of all instruments of assignment or transfer, and an affidavit setting forth the true consideration paid therefor and stating that the claimant is the bona fide holder and owner thereof and whether or not the claim was purchased for the purpose of instituting a claim in these proceedings. In addition, the information required by this subparagraph shall be included with respect to the claimant's assignor or transferor and any prior assignors or transferors.

(h) The payment to which the pleader deems himself entitled shall be stated.

6. *Defenses.*—(a) *Generally.* An answer, contesting any claim filed pursuant to section 20 of the Act, may be filed within 90 days of the date of service of the petition. (Section 20(d)(5) and paragraph 4 of this order.) All answers shall be filed with the Clerk. There shall be separate answers to separate petitions and such answers shall not be combined in the same pleading.

(b) *Form of denials.* An interested party desiring to challenge a claim shall in his answer state in short and plain terms his defenses or objections thereto and shall admit or deny the averments upon which the adverse party relies. Unless the pleader intends in good faith to controvert all the averments of the claim he may make his denials as specific denials of designated averments or paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits. If the pleader is unable to obtain knowledge or information sufficient for him to form a belief as to the truth of an averment, the answer shall so state and such statement shall have the effect of a denial.

(c) *Affirmative defenses.* An answer shall set forth affirmatively the defenses of accord and satisfaction, duress, estoppel, failure of consideration, fraud, illegality, laches, license, payment, release, res judicata, statute of limitations, waiver, mistake, denial of performance or occurrence, and any other matter constituting an avoidance or affirmative defense. (Rule 37(b).)

(d) *Service; signatures.* Answers shall be docketed and served in the same manner as claims presented by petitions and shall be signed as required by Rule 42 and subject to requirements of service and time as provided in paragraph 4 of this order.

7. *Motions*—(a) *Generally.* Every application for an order shall be by written motion filed with the Clerk. The motion shall set forth the relief or order sought and shall state with particularity the grounds therefor. The provisions of this order relating to captions, signing, service, duplication and number of copies shall apply to all motions and related papers filed pertaining to these

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[1] Suggestions of interested parties for the content of future Orders pertaining to procedures, including hearings in the matters before trial commissioners and review panels, provided by section 20, will be appreciated and considered by the Chief Commissioner, This Order, of necessity, issues sua sponte in the absence of knowledge of the identity and number of all interested parties.

[2] Select appropriate heading for petition.

claims. Any brief, memorandum or affidavit in support of any motion or in support of any objections or response to a motion, shall be included in or attached to each copy of such motion, objections, or response.

(b) *Objections and responses.* Objections or a response to a motion shall be filed within 15 days after service of such a motion: *Provided,* That if a motion states that the adverse party or parties against whom the motion is directed have no objection thereto, it may be acted upon as soon after filing as practicable, without awaiting the expiration of the 15-day period. No reply to an objection or response to a motion shall be allowed except upon order.

### TITLE 43—PUBLIC LANDS: INTERIOR; CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR; APPENDIX—PUBLIC LAND ORDERS [PUBLIC LAND ORDER 5156]

### ALASKA—WITHDRAWAL OF LANDS IN FORMER RESERVATIONS

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, all of the lands and water areas in the reserves set aside by legislation, Executive and Secretarial Orders for Native use or for administration of Native Affairs, including those created under the Act of May 31, 1938, 52 Stat. 503, which were revoked by section 19(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 710, are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act (72 Stat. 339), and from location and entry under the mining laws (30 U.S.C. Ch. 2), and from leasing under the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. section 181 et seq. (1970), in furtherance of the right of any Native Village Corporation or Corporations to acquire title to the surface and subsurface estates in the reservations, pursuant to section 19(b) of said Act.

2. The withdrawal made by this order will remain in full force and effect until December 18, 1972, unless sooner modified or terminated. Any of the lands or water areas not selected under the provisions of the Alaska Native Claims Act, supra, and not withdrawn by said Act or otherwise, shall at 10 a.m on December 18, 1973, be open to selection by the State of Alaska under the Statehood Act, and to appropriation under the public land laws generally, including location and entry under the mining laws, and to leasing under the mineral leasing laws at 10 a.m. on March 18, 1974.

3. This order shall become effective upon publication in the FEDERAL REGISTER (2–11–72).

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

FEBRUARY 4, 1972.

[F.R. Doc. 72–2073 Filed 2–10–72; 8:47 a.m.]

## THE AMERICAN LEGION

Mr. CURTIS. Mr. President, a very important group of citizens has descended on Capitol Hill today to express their views on legislation and other matters of concern to them.

This group—State and local as well as national officers of the American Legion—makes an annual pilgrimage of this type to Washington.

You will not find them picketing or shouting or chanting or demonstrating in front of the Capitol or at the Washington Monument.

They will go from office to office in the House and Senate buildings, pleading the case of the veterans of all wars and at the same time telling their elected representatives the actions that should or should not be taken, for the general good of the country, on foreign as well as domestic matters.

There will be Government decisions made with which they do not agree, and the legionnaires will express their disagreement forthrightly, but they never abandon those qualities of patriotism which reflect themselves in respect for the flag, for the institutions of Government and our society, for the Office of President and for the other offices of the Republic which we hold so dear.

The Legion group that has visited with me today has covered a broad range of topics, from a desire for increased benefits for Vietnam veterans to getting a new doctor's clinic for a small community. The legionnaires from Nebraska are men of compassion, men of intense concern for their fellow man and for their home communities and State, men of outstanding citizenship. As they have grown older, they have maintained youthful hearts and ideals. They are an inspiration to me, and I am glad to have them with us.

## FOREIGN FISHING VESSELS THREATEN OUR RESOURCES

Mr. STEVENS. Mr. President, today I wish to remind the Senate of the continuing threat of foreign fishing fleets which are off the coasts of the United States. There can be no doubt that the fishing activity of nations who fail to meet the standards set for American commercial fishermen is a serious menace to our marine resources. Using techniques that are forbidden to our own fishermen, fishing in areas closed to Americans, destroying gear that has been legally set by our crabbers in reckless forays into American waters, foreign exploitation of our fisheries resources jeopardize the legitimate conservation interests of the State of Alaska and the United States. The economic impact of shortsighted policies which have permitted the United States to decline to a sixth-rate fishing power will be felt, not only in the maritime States, but throughout the Nation.

However, the economic consequences will be greatest in my State of Alaska, where many depend entirely on the sea for income and whole families look to the Alaska fishery for a large part of their diet. I have been notified by the Alaska Fish and Game Department that the salmon pack this year may be the poorest in an even year in a decade.

The threat is there today, just a few miles outside our waters:

One hundred and six Russian vessels and 16 Japanese are fishing for herring on both sides of the international date line just off Nunivak Island.

Ninety-five Russian fishing vessels and 53 Japanese are fishing for ground fish in the Unalaska and Dutch Harbor area.

Two Russians are fishing above Adak, one Japanese and three Russians are near Shumigan.

Between Semedi Islands and Chirikof Islands, 12 Russians are trawling for shrimp.

In an area just outside Kodiak, four Japanese and three Russians fish for black cod and perch.

Two Japanese vessels are at Cape Yakataga.

Ten Japanese are between Cape Fairweather and Sitka.

In the future, I intend to notify this body each week of this continuing threat to America's commercial fishermen and our Nation's marine resources.

The message should be loud and clear: If the United States is to maintain its sustained yield from our fisheries resources, these foreign vessels must come under the control of at least the same laws that apply to U.S. fishermen.

## A NATIONAL FIRE SERVICE

Mr. ROTH. Mr. President, on February 17, 1972, my distinguished senior colleague from Delaware (Mr. BOGGS) appeared before the National Commission on Fire Prevention and Control to urge the establishment of a national fire service and a program of better equipment and training for the Nation's firemen.

In his statement, Senator BOGGS offered highly deserved praise for the nearly 2 million Americans who man the 22,300 volunteer fire departments throughout the Nation. I fully agree with my colleague when he said:

> Our Nation owes a great debt to the men and women who volunteer their time and efforts.

Mr. President, because I think the remarks of Senator BOGGS are of such great interest to all of us, I ask unanimous consent that the text of his testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

### TESTIMONY BY SENATOR J. CALEB BOGGS

Chairman Bland, Distinguished Members of the National Commission on Fire Prevention and Control:

It is a great personal honor for me to appear before you this morning during this initial series of hearings into the danger of fire. These hearings, together with others that you will hold throughout the country in the months ahead, should add significantly to our knowledge of problems associated with fire. The study and recommendations that you will prepare should have great meaning in lives saved and property damage prevented.

As a matter of fact, the Washington Post carried a most interesting editorial two days ago discussing the importance of the Commission's hearings. I think it is worth quoting the Post's view that "this serious attempt to come up with some new thinking deserves public attention and support, as a significant—and extremely difficult—examination of an age-old environmental problem."

I am particularly honored to share in this task as an Advisory Member to your Commission.

It is also a great pleasure for me to testify before the Commission since our great Director of the Delaware State Fire School, Louis Amabili, serves as one of your members. If I might digress for a moment, Mr. Chairman, we in Delaware hold Mr. Amabili in the highest regard. His knowledge of fire safety and the training of fire fighters should add greatly to the Commission's work. Mr. Amabili has been a leader in making Delaware, the First State, one of our safest States.

The passage of Public Law 90–259, which created this Commission, was a most significant event. Its importance derives from the fact that our nation, for the first time, will be making a unified effort to enlarge our fire fighting knowledge and ability. When this Act became law, a clear need existed to explore and develop more effective fire control and fire prevention measures. That need is as clear today.

Many important issues relating to fire safety will be brought to the Commission's attention. It is very important, for example, that you consider the benefits in establishing a National Fire Service Academy.

It is also clear that we need to improve both protective measures and alarm systems for earlier detection of fires. This should reduce property loss and increase the likelihood that no one will be injured as a result of fire.

A particular need exists for more public education in fire protection programs. Too often, I fear, the public lacks the information it needs to recognize the danger of fire that may exist in the basements and attics of our homes.

We have a need, in some areas, to improve fire fighting equipment. This should be done in concert with an exploration of new technologies in fighting fire.

A need exists to find and distribute improved protective equipment for fire fighters. Last year, 210 firemen were killed in the line of duty. Improved protective clothing and breathing apparatus would have lessened that tragic toll significantly, I believe. I am confident that the Federal Government can play an important role as a catalyst in such development work.

Improved training is also vital. There has been great progress, I am happy to note, in the development of legislation that would allow Federal vocational education funds to be spent to train volunteer firemen.

An amendment that I had the honor to sponsor would make Federal vocational education funds available to States for financing the training of volunteer firemen. This amendment was accepted by the Senate Labor and Public Welfare Committee and included in its Higher Education-Vocational Education bill last year. The House then passed a substantially different higher education bill, which did not include any vocational education provisions. The Senate, I anticipate, will soon revise its earlier higher education bill to bring it into general conformity, with the House bill. This would be in preparation for a conference on the two bills. I would hope that the vocational education amendment would be retained in conference.

Mr. Chairman, I am no expert on fire fighting. I cannot hope to tell you what kind of improved equipment we need or how our fire fighting response can be sharpened. Rather, I am a layman who holds in the highest possible regard the dedication and the sacrifice of our nation's fire fighters.

I should like to devote the remainder of my testimony on the great work of our volunteer firemen, who dedicate their time and risk their lives without financial reward.

Fire prevention services in this country simply cannot be upgraded significantly if our volunteer firemen are neglected. I do not say this in any way to downgrade the paid services. They are great.

But a recognition of the importance of the volunteers is a recognition of reality. In this country, we have approximately 22,300 volunteer fire departments, compared with 1,700 paid fire services. In manpower, there are 2,000,000 volunteers, 10 times the 200,000 paid firemen in our nation. Such an army of dedicated volunteer firemen is a wealth we must support strongly.

Our nation owes a great debt to the men and women who volunteer their time and efforts. It is a debt President Nixon recognized not long ago when he made this statement:

"The American tradition of voluntary involvement—of freely committing one's time and talents in the search for civic improvement and social progress—gives an extra dimension to the meaning of democracy."

This is true. In 1969, President Nixon recognized the future role that volunteers should play in our civic life when he established a National Center for Voluntary Action. At that time, the President said:

"In the coming years, the continued progress of our society is going to depend increasingly upon the willingness of more Americans to participate in voluntary service and upon our ability to channel their service effectively."

I mention these fine words of our President because I believe the Commission should do everything it can to augment the role of the volunteer in any recommendations it renders. These are men whose dedication and spirit must be encouraged for the benefit of our nation.

Volunteer firemen have always been important in the history of our nation. George Washington was a volunteer fireman. He joined the Alexandria, Va., volunteers at age 18, and remained active with them throughout his lifetime.

In fact, Washington's whole life was a personification of the ideals of the volunteer firemen: "unselfish public service; courage; duty." It was these words, incidentally, that were inscribed on the U.S. Commemorative Stamp that was issued in 1948 on the 300th anniversary of the volunteer fire service in America.

Alexander Hamilton was a volunteer fireman. So was John Hancock.

I know we are all proud of the great record and service of the volunteer firemen in this nation. It is work on which it is impossible to set a true dollar value. Each year, it involves millions of hours of unselfish community work. No slide rule can measure the value to mankind when a volunteer saves a family's home or rescue a life.

Your fellow Commission member, Mr. Amabili, has calculated that the work of volunteers in a small State like Delaware produces annual savings in labor cost alone exceeding $20 million.

Delawareans would be more than willing to pay that expense, I am confident, if it were necessary. But due to the generosity of volunteers, the State's annual contribution is held to about a quarter of a million dollars, together with a like amount contributed by the counties. In addition, the paid professionals that serve Wilmington operate on an annual budget of about $3 million.

Also, about $1.2 million is raised annually and distributed to Delaware fire companies from a 3½ percent levy on all fire insurance sold in the State.

Any remaining costs for Delaware's 60 volunteer systems is borne by charity drives and various social functions.

Mr. Chairman, included at the end of my testimony is a breakdown on the paid and volunteer fire services in Delaware.

In addition, Mr. Chairman, virtually all of Delaware's ambulance and rescue services, outside Wilmington, are operated by our volunteer fire companies.

Nor should we overlook the fact that the fire hall is often a center for the social life of small communities. The Ladies Auxiliaries of our volunteer fire stations work actively in civic affairs, sponsoring fire-safety drives, babysitting clubs, and other programs.

Mr. Chairman, I have used the word "volunteer" in this discussion to describe a certain type of fireman. Unfortunately, it is occasionally assumed that the volunteer fireman lacks the training of a paid firemn.

This simply is not true. Possibly, we ought to refer to them as volunteer experts or volunteer professionals. They are as well trained as anyone. In Delaware, these volunteer expert fire fighters often accumulate over 500 hours of training in their first three years of service with a volunteer fire company.

Delaware's volunteer services make no compromise in any respect in the offering of the best possible service. Two of our three counties, New Castle and Sussex, have central dispatch services for all fire equipment. Kent County will have it within six months.

The average response time for a volunteer department is 2 to 3 minutes; it is quite rare for a response to take 4 minutes. If several members are at the hall when the alarm sounds, the response time can be less than 30 seconds. And the wide use of radio monitors in the homes of volunteers means that the volunteer expert can sometimes be on the scene of a fire before the fire truck.

Let me emphasize: whether a man is paid or not does not reflect the extent of his ability or training.

The growth and progress of our volunteer service has enabled Delaware to hold its fire losses at a constant level of about $4 million a year over the past several years. This is very significant, I believe, in view of the steady rise in property values during that period.

In conclusion, I want you to know that the Congress and the nation are looking to this Commission for guidance in lessening the national danger posed by fire. We await the recommendations that the Commission will make following your hearings and investigations.

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### FIRE SERVICES IN DELAWARE

Wilmington Bureau of Fire (paid).
Apparatus:
18 Pumpers.
4 Aerial Units.
2 Rescue Units.
1 Boat.
0 Ambulance.
Manpower: 250.
Stations: 9.
Operating Budget: $2,991,112.00.
Population: 80,000 (estimated).
Volunteer Fire Companies: 60.
Apparatus:
225 Pumper, Pumper-Tanker Combinations.
42 Field Fire Units.
10 Aerial Units.
41 Rescue Units.
13 Boats.
60 Ambulances.
Manpower: 3,500 active (7,176—total membership).
Stations: 64.
Appropriations: Approximately $450,000.00 (from State and County tax money).
Population: Approximately 500,000 (excluding Wilmington).
Value of Apparatus: $15,000,000 (estimated).
Value of Related Equipment: $3,000,000 (estimated).
Value of Buildings and Real Estate: $20,000,000 (estimated).
Value of Services Performed: $21,000,000 (estimated) (64 stations at ⅓ million dollars).

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## SENATOR CARL HAYDEN

Mr. DOLE Mr. President, the entire Nation was saddened by the death of former Senator Carl Hayden, of Arizona.

Senator Hayden was a unique figure in American history and a singular one in the story of his home State. During the first 57 years of Arizona's statehood, Carl Hayden served his fellow Arizonans in Congress—15 years in the House and 42 years in the Senate. This record stands without equal and gives ample testimony to the quality of service he rendered his State as well as to the esteem in which he was held by its citizens.

The Senator from Kansas had the privilege to reside in Arizona for a period during Senator Hayden's service, and I recall that even more than 20 years ago Carl Hayden was a household word in his home State and a respected and admired public servant in the eyes of his constituents.

Senator Hayden's retirement at the end of the 90th Congress denied me the privilege of serving in the Senate with him, but, needless to say, he was well known to and highly regarded by Members of the House of Representatives on both sides of the aisle during my service in that body.

Carl Hayden was an outstanding American and a towering symbol of integrity, devotion to duty, and dedication to the public interest. Arizona and the United States profited immeasurably from his lifetime of service, and all Americans now mourn his death.

## "THE TRIAL OF MARY LINCOLN"—A RARE TREAT

Mr. RIBICOFF. Mr. President, television viewers across the country recently had the rare treat of viewing the premiere performance of a new and powerful opera, "The Trial of Mary Lincoln." This musical-drama based on the 1875 insanity trial of President Lincoln's widow was produced specifically for television and received enthusiastic bravos from all quarters.

It was particularly pleasing to me that much of the well deserved praise for this success has been showered on the opera's librettist, Anne Howard Bailey of Waterbury, Conn. I have had the pleasure of knowing Anne Howard Bailey for many years, and along with countless television viewers, have enjoyed watching the numerous television dramas she has written.

"The Trial of Mary Lincoln" has emerged as one of television's finest hours and as a personal triumph for a very talented writer. I join Anne Howard Bailey's many friends and admirers in wishing her many more successes.

I ask unanimous consent that a number of reviews of the opera by leading critics be printed in the RECORD.

There being no objection, the reviews were ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 14, 1972]

### ORIGINAL OPERA TONIGHT ABOUT MARY LINCOLN

(By John J. O'Connor)

As music and artistic director of N.E.T. Opera Theater, Peter Herman Adler has been articulately pleading for time—time to demonstrate that he could go beyond imports and co-productions to original and imaginative opera presentations specifically tailored for television.

Tonight Mr. Adler solidly justifies those pleas with "The Trial of Mary Lincoln," the first specially commissioned work to be produced by N.E.T. Opera Theater. Being presented at 8 P.M. on Channel 13 as the Public Broadcasting Service's "Special of the Week," the production runs for an hour, a good length for TV viewers, most of whom are not overwhelmed by the prospect of opera marathons lasting several hours.

The libretto, written by Anne Howard Bailey, is supercharged with melodramatic scenes and events inspired by American history. And the score by Thomas Pasatieri, a 26-year-old composer, is a felicitous blend of arias, ensembles, waltzes and lullabies.

The work, in short, is that rare specimen likely to appeal to the professional and to the viewer who couldn't care less about opera, primarily because he doesn't know much about opera and what he does know is distorted by social and cultural misconceptions. Television can be an essential tool in erasing those misconceptions, and that is what Mr. Adler has been proving with remarkable success.

The central action of "The Trial of Mary Lincoln" takes place in May, 1875, at the Cook County courthouse in Chicago. With her son, Robert, as plaintiff, Mrs. Lincoln is on trial to determine her sanity. The courtroom is empty except for the key characters in the trial, including Mrs. Lincoln's sister, her former servant woman, and some close friends.

Taking advantage of the TV medium, the action flows constantly between the present, which is the trial, and the past, events that range in intensity from strained to tragic. As the trial progresses, Mrs. Lincoln becomes more bitter and hysterical and, in the end, is declared insane.

Strictly as history, the opera is questionable in its portrait of Mary Lincoln. While including examples of her consuming social ambitions, her abrasive and ill-informed habits of meddling in her husband's career, the libretto attempts to invest its heroine with tragic stature.

But while Mrs. Lincoln was buffeted by tragedy in the assassination of her husband and the deaths of three of her children, she herself was rarely little more than pathetic. Her trial was indeed moving, but after one year in a nursing home, she was pronounced of sound mind and was given back control over her affairs.

Historical opera, however, like historical drama, has never been noteworthy for its devotion to historical facts. It devises its own context, and within that the focus is on artistic rather than historical feasibility. Within the "Trial of Mary Lincoln," that focus is feasible and, if not tragic, frequently powerful.

The performances are excellent, musically and dramatically. As Mary Lincoln, Elaine Bonazzi, mezzo-soprano, is superb and is splendidly supported by Wayne Turnage, Carol Bogarde, Chester Watson and Louise Parker. The complex structure of the plot—its time transitions all but impossible on a theatrical stage—is expertly directed by Kirk Browning.

Finally, the costumes by Lewis Brown and sets by William Ritman make this one of the most handsome productions yet presented on N.E.T. Opera Theater. Mr. Adler has used his time well. With "The Trial of Mary Lincoln," he is entitled to a good deal more.

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[From the Los Angeles Times, Feb. 14, 1972]

### MUSIC, DRAMA IN "LINCOLN"

(By John Rockwell)

Thomas Pasatieri's opera "The Trial of Mary Lincoln," to be televised in its world premiere tonight at 8 (locally on Channel 28), is a great success—a gripping, moving hour of musical-dramatic entertainment.

Yet at the same time it does raise once again the preplexing question of the role of music in popular modern opera.

Based on the 1875 insanity trial of Mary Lincoln in Chicago, Anne Howard Bailey's libretto makes subtle, dramatically valid use of flashbacks to key events in the subject's life. The pace is fluid and chronologically complex in a way which the stage could hardly approximate, yet never seems gimmicky or convoluted.

#### PERSONAL INTERACTION

The prevailing ambience is of supercharged personal interaction, mirrored in subtle facial expressions. There is no chorus, closeups predominate; the camera focuses one's attention in a manner unparalleled by anything in an opera house. Best of all, tonight's cast of singing actors, though trained for the stage, are all masters of dramatic intimacy.

The theme itself, too, is a challenging one. Whatever the ultimate historical truth about Mrs. Lincoln may be—like all such questions, there is no one answer—she appears here both individually sympathetic and symbolically appropriate.

A proud, high-born Kentucky girl, she married "beneath" her and found herself mired in the traditional role of wifely helpmate. Her insanity trial, however, justified it may or may not have been, was only a footnote to a life marked by frustration, tragedy and animosity. This is a "woman's story," perhaps, but midday melodrama elevated to art and social comment.

#### DEFIANTLY UNMEMORABLE

Yet all that said, the music of this opera still seems almost defiantly unmemorable. Pasatieri is a 26-year-old composer who already has eight operas to his credit before this one, presumably all in the same bland, tunelessly tonal idiom.

Serious contemporary music, unpleasant to the general public's ear, has clearly proven unsuitable for popular opera. Yet the special potency of musical drama still appeals, and the result is a blitz of musicless operas in recent decades, strong dramatic statements in which the music fits in as film background accompaniment with vocal obbligato. "The Trial of Mary Lincoln" is one of the best of such efforts.

The cast, headed by mezzo Elaine Bonazzi in the title role, sings well enough to fulfill the intimate, tonally constricted demands of the medium and of Pasatieri's recitative-like vocal writing. Peter Herman Alder conducts members of the Boston Symphony with presumed authority, and such matters as sets, costumes and ancillary technicalities are all in good hands. Kirk Browning directs.

The opera will be repeated Saturday at 7 p.m.

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[From the New York Post, Feb. 10, 1972]

### LINCOLN'S WIDOW IN NEW TV OPERA

(By Harriett Johnson)

"The Trial of Mary Lincoln," a new opera for TV with music by Thomas Pasatieri and libretto by Anne Howard Baily, is authentic American history and this heightens its power, but the skill of librettist and composer are the alchemy which gives the work stirring life.

President Lincoln's widow was brought to trial by her son, Robert, in 1875 and was declared insane. From these facts Miss Bailey has created a drama which, though far from maudlin, has in its several previews attended by the press and others closely involved, moved more than one present, to tears.

Pasatieri, only 26 years old, but already with several operas to his credit, is a gifted composer in the Menotti tradition, and like Menotti, of Italian descent. He writes melody which can be sung, though not always with spontaneous ease. Yet he is knowledgeable about what the voice can do and sensitive in his style to its needs and possibilities.

In "The Trial of Mary Lincoln," he uses a kind of endless-melody, song speech which propels itself forward as the emotions rise and carries us along too. The instrumental background is sometimes almost too rich. Under Peter Herman Adler's sensitive and knowing musical direction the orchestra seldom overwhelms but when it does we resent it because in this particular TV spectacle we are caught up in a human drama set off by music, to the extent that we don't want to lose a word.

Pasatieri's music is certainly relevant but, while it may be momentary illusion, the story is what really counts when we see "The Trial of Mary Lincoln."

He has not written an express monodrama but it amounts to this because Mary Lincoln's testimony is both the meat and bread-and-butter of the opera. Everyone else is there to feed what she says. Thus too much praise cannot be lavished on mezzo-soprano Elaine Bonazzi as Mary Todd. She is a singing-actress who is identified in depth with the character and personality of Lincoln's widow. At the end we learn explicitly that Mrs. Lincoln is deranged but the opera's viability lies in the suspense of not being convinced until the climatic finish, and empathy is with her along the way.

There are several flashbacks (pictoralization of her testimony) illustrating her life before the trial with which the opera opens. We witness her vanity, her experamental flights, her contravagance, her will to interfere and dominate, her temperamental flights, her conflicts of duty and devotion. Color TV enhances it all, especially the party scenes.

The plan of the libretto enables us through television mobility to get psychological insight into Mary's personality in a way not possible in conventional opera. Kirk Browning's stage direction has produced action as vivid and telling as the impact of the live theater. Sets are designed by William Ritman, costumes by Lewis Brown. David Griffiths is associate producer.

The supporting cast is first-rate; Wayne Turnage as Robert Lincoln; Elizabeth Pritchett as Mrs. Faye; Louise Parker as Elizabeth Keckley; Carol Bogarde as Elizabeth Edwards; Chester Watson as Leonard Swett; Mark Howard as Ninian Edwards; Julian Patrick as Stoddard; Fred Stuthman as the Judge; Alan Titus and Robert Owen Jones as Confederate Soldiers.

"The Trial of Mary Lincoln" will have its world premiere by the NET Opera Theater Monday at 8 p.m. over the Public Broadcasting System, Channel 13. There will be a repeat showing Feb. 19 at 8 p.m.

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[From Opera News, Feb. 26, 1972]

### "TRAIL OF MARY LINCOLN"

Thomas Pasatieri's *Trial of Mary Lincoln*, produced by NET Opera and shown nationally on February 14, completely succeeds as dramatic entertainment. Not only does the opera afford sixty minutes of gripping, well-photographed theater, it rewards home viewers with a real star performance: Elaine Bonazzi's in the title role. As the widow of the martyred but fallible president, the mezzo uses her remarkable face and intensely expressive voice to convey the tragedy of a power-hungry, unsure and completely unbelievable woman. Though Miss Bonazzi has lyricism in her voice, bel canto is not her strong suit. She does possess an ability given to few, that of conveying with her voice alone great extremes of feeling—madness, girlish gaiety, feminine protectiveness, vanity and many more. Notable even in this magnificent tour de force was her convulsive, agonized summoning of Lincoln's ghost.

Pasatieri's music sometimes seems to fade behind Anne Howard Bailey's superb libretto (Miss Bailey's success, not incidentally, may come from her experience with TV: she has some 450 network dramas to her cerdit), but it never disappears. Using a rich tonal palette with the usual contemporary suggestions of Britten (particularly in the courtroom portions) and impressionism, Pasatieri employs music to highten the drama and create atmosphere. On first hearing, the slightly out-of-kilter waltzes of the second ballroom scene pleasantly remain in the recollection, along with some unusually effective writing for winds to express Mary's sadness and, later, her insanity.

The plot begins and remains throughout the opera's one act in the Cook County Couhthouse, where Mrs. Lincoln's insanity hearing took place. Brilliant use of flashbacks details the course of the lady's life from her wooing days through her marital disputes and loss of a son, to Ford's threater and the tragic decade 1865–75. No one, in the context of 1875, seems really a villian; the ghastly events just happen, and their result seems none the easier to take for its inevitability.

As her son Robert, Wayne Turnage turns in a strong, manly performance, and Carol Bogarde gives even more as her sister Elizabeth. Her high lyric soprano does Pasatieri's music a good turn indeed, particularly in a lovely lullaby: the composer writes an appropriate, simple, singable song when the situation demands it. Julian Patrick sings Lincoln's clerk with attractive resonance, and again baritone Alan Titus makes a good impression, this time in a walk-on role as Mary's Confederate nephew.

On this occasion, director Kirk Browning merits great praise for the general brilliance of the production, and Francis Mahard's sets perfectly catch the flavor of Civil War America. In the pit, Peter Herman Adler conducts members of the Boston Symphony with care and concern to keep the music's drama and yet not cover a word of the text. Bravo to NET!

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### TRAGIC MARY LINCOLN SINGS

However *The Trial of Mary Lincoln* may eventually rank in the annals of opera, it's a dramatically powerful hour of television. With music by 26-year-old Thomas Pasatieri and a text by Anne Howard Bailey, the work is based on the insanity-commitment trial of Abraham Lincoln's widow, held in Chicago in 1875. It was commissioned by the NET Opera Theater and receives its premiere Feb. 14 from 8 to 9 p.m. over stations of the Public Broadcasting Service.

It is no disparagement of the opera to say that the music is its least important element. Mr. Pasatieri's score is more telegenic than operatic; it creates mood and heightens the drama rather than depicting characters or generating its own climaxes. But it provides a substantial and sonorous background for the story.

And a moving story it is, with the embattled widow remembering the days of glory and battling against attempts by her son and others to have her "put away" as an irresponsible spendthrift. Miss Bailey's terse and cogent libretto manages to remain fair to everybody, so that the case emerges as a true tragedy rather than a domestic squabble.

The story is told with steadily mounting impact through facial close-ups, personal confrontations, and dramatic flashbacks. Every word comes through with remarkable clarity; in fact the characters seem to speak almost as much as they sing. Headed by Elaine Bonazzi as Mary Lincoln and Wayne Turnage as her son Robert, the cast performs with a strong sense of conviction and intensity, and the courtroom and Civil War settings are graphic and realistic. And although the composer and librettist have omitted Abraham Lincoln himself, both visually and vocally, his presence never seems far from this bitter drama.

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[From the Daily News, Feb. 15, 1972]

### "THE TRIAL OF MARY LINCOLN" POINT-SCORER FOR TV OPERA

(By Kay Gardella)

Over the years there has been a tremendous resistance to opera on television. Many objections have been legitimate, many a result of a close-minded attitude toward the arts in general. But last night, with the debut of a work commissioned by the NET's Opera Theater, "The Trial of Mary Lincoln," a new thinking could easily emerge.

This work by Thomas Pasatieri, a successful opera composer with eight operas to his credit, has been tailored for television and uses the electronic medium to advantage. The opera, with libretto by Anne Howard Bailey, is more dramatic than lyrical. It appears to be always underscoring the drama rather than generating its own life.

Featuring mezzo-soprano Elaine Bonazzi in the title role, the opera deals with that tragic moment in history when the widow of Abraham Lincoln is put on trial for her sanity. The key set is the Cook County courtroom in 1875 where Robert Lincoln, son of Mary, has instituted his mother's trial because of her eccentric behavior.

For Miss Bonazzi, it is a virtuoso role aided considerably by close-ups. Expertly directed by Kirk Browning, her face reflects a sub drama of conflicting emotions as she confronts her loved ones who testify against her. Flashbacks are used cleverly to show the difficult life role Mary Lincoln played—wife of an assassinated President, a mother who buried three children and a strong-willed woman who meddled in affairs of state.

Miss Bonazzi, a handsome woman, is ably supported by a cast which includes Carol Bogarde, Chester Watson, Louise Parker and Wayne Turnage, who plays her son Robert.

As for Lewis Brown's costumes, they play almost as important a role as Peter Herman Adler's direction, or Pasatieri's music. Part of the $250,000 production had to be spent on those elegant gowns. Even the black mourning-style costume worn during the trial by Mary Lincoln was handsome. It suggested that though Abraham Lincoln was never seen in flashbacks his presence towered over the bitter opera.

#### COMPOSERS TAKE NOTE

While the opera ends when Mary Lincoln is committed, it should be noted that one year later the widow of Abraham Lincoln was released from the nursing home and declared sane. From an operatic point of view, it was pointless to feel compelled to make this known. The sanity hearing seemed a fine choice for a one-hour television opera.

This brings us to a point that has perhaps been considered over and over again. And that is that television does lend itself to focusing on a single experience, and from a musical point of view composers while working on larger, more grander works could elicit a single segment from their production for television.

Certainly "The Trial of Mary Lincoln" could easily be envisioned as merely one act of a larger opera. And while grand opera itself is somehow destroyed by the small screen, segments of grand opera need not be. So an enterprising composer, with loftier ambitions, might be able to use television as a stepping stone to something much bigger. TV, in the meantime, would profit, too, as in the case of the Pasatieri work.

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### MARY, MARY, QUITE CONTRARY

THOMAS PASATIERI'S "The Trial of Mary Lincoln," which will be broadcast by the N.E.T. Opera next Monday night, is the work of a sincere composer who takes his tradition seriously and writes for the voice with unusual skill. The texture of his scoring for orchestra is not only expert but dramatically effective and pleasing to the ear. Since he is only twenty-six years old, he may be a spearhead of something I have heard a lot about, though I have experienced very little of it: a return by younger composers to melodic writing. If this happens, there is still a chance for a reconciliation between contemporary opera and the musical public.

By means of flashbacks, the opera portrays many episodes in the life of Abraham Lincoln's wife, while devoting its main narrative to the trial at which she is adjudged insane and from which she is taken to the madhouse. She has been brought to trial by her son Robert over a question of her financial responsibility as well as the state of her mind. The flashbacks show her flamboyant behavior during the Civil War, her efforts on behalf of the wounded Union soldiers, her confrontation with a nephew, who is fighting on the other side, the death of her child just after she has been gaily dancing in the White House ballroom, and several other incidents. Lincoln is merely a presence offstage. There are several quite moving scenes. If the opera has a fault, it is that Mary Lincoln never quite attains the stature of tragic heroine. The flaws in her character are too obvious. For all her sorrows, she is basically a frivolous woman and a meddlesome one. And so the emotional punch that real tragedy would have produced is somewhat vitiated. On the other hand, the opera shows Mr. Pasatieri to be an extraordinarily gifted young operatic composer, and I expect great things from him.

The role of Mary Lincoln is sung by Elaine Bonazzi, and is done with such remarkable dramatic insight that Mary almost becomes the tragic heroine one looks for. Miss Bonazzi is one of the outstanding actresses on the contemporary operatic stage, and her portrayal—even though the role is not entirely successful—is something to remember. Other excellent singers in the cast are Carole Bogard, Chester Watson, Elizabeth Pritchett, Louise Parker, Julian Patrick, and Alan Titus. The sets, by Francis Mahard, and the costumes, by Lewis Brown, are appropriate, and Kirk Browning's direction is admirable. The conductor is, as usual, the able and enterprising Peter Herman Adler, who commissioned the work for N.E.T. The libretto, by the way, was done by Anne Howard Bailey, who has written countless television dramas as well as the libretto of Leonard Kastle's "Deseret," an opera done with some success a dozen years ago by the N.B.C. Opera Company.

## FLOOD DISASTER IN WEST VIRGINIA

Mr. BYRD of West Virginia. Mr. President, I met with President Nixon today for a briefing on his recent trip to China.

While I was at the White House, I had an opportunity to express appreciation for his efforts in securing Federal aid for the West Virginians injured and left homeless by this past weekend's tragic flood. I also expressed the hope that the President would be able to personally visit the area damaged by the flood.

I have been assured that all Federal agencies involved are placing their highest priority on providing such aid as may be needed; and I am continuing to maintain daily contacts with the agency heads to assure that their efforts produce meaningful results.

As a member of the Senate Appropriations Committee, I have called on all Federal agencies engaged in the relief work to submit as soon as possible their estimates on the funds that will be needed to provide all the aid possible to persons hurt by the flood, for restoration work in the area, and to take all possible steps to prevent a future recurrence of such a tragedy.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

## EDUCATION AMENDMENTS OF 1972

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business which will be stated by title.

The assistant legislative clerk read as follows:

> Calendar No. 576, S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related Acts, and for other purposes.

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 947 of the Senator from New York (Mr. JAVITS).

Mr. PELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, how much time remains to the proponents of the amendment?

The PRESIDING OFFICER. One minute remains to the proponents.

Mr. JAVITS. Mr. President, I withdraw that amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JAVITS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 1, line 2, of the Mondale amendment, after the words "be applied" insert: "in all regions of the Nation".

Mr. JAVITS. Mr. President, how much time do I have on this amendment?

The PRESIDING OFFICER. There are 30 minutes on the amendment, 15 minutes to each side.

Mr. JAVITS. I yield myself 10 minutes.

Mr. President, the Senate is now engaged in the final 36 hours of endeavoring to come to a decision upon this phase of the bill, which really involves the basic controversy in the bill, as we all saw yesterday when the track was cleared for amendments which had to do with education. On Friday we cleared the road for amendments to be offered yesterday, and of course they can be offered today and tomorrow as well, which relate to the higher education aspects of the bill; and it was very clear from the proceedings of yesterday that while there were some amendments, they did not involve the fundamental issues, but that the fundamental issues in the bill, which had a substantive impact on how Senators would vote, related to busing and school desegregation.

So, Mr. President, in dealing with that question today, in debate and through the voting which will take place during the middle of the day, and without in any way, though the unanimous-consent agreement permits it, very fully going into other phases of busing and the school desegregation problem, whether applied to section 901 or other sections of the bill, I say that we are dealing with what will make the bill stand or fall here in the Senate. For that reason, Mr. President, the big competing ideas here are the idea incorporated in the Griffin amendment, which will be voted on again today, and the idea incorporated in the Scott-Mansfield amendment, which will likewise be voted on today.

I should like to address myself to the Griffin amendment. It is well-known that I am opposed to it. I find a rather interesting analogy between the Griffin amendment and what we did about equal employment opportunity. There, Mr. President, after a 5-week struggle, we finally came to a resolution of our problems and adopted essentially Senator DOMINICK's formula for giving some power, greater power than it has had, to that commission, but less power than the committee sought to give it in the bill reported to the floor.

That was considered so reasonable a compromise that an overwhelming majority of 71 Senators voted to close debate; and that by no means represented the total number of Senators who were in favor of that compromise, which was even greater. That bill is a progressive milestone.

Mr. President, last Friday the Senate passed, by a vote of 43 to 40, the so-called "Griffin amendment." Today we will have the opportunity to reverse that action.

For 5 weeks prior to the consideration of the pending legislation, the Senate debated, and ultimately adopted, legislation expanding the authority of the Equal Employment Opportunity Commission to deal with discrimination in employment practices. As cofloor leader of that bill, along with the distinguished Senator from New Jersey, I fought every step of the way to extend protection against discrimination. In the end, a compromise was necessary in order to secure passage, but the final result was clearly an affirmation by the Senate of its commitment to equal opportunity in the vital area of employment. That bill is a progressive milestone.

Compare that with the Senate's action last Friday. The Griffin amendment may well be the most regressive measure in seeking equal opportunity for children in education on which the Senate has taken affirmative action in years. Unlike the Scott-Mansfield compromise amendment adopted a day earlier, which deals with the legitimate concerns expressed by many parents about excessive and educationally counterproductive busing, the Griffin amendment reacts to unfounded fears and sheer emotion in a way which may effectively cancel out the long, painful struggle for equal educational opportunity to which the Senate had therefore been committed.

In the first section of the amendment, the Federal courts are purportedly denied jurisdiction to order what they have held the Constitution to command. We are told by the Senator from Michigan and the Senator from North Carolina that Congress has the constitutional authority to bridge the separation of powers in this way because of power over lower court jurisdiction. But the authorities they cite are unpersuasive at best. Ex parte McCardle, a Supreme Court decision which upheld the right of Congress to prohibit the courts from entertaining writs of habeas corpus, is readily distinguishable. In that case, the Congress sought to deprive the courts of a whole area of subject matter jurisdiction, not just the constitutional remedies which make jurisdiction meaningful. Furthermore, as at least one scholarly commentator has noted, alternative ways remained available after Congress had acted in for the vindication of the very constitutional rights in issue. See Ratner, Congressional Power over the Appellate Jurisdiction of the Supreme Court. 109 Pa. Law Review 157. Indeed, there is some question whether Ex Parte McCardle remains good law today. See *Glidden Co.* v. *Zdanok* 370 U.S. 530, 605 (1962)—dissenting opinion.

The proponents of the Griffin amendment cite the validity of the Norris Laguardia Act in support of their contention that Congress may use the basis of lower Federal court jurisdiction to limit remedies. But in the Norris-Laguardia Act the remedies limited, that is, injunctions in labor disputes, did not derive from the exercise of constitutional rights. It is quite a different matter to limit the courts in their exercise of general equity jurisdiction and to withhold from them the implements necessary to vindicate constitutional rights. Indeed, in *Battaglia* v. *General Motors Corp.*, 169 F. 2d 254, 257 (2d Cir. 1948), *cert. denied* 335 U.S. 887, the Court said:

> We think . . . that the exercise by Congress of its control over court jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment. That is, while Congress has the undoubted power to give, withhold and restrict the jurisdiction of courts other than the Supreme Court, it must not exercise that power so as to deprive any person of life, liberty or property without due process of law.

As the Supreme Court held in Bolling against Sharpe, a companion case to Brown against Board of Education that racial segregation in the schools is prohibited by the due process clause of the fifth amendment as well as the equal protection clause of the 14th amendment, the principle enunciated by the Court in the Battaglia case would seem to lead to a finding of unconstitutionality for the Griffin amendment and indeed Senator GRIFFIN himself has recognized that possibility.

Notwithstanding the question of its constitutionality, the Griffin amendment would operate to deny equal rights to black and other minority schoolchildren. Efforts by its proponents to say the issue is "quality education" rather than desegregation are as imprecise as the President's August 3, 1971, statement that he does not favor busing for busing's sake. Those of us who wish no turning back in the desegregation of schools are indeed concerned with quality education. And, neither the Senator from Michigan nor any of his Southern colleagues who have led the battle against school desegregation have provided us with any evidence to contradict the evidence compiled by the Select Committee on Equal Educational Opportunity, that neither dollars nor institutional reforms, both desirable in their own right, can have as substantial an impact on educational disadvantage as desegregation.

The issue is not, as the Senator from North Carolina would have us believe, whether black children cannot learn when they are isolated from white children. It is whether disadvantaged children, of all races, benefit in terms of cognitive school achievement from a heterogenous classroom environment, and whether all our children are going to appreciate and benefit from a pluralistic society, one which must still free itself from the yoke of racial prejudice and resulting segregation.

The first section of the Griffin amendment undercut the basic enforcement mechanism of desegregation, the courts; the Senator from Michigan then give us two "insurance" provisions, presumably included to salvage as much as possible in the event the first provision is held unconstitutional. The second section of the amendment, if adopted, would have the effect of repealing title VI of the Civil Rights Act of 1964 as it presently is most relevant to public education. No longer would the Department of Health, Education, and Welfare be permitted to withhold funds from a school district which is in violation of the constitutional command to desegregate its schools. At the very least, this provision would require relitigation of the vast majority of desegregation plans already in effect throughout the country, and attendant delays, confusion, and divisiveness. At worst, it could authorize segregation of thousands of school districts.

In its third section, the Griffin amendment imposes a legislative stay on all school desegregation. In voting for the Scott-Mansfield amendments, I expressed doubts about the advisability, and even the constitutionality, of its provision staying for 16 months court orders requiring school district consolidation or interdistrict assignment of students. At least the objectionable provision in Scott-Mansfield is limited by its own terms to legal questions not yet fully resolved by the Supreme Court.

The Griffin amendment paints with a much broader brush. By staying all desegregation orders which will require transportation it encourages frivolous appeals and delays interminably the implementation of adjudicated rights.

Mr. President, last Friday was a dark day in the history of our national commitment to equal opportunity. I hope that the Senate will heed rationality and conscience and reverse its earlier decision.

I consider the amendment most regressive. For all those reasons, I hope it is defeated in the Senate.

Mr. President, I yield all but 1 minute of my remaining time to the Senator from South Dakota.

### BUSING—NO TIME FOR RETREAT

Mr. McGOVERN. I thank the Senator from New York.

Mr. President, the Griffin amendment and others like it have been mislabeled "antibusing" amendments.

That label does not define either their purpose or their effect.

Their purpose is to respond to unreasoning political panic.

And their effect is to retreat on our national commitment to equal opportunities for all Americans, regardless of the color of their skin.

In the process they can only mask and divert attention from the real concerns of the American people.

Black, white, brown, and red Americans who were in school just a few years ago are still exposed to the constant risk of death or disability in needless war.

There is still a risk that our children will someday choke on polluted air and water.

There is still the fact that millions of American children are denied a decent education, regardless of their race, because we are too busy building overkill.

There is still a risk that inadequate food and nutrition will start many of our children in life with crippled minds and bodies.

And there is still the risk that our children will inherit the same racial divisions and suspicions which have plagued us for nearly 200 years.

Yet with those and other issues unresolved, some act as if the survival of the American way of life turned on whether or not some of our children will be bused to integrated schools.

That, I submit, is a sorry spectacle to present to the American people in 1972.

These proposals respond to no national revulsion against busing. The school bus is not public enemy No. 1.

Certainly it is an inconvenience to have to ride a bus to school, rather than to have the school within walking distance. No one disputes that.

But about 65 percent of the schoolchildren in this country ride buses and other vehicles to school every day, simply because school is too far away to walk. Such busing has nothing to do with race.

And there is, of course, no amendment to prohibit busing of that kind.

Nor are these amendments directed against all racially motivated busing.

In fact the school bus has been used for decades as a vehicle to affect the racial makeup of schools. It has been used to bus white children past black schools and black children past white schools, and to keep black and white children apart.

And these amendments are not designed to prevent unreasonable or excessive busing. In fact, in some instances they will likely preserve such busing.

The Supreme Court decision which inspired much of today's controversy, for example, involved a situation where some

26,500 pupils were being bused for an average one-way trip of a full hour, for the purpose of maintaining a dual school system. Now, under the decision in the Swann against Charlotte-Mecklenburg case, the average bus ride has been cut in half.

With few exceptions that has been the experience throughout the South. Desegregation, accomplished in part by busing, has been accompanied by reductions in the average distances children must travel to school.

Further, the Supreme Court has held in connection with the Charlotte case that—

> An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process.

What the Court has said, in effect, is that where there have been deliberate official efforts to maintain segregated schools, and where other methods are insufficient to remedy those wrongs, then busing will be used—but only if it is not harmful to health or to the educational process.

It is clear that excessive or unreasonable busing is not a question which is before either the Congress or the American people.

Rather we are considering whether reasonable incremental busing can be used, when other remedies fail, as a means of fulfilling our 18-year-old commitment to integrated schools.

The **PRESIDING OFFICER** (Mr. GAMBRELL). The time of the Senator from South Dakota has expired.

**Mr. McGOVERN.** Mr. President, will the Senator from New York yield me more time?

**Mr. JAVITS.** I have no additional time.

**Mr. ALLEN.** Mr. President, although I disagree with the arguments the Senator is making, I yield him 5 minutes of our time.

The **PRESIDING OFFICER.** The Senator from South Dakota is recognized for 5 additional minutes.

**Mr. McGOVERN.** I appreciate the generosity of the Senator from Alabama in yielding me this time, especially since he does have an opposing view.

Mr. President, we must consider that question in the recognition that without busing as a tool, desegregation will probably stop dead in its tracks.

What is before the Congress is whether we want to return to the undemocratic dual school system, or move ahead to a society where our children see each other as equals and where there is quality education for all. That is the question involved in the Griffin amendment.

That question has been stated very clearly by the Governor of Florida, Mr. Askew, to whom we owe so much in the way of wisdom and prudence on this issue.

Before we yield to the current busing hysterics, we ought to consider the costs.

The Supreme Court estimated those costs as long ago as 1954.

Based on extensive psychological and sociological studies, the Court found then, as a fact, that separation of pupils based on race was harmful to educational and mental development. The Court held, in Brown against Board of Education, that—

> Separate educational facilities are inherently unequal.

The Court was forced to rely largely on theoretical data in reaching that conclusion. But its judgment has since been confirmed beyond any rational doubt, through years of experience in carrying out its mandate for school desegregation.

An extensive Federal study, "Equality of Educational Opportunity," usually referred to as the Coleman report, has found that the educational progress of black children is measurably improved by attendance at integrated schools.

A study sponsored by the New York Board of Regents, "Racial and Social Class Isolation in the Schools," reached the same conclusion.

In an important Senate address less than 2 weeks ago, Senator MONDALE cited case after case of enhanced performance records by minority children attending integrated schools. His remarks were grounded in the brilliant documentation compiled by the Select Committee on Educational Opportunities which Senator MONDALE has chaired with such distinction and devotion.

And it follows that regardless of how they are dscribed, regardless of misleading titles and confusing rhetoric, the amendments now before the Senate are proposals to deny black children the chance for equal educational opportunity. They are proposals to deprive black children of the right to develop their full potential as human beings. That is the inevitable result of these amendments.

Some might think it is worth that price to overturn the school bus. They ought to admit it.

But whether they will or not, I disagree—with every fiber in my being.

The Nation has responded to the quest for human rights. The Congress has adopted legislation assuring equal access to public accommodations—so that blacks can eat in the same restaurants, sleep in the same hotels, and ride in the same seats on public transportation as whites.

We would find it unthinkable to retreat on those programs.

We have adopted legislation to end racial discrimination at the registrars' desk and in the voting booth.

No one suggests that we should undo that legislation.

We have also addressed the issues of equal access to jobs and housing. There is conflict over the implementation of those programs.

But, again, there is no suggestion that we reverse ourselves and turn back to the old discriminatory practices.

To do those things would be to abandon the lessons purchased at such tragic cost in the 1960's.

It would restore the chains of injustice which have shamed our country for nearly 200 years.

It would write out of our conscience and our policy much of what our most brilliant and beloved leaders of the 1960's—John Kennedy, Robert Kennedy, and Martin Luther King—lived for and fought for through their tragically shortened lives.

Is it more acceptable, then to rob black children—whose voices are not so loud, and whose rage is not so immediate—of the protection guaranteed by the 14th amendment?

Can we see a need in these antibusing amendments that is so compelling that it justifies perpetual discrimination with respect to one of the most fundamental basic conditions of human dignity?

We have gone too far with this repulsive strategy of fear.

We have seen too much faltering leadership on the question of racial quality over the past 3 years.

We have flirted too much with the old racial divisions that nearly tore our country apart.

Let us reaffirm instead our commitment to true equality of opportunity.

Let us encourage the same cooperation and compassion which have brought us so far already toward a country which sees the true worth—and searches for the truly decent instincts—in every one of its people.

Mr. President, I ask unanimous consent that certain supporting editorial items and a brilliant speech by the distinguished Governor of Florida Reuben Askew be printed in the RECORD, and I thank the Senator from Alabama and the Senator from New York very much for yielding me this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

### WILL THE UNITED STATES BE ASKED TO ELECT PRESIDENT ON RACISM BASIS?

The white political leadership of White America is making its ideas perfectly clear in this election year. There are some real problems for the candidates to take stands on: the war, the arms race, unemployment, the economy, the health care system, the cost and conduct of local governments, the environment. But it appears that what the political leaders will fight over is the most effective way to beat the blacks, the browns, the poor. If the campaign continues to develop the way it has begun, we shall be asked to choose in November a President of the United States not for his race, but for his racism.

Each of these leaders gives his own reasons, but what they all are doing is obvious. Sen. Edmund Muskie has made it clear he does not think he could win the presidency with a black on the national ticket. Sen. Henry M. Jackson (D-Wash.) has made it clear he is willing to give constitutional sanction to racial fears by proposing an antibusing amendment. Gov. George Wallace of Alabama clearly believes that the Old South will rise again—in the North, on Capitol Hill.

And Mr. Nixon's views, as he says, are well known. He has tried to construct a Supreme Court that will decide the law according to his preferences. He has said he favors equal job opportunities, but his administration joined the Southern bloc in the Senate this year to beat back efforts to give the Equal Employment Opportunity Commission independent enforcement powers. He has repeatedly stated his opposition to what he calls "forced economic integration of the suburbs."

His opposition to school busing has never been a secret. He has created his own opportunities to talk about it. He has strengthened the forces in Congress which want to prohibit the use of federal funds to pay for busing, thus depriving local school boards of the help they need to follow court orders. And his willingness to consider backing a constitutional amendment prohibiting busing has greatly improved the chances of House members who want to bring a discharge petition to a vote, to force out of the House Judiciary Committee an antibusing amendment proposed by Rep. Norman Lent (R-N.Y.).

The danger is obvious. If an amendment of that kind were sent out to the state legislatures, or conventions, in a campaign year, all other business of government and all other political purposes would be hidden behind it. They will be hidden behind it in the Florida primary March 14 when a busing referendum, with no binding authority, will be on the ballot.

What can happen nationally is evident in the Florida situation. Gov. Reuben Askew has fought patiently and decently, but hard, to promote racial equality in his state, and to use school busing to achieve integration. He says this is his responsibility under the law and under court mandates. Now, inevitably, he will be drawn into the battle over this referendum and thus into a presidential primary campaign he would rather stay out of.

Askew and a few other Southern governors have found from experience that school integration does work, that education can be improved while equality is being ensured and that busing is the most efficient means of accomplishing these aims at this time. It is not easy, but, when governors and school boards have decided it must be done, they have proven it can be done, and with good results. Now, in the midst of their efforts, Askew and school boards and administrators are being forced to wage a battle against popular hatreds whipped up once again by the President and a pack of people who want to be President.

Historically, integration was thought of as a Southern problem and solutions were first imposed on the South by the courts. In the last few years, the people in the South have elected governors—witness North Carolina, South Carolina, Florida, Arkansas—who have decided to make those solutions work. In the race for national power, it is the President and some members of Congress who are seeking ways to prevent those solutions from working.

The Supreme Court itself has been brought under tremendous pressures as a result of this political antibusing compaign. It has cases coming up to it involving a number of large northern cities. Now it must decide them in the midst of crisis of authority, for the politicians have invited the people to oppose power and prejudice to the law, and to the concept of law. This is the politics of revolution.

It is the politics of racial suppression. No matter what reasons the President and these congressional politicians give, what they are doing is a clear message to the blacks and other minorities that the government will not exert itself further to guarantee their rights under the law and it is a message to the whites that the law does not rule anymore.

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[From the New York Times]

### The Fifth Option

(By Tom Wicker)

High officials in the White House have let it be known that upon his return from China President Nixon will be presented four "options" from which to choose a means of halting or slowing court-ordered busing for purposes of school desegregation. Apparently, there is to be no "option" suggesting to Mr. Nixon that perhaps the President's role ought to be, instead, to restore some perspective and restraint to a highly emotional situation.

The four options, as described to Robert B. Semple Jr. of this newspaper, are as follows:

1. A Presidential speech or statement summarizing his oft-stated opposition to busing, but also raising broader educational issues.
2. More Justice Department intervention against busing in school desegregation cases.
3. Legislation restricting the remedies that courts could impose to overcome segregation.
4. A Constitutional amendment banning busing.

But surely someone around the President—perhaps his able H.E.W. Secretary, Elliot Richardson, who apparently opposes a Constitutional amendment—could at least as devil's advocate present him a fifth option that would go something like this:

"A speech or a series of speeches by the President expressing the view that while he personally favors other means of desegregating schools and considers busing in some ways harmful, he views segregated schools as even worse and realizes that at present there is no feasible alternative to some busing for purposes of racial desegregation; that the evidence is overwhelming that the 'quality education' he seeks cannot be achieved without substantial school desegregation; that therefore there will have to be some busing until other means of desegregation make it unnecessary."

Put more bluntly, this option would ask Mr. Nixon to put aside, without abandoning, his personal views, and to assert powerful Presidential leadership that would lay the real alternatives before the people. Governor Reubin Askew of Florida, for instance, has said to his constituency what Mr. Nixon might well say to the nation.

No one, Mr. Askew reminded a news conference last week, "liked the inconvenience and the hardship that accompanied busing . . . I don't like it, the people don't like it and the courts don't like it. The question is, however, how do you address yourselves to achieving an end, and the end is to insure an equal opportunity for the school children of this state regardless of race, creed, color or place of residence.

"I say that somewhere along the line we've got to break this cycle . . . by which many people, particularly black people in this country, are not having a chance at an adequate education so that it could help them . . . to improve themselves economically and in turn improve the whole economy of our entire country.

"At this time busing is an artificial and inadequate instrument of change and I think it should only be used as a temporary measure to try to put us on the road to doing what we should do and that is to provide this equal opportunity. And I haven't seen to my satisfaction any other way that we could accomplish this until such time as our housing patterns change and all of our schools are upgraded so that busing then will become unnecessary."

Mr. Nixon himself has pointed out that those who have studied the matter "know that desegregation is vital to quality education." He knows that big investments in "compensatory education," on the other hand, have produced few encouraging results. He must know as well as anyone some of the statistics Senator Walter Mondale of Minnesota cited in a notable speech last week—that twenty million school children ride buses to school in America every week, and that 65 per cent of the nation's school children ride buses to school for reasons that have nothing to do with desegregation.

And if he does not know it, Mr. Nixon could easily find out that only in rare instances have the courts ordered anything like unreasonable busing, and that virtually every busing plan has been aimed at overcoming state-sponsored segregation—not at establishing some social planner's arbitrary racial balance. Nor would it be hard for him to learn that busing programs, to a great extent, enabled Senator Mondale to say that "integrated education—sensitively conducted and with community support—has been tried, and is working in countless communities in every section of this nation. It can and does result in better education for all children, white as well as black, rich as well as poor."

That is why the fifth option should go before Mr. Nixon with the rest. There may be no quick political profit in it, but the vision and the courage that have taken Mr. Nixon to China might yet cause him to find the right course here at home.

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[From the Los Angeles Times, Apr. 12, 1971]

### The Court's Integration Decision

The Supreme Court has tried mightily to sweep away quibbles, and doubts, and delays.

The Supreme Court has said that "the constant theme and thrust of every holding from (1954) to date is that state-enforced separation of races violates the equal protection clause" of the Constitution. The Supreme Court has said that school authorities must exclude no pupil of a racial minority from any school, "directly or indirectly," on account of race. The Supreme Court has said that to this end cross-town bussing is permissible; school assignment by race is permissible; gerrymandering of districts is permissible. The neighborhood school concept falls before the command of the Constitution: official racial discrimination is not allowed.

The decisions were unanimous. The justices who made them were appointed by Presidents Roosevelt, Eisenhower, Kennedy, Johnson and Nixon. The four opinions were written by Mr. Nixon's appointee, Chief Justice Warren E. Burger. The decisions are the law of the land, and they have behind them the force of a constitutional, philosophical, and, indeed, political consensus.

The Court has gone far toward settling the arguments about what the South must do to undo the results of the separate school systems it once supported. The Court has been as precise as it could be. It cannot be absolutely precise; and the working out of school desegregation plans in the South, or anywhere else for that matter, is extraordinarily complicated. Much depends on the willingness of the administration, which sought a less rigorous resolution than the Court reached, to support the Court's commands with the affirmative action of the federal government.

And the Court hasn't yet tackled, as Burger pointed out, the whole tangled question of what must be done by school systems outside the South. (Neither, of course, has Congress; note that the Senate Wednesday voted down Sen. Abraham Ribicoff's proposal to require the integration of inner-city black children into white suburban schools throughout the nation.)

But you cannot conclude that Los Angeles and other California and Northern cities are wholly unaffected by the Court's chain of reasoning.

"We do not reach in this case the question whether a showing that school segregation (as) a consequence of other types of state action, without any discriminatory action by the school authorities, is a constitutional violation requiring remedial action by a school desegregation decree," Burger wrote.

That statement and others by Burger leave well open the possibility that even in non-Southern school districts, which never operated overtly separate school systems, discriminatory action by school authorities would require remedial action by the courts. Which, in fact, relates to what former Superior Judge Alfred Gitelson found in Los Angeles: that by selecting sites, building schools, drawing district lines and denying transportation to minority students, the Los Angeles Board of Education was unconstitutionally discriminating.

Judge Gitelson may well be upheld; this, for Los Angeles, is the principal message in the Court's decisions.

For the country, the larger message, it seems to us, is that we are definitely going to proceed toward becoming an integrated society.

The process is going to be difficult; the problems multitudinous.

Burger confessed that the Court cannot make every wrong right; and he was careful not to insist upon precise and rigid balancing of the races in the schools. "In an area as sensitive as we deal with here," he said, "words are poor instruments to convey the sense of basic fairness inherent in equity." Yet it was to that sense of basic fairness, inherent in the Constitution and in the traditions of the nation, that the Court addressed itself; and its four decisions show the country what it truly is, and what it must become.

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[From the Baltimore (Md.) Sun]

### "THIS CASE"

A unanimous Supreme Court has taken the next logical step in the series of rulings that began in 1954, when forced school segregation by race was held to be unconstitutional. Since then the federal judiciary has said time and again that not only must old separate school systems be discarded, but also that officials have a duty to take affirmative actions to see that actual desegregation follows legal desegregation.

Though the court was once again unanimous in its finding, this most recent decision is going to be controversial. There are two aspects of the ruling to which many Southerners strongly object, and there is no shortage of political leaders willing to make political capital out of this resentment. True political leadership would be to urge acceptance of the inevitable ruling, and to search for ways to improve both the educational systems in the region and the relations between the races. We single out the South because the ruling singles out the South and the Border states which once had dual school systems.

The aspects of the ruling Southerners will object to most is of course that having to do with busing. The court says that the neighborhood school concept is not acceptable in a formerly dual system if the results are segregation. Since that is the usual result, the affirmative action school systems may be ordered to take, the court ruled, is busing students past their "neighborhood school" to a distant one. For years that practice has been accepted in the white South if the schools at the end of the trip were all-white. Those who oppose it now do so for reasons that are race-related. The court has said very clearly now for 17 years that such opposition to school desegregation may not prevail.

The second aspect of the courts' ruling that Southerners are going to object to is that having to do with racial ratios. The court said these may be used by school officials to decide how students will be assigned, and by courts to test the equity of assignment plans. Southerners have insisted that since assigning pupils to meet a ratio meant using race as a basis for official action, this was forbidden by the 1954 decision. The court now has unequivocally rejected that argument.

Many Southern spokesmen are saying that the court is discriminating again, and that *de facto* school segregation in the North is allowed to stand even though that is no different from what now exists in the South. That is true. The court said pointedly that the constitutionality of the sort of school segregation that exists where there was never a dual school system is not an issue in "this case":

"We do not reach in this case the question whether a showing that school segregation is a consequence of other types of state action, without any discriminatory action by the school authorities, is a constitutional violation requiring remedial action by a school desegregation decree." Many people believe *de facto* segregation does result from state actions and is unconstitutional.

What this decision does is force the South to be equal to the North in doing away with every vestige—and legacy—of a dual school system. School systems that meet that requirement and then resegregate along Northern lines will presumably be as constitutional in North Carolina as in North Dakota. Or as unconstitutional. The Chief Justice said, "It does not follow that the communities . . . will remain demographically stable. . . . Neither school authorities nor district courts are required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished."

"This case" then has brought the South to equity with the North. That is the meaning of the decision. Some future case will deal with the national problem of segregated schools in our society. Perhaps busing and racial ratios will be required everywhere. What seems clear now is that they will eventually be required everywhere or nowhere.

That is exactly as it should be. Rights of Americans should no more be based on geography than on race. Furthermore, as many Negro children attend schools in the North and West as in the South now. So both the Census and the Supreme Court have set the stage for a national resolution of our dilemma. Yesterday the Senate refused to face up to the issue, when presented with a plan for national desegregation. But the issue is here to stay, and senators will, we hope, think some more about such plans.

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[From the New York Times, Apr. 22, 1971]

### JUSTICE BURGER'S WARNING

Although the Supreme Court has ruled unanimously that busing of pupils to achieve school desegregation is constitutional, the issue at the heart of Chief Justice Burger's opinion is not busing at all. It is rather the court's belief that the school authorities of Charlotte, N.C., and other Southern districts, have openly defied the 1954 Supreme Court ruling that outlawed the maintenance of dual school systems.

Chief Justice Burger does not minimize the legitimate objections to extensive busing, particularly to that of young children over long distances. He also acknowledges the undesirability of fixed mathematical norms—and explicitly recognizes that some schools, because of their location, will in fact remain segregated.

But the ruling—with all nine Justices in agreement—emphasizes that the district under review had deliberately maintained a segregated system at least until 1969 and that the school board had "totally defaulted in its acknowledged duty to come forward with an acceptable plan of its own, notwithstanding the patient efforts of the district judge. . . ."

Because busing has become so intensely political an issue—made more so since President Nixon has deliberately exploited it—the real significance of the Burger ruling is in danger of being obscured. The opinion underscores the fact that bus transportation has been an integral part of public education for years, making possible the transition from the one-room schoolhouse to the regional school. A giant transportation system is used by well over one-third of the total public school population, largely unrelated to integration.

But busing has also long been the tool of many Southern districts for the specific purpose of maintaining segregation. The Charlotte district, for example, had been transporting 23,600 pupils of all ages for an average one-way trip lasting an hour. Under the district court's ruling now upheld by the Supreme Court, one-way transportation would not have required "over 35 minutes at most."

The Chief Justice concedes that in the absence of a history of discrimination, "it might well be desirable to assign pupils to schools nearest their homes." It is precisely because, in the case under review and many others like it, discrimination has been deliberately perpetuated in direct violation of the 1954 ruling that some uncomfortable remedies are now held legitimate. Even so, the opinion emphasizes the need to make such remedies realistic and workable.

At the same time, Chief Justice Burger has served notice to those inside and outside the Administration who would ignore or obstruct earlier rulings identified with his predecessor that he does not intend to allow the Supreme Court to be undercut or influenced by political pressures in the area of civil rights.

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[From the Washington Post, Jan. 24, 1972]

### THE COURT ON THE SCHOOLS: CLEAR AS A BELL

In common usage—but not in the eyes of the law—there are three types of racial "segregation" in our schools. One is that which exists in schools mostly—but not exclusively—in the South, where it can be demonstrated that there has been deliberate intent on the part of the government officials at some level to segregate school children solely on the basis of their race. The dual school systems of the South and a number of school systems in the North where such (covert) intent has been established, fall into this category of segregation which was outlawed by the Supreme Court in 1954. A second type of school "segregation" is that which can be demonstrated to proceed, at least in part, from the racially discriminatory actions of government officials in areas other than education—in housing, for example. This category would include much of the so-called "de facto school segregation" on the constitutionality of which the court has yet to speak. The third type is simple racial concentration in our schools for which no specific government intent or activity in any field is held accountable. This too has not been before the high court.

The wise and well-written decision which Chief Justice Burger handed down for a unanimous court on Tuesday, in fact dealt exclusively with the first of these categories. This point was one the Chief Justice stressed repeatedly throughout the decision, and it is worth remembering. For in the central case at hand—*Swann* versus *the Charlotte-Mecklenburg (N.C.) Board of Education*—the court made abundantly clear that *only in the context of remedying a state-inflicted wrong, or overcoming the effects of past segregation on an official, deliberate basis,* was it upholding the authority of federal courts to impose school desegregation plans that might involve busing, non-contiguous zoning, racial proportioning and the rest. Thus:

"All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems."

And again, in one of the companion rulings:

"The Constitution does not compel any particular degree of racial balance or mixing, but when past and continuing constitutional violations are found, some ratios are likely to be useful starting points in shaping a remedy."

There are not just "starting points," but also terminal points suggested in these decisions: Chief Justice Berger made evident that the Supreme Court does not view these remedies and compensations as carrying on in perpetuity for past wrongs, but rather as steps leading to a conclusion, to some point where the offending districts will have fulfilled their responsibility to dismantle their dual school systems and overcome the vestigial effects traceable to them.

Although the court confined its ruling to school districts that have been (or yet may be) found guilty of deliberate, officially inspired segregation, the language of the decision did have some implication for the kinds of cases on which it has yet to rule. Chief Justice Burger was very tidy and specific in limiting the scope of the decision and in distinguishing between the two principal types of case the court has not heard. Of what we have called the second category of segregation, he observed:

"We do not reach in this case the question whether a showing that school segregation is a consequence of other types of state action, without any discriminatory action by the school authorities, is a constitutional violation requiring remedial action by a school desegregation decree."

He thus left open the possibility that the court might find a constitutional violation, say, in a case where school segregation was found to be a direct consequence of officially abetted housing discrimination. But he did not leave a lot of room for such a finding in an outright racial balance case where no official intent could be found to have produced racial concentrations of students. Thus:

"If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse."

All this, of course, has yet to be spelled out in actual high court rulings, but the line of thought behind the distinctions made by the Chief Justice is one that we find important and persuasive. The notion that government should be empowered, even directed, to deal with citizens solely on the basis of their race for a purpose no matter how well-intended is one that we find particularly perilous and repugnant. That, however, is the notion behind much of the current movement to establish racial proportions on a fixed formula basis in the public schools, particularly Senator Ribicoff's plan. We have discussed before—and we will shortly come back to—our reasons for finding Senator Ribicoff's proposed legislation in this field a bad bill and a prospective hinderance rather than help to the achievement of racial justice in the schools.

Desegregation of the schools in the North conceivably will be expedited by some future court decision on housing-related racial concentrations in the schools. But we are convinced that it could be expedited now by a concerted, forceful effort to demonstrate that many Northern school districts are in fact guilty of discrimination within the meaning of the Supreme Court's rulings from Brown down to the present case.

## To Challenge Demagogy

(By James A. Wechsler)

If John Mitchell, as Mr. Nixon's campaign manager, can dictate the shape of things, the transcendent emotional issue of 1972 will be school busing.

According to the battle-plan, passions already aroused will be so inflamed by autumn that all other concerns will be thrust into the background. Millions of white unemployed in major cities will be urged to fill idle hours by enlisting in the crusade to "save your local school" from the black hordes. Similar sublimation will be available for those harassed by the cost of food, or the prolongation of the war and the continued internment of American prisoners.

Efforts to initiate any great debate on such matters as the bulging military budget, an inequitable tax structure that still shelters the affluent and on the widening, explosive gap between haves and have-nots abroad and at home will be (so the script goes) blanketed by a deepening obsession with the busing business, with its somber overtones of racial bitterness.

Many Democrats seem plunged into gloom by the prospect; once again one hears the despairing murmur that Mr. Nixon holds all the cards, and can play out this game just about as he pleases—alternating in the role of international statesman and artful domestic agitator.

The problem presented for the Democrats is a real one. The spectre of busing—especially in those situations where it means the transportation of white children into congested black slum areas—haunts many anxious families who are unafflicted by racial primitivism. And those fears have been projected into a dread of any busing, including those in which it is the black children who do the traveling. Although school busing is an ancient American institution (and 18,000,000 public school children, or nearly 40 per cent of the student populace, are transported that way each day), the words have become a fighting phrase.

Sen. Jackson (D-Wash.) has chosen to "meet" the issue by total, craven surrender to the historic segregationist position. He has already moved to introduce a Constitutional amendment of his own that would in effect repeal the Supreme Court school decision of 1954—the extreme recourse from which the Administration has so far refrained. Jackson's mind is primarily on the Florida primary, where his campaign could be suddenly aborted; he has desperately resolved to try to out-Wallace Wallace.

But the other Democratic contenders have generally refused to run for cover (although Hubert Humphrey appeared ready for capitulation in a little-noted interview shown on a CBS news broadcast Tuesday night). Nevertheless most of them appear to be on the defensive, and at times seeking to score peripheral points at each other's expense.

The climate will get worse unless a swift attempt is made to recapture the initiative. The matter is of sufficient urgency to call for unprecedented, coherent countermeasures that would involve a minimal degree of selflessness among those competing Democrats.

It is beyond the realm of "realism" for representatives of Muskie, McGovern, Lindsay, Humphrey, McCarthy, Chisholm and Hartke to meet and formulate a point declaration designed to clear the air before it is more seriously poisoned by the "antibusing" fumes?

The statement would embody a warning to the country that a concerted drive is under way to sweep momentous issues under the rug by making diversionary discord over busing the central domestic battleground in the politics of '72. It would summarize the vast, unsolved problems, trials and torments confronting the nation—some of them cited earlier here—that will be obscured by aggravated turbulence over the busing argument.

While agreeing that reasonable people may disagree over the application of busing plans in specific situations, it would emphasize that the present hysteria imperils much of the progress achieved since 1954 through the conscientious cooperation of many citizens of goodwill, very notably in the South. It would pledge united resistance to proposals that would in effect give legislative—or Constitutional—sanction to regression. The signatories might even identify themselves with the words recited by Chief Justice Warren Burger in the Charlotte-Mecklesbury, N.C., case:

"Absent a Constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system."

Whatever exact formulations were adopted, the statement could help to restore perspective, and some moral focus, in a time when mindless demagogy is striving to create an ugly "one issue" campaign and take the country for a rough ride.

## John F. Kennedy, Presidential Message

The heart of the question is whether all Americans are to be afforded equal rights and equal opportunities, whether we are going to treat our fellow Americans as we want to be treated. If an American, because his skin is dark cannot eat lunch in a restaurant open to the public, if he cannot send his children to the best public school available, if he cannot vote for the public officials who represent him, if, in short, he cannot enjoy the full and free life which all of us want, then who among us would be content to have the color of his skin changed and stand in his place? Who among us would then be content with the counsels of patience and delay?

## Busing Fight Creates Chaos for Democrats in Florida's Primary

(By Norman C. Miller)

TALLAHASSEE, FLA.—School busing is erupting into a white-hot issue in the Florida presidential primary, and that's extremely bad news for the Democrats.

For busing—an increasingly emotional issue not only here but across the nation—threatens to engulf the Democrats in such divisive strife that the party's nominee, whoever he or she turns out to be, could be badly damaged before taking on President Nixon. "Busing is a potentially catastrophic issue for us," worries one national Democratic strategist.

More immediately, the emergence of busing as the overriding issue in Florida increases the chances that George Wallace will beat the major Democratic candidates in the March 14 primary. And victory here would give the Alabama governor fuel to keep the busing issue blazing in later primaries.

What is bringing the controversy to a boil in Florida is the legislature's enactment of a bill enabling the March primary voters to cast a straw vote on a U.S. constitutional amendment to ban "forced busing." In effect, the primary is being turned into a referendum on busing—and no politician in Florida doubts the outcome. "Every poll I'm familiar with shows the antibusing vote will be 75% to 80%," says Richard Pettigrew, the Democratic speaker of the Florida House, who sought to block the straw-vote bill.

### DRAMATIC IMPACT

The impact on the Democratic presidential contest has been swift and dramatic. Some of the candidates are running for cover, hastily backing plans to limit busing.

Mr. Wallace is pounding harder, accusing his senatorial opponents of first voting for busing and then retreating for reasons of "pure political expediency."

This hammering is drawing enthusiastic responses from his Florida audiences. Here, as elsewhere, the issue is increasingly pitting blacks and probusing white liberals against white working-class Democrats who are angered or apprehensive about court-ordered busing that most often involves their children.

And the White House, with little to lose and much to gain from the issue, has helped to foment the Democratic discord here. A key Nixon aide played a part in pushing through the legislature the bill enabling Floridians to express their opinions on an antibusing constitutional amendment. GOP State Sen. Richard Deeb, author of the straw-vote measure, discloses that he received encouragement and advice from Harry Dent, the President's Southern political agent, during the legislature's bitter struggle over the bill.

The split that busing creates among Democrats is even more divisive in some of the party's crucial Northern constituencies than here in the South. In Michigan, actual and prospective court-ordered busing to desegregate schools has already torn the party. White liberal Democrats have scrambled swiftly to the antibusing side; a probusing position would be "suicidal," says Democratic Congressman Lucien Nedzi, who represents a predominantly white Detroit district.

### A "COP-OUT"?

But such explanations are met with charges of "cop-out" by Douglas Fraser, a vice president of the United Auto Workers union, the most potent organized force in Michigan Democratic politics. And Democratic Rep. John Conyers, a Detroit black leader, declares that it is "incredible" that white liberals "seem intimated and compromised by the shrill voices of bigotry."

Here in Florida, the major Democratic presidential candidates have widely diverged in their reactions to the flare-up of the busing issue. Some clearly have rushed to build up their defenses against the increased Wallace threat.

Sen. Henry Jackson, who had already been talking an antibusing line, quickly proposed a constitutional amendment to prohibit "mandatory" busing and to insure "freedom of choice." that old Southern rallying cry, in school assignments. Sen. Hubert Humphrey, the veteran civil-rights warrior, suddenly emphasized in Miami last week that he is "against forced busing to achieve racial balance" and promised to support legislation (as yet unspecified) that would attempt to stop it.

Sen. Edmund Muskie reacted uncertainly at first, refusing to say he'd vote on an anti-busing constitutional amendment. A couple of days later, Mr. Muskie declared that he was against such an amendment and that some busing is necessary to achieve integrated schools. But he carefully added that busing was the least desirable school integration method.

### THE LIBERAL VIEWPOINT

The most liberal of the major candidates, Sen. George McGovern and New York Mayor John Lindsay, have continued to defend the use of busing. Indeed, Mayor Lindsay, who's seeking to convince Floridians that he's a gutsy fighter, is emphasizing his probusing stand and is charging Gov. Wallace with taking a "racist" antibusing line.

Mr. Wallace is playing the busing issue for all it's worth, and his campaign is taking on an emotional fervor that sometimes seemed lacking earlier. At Jacksonville the other night, a crowd of 10,000 roared its approval when the Alabamian accused his Democratic foes of switching or softening their busing positions. As he named his senatorial opponents who have "voted to bus our children to kingdom come," the foot-stomping crowd derisively chanted the names along with him.

Among the state's leading Democratic politicians, only Gov. Reubin Askew and House Speaker Pettigrew have dared take an outspoken stand against the antibusing measure on the ballot. At considerable political risk, Gov. Askew is urging that Floridians accept busing to achieve full desegregation. At his insistence, the legislature also approved a second straw-vote measure that asks the voters whether they favor "equal opportunity for quality education" and "oppose a return to the dual school system." The governor hopes an affirmative vote on this second question would offset the expected vote against busing. (Gov. Askew's views on the busing situation are detailed in a separate story appearing on page 10).

In the Florida race, antibusing talk may be a plus for Sens. Humphrey and Jackson, but it could hurt them when they reach the primaries in some Northern states such as Wisconsin, where the issue isn't feverish. In the North, the traditionally liberal forces in the party may be repelled by an antibusing line. "Humphrey is going to wind up losing part of his liberal and black constituency with his antibusing talk," argues one McGovern backer.

But where the issue has become heated in the North, the Democratic candidates who still support busing will find themselves at a disadvantage. "There is no way a presidential candidate can come into Michigan and tell people who deliberately moved close to a school that their kids can't go to that school," says Congressman Nedzi. Even at the risk of alienating blacks and the UAW's liberal leaders in the state, argues another Michigan Democrat, "the candidates are just going to have to take a stand against busing here and not permit themselves to be outdone by the Republicans."

The Michigan busing controversy was inflamed last fall by extensive court-ordered busing in Pontiac. Now Detroit is under a court order that poses the prospect of massive busing next fall. And threatened or actual busing orders have caused consternation among white parents in other Northern cities including Boston, Waterbury, Conn., Indianapolis, Denver, San Francisco and South Holland, Ill.

The danger for the Democrats in the North is shown by the AFL-CIO's retreat from its support of school desegregation. Last week, the federation's executive council adopted a policy statement "wholeheartedly supporting busing of children when it will improve the educational opportunities of the children." But the AFL-CIO leaders explained that this policy didn't support busing of children from white suburban areas to schools in black neighborhoods—which is the type of busing the courts are increasingly saying is necessary for desegregation.

That policy certainly won't please many black Democratic leaders. Right now, for example, the 13 members of the House who form the congressional black caucus are drafting a position paper denouncing any efforts to restrict busing to one-way movement of black children. "There was no outcry until they started busing white children," Rep. Louis Stokes (D., Ohio), the caucus chairman, says bitterly. "Black children have been bused for years."

AFL–CIO chiefs concede that white union members could turn away from the Democratic nominee if he supports busing, and that black unionists might sit out the election if the Democratic candidate goes against busing. Lacking a strategy to deal with the dilemma, the AFL–CIO leaders simply hope the storm over busing will subside.

### A CHANCY HOPE

That is a very chancy hope, as the Florida experience shows. The moderate Democrats, who now lead the state party here, thought until recently that the busing controversy was fading. In the 1970 elections, the "new breed" Democratic candidates—Mr. Askew for governor and Lawton Chiles for U.S. Senator—walloped two Republicans who sought to ride the busing issue.

This beating was before communities throughout Florida were ordered by courts to begin much more extensive busing effective last September. Nevertheless, last summer's fears of massive resistance by whites and of racial violence in the schools didn't materialize. Before school started, Gov. Askew appealed to parents to accept busing as necessary for desegregation and people apparently responded to his call. The schools continued to operate in general peace, and some politicians concluded the busing issue was dead.

But the surface calm masked intense resentment building up among many whites (and, some say, among blacks) as parents and their children experienced the daily inconveniences of busing. In Jacksonville, for example, School Superintendent Cecil Hardesty says: "The mood of the people is much angrier now than it was in the fall. They've had a bellyful of busing."

### SURFACING FEELINGS

George Wallace's entry into the presidential primary and the legislature's consideration of the straw-vote on busing brought the antibusing feeling to the surface. At first, state Democratic leaders thought they could easily keep the busing issue off the primary ballot. It was opposed by Gov. Askew and the party's entire legislative leadership, and the Republicans who were pushing it were outnumbered two-to-one in the legislature.

But GOP Sen. Deeb invoked a rarely used parliamentary device to force the bill to a floor vote in the Senate. After that, there was no stopping it in either house. The entire legislature is up for reelection this year and "there was a strong feeling by most people on the floor that they couldn't afford to vote against" an antibusing measure, says House Speaker Pettigrew.

However the vote turns out on the two rather contradictory ballot questions dealing with school desegregation, there already are disturbing signs of heightened racial tensions in some public schools. A week ago, racial violence forced a big Jacksonville high school to close early, and Superintendent Hardesty maintains the "demagogic" antibusing talk by politicians was at least one cause.

"This issue is being used politically and it is intensifying the tensions we already have," Mr. Hardesty says. "There may be a lot of bloodshed as a result of the political debate before we get a solution."

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REMARKS OF REUBIN O'D. ASKEW, GOVERNOR OF FLORIDA AT THE GOVERNOR'S LUNCHEON CENTRAL FLORIDA FAIR, ORLANDO, FLA., FEBRUARY 21, 1972

I want to thank you all for the Opportunity to be with you today to help kick off the 60th Annual Central Florida Fair.

You've certainly come a long way since 1912, when this fair opened with relatively few exhibits and even fewer people.

Just in the past year, we've witnessed the opening of Disney World and now, just last Friday, it was my pleasure to join in the announcement of a $50-million Ringling big top in Polk County not far from the Disney complex.

Orange County and Central Florida have truly come into their own.

I wish you continued sucess in developing the economy of this area, while at the same time taking steps to see that *that* development is *not* at the expense of our beautiful environment here in Central Florida . . . an environment without which none of this would have been possible in the first place.

Ralph Waldo Emerson once said that "this time, like *all* times, is a very *good* one, . . . if we but know what to do with it."

I'm not sure that I *know* what must be done in order to bring out the *good* in today's times.

But I'm convinced that sitting by and waiting for the inevitable is not the answer.

And so I come before you today to say a few things with which you might disagree, a few things which are decidedly unpopular, but a few things which I feel *must* be said in the interest of Florida and her people—all of them. And in doing so I am not attempting in any way to judge nor place labels on those who may disagree.

As I'm sure most of you know by now, there'll be three questions added to our Presidential primary ballot on March 14.

The questions are:

1. Do you favor an amendment to the United States Constitution that would prohibit forced busing and guarantee the right of each student to attend the appropriate public school nearest his home?

2. Do you favor providing an equal opportunity for quality education for *all* children, regardless of race, creed, color or *place of residence*, and do you oppose a return to a dual system of public schools?

3. Do you favor an amendment to the United States Constitution to allow prayer in the public schools?

I realize present expectations are that up to 90 per cent of those who vote on March 14 intend to vote "yes" on the amendment against busing.

I realize that *precisely* that many voted against busing right here in Orange County just last November.

I also realize that the people feel very strongly about this subject . . . and rightly so.

It is *because* of these realities . . . not in *spite* of them . . . that I feel I must share my views with the people of Florida in the weeks ahead as frequently as time permits . . . and as forcefully as I know how.

I don't take this decision lightly.

For it is *my* hope that the people will vote "no" on the anti-busing amendment, and "yes" on equal opportunity on March 14.

The third question, on school prayer, is an important one and I have made my feelings clear on it. But I would like to address my remarks this afternoon to the first two and touch briefly on the two State constitutional amendments also to be decided on March 14th.

I strongly oppose a constitutional amendment to outlaw busing . . . *not* because I particularly like it or think it's a panacea for our problems.

On the contrary . . . I recognize and regret the inconvenience, the disruption and the hardship it often creates for many of our parents and our children. I am not without feeling for them, and I don't think anyone is.

Busing is an artificial and inadequate instrument of change. It should be abandoned just as soon as we can afford to do so.

Yet by the use of busing and other methods, we've made real progress in dismantling a dual system of public schools in Florida.

And I submit that until we find alternative ways of providing an equal opportunity for quality education for all . . . regardless of race, creed, color or place of residence . . . and that last part is important. . . .

Until we can be sure that an end to busing won't lead to a return to segregated public schools. . . .

Until we have those assurances, we must not unduly limit ourselves . . . and certainly not constitutionally.

We must not take the risk of seriously undermining the spirit of the Constitution . . . one of the noblest documents ever produced by man.

And we must not take the risk of returning to the kind of segregation, fear and misunderstanding which produced the very problem that led to busing in the first place.

I would hope that instead, we can all work together to find ways other than busing to guarantee that no one in this country is denied an equal opportunity to grow and develop in a nonsegregated society.

That is what it's all about.

Nobody is really committed to busing as an end in itself.

But I certainly hope that the overwhelming majority of Floridians are committed to the goal which busing was designed to pursue.

That goal is to put this divisive and self-defeating issue of race behind us once and for all.

I think we're closer to doing that now than ever before. I think we're closer than any civilization in history to achieving a society in which all races, all creeds, and all religions not only can *live* with their differences, but *thrive* upon them . . . and *learn* from them as well.

I think we're well within reach of *understanding* one another, *caring* for one another, and affirming our commitment to the principles of justice and compassion which made this country what it is today.

How sad it will be if we turn back now . . . not only for minority children . . . but for *all* of us.

Of *course* we don't want our children to suffer unnecessary hardships. That goes without saying.

But neither do we want our children to grow up into a world of continuing racial discord, racial hatred and, finally, a world of racial violence.

And I submit that this is what we'll have if we don't work now to *solve* our problems.

This is surely what we'll have if we insist on thwarting any and all attempts to bring us together.

For if it is true that familiarity breeds contempt, it also is true that ignorance is the father of cruelty.

We're *beginning*, at last, to overcome the ignorance which has kept us divided for so long . . . the ignorance which has been responsible for so much cruelty between the races.

This is true especially of the South.

You know, much has been said in recent months to the effect that the South is "joining" the Union.

I think that's a short-sighted view.

For I believe the people of the South aren't merely going to join the union . . . they're going to be faced with the opportunity . . . perhaps even the responsibility . . . to lead it.

We've been run through the gamut of racial appeals in the South over and over again.

And we're tired . . . very tired.

And because of our persistent preoccupation with race related issues, we have all too frequently neglected the real economic and environmental problems of the people . . . both black and white.

In this way, we're not being fair to ourselves.

For if the people remain divided against themselves on the race issue, they'll have no time to demand a fair shake on taxes, on utility bills, on consumer protection, on Government services on environmental preservation, and other problems.

In this session of the Florida Legislature alone, we've seen our proposals for reform of education, environmental controls and utility regulation take a back seat to a straw vote on busing which, in the final analysis, doesn't really accomplish anything.

Believe me, you can be sure that while the legislature and the news media were focusing your attention on the busing debate, the lobbyists and special interests were hard at work undermining those programs which would put money into the pockets of the people, and which would help us protect the people and the other living things which make Florida a worthwhile place in which to live.

This is probably the greatest single reason why the south has been lagging behind virtually every other region, in such areas as wages, distribution of the tax burden, health, medical care and aid to the elderly and others in need.

It seems that so often, when someone has attempted to actually do something about the problems of the people, the race issue has been resurrected . . . in one form or another.

Interestingly enough, I asked the legislature to put those other kinds of issues on the ballot along with busing. The legislature refused.

It is my hope that we're moving beyond racial appeals here in Florida . . . and in the rest of the south as well.

I say it's time we told the rest of the nation that we aren't caught up in the mania to stop busing at any cost . . . that we're trying to mature politically down here . . . that we now know the real issues when we see them . . . and that we no longer will be fooled, frightened and divided against ourselves.

That is how the south can lead other regions to a better understanding of what this country's all about.

For many years now, the rest of the nation has been saying to the south that it's morally wrong to deprive any citizen of an equal opportunity in life because of his color.

I think most of us have come to agree with that.

But now the time has come for the rest of the nation to live up to its own stated principles. Only now are the other regions themselves beginning to feel the effects of the movement to eliminate segregation.

I say we should not let them get out of it just when the going gets tough. And I don't say this to be vindictive; I say it to be fair.

The rest of the Nation has tried to teach us justice in the South by mandate and court order.

Now perhaps it is up to us to try to teach them the same thing in a much more effective way—by example.

I certainly hope we will.

But regardless of how you feel about busing or segregation, a constitutional amendment to change things is neither necessary nor desirable.

It is very dangerous under emotional circumstances to tamper with the United States Constitution.

I was therefore heartened by reports last week that President Nixon and Vice President AGNEW have reservations about amending that document in this way, that the U.S. Senate leaders in both parties, MIKE MANSFIELD and HUGH SCOTT, are against any such constitutional amendment.

As one key member of the Nixon administration put it, these proposals "could have the effect of actually undercutting and rolling back the measures that have been taken to dismantle the dual school system."

There are other ways of effecting or slowing change under our system of government, including legislation and a change in the makeup of the Supreme Court, both of which the President seems to be pursuing.

If for no other reason, I hope the people of Florida will vote "no" on the antibusing amendment, recognizing that attempts are being made to achieve the same results without risking the dangers inherent in changing the Constitution.

But I hope we can do better than that.

I hope we can say to those who would keep us angry, confused and divided that we're more concerned about a problem of Justice . . . than about a problem of Transportation.

And that while we're determined to solve both . . . we're going to take justice first.

It never has been my feeling that the majority of the people who oppose busing are racially motivated.

On the contrary, I strongly believe that most people who are disturbed by the inconvenience, the disruption and the hardship caused by busing, are nevertheless just as concerned that we put an end to segregation . . . and assure equal opportunity for all.

Busing is one way of doing that . . . perhaps the least desirable way, but effective nevertheless.

Floridians of good faith now must search for other effective ways.

One way, as I've said before, would be to work at the community level to overcome economic barriers and change our housing patterns . . . so that every neighborhood school is, in fact, a desegregated school . . . not necessarily one with an exact racial balance, but one in which the proper emphasis is on our real goal of quality education for all.

It is regrettable that education has had to shoulder a disproportionate share of the burdens of overcoming the effects of segregation.

We can and should put greater emphasis on employment opportunities and fair housing practices as well as education.

We also can and *should* see that no schools exist which are so lacking in adequate facilities, discipline and properly trained personnel that parents are *legitimately* fearful for their child's safety, health, development and well-being.

For if such schools are harmful to one child, they are harmful to *all* children. And they should not be tolerated.

There is much more we can do, I'm sure . . . and I hope we will.

Then we can put an end to busing without setting the stage for a racial discord such as we've never before imagined.

And then we can get on to those other problems which we've neglected for far too long.

A "no" vote on amending the Constitution, and a "yes" for equal opportunity . . . this is how we can set the tone for a better Florida of peace and compassion and harmony.

This is what I hope the people will deliver on March 14.

In addition to the candidates, there are two *other* issues on the March 14 ballot . . . two amendments to the *Florida* constitution . . . not the United States Constitution . . . but the *Florida* constitution . . . amendments which I hope you will support.

One of them would reform the court structure in this State, providing for a workable and realistic organization of the judiciary, upgrading our lower courts, and upgrading judicial qualifications.

This reform is long overdue.

The other is, in effect, a bond referendum for student loans.

It would move us still another step toward that day when no young man or woman in Florida is denied a chance to develop to his or her full potential, simply for lack of money.

In closing, let me say that we should be working together to free ourselves of the fears and divisions of yesterday . . . and to seek a better tomorrow.

And if I seem presumptuous in taking this opportunity to say so, I apologize.

It is not my intention to impose my will on anyone.

But it is my intention to give the people of Florida cause for sober reflection, so that they're sure . . . very sure . . . before they encourage an amendment to the United States Constitution, one which . . . for the very first time I believe . . . would seek to reverse our efforts to make that great document a living testimony . . . to the pursuit of freedom . . . equality, and justice . . . for all.

Thank you.

Mr. ALLEN. Mr. President, I yield 1 minute to the Senator from Oklahoma (Mr. Harris).

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 minute.

### ADDITIONAL COSPONSOR

Mr. HARRIS. Mr. President, I ask unanimous consent that the names of the Senator from South Dakota (Mr. McGovern) and the Senator from Indiana (Mr. Hartke) be added as cosponsors of amendment No. 953 to S. 659.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER (Mr. Bentsen). The Senator from Alabama is recognized for 6 minutes.

Mr. ALLEN. Mr. President, the pending amendment, I am sure, will be withdrawn. The discussion that has been had in the Senate has not been directed toward the amendment. Instead, the debate has been centered on whether we should agree to the Griffin amendment withdrawing jurisdiction from the courts to order busing of students in order to create a racial balance, or whether we should agree to the Scott-Mansfield amendment which does practically nothing—which really is less than nothing. It does not address itself to the problem but merely, in the main, restates the law as it was announced by the Supreme Court. It will permit and in fact encourage the continued use of busing as the vehicle for desegregation of the public schools.

Mr. President, on August 31, 1971, Chief Justice Burger, commented in writing on his denial of an application for a stay order pending disposition of a petition for a writ of certiorari arising from a Winston-Salem, N.C., school case. He said:

> In its present posture, this stay application, like that presented to Mr. Justice Black and acted on by him August 19, 1971, in Corpus-Christi Independent School District v. Cesneros is in an undesirable state of confusion . . .

Mr. President, I submit that the confusion is not limited to the cited cases. It is extensive. There is evidence of confusion among Federal court judges, in the executive branch of Federal Government, in Congress, State legislatures, among school board members, the media, and the public. The confusion pervades the Nation. A remedy is urgently needed.

The reasons for the current state of affairs can be traced to one primary cause. And before we consider the proposed legislative remedy, let us examine that cause. I will repeat in passing what I have frequently said before on the Senate floor. The problem originated in the second Brown decision—1955—in which the Supreme Court set out procedures for disestablishing State-imposed segregation in public schools.

It is near incredible but the U.S. Supreme Court dumped the fantastically complicated problem into the laps of local school boards—who, should they not have the power to disestablish state-imposed segregation, would then be subjected to plans dictated by U.S. district court judges.

Mr. President, on this point Mr. Walter Lippmann in an interview published in the Washington Post on October 17, 1971, had this to say. I quote:

> Q. One of the major national anxieties continues to be the problem of integration. Do you think the 1954 Supreme Court decision was the proper way to go about this problem?
>
> A. I think the decision was right. What I criticized at the time, and I still do, is that the President and the Congress then left the problem with the courts, whereas that was when the President and Congress should have brought in a national program headed by the President and ratified by Congress for integration according to a certain plan. The idea of throwing everybody together in integrated schools without anybody having any idea as to how it would work out, and who should do it except the courts, seemed to me a very crude and really irresponsible proceeding.

Mr. President, I think the crux of Mr. Lippmann's opinion lies in this sentence:

> The idea of throwing everybody together in integrated schools without anybody having any idea as to how it would work out, and who should do it except the courts, seemed to me a very crude and irresponsible proceeding:

Mr. President, at this stage of the game, it may be fruitless to dwell on what Congress should have done after the 1954 Brown decision. However, it is not fruitless to consider what Congress should do today to help correct the horrendous mess resulting from procedures for implementation adopted by Federal courts. In considering alternatives we must return to a consideration of the cause of this mess.

It may be that Justices of the Supreme Court in 1954 believed, as some apparently believe today, that local school boards are actually vested with plenary powers. This idea is reflected in the opinion of the now celebrated Swann against Charlotte-Mecklenburg decision, where the term "plenary" is used to describe supposed powers of local school boards.

The facts are to the contrary. The powers of school boards are not plenary. They are derivative and limited. State constitutions and State school codes prescribe and proscribe for local boards in almost every area of public school administration. Such powers of discretion as are delegated to local school boards can be exercised only within well-defined limits. How can it be imagined that an agency has plenary powers when it is utterly dependent on State and local governments for revenues to implement its decisions?

The U.S. Supreme Court may, and in fact does, give play to individual predilections of its members in determining what the Constitution means. But, the Court cannot change facts. And one indisputable fact is that local school boards had neither the power nor the necessary funds to disestablish State-imposed segregation in public schools to the extent required by Federal courts.

But even were we to assume, for sake of argument, that local school boards did have the power to disestablish State-imposed segregation, they had no idea of what ultimately would be required of them.

For nearly 10 years the Supreme Court permitted freedom of choice plans as authorized by the first definitive decision by a lower Court of Appeals on the subject of implementation (*Briggs* v. *Elliot*, 132 F. Supp. 776 (1955)). Furthermore, it was almost 10 years after Brown I before Congress even undertook to define the term "desegregation." The definition was provided in the Civil Rights Act of 1964 (section 2000c(b)):

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

Mr. President, we know too that the Department of HEW and the Department of Justice have flagrantly violated the above law of Congress and others of a similar nature in their persistent drive to impose a racial balance in all Southern schools. We know also of their reckless and wanton imposition of desegregation plans which could be achieved only by massive disruptions and busing and cross-busing of schoolchildren to achieve racial balance such as specifically prohibited by section 2000 c(6) of the Civil Rights Act of 1964, which reads as follows:

> . . . nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance . . .

The purpose of calling attention to these violations of specific laws of Congress is to make clear that Congress neither required nor authorized the radical, racial balance proposals hatched up and pushed by the Department of HEW and the U.S. Department of Justice and implemented by Federal courts.

On what basis then did these agencies claim the power to flaunt the will of Congress? The answer is from the U.S. Supreme Court and this brings us back to a consideration of the 1955 Brown implementation decision. In that decision the Supreme Court relied on traditional equity powers of courts to accomplish a degree of desegregation which local boards had no power or funds to accomplish. In the language of the 1955 opinion—cited with approval by the Burger Court, it was said:

> School authorities have the primary responsibility for solving these problems; courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles.
>
> * * * * *
>
> In fashioning and effectuating the decrees, *the courts will be guided by equitable principles.* (Emphasis supplied) Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs. . . . To effectuate this interest may call for elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in our May 17, 1954, decision. Courts of equity may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner.

Now let us consider some of the court ordered remedies which the U.S. Supreme Court has since approved as consistent with traditional principles of equity—U.S. district courts issued orders closing thousands of perfectly good schools without even a pretense of due process of law in the traditional sense of that phrase. In Alabama, at least, procedures for closing and consolidating schools are prescribed by State laws and local boards of education have no authority to disregard those laws.

Many of these closed school buildings were yet to be paid for by taxpayers who had voluntarily assumed bonded indebtedness to build them for the benefit of the children of their communities. Neither local boards of education nor even a State has the power to abrogate contracts and bonded indebtedness and it is ridiculous to assert that the Constitution requires it or that court orders which compel it are consistent with traditional equity principles.

Furthermore, teacher tenure rights of school teachers were ordered abrogated by U.S. district court judges. Teacher tenure rights are established by State laws and local boards have never had the authority to disregard State laws on the subject. Yet, this is also justified as an exercise of equity powers of Federal courts.

In rural areas children were ruthlessly uprooted from their home communities and environments and transported against their wills and the wills of their parents, under the authority of Federal court judges, to strange and distant schools. The same fate was in store for children in cities and urban areas who were compelled by the coercive power of Federal court judges to abandon their neighborhood schools and submit to involuntary busing to strange schools.

In some cases schools were ordered paired or clustered in such a manner that public school education would be available to many children only by means of massive busing, cross busing, and shuttling children by buses from school to school. Yet, funds for busing are provided by State legislatures and are strictly budgeted without funds for busing on the massive scale required, local boards simply could not comply. But Federal court judges were not and are not inhibited either by practicalities of State appropriations or by compassion for the children who were innocent victims of these decrees.

Children were ordered to attend grotesquely overcrowded schools and classrooms. They were ordered to attend schools in shifts and in classes held in auditoriums, libraries, cafeterias, and portable huts, and many of these without adequate sanitary facilities.

Frequently the time and distance of travel was so great that children had to leave home before daylight and return after dark.

Some children were ordered to attend four to five different schools in the course of 3 years. Families with three or four children were ordered scattered to different schools in the four corners of cities and counties.

Children living across the street from neighborhood schools were denied by Federal courts the right to attend that school only because of their race and because of court-imposed racial ratios.

Qualified teachers were denied employment only because of their color and the racial ratios prescribed by orders of Federal courts.

I could go on and on citing actual cases of injustices which occured in Alabama. I know that other Senators could add additional examples to illustrate destruction of schools and maximum inconvenience of parents and harm to children resulting from court-imposed plans for desegregating public schools.

Mr. President, let us keep in mind constantly that all these hideous, judicial remedies such as forced, massed busing and rearranging school district lines, and the merger of school districts as we have seen it in Richmond, in Chesterfield, and Henrico Counties, are supposed to be consistent with traditional principles of equity such as may properly be enforced by Federal courts sitting as courts of equity.

The big question is: Does the Congress have the power to limit the jurisdiction of the Federal court? That is what the Griffin amendment seeks to do.

Let us examine that question a little bit.

Mr. President, if these remedies are consistent with the current Supreme Court concepts of equity, then 1984 is not around the corner—it is with us now. How can anyone with the slightest understanding of traditional principles of equity twist those principles into premises that justify the reduction of human beings to abstract digits to fit the convenience of computers and barbaric racial theories?

But that is what Federal courts have done and that is why Congress should act and act now to limit the use of equity powers by Federal courts to shape remedial decrees in school desegregration cases.

But some few will contend that Congress does not have the power to enact legislation which may conflict with the revealed truth as expressed by the U.S. Supreme Court. With that, Mr. President, I disagree.

In the first place, it is a matter of fact and a matter of law that lower Federal courts are creatures of Congress and Congress alone can determine limits on the jurisdiction and powers of such courts.

Second, section 5 of the 14th amendment specifically empowers Congress to implement provisions of the 14th amendment by appropriate legislation.

Mr. President, if there is a lingering doubt about the power of Congress to limit remedies which can be prescribed by U.S. district courts, let us look to the Civil Rights Act of 1964, which Congress enacted pursuant to the 14th amendment. With reference to desegregation actions brought in a U.S. district court, the act provides:

> Such Court shall have and shall exercise jurisdiction . . . provided that nothing herein shall empower any official or court of the U.S. to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve a racial balance, or otherwise enlarge the existing powers of the Court to assure compliance with constitutional standards.

Look how similar this is to the Griffin amendment. That section did not withdraw the power to handle these matters. What that said was that the act iself did not create any special additional powers in the Federal equity courts.

It will be seen that Congress not only conferred jurisdiction on U.S. District Courts in the desegregation cases but it also attempted to limit the scope of permissible remedies to exclude a remedy in the form of orders requiring racial balance in the schools. We all know how the court squirmed out of that limitation by pleading the equity powers of courts.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GAMBRELL. Mr. President, will the Senator yield me 3 minutes?

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Georgia is recognized for 3 minutes.

Mr. GAMBRELL. Mr. President, President Nixon recently held a meeting at the White House with several Members of Congress concerning the question of forced busing. After the meeting, President Nixon announced his opposition to forced busing, but offered no plan to put a stop to this outrageous practice. Instead, the President appointed a Cabinet committee to inquire into the matter.

Several days after this meeting, I was consulted by representatives of the Cabinet committee, and after a lengthy discussion, I proposed to them a four-point plan for dealing rapidly with the busing crisis.

As yet, President Nixon has not announced any plan on this subject. The issue is to be voted on today and the time for action has arrived.

For the third time, since September of last year, I call upon the President to act decisively. I repeat the four-point plan which I suggested to his representatives last week.

They are as follows:

First. That there be an immediate legislative roll-back moratorium on forced school busing for integration purposes. This means that until a permanent solution to the matter can be arrived at there would be no more busing required by Federal courts or the Department of HEW, that busing heretofore required would be terminated, and that this would be accomplished through legislation rather than by waiting for this to be done through executive or judicial action.

Second. That the President, through the Justice Department, seek a prompt and comprehensive judicial determination of the constitutional issues involved in the busing controversy.

Third. That immediate congressional consideration be given to a permanent constitutional and legislative solution which will preserve community public schools, free of racial discrimination.

Fourth. That any Federal desegregation remedies hereafter adopted shall be uniformly applied in all regions of the country.

Mr. President, the so-called Griffin amendment furnishes an opportunity to proceed in accordance with this 4-point plan. I, therefore, urge the President to give an endorsement to the Griffin amendment and that the Senate act favorably on that amendment when the opportunity for voting arises at 12 o'clock today.

Mr. JAVITS. Mr. President, I yield myself the remaining minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 additional minute.

Mr. JAVITS. Mr. President, I understand that some further debate is desirable. I therefore withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JAVITS. I yield back the remainder of my time and send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> On page 1, line 1, insert the following after the words "this Act": "and the Civil Rights Act of 1964."

Mr. JAVITS. Mr. President, I yield myself 1 minute. I have already expressed myself on the subject. I understand that the Senator from Alabama desires to utilize some time at this time. I simply reserve the remainder of my time and suggest that if other Senators wish to speak upon the matter that will be voted on soon by the Senate, I am prepared to yield time to Senators who wish to speak, regardless of which side of the question they wish to address.

Mr. ALLEN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. ALLEN. Mr. President, if any Senator desires any of our time, I will be glad to yield to him.

I want to continue further the discussion of the power of Congress to limit the jurisdiction of the Federal courts which are, except for the Supreme Court, creatures of Congress. The Congress has the power to confer jurisdiction or to withdraw jurisdiction.

The point is that Congress not only conferred jurisdiction, but it also limited the remedies and if the language is inadequate to have accomplished the purpose of Congress, the language can be changed. Of course, Congress has exercised this power on many occasions. For example, see 29 U.S.C. 101–115 where Congress defined and limited jurisdiction of Federal courts sitting in equity, with particular reference to the scope of remedies in certain labor cases.

There can be no reasonable doubt about the power of Congress to limit the scope of remedies which the Federal courts may impose in particular types of cases and on the Griffin amendment itself.

The vote comes at 11:45, which vote does not have anything to do with the busing amendment. As I understand it, the amendment of the distinguished Senator from Oklahoma (Mr. HARRIS) has to do with a sense of the Senate resolution that students should be placed on college boards. However, a little after 12 will come the vote on the Griffin amendment which seeks to limit jurisdiction of the Federal court to impose busing decrees for the enforcement of efforts to provide a racial balance in the public schools.

In fact, the Supreme Court recognizes its dilemma and almost pleads for Congress to give it help by way of suggesting remedies. In the Charlotte-Mecklenburg decision the Court said:

> In short, there is nothing in the Act (Civil Rights Act of 1964) which provides us with material assistance in answering the question of remedy for state-imposed segregation in violation of Brown I.

The Court then implies that it has had to proceed alone in devising remedies—except for the assistance that Congress has sought to give it, and that assistance has not always been accepted—and has had to resort to use of equity powers of courts, and that—

> There is no suggestion of an intention by Congress to restrict those powers or withdraw from courts their historic equitable remedial powers.

The Supreme Court has said that Congress has not attempted to restrict these powers. That indicates to the junior Senator from Alabama that had they attempted that action, it would have been honored by the Supreme Court.

So, Mr. President, I ask what are we waiting for? Let us give the Supreme Court the help it asks for on the subject of remedies in school desegregation cases. In doing so, let us make it unmistakably clear that we intend specifically to exclude any remedial order which contemplates the denial of enrollment in schools or denial of employment of teachers on the basis of their race and remedies which requires involuntary busing and involuntary abandonment of neighborhood schools.

Mr. President, it is worth repeating—the U.S. Supreme Court does not contend and could not logically contend that the U.S. Constitution outlaws neighborhood schools or that the Constitution requires racial balance in schools or that it requires closing of schools or grotesque gerrymandering of school attendance boundaries, or pairing of schools and grades, or massive uprooting and transportation of schoolchildren from their neighborhoods and communities. Neither has Congress prescribed such requirements. Instead, the Court has justified these actions as being consistent with "equitable principles" and within the discretionary power of Federal judges.

The Griffin amendment withdraws that discretionary power which the court seized in the absence of specific instructions by Congress.

The Constitution requires only that State-enforced segregation be disestablished—not how it is to be disestablished. That is what gives the Supreme Court the idea of reaching out and taking under its wing desegregating the public schools of the Nation.

Mr. President, you know, the Supreme Court has made a 180° change in course because under the Brown case I think everyone agrees to the principle laid down there that the State cannot impose a segregated system in its public schools. We have had amendments before the Senate and we will have other amendments which will deprive the Federal Government or any of its agencies or any of the courts from assigning any child with the school on the basis of race, color, creed, or economic class. That is the decision in the Brown case.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ALLEN. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, the Supreme Court has changed the course 180°. They do not now say the State cannot maintain a segregated system. What they say now is that the State must maintain an integrated system. Where is the logic to that? They cannot have a segregated system—that is fine. But if they could not have a segregated system, how could that be required to provide an integrated system?

The Constitution requires, as I stated, only that State enforced segregation be disestablished—not how it is to be established.

This is a matter which the 14th amendment left for Congress to determine and not the judicial branch of Government. It is a problem not susceptible to solution by Federal courts and certainly not by means of dragging in and twisting and distorting traditional principles of equity. In fact, I believe that it can be demonstrated to the satisfaction of reasonable men that the Supreme Court is guilty of a grave mistake in having entangled concepts of equity in this mess.

Let us consider some of the traditional principles of equity which the Supreme Court has invoked and dragged through the mire. Traditionally, equity has been an agency for individualizing the application of law. As pointed out by Roscoe Pound, the discretion vested in judges in the exercise of equity powers is an outgrowth of the purely personal intervention by judges in extraordinary cases and on grounds that appealed to the conscience of a judge. Equity jurisdiction has its origin in such cases.

But see how the Supreme Court has distorted this principle. In the school cases, the courts are dealing with "class actions"—classes determined by the sole criterion of race. Theoretically, the court could solve by decree all problems relating to other classes identified by creeds, colors, and national origins and, more recently, socioeconomic status. Millions of citizens are in each category. How does this "class" application of equitable principles square with the historical concern of equity with reasonable and just solutions to individual controversies?

A judge cannot properly serve as a conscience for millions of persons. Equity is twisted and distorted beyond recognition when it is used to effect massive social, political, and economic reforms made on the basis of class actions and ideologies that may appeal to a judge's fancy. Such problems are political in nature and simply are not amenable to solution by nonelected judges.

Let us consider another traditional principle. Equity does not alter the law—it takes the law for granted. Equity is a remedial system alongside the law. Now see how this traditional principle of equity has been distorted by the U.S. Supreme Court.

The decree of a judge, in a class action involving the welfare of millions of citizens, creates and imposes absolute duties and responsibilities on elected public officials with respect to classes of people which duties cannot be implemented without legislative or Executive authority. Are we to believe that the traditional equity powers to shape remedies in individual controversies is in fact a legislative power to impose duties on elected public officials? The very idea staggers the imagination. One cannot but wonder what Marx and Engles would have done with the idea had it been available to them. We know with a fair degree of certainty what Lenin would have done with the idea. He would have vested the Communist Party with equity powers and proceeded with his revolution by means of decrees, enforced by the threat of confiscatory fines and imprisonment without benefit of trial by jury. This is done by our Federal courts—with blessings of the U.S. Supreme Court—and it is also done by the present Communist Party but under a different theory.

Surely, no reasonable person will seriously contend that traditional equity principles contemplate the role of nonelected judges acting as super-legislative bodies with power to rule by decree.

But again—after courts of equity have legislated new duties and responsibilities to be executed by elected public officials, it is still necessary for the courts to enforce the decrees. How does equity, as conceived by the Supreme Court, accomplish this feat?

The courts issue mandatory injunctions which, for all practical purposes, function as a writ of mandamus—a writ to compel public officials to perform clearly defined statutory duties of an administrative nature.

But see the distortion—a writ of mandamus is a common law writ with which courts of equity traditionally have had nothing to do. But that does not stop judges who are determined to do indirectly what they cannot do directly. Under the prevailing distortions of equity, Federal courts create laws and devise their own means of enforcement. This practice may be called "equity" by the Supreme Court—but it has the attributes of judicial tyranny.

Implicit in these distortions are affirmations of value judgments. Some of these are expressed in the following propositions:

> We are under a Constitution, but the Constitution is what the judges say it is.

This proposition is attributed to Charles Evans Hughes, but he said it before he became a Justice on the Supreme Court. This proposition refutes the idea that we live under a government of laws and not of men.

Too, if we accept the present distortions of equity, we are compelled to embrace the premise that the end justified the means.

Mr. President, I contend that these distortions violate the constitutional structure of our Government which is the highest duty of courts to protect.

Mr. Justice Harlan in his dissent in the 18-year-old voting rights case made this thoughtful observation:

> The federal judiciary, which by express constitutional provision is appointed for life, and therefore cannot be held responsible by the electorate, has no inherent general authority to establish the norms for the rest of society. It is limited to elaboration and application of the precepts ordained in the Constitution by the political representative of the people. When the Court disregards the express intent and understanding of the Framers, it has invaded the realm of the political process to which the amending power was committed, and it has violated the constitutional structure which it is its highest duty to protect.

Mr. President, if we are to redress this situation, we can do so by voting for the Griffin amendment. Such a vote will do more than clear up much of the Court-created confusion in the schools. It will also reassert the constitutionally recognized distinction between legislative and judicial functions of Federal Government.

Mr. President, the distinguished minority whip (Mr. GRIFFIN) has proposed a constitutional amendment to curb the powers of Federal courts which would prevent the use of "equity" power to order school children assigned to schools by race. The distinguished Senator from Tennessee (Mr. BROCK), has proposed a similar amendment. The distinguished majority whip, Mr. BYRD, has spoken eloquently on the subject in an address printed in the CONGRESSIONAL RECORD and reprinted in the October 15, 1971, issue of "Vital Speeches." Now, one of the most distinguished and respected constitutional lawyers in the Nation, the distinguished Senator from Michigan (Mr. GRIFFIN), has proposed an amendment to this bill to curb the power of Federal courts to prescribe remedies in school desegregation cases.

If this amendment is passed, a constitutional amendment may not be necessary.

Mr. President, I urge passage of the Griffin amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLEN. Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, I rise at this time to speak briefly in connection with the talk just given by the Senator from South Dakota. I must say I have to admire his courage, even though I think his judgment is pretty abysmal. I say that because as far as I know he is the only Senator who has stood on the floor of the Senate and advocated forced busing. I do not know anyone in this country that wants forced busing, whether he be black, Spanish-speaking, Chinese, or Japanese.

The Chinese, as we know, have withdrawn their children from the public school system in San Francisco and they have set up their own schools in order to avoid having their children bused from one area to another.

In our State when this situation came up we had two Democratic school board members running in a Democratic city in favor of forced busing. We had two Republicans running against forced busing.

I do not believe a Republican has been elected to our school board in years. On that occasion they were both overwhelmingly elected. They received 4-to-1-majorities in the Spanish-speaking area.

They received more than 50 percent of the black vote. They received the Chinese-Japanese vote, as well as the white vote.

There is no group that I know of, whether it be a minority group or any other group, that believe that to solve the problems of quality education we must simply take children and bus them past the school they may live next to and into an area they know nothing about, and spending the funds for buses instead of educational quality.

It seems to me that the Senator from South Dakota, with all due respect to his courage, certainly has the wrong side of this wicket.

I thank the Senator from New York for yielding.

Mr. JAVITS. Mr. President, I am moved also to make some response to this outbreak of debate on this issue which has been signaled by the Senator from Colorado and the Senator from South Dakota.

The issue before the Senate is not forced busing. The issue before the Senate is whether the courts shall or shall not be permitted to utilize a particular remedy in given situations which require the use of that remedy. The reason I say that is that almost no one is contending for no amendment. We are contending for the Scott-Mansfield amendment. The opponents of that view are contending for the Griffin amendment.

As I pointed out when I began today, the Griffin amendment is completely regressive. It takes us back far beyond what the Senator from Michigan (Mr. GRIFFIN) himself, in my judgment, should seek. He would strike the jurisdiction of the courts to issue any order involving busing, even to correct segregation.

For years, there are cases in which black children are bused on long bus trips by white schools in order to get to black schools.

The important thing is that what we are contending for is really the determination of the courts in the Swann case, and asserting what is left open by the Swann case. I am not sure it is left open, but in any case it might be so construed.

In the Swann case the court said where it would interfere with the child's health or welfare to be bused the child will not be bused, even if there is a need to bus to help cure segregation. The court went further and said where it impinges on the educational process of the child, busing must be limited or not required at all. The court left rather unclear—although some think it is clear, I do not—whether the only impingement to be considered was impingement on the child being bused or impingement as well upon the school to which the child was being bused.

What the Scott-Mansfield amendment would do, and I think it is monumental because it goes to every single substantial complaint that has any validity, would be to state that impingement on the educational process should be double track.

It involves the child being bused and the children in the school to which he is being bused, and if the white child is going to be bused from a suburb to a city to aid desegregation or a black child is to be bused, the same standard would apply. Additionally a safeguard is provided in the provision that the use of Federal funds for busing is contingent upon the local educational agency's willingness voluntarily to seek such funds from the Federal Government.

So the argument is no longer about forced busing. The argument is, Which path shall we take? Shall we take the compromise path, accepting some busing for the higher constitutional good of the country, with very reasonable limitations, which are excellent limitations, because they can be adjusted case by case, or shall we tread the path of absolute prohibition? I think very strongly that elemental justice as well as the social good of the country dictate the course of the Scott-Mansfield amendment.

One other thing that is very revealing about the argument on constitutionality: I think the Griffin amendment may very well be unconstitutional notwithstanding the rather simplistic explanation that the lower courts having gotten jurisdiction under the Judiciary Act of 1789, we can take it away, and for this reason: This question was raised in Battaglia versus General Motors Corp. in 1938 where certiorari was denied, this being a case in the Second Circuit. There the court held that Congress cannot take away jurisdiction to enforce constitutional rights; that that is not included within the capability of Congress to take away jurisdiction.

The fact is that the school desegregation cases are based upon the fifth amendment as well as upon the 14th amendment, not only upon the equal protection of the laws clause, but also upon due process of law deprivation of life, liberty, or property without due process. So I would like to read for the RECORD an excerpt from that case.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. JAVITS. I yield myself 4 minutes out of those 5.

I should like to read this paragraph from the decision, which is very thought-provoking and worthy of the attention of every Senator, and especially that of every lawyer in this body.

The Court of Appeals in the Second Circuit said:

> We think . . . that the exercise by Congress of its control over court jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment. That is, while Congress has the undoubted power to give, withhold and restrict the jurisdiction of courts other than the Supreme Court, it must not exercise that power so as to deprive any person of life, liberty or property without due process of law. . . .

And the corollary to that proposition is found in the decision of Bolling against Sharpe, decided in 1954, as the companion case to Brown against Board of Education. In that case, the Supreme Court found that racial segregation in the schools is not only prohibited by the 14th amendment, the equal protection clause, but is prohibited as well by the fifth amendment, to wit, the one I have just referred to, that is, the right not to be deprived of life, liberty, or property without due process of law.

As I have said, that raises very inherent constitutional questions about the first section of the proposal; the second section of the Griffin amendment absolutely strips the Civil Rights Act of 1964 of its application to most current school desegregation problems; the third section lowers the barrier of constitutional protection in any action on a decree for desegregation so long as any appeal or motion is pending, and encourages the whole panoply of frivolous appeals and delays for that purpose, into the picture, with our consent and approval. I think the Griffin amendment falls heavily of its own weight simply because it goes beyond what even reasonable people who do not like busing but still understand constitutional rights have to be safeguarded may logically advocate, if there is a scintilla of good faith in the proposition that they really do want families and their children to have the constitutional right of an equal break, which is what it comes down to, in respect of educational opportunity.

I reserve the remainder of my time.

Mr. ALLEN. Mr. President, I yield 4 minutes to the Senator from West Virginia (Mr. RANDOLPH).

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I appreciate the courtesy and the cooperation of the Senator from Alabama (Mr. ALLEN).

Mr. President, I do wish to comment briefly on the amendment which is pending, offered by the Senator from Oklahoma (Mr. HARRIS) on behalf of himself and the Senator from Indiana (Mr. HARTKE).

As we talk about this subject of students participating on governing bodies in institutions of higher learning, perhaps it is not inappropriate for me to indicate that I had the opportunity as a junior at Salem College in West Virginia, to serve on the board of trustees. That was in 1923.

In those years no one thought of having a student member of a college board of trustees.

It was necessary for my father, Ernest Randolph, to retire from the college board, and the board of trustees in that instance elected me to fill the unexpired term of my father. I was subsequently reelected and reelected, and in the year 1972 I am still a member of the Salem College Board of Trustees. My interest then as a student and my interest later has been a continuing one—to develop that college to the very best of our ability to serve young persons not only in West Virginia but those from other States as well.

Mr. President, it is my belief that student representation on governing boards of institutions of higher learning is a sound policy.

I shall support the amendment, and I ask the sponsors to allow me to join as a cosponsor.

Mr. HARRIS. Mr. President, will the Senator yield briefly?

Mr. RANDOLPH. I yield.

Mr. HARRIS. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Minnesota (Mr. MONDALE) be shown as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. JAVITS. Mr. President, will the Senator allow me to proceed for 1 minute?

Mr. ALLEN. Yes.

Mr. JAVITS. Mr. President, I have not spoken on the Harris amendment, and I was not present yesterday, because of duties in my State, but I wish to express myself as favorable to it, as has the manager of the bill, the Senator from Rhode Island (Mr. PELL).

I believe that we will work out in conference a particularization of the idea which is here contained, but I think it is important that students should have a place on the governing boards of their colleges and universities. I have so urged in my own State, including my own alma mater, and I shall vote for and support this amendment.

I thank my colleague.

Mr. ALLEN. Mr. President, I yield myself such time as I may consume.

The distinguished Senator from New York has pointed out and made a brief point of the fact that under the Scott-Mansfield amendment, which I oppose and I hope the majority of the Senate will oppose, the local educational institution or the local educational agency does not have to accept Federal funds for busing unless it wants to.

But, Mr. President, if the Federal court orders an educational agency to bus its students from one end of the county to another, from one school district to another, where is it going to get the money? It would be forced to call on the Federal Government. So that is no concession at all, to say that the school board does not have to ask for Federal funds for busing unless it wants to. If the long arm of the Federal Government is reaching out and saying to that agency that it has got to bus, it has to bus, and the only way it is going to get the funds for busing is to call on the Federal Government. So that section is absolutely worthless and meaningless.

Mr. President, the opponents of the Griffin amendment, which withdraws jurisdiction from the Federal courts, or any courts, to order busing for the purpose of creating racial balance, say it is unconstitutional. Mr. President, if they thought it was unconstitutional, do you think they would have put up the bruising battle that they have put up against this amendment, using all of the force and power of the joint leadership to muster the Scott-Mansfield amendment in ahead of the Griffin amendment, so as to get the first vote? They know, or have reason to believe, that this amendment is constitutional. If they though it was not constitutional, they would just sit back and say, "All right, go ahead and pass your amendment. It does not mean anything, and at the very first court test it will be held to be unconstitutional, null, and void, and no limitation on busing will have been enacted."

So, Mr. President, those two points made by the Senator from New York I wanted to answer on behalf of the proponents of the Griffin amendment. I yield the distinguished Senator from New York such time, within our limitation, as he may require to respond to my statement.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

I would suggest, since the time for the vote is almost upon us, that the amendment be withdrawn and that we suggest the absence of a quorum. Is that agreeable to the Senator from Alabama?

Mr. ALLEN. Well, the amendment is not mine. I have no objection.

Mr. JAVITS. No, I will withdraw it.

Mr. President, I withdraw the amendment and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

The hour of 11:45 a.m. having arrived, under the previous order the Senate will proceed to vote on the question of agreeing to the amendment (No. 953) offered by the Senator from Oklahoma (Mr. HARRIS). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. SCOTT. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Michigan (Mr. GRIFFIN) is detained on official business.

The result was announced—yeas 66, nays 28, as follows:

[No. 64 Leg.]

YEAS—66

Aiken
Allott
Bayh
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cranston
Dole
Eagleton
Eastland
Ellender
Gambrell
Gravel
Harris
Hart
Hatfield
Hollings
Hughes
Inouye
Javits
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tunney
Williams
Young

NAYS—28

Allen
Anderson
Baker
Beall
Bellmon
Bennett
Brock
Buckley
Chiles
Cotton
Curtis
Dominick
Ervin
Fannin
Fong
Goldwater
Gurney
Hansen
Hruska
Jordan, Idaho
McGee
Saxbe
Scott
Smith
Stafford
Taft
Tower
Weicker

NOT VOTING—6

Fulbright
Griffin
Hartke
Humphrey
Jackson
Mundt

So Mr. HARRIS' amendment was agreed to.

Mr. HARRIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I voted against Senator HARRIS' amendment making it the sense of the Senate to urge at least one student to be a member of all college governing boards.

I am aware that student interest runs high in favor of representation and that experience with student trustees has been excellent; and I believe that local colleges and universities would be wise to make a structural change to provide for increased student-administration dialog. Student trustees would, undoubtedly, make the governing boards more responsive. However, I believe this is an area that Congress ought to leave up to the individual colleges and universities.

I think the idea of student representation on college governing boards is sound and that colleges would be wise to implement it. But I also believe that this is a matter which ought to be left up to the discretion of the colleges themselves.

Mr. SPARKMAN. Mr. President, as one who is opposed to the busing of children to achieve racial balance, I feel that much of the debate on this issue has not been directed to the heart of the matter. Those who favor the busing of children contend that they are doing so because of their opposition to segregated schools.

Mr. President, the issue is not segregated schools versus integrated schools. The simple truth is that busing, as it has been utilized and as it is threatened to be utilized, is destroying the neighborhood schools of America. That, and that alone, is the issue before us. Do we want to preserve neighborhood schools as meaningful social and educational institutions in our country? I feel that we must.

I believe that Senators know of the work that I have done during my years in Congress in the field of housing. My single goal in all these years has been to make it possible for every American, regardless of his economic or social status, regardless of his race, religion, or national origin, to have a decent home in which to live. This goal was born of a steadfast conviction, which endures with increasingly greater strength as time goes by, that the home is a meaningful institution in our society, and that people who have a decent place in which to live are better citizens in every way. Pride in one's home gives him a sense of belonging to the community, and this is especially true of children.

Mr. President, so it is with neighborhood schools. My files are filled with letters from parents and children, both black and white, pleading with me to make it possible for the children to attend their neighborhood school. I need not go into greater detail about this because I know that the files of every Senator are similarly filled.

Community pride, Mr. President, is a rather complicated thing. It emanates from quite a variety of things. A little girl looks forward with unbounded thrill to playing a part in the school play, because she knows, not only that her parents will be bursting with pride as they sit in the audience, but their neighborhood friends are also there. She wants so badly to impress the people she knows and she fully expects that, as she makes her way around the neighborhood the following week, she will receive the praise that she deserves. A high school boy goes into the Friday night football game confident that the male adult leadership of his community is looking on, and that he is in no small way the community's standard bearer. A school band is presented with the opportunity to participate in a parade or band festival, and a sense of belonging springs to life when the community joins together in a fund drive to pay the expenses. I could go on and on.

The point, Mr. President, is that the neighborhood school in America is more than just a tradition, it is a strong, vibrant, meaningful institution, which contributes greatly to the social well-being of communities throughout our land. If there are problems of malappropriation of school funds or of unequal educational opportunities, other solutions must be found which do not bring on the demise of neighborhood schools.

I need not remind Senators of the urban problems that beset us. In my view, the neighborhood school in an urban community is the single most effective core around which the community can build a sense of responsibility and pride. It seems to me that we shall do no more than compound our problems by destroying neighborhood schools.

Mr. President, the proponents of busing seem willing to overlook the effect that busing has upon the children involved. These children are made to feel that they are simply pawns to be shifted from pillar to post without regard for their and their parents wishes. They are herded into a strange school where few of the students feel any sense of pride or belonging toward the school. Discipline problems are greatly increased, and it becomes virtually impossible to maintain the kind of student attitude and school atmosphere that is necessary to the learning process. After all, Mr. President, education is the name of this game. Are we not to be concerned about the quality of education our children will receive?

Mr. President, the responsibilities of citizenship are learned. They are learned from one's experiences in his community and from what he is taught at home, at church and at school. A person can learn these responsibilities easily enough, but for them to become meaningful to him and for him to want to practice good citizenship, he must feel that he has a stake in the community where he lives. Just as he gets this feeling from having a decent home in the community, he also gets it from having a good school in the community to which he can send his children. But more importantly, his children get this feeling from a neighborhood school at a time in their lives when their social attitudes are being molded. Doing away with neighborhood schools will deprive communities throughout America with their most effective tool in teaching their children the responsibilities of good citizenship. I hope that the Senate will not let this happen.

Mr. President, the Senate will face up to its responsibility on this issue today. In my view, we should do so by providing clearly in the bill that the Federal courts do not have jurisdiction to order that schoolchildren shall be transported to school on the basis of race, color, religion, or national origin. In other words, we should limit the jurisdiction of the courts to order forced busing for the purpose of achieving racial balance. As I have said, we should deny the courts the power to destroy neighborhood schools in America.

Those who favor busing have grasped at every straw during the course of this debate. They have attempted to make it appear that the adoption of the amendment which I support—the Griffin amendment—would make it impossible for Federal courts to enforce the Supreme Court decision against segregated schools. Nothing could be further from the truth. In his statement to the Senate yesterday, Senator GRIFFIN set out in detail the powers that would remain vested in Federal courts to deal with segregation cases.

Busing proponents have said that the Griffin amendment is unconstitutional. I think not. The power of Congress to limit the jurisdiction of Federal courts is clearly established in article III of the Constitution. Article III provides.

> The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts *as the Congress may from time to time ordain and establish.*

Not only is it clear that the power to establish or abolish lower Federal courts carries with it the power to prescribe and limit their jurisdiction, but there is ample precedent supporting the power of Congress to so prescribe and limit. As the Senator from Michigan (Mr. GRIFFIN) stated yesterday, Congress withdrew from the Federal courts the power to issue antiunion injunctions with the passage of the Norris-LaGuardia Act in 1932.

The Griffin amendment does not take away from the Federal courts the power to enforce the law as set forth by the Supreme Court in the Brown case. The only thing it does is to withdraw from the courts the authority to so enforce the law through the issuance of orders that schoolchildren must be bused to or from school solely on the basis of their color, race, religion, or national origin. Such orders have proved to be totally unreasonable. They have placed terrible burdens upon school systems throughout America. They have placed unconscionable burdens upon parents and schoolchildren. They have destroyed a time-honored and meaningful social force for community wellbeing—the neighborhood school. And they have created schools where quality education simply cannot exist. In the face of all of this, the Congress—exercising the powers granted to it in our great Constitution—has not only the power, but a clear and present duty, to take action to forbid these totally disruptive court orders.

Mr. PELL. Mr. President, during this past week's debate on busing, we have all too often heard from those with emotional commitments pro or con. However, thinking about the debate, I find it hard to remember hearing the views of educators on this question. Therefore, I was particularly struck by a statement, released today, signed by certain Chief State School Officers, which opposes amendments which would prohibit the Federal courts from exercising jurisdiction over transportation to achieve school desegregation. The Chief State School Officers, in a November 17 meeting, endorsed transportation of students as a "viable means of achieving equal educational opportunity." I ask that the signed release of certain Chief State School Officers be made part of the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

At the November 17, 1971 meeting of the Council of Chief State School Officers in Louisville, Kentucky, resolutions were adopted supporting the principle of desegregation of our nation's schools and endorsing the method of transporting students to attain this end as one viable means of achieving equal educational opportunity.

We, the undersigned Chief State School Officers, have made the commitment to resist all efforts which impede or prohibit school desegregation. We view with alarm the recent attempt to amend the Higher Education Act so as to prohibit the Federal courts from exercising any jurisdiction over transportation of pupils to achieve desegregation. We view this as a limitation of the options of school officials to achieve the desired end of the provision of equal educational opportunities through desegregated schooling.

[Statement signed by the following Chief State School Officers, Tuesday, February 29, 1972: Floyd Christian (Fla.), Caroll McGary (Maine), Neil Sullivan (Mass.), Ewald Nyquist (N.Y.), Fred Burke (R.I.), Joe Oakey (Vt.), Daniel Taylor (W.Va.)]

Mr. PELL. Mr. President, reaction to the Senate's adoption of the Griffin amendment is starting to be heard. The Senate by its action last Friday took a step backwards—in attempting to deal with busing, all efforts taken to segregate the schools have been arrested.

A most interesting and meaningful editorial appeared in the Providence Journal of February 29, 1971. It speaks clearly of just what is at stake in today's vote. I ask unanimous consent that that editorial be placed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### BUSING COMPROMISE

When the United States Senate convenes today, it will face a critical issue—a decision on how best to handle the welter of bills and amendments on school busing. The country will be best served by a decision to support the compromise sponsored by Sen. Mike Mansfield, Democrat of Montana, and Sen. Hugh Scott, Republican of Pennsylvania, and supported by the Senate last Thursday.

For a while as the week drew to a close, it appeared that the Mansfield-Scott proposal would prevail. But late last Friday, in the absence of many senators, including five Democratic candidates for the presidency, a tough anti-busing amendment, sponsored by Sen. Robert P. Griffin, Republican of Michigan, passed by the narrow vote of 43-to-40.

The candidates were not the only missing senators. At least 12 others were out of Washington, apparently secure in the belief that the support given the Mansfield-Scott bill would stand. Now, Senator Mansfield has summoned the senators back from the campaign trail and from whatever other pressing items of business drew them from attendance last Friday.

The Mansfield-Scott proposal would permit limited busing of children but not to schools of inferior quality and not across existing school district lines unless the Supreme Court orders it. It also would bar federal subsidies for busing unless a school district requests help. Like all compromises, the proposal did not please diehard supporters or opponents of busing.

The Griffin proposal also is an amendment to the federal aid-to-education bill which carriers funds to help local school districts finance desegregation. It is very tough; it would eliminate federal authority to order children bused to achieve racial balance in the schools. It does not go as far as proposed and unreasonable constitutional amendments, but it is hardnosed.

The great virtue of the Mansfield-Scott proposal is that it leaves the door open to local option. By its nature, it keeps the issue in the area of statutory law and avoids the risk of trying to resolve an administrative problem by writing an amendment to the Constitution. Its purpose is to defuse a divisive issue with reason.

Senators John O. Pastore and Claiborne Pell supported the Mansfield-Scott legislation last week and presumably can be expected to stand firm with the two leaders today. Perhaps their best immediate contribution would be to help Senators Mansfield and Scott steer the compromise through the shoals of rough parliamentary seas today.

### WILL CONGRESS REALLY ACT ON BUSING?

Mr. STENNIS. Mr. President, many pages of the Record of this great body are now filled with debate on the issue of busing schoolchildren out of their own neighborhoods. After all these hours of Senate time have been spent and many thousands of words have been spoken, the dust has finally cleared and the question before us is simple: Will Congress act on busing or will it refuse to act? It is, I say, now a simple question on which every Senator is thoroughly informed. The Griffin amendment forbids Federal courts to order busing and thus puts an end to many of the abuses which have been visited upon our young children. The Scott-Mansfield amendment, on the other hand, does absolutely nothing positive to halt this outrage. The only real antibusing element of the Scott-Mansfield amendment is its title.

While I have the greatest respect for the cosponsors of that amendment, as they well know, I truly believe that the only effect of their amendment is to simply put off any real action on the busing issue until after the fall elections. I also believe very strongly that they are in error in trying to delay such action. Just because the busing issue stirs up strong emotion in this country is no reason to run away from it, which is what the Scott-Mansfield amendment does. Since that amendment is only effective until June of next year, it merely puts off urgently needed congressional action. Avoiding the issue in that way would be be a grave error, in my opinion. Every candidate for President and for the Senate or House should be called on to state his position before the election on the issue of busing, and the Griffin amendment is the only one before the Senate with any real meaning. The people demand action now, and as their elected representatives, we are duty bound to heed their wishes.

Let us consider more closely, by way of contrast, the Scott-Mansfield amendment, which is in three sections. The first section forbids the use of Federal funds for busing if it risks the health or impinges on the educational opportunities of children.

Mr. President, it is almost incredible that we have reached a point in this country where we need such a law, but it is true. This provision admits that Federal court orders in many districts are now so severe as to actually risk the health and impinge upon the education of our children. Under present law, however, the persons to decide whether a child's health or education would be damaged by a busing order are the same authorities and Federal bureaucrats who have already required such abusive busing plans in the past. This part of the amendment is clearly insufficient.

Section (b) of the Scott-Mansfield amendment forbids any agency of the Federal Government to expend money for busing unless constitutionally required. This language, as well as the language about racial imbalance in section (a), deftly destroys the effect of both the Mondale and Stennis-Ribicoff amendments requiring uniform nationwide application of school desegregation policies in this country because it freezes in by implication the old de jure-de facto distinction between school segregation in the South and elsewhere.

This amendment once again attempts to create a distinction between northern and southern school districts long after all objective observers in the public press, Congress, and even HEW, have agreed that the old de jure-de facto distinction is totally invalid.

The latter part of section (b) forbids Federal agencies to bus any child to an inferior school. This provision, in practice, would mean that Federal money could be used to bus black children into white schools but not to bus white children into black schools. If we are to abolish busing, we should do it fairly, and our action should apply equally, across the board, to all children. In effect, this provision which would allow the busing of black children but not of white is a flagrant violation of the equal protection clause and would not last 2 minutes before the Supreme Court.

Section (c), which appears to stay busing orders pending appeal, in reality does no such thing, since it is limited to busing across district lines. Only one case in this entire country would be affected by such a stay and that is the Richmond, Va., case. While a stay in that case is a very fine and commendable thing, I must ask: What about the children in Detroit, Mich.; Denver, Colo.; Charlotte, N.C.; and Jackson, Miss.? This section affords them no protection whatsoever since they are all bused many miles within their own districts.

In summary, then, the Scott-Mansfield amendment does virtually nothing to stop busing, but is a mere political trick to make voters think Congress has acted to stop busing. The fair thing to do would be to strike the title of this so-called anti-busing amendment, and retitle it "Amendment To Avoid Action on Busing Until After the Election." Under that title, citizens would know the proposal for what it really is.

Compare to the empty shell which is the Scott-Mansfield amendment the effective and substantial provisions of the Griffin amendment.

First, it takes away all Federal court jurisdiction to order busing of any child, anywhere, just because of his race. Second, it forbids any Federal agent from threatening to withhold funds in order to force a school district to bus its children against its will.

Third, it stays indefinitely—and not just until next June—all court orders requiring any student to attend a school other than his own neighborhood school. It does not apply just to one school district as the Scott-Mansfield version does, but to all school districts of this country equally, and I urge my fellow Senators to show their opposition to busing and to take positive action to stop it by supporting the Griffin amendment.

Mr. BENNETT. Mr. President, today the Senate will again decide the fate of the Griffin amendment dealing with schoolbusing. Last week I voted in favor of that amendment and intend to do so again today. I should like to outline the reasons why I will take this position. I believe the Griffin amendment is constitutional. Certainly the Congress of the United States has the power to limit the jurisdictional authority of Federal courts other than the Supreme Court. In the Griffin amendment the Congress is merely delineating a congressional intent and policy which I do not believe violates the rights of any American or is contrary to the spirit or the letter of the Constitution.

I firmly believe that every American, black and white, has the right to attend schools of equal quality. I believe the courts of the United States starting with the historic 1954 decision have been saying that with complete justification. I believe this can and should be accomplished without resorting to the extremes and the foolishness of busing children away from their neighborhood schools. I believe also that the large majority of the American people, both blacks and whites, are opposed to this concept.

I question the wisdom of spending so much money for buses and salaries to transport children when that money could be spent more wisely to improve the actual educational experience and the physical plant of schools that do not measure up to the quality to which all Americans are entitled. I think the school busing practice is a false hope. I question the wisdom of busing children from good schools to inferior schools. Because by so doing you have damaged the educational experience of those who are in top quality schools. I believe the answer lies in improving and upgrading the schools where quality education does not exist. In other words, I think we should address ourselves to the immediate problem and stop the foolishness of dancing around the periphery by busing children long distances across town and in some cases into other counties.

I also question whether in this whole process anybody has looked at the impact of busing upon the children. What have we gained if we require a child to ride a schoolbus for an additional 1 or 2 hours a day? To achieve the equality that some people think can be obtained through busing will require in some cases that children arise much earlier in the morning to ride a cold schoolbus many miles across town or into another county. They spend the day in a new school and a strange neighborhood only to have to ride the bus back, returning home much later than normal. I think there are enough pressures now tearing away at the American family and the American home that we do not have to absent our children even longer from this environment. It is not uncommon in some school systems for children to return home and find themselves with from 1 to 3 hours of homework. If you add to this an additional hour or two to ride a schoolbus I think you have added additional pressures to the child; you have imposed additional outside interference upon the family and I think you have solved none of the problems which the school busing was designed to resolve. For these reasons I think it is mandatory that the U.S. Senate retain the Griffin amendment. I think it is time that we return to reason in this area and not only reflect the wishes of all Americans but see the fallacy of the concept involved. I believe it is time that we attacked the problem itself and that is inadequate schools where they now exist. Because of these factors I will support the Griffin amendment.

### OPPOSITION TO SCOTT-MANSFIELD SUBSTITUTE

**Mr. ALLEN.** Mr. President, if the Senate passes the Scott-Mansfield proposal, a constitutional amendment will become necessary and, in my judgment, inevitable. The reason is that the proposal simply does not address itself to the substantive problems which have given rise to the school busing controversy.

The proposal will not stop a single U.S. district court judge from entering racial-balance decrees. It will not stop massive forced busing and cross-busing to achieve racial balance. It does not repudiate the hideous racist doctrine of racial balance in schools. It will not put an end to consolidation of schools involving separate political subdivisions of a State to achieve racial balance in schools.

It will not save a single community school. It will not save a single neighborhood school, and it simply will not put an end to the massive school closings and pairings which require busing and cross-busing across cities and counties. In short, it will not stop forced uprooting of schoolchildren, and their transportation from home communities and neighborhoods to strange and distant schools.

To the contrary, the Scott-Mansfield proposal specifically condones, and would write into the law, congressional approval of U.S. district court orders which require, and I quote:

> The transfer and transportation of any student or students from one local educational agency to another or which requires the consolidation of two or more educational agencies for the purpose of achieving racial balance among students with respect to race, sex, religion or socioeconomic status.

Mr. President, I have quoted from the third section of the Scott-Mansfield proposal. The only concession in this section is the requirement that the effectiveness of such court orders shall be postponed until appeals have been exhausted or until the time for such appeals have expired. This provision is substantially the Broomfield amendment, adopted by the House in specific recognition of the U.S. district court order in the Detroit, Mich., school case. That order contemplates massive consolidation of separate school districts in the Detroit area for the purpose of achieving racial balance. The provision provides for a delay but nothing else. It merely recognizes the power in U.S. district courts to enter such orders.

Mr. President, the question is, What does the Scott-Mansfield proposal offer in regard to U.S. district court orders other than to delay the effectiveness of such orders? The answer is: Nothing!

Let us turn now to the first section of the proposal. Here, too, the provision contemplates that U.S. district court judges will continue to order racial balance in all schools.

However, it appears that a bit of hand washing is in order, so it is provided that Federal funds may not be used for the purpose of providing transportation unless specifically requested by local school officials. At first glance, this seems to be a reasonable proposition. However, it becomes meaningless once we realize that U.S. district court judges continue empowered to close schools and pair schools in order to achieve racial balance. Under the circumstances, in many cases there would be no way for children to get to such racially balanced schools to which they have been ordered without transportation. So, naturally if local school officials ask for funds for busing, it is there for them and Federal judges know it.

Mr. President, there is something cynical about this pretended disallowance of funds for busing. The cynicism comes through loud and clear when we realize that the bill to which the Scott-Mansfield amendment is to be added provides funds to be used to encourage construction of fantastic school conglomerates and school complexes referred to as "school parks." Few pupils can reach such schools without transportation. Naturally, the money is available for busing to such experimental laboratories.

In fact, under the bill, grants are made contingent on the establishment in each school district of at least one racially balanced school which is also integrated by socioeconomic status of the families of pupils. How will the pupils get to such school? By busing—paid for from funds authorized by the act.

In short, while this Scott-Mansfield proposal purports to prevent the use of Federal funds for busing, the bill itself authorizes funds for establishment of schools which would be useless without some means of mass transportation of students. Furthermore, this bill authorizes funds for every busing order and decree which may be issued by every U.S. district court judge in the United States.

Mr. President, I suggest that we realistically recognize this proposal for what it is. It is a massive busing proposal. Make no mistake about it.

Turning now to the second section of the Scott-Mansfield proposal, we read all the things which Federal agents and agencies may not do by way of rule, regulation, and guidelines unless, and here is the catch, "unless required by the Constitution." What this means, of course, is that Federal agents will not do this and not do that unless it has been required by a U.S. district court judge.

Mr. President, this is the same old, time-worn dodge, which has been so successfully used in the past to scuttle any legislation intended to curb the destructive effects of racial balance decrees.

Mr. President, let us take another look at this phrase, "except as required by the Constitution."

The Supreme Court has said that racial balance is not required by the Constitution. Congress has excluded racial balance as a requirement under two provisions of the Civil Rights Act of 1964. Yet, U.S. district court judges continue to issue racial balance decrees and continue to compel whatever is necessary to achieve racial balance including the closing of perfectly good neighborhood and community schools. And, the U.S. Supreme Court continues to give its blessings to such decrees, not as required by the Constitution or by act of Congress but as a proper exercise of discretionary equity powers of U.S. district court judges. So what does the term mean—it means nothing but what may be required by a Federal judge and that is the problem and the source of the trouble.

Mr. President, the provisions of section 2 which limit the power of certain Federal officers and employees to require transportation where the time and distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process is redundant. The U.S. Supreme Court has already recognized such a limitation so why put it in this proposal except to mislead the people? Federal Courts alone are empowered to decide what impinges on the educational process. In short, repetition of this language is pure eye wash. What is said is that if such courts rule that time and distance involved in busing impinges on the educational process, the Federal officers and agents would not require it. Some deal.

There is another provision in this section which is most likely to mislead. It too is a limitation on busing and prohibits Federal officers and employees from requiring busing,

> Where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the schools to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, color or national origin.

Mr. President, I am certain that the language I have quoted is intended to calm the fears of people in Michigan, New York, California, and other States where the people are under the threat of a court ordered school consolidations and resultant massive busing. However, let us bear in mind that this provision is a limitation on the discretion of certain Federal employees and that it is not a limitation on so-called equity powers of U.S. district court judges who alone will determine what schools are "substantially inferior." Once a court has decided on consolidation of schools, it matters not to the judge how the students get to the school to which assigned. The judge knows—thanks to the Scott-Mansfield proposal—that Federal funds will be available to bus the children there.

However, if we were to indulge the assumption that this "inferior school" provision would save anybody from the fate visited on schools and schoolchildren in Southern States, then the provision would clearly contradict section 702 of the main bill which provides that the Civil Rights Act and other laws on the subject of school segregation shall be applied uniformly throughout the United States.

Mr. President, they cannot have it both ways—they cannot provide an out for school systems outside the South and at the same time keep faith with the uniformity policy in the bill itself.

Mr. President, it is obvious even if it were not admitted that this proposal is the result of a concerted effort to defuse the busing issue. It won't work—the people will not be fooled again by hemming and hawing and slick parliamentary tricks and slippery language inserted in bills and amendments.

The fact is that the Scott-Mansfield proposal is a busing bill, purely and simply. It finances every busing scheme that any and all U.S. district court judges in the United States may dream up as well as some concocted by the U.S. Department of Education. The judges will thank you—the bleary-eyed radicals in the Department of Health, Education and Welfare will thank you—but the American people will thank you for nothing!

Mr. President, it is my judgment that the rug has been yanked from under President Nixon. His promise to study the problem extended hope of relief from ruinous busing. All that is empty rhetoric now unless—and this is important—unless he gets behind a constitutional amendment or a bill to effectively limit the power of U.S. district court judges to enter orders which directly require or have the necessary effect of requiring the transportation of pupils to achieve racial balance in public schools now under the iron heels of their jurisdictions.

Mr. MANSFIELD. Mr. President, if I could have the attention of the Senate on behalf of the distinguished minority leader——

Mr. RANDOLPH. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will please come to order.

Mr. MANSFIELD. And the Senator from Montana, I ask unanimous consent to have only 10 minutes allotted on each of the next four or five amendments because they will come in rapid succession.

If there is no objection on the part of the Senate, it is now on notice that there will be 10 minutes time on each vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. JAVITS. Mr. President, without objecting—and I shall not—I should like to call the attention of the distinguished majority leader to something. Before one of the votes, there will be a half hour's debate, is that not correct?

Mr. MANSFIELD. That is right.

Mr. JAVITS. Would the distinguished majority leader consider leaving that one out?

Mr. MANSFIELD. That one is already out. That is taken care of in a previous unanimous-consent agreement.

Mr. JAVITS. I thank the Senator from Montana.

The PRESIDING OFFICER Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from Minnesota will state it.

Mr. MONDALE. Is my understanding correct that the next vote will be on the pending Mondale amendment?

The PRESIDING OFFICER. That is correct.

Mr. MONDALE. Under the present parliamentary situation, am I further correct that if one opposes the Griffin amendment, he will vote "nay" on the pending Mondale amendment because it contains the Griffin amendment?

The PRESIDING OFFICER. That is an interpretation of the Senator which the Chair cannot consider. [Laughter.]

(At this point the Vice President assumed the Chair.)

The VICE PRESIDENT. The Senate will be in order, please.

The hour of 12 o'clock having arrived, the Senate will now proceed to vote on the pending amendments in the following order.

Please, gentlemen, may we have order in the Senate?

The first vote will occur on the Mondale amendment as amended, on which the yeas and nays have been ordered.

The second vote will occur on the Griffin amendment as a perfecting amendment to the language of the Allen amendment proposed to be stricken out by the Scott-Mansfield amendment, on which the yeas and nays have been ordered.

The next vote will occur on the Scott-Mansfield amendment as a substitute for language proposed to be inserted by the Allen amendment, on which the yeas have also been ordered.

The next vote will occur on the Allen amendment as amended, if amended. There will be 30 minutes debate, to be equally divided and controlled before the vote on the Allen amendment as amended, if amended.

The question now recurs on agreeing to the Mondale amendment as amended.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from North Carolina will state it.

Mr. ERVIN. Where is the Griffin amendment? Is it not voted on in this?

The VICE PRESIDENT. The second vote will come on the Griffin amendment.

Mr. ERVIN. I thank the distinguished Presiding Officer.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Minnesota will state it.

Mr. MONDALE. Is my understanding correct——

Mr. PASTORE. Mr. President, may we have order? We cannot hear anything. This is a very important vote.

The VICE PRESIDENT. Please, gentlemen, will Senators please take their seats?

Mr. MONDALE. Mr. President, is my understanding correct that the present Mondale amendment as——

The VICE PRESIDENT. Will the Senator please withhold for just a moment? The Chair will have to stop the proceedings until we have a sufficient degree of order in the Senate so we can hear the proceedings.

The Senator from Minnesota may proceed.

Mr. MONDALE. Mr. President, is my understanding correct that the present amendment as amended includes the Griffin amendment?

The VICE PRESIDENT. That is correct.

Mr. MONDALE. So that adoption of the amendment offered by the Senator from Minnesota, as amended, would, if adopted, include the adoption of the Griffin amendment; is that not correct?

The VICE PRESIDENT. And the adoption of the Griffin amendment and the Scott-Mansfield amendment also.

Mr. MONDALE. I thank the Chair.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Minnesota (Mr. MONDALE) as amended.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE) and the Senator from

Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 48, nays 49, as follows:

[No. 65 Leg.]

YEAS—48

Allen
Allott
Baker
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
Mathias
McClellan
Proxmire
Randolph
Roth
Smith
Sparkman
Spong
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NAYS—49

Aiken
Anderson
Bayh
Boggs
Brooke
Burdick
Case
Church
Cooper
Cranston
Eagleton
Fulbright
Gravel
Harris
Hart
Hatfield
Hughes
Humphrey
Inouye
Javits
Kennedy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Saxbe
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—3

Hartke
Jackson
Mundt

So the amendment was rejected.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate? May we have order in the galleries?

The VICE PRESIDENT. The Senate will be in order. The occupants of the galleries are cautioned that the rules do not permit demonstrations.

The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. GRIFFIN. Mr. President, is the vote now before the Senate the vote on the so-called Griffin amendment to the Allen amendment?

The VICE PRESIDENT. The Senator is correct. The vote is on the Griffin amendment as a perfecting amendment to the language of the Allen amendment proposed to be stricken by the Scott-Mansfield amendment.

Mr. GRIFFIN. Mr. President, I thank the Chair.

The VICE PRESIDENT. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE) and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE) and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 47, nays 50, as follows:

[No. 66 Leg.]

YEAS—47

Allen
Allott
Baker
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
McClellan
Proxmire
Randolph
Roth
Smith
Sparkman
Spong
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NAYS—50

Aiken
Anderson
Bayh
Bellmon
Boggs
Brooke
Burdick
Case
Church
Cooper
Cranston
Eagleton
Gravel
Harris
Hart
Hatfield
Hughes
Humphrey
Inouye
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Saxbe
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—3

Hartke
Jackson
Mundt

So Mr. GRIFFIN's amendment (No. 935) to Mr. ALLEN's amendment was rejected.

The PRESIDING OFFICER (Mr. TUNNEY). The question now recurs on the Scott-Mansfield amendment as a substitute for the language proposed to be inserted by the Allen amendment, on which question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE) would vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 63, nays 34, as follows:

[No. 67 Leg.]

YEAS—63

Aiken
Allott
Anderson
Bayh
Beall
Bellmon
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cranston
Dole
Dominick
Eagleton
Fong
Fulbright
Gravel
Harris
Hart
Hatfield
Hughes
Humphrey
Inouye
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Roth
Saxbe
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—34

Allen
Baker
Bentsen
Brock
Buckley
Byrd, Va.
Chiles
Cotton
Curtis
Eastland
Ellender
Ervin
Fannin
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Long
McClellan
Proxmire
Ribicoff
Smith
Sparkman
Spong
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—3

Hartke
Jackson
Mundt

So the Scott-Mansfield amendment in the nature of a substitute for the Allen amendment was agreed to.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. TUNNEY). The question now recurs on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN), as amended.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. The text of the Allen amendment is now the so-called Scott-Mansfield substitute, is it not?

The PRESIDING OFFICER. The Senator is correct.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ALLEN. Mr. President, is there not time for debate?

The PRESIDING OFFICER. The Senator is correct; 30 minutes, to be equally divided.

Mr. ALLEN. I yield myself 7 minutes.

Mr. President, we have come full circle with regard to this amendment. We started off with a simple amendment to title IX, section 901——

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Staff members will be seated, or leave the Chamber.

Mr. BYRD of West Virginia. Mr. President, I hope the Sergeant at Arms will keep staff personnel seated.

The PRESIDING OFFICER. The Sergeant at Arms will see that order is maintained. The Senator from Alabama may proceed.

Mr. ALLEN. Mr. President, we have come full circle in the consideration of amendments to title IX, section 901, which started some days ago when the junior Senator from Alabama sought to amend section 901. That section provides that no provision of this act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance. I pointed out that the phrase "overcome racial imbalance" means to overcome de facto segregation, so that the prohibition against busing was only against busing to overcome de facto segregation.

The amendment as offered by the junior Senator from Alabama would have provided that nothing in this act or any other act should be construed as requiring the assignment or transportation of students or teachers in order to establish a racial balance in any school. That amendment has been supplanted, so that we now have before us the Scott-Mansfield amendment as an amendment to section 901. Actually, there is nothing left to be decided. Section 901, as it appears in the bill, is absolutely worthless. The Scott-Mansfield amendment is absolutely worthless, and very probably, in my judgment, worse than worthless, because it creates a false impression that something is being done about the mass forced busing of schoolchildren in order to establish a racial balance.

Mr. President, the Scott-Mansfield amendment does not make any change of substance in the present law. In the first place, it would provide that no school district is required to accept Federal funds for transportation of students without its consent, and it is not required to use any State funds without its consent. Mr. President, that is absolutely worthless. That is not the point, whose funds they use. If the Federal district court requires a school board to bus students from one end of the county to the other end of the county, they are going to have to use somebody's funds, and naturally they are going to have to use either State funds or Federal funds. To say that Federal funds do not have to be used without their permission certainly is no concession at all, because they are going to have to call on the Federal Government for the money to provide hundreds of buses, to provide school bus drivers, and to maintain the buses. So those two sections provide absolutely nothing.

In the third section, provision is made for the Richmond and Henrico and Chesterfield Counties situation by providing that any order in a situation such as that, where school districts have been consolidated for the purpose of creating a racial balance should be stayed, until June 30, 1973.

That order has already been stayed by the higher court, the circuit court of appeals. So absolutely nothing is accomplished in this regard. It is the opinion of the junior Senator from Alabama that it would be much better to turn down the Scott-Mansfield amendment, which we are going to vote on again. It is like a cat with nine lives; we are having to vote on it at every turn. Unfortunately, we have not been able to kill it a single time except when it was tied in with the Griffin amendment, and then the very people who put the Scott-Mansfield amendment on the Mondale amendment voted against it, so that, by a very close vote, we were deprived of going to conference with the Mondale amendment, which is a revision and restatement of the Stennis amendment, and also the Scott-Mansfield amendment which was added to it, and then the Griffin amendment. So, with the sheer power of numbers, the Senate has been denied the right to go to conference with all three of these measures in the bill.

We would be much better off without the Scott-Mansfield amendment. We still have the House amendments that will be before the conference, which are much better than Scott-Mansfield, which is absolutely worthless and, in the judgment of the junior Senator from Alabama, is a smokescreen to make it appear that something is being done to stop busing when actually something is being done to permit busing.

If it were possible to offer another amendment to the pending amendment—we have agreed that no more amendments will be adopted—I would offer an amendment to the Scott-Mansfield amendment, naming it "the busing authorization amendment," because that is exactly what it does. It is a pro-busing amendment.

So let there be no mistake about it. Do not let any Senator be in doubt about what the issue is; because the Scott-Mansfield amendment, which is now the amendment before the Senate, it having supplanted or taken over the little amendment which I offered, provides absolutely no relief. So if we hold out to the country the assurance that something has been done in this regard and then the country has to operate under the Scott-Mansfield amendment, it is going to be very disappointed; because the amendment does not provide any measure of relief whatever from the forced, massive busing of little children.

Mr. President, we should not be surprised at this situation. The distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), in an interview with U.S. News & World Report, just last week, predicted that Congress was not going to take any action clarifying the mess with regard to forced busing. He made that prediction. Thus far, that prediction has come true, based on the Senate action, because no clarification has been made. All that has been done is to restate some of the opinions of the Supreme Court. That is already the law. What is the use of going through the motions of restating what is already the decision law of this country?

Mr. President, where action is needed is not only in limitations on the executive department, because the Scott-Mansfield amendment does not provide any limitation whatever on the courts, except the one situation—so far as I know, it is only one—that would roll back to June 30, 1973, the decision or order in a case such as the Richmond case. What we need is a limitation on the power of the court, and this amendment does not even seek to reach the real need.

So the country is demanding an end to the pernicious practice of forced busing of litle schoolchildren to create a racial balance. But the Senate, in its wisdom, by a very close vote—49 to 48—has decided that it wants instead the busing authorization amendment; and that should be the citation of this amendment. It should be known by that term—the Scott-Mansfield busing authorization amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield myself 2 minutes.

Mr. President, I believe that the Senate is thoroughly apprised of the issues as voted, with considered judgment, on three phases of the issues. I will be prepared to yield back my time after these 2 minutes, when the other side is ready to do the same, so that we may wind up this phase of the debate.

Mr. President, I wish to make this statement, however, which I think is important, notwithstanding that not many Senators are in the Chamber. As a Senate conferee, I would feel it my duty to do everything I could to sustain the position of the Senate. I wish to make that very clear.

The Scott-Mansfield amendment, in my judgment, makes material suggestions for the exercise of the authority or power of the courts to deal with desegregation through any form of busing. The most important suggestion, aside from a stay for 16 months where more than one educational district is involved, comes in the proposal that courts and HEW should take into account the impingement upon the educational opportunity of the receiving school or receiving students, as well as impingement upon the educational process of the bused student, in fashioning desegregation plans. This, I think, is critical; and as the days go on and we see this work out in practice, we will find that it is critical and that this was a real compromise.

I wish to assure the Senate that, as a conferee, I shall take that most seriously and exercise my duties with fidelity to the expression of the will of the Senate.

Second, I hope that, having settled this questions as we have, with a very gifted unanimous-consent agreement as worked out by Senator MANSFIELD with a great many of us last Friday afternoon, we may now go on to consider the other educational issues. This is an enormous bill—$22 billion in 3 years. It has the capacity for materially changing, in a very constructive direction, the higher educational system of America. It relates, also, to very important aspects of the elementary and secondary education system. It is almost a bill of rights for the vocational education system which is so critical to the country.

I hope very much that, having cast our votes and having given our decision on this controversial busing question, we may now go on to give consideration to this toweringly important bill in the field in which it really is mainly operative—to wit, the higher education field.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MONDALE. In a remarkable speech the other day, the Governor of Florida, in the course of discussing this explosive issue, commented upon the cost of these racial disputes in terms of diverting American attention from the real issues which face American life. I think this debate underscores the cost of this kind of racial tension in America.

Here we have a bill which covers 754 pages. It affects profound questions of higher education, of vocational education. It establishes a long overdue National Foundation for Postsecondary Education, and a National Institute of Education. It deals with Indian education. As the Senator from New York knows, for 4 or 5 years now, those of us who once served on the Kennedy Special Subcommittee on Indian Education have tried desperately to implement the recommendations which we agreed upon unanimously in its report. In many other ways we have labored here to adopt perhaps the most sweeping, important changes in education that Congress has dealt with in many, many years. Yet, practically all the debate surrounds the question of whether the courts shall continue to have jurisdiction to eliminate discrimination.

I would suggest that when this debate is over we will find it has been a prime example of the cost of racism in America in terms of displacing rational discussions of our real problems. Would the Senator from New York agree?

Mr. JAVITS. I thoroughly agree with the Senator. That was the reason why I said what I did, and I certainly associate myself with the Senator's remarks.

I would issue this word of caution. As we have seen, this is a complex issue, whether we wished it on ourselves or not, and it involves a very serious element of social stability in our country.

Therefore, while I deplore efforts to impede desegregation, and while I feel we should be spending our time on matters far more pertinent to the issue than the one we have decided and redecided, I am perfectly prepared to meet it with the same spirit and the same conviction and the same vigor that those on the other side have displayed and that we must display if we are to be successful.

I said what I did—I explain to my colleague, as he also will be a conferee—because I feel that the Scott-Mansfield amendment is really a genuine compromise; and I was simply committing myself, as is my duty as a Senator, in good faith seeking to see that it prevails in conference so that no one will think this is a facade, a way to get rid of the busing issue and adopt an unrestrained advocacy of busing. I pledge to do my utmost to win with the Mansfield-Scott compromise, assuming, as seems to be the case, that that will be the will of the Senate.

Mr. ALLEN. Mr. President, I yield the remainder of my time to the distinguished Senator from North Carolina (Mr. Ervin).

The PRESIDING OFFICER (Mr. Tunney). The Senator from North Carolina is recognized.

Mr. COOPER. Mr. President, will the Senator yield me 2 minutes?

Mr. JAVITS. Mr. President, I will be glad to yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Chair has already recognized the Senator from North Carolina.

Mr. ALLEN. Mr. President, I yielded the remainder of my time to the Senator from North Carolina and he has just been recognized.

Mr. ERVIN. Mr. President, the Scott-Mansfield amendment reminds me of a story about a cemetery in my home county. The habit was, each year, to call the people who had relatives, or friends, buried in the cemetery, to meet there on a certain day in order to remove the weeds and the briars from the graves.

On one occasion, a man like myself, who was opposed to physical labor, hired a boy named George to go along with him to do his part of the work in the cemetery.

George was pulling weeds and briars from a grave when he suddenly burst into laughter. His employer asked, "George, what are you laughing at?" George said, "I am laughing at them funny words writ on this here tombstone."

George's employer said, "I don't see anything funny about those words on that tombstone."

George said, "Just read it. It says, 'Not dead, but sleeping.' "

His employer said, "Well, what's funny about that, George?"

George said, "He ain't fooling nobody but himself." [Laughter.]

Mr. President, the proponents of the Scott-Mansfield amendment, or the Mansfield-Scott amendment, whatever its nomenclature, "ain't fooling nobody but themselves."

The people of the United States have enough intelligence to know that the first section of the amendment, which merely provides that we cannot use Federal funds to desegregate schools without those funds being accepted by local authorities, has always been the law and it will always be the law as long as the Federal Government and the State governments constitute separate governmental entities.

The first portion of the second section merely reaffirms the fact that the Federal court can order desegregation whenever it is adjudged there has been discrimination under the 14th amendment as now interpreted.

The second portion of the second section merely takes out some indefinite and vague language used in the Swann case and uses it as a limitation on the power to bus. The language is about as nebulous as the supposed stars in the Milky Way.

The third section of the Scott-Mansfield amendment merely applies to the case involving the city of Richmond, and the counties of Chesterfield and Henrico in Virginia. It stays the judgment until the 30th of June 1973. That judgment has already been stayed by the circuit court of appeals. The 30th of June 1973 will pass into history before that case can possibly reach the Supreme Court.

So I say to the proponents of the Scott-Mansfield amendment, or the Mansfield-Scott amendment, who actually think it does something, that they "ain't fooling nobody but themselves."

If they will just stop and read the amendment, they will no longer even be fooling themselves.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 3 minutes.

Mr. COOPER. Mr. President, I thank the Senator from New York for yielding me this time.

Mr. President, I voted against the amendment offered by the distinguished Senator from Michigan; first, because I doubt very much that we can by statute limit the constitutional authority of the courts. Second, because I view it as an amendment which is retrograde in the field of school desegregation.

I know that the Senator from Montana (Mr. Mansfield) and the Senator from Pennsylvania (Mr. Scott) can be relied on for their conscientious purpose in this matter, as can my friend the Senator from New York (Mr. Javits). They propose to reach a compromise in the Scott-Mansfield amendment. But the amendment has to be something. It must either favor busing or be antibusing, or slightly inhibit busing.

I do not think, whether it is intended or not, that we can have it both ways.

I shall vote against the amendment. I do not think in any way that it affects the de facto segregation of schools. Clause 2, section (a), refers to actions brought for school desegregation, which are based on the action of the State termed "de jure" segregation. I do not think that either clause of section (a) has any effect. I do not think the amendment as a whole has any effect except to inhibit school desegregation, which I explained earlier in this debate. While there is much talk of compromise, it has been analyzed effectively and fairly by the Senator from New York (Mr. Javits). I am rather surprised that both the Washington Post and the New York Times refer to it as a great compromise while denouncing, and I think correctly, the Griffin amendment as retrogressive in school desegregation. This amendment is also retrogressive if it means anything at all.

I shall vote against the amendment.

Mr. RIBICOFF. Mr. President, I am in complete agreement with the comments of my distinguished colleague from Kentucky. I shall join him in voting "nay."

Mr. JAVITS. Mr. President, I am prepared to yield back my time if the Senator from Alabama is.

Mr. ERVIN. All time has expired on our time.

Mr. JAVITS. Mr. President, if there are no other requests to speak, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Tunney). All time on this amendment has now been yielded back.

The question recurs on agreeing to the Allen amendment as amended.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. COTTON (after having voted in

the negative). On this vote I have a pair with my colleague, the Senator from New Hampshire (Mr. McINTYRE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from New Hampshire (Mr. McINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 66, nays 29, as follows:

[No. 68 Leg.]

YEAS—66

Aiken
Allott
Anderson
Bayh
Beall
Bellmon
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cook
Cranston
Curtis
Dole
Dominick
Eagleton
Fong
Fulbright
Gravel
Harris
Hart
Hatfield
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—29

Allen
Baker
Bennett
Bentsen
Brock
Byrd, Va.
Chiles
Cooper
Eastland
Ellender
Ervin
Fannin
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Jordan, N.C.
Long
McClellan
Ribicoff
Smith
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cotton, against.

NOT VOTING—4

Hartke
Jackson
McIntyre
Mundt

So Mr. ALLEN's amendment, as amended, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GAMBRELL. Mr. President, I supported the Bayh amendment No. 874 adopted by the Senate yesterday to the higher education bill which calls for an end to sex discrimination in education.

In my study of the proposed equal rights amendment to the Constitution, I have become aware that women are often subjected to discrimination in employment and remuneration in the field of education. This is intolerable, and I welcome adoption of the Bayh amendment which attempts to rectify this problem. I also welcome the opportunity to support legislation which will assure women equal access to all levels of education, undergraduate, graduate, professional, and vocational.

Direct legislation such as this amendment seems to me to be the most effective way to deal with the problems of sex discrimination. Most of the discrimination against women which has brought about the equal rights movement can be eliminated by application of the 14th amendment, coupled with such specific legislation as this amendment to the higher education bill.

I cannot foresee all of the consequences of adopting the proposed equal rights amendment to the Constitution, and I am concerned that such a constitutional amendment may prohibit recognition of differences between men and women which elevate the status of women. This problem may be avoided by attacking discrimination with specific legislation aimed at specific problems.

Discrimination against women should be ended, and I will certainly support appropriate legislation. I am pleased, therefore, that amendment No. 874 was adopted by the Senate yesterday.

## MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 1824. An act for the relief of Clinton M. Hoose;

H.R. 2828. An act for the relief of Mrs. Rose Scanio;

H.R. 2846. An act for the relief of Roy E. Carroll;

H.R. 4497. An act for the relief of Lloyd B. Earle;

H.R. 4779. An act for the relief of Nina Daniel;

H.R. 6291. An act to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets numbered 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes;

H.R. 6998. An act for the relief of Salman M. Hilmy; and

H.R. 7871. An act for the relief of Robert J. Beas.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

Mr. CHILES. Mr. President, I send to the desk an amendment and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 707, between lines 18 and 19, insert the following new paragraph (4), and renumber succeeding paragraphs:

"(4) Applications for waiver shall be granted by the Secretary upon determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that such activities will not reoccur".

On page 707, line 22 strike out all after the period through line 25.

On page 704, line 13, strike out the word "nonpublic" and insert in lieu thereof: "transferee which it knew or reasonably should have known to be a nonpublic".

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. MANSFIELD. Mr. President, it is my understanding that this amendment may well be accepted by the committee. If it is, it will not take long. After that the Senator from Connecticut (Mr. RIBICOFF) will offer an amendment. When that is done it is the anticipation of the leadership that a request will be made that the Senate stand in recess until 2 o'clock for the purpose of allowing the Republican Members of the Senate to conclude their policy meeting.

Mr. CHILES. Mr. President, there is very harsh language in the act which provides that if any school district makes a sale of any equipment of whatever value, and that equipment finds its way into the hands of what turns out to be a segregated school, the district that made that sale cannot obtain additional funds for desegregation and, in fact, could be required to pay back any moneys they have received.

Obviously, the intent of Congress was not to apply this kind of harsh treatment. The intent was to prevent a school district from doing through the back door what it could not do through the front door, and that is to set up segregated schools and get rid of all their equipment and property and give it to a segregated school system.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. JAVITS. Mr. President, I have read the amendment. I appreciate the particular problem which the Senator has outlined.

I would like to make this suggestion to the Senator, which I ask that he consider. I suggest that he substitute for the words "such activities" the words "the activities prohibited in subsection (d)."

If he would do that it would result in encompassing all the various precautions which were taken in the bill directed toward the same problem, including the particular kind of transfer in question.

If that would be satisfactory, although I have some doubt about using the word "shall" and making it mandatory, I will go along with the amendment.

This has been rather hastily considered by us and if it is necessary to define the amendment in conference we will do so but first consult with the Senator from Florida.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. MONDALE. Mr. President, I support the amendment of the Senator from Florida. The provision which the Senator seeks to modify is one which the Senator from New York (Mr. JAVITS) and I introduced in the original bill and it is designed to deal with the transfer or lease of public school property to racially discriminatory private schools. The provision prohibits funding—except where a waiver is granted by the Secretary of Health, Education, and Welfare—of school systems which engage in this practice. I think there is strong support for the provision. But a public school might sell surplus property without knowing its property is ending up in a segregated academy, and under circumstances when it could not know that would happen. The amendment of the Senator from Florida will assure that a harsher remedy than any of us intended is not included in these cases.

First, the amendment would modify the provision of the bill prohibiting aid to public school districts which give aid to segregated private schools except where waiver is granted, to make clear that the provision applies only where the school district knew or reasonably should have known that the transferee was a private school.

Second, the amendment would modify the civil rights safeguards section of the bill to require that waiver of violations be granted when the Secretary of Health, Education, and Welfare determines that the discriminatory activity resulting in ineligibility has ceased to exist and that the applicant school district did not engage in discriminatory activities in the future.

I believe these modifications will strengthen the Senate bill and I thank the junior Senator from Florida for calling them to our attention.

Mr. President, I think the amendment of the Senator from Florida is an excellent amendment and I hope that the committee accepts it.

Mr. CHILES. I have no problems concerning the modification requested by the Senator from New York and I request that my amendment be so modified to state in the last line of the amendment the language suggested: any of the provisions of subsection (d).

I think the Senator from Minnesota placed his hand on the problem that, one, presently there is provision for a special waiver, by the Commissioner of Education in case he finds the transfer was inadvertently made, that there really was no prima facie intent on the part of the school board, and, two, it makes a provision for which there is no method or way of correcting. However, my amendment would loosen up this provision, and authorize the Secretary to grant a waiver upon determining that any practice resulting in ineligibility has ceased to exist. This amendment would allow a correction to be made, as is made under title VI of the act.

Further, it would provide that it has to be knowingly made or made with some kind of intent, because that was the purpose of Congress originally. I think this would take care of instances where the school board is doing a valuable job in trying to accomplish desegregation but because they sell some property at public auction or through clerical assistance a sale is inadvertently made by the school district, they find they are in danger of losing all funds and have to pay back funds under the program. That is not what Congress intended.

Mr. President, integration is working in Broward County Schools. A nationwide survey conducted by the U.S. Department of Health, Education, and Welfare shows that there is a significant lack of "white flight" in Broward County's public school system—a strong indication, I feel, that Broward has made great achievements in school integration. Ironically, however, HEW's Office of Education has suspended Broward's Emergency School Assistance program grant for 1971–72 and asked that the grant be terminated. The suspension of this grant is so outrageous an action, I feel I must recount here today the circumstances leading to it, the unusual procedures surrounding it, and the grossly unfair charges from which it stems.

On December 6, 1971, the superintendent of the Broward County Schools, Mr. Benjamin C. Willis, received a letter from Associate Commissioner for Equal Educational Opportunity, Herman R. Goldberg. In his letter Mr. Goldberg explained that the Broward school board had been awarded a grant of $1,737,000 on September 1, 1971 and in its application for the ESAP grant, the district had assured the Commissioner that it would comply with the regulations governing the program. Mr. Goldberg went on to cite two instances where the district failed to comply with the assurances required.

The first regulation assurance was the following:

> That in order to facilitate the administration of § 181.3(a) (4) such agency has fully disclosed in such application any transfer after May 27, 1968 of property or services to or for the benefit of a nonpublic school or school system (or a person intending to establish or operate a nonpublic school or school system), in which transfer it has engaged directly or indirectly; . . .

Mr. Goldberg stated that no transactions with nonpublic schools were listed in Broward's ESAP application. However, according to information the district made available during the recent review of the program, Broward was found to have transferred property in the amount of at least $50,174.69.

The second assurance made by Broward in applying for the 1971–72 grant was the following:

> That the local educational agency has assigned its full-time classroom teachers so that the ratio of minority to nonminority group classroom teachers in each school is substantially the same as the ratio that exists in the faculty of the system as a whole.

Further information submitted by the district indicated that it had failed to meet this requirement in its current faculty assignments.

Mr. Goldberg went on to state that during the 1970–71 year the district, under a $772,551 grant, transferred property to at least four nonpublic schools, which discriminate on the basis of race, color, or national origin. The specifics of these transactions are as follows:

1. Lakeview Christian School, 4200 North Australian Avenue, West Palm Beach, Florida; purchased desks for $108 on May 12, 1971.
2. Gold Coast Christian School, 2800 West Prospect Road, Fort Lauderdale, Florida; purchased desks, chairs, lockers, and other items in the total amount of $834.15 on November 20, 1970, May 12, 1971, and June 22, 1971.
3. Dade Christian School, 6601 Northwest 167th Street, Hialeah, Florida; purchased desks, chairs, science tables, drafting tables, record players, and other equipment in the total amount of $3,670.65 on October 20, 1970, November 9, 1970, and June 2, 1971.
4. Central Baptist Church, 1101 Southwest Second Court, Fort Lauderdale, Florida; purchased a bus for $800 on January 26, 1971.

Mr. Goldberg explained that the law requires that an ESAP applicant not engage in the type of transactions described in the letter. Each transaction cited, according to Mr. Goldberg rendered the district ineligible for ESAP assistance. Therefore, at a scheduled hearing, in addition to seeking an order of termination, Mr. Goldberg added he would ask the hearing examiner to determine that at the time the district applied for and received its 1971–72 ESAP grant, it was not eligible for such assistance, and that it is not now so eligible; to declare that 1971–72 grant to be void ab initio; and to order the district to repay all funds received under this grant to the Office of Education.

The Emergency School Assistance program (Public Law 91–380) was established to assist in the desegregation of local educational agencies. Broward, as a grant recipient, has done that, and is, in fact, doing it extraordinarily well. I have personally spoken with members of the Bi-Racial Committee and find they believe the Broward School Board is making progress toward desegregation—is not attempting to subvert the law or promote segregated schools and they further feel the loss of the grant will materially affect the progress of desegregation.

I ask for unanimous consent to insert a copy of the December 6, 1971, letter to Superintendent Willis from Mr. Goldberg; a copy of Mr. Willis' January 21, 1972, letter to me, and two statements: Implementation of unitary school system in Broward County, Fla., January 1970, to January 1972 and statement of enrollment by years.

The charges made by the Office of Education were "material misrepresentation" on applications for the grant. But I wonder where the real misrepresentation is. When the facts are presented, I believe it is strikingly evident that Broward's alleged violations are relatively minor and technical. And yet they are the sole grounds for suspension of a grant the termination of which would result in serious consequences for the children under the board of Broward County's supervision.

The transfer of property in the amount of $50,174.69 occurred between May 14, 1970, and July 26, 1971, to at least 25 nonpublic schools or churches which operated such schools. While it is true that none of these transactions with nonpublic schools were listed in the district's ESAP application, it is also true that the district was working under extreme time pressure. There were extremely brief time periods allotted to the district for preparation of the application, notification of regional meetings, time pressure for obtaining State approval, as well as board and citizens' group approval.

The second violation charge, concerning faculty ratios, can easily be explained. Due to a reduction of economic growth in Broward County, the school population growth decreased from an average of 6,000 per year to approximately 1,800 for the present school year of 1971-72. Subsequently, the Broward school system had to reduce the teacher allocation by 250 teachers. During this reduction, it had to reduce as much as possible where vacancies occurred, and these vacancies did not always occur in places where staff ratios needed to be maintained. The school board examined its ratios very carefully and found that with the transfer of 30-some teachers, it would be well above the Singleton case, which gives direction for staff integration. The board checked with the school board attorney, who, in turn, asked the presiding judge of the circuit court if he were interested in looking over its transfers and changes to meet the legal requirements. After hearing nothing from the court, the board assumed that what it is doing would be judiciously approved. At the preliminary hearing in Washington, it was indicated by the Office of Civil Rights that this particular item was curable. Since the board has taken steps to eliminate this complaint, it assumes this will no longer be an issue.

As to the specific transfers of property cited under the 1970-71 grant, two of these were to schools operating under IRS tax exemptions, a status which requires that participating schools not discriminate in their admissions policy. The third instance was to a church that purchased a school bus for church use only and the fourth sale and alleged violation occurred when a minister bought $108 worth of surplus desks and used an address which was later determined to be for a Baptist day school.

I think it is clear from these examples that in a school program the size of Broward's the alleged violations were of a technical and completely inadvertent nature or occurred so far down the administrative level that it went completely undetected by the board or its administrators until a party or parties made a point of bringing it to the Office of Education's attention.

I want to point out that when these "violations" were brought to the attention of the Office of Education and when program auditors were sent to Broward to look into this matter, the board and its administration were completely cooperative and earnestly asked these people, their regional and national administrators and other appropriate parties, to help the board correct any errors. I know Broward officials handed over records, completely opened up their files to HEW officials. Broward was obviously not trying to hide anything, but was being completely open, sharing their records and fully cooperating. It is understandable that the result has been one of nearly complete frustration for the Broward board.

Application requirements for an ESAP grant are extraordinarily vague. Just how far should any agency charged with education and not investigation check into the sale or resale of surplus property when any third party or straw man can buy equipment and ultimately dispose of it as he chooses? This is a problem many school districts are grappling with presently.

It seems to me the suspension of the grant is punitive in nature and does not get at the intent and purpose for which Congress authorized and appropriated the ESAP. There have been no major problems in school integration and its application in Broward. The board has been a frontrunner among the school systems in the country in cooperating with the courts. It has, in my opinion, literally leaned over backward to correct the wrongdoing, where and if there was wrongdoing, and has actively requested assistance in amending the Broward application of the ESAP grant—an effort which has been met with indifference by HEW officials who I believe ought to be cooperating in helping Broward to maintain their grant.

Mr. Goldberg in the same letter of December 6, 1971, stated:

> In your district's 1971-72 ESAP application, you listed no transactions with nonpublic schools and subscribed to the assurance set out in Section I of this letter, *knowing* (not underlined in the letter) as indicated by your own official records, that transactions with schools required to be listed in your district's application were not so listed.

Any omissions Broward made on its application were completely inadvertent and unintentional.

The hearing was held on this problem in Miami, on January 12, 1972. I attended the hearing because I wanted to determine if Broward County was in fact subverting the intent of Congress by obtaining Federal funds for the purpose of accelerating their desegregation programs and then trying to thwart desegregation by promoting the sale of school equipment to segregated schools. I found from the hearing and from all other information I could obtain that nothing could be further from the truth.

Broward County's problem may be one where the local school officials are guilty of a technical violation of an unreasonable rule. But the circumstances surrounding that violation must be considered, especially the fact that the county made a serious, concentrated effort to desegregate its schools; and that fact that the termination of a $1,700,000 HEW grant is a grossly disproportionate penalty for the minor infringements of the law Broward has been charged with. The penalty is simply not commensurate with the seriousness of the violation. I think the Office of Education is hitting a fly with a sledge hammer here. One of the reasons I feel the penalty is unduly harsh is because this program only began for 1970-71, and certainly there were many school districts which were in violation the first year just because the guidelines were not clearly established and explained. However, to punish the school district for the next year, 1971-72, for a minor violation or infraction seems to be going too far.

I believe the law was written to encourage local school districts to desegregate and at the same time to prevent abuses such as turning over public school buildings and other property to nonpublic schools practicing discrimination. It was presumed that reasonable regulations would follow this policy mandate, but the agency seems to be using an extremely broad interpretation of the congressional mandate.

In a March 1971 GAO report, the General Accounting Office criticized HEW for lax procedures in approving grants. It said in many cases under last year's grants, 1970-71, local school districts did not submit proper applications and HEW regional offices did not make accurate and proper determinations that grant applications were accurate, and that they were in line with the law.

GAO recommended that: First, regional officials should make a more thorough review of each application; second, information in applications be made a matter of record; and, third, that an effective monitoring system be provided for, to insure that grand funds made available to the school districts be used for the purposes specified in their applications, and the school districts comply with HEW regulations on nondiscrimination as well as with the other assurances given in their applications.

In a follow-up report by GAO entitled, "Weaknesses in School Districts' Implementation of the Emergency School Assistance" program, GAO concluded that:

> In many cases school districts were not complying with the HEW regulations and the assurances given in their applications. Although some of these cases did not affect the conduct of the school districts' program activities adversely, GAO's review indicates a need for HEW to strengthen its monitoring of projects under the program (p. 1.).
>
> One school district had leased a school building for $500 a year to a private school for white students only, without reporting the transaction to HEW as required (p. 2).

The report further stated:

> Most of the school districts did not fully comply with one or more of the assurances given in their ESAP applications or with certain ESAP regulation requirements pertaining to (1) formation and functioning of biracial and student advisory committees, (2) transfers of property to nonpublic schools practicing racial discrimination, and (3) publication of ESAP project terms and provisions (p. 26).

It goes on to say:

> At the time of our visits, none of the 13 school districts had fully complied with one or more of the assurances given in their ESAP applications or with certain ESAP regulations requirements pertaining to (1) assignment of teachers and staff, (2) transfer of property to nonpublic schools practicing racial discrimination, (3) supplanting of non-federal funds, (4) formation and use of biracial and student advisory committees, and (5) publi-

> cation of ESAP project terms and provisions (p. 50).

I am citing these statements made by GAO to illustrate the fact that violations of the type ascribed to Broward are not attributable to Broward County alone. As the GAO report points out:

> The weaknesses in project implementation were attributable, to a high degree, to the emergency nature of the program and to its need for expeditous planning, funding, and implementation. The lack of an effective HEW regional office monitoring system also contributed to the weaknesses in project implementation. (P. 2-3).

To that I might also add the lack of effective cooperation on the part of HEW officials with the local school district officials who extend every possible effort to correct the errors and cure the ills is also cause for weakness in project implementation.

### CONCLUSION

HEW itself said last January that, by some yardsticks at least, the South's schools had become less segregated than the rest of the country's. And yet, in the case of Boston, it was a full 16 months after Senator McClellan's comment during hearings before the Select Committee on Equal Educational Opportunity had caused an HEW investigation of that city's schools, that the Department finally "issued a warning," charging the city of Boston, December 1, 1971, with deliberately segregating black and white children in its schools and telling it to desegregate or forfeit its Federal funds. In the Berkeley system another violation of title VI of the Civil Rights Act of 1964 seems evident. As of today, the Federal Government has taken no action against a school system receiving a large amount of Federal money to run a Black house—a totally black school—in the district and a Brown house—for chicanos. Though the Berkeley school system has been touted as an integration model for the Nation, the Office of Education at the same time, through a multimillion dollar experimental school program, is actually funding programs which will decrease the amount of integration in the city. This may be described as bringing "research into the classroom" in some sections of the country—or as "resegregation" in other parts of the country.

In the case of Broward County we have a system that has made consistent, deliberate attempts to integrate. And because of alleged minor violations of the law it has had its grant suspended. While in the city of Boston, whose own State Board of Education has withheld $14 million of the city's State school funds because the city has failed to comply with the State's racial imbalance law, the Federal Government weakly issues a "warning." And in Berkeley, schools which have the effect of really "resegregating" an area held up for all the Nation to see as the pinnacle of integration success, are sanctioned by the Federal Government, recipients of grants from the U.S. Office of Education.

I think the Department of Health, Education, and Welfare would be much wiser to spend public tax money correcting gross abuses and flagrant violations of the law. Is the Office of Education making congressional policy work? Under their interpretation of the law, they would disqualify Broward County for the entire amount of their 1971–72 grant and require repayment based on relatively minor infractions—withholding badly needed funds for carrying out desegregation which is working well. The community and the school board are obviously trying hard to obey the law of the land, admittedly with a few minor misunderstandings. But any violations they are guilty of are obviously inadvertent, minor, technical, and brought upon because of strict time limitations for submission of applications and various approvals, and vagueness in the language of grant requirements. The Office of Education is using a broad interpretation of the law and narrowly applying its interpretation to gut the entire desegregation program in Broward.

President Nixon has said many times that he is in favor of local control of public schools, but while he speaks, his agency, HEW, through the narrowest interpretation of the law is acting contrary to the intent of the Congress.

I believe this interpretation to be unfair, the penalty unjust, and the Office of Education guilty of thwarting the congressional intent of Public Law 91–380 to assist local educational agencies to desegregate.

Mr. President, I ask unanimous consent to have printed in the Record a letter from the Superintendent of Schools of Broward County, Fla., together with the enclosures therein referred to.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE SCHOOL BOARD OF
BROWARD COUNTY, FLA.,
*January 21, 1972.*

Hon. Lawton Chiles,
*U.S. Senate, Senate Office Building, Washington, D.C.*

Attention: Mr. George Patton.

Dear Mr. Patton: It was good of you to telephone me this morning.

I am sending you, herewith, two statements:

1. Implementation of Unitary School System in Broward County, Florida, January, 1970, to January, 1972. (39 pages) Please note table of contents.

2. Statement of enrollment by years, using the 80th day of each of the years, that is, the end of the 4th month. Please note the information at the bottom of the page.

You will note we were advised on July 26, 1971, of the eligibility of this school system for Priority I consideration of ESAP funds. This was also the notification of a meeting to be held in Atlanta July 28, 1971, to discuss important concerns with respect to applications. The applicants were advised at this meeting that in order to be considered with the first group, an application must be received in Atlanta by August 13, 1971. Between July 28, 1971, and August 13, 1971, this school system was involved in the following:

1. Preparing application.

2. Securing the biracial committee approval, done August 3, 1971.

3. Securing Board approval, done August 10, 1971.

4. Securing approval of the State Commissioner of Education and Governor, done August 11, 1971. (On this date we were advised by the Office of Education officials that we could or should carry forward the program from the preceding year, and that it should be included with this new project instead of being handled as a separate project.)

5. Project reviewed, revised, rewritten and delivered in Atlanta August 13, 1971.

6. Broward County was advised $1,737,000 of our application in the amount of $7.9 million had been approved on August 30, 1971.

We proceeded, with all dispatch, to implement the program as planned. We received notice a Review Team consisting of officials from Atlanta and the Washington Office of Health, Education and Welfare would be here on November 8, 1971. Accompanying the group was an observer from the State Superintendent of Schools' Office. Their mission was to make an audit of the ESAP grant.

On December 6, 1971, Broward County was notified that ESAP funds were being suspended because of violations of assurances.

Two important items had influenced this. One the percentage of teachers, black and white, in relation to estimates given in the application. In the period of time from July 1, 1971, to August 31, 1971, staff members were constantly on leave, schools were closed, principals available only a very limited part of this time. This made it very difficult to keep to the tough schedule.

The second point about which considerable statements were made related to the sale of surplus school property. These were trivial, to say the least, whether looking at them from the standpoint of dollars involved, the relationship of these items to the objective of the school system in carrying forward an integration program which began in earnest in the School Year 1970–71. It has continued this year.

*I challenge anyone to find a more effective, a more complete, program of integration for senior high and/or middle schools in any school district in America that has a similar percentage of black and white as are in this school district; referring, of course, to the large school districts.*

No one can understand how such action, including the arrogant language used by Associate Commissioner of Education, Herman Goldberg, in announcing the suspension. It is unbelieveable that any officials of the United States Government, or through any staff members, would tolerate such procedure in such manner as has this school district been exposed.

Additional materials will be sent you. Will you please advise what would be most helpful? We are interested and determined that the situation in Broward County will be understood by any and all people throughout this country. We are determined to make it known exactly, make it known through the record established at the Administrative Hearing, exactly what has happened.

*This school system has not endeavored, permitted, or thought about assistance to any private school, at any time, for any purpose whatsoever, except as was provided for by the law of the land.* I refer to Title II, Library Materials.

Again, may I thank you, as I have already done the Senator in a note to him, for the courtesies extended Dr. McFatter and me. We stand ready to visit with you, to visit with anyone, appear before any committee, to challenge the Office of Education, the Department of Health, Education, and Welfare, any and all others with respect to this unrealistic procedure.

Sincerely yours,
Benjamin C. Willis,
*Superintendent of Schools.*

THE SCHOOL BOARD OF BROWARD COUNTY, FLA.

TOTAL ENROLLMENT, KINDERGARTEN, ELEMENTARY, MIDDLE SCHOOL, SENIOR HIGH SCHOOL, SPECIAL EDUCATION—1971–72

[By years, using 80th day to end of 4th month]

| | 1958–59 | 1959–60 | 1960–61 | 1961–62 | 1962–63 | 1963–64 | 1964–65 | 1965–66 | 1966–67 | 1967–68 | 1968–69 | 1969–70 | 1970–71 | 1971–72 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Grades:[1] | | | | | | | | | | | | | | |
| Kindergarten | | | | | | | | | | | 0 | 504 | 1,839 | 5,000 |
| 1 to 6 | 31,376 | 34,795 | 37,854 | 39,469 | 41,423 | 43,507 | 45,767 | 48,130 | 50,104 | 53,202 | 55,728 | 58,559 | 53,460 | 51,469 |
| 6 to 8 | | | | | | | | | | | 1,918 | 5,706 | 28,340 | 30,307 |
| 7 to 9 | 11,917 | 14,024 | 15,963 | 17,365 | 18,061 | 19,258 | 20,742 | 21,991 | 23,076 | 24,545 | 25,106 | 24,681 | | |
| 9 to 12 | | | | | | | | | | | | | 33,083 | 35,778 |
| 10 to 12 | 7,924 | 8,990 | 9,853 | 10,949 | 12,875 | 14,490 | 15,641 | 16,385 | 17,579 | 18,929 | 20,311 | 21,876 | | |
| Special education | 243 | 327 | 332 | 373 | 395 | 446 | 320 | 314 | 428 | 505 | 985 | 1,252 | | |
| Special school | | | | | | | | | | | | | 864 | 9792 |
| Total | 51,460 | 58,136 | 64,002 | 68,156 | 72,754 | 77,721 | 82,470 | 86,820 | 91,187 | 97,181 | 104,048 | 112,578 | 117,586 | 123.53 |

[1] Grade groupings were different.

Notes: In the past 2 years, the enrollment has increased 10,955. In the past 5 years, the enrollment has increased 32,346. In the past 10 years, the enrollment has increased 55,377. The enrollment has literally doubled in 10 years, an average growth exceeding 5,500 per year.

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DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
*Washington, D.C., December 6, 1971.*

Mr. BENJAMIN C. WILLIS,
*Superintendent of Schools, School Board of Broward County, Fla., Fort Lauderdale, Fla.*

DEAR MR. WILLIS: On September 1, 1971, the School Board of Broward County, Florida, was awarded a grant of $1,737,000 under the Emergency School Assistance Program (Grant No. OEG-4-72-1101).

I.

In its application for ESAP assistance, dated August 10, 1971, your district assured the Commissioner of Education that it would comply with the regulations governing the program. Included in the assurances made by your district was the following:

"That in order to facilitate the administration of § 181.3(a)(4) such agency has fully disclosed in such application any transfer after May 27, 1968 of property or services to or for the benefit of a nonpublic school or school system (or a person intended to establish or operate a nonpublic school or school system), in which transfer it has engaged directly or indirectly; . . ."

This assurance is required by 45 CFR § 181.6(a)(4)(iv)(a) of the ESAP regulations and by Public Law 91-380, which contained the original appropriation for ESAP.

No transactions with nonpublic schools were listed in your district's ESAP application. However, according to information made available during the recent review of your district's ESAP program, your district transferred property in the amount of at least $50,174.69 between May 14, 1970, and July 26, 1971, to at least 25 nonpublic schools or churches which operated such schools. Therefore, your district has failed to comply with the above assurance.

II.

In its application for ESAP assistance for 1971-72, your district also made the following assurance:

"That the local educational agency has assigned its full-time classroom teachers so that the ratio of minority to nonminority group classroom teachers in each school is substantially the same as the ratio that exists in the faculty of the system as a whole."

This assurance is required by 45 CFR § 181.6(a)(4)(vi) of the ESAP regulations.

Information your district has submitted to this Department on your district's School Summary Report (Form OS/CR 101-1) and Individual Campus Report (Form OS/CR 102-1), as well as information provided during an on-site review of your district's ESAP program, indicates that the district has failed to meet the above requirement in its current faculty assignments.

III.

In view of the failure of your district to comply with the assurances as to listing property transferred to nonpublic schools or school systems (45 CFR § 181.6(a)(4)(iv)) and assignment of faculty (45 CFR § 181.6(a)(4)(vi)), I am required to inform you, pursuant to 45 CFR § 181.15, that the above described grant is subject to termination, upon completion of the hearings procedure outlined below.

IV.

With regard to eligibility for ESAP assistance, the ESAP regulations, in 45 CFR § 181.3(a)(4), provide:

"A local educational agency shall be ineligible for such assistance if it has engaged directly or indirectly in a transfer of property or services to or for the benefit of a nonpublic school or school system which practices discrimination on the basis of race, color, or national origin (or a person intending to establish or operate such a school or school system) . . . (ii) where such transfer was by a local educational agency which had applied for and received assistance under the program prior to July 1, 1971."

This regulation is required by Public Law 91-380, which contained the original appropriation for ESAP.

Your district was awarded a 1970-71 ESAP grant on October 6, 1970, in the amount of $772,551 (Grant No. OEG-4-71-0604). Information provided by your district indicates that since October 6, 1970, your district has transferred property to at least four nonpublic schools which discriminate on the basis of race, color, or national origin. The names and addresses of these schools, the property transferred and the compensation received therefor, and the dates of these transactions are as follows:

1. Lakeview Christian School, 4200 North Australian Avenue, West Palm Beach, Florida; purchased desks for $108 on May 12, 1971.

2. Gold Coast Christian School, 2800 West Prospect Road, Fort Lauderdale, Florida; purchased desks, chairs, lockers, and other items in the total amount of $834.15 on November 20, 1970, May 12, 1971, and June 22, 1971.

3. Dade Christian School, 6601 Northwest 167th Street, Hialeah, Florida; purchased desks, chairs, science tables, drafting tables, record players, and other equipment in the total amount of $3,670.65 on October 20, 1970, November 9, 1970, and June 2, 1971.

4. Central Baptist Church, 1101 Southwest Second Court, Fort Lauderdale, Florida; purchased a bus for $800 on January 26, 1971.

The above transactions, and each of them, render your district ineligible for ESAP assistance under the current program.

V.

Public Law 91-380, the statute governing the ESAP program, provides that no ESAP funds may be used to assist a local educational agency which engages, or has unlawfully engaged in, the gift, lease or sale of real or personal property or services to a nonpublic elementary or secondary school or school system practicing discrimination on the basis of race, color, or national origin. . . .

Under this statute and 45 CFR § 181.3(a)(4), above, the requirement that an ESAP applicant not engage in the type of transactions described above is a basic condition of eligibility, the breach of which makes the applicant ineligible for any assistance under the program. Therefore, at the hearing described below, in addition to seeking an order of termination, we will ask the Hearing Examiner to determine that at the time your district applied for and received its 1971-72 ESAP grant, it was not eligible for such assistance, and that it is not now so eligible; to declare said grant to be void ab initio; and to order your district to repay all funds received under said grant to the Office of Education.

VI.

In considering an application for ESAP assistance, the Commissioner must rely upon the information submitted by an applicant school district in order to make a determination as to the district's eligibility for assistance. In your district's 1971-72 ESAP application, you listed no transactions with nonpublic schools and subscribed to the assurance set out in Section I of this letter, knowing, as indicated by your own official records, that transactions with schools required to be listed in your district's application were not so listed. The Commissioner relied upon this assurance, and the representations (or absence of same) made in connection therewith, in approving your district's ESAP application. Therefore, at the hearing described below, we will also ask the Hearing Examiner to determine that your district's 1971-72 ESAP grant was obtained by a material misrepresentation of fact upon which the Commissioner relied; to declare said grant to be void *ab initio*; and to order your district to repay all funds received under said grant to the Office of Education.

VII.

Under 45 CFR § 181.15 of the ESAP regulations, you are entitled to an opportunity for a hearing on the matters set out in Sections I through VI, above. This hearing will be scheduled at 10 a.m., Tuesday, January 4, 1972, in Miami, Florida. You will be advised shortly of the exact location.

If you intend to appear at this hearing, please so inform me in writing within ten days of the date of this letter, by indicating such intention to: Dr. Herman R. Goldberg, Associate Commissioner, Equal Educational Opportunity, Room 4153, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

The hearing on this matter will be conducted pursuant to the provisions of the Administrative Procedure Act (5 U.S.C. Sections 554-557). Proposed findings of fact, conclusions of law, and briefs will be submitted to the presiding officer within 20 days of the conclusion of the hearing. The initial decision of the Hearing Examiner will become the final decision of the Commissioner of Education without further proceedings, unless a request for review of the initial decision, together with briefs and any other supporting materials, is received by the Commissioner within 15 days after receipt of the initial decision. Your district, of course, has the right to be represented by counsel in these proceedings.

### VIII.

In view of the serious and substantial questions concerning your district's compliance with the ESAP assurances and its eligibility for assistance under the ESAP program, I have determined, pursuant to 45 CFR § 181.15(a)(1) and (2), that your district's 1971–72 ESAP grant should be suspended during the pendency of the termination proceeding described above, and it is hereby suspended, effective three days from the date of this letter.

Any new expenditures or obligations made or incurred in connection with your district's ESAP program during the period of this suspension will not be recognized by the Government in the event assistance is ultimately terminated. Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with your approved program or project, and not in anticipation of suspension or termination, shall not be considered new expenditures. (If your district's ESAP grant is declared void *ab initio*, no obligations incurred in connection with the grant will be recognized.)

Under 45 CFR § 181.15(b)(1), you may request an opportunity to show cause why this suspension of assistance should not be imposed. An informal meeting will be held for such purpose within seven days of receipt of such a request. Such request must be submitted to me in writing within ten days of the date of this letter.

Sincerely,  
**Herman R. Goldberg,**  
*Associate Commissioner,*  
*Equal Educational Opportunity.*

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## Emergency School Assistance Program and the Implementation of a Unitary School System in Broward County, Fla.

The evolvement of a unitary school system in Broward County, Florida has been an orderly and planned process for many years.

### ASSIGNMENT AND REASSIGNMENT PLAN

Between September 1962, and September 1970, Broward County operated on an assignment-reassignment plan under the Federal District Court in Miami. A pupil had the right to request transfer to a school outside his boundary, and to have that request considered without regard to race. Under this plan many black children were reassigned to predominately white schools; however, because most schools are annually projected beyond capacity, other black children could not be reassigned to formerly white schools. In some cases reassignments were made to schools beyond capacity solely in order to grant a majority of minority requests.

### "CITIZENS' REPORT TO THE BOARD OF PUBLIC INSTRUCTION"

The report had its inception in the appointment of a Steering Committee to make preliminary plans for selecting a lay citizen committee to help develop a quality education program for Broward County. In his communication to the Committee dated November 25, 1964, Superintendent Dr. Myron L. Ashmore, called special attention to the following items that should be agreed upon:

1. Develop objectives for the Committee.
2. Establish guidelines for operating.
3. Determine methods of selection and areas of representation.
4. Establish a time schedule.

After full discussion of these items by the Committee on December 14, 1964, they presented their findings as follows:

1. Develop objectives for the lay citizen committee.

a. Indicate the true feelings of the community towards the current education program being offered by the Broward County Public School System.

b. Determine the Committees' impressions of what the community wants and expects from its education program.

c. Study the quality education factors developed by the quality education committee, and to react to those factors.

d. Report to the Broward County Board of Public Instruction and Superintendent their recommendations as to a quality education program of which they believe the community should be aware and should support. Such report should contain a close look at what the quality educations factors will do not only for the children of the community, but for the business and industry of the community, and for the total Broward County population as a whole.

2. Establish operating guidelines for the lay citizen committee.

a. It was the consensus of the committee that the first guideline for the lay citizen committee should be that it be appointed officially by the Broward County Board of Public Instruction and the Superintendent in January in order to give it an official status which could be publicized to the community.

b. The lay citizen committee should organize itself into a workable group and subgroups for the purposes of studying the various factors which make up a quality education program.

c. The lay citizen committee should then collect data from the school system and from the community as needed for the study. Data from the school system should be made available and coordinated through one office rather than have each committee or subcommittee going from one office to another to collect its data.

d. The lay citizen committee in conjunction with the school officials should establish a calendar for its work and study.

e. A deadline should be placed upon its work schedule and for its report to the Broward County Board of Public Instruction and Superintendent.

3. Determine methods of selection and areas of representation.

The consensus was that the following should be considered for representation on the lay citizen committee:

a. There should be representation from all major geographic areas of Broward County.

b. There should be representation from various ethnic groups within the County.

c. The major chambers of commerce should have representation on this committee.

d. Other groups which should be represented should be from the following groups: Business and Industry, Banking and Investments.

Professional Groups: Broward County Medical Association, Broward County Bar Association.

Civic Groups: Church Representation, DAR, Broward County League of Women Voters, Fort Lauderdale Junior League, Broward County PTA Council.

To facilitate the work of the 77 member committee, it was agreed that a sub-committee for each of seven areas of interest should be formed. They were:

1. Administration and Supervision Committee
2. Auxiliary Services Committee
3. Finance Committee
4. Instructional Personnel Committee
5. Philosophy Committee
6. Plant Facilities Committee
7. Program of Instruction Committee

It was felt desirable to secure the services of a number of consultants, one in each of the seven fields that had been selected for study. After the work of the sub-committees had been under way for some time, one consultant was secured for each sub-committee. The consultants were to serve as resource persons and in an advisory relationship to the chairmen of the sub-committees.

### PROCEDURE FOR CONDUCTING THE STUDY

The committees studied various printed materials, including school faculty "self-study" reports, manuals, system-wide reports and bulletins, and various texts on education which present statements of goals and objectives. Conferences and/or interviews were held with members of the central office staff, representative elementary and secondary school principals, teachers, and a limited number of junior and senior high school students.

A questionnaire was mailed to 6,104 tax paying citizens of the county in an effort to secure their opinions about various aspects of education in the county. The sample of citizens to whom the questionnaire was mailed was determined by taking every twenty-first name on the official tax roll (excluding corporations, churches, businesses, etc.). The Data Processing Division of the county school system assisted the Committee in designing the questionnaire and tabulating the response.

Early in 1966 most of the sub-committees had completed much of their study and had prepared progress reports. After thorough review by the Steering Committee, it was deemed desirable to request competent assistance to review all reports and to make suggestions regarding the preparation of a comprehensive report of the entire Study. This course of action was agreed upon and the Board of Education contracted with Associated Consultants in Education, Tallahassee, Florida, to provide assistance to the Steering Committee in the preparation of the final report for presentation on June 13, 1967.

### SURVEY OF SCHOOL PLANTS

The Florida Statutes, 1967 Edition, require that school boards base school plant construction programs upon the findings and recommendations of a Survey of School Plants conducted cooperatively by the State Department of Education and the requesting school board.

Thus in November of 1967, the State and County School Boards conducted a cooperative school plant survey to update a 1965 survey.

The State Department of Education requested the educational staff of the county to assemble the following information for the survey staff:

1. Spot maps showing the residence of all elementary, middle, and high school students; the school attended by each pupil and the location of each school.
2. School membership trends of each school center for the past ten years.
3. An inventory and description of the facilities at each school center, including a floor plan of each building.
4. A list of the building projects under contract.
5. A statement of the policies of the board with respect to the types of sizes of facilities to be provided for new elementary; junior high, senior high, exceptional child and vocational schools. The State Department of Education assisted the county staff in developing the exceptional child program needs, and in developing the vocational education needs.
6. Information bearing on building costs, population trends, and similar matters.
7. A written description for each school center that provided for new construction and/or alterations since 1965, kindergarten rooms, a reduction in pupil capacity for elementary classroom and the utilization factor for secondary schools.

8. A distribution of the county-wide projection of pupil population (discussed on the following pages) among the various school centers on the basis of past trends and the best judgment as to where growth is most likely to occur.

9. Tentative recommendations for existing schools to meet level three accreditation standards and for proposed new school centers.

The survey was accepted by the Board as the school construction plan for the period from 1968 through 1973.

### BIENNIAL DISTRICT MILLAGE PROGRAM

As a direct result of the favorable acceptance by the people of Broward County of the recommendations of the Citizens Committee for Quality Education, in November, 1967, the people of Broward County authorized the following district millage for the 1967–69 biennium:

| | *Mills* |
|---|---|
| Operation | 3.78 |
| Building and Bus Reserve | 1.22 |

This program provided the following:

1. A reduction of the pupil-teacher allocation formula in the secondary schools from one teacher per 28.6 students to one teacher per 27.6 students.

2. A reduction of the pupil-teacher allocation formula in the secondary schools from 158 students per teacher to 150 students per teacher.

3. An increased instructional salary base from $5,650 in 1967–68 to $6,000 in 1968–69 and to $6,200 in 1969–70.

4. A increased noninstructional salary base of 5.7 percent.

5. An allocation of teacher aides in the elementary schools of one per twelve teachers.

6. Expansion of the guidance program in the secondary schools.

7. Additional professional services in the elementary school by supplementing one teacher's salary per school to assist in curriculum development.

8. Provide capital improvements for the biennium.

### THE SCHOOL CONSTRUCTION BOND

In March, 1968, just four months after the people had approved the biennial millage, they approved a $108 million school construction bond issue. The bond issue was twice as large as any bond issue ever proposed by any school system in Florida and three times as large as the largest bond issue ever passed in Florida. Passed by a 3 to 1 vote, it serves as the primary funding source for a $155 million five-year qualitative improvement program that runs through the 1972–73 school year.

The construction program was designed to provide the following:

1. Forty-five new schools.

2. Modernize and air-condition current schools.

3. Facilities for kindergarten.

4. Facilities for the exceptional child program.

5. Vocational-technical facilities.

6. Sufficient facilities to accommodate a pupil-teacher ratio of one teacher per 25 students in the elementary schools.

7. Reorganize the grade grouping of the school system into an elementary school (K to 5), middle school (6 to 8), and high school (9–12).

These two programs, the millage and the school construction programs, were planned to complement each other. That is, the millage program was designed as the first step in providing the increased operational costs built into the five-year qualitative improvement program. Full implementation of these plans would have made Broward County one of the top school systems in the Nation. Action by the 1968 Legislature that in effect nullified the voted millage and the 1969 Legislature in continuing the gap, aborted this possibility.

### A UNITARY SCHOOL SYSTEM

The county's efforts to promote desegregation of all its schools and insure the elimination of a dual school system had resulted in a partially rather than a fully desegregated school system according to the U.S. Department of Health, Education and Welfare. On September 18, 1969, a letter to the Superintendent of Broward County Public Schools, indicated that the school system was not in full compliance with Title VI of the Civil Rights Act of 1964 and requested that a plan for complete elimination of the dual school structure be submitted by February 1, 1970.

In developing plans to comply with the above directive, the school system requested the help of the Department of Education through its Technical Assistance Program. Additional assistance was the subject of discussion in a November 3, 1969 meeting with representatives from the Florida School Desegregation Consulting Center of the University of Miami.

A plan for a fully desegregated school system was prepared and approved by the Board on December 16, 1969. Subsequent revision of the plan by Atlanta office of the U.S. Department of Health, Education, and Welfare was not approved by the Board.

### COURT ORDER, APRIL 30, 1970

On January 22, 1970, the United States District Court for the Southern District of Florida, Miami Division, ordered the School Board of Broward County to file with the Court plans for a unitary school system. A plan was presented to the Court on February 16, 1970.

On April 3, 1970, the District Court issued a court order containing revisions in pupil counts, boundary changes, and other amendments. The School Board of Broward County complied with the order. In the late afternoon of April 30, 1970, the United States District Court ordered the implementation of the Unitary System as defined in the order.

The next day the School Board of Broward County, Florida appointed its fifth Superintendent within a three year period.

The tasks facing the new superintendent and the school system were tremendous. Though the court order specified that transfers of teachers, students, and equipment were not to be accomplished until after school was out in June, there was still uncertainty in the system, due to the reorganization of the county into five areas. The role of the area assistant superintendent and his staff were still being formulated.

The district was in its second year of transition from a junior high (7–9) to a middle school (6–8), and the associated trauma of the elementary being K–5, and the high school (9–12).

### STUDENT REASSIGNMENTS

The student transfer and the reorganization into a middle school grade structure which put four grades (9–12) in each high school, caused every high school to have two grades new to each high school. The tenth grade students, and the ninth grade students would both be new to the high school facility.

Then the reassignment of an estimated 23,000 students in accordance with the court orders further complicated the problems faced by student bodies. In other words nearly 20% of the students in the county would be facing the problem of adjusting to another school environment.

### TEACHER REASSIGNMENT

A plan for teacher reassignment was devised by a group selected by the Superintendent and under this plan 1,127 teachers were reassigned to new school centers. Principals cooperated with the Personnel Division in the selection of those persons reassigned so they would best fit the educational needs of the schools. For example, combinations were reassigned, insofar as possible, to other self-contained type centers.

Teachers with experience in individualized instructional programs were assigned to schools with similar programs wherever possible.

### ADMINISTRATIVE STAFFING

The addition of a black administrator to the staff of each secondary school made an important contribution to smooth operation of the secondary schools. With the black authority figure in the front office, the black students could and did relate, and their problems did not become incidents.

### SPECIAL PROGRAMS, MAY 7–SEPTEMBER 1, 1970

#### *Desegregation orientation plan*

Suggestions for the desegregation orientation program as a series of on going activities from May 1, to September 1, 1970 were obtained from the following:

1. The Civil Rights project conducted in Broward County in 1966–67.

2. The Ethnic Relations Committee appointed by the Superintendent.

3. The Area Assistant Superintendents.

4. Interested personnel chosen because of their experience in desegregated schools in Broward County.

5. Individuals who are interested and would like to be of assistance as needed.

The plan was based on the following assumptions:

1. As many school personnel as possible will be involved in the general orientation for desegregation; however, only those schools and facilities which are not currently desegregated, but are scheduled for desegregation in the plan, will be involved in the schedule to pair schools in areas and meet with experienced consultants from schools currently integrated.

The number of schools and teachers participating in the orientation program is shown below:

| Level: | Schools | Teachers |
|---|---|---|
| Elementary | 14 | 424 |
| Middle and Junior High | 12 | 617 |
| Senior High | 4 | 338 |
| Volunteers | -- | 100 |
| Total | 30 | 1,479 |

The orientatiton was begun with a county-wide television program conducted by the Superintendent and his staff. It was telecast into all schools. All members of the profession were given the opportunity to phone in their questions so that each person would understand the impact of the integration order on his particular situation.

#### *Seminar-workshops*

Inservice programs in the form of workshops were held for teachers who were transferred from familiar programs into others with which they had no familiarity, e.g., a teacher with self-contained classroom experience transferred to an individualized program was given the opportunity to learn some of the techniques to be expected of him in 1970–71.

Human relations specialists conducted special programs and prepared personnel for some of the problems of integration which they might encounter. Other human relations workshops were conductd for principals, assistant administrators, and guidance personnel to prepare them for the special problems they may have to deal with in the desegregation process.

#### *Intervisitation*

A program of school intervisitation based on a system of faculty exchange was conducted to allow teachers with little experience in integrated school settings to see, first hand, the operation of fully integrated schools.

### *Instructional materials*

Textbooks appropriate for the changed student body in newly integrated schools were supplied where possible by the Textbook Department and the supervisory staff working with school building principals.

The supervisor of Instructional Materials has conducted an analysis of school libraries to insure that adequate and appropriate materials were available for students in newly integrated schools.

### *Facilities and equipment*

Buildings and programs originally designed to accommodate one age group of students were made to accommodate new groupings of students. Furniture, equipment, library books and textbooks, materials and supplies were shifted from school to school in order to accommodate these new grade groupings and ages of students.

### *Maintain program*

Broward County has a totally accredited school system in grades 1–12. This accreditation is based on adequate program and building design, adequate equipment and materials, and adequate training of teachers. Implementation of the order required that standards be kept in mind at all times in order not to jeopardize the accreditation of the Broward County School System. Large student enrollments in the senior high schools and the result of double sessioning of these schools has required the addition of 30 school administrators to absorb the administrative load with this size program.

### *Student records*

The large number of students shifted and the tracking problem to insure their records followed them and required that administrators, guidance personnel, and secretaries be employed for an additional time during June and July of 1970.

### *Student health and safety*

A primary concern of school and community leaders alike, as they planned to implement District Court orders, was the health and safety of the thousands of children who would be required to travel greater distances or over new routes to get to school. Many special provisions have been made to guarantee their welfare: new streets and sidewalks were built, many walkways were extended, new signal lights were installed, adults were hired as crossing guards, needed school zones and markings were made, traffic control devices were obtained, security officers were assigned to some schools.

### *County and municipal concerns*

Civic leaders and school personnel worked diligently to build healthy attitudes within the school communities most severely affected by the new school attendance regulations. These efforts were aimed at several specific goals:

Allaying the fears of parents whose children would have to move from a familiar school to a new one.

Studying access routes to all schools to assure safety for children.

Building positive relationships between parents and new school faculty members.

Familiarizing students with the new schools they would be attending.

### *Student transportation*

School bus routes in Broward County which normally cover a total of 16,000 miles per day were substantially changed to accommodate new school boundaries included in the court order. An additional 5,500 miles per day and an increase of 4,000 transported students were a part of the implementation plans. In order to meet this new demand, the School System required 40 additional drivers. These drivers had to go through a minimum training program of 40 hours.

### THE FIFTH CIRCUIT COURT OF APPEAL ORDER

All of the community time, and all the preparation time which the school system spent in implementing the April order was decreed by the Fifth Circuit Court of Appeals in New Orleans as only the beginning of the effort to implement a unitary school system. On August 18, 1970, less than ten days before 110,000 children would be returning to Broward County schools, the Fifth Circuit Court issued an order of its own which eliminated the 14 all black schools remaining in the original court order. The Fifth Circuit Court in New Orleans used the technique of pairing and clustering the 14 black schools with 26 white schools, and further required the redistricting of one all black high school.

To many parents and citizens, this order was completely devastating. It was impossibly timed. It completely disregarded neighborhood schools, instructional programs, physical facilities, special exemplary Migrant Education programs, and finally, no concern for the logistics of moving the students, instructional equipment, and material.

The Broward County School System was instructed to present, on September 2, 1970 at the U.S. District Court in Miami, plans for implementing the Fifth Circuit Court Order.

In order to accomplish this the superintendent and county staff, assisted by four consultants from the State Department of Education worked long hours, Sunday and evenings. The implementation plan was presented to the court as scheduled on September 2, 1970, and the School System was ordered to implement the plan by November, 1970.

### CHARLOTTE-MECKLENBURG CASE

The School Board of Broward County, Fla., sought relief from the Fifth Circuit Court order by joining with the Charlotte-Mecklenburg Board of Education in presenting the problem to the Supreme Court. Subsequently, the Supreme Court issued a stay order on implementing the Fifth Circuit order on the pairing and clustering of the 40 elementary schools and the redistricting of the all black high school.

### EMERGENCY SCHOOL ASSISTANCE PROGRAM 1970–71

On October 6, 1970, the School Board applied for funds under the original Emergency School Assistance Program. These funds, which amounted to $772,551, were used to employ personnel in the secondary schools and the five school districts with the capability of dealing with human relations problems. Other programs funded by the original ESAP program included special reading teachers, teacher aides, a student personnel project, computer file, and a county-wide security office.

### THE SUPREME COURT DECISION ON APRIL 20, 1971

Not to interfere with the Circuit Court order included in the Charlotte-Mecklenburg case, resulted in a second court order for Broward County from the U.S. District Court in Miami. After additional presentations to the court in Miami by Broward school personnel on June 21, 1971, the court ordered the pairing and clustering and the redistricting of the black high school to be implemented for the school year 1971–72. The order included the pairing and clustering of only 39 elementary schools. The 40th elementary school, Markham Elementary School, was to remain as a model migrant elementary school.

For a second time within one year the community and school system worked to solve the many problems associated with the pairing and clustering order. Though the problems of implementation and costs had been outlined in the September 2, 1970 presentation to the U.S. District Court in Miami, the activities required for implementation were begun, and funds were found partially through the approved large loan.

### ESAP GUIDELINES, ATLANTA JULY 28, 1971

With D day as August 30, 1971, when the mix-master assignment of approximately 27,000 elementary students was to be accomplished, a letter from H.E.W. was received by the Superintendent on July 26, 1971, announcing a meeting in Atlanta on July 28 to disseminate information on the guidelines for preparing and submitting proposals for funding under the Emergency School Assistance Program for 1971–72.

In order to present clearly the activities between July 28 and the receipt of the December 6 letter from Dr. Herman Goldberg, Associate Commissioner, Equal Educational Opportunity in Washington, and to emphasize the urgency of time and last minute decision-making required, the presentation will be chronological.

At the July 28th Atlanta meeting, the Broward County participants learned that the school system was a Priority I district because our court order was subsequent to the April 20, 1971 Supreme Court decision. Our court order was dated June 21 1971.

Guidelines were distributed and discussed by a panel of H.E.W. officials from Washington and Atlanta. The major discussion centered around how the proposal would be selected for funding. To be considered in the first group of applicants the district must have the proposal in Atlanta by August 13th.

Returning from Atlanta on July 29, the Broward participants decided that the implementation plan for the Fifth Circuit Court order would be the basis of the contents of our proposal. Thus, the involvement in contribution to the proposal was extensive.

### ORIGINAL $4.3 MILLION ESAP TO BOARD AUGUST 5

The original $4.3 million ESAP program was presented to the Biracial Committee on Tuesday, August 3rd, and they recommended it for submission to the School Board on August 5th. Additional input to the proposal, after the approval of the Biracial Committee, caused the School Board to postpone action on it to permit the Biracial Committee to review the revised component. This they did, and the School Board approved the submission of the project on August 10th.

### THE $4.3 MILLION ESAP TO TALLAHASSEE

An August 11th, the $4.3 million project was taken to Tallahassee. Both the Atlanta H.E.W. official and the State Department of Education representative advised that the Priority I project should include a total proposal, not just one for the paired-and-clustered court order.

The project, however, was walked through the procedure for obtaining the signature of the representative of the Governor and the Commissioner of Education. Both representatives were advised of our intent to expand the proposal for delivery to Atlanta on August 13th. They agreed.

### REVISED ESAP $7.9 MILLION

August 12th was spent in making a total county proposal in accordance with suggestions. The revised ESAP proposal was now $7.9 million and included county-wide concerns, as well as a carry forward of appropriate ongoing ESAP programs for '70–71. On August 13th, the $7.9 million ESAP program was flown to Atlanta, and submitted to the H.E.W. office. During the same Atlanta visit the criteria for submitting a Priority III ESAP program was explained. Special forms and instruction were handed out and discussed.

From the Atlanta Priority III discussions, it was still possible that by the written definition appearing in the guidelines Broward

County may be considered as a Priority III district also.

During the week of August 16–19, the revised $7.9 million program was discussed with the Bi-racial Committee and approved by the School Board on August 19th.

### MEMO TO SCHOOL BOARD—ESAP PROGRAM, AUGUST 19

At the School Board meeting on August 19th, Dr. Willis issued the following statement:

"As explained in the material in front of you on the revised ESAP program, the Federal and State official in Tallahassee indicated to us that our Priority I submission should also include all '70–71 ESAP programs which we wanted to carry forward into 1971–1972. This we did, and met the August 13th deadline in Atlanta.

Last night the Biracial Committee reviewed the revised project and recommended that the changes as submitted be accepted.

This morning at 9:00 A.M. we had a call from Atlanta advising us that the Educational Review Committee in Atlanta had completed its review of our project, and had made recommendations to H.E.W. in Washington on each component in the total project. These recommendations were not subject to rebuttal by us. We were asked by the Atlanta office whether we wanted to submit the project to Washington with the present recommendations of the Educational Review Committee, or whether we wanted to withdraw the project for resubmission with the second group. Formal announcement of funding for the second group applications would not be until September 10th. I advised the staff to call Atlanta and tell them to submit our proposal, as is, to H.E.W. in Washington.

I further advised the staff to prepare a full and complete analysis of the effect the recommendations would have on effective implementation of the court order, and in particular to develop additional details in support of all the components which the Educational Review Committee in Atlanta did not believe were appropriate for inclusion in the project.

At this point we are in the negotiation stage of the project, and we intend to do everything we can to make the final decision a non-bureaucratic one; that is, one in which the real concerns of Broward County are in fact a major part of the final decision on our Emergency School Assistance Program for 1971–72."

### PRIORITY III ESAP PROGRAM

With funds cut so drastically, a decision was made to submit a Priority III ESAP program. Thus, on August 24th, the School Board approved the Priority II program for submission with a favorable review by the Biracial Committee the night before.

On August 25th, the Priority III program was delivered to Tallahassee for processing to arrive in Atlanta by the deadline date of August 27th.

### FINAL NEGOTIATION, PRIORITY I ESAP, $1.7 MILLION, SEPTEMBER 1

A call from Atlanta on August 30 indicated that our ESAP proposal was approved by H.E.W. in Washington for $1,737,000, and they were prepared to discuss final negotiations with us at our convenience. Arrangements were made to discuss final details of the project in Atlanta on September 1st.

There was in Atlanta, on September 1st, an official from H.E.W. in Washington with authority to finalize our $1,737,000 ESAP program. This was done, and the grant's award notice was prepared and issued.

At the School Board meeting on September 2, 1971, Dr. Willis presented the following memorandum to the School Board members:

"We have been advised by the U.S. Office of Education in Atlanta to proceed with the implementation of our Emergency School Assistance Program which has been funded in the amount of $1,737,000.

The implementation of this program requires the employment of the following personnel:

| | |
|---|---|
| Certified and instructional personnel | 96 |
| Aides and community workers | 83 |
| Secretary/typist | 2 |

Mr. Jackson has been advised to proceed immediately to define the duties of these people, and to advertise the positions available. In partcular, the director of the project should be employed as soon as possible.

In all cases, the salary will be paid in accordance with the approved existing salary schedule.

All applicants will be advised of the terminal date of the project, and how such termination may affect their employment status in the county. In some cases, it may be necessary for the applicant to be granted a leave of absence in order to participate in the program.

Each one of the human relation specialists assigned to a secondary school will be responsible to the principal of that school and will be assisted in the performance of his duties by the Director of Human Relations, Mr. Allen Orr, and by one of the five district human relations specialists.

The educational services coordinator assigned to each of the paired/clustered schools for after-regular-hour use of the facility, will be directly responsible to the principal of the school, and then to the Area Assistant Superintendent. Each coordinator will be assisted by the county supervisory staff with special assistance from the county guidance supervisors.

Each of the part-time librarian aides will be responsible to the center coordinator and then to the principal of the school. The aide will be assisted by the school librarian and by the county media staff.

There are seven educational psychologists to be employed to conduct activities in the area of parent education, classroom learning management, and school faculty human relations programs.

All of the seven educational psychologists will be responsible directly to Dr. Robert Wieland, through Dr. James Fisher, Supervisor of the Diagnostic Center. The programs which these seven psychologists will be conducting will be described in detail by Drs. Wieland and Fisher in close cooperation with Dr. McComb and the staff of the Division of Curriculum and Teaching.

The two inservice reading instructors will work with Dr. Jarecke, and through her, will be responsible to Mr. Wilbur Marshall and then to Dr. McComb. The inservice reading program planned, and conducted, will be a program of the Division of Curriculum and Teaching and may vary as the principal and his staff identify their needs in reading instruction.

The school-community workers will assist the principals in helping parents, students, and the community to see that these are our schools. These people will be responsible to the principal, to the Area Assistant Superintendent, and then to Mr. Jackson.

Finally the secretary/typist will be assigned as needed".

### *H.E.W. review committee*

In a telephone conversation on November 4, 1971, Mr. Lamon Clements, H.E.W., Atlanta, explained the needs of the H.E.W. Review Committee, whose visit from November 8–12 had been the subject of a letter from Mr. Dewey Dodds, Compliance Division, H.E.W., Atlanta.

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OFFICE OF THE SUPERINTENDENT,
*November 2, 1971.*

To: Dr. Daniel Lee.
From: Dr. Benjamin C. Willis.
Re: Emergency School Assistance Program (ESAP) Review.

Please note the attached statement, under dates of November 8 through 12th.

We were not given much warning.

I would like for Dr. Lee and Mr. Orr to be available, waiting to receive the team on the morning of November 8th, to be of help to all that come.

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STATE OF FLORIDA,
DEPARTMENT OF EDUCATION,
*October 28, 1971.*

### MEMORANDUM

From: Shelley S. Boone.
Subject: Emergency School Assistance Program (ESAP) Review.

The Atlanta Regional Office, U.S. Office of Education has informed the Department of Education that a schedule has been arranged to review ESAP projects in certain counties. USOE has requested that we make the schedule known to you.

The review teams will be comprised of representatives from USOE, as well as the Office for Civil Rights and ESAP Community Group officials.

The schedule is as follows:

November 1 through 5—Hillsborough County (USOE representatives—John Lovegrove and Charlie Trussell).

November 8 through 12—Broward County (USOE representative—Richard McBeth).

November 29 through December 3—Palm Beach County (USOE representative—Richard McBeth).

December 6 through 10—Duval County (USOE representative—Charlie Trussell).

December 13 through 17—Pinellas County (USOE representative—Richard McBeth).

We trust that this method of having review teams comprised of the various federal agencies, rather than separate reviews, will meet with your satisfaction. It should eliminate duplication of effort and allow for a less complicated arrangement.

In the event the above-mentioned schedule conflicts with your schedule, you should phone Dr. John Lovegrove in Atlanta, Georgia, at 404/526–3076.

In the meanwhile, please let us know if we can be of my further assistance.

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### GUESTS

1. Lloyd R. Henderson, Office for Civil Rights, Washington.
2. Charles Snow, Office for Civil Rights, Washington.
3. Miss Rosa Marie King, Office for Civil Rights, Atlanta, Ga.
4. Lamar Clements, Office for Civil Rights, Atlanta, Ga.
5. Thomas Fagan, Office of Education, Washington.
6. David Lerch, Office of Education, Washington.
7. John H. Martin, Office of Education, Washington.
8. Richard MacBeth, Office of Education, Atlanta.
9. C. B. McDonald, Office of the General Counsel, Washington, D.C.
10. Art Jones, Department of Education, Florida.

Mr. Lamar Clements, Office of Civil Rights, Atlanta, Georgia, phone 404–526–3307, called to verify the appointment Miss Frye made with you for November 8, 1971, for HEW Review Team to come here at 2 p.m.

This is the meeting you have sent notes to Mr. Gardener, Dr. McFatter, Dr. Lee, and Mr. Orr to be available that day.

Mr. Clements said he would hope to see you that date—but that they would be here for the rest of the week.

Mr. Clements said Mr. Richard McBeth, USOE representative, Miss Rosa King, Mr. Charles Snow, and himself will be here along with others. Three or Four from Atlanta and Washington will be here from ESAP and three or four from Office of Education to review assurances of Civil Rights. (Also evaluating ESAP Programs).

Mr. Clements would like to have three people available on Tuesday, November 9, 1971, at 9 a.m., to meet with three of their people (not together) and then have three meet with their people at 1 p.m. in the afternoon with three of them (not together). He would like arrangements made with some specific interviews with personnel about some of the following: Assurances—needs copy of ESAP:

1. Transfers used regarding races.

2. Hiring, firing, recruiting.

3. Promotions, demotions (non-discriminatory treatment of personnel).

Personnel needed: (Two hours needed for each person).

1. Director of Personnel.

2. Person in charge of disposition and documents—sale of various properties. Person in charge of Surplus properties.

(System has not disposed of properties to private segregated schools). Person who has access of records—delineate to whom property has been sold.

3. Supervisor of Instruction.

Person who handles whole range of policy relating to schools, classes, curriculum, etc.

Assurances agreed to districts that pupils are not assigned properly. So as to relate to racial isolation—50 percent of the day is the area they are concerned with.

People involved in testing.

Curriculum of junior and senior high students.

4. Pupil Placement Director—Person in charge who would be related specifically to matters of discipline, extra curricular activities, etc.

Evaluate the whole extra curricular activities in the schools to assure that the schools operation is operating without discrimination.

5. Person in charge of bus transportation—knows routes—work with maps, some of the data in planning routes, familiar with all phases of bussing.

6. Director of ESAP Program.

This person will meet with Dr. McBeth, Office of Education. We will want to meet with him and coordinate with him. (Your director)

On Tuesday morning we would like to deal with Supervisor of Instruction—that area and the property transfer, business and ESAP man on Tuesday morning. (9 a.m.)

Tuesday afternoon—1 p.m.

1. Personnel Director

2. Transportation

3. Area Pupil Personnel in relation to discipline, etc.

Dr. Willis—we would like to meet with you on Monday at 2 p.m. and if needed again on Tuesday morning.

We would like the following materials available when we get there.

1. Forms 101 and 102 (These are the forms filled out—federal forms sent to HEW delineating racial number of pupils and teachers in all schools.)

These go to computer center and get delayed before they are sent to us. We would like a copy of those forms.

Mr. Wrinkle filled out these forms last year.

2. If you have district-wide policy statement on number of assurances.

Need copies of following:

1. Student Discipline policy

2. Dress or Behaviorial Codes

3. Extra Curricular Activities

(System-wide policy relative to participation):

3. Teacher Assignments Policy. If you have teachers transferred from one school to another is there a system policy relative to salaries, positions, etc.

For instance: Department head is transferred from one school to another do you comply with requirements?

Area of Pupil Assignment Policies:

a. Policy relating to achievement or variety of tests (If school has policy that does not allow grouping—but in form we got to know that)

How district arrives at positions—where children are placed—criteria for.

4. What is policy regarding inter- intra-districts—students transfers what basis are they transferred?

Couple of other things we would like is following data:

1. Listing by number, category and race of the para-professional personnel assignments in districts.

a. Teacher aides.

b. Cafeteria personnel.

c. Bus drivers.

d. Other non-professional persons who deal directly with children in the schools.

Illustration: If you have teacher aides employed in the system, how many are in each school by race?

Same for Cafeteria personnel, etc.

2. Racial Breakdown of each class in number of secondary schools—black and white is sufficient.

On master schedule on given school with number of blanket white students and other minorities for each class for each day for entire curriculum for the following schools:

1. Lauderdale Lakes Middle School.

2. Hallandale Junior High School.

3. Boyd Anderson High School.

4. Deerfield Beach High School.

5. Dillard High School.

6. Pompano Beach High School.

7. Stranahan High School.

(We try to get differences of size and location and racial composition.)

This would entail getting count from each teacher and that person's teacher in the school for that class day. . . . and putting it on master schedule.

If any of them wish to call me back to discuss the data requested for clarification, please tell them to do so.

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## DIARY OF HEW VISIT

(By Daniel P. Lee)

*Monday*, November 8, 1971, 2:00 p.m.

General Meeting

H.E.W. Team

Superintendent's Staff

Provided them with copies of the following. 1. E.S.A.P. Part IV with budget $1,737,000.

They provided us with the following: 1. Survey check list to be used by H.E.W. team.

The difficulty with the 41 secondary human relations specialists was discussed as regard the Biracial Committee's concern. 7:30 p.m.

H.E.W. Group meet with Biracial Committee:

H.E.W. wanted to know how the committee had been involved in the planning. Mr. Adams explained that there were many meetings. Mrs. Pate indicated that every component of the plan had been explained to them. H.E.W. asked if they had been supplied with the rules and regulations governing the ESAP Program. They claimed they had not been furnished any rules and regulations, as the H.E.W. team gave them a newspaper type copy of the printout.

Note: At the first meeting of the committee they were given a copy of the following:

1. General Terms and Conditions ESAP

2. Compilation of Amended Regulations for Continuing Resolutions for ESAP.

*Tuesday*, November 9, 1971, 9:00 a.m.

General Meeting H.E.W. and Staff:

Met with Mr. Lerch on Budget Staff Development Activities, Instructional Material. Provided him with a copy of the instructional material order for:

1. Hortt Elementary.

2. Others.

Arranged for him to visit:

1. The Inservice Reading Teachers.

2. Diagnostic Center (Physiologists).

Wednesday, November 10, 1971, 10:00 a.m. 3:30 p.m.

Transported Rosa King to the following schools for interviews with the principal, student advisory committees, and the human relation person in the secondary school.

Stranahan High School, talked to: Harold Mosser, Mrs. Overmeyer.

Plantation Middle School, Mrs. Berry was not present. Mrs. Holmes, Dean of Girls, and the human relations person escorted us through the facility.

Riverland Elementary School. Mr. Nelson Moore was not present. He was attending a special called meeting of the Central Area Elementary Principals.

Called Nathan Hankerson and had him hold for our visit.

Sabal Palm Elementary School. Talked with Nat Hankerson and he walked us through the facility and through the all black migrant program for pre-kindergarten.

Called Mrs. Grisham at Lincoln Park Elementary. She was at the meeting of the Central Area Elementary Principals.

Returned to the county and left Mrs. King with Ellen Parker.

Thursday, November 11, 1971, 9:00 a.m.

Met Miss Rosa King at the county office and took her back to the following schools:

Plantation Middle School. Talked with Mrs. Jean Berry and the student advisory committee.

Lincoln Park Elementary. Talked with Mrs. Grisham and she escorted us around the facility. We saw an all black exceptional child class.

Riverland Elementary. Talked with Mr. Nelson Moore and he showed us around the facility.

I sat in on all interviews with the principals.

I did not sit in on the interview with the Student Advisory Committee.

Interviews with the Principals consisted of facts concerning teacher and students reports as to black and white. The questions concerning the methods of assigning students to classes, and whether any classes in the school were all black or all white.

Possible assurance exceptions noted were:

1. The use of tests to assign students to advanced classes and to elective classes at Stranahan.

2. The all black exceptional child class at Lincoln Park.

3. The secondary human relation specialists have other assigned duties—they may be viewed as part time human relations personnel.

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DADE COUNTY PUBLIC SCHOOLS,
ADMINISTRATION OFFICES,
*Miami, Fla., January 31, 1972.*

The Honorable LAWTON CHILES,
*United States Senator,*
*Senate Office Building,*
*Washington, D.C.*

DEAR MR. CHILES: Your assistance is requested to alleviate unreasonable restrictions imposed by PL 91–380 or its improper application.

The withholding of Federal funds to the Charlotte-Mecklenburg School District of North Carolina and the Broward County Schools of Florida has caused us to carefully review both our past and present practices. While we were gratified to find that the law has not been violated in our school system, an analysis of the Office of Education Form 5279, August, 1971, leaves no doubt that the law could be inadvertently violated, resulting in the imposition of severe penalties without just cause.

The restrictions imposed by law or its interpretation are too strict and are unnecessarily limiting the day-to-day operations of the Dade County Schools. The attached three forms have been developed by our attorneys. Their use, however, does not provide the necessary protection in that actions by persons or agencies not under the control of the

Board are apparently the full responsibility of the Board.

The limitations that we felt impelled to impose upon community agencies using school properties as shown in Attachment No. 1, provide little protection in that it is impossible to control what may be discussed in a meeting. Attachment No. 2 likely precludes the transfer of used equipment by trade in or sale. Attachment No. 3 serves no purpose other than to demonstrate the Board's intent which has been well established by the Board on numerous occasions.

It is felt that our concern is justified under the circumstances, and would appreciate your assistance.

Sincerely yours,

E. L. WHIGHAM,
*Superintendent of Schools.*

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RENTER'S REPRESENTATION

In order to induce the School Board of Dade County, Florida, to enter into a rental agreement for the Board-owned or leased property located at ———, the undersigned Renter hereby represents that none of the property herein contracted for is being rented by or for any non-public educational facility or institution which discriminates, or may or will discriminate, against any student or person or class of students or other persons on the basis of race, color, creed or national origin, and that none of the property rented to the Renter, pursuant to this agreement, will be transferred or conveyed by him or any agent, employee or other person acting on his behalf, to any non-public educational facility or institution which discriminates, or which the Renter has reason to believe may or will discriminate against any student or person or class of students or other persons on the basis of race, color, creed or national origin.

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BUYER'S REPRESENTATION

In order to induce the School Board of Dade County, Florida, to enter into the transaction as set forth in Bid ——— or Purchase Order Agreement ———, the undersigned Buyer hereby represents that none of the property herein contracted for is being purchased by or for any non-public educational facility or institution which discriminates or may or will discriminate, against any student or person or class of students or other persons on the basis of race, color, creed or national origin, and that none of the property sold to the Buyer, pursuant to this agreement, will be sold, transferred or conveyed by him or any agent, employee or other person acting on his behalf, to any non-public educational facility or institution which discriminates, or which the Buyer has reason to believe may or will discriminate against any student or person or class of students or other persons on the basis of race, color, creed or national origin.

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SERVICE AGREEMENT

In order to induce the School Board of Dade County, Florida, to enter into an agreement to provide educational cooperatives services in conjunction with ———, the undersigned hereby represents that none of the services herein contracted for will benefit any non-public educational facility or institution which discriminates, or may or will discriminate, against any student or person or class of students or other persons on the basis of race, creed, color or national origin, and that none of the services, pursuant to this agreement, will be of benefit to any agent, employee or other person acting on his behalf, to any non-public educational facility or institution which discriminates, or which the undersigned has reason to believe may or will discriminate, against any student or person or class of students or other persons on the basis of race, color, creed or national origin.

The PRESIDING OFFICER (Mr. STEVENSON). The amendment will be modified as requested.

Mr. PELL. Mr. President, I have listened to the colloquy. I believe that, with the modification, the amendment improves the act by making it less harsh. I recommend that it be adopted, and yield back my time.

Mr. CHILES. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment, as modified.

The amendment was agreed to.

AMENDMENT NO. 912

Mr. RIBICOFF. Mr. President, I call up my amendment No. 912 and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. MANSFIELD. Mr. President, first, I am going to ask unanimous consent that the Senate go into recess until 2 o'clock, and then I would like to ask unanimous consent that at that time the amendment be read.

PRIVILEGE OF THE FLOOR

Mr. RIBICOFF. Mr. President, I ask unanimous consent that during the consideration of this amendment Mr. John Koskinen and Ted Leary of my staff be allowed the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. and that at that time the Senator from Connecticut (Mr. RIBICOFF) be recognized and that then the amendment be read if desired.

There being no objection, at 1:31 p.m. the Senate took a recess until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BUCKLEY).

AMENDMENT NO. 912

The PRESIDING OFFICER (Mr. BUCKLEY). Under the previous order, the clerk will now report the amendment No. 912 of the Senator from Connecticut (Mr. RIBICOFF).

The assistant legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

On page 754, after line 2, insert the following:

TITLE X

SEC. 101. (a) There are authorized to be appropriated to the Commissioner, for the purpose of carrying out title VII of this Act, $1,000,000,000 for the fiscal year ending June 30, 1974, and the same amount for the fiscal year ending June 30, 1975.

(b) None of the funds authorized under section 101(a) shall be available for expenditure under the provisions of section 8(a)(2) of title VII.

SEC. 202. It is the purpose of this title—

(a) to require State and local educational agencies in metropolitan areas throughout this country to develop and implement plans which will reduce and eliminate minority group isolation in our public schools, whatever the cause of such isolation; and

(b) to provide financial assistance to assist State and local educational agencies to develop and implement such plans.

DEFINITIONS

SEC. 301. As used in this title, except when otherwise specified—

(a) The term "minority group isolation" means a condition in which minority group children in a school constitute more than 50 per centum of the average daily enrollment of that school. The term "minority group isolated" refers to a school in which such condition of minority group isolation exists.

(b) The term "school" means those elementary and secondary public schools of a State which are located within a standard metropolitan statistical area (SMSA).

(c) The term "noncooperating local educational agency" means any local educational agency which refuses or has refused to participate in the preparation, submission, revision, or implementation of an acceptable plan as required by this title.

(d) The term "cooperating local educational agency" means any local educational agency that has participated in the preparation, submission, revision, and implementation of an acceptable plan as required by this title.

(e) The term "State" means any State in which there is an area defined as a standard metropolitan statistical area, and the District of Columbia.

(f) The terms "Standard Metropolitan Statistical Area" or "SMSA" means the area in and around cities of fifty thousand inhabitants or more as defined by the Office of Management and Budget: *Provided*, That the term shall mean only that portion of any standard metropolitan statistical area which lies wholly within the boundaries of one State. Each portion of an SMSA in a different State shall be considered an independent SMSA for purposes of this title.

(g) The term "Federal educational funds" means Federal funds appropriated for grants, loans, contracts, or other financial assistance to a State educational agency, a local educational agency, an individual school, or to an individual in compensation for services rendered such organizations. This term shall not mean funds which go to individuals in the form of scholarships, fellowships, loans, cost-of-education payments, or other such assistance which is designed to further that individual's education, nor shall it mean funds which are to assist private, nonprofit organizations in the provision of education in preelementary and elementary situations.

THE PLAN

SEC. 401. Each State shall prepare and file with the Secretary for his approval, in accordance with regulations issued by him, a plan under which it will establish and supervise the operation in each SMSA of an SMSA agency to develop with the local educational agencies within the SMSA a plan to reduce minority group isolation in their schools: *Provided*, That, should any State refuse to comply with the provisions of this title, the local educational agencies within an SMSA may then independently create or assume control of such an SMSA agency.

SEC. 402. The plan developed by each such SMSA agency shall—

(a) contain the proposals by which the local educational agencies within an SMSA agree to reduce minority group isolation in their schools;

(b) provide that by a date approved by the Secretary, but in no event later than July 1, 1985, the percentage of minority group children enrolled in each school of the SMSA shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools of that SMSA;

(c) include the use of techniques, as appropriate in local circumstances, such as redrawing school boundaries, creating unified school districts, pairing schools or school districts, establishing educational parks and magnet schools as well as other techniques designed to end as soon as possible minority group isolation in all schools within the SMSA;

(d) provide for the establishment of committees composed of local parents, teachers, and students, the members of such committees to be representative of the minority and majority population groups of the SMSA as a whole and the geographical areas within the SMSA, to advise the local education agencies and the SMSA agency, in open consultation including public hearings at which such persons have had a full opportunity to explore and discuss the program for which assistance is being sought and to offer recommendations thereon, regarding the development of the plan required by this title and to report periodically to the Secretary on the extent of compliance with the requirements of this title;

(e) set forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committees established for the purposes of section 402(d);

(f) provide that in each year of operation of the plan, substantial progress toward fulfilling the requirements of this title shall be made; and

(g) provide that State financial assistance to local educational agencies within each SMSA shall not be so calculated, based, rated, or fixed in any manner as to result in the condition that the per pupil contribution of the State to any minority group isolated school within the SMSA shall be less than per pupil contribution of the State to any nonminority group isolated school within the SMSA.

Sec. 403. (a) The plan required by section 402 must be submitted to and approved by the Secretary no later than July 1, 1975.

(b) The Secretary is authorized to promulgate and issue regulations regarding the time and manner of submission of such plans for his approval.

Sec. 404. In extreme and unusual cases should the Secretary determine that the size, shape, or population distribution of an SMSA would make inclusion of some parts of that SMSA in a plan unnecessary for fulfillment of the purposes of this title or excessively disruptive of the educational process, he may exempt such parts from participation in the plan. Such exemptions shall be in writing, fully explained and justified, and freely available to the public and the committees established for the purposes of section 402(d).

Sec. 405. Each SMSA agency shall annually prepare and file in accordance with regulations issued by the Secretary a report setting forth the results achieved under the plan and any necessary amendments to the plan to correct any deficiency of the plan. The Secretary shall assure that the plan and any reports filed with the Secretary in accordance with this section shall be made readily available to the public and to the committees established for the purposes of section 402(d).

Sec. 406. The Secretary is directed to review annually the plan and the reports of each SMSA agency. If the Secretary finds that for any reason the purposes of this title are not being effectuated by the plan and any amendments thereto he shall, after giving appropriate notice to all concerned parties, withdraw his approval of the plan and each local educational agency in question will be treated as a noncooperating local educational agency: *Provided*, That if within a period prescribed by the Secretary, but in no event exceeding one hundred and eighty days following the Secretary's withdrawal of approval, the local educational agencies through their SMSA agency submit a revised plan approved by the Secretary, the local educational agencies within the SMSA shall be entitled to receive all funds withheld during the period.

Sec. 407. (a) Because of its unique circumstances, the SMSA for the District of Columbia shall include for purposes of this title Montgomery and Prince Georges Counties in Maryland, Arlington, Fairfax, and Prince William Counties in Virginia, and the cities of Fall Church and Alexandria in Virginia, notwithstanding the provisions of section 301(f) of this title.

(b) A single plan shall be designed and submitted by all local educational agencies included in the District of Columbia SMSA: *Provided*, That the existence of noncooperating local educational agencies within this SMSA shall not affect the status of cooperating local educational agencies.

Sec. 40. No State or local educational agency shall formulate or administer its plan in a manner that will result in the separation of minority group children within a school or classroom.

### FINANCIAL ASSISTANCE

Sec. 501. Planning Funds.—

(a) Within six months of the date of enactment of this title, the Secretary shall notify each State and local educational agency within an SMSA of the requirements of this title.

(b) The Secretary shall issue regulations establishing procedures and a timetable according to which SMSA agencies required to file a plan under this title may apply for funds authorized to be appropriated by this title.

(c) Upon application meeting the standards established by the Secretary, the Secretary shall grant to each SMSA agency funds for the development of a plan to reduce minority group isolation pursuant to the requirements of this title, the amount of such funds being determined by the number of minority group students and the number of all students enrolled in schools in the SMSA.

Sec. 502. (a) Each year following the implementation of an approved plan, cooperating local educational agencies, through their SMSA agency, may submit to the Secretary applications for financial assistance.

(b) An application for assistance under this title may be approved by the Secretary only if he determines that—

(1) such application—

(A) sets forth a plan which is sufficiently comprehensive to offer reasonable assurance that it will achieve one or more purposes for which grants may be made under this title; and

(B) contains such other information, terms, conditions, and assurances as the Secretary may require to carry out the purposes of this title;

(2) the applicant has adopted effective procedures for the continuing evaluation of programs or projects under this title;

(3) the programs or projects for which assistance is sought will not result, and in the case of an ongoing program or project has not resulted in an increase in the percentage of racial separation in any school.

(4) no part of the assistance provided under this title shall be used to supplant funds, equipment, or services which are used to assist any private school. Should any funds provided under this title be used for this purpose, or for any other purpose that the Secretary finds to be inconsistent with the purposes of this title, the Secretary shall file suit in the United States District Court for the District of Columbia against either the school which received such funds or the State educational agency, or both, for restitution of the funds.

(c) Upon the submission and approval of such an application, the Secretary is authorized to provide a cooperating local educational agency with sufficient funds to meet its obligations under its approved plan.

(d) Funds provided under this section may be used for the following purposes or any other purposes the Secretary finds will promote an end to minority group isolation:

(1) establishing and constructing magnet schools or educational parks in locations chosen to reduce the degree of minority group isolation in the schools of the SMSA;

(2) providing additional staff members including paraprofessionals to provide guidance, counseling, and training to assist minority group children in adjusting to a nonminority group isolated school environment;

(3) providing counseling, retraining, and guidance for professional and other staff members who will be working with minority group children;

(4) developing and implementing interracial educational programs and projects involving the joint participation of minority group and nonminority group children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

(5) providing such additional transportation for children as may be necessitated by the plan developed pursuant to this title: *Provided*, That in the review and approval of SMSA plans under this title, the Secretary shall assure that any burden of transportation shall fall equitably on both minority and majority children;

(6) expanding or altering facilities to accommodate students transferred under the plan;

(7) community activities, including public education efforts, in support of the plans, programs, projects, or other activities developed pursuant to this title;

(8) planning and evaluation activities and expenses of administration;

(9) work study programs to provide the financial assistance necessary for minority group children to complete their education; and

(10) other specially designed programs or projects which meet the purposes of this title.

(e) No funds granted under this title may be used to supplant State or local educational funds presently being expended by State and local educational agencies.

(f) The Secretary shall issue regulations establishing procedures and a timetable according to which State and local educational agencies entitled to apply for financial assistance under this title may apply to the Secretary for funds authorized to be appropriated by this section.

### RESTRICTIONS ON FEDERAL FINANCIAL ASSISTANCE

Sec. 601. (a) No noncooperating local educational agency shall be entitled to receive any Federal educational funds: *Provided*, That the presence within an SMSA of a noncooperating local educational agency shall not affect the eligibility of cooperating local educational agencies in the SMSA to receive Federal educational funds.

(b) No State that fails to participate in the preparation, submission, revision, and implementation of any plan or plans required by this title, and no State that continues to provide State funds or assistance after July 1, 1975, to any non-cooperating local educational agency under section 401 shall be entitled to receive any Federal educational funds.

### APPROPRIATIONS

Sec. 701. (a) For the fiscal years beginning July 1, 1973, and July 1, 1974, respectively, there is authorized to be appropriated $25,000,000 each year to be used by SMSA agencies to develop and promulgate the plan herein required to be filed.

SEC. 702. For the fiscal years beginning July 1, 1975, and for each of the nine fiscal years following, there is authorized to be appropriated $2,000,000,000 each year for purposes of carrying out this title.

SEC. 703. Funds so appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

### JUDICIAL REVIEW

SEC. 801. (a) Any person affected by the enforcement or nonenforcement in the SMSA in which he resides of any provision of this title may petition the Secretary for an expedited hearing of his complaint.

(b) Within sixty days of receiving such petition the Secretary shall hold a formal hearing to determine whether the provisions and purposes of this title are being carried out in the cause raised by the petitioner. A transcript shall be kept of the proceedings of the hearing.

(c) Within thirty days after the date of the hearing, the Secretary shall issue a decision in writing which sets forth his findings and appropriate orders.

(d) The Secretary's decision shall be reviewable, upon petition, by the United States Court of Appeals for the District of Columbia circuit. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(e) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

### LAWS REPEALED

SEC. 901. The following provisions of law are hereby repealed:

(a) Section 181 of the Elementary and Secondary Education Act Amendments of 1966.

(b) Section 422 of the Elementary and Secondary Education Act Amendments of 1970.

(c) Section 2 of the Elementary and Secondary Education Act Amendments of 1970.

(d) Sections 102(d) and 205(f) of the Demonstration Cities and Metropolitan Development Act of 1966.

(e) Section 401(b) of the Civil Rights Act of 1964.

### A 10-YEAR PROGRAM FOR SCHOOL INTEGRATION

Mr. RIBICOFF. Mr. President, no problem is more troubling or discouraging than developing a program to insure racial equality in this country. Every day, while we think we are marching forward, victory seems to move farther away. Schools are becoming more integrated in the South and our society seems more divided than ever. Public opinion polls show the public willing to accept integrated schooling at about the same time we exaggerate out of all reasonable proportion the so-called problem of busing.

The time for casting blame for our plight is gone as is the time for searching for simple and painless answers. Passing antibusing amendments—or defeating them—without more does nothing to deal with the problem we confront.

Nor does yielding to public hysteria. The fight for integration in this country has never been an easy one. But that is no reason to despair of success.

For years, massive opposition to the concept of school integration existed throughout the South. In 1963, 61 percent of parents surveyed opposed school integration, even when there were only a few blacks involved. But no one quit fighting for equal rights because the odds against winning were great. Thousands of dedicated men and women worked and struggled and took the time and effort to explain that discrimination could not be allowed to exist if our country was to avoid rotting from within. In May 1970, the Gallup poll reported that the percentage of parents in the South objecting to school integration with some blacks had dropped from 61 to 10.

Today, as we begin to address ourselves to the problem of integration as a nation, we again meet massive opposition, much of it hiding behind the acceptable code word busing. Some have already yielded to the pressure rather than standing firm as we have before.

The irony in the North is not just that so many schoolchildren already ride buses—400,000 of the 650,000 students in Connecticut do—but that you can count the court orders involving any busing at all in the North on one hand. No one is forced to ride a bus anywhere today in most States of the North and West.

I would hope that before we end this debate, we would go beyond the myth of forced busing to tackle the very real problem we confront of massive segregated education.

Nothing would be more inspiring for this country in these days of devisiveness, petty bickering and halting leadership than to have the U.S. Senate and all its Members from North, South, East and West, thoughtfully and constructively debate the future course of our society without rancor, bitterness or vindictiveness. We must face the crisis before us as a single body, free of regional prejudice and willing to provide this Nation with the leadership it seeks and has despaired of finding.

I have therefore called up my amendment which was introduced last week, designed to deal with the problem of racial isolation on a national basis. Time is short, but we debated this amendment almost 1 year ago at some length. In addition, the distinguished Senator from Minnesota (Mr. MONDALE) has held almost 2 years of hearings on this problem and has cosponsored my bill as the best way to proceed.

Until now, we have focused our attempts at integration on a district by district basis. However, in numerous areas of this country, the minority-group school population of the metropolitan area as a whole is less than 20 percent, while the percentage in the central city, separately, is above 50 percent and increasing rapidly.

Unfortunately, the specter of a transformation to majority black schools tends to drive whites out of school districts as soon as the minority-group population begins to increase. We will end this cycle only when we begin to integrate on a metropolitanwide basis. Only then can we destroy the stereotype of an integrated school as a predominantly minority school.

My amendment recognizes that we cannot afford to ignore the lessons of the past 18 years. We now know that massive social changes cannot be required overnight, nor can they be deferred until some indefinite time in the future. My amendment therefore envisions a 2-year pilot program, already provided by the committee bill, followed by 2 full years for planning at the local level on the basis of the experiences of this pilot program. Up to 10 years would then be allowed for implementation of the plans developed.

Substantial progress would have to be made during each year of the plan, but the 10-year implementation period would allow local leaders and parents the time needed to insure that integration was a positive program implemented with the necessary planning and public education.

At the end of the 10 years, every school throughout each metropolitan area would have to have a percentage of minority group students equal to at least one-half the percentage of minority group students in the metropolitan area as a whole. In most metropolitan areas, the percentage of minority students is less than 20 percent. This means that minority group students would have to make up at least 10 percent of each school in the area no later than 10 years after the plan began. This is only three or four students per class. I cannot believe that many Americans would object to this. All the public opinion polls show they would support it.

Even in the most heavily minority group areas such as Baltimore, where the minority group percentage is about 32 percent, there would be little difficulty. Under my amendment, each school in the Baltimore area would be required to have a minority group population of at least 16 percent no later than 10 years after adoption of an acceptable plan. This is only five or six in a class.

Many have objected recently to programs of racial quotas or strict racial balances. My amendment does not require either. It only specifies the minimum percentage of minority group students each school is to have. Many schools will have varying numbers beyond that percentage and, unfortunately, the present logistics of the situation are such that some schools will still be largely or totally composed of minority group students.

Adoption of the national commitment for integration provided in my amendment now is vital if the money in the committee bill for pilot programs is to be useful. If the pilot programs are not clearly the precursor to implementation of a national program, we will have demonstration programs only in those areas where local politicians and school board members are willing to take the initiative and advocate such programs on their own.

There may be such communities and they deserve our help and encouragement. In most communities nothing will be done until the full and firm policy of the Congress is implemented and established. The critical areas, however, are those where local leaders would not voluntarily undertake a program of integration that was not a national requirement but would be willing and anxious to get in on the ground floor of an inevitable program. In many of these communities we would obtain the most meaningful information during the pilot program period.

My amendment would not mandate any particular plan or set of plans to be imposed from community to community across the country. Instead, great flexibility would be left to those involved at the local level, including parents and community members as well as educators and school officials. A plan useful and acceptable in Chicago might be substantially different than the plan for Hartford, Conn., or Durham, N.C. In addition, a plan developed at the local level is much more likely to be supported by those in the community than one imposed by authorities from Washington or another city. The planning process itself will serve an educational function for those involved at the local level.

A number of possible techniques are identified in my amendment, including construction of magnet schools and educational parks, together with school redistricting, pairing, and transportation. But it should be clear that this is not simply or primarily a busing proposal. If transportation is identified as a useful technique in a city, my amendment requires that the burden shall fall equitably on minority and majority children. But, if we have to depend solely upon busing children from one area to another on a metropolitanwide basis to achieve integration, we will fail, no matter what bill or plan we adopt.

Success will come only if we open up the suburbs for housing as well as education. Experience has shown that we will never have truly integrated schools until we have an integrated society. Schools have borne the burden of integration alone too long.

This does not mean we should not attack the segregation in our schools. We must.

But we must resolve to go beyond this and begin to provide housing in the suburbs for low- and middle-income whites as well as blacks.

My amendment recognizes, as does the committee's bill, that we can no longer require school systems to undertake new responsibilities or programs without sufficient funding to assure that the quality of education does not deteriorate. Two billion dollars a year would be provided for the training, construction, and additional educational materials required by my program.

Under my amendment, any school district that does not cooperate in the formulation and implementation of the regional plan will be ineligible to receive Federal education funds. Furthermore, no State which provides State funds to a noncooperating school district will be eligible for Federal funds.

The amendment I have outlined will require leadership at all levels in this country. For years, politicians have been unwilling to lead this Nation out of the darkness of racial isolation and hatred. Those in the North as well as the South have found it easier to inflame the issue rather than to solve it. It has been easier to look for faults in someone else or in some other area of the country rather than to analyze our own failings.

We have allowed race to be pitted against race, region against region, and class against class. The result has been inevitable. Anger, distrust, and suspicion infect the relationships of millions of Americans. Whites fear blacks and blacks distrust whites; Southerners are bitter about the North, which continually castigates the South; and the lower middle class are encouraged to take out their frustrations on the poor, the young, and the black.

We cannot allow this situation to continue if this country is to survive. Millions of Americans know this and are searching for leadership from someone, somewhere. A country that has found no leadership on the question of racial equality and questions the willingness of the Supreme Court to come to grips with this problem again as it did in 1954, will watch and listen to what we say and do. They will be guided by our views and will judge us by our actions.

Mr. President, I do believe that this amendment is the way to solve the problem. This body and the Executive must take the initiative and stop abdicating their responsibility to come up with constructive ideas and constructive proposals.

There may be better plans. I do not claim omniscience, but during the year since my amendment was first debated, no other Member of this body has come up with an alternative or suggested change. I have asked Members of this body, especially those expert in the field of education, to propose alternative suggestions. To date, I have not received any. Instead, we debate the fake issue of busing.

We should address ourselves to the real issue, and that is, how do we have quality integrated education in America?

Mr. ALLEN. Mr. President, first, I want to commend the distinguished Senator from Connecticut for the statesmanship he has shown throughout the entire discussion in the past two Congresses about the proper way to arrive at school desegregation. I want to commend him further for being one of the few—and I say one of the very few—Members of the Senate from outside the Southern States who seems to be sincerely committed to the proposition of desegregation of the public schools, north, east, south, and west. I think it takes a real statesman to take that position.

I want to commend him for the efforts he has made in support not only of his own amendment but also of the support he gave in the past Congress to the Stennis amendment, which would have sought without stipulating the exact method of desegregating to provide a uniform system of desegregation.

I should like to inquire of the Senator from Connecticut if I correctly understand his proposal that in a metropolitan area, over a period of 10 years, it would be the duty of the school systems in that metropolitan area to desegregate over that period of time up to the point where the ratio of students in the various school systems would be at least one-half of that ratio in the metropolitan area.

Mr. RIBICOFF. The Senator is correct. Let me give an example. In my own home town of Hartford, Conn., the figures show that 16 percent of the students in the metropolitan area are blacks and Puerto Ricans. Under my amendment, at the end of 10 years, all the schools in the metropolitan area—which include 27 towns—would have to have at least 8 percent of their students made up of minority pupils. This is one-half of the 16 percent minority-group population for the area. This would amount, really, to about two or three minority-group pupils in a class of 25.

I cannot conceive that the American people are so bigoted or narrow-minded that they would not allow their children to go to a school with two or three black students in a class.

Let me give the Senator another example, more extreme than the Hartford area, and that would be the metropolitan Baltimore area, where the minority-group percentage is larger, 32 percent. That would mean that throughout the metropolian area, the minority-group students in each school would make up at least 16 percent of the student body. This would actually be four or five minority students in a class of some 30 students. This is basically what I am driving at. I am giving the Senator examples to highlight the questions the Senator has asked.

Mr. ALLEN. Mr. President, I have said on the floor of the Senate, my distinguished colleague, the Senator from Alabama (Mr. SPARKMAN), has said on the floor of the Senate, and the distinguished Senator from Mississippi (Mr. STENNIS) has said on the floor of the Senate that we in the South can live with any system of desegregation that is applied uniformly throughout the country.

That is what I like about the plan of the distinguished Senator from Connecticut. It is not a plan for desegregating the public schools in the South. It is a plan for desegregating the public schools throughout the country. It would provide the same method for desegregating public schools in Hartford County or in New York City as is provided for the public schools in Birmingham, Ala. Is that correct?

Mr. RIBICOFF. The Senator is absolutely correct. We must realize that we are one Nation and the problems are the same everywhere. The census and the HEW figures have proven what I suspected at the time the Stennis amendment was under consideration: That integration has moved more rapidly in the Southern States than it has in the Northern States.

Mr. ALLEN. The HEW records indicate that.

Mr. RIBICOFF. The Senator is correct.

Mr. ALLEN. As a matter of fact, segregation is gaining in the North, whereas it is almost a thing of the past in the Southern parts of the country.

Mr. RIBICOFF. The Senator is correct.

Mr. ALLEN. Mr. President, as I understand the plan of the Senator from Connecticut, it would be a national plan that would be in effect throughout the country, in the metropolitan areas.

Mr. RIBICOFF. Yes. I would give the Senator some figures to make clear what we are talking about. In this country there are 268 standard metropolitan statistical areas (SMSA's) comprising about 70 percent of our population. An SMSA is comprised of a city of 50,000 or more people and the contiguous towns. Thirty percent of our population is scattered in rural areas and small towns and cities and would not come within the definition of an SMSA. Those communities would be subject only to the rules set by the courts at this time.

Mr. ALLEN. Mr. President, the Senator would concede that under the present solution and under the present rules of the Federal courts, we do have a system for desegregating in the South and an entirely different policy for desegregating in areas outside of the South. Is that not correct?

Mr. RIBICOFF. There is no question about that. One of the ironies that I see reflected in the panic about busing demonstrated on the floor is that we can count on one hand the busing orders in the North. There are busing orders in Detroit and Pontiac, Mich., Pasadena, Calif., and a few other cities. That is all.

Talking about busing in the North is talking about a fake issue. I called the school authorities in Connecticut this past weekend. There are about 650,000 students in Connecticut. Some 400,000 of them are bused to school every day. If we were to say that those 400,000 children could not be bused, we would have a revolution in the State of Connecticut. Forced busing is a scare word today in the North. And yet there are no court orders for busing in most Northern States. I am trying to work out a program to end discrimination so that we in the Congress will assume our responsibility on this question and not abdicate it to the courts.

Mr. ALLEN. Mr. President, has Congress not been derelict in its duty in providing an overall national policy that the court might adopt and implement?

Mr. RIBICOFF. I think Congress is more than derelict. Congress is failing in its basic function to legislate.

My feeling is that the courts are getting mighty tired of taking the rap and making all the tough decisions to solve a very knotty problem. I think the courts would welcome with enthusiasm Congress tackling this matter and coming up with a plan that makes sense and that applies in the North, South, East, and West so that we treat all people in the country uniformly.

Mr. ALLEN. Mr. President, I think the Senator is correct. Earlier today in my remarks on the floor I pointed out that it looks to the junior Senator from Alabama as if the courts are asking Congress to set guidelines in this area, and Congress is not doing it.

Mr. RIBICOFF. I would predict that, if the Scott-Mansfield proposal becomes the law, the courts may well throw up their hands and say, "This is your problem; handle it from now on."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Connecticut for yielding, and I apologize for using up his time.

Mr. RIBICOFF. It has been a pleasure to engage in the colloquy with the Senator from Alabama.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, this is a matter which has come before us on a number of occasions. It troubles me very deeply. In the first place, I certainly impute the best of motives to the Senator from Connecticut in this regard. I am troubled by the matter to such an extent that I could not in good conscience support it and vote for it. I shall therefore be compelled to vote against it. That does not mean that we cannot find some way to utilize some part of this idea.

This proposal deals with the question of racial segregation, whether constitutional or unconstitutional. Whether de facto segregation is lawful or unlawful, is not relevant to the requirements of this amendment. The Senator from Connecticut says that is a virtue. To me it is not, because we should not give up our focus on the concept of individual rights against discrimination at the same time we pursue educational and social policies more broadly. There is de jure segregation—a result of official discrimination—in the South and in the North. That is why we have the activity in the courts.

This plan does not shrink from busing; I point out that the plan expressly contemplates that. Busing is an element of it. It is specific. The transportation of children must be provided for.

Another thing, aside from the premise on which it is based, is that it lays down a racial definition in terms of integration and not a constitutional question. It says that we are determined to bring about unity through introducing some of the minority races in every school, whether this is wise or unwise, or educationally desirable or not in a given situation.

For example, Mr. President, the basis for this kind of dealing with racial imbalance—and the words used in the plan of the Senator from Connecticut are "racial separation"—is the SMSA. The SMSA is the standard metropolitan statistical area. In my State one SMSA extends from the tip of Manhattan Island to Montauk Point. When we talk about busing or equalizing the percentage of students from Manhattan Island out to Montauk Point, we get ourselves involved in a situation that involves an enormous population and an enormous area within the context of the pending bill and distances of more than 140 miles.

This would require $2 billion a year. That is a fantastic amount of money, when the bill—and it is an enormous bill—comes to about $6 billion a year. And in addition we are spending about $4.5 billion a year now. This would be another $2 billion added to what we are spending now.

The crushing thing to me is that this bill, aside from what it does, would transfer the whole Federal plan with respect to desegregation to a totally different base, because it has very tight sanctions. In other words, school districts either comply with the plan of the Senator from Connecticut or lose all Federal education funds.

Mr. President, I beg those who are interested, and some of my colleagues on the committee are interested, to look at section 601. Section 601 absolutely cuts off any kind of Federal education funds unless you go this route. I simply cannot agree to that. I think this is too untried, too new, and too amorphous to cut off all Federal educational funds unless every district in the country goes this route.

What is a practical suggestion? I believe, and this will not influence the Senator from Connecticut and I do not seek to overween him in any way, that this is a very interesting concept.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, will the Senator yield to me for 2 additional minutes?

Mr. PELL. I yield 2 additional minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I have stated this to the Senator from Connecticut heretofore. I believe that it is an interesting concept, but I do not believe it should be put on this bill, which already has many things to break its back in terms of money, in terms of plans, and we will have to see where we are going to go.

The Ribicoff plan, which is a totally new approach, should be a separate bill. As I stated, I am not trying to overween the Senator from Connecticut or to talk him out of the proposal. I am not talking about that.

If it still remains open, I would lend myself, and even join the Senator, in trying to use this as some basis for a totally new approach—one may be deserved—to the whole question of dealing with racial imbalance and integration.

We are trying to do it in New York. As the Senator knows, our State has been a leader, not only in dealing with desegregation in a constitutional sense, but also in dealing with problems of racial imbalance as they impinge on education.

I would lend myself to reworking the Ribicoff plan as a separate bill with the idea that we are embarking on a totally new plan.

I repeat that I am not trying to influence the Senator to withdraw his amendment but I would pledge myself to work with the matter and to bring out a bill which would be credible, and which I would like very much to support. However, this would take us upon a totally new path in this highly troublesome matter.

Standing here and now, to put it on this bill, I cannot in good conscience go along with the proposal.

For the record, I would like to indicate some of the specific problems raised for me by the Ribicoff amendment:

First, the SMSA was conceived as a statistical unit unrelated to the purposes of education. It often bears little realistic relation to the practicalities of student assignment, for example, Bedford-Stuyvesant and Montauk Point;

Second, in granting the Secretary of HEW discretion to exempt some parts of an SMSA from participation in a plan, the amendment provides no standards relating either to time or distance of travel—Montauk Point and Harlem are within the same SMSA—or other educational considerations;

Third, provides for a blunderbuss dispersal of minority group students. In some metropolitan areas, it would result in reasonably integrated schools; in other areas it would leave one minority student in every classroom. Not only would this create unnecessary expense, it would also undermine a sense of identity and community not inconsistent with integration, but inconsistent with overly wide dispersal.

Examples of such counter-productive results could be found in such major cities as Seattle and Minneapolis. As of 1968, the SMSA of Seattle had 6.6 percent minority group students, Minneapolis, 3.5 percent. Under the Ribicoff formula, minority students in these cities would be so widely dispersed as to be wholly isolated from one another;

Fourth, although the amendment gives lipservice—pages 11–12—to the notion that transportation burdens should fall equally on majority and minority children, there are few incentives provided to result in many suburban children choosing to attend school in the cities—the magnet school rationale presented is expensive, and in any event, will only involve small numbers of children; and

Fifth, the committee bill gives equal representation on parent committees to minority and nonminority parents, reflecting a belief in pluralism within our schools. By giving minority parents only a proportionate voice, the Ribicoff amendment dilutes the effectiveness of their participation in assuring pluralistic curricula, et cetra.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PELL. Mr. President, how much time remains on either side.

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. PELL. And the Senator from Connecticut?

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. PELL. Mr. President, I yield to the Senator from Minnesota for 4 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, I rise to support the pending amendment of the Senator from Connecticut. It seems to me there are several indispensable considerations that must be taken into account as we look at the troubled racial and educational climate of our country.

First, as I hope we are deciding here today, we must have a continued commitment to the elimination of discrimination in every school system of this country. I do not regard that as a standard which applies only to the South; I regard it as a national standard which applies, and should be applied, to every school system in our Nation.

Without victory for support of that constitutional requirement I think all else we do is lost. We must not abandon their effort, to which this Nation and its laws have been committed over the many years.

Today we have voted, and hopefully the Congress as a whole will take this position, to continue support for the elimination of officially sponsored school segregation in all school systems throughout the country.

I see the amendment offered by the Senator from Connecticut in a different context because it seeks to deal with the broader issue of what best serves the educational and social health of this country.

The Senator from Connecticut has looked with great care at the undeniable trends toward concentration of the poor, the black, and other minorities in the central cities of this country—a trend which, according to the latest census, is becoming more accelerated rather than less. He has looked at the undeniable fact that many of our central city schools are failing abysmally, and will fail in the future, and at the fact that nothing contributes to racial tensions more than separation. He has come up with a sophisticated and sensitive plan to bring about integrated education in the communities of those metropolitan areas.

I cannot say I agree with every detail of the amendment, it does underscore the need for a program in this area, and it underscores the need to look at the broader problems that must be dealt with if we are going to have effective and quality education in an integrated America. For that reason I am pleased to support the amendment of the Senator from Connecticut, and I join many others in commending him for his creativity and courage in this field.

Mr. RIBICOFF. Mr. President, I take this opportunity to express my gratitude to the distinguished Senator from Minnesota who for 2 years has been living with this problem. No one knows this problem better and I do appreciate his support.

Mr. PELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Rhode Island has 3 minutes remaining.

Mr. PELL. Mr. President, few men in this body have had the interest and concern about this problem than has the senior Senator from Connecticut. I was rereading the debate on this same amendment of just under a year ago. I realize this is a very far reaching program and means a great deal to him. But I also realize that if we add this amendment to the bill at this time we are authorizing an additional $2 billion. In addition, what would concern me is that we would be legislating a 10-year bill, with a cost of $20 billion, in a bill with a considerably shorter life.

In addition, section 709 of the emergency school assistance portion of S. 659 does to a considerable degree, although not as well and completely as he would like, accomplish what the Senator from Connecticut would like to have done in the first 2 years of this amendment.

For these reasons I must reluctantly oppose the amendment of the Senator from Connecticut.

Mr. JAVITS. Mr. President, will the Senator yield to me for 1 minute?

Mr. PELL. I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, again I reiterate that I realize the split in the committee. Again I reiterate if the matter is left in that position I would undertake, in connection with the Ribicoff amendment to which its sponsor has given much thought and interest in personal responsibility, to really do my utmost to help him, because it is his creation, to work out a constructive addition to the path we are on now. But I cannot feel that can be done in the context we are now working on. I am sorry but I just cannot see it.

The PRESIDING OFFICER. All time has expired. The yeas and nays have been ordered. The clerk will call the roll.

The second assisant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Jackson), the Senator from Wyoming (Mr. McGee), and the Senator from New Hampshire (Mr. McIntyre) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The result was announced—yeas 29, nays 65, as follows:

[No. 69 Leg.]

YEAS—29

Allen
Baker
Bayh
Bellmon
Church
Cooper
Cranston
Eastland
Ellender
Fulbright
Hart
Hughes
Inouye
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McGovern
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Ribicoff
Sparkman
Stennis
Williams

NAYS—65

Aiken
Allott
Anderson
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Cook
Cotton
Curtis
Dole
Dominick
Eagleton
Ervin

Fannin
Fong
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Humphrey
Javits
Jordan, Idaho
Mathias
McClellan
Miller
Montoya
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—6

Harris
Hartke
Jackson
McGee
McIntyre
Mundt

So Mr. Ribicoff's amendment (No. 912) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 951

Mr. ERVIN. Mr. President, I call up my amendment No. 951, and ask that it be stated as modified.

The PRESIDING OFFICER. In accordance with the previous order, the Senator from Tennessee (Mr. Baker) has the floor.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina for the purpose of offering his amendment without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I ask that the amendment be stated as modified.

The assistant legislative clerk read as follows:

At the end of the committee amendment add the following additional title and section appropriately numbered:

TITLE——RULES OF EVIDENCE TO BE UNIFORM

Sec. —. "The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

Mr. ERVIN. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Virginia (Mr. Spong) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. It is my understanding that the floor manager of the bill and the ranking minority member of the committee are willing to accept the amendment, and for that reason I am prepared to yield back my time.

Mr. PELL. Mr. President, I believe the Senator from Minnesota (Mr. Mondale) would like a minute.

Mr. ERVIN. I yield the Senator from Minnesota as much time as he may use, and yield back the remainder of the time after he has finished.

Mr. MONDALE. Mr. President, I think the amendment as modified is an excellent one. I have felt, as I have reviewed the record of cases on the desegregation issue in this country, that the strongest argument the South has made is that the law against official discrimination has been prosecuted more vigorously in the South than in the North.

As I understand the amendment as modified by the Senator from North Carolina, it simply says that the same rules of evidence, presumptions, and the rest should obtain in every school desegregation lawsuit in the country, North or South, and I strongly favor that. I think it is essential fairness, and I support it.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. JAVITS. I join the Senator in that.

The Senator from North Carolina, at our request, was gracious enough to eliminate from his amendment, as will be noted by the printed amendment, what might have worried some of us about eliminating not evidentiary questions but substantive questions contained in the Civil Rights Act of 1964. As it now stands, I think it simply pursues Senator Ervin's constant campaign which resulted in the adoption of the Stennis amendment some time ago.

I thoroughly associate myself with the views of the Senator from Minnesota.

Mr. PELL. Mr. President, I think the amendment of the Senator from North Carolina is just and fair. It helps insure that all parts of the country will be treated alike.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee (Mr. Baker) is recognized.

Mr. BAKER. Mr. President, I call up my amendment which is at the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 734, after line 22, insert at the end of Title VII the following new section:

Sec. 718. (a) Notwithstanding any other law or provision of law, in the case of any order on the part of any United States District Court the effect of which is or would be to require that pupils be transported to or from school on the basis of race, color, religion, or national origin, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall take effect upon the date of its enactment and shall expire at midnight on June 30, 1973.

(b) If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. BAKER. Mr. President, this amendment to section 718 is, in effect and essentially, a reoffering of the third section of the Griffin amendment. It might be characterized as a legislative stay or supersedeas of judicially required busing until the orders of the trying court have been finally determined on appeal to the U.S. Supreme Court or until the time for appeal has expired.

Mr. President, these issues have been argued at length in our previous consideration of both the Griffin amendment and the Mansfield-Scott amendment, and I shall not detain the Senate long in a further elaboration of these points. I think it is sufficient to say that the distinction between this stay proposal and the Mansfield-Scott stay proposal is that Mansfield-Scott is applicable only to what I shall term the Richmond-type cases—that is, cases in which the U.S. district court has ordered the consolidation of school districts, consisting of counties, townships, cities, and the like. The Mansfield-Scott substitute does not apply to cases where there is judicially decreed busing for racial balance not involving school district lines.

It occurs to the senior Senator from Tennessee, in offering this amendment, that the question of whether judicially decreed busing crosses such jurisdictional lines is not a valid and desirable basis for deciding that the order to bus shall or shall not be stayed pending a final determination of appeal to the U.S. Supreme Court.

I think, rather, it is far more equitable and far more desirable to say, in effect, that Congress determines as a matter of public policy that judicially ordered busing of students in desegregation cases is of such moment, of such importance and significance, that the interim orders of the trying court and the appellate courts shall not be implemented until each case is finally determined on appeal to the U.S. Supreme Court or until the time for appeal has expired and the order thus has become final.

In addition, this amendment differs from the Griffin stay order by incorporating the language of Mansfield-Scott which provides that the section shall take effect upon the date of its enactment and shall expire at midnight on June 30, 1973. This section was put into the amendment to meet the argument which was anticipated to be made by some that this sort of stay could run ad infinitum, without end.

Thus, it appears to me that it is desirable that Congress now express itself in favor of a stay of the effectiveness of any busing order until that busing order has been fully tried and determined in the Federal judiciary, through the appellate procedure, to final judgment in the U.S. Supreme Court. This is far more narrow than the scope of the Griffin amendment. In many respects, it is far more narrow than the effect of the Scott-Mansfield substitute. It is highly desirable, in my opinion, that we now go on record as saying to ourselves, to the country, and to the courts that this matter is of such moment and importance that busing orders should not be implemented until the particular busing order is fully tried and determined in the U.S. Supreme Court or until the opportunity for such appeal has expired.

Mr. DOMINICK. Mr. President, will the Senator yield at that point?

Mr. BAKER. I yield.

Mr. DOMINICK. I am very happy that the Senator from Tennessee has offered this amendment. It struck me, in studying the Scott-Mansfield amendment, that one of the things that it might do would be to tend to have large districts which are now one district for the purpose of the financial end divide themselves into two or three, in order to comply with the conditions that are set forth in the Scott-Mansfield substitute, in order to avoid any court-ordered busing, which therefore would defeat the very thing we have been trying to do in consolidating districts for the purpose of getting a larger tax base and a better school district for all. I think this handles that matter rather well.

I might say to Senators that we have a situation in the West and in many other areas of very large districts where busing conceivably could go on for 60 to 100 miles, in order to get from one end of the district to another. This amendment would handle that. If the amendment is rejected, we will be forced to do something about incorporating larger districts of this kind so that they will be subject to the same conditions of the Scott-Mansfield theory as now applies.

Mr. BAKER. I thank the junior Senator from Colorado.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I compliment the Senator from Tennessee on his amendment. I shall certainly support it. I think it is a great step forward.

One of the problems we have in our educational system at the present time is that we have just about as many different orders as we have different district judges. In one district, a judge will order this done. In another district, which might be contiguous to the first district, a judge will order something else. In a third district, he might devise still a third remedy. So our educational officials are completely confused as to what they are supposed to do, particularly when they see one judge ordering one thing, and another judge ordering something else.

It seems to me that whatever policy we have should be absolutely uniform throughout the country.

As I understand the amendment of the distinguished Senator from Tennessee, it would order a stay in these cases until the Supreme Court of the United States could make a determination and set a policy which would be a guide for every district court and every appellate court in the Nation. Is that not true?

Mr. BAKER. That is entirely true. I thank the distinguished senior Senator from Georgia for making that valid point.

Mr. TALMADGE. What the Senator is trying to do, in the final analysis, as I understand it, is to give everyone his day in court, and allow him to exhaust his right to appeal, before he has to comply with these severe court orders. This has not been the case heretofore.

Mr. BAKER. The Senator is correct.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. BAKER. I am glad to yield to the distinguished junior Senator from Florida.

Mr. CHILES. Mr. President, I was listening to the questions propounded by the senior Senator from Georgia (Mr. TALMADGE) and I want to ask the Senator from Tennessee, how would this apply to some of the orders issued in my State? Most of the orders issued in my State are court orders requiring busing which are now final and the time for appeal has now run.

Mr. BAKER. In answer to the very pertinent question just raised by the distinguished Senator from Florida, I would say that it would not apply at all. The criterion, the basis on which this supersedeas can operate, would be that the busing order had not yet been fully tried and determined through the appellate procedure if the busing order were final by the operation of time or by the operation of law, that is, the Supreme Court had acted and the decree was final. Then it could not apply.

I might say to the Senator that that is a serious problem. It is a form of discrimination of the kind described and alluded to by the senior Senator from Georgia (Mr. TALMADGE). My only rejoinder would be in that respect to say that I would very much hope the Senator from Florida or another member of this body would offer another and different amendment that would accommodate to that.

In this particular case, I am trying to eliminate the legislative stay and the supersedeas of the cases now being appealed in order to preserve a similarity; that is to say, after the case had been tried and was on appeal, the case now would be that the court itself would issue a stay which has the inherent jurisdiction to do away with or to supersede that order until a final determination is made because of the public interest question involved. But the Federal courts have not issued stays on their own volition. The appellate courts have not issued supersedeas of the lower court orders.

Therefore, to keep it within the format and the framework of the judicial reviewing process, I am trying, by this amendment, to write in a stay with supersedeas of the lower court orders, all of the reviewing processes, which would culminate with the Supreme Court.

Mr. CHILES. If I understand correctly what the Senator has just said, he would attempt to stay any orders which were not final; is that correct?

Mr. BAKER. That is correct. It would stay those cases.

Mr. CHILES. Now proceeding on to those cases coming into being, would it offer no relief where the time for the appeal had run? I keep looking for an amendment that I can vote for, that will apply uniformly not only to Florida but to all the other States in the Union. The intentions of the amendment of the Senator from Tennessee (Mr. BAKER) are good. They would help Tennessee but I do not see that they would provide much relief for Florida. In the so-called Mansfield-Scott amendment and almost all the other amendments, I find nothing in them that would apply uniformly to all the States. I think that should be the criterion.

Mr. BAKER. I fully understand the concern of the Senator from Florida, and I am sympathetic to it. The only possible rejoinder I can make is that there are ample precedents setting an example. We have the experience of busing in all States, whether Florida or not. There may be other cases. There may be many requiring busing or additional busing, so that I would very much hope the Senator from Florida would find this a partial if not a complete solution to his problem.

Mr. COOK. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I yield.

Mr. COOK. First, the distinguished Senator from Georgia (Mr. TALMADGE) just stated that what the Senator really desires is an ultimate decision by the Supreme Court. That is not required within the total purview of the Senator's amendment, as I understand it. What the Senator is saying is that if an appeal is made, if the time runs and the appeal is not made to the Supreme Court, then that order becomes final at that stage.

Mr. BAKER. That is right.

Mr. COOK. So, really, we are not talking about bringing every case to the Supreme Court; is that not correct?

Mr. BAKER. That is right.

Mr. COOK. If the time expires for the appeal, or the appeal is not perfected, then the effect of the lower court order is the same as if the Supreme Court had acted; is that not correct?

Another question, because this should get into the RECORD. Suppose the appeal is not taken at one stage but prior to the expiration of time for that appeal, at that stage of the game, the order is vacated and, let us say, the district involved decides to vacate the action brought and decides to bring it on a different ground or a different basis so that in effect they can start all over again?

Mr. BAKER. Well, of course, in that case, it would be my view that the order was not final, since a previous order had been vacated and a new suit had been commenced. In that case, if I understand the Senator from Kentucky correctly, that case would be subject to a stay and supersedeas orders by this amendment.

Mr. COOK. The only point I want to make is that something should be in the RECORD and something should be in this discussion that when such action is brought, and prior to the time the final order occurs, let us say in the lower court, the action is vacated, then we then have that entire time in which to bring it over again. There comes a time, with the culmination of the order, that we cannot play around without the final order and vacating the lower court action, to decide to bring that action all over again. Does the Senator see the point I am after?

Mr. BAKER. Yes, I do. But I think the rules of procedure inherent in the jurisdiction of the court fully determines that issue because the court will not permit the authorities—certainly not an agency of a local government—to trifle with the court by beginning and dismissing cases. It takes two to dismiss. So I do not think that we are in jeopardy in that respect.

Now, Mr. President, let me resummarize——

Mr. COOK. Before the Senator resummarizes, it would not be the desire of the Senator from Tennessee, the originaator of the amendment, that such action should occur?

Mr. BAKER. No, it would not.

Mr. COOK. All right, I thank the Senator from Tennessee very much.

Mr. ERVIN. I should like to call to the attention of the Senator from Kentucky (Mr. Cook) the fact that in a great majority of cases with school boards and courts of appeal, until the final order the local interlocutory orders would not be subject to appeal.

Mr. COOK. I agree with the Senator.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from Minnesota (Mr. Mondale).

The PRESIDING OFFICER (Mr. Buckley). The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, I rise to oppose the amendment offered by the Senator from Tennessee.

I believe the amendment is unconstitutional. In the case of Holmes against Alexander (1970), the Supreme Court ruled that the time for pursuing the standard of "all deliberate speed" had ended. The Court held that, some 17 years since Brown against Board of Education, the time had come for the immediate end of officially sponsored segregation is public schools.

That decision was designed to end what had been more than a decade of delays, of appeals, of futile evidence-taking—in which each defendant school district resorted to full effort every known legal tactic to avoid eliminating discrimination.

The decision in Holmes against Alexander cuts through all that, ruling that where a court finds discrimination, the court should immediately order its elimination.

That is what the Constitution now clearly requires. This amendment, seeks to introduce once again the possibility of delays in all cases while appeals are taken. In effect it seeks to nullify the immediacy which the court found essential to protection of constitutional rights.

The operative effect of the amendment, if it were operative, would be to require every school district that was ordered to desegregate to appeal. They would be under pressure to avoid the court order, and they would do so simply by the device of appealing. No matter how fruitless, no matter how frivolous, no matter how hopeless the appeal, they would nevertheless be compelled to appeal because, by that act, they would be able to avoid the reach of the 14th amendment.

Also, there are any number of school districts in this country which have already been ordered to desegregate. The orders have become effective, and appeals have been taken. Some of those school districts have been desegregated for some time while the appeals are pending. If the pending amendment is agreed to, as I read it, every one of those school districts overnight could simply ignore the Federal court order and segregate again. The amendment would cause confusion that would be almost impossible to correct.

It is important to point out that the courts have discretion now in limited cases to stay an order where they find it essential to do so. We have seen this recently in the fourth circuit in the Richmond case. In the Richmond case, for the first time, orders were given to desegregate schools across a single school district line. The fourth circuit, I think wisely, said that the nature of the order was so different from any that had been issued in the past that it ought to be delayed until the Supreme Court has a chance to rule on it. I think they ruled wisely on the matter.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. SPONG. Mr. President, the stay granted by the fourth circuit only applies through the appeal to the fourth circuit. The fourth circuit did not say that the stay would apply through a final decision of the Supreme Court.

Mr. MONDALE. The Senator means that a temporary stay has been granted.

Mr. SPONG. The Senator is correct. And I appreciate the courtesy of the Senator from Minnesota in allowing me to interrupt him. I merely want the record to reflect the situation as it exists. When we speak of going across school districts, I think we should bear in mind that in Virginia every school district is a complete political subdivision. What the district court ordered is not just to combine school districts in the normal use of the word, but it ordered political subdivisions to be merged.

Mr. MONDALE. The Senator is correct. And I think this is the first time that such an order has been issued.

Mr. SPONG. Mr. President, I might say that the hearings the Senator from Minnesota has conducted so ably over the last year and a half already reflect that fact. People on each side of the question have said there is no precedent up to now for such an order.

Mr. MONDALE. Mr. President, for that extraordinary reason, I think the circuit court acted as they did. However, other than in such exceptional cases, as I construe the Holmes case, the 14th amendment requires immediacy.

This amendment attempts to repeal the Holmes case and encourage appeals in every case where appeals can still be taken.

What many Senators have argued for here is a standard that is the same throughout the country in the North as well as the South. This amendment is blatantly sectional. It says that in the South, where most of the court orders have already been issued, there will be no delay. They must go ahead and continue to desegregate. But many school systems in the rest of the country could appeal, and no desegregation would take place there. For constitutional reasons, and for reasons of uniformity I hope that this amendment will be rejected.

Mr. BAKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Tennessee has 6 minutes remaining.

Mr. BAKER. Mr. President, I yield 2 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 2 minutes.

Mr. ERVIN. Mr. President, it has been some time since I read the Alexander case. My recollection of the Alexander case is that the district court refused to order desegregation. The case was appealed to the Supreme Court of the United States by those seeking complete desegregation. The U.S. Supreme Court said that the district court could not any longer put off ordering desegregation—that the time for acting with deliberate speed had expired.

I think the Senator's amendment is very wise because if a school is ordered to be desegregated and the case is appealed, the school authorities ought not to be compelled to go ahead and desegregate. If there is no stay of judgment, and the school authorities win an appeal, it would be like trying to unscramble scrambled eggs. It is very difficult.

Every court in the United States has the power to stay judgment. A judge ought not to insist that his order be carried out until all appeal remedies have been pursued.

We need not worry about frivolous appeals. If it is a circuit court appeal, the circuit court will not entertain it. And if the appeal is frivolous, the Supreme Court will not grant certiorari. So, there is no danger of much delay in carrying out the decree if the appeal is frivolous.

I think the Senator's amendment is a very good one and I urge the Senate to agree to it.

Mr. BAKER. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 1 minute.

Mr. BAKER. Mr. President, the only rejoinder I make to the distinguished Senator from Minnesota is that this amendment in no way is calculated to stop the immediate process of desegregation. This amendment is to stay the orders on busing in connection with desegregation.

I tried in the colloquy on other amendments considered by the Senate to point out that antibusing is not anticivil rights. The reason for this attempt to make a legislative stay or a supersedeas stay is not to readjust or anything like that. Busing is such an extraordinary remedy in the matter of public schools that the courts should not implement their judgments until each case has been fully determined by the Supreme Court.

This amendment would not retard desegregation. It would retard the course of busing.

Mr. MONDALE. Mr. President, I think it must be pointed out that the Supreme Court made it absolutely clear in the Swann case, that desegregation cannot be limited to walk-in schools.

I think that the pending amendment would try unconstitutionally, futilely in my opinion, to deny the Supreme Court and other Federal courts a remedy that is clearly within their power. And that remedy cannot constitutionally be taken away.

This amendment would cause great confusion, interminable delay and inevitable appeals. And it has a regional bias.

Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I will not go over the ground so excellently trod by my friend, the Senator from Minnesota. I, too, have grave doubts as to the constitutionality of this provision, as I had grave doubts as to the constitutionality of that part of the Scott-Mansfield amendment on which this is based.

Other than the question of inequity in appeals which the Senator from Minnesota has so very eloquently pictured, I am very troubled as to what this could do with respect to existing orders.

It is said by the Senator from Tennessee—and I know that he means every word of it in the best of faith—that this applies to the cases in which the orders are not final. However, he does not deny that it relates to future cases which may arise between now and the expiration date, June 30, 1973. Therefore, I see the distinct probability that those districts which are very unwilling participants in this process will go into court and seek reform of the equity orders applying to the entire desegregation matter. They will seek an affirmance of that order. If the court actually affirms it, there will be an automatic stay of 16 months, which could undo everything you are doing now.

The district does not have to pay attention to the order. That is what the Senator from Tennessee is handing them on a silver platter. I do not believe we can build that kind of structure, which could invalidate everything we are doing, from the fact that in one case—to wit, Richmond, in a particular set of circumstances, where they are dealing with new law, because now the court is requiring busing interdistrict—we are going to make that the basis for a dismantlement operation which this amendment would put into effect.

I repeat again that I know the Senator from Tennessee means everything he says in the utmost good faith as to the finality of proceedings, and that it would not be terminated by final order; but I see nothing here to prevent any district from going to court and, if they can, get affirmative modification involving transportation. That is it. They are out of the whole thing for 16 months. I do not believe this could be our intention. Therefore, I hope very much the Senate rejects the amendment.

Mr. BAKER. Mr. President, I yield myself 1 minute.

As I understand the argument of the Senator from Minnesota and the Senator from New York, the point is made that a stay and supersedeas busing orders would be unconstitutional, unconscionable and inappropriate to the processes of desegregation.

I do not mean to be critical but I only respectfully point out the language to which they refer states:

> "the effectiveness of such order shall be postponed until all appeals in connnection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall take effect upon the date of its enactment, and shall expire at midnight on June 30, 1973.

That language is exactly and precisely the same language that was offered in the Mansfield-Scott amendment, and which was supported by the Senator from Minnesota and the Senator from New York, and which was adopted by the Senate. If it was so then, it is so now.

I suggest this is simple, bare equity, and they are identical in their concept.

Mr. President, I reserve the remainder of my time.

Mr. PELL. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Rhode Island has 7 minutes remaining.

Mr. PELL. How much time is remaining to the Senator from Tennessee?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. PELL. Mr. President, I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. MONDALE. Mr. President, I think the reasoning of the Scott-Mansfield amendment—and I have great doubt that that stay provision is constitutional—is that the Richmond case went beyond the boundaries of the single school district to order desegregation across several district lines. It was new and unique. Never before has a court issued such an order.

Therefore, out of fairness to the entire new law involved, the Scott-Mansfield sponsor felt there should be a stay giving the court a chance to rule in this case. But that is different than the proposal of the Senator from Tennessee. He says that every case, no matter how routine, or how much it looks like every other case decided over the past 18 years, should be appealed, and while they are, the order should be stayed.

It seems to me his amendment goes beyond anything the Scott-Mansfield amendment had in mind it and would create a great deal of confusion.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. SPONG. This is only to clarify the record with regard to the Richmond case. Aside from the uniqueness, the lack of precedence, which the Senator from Minnesota has already mentioned, there is this very practical matter involved. If the order itself were implemented and then the decision reversed at any stage on appeal, the various school districts would be faced with undoing, with unscrambling a situation already put into force, and there would be administrative havoc.

Mr. MONDALE. The Senator is correct. In fact, the circuit court has issued a temporary stay for the reason the Senator from Virginia suggested.

Mr. BAKER. Mr. President, I yield myself 1 minute.

If I understood correctly, the Senator from Minnesota said it is the intention of the Senator from Tennessee that every case, no matter how routine, or how much it looked like any other case, should be reviewable and stayed. The answer is, of course. It is entirely inconceivable to me that anyone in this Chamber would ever concede that any case in the Federal judiciary should not be appealable.

I do not propose for one instance by this amendment to grant any new right of appeal, but if there was an implication in the statement of the Senator from Minnesota that there should not be a right to appeal, that is more startling and revolutionary than anything that we have discussed in the last several days.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from Minnesota.

Mr. MONDALE. By no means do I suggest that. I say the Senator from Tennessee is creating a constitutional crisis because under his amendment every single court order that ordered desegregation would be appealable, no matter how futile the appeal, and automatically the district court order would be stayed. To me, that is unconstitutional and unwise.

Mr. PELL. Mr. President, I have listened to the debate and have studied the amendment which proposes a stay on busing orders until June 30, 1973. I believe that if the amendment were agreed to it would encourage a certain number of frivolous appeals. For that reason I intend to vote against the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

Mr. GAMBRELL. Mr. President, I would like at this time to offer a substitute to the amendment of the Senator from Tennessee (Mr. BAKER). The amendment is proposed on behalf of myself and Senators CHILES and SPONG. I send the amendment to the desk.

Mr. JAVITS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, may we know from the distinguished Senator whether he is calling up an amendment which is provided for under the unanimous-consent agreement, and if so, what part of the unanimous-consent agreement?

Mr. GAMBRELL. Mr. President, I am exercising the option I have to offer an amendment under the unanimous-consent agreement.

Mr. JAVITS. With a 40-minute time limitation?

Mr. GAMBRELL. Yes, as I understand the agreement.

The PRESIDING OFFICER. The agreement states that on the Chiles, Baker, Gambrell amendments there shall be 40 minutes each.

Mr. GAMBRELL. That is my understanding. They are three separate amendments.

The PRESIDING OFFICER. Does the Senator from Georgia wish to use a part of his 40 minutes, or is he offering a separate substitute for which he is entitled to 30 minutes?

Mr. GAMBRELL. Mr. President, this is the amendment I had in mind to offer when I reserved the time.

The PRESIDING OFFICER. The Senator will have 40 minutes on the amendment, 20 minutes to a side.

Mr. JAVITS. I thank the Senator. I have no objection.

The PRESIDING OFFICER. The amendment of the Senator from Georgia will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with and that the amendment may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, ordered to be printed in the RECORD, is as follows:

SEC. 718(a). Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court, to the extent that it has the effect of requiring in any school or school system the transportation of students or teachers in order to overcome racial imbalance, or in order to carry out a plan of racial desegregation, with respect to which Federal funds may not be used as provided in subsection (a) of the Scott-Mansfield, the effectiveness of such order shall be postponed until plans providing for the racial desegregation of schools without regard to the origin or cause of existing segregation, shall have been adopted uniformly throughout the United States by the appropriate local educational agencies thereof. Plans shall not be deemed to have been uniformly adopted throughout the United States until—

(1) such plans have been adopted in school systems containing not less than 75 per centum of the school population in public school systems which have total minority student population greater than 15 per centum, or

(2) such plans are in effect in not less than seventy-five of the one hundred most populous school systems in the United States which have total minority student population greater than 15 per centum and such plans are in effect in 75 per centum of the States of the United States having a minority public school student population greater than 15 per centum.

Likewise no plan shall be deemed to have been adopted for the purpose of this section unless such plans, approved by the appropriate local educational agency after public hearing, has ben submitted by the chief legal officer or other appropriate official of such agency to the Attorney General of the United States and the Attorney General has not interposed an objection within sixty days after such submission, provided that any plan objected to by the Attorney General shall be deemed to have been adopted for the purpose of this section if the Federal District Court having jurisdiction of such agency shall have approved such plan for desegregation as being in accordance with the Constitution of the United States and as providing for the racial desegregation of such schools without regard to the origin or cause of existing segregation. The Attorney General shall interpose an objection under this section to any such plan if he shall find that the means of desegregation adopted therein are not substantially consistent with those provided for in the court approved school desegregation plans throughout the United States.

Mr. GAMBRELL. Mr. President, I plan to state the amendment in detail and I shall be happy to distribute copies of the amendment to those interested.

Mr. President, the substance of the amendment, in effect, is a modification of the Scott-Mansfield amendment, so as to deal with the real question it raised on the busing controversy. My amendment would temporarily suspend court-ordered busing in the same situation where Federal funds cannot be used for busing under Scott-Mansfield.

Mr. President, under my amendment, court-ordered busing is not prohibited, as in the case of the Griffin amendment.

Under my amendment, as in the case of Scott-Mansfield, court orders are only suspended so that the constitutional problem under Griffin is avoided.

Under my amendment, only busing which cannot be funded under the Scott-Mansfield amendment is suspended.

Under my amendment, the suspension is only temporary, until school desegregation is made uniform throughout the country.

Under my amendment, voluntary busing plans would be permitted as in the case of Scott-Mansfield.

Under my amendment, as proposed by Senators MONDALE, STENNIS, and RIBICOFF, the distinctions between de jure and de facto segregation are abolished.

The primary reason for the adoption of this amendment is its fairness. Massive busing should not be required in some areas of the country when others have not even begun the desegregation process.

The amendment suspends court ordered busing until desegregation plans, with or without busing, have been made applicable to 75 percent of the students, or to 75 percent of the public school systems, among those systems having substantial minority public school population.

Such plans must either have the approval of a Federal district court or the Attorney General of the United States, and must be substantially consistent among themselves.

In other words, Mr. President, court-ordered busing plans are suspended until desegregation by race becomes a uniform practice at least through 75 percent of the school system and public school population.

A suspension of forced school busing will permit an orderly judicial or legislative settlement of the whole busing question, free of public furor. Whatever the ultimate solution of the busing and school desegregation question is, equal protection of the law requires that it be applied in a way which is uniform throughout the country.

As the distinguished senior Senator from Georgia indicated a while ago in his remarks, it is completely unfair and unworkable to school systems to attempt to implement desegregation plans which have some requirements in one section of the country and other requirements in other sections of the country. It is no wonder there are people marching on the streets in Richmond, Va.; Flint, Mich.; Denver, Colo.; and San Francisco, because they have enough sense to read what is going on elsewhere and they say, "How come they are applying this to me when they are not applying this over there?"

On January 25 of this year the Senate Democratic Caucus unanimously adopted a resolution which I would like to read at this time:

> Whereas, civil rights laws are intended to secure equal protection of the laws for all citizens,
>
> Now therefore be it resolved, by the Senate Democratic Conference,
>
> That this body, through its leadership, shall make every effort to require that all laws securing equal protection of the laws are themselves applied equally and uniformly in every section of the country.

I am going to assume that that resolution, when it was unanimously adopted, was adopted in good faith by the members that conference and that they would not want any civil rights laws applied to one part of the country which were not being applied in another part of the country. That is all we are asking by this amendment—that we have a uniform system of school desegregation throughout the country before extreme and radical remedies are applied.

I reserve the remainder of my time.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. GAMBRELL. On the Senator's time.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from Minnesota.

Mr. MONDALE. As I understand the pending amendment in the form of a substitute to the amendment of the distinguished Senator from Tennessee, it does several things. First of all, as I understand it, the amendment seeks to eliminate any distinction between segregation which arises from official discrimination and segregation which does not arise from official discrimination. Am I correct in that?

Mr. GAMBRELL. It would require that such segregation be eliminated before any busing orders could be put into effect, yes, in accordance with the Mondale amendment.

Mr. MONDALE. The Mondale amendment does not say that.

The Supreme Court has been dealing with situations where it is found that school districts and other public bodies have worked together to discriminate against schoolchildren, and where a lower court order has been issued to eliminate such discrimination. Would the Senator say that, in addition, we must also eliminate segregation which does not arise because of official discrimination? Is that correct? The Senator deals with both as though they were the same.

Mr. GAMBRELL. That is correct, yes, in accordance with the Stennis-Ribicoff amendment.

Mr. MONDALE. In other words, the first thing we do is lump segregation that is de jure and de facto together, and treat them the same.

Mr. GAMBRELL. In accordance with what the Senate has agreed to on three previous occasions.

Mr. MONDALE. Is there anything to be found in the amendment offered by the Senator from Georgia which gives the Government the power to eliminate segregation which does not arise from official discrimination, and if so, could the Senator point it out?

Mr. GAMBRELL. No; this amendment does not require anybody to do anything. It leaves it to the Attorney General, the Department of Health, Education, and Welfare, and to private individuals to prosecute their constitutional rights to the fullest extent in every respect except forced schoolbusing.

Mr. MONDALE. Does the amendment which the Senator presents for the first time prohibit segregation based on so-called de facto segregation? Is that illegal now under his amendment?

Mr. GAMBRELL. The amendment does not prohibit anything. It suspends, in the way the Scott-Mansfield suspends, the effectiveness of busing orders and requirements until a certain level of compliance is achieved uniformly throughout the country, and how it is achieved is up to the existing law and authority that exists on the subject.

Mr. MONDALE. Does the Senator from Georgia know of any legal authority that exists today that one can refer to, to eliminate de facto segregation?

Mr. GAMBRELL. It is my understanding that the Senate on three separate occasions had expressed that to be the policy of the United States. I do not know whether the Senator from Minnesota voted for it, but we have had that policy expressed by the U.S. Senate.

Mr. MONDALE. But that policy did not empower any Federal agency to bring action to eliminate de facto segregation.

Mr. GAMBRELL. I do not purport to be an authority on school desegregation, but it is my understanding that some of the Federal courts are in the process of undertaking to eliminate that distinction and saying that segregation based on de facto conditions ought to be eliminated, as well as the de jure segregation. I am not going to say it is not required by law; I am just saying it is not the purpose of this amendment.

Mr. MONDALE. Does the Senator know of any Supreme Court cases which have eliminated segregation on a de facto basis?

Mr. GAMBRELL. I will say this to the Senator from Minnesota: The Supreme Court of the United States has decided a lot of things since 1954 that I did not anticipate, so I am not going to assume they are not going to decide that. All I am saying is we should have uniform desegregation practices across the country in accordance with the amendment adopted by this body, the Stennis-Ribicoff amendment.

Mr. MONDALE. To return to my question, does the Senator know of a single case in which the Supreme Court of the United States has ordered desegregation in a de facto segregation situation?

Mr. GAMBRELL. No, I do not know of any such case.

Mr. MONDALE. Mr. President, will the Senator from Rhode Island yield me additional time?

Mr. PELL. I yield the Senator 5 additional minutes.

Mr. MONDALE. Mr. President, the amendment offered by the Senator from Georgia is an extraordinary one indeed. The law now, in my opinion, clearly grants a remedy to eliminate segregation where it arises from official discrimination. But there has never been a decision by the Supreme Court that there is a similar prohibition against people living or going to school separately but not doing so because of official discrimination.

Nevertheless, the amendment offered by the Senator from Georgia says, in effect, that there can be no desegregation ordered even where there are the most outrageous examples of official segregation, until we have also eliminated de facto segregation in every major city.

Mr. GAMBRELL. Mr. President, I would like to correct one statement the Senator has made. The amendment does not prohibit any segregation; what it prohibits is forced busing. Forced busing is not the only means of desegregation, and I believe the Senator is aware of that. There is widespread desegregation in the city of Atlanta today; it has one of the most extensive desegregation programs in the United States, but there is no forced busing.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. GAMBRELL. I am on the Senator's time.

Mr. MONDALE. The Senator is familiar with the recent Swann case. Did not the U.S. Supreme Court there say that under the Constitution, desegregation orders cannot be limited to the walk-in schools, and on some occasions must require busing?

Mr. GAMBRELL. That is what this is all about, yes.

Mr. MONDALE. And the Senator's amendment would, in effect, amend that Supreme Court decision and the Constitution of the United States. It would take a situation for which no remedy now exists, and say, "Until you can solve that problem, the 14th amendment will be suspended." I strongly oppose this amendment as an unconstitutional attempt to end efforts to overcome officially sponsored segregation.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Who yields time?

Mr. PELL. I yield the Senator from New York such time as he may require.

Mr. JAVITS. Mr. President, I think the Senator from Minnesota has adequately made the case. I rise only because of the Stennis-Ribicoff amendment. Reading from the bill, that amendment reads as follows:

> It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964, section 182 of the Elementary and Secondary Education Amendments of 1966, and this title, shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

The big difference between the amendment and this provision is that this provision applies to all given situations, no matter what people may call them, but those situations have to be in violation of law. What the amendment does is create a new law defining many situations as being not in violation of law which are in fact in violation of law, to wit, unconstitutional segregation, which is in violation of law, but is declared by the amendment not to be because 75 percent of the schools and students have not been cleared because of racial imbalance or segregation.

Mr. President, that is as different as day from night. True, the Stennis amendment used the words "de facto," but that is as far as it went in any similarity with this amendment, because it said if the law is applicable, no matter what people call it, it is applicable, and should be applied uniformly; but if it is not applicable, it is not applicable.

Remember, this was a few years ago. The theory was that de facto segregation was not being corrected because it was in the North, whereas de jure segregation was being corrected because it was in the South. We have since learned, with great surprise to many though not to me, that there is much of the segregation which was called de facto up until a little while ago which is de jure, and, therefore, becomes unconstitutional and is properly subject to control by the law.

So, Mr. President, I think the amendment is fatally defective in trying to maintain that something which is not unconstitutional segregation would be unconstitutional segregation in a situation which has nothing to do with individual rights, but deals only with collective responsiiblity.

As such, Mr. President, I cannot see how it is properly within our purview to use that for the purpose of completely impeding the effort to correct a constitutional deficiency. So I hope the amendment will be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. GAMBRELL. Mr. President, I yield 5 minutes to the Senator from Florida.

Mr. CHILES. Mr. President, I think if we can distinguish between this amendment and the Griffin amendment that we have voted on several times, it might help the discussion. The Griffin amendment said that there would be no busing for the purpose of trying to achieve a racial balance. The Gambrell amendment does not say there will not be any busing. There can be busing, but the orders requiring busing will not be put into final effect until they are applied uniformly either to 75 percent of the schoolchildren or to 75 percent of the districts where there is an unequal balance of the races.

This amendment is just trying to provide for a uniform application. I have been looking for everything that, when it comes down to facts, in the way of an amendment or a bill or otherwise, is going to be applied the same way to my State of Florida that it will be applied to every other State.

I think this amendment would be. Under this amendment, as contrasted to the amendment of the Senator from Tennessee, we are not staying orders until all appeals have run. Nothing is said about the running of all appeals. We are simply going to require that all people be treated the same in this country, and that there be a uniform application of the law. I think that is a constitutional right, that we have a right to have uniform application of the law, and whatever distinction we made in 1954, based on de facto and de jure classifications of the schools, the reasons and causes for that have long since passed, and we only have to look to the South now to see that our de jure schools of 1954 are much more desegregated than the de facto schools in other parts of the country.

This amendment would correct that distinction. I can see where some people would be concerned because it does not slow down busing that will take place in the future in the North or somewhere else. It simply says we will have a uniform application, that however we treat children and education processes, they will be treated the same way in Florida, in New York, in California, and in every State of the land. The Attorney General is set forth as the agency whereby these plans can be cleared, and I think there would be a great impetus, if this passes, to see that we have a uniform application of the law. I think it affects the Mansfield-Scott amendment, because it does provide for uniform application of the law, and that it will not be applied one way to one area and another way to another.

If busing is good, let us apply it across the country. If there are to be limitations on busing, let us apply those across the country. Let us not stay orders until final appeals in some States, where the time for appeal has run in my State, for example, and orders cannot be stayed. Let us not have a distinction based on a reason that existed, perhaps, in 1954, but no longer exists.

I think the Gambrell amendment would cure that, and would provide for uniformity in the way we treat this problem.

The PRESIDING OFFICER. Who yields time?

Mr. GAMBRELL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PELL. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Georgia has 10 minutes, and the Senator from Rhode Island has 9 minutes.

Mr. PELL. I yield myself 2 minutes.

Mr. President, this amendment, as I understand it, would suspend the operation of court orders involving busing to eliminate segregation until uniform rules were developed throughout the Nation; until all districts involving 75 percent of the pupils in public schools or 75 of the largest school districts are under plans or orders consistent with those uniform rules. In effect, this amendment, as I see it, would suspend the Constitution, where busing is involved, until three-quarters of the school districts in the country had plans or where minority children were ordered to be transported.

I am compelled to oppose this amendment and shall do so.

I am prepared to yield back the remainder of my time.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. PELL. I yield 1 minute to the Senator from Minnesota.

Mr. MONDALE. I thank the Senator.

Mr. President, the original Gambrell amendment added a new legal provision, authorizing suit by the Attorney General to eliminate segregated education regardless of cause in any of the major cities in this country. I interpreted it as a racial balance law, whether official discrimination existed or not.

The pending amendment deletes that provision, but requires prior elimination of de facto segregation as a condition for any court orders eliminating discrimination. Thus, we have created a requirement which cannot be met, and for which there is no legal remedy, as a condition for any further efforts to enforce the constitution and eliminate discrimination.

It seems to me that it is both unconstitutional and an act of futility to adopt the pending amendment, and I am hopeful that it will be defeated.

Mr. PELL. I am prepared to yield back the remainder of my time.

Mr. GAMBRELL. I am prepared to yield back the remainder of my time, but I should like to answer some of the arguments that have been made.

Does the Senator from Rhode Island wish to be recognized at this time?

Mr. PELL. No.

Mr. GAMBRELL. Mr. President, I am not surprised that some of the proponents whose States do not have any forced busing—in fact, they do not have any desegregation in operation in their States—cannot belly up to this proposal for equal treatment across the country.

I have drafted this amendment to fit the Scott-Mansfield amendment like a glove. That is, the identical busing that the Scott-Mansfield amendment outlawed by withdrawing Federal support is withdrawn from Federal court orders. I do not see how they can complain about that. If it is too bad to be supported by Federal funds, it is too bad to be enforced by court orders.

Second, the Senate has three times approved the Stennis-Ribicoff plan for abolishing the distinction between de facto and de jure segregation. All we have asked for in this amendment is to suspend forced busing until the objective called for by the Stennis-Ribicoff amendment is achieved in 75 percent of this country.

The Senator from Minnesota says that is not required by law, so how in the world can we achieve that? I would say that if desegregation is good enough for Georgia, it is good enough for Minnesota. If it is good enough under the Stennis-Ribicoff amendment, when it was passed three times, it is good enough today.

Finally, the means of achieving the uniformity I have adapted to be identical to the means by which voters' rights are protected under the voters' rights amendment, and these desegregation plans must be submitted either to the Attorney General of the United States or to the Federal district court for approval, to determine and to assure that desegregation is uniform throughout this country.

Mr. President, the Democratic caucus adopted the resolution which I read earlier. I think that those leaders of the Democratic Party who expect to get support from the South, from the West, from the East, and from the North, in places that are under busing orders today and under degregation orders today, will read this rollcall today to see whether there is any hypocrisy or any validity in the resolution calling for uniform civil rights enforcement throughout the country.

This country very badly needs an opportunity to resolve the busing crisis without the public clamor that is in progress today. A suspension of busing orders will give that opportunity. This amendment, different from the Griffin amendment, does not ask for a prohibition of busing orders. It asks only for temporary suspension. It will give the Senator from Minnesota all the time he wants to adapt a uniform desegregation plan that will apply throughout the country, if he can get one adopted.

The reason they are fighting this as hard as they are is that they know they cannot get Congress to pass for the entire United States what these courts are requiring in Georgia, Florida, California, Colorado, Michigan, Virginia, and the other places where busing orders are in force.

All we are asking for is equal protection of the law and a suspension of busing orders until we can get equal protection of the law. If equal protection of the law, in accordance with the Democratic Caucus resolution, is unfair, if that is unconstitutional, if that is un-American, I do not understand what American is.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator has 6 minutes remaining.

Mr. GAMBRELL. I yield 3 minutes to the Senator from Virginia (Mr. SPONG).

Mr. SPONG. Mr. President, I listened to the Senator from Minnesota say that he questions the constitutionality of this amendment. In order that the public might really be apprised of the situation that has existed with respect to these proceedings the past 5 days, I think we all ought to be aware that the constitutionality of almost every amendment that has been put forward has been questioned.

The Senator from New York, in his exchange with the Senator from South Carolina, admitted to reservations about sections of the Scott-Mansfield amendment. The very able Senator from Kentucky, who is a constitutional expert, questioned the constitutionality of many of these amendments.

All some of us are trying to do is bring about a national desegregation policy in the United States. Two years have passed since the Stennis amendment was adopted, and there is more segregation in the major cities of the United States, more racial isolation, than there was at the time that amendment was adopted.

The Senator from Minnesota asked about the Supreme Court ruling on de facto segregation. Let the RECORD show that the Supreme Court of the United States has declined certiorari on three occasions in cities of the Midwest. If we had had the benefit of a Court decision 3 or 4 years ago, when some of these cases went up, the Charlotte case or the Richmond case might have been heard on a different basis entirely. The last certiorari that was denied was because the pleading was 1 day late.

We in this chamber have talked about desegregation and equal educational opportunity, and the truth of the matter today is that the black child in the larger cities of the South—in Richmond and Norfolk—has a better educational opportunity than in the cities that today show only 2, 3, or 4 percent black children attending a school that is not predominantly black.

So a number of us here in the Senate are going to continue to offer measures such as this, whose constitutionality might be questioned, just as I have questioned the constitutionality of the Scott-Mansfield amendment. But sooner or later this Nation is going to have to adopt a desegregation policy that not only places education in the forefront but also applies equally throughout the United States. I do not think anyone in this country should believe this measure, which we have debated back and forth today, yesterday, and last week—solves any problem.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GAMBRELL. I yield the Senator 1 more minute.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 1 more minute.

Mr. SPONG. Mr. President, I do not think any of us should represent to anyone, or that the public should be under the impression, that any great stride has been taken to help the educational opportunities of the underprivileged. Second, no stride has been made at all to render equitable and equal treatment throughout the United States in the attempted resolution of what is a very great problem indeed.

I thank the Senator from Georgia for yielding me this time.

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I do not want to delay this particular debate. What I am about to open up is a big subject. I can open it up by citing the utterances of the distinguished Senator from Virginia (Mr. SPONG) just now, who is a great friend and a very great Senator, in my judgment. But what has been overlooked is the fact that this Nation's considered policy in Federal aid to education—and I was here when we inaugurated it—was conditioned upon non-Federal interference with the educational process. That was a more fundamental proposition to everyone here than anything we are discussing now. That all goes down the drain with this amendment, because the Federal Government will then be deciding what the commissioner of education in New York, has decided is a State policy with respect to racial imbalance. We could be right or we could be wrong—my colleague Mr. BUCKLEY, or I could disagree—I do not know what his attitude is. It is immaterial. But that is State policy, determined through State processes.

If we go this route, we will be going the route of the Federal Government, to write the rules as to what shall be educational policy in the States, using Federal educational aid as the carrot to do it. If that is the route we want to go, that is fine, and this amendment is in order; but if this is not the route we want to go, then the amendment is very much out of order and it should be rejected.

Mr. PELL. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Georgia is.

Mr. GAMBRELL. I should like to reserve the remainder of my time. If the Senator from Rhode Island will yield back his time, I will take my remaining 2 minutes to close.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. GAMBRELL. Mr. President, what the Senator from New York has just said demonstrates very clearly what I have said here today, and that is that what the opponents of the amendment fear the most is that a uniform desegregation policy will be adopted all across the United States, and that in New York they will have the same kind of interference we have had in Georgia, in Florida, and is now being had in Colorado, Virginia, Michigan, and other States in the Union.

Now, Mr. President, what this amendment does is simply to suspend the operation of busing, not desegregation, but busing until a uniform desegregation policy can be adopted all across this land.

What we need to know is whether Members of the Senate in the Democratic caucus will live up to the commitment they made on January 25 of this year, to see to it that every effort is made to require that all laws securing equal protection of the laws are applied equally and uniformly to every section of the country.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BUCKLEY). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Georgia (Mr. GAMBRELL).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Hampshire (Mr. MCINTYRE), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. ALLOTT) is detained on official business.

If present and voting the Senator from Colorado (Mr. ALLOTT) would vote "nay."

The result was announced—yeas 29, nays 62, as follows:

[No. 70 Leg.]

YEAS—29

Allen
Anderson
Baker
Bentsen
Bible
Brock
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Eastland
Ellender
Ervin
Fannin
Fulbright
Gambrell
Goldwater
Gurney
Hollings
Jordan, N.C.
McClellan
Proxmire
Randolph
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower

NAYS—62

Aiken
Bayh
Beall
Bellmon
Bennett
Boggs
Brooke
Buckley
Burdick
Case
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Fong
Gravel
Griffin
Hansen
Hart
Hatfield
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, Idaho
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—9

Allott
Harris
Hartke
Jackson
Kennedy
Long
McGee
McIntyre
Mundt

So the Gambrell amendment to the Baker amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the

Senator from Tennessee (Mr. BAKER). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. COTTON (after having voted in the affirmative). On this vote I have a live pair with my colleague from New Hampshire (Mr. MCINTYRE). If he were present and voting he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. ALLOTT) is detained on official business.

If present and voting the Senator from Colorado (Mr. ALLOTT) would vote "yea."

The result was announced—yeas 43, nays 49, as follows:

[No. 71 Leg.]

YEAS—43

Allen
Anderson
Baker
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Cook
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
McClellan
Proxmire
Randolph
Roth
Smith
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—49

Aiken
Bayh
Bellmon
Boggs
Brooke
Burdick
Case
Chiles
Church
Cooper
Cranston
Eagleton
Gravel
Harris
Hart
Hatfield
Hughes
Humphrey
Inouye
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Saxbe
Schweiker
Scott
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cotton, for.

NOT VOTING—7

Allott
Hartke
Jackson
Long
McGee
McIntyre
Mundt

So, Mr. BAKER'S amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### REPORT ON HIGHER EDUCATION IN APPALACHIA

Mr. RANDOLPH. Mr. President, at this point in our discussion of the merits of the higher education bill, I want to share with Senators some data from a study on higher education in Appalachia. The intent of this study, funded by the Appalachian Regional Commission, was to analyze the present status of higher education in the 13-State region. As you know, the Appalachian Regional Commission has been focusing its small planning moneys in ways, such as this study, to gain more support for Appalachian education institutions. This support is necessary to correct the fiscal and program gaps that exist in the Appalachian region today.

The results of this study could not come at a more decisive time—as we decide the Federal response to the needs of all higher education:

The data clearly demonstrates that for all classes of higher education institutions, those located in Appalachia fall considerably below the national average educational operating expenses for full-time equivalent students. The gap between 4-year colleges nationally and Appalachian 4-year colleges ranges from about $300 to $800 per student. The study shows that Appalachian institutions have fewer Ph. D.'s per student than the national norms. It also demonstrates conclusively that lower family income students in Appalachia do not receive as many dollars per student from the Federal guaranteed loan program as students with higher family incomes.

Student financial aid data, when combined with national enrollment projections, indicate that there are substantial numbers of young people in Appalachia who would like to attend college but are unable to attend. A rough estimate of the number is approximately 79,714 young Appalachians.

There is more data yet to be analyzed, but there can be no question that Appalachian higher education institutions should receive additional support from the Federal Government.

In view of the needs of Appalachian higher education institutions described in this study, let it be clear that this body intends that more Federal program funds for Appalachian institutions of higher education be allocated by the responsible Federal agencies. Particular attention is directed to title III, Higher Education Act of 1965 that more developing institutions consortia programs must be funded in Appalachia to enable these institutions to provide student-recruitment and retention program, support special student service programs, curriculum program improvement and programs to retrain and recruit faculty.

I strongly recommend that after the passage of this act, discussions begin between the Office of Education and the Appalachian Regional Commission that will lead to a significant number of Appalachian higher education programs funded by title III, HEA, 1965, and special programs for the disadvantaged during the coming year.

### CONCLUSIONS AND RECOMMENDATIONS—APPALACHIAN HIGHER EDUCATION STUDY

There is evidence that as a class, Appalachian higher education institutions are in trouble. They are having difficulty attracting students for tuition or other reasons and they subsidize their students to a lesser degree than higher education institutions in other regions. Private schools in Appalachia, especially 2-year schools, are fast becoming a minor part of the educational scene. If it is felt that quality education, both public and private, should be available to serve Appalachian students, attention should be given to procedures for alleviating and correcting the trend established in this report.

More is needed than simply a supply of funds in order to keep higher education a major factor in Appalachian education. Efficient use of resources at hand must be accomplished and maintained. This holds true for public as well as private institutions. With this in mind, the concept of uniting several aspects of the higher education system under the auspices of consortia bears careful thought. Consortia many operate on various levels. Subregionally, administrative functions for a large number of institutions could be combined under single direction. Admission requirements could be standardized, data processing—a costly item for institutions—could be combined, and so forth.

Locally, consortia could be established to share facilities—such as libraries, classrooms, laboratories—as well as staff. This would be especially useful if the consortia included public and private institutions. Easing of the educational load for public institutions would be a byproduct of this sort of association.

Finally, a regional planning consortia would greatly benefit all institutions since some overall direction and stimulus for Appalachian higher education could be achieved.

In view of the needs of Appalachian higher education institutions described in this study, it is recommended that the Commission investigate ways that the developing institutions program—title III of the Higher Education Act of 1965—be expanded to provide funds for consortia programs to enable Appalachian higher education institutions to provide recruitment and retention programs, support student service programs, curriculum program improvement, and programs to upgrade faculty. It should be pointed out that because of limited funds, many Appalachian higher education institutions that qualified under this act have not received program support. In fiscal year 1971, Congress has increased the funds available in this program by $18 million. Coupling the findings of this study and an increase in the Federal aid program that focuses on these very programs of Appalachian institutions, it is strongly recommended that discussions begin immediately between the Office of Education and the Appalachian Regional Commission that will result in a significant number of Appalachian programs funded by title III during the coming year.

The second major recommendation of this study relates to the outputs of the higher education study in Appalachia. Generally, our system produces more elementary education teachers, social scientists, and humanities graduates than health professionals and scientists. It is recommended that the Commission give priority consideration to any higher education program it sponsors or funds to programs or facilities that focus on a manpower need or skill identified by sound data in each application. Such a priority consideration would provide greater impact to the needs of the region and promote a greater responsibility on the part of higher education institutions in the region.

#### THE OTHER FUNDING ALTERNATIVE: STUDENTS IN APPALACHIA

It has been pointed out that higher education institutions in Appalachia are in trouble and that some sort of aid must be forthcoming, such as programs for increasing enrollment. One possible way to achieve this may be through federally funded aid programs directed at students.

The State of Illinois conducted a study that showed a significant percentage of students would attend private instead of public institutions if some sort of financing were available. Three types of programs have been previously mentioned—loans to students, grants to students, and a federally supported loan bank for students. Of these three alternatives, the most attractive is the grants directly to students. It has also been shown that guaranteed loan programs fail to attract the low-income Appalachian students.

Additionally, Appalachian institutions should attempt to do more for students native to the region. Migration data obtained, although admittedly sketchy and incomplete, showed that over the 2 years under consideration, Appalachian enrollments decreased in Appalachian institutions. This is alarming since education of the Appalachian student should be the highest priority of these institutions. It is suggested that more intensive recruiting of Appalachian students occur with an emphasis on special programs suited to the needs of the students. The migration survey showed very little in the way of innovative programs adapted specifically to students of the region.

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### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

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### REPORT ON NATIONAL GROWTH—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate following messages from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs:

*To the Congress of the United States:*

I am pleased to transmit the first biennial Report on National Growth as required by Section 703(a) of the Housing and Urban Development Act of 1970.

This report was developed by the members and staff of the Domestic Council Committee on National Growth, under the Chairmanship of George Romney, Secretary of Housing and Urban Development. Their efforts are deeply appreciated.

RICHARD NIXON.

THE WHITE HOUSE, *February 29, 1972.*

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### EXTENSION OF TIME FOR THE COMMITTEE ON AGRICULTURE AND FORESTRY TO FILE A REPORT

Mr. TALMADGE. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry be granted an extension of time until March 30 for the filing of the report required by section 3 of Senate Resolution 76.

This extension will allow the committee to make a more comprehensive report of its findings and recommendations.

The PRESIDING OFFICER. Without objection, it is so ordered.

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### EXTENSION OF TIME FOR THE COMMITTEE ON GOVERNMENT OPERATIONS TO PUBLISH ITS RULES

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Committee on Government Operations have until March 17, 1972, to publish its Rules of Procedure in the CONGRESSIONAL RECORD, pursuant to section 133B of the Legislative Reorganization Act of 1946, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

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### RULES OF COMMITTEE ON COMMERCE

Mr. MAGNUSON. Mr. President, pursuant to section 133B of the Legislative Reorganization Act of 1946, as amended, I ask unanimous consent that the text of the committee rules be printed in the RECORD.

There being no objection, the committee rules were ordered to be printed in the RECORD, as follows:

#### RULES GOVERNING THE PROCEDURE OF THE SENATE COMMITTEE OF COMMERCE, ADOPTED PURSUANT TO SECTION 133(b) OF THE LEGISLATIVE REORGANIZATION ACT 1946, AS AMENDED

##### I. MEETINGS OF THE COMMITTEE

Regular meeting days are the first and third Tuesdays of each month.

##### II. QUORUMS

1. Ten members shall constitute a quorum for official action of the Committee when reporting a bill or nomination; provided, that proxies shall not be counted in making a quorum.

2. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

##### III. PROXIES

When a record vote is taken in Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone or through personal instructions.

##### IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the chairman and the ranking minority member of the full committee.

##### V. SUBCOMMITTEES

Subcommittees shall be considered de novo whenever there is a change in the chairmanship and seniority on the particular Subcommittee shall not necessarily apply.

### PROGRAM

Mr. MANSFIELD. Mr. President, I been have asked by the distinguished minority leader what the program for the rest of the day will be.

It is my understanding that the distinguished Senator from Arkansas (Mr. FULBRIGHT) is prepared to call up his amendment and also that he and the distinguished Senator from Colorado (Mr. DOMINICK) have agreed to a limitation of 1 hour, to be equally divided as previously described.

It is my understanding that after that the distinguished Senator from North Carolina has at least three amendments—there may be others—but he, likewise, is willing to consider a reduced time period.

It would be my suggestion to the Senate, as long as the yeas and nays will probably be ordered on the amendment to be proposed by the Senator from Arkansas (Mr. FULBRIGHT), that at the conclusion of the vote on the Fulbright proposal the Senate then adjourn to the hour of 9:30 tomorrow morning.

Mr. ERVIN. Mr. President, I would like to have the opportunity of calling up my amendment after the Fulbright amendment.

Mr. MANSFIELD. That will be all right.

Mr. ERVIN. I assure the majority leader I would be willing to agree to a time limitation.

Mr. MANSFIELD. Would the Senator be prepared to lay down one of his amendments tonight and start taking them up in sequence tomorrow?

Mr. ERVIN. Yes. I will be prepared to lay down the one that I withdrew the other day, that guaranteed a child the right to attend a neighborhood school.

Mr. PASTORE. Mr. President, are we to understand that there will be only one more vote tonight?

Mr. MANSFIELD. Only one more vote, if that meets with the approval of the Senate.

Mr. SCOTT. Mr. President, I should like to inquire of the distinguished majority leader what he thinks the order of business will be following the final vote on this bill on or before 2 o'clock tomorrow.

Mr. MANSFIELD. Mr. President, it would appear to me that the chairman of the Foreign Relations Committee and the ranking Republican member have three conference reports which are available, having to do with banks of various kinds, and that the distinguished Senator from Wisconsin (Mr. PROXMIRE) will be prepared to take up the conference report on the foreign aid bill. It is hoped that it might be possible to take up tomorrow, if it does not go too late and there is not too much opposition to it, the bill having to do with the increase in the price of gold from $35 an ounce fine to $38. That will be followed by the debt limit bill, which is vitally needed, and the Senator from Virginia wanted to be given notice of it because he has a personal interest in this legislation.

Then we also have a number of money bills out of the Rules Committee this week which are on the calendar, and I would have to discuss a day certain with the distinguished Senator from Louisiana (Mr. ELLENDER), who has a personal interest in matters of that nature.

Mr. SCOTT. Mr. President, could I

inquire at this time about when the distinguished majority leader intends to call up for confirmation the nominations of the Attorney General designate and Deputy Attorney General designate?

Mr. MANSFIELD. Just as soon as possible. As the Senator knows, they are not on the executive calendar as yet, but they will be given expeditious consideration. Could the Senator tell me if they will be reported out to the calendar this week?

Mr. SCOTT. I understand the nominations are to be reported out to the calendar either today or tomorrow; is that not correct?

Mr. ERVIN. We approved them in the Judiciary Committee today, so they should be reported today. There was no opposition in the vote on them.

Mr. HUMPHREY. Mr. President, will the majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. HUMPHREY. Just as a matter of clarification, is my understanding correct that there will be a final vote at 2 o'clock tomorrow on the higher education bill?

Mr. MANSFIELD. That is correct.

Mr. HUMPHREY. Will all amendments have been considered at that time?

Mr. ALLEN. Mr. President, as I understand it, at 2 o'clock we only begin voting, and any amendment could be put in to be voted on without debate.

Mr. MANSFIELD. The Senator is correct.

Mr. JAVITS. But it is also understood that we may move to table any amendment which is put up for a vote without debate.

Mr. MANSFIELD. The Senator from New York is correct.

Mr. SCOTT. Mr. President, I hope all Senators will be present, because some of the matters on which we have already voted might well recur without debate at the last minute as we start the vote at 2 o'clock tomorrow.

Mr. MANSFIELD. And there will be a number of rollcall votes tomorrow.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. HUMPHREY. I want to assure my beloved friend from Pennsylvania that I love his companionship so much I intend to spend the day with him tomorrow.

Mr. SCOTT. Mr. President, I want the distinguished Senator from Minnesota to know we enjoy seeing his beloved countenance so much that we would be happy to have him here at all times.

Mr. MANSFIELD. Mr. President, that is enough badinage for the moment.

### AMENDMENT NO. 920

I ask unanimous consent that I may now ask unanimous consent that the debate on the Fulbright amendment (No. 920), be offered shortly, be limited to 1 hour, to be equally divided between the distinguished Senator from Arkansas (Mr. FULBRIGHT) and the distinguished Senator from Colorado (Mr. DOMINICK).

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT TO 9:30 A.M.

The PRESIDING OFFICER. The Chair reminds the Senator from Montana that under the existing order the Senate will convene at 9:45 tomorrow morning, unless the Senator wishes to have it changed.

Mr. MANSFIELD. Yes. Mr. President, I ask unanimous consent that that be changed to 9:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, February 29, 1972, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 7. An act to provide for the establishment of the Buffalo National River in the State of Arkansas, and for other purposes;

S. 960. An act to designate the Sycamore Canyon Wilderness, Coconino, Ksibab, and Prescott National Forests, State of Arizona;

S. 1857. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended;

S. 2896. An act to amend chapter 83 of title 5, United States Code, relating to adopted child;

S. 3122. An act to extend certain provisions of the Federal Water Pollution Control Act through June 30, 1972, and others through April 30, 1972; and

S.J. Res. 189. Joint resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday March 26, 1972, as national day of prayer for these Americans.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Educational Act of 1963, and related acts, and for other purposes.

### AMENDMENT NO. 920

Mr. FULBRIGHT. Mr. President, I call up amendment No. 920.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 735, beginning with line 1, strike out through line 20 on page 753.

The PRESIDING OFFICER. The Senate will be in order.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FULBRIGHT. Mr. President, for the information of the Senate, I have asked the pages to place on Senators' desks a one-page summary of what is involved in this amendment.

This is a very large bill, and the particular provision I seek to strike by my amendment is some 20 pages long. It is a very important proposal involving as much as $60 million in the fourth year, so it is not a small item by any means, but a very large item.

Before addressing myself to the merits of the proposed Foreign Service Scholarship Program—which are minimal—I want to say something about the procedure. This proposition, as S. 390, has been on the Senate Calendar since May 12, 1971. Yet, to my knowledge, the sponsor of the measure has never seen fit to arrange with the leadership time to debate S. 390. Instead, this item keeps bobbing up as a rider to the Higher Education Act amendments. I believe I know the reason—or one of the reasons, or three reasons: It is strongly opposed by the President, the State Department and the Civil Service Commission. It is also opposed by the Defense Department.

This unusual procedure illustrates the questionable nature of this proposal and its total lack of support from the executive branch.

The last time that I had occasion to discuss this rider, on August 6, 1971, during the original Senate debate of the Higher Education Act amendments, I explained the Foreign Relations Committee's 10-to-2 vote against S. 390 on the grounds that the committee found the program unnecessary, undesirable, uneconomical, untimely, and unrealistic. If anything, all of these arguments have only been reinforced by economic developments during the last 6 months.

To summarize my previous statement—the program to train at Government expense a large number of foreign affairs undergraduates is unnecessary because the Civil Service Register is already overflowing with qualified applicants for whom no positions are available. Since we discussed this last, things have only gotten worse. Unemployment has risen, and Federal agencies have had to make further cuts in personnel. In June 1971, when the Foreign Relations Committee last had hearings on this matter, we received data that there were then 50,000 eligible persons on the Civil Service Register, including thousands with advanced degrees. The State Department added that 9,700 persons had applied to take the Foreign Service examination the previous December for a total of 100 to 200 appointments in the Foreign Service. There is a vast oversupply of people who want to have a glamorous foreign affairs career. Quite clearly, we do not need to spend scarce Government funds to attract people to this field of endeavor.

The program is undesirable in its effect on open competition for Federal employment, giving an elite group an edge on prestigious positions. This is bad public policy.

The program is uneconomical because it would pay the bills of students who would otherwise be financing their own education in this field. Its total cost is completely out of line with our other priorities. By 1965 it is estimated to cost the taxpayer $60 million a year according to its own sponsor. That is far more than we spend on existing educational exchanges with some 50 foreign countries.

The program is untimely since our limited resources are more urgently needed elsewhere. With all of our financial problems and the concern over budget deficits and the strength of the dollar, I find it almost inconceivable that we should take seriously this additional program.

Finally, I said in August, the program is unrealistic. It would saddle busy Congressmen and Senators and agency heads with the nomination of students and administration and supervision of the program. The students' obligations to the Government are not spelled out and much else is left to be decided in some future regulations to be issued by these busy people. The program has been compared to a type of diplomatic ROTC and considering the problems ROTC has been having, are we sure we want to set up another one? And if a diplomatic ROTC then why not an agriculture ROTC, a science ROTC, and so on down the list?

As I mentioned, these arguments have only gained weight with time. I find it unrealistic that we should be asked to launch an expensive and unnecessary program at this time when we cannot provide adequate funding of existing programs, In fact, more than token appropriations for any of the other programs covered by S. 659 will be difficult to obtain and I do not see why we should further endanger their prospects by taking on a Foreign Service scholarship program.

I repeat what I stated last year—that this program under its different guise is one that the Foreign Relations Committee has studied from time to time beginning with its original form of a Freedom Academy designed to train people in cold war tactics. If this could not be justified in the past, it surely cannot be justified now.

As an example of where we might find ourselves going with this program, I call attention to an article in the Nation of October 4, 1971, entitled "The Cold War College: Degrees in Paranoia," and ask unanimous consent that the entire article be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. FULBRIGHT. The article discusses the Freedom Studies Center at Boston, Va., which likes to be called the "cold war West Point." It was established by private funds after the Congress' failure to enact the freedom academy bill. It has big plans for the future, however, which would require $11 million for realization, "part of which the Center's organizers hope will come from the Federal Government, with the help of the Congressmen on their advisory board." The article raises questions on the wisdom of putting public funds into the Center and on other principles—

> Some might question the propriety of federal and state government officials receiving indoctrination on internal subversion from lecturers who imply that liberal Senators are Communists. Some might question the role of the public school officials who serve on the advisory board of an "educational" institution which claims many college professors are "Communist dupes." Some might question the tax-exempt status of an institution so aggressively devoted to political propaganda. Some might even question the need for a school of cold-war psycho-political warfare.

We all should question this. What we need is to rid ourselves of the cold war mentality and not to perpetuate it.

I think it particularly appropriate to mention that in view of the President's trip to China—of which I approve, and I applaud his efforts. I think they were good ones, in the right direction. To institute a program now which, originally at least, was intended to approach the cold war in a much more aggressive manner seems to me to be inconsistent with what the President has in mind.

I hope the Senate will take seriously the significance of this program. If it should be instituted at this time, I think it would burden us not only with an enormous amount of money, as it is a very large program, as its terms provide, but also it would raise serious doubts about the sincerity of what I believe to be a new attitude, a new policy, on the part of this administration—a new attitude of which I approve and of which I believe the majority of the people in this country approve.

So I hope that the Senate will adopt my amendment, which simply strikes this program from the bill.

As mentioned in the one-page summary which I have had placed on the desk of each Senator, there already is ample opportunity for the training of people, with the orientation and language training that is now authorized in the Foreign Service Act and which is now being provided to employees of some 30 Government agencies. The State Department, in its Foreign Service Institute, teaches many of the specialized subjects for the Foreign Service.

In summary, I might say that the theory always has been—and I think it is still a proper one—that men and women who enter the Foreign Service should have the typical broad liberal arts training in history and the humanities which our great universities furnish; and that is the proper background for a Foreign Service officer, in contrast to the much more specialized activity of a soldier, for example. In the academies they do have some liberal arts courses, but they specialize at an earlier age for a highly specialized profession. The profession of Foreign Service officer seems to me of quite a different character, because their responsibility is to interpret our own country to foreigners and to be able, through their knowledge of broad subjects, to understand foreign countries. When it comes to the specialties, that is provided for already in the language courses, if they do not take them in their undergraduate work, although all our colleges of any consequence are quite adequately prepared to offer courses in the languages that are necessary.

I might add that several of our leading universities have schools for Foreign Service officers—that is, they offer, in addition to the regular academic program, the same type of training which is contemplated by this scholarship program.

So what we have here is the institution of an entirely new program, with its own board of trustees of, I believe, nine persons. Then, as bait to the Senators and others, it puts upon us and Representatives and various other officials in the Government the opportunity to nominate people. This bill deals in quite large numbers. I read from page 740:

> Not more than 3,500 students may be admitted under section 1205 as new members of the program in any academic year for the purpose of pursuing courses of study leading to an undergraduate degree, and not more than 1,500 students may be admitted under section 1205 as new members of the program in any academic year for the purpose of pursuing courses of study leading to a graduate degree.

Under these scholarships, 5,000 students will be given the opportunity to take courses which are already available to them.

Also, there is the implication, which I think is very important, that, having been nominated under this scholarship program, a feeling of elitism would grow, that they would be given preference over anyone else who may apply for these positions who did not have the benefit of a scholarship—in other words, the graduates of our established institutions who are now the applicants and the people in the Foreign Service at present. There are now 9,700 applicants, as reported by the State Department, for only 100 or 200 places a year.

I think it is most untimely and is contrary in spirit to the present policy of our Government, which is not to specialize in the pursuance of the cold war but to try to bring about a change in the attitude of the people of the various countries who, during the past 25 years, have been so hostile and have caused so much trouble in the world. We, of course, have become involved in those troubles.

So I hope the Senate will adopt this amendment.

I reserve the remainder of my time.

Exhibit 1

### The Cold-War College

(By Berkeley Rice)

(Note.—Mr. Rice, a free-lance writer, has written many books and magazine articles. His latest book is The C–5A Scandal, published in May by Houghton Mifflin.)

What do West Point, Annapolis, Colorado Springs and Boston, Virginia, have in common? The first three are the sites of the U.S. Army, Navy and Air Force Academies. But Boston, (pop. 450) Virginia? That's the home of the Freedom Studies Center, which its organizers like to call the "Cold-War West Point" (see editorial: "Perfect Timing," *The Nation*, July 5). It serves as the headquarters for a vast and varied program of propaganda aimed at building public support for hard-line defense policies, increasing defense spending, and alerting the country to the menace of world communism.

It was supposed to be the United Freedom Academy, but the bill which would have authorized its establishment by the federal government never got through Congress. Backed by a group of conservative Congressmen in 1965, it reached the House Un-American Activities Committee, which approved it unanimously. The Johnson administration, however, along with the Departments of State, Defense and Justice, opposed the idea on the ground that it would duplicate and conflict with the work of existing government schools and agencies.

Though deprived of federal funds, the project's backers raised enough money from private corporations and foundations to get the Center started in 1966. This year they have launched a fund-raising campaign aimed at turning the Center into a full-scale "Cold-War College." A special appeal on behalf of the Center sent out by former Ambassador to Italy Clare Boothe Luce (whose Longela Farm is also located in Boston, Va.) has brought in contributions from thousands of patriotic Americans.

While the Center still has no official federal support, it does have powerful friends in

Washington. Its advisory board lists Vice President Spiro Agnew, Cabinet Secretaries John Volpe, Rogers Morton and George Romney, plus nine Senators (Mundt, Boggs, Harry Byrd, Dominick, Hansen, Hatfield, Long, Miller, Thurmond), twenty-eight Representatives and six state governors. Relations with the Pentagon are equally cordial. The Defense Department was instrumental in the Center's creation, and still provides high-ranking speakers and other forms of cooperation. At the Center's dedication ceremonies in 1966, the Joint Chiefs of Staff sent the Army's Director of Special Studies, an admiral from the Navy's Military Policy Division, a military color guard and a twenty-piece Navy band. J. Edgar Hoover sent his greetings, and President Lyndon Johnson wired: "You have my every wish for success."

One wonders how much President Johnson knew about this new venture to which he gave his blessing. The draft plan for Freedom Academy was drawn up by Edward Lansdale, a retired Air Force general who would have become its director had Johnson not picked him to run the U.S. counterinsurgency program in Vietnam. In the draft proposal Lansdale described the Academy as a center of "psycho-political warfare," and saw its potential students as "men of good will who—if they just knew how—are willing to strike a blow for liberty. . . . Such a blow, struck the right way and the right moment, could well change the course of history in favor of freedom." Lansdale envisaged sending teams of Academy graduates to foreign countries at the request of local political leaders, or "acceptable third parties." These freedom teams would "assist with practical advice on how to resolve problems of concern to freedom." Lansdale was not specific about what such problems might be, but those familiar with his thinking feel he meant the "liberation" of Soviet bloc countries, and the suppression of popular uprisings in non-Communist nations.

If all this sounds a bit like a private CIA, it should. Major General Lansdale is a former CIA official. The Center's directors of education and special projects are both former CIA men. One of the first guest speakers at the Center was ex-CIA chief Allen Dulles. In the words of its president, John Fisher, the Center's purpose is "to fill the gap between what the government can do, and what must be done," which describes equally well the activities of the CIA.

Though his background in foreign intelligence is minimal, Fisher has had considerable experience in domestic intelligence work. A former FBI agent, he joined Sears Roebuck in 1953 to run its "corporate security" program, which in that McCarthy era meant rooting out suspected Communist employees, rather than guarding against industrial espionage. Fisher then moved on to the staff of the American Security Council (ASC), an industrial blacklist organization that keeps tabs on alleged subversives for the benefit of member companies.

Since 1960 the ASC has shifted its emphasis from the threat of internal subversion to external military dangers. Using its own influential newsletter and radio program, it has become a powerful propaganda center for hard-line defense strategists, with close ties to the Pentagon and Congress. In recent years the House Armed Services Committee has commissioned studies from ASC on Soviet nuclear and maritime power. Both reports unsurprisingly called for sharp increases in U.S. defense spending. ASC also helped to mobilize nongovernmental support for the ABM, publishing its own book in defense of the system. None of ASC's studies mention that its corporate members include such major defense contractors as General Electric, North American Aviation, U.S. Steel, Republic Steel, Motorola and Honeywell. In 1969, the ASC and its publishing subsidiary ASC Press, spent more than $750,000. During the 1970 Congressional elections, ASC organized "Operation Alert," a "voter education" program to call attention to what it considers a growing strategic missile "gap," and to show how Senators and Representatives have voted on national security issues.

With the expansion of its operations, ASC which does not have a tax-exempt status, took over another anti-Communist organization called the Institute for American Strategy, which does. IAS produces textbooks on communism and patriotism, and has organized seminars on cold-war defense strategy for businessmen, educators, reserve officers and the National Governors Conference. IAS works closely with the American Legion, the National Education Association and state education officials in spreading its materials through local communities and schools. Its budget for 1969 was more than $200,000.

Using the tax-exempt IAS, the American Security Council in 1966 created the Freedom Studies Center as a tax-exempt educational institution. The ties between ASC, IAS and the Center are now so close that an outsider might easily think of them as a single organization. They share activities, office space, a communications center, finances, staff and a single president—John Fisher. This makes it relatively simple for Fisher to solicit contributions or assistance from his other two organizations.

With its reputation for aggressive anti-communism and hard-line defense strategy the Center has naturally attracted contributions from wealthy patriots and right-wing foundations. The Center's "founders," who have donated more than $10,000, include such right-wing angels as Henry Salvatori, the West Coast oilman, publisher Henry Regnery and Gen. Robert Wood, retired chairman of Sears Roebuck. Industry contributors include U.S. Steel, Sears Roebuck, Atlantic Richfield, Phillips Petroleum and Allis-Chalmers. The Center has also received financial support from the nation's conservative press: the Copley Newspapers, the Los Angeles *Herald-Examiner* and the Reader's Digest Foundation.

Operating on an annual budget of $250,000 to $300,000, the Center currently conducts monthly three-day seminars at its twenty-three-room mansion, located on 670 acres of Blue Ridge foothills near Culpeper, Va., about 90 miles from Washington, D.C. The estate cost about $500,000 and looks it. During the seminars the Center has the air of an antebellum plantation, with walks in the formal garden, afternoon and evening cocktails, and meals in the oak-paneled dining room with Negro servants. The seminar sessions take place in a briefing room with visual equipment worthy of any corporate board room. A dozen "tough-minded" speakers present what the Center calls "an inside look at the cold war." The speakers are generally a mixed bag of retired military officers, "experts" from the American Security Council, and hard-line professors from vaguely academic institutes of defense strategy.

The audience consists of twenty-five to thirty seminar participants (also called "guests" or "students") who pay about $125 for three days of room, board and tuition. Worthy newsmen, educators and government officials may attend on a "fellowship" basis. Participants seem to be selected either because they represent sources of corporate or foundation support, or because they hold positions from which they can spread the Center's gospel. Recent students included executives from General Electric and Litton Industries, newsmen from the *Los Angeles Times* and *The Detroit News*, officials from the Atomic Energy Commission, the Defense Supply Agency, the Industrial College of the Armed Forces, and the directors of civil defense for Massachusetts and Maryland.

The Center has made a special effort to recruit college and public school officials as participants. Success at the college level has been limited to such schools as Indiana Central, Converse, Le Moyne, Christopher Newport, C. W. Post and Ladycliff. At the public school level, however, it has had better luck. Its educational advisory board includes top public school officials of California, Texas, Massachusetts, Illinois, Florida, Kansas, and Nebraska.

At a seminar attended by this reporter, the participants included the administrative assistants to Reps. Robert Corbett (R., Pa.), Craig Hosmer (R., Calif.) and Jackson Betts (R., Ohio), an official of the National Education Association, an executive of the Franklin National Bank of New York, a vice president of W. R. Grace, two local Virginia reporters, a lawyer and several retired businessmen. There were three retired Canadian officers from an organization called "Polaris," which they described as a Canadian "industrial-security sort of thing," similar to the American Security Council, but more secretive. "We don't want this thing to get out," one of them told me. "The public wouldn't understand."

The seminar got under way with an introduction by President John Fisher. He told the guests that the Center plays an important part in filling the "cold-war education gap" by informing the public about the threat of world communism. For those guests concerned about U.S. domestic problems, Fisher warned that "meeting the Communist challenge is the main priority. Without this, all other problems in the United States are meaningless."

After cocktails and dinner the guests gathered in the briefing room for their session, a review of "cold-war hot spots" by Frank J. Johnson, an ex-Naval intelligence officer who now serves as foreign editor of the American Security Council's monthly newsletter, *Washington Report*. (This newsletter receives excellent editorial coverage in the country's conservative press, and is run in full by many papers.) Mr. Johnson still serves as an intelligence instructor in the Naval Reserve, and lectures regularly at the Foreign Service Institute. In his talk at the Center he gave a brief rundown on various countries in which he saw "an effort by communism to subvert mankind." An accompanying map showed the United States surrounded by a world of red- or pink-colored countries, which Johnson described as "a giant pincers that threatens to engulf us all." He pointed out a few bright spots like Brazil and Guatemala where military coups had saved the countries from communism.

As for remedies, Mr. Johnson saw little value in the Nixon Administration's efforts toward arms control negotiations and other diplomatic maneuvers. In his book, *No Substitute for Victory*, he has set forth several more imaginative solutions to the cold war. He recommends a naval blockade of Cuba, followed by a U.S.-backed invasion; unleashing Chiang Kai-shek's troops to attack mainland China; and taking "some piece of real estate away from the Communists," like Albania, to show them we really mean business. Mr. Johnson does not seem to fear the possibility that such strategies might easily end the cold war by starting a hot one.

The other speaker of the evening was Col. Raymond Sleeper, a former MacArthur staff officer who recently retired as head of the Air Force Foreign Technology Division, and became director of research for the Center and the American Security Council. One of Colonel Sleeper's current projects is the development of a computerized "cold-war situation room" at the Center which he hopes will serve as a model for a similar unit at the White House. In his address to the seminar, he compared Soviet and U.S. nuclear power and concluded that the United States is behind or rapidly falling behind in every category of nuclear arms, a view not shared by all U.S. defense intelligence experts. Colonel Sleeper is one of many retired officers associated with the American Security Council, including Gen. Robert Richardson, former deputy chief of staff for planning for the Air Force Systems Command, who also appears regularly at the seminars.

General Richardson spoke this time on the U.S. strategic policy gap, or as he put it, "who can deter whom, and if not, who can come out of it best." He cited figures showing an alarming decline of U.S. strategic power, and urged the immediate deployment of an ABM system. Admitting the ABM has "a few technical deficiencies," he said, "It may not be the best thing, but you've got to start somewhere." Our greatest danger, he believes, is the "erosion of our will to get out there and use everything we have."

The next day, the seminar continued with a talk on "Communist semantic warfare" by Erik J. Vesely, a civilian intelligence specialist who has worked for the State Department, AID, the Air Force and the CIA, and who is now educational director of the Freedom Studies Center. Either because of the early hour, or his own semantic problems, Dr. Vesely's long and intricate analysis of Communist terminology left most of the audience completely confused.

Perhaps as an antidote, the seminar's main speaker was next—Walter Judd, a spell-binding 70-year-old professional anti-Communist. Judd writes frequently for *Reader's Digest,* and delivers the American Security Council's *Washington Report of the Air,* a daily five-minute anti-Communist radio program carried by several hundred stations across the country. He brought the audience a first-hand report from Vietnam, which he had visited recently. To him, the stakes in Vietnam are nothing less than the freedom of the United States. Judd is so convinced of this that he opposes any bombing halt or peace talks. He worries particularly about President Nixon's willingness to negotiate, an aberration he generously attributes to the influences of Nixon's "left-wing" advisers. "I wish he would stop saying he wants negotiation instead of confrontation. Confrontation is the only way to get to negotiation."

The only obstacle to a U.S. victory in Vietnam, according to Judd, is "civilian limitations on the military," a common theme at every Center seminar. Accusing the Administration of following the same "no-win" policies that led to a stalemate in Korea, Judd told the audience, "If our government isn't going to give this leadership, we've got to." The kind of leadership he has in mind for Vietnam would include invading the North, destroying its rail lines to China, bombing its dikes and flooding its rice fields. Whether or not such a policy would force North Vietnam into surrender (it would certainly drown many peasant farmers) it would probably bring Red China into the war, a prospect Judd would welcome.

Judd claims our will to win the war has been hindered because "the American people are not getting the facts" except from organizations like the Freedom Studies Center and the American Security Council. Despite this alleged absence of information, he also called for stricter censorship on U.S. reporting of the war, particularly on what he termed "minor setbacks," or "accidents" involving the death of innocent civilians. He criticized former President Johnson for trying to create his Great Society during the war: "He should have concentrated on the war, not social programs. Some of this stuff has waited 180 years, and it can wait a few years more."

During the question period that followed each lecture, a retired businessman from South Carolina asked Judd why men like Senators Fulbright, McCarthy and McGovern were "always wrong" on Vietnam. Judd replied that they were either ignorant, guilty of wishful thinking, or had fallen under the influence of Communists. Of the three possibilities, Judd leaned toward the third, particularly for Fulbright. "When a man makes as many decisions as he has over the years that favor the enemy, I just don't know. I'm not making any accusations now, but it's puzzling."

That afternoon the students heard lectures by two professors known in academic circles primarily for their aggressive views on defense strategy: James Atkinson of Georgetown's Center for Strategic and International Studies, and Stefan Possony of Stanford's Hoover Institution on War, Revolution and Peace. Both have served as consultants on defense strategy at the Pentagon, lecture often at the service war colleges, and are editors of the American Security Council's *Washington Report.* Professor Atkinson has designed a curriculum for Freedom Academy, and Professor Possony will be its chancellor for academic affairs.

Possony warned: "If the Soviets feel they have a superiority in armaments, they will knock us out at once." He went on to describe the peace movement in the United States as part of the Communist strategy of psychological warfare designed to "set us up for the ultimate kill." He claimed that the Communists had plotted and caused both World Wars in this way. The reason the American public is unaware of this danger, according to Possony, is that "the professors of history in this country are a pretty bad bunch." He suggested that many of them were in fact "Communist dupes."

The rest of the seminar was devoted to the threat of internal Communist subversion, William Lambie, an ex-FBI man who runs the American Security Council's subversive information service in Chicago, warned that the U.S. Communist Party is behind the peace movement, pointing out that demands for a halt in the bombing, withdrawal of U.S. troops and formation of a coalition government were all part of "the official party line." One of the students commented that even some government figures had been making such suggestions lately, and asked Lambie if he felt there are "Communists in the government in important positions." "Yes, definitely," replied Lambie, "but I've never been able to make up my mind if it's by design or accidental."

During the lectures, discussions, cocktail hours and meals, much of the time was devoted to identifying various people, organizations and movements as Communist or "Communist-inspired." No one offered or asked for evidence, for agreement was unanimous. In the three days of this particular seminar I heard the Communist label applied to: SDS, SNCC, SCLC, the civil rights movement, draft resistance, the peace movement, ROTC opponents, Mark Rudd, Father Groppi, Picasso and modern art, consumer protection, the income tax, the Ford Foundation, unions, liberal Catholic priests, pornography, drug addiction and sex education.

The U.S. press in general, and particularly its coverage of the Vietnamese War were said to be under the influence of Communists. *The New York Times, The Washington Post* and *Look* were described as "left wing." A few publications, such as the *Chicago Tribune* and *Reader's Digest,* received praise for standing fast against the leftist tide. People known as anti-Communists were "solid," "tough," or "practical" men. Most businessmen "know what the score is," but many college administrators need more "iron in the backbone." During cocktail hours the seminar participants discussed the speakers, whom they found generally impressive. As the man from the National Education Association put it, "these boys are really smart on this cold-war thing." After dinner, everyone stayed up late drinking and swapping jokes about hippies, Communists, Jews and other "oddballs."

The highlight of the seminar came when an army helicopter fluttered noisily out of the dusk and deposited the evening's guest of honor, Army Chief of Staff Gen. William Westmoreland. Accompanied by three aides—a general, colonel and major—Westmoreland joined the afternoon cocktail party. They all wore civilian suits, "to put you people at ease," as the Chief of Staff told us.

After dinner General Westmoreland gave a short talk on the war in Vietnam, the essence of which was that only "political restraints" from Washington had kept him from gaining a "classic military victory." While he did not say much that was new, his presence electrified the seminar, and represented a great coup for the Center. As one of Westmoreland's aides pointed out, the General turns down seven invitations to speak at private affairs for every one he accepts.

The reflected prestige of a visit by someone like General Westmoreland means a great deal to John Fisher, because he has big plans which require such publicity. Fisher plans to turn the Center into Freedom Academy, with 400 full-time graduate students and faculty. This would require $11 million, part of which the Center's organizers hope will come from the federal government, with the help of the Congressmen on their advisory board. Fisher admits he "wouldn't object to government support as long as they left the administration in our hands."

Some might question the wisdom of putting public funds in the hands of Fisher and his colleagues at Freedom Studies Center. Some might question the Pentagon's active support—including General Westmoreland's official visit—of a private organization so openly critical of U.S. military policies. Some might question the propriety of federal and state government officials receiving indoctrination on internal subversion from lecturers who imply that liberal Senators are Communists. Some might question the role of the public school officials who serve on the advisory board of an "educational" institution which claims many college professors are "Communist dupes." Some might question the tax-exempt status of an institution so aggressively devoted to political propaganda. Some might even question the need for a school of cold-war psycho-political warfare.

But not John Fisher. He sees his Freedom Studies Center as a vital link in the world's defense against communism. "Whatever we're doing here," he warns, "it isn't enough, because the other side's still winning."

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield 10 minutes to the Senator.

### THE FOREIGN SERVICE SCHOLARSHIP PROGRAM

Mr. SYMINGTON. Mr. President, beginning in the late 1950's, and continuing on into the early 1960's, I offered and devoted much effort to legislation which proposed the establishment of a National Foreign Service Academy.

Over the years the type and character of the academy proposed was changed from an undergraduate to a graduate institution.

In effort to meet divergent concerns, including those arising about academic freedom, numerous other modifications were made in the academy proposal, with particular respect to the structure of the body that would create and operate the institution.

Despite refinements and major support of a distinguished panel of citizen experts and educators, the ultimate academy proposal, which was endorsed by the Kennedy administration, as did the predecessor proposals, failed to obtain committee approval.

Throughout the various shapes and forms the academy proposal, the overall objective of some of us continued to focus on the need to better prepare, train, and educate U.S. representatives who would serve us abroad. I say this by way of background that is parallel to the similar interests and efforts of Senator DOMINICK, author of the current proposal, to create a U.S. Foreign Service scholarship program, which is now included as title XII of S. 659, the Higher Education Act Amendments.

The Foreign Service Scholarship proposal envisions an annual entry of up to 5,000 students, 3,500 undergraduates and 1,500 graduates, chosen on the basis of competitive examinations by a board of trustees. These students will be seselected from among 8,424 applicants who will have been nominated to participate in the program by either the President, or the Vice President, or the Secretary of State, or a Senator, or Representative.

Composed of the Secretary of State, four presidential appointees with backgrounds in education or foreign affairs, and two Senators and two Representatives, the Board of Trustees would make arrangements with qualified universities and colleges for successful applicants to pursue full-time courses of study relating to the field of foreign affairs. Full scholarships would be given, along with monthly compensation of $200 per month for single students and $250 for married students, with additional allowances for their children.

Under different arrangements, Government officers and employees could also participate

Upon entering the program, a participant would agree to accept Government employment upon completion of his course of study and receipt of an undergraduate or graduate degree.

Under somewhat hazy authority, the board could assign graduates to Government jobs. In terms of authorization, cost of the program would rise from $15 million in the first year to $60 million in the fourth year.

In regard to provisions in the bill to allow for current Government employees and officers to study in our existing universities, the chairman of the Civil Service Commission advised us that in his view the bill was unnecessary. A spokesman for the State Department also registered the objections and criticisms of that Department.

With respect to the training for Government personnel, both the Commission and the State Department noted that, in effect, this provision would duplicate existing authority. In order to increase economy and to raise the standards of performance by employees in their official duties, Section 4301 of Title 5 of the United States Code authorizes the head of each agency to provide for training of employees in both Government and non-Government institutions; and the Foreign Service Act provides similar authority for the training of Foreign Service personnel at nongovernmental institutions as well as in the Foreign Service Institute.

In view of the present authority for department heads to provide for advanced education for employees when needed, I do not see the necessity of this phase of the proposed scholarship program.

In connection with the undergraduate and graduate scholarship program, the Civil Service Commission Chairman gave his opinion that:

> It would be a disservice to thousands of young people planning for the best use of their years available for education to encourage them to devote themselves to preparing for careers that cannot be made available to them.

Of the approximate 40,000 Americans serving abroad for the U.S. Government in 1969, the Civil Service Commission reports that roughly 12,500 were in administration and clerical work; 8,500 in the field of education; 4,000 in the social sciences; 2,000 in engineering; another 2,000 in blue collar occupations; 1,700 in budget and accounting work; 1,500 in supply work; 1,200 in the field of fine arts, and about 1,000 concerned with equipment and facilities. The Commission Chairman cited this breakdown in reference to their view that most of the overseas employees known to them do not need the proposed type of foreign affairs education and: "Would not be the types of specialists they are if they had to have it."

With the State Department receiving about 10,000 applications for Foreign Service officer and Foreign Service information officer appointments, but making only from 200 to 300 appointments each year, apparently there is an abundant talent pool for the Foreign Service.

Practically all young new officers chosen have studied one or more languages. More than half have one or more graduate degrees and they come from all parts of the country and represent hundreds of different colleges and universities.

The Foreign Service Officer Corps consists of only 3,005 men and women. They represent every State in the Union and more than 500 different colleges and universities.

The proponent of the bill also views the scholarship program as offering a needed impetus to obtain greater representation of minority groups in the Foreign Service Officer Corps at State. To the extent, however, that such a scholarship program would encourage more young people to study for Foreign Service careers than Government jobs exist to which they may be appointed, this stimulus would be misplaced. It would produce false hopes and further frustration.

In this connection, I am glad to learn that greater efforts are currently being made at the State Department under a special minority program. It is anticipated this year that of about 100 appointments in both FSO and FSOI, about 20 appointments will go to applicants representative of minority groups.

It has also long been my view that greater opportunity should be afforded to women in the Foreign Service. Currently there are but 152 women among the 3,005 members of the Foreign Service Officer Corps.

With a recent change in policy, that number may grow. Wives of Foreign Service personnel are now permitted and encouraged to take the qualifying examination. I am glad to note also that a relatively greater number of women—19 out of 96—were appointed Foreign Service officers in this year than in any of the previous 4 years.

This Foreign Service scholarship program proposed in title XII of the Higher Education bill is now subject to a motion to strike. According to the statement of purpose in the bill, the objective is twofold: First, to provide an opportunity for young Americans to enter the field of governmental foreign affairs; and, second, to improve the professional education and training of current Government employees so engaged.

While I am in sympathy with and find the objectives highly desirable, I question whether the means chosen offers promise of substantial accomplishment of those purposes beyond that which would normally occur under existing policies, without the ultimate additional authorized expenditure of $60 million annually.

Department heads already have the authority to provide under certain circumstances for the further training and education of Government employees.

Undoubtedly the scholarships and compensation offered to potential undergraduate and graduate students to study in the field of foreign affairs would attract, and possibly increase, the number of Americans choosing to pursue international relations as a career. But it appears doubtful that the seeming promise of a government career could be fulfilled for such great numbers if program participants were additional to that quantity of students, who, on their own volition, and with the assistance of existing general government scholarship or loan programs, are now pursuing or would pursue courses in international relations.

Mr. President, in summary, I do not see that any fundamental change would be made in the present system other than to provide a special subsidy for those who will undertake to study in the field of foreign affairs; nor am I persuaded that our country has a great need at this time to provide this special incentive to foreign affairs students.

Benefits might accrue in strengthening the courses in international relations that are presently offered in some 118 higher educational institutions which, if approved by the board of trustees, would be attended by the scholarship recipients. Those potential benefits, however, could well be outweighed by problems similar to those that have arisen in recent years, as we continue to discover and recognize some of the significant developments incident to the vast research contracts between the Department of Defense and American universities.

For the foregoing reasons, I shall vote in support of the motion to strike.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, as a member of the Foreign Relations Committee, I agree with some of the points that have been made. I have been quite torn on this matter. I agree particularly with the Senator from Arkansas with regard to the question of appointments to the program; my amendment to strike this portion was defeated in committee. As the only Foreign Service officer to have served in this body, I understand the points the Senator from Arkansas and other Senators are making.

The reason we reported it from the Labor and Public Welfare Committee was that we felt, on balance, it had merit. It increased the number of young people who would be better educated by studying the field of foreign relations. Obviously, there are not enough jobs in the Foreign Service to give everyone an opportunity to serve in the Foreign Service, but it would mean that the body politic of our country would be enriched each year by an increased 5,000 persons who had studied foreign relations. That, in itself, would certainly be a salutary effect for the Senator from Colorado, whose idea this is, and who has pursued it very hard, effectively, and vigorously for many years, that made a good case and the committee supported reporting out the program as a position of the bill.

In this regard, the Senator from Colorado was very considerate to this body last year when the higher education bill was considered—the same bill, actually, before the present "snafu"—he withdrew his amendment at that time, so that the bill could be passed with alacrity. This is another reason why we wanted to give him the opportunity to have it heard at this time.

For these reasons, I will be opposing the amendment.

Mr. President, I turn over the remainder of my time to the Senator from Colorado.

Mr. FULBRIGHT. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I yield.

Mr. FULBRIGHT. If we are really interested in informing more people about foreign relations, why would it not be more efficient to spend the $60 million on public broadcasting and informing all the people of the United States about foreign relations?

Foreign relations, as such, is not a highly specialized subject like physics, or mathematics. It is simply a knowledge of the people and the history of various cultures and various nations.

When the Senator himself says there will not be enough places for all these students to serve after they have absorbed all this information, why would it not be better to spend this money to inform everyone in the country?

Mr. PELL. I would use it for that purpose. As Alexander Pope said, "The proper study of mankind is man." I would say that the proper study of the world around us is the world, and I would support that proposal, too.

Mr. FULBRIGHT. Mr. President, did not the Senator, in preparation for his training for the Foreign Service, take what we normally call the undergraduate liberal arts courses?

Mr. PELL. The Senator is correct. However, I do not visualize all of these young men, or many of them, going into the Foreign Service. I visualize it as informing an increased number of them.

Mr. FULBRIGHT. Then it is another scholarship program. We already have a liberal program which is quite large. It is 9 to 1 in our universities. If one gives a university $10,000 for the lending program, the Government will supply $90,000. We have a high multiplicity. I had something to do with that in the University of Arkansas. I got a citizen to put up $10,000. The Federal Government then put up $90,000.

I support the measure if that is the purpose. However, it has a history which shows a different objective than what the Senator says.

Mr. PELL. Mr. President, I appreciate the words of the Senator from Arkansas. All I can say is that I would like to see the program the Senator suggests—public broadcast work and other programs. The fallout from this program would be more beneficial than some of the other programs we have adopted.

Mr. President, I yield the remainder of my time to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, I thank the Senator from Rhode Island.

Mr. President, so that I may apportion my time, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mr. DOMINICK. Mr. President, I yield myself 15 minutes at this time.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 15 minutes.

Mr. DOMINICK. Mr. President, in order to set the record straight, I think I should reply first to the Senator from Arkansas and certain of the statements he made in his opening remarks.

This bill was introduced and included as title XII of the Higher Education Act of 1968 in the 90th Congress. It was reported out by the Labor and Public Welfare Committee to the floor. Because of the jurisdictional problems which were raised at that time, since it had not gone to the Foreign Relations Committee, on July 15, 1968, at the urging of the joint leadership and the Senator from Alabama (Mr. SPARKMAN), I agreed to remove it from the Higher Education Act with the assurance that hearings would be held in the Committee on Foreign Relations the following year—namely, in 1969.

In the 91st Congress I introduced S. 939 on February 7, 1969. Hearings were held before the Education Subcommittee on January 29, 1970. It was reported out of the Labor and Public Welfare Committee on October 13, 1970, and referred to the Committee on Foreign Relations in accordance with my previous agreement, where it died without hearings.

In the 92d Congress, S. 390 was introduced on January 28, 1971. After adopting the previous hearings by reference, it was reported out of the Committee on Labor and Public Welfare unanimously on May 12, 1971, and was referred to the Committee on Foreign Relations for 42 days. Hearings before the full Committee on Foreign Relations were held on June 18. It was reported out of that committee unfavorably by a vote of 10 to 2 on June 24.

S. 390 was offered as an amendment to S. 659. The amendment was withdrawn on the last day before Congress recessed, August 6, 1971, as the Senator from Arkansas continued to introduce minor amendments which threatened passage of the whole education bill before the recess.

So, once again at the urging of the Senator from Arkansas and the joint leadership, the Senator from Montana and the Senator from Pennsylvania, I withdrew the amendment in order to get the education bill through with the assurance which was given on the floor that time would be made available last fall or early this year for a debate on this particular bill.

During the process of the discussion prior to my withdrawal, the Fulbright motion to table this measure was rejected by a vote of 21 to 38. Also a motion to strike certain language authorizing monthly subsistence to married couples was rejected by a vote of 22 to 32. I bring this up to show for the record that this matter is not new to the Senate. It has been before this body four times. We have yet to have an opportunity to act due to the time pressures which coincidentally seem to perpetually threaten this amendment.

Here we are today with a 1-hour limitation, which I agreed to in order to get some kind of a decision on the amendment. It has been reported out of the Labor and Public Welfare Committee four times. It has been reported out of the Foreign Relations Committee once unfavorably.

What is the evidence behind it? The Senator from Arkansas indicated that one of his major concerns is that title VIII represents some kind of sneaky approach to an anti-Communist bill.

Frankly there could be nothing further from the truth than that. This program, if adopted, will provide scholarships, as was pointed out by the distinguished Senator from Missouri, for some 5,000 young men and women. If it is fully implemented, it will utilize some 118 institutions of higher learning in the United States.

Title VIII does not create one academy program where the students will be indoctrinated in one faith.

The second point to be made at this point is that most of the debate up to date from the Senator from Arkansas and also from the Senator from Missouri has revolved around the State Department. But the very purpose of this scholarship program is to make available to undergraduates, graduates, and Federal employees who want to transfer into this program, all phases of international relation training.

This overemphasis on the State Department overlooks the fact that our Government not only deals through the State Department, but it also deals through the Agriculture Department, in the Commerce Department, in the Federal Aviation Administration, in the Transportation Department, and in practically every other department of the Government imaginable. They are dealing not only in this country with foreigners from overseas, but also dealing with a number of activities of those departments on overseas bases.

I think I should make it clear that we are not talking solely about the Foreign Service, but rather about the degree to which the United States is involved in all phases of international affairs with other countries in this world.

During the course of hearings, the program was endorsed by approximately 40 prominent educators and experts in the field of international affairs and foreign policy.

Dr. Philip Mosley, associate dean of the faculty of International Affairs of Columbia University, an extremely prominent and very helpful man who, unfortunately, died not more than 6 weeks ago and whose death was a great loss to this country, speaking about the bill, said:

> It is excellent in both its broad purposes and its realistic provisions for execution of the program. Because of the strenuous efforts made since 1945 by universities and colleges, and by several foundations, the institutions of the country offer a wide range of intensive programs on international affairs generally and on the intensive study of most of the areas of the world. Your bill provides a flexible and efficient way of tapping these large resources of training and research. . . . It could make a tremendous difference in the awareness of our people about our responsibilities in world affairs and in the effectiveness of both the study and the conduct of our foreign policy in its very wide ramifications.

William Langer, professor of history, Harvard University, and former member of the advisory board of the Foreign Service Institute:

> I am well acquainted with the problems of training for service abroad. I have therefore read your bill with great interest. I think it is an excellent bill, that will do much to strengthen our staffs abroad. I trust that it will soon be enacted into law.

Dr. Gerard J. Mangone, Woodrow Wilson International Center for Scholars, Washington, D.C., found the potential benefits of the program similar to that provided by the Peace Corps. Dr. Mangone said:

> Having trained young American men and women for the Peace Corps, having interviewed them in India, Tanzania, Afghanistan, Nigeria, and Peru, I would maintain that Congress had wisely approved Peace Corps legislation that enormously enriched the United States; not in narrow monetary or vocational terms, but in strengthening the imagination, logic, and compassion of tens of thousands of young people who now bear the responsibility for the future of the United States. Yet when I traveled around the world in 1961, the professionals in the American missions were appalled at the idea of hundreds of young people arriving in the developing countries to assist in teaching, health, agriculture, and marginal economic productivity tasks.
>
> Similarly fellowships for foreign service education will benefit the United States not only by preparation for a professional career, but by endowing tens of thousands of bright Americans with the liberal ideas that underlie this republic.

Dr. Mangone continues:

> Surely there can be no doubt of the need for public support in this area. The United States has already veered its national policy and educational system inward. Private support for foreign study and international relations has been dropping. And the high costs of college education cruelly discriminate against the poor. Eighty per cent of those children whose parents earn above $15,000 a year go to college; only fifty per cent of those children whose parents earn from $7,500 to $10,000 a year go to college; and at $4,000 the figure drops to thirty per cent. Education for foreign service is an excellent medium to enhance the selection of future leadership in a republic and to replenish the reservoir of liberally-educated persons in a democratic society. I respectfully urge favorable consideration of Senate bill 390.

Samson B. Knoll, dean of the faculty, the Monterey Institute of Foreign Studies, Monterey, Calif.:

> I shall like to speak not as one professionally engaged in training students for foreign service, but as a teacher and educator concerned with the welfare and the future of this nation. To me, one of the most vital aspects of the proposed bill is the provision that the program be supported in educational institutions throughout our country. This will prevent rigidity and formality which always threaten training for a specific purpose. Enabling the recipients of Foreign Service Scholarships to take their training at institutions of their choice which, of course, must qualify, will ever bring fresh ideas and fresh approaches to the study, and thereby to the conduct of foreign affairs.

Peter F. Krogh, dean, Georgetown University, School of Foreign Service, Washington, D.C.:

> There is a great and urgent need for a scholarship program which would assist a representative and highly motivated group of United States citizens to gain a higher education in international relations. The need is great for the reasons set forth in the first section of the bill (1201) to which could be added the statement of Dr. Robert Hutchins that all problems are now world problems and what the world needs is citizens to solve them. The need is urgent because we are in danger, in this country at this time, of precipitously turning our backs on foreign affairs in favor of exclusive concentration on domestic problems. The provision of scholarship assistance to students of international relations could help to keep us looking outward. It could prevent the country from putting on international blinders at a time when it needs all the lateral vision it can command.

I might say that is an impressive list of educators who have helped to train people for State Department service, and who endorse this measure. They are certainly not the only ones.

Essentially what my amendment would do is provide education and training of our most valuable international commodity—our international representatives—through undergraduate and graduate scholarships, and in-service training, education, and research programs. It would complement the institutional grants of title I, part I of S. 659 by providing qualified students to study at the federally supported international centers. More importantly, the amendment would represent a step toward and a national commitment to bettering our international knowledge and understanding.

The scope of our increasing involvement in international relations is best illustrated by U.S. Civil Service Commission figures of January 1971, which indicate that a total of 59,832 Federal civilian employees represented our Government overseas, 35,831 serving in foreign countries and 24,001 serving in U.S. territories. Additionally, recent information obtained from the major agencies indicate that approximately 6,000 Federal employees working stateside hold positions requiring continuous contact with foreign countries and foreign nationals. Thus, approximately 66,000 Federal employees hold positions demanding varying degrees of foreign affairs-related training.

My amendment would furnish qualified persons for replacement and expansion of this Federal diplomatic work pool by utilizing the existing facilities and expertise of U.S. educational institutions, public and private. There are presently 77 institutions located in 31 States, the District of Columbia, and Puerto Rico offering curriculums in international relations and 41 institutions in 21 States and the District of Columbia having foreign service and diplomacy curriculums. Once these institutions receive board approval, they would be able to enroll eligible students under the undergraduate and graduate scholarships of the program.

If the resources of these institutions are properly tapped by the program, the Federal Government will be the recipient of educations and philosophies shaped by a variety of educational backgrounds from diverse sectors of American life which will expand our whole concept of foreign affairs education and practice.

The major strength of the Foreign Service Scholarship program is that it is just that—a scholarship program. As such, it is not an academy program requiring large capital outlays for buildings, grounds, and equipment rather than availing the money for investment in students at existing institutions. In fiscal year 1967, the cost of commissioning an officer from a service academy varied from $40,200 at the Naval Academy to $50,993 at the Air Force Academy. During the same year, a scholarship program similar to title VIII, the ROTC program, graduated regular officers at a cost of $6,000 per officer for the Air Force and $11,201 for the Navy. Additionally, academy training would provide excellent specialists in limited fields but would be unable to provide the breadth of curriculum necessary to train persons for our divergent foreign affairs needs.

Equally important is the program's statement of national commitment to a program of bettering the Nation's foreign affairs personnel. The amendment would place international diplomacy on an educational scale of importance equal to that of training doctors, teachers, military officers, and football players. This recognition is particularly important because governmental positions in foreign affairs have traditionally required a level of education or training comparable to at least that of a college graduate. In the past, there has been no federally supported undergraduate scholarship programs for foreign affairs students. This has severely limited Government recruitment in this area because today many of the Nation's most able young people begin to acquire a sense of direction and purpose and commitment toward lifetime careers while they are still in high school. Most professional and vocational fields are competing for these students through undergraduate scholarship programs leading to careers in those fields. But the young man or woman at this 18- to 20-year-age level who aspires for a career in foreign affairs has never heretofore been able to see any educational programs which would lead in this direction, or any forms of scholarship assistance indicating that the Nation attaches a high priority to careers of this kind. The Government should not be limited to competing for a graduate level talent pool depleted by those students who committed themselves earlier in their educational process.

The Foreign Service scholarships would also provide access to those talented, economically disadvantaged, high school students who, in the past, have never had the opportunity to either enter or complete college.

The net effect of the student scholarship programs of title VIII is to make a foreign affairs career in some governmental department or agency a reality to not just a selected few but to all qualified students. The beneficiary of such an expanded talent pool will be the United States and those countries that deal with her.

In addition to being favorably reported out of the Committee on Labor and Public Welfare on four occasions, the predecessor of title VIII, S. 390, was unfavorably reported out of the Committee on Foreign Relations on June 24, 1971. The primary reason for the committee's unfavorable report was the State Department's strong opposition to the bill. The State Department opposed the bill despite great enthusiasm for the program by two of the State Department's eminent former Directors of the Foreign Service Institute.

In January of 1970, Ambassador Parker Hart, President of the Middle East Institute, testified that:

> I support the bill, particularly because the Foreign Service does not have, at the present time, a real constituency in the United States.

Ambassador Hart submitted a general statement of support for the hearing record on June 18, 1971, also. Ambassador George Allen, prior to his untimely death, testified on behalf of the 91st session bill, S. 939, and was an active supporter of it. He was particularly attracted to the wide participation of American colleges and universities available under the bill and thought that it offered a viable remedy to the defect that "the Foreign Service is already rather inclined to be cliquish." Also, Ambassador Allen thought that a 4-year academic testing period offered a better procedure of Foreign Service officer selection than through a 1-hour examination.

The State Department's opposition to the program is somewhat suspect in view of what Deputy Director General of the Foreign Service, Howard Mace, told the Education Subcommittee in January of 1970. Mr. Mace testified that:

> First of all, we don't believe that it is necessary to have an additional authority to obtain qualified younger officers for the Foreign Affairs community in that we find that there are ample applicants among the university graduates, including graduate students, to compete for the present competitive examinations for appointment.

This is particularly confusing in view of the State Depatment's traditionally defective recruitment of minorities.

Last year's State Department statement by David M. Abshire, Assistant Secretary for Congressional Relations, indicated that Negroes comprise only 1.3 percent of the Foreign Service Officer Corps and only 5.5 percent of the Foreign Service Reserve Officers. The latest available figures indicates that as of November 1967, only 16 Spanish-Americans, nine Orientals, and no American Indians were in the Foreign Service Officer Corps of 3,453. These figures are particularly appalling when one realizes that 66⅔ percent of the world's population is nonwhite and 12.5 percent of the U.S. population is black. At the summit of the foreign service hierarchy is the Ambassadors. They represent the President and the people of the United States in more than 100 Capitals around the globe. Assuming normal turnovers, several thousand such chiefs of mission have been sent abroad to represent the United States over the past 100 years. During that time, other than token exceptions in Haiti and the African countries, the United States had only five black Ambassadors. At the moment, there is one—Jerome Holland in Sweden. Sex discrimination in the Foreign Service is just as rampant. Women constitute less than 5 percent of all Foreign Service Officers, and hold less than 1 percent of the top positions in the State Department. Despite a 1970 State Department Task Force recommendation for stronger emphasis on the recruitment of women, only seven of the 117 junior Foreign Service Officers who entered the Corps in fiscal year 1971 were women.

The State Department Task Force report completed last year, "Diplomacy for the 70's: A Program of Management Reform for the Department of State", found that:

> Conventional recruitment methods are not successful in attracting minorities to the Foreign Service. For example, college recruiters were sent to 19 predominantly black colleges in the fall of 1969 to encourage black students to take the FSO written Examination. Only 13 students from these schools took the written examination. Six passed.
>
> Highly capable minority candidates are difficult to recruit because few have had any exposure to the Foreign Service as a career possibility and because the best of such candidates receive job offers from other employers who have aggressive minority programs and who offer better salaries and at least comparable responsibility. Also, other able minority candidates who for cultural or educational reasons are unable to pass the written or oral examinations must be identified, encouraged, trained and their skills developed.

To improve minority recruitment practices, the Task Force recommends, among other things, that:

> For those minority candidates who exhibit high potential but who might need a training program to make them competitive with other candidates, a combined work and study program be instituted. It would emphasize improving communications skills, and include courses in international affairs, American history, government and culture, all aimed at correcting gaps in the candidate's academic preparation.

The minority recruitment problem is best exemplified in an article in the October 1970 Foreign Service Journal by Frederick Quinn. The article contains the views of an elite group of 40 well-educated ghetto teachers appointed to the New Jersey Urban Education Corps. In discussing the teachers' interests in a Foreign Service career, Mr. Quinn states:

> It has not figured as a career option for most of them to date. "You live in a different world," one intern said. "I would no more think of going through the door of the State Department than you would about having lunch in the Soul Kitchenette."
>
> It is time for change on both sides. If UN statistics are reasonably correct, more than half the world's population is under thirty years of age, and the majority of that population is non-white. By honestly and clearly discussing "the black experience" as a central part of American history and culture, we are helping find another bond between audiences in the Third World and the United States; and to the extent that the foreign service pursues an energetic minority recruitment program in the United States, it helps close the generation and color gap which confronts America in its representation abroad.

Perhaps sufficient qualified applicants are available for State Department positions, but quite obviously there are not enough qualified applicants representative of our whole varied society to compete for the positions. It is incomprehensible to me how the State Department can oppose a bill which would provide exactly the academic preparation for qualified, representative applicants that the Task Force recommends.

I singled out the State Department only because of what I considered to be unwarranted criticism of the program and because it has been emphasized by the Senator from Arkansas and the Senator from Missouri. I do not need to go into the mechanics of the program, because the Senator from Missouri went into that very carefully and, I thought quite well.

What title VIII would provide for the first time is an opportunity for high school students and beginning college students and minority people to even consider the possibility of a career connected with foreign relations. It will give them some type of hope, that when they complete their educational process they will have a chance of getting a job in a field they like, whether it is in commerce, transportation, with the FAA, with the State Department, or whatever particular field may be involved.

So I think it is wrong to have any implication in the record that this title would create any type of so-called anti-Communist tinged education. Nothing could be further from the truth than that.

I think it is wrong to consider the program coverage as being restricted to the State Department. It has to do with more than merely the State Department. I think we should do something to provide a career opportunity to these people. People have said in the past an 18- or

19-year-old boy cannot make up his mind as to what type of career he should be in; therefore, we should not give those young people a scholarship program.

The Senator from Arkansas said at one point during the debate that if we provide diplomatic specialists, we are going to have to provide similar scholarship programs for science. We have already provided one for science in the National Defense Education Act. That was specifically designed to take care of the number of people to be trained in the scientific field. But we have never done anything for the Foreign Service Scholarship Program. Thus, the young people who are finding it difficult to find the means and the mechanisms to go to college say to themselves, "There is no point in my even considering a field of this kind as I must go into a career now which will offer scholarship opportunities." What is it? It might be medicine. It might be science. It might be teaching. But why not include within this field of possible careers the broad foreign relations training so we will have better qualified people to handle our affairs in dealing with other peoples of the world?

It strikes me it is not really very sound to try to oppose a program like this, when there is not any field in the country which is more important to this Nation, particularly considering the fact that there are very few fields in this country which have not already received some kind of subsidy.

I reserve the remainder of my time.

Mr. FULBRIGHT. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Does the Senator yield back his time?

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to reserve such time as may be necessary for a quorum call, and I yield back the remainder of my time.

Mr. DOMINICK. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. DOMINICK. Mr. President, I am going to use my 3 minutes for the purpose of establishing a complete record. I think it is a very important vote, as far as I am concerned, and as far as the country is concerned.

We have a large bill in front of us. We are obviously going to have a long conference. One of the things that seems to me to be important is to make sure that what we are dealing with in higher education actually pertains to higher education. Nothing can be more important in this particular section of the bill than what has been incorporated and reported favorably by the various members of the Committee on Labor and Public Welfare ever since 1968, really without dissent.

I find it curious that, when we are dealing with a concept which has nothing to do with the transfer of the Foreign Service Institute, when we are dealing with the concept of higher education, we should refer it to the Foreign Relations Committee at all. This will not stop the Senator from Arkansas from making a motion to strike, in any event, but it does seem curious to me that a matter which belongs in the Committee on Labor and Public Welfare should be turned over to the Foreign Relations Committee when what seems to be involved is a scholarship program.

Mr. President, it is time that the United States adopt a national commitment to wage international understanding and cooperation rather than war. Title VII would effectively meld our greatest resources—our students, our educators, and our educational institutions—toward this end. I urge that this amendment be defeated and what the committee has reported will be approved.

I yield back my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Jackson), the Senator from Louisiana (Mr. Long), the Senator from Wyoming (Mr. McGee), the Senator from Maine (Mr. Muskie), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. Stevenson) and the Senator from Washington (Mr. Jackson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Kentucky (Mr. Cooper) and the Senator from Florida (Mr. Gurney) are detained on official business.

The result was announced—yeas 48, nays 42, as follows:

[No. 72 Leg.]

YEAS—48

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cranston
Eagleton
Ellender
Ervin
Fong
Fulbright
Gambrell
Gravel
Hart
Hatfield
Hollings
Inouye
Jordan, N.C.
Mansfield
Mathias
McClellan
McGovern
McIntyre
Miller
Montoya
Moss
Nelson
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Sparkman
Spong
Stennis
Symington
Talmadge
Tunney
Young

NAYS—42

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Fannin
Goldwater
Griffin
Hansen
Hruska
Hughes
Humphrey
Javits
Jordan, Idaho
Kennedy
Magnuson
Metcalf
Mondale
Packwood
Pell
Roth
Schweiker
Scott
Smith
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Williams

NOT VOTING—10

Cooper
Gurney
Harris
Hartke
Jackson
Long
McGee
Mundt
Muskie
Stevenson

So Mr. Fulbright's amendment was agreed to.

Mr. FULBRIGHT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MILLER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. Byrd of Virginia). The amendment will be stated.

The legislative clerk read as follows:

On page 599, at the end of line 16 insert: "*Provided*, That such internship duties and activities shall not be involved directly with campaign or other partisan political activities."

Mr. MILLER. Mr. President, this amendment has to do with section 931, under part (c), which is entitled "Interns For Political Leadership."

The purpose of this amendment is to make sure that the internship program is not abused for the benefit of an elected official in a campaign or for partisan political gain. The bill specifically provides for political involvement of interns with elected officials in the performance of their duties, in their office, which will give the interns an insight into the problems and operations of the government. This is a desirable program.

However, if the public gains the impression that the program is being abused for the benefit of the official in his campaign activities or for partisan political purposes, public support will be lost.

The taxpayers rightfully can expect that such activities should be paid for by the official or by his party, not the taxpayer. Normal activities of the office can be indirectly involved with the official's appearance at party functions or with correspondents of a partisan nature.

We are not nit-picking on this point. It would be expected, however, that both the official and the intern would understand that such incidental activities are a far cry from direct involvement in a campaign or in partisan political activities which exist only in a very minor degree in the duties of public servants.

I have discussed this matter with the distinguished manager of the bill, Senator Pell, and with Senator Javits, and I understand that this accords with their understanding of the bill. I am merely trying to be helpful and strengthen the bill with respect to this provision, because I believe that, properly conducted, this internship program is a very fine measure.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. JAVITS. Mr. President, the Senator from Iowa has discussed this amendment with me, and it is satisfactory so far as I am concerned.

Mr. MILLER. I thank the Senator.

Mr. PELL. Mr. President, I have discussed this amendment with its author and with the author of the section of the bill, the Senator from Minnesota (Mr. Humphrey), and it is agreeable with him.

I think the little colloquy in which we have engaged is a very useful exercise because, as I understand the intent of this amendment, it is not to prevent an intern in a Representative's or a Senator's office from driving his boss to the airport when he goes off to make a political speech or to do the normal chores that would accrue to an intern in the course of his duties in the office of a member of either this party or the other party.

Mr. MILLER. The Senator is correct. We have discussed this matter. We are not interested in nit-picking. That, to me, would be an incidental and a minor thing. I cannot imagine anything like that defeating the purpose of the program.

I do not think there is any hang-up on these purely incidental, indirect activities which are bound to creep into any public office.

Mr. PELL. I recommend that the Senate adopt the amendment of the Senator from Iowa.

Mr. MILLER. I thank the Senator from Rhode Island.

Mr. PELL. I yield back the remainder of my time.

Mr. MILLER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

AMENDMENT NO. 949

Mr. ERVIN. Mr. President, on behalf of myself and a multitude of other righteous Senators, I call up my amendment 949 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ERVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the committee amendment add the following additional title and section appropriately numbered:

PROTECTION OF RIGHT OF STUDENTS TO ATTEND NEIGHBORHOOD SCHOOLS

SEC. —. Notwithstanding any other provision of law, no court, department, agency, or officer of the United States shall have jurisdiction or power under any circumstances to order or require by any means whatever the State or local authorities operating any public school system in any State, district, territory, Commonwealth, or possession of the United States to deny to any student of any race, religion, or national origin admission to the school nearest his home which is operated by such authorities for the education of students of his age or ability. The Congress intends the statutory provision set out in the preceding sentence to apply to every court, department, agency, or officer of the United States, and to every State or local authority, public school system, public school, student, or person, and to every circumstance or situation to which or to whom the Congress has the constitutional power to make it applicable, and to this end the Congress declares its invalidity in particular respects or in particular applications shall not impair in any way its validity in other respects or in other applications.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on this amendment not start running today.

May I say, for the information of the Senate, that there will be no further rollcall votes this evening. The vote on the pending amendment will be put over until tomorrow. I think that meets the approval of the author of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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## INCREASED FUNDING FOR SUMMER JOBS FOR YOUTH

Mr. JAVITS. Mr. President, I should like the record to show that the annual struggle to get increased funding for summer jobs and recreational programs for youths is commencing again. The amount provided by the budget is, in my judgment, completely inadequate to needs documented by those closest to the situation.

A most depressing aspect of the current economic situation is its effect on the employment hopes and situation of economically disadvantaged youth in urban and rural areas.

While the current unemployment rate of 5.9 percent is bad enough nationally, the jobless rate among teenagers in the poverty neighborhoods in December—the last period as to which information is available—stood at 25.7 percent—four times as much, with the rate among black teenagers in such areas at 34.7 percent.

The summer months traditionally present an especially difficult situation—with so many youth out of school, the competition of college and of other youth for employment and other factors.

The Neighborhood Youth Corps summer job and recreational programs—authorized under title I of the Economic Opportunity Act of 1964, and the Manpower Development and Training Act of 1962—provide an existing mechanism to meet the summer problem; under the program work experience and related transportation is provided for poor youth between the ages of 14 and 21 with public and nonprofit private agencies and with earnings enabling many to continue their education in the fall; it also funds recreational programs for youth 6 through 12 years of age.

However, despite our efforts, funds appropriated for these programs in the regular appropriation bill, usually early in the fiscal year, are never adequate to the actual needs, and each spring, for the past 5 years, it has been necessary for me and other concerned members to seek additional funds by way of supplemental appropriation.

The prognosis for this summer is particularly upsetting, since there will be added to the factors I have cited—those arising from returning veterans—the inability of the private sector alone to meet its quotas in hiring under its voluntary summer programs, and general economic conditions.

A city-by-city survey conducted by the National League of Cities—U.S. Conference of Mayors, at my request, documents the needs for a total supplemental appropriation of $291.5 million for the programs, which breaks down as follows:

$268.3 million for the job component; this amount together with the $175.7 million already available, would fund 947,928 10-week job opportunities for economically disadvantaged youth ages 14 to 21 in urban and rural areas. The administration has requested a supplemental appropriation of $82.2 million for this purpose, to fund an aggregate total of 609,300 opportunities, the same number of total opportunities funded last year.

$1.3 million for a related transportation necessary for such youths to participate in the job program; the administration would provide $1.4 billion out of existing funds.

$21.9 million for the recreational support program—providing activities to children 6 through 12 years of age, and for which no funds are now available. The administration has requested a supplemental appropriation of $12.8 million for these purposes, again the same aggregate amount as was made available last year.

Mr. President, to the end of obtaining more adequate funds for these programs for the coming summer, I have written Secretary of Labor James D. Hodgson whose Department administers these programs urging him to submit a revised budget request for additional funds.

Additionaly I have submitted a statement to the Committee on Appropriations asking it to appropriate the full amount documented by the National League of Cities when it considers a supplemental in executive committee sometime later next month; at this point the House has not acted upon the supplemental appropriation bill.

I hope that the Secretary and the committee will take action to provide more adequately for these programs; if not then I shall consider it again necessary to seek additional amounts when the supplemental appropriation bill is considered on the floor.

So that Members will have an accurate picture of the situation in their own States, I ask unanimous consent to have printed in the RECORD a letter dated February 23, 1972, from the National League of Cities, together with the city-by-city charts which show the results of their survey, as well as a copy of my letter, dated February 25, to Secretary of Labor Hodgson.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., February 25, 1972.*

Hon. JAMES D. HODGSON,
*Secretary,*
*Department of Labor,*
*Washington, D.C.*

DEAR MR. SECRETARY: I am writing to urge the Administration to submit a revised supplemental budget request for additional funds for the Neighborhood Youth Corps summer job program, and for related transportation and recreational activities to meet the needs of poor youths in urban and rural areas during the coming summer.

As you know, the Neighborhood Youth

Corps job program funds work experience and related transportation for poor youths between the ages of 14 and 21 with public and non-profit private agencies in the summer months, providing them with earnings enabling them to complete or continue their education; the recreational component provides summer recreational opportunities to poor children between the ages of 6 and 12.

The current national unemployment rate of 5.9 percent falls most heavily on economically disadvantaged youth. The most recent available statistics released yesterday show a jobless rate among teenagers in poverty neighborhoods of 25.7 percent in the last quarter of 1971 with the rate among black teenagers in such areas at 34.7 percent.

Experience indicates that even if the overall employment situation improves, as we hope it will, youth—particularly poor youth—will continue to have unemployment ranging from four to five times the norm. As you noted generally on February 17, 1972, in testimony before the Joint Economic Committee:

"The unemployment situation of teenagers vis-a-vis adults has deteriorated over the past decade. In 1962, the unemployment rate for teenagers averaged 3.1 times higher than for workers 25 years of age and over. Beginning in 1963, the ratio began to exceed 4 to 1, and in no year did it drop below 4 to 1; the average ratio of teenage to over-25 unemployment in the years 1963–71 amounted to 4.7 to 1."

Already, there are substantial signs that increases the number of returning veterans, economic cut-backs, and other factors will aggravate further the youth unemployment situation in the coming summer.

The National League of Cities—U.S. Conference of Mayors, representing most of the public agencies which conduct the Neighborhood Youth Corps summer program, advises, on the basis of an extensive survey, that there will be a very real need for 947,928 ten-week job opportunities in the program for this summer, compared with the 641,639 which it projected at this time last year.

The National League of Cities estimates that a total of $444.0 million will be needed to provide the projected 947,928 opportunities, it is my understanding that the administration intends to provide only 609,300 nine-week opportunities, the same as last year, with a total appropriation for jobs of $257.9 million—which would consist of $175.7 million already available and an additional $82.2 million which it has requested in a supplementary budget request.

Thus there is a short-fall of $186.1 million and 338,628 opportunities in the job program for the coming summer, on a ten-week basis.

It should be noted that the National League of Cities survey relates to the number of job and recreational opportunities which could be effectively used; in fact the Department of Labor has estimated the "target group"—those who could benefit from the job program—in excess of 1.8 million youths.

I enclose a copy of a letter which I received, dated February 23, 1972, from the League, documenting these needs on a city-by-city basis.

Moreover, the National League of Cities estimates that there is an additional need for $1.3 million for related transportation and $9.1 million for the recreational support program, above the $1.4 million and $12.8 million respectively which the Administration hopes to make available.

Other special sources of refunding will not be adequate; the Emergency Employment Act of 1971, which will provide approximately 135,000 public sector job opportunities in this fiscal year and a similar number in the coming fiscal year will not focus upon the needs of poor youth; according to a preliminary sample taken by the Department of Labor only 14 percent of those now covered are in the age group below 21 years of age.

It appears also that general economic conditions will continue to make it difficult for the private sector to take up the slack through such voluntary job programs as those conducted by the National Alliance of Businessmen. The National Alliance of Businessmen—which has not yet established a goal for this summer—was forced last summer to reduce its goal by 30,000 from the 180,000 in the previous year because of general economic conditions similar to those faced today.

Accordingly, I urge the Department to submit a revised supplementary budget request responsive to these documented needs so that public and non-profit sponsors will be able to plan effectively programs which will provide youths with meaningful alternatives to continued frustration and restlessness in the coming summer.

Sincerely,

JACOB K. JAVITS.

FEBRUARY 23, 1972.

Hon. JACOB K. JAVITS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR JAVITS: In response to your request for information, we have made inquiries as to the cities' 1972 needs for the summer Neighborhood Youth Corps slots. The information we have received from the 50 largest cities shows that the total number of slots these 50 large cities could effectively use this summer is 410,035.

On the basis of our contacts with a sample of smaller cities, we estimate that their needs and the number of slots these smaller cities could effectively utilize to total 537,893.

Combining these figures—the total for the 50 largest cities with estimated needs for the balance of the nation—the present real need for 1972 is 947,928 slots nationwide.

We trust that these statistics will be helpful to you in pointing up the critical need for an enlarged appropriation for the summer Neighborhood Youth Corps.

Sincerely,

JOHN J. GUNTHER,
*Executive Director,*
*U.S. Conference of Mayors.*
PATRICK HEALY,
*Executive Vice President,*
*National League of Cities.*

SUMMER NEIGHBORHOOD YOUTH CORPS

| | Rank in size | Population | Slots | | | Dollars, 1972 need |
|---|---|---|---|---|---|---|
| | | | 1971 need | 1971 actual[1] | 1972 need | |
| Region I: Boston | 16 | 641,000 | 3,500 | 3,330 | 5,000 | 2,340,000 |
| Region II: | | | | | | |
| Buffalo | 28 | 463,000 | 4,268 | 2,367 | 4,268 | 1,997,424 |
| Newark | 35 | 382,000 | 14,563 | 4,750 | 14,563 | 6,815,484 |
| New York | 1 | 7,868,000 | 77,500 | 40,541 | 77,500 | 36,270,000 |
| Rochester | 49 | 296,000 | 1,000 | 1,007 | 4,650 | 2,176,200 |
| Region III: | | | | | | |
| Baltimore | 7 | 906,000 | 8,000 | 6,268 | 9,420 | 4,408,560 |
| Norfolk | 47 | 308,000 | 2,625 | 1,977 | 2,625 | 1,228,500 |
| Philadelphia | 4 | 1,949,000 | 12,500 | 6,189 | 12,500 | 5,850,000 |
| Pittsburgh | 24 | 520,000 | 2,500 | 6,164 | 9,265 | 4,336,000 |
| Washington, D.C | 9 | 757,000 | 36,000 | 11,689 | 36,000 | 16,848,000 |
| Region IV: | | | | | | |
| Atlanta | 27 | 497,000 | 3,408 | 2,391 | 3,408 | 1,594,944 |
| Birmingham | 48 | 301,000 | 2,086 | 1,777 | 2,135 | 999,180 |
| Dade County, Miami | 42 | 335,000 | 8,226 | 4,532 | 8,226 | 3,849,800 |
| Jacksonville | 23 | 529,000 | (2) | 927 | 1,735 | 811,980 |
| Louisville | 38 | 361,000 | 3,500 | 2,062 | 3,500 | 1,638,000 |
| Memphis | 17 | 624,000 | 2,394 | 1,598 | 2,394 | 1,120,400 |
| Nashville | 30 | 448,000 | (2) | 1,330 | 2,000 | 936,000 |
| Tampa | 50 | 278,000 | 2,887 | 4,335 | 6,515 | 3,049,020 |
| Region V: | | | | | | |
| Chicago | 2 | 3,367,000 | 40,000 | 25,695 | 40,000 | 18,720,000 |
| Cincinnati | 29 | 452,000 | 3,000 | 2,102 | 3,000 | 1,404,000 |
| Cleveland | 10 | 751,000 | 10,000 | 7,392 | 11,100 | 5,194,800 |
| Columbus | 21 | 540,000 | 2,000 | 1,184 | 2,000 | 936,000 |
| Detroit | 5 | 1,509,000 | 11,670 | 13,392 | 25,000 | 11,700,000 |
| Indianapolis | 11 | 745,000 | 2,500 | 1,217 | 2,500 | 1,170,000 |
| Milwaukee | 12 | 717,000 | 3,000 | 2,295 | 3,000 | 1,404,000 |
| Minneapolis | 32 | 434,000 | 2,735 | 1,589 | 2,735 | 1,280,000 |
| St. Paul | 46 | 310,000 | 1,025 | 787 | 1,025 | 479,700 |
| Toledo | 34 | 384,000 | 990 | 758 | 990 | 463,320 |
| Region VI: | | | | | | |
| Dallas | 8 | 944,000 | 2,280 | 1,728 | 2,280 | 1,067,000 |
| El Paso | 45 | 322,000 | 1,125 | 830 | 3,000 | 1,404,000 |
| Fort Worth | 33 | 393,000 | 1,178 | 805 | 1,507 | 705,276 |
| Houston | 6 | 1,233,000 | 3,000 | 2,732 | 3,560 | 1,666,080 |
| New Orleans | 19 | 593,000 | 5,000 | 1,914 | 5,000 | 2,340,000 |
| Oklahoma City | 37 | 366,000 | 1,000 | 1,175 | 1,530 | 716,040 |
| San Antonio | 15 | 654,000 | 5,514 | 3,608 | 5,514 | 2,580,500 |
| Tulsa | 43 | 332,000 | 850 | 540 | 1,011 | 473,148 |
| Region VII: | | | | | | |
| Kansas City | 26 | 507,000 | 4,000 | 2,345 | 4,000 | 1,872,000 |
| Omaha | 41 | 347,000 | 700 | 1,284 | 1,670 | 781,560 |
| St. Louis | 18 | 622,000 | 1,500 | 3,932 | 5,910 | 2,765,880 |
| Region VIII: Denver | 25 | 515,000 | 2,100 | 1,203 | 2,100 | 982,800 |
| Region IX: | | | | | | |
| Honolulu | 44 | 325,000 | 2,191 | 513 | 2,800 | 1,310,400 |
| Long Beach | 40 | 358,000 | 20,000 | 17,983 | 25,000 | 11,700,000 |
| Los Angeles | 3 | 2,813,000 | | | | |
| Oakland | 39 | 362,000 | 5,785 | 4,493 | 5,850 | 2,737,800 |
| Phoenix | 20 | 582,000 | 17,000 | 2,824 | 17,000 | 7,956,000 |
| San Diego | 14 | 697,000 | 2,500 | 3,136 | 4,510 | 2,110,680 |
| San Francisco | 13 | 716,000 | 5,000 | 3,107 | 8,000 | 3,744,000 |
| San Jose | 31 | 446,000 | (2) | 1,890 | 3,535 | 1,654,380 |
| Region X: | | | | | | |
| Portland | 36 | 382,000 | 5,000 | 1,697 | 5,000 | 2,340,000 |
| Seattle | 22 | 531,000 | 5,000 | 2,682 | 5,000 | 2,340,000 |
| 50 largest total | | | 354,490 | 220,066 | 410,035 | 192,268,856 |
| Balance | | | 287,149 | 328,304 | 537,893 | 251,733,924 |
| Total | | | 641,639 | 548,370 | 947,928 | 444,002,780 |

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[1] All figures shown are for 10 week slots.

[2] Included in top 50 as a result of 1970 census.

SAMPLING OF CITIES OTHER THAN 50 LARGEST

| | Slots | | | Dollars, |
|---|---|---|---|---|
| | 1971 need | 1971 actual [1] | 1972 need | 1972 need |
| Akron | 612 | 694 | 1,137 | 532,200 |
| Albuquerque | 600 | 745 | 1,000 | 468,000 |
| Dayton | 620 | 796 | 1,500 | 702,000 |
| Gary | 1,380 | 2,714 | 4,447 | 2,081,200 |
| Jersey City | 1,275 | 1,498 | 2,454 | 1,148,472 |
| Paterson | 1,200 | 900 | 1,500 | 702,000 |
| Total | 4,687 | 7,347 | 12,038 | 5,633,872 |

[1] All figures shown are for 10 week slots.

SUMMER YOUTH TRANSPORTATION PROGRAM

| | Rank in size | Population | Dollars | |
|---|---|---|---|---|
| | | | 1971 actual | 1972 need |
| Region I: Boston | 16 | 641,000 | 10,700 | 20,000 |
| Region II: | | | | |
| Buffalo | 28 | 463,000 | 7,500 | 13,000 |
| Newark | 35 | 382,000 | 23,437 | 39,500 |
| New York | 1 | 7,868,000 | 149,130 | 251,400 |
| Rochester | 49 | 296,000 | 7,500 | 12,000 |
| Region III: | | | | |
| Baltimore | 7 | 906,000 | 21,100 | 35,000 |
| Norfolk | 47 | 308,000 | 7,500 | 12,000 |
| Philadelphia | 4 | 1,949,000 | 34,360 | 42,000 |
| Pittsburgh | 24 | 520,000 | 12,650 | 22,000 |
| Washington, D.C | 9 | 757,000 | 22,960 | 38,700 |
| Region IV: | | | | |
| Atlanta | 27 | 497,000 | 12,080 | 30,000 |
| Birmingham | 48 | 301,000 | 13,790 | 24,000 |
| Dade County, Miami | 42 | 335,000 | 12,000 | 23,000 |
| Jacksonville | 23 | 529,000 | 6,300 | 14,000 |
| Louisville | 38 | 361,000 | 7,500 | 12,500 |
| Memphis | 17 | 624,000 | 11,860 | 18,000 |
| Nashville | 30 | 448,000 | 7,000 | 12,000 |
| Tampa | 50 | 278,000 | 7,500 | 17,000 |
| Region V: | | | | |
| Chicago | 2 | 3,367,000 | 42,240 | 70,000 |
| Cincinnati | 29 | 425,000 | 7,920 | 15,000 |
| Cleveland | 10 | 751,000 | 19,310 | 35,000 |
| Columbus | 21 | 540,000 | 8,640 | 17,000 |
| Detroit | 5 | 1,509,000 | 36,560 | 75,000 |
| Indianapolis | 11 | 745,000 | 8,480 | 15,000 |
| Milwaukee | 12 | 717,000 | 47,280 | 65,000 |
| Minneapolis | 32 | 434,000 | 12,380 | 20,000 |
| St. Paul | 46 | 310,000 | 7,500 | 12,500 |
| Toledo | 34 | 384,000 | 7,990 | 15,750 |
| Region VI: | | | | |
| Dallas | 8 | 844,000 | 19,340 | 23,990 |
| El Paso | 45 | 322,000 | 38,900 | 58,900 |
| Forth Worth | 33 | 393,000 | 8,130 | 15,000 |
| Houston | 6 | 1,233,000 | 16,387 | 45,000 |
| New Orleans | 19 | 593,000 | 14,790 | 25,000 |
| Oklahoma City | 37 | 366,000 | 14,000 | 25,000 |
| San Antonio | 15 | 654,000 | 14,570 | 26,570 |
| Tulsa | 43 | 332,000 | 7,500 | 12,500 |
| Region VII: | | | | |
| Kansas City | 26 | 507,000 | 13,970 | 50,000 |
| Omaha | 41 | 347,000 | 13,500 | 15,000 |
| St. Louis | 18 | 622,000 | 25,790 | 43,500 |
| Region VIII: Denver | 25 | 515,000 | 18,320 | 29,000 |
| Region IX: | | | | |
| Honolulu | 44 | 325,000 | 7,500 | 15,000 |
| Long Beach | 40 | 358,000 | 7,500 | 16,000 |
| Los Angeles | 3 | 2,813,000 | 82,870 | 82,870 |
| Oakland | 39 | 362,000 | 15,000 | 28,000 |
| Phoenix | 20 | 582,000 | 11,740 | 23,000 |
| San Diego | 14 | 697,000 | 14,360 | 30,000 |
| San Francisco | 13 | 716,000 | 11,970 | 25,000 |
| San Jose | 31 | 446,000 | 7,500 | 8,160 |
| Region X: | | | | |
| Portland | 36 | 382,000 | 8,580 | 13,000 |
| Seattle | 22 | 531,000 | 19,060 | 32,100 |
| 50 largest total | | | 954,394 | 1,608,940 |
| Balance of 1971 participants | | | 464,996 | 783,967 |
| New cities | | | | 357,093 |
| Total | | | 1,419,390 | 2,750,000 |

SUMMER RECREATION SUPPORT PROGRAM (RSP)

| | Rank in size | Population | Dollars | |
|---|---|---|---|---|
| | | | 1971 actual | 1971 need |
| Region I: Boston | 16 | 641,000 | 168,000 | 180,000 |
| Region II: | | | | |
| Buffalo | 28 | 463,000 | 96,000 | 120,000 |
| Newark | 35 | 382,000 | 77,000 | 140,000 |
| New York | 1 | 7,868,000 | 1,836,000 | 2,934,000 |
| Rochester | 49 | 296,000 | 53,000 | 95,000 |
| Region III: | | | | |
| Baltimore | 7 | 906,000 | 276,000 | 335,000 |
| Norfolk | 47 | 308,000 | 132,000 | 180,000 |
| Philadelphia | 4 | 1,949,000 | 528,000 | 700,000 |
| Pittsburgh | 24 | 520,000 | 168,000 | 165,000 |
| Washington, D.C | 9 | 757,000 | 228,000 | 364,000 |
| Region IV: | | | | |
| Atlanta | 27 | 497,000 | 143,000 | 180,000 |
| Birmingham | 48 | 301,000 | 120,000 | 170,000 |
| Dade County, Miami | 42 | 335,000 | 126,000 | 192,000 |
| Jacksonville | 23 | 529,000 | 84,000 | 175,000 |
| Louisville | 38 | 361,000 | 96,000 | 130,000 |
| Memphis | 17 | 624,000 | 264,000 | 305,000 |
| Nashville | 30 | 448,000 | 72,000 | 150,000 |
| Tampa | 50 | 278,000 | 132,000 | 175,000 |
| Region V: | | | | |
| Chicago | 2 | 3,367,000 | 649,000 | 2,100,000 |
| Cincinnati | 29 | 452,000 | 120,000 | 175,000 |
| Cleveland | 10 | 751,000 | 163,000 | 205,000 |
| Columbus | 21 | 540,000 | 132,000 | 211,000 |
| Detroit | 5 | 1,509,000 | 360,000 | 897,000 |
| Indianapolis | 11 | 745,000 | 130,000 | 195,000 |
| Milwaukee | 12 | 717,000 | 108,000 | 155,000 |
| Minneapolis | 32 | 434,000 | 60,000 | 96,000 |
| St. Paul | 46 | 310,000 | 36,000 | 58,000 |
| Toledo | 34 | 384,000 | 84,000 | 120,000 |
| Region VI: | | | | |
| Dallas | 8 | 844,000 | 228,000 | 285,000 |
| El Paso | 45 | 322,000 | 144,000 | 200,000 |
| Fort Worth | 33 | 393,000 | 108,000 | 173,000 |
| Houston | 6 | 1,233,000 | 350,000 | 440,000 |
| New Orleans | 19 | 593,000 | 252,000 | 300,000 |
| Oklahoma City | 37 | 366,000 | 108,000 | 170,000 |
| San Antonio | 15 | 654,000 | 324,000 | 400,000 |
| Tulsa | 43 | 332,000 | 72,000 | 115,000 |
| Region VII: | | | | |
| Kansas City | 26 | 507,000 | 108,000 | 130,000 |
| Omaha | 41 | 347,000 | 48,000 | 96,000 |
| St. Louis | 18 | 622,000 | 240,000 | 384,000 |
| Region VIII: Denver | 25 | 515,000 | 120,000 | 170,000 |
| Region IX: | | | | |
| Honolulu | 44 | 325,000 | 60,000 | 99,000 |
| Long Beach | 40 | 358,000 | 72,000 | 125,000 |
| Los Angeles | 3 | 2,813,000 | 552,000 | 650,000 |
| Oakland | 39 | 362,000 | 84,000 | 125,000 |
| Phoenix | 20 | 582,000 | 144,000 | 200,000 |
| San Diego | 14 | 697,000 | 144,000 | 200,000 |
| San Francisco | 13 | 716,000 | 180,000 | 250,000 |
| San Jose | 31 | 446,000 | 85,000 | 100,000 |
| Region X: | | | | |
| Portland | 36 | 382,000 | 84,000 | 135,000 |
| Seattle | 22 | 531,000 | 84,000 | 129,000 |
| 50 largest total | | | 9,966,000 | 15,928,000 |
| Balance | | | 2,834,000 | 4,530,000 |
| New cities | | | | 1,500,000 |
| Total | | | 12,800,000 | 21,958,000 |

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment of the Senator from North Carolina (Mr. ERVIN) be temporarily laid aside for the consideration of my amendment, No. 957, which has been agreed to by the Senator from Rhode Island (Mr. PELL) and the Senator from Maryland (Mr. BEALL).

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, it is so ordered.

### AMENDMENT NO. 957

Mr. BAYH. Mr. President, I call up my amendment, No. 957, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

On page 685, line 11, strike the word "delinquent".

Mr. BAYH. Mr. President, I have discussed this matter with the Senator from Rhode Island (Mr. Pell) and the Senator from Maryland (Mr. Beall), who introduced an amendment to the bill which I think is a very laudatory one, so far as making educational funds available to young people in correctional institutions is concerned.

I would ask the Senate to join me in deleting one word from an otherwise meritorious measure of my good friend from Maryland, with the following explanation:

Section 508 in the Education Amendments of 1971, S. 659, amends section 103(a)(7) of title I of the Elementary and Secondary Education Act of 1965 by allowing the Office of Education to fund programs in adult correctional institutions. The Office of Education already provides money for programs in institutions for neglected and delinquent children. Similar programs should be provided to children who presently do not qualify because they happen to be in adult correctional institutions. Section 508 is intended to accomplish that purpose, and I strongly support that intention.

However, in its present form section 508 is not satisfactory because it provides that funds allocated to adult correctional institutions be spent "solely for delinquent children." There are many "children" in adult correctional facilities who would be greatly benefited by programs funded by the Office of Education; however, under the present amendment most could not qualify. According to the National Council on Crime and Delinquency and the American Correctional Association there are very few delinquent children in adult correctional facilities. While statistics are not available, juvenile delinquents are not generally incarcerated in adult institutions because separate juvenile institutions are maintained by the States. A few delinquents do find their way into adult institutions, but this is an exceptional occurrence.

By deleting the word "delinquent" my amendment to section 508 removes the constraint in the present bill which unnecessarily limits the authority of the Office of Education. As a result of my amendment, the Office of Education will be able to fund programs for children in adult correctional facilities just as it already does for young people in institutions for dependent and delinquent children.

Mr. President, education programs in adult correctional institutions are desperately needed. Many prisoners lack even basic educational skills. Though such skills are of fundamental importance to finding and holding a good job, adequate educational programs are rarely provided behind prison walls. Without basic skills we can expect many of those presently incarcerated to resume their criminal activities once they leave prison. It is my hope that programs funded by the Office of Education under the authority provided in section 508 will give some of today's prisoners the skills necessary to avoid return to prison in the future.

Mr. President, what we are dealing with is the technical definition of the word "delinquent." A child is in deep trouble if we are talking about a 15- or 16-year-old or he would not be in that adult correctonal institution in the first place. Under the definition of many States, he has not qualified, per se, as a delinquent. Thus, we would make this measure of the Senator from Maryland available to all children whether technically a delinquent or whether a plain criminal under a given State statute.

Mr. BEALL. Mr. President, as the Senator from Indiana (Mr. Bayh) has just clearly stated, the purpose of the amendment I offered in committee, and which the committee adopted as part of the bill, was to make sure that children who are in institutions that would be properly termed an adult correctional institution would have the same opportunities for assistance and training as those incarcerated in an institution known legally as an institution for neglected or delinquent children.

Certainly the amendment just offered by the Senator from Indiana does clarify the language and corrects an oversight in the phrasing, making it much clearer, so that all children in adult correctional institutions will now be covered by this section.

I thank the Senator from Indiana for offering his amendment to clarify the language and I urge its adoption.

Mr. BAYH. Mr. President, may I express my deep appreciation to the Senator from Maryland, and also to the chairman of the Subcommittee on Juvenile Delinquency, for the leadership they have provided. We have had so many definitions in this area that we felt it was necessary to clarify the language and that is the reason for offering the amendment.

Mr. PELL. Mr. President, having listened to the colloquy and having talked with the Senators from Indiana and Maryland, and also with the ranking minority member of the full committee, I am assured of acceptance on all sides and would recommend that the amendment be agreed to.

Mr. President, I yield back the remainder of my time.

Mr. BAYH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Byrd of Virginia). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Indiana (Mr. Bayh), No. 957.

The amendment was agreed to.

Mr. BYRD of West Virginia. Mr. President, what is the pending question at this time?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment offered by the Senator from North Carolina.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

Mr. President, I ask unanimous consent, upon the disposition of the pending amendment by the Senator from North Carolina (Mr. Ervin) on tomorrow, that the Chair lay before the Senate Amendment No. 952 by the Senator from North Carolina (Mr. Ervin).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, upon the disposition of Amendment No. 952 by the Senator from North Carolina (Mr. Ervin) on tomorrow, that the Chair lay before the Senate Amendment No. 950 by the Senator from North Carolina (Mr. Ervin).

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR BYRD OF VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the able Senator from Delaware (Mr. Roth), the distinguished Senator from Virginia (Mr. Byrd), who now presides over this Chamber with great skill—and, may I say, with a degree of skill so rare as a day in June—be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER (Mr. Byrd of Virginia). Without objection, it is so ordered.

## ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, following the remarks of the distinguished Senator from Virginia (Mr. Byrd) tomorrow, that there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:30 a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized for not to exceed 15 minutes each, and in the order stated:

Senators Roth and Byrd of Virginia, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes with statements limited therein to 3 minutes; at the conclusion of which the Chair will lay before the Senate the unfinished business, the pending question being on the adoption of the amendment No. 949 offered by the Senator from North Carolina. The yeas and nays have been ordered on that amendment. The time limitation is 30 minutes. Consequently, a yea and nay vote on the Ervin amendment No. 949 will occur at about 10:30 a.m.

On the disposition of that amendment, the Senate will proceed to consider amendment No. 952 by the Senator from North Carolina (Mr. ERVIN). There will unquestionably be a rollcal vote also on that amendment.

Following disposition of amendment No. 952, the Senate will proceed to consider amendment No. 950 offered by the Senator from North Carolina (Mr. ERVIN). The time limitation on that amendment is 30 minutes. Indubitably that amendment will also require a yea and nay vote.

The final disposition, may I say, of the unfinished business will occur at no later than 2 p.m. tomorrow. Several rollcall votes are, therefore, in the offing and Senators are requested to be present.

### ADJOURNMENT TO 9:30 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:10 p.m. the Senate adjourned until tomorrow, Wednesday, March 1, 1972, at 9:30 a.m.

### CONFIRMATIONS

Executive nominations confirmed by the Senate February 29, 1972:

CIVIL AERONAUTICS BOARD

Whitney Gillilland, of Iowa, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1977.

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## HOUSE OF REPRESENTATIVES—*Tuesday, February 29, 1972*

The House met at 12 o'clock noon.

Rev. Charles W. Hoemig, pastor of Holy Trinity Lutheran Church, Littleton, Colo., offered the following prayer:

For a moment, O Lord, may we be still and listen to Your voice.

So many things demand our attention. May Your words ring in our ears: "Seek first the kingdom of God."

Old values we cherished are being pushed aside. Remind us again that "if the foundations be destroyed, what shall the righteous do?"

Everywhere there is suspicion, and hate, and dissension. Open our ears to Your word that we should love our neighbor, whoever and wherever he might be.

May we know that You are the only hope for a troubled world. Strengthen us with Your power; inspire us with Your wisdom; sustain us with Your blessing. Help others to see through us to You. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6291. An act to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets Nos. 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes.

### APPRECIATION TO PASTOR CHARLES W. HOEMIG

(Mr. BROTZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROTZMAN. Mr. Speaker, I would like to take this opportunity to express our deep appreciation to Pastor Charles Hoemig for offering the prayer today in the House of Representatives.

Pastor Hoemig is the senior pastor of the Holy Trinity Lutheran Church in Littleton, Colo., one of the fine cities in the Second District which I have the privilege of representing in this body. Before coming to Littleton, Pastor Hoemig served pastorates in Arvada, Colo., and Diamond Bar, Calif. Originally, Pastor Hoemig came from Fort Wayne, Ind.

While in Colorado, Pastor Hoemig has been active in civic affairs, as indicated by his recent service as president of the Littleton Kiwanis Club and president of the Metropolitan Denver Chapter of the Leukemia Society of America. In fact, he recently received the Vickie Franzen and John F. Hiatt awards for his outstanding leadership in the Leukemia Society of America.

Mr. Speaker, I am pleased that Pastor Hoemig was able to open our session today, and I am sure I speak for all of my colleagues in expressing the hope that he and his splendid family will be able to be with us again the near future.

### SERIOUS QUESTIONS ABOUT CONSIDERATION OF BILLS FROM WAYS AND MEANS COMMITTEE UNDER UNANIMOUS CONSENT

(Mr. PATMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATMAN. Mr. Speaker, I want to raise some serious questions about the consideration of these bills from the Ways and Means Committee under unanimous consent.

First. No hearing record exists for any of the 22 bills.

Second. Some of the bills—such as H.R. 7025, dealing with common trust funds by holding company banks—involve basic policy decisions which cannot be adequately considered under these procedures.

Third. Many of the bills involve complex questions which cannot be answered without hearings.

Fourth. The House cannot judge the impact of these measures unless an opportunity is given for public witnesses to testify.

Fifth. The reports do not—in all cases—fully comply with rule XIII requiring specific statements of the effect on revenue and the costs of administration.

In conclusion, Mr. Speaker, there is no need for unanimous-consent requests since the Ways and Means Committee apparently will be considering broad tax reform measures later this session as indicated in the debate on the debt ceiling earlier this year. All of these measures could be considered at that time and reported to the floor with a hearing record.

### IRONY IS A CONSTANT PRESSURE

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, in February 1947, Father Pat O'Connor, a member of the Columbian Missionary Order, visited General Chou En-lai on behalf of the Catholic press of the world. They discussed the religious persecutions then taking place. Chou at first denied such persecutions, masking it as land reform difficulties. But before the interview ended, Chou assured Father O'Connor that directives would be sent to insure that religious freedom would be respected.

Perhaps the directives were sent, but history knows that religious freedom was not respected, and that persecution continued until religion was virtually eliminated, and shortly thereafter no press, let alone a religious press, was allowed to ask such questions.

I wonder how similar is the statement in the joint communique issued yesterday that "China will never be a superpower and it opposes hegemony and power politics of any kind."

How can a nation with the atomic bomb and 800 million obedient people not be a superpower? How can a nation which involves itself in ideological "wars of liberation" across the face of the globe not be engaged in power politics? And how can a government which expresses its wish for the thoughts of Mao to rule the world be not desirous of sovereignty over other countries?

Now, I realize it is unfashionable, if not impolite, to accuse a new-found friend of dishonesty. So I will not do that. I only express my wonderment—and my fervent hopes to the contrary—whether my grandchildren, having watched or experienced the actual practice of those statements, will not be able to detect the irony of that statement more clearly than we can, just as we appreciate the irony of the promise to insure religious freedom.

## BILLS FOR CONSIDERATION FROM COMMITTEE ON WAYS AND MEANS

(Mr. ASPIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASPIN. Mr. Speaker, I commend the gentleman from Texas (Mr. PATMAN) for his remarks. I agree with him that the bills to be brought before us under unanimous consent, the bills from the Committee on Ways and Means, represent a disaster. I am very happy the gentleman from Texas has given his remarks. I concur with them completely.

While I believe that some of these bills, 15 of the 22 should be passed, I believe the timing is disastrous. To bring these bills up at this time when we are discussing tax reform could not be worse, and I commend the gentleman from Texas for an outstanding statement.

Does the gentleman from Texas wish additional time?

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I should like to yield to the gentleman from Texas, who wanted some more time.

Mr. PATMAN. Yes. I appreciate the gentleman's remarks.

These bills contain broad questions of basic public policy as well as parliamentary procedure of a representative government, which we are proud to claim as our own. We must not have bills like this, with no hearings, no adequate reports, no compliance with rules like the Ramseyer rule and all the rest.

The Government now is paying as much as $77 million annually by reason of passage of just such bills as this, and Members of Congress do not know how far-reaching they are and what they will do. It is costing us billions and billions of dollars.

I believe now is the time we must stop this procedure. I expect to go forward on trying to stop it.

I have no personal feelings against any Member of the House or any Member who has a bill. It is not a matter of personalities. It is a matter of complying with the rules, and allowing the people of the Nation to know, and the Members of Congress in particular to know, that certain bills are going to be taken up at a certain time.

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## MADISON SQUARE BOYS CLUB OF NEW YORK

(Mr. CAREY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAREY of New York. Mr. Speaker, I am a little surprised to learn and to witness that some of my friends who are interested in reform of this body, for the expeditious handling of the people's business, do not see fit to rely on the probity in authorship of bills which specifically try to cure redtape and inequities in our tax system.

I hope those who are raising objections will take some pleasure in knowing that the delay of a bill which I am sponsoring here will deprive the Madison Square Boys Club of New York of three-quarters of a million dollars left to them in an estate, where a technicality of the tax law has thus far deprived the boys club of that money. They will not get their summer camp. They will not get their neighborhood play activities. They will not get all of the good things that the club does for poor boys, because someone sees fit to delay a procedure historical in this House, changing an unintentionally adverse tax law. This is a case where both parties of the House in committee as well as the Treasury Department, find that a fluke of the tax law works an inequity. Why should we haggle over such a change?

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## POINTS OF ORDER

(Mr. GROSS asked and was given permission to address the House for 1 minute.)

Mr. GROSS. Mr. Speaker, first of all I want to welcome the gentleman from Texas (Mr. PATMAN) to that small club in the House that expresses concern over bills that are brought to the floor subject to points of order for failure, among other things, for failure to conform to the Ramseyer Rule. It seems to be a newfound enterprise on the part of the gentleman from Texas to take exception to these bills here today.

I would like to ask the gentleman, was it his purpose to serve notice on the House in the remarks he has made that all of the bills to be called up under unanimous consent this afternoon will be objected to by the gentleman?

Mr. PATMAN. Within my ability to do so and my ability to be present when they are called.

Mr. GROSS. Well, there are some 20 bills. I assume that the gentleman will be able to spend that much time on the floor objecting.

Mr. PATMAN. To these particular ones.

Mr. GROSS. I just wanted to ask the distinguished gentleman from Texas what the program for the afternoon would be.

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## CONSTITUTIONAL AMENDMENT ON BUSING

(Mr. DOWNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNING. Mr. Speaker and colleagues, a subcommittee of the House Committee on the Judiciary is in its second day of hearings on antibusing legislation and on an antibusing constitutional amendment. It is apparent to me that the committee is considering legislation more than a constitutional amendment. In my opinion, legislation will not do the job that 80 percent of the American people want done. I think it is going to take a constitutional amendment.

My purpose in speaking today is to urge you not to drop the constitutional amendment route because I believe this just might be the ultimate solution. So I urge all Members who have not signed discharge petition No. 9 please to do so. If legislation is the answer and the Supreme Court upholds that, fine, we can always abandon the constitutional amendment approach, but I urge you to sign the discharge petition so that we can have both of these avenues available to us at the same time.

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## THE PRESIDENT'S TRIP TO CHINA

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I address my remarks to the minority leader and the minority whip in view of the fact that the minority leader appeared on television last evening and I presume he has conferred with the President since his trip to China.

Was the Vietnam war or the prisoners of war brought up in the discussions with the President, and have we sold out Taiwan or have we not sold out Taiwan.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. O'NEILL. I will be happy to yield to the gentleman.

Mr. GERALD R. FORD. Let me say that in the meeting with the Democratic and Republican leaders, including the Speaker and the Democratic majority leader from the House as well as the Senate there was no discussion of the Vietnam war. No questions on those matters were asked by those present. It was made crystal clear that there was no abrogation of our treaty with the government on Taiwan.

It was strongly reaffirmed that it was the option of our Government to withdraw our troops as tensions eased in the Pacific. This was stated very specifically in the communique.

Mr. Speaker, I say for myself, after listening to the remarks made by the President, the Secretary of State and Dr. Kissinger, and rereading the communique that a good many of the press misconstrued and misinterpreted the communique.

The United States is standing by its treaty obligations not only with Taiwan but with other countries in the Pacific and it would be our option to reduce our forces in Taiwan if tensions eased.

I might add one other comment. The United States has 8,000-plus U.S. military personnel in Taiwan. The buildup from 2,000 troops to approximately 8,000 troops started in 1965 in support of our mission in Vietnam, and those 8,000 will be reduced as we continue to disengage from the war in Vietnam.

The answer to the gentleman is that we can solve our problems and are ending the war in Vietnam.

Mr. O'NEILL. I would like for the gentleman from Michigan to comment upon this: I think that the public should reappraise the entire matter because I have come to the conclusion, and I think a great majority of Americans believed that the President, from what they have read in the newspapers, has changed American policy in regard to Taiwan.

Mr. GERALD R. FORD. Will the gentleman yield to me again?

Mr. O'NEILL. I would be happy to yield further to the distinguished minority leader.

Mr. GERALD R. FORD. I might further point out that this prospective action is predicated upon the easing of tensions and coincides with the Nixon doctrine of withdrawing our forces in the Pacific and letting the individual nations handle any military conflicts, with our backup in weapons, and technical training. But it is their responsibility—the responsibility of each nation—to protect their own borders, to protect their own governments and their own people. The eventual withdrawal of U.S. forces from Taiwan is an integral part of the overall Nixon doctrine—of reducing American military manpower commitments in that area of the world.

Mr. O'NEILL. In other words, it is a remarkable change from the day when we had the 7th Fleet guarding the straits.

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## WAGERING TAX AMENDMENTS OF 1972

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1010) to amend the Internal Revenue Code of 1954 to modify the provisions relating to taxes on wagering to insure the constitutional rights of taxpayers, to facilitate the collection of such taxes, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object——

Mr. PATMAN. Mr. Speaker, reserving the right to object——

The SPEAKER. The Chair will protect the rights of the gentleman from Texas.

The gentleman from Wisconsin (Mr. BYRNES) reserves the right to object.

Mr. BYRNES of Wisconsin. Mr. Speaker, it is not my intention to object, but I reserve this time in order to yield to the chairman of the committee, the gentleman from Arkansas (Mr. MILLS) for an explanation of the legislation. But before yielding to the gentleman I would like to make some comments about some of the statements that were made here today.

Mr. Speaker, this procedure is a normal procedure of the House. If anybody has objection to a particular bill all he need do is rise and state those objections, and the bill is then not considered in this manner.

If there are questions as to whether the rules have been complied with, anybody desiring to make a point of order is at liberty to do so, and the committee is in no way attempting to circumvent that right. There have been questions as to whether these bills comply with the Ramseyer rule, I believe all of the bills do comply with this rule. There are any other points of order the Chair can rule as to whether the committee has complied with the rules of the House, or that the bill is not in accord with all of the rules of the House. This is not any effort by the Committee on Ways and Means to force through legislation and to do it in a manner that is inconsistent with the full consideration of the legislation. Everybody has the right to object. And when we have taken these bills up in the House on occasions before this, I say to you, Mr. Speaker—and I know that you are well aware of it—that we have always taken great pains to see that some member of the committee reserves the right to object, such as I am doing at this time, in order to yield for a proper explanation of the legislation by the chairman of the committee, and also to yield to any Members who may have any questions, or who may have any other comments with respect to the bills.

This legislation can be brought up, Mr. Speaker, under procedures that will require more lengthy discussion, and if that is what the Members want on any particular bill that they object to, that would be the procedure that would be followed, and that could be, if the chairman decides to do so, under the suspension of the rules calendar, or by going to the Committee on Rules.

But let me add that as far as the 25 members of the Committee on Ways and Means are concerned—and I would point out to my friends on the other side that 15 of those are Members who sit on that side of this Chamber—it was the feeling at the time these bills were considered, that these did not require the same kind of lengthy discussion that would be entailed if we went to the Committee on Rules, or even if they were considered under the suspension calendar.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. No; I will not yield to the gentleman from Texas at this time.

However, Mr. Speaker, I will yield to the chairman of the committee, the gentleman from Arkansas (Mr. MILLS) for an explanation of the bill.

I now yield to the gentleman from Arkansas (Mr. MILLS) the chairman of the committee.

Mr. MILLS of Arkansas. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, this bill was ordered reported by the Committee on Ways and Means last October. The Treasury Department and the Justice Department strongly urged its adoption. It is substantially the same bill that passed the House in the last Congress by unanimous consent on December 27, 1970.

Mr. Speaker, this bill (H.R. 1010) revises the wagering tax provisions of the tax laws to remove constitutional infirmities in those provisions by prohibiting certain types of disclosures of information furnished by taxpayers, in connection with the wagering taxes. Additionally, the bill increases the occupational taxes from $50 to $1,000 for principals and agents; imposes a $100 occupational tax upon pickup men, employees, and punchboard operators; provides a credit against both the tax on wagers and the occupational tax, in the case of those persons who pay similar taxes to State and local governments; and increases the criminal penalties of existing law.

Let me tell you why the bill is necessary, Mr. Speaker. The bill is necessary because of the 1968 decisions of the Supreme Court in the Marchetti against United States, and Grosso against United States cases. These cases held that a person may validly refuse to comply with the Federal wagering tax statute by asserting the self-incrimination privilege of the fifth amendment to the Constitution, if complying with the statute could incriminate the defendant.

The Court found that persons complying with the wagering taxes had no assurance under existing law that information given to the Internal Revenue Service in connection with such compliance would not be used against them in criminal proceedings based upon their gambling activities. As a result of the Marchetti and Grosso cases, the wagering taxes have become largely unenforceable, and will probably remain so until this bill or a similar one is enacted.

The increases in, or the initiation of the occupational tax in the cases I have referred to are necessary because the proper enforcement of the wagering tax requires additional manpower. Increases in occupational taxes are required to cover these costs.

The credit against the Federal wagering and occupational taxes for similar taxes imposed at the State level seems fair as a means of equalizing the burden of these taxes throughout the United States.

The Treasury estimates, as does our own staff, that this bill will produce about $25 million a year of additional revenues. I want you to hear that—about $25 million of additional taxes under a provision that was enacted many years ago, but which became ineffective and inoperative as a result of these two Supreme Court cases.

Mr. POFF. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Virginia.

Mr. POFF. Mr. Speaker, I earnestly hope that no Member will exercise his acknowledged privilege to object on the unanimous-consent request.

As the distinguished gentleman from Wisconsin has already explained, it would be possible to follow procedures through the Committee on Rules and debate the bill at length on the floor. But as the distinguished chairman of this committee has said, this matter has already been exposed to full consideration in the committee of the House and in the Finance Committee of the other body on several different occasions since 1969.

Similar legislation passed the House and was reported by the Senate Finance Committee in the last Congress but was not finally enacted into law.

The urgency of the passage of this legislation cannot be overstated. The old Federal wagering tax act was found by the Supreme Court in the Marchetti and Grosso cases to violate the right to protection against self-incrimination under the fifth amendment to the Constitution. Specifically, the present act requires certain reports and documents which the court held would expose the taxpayer to criminal prosecution for crimes other than those related to the Internal Revenue laws, and for that reason impinged upon the taxpayer's privilege against self-incrimination.

Following those two decisions, the wagering tax act became a functional nullity and thousands of pending cases were abandoned and never prosecuted.

In the course of time since those decisions were rendered, the Treasury has failed to collect some $6 million in revenues which it otherwise would have collected.

With the change in the tax structure projected in this legislation, the Treasury Department estimates that there will be in each of the next 3 years an annual collection of $20 to $25 million in revenues.

Perhaps more important, with the revitalization of this act, it will be possible to act meaningfully in the fight against organized crime. All experts in the field familiar with the organized crime complex acknowledge that the chief source of revenue is gambling receipts.

That is what is used to bankroll loan sharking and other criminal ventures, and it is time, Mr. Speaker, that the law enforcement establishment be given the tools it needs to deal effectively with this problem.

So I earnestly hope that no Member will exercise their right to object to this unanimous-consent request.

Mr. BYRNES of Wisconsin. Mr. Speaker, further reserving the right to object, I do want to compliment the gentleman from Virginia (Mr. POFF), the author of the bill, who has been most diligent in trying to get this matter corrected since the decisions of the Court.

Mr. POFF. I thank the gentleman.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 1010, a bill which would amend Internal Revenue Code provisions relating to taxes on wagering.

Existing law provides broad limitations on publicizing income tax returns, but similar restrictions are lacking on returns and other documents connected with wagering taxes. H.R. 1010 would change this by providing that no Treasury Department official or employee may disclose, directly or indirectly, any document or record or information pertaining thereto from a taxpayer with respect to such taxes, except in connection with the administration or enforcement of internal revenue taxes. The bill also provides that certain documents and pertinent information related to wagering taxes may not be used against a taxpayer in any criminal proceeding, except in connection with the administration or enforcement of internal revenue taxes.

A fine of up to $1,000 or a year's imprisonment, or both, for violators of the nondisclosure provisions are also provided for in the bill.

The committee believes that these changes in the law will remove any constitutional problems which have existed regarding enforcement of the wagering taxes.

The bill also provides for substantial increases in the occupational taxes associated with wagers. Principals and their agents would be subject to a tax of $1,000 instead of $50 a year. Punchboard operators would pay $100 rather than $50, and additional categories of persons connected with wagers who are not now subject to any tax would be required to pay a $100-a-year occupational tax. The Treasury Department has estimated that these changes would produce from $20 to $25 million annually, whereas little revenue is collected from such sources now.

To avoid preempting the States and their political subdivisions from this field of taxation, the bill includes provisions for a credit against Federal tax liability for State and local wagering and occupational taxes paid. Additionally, the measure provides for increased sanctions for failure to comply with wagering tax provisions.

Mr. Speaker, this bill has been recommended by both the Treasury and Justice Department, and it was reported unanimously by the committee. I hope the House will take favorable action on it at this time.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman.

Mr. MILLS of Arkansas. Mr. Speaker, I want to join my colleague, the gentleman from Wisconsin, in complimenting our friend, the gentleman from Virginia (Mr. POFF) for his introduction of this legislation.

It is interesting to me to note that everyone we have heard from, including the American Bar Association, as well as the Department of Justice and the Treasury Department—all we have heard from urgently request us to pass the bill for the reasons which have been mentioned, not only the revenue involved, but to help the authorities with this matter of organized crime.

Mr. BYRNES of Wisconsin. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. PATMAN. Mr. Speaker, reserving the right to object, the gentleman from Arkansas said he would answer any questions that any Member wished to ask. The No. 1 question would be this: Why should they raise the fine to only $1,000 instead of $10,000 or $5,000? Do you not think——

Mr. MILLS of Arkansas. Mr. Speaker, will the genteman yield?

Mr. PATMAN. No, not right now. Do you not think that there ought to be a committee hearing to which everyone in the United States has notice at and that if anyone wants to be heard, to communicate with the clerk of the committee and time will be afforded him, and also so that Members of the House will know about it? I merely wonder if public notice was given that this bill was going to be heard at a certain time. I will ask the chairman of the committee that question.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman ask me the question again?

Mr. PATMAN. When the bill was heard before the committee, was it at a closed session or an open session, and was notice given to everyone—by press, radio, the news media—that this bill would be heard by the committee at a certain time, so as to alert people who are interested so that they could make application for an opportunity to testify on the bill if they so desired, and also to give Members of Congress an opportunity to know?

Mr. MILLS of Arkansas. I appreciate the gentleman's question. We did endeavor to hear everybody who wanted to be heard on any of these matters.

Mr. PATMAN. Did you notify them?

Mr. MILLS of Arkansas. There are plenty of notice in the news media. They carry day by day the bills that are being considered by our committee. When we consider a bill, it is generally written up in a number of newspapers throughout the United States. I do not know how many; that depends upon the subject. The gentleman asked me if we notified everybody. I, of course, could not get in touch with the leadership of organized crime to let them know that we were going to do this certainly, no one else indicated any objection to the bill.

Mr. PATMAN. This is not organized crime legislation.

Mr. MILLS of Arkansas. Oh, yes, it is. The gentleman does not understand.

Mr. PATMAN. It is a bill against wagering and gambling.

Mr. MILLS of Arkansas. This is part of the President's overall crime package which he asked us to enact.

Mr. PATMAN. I do not yield further at this point. On this particular bill, if a Federal licensee should have to pay $1,000 to engage in certain types of gambling, including wagers on different things, like the tax upon pickup men, employees, and punchboard operators, do you not think that this would be an encouragement for a few people in a State, where they are organizing these gambling syndicates now within the State lines of each State, and that if you raise it to $1,000 from $50 in a State, you make it a lot easier for the big gamblers to get control? The little gamblers will fall out because the amount is too big, and this will encourage gambling. I want to stop gambling. I think it is bad. I think that we should have methods developed to stop gambling. Are you encouraging gambling in this legislation or are you discouraging it? I do not believe you are encouraging it because I know the gentleman and I know he is not that type of American citizen. But I just believe that it might be encouragement to a few people to get charge of gambling within the lines of the different 50 States of the Union.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. Does the gentleman make a distinction between a big and a little gambler? Did I understand him to say that a little gambler is all right?

Mr. PATMAN. Well, whenever you pay the maximum, you are a big gambler.

Mr. MILLS of Arkansas. The gentleman does not understand. The rate is 10 percent of the take, whether it is $1 million or $10.

Mr. PATMAN. That is not in here. A public hearing would bring that out.

Mr. MILLS of Arkansas. That is existing law.

Mr. PATMAN. It is not in this bill, however.

Mr. MILLS of Arkansas. This bill is an amendment of existing law.

Mr. PATMAN. That is the reason we should have full knowledge of what is going on here. It is absolutely wrong to pass a bill by unanimous consent, and not this one in particular necessarily that will cost billions of dollars. And we have passed them.

Mr. MILLS of Arkansas. This raises $25 million a year additional revenue. It does not lose a penny.

Mr. PATMAN. I know, but it helps in some States to create a monopoly, and that is what we do not want, because monopolies lead to hoodlums.

Mr. MILLS of Arkansas. I am not going to argue the bill further with the gentleman. If the gentleman wants to object to the bill, I suggest he should do so.

Mr. PATMAN. Just a moment. If it leads to monopolies, the hoodlums in certain States will have large amounts of money, and they will use that money for bribery, and they will use that money for corruption, and they will use that money for kidnapping purposes, and for everything that is wrong and evil. So we want to discourage gambling. We do not want to encourage these hoodlums having tremendous sums of money that they can use in such bad ways as that.

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Arkansas?

Mr. MILLS of Arkansas. The organized crime section of the Department of Justice is entirely in accord with the gentleman's conclusion and that is why the Justice Department wants this bill enacted. I do not believe the gentleman from Texas will convince anyone outside of Government even that this creates a monopoly of crime. This is the vehicle to help eliminate crime in this area, and it is an important part of the President's overall fight against crime.

Mr. PATMAN. Then why did the gentleman not make it $5,000 or $10,000?

Mr. MILLS of Arkansas. We made it exactly what the organized crime section of the Department of Justice asked us to make it.

Mr. PATMAN. If the gentleman is right about that, if the gentleman had a public hearing as the rules of the House contemplated, and contemplate, then he would hear all these different witnesses, and he would know who was testifying and he would have all this as a matter of record and show justification for it.

That would be wonderful. But we have none of that. We are asked to just—each one of us—agree that this bill should be passed when we would be acting blindly and do not know what the facts are.

Mr. MILLS of Arkansas. The gentleman knows that I vote for the gentleman's legislation out of his committee. I do it because I have that degree of confidence in the gentleman's committee.

Mr. PATMAN. I never have objected to a bill from the gentleman's Ways and Means Committee before. I never have.

Mr. MILLS of Arkansas. I know. If the gentleman will yield further, this bill came out of the Ways and Means Committee with 25 Members all voting in favor of it, because they were all convinced the Organized Crime Section of the Department of Justice needed this to help them in their fight against organized crime.

Mr. PATMAN. If the gentleman would bring out a bill against organized crime, even I would vote for it——

Mr. MILLS of Arkansas. This is it.

Mr. PATMAN. But we do not want it concealed. We want to know who testified for it and will it actually do the work. Sometimes a bill is passed against organized crime, and it is interpreted in a way to help organized crime. We do not want that. We want to stop gambling and organized crime.

Mr. MILLS of Arkansas. Then vote for the bill.

Mr. PATMAN. We want to hear and read testimony of witnesses before the committee. But I think it is unfair to the Members of the House to bring out a bill here with no information at all, nothing, in violation of the rules. There is no hearing, no adequate report. But the gentleman states that the committee estimates the increased occupational tax will yield $25 million annually. That seems awfully small for the 50 States. We would like to see the figures that were used in order to arrive at this estimate. We would like to know with our own independent judgment as to whether or not they arrived at that correctly and whether or not all the information was considered that should have been considered.

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. The estimate the gentleman refers to was not made in the usual way that estimates are made by the Treasury Department. This particular estimate was made by the Intelligence Service of the Internal Revenue Service. It is based on two projections. One is the estimate of the number of persons which would be subjected to the thousand dollars, and the other is those who would be subjected to the $100 tax. They must know more about it by far than I do, and even my friend, the gentleman from Texas, knows.

Mr. PATMAN. What objection does the gentleman have to having hearings on this bill in the normal way?

Mr. MILLS of Arkansas. Nobody asked for a hearing.

Mr. PATMAN. Suppose I ask for it right now. Is the gentleman willing to give a hearing on it?

Mr. MILLS of Arkansas. The House passed a bill almost identical to this bill on December 22, 1970—a year and a half ago. There has been plenty of public notice.

Mr. PATMAN. In 1970?

Mr. MILLS of Arkansas. Yes.

Mr. PATMAN. Then there is no delay on it. It is not a must bill.

Mr. MILLS of Arkansas. Knowing my friend as I do, how serious he is and so forth—he is almost ingenious in regard to legislation. The Ways and Means Committee would not have passed a bill out of the committee in December of 1970, passed it through the House by unanimous consent, have had that bill reported by the Finance Committee of the Senate by unanimous consent, with the only reason why it was not passed that it could not be considered by the Senate in the closing days of the session, without his knowledge. My friend cannot convince me he did not have all the notice in the world of that action.

This bill—similar to the 1970 bill—was ordered reported by the Ways and Means Committee in October of 1971. It is substantially the same bill—identical except for the dates.

The gentleman knows it has the endorsement of the American Bar Association, the Department of Justice, and the Treasury Department.

No one asked to be heard on the bill. No one objected, and it has been available all that time.

I was wondering whether someone in organized crime might rise up to object, but no one contacted us.

Mr. PATMAN. Do not try to connect everybody with organized crime who tries to object to any one of your bills.

Mr. MILLS of Arkansas. I am not doing that.

Mr. PATMAN. This is the only time I have ever objected to one of your bills. I have had great faith and confidence in the gentleman, but these 22 bills caused me to take another look at that faith and confidence.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman yield further?

Mr. PATMAN. Let me explain, and then I will yield to the gentleman.

You have bills in here that will greatly harm the foundation legislation passed a few years ago.

Mr. MILLS of Arkansas. There is not a bill on this list that deals with foundations.

Mr. PATMAN. Yes, you have.

Mr. MILLS of Arkansas. Not a bill on this list.

Mr. PATMAN. Foundation bills we got passed with the aid of the gentleman in 1966 to 1969. This weakens the foundation law.

Mr. MILLS of Arkansas. There is not a foundation bill on this list, and the gentleman knows that.

Mr. PATMAN. Then there are bank holding company bills here.

Mr. MILLS of Arkansas. I took that one off, at your request.

Mr. PATMAN. That one bill.

Mr. MILLS of Arkansas. It is not here.

Mr. PATMAN. Yes. You are correct.

Mr. MILLS of Arkansas. Whenever you tell me you object to a specific bill ahead of time, or any other Member tells me, I do not call a bill up.

Mr. PATMAN. Now you have bills here that would touch the bank holding companies and the big banks.

Mr. MILLS of Arkansas. Would the gentleman wait to see what bills we call up.

Mr. PATMAN. But we have no knowledge and information from a hearing to base it on.

Why should the gentleman stand up here, fine and fair as he is, and insist on all of us taking the word of one Member or of two or three Members? Why does he not bring it in like the law requires, like the Constitution contemplates, and say, "Now, we heard certain witnesses on this, and they told us this. Here is the testimony. Here is the name of the witness."

Then we can find out for ourselves as to whether or not we should accept it as true and rely upon it. That is not asking too much.

Mr. GROSS. Mr. Speaker, will the gentleman from Texas yield?

Mr. PATMAN. I yield to the gentleman from Iowa.

Mr. GROSS. I hope the gentleman from Texas is aware that he is not only slowing down the business of the House but he is also slowing down a presidential campaign.

Mr. PATMAN. Yes. And maybe saving a lot of money to the taxpayers.

You see, these bills are loaded—not on purpose, but they are loaded with possibilities of great losses to the taxpayers. On every bill that comes in here we should give the bill attention.

If the chairman will bring in a bill which has not even had a public hearing, we should look with suspicion upon that. We want to know. It is not that he has done something wrong, but because he has failed to equip us with the information and knowledge we should possess before we vote upon a bill.

That is all I ask, is for the bills to be brought in in the same way and manner that other committees bring bills in, and that the chairman of this committee brings bills in. That way we would be equipped and we would know. We would know whether to vote for it or against it, and we would have an opportunity to offer an amendment.

This way we have no opportunity to offer any amendment. This is a "gag rule" bill.

Mr. BAKER. Mr. Speaker, I demand the regular order.

The SPEAKER. The regular order is demanded.

Is there objection to the request of the gentleman from Arkansas?

Mr. PATMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

## CALL OF THE HOUSE

Mr. CHARLES H. WILSON. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 53]

Abourezk
Anderson, Calif.
Anderson, Tenn.
Andrews
Arends
Ashbrook
Baring
Blanton
Blatnik
Burke, Fla.
Caffery
Casey, Tex.
Cederberg
Celler
Clark
Clausen, Don H.
Clay
Collier
de la Garza
Denholm
Dennis
Dent
Dickinson
Diggs
Dorn
Dwyer
Edwards, La.
Erlenborn
Foley
Fraser
Galifianakis
Gallagher
Grasso
Gray
Hastings
Hébert
Horton
Hosmer
Kyl
Landgrebe
McCloskey
McEwen
Macdonald, Mass.
Michel
Miller, Calif.
Moorhead
Pelly
Podell
Powell
Pryor, Ark.
Quie
Rees
Rhodes
Rostenkowski
Roybal
Scheuer
Staggers
Stubblefield
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Vanik
Wiggins
Wolff
Wright

The SPEAKER. On this rollcall 366 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## INCOME TAX EXCLUSION FOR MILITARY AND CIVILIAN PRISONERS OF WAR

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9900) to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, I do so only for the purposes of yielding to the gentleman from Arkansas, the chairman of the committee, for an explanation of the bill.

Mr. Speaker, I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. I thank the gentleman.

Mr. Speaker, under present law an exclusion is provided for pay received by a member of the Armed Forces for any month during which he served in a combat zone or was hospitalized as a result of serving in a combat zone.

In the case of enlisted personnel, the exclusion applies to all of their pay. Commissioned officers, on the other hand, are eligible for an exclusion on only the first $500 per month of their pay.

This bill does not alter these provisions in present law dealing with combat pay. The bill does, however, extend in three ways the manner in which it applies in the case of the Vietnam conflict.

First, the bill has the effect of extending the present combat pay exclusion so that it includes amounts paid to a commissioned officer in excess of $500 per month if that officer is in a missing status as a result of the Vietnam conflict. Currently if a member of the Armed Forces is missing or held as a prisoner the compensation which is paid or accumulated on his behalf is not subject to withholding. If the individual is released or returns he would, if he were a commissioned officer, be subject to tax on the portion of the compensation in excess of $500 per month which was paid to him while he was in a missing status. The imposition of a back tax liability upon a former prisoner at this time could result in severe hardship. Considering the significant ordeal which those missing or held as prisoners of war were called upon to endure in the service of their country, it appears appropriate to extend to commissioned officers who are in a missing status the full exclusion which is now available to enlisted men.

Second, the bill provides that the combat pay exclusion applies to civilian governmental employees who are in a missing status as a result of the Vietnam conflict. The assistance of these individuals is essential to the effectiveness of military operations and therefore the committee believed it was appropriate to treat civilian employees who are in a missing status in the same manner as members of the Armed Forces who are in that status.

The third and last change made by this bill relates to the period during which the exclusion is available. The bill makes the exclusion available if the member of the Armed Forces or civilian employee is in a missing status during the Vietnam conflict. The bill defines the Vietnam conflict as having begun on February 28, 1961, the approximate time when American military advisers began accompanying Vietnamese counterparts on military operations. The President of the United States designated Vietnam as a combat zone for periods beginning on or after January 1, 1964. Under the bill, therefore, an individual who was in a missing status prior to that time, but after February 28, 1961, may become eligible for the exclusion provided by this bill. The exclusion from income afforded by this bill applies to taxable years ending on or after February 28, 1961.

On the basis of a potential of some 2,000 persons involved, at an estimated $4,000 per person per year of nonexcluded pay, with the numbers of persons built up gradually from 1961, it is estimated that about $25 million of such pay will have accumulated by the end of the year 1972.

Now, if all of these prisoners are returned, as we hope they will be, then this bill represents a maximum revenue loss of $5 million spread over the next few years.

Mr. Speaker, this bill has been reported unanimously by the Ways and Means Committee and its enactment is favored by the administration. I urge that the bill be adopted.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 9900, a bill to amend the Internal Revenue Code to exclude from gross income the compensation of members of the Armed Forces and civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

An exclusion of this type already is available for enlisted personnel of the Armed Forces, and the committee felt it would be equitable to extend the same benefit to others involved in the Vietnam conflict; namely, commissioned officers and civilian employees of the U.S. Government. Commissioned officers now receive an exclusion, but it is limited to the first $500 of pay per month.

This legislation would result in an estimated revenue loss of $5 million over the first 3 years. But it was the committee's belief that the cost was considerably outweighed by the equity of tax treatment provided.

The Treasury Department, which agreed with the revenue loss estimate, registered no objection to this bill, and the committee was unanimous in ordering it reported. Therefore, Mr. Speaker, I urge the House to approve it now.

Mr. Speaker, I withdraw my reservation.

The **SPEAKER**. Is there objection to the request of the gentleman from Arkansas?

Mr. **PATMAN**. Mr. Speaker, reserving the right to object, this bill, too, fails to meet the normal procedures. I regret this.

I do not know of anyone who is entitled to more from his Government than the prisoners of war. They have gone out and even offered to shed their blood and offered their lives for the cause of our country when the country needed them. I believe when they need their country we should do what is necessary, always.

I regret that this bill did not have a public hearing. I believe the POW's deserve a proper treatment. I believe it would be to their credit for people to know all about these things, and possibly they would even get more than what is provided in this bill.

I think secret executive hearings have a tendency to prevent the cause of justice prevailing every time because of our generosity in certain cases like this.

Much as I regret it, because this is so deserving, I shall not object, Mr. Speaker.

Mr. **MATSUNAGA**. Mr. Speaker, as a cosponsor of a similar bill, H.R. 10660, I am happy to express my strong support for H.R. 9900, which would eliminate Federal income tax liability on compensation earned by men classified as either prisoners of war or missing in action.

Of course, there is no way to acknowledge adequately our debt to these brave men, and their equally brave families, for the burden that has been thrust upon them. But we can, and should, lighten the tax burden they are called on to shoulder.

Under present law, the entire amount of taxable income for enlisted personnel, and the first $500 per month for officers, is exempted from taxation for all personnel serving in a combat area. H.R. 9900 would simply extend that exemption to all taxable income for anyone in a POW/MIA status.

I trust that the House will seize this opportunity to make a small gesture to these men and their families, in recognition of the great sacrifices they have made and are making for America. Mr. Speaker, I urge the unanimous approval of H.R. 9900.

The **SPEAKER**. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9900

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 112 of the Internal Revenue Code of 1954 (relating to certain combat pay of members of the Armed Forces) is amended by adding at the end thereof the following new subsection:

"(d) PRISONERS OF WAR, ETC.

"(1) MEMBERS OF THE ARMED FORCES.—Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status (as defined in section 551(2) of title 37, United States Code) during the Vietnam conflict, other than a period with respect to which it is officially determined under section 552(c) of such title 37 that he is officially absent from his post of duty without authority.

"(2) CIVILIAN EMPLOYEES.—Gross income does not include compensation received for active service as an employee for any month during any part of which such employee is in a missing status during the Vietnam conflict. For purposes of this paragraph, the terms 'active service', 'employee', and 'missing status' have the respective meanings given to such terms by section 5561 of title 5 of the United States Code.

"(3) PERIOD OF CONFLICT.—For purposes of this subsection, the Vietnam conflict began February 28, 1961, and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam."

SEC. 2. The amendment made by the first section of this Act shall apply to taxable years ending on or after February 28, 1961. If refund or cerdit of any overpayment resulting from the application of the amendment made by the first section of this Act (including interest, additions to the tax, and additional amounts) is prevented, at any time before the expiration of the one year period which begins on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam, by the operation of any law or rule of law, such refund or credit of such overpayment may, nevertheless, be made or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such one year period.

With the following committee amendments:

Page 2, line 8, strike out "flict," and insert: flict as a result of such conflict,

Page 2, line 16, strike out "conflict." and insert: conflict as a result of such conflict.

Page 2, line 18, strike out "rspective" and insert: respective

Page 2, line 24, strike out the quotation marks and insert:

For purposes of this subsection, an individual is in a missing status as a result of the Vietnam conflict if immediately before such status began he was performing service in Vietnam or was performing service in Southeast Asia in direct support of military operations in Vietnam."

Page 2, strike out line 25 and all that follows down through line 12 on page 3 and insert:

SEC. 2. Section 3401(a)(1) of the Internal Revenue Code of 1954 (defining wages for purposes of withholding) is amended to read as follows:

"(1) for active service performed in a month for which such employee is entitled to the benefits of section 112 (relating to certain combat pay of members of the Armed Forces of the United States); or".

SEC. 3. (a)(1) The amendment made by the first section of this Act shall apply to taxable years ending on or after February 28, 1961.

(2) If refund or credit of any overpayment for any taxable year resulting from the application of the amendment made by the first section of this Act (including interest, additions to the tax, and additional amounts) is prevented at any time before the expiration of the applicable period specified in paragraph (3) by the operation of any law or rule of law, such refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such applicable period.

(3) For purposes of paragraph (2), the applicable period for any individual with respect to any compensation is the period ending on whichever of the following days is the later:

(A) the day which is one year after the date of the enactment of this act, or

(B) the day which is 2 years after the date on which it is determined that the individual's missing status (within the meaning of section 112(d) of the Internal Revenue Code of 1954) has terminated for purposes of such section 112.

(b) The amendments made by section 2 shall apply to wages paid on or after the first day of the first calendar month which begins more than 30 days after the date of the enactment of this act.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## IMPORTATION OF PRE-COLUMBIAN SCULPTURE AND MURALS

Mr. **MILLS** of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9463) to prohibit the importation into the United States of pre-Columbian monumental and architectural sculpture, murals, and any fragment or part thereof, exported contrary to the laws of the country of origin, and for other purposes.

The Clerk read the title of the bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Arkansas?

Mr. **BYRNES** of Wisconsin. Mr. Speaker, reserving the right to object, and I shall not object, but I do so in order to yield to the gentleman from Arkansas, the chairman of the committee, for an explanation of the legislation.

I now yield to the gentleman from Arkansas.

Mr. **MILLS** of Arkansas. Mr. Speaker, the purpose of H.R. 9463, as reported, is to prohibit the importation of certain pre-Columbian monumental or architectural sculpture or murals if they are exported in violation of the laws of the country of origin, and to provide that any such sculpture or murals illegally imported into the United States be seized, forfeited, and thereafter either returned to the country of origin upon request therefor by such country, or otherwise disposed of in accordance with law.

The ceremonial centers and architectural complexes of the ancient civilizations of Latin America are being pillaged and mutilated in order to meet the demands of a flourishing international market for pre-Columbian art objects. Frequently, art objects taken from these centers and complexes are broken into pieces and otherwise seriously damaged for the convenience of the looters, who export the fragments from the country of origin for sale to collectors and cultural institutions.

There have been efforts made on the

part of most of the affected countries in Latin America to control the outflow of these culturally significant objects, but the large number of sites, often in remote locations, and the high prices commanded by the objects in the international markets, work against effective regulation. While these problems are not unique to Latin America, your committee is informed that the situation in that area is particularly urgent.

Mr. Speaker, against this background, the Department of State proposed H.R. 9463, to assist in eliminating further destruction of these important historical and cultural sites. The American Society of International Law on International Movement of National Art Treasures, a panel of representatives of major collecting institutions and art dealers in this country, and the American Institute of Archeology, all have expressed support of the type of legislation embodied in H.R. 9463.

H.R. 9463, as reported, would prevent the importation into the United States of a narrow class of valuable archeological objects exported contrary to the laws of the respective countries of origin. The objects to which the bill applies are pre-Columbian monumental or architectural sculpture or murals which are defined under section 5(3) of the bill as any stone carving or wall art which: First, is a product of the pre-Columbian Indian culture of Mexico, Central America, South America, or the Caribbean Islands; second, was an immobile monument or structure or was part of, or affixed to, any such monument or structure; and third, is subject to export control by the country of origin. Under the first section of the bill, the Secretary of the Treasury, after consultation with the Secretary of State, is directed to promulgate, and from time to time revise, by regulation a list of stone carvings and wall art which meet that definition.

Section 2 of the bill provides that a pre-Columbian sculpture or mural included on the list promulgated by the Secretary of the Treasury, or any part or fragment of such a listed object, may not be imported into the United States if it was exported from the country of origin—whether or not such exportation is to the United States—after the effective date of the regulation placing such sculpture or mural on the list unless the importer can produce a certificate issued by the government of the country of origin stating that the exportation was not in violation of the laws of that country.

An importer may enter a pre-Columbian sculpture or mural without such a certificate if he can produce evidence establishing that the sculpture or mural, or part or fragment thereof, was exported from the country of origin on or before the effective date of its listing, or evidence that the sculpture or mural is not covered by the list. Section 2 of the bill further provides that an importer whose sculpture or mural has been seized at the time of entry has a period of 90 days, or such longer period as the Secretary of the Treasury may allow for good cause shown, to produce the certification or evidence necessary to establish his right to enter the sculpture or mural into the United States.

Section 3(a) of the bill provides for the seizure and forfeiture under the customs law of any sculpture or mural imported in violation of the bill. Section 3(b) of the bill provides that any sculpture or mural which is forfeited shall be returned to the country of origin if that country bears all of the expenses incurred incident to such return and it complies with all other requirements relating to such return. If a sculpture or mural is not returned to the country of origin, it will be disposed of in accordance with the laws which apply in the case of other articles forfeited for violation of the customs law.

Section 4 of the bill authorizes the Secretary of the Treasury to prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of the act.

Mr. Speaker, the Committee on Ways and Means believes that H.R. 9463, as reported, would be an effective means of assisting the interested countries in preserving their cultural heritage, and such limitations would facilitate the work of American and foreign archeologists. The committee was unanimous in recommending enactment of H.R. 9463, and I urge its favorable consideration.

Mr. Speaker, this bill is aimed at these looters of these priceless sculptures and murals in the country of Mexico and other Central and South American countries. These countries have asked that we take this action. The administration has recommended this action to us. The committee unanimously reported the bill. We did not have any hearings on it because no objections were raised and because we could not get in touch with any of the people who were doing this illegally. So we heard the governmental officials. Anyone else who wanted to could have contacted the committee. However, no one asked to be heard.

That is true of all of these bills.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 9463, which would prohibit the importation into the United States of certain pre-Columbian monumental and architectural sculpture, murals, and any parts or fragments thereof.

It was brought to the attention of the committee that there has been increasing concern throughout the world about rising losses of national art treasures through theft, clandestine archeological operations, and illicit exports. The problem appears to be most acute in Latin America, where archeologists, governmental leaders, and art lovers all have expressed fear that the remains of ancient civilizations—such as the Mayan civilization in Guatemala—will be threatened with extinction if corrective steps are not taken soon.

A number of illegally exported pre-Columbian objects reportedly have appeared in the United States, and the American Society of International Law on International Movement of National Art Treasures suggested that legislation along the lines of H.R. 9463 be enacted. The State Department subsequently proposed it to the Congress.

The bill, which was amended by the committee, would prevent imports of a narrow class of objects which had been exported contrary to the laws of the country of origin. The Customs Bureau advised the committee that applying import controls to this limited category of articles would be administratively feasible, and the committee was unanimous in reporting the measure.

H.R. 9463 should, if enacted, prove to be an effective means of assisting the interested countries in preserving their cultural heritage, and in a corollary way, facilitate the work of American and foreign archeologists.

Mr. Speaker, I therefore ask the House to pass this legislation now.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. PATMAN. Mr. Speaker, reserving the right to object, this bill does not amount to too much on its face. However, it violates a great principle of representative government. Representative government contemplates fairness to the people that the Members of Congress represent.

They cannot do their duties well and effectively unless they have good rules to go by and unless those rules are obeyed by the respective committees of Congress that are supposed to hold hearings on this type of legislation.

Now, I think it is terrible that a committee would bring a bill up under a unanimous-consent request, which is a gag rule—a gag rule—and there is no way you can offer an amendment to it at all; you are gagging every Member of this House, although he is elected by the people just like the Chairman of the Committee on Ways and Means is elected, but he is gagging every Member of this House and, of course, that means they are not permitted to exercise their independent judgment like they were voted for as a Member of Congress to exercise.

Mr. Speaker, I think it is fundamentally wrong. I think it is fundamentally bad and should not be tolerated.

Further, there is too much risk of a raid on the Treasury by getting bills through like this. We have had too many raids on the Treasury.

Today, we have the biggest deficit in the history of any country on earth or will have for the next fiscal year. A lot of that was caused by raids on the Treasury.

I do not say that every one of these are raids on the Treasury—and I do not say that any one of them is a raid on the Treasury—but there is a good chance, a perfect chance to have a raid on the Treasury through following this type of procedure. Whereas, if you had hearings like normal procedure requires and give the people an opportunity to be heard if they are interested in testifying before the committee, and if you get all the facts and you put all the facts in one volume, in two volumes or three volumes of hearings, then every Member of this House would have an opportunity to get that volume and read every word that is said and determine for himself whether or not he ought to vote for that particular bill. This type of approach prevents that and it is not right.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. Yes, I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. I will state to the gentleman from Texas that I know all the members of the Committee on Ways and Means, as I do, appreciate the gentleman's suggestions and admonitions.

We are here again where no one requested to be heard on the bill at the time it was introduced until it was reported by the committee.

Further, I want to ask the gentleman this question: What is the relationship of the smuggling of pre-Columbian art into the United States and the deficit which the gentleman has mentioned? I would call the gentleman's attention to the fact that the tax law which was reported from the Committee on Ways and Means has had a less material effect upon that deficit, in my opinion than the action of any other committee of the Congress—that is, our legislation has contributed less to the deficit.

Mr. PATMAN. However, the gentleman from Arkansas does not have any public hearings for the Members to read.

Mr. MILLS of Arkansas. There was not anyone who wanted to be heard. A hearing would have been completely unnecessary.

Would the gentleman have testified on this particular bill if we had asked him?

Mr. PATMAN. It is not a question of that. I have never heard of a bill like this being passed without hearings.

Mr. MILLS of Arkansas. No one requested hearings, within the Congress, or without the Congress, or anywhere else.

Mr. PATMAN. Anyway, I am against raids on the Treasury, and I do not like to have to vote on bills of this nature under a gag rule with no hearings or no testimony which makes it more conducive and more likely to cause a raid on the Treasury than others.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. Yes; I yield to the gentleman from Iowa.

Mr. GROSS. There are some 20 bills left on this unanimous-consent calendar. The gentleman from Arkansas is calling them up now not with respect to the order in which they are listed on the whip notice.

I wonder if the gentleman could give us advance notice as to what bill he proposes to call up next?

Mr. MILLS of Arkansas. I intend to call up the bill which is the one introduced by the distinguished chairman of the Judiciary Committee (Mr. CELLER) which would nullify I might say outstanding debts that have been owed to the Federal Government from 1836 by 26 States for moneys that were deposited in these various States around that time and with respect to which the Treasury has never made any attempt to collect.

Mr. GROSS. What is the number of that bill?

Mr. MILLS of Arkansas. H.R. 5815.

Mr. PATMAN. Mr. Speaker, I protest the failure of the committee in bringing a bill before the House without any hearings. I protest this. I think it is against representative government, it is against good democracy, and against the interests of our country, and provides a chance of making raids on the Treasury. However, I shall not object in this case.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9463

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, as used in this Act—

(1) The term "Secretary" means the Secretary of the Treasury.

(2) The term "United States" includes the several States, the District of Columbia and the Commonwealth of Puerto Rico.

(3) The term "pre-Columbian monumental and architectural sculpture, murals, and any fragment or part thereof" means any stone carving or wall art the product of an Indian culture of Mexico, Central America, South America, or the Caribbean Islands which was an immobile monument or architectural structure or was a part of or affixed to such a monument or structure, and which has been so designated by the Secretary.

(4) The term "country of origin" means the country where the article was found.

SEC. 2. The importation into the United States of pre-Columbian monumental and architectural sculpture, murals, and any fragment or part thereof shall be prohibited if such article was exported from the country of origin after the date of the enactment of this Act and is not accompanied by a certificate issued by the country of origin in a form acceptable to the Secretary certifying that the exportation of the sculpture, murals, or any fragment or part thereof was not in violation of the laws of the country of origin.

SEC. 3. Any article presented for importation which has been designated by the Secretary under the provisions of this Act shall not be released into the commerce of the United States by Customs but shall be taken into Customs custody and sent to a bonded warehouse or public store to be held at the risk and expense of the consignee until the certificate required under section 2 of this Act is filed with the customs officer concerned or such officer is satisfied that the article was exported from the country of origin before the date of the enactment of this Act.

SEC. 4. Upon presentation for importation of a pre-Columbian monumental and architectural sculpture, mural, or any fragment or part thereof, the importer shall be given ninety days in which to file with the customs officer concerned the certificate required under section 2 of this Act or evidence relating to the date of exportation from the country of origin. Failure to file such certificate or evidence within such ninety-day period shall subject the article to disposition as provided in section 5 of this Act.

SEC. 5. In the event a pre-Columbian monumental and architectural sculpture, mural, or any fragment or part thereof is sought to be imported and is not accompanied by the certificate required under section 2, or in the event that the certificate or evidence of the date of exportation from the country of origin is not filed within the ninety-day period provided in section 4, such article shall be seized and subject to forfeiture.

SEC. 6. Any pre-Columbian monumental and architectural sculpture, mural, or any fragment or part thereof, introduced into the commerce of the United States in violation of this Act shall be subject to seizure and forfeiture.

SEC. 7. Any article which has been forfeited may be returned to the country of origin upon that country's compliance with regulations prescribed by the Secretary. All expenses incident to the return of the article to the country of origin shall be borne by the country of origin.

SEC. 8. The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act.

With the following committee amendment:

That, the Secretary, after consultation with the Secretary of State, by regulation shall promulgate, and thereafter when appropriate shall revise, a list of stone carvings and wall art which are pre-Columbian monumental or architectural sculpture or murals within the meaning of paragraph (3) of section 5 of this Act. Such stone carvings and wall art may be listed by type or other classification deemed appropriate by the Secretary.

SEC. 2. (a) No pre-Columbian monumental or architectural sculpture or mural which is exported (whether or not such exportation is to the United States) from the country of origin after the effective date of the regulation listing such sculpture or mural pursuant to the first section of this Act may be imported into the United States unless the government of the country of origin of such sculpture or mural issues a certificate, in a form acceptable to the Secretary, which certifies that such exportation was not in violation of the laws of that country.

(b) If the consignee of any pre-Columbian monumental or architectural sculpture or mural is unable to present to the customs officer concerned at the time of making entry of such sculpture or mural—

(1) the certificate of the government of the country of origin required under subsection (a) of this section;

(2) satisfactory evidence that such sculpture or mural was exported from the country of origin on or before the effective date of the regulation listing such sculpture or mural pursuant to the first section of this Act; or

"(3) satisfactory evidence that such sculpture or mural is not covered by the list promulgated under the first section of this Act;

the customs officers concerned shall take the sculpture or mural into customs custody and send it to a bonded warehouse or public store to be held at the risk and expense of the consignee until such certificate or evidence is filed with such officer. If such certificate or evidence is not presented within the 90-day period after the date on which such sculpture or mural is taken into customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the importation of such sculpture or mural into the United States is in violation of this Act.

SEC. 3. (a) Any pre-Columbian monumental or achitectural sculpture or mural imported into the United States in violation of this Act shall be seized and subject to forfeiture under the customs laws.

(b) Any pre-Columbian monumental or architectural sculpture or mural which is forfeited to the United States shall—

(1) first be offered for return to the country of origin and shall be returned if that country bears all expenses incurred incident to such return and complies with such other requirements relating to the return as the Secretary shall prescribe; or

(2) if not returned to the country of origin, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 4. The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this Act.

SEC. 5. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of the Treasury.

(2) The term "United States" includes the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The term "pre-Columbian monumental or architectural sculpture or mural" means—

(A) any stone carving or wall art which—

(i) is the product of a pre-Columbian Indian culture of Mexico, Central America, South America, or the Caribbean Islands;

(ii) was an immoble monument or architectural structure or was a part of or affixed to, any such monument or structure; and

(iii) is subject to export control by the country of origin; or

(B) any fragment or part of any stone carving or wall art described in subparagraph (A) of this paragraph.

(4) The term "country of origin", as applied to any pre-Columbian monumental or architectural sculpture or mural, means the country where such sculpture or mural was first discovered.

Mr. MILLS of Arkansas (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. PATMAN. Mr. Speaker, reserving the right to object——

The SPEAKER. The gentleman from Texas reserves the right to object.

Mr. MILLS of Arkansas. Mr. Speaker, I withdraw my unanimous-consent request, and ask that the Clerk continue to read the amendment.

The Clerk concluded the reading of the amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals exported contrary to the laws of the countries of origin, and for other purposes."

A motion to reconsider was laid on the table.

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## CANCELLATION OF INDEBTEDNESS OF STATES FOR FUNDS DEPOSITED WITH THEM IN 1837

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5815) to clarify the status of funds of the Treasury deposited with the States under the act of June 23, 1836.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, and I shall not object, I do so in order to yield to the gentleman from Arkansas (Mr. MILLS) and request a brief explanation of the bill.

Mr. MILLS of Arkansas. Mr. Speaker, legislation passed in 1836 provided that the Treasury surplus in 1837 in excess of $5 million was to be deposited to the account of the various States.

The amount of funds distributed to 26 States under the 1836 legislation amounted to $28.1 million. No part of the $28.1 million has been repaid to the Treasury Department nor has any part of it been called for repayment by the Treasury Department.

The Committee on Ways and Means concluded that it would be inappropriate now to ask for the return of these funds. Therefore, it has concluded that any liability for repayment should now be canceled. This bill achieves this result by providing that these deposits with the States are to be treated as grants by the United States rather than as loans.

Mr. Speaker, this bill has been reported unanimously by the Committee on Ways and Means and the Treasury Department does not object to its enactment.

Mr. Speaker, in response to the previous inquiry of the gentleman from Texas, we did not have a hearing. No request came from anyone outside of the Government to be heard on this matter.

I guess perhaps it is due to the fact that it would be very strange to find anybody who was alive in 1836 who would want to come and testify to the facts of these transactions. I am satisfied that had we had a hearing and asked—and not just asked but subpenaed all of the Governors and members of the legislatures and all the other officials of the 26 States—they would have had to read the same testimony 26 or more times and they all would have wanted to be relieved of the stigma of the debt which does exist on the basis of existing law, but which under no circumstances in all probability would ever be repaid anyway.

Precedents for this action is found, I think, in some loans we have made in more recent years to some foreign governments wherein there is very little possibility, if any at all, that any of these loans will ever be repaid and more than likely they will turn out to be grants as well.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I would like to ask the gentleman from Arkansas what he means by the repayment of these loans as being inappropriate. What is inappropriate about the payment of legitimate debts to the Federal Government?

Mr. BYRNES of Wisconsin. Before yielding to the gentleman from Arkansas to respond, I would just state that I guess this was our first effort in revenue sharing. But the difference was that it came out of a surplus existing at that time and I think the general feeling then or the intention was that it was to be a grant, but to be able to recoup the money if the Federal Government found a real necessity for the funds at that time.

But through the years the Federal Government has never felt that that was necessary.

Mr. Speaker, I yield to the gentleman from Arkansas (Mr. MILLS).

Mr. MILLS of Arkansas. Mr. Speaker, perhaps the words I used were not quite as appropriate as they should have been. I agree with the gentleman that it is never inappropriate to try to collect a legal and binding obligation, however, no attempt was made to collect this one from the States.

This is legal, but it goes back almost 140 years, and no effort has ever been made by any administration since this money was given to the States to try to collect. No thought was ever given even to trying to collect, and at this late date we feel that action to collect would not be proper action.

Mr. CELLER. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from New York (Mr. CELLER).

Mr. CELLER. Is it not true that in all the intervening years neither the Treasury nor anyone in the Federal Government has ever made any effort to collect these sums?

Mr. BYRNES of Wisconsin. That is absolutely correct.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Wisconsin.

Mr. REUSS. I appreciate the gentleman's yielding. I believe I could sympathize with the gentleman from Iowa (Mr. GROSS), a little bit. Here is the first effort in revenue-sharing, back in 1837, when we had a surplus, and it has resulted in the bill now before us, which would give the State of New York $4 million, the State of Arkansas $287,000, the State of Tennessee $1,434,000, and so on. I do not necessarily say that there is anything unjust in that, but I would hope that hearings would give an opportunity for some like the gentleman from Iowa, the gentleman from Wisconsin, or other "havenot" States to see whether they are not entitled to some sort of benefaction from the Federal Government, too.

So I would regret that the gentleman from Iowa, for example, did not have timely awareness and opportunity to be present, for I think he might have had something interesting to say for Iowa, and its right, at this late date, to participate retroactively in that interesting 1837 experiment in revenue sharing.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 5815, which would clarify the status of Treasury funds deposited with the States under an act of 1836.

In that year, the Congress enacted legislation providing that any Treasury surplus in excess of $5 million—as of January 1, 1837—would be deposited to the account of the various States according to their representation in the Senate and the House. As a result of this legislation, $28.1 million was distributed among 26 States.

The legislation also provided that the Secretary of the Treasury could, if funds were required, recall the money ratably from the States in accordance with the amounts each had received. However, no part of the more than $28 million which was distributed has been called for by the Treasury, and the committee agreed that it would be inappropriate to ask for repayment now.

Therefore, Mr. Speaker, the committee has provided in H.R. 5815 that the Treasury funds which were deposited with the States under the 1836 act are to be considered as grants and not loans, that any certificates of deposit issued by a State for these funds held by the Treasury Secretary are to be canceled, and that the provision authorizing the Secretary to recall the funds is to be repealed.

The Treasury Department approved this bill, Mr. Speaker, and the committee was unanimous in ordering it reported.

Mr. Speaker, I withdraw my reservation.

The **SPEAKER**. Is there objection to the request of the gentleman from Arkansas?

Mr. **PATMAN**. Mr. Speaker, reserving the right to object, I should like to add that it is true that these loans were made. I do not know anything about the terms, the interest rates, if any, or conditions. The information we have available does not disclose that. If hearings had been held, we would have found out. If they had had hearings, we would know what has happened in the meantime. If the chairman of the committee is correct—and I know he believes he is correct in it and I am not saying that he is wrong—but if he is correct, why not have a hearing, receive the testimony, and have it documented? What the chairman has given to us is undocumented facts. I am sure he believes they are facts, and I am not doubting him, but I would feel a lot better about it as a Member of Congress representing 500,000 people if I knew for sure without merely taking hearsay for it.

It would not take much to get those facts. The business of having governments come down here—there is nothing to that. This way we could get all the facts.

Remember, if the question should be that when we have a lot of money in the Treasury we should give it away to the States but when we have a $38.8 billion deficit do we still want to give it away to the States. Do you not think that we ought to begin to collect our debts in order to pay on this deficit? For that reason I think hearings are absolutely necessary. I think we would be failing in our duty if we did not have them and, therefore, Mr. Speaker, I object.

The **SPEAKER**. Objection is heard.

## PERSONAL EXEMPTIONS IN THE CASE OF AMERICAN SAMOANS

Mr. **MILLS** of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1467) to amend section 152(b)(3) of the Internal Revenue Code of 1954 for the purpose of including nationals of the United States within the definition of the term "dependent" in connection with deductions for personal exemptions, also unanimously reported.

The Clerk read the title of the bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Arkansas?

Mr. **BYRNES** of Wisconsin. Mr. Speaker, reserving the right to object, and it is not my intention to object, but I do so in order to yield to the gentleman from Arkansas, the chairman of the committee, for an explanation of the bill.

Mr. **MILLS** of Arkansas. I thank my friend for yielding.

Mr. Speaker, H.R. 1467 extends the present definition of a "dependent" for purposes of claiming an income tax personal exemption to include a "national" of the United States. As I will explain in just a moment, this relates to persons born in American Samoa.

Under present law, the term "dependent" does not include any individual who is not a citizen of the United States, unless the individual is a resident of the United States or of a country which is contiguous to the United States, or of the Canal Zone or of the Republic of Panama.

A special problem has arisen insofar as the parents of children of American Samoans are concerned. White individuals born in the Virgin Islands and Guam are citizens of the United States and may, therefore, qualify as dependents, individuals born in American Samoa are not citizens of the United States. As a result, an American Samoan who has income which is subject to U.S. taxation may not claim his children, or other individuals who may otherwise be qualified, as dependents in computing his income tax. This has created a particular hardship for American Samoans who are working in the United States either as civilians or as members of the Armed Forces.

The Ways and Means Committee believes that this disparity in treatment should be removed and that a national of the United States paying U.S. income tax should have the opportunity to claim personal exemptions in the same manner as citizens of the United States.

The bill, therefore, provides that a "national" of the United States, who is otherwise eligible, may be claimed as a dependent for purposes of computing taxable income. The term "national of the United States" is defined in the United States Code as a citizen of the United States, or as an individual who, though not a citizen, owes permanent allegiance to the United States. The bill also provides that the provision which limits to one the number of personal exemptions which may be claimed by nonresident aliens who are not residents of a contiguous country is not to apply in the case of a national of the United States.

The bill provides this relief for what we estimate to be 100 to 150 persons. If we assume there are four dependents in each of these cases—which they tell us is about right—that is four $750 exemptions per case, and applying the approximate rate results in the annual maximum Government loss of $100,000. But I would rather reverse it and point to the fact that, because of the present law, we are not losing money in this instance, but we are collecting $100,000 more from these people than we collect from any other similar families in the United States.

For the life of me, I do not understand why, when we find an inequity in the law, a discrimination of this sort, any member of the committee would insist we drag these 100 people from Samoa to come to the United States and have them appear before the Ways and Means Committee to tell us that they recognize the validity of our statement that they are being discriminated against. I know my friend, the gentleman from Texas, would not want to subject them to the cost of coming here for the sake of any savings this bill would give them.

Mr. Speaker, this bill has been reported unanimously by the Ways and Means Committee and its enactment is favored by the administration. I urge the adoption of this bill.

Mr. **BYRNES** of Wisconsin. Mr. Speaker, would the gentleman from Texas like to have me yield?

Mr. **PATMAN**. No, Mr. Speaker.

Mr. **BYRNES** of Wisconsin. Mr. Speaker, I support H.R. 1467, which would amend the Internal Revenue Code to include the U.S. nationals in the definition of the term "dependent" in connection with determining personal exemptions for income tax purposes.

The bill would have special impact on American Samoans who, unlike natives of other unincorporated territories of the United States, are still considered U.S. nationals. Natives of Guam and the Virgin Islands were brought under the citizenship umbrella through the organic acts and similar legislation, but nothing has been done to change the status of American Samoans.

The committee was informed that this has had an adverse effect, particularly on those American Samoans working in the United States or for the U.S. Government as civilians or members of the Armed Forces. These people have to pay Federal individual income taxes, but, because they are nationals and not citizens, they are precluded from treating their parents or children, who also may be nationals, as dependency exemptions on their tax returns. They are additionally denied exemptions for their wives or husbands, because the law limits them to only one personal exemption.

The committee felt this disparity should be ended, and that a U.S. national should have the same opportunity to claim personal exemptions as citizens now have.

Revenue loss resulting from enactment of this bill has been estimated at just $100,000 annually over the next 3 years.

No objection to H.R. 1467 was voiced to the committee; it was unanimously ordered reported, and I strongly urge the House to approve it at this time.

Mr. Speaker, I withdraw my reservation of objection.

Mr. **PATMAN**. Mr. Speaker, reserving the right to object, of course the gentleman from Arkansas knows the question of having these 100 people come from Samoa would not be required.

Mr. **MILLS** of Arkansas. But the gentleman from Texas wants a hearing, and I do not know how the gentleman will have a hearing without witnesses.

Mr. **PATMAN**. But there are Congressmen who could testify at the hearings.

Mr. **MILLS** of Arkansas. Will the gentleman tell me the name of the gentleman from Samoa? Who is he in the Congress? I am representing the Samoans right now.

Mr. PATMAN. The gentleman is a very kind and generous person, and I know he would represent anybody that has hardships, and he has disclosed some hardships in this instance. I know he would be glad to represent them and not have them come to a hearing.

But that is not what I am talking about. I know the distinguished gentlewoman from Hawaii has been done a great disservice in not having a public hearing and having witnesses to substantiate and document these facts. Then we would have something of a permanent record, and we would have legislation in the manner which was contemplated by the rules of the Congress of the United States and the laws of our country. Why should anybody object to a public hearing? We cannot get complete justice unless we have a public hearing.

So, Mr. Speaker, notwithstanding my protest of the need for public hearings and other things not being done that should be done by a committee of the House, I shall not object.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill as follows:

H.R. 1467

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 152(b)(3) of the Internal Revenue Code of 1954 is amended by inserting immediately after the word "citizen" the words "or national."

With the following committee amendment:

Strike out all after the enacting clause and insert:

That (a) section 152(b)(3) of the Internal Revenue Code of 1954 (defining the term "dependent") is amended by striking out "citizen of the United States" each place it appears and inserting in lieu thereof "citizen or national of the United States".

(b) Paragraph (3) of section 873(b) of such Code (relating to deductions in case of nonresident alien individuals) is amended to read as follows:

"(3) PERSONAL EXEMPTION.—The deduction for personal exemptions allowed by section 151, except that only one exemption shall be allowed under section 151 unless the taxpayer is a resident of a contiguous country or is a national of the United States."

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1970.

The committee amendment was agreed to.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 1467, which will allow U.S. nationals who are subject to Federal income taxes to claim all dependency exemptions to which they would be entitled if they were citizens, and to allow American Samoans to be claimed as dependents even though technically they do not reside in the United States.

This bill applies only to American Samoans, who are the only U.S. nationals we have. The present law has two inequities regarding American Samoans. This bill will correct both of them. First, under existing law a "dependent" must be a citizen or resident of the United States, or reside in the Canal Zone or in the Republic of Panama, or in a contiguous country—that is, Mexico or Canada. American Samoans are held not to reside in the United States or in any contiguous country and therefore cannot be claimed as a dependent. Second, although as U.S. nationals American Samoans normally do not pay Federal income taxes, if they enlist in the armed services they then become subject to our tax laws. In the case of an American Samoan who enlists in the armed services from Samoa, as a nonresident alien by definition in the Code he is only entitled to a single exemption no matter how many family dependents he may have, including his wife and children. The taxpayer non-U.S. resident American Samoan can claim but one exemption even though his dependents may in fact reside in the United States.

This latter inequity in the law is especially unjust to those American Samoans who have demonstrated their allegiance and loyalty to the United States by enlisting in one of the armed services. Despite the willingness to serve they are allowed only one exemption regardless of how many dependents they have, because of this provision in the law.

H.R. 1467 will correct this inequity by allowing American Samoans who become taxpayers to claim the same exemptions as any citizen or alien resident of the United States. If we can allow nonresident citizens of Canada and Mexico who work in the United States to fully claim all their dependents, it certainly seems to me that we should also allow our own U.S. nationals who pledge their allegiance to us to receive at least the same benefits and exemptions as do these contiguous aliens. It should be noted that H.R. 1467 was passed unanimously by the Committee on Ways and Means. It has the full support of the enminent chairman (Mr. MILLS) and all of the distinguished members of the committee as well as the approval of the Treasury Department. H.R. 1467 seeks to provide relief for a very small group of forgotten taxpayers who are presently being required to bear an unfair burden because of their unique citizenship status.

The loss to the U.S. Treasury by passage of this bill will be very minimal. It has been estimated by the Committee on Ways and Means, and concurred in by the Treasury Department, that the revenue loss will amount to only $100,000 a year during the first 3 years of its applicability. So, the bill will have no impact of any consequence on our revenues, but it will provide equitable treatment for those affected by its passage.

The bill as reported by the committee would apply to income earned in 1971, for which returns must be filed by this April 15. Early action by the Congress on this noncontroversial bill would greatly simplify matters for those affected, allowing them to fully claim their personal exemptions in the tax forms being submitted now. Otherwise, they would be required to file an amended return later which will undoubtedly be overlooked by most, further depriving them of a tax benefit to which they are clearly entitled.

Mr. Speaker, the present law in this matter is inequitable and highly unfair. H.R. 1467 removes this unjust tax burden borne by a small group of American Samoans. I urge the passage of this bill.

Mr. MATSUNAGA. Mr. Speaker, it is a pleasure to rise in support of H.R. 1467, introduced by my able and distinguished colleague from Hawaii (Mrs. MINK), which would help to correct several inequities now visited on American Samoans by our income tax laws. The present law discriminates particularly against an American Samoan working for a company in the United States, or one who is a member of the Armed Forces. American Samoans, as my colleagues may know, are subject to the military draft. Such a person finds that his income tax payments are substantially higher than his counterpart who is an American citizen. First, his American Samoan wife, children, or dependent parents do not qualify as "dependents" under the current Internal Revenue Code definition. Even if they did qualify, present law forbids him from claiming more than one personal exemption.

By permitting the claiming of American Samoans as dependents, and by removing the artificial limitation on the number of dependent exemptions an American Samoan taxpayer may claim, H.R. 1467 will remove a disparity in treatment which cannot be justified.

The Ways and Means Committee reported H.R. 1467 by unanimous voice vote, and I concur wholeheartedly in the committee's judgment that—

> A national paying U.S. tax should have the opportunity to claim personal exemptions in the same manner as citizens of the United States.

I urge the House to approve this equitable measure.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans."

A motion to reconsider was laid on the table.

## EXEMPT STATUS OF VETERANS' ORGANIZATIONS

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11185) to amend the Internal Revenue Code of 1954 with regard to the exempt status of veterans' organizations.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill as follows:

H.R. 11185

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 501(c) of the Internal Revenue Code of 1954 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(19) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

"(A) organized in the United States or any of its possessions, and

"(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual."

(b) Section 512(a) of such Code (relating to definition of unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(C)(19).—In the case of an organization described in section 501(c)(19), the term 'unrelated business taxable income' shall not include income derived from payments by members for life, sick, accident, or health insurance, to the extent such income is used for purposes for which the organization was established."

Sec. 2. The amendments made by the first section of this Act shall apply to taxable years ending after the date of the enactment of this Act.

"(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual."

(b) Section 512(a) of such Code (relating to definitions of unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(C)(19).—In the case of an organization described in section 501(c)(19), the term 'unrelated business taxable income' shall not include income derived from payments by members for life, sick, accident, or health insurance, to the extent such income is used for purposes for which the organization was established."

Sec. 2. The amendments made by the first section of this Act shall apply to taxable years ending after the date of the enactment of this Act.

With the following committee amendment:

Page 2, strike out line 7 and all that follows down through line 14 and insert:

"(4) Special rule applicable to organizations described in section 501(c)(19).—In the case of an organization described in section 501(c)(19), the term 'unrelated business taxable income' does not include any amount attributable to payments for life, sick, accident, or health insurance with respect to members of such organization or their dependents which is set aside for the purpose of providing for the payment of insurance benefits or for a purpose specified in section 170(c)(4). If an amount set aside under the preceding sentence is used during the taxable year for a purpose other than a purpose described in the preceding sentence, such amount shall be included, under paragraph (1), in unrelated business taxable income for the taxable year."

Mr. MILLS of Arkansas. Mr. Speaker, H.R. 11185 deals with the tax-exempt status of veterans' organizations and the treatment of their insurance activities under the tax laws.

Present law provides income tax exemptions for 18 different types of organizations. However, there is no specific category for veterans' organizations. Nevertheless, these organizations generally qualify for exemption as either social welfare organizations or social clubs.

In addition to their general activities, some of these veterans' organizations also provide insurance for their members and the dependents of their members as commission agents for insurance companies or as self-insurers. Before 1969, there was no tax on the insurance income of these veterans' organizations since the unrelated business income tax did not apply to social welfare organizations or social clubs, the exempt categories under which they are classified. However, the Tax Reform Act of 1969 extended the application of the unrelated business income tax to virtually all exempt organizations including these two categories under which the veterans' organizations are classified. Since that change, questions have been raised as to whether the income derived by veterans' organizations from their insurance activities is now subject to the unrelated business income tax.

The committee concluded that the veterans' organizations should not be taxed on this insurance income since other exempt organizations are permitted to insure their members without being taxed on the income from this activity. In this respect the 1969 act provided that, in the case of employee's beneficiary associations, investment and other nonbusiness income, such as from their insurance activities, is not to be taxed if it is set aside: First, for life, sick, accident or other benefits; or second, for religious, charitable, educational purposes, and so forth. It was also made clear in a committee report on the 1969 act that income from insurance activities of fraternal beneficiary associations was exempt from the unrelated business income tax. Your committee concluded that similar treatment should be provided for exempt veterans' organizations.

As a result, the bill creates a separate exemption category for veterans' organizations. It also provides that income a veterans' organization receives from insuring its members and their dependents is not to be subject to the unrelated business income tax to the extent the income is used or set aside for the insurance benefits or for religious, charitable, educational purposes, and so forth. It is the intent of the committee that for this purpose the terms "educational and charitable" include the programs of the veterans' organizations relating to Americanism, youth, national security and other similar activities.

Mr. Speaker, this bill has been reported unanimously by the Ways and Means Committee and the Treasury Department has indicated that it has no objection to its enactment. I urge that the bill be adopted.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 11185, a bill amending the Internal Revenue Code with respect to veterans' organizations.

Under existing law, veterans' organizations are exempt from taxation either as social welfare organizations under section 501(c)(4) of the Internal Revenue Code or as social clubs under section 501(c)(7) of the Internal Revenue Code. Prior to 1969, organizations exempt in these categories were not subject to the unrelated business income tax. However, the Tax Reform Act of 1969 extended the unrelated business income tax to social welfare organizations and social clubs. Social clubs and employee beneficiary associations were also subjected to tax on their investment income.

However, in the case of employee beneficiary associations, the Tax Reform Act does not impose the unrelated business income tax on investment or other nonbusiness income that is set aside either for the payment of life, sick, or accident insurance or other benefits or for charitable purposes. Veterans' organizations sometimes provide one or more types of insurance to their members and dependents as a part of their overall activities. Whether the insurance is financed through a separate company or the veterans' organization acts as a self-insurer, the organization derives some income from this operation. It was felt appropriate to amend the law to make it clear that the unrelated business income tax applies to these activities of veteran's organizations on the same basis as it applies to similar activities of employee beneficiary associations. The present law is ambiguous in this regard and the committee's action, in providing clarification is not intended as an inference as to the treatment of this income prior to the effective date of the change in the committee's bill.

Mr. Speaker, the bill was reported unanimously by the committee and I urge my colleagues to join me in supporting it.

Mr. MATSUNAGA. Mr. Speaker, I take this opportunity to commend the distinguished gentleman from Arkansas, the chairman of the Ways and Means Committee (Mr. Mills), for introducing and bringing to the floor H.R. 11185, legislation which would clarify the tax exempt status of veterans' organizations.

When Congress passed the Tax Reform Act of 1969, it certainly did not intend that, as a result, veterans' organizations would be required to pay taxes on income from insurance plans they were operating for their members, where that income was expended for beneficiary payments or charitable purposes. H.R. 11185 would assure that such taxation would not occur.

First, a new category of tax-exempt organization would be established specifically for veterans groups. Second, income from insurance plans operated by those organizations would be exempt from taxation to the extent that it was used for payment of insurance benefits or for charitable or religious purposes.

Mr. Speaker, H.R. 11185 would place veterans' organizations in exactly the same tax position as fraternal beneficiary associations now enjoy. I urge its passage by the House today.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## ESTATE TAX TREATMENT OF ANNUITIES IN COMMUNITY PROPERTY STATES

Mr. MILLS of Arkansas. Mr. Speaker, there is one more bill I should like to have considered.

Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 2466) to amend section 2039 of the Internal Revenue Code of 1954—relating to estate tax treatment of annuities.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object——

The SPEAKER. The gentleman from Wisconsin reserves the right to object.

Mr. PATMAN. Mr. Speaker, reserving the right to object. I have not found this bill. It has been called up out of order, evidently.

Mr. BYRNES of Wisconsin. I believe the gentleman will be able to find it after the explanation of the chairman.

Mr. Speaker, I yield to the chairman of the committee for an explanation of the bill.

Mr. MILLS of Arkansas. Mr. Speaker, the bill is H.R. 2466. I do not know of any rule of the House that binds us to call up bills, I must say, in the order they are listed on the whip's notice. I have called up the bills I believe no one can object to. This is why I have called them up.

This is the last bill, Mr. Speaker, because I believe we have consumed enough time of the House in this discussion.

The bill removes a discrimination in present estate tax law which operates against the deceased spouse of an employee in a community property State. It was introduced by the gentleman from California (Mr. CORMAN).

Generally, present law affords the estate tax exclusion for the value of a survivor annuity to the extent it is attributable to the contributions made by the employer. In a common law State where the spouse who is not an employee—that is often the wife—dies first, no value representing the employer's contribution is included in her estate tax base.

Now, in a community property State, however, the Internal Revenue Service has taken the position that the interest of the deceased spouse, who is not the employee, in the annuity or plan of the surviving employee spouse is subject to the estate tax. This creates a significant disparity between situations occurring in a community property State, like Texas, and those occurring in a common law State, like Arkansas, on the death of the nonemployee spouse.

The Committee on Ways and Means believed that the estate tax treatment accorded qualified plans in community property States should be the same as that accorded such plans in common law jurisdictions.

To meet this problem the bill provides an exclusion from the gross estate for estate tax purposes of the value of any interest of a spouse in employee contracts, where three conditions exist. First, an employer must have made contributions on behalf of a qualified plan or retirement annuity contracts purchased by educational or other charitable organizations. Second, the amount involved must not be considered as contributed by the employee. Third, the spouse who is not the employee must predecease the spouse who is the employee. If these three conditions exist the value of the interest of the spouse who is not the employee is to be excluded from her gross estate to the extent that it is attributable to community income of the employee.

This bill therefore equates the estate tax treatment that occurs upon the death of a spouse who is not the employee in a community property State with that which results upon the death of a similar nonemployee spouse in a common law State.

We did not think it was necessary for us to bring in people and have them tell us what we already knew; namely, that this is discrimination against the people in the community property States and should be eliminated. The committee bill does eliminate this discrimination.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 2466, a bill amending the Internal Revenue Code to provide comparable treatment for the taxation of annuities in community property and common law States.

Under existing law, the gross estate of a decedent includes the value of an annuity if the decedent at his death had the right to receive the annuity. There is, however, an exception to this rule, that excludes from the gross estate of the decedent the value of any annuity not attributable to the decedent's own contributions. The exception is generally limited to annuities payable under tax qualified pension plans.

In community property States, if an employee who is entitled to receive an annuity under a tax qualified plan is predeceased by his spouse, the spouse is determined to have an interest in the annuity that the surviving employee is entitled to receive. In the case of common law States, this is not a problem since if the employee's spouse predeceases him, the deceased individual is not determined to have an interest in the pension rights of the surviving spouse.

The bill before the House does not change the basic general rules of existing law, but does include amendments that would provide individuals residing in community property States with the same treatment that individuals receive who reside in common law States.

I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. PATMAN. Mr. Speaker, reserving the right to object, this bill could be a good bill or a bad bill. It could be either one, depending on its administration.

It has many appearances of being good, and we would be sure of that if we had had public hearings on these bills. I think it is very unfair to Members of Congress to bring in a bill that has had no consideration in the way of public hearings. You cannot have representative government and you cannot have a democracy unless you follow the rules which provide for democracy. We are not following these rules here. We are voting at least for these bills to be passed without any real knowledge of what is behind them. We do not know. We have no documentation; we have no testimony of witnesses; we are in the dark on them. It is possible that we are right in voting for them. It is also possible that we are wrong in voting for them. It is possible that some of them are a raid on the Treasury. We know we have had raids on the Treasury with this type of bill just like this. I am not saying that this is one, but last year I think the Committee on Ways and Means passed 50 bills like this.

Is that correct, Mr. Chairman?

Mr. MILLS of Arkansas. Something like that, I would think. Yes, the number is approximately correct. They were bills unanimously reported.

Mr. PATMAN. Do you know what was in them?

Mr. MILLS of Arkansas. Yes, I do.

Mr. PATMAN. Of course you do not.

Mr. MILLS of Arkansas. You mean to say I do not know what was in them? I think I know more about what is in my bills than someone else who is not on the committee.

Mr. PATMAN. But the gentlemen of the House do not. I presume the chairman knew and I believe he did, but the rest of us do not know. There were 50 bills for 50 raids on the Treasury of the United States. Now, that is not the right way of legislating in this country.

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. PATMAN. I yield to the gentleman.

Mr. MILLS of Arkansas. That characterization is not accurate in my opinion, or in the opinion of the Committee on Ways and Means. Now, as to these bills today, I did not think the gentleman wanted to appear before the committee on something which did not affect his district. Does the gentleman want me to notify him on every bill we consider? If you will write me about every bill that comes up in your committee and ask me if I want to be heard on them, then I will do the same thing for you.

Mr. PATMAN. I do not consider that fair.

Mr. MILLS of Arkansas. I do not consider it a very practical suggestion to have hearings on bills where witnesses do not want to testify, where no request has been made, where we already know what the situation is and where it would just result in additional cost to the Government for no valid reason.

### PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GROSS. Mr. Speaker, is horse trading permitted on the floor?

Mr. MILLS of Arkansas. It is not. We were not trading horses, were we?

Mr. PATMAN. That is right.

But notwithstanding all of these objections, I do resent it and I hope that the Ways and Means Committee will not use this procedure in the future. How many years has this practice been carried on by the Committee on Ways and Means?

Mr. MILLS of Arkansas. This procedure has been followed long before I came to Congress.

Mr. PATMAN. That is, for members of the Committee on Ways and Means principally, is it not?

Mr. MILLS of Arkansas. No, no. That is not correct. Most of these bills today are for Members other than members of the Committee on Ways and Means.

Mr. PATMAN. A lot of them are for members of the Committee on Ways and Means.

Mr. MILLS of Arkansas. No; I do not believe most of them are.

Mr. PATMAN. The majority of them are.

Mr. MILLS of Arkansas. I think the great majority of them were introduced by other Members than those of the Committee on Ways and Means.

Mr. PATMAN. Well, in any event they could involve the revenue loss of millions and millions of dollars.

Mr. Speaker, notwithstanding the fact that they did not have any hearings, and my protest and regret that we do not at least conform to the rules of representative government, representative democracy, I shall not object.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. ASPIN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

### PARLIAMENTARY INQUIRY

Mr. REUSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. REUSS. Mr. Speaker, we have now completed, as I understand it, the item on the calendar entitled "Unanimous Consent Bills From Ways and Means Committee." Some of them have been passed or some have been enacted and some of them have been objected to.

Are Members justified in concluding that this item of the calendar is now concluded and they will not be subjected in their absence from the floor to a repetition of the calendar?

The SPEAKER. The Chair doubts that that is a parliamentary inquiry, but if the Chair properly understood the chairman of the Committee on Ways and Means, he has indicated that this was the last bill he would ask to call up today.

Mr. MILLS of Arkansas. Yes; today.

Mr. REUSS. I thank the Speaker and the gentleman from Arkansas.

Mr. MILLS of Arkansas. But, the list stands and if we do not pass them this way, we will have to get another way to pass them.

Mr. KAZEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. KAZEN. Did someone object to H.R. 2466?

The SPEAKER. Yes; that was objected to, the Chair will advise the gentleman.

## PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

## NOISE CONTROL ACT OF 1972

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 828 and ask for its immediate consideration.

The Clerk read the resolution as follows:

### H. RES. 828

*Resolved,* That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, with the din of the heated debate on the Union Calendar over, I believe we can now shift our attention to noise pollution and its effect on our health. But while on the subject of health, I heard on my way over to the floor that the people of Taiwan have discovered something worse than the Hong Kong flu; it is "the Peking flight."

Mr. Speaker, House Resolution 828 provides for consideration of H.R. 11021, which, as reported by our Commitee on Interstate and Foreign Commerce, provides for a program to control the emission of noise which is detrimental to the human environment.

Because the committee report was not filed until Saturday, February 19, 1972, and, excluding Sunday and the legal holiday which followed, the 3 calendar days had not intervened before the bill was scheduled for floor consideration, as required under rule XI, clause 27(d)(4), the resolution provided for a waiver of that requirement to avoid any point of order. However, since the bill was rescheduled for floor consideration for today the waiver is no longer required.

Mr. Speaker, the resolution provides an open rule with 1 hour of general debate, and also makes it in order to consider the committee substitute now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule. Upon conclusion of consideration of H.R. 11021, the resolution further provides that the Committee of the Whole shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute.

Mr. Speaker, the Environmental Protection Agency reports that noise appears to affect to a measurable degree of impact at least 80 million persons, or approximately 40 percent of the present population of the United States. Of that number, at least one-half are believed to be risking potential health hazards, hearing impairment in particular, as the result of long enduring exposure to noise.

On a more selective basis, occupational noise has long been known to cause various degrees of hearing impairment among some of the working population. The number of persons engaged in occupations in which there exists a definite risk of hearing impairment is estimated to be as high as 16 million.

The growth in numbers of sources of noise in recent years underscores the need for legislation such as H.R. 11021. Obviously, not all noise will pose a potential hearing impairment hazard. Therefore, any program to control noise must be reasonable and, in order to be successful, must be grounded on several basic considerations: First, the sources of noise that jeopardize human health or welfare must be identified; second, noise emission standards must be established; and, third, an abatement or enforcement machinery must be provided.

Mr. Speaker, H.R. 11021 is designed to do all of these things. Except for aircraft noise control standards and regulations, over which the Federal Aviation Agency will exercise primary responsibility, the Environmental Protection Agency is empowered to carry on a comprehensive program of noise abatement and control. Citizen suits are authorized against violators and the EPA administrator is authorized to assess and collect in civil action penalties of not more than $25,000 for each violation.

The bill also authorizes appropriations in the amount of $3 million for fiscal year 1972, $6 million for fiscal year 1973, and $12 million for fiscal year 1974, plus $1 million for fiscal year 1972 and $2 million for each of the next 2 fiscal years for the payment of additional costs of certifying low-noise-emission products.

Mr. Speaker, I urge the adoption of House Resolution 828 in order that H.R. 11021 may be considered.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MATSUNAGA. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, does it not appear to the gentleman that with this $12 million for the fiscal year 1974 that there will be a very nice little empire of employees built under the terms of the money to be authorized and appropriated for this new outfit in Government?

Mr. MATSUNAGA. I do not believe so. As the gentleman may well concede, $12 million is much too small a sum with which to build an empire. With costs as high as they are today even Caesar could not do it. This bill was reported out of the Committee on Interstate and Foreign Commerce, without any objection, in its recognition that there are many, many items which are being produced today which need to have their noise emission controlled and the sum of $12 million would constitute a mere drop in the bucket, if it were sufficient at all.

Mr. GROSS. Perhaps a drop in the noise bucket; is that it?

Mr. MATSUNAGA. We hope that when the drop is made, its consequence will be that there will be no deleterious noise.

Mr. GROSS. Does not the gentleman agree that the expenditure of $21 million will likely result in the creation of another administrative empire, and especially in terms of this beautifully titled new committee—the Low-Noise-Emission Product Advisory Committee.

When they dream up better titles than that, I do not know whether I want to be around here. But when this section goes on to provide that they can hire an unlimited number of people at the supergrade level of GS–18; does not the gentleman think there ought to be some brakes put into this legislation to control the hiring of people?

Mr. MATSUNAGA. As the gentleman knows, the primary administrative function will be performed by the Environmental Protection Agency which is an agency already in being. Perhaps that question should be put to the chairman of the committee during the general debate on the bill itself. But I am confident that the committee in reporting this bill out considered all the questions that the gentleman now raises.

Mr. GROSS. I only asked the gentleman the question I did because he lauds this as a great bill.

Mr. MATSUNAGA. As the gentleman knows, noise is truly a big pollution problem today. I support the bill because it proposes a solution to this problem. The $12 million will be an investment in the good health of our people, particularly those 80 million Americans whose hearing is daily placed in jeopardy because of the existing sources of noise.

Mr. GROSS. Perhaps we should have had it earlier this afternoon and applied to what took place on the House floor.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MATSUNAGA. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, as the gentleman from Hawaii has explained, House Resolution 828 provides an open rule with 1 hour of debate for the consideration of the bill (H.R. 11021), the Noise Control Act of 1972.

Mr. Speaker, I would like to call the attention of the gentleman from Iowa who just engaged in a colloquy with the gentleman from Hawaii that the total authorization in this bill is $26 million rather than $21 million.

The gentleman overlooked $5 million in this legislation.

Mr. GROSS. If the gentleman will yield, I am sorry I made that mistake and thank the gentleman from Nebraska for his correction.

Mr. MARTIN. I know the gentleman is a great student of legislation that we have before us and I did want to call that to his attention, because in addition to the $21 million, there is an additional program cost where the bill authorizes $1 million for the fiscal year 1972 and $2 million for each of the 2 succeeding years for the Federal agencies to pay the necessary additional amount for low-noise emission products.

So the total authorization of the bill is $26 million.

Mr. Speaker, this legislation was reported out of the Committee on Interstate and Foreign Commerce unanimously. I support the rule and I support the legislation. I reserve the remainder of my time.

Mr. MATSUNAGA. Mr. Speaker, having no requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11021, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. NELSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman and Members of the House, I rise in support of the bill which came out of our committee. I think it is a good bill. I think it is one that we need. The legislation looks ahead a little bit before the Nation really gets into desperate trouble on the noise situation. We are in enough trouble already in this respect.

Noise is affecting millions of people physiologically, psychologically, and sociologically at the present time. We have proof that many people in our mental institutions have been put there as the result of excessive noise and irritation caused by noise. Noise affects the body physically and can cause different diseases. Certainly it is a sociological problem.

The bill had several days of hearings in the subcommittee. It came out of the subcommittee unanimously. It came to the full committee, was discussed there in executive session, and came out of the full committee unanimously.

The subject was brought to our committee by the administration, and we were told of the importance of the situation at the present time.

My colleague from Illinois (Mr. SPRINGER) and I introduced the first bill that was introduced. It came to the subcommittee. There were substantial changes made in it. The bill now before the committee is, I think, a much better bill than the first bill that was sent to the Hill.

There are three or four main propositions stated in the bill.

The program would be administered by the EPA, which already has an office set up for that purpose. EPA would coordinate the major noise control programs of seven Federal departments and agencies, as well as 12 minor programs conducted by other agencies. Besides that, EPA would work with the FAA in trying to solve the noise problems of our airlines and airplanes. Under the Federal Aviation Act we have provided that there be substantial noise research and control. We found that noise has to be considered along with safety and safety comes first before we can consider anything else. We shall try to work on the noise problems and we shall make progress.

We hope within the next few years we will have planes that will not make any noise that will be objectionable.

An objection was raised a moment or two ago about a special committee that would be established. There will be men and women—and I assume we would have some women as part of that committee—who are experts and who will be called in occasionally to advise and help on noise problems. They are paid at the GS–18 rate and only a per diem and only for the time they are there. I think most Federal agencies have such advisory committees. As I say, these are people who are specialists from the manufacturing field, or other fields and who have some special knowledge. They are brought in to help.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. If the gentleman will yield, I would refer him to the language on page 59 of the bill where he will find there are no limitations as to numbers of new employees and the limitation as to pay is GS–18, which is a supergrade.

Mr. STAGGERS. We say that they shall be a reasonable number on this advisory committee, and they shall be paid only for the days they work. I cannot conceive of the administration bringing in a vast group of people here to advise on the noise issue. I just think it would be a reasonable size group.

Mr. GROSS. If the gentleman will yield further, this bill authorizes $21 million, largely if not all of it for administrative purposes. Does it not?

Mr. STAGGERS. This authorization is for 3 years. As I said, the bill requires coordination of 18 different agencies, and it does this too:

It applies to inspecting prototype engines and other parts that contribute to noise. This is where the money will be spent in this field. Just a small part of the funds will be for the administration.

Mr. GROSS. If the gentleman will yield further, if the administrative is now in being, why do we supply this additional money? Why is this huge expansion provided for in the bill?

Mr. STAGGERS. We call for more research and better testing methods. Actually they are going to buy certain prototypes and test them and see how they work. Then they are going to set standards on each one of those new products which constitute major noise sources.

There will be on the labels which are required under this bill information telling what noise will be of the product or how much the product will reduce noise.

Each State or community will still have the right to say this is a hospital zone and certain vehicles cannot go through there, or trucks may not use certain avenues. We leave that to the States or localities. We do try to set standards for new products and there will have to be a great deal of research to find out what the noise levels are that will hurt human beings psychologically and physiologically and sociologically.

We cannot wait until the year 2000, until after everybody has serious problems with noise. We think that will be too late. This is an attempt to look ahead before that occurs. This is serious now. If the gentleman happens to be in an area where there is a serious noise problem, he will know the people cannot sleep at night. I have been in some of those areas, and I do not see how people can get their sleep and do their work in the daytime under such conditions.

Mr. GROSS. If the gentleman will yield further, there are other things that are becoming serious in this country, and one of them is the state of this Nation's finances which is of crisis proportions.

Mr. STAGGERS. I would agree with the gentleman.

Mr. GROSS. I am going to look long and hard before I vote for a total of $26 million to be expended in this fashion and for this purpose.

Mr. STAGGERS. I agree with the gentleman that this is one of the problems. The administration and the committee in its wisdom thought it was imperative to be done and to be done now.

With this explanation of this bill and what it does, I urge every Member of the House to vote for it. It is with vision, looking into the future, that we need to take care of the problem now.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. ADDABBO. In view of the colloquy held with the gentleman from Iowa, and the growing problem of possible damage to hearing, et cetera, could the gentleman explain to me why, under section 7, "aircraft noise standards," the FAA is retained as the custodian of noise decibels and not the EPA, especially in view of the fact that the FAA has had this authority for the past 3 years and has not set noise decibels, has not fulfilled the obligation given to it by congressional direction?

Mr. STAGGERS. They are working on it, I say to my colleague from New York, and hope to come up with an engine which will be within the limits, and far below the limits. I believe this is possible, from the information I have received.

We said that safety should come first. That is the reason why we left it with the FAA. The EPA or some other agency might not know about safety, and might come out to say, "you can have so many decibels of noise on takeoff and landing," and several hundred people or perhaps thousands might be killed. We say it has to be within the limits of safety.

They will reduce this noise, and hopefully within the next 5 years will have reduced this to the point where people can sleep at night.

As the gentleman knows, in several cities such as Washington, D.C. the jets cannot come in after 11 o'clock at night and cannot take off until after 6 o'clock in the morning.

Mr. ADDABBO. We do not have that privilege in and around Kennedy Airport, where they take off 24 hours a day.

We would rather have the EPA set the noise decibels, with the FAA acting as consultant, rather than vice versa.

Mr. STAGGERS. I do not believe they can possibly do it. We set up the noise control under the FAA. They have been working on it faithfully. They have been doing a lot of research. I understand they will come up with something within the next few years and we will have aircraft that will not be making excessive noise.

Mr. ADDABBO. Mr. Chairman, I support H.R. 11021, the Noise Control Act of 1972. Many of the provisions of this legislation are similar to proposals which I have sponsored or supported before and I commend the members of the Interstate and Foreign Commerce Committee and the Public Health and Environment Subcommittee for their outstanding work on this legislation.

The bill before the House today would empower the Environmental Protection Agency—EPA—to control the emission of noise detrimental to the environment and to human health. The EPA would have the power to enforce noise emission standards for new products and to coordinate Federal programs relating to noise research and control.

In my own Seventh Congressional District we are faced with a most serious noise problem because of the aircraft noise and pollution from aircraft at Kennedy International Airport. It was for that reason that I sponsored the Aircraft Noise Abatement Act of 1968 which authorizes the establishment of maximum aircraft noise levels by the Federal Aviation Administration. I have been a frequent critic of the FAA for failing to enforce that 1968 law effectively and I am pleased that the committee has included a provision in this bill to give the EPA authority to request the FAA the review standards which EPA finds do not adequately protect the public but I believe that in view of the fact the FAA has not fulfilled its obligations to date by setting proper noise levels the EPA should assume this duty and I will therefore support the amendment to be offered to give the EPA that power.

Millions of Americans live near our Nation's airport and they have yet to obtain noticeable relief from the aircraft noise problem. It is my hope that this legislation will lead to more vigorous enforcement of existing law as well as provide the tools for combating the entire noise problem.

The legislation also authorizes EPA to set standards in the areas of construction equipment, transportation equipment, motors or engines; and electrical or electronic equipment. New York City is an area which should receive prime benefits from this legislation because of the heavy concentration of this kind of equipment and the volume of work in these areas.

Of particular significance from the standpoint of consumer protection—and this is a consumer bill in a very real sense—is the provision allowing citizen suits against those who violate noise standards or against agencies failing to perform their duties under the act. Such a provision will in my opinion go a long way in convincing agencies such as the FAA that they must move more expeditiously in carrying out their responsibilities.

I urge my colleagues to vote for H.R. 11021.

Mr. NELSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support this bill and I am pleased to submit for the RECORD a statement that was just handed to me from the Republican Policy Committee in support of the bill as it was reported by our committee. I believe the details of the bill have been well covered.

Mr. Chairman, the objective of the Noise Control Act of 1972 is to promote an environment for all America free from noise that jeopardizes their health and welfare.

The testimony received by the Public Health and Environment Subcommittee indicates that as many as 44 million persons in the United States have the utility of their dwellings adversely affected by noise from traffic and aircraft, and 21 million persons are similarly affected by noise associated with construction activities, and at least 40 million persons are exposed to noise potentially capable of producing hearing impairment due to the operation of noisy devices and the number of such devices and the intensity of exposure is steadily rising. Although obviously these figures are not additive, noise appears to affect to a measurable degree of impact at least 80 million persons or approximately 40 percent of the present population of the United States. Of that number roughly one-half are risking potential health hazards in terms of long-duration exposure resulting in hearing impairment.

Some may feel it is unnecessary to be concerned about noise pollution in our environment. Yet any farmer or industrial worker who operates excessively noisy equipment for a prolonged period knows it can harm his hearing and cause physical problems. Long exposure to excessive noise is known to damage human health, to create explosive community stress, and to cause structural damage to buildings.

The Environmental Protection Agency studies indicate the current population of young people will have much more serious hearing problems in their middle years than the present population, primarily because of exposure to music played at intense levels.

So we must make a start toward getting the noise problem under control before our already overcrowded cities become even more unliveable and explosive. We need to encourage the development of new equipment that will operate without excessive noise. We do not have the technology now to accomplish this task over a reasonable time period.

The hearings on the noise Control Act of 1972 brought out that 19 different departments and agencies have fragmented responsibilities for noise abatement. The clear need is to coordinate their efforts under the roof of the Environmental Protection Agency and to permit EPA in coordination with state and local authorities to develop a program to reduce noise that is clearly dangerous to human health and community welfare.

The bill affects the authority of States and political subdivisions over noise emissions in only one respect. For products other than new products to which Federal standards apply, State and local governments retain exactly the same authority they have in the absence of the standard setting provisions of the bill. The authority of State and local governments to regulate use, operation or movement of products is not affected by the bill.

The proper role of the Environmental Protection Agency and the Federal Aviation Administration with respect to aircraft noise has been resolved by the committee, and the bill leaves with the FAA the authority to establish standards but adds the requirement that they may not be prescribed before EPA has been consulted and given the opportunity to make suggestions on standards for aircraft. To carry out the purpose of the bill, an authorization is provided for the next three fiscal years in amounts of $3 million, $6, and $12 million, respectively.

Each day there is an increasing awareness of noise pollution, and the bill will go far in helping to prevent significant increases in noise levels by setting up government machinery to help control noise pollution—the greatest nonkilling health hazard in America today. I recommend the Noise Control Act to my colleagues for their approval.

Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I was trying to get clear in my mind the other day on the way to work, just what I would say to my colleagues today to convince them that passage of H.R. 11021, the Noise Control Act of 1972, is essential.

It had just occurred to me to quote Aquinas on the majesty of seclusion for cogitation, but I lost the passage in my mind as two buses swept past me.

Samuel Clemens had something quite relevant to say of the solitude of life on the river in a simpler time, but I forgot his remark as two workmen broke through a concrete sidewalk with jackhammers.

But that was all right because there was still in my mind the vision of Lincoln as a lad sitting by the fireplace studying alone the crinkled pages of a book on English composition. Or at least that was in my mind, until a 727, not a foot overhead, screamed the image from my senses.

Perhaps it was just as well that the succession of interruptions continued. If they had not, I would have probably found the words of some long-dead tranquil fellow to bore you.

That would have been very out of place, for the present does not seemingly belong to those peaceful men who lived quietly not so long ago.

Noise and the noisy have plainly come to stay.

I urge those of you who would extend these visitation privileges to oppose this bill, naturally as noisily as possible.

I, however, support it because I recognize this measure to be a strong first step toward dealing with a basic infringement of one of the most personal rights, the right to peace.

Of course, I do not mean peace in the combatant sense, though sometimes it surely sounds as if a full-scale engagement is constantly in progress between the holes and trenches that dot like urban sinkholes this and other cities.

I mean that people need peace from the racket that can wrench from their minds whatever concrete notions may be cooking there in solitude and turn them to quicksilver, gone for good.

My colleagues and I of the Subcommittee on Public Health and Environment have worked long and hard to make this a sane and relatively inexpensive undertaking, considering the peace and quiet it is likely to regain for the American people.

The bill would impose fines of $25,000 a day on polluters of the Nation's eardrum. That is a sizable assessment, and large enough to make noncompliance genuinely unprofitable in short order.

The act is directed at noncombatant and nonresearch equipment used by the Defense Department, possibly one of the worst violators of our national auditory canal.

The EPA would gather and coordinate data on noise gathered by 17 different Federal agencies. All the information would be in one place—in position to be used against those who are deafening America.

Also labeling would tell every consumer precisely how great a headache he is buying for himself each time he purchases a nose machine.

And the price is right—$3 million this first year, $6 million the next, and $12 million in 1974.

I cannot think of a better or more important piece of legislation for the health and emotional well-being of future generations than this one. We offer this body a comprehensive, well-drawn plan that covers a problem too long left to its own noisy devices.

I cannot see how anyone on this floor can hear his way clear to oppose the measure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. CARTER. I thank the gentleman from Minnesota for yielding this additional time.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to my distinguished friend from Iowa.

Mr. GROSS. Where is the excluding language in section (B)? I am looking at page 50 of the bill, section (B), the language that applies only to, did the gentleman say, combat airplanes or combat equipment of other kinds?

Mr. CARTER. That is excluded. That is not included, I will say to my good friend from Iowa.

Mr. GROSS. That is not included, but everything else is included?

Mr. CARTER. That is quite true. Yes, sir.

Mr. GROSS. In other words, if some young fellow took the muffler off his motocycle or opened the exhaust pipe to a direct outlet, he would be subject to a fine of $25,000. Is that right?

Mr. CARTER. I hardly think they would see fit to fine him that much, but he would be subject to a fine.

Mr. GROSS. He would be subject to a $25,000 fine; yes or no?

Mr. CARTER. I do not think that that would happen and I doubt if the gentleman from Iowa thinks that. The municipality, county, or State would have jurisdiction in case of the young man.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Yes; I yield to my colleague from Minnesota.

Mr. NELSEN. I think the answer to the question of the gentleman from Iowa is that the manufacturer, if he puts a piece of equipment up for public sale that violates the standards, he would be subject to the fine.

Mr. CARTER. That is right.

Mr. NELSEN. Mr. Chairman, if the gentleman will yield further, the individual involved in this case, the young fellow with that loud motorcycle that you and I dislike so much, he would be regulated by local ordinances, if there are any.

Mr. CARTER. Yes; and the right of a person to bring up this objection in Federal court.

Mr. GROSS. Mr. Chairman, will the gentleman yield further?

Mr. CARTER. Yes; I yield further to the gentleman from Iowa.

Mr. GROSS. That is a substantial part of the argument against this bill, that States and municipalities can get this job done if they want to do it by State laws and ordinances.

Mr. CARTER. I hate to disagree with my distinguished friend, but they have not done it in the past 100 years and we are taking this opportunity to assist them in doing this.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. ROGERS), the author of the bill and the chairman of the subcommittee.

Mr. ROGERS. I thank the gentleman for yielding, and will say, first of all, I want to commend all the members of the subcommittee who devoted a great deal of time to this subject and to hearing a great many witnesses.

Mr. Chairman, I rise in support of H.R. 11021, a bill which our Subcommittee on Public Health and Environment developed after careful consideration. It is our belief that this bill will assure an environment free from noise that injures the public health or welfare.

Mr. Chairman, I believe that the chairman of the full committee (Mr. STAGGERS) has given an excellent summary of the provisions of this bill, and his explanation need not be repeated. I would like, however, to briefly comment on the reasons why this bill is vitally necessary and give the Members the reasons why, in the opinion of the subcommittee, certain provisions of this legislation are vital to an effective national noise abatement program.

Although the effects on the environment caused by air and water pollution are more noticeable today than the effects of noise pollution, many responsible environmentalists believe that we are on the verge of a noise crisis which can be avoided only through prompt, affirmative legislative action.

As a matter of fact, Mr. Chairman, the experts tell us now that the noise level in this country in the last few years has increased 20 decibels, and in some urban areas it appears to be getting noisier at double that rate.

Recently, experiments conducted at the University of Tennessee reflected the fact that 40 percent—40 percent, mind you, of the freshman class coming into a university—had a hearing disability. The experts that were conducting those studies could not believe it. They said, "We think it is impossible." So they said, "Let us recheck all of our equipment, let us make sure that our methods and protocol of doing this testing is strictly in order."

The next year, after all of that checking and when the freshman class was checked, it was not 40 percent, it was 60 percent.

Now, the experts also tell us that unless we begin to attack this problem of noise in this country, by the year 2000 we may expect that three-fourths of the people of this Nation will have significant hearing impairment.

So, this is not just a problem that someone is dreaming up to try to solve. It is here with us now. One of the reasons it is with us is because of our urbanization where by the year 2000, 85 percent of the people in this Nation will live in close proximity to each other.

The major factor which accounts for the rise in noise levels and the number of areas in which disturbing noise levels exist is simply the increase in the number of noise sources. Sounds of the past, which were once regarded with affection as agreeable signs of business and human activity, have been replaced with the shriek and clank of the subway, the deafening sounds of pneumatic hammers, construction equipment, traffic, jet planes, and electronically amplified sound that becomes noise when one has to listen to it against his will. Thus, if the overall noise level in the United States is to be lowered, much of the abatement and control must be applied to the noise source itself. This is the principal premise on which this legislation is based.

I believe that the provisions relating to the limited effect of the "preemption" section—Section 6(d)(1)—deserve explanation.

Under this section, States and localities are affected only with respect to "new products" to which Federal standards apply. A "new product" is defined in the bill as a product the equitable or legal title of which has never been transferred to an ultimate purchaser. Thus, the only effect on the authority of States or their political subdivisions is that they are preempted from prescribing noise emission standards for new products to which Federal standards apply, unless their standards are identical to the Federal standards. A similar provision applies to component parts. For products other than new products to which Federal standards apply, State and local governments retain exactly the same authority they would have on absence of the standards-setting provisions of the bill. The authority of State and local governments to regulate the use, operation or movement of products is not affected at all by this bill.

Second, I believe that comment on the relationship between the EPA and the FAA with respect to aircraft noise emissions may be helpful.

The committee has established procedures whereby it is intended that a combined EPA–FAA effort will have the effect of protection of the public from excessive aircraft noise, a nationwide complaint. FAA and EPA presently have a formal relationship with respect to emission of air pollutants from aircraft, but no such arrangement exists with respect to noise pollution. The reported bill establishes such a relationship. The bill retains the authority of the FAA to establish such standards, but adds the requirement that they may not be prescribed before EPA has been consulted concerning the standards.

The FAA should have final responsibility for setting aircraft noise standards because a comprehensive and detailed knowledge of aviation technology and flight operations is essential to setting achievable standards. Federal Air Regulations part 36, the FAA noise rule, was developed on the basis of foreseeable, technological advances which could be applied to newly designed aircraft. At the time of publication of part 36—1969—the standards set reduced existing noise levels for all new subsonic jet aircraft appreciably, from about 120 EPNDB—effective perceived noise decibels—to 108 EPNDB. New aircraft, including the 747 and DC–10, have met these standards. In addition, the FAA has several regulatory actions in progress which will eventually reduce noise from all types of aircraft including sonic boom.

Final decision authority with respect to any standards affecting the aviation industry can realistically be vested only in an agency thoroughly knowledgeable of all possible impacts and consequences. The FAA is the only agency in Government which has such knowledge. The FAA is taking regulatory action as the state of the art will permit; its actions will be advised upon and oversighted by EPA. Also the Subcommittee on Public Health and Environment will closely monitor action by FAA and EPA in the noise abatement field.

Mr. Chairman, it is essential that action be initiated now, so that a national "environmental crisis" does not develop with respect to noise as has been the case with other environmental insults. The committee is of the opinion that the legislation proposed will insure that this environmental issue is met adequately and in a timely manner so that maximum effectiveness can be achieved and that the costly consequences of a failure to act will not be the case in this instance. I urge the bill's adoption.

Mr. Chairman, this bill lays the foundation to begin to do something which will be significant to the health of the people of this Nation.

I think you are going to be very proud of this piece of legislation, because it is a significant piece of legislation and will protect the health of the people of this Nation.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Iowa.

Mr. GROSS. So, I suppose we are going to have to wait for silent piledrivers and other heavy construction equipment? I wonder if in the meantime we will get any subways built? It might be a good thing if we did not.

But will we get subways built and highways built?

Mr. ROGERS. Let me say to the gentleman that of course there may be items you cannot do anything about.

Mr. GROSS. Does this bill cover—what do you call it?—rock music?

Mr. ROGERS. Yes; it could.

Mr. GROSS. I can tell you that can just about tear your head off if you remain long enough where it is being played.

Mr. ROGERS. I will agree with the gentleman, and the gentleman from Kentucky (Mr. CARTER) took particular interest in that. It is true that one of the most damaging of noise sources is rock music because it is amplified so loudly.

Mr. GROSS. Does the $25,000 fine apply to that?

Mr. ROGERS. It could, if standards are set on the equipment that amplifies it. EPA may set a standard respecting amplifiers; of course, we do not know as yet whether it will. That is one of the things they undoubtedly are going to look into.

Mr. GROSS. You are going to spend $26 million on that?

Mr. ROGERS. No; it is not $26 million per year; it is for a 3-year term and covers much more than that.

I think the gentleman will be pleased with what the committee has tried to fashion in a reasonable way, and with a relatively minor amount of money, considering the bill's implications.

**Mr. WAGGONNER.** Mr. Chairman, will the gentleman yield?

**Mr. ROGERS.** I yield to the gentleman from Louisiana.

**Mr. WAGGONNER.** Mr. Chairman, I thank the gentleman for yielding.

I do not believe that anyone would purposely try to prevent the initiation of any program which would help us solve for now and for the future the problems having to do with noise.

**The CHAIRMAN.** The time of the gentleman from Florida has expired.

**Mr. STAGGERS.** Mr. Chairman, I yield 5 additional minutes to the gentleman from Florida (Mr. ROGERS).

**Mr. ROGERS.** Mr. Chairman, I thank the gentleman for yielding me this additional time.

**Mr. WAGGONNER.** But the matter of we go about this seems to me to be most important, and this seems to be all the more important since the Environmental Protection Agency seems to be destined to have a great deal of authority here. I am not quite sure that we can be very proud of what the EPA has done in solving some of the problems in some of the other areas we have given them authority over, having to do with water and air pollution, for example. They have not used much commonsense. They have been rather impractical.

Now I would like to ask a number of questions.

First of all, this proposal has only to do with the manufacture of new equipment and the standards which will relate to them?

**Mr. ROGERS.** That is correct.

**Mr. WAGGONNER.** There is a grandfather clause then intended to be part of this proposal which will not allow the EPA to do anything about any equipment that is already in existence?

**Mr. ROGERS.** Yes. That is, as I recall, the enforcement section goes only to products manufactured after the date of enactment.

**Mr. WAGGONNER.** I want to be sure, now; EPA will have no authority to come back and require any owner of any equipment, or factory or construction people, to modify their presently existing equipment hereafter by the establishment of certain standards?

**Mr. ROGERS.** That is correct, because EPA can enforce its standards only with respect to a new product, for any new products manufactured after a certain date.

**Mr. WAGGONNER.** All right; it is for new products?

**Mr. ROGERS.** That is correct. To enforce standards with respect to noises emitted from "old" products, your local communities or your State, could continue to do anything they want to.

**Mr. WAGGONNER.** I am going to get to that point in a minute, because I think there is a proposal in here that does away with any State or local authority where they differ from any standards that the Federal Government hereinafter may promulgate.

**Mr. ROGERS.** Only on new products at the manufacturer's level.

**Mr. WAGGONNER.** Now this has to do with construction equipment; transportation equipment; motors or engines, or equipment of which motors and engines are integral parts; and electrical or electronic equipment; is that correct?

**Mr. ROGERS.** Those are the main categories. But if in the study they identify any other major noise factors, they could also set standards for those at the manufacturers' level.

**Mr. WAGGONNER.** What I am getting at is—this has not only to do with the products that a man might now manufacture, but the equipment that the plant might utilize in the manufacture of that product; am I correct?

**Mr. ROGERS.** No; this goes to the new product itself. It does not go to the type of equipment used to manufacture a product.

**Mr. WAGGONNER.** What about a new piece of equipment that the manufacturer uses as an integral part of a motor in the manufacture of products or some other product for sale—that manufacturing equipment would be included; would it not?

**Mr. ROGERS.** If it is a new manufactured piece—whoever manufactured it; yes.

**Mr. WAGGONNER.** The gentleman spoke a minute ago about a study that had been done at the University of Tennessee. Is the gentleman saying, after his response to the gentleman from Iowa, that the EPA agency headed by one man can, if he concludes after what we hope would be proper investigation, set forth standards having to do with the manufacture of musical instruments establishing the maximum noise level at which these instruments could or would perform?

**Mr. ROGERS.** Well, they would have to be performance standards, as I am sure the gentleman would realize.

**Mr. WAGGONNER.** That is just what I am talking about—"have to perform at standards."—At whose standards? The operator of some discotheque, EPA or somebody else?

**Mr. ROGERS.** I might say, this committee generally requires performance standards, as you have in the Clean Air Act.

What I think they would go to is not so much the musical instruments as the amplifier—that is the main problem.

**Mr. WAGGONNER.** And that is an electronic instrument?

**Mr. ROGERS.** Sure. So I think EPA will take a look—I would hope they would—at these amplifiers so that if you go into a place, you will be assured that you are not going to be deaf when you come out. This, I am sure, they will look at.

**Mr. WAGGONNER.** I would bet that if we put this vote off today and let the young people of this country know something about it, you would get more protests against this legislation in 24 hours than you could answer—because they do not know that this is intended to be a part of this bill.

**Mr. ROGERS.** I do not agree with the gentleman at all. I do not think that is correct. I think the young people would welcome this as much as anyone else.

**Mr. WAGGONNER.** I do not think they would welcome a ceiling on the output of these musical instruments.

Let me talk to you about another section—with reference to citizen suits. This legislation provides for citizen suits. This it appears is intended to be available to any one individual who feels that his hearing is being affected or that he is being kept awake at night because of some noise in the next block from some construction job or something such as that. That man can enter a citizens suit against the EPA, for example; is that correct?

**Mr. ROGERS.** There is a provision for a citizen suit in the EPA or against the FAA but it goes only to matters that are not discretionary.

**Mr. WAGGONNER.** Will the gentleman tell me exactly what he means when he says—only to matters that are not discretionary?

**Mr. ROGERS.** For instance, where an Administrator is required by law to do something that is not within his discretion—for instance, if a law requires that a study shall be made by such and such a date and if he has not done that study by that date a citizen could bring a suit and ask why have you not done the study?

**The CHAIRMAN.** The time of the gentleman from Florida has expired.

**Mr. STAGGERS.** Mr. Chairman, I yield the gentleman 3 additional minutes.

**Mr. WAGGONNER.** Let me pursue this a little bit further.

**Mr. ROGERS.** All right, but I do want to try to cover some of the answers here.

**Mr. WAGGONNER.** These gentlemen have been on the committee and the gentleman has been at the hearings. You have only an hour of time here and some of us are entitled to talk about this bill.

**Mr. ROGERS.** I thought perhaps we could do that at the time of consideration of amendments.

**Mr. WAGGONNER.** All right, now let us talk about matters not being discretionary. Let us assume that the FAA with the help of EPA establishes noise levels for planes coming into Washington National Airport or into any airport.

Now this is discretionary on their part, as I understand the bill that is presented to us today. If, in their discretion, they establish a noise level at which these planes are allowed to perform, would a citizen suit be in order because the administrator of FAA or EPA had used their discretionary authority to do it?

Can somebody who lives close by or in the traffic pattern of an airport enter a suit to stop those flights?

**Mr. ROGERS.** That would be discretionary and there could not be a suit.

**Mr. WAGGONNER.** It is discretionary and there could not be a suit?

**Mr. ROGERS.** There could not be a suit.

**Mr. WAGGONNER.** I am just trying to get these things clear. That is all I am trying to do.

Let me ask this question. The other day we passed a bill providing for the establishment of a Federal Legal Services Corporation. These are to be attorneys representing supposedly the disadvantaged. Is the Federal Government going to be in the position of allowing suits such as are provided for in this proposal to be entered against the Federal Government by those attorneys?

Mr. **ROGERS.** This does not go to that. The gentleman knows that. That is OEO. The gentleman may have supported that bill. I did not.

Mr. **WAGGONNER.** No; the gentleman did not.

Mr. **ROGERS.** Neither did I. But this does not go to that.

Mr. **WAGGONNER.** The gentleman is aware that there is no limitation in the OEO legislation that did pass the House to prevent those attorneys in the Legal Services Corporation from entering suits against the Federal Government, is he not?

Mr. **ROGERS.** We cannot help that. That is in another piece of legislation, as the gentleman knows.

Mr. **WAGGONNER.** It seems to me that you are aggravating another problem, then, by allowing citizens suits here.

Mr. **ROGERS.** The fact is that the provision applies with respect to nondiscretionary matters. Discretionary matters are not subject to citizens suits.

Mr. **WAGGONNER.** The report makes reference to a report by the President to the Congress dated January 26, 1972. Can the gentleman or can anyone on the committee tell me what that report has to say about how much equipment in operation today, in the four categories that you give the EPA authority to establish the emission levels, they presently believe exceeds the acceptable noise standards?

Mr. **ROGERS.** I think this is one of the areas where they say that we need further study, and that is why we provide for further study in these various categories.

Mr. **WAGGONNER.** Do you not think that the Congress is getting on awfully dangerous ground when we say that we have a problem, that you in EPA should do something about it, do what you think ought to be done? Do you not think that we ought to make EPA come back and get congressional approval for what they do finally propose to do?

Mr. **ROGERS.** We are telling them exactly that. We are telling them also that this is a 3-year bill, that we will look at it again in 3 years, and that is why we have a 3-year bill. This committee will watch very carefully.

The **CHAIRMAN.** The Committee will rise informally in order that the House may receive a message.

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## MESSAGE FROM THE PRESIDENT

The **SPEAKER** assumed the chair.

The **SPEAKER.** The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on February 15, 1972, the President approved and signed bills of the House of the following titles:

H.R. 7987. An act to provide for the striking of medals in commemoration of the bicentennial of the American Revolution;

H.R. 11487. An act to authorize the Administrator of the National Aeronautics and Space Administration to convey certain lands in Brevard County, Fla.; and

H.R. 12488. An act to change the name of the Columbia Lock and Dam, on the Chattahoochee River, Ala., to the George W. Andrews Lock and Dam.

The **SPEAKER.** The Committee will resume its sitting.

The Committee resumed its sitting.

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## NOISE CONTROL ACT OF 1972

Mr. **STAGGERS.** Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. **WAGGONNER.** I thank the distinguished Chairman for yielding.

Just as the committee rose a moment ago, the gentleman from Florida said there was a great deal that we did not know about what needed to be done, and as a result, we needed to do an awful lot in the way of studying the problem before we took some specific action.

I would like the gentleman to look at page 38 of the committee report, paragraph (b) (2). Among other things, down at the bottom of the page, we see that the EPA Administrator is going to be required to consult with such Federal, State, and interstate agencies as he deems appropriate.

Now, what would lead us to believe that knowledge exists within the Federal Government alone, and that people in industry would not have some capability? Why is not the Administrator required to consult with industry sources who have had years and years of experience, with medical authorities, as well as to consult with Federal sources?

Mr. **ROGERS.** This is present law the gentleman is talking about in the report.

Mr. **WAGGONNER.** I am talking about the language which is going to replace it. You say you must, under the new proposal, "consult with such Federal, State, and interstate agencies as he deems appropriate." Why not consult with industrial and medical authorities as well?

Mr. **ROGERS.** I think you will find that that is in present law that the gentleman is referring to on page 38.

Mr. **WAGGONNER.** No, it does not. Look at the language. It is deleting the word "administrator" and adding this other language.

Mr. **ROGERS.** All we are omitting is the word "administrator" and the word "rules." The section to which the gentleman refers only shows changes in existing law.

Mr. **NELSEN.** Mr. Chairman, I yield 5 minutes to the gentleman from Colorado.

Mr. **BROTZMAN.** Mr. Chairman, I take this time for the purpose of asking a few questions relative to the preemption section of this particular bill. If I could have the attention of the gentleman from Florida, I am referring to the preemptive sections of the bill to be found on page 41. As I read this legislation, I think the gentleman from Florida referred to it heretofore, it is my understanding that this law is designed basically to control products in the hands of the manufacturer and that as the particular product goes into the hands of the user—in other words, title has passed—the product is then vulnerable to both the State and its political subdivision's regulation.

My specific problem relates to the fact that in Boulder, Colo., the city council under the aegis of a Colorado law has passed an all-purpose type of ordinance which, I believe, will be more restrictive in some of its application than would be the proposed regulations by the Environmental Protection Agency. The City Council of Boulder has passed a resolution asking the Congress to be sure that this ordinance of the city of Boulder will not be preempted by this particular bill. I think that states the general problem. I would ask the gentleman if this bill is passed, would the Federal law preempt that local ordinance?

Mr. **ROGERS.** The only things we are preempting, are new products for which the administration has set standards. We are not changing the present authority of States and localities to enact their ordinances with respect to use.

I think the gentleman would notice in the bill, on page 41, that we actually state:

> (2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to control, regulate, or restrict the use, operation, or movement of any product.

Mr. **BROTZMAN.** To state it another way, if the ordinance applied to noise caused by a jackhammer owned by somebody in Boulder, or a car, or a stationery motor, then the ordinance would, in fact, apply as far as those products are concerned?

Mr. **ROGERS.** If the ordinance is a zoning ordinance, it would not be affected. We are not changing that authority. Of course, all ordinances of this type are subject to constitutional provisions and review as to whether they are reasonable or too limited, and whether they would constitute a burden on interstate commerce.

Mr. **BROTZMAN.** I thank the gentleman for his response.

Mr. Chairman, I have discussed this with the gentleman from Texas, and I yield now to the gentleman from Texas.

Mr. **ECKHARDT.** Mr. Chairman, I thank the gentleman for yielding, and I thank him for his interest in this subject matter. Also I thank the committee for the work they have done on this bill.

The gentleman knows I have had some question about this provision of preemption. As a matter of fact, I offered an amendment in the committee, but I am thoroughly satisfied, in examining the committee's report, that it satisfies the objections I might have had. I went into the question of the right of a local community to control use within that community.

I have a few questions to make a bit of legislative history on this matter, if I might address them to the chairman of the subcommittee.

Mr. **ROGERS.** I shall be glad to try to answer.

Mr. **ECKHARDT.** Suppose there is a law in the State of New York that states any vehicle in the State of New York shall not be so constructed as to cause noise at the level above a certain number of decibels.

Then suppose H.R. 11021 becomes law, but the Administrator has not yet prescribed a regulation setting a limit on noise emissions from pile drivers. May then the State continue to enforce its law?

Mr. ROGERS. Yes; because really the preemption clause contained in section 6 (d) (1) only prohibits a State or a political subdivision from adopting or enforcing any law or regulation "with respect to any new product for which a regulation has been prescribed by the Administrator." In the instance the gentleman recites, the Administrator has not even prescribed any regulation.

Mr. ECKHARDT. That is right. Suppose the Administrator subsequently prescribes a regulation governing the noise emission of pile drivers? What is the situation then?

Mr. ROGERS. In that instance, since the State of New York is purporting to include in its regulation emission controls with respect to a "new product" which has never been transferred to an ultimate purchaser, the preemption clause would preclude New York from doing that.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. NELSEN. Mr. Chairman, I yield the gentleman from Colorado 1 additional minute.

Mr. BROTZMAN. Mr. Chairman, I yield to the gentleman from Texas.

Mr. ECKHARDT. Now, suppose the State of Texas should, unlike the State of New York, enact a law directed wholly at the use of a certain product. For instance, suppose it prohibited the use of motor boats on certain lakes of heavy residential development. Could this be done?

Mr. ROGERS. Yes, very clearly and particularly, under subsection (d) (2) of section 6.

Mr. ECKHARDT. Now, suppose the State of Texas should attempt to accomplish essentially the same thing as the New York statute concerning pile drivers was intended to accomplish, but suppose the Texas statute controlled use instead of production or assembly. Thus, Texas provides that no pile driver shall be used within the confines of the State of Texas which has a noise emission level above a certain number of decibels. Could the State so regulate?

Mr. ROGERS. Yes. Though a noise emission limit is provided, it is not applied in the area this bill is designed to control; that is, primarily the manufacture of equipment with a certain noise potential. The preemption provision in section 6(d) (1) applies only to State regulation of "new products," and "new product" is defined in section 3.

Of course, we do know all of this would have to bear any constitutional overview as to the commerce clause and requirements that statutes be reasonable and not a burden on interstate commerce.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, I rise in support of this legislation and I want to compliment the committee on what I believe has been a very competent and very far-reaching job in this whole area of noise control.

I am delighted to see the effort which was made particularly by the chairman of the subcommittee on the issue of jet noise. I know that he went into this subject matter very thoroughly, and he himself in many cases, as I have read the report and the record of hearings, was a protagonist who was looking deeply into this question of jet noise.

I was very much impressed by the hearings and the report of the committee. But nevertheless I feel that in the final analysis, although the committee considered many steps that could be taken in trying to fight jet noise, they settled on a proposal and a course of action which is really going to fall short of the mark and not do the job for the American people in an area where it should well and could well be done.

I will not argue that the FAA is not a competent agency to work on the problems of aircraft in general or the problems of jet noise. Certainly they have a competence in this field. The problem is, however, although they have competence they have shown to the Congress of the United States and to the American people a complete and utter lack of willingness to use the authority which we give them to set the limits on jet noise which they should be setting.

In other words, Mr. Chairman, it is not enough to say that the FAA is competent to do the job. The question we have to answer in this House today is whether the FAA intends to do the job and intends to do anything to utilize the powers that we gave them or whether they intend to remain, as they apparently have over the years, a very willing partner of the airline industry in keeping effective regulations from being put into effect.

Mr. Chairman, if you will look at the record of the FAA in this field, you will see that what I am saying is a fair and just statement. The Congress three and a half years ago in 1968 passed a bill which would have given and in fact did give the FAA the power to take action in the area of reducing jet noise for presently flying aircraft. Those are the aircraft making the noise and the aircraft which will be making the noise for the next decade or 15 years. We gave to the FAA the power to reduce noise in those aircraft and set limits which could have meant that they would be retrofitted with noise suppression devices to bring the levels of noise down. For three and a half years the FAA stalled us and the American people and has taken the position that industry wanted them to take and done nothing.

This does not go to the competence of the FAA to set the standards but, rather, goes to their lack of desire to set the standards. In that area, Mr. Chairman, they have let us and the American people down. That is why I say today that the bill you are presenting to us, although it is hopeful and with good intentions, will not do the job.

Just a few days ago, to make matters worse, the Administrator of the FAA, Mr. Shaffer, made a speech in New York City, which was reported in Aviation Daily. He stated that he considers jet noise will not be an issue by 1978. I do not know what he means by that. We have clear testimony before my Committee on Science and Astronautics that this matter will certainly be a national issue in 1978 and for years thereafter. Mr. Shaffer indicated at that meeting he did not think it was a wise use of money to retrofit airplanes in fact. He thinks it is a waste of money, to do it.

Mr. GROVER. Will the gentleman yield?

Mr. WYDLER. Yes. I yield to the gentleman.

Mr. GROVER. I attended a couple of years ago some ad hoc hearings that the gentleman sponsored, and I know he has been one of the leaders in the Northeast in attempting to get a handle on this matter of aircraft noise. He had some hearings at very appropriate locations. For example, at the end of runways, with a decibel machine, and one that I attended in a schoolroom. I was really shocked at that time to see the impact, the disruption in the classrooms and the disorder created by the jet noise made in these areas near the airport.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. WYDLER. I yield further to the gentleman.

Mr. GROVER. I did want to ask the gentleman, in the past several years since attending those hearings, whether anything has been done in that area in that particular location in New York.

Mr. WYDLER. The sad answer to the gentleman's question is "No," because we have to get on with the job of retrofitting our currently flying aircraft, and there was no desire in FAA to do that. As a matter of fact, there is a complete indication here in Mr. Schaffer's statement that they do not intend to do anything about it. I have been after the FAA for the last three and a half years trying to get them to start procedures—just start rulemaking procedures—to set limits. Promise after promise has been made to me that they would start their procedures on such and such a day and do this without fail. Yet right up to the present time they have refused to undertake it.

All I am asking the committee to consider—and I think they should consider this—is not to throw the FAA out of the picture but, instead, to put the EPA in the driver's seat. Let them take control of the situation so that they can get the procedures moving and get us on the way to solving the problem.

Mr. ROGERS. Will the gentleman yield?

Mr. WYDLER. I will be glad to yield to the chairman of the subcommittee.

Mr. ROGERS. I have shared the concern of the gentleman from New York. However, I will say to the gentleman that we went into the problem in some detail and this was one of the thorniest ones we had to decide. I think the committee did exercise proper judgment in saying that the final decision will be left with

FAA. However, we have cranked in EPA right in the beginning and require them to advise and consult with FAA. If EPA is not satisfied as to what FAA has done they can request FAA to revise its actions. Then if EPA still is not satisfied, they can require that the disagreement and supporting data be made part of the public record and alert the whole Nation to the problem.

Mr. WYDLER. Although you give EPA a consulting role they cannot do anything unless FAA takes some action.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield further, first of all, the law will require that issuance of original-type certificates must, in most instances, be preceded by issuance of noise standards to protect the public. This requires action.

Second, at any time EPA thinks there has been inaction, EPA can direct FAA to review existing regulations and in this way make "inaction" a matter of public record which puts it in immediate controversy.

What we have tried to do is to be realistic.

We think FAA with reference to noise from aircraft in the air must have a final say on this problem. Frankly, I do not think EPA yet has the competence to move into this area. They do not know all of the intricacies involved in the design of aircraft or flight patterns and other matters, but there is presently expertise in FAA. We have tried to bring EPA into it as strongly as we can without risking safety so they can alert the whole public.

I can assure the gentleman that we will be on top of it and that we will work with EPA and FAA.

Mr. WYDLER. I know that the intentions of the gentleman are good, but I think the EPA has access to the expertise, if they utilize the people in FAA, and I am sure that FAA will not withhold their counsel and advice.

Mr. ROGERS. Let me give you an example. EPA came forth with the proposal before our committee that FAA should have to set a noise standard every time any type certificate was issued. Does the gentleman know how many type certificates are issued for an aircraft? There could be 200 or 300 certificates. EPA simply does not have the competence at the present time. They simply do not have the knowledge yet, but they will.

We will look into this in 2 or 3 years and we will change it if need be, and I assure the gentleman we will stay on top of it.

Mr. WYDLER. I just do not want the people to suffer for 2 or 3 more years, Mr. Chairman.

Mr. NELSEN. Mr. Chairman, I have no further requests for time. However, I do have a couple of minutes left and I am happy to yield the balance of our time to our distinguished chairman of the full committee.

Mr. STAGGERS. I thank the gentleman from Minnesota.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. I thank the distinguished chairman of the committee. I am in general support of the committee bill. However, at the proper time I will offer some amendments. But I think overall the bill is a good start in the right direction.

Mr. Chairman, I rise in support of H.R. 11021, the Noise Control Act of 1972. It is not as strong a bill as some of us would have liked—it is weaker, for example, than the package of noise abatement bills which I sponsored last March—but it is a long step in the right direction.

Noise pollution is not visible. We cannot taste it or breathe it. But we can feel it—psychologically, physically, and financially. According to the World Health Organization, accidents, absenteeism, inefficiency, compensation claims and industrial clatter resulting from noise pollution cost about $4 billion a year in the United States. Even that stark statistic does not begin to convey the disruptive impact of noise pollution which is all too evident to those of our fellow citizens who reside near our major airports. To the people who live around O'Hare Airport outside of Chicago, this bill offers a belated glimmer of hope for some relief from the noise pollution which so profoundly affects their lives.

In 1970, Congress directed the Environmental Protection Agency—EPA—to conduct a full study of the effects of noise on the public health and welfare, and to report to the President and to Congress. The Clean Air Act Amendments of 1970 also called for the formulation within EPA of an Office of Noise Abatement and Control to conduct the research for the study. Their report was released in January of this year. It did an excellent job of describing the effects of noise pollution on our society. It outlined the state of the art in antinoise technology, and provided examples of the efforts of Federal, State, and local governments to reduce the increasing levels of noise around the Nation. According to the report, these efforts up to now have been unsuccessful in controlling noise pollution, partly because of the lack of centralization and coordination. The report concluded that the Federal Government should take the initiative in antinoise activities, and it proposed legislation which was subsequently sponsored by the administration.

### THE NOISE CONTROL ACT IS A SUBSTANTIAL IMPROVEMENT OVER THE BILL PROPOSED BY THE ADMINISTRATION

The administration's bill was not nearly strong enough in several key respects. It is to the credit of the House Interstate and Foreign Commerce Committee that the bill before us today is considerably stronger than the administration's version.

The Noise Control Act requires the Environmental Protection Agency to set noise standards for products that are major sources of noise pollution; the administration bill would have left standard setting to the discretion of the Agency.

Second, the bill before us now includes a broad classification of products which are judged to be primary sources of noise pollution. The administration version included only construction equipment, transportation equipment, and internal combustion engines, leaving a gigantic loophole since it excluded all forms of electrically driven machinery or electronic equipment such as electric motors and air conditioners. H.R. 11021 closes that loophole.

Third, the committee included in the bill a provision calling on the Federal Government to encourage the manufacture of more quiet machinery by establishing a Federal procurement policy. H.R. 11021 calls for EPA to certify low noise-emitting products, which then must be purchased in Federal contracts instead of their noncertified counterparts, if they are not more than 25 percent more expensive than the cheapest such product on the market. The Federal Government is the largest contractor for goods and services in the Nation, but the administration in its proposed bill completely ignored this obvious opportunity to promote the design of quieter products.

Fourth, the Noise Control Act gives individual citizens or citizen groups the right to bring suit for violations of the act. The right of citizens to bring suit is a significant weapon in the battle against all forms of pollution; it was included in the Clean Air Act Amendments of 1970, but it was conspicuously absent from the administration's proposed noise pollution bill.

### H.R. 11021—A GOOD BILL THAT COULD BE BETTER

H.R. 11021 as it stands before the House now would empower the Federal Government to begin a coordinated antinoise program, but it is only a beginning. It is basically a sound bill, but it does not go as far as it might.

The most important deficiency in the Noise Control Act is the absence of any authority or funds for making grants to State and local governments to help them devise and implement noise pollution control programs, including demonstration projects. As the administration said repeatedly in testimony last year before the House Subcommittee on Public Health and the Environment, noise pollution must be attacked at the local level. State and local governments have attempted to deal with noise through antinoise ordinances and zoning laws, but their efforts have been unsuccessful in reducing noise levels in our urban communities. Local governments simply do not have enough trained personnel to undertake proper monitoring and enforcement.

H.R. 11021 will assist State and local governments in working out model State and local antinoise laws, but it will do little to help relieve the lack of resources which impedes enforcement of State and local laws. The report of the EPA's Office of Noise Abatement and Control, released in January, emphasized that—

> One of the major problems in the state and local levels of government is that of enforcement. In general, noise statutes, no matter how well written, are rendered ineffective because most state and local programs are insufficiently funded and staffed . . . Unfortunately, enforcement strains the already overburdened budgets of many of the nation's cities.

I hope that ultimately the bill will include provisions for a comprehensive system of grants to States, counties, municipalities, and regional government bodies to develop and to implement noise abatement programs and projects.

A second important weakness in the bill reported by the committee is its ambiguity regarding the authority of the States to enact stricter noise pollution control requirements than those adopted by the EPA. We should apply the same principle here as we have in the field of air pollution, and leave the States free to impose more stringent standards than the minimum Federal requirements.

Third, the bill fails to require that all machinery carry a label stating its operating noise level. This would be an extremely useful tool to consumers in deciding which products to buy, and it would encourage manufacturers to design the most quiet products possible. The Noise Control Act presently before us requires noise labels only on those products which EPA judges to be potentially injurious to the public, or those which are marketed as noise reducers.

Finally, H.R. 11021 omits any reference to the EPA's Office of Noise Abatement and Control. This office has been doing a creditable job in the field of noise pollution research and control since its inception in 1970. It should be given the primary responsibility for coordination and enforcement of the Federal Government's antinoise programs, to provide both Congress and the public with a focal point for judging the success or failure of those programs.

Mr. Chairman, all of the improvements I have suggested can be found in the package of noise pollution control bills which I sponsored last March—H.R. 6985, H.R. 6987, H.R. 6989, and H.R. 6991. I am hopeful that some or all of them can be included as amendments to this bill or in separate legislation following the enactment of the Noise Control Act. I plan to offer two such amendments at the appropriate time, both relating to excessive noise from airplanes and airports. Hopefully, the bill will be strengthened by these and other amendments, but in any event, the Interstate and Foreign Commerce Committee is to be commended for taking the first step toward reducing the level of noise pollution.

### CONGRESS MUST FOLLOW THROUGH WITH EFFECTIVE OVERSIGHT OF AGENCIES

The next crucial step will come when the appropriate administrative agencies—EPA and the Federal Aviation Administration—FAA—establish the specific standards and requirements called for in the act. By their actions, these agencies can make this a tough, effective bill or a farce. If the past is any guide, we are not likely to bring much relief to residents in the vicinity of our airports by turning over to the FAA the power to set noise standards for airplanes.

Congress has a continuing oversight responsibility to see that the agencies implement the policy as well as the provisions of the Noise Control Act. We will watch with considerable interest the proposed regulations submitted by the EPA and the FAA in implementing the act. If they do their job and we continue to do ours, the citizens of the United States may see the promise of noise pollution abatement became a reality.

**Mr. STAGGERS.** Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. RYAN).

**Mr. RYAN.** Mr. Chairman, for far too long the problem of noise has been the stepchild of the environmental movement. It is an unfortunate fact that, although we have become painfully aware of the more visible signs of our rapidly deteriorating environment, the very serious hazard of excessive and injurious noise has often been overlooked.

Therefore, I want to commend the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. ROGERS) for his concern and his leadership in the effort to mount a major Federal assault against noise and its dangers.

The processes of pollution is one of the great ironies of our society. Many of our ancestors came to this country because of her great natural wealth and beauty. America was the land of plenty. And it became more so as we, as our fathers before us, turned this Nation into the most technologically advanced society in the world.

But we are now confronted with the prospect that our very progress may have led us—not to the American dream—but to the American nightmare.

Advancing technology has brought smog to our cities; blackened and dying waters to our lakes and rivers. And it has brought its own fanfare—an ever increasing din that disturbs our sleep, interrupts our conversation, creates anxiety and annoyance, and adversely affects our physical and mental health.

The hazards of this obnoxious and intrusive noise cannot be overstated. Excessive exposure to noise can result in temporary and even permanent loss of hearing. Research has shown that high levels of noise can have adverse respiratory, glandular, cardiovascular, and neurological effects. Noise can be a cause of accidents by masking auditory warnings and by increasing annoyance and fatigue and decreasing alertness. It can even influence property values.

Too often the hazards of noise are thought of only in terms of permanent ear damage. But any standard relating to noise control must take into account the full range of ways in which excess noise can adversely affect an individual's well-being. It is well to note that the World Health Organization defines health not merely as the absence of infirmity and disease, but as a state of complete physical, mental, and social well-being.

Unfortunately, the problem of noise control has not been taken seriously enough. Perhaps, as Robert Alex Baron, the author of the "Tyranny of Noise," has suggested, we might have become more alarmed if noise had a name like "acoustic radiation."

But whatever the reason for our past tolerance of an increasingly intolerable condition, one thing is clear—we cannot allow this problem to continue unabated.

Noise and the damage it produces have been growing at an alarming rate. Ambient noise levels in midtown Manhattan already are in excess of 80 decibels. Urban noise has doubled since 1955 and is expected to double again by 1980. And evidence presented at a meeting last June of the International Standardization Organization in Geneva, Switzerland, indicated that if this increase continues, every urban dweller will be deaf by the end of this century.

Clearly, the time to act is now.

Noise and its hazards do not have to be the price of progress. Just as for any other form of pollution, the control of noise is not a matter of what we are able to do but of what we are willing to do.

The same technology which has led to the saturation of our communities which abusive noise, can be put to use to promote a quiet and tranquil environment. Technology is at hand for noise control. What must be done is to apply it to everyday use on our streets, in our factories, on our airways, in our offices, and in our homes.

The right to a quiet, peaceful environment free from the intrusion of unwanted and harmful noise is as basic as the right to clean air and water and pure food. And Government at all levels has a responsibility to insure that this right is safeguarded.

In the 91st Congress I introduced legislation to begin a vigorous, comprehensive Federal program for the control, abatement, and prevention of noise. That legislation—the Noise Control Act of 1970—was cosponsored by 20 Members of the House. It provided for the establishment of an Office of Noise Control, a Noise Advisory Council, and an extensive program of grants to State and local governments for noise research and control efforts.

This legislation was in part embodied in the Clean Air Act Amendments of 1970 (Public Law 91–604) which mandated the establishment of an Office of Noise Abatement and Control within the Environmental Protection Agency.

On February 8, 1971, I conducted an ad hoc congressional hearing on the problem of noise pollution in New York City. The proposals brought forward at that hearing, together with my past involvement in the area of noise control, and consultations with various experts, led to the development of the comprehensive legislative package for the control, abatement, and prevention of noise which I introduced on behalf of myself and more than 35 Members of the House on March 30, 1971.

This package—The Noise Abatement and Control Act of 1971 (H.R. 6986 and H.R. 6987); the Noise Disclosure Act (H.R. 6988 and H.R. 6989); the Occupational Noise Control Act of 1971 (H.R. 6990 and H.R. 6991); and the Office of Noise Abatement and Control appropriations bill (H.R. 5043, H.R. 6984 and H.R. 6985)—provided a tough, realistic, effective means to combat noise and its hazards.

I am deeply gratified that a significant number of the provisions of this legislation have been incorporated by the committee into the bill before us today (H.R. 11021).

Specifically, my legislation (H.R. 6986) directs the Office of Noise Abatement and Control to coordinate the efforts of the Federal Government that relate to noise control, abatement, and prevention. To this end all instrumentalities, agencies, and Departments of the Federal Government are directed to furnish the Office with such information as it may require. Further, each such

Federal entity is directed to carry out the programs within its control in accordance with the purposes of the act—the creation of a quieter environment. In any case where an agency of the Federal Government is carrying out or sponsoring an activity which is detrimental to the public health and welfare, such agency must consult with the Office to determine possible means of abating the offending noise. And the Office is to compile and publish a regular report as to the efforts and activities of the Federal Government and its instrumentalities, agencies, and departments in regard to noise.

The committee-reported bill fully incorporates these provisions, although it vests authority in the Administrator of the Environmental Protection Agency rather than specifying the Office of Noise Abatement and Control.

My Noise Abatement and Control Act directs the setting of noise emissions standards for any machine, or class of machinery which contributes to, or may contribute to, noise which endangers, or contributes to endangering the public health and welfare.

The committee bill has significantly strengthened the provisions relating to standards suggested in the administration-sponsored legislation (H.R. 5275) and has made them much more akin to those in my legislation. Under the committee bill, the Administrator is directed to set noise emission standards on new products which he has identified as major sources of noise for which noise emission standards are feasible and which fall in one of the following categories: construction equipment, transportation equipment, any motor or engine, and electrical or electronic equipment.

As we are all too well aware, without adequate enforcement even the best of laws can be of little more use than scraps of paper. One of the strong concepts enacted into law in the landmark Clean Air Act Amendments of 1970 was recourse for beleaguered private citizens or groups which failed to obtain relief by means of a complaint to the appropriate Federal agency. And I am pleased that the committee has included my citizen suit provision which allows any person to commerce civil action against an alleged violator of the act or against the Administrator, where there is an alleged failure of the Administrator to perform a nondiscretionary act or duty. Such actions cannot be commenced prior to 60 days after notice is given—more than adequate time for the Administrator to initiate action on behalf of the Government.

The largest contractor in this country—for services, for goods—is the Federal Government. My Noise Amendment and Control Act provides that this tremendous Government purchasing power be used, just at it is used in the Clean Air Act Amendments of 1970, by providing that each Federal agency which enters into contracts or extends Federal assistance by way of grant, loans, or contracts, is to effectuate the purposes of this bill—a quieter environment. Such a procurement policy would greatly lower the level of noise in our communities and serve as incentive to manufacturers to produce more quiet products.

Significantly, the commitee bill has recognized the need for this approach, and has included a section mandating the use of low-noise emission products by Federal agencies.

Both my legislation and the committee bill authorize technical assistance to State and local governments to facilitate their development and enforcement of noise control programs. And both our bills provide for the publication and dissemination to the public of information relating to the control, abatement and prevention of noise.

The committee in its deliberations specifically rejected the Federal preemption provision contained in the administration's draft bill. That provision would actually prevent States and local governments from setting any noise emission standard different in any way from that prescribed by the Administrator—even if the State standard would be more stringent.

It is essential that States and local governments be afforded the opportunity to protect their citizens from particular noise conditions. Standards set for national application must obviously and understandably be broad. They cannot be expected adequately to guard the health and welfare of all the people in the countless specific situations that occur in communities throughout the Nation. It should clearly be the prerogative, in fact, the responsibility, of the Federal Government to establish basic standards and to insist upon compliance throughout the Nation. However, State and local governments should be free to decide if more stringent standards should be applied within their jurisdiction.

Further, the establishment of total Federal preemption would have dismembered many of the significant noise control efforts that have already been undertaken by various States and localities. It has been argued that these levels of local government would still be free to use other means to combat noise pollution, such as zoning and time use requirements. However, these methods have proven insufficient in the past to come to grips with the problem of excessive noise. The only truely effective way to limit excessive and injurious noise is to limit it at its source—the noise generating product.

Therefore, my Noise Abatement and Control Act of 1971 provides that States may set more stringent, although not less strict, noise emission standards than those proposed by the Administrator.

Although the administration proposal was not adopted, there remained considerable uncertainty as to the exact degree of Federal preemption involved in the committee bill, which is now before us. Therefore, Congressman ECKHARDT and I intended to offer an amendment at the appropriate time which would have allowed States and local governments to establish noise emission decibel standards more stringent, although not less strict, than those set by the Federal Government. However, in light of the colloquy between Mr. ECKHARDT and the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. ROGERS) I feel that this amendment is no longer necessary. Their remarks make clear that the preemption provision in section 6(d)(1) of the committee bill applies only to State regulation of "new products."

"New product" is defined in section 3 as a product title to which has not passed to the first person who purchases the product for purposes other than resale. Thus, once a product for which Federal standards have been set is in the hands of the user, States and localities are not precluded by the committee bill from imposing their own noise emission decibel standards.

The legislative history now makes it clear that State and local governments have the right to regulate the licensing, use, operation and movement of noise sources by all means—including decibel limits once the product is in the hands of the consumer.

Although, as I have pointed out, the bill before us has many commendable features, there do remain several areas in which the legislation could and should be strengthened.

First, the committee bill does not include a program of grants to assist local governments in their noise abatement efforts. I believe that this oversight is particularly puzzling in light of the recognized fact that States and local governments have a large responsibility in the control, abatement, and prevention of noise. Yet there is no way of avoiding the fact that local governments are extremely hard-pressed for funds; and this pressure can only be relieved by the Federal Government.

Therefore, I intend to offer an amendment at the appropriate time to provide a comprehensive system of grants to State and local governments to develop, establish, and carry out noise abatement programs and projects. I believe that such a provision is essential to the mounting of a comprehensive noise control effort at all levels of government.

The Commitee bill fails to direct that the Office of Noise Abatement and Control be utilized to the fullest extent in carrying out the noise responsibilities under this act. In light of the urgent need for a specific focal point for the Federal Government's noise abatement control, and prevention efforts, I intend to offer an amendment directing that this Office be fully utilized in the assault against noise pollution. The need for such specific language is best documented by reading the administration-sponsored bill (H.R. 5275) which specifically deleted the Office. Although the committee did not adopt the administration's language, it did omit any mention of this already established vehicle for noise control. Now that the Office has completed the report mandated by the Clean Air Act amendment, I fear that in the absence of legislative language to the contrary, the Office will be discontinued—a severe blow to the fight against noise.

One of the prime reasons that the level of noise has increased so greatly over the past few decades—having doubled since 1955—is that the consumer has been unable to obtain reliable information necessary to take noise as a factor when considering the purchase of a product.

Thus, I introduced the Noise Disclosure Act—H.R. 6988 and H.R. 6989—which requires that all new mechanical and electrical equipment transported in, sold in, or introduced into interstate commerce must have affixed to it a label or plate disclosing its operational noise level. The only items that could be exempted from this provision are those that have an operational noise level "so low as to be negligible" and as to which "information with respect to such noise level will not be of value to the consumer."

This bill would allow the consumer to know the noise-generating potential of any mechanical item he is contemplating buying, thereby affording him the opportunity to take that product's noise level into account as a factor in his purchase decision. Thus, he could choose not only the quieter of two automobiles but the quieter of two electric razors.

It is esssential that—if we are to lower the ambient noise in our communities—quiet must be a factor in each and every purchase.

Further, such legislation would serve as incentive for manufacturers to produce products with quiet in mind.

Unfortunately, the committee reported bill limits the labeling of products to those "which emits noise capable of adversely affecting the public health or welfare; or which is sold wholly or in part on the basis of its effectiveness in reducing noise." I do not believe that there is any need to be so restrictive. The consumer has a right to know the noise emissions of every product he buys. I hope that the Senate will take a strong look at this provision and make it more inclusive when this legislation is before that body.

I also believe that it is imperative that the Environmental Protection Agency be the agency responsible for the setting of aircraft noise standards. The committee bill, however, merely gives the Administrator of EPA the authority to consult with the Administrator of the Federal Aviation Administration, while leaving the authority for setting standards within FAA. Unfortunately history has demonstrated the reluctance of the FAA to undertake a meaningful program of aircraft noise abatement. In fact, even most of the research being conducted into jet noise suppression is being conducted by NASA, not FAA. In light of this and the need for a single core for our Government's antinoise efforts, the power to regulate aircraft noise should be vested in the EPA rather than FAA as it is now. My Noise Abatement and Control Act would have mandated such an action.

I also regret that the committee bill excludes exports from those standards set by the Administrator. Although I recognize that the rationale for this was not to hamper American industry in competing for markets abroad, I believe that noise is a worldwide problem; and I hope that the Senate will delete this section.

And finally I would have hoped that the committee bill would have adopted my provision to allow the Administrator to initiate court actions for violations of the act rather than requesting the Justice Department to take action. Sadly, the record of the Department of Justice in environmental matters is less than commendable. Again, I would urge the Senate to take corrective action on this measure.

The existence of noise pollution is not new. Americans have been studying noise for nearly 100 years; Europeans even longer. But despite this consciousness of the existence of noise and its hazards, very little has been done to control it.

The legislation before us today—even with its shortcomings—opens the way for a concerted, comprehensive Federal program to combat noise and its dangers and to insure the right of all citizens to a peaceful and quiet environment.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 11021, the Noise Control Act of 1972. This legislation, championed by the very able chairmen of the Committee on Interstate and Foreign Commerce (Mr. STAGGERS) and that Committee's Subcommittee on Public Health and Environment (Mr. ROGERS), is a long overdue first step toward the control of a particularly harmful and often overlooked form of environmental pollution—the pollution produced by noise.

The lives and livelihoods of millions of people are affected by dangerously high levels of noise. Forty-four million Americans "have the utility of their dwellings adversely affected by noise from traffic and aircraft," in the words of the committee report; 21 million people are similarly affected by the noise from construction sites. The committee estimates that at least 80 million people in all—a staggering 40 percent of the Nation's total population—are affected "to a measurable degree of impact" by noise pollution.

What does this mean? It means a higher incidence of deafness and partial hearing loss. It means loss of sleep, with resulting physiological and psychological side effects. It means damage to buildings and equipment. Most of all, it means the continuing deterioration in the quality of life, and of urban life in particular—more inconvenience, more distraction, and more physical pain.

Perhaps we should separate the two component parts of noise pollution. There is, first of all, "community noise"—the roar of a diesel truck, the shriek of a jet plane overhead, the blast from a stereo record player. Each and every one of us can think back on instances when a loud noise broke our concentration or limited our ability to function, when noise did not threaten our health so much as it annoyed or inconvenienced us. According to the Department of Health, Education, and Welfare, the so-called "annoyance trend" of noise pollution is rapidly increasing, from 23 percent of the population who complained about the noise of city living in 1948, to 50 percent in 1961, to almost 100 percent today.

There is also "industrial noise"—the often overpowering noise conditions under which many of the Nation's plant and factory workers operate. Leonard Woodcock drew this memorable picture of working in a forge-drop plant:

> It is impossible to describe to anyone who has not seen such an operation the stress of noise and heat inflicted on the men whose bodies shake and sweat and bounce with the floor as the hammers descend into the hot metal.

Noise pollution, then, has two effects: It "annoys" people off-the-job, and poses a serious health and life threat to those on-the-job in certain industries. The problem is compounded by two curious properties of noise which make it unique among pollutants. First, its effects tend to be delayed. Only after prolonged exposure to high levels of noise are the physiological effects of exposure first manifested, and in some cases it takes years, even decades before the effects are felt. Second, man has shown a remarkable tendency to adapt to high levels of noise, to shrug off intolerable noise pollution as the necessary cost of performing certain types of labor. We are left with Leonard Woodcock's chilling conclusion that many men "accept the hazard of hearing impairment and stress of a noise-saturated work place as a condition of employment, out of their concern for job security."

What is our responsibility as legislators and lawmakers? Noise abatement programs in the past have been farcical. In one industrial plant, for example, earplugs were randomly distributed from a large box to all workers, despite the fact earplugs may be useless if not properly fitted by a physician. The Federal Government has a haphazard assortment of noise control programs with minimal coordination between them. It is only recently, in fact, that noise has even been considered a form of pollution and given the attention it deserves.

We must impose some form of coordination on the widely dispersed Federal programs on noise control. We must make provisions for careful, well-conducted research on all phases of noise pollution. And we must find sanctions which we can use to terminate as rapidly as possible the sources of noise pollution.

The legislation we consider today, H.R. 11021, addresses itself admirably to these three responsibilities of ours. First, section 4 of the bill authorizes the Administrator of the Environmental Protection Agency to coordinate the efforts of all Federal agencies in the area of noise research and control. Second, section 14 provides for research and public information programs, for which the sum of $750,000 is allocated.

Third and most important, there are strong noise emission standards outlined in this bill, although, as I shall indicate shortly, they are not as strong as I would like them to be. Section 6 gives the EPA Administrator broad power to set and enforce noise emission standards. Section 8 requires the Administrator to issue regulations for the labeling of any product which emits a potentially damaging amount of noise. Other sections provide for citizens' suits, compliance regulations, and strict enforcement provisions.

I am extremely reluctant, however, to endorse section 7 of the bill, providing for privileged status for the Federal Aviation Administration. Under the terms of this section, the FAA must consult with the EPA and the Secretary of Transportation, then draw up standards for aircraft noise and sonic booms which are incorporated in the regulations under this bill. In the original version of this legislation the EPA had veto power over the FAA-drafted standards, but in this bill it has been stripped of that power.

In view of the FAA's history of being dominated by the very industry it is supposed to regulate, I consider this change highly unfortunate. According to an article in the Washington Star on October 12, 1971, the FAA has already decided to let representatives of the air transport industry write their own regulations. Again I say, this is most unfortunate. I would prefer to see the EPA retain its veto power, and I fail to see why the airline industry merits special consideration in the drafting of antinoise regulations.

Nevertheless, my reservations on this section do not override my enthusiasm for the bill as a whole. I emphasize, Mr. Chairman, that the provisions included in H.R. 11021 are long overdue. The bill is comprehensive, manageable, and well-designed. I urge its passage.

Mr. BADILLO. Mr. Chairman, as it was with many other aspects of our environmental crisis, the noise problem was allowed to reach dangerous proportions before adequate study and action were contemplated. As a result, we are today in the position of considering legislation that should have been before this House at least a decade earlier. We are still playing catchup with the environment, which means with our very survival.

If we have learned one thing about noise pollution in recent years, it is that this problem represents more than a mere nuisance. It is now recognized as a serious physical, mental, and economic hazard.

Early last year, shortly after I first took office. I cosponsored with 13 colleagues in the New York delegation, an ad hoc hearing on noise pollution in New York City. The record of that hearing led to the development of a comprehensive package of noise control legislation which I cosponsored with its author, Congressman WILLIAM F. RYAN, and a number of other colleagues.

The first bill in the package appropriated money to fully fund the Office of Noise Abatement and Control established within the Environmental Protection Agency by the Congress in 1970. The need for this bill was established by the failure of the Nixon administration to request any funds at all for this office in fiscal 1972.

The second bill broadened the functions of the Office of Noise Abatement and Control to take its functions out of the area of mere research and into the area of regulation and enforcement. The bill directs the head of that office to prescribe standards on all noise-generating machinery that may endanger the public health and welfare, and it also established a system of grants and contracts to enable local governments to combat noise with Federal assistance.

The third bill—the Noise Disclosure Act—requires that all new mechanical and electrical equipment transported or sold in interstate commerce must have affixed a plate or label disclosing its operational noise level. The bill also gives the Administrator of the EPA a directive to prescribed regulations establishing standard procedures for measuring noise levels on such equipment.

In contrast to these bills is the administration's noise control proposal, introduced in the Senate last year as S. 1016. This bill, in my judgment, is by no means adequate to really tackle the noise problem and unfortunately, the bill reported by the Committee on Interstate and Foreign Commerce continues these inadequacies.

Among the major defects are these:

First. The bill fails to provide assistance to States and localities in their efforts to control, abate, and prevent noise.

Second. The bill preempts State and local authority to prescribe noise emission standards for new products for which Federal standards apply. Thus, if a city such as New York, or a State such as California, should wish to set standards stronger than those set by the Federal Government, it could not do so.

Third. The bill fails to give the EPA authority to set and enforce noise limits on jet aircraft, continuing the Federal Aviation Administration's purview in this area. History has demonstrated the folly of this. The FAA continues to be dominated by the airline industry which has consistently opposed any retrofit requirement for the existing jet fleet. As a result, the din of jet noise over city and suburb has become unbearable. Although Congress gave the FAA authority to set jet noise limits on current aircraft nearly 4 years ago, the FAA has done nothing but stall. Clearly, it is time that the enforcement role in this area should be given to the EPA, with the FAA retaining only an advisory role.

I understand that amendments to cure these serious defects will be offered to the committee bill. It is essential that they pass, and they will have my full and enthusiastic support. The noise problem cannot be attacked by tokenism and rhetoric.

Mr. DONOHUE. Mr. Chairman, I urge support of H.R. 11021, the Noise Control Act of 1972, which is designed to control noise emissions detrimental to the human environment.

Over the past generations as this country grew and prospered and gave to its citizens the best standard of living known to man, we unwittingly took from our natural environment and never gave back to her. In our continuing struggle to repair the damage we have done, we have taken great legislative strides. We have sought and projected ways to clean up our air and water, dispose of solid wastes and make our earth good again. Now we have the opportunity to address ourselves to another problem that our technological achievements have created—noise. Let us legislatively act, before we do irreparable harm, to protect the human ear and nervous system.

As we have heard so often a journey of a thousand miles begins with one small step. I believe that this bill is a worthy first step toward protecting our citizens from an unhealthy quantity of decibels. H.R. 11021, as our initiative action, requires the Environmental Protection Agency to develop and publish noise criteria, identifying the effects of the various quantities and qualities of noise on the health and welfare of Americans. Additionally, EPA must identify products which are major sources of noise and provide information on techniques to control their noise emissions. Within 18 months of enactment, EPA must establish technologically and economically feasible noise emission standards for construction equipment, transportation equipment, motors or engines and electrical or electronic equipment. Aircraft noise and sonic boom standards will be prescribed by the Federal Aviation Administration in consultation with the Secretary of Transportation and EPA. The bill further provides for product labeling and other effective means designed to insure that the protective requirements that are authorized will be strictly enforced and effectively applied in the public interest.

The very fervent desire of all of our people, in this tumultuous time, Mr. Chairman, is to initiate "a generation of peace." This afternoon, I most earnestly hope this House will overwhelmingly act to wholesomely expand the expression of our common objective so that it will read, "a generation of peace and quiet."

Mr. BROOMFIELD. Mr. Chairman, only 10 years ago it would have been inconceivable to suggest that the level of noise in our environment might pose a threat to our health and safety.

Regretfully, what would have been termed folly then, is now all too sobering reality. The growing volume and intensity of noise generated in the home, office, and our cities constitutes just another menacing phenomenon of our modern age.

No less than water or air pollution, noise pollution is a problem which we cannot delay in meeting head-on now and one which we must solve soon. The solution to this problem would be much easier if its cause were limited to but a few major sources. However, this is not the case; this pollution emanates from an almost infinite variety of sources.

Since noise pollution is such a comprehensive and all pervasive threat to our people and because it is a threat to the very quality of our lives, we must attack it on a national scale. This measure does just that and, if for no other reason than that it represents a first step toward that goal, it is worthy of our approval.

Mr. Chairman, the scientific facts which motivated this legislation are worthy of review because they illustrate just how real, how devastating the consequences of excessive noise actually are.

We now know that prolonged and unusually high levels of noise cause emotional stress which can have long-term implications for many people. As for physical effects, extreme noise can result in partial or complete loss of hearing.

A study made at the University of Tennessee has proven that an alarming number of incoming freshmen already have reduced hearing faculties. These young people between the age of 18 and 21 had the hearing ability of people twice their age. Just how this defect will accelerate as they grow older no one can accurately predict.

It is true that the high rate of hearing defects among young people is due in part to the fact that they often subject themselves for long periods of time to excessively loud music. However, the effect it has had upon them should serve as a graphic example of the potentially disastrous consequences of prolonged noise pollution.

Mr. Chairman, by giving the Administrator of the Environmental Protection Agency the authority to prescribe acceptable noise limits we can roll back the tide of noise which threatens to inundate us all. Today, there are more than 80 million Americans, 40 percent of the population, who are affected by noise pollution. Furthermore, of that number, 40 million are risking serious and permanent hearing impediments.

Mr. Chairman, pollution of any kind, whether it be of noise, water or air, is distinguished by the fact that no individual by his own efforts can escape it. This enemy will fall only to a national attack; a concerted and united plan by this Government to control the level of noise in our society before it truly does become deafening. I, therefore, respectfully urge the passage of the Noise Control Act.

Mr. ANDERSON of Illinois. Mr. Chairman, I will be brief since there have been those who have been critical of the level of noise emission in this very Chamber and have urged standards toward dampening it.

We have all become more aware of what technology now does for us and to us. There was a time when the term technology had a simple positive ring. Recent years have made us recognize the unforseen effects from the technicfication of our society. Among the clear costs of new technologies is a new and often unpleasant clangor in our lives. On the grander scale there is the cracking of sonic booms, the hysterical wail in mill and factory, the sharp crepitation of bad exhaust, the furious shriek of subway cars, the raucous thump of the pneumatic hammer in the streets.

But noise pollution touches us all on much more mundane levels, causing an irritation or frustration that cancels a bit of quality out of our days. Who of us has not winced at the whine of power mowers at early morn, at the motor boat wracking a placid lake, at the motorized golf cart ruining a putt? And for those of us with kids the right age, there is the stereo's blast from upstairs of the latest work of the Led Zeppelin or Santana. Trivial examples perhaps, but did not this Nation establish a Constitution in part to insure domestic tranquillity?

The authority proffered the Environmental Protection Agency as consultant, standard setter and researcher of noise emissions under this bill is sensible. The funding levels are modest. The ability of States and localities to control and regulate the use or operation of products is left unimpaired.

This is one time, gentlemen, when I can say with emphasis, we have a sound bill.

Mr. RHODES. Mr. Chairman, for the information of the Members of the House of Representatives I would like to insert at this time the House Republican Policy Committee statement on H.R. 11021, the Noise Control Act of 1972.

The House Republican Policy Committee supports the passage of H.R. 11021, the Noise Control Act of 1972.

In February of 1971, President Nixon forwarded to the Congress recommendations to "provide a method for measurably reducing major noise sources, while preserving to State and local governments the authority to deal with their particular noise problems." In furtherance of the President's program, H.R. 11021, has been reported by the House Committee on Interstate and Foreign Commerce. The proposed legislation would expand and coordinate Federal efforts to control the emission of noise detrimental to the health and welfare of the American people.

The Environmental Protection Agency is given the primary responsibility for implementing the legislation. Its functions would include:

First. The development and dissemination of information on noise and its effects on health and welfare;

Second. The identification and determination of standards for major sources of noise, such as construction equipment, transportation equipment, and equipment powered by internal combustion engines;

Third. The establishment of labeling requirement for designated products or classes of products; and

Fourth. The coordination of Federal efforts relating to noise research and control.

Recognizing that centralized administration and enforcement of local noise limits would be unmanageable, local units of Government retain the power to determine and enforce noise abatement and control levels. Federal action is limited to identification of noise sources and promulgation of feasible noise standards for specific products.

H.R. 11021, the Noise Control Act of 1972, provides for that degree of noise abatement and control which is appropriate and adequate at this time. It represents a comprehensive and effective approach to the growing problem of noise detrimental to the human environment. The House Republican Policy Committee urges its passage.

Mr. SPRINGER. Mr. Chairman, noise is far more than a mere annoyance—it is a major health problem. This fact was recognized by Congress some years ago when the Walsh-Healey Act was passed which applied to noise levels in industrial establishments. Now it is well documented that noise can be detrimental to health in other settings and other contexts.

The sources of noise have been increasing rapidly from the use of new devices such as power mowers and snowmobiles and also from the greater use of devices already in the noise business such as automobiles. The exact parameters of this broader noise problem are rather difficult to define and therefore difficult to influence and control. Simple pronouncements of desired noise levels for varying environments would be most difficult to establish and more difficult to enforce.

The bill before us today does not try to simply legislate quiet. It cannot be done that way. The bill does try, however, to set up some fairly flexible approaches to help identify and then solve the noise problems as they emerge.

Having already created an organization directly concerned with the environment, it seems sensible to have that agency, the Environmental Protection Agency, charged with the responsibility for determining first the necessity for noise standards in the manufacture of various mechanical devices and then the setting of those standards. Initially the effort will apply to things which commonsense already indicates are noisy such as construction equipment, transportation equipment, engines, and electrical equipment. Once standards are set through the administrative procedures applicable, manufacturers of those products may rely upon them and by certifying compliance market those products freely.

Being able to put a potential noisemaker on the market does not mean that States and local governments are powerless to control the use to which that product may be put. On the contrary, it is expected that local units of Government, having the overall problem of noise with which to contend, will make rules for the use of various equipment. For example, gasoline power mowers could be banned or regulated as to times of use. Outboard motors can be restricted in times and places of use. Trucks can be banned from certain areas. This is the real heart of noise control. It is not expected that all products can be made noiseless and do the job for which they are intended. Perhaps they can be made less noisy. But the bigger problem is the accumulation of noise sources in any given area. That can only be controlled locally and it is so recognized by this bill.

In addition to noisy products there are and will be many which can influence noise control. Most obvious, of course, is insulation material. Things like this can be most helpful if the consumer is informed as to the exact results to be expected from the product. This is a matter of labeling and is provided for in the bill in much the same flexible way as standards for machinery. The more obvious products can be designated fairly rapidly, but many others may come and go which should be considered and included.

Noise control techniques will be explored by the Federal Government and the information obtained will be widely disseminated for the benefit of communities and individuals.

One rather sticky problem considered by the committee in regard to noise control had to do with aircraft noise. At present the responsibility rests with the Federal Aviation Administration. Basically it should remain there but the Environmental Protection Agency should have an input and a chance to make pertinent suggestions on any proposed standards for aircraft. This bill provides for that relationship between the agencies.

Since the Federal Government is a big user of noisy equipment it should lead the way in eliminating unnecessary noise from such sources. Under this bill the Environmental Protection Agency will recommend products which are suitable but quieter for governmental purchase. It also provides for procurement of such products if they are not inordinately expensive.

To carry out the activities anticipated under this bill we have provided authorizations for the next 3 years in the amounts of $3 million, $6 million, and $12 million respectively.

Here we have a piece of legislation which recognizes a major problem but does not promise Utopia. There is much which we need to learn about noise and noise control before we can take any significant steps toward overall abatement. By setting up this machinery of Government now it will be possible to stay ahead of the game and head off the really big problems as they appear. In this instance Congress has a chance to lock a barn before the horse is miles away. I recommend the Noise Control Act to my colleagues for their approval.

Mr. TIERNAN. Mr. Chairman, as a member of the Interstate and Foreign Commerce Committee and as a sponsor of a Noise Control Act myself, I rise to express my support for H.R. 11021. While this bill is not as strong as I would like it to be, it is an important first step in the control of noise pollution.

For the first time we will have Federal coordination of noise control and research activities through the Environmental Protection Agency. Noise emission standards will be established for new products, and labels will be required for products which emit noise capable of adversely affecting the public health or welfare. H.R. 11021 also authorizes citizen suits against violators of noise control requirements established by this bill. Finally, the Administrator of EPA is authorized to provide technical assistance to States and local governments in training enforcement personnel and in preparing model State or local noise control legislation.

There are weaknesses in the bill which do concern me. One is the failure to give EPA more authority over the aircraft standards established by the Federal Aviation Administration. Second, if a State or local government wanted to establish noise emission standards for new products which would be stricter than the Federal standards, they would be prohibited from doing so. Third, the bill fails to provide a grant program to assist State and local governments to control and prevent noise.

I also believe that the Congress must act this year to lower the decibel level for occupational noise from 90 decibels, as is presently stated in the Walsh-Healey Act, to 85 decibels. A 90-decibel sound level is nearly half again as loud as an 85-decibel sound level. In addition, 85 decibels is the level at which hearing damage begins for an 8-hour exposure. Federal law should thus not be above this acceptable level.

As I stated earlier, the bill we consider today is an excellent beginning. Noise is a negative fringe benefit of the manmade environment of our industrial and high density urban society. To the extent to which this environment is becoming increasingly manmade, noise is not likely to go away, but only to become more pervasive. The way to keep noise at levels consonant with civilized life is thus through the regulation of technology.

Some scientists believe that if city noise continues to rise as it has been—approximately one decibel per year—there is a good chance that almost everyone will be stone deaf by the year 2000. A study by the University of Tennessee Noise Study Laboratory reports:

> Fearful speculation that the current population of young persons will encounter much more serious hearing problems in their middle years than the present group of 50 to 60 year olds.

This is why prompt action by this Congress is necessary and why Chairman ROGERS is to be congratulated for expediting consideration of H.R. 11021. I urge my colleagues to give this bill their support.

Mr. FRASER. Mr. Chairman, this is excellent legislation which I am happy to support, but it needs some modification to meet the incessant roar and rumble of jet aircraft.

The Federal Aviation Administration—FAA—has failed in the task assigned it by Congress 3 years ago—to quiet the noise of jet aircraft operating in and out of our Nation's airports. A major share of this responsibility should now be turned over to the Environmental Protection Agency, which has been created since we first asked the FAA to act. The facts are that the FAA has apparently felt its responsibility to promote aviation and license aircraft and insure safe flight has priority over its responsibility to the public in the approaches to airports. I support the Wydler amendments to bring the EPA into the aircraft noise picture.

In addition, amendments by the gentleman from New York (Mr. ROSENTHAL) deserve support. The first would set up a commission to study the question of curfews on nonmilitary aircraft during normal sleeping hours. Many large airports in other countries have turned to this idea. Heathrow Airport, London, England, will have a complete ban on takeoffs between 11:30 p.m. and 6 a.m. Frankfurt, Germany, is considering a ban on night takeoffs of jets. Jets are prohibited from Tokyo and Osaka airports between 11 p.m. and 6 a.m. with the exception of mailplanes. Let us adopt the amendment to give this proposal active study. It may be the only way to let people have a decent night's sleep.

The second amendment would prohibit civilian planes from making sonic booms in U.S. airspace. This action is needed now before the arrival of supersonic transports from the Soviet Union or Western Europe. The Noise Control Act of 1972 must prevent sonic booms.

Mr. HASTINGS. Mr. Chairman, in considering the Noise Control Act, today, I would like to clarify New York State's position on this legislation.

As a Representative from New York, I would like to submit a statement of intent clarifying section 6(d)(2). This would reserve the establishment of noise emission standards for the manufacture, transportation and sale of new products for the Federal Government. It should also clearly indicate the right of States to regulate the licensing, use, operation, and movement of noise sources by all means, including decibel limits more stringent than those of the Federal Government.

In summation, I am attaching a statement by Henry L. Diamond, Commissioner of the Department of Environmental Conservation for New York State, expressing his concern.

The statement follows:

### STATEMENT BY HENRY L. DIAMOND

The control of noise is a major requirement in the United States and its many subdivisions.

There is no reason to give further discussion to why, where, or when this control must be established. The need for noise control is urgent at home, in the working place, and throughout the environment. All levels of government must act now to meet this need.

The remaining question is how to divide the task among the Federal, State and local governments to achieve the most favorable results.

We believe that the proper role of the Federal government is to assume a position of leadership in noise control by taking positive steps in research, education, the establishment of basic noise emission standards and financial assistance to states and communities.

In considering the Noise Control Act of 1972 (H.R. 11021), it is necessary to give special consideration to the question of noise emission standards as these constitute a major part of the Act. We welcome Federal standards for the manufacture of new products and their components. Uniform Federal standards are particularly necessary in the area of interstate transportation and the various vehicles employed for that purpose. Uniform standards for a wide variety of other consumer goods may also be in the best interests of both commerce and the individual citizen, the consumer. Clear informative product labeling of noise emissions will also be a boon to the consumer enabling him to make rational choices.

Noise, however, is largely a local problem, a fact that is recognized in this Noise Control Act. Federal noise standards must be permissive enough to fit the average needs of the entire nation. They cannot simultaneously provide adequate control for all situations and all places. It is essential that the States and their subdivisions retain the ability to establish more stringent regulations on the licensing, use, operation or movement of any product.

The wording of this Act appears more conducive to this necessary State and local regulation than earlier proposed legislation. It is also our understanding that it is the intent of this Act to protect the right of local regulation. This, too, is encouraging. There remains, however, considerable doubt as to the exact degree of Federal preemption involved.

Some measure of noise control can be exercised by zoning, land use planning and curfews, the measures mentioned in the report of the House Committee on Interstate and and Foreign Commerce. This report cites examples from the Chicago noise ordinance which prohibits the operation of certain classes of machines by time and location without reference to the quantity or quality of noise produced. We do not consider such regulations to be an adequate means of noise control. Noise is measured in decibels. Since noise is to be controlled it is essential that the State have the right to employ decibel limits and/or other criteria more stringent than the Federal standards for the manufacture of new products in their regulations for control, licensing, operation, use or movement of these products. No question should be allowed to remain concerning this right; it should be clearly stated.

We therefore ask that the question of the States' rights as set out in Section 6(d)(2), page 11 of the bill be clarified either by amendment or by an explicit statement of intent.

Mr. STAGGERS. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act, including the following table of contents, may be cited as the "Noise Control Act of 1972".

### TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Federal programs.
Sec. 5. Identification of major noise sources; noise criteria and control technology.
Sec. 6. Noise emission standards for products distributed in commerce.
Sec. 7. Aircraft noise standards.
Sec. 8. Labeling.
Sec. 9. Imports.
Sec. 10. Prohibited acts.
Sec. 11. Enforcement.
Sec. 12. Citizen suits.
Sec. 13. Records, reports, and information.
Sec. 14. Research, technical assistance, and public information.
Sec. 15. Development of low-noise-emission products.
Sec. 16. Authorization of appropriations.

### FINDINGS AND POLICY

SEC. 2. (a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

### DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual corporation, partnership, or association, and (except as provided in sections 11(d) and 12(a)) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act of 1958; or

(B) (i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 6 or section 8 which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products.

(7) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

### FEDERAL PROGRAMS

SEC. 4. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 2(b).

(b) (1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 611 of the Federal Aviation Act of 1958 (as amended by section 7 of this Act) shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise.

### IDENTIFICATION OF MAJOR NOISE SOURCES; NOISE CRITERIA AND CONTROL TECHNOLOGY

SEC. 5. (a) The Administrator shall, after consultation with appropriate Federal agencies, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(b) The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act.

(c) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

(d) Any report (or revision thereof) under subsection (b)(1) identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or information on control techniques shall be announced in the Federal Register, and copies shall be made available to the general public.

### NOISE EMISSION STANDARDS FOR PRODUCTS DISTRIBUTED IN COMMERCE

SEC. 6. (a) (1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c), for each product—

(A) which is identified (or is part of a class identified) in any report published under section 5(b)(2) as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

(i) Construction equipment.

(ii) Transportation equipment (including recreational vehicles and related equipment).

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

(2) (A) Initial proposed regulations under paragraph (1) shall be published not later than eighteen months after the date of enactment of this Act, and shall apply to any product described in paragraph (1) which is identified (or is a part of a class identified) as a major source of noise in any report published under section 5(b)(1) on or before the date of publication of such initial proposed regulations.

(B) In the case of any product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 5(b)(1) after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) for such product shall be proposed and published by the Administrator not later than eighteen months after such report is published.

(3) After proposed regulations respecting a product have been published under paragraph (2), the Administrator shall, unless in his judgment noise emission standards are not feasible for such product, prescribe regulations, meeting the requirements of subsection (c), for such product—

(A) not earlier than six months after publication of such proposed regulations, and

(B) not later than—

(i) twenty-four months after the date of enactment of this Act, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 5(b)(1) identifying it (or a class of products of which it is a part) as a major source of noise.

(b) The Administrator may publish proposed regulations, meeting the requirements of subsection (c), for any product for which he is not required by subsection (a) to prescribe regulations but for which, in his judgment, noise emission standards are feasible and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c), for such product.

(c)(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 5, is requisite to protect the public health and welfare. In establishing such a standard for any product, the Administrator shall give appropriate consideration to technological feasibility and economic costs, and to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966 and the Clean Car Act. Any such noise emission standard shall be a performance standard. In addition, any regulation under subsection (a) or (b) (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to participate in rulemaking in accordance with the first sentence of section 553(c) of title 5, United States Code.

(3) The Administrator may revise any regulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d)(1) Subject to paragraph (2), no State or political subdivision thereof may adopt or enforce—

(A) with respect to any new product for which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to control, regulate, or restrict the use, operation, or movement of any product.

### AIRCRAFT NOISE STANDARDS

SEC. 7. (a) Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) is amended to read as follows:

### "CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 611. (a) For purposes of this section:

"(1) The term 'FAA' means Administrator of the Federal Aviation Administration.

"(2) The term 'EPA' means the Administrator of the Environmental Protection Agency.

"(b)(1) In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that aviation safety requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

"(2) The FAA shall not issue an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d).

"(c)(1) If at any time EPA has reason to believe that—

"(A) a standard or regulation (or any proposed standard or regulation) under this section, or any exemption, granted under any provision of this Act, with respect to such a standard or regulation, or

"(B) the action of the FAA in issuing an original type certificate for an aircraft for which standards and regulations described in subsection (b)(2) have not been prescribed, does not protect the public from aircraft noise or sonic boom consistent with the considerations listed in subsection (d) of this section, EPA shall consult with the FAA, and may request the FAA to review, and report to EPA on, the advisability of such action or of revising such standard, regulation, or exemption, as the case may be. Any such request may be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action or standard or regulation (or exemption therefrom); and shall specify whether (and where) such statement is available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

"(2) If, in the case of a matter described in paragraph (1)(A) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA indicates that the revision (if any) proposed by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the existing (or proposed) standard or regulation of the FAA (or exemption therefrom) and (B) EPA's proposed revision.

"(3) If, in the case of an action of the FAA described in paragraph (1)(B) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA states that issuance of an original type certificate should not be preceded by issuance of a noise standard and regulation, the FAA shall, upon request of EPA, file a statement (of the type described in such section 102(2)(C)) with respect to the issuance of such certificate. The requirements of such section 102(2)(C) relating to consultation, obtaining comments, and the availability of statements made pursuant to such section shall apply to any statement filed under the preceding sentence.

"(d) In prescribing and amending standards and regulations under this section, the FAA shall—

"(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

"(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

"(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

"(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

"(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

"(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control or abatement of aircraft noise or sonic boom and the public interest do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation."

(b) All—

(1) standards, rules, and regulations prescribed under section 611 of the Federal Aviation Act of 1958, and

(2) exemptions granted under any provision of the Federal Aviation Act of 1958, with respect to such standards, rules, and regulations,

which are in effect on the date of the enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator of the Federal Aviation Administration in the exercise of any authority vested in him, by a court of competent jurisdiction, or by operation of law.

### LABELING

SEC. 8. (a) The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

(b) For each product (or class thereof) designated under subsection (a) the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Section 6(c)(2) shall apply to the prescribing of any regulation under this section.

(c) This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

### IMPORTS

SEC. 9. The Secretary of the Treasury shall, in consultation with the Administrator, issue regulations to carry out the provisions of this Act with respect to new products imported or offered for importation.

### PROHIBITED ACTS

SEC. 10. (a) Except as otherwise provided in subsection (b), the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 6 which is applicable to such product, except in conformity with such regulation.

(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 6, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 8(b) (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 8(b), prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 9 which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 13(a) or regulations prescribed thereunder.

(b)(1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

### ENFORCEMENT

SEC. 11. (a)(1)(A) Except as provided in subparagraph (B), any person who violates section 10(a) of this Act shall be subject to a civil penalty of not more than $25,000 for each violation. Such penalty may be assessed by the Administrator and collected in a civil action brought by the United States in a United States district court, or assessed by a State which is a party to an agreement under subsection (c) and collected in a civil action brought by such State in a court of such State as provided in such subsection.

(B) A person who does any act in violation of paragraph (1), (2), or (3) of section 10(a), and who establishes that he did not have reason to know in the exercise of due care that such act was in violation of such paragraph, shall not be subject to a civil penalty under subparagraph (A).

(2) In any proceeding by the Administrator (or a State) to assess a civil penalty under this subsection, no penalty shall be assessed until the person charged shall have been given notice and an opportunity to present his views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Administrator (or such State) shall consider the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification by the Administrator (or such State) of a violation.

(3) In case of any civil penalty assessed against any person by the Administrator under this subsection, if the Administrator's determination that such person is liable for such penalty is made on the record after notice and opportunity for hearing, then in any civil action to collect such penalty (and any other civil action reviewing such determination of the Administrator) any findings of fact on which such determination is based shall be conclusive if supported by substantial evidence on the record considered as a whole.

(4) For the purpose of this subsection, each day of violation of any paragraph of section 10(a) shall constitute a separate violation of that paragraph.

(b) The United States may bring a civil action in the district courts of the United States to restrain any violations of section 10(a) of this Act.

(c) When authorized by State law—

(1) the Administrator may, by agreement with any State, with or without reimbursement, authorize law enforcement officers or other officers or employees of such State to (a)(1)(A), and to bring civil actions in the appropriate State courts to collect such civil penalties or to restrain any person from violating section 10(a); and

(2) the courts of such State may entertain any such civil action.

In any action under this subsection to collect a civil penalty, the penalty shall be payable one-half to the State and one-half to the United States Treasury. Nothing in this subsection shall affect the authority of a State to commence a civil action under section 12.

(d) The term "person", as used in this section, does not include a department, agency, or instrumentality of the United States.

### CITIZEN SUITS

SEC. 12. (a) Except as provided in subsection (b), any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e)), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise control requirement under such section 611) and (ii) to any alleged violator of such requirement, or

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or (2) under subsection (a)(2) prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

(c) In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may intervene as a matter of right. In an action under this section respecting a noise control requirement under section 611 of the Federal Aviation Act of 1958, the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(e) For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 10(a), or a standard, rule, or regulation issued under section 611 of the Federal Aviation Act of 1958.

### RECORDS, REPORTS, AND INFORMATION

SEC. 13. (a) Each manufacturer of a product to which regulations under section 6 or section 8 apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act,

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b) (1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this Act.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

### RESEARCH, TECHNICAL ASSISTANCE, AND PUBLIC INFORMATION

SEC. 14. In furtherance of his responsibilities under this Act and to complement, as necessary, the noise-research programs of other Federal agencies, the Administrator is authorized to:

(1) Conduct research, and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

(A) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(C) determination of the most effective and practicable means of controlling noise emission.

(2) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including but not limited to—

(A) advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

(B) preparation of model State or local legislation for noise control.

(3) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

### DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

SEC. 15. (a) For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 6 at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b) (1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5) (A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5) (A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

(c) (1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1972, and $2,000,000 for each of the two succeeding fiscal years.

(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this Act.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 16. There are authorized to be appropriated to carry out this Act (other than section 15) $3,000,000 for the fiscal year ending June 30, 1972; $6,000,000 for the fiscal year ending June 30, 1973; and $12,000,000 for the fiscal year ending June 30, 1974.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. WYDLER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Forty-three Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 54]

Abourezk
Anderson, Calif.
Anderson, Tenn.
Andrews
Ashbrook
Baring
Belcher
Bell
Blatnik
Bow
Caffery
Carey, N.Y.
Clark
Clausen, Don H.
Clay
Denholm
Dennis
Donohue
Dorn
Dwyer
Edwards, La.
Evins, Tenn.
Fisher
Foley
Frelinghuysen
Galifianakis
Grasso
Hanna
Hansen, Wash.
Hastings
Hébert
Hillis
Kemp
Kyl
Landgrebe
Leggett
McCloskey
McKinney
Macdonald, Mass.
Mayne
Mazzoli
Melcher
Mollohan
Montgomery
Murphy, Ill.
O'Neill
Patman
Podell
Pryor, Ark.
Pucinski
Railsback
Randall
Rees
Rosenthal
Rostenkowski
Roybal
Scheuer
Sisk
Smith, Calif.
Springer
Stubblefield
Tiernan
Vanik
Wilson, Charles H.
Wolff
Wright

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill H.R. 11021, and finding itself without a quorum, he had directed the roll to be called, when 365 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the absence of a quorum was noted, the committee amendment in the nature of a substitute had been read and opened to amendment at any point.

### AMENDMENT OFFERED BY MR. WYDLER

Mr. WYDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYDLER: Page 42, strike out line 11 and all that follows down through line 20 on page 45, and insert in lieu thereof the following:

"(b) (1) In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, EPA (after consultation with the Secretary of Transportation, the FAA, and the Administrator of the National Aeronautics and Space Administration) shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as EPA may find necessary to provide for the control and abatement of aircraft noise and sonic boom.

"(2) Any standard or regulation prescribed under paragraph (1) (and any revision thereof) shall take effect after such period as EPA finds necessary (after consultation with the FAA and the Administrator of the National Aeronautics and Space Administration) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(c) (1) The FAA, after consultation with EPA, shall prescribe regulations to insure compliance with all standards and regulations prescribed under subsection (b) of this section by EPA. The regulations of the FAA shall include provisions making the standards and regulations of EPA applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this Act. The FAA shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in the FAA by any other provision of law in the execution of all powers and duties vested in the FAA under this paragraph.

"(2) No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act by the FAA, except with the approval of EPA.

"(d) EPA and the FAA, in prescribing and amending standards and regulations under any authority respectively vested in them under this section, shall—

Page 46, line 2, strike out "he" and insert in lieu thereof "EPA or the FAA, as the case may be,".

Page 47, beginning on line 9, strike out "by the Administrator" and all that follows down through line 12, and insert in lieu thereof "in accordance with law."

(Mr. WYDLER asked and was given permission to revise and extend his remarks.)

Mr. WYDLER. Mr. Chairman, the bill that is being considered today is one to generally meet the problems of noise in our society, and I thoroughly agree with the committee, and with the bill that is before us today, that this is one of the problems of modern society with which we in the Congress must deal. Certainly the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS) has pointed out the horrors of noise in our society, the damage it does to the people in our society, and the damage it does to the hearing of our children.

No part of this noise problem, Mr. Chairman, is worse than the problem of jet noise. It is the most fearsome noise that we have in our society today, and the fact is that under the present law it is an essentially uncontrolled noise in our society.

Now what would the committee bill do? The committee bill would continue the present situation that exists in our country. That present situation is in effect that the FAA is given the power to set limits on jet noise.

Now I think the FAA has the expertise in this field. I would not deny that for a moment. They are skilled in the questions of designing and building and certifying aircraft and they should be a part of this process.

But I submit to this committee today that continuing in the FAA the power to act in this field by all the evidence that we have in the past 3½ years and by the evidence we have before us today is a waste of time because they have proven that they will do nothing about it and they have told us, in effect, that they will do nothing about it in the future.

First of all, let me say this. Under the general terms of this bill, the Environmental Protection Agency is given all the power to control problems of noise in our country—all except in one field and one field alone—that is the field of jet noise. There it is given to the FAA—not to the Department of Transportation but to the FAA and the FAA alone. They are given the total, complete and sole power to act.

What should we, as Members of the Congress, think about their performance to date? Three and one-half years ago we passed legislation giving to the FAA the power to act in this field. For 3½ years they have not used this power to require the reduction of noise from currently flying aircraft. Those are the planes that are driving people crazy around the airports all over this country. For 3½ years they have done nothing. When I asked them only a week ago, before a committee of the Congress, the Committee on Science and Astronautics, when they would start—when they would start making their rulemaking procedures, they told me they would not start their rulemaking procedure, which is just the first step in taking act, for at least for another year.

Now I have received promises that they were going to start these procedures time after time and year after year for 3 years after the Congress told these people to act. They are letting down the Congress and they are letting down the public. All we are doing is saying, "We still trust you—we still expect you to do something—we still hope for the best."

I am offering you an alternative which is better—not to throw the FAA out of this picture, but to keep them in the picture—but to put the EPA in control. Let us give them control over the setting of these standards so they can start action.

What is the matter with the committee proposal? The committee proposal says the EPA will consult with the FAA, but they can never consult with the FAA until the FAA takes some action. There is nothing to consult about. That is the situation we have right now.

So I ask that we take some action to give the EPA the power and the authority to get this ball rolling. The FAA will continue to play a significant and important part in the rulemaking procedure—we are not taking them out of that.

You are going to hear the issue of safety raised. Just let me make these points.

Under the Clean Air Act passed by this Congress, we gave to the EPA—to the EPA and not to the FAA the power.

The CHAIRMAN. The time of the gentleman from New York has expired.

(Mr. WYDLER asked and was given permission to proceed for 2 additional minutes.)

Mr. WYDLER. Under the Clean Air Act, we gave to the EPA—not to the FAA—the power of controlling emission standards of jet engines—and that means, the smoke that is emitted from the back of those engines. That also requires some expertise in the way the aircraft are constructed and the material and the equipment that is going to be retrofitted.

We gave such power to the EPA and told them to consult with the FAA in carrying on that function.

That is exactly what I am proposing we do here. We also gave power to the EPA—and not to the FAA—to come up with standards of jet fuel, the actual fuel that the jet aircraft would burn. That power was given to the EPA—of course, they have to use it in consultation with the FAA.

And that is what I am proposing to do in this field of noise control as well. I think the EPA should consult with the FAA. My amendment would so provide.

I think they should also consult with the other agencies—such as NASA, that is doing most of the work in this jet noise reduction field, and I think they will. EPA can give the people something,

something they have not had to this date—and that is some action in this area.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from West Virginia is recognized.

Mr. STAGGERS. Mr. Chairman, I should like to remind the Committee again that this is a new start in noise control. I understand that about five, six, or seven amendments have been submitted to the bill. We are trying to bring before you a simple bill that will apply to new products. It is addressed to the manufacturers of these products. If some of the amendments are adopted, we shall certainly divert ourselves from the original purpose to make a simple start. The fact is that the gentleman's amendment should be offered to the next airport and airway safety bill, which will be before us before too long. It belongs there.

I might add, too, that there has been a start made in that direction. We have empowered the FAA to do so, and they have put in the Federal Register a notice, "Civil Airport, Sonic Boom—Notice of Proposed Rulemaking." They are going to work on this problem. They have put that in the Federal Register so everyone can see it. They will provide an opportunity for everyone who is interested to come in and make their presentation.

Recently we passed an aviation safety bill. It carried with it $5 billion over 5 years to see to it that the airways are safe for people to travel in. Do you mean to tell me that you are going to tell such an agency that has been in the business all of these years what is safe and what is not safe? I do not think I would stand for it. I do not think any Members of the House would stand for it. They have said they are working on the problem.

The 747 is a much quieter plane than the older planes. Would you have them take all of the older planes out of the sky today? No; you would not. They are making the new airplanes quieter. They are acting with the expertise they have. These are tremendously large planes, carrying hundreds of additional passengers, and yet they are quieter than the older planes.

There is not a plane in the United States that causes a sonic boom except for military aircraft. We can tell them that they can go out over the seas and do their experimenting. You would not have the FAA say what the military may do. If we do not have—and we do not have—a plane that breaks the sonic boom in our civil aircraft today, then I believe we ought to wait until we get to an aircraft and airport bill and get that subject in the place where it belongs. Then if we want to say something about the military, we can tell the military at that time.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. WYDLER. First, I thank the gentleman for his suggestion, and I most certainly will take advantage of it if it is appropriate at that time. But I think it is very appropriate in a noise abatement bill to consider the subject of noise, particularly when the chairman of the committee has offered a provision which is almost word for word with my provision, except that I am giving the power to move, to do something about environmental protection to the Environmental Protection Agency instead of to the FAA.

Is the chairman aware of the statement made by the Administrator of the FAA only within the last week to the effect that he considers that aircraft engine noise will cease to be an issue? Is the chairman aware that he made that statement to a group in New York?

Mr. STAGGERS. What was the statement?

Mr. WYDLER. As reported in Aviation Daily, February 16 of this year, Chairman Shaffer of the FAA said he thought that with the record of the 747's and the DC–8's, this was a waste of money. He is the man who has sole control.

Mr. STAGGERS. Let me say to the gentleman that the newer planes, particularly the 747, are much quieter than the older jet planes we have on the market. They are making progress. There is no doubt about it. That is their direction. They are under special direction from the Congress to do it. I have read to the gentleman the docket which has been published in the Federal Register: "Civil Airport: Sonic Boom, Notice of Proposed Rulemaking." That gives everyone an opportunity to come in and be heard.

I do not believe that this is the place or the time. I believe the amendment ought to be offered to another bill at the appropriate time. I am opposed to the amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hope this proposed amendment will be defeated.

It seems when we find an agency not performing as we think they could or should, we then pass a new law and lay another layer on top of an existing layer. I would like to refer to a debate we had some time ago dealing with cancer legislation, where an attempt was made to move out of NIH into a separate agency, but we felt we should not fragment what we had already done. We admitted we had not done enough. So then we put in some new guidelines and added some new pressure to accelerate and expand the operation.

In this case in our committee we went into this and we felt the layers of research which had been done by the FAA were far greater than and far better than anything the EPA, a new agency, really had done. The EPA is set up as a sort of policeman to direct and to work in this entire field. We proceeded with the idea of putting EPA into a position where they will have a chance to influence what is done, but at the same time we require them to rely ultimately on the FAA. If they are not doing enough, maybe we should call them before our committee to find out why they have not done enough.

Mr. Chairman, I do hope the amendment will be defeated.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I agree with what the gentleman is saying to this extent. I would say it would be logical if we were starting a new agency today and starting to grant new power to the agency, to consider very seriously giving such power to the FAA. But the problem is that FAA has had this power for 3½ years and they have not been using it. I would say instead of waiting to see if they would suddenly get religion and change their attitude and their way of doing things, and then do something, I think the time to act is now.

Mr. NELSEN. Mr. Chairman, I would point out when we deal with an engine, maybe in an automobile or an airplane, there are certain things we can do. If we are going to have the horsepower, the engine is going to make some noise. Maybe the things to do is to look to the future and work with the manufacturer, and this has been done. Things will be better. To change some things in existence, they tell me, would cost far more than the good it would do.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I oppose this amendment very strongly. We went into this matter in great detail. EPA does not have the competency to go into this. FAA does. There must be a safety factor geared into it.

I must say to the gentleman that FAA has set standards. They are reducing the effective perceived noise decibels from 120 down to 108 and below in the 747's and the DC–10's.

Futhermore, if the gentleman would turn this authority over to EPA, I might tell him what has just happened with respect to air pollution.

Prior to the implementation of the Clean Air Act, the Department of Transportation and the aircraft industry reached an agreement whereby the industry agreed to reduce heavy smoke emissions from aircraft by the end of 1972. In many instances, this requires retrofitting of the aircraft; thus, through FAA efforts we can expect jet engines to be "smokeless" by the end of this year. Moreover, prior to the enactment of the Clean Air Act, the FAA issued an advance notice of proposed rulemaking respecting other types of air pollutants emitted from aircraft. However, section 231 of the Clean Air Amendments of 1970 transferred the authority to prescribe regulations with respect to emissions of air pollutants from aircraft to EPA. This made the FAA advance notice of proposed rulemaking moot. Section 231 required that within 270 days of enactment of the Clean Air Amendments—December 31, 1970, EPA must issue proposed emission standards applicable to aircraft. The regulations thus were due on September 27, 1971. They have not been published to date. Now the amendment asks the EPA noise office—with only 25 personnel—to take on additional responsibilities.

Mr. Chairman, I would urge defeat of this amendment. I think it would be very unsound.

Mr. NELSEN. Mr. Chairman, I thank the gentleman.

May I point out to the gentleman from New York (Mr. WYDLER), that I think in the debate here the gentleman's discussion is going to be helpful, because it does serve as a warning to EPA that they have not done enough. I think this will trigger a little more pressure. Maybe our committee should also look into it. I thank the gentleman for his contribution.

Mr. GUDE. Mr. Chairman, I rise in strong support of this amendment and I commend our colleague from New York (Mr. WYDLER) for his excellent efforts to curb the current jet noise level.

The FAA has failed time after time to move in regard to this jet noise problem. Here in the Washington, D.C., area anyone who lives along the Potomac River Valley will be able to tell you of the many problems caused by the ceaseless jets that soar over their homes and parks. Officers at the National Airport Complaint Center average about 70 calls per month complaining about the jet noise level. One of these officers—and these are the people on the side of the FAA—has said the great majority of the people who call are "very reasonable folks with legitimate gripes."

I believe it is high time we turned over to EPA the authority to move in this field. If we leave this authority where it is presently it is like leaving cabbage in with the goats.

In many instances, my own constituents are seriously affected by the noise level and do not hesitate to say so. One concerned constituent, Dr. Erich Buchmann, a leader in local efforts to curb jet noise, writes that present noise levels are "a farce and a mockery of environmental concepts."

Another constituent, concerned with the noise levels at the summertime Watergate concerts, calls the jet noise "a violent invasion of public property. The setting of these fine concerts is unique. The immortal beauty of the musical programs is drowned out violently. It is an insult to the people of this great city."

Mr. Chairman, for some time the jets have silenced the Congress. It is high time for the Congress to act to silence the jets. The Federal Aviation Administration has had the authority to impose jet noise restrictions for some 3½ years. Their lack of substantive action to date would indicate to me that, at best, a certain ennui has settled over the FAA. I would only wish that some of the rather obnoxious jet noise would settle there as well.

The Environmental Protection Agency was established specifically to handle environmental pollution problems. EPA, therefore, has a legitimate interest in noise control and should rightfully be granted the authority called for by this amendment. It has my strong support.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from New York.

Mr. WYDLER. I just wanted to say, relative to the comment of the gentleman from Florida regarding setting air emission standards for jet engines, truthfully I do not know exactly what the procedural situation is in regard to that. Let me tell the gentleman of the testimony which was given before the Committee on Science and Astronautics, on which I serve. We had industry spokesmen tell us they are retrofitting aircraft to clean up the air. They are in the process of doing that. They assure us they have it in hand and are moving fast.

Whatever the reason may be—they may be afraid of EPA, or may be not sure of what EPA would do—but, whatever the reason, that problem is being solved. We did give that power to EPA. We might take a lesson from it.

Mr. ROGERS. And EPA can have that same effect here. They can have them review it immediately.

Mr. SATTERFIELD. Mr. Chairman, I move to strike the last word.

I will not take 5 minutes, but I would like to propound a question to the gentleman from Maryland (Mr. GUDE).

The gentleman made the statement that nothing has been done by FAA in the Washington, D.C., area. Is it not a fact that the FAA has imposed a curfew on jet aircraft?

Mr. GUDE. They imposed a curfew, and then they have moved into a period where they are violating their own curfew.

Mr. SATTERFIELD. Is it not a fact that the FAA has also imposed operating standards for aircraft entering and leaving this area for the express purpose of reducing noise?

Mr. GUDE. They have set these standards, but the jet noise continues up along the river, and they continue to operate jet airplanes into National Airport at the same rate they have in the past.

Mr. SATTERFIELD. I would like to add this, Mr. Chairman: The one thing which I believe is being overlooked here is that it is not just jet engines that produce noise in aircraft. The configuration of the aircraft, the design of the aircraft, and the manner in which it is operated contribute significantly to its noise.

I do not believe it is reasonable to expect FAA to come up with a basic standard for operating procedures to reduce noise, because each of these procedures must conform to the specific geographic requirements at various airports. The FAA is taking action in this direction, and this ought to be taken into consideration now.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I am glad to yield to my colleague on the committee (Mr. CARTER).

Mr. CARTER. I thank the distinguished gentleman from Virginia for yielding. I know he has a particular expertise in this field, for he was a pilot in World War II and has continued since that time.

Is it true that retrofitting the aircraft would cost approximately $1.5 million or more, perhaps $2 million?

Mr. SATTERFIELD. That is my understanding. We are talking about commercial jet aircraft.

Mr. CARTER. And actually it would cost approximately $1.5 billion to retrofit all these planes which are now in use; is that correct?

Mr. SATTERFIELD. That is the understanding I have.

Mr. CARTER. These planes will be phased out gradually, and by 1978 we will have no more that are not retrofitted or have acceptable sound standards. Is that not correct?

Mr. SATTERFIELD. That is my recollection of the testimony we received.

Mr. CARTER. All of them will conform at that time to the present requirements and will have a low decibel rating. I think in just a matter of time this problem will take care of itself. Immediate grounding for retrofitting would ground 50 percent of the present fleet.

I thank the distinguished gentleman for yielding.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from Illinois.

Mr. COLLIER. The gentleman from Virginia directed a question to the gentleman from Maryland with regard to the curfew, and I did not quite get the gentleman's answer. The fact of the matter is that the curfew has not been violated. I would like to have him cite one instance where the curfew, which requires all planes to land in this area before 11 o'clock at night has been violated. I do not believe it has been violated in one instance where planes have been allowed to land after 11 o'clock at night or before a certain time in the morning. The regulation has not been violated.

Second, I remind the gentleman that just a year before he came to this body the Administrator of the FAA made an effort to do something about the Washington noise problem, and that was to have all flights coming into Washington from a distance of over 500 miles away land at Dulles Airport. It was the Members of Congress, and let us not kid ourselves on that score, who opposed this and stopped it. We could have gotten some relief then. We did not get the relief because certain Members of this body preferred to land at Washington National Airport because they did not want to be inconvenienced. So, if we are to blame anyone, do not blame the FAA but, rather, the Members of this body.

Mr. SATTERFIELD. Mr. Chairman, I want to conclude my remarks by saying that I believe we are oversimplifying this issue. One thing which concerns me is that Congress might place in the hands of an administrative agency the power to require through standards that which exceeds our technological capability to provide. I think we should leave these decisions in the hands of the FAA which possesses the necessary expertise, if for no other reason than to guarantee the maximum safety for the traveling public.

Mr. ADDABBO. Mr. Chairman, I rise in support of the amendment offered by my colleague from New York (Mr. WYDLER).

I have been here for 12 years now and I have heard the same argument over and over again. I represent the area of Kennedy Airport. The committee had said 12 years ago that they cannot touch an airport noise because it is outside the Federal Government's jurisdiction. They said it is local. For about 7 or 8 years we have had this question raised, without any action taken on it. We were still being adversely affected by aircraft noise, and then we found that we were able to get through Congress a bill giving the FAA the authority to set noise levels, but all they have done in 3 years is set them on new airplanes. The people living near the Kennedy airport do not have the privilege—they do not have the privilege—of getting a curfew. They have 24 hours a day of continuous noise. An airplane is taking off or landing every 30 seconds of the day, and we are asked that the authority over this matter continue to be given to the FAA to set the noise levels. They have done nothing and they have not implemented the authority that we have given them.

Just recently, very recently, one of the officers of the FAA had the audacity—the audacity, mind you—to say that the airline association would work on that problem. The FAA has been all along and for too long airline oriented. We need a new agency which should be people oriented so that the people of my district do not have to have a drive into Kennedy Airport to try to focus attention on the problem that they live with day in and day out.

Under this bill, if the EPA has the authority, then my people would be able to bring an action, if no relief is given, to get the relief to which they are entitled and to which every person living in and around an airport would be entitled.

The people's health should not be secondary to the economics of the airlines.

I ask for the passage of this amendment so that the people may finally look forward to a good night's sleep in the near future.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Maryland.

Mr. GUDE. The question was raised earlier about violations of the curfew. The violations have been so bad that finally in September of 1971 citizens of Virginia brought suit to ban all jet traffic after 11 p.m. The post-11 p.m. traffic had been going on since April of 1970. The suit which is still pending in court asks that the FAA act immediately to halt the post-11 p.m. jet operations at National and file reports on the environmental impact of the stretch jets. FAA's record of reducing airport noise in the vicinity of National is a miserable one. In the last 12 months there has been a 6 percent increase of operations at National with a half-million more passengers while Friendship operations are down 10 percent with a loss of 200,000 passengers and Dulles operations are down 2 percent handling 20,000 less passengers.

It is high time that we direct FAA to divert this noisy, bothersome traffic to Dulles and Friendship—in particular the Nation's taxpayers are entitled to have better utilization of Dulles in that they footed the bill for its construction.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I think that the emphasis—and I want to echo the remarks of my colleague, the gentleman from Virginia (Mr. SATTERFIELD)—on the intricacies of trying to regulate airport noise involves the fact that you are going to have to regulate glide slope, you are going to have to regulate the approach, you are going to have to regulate the area, the altitude of the airport, the type of plane involved. And all of these factors go into the FAA regulations as to what type of approach you have, as to what type of approach you use on a particular field and at what place in the United States.

Mr. Chairman, the key factor that must be dealt with and with which we must be involved is the factor as to whether or not that plane has enough power to approach safely into a particular field.

The new planes are being changed, but to retrofit all of the old ones, as has been mentioned, will run into several billions of dollars which the airlines do not have. So we simply would move out of the airline traffic in the United States at the present time all of the planes that came in prior to the passage of the statute which this Congress enacted and which has been enforced by the FAA.

Mr. Chairman, to say that they are not moving at all is to ignore the fact that every airport in the United States has a noise factor.

There is also present in many jurisdictions of the United States, including the jurisdiction of several Members who have spoken on this amendment, complaints by local people with regard to the noise patterns of that area. The committee very carefully drafted this bill to say that that situation would be dealt with, and the committee was also very careful to see that FAA answers were being looked at. That is one reason why EPA is mentioned in this bill.

You simply cannot have the EPA, based upon the number of airports in the United States, going to each of those airports and saying, "We are going to have a certain type of engine that can land at Huntington, W. Va., and National Airort and the same kind of approach pattern and have any type of safety factor involved."

Mr. Chairman, the way to handle local noise problems is to handle it in two fashions. One is to let the local jurisdiction determine what the pattern will be and what they will allow in their areas and the second—and this applies directly to the FAA equally—to determine whether or not the noise to the approach pattern is faulty. That type of challenge is being made and met and is one of the reasons why you have at National Airport a very stringent set of standards that are not applicable at Dulles.

Mr. Chairman, those who sit on the committee are very much aware of this. I think the Subcommittee on Public Health has done an excellent job of trying to say, "All right; let us have another agency watch the FAA," but please do not oversimplify what you can do with an airplane in taking off and landing in terms of the safety of the traveling public.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. WYDLER. Well, to repeat, there is no attempt in this amendment to take FAA out of the picture. They will still be in the picture because they are still going to certify the aircraft and issue the regulations.

The thing which would be accomplished by the adoption of my amendment is the fact that we will have EPA involved with FAA so that FAA will start doing something about putting out regulations to reduce jet noise.

It is all right to try to do it with procedures and special rules and this kind of thing, but to get to the source of the noise, the engine, requires some action on the part of the FAA. They refuse to take the necessary action to reduce the noise in the currently flying planes. They are the ones that are driving the people crazy.

Mr. ADAMS. Also, you have the situation of presently flying airplanes which involves about 50 percent or 60 percent of your fleet and you determine, or EPA determines that all of those airplanes do not meet a specific engine standard, how can they meet that engine standard if they are landing at so many feet above sea level, but above that they cannot because they are going to have to apply more power?

Are you going to go to the airlines and to the traveling public, and say you have got one of two choices, either 50 percent of the planes are going to be grounded, or you are going to take a chance when you go in as to the amount of power you will use?

That is why we are saying that the EPA should look at what the FAA does, but not to come in and try and set those standards with the number of aircraft of varying design and the number of airports we have throughout the Nation.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in most of our major cities land use of areas surrounding airports is testimony to the fact that the jet age caught us by surprise. With few exceptions, our major airports are close to, or surrounded by, residential areas.

Prior to the development of modern aircraft, the allotted area for airport space seemed sufficient and noise was not a severe problem. With our modern jets, noise has become a significant environmental problem. The problem is not likely to be solved until Congress properly delegates to the appropriate Federal agencies the responsibility for establishing and enforcing effective, yet realistic, noise controls.

The FAA has been charged with this responsibility, but its willingness to impose meaningful noise control regulations is less than enthusiastic. In my judgment, this authority, or at least some of it, properly belongs to the Environmental Protection Agency. EPA now sets noise emission standards for noise from sources other than aircraft. It has a strong track record as an advocate of environmental causes, and it does not have the same conflict of safety versus sound that is inherent in FAA authority.

As a representative serving an area which includes an international airport, I view the FAA versus EPA question as more than an intramural contest for jurisdictional authority. FAA is charged with establishing safety standards, and while these standards are not necessarily in conflict with noise control measures, the FAA will, and should, always concentrate on its safety responsibility. Yet the aircraft noise problem continues to be a source of great irritation in addition to being an environmental hazard. I believe we can stand up for less noise without sacrificing vital safety considerations. We can give the EPA its appropriate role in noise reduction without vitiating the FAA safety controls.

I ask the support of my fellow Members for the Noise Control Act of 1972 and for the Wydler amendment.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, in answer to the question propounded by the gentleman from Washington (Mr. Adams), I would say this—that under either proposal, the committee proposal or my proposal, the final regulations that would be established would be a cooperative venture. In the committee bill between the Environmental Protection Agency and the FAA, in my bill between the Environmental Protection Agency, the FAA and NASA, who actually is doing most of the work in the noise reduction field, but either way it would be a cooperative effort, and the regulations would take into account all of the technical problems we are raising. And the expertise would be available that we are talking about. There would be no change in that. But EPA would be able to start the rulemaking procedures that FAA neglects. I also want to tell the gentleman, because he does not seem to be aware of, that we can reduce the noise in the current engines that are flying now.

I have in my hand a chart from the National Aeronautics and Space Administration which was submitted to our committee just in the last week during the hearings we are conducting on jet noise in the J3B, the J8B engines, which are the engines in the 707's, the DC–8's and the 727's. That is where the real noise is. These charts show that we can achieve a reduction of more than 50 percent of the noise in those planes of all types, takeoff noise, approach noise, sideline noise. This can be done. We have the technology to do it. What we need is somebody to say, "Let us do it." And apparently after 3½ years of waiting for the FAA to start to do something, I believe the Nation should have some action in this field. If FAA does not intend to do anything about it, then I say that some action should be taken on behalf of the public, not of the airline industry. That is the real safety we are talking about. We are talking about the financial safety of the airlines, and their economic problems, and that is important, but it is also important to give the people who live around these airports a little relief, the relief that we in the Congress of the United States promised them 3½ years ago, and that has not been done to date.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, in response to the gentleman's statement, I would say that I am very familiar with the engines that the gentleman has mentioned, and know the noise suppression devices that would be placed into them, but the factors we are talking about, the major factors will require, as the gentleman from Kentucky (Mr. Carter) pointed out a little earlier, a retrofitting of the entire powerpacks of those planes. And when you retrofit that entire powerpack it means to take that plane and, in effect, rebuild the entire engines, and the craft itself. So the entire industry goes off the line.

As I stated before in my question to you, the FAA is trying to handle it, and with the new aircraft that they are trying to handle it by noise standards, and whatever they can to reduce that noise problem. But I do not think the EPA can, if the gentleman wants to put them in, be prepared to say, "All right, we will put 50 percent of the line out of business, or take the chance on the safety of the flying public."

Mr. WYDLER. If the gentleman will yield further, I am not saying that at all. These proposals, and they are submitted as proposals, can be retrofitted into the present aircraft. It does not mean you have to put planes out of service or out of fleet operation at all, except for the period of time it takes them to be retrofitted. But smoke reduction equipment is a requirement on the airlines today. Just as on the question of smoke emission, you remember that everybody was upset about that, and we required that the airlines do that, to use the smoke emission reduction equipment. They did that and the airlines survived. I did not say that we want the airline industry to come to a complete halt. We do not want to do that.

It will not do that. But I think what we have to decide here—and this is an environmental issue—are we going to protect the people from this horrible problem of noise or are we not? Or are we going to consider only the interests of the industry involved?

Mr. Chairman, I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

I will not take the full time allowed except to say the committee has gone into this subject very thoroughly. It is a very significant action. We did this by requiring the EPA to be consulted by the FAA right at the beginning so they will have the input into what the standards will be. That must be done right at the beginning. Then, if the EPA is not satisfied with a standard, they can require a review of that by the FAA just by asking them. They must respond under the law.

Furthermore, if that is not satisfactory, they can require them to point out in the environmental impact statement how it would affect the EPA proposed standard versus the FAA. They have to tell the various effects.

So we have the pressure on them.

Now the EPA still must come to the FAA on safety. We all know that. We have to be reasonable. So what we have done is to assure the input of the EPA, but we assure the public safety by leaving the final decision to the FAA. That is what ought to be done. This amendment ought to be defeated.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the distinguished chairman.

Mr. STAGGERS. Mr. Chairman, I would just like to say in conclusion, on the question of safety, we debated this issue in this Congress not too long ago and we put $5 billion in back of it.

I say to the Members of this Congress, by letting this amendment go into this bill, there may be thousands of people killed.

Mr. Chairman, this amendment ought to be defeated at this time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Wydler).

The amendment was rejected.

### AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mikva: Page 42, lines 13, 16 and 18, strike out "and sonic boom" wherever it appears in such lines.

Page 47, insert immediately after line 12 the following new subsection:

"(c) It shall be unlawful to operate a civil aircraft within the navigable airspace of the United States at speeds which would produce a sonic boom, thereby creating a measurable or audible overpressure on the surface. For the purpose of this subsection, the term 'navigable airspace' shall have the same meaning given such term by Sec. 101 (24) of the Federal Aviation Act of 1958 (49 USC 1301 (24))."

Mr. MIKVA. Mr. Chairman, on behalf of myself and my distinguished colleague from New York (Mr. Rosenthal) I intend to offer two important amendments to the Noise Control Act. Both amendments are intended to make life a little less painful for people living near major jetports. My new district includes most of the homes surrounding the Nation's busiest and loudest airport, O'Hare Field in Chicago. Congressman Rosenthal's district includes the area around the Nation's fourth busiest airport, La Guardia Airport in Queens.

Our first amendment proposes to prohibit sonic booms over U.S. land by commercial jets. The second would set up a commission to study the idea of imposing a curfew on noisy jet flights into and out of airports in populous areas during normal sleeping hours of the night.

Mr. Chairman, as I said in my statement during the debate, the Noise Control Act is basically a sound bill, and I expect to vote for it. But it needs to be strengthened in several important respects.

This bill's treatment of the sonic boom problem is most depressing. It constitutes a license to operate the supersonic transports in this country.

The FAA already has the authority to set sonic boom standards; that authority is not affected by this bill which merely provides that the Federal Aviation Administrator must "consult" first with the Secretary of Transportation and the EPA Administrator. This is hollow tokenism.

I urge this section be deleted and in its place the House enact a total ban on sonic booms by civil aircraft in U.S. airspace.

We all know what a sonic boom is and what it does. We also agree that it is bad and that we do not want it. The real question is how decisively we are willing to assert ourselves.

H.R. 11021 leaves unacceptable loopholes for squeezing through an ear-shattering supersonic flight.

The FAA, under a proposed rule written when that agency was still vigorously trying to sell the American people and the Congress an SST we did not want, can permit supersonic flights by civil aircraft over any part of the United States if the sonic boom does not reach the ground.* Exceptions are made for research and development flights.

These exceptions give the FAA full authority to go ahead and approve sonic boom-producing flights for such vague reasons as "assisting aircraft development" or "studying sonic boom effects." This is a significant erosion of the Government's original promise to prohibit civilian supersonic flights over the United States.

The FAA has said it opposes any legislative action prohibiting sonic booms.

The FAA has said it feels sonic boom prohibition should be done by FAA regulation rather than by act of Congress.

Why? Because regulations are more flexible than laws. They can be changed more easily.

The United States may be out of the SST business for the time being, but the aviation industry, the current administration, and especially the FAA hope we will be back in before too long. Meanwhile, U.S. airlines may very well be buying and flying foreign-made SST's and certainly the airlines of several friendly nations will.

Concorde, the Anglo-French SST, was designed and built to fly between New York and Europe, especially London and Paris. Both sponsor governments have invested billions of dollars in the project along with their national pride and possibly their political and economic futures. They do not want to see their airplane fail. You can be sure they will be willing to put great pressure on the U.S. Government, both directly and through their friends in the aviation industry, to relax threatening barriers to the Concorde.

Concorde, incidentally, is supernoisy even at subsonic speeds. It is considerably louder on the ground than any other airliner in current use—and we know how noisy those are.

The sonic boom may not be a serious threat to inhabitants of the United States for flights between London and New York where most of the distance is over water.

But what happens when the U.S. airlines, which invested heavily in SST's to meet foreign competition on their international routes, want to put their supersonic planes to work on the lucrative domestic routes, say New York to Los Angeles?

Some conservationists say an SST on such a flight would trail a thunderous boom along a path 50 miles wide and disturb the peace of 20 million Americans. One noise expert contends it could cause heart attacks and hearing impairments for many of those 20 million.

Tests in West Germany, France, and England as well as this country show sonic booms cause structural damage to buildings.

What happens when the airlines want to use their SST's on U.S. domestic routes? Will the FAA, in the interest of promoting aviation, grant them permission under its proposed regulation in the guise of "assisting aircraft development" or "studying sonic boom effects?" Or will the regulation be changed? Will the Government and industry launch a public relations campaign to tell the American people that the boom is a nice thing to have around—"a 20th century sound," as Boeing calls it—a symbol of prosperity and progress for the Nation?

Perhaps it will be explained in terms of preserving and protecting the free enterprise system and the U.S. balance of payments. Or perhaps the ban on the boom will be lifted to meet a stirred-up public demand for domestic SST service, implying the boom must be good because some people want the flights.

This Congress has decided that the SST poses a threat to the environment, among other things. Approval of H.R. 11201, with its gaping loophole for intense noise pollution, would contradict the already expressed will of the Congress and of the American people.

We must amend this bill so that it decisively prohibits all sonic booms produced by civilian aircraft. This is too important to leave to the discretion of others.

Secretary of Transportation Volpe has said supersonic transports would—

> Not be allowed to fly over populated areas unless and until the noise factor comes within *acceptable* limits. [Emphasis added.]

"Acceptable" was never defined.

Who would determine "acceptable limits?" The FAA, which makes the rules and is charged with promoting aviation?

Years of research still have not produced any method of eliminating the sonic boom or even significantly muzzling it. Secretary Volpe is confident:

> If we cannot lick the sonic boom problem in 10 years, I do not know the United States of America.

Many persons are wary of the FAA's promise to protect them from the sonic boom. They fear that some day there will be boom-producing supersonic flights over populated areas even without Secretary Volpe's hoped-for breakthrough. They fear it will begin by allowing the boom "only within acceptable limits" and then subtly redefining what is "acceptable."

The sonic boom is clearly unacceptable.

And it is destructive. Just ask the U.S. Air Force and the 12,000 persons who filed damage claims as a result of sonic boom testing. The Government has paid about a half-million dollars in settlements so far on sonic boom damage claims.

Noise and health authorities have said sonic booms could cause hearing impairments and possibly worse damage for persons in SST flight paths.

Because the sonic boom is unacceptable, the Congress should not give the FAA such broad authority to regulate and possibly permit this threat to the public health and welfare. The Congress should leave no doubt about its abhorrence for the sonic boom.

There must be an absolute ban on sonic booms by civilian aircraft over the United States.

I urge my colleagues to support this amendment to "ban the boom."

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from West Virginia is recognized.

Mr. STAGGERS. I respect the gentleman from Illinois very much in what he is trying to do. I should like to say, first, that we do not have any civil aircraft that will produce a sonic boom at the present time. The gentleman mentioned the Concorde. We do not know whether it will ever be flying to this country or not, and if it does, I am sure it will not be flying across the country.

I might say to the gentleman that the amendment is not necessary because the FAA states now that final sonic boom regulations will be issued by the FAA this year. They are now in the Office of the Secretary of Transportation.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I am happy to yield to the gentleman from Illinois.

Mr. MIKVA. If that is so, what is the objection to my amendment, which simply states that there will be no sonic boom over the land areas of this country? I should like to share the hope that our airlines will never try to fly such aircraft, but suppose they do? In the past the FAA has allowed them, or has issued regulations suggestive of allowing them to do so. My amendment would be a statutory prohibition against sonic booms over the land areas of this country.

Mr. STAGGERS. There are some reasons for leaving the matter where it is. Some of them relate to testing they might need, and there are other things. But I would say to you that they are adopting regulations. They already have them prepared. They are in the Secretary's office. I do not believe the provision ought to be in this bill.

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*FAA Notice of Proposed Rule Making; No. 70-16, issued April 10, 1970, and still pending as of this date.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. MIKVA. Page 47, insert immediately after line 12 the following new subsection:

"(c) (1) There is established the Airport Noise Curfew Commission (hereafter referred to as the 'Commission'). The Commission shall study and make recommendations to the Congress regarding the establishment of curfews on non-military aircraft operations over populated areas of the United States during normal sleeping hours. The Commission shall report its findings and recommendations to the Congress no later than six months after the date of the enactment of this Act, at which time the Commission shall cease to exist.

"(2) The Commission shall be composed of nine members, as follows: four appointed by the Speaker of the House, three appointed by the President Pro Tempore of the Senate, the Administrator of the Environmental Protection Agency and the Administrator of the Federal Aviation Administration. One each of those members appointed by the Speaker of the House and the President Pro Tempore of the Senate, respectively, shall represent the aviation industry; the remaining such members so appointed shall be private citizens not involved in the aviation industry. One of the public members shall be elected chairman. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(3) Except as provided in Paragraph (4), members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

"(4) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

"(5) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(6) Subject to such rules as may be adopted by the Commission, the Chairman may appoint and fix the pay of such personnel as he deems desirable. The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(7) Subject to such rules as may be adopted by the Commission, the Chairman may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"(8) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

"(9) The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

"(10) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

"(11) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

"(12) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(13) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(14) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter which the Commission is empowered to investigate by this subsection. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States."

Mr. MIKVA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I will explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MIKVA. Mr. Chairman, I rise to offer an amendment to H.R. 11021 to take the first step toward solving the problem of aircraft noise pollution. What I propose is a thorough study of the possibilities of establishing curfews on nonmilitary flight operations at the Nation's airports.

My amendment would set up a nine-member Commission consisting of the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration, two representatives of the aviation industry, and five public members. They would report the findings of their investigation and their recommendations to the Congress within 6 months of this act.

This Commission would be a temporary investigative body, not a new governmental agency. It would exist solely for the purpose of informing the Congress and would go out of existence upon submitting its report and recommendations.

A curfew on aircraft operations is a short-term solution to the problem and is not meant to be an alternative to such long-term answers as quieter engines and improved operational procedures. Both approaches are needed; they are complementary.

Mr. Chairman, the problem of excessive noise abuse from jet traffic has dominated citizens' concerns ever since the first jets began swooping and soaring over their homes. The situation has deteriorated for residents as jet traffic has increased to a point of a constant bombardment of noise. Studies amply demonstrating the psychological and physical traumatic effects on people have been made on the debilitating effects of jet noise. The noise impact is 10 times more disturbing during the normal sleeping hours, when it is much more difficult to assimilate sounds, than during the day.

One of the few successful attempts at regulation has been the ban on late evening and predawn jet traffic at Washington National Airport. I strongly urge other airports to follow this example. It is morally, socially, and environmentally necessary.

The community residents near O'Hare Airport like those in other cities, suffer the consequences of decades of neglect of the noise pollution problem. Most of them were there before the jets arrived.

They used to live in comfortable, convenient neighborhoods which, while noiser perhaps than rural areas, nonetheless struck a reasonable balance between city hustle and bustle and suburban quietness. But today, that balance is gone. Now those people come home from their jobs and find themselves beneath an intolerable roar as jetliner after jetliner screeches over their roofs. The night does not bring peace to them because O'Hare and the airlines do not understand or recognize the citizen's right to quiet.

Alleviation of this situation is not terribly difficult. A reasonable solution would be to begin curtailment of all nonmilitary air traffic from scheduling departures and arrivals between 10 p.m. and 7 a.m., the hours normally reserved for sleeping.

The number of passenger flights occurring during those hours is only 11 percent of the total at O'Hare. But this number does not seem small if you happen to live nearby. When added to the cargo flights at those hours, the din of the aircraft becomes almost unbearable. Aircraft noise during the normal sleeping hours has a compounding impact on residents because the noise cannot be assimilated as it is during the day with other noises. One jetliner taking off at midnight has 10 times the effective noise impact of the same plane taking off at noon. Besides, some 491 cargo flights occur during those hours at O'Hare. Added together, sleep is hard to come by for the people who live near O'Hare.

Washington National Airport prohibits scheduled jet commercial traffic between 10 p.m. and 7 a.m. The FAA, which runs National, and the airlines operating out of the airport, have a voluntary agreement on the night flight limitations. The agreement began in 1966 and has worked rather well. Only minor adjustments by the airlines were needed in rescheduling flights to conform. Similar agreements exist in Los Angeles, and Fresno, Calif., and Boise, Idaho, as well London, England, and many major European cities.

The constitutional right of domestic tranquility includes freedom from oppressive noise. Steps must be taken by airport managements, airlines, and public officials, including the Congress, to protect and respect the right and to halt the acoustic abuse heaped mercilessly upon the citizenry.

I urge my colleagues to support this amendment establishing a commission to look into the possibility of imposing a curfew on the late night flights by noisy jets.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment. I hesitate to do this because of my friendship with the gentleman, and I know his sincerity, but I do not believe this is the place, and I do not believe this can be done on a nationwide basis. I believe it would be setting up a useless commission that could not deal with all the airports in America. It would be superfluous. I do not believe it should come in this bill. This is not the proper place for it.

Mr. Chairman, I oppose the amendment.

Mr. WYDLER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would just like to take this moment to make a point on the floor of the House, which I think is important to the future of the airline industry in our country. Recently we have had someing called the CARD Report issued as a national policy for our aviation industry. That report indicated one of the main problems facing the future of civil aviation in our country is the problem of jet noise. That report is correct.

Mr. Chairman, I warn the airline industry that they are going to come up short again if they do not take cognizance of this jet noise problem. For years they thought they could ignore it and economically benefit by ignoring the problem. The result of that has been that in the past decade they have made themselves bad neighbors, and they have not been able to find a jet port site near many urban centers in America. In the last decade nobody has wanted them around. They are hurting economically as a result.

Mr. Chairman, I am going to predict on the floor of the House that unless they act to alleviate this jet noise problem, and start retrofitting programs, they will be sorry again, because the result is going to be a further economic loss to the airline industry. The people will retaliate, as they have a right to do, by curtailing the use of the current jet ports in our country. They will start closing the jet ports down during the night—not just National Airport in Washington, but all major jet ports in America will start to close down. People are going to get—and rightly so—a restriction on the use of the current jet airports which service our major population centers.

At that point the airline industry is going to realize that what it thought was economy by saving this money on the retrofitting of planes and making them quiet, bearable and livable, will be a severe blow to them and civil aviation in our country. I see that coming. I predict it is going to come as surely as we are meeting here today. It has already started. It will not be stopped unless the airline industry makes hard economic decisions to give the people on the ground who suffer from this problem the relief to which they are entitled.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise to inquire about a couple of items in this bill. On page 50, line 10, it is stated:

> Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State.

Do I correctly understand that language means outside the United States, and deals with exports?

Mr. STAGGERS. That is correct.

Mr. GROSS. This is a part of the prohibited acts section of the bill. Am I to understand we are perfectly willing to export to foreign countries products which make such noise that we do not intend to tolerate them in this country?

Mr. STAGGERS. I might say to the gentleman, I believe he understands we had to do this in order to compete, because many countries bring in inferior products and use them. They pay less for them. If we are to compete in any way we have to have ours. They do not have standards. We cannot set standards for any other country in the world. If they are importing these from other countries, we say our people can compete.

Mr. GROSS. The point is that we are perfectly willing to export to foreign countries that which we claim is injurious to humans and which we will not tolerate in this country.

Mr. STAGGERS. That is correct, and that is what we do with all other products I know of.

Mr. GROSS. Then I seriously question how sincere we are here today about abating noise allegedly as an aid to the physical well-being of humans.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Minnesota.

Mr. NELSEN. What we have done in the bill is to require that whatever we manufacture for export must meet the standards of the country to which we make the export. For example, in our automobile situation we find that if they do not have the proper fuel what we put on an automobile would be wasted. There can be many other instances like that.

Mr. GROSS. On page 51, line 3, it is stated:

> A person who does any act in violation of paragraph (1), (2), or (3) of section 10(a), and who establishes that he did not have reason to know in the exercise of due care that such act was in violation of such paragraph, shall not be subject to a civil penalty under subparagraph (A).

What kind of a loophole is being provided here, and for what reason? This is obviously some kind of a loophole.

Mr. STAGGERS. If the gentleman will yield further, I would say that if a person does not know his article violates the regulations we do not think he ought to be punished if he does not know.

Mr. GROSS. I want to turn once more to page 53, and section 12, "Citizen Suits." I am sorry that more of the Members were not here earlier this afternoon to hear the colloquy between the gentleman from Louisiana (Mr. WAGGONNER) and the gentleman from Florida (Mr. ROGERS) on this section. I am still far from convinced that this provision in the bill is not a wide-open invitation to nuisance suits that will be brought against those who may be the least able financially to defend themselves.

Mr. STAGGERS. I might say to the gentleman from Iowa that this is the identical language we had in the air pollution bill.

Mr. GROSS. Yes, and I will say to the gentleman I am getting more mail all the time from people who are adversely affected by the provisions of that bill.

Mr. STAGGERS. They will be, I am sure, and as time goes on the gentleman will get more, because this is one of our great problems of the day, air pollution.

Mr. GROSS. I will say to the gentleman that I am not willing here again today to compound the error that was made in that bill, and the so-called safety legislation. I think that is what will happen under the provisions of section 12, entitled "Citizen Suits." I believe it is an open invitation to nuisance suits that will be brought against a lot of businessmen in this country.

Mr. Chairman, most people seek peace and quiet. I know that I do, but I also know that in this day and age it is utterly impossible to eliminate all noise especially in the areas where there are heavy movements of traffic of all kinds. I also know that the States and municipalities, through the enactment and enforcement of laws and ordinances, can make a far better contribution to the elimination of noise than they have in the past.

This bill calls for the expenditure of $26 million with which to spoon feed a new layer of bureaucrats and I am as convinced as I am that I am standing here that these payrollers will duplicate and overlap the functions of the environmentalists and others who are already spending millions upon millions of dollars.

All this is borrowed money and at a time when the Nation is confronted with a financial crisis. I am willing to endure some noise until I can be assured that the Government and the people of this country can be saved from moral and financial bankruptcy. I will vote against the bill.

Mr. COLLIER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members of the House, I presently and for many years have represented the district which encompasses the busiest airport in the world, O'Hare International. It has operations every 37 seconds. I think I would be remiss if I did not at this time make as a matter of record my comment with regard to the pending amendment of my good friend from Illinois.

This problem of establishing curfews and going to the FAA seeking regulations which provide for relief from the noise problem in the area is nothing new. I served on the Aviation Subcommittee 15 years ago when we were dealing with this very problem. But I think we ought to get one thing straight: We have a curfew at Washington National Airport because Washington National Airport and Dulles are in a totally unique position. They are not municipally operated but instead under control of the Federal Government. O'Hare International Airport is operated by the Chicago Municipal Airport Authority. There would be not one plane going in or out of O'Hare field after 11 o'clock at night if the local airport authority did not approve it. So it is well and good to suggest bringing the complaints to Washington and have the FAA do the job when in reality the responsibility presently exists with the local airport authority.

So let us not beat around the bush here. If we want this job done, I suggest that if you have an interest in providing this relief, you should go to the Chicago Airport Authority, which is an arm of the city administration of Chicago, get relief at the source. They have the power to stop any flights after 11 o'clock if, in fact, we want a curfew. I think that ought to be made eminently clear, and I hope we have done so today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The amendment was rejected.

### AMENDMENT OFFERED BY MR. RYAN

Mr. RYAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RYAN: Page 56, line 23, insert "(a)" immediately after "SEC. 14."; and insert after line 3 on page 58 the following:

"(b) The Administrator may make grants to States and other public entities to develop, establish and conduct programs of noise control, prevention, and abatement, and to establish and conduct demonstration projects to develop and evaluate new techniques, approaches, and methods in the control, prevention, and abatement of noise. The Administrator shall by regulation prescribe the form, content, and manner of submission of applications for grants under this subsection. Payment of grants under this subsection may be made in advance or by way of reimbursement, and in such intervals and on such conditions, as the Administrator finds necessary. There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $10,000,000 for the fiscal year ending June 30, 1974, for grants under this subsection."

Mr. RYAN. Mr. Chairman, this amendment would establish a program of grants to States and local governments in order to develop and conduct programs of noise control and abatement and to establish and carry on demonstration projects to develop and evalulate new techniques and approaches.

Throughout the course of the hearings before the Subcommittee on Public Health and Environment, one theme continued to be stressed: that States and local governments have a significant responsibility in the control, abatement, and prevention of noise.

Recognizing this, the committee bill provides for technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including, but not limited to advice on training of noise control personnel and on the selection and operation of noise abatement equipment, and in the preparation of model State or local legislation for noise control.

Although advice and technical assistance is necessary, it is not sufficient to enable local governments to conduct meaningful noise control programs. What must be added is a comprehensive system of grants which will allow State and public bodies to develop, establish and carry out noise control programs and projects.

Noise control takes money, and there is no getting around the fact that local communities are particularly hard-pressed for funds. Given the significant role that they must play in combating this most serious hazard, I believe that it is imperative that the Federal Government do whatever it can to alleviate the financial burden of States and local governments in dealing with noise pollution.

Perhaps the best illustration of the role Federal financial assistance can play in noise abatement is the example of the crucial role Federal funding has played in the development of New York City's air pollution control program.

Federal funding for State and local air pollution programs is provided under the program grant section of the Clean Air Act in four stages: (1) development grants, usually made for a 2-year period, but may be continued into a third; (2) establishment grants, made for a 3-year period, the first of which may overlap the development grant; (3) improvement grants, also made for 3 years, the first of which is again an extension of the establishment grant; and (4) maintenance grants, to be made annually once the program is fully established.

Before the availability of Federal financial assistance in 1966, the New York City department of air resources had an annual budget of less than $900,000 and a staff of 120. In fiscal year 1966, that department received a 3-year establishment grant of $500,000. This grant enabled the department to create an emission inventory unit to define the names and sources of every significant air pollutant in New York City. This project provided the basis for the advancement of New York City's activities into a management program. Thus, in 1968, when the Department of Air Resources embarked on its implementation of new air pollution control legislation, it was a Federal maintenance grant of $860,000 per year that provided the springboard for a doubling of the total air pollution control budget from $2 to $4 million and thereby an escalation of the city's efforts to combat air pollution.

During the past 3 years, the Department of Air Resources has received $2.7 million in Federal maintenance assistance. In fiscal 1969, this maintenance support represented 25 percent of its $4.1 million budget, and in 1970 28 percent of $4.4 million. In 1971, this figure increased to about 35 percent of a total budget of $5.1 million.

According to the administrator of New York City's Environmental Protection Agency, Jerome Kretchmer, Federal funds paid the salaries of 36 percent of New York's inspection and field staff, greatly increasing its ability to serve summonses to violators of New York's air pollution code.

Federal assistance has also permitted the existence of additional high level technical positions. In 1968, when the New York City Department of Air Resources initiated a 10-station automatic air monitoring system to complement preexisting manual stations and permit a continuous definition of the air pollution problem in New York City, it was Federal funding which made possible much of the required technical work in design and installation. Since then, it has been in large part the Federal contribution which permits the maintenance and servicing of New York City's aerometric system, including the compilation of data for the daily air quality report.

Not only would such financial assistance enable States and localities to undertake programs which otherwise may remain unimplemented, but a grant program would serve also as incentive for greater local initiative in the area of noise control.

There are those who, although they favor the concept of grants, would suggest that we wait a few years before endeavoring such an undertaking. Although I can understand their concern, noise and its dangers are growing at such an alarming rate that we simply cannot afford the luxury of a wait-and-see approach. Urban noise has doubled since 1955 and is expected to double again by 1980. And evidence presented at the June 1971 meeting of the International Standardization Organization in Geneva, Switzerland, indicated that if this trend continues, every urban dweller will be deaf by the turn of the century.

Quite clearly, the time to act is now.

The idea of grants to aid States and localities in combating noise pollution is not new. In the 91st Congress, I introduced legislation to establish such a program. Much of the reason that affirmative action was not taken on this legislation was that the Congress was in the process of mandating an Office of Noise Abatement and Control within the Environmental Protection Agency with the task of preparing a comprehensive study on noise. It was felt that we should wait until the report was completed before embarking on a major grant program.

That report is now complete. It was submitted to the Congress on December 31, 1971. And it underscores why such a grant program is essential. In the section entitled "Specifics of a Program for the Future," the report stated that:

> Local and State governments have the primary responsibilities . . . for the actions necessary to provide a quieter environment.

In the case of noise control, the future is now. We cannot afford to allow this problem to continue unabated. And if we are to come to grips with this problem, it means that we must supply all possible assistance to those with the primary responsibility for making this a more quiet and tranquil world.

My amendment would authorize the Administrator to make grants to States and other public entities to develop, establish, and conduct programs of noise control, prevention, and abatement, and to establish and conduct demonstration projects to develop and evaluate new techniques, approaches, and methods in the control, prevention, and abatement of noise. And it would authorize to be appropriated $5,000,000 for fiscal year

1973, and $10,000,000 for fiscal year 1974, for this purpose.

I urge the adoption of this amendment.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take the full 5 minutes. I shall take but a moment because in my opinion the amendment is premature.

We are proposing to start a program of investigating and making research and then setting standards for the Nation and for the manufacturing of products.

Certainly, we do not want to put into this bill anything to tell the States that they can start saying that they are going into noise abatement control and other things.

What we are doing is simply making a start at the manufacturing end, that the new products which they manufacture in transportation, and so forth, will meet the standards established under the provisions of this bill.

We hope we can keep it in that simple fashion at the present time. Certainly, after a year or two, if this needs to be carried further, we can do it then.

So, Mr. Chairman, I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RYAN).

The amendment was rejected.

### AMENDMENT OFFERED BY MR. COLLIER

Mr. COLLIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLIER: Page 47, insert after line 12 the following:

"(c) (1) For the purpose of assuring that the public has adequate notice of and opportunity to present its views respecting the construction of a public airport or the construction or extension of a runway for such an airport, which has the effect of increasing noise levels in any community—

"(A) paragraph (1) of section 16(d) of the Airport and Airway Development Act of 1970 is amended by inserting '(A)' after 'certifies to the Secretary' and by inserting before the period at the end of such paragraph the following: '; and (B) that the public agency sponsoring such project published notice of each such public hearing not more than thirty days and not less than fifteen days before such hearing in a newspaper of general circulation in each community affected by such project, and further that the public agency sponsoring such project notify by registered mail the mayor or president of the towns, cities or villages contiguous to such airport of any proposed construction not less than sixty days before bebeginning any such construction as provided by regulations of the Secretary'; and

"(B) section 308 of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new subsection:

"'PUBLIC HEARINGS

"'(c) No public airport (as defined in section 1(12) of the Airport and Airway Development Act of 1970) may be constructed and no runway for such an airport may be constructed or extended unless, prior to the commencement of such construction or extension, there has been afforded the public notice and an opportunity for the public hearings described in section 16(d)(1) of such Act.'

"(2) The table of contents of the Federal Aviation Act of 1958 is amended by inserting immediately above the item relating to section 309 the following:

"'(c) Public hearings.'"

Mr. COLLIER. Mr. Chairman, as is probably obvious from my previous remarks, I have had to wrestle with the problem of air jet noise as it affects the average citizen perhaps more over the years than any other Member of this body. I realize, however, that many of my colleagues with districts adjacent to busy commercial airports can appreciate the deep concern and the aggravation of their residents in this regard.

I am not seeking to make any major changes, and in fact I laud the committee for what I think is a sound and sensible approach to this problem, but I do think that my amendment would accomplish one thing: I think that, if nothing else, the residents in an area adjacent to an airport should be apprised of any construction that is likely to increase the impact of noise upon their everyday lives.

What my amendment does is to say that where any commercial airport installation engages in an expansion, an extension of runways, or anything that would basically change the impact of the noise on the people in the area, they should at least be entitled to advance notice that this construction is going to be taking place, through a public hearing where they would at least have their day in court.

This becomes essential because we have on two different occasions experienced situations in my area where construction was commenced with no knowledge on the part of the local officials, no knowledge on the part of the people living in the area. They subsequently engaged in litigation seeking to get an injunction, but they failed.

So this merely says that where an airport installation does expand, where they make changes, then have them give advance notice, 30 days before they commence work, and to notify the local officials so the people can at least come in, find out what is going to happen to them, and have their say in public hearings. That is all it does.

I hope that this body would see my amendment as a sensible amendment, and one that they could support. Thank you.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will say to the gentleman from Illinois, I respect his proposal very much. I enjoyed serving on the House Committee on Interstate and Foreign Commerce with him for a longer period of time. The gentleman was a very valuable and hardworking member of the committee. I know he does know the problems of these airports. He does an outstanding job for his constituents whom he is trying to protect.

But I would say, Mr. Chairman, that this is a noise control bill. I believe the proper place for this amendment is when we take up the airport construction bill again. This is an airport construction matter. So far as I know, in my part of the country, everybody is advised when a new airport is to start. I can recall one instance in which they notified all the people and the courthouse was filled. There was so much opposition at that time to an airport being constructed at a certain place that the FAA gave it up and said that they would not construct it there and that they would have to select a better place.

Well, when they came up with another place, another hearing was held in the courthouse and everybody had their say. There were a few who were opposed to it there, but the majority were for it.

Now I would say to the gentleman from Illinois that this committee when we have any other airport bill, certainly I would be very willing to put the gentleman's amendment on such a bill.

I do not think it should be put on this bill. I would be willing to say to him that this committee would give to the FAA now notice that this should be done until such time as we could put it in the proper bill and in the proper perspective.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. COLLIER. Mr. Chairman, first let me say that my amendment does not direct itself to the construction of new airports. This is for reasons I am sure the gentleman and I could not only understand but agree on. So the instance the gentleman mentions would not be related to what this amendment is directed to, and that is to the expansion of an existing facility.

Secondly, if the distinguished chairman for whom I have great respect, would notify me at the time the airport act is up for amendment, I would certainly yield to his wisdom by withdrawing this amendment and offering it at that time, because I do think public hearings under the circumstances generally prevail where there is an expansion of airport activity. That is the right of the people who live in that area.

Mr. STAGGERS. I can assure the gentleman that when the bill comes up that he would be notified and I will certainly be in favor of his amendment to that bill.

Mr. COLLIER. I thank the gentleman and will ask to withdraw my amendment.

Mr. Chairman, I respectfully ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

### AMENDMENT OFFERED BY MR. RYAN

Mr. RYAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RYAN: Page 63, insert after line 11, the following:

"OFFICE OF NOISE ABATEMENT AND CONTROL

"SEC. 17. In carrying out his functions under this Act, the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control established under section 402(a) of the Clean Air Act."

Page 31, in the table of contents, insert after the item relating to section 16 the following new item:

"Sec. 17. Office of Noise Abatement and Control."

The CHAIRMAN. The gentleman from New York (Mr. RYAN) is recognized in support of his amendment.

Mr. RYAN. Mr. Chairman, I have long believed that it is essential that there be a focal point for the Federal Government's noise pollution program. Proliferating responsibilities throughout a vast Government bureaucracy almost inherently results in diminished focus—both in terms of the Government's ability to meet the problem and in terms of the public's ability to perceive the focus for its concerns, inquiries, and demands for action.

It was on the basis of this concept that Congress established the Office of Noise Abatement and Control by passage of the Clean Air Act Amendments of 1970—Public Law 91-604.

I believe that it is imperative that the Congress make clear its continuing desire that this Office be both maintained and strengthened as the core of the Federal assault on noise.

This should not be necessary, for one would be inclined to think the administration would undertake this action as a matter of course. But the history of this administration in regard to the Office of Noise Abatement and Control demonstrates its inclination to do quite the contrary.

Perhaps the most telling sign of this attitude is that the legislation introduced on behalf of the administration—H.R. 5275—would have specifically deleted the language in the Clean Air Act which directed the establishment of this office. Admittedly, one is hard-pressed to find this on a superficial reading of the bill, for the section—section 15 of H.R. 5275—which would have completely overturned the expressed will of Congress, was misleadingly entitled "Report of Noise Study." But this section, nonetheless, would have disregarded Congress mandate and eliminated the Office of Noise Abatement and Control.

I know that this matter was of great concern to the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. Rogers) and that he requested a positive statement from the administration that the office would be retained and utilized. Yet, Robert W. Fri, Deputy Administrator of the Environmental Protection Agency, in testifying at the subcommittee hearings on behalf of the administration, refused to state positively for the Record that under the administration's plans the Office of Noise Abatement and Control would continue to be a functioning reality.

The possibility that this Office would be abolished cannot be countenanced.

Commendably, the committee bill does not include the administration provision dismembering the Office. But neither does the bill direct the continued utilization of this Office as the heart of the Goverment's noise prevention, abatement and control program. And I fear that, now that the Office has completed those tasks mandated by title IV of the Clean Air Act Amendments of 1970, it will soon succumb to a silent death in the absence of further legislative history to the contrary.

I am sure that the committee does not intend to allow the Office of Noise Abatement and Control to fade away. Therefore, in order to clarify the situation and make clear the intent of Congress, I have proposed this amendment which provides that in carrying out his functions and responsibilities under the act, the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control.

The continuation and involvement of the Office of Noise Abatement and Control will not restrict the latitude of the Administrator in drawing upon the full resources of the Environmental Protection Agency in his efforts to combat the hazards of excessive and injurious noise.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I am happy to yield to the distinguished gentleman from West Virginia.

Mr. STAGGERS. The Clean Air Amendments of 1970 established an Office of Noise Abatement and Control. That office is still in operation. In fact, it does not matter what Mr. Fri said. The EPA cannot abolish the office since its creation was by statute. Therefore, the amendment is completely unnecessary.

Mr. RYAN. Mr. Chairman, in view of the statement of the distinguished chairman that the amendment is not necessary and in view of his assurance that the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control, the legislative history is absolutely clear. The amendment would now be superfluous. Therefore, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

### AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Biaggi: On page 47 following line 12 insert:
>
> (3) (1) Beginning on the expiration of the three-year period beginning on the date of enactment of this Act, it shall be unlawful for any air carrier to operate an aircraft in air transportation which has not had a noise-suppression device installed.
>
> (3) (2) Whoever violates the provisions of subsection (1) of this section shall be subject to a civil penalty of not to exceed $10,000. If such violation is a continuing violation, each day of such violation shall constitute a separate offense.

Mr. BIAGGI. Mr. Chairman, I rise to propose an amendment to require the installation of noise suppression devices on jet aircraft.

The provisions in this bill are too weak. They are designed solely to give the industry the time to retire all aircraft with excessively noisy engines. In the meantime, the people who live in the vicinity of airports and under flight path approaches to airports will continue to suffer near unbearable levels of noise.

Congress passed the Noise Abatement Control Act in 1968 authorizing the FAA to set noise limits and require the installation of jet noise suppressors on existing aircraft. In November of 1970—almost 2 years after receiving the authority—the FAA issued an announcement of proposed rulemaking to require installation of noise suppression devices on existing jets.

At the time, I lauded this action as a definite step forward in reducing noise pollution in metropolitan areas such as New York. Had the FAA continued on its plan of action at that time, a rule could have been formulated by now and citizens could have looked forward to less noise in a few years.

But no, the FAA buckled down under the pressure of the airlines industry and in the spring of this year announced an 18-month delay in the rulemaking procedure. I can only presume that this Agency intends to wait until such a rule is no longer needed.

The present bill would only grant authority once again to reduce jet noise—authority already granted in the 1968 bill. What we must set up is a deadline for the installation of jet noise suppressors. This is clearly necessary after almost 4 years of delay and procrastination by the FAA. My amendment would establish a 3-year deadline from the date of enactment.

Earlier this year Congress authorized $2.5 billion in loans to bail out corporations supposedly operating in the national interest. All it did was bail out the directors of these corporations and preserve annual dividends for the wealthy stockholders. My amendment would mean a little peace and quiet for Americans living near LaGuardia, JFK, as well as other jet airports throughout the Nation.

Mr. STAGGERS. Mr. Chairman, I rise to oppose the amendment. I do so very reluctantly because of my affection for the gentleman from New York. He is one of the finest gentleman in this House. The record which he has made is outstanding.

If we could do it and do it in a way that would be effective, we would certainly accept the amendment, but I believe I have to oppose it on the same ground on which we opposed the other amendments. It belongs in an airport safety bill. Also, if we put a noise abatement device on a plane, we may affect safety, and we have to give consideration first, certainly, to the safety of the traveling public. For that reason, I believe the amendment should be defeated. I hope the gentleman will bring this matter up at some time when we have an airport bill before the House, and at that time we can take care of it.

Mr. Chairman, I feel the Committee on Interstate and Foreign Commerce did an outstanding job in bringing this legislation to the House. I want to thank all members for the work they did on this bill and I want to thank the staff as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Biaggi).

The amendment was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. Bennett, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes, pursuant to House Resolution 828, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. NELSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 356, nays 32, not voting 43, as follows:

[Roll No. 55]

YEAS—356

Abernethy
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Annunzio
Archer
Ashley
Aspin
Aspinall
Badillo
Baker
Barrett
Begich
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Bingham
Blackburn
Blanton
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Camp
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clawson, Del
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Flood
Flowers
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Haley
Halpern
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hosmer
Howard
Hungate
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Keating
Kee
Keith
Kemp
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Lennon
Lent
Link
Lloyd
Long, Md.
Lujan
McClory
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Madden
Mahon
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Poff
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roush
Roy
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Saylor
Scherle
Scheuer
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—32

Abbitt
Burleson, Tex.
Cabell
Colmer
Crane
Daniel, Va.
Dowdy
Fisher
Flynt
Griffin
Gross
Hagan
Hall
Hammerschmidt
Henderson
Hull
Ichord
Jonas
Landrum
Long, La.
Mathis, Ga.
Michel
Nichols
Passman
Rarick
Rousselot
Satterfield
Schmitz
Stephens
Teague, Tex.
Waggonner
Whitten

NOT VOTING—43

Anderson, Calif.
Ashbrook
Baring
Belcher
Blatnik
Caffery
Carey, N.Y.
Clausen, Don H.
Clay
Denholm
Dennis
Dorn
Dwyer
Edwards, La.
Anderson, Tenn.
Fish
Foley
Galifianakis
Grasso
Hastings
Hébert
Hillis
Karth
Kyl
Landgrebe
Leggett
McCloskey
Macdonald, Mass.
Andrews
Arends
Mills, Md.
Myers
O'Neill
Podell
Pryor, Ark.
Rhodes
Rostenkowski
Roybal
Smith, Calif.
Stubblefield
Tiernan
Vanik
Wright

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Rhodes.

Mr. Anderson of California with Mr. Smith of California.

Mr. Carey of New York with Mr. Andrews.

Mr. O'Neill with Mr. Arends.

Mr. Clay with Mr. Podell.

Mr. Hébert with Mr. Myers.

Mr. Blatnik with Mr. Don H. Clausen.

Mr. Foley wtih Mr. Kyle.

Mrs. Grasso with Mrs. Dwyer.

Mr. Macdonald of Massachusetts with Mr. Hastings.

Mr. Pryor of Arkansas with Mr. Belcher.

Mr. Tiernan with Mr. Fish.

Mr. Stubblefield with Mr. Ashbrook.

Mr. Vanik with Mr. Landgrebe.

Mr. Galifianakis with Mr. McCloskey.

Mr. Caffery with Mr. Dennis.

Mr. Baring with Mr. Mills of Maryland.

Mr. Karth with Mr. Hillis.

Mr. Anderson of Tennessee with Mr. Denholm.

Mr. Dorn with Mr. Wright.

Mr. Roybal with Mr. Leggett.

Mr. LONG of Louisiana changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## PERSONAL ANNOUNCEMENT

Mr. TIERNAN. Mr. Speaker, I ask to insert in the RECORD at this point an explanation for the fact that I missed the vote that has just been taken. I was called off the floor for consultation with another Member with regard to a matter affecting the House.

The SPEAKER. The gentleman's statement will appear in the RECORD.

## FIRST BIENNIAL REPORT ON NATIONAL GROWTH—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking and Currency:

*To the Congress of the United States:*

I am pleased to present the first biennial Report on National Growth as required by Section 703(a) of the Housing and Urban Development Act of 1970.

This report was developed by the members and staff of the Domestic Council Committee on National Growth, under the Chairmanship of George Romney, Secretary of Housing and Urban Development. Their efforts are deeply appreciated.

RICHARD NIXON.

THE WHITE HOUSE, *February 29, 1972.*

## APPOINTMENT AS MEMBERS OF SPECIAL COMMITTEE TO INVESTIGATE CAMPAIGN EXPENDITURES

The SPEAKER. Pursuant to the provisions of House Resolution 819, 92d Congress, the Chair appoints as members of the Special Committee To Investigate Campaign Expenditures the following Members of the House: Mr. O'Neill, Massachusetts, chairman; Mr. Smith of Iowa; Mr. Leggett, of California; Mr. Devine, of Ohio; and Mr. Harvey, of Michigan.

## PEOPLE AGAINST ANDERSON

(Mr. WIGGINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WIGGINS. Mr. Speaker, last week the California Supreme Court decided the case of People against Anderson, which held that the death penalty imposed in that case was contrary to the California constitutional prohibition against "cruel or unusual punishment." Believing this case to be of interest to all Members, I ask unanimous consent to insert the full text of the opinion at this point in the Record.

[In the Supreme Court of the State of California, in Bank, Crim. 13617 (Superior Ct. No. CR 8039)]

The People, Plaintiff and Respondent, v. Robert Page Anderson, Defendant and Appellant

A jury found Robert Page Anderson guilty of first degree murder, the attempted murder of three men, and first degree robbery, and fixed the penalty at death for the murder. The judgment was affirmed. (People v. Anderson (1966) 64 Cal..2d 633.) Thereafter the remittitur was recalled and the judgment was reversed insofar as it related to the death penalty under the compulsion of Witherspoon v. Illinois (1968) 391 U.S. 510. (In re Anderson (1968) 69 Cal.2d 613.)

A second trial was had on the issue of the penalty for the murder, and the jury again imposed the death penalty. A motion for a new trial was denied, and this appeal is now before us automatically under subdivision (b) of Penal Code section 1239. See dissenting opinion.

Defendant contends that error was committed in selecting the jury, that certain evidence was improperly admitted, that the prosecutor was guilty of prejudicial misconduct, and that the death penalty constitutes both cruel and unusual punishment and, as such, contravenes the Eighth Amendment to the United States Constitution and article I, section 6, of the Constitution of California. We have concluded that capital punishment is both cruel and unusual as those terms are defined under article I, section 6, of the California Constitution, and that therefore death may not be exacted as punishment for crime in this state. Because we have determined that the California Constitution does not permit the continued application of capital punishment, we need not consider whether capital punishment may also be proscribed by the Eighth Amendment to the United States Constitution.[1]

### THE CALIFORNIA CONSTITUTION

Before undertaking to examine the constitutionality of capital punishment in light of contemporary standards, it is instructive to note that article I, section 6, of the California Constitution,[2] unlike the Eighth Amendment to the United States Constitution,[3] prohibits the infliction of cruel or unusual punishments. Thus, the California Constitution prohibits imposition of the death penalty if, judged by contemporary standards, it is either cruel or has become an unusual punishment.

Some commentators have suggested that the reach of the Eighth Amendment and that of article I, section 6, are coextensive, and that the use of the disjunctive form in the latter is insignificant.[4] Our review of the history of the California provision persuades us, however, that the delegates to the Constitutional Convention of 1849, who first adopted the section which was later incorporated into the Constitution of 1879, were aware of the significance of the disjunctive form and that its use was purposeful.

The California prohibition of cruel or unusual punishment first appeared as part of the "Declaration of Rights" proposed by the Select Committee of the Constitutional Convention as article I of the Constitution to be drafted by the House of Delegates. When proposed on September 7, 1849, section V of article I declared: "Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel *and* unusual punishments be inflicted, nor shall witnesses be unreasonably detained."[5] (Italics added.) But for the addition of the "witness" clause, the proposed section was identical to the Eighth Amendment to the United States Constitution. The delegates were advised when the Declaration of Rights was first proposed that the first eight sections had been taken from the Constitution of New York and that all others were from the Constitution of Iowa.[6] On September 8, 1849, the convention resolved into a committee of the whole and adopted the fifth section without debate. Nor was there any debate on the section during the following month. On October 10, 1849, however, when the House of Delegates adopted the section it specified that cruel *or* unusual punishments were prohibited. The reporter of the debates stated only that "Article I of the constitution on the 'Declaration of Rights,' was taken up, read the third time, a few verbal errors corrected, and then passed."[7]

Article I, section 5, of the 1846 Constitution of New York, the first New York Constitution to include such a prohibition, proscribed cruel *and* unusual punishments.[8] The 1846 Iowa Constitution, after which many of the sections of the proposed Declaration of Rights were patterned, also proscribed cruel *and* unusual punishments.[9] Thus, it is apparent that the delegates did not make the change in order to correct a "verbal error" in transcribing the provision from the New York original, nor was it an attempt to conform it to the Iowa Constitution.

Although the delegates to the convention were limited in their access to models upon which to base the proposed California Constitution at the commencement of their deliberations,[10] by the end of the convention they had access to the constitutions of every state.[11]

At least 20 state constitutions were mentioned by delegates during the debates.[12] The majority of those which included declarations of rights or equivalent provisions differed from the New York, Iowa, and United States Constitutions and did not proscribe cruel *and* unusual punishments. Rather, they prohibited "cruel punishments,"[13] or "cruel or unusual punishments."[14] Several had provisions requiring that punishment be proportioned to the offense[15] and some had dual provisions prohibiting cruel and/or unusual punishments and disproportionate punishments.[16]

The fact that the majority of constitutional models to which the delegates had access prohibited cruel or unusual punishment, and that many of these models reflected a concern on the part of their drafters not only that cruel punishments be prohibited, but that disproportionate and unusual punishments also be independently proscribed, persuades us that the delegates modified the California provision before adoption to substitute the disjunctive "or" for the conjunctive "and" in order to establish their intent that both cruel punishments and unusual punishments[17] be outlawed in this state.[18] In reaching this conclusion we are mindful also of the well established rules governing judicial construction of constitutional provisions. We may not presume, as respondent would have us do, that the framers of the California Constitution chose the disjunctive form "haphazardly," nor may we assume that they intended that it be accorded any but its ordinary meaning. (Los Angeles Met. Transit Authority v. Public Util. Com. (1963) 59 Cal. 2d 863, 869; Lockhart v. Wolden (1941) 17 Cal. 2d 628, 631.)

The same rules of construction require that wherever possible we construe constitutional provisions in such a way as to reconcile potential conflict among provisions and give effect to each. (People v. Western Air Lines, Inc. (1954) 42 Cal.2d 621, 637). It has been suggested that we are therefore restrained from considering whether capital punishment is proscribed by article I, section 6, since the death penalty is expressly or impliedly recognized in several other provisions of the California Constitution.[19] We perceive no possible conflict or repugnance between those provisions and the cruel or unusual punishment clause of article I, section 6, however, for none of the incidental references to the death penalty purport to give its existence constitutional stature. They do no more than recognize its existence at the time of their adoption. Thus, the bail clause of article I, section 6, restricts the right to bail in capital cases; the due process clause of article I, section 13, ensures that life will not be taken without due process; and section 8 of article I allows felony defendants represented by counsel to plead guilty at an arraignment before a magistrate only in noncapital cases. Similarly, section 8 of article V gives the Governor power to reprieve and section 11 of article VI vests this court with appellate jurisdiction in cases in which the death penalty has been imposed. None of these provisions can be construed as an affirmative exemption of capital punishment from the compass of the cruel or unusual punishment clause of article I, section 6.

The provisions of sections 6 and 13 of article I which recognize the existence of capital punishment were carried over into the Constitution of 1879 from the Constitution of 1849. Section 8 of article I was added in 1879 in a modification which discarded the former requirement that the prosecution in capital and other infamous crimes proceed by indictment and permitted instead the use of an information.

The Governor's power to reprieve also originated in the 1849 Constitution as section 13 of article V. It became part of section 1 of article VII of the 1879 Constitution, and, in 1966 was incorporated into the present section 8 of article V. This court was given appellate jurisdiction of all felonies by the Constitution of 1849, and by the Constitution of 1879 as originally adopted, but in 1904 an amendment to section 4 of article VI transferred direct appellate jurisdiction in criminal cases other than those in which the death penalty had been imposed to the Courts of Appeal. The 1966 constitutional revisions shifted the amended provisions to the present section 11 of article VI. These 1966 constitutional revisions did not ratify the death penalty as a permissible means of punishment not governed by the cruel or unusual punishment clause of article I, section 6, for the revisions were merely part of a plan to modernize the Constitution of

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1879. They did no more than shift from one section to another provision recognizing the continued existence of the death penalty in the grant of powers to the judiciary and the executive department. Nothing in the legislative counsel's analysis, in the arguments for and against the revisions, or in the Secretary of State's official description of the ballot measure suggested to the voter that approval of Proposition 1-A in the election of November 8, 1966, would affirm the continuance of capital punishment.[20]

To interpret the adoption of Proposition 1-A or the presence in other provisions of the Constitution of references to capital punishment as intended to bar future judicial consideration of the possible cruel or unusual nature of capital punishment would violate the most elementary rules of constitutional construction. "We do not . . . approve of that principle of constitutional construction, which seeks by vague surmises, or even probable conjecture, or general speculation of a policy not distinctly expressed, to control the express language of the instrument; since such a mode would not unfrequently change the instrument from what its framers made it, into what the Judges think it should have been." (People v. Weller (1858) 11 Cal. 77, 86.) The Constitution expressly proscribes cruel or unusual punishments. It would be mere speculation and conjecture to ascribe to the framers an intent to exempt capital punishment from the compass of that provision solely because at a time when the death penalty was commonly accepted they provided elsewhere in the Constitution for special safeguards in its application.

### THE JUDICIAL FUNCTION

Having determined that under the California Constitution capital punishment is prohibited if it is either a cruel or an unusual punishment, and that no constitutional impediment exists to restrain our examination of the death penalty in light of contemporary standards, we must also define the role of the courts in giving effect to the cruel or unusual punishments clause of article I, section 6.

Our duty to confront and resolve constitutional questions, regardless of their difficulty or magnitude, is at the very core of our judicial responsibility. It is a mandate of the most imperative nature. Called upon to decide whether the death penalty constitutes cruel or unusual punishment under the Constitution of this state, we face not merely a crucial and vexing issue but an awesome problem involving the lives of 104 persons under sentence of death in California, some for as long as 8 years. There can be no final disposition of the judicial proceedings in these cases unless and until this court has decided the state constitutional question, a question which cannot be avoided by deferring to any other court or to any other branch of government.

The cruel or unusual punishment clause of the California Constitution, like other provisions of the Declaration of Rights, operates to restrain legislative and executive action and to protect fundamental individual and minority rights against encroachment by the majority. It is the function of the court to examine legislative acts in light of such constitutional mandates to ensure that the promise of the Declaration of Rights is a reality to the individual. (Bixby v. Pierno (1971) 4 Cal. 3d 130, 141.) Were it otherwise, the Legislature would ever be the sole judge of the permissible means and extent of punishment and article I, section 6, of the Constitution would be superfluous.

Speaking of the Eighth Amendment to the United States Constitution, the United States Supreme Court declared: "While the State has the power to punish, the Amendment stands to assure that this right be exercised within the limits of civilized standards." (Trop v. Dulles (1968) 356 U.S. 86, 100.) The cruel or unusual punishment provision of the California Constitution serves an identical purpose. The Legislature is thus accorded the broadest discretion possible in enacting penal statutes and in specifying punishment for crime, but the final judgment as to whether the punishment it decrees exceeds constitutional limits is a judicial function. (Weems v. United States (1910) 217 U.S. 349, 379.)

Repondent, while conceding the power and responsibility of the court to review penal statutes in light of article I, section 6, urges that we must accept as controlling indicia of contemporary civilized standards of decency both legislative acts creating new capital crimes and legislative acquiescence in the continuation of capital punishment. Although we accord great deference to the judgment of the Legislature in this respect, we would abdicate our responsibility to examine independently the question were our inquiry to begin and end with the fact that statutory provisions authorizing imposition of the death penalty have been recently enacted or continue to exist. (People v. Lynch (1875) 51 Cal. 15, 25–26.)

### THE PRIOR CALIFORNIA DECISIONS

Although we have often considered challenges to the constitutionality of capital punishment, we have heretofore approached the question in the Eighth Amendment context of "cruel and unusual" punishment, using that term interchangeably with the "cruel or unusual" language of article I, section 6, of the California Constitution,[21] and have never independently tested the death penalty against the disjunctive requirements of the latter. As a consequence of this emphasis on the Eighth Amendment approach the majority of our prior opinions have focused on justifications for continuation of the death penalty which were then believed to exempt it from the federal constitutional prohibition of cruel and unusual punishment without regard to whether it was cruel. This disregard of the cruelty question is understandable when it is realized that at times article I, section 6. was drafted in 1849,[22] and when it was readopted in 1879,[23] capital punishment was not considered so cruel as to warrant proscription, and was a widely accepted, customary punishment in the fledging state. Hanging had been a popular form of vigilante justice,[24] and even after the new state instituted a judicial and penal system, public executions continued.[25] Thus, at the time of our earliest decisions upholding capital punishment, a substantial proportion of California's residents had witnessed executions. It was not a remote or abstract concept, and the question as to whether capital punishment might violate standards of decency then accepted or shock the conscience of the people of that time did not often arise. When it did, the question could be summarily disposed of by a court which then understandably assumed that capital punishment was not so cruel as to be proscribed by the state or federal Constitutions. Since the cruelty of capital punishment was not then a substantial issue, any doubts as to the constitutionality of the death penalty were resolved by resorting to its continuing and usual acceptance. The emphasis of our prior opinions was thus placed on the common or usual rather than the "cruel" aspect of the punishment.

One J. W. Finley appears to have been the first defendant to challenge the death penalty in California on grounds that it violated article I, section 6 of the California Constitution. A life prisoner at Folsom, he had committed a malicious assault on another prisoner, an offense punishable by death. While awaiting trial he challenged the then applicable Penal Code section (Pen. Code, § 246; now Pen. Code, § 4500) on constitutional grounds. The Court of Appeal rejected his challenge, answering its own question "Is the punishment cruel or unusual," by justifying it as among the "severe penalties . . . necessary to deter men from defying law and daring the consequences." (In re Finley (1905) 1 Cal. App. 198, 201.) The *Finley* court adopted an "excessive" or "disproportionate" test by which to judge whether a punishment was "unusual" and concluded that "only when the punishment is out of all proportion to the offense, and is beyond question an *extraordinary penalty* for a crime of *ordinary gravity committed under ordinary circumstances*, that courts may denounce it as *unusual*." (1 Cal. App. 198, 202; italics in original.) The court, perhaps mindful of our decision in Ex Parte Mitchell, supra, 70 Cal. 1, in which we had used the disjunctive language of article I, section 6, did purport to separately consider whether the penalty was "cruel," but instead of examining that question independently, assumed that the death penalty could not be "cruel *per se*, for the whole current of law for centuries justifies the infliction." (*Ibid.*) Thus, California adopted the cruel *and* unusual punishment approach which has been followed by the United States Supreme Court, of finding justification for capital punishment in its deterrent effect, and weighing only whether it was an excessive or unusual punishment, without independent consideration of whether it is cruel.

When Finley appealed to this court after his conviction, he did not claim that the death penalty constituted cruel or unusual punishment. Instead, he challenged the imposition of the death penalty for malicious assault on equal protection grounds, claiming that there was no justification for imposing such a severe penalty on life prisoners when others who committed the same offense were treated more leniently. We rejected the equal protection claim on the dual ground that the distinction was reasonable because it was necessary to have a more severe punishment to deter life prisoners, and because since they were already serving life terms no greater punishment could be imposed except death. (People v. Finley (1908) 153 Cal. 59.)

Although Finley did not directly challenge the death penalty in this court on cruel and unusual punishment grounds, the approaches to its constitutionality taken by the Court of Appeal in the first *Finley* case and by this court in the second *Finley* case became firmly established in California law in 1909 when we rejected a second challenge to the infliction of the death penalty for aggravated assault by a life prisoner. Jacob Oppenheimer, a life prisoner at San Quentin, undeterred by the existence of the penalty, assaulted another prisoner in the prison dining room with a knife. He was convicted, the death penalty was imposed, and, on appeal to this court, he contended that then section 246 of the Penal Code was unconstitutional. Citing our prior *Finley* opinion, we noted that the validity of the section had been upheld against an equal protection challenge. But Oppenheimer had also claimed that the death penalty constituted cruel or unusual punishment. Although we recognized that " 'cruel' or 'unusual' " punishment were barred by section 6 of article I of the California Constitution, we did not examine the possibility that capital punishment might be cruel. Instead we declared: "The infliction of the death penalty by any of the methods ordinarily adopted by civilized people, such as hanging, shooting, or electricity, is neither a cruel nor unusual punishment (see In re Kemmler, 136 U.S. 447) unless perhaps it be so disproportionate to the offense for which it is inflicted as to meet the disapproval and condemnation of the conscience and reason of men generally, 'as to shock the moral sense of the people.' [Citation.] In view of

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what is said in People v. Finley, as to the reasons for such provision . . . we are of the opinion that no such conclusion can be reached in regard to the statute under consideration." (People v. Oppenheimer (1909) 156 Cal. 733, 737–738.) By adopting what had originally been the basis for rejecting an equal protection challenge to the death penalty, we established justification, proportionment to the offense, and common practice among civilized peoples, as the tests by which to measure capital punishment against constitutional challenge, notwithstanding the alternative criteria of cruel *or* unusual punishments established by section 6, article I, of the California Constitution. Since the death penalty furthered a permissible purpose of punishment, was commonly practiced among civilized people, and was not disproportionate to the offense, it did not offend the Constitution.

The majority of challenges to the death penalty in this state since *Oppenheimer* have been rejected either without further exploration of the cruel or unusual punishment question, or by finding justification for continuance of capital punishment. (E.g., People v. Lazarus (1929) 207 Cal. 507, 514 ["It is not necessary to cite authorities for the purpose of showing that this contention has uniformly been held to be unmeritorious"]; In re Wells (1950) 35 Cal. 2d 889, 895 ["We are convinced that [*Oppenheimer*] was correctly decided. (See also In re Finley (1905) 1 Cal. App. 198, 203.)"]; People v. Bashor (1957) 48 Cal. 2d 763 [citing *Lazarus* and *Wells*].)

When justifications offered in support of continuance of the death penalty were more recently challenged, we continued to uphold it on the ground that it had long been practiced and its application upheld, without, however, independently reexamining the question of the cruelty of the punishment in the reality of present day conditions. (In re Anderson, supra, 69 Cal. 2d 613, 631.) Although our decision in *Anderson* turned largely upon the issue of lack of standards, and we did in that case comment upon the issue of cruel *and* unusual punishment, we examined the issue on the basis of the conjunctive cruel *and* unusual punishment. Thus our approach heretofore has paralleled that of the United States Supreme Court in rejecting challenges brought under the Eighth Amendment in finding justification for capital punishment and upholding it if it is not disproportionate to the offense. (See Goldberg and Dershowitz, *Declaring the Death Penalty Unconstitutional* (1970) 83 Harv. L. Rev. 1773, 1784–1798.)

Now, however, as the California constitutional history demonstrates, we must probe the issue on the basis of the disjunctive cruel *or* unusual punishment.

## THE CONSTITUTIONALITY OF CAPITAL PUNISHMENT TODAY

Well over a century has now passed since the day when vigilante justice and public hangings made executions an accepted practice of California life. We cannot today assume, as it was assumed in early opinions of this court, that capital punishment is not so cruel as to offend contemporary standards of decency. Appellant has asked that we not only reexamine the validity of the prior bases upon which the death penalty has been upheld, but that we independently examine its cruelty applying contemporary standards. As we shall discuss at greater length below, we have done so and have concluded that capital punishment is "cruel" as that term is understood in its constitutional sense. We have also, at the instance of both appellant and respondent, reexamined the bases upon which capital punishment has been upheld heretofore. As will appear, we have concluded that the death penalty cannot be justified as furthering any of the accepted purposes of punishment. Moreover, we have concluded that it can no longer escape characterization as an "unusual" punishment.

### *1. The constitutional meaning of cruelty*

Respondent contends that a punishment is constitutionally proscribed only if it is both unnecessarily cruel and is unusual. We have already concluded, however, that the California Constitution prohibits either cruel *or* unusual punishments, and have indicated that we believe capital punishment to be cruel in the constitutional sense. We have not had occasion heretofore to consider whether a cruel punishment can avoid the proscription of article I, section 6, upon a showing that it is "necessary." Before examining the validity of that proposition, we shall set forth our reasons for concluding that capital punishment is cruel in the constitutional sense.

It merits emphasis that in assessing the cruelty of capital punishment under article I, section 6, we are not concerned only with the "mere extinguishment of life," which the United States Supreme Court has suggested does not violate the Eighth Amendment (In re Kemmler (1890) 136 U.S. 436, 447), or with a particular method of execution (cf. Francis v. Resweber (1947) 329 U.S. 459, 463–464; In re Kemmler, supra, 136 U.S. 436, 444–449; People v. Daugherty (1953) 40 Cal. 2d 876, 894–896), but with the total impact of capital punishment, from the pronouncement of the judgment of death through the execution itself, both on the individual and on the society which sanctions its use. Our concern is that the execution which ultimately follows pronouncement of the death sentence has in fact become the "lingering death" which the Kemmler court conceded would be cruel in the constitutional sense. (In re Kemmler, supra, 136 U.S. 436, 447.)

We do not interpret the constitutional prohibition of cruel or unusual punishments either as a license for the indefinite continuance of all punishments known to the common law or practiced at the time California attained statehood, nor as a proscription of innovative types of punishment whose purpose is the rehabilitation or reformation of criminal offenders. Historical analysis suggests that the framers intended to outlaw both cruel punishments and punishments of excessive severity for ordinary offenses. They used the term cruel in its ordinary meaning—causing physical pain or mental anguish of an inhumane or torturous nature.

The framers of the California Constitution sought to restrict their fellow Californians' zeal for devising novel and torturous punishments.[26] Our first opinion construing article I, section 6, equated "cruel" with "barbarous." (State v. McCauley, supra, 15 Cal. 429, 455.) It has been suggested that the English Bill of Rights of 1689, which contained language identical to that of the Eighth Amendment,[27] and was the apparent precursor of similar provisions in most state constitutions, did not prohibit cruel, barbarous, or torturous punishments, but only excessive or illegal punishments.[28] It is clear, however, that in this country the phrase was understood to encompass the former and to prohibit both new forms of physical cruelty and existing punishments which courts might later hold to be cruel. Delegates to the various state conventions called to ratify the federal Constitution expressed concern that it contained no provision to ban "tortures, or cruel and barbarous punishments,"[29] or "cruel and unheard-of punishments."[30] At least one congressman, Samuel Livermore of New Hampshire, recognized that the proposed Bill of Rights might result in some existing punishments being outlawed. During the 1789 debates in the House of Representatives he questioned the cruel and unusual punishments clause on the ground that: "villains often deserve whipping, and perhaps even having their ears cut off; but are we in the future to be prevented from inflicting these punishments because they are cruel?"[31]

We are mindful, too, that article I, section 6, like the Eighth Amendment, is not a static document. Judgments of the nineteenth century as to what constitutes cruelty cannot bind us in considering this question any more than eighteenth century concepts limit application of the Eighth Amendment. The United States Supreme Court recognized that the Eighth Amendment might be interpreted progressively when it said in Weems v. United States, supra, 217 U.S. 349, 378, that: "The clause of the Constitution in the opinion of the learned commentators may be therefore progressive, and is not fastened to the obsolete, but may acquire meaning as public opinion becomes enlightened by a humane justice." And a plurality of the court implemented that suggestion in Trop v. Dulles, supra, 356 U.S. 86, 101, when it adopted as the measure of acceptable punishment under the Eighth Amendment "the evolving standards of decency that mark the progress of a maturing society." (See also, Robinson v. California (1962), 370 U.S. 660, 666.)

Were the standards of another age the constitutional measure of "cruelty" today, whipping, branding, pillorying, severing or nailing ears, and boring of the tongue, all of which were once practiced as forms of punishment in this country, might escape constitutional proscription, but none today would argue that they are not "cruel" punishments. Thus, although respondent argues that the standard of cruelty today is no different from what it was when article I, section 6, was adopted, our responsibility demands that we must construe that provision in accordance with contemporary standards. We have recognized before that our Constitution is a progressive document (People v. Western Air Lines, Inc., supra, 42 Cal. 2d 621, 635) and, in the context of article I, section 6, have accepted the *Trop* formulation of "evolving standards of decency that mark the progress of a maturing society" (People v. Clark (1970) 3 Cal. 3d 97, 99) as an appropriate expression of the applicable standard. In reality, however, we think the dispute as to the standard to be more apparent than real for the standard today is the standard of 1849 and 1879—whether the punishment affronts contemporary standards of decency. The framers of our Constitution, like those who drafted the Bill of Rights, anticipated that interpretation of the cruel or unusual punishments clause would not be static but that the clause would be applied consistently with the standards of the age in which the questioned punishment was sought to be inflicted.[32]

Respondent also contends, however, that capital punishment does not offend contemporary standards of decency. The People find evidence that it does not do so in public opinion polls, in the willingness of juries to impose the death penalty, and in the statutes of the 41 states which contain provisions for the punishment of death.[33] Public acceptance of capital punishment is a relevant but not controlling factor in assessing whether it is consonant with contemporary standards of decency.

But public acceptance cannot be measured by the existence of death penalty statutes or by the fact that some juries impose death on criminal defendants. Nor are public opinion polls about a process which is far removed from the experience of those responding helpful in determining whether capital punishment would be acceptable to an informed public were it even-handedly applied to a substantial proportion of the persons potentially subject to execution. Although death penalty statutes do remain on the books of many jurisdictions, and public opinion polls show opinion to be divided as to capital punishment as an abstract proposition, the infrequency of its actual application suggests that among those persons called upon to

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actually impose or carry out the death penalty it is being repudiated with ever increasing frequency. This repudiation has become so apparent that the National Crime Commission reported to the President that: "The most salient characteristic of capital punishment is that it is infrequently applied. . . . [A]ll available data indicate that judges, juries, and governors are becoming increasingly reluctant to impose, or authorize the carrying out of a death sentence. . . . In a few states in which the penalty exists on the statute books, there has not been an execution in decades." (President's Commission on Law Enforcement and Administration of Justice, Report (1967) (The Challenge of Crime in a Free Society) p. 143.)

What our society does in actuality belies what it says with regard to its acceptance of capital punishment. Between 1930 and 1968, a total of 3,859 persons were executed in the United States as punishment for crimes ranging from murder to burglary and aggravated assault.[34] The steady decrease in the number of executions from a high of 199 in 1935 to 2 in 1967,[35] in spite of a growing population and notwithstanding the statutory sanction of the death penalty, persuasively demonstrates that capital punishment is unacceptable to society today.

The cruelty of capital punishment lies not only in the execution itself and the pain incident thereto,[36] but also in the dehumanizing effects of the lengthy imprisonment prior to execution during which the judicial and administrative procedures essential to due process of law are carried out.[37] Penologists and medical experts agree that the process of carrying out a verdict of death is often so degrading and brutalizing to the human spirit as to constitute psychological torture.[38] Respondent concedes the fact of lengthy delays between the pronouncement of the judgment of death and the actual execution, but suggests that these delays are acceptable because they often occur at the instance of the condemned prisoner. We reject this suggestion. An appellant's insistence on receiving the benefits of appellate review of the judgment condemning him to death does not render the lengthy period of impending execution any less torturous or exempt such cruelty from constitutional proscription.

The brutalizing psychological effects of impending execution are a relevant consideration in our assessment of the cruelty of capital punishment. The United States Supreme Court recognized in Weems v. United States, supra, 217 U.S. 349 at 372, that "it must have come to [the framers of the Eighth Amendment] that there could be exercises of cruelty by laws other than those which inflicted bodily pain or mutilation." In Trop v. Dulles, supra, 356 U.S. 86, in which the United States Supreme Court squarely held a criminal punishment to be violative of the Eighth Amendment, the psychological impact of the punishment was dispositive. The court there held that denationalization as punishment was barred by the Eighth Amendment, stating in the plurality opinion: "There may be involved no physical mistreatment, no primitive torture. There is instead the total destruction of the individual's status in organized society. It is a form of punishment more primitive than torture, for it destroys for the individual the political existence that was centuries in the development. The punishment strips the citizen of his status in the national and international political community. His very existence is at the sufferance of the country in which he happens to find himself. . . . In short, the expatriate has lost the right to have rights.

"This punishment is offensive to the cardinal principles for which the Constitution stands. It subjects the individual to a fate of ever-increasing fear and distress. . . . It is no answer to suggest that all the disastrous consequences of this fate may not be brought to bear on a stateless person. The threat makes the punishment obnoxious." (356 U.S. at pp. 101–102.)

Although the court suggested in dictum that it believed the death penalty to be permissible then in certain circumstances, it also emphasized that: "The basic concept underlying the Eighth Amendment is nothing less than the dignity of man." (*Id.* at p. 100.) The dignity of man, the individual and the society as a whole, is today demeaned by our continued practice of capital punishment. Judged by contemporary standards of decency, capital punishment is impermissibly cruel. It is being increasingly rejected by society and is now almost wholly repudiated by those most familiar with its processes. Measured by the "evolving standards of decency that mark the progress of a maturing society," capital punishment is, therefore, cruel within the meaning of article I, section 6, of the California Constitution.

### 2. *The unnecessary cruelty of capital punishment*

The People concede that capital punishment is cruel to the individual involved. They argue, however, that only "unnecessary" cruelty is constitutionally proscribed, and that if a cruel punishment can be justified it is not forbidden by article I, section 6, of the California Constitution. We need not decide here whether our Constitution permits the infliction of "necessary" cruelty as punishment for crime, because respondent has not demonstrated that the death penalty can be justified as necessary to any state interest.

In seeking to justify continuance of capital punishment, the People argue that it furthers three of the four acknowledged purposes of punishment. Respondent concedes that death is in no way rehabilitative, but contends that capital punishment may be legitimately imposed in retribution for serious offenses, that it serves to isolate the offender, and that the existence of the death penalty acts as a deterrent to crime. None of these purposes is shown to justify so onerous a penalty as death.

Although vengeance or retribution has been acknowledged as a permissible purpose of punishment under the Eighth Amendment (Williams v. New York (1949) 337 U.S. 241, 248), we do not sanction punishment solely for retribution in California. (In re Estrada (1965) 63 Cal.2d 740, 745.) We are fully aware that many condemned prisoners have committed crimes of the utmost cruelty and depravity and that such persons are not entitled to the slightest sympathy from society in the administration of justice or otherwise. Nevertheless, it is incompatible with the dignity of an enlightened society to attempt to justify the taking of life for purposes of vengeance.

Admittedly, isolation of the offender from society is a proper and often necessary goal of punishment and death does effectively serve that purpose. Society can be protected from convicted criminals, however, by far less onerous means than execution. In no sense can capital punishment be justified as "necessary" to isolate the offender from society.

Respondent contends that the existence of the death penalty may deter some persons from committing capital offenses. We have recognized that whether a substantial deterrent effect can be proven is a vigorously disputed proposition. (People v. Love (1961) 56 Cal.2d 720, 731; People v. Ketchel (1963) 59 Cal.2d 503, 538–539.)[39] We are aware of the obvious imponderable and variable characteristics of society which can cause statistical studies of deterrence to be misleading, and of the difficulties inherent in attempting to establish that an offense was not committed because a would-be offender was aware of and restrained by the possibility of the death penalty. Nonetheless, as respondent concedes, many homicides in particular are not deterrable and as to the remainder capital punishment can have a significant deterrent effect only if the punishment is swiftly and certainly exacted. We have already demonstrated that the punishment is not swift. Moreover, it is far from certain.

In California death is authorized as the penalty for eight offenses: treason (Pen. Code, § 37), perjury in capital cases (Pen. Code, § 128), first degree murder (Pen. Code, § 190), kidnaping for ransom or robbery with bodily harm to the victim (Pen. Code, § 209), train wrecking (Pen. Code, § 219), malicious assault by life prisoner (Pen Code, § 4500), explosion of destructive devices causing great bodily injury (Pen. Code, § 12310), and sabotage resulting in death or great bodily injury (Mil. & Vet. Code, § 1672, subd. (a)). The penalty is mandatory for the treason and perjury offenses and for malicious assault by a life prisoner if a non-inmate victim dies. It is discretionary for the other listed offenses.

Notwithstanding the discretion given to judges and juries to impose either death or life imprisonment for first degree murder,[40] it is estimated that in California 80 percent of those persons convicted receive a sentence of life imprisonment.[41] Of the 20 percent upon whom a sentence of death is imposed, commutation of sentence, reversal of the judgment, and other factors[42] further reduce the number of defendants actually executed to the point where, far from being a certain penalty with acknowledged deterrent effect, capital punishment today is rarely imposed or implemented.

A punishment as extreme and as irrevocable as death cannot be predicated upon speculation as to what the deterrent effect might be if it were actually applied swiftly and with certainty upon all who were potentially subject to it. As stated previously, in reality today it is neither swift nor certain. Respondent offers us no basis upon which to conclude that, as presently administered, capital punishment is any greater deterrent to crime than are other available forms of punishment.

### 3. *Capital punishment is an unusual punishment*

We have already noted that the death sentence is rarely imposed in California today and that it is even more rarely carried out. But even adopting the broader test of widespread acceptance among civilized peoples, capital punishment can no longer withstand constitutional proscription. Respondent seeks to avoid this conclusion by suggesting that a punishment is not unusual in the constitutional sense unless it is unusual as to form, or method by which it is imposed. We cannot accept this limitation of the meaning of "unusual," however, for to do so would ignore the fact that execution is a form or method of punishment and would embroil us in future semantic disputes as to whether innovative types of punishment were unconstitutionally "unusual" forms of punishment.

In construing article I, section 6, we have held that an excessive or disproportionate punishment is "unusual." (People v. Oppenheimer, supra, 156 Cal. 733, 737–738.) When a punishment has been challenged as being unconstitutionally "cruel," however, the fact that it was not literally "unusual" has been considered relevant, not to whether the punishment should be proscribed as excessive, but to whether it was offensive to the standards of decency common to civilized peoples. (In re Finley, supra, 1 Cal. App. 198, 202.) Thus, when doubt existed as to whether a punishment was so cruel as to contravene article I, section 6, that doubt could be resolved in favor of upholding the

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Footnotes at end of article.

punishment if it was commonly accepted among civilized societies not limited tc our own.

We have concluded that capital punishment is unconstitutionally cruel and that under article I, section 6, a cruel punishment is proscribed irrespective of whether it is excessive. If any doubt remained as to its cruelty, however, we could no longer uphold capital punishment on the ground that it is commonly accepted, for the repudiation of the death penalty in this country is reflected in a world-wide trend towards abolition.

Not only have nine states, Puerto Rico and the Virgin Islands totally abolished capital punishment, but New Mexico, New York, North Dakota, Rhode Island and Vermont have limited its application to exceptional circumstances. Among those American jurisdictions which permit it at all, 14 have not conducted an execution since 1960, 19 have had none since 1961, 24 have had none since 1962, 30 have had none since 1963, and 35 have have none since 1964. In 1967 California and Colorado each executed one person. Prior to 1967 California had not had an execution since 1963 when one person was executed.[43] The increasingly unusual nature of capital punishment in the United States is readily apparent in the following chart:

TOTAL NUMBER OF EXECUTIONS IN THE UNITED STATES

| | |
|---|---|
| 1930 | 155 |
| 1935 | 199 |
| 1940 | 124 |
| 1945 | 117 |
| 1950 | 82 |
| 1955 | 76 |
| 1960 | 56 |
| 1961 | 42 |
| 1962 | 47 |
| 1963 | 21 |
| 1964 | 15 |
| 1965 | 7 |
| 1966 | 1 |
| 1967 | 2 |
| 1968 | 0 |
| 1969 | 0 |
| 1970 | 0 |
| 1971 | 0 |

The observation of the National Crime Commission that the infrequency of its application is the most salient characteristic of capital punishment in the United States is echoed in the report of the Secretary General of the United Nations on the world-wide status of capital punishment. "There is still a clear trend toward total abolition. Most countries are gradually restricting the number of offences for which the death penalty can be applied and a few have totally abolished capital offences even in wartime. Those countries retaining the death penalty report that in practice it is only exceptionally applied and frequently the persons condemned are later pardoned by executive authority. . . ." (United Nations, Economic and Social Council, Note by the Secretary General, Capital Punishment (E/4947) (February 23, 1971) p. 3.) Defendant has prepared the following table demonstrating the extent of de jure and de facto abolition of capital punishment in foreign jurisdictions:[44]

WORLDWIDE ABOLITION

| | |
|---|---|
| Argentina | 1922 |
| Australia (Federal) | 1945 |
| New South Wales | 1955 |
| Queensland | 1922 |
| Tasmania | 1968 |
| Austria | 1968 |
| Belgium | 1863 |
| Bolivia | 1961 |
| Brazil | 1946 |
| Canada | 1967 |
| Columbia | 1910 |
| Costa Rica | 1880 |
| Denmark | 1930 |
| Dominican Republic | 1924 |
| Ecuador | 1897 |
| Finland | 1949 |
| Germany, West | 1949 |
| Greenland | 1954 |
| Honduras | 1957 |
| Iceland | 1940 |
| India: | |
| Travencore | 1944 |
| Israel | 1954 |
| Italy | 1944 |
| Lichtenstein | 1798 |
| Luxembourg | 1821 |
| Mexico (Federal) | 1931 |
| 29 of 32 states | 1931–70 |
| Monaco | 1962 |
| Mozambique | 1867 |
| Nepal | 1950 |
| Netherlands | 1886 |
| Antilles | 1957 |
| New Zealand | 1961 |
| Nicaragua | 1892 |
| Norway | 1905 |
| Panama | 1915 |
| Portugal | 1867 |
| San Marino | 1848 |
| Surinam | 1927 |
| Sweden | 1921 |
| Switzerland | 1942 |
| United Kingdom: | |
| Great Britain | 1965 |
| Northern Ireland | 1966 |
| Uruguay | 1907 |
| Vatican City State | 1969 |
| Venezuela | 1863 |

No longer can it be said that capital punishment is not "cruel *per se*, for the whole current of law for centuries justifies the infliction." (In re Finley, supra, 1 Cal. App. 198, 202.) Although world-wide acceptance of capital punishment at the turn of the century may then have warranted resolving doubts as to its cruelty in favor of its constitutionality, the current has now reversed. It is now, literally, an unusual punishment among civilized nations.

### CONCLUSION

We have concluded that capital punishment is impermissibly cruel. It degrades and dehumanizes all who participate in its processes. It is unnecessary to any legitimate goal of the state and is incompatible with the dignity of man and the judicial process. Our conclusion that the death penalty may no longer be exacted in California consistently with article I, section 6, of our Constitution is not grounded in sympathy for those who would commit crimes of violence, but in concern for the society that diminishes itself whenever it takes the life of one of its members. Lord Chancellolr Gardiner reminded the House of Lords, debating abolition of capital punishment in England: "When we abolished the punishment for treason that you should be hanged, and then cut down while still alive, and then disembowelled while still alive, and then quartered, we did not abolish that punishment because we sympathised with traitors, but because we took the view that it was a punishment no longer consistent with our self respect." (268 Hansard, Parliamentary Debates (5th Series) (Lords, 43d Parl., First Sess., 1964–1965) (1965) p. 703.)

Insofar as Penal Code sections 190 and 190.1 purport to authorize the imposition of the death penalty, they are, accordingly, unconstitutional. In view of our decision that the death penalty may not be carried out, it is unnecessary to reach petitioner's other contentions relating to the validity of the penalty judgment.

The judgment, insofar as it provides for the penalty of death, is modified to provide as punishment of life imprisonment and as so modified is affirmed in all other respects.[45]

C. J. WRIGHT.

We concur:

PETERS, J.
TOBRINER, J.
MOSK, J.
BURKE, J.
SULLIVAN, J.

### FOOTNOTES

[1] We note that this issue is presently before the United States Supreme Court. (Aikens, Jr. v. California, No. 68–5027; Furman v. Georgia, No. 69–5003; Jackson, Jr. v. Georgia, No. 69–5030.)

[2] Article I, section 6: "All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; *nor shall cruel or unusual punishments be inflicted.* Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned." (Italics added.)

[3] United States Constitution, Amendment VIII: "Excessive bail shall not be required, nor excessive fines imposed, *nor cruel and unusual punishments inflicted.*" (Italics added.)

[4] Comment, *The Death Penalty Cases* (1968) 56 Cal.L.Rev. 1268, 1326, footnote 502. But see, Mosk, *The Eighth Amendment Rediscovered* (1968) 1 Loyola L.A.L.Rev. 4, 17–18.

[5] Browne, Debates in the Convention of California (1850) page 30 (hereinafter "1849 Debates").

[6] *Id.* page 31.

[7] *Id.* page 458.

[8] 5 Thorpe, American Charters, Constitutions, and Organic Laws (1909) page 2654 (hereinafter "Thorpe").

[9] 2 Thorpe, page 1125.

[10] W. M. Gwin, formerly a congressman from Mississippi, who reputedly came to California in order to become a senator from the new state, was named a delegate to the convention and arrived prepared with copies of the Iowa Constitution which he distributed among the delegates. (Browne, 1849 Debates, p. 24.)

[11] *Id.* page 221.

[12] *Id.* pages 37, 56, 69, 110, 380, 384.

[13] E.g., Pennsylvania Constitution of 1838, article IX, section 13 (5 Thorpe, p. 3114); Alabama Constitution of 1819, article I, section 16 (1 Thorpe, p. 98); Delaware Constitution of 1831, article I, section 11 (1 Thorpe, p. 583); Kentucky Constitution of 1799, article X, section 15 (3 Thorpe, p. 1290); Mississippi Constitution of 1832, article I, section 16 (4 Thorpe, p. 2050); Rhode Island Constitution of 1842, article I, section 8 (6 Thorpe, p. 3223); South Carolina Constitution of 1790, article IX, section 4 (6 Thorpe, p. 3264).

[14] E.g., North Carolina Constitution of 1776, paragraph X (5 Thorpe, p. 2788); Florida Constitution of 1838, article I, section 12 (2 Thorpe, p. 665); Massachusetts Constitution of 1780, article XXVII of Declaration of Rights (3 Thorpe, p. 1892); New Hampshire Constitution of 1792, Part First, article XXIII (4 Thorpe, p. 2474).

[15] E.g., Arkansas Constitution of 1836, article II, section 13: "That all penalties shall be reasonable and proportioned to the nature of the offence." (1 Thorpe, p. 270); Illinois Constitution of 1848, article XIII, section 14: "All penalties shall be proportioned to the nature of the offence; the true design of all punishment being to reform, not to exterminate mankind." (2 Thorpe, p. 1008); New Hampshire Constitution of 1792, Part First, article XVIII (4 Thorpe, p. 2473).

[16] E.g., Indiana Constitution of 1816, article I, section 15 (cruel and unusual punishment)

and section 16 ("All penalties shall be proportioned to the nature of the offense") (2 Thorpe, p. 1059); Maine Constitution of 1819, article I, section 9 ("shall be proportioned to the offence . . . nor cruel nor unusual punishments inflicted") (3 Thorpe, pp. 1647–1648); Rhode Island Constitution of 1842, article I, section 8 ("nor cruel punishments inflicted" and "all punishments ought to be proportioned to the offence") (6 Thorpe, p. 3223).

[17] The delegates to the constitutional convention of 1849 had reason to be concerned with outlawing punishments which, although apparently accepted as necessary and not unduly cruel, were unusual. The absence of any effective government at the time of the discovery of gold and consequent proliferation of mining camps, had resulted in the administration of justice, such as it was, in the camps by vigilante committees. (3 Hittell, History of California (1898) p. 272 and *passim* [hereinafter Hittell].) Lacking means other than direct administration of physical punishment by which to enforce their judgments, the miners developed a variety of punishments which can only be described as "unusual" even in that day. Hittell described the punishment imposed upon a thief who had been sentenced to be hanged, but whose punishment was modified when death was thought to be too severe. "[U]pon the suggestion of a milder punishment, it was determined that the culprit should receive a hundred lashes on his bare back and have his ears cut off and his head shaved so that he might everywhere be recognized in the mining districts as a felon." (*Id.* p. 273.) Public flogging followed by banishment from the district was a common punishment. Even under the Mexican Governors, unusual punishments had been devised to deter lawlessness. In 1824 Governor Arguello, having determined that the "usual punishments" had been ineffective, decreed that theft of property valued at over 200 reals, burglary, and housebreaking were to be punished by death and that if murder had occurred during the commission of those offenses, the body should be quartered. Theft of property worth from 10 to 50 reals was to be punished by condemning the perpetrator to 10 years at public labor. Between 50 and 200 reals, the 10 years' labor was to be accompanied by "six public floggings or run the gauntlet of two hundred men armed with heavy switches six times." (2 Hittell, p. 79.)

[18] We find no indication in the Debates and Proceedings of the Constitutional Convention of 1878–1879 that the delegates to that convention intended any change in the meaning of the section. To the contrary, it appears from one debate on the question of amending the section to expressly provide that whipping was not cruel or unusual punishment, that the delegates were concerned that cruel punishments such as whipping not be reintroduced irrespective of whether whipping had existed at common law, had been reinstituted in England, and still survived in other states. The delegates were concerned with its cruel nature and not with the question of whether it was an "unusual" punishment. (Willis and Stockton, Debates and Proceedings (1880) pp. 244–245 [hereinafter "1879 Debates"].)

One delegate, noting that whipping was permitted in Delaware, and possibly in Kentucky and Virginia, suggested that their constitutions were substantially similar, and if the reason it was permitted there but had been declared unconstitutional by one California appellate court was that California's Constitution included the word "unusual," "then it is a sufficient answer to say that if it is to become fashionable, let it become fashionable elsewhere first, and the objection that it is unusual will cease to apply to our Courts." (1879 Debates, p. 246.) At the time the Kentucky and Delaware Constitutions prohibited only "cruel" punishments, although the Virginia Constitution prohibited "cruel and unusual punishments. It is apparent that the delegates recognized the distinctions between the constitutions and considered the terms of the California Constitution to be disjunctive.

[19] Article I, section 6: "All persons shall be bailable by sufficient sureties, unless for capital offenses . . ."; article I, section 8: ". . . If the felony charged is not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him whether he pleads guilty or not guilty to the offense charged therein [and] the defendant may . . . plead guilty to the offense . . ."; article I, section 13: ". . . No person shall . . . be deprived of life . . . without due process of law; . . ."; article V, section 8: ". . . the Governor, on conditions he deems proper, may grant a reprieve, . . ."; article VI, section 11: "The Supreme Court has appellate jurisdiction when judgment of death has been pronounced."

[20] The official description of Proposition 1–A advised: "Legislative Constitutional Amendment. Repeals, amends, and revises various provisions of Constitution relating to separation of powers, and to the legislative, executive, and judicial departments; provides for annual general legislative sessions; provides compensation of members of Legislature shall be prescribed by statute passed by two-thirds vote, and limits rate of annual future adjustments; Legislature must enact law as prohibiting members from engaging in conflicting activities. Signature necessary on petition for initiative statute reduced from 8% to 5%; eliminates initiatives to Legislature. Legislature shall provide for succession to the office of Governor in event of disability or vacancy." (Jordan, Proposed Amendments to Constitution, Propositions and Proposed Laws Together with Arguments To Be Submitted to the Electors of the State of California at the General Election Tuesday, Nov. 8, 1966 (1966) p. 1.)

[21] The constitutionality of a particular mode of punishment appears to have been first considered by this court in State v. McCauley (1860) 15 Cal. 429, in which it was sought to enforce the defendant's contractual obligation tc pay for the lease of prison labor. He sought to avoid payment on various grounds, among them on the asserted ground that the act authorizing the lease was void. Rejecting that argument, the court stated: "The only limitation [on the Legislature's power to fix punishments for crime] is the inhibition against the infliction of cruel *and* unusual punishments, which are held to mean those of a barbarous character, and unknown to the common law." (15 Cal. at p. 455; italics added.) In Ex Parte Mitchell (1886) 70 Cal. 1, however, we upheld a two-year prison term and $4,000 fine for assault with a deadly weapon, stating it was "not excessive, cruel or unusual within the meaning of section 6, article I, of the Constitution." (70 Cal. at p. 2.)

[22] On September 11, 1849, L. W. Hastings, an attorney delegate from the Sacramento District, introduced the following resolution: "As the true design of all punishment is to reform and not to exterminate mankind, death shall never be inflicted as a punishment for crime in this state."

The reported recorded the debate: "Mr. McCarver seconded the resolution [to ban capital punishment] not because he believed the House would adopt it, or that it could be adopted here, but because he considered the question entitled to a fair consideration. If the [sponsor] would devise a plan by which criminals could be properly punished in this country, he would go with him; but as California is situated at present, it is impracticable. The construction of penitentiaries would be enormously burdensome. . . . As to the right to take human life, it is very questionable whether we have that right; but as it has been a practice ever since the world was created, perhaps it would be as well to let it rest a while longer. It may be that it is a good old principle established by the experience of ages. He would vote against the resolution, not because he was opposed to it, but because he considered it impracticable to accomplish the object under existing circumstances." (1849 Debates, pp. 45–46.)

[23] In 1879, opinion among the delegates was still mixed. See footnote 18, supra. One delegate opposing a resolution which would have expressly declared whipping to be acceptable, suggested that hanging was so cruel as to be permitted only under a "strained construction" of what is now article I, section 6. He stated: "I hold that under the operation or under a strict construction of that provision of the Constitution—'nor shall cruel or unusual punishment be inflicted'—I hold that no man can be hanged, because who will assert that to take a man and drag him up and let him choke to death is not cruel? We all know that it is cruel. There can be nothing more cruel conceived by the mind of man. It is torture the most horrible. And yet it is done. But it is done under a strained construction of that provision, . . ." (1879 Debates, p. 244.)

Mr. Blackmer, of San Diego County, questioned: "It is stated here that we have a right to take life under the law, and it is admitted on all hands that it is a cruel punishment. I want to ask the gentleman if it deters from the crime of murder. Does the fact that we have the right and that that law is carried out in many instances, deter people from committing that crime of murder? Not at all." (*Id.* p. 245.) Not all delegates agreed, however, that the death penalty was cruel.

[24] 3 Hittell, supra, pages 274, 277–278.

[25] Public executions were not abolished until 1858. (Stats. 1858, p. 192, § 1. Now Pen. Code, § 3603.)

[26] See footnotes 17 and 18, supra.

[27] 1 Schwartz, The Bill of Rights: A Documentary History (1971) 41–43 (hereinafter "Schwartz").

[28] Granucci, *"Nor Cruel and Unusual Punishments Inflicted:" The Original Meaning* (1969) 57 Cal. L. Rev. 839.

[29] Patrick Henry in the Virginia Ratifying Convention, 1788, in 2 Schwartz, supra, at page 799. "What has distinguished our ancestors?—That they would not admit of tortures, or cruel and barbarous punishment. But Congress may introduce the practice of the civil law, in preference to that of the common law. They may introduce the practice of . . . torturing, to extort a confession of the crime. . . . We are then lost and undone."

[30] Massachusetts Convention Debates, 1788, in 2 Schwartz, supra, at pages 690–691. "They are nowhere restrained from inventing the most cruel and unheard-of punishments, and annexing them to crimes; and there is no constitutional check on them, but that racks and gibbets may be amongst the most mild instruments of their discipline."

[31] 2 Schwartz, supra, pages 1053, 1112.

[32] See footnote 18, supra.

[33] Alaska, Hawaii, Iowa, Maine, Michigan, Minnesota, Oregon, West Virginia, and Wisconsin have abolished capital punishment. United States Department of Justice, Bureau of Prisons, National Prisoner Statistics, Bulletin No. 45 (August 1969) *Capital Punishment 1930–1968* page 30 (hereinafter "NPS Bulletin").

[34] NPS Bulletin, supra, p. 7.

[35] *Ibid.*

[36] See, Comment, *The Dealth Penalty Cases,* 56 Cal. L. Rev. 1268, 1341, supra; Hearings on Senate Bill 1760 before the Senate Committee on the Judiciary (1970) p. 21.

[37] The median elapsed time prisoners now awaiting execution in California had been imprisoned as of the end of 1968 was 20.7 months. The national median elapsed time was then 33.3 months. The California figures do not take into account prisoners who were awaiting execution at that time but who have since had their sentences commuted, judgments reversed, or have been removed from death row for other reasons. As of December 31, 1968, the median elapsed time condemned prisoners then on death row had been awaiting execution was 23.7 months. (NPS Bulletin, supra, page 27.) There were a total of 104 persons under sentence of death in California as of December 31, 1971. Of these, two prisoners have been on death row since 1964, five since 1965, and seven since 1966. Eight were received there in 1967, fifteen in 1968, and thirteen in 1969. Thirty-four were received in 1970 and the remaining twenty in 1971.

[38] See e.g., Hearings on Senate Bill 1, before the California Senate Committee on the Judiciary (1960) page 9; Hearings on Senate Bill 1760, before the Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary (1970) pages 21, 125; Siferstein, *Crime and Punishment* (1968) 1 The Center Magazine No. 284.

[39] See, e.g., European Commission on Crime Problems, Council of Europe, The Death Penalty in European Countries (1962) pages 45–46; Massachusetts Special Commission Established for the Purpose of Investigating and Studying the Abolition of the Death Penalty in Capital Cases, House Report No. 2575 (1958) at page 44; Ohio Legislative Service Commission, Capital Punishment, Staff Report No. 46 (1961) at pages 43–47; Royal Commission on Capital Punishment, Report (1953) paragraph 65, at page 23; Subcommittee of the Judiciary Committee on Capital Punishment, Problems of the Death Penalty and its Administration in California, 20 Assembly Interim Committee Report No. 3 (1955–1957) at pages 27–30; Bedau, The Question of Deterrence, The Death Penalty in America (H. Bedau ed. 1964 [hereinafter "Bedau"]) pages 264–265; Graves, *The Deterrent Effect of Capital Punishment in California*, in Bedau, supra, at page 322; Savitz, *The Deterrent Effect of Capital Punishment in Philadelphia*, in Bedau, supra, at page 315; Schuessler, *The Deterrent Influence of the Death Penalty* (1952) 284 Annals 54, 62; Sellin, *Homicides in Retentionist and Abolitionist States*, in Capital Punishment 135 (T. Sellin ed. 1967 [hereinafter "Sellin"]).

[40] The death penalty may not be imposed on persons who were under 18 years of age at the time of the offense., (Pen. Code § 190.1.)

[41] McGee, *Capital Punishment as Seen by a Correctional Administrator* (1964) 28 Fed. Prob. (No. 2) 11, 12. In 1967 there were 88 first degree murder convictions in California and 17 death sentences. (State of Cal., Dept. of Justice, Div. of Law Enforcement, Bureau of Criminal Statistics Report (Crime and Delinquency in California 1967) (1968) p. 140; NPS Bulletin (1967).) During 1969 there were 87 first degree murder convictions and 8 death sentences. (DLE/BCS Report (1970) p. 121.) The ratio of death sentences to first degree murder convictions does not adequately reflect the uncertainty of imposition of capital punishment, however. This uncertainty is better exemplified by the rarity of the death sentence in California in relation to the total number of willful homicides. In 1969 California experienced a record 1,376 wilful homicides. (Cal. Dept. of Justice, Div. of Criminal Investigation and Information, Bureau of Criminal Statistics (Crime & Delinquency in California 1970) (1971) p. 5.) In 1970 there were 1,359 wilful homicides. (*Ibid.*) There were 1,790 arrests in 1969 and 1,807 arrests in 1970 for all categories of homicide. (State of Cal., Dept. of Justice, Div. of Law Enforcement, Bureau of Criminal Statistics (Crime & Arrests— reference tables 1970) p. 5.) Yet, in all of 1969, 1970 and 1971 a total of only 67 persons were sentenced to death.

[42] Death from natural causes, suicide, and insanity (Pen. Code, § 3704). During the period 1965–1971, 60 percent or 66 death penalty appeals resulted in reversals of the entire judgment or of the penalty. In addition, 19 extraordinary writs were granted setting aside the penalty or the entire conviction and requiring new trials or further proceedings for each defendant.

[43] NPS Bulletin, supra, pages 8–9.

[44] Sources for this table are: United Nations, Secretary-General's Note supra; Ancel, The Death Penalty in European Countries (Council of Europe, European Committee on Crime Problems, 1962); Joyce, Capital Punishment: A World View (1961); University of Coimbra, Faculty of Law, Pena do Morte (1967); Patrick, *The Status of Capital Punishment: A World Perspective* (1965) 56 J. Crim. L.C. & P.S. 397, 405. Included among the abolitionist jurisdictions are nine which retained capital punishment for certain extraordinary civil offenses (Canada, Israel, Nepal, New Zealand, the United Kingdom, and the Australian jurisdictions); eight which permit it under military law or in wartime (Brazil, Denmark, Finland, Italy, Netherlands, Norway, Sweden, and Switzerland), of whom two executed Nazi collaborators after the Second World War (Netherlands and Norway). Belgium executed one soldier in 1918.

The dates shown are those of de jure abolition except for Lichtenstein, Luxembourg, Nicaragua, and Surinam, in which the date represents that of the last execution and the beginning of de facto abolition, with the exception of Luxembourg which had one later execution.

The Canadian statute abolishing capital punishment for murder expires five years from the date of its enactment if not renewed.

[45] Inasmuch as today's decision is fully retroactive, any prisoner now under a sentence of death, the judgment as to which is final, may file a petition for writ of habeas corpus in the superior court inviting that court to modify its judgment accordingly. Petitions should be filed in the court of territorial jurisdiction in the first instance, and transferred by that court to the sentencing court in the event the court with territorial jurisdiction was not the sentencing court.

[People v. Anderson, Crim. 13617]

DISSENTING OPINION BY M'COMB, J.

I do not concur in this court's judgment, but would affirm the ruling of the trial court, for these reason:

*First:* The question here involved is now pending before the Supreme Court of the United States, whose decision will be binding upon this court. Therefore, I would not pass upon the merits of the contentions discussed in the foregoing opinion until the decision of the Supreme Court of the United States has been rendered.

*Second:* In my opinion, the death penalty is constitutional, as held by this court in a long line of cases, including the following decisions handed down within the past three and a half years: People v. St. Martin, 1 Cal.3d 524, 538–539 (19, 20); In re Hill, 71 Cal.2d 997, 1020 [11]; People v. Williams, 71 Cal.2d 614, 634 [23]; People v. Pike, 71 Cal.2d 595, 604 [8]; People v. Quicke, 71 Cal.2d 502, 523 [20]; People v. Mabry, 71 Cal.2d 430, 444 [15]; People v. Vaughn, 71 Cal.2d 406, 418 [5]; People v. Nye, 71 Cal.2d 356, 377 [20]; In re Arguello, 71 Cal.2d 13, 16; People v. Hill, 70 Cal.2d 678, 700–701; In re Anderson, 69 Cal.2d 613, 629–632.)[1]

*Third:* Further, the death penalty serves a useful purpose as a deterrent of crimes which result in the death of innocent victims and should therefore not be abolished.[2] An article entitled "A Wistful Goodbye to Capital Punishment" by Donald Atwell Zoll, Professor of Political Science at Arizona State University, published in the December 3, 1971, issue of *National Review* at pages 1351–1354, convincingly states the reasons it would be wise to retain the death penalty.[3]

*Fourth:* Subject to constitutional limitations, the Legislature has the power to prescribe punishment for crime. (People v. Bauer, 1 Cal.3d 368, 375 (7); In re Anderson, supra, 69 Cal.2d 613, 630–631 [8].) As hereinabove indicated, it is my opinion that the death penalty is constitutional, as determined by this court in innumerable cases. Therefore, since it is the duty of the Legislature or the electorate, and not the judiciary, to decide whether it is sound public policy to empower the imposing of the death penalty, it is my opinion that if a change is to be made, it should be effected through the legislative process or by the people through the initiative process. (See In re Anderson, supra, 69 Cal.2d 613, 616, 632 [10]; People v. Tanner, 3 Cal.2d 279, 298.)

McCOMB, J.

FOOTNOTES

[1] In my opinion, the fact that for thousands of years death has been accepted as a proper punishment for the most serious criminal offenses indicates that it is neither a cruel punishment (when effected by means such as those used in this state) nor an unusual punishment.

In the Holy Bible, it is stated: "Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man." (Genesis, ch. 9, v. 6.) The foregoing quotation shows that the death penalty has long been regarded by us and our predecessors as an appropriate punishment for a person who commits murder.

[2] The Honorable B. Rey Schauer, Justice of the Supreme Court of California, has said: "That the ever present potentiality in California of the death penalty, for murder in the commission of armed robbery, each year saves the lives of scores, if not hundreds of victims of such crimes, cannot I think, reasonably be doubted by any judge who has had substantial experience at the trial court level with the handling of such persons. I know that during my own trial court experience, which although not extensive in criminal law, included some four to five years (1930–1934) in a department of the superior court exclusively engaged in handling felony cases, I repeatedly heard from the lips of robbers—some amateurs (no prior convictions), some professionals (with priors)—substantially the same story: 'I used a toy gun [or a simulated gun or a gun in which the firing pin or hammer had been extracted or damaged] because I didn't want my neck stretched! (The penalty, at the time referred to, was hanging; death by lethal gas was substituted in 1941.)" (People v. Love, 56 Cal.2d 720, 739, at p. 744 (fns. omitted).)

[3] As aptly pointed out by Professor Zoll in the conclusion of his article: "Capital punishment ought not to be abolished solely because it is substantially repulsive, if infinitely less repulsive than the acts which invoke it. Yet the mounting zeal for its abolition seems to arise from a sentimentalized hyperfastidiousness that seeks to expunge from the society all that appears harsh and suppressive. If we are to preserve the humane society we will have to retain sufficient strength of character and will to do the unpleasant in order that tranquility and civility may rule comprehensively. It seems very likely that capital punishment is a . . . necessary, if limited factor in that maintenance of social tranquility and ought to be retained on this ground. To do otherwise is to indulge in the luxury of permitting a sense of false delicacy to reign over the necessity of social survival."

## VETERANS DAY AND MEMORIAL DAY

(Mr. QUILLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. QUILLEN. Mr. Speaker, I am today introducing a bill to restore tradition and patriotic significance to Veterans Day and Memorial Day by changing the dates of observance back to November 11 and May 30, respectively. Several Members have joined me in cosponsoring this legislation and I invite others to introduce companion measures.

Mr. Speaker, in 1968 the Congress enacted Public Law 90–363 which, among other things, changed the dates for observance of Veterans Day from November 11 to the fourth Monday in October and Memorial Day from May 30 to the last Monday in May.

The new dates for these patriotic holidays became effective last year for the first time and reports received from all across the Nation indicated widespread opposition to the change. This was evidenced by the lack of participation by many in the various programs and ceremonies. For several days following Veterans Day the CONGRESSIONAL RECORD was replete with information to this effect, along with appeals of various Members that the traditional dates be restored.

We have now had a year of experience with this so-called Monday holiday law and an opportunity to evaluate it. As a result, I am concerned over the wisdom of having changed the dates for observing these patriotic holidays merely to establish long holiday weekends. From my own observation, information I have received and letters from my constituents, I am led to believe that the Congress participated in a legislative distortion of history and in the process our Nation's heritage was diminished in an effort to accommodate our economic system.

The patriotic meaning of November 11 and May 30 has deteriorated into weekend jamborees devoted to pleasure and profit. Emphasis is placed on weekend trips to favorite resorts, to holiday promotions, merchandise sales, and almost everything imaginable except our flag and our faith in America. Efforts are now underway to develop new promotional activities to further commercialize these patriotic holidays.

Veterans Day and Memorial Day have, or should have, a significant meaning to most Americans. In past years in thousands of communities across the Nation our citizens gathered within their communities on these patriotic holidays to participate in ceremonies of remembrance and to offer prayers of thanks for those who have served our Nation. This is a part of our living heritage as Americans. Last year in many communities our people continued to hold Veterans Day services on November 11 notwithstanding the change in the law. The feeling was that the change in date was merely for economic reasons and was without real meaning. October 25, 1971, was observed for the most part by Government employees and some schools. In many instances employees of business and industry did not receive a day off or a 3-day holiday. Thus the commercial aspect replaced the real meaning of the occasion.

According to statistics two of our most widely observed holidays have been Memorial Day and Veterans Day. Public Law 90–363 require each of them now to be observed on Monday.

I believe it is important that our history and our heritage be kept alive and meaningful. If there is no regard for historical fact, for tradition and for national heritage, we become hypocritical when we endeavor to impress the importance of these virtues upon our young people.

The overriding reason for the establishment of Memorial Day on May 30 and Veterans Day on November 11 was to commemorate those living and dead who have contributed to our Nation's greatness.

There is widespread support to restore the dates for observing Memorial Day and Veterans Day to the dates that were in effect prior to the enactment of Public Law 90–363. For this reason I am today introducing legislation which would accomplish that purpose. I believe the Congress should respond to the desires of our veterans and our patriotic citizens and organizations. I extend an invitation to my colleagues to join with me in sponsoring this measure and I earnestly hope that this body will give this legislation the consideration it deserves.

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## A BUSINESSMAN'S HONOR CODE

(Mr. FLYNT asked and was given permission to address the House for 1 minute; to revise and extend his remarks and to include extraneous matter.)

Mr. FLYNT. Mr. Speaker, the December issue of the Talon, the cadet magazine of the U.S. Air Force Academy, contained an article written by a parent and addressed to his cadet son. The author's very meaningful analysis of the Air Force Academy Honor Code demonstrates how firmly American society is rooted in the concepts of honesty and integrity. Yet, the article reminds each of us of our individual responsibility in making trust not simply a principle but a working practice. The thoughtful counsel contained in this letter has significance for all of us, and I place this article in the RECORD at this point:

The other day I was thinking about the Honor Code. If I recall, it is about like this: "We will not cheat, lie nor steal nor tolerate among us those who do." I am sure it is not too difficult to subscribe to and follow without hesitation nor question the first part of the code. There is no doubt that our civilization has established that cheating, lying and stealing are unacceptable, dishonorable behaviors—we have even established jails to put in people who do.

Any person who is reasonably intelligent also knows that the greatest punishment for violation of the code is not that imposed by society, but rather the burden of living with the memory of one's misdeeds. The memory of the dishonorable act, the memory that can never be erased, is by far worse than any punishment imposed by your peers.

So the knowledge that cheating, lying, and stealing are abnormal behaviors and that the memory of such behavior, enduring for eternity, is a terrible price to pay, makes the first part of the code easy to accept and adhere to. Do you agree?

So, we get to the second half. And that my friend is another matter. Here it says we are obliged to "rat" on a fellow Cadet, our roommate, or even our best friend if we have knowledge of the fact he is violating the first part of the code.

A person could cite a number of justifications for this: You could say, for example, that wrong is wrong and the matter of degree doesn't matter. If you knew a man had committed murder, you would turn him in without hesitation for the protection of your friends and yourself. So, why not do the same for minor crimes. Is the degree of crime important? If it is, where is the dividing line between important and less important, a major and a minor crime? And, who is going to be the judge?

Within the code itself a person might like to make a distinction. I can see a Cadet saying: "Sure, I would turn in a squadron member for stealing, but for lying and cheating . . . who is he hurting but himself?"

Now the question is more difficult, isn't it? The answer is not as obvious as some of the earlier ones. But, if you can find the answer you will be just as comfortable with it as with the answers to the easier questions. The difference is not in the application of the answers, but rather in finding the answers. Once you have the answer, living by the answer that was hard to find takes no more effort than living by the one that was readily at hand.

OK. So let's get into it. I'm not sure I can follow my own thoughts rationally and in good order; but, I'll try.

If you think in terms of trying to live in a society where cheating and lying were common practices, it might help our understanding. Can you imagine not being able to trust the words or actions of any of your associates. Integrity and responsibility would be words with no meaning. You couldn't depend on the pizza parlor to deliver the pizza you order on the telephone; you would have to pay cash for all your purchases (not a bad idea in a way; but credit cards are convenient such as my gas credit card when you are home); your best friend could steal your girl and consider that to be rational behavior. And so on. It is hard to imagine.

Many of the conveniences and pleasures we enjoy today are due in some part to a viable business climate. It moves fast, decisions are rapid, the productivity of executives is enormous. I cannot visualize doing business in a climate where written and witnessed documents were a necessity for every minor agreement. It is not uncommon for me to accept an order from a customer involving many thousands of dollars solely on the basis of a one minute telephone call. "Do you want a confirming order", the caller may ask. "No, save the time. If your word isn't any good, neither is your paper."

There are millions of stockholders in this country who can call their broker any morning and order him to buy or to sell any quantity of stock, and solely on the strength of their word the deed is done. It is understood between them that if it is a sale, the brokerage house will credit the stockholder's account and if it is a purchase, the buyer will put a check in the mail. Trading of stocks is a useful function in our economy; without mutual trust it would grind to a halt.

"Now, Dad," you might say, "are you trying to tell me that all business men and all stockholders are angels? And, even if they aren't, you don't go around squealing on them." Well, Son, you are right on the first count. They are not all angels. But you are wrong on the second count; we do squeal on them.

Did you ever hear of the Retail Credit Bureau? Every citizen who uses charge accounts is catalogued and a record of credit reliability is maintained. If I want to open a new charge account the store can call the Retail Credit Bureau and find out in a minute what kind of experience other stores have had with me. The Bureau is financed by the stores themselves. It makes sense. A cheat is a cheat is a cheat. Why find it out three different times in three different stores if by exchanging information you can limit the loss to only one store. And, it might also be said, that if the stores could not limit their losses to cheats, then their prices to everybody, good guys included, would have to be higher. I applaud their squealing. It saves me money.

Of course, you could say, these people are not ratting on someone they know personally. As a matter of fact, they never saw the person on whom they are blowing the whistle. He is just a faceless name. But, is that germane to the question; does that really make a difference? If you had an acquaintance who you discovered to be lying, cheating, or stealing, wouldn't your attitude toward him change; wouldn't you mentally if not physically, withdraw from him? How could you have a satisfactory relationship with such a person? So, once he is discovered, what difference does it make whether you know him or do not.

The business world is a world of constant battle for economic survival. It is a game of education, of wits, of ingenuity, of experience, of inventiveness, of astuteness.

Each and every worker is striving for food, shelter and clothing for himself and his family, or for better food, better shelter and better clothing. Any threat to his job is a threat to his capacity to provide these essentials of life and where something as basic as hunger is involved, man will fight or to put it in milder terms and more in the context of this letter, he will try to remove obstacles to his goals.

If he does not know it at the outset, experience teaches him that lying, cheating, and stealing on the part of others are one kind of obstacle to his goals. Furthermore, he also learns that such behavior follows patterns and it is repetitive. In order to avoid the unpleasantness of frontal encounters, he is always alert to the appearance of identifying patterns and he circumvents the encounter—he doesn't associate with the person, he doesn't hire the candidate, or he chooses to not do business with the potential customer. Thus he adroitly avoids the problem.

Hopefully, in your case, the screening of tens of thousands of applicants and thousands of nominees down to 1,400 appointees has largely handled the avoidance technique.

But what do we do about the ones we couldn't avoid—we didn't identify the pattern, or we were inexperienced, for we were asleep. We squeal! You're darn right we do! And loud! We alert our friends. We literally say to our friends, "I wouldn't do business with that man. I've learned you can't trust him."

A few paragraphs ago I tried to establish the point that the fast pace of business depends on mutual trust among businessmen and that we all are beneficiaries of this business pace. Therefore an untrustworthy person impedes the progress. He is a threat to my capacity to provide the food, clothing and shelter, and to that of my friends, and I therefore expose him without a single qualm of conscience and it is only the recall of my christian belief in charity towards all that keeps me from being downright happy about my act.

Let me cite two actual cases:

1. A salesman was cheating on his expense account; you could also call this stealing. I fired him. He applied for a job with one of my customers. The customer asked me questions. I told him the facts. The customer hired the salesman anyway, but, being warned, he could defend himself.

Did I hear you ask why I fired him, why I didn't just warn him to not do it again. First of all, because it was a reasonable assumption he had been stealing from me other times as well. I just happened to catch him this time, and, frankly, I was mad. That was money right out of my pocket. Secondly, he had irreparably damaged his integrity and, as I've said twice already, I can work only with those I can trust.

2. A certain purchasing agent lied to me about a competitive situation. He said he could buy a competitor's product for less than he could. I met the alleged competitive price and in so doing, dropped $100,000 from my gross income on that product over a period of a year.

How did I know he lied? That's another story, but accept the fact that I knew. Of course, I didn't know it at the time or I wouldn't have met the price. I found it out later and when my company was poorer. Did I tell others? I sure did. I told my own people and I told my competitors. Do I need to tell you why again? We don't do business with that purchasing agent anymore.

So, my son, exposing liars, cheaters, and stealers is a common way of life in the business world. It is a necessary way of life to our business system and a positive contributor to the results of that system which we all enjoy. Successful businessmen follow the Air Force Honor Code to the letter and do so, not because someone said they should, but only because they know it must be that way if they are to achieve their goals.

Let's take one more example, this time a hypothetical one from your future life:

You are third officer on an air mission. You know the second officer is responsible for verification of a piece of equipment vital to the mission, but you know he did not perform the check. You ask him. He lies to you.

You know if the mission aborts you will lose crew and plane not to mention the failure of the mission. You also know if you tell the first officer what you know, the second officer's future is doomed. What do you do? Obvious answer, isn't it? But you must act by instinct, you don't have time to think about it. That is why learning now to live by the code is so necessary.

The only thing unique about you and the Honor Code is that you are having to learn it at a young age, much younger, at least, than I did. But I can see that only in a positive light. Why put off such an important piece learning. I wish I had acquired it sooner.

When I think about it, perhaps the most surprising thing is that the Honor Code is not taught and enforced in all colleges. It should be. What a gift it would be to students.

(Name withheld by request.)

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## ACTION NOW FOR OLDER AMERICANS

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues legislation of major significance to the older population of our country and to those who will soon join their ranks.

Mr. Speaker, let me note that the total population of middle-aged and older persons combined came in 1970 to 61.8 million, or 31.5 percent of all Americans, almost a third.

Almost 100 years ago, in 1890, of a total population of almost 40 million, only 1.2 million, or 2.9 percent, were 65 or over. In 1970 the proportion of the 203.2 million residents of the United States in this age range had reached 9.9 percent. The number of older persons in this country had increased to 20 million.

When we consider also the middle-aged population, those between the ages of 45 and 64, which rose from 4.6 million, or 11.6 percent, to 41.8 million, or 20.6 percent, we can see that nearly a hundred years of growth have produced a total population five times as large, a middle-aged population nine times as large, and an older population an unprecedented 17 times as large.

Mr. Speaker, we cannot afford either to neglect the problems of this growing proportion of our population or to fail to utilize their skills and abilities.

We must also recognize and respond to the fact that 4.7 million Americans over 65 live in households below the poverty line. The income and service needs of this group must be met.

In addition, we must recognize that many individuals reaching this age are healthier and can expect to live longer than in the past and want to make their own contributions to society.

### WHITE HOUSE CONFERENCE ON AGING

Only a few months ago, over 3,000 delegates attended the 1971 White House Conference on Aging here in Washington, D.C. These delegates, representing every State in the Union, presented us with a challenging action plan.

The recommendations that emerged from the conference ranged across such areas as more adequate income; better health care; more job recruitment; training, counseling, and placement services for older workers; more educational opportunities; increased transportation services; improved nutritional services; and improved visibility and attention to the problems of the elderly at all levels of Government.

### OLDER AMERICANS ACT AMENDMENTS OF 1972

As chairman of the Select Subcommittee on Education, which has jurisdiction over the Older Americans Act of 1965 as amended, I have followed the activities of this conference with keen interest.

Indeed, during the past year the Select Education Subcommittee conducted a series of hearings across the country in an attempt to better appreciate the needs of older Americans. As a result of these hearings, on December 2, 1971, I introduced H.R. 12017, a bill to strengthen and improve the Older Americans Act of 1965. It is, Mr. Speaker, this measure that I wish now to describe.

### OBJECTIVES

Mr. Speaker, the objectives of these amendments to the Older Americans Act are to:

Make available to older people comprehensive programs which include a full range of health, educational, and social services;

Provide for priority attention to older people with special needs;

Furnish meaningful employment opportunities for many individuals, including older persons, young persons, and volunteers from the community; and

Insure that the planning and operation of programs will be undertaken as a partnership of community groups and State and local governments, with appropriate assistance from the Federal Government.

### GRANTS TO STATES FOR COMMUNITY PROGRAMS

H.R. 12017 extends the authorizations of the grant programs in the Older Americans Act, which expires in June of this year. The bill provides authorization for appropriations of $150 million for fiscal year 1973, $200 million for fiscal year 1974, and $250 million for fiscal year 1975 for grants to the States for community programs. Present law authorizes appropriations of only $30 million for fiscal year 1972.

Projects funded under this program have been designed to fill gaps at the community level where such services are needed but are not being provided for the elderly. One of the most important types of activities funded under this program is the multipurpose senior center, which provides a variety of services such as recreational and socialization programs, information and referral, counseling, employment referral, education, transportation, and volunteer opportunities from a central facility.

Other programs supported have included homemaker services, home delivered meals, specialized short-term training for persons working in programs for older people, and community planning and development on behalf of the elderly to promote and coordinate services for the aging provided by other established agencies.

### AREAWIDE MODEL PROJECTS

H.R. 12017 also authorizes appropriation of such sums as may be necessary for fiscal years 1973 through 1975 for areawide model projects. Present law authorizes appropriations of $10 million for fiscal year 1972. The 1969 amendments to the Older Americans Act established this program to provide for the development and operation of statewide, regional, metropolitan, or other areawide model projects.

### RETIRED SENIOR VOLUNTEER—(RSVP)—AND FOSTER GRANDPARENT PROGRAM

The bill also authorizes appropriations of such sums as may be necessary for fiscal years 1973 through 1975 for both the retired senior volunteer program and the foster grandparent program. Present law provides authorizations of appropriations of $5 million in fiscal year 1972 for the RSVP program and $25 million for the foster grandparent program. These two programs, which were transferred from the Administration on Aging to the new Action agency last year, have been extremely successful examples of how much older Americans can contribute to the communities in which they live.

The foster grandparent program has provided low-income elderly men and women with the opportunity to work closely and directly with children in institutions who are deprived of their parents and families. The retired senior volunteer program was established by the 1969 amendments. The volunteers serve in courts, schools, libraries, daycare centers, hospitals, nursing homes, Boy Scout offices, economic development agencies and other community service centers.

### RESEARCH, DEMONSTRATION, AND TRAINING PROJECTS

Such sums as may be necessary for fiscal years 1973 through 1975 are authorized by the bill for research, demonstration and training projects. Present law provides for authorization of appropriations of $20 million for fiscal year 1972.

Title IV of the act provides for grants for research on patterns and conditions of living of older people, for demonstration and development of new approaches and programs for meeting the needs of older people, and for achieving or improving coordination of community services.

Title V authorizes grants for training professional, technical, and lay personnel, to plan for and serve older people in programs related to the broad purposes of the act.

### STATUS OF COMMISSIONER ON AGING

Section 4 of H.R. 12017 provides that the Commissioner on Aging would be directly responsible to the Secretary, who would be prohibited from delegating any of the functions of the Commissioner to any other officer who is not directly responsible to him.

At present, the Commissioner reports to the Administrator of the Social and Rehabilitation Service, who is responsible also for the welfare, medicaid, vocational rehabilitation and juvenile delinquency programs of the Department. Under present laws, the title IV research and demonstration program is administered by the Commissioner and the Associate Administrator of SRS. The title VI, foster grandparent and retired senior volunteer programs are no longer administered by AOA at all but have been transferred to the new Action agency.

Mr. Speaker, I am concerned about these moves, which have tended to lower the relative status of the Commissioner on Aging within the organizational structure of the Department and have taken away much of his operational authority. Let me therefore recall that in 1965, when the measure creating the Administration on Aging was brought to the floor of the House, the chairman of the Select Subcommittee, the Honorable John Dent, explained:

> The major point at issue was the creation of an operating agency within HEW, headed by a Commissioner, as opposed to the continued vestige of authority in HEW, under the Commissioner of Welfare . . . It must be recognized that there are many facets of Federal and State programming and local activities which are not in the welfare context and which cannot respond well to leadership which generates basically from the concept that public welfare is the central coordinating point around which these activities should be conducted. I submit that attention to the aging is one of these facets, and one that should be completely divorced from the welfare concept.

### COORDINATION

In an attempt to promote better coordination among the many Federal programs which have impact on the lives of older Americans, section 4 of H.R. 12017 requires Federal agencies proposing programs related to the purposes of the Older Americans Act to consult with the Administration on Aging prior to the establishment of such programs, and Federal agencies administering such programs must cooperate with AOA in carrying them out.

### INFORMATION AND RESOURCE CENTER

In another effort to improve coordination and communication in the field of aging, the bill provides for the establishment, within AOA, of a National Information and Resource Center for the Aging. The Center would collect, review, organize, publish, and disseminate information and data related to the particular problems caused by aging, including information describing measures which are or may be employed for meeting or overcoming such problems. Each department or agency of the Federal Government would be authorized to make available to the Secretary, for use by the Center, any information or data which the Secretary requested. To the maximum extent feasible, the Secretary would enter into arrangements whereby State and other public and private agencies and institutions would make useful information and data available to the Center. The bill authorizes appropriations for this purpose of such sums as may be necessary for fiscal years 1973 through 1975. All too often the elderly find it impossible to find answers to their every day practical problems. The Center would serve as a clearinghouse to disseminate those answers.

### CONSTRUCTION

Section 5 of this bill provides that construction costs could be approved under the program of grants to the States for community programs if such construction is needed to provide adequate services for the elderly and if rental, remodeling, or leasing of adequate facilities is not practicable.

### GERONTOLOGICAL RESEARCH CENTER

Section 6 of the bill establishes an independent agency, the Gerontological Research Center, to develop a coordinated national program for research on the biological aspects of aging. The Center would be located within the Department of Health, Education, and Welfare for administrative purposes only. A board composed of two biological scientists, one behavioral scientist, one administrator and one physician would head the Center.

This board would carry out the following duties in relation to the biological aspects of aging:

Collection, analysis, interpretation, and evaluation of information and statistical data;

Appraisal of programs and activities;

Development of priorities for new programs designed to increase knowledge;

Development of legislative reports and

proposals for new programs to provide greater insight into the area, and

Conduct research.

### PRERETIREMENT PROGRAMS

Section 7 of H.R. 12017 amends title V of the Older Americans Act to authorize the Secretary to develop and operate—in cooperation with any public or nonprofit private agency, organization, or institution—preretirement programs providing education, information, and relevant services to persons planning retirement. The Secretary would be authorized to collect and disseminate, through publications and other appropriate means, information concerning research, studies, findings, and other materials developed in connection with preretirement programs.

The Secretary could make grants and contracts for the evaluation of preretirement programs, the training of personnel to carry out such programs, and the conduct of research with respect to the development and operation of such programs.

As individuals retire earlier and live longer in retirement, a program of education for the new period of life they are entering becomes more and more important. This program, together with the program of continuing education which I will discuss later, should do much to help middle aged and older people develop the resources and skills they need to get the most out of their years of retirement.

### SPECIAL IMPACT PROGRAMS

Mr. Speaker, section 8 adds a new and exciting title VII to the Older Americans Act. Title VII authorizes what can be called special impact programs such as service roles in retirement, nutritional services, construction of multipurpose senior centers, transportation services, and continuing education for older persons.

### 1. SERVICE ROLES

The service roles in retirement program would complement the already existing foster grandparent and retired volunteer programs. Under this program the Secretary could make grants or contracts to pay not more than 90 percent of the cost of the development and operation of programs designed to provide opportunities for persons aged 60 or over to render public service. Such sums as may be necessary are authorized to be appropriated for fiscal years 1973 through 1975.

### 2. NUTRITIONAL SERVICES

The nutritional services for older Americans program is similar to the Nutrition for the Elderly Act which, in somewhat different terms, has already passed both Houses of Congress this year. I am hopeful that by the time H.R. 12017 is acted on in committee the nutritional program contained in S. 1163 will already have become law.

### 3. MULTIPURPOSE SENIOR CENTERS

As I mentioned earlier, senior centers have been among the most successful of the programs funded under the Older Americans Act. H.R. 12017 authorizes for fiscal years 1973 through 1975 appropriation of such sums as may be necessary for grants to pay not more than 75 percent of the cost of construction of multipurpose senior centers. The total of such grants in any State for any fiscal year would not exceed 10 percent of the total amount appropriated for the fiscal year. In making grants, the Secretary would give preference to the construction of multipurpose senior centers in areas covered by approved comprehensive city programs assisted under the provisions of the Demonstration Cities and Metropolitan Development Act of 1966.

### MORTGAGE INSURANCE

The Secretary could also insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation. An individual mortgage could not involve a principal obligation of more than $250,000. A multipurpose senior center insurance fund would be used by the Secretary as a revolving fund for carrying out all the insurance provisions. Appropriations of such sums as may be necessary are authorized to provide initial capital for the fund, and to assure the soundness of the fund thereafter.

### 4. TRANSPORTATION

Transportation is increasingly a concern of older people. Over one-third of 200,000 older people who responded to a questionnaire sent out in connection with the White House Conference on Aging indicated travel problems. A fifth cited lack of adequate transportation. Another fifth cited "no car" as a problem. Lack of money for bus fare was noted by 13 percent while 11.4 percent said they had difficulty in getting on and off public transportation.

Provision of social services without the necessary transportation to reach these services negates their value to the older person. This bill would authorize the Secretary, after an appropriate investigation and study, to develop and carry out a program to improve the transportation services available to older persons. Such programs could provide:

Special transportation subsystems for older persons or similar groups with similar mobility restrictions.

Portal-to-portal service and demand actuated services.

The payment of subsidies to transportation systems to enable them to provide transportation services to older persons on a reduced rate basis.

Payments directly to older persons to enable them to obtain reasonable and necessary transportation services.

Any other program which the Secretary determines shows promise of facilitating the provision of transportation services to older persons.

To carry out this transportation program, appropriations of such sums as may be necessary are authorized for fiscal years 1973 through 1975.

### 5. CONTINUING EDUCATION

As I mentioned earlier, the bill also provides a program of continuing education for older persons.

The Secretary is authorized, after appropriate investigation and study, to develop and carry out such a program. This could include programs:

To provide rehabilitation for older persons to enable them to lead more productive lives;

To retain persons who are shifting to new employment by reasons of age or other conditions;

To upgrade the skills of older persons to enable them to obtain more rewarding employment; and

To broaden the educational, cultural, or social awareness of older persons so that they will be better able to lead more productive and rewarding lives in retirement.

The Secretary would conduct this program through grants or contracts with public and private agencies, local educational agencies, vocational educational agencies and the vocational rehabilitation agencies of the States. Appropriations of such sums as may be necessary are authorized for fiscal years 1973 through 1975.

### HEARINGS

Mr. Speaker, the Select Education Subcommittee of the Committee on Education and Labor will begin several weeks of hearings on this and related bills on Wednesday, March 1. Mr. Speaker, I hope very much that there we can take prompt action on this legislation so that the programs it authorizes can be into action now for the benefit of the older people of our country.

Let me then conclude with some words of an old friend of mine, whom I once had the honor to serve for nearly a year, the late Adlai E. Stevenson.

Said Mr. Stevenson:

> What a man knows at 50 that he did not know at 20 is, for the most part, incommunicable. The knowledge that he has acquired with age is not the knowledge of formulas or forms or words, but of people, places, action—a knowledge not gained by words but by touch, sight, sound victories, failures, sleeplessness, devotion, love—the experiences and emotions of this earth and one's self and of other men and perhaps, too, a little faith and a little reverence for the things you cannot see.

The kind of knowledge, the kind of faith, the kind of reverence which characterizes the older people of our society is much too scarce and much too precious in this great and wealthy Nation to be either wasted or perhaps worse, ignored.

Mr. Speaker, the time has come—the time is now—for a genuine commitment—not of words but of deeds—to lifting the quality of life of the older citizens of the United States.

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## THE AMERICAN LEGION

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. TEAGUE) is recognized for 60 minutes.

Mr. TEAGUE of Texas. Mr. Speaker, I am pleased to join with my other colleagues in the House to extend special greetings to American Legion National Comdr. John H. Geiger, the president of the Legion's Auxiliary Mrs. Robert L. Parker, and the thousands of other leaders of that fine organization who are gathered here in Washington this week from throughout the world to attend their annual midwinter conference.

The contributions of the American Legion throughout our land to the strength and quality of life in America is impossible to estimate.

Aside from its great leadership position in the field of veterans' matters, the American Legion has formed a broad base of programs which has greatly assisted America to fortify its defense posture and strengthen its society by a number of well-planned and ambitious programs in such critical fields as Americanism, child welfare, youth recreation, as well as community health, safety, and public service. Particularly significant among the Legion's youth and public service programs are the baseball programs, and the Legion's active support of Boys Nation, Boy Scouts, Boys' Clubs, high school oratorical contests, and thousands of marching units, drill teams, and drum and bugle corps.

Over the 54 years of the American Legion's existence, its hallmark has been its versatility in responding to the major needs of our time. Most recently, the American Legion has been instrumental in addressing itself and reminding others of one of the most critical problems of our times—the plight of America's prisoners of war and those who are missing in action. The Legion has helped the families of those men to know they are not alone in the struggle to obtain information about the POW–MIA's. I hope the day will come very soon permitting a happy reunion with these servicemen and their faithful families.

Mr. Speaker, of particular importance today is the American Legion's efforts to reach out to the Vietnam veteran who has concluded his tour of duty and returned safely home. To this new generation of veterans, the American Legion is working tirelessly to improve and help implement the many veterans' benefits which are available. The American Legion has been especially active in the Jobs for Veterans programs. To those who have returned home sick and wounded, the Legion is rendering invaluable assistance to insure that they will have the best program of hospital and medical care in the world. Legionnaires and Auxiliary members by the thousands have performed countless hours of service each year in every one of VA's 165 hospitals—the largest single hospital system in the world. The work they do is as varied as the needs of the patients.

Mr. Speaker, during 25 years of congressional service, it has been a great pleasure to meet often with the professional staff of the American Legion on the complex problems which face our Nation's veterans. I want to pay particular tribute to the current staff headed by National Adjutant Bill Hauck, who has been a pillar of strength throughout the years. He has been ably assisted by a most dedicated group of the legislative staff under the directorship of Herald Stringer and his two most capable assistants, "Chuck" Mattingly and Terry Wertz. It has also been a great pleasure for me and my staff to work closely again this year with the National Rehabilitation Commission Director Ed Golembieski and his outstanding staff of professionals who have been of great assistance in rehabilitation and VA hospital matters.

Mr. Speaker, the American Legion epitomizes the things which make American democracy function, and I will continue to count heavily in the years to come on this great organization in carrying out our mutual goal of faithfully serving America, its veterans, and their families.

Mr. Speaker, the National Commander of the American Legion appeared before the House Veterans' Affairs Committee this morning and appeared before the Senate Committee this afternoon. They have invited all the Members to have dinner with them tomorrow night. I hope the Membership of the House will accept the invitation.

Mr. ARENDS. Mr. Speaker, this is "Legion Day on the Hill." This is the day that our friends and comrades of the American Legion visit with us as their respective representatives in Congress, and the day when the American Legion officially presents its program to the Congress.

As a Legionnaire, and as a Member of Congress, I cannot let this day pass without expressing my very real appreciation of all the American Legion has done over the years in behalf of our veterans and in behalf of the cause of Americanism.

The American Legion today commemorates its 53d anniversary. From the day of its founding to this very day the organization, now some 2.7 million strong, has pursued the ideals of service to God and country.

Members of the American Legion are those who wore the uniform of the United States with pride and with honor. Many bear the scars of battle. They know the horrors of war. They now wear with pride the insignia of the American Legion as peacetime warriors in the fight to make certain our country's continued preparedness that we may always be secure in our cherished heritage of freedom.

I extend my personal congratulations to the officers and the entire membership of the American Legion. I am proud to have been one of your comrades in arms and to be one of your comrades in the American Legion.

Mr. MILLER of Ohio. Mr. Speaker, it is a distinct pleasure to join in this period of commemoration of the American Legion. As one who has worked closely with the memberships of the 68 American Legion posts located throughout southeastern Ohio and the 10th Congressional District, I can especially appreciate the dedication to duty, honor, and country characterized by the work of all legionnaires and their affiliates.

It is significant to note, I feel, that the House Veterans' Affairs Committee just today received the testimony of the National Commander of the American Legeon, John H. Geiger, outlining the Legion's legislative position on matters of vital concern to America's military veterans. If the past is prologue to the future, the needs of America's servicemen will indeed be met by a conscientious Congress with the support of the American Legion. I am reminded of the important role the Legion played in formulating the original GI bill at the conclusion of World War II. As the result of this monumental piece of legislation, millions of American servicemen have been able to further their formal education and consequently keep America progressive and productive.

Mr. Speaker, there are presently 2.7 million members listed on the role of the American Legion. Add to this figure an additional million in membership of the American Legion Auxiliary and 1972 membership totals more than 3.7 million Legionnaires. The American Legion includes more than 16,000 posts throughout the United States and around the globe. It is fitting that the Legion was founded in Paris in 1919, at the conclusion of the First World War. Since its inception, the Legion has steadily grown—not only in terms of membership but in scope of service and contribution to the American way of life.

"For God and Country"—the Legion motto—is understandably appropriate.

In closing, Mr. Speaker, permit me to remark on one further point of interest with regard to Legion membership. It involves our young veterans of Vietnam. While some militant groups in this country have clamored in the streets, engagin mass civil disobedience under the guise of promoting change in America, other equally concerned—but far less flamboyant—Vietnam veterans have quietly and consistently worked for constructive change within the system.

While news of protestors commanded front-page play and prime TV time, many groups of Vietnam veterans working closely with the American Legion were quietly but methodically attacking the pressing domestic problems facing the young Vietnam returnee.

I can draw from the example in my home State of Ohio where, during the past summer, the American Legion along with the National Association of Collegiate Veterans labored long and hard to organize and implement a number of extensive "Opportunity Fairs" across the State to provide broader job opportunities, expanded educational aid and ready Federal, State, and local veterans assistance to those men who had served in Southeast Asia. It is this sort of constructive cooperation which deserves a tip of the hat and a headline or two.

I think it is noteworthy that the number of Vietnam veterans holding membership in the American Legion is now second only to the number of World War II veterans. More than 425,000 Vietnam returnees have joined the Legion and it is with respect for their services—past and present—that I couple these remarks of recognition for the Legion with a note of special gratitude for them.

Mr. DANIEL of Virginia. Mr. Speaker, for this opportunity to participate in American Legion Day on the Hill, I am sincerely and humbly grateful, and wish to commend my colleague, Chairman Olin Teague, for arranging this special order to pay tribute to one of America's great veterans organization.

It was my honor to serve as National Commander of the American Legion, and in that capacity I had the opportunity to observe our Legionnaires in action, playing a vital role in building and protecting this, this great Nation.

Listen, if you will, to the words of some of the great men of our time who were not privileged to membership in the American Legion. John Edgar Hoover said, and this is a great tribute to the men of World War I:

> Had it not been for The American Legion, subversive forces within would have destroyed our country while the flower of her youth was fighting for her preservation on foreign battlefields.

The late Bernard Baruch, a great statesman who was not given to wild and rash statements, said:

> Within the American Legion thrives the greatest corps of Americanism alive anywhere in the world today.

The American Legion may take pride in the splendid chain of Veterans' Administration hospitals that ring our land, and for which the organization is primarily responsible. The Legion's youth programs, designed to instill in our leaders of tomorrow a sense of appreciation of the rich heritage they enjoy under a representative form of government, is also a matter of great pride. The American Legion has unremittedly supported that immortal document known as our Constitution, the greatest experiment ever devised by man for the governing of itself, along with the Bill of Rights which builds fences around individual liberties which governments may wish to take away.

The American Legion has consistently remained public enemy No. 1 on the list of the Kremlin because of its relentless fight against international atheistic communism. I am proud that the Legion is now sponsoring a religious emphasis program designed to bring all our people close to the Creator who has blessed us all so bountifully.

The accomplishments of the American Legion are recorded history, and a proud history it is. In my judgment, the Legion will face up to the challenge of today with the same zeal and vigor that have marked its accomplishments for the past 53 years.

Mr. TEAGUE of California. Mr. Speaker, over the years, the American Legion has espoused the cause of our veterans beginning with World War I when they gathered in France to form the patriotic organization insuring that the veterans of our wars would not be forgotten for the services they rendered in the defense of our country.

Today, the national commander, John H. Geiger, appeared before the Committee on Veterans' Affairs presenting the legislative program of the American Legion for 1972. This is an organization that keeps abreast of its commitments and without its soundings from the grassroots the Congress would be hard pressed to enact legislation to meet the needs of the moment.

The Legion has an enviable record of achievement. Veterans' benefits available under existing law can be attributed in a large measure to the efforts of the American Legion. Their effectiveness is attested to by their leadership in the establishment of the Veterans' Bureau in 1921 and its successor, the Veterans' Administration in 1930; the World War Veterans Act of 1924; the first nonservice connected pension program for widows and orphans; the World War II GI bill which established the program for veterans of the more recent conflicts.

These cover the highlights of their record, but the existing legislation was assisted in many ways by their wise advice in the even broader program of benefits available today.

In addition to their legislative effort the American Legion maintains a rehabilitation program to assist veterans and their dependents in obtaining the benefits to which they are entitled. At the post and department levels and the staff they maintain at the national level they are counseling thousands of veterans and their dependents, helping them file and process their claims, gain admission to Veterans' Administration hospitals and assisting in guiding them in the myriad of problems with which they are confronted.

The American Legion is not concerned solely with veterans. As a patriotic organization it acknowledges an overall commitment to the welfare of our country. Accordingly, it embraces the youth of our Nation by involvement in the American Legion baseball program, the training ground for people such as Yogi Berra, Stan Musial, Jackie Robinson and Ted Williams, an inspiration to all young baseball aspirants. Some 4,000 certified teams vie for the honor of playing in the American Legion World Series.

The Legion also sponsors Boys State and Boys Nation where the youth of our Nation learn the responsibilities and the rights that come to citizens within our society.

In addition the Legion is active in promoting the Boy Scouts and offers a national high school oratorial contest devoted to the theme of patriotism.

This is an organization which relates and rises to meet the needs of the moment in a continuing resolve to keep the United States the strongest nation on earth.

I salute the American Legion in its many years of continuing achievement and rest more easily in the awareness that we have little to fear from external forces with guardians of the ramparts such as this.

Mr. DUNCAN. Mr. Speaker, I am pleased to have the opportunity today of joining with colleagues in saluting the American Legion.

I know of no organization in this country that is more patriotic, more concerned about the defense of this country and the freedom of people everywhere.

Some 2.7 million veterans from four wars belong to the Legion, and the ranks grow daily with new memberships of the returning Vietnam veterans. Already there are around 425,000 members who are veterans of the Vietnam conflict.

I speak from personal experience when I praise the American Legion. I have been a member for many years, but I suppose I learned more about the individuals who make up this group when I was State commander of the Legion in Tennessee. I traveled from post to post and met with thousands of Legionnaires. I found these men to have great respect for this country; they support a strong defense in the hopes of preventing future big wars; and they work for freedom for all mankind.

There is great friendship and comradeship among the members of the American Legion. They are dedicated to helping one another and especially to offering moral support to new veterans. Recently they are organizing efforts to help find jobs for veterans, to improve medical services, and to help the veteran become an integral part of his community.

In other words, the main goal of the American Legion is the total well-being of the Nation's veterans. The social activities and the civic activities of the Legion serve the community and thus the Legion is respected and plays an important role in hometowns across the Nation.

Today, during the 53d anniversary of this organization, I say thank you to the Legion for what it has done for all veterans. I offer my support for future efforts to assist the men who have fought our wars.

Mr. HAMMERSCHMIDT. Mr. Speaker, it is a privilege to take part in American Legion Day and to formally recognize the outstanding work of this patriotic organization.

In this, its 53d anniversary year, the American Legion can certainly look back with pride on a long record of service to our Nation's veterans and their families. Dedicated to equitable treatment for all veterans, particularly the disabled, their widows and their orphans; the American Legion's efforts on their behalf have been unceasing.

As a member of the House Committee on Veterans' Affairs, it has been my privilege to meet and work with many members of this organization on legislative matters. The consistent help and cooperation of the American Legion have contributed immensely to the many measures of benefit to our Nation's veterans which have come out of this committee through the years.

This morning the House Committee on Veterans' Affairs was pleased to welcome the many Legion members currently in Washington and to receive testimony from the American Legion's National Commander, John H. Geiger. Mr. Geiger's testimony provided the committee with an informative summary of the Legion's future legislative goals.

While we are necessarily most familiar with the American Legion's very significant contributions in the legislative area, its work on behalf of veterans has long extended far beyond the halls of Congress. All of the Legion's posts, for example, have trained service officers to assist veterans with respect to laws and regulations of benefit to them. The Legion's efforts on behalf of the Veterans' Administration medical care program are also substantial.

In recent years, the Legion has significantly expanded its efforts to assist young men returning from service in

Vietnam. Over a year ago the Legion began its Jobs for Veterans Program by conducting job fairs or job marts in order to bring prospective employers and the veteran together.

Another continuing area of concern for the American Legion has been its program to focus the attention of the American people and of peoples throughout the world on the tragic plight of those who are prisoners of war or missing in action in Southeast Asia.

Perhaps most familiar to citizens throughout the country are the American Legion's many community programs. Of particular benefit have been the Legion's programs for young Americans, such as American Legion Baseball, Boy Scout sponsorship, the National High School Oratorical Contest, the American Legion Boys State, and Boys Nation.

Finally, the American Legion has contributed greatly to that patriotism among American citizens which is such an important component of those things which go into the making of a great nation.

Mr. Speaker, in my judgment the American Legion has truly lived up to its motto, "For God and Country," and I am pleased to join in paying tribute to this fine organization.

Mr. HILLIS. Mr. Speaker, the American Legion, in the city this week for their 12th Annual Washington Conference has designated February 29 as "American Legion Day on Capitol Hill." Considering the many worthwhile projects of this fine organization and their tremendous contributions on behalf of America's veterans, I would like to take this opportunity to salute the Legion and its 2.5 million members and say to those visiting us "welcome aboard."

From Junior League Baseball to Boys and Girls State and Nation, not to mention the countless hours legionnaires and auxiliary members spend in volunteer work at our Veterans' Administration hospitals, the Legion through their programs and service exemplify "Americanism in practice" in the truest sense of the word.

As many of you know the National Headquarters of the American Legion is located in my State in Indianapolis and we "Hoosiers" like to brag about this point when the opportunity presents itself. In this connection a very interesting article appeared in the November 7, 1971 Indianapolis Star sesquicentennial edition describing some of the colorful behind-the-scenes maneuvering at the Legion's first convention on the part of "Hoosier' legionnaires which resulted in the selection of Indianapolis as the National Headquarters site.

Since today is "American Legion Day on Capitol Hill" I thought today would be a good day to share Mr. John M. Booth's article. I personally found it to be a very interesting account of "Hoosier" ingenuity and I commend it to your reading. The article is as follows:

[From the Indianapolis Star; Nov. 7, 1971]

### City Is Legion Headquarters

(By John M. Booth)

Boxes of chocolates, 250 straw hats and a large dose of Hoosier deception were key ingredients in bringing the national headquarters of the American Legion to Indianapolis.

When it snowed in Minneapolis during the Legion's first national convention in 1919, Indiana delegates wearing straw hats stood on street corners, cursing the weather and waving placards reading, "Is This Where the Legion Should Come?"

As the 646 delegates arrived at the Radisson Hotel, many fell victim to elevator girls who had been bribed with chocolates to lead persons asking for the national headquarters to the Indiana headquarters instead.

Even after getting first crack at the delegates, the Hoosiers were not taken seriously at first. Teddy Roosevelt Jr., the "Father of the American Legion," poked an Indiana delegate in the ribs and asked when he was going to close his "sideshow."

Indianapolis had formidable rivals in its bid for the headquarters.

Washington offered the center of government. Philadelphia claimed to be the cradle of liberty. New York City and Kansas City offered grants of $5 million. Chicago extended a blank check and Minneapolis argued that it should be rewarded for being host to the first convention.

All Indianapolis had to offer was the center of the nation's population and the "intent" of building a suitably impressive war memorial.

But a determined delegation, headed by Col. Robert L. Moorhead, Walter Myers and Dr. T. Victor Keene, proved so impressive in lining up support from the Midwest, South and Far West that the Washington group sent out a frantic call for help to high-ranking generals and admirals at the capital.

Indianapolis almost was outwitted in the final stages, however, when rival cities called a vote of the headquarters site committee while delegates from 11 states were attending other committees. Without those crucial votes, Indianapolis lost to Washington, 18 to 10.

The Hoosiers moved quickly to force a vote on the convention floor. Again, Washington came out on top. A majority vote was needed, however, so a run-off was held. Indianapolis won.

So, at a cost of $3,400, Indianapolis became the national headquarters of the world's largest veterans organization whose membership later would grow to 2.7 million.

During the first convention, Legionnaires were horrified by the news that a post commander and three subordinates had been shot and killed as they marched in the Nov. 11 Armistice Day parade at Centralia, Wash.

Sixteen other Legion members were wounded in the ambush staged by the radical Industrial Workers of the World. An angry mob of local citizens stormed the jail where the captured gunmen were held, but they were repulsed by Legionnaires. The mob then seized the electrical plant, turned out every light in town and rushed the jail again.

Legion members managed to hold onto every prisoner but one. He was found swinging from a bridge over the Skookumchuck River the next morning.

Outraged by the "massacre," delegates at Minneapolis vowed to rid the country of lawless dissidents, and the next day the Legion established the National Americanism Commission.

The commission proved so tireless in its pursuit of anti-American elements that in 1958 the Soviet newspaper Tass branded the Legion as "a huge, United States, reactionary, chauvinistic organization whose members are veterans, politicians, bank directors and heads of corporations."

Indianapolis Legionnaires played an active role in the "Red Scare" of the early 1950s. Legion Commander George N. Craig, later governor of Indiana, presided in 1950 at the founding in New York City of the All-American Conference.

Pledged to an impassioned battle against "Reds, Pinks and fellow travelers," the Conference combined 66 major national organizations claiming a membership of more than 50 million patriots.

Men like Dr. Harry Nagle, an Irvington dentist, and Indiana State Police Sgt. Frank Jessup led the battle in Indianapolis, carefully scrutinizing newspaper editorials for signs of subversion and exchanging confidential information about the "latest Red tactics."

Craig and two other men who stepped from Legion positions into the governor's chair figured strongly in the building of the present national headquarters at 700 North Pennsylvania Street.

From 1925 to 1950 the Legion occupied a smaller building across the War Memorial Plaza that had been donated by the state, but in 1945 the Legion found itself outgrowing the building.

Backed by Governor Ralph F. Gates, former Indiana commander, the Legion asked the General Assembly to build a new $2.5 million headquarters.

When Legion officials warned that they would move to Washington otherwise, the legislature quickly responded with the money.

Commander Craig accepted the building in 1950. Past Commander and Former Indiana Governor Paul V. McNutt gave the dedication.

Hoosier Legionnaires have sponsored numerous programs that have earned the Legion world-renown.

The activities include fund drives to combat childhood diseases and sponsoring American Legion baseball, Boys' State and Girls' State and high school debating contests.

Their participation in the Legion's legislative programs have won veterans benefits that would have astounded the delegates who attended that first convention in 1919.

Mr. KEE. Mr. Speaker, I rise to pay tribute to one of the Nation's outstanding organizations, the American Legion, whose founders mindful of their responsibilities even at that first caucus in Paris back in 1919, and before they had decided upon the name of their newly formed organization, vowed that:

> So long as we shall live, never shall we permit a battle-wounded comrade to endure the need of proper hospitalization or medical attention; nor shall we permit his widow or orphan to suffer the humiliation of want or the needs for an education.

As a result of this pledge, the Legionnaires all over the world adhere to a series of basic programs designed to uphold that vow. And they are today appearing before the Veterans' Committees of both the Houses and Senate setting forth their legislative goals for the coming year.

Because of the American Legion's insistence that the war veteran be considered in the scheme of things after his return to peacetime pursuits, the Veterans' Administration came into being. The American Legion has been instrumental in increasing the chain of hospitals that dot the map of the United States, as well as supporting wholeheartedly the GI bill which became the law of the land.

In the field of youth activities and community service, the American Legion has established many projects which have been universally accepted. I refer to such challenging programs as the Boys State and Boys Nation project. This is a program whereby high school boys go to the capitol of their State to learn government by operating government. They go through the processes of forming cities and counties; their election of government counterparts from city councilman to Governor is exciting and interesting.

The Boys Nation program is held in Washington, D.C. each year where the two representatives from each State follow the procedure of the Federal Government to the point of electing a boy president of the Boy's Nation.

Close to 1 million boys each year play baseball under the banner of the American Legion. This program, in my belief, is among the first steps in fair play. It teaches the boy to play by rules, and to learn how to win or lose. And we all know the importance of learning to play by rules.

The American Legion school awards program is another of their youth-interest undertakings. Many medals are awarded students from the elementary through the high school grades each semester for outstanding academic, loyalty, athletic and leadership achievements.

These are wonderful examples of the actions taken by the American Legion to meet the challenge of its heritage. It is, therefore, fitting to take this opportunity to congratulate the American Legion on its impressive record of achievement, dedication, and integrity. I would also like to join with the Legion's many friends all over the world in offering my sincerest congratulations on the anniversary of its founding and on the outstanding record it has established.

Let us be reminded that the soldier, the veteran, does not start the wars. He stops them.

Mr. QUILLEN. Mr. Speaker, I am pleased to participate in this American Legion Day tribute to pay honor to the Nation's largest veterans organization—the American Legion.

Founded in 1919 in Paris, France, the American Legion has experienced repeated growth since then. It is now recognized as one of the best known organizations in the world representing veterans of World War I, World War II, the Korean war, and the Vietnam war. It is indeed noteworthy that more than 425,000 veterans of the conflict in Southeast Asia are members, and many have assumed leadership roles in the Legion.

Composed of citizens of all walks of life, the Legion now has nearly 2.7 million members. The President is a Legionnaire, as are numerous Cabinet members, Supreme Court Justices, and Members of Congress. I, personally, take great pride in my lifetime membership in the American Legion Hammond Post No. 3, Kingsport, Tenn.

The four major programs of the Legion—Americanism, Children and Youth, Veterans' Affairs and Rehabilitation, and National Security—have played an important role in strengthening our Nation.

The Legion is currently placing top priority on efforts to free American prisoners of war in Southeast Asia and to secure jobs for returning veterans of the Vietnam conflict.

Now in its second half-century of service, the American Legion is experiencing another period of growth, having completed its 7th straight year of increasing membership. This is largely due to the acceptance by its youngest and newest group, the veterans of Vietnam.

The Legion is well known nationally for its untiring efforts in behalf of America's veterans—both in providing service and in securing legislation, its long opposition to communistic activity, and for its efforts to secure a strong national defense.

These objectives have been met head-on by the American Legion and it has been a great and powerful influence on our Nation.

"Reach Out—It's Action Time"—is especially timely. Indeed, the Legion enjoys a reputation of positive action toward achieving far-reaching objectives.

The American Legion continues to work for a united America seeking a greater respect for our American heritage. It is dedicated to advancing the ideals of America—justice, freedom, democracy and loyalty—while instilling in every American the invaluable gift of American citizenship.

The Legion is definitely a stabilizing force in America today, as it has been since its founding. To its members who gave so much during wartime to assure our Nation freedom and greatness, it offers an opportunity to serve the Nation and communities during times of peace.

The American Legion is truly a commendable organization whose sacrifices and exemplary acts of citizenship are known throughout the land. The principles for which the Legion stands have served as a shining example for freedom-seeking people everywhere.

And so, Mr. Speaker, I am happy to join my colleagues in wishing the very best to the American Legion and its fine membership.

Mr. HANLEY. Mr. Speaker, it is a genuine honor to add my voice to the chorus of praise offered today to my friends and colleagues of the American Legion.

I am proud to be a member of this great organization, past commander of Tipperary Hill Post 1361, in Syracuse, N.Y. In addition, I am privileged with a life membership in this great organization. But the pride I share today is not of a personal measure, it is of a measure that is far higher, a pride that every member of the Legion feels toward this organization that has done so much for the country we love.

Today is the 53d anniversary of the founding of the American Legion, and as such, it is a day to reflect on the Legion's distinguished past, and honor the more than 2 million men who are its members.

Through hard work and dedication, the Legion has secured many rights for veterans that had been sadly lacking in this country. Not only has the Legion helped the veteran himself, but its efforts to aid the widows and orphans of our men lost in combat have become a model of humanitarian concern in action.

Founded on the principles of comradeship and patriotism, the Legion is as active and as vital today as it was at its inception. For the seventh straight year, Legion membership has gone up. They have extended the hand of friendship to our returning veterans of Vietnam, helping them to find work and get settled. They have not forgotten the men still in Southeast Asia either. The Legion has continually focused attention on the deplorable situation of our men who are being held as prisoners of war.

But men of the Legion do more than simply aid the veteran and his family. Legionnaires organize and participate in many activities that improve community life. An example is the youth programs the Legion sponsors. Certainly their service to America is unrivaled.

And the Legion is active in the political life of the Nation. Appalled by the horror of their own war experiences, the men of the Legion form a strong voice for a defense that will serve to deter enemy aggression.

Mr. Speaker, the Legion has a long and glorious past, and I am proud to be associated with the organization. I am sure we all look forward to the day when we will have no veterans coming home because there will be no war. But until that day, the Legion will continue to serve, as the motto of the Legion commands: For God and Country.

I want to salute the Legion, and the men who make it great. They have contributed much to the Nation and to mankind.

Mr. ANDREWS. Mr. Speaker, today, February 29, is "American Legion Day on the Hill," and I personally want to welcome all legionnaires attending this annual Washington conference of the American Legion, especially those coming from North Dakota.

This is the 53d anniversary of the world's largest organization, an organization made up of members who are solid citizens dedicated to advancing the credo of love for flag and country.

I sincerely think it is appropriate that we take time to pay tribute to this outstanding organization that has done so much for the brave men of this country who have been sent to foreign shores to protect freedom.

Of course, the Legion post is a familiar site in most every hamlet in this great Nation, and I am proud to say that the American Legion is a strong organization in my State. I am proud to be able to pay my personal tribute to the American Legion for a job well done, and my sincere best wishes for continued success in the future in working for the veterans of this country.

Mr. NICHOLS. Mr. Speaker, I want today to commend our American Legion on the precepts and principles upon which it was founded and on its dedicated stand in behalf of maintaining a strong America. I have been privileged to be a member of Sylacauga, Ala., Post No. 45 of the American Legion now for better than a quarter of a century. I have had the opportunity to become thoroughly familiar with this organization—I know how very much the American Legion does for our country and its people, to help maintain our security, to obtain veterans benefits and opportunities for veterans and their families, and to relieve human distress and suffering.

Certainly no single group has a better right to express their views on matters that can determine on whether our Nation will survive or perish, than those who have been willing to risk their lives to insure its survival. No one has a better right to receive needed help from their fellow citizens and their Government than those who help to protect this land in times of deepest peril and who, in many cases, still bear the scars of battle.

Mr. Speaker, today the House Committee on Veterans' Affairs was presented testimony from the national commander of the American Legion, Mr. John H. Geiger on specific legislative proposals which are pending before the Congress.

There are several phases of veterans benefits which are in acute need of revision and, therefore, I would like to speak out today, Mr. Speaker, for prompt congressional attention to such matters.

In view of the increased cost of education and institutes of higher learning, the present education assistance provided by the Veterans' Administration is inadequate to meet the increased cost of education to veterans. I, therefore, Mr. Speaker, support the American Legion's position for an increase in educational assistance to young veterans who are striving so hard and in imminent instances under most difficult circumstances to obtain a college education.

Mr. Speaker, in regard to increased rates of compensation for service-disabled veterans, there has been no increase in compensation for the service-connected veteran since July of 1970. We all realize that there has been a major increase in the cost of living and for the veterans receiving compensation due to service incurred disabilities or disease, they are finding it most difficult to meet the everyday cost of living based on the current compensation being paid and it is certainly in order and timely to grant an increase at this time.

Mr. Speaker, I support the American Legion's position that every honorably discharged veteran has the opportunity of burial in a national cemetery, if this is his desire. I further believe that inasmuch as the Veterans' Administration is charged with the responsibility of administering all phases of veterans benefits, that the national cemeteries should be under the jurisdiction of the Administrator of the Veterans' Administration and that he should exert his efforts and authority to provide burial in a national cemetery to those honorably discharged, who desire same.

I further believe that the present $250 burial allowance, provided by the Veterans' Administration is most inadequate for the proper burial of a honorably discharged veteran. The increased cost of funeral expenses has been tremendous over the past few years and, therefore, Mr. Speaker, I respectfully urge all Members of this body for their united support in the American Legion's position for an increase in the burial and funeral expenses of those who have served honorably for their country.

Mr. Speaker, if the American Legion is accused of being a special interest group, the answer should be—that it is indeed and that its special interest is assuring that the United States continue to be a strong and free Nation in a peaceful world.

Mr. YATRON. Mr. Speaker, for most of the past 30 years, the United States has been engaged in a war in some part of the world. Throughout this period, we have used conscription to raise the major part of our Armed Forces. The use of the draft, which has not been customary in the broad sweep of our national history, illustrates just how extraordinary this period has been.

Before World War II, the United States fought for freedom in international conflicts as varied and bizarre as their names. World War I and the Spanish-American War of 1898, not to mention battles with the English, French, and Dutch in the 18th and 19th centuries, have produced many heroes. They have also produced many lessons upon which we have built this great Nation of ours.

Without the strength of the past, we cannot expect to achieve our objectives in the future. With the irony of a paradoxical world, the surest guarantee of peace at the present is the power to protect the Nation in the future.

In this vein, tens of millions of young American men and women have served their Nation with distinction and honor. Most of them are now veterans. Of particular importance are those who have been called upon to make great sacrifices in Indochina in a war which has divided our Nation and which many now consider to have been a mistake.

The entire American people owe a special debt to these servicemen, servicewomen, and veterans. We have recognized this debt over the years through the creation of the Veterans' Administration and of a wide range of programs intended to provide special assistance to those who have made personal sacrifices for our country.

Mr. Speaker, in view of the exceptionally fine job the House Veterans' Affairs Committee has done under the able guidance of its chairman, the Honorable OLIN TEAGUE, my respected colleague from Texas, I must say that the national commander of the American Legion had much to be thankful for when he spoke before the Veterans' Affairs Committee today.

By the same token, I am certain that America's veterans also have much to be thankful for. They have been assisted in a manner which befits the fine service they have rendered to their Nation. I am proud to have had the opportunity to aid these servicemen and women through my participation as a Member of Congress. I thank the Veterans' Affairs Committee and all Members of the House and Senate for consenting to approve the many measures which have aided our service personnel. I am sure that Congress will continue to provide the same high-quality assistance in the future that our veterans have witnessed in the past. It is certain that the House Veterans' Affairs Committee will continue to assure this excellent service.

Mr. WYLIE. Mr. Speaker, I join the distinguished chairman of the Veterans Affairs Committee in commending the American Legion for its outstanding service to our country and more particularly our veterans.

As a member of the Veterans Committee, I have worked closely with the Legion on legislation to assist our veterans.

A major concern of the Legion is how to reassimilate the returning veteran to civilian life. Veteran rehabilitation has been a foundation stone of the American Legion. The Legion's rehabilitation help takes many forms, such as, helping a veteran receive medical attention, getting school training or assistance in obtaining meaningful employment.

To give impetus and strength to this humane effort, the Legion, through its volunteers, has deeply involved itself with the youth of our Nation. In totaling the Legion's work with youth, we must add to their efforts such programs as Boys State and Boys Nation where young high schoolers learn the elements of government by actual participation. Here they also learn the responsibilities as well as the rights that come to citizens in a government of law within a free society. There are an estimated half-million boys and girls culturally involved by the Legion in bands and drum corps.

But what of the Legion itself, its growth and its future role of service to our Nation and society?

The history of the United States expanding world commitments since 1917 is reflected in the growth of the Legion. The founders at that initial Paris meeting had no idea that the Legion would be anything more than an organization of veterans from the First World War.

The Legion membership is now composed of 2,700,000 veterans. Included in this membership are nearly 500,000 Vietnam veterans.

The latest generation of veterans eligible for joining the Legion in increasing numbers are those who have served during the current Vietnam period.

The new Vietnam period veteran is finding the Legion a worthy vehicle through which to give expression to civic service.

While it can look back on a proud record of service in many important and vital areas to the Nation, the American Legion is not content to rest on its past achievements.

In short, the American Leigon has its sights focused on the future and an even greater role of service to the community and Nation. Mr. Speaker, I commend the American Legion as an outstanding patriotic organization and one of which I am proud to be a member of more than 20 years.

Mr. McCORMACK. Mr. Speaker, this opportunity to salute and to commemorate American Legion Day is an honor as well as a privilege for me as a Member of Congress, and as a member of the American Legion.

We Legionnaires are proud of our organization. This pride is founded not only on what the Legion is doing now for America but also on what it has accomplished, and what it will accomplish, for our country.

With a strength of nearly 2.7 million members, the Legion is the Nation's largest veterans organizaton. Our members are to be found in more than 16,000 local posts scattered throughout the United States and 28 foreign countries. I am proud to be a member of the Richland, Wash., American Legion Post No. 71 and a past chairman of the Americanism committee of my post.

Now, 3 years into its second half-century of service, the Legion is another period of growth. We are experiencing this growth because of our concern for our youngest and newest group—the Vietnam veteran.

The legion is well known for our efforts to secure a strong national defense, but we are more concerned with providing services and in securing legislation for our veterans.

The Legion is proud that we now have more than 300,000 Vietnam veterans as members.

These young men have been through a nasty war. They have made sacrifices, and they are not sure that their sacrifices are appreciated. They have some very definite ideas about America's future. They are concerned with their own future, and that of their families.

These young veterans respond to an organization that recognizes their contributions to our country; that offers them an opportunity to participate in their post activities, and through their post, in the affairs of their community, State, and Nation; that assists them in resolving many of their personal problems that face them as they adjust to a civilian life. The American Legion demonstrates its concern for these young men; and we honor them, regardless of our personal stance on the Vietnam war.

The Legion is seeking to especially assist our newest veterans in finding suitable jobs. This is called the jobs for veterans program. This effort has been made in cooperation with various government agencies, with employers, and with many civic groups. The Legion, through its deeds, seeks to demonstrate our appreciation, as they seek results for these very important young men and women who have worn and honored the uniform of our Nation.

Mr. BRASCO. Mr. Speaker, it is altogether fitting that we should honor the veterans of our country on this, of all days. In years past, when Americans had need of their services, they came forward by the millions to defend our Nation, defeat its enemies, and uphold our ideals. Gathering into organizations such as the American Legion, they have become a force for good in peace as well as they have been a force for peace from war.

Their numerous constructive activities over the years have assisted millions of Americans tangibly. Their activism has aided in strengthening our institutions and the debt our society has to them is both cumulative and immeasurable. I believe the example they set is most worthy of emulation, and that the tribute we pay them should not be reserved for just 1 day of the year.

The finest tribute could be offered by a greater understanding by all of us of the principles their previous sacrifices and present activism have enshrined.

Mr. WINN. Mr. Speaker, as a member of the Veterans' Affairs Committee, I am doubly appreciative of the opportunity Chairman Teague has provided for us to comment on the activities of the American Legion.

Earlier today, I had the pleasure of having breakfast with Legionnaires from my home State. This meeting and a later briefing by the national commander for members of the Veterans' Affairs Committee is particularly useful to me.

Briefings such as these are excellent examples of the tireless efforts by the Legion to improve the way of life for our Nation's veterans.

I would like to take this opportunity to bring to the attention of my colleagues some of the accomplishments of the American Legion. The American Legion with its over 2,700,000 veterans in more than 16,000 posts throughout the Nation has become a recognized way of life for many of this Nation's veterans.

Their work on veterans' rehabilitation should not go unnoticed. They strive tirelessly on behalf of our Nation's veterans regardless of membership in the Legion.

The youth of this Nation benefit from their work. For example, the American Legion sponsors over 4,000 Boy Scouts troops. Their sponsorship of Boy's Nation and high school oratorical contests is well known.

The American Legion Auxiliary has in its own right over 1 million members. Not only does the Auxiliary provide strong support for Legion rehabilitation and child welfare programs, but these women often run parallel programs for girls of our Nation.

The American Legion has always had a special interest in education. We are all aware of their continuing interest and support for the GI bill. But more importantly they are devoted to developing an interest in our schools, their purpose, and their continuing needs.

Mr. KEMP. Mr. Speaker, the American Legion, which is the largest organization of war veterans in our Nation, will celebrate its 53d anniversary on March 15. It is an honor to join my colleagues in paying tribute to this splendid group of individuals.

For more than half a century, American Legion members have dedicated their efforts to upholding its motto "For God and Country." The Legion was founded at Paris, France, on March 15, 1919, by members of the first American Expeditionary Force. Over the years, the organization has grown until today the Legion has a membership of more than 2½ million and more than 16,000 individual posts.

The Legion's many accomplishments include the sponsorship of over 4,000 Boy Scout units and a multitude of sports events. Its youth programs include Boys' State and Nation, Girls' State and Nation, as well as the national high school oratorical contest, and a variety of scholarship projects.

The Legion is noted for its efforts to help the returning serviceman adjust to civilian life and has assured the welfare of the veteran's widow and children. Since 1925 the organization has spent approximately $200 million to protect the welfare of veterans' children.

The GI bill is directly due to the efforts of the American Legion. This legislation, which insures the right of the veteran to many rehabilitation and compensation programs, was sponsored by the Legion to aid the returning veterans of World War II.

Since the first GI bill, the Legion has worked to obtain the same benefits for Korean war veterans and now for veterans of the Vietnam war.

Today the Legion is trying, through their posts, to bring Vietnam veterans in contact with employers. This Legion program of "job fairs," which began more than a year before similar Federal efforts, has successfully placed more than 70,000 Vietnam veterans.

This week over 1,000 Legion executives and officials are visiting Washington for important executive meetings. I commend the American Legion for its outstanding accomplishments over the years, and I wish the visiting Legionnaires and those in posts all over our country, every success in their endeavors.

Mr. BRAY. Mr. Speaker, today is American Legion Day on Capitol Hill. In recognition of our visitors, I wish to insert an excerpt from some remarks I made 3 years ago, on March 4, 1969, in commemoration of the American Legion's 50th anniversary:

### THE AMERICAN LEGION

(Remarks by Congressman WILLIAM G. BRAY)

The men who met in Paris in 1919 to found the American Legion could not foresee that within 50 years the ranks of their Legion comrades would be swelled by veterans of three more wars. Their love for their country, their belief and faith in its ideals, and their hopes for its future had been forged and strengthened in the fiery crucible of World War I that had dragged the United States for all time into the position of major world power. Whether they knew the direction their country would take in the years to come, no man knows. But we can be sure that they knew of the latent potential strength and possibilities that lay within the "band of brothers" and, so, as the preamble to the Legion constitution states, they determined that "For God and Country we associate ourselves together for the following purposes." Let us reflect on this preamble, for within its phrases and what they mean lie the objectives and forces that have made the American Legion the powerful and moving force for good that it has become.

"To uphold and defend the Constitution of the United States of America."

What could be more fitting for an opening phrase? Our country stands upon its Constitution, that document termed by the great English statesman Gladstone "the most remarkable work known to me in modern times to have been produced by the human intellect, at a single stroke—so to speak—in its application to political affairs."

"To maintain law and order."

This is one of the eternal truths of our American Republic, and it was cited in President Thomas Jefferson's eighth annual message to Congress when he said: "Love of liberty, obedience to law, and support of the public authorities, a sure guaranty of permanence of our republic."

"To foster and perpetuate a 100 percent Americanism."

This idea is one often scorned in some circles. It is charged that there is no such thing as Americanism, let alone "100 percent," but to those who carp, and mock, and criticize, I would respond in this fashion: It is true that our country is a melting pot, of all races, creeds, and nationalities. But it is also true that this has been distilled into something found only in America; it is a national will, a national ethic, a national goal. It shows itself in a country that goes all out and at the expense of much blood and treasure to defeat its enemies, then turns right around and feeds these same one-time enemies and helps them regain their place in the community of nations. It is manifested in that country whose citizenry gives voluntarily more of their private time and resources in attempts to do good for others than any other country on earth. Yes, it is real, and, yes, certainly, it is worth fostering and perpetuating.

"To preserve the memories and incidents or our associations in the Great Wars."

"We band of brothers." That mystical bond and kinship felt among men who have worn their country's uniform, and have borne the weight of its battles, is like nothing else on earth. Those who have seen the face of war are also those most eager and dedicated to preserving the peace they have helped to secure.

"To inculcate a sense of individual obligation to the community, State and Nation."

"Individual obligation"—something all too often cast aside today, trampled in the dust by the new theories that the individual is neither responsible for nor owes his community, State, and Nation anything, but that society collectively both owes the individual all, and is morally guilty of whatever transgressions the individual commits. This is a sentiment totally alien to all enlightened concepts of human nature. Restoration of this sense of individual obligation is what the country needs now more than at any other time in its history.

"To combat the autocracy of both the classes and the masses."

Dictatorship, despotism, can come like thieves in the night, under banners that proclaim, falsely, equal justice and liberty and prosperity for all. It is not restricted to one certain political creed, this danger; is not confined to one social or economic class alone, and not to be found in another. The danger is demagoguery in all forms, that rends a nation, divides its people, fills them with fear and foreboding, and then sees them turn to the first mountebank and charlatan who promises them relief from their troubles. All have a role to fulfill; none has a right to impose tyrannical rule on the rest.

"To make right the master of might."

None need fear the power of another if those who wield it do so only in the name of what is right, and at the call and plea of those who are oppressed. When a country is granted power, it also takes on the solemn obligation to use it only for honorable causes and in defense of the rights of free men.

"To promote peace and good will on earth."

No nobler objective could be cited, and, sadly enough, at times it seems that nothing can be farther from achievement by mankind than good will among all and the blessings of peace. But it is a goal to be kept eternally fixed and worked for, and never to be forgotten.

"To safeguard and transmit to posterity the principles of justice, freedom and democracy."

If these principles, strong and untarnished and shining, can be passed on to future generations, then that generation which has gone before will know their work was well done, and their duty to those who come after them has been faithfully and conscientiously carried out. If these principles endure, then so does the Nation and its people. If they fail, then the Nation and people decline and ultimately fall. And a sacred trust will have been betrayed.

"To consecrate and sanctify our comradeship by our devotion to mutual helpfulness."

When men band together, no matter what the reason and no matter what the bond, they take upon themselves responsibilities and duties that make this very association an outstanding and special thing. "Mutual helpfulness" is a simple term, but as is so often the case with simple and uncomplicated statements, it speaks more truth then volumes of empty rhetoric.

Mr. HALPERN. Mr. Speaker, I would like to call your attention at this time to the fact that 53 years ago the American Legion came into being at a caucus of the first American Expeditionary Force in Paris, France, March 15 to 17, 1919.

Since the close of World War I, more than half a century ago, the American Legion has shown repeatedly that the basic strength of a nation rests upon the patriotic response of its people. In the entire history of the American Legion there has never been a time when the Nation has had the slightest doubt concerning the attitude of the Legion and its members toward patriotism and Americanism. From the start it has been clear: That the American Legion is an organized, stable, dedicated, undeceived friend of American principles, and a stalwart enemy of everything which in any way imposes a threat upon the American way of life.

In the minds of those who organized the Legion were a number of ideals, uppermost among which were:

First. Creation of a fraternity based upon firm comradeship born of war service and dedicated to a square deal for all veterans, particularly the disabled, their widows, and orphans;

Second. National security for America, including a strong military for the prevention of future world conflicts; and

Third. Promotion of a 100 percent Americanism and the combating of communism, nazism, fascism, and all other alien isms.

The preamble of the American Legion tells much about the organization. It reads:

> For God and Country, we associate ourselves together for the following purposes:
>
> To uphold and defend the Constitution of the United States of America;
>
> To maintain law and order;
>
> To foster and perpetuate a 100 percent Americanism;
>
> To preserve the memories and incidents of our associations in the Great Wars;
>
> To inculcate a sense of individual obligation to the community, state and nation;
>
> To combat the autocracy of both the classes and the masses;
>
> To make right the master of might;
>
> To promote peace and good will on earth;
>
> To safeguard and transmit to posterity the principles of justice, freedom and democracy;
>
> To consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

Adherence to the principles of the Legion has required hard work, persistent effort, infinite patience, and constant careful evaluation of issues.

American Legion posts have been established throughout the length and breadth of the land in order that Legionnaires may get together for social occasions and carry on the Legion's work at the community level.

After World War I there were no hospital and medical programs for disabled veterans. The Legion fought to make this program the finest of its kind in the world today. The American Legion was the architect of the original GI bill of rights in 1944, and it has continued to make its legislative desires known to Congress in order that the needs of today's veterans will be recognized and met.

The American Legion has directed special efforts to working with American youth. The year 1972 marks the 46th anniversary of American Legion Junior Baseball. Boy's Nation, started in 1946, annually brings hundreds of young American leaders, representing every State in our Union, to the Nation's Capital, Washington, D.C. These youth are selected from those who have made the best records of achievement in their respective Boy's State.

Many other youth programs sponsored by the American Legion are aimed at the perpetuation of 100 percent Americanism. There is perhaps no more impressive evidence of why "It's great to be an American Legionnaire" than the record of unselfish service to the youth of America.

Since its inception, the American Legion, with the adoption of the Americanism program, assumed an obligation to teach a love of American traditions and a philosophy of government. The Legion's high school oratorical contest, first started in 1938, has developed into a program in which hundreds of thousands of talented students annually take part, developing a deeper knowledge and appreciation of the Constitution of the United States.

American Legion school awards are made annually to these boys and girls in the graduating classes of elementary, junior or senior high schools who are outstanding in honor, courage, scholarship, leadership, and service. The Legion has supported the Boy Scout movement as a tremendous force in building good citizens, and it sponsors thousands of Scout units throughout the land.

And so the American Legion, organized as a veterans organization in 1919, has come to be more than a meeting-place for those who have worn the Nation's uniform proudly when duty called. It has also become a source of inspiration and strength for America's all-important citizens of tomorrow—its youth.

Mr. SAYLOR. Mr. Speaker, this morning the Committee on Veterans' Affairs was privileged to welcome the national commander of the American Legion, Mr. John H. Geiger, his national staff and several hundred State and local officials of the American Legion and its Auxiliary. Commander Geiger presented the highlights of his organization's program for this second session of the 92d Congress.

The commander made one of the most impressive statements that it has been my privilege to hear. It reflected the American Legion's traditional concern for the Nation's veterans and their dependents, particularly those who were disabled as the result of military service.

During the course of this morning's meeting, Mr. Speaker, I voiced my own concern about a matter that is currently the subject of hearings before a subcommittee in the other body. I am referring to the so-called amnesty for American citizens who fled this country to escape the obligation of military service. When I expounded my very definite view that such amnesty should not be granted to these draft dodgers without a penalty consisting of a tour of active duty in the Armed Forces of the United States, the sustained applause from the several hundred legionnaires present was a clear indication that the American Legion supports this position. I am pleased to learn that the American Legion will present testimony to the subcommittee in the other body holding hearings on this subject sometime this week.

Mr. Speaker, since the days of Valley Forge when our forefathers were fighting for the establishment of this great Nation, our people have proudly accepted military service during time of war or national emergency as an obligation of citizenship. Were it not for the farmer forsaking his plow, the laborer, his lathe—the American citizen leaving his family to perform military service, our Nation would not have survived.

In the past, there have been isolated instances of outright draft dodging. All of these cases, to my knowledge, have received the full penalty of the law for their offense. There are those who now argue that we should forgive and forget because of the unprecedented numbers involved. Mr. Speaker, I am willing to conditionally forgive, but I will never forget. As a condition of forgiveness, I repeat that every offender should be required to complete a tour of active military service. Although I have termed such a tour of active duty a penalty, each draft dodger should consider it a privilege to be given a second chance to serve his Nation through military service. I am pleased that the American Legion shares my views in this matter.

Mr. DULSKI. Mr. Speaker, I am delighted to have this opportunity to join my chairman of the Veterans' Affairs Committee, Mr. TEAGUE of Texas, in this floor recognition of the American Legion on the eve of its 53d anniversary.

The national commander, John H. Geiger, and his staff, along with several hundred members of the Legion, are in Washington for their annual conference.

Commander Geiger appeared before our committee and made the traditional legislative presentation in the interest of all veterans. Mr. Geiger made a very excellent statement and, as always, the Legion has been most cooperative and helpful in looking to progressive and reasonable legislative assistance for our Nation's veterans.

I am particularly delighted that several members of my own Post, Adam Plewacki Post No. 79, as well as another dozen members from Erie County, were among those taking part in today's presentation before our committee and in the national conference.

I had a pleasant discussion with Vice Cmdr. Peter Drezek and Past Cmdr. Eugene Kayne of the Plewacki Post as well as with Past Cmdr. John Michaels and Ted Smigiera.

I think it is quite appropriate for me to be somewhat provincial in my reference to this "American Legion Day on the Hill" since my Adam Plewacki Post comprises 2,880 members and is the largest post in the State of New York. There are 16,000 posts in the Nation and Plewacki Post ranks among the top 20 in size.

I have been an active member of the post for many years and know well of the important role of the American Legion, both locally and nationally.

I have been a member of the Veterans' Affairs Committee since I came to Congress and I am very sympathetic to the needs of those who have served our Nation in time of war. I also have a deep and sympathetic concern for the interests of the many widows and orphans.

Since its founding in Paris in 1919, the American Legion has been concerned, on a continuing basis, with our national defense. The Legion feels strongly that the United States must remain strong if there is to be any chance of peace in our time.

In this regard, the Legion now is fearful that the Nation once again is downgrading the importance of a strong Military Establishment. This is indeed a great danger—not unexpected—in connection with the current national frustration at the protracted engagement of our forces in Vietnam.

There has been a concerted effort on the part of the Congress to cooperate with the Department of Defense in making the military service attractive to our young men on a voluntary basis in order to keep our forces at the strength which we need to maintain the peace.

When the Legion was formed 53 years ago, its initial focus was on assistance for the returning veteran, particularly the disabled veteran.

Again today, the Legion is facing up to the needs of the returning veteran while at the same time continuing its efforts to see that our older veterans, particularly the disabled, as well as the widows and the orphans are receiving adequate assistance from their country.

With the current trimming of our forces in Vietnam and the release of draftees from service, we are facing a very serious problem in providing employment for these returning veterans.

I have been working closely with the committee in seeking to deal with this problem which is made all the more difficult by the fact that unemployment is increasing at the same time in our domestic economy.

Mr. Speaker, I am happy to join my chairman in this salute to the American Legion on this occasion and to wish all the members a very happy 53d anniversary of the founding of the American Legion.

Mr. MONAGAN. Mr. Speaker, the 49th annual National Veteran's Affairs and Rehabilitation Conference of the American Legion is underway in Washington. All of us have had the privilege of conferring with representatives of Legion posts representing virtually every one of the 50 States and I had the honor of taking lunch just a few hours ago with Comdr. Chet D. Hirsch of the American Legion Department, of Connecticut, and a large number of his comrades who are in Washington for the conference.

During the course of the luncheon, we received from Past Comdr. Joseph Leonard a brief report and outline of the Legion's legislative position on veteran's affairs for the coming year. It is my understanding that a somewhat similar presentation was made before the Committee on Veterans' Affairs today by the national commander of the American Legion, John N. Geiger.

I am confident that most of us are looking with sympathy and acceptance upon the American Legion's presentations for legislative improvements, as we have done in the past.

I believe the Legion is justified in its recommendations for modest enlargements in veterans benefits, particularly as they relate to hospitalization, education, and pensions, with emphasis on its relation to veterans with service-connected disabilities. I have assured Commander Hirsch and his colleagues of my continuing support for their endeavors.

I enjoyed once again the experience of welcoming to Washington the Connecticut department delegates to the American Legion conference. However, I, and in fact, the entire delegation were disappointed because of the absence of one who has contributed so much and so unselfishly not only to the success of these annual conferences but also to the well-being of the Connecticut veterans. I refer of course to my friend, Mr. Thomas W. Byers, of Thomaston, Conn., who is chairman of the Rehabilitation Commission of the American Legion Department of Connecticut. Tom Byers is a patient at the Waterbury Hospital, Waterbury, Conn., and I have today sent to him my best wishes for a swift and complete recovery.

## GENERAL LEAVE

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous matter on my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## CHINA, RUSSIA, AND UKRAINE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

Mr. DERWINSKI. Mr. Speaker, with the current concentration on Red China and the possible effects of the President's visit to this largest of the captive nations, many significant dimensions of inquiry and thought are unavoidably opened up. Although it has not gained any extensive currency yet, one of the most interesting and potentially explosive dimensions is the interrelationship of China, Russia, and Ukraine, as well as the other captive nations in the imperial complexes of both the U.S.S.R. and Red China.

A survey along this line is presented in the article on "China, Russia, and Ukraine," authored by Dr. Lev E. Dobriansky of Georgetown University. The article appears in the winter issue of the Ukrainian Quarterly, which is a world-renowned journal of East European and Asian affairs and has been listed by Communist literary circles themselves as one of the dozen high-ranking sources of criticism against Communist institutions. In the context of our growing relations with both Red China and Russian Moscow, the author points to both the Burke resolution, seeking the ouster of Ukraine and Byelorussia from the U.N., and the Zablocki resolution, seeking direct U.S. diplomatic relations with these two non-Russian nations in the U.S.S.R., as starting measures for forward-looking consideration of this China-Russia-Ukraine and multinationalities dimension. Both resolutions are before the Committee on Foreign Affairs and I believe an early consideration of them would prove to be quite fruitful in the light of the larger context involving Red China and Russia in the U.S.S.R. For its attempt at objectivity in the larger context I recommend this article for the careful reading of our Members:

### CHINA, RUSSIA, AND UKRAINE

(By Lev E. Dobriansky)

The year 1971 may well go down in history as the turning point—veritably the crisis year—in the foreign policy of the United States as concerns the main sources of threat and danger to our national security. In a real sense, we actually pursue many policies in the foreign area, some of which are economic, others are military, some cultural, and a number specifically tailored to special situations in the Middle East, Southeast Asia, Latin America and so forth.[1] But in the final analysis, however, the nature and character of a country's foreign policy are determined, among other things, by the permanent threats to its prime interests. In the case of the United States, this can only mean at this stage the global threat posed by Soviet Russian imperio-colonialism and to a much lesser degree by revolutionary Chinese Communism. It is with this perspective, focused on Moscow, that 1971 may be significantly recorded as the year of critical change in the continuity of U.S. policy toward the Soviet Union.

Whether some may like it or not, whether many may understand it or not, the sudden interrelationship of factors and elements that emerged in the successive events of this year justify the given hypothesis. Unquestionably, the interrelationship will have to develop more concretely and impressively in subsequent years, but the salient fact is that as we necessarily move more and more into the inner Eurasian context, the interrelationship will unavoidably assume more concrete and impressive characteristics. That the factors of the interrelationship did emerge, no matter how accidentally or superficially, in a year when certain spectacular shifts in policy and stance were taken, surely qualifies that year as the time of commencement of a new policy toward the chief contender, namely Moscow itself. It will take time for many to recognize it as a new policy and, indeed, those responsible for the shifts certainly don't contemplate the unintended result, but in history events and inexorable developments have a way of predetermining courses and shaping the thoughts and attitudes of man. The important point, then, is that as the United States becomes more involved in the inner Eurasian area, primarily mainland China and the USSR, the more these involvements will lead to basic policy changes in relation to the USSR, regardless of present rhetorical pronouncements and projections of our traditional policy toward that empire-state.

The factors and elements referred to arose in the wake of the spectacular announcement last July of President Nixon's trip to Red China. They are related to his forthcoming visit to Moscow. And in different forms they received expression in the course of the entire discussion and debate on the admission of Red China into the U.N. In fact, their appearance and continued reference in the future fully justify the title of this article and all that it implies in terms of progressive impact on the course of U.S. policy. The factors and elements are the deep Sino-Russian conflict, Red Chinese propaganda directed at the captive non-Russian nations in the USSR and against so-called "social imperialism," Russian propaganda against "Han imperialism" in Red China, and the two Slavic nations in the USSR, Ukraine and Byelorussia. To be sure, all this and more seem embryonic and inchoate as far as transient developments go on the global scale. But if we bear in mind the crucial point on U.S. involvement in the inner Eurasian context, this can be viewed as only the beginning of similar things to come. As the writer has emphasized elsewhere, these new developments represent "a confrontation of negotiation, which in this make-believe period of confetti diplomacy is nothing more than the diplomatic dimension of the Cold War as practiced by the Russian totalitarians and the Red Chinese, and accepted in challenge by us."[2] Those who believe that the diplomatic maneuvers of this period are signs of the end of the Cold War have never really understood the meaning and nature of this type of warfare. What we are witnessing now is only another precarious phase of it.

#### THE SINO-RUSSIAN CONFLICT

Underlying the foremost diplomatic maneuvers of the present is the deep and insoluble Sino-Russian conflict. The causes of this conflict have been widely discussed and etxensively written about for a decade now. They cover the ideological, historical, personal, political and cultural spectrum, but regardless of the weight assigned to each, the reality is one of profound significance for the future. When one soberly considers an estimated $60 billion spent by Moscow over the past decade in defense of USSR territory along the 4000 mile border, its deployment of some forty divisions along this stretch, and the decentralized protective policies of Peking with underground preparations, replacement of nuclear installations, and an accelerated missile program capable in the next two years of launching attacks upon Moscow and Leningrad, the scope and depth of this conflict cannot be minimized. It can lead to a preemptive strike by Moscow and perhaps a prolonged or short war sooner than most of us are given to believe. If, for whatever reason, Moscow fails to undertake this nuclear surgery within the two years, the groundwork would be set for a five-centered nuclear power arrangement in the world—the U.S., Western Europe, the USSR, Red China and certainly a rearmed Japan. An uneasy peace would rest on this five-centered arrangement, but the basic political issues would be magnified more than ever.

Notwithstanding these and other possibilities, the imperial complexes represented by both Red China and the USSR would come under sharper concern and interest among the various powers. If war between the two breaks out, the process would be instantaneous; if the five center distribution of nuclear power evolves, the process may be slower, but the emphasis on political warfare would heighten it nevertheless. As it has been, within the secret precincts of the inner Eurasian domains the past six years have seen considerable propaganda and literary concentration on the imperialist qualities of both Peking and Moscow. Of course, in the fire and cross-fire neither is interested in the real liberation of the respectively dominated peoples and nations. The intent is one of threat aimed at known vulnerabilities. So be it, the fact remains that in the situation of this bilateral conflict increasing prominence is given to the factor of imperio-colonialism within the two systems. As the field of conflict, whether political or military, expands with the involvement of the other power centers, this prominence cannot but soar in both meaning and proportion.

As the writer emphasized in a lengthy paper delivered at a scholarly conference in Taipei in 1970, "For years now Peiping has been condemning Moscow for what it calls 'social' or 'socialist imperialism' and has directed its political warfare efforts toward the numerous non-Russian nations in the USSR."[3] Radio Peking has frequently beamed broadcasts to USSR armed forces in the Far East with the message of Russian exploitation of Lithuania, Ukraine and others. The Red Chinese have also inspired the circulation of pamphlets calling for unified efforts by nationalists and communists in the non-Russian areas to rid themselves of Moscow's domination. The target is much larger for Peking than it is for Moscow. There are more distinctive nations in the USSR than there are in the Peoples Republic of China. Furthermore, percentage-wise and in absolute terms, the non-Russian population is greater in the USSR than the non-Chinese is in the PRC. However, this condition has not deterred Moscow from concentrating on some forty-five to sixty million non-Hans, including Mongolians, Tibets, Manchus, East Turkestani and others. These are regarded as "national regions" of the PRC with a "colonial nature." Their subjection to "forced Sinization" and colonial exploitation is usually underscored.

When we give thought to the expanded field of conflict, we should bear in mind the stance already assumed by the Red Chinese in the United Nations. No sooner had Red China entered the world body that its spokesman lashed out against Moscow along lines described above. The Red Chinese Deputy Foreign Minister Chiao Kuan-hua has several times now brought up Moscow's "socialism in words and imperialism in deeds," and the head of the USSR delegation, Jacob A. Malik, has more than once accused the Red Chinese of pouring out "a flood of slander and monstrous invention against the Soviet Union." The field of political action has expanded to the United Nations, and most of the delegates have never seen any spectacle comparable to this. In concrete form this field will broaden further as Red Chinese participation in the international activity extends itself and assuming the continued reign of Mao Tse-tung and Chou En-lai. Meanwhile Moscow accuses Peking of seeking to cause a world war. As summarized by *Tass*, a recent article in Moscow's Journal of International Affairs holds that Peking "would like to provoke a military conflict between socialism and imperialism and then become the dominant power in a world shattered by war."[4] It further observes, "They have become more flexible and refined, which makes Peking's policy anti-socialist in content as before, insidious and dangerous for the revolutionary movement." In short, anyone opposed to Moscow's aggressive and imperialist policies is anti-socialist by definition.

It is evident now that the type of internecine propaganda waged between the two imperialist powers in the confines of the inner Eurasian complex is at last being aired in the world's forum. If the reaction to it shown by most U.N. delegates and analysts and commentators is any gauge, then it is equally evident that most leaders and opinion-makers in the Free World have been unaware or little appreciated the nature and content of this propaganda conflict. With the lines of communication extending for each of these imperialistic powers in competition, the peculiar content of this propaganda con-

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flict will become progressively clearer, and the special factors and elements mentioned earlier will become even more prominent. Despite all the evil and disadvantages that attended the unjust ouster of the Republic of China from the U.N. at least this is one enormous gain of international education in having Red China in the U.N. In this particular and essential respect, we are just witnessing the beginning of a development which inevitably will draw the interest and involvements of other powers, including the U.S.

After having surveyed the critical importance of the Sino-Russian conflict for our present diplomatic maneuvers, the alternative possibilities of outcome in the period ahead, and one essential factor in the conflict, it must be borne in mind that from the viewpoint of U.S. national security the prime enemy is not Red China but rather Russia, operating within the framework of the USSR. As in the case of all Red states, both are highly militaristic powers. In both a disproportionate account of the annual gross product is allocated to the military, with a heavier burden in the PRC because of its lower scale of aggregate output. Aside from the heavy costs of nuclear development, about twenty percent of PRC's gross product is absorbed by the armed forces, entailing the 2.5 million in the Peoples Liberation Army and 7 million in the militia and security forces. But all this is patently inferior to the sophisticated and advanced character of USSR's forces, supported by some $60 billion of annual military expenditures out of a gross product five times larger than that of PRC. Indeed, Moscow's rush for strategic weapons superiority over the U.S. has become a matter of profound concern to all interested in the preservation and expansion of freedom. However, the crucial question is what will Moscow do in connection with certain Red Chinese deployment of nuclear missiles in the near future. As pointed out earlier, whatever the decision it won't substantially alter the drift of world interest and involvement in the inner Eurasian complex. Early indications of this were shown in 1971.

### UKRAINE AND BYELORUSSIA BEFORE THE INFAMOUS OCTOBER 25

Long before the U.N. debate on the China issue, Ukraine and Byelorussia were injected into the discussion. For example, one columnist writing about the "autonomous province" of Taiwan stated, "It even might eventually provide a basis for Nationalist representation in the UN on the same ground that Byelorussia and the Ukraine are represented along with the Soviet Union." [5] It is little recognized that scores of articles were written on the subject, involving and relating the two Chinas, Russia, Ukraine and Byelorussia. In effect, as thought was given to a place in the U.N. for a Red Chinese representation, whether valid or no, an interrelationship emerged with the USSR, Ukraine and Byelorussia. An utterly false analogy was almost consistently drawn between the so-called two Chinas and Ukraine and Byelorussia, but for our purposes here this is irrelevant. Again, the chief point is the interrelationship which emerged as, in effect, the inner Eurasian context was penetrated.

As the U.N. discussion came about, the interrelationship was repeatedly pinpointed in terms of basic factors though not in validity. In his address to the U.N. General Assembly on October 4, Secretary of State William P. Rogers advanced the two-China policy and maintained that "It would provide representation for the people concerned by those who actually govern them; but it does not divide China into two separate states; after all, we all know Byelorussia and the Ukraine are not separate states. . . ." [6] The logic is somewhat questionable and brings into play the typical American conceptual confusion between state and nation. Excluding for the moment the non-Chinese nations on the mainland, China is a single nation but for the past twenty-two years has been made up of two separate states, states, a free one in the Republic of China and a totalitarian one on the mainland. On the other hand, Ukraine and Byelorussia are admittedly parts of the USSR state, but, in contrast to the "two-Chinas," they are separate nations distinct from others in the USSR, including the Russian one itself. This example should suffice to indicate how much conceptual reconstructing will be needed as we necessarily concern ourselves more with parts of the inner Eurasian complex.

Similar in vein was the argument advanced by U.S. Ambassador Geoge Bush when, in his statement to the U.N. General Assembly, he stated. "It is unavoidable that what we propose should be new because the situation that we are dealing with in October 1971 is unique. But the Charter, which is flexible enough for the representation of Byelrossia, the Ukraine and the USSR is certainly flexible enough to accommodate this situation." [7] This argument of accommodation is sound enough on the basis of the universality rule without invoking the fallacious parallel between "the Chinas" and the two Slavic republics in the USSR. Both Nationalist and Red China fully recognized the illogicality of the widely held analogy. In a Red Chinese publication *Ta Kung Pao*, for example, a commentator named Tu Hsueh-wen wrote, "two China seats in the United Nations would not be similar to three seats for the Soviet Union because those held by Byelorussia and Ukraine belonged to republics that are part of a confederation. . . ." [8] This, of course, is a more accurate interpretation than that above, but even here, too, it does not hit the mark. Forced though it be, the USSR is a federal union and not a confederation, which would imply real limited sovereignty for the states involved. Comments from spokesmen in the Republic of China have run along the same line.

In the aftermath of the infamous October 25, comments in this area continued to abound; many, as we shall see, with additional recommendations and strictures. The day following, in his remarks on the Senate floor, Senator Fulbright of Arkansas, who is the chairman of the Senate Foreign Relations Committee, had this to say: "I support the President's policy, and I hope that the Chinese find a way to accommodate some kind of system, such as the Russians have with regard to the Ukraine and Byelorussia. But that is another question." [9] Indeed it is. Is the Senator suggesting the subjugation of the Republic of China to the domination of Peking just as Ukraine and Byelorussia are under the rule of Moscow? The difference is one between freedom and totalitarian tyranny. For a choice piece of journalistic foolery, the following is outstanding and unsurpassed: "There remain U.N. situations even less related to reality than calling Formosa China. The recognition, with voting rights, delegations and international bureaucrats, of Byelorussia and the Ukraine is the exact equivalent of recognizing New Jersey and Illinois as independent nations, with the one difference that New Jersey and Illinois might reasonably be expected to vote against the United States once in a while just for the hell of it." [10] Aside from the specious parallel drawn, one wonders how the writer would treat Poland, Czechoslovakia, Bulgaria and others in Eastern Europe whose votes in the U.N. consistently coincide with those of the USSR.

### THE AMERICAN REACTION TO THE INFAMOUS 25TH

The expulsion of the Republic of China from the U.N. is a monumental blemish on the world organization. The only way this otherwise ineradicable blemish can be eradicated is by enforcing the rule of universality and at some time in the future reinstate ROC in the U.N. With Red China in the world body this, to say the least, will be most difficult and will depend on shifting circumstances. Meanwhile ROC is assessing its situation and is concerned with the future flow of foreign investments to sustain its phenomenal growth. It is also concerned with its military defense and the fear of any possible adverse deal between Washington and Peking. Knowing the determination and courage of the free Chinese, this writer has no doubt that ROC will continue to brilliantly symbolize progress and freedom in Asia. As a matter of fact, the grave injustice done to it in the U.N. can be converted into a powerful political instrument for the good. It has been suggested by the writer that ROC initiate A Day of International Shame on October 25, 1972 for what transpired on that date the year before.

Its annual observance would spotlight, among other things, the growing evidence of Red China's commitment to world revolution. Before and after its U.N. admission, Peking abundantly reiterated this firm commitment—"To make use of contradictions, win over the many, oppose the few and crush our enemies one by one." [11] Among the contradictions are "imperialism" represented notably by the U.S. and the "social-imperialism" of the USSR.

If the suggested observance were initiated, the American people would rally strongly behind it on the basis of the popular American reaction to the infamous "25th." Put simply, as all evidence showed, widespread revulsion swept the country. This feeling was poignantly registered in the U.S. Congress where demands were raised along a spectrum of being more effective in the U.N. to the pole of withdrawing from it. Day after day the Congressional Record was replete with statements and addresses calling for action to redress the day of international infamy. It is not generally realized that by the middle of October over 336 members of the House of Representatives were on record opposing ROC's expulsion from the U.N. and who are closer and more sensitive to the American people than those who must run for re-election every two years?

A quick run-down shows one Senator supporting the abolition or substantial reduction of our foreign aid to countries who voted for the decisive Albanian resolution, such as India receiving 419.7 million in '72 FY, Pakistan at 225.5 m., Turkey at 242.5 m. and so forth.[12] Realistically, on this score a measure of arm-twisting and hard politics should have been applied in the U.N. before the vote. Senator Byrd of West Virginia reacted in this way: "This reprehensive slap at a country which has consistently supported the U.N. since its inception can have no other effect than the further weakening of the U.N. itself." [13] He called for a reexamination of U.S. contributions to the U.N. Senator Fong of Hawaii let it be known that 71 Senators signed a statement supporting U.N. membership for the Republic of China on Taiwan, and all 71 are given.[14] Meanwhile, Senator Fannin of Arizona viewed the expulsion as shocking and emphasized "the need for a complete reevaluation of our participation in the United Nations." His colleague, Senator Goldwater, called for U.S. withdrawal from the U.N. Senator Symington of Missouri, however, saw fit to insert into the Record an excellent analysis of the debacle in the U.N., which begin with the observation—"For the first time in UN history, the U.S. suffered a humiliating defeat on an issue to which it had committed its full power and prestige"—and recounts the shocking "loss of the traditional allies of the U.S.," the impact of the Nixon bombshell in July, and the loss of "additional credibility" when Kissinger visited Peking during the final days of the debate and the vote.

On the House side the atmosphere of some form of retaliation was also present, in fact more so. Representative Fisher saw the "25th" as "a black day in the history of the United

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Footnotes at end of article.

Nations" and recommended a reexamination of our role.[15] Congressman Hall pointed out that the expulsion "not only flouted the spirit of the world body, but was in fact contrary to the provisions of its own charter," and raised the question "as to whether or not that organization should be permitted to survive, or at least, should this Nation continue to be a party to its deliberations?"[16] In the view of Representative Pucinski of Illinois the action was a "monumental disaster to American foreign policy," and he expressed the hope that "the President will exercise America's veto power in denying Communist China a seat on the United Nations Security Council even though she has been admitted to membership in the General Assembly."[17] The Honorable Robert Price of Texas bemoaned the U.N. action and urged that we start "trimming our outlays to the decrepit, misguided, and myopic United Nations."[18] In short, these few examples are sufficient to indicate the feeling and tenor of thought dominant in the Congress. The *Record* of October 26 alone is a volume in itself of the American reaction to the grave injustice done to the Republic of China.

Significantly, the posture and sentiments in the Congress were during this period strongly and articulately expressed in the United Nations by the Honorable Edward J. Derwinski of Illinois, serving on the U.S. Delegation to the U.N. and as a U.S. Delegate to the General Assembly. On the so-called China issue the Congressman was forceful and direct concerning the risks and dangers involved in admitting Red China without the continued membership of the Republic of China. In fact, it appears that he was far more outspoken on this than other members of the U.S. delegation. But the Congressman went even beyond this and bore on the interrelationship posed in this article by his clashes with the Russians and their Ukrainian and Byelorussian puppets in the U.N. In the clearest language ever, he accused Moscow of practicing classical imperialism and raised the issue of Russian control of the Baltic States and Eastern Europe generally, depicting Russian policy as "being the newest form of colonialism."[19] As he stated it, "At this point I want to emphasize that the United States *unequivocally* rejects the doctrine of 'limited sovereignty.' It is a form of *imperialism and colonialism* that no free man can condone." At the conclusion of his address, he emphasized, "then even though I made reference to the Baltic States, Lithuania, Latvia and Estonia, I should reemphasize that there are many other non-Russian states within the U.S.S.R. where the people are deprived of legitimate self-determination."

A thoughtful consideration of these various trends of convictions, sentiments and ideas leads again to the basic concept of intercharge and interrelationship as concerns the inner Eurasian complex. In their individual expressions they appear isolated, directly linear and seemingly irrelevant to other factors and elements. In reality, they are fundamentally interrelated and can be best perceived and understood through a formal captive nations analysis, which presupposes history and logical structure.[20] It is no wonder, therefore, that out of all this discussion, debate and contention about "the two-Chinas," the ouster of ROC from the U.N., the classical imperialism of Moscow and the like, two pertinent and interesting resolutions have emerged in Congress. In the second session of the 92d Congress they will be up for consideration and should provide a new additional episode to the events begun in 1971.

### THE BURKE AND ZABLOCKI RESOLUTIONS

The two congressional resolutions stemming from all this deal with Ukraine and Byelorussia. The first resolution was submitted on November 9 by Congressman J. Herbert Burke of Florida, calling for the expulsion of Ukraine and Byelorussia from the U.N. The other is sponsored by Congressman Clement J. Zablocki, high-ranking member on the House Foreign Affairs Committee, and resolves to establish diplomatic relations between the United States and both Ukraine and Byelorussia. The resolution was submitted on December 2. The submission of the Burke resolution was preceded by a columnist's commentary which, in favoring the measure, has all the earmarks of inaccuracy concerning this intricate subject. For instance, with reference to Ukraine and Byelorussia as "two allegedly independent states," he writes that they "have been a part of the Soviet Union since 1918."[21] The Soviet Union wasn't even in existence in 1918. However, to complicate matters, he makes the sound point about the other captive nations in Eastern Europe being "hardly sovereign states."

It is not our purpose here to evaluate in any detail the comparative merits of the two resolutions. This may come later in the course of hearings on the measures. In support of the thesis set forth here on inevitable interrelationship of factors and elements, which is so objectively though not subjectively in the minds of analysts, it is adequate enough at this stage to show this emerging interrelationship, present the texts of the two resolutions, and point out a few interesting aspects of this new episode. The Burke resolution, H. Con. Res. 449, reads as follows:

"Whereas the Charter of the United Nations specifies that the Organization shall be composed of "states"; and

Whereas the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic are not "states" incorporating sovereignty and independence, the criteria for all other nation-states in the United Nations; and

Whereas the above noted "Republics" have not established, nor maintained separate, sovereign diplomatic relations with any other sovereign state since 1920: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the House of Representatives that the President, acting through the United States delegation to the United Nations, should take such steps as may be necessary to bring before the General Assembly of the United Nations the question of the eligibility of the Byelorussian Soviet Social Republic and the Ukrainian Soviet Socialist Republic for Membership in the United Nations and seek their expulsion."

When he introduced the resolution, Congressman Burke addressed the House and at the very outset declared, "Mr. Speaker, the Congress and the people of America have been deeply distressed by the expulsion of Nationalist China from the United Nations. Official and popular support for the United Nations has fallen in the wake of the ouster of Taiwan."[22] He further stressed, "Since Byelorussia and the Ukraine, like Nationalist China, were charter members of the U.N., they too can be expelled by the same method as was used to eliminate the Nationalist Chinese." Thus, the resolution which has gained the co-sponsorship of about sixty members. The main arguments offered in behalf of it are subject to serious question and doubtlessly will be successfully countered in the course of hearings on it. Surely, the hearings could prove quite productive in clearing up numerous misunderstandings and fallacies surrounding the subject. For example, one sponsor states, "Byelorussia and the Ukraine are two of the 16 republics that make up the U.S.S.R."[23] The fact is that for well over a decade now there have been 15 republics in the U.S.S.R. Another sponsor observes, "It is a well-known fact, that Soviet claims notwithstanding, neither the Ukraine nor Byelorussia has been sovereign since the Communist takeover in 1918, neither has diplomatic relations with any other nation in the world, nor does either of these provinces conduct foreign relations separate from those of the U.S.S.R.'s."[24]

The first part is historically incorrect and the last two parts require a move in behalf of peace.

The Zablocki resolution, H.J. Res. 994, represents such a move. It reads as follows:

"Whereas, in the words of the President, 'in our view, every nation in Europe has the sovereign right to conduct independent policies, and to be our friend without being anyone else's enemy or being treated as such. . . . We are responsive, and other countries in Eastern Europe who desire better relations with us will find us responsive as well'; and

Whereas a distinct continuity of policy and objective has been expressed by our Presidents in terms of "people-to-people relations" and "bridges of understanding with the peoples of Eastern Europe"; and

Whereas in the interest of world peace it is clearly necessary to further our understanding of and relations with all aspiring peoples and nations, which includes the forty-five million Ukrainian nation—the largest non-Russian nation both in the Union of Soviet Socialist Republics and in Eastern Europe—and the ten million Byelorussian nation; and

Whereas the Government of the United States extends de facto recognition in the United Nations and cognate international organizations by recognizing the delegations selected to represent the Ukrainian Soviet Socialist Republic and the Byelorussion Soviet Socialist Republic as accepted nations of the United Natons and in these various organizations; and

Whereas respecting the sovereignty of these two non-Russian nations the Government of the Soviet Union strongly insisted upon the inclusion of these nations as original charter members of the United Nations; and

Whereas the sovereignty of the people of these two national Republics is intimated in the Constitution of the Union of Soviet Socialist Republics which provides: "The right freely to secede from the Union of Soviet Socialist Republics is reserved to every Union Republic;" and

Whereas said Union of Soviet Socialist Republics Constitution specifies that each Union Republic has the right to enter into direct relations with foreign states and to conclude agreements and exchange representatives with them; and

Whereas said constitution legally reflects further the sovereign wills of these two non-Russian nations by providing that each Republic has the right to determine "the manner of organizing the Republic's military formation"; and

Whereas the distinctive national flags, anthems, and emblems of state maintained by the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic are proffered to manifest symbolically the sovereignty and independence of these states; and

Whereas the Moscow Government in the Russian Soviet Federative Socialist Republic continually claims that these two non-Russian nations are independent and sovereign to develop their statehood and foreign relations; and

Whereas the people of the United States indirectly recognize the sovereignty of the Ukrainian and Byelorussian nations, which is in harmony with the ideas set forth in the Declaration of Independence of the United States, and, therefore, we stand ready to render to these nations and other peoples in the Soviet Union any assistance for the strengthening of bonds of friendship and good will; and

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Footnotes at end of article.

Whereas it is plainly incongruous from every viewpoint to rightly maintain recognition by this Government of the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic in the United Nations without, in the spirit and principles of the United Nations Charter itself, realizing the peace-strengthening opportunity to establish direct diplomatic concourse with their respective capitals of Kiev and Minsk: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the sense of the Congress that the Government of the United States in support of its policy of negotiation, peace, and understanding among nations should proceed to establish direct diplomatic relations with the Governments of the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic, and in the creation of posts of representation in the capitals of Kiev and Minsk, respectively, consistent with diplomatic procedure in such matters."

A careful reading of the two resolutions will show that no fundamental contradiction exists between them. In fact, the passage of one could possibly more than justify action on the other. In any case their consideration cannot but produce many fruitful results, both educational and political. Most important, however, is the growing interrelationship of factors and elements as we move into the inner Eurasian area. The future will be punctuated with this objectivity—based interrelationship.

FOOTNOTES

[1] To appreciate this fact, one need just read *Foreign Policy, Message from The President of the United States.* House Document No. 92–53, 1971.

[2] Lev E. Dobriansky. "Free China's Opportunity," *The Ukrainian Quarterly,* Autumn 1971, p. 290.

[3] See *The Geographical Expression of Mainland China: The Largest Captive Nation,* Congressional Record reprint, USGPO, July 1971.

[4] *Reuters,* Moscow, USSR, November 4, 1971.

[5] Crosby S. Noyes. "U.S. Facing the Inevitable on U.N. China Seat," *The Evening Star,* Washington, D.C., May 14, 1971.

[6] *Address.* U.S. Mission to the U.N. General Assembly, New York, October 4, 1971.

[7] *Statement.* October 18, 1971.

[8] Quoted in Tillman Durdin. "China Reds Firm on Taiwan Stand." *The New York Times,* October 13, 1971.

[9] CONGRESSIONAL RECORD, vol. 117, pt. 19, p. 37536.

[10] Frank Getlein. "It's Time to Act Like Grown-Ups," *The Evening Star,* Washington, D.C., November 4, 1971.

[11] "Unite the People, Defeat the Enemy—A Study of *On Policy,*" *Red Flag,* Peking, September 1971.

[12] CONGRESSIONAL RECORD, vol. 117, pt. 19, p. 37536.

[13] *Ibid.,* p. S16764.

[14] "United Nations Membership for Republic of China on Taiwan," CONGRESSIONAL RECORD, vol. 117, pt. 19, p. 37660.

[15] "The United States Should Examine Its Continued Membership in the U.N.," *Ibid.* October 26, 1971, p. 37456.

[16] *Ibid.,* p. 37463.

[17] *Ibid.,* pp. 37466–37467.

[18] *Ibid.,* p. 37614.

[19] *Address in the U.N.* Release, November 18, 1971.

[20] See "The Captive Nations Scorecard," *The WACL Bulletin,* Seoul, Korea, September–October 1971.

[21] David Lawrence. "Rep. Burke's Impending Resolution," *The Evening Star,* Washington, D.C., November 3, 1971.

[22] "Resolution Calling For The Expulsion of Byelorussia and The Ukraine From The United Nations," CONGRESSIONAL RECORD, vol. 117, pt. 31, p. 40084.

[23] Hon. William S. Broomfield, "Resolution to Expel Byelorussia and the Ukraine from the United Nations," CONGRESSIONAL RECORD, vol. 117, pt. 33, p. 43113.

[24] Hon. Robert Price. "Price Urges U.N. Expulsion of Byelorussia and the Ukraine," CONGRESSIONAL RECORD, vol. 117, pt. 31, p. 40260.

## MODEL COUNTY DEMONSTRATION PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. CONTE) is recognized for 15 minutes.

Mr. CONTE. Mr. Speaker, I am today introducing legislation, as is Senator KENNEDY in the Senate, which would establish a model county demonstration program to be set up in Berkshire County. Under the provisions of our bill, the Council on Environmental Quality would be authorized to supervise a 3-year, $3 million program designed to rejuvenate county government and help solve on a countywide basis the ecological problems faced by its inhabitants.

The natural beauty and serenity of the Berkshire area is a source of pride to local residents and attracts thousands of tourists annually. To preserve that natural beauty, I feel that comprehensive and demonstrative steps must be taken to insure that its land, air, and wildlife will for years to come be protected from growing environmental problems. Under this act, Berkshire County will provide an ideal testing ground. And if the program is successful, it will serve as a model for the rest of the Nation.

The problems of the environment transcend Federal, State, and local government lines. We must abandon fruitless debate in arguing which particular government level should be required to alleviate a particular problem. Our energies must be concentrated instead on a search for the most efficient and effective method in dealing with the situation as a whole.

To insure the success of this project, cooperation from all levels of government will be needed. Thus Federal moneys will be granted only after the county has established a project commission which will adequately set the priorities and provide assurances about the plans and directions that the project commission will put in motion. This in turn may require State enabling legislation. The project commission, which will have complete control of county environmental decisions, will have a representative from each town or municipality in the county, so that local governments will not be excluded from the decisionmaking process. Experts in county government and representatives from environmental groups and relevant planning agencies will also be included. The commission will file annual reports to indicate its progress.

The physical layout of Berkshire County is highly conducive to intertown cooperation. When people share common geography and interests, they should also share in the responsibility for solving common problems. I am convinced that the people of Berkshire County are willing to work together in this common end.

With widespread ecological problems that affect large numbers of people, it is necessary to institute bold new ideas that hold out the promise of effective solutions. This Project Demonstration Act, I believe, is a bold new concept that deserves a thorough testing. Its value, not only for Berkshire County, but for the rest of the Nation, deserves its prompt enactment.

Thank you, Mr. Speaker.

## THE DANGERS IN HIGH PRICE SUPPORTS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

Mr. FINDLEY. Mr. Speaker, for commonsense and straight reasoning on one of the most difficult aspects of American economic life, the comments set forth in the editorial column of the February 19 Prairie Farmer magazine are truly outstanding and, at the same time, refreshing.

The editor deals forthrightly and in plain English with the dangers involved if the Congress tries once more the long discredited route of attempting to price commodities at levels too high for the international market system.

The editorial is especially timely and appropriate in its analysis of the Smith-Melcher bill which recently passed the House but, fortunately, was rejected by the Senate Committee on Agriculture and Forestry. The Prairie Farmer is edited by James C. Thomson. Here is the text of the editorial:

### WOULD HIGHER SUPPORTS SOLVE INCOME PROBLEM?

Many farmers believe that their economic troubles would dissolve if corn were priced "at a reasonable level." It depends on whom you talk to, but the "reasonable" range mentioned most often lies between $1.30 and $2 a bushel.

Among NFO and Farmers Union leaders a reasonable price is 100% of parity. For corn that is about $1.90. "Why should we take less?" they ask.

So what are the prospects of corn prices reaching $1.90? Dim indeed. Higher prices are possible, but the tax cost in higher subsidies and loss of personal freedom may be more than some people may be willing to pay.

Higher corn prices can be attained thru (1) higher government subsidies, (2) mandatory restrictions on production, (3) voluntary production cuts by farmers, (4) the imposition of higher food prices on consumers, and/or (5) the results of natural disaster like blight or drought.

But let's face the facts. Urban resistance to increases in farm subsidies is becoming more formidable. Farmers have long had an aversion to compulsory programs, and the record of farmer compliance with voluntary programs isn't good unless there's a healthy incentive payment.

Consumers are squawking now over moderate increases in meat prices. Natural disaster is a possibility, but rare, and its effect on price is minimized by the size and diversity of the U.S. agricultural plant.

But let's suppose that prices were raised to satisfy the demand for even 90% of parity for corn or $1.71 a bushel. What then?

Such a move would add at least $2 billion to the cost of the current feed grain programs already nearing $4 billion. With the

Nixon administration entertaining a $40-billion deficit, Congress will be reluctant to expand it.

Many of us would like to see the struggling family farmer helped. But who would really get the help? That's easy—the man who sold the most corn.

Here's what John A. Schnittker, former undersecretary of agriculture in the Johnson-Freeman administration, had to say about the Smith-Melcher bill's proposal to raise the loan levels for wheat and feed grains.

"For feed grains, about 25% of the benefits would go to the largest 5% of all feed grain farmers; some 60% of the benefits would go to the largest 20%; and the smallest (poorest) 40% of the farmers would get 3% to 4% of the benefits."

With the price set at $1.71 a bushel the incentive to produce more corn would be so great that strict compulsory curbs on production would have to be maintained.

Production curbs and high corn prices would price us out of export markets which now take one acre in 4 of the product of Midwest farms. This could be offset with heavy export subsidies but in the face of growing taxpayer hostility.

Corn at $1.71 would increase the cost of eggs, meat, and dairy products. It would also stimulate greater feed grain production overseas. Other nations would soon be pounding on our doors with lower-priced food products they would want to sell to us.

If we raised our tariffs there would be retaliation and international good will and trade between nations could be set back for years.

Numerous other problems would arise, like the capitalization of price into the value of farm land. This would make it even more difficult for young men to enter farming.

In relation to costs, investment, management, and standards of living in town, corn prices are too low. But prices set too high can be as bad as prices that fall too low.

If our goal is to single out small farmers with income problems for the purpose of improving their lot in life, we aren't getting the job done.

It is clear that the small farmer has a separate problem only distantly related to price and production. If he is to be helped, it must be within the context of age, need for credit, ability to survive, whether or not he has an off-farm job, and whether or not his survival has sociological values in population dispersal and political stability.

We think it has, but the approach of the people who mean well thru price pegging isn't the way to get the job done. It is time we searched for something more productive.

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## CONGRESSMAN WHALEN DISCUSSES THE BUSING ISSUE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 15 minutes.

Mr. WHALEN. Mr. Speaker, this week the Judiciary Committee of the House of Representatives begins consideration of various proposals relating to the busing of schoolchildren. In view of the mounting national interest in this subject, Chairman CELLER is to be commended for scheduling these hearings.

Busing, of course, is a means to an end, not an end in itself. Thus, among other reasons, busing has been implemented to provide for the health and safety of school youngsters—Ohio law requires that transportation be provided children residing more than 3 miles from school—or to achieve the economies of school consolidation. The Senate Select Committee on Equal Educational Opportunities estimates that 40 percent of our children—65 percent when those riding public transportation are included—ride to school every day in the furtherance of these objectives.

Busing designed to effect child safety or school consolidation has not been questioned. The current controversy, then, centers on the goal of desegregation for which some schoolchildren are now being bused. Therefore, my comments shall be directed to the question of school desegregation rather than busing, per se.

### 1. DE JURE SCHOOL SEGREGATION

Both the Federal courts and the U.S. Congress have acted to curb de jure segregation of schoolchildren. What is de jure segregation? Simply stated, it is pupil segregation stemming from State law and/or local school board policy which provides for two separate school systems—one for white youngsters, the other for black children.

In 1954 the Supreme Court, in the case of Brown against Board of Education, ruled that dual school system must be dismantled. The following is the essence of that decision:

> We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregated public schools deprive these plaintiffs of the equal protection of the law.
>
> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education in our democratic society . . . In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

The Court summarized:

> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought, are by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

Since the 1954 decision, numerous de jure school segregation cases have been decided by the Supreme Court and lower courts. In each instance, this type of segregation has been ruled unconstitutional. Last spring, Chief Justice Warren Burger, explaining the unanimous decision of the Supreme Court in Board of Education against Swann, wrote:

> Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system.

Ten years after the Brown against Board of Education decision, Congress considered and passed the Civil Rights Act of 1964. While I was not a Member of the House of Representatives that year, I most certainly would have voted for this measure.

In the 1964 act, Congress prescribed a means whereby relief from alleged civil rights violations could be sought through the executive branch of Government—specifically, the Attorney General. In fact, Congress echoed the words of the Court in section 407(a)(1) of the act by referring to those students who "are being deprived by a school board of the equal protection of the law."

The 1964 act, in title VI, also stated that—

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Incidentally, it is under the authority of title VI that HEW officials have reviewed the operation of the Dayton schools.

In summary, authority to order the termination of de jure school segregation is derived from the 14th amendment and the Civil Rights Act of 1964. Busing, as a means of attaining this objective, is, therefore, both constitutionally and statutorily sanctioned.

### 2. DE FACTO SCHOOL SEGREGATION

While there has been complete consistency in the attitudes of the courts and the Congress regarding the necessity of abolishing de jure school segregation, there has been ambivalence in matters regarding de facto school segregation. What is de facto school segregation? In instances of de facto segregation, individual schools are attended either by a predominance of black or white students. This segregation, however, does not result from State law or school board policy. Rather, it stems from neighborhood housing patterns.

Several lower courts—both State and Federal—have held or indicated that local school districts have an obligation to correct de facto school segregation. Others have ruled that there is no obligation to remedy the effects of de facto school segregation. In still other instances, courts have declined to become involved in cases of de facto school segregation on the premise that nothing in the 14th amendment forbids State corrective action.

Incidentally, when lower court de facto school segregation rulings have been appealed to the Supreme Court, this Court, until recently, has refused jurisdiction. However, in December the Supreme Court accepted a case involving the Denver schools. In this case, the lower court held that there is some obligation to correct de facto school segregation. This ruling was reversed by the court of appeals and, as stated previously, is now before the Supreme Court. Consequently, there is a possibility that the Nation's highest court will rule on this aspect of school segregation some time this year.

Like the Supreme Court, Congress has confined its jurisdiction to situations of de jure school segregation. This was made clear when the Congress passed the aforementioned Civil Rights Act of 1964. In section 407(a)(2) of that act, Congress stated that—

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance.

It should be noted that the use of the phrase "to achieve racial balance" in this act is interpreted to mean "to end de facto segregation."

To summarize, at present there is no Federal law nor is there an interpretation of the Constitution by the Supreme Court which requires the elimination of de facto school segregation.

### 3. PROPOSED CONSTITUTIONAL AMENDMENT

In the last several years, so-called antibusing constitutional amendments have been introduced both in the Senate and the House of Representatives. The proposal which presently is receiving the widest attention both in and out of Congress is that of Congressman LENT—House Joint Resolution 620. The Lent amendment states that—

> No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.

I have given a great deal of study to this amendment and have concluded that, should it reach the House floor, I shall oppose it. Two factors underlie this decision. First, I agree with our Vice President, SPIRO AGNEW, who stated on February 14, that a constitutional amendment "fuzzes and obfuscates the entire issue." Or, as Prof. Alexander M. Bickel, a consultant to President Nixon, states, the Lent proposal would "trivialize" the Constitution.

Second, a close examination of this amendment reveals that it not only outlaws busing but every other means which could be used to assign students on the basis of race. Thus, de jure school segregation, which already has been struck down by Congress and the courts, could no longer be corrected. The impact of the Lent amendment, therefore, goes far beyond what it purports to accomplish.

### 4. LEGISLATIVE ATTENTION TO PROBLEMS OF EDUCATION

In my opinion, the legislative branch no longer can deal with educational problems in a piecemeal fashion, leaving much of the work to the courts. Congress must accept its responsibility and be a meaningful partner in solving the Nation's educational problems. Consequently, I believe we should address ourselves, among other issues, to the question of what should be done with respect to de facto school segregation.

Because de facto school segregation must be analyzed on a case by case basis—community by community—Congress can only establish broad policy guidelines. To this end, I advocate Federal statutes embodying the following provisions:

First, HEW would be authorized to entertain citizen complaints that neighborhood housing patterns have been involuntary due to past violations of their constitutionally guaranteed rights by such means as job discrimination and restrictive housing practices; and that the quality of education in their neighborhood is below community standards. Here the fundamental question, of course, is whether public moneys—Federal, State, and local—should be used to perpetuate the effects of involuntary housing segregation.

Second, HEW would be granted the authority to investigate these allegations.

Third, if the allegations were confirmed, HEW would be permitted to require the State board of education to submit a plan which would achieve within a reasonable period of time—5 years, for example—a desegregated quality educational system for the community.

Fourth, if the State plan involves busing, it would provide that such transportation be made available only when the time or distance of travel is not so great as to risk the health of the children or to impinge significantly on the educational process.

Fifth, Congress should estimate each year the cost of school desegregation programs and provide sufficient funds to the States and local school districts to cover all such costs.

Of course, the enactment of the above policies would not affect the jurisdiction already granted the Department of Justice and HEW under the 1964 Civil Rights Act.

### 5. CONCLUSION

As the foregoing suggests, busing is an extremely complex question. I felt, therefore, that the preceding background information is essential to an understanding of this issue.

In the light of these facts, the following is a summary of my views as they relate to busing.

First, I oppose any proposal whose effect is to repeal the 14th amendment and/or rescind the Civil Rights Act of 1964.

Second, I do not oppose busing when its objective is to:

Provide for the health and safety of schoolchildren—such as Ohio's 3-mile law;

Attain consolidation of school districts with its resultant economies;

End instances of deliberate—de jure—school segregation; and

Improve the quality of education for those children who reside in involuntarily established neighborhoods.

Third, I do oppose busing which, in seeking to achieve the above goals, does so in an unreasonable manner which endangers health or degrades the quality of education throughout the community.

Fourth, I favor Federal legislation which would:

Create procedures which would erase the educational inequities caused by the establishment of involuntarily segregated neighborhoods;

Delineate the parameters of "reasonable"—or "unreasonable"—busing plans—for instance, busing children 50 miles in each direction is eminently unreasonable.

Provide funds to the State and local school boards to cover the costs of desegregation efforts.

In closing, I would like to reemphasize that busing is a means to an end. The end—educational quality for every child in this country—is one, I am sure, all Americans share. Let us then, on that common ground, work together to find the best means of insuring its fulfillment for future generations of children whatever their color and wherever they live.

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## ILLEGAL DRUG TRAFFIC

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS), is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, during the congressional recess between the first and second sessions of the 92d Congress, I had the opportunity to investigate firsthand some of the massive problems our Nation faces in illegal drug traffic. I have previously praised the Government of Turkey for taking steps which may cut off the supply of opium from that country, a source which has been providing as high as 80 percent of the heroin traffic into the United States. But even a cursory investigation outside the boundaries of Turkey jolts one back to the realization that destroying illicit drug traffic is a problem to be solved only by the whole family of nations, not by one or two countries. Even if the opium supply of Turkey is completely dried up, there is a dangerous possibility that opium production will merely shift elsewhere, such as to Afghanistan, Iran, Burma, or Laos.

How do we obtain this cooperation by the entire family of nations? Coercion, such as cutting off American foreign aid, may help, but it does not appear to be the answer in all cases. There are some countries, such as Burma, where U.S. foreign aid is not considered very vital, and others, such as Laos and Afghanistan, where the government has little or no administrative control over the opium production areas. We must convince all countries of the great menace which narcotic addiction poses to all the world. There are countries which have no serious drug problem, but these same countries may and probably will face one next year or in 5 years or in 10 years.

This pestilence has the potential of spreading everywhere, and it should take very little pursuasion to convince all countries that narcotics cannot be regarded as just an American problem. The supply of opium can be obliterated worldwide through the joining together of all nations in the common fight. Until the supply disappears, it looks as if the problem will remain.

The brilliance of American technology and the genius of the American scientific community should be put to use here in the United States and abroad to aid in obliterating the supply of drugs and in detecting the drug traffic. High altitude photographic and satellite surveillance techniques, electronic sensors, chemical and low grade radioactive tracer elements, advanced defoliation techniques, fleets of helicopters, light aircraft and high speed boats, and highly trained dogs must be put to use in the drug prevention campaign all over the world.

I have spoken on previous occasions about attacking the supply of drugs, about decreasing importation of drugs, and of curtailing drug traffic throughout the world, and this is extremely important. But we must also continue to wrestle with the problem of demand for narcotics. We must increase Federal, State, and local efforts to support school and college information programs as well as radio and television spots, increase traveling appearances by former addicts, send more drug mobiles to residential areas, increase the number and quality of treatment centers, and increase the number of confidential therapeutic phone lines available to the addict. We must never relent in the effort to inform children and parents alike of the dangers of drug addiction.

The problem is a massive, multifaceted one, but it is one which can be solved if it is given a high priority by governments and by citizens throughout the world. America has faced great problems before and solved them. As President Nixon has stated:

> Every day we lose compounds the tragedy which drugs inflict on individual Americans.

We must not delay.

## TAKE PRIDE IN AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's pioneers of progress and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

Charles Townes of the United States devised the first laser in 1960.

## COMPREHENSIVE MANPOWER AND EMPLOYMENT ACT OF 1972

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. VEYSEY) is recognized for 5 minutes.

Mr. VEYSEY. Mr. Speaker, I have today introduced the Comprehensive Manpower and Employment Act of 1972 on behalf of the Committee on Human Resources of the National Governors' Conference.

As we near the end of hearings on comprehensive manpower legislation, I feel it is proper that the proposal of our distinguished Governors concerning this vital area of legislative concern should be presented. Tomorrow, Governor John A. Love, of Colorado, will testify on behalf of the National Governors' Conference before the Select Subcommittee on Labor. I am pleased to introduce this bill on behalf of the Governors so that the complete legislative proposal may be before the subcommittee during Governor Love's testimony and during markup of comprehensive manpower legislation.

The bill I have introduced provides for $3.25 billion for fiscal 1973 and $5 billion for the next 2 succeeding fiscal years. It provides for a complete decategorization of manpower programs, encompasses public service employment, and provides for revenue sharing through State and local manpower sponsors. In addition to comprehensive, flexible programs to be developed on the State and local level, the bill provides for special Federal responsibilities in the areas of technical assistance, research and development, labor market information, and national computerized job banks. While the bill contains substantial provisions for continuing evaluation of programs on the local, State, and Federal level, as my colleagues are aware I am personally devoted to strong, effective evaluation. It is my intent, as comprehensive manpower legislation moves into markup stage, to submit additional provisions to strengthen the requirements for continuing evaluation of program effectiveness.

I urge my colleagues to examine this bill and to take an active interest in the most vital area of manpower needs.

## ECONOMIC DEVELOPMENT HIGHWAYS

The SPEAKER. Under a previous order of the House, the gentleman from Montana (Mr. SHOUP) is recognized for 10 minutes.

Mr. SHOUP. Mr. Speaker, it should be understood that when one talks of economic development, one is talking about a relative problem. We can have economic overdevelopment and economic underdevelopment, such as exists in some countries in Africa. In both cases, the symptoms, at least, are the same: Pools of unemployment, low per capita income, low productivity and inefficient use of men, money, and materials.

Well, how does one go about preparing a reasonable program for economic development for an area?

One should not run willy-nilly after any type of economic activity, just for the sake of an added payroll. For, in the long run, an added payroll may mean far greater proportional outlays for municipal goods and services, such as schools, fire and police protection, than the added payroll might bring into the area. Furthermore, one should not run willy-nilly to add to the population per se, just for the sake of saying that X county, by gosh, is the fastest-growing county in the State or Nation. In some instances, and I know this sounds like political heresy, it might be well for an area to encourage the loss of population.

A complete inventory and a honest appraisal of all factors are the key words for a reasonable economic development program.

An inventory should include such things as both actual and potential. This inventory should include such things as capital resources available, types of industry, population, labor force, numbers of economic enterprises, wage rates and skill levels. With this inventory you must then go about the process of deciding which resources, both actual and potential, does your area have compared with other areas to make it uniquely qualified to attract an economic activity to it. These potential economic activities should be listed in descending order of priority, always bearing in mind both the long-term and short-term assets and liabilities of each.

Then the strategy of concentration of the resources available to lure these economic activities should be utilized. For example, if you think after all comparisons of assets and liabilities, that your area is better able to produce a cheap, serviceable, presentable widget than most other areas, you should concentrate an all-out effort through such devices as tax incentives, training programs, donations of buildings and equipment—always bearing in mind that these are part of the costs and must be balanced against the income to be produced by this potential economic activity—to encourage this particular economic activity to locate in your area. If unable to achieve this, concentrate on the next economic activity on your priority list.

In this country and others throughout the world, economic development has in many cases depended on the availability of good highways.

Because of this important fact, I now wish to raise several important questions concerning the economic role of highways primarily in the more rural, less developed areas of our Nation.

How will new or improved highways alter the economic mix? Who gains? Who loses? How much? What ought to be done about the losses? What should be done about the gains? Obviously, these economic and economic-related consequences are not simple, and a cursory examination will not do. In one possible situation, it could be that of two possible highway routes, one might open up commercial land for one jurisdiction and remove it from another. But the former may have more competitively placed commercial land elsewhere within its boundaries, as well as a strong tax base, so the road's location would not be critical to its economic situation, thus making the choice a bit easier. In another instance, one route location might make accessible sites for possible industrial and commercial usage. These sites would afford a potential form of added public income such as income taxes and possible property taxes. However, offsetting these possible gains might be increased costs for police and fire protection, for schools to handle the possible influx of new families into the area, for added maintenance costs, for additional sewers and drainage. The potential activity may also cause pollution of earth, sky, and stream. At what point do the economic advantages of a certain location and design outweigh the disadvantages be tolerated to gain the advantages?

The above example shows that more often than not, surface indication will not tell the whole story. Local goals and objectives may not be well thought out, and official plans may not represent the locality's real possibilities.

Therefore, economic analysis of the effects of a new highway on an area can show the economic gains and related social gains to be expected from the highway's location. A new program which also incorporates the use of economic analysis for highways is the new "economic growth center development" program.

Economic growth center development highways were established by the Federal Aid Highway Act of 1970. The Secretary of Transportation, with this law, has the authority to provide additional funds to the States for demonstration projects for the construction of development highways on the Federal primary system.

This law is primarily designed to show that areas with a potential for economic growth can be substantially aided by highway improvements. I believe these demonstration projects will not only play a vital role in revitalizing and diversifying the economics of the communities and rural areas with small populations, but can also substantially assist in enhancing and dispersing industrial growth and checking or slowing down the current trend toward migration of people to the large, congested metropolitan areas.

The 1970 act authorized the appropriation of $50 million for each of the fiscal years 1972 and 1973 to help finance the Federal share of costs of the new program's projects. The additional funds make it possible to increase the Federal share of the cost of the demonstration projects from the normal 50 percent to about 70 percent.

The growth areas designated by the Secretary of Transportation are based on recommendations by the State's Governors. Each Governor was invited by the Secretary last July to recommend not more than three growth centers in his State which would meet criteria developed for the centers.

After the Governors have submitted their selections, the Department of Transportation determined the eligibility of projects for financing by considering the following conditions:

First. One State may receive no more than 15 percent of the funds authorized in any one year for growth center development highway projects.

Second. Economic growth center development highway funds must only be spent on Federal-aid primary highways.

Third. Projects located on interstate highways are not eligible for inclusion in growth center development highway programs.

To date, the Secretary of Transportation has announced approval of 91 growth centers located in 43 States and Puerto Rico, and more recommendations are being reviewed with approvals expected in March. It is hoped that there will be at least one active demonstration project in each of the 50 States.

In Montana, the Governor submitted three areas as prospective economic growth centers. These areas were the Lone Mountain Access Road, Sidney and Wilsall—north and south projects. On November 2, 1971, Secretary of Transportation John A. Volpe announced approval of only one of these projects, the Lone Mountain Access Road.

The Sidney and Wilsall—north and south projects, although not accepted, both possessed the credentials necessary for approval as economic growth development centers. Each of these projects would have provided a boost for agriculture and agriculture-oriented industry in their respective areas. The State highway commission is developing two other growth centers with their highway projects to replace the two denied ones.

Although the total program has had fine initial response and acceptance, I feel there remains some room for improvement.

First of all, the 1970 Federal-Aid Highway Act states that funds for economic development growth centers must be spent only on Federal-aid primary highways. However, Montana, like other Western States, does not have a large amount of mileage in its primary system. This restriction thus limits these States to only a few areas which they may recommend as prospective economic growth centers. If however, the program were expanded to also include the Federal-aid secondary highways there would be a broader range of locales from which the States could make their selection. This proposed expansion would offer these areas, now served only by secondary roads, a real opportunity for economic development, an opportunity greatly needed, yet nearly impossible without the aid of this type of program.

Second, I feel there should be additional funds made available for this program.

The response from the States was so great that the funds made available for fiscal years 1972 and 1973 were committed before the end of the first fiscal year. With additional funds this shortage would be alleviated and more and better projects could be planned by the States.

Therefore, I propose a bill which amends the Federal-Aid Highway Act of 1970. The first two amendments would allow areas served by secondary highways to become eligible for consideration as economic growth development centers.

Mr. Speaker, I include the entire bill in the RECORD following my statement:

H.R. 13459

A bill to amend section 143 of title 23, United States Code, relating to economic growth center development highways

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 143 of title 23, United States Code, is amended as follows:

(1) Subsections (a), (b), and (c) of such section are each amended by inserting immediately after "Federal-aid primary system" each place it appears the following: "and on the Federal-aid secondary system".

(2) Subsection (d) of such section is amended by inserting immediately after "Federal-aid primary" the following: "and secondary".

(3) Subsection (g) of such section is amended by striking out "and not to exceed $50,000,000 for the fiscal year ending June 30, 1973." and inserting in lieu thereof the following: "not to exceed $100,000,000 per fiscal year for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975.".

## OBSERVATIONS ON THE CHINA TRIP

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 60 minutes.

Mr. CRANE. Mr. Speaker, when the President initially announced his forthcoming visit to Peking on July 15, he declared that—

> I want to put our policy in the clearest possible context. Our action in seeking a new relationship with the People's Republic of China will not be at the expense of our old friends.

The communique issued by the President indicates that a far different result has occurred. Hopefully, initial reports will be further clarified and we will learn that what appears to be the case is, somehow, better than it seems. Nevertheless, we must deal with the statements which have been made.

In his communique, for example, the President declares that—

> The United States will maintain its close ties and support for the Republic of Korea.

He continues to state that—

> The United States places the highest value on its friendly relations with Japan.

At no point in the communique does the United States reaffirm its support for Taiwan. Instead, the President declares that—

> The ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan is our goal.

In the same communique, the Chinese Communist leadership declared that—

> Taiwan is a province of China . . . the liberation of Taiwan is China's internal affair in which no country has the right to interfere: and all U.S. forces and military installations must be withdrawn from Taiwan.

Thus, the Chinese reaffirmed their commitment to the use of force and violence in international affairs. The United States, for its parts, renounced the use of force. The Chinese demanded that American troops be withdrawn from Taiwan. The United States agreed.

The appearances, at this point, are that the Chinese received exactly what they demanded, while the United States received virtually nothing in return. The Chinese made no concessions with regard to the war in Vietnam or with regard to American prisoners of war, allegedly priorities on the President's list of subjects to be discussed.

In addition, the Chinese reaffirmed their commitment to world revolution. In the very communique in which our own Government did not see fit to reaffirm its commitment to the people of the Republic of China, the Communists did not hesitate to reaffirm their own commitment to violence and terror. They declared that they "firmly support" the "struggles of all oppressed people for freedom and liberation—the Chinese side expressed its firm support for the peoples of Vietnam, Laos, and Cambodia in their efforts for the attainment of their goals and its firm support to the seven-point Provisional Revolutionary Government of the Republic of South Vietnam."

At the very moment when American soldiers are being killed by Communists in South Vietnam, our Government has made an agreement in which it did not see fit to maintain our own international commitments. The Communist Chinese, however, did not see fit to abandon their own allies. If there was a quid pro quo, it is not evident at this time.

In his news report from Shanghai in

the Washington Post of Monday, February 28, 1972, Stanley Karnow states that—

> The considerable concessions by the President appeared to have been made in return for a relatively minor Chinese agreement to "facilitate" bilateral scientific, technological, cultural, sports, journalistic and trade exchanges between the United States and China.

Mr. Karnow continues:

> Weighing concessions made by the President, many observers here feel that the Chinese got the better of the bargain even though White House National Security adviser Henry Kissinger said afterward that the U.S. approach was not to see "who scored how many points on which issue."

What Mr. Kissinger had in mind, is difficult to tell. What points we scored on any issue, is equally difficult to understand. That we acted in a totally undiplomatic manner with regard to our longstanding allies is clear. In its editorial for February 28, 1972, the Washington Daily News declared that—

> We do not argue that the 9,000 American servicemen on Taiwan should stay there forever. Most of them are there to support our Vietnam operations, which are winding down. But the way to withdraw troops from an ally's soil is after careful negotiation with the ally, not through a joint announcement with his sworn enemy.

It is difficult for me to believe that our Government will not stand by its treaty commitment of 22 years with the Government of the Republic of China. Yet, reading the communique which has been issued, this conclusion cannot be escaped. The Chinese Communists agreed that "international disputes" should be settled "without resorting to the use or threat of force." Yet, they have made it clear that this does not apply to the Taiwan or Vietnam problems, which they consider to be civil war. We have also renounced the use of force. Does our renunciation apply to the defense of Taiwan?

Prof. Alexander Eckstein of the University of Michigan declared that, in effect, the United States is "rendering a defense treaty inoperative—although not renouncing it if there is an attack." Professor Eckstein said that the United States is virtually saying:

> We are withdrawing from Taiwan—precisely the formula that the Chinese have asked for.

Another China specialist, Donald Klein of Columbia University, said that—

> I suspect that both sides will be willing to just let it—the 1955 defense treaty with Taiwan—die a natural death.

Is this the policy of our country, one of abandonment of longstanding allies during secret negotiations with the common enemy? I shudder to think that it is. If it is, all of our alliances throughout the world will be shattered. Who, ever again, will trust the United States? More important, we will have proven untrue to our own principles of honor in international relations.

Commenting upon the agreement made in Peking, columnist William F. Buckley, Jr., in the Washington Star on February 28, 1972, declared that—

> We have lost—irretrievably—any sense of moral mission in the world. . . . All of Asia will understand that whatever the mandarin niceties of the President's world report, at the crunch he didn't dare risk a social breach in Peking and its implications, merely to reassure the people and the government of Taiwan—notwithstanding that on announcing last summer that he would come to China, Mr. Nixon guaranteed that he would not jeopardize the best interests of our "friends."

I wish to share Mr. Buckley's column with my colleagues, and insert it into the RECORD at this point:

### LOST: ANY SENSE OF MORAL MISSION

(By William F. Buckley, Jr.)

PEKING.—In what one devoutly hopes will be the last toast ever offered by a President of the United States to Chairman Mao and Premier Chou, Richard Nixon said, giddily, "This was the week that changed the world."

For once he was not trafficking in hyperbole. It was surely such a week, and it was evident from the strain on the face of Henry Kissinger when he presented himself for questions after the communique was issued, that he also understood it. Those who know Mr. Kissinger and his work are entitled to surmise that the whole China adventure settles now in his mind as a nightmare.

Here is what the Chinese gave up:

1—They consented to traffic with representatives of the government of the United States even though the United States still recognizes the government of Taiwan.

2—They performed routine rhetorical exercises on the theme of world peace, and national sovereignty, thereby disappointing a few Berkeley sophomores and African purists who believed that Maoism would never equivocate on the primality of its international revolutionary mission.

When the New York Times' reporter asked Mr. Kissinger what has the United States accomplished that wasn't accomplished by ping pong, Mr. Kissinger, nettled, rattled off Chinese obeisances to the good international life. He might as well have cited the Soviet Union's guarantees as described in its constitution.

Here is what the United States gave up:

1—With all the world poised to consider one point above all, namely the integrity of the United States' commitment to Taiwan, he issued a communique in which the Red Chinese asserted and reasserted their absolute right to conquer Taiwan, while we uttered not one word on the subject of our defense treaty, not one word on the applicability of our principles of self-government and independence to the people of Taiwan.

That staggering capitulation, for all that Kissinger sought to distract from it by citing President Nixon's world report which reaffirms our defense treaty with Taiwan, is the salient datum in the week that changed the world.

All of Asia will understand that whatever the mandarin niceties of the President's world report, at the crunch he didn't dare risk a social breach in Peking and its implications, merely to reassure the people and the government of Taiwan—notwithstanding that on announcing last summer that he would come to China, Mr. Nixon guaranteed that he would not jeopardize the best interests of our "friends."

Since uttering those words, Mr. Nixon has seen the expulsion of Taiwan from the United Nations, and now the expulsion of Taiwan from the presidential catalogue of nations in Asia whose independence he is prepared to affirm while in China.

2—We have lost—irretrievably—any sense of moral mission in the world. Mr. Nixon's appetite for a summit conference in Peking transformed the affair from a meeting of diplomatic technicians concerned to examine and illuminate areas of common interest, into a pageant of moral togetherness at which Mr. Nixon managed to give the impression that he was consorting with Marian Anderson, Billy Graham and Albert Schweitzer.

Once he decided to come here himself, it was very nearly inevitable that this should happen. Granted, if it had been Theodore Roosevelt, the distinctions might have been preserved. But it is important to remember about Mr. Nixon that he is so much the moral enthusiast that he alchemizes the requirements of diplomacy into the coin of ethics. That is why he toasted the bloodiest incumbent chief of state in the world in accents most of us would reserve for Florence Nightingale.

3—Mr. Nixon has almost certainly adjusted American politics in such a way as to compel almost the whole of the Democratic party to the position that we need to dump Taiwan. Previously, that had been an aberration of Sen. George McGovern.

A few days ago, in the spirit of Peking, Sen. Fulbright took it up. Now, in the communique midwifed by Richard Nixon, the Chinese list the independence of Taiwan as the principal obstacle to the "normalization" of relations between China and the United States (as if our normal relations with the Soviet Union had done anything for the peace and freedom of the world).

And Richard Nixon, by his heroic actions of the past week, clearly puts normalization as the highest objective. The analytical deduction will necessarily occur to Democratic presidential candidates, and the arguments will have been made for them by Richard Nixon. All of this might take a few years to transact, in America. But in Asia, they will have received the signal.

They will have got it by the time these words are printed. Mr. Kissinger spoke today about the Peking summit, "in terms of the direction to which it seeks to point," and of "the basic objective" of setting "in motion a train of events and an evolution in the policy of our two countries." That was brilliantly accomplished. We should certainly know, by now, the direction in which we are headed. No wonder that they are toasting here, with increasing ardor, the health of Richard Nixon.

Far more than the future of Taiwan is involved, as if that were not enough of a moral question to concern all of us today. The very honor of our country is at stake, for if our treaty commitments to the people of the Republic of China can be eliminated at a Peking banquet, how do our European allies know that the NATO alliance might be abrogated at a similar euphoric event in Moscow? Either our country is a trustworthy and honorable ally, or it is not.

The New York Daily News, in its editorial of February 28, stated that—

> The President's "first duty is to lay all the cards on the table, and translate into plain English the bushels of banalities and double-talk issued by both sides in their wind-up communique."

The News declared that—

> The mushy wording of the U.S. position regarding Taiwan is enough to send tremors running through our friends . . .

I wish to share this editorial with my colleagues. It follows:

### TIME FOR PLAIN TALK

President Richard M. Nixon will report to the American people tonight upon his return from Red China.

His first duty is to lay all the cards on the table, and translate into plain English the bushels of banalities and double-talk issued by both sides in their wind-up communique.

Diplomatic statements often are intended to obscure rather than enlighten. This one is a masterpiece of murkiness.

On the surface, it would seem Mr. Nixon got nothing. Nowhere is there evidence that Red China's masters yielded a whit on Viet-

> nam, support for Communist subversion in Asia, or designs for the "liberation" of Taiwan.
>
> It further appears that Mr. Nixon inched still further away from firm U.S. support of Free China's freedom and independence.
>
> The mushy wording of the U.S. position regarding Taiwan is enough to send nervous tremors running through our friends and the nervous, neutralist fence-sitters in Asia.
>
> A candid, unswerving restatement of America's commitment to Free China--as embodied in our mutual security treaty with Chiang Kai-shek's regime—is the least Mr. Nixon can offer now to dispel fears of a future sellout.
>
> As for the rest, the nation will expect from the Chief Executive a detailed, concrete report on all phases of talks in Peking—with emphasis on just what the U.S. will get out of any deals that have been made.
>
> We're waiting, Mr. President.

If we are preparing to abandon our faithful and longstanding allies, let this administration say so clearly and precisely. Then, hopefully, the American people will make known whether or not they believe that such a policy is consistent with their own belief about the nature of their country and its role in the world.

Our country has assisted the nations of Europe and Asia to resist tyranny in World Wars I and II, in Korea, and in Vietnam. After all of this sacrifice, are we prepared now to abandon our role of world leadership and permit the forces of totalitarianism free reign? I hope that this is not the case. Only immediate clarification, and an immediate declaration of our intentions to stand by our commitments, in terms which are not ambiguous, and which can be understood in Peking, will allay our current fears. These words and these actions are already long overdue.

## TRIBUTE TO THE REVEREND CHARLES W. HOEMIG

The SPEAKER. Under a previous order of the House, the gentleman from Nebraska (Mr. McCOLLISTER) is recognized for 5 minutes.

Mr. McCOLLISTER. Mr. Speaker, we have been honored today by having the invocation offered by Rev. Charles W. Hoemig, pastor of the Holy Trinity Lutheran Church of Littleton, Colo.

It has been a personal privilege for me to have become acquainted with Pastor Hoemig, as he participated in the marriage of our son and daughter-in-law and in the baptism of my grandson, Stephen Scott McCollister.

A native of Fort Wayne, Ind., Pastor Hoemig received his bachelor of arts degree from Indiana University, and his bachelor of divinity degree from the Chicago Lutheran Theological Seminary.

He is the immediate past president of the Littleton Kiwanis Club, immediate past president of the Metropolitan Denver chapter of the Leukemia Society of America, a board member of the American Red Cross and the Gallup Park School for Retarded Children. Pastor Hoemig is also chairman of the Synodical Committee on Camping, chairman of the High Country Advisory Board—Leisure-Recreation Ministry—and chairman of the Lutheran School of Theology Capital Appeal.

Within the past few months, he has received the Vickie Franzen and John F. Hiatt Awards for "Outstanding Leadership in the Leukemia Society of America."

Pastor Hoemig comes to us today directly after a 5-week trip throughout India and Burma, having been selected by the church to observe, evaluate, and in terpret the church's work among lepers, refugees, schools, and seminaries and in local congregations.

Mr. Speaker, I am proud to have had a small part to play in bringing Pastor Hoemig to the House of Representatives today.

## ENVIRONMENTAL PROBLEMS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, in his special message on energy of June 4, 1971, President Nixon emphasized that the growing public demand for a cleaner environment and the continued growth of the Nation's energy needs will pose difficult choices for public policy in the years ahead. As in so many other cases, it will be incumbent upon us to find the proper balance or mix of two "goods," neither of which can be pursued without consideration of its effect on the other.

Unfortunately, there are some who refuse to recognize the delicate trade-off that will be required between restoring the Nation's environment and meeting the energy needs of a great industrial society. Yet, it should be obvious that if we were to heed the urgings of either those who would pursue economic growth and unlimited energy production without regard to environmental impact, or those who advocate stringent pollution control regardless of economic costs, the Nation and the American people would end up worse off in both cases.

Mr. Speaker, I raise these considerations, because I am particularly concerned about a bill that was introduced last week in the Senate which would place a 1-year moratorium on further licensing of nuclear powerplants. In his statement in support of the measure, Senator GRAVEL suggested that the environmental risk of these plants is all out of proportion to the contribution that they could make to meeting the Nation's electrical energy needs, and that therefore a moratorium on further construction and licensing could be readily justified.

I strongly disagree with the Senator from Alaska. On the one hand he has greatly exaggerated the danger that these plants pose for the environment and public safety, and on the other, has confused and greatly underestimated the role that nuclear plants are currently playing in meeting the energy needs of a number of important areas in the country. As a result, adoption of his legislation would lead to the kind of "no-win" situation that I mentioned a moment ago.

To begin, Senator GRAVEL argued that since nuclear powerplants currently provide only about 3 percent of our electrical production capacity, delay in putting into operation the 15 plants scheduled for 1972 would not have serious consequences. However, these are national aggregate figures which simply are not very useful or meaningful in the consideration of electrical power production. If we want to determine the real impact of a moratorium on nuclear generating capacity we must look at each region of the country, because current technology and facilities do not permit significant transfer of power from high reserve to low reserve areas.

Mr. Speaker, data provided by the staff of the Joint Atomic Energy Committee on which I serve, clearly shows that a number of regions in the Nation would be very adversely effected by a moratorium on licensing. Though the general rule of thumb in the power industry is that a 20 percent reserve should be maintained in excess of the peak load demand, the mid-America region, which includes my own State of Illinois, will be reduced to a dangerously low 4.9 reserve level unless nuclearplants scheduled for operation during 1972 are put into service. Similarly, the Southeast region would have reserve capacity of only 6.3 percent, the Texas region would have reserves of only 9.8 percent, and the East Central region reserves of 10.1 percent, unless nuclear plants scheduled for operation are put into service this year.

What these figures indicate, I believe, is that in these areas of the country, new nuclear generating facilities could provide the increment of additional capacity that will be needed to prevent brown-outs and black-outs during the peak-load season. For experience has shown that if generating capacity reserves drop significantly below 20 percent, the odds are high that something can go wrong on the system such as a generator, transformer, or circuit breaker failure that would require major load "dumping" with all that implies for major industrial centers.

So Senator GRAVEL may be correct about the minor fraction of total national power capacity accounted for currently by nuclear facilities, but the real consideration concerns the incremental addition to generating capacity that new nuclear installations can play in specific areas of the country during the coming year. If the question is viewed from that perspective, then it is clear that a moratorium of the kind proposed by the Senator could have very grave consequences indeed.

Mr. Speaker, if Senator GRAVEL has seriously underestimated the potential economic costs of a moratorium, I think he has also considerably exaggerated the environmental risk. As President Nixon noted in his energy message that I cited earlier:

> It is pertinent to observe that the safety record of civilian power reactors in this country is extraordinary in the history of technological advances. Fore more than a quarter century—since the first nuclear chain reaction took place—no member of the public has been injured by the failure of a reactor or by an accidental release of radioactivity. I am confident that this record can be maintained.

To be sure, there are still important problems remaining concerning the disposal of radioactive wastes, improvement of emergency core-cooling systems, and thermal pollution. But under Dr. Schlesinger's energetic leadership at the Atomic Energy Commission we are making substantial progress on all of these fronts. In my view, there is little evidence that any of these considerations provide cause for halting further development of nuclear generating capacity at present.

Finally, Mr. Speaker, I think we must consider carefully the long-range impact of a moratorium on further nuclear construction and licensing. Most current projections indicate that we will have to double our generating capacity by the end of the decade in order to meet the Nation's energy needs. During this same period, however, we will be phasing into progressively more stringent air and water pollution standards that will both place sharp limits on our ability to expand power production by means of conventional fossil fueled facilities, and at the same time will increase the demand for electrical power that will be needed to operate municipal sewage treatment facilities, stack-scrubbing devices and even mass transit systems. While we do not yet have concrete estimates regarding the increased demand for electrical power over the coming decade that will be required as a result of the implementation of the Clean Air Act and the pending clean water bill, the evidence available at present indicates that this demand will be substantial.

It will take over 500,000 kilowatts of power, for example, just to operate the subway system now under construction in the Metropolitan Washington area. To the extent that this system cuts down on the emission of pollutants from autos, it will play an important role in our quest to restore a more livable environment. But the Metro system, and systems like it throughout the Nation, will not be possible if we do not have adequate capacity to produce electrical power.

To take another example, we are currently making considerable progress in the effort to develop a commercially viable process for the gasification of coal. Since much of the vast deposits of coal reserves in this country are of the high sulfur content variety, they will be of little use to the Nation in future years unless some economical process for converting them into clean natural gas can be perfected. But, again, this conversion process will require abundant supplies of electrical energy. Findings from current research and demonstration projects suggest that just one plant producing synthetic gas by means of electrochemical gasification of char will require 400,000 kilowatts of power annually. And estimates for the number of plants that could be put into operation if the process is perfected run all the way from 20 to 100.

Mr. Speaker, it seems clear to me that if we are to have continuing economic growth and improvement in the quality of our environment over the next decade, we are going to have to continue uninterrupted expansion of our nuclear generating capacity. The light water reactor is the best process we will have available during the next 10 years to produce the electrical power we need with a minimum of harmful environmental consequences. If we were to slow down or halt the development of nuclear reactors at this point, we would of necessity have to increase our reliance on conventional fossil-fueled plants which would be both more costly and have far greater adverse impacts on the environment.

Mr. Speaker, I would like to conclude by inserting in the RECORD a table prepared by the staff of the Joint Atomic Energy Committee which indicates in quite dramatic terms, the sulfur dioxide, nitrogen oxide, and particulate emissions that will result from fossil-fueled plants of a megawatt capacity equivalent to a number of nuclear facilities scheduled for operation this year. I think this data demonstrates quite vividly that rather than being an enemy of environmental restoration, nuclear power might better be considered a partner in light of the energy needs that will confront the Nation in the decade ahead:

| Utility and plant | Capacity[1] | Replacement fossil plant environmental impact expressed in increased emissions of pollutants (tons) | | |
|---|---|---|---|---|
| | | $SO_2$ | $NO_x$ | Particulates |
| Consolidated Edison Co.: | | | | |
| Indian Point No. 2 | 873 | 29,000 | 16,000 | 1,245 |
| Northeast Utilities: | | | | |
| Millstone Point No. 1 | 662 | 23,000 | 15,000 | 1,100 |
| Millstone Point No. 2 | 830 | 26,000 | 17,000 | 1,300 |
| Northern States Power Co.: Monticello No. 1 | 543 | 80,000 | 27,000 | 18,000 |
| Metropolitan Edison Co.: | | | | |
| Prairie Island No. 1 | 550 | 150,000 | | 35,000 |
| Three Mile Island No. 1 | 830 | 29,000 | 5,800 | 2,680 |
| Three Mile Island No. 2 | 950 | 31,000 | 6,200 | 2,490 |
| Commonwealth Edison Co.: Dresden No. 3 | 809 | 300,000 | 35,000–70,000 | 18,000–30,000 |

[1] In thousands of megawatts electrical.

## AID FOR THE SOFT DRINK INDUSTRY

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, today I am introducing legislation to save certain small businessmen all over the country, namely the bottlers of the small soft drink industry.

For more than 70 years, the soft drink industry in the United States has operated under a franchise system which has continually and well served the American consumer with a quality product jealously guarded for purity of content at a price within the reach of all. The soft drink industry substantially consists of small businessmen, but they represent a strong and vital economic force in over 1,600 communities in our country.

In mid-January of 1971, the FTC announced an intention to issue complaints against seven soft drink francise firms. The FTC alleges generally that the companies have hindered or eliminated competition in the soft drink industry by restricting soft drink manufacturers to designated geographical areas.

The soft drink bottlers of the Nation think the objectives sought by the FTC will be disastrous for the industry, and positively detrimental to the public interest. Bottlers do not view the territorial system as an imposed limitation on their competitive freedom. To the contrary, they consider this system as the only feasible means of assuring to the public the advantages of intensive local competition and service among national and private label and store controlled brands, and the only reasonable way by which prudent businessmen would undertake the extensive risks and responsibilities of soft drink bottling.

At the present time, though there is tremendous inter-brand competition, the territorial system prevents competition between bottlers of the same product. If this is changed, the result will be far reaching.

The marketing method traditionally used by the soft drink industry has been sales and service by route delivery. This method requires and in fact has produced intensive competition between the bottlers of the different national brands for the trade of virtually every restaurant, filling station, and other outlet in the territory, and competition for shelf space within the supermarkets. Low prices and good service to the public at all retail outlets have been the results of this method. Some of the large grocery chains, however, find this method inconvenient with their practice of mass purchasing from suppliers and redistribution through warehouses to their retail outlets. This is particularly true of those chains which offer their own private brand beverages in competition with the national brands. Such grocery chains have demanded warehouse delivery of soft drink products in large volumes at reduced cost. Generally, soft drink bottlers have resisted demands for such bulk warehouse deliveries because they have been considered incompatible with the territorial franchise system under which the industry has prospered.

If this territorial system is destroyed as a result of the FTC action, warehouse delivery to the large grocery chains and other volume buyers will become the rule rather than the exception. Those bottlers fortunate enough to be located in close proximity to the chain's warehouses or who are in financial position to restructure their methods of operation to specialize in only large-volume customers over a wide geographic area will be able to increase their sales. The majority of bottlers, however, will not be so fortunate. The cost of distribution to small volume outlets—such as mom-and-pop grocery stores, drugstores, office buildings, and vending machine outlets, and so forth—is considerably higher than to large-volume outlets. Thus, the bottlers left with only the smaller volume outlets will immediately suffer sharp reductions in sales and be forced to raise prices to their remaining customers.

Thus, the success of the Commission's complaints will inevitably lead to the demise of the majority of small local bottlers. An increased trend to mergers may be the only alternative to a rash of bankruptcies.

The smaller retail outlets and the consuming public will be sure losers. The chains' present emphasis on nonreturnable containers despite their higher retail prices is illustrative of their lack of desire to save the consumer any money.

The legislation which I am introducing seeks no more than to continue the climate created almost a century ago and which has been part and parcel of our national economy. It establishes nothing new and asks no more than to continue in the same atmosphere where vigorous interbrand competition has produced quality, quantity, low prices, nationwide availability, and a healthy, small business complex which has proven beneficial to the consumer.

## HOUSE JOINT RESOLUTION 620

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. McDONALD) is recognized for 15 minutes.

Mr. McDONALD of Michigan. Mr. Speaker, the House Judiciary Committee is currently holding hearings on House Joint Resolution 620, a proposed constitutional amendment to prohibit forced busing. I am hopeful that each Member of Congress will carefully follow the proceedings before the committee and will reach the conclusion, as I have, that forced busing must be ended and the only way left open to attain this goal is the adoption of a Constitutional amendment.

I would like to insert in the RECORD, following my remarks, my presentation on House Joint Resolution 620:

### STATEMENT OF THE HONORABLE JACK McDONALD

Understandable concern is being generated throughout our country over the wiseness (or unwiseness) of amending our sacred and noble document, the Constitution, in order to once and for all prohibit the forced busing of students to achieve racial balance. I am of the opinion that the Constitution should not and must not be altered with every passing fancy of the American populace; rather we should solve our problems through executive procedure and, more frequently, legislative action.

However, the issue of forced busing is unique. For many years, we in the Congress have been trying to settle the busing issue with legislation, but these attempts have been in vain, all having been disregarded by the courts. Current laws contain various provisions which prohibit any federal requirement of busing to achieve racial balance. The first such law was the Civil Rights Act of 1964, as amended; Title VI provided "that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve racial balance." Also the Departments of Labor-HEW Appropriations bills for F.Y. 1969 and 1970 have included some form of the so-called Whitten amendments which originally stated:

"No part of the funds contained in this Act may be used to force busing of students, the abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents.

"No part of the funds contained in this Act shall be used to force busing of students, the abolishment of any school or the attendance of students at a particular school as a condition precedent to obtaining Federal funds otherwise available to any state, school district or school."

Attempts were made to delete the Whitten amendments from the 1969 and 1970 HEW Appropriations Bills. These attempts were defeated; however the Senate succeeded in changing the final working of the anti-busing provisions by adding the phrase "except as required by the Constitution."

The 1971 Office of Education Appropriations Bill contains the following provisions:

"SEC. 209. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

"SEC. 210. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school."

And again in 1972, the Education Appropriations Bill contained the Whitten amendments.

Now the Senate is acting on the Higher Education Act, S. 659. This measure as passed by the House contained several strong anti-busing amendments. On February 25, the Senate accepted the Griffin amendment which states "no court of the U.S. shall have jurisdiction to make any decision, enter any judgment, or issue any order the effects of which would be to require pupils to be transported to or from schools on the basis of race, color, religion, or national origin."

This amendment appears to be very strong but I have no doubt that the courts will treat it in the same way, if enacted, that they have treated the Whitten amendments—total disregard. Legislative victories over busing have been and will continue to be merely symbolic; they will not have any effect on court-ordered busing.

Let there be no mistake; I and the vast number of citizens are in support of equal and quality education for all students, however, what is opposed is the use of forced busing to achieve this laudable goal. Busing is a negative approach, one that is meeting resistance throughout our land. I shall not at this time go into other approaches, but they exist, are workable, and will receive the support of the people.

I feel that the courts have misinterpreted the equal protection clause of the 14th Amendment, Title VI of the 1964 Civil Rights Act, and the various educational appropriations bills. The historical perception gleaned from enacted anti-busing provisions has convinced me that I must endorse and actively campaign for the passage of H.J. Res. 620. My convictions in this matter are supported by the 8,000-plus letters, telegrams, and petitions of plea from my constituents that I join forces in the Congress to stop forced busing, preserve neighborhood schools and protect the freedom of choice.

So I lay to rest the case of the 19th District of Michigan, and the entire country, against busing. I strongly urge my colleagues on the Judiciary Committee to report out H.J. Res. 620 and let the people decide this issue.

## SALUTE TO THE AMERICAN LEGION

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WHALLEY), is recognized for 15 minutes.

Mr. WHALLEY. Mr. Speaker, from its beginnings in 1919, in the immediate aftermath of the First World War, the American Legion has been a bulwark of our national life. Its members have always been in the forefront of those who stand watch at the frontiers of freedom. They have learned, in their own experience, the cost of liberty's survival. Born among 1,000 officers and men of the AEF, the Legion has grown through the past half century into the greatest single spokesman for the American veteran and his rights.

Millions of our citizens have held the ranks of the Legion, having served in two great world conflicts, the Korean war, and the continuing struggle in Southeast Asia. The Legion represents all sorts and conditions of Americans drawn from every walk of life, united by a deeply felt patriotism and love of country. Its programs have comprehensive character and loyalty in many creative activities, especially its concern for youth.

Today, as in the past, the Legion champions the cause of the veteran and his dependents here in our society, mindful of the great debt owed to him by all of us. The Legion is particularly concerned wih the plight of our men taken captive in Southeast Asia and works vigorously for their safe return.

Finally, the Legion is foremost among those who seek a strong, secure national defense.

I am pleased to salute the members of the Legion on this American Legion Day, 1972, and to assure them of my support and of the support and respect of the Congress. The ideals they cherish and uphold are ideals which have made America great and, under God, will carry her through these troubled times to peace, unity, and honor.

## IN SUPPORT OF LEGISLATION CREATING A NATIONAL INSTITUTE FOR THE STUDY OF CHINA

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, I am pleased to introduce legislation today, which will establish in Washington a federally financed and operated National Institute for the Study of China. This is a most opportune time for the Congress to consider establishing such an institution, for President Nixon's historic trip to China has already succeeded in opening up new avenues of communication between the Chinese and American peoples. In order to take full advantage of this great challenge, we as a nation, must strengthen our knowledge of the 800 million people of China. We must better understand their language, their culture, and customs. Americans may find that in the future even such seemingly minor matters as dietary habits can significantly influence our ability to cooperate and work with the Chinese.

The National Institute for the Study of China would serve two basic functions. Educationally, it would provide instruction in Chinese history, government, culture, economics, and other disciplines. Such instruction would be open to government personnel, students, business leaders, journalists, and others. It would also bring together all Federal Chinese language programs under one roof. The General Accounting Office has informed me that there are now some 60 Government language programs that give instruction on the Chinese language. A single language program run by the national institute would end much of the present duplication of effort.

In addition to the educational function, the national institute would administer a scholarship program for students engaged in Chinese studies at our colleges and universities. Such a program would not supersede the scholarship programs administered by the Department of Health, Education, and Welfare under the National Defense Education Act, but would supplement the national defense scholarship program with respect to China studies. That such a supplementary program is needed is indicated by the fact that since 1959, only 2,110 graduate fellowships were awarded for Chinese studies under the National Defense Education Act. Only $23 million has been expended under the act for Chinese studies.

The National Institute for the Study of China will be administered by a board of directors, whose members will be appointed by the President. The board will be composed of representatives from: First, the business community; second, the academic community; third, the Foreign Service Institute; fourth, the Defense Language Institute; fifth, USIA; sixth, AID; seventh, the Peace Corps; and eighth, the Department of Health, Education, and Welfare. Each member would be appointed for a 3-year term and would receive $100 for each day he is engaged in his duties on behalf of the national institute. Such a broad representation on the board of directors will enable it to develop the broad kind of curriculum necessary to meet the needs of the variety of people from many walks of life, who would attend the national institute. Board members would be authorized to contact business firms and colleges and universities with the aim of securing from these institutions advice on curriculum, working out contracting arrangements with potential instructors, and attracting students to the national institute. The board would also administer the scholarship program.

The idea of a National Institute for the Study of China may appear odd to some and unrealistic to others. Objections may be raised against the Federal Government's actually operating an educational institution. However, there are ample precedents for this. The most obvious are the service academies. In addition, the National War College and the Industrial College of the Armed Forces, which are administered by the Joint Chiefs of Staff, provide 10-month courses for U.S. Government civilian and military personnel on a wide variety of political, diplomatic, and military subjects.

The Center for Cultural and Technical Interchange Between East and West, better known as the East-West Center, was established by Congress in 1960 to "promote better relations and understanding between the United States and the nations of Asia and the Pacific through cooperative study, training, and research." The center coordinates academic study, research, and nondegree training in a variety of problem-oriented programs. These programs are conducted in such fields as cross-cultural communication, population dynamics, culture, and language learning, food and technological development. The center is operated under a contract between the University of Hawaii and the Bureau of Educational and Cultural Affairs of the U.S. Department of State. A National Review Board appointed by the Secretary of State represents the U.S. Government's interest in the center.

The Foreign Service Institute, which provides language training for Foreign Service officers, represents another Government endeavor in the field of education. As I noted previously, it conducts one of 60 Government-operated language training programs.

The Woodrow Wilson International Center for Scholars was established by act of Congress in 1968. The Wilson Center intends to build up a fellowship program for 40 scholars, approximately half to be appointed from countries other than the United States. They will engage in studies designed to increase their understanding of significant international, governmental, and social problems. The Wilson Center's definition of "scholar" is a wide one, embracing men and women with expertise and scholarly capabilities in a wide variety of fields and occupations. The program is open to members of the academic community, lawyers, diplomats, other Government employees, congressional staff personnel, journalists, businessmen, and foundation and labor union officials.

These institutions, which are either Government-financed or operated, provide, I believe, ample precedent for a National Institute for the Study of China. One may ask, however, why should we establish such an institute for a single country? It is true that the U.S. Government sponsors no educational institution relating to a specific country. However, the East-West Center does cover a specific geographic area: Asia.

Moreover, China—with its 800 million people and vast land area—represents a unique case. Since the end of World War II, the United States has been deeply involved with almost every nation in the world, both Communist and non-Communist. Our diplomats, scholars, businessmen, and tourists travel the globe and come into contact with millions of people of various races, religions, and cultures. These people in turn visit this country. They are exposed to American culture in countless ways from books to rock bands. None of this can be said with regard to China. Since 1949, the United States and Communist China have had practically no contact with each other. Diplomatic relations have been nonexistent, and both countries have prohibited travel to the other. Since 1950, the United States has maintained a total embargo on trade with mainland China.

The sudden developments of the past few months indicate that this situation is now rapidly changing. Now that the People's Republic of China occupies a seat in the United Nations, and now that President Nixon has announced a gradual resumption of trade with China, this is clearly an opportune time to become better acquainted with the centuries-old traditions of this vast Nation.

We must ask ourselves whether Americans are prepared to profit fully from cultural and commercial contact with Chinese in which they will soon be engaging. All things considered, the United States does have an impressive collection of China and Asia experts both in government and the academic community. In the last decade, Asian and Chinese studies in the humanities and social sciences grew dramatically with the help of more than $100 million from the Ford Foundation and the U.S. Office of Education. However, for the last 20 years, American scholars have had practically no opportunity to deal with Chinese on a personal basis. Many China and Asia experts are apparently deficient in language training. Dr. Richard Lambert, of the University of Pennsylvania, recently conducted a survey of East Asian scholars and found that 62.9 percent of those professors other than language teachers can read, write, or speak the native language of their field with ease. Only 27 percent can do all three with ease.

Yet, language is one of the more advanced disciplines in Asia and China studies, along with history, literature, and political science. Other disciplines are woefully weak. Consider these statistics: Of the 412 doctorates awarded in Chinese studies in the 1960's, only 28 were in anthropology, 21 in economics—a particularly vital field in view of the coming resumption of the U.S. trade with China—10 in geography, eight in education, three in demography, and two in sociology. Dr. John Lindbeck, the former director of Columbia's East Asian Institute, wrote before his death last January that science and technology in China "is almost completely neglected" by American scholars, as are medicine and social welfare.[1] Thus, it would appear that the two decades of isolation has produced serious gaps in knowledge of China among our China scholars.

Congress has not helped this situation by its action this past year cutting funds for the Office of Education's aid to Asian studies programs for fiscal year 1972. This reduction, which included funds for fellowship and research, was from $7.2 to $3.2 million, or more than 50 percent.[2] The dramatic changes that have taken place in our China policy indicate, I believe, that we should do more to promote Asian and China studies, not less. Congress will be taking a positive step if it explores new ways to improve Asian studies programs, including passage of my legislation.

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[1] New York Times, July 10, 1971.

[2] Ibid, July 10, 1971.

I firmly believe that a National Institute for the Study of China would do much to fill the gaps that exist in Asia and China studies programs in the United States. It would serve to bring together the considerable wealth of knowledge possessed by our scholars for the benefit of other Americans, who will be coming into contact with mainland China and who lack any solid background on China and its people. It would also stimulate research into those disciplines where we are exceptionally weak such as geography, economics, education, sociology, and science.

Consider one group of Americans that a National Institute for the Study of China would help appreciably: The American businessman. As a result of President Nixon's relaxation of the U.S. trade embargo with Communist China, American businessmen have already established some contact with Chinese Communist officials, and a few reports are now appearing in the press about possible United States-Chinese trade transactions. Now that the President has put the People's Republic of China on the same level, vis-a-vis American trade, as Russia the road to expanding trade lies wide open. While most experts expect the volume of United States-China trade to grow slowly, there can be no question that increasing numbers of U.S. businessmen, engineers, and technicians will soon be going to China. Their visits and contacts will have important political and psychological effects in terms of restoring communications and promoting understanding.

Here is a segment of our society that needs information and instruction on many aspects of China. Yet, they cannot spend years in our undergraduate and graduate schools preparing themselves to deal with Chinese. A National Institute for the Study of China would fill this need gap by providing relatively brief yet comprehensive courses of instruction on China—from its politics to its eating customs. Armed with the knowledge gained from such instruction, the American businessman will be equipped to pursue his own interests as well as the national interest.

A National Institute for the Study of China would also bring together Government officials and experts from the academic community who influence the making of foreign policy. In this way, our Government officials could gain new insight and ideas concerning our relations with China. If one were to trace the factors which led us into the Vietnam war, he would, I believe, find that one factor was the lack of basic knowledge about Vietnam in our Government and society in the late 1950's and early 1960's. The academic community for the most part had limited contact with policymakers. Ideas from the outside—whether from the academic community or the press—were few and had minimal influence on U.S. policy. Moreover, both the academic community and press were deficient in their understanding of Vietnam, its people, politics, and culture; this further curtailed any influence they could bring to bear.

We obviously need to make more serious efforts to develop adequate expert knowledge on China to avoid the kind of mistakes that drew us into the Vietnam quagmire. But even more importantly, the American people need to develop a broader understanding of the problems involved in our relationship with China. As a democracy, we require not just expert knowledge, but also a certain degree of popular understanding of major policy problems, if these are to be faced wisely over any protracted period of time. This has been shown time after time since World War II in our relations not just with China, but with all of Asia. The reasons for our efforts and failures have usually included the lack of popular understanding that would have permitted a wise political use of what knowledge we did have.

This weakness in our society is not easily corrected. We have an educational system that is still narrowly focused on the historical experience and cultural heritage of our own occidental branch of humanity. In this, it is better adapted to the spirit of 19th century imperialism than to the one world we find ourselves in today. While some progress has been made at the college and university level to correct this situation, much more needs to be done. A National Institute for the Study of China would help fill a void that now, more than ever, should be filled.

## INTELLECTUALS IN THE UKRAINE

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. GERALD R. FORD) is recognized for 5 minutes.

Mr. GERALD R. FORD. Mr. Speaker, the American people have always concerned themselves with the plight of the oppressed, and so it is that I call the attention of the House to the treatment being accorded intellectuals in the Ukraine.

I have received a number of letters from Ukrainian-Americans quoting dispatches from Reuters and the Associated Press detailing the repression visited upon certain intellectuals in the Ukraine.

According to these dispatches, 19 persons were arrested during the week of January 10, 1972, in the two principal Ukrainian cities of Kiev and Lviv. The reports state that among those arrested were teacher, Valentyn Moroz; literary critics, Ivan Svitlychny and Ivan Dziuba; and journalist, Vyacheslav Chornovil, author of the Chornovil Papers.

According to Michigan citizens who have written me, the only "crime" these men have committed is to speak out in defense of human rights, rights which are guaranteed by the constitution of the Soviet Union.

As these letter writers state:

> The people of the free world cannot allow this repression of the basic freedoms of speech and thought to continue. It is the duty of each of us to voice our strongest condemnation of these infringements of basic human rights.

I agree with the objective of the Ukrainian-American protesters, which is to arouse public opinion so that the United Nations Human Rights Commission will investigate conditions in the Ukraine—what the protesters describe as "the systematic destruction of the Ukrainian cultural heritage and the policy of forced Russification."

I hope that all Members of the Congress will add their voices to those of the Ukrainian-Americans who are protesting the trampling of human rights in the Ukraine.

## ILLEGAL ALIENS

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, I wish to advise the House that Subcommittee No. 1, Immigration and Nationality, Committee on the Judiciary, will hold further hearings on "illegal aliens" in New York City on March 10 and 11. The hearings will be held in the Ceremonial Courtroom, U.S. Customs Court, 1 Federal Plaza, New York City, and will begin at 10 a.m. each day.

These hearings will be a continuation of the detailed investigation commenced by my Subcommittee on Immigration and Nationality in the first session of this Congress into this complex, multifaceted and significant problem.

In addition to our original hearings held in Washington, D.C., in May 1971, our subcommittee has conducted hearings in Los Angeles, Calif., Denver, Colo., El Paso, Tex., Chicago, Ill., and Detroit, Mich., to study all aspects of this very serious, nationwide problem.

The subcommittee has heard 130 witnesses representing various interested parties: The Immigration and Naturalization Service; health, welfare, and labor officials from State and Federal Governments; employers; illegal aliens; labor unions; employer associations; agricultural grower associations; ethnic groups; State legislators, and various civic and religious groups. Sixteen of these individuals were officials of the Immigration and Naturalization Service who are intimately familiar with the practical and legal aspects of this problem. These officials have been willing to testify and they have been most cooperative in responding to the requests and the questions of the subcommittee in defining the issues.

The hearings on illegal aliens have evoked an immense public concern. Due to the extensive broadcast and press coverage of our subcommittee's field hearings, few Americans today are unaware of the existence and the complexity of the illegal alien problem in the United States. In fact, a large amount of information received by the Immigration and Naturalization Service recently is a direct result of the illegal alien hearings which have been held. Thousands upon thousands of complaints and information on alleged illegal aliens come to the attention of the Immigration and Naturalization Service monthly. During the course of each hearing the members of the subcommittee have questioned the service witnesses at length regarding the number of investigations, the number of apprehensions, the number of deportations, as well as, the results of the investigations.

We have learned from the service that for the most part, the "leads" pending action in the various field offices, are a residue of material from which the more productive information has been extracted. The service has found that the most effective utilization of its manpower is obtained by sending search teams into areas where illegal aliens are known to congregate or are employed. The soundness of this method of operation is illustrated by the results. In calendar year 1971, the service expelled over 402,000 illegal aliens, a near record figure; in addition, the service apprehension rate of illegal aliens has increased by 20 percent.

Each of the directors of the INS field offices at which hearings were held stated to a man that they could use additional manpower, but stated further that more manpower was not the complete answer. They stated that the incentive for the illegal alien to work in the United States must be removed. This proposition was also supported by many other witnesses.

It is to this question that our subcommittee has addressed itself. Indeed, if it were only a question of manpower, we could conclude the hearings today and leave the problem to the appropriate committee for solution.

Some of my colleagues and various employees of the Immigration and Naturalization Service have suggested that the administrative reorganization of the service represents a surefire solution to the illegal alien problem. However, it is highly questionable that a change in the executive level of the Immigration and Naturalization Service would put the illegal alien problem to rest.

This multifaceted problem does not lend itself to any simple solution. If it were so, our subcommittee would not have undertaken its time-consuming and laborious investigation.

Any realistic approach to corrective legislation must take cognizance of the "push-pull" factors underlying the alien's desire to enter this country surreptitiously or fraudulently in an effort to obtain employment. It is quite evident from the testimony received by the subcommittee that illegal aliens experience little or no difficulty in obtaining gainful employment after entering into this country. Aliens enter the United States by illegally crossing the borders, by fraudulently procuring visas abroad, by purchasing spurious documents, by being smuggled, or by entering with a valid visitor's visa; however, with the intention of violating that status and taking employment.

I repeat, we are convinced that the total answer to the illegal alien problem lies not in erecting barriers on, or increasing the policing of, our borders, but in other avenues—principally by removing the incentive which draws aliens into the United States. It is evident that a doubling or tripling of the present manpower of the Immigration and Naturalization Service—putting officers shoulder to shoulder on the border—would not in and of itself, solve this problem. Likewise, additional State Department visa issuing officers and a more intensive investigation prior to visa issuance, while helpful, would not provide the ultimate solution to this problem.

Certainly, we can never condone aliens or any other person violating our immigration laws—We must insist on orderly immigration as prescribed by law. The initial violation of law by the alien sets in motion a series of events which not only adversely affects the community, but also leads to his own exploitation.

For example, in addition to expending large sums of money for fraudulent documents, which are used to illegally enter the country, the alien is often subjected to undue pressure from employers after arrival. For instance, many employers threaten the illegal alien with exposure unless he agrees to accept substandard wages or is willing to endure substandard working conditions.

It is apparent that the true culprits are the persons who should be dealt with first if a long range answer is to be found. I am referring to the smuggler, the maker of false documents, the blackmailer, and the unscrupulous employer who knowingly hires illegal aliens. To leave this group out of the illegal alien question is akin to treating symptoms and ignoring the basic disease.

The subcommittee has actively discussed the imposition of sanctions against violators of the immigration laws—the forger, the smuggler, and the employer who knowingly hires illegal aliens—and against nonimmigrants who take unauthorized employment. In considering these sanctions, many answers must be initially found, such as equipping employers with the means to identify those aliens who are not permitted to work while in this country.

In drafting legislation to meet this practical identification problem, it may become necessary to exact the cooperation of the Social Security Administration, which is not required by present law and regulations to ascertain the immigration status or the alienage of an applicant for a social security card. This is a subject which will continue to be scrutinized by the subcommittee.

In each city where our subcommittee has conducted hearings, Members of Congress have been notified of the purpose and intent of the hearings and have been requested to assist the committee in probing the issues. In several cities our colleagues joined us and were of immeasurable help in pinpointing local area problems.

I remind my colleagues that the Subcommitee on Immigration and Nationality is continuing its hearings in New York City on March 10 and 11. Subsequently, we will have hearings in Washington, D.C., on March 22, 23, and 24, and I invite any interested colleagues with information, assistance, or advice on this pressing problem, to appear before our subcommittee.

## THE AMERICAN PASSENGER FLEET

The SPEAKER. Under a previous order of the House, the gentleman from South Carolina (Mr. DAVIS) is recognized for 10 minutes.

Mr. DAVIS of South Carolina. Mr. Speaker, I would commend to the attention of my colleagues hearings before the Senate Subcommittee on Merchant Marine. H.R. 11589 is before that committee, and testimony pertaining to the American passenger fleet, and its continued existence, is the center of attention.

There is, apparently, in some quarters of this country, the feeling that the American passenger fleet should be sold away to foreign interests. There is in this country, apparently, the feeling that we should relinquish American jobs to the foreign nationals of a multitude of countries. There is in this country, apparently, a faction which would end forever the sight of the American flag flying over a passenger ship. There is in this body, a group which would proclaim for all the world to hear and see that the United States has thrown in the towel and cried, "I can't."

The move to sell the American passenger fleet was a sad note indeed. It came at a most inopportune time. The American passenger fleet, save for some operating on the west coast, is laid up in port. The owners of the shipping companies, armed with a sheaf of red-ink papers and shrill voiced front men, are whining in the Halls of Congress. They will prove, they cry beyond a shadow of a doubt, that the American passenger fleet is as dead as the passenger pigeon. They flood the offices of some of the Members of this body complaining that they are being forced to bear a burden like no other business. Save for the lone voice of Congresswoman SULLIVAN, the members of the Merchant Marine and Fisheries Committee were all too willing to scuttle the ships in question to a foreign registry.

Despite the fact that my home of Charleston, S.C., a fine, deepwater port, is doing a booming business in cruise ship departures, the American shippers claim they cannot make money with passenger ships. Foreign-flag cruise ships have flocked to these shores to cash in on the rich American cruise business while our passenger interests wail they cannot make any money. The fact is, if the American family wants to go to the Caribbean tomorrow morning, they will have to do it in a foreign-flag ship.

I do not need to remind you that foreign-flag ships do not in any way compare with the American ships in regard to the safety factor. In the past years, there have been incidents when American life has been lost on ships of foreign registry, but there has not been a life lost to fire aboard an American passenger ship. It is a fact that the fires which claimed lives on the foreign ships would not have taken any lives on the American ships. There probably would not even have been any major damage, but the Americans who died in those fires have never been told that difference. I feel this Congress will be remiss if we do not speak out on this difference now.

I feel the time has come to assert ourselves. This is America. We are not quitters, and never have been. Is it the best we can do to throw in the sponge and say we cannot operate a passenger ship business? Will we tell the foreign-flag shippers—"Here, take the ships, take the jobs, take the tax dollars; take the work of the supporting industries?" Shall we say, "Take the American business and in return give the American traveling public shoddy service and suspect equipment?" Shall we say, "Take everything, but just get the ships off our hands?"

I say here is a challenge. Just as this Congress has risen in the past to the challenge, so must we again rise up. We cannot allow the American passenger fleet to be so callously discarded. We cannot roll over and play dead. We must begin now to consider all the alternatives, explore all the avenues, and walk the second mile. Whatever it takes, whatever it needs, let us give it, because if the passenger fleet goes, I predict it will never return.

There is time to look into the alternate possibilities of the problem which confronts us. There is time to begin the action which will save our ships for the American flag. There is time—if we will just take advantage of it.

For the SS *Brazil*, the SS *Argentina*, the SS *Constitution*, the SS *Santa Paula*, and the SS *Santa Rosa*, there is still time to regain their rightful role in the shipping lanes under the flag of the United States.

We have in this country an enormous imagination, enterprise, and pride. We have the know-how and the wherewithal. We have everything we need, it seems, except the leadership to meet the crisis.

I will tell you this. If we allow this measure to become law and sell from under us American flag ships, it will not take more than 2 years before those same ships are back, under a new name and a new flag, picking up the American cruise business. It will not even take 2 years for all the other great marine powers in the world to laugh at the inept Americans who cannot keep their fleet sailing and their seamen working. I will say to you, a great passenger fleet is to a maritime nation, like a parachute is to a fighter pilot. If he ever needs it and does not have it, he will never need it again.

## TOWN OF HOLBROOK 100 YEARS OLD TODAY

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to invite the attention of my colleagues to the town of Holbrook, Mass., which I have had the great honor to represent here in Congress for the past 14 years. Today that town is celebrating its 100th anniversary. Its roots actually go back to the very earliest days of the Republic, having originally been part of the town of Braintree, that town put on the map for all Americans to remember by the Adams family, and later on, part of the neighboring town of Randolph. For the last 100 years, however—and that is the event we are commemorating today in Massachusetts—the town has had its own independent existence. During this time, like every other community it has known its ups and downs, but in the main, it has continued to grow and prosper as a community. I think it good in these days when it is common to refer to the breakdown of social life and the ties that bind neighborhoods together, in these days when cities are more often referred to as jungles, where people fight to survive rather than places to work and live and raise one's family—I think it entirely fitting and proper that we be reminded on occasions like this that America still enjoys a tremendous amount of orderly, peaceful, productive communities which in some senses constitute the Nation's very backbone. Holbrook, I am proud to point out, today is just such a community, probably never in the headlines, but nevertheless a community which has produced its share of good citizens over the years and has been a good place to live and work and play for at least 100 years of history. I am sure that all of my colleagues today join me in wishing this town all the best for at least another 100 years.

After the House finishes its business today, I will leave Washington to join with the citizens of Holbrook who will be celebrating the founding of their town with a banquet tonight. Exactly 100 years ago today on February 29, in leap year of 1872, the Governor of the Commonwealth of Massachusetts approved legislation incorporating the town of Holbrook.

## BANKERS HIDE SUBSIDIES BEHIND SCARE ADVERTISING CAMPAIGN

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 10 minutes.

Mr. PATMAN. Mr. Speaker, in recent weeks the Bankers Committee To Eliminate Favoritism to Credit Unions has been running full-page advertisements in bank publications complaining that credit unions are given too many subsidies by Government and industry and are providing unfair competition to commercial banks.

Of course, the bankers committee is not new. For a number of years it has been soliciting funds from bankers and businessmen across the country and trying to get business and industry to close their credit unions. Much of the literature and advertising put out by this organization is completely untrue; but, unfortunately, there are those who may read this literature and advertising and not question its accuracy. To provide financing for this group, solicitors have been employed who telephone banks and businesses throughout the country seeking donations for the fight against credit unions. These telephone solicitors, I am told, are paid a percentage of the money they collect.

### PROPAGANDA BY LOAN COMPANY

Typical of the propaganda that has been published by this group is a speech made by R. Earl O'Keefe, chairman of the board of Southwestern Investment Co., which—as you might guess—is a loan and finance company. Mr. O'Keefe is proud of the fact that his organization had a credit union but that it was liquidated because "we suddenly came to the realization that this arrangement was against many of the principles for which we stand."

If credit unions are against the principles for which Mr. O'Keefe stands, I cannot help but wonder which principles he does believe in. Does he believe that the borrower should be charged an interest rate of whatever the traffic will bear? And does he believe that the borrower is at the mercy of the loan company? It is strange to me indeed how anyone could be against the principles of a credit union. The bankers committee even claims that credit unions are born of an alien philosophy, but I ask the Members of this body—is it an alien philosophy to make loans for provident and productive reasons at low cost? Is it an alien philosophy to encourage habits of thrift? Is it an alien philosophy to provide educational services in the area of consumer spending and is it an alien philosophy for a group of Americans to band together on a full basis to help each other? But I do feel that it is an alien philosophy for organizations such as the Bankers Committee to Eliminate Favoritism to Credit Unions to operate under a cloak of secrecy.

I note that none of the advertisements for the bankers committee nor any of the committee's publications which I have read list any of the officers or members of the group. It is strange to me that, if this committee holds such strong convictions about credit union favoritism, it is unwilling to come forward and make its membership public. If they have nothing to hide, there can be no reason for the bankers committee to operate in secrecy.

Credit unions have nothing to hide. Why then should groups who oppose credit unions barricade themselves behind the printed word? The bankers committee expresses great concern about credit union subsidies pointing out that credit unions do not pay taxes.

Of course, it should be pointed out that any income a credit union member receives from a credit union in the form of dividends is fully taxable. The tax exemption granted to credit unions was granted by law and was done after complete hearings and in an open and forward manner.

However, the subsidies which banks enjoy were, for the most part, given behind closed doors and accrue mainly to the benefit of a handful of bank stockholders—compared to the 24 million members of the credit unions across the country.

BANKS ARE MAJOR TAX DODGERS

Why does the Bankers Committee not point out that banks are among the greatest tax dodgers in our country? For instance, commercial banks receive exceptionally favorable treatment for bad debt reserves. The average taxpayer is allowed to write off a debt only when he is assured that it will not be repaid. But over the years commercial banks have been allowed to establish tax-free reserves for bad debts that have resulted in a windfall tax bonanza.

Prior to 1965, commercial banks were allowed to base their bad debt reserves by averaging their losses for a large number of years. Of course, the banks that were in business during the depression used only the years when their banks almost went under to compute the bad debt reserve and this in itself provided a huge tax benefit. In 1965, the Internal Revenue Service partially closed that loophole by limiting bank bad debt reserves to 2.4 percent of all of the bank's outstanding loans.

In the simplest terms, it meant that for every $100 that the bank had outstanding in loans, it could set aside $2.40 on which it did not have to pay taxes. Of course, the actual losses that the banks suffer on their loans are only two-tenths of 1 percent so they make billions of dollars of tax-free income in this manner.

When IRS announced in 1965 that it was changing the tax averaging formula, the American Bankers Association made a proposal that would have provided banks with a bad debt reserve equal to 6 percent of their outstanding loans. In commenting on this proposal, the Office of the Tax Legislative Counsel of the Secretary of the Treasury wrote in a memorandum:

> Thus, a six percent reserve would provide a short-term tax savings equivalent to a complete tax exemption to the industry over a two-year period at current income levels . . .

Although the Treasury Department wisely rejected the banks' backdoor move to avoid any taxation, the banks have still gained many tax advantages. The bad debt reserve allowed commercial banks for the period 1962–67 to save $3.6 billion in taxes that they should have paid. Largely because of this favored treatment, the effective tax rate for commercial banks is roughly 23 percent as contrasted to 43 percent of all manufacturing concerns, based on 1966 figures. Now, remember, the bad debt reserve is established to take care of any losses that might occur in the bank's loan portfolio; but during the 5-year period, 1966–70, additions to bad debt reserves by national banks alone exceeded actual losses by over $1.2 billion.

This is not the only way that banks beat the tax collectors. One of their favorite gimmicks is the purchase of tax exempt municipal bonds. At the end of 1970, the 100 largest banks in the country held tax exempt bonds of nearly $28 billion, the income on which they did not pay a single penny in taxes.

The bankers have come up with so many tax dodges that a few years ago I discovered that one of the largest banks in the country paid income tax on only about 19 percent of its earnings, and many larger banks paid in tax brackets that were only a few percentage points higher.

FREE MONEY PROVIDED TO BANKS

And what about the billions of dollars in interest-free deposits that the commerical banking system holds for the Federal Government. These deposits, which are commonly known as tax and loan accounts, amount to some $10 billion per year; and the average daily balance over a year's time is about $5 billion. By investing these free funds in short-term obligations, the banks are able to make millions of dollars of income a year through the use of Government funds. This alone should be enough for irate citizens to form a group called Taxpayers Committee To Protect the Government from Commercial Banks.

There is another subsidy that the Bankers Committee To Eliminate Favoritism to Credit Unions has failed to mention in its smear campaign.

Many credit unions operating on military installations are faced with unfair competition from the commercial bank which may be situated directly across the street from the credit union. The credit union must operate without any assurance that it will be successful; but the bank, in many cases, is guaranteed a profit by the U.S. Treasury.

During 1970 alone, the Treasury Department paid commercial banks nearly $4 million for operating banking facilities at 222 military installations in the United States and overseas. In the United States alone, commercial banks operating at 59 installations were reimbursed by the Treasury for any losses suffered in their operations. One of the largest banks in the country, Chase Manhattan Bank, was paid more than a million dollars for operating banks overseas and the American Express International Banking Corp. was paid nearly $2.5 million for its overseas banking operation.

QUESTIONABLE TREATMENT OF SERVICEMEN

And what type of services do the banks perform for our servicemen in order to earn these subsidies? Let me tell you about a letter I recently received from a serviceman's father that may shed some light on what the banks do to earn their money. He wrote that when his son left for Vietnam last year, he left a small deposit in his checking account. After the son returned from Vietnam, he wrote to the bank concerning the balance of his account. He received the brief following letter:

> In reference to your recent letter, your checking account was closed with a service charge.
>
> I trust this is satisfactory. If we may be of further service, please let us know.

The father of the serviceman, after learning of the letter, wrote to the president of the bank and in part said:

> I feel extremely sorry for your bank. It appears that your management is so inept the only way it can make money is to prey on servicemen. It would seem to me that the least you can do when they open an account with you would be to counsel with them relative to making maximum use of the small sum paid to them for serving their country at great risk, and, in my son's case no favors expected. I hope that you recognize that these young people have a great deal on their minds and trust bankers in their town to look out for them by servicing them honestly . . .

The latest report from the Department of the Treasury shows that in 1970 this same bank received more than $12,000 from the Department of the Treasury as a subsidy for running a banking facility at two military installations.

Mr. Speaker, the best way to refute the claims of the Bankers Committee to Eliminate Favoritism to Credit Unions is to publish the truth. To this end, I am including in my remarks a report prepared by the Treasury Department on the subsidies paid by that agency to various commercial banks operating on U.S. military installations both at home and abroad. As I pointed out earlier, many of these banks operate on the same military installation in competition with credit unions. The credit union does not receive any Government backing. Certainly this is unfair competition, but it is the banks who are engaging in the unfair practice.

The report follows:

TREASURY DEPARTMENT,
*Washington, D.C., August 9, 1971.*

Hon. WRIGHT PATMAN,
*Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for an updating of information furnished in 1969 about banking operations on United States military installations.

As of December 31, 1970, there were 222 banking facilities operating on military installations in the 50 states of the United States. Overseas, as of the same date, there were 153 facilities, 92 mobile banking units, 12 currency conversion points, 9 travelers check sales points, and 1 check-cashing facility in operation.

Attached are lists of the domestic and overseas banking facilities operating on a reimbursement basis as of December 31, 1970, showing the amounts of reimbursement for the periods indicated. We have grouped all the facilities operated in California by the Bank of America N. T. & S. A., including those reporting gains (bracketed) as well as those reporting losses, because in determining the reimbursable amount these gains or losses are netted. These overseas listings show reimbursements to the operating financial institutions by geographical groupings rather than for each individual operation. This method of presentation is necessary because reports received by this Department covering facility operations in certain countries (Korea, Thailand, and Vietnam) are prepared on a combined basis, rather than facility-by-facility, and because in other geographical areas some functions are consolidated on a regional basis.

Very truly yours,
JOHN K. CARLOCK.

## TREASURY-AUTHORIZED BANKING FACILITIES ON MILITARY INSTALLATIONS OUTSIDE THE 50 UNITED STATES

| Location | Reimbursable analysis expenses (gains in parentheses) | | Remarks |
|---|---|---|---|
| | April-December 1969 | Calendar year 1970 | |
| Operated by the Bank of America N.T. & S.A., San Francisco, Calif.: | | | |
| Guam | ($42, 398) | $37, 134 | Covers operation of 2 facilities and 1 mobile banking unit. |
| Korea | 60, 093 | (94, 058) | Covers operations of 5 facilities; 6 mobile banking units; 1 currency conversion point; and 1 travelers check sales point. |
| Marianas Islands (Saipan)[1] | (28, 338) | (35, 228) | Covers operation of 1 facility. |
| Thailand | 65, 776 | (140, 009) | Covers operation of 5 facilities and 1 currency conversion point. |
| Vietnam | 222, 594 | 311, 158 | Covers operation of 5 facilities; 4 currency conversion points; and 5 travelers check sales points. |
| Net total | 277, 727 | 78, 997 | |
| Operated by the American Express International Banking Corp., New York, N.Y.: | | | |
| Germany, Greece, Libya, and Morocco [2] | 872, 080 | 1, 125, 940 | Covers operation of 64 facilities and 63 mobile banking units. |
| England and Iceland | (264, 415) | (239, 643) | Covers operation of 13 facilities and 3 mobile banking units. |
| Okinawa | (118, 616) | (191, 469) | Covers operation of 11 facilities. |
| Japan | 271, 603 | 234, 455 | Covers operation of 9 facilities and 2 mobile banking units. |
| Taiwan | (22, 914) | (65, 952) | Covers operation of 3 facilities and 4 mobile banking units. |
| Philippines | (4, 501) | (81, 114) | Covers operation of 5 facilities. |
| Vietnam | 691, 045 | 1, 659, 449 | Covers operation of 8 facilities, 2 mobile banking units, and 1 travelers check sale point. |
| Net total | 1, 424, 232 | 2, 441, 666 | |
| Operated by the Chase Manhattan Bank, N.A., New York, N.Y.: | | | |
| Germany | (684, 178) | (253, 701) | Covers the operation of 2 facilities and 1 mobile banking unit. |
| Japan | 548, 891 | 683, 159 | Covers the operation of 6 facilities, 4 mobile banking units, and 4 currency conversion points. |
| Thailand | 281, 915 | 114, 356 | Covers the operation of 6 facilities, 1 currency conversion point, and 1 check-cashing facility. |
| Vietnam | 677, 585 | 584, 241 | Covers the operation of 6 facilities, 4 currency conversion points, and 2 travelers check sales points. |
| Net total | 824, 213 | 1, 128, 055 | |
| Operated by the First National City Bank, New York, N.Y.: | | | |
| Cuba: U.S. Naval Base, Guantanamo | 92, 337 | 169, 794 | |
| Japan: Camp Zama | [3] (7, 564) | (13, 777) | Covers the operation of 1 facility, 2 mobile banking units, and 1 currency conversion point. |
| Philippines: Clark Airbase | (115, 577) | (240, 028) | |
| Net total | (30, 804) | (84, 011) | |
| Operated by the Bank of Hawaii, Honolulu, Hawaii: Midway Island | 13, 943 | 16, 579 | Covers operation of 1 facility. |

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[1] Converted to branch status July 1, 1970.

[2] This corporation's Libyan facilities closed May 29, 1970.

[3] The 4th quarter is estimated, based on the average of the previous 3 quarters.

## TREASURY-AUTHORIZED BANKING FACILITIES ON MILITARY INSTALLATIONS IN THE 50 UNITED STATES—REIMBURSABLE ANALYSIS EXPENSES (GAINS SHOWN IN BRACKETS)

| Location | Operating bank | April-December 1969 | Calendar year 1970 | Net for period | Remarks |
|---|---|---|---|---|---|
| ALABAMA | | | | | |
| Craig Air Force Base | Selma National Bank, Selma, Ala | $2, 706 | $795 | $3, 501 | |
| ALASKA | | | | | |
| Fort Richardson | National Bank of Alaska, Achorage, Alaska | 12, 612 | 7, 247 | 19, 859 | |
| U.S. Naval Station, Adak | do | 46, 246 | 18, 588 | 64, 834 | Report for 3d quarter not available, expenses for that quarter estimated on basis of reports for other quarters of 1970. |
| ARKANSAS | | | | | |
| Little Rock Air Force Base | First Jacksonville Bank, Jacksonville, Ark | 5, 980 | 4, 244 | 10, 224 | Report for 4th quarter not available, expenses for that quarter estimated on basis of reports for other quarters of 1970. |
| CALIFORNIA | | | | | |
| | Bank of America N.T. & S.A., San Francisco, Calif. | 43, 918 | (10, 910) | 33, 008 | For information pertaining to facilities see the end of this list. |
| U.S. Naval Air Station, Lemore | Crocker-Citizens National Bank, San Francisco, Calif. | 14, 673 | 10, 002 | 24, 675 | |
| Oakland Army Terminal | First State Bank of Northern California, San Leandro, Calif. | 7, 562 | (832) | 6, 730 | 1970 year figure is estimated on basis of revised report for December quarter. |
| ILLINOIS | | | | | |
| U.S. Naval Training Center, Great Lakes | First National Bank of Lake Forest, Lake Forest, Ill. | 4, 296 | 5, 531 | 9, 827 | Report for 2d quarter not available, expenses for that quarter estimated on basis of reports for other quarters of 1970. |
| Do | Citizens National Bank of Waukegan, Waukegan, Ill. | 6, 860 | 10, 369 | 17, 229 | |
| KENTUCKY | | | | | |
| Fort Campbell Hospital | Planters Bank & Trust Co., Hopkinsville, Ky | 2, 377 | 3, 740 | 6, 117 | |
| MAINE | | | | | |
| U.S. Naval Shipyard, Portsmouth, N.H | Maine National Bank, Portland, Maine | 14, 300 | 15, 097 | 29, 397 | |
| U.S. Naval Air Station, Brunswick | Brunswick branch, Maine National Bank, Portland, Maine. | 1, 280 | (487) | 793 | |
| MARYLAND | | | | | |
| Fort Detrick | Farmers & Merchants Bank, Frederick | 719 | 835 | 1, 554 | |
| U.S. Naval Training Center, Bainbridge | Cecil National Bank, Port Deposit | 10, 039 | 10, 634 | 20, 673 | |
| MASSACHUSETTS | | | | | |
| Boston Naval Shipyard | National Shawmut Bank, Boston | $2, 235 | $2, 100 | $4, 335 | Report for 4th quarter not available, expenses for that quarter estimated on basis of reports for other quarters 1970. |
| MISSOURI | | | | | |
| Whiteman Air Force Base | Peoples National Bank, Warrensburg | 4, 319 | 1, 005 | 5, 324 | |

| Location | Operating bank | April-December 1969 | Calendar year 1970 | Net for period | Remarks |
|---|---|---|---|---|---|
| NEW JERSEY | | | | | |
| Military Ocean Terminal Bayonne | First Jersey National Bank, Jersey City | 23, 354 | 33, 380 | 56, 734 | |
| NEW YORK | | | | | |
| Military Ocean Terminal Brooklyn | First National City Bank, New York | 18, 551 | 24, 491 | 43, 042 | Losses netted against gains generated by facilities operating outside the 50 United States. |
| NORTH CAROLINA | | | | | |
| Camp Geiger | Camp Lejeune branch, First-Citizens Bank & Trust Co., Smithfield. | 5, 470 | 6, 868 | 12, 338 | Considered in combination with Tarawa Terrace facility. |
| Tarawa Terrace | do | (1, 767) | (1, 768) | (3, 535) | Considered in combination with Camp Geiger facility. |
| OKLAHOMA | | | | | |
| Altus Air Force Base | National Bank of Commerce, Altus | 1, 981 | 3, 744 | 5, 725 | |
| U.S. Naval Ammunition Depot, McAlester | National Bank of McAlester | 1, 640 | 1, 239 | 2, 879 | |
| TENNESSEE | | | | | |
| Stewart Air Force Base | Murfreesboro Bank & Trust Co., Murfreesboro. | 7, 405 | 1, 847 | 9, 252 | Facility closed Mar. 31, 1970. |
| TEXAS | | | | | |
| Perrin Air Force Base | Citizens National Bank, Denison | 7, 312 | 5, 036 | 12, 348 | |
| VIRGINIA | | | | | |
| U.S. Naval Weapons Station, Yorktown | First National Bank, Yorktown | 3, 920 | 1, 248 | 5, 168 | |
| WASHINGTON | | | | | |
| Madigan Army Hospital | Fort Lewis Branch, Pacific National Bank of Washington, Tacoma, Wash. | 651 | 2, 616 | 3, 267 | |
| Naval Air Station, Shidbey Island, Oak Harbor. | Oak Harbor Branch, Everett Trust & Savings Bank, Everett. | 0 | 4, 589 | 4, 589 | Reimbursable status, effective January 1970. |
| WISCONSIN | | | | | |
| Camp McCoy | Union National Bank & Trust Co., Sparta | 1, 774 | 1, 621 | 3, 395 | This is a summer training camp operation. |
| Net total | | 250, 413 | 162, 869 | 413, 282 | |

CALIFORNIA (BANK OF AMERICA N.T. & S.A., SAN FRANCISCO)

ALL CALIFORNIA FACILITIES OPERATED BY THE BANK ARE SHOWN: A LISTING OF ONLY THOSE FACILITIES WHICH ARE NOT SELF-SUSTAINING WOULD NOT BE MEANINGFUL[1]

| Facility | Branch | Reimbursable analysis expenses (gains in parenthesis) April–December 1969 | Calendar year 1970 | Net for period |
|---|---|---|---|---|
| Fort Irwin | Barstow | ($542) | $1, 769 | $1, 227 |
| U.S. Marine Corps Supply Center | do | (3, 258) | (4, 700) | (7, 958) |
| Camp Pendleton Mobile Unit | Camp Pendleton | 5, 298 | 7, 480 | 12, 778 |
| San Onofre Military Facility | do | 7, 833 | 12, 347 | 20, 180 |
| U.S. Naval Hospital, Camp Pendleton. | do | 5, 567 | 7, 698 | 13, 265 |
| U.S Naval Air Station, North Island (San Diego). | Coronado | (7, 509) | (3, 957) | (11, 466) |
| U.S. Naval Air Facility, El Centro | El Centro | 807 | 857 | 1, 664 |
| Edwards Air Force Base | Lancaster | (3, 812) | (11, 341) | (15, 153) |
| U.S. Naval Air Station, Los Alamitos | Cherry-Anaheim, Long Beach. | 3, 006 | 3, 366 | 6, 372 |
| U.S. Naval Station, Terminal Island, Long Beach. | 1st & Pine, Long Beach. | (2, 776) | (4, 928) | (7, 704) |
| Castle Air Force Base | Merced | (165) | (6, 604) | (6, 769) |
| U.S. Naval Postgraduate School, Monterey. | Monterey | (3, 218) | (16, 851) | (20, 069) |
| U.S. Naval Air Station, Moffett Field | Mountain View | (9, 206) | (31, 694) | (40, 900) |
| U.S. Naval Hospital, Oakland | 74th and McArthur, Oakland. | 2, 702 | (734) | 1, 968 |
| U.S. Naval Construction Battalion Center Facility, Port Hueneme. | Oxnard | 13, 608 | 6, 930 | 20, 538 |
| Pacific Missile Range, Point Mugu | do | 8, 943 | 11, 149 | 20, 092 |
| U.S. Naval Weapons Center, China Lake. | Ridgecrest | (16, 739) | (42, 206) | (58, 945) |
| Mather Air Force Base | Sacramento main office.[2] | 1, 843 | 0 | 1, 843 |
| U.S. Marine Corps Recruit Depot, San Diego. | Five Points, San Diego. | ($632) | ($4, 246) | ($4, 878) |
| U.S. Naval Training Center, San Diego. | do | (2, 424) | (2, 689) | (5, 113) |
| U.S. Naval Station, San Diego | National-Sampson, San Diego. | (18, 866) | (14, 460) | (33, 326) |
| U.S. Naval Hospital, San Diego | San Diego main office. | 2, 515 | (3, 342) | (827) |
| San Francisco Naval Shipyard, Hunters Point. | San Francisco | 16, 856 | 45, 187 | 62, 052 |
| U.S. Naval Station, Treasure Island, San Francisco. | do | 22, 251 | 16, 577 | 38, 828 |
| U.S. Marine Corps Air Station, El Toro. | Santa Ana | (5, 495) | (4, 521) | (10, 016) |
| U.S. Marine Corps Helicopter Facility, Santa Ana. | Santa Ana | (10, 524) | (15, 561) | (26, 085) |
| Fort Ord | Seaside | (7, 697) | (10, 946) | (18, 643) |
| Presidio of Monterey | do | 4, 023 | 6, 304 | 10, 327 |
| Travis Air Force Base | Suisun, Suisun City | 16, 920 | 18, 819 | 35, 739 |
| Sierra Army Depot | Susanville | 1, 664 | 1, 144 | 2, 808 |
| Mare Island Naval Shipyard, Vallejo. | Vallejo | 17, 575 | 22, 480 | 40, 055 |
| George Air Force Base | Victorville | 5, 361 | 5, 763 | 11, 124 |
| Net Total, California Bank of America N.T. & S.A.) | | 43, 918 | (10, 910) | 33, 008 |

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[1] Gains (shown in brackets) as netted against the losses shown, as well as against gains and losses in connection with the other essential Government business handled by this bank in California and in overseas areas. Reimbursement is based on the overall net expense.

[2] Converted to branch June 30, 1969.

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## DEATH PENALTY HEARINGS SET BY JUDICIARY SUBCOMMITTEE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Speaker, Subcommittee No. 3 of the Committee on the Judiciary announces that 5 days of public hearings have been scheduled to begin on Wednesday, March 8, on a number of measures dealing with the subject of capital punishment. These measures raise the recurring question whether the Government of a free and civilized people appropriately puts to death those who have gravely offended against its laws. In recent years there has been a growing but unofficial consensus that this ought not to be done—at least until final Supreme Court decision of all the constitutional issues.

As a result, although the death penalty continues to be imposed, governors and appellate courts have intervened and no person has actually been executed in the United States since 1967. In short, we have entered the fifth year in which an unofficial moratorium on executions has been in universal effect. Meanwhile, with the courts continuing to impose the death sentence, the number of persons on death row awaiting execution had risen to nearly 700 on February 18. On that day the number was reduced by more than 100, when the Supreme Court of California ruled that:

> Capital punishment is impermissible under the California Constitution and that it degrades and dehumanizes all who participate in its processes, is unnecessary to any legitimate goal of the State and is incompatible with the dignity of man and the judicial process.

On the national level, last month the Supreme Court of the United States heard argument in four cases in which the petitioners had been sentenced to death, two for murder and two for rape. The principal argument on behalf of the petitioners was that capital punishment falls within the prohibition of the eighth amendment to the Constitution with respect to "cruel and unusual' punishment. In the normal course of events the Supreme Court decisions in these cases should be handed down late this coming spring. If the Court rejects the arguments on behalf of the condemned men, there is great possibility that chaos will affect the situations of the nearly 600 occupants of death row.

In this context, and to avoid inadvertent mass executions that might attend upon Supreme Court decisions adverse to the petitioners, Chairman CELLER of the Judiciary Committee and Senator HART have, in the first session of this Congress, introduced identical legislation (H.R. 8414 and S. 1969) entitled the "Death Penalty Suspension Act," to suspend the death penalty for 2 years. Identical House measures have also been introduced by Mr. EDWARDS of California (H.R. 8483) and Mr. McCLORY (H.R. 9486).

At the time of introducing H.R. 8414, Chairman CELLER indicated that its purpose is to give State authorities and the Congress more time to reexamine constitutional and policy issues surrounding the continued use of the death penalty. The bill would stay executions under Federal and State law for 2 years.

H.R. 8414 contemplates the exercise by the Congress of its powers under section 5 of the 14th amendment. The power is most clearly established in the field of equal protection of the laws with respect to discriminations based on race, and it is strongly argued that the death penalty has been the subject of discriminatory application. Furthermore, the bill supports due process of law which, as the Supreme Court has already held, incorporates the eighth amendment's prohibition of cruel and unusual punishment.

In addition to receiving testimony on the Death Penalty Suspension Act, the subcommittee is inviting the authors of a number of measures designed to abolish the death penalty under the laws of the United States. These measures provide for the substitution of life imprisonment in place of the sentence of death. Unlike the Death Penalty Suspenion Act, moreover, these measures in their present form apply only sentences of death imposed within the Federal juridiction. They would not affect a sentence of death imposed by a State court.

Measures in this category were introduced by Chairman CELLER (H.R. 3243), Mr. JACOBS (H.R. 193), Mr. FAUNTROY (H.R. 11797), and myself (H.R. 12217).

Significant, in light of the growing concern over the propriety of the death sentence as punishment, is the fact that although the Senate held hearings on the abolition of capital punishment during the 90th Congress—in March 1968—no hearings on the subject appear to have been conducted on the House side since the 86th Congress—in May 1960. In the circumstances, the subcommittee proposes to make a thorough review of all the implications of the pending legislation.

In addition to congressional sponsors and a representative of the Department of Justice, the witnesses to be called include:

Anthony G. Amsterdam, professor of law at Stanford University, who argued the death penalty cases before the Supreme Court of the United States and also the California death penalty cases; Jack Greenberg, director-counsel of the NAACP Legal Defense Fund, who also argued the Supreme Court cases; constitutional scholars; representatives of the Association of the Bar of the City of New York and its Committee on Federal Legislation, and its Subcommittee on Hart-Celler bill; professors of philosophy, sociology, criminology, and psychiatry, both favoring and opposing capital punishment, and a representative of the Friends Committee on National Legislation and of the American Friends Service Committee, among others.

The hearings will take place on March 8, 9, 15, 16, and 17, in room 2226, Rayburn House Office Building.

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## ADDRESS BY THE HONORABLE CARL ALBERT—MINUTE MAN OF THE YEAR

The SPEAKER. Under a previous order of the House, the gentleman from Louisiana (Mr. BOGGS) is recognized for 10 minutes.

Mr. BOGGS. Mr. Speaker, I take this time to congratulate you on being named Minute Man of the Year by the National Conference of the Reserve Officers Association and to commend you on the outstanding speech you delivered at the association's golden anniversary banquet last Friday, February 25.

National security and defense policy are topics of top priority in the House. I am inserting your timely and perceptive speech in the RECORD and calling it to the attention of my colleagues.

### REMARKS OF SPEAKER CARL ALBERT

Nearly a decade ago, I stood at this rostrum when our association posthumously named as 1963 Minute Man of the Year my old friend and colleague, the late Senator Dennis Chavez. And last February I had the privilege of presenting the 1971 award to the distinguished senior Senator from South Carolina, Strom Thurmond. I did not on either of these occasions suspect that my fellow ROA members would one day deem me worthy of that same award. That they have done so is an honor as warmly appreciated as it was unexpected.

As we all know so well, the Minute Man symbolizes the traditional willingness of Americans to rally to the Nation's defense. For almost two centuries, we have relied upon the citizen soldier when peace was threatened. In the eighteenth century, the Minute Man was supposed to present himself, armed with provisions, musket, and ammunition on thirty minutes' notice. Today, his counterpart in the reserve forces or the National Guard has a few extra hours to prepare himself for war should the call go forth. The weapons have changed; the uniforms have changed. The people have changed, too, of course, in various ways—but the *spirit* of Americans, I firmly believe, has not changed. Faced with a direct threat to our security, I am certain that our modern-day Minute Men would respond as our ancestors did in the past.

The national defense is not limited to the battlefield. It does not consist only of the forces in being. Perhaps the most important additional element involves planning for the future, both in terms of personnel needs and material as well. We of the ROA are particularly mindful of this aspect. We have witnessed the disastrous results of poor planning in the past. It seems to be our practice to rush to disband our forces at the end of every war—only to be caught up soon in another crisis and another war. This happened after World War I and again after World War II. Our policies of the 1920's and 1930's were overtaken by Pearl Harbor and by the fall of Wake and Guam and the Philippines. The road back cost many thousands of lives. Failure to keep adequate forces in the late 1940's was followed by the Communist invasion of South Korea. The road back from Inchon again cost many thousands of lives.

If we pursue policies of the 1970's that are as shortsighted as those I mention, it could be that we will not have a road back. Because the next time in all probability there will be no time to develop the fighting men and hardware. It will not only be the fighting men who are sacrificed "upon the altar of unpreparedness"; it will be the whole country.

What then should be the defense policies of the 1970's? If it could be summed up in one word, I think that word would be prudence. We may apply this to a broad spectrum of defense programs—to weapons systems, to manpower, and certainly to the manner in which we develop our national defense strategy.

While we are hopeful that the Strategic Arms Limitation Talks will prove fruitful, we must be prepared should an arms limitation agreement fail to materialize. In any event, it begins to be apparent that this agreement will be a limited one—at least initially. It is precisely for this reason that Congress has overwhelmingly agreed to proceed with the development of a number of new strategic systems. As you are aware we maintain a triad of strategic deterrent forces. But some of these forces are fast becoming obsolete. For example, our strategic bomber, the B–52, first took to the air in 1954. Even the latest models are now ten years old. For this reason, we are proceeding with the development of the B–1 to replace the B–52. Likewise, in the field of strategic missiles we are replacing old missiles with new ones. The Minuteman I is being replaced by the Minuteman III. And we are replacing Polaris missiles with Poseidon missiles aboard 31 of our 41 missile-firing submarines. Much of the credit for these decisions rightfully belongs to Congress and to the Armed Services Committees of the House and the Senate. It was the determination of Richard Russell and Mendel Rivers and Glenard Lipscomb (to name only three) that the United States have a strong bomber force which has resulted in the decision to go ahead with the B–1 program. All three of those great men have gone to their reward. But the programs for which they fought so hard are testimony enough to their devotion to our country and to its defense.

We have not forgotten the men in the field. A number of new systems are being developed to support the man who fights our tactical battles. This means new ships, new aircraft and new ground machines. It was owing to the determination of men like Congressman Hebert and Senator Thurmond—both of whom are here this evening—that we should have at least the beginnings of a nuclear-powered surface fleet and that the new aircraft carrier *Nimitz* will be nuclear-powered and therefore more efficient. The same may be said of that ship's escorts. Despite concerted opposition from many quarters in the Administration and elsewhere, the Joint Committee on Atomic Energy and the Armed Services Committees are insisting that the *Nimitz's* escorts should also be nuclear-powered.

Likewise, we look forward to new air and ground equipment. While no final decisions have been made, it would appear that at least some new aircraft will be procured. The most powerful and versatile fighter aircraft in the American arsenal, the F–4, appears to be reaching a point where further modification is simply no longer practical. Exactly what form its follow-on model will take, I do not know. It may be the F–14; it may be some other aircraft. But it does appear certain that when the F–4 has reached the end of its lifespan, there will be an aircraft to take its place.

The basic component of our national defense, however, remains people. The weapons change. Indeed, they change a lot faster today than they ever did in the past. But armies, navies, and air forces are no better than their personnel. As you know, we are in the midst of a great debate about the best way of staffing the armed forces. Some are in favor of an all-volunteer armed force. They believe military service should always be subject to individual volition. Others consider the all-volunteer army undemocratic—a menace. They hold that universal military service is the answer.

When the Selective Service Act of 1967 expired in July of last year, we in Congress had a number of options open to us. We could have simply done nothing—let the system of conscription expire completely; we could have simply extended the terminal date of the act (which, by the way, we did in 1967); or we could have revised the law and extended it for a period of time. In effect, we did the last. We wrote a number of amendments into the law which might be considered a test of the volunteer army concept. We established an enlistment bonus for men who enlist in the combat branches. We provided better compensation for recruiters. Low pay-grade enlisted men and junior officers were given a pay hike. I don't know whether this experiment will work or not, and I have some reservations about the overall cost of an all-volunteer army, but we in Congress believe that the proposal should be tested.

As for me, I believe that every American has a duty to prepare himself to come to the defense of his country should the occasion ever demand. I still believe with George Washington that the best way to maintain peace is to be prepared for war.

Whether or not a volunteer army is established, it appears certain that the reserves will have to be strengthened. Right now, about 52 percent of the defense budget supports personnel, either directly or indirectly. That doesn't leave very much to buy hardware. Some hold that the best response to this may be to cut back active duty personnel. Should this option be taken, it appears certain that we will have to increase the reserve forces, both in numbers and in the quality and quantity of training. There are a number of ways in which this might be done. On this latter subject, I firmly believe that reserve training is far better today than it was only five years ago. We may have to place more emphasis on encouraging young people to enlist in the reserves and to take advantage of reserve officer programs. The draft was a major incentive to enlistment in the reserves, and without such incentive, some special measures are surely going to be needed.

In any event we will certainly have to strengthen our ROTC programs. While today there are many more incentives to participation than in the past, the response of our college and university students has been less than overwhelming. Whether this represents active dislike of any and all military service or simply lack of information about available programs (some of them scholarship programs, by the way) I do not know. I am inclined to think that it is largely the latter. In either event, I believe that we of ROA have a special responsibility here. If the young men and women or various communities have come to distrust the military completely, we have the responsibility of showing them where they are wrong. On the other hand, if our high school students do not know what is available to them, we should be providing them with more information.

I, for one, am convinced that the vast majority of the young people of America are just as idealistic and devoted to the precepts that have made this a great nation as were their forebears. I am certain that given the truth about the problems facing America—and not just the domestic problems—they will respond as readily as their fathers did. We all know that, vast as they are, the resources of our country are limited. This and the mounting deficits which are confronting us have given rise to vast amounts of talk about priorities. Priorities of course we must have, but in a world in which more than a third of humanity—in its basic literature and in its industrial plants and uniformed personnel—is devoted to the destruction of individual liberty and the free enterprise system, the number one priority of the American people is and for the foreseeable future must remain the national defense of our country. As the war in Viet Nam is wound down, our ability to avoid future wars and to win them if they come must not be allowed to diminish.

We of ROA have been fostering the national defense in general and the reserves in particular for the past fifty years. I am confident that the next half century will see ROA continuing the battle for a strong America. A famous British General, Archibald Wavell, remarked a quarter of a century ago that "it is a law of life that has yet to be broken that a Nation can only earn the right to live soft by being prepared to die hard." We of ROA have lived with this precept for the past fifty years. We will continue to live with it for the decades to come.

## MAJOR VICTORY ON WAYS AND MEANS MEMBERS' BILLS

The **SPEAKER**. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. **ASPIN**. Mr. Speaker, the defeat today of 18 of the 22 Ways and Means members' bills was a major victory in the fight to reform the rules of the House of Representatives. Today we served notice that we will not allow Members' bills—often submitted for the benefit of only a handful of constituents and often creating new loopholes in our tax laws—to be passed in virtual secrecy and without challenge.

It is wrong for a committee to approve legislation in executive session without hearings. It is wrong to bring bills to the floor on which very little evidence is available and on which very little notice was given.

It is wrong to talk of the pressing need for tax reform one week and attempt to pass new loopholes the next.

It is wrong to bring bills to the floor in violation of House Rule XIII, which requires that all bills contain a specific estimate of their effects on revenues.

It is wrong for a committee to bring up bills under the unanimous consent procedure in order to avoid a recorded vote when it knows full well that the bills could not stand up under a recorded vote.

It is wrong to pass legislation which is clearly designed to benefit only one or two citizens or companies, but which does not specifically refer to them.

Today we serve notice that no longer will bills slip through the House without proper scrutiny and without proper justification. This is a real landmark in the attempt to make House procedures more open and more rational.

## ROSS GELBSPAN REPORTS ON THE U.S.S.R.

(Mr. **KOCH** asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. **KOCH**. Mr. Speaker, the plight of Soviet Jewry has been discussed on the floor of this Congress and in the Nation at large over the last several years. A number of Members, myself included, have traveled to the Soviet Union and reported on our experiences in that country. I visited the Soviet Union in March of last year for 8 days and spoke with Soviet Jews both in Moscow and in Leningrad. I reported my findings to the Congress and I am proud of the fact that as a result of the urgings of many Members of this Congress, Attorney General John M. Mitchell issued a letter of unreserved commitment stating that he would use his parole authority to allow into the United States any Soviet Jew permitted to leave the U.S.S.R. and wishing to come to the U.S.A. I was pleased to welcome at Kennedy Airport on January 5, 1972 the Simion Feldmans, the first Russian family to be brought into the United States under this new policy.

Last year a reporter from the Village Voice, Ross Gelbspan, called me on the telephone, having heard of my trip to the Soviet Union, to tell me that he was going to make a trip of his own and could I recommend families that he might visit with. I gave him whatever information I had. After his visit to the Soviet Union, Mr. Gelbspan wrote four articles for the Village Voice on his experiences in the U.S.S.R. They are superbly written, perceptive, and informative. I urge our colleagues to read them:

### SNAPSHOTS OF RUSSIA: GUARDIANS OF SILENCE

(By Ross Gelbspan)

Moscow.—Russia tastes like black salt. In the streets, her old women are terrifying to behold. The snow is early in Moscow this year. It lies like a fine shawl on the smoky, blood-colored Kremlin Wall. They seem to have a fetish for preserving corpses but flowers are sold openly on street corners. Greetings from across the International Reality Line.

The first thing I realize is it doesn't matter how much I thought I understood socialism. What I feel as palpably as the soggy snow on my cap is how little I understand Russia. In Leningrad there is a massive building about seven stories high and most of a block long, housing an electric power plant. It is typical of late 19th century Leningrad architecture—keystoned window arches, half-columns protruding from the facade. To the building is attached a huge metal relief of Lenin—about three stories high, his coat curled back, pointing the way forward to the masses. It is an awkward graft. Socialist Russia seems such a graft to me.

In Kiev, which is one of the most graceful cities I have seen anywhere in the world, the Lavra Pechersk Monastery was built in the 11th century. My In-tourist guide and I are walking through the cramped clay catacombs under the monastery. She explains that in the 13th century, two monks were buried in the catacombs. Because of the dryness and lack of bacteria at that depth, the bodies did not decompose. When the monks found their dead brothers fully fleshed, they declared them "holy relics." People flocked from all over the Ukraine to the monastery, bringing their treasures to pay tribute to the miracle. The monks improved their methods of sealing the vaults, and in a few centuries the monastery had a collection of 96 holy relics—and enough in tribute to become the center of political life of the whole Ukraine. "In prerevolutionary times," my guide explains, "the people came to worship these bodies as evidences of God's Favor." As she talks, an old, lumbering, babushka-topped woman in front of us stops at a glass-covered coffin. Inside the coffin, a holy relic grins up through his dry curled coffee-brown leathered flesh. The woman takes a handkerchief from her pocket, rubs it over every inch of the glass top, bows slightly, and kisses the handkerchief. I am very moved. My guide is embarrassed. In Moscow every day, 4,000 people line up along one length of the Kremlin Wall—through the Alexander Gardens, past the Eternal Flame of the Unknown Soldier, halfway into Red Square to view the body of V. I. Lenin under glass. A communist I know says the leaders were very cynical to embalm Lenin's body and use it the way they did. But I feel a deeper instinct of this soil is being served.

For the first week of my trip, I was extremely impressed by Sovet society. In Kiev, in Leningrad, in Moscow I saw no slums. The streets are immaculate—ashtray urns every 50 feet along the major streets. Old women in high socks sweep the streets with twig brooms. No slums. A society of minimal disparities in the living standards, at least in the cities. A place where one's health is not a function of how much money one earns. A place where students are paid to learn (under the new Five-year Plan 50 per cent more than before if they study scientific or technical subjects, 25 per cent if they study humanities). A place where rent costs 10 to 15 percent of one's income, where the subways are spotless and the trains run every two minutes. A place where there are apparently few muggings and little street crime (but much drinking. And everyone seems to know someone whose apartment was burglarized and drivers remove their windshield wipers when they park and they use special fitted locks on the car-door handles and, anyway, nobody really knows whether there is much or little crime because neither crime stories nor statistics are ever made public.) Still for a week, I was very impressed by this Russian state where the benefits of the common wealth are equally accessible to all and the few do not grow rich on the labor of the many.

I spent my seventh day in Kiev with a bright, hard-minded enthusiastic Intourist guide named Zoya. We strolled through a chapel, pausing to watch a workman restoring an 11th century frescoed wall. "Why," I ask here, "if the church was so much an ally and instrument of the oppressor class—why do you work so hard to restore your churches and preserve the vestiges of a feudal period?"

"We must never forget who we are," she explains. "We must know where we came from. Not like the rulers in China. There they have tried to destroy the people's memory of their past. But a revolution can only grow out of the cultural traditions of a country. In China they are savages—the rulers. They are trying to build a revolution on shifting sand." We talk of Attica and George Jackson and the Tombs. "I think many of the most politically aware people are in the jails—in any country." She does not respond. I ask her about the Jews. She tells me there is no problem with the Jews in Russia. They are treated equally. They are happy. If they want to leave, they are allowed to leave. All that I have heard is anti-Soviet propaganda. I am angry. I feel betrayed. I have been honest with her about the murders in Vietnam and Attica. She refuses to return the honesty. I look at her: her expression is the same—very earnest, very open. Suddenly I feel a deep chill. She does not know—about the Jews, about the dissidents, about the psychiatric prisons? How could she? How could anybody? Pravda and Isvestia do not publish such stories. There is no right to know here. There is no way to know. There is not even any way for people to know they do *not* know. This is a country of immense, pervasive silence.

Watching a performance of "Swan Lake" by the Bolshoi in the Kremlin Palace of Congresses: the performance is elegant. Dances within dances are staged with consummate integrity. Lavish, the music wells up from the pit and billows through the vast, acoustically perfect hall. One thing only disturbs my evening: the swan does not die. Instead, the spirit of the black swan has its wing pulled off. It flops around on one wing and finally expires. Later I ask the guide—an aggressive 23-year-old girl—about this: "The white swan is not supposed to die. That was never part of the ballet. She is love triumphant. It is only in your morbid capitalist decadent interpretation that love dies." I do not tell her I learned the piece was rechoreographed in 1965. I resist a strong impulse to pull one of her lying wings off.

At lunch with a writer, a man in his 50s: "I can tell you two incidents in my youth that taught me something of the social nature of the Russian character. The schools they set up after the Revolution were very progressive, very democratic. After a couple of years, we began to notice signs of a new rigidity setting in. For example, we all had to stand up when the teacher came in. This was new and abrasive to us. Also we had to line up in twos—military fashion. A group of us began to discuss this. We decided that that since this was a democratic school, we would mention our objections to the teacher. I was elected to be the spokesman. The next day I raised my hand and spoke. 'Well,' the teacher said when I was finished, 'let's see who else feels the way you do.' None of my friends raised a hand. I was sent to the principal. 'I imagine you're pretty pleased, having humiliated your teacher.' I said I was not. I said I was confused because I knew I was speaking for a group of us, not only for myself. 'I see,' said the principal, taking out a pad of paper. 'And what are *their* names?'

"The second instance happened when I was a Young Pioneer. One of the boys in our class dared and goaded another boy into smoking a cigarette in the room when the teacher was out. As soon as the boy lit the cigarette, the first boy snuck out of the room and returned with the teacher. The smoking boy was severely punished. Some of us in Young Pioneers got together and decided to form our own little group to ostracize the provocateur. A few years later when I was entering Comsomol, I told an older boy—a Comsomol member—about the incident. 'Oh yes,' he smiled, 'we knew all about your little group. We have you listed as Trotskyites.' "

The subway: downtown Moscow: 6 p.m.: I am passing between two connecting stations (Marks Prospect and Sverdlova), through a long arched passage about 50 years long. At the far end is an escalator leading down to the trains. The tunnel is backed up halfway with a tightly packed rush hour mob. As I move up to the mass of bodies—about 20 abreast—I am quickly sealed into the pack by a crush of people from behind. For the next 50 yards—about seven minutes—we are all so tightly pressed together I cannot move my arms—the whole pack is rocking slowly from left foot to right foot in unison, progressing about three inches with each step. On my left, a mother and her adolescent daughter are gazing blankly straight ahead, silent. On my right, an army officer, our shoulders crushed together, also staring vacantly ahead. I look around. The entire crowd rocks slowly, relentlessly forward—like a lava flow—and no one looks right or left and, except for the sandpaper sound of shuffling soles, it is silent in the rush-hour subway tunnel.

He is a poet my age: on one wall is a large square mounted photo of Solzhenitsyn. With the relish of a collector, he shows me specimens from his library of samizdat (illegal typescript) manuscripts: "The Inner Circle," "Cancer Ward," a copy of "For Whom the Bell Tolls" with the sections which were left out of the officially approved version. He has an Old Testament which was smuggled in from Bulgaria and a New Testament which a priest once gave him. I give him my copy of "One Flew Over the Cuckoo's Nest." "Perhaps I will translate it and it can be circulated in the psychiatric hospitals," he says. I ask him about his life. "Of course my mail is always opened. They don't even bother to re-seal it sometimes. No I don't read the papers any more. We listen to the BBC when it is not jammed. Leave here? No, I don't think I could. I like to ride buses around the city or take train rides into the suburbs. From the windows, I watch the people. I understand their gestures. I can read their postures, their movements. I know what their facial expressions mean. If I went to another country, I would not understand these things. I would not be able to interpret life, the ancient meanings the people, in their innocence, convey."

The dissident will not leave until we drive away. He stands shivering on the sidewalk, holding up his hand in a frozen wave.

"He is a fanatic, crazy," one of the newsmen tells me, "but he really knows what goes on in this country. Somehow he has tremendous connections."

Our car pulls away. In the darkness, the forced grins of the newsmen melt away. They are worried about whether AP knows the story and whether they will have to file tonight.

On the pavement, the dissident turns back toward his building. His great friends have gone now. He will bear his risk alone. I wonder if he knows what valuable property he is? Or does he really think them friends?

I have heard many stories—some first hand—of persecution here: of the psychiatric hospitals where protesters are injected with drugs which make them insane or vegetable, of the friends who suddenly disappear only to turn up in a Siberian camp two months later, of the court judges who pass unappealable sentences for charges which both judge and defendant know are untrue. I have sat with very brave men and women, people who laugh with the freedom of martyrs because they know they may be taken away merely for satisfying human needs—to express, to think, to communicate their understandings of the reality around them. They are not hard people; their courage has made them only larger, more human. I have envied them for having so pure and simple a need to fight for. I have cried to see them forced to sit in their own living rooms and talk to one another by passing notes under the blind ear of the state and burning them in ashtrays. I have been inspired by them because their relish for their work is undimmed, because they believe in the future of communism with justice, mostly because they love their people, most of them are prevented by the official guardians of silence from knowing that they even exist. Until you have been in a police state you do not know. Really, you do not know.

The man across the table in the hotel restaurant is well dressed, his hair sleekly combed. He is a well-placed architect and planner and he squints when he smiles at me. "So you are American, Well, tell me about the black problem." I have spoken only a couple of sentences when he folds up his hand in a friendly, conciliatory gesture. "I was only fooling with you. I know about them. I have met some of them here. They are dirty, lazy people. They are too lazy to help themselves. They are not really civilized. Believe me, we would have the same problem with them if they were here. You know," he dips his head, assuming a more confidential tone, "if we were on the same terms—not you and me but our countries—if we really get onto good terms together, the rest of the world will be taken care of." He winks obscenely. "The rest of the world?" I answer. "You mean the tin miners in Bolivia, the South African blacks?" "Ah," he turns away. "They are ignorant uncivilized people. Forget about them. I mean if Russia and America really work together, the rest of the world will have nothing to worry about. It might just happen, you know."

The sculptor is in his 60s. He is short and dumpy. His gray hair fluffs out in ridiculous puffs. He turtles around his studio in baggy, stained corduroys and slippers. He looks like a shoemaker I knew in South Brooklyn—except his eyes are more quiet and very clear. He is not of a political mind: he does not enjoy discussing issues of the day. They bore him a little. Every day he rides the bus from his flat to his studio and he works. The walls of his room are covered with shelves of sculpture: busts and figures, groups, studies. Here is a bearded, regal man sitting on a rock, looking up imploringly at an erect, impassive woman who stares, unmoved, out over his head: it is Ulysses, returned to Penelope, trying to explain who kept him away so long. Here, a man and woman, their hands raised, work on either side of a half-formed female figure between them. The figure is twice their size—a goddess they are creating together. The man's hand seems to rest on the shoulder of the goddess. When one looks closely, one sees that his fingers flow and melt into the figure's shoulder. Here a group of music listeners: three women and a small boy grouped at sliding angles, each in a different tension. The music of the four sounds to my eyes like a Mozart Quartet. I do not know there is snow outside or mouth sounds of an alien language around or free medical care or repression; I forget I am in Moscow and in doubt: it is an interlude of music and I have nothing to cry about, nothing to say.

Six a.m. Riding to the airport to catch an 8 a.m. plane to Paris. In the pre-dawn darkness, the boulevards of Moscow are cozy and peaceful. (Last night the same boulevards were lined as far as I could see with tanks six abreast and armored cars 12 abreast in rehearsal for the November 7 anniversary parade.) Before I left the hotel, I destroyed my notes of my interviews. I had memorized them because I was told not to try to take them through customs. When I arrive at the airport and present my ticket and passport, two men come out from behind the counter and take me to a luggage platform in another part of the building. With compulsive thoroughness, they search every cigarette pack in my suitcase, read every page of every brochure and dictionary I am carrying. One of the men insists on putting my hearing aid in his ear to be sure of what it is. When they are convinced there is nothing illegal in my bags, they take me into a small back room. My pockets are emptied. At last they find it: a small address book in my wallet with the names and addresses of people I visited in Russia.

"Is there anything illegal about an address book?" I ask. "No, not illegal," the KGB man says, "but these names . . . " "Then please return my address book or I will miss my plane." "You can forget about your plane for now." They go away with my book and leave me sitting. After about a half-hour, they return and begin to question me: Who gave you these names? (Friends in America.) Who did you see? (As many people in the book as I had time to visit.) What did you discuss? (We discussed what is wrong in the Soviet Union, what is wrong in America.) What do you intend to do with your information? (I intend to write about my visit here. Does that frighten you?) Finally I tell them that if they insist on more questioning. I would like someone from the American Embassy to be present. They return my book. I am free to leave. One of my questioners seems very angry.

At the Pan American office, the girl reserves space on a 3 p.m. Japan Air Lines plane to Paris. It is confirmed. Everything is in order. I will have no problems.

Free. I walk to the coffee counter in a corner of the massive concrete and glass building, buy some cake and coffee, and sit down at a table. An ecstasy begins to bubble up inside. I have looked the KGB in the eye and answered them honestly and with calm confidence in the rightness of what I have done. I think of the friends I am leaving in Moscow. I am suddenly very sad because I know I probably will not be permitted to return to them. But also I feel strong and slightly euphoric, it is almost a religious moment when I look up and see: a small sparrow swoops down from the ceiling of the building, grazes an empty table top, and flies up onto one of the hands of a huge wall clock. I look around. No one else in the room is looking at the bird, not the old woman mopping the floor nor the three stewardesses at the next table nor the Russian soldier across the room. Only I see the sparrow. And I know the feeling of the sparrow—to be imprisoned ultimately by the huge unliving man-made structure around you, but still to be free to soar within it—to be free and captive in the same ecstatic time. I want to write a poem but I am very tired and I am afraid I will start crying.

It is 2:40. I am sitting in the embarkation area, waiting for my plane to be called, when an airport official comes up and asks to see my tickets. He studies them awhile, then says: "I am very sorry, but you cannot leave unless we keep all your tickets with us, your ticket from Moscow to Paris and your ticket from Paris to New York." What the hell is he talking about? "It is a very technical complication of international commercial air regulations, but Aeroflot is the agent for JAL here, and if we do not keep your tickets, we cannot collect from Pan American." By this time I am walking after him, down through passport control, past the soldiers, to the airline check-in desk. "I'm very sorry, but I cannot help you." He gives my tickets to a woman assistant who looks very sympathetic. "Will you come with me to the Pan Am office? They told me my tickets were in order." "I'm sorry, I cannot leave the area." "Is the airport manager around?" "Unfortunately, he is in another part of the airport."

All of a sudden I begin to understand what they are doing. "If I don't leave on this plane or the next one, my visa will expire and then I will be a political criminal, right?" "I'm terribly sorry, but these are regulations." In a flash of panicky illumination, I step around the sympathetic lady and her assistant and walk to the cashier's window. "How much is a ticket to Paris?" "It is 150 rubles. But there is no space on the plane." "I already have a reservation. Please sell me a ticket. I will collect on the other ticket when I return." The time of signing the traveler's checks, the changing to rubles, the writing of the new ticket: this time is an acid swell—in a distorted gelatinous bubble of maybe time, the time between leaving and maybe not. Are there any more catch-22s between the guard at a passport control and the embarkation gate? The lady needs my visa. We go to the young soldier. He thumbs through the pile of visas on his desk but can't find mine. He begins again. I spot it and pluck it out. The woman looks at the back of my visa and begins to talk very quickly to the other woman. Apparently it is stamped "persona non grata." Is it mine?" "Yes." "Thank you."

I walk through passport control up the stairs to the loading gate. Now I am on the plane. And now I understand how they crush the spirit of all but a very few of their people. They allow them their principles, but they sneak up from underneath with their tentacles of paralyzing technicalities. (Like the Jews, who apply for a visa and then lose their jobs, and then, because it is illegal to be unemployed, are criminals. Like the dissidents, who are judged insane until they change their political idea, locked up with the rest of the crazy people because, legally, it is not a question of politics but of health.) They kill here by a small plucking out of the liver. Only, with the instant acute wisdom of a paranoiac's razor slash, I have cut myself icily free.

Goodbye, Russia. I will miss you anyway very much.

### Soviet Dissidents: Erased Conversations

(By Ross Gelbspan)

Moscow.—"On June 18 Alexander Ginzburg was transferred from Vladimir prison to a KGB investigation prison. He is being questioned by Captain V. I. Korkach, senior KGB investigator. As Korkach carried out a search of V. Bukovsky's flat on March 29, it can be assumed with some confidence that Ginzburg was sent for in connection with this case.

"Leningrad. On June 7 in the special psychiatric hospital the hunger strike of Vladimir Borisov and Victor Fainberg came to an end. It had lasted 81 days. As yet the Chronicle has no information on the prisoners' physical state, the conditions of their confinement, or whether their demands were met.

"Riga. In mid-February, a civil court action was brought by Natan Lozovsky, 31, an engineering economist. During the hearing a member of the public in the courtroom made a tape recording of the proceedings. The judge demanded that the recording be stopped, jumped up from his seat, and, trying to rip out the tape, struck one of those present. The police were called, the courtroom was closed for two hours and four persons detained . . .

"Kiev. On May 21 Israel Klemer, who was carrying a letter from nine Kievan Jews to the national newspapers, was taken off the Kiev-Moscow train at Nezhin in the Chernigov Region. . . ."

This is a page of news items from the current issue of Chronicle, the most widely circulated and popular of the samizdat (self-published) journals of the dissident movement in Russia. It appears about every month and a half and, although the KGB keeps arresting people it thinks are responsible for printing it, it has continued to appear for over 40 months. Chronicle contains news smuggled out of the camps and psychiatric hospitals. It mentions who has turned up in which prison, who has been transferred from one camp to another. There are verbatim excerpts of trials which show (apparently with scrupulous journalistic accuracy) the ridiculously subjective and repressive techniques of Soviet courts. There are lists of banned films and reviews of samizdat novels and poetry volumes which are currently in circulation.

The dissident movement in Russia (with the exception of the Committee for Human Rights, to be described later) is an unorganized and uncountable body of intellectuals throughout the country who copy and circulate samizdat typescript journals and books, who demonstrate and protest the arrest and criminally inhumane treatment of political prisoners, and who maintain an amazingly thorough and widespread information network.

Pyotr Yakir, 48, the figurehead for most of the democrats, has spent 16 years in the camps. Three years ago he started the civil rights movement with 15 dissidents. Now all but three have been imprisoned. His father, Iona Yakir, was a Soviet general whom Stalin executed in a 1937 purge. When his father was killed, Yakir went to prison at the age of 14. Although demoted several times, he maintains a minor post as historian at the Institute of Historical Studies at the USSR Academy of Sciences. He is a bulky, awesome-looking man, bombastic with a dark beard and black, snaking hair. The evening I saw him, his eyes were piercing and very bloodshot from vodka and sleeplessness. ("Don't judge him by his drinking," a friend asked me, "he has a right with what he has been through.") His hands looked like hunks of bloody meat. They were swathed in gauge and coated with medication. The morning after I saw him, he entered the hospital for a month's treatment of a skin disease. Some of his friends were worried about what they might do to him in the hospital. Yakir himself seems to be able to keep out of jail because he is extremely vocal and because he has such a large number of friends and followers that the authorities are afraid of the public reaction, the embarrassing demonstrations, that would follow his arrest. Still, a friend of his told me: "He is too fearless sometimes. In a way, he doesn't care any more. What more can they do to him? But we hold our breath until he comes out again."

Yakir's apartment—which is constantly bugged and watched and frequently raided—is a dimly lit three-room flat in a large complex in southeast Moscow. He lives with his wife and a constant flow of friends on a couple of shabby, exhausted couches, tables, and chairs. On a living room wall are several medallions and photos of his father—and in the dining room hangs a collection of about a dozen icons, ancient gilt saints against the dirty streaked wallpaper. On one bookshelf is a thick marble engraved disc—as big around as a butter plate—a headstone from Baba Yar. And on the floor, near the dining room table, a large oyster shell is used for burning pieces of paper on which much of the conversation is written and read in silence.

When Yakir talks to Westerners and correspondents, he is urgently enthusiastic about the future of the underground and the prospects for civil liberties in Russia. "I am a pathological optimist. I am sure in the long run society will change. The basic thing is to educate yourself and your friends," he recently told Georgie Anne Geyer of the Chicago Daily News.

But some of his friends say his comments to Westerners are more public relations than realistic appraisals of the movement's future. In March, Yakir wrote an open letter to the 24th Party Congress about the trend toward "the restoration of Stalinist methods of government": ". . . Once more political prisoners are appearing in the camps. Once more 'persons of unsound minds,' for whom the main sign of 'recovery' is an about-face in their beliefs, have appeared in the psychiatric prison-hospitals. Once more public recantations are required and those who do not recant—and sometimes those who do—are demoted, dismissed, and expelled from their institutes. The selectivity and discrimination with which repression is carried out (for equal 'guilt' one man gets off with a reprimand at work while another is given several years in the camps) only underline the arbitrariness and lawlessness of the repression."

One dissident poet tells me heartbreaking stories about the hopeless, spirit-mangling Soviet penal system. He talks of General P. G. Grigorenko: "An older man, self-educated. He has what you call charisma. When one is near him, one becomes very brave even if one is normally a coward. He is a very great, very loving man. When the case of the Crimean Tartars came to his attention, he began to protest." (In 1944, when most able-bodied Tartar men were fighting the Germans, Stalin deported their families in the Crimea—men, women, children, everyone without exception—to remote areas of the country.) For protesting the government's refusal to return the Tartars to their home, Grigorenko has been hospitalized in a psychiatric prison-hospital. "Now they have taken his mind away with drugs. He is tranquilized into near speechlessness much of the time. They give him a pencil stub to write letters to his wife. But as soon as the letters are finished, they take away the pencil and paper. When he asked to keep the pencil, he was told: 'What do you need a pencil for? You'll start getting ideas and writing them down which is not permitted in your case.' "

The poet tells another story about Natalya Gorbaneuskaya, a mother of two, a poetess, who protested by carrying a placard during the Russian invasion of Czechoslovakia in 1967. "When her mother went to visit her in the hospital, she brought Natalyia some books as usual. When she saw her, Natalya was so drugged she could only say: 'Books? What do you bring books for? You know I don't read books. I don't like books.' "

It is impossible to estimate the number of political prisoners in the camps and hospitals. Not only are no official statistics available, but many who are imprisoned for political reasons are charged with non-political crimes. It is also hard to estimate the extent or future of the movement in Russia. An American Correspondent told me: "Be sure to emphasize how small it is—and what a small number of Russian people know about it." (It is a very hard fact to sorb unless one has been here, but there is no free overground flow of information. No news of dissident protests or demonstrations is ever carried in Pravda or Isvestia.) But there are signs that the movement is constantly spreading and that it is tremendously tenacious. Most telling is the spread of samizdat literature. I was told that Solzhenitsyn's novels, for example, have a greater circulation in typescript among the intellectuals than any officially published novels.

But it is also hard to know what is really going on, because people are afraid to talk about their activities past a certain point. It is very easy to understand. A passage in the current Chronicle written by dissident Vladimir Gershuni from the Oryol Special Psychiatric Hospital details what happens to those who are arrested:

"March 11, morning: During rounds, just by way of an experiment, I complained about feeling poorly after a dose of haloperidol, and asked that the dose be reduced. This led to my being prescribed even more aminazin than I was already receiving. . . This medicine makes me feel more awful than anything I have ever experienced; you no sooner lie down than you want to get up, you no sooner take a step than you're longing to sit down again, and, if you sit down, you want to walk again—only there's nowhere to walk. By the way, I'm not the only one here who has had this sort of thing happen to him. Everybody has had their life made miserable by triftazin, aminazin, and other powerful drugs. . .

"Friday, March 19: More and more noticeably I'm losing my memory. . . . The story of Victor Prikhodko, who was born in 1936, is also not without interest. This gifted lad who could even reel off Dostoevsky's family tree, a dancer, a singer, tremendously alive and alert, was at one time in the next cell to me. . . . In September he was hauled off to Butyrka prison hospital, where they gave him massive doses of aminazin injections and something else as well. And so it happened that one day he woke up—but not completely. And thereafter he remained in this half-awake state—his head on one side, his speech languid and indistinct, his eyes glazed. He sank into apathy, and all his reactions slowed down. Only now, since he's been taken off medicines, has he begun to recover. He was thus canceled out for five months. Hail to Soviet 'special psychiatry'!"

In November 1970, three prominent Soviet scientists formed the Committee for Human Rights. To an American who is used to the demands of dissident American groups, the aims of HRC seem pitifully moderate: the predictable application of laws by the Soviet courts, freedom to pursue activities which are not illegal but which frequently bring harsh governmental reprisals (e.g., insisting on receiving your mail, talking to foreigners, etc.), some statement of legal rights for psychiatric inmates, a legal definition of what constitutes insanity, freedom to travel, safeguards against governmental discrimination, and four basic rights—freedom of speech, the press, assembly, and freedom of street processions and demonstrations—which are prescribed in the Soviet Constitution but often denied in practice.

Although HRC activities are completely legal, some Committee members have been arrested and questioned, their homes raided, and legal documents confiscated. The group's protection seems to lie in the prominence of its members and the fact that, in meticulously observing legal boundaries, it refuses to go underground or to consider secret activities of any sort.

Valerie Chalidze, a founding member of HRC, and his wife, Vera, live in a large, dusky room in a back street in central Moscow. One wall is covered by an over-stuffed bookcase. There are a couple of icons on the walls, a glass-shelved cabinet full of different crystal specimens, and an out-of-tune piano which Vera will play when they get some money to have it tuned. At present, both are unemployed. A heating coil from a hotplate hangs over Chalidze's desk to warm the air while he works late at night. The room is thoroughly bugged. Despite the fact that all of our conversation was completely legal, some of it was written on an erasable slate. Chalidze is tall, extremely thin. His posture is slouchy, almost indolent. He is a very proud man. He received me in a rumpled, worn black jacket and tie. His speech was abrupt, matter-of-fact—but also extremely precise, as one would expect from a physicist who believes in a science of law.

The HRC, he explains, prepares documents on various areas of human rights which it publishes in a signed, typescript journal called Social Problems. (Social Problems differs from Chronicle and other samizdat journals in that it is not only circulated among the intelligentsia, but sent to Soviet officials—lawyers, judges, ministers—to be studied. A recent issue, proposing certain appeal rights for psychiatric inmates and proposing legal criteria to determine psychiatric illness, was sent to the Soviet Minister of Health.) "We never get any response from the legal authorities or the lawyers," Chalidze says, "but we know they are studying our documents."

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### JEWS IN RUSSIA: "PAWNS, NOT PEOPLE"

(By Ross Gelbspan)

"Under socialism there is no social basis for anti-Semitism. Relations between people have become completely different. There is no longer economic competition which was made use of by the ruling class to foster national discord. . . .

"In angry letters to Pravda and Isvestia, Soviet Jews declare with one voice: 'Our homeland is the Soviet Union. The Jews in our country live together as one big happy family of the 240 million Soviet people. Contemporary Soviet Jews are the children and grandchildren of the Jewish people who after the October Revolution found their one and only Motherland in the Soviet socialist state.'" "Jews in the USSR" Novosti Press Agency Publishing House.

Moscow.—Vladim Slepak is one of the better known Jewish activists in Moscow. His apartment is easy to find: a plainclothesman is stationed in front of the building asking everyone who enters what apartment he is going to. Slepak is not what I expected. Nor are the other active Jews I have met here. I expected older people in prayer shawls and long sideburns. These people are very much like me. Except many of them know less about their Jewishness even than I do, with my Anglo-American suburban upbringing. They are engineers, film-makers, language teachers, physicists. All their lives they have been Communists and Russians. Now they are Jews. Many do not understand what this means—except that they are not Russians in the eyes of the state.

Slepak's living room is sparsely furnished. There is one hanging spider plant and a small tape recorder on a sideboard. On the walls, a photo of Theodore Herzl and one of Moshe Dayan and a map of Israel. On the table between us, a Russian-English dictionary, a pack of Bulgarian cigarettes, and an erasable slate. Slepak is 44, an intense, vital man with large eyes. He used to be a radio-electronics engineer before he lost his job.

"During the late Stalin years," he explains, "the government tried to eradicate all traces of Jewish life and culture. Our parents were so frightened, so silent about being Jews, we did not even know we were Jews. In our homes there were no traces of Jewish identity or culture. Even now, my father has not spoken to me for two years. He is a Communist and was active in the Revolution, I want to leave the country. So he says we are enemies and we do not speak."

I ask Slepak to explain anti-Semitism in Russia: aren't there many Jews who have attained high positions in the Soviet Union? "In the past," he explains, "Soviet policy toward the Jews has gone like this." He draws an oscilloscope pattern on the slate. "When the atmosphere was liberal, many Jews entered the institutes and advanced to good positions. But in the Soviet Union, you must understand that if a Jew and a Russian do the same quality work, the Russian always gets the job or the promotion. In the institutes, the Jewish students must work much harder than the Russian students for the same grades. Still, many Jews have succeeded in spite of the pressures.

"Recently, official evidences of anti-Semitism have been increasing. For instance, it used to be that on one's internal passport" (which all Russians must carry), "one could claim the nationality of either parent. For example, if you had one Russian and one Jewish parent, you could claim Russian nationality for yourself. Now they require you to put down both parents' nationalities. You may claim Russian nationality, but they look at your papers and say, 'We understand. You really are a Jew.'"

The harshest reprisals are directed at Jews who want to leave the country. The first step in applying for a visa (after receiving an invitation from someone in Israel) is to apply for your "characteristics"—a character reference—from your employer or local party committee. As soon as one applies for his characteristics, he automatically loses his job or is demoted to a very low position. Nine out of 10 who apply are fired. If you apply for another job, you are blacklisted as soon as your new employer finds out you have previously applied for characteristics. In the Soviet Union, it is a crime to be unemployed for more than four months. After three months of unemployment you are invited by a state labor-placement officer to take whatever job they offer you. (So people like physicist Joseph Bigun and a Jewish poet named David Markisch are working as bread loaders on bakery trucks.) If you refuse the job the state offers, you are sent to Siberia for three to five years.

Slepak was in charge of a radio-electronics research lab where he directed a team of 35 scientists. When he applied for his characteristics he lost his job. He went to the Geophysical Institute and when they found out about his application they fired him. His third job was in a chemical engineering lab where he was harassed mercilessly. No one spoke to him all day long. He was singled out for impossible work quotas. He was not allowed to come in a minute late or leave a minute early. When his mother-in-law went to Israel, he applied for a two-hour leave without pay (offering to make up the work on his own time) in order to see her off at the airport. Denied. Unable to stand the pressure, he quit two months ago. In two more months he is liable to be sentenced to a term in Siberia.

While Slepak is talking, his son Alex comes in. He is a handsome boy in jeans and denim jacket. As he talks, it is apparent he is a very together person—very tough but also very understanding. "I worry about him." Slepak says. "If I don't rein him in every day he will get himself arrested." Apparently, much of the push for emigration comes from militant Jews in their late teens and early 20s. Alexander talks of friends whose parents have ordered them out of their homes because they want to leave. "I have one friend, Leonid Tsipl, 19, who applied for a visa. When his parents found out, they went to the KGB and signed a letter denying their son permission to leave. They called him a traitor and kicked him out of their house. But I can understand them. Most of the parents would leave themselves if they could, but they are terrified. They can only be certain, if they apply for a visa, that they will lose their jobs, their friends, their place in society, everything. They cannot be certain they will get a visa. Probably they will not."

Having found themselves defined by Soviet society as Jews, many Russian Jews are trying to find out what Jew is. Now they want to learn Hebrew, to study Jewish history, to know what it is they are. But there are no Hebrew books in Russia, except a few the Jewish tourists smuggle in. In Russia it is illegal to publish a Bible and equally illegal to bring one in from the outside. The standard Russian history book contains two paragraphs about the history of Israel from biblical times to the present. The Yiddish-language monthly is a party organ, devoted to praising life in the Soviet Union. Currently there are about 16 ulpanim, Hebrew language study groups, which meet in people's homes. For trying to learn their language and their heritage, many Jews are harassed and, in some cases, arrested on false, arbitrary charges.

In June 1970, when a group of Jews was charged with plotting to hijack a small plane to take them to Sweden, Slepak's apartment—along with those of a number of other Moscow Jews—was raided and searched by KGB agents specializing in English and Hebrew. Personal papers and documents were confiscated. (A friend of Slepak's told me he infuriated the KGB by sitting in a chair, sound asleep, snoring during the entire search.) At the same time a group of Jews who had learned Hebrew applied for visas and were arrested as accomplices to the hijacking. Another group was arrested and convicted on charges of reproducing Hebrew language books. Neither group was guilty, according to people I talked to.

Recently a number of Jews have begun to retaliate with sit-ins, demonstrations, and marches. In July a group of Jews sat in at the Supreme Soviet reception room. For three days they sat in from 8 a.m. to 5 p.m. until the building was closed. Then about 300 Georgian Jews from the group staged a five-day sit-in and hunger strike at the Central Telegraph Office in Moscow, which is open 24 hours. They sent wires to Brezhnev, U Thant, and other leaders. After the fifth day the soldiers came and took them away. No one knew where they were: "Then, in the middle of the night," Slepak explained, "comes Chalvah Dvarashvily, a 26-year-old Georgian, pounding on my door. I let him in and he blurts out: 'The train should be near Tbilisi.' He explains that the soldiers herded the Jews onto a train headed for Georgia. At every stop, they surrounded the cars so no one could get to a station to telephone their location. As the train was picking up speed out of Rostov, Dvarashvily smashed out a window, leaped from the train, hitchhiked back to Rostov, flew to Moscow, and came here to say 'The train should be near Tbilisi.' So we phoned down there and when the train arrived, 3000 more Jews met the train. They all paraded to the local Central Committee office and sat-in, singing Israeli songs. At last they forced the authorities to promise that 60 visas would be issued within the month."

In assessing actions like these, it is important to remember that they take place in a silent country where there is absolutely no publicity or freedom of information. No news of any of these actions ever appears in the press or on radio or television. So when non-Jewish Russians told me that everything was fine with Soviet Jews, that everything I had heard in the U.S. was empty anti-Soviet propaganda, I understood horribly that they were telling me what they believed was the truth. Could it be that all those Germans who said "We didn't know" were telling the same truth?

I asked Slepak how different groups of Jews around the country communicated with one another to keep abreast of developments. "Word of mouth. Telephones," he said. Do the Jews circulate any kind of samizdat new bulletin? "We can write nothing down. It is too dangerous."

"In October," Slepak continued, "a number of us Moscow Jews went to sit in at the Central Committee office, the heart of the government. We sat for some days, requesting an interview with a politburo official. They told us, 'You have talked with Ivanov (a minor clerk). That is enough,' We could tell we were making them nervous. Then about five days ago, a group of us were called into the immigration office. There a KGB official told us that a very few visas would be issued and that the rest of us will be arrested if we don't stop agitating."

"We are helpless," Alexander cuts in. "We can demand nothing. We are in their hands.

We have absolutely no choice in making any decision about our own lives."

According to the people I talked to, the Soviet government is afraid of free emigration for Russian Jews. First, not only the Jews but members of many minorities want to leave. A number of Georgians and Ukrainians have already gone to France and Canada. Many Armenians and Lithuanians are also pushing to go. If so many people leave, it gives the lie to the workers' paradise that Russia is supposed to be. Moreover, many who want to leave are important to Russia's scientific and educational progress. These are scientists, engineers, teachers at the institutes. Finally, Russia uses the flow of emigrating Jews as a lever to put pressure on the Arab nations. If the policy of an Arab country deviates too much from what Russia wants, she releases a trickle of Jews to Israel, playing on the Arab fear of Israeli expansionism, and threatens to release more until the policy in question is changed. "We are pawns here, not people," Slepak says. "That is why we want to leave."

Isse Ginzburg, a friend of Slepak's, is a 49-year-old professor of French. She taught at the Institute of Foreign Languages for 26 years—until about five weeks ago when she was expelled. And, until the same time, she had been a party member in good standing for most of her adult life. While the background of her case is unusually grim, her harassment by the government—being expelled from her job, her invitation from Israel being withheld by the postal authorities—is common to a number of Russian Jews.

In 1966, Miss Ginzburg was traveling to Dubna, a town outside Moscow, with her two sons, 10 and 16. On the train, a convicted robber, recently released from prison, began to yell anti-Semitic epithets at her 10-year-old son. When the party arrived at their hotel in Dubna, the robber was refused a room because he did not have a reservation. Two mornings later, Isse and her older son, Vladimir, were in their room. They sent the younger boy down to the lobby to buy a paper. On the stairs, the boy was accosted by the convict who, in full view of a number of guests, threw the boy over the bannister. He fell several stories to his death.

After a three-month investigation, the detective in charge of the case told Isse Ginzburg the case was being closed because of a lack of witnesses (even though she had several witnesses who were willing to testify) and because the convict was traveling elsewhere in the Soviet Union. (In Russia, where everyone must carry an internal passport, it is very easy for the authorities to pinpoint anyone's whereabouts at any moment.) The investigating judge offered her an official Soviet government acknowledgement of bereavement. She signed the document under threats that things would go hard on her if she tried to pursue the case. A couple of months later, she applied for a visitor's visa to go to Israel for two months to see the grave of her father. She was told by the KGB that she would be granted the visa on the condition that she maintain complete silence about the death of her son. Until a few weeks ago, she honored her commitment. "Now I no longer feel bound to that silence."

Last June, Isse Ginzburg decided to emigrate to Israel. On September 3, her aunt in Israel sent an official invitation by registered mail. Although she has several telegrams and letters with its registration number, the Soviet postal authorities refuse to release the invitation. On September 23 she applied for her characteristics to the local party committee at the institute where she teaches. At the party meeting, she was brutally provoked by a panel of interrogators: "Will you be taking both sons to Israel? Why are you applying for a visa for only one son and yourself?" she was asked. She was goaded sadistically until she broke down and said her younger son had been killed. On the spot, she was accused of anti-Soviet slander, bordering on treason, for questioning Soviet justice. She was immediately expelled from the party. Two days later she was informed that her colleagues had voted unanimously that she did not possess the proper requirements for a teacher in the institute. This, despite the fact that her same colleagues had voted her to a five-year term at the institute only two years before. Because the expulsion vote was unanimous, she was not allowed to appeal to a tribunal.

Her 21-year-old son, Vladimir, is in his last year at the institute. Authorities have told him he will be expelled because of his desire to go to Israel. "They do not want to educate someone for the benefit of Israel," he said. The catch is that as soon as he is expelled, he is unemployed—and subject to immediate military service. Not only must he serve a two-year army term, but he is forbidden by law from applying for a visa for another three years after he leaves the service because of military secrets he might learn. Thus it may be five years before he is even permitted to re-apply for a visa.

Isse Ginzburg recently wrote an open letter to Secretary Brezhnev, comparing the local party meeting to a school child's public flogging. She has received no reply. When she goes to the immigration office, the man smiles at her and says: "Of course you can have a visa. Where is your invitation from Israel?" In this trap of legalized, official torture, Isse Ginzburg is not alone. The story is the same for other Russian Jews.

"My films? It's hard to generalize about one's own work. I guess you could say they are about men in situations of conflict which force them to discover their own moral imperative." Mikhail Kalik, 48, is a successful, highly decorated Russian Jewish film-maker. Three days before I met him, he returned his decorations to the Soviet government in protest of their refusal to grant him an imigration visa.

Kalik is a short, square man with close black hair and dark eyes, extremely energetic. His conversation is partly words, partly a dance of gestures. He sits forward on the edge of his couch, one leg tucked under the other, leaning on a polished walking stick. From time to time he jumps up, paces, and twirls when his thoughts become too intense to allow him to sit. His wife, Suzanne, a plump warm woman, sits next to him on the couch slipping grapes and slivers of cake onto his plate.

"This is a very difficult question: whether I want to go to Israel because of a positive Jewish consciousness or a disappointment with the Soviet Union." He looks at his wife. "It is partly both. Here I have been successful," he butts two fists together, "but it is in spite of being Jewish. It has always been a struggle. There has been a scandal after just about every film I made. Each one, for one reason or another, did not conform exactly to party doctrine. Two were not shown at all. In honesty, I must say I have never really felt free to express myself completely as a film-maker or to exist fully as a Jew. But since I decided to go to Israel, I am very excited about the future, excited to be alive at this time. The Jewish state is still new. It does not yet have a developed cinematic tradition to speak of. I want my co-workers to come with me" (other members of Kalik's crew are also applying for visas) "and we will continue in Israel the great traditions of Russian Jewish film-makers which began with Eisenstein and others 50 years ago."

As Kalik is talking, his cameraman, his assistant director, and several friends file into the apartment, grouping the sofa with their chairs. There is supposed to be an announcement about him on Israeli radio tonight and they have come to listen together. "The hardest thing is to leave the country you were born in, your friends, the graves of people you loved. But I do not belong here. I do not think Jews belong here any more. Jews have always been deeply involved in the great Russian movements, from the Revolution on and even before. But they are still despised. They are treated as inferior people. I don't want to discuss Russian problems. Only that I think it is time we Jews left Russian problems to the Russians."

He sits back quietly. "It's strange. As a child, I didn't know I was Jewish. Then during the Great Patriotic War, my father was killed by the Fascists and I learned about German anti-Semitism. But it didn't disappear after the war. It became Russian. In 1949 I was teaching three film courses at the institute and the KGB came and took me away. I was sentenced to seven years in the camps for being a Jew. I was released after about three years when Stalin died, but in the camp—the way we were treated—I learned what it is to be Jew in Russia. I cannot ever forget that. It must be difficult for you as an American to understand. But in America, if you are Jewish, you have three choices: you can assimilate, you can take part in the Jewish ethnic life, or you can emigrate to Israel. In Russia, the first two choices are closed to us. Some of us—the lucky ones—will be able to emigrate."

Kalik was invited to Israel six months ago. As soon as he applied for a visa, he was expelled from the Society of Cinematographers and arrested on charges of profiteering—making money from one of his films. There was no evidence to substantiate charges, and because a loud protest by writers, film-makers, and journalists from other countries focused so much publicity on his trial, he was acquitted. Now, he says, he does not know when he will get his visa. "But just today I received word—quite unofficially—that I will be allowed to leave sometime in the future. Perhaps there will be details on Israeli radio."

While Kalik and his friends try to tune in the short-wave set, his assistant director tells me the story of his own experience with the government. "I recently directed my first film under Kalik's tutelage. 'The Last Vagabond.' A whimsical film. It is about a thief who is in prison. One day they open the gates and all the prisoners are allowed to leave. But the hero chooses to stay there alone, king of the prison. There he has a great dream. He dreams of a town where there is no crime, no jails. And there are no thieves like himself. It is a light film, eccentric. Totally apolitical. But the authorities decided it did not adhere to party policy so they expelled me from the Society and I cannot get any work. I am considered persona non grata in professional circles."

Kalik returns from the radio. Transmission is jammed tonight. "I have plans for several films I want to make in Israel. One is about Janus Korshak. He was a great Polish-Jewish teacher and writer. During the war, when the Germans occupied Poland, they came to a school where he was teaching a group of students. They demanded that he turn over the students to them in return for his own freedom. He refused. He died with his students. Also I have an idea for a film about a Jewish Don Quixote. Only it will be Don Quixote and Sancho Panza combined in one character. That way I can show the blend of idealism" (grinning, he cocks his head and wiggles his hand fishlike through the air) "and practical instinct that is in the Jewish character."

He stops. "I should not talk too much about my plans. To leave Russia will be a very difficult thing. I don't know what feelings and ideas I will find in Israel. The experience of moving there might give everything a different shape than I expect." He motions to the bedrooms in the rear of the apartment. "Do you want to know the most important reason I am leaving? It is for my nine-year-old daughter and my boy who is 13." He raises his head dramatically, pulls his shoulders back, and looks evenly into my eyes from across the room. "I want them to stand up like this."

(*Note : About two weeks ago, Kalik was granted his visa. He is now in Israel.*)

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### RUSSIA: EMIGRATING TO ISRAEL—WHERE DOES A MAN BELONG?"

(By Ross Gelbspan)

MOSCOW.—Roman Rutman is a funny-looking, intense little man. He is 36 and a trifle nervous and wears owl-round glasses which make his head seem too big. He likes to cross his legs and fold his hands in his lap before he begins talking, and his uncertainty about various English forms makes him uncomfortable when he talks because precision in all things is very important to him. When he gets excited by the conversation, he squirms in his chair and sometimes pops straight up onto his feet. In these moments—when he looks like a 12-year-old boy—it is hard to remember that he is a theortical cybernetics specialist who has invented two calculi. He has invited me to his home to tell me his story because he feels it is representative of the agonies of many contemporary Russian intellectuals in their struggle for spiritual survival.

Helen, his wife, is a bubbly, thoughtful, very warm woman who is too shy to try her English except in small phrases. Their son, Sergei, is 11, a slender boy with thick glasses. Having dutifully shaken my hand, he eases back alongside his mother, listens to my foreign mouth sounds awhile, and then bounds into another room to play. In Roman's studio, Helen and I sit on the couch in front of a table full of fresh fruit and mineral water and a bottle of brandy. Roman hops nervously around the room, mentally composing his presentation. He stops at a window sill behind his desk, reaches into a small mug, and hands me a short length of barbed wire. "From Babi Yar," he explains. It feels hot in my hands. He shows me some of his books and a woodcarving Sergei made. Finally—having mentally stacked the right words in the right order—he sits primly, folds his hands, and begins:

"You may wonder, friend Ross, why I—a successful man, a scientist with a car and two degrees and a good job—why I have decided to leave my country. Or rather to leave Russia, for Russia is no longer my country. As you can see, my library is Russian. I have been educated in the Russian Christian tradition (for although we have had a revolution, the Russian traditions are still Christian ones). And, to me most important, my language is Russian. I have a good job in the field of automated control and my work has been published. Still I must now leave this country. I would like to tell you my story."

He is leaning back in his chair now, his legs apart. Two fingers are pressed against his right temple and his voice is less formal, more pensive. "It begins in 1965 with the trials of Sinyafsky and Daniel. My very close friend is Larissa Bogoraz, Daniel's wife. There were about 30 of us in the circle in those days. When Sinyafsky and Daniel were arrested, my friends and I naturally began to protest. There was a lot of hope in those days. Many of us believed much more freedom was possible in the Soviet Union. Anyway, the Sinyafsky-Daniel protest proved to be the first link in a chain. Soon after their arrest, some more of my friends were arrested. One protest led to another. Just so." (He hooks his two index fingers together and pulls them tight.) "I remember especially protesting the arrest of two editors, Ginsburg and Galanskov. They published the 'White Paper' in the West. I can remember the great great joy—all of us standing in the snow outside the court buildings in sub-zero temperatures. It was January of '67. All day long. We still believed we could change things then. It was a wonderful feeling, all of us together. We felt a great strength, an exhilarating sense of unity." He has been on the verge of smiling. Now he stops, pours himself a splash of brandy, and offers it around. He crosses his legs again. His face is tightened.

"And then came Czechoslovakia. The great shock. But more than a shock. For most of us, a great realization. I, myself, realized very deeply two things. I realized that we had been lying to ourselves about the future all along, that Russia will never have any more freedom than she has now. Her tradition has always been one of absolute power to the state. Her people have no tradition of being independent. They have always let themselves be led by one tyrant or another. It is a need of theirs to have a strong government. The second thing I realized after the invasion of Czechoslovakia was how thin was the layer of people who would really stand up and speak out when the moment came. We had thought there was a great horde of intellectuals who shared our disgust with the savagery in Czechoslovakia. But when it came time to protest, all but seven or eight people fell back into silence. Larissa was really the soul of the movement, I think. When the others thought it would be too dangerous to protest in public, she said she was going ahead anyway and we rallied around her. Now she is in exile in Siberia. My friends and I chipped in to buy her a little cabin. I went out to see her last summer. I'll show you some slides later if we have time. Anyway, to continue.

"After the invasion, everyone was very demoralized. We had seen the unchallengeable brutality of the state and we knew they would use their strength whenever they found it necessary. Nothing any of us could do would make any difference. Around this time, many of my friends began to be baptized. There was a neo-Christian movement afoot and I myself was on the brink of being baptized. But something held me back. I, too, felt hopeless about the future here. But more than that. I felt an irreparable separation—like the cold space that settles after two lovers split apart. All my life I had loved my country and then hated her, then loved her and then hated her again. Now I felt nothing for Russia. I could see her for the first time quite dispassionately. This was a new and very real vacuum in my life. I began to ask myself some larger questions—perhaps you could call them religious questions. I began to think about a man's place in the universe and in relation to the rest of mankind. Do you know what I mean? Where does a man belong and what should be the meaning of his life—more than political questions."

He stops, picks up the piece of barbed wire, and begins twirling it in his hands. Helen and I swap cigarettes, a Winston for a Bulgarian. He replaces the wire. "I don't want to give you all my thoughts. It would take too long, and besides, I want to find out what you think. But, simply, the way I reasoned was: a country is a community of people living in the same area of space. In that sense, I am a Russian. But there are also communities in time, communities of traditions within history. And I realized that I really do not identify with Russian ancestors. I cannot honestly see myself as a figure in the stream of Russian history. I do not feel I belong to it. The Russian traditions are things I have been taught. They are not things I feel natural in myself. The great figures in Russian history are people I can admire but not identify with. They were moved by things that do not move me. I have always been treated as someone apart, being a Jew. Even though I knew nothing of the Jewish religion until recently—and I am not a religious person in the conventional sense—and even though I have been as I told you successfully, still I realized I have always been regarded as a person of a lower order. I realized I have never been accepted as a Russian—I guess I always knew it but tried to ignore it. But also I realized that I have never really been able to accept the culture of Russia as my own.

"So I have been studying something of Jewish history. From what I know, I think I can identify myself much more naturally in Jewish traditions. Anyway, I want to be with people I feel are my own. I think the Jews are my people. I know the Russians are not. I am no longer a participant in Russian society and I feel very good about that. It is like suddenly telling the truth after a long, long time of acquiescing to a lie. Perhaps I am all wrong. Perhaps in Israel I will feel the same alienation as I feel here. But I hope I will not." He pauses. "You know what frightens me most about leaving Russia? Giving up the language I was born in. Having to learn a new and foreign language will be a very alien thing. Especially, I guess, because I am a little poet—I like to write songs and sing them to my friends. And it takes a long time before one can write poems in a new language." He stops and looks at me a long time. "Anyway, tell me what do you think?"

I look at this man I have never met before. He could be a counter-self in the eastern hemisphere. I think: Thomas Jefferson, Lincoln, Thoreau. I have read them and been inspired by them. Do I identify? I have—in a way, with the Pilgrims, with Thoreau. But it is not an important question to me. I feel at this moment very close to Roman, but there is something in his story that is not in my own. "It is hard to say what I think, Roman. I cannot judge. I am not Russian. To me, feeling alienated is the price one pays for trusting to one's own perceptions and believing in one's own ideas. They make you different from other people. But I do feel very much an American. Even though I despise many of America's values. For me to look to Israel for my identity—to define myself mainly as a Jew—would be to avoid facing the existential contradictions of my environment. I would feel as though I were retreating from the complexities that make up my reality, my consciousness. But I am not Russian, I can only try to guess at the full feeling of your experience.

Helen and Roman speak in Russian a few moments, then he says: "Helen says—and I think it may be true—you do not understand the kind of political pressures we have here. From the time we are young, we are drilled and drilled to believe in the great socialist revolution. We are taught to believe that the state exists to elevate man to his rightful place, his true self. But in practice, it is a great lie and only the most unconscious people are not aware of that. But you cannot get away from being pressured to live in a way that often goes against your own humanity.

"For me personally," he continues "it is not such a great problem. The local committee member comes around and tells me I must vote in the election. But the election is a farce and I refuse to take part in it. Personally, I can get away with this because I have a fairly prestigious position. But I think a lot about Sergei. Already I can see the strain in him. From the age of six, he has had to lead a double life. In school he must repeat what they tell him to repeat. He must pretend to believe it. But without our telling him differently, he knows instinctively it is not true. When he comes home, he makes fun of the ridiculous things they tell him in school. That disturbs me very deeply. I do not want my son to grow up to be a cynic. These are the kinds of pressures I am talking about." He pours three more small portions of brandy. "Of course, things have improved. Twenty years ago, I would have gone straight to jail merely for having you in my home. But they have not improved all that much. You Westerners," he grins, "you have freedom so you are not aware of it. Like a fish is not aware of water."

"There are pressures in the United States also," I say. "Very strong pressures. True, there are freedoms—more freedoms than I realized before I came here—but you must not idealize the United States, Roman. The pressures are different. Not like the ones you feel here. For example, in New York they have just murdered a group of prisoners who revolted because they wanted fresh food and habitable cells. Because they wanted to be treated like humans. It was the prisoners who were human and the authorities who were the murderers—like your government in Czechoslovakia. In America, one walks through squalid, degrading neighborhoods such as you do not have in Moscow and one's heart screams out because one cannot change it. And those who could change it will not because they are too selfish. One watches the American war machine in Vietnam, murdering thousands of people who want to be left alone—and one is helpless unless one is ready himself to become a murderer. In America, the despair is very great. America is partly a terrible, dehumanizing money machine which grinds people's aspirations into cheap, gaudy plastic packages. It rewards people's selfishness and turns its back on those who follow a higher social consciousness. The pressures in America are maybe more insidious: because the enemy is less visible than here it makes you feel more impotent."

Roman keeps coming back to freedom. "At least you can know what your government is doing. At least you can protest without being taken away."

"Generally, that is true. But in some things my friends and I are no longer even able to trust what we read in the press. The government has lied so much about the war and about the repression of the blacks. One reason I was so eager to come to Russia was that I did not know if our whole view of the Soviet Union was tainted by S. propaganda."

"Well?" he cocks his head. "Was it? You have seen some of Russia. You have seen Kalik and Chalidze and Yakir and Slepak. Will you remember what you have seen?"

"I am afraid I will remember nothing but my emotions."

We stand. He laughs and grasps my hand. "A friend in Israel has written that of the new arrivals there the Russians and Americans seem to understand each other best. Maybe it has to do with both countries being so large. Who knows why? But I feel he is right after tonight. I am very glad we have met. In another time and place we would be the closest friends. Let us hope in the future . . ."

"Well, we certainly have to see each other again—if only to continue our discussion. A lot of things were not resolved. Who knows? Maybe some day I can come to Israel to write a series."

"Perhaps in Israel. As for the unresolved things: I think sometimes only the scientific questions are ever resolved—and even these only temporarily. There is a line from Pasternak. You must remember it until we can meet again: " 'To live a life is not to cross a field.' "

## WE MUST NOT FORGET THE CHILDREN IN THE WILLOWBROOKS OF THIS COUNTRY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the whole country has been made aware of the horrible conditions which exist in some of the New York State schools for the mentally and physically retarded.

One cannot really appreciate what is involved unless one makes a personal visit to an institution which houses retardates. It is simply overwhelming to see the wards filled with children, most of whom will never lead a life outside of the institution. Even while in the institution, they are too often left to vegetate.

As the result of my own visits to two institutions, the Queens State School and Gouverneur State School; and after having participated in a rally at Willowbrook with parents and others interested in focusing public attention on the demeaning and sometimes barbaric conditions in institutions like Willowbrook, I have tried in a small way to deal with some immediate problems.

At this point I must confess frustration and a feeling of despair. I now have reference to two matters involving two children, one 9 years of age and one 11 years, who are institutionalized at Willowbrook as mental retardates, but who, in the judgment of two people who have seen them are in fact, not mental retardates. I have asked the Supreme Court of the Borough of Richmond, City of New York, to investigate the matter and I must report that in my judgment the response has been inadequate and calloused. I shall let the correspondence speak for itself and will include other correspondence had with others than the court, some of which remains unanswered.

I want to note at this point that some of the letters from the court carry the marking "highly confidential." I have advised the court that I only consider as confidential those matters which appear in the letters of the court relevant to the identity of the children and their parents, but will not consider myself bound by that marking insofar as commenting upon and indeed, criticizing, the statement of policy of the court as enunciated in the correspondence. The correspondence follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATVES,
*Washington, D.C., February 7, 1972.*

JOHN E. CONE,
*Administrative Judge, County Courthouse, Staten Island, N.Y.*

DEAR MR. JUSTICE: I should like to bring to your attention a matter which cries out for your intervention. It concerns Willowbrook State School which has been the subject of much attention recently in the news media.

My letter is not intended to assess blame for the horrible conditions in that institution. Rather, I am concerned about the lives of two young children (and perhaps of many others also who might be suffering the same fate) and about the provision of minimal services which are mandated by State law and the Federal constitution, but which are now denied to hundreds of mental retardates.

First let me address your attention to the two children. Their plight is described in an article which appeared in the Village Voice of February 3, 1972, authored by Joe Flaherty, a reporter who I know personally, and one whose judgment and accuracy of reporting I can vouch for. His tour of the institution was made with Malachy McCourt, a step-parent of a child in Willowbrook, and a person who I have met and for whom I have a high regard. The article is enclosed. It describes the two children who are apparently of normal intelligence but have been placed in Willowbrook. Their disability is apparently limited to a physical impairment of their bodies—not of their minds.

Surely, if 9 and 11 year old children are kept under these circumstances, their minds will ultimately succumb and they will indeed become retardates. I write to you because I believe it is not only within your power but indeed an obligation of your office to immediately assign a Justice of the Supreme Court to interview these two children and examine their medical records; and if they are indeed not retardates, to order their removal from Willowbrook for placement somewhere more suitable for their physical disability, a place where they will receive the education required by state law for all children under 18 years of age in this state whether disabled physically or mentally.

This situation reveals the urgent necessity to implement a continuing diagnostic review procedure in institutions such as Willowbrook.

My recollection from the days I practiced law is that Supreme Court Justices are regularly assigned to Kings County and Bellevue Hospitals to conduct sanity hearings for patients alleged to be mentally disturbed. I believe that a similar practice should apply to institutions like Willowbrook as well—indeed it is perhaps of even greater importance because we are often dealing here with children who are orphaned, if not physically at least spiritually. It is of the utmost importance that the courts protect those who are now wards of the state—especially when it is the state which appears to be guilty of assaulting and victimizing these very minors.

Therefore, I would suggest that the Court should conduct a regular schedule of diagnostic review hearings at Willowbrook. These hearings should be conducted with qualified medical personnel and, whenever possible, with the patients' parents or legal guardians. I believe that every patient should have such a diagnostic review hearing once a year at the very least and more frequently if possible. This is a very important matter for it is generally acknowledged that the condition of a retardate usually deteriorates after long periods of being institutionalized, and that many presently confined to places like Willowbrook could successfully rejoin normal community life if provided with basic supportive services.

On another matter relevant to the Willowbrook situation and in which I feel the Court has a role to play, State law requires that every child under the age of 18 receives an education and that includes retardates. That education is not being provided at Willowbrook. The Court could wait until lawsuits are brought but each day pending the institution of such laws suits is condemning those maintained as they are in Willowbrook, without adequate facilities for the care of the body and none for the mind, to a living hell on earth.

In totalitarian societies, like Nazi Germany, the courts cooperated in condemning the physically impaired and retarded to death. One way our democratic society distinguishes itself from the Nazi is by requiring that those who become wards of the state because of physical or mental disability, or both, should be protected and provided for by the State. The State of New York is failing in these responsibilities and the Court should intervene, on its own motion, to compel the State to do its duty.

I hope the two young children, x and y, will be immediately seen by a Justice of your court and that measures will be taken to have every patient in the institution seen by a Justice and their medical records reviewed to see which patients do not belong in Willowbrook; and to require by court order that every child receive an education commensurate with that child's ability to learn.

I would appreciate knowing what, if anything, will be done by your Honor in these matters.

Sincerely,

EDWARD I. KOCH.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 18, 1972.*
JOHN E. CONE,
*Administrative Judge, Supreme Court—Kings County, Supreme Court Building, Brooklyn, N.Y.*

DEAR MR. JUSTICE: Miss Ruth Altman of my New York office telephoned the last names of my two children referred to in my letter of February 7th to Mr. Kelly of your office.

I do hope you will keep me informed on the outcome of any investigation with respect to the care of these two children.

I would also appreciate your advising me as to what, if anything, will take place regarding my suggestion that regular inspections of the institution be made by a Justice designated for that purpose.

Sincerely,
EDWARD I. KOCH.

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SUPREME COURT OF THE
STATE OF NEW YORK,
*Brooklyn, N.Y., February 18, 1972.*
Hon. EDWARD I. KOCH,
*26 Federal Plaza,*
*New York, N.Y.*

DEAR CONGRESSMAN KOCH: Receipt of your letter dated February 7, 1972 is hereby acknowledged.

Your letter was received at this office on February 14 as it was addressed to the County Court House, Staten Island, New York. Your request for an investigation of certain Willowbrook commitments was further delayed due to a lack of necessary information, which your office subsequently furnished on February 16, 1972.

At my direction Judge John Garbarino, a justice of this Court, assigned to Special Term Part II, Richmond County, is investigating the commitments of X and Y, minors, and upon completion of said investigation he will report his findings to you.

Very truly yours,
JOHN E. CONE,
*Administrative Judge.*

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SUPREME COURT OF THE
STATE OF NEW YORK,
*Brooklyn, N.Y., February 18, 1972.*
Hon. EDWARD I. KOCH,
*26 Federal Plaza,*
*New York, N.Y.*

DEAR CONGRESSMAN KOCH: Receipt of your letter dated February 7, 1972 is hereby acknowledged.

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Very truly yours,
JOHN E. CONE,
*Administrative Judge.*

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SUPREME COURT OF THE
STATE OF NEW YORK,
*New York, N.Y., February 18, 1972.*
Hon. EDWARD I. KOCH,
*Room 3139,*
*26 Federal Plaza,*
*New York, N.Y.*

DEAR CONGRESSMAN KOCH: Your letter of February 7, 1972 to Justice John E. Cone, Administrative Judge of the Second Judicial District, has been referred to me for reply. Judge Cone was rather concerned about the contents of your letter and asked me to make inquiry into it at the earliest possible moment. I have attempted to do so.

My first concern was the mode of admission of both X and Y, the two retardates about whom you wrote, and to whom Flaherty referred in his Village Voice article. I called Dr. Hammond personally and requested he give me some information about both of these residents of Willowbrook.

About X, I ascertained the following: That he was born on December 13, 1962 and was admitted in 1963, when he was just about one-year old. The youngster has spina bifida, has an arrested hydrocephalus condition, he is spastic, he is incontinent both as to bladder and bowel movements, he is not ambulatory, and has a current I.Q. of 72, which is the highest rating given to this measurement he has ever had. At the time of his admission, his I.Q. was considerably lower and it has improved modestly on each succeeding measurement to its present status of 72. Parenthetically, the intake cut-off I.Q. at the present time is an I.Q. of 69.

Dr. Hammond, in reviewing the record with me over the telephone, indicated that he has exposure to a teacher every day in an educational program that is somewhat tailored to his capacity. The latest report in the record from the teacher indicates progress in adjustment to his over-all condition, rather than academic progress. I have further ascertained that his parents, Mr. & Mrs. X reside at Flushing, New York. There is a record of frequent visitation by the parents and an apparently good rapport between parents and child and the Institution. It is rather significant, in view of the points raised in your letter, that this youngster was admitted at one year of age on the voluntary application of his parents, as was young Y.

As to Y, the other resident at Willowbrook about whom you wrote, I have ascertained the following information: That he was born on June 26, 1960 and was admitted to Willowbrook on July 27, 1961. Again, a situation where he was approximately one year old. The physical condition of this resident was described as being very poor in general; that he had a herniation of his lower back; has congenital hydrocephalus, suffers from cerebral palsy, is spastic, is a paraplegic, is not ambulatory and incontinent as to urine. The records of Willowbrook indicate that on the last intelligence quotient measurement made in 1968 he was rated at 55, which is far below the cut-off intake figure currently employed at that institution today. He is in the same building as X and, as is the case with X, has daily exposure to an educational teacher. His parents are Mr. & Mrs. Y, New York, New York 10002. The record does not reveal, as in Michael's case, frequent visitation by the parents, but does yield the information that they frequently send gifts of toys, etc., which are received at the Institution and given to Y.

In response to my question, Dr. Hammond indicates that both boys are seriously handicapped and would present an abnormally difficult problem for home care. He knows of no institution, State or otherwise, to which they could be sent if desired by the parents. He knows of no interest by the parents in any change of institution.

The thrust of your letter to Judge Cone was that the Supreme Court should assign a justice to interview the children and, if found not to be retardates, to order their removal from Willowbrook to some more suitable institution, which would meet their physical and educational needs. Investigation by the Court here has confirmed Dr. Hammond's statement that there is no subsidized institution in any of the three levels of government which has such a facility, assuming there would be need for facilities other than those provided at Willowbrook.

It is the further concern of this Court that your suggestion for initiating judicial review of their commitment seems inconsistent with the Mental Hygiene Law and our powers thereunder. The Court has had, as recently as within the past two months, occasion in three separate matters to pass on proceedings brought before this Court relative to guidelines for parent-staff meetings, and for the alleged improper detainment of a resident in two separate proceedings. It seems that it would be an inconsistency for this Court to depart from its role of trier of proper causes, as it would certainly have to do if it were to reach out on its own initiative and bring before it individual cases as to which it has received information.

As a matter of fact, Section 88 of the Mental Hygiene Law creates, a Mental Health Information Service for each Judicial Department of the Supreme Court, which is charged with the study and review of admission and retention of all mental patients under the age of twenty-one years and, in proper cases, to prepare for the court the facts and arguments necessary for a just disposition of grievances arising from their care and stay at such institutions. Though not strictly encompassing of mental retardates, it may be that the Dept. of Mental Hygiene or Appellate Division may see a basis for including mental retardates in the scope of this service's function. It is also provided in Section 131 of the Mental Hygiene Law that the Dept. of Mental Hygiene itself has the duty of inquiring into problems brought to its attention of improper detention at any one of its facilities. There seems no statutory basis for the courts initiating on its own motion any course of court action that would redress an improper situation in mental retardation institutions.

Your reference to sanity hearings conducted at Kings County and Bellevue Hospitals for the mentally disturbed is statutorily based. There is no statutory basis for a similar practice with mental retardates. This may well be an area where the law should be extended, but as of the moment, it does not reach that far as to encompass retardates.

I had suggested to Justice Cone, and he agreed with me, that I would write you directly of my views of the contents of your letter. This is, of course, by no means to be deemed by you as a full answer, but points out some problems that would confront Justice Cone had any serious attempt at implementation of your proposed remedies been undertaken at this time. It is my judgment that cases must be presented to the Supreme Court by other than justices, and the Mental Hygiene Law so provides in the aforementioned sections.

Relative to your final comment that it would be desirable for not only *x* and *y* but every other resident at Willowbrook, to be seen by a justice there and records reviewed to see who belongs there and who does not, I would suggest that a Moreland Commission would probably be the most feasible mode of implementation of this purpose, and it is my opinion that the request for such Commission should be made by other than the Justices of this Judicial District. I know of no statutory basis for the Courts undertaking of this inquiry.

I trust that this letter, which I deem to be in the nature of an intermediate reply, proves constructive. Congressman Koch, I do not believe it necessary to remind you that the contents of this letter must be deemed to be highly confidential, and I request you regard it as such. You can rest assured of my cooperation with Justice Cone in anything you and he decide as a course of action in this matter.

Very truly yours,
JOHN A. GARBARINO.

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SUPREME COURT OF THE
STATE OF NEW YORK,
*New York, N.Y., February 25, 1972.*
Hon. EDWARD I. KOCH, M.C.
*26 Federal Plaza,*
*New York, N.Y.*

DEAR CONGRESSMAN KOCH: I am responding to your letter of February 22, 1972.

As I had indicated in my February 18th letter to you, Section 131 of the Mental Hygiene Law gives the Commissioner of Mental Hygiene the right to investigate charges of improper detainment of mental retardates, and to issue orders to remedy and abberations his investigation discloses.

It appears to me, therefore, that there is a remedy available to the parents in the event that they concur with you that these children are improperly detained at Willowbrook State School. The remedy that you suggest, namely, the Court's intervening on its own initiative has no statutory basis and would foreclose the performance of our judicial duties relative to litigation involving Willowbrook.

Therefore, I suggest again that the Commissioner of Mental Hygiene be requested to investigate the conditions of which you write relative to these two children. It would be my personal suggestion that the concurrence of the parents in each case be obtained before any action is taken.

I have continued my research of the law since our last correspondence and have discovered nothing to alter my initial conviction that it would be an impropriety for the Court either to investigate or direct the removal of these two youngsters on its own motion.

I trust that this letter will be of some further help to you in implementing your interest in this situation.

Very truly yours,

JOHN A. GARBARINO.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 22, 1972.*

Hon. JOHN A. GARBARINO,
*Justice, Supreme Court of the State of New York, St. George, Staten Island, N.Y.*

DEAR MR. JUSTICE: I have your letter of February 18 for which I am most appreciative. You indicated that your letter was an interim response so I await your final letter with anticipation.

My letter at this time is solely to comment on the two children. I have since spoken with Malachy McCort who has seen the two children on several occasions and who himself has a stepdaughter in Willowbrook and who is one of those who called the matter of the two children to my attention. He tells me that notwithstanding any medical records which may have been read to you to the contrary, those, two children are, in his judgment, not retardates. He is convinced that if you were to personally interview the two children that you would come to the same conclusion. As you can appreciate, I am not able to pass on the medical information but this is a matter of the greatest concern to me. I would not be at peace with myself if I did not exhaust every reasonable possibility to determine whether Dr. Hammond's diagnosis with respect to those two children is correct. If, in fact, they are not mental retardates, then surely the children must be removed from that environment and I believe that the court would have the power to direct that removal on its own motion.

I do want to thank you for the other suggestions which you have made with respect to dealing with the overall problem. I await your response.

Sincerely,

EDWARD I. KOCH.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 7, 1972.*

JOHN M. BRAISTED, Jr.,
*District Attorney,*
*County Courthouse,*
*Staten Island, N.Y.*

DEAR MR. BRAISTED: I know you are aware of the conditions in Willowbrook. I believe that the failure by the State of New York to provide adquate—indeed even minimal—services has reportedly resulted in every patient contracting hepatitis, and some patients dying of chemical pneumonia, all of which may constitute crimes against wards of the State by the State of New York itself, and those responsible for carrying out the actions of the State.

The *Village Voice* article (February 3, 1972) enclosed which describes the plight of two children who apparently are not retardates would indicate that they and perhaps others are being held unlawfully in a facility which is not intended for them and which could cause, if it has not already, irreparable damage to their minds.

I urge your immediate investigation of these matters.

Sincerely,

EDWARD I. KOCH.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C. February 29, 1972.*

JOHN E. CONE,
*Administrative Judge, Supreme Court—Kings County, Supreme Court Building, Brooklyn, N.Y.*

DEAR MR. JUSTICE: I have received a report from Judge Garbarino, relevant to the two children at Willowbrook about whom I wrote to you on February 7th.

Subsequently I wrote to the Judge asking that he personally interview the two children in question in so far as the Court's investigation was based on a telephone conversation with Dr. Hammond, Senior Director at Willowbrook.

Judge Garbarino's reply to my second letter, indicates he does not feel the type of interview I suggested would be appropriate. I strongly urge you to review the correspondence in this case, for I would hope you would over-rule Judge Garbarino's decision; particularly because of the fact that the IQ of one child is apparently above present admission standards, while that of the other was last measured in 1968.

Judge Garbarino marked both his letters to me, "highly confidential." While I certainly respect this confidentiality with regard to the material concerning the identity of the children and parents involved, I do not feel bound by a sense of confidentiality on that material relating to public policy, and I am acting accordingly.

I hope you will give this matter your earliest possible attention.

Sincerely,

EDWARD I. KOCH.

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OFFICE OF THE DISTRICT ATTORNEY,
RICHMOND COUNTY COURTHOUSE,
*St. George, Staten Island, N.Y., February 10, 1972.*

Hon. EDWARD I. KOCH,
*Member of Congress,*
*Longworth Office Building,*
*Washington, D.C.*

DEAR CONGRESSMAN: I have your letter of February 7, 1972, relative to Willowbrook State School.

I am aware of the conditions existing in that institution and at the present time my office is conducting an investigation into numerous deaths which have occurred there during the past several years.

The basic cause of the present conditions existing in that facility is the lack of funds to provide adequate manpower. In December of 1970, a freeze was placed upon the hiring of employees. As a result of the unfortunate cut in the New York State budget and particularly as it related to the New York State Department of Mental Hygiene, 687 employees lost their jobs. Adding to this number the 300 vacancies which already existed, there is a shortage of almost 1,000 employees.

Adding to this problem is the fact that it is difficult to find people who will seek employment in Willowbrook, especially in those wards where almost inhuman conditions exist.

I would sincerely hope that the Governor of the State of New York and the members of the State Legislature would see fit to appropriate those amounts which are required to provide the residents of Willowbrook with the care and attention which they deserve.

It further accurred to me that Willowbrook might present a situation where federal emergency funds would be available to assist in relieving these inhuman conditions. Please be assured of my full interest in this matter. What further action will be taken by this office will depend upon the results of our present investigation.

Sincerely,

JOHN M. BRAISTED, Jr.,
*District Attorney.*

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVE,
*Washington, D.C., February 16, 1972.*

EWALD B. NYQUIST,
*Commissioner, State Education Department, Education Building, Albany, N.Y.*

DEAR COMMISSIONER: We are writing to you about the New York institutions for mental defectives most of which have the title "State School" a term that can only be considered euphemistic considering the inadequate educational facilities provided in these institutions.

It is our understanding that state education law requires every child under the age of 18 to receive an education and that includes retardates. It is obvious that due to inadequate financing and insufficient staffing, retarded children at Willowbrook and probably other state institutions for the mentally defective are not being given an education commensurate with their ability to learn. The State of New York is, in effect, failing in its legally mandated responsibility, and clearly efforts must be made to rectify this situation.

Of course, Willowbrook is the most tragic and dramatic example of the State's failure to provide adequate and humane services for retardates. However, the tragedy is evident even in smaller institutions for retardates. On February 14th, we visited the Queens State School (37–10 114th Street, Corona) which presently has 50 resident retardates with 104 additional patients coming to the institution on a daily basis. Even here the educational services provided are minimal. Residents of that school range from the ages of 16 years old and up and are given adult education classes only one night per week. Furthermore those who come to the institution on a daily basis including many young children receive no formal education due to lack of staff and facilities.

This failure to provide an education to those retardates under 18, only compounds the tragedy implicit in their institutionalization. It is readily conceded even by Commissioner Alan D. Miller of the State Department of Mental Hygiene that a substantial percentage of those now institutionalized could be returned to community life if the State were providing the kind of services needed to assist their rehabilitation. Education is merely one of the rehabilitative services needed; it is one that is mandated by law, and the State's failure to supply an education to these children would not only appear to be a violation of law but a cruel omission which in effect continues the virtual imprisonment in institutions such as Willowbrook of retardates who could and should be returned to a more meaningful and productive way of life.

We urge you to take immediate steps to provide adequate educational facilities for all retarded children under 18 in the State institutions for the mentally retarded.

We should appreciate knowing, if you take the position that we do, that the Department of Education is mandated by law to provide the educational services for retardates and is failing in its obligation at the present time, what measures will be taken to correct this situation.

Sincerely,

EDWARD I. KOCH,
BENJAMIN A. ROSENTHAL.

No response received to date.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C. February 16, 1972.*

NELSON A. ROCKEFELLER,
*Governor of New York,*
*Executive Chambers,*
*Albany, N.Y.*

DEAR GOVERNOR: On Monday, February 14th we visited the Queens State School (37–10 114th Street, Corona) for the mentally retarded. Our visit showed us that despite the sensational publicity of late regarding the outrageous conditions at places such as Willowbrook and Letchworth Village, there are institutions where admirable work is being done in the field of mental retardation. At the same time, our visit revealed the tragedy of how much is being left undone as a result of the hiring freeze imposed by the State in December of 1970.

We all know how terribly understaffed Willowbrook is and how tragic the results there have been. But in one sense, it is even more disheartening to see an institution such as the Queens State School which is doing so much to return retardates to a more meaningful and productive way of life but which is used to only one forth of its capacity because of this restriction on hiring staff.

For example, we were told by Dr. Tesse, Director of the Queens State School and an extremely dedicated man, that although the institution could accommodate about 200 residents it presently only has 50 because of insufficient staff. Given the overcrowding at Willowbrook and the fact that there are apparently waiting lists for similar institutions, it is in our estimation unconscionable that a freeze on hiring has been imposed in this area of mental hygiene. In order both to improve services in institutions such as Willowbrook and to expand those services at institutions such as Queens State School, we urge you to lift immediately the freeze on hiring within the Department of Mental Hygiene.

We know you must agree with us that the State's failure to provide adequate and humane services for the mentally retarded is tantamount to imprisoning many of these patients to a life of grim institutionalization which in many cases is unnecessary. Commissioner Alan D. Miller of the State Department of Mental Hygiene himself said that given the proper rehabilitation services, as many as one fourth of the mentally retarded could return to community life.

We hope that you will lift the freeze in this area as soon as possible, and we look forward to your reply on this matter.

Sincerely,

EDWARD I. KOCH,
BENJAMIN A. ROSENTHAL.

No response received to date.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 16, 1972.*

ARYEH NEIER,
*American Civil Liberties Union,*
*New York, N.Y.*

DEAR ARYEH: I am enclosing copies of two letters which I have sent; one to Administrative Judge John E. Cone and the other, with Congressman Ben Rosenthal, to State Commissioner of Education Ewald Nyquist, which relate to services that I believe the State is required to furnish to retardates. As soon as I receive responses, I will send them on to you, and I hope those responses will indicate that a change in procedure will be effected.

However, independent of that possibility, I would urge you to consider a law suit to compel the State to provide education for retardates and to review the individual cases of those institutionalized on a regular basis. In the event you were to bring such a suit and, if you thought it would be helpful for me to be one of the complainants, I would be delighted to cooperate in that capacity.

Sincerely,

EDWARD I. KOCH.

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QUEENS STATE SCHOOL,
*Long Island, N.Y., February 17, 1972.*

Hon. EDWARD I. KOCH,
*Representative from 19th C.D., 14 Washington Place, New York, N.Y.*

DEAR SIR: I would like to thank you for the visit you paid to the Queens State School, and express the gratitude of my staff, and myself, for the interest and consideration you have given us.

I am sure that with friends like you, we have a good chance to implement our programs for the benefit of those who need our help.

Very truly yours,

BERNARD TESSE, M.D.,
*Director.*

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AMERICAN CIVIL LIBERTIES UNION,
*New York, N.Y., February 18, 1972.*

Hon. EDWARD I. KOCH,
*Congress of the United States, House of Representatives, Washington, D.C.*

DEAR ED: Thanks for your letter suggesting a possible law suit to compel the State to provide education for retardates.

I have forwarded the material you sent me to Bruce Ennis, an attorney on the staff of the NYCLU and an expert on the rights of the mentally impaired. I expect Bruce will respond to you directly.

Cordially,

ARYEH NEIER.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 24, 1972.*

Hon. NELSON A. ROCKEFELLER,
*Governor of New York, Executive Chambers, Albany, N.Y.*

DEAR GOVERNOR: Enclosed you will find a copy of a statement I am making tomorrow with regard to the problem that prevails in the area of mental retardation. I strongly urge you to appoint the Moreland-type Commission which I am recommending and also to support legislation to establish an independent agency that would be responsible for continuous diagnostic review of patients in facilities for the retarded.

I welcome your comments on this matter.

Sincerely,

EDWARD I. KOCH.

No response to date.

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STATEMENT BY CONGRESSMAN
EDWARD I. KOCH

Many of the children currently institutionalized at Willowbrook and similar institutions for the retarded should not be there in the first place. According to Dr. Elsie Helsel, Washington Representative for the United Cerebral Palsey Association, over one-third of those so institutionalized could be cared for outside the institutions.

Willowbrook and other State Schools for the retarded have become veritable dumping grounds in which our society has placed and then neglected, children who are handicapped from birth. But many children in institutions for the retarded are not, in fact, mentally retarded. Rather, they are physically impaired in one form or, more often, in a combination of several forms. These patients ought not to be in institutions administered by the Department of Mental Hygiene. Also, many children who may be retarded and who are presently at Willowbrook and similar places could and should be released from an institutionalized setting to lead a more normal life within their community, supported by proper community based facilities. State Mental Hygiene Commissioner Alan D. Miller estimates that as many as one-fourth of those now institutionalized could be released with such supportive services.

However, our society has chosen to avoid the problems of care posed by these handicapped children. Too often children have been simply labeled "retarded" and placed, out of sight so to speak, in a State School. Given the wretched overcrowding and understaffing of these institutions, this is tantamount to being imprisoned for life, without adequate education or recreation, without an opportunity to be rehabilitated, in short without hope.

It is tantamount to imprisonment because the State has failed to provide the needed resources to ensure, among other services, a continuing process of diagnostic review. Virtually everyone admits that prolonged institutionalization hinders rather than helps the rehabilitation of retardates. This point must be obvious to all of us now that the conditions at Willowbrook and some other institutions have been revealed. Yet, the State has failed to provide sufficient means for regularly monitoring and reevaluating the medical histories of patients. Such a monitoring system is essential in order to remove those patients who, in fact, are not mentally retarded to other more appropriate facilities, and to release those patients who are not so severely retarded that they require institutionalization.

Today, I am proposing a way to create an urgently needed system of continuing diagnostic review of patients presently institutionalized.

First: State legislation must be passed establishing an agency independent from the Department of Mental Hygiene with the sole responsibility of monitoring and reviewing the medical records of those who have been deemed retarded. This agency must see that those institutionalized actually receive rehabilitative treatment, and that, for example, retarded children under 18 be given an education commensurate with their ability to learn. This is presently not being done in violation of State law. The State of New York should adopt the law recently passed by the Ohio legislature, The Protective Service Public Guardianship Law, which established just such an independent review agency. The Department which provides the putative services for the retarded, The Mental Hygiene Department, currently has both the obligation to provide service and evaluate its own performance. Clearly, the latter function belongs to an independent agency, and I have contacted Assemblyman Antonio Olivieri (66th AD) about this, and he has indicated that he will introduce the necesary legislation.

Second: Until such an agency is established, the Courts must now intervene to protect the rights of those mental and/or physical incompetents who are wards of the State, but who are being denied their rights, such as the right to an education by the State. The need for this immediate action is illustrated by a shocking case brought to my attention. A recent newspaper report stated that during a trip to Willowbrook, the reporter and a step-parent of a child in the institution found two young children who showed no signs of mental retardation. The horror of such children being incarcerated at Willowbrook boggles the mind. I immediately wrote to the Supreme Court with jurisdiction in Richmond County urging an investigation of these two cases. A preliminary report has indicated that while both children have physical disabilities, the I.Q. of one is above the present admissions level. I believe that the Courts have the statutory authority to intervene on behalf of children such as these to secure their removal to facilities more suited to treat their ailments.

And, clearly, the Courts have the moral obligation to intervene so as to protect these wards of the State who are being deprived of any chance for rehabilitation under conditions as they prevail at Willowbrook. At this point, I have requested the Court to personally interview the two children, and am awaiting the response.

Third and last: A Moreland type investigatory Commission should be set up immediately to review the whole approach of treatment for retardates with the mandate to make the recommendations so obviously needed to restructure our entire method of dealing with the retarded. I have called upon the Governor to appoint such a Commission.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 28, 1972.*
LESLIE D. PARK,
*Executive Director, United Cerebral Palsy of New York City, Inc., New York, N.Y.*

DEAR LESLIE: I am writing to you about a matter which troubles me greatly.

Several weeks ago an article in a local newspaper reported the presence of two children at Willowbrook State School for the mentally retarded, who according to the reporter and a step-parent of a child at the institution, showed no signs of mental retardation.

The thought of children who are not retardates being institutionalized with those who are retardates is an appalling one. In an effort to have this particular situation investigated, I wrote to the Supreme Court having jurisdiction in Richmond County and received a report from the court (based solely on a telephone conversation with the senior director of Willowbrook) that described the childrens' numerous physical disorders. Unsatisfied with this "quasi" investigation, I asked the court to personally interview the children, but this they refused to do. Through the course of my research in this area, I have also been advised that as many as perhaps one third of the children currently institutionalized in State schools for the retarded could be cared for outside the institutions.

Be that as it may, my primary concern at the moment is for the two children referred to above, one of whom has an IQ above current admission levels according to the court and the second who last had an IQ test in 1968.

I would like to know if you can suggest what community based facilities, if any, might be available for treating these children outside of Willowbrook; and furthermore what can be done now to ascertain with greater authority whether or not these two children are indeed retarded. Surely, if they are not so retarded, they ought to be getting more appropriate treatment in a different type of facility.

I am enclosing a copy of my original letter to the Supreme Court on this subject, plus a recent statement on proposals I have made to improve conditions. I would be grateful for your earliest possible comments on this matter.

Sincerely,

EDWARD I. KOCH.

No response to date.

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## OLDER READER SERVICES ACT OF 1972

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I have today introduced, together with Mr. REID of New York, Mr. SCHEUER, and Mr. HANSEN of Idaho a bill which would amend the Library Services and Construction Act to provide public library services for older Americans.

Our bill, the Older Readers Services Act of 1972, would earmark approximately $50.6 million over the next 4 years in grants to States specifically for programs for the elderly, including: First, the training of librarians to work with the elderly; second, special library programs for the aged; third, purchasing special library materials for use by older persons; fourth, paying salaries for older persons who wish to work on library programs for the elderly; fifth, in-home visits by librarians and other library personnel to home-bound elderly; sixth, outreach programs to notify the aging of programs available; and seventh, transportation to enable the elderly to have access to library services.

An identical bill has been introduced in the other body by the distinguished junior Senator from Texas, Senator BENTSEN.

Mr. Speaker, the 1971 White House Conference on Aging made a specific recommendation on the bringing of library services to our older citizens. The legislation we have introduced today is a response to this recommendation. The White House Conference on Aging took note of the neglect of education programs for the elderly and then declared:

> Education is a basic right for all persons of all age groups. It is continuous and one of the ways of enabling older people to have a full and meaningful life.

Mr. Speaker, for the elderly men and women confined to nursing homes and confronted with a daily routine that may be lacking in emotional or intellectual stimulation, the delivery of books or other library materials can be a window to the outside world. For the elderly who have some mobility, special library programs can be an equally valuable experience.

Library programs, Mr. Speaker, such as the ones authorized by the bill introduced today can help overcome the intellectual and social isolation that for some is a major burden in their later years.

Surely we are beginning to recognize that the special characteristics of our aging population require legislation directed specifically at meeting their needs. In fact, President Nixon on June 25, 1971, in pointing out the unique characteristics of our aging population, said:

> The generation over 65 is a very special group which faces very special problems—it deserves very special attention. That is why we have been moving to insure that our older citizens get that special attention that they deserve.

Mr. Speaker, the Older Readers Services Act of 1972 would recognize one of the special problems to which the President alluded.

In conclusion, let me add that this measure, along with other bills aimed at meeting the needs of our older population, will be considered during hearings which the Select Education Subcommittee will conduct beginning Wednesday, March 1. During coming weeks we shall hear witnesses who will give us guidance on programs affecting one of the most neglected segments of our population—the Older Americans.

## THE POLITICS OF PUBLIC UNDERSTANDING

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, in a recent address to the 12th annual Nuclear Engineering Education Conference at Argonne, Ill., Dr. Brewster C. Denny discussed the problem of growing public distrust of science and technology.

Dr. Denny, dean of the Graduate School of Public Affairs at the University of Washington, admonished the scientists to help government, especially at the community level, meet the challenge of public misunderstanding and mistrust of scientific advances.

In his remarks, Dr. Denny argues that public acceptance of both science and government depend upon keeping both of them representative of and responsive to human needs.

Mr. Speaker, at a time when many Americans are becoming increasingly suspicious of—indeed, hostile to—the advances of modern science, it is essential that we in Congress do our part to heighten public understanding of the true nature of science. Dr. Denny's remarks are an excellent contribution to this effort, and I would like to insert them in the RECORD at this point:

### THE POLITICS OF PUBLIC UNDERSTANDING

(An address by Brewster C. Denny)

Thank you very much Dr. Marshall. It's a great privilege to address this group. When I left Seattle, some of my colleagues asked me, "Where are you going?" and I said.

"Oh, I'm going to talk to some Engineers again," and they said,

"Oh, you're going out with that 'Take a Social Scientist to lunch' bunch again."

I'm privileged to be here and I'm looking forward to the lunch.

This somehow or other reminds me of a story which comes from another field of affairs. Three of the greatest commanders of all time met in heaven, or wherever it was these gentlemen might have met, following the famous Israeli War and the tremendous success of Moshé Dayan. The first of these great commanders whose name was Hannibal, said,

"I certainly envy Moshé Dayan his great jets. If I could have had those jets, I could have taken Europe. An elephant is not really too good a technological means for winning wars."

The second great commander, Genghis Khan, said,

"Well, gentlemen, I don't bow at all on motive power. I think my cavalry was the best motive power ever used in warfare and I think that I would like to have used it in any part of the world, but I did envy Moshé Dayan his great fire power."

Finally, the third commander, whose name was Napoleon, said,

"Well, gentlemen, I actually don't envy Moshé Dayan anything that he had in that war, but I'll tell you one thing, if I could have had Cairo Radio, I could have persuaded the world that I won the battle of Waterloo."

And I guess in some ways, that's what we're talking about today.

In those now-long-gone days of innocence and simplicity, there was a saying: When dog bites man, there's no story, but when man bites dog, that's a headline.

And so it is today with technology and society, but with a twist. There is rapidly growing the myth that technology has bitten man, and now man is biting back.

I say it is a myth because the carpenter's saw does not bite the carpenter unless he misuses it. The plumber's wrench does not harm the plumber unless he uses it improperly. Technology does not harm his master, man, unless man directs him to do so.

### TECHNOLOGY IS TOOL

I take it I am here to attempt to explain to engineers and scientists and the nuclear industry in general how to persuade the public to build the world's largest nuclear power reactor under Welfare Island where it belongs. I suppose, too, I am also here to tell you why the public will no longer accept the engineer's word that a particular technological solution the engineer has proposed to meet the public's demand—and it is a demand—is not acceptable to the public. Why, when the public demands the power or highways won't they let us just give it to them at the lowest cost and with the most advanced technology and not ask so many questions?

We can begin, I suppose, by reminding one another, as I did at the outset, that technology is a tool at the service of man. This is true, and it is also true that misunderstanding of that fact is at the base of much of the contemporary malaise over technology. It would help if the general public understood this point, but I don't think that mere persuasion or public relations on this is the answer to the problem. The problem is more fundamental than that.

In the first place, I'm not really sure the public reaction is against technology itself. I think it is a reaction against a system of government which supports the technology which can put man on the moon but cannot seem to improve substantially the life of ordinary citizens. The reaction has turned against scientists, engineers, and intellectuals themselves—and we must remember that the new left and the old right are profoundly anti-intellectual—and often against the institutions of government which support them.

Part of the reaction is against what the public perceives as the coziness of a lushly supported science and technology. John Q. Public, who doesn't know the difference between a pi meson and plutonium, has an image of science something like the following: Scientists have been, some think, lushly paid and supported, and in the name of the independence and freedom of science and of national security, are not accountable to the public. Shoddy and second-class work, boondoggles, cost-overruns, and expensive world-wide jet travel have been supported by the public; and instead of inventing the things that man needs to solve his fundamental problems, science has invented weapons of destruction, modern and expensive gadgets which pollute the atmosphere and harm man himself. This careless caricature is widely held. The demagoguery which will make it more widely held is now beginning in earnest. And this is not all, for the anti-intellectual, antiscience attack has moved to the campus itself where most science and most intellectuals are to be found. And here the caricature continues. Draft dodging, effete, protesting, pot smoking, bearded, smelly people lushly financed by the public studying for degrees for which there is no need are inventing useless and dangerous things, but not important things which are needed, and plotting to overthrow the government to boot. Through this caricature runs an overriding thread—the public's feeling that "those people" are simply unaccountable to anyone, are doing their own thing without regard to the public that pays the bill.

I have described the problem in this caricaturing way to emphasize that the problem of this conference is not a problem of science or technology. It is not an engineering problem. It is not a public relations problem. It is first, last, and in between a political problem, and it should be analyzed as a problem of political analysis. It is also a particular kind of political problem—the problem of representation, and participation.

Political analysis on this subject is best done from the bottom up, instead of the top down. It is better to do so, at least, if we are concerned with the political health of a democratic society. We must then look first not at what big science, big engineering, big government, big education have done and defensively attempt to justify it, as indeed we can in large and important measure; but we must look at what the picture of big science, big government, big education, and big engineering looks like from the standpoint of the citizen. For it is there that the political process begins, and it is there that our problem begins.

We have come to the place we are with respect to the public understanding of science and technology and the public tolerance of scientists and engineers because of several profound, if sometimes subtle, changes in our society. I would like to center this discussion on one of these—a particular shifting of the ground as it relates to public understanding of modern technology.

In broad terms the shift I am talking about is from national to local.

Let me explain what I mean.

### BIG SCIENCE

Big science, as we have known it in the post World War II era, burst upon the world and upon the American citizen as national, as something really beyond politics, something above public understanding. For big science, as we came first to know it in the closing days of World War II, was national defense, was classified, was esoteric and beyond human comprehension. Big science was radar, the bomb, ICBM, and trips to the moon. Big science was wrapped, too, in the bipartisanship and sense of patriotism which characterized our conduct of war and, for some time, at least, into the post World War era, our conduct of the peace. Our most successful venture into big civilian science was space. But we started that venture at the nonpartisan, international, and really classified level. The very pleasure Americans took in going to the moon was something beyond where they lived, something which transported them from their daily lives, something they saw on the television as entertainment and as fulfillment. And above all, in big science there was mystery and magic.

The evolution in the public mind and image of peaceful uses of atomic energy is instructive. As the *public* viewed it, the federal government possessed on behalf of the people a secret—the secret of untold energy, of uncomprehensible power which could be used for good or evil. One pinch of the stuff could blow up the world. Another pinch of the stuff could warm homes and drive cars and light theatre marquees. Another pinch could cure cancer. The public's early conditioning about atomic energy was so shrouded in secrecy that many still believe that atomic energy itself was a secret to be discovered, protected, and stolen. The cost of overclassifying, oversexing, and "over-eliting" atomic energy over the last 25 years has been terribly high. We all understand how this came about, and that the fantastic wartime Manhattan project required for the safety of this nation and the free world that immense security measures be taken. But the continuation of this and its elitist black-magic "I-know-something-you-don't-know" spirit, and its application to wide ranges of civilian peaceful uses of atomic energy was terribly costly to the health of the American political system. Those who hid behind security and secrecy are understandably having trouble getting the public to understand them.

The early development of peaceful nuclear technology in the United States continued under the shroud of mystery. Slowly the curtain was pulled back. The evils of the bomb were revealed. The public knew what a bomb was. Most thought that a few of them could destroy civilization, and some irresponsible scientists parading their massive guilt complex for inventing the thing in the first place, persuaded the public that that was true. As the late Elmer Davis said, many people didn't know the difference between civilization and real estate. Now, I fear, the scientists is parading his guilt complex that he didn't *explain* science very well.

As the curtain was pulled back, and particularly during the discussion of nuclear testing, fears of radiation—a real and genuine problem—were fanned to a point that it was difficult to remind the general public that radiation was a source of health and a source of energy as well as an evil. Public awareness of reactor technology was whetted by early developments in nuclear propulsion which, as far as public understanding is concerned, tragically never went far beyond that for use by the military. The failure of what the public regarded as a promise of large-scale nuclear propulsion for civilian purposes, either in the air or on the sea, deprived the public of an understanding of nuclear propulsion and nuclear power which would have helped to overcome much of the mystery and fear. The very phrase "atomic submarine" in the broad public mind is an illustration of the problem. To many people this means that the submarine *itself* is an atomic bomb, not that it is simply propelled by nuclear energy and has the capacity of delivering weapons that are ultimately nuclear. *Savannah* could have done things for public understanding that *Nautilus* and *Polaris* could not.

### CENTRAL PROBLEM

But the central problem I'm trying to set forth here is that big science, once a part of big *federal* government, now is shifting to impinge upon the citizen, to serve the citizen, and to be controlled by the instruments of government which represent the citizen to a state and local government context involved in partisan politics, close to the people, close to where he lives, where his street is, and to his needs, interests, and fears, and also to his home, his castle. Gradually big science is not behind the gate at the military installation but is on his street, down the block, a competitor for land, for air, for space, for dollars. Local citizens' planning committees, planning boards, city councils, state legislators, nuclear siting councils, etc., are now responsible for making decisions on the many impacts of big science. Big science and big engineering, which serve the public well when financed by the *federal* government at a distance removed from the people, now is in the public's backyard. And the instruments of state and local government must now wrestle directly with its consequences. It is one thing to locate a dual purpose atomic reactor at Hanford, Washington, and to close it last Thursday, on a government installation where a payroll is desperately needed by a sagging economy. It is another to build a reactor on a beautiful island in Puget Sound to add to the power grid of the Pacific Northwest in order to increase the general kilowatts while bringing all of the problems of the nuclear reactor into one community after another.

And so big science has come into contact with the people directly, and most of all into contact with the phenomenon known as American state and local government. Modern technology and state and local government are as mismatched for this confrontation as Muhammad Ali and Tiny Tim.

The very confrontation of big science with state and local government includes some fantastic problems of image and credibility. Consider, for example, that it is the state and local taxpayers, who support the major public universities, who have borne the lion's share of the educational and research cost of the development of big science and big engineering in America. But they have simply borne that cost by the fact that the federal government looked to those universities as reservoirs of scientific knowledge and ability and then simply levied upon them, by the assignment of expensive federal grants, that didn't begin to pay their own way, the cost for the development of big science. Like federal grant and aid programs in general, local and state government have had little to say about ordering the priorities for which they are expended. Meanwhile at the state and local level, a profound shift in the demand of local citizens for services has taken place largely resulting from the great advances of technology, which bring both opportunities and problems. Thus, as technology and state and local government come closer and closer together, big science and big engineering, used to the *comparatively* efficient federal government, comes in contact with state and local government, institutions in the United States that for the most part have not entered the 20th century, and, in some cases, not even the 19th.

Let me make two simple assertions about contemporary state and local government:

1. State and local government in the United States is ineffective considering the problems it is called upon to solve and may be heading for disaster.

2. In terms of the *Constitutional* guarantee to the states of representative government, state and local government in the United States may well be approaching unconstitutionality.

### INEFFECTIVE GOVERNMENT

Surveying the labyrinth of archaic governmental mechanisms, one concludes that local and state government in this country must have been designed for the purpose of being ineffective. State and local government has, by that standard, by and large exceeded its design specifications unlike much of the product of science and engineering, in the 20th century. State and local government in America was designed to deal with a relatively small number of local problems with intervention limited sharply. Yet, in an important Constitutional sense, they were designed to be the most representative part of our government. The very federal system itself rests upon the states and upon a system of representation which depends ultimately on the justice of a republican form of government guaranteed to the states by the Constitution. For all of the 19th and some of the 20th century, state and local government met the public's desire that government be limited. Early reform efforts were aimed at corruption, particularly in law enforcement and public works contracting, not at expanding the scope, responsibility, or rationale or responsiveness of local and state government.

The massive interventions in the private sector which characterized America's response to economic fluctuations, depression, social injustice, poverty, unmet health needs of the poor and the old, and now, environmental pollution, were led by the federal government. They rest upon the power of the presidency, the strongest democratic executive ever created by man, on the representativeness of the Congress, the social conscience of the Supreme Court, and the federal government's early preemption of the best, fairest, and most lucrative tax—the graduated income tax.

Like the child of dominant parents who never let him learn to do or think for himself, state and local government has groped and coped, but rarely led. It also has a special problem. State and local government exercise the major authority over private land and the federal government over public land. But federal land is mostly open; private land is rapidly being occupied. Here again the mismatch of history occurs, for major new programs impinge on private property protected by the Constitution through the states.

Consider the contrast of power and role in the question of school segregation: The federal government has ordered, and the survival of this nation requires, the desegregation of all schools in the United States. Racial segregation in schools now exists almost solely because of segregation in housing, not of schools. But state and local governments are powerless in a political sense, and possibly constitutionally, to order housing and neighborhood patterns which would end segregation in the schools and in the nation. But the federal order to *do* something persists, and the federal power stands firm. So the local jurisdictions must rely on the technology of the bus to do it, and housing remains segregated. This is an illustration of the powerlessness of state and local government.

National recognition is growing that the representativeness of our government, the very credibility of government itself, and the sheer volume of federal programs require state and local government to assume from the federal government both the responsibility and the resources to meet urgent domestic problems close to the people.

President Nixon has advocated a bold and revolutionary program for returning the power and the resources to the people. This is a noble goal and national consideration of this may well focus direct and serious public attention on the adequacy of state and local government to perform these tasks. We will need to look at questions of efficiency and effectiveness of local government, the capacities of its bureaucracies to meet the new responsibilities. In this area federal legislation may be expected, as it has in the past, to insist on much improvement as the price for the transfer of programs and resources.

### REPRESENTATIVE

But there is an even more fundamental question. How representative is local government? Let's look at some features of the problem.

Let me illustrate the problem in terms of representation as seen by the citizen himself. In the place where I live I am represented at the federal government level by four persons for whom I vote—my congressman, my two senators, and the President of the United States. That is true also of all United States citizens except those who live in the capitol or in Puerto Rico. These men make all the federal government decisions in my behalf, establish the federal judiciary, as well as the legislative and executive branches of government. They are accountable to *me* for these decisions. I affect what they do by *my* vote, and *my* congressman and *my* senators answer my mail and answer my requests.

But compare the situation locally. Where four big people and one basic governmental organization represent me on all the great national issues, I elect 89 separate officials to perform the same function with respect to state and local government in my behalf. In my county alone, there are 795 elected officials. Although I am active in governmental affairs by virtue of my position, I am frank to say that I can only name a minor fraction of the 89 I personally vote for. The average citizen would be hard put to name 10 percent.

But it is worse than that. This host of elected officials who represent me in the process of local government are apparently not enough, nor can they, in fact, stand by themselves to make all of these public decisions concerning my life and my future. In addition to that, a substantial number of long and complex issues are put on the ballot every year, and in most cases even the most knowledgeable voter can't possibly tell from the ballot description which vote expresses his best interests.

All of these people and all of these issues must campaign and compete for public attention in the public education process, which a political campaign is in the democratic system. And they must raise funds to do this. And so on.

On ballot issues alone, there are terrible injustices in terms of representation. In many places in the Union it takes 60 percent of the public to validate a bond issue. Is this one man, one vote?

Recently in my community we voted on a major bond issue for the development of an urban mass transportation system. The proponents raised a substantial amount of money in order to educate the public on the problem. A ruling on the fairness doctrine by some local attorneys forced two TV stations in our city not only to give free time for the opponents whenever the proponents were given free time, understandably, but in addition to that they had to give free time to the opponents of the measure for every bit of time purchased by the proponents. This kind of problem in the public representative process is severe and difficult and needs urgent attention in our society.

The citizen is genuinely baffled by this maze and array of governments.

Let me tell a simple story illustrating this problem. One of the great House members, Leo O'Brien, of Albany, New York, who represented that district for some time in the House of Representatives, told me that one night he was at home, on a cold Saturday evening, much like the kind of weather we're experiencing here, and the telephone rang at about 8 o'clock when he had finally settled down to relax for a few minutes, in his place in Albany. A man came on the phone and said,

"Congressman, my name is Brown, I live over on Polk St., in that apartment on the corner of Polk and 2nd (I apologize if there really is a Polk and 2nd in Albany) and I wonder if you could help me a little bit."

Congressman O'Brien said, "Sure, that's what we're here for."

So the man said, "Well, as you know, it's a very cold night, sir, and I have no heat in my apartment and I wonder if you could do something to help me."

Mr. O'Brien said, "Well, this is a *little* out of my line but, in an effort to be of all possible assistance, as Congressmen always are, I'd like to suggest that you call the all-weekend watch down at the Building Inspector's office at City Hall. Why don't you call down there? Maybe you can get some help."

And the man replied, "Well, Congressman, I didn't think I'd go that high."

I think this illustrates the sense in which we do feel represented by the people we elect and whose name we know and whose telephone number we know.

There is further evidence of this problem in the desperate search for alternative devices of representation. Take, for example, the ombudsman, the great growth of newspaper columns and now radio and TV Mr. Fixits, environmentalists, etc. The public demands an ombudsman, a person who is somehow above the government, speaks for the citizens, can ask questions, get answers, and hold public officials' feet to the fire in the light of publicity. Closely related to this is the movement towards the development of community councils—groups close to the people in neighborhoods who can discuss specific issues and bring them to the attention of government officials. These developments are symptomatic of the disease. The people simply do not feel represented by the instruments of local and state government. And by and large, they are right. It is interesting that the ombudsman, in the Scandinavian countries from which it is derived, is a federal office, while in this country it is thought of as a local and state one. The reason is, of course, that the framers of the United States Constitution at Philadelphia and those who have made the Constitution live for the last 200 years in this country created the job of ombudsman at the federal level in the form of the senator and congressman. Unique among democratically elected parliamentarians, the U.S. congressman performs the role of ombudsman, intervenes on behalf of the individual citizen to unravel the complexities of federal government. Each citizen feels that he can demand that his congressman or senator do it and do it effectively. But at the local level the representation function has to some extent failed, thus the search for a new system of representation through the design of ombudsmen and community councils.

Where the congressman or senator or national association or representative group performs for the citizen the unraveling of federal red tape, at the local level the average citizen must become an expert at the mechanisms of government committees, interagency committees, intergovernmental relations, overlapping jurisdictions in order to pursue any matter which he is interested in. If he goes to a public hearing in which he thinks some issue is being settled finally, say for the building of a freeway next to his house, he is often surprised when the bulldozers come down his street three years later to find out that the hearing did not settle the matter, although he left the meeting under the *clear* impression that the decision had been made not to build the freeway. If he is concerned about roads and freeways, he also finds that a substantial number of public agencies run by nameless persons over whom he has no control whatsoever make the decisions. In my state, for example, the people who run the highway system at both the local and state level are simply not in any sense responsible to any elected public official. At the state level, the Highway Department is not responsible to any elected official. At the city level, recently the Corporation Counsel of the city of Seattle ruled that a city official, although appointed by the Mayor to head a city department, was not responsible to the Mayor, or, as far as I can see, to anyone else, for his policy decisions.

Citizens think that when they elect a mayor or a governor, they are responsible for carrying out the policies which their representatives develop. Such is rarely the case with respect to a substantial portion of state and local government.

### CITIZENS CONFUSED

It is small wonder that the citizen is confused and alienated from the process of government. It is small wonder, too, that he thinks that lobbyists and the special interests have undue influence over the making of local and state government decisions. They have such considerable influence largely because they are staffed to do the homework and know the ropes which the average citizen cannot be expected to do.

The Constitution of the United States guarantees to state and local governments in this country a republican form of government; that is, a representative form of government. It is my contention that the present dilution of representative government at the state and local level has made state and local government very nearly unconstitutional in the sense meant by the Constitutional guarantee of a representative form at the state and local level. It is simply not a representative system when you don't know who to hang, when you don't know what issues you are voting on, and when the system is designed so that it is impossible for all but the greatest experts to find out what is going on. By including so many people in, we've included *the people* out.

I have belabored this analysis in the presence of scientists and engineers concerned about the contemporary problems that technology faces in our society, because I think it is essential that all understand that technology has brought forth a political problem of immense proportions, a problem fraught with very great opportunity and very great danger. I sincerely believe that the highest priority steps for placing technology at the service of society lie in the direction of improving governmental processes, including such heretofore dull but now desperately urgent questions as the reform of state and local government and the fabric of intergovernmental relations in the United States. When the President says that it is his purpose to return government to the people, we can all applaud. But the kinds of responsibilities we are now talking about are simply beyond the capacity of state and local government to meet in a way that is as fully representative as the present federal government, unless we make significant changes.

What is needed is not more study about how to put technology at the service of society, but more work at improving the institutions of society itself through which technology flows, by which technology is controlled, and thus by which technology serves society.

This is a great opportunity for engineers to insist that the educational institutions and those who allocate resources to them turn a major portion of their resources to the training of persons in the art of government, towards research and the development of methods of transmitting the usefulness of that research on the processes of government itself, on the ways by which government programs impinge upon the people, on the methods, techniques, and mechanism of representation. This is not a call for fancy survey research and computer technology—although some of that will help—but a call for hardheaded analysis of the problems of the polity itself. Most of all, it is not a call for public relations on behalf of or in defense of technology and science, as intriguing as that possibility may be in the face of a very bad press.

### WHAT TO DO

Support of the Education for the Public Service Act, thoughtful and intelligent administration of the Intergovernmental Personnel Act, support of proposed federal legislation to require the states to have a state land policy and to know what they are doing about it, federal assumption of a national responsibility for welfare and for minimum educational standards, insistence that revenue sharing and all other federal grant and aid programs require a cleaning up of the labyrinth of state and local governmental mechanisms for decision making, and making them responsive and representative to people's interests—all of these are great contributions which the science and engineering fraternity can make to the ways in which technology can be at society's service.

Within universities there are some crucial needs which the present downturn of financial support almost guarantees will not be met unless emergency measures are taken. Most particularly there is a need for the development of the analytical capability on the kinds of issues and questions we have been talking about here; that is, the capacity to evaluate government programs, the capacity to set goals, analyze public purposes and translate them into programs. Perhaps most of all in universities is the need to be able to evaluate the success or failures of public programs themselves and to articulate this into the public sector so that the citizenry may understand. The development of social indicators so that we can measure the success of programs designed to cure man's personal lot are exemplary of the kind of thing which is needed; but universities are not able and often not willing to devote their resources to these subjects, and the present financial crisis on the campus will make it more difficult. Closely related to this is the need that the social scientist and the humanist who are going to be involved in these matters must learn something about technology and science itself. The scientific and engineering profession have done at least as badly in teaching us nonscience and engineering types about the substance of those issues as we have in teaching them politics and economics. By the way, the concept of trade-off came out of economics and not out of systems analysis.

Our students have been telling us all this—in their demand for relevance, in their demand that government listen to them on the war, in their demand for participation in the university system, and above all in the angry rhetoric of frustration and the talk of revolution.

The real revolution before man is the challenge that technology has brought to democratic government. We now are all convinced that technology is capable of great good and great evil, and that among those goods are the banishment of man's ancient enemies—disease, war, and poverty; and the evils include the extinction of man himself. The test and challenge is not to technology. The challenge is to the political and social systems which man has invented to control his destiny and to control technology. The American people have known, in the past, periods of great invention of social and political systems. They have also known periods of great adaptation of existing political and social systems to new challenges. Such a period is again upon us in a form we cannot quite yet know with an outcome we cannot foretell. What we do know is that it is a great test like the others—like the test of Philadelphia in 1787, the test of the Civil War, of the Great Depression, of totalitarian aggression, and the contemporary tests to the Constitution. Making a complex, democratic, federal system responsive to the people is both more difficult and more easy in the presence of modern technology. Tools a Jefferson and a Lincoln could have used to strengthen and ennoble the political system lie all about us, particularly a great educational system and a magnificent system of public communication. Public understanding of science and technology and public acceptance of the new gadgets, devices, and programs of science and engineering is not a public relations problem or an engineering problem or a systems analysis problem. It is the political problem of putting technology and government at the service of man, still, I believe, man's highest and noblest purpose.

I had meant to conclude by adding a couple of words about how Newman Hall referred to the public very often as "they" instead of "we." After reading my speech, I realized that I did the same thing. I can only say that I think we must remember some words that were said by a very great Illinoisan who lived not terribly far from here who said, on a quite different occasion, and I'll slightly abridge the remark, "The people are smart, smarter than the engineers think." He didn't say the "engineers" by the way. It was a slightly different context. It was a reference to a political party as a matter of fact.

Also Dr. Hall mentioned Aristotle on mechanics and I'd like to close with a quote from Aristotle on politics in which he said, "The highest responsibility is the education of the citizenry in the spirit of the policy."

Thank you very much.

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## DISUNITY IN THE FREE WORLD

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, the military balance between the Communist world and the free world has been shifting to our disadvantage at an alarming rate for the past few years. From the end of World War II until the middle 1960's, we maintained the type of military superiority capable of keeping the world out of a major war. We continued to uphold the basic principle of our country that strength was the way to preserve peace.

Now it is apparent, Mr. Speaker, that we are willing to settle for military parity, and, the possibility is all too great that we might find ourselves in an inferior position. The Chairman of the Joint Chiefs of Staff stated to the House Committee on Armed Services a few days ago:

> The relative military power of the United States in the world has already peaked and is now declining.

It is difficult for free countries dedicated to peaceful goals and to the service of their citizens to keep pace with the Communist totalitarian countries in military strength without facing opposition and difficulties from the citizens who are sick of war and want only peace and prosperity.

Not only is there a handicap for free countries to compete with totalitarian Communist regimes in military preparedness, but this handicap also exists in many other respects. They have launched a cold war against us and infiltrated many of the free world's institutions and we have not been able to react adequately.

Mr. Speaker, one of the causes of the weakness of the free world has been its disunity. In the past decades, the Western nations have allied under the pressure of the Communist threat, but there has also existed much national individualism and even egoism which have been effectively exploited by the Communists. One glaring example is the treaty between the Soviet Union and West Germany. The West German Socialist Liberal Government obviously believed that they could gain a better position in Moscow by launching out on their own to make a treaty that would give them some advantages that the rest of the free world would not enjoy. Perhaps this was partly motivated by the fear that the United States was no longer willing to honor its commitments or by some type of idealism that the Soviet Union now has the same goals as the free world.

Any hope of gain by the West Germans in this treaty seems to be pure illusion. If the West Germans take a close look at the treaties they have concluded with Moscow and Warsaw, they will find that they have made important moral and political concessions that are vital to the interest of the Western world. If the West Germans insist on "going it alone" with the Russians and the Poles, they will undoubtedly find themselves vulnerable to future Soviet extortions unless they are willing to give considerable economic, technological, and scientific aid to the Communist regimes, including the regime in East Germany, and to recognize the permanent existence of the various Communist states as well as the Communist regime in East Berlin and the Soviet Zone of Germany. The final result of the illusions involved in these treaties could well result in the reunification of Germany as Communist Germany.

It is my opinion that the socialist governments often do not realize that treaties with Communist regimes can be dangerous. They frequently yield to Communist demands because they cannot properly discern where socialism ends and communism begins. The difference between the expropriation of industries and property by the Socialist and Communist countries is not easily evident to those who are filled with the ideals of socialism. The partial loss of certain property rights in the state control involved in socialism and the total loss of all freedom under communism is often blurred by the propaganda coming from Communist sources.

In addition to the problem of the clear discernment of the aims and goals of the Communists on the part of some Socialists is the fact that many of the Socialist Parties are heavily infiltrated by dedicated and disciplined Communists. Some Socialists are helping the Communists unwittingly while others are using socialism as a road to full communism but in both cases they are sabotaging our efforts to preserve peace and freedom in the world.

If a free world nation finds that it needs treaties with the Communists it certainly should allow the non-Socialist members of their nation to negotiate them with a clear vision in order that their rights and freedoms are not wittingly or unwittingly negotiated away.

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## SALUTE TO THE BOY SCOUTS

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the month of February marks the 62d birthday of the Boy Scouts of America. Although our country has experienced tremendous social and technical advancements since 1910, the Boy Scouts has retained its relevance. Scouting offers the means by which a boy can experience his first hiking or camping trip into the country, learn to swim, become aware of his environment, receive leadership training, develop the ability to work with others toward a common goal, and become associated with men working in a specific field of interest, such as chemistry or printing, in preparation for a future career. But more importantly, the Boy Scouts of America provides the essential service of helping a boy evolve into a self-reliant man who possesses a love of God, family, and country.

I am confident that I speak for my fellow colleagues in Congress and, in fact, our country when I say that we are grateful to the Boy Scouts of America and the thousands of volunteers who make its program possible for the services which they have performed in the past and will continue to perform in the future. At this time I would like to include in the Congressional Record the following editorial, which appeared in the Hartford Courant, entitled "Scout Birthday Gift: An Updated Image":

> Scout Birthday Gift: An Updated Image
>
> The Boy Scouts of America are observing their 62nd birthday this month by looking for a new image.
>
> Scout leaders are worried that their programs no longer attract enough of the 4.5 million American boys they estimate could benefit from Scouting activities, so they have commissioned a study and are developing new programs in a search for that overworked idea of "relevance."
>
> Changes to date include drug education programs, more grass-roots democracy in the troop and new programs in the environmental movement, an obvious "natural" for the Scouts.
>
> The Boy Scout organization, like any group of its age, must remain flexible in order to respond to the changing times through which it lives. Many things have changed since the national Scouting organization was formed Feb. 8, 1910, and through the years many Scout programs have been added, dropped or modified to reflect those changes. The present movement is just another step in that process.
>
> Just because some things may need changing, though, it is neither fair nor correct to think of the Boy Scouts as out-of-date. It may be true, in fact, that in one sense of relevance the world may just now be catching up to the Scouts.
>
> Scouting has always brought boys close to nature. That is one of the original and lasting programs, and it has even more meaning and opportunity in the widespread awakening of concern over the environment.
>
> Relevance goes a lot deeper than that, though. Even a tenderfoot learns that getting along in the cold, dark woods is something he can learn to cope with and to enjoy. Some boys follow that program to its ultimate degree in which they can—and do—live in the woods for days, armed with little more than a knife, a few pieces of string and, most important, their own wits and knowledge.
>
> No one can come through that kind of experience, or even the preliminary steps, without overcoming fears, meeting challenges and finding out that yes, by golly, he can do it. It's a feeling that helps turn a boy into a man—often an exceptional man—and the scouts over the years have done a tremendous job of that.
>
> Life styles will continue to come and go, and the Scouts will probably continue to adapt to them. But the program's basic values are lasting ones that have endured for 62 years. We predict that they'll last for the next 62 years as well.

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## DRAFT INEQUITIES

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, an individual may prepare for a career in the U.S. merchant marine at the Academy at Kings Point, N.Y., or he may attend one of the State merchant marine academies and colleges located in several States throughout the Nation. There are many similarities in these programs. The cadets receive the same military training from active duty naval personnel, basically the same education, and have the same obligation upon graduation to accept a Navy commission or a third mate's license. But there is one basic difference: Cadets attending the U.S. Merchant Marine Academy are exempt from the draft, while cadets attending any one of the State maritime colleges are eligible for the draft.

In my remarks to the House on December 9, 1971, I noted that James E. Johnson, Assistant Secretary of the Navy for Manpower and Reserves, had stated that cadets in maritime colleges, "appear, from the viewpoint of the Navy, to be entitled to deferments in much the same manner as midshipmen at the U.S. Merchant Marine Academy." Secretary Johnson also noted the historical significance of the Navy's dependence on the merchant marine to exploit seapower in support of the national interest, especially in time of war. The Secretary said:

> The need for a viable merchant marine, manned by professionally trained officers has been amply demonstated, but perhaps we in the Navy realize better than anyone the vast amounts of cooperation and coordination which is essential to effective joint operations.

Despite the interests of the Department of the Navy and the U.S. merchant marine, the Selective Service feels that it cannot alter procedure without additional legislation. I introduced such legislation last Thursday, H.R. 13165, a bill to amend the draft laws to provide for the deferment of students appointed to maritime academies and colleges, and H.R. 13166, a bill to amend the Maritime Academy Act of 1958 to provide that students at State maritime academies and colleges may be appointed by the Secretary of the Navy as Reserve midshipmen in the U.S. Navy.

It is important that we act swiftly to correct this inconsistency and inequity. I urge my colleagues to join me in support of these bills.

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## THE PLIGHT OF THE OLDER AMERICAN

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, in a world which judges success on productivity, both individual and collective, our great Nation stands out as the leader with a gross national product of over $1 trillion. Yet, Mr. Speaker, nearly 5 million Americans over 65 years of age—our fellow citizens—who have worked most of their lives contributing toward this abundance we now enjoy, subsist miserably below what is considered the poverty level.

The plight of our 20 million older Americans must surely be a deeply personal subject for each and every one of us, as we are all aging and have witnessed at close hand the process as our parents have grown old before us. On that very personal level, imagine—if you will—your life being threatened due to inability to pay for adequate medical treatment or lack of access to medical facilities. Imagine your liberty being threatened due to lack of access to transportation services or employment due to age discrimination. Imagine your pursuit of happiness threatened because the Nation which you have served and contributed to all of your life cannot find the resources to provide what even it considers the minimal income level for subsistence.

Perhaps it is difficult, after all, to imagine these examples on too personal a level, but it is reality, not fantasy, for nearly 5 million of our countrymen and strikes very close to all 20 million of our senior citizens over 65 years of age.

Senator CHURCH, chairman of the Senate Special Committee on Aging, recently told the White House Conference on Aging that—

> Our Nation seems to be falling behind rather than advancing in terms of achieving genuine security and well being for older Americans.

He is right. And we are all right in recognizing this intolerable and inexcusable state of affairs. But we are all wrong for not acting on the remedies.

I have mentioned the world leadership and success of our country in the area of productivity and resources. But surely we wish also to be leaders in the field of human compassion and loyalty to our own citizens. Surely we can agree that providing genuine security and well-being for our senior citizens is a small price to pay for the lifetime they have given and are still giving to America. In concrete terms, what then are genuine security and well-being for an older American?

Perhaps it is having shelter which is clean, secure, constructed well, and with individual geriatric handicaps in mind; with rent and property tax payments which leaves something for other expenses. And yet, in the past decade only 350,000 units have been built for the elderly, which equals their net gain within the population each year. As a result, nearly 6 million elderly live in substandard housing.

Perhaps it is having easy access to transportation and at a reasonable cost in order to visit the doctor, dentist, go shopping, or just to see friends. Yet, to this day in America there is no transportation system in operation that is geared to the specific needs of the elderly. For many the system is a barrier rather than an aid.

Perhaps genuine security and well-being is the knowledge that when doctor or hospital visits are necessary, treatment will not be denied or made a degrading experience because of lack of financial means. How many older Americans have this well-being and genuine security when medicare covers less than 50 percent of the average yearly cost of health care for an individual and when that cost on the average is $800?

Perhaps it is going to a supermarket and being able to purchase food for balanced and nutritious meals at a reasonable price. And yet so many elderly have neither the means nor the knowhow, nor the physical ability to help themselves. Eight million older Americans have diets insufficient for good health.

Perhaps it is having a job. Yet only 17 percent of those over 65 are employed. And for those not employed it is crucial to solving the overall problems of the elderly to develop a real income strategy to provide security in retirement. However, as well we know, the present social security payments lag behind the cost-of-living increases, forcing more and more older people onto the welfare rolls. As an example, 50 percent of aged widows live in poverty. In this country median income is $10,000—but 25 percent of all aged couples live with less than $3,000 annually. Persons 45 and older are less than 4 percent of enrollees in work and training programs, but they are 21 percent of total U.S. unemployed. During the last 30 years, men in that age bracket declined in the labor force from 42 to 27 percent.

Genuine security and well-being are certainly all of the things that I have just mentioned, but they are also so many more things, tangible and intangible. The total environment in which the older American lives contributes to these goals. A way must be found to turn the despair of so many into hope and eventually into a modicum of happiness, which should be their due.

In reviewing these examples, the point has been made, I hope, that those factors which contribute toward genuine security and well-being are not aspirations to be applied only to the elderly, but to us all. However, the elderly must have the primary focus of our attention, for it is they who are least able to help themselves. The handicaps of old age, both physical and mental, put such persons at a terrible disadvantage and it is incumbent upon us, the Nation's legislators, to right the wrongs of inaction, which have allowed the state of the older American to worsen rather than to improve.

Considering this, Mr. Speaker, for my part I intend to support all constructive efforts to improve the life of elderly Americans. I endorse and strongly support the recently announced proposal to increase social security benefits, and I am committed to an improved medicare program and better housing programs for the elderly. And I intend to continue my efforts to strengthen and expand the Federal interest in the elderly as expressed in the Older Americans Act and through the Administration on Aging.

I am proud to have been associated with the legislative effort in the Committee on Education and Labor over the years to define and implement a meaningful Federal policy and program for older Americans. After many years, our efforts culminated in 1965 in the enactment of the Older Americans Act and the establishment of the Administration on Aging. In subsequent years, we have refined and expanded the original act. It is time to act once again, for at the end of the current fiscal year, programs authorized by the Older Americans Act will expire. I am today introducing a comprehensive measure to extend and expand programs authorized by this act and to add to the act a series of new programs and provisions which I believe to be necessary.

I have mentioned that the state of the older Americans has worsened rather than improved. This is certainly an apt description for the Administration on Aging. The Administration on Aging was intended by Congress to be a high level office of responsibility within the Federal structure. Unfortunately, this congressional intent has not been realized. Only 45 percent of what is authorized for programs administered by the agency will be available during the current fiscal year. The Administration on Aging which was to be the focal point in government for older persons, has had the foster grandparent program taken from its responsibility. As if this were not enough, it has also been deprived of another successful program—the retired senior volunteer program. The research function of the Administration on Aging has been transferred away and into the Social and Rehabilitation Service. We can therefore readily understand why there are some who say we are further away from a national commitment to the elderly than ever before. The bill which I am introducing today contains specific provisions designed to guarantee that the Administration on Aging becomes what the Congress has clearly intended—that is, an office of power and responsibility within the federal system.

Under the bill, the Secretary of Health, Education, and Welfare and the Commissioner on Aging will serve as ex officio members of a new presidentially appointed National Advisory Council on Aging. It is intended that the Council serve as an adviser and evaluator in the Federal effort to bring needed and meaningful services and programs to the elderly.

Mr. Speaker, in addition, the bill will provide for a 5-year extension of existing programs with increased authorizations for all titles of the act. Title V of the act, the training program, is completely rewritten in an effort to expand and strengthen Federal assistance in the areas of recruitment and training of personnel employed in or preparing for employment in the field of aging. In the area of research, I propose that there be established an independent Commission on Aging which shall be responsible for a 5-year plan designed to promote intensive coordinated research on the biological origins of aging.

One of the problems I have noted is that elderly Americans frequently do not have sufficient information on the programs and services available to them. An information gap exists and sometimes becomes a barrier to participation. I therefore propose the establishment at the Federal level of an Information and Resource Center for the Aging which will collect, organize, publish, and disseminate information on programs for the aging. I propose also that centers be established in each of the States so that information will be readily available, if necessary on a case by case basis, for elderly citizens.

The bill also proposes the establishment of special emphasis programs focusing on housing, transportation, and employment problems of the elderly. Funds would be authorized for programs and services which are of sufficient size and scope to have an appreciable impact in meeting these needs of older persons. Federal funds would be available to finance 90 percent of the costs.

Mr. Speaker, there are existing programs which can be utilized in furthering and fostering our efforts for the elderly. What must be done is to have these programs better focused on the elderly. I speak of library programs, community service, and continuing education programs, adult education, and programs in the arts. Accordingly, the bill which I am introducing amends the Library Services and Construction Act; the National Commissions on Libraries and Information Sciences Act; title I of the Higher Education Act; the Adult Education Act; and the National Foundation on the Arts and Humanities Act—in an effort to have programs carried on under these acts better relate to the documented and great needs of elderly Americans.

The Committee on Education and Labor—more specifically our Select Subcommittee on Education under Chairman JOHN BRADEMAS—will soon begin hearings on legislation to extend and amend the Older Americans Act. I am hopeful that the proposals, many of which I have discussed, contained in the bill I am introducing today will be helpful as the committee and the House works its will this year.

I wish to make it clear that I am not forever bound to any one of the proposals contained in the bill. I welcome suggestions for modification or change. It is my belief that we have an opportunity this year to take a giant step forward on behalf of the elderly and I ask my colleagues to join with me in this legislative effort which will, I am confident, result in tangible and significant benefits for the elderly.

## CHANGES IN ALLOWANCES FOR MEMBERS

(Mr. THOMPSON of New Jersey asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 457, adopted by the House of Representatives on July 21, 1971, provided the Committee on House Administration the authority to fix and adjust from time to time various allowances by order of the committee. Pursuant to this authority, the committee has revised Order No. 1 and issued Order No. 3.

Order No. 1, revised, increases the number of allowable district offices in Federal office buildings from two to three. Some Members, because of the physical size of their districts require additional offices to adequately serve their constituents. This order gives those Members the authority to establish an additional office in a Federal building if such space is available.

Order No. 1, revised, follows:

*Resolved,* That effective January 25, 1972, each Member of the House of Representatives shall be entitled to office space suitable for his use in the district he represents at such places designated by him in such district. The Sergeant at Arms shall secure office space satisfactory to the Member in post offices or Federal buildings at not more than three (3) locations if such space is available. Office space to which a Member is entitled under this resolution which is not secured by the Sergeant at Arms may be secured by the Member, and the Clerk shall approve for payment from the contingent fund of the House of Representatives vouchers covering bona fide statements of amounts due for office space not exceeding a total allowance to each Member of $200 per month; but if a Member certifies to the Committee on House Administration that he is unable to obtain suitable space in his district for $200 per month due to high rental rates or other factors, the Committee on House Administration, may as the committee considers appropriate, direct the Clerk to approve for payment from the contingent fund of the House of Representatives vouchers covering bona fide statements of amounts due for suitable office space not exceeding a total allowance to each Member of $350 per month. Members shall be entitled to have no more than three (3) district offices outfitted with office equipment, carpeting, and draperies at the expense of the General Service Administration.

As used in this resolution the term "Member" means any Member of the House of Representatives, the Resident Commissioner of Puerto Rico, and the Delegate of the District of Columbia.

Order No. 3 equalizes the number of clerks and the amount of clerk hire allowance to all Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia. The former method of allocating this allowance—based on the population of a Member's district—has become obsolete under the new redistricting plans being adopted throughout the United States. Under these plans, congressional districts will be of a more uniform size.

Order No. 3 follows:

*Resolved,* That effective March 1, 1972, until otherwise provided by order of the Committee on House Administration, each Member of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia shall be entitled to an annual clerk hire allowance of $157,092 for not to exceed 16 clerks. There shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to carry out this order until otherwise provided by law.

## A "CURE" FOR HEROIN ADDICTION?

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, the attached has come to my attention through the cooperation and courtesy of my able, distinguished colleague, CHARLES E. BENNETT. I believe it will be of interest to all who share my deep concern about the dread problem of heroin addiction, and I include this editorial in the RECORD, immediately following my remarks:

[From the Florida Times-Union, Jacksonville, Fla., Nov. 24, 1971]

### A "CURE" FOR HEROIN ADDICTION?

At first glance, the proposal of the House Select Committee on Crime, chaired by Miami Rep. Claude Pepper, calling for "an unprecedented $50 million emergency expenditure" to "enlist private drug firms and government research scientists in a joint effort to find a cure for heroin addiction" might seem a rather way-out approach—just another case of trying to solve problems by throwing dollars at them.

After all, opiate addiction has been with society for centuries, no "cure" has been found or even promised. The very nature of the addiction would seem to preclude the ordinary medical approach towards "curing."

Nevertheless, it must also be considered that never before in all of history has there been available, to apply to such an effort, the vast resources of technical expertise as are offered by the U.S. pharmaceutical industry today. The question is: Would a real "cure" still be impossible if this scientific colossus were really harnessed to the task?

To date, the most success at containing (not curing) the problem has been through methadone maintenance, in which a harmless narcotic habit is substituted for a very harmful one. It does not work with all addicts, but where it works it substitutes a habit costing a few cents a day for one costing perhaps $150 a day—and compelling a life of crime to support it.

However, although research effort to date has definitely been minor in scope, the pharmaceutical industry (plus very limited government research) has now reported findings which indicate that an effort to find a "cure" might not be as impractical as would be supposed.

This week an industry task force reported improvements on two narcotic "antagonists" (or antiopiates) which block addicts' cravings for heroin; plus a tranquilizer, said effective in aiding withdrawal; and a compound to make further heroin repulsive for weeks (much as a drug similar in principle works for alcoholics).

The "antagonists" and methadone are alike in that both block the effect of heroin in the body, without any mind-altering effects of their own. The difference is that methadone itself is addictive; the antagonists are not and can, after a readjustment period, be discontinued.

All in all, the status of a heroin "cure" to date lies not in the "accomplishment" but the "promise" category. The success stories reported usually are qualified; a Maryland program showed an "antagonist" worked—but the success was predicated upon the patients being parolees, over whom mandatory control could be exercised (which might suggest a thought for the future).

Nevertheless, the Pepper committee recommendation merits a full, considered examination by Congress. If $50 million would significantly lower the staggering—many billions each year—cost of crime caused by addiction, it would be a fortunate investment.

For it must be remembered that the real victims of drug addiction in America are not the drug addicts—but the innocent citizens who are the victims of the muggings and robbings and beatings and shootings which provide the "loot" to support the "habit."

## THE SAFE SCHOOLS ACT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, since I first introduced the Safe Schools Act—H.R. 3101—in February of 1971, considerable support has developed for it around the country. I know that many Members of the House and Senate have begun to receive letters from constituents and educators in their home districts and States urging them to support this proposal, which would provide Federal funds to school districts to assist them in improving the security of children, employees, and facilities.

Mr. Speaker, the General Education Subcommittee of the House Education and Labor Committee, chaired by our very capable colleague from Illinois (Mr. PUCINSKI), held hearings on the Safe Schools Act in New York City on September 17, 1971. Shortly before that hearing the Safe Schools Act was slightly revised and was reintroduced with the cosponsorship of the chairman and a number of members of the Education and Labor Committee.

In view of the fact that those hearings have not yet been printed, and in view of the growing interest in this legislation, I wish to insert in the RECORD at this point the text of my testimony before the General Education Subcommittee, a text of the revised version of the Safe Schools Act—H.R. 10641—and a list of the current cosponsors:

### LEGISLATION TO HELP LOCAL COMMUNITIES CURB CRIME IN THE SCHOOLS; THE SAFE SCHOOLS ACT OF 1971

(Remarks by JONATHAN B. BINGHAM, U.S. House of Representatives, September 17, 1971)

Mr. Chairman, I wish to thank you and the Members of your Subcommittee for coming to New York City once again, and for convening this hearing on the problem of crime in our schools and possible remedial action that might be taken at the Federal level. The House Committee on Education and Labor has always taken an active interest in the educational problems of the City, and I am grateful to you, Mr. Chairman, for this additional indication of your attention to the problems and needs of our community.

As you and the Members of this Subcommittee are clearly aware, Mr. Chairman, the problem of criminal behavior in the elementary and secondary schools of this city and many other cities throughout the nation has grown to such proportions that it threatens the very viability of our educational system. A recent publication of the National School Public Relations Association estimates that national losses from school vandalism, theft and arson run to $200 million a year. But such a figure does not begin to reflect the real damage that crime in the schools does to the educational process. An atmosphere of crime and fear in a given school can virtually paralyze the learning process.

This pattern of increasing crime in the schools is a nationwide phenomenon, though it is most striking in urban schools. I know that this was indicated by a survey this Subcommittee conducted on violence and disruption in the schools. In addition, a 1970 survey of 110 Urban School Districts by the Senate Subcommittee on Juvenile Delinquency showed an alarming increase in school crimes, and I ask that a table I have prepared on the basis of that Survey appear at this point in the Record.

INCREASE IN SOME CATEGORIES OF CRIME IN ELEMENTARY AND SECONDARY SCHOOLS FROM 1964 TO 1968

| Category | 1964 | 1968 | Percent increase |
|---|---|---|---|
| Homicides | 15 | 26 | 73 |
| Forcible rapes | 51 | 81 | 61 |
| Robberies | 396 | 1,508 | 306 |
| Aggravated assaults | 475 | 680 | 43 |
| Burglaries, larcenies | 7,604 | 14,102 | 86 |
| Weapons offenses | 419 | 1,089 | 136 |
| Narcotics | 73 | 854 | 1,069 |
| Drunkenness | 370 | 1,035 | 179 |
| Crimes by nonstudents | 142 | 3,894 | 2,600 |
| Vandalism incidents | 186,184 | 250,549 | 35 |
| Assaults on teachers | 25 | 1,801 | 7,100 |
| Assaults on students | 1,601 | 4,267 | 167 |
| Other | 4,796 | 8,824 | 84 |

Source: 1970 survey of 110 school districts, Senate Subcommittee on Juvenile Delinquency.

This chart shows that crime in most categories has at least doubled in recent years, and increases of more than a thousand percent have occurred in some categories—including narcotics offenses, crimes by nonstudents, and assaults on teachers.

What these figures do not show is that the heaviest burden of crime in the schools falls upon minority groups. Time and again, in my District, black and Puerto Rican students and parents have pleaded with me to take action to stop crime in the schools, so the educational process can take place. They have pointed out to me that outsiders, who don't belong in the schools, are responsible for most of the crime that occurs there.

The causes of the rising school crime trend are complex. In large part, they assuredly stem from serious ills and injustices that pervade our entire urban society, of which schools are just a part. Very likely, too, they stem from weaknesses in the structure of our educational institutions. Fundamental changes in society as a whole, and in our educational system, therefore, may alter the trend, and I support and am working for many such fundamental reforms, as are, I know, many of the Members of this subcommittee. In the meantime, however, it seems to me we can and must take interim measures to see that the current generation of students—students who may not benefit from the fundamental education and social reforms we hope for—are able to study free from harm and fear. I believe that we can, Mr. Chairman, provide greater personal security to our school children, and to school personnel, without interfering with the many fundamental reforms we need and hope to make, and without making repressive garrisons of the schools.

With that in mind, I introduced, in February of this year, H.R. 3101, the Safe Schools Act of 1971. Since that time I have revised the legislation and reintroduced it as H.R. 10641. I am gratified that you, Mr. Chairman, and Members of this Subcommittee, as well as the Chairman and Members of the full Committee, have seen fit to co-sponsor this proposal. H.R. 10641 is, I believe, the major specific legislative proposal under consideration in the House of Representatives in the matter of crime in the schools.

The Safe Schools Act would establish a new category of grants for school districts eligible for Title I funds under Title I of the Elementary and Secondary Education Act. These special crime funds would be available "to assist school districts to develop and carry out locally approved school security plans to reduce crime against (their school) children, employees, and facilities . . ."

As this Committee is undoubtedly aware, the Office of Education has consistently taken the position that funds under existing education assistance programs, however broad, are not to be used for security purposes.

In recent months, the Law Enforcement Assistance Administration, through its block grants to the states and through its discretionary grants, has begun to fill this gap in Federal grants by making funds available to combat school crime. For the most part, however, these funds are channelled through local police officials and other law enforcement agencies. In view of the obvious need for close cooperation between school and police officials for some purposes (there may well be a justification for law enforcement agencies to receive Federal funds for school crime control. The idea, however, of extensive involvement of law enforcement agencies in the schools is, I think, generally repugnant to Americans. It becomes, therefore, the responsibility of profesional educators, the community, and civilian agencies to expand their activities to control school crime. That, Mr. Chairman, is the purpose of the Safe Schools Act, and that, I believe, would be its effect.

Under this bill priority would be given to schools demonstrating the greatest need for this type of funding, those able to demonstrate full community support, and those making the greatest efforts to assure full protection of the civil rights of students and employees.

Two important restrictions should be noted. The Safe Schools Act clearly prohibits the use of any funds for "the introduction, presence, or use of firearms, other weapons, or chemical agents in any school."

Secondly, the Safe Schools Act will support programs for the control of criminal behavior, which is quite strictly defined as "any unlawful act or activity, *not* including any violation of any rule, regulation, or code of behavior established by any organization, agency, or institution not enacted into law."

The bill lists a number of activities that might be supported. There are five types of programs which I feel could most usefully be carried on under the Safe Schools Act:

(1) *Greater professionalization and expansion of school security forces.* It is time we recognize that the job of making schools safe is a delicate and demanding one. It requires special skills, techniques, and equipment which neither teachers nor school administrators, nor the average "cop on the beat," possess. Some school systems have hesitated to provide needed security equipment because their security forces are not adequately trained to use it properly. So one inadequacy leads to another. And our children and teachers are the losers.

(2) *Increased "adult presence" in the schools through the use of trained "parent patrols."* On the basis of an independent study for the National Association of Secondary School Principles, the Syracuse University Research Corporation strongly recommended increased use of paid, neighborhood-based security aides in the schools. Use of parent security aides has been tried successfully in schools in Cleveland, Berkeley, and elsewhere. Their effectiveness was found to be enhanced by their neutrality—that is, their lack of indentification with either school officials or the police. Here again, of course, special training is necessary, especially in the area of fundamental constitutional rights. Without such training, "parent patrols" could do more harm than good. But with proper training, it appears that they can make an important contribution. Funds under the legislation I am proposing could be used to set up such "parent patrol" programs, to train participants, and to pay their salaries.

(3) *Installation of basic surveillance and alarm systems as crime deterrents.* One special area where this type of equipment might be particularly helpful is with regard to school crimes involving firearms. As you will note on the chart, there has been a particularly alarming increase in crimes with firearms in the schools—they have increased 136% over the past four years. We have moved swiftly and decisively through the use of sophisticated surveillance devices to prevent airline passengers, for example, from harboring firearms which might be used in hi-jackings. Should we not move equally quickly to make use of these methods to stop firearms and other lethal weapons at the schoolhouse doors? I think we should.

Sophisticated alarm systems are also of value as deterrents. Schools that don't have them constitute extremely inviting crime targets, and resources should be made available to outfit all schools with at least basic equipment of this type.

(4) *Improved student identification and accounting methods.* One of the most astounding and disturbing facts about the increase in school crimes is the extent to which such crime is committed by outsiders—people who don't belong in the schools in the first place. Such crime by outsiders increased 2600% between 1964 and 1968 in the 110 school districts sampled by the Senate Juvenile Delinquency Subcommittee.

We can no longer permit school children and personnel to be easy prey for intruders who find schools convenient settings for crime. We must at least in every school be able to spot individuals who clearly don't belong—and spot them quickly. Several of the other measures I've mentioned under this legislation would help. In addition, more elaborate methods of student identification, attendance, scheduling, and accounting might be effective.

(5) *Improved school-community liaison.* Every school crime control program should include systematic efforts to inform citizens near each school of the problem, and should attempt to enlist their support. A number of communities have experimented with public participation programs under which citizens are alerted to report strangers in or near schools, to report any information they may obtain about illicit activities involving school children, and so forth. In some communities, parent canvassers have been sent out regularly to request, gather, and study such information in conjunction with school security officials. In the Bronx, students have organized both to curb crime within the school and to alert the community to the problem and enlist its help in stopping it. Such efforts should be encouraged, and this legislation would enable the schools to support, implement, and expand them.

In my judgment, the Safe Schools Act of 1971 is a constructive step toward better meeting our responsibilities to those who are suffering from crime in the schools. It would assure that this increased effort is undertaken without hysteria, with full attention to essential Constitutional safeguards, with the initiative in the hands of the people most affected, not as a substitute, but as a supplement for broader programs directed at the causes of crime.

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### H. R. 10641

A bill to amend the Elementary and Secondary Education Act of 1965 to assist school districts to carry out locally approved school security plans to reduce crime against children, employees, and facilities of their schools

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Safe Schools Act of 1971".

SEC. 2. Title I of the Elementary and Secondary Education Act of 1965 is amended by inserting after part C thereof the following new part:

"PART D—SPECIAL GRANTS FOR SAFE SCHOOLS

"PURPOSE

"SEC. 141. The purpose of this part is to provide financial assistance to aid local educational agencies throughout the Nation to meet special needs incident to providing security for children, employees, and facilities in elementary and secondary schools by reducing and preventing crimes against them.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 142. There is authorized to be appropriated to carry out this part, the sum of $——— for the fiscal year 1972, and $——— for the fiscal year 1973.

"ALLOTMENTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 143. (a) From the sums appropriated to carry out this part for a fiscal year, the Commissioner shall reserve not to exceed 3 per centum thereof and allot such amount among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for grants under this part. In addition he shall allot to the Secretary of the Interior from such amount, such sums as he may determine for elementary and secondary schools operated for Indian children by the Department of the Interior.

"(b) The remainder of the sums appropriated to carry out this part for a fiscal year shall be allotted by the Commissioner among other local educational agencies in a manner which gives consideration to the following criteria:

"(1) the need for assistance, taking into account such factors as—

"(A) the extent and impact upon elementary and secondary education of crime in the schools of the district to be served;

"(B) the financial need of such local educational agency;

"(C) the expense and difficulty of effectively carrying out a plan described in section 144(a) in such school district; and

"(D) the degree to which measurable deficiencies in the quality of public education afforded in such district exceed those of other school districts within the State;

"(2) the degree to which the plan described in section 144(a), and the program or project to be assisted, are likely to effect a decrease in crime in the schools;

"(3) the degree to which the plan described in section 144(a) enjoys the support and approval of parents, professional school employees, and the community at large in the school district affected; and

"(4) the degree to which the plan described in section 144(a) affords full protection of the civil and constitutional rights of students and employees of the school district affected.

"APPLICATION

"SEC. 144. (a) A local educational agency may receive a grant under this part for any fiscal year only upon application therefor approved by the Commission, with the consent of the appropriate State educational agency, upon his determination that the local educational agency has adopted and is implementing, or will, if assistance is made available to it under this part, adopt and implement, a plan to reduce crime and increase the safety and security of the students, employees, and facilities of its elementary and secondary schools through programs and projects designed to carry out the purpose of this part, including—

"(1) the provision of additional professional or other staff members (including staff members specially trained in problems incident to crime control) and the training and retraining of staff for schools which are affected by such plan;

"(2) the provision of services to meet the special needs of students and employees in such schools;

"(3) community activities, including public education and participation efforts, in support of such plan;

"(4) special administration activities, such as the rescheduling of students or employees;

"(5) provision of information to parents and other members of the general public incident to the development or to the implementation of such plan;

"(6) planning and evaluation activities;

"(7) acquisition, installation, modernization, or replacement of appropriate equipment and supplies;

"(8) minor alterations of school plants and facilities; and

"(9) other specially designed programs or projects that meet the purpose of this part.

"(b) No funds authorized for assistance under this part shall be used to support the introduction, presence, or use of firearms, other weapons, or chemical agents in any school."

SEC. 3. (a) Part D of title I of the Elementary and Secondary Education Act of 1965 is redesignated as part E, and sections 141 through 144 of such title are redesignated as sections 151 through 154, respectively, and sections 146 through 150 are redesignated as sections 155 through 159, respectively. Cross references to such part and such title are redesignated accordingly.

(b) The provisions of part E of title I of the Elementary and Secondary Education Act (as redesignated by subsection (a)) are amended as follows:

(1) The material preceding paragraph (1) in section 151(a) is amended by inserting "part A, B, or C of" before "this title".

(2) Section 151(a)(1) is amended by inserting "part A, B, or C of" before "this title" the first time it appears.

(3) Section 151(a)(2) is amended by inserting after "such agency" the following: ", in the case of assistance under part A, B, or C,".

(4) Section 151(a)(6) is amended by inserting after "the programs" the following: "assisted under part A, B, or C".

(5) Section 152(a)(1) is amended by inserting before "and which meet" the following: "or 144", by inserting after "103(a)(5)" the following: "and of part D", and by inserting before the semicolon at the end thereof the following: "or part DD".

(6) Section 153(a)(2) is amended by inserting "part A, B, and C of" before "this title", and by adding at the end thereof the following new sentence: "From the funds paid to it pursuant to paragraph (1), each State educational agency shall distribute to each local educational agency of the State which has submitted an application approved under section 144 the amount for which such application has been approved, except that this amount shall not exceed the agency's allotment under section 143."

(7) The first sentence of section 154 is amended by inserting "parts A, B, and C of" before "this title".

(8) The third, fifth, and sixth sentences of section 154 are amended by striking out "this title" and inserting "such parts".

SEC. 4. Section 303 of the Act of September 30, 1950 (20 U.S.C. 244), is amended by adding at the end thereof the following:

"(16) The term 'crime' means any unlawful act or activity, not including any violation of any rule, regulation, or code of behavior established by any organization, agency, or institution not enacted into law."

House cosponsors of the Safe Schools Act—H.R. 10641 and identical bills—Mr. BINGHAM, of New York, Mr. BADILLO, of New York, Mrs. HICKS of Massachusetts, Mr. PERKINS, of Kentucky, Mr. PUCINSKI, of Illinois, Mr. SCHEUER, of New York, Mrs. CHISHOLM, of New York, and Mr. BURTON, of California.

Finally, Mr. Speaker, the current—February 1972—issue of Today's Education, the journal of the National Education Association, contains a most thorough and informative review of the problem of crime and violence in the schools. It makes mention of the Safe Schools Act, and I think many Members and readers of the RECORD will find it a most useful article. This item, entitled "Assaults on Teachers," follows:

### ASSAULTS ON TEACHERS

Last year in Madison, Wisconsin, a parent who had accused a teacher of slapping her five-year-old son beat the teacher unconscious in front of her kindergarten class.

A group of about 25 youths attacked 30 striking schoolteachers in Newark, New Jersey, in early 1971. The young people were armed with clubs, lengths of pipes, and a fire extinguisher. Six teachers required hospital treatment.

As he was trying to restore order between fighting black and white students in the cafeteria at Nottingham High School in Syracuse, New York, Vice Principal Joe D. Woods was cracked over the head with a chair. His wound required four stitches.

In testimony given a year ago before the California State School of Education, James J. Hamrock, supervisor of guidance for the San Francisco schools, reported: "We get numerous reports on assaults. It's astounding to see what happens even in the elementary grades—teachers being hit and called filthy names, assaulted by little kids who really can't hurt them much. But the thing is, what are you going to do about these kids so they change their way of thinking about things, their attitude and behavior?"

Violence in the schools is increasing and so are assaults on teachers by students, parents, and intruders in the schools. All the studies indicate that city schools have the lion's share of the shootings, beatings, and rapes that occur in elementary and secondary schools.

A study of 110 large urban school districts released early in 1970 by the Senate Subcommittee To Investigate Juvenile Delinquency shows pupil assaults on teachers rose from 253 in 1964 to 1,801 in 1968—an increase of 612 percent. (The same study showed the following increases in other school crimes: robberies, up 281 percent; narcotics offenses, up 1,070 percent; and drunkenness, up 180 percent.)

As part of an investigation of disruption in urban high schools, the Policy Institute of the Syracuse University Research Corporation sent a questionnaire in June 1970 to 2,000 secondary schools all over the country, the vast majority of which were located in the central city. Published by the National Association of Secondary School Principals (an NEA national associate), the Institute's report, *Disruption in Urban Public Secondary Schools*, indicates that 29 percent of the almost 700 systems that responded had had incidents of student-teacher physical confrontations in the past three years.

And an *Education U.S.A.* survey of 44 urban, suburban, and rural school districts in mid-1970 found that of those reporting increases in violence against students and staff members, the rates ranged from 5 to over 100 percent. However, many districts were unable to give comparisons because they have just started to keep accurate records of violent incidents.

Since many school systems have not and still do not keep detailed records of violent incidents in the schools, including assaults on teachers, and many educators do not report such occurrences, figures on the number of assaults may be too low. For example, a New York City "Statistical Report on School Incidents" states that the number of assaults on staff members for 1968 is 180; for 1969, 231; 1970, 287; and January to June 1971, 245. (The teacher strike that closed the schools for 20 percent of the school year affected the 1968 figure; and confusion about reporting procedures when decentralization went into effect affected the 1970 figure.) The Report estimates that the rate of unreported incidents may be as high as 60 percent or as low as 30 and cites school gossip about violent acts as support for those estimates.

Why aren't incidents reported? In a statement prepared for the Senate Subcommittee on Juvenile Delinquency, the late Senator Thomas Dodd said: ". . . it is in the interest of the system that whatever untoward violence occurs be hushed up. It reflects on the school system itself."

George Patterson, special assistant to the deputy chancellor of the New York City schools, with responsibility for school security, comments: "The teachers union would say that principals are trying to play such incidents down to protect their reputations and that of their schools. However, I think that's an oversimplification. Sometimes a principal might not report an incident because he considers it trivial—for example, a kindergartner kicks his teacher in the shins. Or a principal may not report an incident because the teacher, child, and parent have settled the issue privately and prefer to drop the matter."

Whatever the reasons for not reporting incidents, many authorities agree that accurate record keeping and prosecution of serious offenders are vital to combating the problem of violence in schools, including assaults on teachers. Senator Dodd in his testimony noted: "The fact that these events are treated so gingerly is not lost on the student body, which feels considerable encouragement from this failure to report violent incidents."

Edward D. Brady, director of personnel security for the Chicago public schools, believes that accurate reporting is a key to reducing the assault problem. The city has been keeping figures on assaults for a number of years, but recent data are more reliable because of improved reporting procedures.

Chief Brady, who is also president of the International Association of School Security Directors, has had his department analyze the data which the Chicago public schools have collected on assaults over the past 10 years. He reports that the typical assault on a teacher occurs when the teacher disciplines a pupil or breaks up a fight. Usually the assailant is a boy in grades 7 to 10 who is a student of the teacher's. Few outsiders and parents have assaulted teachers in Chicago.

Chief Brady says the greatest number of incidents occur (a) in schools in integrated neighborhoods; (b) between 11:30 a.m. and 3:30 p.m.; (c) on Fridays; (d) in March, April, and May. During those months, he notes "children may be getting restless in school."

Because Chicago has these data, the system is able to station members of its security force in trouble spots at critical times. As a result, claims Chief Brady, from 1969–70 to 1970–71, all assaults on the system's 40,000 employees decreased 7 percent and serious assaults decreased 47 percent.

What have been the reactions throughout the country to the increased violence in the schools—especially assaults on teachers?

Jim A. Roady, president of the Association of Classroom Teachers of NEA, notes that some teachers—especially in large urban areas—are as concerned about their own safety as they are about the teaching-learning process. He says that at the last ACT Representative Assembly, the delegates passed the following resolution [52–71] that expresses an awareness of danger to teachers and students and urges that they be protected:

ACT is concerned that school disorders threaten the health, safety, and well-being of both students and teachers in many schools. It maintains that no teacher should be required or expected to teach or students be expected to learn in an atmosphere of threats and disorder.

ACT believes that a teacher must be free to use reasonable force to protect himself from attack and to protect other teachers and students from harm.

ACT calls upon local associations (a) to help identify the underlying sources of student hostility; (b) to help set up procedures designed to give a fair hearing to student grievances; and (c) to work with school personnel and communities to ensure a safe environment within the public schools. ACT commends those associations that have already taken such steps.

Teacher organizations in some parts of the country are having security clauses written into their negotiated contracts. The Education Association of Alexandria, Virginia, has a clause in its contract which provides that a student excluded by the teacher "will not be returned to class until both the teacher and the principal agree that the issue or action involved in the exclusion of the student has been given disciplinary attention."

The contract of the Erie (Pennsylvania) Education Association states that the school board must provide insurance coverage for a teacher who suffers physical disability as a result of malicious assault by a student or nonstudent while on school premises or on school business. The contract also states that a teacher's absence because of such an assault will not be charged against his sick leave and that the board will continue paying his salary and benefits for up to two years from the date of the injury (providing he turns over to the board certain insurance benefits he receives as a result of the assault).

Teachers associations are reacting politically to assaults on their members, too. After the beating of the kindergarten teacher in Madison, Madison Teachers, Inc., arranged to have an ordinance dealing with student disruption, destruction, and teacher assaults introduced before the city council.

The ordinance limits the types of personnel who may enter a school building without registering at the office and provides fines and/or jail sentences for violators. Association officials appeared before the council in behalf of the measure, and it was subseqently passed.

After an assault on a teacher, students, teachers, and parents become anxious. The *New York Post* reported that ever since a teen-ager raped a Bronx elementary teacher in her classroom, teachers in a Harlem elementary school "group together and dash out of the building" when the school day is over. And the *New York Times* quoted the president of the parents association at the school where the rape took place as saying, "All of our parents are concerned. If it could happen to a teacher, which is horrible enough, it could happen to a child." The president asked that a security guard be stationed at the school.

The request is not untypical. Many educators and parents demand that school systems beef up security forces after a violent incident occurs. For example, the New York City system added more guards to its security force after the rape incident. [See page 18 of the October 1970 issue of Today's Education for a discussion of the topic, "Police in the Schools."]

On the national level, Congressman Jonathan B. Bingham of New York City introduced The Safe Schools Act of 1971, a bill which would provide federal funds to local school districts to combat rapidly rising costs and incidents of crime in elementary and secondary schools. A spokesman for Mr. Bingham states that the bill has a number of sponsors with diverse political opinions—from Louise D. Hicks of Boston to Shirley Chisholm of New York City. He also says that House Education and Labor Committee Chairman Carl D. Perkins of Kentucky supports it.

The causes for the increase in assaults on teachers are similar to those for other crimes in the schools. The Syracuse University study lists 10 societal and six in-school causes of disruptions.

Number one in the societal causes is the climate of violence in the United States. Students live in times when "every day, physical confrontations between and among humans in America are in the news."

The study also points to student response to the civil rights and college protests as a cause of violence in the secondary schools. Students realize that the civil rights protests of the 1960's were against "laws and practices which were on the books." The protests were awarded legitimacy by many leaders. Few students missed the point, and many of them now believe they have the "right" to change rules they consider "wrong" and by almost any means. In the case of the college protests, these have had a "ripple" effect on secondary students who feel some kinship to their older counterparts.

Among other societal causes of violence in the secondary schools listed in the Syracuse study are the new permissiveness and racism—black and white.

In discussing the six in-school causes, the study points to inadequate facilities in city schools which result in overcrowding, noise, and fatigue—factors that provide a "ripe climate for disruption." It also cities disputes arising between students and educators over restrictions on dress, smoking, student newspapers, and so on; disputes which occur when large numbers of young people and adults from different neighborhoods and different racial and ethnic strains mix; and the increasing politicalization of schools. On the last point, the study notes that students who have been politicized by the media, by local community leaders, and by the "more political teachers at the school" become deeply dissatisfied with conditions in American life and may create scenes at school simply because that is where they are.

What are some recommendations to deal specifically with the problem of assaults on teachers? (Some of these, of course, may help to prevent other types of violence in the schools.)

ACT President Roady believes that in the long run the best way to cease the problem of violence in the schools would be to make school a place where everyone—administrators, teachers, students—is treated like a human being. To humanize the schools, he says, "We need to overhaul our educational system—beginning with teacher training. I had no preparation in college on how to be a human being. That was back in the days when the teacher was supposed to sit up on a pedestal, the kids were supposed to sit down below somewhere, and neither party was supposed to bridge the gap."

Mr. Roady notes, however, that some teacher-training institutions now offer workshops on human relations and sensitivity training and provide their students with more exposure to kids all through the college years instead of just dropping them in a classroom for a semester in senior year.

Marion M. Landgraf, a consultant for school nurses to the American Association for Health, Physical Education, and Recreation (an NEA national affiliate), agrees with Mr. Roady on the importance of exposing prospective teachers to children in a classroom all through their college years and of training them to be aware of the kinds of behavior and activity that bring out violence in youngsters. Perhaps, she suggests, college students could take a course in child physchology and at the same time visit classes for the emotionally disturbed where they might witness a youngster's acting-out behavior and see how an experienced teacher handles it. If the college students participate as well as observe in elementary and secondary classrooms, their education becomes more meaningful.

To deal with the aggressive, acting-out child in the school, Mrs. Landgraf recommends that schools set up special rooms where the hostile child may go for help. Here the youngster should be able to talk about his problems with someone who is nonjudgmental and nonthreatening, perhaps the school nurse or counselor. She recommends a team approach: classroom teacher; parents; counselor, school nurse, and other specialists all working together to discover the cause of the child's aggressive behavior.

Mrs. Landgraf emphasizes that "schools must not be punitive; they must be therapeutic."

William Ellena, executive director of the American Association of School Administrators (an NEA national associate), also advocates a team approach. He recommends that all the professionals in a school work on a collegial basis, bringing together whatever expertise or competence is needed to deal with a particular child. "Differentiated staffing if a probe in that direction," he says.

In dealing with the emotionally disturbed youngster, Dr. Ellena notes schools may need access to a host of specialists, including psychologists and psychiatrists. "School people know how to do much better than they can afford to do at the present time," he says.

Chief Brady of the Chicago system recommends that school districts—

Set up a Department of Security many systems already have a Department of Plant Security).

Establish special classes at the elementary level and special schools at the secondary level for children who may become or already are problem pupils. (The Early Remedial Approach classes in elementary schools in Chicago are for children who are deficient in math and reading skills—many of whom might become serious discipline problems. The Social Adjustment Schools in the city are for older youngsters who have difficulty adjusting to life in a typical high school.)

Distribute identification cards to high schoolers. (Since September 1969 every high school pupil in Chicago has had such a card, containing a color picture of himself and his daily schedule. The cards are color-coded to indicate each student's lunch period.) Chief Brady says that these cards help school security officers pinpoint intruders in a building.

Keep accurate records of all violent and destructive incidents that occur on school property.

Maintain a force of security officers who "like young people and are able to know them as friends."

Develop an alarm system so that those involved in violent incidents may receive prompt assistance from school or city security forces.

Involve students, parents, staff, and the community in decision-making processes.

Dr. Patterson of the New York City school system believes school violence will continue until our nation eliminiates its root causes—poverty, ignorance, discrimination. However, he says that schools must work on short-range solution of the problem—establishing a security patrol composed of individuals who are sensitive to young people and setting up special schools for extremely aggressive children. Dr. Patterson also recommends that teachers and administrators receive training in self-defense and security so that they will be able to deal intelligently with emergencies and hostile pupils.

At least one course in this area has already been presented. In 1969–70, Millard Fillmore College of the State University of New York in Buffalo offered a controversial, no-credit workshop, Methods and Techniques of Working with Children in Conflict. Taught by Herbert L. Foster, associate professor of education, the course met for 12 weeks—six weeks of lecture and discussion and six of gym instruction in physical intervention techniques. The purpose of the workshop was to instruct participants in how to help youngsters control aggressive and out-of-control behavior and how to become sensitive to a child's early warning signals if impending over aggressive behavior.

Participants practiced breaking up fights; falling without hurting themselves; and disarming a child attacking with a knife, scissors, or lead pipe. Throughout the sessions, participants were cautioned not to overuse force to contain a violent child.

The increase in assaults on teachers in the past few years is a symptom of the times: an era of increasing violence in America.

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## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. MICHEL, for 60 minutes, on March 1; to revise and extend his remarks and to include extraneous matter.

(The following Members (at the request of Mr. BAKER) and to revise and extend their remarks and include extraneous matter:)

Mr. DERWINSKI, for 30 minutes, today.

Mr. CONTE, for 15 minutes, today.

Mr. KEITH, for 5 minutes, today.

Mr. FINDLEY, for 10 minutes, today.

Mr. WHALEN, for 15 minutes, today.

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. VEYSEY, for 5 minutes, today.

Mr. SHOUP, for 10 minutes, today.

Mr. Crane, for 60 minutes, today.

Mr. McCollister, for 5 minutes, today.

Mr. Anderson of Illinois, for 30 minutes, today.

Mr. Blackburn, for 5 minutes, today.

Mr. McDonald of Michigan, for 15 minutes, today.

Mr. Whalley, for 15 minutes, today.

Mr. Halpern, for 10 minutes, today.

Mr. Gerald R. Ford, for 5 minutes, today.

(The following Members (at the request of Mr. Stokes) and to revise and extend their remarks and include extraneous matter:)

Mr. Rodino, for 10 minutes, today.

Mr. Gonzalez, for 10 minutes, today.

Mr. Davis of South Carolina, for 10 minutes, today.

Mr. Burke of Massachusetts, for 10 minutes, today.

Mr. Minish, for 5 minutes, today.

Mr. Patman, for 10 minutes, today.

Mr. Kastenmeier, for 10 minutes, today.

Mr. Boggs, for 10 minutes, today.

Mr. Aspin, for 10 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gross and to include an editorial.

Mr. Mills of Arkansas and Mr. Byrnes of Wisconsin to revise and extend their remarks and include extraneous matter on all bills brought up today under unanimous consent.

Mrs. Mink to revise and extend her remarks during consideration of the bill, H.R. 1467.

Mr. Matsunaga, to extend his remarks immediately preceding the adoption of the following bills: H.R. 1467, H.R. 9900, and H.R. 11185.

(The following Members (at the request of Mr. Baker) and to include extraneous matter:)

Mr. Gubser in three instances.

Mr. Cleveland in two instances.

Mr. McKinney.

Mr. Gude in five instances.

Mrs. Heckler of Massachusetts.

Mr. Bray in three instances.

Mr. Whitehurst.

Mr. Hillis.

Mr. Latta.

Mr. Derwinski in two instances.

Mr. Findley.

Mr. Terry.

Mr. Wyman in two instances.

Mr. Shoup.

Mr. McDade.

Mr. Shriver in two instances.

Mr. Anderson of Illinois in two instances.

Mr. Price of Texas.

Mr. Railsback in two instances.

Mr. Vander Jagt.

Mr. Wampler.

Mr. Rhodes.

Mr. Goodling.

Mr. Michel in two instances.

Mr. Keith in three instances.

Mr. Keating.

Mr. Hunt.

Mr. Arends in two instances.

Mr. Schmitz in two instances.

Mr. Broomfield.

Mr. Hosmer in two instances.

Mr. McClory.

(The following Members (at the request of Mr. Stokes) and to include extraneous matter:)

Mr. Alexander in two instances.

Mr. Carney in two instances.

Mr. Eilberg in two instances.

Mr. Stokes.

Mr. Symington in three instances.

Mr. Harrington in five instances.

Mr. Corman in two instances.

Mr. Hagan in three instances.

Mr. Rarick in three instances.

Mr. Kluczynski in two instances.

Mr. Aspin in 10 instances.

Mr. Rodino.

Mr. Dingell.

Mr. Miller of California in five instances.

Mr. Rogers.

Mr. Hungate in three instances.

Mr. Jones of Alabama.

Mr. Brasco.

Mr. Evins of Tennessee in three instances.

Mr. Fountain in three instances.

Mr. O'Hara in two instances.

Mr. Diggs.

Mr. Hamilton in three instances.

Mr. Flood in two instances.

Mr. Annunzio in three instances.

Mr. William D. Ford.

Mr. Mikva in eight instances.

Mr. Brinkley.

Mr. Dow.

Mr. Hicks of Washington.

Mr. Bolling.

Mr. Jarman in two instances.

Mr. Yatron.

Mr. Fraser in two instances.

Mr. Jacobs.

Mr. Patman in three instances.

Mr. Hanna in three instances.

Mr. Matsunaga in five instances.

Mr. Kee in two instances.

Mr. Rees.

Mr. Gallagher.

Mr. Tiernan.

Mr. Helstoski in 10 instances.

Mr. Danielson.

Mr. St Germain in two instances.

Mr. Bingham.

Mr. Hanley.

Mr. Jones of Tennessee.

Mrs. Griffiths.

Mr. Ullman in 10 instances.

Mr. Kyros.

Mr. Long of Maryland.

Mr. Holifield in three instances.

Mr. Edmondson in two instances.

Mr. Rangel.

## ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1824. An act for the relief of Clinton M. Hoose;

H.R. 2828. An act for the relief of Mrs. Rose Scanio;

H.R. 2846. An act for the relief of Roy E. Carroll;

H.R. 4497. An act for the relief of Lloyd B. Earle;

H.R. 4779. An act for the relief of Nina Daniel;

H.R. 6291. An act to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets Nos. 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes;

H.R. 6998. An act for the relief of Salman M. Hilmy; and

H.R. 7871. An act for the relief of Robert J. Beas.

## BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 2714. An act for the relief of Mrs. Kayo N. Carvell;

H.R. 2792. An act for the relief of Juanita Savedia Varela;

H.R. 3093. An act for the relief of Mrs. Crescenia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna;

H.R. 4319. An act for the relief of Josephine Dumpit;

H.R. 5179. An act for the relief of Soo Yong Kwak;

H.R. 6506. An act for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber;

H.R. 6912. An act for the relief of William Lucas (also known as Vasilios Loukatis);

H.R. 7316. An act for the relief of Mrs. Norma McLeish;

H.R. 8540. An act for the relief of Eleonora G. Mpolakis;

H.R. 8699. An act to provide an Administrative Assistant to the Chief Justice of the United States.

H.R. 9180. An act to provide for the temporary assignment of a U.S. magistrate from one judicial district to another; and

H.R. 11738. An act to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America in connection with Boy Scout Jamborees, and for other purposes.

## ADJOURNMENT

Mr. STOKES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 58 minutes p.m.) the House adjourned until tomorrow, Wednesday, March 1, 1972, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1664. A letter from the Secretary of Agriculture, transmitting the 1971 Annual Report of the Federal Crop Insurance Corporation; to the Committee on Agriculture.

1665. A letter from the Secretary of Defense, transmitting a report on disbursements from the appropriation for "Contingencies Defense" in the Department of Defense Appropriation Act, fiscal year 1972, covering the period July–December 1971; to the Committee on Appropriations.

1666. A letter from the Executive Secretary, Federal Metal and Nonmetallic Mine Safety Board of Review, transmitting the

1971 Annual Report of the Board, pursuant to 30 U.S.C. 730(1); to the Committee on Education and Labor.

1667. A letter from the Acting Secretary of State, transmitting a draft of proposed legislation to strengthen and improve the organization of the Department of State, and for other purposes; to the Committee on Foreign Affairs.

1668. A letter from the Acting Secretary of State, transmitting a draft of proposed legislation to authorize appropriations for the Department of State, and for other purposes; to the Committee on Foreign Affairs.

1669. A letter from the National Secretary-Treasurer, Sons of Union Veterans of the Civil War, transmitting the audit report for 1971 and the proceedings of the 90th annual encampment of the organization, pursuant to Public Law 83-605; to the Committee on the Judiciary.

1670. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes; to the Committee on Merchant Marine and Fisheries.

1671. A letter from the Acting Administrator of General Services, transmitting an amendment to the authorized prospectus for the Federal Office Building, Chicago, Ill., pursuant to 73 Stat. 480; to the Committee on Public Works.

1672. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to establish a national policy relating to conversion to the metric system in the United States; to the Committee on Science and Astronautics.

### Received From the Comptroller General

1673. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the financial activity of the Federal hydroelectric system operated by the Department of the Interior and the Department of the Army in the Missouri River Basin; to the Committee on Government Operations.

1674. A letter from the Comptroller General of the United States, transmitting a report on improved production cost data for individuals nuclear weapons systems to be provided to the Congress by the Atomic Energy Commission; to the Commission on Government Operations.

1675. A letter from the Comptroller General of the United States, transmitting a report on causes of shipbuilders' claims for price increases, Department of the Navy; to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CELLER: Committee on the Judiciary. S. 1975. An act to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age; with amendments (Rept. No. 92–869). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCLORY: Committee on the Judiciary. H.R. 2589. A bill to amend section 1869 of title 28, United States Code, with respect to the information required by a jury qualification form; with amendments (Rept. No. 92–870). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 631. A bill for the relief of the village of River Forest, Ill.; with amendment (Rept. No. 92–871). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New York: Committee on the Judiciary. H. R. 632. A bill for the relief of the village of River Forest, Ill. (Rept. No. 92–872). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRASER: Committee on Foreign Affairs. H.R. 11948. A bill to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law. (Rept. No. 92–886). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Foreign Affairs. H.R. 12828. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes; with amendments (Rept. No. 92–887). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRASER: Committee on Foreign Affairs. House Joint Resolution 984. Joint resolution to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property; with amendments (Rept. No. 92–888). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. House Joint Resolution 253. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in Congress; with amendment (Rept. No. 92–889). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 850. Resolution providing for the consideration of H.R. 11384, a bill to extend the act of September 30, 1965, relating to high-speed ground transportation, by enlarging the authority of the Secretary to undertake research and development, removing the termination date thereof, and for other purposes (Rept. No. 92–890). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 851. Resolution providing for the consideration of H.R. 11416, a bill to amend the Federal Aviation Act of 1958 to provide for the regulation of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes (Rept. No. 92–891). Referred to the House Calendar.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of New York: Committee on the Judiciary. H. R. 2131. A bill for the relief of Howrey Lumber Co.; with amendment (Rept. No. 92–873). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 3413. A bill for the relief of Dr. David G. Simons, lieutenant colonel, U.S. Air Force (retired); with amendment (Rept. No. 92–874). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 3751. A bill for the relief of Albert W. Reiser, Jr.; with amendment (Rept. No. 92–875). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 5299. A bill for the relief of Maj. Henry C. Mitchell (retired); with amendment (Rept. No. 92–876). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 5315. A bill for the relief of Gary R. Uttech; with amendment (Rept. No. 92–877). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 6820. A bill for the relief of John W. Shafer, Jr.; with amendment (Rept. No 92–878). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 7946. A bill for the relief of Jerry L. Chancellor; with amendments (Rept. No. 92–879). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 8952. A bill for the relief of Donald P. Lariviere (Rept. No. 92–880). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 9473. A bill for the relief of Mrs. Rosanna Thomas; with amendment (Rept. No. 92–881). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 11045. A bill for the relief of Mr. and Mrs. John F. Fuentes (Rept. No. 92–882). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. S. 247. An act for the relief of Albert G. Feller and Flora Feller; with amendment (Rept. No. 92–883). Referred to the Committee of the Whole House.

Mr. WALDIE: Committee on the Judiciary. S. 341. An act for the relief of Arline Loader and Maurice Loader (Rept. No. 92–884). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. S. 888. An act for the relief of David J. Crumb; with amendment (Rept. No. 92–885). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 13427. A bill to amend the Intergovernmental Personnel Act of 1970 to provide for the employment of younger citizens of States and local governments as a means of increasing administrative, technical, and professional skills available to local and State governments, thereby strengthening the federal system; to the Committee on Education and Labor.

H.R. 13428. A bill to establish in the Department of Health, Education, and Welfare an Office for the Handicapped to coordinate programs for the handicapped, and for other purposes; to the Committee on Education and Labor.

H.R. 13429. A bill to provide for the establishment of an Older Workers Conservation Corps, and for other purposes; to the Committee on Education and Labor.

H.R. 13430. A bill to amend section 612 of title 38, United States Code, to authorize the establishment of residential halfway houses for the treatment of drug dependent veterans and permit, incidental to their treatment, the necessary treatment of the drug-dependent spouse of a drug-dependent veteran; to the Committee on Veterans' Affairs.

By Mr. ADAMS (for himself, Mr. Anderson of Tennessee, Mr. Carter, Mr. Clark, Mr. Conte, Mr. Dingell, Mr. Drinan, Mr. Fish, Mr. Flowers, Mr. William D. Ford, Mr. Garmatz, Mr. Green of Pennsylvania, Mrs. Hansen of Washington, Mr. Hechler of West Virginia, Mrs. Hicks of Massachusetts, Mr. Howard, Mr. Kyros, Mr. McDade, Mr. Nix, Mr. Rangel, Mr. Rosenthal, and Mr. Ryan):

H.R. 13431. A bill to amend the Public Works and Economic Development Act of

1965, as amended, to establish an emergency Federal economic assistance program, to authorize the President to declare areas of the Nation which meet certain economic and employment criteria to be economic disaster areas, and for other purposes; to the Committee on Public Works.

By Mr. ALEXANDER:

H.R. 13432. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. ANNUNZIO:

H.R. 13433. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. ASPINALL (for himself Mr. Saylor, Mr. Johnson of California, Mr. Hosmer, Mr. Roncalio, Mr. McKevitt, Mr. Melcher, Mr. Skubitz, Mr. Abourezk, and Mr. Sebelius):

H.R. 13434. A bill to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

By Mr. ASPINALL (for himself, Mr. Saylor, Mr. Johnson of California, Mr. Hosmer, Mr. Roncalio, Mr. McKevitt, Mr. Steiger of Arizona, and Mr. Lloyd):

H.R. 13435. A bill to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

By Mr. COLLIER:

H.R. 13436. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. DOW:

H.R. 13437. A bill to amend the Federal Aviation Act of 1958 to prohibit the expenditure of Federal funds for certain airport development projects unless the Secretary of Transportation certifies that there has been afforded the opportunity for public hearings to consider the economic, social, and environmental effects of such development and its consistency with local planning, and for other purposes; to the Committe on Interstate and Foreign Commerce.

By Mr. FLOWERS (for himself and Mr. Nichols):

H.R. 13438. A bill to amend the Wild and Scenic Rivers Act by designating a certain river in the State of Alabama for potential addition to the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mr. FULTON:

H.R. 13439. A bill to amend and expand the Emergency Employment Act of 1971 to reduce national unemployment and stimulate noninflationary economic growth; to the Committee on Education and Labor.

By Mr. HICKS of Washington:

H.R. 13440. A bill to amend title II of the Social Security Act to provide that all benefits based upon the attainment of age will be payable at age 60, subject to actuarial reduction; to the Committee on Ways and Means.

By Mr. KOCH (for himself and Mr. Ryan):

H.R. 13441. A bill to amend the Child Nutrition Act of 1966 to permit the waiver of matching requirements in special and unusual circumstances; to the Committee on Education and Labor.

By Mr. McCOLLISTER:

H.R. 13442. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for amounts expended by law enforcement officers and firemen for meals which they are required to eat while on duty; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 13443. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. MAZZOLI:

H.R. 13444. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of minerals; to the Committee on Ways and Means.

By Mr. MILLER of Ohio:

H.R. 13445. A bill to require the National Railroad Passenger Corporation to provide free or reduced-rate transportation for certain railroad employees; to the Committee on Interstate and Foreign Commerce.

By Mr. MIZELL:

H.R. 13446. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. MOLLOHAN (for himself, Mr. Robison of New York, Mrs. Abzug, Mr. Bingham, Mr. Brasco, Mr. Burton, Mr. Carey of New York, Mr. Dent, Mr. Drinan, Mr. Eilberg, Mr. Fisher, Mr. Frelinghuysen, Mr. Halpern, Mr. Hechler of West Virginia, Mrs. Heckler of Massachusetts, Mr. Mazzoli, Mr. McDade, Mr. Melcher, Mrs. Mink, Mr. Mosher, Mr. Nix, Mr. Quie, Mr. Rangel, and Mr. Ryan):

H.R. 13447. A bill to establish an Emergency Medical Services Administration within the Department of Health, Education, and Welfare to assist communities in providing professional emergency medical care; to the Committee on Interstate and Foreign Commerce.

By Mr. MONAGAN:

H.R. 13448. A bill to amend title 18 of the United States Code to permit certain mailings of newspapers carrying advertisements of State sponsored lotteries and of lotteries legal under applicable State law; to the Committee on the Judiciary.

H.R. 13449. A bill to amend title 39 of the United States Code to exempt certain newspaper advertisements of lotteries which are legal under applicable State law, or sponsored by a State, from the list of nonmailable matter; to the Committee on Post Office and Civil Service.

By Mr. PERKINS:

H.R. 13450. A bill to provide for environmental improvement in rural America; to the Committee on Agriculture.

H.R. 13451. A bill to strengthen and improve the Older Americans Act of 1965, and for other purposes; to the Committee on Education and Labor.

H.R. 13452. A bill to provide for a program of demonstration projects to test and evaluate the effectiveness, nutritional benefits, administrative procedures, and potential costs of a Universal Food Service and Nutrition Education Program for Children; to the Committee on Education and Labor.

H.R. 13453. A bill to impose a tax on the severance of oil, gas, and coal, and to return the proceeds of such tax to the counties from which such oil, gas, or coal was taken; to the Committee on Ways and Means.

By Mr. PUCINSKI:

H.R. 13454. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. QUILLEN (for himself, Mr. Arends, Mr. Mathis of Georgia, Mr. Scott, Mr. Duncan, Mr. Cotter, Mr. Haley, Mr. Bennett, Mr. Gross, Mr. Hutchinson, Mr. Saylor, Mr. Waggonner, Mr. Pike, Mr. Sebelius, Mr. Latta, Mr. Baker, Mr. Stephens, Mr. Wyman, Mr. Steiger of Arizona, Mrs. Hansen of Washington, Mr. Andrews, Mr. Goodling, Mr. Pirnie, Mr. Fisher, and Mr. Brown of Michigan):

H.R. 13455. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

By Mr. QUILLEN (for himself, Mr. Miller of Ohio, Mr. Baring, and Mr. Rarick):

H.R. 13456. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 13457. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RUNNELS (for himself, Mr. Abbitt, Mr. Alexander, Mr. Blanton, Mr. Cleveland, Mr. Crane, Mr. Davis of South Carolina, Mr. Duncan, Mr. Fisher, Mr. Jones of North Carolina, Mr. McDade, Mr. Mathis of Georgia, Mr. Powell, Mr. Schmitz, Mr. Sikes, Mr. Steiger of Arizona, Mr. Veysey, Mr. Waggonner, and Mr. Young of Florida):

H.R. 13458. A bill to repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes; to the Committee on the Judiciary.

By Mr. SHOUP:

H.R. 13459. A bill to amend section 143 of title 23, United States Code, relating to economic growth center development highways; to the Committee on Public Works.

By Mr. THOMPSON of Georgia:

H.R. 13460. A bill to amend section 109 of title 23 of the United States Code relating to selection of highway routes; to the Committee on Public Works.

By Mr. VEYSEY (for himself and Mr. Mazzoli):

H.R. 13461. A bill to assure opportunities for employment and training to unemployed and underemployed men and women, to assist States and local communities in providing needed public services, and for other purposes; to the Committee on Education and Labor.

By Mr. WIGGINS (for himself, Mr. Buchanan, Mr. Flowers, Mr. Hosmer, Mr. Hunt, Mr. Keating, Mr. McClure, Mr. Mann, Mr. Michel, and Mr. Waggonner):

H.R. 13462. A bill to amend title 18 of the United States Code to provide penalties for the taking and holding of hostages by inmates of Federal prisons, and for the making of certain agreements with such inmates to secure the release of such hostages; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON:

13463. A bill to require that an additional $4 per month (reflecting post 1970 across-the-board increases in social security and railroad retirement benefits) be passed along to public assistance recipients, either by disregarding such amount in determining their need or otherwise; to the Committee on Ways and Means.

By Mr. WYATT:

H.R. 13464. A bill to authorize the Secretary of the Interior to perform certain work to replace or relocate structures or facilities owned by Governmental agencies; to the Committee on Interior and Insular Affairs.

By Mr. BLACKBURN:

H.R. 13465. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. BOLLING:

H.R. 13466. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. BRADEMAS (for himself, Mr. Reid, Mr. Scheuer, and Mr. Hansen of Idaho):

H.R. 13467. A bill to amend the Library Services and Construction Act to provide for a public library service program for older persons; to the Committee on Education and Labor.

By Mr. CARNEY:

H.R. 13468. A bill to amend the Economic Stabilization Act of 1970 to provide that food products shall not be exempt from guidelines issued which limit increases of the levels of prices; to the Committee on Banking and Currency.

By Mr. CONTE:

H.R. 13469. A bill to authorize the Council on Environmental Quality to carry out a county government environmental control demonstration project; to the Committee on Merchant Marine and Fisheries.

By Mr. DANIELS of New Jersey:

H.R. 13470. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. DENT:

H.R. 13471. A bill to amend title 32, United States Code, to provide that Army and Air Force National Guard technicians shall not be required to wear the military uniform while performing their duties in a civilian status; to the Committee on Armed Services.

By Mr. DULSKI:

H.R. 13472. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. FREY:

H.R. 13473. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. HALPERN:

H.R. 13474. A bill to amend title 28, United States Code, to create a commission to ascertain the qualifications of prospective appointees to positions as justices or judges of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KEATING:

H.R. 13475. A bill to amend section 232 of the National Housing Act to include fire safety equipment among the items which may be covered by an insured mortgage thereunder, to require (as a condition of eligibility for mortgage insurance) that a nursing home or intermediate care facility comply with the Life Safety Code, and to authorize insured loans to provide fire safety equipment for such a home or facility; to the Committee on Banking and Currency.

H.R. 13476. A bill to amend title VI of the Public Health Service Act to provide that a facility for long-term care must comply with the Life Safety Code in order to qualify for assistance thereunder; to the Committee on Interstate and Foreign Commerce.

H.R. 13477. A bill to amend the Social Security Act to provide that an intermediate care facility (or nursing home) must comply with the Life Safety Code, and must fully disclose all ownership and security interests therein, to qualify as a provider of services for which payment may be made under a State's approved title XIX plan (or certain other State plans), and to provide that information which an intermediate care facility or nursing home is required to furnish State agencies under the title XIX program must be made available to the public; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 13478. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. PATTEN:

H.R. 13479. A bill to provide for the prevention of sickle cell anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER:

H.R. 13480. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. Burleson of Texas, Mr. Carter, Mr. Bevill, Mr. Flowers, Mr. Harvey, Mr. Hull, Mr. Kazen, Mr. Nichols, Mr. Price of Texas, Mr. Preyer of North Carolina, Mr. Purcell, Mr. Roberts, Mr. Saylor, Mr. Stuckey, Mr. Teague of Texas, and Mr. Wright):

H.R. 13481. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. PURCELL:

H.R. 13482. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. QUIE:

H.R. 13483. A bill to amend the Internal Revenue Code of 1954 to allow the deduction of expenditures for food and lodging primarily for medical care; to the Committee on Ways and Means.

By Mr. ROGERS:

H.R. 13484. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. ROY:

H.R. 13485. A bill to amend the Railroad Retirement Act of 1937 to provide a 20-percent increase in annuities; to the Committee on Interstate and Foreign Commerce.

H.R. 13486. A bill to amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income; to the Committee on Ways and Means.

By Mr. STEELE:

H.R. 13487. A bill to retain November 11, as Veterans Day; to the Committee on the Judiciary.

By Mr. STEPHENS (for himself, Mr. Gettys, Mr. Annunzio, and Mr. Brasco):

H.R. 13488. A bill to amend section 24 of the Federal Reserve Act to simplify, consolidate, and improve the law relating to the investment in mortgages and residential real estate by national banks; to the Committee on Banking and Currency.

By Mr. WHITEHURST:

H.R. 13489. A bill to create a fund in the Treasury of the United States to be known as the Fund for Endangered Wildlife, to be administered by the Department of Interior, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ZION:

H.R. 13490. A bill to provide that the Secretary of the Interior may enter into agreements with the owners of property near Vincennes, Ind., for the inclusion of property in the George Rogers Clark National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. HOWARD:

H.J. Res. 1081. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. McCOLLISTER:

H.J. Res. 1082. Joint resolution to authorize the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week"; to the Committee on the Judiciary.

By Mr. RUNNELS (for himself, Mr. Dowdy, Mr. Fisher, Mr. Gaydos, and Mr. Steele):

H.J. Res. 1083. Joint resolution proposing an amendment to the Constitution of the United States limiting deficit spending by the Federal Government; to the Committee on the Judiciary.

By Mrs. SULLIVAN (for herself, Mr. Gonzalez, and Mr. Williams):

H.J. Res. 1084. Joint resolution to amend title IV of the Consumer Credit Protection Act establishing the National Commission on Consumer Finance; to the Committee on Banking and Currency.

By Mr. HALPERN (for himself, Mr. Mitchell, Mr. Fauntroy, Mr. Ryan, Mrs. Abzug, and Mr. Steele):

H.J. Res. 1085. Joint resolution to establish a National Institute for the Study of China to provide instruction in Chinese language, history, and culture and to coordinate all governmental Chinese language programs; to the Committee on Education and Labor.

By Mr. GARMATZ (for himself, Mr. Bevill, Mr. Bray, Mr. Brinkley, Mr. Clancy, Mr. Devine, Mr. Flynt, Mr. Landgrebe, Mr. Long of Maryland, Mr. Mills of Maryland, Mr. Rarick, Mr. Schmitz, and Mr. Sikes):

H. Con. Res. 543. Concurrent resolution expressing the sense of Congress with respect to those individuals who refused to register for the draft, refused induction or being a member of the Armed Forces fled to a foreign country to avoid further military service; to the Committee on Armed Services.

By Mr. GUDE (for himself, Mr. Rodino, Mr. Helstoski, Mr. Forsythe, Mr. Esch, Mr. Rangel, and Mr. Railsback):

H. Con. Res. 544. Concurrent resolution expressing the support of the Congress for the U.S. delegation to the United Nations Conference on the Human Environment; to the Committee on Foreign Affairs.

By Mr. ZABLOCKI:

H. Con. Res. 545. Concurrent resolution authorizing the printing of additional copies of hearings on American Prisoners of War in Southeast Asia, 1971—Part 2, by the Subcommittee on National Security Policy and Scientific Developments; to the Committee on House Administration.

By Mr. ECKHARDT:

H. Res. 852. Resolution to authorize and request designation of "National Check Your Vehicle Emissions Month"; to the Committee on the Judiciary.

By Mr. O'NEILL:

H. Res. 853. Resolution providing funds for the expenses of the investigations and studies authorized by House Resolution 819; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. BROYHILL of Virginia introduced a bill (H.R. 13491) for the relief of Antonio L. Azores; to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## JUDICIAL REFORM

## HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

*Tuesday, February 29, 1972*

Mr. BYRD of Virginia. Mr. President, I have spoken on many occasions of the need for judicial reform in this country. I believe that the lifetime tenure of Federal judges is no longer warranted, and that the Constitution should be amended to allow the Senate to review the qualifications of Federal judges every 8 years.

It was for this reason that I introduced Senate Joint Resolution 106 on June 2, 1971.

I invite the attention of the Senate to an editorial entitled "Reforming the Judiciary," published in the Alexandria Gazette on February 26. The Alexandria Gazette is published and edited by Mrs. Sarah C. Messer.

I ask unanimous consent that the editorial be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### REFORMING THE JUDICIARY

This past weekend Sen. Harry F. Byrd Jr., Ind.-Va., in an address to the Virginia Society of the Sons of the American Revolution renewed his proposal for a constitutional amendment to curb some of the "extremism" within some of the federal judiciary. Federal justices now appointed for life after confirmation by the U.S. Senate would be subject to reappointment and reconfirmation every 10 years. Today it is impossible to remove any federal judge except by impeachment. There are more than enough examples of federal judges and supreme court justices who have continued to serve, even though they have been physically or mentally incompetent, to warrant such an amendment to the constitution.

Sen. Byrd's suggestion, at first blush, sounds like treason. Federal jurists secure under their protection by the constitution will no doubt remind us all of the sacredness of the constitution especially wherein they are concerned. We again reiterate our statement of several months ago. "If it was indeed time for a constitutional change in the voting age it is long past time for a constitutional amendment specifying a retirement age and a stated time for review of each justice as to whether he or she is capable, mentally or physically, of continuing in the job."

Even though George Mason is reported to have feared that the judiciary would take over and dominate the government, there seemed to be good and sufficient reason for writing it as it is in the constitution. For many years Mason's trust seemed to be honored and the judicial system functioned as intended. Somehow, we feel that some members of the judiciary have for sometime been eroding the high standards set for and upheld by justices until recent years. The central government has expanded its jurisdiction, created new laws and established scores of enforcement and regulatory agencies. Each of their actions and orders are subject to appeal to the courts. The demands on the judges have mushroomed. To handle the extra load, the number of judges has multiplied. Selectivity in many instances has been politically motivated and appointments to the bench have resulted in some instances in less than the best. The supply of available outstanding men as always is very limited. The confirmation proceeding in the Senate is such that many desirable and honorable men would not permit their family to endure the public mud-slinging and even, at times, false charges.

At the same time, we believe the judiciary to have failed themselves in permitting members to go without rebuke for unbecoming behavior. Unlike the past 20 years members of the Supreme Court were once most circumspect in their private and public activities. No one can imagine a member of this high court under Chief Justice Charles Evans Hughes writing for a sex magazine, thus providing that segment of the publishing world the elements of social significance it little deserved, and thus helping the magazine to continue to exercise greater licentiousness in its pictures and literature. Can you imagine a member of the Supreme Court under William Howard Taft feeling obliged to resign due to disclosures of association with a financier who at the time was serving a term in jail? A little lower down the judicial scale, a district judge in Illinois is being brought to trial before another federal judge on charges of gross misbehavior while holding a previous high office. We certainly hope that Judge Otto Kerner will be able to clear himself of charges stemming from activities several years ago when he was governor of Illinois. Judge Kerner, following in the footsteps of his father, had established a reputation of honor and as a forward looking jurist with regard to the need to clean up our prisons.

Senator Byrd's proposal of limited tenure for the federal judiciary is based on a somewhat different reason than our endorsement. His is founded on the "extremism" of certain lower level jurists in the current quarrel over massive busing of elementary school students. He singled out the edict ordering massive busing in the city of Richmond, and the counties of Henrico and Chesterfield as an example of the federal judiciary's takeover of purely local matters.

We endorse these objections, too. The busing of elementary children away from their neighborhood schools requires much careful thought. Often the rhetoric of the attorneys and politicians and the decisions of judges, make it difficult to feel that our children's happiness and ability to learn is the important issue.

If the judiciary cannot or will not clean its own image and house, then we strongly endorse this constitutional change so the Senate can do so for them.

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## THE YORK COUNTY COALITION

## HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. GOODLING. Mr. Speaker, societies can be dynamic only if their social and economic elements are properly coordinated. Such coordination can come about only if there is some facility effectively designed to implement this coordination.

The York County Coalition is such a facility, serving as a catalyst that exposes the pressing social and economic needs of York County and sets the stage for satisfaction of these needs.

This coalition does not exist in the abstract but is, instead, made up of dedicated public and private citizens interested in promoting significant improvements in their county.

Because the circumstances surrounding the county of York are unique, and because the York County Coalition serves as a splendid example of a facility designed to attend social and economic needs at the county level, I submit a brief on York County and the York County Coalition to the RECORD and commend it to the attention of my colleagues:

### A BRIEF ON YORK COUNTY AND THE YORK COUNTY COALITION

The county of York, Pa. is fairly typical of medium-size metropolitan areas in the United States with regard to the social and economic pressures under which they are forced to exist. And, as in most of the other areas of the nation, York has initiated efforts aimed at alleviating some of the pressures created by rapidly changing conditions and times.

York is unique in at least one respect. It has undertaken a priorities-setting program which will facilitate and speed the requisitioning and distribution of federal monies needed to fund the county's socio-economic efforts. This program will also ensure that the monies are distributed on a "real need" basis as determined by a coalition composed of local and regional government leaders, business and professional leaders and concerned and involved private citizens.

YMAP (York Metropolitan Area Project) is a federally funded project with a deadline for completion of April, 1972. It is being conducted by the York County Coalition through stimulus provided by the Federal Regional Council, Region III.

It's prime purpose is to create a fair and broad-based framework which will provide the input necessary for the citizenry of the county to set priorities and determine short and long range goals for projects and programs spanning a range of subject areas: the environment; zoning and land use; human needs; public services and facilities; economic development and employment; and regional inter-government cooperation.

These priorities and goals will permit federal agences to respond to the county needs in a consistent and coordinated manner promoting more effective, sensitive and meaningful use of federal monies.

York county is one of several test sites in the country where this type of federal-local partnership is being tried.

I strongly support the York County Coalition and encourage the support of all of my constituents for the worthwhile effort the group has mounted. It is my sincere desire to see it succeed in helping to establish an effective model for securing coordinated delivery of federal assistance to medium-size metropolitan areas throughout the nation.

The chairman of the York County Coalition is Mr. William T. Wolf, president of Wolf Supply Co., York, Pa.

## RADIO FREE EUROPE AND RADIO LIBERTY

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## HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

*Tuesday, February 29, 1972*

Mr. SCOTT. Mr. President, I have received a telegram from Lucius D. Clay, chairman of the board of directors of Radio Free Europe, regarding the unfortunate consequences of further congressional delay on funding for Radio Free Europe and Radio Liberty. I ask unanimous consent that this telegram and several editorials which have appeared in newspapers around the world be printed in the Extensions of Remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Hon. Hugh Scott,
*Minority Floor Leader, U.S. Senate, Old Senate Office Building, Washington, D.C.:*

We believe it our duty to inform you that we shall immediately be obliged to begin the liquidation of Radio Free Europe and Radio Liberty unless congressional action on pending authorizing legislation is completed.

The essential facts are these:

(1) Both Houses of Congress have passed authorization and appropriation bills to provide necessary U.S. Government support in fiscal year 1972.

(2) The President of the United States has assured us by letter that in his view "the free flow of information and ideas among nations is indispensable to more normal relations between East and West and to better prospects for an enduring peace" and that his administration believes that broadcasting of this type continues to serve a fundamental national interest.

(3) Within the past two weeks editorials by leading newspapers throughout the United States and Western Europe have given unqualified support. We are sending you today copies of editorials which have appeared in the following newspapers: San Francisco Examiner and other Hearst papers (2/20/72), New York Times (2/21/72), Washington Post (2/22/72), Philadelphia Inquirer (2/22/72), Washington Evening Star (2/22/72), Washington News (2/22/72), St. Louis Globe-Democrat (2/24/72), Los Angeles Times (2/24/72), Frankfurter Allgemeine Zeitung (2/19/72), Hannoverische Allgemeine Zeitung (2/19/72), Zurich Die Tat (2/19/72), Hamburg Die Welt (2/19/72), London Daily Telegraph (2/23/72), Muenchner Merkur (2/24/72), London Times (2/25/72), Paris Le Monde (2/25/72), London Sunday Times (2/27/72).

(4) Yet Radio Free Europe and Radio Liberty face the iminent prospect of liquidation with all attendant consequences and expenses, because it has apparently not been possible to reconcile the different Senate and House authorization bills through the normal procedure of compromise in the conference committee.

We want you to know that we are prepared to continue broadcasting under any arrangement that would assure the necessary U.S. Government contribution while leaving the present professional integrity of Radio Free Europe and Radio Liberty unimpaired.

The employees of Radio Free Europe and Radio Liberty have stayed on the job but are understandably concerned. We are hopeful that a solution can and will be found. We respectfully urge your support and assistance.

The message has been addressed also to Senators Mansfield and Ellender and Representatives Albert, Boggs and Ford.

Lucius D. Clay, chairman. Board of Directors, Radio Free Europe, and Members of the Board; Eugene N. Beesley, Stewart S. Cort, Winthrop Murray Crane III, Eli Whitney Debevoise, and William P. Durkee.

Trustees of Radio Liberty: Mrs. Oscar Ahlgren, John R. Burton, P. Peter Grace, Allen Grover, Alfred M. Gruenther, John S. Hayes, H. J. Heinz II, Isaac Don Levine, Ernest A. Gross, Michael L. Haider, John D. Harper, Roy E. Larsen, Neil H. McElroy, Donald H. McGannon, Robert D. Murphy, William B. Murphy, James M. Roche, Frank Stanton, Theodore C. Streibert, H. Gregory Thomas, Leslie B. Worthington, Henry V. Poor, Howland H. Sargeant, Whitney N. Seymour, John W. Studebaker, Reginald T. Townsend, William L. White, and Philip L. Willkie.

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(Recent U.S. Editorial Opinion)

[Published Feb. 20, 1972, in San Francisco Examiner and other Hearst papers]

### Editor's Report—A Smell of Smoke

(By William Randolph Hearst, Jr.)

Palm Beach, Fla.—President Nixon's historic mission to Peking is of course the Big Story of the day, but comment in this column is being deferred until we see what actually happens over there in Maoland.

Judging by the poisonous major foreign policy article transmitted from Peking on Friday by Mao's official press agency, Hsinhua, all I will say is that it doesn't look as if the get-together is going to be all warm lichee nuts, aromatic tea and happy fortune cookies.

The article, issued while the President was en route in his quest for "a generation of peace," accused the Nixon administration of continuing policies of "aggression and war" and proceeded with a lengthy tough talk recapitulation of all the many differences between the United States and Red China.

Since even the President admittedly does not know what may come of his trip, all the advance speculation which has been filling the news columns strikes me as pretty futile. So—with no further apology—I turn to another news story which deserves a lot more attention than it probably has gotten.

This shocker, strictly speaking, was not straight news. It came in the form of a scoop reported with editorial comment last Thursday in the crackerjack Washington column of Rowland Evans and Robert Novak. Here are the first three paragraphs, summarizing the latest outrage being attempted by my least favorite senator, J. William Fulbright of Arkansas:

"The inexorable campaign by Sen. Fulbright to cast U.S. foreign policy in his own image has almost strangled the broadcasts beamed into Communist eastern Europe by Radio Free Europe and Radio Liberty.

"Operating from his power base as chairman of the Senate Foreign Relations Committee, Fulbright is within days of cutting off, at least temporarily, vital U.S. government subsidies for the two programs. Unless Congress acts before next Tuesday, the money stops.

"Congressional sentiment for the broadcasts is so overwhelming that it seems improbable Fulbright will ultimately succeed. But he has come perilously close to doing what two decades of Moscow's electronic jamming could not do: end non-governmental communications between the United States and some 200 million residents of the Soviet Union and 100 million in five other Communist countries."

It must be realized as background that eastern Europeans since 1950 have been hungrily dependent on the two Munich-based broadcasters for uncensored news of the outside world. Radio Free Europe transmits to Poland, Czechoslovakia, Hungary, Romania and Bulgaria. Radio Liberty is beamed into the Soviet Union itself.

I have been in all but Bulgaria and talked with residents of all of these countries. Invariably they have stressed that the news and entertainment they get from the American stations constitutes a real godsend to their lives—a whiff of the freedom they are denied.

The Communist governments, naturally, are deeply resentful of the broadcasts, which is why the appeasement-minded Fulbright has been trying to cut off funds for the stations. As Evans and Novak put it:

"To the chairman, such spending is an anachronistic relic of the cold war, prejudicial to East-West detente."

The fact that Fulbright has been trying to block further broadcast funds is bad enough. The way he has gone about it is all but incredible and an inexcusable affront to his fellow lawmakers.

As Evans and Novak tell it, it seems that the stations have been operating with subsidies provided by the CIA. Last year the administration proposed direct government financing but Fulbright balked, demanding first a study of the operation by the Library of Congress to see if the broadcasts are "in the public interest."

The study reports were in Fulbright's hands before last January 26—and he wasn't pleased with what he read. They warmly praised the programs and strongly advocated continued financing by the government.

"Radio Free Europe," reads one report, "contributes substantially to preserve the reservoir of good will toward the United States by eastern Europeans."

The other reports says:

"Radio Liberty has played an explicit enough indirect role in lightening the burden of the Soviet people."

Now get this. On January 26 a Senate-House conference met to resolve differences in their respective bills providing funds for continuing the broadcast. They got nowhere because Sen. Fulbright alone knew of the favorable reports and he had sent them back to the Library of Congress for "reworking!" According to Evans and Novak.

This outrage is only another all to typical example of the extremes to which our consistent appeasers of Communism go.

For the life of me, I simply cannot understand these people. They claim to be Americans yet they criticize or actively oppose almost anything intended to strengthen this nation and its allies. Conversely they invariably support almost anything which favors our enemies.

You don't have to ask who those enemies are. They have announced their enmity often enough, and proven it often enough. They have proclaimed us as the only fly in their omelet and they are sworn to get us out of their way.

Contrary to what many of my readers seem to think—and apparently I have to keep saying this again and again—I am not opposed to Communism or any other dictatorship someplace else. The government of another country is its own business. I am simply opposed to any regime which keeps interfering with our way of life or that of our friends.

Some of our friends, of course, have non-Communist military dictatorships. It is typical that these are invariably the major targets of those who—for want of a better word—I can only call our leftist-liberals.

You never hear these people refer to Communist regimes as military dictatorships, an exact description. Instead they regard the Red regimes as part of some kind of idealistic social experiment which only reactionary numbskulls can view with alarm.

Be nice to the Communists, the Fulbrights say. Keep smiling and holding out a friendly hand in spite of all the insults, threats and outright aggressions. On the other hand, they insist, it's a disgrace for us to keep giving money to Greece.

They take the position that democracy would result if this nation acted to topple the dictatorship of our valued Mediterranean ally. It would not. The present regime would merely be replaced by a hostile Communist dictatorship.

By constantly criticizing and hampering the efforts of our nation's elected leaders, the Communist appeasers and others who run with them place our leadership at a grave disadvantage.

You can't even call them a loyal opposition. I don't say they are giving aid to the enemy, but what they are doing must be mighty comforting.

Right now these people—in Congress and elsewhere—are sharpening their swords for another all-out effort to cut down our national defense budget.

It makes no difference to them that the Soviet Union is arming at a pace which will give it clear military superiority over us in just a few years.

To the contrary.

They simply refuse to admit the smell of smoke—and meanwhile go right on giving encouragement to those who are vowed to burn our house down.

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[From the New York Times, Feb. 21, 1972]

### SAVING FREE VOICES

For a generation now, Radio Free Europe and Radio Liberty have contributed enormously to enlarging the market place of ideas in Eastern Europe and the Soviet Union. Their transmissions have made available to those countries factual news of the outside world that the governments involved would have preferred their subjects did not know. In addition, these stations have broadcast the writings of such dissidents as Nobel Prize-winner Aleksandr Solzhenitsyn, whose masterly novels and stories are prohibited in the Soviet bloc. A Library of Congress study of these stations, made at the request of the Senate Foreign Relations Committee, has paid high tribute to these organizations' contributions toward liberalization of the Soviet world.

But now both these stations are threatened with extinction tomorrow unless House and Senate conferees end a Congressional stalemate. This situation arose because each chamber voted a different bill authorizing the continuation of these broadcasts.

If the deadlock kills Radio Free Europe and Radio Liberty, the chief gainers will be the Soviet bloc's hardliners who hate the two radio stations as allies of the liberal and progressive elements in the Communist world. Moreover, the demise of these broadcasts because of the inability of House and Senate conferees to agree would hardly project a flattering view of the American legislative system, nor would it add to American prestige for Europeans to see an important political question decided by a mere technical stratagem.

We believe the work of these two stations has a lasting validity and importance, but even those of a different view must realize that the existence of these organizations provides potential bargaining counters for President Nixon's Moscow visit next May. At the least, all concerned should be able to agree that a final decision on the future of Radio Free Europe and Radio Liberty cannot be made until Mr. Nixon has returned from the Kremlin, and Congress can take a hard look at the post-Moscow situation of American foreign policy.

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[From the Washington Post, Feb. 22, 1972]

### RADIO FREE EUROPE STILL HAS A PART TO PLAY

When American public—or political—opinion swings, it tends to swing hard, and this is likely to be more and more of a problem for the Nixon Administration as it trumpets its "breakthrough" in Peking this week and, presumably, further success in Moscow in May. No matter what the true measure of the rapprochement achieved in either Communist capital, there will be a tendency on the part of some to exploit a "new era" in world relationships as a reason for scuttling anything and everything that smacks of the dark, old Cold War days. A case in point is the effort now being conducted in the Senate, largely by Senator Fulbright, to choke off appropriations for Radio Free Europe and Radio Liberty, which beam broadcasts into Eastern Europe and the Soviet Union, respectively, with the help of government funds. The CIA used to finance these broadcasts covertly and after this was brought inescapably to light two years ago the government took over the burden openly, but on a temporary basis while debate continued about whether these operations should be continued, and in what form.

With the question still unsettled, a continuing resolution authorizing temporary funding of RFE and RL expires today and the money will run out in a few weeks. This is just what Senator Fulbright thinks should happen, his point being that everything is changing, what with Mr. Nixon's new approaches and new evidence of conciliation in China and the Soviet Union, and that therefore RFE and RL should "take their rightful place in the graveyard of Cold War relics." The Senator would have us believe, on the basis of White House briefings he has received about the President's policy, that broadcasts this sort behind the Iron Curtain are contrary to the President's purposes in Peking and Moscow.

The President, however, has not only never said as much, but has actually expressed quite the opposite view; in a recent letter to Mr. Stewart Cort, the chairman of a fund which seeks to raise private money to supplement RFE operations, Mr. Nixon said he thinks the free flow of information is "indispensable" to more normal relations between East and West. Given the nature of the service performed by RFE and RL, it would seem to us that their programs fit the President's definition of what is still needed in Europe, for all the bright hopes of easing tensions and developing detente. For these are not provocative, propagandistic diatribes and still less do they "sell" America, U.S.I.A.-style. Rather, what both stations attempt to do is tell the people of Eastern Europe and Russia news about themselves and their own countries which their governments don't want them to hear. They do this job professionally, responsibly, and effectively, by almost all accounts, and the only real question for Congress, in our view, is how RFE and RL should be set up in a more permanent way so that they can go on doing it.

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[From the Philadelphia Inquirer, Feb. 22, 1972]

### KEEP FREE VOICE SPEAKING

Unless the unexpected happens, Congress today will let Radio Free Europe and Radio Liberty die of lack of funds. We believe that such an eventuality would be a painful and unthinking blow against the dissemination of ideas and fact—and against the human aspirations of millions of Eastern Europeans and Russians.

The fiscal crisis is the product of a fit of excessive enthusiasm about the spirit of detente with communism and legislative manipulation largely deriving from the legislative-executive tug-of-war—and of peace.

The price tag is $36 million a year. Appropriation bills have been passed by both the House and the Senate. The measures differ substantially; among other things, the Senate version is for a one-year program and the House's is for two years. No conference is scheduled, and a temporary continuation of funding runs out tonight.

Without new funds, both organizations report, they will have to disband within no more than two weeks.

The most effective enemy of the new funding effort has been Sen. J. William Fulbright, whose opposition was succinctly defined in a speech to the Senate last week: "These radios should be given an opportunity to take their rightful place in the graveyard of cold war relics."

Much of the popular support enjoyed by Senator Fulbright and others who share his distaste for the programs comes from the appalling fiscal history of the operations. Slightly more than a year ago, Sen. Clifford P. Case devulged that the preponderance of the radios' expenses for their more than 20-year history had been supplied covertly by the Central Intelligence Agency, while the American people and Congress had been left with the impression that private contributions had been carrying the burden.

The Nixon Administration backs a new program, incorporated in the House-passed bill, which would set up and fund a nonprofit organization independent of the government. Much of the virtue of the stations' effectiveness has been in the fact that their programming has not been tied to official American foreign policy, a detachment which the House proposal would keep alive. Senator Fulbright managed to limit the Senate's bill to a one-year appropriation which would put the stations under the control of the Secretary of State—thus involving them directly in policy.

For all the unforgivable impropriety and duplicity of the now-known CIA front operation, the stations have served, we believe an enormously important role.

Both are headquartered in Munich. RFE broadcasts in native languages to Bulgaria, Czechoslovakia, Hungary, Poland and Rumania, and has a staff of about 1,600. Radio Liberty, with a staff of about 1,000, broadcasts in Russian and other languages used in the Soviet Union.

In the aftermath of Senator Case's disclosure, Senator Fulbright asked scholars of the Library of Congress to evaluate the programs. To his surprise, the reports were highly favorable; the Senator refused to release them.

But a few days ago, the Radio Liberty report, by the Library's Soviet and Eastern Europe expert, Dr. Joseph G. Whelan, was published in the New York Times.

In part, Dr. Whelan's study said: "The reality of Radio Liberty conflicts with its popular image. It is neither a cold war operation nor is its staff a group of cold warriors. On the contrary, Radio Liberty accepts all Soviet institutions, though not its ideology, and seeks to bring about peaceful democratic change from within."

In contrast to the impression which Senator Fulbright and other opponents seek to give, we believe the effect of such communication is to reduce the rigid polarization of people and policies in the Free World and the Soviet bloc. Gradually, but significantly, we have seen evidence that awareness of the ideas of the outside world has encouraged intellectuals and others in communist countries to press, sometimes with startling effectiveness, for liberalization and reform.

To send the major conduit of these ideas to Senator Fulbright's "graveyard" for the sake of intemperate zeal of political advantage—or inertia—would be a sad and inexcusable act of resignation.

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[From the Evening Star, Feb. 22, 1972]

### VOICES OF HOPE

We hope that members of the Senate Foreign Relations Committee who pride themselves on their liberalism and their championship of the right of dissent in this country will not take it upon themselves to deny the same rights to the citizens of the Soviet

Union and Eastern Europe. For this, essentially, is what they may do in the near future by scuttling the operation of two radio stations that have played an essential part in the tentative and fragile trend toward liberalism in the Communist world.

The fact that Radio Free Europe and Radio Liberty, both operating out of Munich, were once secretly financed by funds from the Central Intelligence Agency is, in our view, quite beside the point. The point is simply whether or not the operation of these stations promotes the broadest foreign policy interests of the people of Eastern Europe and the Soviet Union.

The Congress, by and large, apparently believes that they do promote these interests. As of last November, both the House and Senate had passed separate bills providing for the public financing of the stations, under the overall supervision of the State Department. But since then, the two bills have been bottled up in conference where resolution of the differences between them has been effectively blocked by Chairman Fulbright of the Senate Foreign Relations Committee. If there is no action by the end of this (next) week, the stations will be out of business.

For his part, Fulbright is openly hostile to the operation of the stations. In his view, they are an "anachronism" that have "outlived any usefulness they may have once had." Says Fulbright: "I submit these radios should be given an opportunity to take their rightful place in the graveyard of cold war relics."

The men in the Kremlin and in the beleaguered chancelleries of Eastern Europe would certainly agree; a good many millions of people in Communist countries would not, including the small, desperately brave and bitterly persecuted group of intellectual dissidents in the Soviet Union. The same goes for millions of Soviet Jews. For these people, Radio Liberty is the only means of getting pleas across to their own countrymen.

As for Radio Free Europe, which broadcasts to the Eastern block countries, the Congressional Research Service of the Library of Congress has reported that "it contributes substantially to preserve the reservoir of good will toward the United States" and has even, in the opinion of the researchers, contributed to the slight liberalization of the Communist regimes that has taken place. If so, it would be a tragedy if these programs were scrapped in the name of American liberalism.

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[From the Washington News, Feb. 22, 1972]

### On Strangling Free Radios

In a great disservice to the nation, Chairman J. William Fulbright of the Senate Foreign Relations Committee is trying to still the voices of Radio Free Europe and Radio Liberty.

Since 1950–51, the two U.S. Government-supported networks have broadcast invaluable news and comment to the peoples living under communism in Eastern Europe.

Radio Free Europe has about 30 million regular listeners in Czechoslovakia, Poland, Hungary, Romania, and Bulgaria. The audience of Radio Liberty, which broadcasts to the Soviet Union, is harder to measure, but numbers in the millions.

Sen. Fulbright calls the stations relics of the cold war that aggravate relations with the Soviet Union. Altho both houses of Congress have voted $36.2 million for the networks this year, Sen. Fulbright is maneuvering a conference committee to kill the measure.

He is, of course, Congress' leading exponent of the revisionist theory of history. Worked out by radical historians, the theory holds that the United States caused the cold war by irrational fear of communism and overreaction to what it saw of Soviet expansionism.

Needless to say, most responsible historians do not buy the revisionist line. They point out that the cold war did not result from imaginary American fears but from genuinely threatening actions by Stalinist Russia.

Radio Free Europe and Radio Liberty are hated by the rulers of Eastern Europe because they threaten the Communist party's monopoly of information and propaganda. By punching electronic holes in the Iron Curtain, they give the people an alternative to official lies and deceits.

For two decades, the Soviet leadership has paid the two networks the compliment of trying to jam their broadcasts. Because they both broadcast from Munich, the Kremlin has also brought heavy—but unsuccessful—pressure on West Germany to close them down.

We understand the Kremlin's fury at RFE and Radio Liberty and its desire to throttle them. What we do not understand is Sen. Fulbright's eagerness to do the job.

In the interest of this country and the unhappy peoples of Eastern Europe, Congress ought to follow its own good instincts and not Sen. Fulbright's dubious revisionism.

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[From the St. Louis Globe-Democrat, Feb. 24, 1972]

### Gagging Radio Free Europe

Broadcasts of Radio Free Europe and Radio Liberty, which for years have been beaming news and analysis of world issues behind the Iron Curtain, are in acute danger of being silenced.

Bills of the Senate and House for federal subsidy of between $35 million and $38 million have been arbitrarily bottled up in conference committee.

For two decades Moscow's jamming has failed to stop the programs, which send free world facts and interpretation of political, economic and social problems into Russia and Eastern Europe.

Now one senator and a few misguided conferees threaten to destroy those patently valuable broadcasts.

The congressional jammer is J. William Fulbright, who denigrates the programs as "a relic of the cold war." This is familiar, standard conduct for Fulbright in almost every matter that tends to be against the Soviet propaganda line.

The senator has used his weight as chairman of the Senate Foreign Relations Committee, as well as devious maneuvering, to block adoption of the Administration's request for funds to continue these two radio stations.

He declared yesterday the Senate would accept the House bill—for permanent operation of Radio Free Europe and Radio Liberty—"over my dead body."

Fulbright is willing to continue the two stations through June 30. No longer. He said in a Senate speech last week these broadcasts "should be liquidated."

It would be tragic and a body blow to democratic processes, if the Arkansas senator were to succeed in his plan to destroy two of the prime outlets informing peoples behind the Curtain.

Congressional sentiment is overwhelmingly for retaining the radio systems. But so far Fulbright, marplot of so many United States foreign policies, has effectively blocked the subsidy legislation.

Two key Senators can have a significant influence on whether Senator Fulbright succeeds. One is Democratic Sen. Frank Church of Idaho, who opposes RFE but supports Radio Liberty, which has had a great deal to say in behalf of Soviet Jews. The other is Missouri Sen. Stuart Symington.

Senator Symington has tended to agree with Fulbright in many policy areas. He is reported to "have an open mind" on the radio issue.

The Globe-Democrat strongly urges Stuart Symington to use his considerable influence to support continuation of both Radio Free Europe and Radio Liberty on a permanent basis, with State Department support through federal funds.

Failure to break the Fulbright jam in the conference committee would be a serious error in American policy, and a dismal blackout for millions in the USSR and its satellite European states—people whose only knowledge of what goes on in the world, especially in America, comes through these channels to which they tune surreptitiously but with eager regularity.

For years these two radio stations were supposedly supported by wide public donation. Actually they were largely financed by the CIA's federal funds. This was a mistake, though the fact has been widely known since 1967. Now the Administration has asked open government subsidy.

Both radio programs have done a good job in telling the United States story to people who could never know it otherwise. The Library of Congress was asked to study the two radio operations and reported back Jan. 26 with warm praise and recommendation for continued federal financing.

These reports have been largely sequestered, apparently by Fulbright, from other members of the conference committee.

Congressional authorization under which the radios operate formally expired on Tuesday. It is understood RFE and RL have sufficient funds to continue another week or two.

After that, unless the jam created by Senator Fulbright is broken, they will have no alternative but to stop.

This would be a grave misfortune for American diplomacy. It would be against public consensus and apparently the majority of Congress.

It is possible that vigorous support by Senator Symington can break the bottleneck and preserve Radio Free Europe and Radio Liberty. This would be an act of competent judgment and statesmanship.

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[From the Los Angeles Times, Feb. 24, 1972]

### The Siege of Radio Free Europe

Sen. J. William Fulbright (D-Ark.) made a laudable, highly pertinent speech a few years ago urging the American people to outgrow the cliches of the cold war—to distinguish between "old myths and new realities." It was good advice.

Unfortunately, in his efforts to kill off Radio Free Europe and Radio Liberty, the influential chairman of the Senate Foreign Relations Committee is showing a certain confusion between myth and reality himself.

For more than 20 years Radio Free Europe has been broadcasting to the Communist countries of Eastern Europe. Its smaller sister operation, Radio Liberty, broadcasts to the Soviet Union in Russian and 16 other languages. In hours of broadcasting to these areas, the two Munich-based stations are far more active than the Voice of America.

Now Fulbright wants to kill off RFE and Radio Liberty by blocking congressional authorization for the current fiscal year. Failing in that, he favors a Senate-passed bill which would extend the life of the stations only through June.

We strongly urge, instead, that Senate conferees accept a House-passed bill which would authorize operations for two more years. During those two years, a study would be made to determine if the broadcasting operation should be continued—and if so, under what arrangement.

Fulbright argues that RFE and Radio Liberty are "relics of the cold war" which have outlived their usefulness in a day when the emphasis is on East-West efforts at detente. In this he is mistaken.

There was a time, prior to the 1956 uprising in Hungary, when the Munich-based stations indeed exhibited a cold war obsession. Nowadays, however, it is recognized that the Communist governments won't be overthrown by force. Any improvement must come about through the slow process of internal liberalization. And to the degree that such liberalization occurs, there is a hope that Communist foreign policy will mellow, too.

RFE and Radio Liberty encourage the liberalization process by publicizing the doings and writings of dissident intellectuals and others in the Communist countries whose opinions would otherwise remain smothered by censorship.

Shutting down RFE and Radio Liberty would make Communist hard-liners—those who oppose both detente with the West and internal liberalization—very happy. But it would be a discouraging development, indeed, to those who are striving, in the Czech phrase, the communism with a human face.

It may be, of course, that substantial changes are needed in the way the stations are financed and managed. Direct European participation, for example, is long overdue. And certainly government support in the future should be open, rather than half-hidden as it was in the past. But these are matters which should properly be explored in the study called for in the pending House bill.

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(Recent European Editorial Opinion)
(Translation)

[From Frankfurter Allgemeine Zeitung (Frankfurt, Germany) Feb. 19, 1972]

### SUPERFLUOUS?

Bonn: Senator Fulbright has once again advocated to have "Radio Free Europe" in Munich abolished. This time he thought of a new argument. The West European governments had for a long time understood that this radio station had become superfluous, the Senator said. With this contention, however, Fulbright is in error. It might well be that consideration, especially in the capital of the Federal Republic, has been given as to whether or not the existence of "Radio Free Europe" was a hinderance for Bonn's Ostpolitik; a question which so far has been answered in the negative. Also, however, in Bonn no one doubts the basic function which this radio station serves for the population of the East European countries. The radio station gives information about what actually happens in the world, and not least what is happening in Moscow's sphere of influence. For this reason "Radio Free Europe" certainly will not be superfluous for a long time.

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(Translation)

[From Hannoverische Allegemeine Zeitung, Hannover (West Germany) Feb. 19, 1972]

### THE VOICE OF FREEDOM

It seems to depend on the strong arm of a single man whether millions of East Europeans and Soviet citizens will retain the opportunity to receive more information than inadequate Party papers have to offer. Senator Fulbright, Chairman of the Foreign Relations Committee of the American Senate, is fighting with all his power against the continued existence of "Radio Free Europe" and "Radio Liberty."

He is fully aware that the majority of his own countrymen does not share his opinions. The majority in both houses of Congress correctly believes that a continued dissemination of news and information in the Communist camp, so far possible only by radio, remains necessary also during a period of detente. But due to his strong position as Chairman of a Senate sub-committee he could possibly delay the appropriation of the necessary means until the two Munich radio stations waste away.

Since Fulbright cannot rely on American support, he claimed in a speech this week that Europeans have long ago accepted the idea that Radio Free Europe and Radio Liberty would have to disappear. The Senator is mistaken. Europeans have not accepted this idea, and they will not accept it. They know exactly how important the work of these two stations is.

In this era of detente it is all the more important that the voice of free opinion is not silenced. For what has begun now is a quiet struggle for the intellectual orientation of people in all of Europe. Communist propaganda does not know peaceful coexistence. It will continue its running fire. We must counter at least with objective information.

Fulbright has only spoken of West Europeans. He should also think of East Europeans. There is ample evidence that Radio Free Europe is the straw of hope to the people in Eastern Europe who don't want to be kept in ignorance by official propaganda. If nothing else can be done for them, they should at least be allowed to keep this straw.

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(Translation)

[From Die Welt (Hamburg, Germany) Feb. 19, 1972]

### LIBERTY TO THE GRAVEYARD

Why do many Soviet citizens listen to Radio Liberty? Why do countless numbers of East European listen to the broadcasts of Radio Free Europe, also active in the Munich area? Why do the inhabitants of the "GDR" switch every evening at news time to a West German TV channel? This obviously happens because the people of these areas feel themselves miserably informed by their mass media and insufferably "charged" propagandistically against the West.

On this subject, former Polish Minister of Education Bienkowski wrote: "If a government practices the tactics of suppressing information, there will always be others to fill the gap, to enlighten the information-hungry population about events, in its own language, and to tell it why the respective governments want to keep certain events secret.

U.S. Senator W. Fulbright is yielding to the pressure of the East European governments. He wants to have the two radio stations closed down. The Senator has enormous quantities of information available to him; he and his fellow citizens are not cut off from correct news sources. Isn't Senator Fulbright making things too simple for himself when he wishes for a place in the "graveyard" for remnants of the Cold War" for the two radio stations? Does information represent weapons of the Cold War, or is it proof of a functioning democracy? The Senator represents the Democratic Party, which in the times of Roosevelt not only held forth hopes for the East Europeans for political freedom, but assured them of it. How times change . . .

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(Translation)

[Die Tat (Zurich, Switzerland) Feb. 19, 1972]

### A VITAL INSTRUMENT OF COMMUNICATION

VIENNA.—The most recent unobjective attacks of the American Senator Fulbright against Radio Free Europe and Radio Liberty demonstrate with all the clarity needed the complete ignorance of the well-known chairman of the Senate Foreign Relations Committee about conditions in Eastern Europe. The two Munich-based American radio stations, in operation for many years, are the only reliable sources of information linking the population behind the perforated but still existing iron curtain with the outside world. Especially in times of crisis—such as the invasion of Czechoslovakia in 1968, the uprising of Polish workers in 1970, or the Sino-Soviet conflict—their broadcasts are received by millions of people. While it is true that the BBC, the Voice of America and the Deutsche Welle also broadcast regular programs in East European languages, they cannot compare with the flood of information provided from morning till night by Radio Free Europe. During the Hungarian uprising of 1956, grave political mistakes were made in accordance with the American foreign policy prevailing at the time. However, the management has since been reorganized and the program reorientated along lines of objectivity and information neatly separated from commentary.

The campaign of the Communits countries which was unleashed in connection with the Olympic Games provides ample proof of the discomfort the existence of RFE causes those regimes.

Furthermore, Radio Moscow and all the other East European radio systems daily broadcast Western-language programs and commentaries, the style of which resembles remnants of the cold war much more than, for example, the newcasts and concerts of RFE.

It was undoubtedly a mistake to keep the financing of the station through the American secret service in the dark, instead of openly entrusting a government committee with it. This, however, does not alter the fact that the continued operation of RFE—even more so at a time of East-West dialogue—is of immense political significance.

For this reason the closing of this station—the value of which can neither be expressed in terms of military divisions nor ICBM's—would be a political mistake without precedent.

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(Text)

[From London Daily Telegraph, Feb. 23, 1972]

### EDITORIAL

A disgraceful surrender of the West's right to broadcast objective news and comment across the iron curtain is about to take place unless the American government acts quickly and firmly to stop it. Funds have been cut off from Radio Free Europe and Radio Liberty, both based in Munich, which for over 20 years have been transmitting to the satellite countries, and also to Russia in the main languages of the Soviet Union. As was recently nearly the case with American foreign aid, the cut-off is a result of a dispute in Congress.

Senator Fulbright is in his usual role of leading the appeasers. A year ago he succeeded in stopping the provision of funds for the two stations by the Central Intelligence Agency. The State Department took over the responsibility on a year-to-year basis. The Senator now seems within an ace of blocking the voting of funds for the coming year, in which case the stations would have to close down within a fortnight. He says that this would put them "in their rightful place in the churchyard of cold war relics."

Is it "cold warfare" to broadcast the truth to the peoples of the Communist dictatorships? Is it wrong to give them samples of Western culture and entertainment, to seek to correct the dangerous, perverse and malicious slanders about the allegedly aggressive war-like West with which they are fed by their governmental propaganda machines? Do the Communist regimes, in the barrage of vicious propaganda against the West with which they crowd the channels day and night, ask whether they are offending the susceptibilities of the societies it is their intention to disintegrate? The West has the obligation, to itself and to subject peoples everywhere, to testify to democracy. Radio, as millions behind the iron curtain will gratefully confirm, is the ideal means of communication in the circumstances. It must not be silenced.

(Full text was distributed by European services of UPI and [West German] DPA).

(Translation)

[From Muenchner Merkur (Munich, Germany, Feb. 24, 1972]

### FULBRIGHT—A CONTRADICTION IN HIMSELF

American Senator William J. Fulbright, known to the public as a vehement and ruthless opponent of the foreign policy of Presidents Johnson and Nixon, alleges to want to do away with "an anachronism". Having already succeeded in sacrificing the activity of the renowned Institute for the Study of the USSR to his ideas about a "policy of relaxation", by way of cutting down on foreign aid by the American Congress, he is now setting about robbing the inhabitants of the East European Communist countries of their only sources of information independent from their rulers.

The two American radio stations "Radio Free Europe" and "Radio Liberty" tried in their broadcasts beamed at Eastern Europe to correct the one-sided picture, drawn by official Communist propaganda, about reactionary capitalism and progressive Communism. For two decades now the Kremlin has been demanding the elimination of these "nuisances". Fulbright is now determined to relegate them "to their rightful place in the graveyard of relics of the cold war." The dissemination of truth should not be subjected to the relaxation euphoria of the Senator. Fulbright as a guardian of democratic order and preserver of Western freedom is a contradiction in himself.

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(Text)

[Editorial reprinted February 24, 1972 by the following West German Dailies: *Frankfurter Allgemeine Zeitung, Die Welt* (Hamburg), *Stuttgarter Zeitung*]

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[From London Daily Telegram of February 23]

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(Text)

[From The Times (London), Feb. 25, 1972]

### MR. FULBRIGHT STRIKES A BLOW AT FREEDOM

The threat hanging over Radio Free Europe, the American station which broadcasts to Eastern Europe from Munich, raises basic questions about the proper conduct of relations with Communist countries now that both sides profess a desire for detente and cooperation. Senator Fulbright says that the station is a relic of the cold war and is "inconsistent with a desire for agreement." He is doing his best to cut off funds and is being very successful. Formal funding arrangements ran out this week and Congress is now deadlocked over what to do next.

The Communist powers agree enthusiastically with Senator Fulbright and have long been trying to persuade Herr Brandt that he should not renew the station's license to remain in Munich after July. They say that the station's activities constitute interference in their internal affairs and thus contravene the code of conduct which they envisage emerging from the European Conference on Security and Cooperation which is expected next year.

These arguments are wrong and should be firmly rejected. It is true that Radio Free Europe is a child of the cold war. It was financed secretly by the CIA and was originally intended to play its part in rolling back the frontiers and communism. It has, however, changed considerably since those days. During the Hungarian uprising of 1954 it was widely accused of deliberately fomenting trouble and of raising false hopes among Hungarians that they would be helped by the West. A reappraisal followed. Thirteen people were removed from the Hungarian section and new controls and new policies were developed.

Now the station largely accepts that Communist systems will have to develop gradually from within. It provides a calmer and more factual news service that is very widely heard in Eastern Europe.

It is not always perfect but it clearly meets a very deeply felt need among its listeners, as any traveler in Eastern Europe can testify. It gives them news about the world and about their own domestic affairs that is not available from their own controlled press. It also has a first-class research department which provides background material for scholars, institutions, governments, journalists and other subscribers in the West. This two-way flow of information is needed on both sides and would be very difficult to replace.

Naturally Radio Free Europe is a thorn in the flesh of East European governments because it breaks their monopoly of information. For them, truth in any form is an enemy agent. It can therefore be said to undermine their system, but only so long as people want to listen to it. When the press was freed in Czechoslovakia in 1968 scarcely anybody bothered to listen to Munich, for it had become irrelevant. It can be condemned to the same irrelevance again any time the Soviet Union wishes.

Meanwhile, whether its activities can be regarded as improper interference depends on what you mean by detente. As the Communists themselves never tire of pointing out, detente does not mean ending the peaceful competition between two systems. What it should mean is codifying the rules on a fair and equal basis.

There is no reason why these rules should exclude peaceful and equal competition between ideas. Indeed, this is one of the basic values of the Western world which should be most vigorously defended. Nor can anyone say that the Communists do not have an equal chance. They have free access for their ideas in Western markets. They can work through legal publications and legal Communist Parties. They can broadcast as much as they wish, and as their programmes on Ulster have shown they can win all the prizes for vicious inaccuracy.

The West has fewer means at its disposal. To give up Radio Free Europe would be a gratuitous act of appeasement that would unbalance things even more and would be a very severe blow to the millions of people in Eastern Europe who still look to the West not only for information but for the defence of values in which they believe, and which even many progressive Communists regard as vital for the salvation of their system. Such a sacrifice would be regarded as a serious betrayal and as confirmation that super-power politics have again triumphed over concern for the needs of people.

The only point on which Senator Fulbright is right is that the secret funding of Radio Free Europe by the CIA was disgraceful. Discussion should now turn to finding better and more open ways of sustaining a very necessary institution.

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(Translation)

[From Le Monde (Paris), Feb. 25, 1972]

(By Bernard Feron, Deputy Foreign Editor)

Mr. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, has gone to war against two stations located in Munich, namely Radio Free Europe which addresses the citizens of the Peoples Democracies, and Radio Liberty which "caters" to the people of the Soviet Union. The arguments by the Senator may be summarized as follows: These two institutions are relics from the time of the Cold War. In order to demonstrate their good will, the authorities of the United States must suppress them before President Nixon's trip to Moscow.

Obviously, the government in Washington cannot dissolve by decree these organizations which basically have been created through private initiative. Yet it is no secret for anyone that Radio Free Europe and Radio Liberty would disappear almost immediately if the United States stopped providing them with funds. Formerly, it was the CIA which took care of this financing. The Communist countries were then able to maintain that the radio stations were dependent on an espionage service. In order to put an end to this annoying situation, the State Department took over from the Central Intelligence Agency. Senator Fulbright is determined to block the funds destined for this purpose. By contrast, Mr. John Irwin, Acting Secretary of State, has requested that the Congress continue to support [the stations]. A decision is expected imminently.

Radio Free Europe and Radio Liberty are without any doubt the Western stations which command the largest audience in Eastern Europe. Every day, they provide their listeners with information which the local press and radio withholds from them. Do the stations always fulfill their task with the required seriousness? At the beginning of 1957, the leadership of Radio Free Europe was accused of having poured oil on the fire at the time of the Hungarian tragedy and of having encouraged the rebels in Budapest to carry on a hopeless battle. An investigation was initiated. The leadership of the radio rejected the accusations leveled against it, but it had to give way to a new leadership.

The two organizations are obviously blackened by their origin. They were conceived as propaganda instruments, used by exiles who wished to reverse the new order that had been established in their countries. Time has destroyed these illusions. At the same time, the broadcasters have perfected their system of information. Obliged to provide themselves information for their editorial staffs, they have created centers which are perhaps best equipped to collect news from Eastern Europe, thanks to their reading of the entire local press and to the constant monitoring of the radios. The conclusions which the editors draw from these studies may certainly be subject for discussion, but the information which they gather and broadcast is very useful for the public in the East as well as for the specialists in the West.

It is not this facet of the stations' activities which attracts the greatest attention during the current dispute. The American Library of Congress does not share the opinion of Senator Fulbright; it opines that in Eastern Europe, these institutions which are under debate at present "contribute substantially to preserve the reservoir of good will towards the United States" and even that the governments of the Eastern countries have sometimes undertaken steps desired by the public, being encouraged by Radio Free Europe.

Commentators also mention that Senator Fulbright's project would sever the ties which still link millions of people in Eastern Europe to the West. The listeners aer not forced to listen to the stations. Must one deprive them of the possibility to do so if they so wish? Is the elimination of Radio Liberty and Radio Free Europe the condition necessary for improving the relations between Washington and Moscow? This is not obvious.

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(Text)

[From the London Sunday Times, Feb. 27, 1972]

### IN DEFENCE OF RADIO FREE EUROPE

Senator Fulbright believes that Radio Free Europe and Radio Liberty, operating from Munich, should be stopped from broadcasting to Eastern Europe and the Soviet Union because they are "cold war relics" and hinder detente. He is wrong on both counts. The radios abandoned the unfortunate policy of "liberating the captive peoples" in 1956 and now support Willy Brandt's Ostpolitik and all Communist reform movements in Eastern Europe. It is true that the Russians and their allies have consistently demanded that Brandt should expel the radios from Munich. But his refusal to do so has not stopped the Russians and the Poles from signing treaties with him, and the Czechoslovak-West German treaty is held up by a dispute over the Munich agreement of 1938, not over the radios. In fact, by their consistently objective coverage of West German events, the radios have done more than any other organisation to dispel amongst ordinary East Europeans the official Communist myth of "West German revanchism."

Fulbright argues, rather startingly, that the radios are useless because "truth and freedom are indigenous and subjective issues and cannot be transferred from one people to another." That fashionable cynicism is disproved by Soviet hatred of the radios: it is precisely the "transference of truth" that the Russians fear. The radios, whatever their imperfections, provide East Europeans with a far more reliable source of world and domestic news than their own government-controlled media. It would be a tragic and distasteful appeasement for the West to cut off that source at Soviet behest.

Fulbright's only useful suggestion is that Western Europe might play a part in financing the radios. They should close down only when, as in Dubcek's Prague Spring, East Europeans no longer need to listen to them; with the current KGB persecution of Soviet dissidents and Husak's campaign of intellectual genocide in Czechoslovakia, that day is sadly still far away.

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## ALTERNATIVES TO THE STRIKE IN PUBLIC LABOR RELATIONS

## HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HUNGATE. Mr. Speaker, in view of the increasing interest and concern about strikes in the public sector, the following suggestion of alternatives from the Harvard Law Review—December 1971, volume 85, No. 2—should be helpful:

### ALTERNATIVES TO THE STRIKE IN PUBLIC LABOR RELATIONS

(Merton C. Bernstein)

For four decades collective bargaining has been the central feature of public regulation of private labor-management relations, and the right to strike, while occasionally curtailed, has been thought essential to making it work. And it has worked reasonably well. Manhours lost in strikes constitute an infinitesimal fraction of all hours worked. In the public sector, however, strikes have been prohibited. Strikes by public employees may cause intense disruption in community life, as when transit systems cease operation or schools close. Yet, there has been developed no other effective mechanism for resolving the inherent conflicts between public employers and their employees. This essay proposes, in the context of public employment at the local level, two new methods of accomplishing the desirable functions of strikes without the illegality and disruption that are their present hallmarks.

### I. PATTERNS OF PUBLIC LABOR RELATIONS

#### *A. History*

Until fairly recently unionization at all levels of government was slight. Public employees pursued their group interests through associations and leagues, and occasionally unions, whose typical operation was to lobby for favorable civil service laws, pay scales, fringe benefits, and administrative regulations. Before the surge of unionization in the private sector brought on by the New Deal and World War II, many public employees enjoyed job security, benefits, and status that few private employees could match.

However, by the late 1940's unions represented a major segment of the privately employed and won protection and economic gains which appeared to outdistance the progress of nonunionized and public employees. Large numbers of semiskilled and skilled workers entered the ranks of the middle class, formerly the preserve of professionals and white collar workers. "Plumber" and "teamster" came to imply, not grubby and poorly paid work, but short hours and high pay, while "civil servant" came to be associated with drab routine and shabby gentility. For instance, to teach required a strong feeling of vocation and, some thought, a vow of poverty. In addition, in the 1960's the apparent success of the militant stands taken by civil rights groups emboldened government employees to use collective action and direct confrontation to obtain more security and better compensation. Consequently, in the last decade unionization grew more rapidly in the public sector than in the private.

Often in the early stage of union activity, public employers—especially the federal government—took the position that while employees' unions might be consulted about employee concerns, recognition of a union, let alone bargaining, could not be reconciled with the sovereignty of the state or the benign role of the nonprofit employer. Whatever its merits, that official posture began to break down soon after the election of President Kennedy, who had received heavy support from organized labor. A committee he appointed to study the role of employee organization, dominated by Secretary of Labor Goldberg, Undersecretary Willard Wirtz, and Theodore Sorenson, all firm believers in collective bargaining, could hardly have decided against recommending a representative role for public employee unions. The resulting executive order provided for limited representative status to unions. President Nixon has continued this trend, making exclusive recognition even more central to the federal government's relations with its employees.

Meanwhile, public employee unions at the state and local level grew, demanded to be recognized as bargaining agents, and agitated for significant pay raises, fringe benefits, and increased job security. Put to the test by illegal strikes and sometimes illegal "sanctions," and weakened by the example of the federal government, the "consultation without recognition" model was routed here, too, probably forever. At the same time, public employees drew from their private counterparts' credo and habits. As a result, the pattern of at least the short term future will probably consist of union representation, where chosen by a majority of employees in appropriate units, and negotiation of signed agreements covering at least some of the subjects traditionally bargained over in the private sector.

#### *B. Recognition and Bargaining—Without strikes*

Modern public labor relations statutes provide machinery for unit determination, elections, certification of the successful contender (if there is one), and bargaining. However, all but two ban strikes by public employees.

Various philosophical justifications have been offered for this ban: strikes against the sovereign state are intolerable; public employers are not motivated by profit; public services are essential; and public employee unions with both political influence and coercive power through strikes would have an undue opportunity to distort the normal political process. As a practical matter, the strike ban is the result of a different chain of reasoning. Because the state now provides protection for union activities, machinery for union representation, and procedures for the promotion of bargaining such as mediation and factfinding with recommendations, unions and their members should count themselves lucky to receive the new dispensation and work within the system.

Perhaps they should, but they have not; unions have resisted these arguments from the outset. There are a number of reasons for their attitude. Many leaders of public employee unions come from the ranks of organized labor in the private sector, where the strike is a legally protected, central tactic of bargaining and a means of enhancing organizational spirit and loyalty. Perhaps more important, strikes have been the weapon for transforming public employer intransigence into union recognition, better bargains, and even legislation for protecting union activities. Thus, while statutes have banned strikes as a matter of law, even those with the most draconian sanctions have failed to prevent them as a matter of fact when bargaining deadlocks occur. Indeed, the imposition of sanctions may be counterproductive, for both union and government officials may benefit from such occasions for demonstrating personal intrepidity without dealing with the hard problems of settling the underlying dispute. Russell Smith observes that we perhaps accord "a kind of de facto recognition to conduct officially declared illegal . . . [a] state of affairs scarcely desirable in any society which purports to order its human relations according to the processes of law."

His colleague, Professor St. Antoine, agrees: "It is folly . . . [to outlaw] absolutely a form of conduct that is sure to be engaged in, under certain conditions, by respectable persons in the thousands."

These observations have the ring of wisdom.

### II. THE STRIKE WEAPON

Assessment of the strike weapon requires fresh recognition of its differing settings, tactics, and impacts. So many arguments for and against allowing the strike in public labor relations derive from its role in private labor relations that the analysis properly begins with the private sector.

#### *A. In the private sector*

While potentially very destructive weapons, strikes are seldom employed; their salutary persuasive effect results from the mere existence of the possibility of a strike. What damages strikes cause are, arguably, the relatively small price paid to make collective bargaining work.

The classic model of the private strike is that of a group of employees which withholds its labor from an employer in order to gain recognition or bargaining concessions. The employees forgo their wages and the employer loses the revenue derived from the sale of the goods or services they would otherwise produce. The beauty of the strike is that while a potent weapon, it also inflicts damage on the wielder, so that even the threat of its use induces in both sides the degree of reasonableness essential to realistic bargaining. When the strike operates in this manner, it clearly merits legal protection.

However, it must be recognized, especially by those who counsel legalization of strikes in the public sector, that even in the private sector strikes do not always perform their hoped-for function. In some private sector strikes, the contending parties suffer little or no loss while others bear the brunt of the stoppage. For example, in the extended New York City newspaper strike several years ago, the printers had full employment opportunities and the publishers actually saved money by not printing during low-advertising periods; it was the other newspaper employees, the retailers, and the retailers' employees who suffered serious loss. Moreover, economists have long been aware that some major strikes disrupt the economy so seriously as to put in doubt their classical justification. In addition, employer mutual aid pacts and strike insurance—and, probably to a lesser degree, union strike benefits—operate to eliminate or reduce significantly the disciplining power of the strike weapon. In short, while often a salutary device, the private strike sometimes fails to operate as advertised.

#### *B. In the public sector*

So far as public employees are concerned, strikes have the same fairly direct effect that they have in the private sector: current income stops. However, when we compare private and public employers, we find differences that preclude reliance on the classical model of the private strike.

As noted above, the private employer is motivated by loss of sales—an occurrence which is direct, measurable, and predictable. However, in most public employee strikes, the government's revenues continue; only its wage payments stop. What creates pressure on the governmental employer to bargain are expressions by its citizens of their need for the public services. Such expressions are rarely clear, however, for the citizenry is composed of many groups with overlapping interests in getting services, differing abilities to pay taxes, and varying degrees of political punch. Moreover, citizens are rarely aware of the precise relation between costs and services. On innumerable occasions in the last decade rejections in referenda of taxes to support schools have led to subsequent school shutdowns; I suggest that the votes might well have been different had the shutdowns occurred before or during the time that the voters were registering their preferences. Unfortunately, the precision of citizen perception may not be significantly increased even by strikes, because the choice for citizens then seems to be, not how much of a public service to have, but whether or not to have it at all.

A second crucial difference between private and public employers is that the former are, so far as labor relations are concerned, relatively closely knit organizations. Top management often participates in collective bargaining, and when it does not, the company negotiators generally report directly back to it. In addition, management has had, at least until Phases I and II of President Nixon's game plan, the ability to set prices and make similar policy decisions without interference. This concentration of power makes possible reasonably rapid and decisive resolution of disagreements with unions.

Government employers, however, are characterized by diffusion of responsibility. Typically, one set of officials is involved in the negotiation process and another in the appropriations process; and occasionally even the citizens may speak directly through referenda. For local governments this problem is exacerbated, for not only are there executive and legislative officials at the local level, but also significant portions of local budgets are determined by the state legislature and the governor, and, indeed, by Congress and the President. Therefore, those officials who participate in negotiations often cannot make binding decisions; at most they can pledge to seek requisite funds or legislation. And, as a corollary, those who allot funds have great difficulty in predicting how much each type of service will cost and thus in allocating resources among services. The result of all this is that the decisionmaking process takes much time.

In order to perform their functions in collective bargaining, public officials usually need the citizen pressure generated by strikes, but they need it in a form that gives them more time than the traditional strike permits. In Pennsylvania, the early months under a statute allowing strikes have been marked by numerous stoppages, possibly beyond the number anticipated. This might be a temporary phase which will not be repeated as public employers and unions learn how to use the law. I suspect, though, that the strike weapon is too drastic for the peculiarities of public labor relations. And in any event, the implacable opposition in most states to traditional strikes by public employees places the legalization of such strikes beyond debate for the foreseeable future.

### III. COMPULSORY ARBITRATION—A DUBIOUS ALTERNATIVE

Compulsory arbitration is often proposed as a peaceful means of settling the differences between public employers and employees. There are, however, serious objections to the use of this device in either the private or public sector. Successful bargaining requires that each side determine which issues it feels most strongly about, estimate the other side's priorities, determination, and strength, and then trade concessions with the other side in an effort to reach a mutually acceptable "deal."

In arbitration, however, all arguments are supposedly based on logic—even though it has long been recognized that reasoned criteria, especially for setting wages, are illusory. Consequently, compulsory arbitration undermines good faith bargaining, for the weaker party has little to gain from bargaining. Furthermore, since arbitrators may treat the best disclosed offers as the permissible limits of the award, it pays for each side not to disclose how far it is really willing to go on each issue. As a result, the availability of arbitration saps the efficacy of factfinding; and, at the arbitration stage, the stated issues and arguments may so obscure the parties' true needs and desires that the resultant award may easily miss a satisfactory resolution of the dispute.

A further difficulty arises from use of compulsory arbitration of disputes in the public sector—the preemption of public officials from deciding policy issues. Viewed mechanically, the arbitration process does not seem to allocate public resources: arbitrators fix equitable salaries for employees, and officials determine, given these cost figures, how much public service should be purchased. As a practical matter, however, employers rarely contemplate and unions would rarely permit curtailment of services and employment. Thus, the wage decision and the resource allocation decision are inevitably linked. Also, professional employees often bargain over programs. For example, teachers' unions may demand certain kinds of educational offerings or limits on class size. Even if arbitrators were capable of dealing with the complexities of budgeting and choosing programs, elected officials should not delegate the duty they owe the electorate to settle these questions. Deciding policy issues is the vocation of officials, not of arbitrators. Furthermore, when decisions lack an adequate electoral base, they will be short-lived, as the drastic retrenchments of Medicaid demonstrate.

Compulsory arbitration in the public sector would also face a problem more mechanical, but not less important, than that of inappropriate delegation. Typically, the employment contracts of public employees are staggered, so that only one or a few groups will be negotiating new contracts at any one time. In such a context the frequent disputes over the relative pay scales of the various groups of public employees create nearly insoluble perplexities, with each group demanding higher payscales than the previous group received. I suggest that the bargaining process offers a possible way off this treadmill: a compensation package can be negotiated with each group of employees which, while intrinsically satisfying to the group, defies comparison with those of other groups. It is dubious, however, that the traditional arbitration format can produce stable arrangements. Even if the arbitrators possess the abilities necessary to determination of the appropriate pay relationships—and they may not, since the basic problem requires policy resolution—they would not, in the course of arbitrating one group's contract dispute, have all the competing groups before them. Nor would some new scheme to allow all competing groups to present the merits of their claims be feasible, for it would incur the risk of a simultaneous strike by all those groups dissatisfied with the award.

I would also like to point out what would be a significant transitional problem were compulsory arbitration to be widely adopted in the public sector. Few potential neutrals now possess sophistication in public finance. While expertise might be developed, several years of factfinding in public labor disputes which involved budgeting issues seem to have produced little confidence among arbitrators that they are equipped to deal with such problems.

"Either-or" arbitration, having been specially proposed, deserves special mention. Under this arrangement the arbitrators decide which side's final offer is more "reasonable" and take it as their award; they cannot choose any point between the parties' offers. While such a system is said to encourage reasonableness by both parties, it is actually gimmickry which encourages poker playing. Sweetly reasonable and unpalatably sour proposals may often be intermixed in each party's offer, but the arbitrators are powerless to select only the reasonable elements.

Furthermore, even if under such a system it may be said that the parties deserve what they get, the ultimate award carries with it little promise of stability. Anyone with labor relations experience knows that whenever a winner and a loser may be identified, the leadership of the loser is likely, if only to regain face, to cause trouble.

In conclusion, since neither the union nor the local government may have agreed to the process of arbitration, to the selection of the arbitrators, or to the ultimate award, the resolution of disputes by this method is inherently unstable. Coercion is not only unattractive; it also works quite poorly.

### IV. PROPOSED ALTERNATIVES: THE NONSTOPPAGE STRIKE AND THE GRADUATED STRIKE

It is reasonably clear that in public employment, the strike ban does not work; yet in most jurisdictions legalization of the strike is not a real possibility. And, I submit, the strike as it is known in the private sector would not function in the same way in the public sector and does not fit the peculiarities of public collective bargaining—diffuse responsibility and the consequent need for longer periods of time to reach settlements than in the private sector. Compulsory arbitration has serious drawbacks, not the least of which are its unacceptability to large segments of public management and unions and the likely instability of its results.

Therefore I suggest that we explore the possibilities of two other arrangements which have never been considered in the public sector but which, I suggest, fit the needs of *all* the parties more adequately than either present practices or the currently proposed alternatives.

It will help to give a rough sketch of the functioning of these two arrangements before I go into them in detail. In a non-stoppage strike, operations would continue as usual, but both the employees and the employer would pay to a special fund an amount equal to a specified percentage of total cash wages. Thus, while both parties would be under pressure to settle, there would be no disruption of service. In a graduated strike, employees would stop working during portions of their usual workweek and would suffer comparable reductions of wages. Here, there would be pressure not only on employees and employer but also on the community; however, the decrease in public service would not be as sudden or complete as in the conventional strike. I believe that these two new types of strike substitutes would work best in tandem.

### *A. The Nonstoppage Strike*

Under my proposal, a public employee union would be free to declare a nonstoppage strike after all other bargaining procedures failed to produce a settlement. Employees would be obliged to continue to work full time but would forego a portion of their take-home pay. I suggest that, initially, ten per cent would suffice. This money would be paid by the public employer directly into a special fund (more fully discussed below). In addition to paying the equivalent of regular wages, the employer would also put into the fund an extra amount equal to what the employees have given up; this latter sum would constitute a loss to the employer. The union would have the option periodically to increase the amount of the foregone wages and employer payment, perhaps by increments of ten percent every two weeks. The public employer would have the option to require the union to switch to a graduated strike. If the employer did this, the employees would continue to lose the same rate of pay, but the employer would forego services rather than pay out additional funds.

I believe that exercise of the option to initiate the nonstoppage strike and increase the percentage can be limited to the union. The union has little other leverage, since the conventional strike would still be prohibited. Also, were the public employer able to initiate a procedure under which employees would work without pay, questions of involuntary servitude might arise. In any event, the employer would still have the strategic bargaining advantage of instituting after a deadlock in negotiations, certain changes in pay or other terms of employment which have been offered to the union and rejected.

The nonstoppage strike would accommodate the peculiarities of public labor relations. It would attract the attention of and put pressure on both the public officials who deal direcly with the union involved and other members of the executive branch whose own budgets might be affected, the local legislature, and state officials. And while a nonstoppage strike would not precipitate a crisis, its pressure would be steady and increasable. Thus, it may provide the necessary incentive for the various bodies of government to act, while allowing them the time they need to do so effectively. Moreover, it does not disturb consideration of the merits of the dispute with the hysteria and histrionics now typical of illegal strikes.

While nonstoppage strikes would create additional expense for public employers—many of whom are hard pressed as it is—they should also put an end to the present practice of paying the employees at overtime rates when a strike ends to reduce the backlog of work accumulated during the strike. Also, hopefully, the expense should be only temporary, and, as will be explained below, the money will not go to waste. In any event, the price does not seem too high to pay for a substantially improved process of bargaining.

Nonstoppage strikes offer significant advantages to employees, perhaps even more than would legalization of conventional strikes. In the first place, their rate of loss of pay would be lower at any given time than if there were an all-out strike. For employees with mortgage and other installment obligations to meet, this continuity of income is highly desirable. And, to the extent that the nonstoppage strike encourages more responsive bargaining without any stoppages, the total loss of pay may be less. In addition, in a full-scale strike, especially one of long duration, the employer is not liable for fringe benefit payments. Thus, life insurance policies may lapse or require payments by employees at a time when their income is interrupted, and group medical care insurance may have to be kept in force at the higher-cost individual rates. In a nonstoppage strike these benefits should continue.

Second, in actual strikes employees run the risk of losing their jobs. A common sanction in illegal strikes is to fire strikers. In the private strike, too, replacement of economic strikers has long been permitted, and while I have seen no data on public employer activity of this sort, I think it highly probable that permanent, nondiscriminatory replacement of strikers will become a feature of the legal public employee strike. In nonstoppage strikes, of course, jobs would be secure. Moreover, the absence of even temporary replacements would eliminate a traditionally potent source of violence, which everyone has a stake in averting.

Third, long-run employee and union interests are best served by a method that is legal and discomfits the community as little as possible. As union leadership knows from its post-World War II experience, unpopular strikes lead to distasteful legislation. And by the same token, strikers, even if they feel their conduct justified, often must incur the disapproval of friends, neighbors, and others in the comunity. A peaceful method of pursuing demands seems clearly preferable.

The public employer would need some means of assuring union and employee compliance with the ground rules. Obviously working full time for less than full pay might encourage some employees to slow down or "call in sick"—a favored device in strike-ban jurisdictions. Two procedures would minimize violations. First, the unions must see that it is to their advantage to persuade members that it is to *their* advantage to abide by the rules. That is, all must be made aware that the "struck" employer is indeed under strike-like pressure. Second, the statute should provide for an expedited (and I mean quick) unfair labor practice procedure to hear and determine charges of slowdown or improper absence. However, these areas are so sensitive and have such a potential for emotional overreaction that employer discipline of employees should be limited to those cases where impartial hearing officers make a finding that the improper action has taken place.

One serious problem with the nonstoppage strike is finding a suitable use for the special fund to which the public employer and employees have contributed. In order to insure that the loss will actually discipline the parties' conduct in bargaining, the fund would have to be placed effectively beyond their recapture. I recommend that the fund be put at the disposal of a tripartite Public Purposes Committee in which respected community figures outnumber the total number of union and government members. This committee would be charged with the task of applying the money to publicly desirable, preferably short term projects that are not currently in the public budget—creation of scholarships or construction of public recreation facilities, for example. Certainly public employees would get little direct advantage from such a use of the money. Moreover, since these projects would not be currently funded, the committee's action would not discharge any of the government's present obligations; and since such contributions would occur irregularly, the government could not count on being relieved of any future burdens. Consequently, given public officialdom's abhorrence of losing control over money, this use of the funds should also provide an incentive for public employers to bargain.

Finally, I would like to dispel what may perhaps be a lingering doubt about nonstoppage strikes. Although they were initially proposed for use in the private sector more than two decades ago, they have had little acceptance by private parties. There are a number of reasons for this. First, although strikes have been the subject of some academic disapproval and periodic editorial dismay, they remain an acceptable device in the private sector. There has been, therefore, little real pressure for a substitute. Second, for a nonstoppage strike in the private sector to be as effective as the conventional strike, the contributions of the employer to the fund must be geared to the amount of profits it is spared from losing. Because of the obvious difficulty of calculating this figure, achieving a formula for employer contribution which is satisfactory to both parties could easily be more formidable an obstacle than resolving their basic economic differences. Thus, any statutory imposition of a nonstoppage plan would, while solving in a crude way the complexities of computing the formula, raise the claim by employers of deprivation of property without due process and the analogous employee claim of involuntary servitude.

Clearly the first reason does not apply in the public sector, for strikes are not currently acceptable. Nor does the second carry much weight. There is no need in the public sector to base a formula on profits because there are no profits; what should be required by the employees is that there be sufficient pressure on the public employer, and I believe my proposal provides that. The third, too, is inapplicable. Government may of course impose conditions on itself; and since it is constitutional totally to deprive public employees of the right to strike, it should be permissible to provide them with a halfway measure, especially when it is the union which voluntarily initiates its use. In short, no significant barriers to adoption of nonstoppage strikes exist in the public sector.

### *B. The graduated strike*

A nonstoppage strike may be insufficient to induce responsive bargaining. More direct pressure may be required, and the graduated strike would provide it.

In a graduated strike the union would call work to a halt in stages. During the first week or two of the strike the employees would not work for half a day; during the next period, if the union so chose, they would not work for one full day per week; and so on, until they reached some floor short of total stoppage. Employees' take-home pay would be cut proportionately.

The effect of a graduated strike would be to give the public a taste of reduced service without the shock of immediate and total deprivation. This would start in motion the political machinery I described earlier, but would not overload it. Citizens would make complaints about their inconvenience known to their elected representatives. Local officials, both executive and legislative, would thus be under pressure to *do* something, but would nevertheless be able to consult with each other and with the officials at higher levels of government. They would therefore be able to negotiate with the union in a reasonably coordinated and authoritative manner. Free of resentment and of posturing over illegality, the complicated political process of sorting out preferences between higher costs and fewer services and among competing demands could then work itself out.

To insure that employees really suffer proportionate loss of wages would require, first, that they be unable, after the strike, to reduce backlogs at overtime rates. This could probably be accomplished simply by a limitation on overtime pay for some period following the strike. It does not seem necessary to do more: to the extent the employees ultimately recoup their lost wages, the public will have the lost service restored; and in any case it is unlikely that either side's losses will ever be totally recovered. Second, it would be necessary that the shutdown not exceed the announced level. While enforcement of this requirement would not be easy, it would probably be satisfactory for an impartial body with an expedited hearing procedure to determine the actual extent of the employee stoppage and to mete out appropriate penalties, including reduction of wages. In addition, there would be another strong inducement to proper observance of the ground rules: union and employee recognition that they have an effective, fair, and acceptable weapon to encourage good faith bargaining.

As I stated before, I think that the graduated strike and nonstoppage strike would work best in tandem. Because a nonstoppage strike would cause the public less disruption, we should perhaps require that unions try it for at least four weeks; they would then have the option of instituting a graduated strike. However, since both types of strikes are certain to put pressure on the public employer, I think we should give the employer some limited options. If it feels itself financially hard pressed, it can select the graduated strike, which would result in no additional expense. If it believed that the service performed by the employees was so essential to the public that cessation could not be tolerated—for example, fire and police protection—it should have the opportunity to persuade an impartial, preferably expert, tribunal that the services are in reality so indispensable. If successful, it could limit the union to the ever-more-expensive nonstoppage strike.

### V. CONCLUSION

A blanket ban on strikes by public employees does not work. Illegal strikes are bad for labor relations and even worse for the rule of law. However, conventional strikes, if legalized, would be ill adapted to the complex procedures of public labor relations. Yet the public must accord its employees reasonable procedures that produce responsible bargaining. Under my proposals, bargaining could perform its salutary function, but without the disruption caused by the conventional strike and in ways adapted to the peculiarities of the public's needs and the government's intricate procedures for allocating resources.

Our federal system is complex and often awkward, but it enables us to experiment with various means of regulating public labor-management relations so that neither the public nor public employees are victimized. We should test the nonstoppage strike, the graduated strike, and indeed any other promising arrangements as we grope in this old field mired with so many new problems.

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## WALD ON POW'S

## HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ANDERSON of Illinois. Mr. Speaker, last week Dr. George Wald, Harvard's Nobel Prize winner in medicine, returned from Hanoi and claimed, on the basis of an interview with two American pilots, that North Vietnam is "way ahead of the Geneva Conventions" in its treatment of American prisoners of war. Yesterday, in this Chamber, I charged that "either Dr. Wald is a dupe or Hanoi is a dope," and I went on to cite numerous articles of the 1949 conventions which Hanoi has flagrantly violated.

Last evening the Rockford Morning Star phoned Dr. Wald to get his reactions to my charges. Dr. Wald reportedly defended his conclusions, and then went on to say that the Geneva Conventions are not relevant to Vietnam, "an undeclared war." This statement is but one more indication that Dr. Wald has not bothered to read the 1949 conventions which in article 2 states that:

> The Convention shall apply to all cases of declared war or any other armed conflict between parties to the convention.

Mr. Speaker, while Vietnam is not a declared war as far as we are concerned, I do not think there is any question that it qualifies as "any other armed conflict" between parties to the convention. The United States ratified the Geneva Convention in 1955, and North Vietnam acceded to the Geneva Convention in 1957.

I asked yesterday why, if North Vietnam is bettering the Geneva Conventions, it has not permitted the International Red Cross or other neutral intermediaries to inspect POW facilities as is required by article 26 of the conventions? In his interview with the Rockford paper, Dr. Wald responded:

> As to international inspection, the North Vietnamese told me I could discuss anything I talked to the POW's about, except the location.

Now I hardly think that Dr. Wald qualified under the conventions as a proper neutral or impartial intermediary, and I seriously doubt that his interview with only two prisoners constitutes what could in any way be called an inspection of POW facilities. And with respect to his instructions that he could not discuss the location of POW facilities, I would call to his attention article 23 of the conventions which directs the detaining power to provide information regarding the geographical location of prisoner camps to the prisoners' country.

In conclusion, Mr. Speaker, I maintain, as I did yesterday, that Dr. Wald just does not know what he is talking about, either with respect to how the majority of American prisoners are being treated or what the provisions of the Geneva Convention Relative to the Treatment of Prisoners of War of 1949 actually require. I think if he would bother to study those conventions and examine the testimony of former POW's as to their treatment, he would conclude with me that North Vietnam is not only bound to abide by those conventions, but has been in gross violation of them. I would hope that he could then join with me and other Members of this Congress in condemning the inhumane treatment these prisoners have been receiving at the hands of the North Vietnamese, and in calling upon that government to comply with these most basic rules of human decency.

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## FIRE SAFETY IN NURSING HOMES

## HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. KEATING. Mr. Speaker, when testifying before the Special Studies Subcommittee of the Committee on Government Operations exactly 1 week ago, I indicated my intent to offer a program in Congress to deal effectively with the problems of fire safety currently afflicting our country's nursing homes. The following are the broad outlines of this legislative program, which today is being introduced in Congress:

First, a bill to amend section 232 of the National Housing Act to require, as a condition of eligibiilty for mortgage insurance, that a nursing home or intermediate care facility comply with the provisions of the Life Safety Code, and; to authorize the Federal Housing Administration to insure loans to provide fire safety equipment for nursing homes or intermediate care facilities.

This bill is being offered basically for two reasons: To make certain that the Federal Housing Administration insures loans for construction only of long-term care facilities which are in conformity with the most strict fire safety standards, and also to provide those existing institutions which need assistance to attain this goal with appropriate support from the Federal Government.

Second, a bill to amend the Social Security Act to require that intermediate care facilities receiving funds approved under title XIX of this act comply with the provisions of the life safety code now applicable to skilled nursing homes certified under the medicaid program.

Under present law, intermediate care facilities receiving Federal funds under title XIX are not subject to the same standards of fire safety as are skilled nursing homes. This bill will correct this deficiency, as there is no compelling reason to require one set of fire safety standards for some institutions, and a different set of fire standards for other institutions.

This bill also calls for the full disclosure of ownership interests in nursing homes to an appropriate State agency, and for making this information available to the public.

As a result, those persons desirous of selecting a safe nursing home for their elderly will have access to information necessary to make a prudent decision.

Finally, I am introducing a bill to amend title VI of the Public Health Service Act to authorize funds for construction of long-term care facilities only in those instances where construction is in conformity with the provisions of the life safety code. By this action, the Public Health Service Act will be brought into line with other Federal statutes mandating strict adherence to the life safety code's substantial fire protection measures.

The measures introduced today will provide a degree of uniformity, consistency, and rationality in those statutes relating to facilities that provide care to our older Americans. With the enactment of the legislative program offered today, all these facilities will be subject to the same strict fire safety standards, and once and for all we will set aside the practice of multiple fire safety standards for different kinds of nursing homes.

I feel confident that with the enactment of this program, fires such as occurred in the Green Nursing Home in Lincoln Heights, Ohio, last month can be kept to an absolute minimum. Complete fire safety may be an impossible goal; however, a stronger effort at fire safety must be made, and a strong beginning has been made today.

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## VOICE OF DEMOCRACY CONTEST WINNER IN WEST VIRGINIA

### HON. JAMES KEE

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. KEE. Mr. Speaker, Curtis D. Goho, Jr., of Princeton, W. Va., a city in the district which I have the honor to represent, has been awarded first place in the Voice of Democracy Contest for the State of West Virginia.

Our West Virginia champion is a 16-year-old junior student of Princeton High School. He is the son of Mr. and Mrs. Curtis D. Goho, Sr., residing at Route 4, Box 415, Princeton, W. Va. His father is a forestry research technician and his mother a registered nurse. He has one brother, age 12, and a sister, age 14.

Curtis is sports editor and photographer for the school newspaper, student council representative, member of the Key Club, Annual Staff, Order of the Arrow, debate team, Spanish Club, Pep Club, Christian Youth Council, Forensics, and has played numerous major and minor dramatic roles in school and church productions. He is an active participant in Boy Scouts, having attended the Boy Scouts National Jamboree in 1969 and has attained the rank of Eagle Scout. Past achievements include serving as Junior High School Student Council president, recipient of the West Virginia Golden Horseshoe Award and second place State winner in the Reader's Digest speech contest. His hobbies include photography, music, camping, sports, and debating. Future plans involve attending West Virginia University to prepare himself to pursue a career in dentistry.

Curtis is representing West Virginia in the national contest finals which will be held in Washington, D.C., on March 3–8, 1972. All West Virginians will be watching and pulling for this outstanding young American.

The Voice of Democracy program is solely sponsored by the Veterans of Foreign Wars and its ladies auxiliary, in cooperation with the State and National Broadcasters Association. The theme for this year's script was "My Responsibility to Freedom." Total student participation throughout the State of West Virginia was 2,554 students representing 87 high schools. The national total participation this year was nearly 500,000 school students from over 6,800 high schools.

I am very proud of Curtis Goho. His hard work has won for him the top honors in our State. His winning speech is an excellent illustration of some of the clear and lucid thinking of today's young people. This young man is also a good example of the constructive attitude of the great majority of our future leaders.

Mr. Speaker, these contests certainly articulate the spirit of democratic government and are likewise beneficial to those who participate and are enlightening those who hear and read these essays. I, therefore, want to commend the Veterans of Foreign Wars of the United States and its ladies auxiliary for conducting this excellent contest each year.

After reading Curtis Goho's outstanding speech, one can readily see why he was West Virginia's champion. I am, therefore, pleased to commend his essay to the attention of my colleagues:

#### MY RESPONSIBILITY TO FREEDOM

(By Curtis D. Goho, Jr.)

Hello. My name is Sam Jones, Joe Thomas, Ted Smith, Bob Brown. What my name is doesn't really matter. What does matter is that I am an American. And, as an American, I am a free man, one who can say what I feel, go wherever I want to, and have freedom of my life with no undue interference from anyone. These are the freedoms which it is my responsibility to defend.

When I was smaller, I took these freedoms for granted, not knowing what they were or why I had them. Actually, I hardly knew that they existed. But now that I am nearing the age where I can help to uphold and secure these freedoms, I realize that they are not to be taken lightly. This freedom which I have is not a gift that is freely given to me. I must deserve it first. I must work for freedom, live for it, and, if the call should come, die for it.

In working for freedom, I can do my part in upholding its strengths and overcoming its weaknesses. My part must be one of upholding the ideals of freedom for all, not just for one person and not just for me, but for everyone. To overcome the weaknesses of freedom and to uphold its strength, it is my duty to keep myself informed in world, national, and local affairs, to discover how my government works by studying its functions, and in a few years to carefully examine both sides of an issue and then take my stand and vote for the people whom I feel will uphold my freedom to the fullest extent. It is also my responsibility to serve freedom in any office which is necessary to administer and uphold it. I must be a thinking person, one who not only keeps myself informed for my freedom but to keep others informed as well.

Working for freedom is not my only responsibility. I must be willing to sacrifice my life if it is necessary to protect freedom. Throughout the years, many men have died for freedom, not only for themselves, but for other people of the world—people who they never had seen before. The doughboys of World War I and the G.I.'s of World War II, Korea, and Viet Nam never knew the people they were fighting for, only that those people wanted freedom—and they died for it. If the time comes, I also must be willing to give my life for this cause, not for myself but for my children and their children.

Besides working for freedom and possibly giving my life for it, I must live my responsibility to freedom every day of my life. I must be prepared to take my part in the smaller tasks, however trivial they seem to be. Such everyday occurrenes as obeying traffic regulations, living up to laws, and serving on juries also go into making up my responsibilities to freedom.

Someone once said "a chain is as strong as its weakest link." Freedom is only as strong as its weakest person, and in order to make freedom a success, each person must give their all for it. So as my responsibility to freedom, I, a free man, no matter what my name, race, or creed, have a duty to freedom of working for it, living for it in my everyday life, and possibly dying for it. For freedom is only as strong as I am.

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## JAMAICA SELECTED AS ALL-AMERICAN CITY

### HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HALPERN. Mr. Speaker, it was indeed a great pleasure for me to learn that the National Municipal League has bestowed its annual "All-American City" title to Jamaica, N.Y.

The National Municipal League and the Saturday Evening Post started this annual competition in 1949 to encourage citizens initiative for local improvement. Winners are selected annually for this honor by a jury of distinguished citizens and experts on government. This year, these experts have selected Jamaica, Queens because of the vigorous action of its citizens in bringing about major improvements in their community and thus setting an example of good citizenship for the Nation.

This award has great significance to me and the people of Jamaica because it recognizes the foresight, vision, and activity of an urban community trying to solve the problems of living and working in a megopolis.

It is particularly interesting to note the many and varied historic developments encompassed in the Jamaica community because it is a mirror of industrial America. History tells us that all major cities flourished near easy access to rivers or ocean facilities. New York City is no exception. Clearly one of the New World's oldest cities, New York is trying desperately to meet the challenges of the future and Jamaica is part of that challenge.

Jamaica, because it is geographically part of New York City, has a unique problem of trying to cope with the same ills of urban living and yet maintain an independence which will enable the community to deal more effectively with change.

Jamaica's fortunes have long been linked to those of the city. It was charted in 1650 and has served as the business and transportation hub for all southeast Queens. In the mid-19th century Jamaica consisted of scattered farms located on high ground in the midst of the many marshes and creeks which drained into Jamaica Bay. During the middle of the 19th century there was a flurry of railroad buildings on Long Island and Jamaica became an important rail center. By the 1880's it became New York's first inland community center.

Shortly thereafter, land values rose and family houses as well as commercial business grew as the community moved into the 20th century. Commercial activity, including meats slaughtering and packing, textiles, manufacturing, and carting flourished throughout the area.

Today, Jamaica contains the third largest retail district in New York City. This retail area is located within a larger central business district that contains such significant facilities as the main branch of the Queens Borough Library, Mary Immaculate Hospital, the Registrar's Office, the Supreme and Family Courts, the Bureau of Motor Vehicles, the YMCA, and the Jamaica District Health Center. Jamacia also has about 1,000 retail businesses which include three department stores and a good number of moderately sized stores.

Through the imagination, dedication, and activity of the civic leaders in Jamaica the present area is being converted into a multi-purpose urban center where many regional activities will be located. Proposed plans to date include:

A permanent 4-year liberal arts college;

Two new courthouses;

A new subway line;

Demolition of the Jamaica Avenue elevated train;

Two new municipal parking garages;

Three private office buildings—including a 20-story office tower complex;

One private parking garage;

Five new schools including a medical college;

New road and highways; and

Three thousand, one hundred, thirty-one new housing units.

As you can well imagine, Mr. Speaker, the room for growth, innovation, and progress is unlimited. As a lifelong resident of this area I have marveled at its ability to keep up with the changing times and the problems which, engulf a city. For the past 40 years I have been actively involved in the affairs of my community and today I share my pride in Jamacia with the business, civic, and community leaders as well as the 273,000 people who work and live there.

We are building and rebuilding, working and reworking, and planning and replaning to make Jamaica a progressive, community which will serve the needs of all its residents.

I look forward with great pride and expectation to what we can do to make Jamaica an "All-American City" for all time. A community which constantly envisions change and then takes affirmative action to meet the needs which change imposes will, in my estimation, be able to provide unlimited opportunities for its residents. I am proud to say Jamaica is such a community.

At this time I would like to insert into the RECORD a portion of the article of the spring 1972 edition of the Saturday Evening Post which announced the winners of the All-American City awards:

### JAMAICA: ALL-AMERICAN CITY

We have already noted that Jamaica has an overflow problem with all of the big-city ills of Manhattan itself spilling over on this smaller community. If you fly over the New York area, you won't notice Jamaica as such at all, since it is physically indistinguishable (even with its 273,000 inhabitants) from the great spread of solid mass in all directions of the metropolitan suburbia. It is part of a county with two million people, which is in turn part of the City of New York, which has eight million people. And New York City is the central core of a growing urban region comprising thirty-one counties in three states in which twenty million people reside.

But Jamaica has a soul. In the eighteenth century, it was the hub of traffic running from New York out across Long Island. Its crossroad was the famous Jericho Turnpike, still bearing that name, then a plank road which trembled under the hooves of Washington's cavalry and the gun carriages of the British. It would never do to permit a past of such individuality to become extinguished, but in fact that was just what was happening. But many Jamaica citizens turned to and now have been working for years to establish some kind of individuality in their community and to check decline of the downtown area. Three who have been particularly involved are David Starr, the editor of the *Long Island Press;* Dr. Canute Bernard, a medical doctor who is also chairman of the Jamaica Community Corporation; and Vincent M. Albanese, an attorney who is a former president of the Chamber of Commerce, and now president of the Greater Jamaica Development Corporation.

As they tell it, until recently, Jamaica—an old downtown and a residential pocket of poverty in a populous growing county of new shopping centers and affluent homes—had problems too serious to attract private investment but not serious enough to qualify for most government programs. Growth and prosperity were bypassing it, occurring all around it, but not within it. Lacking the power to act in its own behalf, it was curiously suffering from inclusion in perhaps the most dynamic metropolis in the nation. Jamaica's black citizens were struggling to purchase their homes and retain the community qualities which attracted them there. Its white citizens were struggling with their fears and the decline which the transition threatened to bring.

"Now, with several years of hard work, persistence and exceptional leadership, Jamaica is a community on the verge of resolving its major problems of rebuilding itself to provide new opportunites and services for its residents, of regaining its identity and sense of worth.

"Simultaneously, business, civic and community leaders are moving it toward a regional consciousness and developing a constructive partnership with the government at several levels. The considerable resources of the city and state have been brought to bear on Jamaica's problems and prospects. Public investments scheduled for Jamaica and environs total about $300 million, including rail service to JFK airport, a new Family Court, and a Civil Court which was initially to have been built elsewhere. Three private projects are underway: New York Telephone will open its Queens headquarters office building in the fall of 1971; a 730-car public garage opened in 1971; the site for a large commercial office building is being assembled by the City for a prominent developer.

"In the best traditions of American drive and public-private cooperation, Jamaica is moving ahead."

The whole idea has been to turn Jamaica into a regional center for business, education, health, the arts and government, via an organization, the Greater Jamaica Development Corporation. And Jamaica has developed greatly.

The citizens successfully blocked the city's plan for a housing program because the program was not good enough. They insisted that the city come back with a comprehensive plan which included schools, street improvements, good sewers and the other necessary services. The city government did as it was told by the citizens. The Jamaica people scored two notable and rather dramatic victories which could only have happened in a metropolitan area. The first was in the matter of a city subway. New York City had planned to run a subway line through Jamaica to Manhattan, but only touch an outlying portion of the Jamaica area—in other words, just a by-stop. The Jamaicans not only succeeded in having the subway rerouted so that service to Manhattan will now be via Jamaica Center; they also swung their weapon of citizen concern in the other direction, and in the same swoop caused the removal of a blighting elevated transit structure from Jamaica's main street.

Ten acres were cleared around the site of the planned subway station, to be privately developed for new offices—and new jobs—for Jamaica.

Even more contemporary is their problem with York College. This is to be a big one, some 10,000 students, and it was originally planned to put the campus on a scenic but remote site, actually the grounds of an old U.S. Army post at Fort Totten. But, much as Jamaicans might like the idea of an ivy-covered college somewhere in the vicinity, they thought far more highly of bringing York right into the center of their community, and inter-involving students and faculty with the life of the inner city. The Jamaicans persuaded the college to move plumb into their midst, into what had once been a lost and blighted site of fifty acres, but one which was still convenient to the business and residential neighborhoods of their community. It is a transfusion of new life and new community blood to Jamaica. Blight has given way to an educational center, with all of its vitality and cultural advantages.

## THE EQUAL RIGHTS AMENDMENT

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## HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mrs. GRIFFITHS. Mr. Speaker, on February 8, Senator Sam Ervin entered some material in the Congressional Record under the heading, "Elmo Roper Poll Shows Women Against the Equal Rights Amendment." Frankly, I feel that the passing out of misinformation by Members of the other body is to be deplored, and I must object to some of Senator Ervin's remarks.

The Roper poll concerned "Women's Views of Women's Liberation"—not women's views of the equal rights amendment. The questions are geared to men and women's views of women's positions in the social structure, such as questions on "Men's clubs and lodges should be required to admit women," "men should stop appraising women on the basis of beauty and sex appeal," and "women employees should not emphasize their femininity." The poll on women's liberation in itself is misleading, since the ideology of some members of women's lib goes far beyond the issues raised by the equal rights amendment.

Senator Ervin said that it was a "myth" that American women support my amendment. I have received letters, cards, and telegrams from women throughout the Nation, expressing their support for the equal rights amendment. Many have been the victims of the sex discrimination the amendment is designed to overcome.

As a matter of fact, I would like to call attention to a poll that did concern itself with the equal rights amendment. More than 70 percent of the respondents to the advocates' television program poll answered the question, "Should the equal rights amendments be adopted?" affirmatively. These results were quoted in the Congressional Record on February 14 by Senator Birch Bayh.

Senator Ervin stated that I felt that women should have the legal responsibility for family support, if the woman in a household is the better wage earner. The equal rights amendment would not make women the breadwinners for their families. As has always been the case, this matter would be worked out in the home between the husband and the wife. In many cases, a woman is the breadwinner in the home, because she is widowed, divorced, or separated, if she is supporting parents or other relatives, or if her husband is ill, disabled, or unemployed. Why should such women be penalized by their Government enacting laws against them?

The amendment would give women the same protections the Constitution now guarantees to men—protections that have been actively sought and gained for all other minority groups. Where a law restricts or denies opportunities of women or men, the effect of the ERA would be to render such laws unconstitutional. Where laws confer a benefit, privilege, or obligation of citizenship, such would be extended to the other sex.

My amendment protects a woman, her family, and her husband from the consequences of sex discrimination. ERA means equal educational opportunities for both sexes, equal punishment for criminal offenses, a right to draw equally on social security, a right to the same pension benefits that men have for themselves and their families, and the same fringe benefits for all women Government employees. It would, hopefully, cause all employers to look upon women as persons.

Whatever their views on the silly and frivolous questions raised in the Roper poll, I feel that a majority of men and women support the justice of the equal rights amendment. Even in the Roper poll, cited by Senator Ervin as support of his belief that most Americans did not want the ERA, more than 70 percent of those surveyed said that they felt that women should get equal pay with men for doing the same job and that women should have equal job opportunities. Women are not equal now, and in the name of justice, we must act to insure that women receive the same rights, privileges, and responsibilities that are now open to all male Americans and to all other minority groups—except women.

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## BERLIN ACCORD: NO WINNERS

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## HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HUNT. Mr. Speaker, much concern is being shown by people here in the United States regarding the status of West Berlin and its role as a free city in Communist East Germany. This issue is of vital importance considering the city's future as an island of democracy in a captive area. My good friend and colleague from Iowa, William J. Scherle, has prepared a very perceptive report on this situation so that the responsibility of the United States can be seen in its proper perspective:

### Berlin Accord: No Winners

The late Nikita Khrushchev once said of the beleaguered bastion of West Berlin that it was a thorn in the side of the Soviet Union. He added, however, with grim satisfaction, that it was also a corn on the foot of Western Europe, on which the Kremlin could tread at will to cause discomfort to the Western allies. These two earthy images neatly summarize the checkered career of the unfortunate city. Divided as a spoil of war among the occupying powers in 1945, Berlin has never really ceased to be a battlefield. At the termination of the hot war against the Axis powers, a cold war almost immediately flared between the former allies and Berlin became the focal point of an unending series of disputes. The city's status has also been the subject of endless negotiations between the United States and the U.S.S.R. It is said that during the quarter century of East-West tensions, the blitz of diplomatic notes, protests, treaty drafts and other documents exchanged over Berlin would, if stacked next to the infamous wall in the Eastern sector, enable a refugee to step easily over the barrier.

Earlier this month, still another agreement on Berlin was signed by the United States, Great Britain, France and the Soviet Union. The new Berlin accord, as it is known, has been hailed by all parties as an "historic event," a "milestone" in diplomacy, and a significant advance in the fortunes of the long-suffering residents of West Berlin. On closer examination, however, it becomes evident that there are no real winners in this latest round of negotiations. Some concessions have been wrung from the Communists, but a price has been paid for them.

On the positive side, the Soviet Union has agreed for the first time since World War II to recognize her responsibility to guarantee unimpeded civilian land access to the Western sectors of Berlin. This responsibility has never previously been acknowledged by the Communists. The Western powers unaccountably failed to exact any such admission from Russia in the original agreement governing the division of the city into occupied zones. (Air access and military movements on the ground were clearly stipulated in the earlier contract among the Allies and have never seriously been questioned as a result.) This omission has occasioned most of the trouble over Berlin because of the city's location. An isolated enclave more than 100 miles inside East Germany, West Berlin has been entirely dependent on the good will of the Communists for its lifelines of commerce and communication with the West. This accident of geography has allowed the Reds to exercise their notorious "salami tactics" with virtual impunity for more than two decades.

Russia also agreed to permit broader contacts between residents of the Western sector and East Berlin and East Germany. West Berliners had been barred from visiting the Eastern half of their city since 1966, and from venturing into surrounding East Germany since 1952. The wall will remain standing, but will become "porous". The traffic, however, will flow only one way. Embarrassed by the flood of three million refugees who fled to the West before the wall was erected, the Communists will not permit East Berliners to travel West. In addition, the Soviets recognized the legitimacy of West Berlin's ties to West Germany, a point the Communists hitherto refused to concede.

On the negative side are all the unspoken omissions. The grim wall will not be torn down, and the East German guards still have orders to shoot anyone trying to escape. The legal status of East Berlin was not even discussed. By implication, it is consigned forever to its Communist fate. Very little hope can be held out to those who long to see their city reunited in freedom.

The Soviets also won more concrete concessions in return for the access agreement. They will be allowed to establish a consulate in West Berlin, and they exacted a pledge from the Bonn government not to perform "constitutional" functions in West Berlin, such as Parliamentary elections. The Communist bloc stands to gain other advantages as well. The wording of the Berlin accord grants tacit recognition to the sovereignty of East Germany. The signing of the agreement will also pave the way toward a non-aggression pact between West Germany and the Warsaw Pact nations. In addition, the Russians hope that it will prepare the ground for a pan-European security conference, the aim of which will be to reduce manpower force levels on the continent. The Soviets want to accomplish this for two reasons: first, of course, they wish to diminish American influence in European affairs by reducing the American military presence in Europe; second, they hope to secure their Western flank on more friendly terms in order to concentrate their main troop strength on the Chinese border.

The Soviet fear of increasing Chinese pressure and their consequent desire to establish a framework of cooperative relations with Europe coincides conveniently with three trends in the West: West German Chancellor Willy Brandt's policy of "Ostpolitik" or reconciliation with Communist Eastern Europe; the increasingly independent stance of West European nations with respect to the Atlantic alliance and the growing American conviction that the United States alone cannot indefinitely fill the role of world policeman, and that our allies should assume greater responsibility for their own defense. In view of all these converging factors, it is quite likely that the European security conference will take place and that the Soviets will honor their agreement on Berlin so long as they find it to their advantage to do so. The hitch is, of course, that one day Russia may no longer hold that opinion. When that day comes, no accord will be able to save the beleaguered West Berliners from yet another round of battles with the encroaching Communist enemy.

With this background and summary of the situation as it exists today, of even greater concern is West German Chancellor Willy Brandt's policy of "Ostpolitik"—accommodation with Communist Eastern Europe—whose serious deficiency lies in the offer of concessions without seeking anything in return. If carried to its ultimate conclusion, the agreements being promulgated pursuant to this policy will put a stamp of approval on the permanent division of East and West Germany and will add immeasurably to the precarious position of West Berlin. As Congressman SCHERLE has observed:

> It is quite likely that the European security conference will take place and that the Soviets will honor their agreement on Berlin so long as they find it to their advantage to do so. The hitch is, of course, that one day Russia may no longer hold that opinion. When that day comes, no accord will be able to save the beleaguered West Berliners from yet another round of battles with the encroaching Communist enemy.

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## THE PRESIDENT'S "PEACE" PLAN

## HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. SCHMITZ. Mr. Speaker, in a dramatic report to the American people January 25, the very next day after his numbing budget message reporting a current $38 billion deficit and programing another $25 billion deficit, President Nixon unveiled his new eight-point plan to end the war in Vietnam, ruling out in advance any possibility of an American military victory.

While the President's grandiose peace plan may have sounded quite plausible to many Americans, those accustomed to the harsh realities of such political dealings in the continuing cold war cannot fail to see in it another example of the kind of policymaking which has led us to defeat in past confrontations with the same foe. For in Southeast Asia we are not merely dealing with an ordinary adversary who understands and abides by the generally accepted rules of war, but with a deadly Communist enemy proved incapable, by more than half a century of political intrigue and revolutionary violence, of ever honoring any type of treaty or "agreement." The Reds from Moscow to Peking to Hanoi have consistently looked upon treaties with all nations as merely worthless scraps of paper to be used to their own advantage and then discarded after suiting their purposes. To the Communists, therefore, "promises are like piecrusts—made to be broken."

President Nixon's eight-point plan incorporated many of the very demands made by the North Vietnamese Communists in their own seven-point proposal at the Paris peace talks last July. But, as expected, the Red negotiators promptly denounced the President's public offer, claiming that he had not fully responded to their wishes. Said the President plaintively:

> The truth is that we did respond to the enemy's plan, in the manner they wanted us to respond—secretly.

In essence, the President's plan would force on the hapless South Vietnamese a coalition government, including Communist members, thus providing what history has shown to be the typical foundation for a complete Communist takeover. And it would withdraw all American troops and support forces from Southeast Asia at a time when a major Red offensive is about to begin, thus paving the way for a Communist triumph. All we would get in return would be a Communist promise to halt their aggression and to release all our prisoners—whose release, at the cost of our total defeat, would make a mockery of all they have suffered and that their fellow soldiers died for. The President has even offered $7 billion to rebuild Vietnam once the war ends, a third of which would go as a kind of reparations to rehabilitate Communist North Vietnam. On the House floor February 1, Congressman H. R. GROSS, of Iowa, called this the most humiliating proposal he ever heard. I could not agree with him more.

Testifying before the House Committee on Un-American Activities on May 20, 1957, the Director of the Foreign Policy Research Institute, Dr. Robert Strausz-Hupé flatly rejected the frequently advanced theory that the Communists are following a "limited war" strategy in their efforts to seize control of the world. An acknowledged expert on Communist affairs, Dr. Strausz-Hupé stated that the Communist strategy "never has been, and is not now, a strategy of limited war," rather, it is a strategy of "protracted conflict." He continued:

> The strategy of protracted conflict prescribes the annihilation of the opponent by a long series of carefully calibrated operations, by feints and maneuvers, by psychological and economic warfare, and by diverse forms of violence . . . It encompasses all known forms of violent and nonviolent conflict techniques, and fuses them into a weapons spectrum which begins on the left with the seemingly innocuous political activities, such as the clandestine distribution of leaflets, and terminates on the right end of the spectrum with the megaton bomb.

The Communists, he continued, have a distinct advantage in their protracted conflict strategy because from their standpoint—

> There is no difference between military and political means. They are all instruments of conflict, leading to the same objective of power accumulation.

In this manner, the Communist hope to make small, steady gains while avoiding an all-out conflict which they do not want.

Therefore, the North Vietnamese Communists make more and more demands at the Paris peace talks, expecting eventually to get what they really want. They will continue the war as long as they think they have more to gain than to lose by it. Since all negotiations with the Communists start from the premise that nothing they now control can be touched—or is even an issue—the worst they can ever get is a draw while the best we can ever get is likewise, a draw. As we keep retreating and giving them better and better offers, they will keep demanding more and more. They are willing to go on fighting indefinitely while we are becoming war-weary, our military morale is ebbing, and the administration refuses to take the necessary steps to win.

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## PRESIDENT'S PEACE PLAN BEST POSSIBLE

## HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. SHRIVER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following editorial from the Peabody, Kans., Gazette-Herald that responsibly discusses the proposals for peace in Vietnam presented recently by President Nixon. The editorial properly calls on Americans to support the peace plan, "at least until it had had a chance to work or to fail."

### PRESIDENT'S PEACE PLAN BEST POSSIBLE

Although certain quarters have kept up an instant and steady volley of criticism, the peace plan proposed by President Nixon surely deserves the support of all Americans—at least those who want us to get out of the mess in Southeast Asia. The continued delay on the part of the Reds is almost flabbergasting, considering the fact that it gives them so much for so little—merely turning our prisoners of war loose.

For the Reds it means that the American troops who have kept them from their planned take-over of South Vietnam are being withdrawn within a few months—and after all, what are a few months to the Communists, who have been trying to capture all of Vietnam for several decades. It comes as near to abject surrender as America can possibly come.

Those who criticize the plan must have a rather strange set of values. Either they really don't care about the end of the war and getting the prisoners home, or they have not even a particle of understanding of what the enemy wants, has said he wants, and has tried to get through the years.

We must remember at the outset that the Communists are not particularly interested in a peaceful settlement of the conflict. They started the war to take over South Vietnam, they always intended to do it, and they still hope to succeed. Neither are they very interested in whether American men get home to their families now or ever. They do not have the same regard for life, death and love that we do—at least on the top political level—and to them the prisoners are merely pawns to be used against an enemy that has a soft spot for them.

We could hardly expect the Reds to immediately accept any terms short of abject surrender, turning the nation over to them and the U.S. paying for rebuilding the country. Actually, the peace proposals went much farther than anyone has any right to expect. Even to consider allowing the Communists in the government is virtually surrendering and turning the nation over to them for they can be counted on to cause enough turmoil to wreck any government in which they participate as anything but absolute rules.

From the American point of view, the peace plan is the most we can offer, and certainly enough to please any enemy if he wants to be pleased. It should end our involvement in the tragic struggle—and probably our position as a factor in Southeast Asia in the future. That may be just as well, too. The South Vietnamese, who are probably wonderful people individually, have been the worst friends a nation ever set about to help—and that's another chapter.

At any rate, Americans should support the peace plan, at least until it had had a chance to work or to fail. It is certainly better than any other proposal on this side of the war, and it is over-fair to the enemy.

Maybe the Reds and their supporters abroad and in America expect us to send them reparations, too.

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## FULL TAX EXEMPTION TO ALL POW'S AND MIA'S

## HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. RAILSBACK. Mr. Speaker, the war in Southeast Asia has affected all of us. However, there are none who have suffered more than our servicemen who are prisoners of war, missing, or in a detained status, and their families. It is clear that something must be done to relieve some of the many difficult consequences of this tragic situation.

Quite obviously, no bill will adequately compensate the imprisoned and missing men or their families for the serious hardships and deep mental anguish they must endure. However, in a small way, the legislation we are considering today will lend some assistance to these people and let them know they have not been forgotten.

Briefly stated, this bill would amend the Internal Revenue Code to give a full tax exemption to all servicemen who are prisoners of war, missing, or in a detained status. The present law exempts the entire amount of taxable income for enlisted personnel and the first $500 of taxable income for commissioned officers serving in a combat area. This bill will extend a full exemption to all servicemen for such time as they are missing or detained. Although the financial relief afforded will be small and the legislation cannot erase the pains of these brave individuals, this bill will at least be a positive expression of the Nation's recognition of the great sacrifices which these men and their families have made and are continuing to make for their country.

I hope the legislation is passed today without any delay.

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## RETAIL CLERKS LOCAL 35 SAYS CENTRAL ILLINOIS IS AMERICANA

## HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. PUCINSKI. Mr. Speaker, Advocate, the magazine of the Retail Clerks International Union ran an extremely interesting article on Local 35 in central Illinois in its March edition. The article set forth what it takes for good, effective union representation. It also provides an idea of central Illinois citizens' thinking about our economy. I commend the article to my colleagues' attention. This article shows what an impressive role the retail clerks play in helping Americans share in the promise of America. It is an inspiring article on the enormous opportunities that we Americans have in shaping the future. Equally important, this excellent article gives us a new dimension of awareness that in America—midwest America—there is no limit to opportunities.

The article follows:

### Central Illinois Is Americana

Illinois—from Alton and Godfrey north to Jacksonville and Quincy—is Local 35 country, a country steeped in American folklore and labor history.

Legend has it that here the Indian warrior chief Ouatoga destroyed the Piasa, a monstrous bird which preyed on human flesh.

Here Lewis and Clark explored the American midlands. And abolitionist Elijah Lovejoy's printing press was dumped into Mark Twain's Mississippi River.

John L. Lewis led the miners to stirring labor deeds from his home in Gillespie, a town smack in the middle of Local 35 territory and a town whose every retail store now bears an RCIA union store card.

RCIA, too, has a history in this Americana, a history dating back to 1891 when an RCIA local was chartered in Quincy. For the past 81 years, through lean depression years and more prosperous ones, RCIA has been a steadfast union pillar in this 12½ county, central Illinois community.

Then, in 1970, five locals merged, forming Local 35.

"It was a definite plus for servicing our members," Local 35 Secretary-Treasurer Bob Schreier said. His assessment is borne out by statistics: membership has zoomed 20 per cent since the merger.

Firm organizational structure alone doesn't account for Local 35's success. Added to that has been militant collective bargaining, conscientious grievance handling, and just plain hard work. To build the union, Schreier and Business Representative Chuck Cross work a "40-hour day."

"The union office is open 8:30 A.M. to 5:00 P.M., but most days there are early morning meetings, distributions, store visits," Schreier said. And the staff averages two evening meetings each week. But that's the way a union should represent its members, Schreier feels.

And it pays off.

Walk with Bob through any store in the 12½ counties and you will be stopped by half-a-dozen hellos and friendly comments to the "union man." And not only by the employees; customers also know Bob by sight, for he and Local 35 are deeply involved in community and political life. Indeed, it is by no accident that Bob is a five-time Century Club member of the Active Ballot Club. Chuck, as befits his more youthful age, is a one-time member.

Local 35 knows the advantage of a large, powerful RCIA. The members experience the benefits firsthand, especially in their health and welfare program.

"We are in the District Council 3 program, and the 50,000 members participating in this plan give a small local like ours a break we could never have on our own," Schreier said. "It has been one of the best things that ever happened to our people."

Bert Elfgen and Bernice Slocumb proved the point. Now 67, Bert worked 23 years in a mom and pop grocery store. Bernice worked 26 years in another mom and pop store. Without the large RCIA group policy, Bert and Bernice would have suffered meager returns in their vintage years.

But now they have retired the RCIA way: with full credit for their past service. And they get the credit even though the plan was not negotiated in their stores until 16 months ago. As Schreier said, "I was a great day for our people."

The same could be said for all Local 35: "a great day for retail people in central Illinois."

The leadership of Local 35: Pat Adler, board member; Bert Elfgen, recorder; Luther E. Clark, president; and Robert Schreier, secretary-treasurer; Chuck Cross, board member; Deacon Gimmy, 1st vice president; Evelyn Pitman, board member; Ruth Poole, board member; and G. W. Wright, 2nd vice president; Board member Mae Farmer.

### HOW LOCAL 35 MEMBERS FEEL ABOUT THE ECONOMIC SQUEEZE

(Editor's Note: When we went to cover Local 35 as the "Local of the Month," we also took along a tape recorder and picked up these comments from the members. These replies are in answer to the question: "What do you think of the current economic situation?")

Dick Bauser, A & P: Maybe in the long run, over a period of months, the wage-price freeze might work out, but as far as freezing the wages for the first 90 days, I never did buy that. Working people certainly didn't get a fair shake out of that deal. Besides, prices simply have not been held down as tightly as wages. Prices have been going up all the time.

Elsie Herbstreit, National Food: I didn't like the fact that we were supposed to get a wage increase and then we didn't. Our wage increase was to come due, but the date was the day after the freeze was announced, so we simply didn't get it. I don't think that's a fair arrangement for working people.

Mary Lee Brandt, National Tea: But I think more money should be spent in the United States instead of sending it out. We just have to stop the war, and then we have to create some jobs so these boys coming home will have a place to work. I know some Vietnam veterans and some of them are saying they wish they could go back. They are really treated terribly here.

Peter Rolla, Tri-City Food: The freeze came too late because right around here they had already raised prices in anticipation of a wage increase, but then we were denied the wage increase. So here we are stuck with lower wages to pay higher prices. Food prices have gone up, but everything else has gone up even more than food.

Vic Busee, Central Hardware: I believe they are going to try to keep the economy moving through the rest of this year—because it's an election year. I think prices have gone up extremely in some lines, in spite of the freeze. My wife complains that prices have gone up—particularly in grocery stores.

Joan Smith, Central Hardware: I don't believe in these freezes, especially when you tell me that I can't get any more than a 5.5 per cent increase. But while wages are held down prices go up. I got a $5 bigger utility bill. Grocery prices are up, so is clothing, but wages are frozen. It's not fair.

Betty Holliday, Belscott: With so many people out of work, I just don't go along with the wage-price freeze at all. And besides, prices aren't frozen anyway. I can point out a lot of prices that have gone up.

Ken Williamson, Kroger: I'd like to have a lot more, but I feel the situation now is reasonable. I guess we have to give it a little time to work. We have some catching up to do. I certainly feel I could use more money a week myself. I think that labor is always the guy who is behind.

Bill Burney, Kroger: The economy is really going to pot. They put on a wage-price freeze and the wages are sure frozen but the prices keep right on going straight up. I think what is going to happen in the future is real clear. Whoever the Democrats nominate for president is going to win.

## KHRUSHCHEV REMEMBERED—AND FORGOT

## HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. FLOOD. Mr. Speaker, with the intensive cultural repressions being staged now against intellectuals in Ukraine, it would do us well to gain some insights into this recurring phenomenon in the largest captive non-Russian nation both within the U.S.S.R. and Eastern Europe. Under Stalin and under Khrushchev similar repressions and even genocide took place. The continuity in the use of this imperialist Russian tool of domination must be looked into and investigated if our relations with Moscow in the United Nations and directly are to have any honest meaning on purely humanitarian and civilized grounds.

An interesting article in this respect appeared in the autumn 1971 issue of the Ukrainian Quarterly, which enjoys worldwide circulation, even in the Communist world. The article is titled "Khrushchev Remembered—and Forgot," and is authored by Dr. Lev E. Dobriansky of Georgetown University. I strongly commend it to the studied reading by my colleagues and the general public, particularly if we are still cognizant of the blunt reality of the captive nations.

The article follows:

### KHRUSHCHEV REMEMBERED—AND FORGOT

(By Lev E. Dobriansky)

Nikita Sergeyevich Khrushchev passed away, but what he was to have alleged to have said while a "state pensioner," what he purportedly offered as "memoirs," will be discussed and even controverted for many years to come. The basic source of contention among historians, Kremlinologists, scholars and analysts of the Soviet Union will undoubtedly continue to be the book *Khrushchev Remembers*. It aroused much interest and controversy while the former Russian leader was alive, and as events and developments unfold it will certainly be referred to in the years after his death. Given certain circumstances threatening the very existence of the Soviet Union as such, it is even possible for Khrushchev in his permanent stillness to be endowed with posthumous rehabilitation and the work to resurge into analyzed prominence again. Life is pregnant with the unexpected.

It is somewhat against the background of Khrushchev's death that an analysis is made here of the book along lines and perspectives which scarcely appeared in the many reviews during the remaining months of his life. The curious and naive reactions in the West to his death are worthy of an analysis in themselves. In the main, they furnish adequate clues as to how well our opinion-makers and others understood the man, his theatrics and, above all, his devious background. It is small wonder, as one views it now, that *Khrushchev Remembers*, despite all the superficial spectaculars of publicity and the like which surrounded its issue, was hardly examined critically in the light of the most fundamental issues and differences between the U.S.A. and the U.S.S.R. in particular.

A few observations concerning his death, as well as the authenticity of the work and the editorial comments, will enable us to gain a deeper perception of K's philosophical and political notions and, most of all, his disclosures about pervasive Ukrainian and non-Russian nationalism within the Soviet Union a fundamental subject that was almost completely lost in most reviews of the book. Some other revealing aspects deserve consideration, and emphasis has to be placed on what K conveniently forgot as bits of his so-called memoirs and self-legitimating notes were assembled into book form. A careful reading of the book can incite almost endless commentary and criticism because of the variety of experiences and subject matter. The important consideration, however, is to distinguish the essential from the unessential in terms of current developments and tendencies in the USSR and beyond. In short, the pertinence and relevance of K's disclosures and experiences for the impending future. This is the orientation assumed here.

#### WESTERN EULOGIES TO A TYRANT

On September 11, 1971 Khrushchev died at the age of 77. For reasons of their own Moscow and its puppets virtually ignored the event. The former leader of the Soviet Russian Empire was simply buried in an obscure corner of Novodevichy convent cemetery by the Moscow River. Even the photograph on his grave, showing him originally as a leader, had to be changed a month later, now portraying the "unperson" that he was since his ouster in October 1964.[1] The news of his death was generally known in the Free World long before the populaces in the USSR were informed of it. It is likely that many in the Soviet Union are still unaware of it, so brief and skimpy was the official report.

In sharp contrast, and for reasons of short knowledge and naivete, the reports and comments on the event amounted to virtual eulogies to a man stained with the blood of millions of victims. A few examples will suffice. As one would expect, an editorial in a so-called liberal Washington organ characterized K as having been "in a peculiar sense a great man." With typical erraticism and mental confusion, it depicted him as "an authentic person, not a tyrant, not a zealot, not an automaton, not a clerk."[2] In his climb to the top the wily peasant trampled on the perished bodies of millions and while at the top sanctioned political murders and subtle arrests of countless dissidents and non-Russian nationalists, including Jews, but these evidently aren't the marks of a tyrant for some in our society who are long on high-sounding words and pitifully short in heart and vision.

To extend the comedy, in the same organ the former Russian tyrant is depicted as an impressive teacher. As the article puts it, he "had to 'teach' Americans the hardest of lessons to learn: that we were not No. 1, not invulnerable, not immune to the consequences of our acts in the way to which we had become accustomed since World War II . . ."[3] The speciousness of this observation should be self-evident if one possesses any sense of Russian propaganda and political power realities in the world, but it is noteworthy that in this and another article by the same author no single mention is made of the prime lesson taught the Russian politico by the U.S. Congress and its Captive Nations Week Rosolution.[4] As the documented facts well show, the supposedly combative Russian leader suffered not only apoplexy but political diarrhea over this soundly calculated challenge. Significantly, as will be seen later, K conveniently forgot this horrifying experience in his so-called memoirs. However, in fairness to the paper's writer, it should be pointed out that in his other piece he at least states, "The Ukraine in that period put up tremendous resistance to Stalin's policies. Millions died. Khrushchev's hands were bloodied."[5]

A whole array of similar comments and reactions could be assembled. Unsurprisingly, both Cyrus Eaton and W. Averell Harriman sent their condolences on the passing of the deceptive Russian politician bent on world domination. How politically foolish one can be is clearly exemplified in Eaton's remarks: "He was trying for understanding with the United States and was content that we should pursue our own economical and political systems while his country followed its own ideas."[6] Hungary, Berlin, Cuba, Vietnam and other crises mean nothing to the American industrialist whose money alone justifies the published expression of his childish utterances. Despite his official record, Harriman fares no better with his comment that the former promoter of Soviet Russian imperio-colonialism was "willing to compete with the U.S. in world domination but ready to back down to avoid a nuclear war." Just pause to consider this comment on the part of our former ambassador to Moscow. The U.S. engaged in "world domination"? K backing down "to avoid a nuclear war" or fearful for the end of the USSR when his bluff in Cuba was called? Yet such individuals, and many like them, have played their role in the decline of American global power and leadership.

One more example is sufficient to indicate the drivel poured out by sources at the time of K's death. Another editorial unabashedly states, "And yet it is impossible to write him off as a tyrant . . . For the fact is that the shoe-pounding peasant had one overriding quality that appealed to men on both sides of the ideological curtain. He was honest"[7] Just to cite one among numerous cases, honest when he instructed Gromyko to lie into President Kennedy's face that no missiles were being planted in Cuba? The closing of the editorial is a gem of political immaturity in dealing with the Russians. It reads, "He left Russia better off than he found it. He left the world fractionally closer to the ideal of international peace. And for that, we must be thankful for his life." Again to contradicting cases, if by Russia is meant the USSR, no previous base is good enough to measure solid betterment where resources under both Stalin and Khrushchev were inordinately diverted to totalitarian and global military and political ends at the heavy real cost of the peoples in the USSR. The rapid naval expansion under K's regime has already displayed its threatening effects in the Mediterranean and elsewhere.

Fortunate for our society and our political sanity, quite a number of analysts and opinion-makers did not fancifully imbibe in these expressions of naive sympathy for a spokesman of Soviet Russian imperio-colonialism and the expansion of Moscow's empire. They at least remembered Khrushchev and have not been hoodwinked by the calculated gyrations and deviations of imperialist Russian diplomacy that stretches from bearish growls to smiles as the circumstances dictate. Anyone familiar with this brand of diplomacy, whose roots go back to Muscovy and the Mongolian legacy, cannot but absolutely discount the sympathetic expressions as untutored reactions on the part of amateurs in the field of Russian expansionist policy.

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Footnotes at end of article.

Here, too, a few examples will show how Khrushchev was realistically remembered and failed to pull the wool over many American eyes. A powerful editorial in an outstanding mid-west city put it bluntly, "The embodiment of a certain raw power of personality he certainly was. A friend of the United States, the West, or of mankind he was not." [8] It also rightly pointed out, "Khrushchev will be remembered for his renunciation of Stalin at the 20th party congress in 1956, but he neglected to emphasize that he had been Stalin's faithful henchman in all that oriental tyrant's bloody works." The editorial's incisive refutation of comments by Senators Hubert Humphrey and Edward M. Kennedy and so-called Kremlinologists like Harry Schwartz and Harrison E. Salisbury of *The New York Times* makes for choice reading.

Not only large organs but small suburban ones as well properly characterized the man for what he was and resisted the false sympathies exemplified earlier. For instance, a popular newspaper in a Washington suburb had this to say, "Would that we say 'requiescat in peace,' but we cannot. For here was a man who presided over the physical or spiritual deaths of millions. This fact was, in most cases, totally ignored or just barely hinted at in the reams of material written about him this past weekend." [9] One might ask what has happened to the moral consciences of some of our opinion-moulders? Have they been paralyzed by neurotic fears stirred by nuclearitis? How would they have reacted in a similar environment to a Hitler who at least was more direct and less devious and serpent-like than a Stalin or a Khrushchev and whose genocidal count was far less than that of the two?

Finally, as another prominent example of those who really remembered "the Hangman of Ukraine" is the remarkable, detailed address delivered by the Honorable John M. Ashbrook of Ohio on the floor of the House of Representatives. Under the apt caption "Good Ole Khrushchev" the Congressman cites and quotes the specific crimes of Khrushchev from the early 30's into the 60's. He clear-mindedly observes, "Reportedly Khrushchev died peacefully in his sleep. May his untold, forgotten victims who died painfully and awake, find the true peace of those who sought vainly for justice here; especially the millions of paupered peasants to whom promises of land, by Lenin, were finally fulfilled when Khrushchev's agents deposited on their weary bodies several shovelfuls of rich soil they so loved." [10]

No matter how long one's sophistry and casuistry may be, the clear fact is that those who chose to eulogize the Russian genocidist, can only be deemed sick both morally and politically or simply plain ignorant of the creature they were dealing with. If the Congress as a whole were alert as it should be, the described situation would justify more than ever a reprinting of the 1959 hearings on *The Crimes of Khrushchev*.[11] The re-publication and distribution of the series would mirror more than anything else the weaknesses of those who were taken in by this political actor possessed with peasant wisdom and cunning. Theologically and humanistically, penance for the worst of sins is noble and acceptable. But nowhere in the so-called memoirs or anywhere else is there any sign of penitent regret on the part of this deceitful actor for his heinous crimes.

Much, for example, is made of his tirade against Stalin's policies at the 20th party congress, but few seem to appreciate the fact that if Anastas Mikoyan in his address hadn't precipitated the alleged de-Stalinization, this shifting "pragmatist" would undoubtedly have not pursued this course. Not that it made any substantial difference with regard to the fixed objectives of Russian political ambitions and the technologicio-economic requisities for enhanced social efficiency to realize the ends of imperial Russian supremacy in the world. Khrushchev was totally dedicated to these ends, and at whatever proportionate cost, as every Russian or Russianized leader in the Kremlin must necessarily be. In short, to eulogize him is tantamount to eulogizing Lenin, Stalin and those who have succeeded him within the imperial context of the Soviet Union. This is the type of reckless nonsense that many of our supposedly more enlightened opinion-makers and others were engaged in.

### THE AUTHENTICITY OF K'S REMEMBRANCES

As is well known, the publication of *Khrushchev Remembers* stimulated a wide assortment of theories regarding the authenticity of the "memoirs." One theory is that the material originated with the K.G.B., filtered through the Russian agent Victor Louis who met with *Time-Life* editors in a Copenhagen hotel three months before publication date.[12] Another theory places the source of origin with the Khrushchev family, primarily Adzhubei, his son-in-law. Still another claims that neo-Stalinist groups were responsible for the publication, seeking to discredit K's followers in the CP apparatus. A final one injects the C.I.A. as the ultimate source, having infiltrated the K.G.B. and thus working with elements in it to emphasize the anti-Stalinist tones of K's material for mutual advantage. The British defector and Russian spy, H.A.R. Philby, told the Moscow correspondent of the Czech Communist Party paper *Rude Pravo* that the so-called memoirs were concocted by the C.I.A.[13]

For our purposes, to dwell on these theories and speculations would be a waste of time. The source of origin, the motives behind the publication and the intended effects would be interesting to know, but they're really not relevant here. Khrushchev himself disowned any responsibility for the publication of the work, but this did not mean denying the greater part of the material and contents that were obtained from recordings and notes and clearly bear the Khrushchevian qualitative stamps of pungency, earthiness and factual relevancy of expression. Whether some regard the memoirs as being of historical importance or not, the criteria of evidential authenticity are the high probability of the points remembered in approximate conformity with known related facts and the marked reflection of K's character and personality in the assembled material. On these two grounds the greater and substantial part of the contents in the book is unmistakably Khrushchevian.

Edward Crankshaw, the British Kremlinologist, and numerous other analysts are on safe ground in upholding the essential authenticity of the work. In his introduction of the book Crankshaw plainly states, "I did not have to read very far, however, to feel pretty well sure that these were the real thing and by the time I had finished I was convinced." [14] Indeed, a careful reading of the book will convince anyone of its authentic qualities, given an adequate background of USSR history and familiarity with K's experiences, style and behavior. The introducer explains his position adequately and satisfactorily, and on the whole performs a real service with his commentary and notes.

However, a few criticisms can be lodged. For one, as shown in the hearings on the *Crimes of Khrushchev*, the record of K's crimes doesn't begin in 1936–37 with the treason trials but rather in 1931–32 when he made several trips from Moscow to Kiev to participate in the horrible man-made famine in Ukraine. Also, the commentator's repeated use of "the Ukraine," a provincial and demeaning term, is a bit surprising for one otherwise given to significant nuances and delicate peculiarities pertaining to the U.S.S.R. and its various nations. When, with reference to 45 million Ukrainians, he writes of them as "Little Russians, dourer, more practical, harder working than the dominant Great Russians of Muscovy," it becomes readily evident that he lacks a keen, perceptive grasp of the brittle relationships between Ukrainians and Russians as the two largest but different Slavic nations in the USSR[15] Archaic, Czarist usages, such as "Little Russians" and "Great Russians," are scarcely adaptable for current analyses of the USSR.

Moreover, unless one is unsure of himself and his knowledge of the case, why the doubt imputed into this raised question: "How much did Khrushchev realize what he was doing when he presided over the arrest, imprisonment, or deportation to Siberia of practically the whole of the middle and lower-middle classes of what is now called the Western Ukraine?"[16] This is like asking whether Stalin realized the same in the 30's. As the ruthless boss over the area, K knew very well what he ordered and was doing. Overlooked by the commentator and most reviewers alike, K's constant references in the book to pernicious Ukrainian nationalism supply the obvious answer to the neutralistically posed question. In addition, Crankshaw's opinion that K's greatest achievement was to break out of the Stalinist mold and make it possible "for the Western world to hope that a measure of coexistence more complete than he himself was yet ready to conceive might one day be realized" is subject to serious analytic question. The Stalinist mold was not simply indiscriminate killing, arrests and deportations. As a totalitarian, imperialist framework, it continues to this day, even after Khrushchev.

### K'S THOUGHTS

If in the vein of Mao's thoughts, many of which are comical in themselves, one is seeking in this work or any other compiling the addresses of the former Russian leader for what may be called "K's Thoughts," he cannot but arrive at the conclusion that his so-called philosophical and political views are more a product of indoctrinational babbitry than of logical, thought-out processes or ideological acumen. Regarded by some as "a pragmatist," Khrushchev was clearly not a polished, educated man and far from being a thinker or statesman of any depth or profundity. The lucky peasant perforce had to rely on sheer cunning, deception, showmanship, political wiles, and an endless recitation of memorized proverbs to make his way to the top and remain there as long as he could. The crudity of his antics at the U.N., his drunken behavior on a state visit in Belgrade, his showmanship with Castro, Nasser and others, and his penchant for "administrative economics" to solve totalitarian-created problems in the USSR, not to mention numerous other compensating spates of unorthodox behavior, are enough to indicate the type of personality Khrushchev was. His peasant craftiness even allowed for extreme obeisance in dancing the Hopak at Stalin's bidding in the drunken early hour parties at the Kremlin. Briefly, a crude personality he was; a thinker or statesman he definitely was not, and many an educated Russian must have suffered psychologically to view this political bumpkin as head of the present Soviet Russian empire. His brazen craftiness is also well reflected in this obvious attempt in these so-called memoirs to moralistically remake his image from that what close students have known him to have on the basis of his ruthless deeds.

To eke out any rounded philosophical outlook on the part of K in this work or any other is an impossibility. To be sure, the cliches, slogans and stereotyped utterances are there, but any depth of thought is entirely lacking. If anything, he was a roman-

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Footnotes at end of article.

tic from any charitable intellectual viewpoint. Among many examples, K relates how he listened to lectures on political economy and as he puts it, "it seemed to me as though Karl Marx had been at the mine where my father and I had worked. It seemed as if it were from observing our life as workers that he had deduced his laws and scientifically proved why and how the workers must liberate themselves from capitalist slavery and build a Socialist society."[17] This is indicative of K's conception of Marxism, devoid of any understanding that in Marx's spurious scientific socialism the mechanical liberating force is supposedly the internal breakdown of capitalism itself and not any self-liberating workers' movement. His romanticism is exemplified further by these words: "If I may use the language of religious believers, I'd say that every participant in the Communist movement was to me an apostle, ready to sacrifice himself in the name of our common cause."[18] K places heavy stress on truthfulness—"Only through truthfulness can we win the confidence of the people"—but nowhere can any definition or elucidation of truth be found in the work, the true presumption being that what is "truth" for the Party is truth for the people.[19]

However, as for expression of views, whether justified or not, Khrushchev is not to be found wanting. The book is studded with them, and a critical reader would not find it difficult to take issue with them. Here, too, a few examples, will suffice. In recounting his earlier years, K mentions returning from the Front to the Donbas at the beginning of 1922 and observes that "Lenin was striving to use the respite at the end of the Civil War to build up our industry, our economy, and the living standard of our people."[20] Now, here and elsewhere, K is of the conception that only a civil war was waged between the Russian whites and reds, and ignores completely, if he really understood it, the first international wars between the newly independent states of Ukraine, Byelorussia, Georgia, Armenia and others and Russian Communist imperialism. In another place, he relates his arbitration in Kiev between Vertinsky, "a Muscovite," and Dobrotko, "a Ukrainian," and goes on to state, "At that time the difference was still significant."[21] Isn't there still the same marked difference forty years hence, as many a tourist in the U.S.S.R. has acutely observed? At least it can be said that K is on solid ground when he unequivocally declares himself as being a Russian. As he puts it to Stalin, "It hardly makes sense to send me a Russian, to the Ukraine."[22] Western analysts and writers have been notorious in misidentifying him as a Ukrainian.

It is this type of superficial comment that runs throughout the work. The writer could cover page by page and show the gross superficiality of the man himself, who had to rely on buoyant theatrical means and brute extroversion to compensate for his uneducated bearings. To cite a few more examples, the shooting of our U-2 spy plane over Central Asia, the Russian bumpkin depicts as "a landmark event in the history of our struggle against the American imperialists who were waging the Cold War."[23] This propaganda drivel may impress some, even our so-called revisionist historians of the Cold War, but anyone familiar with the political warfare heritage of Russian imperio-colonialism immediately senses the established technique of accusing the victim to conceal the accused. K praises the collectives in Ukraine for contributing to victory over the Germans, but fails to mention the mass demand for decollectivization under the Germans early in the war, both in Russia and Ukraine. On the other hand, astonishingly enough for any Russian leader, for the first time he equates the crimes of Stalin with Hitler's, but fails to mention that at Nuremburg, Hitler's henchmen, in effect his counterparts, were executed for direct participation in the crimes.[24]

### UKRAINIAN AND NON-RUSSIAN NATIONALISM

Both historically and for the future, perhaps the one single factor that is most significant in the book is Khrushchev's more than abundant disclosures regarding Ukrainian and other forms of non-Russian nationalism in the U.S.S.R. The book is replete with them, and aside from complete factual accuracy, anyone carefully analyzing the work page-by-page cannot possibly leave it without a deep impression of this living and indomitable force within the U.S.S.R. Here, too, space forbids considering each example, but the several given are adequate to show K's nervous awareness of this indestructible force. Indeed, as we shall finally see, it goes a long way to explain his frenzied behavior toward the Captive Nations Week resolution. Early in the work he points out that Kiev was notorious as a stronghold of Ukrainian nationalist elements and he knew that the Ukrainian nationalists in Kiev were sure to regard me as a hopeless Rusak.[25]

Though many in the West scarcely recognize them, K doesn't hesitate to mention the Kuban Cossacks' sabotage of the collectivization drive early in the 30's. As he describes it, "whole Cossack settlements were picked up and moved forcibly to Siberia." The same occurred in Ukraine, and with nationalist reactions. As first secretary of the party in Ukraine, in May 1938, K declared, "I pledge myself to spare no effort in seizing and annihilating all agents of fascism, Trotskyites, Bukharinites, and all those despicable bourgeois nationalists on Ukrainian soil."[26] Stalin's henchman conveniently forgets to relate the Russification program he conducted in Ukraine and the Vinnitsa genocide during his reign. But he readily admits, "Ukrainian nationalists gave us more trouble than anyone else between the signing of the treaty in 1939 and the outbreak of war in 1941." K devotes indicative space to Stepan Bandera and Ukrainian nationalists with "a pathological hatred of the Soviet regime."

In several sections of the work Khrushchev attempts to appear as an opponent of anti-Semitism, although his inclinations to the disease are well-known. In one place he quotes himself as having said, "How dare you use the word 'yid'? Don't you know it's a very offensive term, an insult to the Jewish nation?"[27] As the editor rightly points out in a footnote, the close approximation to the term in both Russian and Ukrainian is properly used by the Jews themselves, so "this seems to be yet another case of Khrushchev getting in a dig at the Jews while professing his total freedom from anti-Semitism." In this connection, too, K forgets to mention that when he resumed his role as *gauleiter* over Ukraine following the war, a wholesale deportation of Jews was undertaken. His discussion of the proposal at that time to establish a Jewish Soviet Republic in the Crimea is interesting in itself, but his view that it was unnecessary because of the existence of Birobidzhan in Siberia, an autonomous republic set up by Stalin to get rid of the Jews in the European sector of the USSR, is a further indication of K's feelings in the matter.

Actually, Khrushchev employs concepts with reckless abandon. In his secret speech as elsewhere, he talks about some mythical "Soviet nation." He evidently hopes for one in Russian substance and spirit, but the multi-national realities in the Soviet Union render it impossible. To take another example, K is well aware of Georgian nationalism when he declares "We know that there have been at times manifestations of local bourgeois nationalism in Georgia as in several other republics." His accounts on Beria, Georgian profiteering and the like appear to indicate a distaste for things Georgian. Recognizing the non-Slavic national stocks of the Baltic nations, K again shows no regard for national self-determination when he presents the forcible incorporation of the Baltic states into the USSR as simply a matter of "negotiation" and the expulsion of its bourgeois leaders.

### WHAT K PRIMARILY FORGOT

This concise analysis has indicated numerous incriminating events that Khrushchev conveniently forgot. As one writer shows, he also forgot America's economic aid at the beginning of the 20's, which according to him "saved the Soviet Union."[28] In 1921 there was no Soviet Union; more accurately, then, the imperialist R.S.F.S.R. was saved. However, the one historical episode over several years and in which he was steeped is significantly omitted in his memoirs. And that is K's setback by the Captive Nations Week resolution, passed by Congress in 1959. Private citizen Richard M. Nixon in his book *Six Crisis* clearly states "The Captive Nations Resolution was the major Soviet irritant throughout my tour" and shows in detail that this troubled Khrushchev more than anything else.

It is unnecessary to dwell on the details of this episode extending down to the moment of K's ouster in 1964. All of this has been essentially documented in the writer's own work on *The Vulnerable Russians* (New York, 1967'). In part relying on Nixon's testimony, it points out that "Nixon tells us that the Russian jailer developed 'a long harangue' and spoke in 'a high-pitched voice,' and frequently pounded the table."[29] Signs of an untroubled political soul? The documentation covers K's subsequent article in *Foreign Affairs*, his vehement denunciation of the resolution at Camp David, before the Supreme Soviet and in addresses to the end of his rule, and in Moscow and puppet publications during his regime. On the very eve of his ouster, K had this to say in an address in Czecho-Slovakia: "In the United States a farce entitled 'captive nations week' is held every year. The people's democratic system has been in existence for twenty years but the imperialists still ramble on with nonsensical ideas of 'liberating' the nations of Eastern Europe."[30]

To have been so deeply concerned with the substance and aim of the resolution from its very inception in 1959 to his ouster in 1964, Khrushchev surely must have suffered no lapse of memory on this score. This is another and major example of his "honesty," as some of our misguided eulogists believe. The obvious explanation for this chasmic omission is the fact that no Russian imperialist leader, former or present, would want to demonstrate in compact form his profound fear of both the essence and possible implementation of this resolution. The editors of the book note an ambivalence in K toward the force of non-Russian nationalism in the USSR, but had they criticized him for this marked omission, there would be no question of K's fearful stand on it. One need only peruse the literature on the bolt that struck him between the eyes at the time of Vice President Nixon's visit to Moscow, and irritated him down to a month before his ouster.

In this passing phase of the so-called era of negotiations Khrushchev leaves us with a perception well worth pondering. After all, being largely of the same ilk, he must have recognized his contender well. Concerning the prime totalitarian in Peking, K has this to say: "Politics is a game, and Mae Tse-tung has played politics with Asiastic cunning, following his own rules of cajolery, treachery, savage vengeance, and deceit."[31] Each of these rules applies to K's Moscow as well. They will be encountered when President Nixon visits both Peking and Moscow. In a world where one-third of humanity still is very much captive and the resolution remains, as K put it, like "a black

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Footnotes at end of article.

cat" across communist paths of aggression, the fundamental question is at what cost will these encounters be sustained, at what price to freedom?

FOOTNOTES

[1] UPI, Moscow, USSR, October 7, 1971.

[2] "Nikita Khrushchev," *The Washington Post*, September 12, 1971.

[3] Stephen S. Rosenfeld. "Khrushchev's Mark on the U.S.," *The Washington Post*, September 17, 1971.

[4] For this history see the writer's book *The Vulnerable Russians*, New York, 1967.

[5] Stephen S. Rosenfeld. "Khrushchev's Life: Peasant, Hero, Dishonor," *The Washington Post*, September 12, 1971.

[6] "Pragmatic, Say Eaton, Harriman." *The Washington Post*, September 12, 1971.

[7] "Nikita Khrushchev," *The Sunday Star*, Washington, D.C., September 12, 1971.

[8] "Hardly A Friend," *The Chicago Tribune*, September 14, 1971.

[9] Fred Dell, "Comment," *The Arlington News*, Arlington, Virginia, September 15, 1971.

[10] "Good Ole Khrushchev," *Congressional Record*, vol. 117, pt. 27, p. 35364.

[11] *The Crimes of Khrushchev*, Hearings. Committee on Un-American Activities, U.S. Congress, 1959.

[12] Roger Jellinek, "The Last Word: That Khrushchev Book," *The New York Times Book Review*, May 16, 1971.

[13] "Philby Surfaces," *The Washington Post*, August 21, 1971.

[14] *Khrushchev Remembers*, Boston, 1970, p. vii.

[15] *Ibid*, p. xvi.

[16] *Ibid*, p. xvii.

[17] *Ibid*. p. 23.

[18] *Ibid*. p. 62.

[19] *Ibid*. p. 9.

[20] *Ibid*. p. 15.

[21] *Ibid*. p. 113.

[22] *Ibid*. p. 106.

[23] *Ibid*., pp. 200–202.

[24] *Ibid*. p. 343.

[25] *Ibid*. p. 33.

[26] *Ibid*. p. 90.

[27] *Ibid*. p. 145.

[28] Henry C. Wolfe. "Khrushchev Didn't Remember," *The Wall Street Journal*, May 11, 1971.

[29] "Nixon's Testimony of American Bewilderment," Chapter II, *The Vulnerable Russians*, p. 28.

[30] *Ibid*. p. 77.

[31] *Khrushchev Remembers*, p. 461.

## COMMUNITY CHEST MARKS 50TH ANNIVERSARY—UPSTATE ORGANIZATION BECOMES THE UNITED WAY OF CENTRAL NEW YORK

## HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. TERRY. Mr. Speaker, February 29 marks a significant date in the history of Community Service Organizations of Onondaga County. On this date, the community chest of Onondaga County completes its first 50 years of service to the central New York area.

During that period of assistance to the area, the community chest has worked diligently to meet the needs of the various organizations which it has assumed responsibility for providing financial assistance.

At the beginning of March, the community chest will take a new name: The United Way of Central New York. Its purpose will not significantly change, but its scope of operation will broaden. It is hoped that cooperative efforts from adjoining communities can be developed.

The president of the community chest for the past 2 years has been Stuart P. Raleigh, Jr. During his term of office, the community chest improved its operation and expanded its area of involvement into various service groups of the community.

The new slate of officers are: Leonard Markert, Jr., president; Hendrix Ten Eyck, senior vice president; O. Mark DiMichele, vice president for community relations; and John Morrissey, vice president for agency operations; all long time personal friends of mine to whom I extend every wish for a successful term.

As the United Way of Central New York begins its second 50 years, it deserves the congratulations and gratitude of the community. It is a pleasure to join with the residents of central New York in saluting this outstanding organization.

## HON. HASTINGS KEITH'S LATEST NEWSLETTER ALSO SENT TO HIGH SCHOOLS

## HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. KEITH. Mr. Speaker, for many years I have made it a practice to consult with my constituents as to their views on major issues facing our Nation. Periodically, this is done by questionnaires.

Because many high school seniors, and perhaps juniors, will be voting this year, I have had an extra number of current questionnaires printed in order to sample their views on these matters.

I feel that it will help these young people to be asked to reflect upon these matters and to participate in this activity. It will certainly help me to have the benefit of their points of view.

It will be informative, interesting and pertinent to see in what, if any, way their outlook differs from older constituents—and to see how, if at all, their views may vary from grade to grade or from school to school.

A supply of these questionnaires is being sent to each high school in Massachusetts 12th District. I have asked each principal who wishes to participate, to distribute them to the students on a class-by-class basis and return them to me for tabulation.

One of the advantages of coordinating this activity with the school system is that we should get a much better cross section of student thought than if we were to send additional questionnaires to their homes.

Hopefully, this activity will encourage further participation in politics and government by our young people. At the very least, it will be helpful to me in casting my votes here in the Congress.

The text of the questionnaire follows:

FEBRUARY 1972.

DEAR FRIEND: As your Congressman, I'm interested in your thoughts on major issues. This questionnaire lists some of them.

I'd appreciate it if you'd give me the benefit of your views by filling in this questionnaire and mailing it back to me.

I know it's difficult to answer such questions with a simple "Yes" or "No." But that's what I have to do on every vote—no matter how critical or complicated the issue may be.

Sincerely,

HASTINGS KEITH,
*Member of Congress.*

1. I favor the Nixon Peking and Moscow visits.

2. We should give the Communists everything they demand in Vietnam in order to get our troops and prisoners back home.

3. The draft should be replaced with an all-volunteer armed force.

4. Foreign imports should be limited if they hurt our industry and jobs.

5. The Federal Government's wage and price control program is working.

6. Social Security benefits (and payroll deductions) should be automatically adjusted to cost-of-living increases.

7. The minimum wage should be increased to $2 an hour.

8. I favor National Health Insurance.

9. I favor National no-fault auto insurance.

10. Deficit spending is all right if it helps the economy.

11. Foreign aid should be cut—increased—kept as it is—.

12. We should spend more money on space exploration.

13. I favor compulsory arbitration to settle long strikes that threaten the National safety.

14. U.S. Presidents should be elected by direct, popular vote.

15. U.S. Presidents should be limited to one 6-year term.

16. The Federal Government's attitude toward pollution goes too far—not far enough—is just about right—.

17. I favor more Federal anti-pollution programs even if they mean higher utility rates.

DETACH AND SAVE

If you have comments or suggestions regarding the Federal Government, or if I can be of service to you and your family in any way as your Representative in the Congress, please contact me.

## THE THREAT TO INDIVIDUALISM

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. RARICK. Mr. Speaker, It was reported that the California Supreme Court banned the death penalty as "degrading, dehumanizing, and incompatible with the dignity of man." Another report revealed that 135,000 abortions were performed in California last year. In California it is illegal as well as degrading, dehumanizing, and undignified to take the life of a convicted criminal who has committed first degree murder, yet in California it is legal to take the life of an unborn child.

The Governor of Oregon has proposed that his State study the possibility of legalizing euthanasia—mercy killing, so sick, elderly persons may choose death to a life of suffering.

In Sweden, the epitome of theoretical liberalism, suicide has become an acceptable means of terminating life.

In a disconcerting review of a new book on Sweden entitled, "The New

Totalitarians" by Roland Huntford, editor Alexander Campbell of the Toronto Star, indicates the alarming degree to which Socialist Sweden has been transformed into the "brave new world" of Aldous Huxley. Education in Sweden serves to mold persons for the new anthill society. Competition, individuality and imagination are discouraged. The news media functions not to inform people, but rather to form opinions for them.

Where are we going? To watch Swedes may be to watch ourselves as we may be in the future.

I insert several newsclippings in the Record:

[From the Washington Evening Star, Feb. 24, 1972]

### California Court Confused Policy With Law

(By James J. Kilpatrick)

Last week's decision of the California Supreme Court, banning death sentences in that state, raises anew some old questions of law and public policy. In my own view, the decision was clearly wrong.

The California court construed California's own state Constitution. The decision is therefore final and not subject to further appeal. It applies solely to California, and serves to nullify only those death sentences that had been imposed by California courts upon more than 100 prisoners awaiting execution.

Yet the action of the California court cannot be viewed so narrowly. On Jan. 17 the U.S. Supreme Court heard arguments in four cases (the most heinous of them, ironically, from California) that directly challenge the concept of capital punishment as a violation of the 8th Amendment. The Amendment says that "cruel and unusual punishments" shall not be inflicted.

The problem presents two separate questions: The first is: Is capital punishment unconstitutional? The second is: Is it immoral, unwise, or ineffective? The questions have nothing to do with one another.

I do not see, for the life of me, how capital punishment, as such, possibly could be held unconstitutional. The 5th Amendment implicitly sanctions it. "No person shall be held to answer for a capital . . . crime, unless on a presentment or indictment of a Grand Jury." Both the 5th and the 14th Amendments give further sanctions in terms of due process of law.

Justice Potter Stewart made the point during oral argument last month: "One of the things that bothers me about the 14th Amendment," he said, "is that the deprivation of life is expressly prohibited without due process of law—and therefore by implication is approved when there is due process. And this is why I say that to me it is more than just a semantic problem. Now we're not talking about the express wording of the Constitution."

Precisely. Even if one embraces every activist theory ever advanced about our "living," or "flexible," or "evolving" Constitution, only the two adjectives of the 8th Amendment would be subject to judicial interpretation: Is a particular method of execution "cruel and unusual"? Disemboweling a prisoner, or boiling him in oil, might thus be unconstitutional. But unless the legislative judgment of 41 states is to be discarded altogether, the electric chair and the gas chamber cannot be regarded, at law, as constitutionally impermissible.

The California court confused the two questions. The majority declared that capital punishment, as such, "degrades and dehumanizes all who participates in its processes." Such punishment is "incompatible with the dignity of man." Very well. But these are not arguments of law; they are arguments of policy; they are arguments of a legislative committee room.

We ought to keep these things straight. It simply does not follow that a given practice is unconstitutional because it is viewed by some judges as degrading, dehumanizing, or "incompatible with the dignity of man." Human slavery exhibited all those evils; yet human slavery was expressly sanctioned by the Constitution and was ended, as a matter of law, only by the 13th Amendment. By the same token, to deny women a right to vote is unfair; but it was not constitutional prior to the 19th Amendment.

If capital punishment is to be abolished, it ought not to be abolished by judicial decree. This is to vest in judges the power effectively to amend the Constitution. It ought to be abolished by the Congress, as to federal crimes, and by the individual states, as to state crimes. Or it ought to be abolished by outright amendment of the Constitution.

Reasonably minded men may well disagree on the wisdom of capital punishment. As a public policy, perhaps it ought to be abandoned. But "the express wording of the Constitution," in Stewart's phrase, has to be upheld.

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### Competing Concepts of Punishment

(By James J. Kilpatrick)

Put the questions of constitutional law to one side. Solely as a matter of public policy, should the death sentence be abolished or retained?

In the wake of this month's decision in California, the issue is before us once again. The California Supreme Court, construing a provision of the state's own constitution, banned capital punishment in an opinion "grounded not in sympathy for those who would commit crimes of violence, but in concern for the society that diminishes itself whenever it takes the life of one of its members."

The language tells us something of a court that would "ground" a judicial opinion not in law, but in "concern." But no matter. Does society "diminish itself" by imposing the death sentence, however infrequently, as punishment for particular crimes?

Certainly a great man theologians, penologists and legislative bodies have thought so. More than 200 years ago, the Italian penologist Cesare Beccaria was urging the unwisdom of capital punishment. His views attracted the support of such eminent Americans as Franklin and Paine. England and Canada, among many other Western nations, have abolished the death sentence. It has been abandoned in nine of our own fifty states. Nearly five years have passed since the last execution in the United States. Plainly the trend is against it.

Part of the trend results of new enlightenment (if it is enlightenment) on the whole business of crime and punishment. The theory rejects the ancient concept that crime should be punished. In this view, crime is not crime; it is sickness. We do not punish sickness: we treat it. By extension, there are no criminals; there are only sick people. And surely it is degrading and debasing for society to claim the life of a sick man.

This reasoning appears to be implicit in the opinion of the California court. Punishments are matters of degree. If a society "diminishes" itself by taking the life of a prisoner, society also "diminishes" itself by taking the liberty of a prisoner. Life and liberty are coupled in our concept of due process. If it is cruel to execute, it is also cruel to imprison. The theory of the new enlightenment cannot condone punishment in *any* degree, for again, it is wrong to punish the sick.

So much for metaphysics. The more familiar argument against capital punishment is that it offers no deterrent to heinous crime. The argument requires a close look. To impose sentence solely as a deterrent—that is, to punish one man as an example to others—is to use the prisoner as a means to an end; someone else's end. And as C. S. Lewis has written, "this, in itself, would be a very wicked thing to do."

Perhaps the deterrent concept can be used partly as a justification for capital punishment. Is it a deterrent? The evidence is inconclusive. It is reasonable to suppose that in perhaps 70 percent of all homicides, the possibility of a death sentence provides no deterrent whatever. These are the murders—11,000 of them in the U.S. in 1970—that were classed as crimes of passion. Persons in a blind rage will not see reason.

My own view—I advance it tentatively—is that the old concept of crime and punishment ought to be preserved. If a criminal can be "treated," fine; if a convict can be "rehabilitated," fine; if a sentence has the effect of deterring others, well and good. But punishment ought not to be imposed because it is therapeutic; but because it is just.

Thus I would retain the death penalty for a small list of crimes: murder as part of a felonious act; the murder of a prison guard or law enforcement officer; assassination; the selling of hard drugs. There might be others. In each such case, I would require full-scale judicial review as a matter of right.

If a death sentence were affirmed, so be it. The execution of a cold-blooded killer, found guilty after a fair trial, is not an act of social depravity; it becomes an act of elementary justice.

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[From the Washington Post, Feb. 27, 1972]

### No Rush to California for Its Easy, Legal Abortions

(By Kathleen Neumeyer)

Los Angeles.—Abortions in California are legal, easy to obtain and inexpensive—but there has been no great upsurge in demand for them since California liberalized its abortion laws in 1967.

Planned Parenthood of Los Angeles reported that there were 135,000 abortions performed in the state last year, compared with an estimated 120,000 abortions, legal and illegal, per year before the law was changed.

And although California is among the easiest places in the United States to obtain a legal abortion with no residency requirement, there appears to be no rush from out of state.

Figures recently released by the National Family Planning Council, a nonprofit research organization endorsed by the Los Angeles County Health Department, indicated that only 8 percent of the women they questioned in a year-long study came from out of state. Planned Parenthood, however, said as many as 30 per cent of the women who sought that organization's help were from outside California.

California allows therapeutic abortions in cases of incest or rape, and where the physical or mental health of the mother would be harmed by giving birth.

Some hospitals require a psychiatric examination in questions of mental health, but this is not required by law. The law demands only that two physicians concur on the advisability of the operation, and abortion counselors say this has beome a rubber stamp procedure.

California abortions can cost as little as $150, and they are sometimes performed in 10 minutes.

A woman faced with an unwanted pregnancy can arrange an abortion through her own gynecologist, Planned Parenthood, or any of a number of abortion counseling clinics, many of them prominently advertised in the underground press.

"Nobody knows the abortion laws better than these abortion counselors," the district attorney's office said.

If a woman is uncertain of her pregnancy, the counselor will arrange a test to confirm that she is pregnant. Next she is advised of the alternatives open to her—bearing and keeping the child, adoption, abortion.

The National Family Planning Council said of 9,391 women who considered undergoing an abortion, less than 50 per cent went through with it.

But if the woman does choose to terminate the pregnancy, the operation can be scheduled for the next day, in most cases.

If a woman is 12–20 weeks pregnant, the maximum time allowable for a legal abortion, she must undergo a saline infusion procedure, which takes several days and costs about $375, compared to $1,500 two years ago.

OREGON'S GOVERNOR PONDERS "DEATH WITH DIGNITY"—EUTHANASIA STUDY URGED

LINCOLN CITY, OREGON (UPI). Gov. Tom McCall has proposed that the state of Oregon study the possibility of legalizing mercy killing so sick, elderly persons can choose "death with dignity" instead of "life as a vegetable."

He said many elderly persons fear "leading their life a long time in a hospital, possibly unconscious and with a great deal of pain . . . doing nothing, no hope, no enjoyment of life."

To be able to choose life or death legally is "a need that is agonizingly overwhelming in the minds of the elderly," the 59-year-old governor said.

"I'm old enough to understand the fear."

He made his suggestion in a speech to 400 liberal Republicans attending a weekend conference on such controversial issues as legalization of marijuana, amnesty for draft evadors and a state lottery.

Gov. McCall said Oregon's delegation to the White House Conference on Aging reported to him that euthanasia—so-called mercy killing—should be one of the top priorities for consideration. He said he would call a seminar next month to consult physicians, sociologists and philosophers.

Sen. Robert Packwood, R-Ore., and Republican State Chairman Hank Hart said they thought the idea should be studied further and seriously debated.

But State Rep. Morris Corthers, a physician, said he did not think any new laws were called for.

"Doctors should not be put in the position of being executioners," he said.

[From the Sunday Star, Feb. 27, 1972]

IF THIS IS THE BRAVE NEW WORLD, WE'RE IN TROUBLE

(By Alexander Campbell)

The New Totalitarians. By Roland Huntford. Stein & Day. 348 pages. $10.

In Aldous Huxley's "Brave New World," a satirical novel about the future, a small boy is placed under observation for possible abnormality when he runs howling from a small girl who wanted to play at sex in the bushes. Roland Huntford says the future has already arrived, in Sweden, where "the word 'freedom' is almost entirely confined to the sexual field."

Huntford is the London Observer's Stockholm correspondent, and he quotes Dr. Gosta Rodhe, head of the department of sexual education in the Swedish Directorate of Schools: "We don't care at what age children start going to bed with each other." Dr. Rodhe believes that "emotion has got to be removed from sex," but Huntford says that what Sweden has is "compulsive sexuality." Kids who don't really want to have sex feel compelled to.

Emotions as distinct from physical acts were heavily frowned on in Huxley's imaginary World State, whose motto was "Community, Identity, Stability", achieved by "self-indulgence up to the very limits imposed by hygiene." Only one character in "Brave New World" has real individuality and he commits suicide. Sweden's suicide rate is the fourth highest in the world, not the highest, but many Swedish intellectuals commit suicide. Huntford says it's "as if something like a third of the leading poets, novelists and playwrights in England and America" were to kill themselves.

His book will make many Swedes mad, but they may have a hard time refuting it. Huntford doesn't deny that the Swedes are swimming in welfare, or that they've succeeded in creating a high-technology, mass-market economy, where capital and labor seem to be at peace with each other, and unemployment is kept down to only 2 percent. He gives the credit for all this to the Social Democrats, who have held unbroken power since 1932, and have dominated Swedish politically since about 1918.

But Huntford, as his title indicates, also accuses the Social Democrats of having created a virtual dictatorship. Everyone has welfare, but all power belongs to a small elite of bureaucratic planners, and whoever dissents is in trouble. "Perfectly reasonable parents", he claims, go in terror of having their children taken away from them by a child welfare board, if they don't "conform absolutely" to the bureaucrats' ideas. The population of Sweden is about 8 million; in 1968, 21,000 children were removed from their parents. The name of the game is consensus.

Sven Moberg, Sweden's deputy Minister of Education, told Huntford: "The purpose of education is to turn out the correct kind of person for the new society. The new school rejects individuality . . . It rejects competition . . . Individuality is discouraged."

Huntford reports that a Russian education official who toured Sweden was shocked at the Swedish system, and lectured Stockholm schoolchildren on the need for competition in learning, as "the only way to efficiency." But a Swedish manufacturer, who had built up his own firm from scratch, told Huntford: "I don't want my children and grandchildren to be taught to be individuals. They'd only be unhappy." And the head of a chemical research institution in Stockholm is quoted as complaining that his younger workers seem devoid of initiative. They fear to rise above the level of the group, and their work is generally poor and unimaginative. Huntford quotes from an official Swedish teaching guide, which says, "We must avoid encouragement of young people's imagination."

They appear to have succeeded only too well, according to Huntford, who say that the great majority of Swedes thoroughly approve what their planned society does.

However, the bureaucrats have taken steps to ensure that rebels against the system don't infiltrate their ranks. Anyone, man or woman, who wants a top university appointment in sociology, political economy and education has to be a Social Democrat, Huntford maintains. Swedish military officers, too, have to be men of the left.

In art as well as politics, Swedes are taught to be left-handed. The Swedish National Theatre is run by a Social Democrat, Erland Josephson, who declares, "I won't allow any plays that glorify the individual." This, by Josephson's own account, cuts out Ibsen, Schiller, and the first Scandinavian playright, Holberg, who was "aristocratic, and we've got to be democratic." England's Bard scrapes by, at least with "Coriolanus," because that particular play of Shakespeare "can be interpreted in a radical way . . . We put it on as an attack on burgeois values." Josephson boasts that, in Sweden, "all private theaters will disappear within 10 years."

It's the same with the media. The official function of radio and TV in Sweden, Huntford says, is not to inform people, but to form their opinions for them.

TV sets are more concentrated in Sweden than in other countries; one news program has as its audience 50 percent of the total population. The tenor of programs follows government thinking. Huntford declared that from 1968, when the government adopted an anti-American policy, mainly but not entirely over Vietnam, "producers were told that no program on the United States would be considered unless it was unfavorable." A Stockholm newspaper published a number of letters, from children, that suggested the anti-American propaganda was working. "I think", a 6-year-old wrote, "that all Americans are swine."

Dr. Olof Lagercrantz, the editor of Sweden's biggest newspaper, the Stockholm Dagens Nyheter, doesn't believe that news should be "objective." If it's "objective," he argues, that means it's "conservative," whereas "news must be used to change society and influence people."

Doesn't anybody ever kick? Seldom or never, maintains Huntford, and he reports one of the rare exceptions. At the ceremony in Stockholm at which the Russian writer, Alexander Solzhenitsyn, was awarded the Nobel Prize, a dissenting Swedish scientist, Professor Arne Tiselius, seized the chance to complain out loud that "truth is no longer fashionable" in Sweden, and that words "have been manipulated in order to indoctrinate people and give power to the already powerful mass media."

Although Tiselius is himself a Nobel Prize winner, his comments were almost totally ignored in the Swedish press, and on the radio and TV. However, says Huntford, "the other speeches at the ceremony were reported to their full platitudinous extent."

Dissenting intellectuals, it seems, simply resort to suicide if they find they really can't conform.

What evidently worries Huntford, more than the apathy of the welfare-swaddled, brainwashed Swedes, is the appalling thought that what has happened there may quite soon be happening everywhere if planners and bureaucrats get their way. "To watch present Swedes," warns Huntford, "may be to watch our future selves."

A disturbing book.

Alexander Campbell is an editor of The Toronto Star.

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## JOHN GEIGER COMMENTS ON THE PROBLEMS OF AMERICAN VETERANS

## HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HILLIS. Mr. Speaker, this morning John Geiger, national commander of the American Legion, appeared before the Veterans' Affairs Committee to offer the Legion's position on the problems of American veterans. I thought Mr. Geiger's comments during his annual appearance before the Veterans' Committee were quite valuable and should be of interest to all Members of Congress. I am therefore submitting Mr. Geiger's statement before the committee for the review of my congressional colleagues. Included in his statement are resolutions passed by the American Legion at its national convention last September in Houston, Tex. I am certain these resolutions will receive serious study by all of us.

The resolutions follow:

STATEMENT OF JOHN H. GEIGER, NATIONAL COMMANDER, THE AMERICAN LEGION, BEFORE THE COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES, TUESDAY, FEBRUARY 29, 1972

Mr. Chairman and Members of the Committee: I appreciate the opportunity of appearing today before this distinguished Committee of the Congress to represent the

American Legion, the largest of the nation's veterans organizations, composed of over 2,700,000 veterans in more than 16,000 Posts located throughout the country. Included among its members, who have served in four wars, are nearly 500,000 veterans of the Vietnam Era. The organization in 1971 recorded its seventh consecutive year of membership growth.

The annual appearance of the National Commander of The American Legion before the House Committee on Veterans Affairs is prized by all National Commanders. The reasons are twofold. First, it provides me with an opportunity to acknowledge, on behalf of my organization, the contribution of this Committee to the welfare of the nation's veterans, and to let you know how much we appreciate the contribution. Second, I am able to inform you, at least briefly, of those matters which, in our judgment, are of the greatest importance at this particular time to the nation's veterans, and to which we hope you will give your attention during this session of Congress.

For many years the House of Representatives has reposed in this Committee the responsibility of looking to the needs of the nation's veterans, and of preparing legislation that will answer those needs. The resulting program of veterans benefits that has been enacted into law through the years is nothing short of monumental. At no time in the history of the world has a nation taken such keen interest in the readjustment of the citizen soldiers who fight its wars, and made such extensive provisions to facilitate that readjustment.

American veterans are fortunate in many ways in consequence of having performed the highest duty of citizenship—that of bearing arms in defense of the republic. But they are most fortunate because they are part of a people represented by a Congress that has never ignored them once their service was completed.

And may I say that this particular Committee has most certainly met its responsibilities in the best tradition of its distinguished predecessors. We of The American Legion are grateful to you, Mr. Chairman, and to all of you who serve on the Veterans Affairs Committee. We appreciate your efforts—we look to you for leadership—and we pledge to you our full resources in the preparation and consideration of constructive legislation, and also in the task of bringing to the attention of the American people the extent and nature of the nation's responsibilities to its veterans.

I cannot compliment this Committee without at the same time expressing the thanks and appreciation of The American Legion to the Committee's very able Staff Director and the entire Committe staff. Their expertise in the field of veterans affairs, and their complete cooperation with The American Legion and its staff, are invaluable in enabling us to meet our responsibilities to the nation's veterans.

SPECIAL COMMITTEE ON VETERANS MEDICAL CARE

The first matter of importance that I have to discuss this morning is the future of the Veterans Administration medical care program. It is the considered opinion of The American Legion that the medical care program is in jeopardy. And if we are correct in that estimation, we wish to make one further point in that regard. That is, that the VA medical care program, as it is now constituted, will be defended by The American Legion with all of the energies and resources this organization will be able to muster.

The present unparallelled medical care program administered by the Veterans Administration has been developed through a period of fifty years until it has reached its present position of proficiency and effectiveness. It is at present a great national resource, and The American Legion does not intend to see it disappear, either as a result of being dismantled or by being absorbed into some other comprehensive medical care plan that the Congress may see fit to adopt.

The American Legion has seen this potential threat to the VA medical care program developing on the horizon for some time. At our 1971 National Convention the delegates decided that it was time to openly and formally recognize the existence of this threat as we face the growing debate on the subject of National Health Insurance.

The National Convention adopted Resolution No. 113, a copy of which is appended to this statement. Resolution 113 directed the National Commander to establish a Special Committee that would report to the 54th National Convention in Chicago next summer.

A Special Committee, composed of distinguished Legionnaires, all knowledgeable in the field of veterans affairs and rehabilitation, has been appointed. The Committee has held many meetings, including one informative session with members and staff of this Committee.

My travels throughout the country, conferring with Legionnaires and with other Americans from all walks of life, have convinced me that the results of the work of the Special Committee cannot wait to be reported at our National Convention in August 1972. I therefore requested our Committee to step up the pace of its labors, and it will issue an interim report this week. We will keep you informed of our position.

The American Legion will do all in its power to thwart the danger to the VA medical care program, and we will look to this Committee for support and assistance. I have every confidence that the Veterans Affairs Committee will respond, because I know that the dedication of each of you to the health and welfare of the nation's veterans is as great as is our own. And I am satisfied that, working together, we can defeat any threat to the existing VA medical care program.

EDUCATIONAL ASSISTANCE PROGRAM FOR VIETNAM VETERANS OF OUR ARMED FORCES

Approval on March 3, 1966 of the "Veterans Readjustment Assistance Act of 1966" established an educational assistance program for the Post-Korean Conflict and Vietnam Era veteran. Since then, educational assistance payments have been increased by seventy-five percent. Despite these increased payments, cost of living increases and rising costs of education continue to bar many veterans from using their eligibility for education assistance. Many of those veterans who use their eligibility do so at considerable financial cost to themselves or to their families.

Although there may be some divergence of philosophy between other groups and organizations, The American Legion continues to adhere to the original concept associated with the World War II G.I. Bill, that the educational assistance provided was never intended to cover all costs but that veteran students were expected to supplement these costs from their personal funds or from other sources. We believe, though, that educational assistance—a combination of subsistence and direct institutional payments—should bear a reasonable relationship to the total costs, be they incurred in public or private education or training institutions.

Based on this belief, The American Legion at its 1971 National Convention approved Resolution 342. This mandate seeks four basic changes in the current GI education program administered by the VA—

(1) Direct payment to the educational institution of three-fourths of the costs for tuition, books, and other fees, but not more than $1000 in any one ordinary school year

(2) VA-guaranteed educational assistance loans

(3) Direct VA loans to veterans who cannot obtain guaranteed commercial loans under conditions and terms acceptable to the VA

(4) Continuance of the present educational assistance allowances as monthly subsistence payments

It is recognized that some abuses of the institutional direct payment provision of the original GI Bill occurred. These, we believe, were a direct result of laxity in the law, poor administration and confusion in regulation, inadequate supervision by State Approval Agencies and VA officers, and general inexperience on the part of the Federal Government in its initial venture into a unique and tremendous program of education and readjustment assistance.

In our opinion, a recurrence of these abuses is preventable by restrictions of subsequent and current law, VA experience in administration of education and training programs, and expertise in State Approval Agencies.

We do not propose that the program be so liberal as to stimulate veterans to enter the program merely for the purpose of subsistence allowances, but that it be sufficient to motivate veterans to enter and pursue to completion programs of education or training.

In urging these changes in the current GI education provisions, The American Legion was motivated by the concept that the Veterans Administration should be a one-stop agency to service those veterans who desire to enter programs of education or training by providing them with—

Subsistence;

Direct payment to institutions of education or training to cover costs of tuition, fees, books and other charges on enrollment;

Guaranteed and direct educational loans.

Mr. Chairman and Members of the Committee, we do appreciate the significance of the constructive changes proposed in H.R. 12828 as reported by this Committee to the Committee of the Whole House. We express disappointment, though, that the measure as reported did not provide for direct institutional payments and VA student loans as recommended by the Legion.

We will continue to urge enactment of these provisions.

INCREASED RATES OF COMPENSATION FOR SERVICE-DISABLED VETERANS

At present, Chapter 11 of title 38, United States Code, authorizes payment of compensation of $450 monthly to those veterans whose wartime service-connected disabilities are evaluated at 100 percent.

Under the authority of this Chapter the Administrator of Veterans Affairs adopts and applies a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries, including disease residuals. These ratings are based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations.

Disability compensation payments were last increased by Public Law 91–376, effective July 1, 1970. At that time the increased payments for 100 percent disability compared favorably with spendable average annual earnings of production or nonsupervisory personnel in private nonagricultural payrolls.

To maintain the veterans' purchasing power these payments must respond to cost-of-living increases. As published by the Bureau of Labor Statistics, Department of Labor, the July 1, 1970 index was 116.7, and by December 1971 it had advanced to 123.1, an increase of about 5.5 percent. Current estimates are that the consumer price index will advance at an annual rate of 3 percent. In view of the fact that disability compensation rates do not automatically respond to changes in the cost of living, legislation proposed should anticipate increases that will occur in the interval between enabling legislation granting offsetting increases.

Mr. Chairman, we urge this Committee's consideration of increasing the monthly rate for 100 percent to $500. This amount would materially assist these severely disabled veterans in meeting today's cost of living at a standard which is not demeaning to their status as veterans. A similar percentage increase in monthly compensation payments should be authorized those with disability evaluations of less than total.

The American Legion will recommend additional improvements in this program when hearings on compensation legislation are held by one of your subcommittees in the next few weeks.

### DEVELOPMENT AND MAINTENANCE OF AN ADEQUATE SYSTEM OF NATIONAL CEMETERIES

At present there are four separate cemetery systems administered by federal agencies: the national cemetery system operated by the Department of the Army; a number of cemeteries adjacent to its facilities controlled by the Veterans Administration; the National Park Service of the Department of Interior; and overseas cemeteries under the American Battle Monuments Commission.

We believe that this division of jurisdiction is responsible for the absence of a clear policy on the present and future development of a system of national cemeteries.

To assure that every veteran who wants the honor should have the right to burial in a national cemetery reasonably close to his home, The American Legion is urging the enactment of legislation which would provide that

(1) Congress transfer all active cemeteries to the jurisdiction and supervision of the Administrator of Veterans Affairs.

(2) The Administrator undertake and complete a study of national cemetery needs based upon a demographic study of the veteran population, and submit his findings and recommendations to the Congress, within a reasonable period of time.

(3) The Administrator be empowered to acquire, by gift, purchase, or condemnation, lands necessary for use as national cemeteries.

In addition, we suggest that the enabling statute or its legislative history specifically bar the Administrator of Veterans Affairs from issuing orders limiting burial of eligible veterans, such as is now the case in Arlington National Cemetery, so long as burial sites are available.

Mr. Chairman, we urge favorable consideration of these objectives and early reporting for House consideration of national cemetery legislation.

### INCREASE THE AMOUNT PAYABLE BY THE VETERANS' ADMINISTRATION TOWARD THE COST OF BURIAL AND FUNERAL EXPENSES

Chapter 23 of title 38, United States Code, provides that the Administrator of Veterans Affairs may pay not to exceed $250 to cover the burial and funeral expenses of a deceased veteran, and the expense of preparing the body and transporting it to the place of burial.

The amount of this burial benefit was last increased in August 1958, from $150 to the present $250.

According to the latest information published by the National Funeral Directors Association of the United States, Inc., the average prices for adult funerals rose from $661 in 1958 to $926 in 1969. Bureau of Labor Statistics reports show that between December 1969 and December 1971, adult funeral prices increased by 7.7 percent. These averages do not include vault, cemetery or crematory expenses, monument or grave marker, or miscellaneous items such as flowers, burial clothing, additional transportation charges, honorarium for the clergyman, or newspaper notices.

We believe that the increased costs of funeral and burial services establish that there is a compelling need to increase the Veterans Administration burial benefit to $500.

Mr. Chairman, time does not allow a more detailed presentation to you of the Legion's legislative objectives in veterans affairs. Readjustment and rehabilitation of the young veteran is a continuing problem. As you know, we are actively supporting both legislative and administrative programs to meet their housing needs, assure them job opportunities and placement, and preference in federal employment.

In conclusion, may I again express appreciation to this Committee, to the Congress, and to the President of the United States for the understanding of the problems of our veterans and of their dependents and survivors. This understanding was reflected again in the recent enactment and approval of laws to improve the income maintenance of pensioners and of the parents, widows and children receiving dependency and indemnity compensation.

I would like to remind each of you that it will be a pleasure for The American Legion, tomorrow evening, to host all of the Members of Congress at our annual dinner in the Grand Ballroom of the Sheraton Park Hotel. Many of you have attended these dinners in past years. I hope you will agree they are pleasant affairs, and that you will be our guest again on this occasion. More than 1600 members of The American Legion, and the American Legion Auxiliary, are in attendance at our Annual Washington Conference. The dinner tomorrow evening will provide them with an opportunity to greet the Members of Congress from their home states.

Once more, I extend my warmest invitation to each of you to join us tomorrow evening—to have dinner, and to meet the Legionnaires from your particular areas.

Mr. Chairman and Members of the Committee, thank you again for this opportunity, and for the time you have given us.

Our beloved nation is living through difficult days. This is an election year, and there will be great debates on the issues. That is good in a democracy. However, for The American Legion, in all that is said and done, certain verities remain. Devotion to flag and country—devotion to the ancient principles of our heritage from our forefathers—dedication "to care for him who shall have borne the battle, and for his widow and his orphan"—these things are—for us—above the debate. And we shall be true to them as long as there is an American Legion.

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### FIFTY-THIRD ANNUAL NATIONAL CONVENTION, THE AMERICAN LEGION, HOUSTON, TEX., AUGUST 31, SEPTEMBER 1, 2, 1971

Resolution: No. 113 (Pennsylvania).

Committee: Veterans Affairs and Rehabilitation.

Subject: Authorizes and directs the National Commander to appoint a special committee to be known as the Special Committee on Veterans Medical Care.

Whereas, The American Legion, for the entire period of its existence, has been committed to the need for a single agency of the federal government to handle all veterans affairs; and

Whereas, an integral part of that agency, designated the Veterans Administration, has always been the veterans medical care program; and

Whereas, through the years the Veterans Administration medical care program and its hospital system, with the support of The American Legion, has developed into the finest single system of health delivery service in the world; and

Whereas, a continuing and intense concern of The American Legion is and has always been the maintenance of the integrity of the Veterans Administration medical care program; and

Whereas, there is a real possibility that proposals will be made to merge or associate the Veterans Administration medical care program with other national health delivery systems that are or will be brought into being by the federal government; and

Whereas, such a prospect creates in The American Legion a sense of alarm and concern; and

Whereas, it appears that it would be provident for The American Legion to examine into the situation now existing with reference to national health delivery systems and their possible impact on the Veterans Administration medical care program; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 31, September 1, 2, 1971, that The American Legion is irrevocably committed to the need for the maintenance of the Department of Medicine and Surgery within the Veterans Administration, and to the need for the preservation of the Veterans Administration medical care program and its hospital system as the single agency for providing health care services to the nation's war veterans; and be it further

Resolved, that The American Legion will oppose with all of its energies and resources any effort to materially weaken, restrict or reduce the Veterans Administration medical care program in the face of the apparent needs of the nation's war veterans; and be it further

Resolved, that this Convention does hereby authorize and direct the National Commander to appoint a special committee, to be known as the Special Committee on Veterans Medical Care; the members of the Special Committee to be drawn from the Veterans Affairs and Rehabilitation Commission, and to include representatives from among Department Rehabilitation Directors and Department Service Officers, and the Committee to be provided with staff support drawn from the staff of the National Veterans Affairs and Rehabilitation Division of the National Headquarters, and with professional and qualified consultants as may be necessary; and be it further

Resolved, that the National Executive Committee is hereby instructed to provide, from the funds of the national organization, such moneys as may be necessary to enable the Special Committee to complete its assigned task; and be it further

Resolved, that the Special Committee on Veterans Medical Care is charged to—

(1) examine into the adequacy of the Veterans Administration medical care program

(2) consider the potential impact on the Veterans Administration medical care program of a national health insurance plan

(3) restate, following thorough research, the reasons for the continuing necessity of an independent medical care program within the Veterans Administration

(4) study and examine any and all other matters relating to veterans medical care; and be it finally

Resolved, that the Special Committee on Veterans Medical Care shall submit its report, findings and recommendations to the 54th Annual National Convention of The American Legion.

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### RESOLUTIONS THAT REQUIRE LEGISLATIVE ACTION

#### POLICY

A. Increase mileage allowance for VA beneficiaries

1970 Convention Resolution No. 476 (P.R.) urges that the Administrator of Veterans Affairs pay a mileage rate of 10 cents per mile for expenses incurred by beneficiaries while traveling pursuant to a Veterans Administration authorization.

B. Conditional discharges

1970 Fall NEC Resolution No. 31 seeks legislation to establish eligibility to VA benefits of those veterans conditionally discharged or released from active service who immediately reenter such service.

C. Funds for the operation of the Veterans Administration

1971 Convention Resolution No. 420 (Ill.) urges that Congress to give a high priority to the budgetary needs of the VA to insure that sufficient funds will be made available to carry out this nation's commitment of providing first quality medical and hosptial care for veterans.

D. Cabinet rank for Administrator of Veterans Affairs

1970 Convention Resolution No. 399 (Texas) seeks legislation to raise the office of the Administrator of Veterans Affairs to that of Cabinet rank.

E. Oppose the merging of VA programs with social security program.

1970 Convention Resolution No. 487 (Alabama) urges opposition to any legislation or administrative attempts to merge programs administered by the Veterans Administration with Federal Social Security benefits program.

F. Mustering-out payments for Vietnam era Veterans

1971 Convention Resolution No. 194 (Ohio) seeks legislation to provide that each member of the Armed Forces who served on active duty during the Vietnam Era, and who is discharged or released from active duty under honorable conditions, shall be eligible for mustering-out payments.

G. Commissary privileges for certain widows

1971 Convention Resolution No. 980 (Maryland) seeks legislation to authorize commissary and post exchange privileges for the widows of those war veterans who die of a service-connected disease or injury after separation from active duty with the Armed Forces.

H. Opposition to hospitalization of nonveterans in VA hospitals

1970 Convention Resolution No. 570 (Va.) urges opposition to legislative and administrative efforts to authorize the hospitalization of nonveterans in VA hospitals.

I. Recovery of overpayments

1970 Fall NEC Resolution No. 34 seeks legislation to provide that there shall be no recovery of payments or overpayments of any benefits (except servicemen's indemnity) under laws administered by the VA from any person, where, in the judgment of the Administrator, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience.

J. Oppose removal of limitations on existing attorney or agent fees

1970 Fall NEC Resolution No. 35 urges opposition to the enactment of legislation that would remove the attorney or agent fee limitations imposed by 38 USC 3404 or strike the penalty provisions of 38 USC 3405.

K. Special clothing allowance be provided certain disabled veterans

1970 Fall NEC Resolution No. 37 seeks legislation to provide for payment of a special clothing allowance to those veterans eligible to receive an artificial limb or brace from the VA.

L. Amend the Dual Compensation Act

1970 Fall NEC Resolution No. 38 seeks legislation exempting the Veterans Administration from the Dual Compensation Act as it applies to retired military personnel desiring employment with the Veterans Administration Department of Medicine and Surgery.

M. Transportation costs for burials of certain veterans

1971 Spring NEC Resolution No. 12 seeks legislation to provide that when any retired member of an Armed Force dies while a patient in a United States hospital, the cost of transporting the body to the place of burial shall be borne by the Secretary of such Armed Force.

1971 Convention Resolution No. 215 (Nebr.) seeks legislation to provide that where an eligible veteran dies in a State Veterans Home, the Administrator of Veterans Affairs shall pay the cost of transporting the remains to place of burial.

N. Military honors at burial of veterans

1971 Spring NEC Resolution No. 15 seeks legislation to provide for full military honors at burial services of veterans.

O. Opposition to closing of United States Public Health Hospitals

1971 Spring NEC Resolution No. 48 urges the Congress and the President of the United States to restore to the budget funds needed to continue the operation of these hospitals.

P. Veterans Memorial Hospital in the Philippines

1971 Convention Resolution No. 339 (Philippines) seeks legislation to extend beyond June 30, 1973, the grants-in-aid program to the Veterans Memorial Hospital in the Philippines.

1971 Convention Resolution No. 350 (Philippines) seeks legislation to extend beyond June 30, 1972 the grants-in-aid for research in the Veterans Memorial Hospital in the Philippines.

Q. Government-issued grave markers

1971 Convention Resolution No. 388 (Missouri) seeks legislation to provide that the cost of setting government-issued grave markers, not to exceed $100, be borne by the Department of Defense.

### NATIONAL CEMETERIES

A. The National Cemetery Policy of the American Legion

1970 Convention Resolution No. 452 (N.Y.) seeks legislation to: (1) Transfer to the Administrator of Veterans Affairs existing national cemeteries presently under the jurisdiction of the Department of the Interior, and Department of the Army; (2) provide the Administrator of Veterans Affairs with authority and responsibility for the operation, care, and maintenance of these cemeteries; (3) direct the Administrator of Veterans Affairs to plan a system of national cemeteries and to establish a program of expansion of existing national cemeteries and creation of additional ones so that the capacity and distribution of national cemetery sites shall, at all times, be sufficient to assure burial in a national cemetery for those who so desire; (4) authorize the Administrator of Veterans Affairs to acquire such lands as are needed—by gift, purchase, condemnation, transfer, or by any other means; and, (5) provide that jurisdiction of national cemeteries be placed under those committees of the United States Senate which have jurisdiction of veterans affairs; and, (6) petitions the President, the Congress of the United States, and the Secretary of Defense to rescind the discriminatory order of February 10, 1967 which limited burials in Arlington National Cemetery.

B. Burial sites at Custer Battlefield National Cemetery

1971 Convention Resolution No. 100 (Wyoming) seeks legislation to provide additional burial sites at the Custer Battlefield National Cemetery.

### CLAIMS AND RATINGS

A. Burial allowance

1970 Convention Resolution No. 104 (Montana) urges opposition to those legislative proposals that would amend 38 USC so as to reduce burial benefits.

1971 Convention Resolution No. 199 (Ohio) seeks legislation to provide that the burial allowance be increased to $500.

B. Armed Forces retirement payments

1970 Convention Resolution No. 180 (Okla.) seeks legislation to remove the restriction against the receipt of Armed Forces retirement pay, due to length of service, concurrently with VA compensation.

C. Aid and attendance allowance to children

1970 Convention Resolution No. 195 (Md.) seeks legislation to provide aid and attendance allowance at the rate of $50 per month to a child who is in receipt of death compensation or dependency and indemnity compensation, if such child is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

D. Improve the disability compensation program

Seven-year Presumption for Progressive Muscular Atrophy

1970 Convention Resolution No. 577 (Va.) seeks legislation to provide that progressive muscular atrophy developing to a compensable degree within 7 years of separation from wartime service shall be considered to have been incurred in or aggravated by such service.

Special Compensation for Veterans Requiring Hemodialysis

1970 Fall NEC Resolution No. 36 seeks legislation to provide that a special monthly compensation be payable to those veterans whose chronic service-connected kidney condition requires hemodialysis on a continuing basis.

Presumption of Service-connected Death in Certain Cases

1971 Convention Resolution No. 370 (Va.) seeks legislation to provide that the widow, children and dependent parents of any person who died from natural causes after a service-connected disability had been rated total and permanent for 10 years shall be entitled to dependency and indemnity compensation.

Two-year Presumption for Psychosis

1970 Convention Resolution No. 541 (Minn.) seeks legislation to provide that a psychosis developing a ten per centum degree of disability or more within two years from the date of separation from war service shall be considered to have been incurred in or aggravated by such service.

Increase Statutory Awards Rate

1971 Convention Resolution No. 71 (Ky.) seeks legislation to increase the statutory awards of compensation payable under 38 USC 314 (k) from $47 to $75.

Increased Compensation (A&A) While a Nursing Home Care Patient

1970 Convention Resolution No. 573 (Va.) seeks legislation to provide that a person shall be considered to be entitled to increased disability compensation under title 38, USC, 314 (l) if he is a patient in a nursing home for a service-connected disability.

E. Improve the disability and death pension program

Comprehensive Improvements

1971 Convention Resolution No. 217 (Nebr.) seeks legislation to improve the death and disability pension benefits program for veterans of World War I, World War II, the Korean conflict, and the Vietnam era, and for their widows and children.

Oppose Suspension of Payments to Veterans Residing Outside the U.S.

1970 Fall NEC Resolution No. 32 urges opposition to any legislation which seeks to suspend or discontinue payments of disability pension to any war veteran residing outside the United States.

Income Exclusion for VA Pension Benefits

1970 Fall NEC Resolution No. 39 seeks legislation to exclude from pension annual income determinations the additional railroad retirement annuity payable for dependents in the family group.

Effective Date of Disability Pension

1971 Convention Resolution No. 310 (Calif.) seeks legislation to provide that the effective date of disability pension shall be the date permanent and total disability is established if an application is received within one year from that date.

F. Guerrilla recognition program of the Philippines

1971 Spring NEC Resolution No. 11 seeks legislation for the reopening of the guerrilla recognition program of the Commonwealth of the Philippines by the Department of Defense of the United States.

G. Payments to hospitalized incompetent veterans

1971 Spring NEC Resolution No. 17 seeks legislation to provide that in any case in which an incompetent veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds $2000, further payments of pension, compensation, or emergency officers retirement pay shall not be made until the estate is reduced to $1000.

H. Improve administrative discharge procedures

1971 Fall NEC Resolution No. 14 seeks legislation to further improve and insure due process in the Administrative Discharge Procedure followed by the Armed Forces and the U.S. Coast Guard.

### MEDICAL AND HOSPITAL

A. Extend nursing home care to nine (9) months

1970 Convention Resolution No. 587 (Va.) seeks legislation so as to extend community nursing home care at VA expense to nine months.

B. Hospital care in civilian facilities of certain veteran dependents

1970 Fall NEC Resolution No. 40 seeks legislation to provide that the surviving dependents of those war veterans who die of a service-connected disability after discharge from active duty in the Armed Forces, as well as the wives and children of permanently and totally service-connected disabled veterans, shall be authorized hospital and outpatient care in civilian medical facilities at Government expense.

C. Medical services for nonservice-connected disability

1971 Spring NEC Resolution No. 9 seeks legislation to provide that the Administrator of Veterans Affairs, within the limits of the Veteran Administration facilities, may furnish such medical services as he finds reasonably necessary to any war veterans for a nonservice-connected disability.

D. Establishment and improvement of State medical schools

1971 Spring NEC Resolution No. 18 seeks legislation to authorize the Administrator of Veterans Affairs to provide certain assistance in the establishment of new state medical schools and the improvement of existing medical schools affiliated with the Veterans Administration.

E. Direct admission for nursing home care

1971 Convention Resolution No. 619 (Convention Committee) seeks legislation to provide that the Administrator of Veterans Affairs may authorize direct admission to any public or private institution which furnishes nursing home care, or care at the expense of the United States.

### EDUCATION AND TRAINING

A. Educational benefits for wives and widows

1970 Convention Resolution No. 193 (Md.) seeks legislation to authorize educational assistance at the secondary level for eligible wives and widows; and that such training be provided without charge to any period of entitlement.

1971 Spring NEC Resolution No. 14 seeks legislation to permit eligible wives and widows to enroll in correspondence courses.

1971 Convention Resolution No. 544 (Miss.) seeks legislation so as to extend apprenticeship and other on-job training benefits to eligible wives and widows, and wives of prisoners of war and missing in action.

B. Educational assistance and vocational rehabilitation programs

1971 Spring NEC Resolution No. 44 (superseded, in part, by 1971 Convention Resolution No. 342) seeks legislation to improve the educational assistance and vocational programs to (1) increase the maximum period of eligibility to 48 months, and (2) increase the monthly subsistence allowance for vocational rehabilitation to a level commensurate with today's cost of food, housing, transportation and other necessities.

1971 Convention Resolution No. 342 (Md.) seeks legislation to improve the educational assistance program to (1) pay the cost of tuition, and such laboratory, library, health, infirmary, books, supplies, equipment, and other necessary expenses, excluding board, lodging, other living expenses, and travel, but in no event shall the payment authorized exceed 75 percent of such tuition cost and fees or $100, whichever is the lesser, for an ordinary school year, (2) a veteran eligible for such tuition, costs, and fee shall be paid monthly assistance allowance, and (3) establish VA guaranteed and direct educational loans for Vietnam era veterans.

1971 Convention Resolution No. 471 (Idaho) seeks legislation to provide that vocational-technical students not be required to make monthly certification of attendance.

### INSURANCE

A. Reopen NSLI for one year

1970 Fall NEC Resolution No. 30 supports legislation to reopen, for a one-year period, the right to apply for National Service Life Insurance for those insurable and service-disabled veterans of service between the inclusive dates of December 7, 1941 and September 2, 1945, and of June 27, 1950 and July 27, 1953, under policies providing for a premium charge that will include administrative costs.

B. Special term (RS) insurance be made participating

1970 Fall NEC Resolution No. 33 supports legislation to make policies of insurance issued to veterans under section 723, title 38, USC, participating; and, asks that the Administrator of Veterans Affairs determine the amount in the revolving fund which is in excess of the actuarial liability, including contingency reserves, and pay such excess as a dividend without interest less the annual administrative cost per policy.

C. Special Government Insurance for Vietnam era veterans

1970 Fall NEC Resolution No. 41 supports legislation to provide a Special Government life insurance program for Vietnam era veterans.

D. Effective date for increase in servicemen's group life insurance

1971 Convention Resolution No. 22 (La.) seeks legislation to provide that the effective date of the increased Servicemen's Group Life Insurance shall be June 1, 1971.

E. Statutory total disabilities

1971 Convention Resolution No. 501 (Texas) seeks legislation to provide that kidney and heart transplants shall qualify as statutory total disabilities for waiver of premiums and payment of monthly benefits for those insured who purchased a total disability income provision rider.

### DEPARTMENT OF DEFENSE

A. Extend delimiting date for correction of a military record

1970 Convention Resolution No. 486 (Ala.) seeks legislation to delete the delimiting date for applying for a correction of a military, naval, or air service record.

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## IN SUPPORT OF H.R. 9900

## HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. RHODES. Mr. Speaker, I wholeheartedly support H.R. 9900 which will amend our present law to exclude from gross income the pay of members of the armed services and of civilian employees who are missing in action or in a detained status during the Vietnam conflict. No group is more deserving of any and all assistance which can be given them than these patriotic men and their families who together, though apart, suffer sadness and hardship during these tragic days.

Certainly, I hope the passage of this legislation will help to alleviate some of the problems which they face, as well as to assure them of our genuine concern over their plight and our heartfelt desire to help as best we can. If there is ever "unanimous consent" for any bill, it should certainly be for this one.

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## SOUTH SIDE CHAMBER OF COMMERCE SCHOLARSHIP PROGRAM

## HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. GAYDOS. Mr. Speaker, despite substantial State and Federal financial contributions to education, there are far too many young Americans deprived of college degrees simply because they cannot afford the soaring costs of such an education today.

It is, therefore, most commendable and worthy of public recognition when a civic minded organization devotes time, effort and money to assist qualified students in the improvement of their education and their chances for a successful future. Such an organization is the south side chamber of commerce in my 20th Congressional District, which has established a "scholarship program" for students who reside in the neighborhood it serves.

Through numerous projects and civic programs, the south side chamber now is in a position to offer four outright grants to students from the South High School and the South Side Catholic High School. To be eligible for the grants, the students must attend either of the schools mentioned and reside in either the 16th or 17th wards of the city of Pittsburgh. Two students from each school will be selected for the award according to the following criteria: scholastic standing, service to the community, participation in school activities and the intention of continuing their education at an approved, accredited school.

The scholarship committee of the south side chamber will select the award winners from a list of nominees and make the formal presentation to the students upon their graduation from high school this spring. The scholarship committee, as the chamber itself, is comprised of men and women who have a deep and sincere interest in the improvement of the south side community. They include State Senator Frank Mazzei; H. A. Nevin, president of the chamber; Frank Sklar; Mrs. Ann Connelly; Sister Marie Therese, principal of South Side Catholic High School; John Wolsko, principal of South High School; and

W. R. Crawford, chairman of the committee and a representative of the United States Steel Corp.

Mr. Speaker, the men and women who belong to the south side chamber of commerce feel this is a program which will continue to grow and prove beneficial to the young people of the neighborhood as well as the community itself. It will add incentive and encouragement for young adults to further their education and, in turn, the south side community will reap the rewards of their knowledge and experience in years to come.

I salute the faith the south side chamber of commerce has exhibited in the future of young Americans, and I congratulate them on demonstrating a positive conviction in the future of their community.

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## WILDLIFE PORTRAIT SERIES NO. 2

## HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. LATTA. Mr. Speaker, we all appreciate rare and exceptional talent, particularly when it is used and made available for the benefit and enjoyment of all mankind. I am proud to call to the attention of my colleagues the artistic talents and endeavors of a very unusual man. I refer to Bob Hines, a longtime artist for the U.S. Department of the Interior.

The Department of the Interior's Fish and Wildlife Service has just published "Wildlife Portrait Series No. 2" in its series of illustrations of America's fish and wildlife, part of a continuous program to help the public understand the need to preserve our environment.

Set No. 2 contains reproductions of original paintings of fishes by Bob Hines, a native of Fremont, Ohio, who has been an artist for the Fish and Wildlife Service since July 1948. Prior to that, he was staff artist for the Ohio Division of Conservation.

Hines was a colleague and close friend of the late Rachel Carson, and illustrated her book, "Edge of the Sea." Miss Carson was one of the first major voices raised in America about pesticides and pollution.

As artist for the Fish and Wildlife Service, Hines has traveled, sketched, and photographed wildlife and its habitat from Key West to the Aleutian Islands. Working with scientists and biologists he has incorporated scientific accuracy in his drawings. His early training as a taxidermist also contributed greatly toward such detail.

His illustrations have appeared in 19 books, numerous fish and game magazines, Reader's Digest, New Yorker, and most of the popular sports magazines.

One of his finest pieces of work with the Fish and Wildlife Service is the bald eagle painting "Symbol of Our Nation." The Government Printing Office has sold over 90,000 copies of this.

Another popular item he wrote and illustrated is "Ducks At A Distance," used by many thousands of waterfowl hunters. The booklet was designed by the Service to help hunters identify waterfowl, and has been reprinted in Spanish.

The Department of the Interior can be proud to have Mr. Hines on its staff, for his service to his fellow Americans is priceless. Each drawing is a reminder that unless we all help clean up America, future generations will see wildlife only through the eyes and drawings of an artist.

I would commend to the attention of my colleagues and the public at large, these beautiful and noteworthy reproductions, which can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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## ELECTION YEAR BIG SPENDING SURGE PLANNED BY GOP ADMINISTRATION

## HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. EVINS of Tennessee. Mr. Speaker, Time magazine in a recent issue highlighted the big spending plans and techniques of the administration in this election year.

The President and his budget associates, the article reports, "has crafted a budget that will virtually mainline huge doses of Government spending into the economy over the next few months."

Because of the interest of my colleagues and the American people in this most important subject of big spending and election buying, I place the article in the Record.

The article follows:

### NIXON'S SURGE OF ELECTION-YEAR SPENDING

"The budget is a superb deflator of rhetoric because it calls to account the open-ended promises heard so often in an election year."

That rather righteous statement in Richard Nixon's 1972 budget message may well be correct—as far as it goes. But as the President is well aware, the great gray mass of numbers and charts that is being sent to Congress this week has a rhetoric of its own that is difficult indeed to deflate. Plagued by a painful recession and a limping recovery during the first three years of his Administration, Nixon is determined to get the U.S. economy into the best possible shape by November or earlier. To do so, he has crafted a budget that will virtually mainline huge doses of Government spending into the economy over the next few months.

Until the current fiscal year ends on July 1, Nixon plans to pump about $1 billion a month more than originally planned into spending programs designed to put money into the pockets of millions of currently unhappy voters. Farmers will get increased crop subsidies; federal workers will receive the maximum pay increases possible under Phase II guidelines; there will be some new jobs for unemployed scientists and engineers. Such openhanded spending marks Nixon's conversion from unsuccessful policies of conservatism and gradualism to the activist, pump-priming Keynesian economic theory, which holds that big Government spending is one of the fastest ways to stimulate the economy. Said a top Nixon adviser: "The President looks on this as an investment in getting the economy moving."

#### ROCKETING DEBT

The budgetary stimulus comes at a time when various branches of Government are going all out to push the economy forward. Congress recently did its part by approving Nixon's program of tax reductions, including a 7% tax credit for capital investments and increases in personal income tax exemptions. In the past few weeks, the Federal Reserve Board has been aggressively pouring money into the banking system and pulling down interest rates. Ironically, Nixon's budget may force interest rates up because enormous federal borrowing will be needed to finance a shockingly high deficit.

The deficit will hit $38.8 billion in fiscal 1972, by far the largest short-fall since World War II. While federal spending will reach a record $236.6 billion, revenues will total only $197.8 billion. By the time Nixon begins campaigning for re-election this summer, the overall federal debt will have skyrocketed by some $70 billion (to $456 billion) during his term of office.

Nixon originally estimated this years' deficit at $11.6 billion; as recently as last September he said that it could be held at $28 billion. Its sharp rise will reflect the infusions of federal funds that Nixon has decided since then are necessary before July, plus the fact that the Government has revised steadily downward its estimates of the 1971 gross national product, thus cutting the amount of expected tax receipts. The preliminary G.N.P. total: $1,047 billion, or fully $18 billion less than the Administration's celebrated prediction a year ago of $1,065 billion.*

The huge deficit spending will be an embarrassment to Nixon when he campaigns before conservative constituents, and Democrats are already forming plans to make the most of it. Speaking to a Chamber of Commerce meeting in Washington last week, Treasury Secretary John Connally offered an early answer to the expected attack. "No one likes a deficit of $35 or $40 billion," he said, but some 5,000,000 Americans are unemployed. The "political world," he argued, dictated the huge deficit, and he told his businessmen's audience: "You should be applauding it." At least one top Nixon adviser was somewhat less sanguine. "My God," he said, "what's going to happen the next time I go out to address the Orange County Women's Republican Club?"

The tactic of Nixon and Budget Chief George Shultz is to pull into fiscal 1972 spending that was scheduled for fiscal 1973, reports Time Correspondent Lawrence Malkin. Then they plan to adhere to a much tighter budget in fiscal '73. That will mean a severe fiscal squeeze in federal programs beginning next July and undoubtedly worsening after the election. Even so, Nixon projects the deficit for fiscal 1973 at a high $25.5 billion. The continued deficit is largely unavoidable because tax cuts since World War II have gnawed away at the Government's revenues, while built-in increases in veterans' benefits, social security and other welfare payments have forced expenses up. These contending forces are rapidly plunging the nation into a fiscal crisis. The U.S. is running short of money.

A summary of additions to the budget in fiscal '72 and plans for fiscal '73:

#### WELFARE

In the current fiscal year, state governments will get about $1 billion in federal welfare funds that had not been expected until July 1, mostly for Aid to Dependent children. With many state treasuries down to alltime lows, these funds are certain to be spent with haste. For fiscal 1973, the Department of Health, Education, and Welfare will displace the Pentagon as the largest Government spender. Much of its $7 billion increase will go for Social Security rises.

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* The reduced G.N.P. estimate for 1971 automatically trims the total that it is expected to reach this year. The Administration's new prediction: $1,145 billion, a gain of $98 billion.

###### DEFENSE

For the rest of this fiscal year, Pentagon spending will be considerably speeded up, with much of the increase going for materiel planned for later delivery. Next year, though Viet Nam spending will continue to decline, much of the long-awaited "peace dividend" will remain firmly in the hands of the Pentagon. Its budget will show a $900 million increase (to $75.9 billion) in fiscal 1973. To prepare for the all-volunteer army that Nixon has promised by mid-1973, some of the dividend will be used to raise the pay of armed-forces careerists.

###### AGRICULTURE

Farm price supports in the current year will leap $1.8 billion over original estimates to a total of $4.4 billion, then will decline slightly in 1973 as acreage is taken out of production. Retail food prices will remain high, and farmers' incomes will also rise, helping calm the farm belt revolt that threatens to deny Nixon some of his traditional support.

###### TECHNOLOGY

In his State of the Union message Nixon proudly described a new program in which the Government will cooperate with private industry in developing a series of ultrahigh-technology projects to "improve our everyday lives." These include new mass transit systems and fire-fighting techniques employing helicopters. Unfortunately, Nixon had more new ideas than new funds: the Government will spend only a modest $700 million on new civilian research programs in 1973, with another $800 million going to military research.

The President is rightly determined that his budget provide generous fuel supplies for an economy that finally seems to be producing more heat. There is more growth and less inflation than in a long time. The fourth-quarter G.N.P. in 1971 rose at the exceptionally brisk annual rate of 6.1%. Herbert Stein, chairman of the Council of Economic Advisers, strongly urged the President to keep a heavy foot on the gas pedal for the next six months, and the deficit be damned. Nixon clearly agreed.

The trouble is that the President is just as determined to ease up drastically after that period, producing what economists call a "stop-go"—or in this case, go-stop—fiscal program. In a fragile economy like the present one, every jolt caused by new stops or starts is an added risk. Nixon might have been better advised, election year or not, to even out new expenditures and spread them over a longer period. Indeed he may yet be forced to do just that. The sheer red tape of federal bookkeeping, check writing and the like may make it virtually impossible to push spending as high and as fast as Nixon wants. In that case Candidate Nixon would claim that he was able to "hold down" the final deficit for this expensive year.

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## HOME FRONT PRIORITY

## HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. GROSS. Mr. Speaker, a recent editorial in the Waterloo, Iowa, Daily Courier is brief and to the point. It needs no elaboration and I heartily endorse it. I insert it in the RECORD at this point:

###### GIVE THE HOME FRONT PRIORITY

If various members of Congress had their way, Uncle Sam would be poking his nose into every trouble spot of the world.

Sen. James L. Buckley and Sen. Edward Brooke have urged a Senate resolution calling for an end to the violence in Ireland, and offering U.S. help in mediating the dispute.

And, Sen. Edward Kennedy has also urged U.S. intervention in the riot-scarred country.

Somehow, a U.S. resolution seems an ineffective medication for the deep wounds in Ireland. The differences there have their roots in the 17th century, and won't be solved by sentiments from overesas.

It would be foolhardy to intervene in the Irish troubles unless they pose a clear and immediate threat to U.S. security.

We'd like to see Congress show more adeptness at handling problems at home before playing sob-sister to the rest of the world.

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## ANOTHER OF THE COMPTROLLER OF THE CURRENCY'S RULING ON BANK-RELATED ACTIVITIES OVERRULED BY FEDERAL COURT

## HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. PATMAN. Mr. Speaker, last Tuesday, February 22, the United States District Court for the District of Massachusetts ruled that the Comptroller of the Currency, the supervisor of all national banks, had illegally issued a regulation permitting national banks to operate in the general travel agency business. This ruling by the Comptroller of the Currency was originally made in 1963 and has been challenged in the courts for many years. The case had reached the U.S. Supreme Court twice. Unfortunately, that challenge will probably have to continue because of the likely appeal of this decision by the Comptroller and/or the commercial banking industry. Thus we see another example of the Comptroller of the Currency's highly questionable rulings, affecting the livelihood of thousands of small businessmen, having to be fought for years in the courts at great expense in order for these businessmen to protect themselves against the unwarranted and unfair competition of large banking institutions.

This is simply a repeat of the performance of the Comptroller's office in erroneously permitting national banks to operate insurance agencies in towns of over 5,000. It also follows the reversal of the Comptroller of the Currency by the Federal courts in several cases involving data processing, branch banking, bank mergers and other issues.

It is indeed unfortunate that our Federal banking agencies, particularly the Comptroller, have so much difficulty in interpreting the clear intent of Congress, that is, to keep the business of banking as separated as possible from nonbanking businesses, and to maintain and expand a competition within our banking system.

Many interested people, both inside and outside the Congress of the United States, have a growing concern that the Federal Reserve Board, in its interpretation of the Bank Holding Company Act Amendments of 1970, may be repeating the same mistakes that the Comptroller of the Currency has made in the last several years. The intent of Congress in passing the 1970 amendments to the Bank Holding Company Act was very similar to that in passing the incidental powers section of the National Banking Act, that is, to allow banking institutions to perform only such nonbanking activities which are incidental or closely related to banking.

It would indeed be unfortunate, if, as a result of Federal Reserve Board rulings interpreting the Bank Holding Company Act, the thousands of small businessmen in such activities as the insurance agency business, the armored car and courier business, the real estate management business, the data processing business, the travel agency business, and perhaps many others, would be required to go through long and expensive litigation in the courts in order to obtain a satisfactory interpretation of the 1970 Bank Holding Company Act amendments. As it has in the Comptroller's case, the necessity for going through this process would reflect adversely on the ability of the Federal Reserve Board to apply its expertise properly in interpreting the intent of Congress. This would also inevitably lead to a new round of legislative action on this most important problem.

I insert in the RECORD at this point the judgment and opinion of Judge Andrew A. Caffrey of the Federal District Court in Boston last week in the travel agency case—Arnold Tours, Inc. et al. against William B. Camp, Comptroller of the Currency, and South National Bank.

[United States District Court, District of Massachusetts; Civil Action No. 67-372-C]

ARNOLD TOURS INC., ET AL. PLAINTIFFS v. WILLIAM B. CAMP, COMPTROLLER OF THE CURRENCY, AND SOUTH SHORE NATIONAL BANK, DEFENDANTS

JUDGMENT—FEBRUARY 22, 1972

In accordance with Opinion filed this date, it is ordered and declared:

1. Regulation 12 GQ.F.R. 7.1 is invalid to the extent that it is construed by the Comptroller of the Currency as authorizing a national bank to operate a full-scale travel agency.

2. It is illegal for a national bank to operate a full-scale travel agency because 12 U.S.C. 24(Seventh) merely authorizes a national bank to exercise "such incidental powers as shall be necessary to carry on the business of banking," and this court rules that conducting a travel agency is not necessary to carrying on the business of banking.

3. Within six months after this judgment becomes final, the defendant South Shore National Bank shall divest itself of the Travel Department.

4. The South Shore National Bank is permanently enjoined thereafter from engaging in the travel agency business.

[United States District Court, District of Massachusetts; Civil Action No. 67-372-C]

ARNOLD TOURS, INC., ET AL., v. WILLIAM B. CAMP, COMPTROLLER OF THE CURRENCY, AND SOUTH SHORE NATIONAL BANK

OPINION—FEBRUARY 22, 1972

The plaintiffs in this case are forty-two independent travel agencies doing business in various locations in the Commonwealth of

Massachusetts. They ask herein for declaratory and injunctive relief against the Comptroller of the Currency and against the South Shore National Bank. Plaintiffs seek from this court a decision that a ruling by the Comptroller providing that, incidental to their banking services national banks may provide travel services for their customers, violates the powers granted to the Comptroller by the National Bank Act, 12 U.S.C. 24(Seventh). Plaintiffs allege that the Comptroller exceeded his statutory authority when he issued regulations authorizing national banks to provide travel agency services, and plaintiffs further allege that as a result they have lost substantial business and profits and stand to lose even greater business in the future. For the reasons stated hereinafter, I agree.

This rapidly aging matter has already been subjected to the attention of this court at numerous hearings, has twice been argued and decided by the United States Court of Appeals for this Circuit, and has twice been the subject matter of rulings of the Supreme Court of the United States on the basis of petitions for writs of certiorari which were granted in both instances. See 286 F. Supp. 770, aff'd. 408 F.2d 1147 (1 Cir. 1969), vacated and remanded 397 U.S. 315. See, also, 428 F.2d 359 (1 Cir. 1970), reversed and remanded 400 U.S. 45.

The matter is now before this court on cross-motions for summary judgment, which have been extensively briefed by the parties. The narrow issue is, as stated by the Comptroller in a supplementary memorandum in support of his motion for summary judgment:

"whether the Comptroller can reasonably interpret 12 U.S.C. 24(Seventh) to authorize the operation of a travel agency by a national bank as incident to its banking business."

To properly understand the issue, it should be noted that the statute, the proper construction of which is the key to the outcome hereof, states as follows:

"A national banking association shall have the power to exercise by its board of directors . . . all such incidental powers as shall be necessary to carry on the business of banking."

In deciding whether the operation of a travel agency business comes within the quoted language from 12 U.S.C. 24, attention should next be focused on what, specifically, operating a travel agency entails on the part of the South Shore National Bank. The extent and nature of this activity qua travel agency has been described in detail in the Affidavit of Charles F. Heartfield, who served as vice-president in charge of the Travel Department of the South Shore National Bank from about November 1, 1966 to 1970. In pertinent part, the affidavit of Mr. Heartfield describes the travel agency business as follows:

"A travel department is a functioning complete travel service bureau within the confines and control of the bank. It is a department store of travel, staffed by knowledgeable people, trained in the techniques of selling every mode of transportation—air, rail, steamship, U-drive car. It is a staff acquainted with thousands of hotels and resorts, proficient in the intricacies of foreign customs and regulations, health requirements and languages, accustomed with tipping customs, foreign exchange, conversant with foreign representatives and hotel managers, in the history and geography of our own great United States, as well as the rest of the shrinking world, constantly aware of changing tariffs and schedules, well acquainted with over 60 airlines throughout the world, 40 domestic and international railroads, and numerous motorcoach lines, steamship companies, etc. They must be up-to-date in passport, visa and sailing permit information.

"They must be specially trained and experienced in the preparation and planning of itineraries. They must be ready to acquaint the traveler with climate conditions, wardrobe and packing suggestions. They must have unlimited knowledge of foreign car purchases, U-drive-it regulations and costs. They must be ready with shopping suggestions and must be able to advise on travel accident and baggage insurance.

"They must be able to arrange transfers and sightseeing, and must be aware of the proper assessments, head taxes, port taxes and transportation taxes. They must be knowledgeable in what to see and what to do, theatre tickets, ballet, opera, horse shows, yachting events, and, at their finger tips, a good travel staff has hundreds of tours, ranging from a weekend in New York to an African safari. A good travel agent's experience and interest lends the proper emphasis to his client's desires. He can put himself in the place of his customer. He must discover the traveler's budget and give him the most for his money—and here the bank's Pay Later Plan will be invaluable.

"The well-trained agent is able to decide whether his client should go by air or sea, or a combination of both, which cruise will please his client the most, which hotel will satisfy his client's taste, whether a motorcoach or a chauffeur-driven sightseeing trip will be the answer to his client's wishes. There are escorted and independent tours. Each has its own advantages. There are basic trips, charters, all-expense trips, and special flights. The agent's knowledge must encompass information on bike rentals in Bermuda to villa rentals on the Riviera to a houseboat in Kashmir. To sum it up, a good travel department is a personalized department store of travel."

To say that conduct of a business of the nature and type described by Mr. Heartfield is a *sine qua non* to the successful operation of a national bank is a self-refuting proposition, especially in view of the fact that on the defendants' own claim only 122 national banks out of the many hundreds if not thousands in existence were providing travel agency services in 1967.

I find that defendants' argument that because the bank may engage in selling letters of credit, travelers' checks and foreign currency, or make travel loans, it therefore should also be allowed to engage in the travel business, is a complete *non sequitur*. Selling travelers' checks or foreign currency, issuing letters of credit or making loans, are all financial transactions as they involve money or substitutes therefor, and all are obviously within the normal traditional range of monetary activities of a national bank. The difference between these activities and conducting a travel agency is just as great as the difference between these activities and running a mill, which was proscribed many many years ago in *Cockrill* v. *Abelles*, 86 Fed. 505 (8 Cir. 1898). Nor do the defendants gain any support from the fact that national banks rent out safe-deposit boxes, since this type of activity is specifically recognized as a permissible activity by 12 U.S.C. 24 (Seventh), which, to the extent that it allows banks to conduct safe-deposit business, restricts their investing in the capital stock of corporations organized under any state law to conduct a safe-deposit business in an amount in excess of 15 per cent of the capital stock of such corporations.

The Comptroller and the bank contend that great deference should be given by this court to what they characterize as an unbroken line of administrative rulings over a period of thirty years supporting the contention that banks may engage in the travel business. A review of the documentation before me indicates that in 1936 the Deputy Comptroller wrote a letter in response to a complaint that national banks were engaging in the travel business, in which letter the Deputy Comptroller took the position that a bank could act as a collection agent as long as its sole duty was to deliver travel tickets and place the amount collected therefor to the credit of its customers, but the same letter expressly prohibited the bank from purchasing travel tickets with the bank's own funds and reselling them.

In 1949, the Comptroller indicated, through Rule 67, that banks could not engage in the regular travel agency business in the same manner as a private travel agency, but further stated that if a bank did not hold itself out to the public as an operational travel agency it would be permitted to merely assist its customers in acquiring accommodations, as a gratuitous public relations service tending to foster good will.

In 1959, the Comptroller promulgated a ruling, which appeared in 12 C.F.R. 7.1, which in pertinent part stated:

". . . It appears clear that national banks, may as an incidental power, provide travel services for their customers, as they have been doing for many years, and that they may have the reasonable rights and benefits that flow therefrom."

This ruling, being keyed to past practices and rulings by the language "as they have been doing for many years," amounted to no more than a restatement of the narrow permission contained in the 1936 and 1949 rulings of the Comptroller. Accordingly, it is not accurate to say that the 1936 ruling, found in paragraphs 7475 and 7476 of the Comptroller's Manual for National Banks, issued as a supplement to 12 C.F.R. 7.1, is a continuation of an unbroken series of consistent administrative rulings, but, on the contrary, to the extent that these paragraphs grant a national bank *carte blanche* to take over the complete operation of a travel agency, as described in the above-quoted affidavit of Mr. Heartfield, they represent a radical departure from the past administrative rulings and, consequently, they have a correspondingly weakened precedential value.

Attention should be focused on a semantic difficulty which runs through the briefs filed herein, namely, that the phrase "travel services" can mean different things at different times and to different people, and the fact that in 1865 a national bank offered "travel services," the exact nature and extent of which are nowhere spelled out, does not establish any precedent for a bank now conducting a full-blown travel agency, there being obvious differences between the conduct of a complete travel agency with all its ramifications and the performing of "travel services," which could mean no more than issuing a letter of credit from time to time or selling travelers' checks from time to time. By the same token it would seem to be grasping at straws for the Comptroller to urge affirmance because the National Bank Act of 1864 had among its purposes "facilitating travel." Travel can be facilitated in a number of ways without ever engaging in a full-blown travel agency operation.

Lest there be any ambiguity as to this court's position as to the scope of review in light of the two rulings of the Supreme Court cited above, I rule that plaintiffs do have standing to bring this action in light of the *per curiam* opinion of the Supreme Court, reported at 400 U.S. 45 (1970), and I likewise rule that the scope of review by this court is not merely to determine whether or not the ruling of the Comptroller had a "rational" basis, but, on the contrary, the scope of review is to determine whether or not the regulations issued by the Comptroller are authorized by 12 U.S.C. 24 (Seventh). In so ruling I have in mind the observation of the Supreme Court in *Barlow* v. *Collins*, 397 U.S. 159 (1969), at 166:

"[S]ince the only or principal dispute relates to the meaning of the statutory term, the controversy must ultimately be resolved, not on the basis of matters within the special competence of the Secretary, but by judicial application of canons of statutory construction."

Accordingly, I rule that the full scale operation of a travel agency by a national bank is not an incidental power necessary to carry on the business of banking. As a corollary of this ruling, I further rule that the Comptroller exceeded his authority by ruling, purportedly under the authority of 12 U.S.C. 24 (Seventh), that a national bank may engage in the operation of a complete travel agency.

Finally, I rule that there is presently outstanding no genuine issue of material fact. Accordingly, the plaintiffs' motion for summary judgment is allowed and defendants' motions for summary judgment are denied.

An order will be entered declaring (1) that the Comptroller's regulation, 12 C.F.R. 7.[illegible], is invalid as in excess of his powers, and (2) that the South Shore National Bank shall divest itself of its Travel Department within six months from the date of the filing of this order and the said bank is permanently enjoined thereafter from engaging in the travel agency business.

## CORPORATE TALENT BENEFITS PUBLIC SCHOOLS

## HON. FLOYD V. HICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HICKS of Washington. Mr. Speaker, an experiment now underway in my district indicates ways in which a large corporation can extend its management resources out into the community for the mutual benefit of both the corporation and community institutions. The Boeing Corp. is, as many of you know, the largest single non-Federal employer in the Pacific Northwest. Also, as you know, it has been hit hard by a recession that is more devastating for the aircraft industry and the Pacific Northwest region than for almost any other industry or section of this Nation. In telling the story of Boeing's relationship with the South Kitsap School District, the Tacoma News Tribune indicates ways in which this sort of beneficial relationship can be extended and maintained. Boeing is both keeping highly talented individuals working in the Northwest on a project of possible public benefit, but giving them a diversity of experience that may be valuable to the corporation. The school district in turn is gaining access not only to a manager, but to the corporate hardware that backs up his performance. I urge my colleagues to consider the possibilities that the following article suggests:

### SCHOOL DISTRICT SIGNS CONTRACT WITH BOEING

(By Bruce Johnson)

PORT ORCHARD.—The South Kitsap School District here has propelled itself into the national education spotlight by signing a unique contract with the Boeing Co.

Under terms of the $13,292 contract signed Monday night by the school board, the aerospace firm is supplying one of its top specialists to serve as school district business manager and agrees to furnish consulting services from its bank of business talent.

Starting this week as the district's business manager for a five-month trial period is Jack Frost, a Boeing management specialist who for years served as a consultant to many American corporations, including McDonnell Aircraft, Sperry Products and Royal McBee.

"So far as I know, this is the first contract of its type," Frost told The News Tribune. "I am not aware of any corporation entering into a contract to share its business management expertise with a public school district in the manner we're doing here. This is of national interest."

Particularly now when public resistance to increasing property taxes is making it more difficult for local school systems to raise money for basic operations it's vital that school districts prove to the voters that they are getting their money's worth, said the 60-year-old Boeing official.

"This willingness on the part of the South Kitsap board and superintendent to be the first ones to try this type of a contract is something that Kitsap County taxpayers should be very glad to see happen," said Frost.

"One of the risks a school district under this arrangement runs is that people would say we have been brought in because things were not being properly done before," said Frost. "But this isn't the case. They have been doing things properly before but they recognized the need for further improvements for the benefit of the taxpaying public."

"This is remarkable that a school district would open itself up like this," said Frost.

"We have to give very significant credit to the foresight and open-mindedness of the school board and the superintendent in being willing to try this experiment," he said.

Frost emphasized that his role as business manager and Boeing's role as a management consultant only apply to business operation functions not directly related to the educational process.

"Boeing is not in any way trying to modify the educational program," he said "We're only taking over the support activities that are needed to help those who do provide educational services."

Transportation, buildings and grounds, accounting and payroll, food services and public relations are a few of the things that will receive special attention during the five-month program, said Frost.

The new business manager said he is immediately starting a study of busing schedules and he said computers at Boeing will be programmed to reveal various alternatives that can make busing more efficient and still maintain the present level of service to the students. The same approach will be taken to management of buildings and grounds, he said.

Although Boeing basically has been in the business of building airplanes and related hardware, Frost believes the firm nevertheless is a logical choice in helping school districts manage their business operations.

"We have buildings and grounds all over the country and the 747 plant in Everett is the biggest building of its kind in the country," said Frost. "We should know something about managing buildings and grounds.

"We're not saying we're smarter," he said. "But we do have larger and longer experience."

Frost believes this type of contract arrangement eventually will be shown to be more beneficial to school systems than the usual short-term consulting services employed to produce improvements.

"What we're doing is different from normal consulting," he said. "I'm sitting here in the business manager's chair so I have a stake in it working. I want it to work well and be of value to the school district.

"I just don't consult and leave," he said. "I've been a consultant for 25 years and I know that in many instances there are snags after the consultant leaves."

It's likely that this trial program will lead to an ongoing contract with Boeing the following school year, providing significant improvements can be made prior to June 30, said Frost.

"It's more likely than not this will happen," he said. "If it didn't happen. I wouldn't say we succeeded. But I'm confident several significant improvements will be made. I haven't the slightest interest in doing something romantic that doesn't work."

"Boeing isn't going to get rich on this contract, however," said Frost. "But if we succeed at this, Boeing will have opportunities in many other districts. There's a good market in this."

South Kitsap was the first school district which received a formal, written proposal from Boeing, said Frost. It's likely several more districts will be approached within the next several months, he said.

## TRIBUTE TO HON. TOM BEVILL

## HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. JONES of Alabama. Mr. Speaker, all Alabamians are justifiably proud of the selection of our colleague, Tom Bevill, of Alabama's Seventh Congressional District, to the House Appropriations Committee. Congressman Bevill succeeds the late George Andrews, the dean of the Alabama delegation, on this powerful committee.

The day of his election, the newspaper in Congressman Bevill's hometown, the Jasper Daily Mountain Eagle, paid tribute to him on the editorial page. I would like to submit this editorial as a tribute to Tom Bevill for the work he has done for Alabama's Seventh District, our State and our Nation.

The editorial follows:

### BEVILL

Jasper's 7th District Congressman Tom Bevill received yesterday, a reward for the excellent job which has consistently performed in the U.S. House of Representatives.

He was named to the most important, one of the most powerful committees in the congress—The House Appropriations Committee.

Succeeding the late George Andrews, it puts Tom in a very influential position.

Bevill is held in high regard in Capitol Building, and his appointment to this key position—one of the money members—is an example how well he serves.

He is a dedicated lawmaker. But more than that he is dedicated to his homefolks. He's never lost touch.

On every congressional break, every opportunity, he rushes back to the homefolks, seeks out their ideas and their problems.

He's done a magnificent job in Washington, rubbing elbow with the president, the ambassadors, the princes, etc.

But he still remains the old boy from Townley.

Congratulations Tom.

# SENATE—*Wednesday, March 1, 1972*

The Senate met at 9:30 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we thank Thee for the morning hours as with restored energy and rested bodies and minds we undertake the tasks of another day. Grant to each of Thy servants here a clear vision, a keen mind, a quiet spirit, a serene soul, and a sure faith that they may be guided in their service by Thy higher wisdom, and may enact those measures which shall advance the kingdom over which Thou dost rule. Hasten the time when men study war no more, when the divisiveness of race and language and ideology give way to brotherhood. Make this Nation great and good and strong for the well-being of the new world which is yet to come.

And to Thee shall be given our thanks and praise. Amen.

## DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., March 1, 1972.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
*President pro tempore.*

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 29, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of various items on the calendar, beginning with No. 610, and including Calendars Nos. 612 and 613 as of now.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## INTERSTATE ENVIRONMENT COMPACT ACT OF 1972

The Senate proceeded to consider the bill (S. 907) to consent to the Interstate Environment Compact, which was reported from the Committee on the Judiciary with amendments, and subsequently reported from the Committee on Public Works with additional amendments.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the amendments will be considered en bloc; and, without objection, the amendments are agreed to en bloc.

Mr. McCLELLAN. Mr. President, S. 907 is a bill "to consent to the Interstate Environment Compact." I was pleased to introduce this measure on February 23, 1971, and I am gratified that it has received the bipartisan endorsement of some 38 additional Senators.

This bill has been examined indepth by the Senate Committee on the Judiciary and by the Senate Committee on Public Works. There have been many long hours of work, of technical revision, of negotiation and compromise, put into this legislation. I am satisfied that this bill which we consider today will fulfill the need which it is designed to meet. In addition, members of the Public Works and Judiciary Committees have provided ample safeguards against any conceivable abuses of its provisions. There is no question that S. 907 will significantly enhance the environmental protection efforts now being mounted on the Federal, State, and local levels. Both the Judiciary and Public Works Committee's reports point out in detail the many uses to which the States can put S. 907, once it becomes law. The land-use regulations which can be promulgated by two or more States under the authority contained in S. 907 can be used to prevent an indiscriminatory industrialization race with attendant polluting consequences in the Arkansas River Valley, the enhancement and orderly development of which has been my longtime dream.

This has been a bipartisan effort throughout. I am pleased to have had the cooperation and assistance of the chairman and the ranking minority member of both the Senate Committee on the Judiciary (Mr. EASTLAND and Mr. HRUSKA), and of the Public Works Committee (Mr. RANDOLPH and Mr. COOPER), and also of its Air and Water Pollution Subcommittee (Mr. MUSKIE and Mr. BOGGS).

My former Governor, Winthrop Rockefeller, originally brought the concept embodied in S. 907 to my attention. Governor Rockefeller has continued to provide me assistance with regard to this bill, for which I am most appreciative. The Honorable Dale Bumpers, present Governor of the State of Arkansas, not only has been of invaluable assistance, he also has indicated that he will expeditiously move to hasten the benefits afforded by this bill for the ecological enhancement and environmental protection of our State of Arkansas. For this, I, along with all citizens of Arkansas, am most grateful. Indeed, all citizens of all 50 States will no doubt have a more pleasant environment in the future if this bill is enacted into law. The 50 Governors of the several States, by resolution, endorsed, without dissent, this legislation, which assures me that it will immediately be implemented. I might add that the present chairman of the National Governors' Conference, the Honorable Arch A. Moore, Jr., of West Virginia, is one of the original supporters of the concept, and his assistance has been appreciated.

Mr. President, I urge the Senate to promptly pass this bill, so that the House will, hopefully, have time to act this year, and the States can begin to use this bill to control their interstate environmental problems.

Mr. RANDOLPH. Mr. President, S. 907, a bill to grant the preconsent of Congress to general interstate environmental compacts, was approved by the Judiciary Committee and referred to the Committee on Public Works. The Committee on Public Works, through its Subcommittee on Air and Water Pollution, held a hearing on the bill, January 24, 1972. Witnesses included the primary sponsor of the legislation, Senator JOHN L. MCCLELLAN of Arkansas, Governor Arch Moore of West Virginia, testifying on behalf of the National Governors' Conference, and State Senator Robert Walling of Georgia, testifying in support of the bill on behalf of the National Legislative Conference. Opponents of the legislation were represented by spokesmen for Friends of the Earth and the Sierra Club. The Environmental Protection Agency expressed reservations about the legislation.

This bill is intended to improve cooperation among the various levels of government for action on environmental problems. It is particularly concerned with the maximum use of the powers of State government agencies in the solution of these problems.

The Committee on Public Works and its Subcommittee on Air and Water Pollution have long recognized that environmental problems do not respect State boundaries and that pollution management problems often must be undertaken on an interstate basis.

Indeed, it was the absence of clear State authority to protect the health and welfare of their citizens from the effects of interstate pollution which led to the development of the present Clean Air Act, the Federal Water Pollution Control Act, and the Resource Recovery Act.

The committee concluded that supplementary agreements entered into as a result of S. 907 should not extend to the areas of enforcement and standard setting or otherwise conflict with the regulatory mechanism established for air and water pollution. The need to avoid conflicts as to these regulatory functions was discussed at some length during the hearings.

The hearing also identified a number of areas under existing air and water pollution and solid waste disposal law, and pending powerplant siting legislation which require effective interstate management mechanisms.

Unfortunately, such agreements are not possible without a compact because of present limitations on a State's ability to enter into binding relationships with its neighbors. Under S. 907, as amended by the Committee on Public Works, two or more States could enter into a binding agreement to restrict or otherwise control specific areas of interstate development which did not conflict with environmental protection laws, or perform other responsibilities under the compact subject only to disapproval by either the House or the Senate.

The amendments recommended to this bill by the Committee on Public Works will facilitate the implementation of supplementary agreements which meet the test of Federal environmental protection and the purpose of preconsent. The changes will provide an effective means to disapprove those supplementary agreements which are either inadequate to their stated purpose or exceed the limits prescribed by this legislation.

Mr. BAYH. Mr. President, I rise to support S. 907, the Interstate Environment Compact Act of 1972, as amended by the Public Works Committee and by the Judiciary Committee. As perfected by the hard work of these two committees, the bill represents a responsible and desirable effort by Congress to foster interstate cooperation in environmental affairs.

We all recognize that pollution does not respect political boundaries. A polluted stream flows from one State to another; dirty air moves across the entire country; solid waste left in one place finds its way to a different one. For this reason, the Federal Government bears a special responsibility to assist State and local governments in their efforts to combat pollution. Today the Senate will take an important step toward fulfilling that responsibility. S. 907, introduced by the distinguished Senator from Arkansas (Mr. MCCLELLAN), and amended by two committees, will remove in certain instances an existing impediment to effective interstate cooperation.

As hearings before both the Judiciary and the Public Works Committees showed, the requirement in article I, section 10 of the Constitution that Congress approve each and every interstate compact sometimes makes it unnecessarily difficult for States to enter into legally binding arrangements relating to environmental matters. S. 907 as amended removes this barrier to cooperation by granting the preconsent of Congress to environmental compacts which concern planning, data gathering and sharing, monitoring, construction of necessary facilities, cost-sharing, and land-use regulation, not inconsistent with Federal law. For compacts concerning other environmental topics or other matters entirely, the safeguard of congressional approval in each instance is deemed necessary, and is retained. Thus, as amended, the bill strikes a delicate and proper balance between the need to keep a careful congressional eye on interstate compacts, and the desire to promote regional cooperation to deal with regional environmental problems.

I am privileged to serve on both committees which considered this bill—the Judiciary Committee and the Public Works Committee. Both committees made substantial and necessary alterations in the bill as it was introduced. I would be less than frank, Mr. President, if I did not point out that I had very serious reservations about the desirability of this legislation as introduced, and even as amended by the Judiciary Committee. Along with the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from California (Mr. TUNNEY), I filed individual views dissenting from the Judiciary Committee's favorable report on S. 907. We pointed out there our two fears about the bill: First, the bill gave "inadequate recognition to the original purpose of the compact clause: the protection of national interests from political combinations among the States; and second, that the bill provided insufficient safeguards against "State officials who might want to weaken environmental regulations without asking full political responsibility for so doing."

The Public Works Committee, however, under the leadership of the very able and experienced Senator from West Virginia (Mr. RANDOLPH), accepted several amendments I had offered in the Judiciary Committee, and made several other significant changes in the bill which substantially eliminate the fears I had about the bill. First, the Public Works Committee limited the scope of compacts—"supplementary agreements" as they are called in the bill—to which preconsent is granted. As amended, the bill does not grant preconsent to compacts which include any standard setting or enforcement powers. Such compacts, which directly affect the national interest in strong and effective environmental controls, will have to be approved through the ordinary process.

Second, the Public Works Committee accepted my suggestion that supplementary agreements be approved by the legislatures of the States involved before preconsent is effective. This modified the provision of the bill as reported by the Judiciary Committee under which supplementary agreements would have been effective immediately upon the signature of the Governors, unless later disapproved. This change assures that State officials will take full political responsibility for the compacts entered into.

Third, the Public Works Committeee substantially altered the procedure for congressional review. As reported by the Judiciary Committee, S. 907 provided that supplementary agreements would become effective 60 days after submission to Congress unless disapproved by both Houses. I felt, and the Committee on Public Works agreed, that this did not provide an opportunity for meaningful congressional review of these environmental compacts—the kind of review required by the Constitution. Therefore, the committee amended the bill to provide that the signatory States must submit a supplementary agreement to the President, or, at his direction, the Environmental Protection Agency, after it is agreed to. EPA will then report to the Congress within 30 days on the consistency of the supplementary agreement with Federal law and regulations, and the potential adverse or beneficial effects on the environment which may result from the agreement. If, within 90 days of the EPA report, either House of Congress passes a resolution of disapproval, the preconsent granted in S. 907 is vitiated.

The Committee on Public Works made a number of other important and desirable changes in S. 907 as reported by the Committee on the Judiciary. The Public Works Committee added a new section requiring all decisionmaking under the compacts to be on the record, after notice and a public hearing—an addition I sought to make in the Judiciary Committee. The Public Works Committee also altered S. 907 so as to require that members of interstate agencies established by the compacts would be subject to disclosure of financial interests, a highly desirable change. The committee also expanded the rights of citizens to sue under the compacts. And, very significantly, the committee adopted language I proposed to clarify the intent of everyone connected with the bill: that signatory States are to remain free to adopt stringent environmental controls except in those rare situations where such controls would prevent the realization by other signatories of significant benefits contemplated by the compact.

In sum, Mr. President, the Interstate Environment Compact Act of 1972, as amended by the Committee on the Judiciary and the Committee on Public Works, is a commendable effort to encourage interstate cooperation to control pollution. It is a desirable step forward in our Nation's fight to save its environment. I was pleased to be able to participate in its consideration in committee, and I will be pleased to vote for it today on the floor.

I ask unanimous consent that the individual views of Messrs. HART, BAYH, TUNNEY, and KENNEDY from the Judiciary Committee's report on S. 907, and that excerpts from the Public Works Committee's report on that bill be printed in the RECORD at this point.

There being no objection, the views and excerpts were ordered to be printed in the RECORD, as follows:

[Judiciary Committee report]

### INDIVIDUAL VIEWS OF MESSRS. HART, BAYH, TUNNEY, AND KENNEDY ON S. 907, A BILL TO ESTABLISH AN INTERSTATE ENVIRONMENT COMPACT

The reported bill, it appears to us, gives inadequate recognition to the original purpose of the compact clause: the protection of national interests from political combinations among the States. In recent years, the condition of the environment repeatedly has been recognized as a national interest. Specific congressional approval of environmental compacts this appears to be generally appropriate under the original compact clause rationale.

We believe it to be justified on other grounds as well. Even where national interests are not involved, congressional review seems advisable to insure that State environmental protection responsibilities are not undermined. Our concern is that compacts could be used by State officials who might want to weaken environmental regulations without taking full political responsibility for so doing. Whether or not this is likely, congressional review provides an effective safeguard against any such possibility.

We agree with the committee that, in the interests of speed, exceptions to the requirement of specific approval may sometimes be justified. Yet in balancing the benefits of speed against the risks of ill-conceived compacts, we reach different conclusions as to how numerous those exceptions should be. S. 907 as originally introduced would have exempted all environmental compacts so long as they were consistent with Federal law. In committee we offered several amendments designed to further limit those compacts eligible for the bill's preconsent.

The amendments were essentially responses to particular risks which we hoped to avoid. Out of concern that interstate environmental commissions might be less responsive to the public than State agencies—whose successes and failures are more readily attributable to elected State officials—we proposed that such commissions be required to vote in public session. To prevent these commissions and other compact arrangements from lowering environmental protection standards we proposed that no supplementary agreement be allowed to undercut the standards of any signatory. To keep State officials from contending that environmental problems were "beyond their control," we proposed that additional State efforts in environmental protection not be limited by supplementary agreement.

Only the third of these proposals was adopted by the committee. Even if all had been accepted, we would have doubts as to the wisdom of such general preconsent legislation. The committee's rejection of two of the amendments increases our concern. Accordingly, we must oppose S. 907 as reported.

PHILIP A. HART.
JOHN V. TUNNEY.
BIRCH BAYH.
EDWARD M. KENNEDY.

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[Excerpts from Public Works Committee report]

SUMMARY OF [PUBLIC WORKS] COMMITTEE AMENDMENTS

The Committee on Public Works recommends the passage of S. 907 with the following amendments in addition to those contained in the bill as reported by the Committee on the Judiciary. For a fuller explanation of the bill and the amendments made in the Judiciary Committee, please refer to Senate Report No. 92–577.

(1) Art. 1.02 and Art. 4.06—The Committee amendment limits preconsent to supplementary agreements for planning, data gathering and sharing, monitoring, construction of necessary facilities, cost sharing, and land use regulation not inconsistent with the Clean Air Act, Federal Water Pollution Control Act, Solid Waste Disposal Act, or other Federal law.

(2) Art. 4.07—The Committee amendment provides that supplementary agreements become effective on ratification by state legislatures, rather than immediately upon the Governor's signature (though Governors still negotiate such agreements.)

(3) Art. 4.07(b)—The effect of the compact on later Federal legislation would be clarified by the Committee amendment, so that later legislation need not specifically amend each compact.

(4) Art 4.12—Committee amendments would allow more general citizen suit authority, including all citizens (rather than only "parties at interest") and the enforcement of rights under supplementary agreements as well as the compact itself.

(5) New Art. 4.13—This amendment would require all decisionmaking under the compact or supplementary agreements to involve maximum public participation including notice, public hearing, and decisionmaking on the record.

(6) New Art. 4.14—This article, added by the Committee, would provide that all members of interstate agencies created under the compact would be subject to disclosure of financial interests.

(7) Art. 5.01 and Sec. 3—Amendments to these sections make it clear that states may adopt more stringent requirements than the compact agency, except where it would interfere with legitimate supplementary agreement obligations.

(8) Art. 5.05—This article would be modified by the Committee amendment to provide that all obligations of a State under a supplementary agreement would terminate upon withdrawal from the compact, unless the parties have provided otherwise.

(9) Sec. 4 and 5—The Committee amendment modifies the Congressional approval mechanism as follows:

(a) Notice of negotiations to the President (and, presumably, the Environmental Protection Agency) and the Congress;

(b) Notice of agreements to the President (and, at his direction, the Environmental Protection Agency) and the Congress;

(c) Review and report by the President or, at his direction, the Environmental Protection Agency within 30 days, before period for Congressional action begins, on the agreement's consistency with Federal law or regulations and the potential adverse or beneficial effects on the environment which may result from the agreement;

(d) 90 days in which a Committee of either House with jurisdiction over the subject matter of the supplementary agreement or the Judiciary Committee may report a resolution of disapproval, which is a privileged motion, and if passed by one House, disapproves the agreement.

(10) Sec. 6—The Committee amendment strikes the language which allows preconsent to State enabling legislation with material variance from this bill.

The ACTING PRESIDENT pro tempore. The Chair would like to point out that the bill was referred to two committees, the Committee on the Judiciary and the Committee on Public Works, and that inconsistent amendments from the two committees were reported. The amendments in italics were from the Committee on the Judiciary and the amendments printed in roman were from the Committee on Public Works.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Senate reconsider its action by which all amendments were adopted.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill be laid aside temporarily.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will state the next bill by title.

Subsequently, the following proceedings occurred on S. 907:

Mr. MANSFIELD. Mr. President, I ask unanimous consent that we now turn back to the consideration of Calendar No. 610, S. 907.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCLELLAN. Mr. President, I move the adoption of the amendments to the bill exactly as reported by the Committee on Public Works.

The motion was agreed to.

The amendments of the Committee on Public Works, agreed to, are as follows:

On page 3, after line 8, strike out:

"(a) To assist and participate in the national environment protection programs as set forth in Federal legislation; to promote intergovernmental cooperation for multistate action relating to environmental protection through interstate agreements; and to encourage cooperative and coordinated environmental protection by the signatories and the Federal Government;

And, in lieu thereof, insert:

"(a) To assist and participate in national environmental protection activities involving surveillance and monitoring, data gathering and data sharing, the planning, construction, financing, and operation and maintenance of treatment facilities, as set forth in Federal legislation, and the regulation of land use not inconsistent with the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or other Federal law;

"(b) To promote, through interstate agreements, intergovernmental cooperation and coordination in such activities by the signatories and the Federal Government;

On page 5, line 18, after the word "pollution", strike out "of" and insert "originating in"; on page 6, line 25, after the word "Federal", strike out "legislation" and insert "law"; on page 8, line 11, after the word "signatories", strike out "and for the establishment of common or joint regulation, management, services, agencies, or facilities for such purposes or"; on page 9, line 7, after the word "to", strike out "enter into" and insert "negotiate"; in line 9, after the word "agreement", strike out "immediately"; in line 12, after the word "shall", strike out "at its next legislative session by concurrent resolution competent to consider the same bring the supplementary agreement before it and by appropriate legislative action approve, reverse, modify, disapprove, or condition", and insert "have approved or conditioned"; in line 17, after the word "signatory", insert "by appropriate legislative action"; on page 11, line 4, after the word "person", strike out "who is a party in interest"; at the beginning of line 9, strike out "whenever such action constitutes a case or controversy" and insert "or of any supplementary agreement"; after line 17, insert:

4.13 PUBLIC PARTICIPATION IN DECISION-MAKING.—All decisions made by agencies created under this compact or any supplementary agreement shall be made only after notice and opportunity for public hearing, and shall be based upon a fair evaluation of the record at such hearing.

After line 23, insert:

4.14 FULL DISCLOSURE FOR AGENCY MEMBERS.—Any individual appointed or nominated to membership on any agency created pursuant to this compact or any supplementary agreement shall be required to file within 30 days of appointment or nomination a statement disclosing his current financial position, including all ownerships of stock or other financial interests of himself or his immediate family, and present or recent professional or business affiliations.

On page 12, line 23, after the word "not," strike out "interfere with" and insert "prevent"; in line 24, after the word "of", insert "any significant"; in line 25, after the word "benefits", insert "relating to monitoring, surveillance, or data sharing, the planning construction, financing (by bonds or otherwise), and operation and maintenance of treatment facilities, or the regulation of land use not inconsistent with the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or other Federal law,"; on page 14, line 13, after the word "shall", strike out "not affect" and insert "terminate all"; in line 24, after the word "Federal", strike out "environment" and insert "or State environmental"; in line 25, after the word "protection", strike out "legislation; nor shall supplementary agreements executed under the first section establish interstate environmental pollution standards in violation of any Federal law" and insert "law or regulation"; on page 15, line 8, after the word "President", insert "and the Congress"; in the same line, after "United States", strike out "and he" and insert "The President"; in line 18, after the word "Representatives", strike out "and within sixty days of congressional session following receipt thereof, Congress may disapprove or condition such supplementary agreements" and insert "The President or, at his direction, the Administrator of the Environmental Protection Agency, shall review any such supplementary agreement or amendment and report thereon to the Congress within thirty days as to consistency with Federal law and regulations and as to the potential adverse or beneficial effects on the environment which may result from such supplementary agreement or amendment. Within ninety days of congressional session following the receipt of such report, the Committee on the Judiciary of either House or a committee of either House with jurisdiction over the subject matter of any such supplementary agreement or amendment may report a resolution of disapproval of such supplementary agreement or amendment. If such resolution is adopted by either House, the supplementary agreement or amendment is disapproved"; on page 16, line 11, after the word "Unless", insert "so"; in the same line, after the word "disapproved", strike out "by Congress"; in line 13, after the word "said", strike out "sixty" and insert "ninety"; after line 13, insert:

(b)(1) If the committee to which a supplementary agreement and report thereon has been referred has not reported a resolution respecting it at the end of sixty calendar days after its referral, it is in order to move to discharge the committee from further consideration of such an agreement or amendment.

(2) A motion to discharge may be made only by an individual favoring a resolution to disapprove or condition such agreement or amendment, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same agreement or amendment), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same agreement or amendment.

On page 17, after line 10, insert:

(c) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a supplementary agreement or amendment, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

After line 20, insert:

(d) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

On page 18, after line 3, insert:

(e) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a supplementary agreement or amendment, and motions to proceed to the consideration of other business, shall be decided without debate. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a supplementary agreement or amendment shall be decided without debate.

And, in line 20, after the word "agreements.", strike out "nor shall material variances in language between State legislation and the first section impair the effectiveness of supplementary agreements not directly governed by the language which is in variance."

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

### S. 907

### An act to consent to the Interstate Environment Compact

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the consent of Congress is given to any two or more States to enter into the following compact:

### "INTERSTATE ENVIRONMENT COMPACT

### "ARTICLE 1

### "FINDINGS, PURPOSES, AND RESERVATIONS OF POWER

"1.01 FINDINGS.—Signatory States hereby find and declare:

"(a) Unabated pollution of our environment threatens the general welfare of the Nation and its citizens.

"(b) The condition of our environment, and the enhancement of that environment, is a matter of national, regional, State, and local concern.

"(c) The solution to environmental problems which transcend State boundaries, requires cooperation among the adjoining jurisdictions.

"(d) Efforts to obtain a quality environment must be better coordinated, intensified, and made more effective at all levels of government.

"(e) It is in the common interest of all jurisdictions to act cooperatively to resolve their mutual environmental problems.

"1.02 PURPOSES.—The purposes of the signatories in enacting this compact are:

"(a) To assist and participate in national environmental protection activities involving surveillance and monitoring, data gathering and data sharing, the planning, construction, financing, and operation and maintenance of treatment facilities, as set forth in Federal legislation, and the regulation of land use not inconsistent with the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or other Federal law.

"(b) To promote through interstate agreements, intergovernment cooperation and coordination in such activities by the signatories and the Federal Government.

"(c) To preserve and utilize the functions, powers, and duties of existing State agencies of government to the maximum extent possible consistent with the purposes of the compact.

"1.03 POWERS OF THE UNITED STATES.—

"(a) Nothing contained in this compact shall impair, affect, or extend the constitutional authority of the United States.

"(b) Nothing in this compact shall be deemed to impair or affect any rights, powers, duties, or responsibilities vested by law in the United States, its agencies or instrumentalities.

"1.04 POWERS OF THE STATES.—Nothing contained in this compact shall impair or extend the constitutional authority of any signatory nor shall the police powers of any signatory be affected except as expressly provided in a supplementary agreement under article 4.

### "ARTICLE 2

### "SHORT TITLE, DEFINITIONS, PURPOSES, AND LIMITATIONS

"2.01 SHORT TITLE.—This compact shall be known and may be cited as the Interstate Environment Compact.

"2.02 DEFINITIONS.—For the purpose of this compact and of any supplemental or concurring legislation enacted pursuant or in relation hereto, except as may be otherwise required by the context:

"(a) 'State' shall mean any State of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(b) 'Interstate environmental pollution' shall mean any pollution of a stream or body of water crossing or marking a State boundary, pollution originating in an interstate air quality control region, any solid waste disposal program participated in by more than one State, or land use practice affecting the environment of more than one State.

"(c) 'Government' shall mean the government of the United States or a signatory State.

"(d) 'Federal Government' shall mean the Government of the United States of America and any appropriate department, instrumentality, agency, commission, bureau, division, branch or other unit thereof, as the case may be, but shall not include the District of Columbia.

"(e) 'Signatory' shall mean any State which enters into this compact.

### "ARTICLE 3

### "INTERGOVERNMENTAL COOPERATION

"3.01. AGREEMENTS WITH THE FEDERAL GOVERNMENT AND OTHER AGENCIES.—Signatories are hereby authorized jointly to participate in cooperative or joint undertakings for the protection of the interstate environment with the Federal Government or with any intergovernmental or interstate agencies.

### "ARTICLE 4

### "SUPPLEMENTARY AGREEMENTS

"4.01. AUTHORITY TO ENTER INTO SUPPLEMENTARY AGREEMENTS.—Signatories may enter into agreements for the purpose of controlling interstate environmental pollution problems not inconsistent with applicable Federal law and under terms and conditions as deemed appropriate by the agreeing parties under article 4.06 and article 4.08.

"4.02. RECOGNITION OF EXISTING NON-ENVIRONMENTAL INTERGOVERNMENTAL ARRANGEMENTS.—The signatories agree that existing Federal-State, Federal-interstate or other intergovernmental arrangements which are not primarily directed to environmental protection purposes as defined herein are not affected by this compact.

"4.03. RECOGNITION OF EXISTING INTERGOVERNMENTAL AGREEMENTS DIRECTED TO ENVIRONMENTAL OBJECTIVES.—All existing interstate and Federal-interstate compacts directly relating to environmental protection are hereby expressly recognized and nothing in this compact shall be construed to diminish or supersede the powers and functions of such existing intergovernmental agreements and the organizations created by them.

"4.04. MODIFICATION OF EXISTING COMMISSIONS AND COMPACTS.—Recognition herein of multistate commissions and compacts shall not be construed to limit directly or indirectly the creation of additional multistate organizations or interstate compacts, nor to prevent termination, modification, extension, or supplementation of such multistate organizations and interstate compacts.

"4.05 RECOGNITION OF FUTURE MULTISTATE COMMISSIONS AND INTERSTATE COMPACTS.—Nothing in this compact shall be construed to prevent signatories from entering into multistate organizations or other interstate compacts which do not conflict with their obligations under this compact or supplementary agreements.

"4.06 SUPPLEMENTARY AGREEMENTS.—Any two or more signatories may enter into supplementary agreements for joint, coordinated or mutual environmental management activities relating to interstate environmental pollution problems common to the jurisdictions of such signatories with respect to joint, coordinated, or mutual monitoring, surveillance and data sharing activities, with respect to activities involving planning, construction, financing (by bonds or otherwise), and operation and maintenance of treatment facilities, and with respect to the regulation of land use not inconsistent with the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or other Federal law, and may designate an appropriate agency to act as their joint agency in regard thereto. No supplementary agreement shall be valid to the extent that it conflicts with the purposes of this compact or with the laws of the United States and the creation of a joint agency by supplmentary agreement shall not affect the privileges, powers, responsibilities or duties under this compact or any other Federal law of signatories participating therein.

"4.07 EXECUTION OF SUPPLEMENTAL AGREEMENTS AND EFFECTIVE DATE.—The Chief Executive is authorized to negotiate supplementary agreements for the signatory and his official signature shall render the agreement binding upon the signatory: *Provided*, That:

"(a) The legislative body of any signatory entering into such a supplementary agreement shall have approved or conditioned the agreement of that signatory by appropriate legislative action.

"(b) Nothing in this compact shall be construed to limit the right of Congress by Act of law to disapprove or condition a supplementary agreement.

"4.08 SPECIAL SUPPLEMENTARY AGREEMENTS.—Signatories may enter into special supplementary agreements with foreign nations in the manner provided in Article 4.07 for the same purposes and with the same powers as under Article 4.06 upon the condition that such non-signatory party accept the general obligations of signatories under this compact: *Provided*, That special supplementary agreements shall become effective only after being consented to by the Congress.

"4.09 JURISDICTION OF SIGNATORIES RESERVED.—Nothing in this compact shall be construed to restrict, relinquish or be in derogation of, any power or authority constitutionally possessed by any signatory within its jurisdiction, except as specifically provided in a supplementary agreement.

"4.10 COMPLEMENTARY LEGISLATION BY SIGNATORIES.—Signatories may enact such additional legislation as may be deemed appropriate to enable their officers and governmental agencies to accomplish effectively the purposes of this compact and supplementary agreements.

"4.11 AMENDMENTS TO SUPPLEMENTARY AGREEMENTS.—Supplementary agreements may be amended in the manner provided in article 4.07 for the same purposes as provided in article 4.06.

"4.12 SUITS TO ENJOIN VIOLATIONS OF COMPACT.—Any person may commence a civil action on his own behalf against any signatory or any common or joint agency established by supplementary agreement (to the extent permitted by the eleventh amendment to the Constitution) to enjoin any violation of this compact or of any supplementary agreement. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, over any such action. For purposes of this section the term 'person' means any individual or organization; or any department, agency, or instrumentality of the United States, a State or local government, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States.

"4.13 PUBLIC PARTICIPATION IN DECISION-MAKING.—All decisions made by agencies created under this compact or any supplementary agreement shall be made only after notice and opportunity for public hearing, and shall be based upon a fair evaluation of the record at such hearing.

"4.14 FULL DISCLOSURE FOR AGENCY MEMBERS.—Any individual appointed or nominated to membership on any agency created pursuant to this compact or any supplementary agreement shall be required to file within 30 days of appointment or nomination a statement disclosing his current financial position, including all ownerships of stock or other financial interests of himself or his immediate family, and present or recent professional or business affiliations.

### "ARTICLE 5

### "CONSTRUCTION, AMENDMENT AND EFFECTIVE DATE

"5.01 CONSTRUCTION.—No provision of this compact or a supplementary agreement shall be construed as invalidating any provision of law of any signatory, or as limiting the enactment or enforcement of any legislation or regulations by any signatory imposing additional conditions and restrictions to further lessen or prevent environmental pollution within its jurisdiction: *Provided*, That such conditions and restrictions shall not prevent the realization by any other signatory of any significant benefits relating to monitoring, surveillance, or data sharing, the planning, construction, financing (by bonds or otherwise), and operation and maintenance of treatment facilities, or the regulation of land use not inconsistent with the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or other Federal law, originally contemplated by such agreement, or any amendment thereto.

"5.02 SEVERABILITY.—The provisions of this compact or of supplementary agreement shall be severable and if any phrase, clause, sentence or provision of this compact, or a supplementary agreement is declared to be contrary to the constitution of any signatory or of the United States or is held invalid, the constitutionality of the remainder of this compact or of the supplementary agreement and the applicability thereof to any participating jurisdiction, agency, person or circumstance shall not be affected thereby and shall remain in full force and effect as to the remaining participating jurisdiction and in full force and effect as to the signatory affected as to all severable matters. It is the intent of the signatories that the provisions of this compact shall be reasonably and liberally construed in the context of is purposes.

"5.03 AMENDMENTS.—Amendments to this compact shall become effective when approved by Congress and may be adopted by any signatory.

"5.04 EFFECTIVE DATE.—This compact shall become binding on a State when enacted by it into law and such State shall thereafter be a signatory.

"5.05 WITHDRAWAL FROM THE COMPACT.—A signatory may withdraw from this compact by legislative act. Withdrawal shall be effective one year after written notification of withdrawal to all signatories: *Provided*, Withdrawal from the compact shall terminate all supplementary agreement obligations of signatories except as provided by the terms of such supplementary agreements."

SEC. 2. RESERVATIONS OF CONGRESSIONAL RIGHT TO WITHDRAW OR CONDITION CONSENT.—The power of Congress to withdraw or condition its consent to the compact is expressly reserved.

SEC. 3. EFFECT ON FEDERAL ENVIRONMENT LAWS.—Nothing in this Act shall affect Federal or State environmental protection law or regulation.

SEC. 4. NOTICE OF SUPPLEMENTARY AGREEMENT NEGOTIATIONS.—Advance notice of the commencement of formal negotiations by signatories regarding a proposed supplementary agreement or amendment thereof shall be given to the President and the Congress of the United States. The President is encouraged to send representatives to attend, observe, and render cooperative assistance to all such negotiations in order that the provisions of such supplementary agreements be in accordance with applicable Federal law.

SEC. 5. FILING OF SUPPLEMENTARY AGREEMENTS.—(a) Certified copies of supplementary agreements or amendments thereof shall be filed with the President of the United States and the presiding officers of the United States Senate and House of Representatives. The President or, at his direction, the Administrator of the Environmental Protection Agency, shall review any such supplementary agreement or amendment and report thereon to the Congress within thirty days as to consistency with Federal law and regulations and as to the potential adverse or beneficial effects on the environment which may result from such supplementary agreement or amendment. Within ninety days of congressional session following the receipt of such report, the Committee on the Judiciary of either House or a committee of either House with jurisdiction over the subject matter of any such supplementary agreement or amendment may report a resolution of disapproval of such supplementary agreement or amendment. If such resolution is adopted by either House, the supplementary agreement or amendment is disapproved. Unless so disapproved, supplementary agreements shall become effective upon the expiration of the said ninety-day period.

(b) (1) If the committee to which a supplementary agreement and report thereon has been referred has not reported a resolution respecting it at the end of sixty calendar days after its referral, it is in order to move to discharge the committee from further consideration of such an agreement or amendment.

(2) A motion to discharge may be made only by an individual favoring a resolution to disapprove or condition such agreement or amendment, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same agreement or amendment), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same agreement or amendment.

(c) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a supplementary agreement or amendment, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(d) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(e) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a supplementary agreement or amendment, and motions to proceed to the consideration of other business, shall be decided without debate. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a supplementary agreement or amendment shall be decided without debate.

SEC. 6. ENABLING LEGISLATION.—States may enter the Interstate Environment Compact by State legislation substantially embodying the language of the first section enacted prior or subsequent to the effective date of this Act. Immaterial variances in language between State legislation and the first section shall not impair the effectiveness of supplementary agreements.

SEC. 7. SHORT TITLE.—This Act may be known and cited as the "Interstate Environment Compact Act of 1972".

## DEFERMENT OF CONSTRUCTION CHARGES ATTRIBUTABLE TO IRRIGATION SERVICE FOR LANDS ON THE NAVAL AIR STATION, LEMOORE, CALIF.

The Senate proceeded to consider the bill (H.R. 1682) to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station, Lemoore, Calif., included in said district, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, at the beginning of line 25, strike out "The leases shall also be offered subject, insofar as practicable, to acreage limitations of the Federal reclamation laws."; and, on page 3, after line 8, insert a new section, as follows:

SEC. 3. Lessees of lands owned by the United States Government within the Naval Air Station, Lemoore, California, may receive water from the Central Valley reclamation project subject, insofar as practicable, to the same acreage limitation provisions of Federal reclamation law as private landowners.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

## AMENDMENT OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1970

The bill (S. 3244) to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3244

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 709 of the Military Construction Authorization Act, 1970, as amended (83 Stat. 317, 84 Stat. 1224), is further amended by deleting from the penultimate sentence thereof "$3,000,000" and inserting in its place "$5,000,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–646), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to increase from $3 million to $5 million the funds authorized for appropriation under the fiscal year 1970 Military Construction Authorization Act, as amended, for the conduct of an international aeronautical exposition. The exposition, referred to as Transpo 72, is scheduled to be conducted at Dulles International Airport on May 27, 1972, through June 4, 1972. The responsibility for the conduct of the exposition has been delegated to the Department of Transportation.

BACKGROUND OF THE BILL

In the fiscal year 1970 Military Construction Authorization Act (Public Law 91–142), section 709 authorized the President to establish and conduct an international aeronautical exposition at a location of his choice within the United States. Said section also provided that the exposition would be held not later than 1971, and further authorized the appropriation of $750,000 to carry out the exposition.

Pursuant to this authorization, the President delegated to the Secretary of Transportation the responsibility for arrangements for the exposition. When the President assigned responsibility to produce this event to the Secretary of Transportation, the Secretary ordered a review of all factors involved in such an event. It immediately became clear that a simple aeronautical exposition would not satisfy the basic objectives as they were interpreted. The Secretary of Transportation, therefore, sought and received permission to expand the concept of the exposition to include all modes of transportation. The Secretary also requested Congress to increase the authorization from $750,000 to $3 million and to change the date from 1971 to 1972. Congress approved this request and it is included in the fiscal year 1971 Military Construction Authorization Act as section 609 (Public Law 91–511).

The current authorization level of $3 million for Transpo 72 was based on preliminary cost estimates made by the Department last year. In the meantime, the Department has been developing the master plans for the exposition and, based upon final engineering studies, they have now made a more precise cost estimate of detailed facility and related support requirements. Among those items for which costs have increased are site preparation, utilities installation, sanitary, restaurant, and communications facilities, and vehicle parking and control.

The Department of Transportation advises that they anticipate that the exposition will make a considerable contribution to the domestic economy through stimulating the sale of new transportation concepts and systems within our own economy as well as internationally, and, therefore, that the additional funds to be expended pursuant to the additional authorization would be a most productive investment.

FISCAL DATA

The enactment into law of this measure will, if appropriated, involve the expenditure of $2 million in addition to the $3 million heretofore authorized.

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I now ask unanimous consent that the Senate turn to the consideration of other items on the calendar beginning with Calendar No. 636 and up to and through No. 643.

The ACTING PRESIDENT pro tempore. The clerk will please state the first bill by title.

## REPORT TO THE PRESIDENT AND CONGRESS ON NOISE

The resolution (S. Res. 243) authorizing the printing of the report entitled "Report to the President and Congress on Noise" as a Senate document, was considered and agreed to, as follows:

S. RES. 243

*Resolved,* That the report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with section 402(b) of title IV, Public Law 91–604), entitled "Report to the President and the Congress on Noise" be printed with illustrations as a Senate document.

SEC. 2. There shall be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–669), explaining the purposes of the measure.

There being no objection, the excerpt

was ordered to be printed in the RECORD, as follows:

S. RES. 243

Senate Resolution 243 would provide (1) that the report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with sec. 402(b) of title IV, Public Law 91-604), entitled "Report to the President and the Congress on Noise," be printed with illustrations as a Senate document; and (2) that there be printed 2,500 additional copies of such document for the use of the Committee on Public Works.

The printing-cost estimate, supplied by the Acting Public Printer, is as follows:

*Printing-cost estimate*

| | |
|---|---|
| To print as a document (1,500 copies) | $9,252.67 |
| 2,500 additional copies, at $376.34 per thousand | 940.85 |
| Total estimated cost, S. Res. 243 | 10,193.52 |

## "INTERNATIONAL NEGOTIATION—THE IMPACT OF THE CHANGING POWER BALANCE"

The resolution (S. Res. 254) authorizing the printing of additional copies of the committee print entitled "International Negotiation—The Impact of the Changing Power Balance" was considered and agreed to, as follows:

*Resolved*, That there be printed for the use of the Committee on Government Operations ten thousand additional copies of the committee print entitled "International Negotiation—The Impact of the Changing Power Balance", issued by that committee during the Ninety-second Congress, first session.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-670), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 254 would authorize the printing for the use of the Committee on Government Operations of 10,000 additional copies of the committee print entitled "International Negotiation—The Impact of the Changing Power Balance," issued by such committee during the 92d Congress, first session.

The printing-cost estimate, supplied by the Acting Public Printer, is as follows:

*Printing-cost estimate*

| | |
|---|---|
| Back to press, first 1,000 copies | $237.14 |
| 9,000 additional copies at $49.39 per thousand | 444.51 |
| Total estimated cost, S. Res. 254 | 681.65 |

## "ENVIRONMENTAL PROTECTION ACT OF 1971"

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 60) to print additional copies of hearings on "Environmental Protection Act of 1971" which had been reported from the Committee on Rules and Administration with an amendment at the beginning of line 4, insert "part 1 of"; so as to make the concurrent resolution read:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed for the use of the Senate Committee on Commerce two thousand additional copies of *part 1 of* the hearings entitled "Environmental Protection Act of 1971" held before the Senate Committee on Commerce.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-671), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Concurrent Resolution 60, as referred, would authorize the printing for the use of the Senate Committee on Commerce of 2,000 additional copies of the hearings entitled "Environmental Protection Act of 1971", held before that committee.

The Committee on Rules and Administration has amended Senate Concurrent Resolution 60 to identify as "part 1" the volume which it is intended to send back to press for additional copies.

The printing-cost estimate, supplied by the Acting Public Printer, is as follows:

*Printing-cost estimate*

| | |
|---|---|
| Back to press, first 1,000 copies | $1,651.00 |
| 1,000 additional copies, at $291.67 per thousand | 291.67 |
| Total estimated cost, S. Con. Res. 60 | 1,942.67 |

## "STATE UTILITY COMMISSIONS—SUMMARY AND TABULATION OF INFORMATION SUBMITTED BY THE COMMISSIONS"

The concurrent resolution (S. Con. Res. 62) authorizing the printing of additional copies of Senate Document Numbered 56, entitled, "State Utility Commissions—Summary and Tabulation of Information Submitted by the Commissions" was considered and agreed to, as follows:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed for use of the Senate Committee on Government Operations, one thousand additional copies of Senate Document Numbered 56, Ninetieth Congress, first session, entitled, "State Utility Commissions—Summary and Tabulation of Information Submitted by the Commissions" (September 11, 1967).

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-672), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Concurrent Resolution 62 would authorize the printing for the use of the Senate Committee on Government Operations of 1,000 additional copies of Senate Document No. 56, 90th Congress, 1st session, entitled "State Utility Commissions—Summary and Tabulation of Information Submitted by the Commissions" (September 11, 1967).

The printing-cost estimate, supplied by the Acting Public Printer, is as follows:

*Printing-cost estimate*

| | |
|---|---|
| 1,000 copies | $1,438.74 |

## AUTHORIZATION FOR ADDITIONAL EXPENDITURES BY THE SECRETARY OF THE SENATE

The resolution (S. Res. 267) authorizing additional expenditures by the Secretary of the Senate in connection with his duties under the Federal Election Campaign Act of 1971 was considered and agreed to, as follows:

*Resolved*, That in carrying out the duties imposed by the Federal Election Campaign Act of 1971 (Public Law 92-225, approved February 7, 1972), the Secretary of the Senate is authorized until June 30, 1972, or until the date on which the Legislative Branch Appropriations Act, 1973, becomes law (whichever date is later), in his discretion (1) to make expenditures from the contingent fund of the Senate, (2) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of such department or agency, (3) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions to the extent applicable as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, and (4) to incur official travel expenses.

SEC. 2. The expenses of the Secretary of the Senate under this resolution, which shall not exceed $38,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-673), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 267 would authorize the Secretary of the Senate from the date of approval of this resolution trhough June 30, 1972, or through the date the Legislative Branch Appropriation Act, 1973, becomes law (whichever date is later), to expend from the contingent fund of the Senate not to exceed $38,000 to initiate the duties imposed upon his Office by the Federal Election Campaign Act of 1971 (Public Law 92-225, 86 Stat. 3, Feb. 7, 1972).

This resolution is in response to an urgent request to the Committee on Rules and Administration from the Secretary of the Senate for the required temporary authority and financial assistance to enable him to commence the implementation of his new and enlarged responsibilities on April 7, 1972, the effective date of the new law. This stopgap measure, which has been endorsed by the joint leadership of the Senate (Senators Mansfield and Scott), would carry the program until the Legislative Branch Appropriation Act of 1973 becomes law. Under that act, the Secretary of the Senate expects to obtain the permanent authorization and funds necessary to fulfill his new responsibilities under the Federal Election Campaign Act of 1971.

Section 301(g) of the Federal Election Campaign Act of 1971 designates the Secretary of the Senate as "supervisory officer" with respect to candidates for the U.S. Senate, the Clerk of the House of Representatives with respect to candidates therefor, and the Comptroller General of the United States in any other case.

The duties of the supervisory officer are set forth in section 308 of the act. That portion of section 308 which relates to the Secretary of the Senate as a supervisory officer is as follows:

DUTIES OF THE SUPERVISORY OFFICER

SEC. 308. (a) It shall be the duty of the supervisory officer—

(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of reports and statements required to be filed with him under this title;

(2) to prepare, publish, and furnish to the person required to file reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(4) to make the reports and statements filed with him available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided*, That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(6) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as he shall determine and broken down into candidate, party, and nonparty expenditures on the National, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as he shall determine and broken down into contributions on the national, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed in excess of $100;

(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

(9) to prepare and publish such other reports as he may deem appropriate;

(10) to assure wide dissemination of statistics, summaries, and reports prepared under this title;

(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title;

(12) to report apparent violations of law to the appropriate law enforcement authorities; and

(13) to prescribe suitable rules and regulations to carry out the provisions of this title.

(b) The supervisory officer shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

* * * * *

In the course of his preparation for implementation of his new responsibilities as set forth above, the Secretary of the Senate has sought and received the cooperation and assistance of the staff of the Committee on Rules and Administration, especially the staffs of its Subcommittees on Privileges and Elections and its Subcommittee on Computer Services. By letter dated February 8, 1972, Committee Chairman B. Everett Jordan has assured the Secretary of the Senate of the continuation of such assistance, as may be required.

## JENNETTE V. BANNER

The resolution (S. Res. 269) to pay a gratuity to Jennette V. Banner was considered and agreed to, as follows:

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Jennette V. Banner, mother of Marjorie F. Banner, an employee of the Senate at the time of her death, a sum equal to one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

## WILLIAM NEWTON PEMBERTON

The resolution (S. Res. 268) to pay a gratuity to William Newton Pemberton was considered and agreed to, as follows:

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to William Newton Pemberton, widower of Lena Pemberton, an employee of the Senate at the time of her death, a sum equal to eight and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

## FRANCES P. LANIER

The resolution (S. Res. 270) to pay a gratuity to Frances P. Lanier was considered and agreed to, as follows:

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Frances P. Lanier, widow of William M. Lanier, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania desire recognition?

Mr. SCOTT. Yes; I thank the Chair.

## EQUAL RIGHTS FOR WOMEN

Mr. SCOTT. Mr. President, we will shortly be considering a constitutional amendment on equal rights. There are several things to bear in mind here. One is that there are more women in America than there are men. Another is that women hold a greater part of the property in America. In many places, women tend to out-vote men. Women are stronger than men, and live longer.

Therefore, I think it is time that we do have equal rights, and I shall support the equal rights amendment in the interest of men as well as women; and I intend to support it without amendment.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Delaware (Mr. ROTH) for not to exceed 15 minutes.

## THE PROPOSED DEBT CEILING INCREASE

Mr. ROTH. Mr. President, I want to speak for a few minutes on the issue of the President's request for an increase in the authorized ceiling on this Nation's Federal debt.

Prior to 1917, Congress was required to approve every issue of Federal notes and bonds, in essence, acting as a brake on the Government's outlays. But an amendment to the Liberty Bond Act during World War I gave the Treasury leeway to borrow up to specified amounts, at that time $7.5 billion in bonds and $4 billion in certificates of indebtedness—Treasury notes.

But as my distinguished colleague Mr. BENNETT has aptly pointed out on many occasions, Congress has acted 54 times since then to adjust this limit upward. I ask unanimous consent that the following table—which shows the legal debt limit from 1917 to 1971—be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—*Authorized Debt Ceiling*

[Dollars in billions]

| Year | Authorized ceiling |
|---|---|
| 1917 | $4 |
| 1918 | 8 |
| 1919 | 10 |
| 1921 | 14 |
| 1929 | 24 |
| 1931 | 28 |
| 1934 | 38 |
| 1935 | 38 |
| 1938 | 45 |
| 1939 | 45 |
| 1940 | 49 |
| 1941 | 65 |
| 1942 | 125 |
| 1943 | 210 |
| 1944 | 260 |
| 1945 | 300 |
| 1946 | 275 |
| 1954 | 281 |
| 1955 | 281 |
| 1956 | 278 |
| 1958 | 288 |
| 1959 | 295 |
| 1960 | 293 |
| 1961 | 298 |
| 1962 | 300 |
| 1963 | 309 |
| 1964 | 324 |
| 1965 | 328 |
| 1966 | 330 |
| 1967 | 365 |
| 1969 | 377 |
| 1970 | 395 |
| 1971 | 430 |

Source: Library of Congress Research Service.

Mr. ROTH. As one can readily see, this has not been a very sturdy roof. It reminds me more of a floating lid, which has risen over time as the Federal debt has swelled. And now in 1972, the President has asked that we impose another temporary increase to $450 billion, which, according to the Treasury's testimony, will last only until the end of this June.

The question then, Mr. President, is just how effective this statutory provision has been, or can be. The ceiling's original purpose was to impose a measure of discipline on the Federal budget. It was designed to control the Government's ability to spend by balancing its ability to borrow against its inclination to tax.

I think my colleagues here will agree this has been a very lax disciplinarian. In large part this results because the amount we must borrow is determined by a complex set of congressional appropriations and Executive decisions, over which the Treasury has little or no control. These spending actions have been made without due regard for the ceiling as a permanent fixture. In short, we have come to accept its upward mobility as a fact of budgetary life.

It is, perhaps, appropriate to note that the debt ceiling has been used, in part, as a political lever. Both parties, under many administrations, have threatened inaction or delayed consideration on necessary increases in order to exert influence in other areas. But these delay tactics have certainly helped to change the nature of the debt limit from its intended use as an important instrument of Federal fiscal policy.

Today, though, in the face of a $20 billion request for added debt capacity, our country faces the largest Federal deficit since World War II. I need not recount all the figures, but a glance at the budget document shows just how quickly outlays have risen in the past 10 years and how tax revenues have failed to keep pace with larger and more expensive Federal programs.

I think this point becomes clearer by looking at a table which shows the relationship between total Federal spending and total revenues. Mr. President, I ask unanimous consent that table II be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE II

[Dollars in billions]

| Fiscal year | Total receipts | Total outlays | Receipts as a percent of outlays |
|---|---|---|---|
| 1961 | $94.4 | $97.8 | 96.5 |
| 1962 | 99.7 | 106.8 | 93.5 |
| 1963 | 106.6 | 111.3 | 94.1 |
| 1964 | 112.7 | 118.9 | 94.6 |
| 1965 | 116.8 | 118.4 | 98.5 |
| 1966 | 130.9 | 134.7 | 97.0 |
| 1967 | 149.6 | 158.2 | 94.1 |
| 1968 | 153.7 | 178.3 | 86.2 |
| 1959 | 187.8 | 184.5 | 97.4 |
| 1970 | 193.7 | 196.6 | 97.9 |
| 1971 | 188.3 | 211.4 | 89.3 |
| 1972[1] | 197.8 | 236.6 | 83.4 |
| 1973[1] | 220.8 | 246.3 | 89.5 |

[1] Estimates.

Source: Budget for fiscal year 1973.

Mr. ROTH. Mr. President, it seems to me the only credible way to deal with this problem of burgeoning outlays is to face it with legislation putting a firm ceiling on expenditures, one that cannot be pierced even by uncontrollable programs which are admittedly difficult to forecast.

We in the Congress have not shown the willingness to achieve the same disciplined goal by indicating unwillingness to increase the debt ceiling. This index has been far too easily adjusted upward.

I have recently introduced a bill which would effectively curtail spending in fiscal year 1973. And I was truly gratified to receive the support of 48 of my colleagues for this motion. I intend now to offer my limited spending bill as an amendment to the administration's request for a new debt ceiling. We cannot expect any debt ceiling to last long if Federal outlays are not kept in line.

I cannot vote for any increase in this country's debt limit unless we have a firm grip on its expenditures. And I would urge my colleagues here in the Senate to withhold their support for more debt capacity until we have addressed the real source of this requirement, and enacted a fixed limitation on Federal expenditures for the coming year.

### WHY THE ROTH AMENDMENT SHOULD BE PASSED

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Delaware.

I rise to support with great enthusiasm the Roth amendment which would fix a tough, no exception, ceiling on Federal spending at $246.3 billion.

I share the view that the debt limit should not be passed unless this amendment is passed.

There are a great many reasons why this amendment should be passed. First of all, it is good economics.

### GOOD ECONOMICS

We now operate under the so-called full employment budget concept. That concept provides for Federal spending even in recession periods at a level where spending would be if there were relatively full employment. But the Full employment budget concept also provides a discipline. It puts a theoretical but not actual ceiling on the spending at the full employment level. That level is $246.3 billion. We should put a genuine, real effective ceiling on spending at that amount this year by law. The concept provides for a deficit in any case which in itself should provide some stimulus. We do not need more.

Second, the Federal budget can and should be held down. We waste billions of dollars a year in both good programs and bad programs. There is room for improvement not only in the programs we dislike but also in programs which many of us support.

I cite among others medicare, where costs have gone through the roof. That is supposedly an uncontrollable item in the budget, but the hearings by the Senate Finance Committee indicate tens of millions could be saved through administrative changes alone.

I cite also housing under section 235. This is a good program in theory but is rife with waste. Cuts could be made there and we could still provide more housing than we do now.

These are programs which I support but where savings could be made.

### PORK BARREL

Then there is the annual public works pork barrel bill and other water projects. Unfortunately, the President has increased spending there by $700 million this year. Every economist I know has criticized public works spending. The benefits are exaggerated. The costs are underestimated. Projects started now become inflationary because the big spending comes later. We should cut these back.

There is also military procurement where improvements in procedures alone could save billions.

We spend too much for space. The shuttle is one of the biggest boondoggles to come down the pike. We can have a decent space program for far less money by stressing unmanned flights.

### CUT ELSEWHERE

I can think of other areas as well. There are excessive shipbuilding claims, Government machinery in the hands of private businesses, $63 billion in subsidies—some good, many bad—transportation programs which do not pay their way, excessive spending on military foreign aid, excessive costs due to poor regulatory agency policies, subsidies for minerals, progress payments which are interest-free loans for defense contractors.

If the Congress examines this budget with care, and if we get some cooperation from the Office of Management and Budget, we could cut several billions from it and provide better services for the American people.

That should be our aim. We should work at it. We should not become a mere rubberstamp for the executive branch, no matter which party is in power.

For all of these reasons I join with enthusiasm in supporting the amendment of the Senator from Delaware who is following in the great tradition of his predecessor, former Senator John Williams.

Mr. ROTH. I thank the Senator from Wisconsin for his able remarks. At this time I yield to the junior Senator from Georgia.

Mr. GAMBRELL. Mr. President, I join in congratulating the Senator from Delaware on the stand that he has taken in reference to imposing a spending limit on ourselves. I have raised this question as to the economic disciplines that we might impose upon ourselves in connection with the gold revaluation bill before the Committee on Banking, Housing and Urban Affairs.

It seems to me that the time has arrived when we should start dealing with the disease and not simply administering bandaids to the symptoms of the disease.

We are talking about increasing the debt limit almost automatically. In the Banking Committee we are talking about devaluing our gold as if there were nothing to it—just a passing thing that needs to be done and completed as rapidly as possible, without any fanfare.

In addition, the wage and price control and the Economic Stabilization Act of 1971, which we rushed through here in such a hurry, were disgraceful experiences for this country.

We ought not, as a matter of course and perfunctorily, take these actions, which are symptoms of a disgraceful economic performance. We need to adopt some disciplines, and in my opinion we need to adopt the disciplines as well as to impose the bandaids when the occasion arises.

I am glad that the Senator from Delaware plans to offer this bill, the spending limit bill, as an amendment to the debt ceiling bill, and I should like to encourage him to stay with the matter. I say to the Senator from Delaware that I will join him in staying with it, to see that we get this amendment attached to that bill, if we can.

The whole situation reminds me of a story we have at home. A young woman was applying for an additional welfare benefit for her fourth illegitimate child. The welfare worker asked her, "Do you know who the father of this child is? You have several of these children."

The mother said, "Yes, I know who the father of the child is."

The welfare worker asked, "What did he say about being the father of this child?"

The mother replied, "Oh, he said, 'Excuse me.' "

That is what we do when we pass these debt ceiling bills without any fanfare, almost automatically, when we revalue our dollar in terms of gold almost automatically. We say to the American people, "Excuse us. We mismanaged your economy, but let us go on to the next question."

I do not believe that we should say, "Excuse me" to the American public. I think we ought to introduce some disciplines on ourselves.

Mr. President, I ask unanimous consent to have the following material printed in the RECORD at the conclusion of my remarks: The comments of Dr. Burns before the Joint Economic Committee and before the Committee on Banking, Housing, and Urban Affairs, supporting the Senator from Delaware in his effort; the comments of Assistant Secretary Volcker, urging that we induce some disciplines; and the comments of Mr. Steinberg, who testified before the Banking Committee, with respect to his recognition of the need for urgent disciplines to be imposed on our national economy.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GAMBRELL. I thank the Senator for this opportunity to join him in these remarks.

### EXHIBIT 1

### STATEMENT BY ARTHUR F. BURNS, CHAIRMAN, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, BEFORE THE JOINT ECONOMIC COMMITTEE, FEBRUARY 9, 1972

I am glad to appear before this Committee once again to report the views of the Board of Governors of the Federal Reserve System on the state of our national economy.

The early months of the past year presented an extraordinary challenge to our national policies. Although a recovery had commenced in economic activity, it proceeded at a rather sluggish pace. Although the number of men and women at work was again rising, the advance was no faster than that of the labor force; hence unemployment continued at a 6 percent rate. Although gains in productivity were resuming, they had yet to display the vigorous improvement characteristic of earlier cyclical recoveries. And, despite much idleness of men and equipment, wages and prices continued to rise at a virtually undiminished pace.

Moreover, the competitive position of the United States in international trade was deteriorating further, confidence in the exchange value of the dollar was weakening, and a massive shift out of dollars and into foreign currencies was getting under way.

In mid-August of last year, the President took bold and comprehensive steps to deal with these accumulated economic ills; for it had become reasonably clear by then that the performance of the economy was eluding our national goals.

The new economic policy had four major objectives: first, to slow sharply and at once the rate of inflation and thereby break the inflationary psychology gripping the nation; second, to set in motion forces that would stimulate more rapid expansion in aggregate demand and a decline in unemployment; third, to promote increased efficiency in our factories, mines, and other workshops; fourth, to set the stage for a reinvigoration of export trade, restoration of confidence in the exchange value of the dollar, and progress toward a sustainable equilibrium in the balance of payments.

The major new initiatives announced by the President included a 90-day freeze on virtually all prices and wages, to be followed by a more flexible price and wage policy; some selective reductions in taxes, including restoration of the investment tax credit; a temporary surcharge of 10 per cent on imports; and suspension of convertibility of dollars into gold or other reserve assets. The Congress in its turn moved with exemplary speed to enact the basic tax measures recommended by the President, and to strengthen the legislative basis for the new wage-price policy.

The nation responded with a sense of exhilaration to the new economic policy; for it meant that we as a people could and would deal energetically with our major economic problems—inflation, unemployment, inadequate growth in output and productivity, and imbalance in international payments. A new confidence in our nation's economic future was felt all around.

But, as so often happens in human affairs, the first blush of enthusiasm gave way to a more cautious appraisal of the problems yet confronting the economy. Doubts gradually began to be expressed about the effectiveness of the control program that supplanted the freeze, about the strength of the economic recovery, or about the durability of the Smithsonian currency agreement negotiated last December.

These are understandable concerns and it would be fool-hardy to dismiss them. Surely, we must recognize that uncertainty is inherent in all economic life, that the deep-seated economic problems we have been struggling with have not yet been solved, that more—perhaps much more—remains to be done to restore the conditions for lasting prosperity. Indeed, we must try to see to it that the momentum generated by the new economic policy of last August is sustained in the months to come.

But if all this is worth keeping in mind, it is all the more important to recognize the solid evidence of improvement that has occurred since last August in the economic and financial scene.

The brief freeze on wages and prices turned out to be an outstanding success. True, deferred increases went into effect when the freeze ended, causing an upsurge in average wage rates and to a lesser extent in prices. Nevertheless, both wages and prices have advanced at markedly lower rates since August 1971 than they did earlier in 1971. Moreover, demands for very large increases in wages seem less pervasive now than at any time in recent years, due in large part to the controls now in existence.

Financial markets have reacted constructively to this slackening pace of inflation. Interest rates have declined, as the inflation premium in the cost of credit has been whittled away. Yields on high-grade corporate and state and local government bonds have fallen about 75 basis points since last summer despite continued heavy demands on the capital markets. The rate of interest charged by some banks on prime business loans has dropped to the level prevailing in the early 1960's. Interest rates on mortgages have been moving down. And stock prices have risen significantly since August, reflecting the greater confidence with which individuals and businesses view the future.

This increased confidence has been evident also in markets for goods and for labor. Consumers stepped up their buying of new cars and other durable goods last fall, and they were willing to go into debt to do so. This was a major factor in the quickening pace of economic activity in the fourth quarter. The demand for capital equipment, which had been conspicuously weak, is now appreciably stronger than last summer. And of late business firms have been adding substantially to their work forces; by the fourth quarter of 1971, civilian employment had risen more than a million from its level six months earlier, and a further significant increase occurred this January.

Gains have also been made in restoring confidence internationally. The readjustment of currency values negotiated in December by the Group of Ten countries was an event of far-reaching significance. While concern about international trade and finances has by no means ended, the uncertainties that had been troubling businessmen and the exchange markets have been greatly reduced. Confidence in continuing growth of the world economy and of international trade is now much stronger than it was last fall.

All these signs indicate that our people can look to the future with more confident expectations. The state of confidence, however, is always apt to be delicately poised in the early stages of economic recovery. It is therefore vitally important, now that the Federal Government has become such a large factor in our nation's economy, that its operations and policies be conducted in ways that sustain the more confident public mood released by the new economic policy. If that is accomplished, the prospects will be very favorable for a quickening tempo of economic expansion in the year and years ahead.

Several major areas of private demand offer promise of additional stimulus to economic activity during 1972. Business inventory policies have been conservative throughout 1970 and 1971. As sales pick up, there will be a need to keep larger inventories on hand. Fixed capital expenditures by business firms should also move up. Over the past two years these outlays declined in real terms, so that a backlog of postponed projects has in all probability accumulated. Recent surveys already indicate a substantial rise in planned capital expenditures during 1972—an anticipation supported by a marked rise in manufacturers' new capital appropriations and the recent strengthening in new orders for capital equipment and in construction contract awards.

A more rapid pace of consumer spending may well be an additional source of stimulus in 1972. The rate of personal saving has been abnormally high for an extended period, and consumers have accumulated large amounts of liquid assets that could be drawn down. The tax reductions resulting from recent legislation will provide additional support to consumer buying power this year.

As buying of goods or services goes up in one sector, its strength will be transmitted to other sectors, and the economic expansion will gather momentum. This is a familiar process in business cycle history, and it seems likely that we are even now experiencing such a development.

The Federal budget for fiscal 1972 that has just been presented to the Congress seems broadly consistent with the objective of more rapid economic expansion, for it embodies a good deal of further stimulation through both higher expenditures and tax reductions. I recognize that the budget deficit reflects preponderantly the shortfall in the performance of the economy. Yet, as I contemplate the future, the sheer size of the projected fiscal 1972 deficit—close to $40 billion—gives me some pause.

To maintain the public confidence that is so vital to the achievement of faster economic expansion, I consider it crucial to make tangible progress toward a more balanced fiscal position in the 1973 budget and beyond. Whether or not the projected revenues are realized will depend principally on the strength of economic recovery. On the other hand, the projections of further increases in expenditures are largely within the control of the Congress. I would urge, in keeping with the President's recommendation, that the Congress impose a rigid ceiling on fiscal 1973 expenditures—a ceiling to be treated as inviolate except in the event of a grave national emergency. This necessary discipline, which I have urged on other occasions, would go far to reassure the public that the Federal budgetary process is not out of control.

Let me turn now to the role that monetary policy needs to play in furthering national objectives this year. Clearly, our monetary affairs—no less than our fiscal affairs—must be kept in order, so that public confidence in our monetary management is maintained. An unduly expansive monetary policy would be most unfortunate, particularly in view of the large Federal budgetary deficits now projected. We need always to be mindful of the fact that increases in money and credit achieved today will still be with us tomorrow, when economic conditions may no longer be the same as they are today.

At this stage of the business cycle it is essential to pursue a monetary policy that will facilitate good economic recovery. Supplies of money and credit must be sufficient to finance the growth in consumer spending and in investment plans that now appears in process. Let me assure this Committee that the Federal Reserve does not intend to let the present recovery falter for want of money or credit. And let me add, just as firmly, that the Federal Reserve will not release the forces of a renewed inflationary spiral.

We are now in a favorable position to provide the monetary support needed for a quickening pace of production and employment. While expansion in the supply of money and credit was relatively brisk during 1971, we successfully avoided an unduly rapid growth of liquidity.

No single measure of money or credit represents adequately the impact of monetary policy on the economy. Let me nevertheless cite a few salient facts. Growth of the narrowly defined money supply—that is, currency and private demand deposits—amounted to 6.2 per cent during 1971, compared with 5.4 per cent in 1970. If the money supply is defined more broadly, so as to include also consumer-type time and savings deposits at commercial banks, the rate of growth was 11.1 per cent during 1971, compared with 8.1 per cent in the previous year.

These 1971 growth rates of money balances are at the upper end of the range witnessed over the postwar period. That is what should happen at a time of sluggish economic growth, as the Committee has pointed out.

The substantial increase of the money supply, as variously measured, was accompanied by abundant and readily available supplies of credit. Inflows of deposits at the nonbank thrift institutions were unusually large, and they permitted a record increase in the volume of mortgage borrowing. Residential construction was greatly stimulated, and new housing starts rose to unprecedented levels by the fourth quarter. Business firms were able to fund short-term debt and to rebuild their liquidity position. State and local governments too, finding a ready market for their securities, were able to expand fairly rapidly their outlays on public goods and services.

Interest rates fluctuated over a fairly wide range last year as financial markets were buffeted by international as well as domestic disturbances. In the spring and early summer, inflationary expectations worsened, and interest rates moved up despite the ready availability of funds. But they declined again after the announcement of the new economic policy in August. By the end of 1971, interest rates on virtually all types of debt instruments had fallen below the levels prevailing at the beginning of the year.

Looking at 1971 as a whole, the growth in money and credit was, I believe, consistent with the needs of an expanding economy. There were, nonetheless, sizable variations in monetary growth rates—particularly in the narrowly defined money stock, which rose rapidly in the first half of the year and slowly thereafter.

These variations reflected the public's changing demand for cash balances, which is related not only to the need to finance current expenditures but also to the desire to hold money for precautionary reasons. Given the changing state of confidence during 1971, there is reason to believe that precautionary demands for cash intensified during the spring and then subsided following the August announcement of the new economic policy.

To some degree, however, the variations in monetary growth resulted from shifts of emphasis in monetary policy. Early in 1971, the Federal Reserve sought to promote a rate of monetary growth sufficient to make up for the shortfall in late 1970. With precautionary demands for funds burgeoning unexpectedly at that time, key monetary aggregates expanded at a faster pace than expected or than would have been desirable for any length of time.

Monetary policy, therefore, moved gradually during the spring and summer to restrain excessive monetary growth. Once again, the change sought was magnified during August by outflows of dollars to foreign money centers, and later—over a longer stretch—by an unforeseen upsurge of domestic confidence and consequently smaller precautionary demands for ready cash.

In recent months, the Federal Reserve has sought to encourage a faster rate of monetary expansion than occurred in the late summer and fall of last year. Open market operations have been conducted with more emphasis on increasing the reserve base of the banking system. In the five months from September through January, total bank reserves rose at an annual rate of over 8 per cent. Thus far, much of this increase has supported an accelerated growth in time deposits. But, in due course, the narrowly defined money stock, on which so much emphasis is nowadays placed by some single-minded observers, will also respond; preliminary calculations indicate that this aggregate rose more rapidly in January than in the immediately preceding months.

The additions to bank reserves have helped to move interest rates down in recent months, especially short-term rates. With the passage of time, this effect should become diffused as the additional funds—the reserves and the deposits they support—are employed to finance consumer loans, or mortgage loans, or for other purposes. It would not be surprising, therefore, to see short-term interest rates rise somewhat as economic expansion carries the economy to higher levels of resource utilization.

On past occasions, a rise in short-term interest rates has more frequently than not induced a similar increase in long-term rates. At the present time, however, the differential between short-term and long-term rates is unusually wide. If further progress is made in dampening inflationary expectations, there need not be any rise in the cost of long-term funds. In fact, my hope is that further downward adjustments in long-term interest rates will occur in the months ahead, and that credit will remain in abundant supply for housing, for State and local construction, and for our nation's business firms.

Before closing, let me turn briefly to other financial and economic issues. I have already referred to the significance of the Smithsonian agreement of December 18. I have little patience with the view that this agreement will prove to be fragile. The nations participating in the negotiations last fall realized that much was at stake. They still do. All of us are compelled by our own economic interests to continue in the same spirit of cooperation that led to the agreement.

There is, however, much unfinished business at hand. Legislation is needed to permit a change in the official dollar price of gold, as called for by the Smithsonian agreement. This legislation will soon be considered by the Congress, and I strongly recommend swift approval.

Over the longer run, we and our trading partners must fashion a new and stronger international economic order. The issues are many and complex. A searching re-evaluation will be needed of the roles played by gold, reserve currencies, and special drawing rights in settling international accounts. Sufficient flexibility in exchange rates will be essential to prevent large and persistent balance-of-payments problems. The circumstances under which the dollar may again be convertible into international reserve assets will have to be reviewed carefully. And determined new efforts will be required to reduce impediments to the international flow of goods, services, and capital.

Progress in these areas will not be rapid. But it is essential to the health of every national economy, including ours, that we get on with the job.

In the domestic sphere, the most urgent need is to realize the promise of our present wage and price policy. The return to a free-market economy will be speeded if the Pay Board and the Price Commission find ways to deal more successfully with outsized requests for wage and price increases. It is of great importance that the Pay Board resist pressures to reach compromises in specific cases that threaten to undermine its overall objective. The Price Commission is less subject to this hazard, since its decisions do not involve direct conflict between labor and management. Its efforts to hold down prices must be pursued with the utmost vigor, and yet leave sufficient scope for confident and constructive business behavior. For more rapid economic expansion is no less important at this juncture of our nation's history than bringing the rate of inflation down to 2½ per cent by the end of this year.

The jobs of both of these bodies will be lightened if improvements in productivity accelerate. Our performance in this critical area has deteriorated in recent years relative to that of other industrial countries and of our own past. Resumption of rapid productivity growth is fundamental to our longer-term prospects. With higher productivity gains, we could have significant wage increases, larger profit margins, and numerous individual price declines within a framework of a stable level of average prices; our ability to compete with foreign producers would be greatly enhanced; and our national aspirations for cleaner air and water, for halting the process of urban decay, for better housing, and a host of other things would be more readily achieved.

Elevating the growth rate of productivity will require a many-sided effort, with full participation by the public and private sectors. A larger commitment of resources to technical research and to new and improved capital equipment will be needed. Labor and management will also need to get together in joint ventures to increase productivity within the individual firm and plant. This can best be done by assuring workers that they will individually share in the benefits of improvements in output per manhour. Productivity councils at the community and plant level could help to achieve this objective, and—thanks to the initiative of the Congress—the National Commission on Productivity will shortly be initiating a program to establish such councils.

A serious national effort to increase economic efficiency should also include the most careful consideration of the steps needed to reduce abuses of private economic power, whether of business or labor. That, I think, is an objective toward which the great majority of the American people quietly aspire. Once our labor and product markets become more competitive, there will be little or no need in the future for direct wage and price controls such as we have recently instituted. This, too, would strengthen the foundation of confidence on which our economy rests.

### EXCERPTS FROM HEARING RECORD—COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

The issues are many and complex. It will take time to resolve them. But the unfinished business of international monetary reform requires that we get on with the job without delay. Early action by the Congress on the bill before you will set the stage for much needed progress in both the international monetary and international trade areas.

Concluding Comment:

I have discussed at some length the Smithsonian Agreement because it has given rise to the present hearing. But I cannot conclude this statement without warning that neither the Smithsonian Agreement, nor passage of the bill before you, nor any international monetary or trade reforms that may follow, can of themselves do more than move us toward the objectives of renewed vigor in foreign trade and equilibrium in the balance of payments.

To assure success in these objectives of foreign economic policy, we must have skillful and fully responsible management of monetary and fiscal affairs. The objectives of our foreign economic policy and of our domestic economic policy are interdependent. For the sake of both the one and other we will need to concentrate on stepping up sharply the productivity of our resources and on regaining prosperity without inflation.

Senator GAMBRELL. Dr. Burns, I am sorry that a commitment on the Floor prevented me from hearing the delivery of your remarks, but I have had an opportunity to look over them. They are of course in your typical and characteristic way very ably stated and significant.

I expressed a concern day before yesterday at these hearings and also have introduced an amendment to this bill which undertakes to introduce some measure of discipline into our domestic economy in the fight against inflation.

I notice that you say to assure success in these objectives of foreign economic policy we must have skillful and fully responsible management of monetary and fiscal affairs.

You also point out that our domestic and international economic policies are interdependent. I think frankly that it is just as urgent, if not more urgent, that we make some statutory commitments to ourselves, and to our people, that we won't permit a situation of this kind to arise again.

I consider that revaluation of the dollar by statute to be a perfunctory act, recognizing a disaster that has occurred over a period of four or five or six years. I have no objection to that, I am very little concerned with whether people can or can't have gold. What I think our people want is to have a reliable economic system of economic values in this country. I think that is where we need to act rapidly and decisively and conclusively.

You mention the uncertainty that other countries might have. I would think that if we were acting decisively and conclusively in stabilizing our own economy on a permanent basis that they would be willing to wait a little while to hear what we finally did about gold, that they would say that discipline introduced into the American economy is much more important to us than this little technicality of revaluation of gold.

I wonder if you would comment on that. You may not be familiar with my amendment. But it is only the question of urgency of introducing some statutory discipline into our economy.

Dr. BURNS. Let me say first of all, Senator, that I applaud your statement, I heartily endorse it. But I don't think the way to deal with our domestic problems is by amending the present Act. I do think, as I have already testified, that early passage of that Act is essential. And any amendment, whatever its merits may be, would inevitably lay passage of the Act.

Now I am not familiar with your amendment, I am sorry, it hasn't come to my attention.

Senator GAMBRELL. In essence it provides that a system of economic controls such as the Stabilization Act that we passed would be triggered by a percentage inflationary factor at any time it should occur.

Dr. BURNS. Offhand I have no objection to that. I would want to study it, ponder it.

Senator GAMBRELL. I certainly would not want to commit you on that, but I am just saying as a possible plan of introducing definite and certain discipline on our economy.

Dr. BURNS. My own offhand reaction is that first that countermeasures ought to be taken sooner, before we reach the 5 percent stage, because by that time inflation will have developed considerable momentum.

Secondly, there is another proposal which is before the Congress. The President has recommended it. Senator Roth has advanced it in the Senate and many of your colleagues, I understand, are supporting Senator Roth in this effort.

I think it is——

Senator GAMBRELL. This is the spending limit proposal?

Dr. BURNS. I think it is highly important to have finally in this country a legislative budget ceiling, a budget ceiling that would apply to the Congress, that would apply to the Executive, and that would admit of no escape passes whatever.

I think that would reassure this country. It would reassure people abroad. It would have precisely the broad beneficial consequences that you have in mind, Senator.

Senator GAMBRELL. Well, I am a co-sponsor of Senator Roth's plan. I think that is one of several things we need to do and need to do quickly.

Dr. BURNS. I am very glad you are, Senator.

Senator GAMBRELL. Well, this is very encouraging to me. I think there are, as you say, other areas where we need to introduce disciplines and have some statutory certainties that certain things will not happen. This is the reason I have offered it in connection with this legislation because I have found that things that need to be done frequently are sidetracked and delayed and even forgotten when the crisis passes. And this is a little piece of the crisis, the gold bill.

I understand you cannot pass on my proposal, but I wish you would, either yourself or have someone on your staff look at it and give me the benefit of your comments on that. I would like to pursue it, or something in that form.

Also at one time I believe Senator Proxmire introduced a bill to provide for some productivity goals in the country. I haven't heard anything about that. But it seems to me we need to have some legislation along that line.

I thank you.

Mr. Chairman, that is all I have.

Senator STEVENSON. Senator Taft.

Senator TAFT. I will waive to Mr. Roth.

Senator STEVENSON. Senator Roth.

Senator ROTH. Mr. Chairman, I appreciate your making reference to the proposed legislation on putting a limitation on spending that would apply both to Congress and to the Executive Branch. I just have one further question in this regard.

Do you agree with me that it would be valuable for this legislation to be adopted as early in this year as possible, to have maximum effect, beneficial effect on the economy?

Dr. BURNS. I agree entirely, yes.

Senator ROTH. As I mentioned the other day, I propose to—or I would like to see it included as part of the debt ceiling or, in the alternative, I intend to offer it on the floor as an amendment.

We had a witness before the Committee yesterday who represents a number of unions in the stone, glass and clay industry who I think very understandably is concerned about employment in the industries he represents. He proposed to go along the protective route rather than to embark on freer trade.

You perhaps heard the Chairman of the Federal Reserve today testify that unemployment is very serious here.

Do you have any thoughts as to how we can handle this problem of moving in the direction of freer trade and yet not create these serious problems of unemployment here at home?

Mr. STEINBERG. Senator, we are not going to be able to make much more progress toward freer trade unless we cope quickly and constructively with problems of unemployment, problems of dislocation in our own economy. And although I am a conspicuous and outspoken advocate of a free trade initiative, it is my conviction that such an initiative must inextricably be backstopped by an adjustment program in our domestic economy to deal with whatever problems of dislocation such a free trade strategy may help generally.

In my view, the Executive Branch of government and the Congress have not adequately faced up to the kind of domestic adjustments and development program that is needed, not only to backstop a free trade strategy, but to permit United States to hold back the dangerous forces of protectionism.

I cannot overstate the importance of the Congress and the Administration formulating as quickly as possible a coherent, constructive, credible, dependable adjustment program to deal with these problems of dislocation.

Now, the proposals that have been made, which are summed up in what has become known as the Hartke-Burke bill, are the wrong way. They are not constructive answers. They are counterproductive. And they will hurt the economy, they will hurt American workers. But we just can't say no to the Hartke-Burke bill and no to those which include some of my good friends in the AFL–CIO, who are strongly in support of that bill. We must say no, but we must also formulate a positive, credible alternative.

Senator ROTH. Would you support as an interim measure the further expansion of voluntary controls as a means of helping avoid some of the rougher spots between trade imbalances?

Mr. STEINBERG. The Senator refers I assume to voluntary export controls by the supplying countries?

Senator ROTH. Yes.

Mr. STEINBERG. I am not doctrinarily opposed to such controls. However, such controls should be negotiated and urged only if found to be necessary as a last resort, as a marginal part of a balanced policy of constructive government assistance to an ailing industry. And if government help is needed to such an industry, we need a balanced, coherent policy of assistance. Without such a policy of assistance to an ailing industry, I would oppose pressures on foreign governments to restrict their exports to the United States.

Senator ROTH. You talked about the need of additional legislation in the area of helping those industries adversely affected by foreign trade. I understand that your organization is essentially for promoting freer trade. You have certainly a distinguished list of people on your board of directors.

Has your organization come up with any specific suggestions or recommendations that might be helpful to this Committee and the Congress in this area?

Mr. STEINBERG. In dealing with what again, sir?

Senator ROTH. The problem of additional legislation to help industries that are adversely affected by freer trade?

Mr. STEINBERG. No. I have been urging for some time in very broad terms—I wish I could be more specific, but in very broad terms—the need for Congressional involvement in the question of labor dislocation. I have been urging the Executive Branch of government to concern itself with the problems of particular industries, the textiles industry, the steel industry, the electronics industry.

To make a judgment as to whether government help is needed and if government help is needed, what kind of government help, I am not in a position to say what kind of coherent textile policy or steel policy is needed, because I haven't made the kind of depth analysis of the problems and needs of these industries that is certainly necessary. But what I find lacking, as I indicated earlier, is a credible concern by government with problems of dislocation in these industries. And it isn't enough to say that we have to get the Japanese to restrict exports to the United States, or get other countries to restrict exports to the United States. These are not constructive answers to these problems.

We have to find out what the problems are. And I believe, Senator, that it is the lack of coherent government concern with these problems in our domestic economy that has brought on the Hartke-Burke bill and that will bring on other pressures for protection against import competition.

Senator ROTH. I would just like to make the observation—I thank you for your helpful testimony—I personally feel it is very important that organizations that are interested in a free trade policy come up with some specific suggestions in some of these areas.

I agree with you, there is more than can be done here. But I think those of you that are sponsoring these policies need to look at the hard questions that have to be answered. I think we all have to recognize that unless we solve the problem of unemployment, we are going to have a tough road ahead.

Mr. STEINBERG. I agree with that wholeheartedly, Senator.

Senator ROTH. Thank you, Mr. Chairman.

Senator STEVENSON. Senator Gambrell.

Senator GAMBRELL. Mr. Steinberg, I thank you for your statement and also for your very direct and forceful comments on the disease that we are dealing with as opposed to the symptoms.

The question of adjusting the value of gold in terms of the dollar and the realignment of currencies is simply a symptom of the disease that we are suffering from. The kind of thing you are talking about in your answers to Senator Roth is getting down to the heart of the matter. In effect, as I understand it, you are saying that the political leaders of this country must tell the American people the truth about why we got into the shape we are in, and then to have some coherent or comprehensive policies to do something about it.

Mr. STEINBERG. Yes, sir.

Senator GAMBRELL. I thank you very much.

That is all, Mr. Chairman.

Senator STEVENSON. Senator Taft?

Senator TAFT. Thank you, Mr. Chairman.

Mr. Steinberg, do you think the passage of this bill will have a substantial impact on the balance of payments problem of the United States?

Mr. STEINBERG. The term "substantial" is a difficult term. I think it will have an important impact in the sense that the bill would represent fulfillment of the American commitment in the December monetary realignment.

Senator TAFT. It would have an impact if we didn't do it.

Mr. STEINBERG. Yes, sir. In view of the fact of so much monetary instability after Smithsonian, a problem to which I referred in my testimony, we have to move as quickly as possible to minimize that uncertainty about American purpose, about American determination to fulfill its commitments and to move on to further reforms.

Senator TAFT. What about the future impact on the balance of payments? Do you think it will have any future impact?

Mr. STEINBERG. Well, as I say, it will have an impact only to the extent of helping in some marginal way to minimize international monetary instability, and minimizing that instability, I think, will make a helpful contribution toward strengthening the American balance of payments.

Senator TAFT. What else do you recommend we do to try to tackle this adverse balance of payments problem?

Mr. STEINBERG. I recommend that, among other things, that United States of course combat as effectively as it can the problem of inflation at home. Increase its productivity more rapidly. I think we have lost ground in the area of productivity compared with other countries.

Senator TAFT. How would that affect the balance of payments?

Mr. STEINBERG. Well, make United States more competitive in the international economy. And to devise a free trade initiative that raises the sights of this country and the entire world to the kind of free trade policy we are determined to have for the remaining decades of this century and beyond.

I think that the United States balance of payments suffers, as I tried to indicate earlier, from uncertainty about American policy and about the wisdom of the American Government in the sense that in the context of this uncertainty monies flow speculating against the American dollar, and this speculation is speculation against the wisdom and the reliability, the credibility, of the United States Government, which is the custodian of that dollar.

I believe a definitive free trade policy which would be one of the things that would help insure governments and businesses and peoples around the world about the strength and the dependability and the wisdom of the United States. And it would have I think an important effect on the American economy, because then American business would have to face up to a certain contingency that free trade is the definitive objective.

That I think is important, Senator, if I may, in improving our productivity, in improving our ingenuity, in improving our innovativeness, in coping effectively with competition from whatever source around the world.

### STATEMENT BY THE HONORABLE PAUL A. VOLCKER

Mr. Chairman and Members of the Committee: I appreciate your scheduling S. 3160 for prompt consideration by the Committee, and I welcome the opportunity to present the Administration's views on this important legislation.

The essential purpose of this bill can be stated quite simply: it would authorize a change in the par value of the dollar in the International Monetary Fund to the equivalent of $38 per ounce of gold. It would thus enable the United States to implement its portion of the multilateral realignment of exchange rates negotiated at the Smithsonian Institution last December 18.

The Smithsonian Agreement provided for changes in the pattern of exchange rates of the major industrial nations.

It called for *de*valuation of the dollar, and *re*valuation of a number of currencies of Europe and Japan. In total, the resulting exchange rate changes yield a weighted average realignment of approximately 12 percent between the dollar and the currencies of the other industrial nations, excluding the Canadian dollar, which continues to float. We regard this realignment as a major step in our efforts to restore international monetary stability and to reestablish the strength of our trade and external financial position.

The Smithsonian Agreement also gave explicit recognition to the relevance of trade arrangements in assuring a new and lasting international equilibrium. Our willingness to propose to the Congress devaluation of the dollar was contingent on the availability for Congressional scrutiny of the results of our efforts to negotiate short-term trade measures with our major trade partners. Intensive negotiations have led to agreements with Japan and the European Community. These agreements, the details of which have been made available to Congress, make some immediate progress toward improving our access to foreign markets. Potentially of greater importance, they look toward more comprehensive negotiations in 1972 and 1973 on some questions of great significance to our trade in the future. We thus regard the agreements reached as useful first steps in our efforts to assure better access for our traders in international markets.

Regrettably, we have not been able to reach agreement with Canada. Our intention remains to seek appropriate means of reducing imbalances in trade agreements and arrangements with that country.

The proposed devaluation would be effected by changing the par value of the dollar, as expressed to the International Monetary Fund, from one thirty-fifth to one thirty-eighth of a fine troy ounce of gold. That is a reduction of 7.89 percent in the amount of gold equal to one dollar or, looked at the other way, an increase of 8.57 percent in the number of dollars equal to one ounce of gold.

The legislation we are proposing, in Section 2, authorizes the Secretary of the Treasury to take the necessary steps to accomplish that change in par value. The need for Congressional authorization for this step is specified in the Bretton Woods Agreements Act of 1945, which governs our relationship with the International Monetary Fund. Following Congressional approval, the new value would be communicated to the International Monetary Fund. Under the Articles of Agreement of the International Monetary Fund, IMF concurrence in this change is not required because the change in par value is within 10 percent of the parity communicated to the International Monetary Fund at its founding.

Along with necessary changes in par values by other countries, this action would formalize the pattern of exchange rates which was negotiated last December and which, de facto, has been prevailing in exchange markets since that time. I should note, however, the formal change in par value does not end the suspension of the convertibility of the dollar into gold or other reserve assets, initiated on August 15 of last year.

The most important consequence of the international realignment of currency values is, of course, that it increases the price of most important foreign currencies in terms of dollars. In this way, the cost and prices of foreign produced goods and services, when expressed in dollars, are increased relative to those produced in the United States. Imports will tend to become more expensive, thus reducing the growth in imports and stimulating domestic production. Our exporting firms will be in a position to quote lower prices in terms of foreign currencies and have new incentives to seek out foreign markets. Thus, the competitive position of U.S. producers, both in the United States and in overseas markets, will be substantially assisted.

Over time—and it will take time for trade flows to be substantially altered—these changes should work strongly toward restoring a trade surplus for the United States. We believe a sizeable trade surplus must be an essential part of a healthy external position for the United States economy. Moreover, at a time of some economic slack, the stimulus to domestic jobs and production implicit in this action is fully consistent with our economic objective at home.

We believe this result is not only in our interest.

A stable dollar and a strong trade position for the United States—a position capable of supporting our heavy responsibilities for aid, for defense, and for maintaining open capital markets—seems to me in the interests of all concerned with a healthy world economy, a stable monetary system, and a liberal trading order.

Apart from the important economic effects of the exchange rate realignment, the change in par value of the dollar necessarily entails some changes in the asset and liability position of the United States Government, expressed in dollars. Specifically, the dollar value of United States gold and certain other reserve assets will increase by 8.57 percent. Under the provisions of various international agreements previously authorized by the Congress, the dollar value of certain subscriptions and contributions to various international financial and lending institutions will also need to increase to maintain their nominal gold value. The effect is to maintain the relative share of U.S. participation in these institutions and, thus, our share of the ownership and voting power. A detailed statement of the increase in various United States assets and liabilities consequent to this legislation has been submitted to the Congress with the draft bill.

As indicated in that summary, the various adjustments can be condensed into five categories:

(1) The dollar value of our gold holdings will increase by some $828 million. Because gold certificates can be issued against this gold, an equivalent cash gain for the Treasury will reduce our borrowing needs, with consequent savings in interest cost. However, under the practices of the unified budget concept, the cash gain will not itself be recorded as a budgetary receipt.

(2) Our International Monetary Fund subscription, which determines both our rights to draw foreign currencies and our obligation to provide our currency to the Fund, will be increased in terms of dollars. The over-all value of our subscription will increase by 8.57 percent, or $575 million.

However, because part of our subscription has been paid in gold in the past, and therefore requires no maintenance of value, our obligation to provide additional dollars to the Fund will be limited to some $525 million. These monetary transactions have no budgetary or cash impact; the maintenance of value obligation will be satisfied by a letter of credit.

(3) Maintenance of value of the *paid in* subscriptions to the international development institutions will require as much as $406 million to be paid in letters of credit. As drawn upon, this will entail both a cash and budgetary drain. The impact, however, will be spread over a period of ten years or more, beginning in fiscal year 1974.

(4) Our subscriptions to the *callable* capital of the international development institutions will increase by some $663 million. The principal function of these subscriptions is to provide ultimate security for the private market borrowings of these institutions; the subscriptions have never been called in the past, and we consider it highly unlikely they would be called in the future. Thus, this obligation represents a remote contingent liability, without budgetary or cash impact.

(5) Net losses on certain operational foreign exchange accounts maintained by the Exchange Stabilization Fund and the Federal Reserve will be absorbed by those institutions.

**It is contemplated that the various obligations incurred by maintenance of value requirements, however remote, will need to be covered by appropriations in an approximate amount of $1.5 to $1.6 billion. These appropriations, of course, only deal with the liability side of the equation and do not reflect the offsetting gains.**

Over-all, the net result of the series of transactions will be:

In terms of its effects on Treasury cash, to increase our resources.

In terms of budgetary expenditures, a probable rough balance between savings on interest expense (as a result of the added cash resources of the Treasury) and the additional paid-in capital subscription to the international development institutions.

In terms of our over-all asset and liability position, a rough offset between added contingent and deferred liabilities and the increased value of our gold and capital subscriptions.

The proposed legislation is a key element in the effort launched by President Nixon last August 15 to strengthen the United States international economic position and restore international monetary stability. As you will recall, on August 15 he announced both suspension of the convertibility of the dollar and a temporary 10 percent surcharge on imports as means for encouraging an adjustment of exchange rates and trading practices that would permit strengthening of our external position. The factors leading up to those actions included massive capital flows as well as a more fundamental deterioration in U.S. trading accounts. More broadly, deep-seated imbalances and strains have been increasingly apparent in the international monetary system, and these must be dealt with through comprehensive monetary reform. We believe a comparable review of trading practices is also necessary.

These matters are reviewed at some length in the Treasury document submitted with the legislation, and I will not repeat that chronicle here. The basic point is that events demanded decisive action. Such action was initiated in the suspension of dollar convertibility and other measures of the New Economic Policy. The change in the gold value of the dollar is one step—but only one step—in the implementation of the program to restore the strength of our position and to lay the groundwork for a lasting reform of the monetary structure.

In the international negotiations triggered by the August 15 decisions, a prime United States objective was to obtain a major international currency realignment. We entered these negotiations with the strong view that the preferable course would be to achieve the necessary realignment without disturbing the long-established official dollar price of gold. Moreover, we were aware that unilateral U.S. action to achieve a realignment simply by changing our stated price for gold was not feasible because of the probability that other countries would follow suit in whole or in part. The net effect would have been a general increase in the official price of gold, inevitably stimulating speculation about subsequent increases, without achieving the necessary realignment of exchange rates in the market. Thus, international agreement on an appropriate pattern of exchange rates was essential.

As the negotiations progressed, certain other countries strongly resisted a realignment of exchange rates not accompanied by formal devaluation by the United States in terms of the official gold price. It also became clear that, whether or not the United States "participated" in terms of a change in the price of gold, there was strong resistance to sizeable exchange rate changes vis-a-vis the dollar and great sensitivity to the parallel decisions of their other trading partners.

In this difficult negotiating situation, the conclusion was reached that, if a change in the dollar price of gold was to be included, we could obtain an earlier and more favorable resolution of the realignment question. Thus, we concluded a bargain which provided for a substantial exchange rate realignment and included changes in the gold parity of the dollar as well as those of a number of other currencies.

I must emphasize that this decision in no way changes our view that the monetary role of gold should continue to diminish—a trend well established in recent years. In this instance, a change in the official dollar gold price has been necessary to facilitate a currency realignment. At the same time, the official price of gold in terms of a number of other currencies will decline. These changes in no way suggest that gold provides a satisfactory basis for supplying necessary increases in world liquidity in the years ahead.

To the contrary, I believe the difficulty of these recent negotiations, and the ensuing speculation in private gold markets, emphasizes further the need to move away from dependence on gold in the monetary system internationally, an objective long since achieved by virtually all countries domestically.

Finally, I want to emphasize, too, that exchange rate changes, important as they are, are not the full answer to our balance of payments problem. I have already referred to the importance of trading arrangements that provide our exporters with equitable access to other markets. In closing, I would underscore a still more basic consideration—that, in the end, our success will rest on the success of our economy here at home—our ability to achieve growth without inflation, to restore the vigor of our export industries, to improve our technology, and to spur productivity. These are the fundamentals reflected in the total program of the President, of which monetary changes can be only one aspect.

Mr. Chairman and Members of the Committee, you have before you a clean and simple bill to accomplish a single purpose—to devalue the dollar as part of a general realignment of currency values. We appreciate your prompt attention to it. Early enactment by the Congress will reaffirm the validity and acceptability of the exchange rates negotiated in the Smithsonian Agreement. I hope you will consider it in this context and avoid amendments that can only distract from the purpose. We can then complete one important step toward reestablishing the strength of our external position and help clear the way to substantive discussion of longer range reform of the monetary and trading system.

### STATEMENT BEFORE BANKING COMMITTEE

Senator Gambrell. Secretary Volcker, let me begin by saying I appreciate the necessity of having such legislation and do not have in mind being against its adoption, but I am concerned along the lines that Senator Roth expressed, that we simply turn off these things that we have got to do by a flick of the wrist, and we don't get on to dealing with the very basic substantive problems that bring on such things as devaluation of our dollar. To me it is about like issuing a death certificate for somebody who died in an epidemic. I think the issuance of a death certificate is almost automatic, but I think we need to deal with what is causing the epidemic.

Why do we have to issue these death certificates all of the time? I am frankly surprised in connection with the Smithsonian agreements that the foreign governments haven't said not only to revalue our dollar but that we should impose certain other disciplines on ourselves before we come back to the bargaining table to discuss international economic arrangements.

I was pleased more than anything else in your statement by the recognition on page 14 that the success of our economy at home, our ability to achieve growth without inflation, to restore the vigor of our ex parte industries, to improve our technology and spur productivity are the more basic considerations. I know Senator Roth has a bill pending to impose a spending limit on the government. I know that the Finance Committee at the present time is considering the debt limitation. Frankly I don't think that ought to be an automatic thing simply because we foresee a deficit, that we just automatically agree to borrow the money to carry through with it.

I think we ought to impose some disciplines on ourselves in that respect. Frankly I consider this measure here a vehicle by which we might undertake to impose some disciplines on ourselves. We seem to be perfectly happy to rush through this death certificate on the value of the dollar, but we don't seem to be anxious to rush through any fundamental disciplines on ourselves and on our economic mismanagement.

I would like to ask you if you consider it appropriate that we do something specific to control such things as Senator Roth was mentioning, our deficit spending, and to impose some rigid limitations on how much we will spend in excess of our income over the next two, three, four, five, or eight or ten years, as a commitment by this country to manage our economy.

Mr. Volcker. Well——

Senator Gambrell. Do you think this would be a good time to take that up?

Mr. Volcker. I think it would be an excellent time to take up the question of a spending limitation. As you know, President Nixon has proposed a rigid spending limitation and we urged the Congress to move in that direction. In terms of the longer term budgetary discipline, I would note that the Administration has invested a good deal of intellectual effort as well as spending discipline in maintaining, insofar as possible, adherence to the full employment budget concept whereby spending would not exceed our revenue generating capacity at full employment.

Now the present budget for the present fiscal year does not meet that criteria, but the budget for fiscal 1973 does. And that has been proposed as a serious effort to maintain over a period of time the kind of discipline to which you are referring. I couldn't agree with you more.

Senator Gambrell. I consider that as an explanation of why we continue to have deficits and no discipline at all.

Mr. Volcker. I wish you would look at it the other way, Senator, because I think it can be in a very difficult area a useful disciplinary tool. If it is not, it is not of much value. But I would hope it can be looked at and become a real disciplinary tool and in a sense combining that with the spending limitation set at that level, provide the kind of practical mechanism by which the discipline can be imposed and we would be in favor of that.

Senator Gambrell. I understood you to say to Senator Roth that continued deficit spending over a period of time would undermine our international economic position.

Did it make any difference whether the deficit arrives from a full employment budget or from just a deficit spending budget?

Mr. Volcker. What I think I said in this connection is if we run deficits of the magnitude we have been running, it would either reflect continuing inadequate performance of the American economy, which wouldn't be helpful domestically or internationally, or it would be a tremendous inflationary force which wouldn't be helpful either.

So I don't contemplate deficits of that size continuing.

Senator Gambrell. Of course there are two aspects to a budgetary deficit. Putting a spending limit on and putting a borrowing limit on don't mean we are going to meet our goals in terms of productivity or revenue income. If we fall short it is just as deficit creating as overspending.

Mr. Volcker. I think it does have a different economic impact, assuming that the spending level again is within the capacity to generate revenues. If the deficit arises from slack in the economy, it has quite a different implication than if the deficit arises when the economy is more or less fully employed.

There is a tremendous difference in those terms between the deficit we have at the present time and the deficits we had in the late 1960s, when they were superimposed upon an economy that was already subject to inflationary pressures, already at full employment, already with very tight labor markets. Under those conditions the large deficits were a recipe for inflation. I don't think that is true of the current deficit, when the bulk of the deficit arise from a short fall in revenues as you point out.

Senator Gambrell. What programs other than deficit spending does the government have to increase productivity?

Mr. Volcker. Well, as part of the very measures taken on August 15, there was an investment tax credit, for instance, proposed directly as an effort to stimulate productive investment, modernization of industry. There had been actions taken on depreciation procedures prior to that time for the same reason.

The Administration is concerned with other means more directly of stimulating technology and of course spend a good deal of money or sponsors a good deal of money on research itself. One of the strengths of the American economy is our lead in technology. I think that lead has probably been slipping in recent years and it remains vitally important that we do the things that are necessary not only to modernize investment, but to keep up at the very forefront of technology and break new grounds in that area.

Senator Gambrell. I realize that all of these things are going on, but it is discouraging to me that we are willing to consider the disciplines at leasure, and we have to rush through the legislation by which we recognize our faults.

Mr. Volcker. I would like to think we have been considering these disciplines for some time, Senator, if I may. I just want to emphasize that on August 15, when the actions were taken that led to this particular bill, at the same time the President did take very drastic actions in other directions. He took actions directly on the wage-price situation, he took action on the investment tax credit, he took action to cut government spending at that time. This was a program that by no means neglected the side you are concerned about and that I am concerned about and that the President is concerned about. I think his concern was reflected in his program. This is only one little part of it.

Senator Gambrell. Well, I agree with you that the President acted decisively on August 15. But who is to say that he will do so next year or the year after that, and why should it be left to the President's discretion to act in ways that are necessary and disciplinary on ourselves. I think the Congress should enact legislation and enact it in a hurry to impose the disciplines on the economy that are necessary to keep us from having to periodically revalue our dollar and go through domestic inflation and other conditions that have arisen that we have been wrestling with for the last year.

Mr. Volcker. Well, I hope the apppropriations committees will act on that with dispatch, Senator.

Mr. ROTH. I thank the Senator from Georgia for joining me in this effort. I agree with him that it is important that we succeed in attaching this limitation on spending to the debt ceiling. It seems to me that that is the only way we can act in a responsible manner, and I assure him that we intend to seek a vote on this whenever the debt ceiling limitation measure is brought up.

I yield to the distinguished Senator from Tennessee.

Mr. BROCK. I thank the Senator from Delaware for yielding.

Mr. President, I should like to express my gratitude to the Senator from Delaware for taking the leadership on this issue. The Senator and I served together in the other body for a number of years, and I know of no Member of either body who has a greater knowledge of or concern about this Nation's economic stability than the Senator from Delaware.

Mr. President, legislation raising the allowable national debt will soon be considered by this body. I, for one, will not support this extension unless some provision is made to place a ceiling on Federal expenditures for the coming fiscal year.

I am pleased to join the distinguished Senator from Delaware (Mr. Roth) and others to explain why his amendment is the only effective way to limit Federal spending.

The original intention of Congress in instituting a debt limitation was to effectuate some control on the amount this Government spends. Now, as the national budget approaches $250 billion and the national debt $455 billion, we can no longer delude ourselves—we are spending our way to oblivion. The legal ceiling on the national debt has been extended time after time as this Congress continues to spend money as if there were a money tree in Washington.

Each year the President submits a budget for the coming fiscal year. The first year in office, President Nixon was handed new legislative authority by Congress $4.7 billion in excess of the budgetary requests and outlays for new legislation $1.4 billion in excess of the budgetary request.

The second year in office the President was handed new legislative budgetary authority by Congress $1.1 billion in excess of his request and had authorized by Congress outlays $280 million in excess of budgetary requests.

At the close of the first session of the 92d Congress, Congress had once again enacted into law, budgetary authority for new bills other than appropriations over one billion dollars in excess of the request as well as enacted budget outlays for 1972 $3.8 billion in excess of those requested by the President. Thus, the fault lies with both the Congress and the administrations of the past decade. It is our duty to recognize the debt limit is ineffective in halting yearly splurges that bring us to greater debts. It is our duty to initiate self-disciplining controls which are vital to maintain the economic health of this country.

For too long this Congress has ignored its responsibility to the people of this Nation by forcing their Government deeper and deeper into the morass of uncontrolled deficit spending. Again, we are facing yet another extension of the debt ceiling which is likely to be followed by future extensions unless Congress can restrain itself. If we are to turn the corner onto a road of controlled spending, this Congress must impose upon itself and the President a dollar limitation on what he and we can spend. The administration has stated through several of its most quoted officials that it welcomes such an expenditure ceiling and will manage it once Congress takes action.

Congress must rid itself of its public-be-damned attitude. As we suffer under the bite of inflation, this Congress now knows that every additional dollar it spends is removing buying power from the pockets of the American taxpayer at an increasing rate. We must set an example for the Nation in the fight against inflation. I urge my colleagues to support this amendment.

The **ACTING PRESIDENT** pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from Virginia for not to exceed 15 minutes.

Mr. **BYRD** of Virginia. Does the Senator from Tennessee desire additional time?

Mr. **BROCK**. I have completed my statement. I thank the Senator from Virginia for his graciousness.

Mr. **BYRD** of Virginia. Mr. President, I support the proposal offered by the distinguished Senator from Delaware.

I think it is vitally important that Congress attempt to put some ceiling on expenditures. Government expenditures, in my judgment, are completely out of hand. This is the fault, as I see it, of Congress, the previous administration, and the present administration.

The huge and smashing deficits that the Federal Government is now running and has been running is highly inflationary and highly dangerous. I think the Senator from Delaware is rendering a service in presenting this amendment. I hope it will be adopted.

At this time, I should like to ask the Senator from Delaware one or two questions in regard to the amendment he has proposed.

As I understand it, if the appropriations should exceed the expenditure ceiling, the Chief Executive would be required to prorate the difference among the various agencies; or, to put it another way, the expenditure ceiling does not give the President an item veto?

Mr. **ROTH**. There are two ways the President may make program cuts. If the Congress exceeds its self-imposed limitation, the President must make cuts. If these come in programs where money is distributed according to a formula, then the formula will be applied to the lesser amount. But I should advise the Senator from Virginia that it does give the power to the President to decide where the cuts would be made in the event we go above the ceiling.

Mr. **BYRD** of Virginia. Well, would the Senator from Delaware amplify a little bit the first part he was speaking about, where the proration occurs?

Mr. **ROTH**. As the Senator is aware, there are a number of programs where the President must distribute money according to given formulas. The grant amount, or capital base, is the money we in Congress authorize. So, if Congress appropriates funds and the total goes above the spending limitation, then the President has the authority to decide where the cuts will be made. Should these cuts come in formula programs, the President cannot change the formula, but he can reduce the capital base.

To put it another way, the formula would be applied to a lesser appropriation than that adopted by Congress.

Mr. **BYRD** of Virginia. I thank the Senator. I would hope that the amendment does not provide for an item veto. It seems to me we need a ceiling, but I have some concern in regard to an item veto.

My view in regard to an item veto differs sharply from that of my immediate predecessor—the great Senator—who, throughout his long career in the Senate, was a stanch supporter of the item veto.

But I have reached the conclusion that an item veto is not in the best interests of the Congress because what it does is, in effect, to give the President more power where, it seems to me, Congress needs to reserve for itself the responsibility, the prerogatives, and the power which it has under the Constitution in regard to the appropriation of funds.

But, as I visualize the amendment at the moment, the question of an item veto is not of foremost consideration.

I should like to consider a little further the question of the item veto, so far as the amendment is concerned, but I think the Senator from Delaware is certainly on the right track in attempting to put a ceiling on expenditures. Had that ceiling been placed there some years ago, we probably would not be here today considering an increase in the debt limit.

When we consider the matter of our total finances, when we realize that the past fiscal year ended with a Federal funds deficit of $30 billion, when we realize that the administration estimates the current fiscal year will have a Federal funds deficit of $45 billion, and when we realize that it is projected that the upcoming fiscal year will have a Federal funds deficit of $36 billion, I believe that is cause for very grave concern.

The Senator from Delaware is attempting to tackle the problem through an expenditure ceiling. I think that is a desirable and important approach.

If we do not put the Government's financial house in order some way or another, then I am convinced we we will have more inflation. The value of the dollar will further decrease.

Under Secretary of the Treasury Volcker, in his testimony before the Banking, Housing, and Urban Committee on February 22 last, brought out the fact that the value of the American dollar, vis-a-vis foreign currencies, excepting Canada, has been devalued to the extent of 12 percent as a result of the recent negotiations between the Treasury Department and other nations.

In conversation with Under Secretary Volcker, in fairness to him, I should point out that he phrased it a little bit differently. He phrased it in the sense that the value of foreign currencies has increased by 12 percent while the value of the U.S. dollar has decreased by 11 percent.

Be that as it may, whether the value of the American dollar has dropped 12 percent or 11 percent, it is a very significant reduction in the value of our currency. Unless a ceiling of some kind is adopted such as is proposed by the able Senator from Delaware, we will see a further drop in the value of American currency.

When we do that, as the American currency depreciates, then I submit that the working men and women of this Nation who are trying to raise a family, trying to put a little bit aside for their old age, will be the ones hardest hit, all as a result of spending policies—the spending policies of past administrations, the spending policies of the present administration, the spending policies of the present Congress and recent past Congresses. This has set the pace for this inflation. It has been the major cause, in my judgment for this inflation, and the major reason why the Treasury Department officials had to negotiate with foreign nations to bring about a devaluation of the American dollar and an upward valuation of foreign currencies.

I say again, I feel that the Senator from Delaware is rendering the Senate, the Congress, and the American people a valuable service in presenting this amendment.

Mr. **ROTH**. Mr. President, I thank the distinguished Senator from Virginia. I should like to point out that under my amendment there is no authority for the President to cut back on any appropriation unless we in Congress exceed the ceiling limitation we are establishing.

I might add that I think, in taking the figure of $246.3 billion, we are taking a generous figure, and that this provides considerable flexibility for Congress to work its will.

One of the purposes of this amendment is to impose discipline on the Congress as well as on the President, and the only way we can do that is to force ourselves to live within that limitation.

My hope is that Congress, during this year, as a result of action early in the session, will be forced to keep within that ceiling.

If the Congress does enact a ceiling

and sticks to it, the President, of course, will have no authority to make any changes.

Mr. BYRD of Virginia. I agree thoroughly that Congress needs to discipline itself. Congress needs to keep spending under control.

If we are going to put the Nation's financial house in order, it must be done by both Congress and the President working together. Congress cannot say to the President, "You do it." The President cannot effectively say to the Congress, "You do it." We have to do it together, as I see it. As the Senator from Delaware (Mr. Roth) pointed out, the effect and purpose of the amendment will be to put some restraints on Congress and on the President.

I agree with his assertion that this is a very generous figure, $246 billion.

Mr. GAMBRELL. Mr. President, I ask the Senator from Delaware or the Senator from Virginia a question. It is my understanding that the President in his budget estimate asked for a spending limitation on legislation expenditures. Is that correct?

Mr. ROTH. The Senator is correct.

Mr. GAMBRELL. It is my understanding that Dr. Burns, Chairman of the Federal Reserve System, on at least two public occasions has come out in favor of such a measure.

Mr. ROTH. The Senator is correct.

Mr. GAMBRELL. Mr. President, I ask the Senator from Virginia if it is not his opinion that now is the propitious time to go forward with the legislation which the President and the Chairman of the Federal Reserve System favor. Is it not a good time to go forward with such legislation at this time?

Mr. BYRD of Virginia. Mr. President, it seems to me that now is the time to do it. The debt ceiling bill is a logical vehicle to which to attach such legislation. It ties in precisely with the national debt, and if we are going to have a ceiling on expenditures at all, it occurs to me that the logical measure on which to attach it is the debt ceiling bill which will be before the Senate sometime this week or next. If we are going to put on a ceiling at all, the time to do it is now in the beginning of the session.

I agree thoroughly with the Senator from Georgia that if we are going to put a ceiling on expenditures, now is the time to do it.

Mr. GAMBRELL. Mr. President, it seems to me that we deal with such things as the debt limit in a perfunctory way. It seems to me that we have to pass a ceiling limitation and that we should impose a lot of other limitations on ourselves. It seems to me that now is the time to go about it.

In my own judgment, I think we should consider, to the best of our ability, moving to attach it to the debt ceiling bill. I propose to join the Senator from Delaware in making this effort.

## TRANSACTION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the prior order, the Senate will have a period for the transaction of routine morning business, for not to exceed 30 minutes.

## QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Subsequently, this order was amended to provide for the Senate to convene at 9:45 a.m. tomorrow.)

## ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT FROM TOMORROW TO 10 A.M. FRIDAY, MARCH 3, 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in adjournment until 10 a.m. on Friday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT FROM FRIDAY TO 10 A.M. MONDAY, MARCH 6, 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes it business on Friday it stand in adjournment until 10 a.m. on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Allen) laid before the Senate the following letters, which were referred as indicated:

### Report of the Federal Crop Insurance Corporation

A letter from the Secretary of Agriculture transmitting, pursuant to law, a report of the Federal Crop Insurance Corporation for the 1971 crop year (with accompanying report): to the Committee on Agriculture and Forestry.

### Disbursements Made Under Defense Contingencies

A letter from the Secretary of Defense reporting, pursuant to law, on disbursements made against the appropriation for "Contingencies, Defense"; to the Committee on Appropriations.

### Approval of Loan to Western Illinois Power Cooperative, Inc.

A letter from the Acting Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to Western Illinois Power Cooperative, Inc., of Jacksonville, Illinois, in the amount of $4,187,000 (with an accompanying paper); to the Committee on Appropriations.

### Defense Manpower Requirements Report

A letter from the Secretary of Defense transmitting, pursuant to law, the Defense Manpower Requirements Report for fiscal year 1973 (with accompanying report); to the Committee on Armed Services.

### Report on Military Construction Projects

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on military construction projects completed in fiscal year 1971 (with accompanying papers); to the Committee on Armed Services.

### Report of Securities and Exchange Commission

A letter from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

### Proposed Legislation Relating to the Flag Officer Structure of the Coast Guard

A letter from the Secretary of Transportation submitting proposed legislation to amend the provisions of title 14, U.S. Code, relating to the flag officer structure of the Coast Guard, and for other purposes (with accompanying papers); to the Committee on Commerce.

### Conversion to the Metric System

A letter from the Acting Secretary of Commerce submitting proposed legislation to establish a national policy relating to conversion to the metric system in the United States (with accompanying papers); to the Committee on Commerce.

### Report on Airport and Airway Trust Fund

A letter from the Acting Secretary of the Treasury, transmitting, pursuant to law, a report on the financial condition and results of the operations of the Airport and Airway Trust Fund, for the fiscal year 1971 (with an accompanying report); to the Committee on Finance.

### Report on the Highway Trust Fund

A letter from the Acting Secretary of the Treasury, transmitting, pursuant to law, a report on the Highway Trust Fund, dated June 30, 1971 (with an accompanying report); to the Committee on Finance.

### Report on Community Credit Guaranty Program

A letter from the President, Overseas Private Investment Corporation, Washington, D.C., transmitting, pursuant to law, an interim report on the Community Credit Guaranty Program (with an accompanying report); to the Commitee on Foreign Relations.

### Addition of Two Members of the National Historical Publications Commission

A letter from the Assistant Administrator of General Services submitting proposed legislation providing for two additional members of the National Historical Publications Commission, and for other purposes (with accompanying papers); to the Committee on Government Operations.

### REPORTS OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General of the United States submitting, pursuant to law, two reports, one entitled "Audit of the Inter-American Social Development Institute, Fiscal Year 1971"; and the other entitled "Improved Production Cost Data for Individual Nuclear Weapon Systems (with accompanying reports); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Effectiveness of Smithsonian Science Information Exchange Hampered by Lack of Complete, Current Research Information," Smithsonian Institution, dated March 1, 1972 (with an accompanying report); to the Committee on Government Operations.

### OPINION AND FINDINGS OF FACT IN CASE OF RICHARD GRAINGER ET AL. V. UNITED STATES

A letter from the Chief Commissioner, United States Court of Claims, transmitting, pursuant to law, copies of the opinion and findings of fact in the case of Richard Grainger et al. v. United States, Cong. Ref. 4–69 (with accompanying papers); to the Committee on Interior and Insular Affairs.

### PROPOSED SALARY INCREASE PLAN

A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to provide for a within-grade salary increase plan for secretaries to circuit and district judges of the courts of the United States (with an accompanying paper); to the Committee on the Judiciary.

### REPORT ON ACTIVITIES OF FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW

A letter from the Executive Secretary, Federal Metal and Nonmetallic Mine Safety Board of Review, transmitting, pursuant to law, a report on the activities of that Board, for the calendar year 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

### PROSPECTUS TO AMEND A PUBLIC BUILDING PROJECT

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for the Federal Office Building, Chicago, Ill., (with accompanying papers); to the Committee on Public Works.

### REPORT ON PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION

A letter from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report on Progress in the Prevention and Control of Air Pollution, for the period January-December 1971 (with an accompanying report); to the Committee on Public Works.

### REPORT ENTITLED "THE ECONOMICS OF CLEAN AIR"

A letter from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled "The Economics of Clean Air" (with an accompanying report); to the Committee on Public Works.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution of the House of Representatives of the State of Washington; to the Committee on Agriculture and Forestry:

"RESOLUTION NO. 72–38

"Whereas, Sediment eroding from the croplands of Eastern Washington, North Central Oregon, and parts of Idaho is one of the largest single sources of water pollution in the tri-state area; and

"Whereas, This sediment is discharging into the storage areas of fifteen multipurpose dams on the Columbia and Snake Rivers, destroying water-based recreational sites at each side-stream estuary, damaging fisheries, and shortening the longevity of the useful life of the various dams; and

"Whereas, The eroding croplands themselves are being damaged to the extent of losing productive potential for food and fiber production at an alarming rate; and

"Whereas, Land treatment measures can be installed that can adequately reduce erosion and sedimentation damage at a comparatively low cost in relation to the value of the resources they would protect; and

"Whereas, The cost of needed conservation measures to the owners and operators of these croplands would seriously disrupt the economic stability of their enterprises, even while making use of existing programs; and

"Whereas, House Bill No. 12694 provides authority to the Secretary of Agriculture to enter into agreements with landowners and operators of sediment-producing lands and share the cost of permanent conservation practices and needed land use changes;

"Now, therefore, be it resolved, By the House of Representatives of the State of Washington, That the Soil Conservation and Domestic Allotment Act, as amended, be amended to provide for a Columbia-Snake-Palouse Conservation Program by passage of House Bill No. 12694; and

"Be it further resolved, That copies of this Resolution be directed immediately by the Chief Clerk of this House of Representatives to President Richard M. Nixon, to the President of the Senate, the Speaker of the House of Representatives, and to the members of the Congressional delegation from Washington State.

"Adopted February 17, 1972."

A joint memorial of the General Assembly of the State of Colorado; to the Committee on Finance:

"HOUSE JOINT MEMORIAL NO. 1004

"Memorializing the Congress and the President of the United States to maintain the free market price system and quota import system on red meat products

"Whereas, A longtime abundant supply of wholesome fresh meat can be supplied to the American consumer only by a financially sound meat-producing industry; and

"Whereas, The American meat-producing industry has lived with substantial foreign meat imports during periods of extremely depressed domestic prices; and

"Whereas, the present import quota system has been established over a long period of time and required intensive international negotiations for such establishment; and

"Whereas, The present system was arrived at as a result of consideration for international trade relations, American consumers, and healthy meat-producing industry; and

"Whereas, The market for beef products has now reached the same level as in 1951, and in 1951 it took the average American one hour of labor to buy 1.7 pounds of beef and now one hour of labor will buy 3.3 pounds of beef; and

"Whereas, The market for beef and beef products has taken twenty-one years to reach a peak price, due to the operation of a free market in which most other consumer services and products have a new peak every year; and

"Whereas, The consumer spendable income has increased almost twice as rapidly as food expenditures in the past ten years, and the amount spent on food in 1960 was twenty percent, and in 1970 that percentage of income allocated for food was about 16.6 percent; and

"Whereas, Certain officials of the federal government have urged that the quota on importation of red meat be raised thus to lower retail priecs of beef products; and

"Whereas, The rise in red meat importation will probably have little effect on the price the consumer will pay for meat, but will have a serious effect on the price to the meat producer; and

"Whereas, A financially strong meat-producing industry is vital to the agricultural industry and the entire economy of the State of Colorado; now, therefore,

"*Be It Resolved by the House of Representatives of the Forty-eighth General Assembly of the State of Colorado, the Senate concurring herein:*

"That the President and the Congress of the United States should endeavor to maintain the red meat quota formula at its present level.

"*Be It Further Resolved,* That the President of the United States and agencies of the federal government should maintain the free market price system of red meat without superimposing import quota solutions to adjust the free market and thereby avoid disruption of the economy of the meat-producing industry, the economy of the nation as a whole, and interference with presently negotiated world trade arrangements.

"*Be It Further Resolved,* That copies of this Memorial be transmitted to the President of the United States, the President of the Senate of the Congress of the United States, the Speaker of the House of Representatives of the Congress of the United States, and each member of Congress from the State of Colorado."

A resolution of the Senate of the State of New Jersey; to the Committee on Public Works:

"SENATE RESOLUTION NO. 5

"A senate resolution memorializing the Congress of the United States to increase Federal highway aid to urban areas

"Whereas, The State of New Jersey is the most highly urbanized State in the Union with one of the highest levels of traffic density in the world; and

"Whereas, A substantial proportion of the highway system is antiquated, treacherous and inadequate as attested, for example, by such highways as Route 22 in Union county which averages 300 accidents a year with a serious accident occurring every 54 hours; and

"Whereas, The cost of financing improvements on Route 22 and many other highways in New Jersey has reached a point beyond the State's ability to pay for it; and

"Whereas, New Jerseyans presently contribute, through the *[4%]* *$.04* per gallon Federal tax on gasoline, a disproportionately high share of the amount needed to maintain the Federal Highway Trust Fund; and

"Whereas, New Jersey received only *[1/70]* *1/40* of the more than $4 billion allocated in 1969 from said fund for interstate highway construction; and

"Whereas, The Federal formula, which allocated only 25% of the federal funds for building *[and maintaining]* highways in urban areas, is discriminatory against urban areas and is badly in need of revision if urban areas are to solve their critical problem of dangerous and congested highways; now, therefore

"Be it resolved *by the Senate of the State of New Jersey:*

"1. The Congress of the United States is hereby memorialized to revise the existing formula for highway funding in order that New Jersey and other urbanized states of the Union will receive a fairer share of moneys made available for the maintenance and construction of highways.

"2. That a copy of this resolution, signed by the President of the Senate and attested by the Secretary, be transmitted to the President of the Senate and Speaker of the House of Representatives of the United States and to each member of the Congress elected from the State of New Jersey."

A concurrent resolution of the Legislature of the State of New Jersey; to the Committee on Public Works:

"Senate Concurrent Resolution No. 37

"A concurrent resolution memorializing the Secretary of Defense of the United States to direct the Army Corps of Engineers to cease and desist from land fill activities in New Jersey unless coordinated and approved by the Commissioner of Environmental Protection

"Whereas, The Army Corps of Engineers intends to dredge the Delaware river and to create certain land fills to the alleged furtherance of navigation;

"Whereas, The Army Corps of Engineers has undertaken this project without apparent consideration to environmental and estuarian interests and sea wall protection;

"Whereas, This project will create additional channels and improvements thereof to the probable detriment of the people of New Jersey; now therefore,

"*Be it resolved by the Senate of the State of New Jersey (the General Assembly concurring)*:

"1. That the Secretary of Defense of the United States be, and is hereby, respectfully memorialized to direct the U.S. Army Corps of Engineers to cease and desist from all land fill activities in New Jersey unless coordinated and approved by the Commissioner of Environmental Protection of the State of New Jersey.

"2. That the Attorney General of New Jersey be respectfully requested to take all necessary and appropriate actions to protect the interests of the State of New Jersey.

"3. That authenticated copies of this resolution, signed by the President of the Senate and the Speaker of the General Assembly, be transmitted to the Secretary of Defense of the United States.

"4. That further copies of this resolution be transmitted to each member of Congress of the United States elected from the State of New Jersey."

Resolutions of the Louisiana Association of Soil and Water Conservation District Supervisors, Monroe, La., relating to environmental protection; to the Committee on Agriculture and Forestry.

A resolution of the city council of Baltimore, Md., requesting executive intercession for release of $32 million to the Department of Housing and Community Development of Baltimore; to the Committee on Banking, Housing and Urban Affairs.

Two resolutions of the city council of the town of North Bonneville, Wash., supporting the revenue-sharing plan; to the Committee on Finance.

Resolutions of the Detroit Lithuanian Organizations Center, Detroit, Mich., relating to captive European nations; to the Committee on Foreign Relations.

A resolution of the Lithuanian American Council, Inc., Miami, Fla., relating to captive European nations; to the Committee on Foreign Relations.

A resolution of the town board of Orangetown regarding extension of Federal grants for Orangetown environmental programs; to the Committee on Public Works.

## ENROLLED BILLS SIGNED

The President pro tempore announced that on today, March 1, 1972, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

H.R. 1824. An act for the relief of Clinton M. Hoose;

H.R. 2828. An act for the relief of Mrs. Rose Scanio;

H.R. 2846. An act for the relief of Roy E. Carroll;

H.R. 4497. An act for the relief of Lloyd B. Earle;

H.R. 4779. An act for the relief of Nina Daniel;

H.R. 6291. An act to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets numbered 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes;

H.R. 6998. An act for the relief of Salman M. Hilmy; and

H.R. 7871. An act for the relief of Robert J. Beas.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GURNEY:

S. 3264. A bill to amend title 38, United States Code. Referred to the Committee on the Judiciary.

By Mr. LONG (for himself and Mr. Ellender):

S. 3265. A bill to amend the Highway Revenue Act of 1956, and for other purposes. Referred to the Committee on Finance.

S. 3266. A bill to amend title 23, United States Code, to authorize the Secretary of Transportation to reimburse States for the Federal share of the costs of future construction of toll roads, and for other purposes. Referred to the Committee on Public Works.

By Mr. MOSS:

S. 3267. A bill to provide for day care services for individuals eligible to enroll in the supplementary medical insurance program for the aged established under part B of title XVIII of the Social Security Act;

S. 3268. A bill to provide nursing care services under part B of title XVIII of the Social Security Act;

S. 3269. A bill to provide homemaker services to elderly individuals in need thereof;

S. 3270. A bill to amend the Social Security Act to provide that State plans, approved under title XIX of such Act, provide for the furnishing of home health care services and visiting nurse services to all eligible individuals over 65 years of age who need such services; and

S. 3271. A bill to authorize an experimental program to provide for care for elderly individuals in their own homes. Referred to the Committee on Finance.

By Mr. GOLDWATER (for himself, Mr. Chiles, and Mr. Dole):

S. 3272. A bill to provide for the reimbursement to taxpayers of all costs, including legal and accounting fees, incurred by them in contesting second audits of their income tax liability if the second deficiencies are not sustained, and for other purposes. Referred to the Committee on Finance.

By Mr. HUMPHREY:

S. 3273. A bill to provide Federal health insurance for Federal employees. Referred to the Committee on Post Office and Civil Service.

By Mr. BURDICK (for himself and Mr. Young):

S. 3274. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development proposals. Referred to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS:

S. 3275. A bill to provide that the Social Security benefits provided by the Tax Adjustment Act of 1966 for certain uninsured individuals at age 72 shall apply in the case of residents of the Commonwealth of Puerto Rico, the Virgin Islands, and Guam. Referred to the Committee on Finance.

By Mr. DOLE (for himself, Mr. Allott, Mr. Bennett, Mr. Curtis, Mr. Eastland, Mr. Goldwater, Mr. Young, Mr. Pearson, Mr. Tower, Mr. Jordan of Idaho, Mr. Muskie, Mr. McGovern, Mr. Humphrey, Mr. Harris, Mr. Hansen, Mr. Mansfield, Mr. Metcalf, Mr. Mondale, and Mr. McGee):

S. 3276. A bill to enable wheat producers, processors, and end-product manufacturers of wheat foods to work together to establish, finance, and administer a coordinated program of research, education, and promotion to maintain and expand markets for wheat and wheat products for use as human foods within the United States. Referred to the Committee on Agriculture and Forestry.

By Mr. GRIFFIN:

S. 3277. A bill to amend the Communications Act of 1934 to require noncommercial educational broadcasting stations to keep certain records and audio recordings. Referred to the Committee on Commerce.

By Mr. HUMPHREY:

S. 3278. A bill to authorize the Secretary of Agriculture to assist States, communities, and land owners in cooperative efforts to safeguard lives and property in rural areas through increased protection from wildfires, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. MATHIAS:

S. 3279. A bill for the relief of Guadalupe Antonia Cruz. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 3280. A bill to provide that Major Carvel de Bussy shall be advanced to the grade of lieutenant colonel, and for other purposes. Referred to the Committee on Armed Services.

By Mr. INOUYE (for himself and Mr. Fong):

S. 3281. A bill to enable consideration of the Kokee Water Project, Hawaii, under the provisions of the Small Reclamation Projects Act (70 Stat. 1044) as amended. Referred to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH:

S. 3282. A bill to provide for the regulation of production of surface mined coal so as to assure the protection of the public health, welfare, and the environment, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GURNEY:

S. 3264. A bill to amend title 38, United States Code. Referred to the Committee on the Judiciary.

Mr. GURNEY. Mr. President, for quite some time, I have been concerned about the condition of our court system, in particular, the backlog of cases that have accumulated in our State and Federal courts. Last year, I introduced a bill that would help relieve the congestion at the State and local level by providing the means and the money to modernize those court systems. Today, I am introducing a bill that would help reduce the backlogs in Federal courts by sharply cutting down on the number of frivolous petitions seeking the issuance of writs of habeas corpus. At present, these petitions all too often require cases involving circumstances so removed by time as to be almost beyond reconstruction.

The writ of habeas corpus was originally designed as a means of assuring that a person would not be detained without trial. It had no applicability whatsoever as a postconviction remedy. However, in the United States, such applicability was extended by Congress to Federal prisoners in 1789 and to State prisoners in 1867. Since then, court decisions have greatly expanded the usage of habeas corpus, with the greatest acceleration coming since 1953.

Supreme Court decisions such as Mapp, Escobedo, and Miranda, have opened the door wide to imaginative defense attorneys and jailhouse lawyers.

In 1960, there were 1,184 petitions for habeas corpus from Federal and State prisoners. By 1970, this figure had reached to 10,792; at the end of fiscal 1971, it stood at 12,145. Filings increased almost 600 percent from 1963 to 1971 and 23.2 percent in just 1 year—1969 to 1970. Such statistics are indicative, not only of an increased crime rate and an increased concern for the rights of the accused, but also of the fact that there is presently no limit on the number of habeas corpus petitions a prisoner can file.

Thus, an imaginative prisoner can claim that his confession was coerced, then later can say that there was unreasonable search and seizure involved in obtaining evidence against him, and still later can claim that he should have been granted a change of venue due to "adverse" publicity before the trial. There is practically no end to the number of claims that may be raised; records show that some prisoners have filed as many as 40 or 50.

If these petitions were serious and based on solid grounds that would be one thing, but statistics indicate that less than 1 percent of them are found to have merit. With over 6,000 criminal cases at least a year old, still awaiting trial in Federal court as of June 30, 1970, the Federal courts cannot continue to be bogged down with such a stream of frivolous petitions.

This flood of habeas corpus petitions has had several other adverse effects on our system of justice. As Attorney General John Mitchell pointed out in a speech given last year to the annual convention of the Alabama State Bar Association, the existing lack of finality of court decisions diminishes respect for the law generally and toughens the task of rehabilitating convicts in particular. How can people have confidence in a legal system if its decisions can continually be subject to redetermination even though the facts of a case, which have been determined, remain unchanged? And how can we expect to rehabilitate prisoners if the first step in rehabilitation—recognition of guilt—is continuously left in doubt?

The bill that I am introducing today would have the effect of eliminating many of the frivolous petitions and the notorious stalling tactics that are eroding our system of justice, while at the same time, preserving the principle of habeas corpus. Specifically, the bill provides that:

First, a State court's determination of the merits of a factual issue is presumed to be correct and all factual findings made by the court after a hearing shall be deemed conclusive unless the petitioner shall establish, or unless it shall become clear, or unless the respondent shall admit: (a) A lack of jurisdiction over the person or subject matter, or (b) that the State court failed to appoint counsel for an indigent and therefore deprived him of his constitutional rights.

Second, matters outside the proceedings of a State court shall not be considered in cases where the petitioner is in custody as a result of the judgment of a State court.

Third, application for a writ of habeas corpus must be made within 1 year of final disposition of all direct appellate proceedings, and that all issues to be raised must be raised in a single petition. This 1-year limitation would also be applied to Federal prisoners.

Fourth, there may be only one petition for habeas corpus by an applicant.

Let me be very clear about what these provisions mean. Unlike some proposals that have been advanced, the bill which I am introducing in no way damages the right to seek relief from unlawful incarceration in Federal court. What it does do is recognize both the Federal nature of our judicial system and the need for finality in the administration of justice.

In recognizing the Federal nature of our judicial system, this bill would eliminate a presently existing situation in which a single Federal trial judge can, in effect, overrule the entire State judicial system by a finding of fact contrary to that of the State courts.

The bill also insures finality in the administration of justice by requiring that prisoners raise their grievances within 1 year after the exhaustion of their State court remedies. Surely 12 months is a sufficient period of time in this regard.

These provisions will, if enacted, eliminate the mockery presently being made of our legal system through use of writs of habeas corpus for purposes for which they were never intended. If anything, they will enable, by speeding up handling of meritorious petitions, writs of habeas corpus to better serve the cause of justice. The administration of justice today is in desperate need of reform if we are to live up to our constitutional commitment to a fair and speedy trial and if we are to maintain public confidence in our judicial system. This proposal will be an important step forward in improving justice in America and in renewing the Nation's faith that justice will be done.

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By Mr. LONG (for himself and Mr. ELLENDER):

S. 3265. A bill to amend the Highway Revenue Act of 1956, and for other purposes. Referred to the Committee on Finance.

S. 3266. A bill to amend title 23, United States Code, to authorize the Secretary of Transportation to reimburse States for the Federal share of the costs of future construction of toll roads, and for other purposes. Referred to the Committee on Public Works.

Mr. LONG. Mr. President, I propose that during the next 5 years we should build as many miles of highways to meet Interstate standards as we have built during the past 15 years.

I introduce two bills to permit, for the first time, that the Federal Government can participate in paying the expense of making toll roads into free highways. Thereafter, the Secretary of Transportation could sign an agreement with a State government to build a highway to Interstate standards; tolls on that highway would help carry the interest costs, and the State's share of the burden would be 30 percent of the capital cost. When the Federal Government, out of funds derived from the Interstate highway gasoline tax, has paid out the Federal share of the cost of construction, the tolls then would be lifted from that highway and it would become part of the Interstate System.

Here is how that could work as applied to one specific project suggested in Louisiana, a project to build a toll road from New Orleans, through the Teche Country, past Lafayette, past Opelousas, past Alexandria, to Shreveport, with another leg going from Alexandria to Monroe.

That project would be built within 5 years. During the time it was being built, the segments that first became available could be used on a free basis until long enough segments were completed so it would be practical to levy tolls. The tolls then could be collected to carry the interest costs until Federal funds became available. As the Federal 70-percent share of the cost was retired, the State 30 percent also would be retired. So, with no additional tax—save only the additional revenue brought in by the tolls—this would be a free road 15 years after it was completed, and, in all probability, before we could succeed in building the road otherwise.

Mr. President, I am aware of the problems involved in free roads. I suppose that 10 years ago I would have been strenuously opposed to the suggestion I am making now. But we have learned a lot about toll roads, and we have learned that some of the evils connected with them must not always be so.

It would be my suggestion, for example, that the Federal participation should see that there would be no excessive fees of any sort. The road would be constructed the same as any Federal highway and Federal participation and supervision would assure that the entire matter was conducted in the public interest—the same as any other project in which the Federal Government participates. All bids should be competitive, even down to the services provided along the route, such as food and gasoline—as we have on some of the modern turnpikes in this country.

Mr. President, upon that basis, the revenue derived from the gasoline tax that goes into the Highway Trust Fund would simply reduce and, eventually, pay off the Federal share. If the State share has not been paid by that time, the State would have to regard it as a general obligation against the State to pay any fees that remain to make it a free road.

I have analyzed some of the arguments—for and against—and I am persuaded to the view that the public can have all the highways it wants if the public is willing to pay for them. That is how it has always been. What a lot of people do not seem to realize is that you are paying for the highways you are riding on, in any event. You always have paid for them. It is just a matter of how you are going to pay up.

Many times, in building highways, the burden is disproportionate. The person who gets the advantage by driving on it day after day, or the person who builds his business right next to that highway, achieves far more from it than other people who are paying for it with their gasoline taxes.

Many people who contribute to the construction of that highway will never ride on it a single day in their lives. There is disproportionate burden, just as there is disproportionate advantage. That disproportion is reduced when you pay for it by tolls. A toll is a tax about which the public is very painfully aware, much more so than the average tax you pay. The burden in that case is disproportionately heavy on the person who is actually using a toll road because he also is paying taxes to support free roads. I understand that. My proposal would reduce that disproportionate burden since the Federal Government would pick up 70 percent of the cost and tolls would pay only 30 percent plus interest costs.

Mr. President, there are a lot of things about toll roads we ought to reconsider as we need more and more highways to satisfy growing demands and as we find more sophisticated uses of this device.

For example, there are a lot of people who never think about certain advantages that never meet the eye. Last week I explained this to a man who earned his retirement from the Louisiana State Patrol. I explained that there were advantages to a man who lived right next door to a toll road but who never drives on it a day in his life. Offhand, it did not occur to him why that would be so.

Let us assume that the highway where I have my farm near Baton Rouge was a toll road. Another road, which is free, is on the other side of my farm. Now, suppose I never used the hypothetical toll road because I did not care to pay the tolls. There is a lot less traffic on the free road because it is not a high-speed facility. But I can move on it more efficiently because most of the traffic is being drained over to the limited-access toll road. Furthermore, I have to pay taxes for road maintenance. That old free highway will not require as much maintenance to keep up because of the lighter traffic load. Therefore, it will cost me a lot less taxes for that maintenance.

Mr. President, even if I never intended to use the toll road, if there were an emergency and a doctor had to get there in 15 minutes to save a life, that doctor could be there in time because that toll road is there. There are all sorts of advantages to a toll road that might not otherwise appear.

I have discussed this legislation with my distinguished colleague, JOE WAGGONNER, the Congressman from Louisiana's Fourth District, who has been working with me for years seeking to provide a north-south road from Shreveport, connecting to Baton Rouge, New Orleans, and the rest of the State. We failed in our efforts to get such a road as part of the interstate system when 1,500 miles were added to the system in 1968.

Mr. President, even if we had succeeded, there probably would not have been a yard of concrete poured on it yet because it probably would have had to await the completion of previously allocated interstate roads in Louisiana. But the entire north-south road could have been built and there would be cars rolling on it from New Orleans all the way to Shreveport if we had done in 1968 what I am advocating now: simply put this in effect so that the State can borrow the money with Federal cooperation. Plan it, build it, and, when it is built, levy tolls adequate to carry the interest charges and, eventually, retire the State's share of the cost of building it with no additional taxes.

Mr. President, I would like to ride on that north-south road. And I mean ride on it in a car—not in a hearse.

I also have discussed this with Chairman WILBUR MILLS of the House Ways and Means Committee, who would have to participate in the legislative process because this proposal requires two bills. One bill to extend indefinitely the Highway Trust Fund would go to the Committee on Ways and Means and then to the Senate Committee on Finance. The other bill would go through the Public Works Committee in the House of Representatives and in the U.S. Senate.

Chairman MILLS is receptive to the idea. He reports to me that Arkansas might prefer to do this a different way than Louisiana. But as long as Arkansas gets its share of the money he is not going to quarrel about that feature of it. I am satisfied that, if this works, and I believe it will, it will be so attractive for people to have twice as many miles of interstate highway as now that other States will follow Louisiana's lead and build toll roads under my proposal as soon as possible.

Chairman JENNINGS RANDOLPH of the Senate Public Works Committee, a very dear friend, has assured me that he will call hearings on this matter in this Congress and he will give it his very best attention. I very much hope that when he has thoroughly studied it he will go along with it.

I do not have the endorsement at this point from the Federal Highway Administration, but they did help me draft the legislation and they have offered their suggestions.

Mr. President, I am satisfied that if this proposal works as well as I think it will work, this could lead to the Nation having twice as many miles of interstate highway completed to interstate standards by the time the initial system is fully completed—in 1980 or thereafter—than we would have otherwise.

Now, there are several aspects that should be considered. One of them: To do this would save us a great deal of money. I am not talking about the interest costs; I am talking about the costs that offset it. If you look at the cost in lives, we could save at least 1,500 lives by doing business this way on Louisiana's north-south road alone. The death rate on interstate highways, or highways built to interstate standards, is about one-half what it is on primary highways.

In addition the savings in property damage and personal injury and lower insurance rates could be as much as one-quarter what it would be if you were riding on primary roads. Those two savings alone—death, if you give that life no more than the value a court would put on it in a lawsuit, and in property damage—could exceed the interest costs entailed in building the toll road. If you look at these savings, especially in lives, they more than offset the interest costs. The interest costs are borne by the tolls and you have something 15 years sooner.

Mr. President, I ask unanimous consent to have printed in the RECORD a table provided by the Federal Highway Administration, showing the 1970 Louisiana and national fatality rate from traffic accidents on various types of roads.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

LOUISIANA TRAFFIC ACCIDENT DATA, 1970

| | Number of fatalities | | Fatality rate (100,000,000 vehicle miles) | |
|---|---|---|---|---|
| | Louisiana | United States | Louisiana | United States |
| Interstate (final) | 49 | 4,328 | 3.04 | 2.68 |
| Interstate (traveled way)[1] | 74 | 2,764 | 5.81 | 5.79 |
| Other Fed-aid, primary routes | 323 | 17,919 | 7.20 | 5.35 |
| Fed-aid secondary: | | | | |
| State | 340 | 8,707 | 7.83 | 7.00 |
| Local | 1 | 4,344 | 7.14 | 5.71 |
| Non-Fed-aid: | | | | |
| State | 76 | 1,926 | 5.94 | 4.31 |
| Local | 257 | 13,811 | 6.70 | 4.17 |
| Total | 1,120 | 53,816 | | |
| 1971 estimates | 1,129 | 55,000 | | |

[1] Roads connecting completed sections of interstate.

Mr. LONG. Mr. President, I am not here to say that the tolls should be paid for 15 years. It may very well be that some future candidate for President might want to suggest that all such tolls be eliminated and the roads all made free. If the people of this country decide they want to make it a general obligation of the entire Nation, rather than being an obligation of a particular State, it would be their privilege to do so. If they made that decision they would have that highway from which to remove the tolls—rather than have to wait many years to get it.

Mr. President, I believe that as long as we leave each State the option to decide whether or not it wants to take advantage of this procedure that the Congress will be receptive to it and we will find the votes to pass it. In any event, you can be assured of my best efforts.

Mr. President, it may well be that in the end it will be desirable to extend this type of procedure to expedite the construction of highways which do not bear tolls.

I am informed that to some degree

that is already possible under existing law. However, it may be that a change in the law should be required in this connection. However, that is something that can be considered at a later date.

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By Mr. MOSS:

S. 3267. A bill to provide for day care services for individuals eligible to enroll in the supplementary medical insurance program for the aged established under part B of title XVIII of the Social Security Act;

S. 3268. A bill to provide nursing care services under part B of title XVIII of the Social Security Act;

S. 3269. A bill to provide homemaker services to elderly individuals in need thereof;

S. 3270. A bill to amend the Social Security Act to provide that State plans, approved under title XIX of such act, provide for the furnishing of home health care services and visiting nurse services to all eligible individuals over 65 years of age who need such services; and

S. 3271. A bill to authorize an experimental program to provide for care for elderly individuals in their own homes. Referred to the Committee on Finance.

### NURSING HOME REFORM BILLS

Mr. MOSS. Mr. President, on December 2, as the White House Conference on Aging met to consider the needs of our 20 million older Americans, I identified what I consider to be the five major problems in the field of long-term care. The problems were:

Lack of a clear policy with regard to the infirm elderly;

Lax enforcement on the part of the States and Federal Government;

The absence of the physician from the nursing home setting;

The existence of financial incentives in favor of poor care; and

The reliance on inadequate and untrained personnel.

On that date I introduced a 13-bill package designed to meet these problems and indicated that I would have other bills for introduction in the near future.

I am today introducing five additional bills all of which fall under the category of providing a clear policy with regard to the infirm elderly.

These bills provide the ingredients of a broad spectrum of nursing services and alternatives to institutionalization.

As I have said previously, we have no policy in this country with regard to the infirm elderly. The rhetoric speaks of care and concern but the reality is poor care, no care, or just plain neglect. We continue to follow the policy used by other societies for the infirm elderly—and that is abandonment. When families are confronted with the question of what to do with a loved one grown old, there are currently few or no options available.

Some older Americans, in reading the red, white, and blue medicare handbook, are under the impression that they will be eligible for 100 days' care in a medicare nursing home—extended care facilities or ECF's—as the book describes. But this is far from true. The medicare program, because of regulations announced in April 1969 by the Social Security Administration is strictly short term, posthospital and postoperative. In plain English, very few elderly are eligible for ECF benefits.

The administration's justification for restricting the access of the medicare program is language of "Congressional intent" expressed at the time the medicare bill was enacted.

Regardless of what the Congress intended in 1965, we must now decide whether our over-65 citizens should receive long-term care under the medicare program, and if so, what if any limits should be placed on it. It is currently my belief that these citizens should be entitled to at least 100 days' care in a skilled nursing home, assuming that skilled care is defined in the same terms as it presently is under the medicaid program. I am refining a bill to this effect, which I will introduce shortly. Meanwhile, I want to detail the five other bills I am introducing today.

My first bill would authorize day care services for senior citizens under the medicare program. If day care services were available, working families could feel secure that their elderly were receiving minimum supervision by day. At the end of the workday, the elderly could be returned home, have dinner, and spend the evening hours. Certainly this is a desirable alternative which would eliminate much of the premature institutionalization that we have today.

My second bill would authorize the Secretary of Health, Education, and Welfare under title 11 of the Social Security Act to provide experimental programs of in-home care of elderly individuals.

Under this bill the Secretary would be authorized to subsidize families who agree to care for their elderly in their own homes. The purpose of this bill is to utilize the individual's own bed at home instead of the institutional bed.

This bill would provide alternatives where few presently exist. At the present time, when families are confronted with costly nursing home bills for their elderly, they hope for medicare ECF coverage. This is short term if it is available at all. This means that long-term care must be paid for out of family resources. If the family cannot afford care, then their only choice is to have their elderly take the pauper's oath to qualify for medicaid coverage. Under the medicaid program the Federal and State Government, on a 50–50 matching basis, pay on the average of $450 a month for skilled nursing home care. There is no reason why payments of this or lesser amounts could not be made to the family directly.

My third bill would authorize the Secretary of HEW to make grants to public and private nonprofit agencies, groups and organizations to assist them in establishing and carrying out homemaker services for the elderly. The intent of this bill is to help seniors prepare meals, do housework and perform other services essential to daily living. Many of the frail or infirm elderly cannot provide these services for themselves which often leads to institutionalization. The elderly should have options.

My fourth bill would make available expanded nursing services to patients in extended care facilities, intermediate care facilities and skilled nursing homes. This measure recognizes the fact that many residents of these facilities are in need of special nursing services. The necessity of providing many hours of nursing care to certain individuals called "heavy care patients" often results in less than adequate nursing care to other patients. At the same time these "heavy care patients" are the most expensive and nursing homes do not readily welcome them from welfare agencies. My bill would provide some relief for this problem.

My fifth bill would provide home health care and visiting nurse services under title 19 of the Social Security Act. There is a need for these services. At the same time I would ask for the liberalization of the medicare home health and visiting nurse services already provided for by existing law.

This brings the total number of bills I have introduced for improvement of our system of long-term care to 18. I expect to have a few more. Some of these bills may need to be developed with further hearings before they are enacted. As always, I welcome any comment and suggestions from my colleagues.

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By Mr. GOLDWATER (for himself, Mr. Chiles, and Mr. Dole):

S. 3272. A bill to provide for the reimbursement to taxpayers of all costs, including legal and accounting fees, incurred by them in contesting second audits of their income tax liability if the second deficiencies are not sustained, and for other purposes. Referred to the Committee on Finance.

### REIMBURSING TAXPAYERS FOR THE COSTS OF CONTESTING UNWARRANTED SECOND AUDITS

Mr. GOLDWATER. Mr. President, I am today introducing a bill on behalf of myself, the Senator from Kansas (Mr. Dole) and the Senator from Florida (Mr. Chiles) which would provide for the reimbursement of professional fees incurred by a taxpayer in defending against a second audit of his income tax liability in situations where the Government's claim of a second tax deficiency is not sustained. To give a little background about the purposes of this measure, I might say that it is born out of actual experience as relayed to me by some individual taxpayers. It is not in any way a kind of relief bill, however, because it is not retroactive in its effect. It does not apply to any audits which have already been completed. I am introducing it for myself and other Senators simply out of a sense of fairness toward future taxpayers so that they will not be subject to the unwarranted injustice which the present law imposes on them.

Mr. President, our proposal ties in with the practice of the Internal Revenue Service to conduct a field audit at which a taxpayer's tax liability is thoroughly examined and then to follow up with a second audit a while later even though the taxpayer has been told by the Internal Revenue Service in writing that no additional tax is due as a result of the original audit.

It is true most taxpayers clearly understand that the Government is entitled under the law to assert a further tax deficiency at a later time even when the first one is satisfactorily concluded. But what is so disturbing to a taxpayer and is extremely unfair toward him is the fact that when the second audit is concluded without any change in the taxpayer's liability, he—the taxpayer—is nevertheless forced to bear 100 percent of all the costs of contesting the Government's claim of an additional liability.

We believe that once the Internal Revenue Service conducts a full field audit of a taxpayer's asserted additional tax liability, there should be a greater degree of finality in the law than now exists to the agreement which is then reached between the taxpayer and the Internal Revenue Service as a result of this original tax investigation. We believe that by enacting a provision of law under which the Government must reimburse a taxpayer for all the costs of contesting a second tax audit when the second audit is unsuccessful will deter the Internal Revenue Service from asserting insignificant second deficiencies.

In other words, our legislation, if passed, might help in preventing the unfair harassment of taxpayers by overeager tax agents in dubious situations where there is an obvious and serious question about the validity of the second deficiency which the agent might assert. At the same time, it should be clearly noted that the bill does not in any way limit or prevent the Internal Revenue Service from asserting a second tax deficiency after the conclusion of the first field audit.

Rather, by letting the Internal Revenue Service know that if it is unsuccessful on a second audit, the taxpayer shall be reimbursed for all his costs in defending himself, including lawyers' fees and accounting fees, it is our expectation that the Internal Revenue Service will take more care in asserting these deficiencies so that the end result will be one of greater efficiency by the Government and one of greater fairness toward the taxpayer.

Mr. President, I should note that our proposal is almost identical, word for word, to an amendment which the Senator from Kansas (Mr. DOLE) was successful in getting adopted on the Senate floor as a part of the tax reform bill approved by the Senate in December of 1969. It is my understanding that the amendment was subsequently dropped from the conference report on the tax law of that year because the Department of the Treasury had not yet submitted a report discussing the amendment. To my knowledge, there was no objection on the merits that was raised in the conference other than this procedural point. Therefore, in reintroducing the proposal today, we respectfully ask that the Treasury Department shall furnish the Senate Committee on Finance with a full report of its position on the amendment so that the lack of this technical formality can no longer be raised as a reason for deferring action on the measure.

We are confident that the officials at the Treasury Department will see the equity and fairness in this needed legislation and will see fit to endorse it.

Mr. President, I ask unanimous consent that a copy of our proposal be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 3272

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subchapter A of chapter 65 of the Internal Revenue Code of 1954 (relating to procedure in case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6408. Costs and Expenses Incurred by Taxpayers.

"(a) General Rule.—Costs and expenses incurred by a taxpayer in connection with the determination, collection, or refund of any internal revenue tax shall be borne by such taxpayer, except that, if—

"(1) the Secretary or his delegate subjects the return of a taxpayer to a field audit and after such audit (A) proposes a deficiency or overpayment of income tax imposed by chapter 1, which the taxpayer accepts in writing, on a form specified by the Secretary or his delegate, or (B) notifies the taxpayer that there is no change in his tax liability;

"(2) subsequent to the taxpayer's written acceptance of such proposed deficiency or overpayment, or the taxpayer's receipt of a notification that there is no change in his tax liability, the Secretary or his delegate proposes another deficiency or reduction in the overpayment of such tax for the same year with respect to which such acceptance has been made, or such notification has been received; and

"(3) the deficiency in such tax for such year finally obtained, or the overpayment finally allowed, is not more favorable to the Secretary or his delegate than the deficiency or overpayment which the taxpayer had accepted, or the tax liability reflected on the return for which notification had been received by the taxpayer, then the Secretary or his delegate shall reimburse the taxpayer for all costs incurred by the taxpayer (including legal and accounting fees) in connection with the deficiency or reduction in overpayment proposed subsequent to such acceptance or notification.

"(b) Reimbursement of Costs and Expenses.—Costs and expenses incurred by the taxpayer which shall be borne by the Secretary or his delegate pursuant to subsection (a) shall be deemed, for the purpose of section 6511(a), a tax paid by the taxpayer on the date his tax liability for such year is finally determined (whether determined administratively or judicially). For purposes of this title and section 1346(a)(1) of title 28, United States Code, the amount of tax so deemed paid by the taxpayer shall constitute an overpayment."

(b) The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"SEC. 6408. Reimbursement of taxpayer's costs in certain cases."

(c) The amendments made by this section shall apply with respect to proposals of deficiencies or reduction in overpayments described in section 6408(a)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)) the final determination of which is made on or after the date of the enactment of this Act.

By Mr. HUMPHREY:

S. 3273. A bill to provide Federal health insurance for Federal employees. Referred to the Committee on Post Office and Civil Service.

## FEDERAL HEALTH EMPLOYEES ACT

Mr. HUMPHREY. Mr. President, in January of this year, thousands of Federal employees and their annuitants were hit with a substantial increase in health insurance premium rates. This is a particularly harsh blow when coupled with the continued spiraling inflation and is certainly in conflict with the stated goals of the wage-price freeze. Most severely hurt are the millions of civil service retirees who are struggling to exist on a fixed income and who can least afford an increase in such a basic necessity. These people have served their country long and well. They deserve equity not discrimination.

The average civil service employee enrolled in a family high-option plan receiving a salary of $10,690 per year is confronted with an annual expenditure of $455.16 for health insurance premiums. This is the family in midcareer, when its expenditures are high, with children in school, and large payments due on a home mortgage. This is the same family that the administration tried to deny the salary increase due last January and then were hit with a 22 percent increase in insurance premiums. Where is the equity? where is the justice? where is the fairness? This is indeed an inequitable burden and certainly not in keeping with our national commitment to move toward meaningful reform and improvement in the delivery and financing of health care in this Nation.

An increasing number of private firms now pay all health plan costs for their employees. It is a recent accomplishment that civil service employees have been promised in law salary and benefits comparable to those enjoyed by their counterparts in private industry. We should not allow this promised parity to be undermined.

It is for this reason that I am introducing legislation today to increase the Federal contribution of civil service employees health insurance to 75 percent, with a 5 percent additional increase authorized each year until full coverage is reached.

I am hopeful that the Senate will move rapidly to consider this legislation and restore equity to the Federal worker.

I ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 3273

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 8906 (a) of title 5, United States Code, is amended by striking out "40 percent" and inserting in lieu thereof "75 percent and increasing 5 percent per year until reaching 100 percent of the average of the subscription charges".

SEC. 2. The amendments made by this Act shall become effective at the beginning of

**the first applicable pay period which commences after January 1, 1972.**

By Mr. BURDICK (for himself and Mr. Young):

S. 3274. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development proposals. Referred to the Committee on Interior and Insular Affairs.

Mr. BURDICK. Mr. President, North Dakota is struggling to maintain a viable economy; 10,000 people every year leave the State in search of opportunities and services which are hard to provide in rural areas. According to a North Dakota business and industrial survey, more than 35,000 farm-connected jobs, which supported 124,250 persons, were lost in the period from 1947–1969. Increased farming costs and a depressed agricultural market forced another 500 family farms out of business last year. North Dakotans are well aware of the problem. They realize the necessity of the proper development of the State's vast resources in order to stabilize our economic posture. One such natural asset is the Missouri River.

In 1965, I played a part in bringing into being the largest public works project ever to be undertaken in North Dakota. Public Law 89–108, which authorized the Garrison Diversion project on the Missouri River, will eventually provide a full water supply for irrigation of 250,000 acres of land, presently dry farmed, by diverting water through a series of canals. It is my hope that this project will eventually irrigate a million acres and provide a means of crop diversification and social stabilization which we so badly need. But in addition to this capacity, the Garrison Diversion Unit authorized the design of conveyance facilities to serve 14 municipalities and four industrial sites. These projects will enable cities, now faced with inadequate water supplies, to properly serve their citizens. Further, the industrial water supply projects will help North Dakota in its competition for business and industrial development to employ our young and productive sons and daughters.

One of these projects, the Minot extension, was studied and authorized in record time during the 91st Congress. Initial construction has begun and the urgent need for water, a problem which faced Minot for 50 years, is finally nearing solution.

Presently, the Bureau is completing a reconnaissance investigation of 42 communities in the area of the Garrison project. It appears that 14 communities—albeit, not the 14 originally anticipated—and four industrial areas need water.

Today, Mr. President, I am offering legislation for myself and Senator Young which would authorize the Bureau of Reclamation to conduct feasibility studies for the areas shown to be in need of water supplies by the Bureau's reconnaissance report. I ask that the attached list of communities and the comments of the Bureau of Reclamation be printed in the Record following my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

| Municipalities listed in authorizing report | Municipalities listed in reconnaissance report | Remarks |
|---|---|---|
| Bantry | | Fairly good system for population (dropped from 125 in 1950 to 40). |
| Cogswell | Cogswell | Population 203. |
| Deering | | Water fair quality (population dropped from 136 in 1950 to 75). |
| Drake | | Sufficient water for needs (population 636). |
| Fessenden | Fessenden | Population 815. |
| Glenburn | Glenburn | Population 381. |
| Granville | Granville | Population 282. |
| Jamestown | | Ample ground water; recharge by Jamestown Reservoir and proposed Pipestem Reservoir. |
| LaMoure | | Ample ground water; (population 951). |
| Minot | | Authorized; initial stage funded for construction. |
| New Rockford | New Rockford | Population 1969. |
| Pekin | | Fairly good system for population (dropped from 221 in 1950 to 120). |
| Turtle Lake | Turtle Lake | Population 712. |
| Upham | Upham | Population 272. |
| | Lansford | Population 296. |
| | Harvey | Population 2,861. |
| | Forman | Population 596. |
| | McClusky | Population 664. |
| | Verona | Population 140. |
| | Tolna | Population 247. |
| | Mercer | Population 182. |

The authorizing report showed that water service might be anticipated for four industrial areas (Minot-Velva, Devils Lake, Jamestown, and Towner).

Demands for water in these areas have not yet occurred but the potential for centering industrial development still exists. Therefore, in the reconnaissance study, an allowance is made for industrial development.

By Mr. WILLIAMS:

S. 3275. A bill to provide that the Social Security benefits provided by the Tax Adjustment Act of 1966 for certain uninsured individuals at age 72 shall apply in the case of residents of the Commonwealth of Puerto, Rico, the Virgin Islands, and Guam. Referred to the Committee on Finance.

### EXTENSION OF APPLICATION OF PROUTY AMENDMENT

Mr. WILLIAMS. Mr. President, I introduce for appropriate reference a bill to extend the so-called Prouty amendment to certain uninsured individuals who reside in the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

Under present law, elderly persons living in Puerto Rico, the Virgin Islands, and Guam are eligible for social security benefits on the same basis as recipients residing in the United States. However, there is an exception for the special payments authorized under the Prouty amendment, which was enacted into law in 1966. This measure authorizes the payment of a special benefit for persons aged 72 and over, who have little or no social security coverage. For persons struggling on very limited incomes, this measure has frequently been a lifesaver. Quite frequently, these small payments have enabled the elderly to buy food for the table or medicines to help maintain their health.

With incomes markedly lower for elderly persons in Puerto Rico, the Virgin Islands, and Guam, the need for extending the Prouty amendment to these individuals is, in my judgment, particularly compelling. Per capita income in Puerto Rico, for example, is only about $1,358 per year—approximately one-third of the income level in continental United States.

In terms of equity, there are also very persuasive reasons for making the Prouty amendment applicable to aged residents of Puerto Rico, the Virgin Islands, and Guam. For instance, certain aliens are now eligible for payments under the Prouty amendment if they have resided in the United States for a specified period of time. Yet, individuals residing in Puerto Rico are ineligible—even though they are citizens of the United States. However, Puerto Ricans who live on the continent can receive these special payments. But, if they return to Puerto Rico to live with their families, they lose these benefits.

There has been a longstanding need to correct this difference in treatment for aged persons residing in Puerto Rico, the Virgin Islands, and Guam. And enactment of the bill that I introduce today would be a major step forward in providing equitable treatment for these individuals.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3275

***Be it enacted by the Senate and House of the United States of America in Congress assembled,*** **That the second sentence of section 228(e) of the Social Security Act (as added by section 302(a) of the Tax Adjustment Act of 1966) is amended by striking out "and of the District of Columbia" and inserting in lieu thereof ", the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam".**

By Mr. DOLE (for himself, Mr. Allott, Mr. Bennett, Mr. Curtis, Mr. Eastland, Mr. Goldwater, Mr. Young, Mr. Pearson, Mr. Tower, Mr. Jordan of Idaho, Mr. Muskie, Mr. McGovern, Mr. Humphrey, Mr. Harris, Mr. Hansen, Mr. Mansfield, Mr. Metcalf, Mr. Mondale, and Mr. McGee):

S. 3276. A bill to enable wheat producers, processors, and end-product manufacturers of wheat foods to work together to establish, finance, and administer a coordinated program of research, education, and promotion to maintain and expand markets for wheat and wheat products for use as human foods within the United States. Referred to the Committee on Agriculture and Forestry.

### THE WHEAT AND WHEAT FOODS RESEARCH, EDUCATION AND PROMOTION ACT

Mr. DOLE. Mr. President, at a time when the political beliefs of many of us appear polarized in the extreme, it is my pleasure to introduce a bill that has received the blessing of the wheat producer, labor unions, flour millers and bakers, plus men of both parties with widely diverse interests. The measure, the "Wheat and Wheat Foods Research, Education and Promotion Act," carries with it both implict and explicit consumer benefits as well, since it would provide finances for a wheat-oriented program of research, education, and promotion.

### UNITED EFFORT

Wheat producers, processors and the end-product manufacturers of wheat-based foods, organized as the wheat and wheat foods foundation, worked together for almost 10 years to develop the basic concept of this proposal. It would raise needed funds without cost either to Government or the taxpayer. Yet it would yield untold benefits in research and education.

### GOAL TO IMPROVE DIET

The research it would provide would mainly concern human nutrition and motivation on how specific types of wheat foods fulfill modern dietary, health and social requirements. By its very nature, the results of nutrition research cannot be confined to wheat, but rather applied to human dietary requirements in general. And since no food provides nourishment until it is consumed, information on how and why people eat wheat products or any other kinds of food is a prerequisite to action toward the improvement of our national diet.

The educational side of the program would communicate the scientific findings of the proposed studies to teachers, writers, researchers, students, leader groups and general consumers, as well as broadcast information on how to use wheat foods and other nutritious products to better advantage. And finally, promotion would employ the same kind of factual information in paid advertising to stimulate consumption of wheat products for their positive values and consumer benefit.

### CONSUMPTION DOWN

Because of our changing life style, per capita consumption of wheat flour, bread and other wheat-based foods has dropped from 217 pounds in 1909 to less than 112 pounds today. But in the same period we have seen the incidence of heart disease climb until today it is the No. 1 cause of death. Yet there are studies at the University of Iowa that indicate a diet containing large amounts of breadstuffs helps reduce blood serum cholesterol—the commonly used index to a person's susceptibility to heart ailments. Is there a connection between declining per capita consumption of wheat foods and the rising incidence of heart ailments? If so, you would find still another advantage in your favorable consideration of the Wheat and Wheat Foods Research, Education and Promotion Act.

### A SELF-FINANCING PLAN

It is estimated that Americans consume about 230 million hundredweights of flour in the various forms of wheat products each year. Under the terms of the bill, first year assessments at 1 cent per hundredweight would net $2,300,000. In succeeding years, at the top limit of two and a half cents per hundredweight of flour, the bill would provide as much as $5,750,000 for work such as I have described.

These are not large sums as such when we consider the huge amounts of money commonly handled almost every day in business and government. Yet they are important sums for the reasons I have outlined. The money would be billed and collected by the processor from the end-product manufacturer. Hence, the measure is viewed as an original and highly innovative attempt at industry self-help. Those who developed the concept not only do not wish to receive funds from government, they actually express fear of such involvement and the consequences of such action. The wheat producers, processors, and end-product manufacturers of wheat foods want to "do it by themselves."

### REQUIRES AGREEMENT

As proposed, the program is voluntary, in that a majority of each of the three groups I have named must first agree on what they want to do, a budget and a rate of assessment. But once they have agreed, then the assessment would be equitably and fairly imposed on all—with refunds available only upon the termination of the program. Yet, at the same time, any one of the three groups, or the Secretary of Agriculture, can veto the program or any aspect of it. With a veto, funds would be refunded to those from whom they were collected.

### CONSUMERS BENEFIT

Thus, to me, the "Wheat and Wheat Foods Research, Education and Promotion Act" represents a novel, interesting and highly democratic plan of great promise—not only as a self-help plan for the wheat oriented industries, but as a proposal that should pay immense dividends to the consumer, with special benefit to those of lower income who must rely on inexpensive and commonly available products of wheat as the mainstay of their diet.

I have named only a few of the attractive features of this unusual piece of legislation, but enough—I hope—so it merits your further study and support as I introduce it today.

I ask unanimous consent that a list of cosponsors of the bill, together with a summary, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### LIST OF COSPONSORS OF S. 3276

Introduced by Mr. Dole (for himself, Mr. Allott, Mr. Bennett, Mr. Curtis, Mr. Eastland, Mr. Goldwater, Mr. Young, Mr. Pearson, Mr. Tower, Mr. Jordan of Idaho, Mr. Muskie, Mr. McGovern, Mr. Humphrey, Mr. Harris, Mr. Hansen, Mr. Mansfield, Mr. Metcalf, Mr. Mondale, and Mr. McGee.

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### SUMMARY OF WHEAT AND WHEAT FOODS RESEARCH, EDUCATION, AND PROMOTION ACT

If enacted as written:

1. The Bill would finance a wheat-oriented program of research, education and promotion. Research would mainly concern human nutrition and motivation and how specific types of products—i.e., commercial bread, family flour, macaroni, cookies and crackers, mixes and other products identifiable by groups—fulfill modern dietary, health and social requirements. Education would communicate such scientific data as well as deal with the practical aspects of how consumers can use wheat foods to better advantage economically and nutritionally, with such information channeled to teachers, students, writers, researchers, leader groups and general consumers. Promotion would employ the same information in advertising and merchandising to stimulate increased consumption for consumer benefit.

2. Estimating that 230 million hundredweights of processed wheat are consumed annually, the Bill in its first year, at the assessment rate of one cent per cwt., would provide $2,300,000 for such a program. In succeeding years, according to approved program and budget, the assessment could yield at its highest point of two and a half cents per cwt. a total amount of $5,750,000 a year.

3. The program is voluntary in that a majority of each of the three wheat producer, processor and end-product manufacturer groups must first agree on a program, a budget and a rate of assessment. Any one group can veto. But once agreed upon, the program, budget and a rate of assessment become mandatory. There is no refund provision unless the program is cancelled by veto of any one of the majorities of the three groups, which can be done at any time.

4. The Bill would establish a Wheat Industry Council of 22 members, including 15 voting members and alternates nominated by the Wheat and Wheat Foods Foundation. The voting members would include five wheat producers, five processors and five end-product manufacturers. The Secretary of Agriculture or his designate would also serve, and the Secretary would appoint an additional six non-voting members, two each from the three designated groups.

5. The right to nominate voting members of the Council has been assigned under the Bill to members of the Wheat and Wheat Foods Foundation representing wheat producers, processors and end-product manufacturers. To extend this privilege to the Secretary would in effect give him powers—through right of selection of his own choice of nominees and their designation as Council members—to impose an unwanted program, unapproved budget and unwelcome tax upon the industry.

6. The Secretary would appoint the voting and non-voting members of the Council. His appointment of voting members would be limited to persons nominated by the Foundation representing wheat producers, processors and end-product manufacturers.

7. The Council would be responsible for implementing the program of research, education and promotion to maintain and expand markets for wheat and wheat products for use as human foods in the United States. It could contract with other agencies, including the Wheat and Wheat Foods Foundation, for the execution of the program. Council members could also serve as members of the executive committee or board of directors of the Foundation.

8. Unanimous agreement of the voting majorities of each of the three groups represented on the Council would be required for approval of program, budget and rate of assessment necessary to finance the program. Thus, any one of the voting majorities of the three groups could veto, in whole or part, the program, the budget or the rate of assessment. In that case, there would be no program, budget or assessment until uanimous agreement was reached. The Secretary holds similar veto power.

9. While it might be considered better by some to assess program costs on wheat, say at point of first delivery, it would then become a producers' program and require approval in a national referendum among 1,700,000 wheat growers. Millers and bakers would have no voice or control. Or, the fund might be paid by the 100 or more processors and added to the cost of flour. In this case

it would become a processors' program. Or, as provided for in the Bill, the money may be collected by the processor from the end-product manufacturer as a separate item on the invoice, subject to the approval of all three segments of the industry and the Secretary.

10. The Bill would provide for a domestic program of research, education and promotion since the assessment would be made only on wheat processed for use as human foods within the United States, thereby obviating a problem of constitutionality which questions the assessment of funds from persons not benefited directly by such assessment, as would be the case if monies thus collected were used for overseas promotion.

11. To safeguard the constitutionality of the Bill still further, on the above point, Section 17, devoted to "Research, Education and Promotion Program," specifically stipulates that: "Funds collected to finance said plans or projects shall be expended on behalf of, and in proportion to, the assessment on the end-products represented by such assessment." For example—after considerations of research and education are budgeted (basic activities which benefit all areas of common interest within the industry)—funds derived from the sale of flour to commercial bakeries would be used for the promotion of those finished products; funds derived from the sale of pastry flours would similarly be used for the promotion of those products; likewise; cookies and crackers; macaroni, spaghetti and noodles; mixes; family flour and all the other products of wheat.

Furthermore, even the research and education activities of the Council designed to benefit all segments of the industry would also be subject to the common approval of the voting majorities of the three groups. Under the plan, no products could be slighted, and all segments of the industry would of necessity be served to the complete satisfaction of its members.

12. There is no refund provision, except at the termination of the program, since refunds would make the program in effect a voluntary program, and thus far all voluntary programs among producers, processors or end-of-product manufacturers, of size sufficient to the need in research, education and promotion, have failed.

13. The program would, however, terminate at the end of a five year period and each five year period thereafter—unless the voting members of the Council unanimously agree (not just the voting majorities of each of the three groups) in their recommendation for its continuation in a report for presentation to the Secretary and the consideration of the Congress.

14. While the Secretary also has veto power equal to any one of the majorities of the three groups, it is considered highly unlikely that it might ever be exercised. In similar programs, the Secretary has exercised such power only once, and then only to veto a nominee who was eminently unsuitable for appointment. If this happened under the proposed Bill, the Foundation directors would simply name a new candidate.

15. After a program and budget are unanimously approved by the voting majorities of each of the three groups and the Secretary, the rate of assessment per hundredweight would be calculated by dividing the total sum to be raised for the fiscal year by the total hundredweights of anticipated annual production. This assessment would be collected and remitted by the processor; paid by the end-product manufacturer.

16. Funds collected under the Bill would be entirely controlled by the Wheat Industry Council, subject to Federal audit. Funds would not be controlled by the Department of Agriculture nor the Federal Treasury.

17. Since the money would be collected under Federal law, full recognition must be given to the role and responsibility of the Secretary. He would be empowered to promulgate such orders, rules and regulations as may be necessary to carry out provisions and, through U.S. District Attorneys, to initiate action to enjoin violations of the Act.

18. On the other hand, the Secretary is specifically prevented from taking action independently on program, budget or rate of assessment. He may appoint voting members of the Council only from among those nominated by the Foundation and act only on the basis of the program, budget and rate of assessment previously approved by the unanimous vote of each of the majorities among voting representatives of producers, processors and end-product manufacturers on the Council.

Mr. TOWER. Mr. President, I am pleased to cosponsor today with the Senator from Kansas (Mr. Dole) a bill which will be beneficial in the development of wheat and its products. Wheat producers have planted 42.2 million acres in 1972 winter wheat, which is an increase of 9.2 percent over 1971. More farmland is planted to wheat than any other cash crop. The per capita consumption of wheat is on the decline, from 210 pounds in 1910 to around 116 pounds in 1963.

Even with the tremendous production of wheat, there is relatively little known about its nutritional value. Presently, research shows the future of wheat to be bright, but more extensive investigation is essential to educate people and promote the use of this crop.

The Wheat and Wheat Foods Research, Education and Promotion Act would require unanimous agreement by all of the three groups, producers, processors, and end-product manufacturers, before any action is taken. The act would also provide for the Wheat Industry Council to be the administrative agency of the program. The program would terminate at the end of a 5-year period unless the voting members of the Council unanimously agreed on a recommendation for its continuation in a report to the Secretary of Agriculture and for the consideration of the Congress.

In the field of research, the work that will be done in the future will, insofar as possible, be done with present organization contracts to be certain of not losing what accomplishments have been made. Research is to be initiated in the fields of nutrition, product, market, and production/handling. The findings will then be passed on to consumers through field representation, nutrition education, teaching/product information materials, product demonstrations, public speakers, exhibits and displays. Promotion would be carried out by professional advertising, medical marketing, home economics marketing, and school marketing.

The program would continue research on wheat and when complete nutritional values were determined, it would go further into the promotion of wheat crops by providing the public with the findings and assisting in the sales of the commodity.

We must help the American farmer if there is to be a halt in the dwindling number of family farms. This bill would create a program to facilitate in providing additional information to the public in an effort to increase the marketability of wheat. This would definitely be a step in the right direction.

Mr. PEARSON. Mr. President, I am pleased to serve as cosponsor of the Wheat and Wheat Foods Research, Education, and Promotion Act. My distinguished colleague from Kansas (Mr. Dole) is to be congratulated for his leadership in bringing this important legislation before the Senate. This legislation would facilitate the efforts of wheat producers, processors, and end-product manufacturers to promote increased utilization of wheat and wheat foods in the United States. Producers, processors and manufacturers have worked for nearly 10 years to develop the original concept embodied in this bill.

The legislation would create a Wheat Industry Council of 22 members, including 15 voting members and alternates nominated by the Wheat and Wheat Foods Foundation. The voting members would include five wheat farmers, five processors, and five end-product manufacturers. The Secretary of Agriculture or his designate would also serve and the Secretary would appoint an additional six nonvoting members, two each from the three designated groups.

The research program of the Foundation would be funded by an assessment of 1 cent per hundredweight on processed wheat. This assessment would provide about $2.3 million annually for the Foundation program. The producers, processors, and end of product manufacturers must all agree on a program of wheat research, a budget, and a rate of assessment. Any group under the procedures outlined in the bill would have veto power over the activities of the Foundation. But once the program is approved, it would become binding on all parties for the year in question.

Mr. President, those of us from major wheat producing regions have become deeply concerned over the declining per capita wheat consumption in the United States in recent years. In 1970, per capita consumption—domestic disappearance—of wheat dropped to a low of 111 pounds. This loss followed a period of several years of relative stability, with per capita consumption at more than 112 pounds. Because wheat food products are truly the "staff of life," as they have been for much of mankind for more than 6,000 years, I believe that a program of public education as well as wheat foods research is urgently needed. I feel that many lower income Americans do not recognize the high nutritional value of inexpensive wheat food products. Middle- and high-income Americans, on the other hand, have drifted to more expensive forms of nourishment with less nutritional value.

All of us in Kansas are very proud of the contributions our farmers make to the food needs of America, and a score of food-deficit nations around the globe. All of us in Kansas recognize that legislation, such as that sponsored by Senator Dole and myself today, will provide the consumer with information on the nutritional value of our product.

Therefore, I am most pleased to join

with Senator DOLE in offering the Wheat and Wheat Foods Research, Education, and Promotion Act, and urge its prompt adoption by the Congress.

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By Mr. GRIFFIN:

S. 3277. A bill to amend the Communications Act of 1934 to require noncommercial educational broadcasting stations to keep certain records and audio recordings. Referred to the Committee on Commerce.

### PUBLIC BROADCAST LEGISLATION

Mr. GRIFFIN. Mr. President, today I am introducing a bill to insure greater objectivity and balance in the public programing of noncommercial broadcasting.

Briefly, the bill would require public broadcast stations which receive assistance under title II of the Public Broadcasting Act to keep records, including audio tapes or recordings, of public affairs programs they broadcast. Under the bill, the Federal Communications Commission would determine how long such records and audio tapes should be retained, and the FCC would promulgate regulations reasonably designed to make such information available to the public at cost.

The provisions of the bill I now introduce were incorporated as an amendment in the Senate version of the 1970 public broadcasting authorization bill. Although the amendment was later deleted in conference, the managers on the part of the House acknowledged that this proposal "should be the subject of hearings in the next session of Congress."

There are two provisions in the Public Broadcasting Act of 1967 which, in effect, spell out a fairness doctrine for noncommercial broadcasting.

In the legislation which established, the Corporation for Public Broadcasting, and in what is now section 396(g) (1) (A) of the Communications Act of 1934, Congress specifically directed that in the development of programing for noncommercial educational broadcasting there must be "strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."

Furthermore, section 399 of the Communications Act of 1934 provided that:

> No noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office.

Serious question exists, however, as to the effectiveness of these provisions. At present, there is no convenient system whereby the FCC or anyone else can monitor controversial public affairs programs broadcast by educational stations to determine whether there is compliance, or there is not compliance, with policies laid down by Congress.

Obviously the provisions of the Public Broadcasting Act requiring objectivity have little or no meaning when the public has no convenient way to determine what has been broadcast over Government-regulated airwaves by noncommercial broadcasters who are subsidized with public funds.

Anyone can go to a public library and determine quickly and conveniently what newspapers have published, dating back several decades. Is it too much to expect that public broadcasters should retain audio tapes of their public affairs programs for a reasonable period of time?

I am aware of the fact that the Corporation for Public Broadcasting has recently reiterated its intent to be objective and fair in public affairs programing. That sounds very nice. I am also aware that the Corporation can require a station to provide copies of all programs to the Corporation which are underwritten by grants from the latter.

But this procedure is not adequate and needs to be expanded so that the public can have a reasonable opportunity to review controversial programs. Undoubtedly, one reason why the criticism and defense of news and public affairs presentations is so vague is that there is no convenient way to review material broadcast over a reasonable period of time.

Undoubtedly, some broadcasters will object to the time and cost involved in keeping an audio tape of programs of public importance. However, this legislation is carefully structured with that concern in mind so that such burdens can be minimized by the FCC.

First, the bill provides that records and audio tapes be kept only for a reasonable period of time as determined by the FCC. The 1970 report of the Senate Commerce Committee on the Public Broadcasting Financing Act of 1970 suggested that such tapes might be retained for at least 3 months. In some instances a longer period of time might be in order; for example, in the case of a continuing series of programs on a particular subject.

Second, tapes of programs such as "Sesame Street" would not have to be kept. Of course, differences may arise as to what constitutes a program involving an issue of public importance. While there will be gray areas, it would be my expectation that in issuing regulations, the FCC would err on the side of making information available to the public.

Third, any member of the public who requests an audio tape would be required to pay for the cost of reproducing the tape.

Mr. President, let me emphasize that this bill is designed to lessen the likelihood of political control over public broadcasting. In incorporating the provisions of this bill in the Public Broadcasting Financing Act of 1970, the Senate Commerce Committee stressed in its report the importance of these provisions in strengthening local freedom and autonomy:

> In order to assure that the freedom of the Corporation and the stations from outside influence remains unassailed, your Committee believes that the noncommercial stations should keep adequate records including audio recordings of programs they broadcast that involve public affairs. In that way, if anyone seriously questions a station's impartiality or fairness, the record is there and any doubts may be quickly resolved.

I urge the Senate Commerce Committee to act favorably again on this legislation, and I am hopeful that the bill will win the approval of both the House and the Senate.

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By Mr. HUMPHREY:

S. 3278. A bill to authorize the Secretary of Agriculture to assist States, communities, and landowners in cooperative efforts to safeguard lives and property in rural areas through increased protection from wildfires, and for other purposes. Referred to the Committee on Agriculture and Forestry.

### THE RURAL COMMUNITY FIRE PROTECTION ACT

Mr. HUMPHREY. Mr. President, I have a deep interest in promoting the economic strength and welfare of rural America.

Our great rural countryside needs and deserves our close attention. Great as it is, rural America is not a bottomless cornucopia of food, water, fiber, natural beauty, and all of the rest. We are beginning to feel the pinch. We are already overdue in returning to the land a measure of the wealth that has been generated by rural people and rural resources. There is a rebuilding job to be done—so that future generations can also reap the benefits of our land. And this can be done—if we act now. That is what rural development is all about—that is why every Member of the Senate has a stake in what happens today and tomorrow in rural America.

Today, I am introducing the Rural Community Fire Protection Act.

Mr. President, thousands of people, millions of acres, and billions of dollars worth of structures and other improvements in America's rural areas are still without the shield of organized local firefighting forces.

Few experiences are more tragic than having to stand by in frustrated helplessness as fire consumes a home, a farm building, a country store, livestock—yes, and even human life. Yet many families and communities throughout rural America suffer through this experience each year. Countless others spend their lives knowing that they and the material basis for their existence are unprotected—vulnerable to man's oldest enemy—uncontrolled wildfire.

The gap in present protection against fire lies in between that accorded urban areas or larger communities with well-equipped fire departments and that for the forested areas where State-Federal cooperation—under the Clarke-McNary Law of 1924—provides organized protection against forest fires on non-Federal lands. Some 420 million acres are without protection.

The values at risk, in terms of lives, property, crops, livestock, and natural beauty are enormous—and increasing each year.

Losses each year are significant. About 1,000 lives are lost each year in rural fires. Farm property lost to fire in 1968 was estimated to total $227 million; this included buildings, machinery, livestock, crops, and household goods.

The quality of the rural environment is sharply reduced in burned areas. An overgrown stone foundation—and a still-standing fireplace and chimney are familiar, mute reminders of the permanency of these losses.

Too much cannot be said in praise of the dedicated and effective efforts of volunteer fire departments. These men provide a much-needed protection capability and some peace of mind to rural residents who often cannot even obtain fire insurance at reasonable rates. But many established volunteer fire departments need more specialized equipment and training. They, as well as totally unprotected communities, need and deserve the help of a concerned Federal and State government.

There is another powerful argument for prompt enactment of this bill to improve fire protection in rural areas. Federal investments in small communities; in natural resource improvement, and in other nonurban programs are tremendous. State and local units of government also are making heavy investments. A large amount of private funding is also pouring into these areas as properties change hands, new buildings are constructed, and new businesses are established.

As our rural development efforts pay off in terms of new jobs, new industries and improved communities, the values exposed to wildlife will be substantially increased. The need for organized, equipped and trained firefighters will become even greater than is the case today. My bill responds to a critical current need and provides a safeguard—fire insurance if you will—for the huge investments and the great increases in the tangible and intangible values now unprotected in many rural areas.

One illustration of the many ties between this proposal and other pending legislation is the support that improved fire protection will give to investments in forest land. Our distinguished colleagues from Mississippi, Senator STENNIS recently introduced S. 3105, a forestry incentives program that represents a much needed, major forward thrust in development of renewable resources in rural areas. Although my bill is aimed in particular at nonforest open areas, increased protection of the resources and investments in the intermingled woodlots, the small forest tracts and the forest products manufacturing plants would be significant. Similarly, investments in the Department of Agriculture's REAP program—rural environmental assistance program—now approaching $200 million a year of Federal funding alone would be better protected from wildlife.

The approach proposed in my bill is simple and time tested. Federal, State, and private efforts would be blended through cost sharing and technical assistance. The result would be well organized, equipped and trained firefighting forces in rural communities. This would complement the existing State-Federal cooperative forest fire program established under section 2 of the Clarke-McNary Act of 1924. Teamwork between State forestry organizations and the U.S. Forest Service has made this highly successful program one of the best examples of Federal-State cooperation that has come to my attention.

As we move to increase the authorization for that particular program, through action in H.R. 8817, now pending in the Senate, I believe my bill will round out and strengthen the already productive Federal-State cooperation in the fight against wild fires.

My bill defines "rural community" as having a population of up to 5,500 persons. This directs assistance where it is most needed—to the rural areas where sparse population precludes locally financed firefighting equipment and well-trained crews. The Federal cost share would be up to 50 percent of the total expenditures for this purpose within the State in any one year—including costs borne by local, nonprofit citizen organizations.

A relatively modest level of funding is needed to make significant progress in filling this particular gap in rural fire protection. I recommend a $5 million program the first year and $8 million for each of the following 2 years. My recommendation is that the Forest Service, U.S. Department of Agriculture, and the State forester or other appropriate State official team up to operate the program in close coordination with the existing Cooperative Forest Fire Protection program.

I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3278

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in order to shield human and natural resources, financial investments, and environmental quality from losses due to wildfires in unprotected or poorly protected rural areas there is a need to strengthen and synergize Federal, State and local efforts to establish an adequate protection capability wherever the lives and property of Americans are endangered by wildfire in rural communities and areas. The Congress hereby finds that inadequate fire protection and the resultant threat of substantial losses of life, and property is a significant deterrent to the investment of the labor and capital needed to help revitalize rural America, and that well-organized, equipped, and trained firefighting forces are needed in many rural areas to encourage and safeguard public and private investments in the improvement and development of areas of rural America where organized protection against losses from wildfire is lacking or inadequate. To this end, the Secretary of Agriculture is authorized and directed to provide financial, technical and other assistance to State Foresters or other appropriate officials of the several States in cooperative efforts to organize, train and equip local forces to prevent, control and suppress wildfires threatening human life, livestock, wildlife, crops, pastures, orchards, rangeland, woodland, farmsteads or other improvements, and other values in rural areas and in rural communities having a population of 2,500 persons or less.

SEC. 2. The Secretary shall carry out this Act, in accordance with cooperative agreements, made with appropriate State officials, which include such terms and conditions as the Secretary deems necessary to achieve the purposes of this Act. No such agreement shall provide for financial assistance by the Secretary, under this Act in any State during any fiscal year in excess of 80 percentum of the total budgeted expenditures or the actual expenditures, whichever is less, of the undertaking of such agreement for such year, including any expenditures of local public and private nonprofit organizations participating in the activities covered by the agreement. Payments by the Secretary under any such agreement may be made on the certificate of the appropriate State official that the expenditures provided for under such agreement have been made.

SEC. 3. There is authorized to be appropriated to carry out the provisions of this Act $5,000,000 for the fiscal year ending June 30, 1973; $8,000,000 for the fiscal years ending June 30, 1974 and June 30, 1975; and thereafter such amounts as may be necessary.

SEC. 4. This Act may be cited as the "Rural Community Fire Protection Suppression Act of 1972".

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By Mr. RANDOLPH:

S. 3282. A bill to provide for the regulation of production of surface mined coal so as to assure the protection of the public health, welfare, and the environment, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

### THE SURFACE COAL MINE CONTROL ACT OF 1972

Mr. RANDOLPH. Mr. President, I introduce for appropriate reference the Surface Coal Mine Control Act of 1972.

The demand for coal in the United States is growing to meet the rapidly increasing energy requirements of our Nation.

In recent years, a larger proportion of the Nation's coal supply has been produced by surface mining methods. During 1972, surface mining may account for more than half of the coal mined in the United States.

Accompanying this increase in surface mining activity has been a heightened public awareness of the environmental impacts resulting from the extraction of coal by this method. Surface mining is perhaps the most intensely debated publice issue in West Virginia. In 1967, the State legislature enacted new controls over surface mining. Since then, additional proposals have been made and there have been recommendations that all surface mining be banned entirely in West Virginia.

In many areas of the country, surface mining has become a highly emotional issue. Unfortunately, a polarization of viewpoints is developing with one side advocating total abolition of surface mining and the other, in effect, insisting that surface mining has produced only good results.

I understand and sympathize with the feelings of both groups. People who have seen the country ravaged by reckless mining have every right to be disturbed. At the same time, the responsible miner should not be victimized by the shortcomings of his less responsible associates as he attempts to provide badly needed fuel.

The legislation I introduce today would establish a program of strict controls of surface mining operations and requires reclamation of the highest quality. It provides for neither abolition of surface mining nor its conduct without careful attention to its consequences. I do not believe that irresponsible surface mining can be condoned or that total abolition is necessary to protect the environment.

In a study commissioned by the Legislature of West Virginia, it was estimated that approximately 8,000 people would lose their jobs if surface mining were prohibited in my State. The same report, prepared during the past year by the Stanford Research Institute, also estimates that surface mining would affect between 1 and 2 million acres of land and produce about 10,200 miles of highwalls, benches, and outslopes in West Virginia by 1980. These statistics, plus the growing need for coal, should guide us in the development and execution of surface mining control programs.

The legislation I introduce concerns itself only with the surface mining of coal. I recognize that legislation now pending before the Senate Committee on Interior and Insular Affairs also addresses itself to other minerals. I limited my proposal solely to coal because its production and the attendant problems are those with which I am most familiar. In addition, my responsibilities as a coal State senator compel me to give priority consideration to the problems surrounding this industry, which employs more than 40,000 people in West Virginia. I believe, however, that it would not be improper to include controls over the surface mining of other minerals in legislation reported from the committee.

The objective of the bill I introduce is to provide for the regulation of surface-mined coal so that public health and welfare are protected and that protection against environmental damage during operation and appropriate reclamation are accomplished.

Responsibility for developing and executing plans for control of surface mining will rest with the States. State plans, however, must conform to basic guidelines that will be developed and promulgated by a new Federal Commission. Each State will be required to submit a control plan to the Commission which will then determine if this plan is in conformity with the intent of the law and the guidelines. Once the State plans are implemented, administration of the Federal support program will be the responsibility of the Department of the Interior.

During the development of Federal guidelines and of State enforcement plans, a moratorium on new surface mining is provided under certain conditions.

After promulgation of the Federal guidelines, the moratorium on new mining would be imposed unless a State submits an interim control plan acceptable to the Commission. This plan would govern operations until a permanent State plan is developed. If a State failed to submit a control plan at the end of 24 months, a moratorium would be applied on all surface mining in such a State.

The primary thrust of this proposal is toward the assurance of proper surface mining techniques so that minimum environmental damage results and the need for massive reclamation efforts is reduced. Control over the process of mining will also be aimed at eliminating erosion, siltation, acid drainage, earth slides, and other problems associated with surface mining.

It is my belief that if the methods of surface mining operations are strictly regulated, the reclamation of disturbed land can be accomplished much more satisfactorily.

Proper mining and reclamation technology exists today and is improving. It is our job to see that this technology is fully utilized.

My legislation specifies areas to which the Federal guidelines should give particular attention and would require a permit program as part of the State control mechanism.

Each applicant for a permit would have to file a detailed plan for the mining operation and subsequent reclamation. Bonds would be required to assure compliance with the permit conditions.

Any serious program of suface mining regulation will cause some local economic dislocation. In those instances where personal hardship results from control, this bill provides for unemployment compensation, food, housing, relocation, and other similar assistance.

The Federal Government would carry out an expanded research and development program for mine technologies which will minimize environmental damage and adverse effects on public health and welfare.

Mr. President, these are the principal features of the bill I introduce today. I believe the time has arrived when the Congress must act to assure that there are surface mining controls that permit the production of coal but do not destroy forever the earth from which it is taken.

It would result in no mining in some areas where it might otherwise have taken place, and properly executed mining and reclamation elsewhere.

On Monday of this week, I went to West Virginia to inspect the damage that took place along Buffalo Creek when a mine-water impoundment broke loose last Saturday.

From the airport at Charleston, I flew to the disaster area in Logan County by helicopter. During the flight of approximately 75 miles to the disaster site, I had the opportunity to once again view the results of surface mining in my State. This area of southern West Virginia is one of intensive mining, both underground and on the surface. This helicopter flight brought home to me once more, in dramatic terms, what can happen when surface mining is allowed to take place without strict controls.

My experience on Monday reinforced my determination to see that the landscape is not drastically and permanently disfigured and that the lives of people who live in surface mining areas are not adversely affected by these activities.

The legislation I introduce today is intended to achieve that goal.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

### OUTLINE OF BILL

(1) All surface mining of coal would be covered, including existing operations. The regulatory program should extend to all lands whether private, Federal, State, or Indian.

(2) The objective of the program would be to provide for regulation of production of surface mined coal so that public health and welfare are protected and protection against environmental damage during operation and appropriate reclamation are accomplished.

(3) State permit programs for all surface mining operations would be required to be in effect in accordance with Federal guidelines as outlined below within 20 months after the publication of Federal guidelines, but in no event later than 24 months after the date of enactment.

(4) Beginning 6 months after enactment or upon the publication of the Federal guidelines, there would be a moratorium on all new surface mining operations unless a State submits an interim program of surface mining regulation which, at a minimum, the Commission determines to require permits for all surface mining operations which provide for protection from environmental damage during operation and appropriate reclamation, the posting of a performance bond to assure reclamation, and statutory authority to abate violations. This moratorium would continue until a State program is in operation. A new operation is any disturbance of the surface not covered by a valid State permit in existence or effect on the date of enactment. If no State program has been submitted after 24 months, the moratorium would be extended to all surface mining operations involving any disturbance of the surface or other new excavation, whether covered by a previous State permit or not.

(5) Federal agencies managing lands would have to comply on the same terms as States: a permit program would have to be submitted to the Commission and approved as consistent with the guidelines, and there would be a similar moratorium on new surface mining operations until then. Any such Federal agency would be required to comply within a State with a State statutory decision to prohibit surface mining of coal in all or any category of that State's lands, unless the President determines that the paramount interests of the United States requires otherwise, and the use of Federal lands after mining would have to be compatible with land use patterns on adjacent non-Federal lands.

(6) State programs would have to conform to Federal guidelines which must be published within 4 months after enactment. If the Federal guidelines are delayed, States may submit programs on the basis of the statutory requirements after the 4 months have elapsed. State-submitted programs would go into effect automatically 60 days after submission unless the Federal Commission (as outlined below) finds that the program does not conform to the law and the guidelines if issued. There must be public participation in the adoption of a State program.

(7) A Commission on Surface Mining Regulation would be established, with a full-time Chairman appointed by the President by and with the advice and consent of the Senate (at Level IV of the Executive Schedule), and two representatives each from the Department of the Interior, the Environmental Protection Agency, and the Department of Agriculture, at the Assistant Secretary or equivalent level. This would allow the different interests within each agency to be represented, such as the Bureau of Land Management and the Bureau of Mines within Interior and the Forest Service and the Soil Conservation Service within Agriculture.

(8) This Commission would have the primary Federal responsibilities under the Act: (a) preparation and promulgation of the guidelines in consultation with the States and after comment by other Federal agencies; (b) review and approval of programs submitted by States and Federal land management services; and (c) authorization to enforce a State program Federally where the State fails to do so. The Commission would be required to report to the President and the Congress

annually, with an interim report due within 6 months after enactment.

(9) The program established by this Act and the guidelines promulgated by the Commission would be administered by the Department of the Interior, except for permit programs of other Federal land management agencies. These administrative responsibilities would include technical assistance to States and mine operators; matching grants to States to support their regulatory programs; the loan of Federal personnel to States; provision of equipment such as helicopters and monitoring instruments; and inspection and backup enforcement functions.

(10) The guidelines would require that under every State program, no surface mining operation could begin or continue without a permit. Before a permit could be granted the State and local governments would have to consider the present use and character of the surface and the use to which the landowner proposes to put the surface after mining and reclamation. A permit could be granted only where adequately demonstrated technology exists to reclaim the lands in question for the intended use. Appropriate standards should be established so that the degree of reclamation required can be determined. "Reclamation" would mean, at a minimum, actions planned and performed before, during and after mining operations to shape and stabilize the topography of surface mined lands and appropriately revegetate, in order to achieve a productive use suitable to the soil, climate, vegetation, terrain and other conditions of the area.

(11) Each applicant for a permit would have to file a plan for the mining operation and the reclamation to be undertaken. A permit (when granted) is then in effect a contract to carry out the approved plan. States should require from permittees a bond adequate to assure reclamation and compliance with permit conditions, as under West Virginia law. Such a bonding requirement would have to be fairly applied and access to bonding assured for small operators.

(12) The guidelines should provide a description of:

(a) the minimum administrative information to be furnished by an applicant for a permit;

(b) the degree of reclamation required for particular uses and the extent to which technology has been demonstrated to accomplish that degree of reclamation for particular slopes, terrains, geologic conditions, and climate and meteorological conditions;

(c) surface mining and reclamation methods and techniques, integrating practices for restoration and reclamation into overall operating and materials handling procedures, including data on alternative technologies, methods, and operating procedures and their costs;

(d) regional physical conditions including slopes, terrains, vegetation, type climate, and meteorological conditions which of themselves or in combination with other factors may alter the public health and welfare and environmental effects of surface mining on the immediate and surrounding areas;

(e) the type and extent of the potential public health and welfare and environmental effects accompanying surface mining of coal, including dislocation of residences and businesses and effects on future beneficial uses of the land, surface and ground waters, air pollution, noise, seismic disturbances, flood control, soil erosion, forestry, agriculture, and their natural resources;

(13) The guidelines should require surveillance and periodic reporting as part of each permit, as well as State agency supervision and technical assistance. Generally, the guidelines should outline criteria for granting permits and conditions on permits requiring that (a) the face of coal seams and disturbed areas generally be covered with material suitable to support vegetable cover; (b) revegetation appropriate to the future use of the land be accomplished within a reasonable time; (c) all debris, acid forming materials, toxic materials, or materials constituting a fire hazard be buried (in a manner preventing leaching into ground or surface waters); (d) a specified maximum bench width not be exceeded, and regrading where benches result; and (e) backfilling eliminating all high walls and spoil peaks, and not exceeding the original contour of the land be accomplished as the mining operation proceeds.

(14) State programs would be required under the guidelines to provide adequate enforcement authority, including the power to order cessation of and enjoin operations without a permit and violations of permit conditions. To the extent any penalty is required by the guidelines it should be an economic penalty, such as the total profits derived as a result of unlawful activities, together with the cost of restoring the land to its original condition, rather than a criminal penalty.

(15) In addition, the guidelines would prescribe the measures which the Commission determines necessary to protect the environment during the mining operations from siltation, acid runoff, and other problems, including slag and gob piles (which would be defined as disturbances of the surface). Where these could not be complied with, a permit would not be granted.

(16) The guidelines would also indicate the best mining technology, reflecting regional characteristics, so that States can require the best available means of extraction to be used. An operator may use any other means which he can demonstrate to be equally effective in coal production, consistent with protection of the environment and appropriate reclamation. Such mining technology guidelines would have to address:

(a) the incorporation of environmental protection and reclamation practices into the mining cycle, including reasonable time limits for the completion of reclamation or the conducting or surface mining operations, which reflect the contribution of seasonal factors to potential adverse effects, planting seasons and delays beyond the control of the operator;

(b) operating procedures and materials handling techniques and methods which minimize potential effects on the environment and public health and welfare;

(c) procedures, methods and techniques for the use of explosives in surface mining activities; and

(d) the factors to be considered in constructing roads in connection with surface mining operations.

(17) The Commission would be required to approve the program submitted by a State in whole or in part, unless it determines that the State program does not meet the requirements of the guidelines as spelled out above and, specifically, that does not:

(a) contain sufficient administrative, scientific, and technical data to evaluate the manner in which surface mining operations for coal will be conducted;

(b) require that the minimum administrative information described in the guidelines be furnished as a condition for a State permit;

(c) define those topographical, meteorological, or other physical conditions in which the State intends to prohibit surface mining because of potential adverse effects on the environment and public health and welfare which could not otherwise be avoided;

(d) require each applicant to file a detailed mining and reclamation plan which integrates reclamation into surface mining operations and procedures as a condition for a State permit;

(e) provide for the regulation of the use of explosives and road construction in surface mining operations;

(f) provide for a periodic review of all permits as to their continued compliance; including periodic reports by the permittee and agency supervision;

(g) require posting of performance bonds in accordance with the guidelines;

(h) require the filing, updating, and retention of engineering maps of all surface mining operations and of all inactive surface and underground mining operations for which engineering or other maps are available;

(i) provide for regular monitoring by the State of environmental changes in mined areas to assess the effectiveness of regulations for mining operations and the need to revise reclamation plans;

(j) designate a single agency with the responsibility for administering and enforcing State surface mining law and regulations which must insure full participation of the agencies responsible for air quality, water quality, and other areas of environmental protection;

(k) provide adequate authority, funding, and personnel to implement and enforce State law and regulations including, but not limited to, authority to deny permits where the area affected cannot be adequately reclaimed, and to order cessation of and to enjoin mining operations without a permit or which violate permit conditions; or

(l) provide for full participation of all interested agencies, groups, and individuals in the development and revision of regulations.

(18) Any serious program of surface mining regulation will cause some local economic dislocation. There should be a program of individual assistance limited to those actually dislocated (including small operators) as a result of surface mining regulation in a particular geographic area or temporarily as a result of the moratorium. This assistance might include extended unemployment compensation, mortgage or rental payments for those facing eviction, retraining, employment services and relocation assistance, and food stamps and commodities for low-income households.

(19) In order to address the problem of orphan and other reclaimed lands, the Federal government would be authorized to acquire unreclaimed lands and reclaim them. States would be encouraged to have such programs, perhaps funded out of permit fees from current operations (such as in West Virginia), by a matching Federal contribution for all land acquisition and reclamation costs. Some portion of these costs might be repaid out of benefits realized after reclamation.

(20) The Federal government should also undertake an expanded research and development program for mining technology which will minimize environmental damage and adverse effects on public health and welfare, including techniques of extraction which incorporate reclamation into operating procedures and reduce the need for extensive subsequent reclamation. The Commission would be authorized to conduct such a program either through contracts or through the transfer of funds to the Department of the Interior, the Environmental Protection Agency, or the Department of Agriculture.

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S. 1819

At the request of Mr. BAKER, the Senator from Wisconsin (Mr. NELSON), the Senator from Ohio (Mr. SAXBE), and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of S. 1819, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

### S. 2139

At the request of Mrs. SMITH, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of S. 2139, a bill to authorize a treatment and rehabilitation program for drug dependent members of the Armed Forces.

### S. 2579

At the request of Mr. HARRIS, the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. CRANSTON), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 2579, a bill to protect ocean mammals from being pursued, harassed, or killed, and for other purposes.

### S. 2995

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2995, the Victims of Crime Act of 1972.

### S. 3229

At the request of Mr. METCALF, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 3229, a bill to protect the incomes of wheat and feed grain producers.

### SENATE JOINT RESOLUTION 171

At the request of Mr. MATHIAS, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Missouri (Mr. EAGLETON), the Senator from Wyoming (Mr. MCGEE), the Senator from North Dakota (Mr. BURDICK), the Senator from Texas (Mr. BENTSEN), and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of Senate Joint Resolution 171, designating March 1972 as "Exceptional Children's Month."

### SENATE JOINT RESOLUTION 180

At the request of Mr. ROTH, the Senator from Arkansas (Mr. MCCLELLAN) was added as a cosponsor of Senate Joint Resolution 180, to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month."

## SENATE RESOLUTION 271—SUBMISSION OF A RESOLUTION RELATING TO APPROPRIATIONS FOR THE RURAL ELECTRIFICATION PROGRAM

(Referred to the Committee on Agriculture and Forestry.)

Mr. TOWER. Mr. President, today I am submitting a resolution expressing my desire to see the release of the remaining $107 million in appropriated Rural Electrification Administration funds for 1972. I praise the action of the Office of Management and Budget on the January release of $109 million, realizing that their intentions are good in trying to control budget spending. Nevertheless, I feel that release of the remaining $107 million of the original $545 million allocation is vital to the continuing needs of the Rural Electrification Administration.

In a time when we are trying to put new life in the rural areas of Texas and America, it is imperative that we provide proper facilities to attract new people and industry into these areas, and modern utilities to serve their needs. The Rural Electrification Administration is one of the main sources of these facilities, providing telephone and electric services to our rural areas. REA's need for power doubles on the average of every 7 years, as their customers increase at the rate of 150,000 per year.

The remaining $107 million in appropriated funds will go a long way toward solving many of the financial problems experienced by REA today, in their efforts to provide facilities comparable to those available in our cities. Less congestion, greater accessibility to employment, good school systems, and an overall comfortable place to live are some of the features which encourage relocation in smaller communities. Without the conveniences and opportunities for a better living, however, it is impossible to promote rural development. The Rural Electrification Administration can and will fulfill many of these requirements.

The resolution is as follows:

### S. RES. 271

Whereas Congress appropriated a total of $545,000,000 for the rural electrification program for fiscal 1972; and

Whereas the Office of Management and Budget has released only $438,000,000 of that appropriation; and

Whereas the demand for rural electric loans is such as to require utilization of the full amount appropriated; and

Whereas electric energy is essential to the continued development of rural areas and is one of the prime reasons for establishing rural areas as an attractive place to live and work: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the remaining $107,000,000 of the amount appropriated be immediately released by the Office of Management and Budget.

## ADDITIONAL COSPONSOR OF A RESOLUTION

### SENATE RESOLUTION 266

At the request of Mr. HUMPHREY, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of Senate Resolution 266, relating to the release of the full amount of funds appropriated for 1972 to the Farmers Home Administration.

## SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

### AMENDMENT NO. 973

(Ordered to be printed and referred to the Committee on Finance.)

### H.R. 1 AND HOSPITAL ACCREDITATION UNDER MEDICARE

Mr. RIBICOFF. Mr. President, today I am submitting an amendment to H.R. 1 that would require the Federal Government to review the process by which the private Joint Commission on Accreditation of Hospitals—JCAH—accredits hospitals for participation in the medicare program. This proposal would also require the Federal Government to develop new accreditation guidelines where present ones are inadequate or nonexistent.

Under the medicare laws adopted in 1965, a hospital was deemed to meet medicare certification requirements if the institution was accredited by JCAH—a private organization composed of representatives of the American Medical Association, the American Hospital Association, the American College of Surgeons, and the American College of Physicians. The 1965 law also provided that any regulations promulgated by the Secretary could not be stricter than the comparable JCAH guidelines.

The JCAH survey process is not presently subject to Federal review and all JCAH survey reports are confidential, available only to the Commission and the concerned facility. Consequently, the Federal agencies responsible to the Congress for the administration of medicare cannot audit the validity of the overall JCAH survey process and are unable to determine the extent to which specific deficiencies exist in the vast majority of participating hospitals.

The law, in effect, gives an almost total and blanket delegation of authority over hospital standards to a private agency. If the Joint Commission chooses to lower a standard, medicare is obliged to also accept that reduced standard. As a result, hospitals maintained under unsafe and unsanitary conditions are frequently subsidized under medicare.

I propose that the Secretary of Health, Education, and Welfare institute surveys of JCAH accredited hospitals on a sample basis or where substantial allegations of noncompliance with such standards have been made. If, in the course of such a survey, an institution were found to have significant deficiencies, medicare funds to the hospital would be stopped until compliance with existing regulations was achieved.

To assure that the Federal and State agencies responsible for maintaining proper quality standards have necessary information on the types and extents of any deficiencies, medicare and medicaid participation would be conditioned on hospital agreement to furnish the Secretary and State health agencies with copies of JCAH survey report.

Under my amendment the Secretary of Health, Education and Welfare would be empowered to promulgate standards where necessary for health and safety, regardless of the existence of a comparable JCAH standard where he finds the JCAH guideline is inadequate or nonexistent.

The Secretary would be required to include in his annual report to the Congress on medicare a complete description of his findings and actions taken under these provisions.

I ask unanimous consent that an article which appeared in the February 1972 issue of Hospital Practice magazine be inserted at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### GOVERNMENT IMPACT ON HOSPITAL PRACTICE—SUIT CHALLENGES DELEGATION OF MEDICARE STANDARDS TO JCAH

A decision that could affect more than $5 billion in annual Medicare payments to 5,335 hospitals is expected from a federal court this year, possibly by July. The institutions are accredited by the Joint Commission on Accreditation of Hospitals (JCAH), a private body that shuns even the label "quasi-public." Under the Medicare law, JCAH accreditation automatically entitles a hospital to participate in the program. There is no federal supervision over the setting or enforcement of JCAH standards.

That this delegation of government responsibility to a private body is unconstitutional and should be struck down is the burden of a suit by seven groups representing Medicare beneficiaries. Because of the constitutional question, which could eventually take the case to the Supreme Court, they have asked that a special three-judge court in Washington hear their complaint.

If successful, the plaintiffs may shatter much of the political accommodation reached during the struggle over Medicare enactment as a means of countering fears of "socialized medicine" and federal interference in the voluntary hospital system and the practice of medicine. Another result may be to provide for a consumer-patient voice in the formulation and enforcement of new government regulations covering hospitals. Victory for the plaintiffs might also amplify or restore principles of public accountability, the application of which has not kept pace with the growth of federal responsibilities in the health field.

The suit attacks the constitutionality of Sections 1861 and 1865 of the 1965 Social Security Amendments that established Medicare. These are the sections, the plaintiffs contend, that confer automatic entitlement to Medicare participation on JCAH-accredited hospitals and render them immune from inspection by the federal government or state health departments as its delegate agencies. These sections, they say, force the federal government to use, and non-accredited hospitals to meet, standards that are not permitted to exceed JCAH's. By interpretation, federal officials have prohibited themselves from setting standards for nonaccredited hospitals in areas that JCAH does not cover at all, thus depriving patients of needed protections, the plaintiffs contend.

Hospitals maintained under unsafe, unsanitary, and frequently inhumane conditions are subsidized by Medicare, they continue, because the two sections permit a private body to set "inadequate standards for patient care" and to enforce them "in a manner not calculated to protect patients' rights to adequate hospital care."

The sections specifically violate Articles I and II of the Constitution and its Fifth Amendment, the suit declares. Article I vests "all legislative powers" in Congress. Article II vests executive power in the President and his agents. The Fifth Amendment provides for due process to protect an individual's rights.

Defendants in the suit are 1) Elliot Richardson as Secretary of the Department of Health, Education, and Welfare, which administers Medicare through its Social Security Administration, and 2) JCAH.

Based in San Francisco and Washington, D.C., the plaintiffs include Self-Help for the Elderly, a nonprofit corporation serving low-income senior citizens; California Legislative Council for Older Americans, an unincorporated association seeking to further elderly interests; Centro de Salud, a nonprofit group mainly of Spanish-speaking and elderly poor persons that operates a San Francisco health clinic; Greater Washington, D.C., Area Council of Senior Citizens, an unincorporated, nonprofit group of 77 senior citizen clubs and 6,000 members; and Senior Citizens Clearinghouse Committee of the District of Columbia, comprising elderly individuals and community groups.

Some thought has been given in Washington to the prospect of what would follow a plaintiffs' victory. Even if the plaintiffs lose their quest to replace JCAH standards by federally determined standards, the case apparently has focused attention on public policy questions arising from JCAH's special status in the Medicare law. Several knowledgeable sources in Washington have speculated that a reopening of policy on JCAH accreditation may well be on the way.

If the plaintiffs win, these sources suggest, Congress might amend the Medicare law to make HEW's use of JCAH accreditation subject to conditions and oversight. Whether Congress acts or not, HEW probably would end up constructing its own standards for hospital participation. It would have to employ recognized, open rule-making procedures under which proposed regulations may be commented on by the public. This would permit plaintiffs and similar groups to press for reforms that could extend beyond areas of hospital activity covered by JCAH. For example, the plaintiffs contend that JCAH standards focus on the supportive structure of hospital activity and fail to adequately assess quality of care. They say JCAH standards fail to prescribe standards for outpatient care, to consider the adequacy of staff to patient load, to articulate a hospital's responsibility to a particular community, and to consider the rights of patients and the duty to protect them. These complaints might constitute a patients' agenda for Medicare standards.

As to enforcement, HEW could exclude JCAH entirely or offer it a role that would spare hospitals from overlapping inspections for Medicare and JCAH purposes. State health departments, as Medicare agents, might inspect between JCAH inspections. In such a scheme, JCAH would be a fact finder, the ultimate decision on Medicare participation being reserved to HEW.

Some observers believe that, if freed from the burdens imposed by the Medicare consequences of its judgments, JCAH would be better able to work for better standards of hospital performance. But other observers believe JCAH would lose impact if shorn of its current Medicare role or if a government program provided a publicly accepted equivalent of accreditation.

As of this writing, neither HEW nor JCAH had filed responses to plaintiffs' brief. These are expected early in 1972. Spokesmen for the defendants declined to comment on the case. Much of the information that follows is accordingly based on the plaintiffs' brief.

### HISTORY: THE PATIENTS' SIDE

The intensified concern that arose in the 1960's over health services in central cities provides an historical context for this suit. Not only were (are) physicians generally scarce in economically blighted and crime-ridden areas but the hospitals in these areas had been neglected. Yet often they were the only places where residents could receive care, and often it was delayed, skimpy, and of poor quality.

Attempts to alleviate these conditions arose from many quarters, frequently from house staffs as well as community groups. In major cities, such as New York, Boston, Los Angeles, San Francisco, Chicago, and Washington, they were frustrated by the inertia of professional and government bureaucracies, the fiscal plight of urban budgets, and the apathy of an increasingly suburban-oriented society. Or so it all seemed to the reformers.

Moreover, they expressed dismay at the manner in which established mechanisms seemed to fend off attempts at reform and even to hide the truth about community and institutional conditions. Accreditation by JCAH appeared to be a cover-up mechanism. In Boston, apparently as winds of change blew through the establishment, JCAH disaccredited Boston City Hospital and created a fiscal crisis based on potential loss of Medicare reimbursement (Hospital Practice, February 1970). Results of JCAH survey were leaked to the newspapers. The incident confirmed, if it did not actually produce, an expedited renovation program by the city for the long-neglected teaching hospital. The power of accreditation to conceal—and of disaccreditation to reveal—seemed a lever that community groups might use to obtain reform.

In addition, as the Johnson Administration's "war on poverty" took shape, programs under the Office of Economic Opportunity helped create neighborhood health centers, though not on a scale considered to have a satisfactory impact on poor areas. The OEO also helped finance legal services that the poor could use to seek help from the courts. Much of the legal work in the suit against HEW and JCAH was done by OEO-supported lawyers, including some from the California Rural Legal Assistance and the National Legal Program on Health Problems of the Poor.

The suit against HEW and JCAH arises from events at two hospitals—San Francisco General and D. C. General—when both were due for accreditation surveys.

Built in 1916, San Francisco General is an 822-bed, city-county institution, a teaching hospital, and, the brief says, the primary care center for the city's elderly and poor. It treats 20,000 inpatients a year and has received over $8 million in Medicare payments since 1966 "for the alleged purpose of providing quality medical care" to the elderly, according to the brief.

In March 1971, the hospital's accreditation was to expire. The plaintiffs expressed an interest in giving evidence to the JCAH surveyors, for whose services the hospital was paying almost $1,400. Although the hospital received five-weeks advance notice of the survey visit, the plaintiffs learned only belatedly and unofficially of the survey dates. They claim JCAH discourages advance notice to consumers. On March 18, a week before the survey, they asked JCAH to give them a hearing. Since JCAH's policy is to "interview" consumers rather than permit them to participate in hearings, that's what happened. The plaintiff's were allowed to give evidence but not to hear evidence by the hospital in favor of accreditation.

An intern, Dr. Robert Marvan, told the surveyors of ants in a patient's bed and intravenous bottle. He told of worms on the head and maggots on the neck of a comatose patient who had had a tracheotomy. The brief says documentary evidence was offered that 1) medications and blood, urine, and stool specimens were stored with food in the same refrigerators, 2) the surgical suite was an unsafe area, and 3) no fire drill had been held for at least eight and a half years. The evidence was received, as JCAH policy requires, without debate or response by the survey team. One consumer was allowed to accompany a surveyor on a one-hour tour of the physical plant. Meetings of administrators and staff members were closed to the plaintiffs.

On April 18, the plaintiffs, claiming to represent the city's poor and elderly, asked JCAH to revoke the accreditation. They offered evidence allegedly documenting 286 violations of JCAH standards. They asked JCAH to let them see survey-collected evidence before deciding on accreditation so that a response to the evidence could be filed. On April 22, Dr. John D. Porterfield III JCAH Director, denied the request because the commission's agreement with a hospital includes a promise to keep material confidential unless the hospital consents to the release.

With an accreditation decision expected shortly (in August) the plaintiffs asked to appear before the JCAH commissioners to present evidence and arguments against accreditation. Dr. Porterfield denied the request on the ground that "it would set a dangerous precedent to allow plaintiff consumer groups to appear before the board," the brief says.

On Aug. 23, the plaintiffs asked whether accreditation had been granted, for how long, and on what basis. Dr. Porterfield stated that JCAH would only disclose that the hospital was "on the list of accredited hospitals." He refused to provide the commission's written decision or state the basis or period of accreditation, the brief says.

In mid-September, the plaintiffs somehow obtained a copy of the JCAH decision, which, the brief says, "confirms every material allegation which the plaintiffs made. . . ." The brief quotes the JCAH report as finding "failure to provide a clean, safe environment within the hospital; inadequate formal liaison among the governing body, the administration and the medical staff; inadequacies in personnel staffing; inadequacies in equipment; and difficulties with drug and supply distribution and control."

"Nothwithstanding this conclusion, the Joint Commission accredited the hospital," the brief says.

This meant the hospital would continue to receive $2.1 million annually in Medicare payments. (The brief does not mention that the accreditation was granted for only one year, instead of two, and that the JCAH in effect threatened the hospital with disaccreditation if no improvements were made.)

On Aug. 25, the plaintiffs turned to HEW for an immediate hearing to review the decision. They asked HEW to make public all JCAH findings so that they could respond. On Sept. 13, the Bureau of Health Insurance of the SSA declared that "the law does not give HEW authority to overrule JCAH decision or influence the way in which [JCAH] operates. The confidentiality of the JCAH survey findings is strictly observed and neither [SSA] nor the state licensing agencies are permitted to review its findings."

The D.C. General Hospital episode overlaps the San Francisco incidents. A teaching and a municipal hospital, D.C. General is a 980-bed institution serving indigents and others in the heavily black District. The hospital gets over $2 million annually from Medicare. That D.C. General is in bad shape is widely known. A mayor's task force on public health goals concluded recently that the hospital "is but one cell of a decaying health system—a system which may cause a public explosion if not corrected immediately. The present system perpetuates a double standard of medical care—one in which the poor receive poor health care at an inadequately supported public hospital and the rest of the population receives a uniformly higher standard of health care at a variety of other 'community' hospitals."

Early in 1970, as D.C. General sought accreditation, the plaintiffs told HEW of poor care and asked it to determine whether the hospital met applicable regulations. HEW, which is within a few minutes' drive from the hospital, replied that since the hospital was accredited "it is, by law, deemed to meet" Medicare requirements.

On March 13, the plaintiffs asked JCAH to resurvey the hospital at once because of their concern about the quality of care. They sought a hearing. On May 11, JCAH offered a "discussion period" after the survey had been completed. On May 27, the plaintiffs and others told the surveyors of 76 alleged violations of more than 16 JCAH standards. Testimony came from house staff, physicians, kitchen and maintenance workers, and former patients. They told of drug shortages, lack of nurses, lost and incorrect medical records, inaccurate and unavailable lab reports, lost x-rays, and other deficiencies, according to the brief.

Asked to make formal findings of fact, to make the survey report public, and to deny accreditation if allegations were found correct, JCAH declined to do so. Dr. Porterfield described JCAH as a private corporation, not an enforcement agency. He said its recommendations were considered privileged information for the hospital's use only. The brief says the surveyors had failed to comment or make recommendations on most of the May 27 allegations.

JCAH gave the hospital a one-year accreditation.

An independent hospital consultant in the Washington area told HOSPITAL PRACTICE that "the fact that D.C. General got accredited is astonishing, but you have to remember that the inspectors were faced with the practical problem of what to do with three buildings filled with federally assisted patients, accreditation status figuring in the reimbursement for their care."

A year later, in October 1971, another JCAH survey was due. The Washington plaintiffs asked for an opportunity to give evidence and to review the hospital's factual assertions on a JCAH presurvey questionnaire. The brief says the questionnaire responses are vital to obtaining accreditation. On Oct. 26, plaintiffs and others gave testimony to the surveyors. They asked for a chance to contest any hospital evidence of compliance with standards, including opportunity to cross-examine on major issues. At the time of filing the suit, JCAH had not granted these requests, the brief says. The plaintiffs said they did not expect it would because of its policy: "No rights of participation inure to any outside source of information."

As the new year began, the hospital was waiting to hear from JCAH on accreditation.

### HISTORY: THE MEDICARE SIDE

In August 1961, the American Medical Association testified before the House Ways and Means Committee on a pending bill to establish Medicare, then basically a proposed program of hospital insurance. The bill left it to the HEW Secretary to establish conditions of participation of hospitals in consultation with an advisory board, appropriate state agencies, and accrediting bodies. The AMA objected to this provision because the recommendations of the advisers would not be binding on the Secretary. HEW would regiment and control hospitals. "It is axiomatic that the federal government must, for it is duty-bound to see that the taxpayer's money is spent properly and with efficiency," AMA said.

Moreover, AMA declared, the bill offers no freedom of choice to a patient if the hospital where his physician had privileges chose not to participate or was considered ineligible. AMA saw HEW faced with either watching the budget and lowering the quality of care or giving the program free rein and asking Congress each year for more money. HEW would "use its power to regulate—and use it to the fullest," the AMA predicted. In reply, Rep. Cecil King of California—a sponsor of the Administration bill—said that "talk of arbitrary control by government is just a scare technique" inasmuch as the American Hospital Association had reviewed and approved the approach to hospital participation.

The cry raised by the AMA and others in the health industry, however, led the Administration to alter the bill. Instead of giving HEW discretionary authority to use or not use JCAH accreditation status, the bill gave that status a special meaning. The government would promise to tie its own hands. What ultimately passed both houses of Congress was a guarantee embodied in Sections 1861 and 1865. As Ways and Means declared in reporting out a Medicare bill in 1965, "Hospitals accredited by [JCAH] would be conclusively presumed to meet all the conditions for participation. . . . Linking the conditions for participation to the [JCAH] requirements] provides further assurance that only professionally established conditions would have to be met by [hospitals] which seek to participate in the program."

Section 1861 defines an eligible hospital as one that provides physician-supervised care to all inpatients, maintains clinical records, has staff bylaws, has 24-hour nursing services under an R.N., has a utilization review plan [which JCAH at the time did not require], has a state license or the equivalent. In addition, it must meet such other requirements "as the HEW Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institutions, except that [these requirements] may not be higher than the comparable requirements prescribed for the accreditation of hospitals by [JCAH]. . . ."

Section 1865 declares that if JCAH requires utilization review, then a hospital "shall be deemed" to meet the requirements for participation "if such institution is accredited by [JCAH]." Since utilization review became a JCAH requirement, accreditation automatically defined a hospital as Medicare eligible. (A civil rights requirement, including an assurance of no discrimination by race, color, or national origin, stemmed from the Civil Rights Act of 1964. Consequently, an accredited hospital that failed under terms of this act could not participate in Medicare.)

In an interview, Wilbur J. Cohen, a key architect of Medicare and former HEW Secretary, told HOSPITAL PRACTICE that some concern had been voiced about the constitutionality of relying heavily on JCAH when the sections were drafted. The problem of "divestiture" of government responsibility was considered, however, from the point of view of the nonaccredited hospital. The bill would not make JCAH accreditation the sole gateway to Medicare; rather, HEW would be empowered to set conditions under which nonaccredited hospitals could participate in Medicare. But limits would be placed on these conditions: they would not exceed JCAH standards. Mr. Cohen said HEW lawyers assured him that the bill's constitutionality could be defended.

It is clear that Mr. Cohen and others who participated in drafting the bill did not foresee that a beneficiary group might contest accreditation as a basis for a hospital's participation in Medicare. Nor, said a former HEW counsel, did anyone foresee that courts would give standing to such groups to sue in class actions.

Indeed, the whole Medicare posture was one of deference to providers of care. The regulations for nonaccredited hospitals, and for extended care facilties, independent labs, and home-health agencies allow for administrative and judicial review of Medicare decisions to *decertify* a provider. But they do not provide for beneficiaries to contest the certification of a facility. Nor do they provide explicitly for a federal channel into which beneficiaries may funnel charges of noncompliance with standards. However, since HEW employs state agencies to inspect non-JCAH facilities and these agencies generally are state licensing agencies that receive complaints through their own channels, some HEW officials consider that beneficiaries have a channel for complaints in the certification process. (Under the President's recent nursing home initiative, federal support for state investigative ombudsman units is promised, but they apparently would cover only nursing homes, not hospitals.)

The statutory role accorded JCAH was a political decision. An HEW source says the closeness of a key House of Representatives vote in 1965 suggests that the Administration was politically wise in making that decision. That it was considered legally acceptable was understandable. The federal government already was relying on accreditation by private bodies in higher education as a basis for determining eligibility for government grants, the source said.

As Medicare began to be organized in late 1965, its newly formed Health Insurance Benefits Advisory Council (HIBAC), comprising

19 public and private members, took up participation conditions for nonaccredited hospitals. The discussions showed the weight attached to the statutory reliance on JCAH. The issue was not couched in terms of the "weakness" of JCAH standards. The issue was whether this level was too high to be applied strictly to nonaccredited hospitals. Seeing Medicare as a lever for raising the performance level of hospitals, Public Health Service advisors urged a tough line. But SSA, perhaps more politically atuned, wanted flexibility. The council split along these lines. Eventually, it recommended that HEW establish nationally applicable standards but allow time for hospitals to meet them. Where a facility was needed because beds in an area were scarce, it could be used in Medicare even though it would never make the grade. Thus, availability was allowed to determine leniency; the council was told JCAH was similarly flexible.

There was an abortive attempt to have HEW set participation criteria to prevent non-JCAH hospitals from racial discrimination in selection of staff. A council member said such a stand would be interpreted as higher than JCAH and therefore not permitted by the law. However, some legal critics point out that where JCAH has no criteria, as in this matter, there really is no statutory restriction. In any event, HEW stuck closely to JCAH positions and language.

In 1968, the HIBAC's overall view changed; it decided JCAH standards and enforcement were not good enough. It was no longer appropriate or legally sound, it said in its first annual report, "to continue statutory delegation to a private agency of all the government's authority to safeguard quality of care paid for by a government program. The authority to establish policy on minimum quality should be retained by the government." The council then added:

"In the case of Medicare, the council has found reason for concern that JCAH standards are not applied with the frequency of inspection and range of inspection skills necessary to assure a high degree of effectiveness.

"Furthermore, because of [Section 1865], the JCAH standards in some cases impose an undesirably low ceiling on the maximum level at which health and safety standards under Medicare may be set.

"The council believes that JCAH has an important function to perform in establishing meaningful goals for hospitals, rather than the minimum standards which virtually all now meet. To the extent the JCAH successfully carries out the job of hospital goal-setting and showing hospitals the ways in which they should go in establishing the medical care system needed for the United States, the proper relation between Medicare standards and JCAH standards will emerge."

The council urged Congress to free HEW to establish standards for hospitals. It must be accounted noteworthy that a recommendation critical of the health industry's conventional way of doing things came from an advisory group whose members were drawn substantially from the industry. In effect, some of the positions taken by the beneficiary plaintiffs were prefigured. Their suit quotes the council.

The recommendation for congressional action apparently fell on deaf ears. Nothing happened on Capitol Hill; HEW did not introduce the issue there. Even the council seemed to lose interest; its next annual report said nothing on this point.

### OTHER CONSIDERATIONS

One of the main themes of the plaintiffs' brief is that the statutory reliance on JCAH bypasses the right of public accountability. The brief describes JCAH as a private Illinois corporation governed by a board of 20 "private representatives of the medical establishment." It asserts they represent organizations and members with pecuniary and personal interests "in the widespread accreditation of hospitals, which then become entitled to receive Medicare funds." The JCAH board of commissioners includes seven representatives each from the AHA and AMA, and three each from the American College of Surgeons and the American College of Physicians. The plaintiffs say the board and member organizations maintain accreditation standards "which virtually every hospital in the United States can pass."

Indeed, almost all Medicare's hospital business is handled by JCAH hospitals. Of the 6,739 hospital in Medicare, 5,335 are JCAH accredited. They have 1,039,021 of the 1,188,292 beds in Medicare-participating hospitals. The exact money total received by JCAH hospitals is not available, but the bed figures indicate that very little of the $5 billion Medicare spends annually in hospitals is spent in nonaccredited hospitals.

According to the suit, Article I of the Constitution says that only Congress has the power to legislate, and that the selection of which types of hospital shall participate in Medicare is a form of legislation. Congress may delegate the power to determine Medicare participation, but only after establishing adequate procedures for the exercise of this power. Actually, the suit continues, Congress did not provide for this, and thus Sections 1861 and 1865 violate Article I.

Article II of the Constitution vests executive power in the President and his agents. Although Congress may, with safeguards, delegate authority, it may not delegate to a private body without violating Article II, according to the brief. The delegations in Sections 1861 and 1865 are said to be such violations. Moreover, the brief says, the sections fail to meet the due process standards of the Fifth Amendment, which guarantees persons whose rights are affected by federal action notice and opportunity to be heard.

Despite all this, the brief continues, the law makes delegations to JCAH, which has "unbounded discretion" to change standards and manner of enforcement. At the same time, because its standards serve as maxima for nonaccredited hospital participation in Medicare, "they operate as rules of law." Further, JCAH makes decisions without providing patients with notice and opportunity to be heard. Its findings are not a matter of public record and are even withheld from HEW, the brief says. Finally, JCAH's decisions are not subject to administrative or judicial review.

Whether federal judges finally agree or disagree with the plaintiffs on the matter of constitutionality, there is some feeling on Capitol Hill that decisions made in 1965 in setting up Medicare deserve review in the context of six years' experience. Much that was done on faith in 1965, several observers agree, would not pass through Congress today.

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## HOUSING AND URBAN DEVELOPMENT ACT OF 1972—AMENDMENTS

### AMENDMENT NO. 974

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. TAFT) submitted an amendment intended to be proposed by them jointly to the the bill (S. 3248), to consolidate, simplify, and improve the laws relative to housing assistance, to provide Federal assistance to local governments in support of community development activities, and for other purposes.

### AMENDMENT NO. 975

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I am submitting today an amendment to S. 3248 on behalf of myself and Senators CHURCH, WILLIAMS, and CRANSTON.

Mr. President, S. 3248 is a bill to consolidate, simplify, and improve loans relative to housing and housing assistance, to provide Federal assistance to local governments in support of community development activities, and for other purposes.

My amendment strikes those sections of the bill which create a Deputy Assistant Secretary for Housing Production and Mortgage Credit for Elderly programs and substitutes instead a full Assistant Secretary of Housing for the Elderly with full powers to administer all housing programs for the elderly.

Mr. President, I feel we desperately need an additional Assistant Secretary of Housing who will deal exclusively with the housing problems and opportunities for the elderly and who would act as a spokesman and advocate for the elderly within the Department of Housing and Urban Development. We need a person within HUD who is sensitive to the housing needs of the elderly. But more importantly, he must have the authority to cut through the redtape and present these needs directly and forcefully to the Secretary.

I deeply regret I have not been able to work out an agreement with the Department of Housing and Urban Development on this subject. As a former member of the distinguished Committee on Banking, Housing, and Urban Affairs in the Senate, it had been my hope that we could find a way to resolve this problem of representation for the elderly without this amendment but regretfully it has not been possible to reach an agreement. This does not in any way and should not be interpreted in any way as detracting from what I consider to be a magnificent job that Secretary Romney has done to make HUD more efficient and responsive to the housing needs of the American people. I believe he has done virtually more than any other Cabinet officer to decentralize an executive department and to place responsibility in the field, which is a trend I would hope all other departments would follow. I congratulate Secretary Romney and Under Secretary Van Dusen for these efforts.

It is my opinion, however, that until we get one assistant secretary whose life work it is to take care of the housing needs of the elderly we are not going to take care of these needs adequately or efficiently.

Mr. President, I earnestly commend my amendment to my colleagues' attention, and ask unanimous consent that the text of the amendment appear in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

### AMENDMENT No. 975

**On page 196 strike out lines 10 through 15 and insert in lieu thereof the following:**

**(b) (1) The first sentence of section 4(a) of the Department of Housing and Urban Development Act is amended by striking out "six" and inserting in lieu thereof "seven".**

**(2) Section 4(b) of such Act is amended**

by inserting "(1)" after "(b)" and by adding at the end thereof a new paragraph as follows:

"(2) One of the Assistant Secretaries provided for in subsection (a) shall be designated Assistant Secretary for Housing for the Elderly. All of the programs administered by the Department to provide aid or assistance in behalf of the elderly shall be administered by and through the Assistant Secretary so designated. In the exercise of this authority, the Assistant Secretary shall—

"(A) make maximum use of the loan program under section 202 of the Housing Act of 1959 in providing housing and related facilities for the elderly;

"(B) be regularly consulted with respect to all other programs of the Department to the extent that they provide or otherwise involve housing for the elderly;

"(C) provide a central source and clearinghouse of information with respect to housing for the elderly;

"(D) coordinate housing programs for the elderly and seek ways to consolidate programs which overlap; and

"(E) carry out studies and make recommendations for such administrative or legislative action as may be appropriate to meet the housing needs of the elderly in rural areas, including emergency grants where necessary for the repair or rehabilitation of dwelling units."

AMENDMENT NO. 976

(Ordered to lie on the table and to be printed.)

Mr. BROCK submitted an amendment, intended to be proposed by him, to Senate bill 3248, supra.

AMENDMENT NO. 977

(Ordered to lie on the table and to be printed.)

Mr. ALLOTT submitted an amendment, intended to be proposed by him, to Senate bill 3248, supra.

AMENDMENTS NOS. 978 AND 979

(Ordered to lie on the table and to be printed.)

Mr. TOWER submitted two amendments, intended to be proposed by him, to Senate bill 3248, supra.

AMENDMENTS NOS. 980 THROUGH 982

(Ordered to lie on the table and to be printed.)

Mr. JAVITS submitted three amendments, intended to be proposed by him, to Senate bill 3248, supra.

AMENDMENT NO. 983

(Ordered to lie on the table and to be printed.)

OPERATING SUBSIDIES FOR URBAN MASS TRANSIT

Mr. JAVITS. Mr. President, I send to the desk for printing under the rule an amendment to S. 3248, dealing with neighborhood conservation. I ask unanimous consent that the text of the amendment may be printed in the RECORD.

Mr. President, a very serious problem in the cities, and this is true not only of large cities in my States, but throughout the country, is the problem of dealing with older neighborhoods, which tend to border on deteriorating neighborhoods. They are adversely affected rather than not affected; but on the contrary they have the capacity for helping rehabilitate deteriorated neighborhoods. It can work out just the opposite way it is now.

I know the constructive outlook of this particular committee, on which I once had the honor to serve. I am going to lay this matter before the committee in the hope that in the course of debate we can find a way to deal with a very grave problem of losing important housing stock which we have.

Mr. President, this amendment deals with the tremendously difficult financial situation of the cities which are literally bleeding in terms of so many of their functions. This is an effort to help them, completely consistent with the policy of our country and the policy espoused by the committee, except that no money is provided for this particular approach, and it is an effort to correct that situation that causes me to deal with this amendment.

I believe that every Senator with similar problems will be found to be vitally interested in this matter.

I am grateful to the acting majority leader.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

S. 3248

On page 189, after line 12, insert the following:

(c) Section 4(c) of such Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 (except subsection (f)), and sections 7(b) and 9";

(3) by striking out "this subsection" wherever it appears and inserting in lieu thereof "this paragraph"; and

(4) by adding at the end thereof a new paragraph as follows:

"(2) To finance grants and loans under secton 3(f) of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $800,000,000. This amount shall become available for obligation upon the date of enactment of the Housing and Urban Development Act of 1972 and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $400,000,000 prior to July 1, 1973, which amount may be increased to not to exceed an aggregate of $800,000,000 prior to July 1, 1974. Sums so appropriated shall remain available until expended."

## ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 955

At the request of Mr. STEVENSON, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of Amendment No. 955. intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 956

At the request of Mr. ROTH, the Senator from Alabama (Mr. ALLEN), the Senator from Tennessee (Mr. BROCK), and the Senator from Nebraska (Mr. CURTIS) were added as cosponsors of Amendment No. 956, to the bill (H.R. 12910) to provide for a temporary increase in the public debt limit.

## ANNOUNCEMENT OF HEARINGS ON THE RECOGNITION OF BANGLADESH

Mr. CHURCH. Mr. President, the Committee on Foreign Relations will hold public hearings on resolutions related to the question of the recognition of Bangladesh on March 6 and 7. The Department of State has been invited to present its views on the recognition question on March 6. In addition, the committee would also expect to hear public witnesses on that day. March 7 has been set aside for testimony from the sponsors of the Senate resolutions. The hearings will be held in room 4221 of the New Senate Office Building and will begin at 10 a.m. on March 6 and at 9:30 a.m. on March 7.

In addition to these public hearings, the committee has invited Joseph J. Sisco, Assistant Secretary of State for Near Eastern and South Asian Affairs, to appear before the committee in executive session on March 3 to discuss the question of the recognition of Bangladesh.

## NOTICE OF HEARING ON SENATE JOINT RESOLUTION 193—REDESIGNATION OF AREA IN FLORIDA KNOWN AS CAPE KENNEDY AS CAPE CANAVERAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a statement by the distinguished junior Senator from Washington (Mr. JACKSON) may be printed in the RECORD. The statement has to do with the holding of hearings.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON

On March 8th the Interior and Insular Affairs Committee will hold a hearing on S.J. Res. 193, a Joint Resolution introduced earlier this session by Senators Gurney and Chiles, to redesignate the area in the State of Florida known as Cape Kennedy as Cape Canaveral. The hearing will be held in Room 3110 of the New Senate Office Building and will commence at 10:00 A.M.

## ANNOUNCEMENT OF HEARINGS ON S. 718, THE PROGRAM INFORMATION ACT: S. 3140, THE INTERGOVERNMENTAL COOPERATION ACT; AND S. 3141, THE INTERGOVERNMENTAL PERSONNEL ACT AMENDMENTS

Mr. MUSKIE. Mr. President, I should like to announce that on March 7, the Subcommittee on Intergovernmental Relations, Committee on Government Operations, will consider the following legislation:

S. 718, a bill to create a catalog of Federal assistance programs;

S. 3140, which is directed to strengthening the management of our categorical grant-in-aid system, the chief means by which the Federal Government helps the States and localities solve national problems. It is a necessary supplement to the Intergovernmental Cooperation Act of 1968—Public Law 90–577—the first major piece of legislation to improve administrative relationships between the Federal, State, and local levels of government; and

S. 3141, which would amend the Intergovernmental Personnel Act of 1970—Public Law 91–648—to provide for the employment of younger citizens of States and local governments as a means of increasing administrative, technical, and professional skills available to local and State governments, thereby strengthening the Federal system.

The hearing will be held in room 3302, New Senate Office Building, beginning at 10 a.m.

Any one wishing to file a statement with respect to the proposed legislation should notify Mrs. Lucinda T. Dennis, chief clerk of the subcommittee. She can be reached by calling 225–4718.

## ADDITIONAL STATEMENTS

### SENATE CHAPLAIN RECEIVES FREEDOMS FOUNDATION AWARD

Mr. HANSEN. Mr. President, it is with a great pleasure that I invite the attention of the Senate to the fact that our Chaplain has received the principal award in the sermon category from Freedoms Foundation at Valley Forge, Pa. This award and others were presented in a special ceremony at Valley Forge on Monday, February 21, 1972.

I am particularly pleased to take note of Dr. Elson's award because he received it for the sermon he delivered at the 81st commencement exercises of the University of Wyoming on May 30, 1971.

As the foundation has recognized so fittingly, it was a timely message which examined with patience and forbearance the many problems which beset us in today's troubled world. The sermon was entitled "Turbulence in the Big Room."

At my request, the sermon was printed in the CONGRESSIONAL RECORD of June 4, 1971. I commend it to the interest of Senators and congratulate Dr. Elson on a most deserved honor.

### AT LAST, GOOD NEWS FOR RETIRED AMERICANS

Mr. MOSS. Mr. President, the recent announcement of a possible 20 percent across-the-board increase in social security benefits must come as good news to the millions of retired Americans hard pressed by the rising costs of food and other essentials.

I support early congressional action on the recommendations made by the Ways and Means Chairman and the Advisory Council on Social Security to raise the average benefit from $133 a month to $162 a month; from $222 a month to $269 a month for the aged couple; and from $114 to $153 a month for aged widows. While these hikes still leave many retired Americans below the poverty line, they offer substantial relief to all our senior citizens and should be implemented as soon as possible.

The new recommendations also contain welcome news to the Nation's employers. Under current funding plans, it now appears that the payroll tax rates accompanying the new benefit levels will actually be reduced.

Given recent cost-of-living information, the benefit hikes made possible by these modifications in the social security system will certainly be put to good use. According to the Department of Labor, even with the increases, aged couples relying exclusively on monthly social security checks will continue to have a difficult time making ends meet.

Based upon cost-of-living figures compiled by the Bureau of Labor Statistics, an elderly couple living in an urban area requires approximately $4,800 to maintain an intermediate living standard. Even with the benefit increases, many will find their regular incomes well below even this modest level.

We can no longer ignore the economic plight of our senior citizens. The data has begun to speak for itself. In 1962, for example, the average income of a family headed by a senior citizen could count on 50 percent of the average income of a family with a head of household less than 65. Today, the family with a senior citizen as the head of household can expect only about 43 percent of the average income of his younger counterpart. All the social security increases passed by Congress have been only stopgap measures designed to keep the elder "even" with the rest of the population.

In considering these new changes, the Senate must come to grips with a widening economic gulf which threatens to separate elderly Americans from the rest of our society.

### VOLUNTARY PRAYER IN PUBLIC SCHOOLS

Mrs. SMITH. Mr. President, for myself and on behalf of my colleague from Maine (Mr. MUSKIE), I ask unanimous consent to have printed in the RECORD a joint resolution of the legislature of Maine memorializing Congress for the purpose of amending the U.S. Constitution to permit voluntary prayer in public schools.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

STATE OF MAINE JOINT RESOLUTION MEMORIALIZING CONGRESS FOR THE PURPOSE OF AMENDING THE U.S. CONSTITUTION TO PERMIT VOLUNTARY PRAYER IN PUBLIC SCHOOLS

We, your Memorialists, the Senate and House of Representatives of the State of Maine now assembled in the First Special Session of the One Hundred and Fifth Legislature, most respectfully present and petition your Honorable Body as follows:

Whereas, constitutional silence on prayer in the public school system has given way to widespread confusion and concern among the people of Maine; and

Whereas, the Congress is empowered under Article V to propose amendments to the Constitution of the United States whenever two-thirds of both Houses shall deem it necessary; and

Whereas, the people of Maine, through appropriate action, have deemed it essential for the preservation of public peace that the Congress propose an amendment to the Constitution providing for voluntary prayer in the public schools; now, therefore, be it

Resolved: That we, your Memorialists, in accordance with the provisions of Article V of the United States Constitution, do hereby urge and recommend to the Congress of the United States that action be taken for the purpose of proposing an amendment to the Constitution of the United States, which shall provide the offering of voluntary prayer in the public school system; and be it further

Resolved: If the Congress shall have proposed an amendment to the Constitution, to the same effect as the foregoing, prior to January 1, 1973, this application shall no longer be of any force or effect; and be it further

Resolved: That certified copies of this memorial be transmitted forthwith by the Secretary of State to the Secretary of the Senate, Clerk of the House of Representatives and the Members of the Ninety-second Congress of the United States elected from the State of Maine and the secretary of the state of each of the several states for transmittal by him to the legislature of his respective state.

### RISING DOMESTIC LIVESTOCK PRICES

Mr. BENTSEN. Mr. President, I am disturbed to learn that President Nixon is considering increasing the import meat quotas because of rising domestic livestock prices.

One does not have to be an agricultural economist to understand the real situation concerning the price of beef and its true effect on the American consumer. A recent U.S. Department of Agriculture report showed that on an average, in 1971, only 38 cents of every $1 the consumer spent on food went to the farmer, down from 39 cents a year ago. This same report pointed out that the annual food bill for consumers rose from $2,223 to $2,244 between 1970 and 1971, with only $1 of this $21 increase going to the producers. The balance went to higher labor costs and increased cost of packaging and transportation.

It just does not make sense to try to reduce the market price on livestock when producers are just now receiving the same price that they did over 20 years ago, while having to pay the increased inflationary costs of equipment, feed, production, and labor.

Secretary of Agriculture Butz recently testified before the Joint Economic Committee, of which I am a member, and stated that the American consumer will spend only 15.6 percent of his total disposable income on food expenditures in 1972. This is an all-time low. In comparison with his counterpart in other countries, the American consumer spends a much smaller percentage of his disposable income on food and foodstuff.

Penalizing the farmer, who is already doing an efficient job in holding down prices under the pressure of inflated labor, transportation, and marketing costs, is just not a sensible approach. I oppose the idea of such penalties through increasing these imports.

### TAIWAN

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Mr. Nixon and Taiwan," published in the Christian Science Monitor of February 29, 1972.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. NIXON AND TAIWAN

President Nixon's political critics were bound to look for something to criticize in the communiqué from the China trip and have correctly seized upon the Taiwan part as being the most promising. It is the only place where Mr. Nixon promises to do a specific thing which, at first blush, sounds new and different.

But it is doubtful that the critics (mostly Democrats and right-of-Nixon Republicans) will get much mileage out of Taiwan because what Mr. Nixon agreed to do in the communiqué is what he was in the process of doing anyway.

Taiwan has long since ceased to be an important American military base. In fact, it never was. The total number of American troops there now is given as 9,990—which isn't very much as such matters go. And 5,000 of these belong to the 374 Tactical Airlift Wing which was moved to Taiwan at the beginning of the big buildup in Vietnam and will automatically be moved away when the big withdrawal from Vietnam is completed.

The run down from over half a million Americans in Vietnam to the residual force to be left behind (somewhere around 30,000 men) should be completed by mid-summer; certainly well before election day in November. By that time the flow of men and matériel to Vietnam will be down to a normal replenishment basis. It could be down to zero if the China trip should happen to produce a negotiated end to the war (which is possible).

So by the end of this year the number of Americans based on Taiwan would be down to 5,000 men even if there had been no trip to China; and most of those belong to the American Military Aid Group.

At one time there was a large CIA establishment on Taiwan. But that belonged to the days when John Foster Dulles was talking about "roll back" of the "bamboo curtain," and when some Washingtonians seriously thought of a return of Chiang Kai-shek's armies to the mainland. But all of that is long since finished.

The promise in the communiqué is to reduce American forces and military installations "as the tension in the area diminishes." This is nothing new.

There is also a declaration of "ultimate withdrawal" of all American forces. But that, too, has been standard American policy for 20 years. It sounds new. It isn't. And besides, how long is "ultimate"?

Henry Kissinger, in his official briefing to correspondents, asserted that the American security treaty with Taiwan continues in force. So long as it does nothing is changed. Washington still guarantees the military security of Taiwan.

The only thing really new in the communiqué is that Mr. Nixon has reaffirmed standing American policy in a joint communiqué with the Chinese from China. Thus the Emphasis is changed, a little. The overtone is one of more concern for Chou En-lai than for Chiang Kai-shek. But Mr. Nixon can claim, correctly, that he has given away nothing new.

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## VIETNAM: THE U.S. NEGOTIATING POSITION WORSENS

Mr. MOSS. Mr. President, though Vietnam is not front page news today and has not been for the last many days, we cannot afford to let our attention wander for too long from that troubled part of the world.

It is becoming more and more clear that our position in Vietnam has worsened. I do not mean militarily, for the new Tet offensive which we were assured was planned for this spring has not occurred and there have been few military victories for North Vietnam. I refer instead to our political negotiating position. As we withdraw our troops, the political adjustments necessary for a safe withdrawal and the return of our POW's become the most important aspect of our involvement.

I said long ago and I say again: the best time to negotiate a return of our prisoners was when President Nixon first took office. At that time we could have negotiated from a position of strength. We had many troops in the country and North Vietnam's demands could have been met. What we face now is a rising escalation of the demands placed by North Vietnam for the release of our prisoners of war. While we in this country decry such inhuman treatment of prisoners, we must try to see that, from a political point of view, North Vietnam has little to lose by raising its negotiating demands.

We have been withdrawing our troops with little or no concession on the part of North Vietnam. I favor a withdrawal of our troops, but I must point out that by refusing to reach negotiated agreement on the military and political aspects of Vietnam back in 1969, our President missed the prime opportunity for settling this conflict.

We will soon face the position where we have very little to offer in return for the release of our prisoners of war by Hanoi. If the President continues his schedule, our soldiers will be totally withdrawn. At one time North Vietnam stated that definite withdrawal of our troops could precipitate an exchange of our prisoners. We refused to meet the terms of North Vietnam, and now we are in a position of having done part of what they asked, yet having received nothing in return.

In the meantime, we have strengthened our ties with the corrupt and unstable government of President Thieu. Our delay in settling this dispute has tied us unwittingly with a hated dictator. Now North Vietnam is demanding the overthrow of the present Saigon administration before it will settle on arrangements leading to the release of American POW's. We once had the opportunity of participating in the establishment of a broadly based coalition government a number of years ago. Instead, we missed that opportunity, and we are now faced with a confrontation over our support for President Thieu.

For the first time in the history of the Paris peace talks, one party has walked out. I ask unanimous consent to have printed at the end of my statement an article entitled "North Vietnam, Vietcong Walk Out of Paris Talks," written by Jonathan C. Randal, and published in the Washington Post on Friday, February 25, 1972. While none of us need sympathize with the militant attitude taken by North Vietnam, we must try to understand the situation that is allowing such a breakdown in the negotiations to occur. The heart of the problem is that the United States refused to negotiate when it was in the best position to do so. We are now faced with the possibility of having few "chips" to use in negotiations, while Hanoi continues to imprison soldiers captured by their forces.

The President's Vietnam policy has been and continues to be a misguided disaster. It has recently been covered over with the language of hope and fancy packaging. It is time we saw through the disguise that has been wrapped around our Vietnam policy. The President's televised statement revealing his secret peace talks was not the announcement of a new effort; it was the signal of a defeated negotiator displaying such failure under the guise of a new initiative. When we look below the surface we discover that the negotiating posture of the United States has worsened, that our prospects in Vietnam continue to be bleak.

Unless the President negotiates a return of our prisoners of war soon, we will have little hope of seeing them returned in the near future.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### NORTH VIETNAM, VIETCONG WALK OUT OF PARIS TALKS

(By Jonathan C. Randal)

PARIS, Feb. 24.—North Vietnam and Vietcong diplomats walked out of the stalemated peace talks today in a surprise move apparently underscoring their concern that President Nixon and Chinese leaders were discussing the war behind their backs in Peking.

The Communist move—formally justified as a protest against "escalation" of American bombing of North Vietnam—marked the first time that either side had walked out of a negotiated session since the peace talks began here in May of 1968.

The date for the next session was left up in the air, although past experience would indicate that neither side would take the responsibility of ending the formal negotiations.

Americans and South Vietnamese diplomats called the walkout a "flagrant violation" of mutually accepted procedure at the negotiations, and charged that as such it constituted a "discourtesy unique for Orientals."

The whole episode lasted 17 minutes—the shortest negotiating session on record—as first Hanoi's delegate, Xuan Thuy, and then the Vietcong representative, Nguyen Van Tien, read statements abruptly suspending the 145th plenary session.

They gathered up their papers—but left their tape recorders on—and with their assistants filed out of the room, as South Vietnamese Ambassador Pham Dang Lam stigmatized their behavior.

U.S. Ambassador William J. Porter said. "We have just seen a remarkable example of the intentions of the other side to conduct the 'serious negotiations' for which they asked us to come back to the table."

This was a reference to Communist demands at a news conference last week that the United States and Saigon—which had indefinitely suspended the talks in anger at an international anti-war rally in nearby Versailles—agree to holding the 145th session today.

Beyond the running hostility which has long distinguished the formal negotiating sessions lay the Peking summit and its implications for North Vietnam.

Hanoi's Nguyen Thanh La told newsmen that he had "heard of" rumors in the American press of possible meetings in Peking, or elsewhere, between North Vietnamese and American officials designed to speed peace negotiations.

"We insist on repeating that they are without foundation," he said, and respected the Communist insistence that the Nixon administration must negotiate by answering the Vietcong's seven-point peace initiative "here in Paris."

He hammered home the theme by quoting

from President Nixon's speeches in Peking—without directly identifying them—to suggest the "hypocrisy" of the President's words of concern for peace and children while the administration continued its "acts of war."

"The Indochinese people and peace-loving peoples throughout the world will never forget" the administration's "foul and innumerable crimes," he said.

U.S. press spokesman Stephen O. Ledogar added his own note of ambiguity. Asked if the American delegation here was aware of any discussion in Peking of the Vietnam conflict, he hastily replied, "No comment."

In an equally tough vein, he said the allies would be "examining carefully and consulting" on the Vietcong and North Vietnamese demand, contained in their short sesmal statements, that the next formal session "will be held" next Thursday.

Thanh Le sought to explain the seeming discrepancy between the previous insistence on holding the 145th session today and the walkout by quoting language employed in the formal allied note agreeing to the meeting.

That note had warned that "If the 145th plenary session, because of your attitude, turns out to be another sterile exercise, you should understand that this will not help your contention that these meetings are 'indispensable'."

## EULOGY OF CARL HAYDEN

Mr. BAYH. Mr. President, this Chamber has during the past month noted with due respect the passing of one of the great legislators in our Nation's history. Carl Hayden's congressional service to his native Arizona spanned the history of its statehood and provided the Senate with a conscientious, resourceful, and determined lawmaker with a unique understanding of the problems facing his constituency and the country from the vantage point of over half a century. From a candidate for student body president at Stanford to the post of sheriff of Maricopa County and on to the halls of Congress, Carl Hayden amassed an experience in public affairs which can only be described as legendary. When I entered the Senate in 1963, this gentleman from Arizona was into his 36th year of service in this body. But what was as impressive as the longevity of his office was his commitment to the business of the Senate and his accomplishments for the people of his home State. In this age of the media it is hard to imagine a legislator who would hold only one news conference in 50 years of service. But this is Carl Hayden's record and the certain reflection of his expressed desire to be "a workhorse, not a showhorse."

It is with special confidence that we can say history will judge Carl Hayden well. As a "frontier lawmaker" whose years of public service embraced the "new frontier" his contribution will be remembered always with affection and gratitude. And what will also be counted, perhaps most, will be his own quiet, certain style—a special quality mentioned by Patrick Henry in his observation that—

> Quiet minds cannot be perplexed or frightened but go on in fortune at their own private pace, like the ticking of a clock during a thunderstorm.

It was this private pace of Carl Hayden which has endeared him to his colleagues and has distinguished him forever in the story of our Nation.

## QUALITY-INTEGRATED EDUCATION

Mr. JAVITS. Mr. President, this morning's Washington Post contains an excellent article entitled "A Black Parent Looks in Two Directions at Busing," written by Roger Wilkins.

Mr. Wilkins attended both segregated and integrated schools as a child. He rode a bus in order to comply with the requirements of an officially segregated system; today his children ride a bus to receive a quality-integrated education. He is a man of reason and understanding whose comments should be of interest to the Senate in the context of the present debate.

I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### UNHAPPY MEMORY AND A HOPEFUL PRESENT—A BLACK PARENT LOOKS IN TWO DIRECTIONS AT BUSING

(By Roger Wilkins)

Blacks who can remember being bused for the maintenance of segregation find the current heated debate over busing both bemusing and infuriating. We feel the same way about politicians and pundits who seem sure they know that black parents don't want busing any more than white parents do. It puts one in mind of the old white Southerners who used to assure Northerners that, "our darkies are happy down here," and would then trot one out to prove it.

Well, this one's not very happy about the whole busing debate. My first educational experience was in a one room segregated school in Kansas City, Mo., where I was allowed to come and sit in the back of the room at the age of four because all my older friends were there. The next year, that school was closed and my friends and I were bused many miles to a black school in a blacker part of town. Apart from a keen daily sense that the whites were terribly selfish for hogging the newer and prettier school near our homes, I remember the bus rides as generally convivial and sometimes pretty hilarious. My next stop was Harlem where you learned a lot of you were in an upper track and paid for it with lumps dealt out in the school yard or in the street by resentful lower trackers.

And then on to high school in a midwestern city. If I wasn't the first black in the school, I was the only "one" there then and my family and I were the only "ones" in the neighborhood. In the classroom it was fine with the algebra and the English, but on the street it was tougher than Harlem. Somebody always seemed to have had to clear a clogged throat right on the furry cover of my bicycle seat. Rather than face the humiliation of cleaning it off in view of the passing crowds thronging out of the school. I would often ride home standing up and sometimes through a gantlet of stones, apple cores and teen-age racial epithets.

But it turned out all right. I learned enough in that school to get into college. And I learned some other things too. Things I couldn't have learned in my Kansas City schools nor in my Harlem schools. They were things about white people and things about myself. I learned that whites are not the superior people they were made out to be. Some of them were smarter than I and some not as smart. Some could pump in baskets from a corner better than I and some couldn't make the team at all. And eventually, over time, I came to learn that they and I could deal in human terms across racial lines. And they learned things from me too, about blacks that they could never have learned in an all white school. Yesterday's coon turned out to be a contemporary kid and tomorrow's man. Though it hurt me a lot in the beginning, it was worth it—for all of us. People don't learn to function very well in multiracial societies when they do all their learning in uniracial schools.

My mother's judgments about my education were based partially on the circumstances of her life and partially on her desire that her child receive the best education her resources could provide. She did not seek an all white high school for me, but she was certainly not displeased that the one I attended was the best school in town. She knew to a moral certainty that she didn't want her son to be an illiterate or an emotional cripple hobbling through the last five or six decades of his life. She figured that knowing how to read was essential, but that learning something about white people was useful too. Inadvertently, I suspect her decision helped a lot of white kids too.

The choice, then, is not to bus or not to bus, but to teach children to read and to live among the wide variety of people with whom they will spend their lives. We can either integrate—sometimes using buses as a tool—or we can choose to create a future generation of cripples, savages and bigots.

Years after my mother had made her choices for me, I had to begin thinking about the same kind of choices for my own children. When it became clear by my daughter's fourth year in a largely black school that she was reading at least two years below grade level, my wife and I took her out of her neighborhood school, and put her on a bus headed for a much better school ten miles from home, which also happened to be integrated. When my son became five, he joined his sister on that same bus headed for the same integrated school where they could learn in a gentler way than I had two decades earlier how to live in an integrated world. They both began to read. And that was the essential point.

## RADIO FREE EUROPE AND RADIO LIBERTY

Mr. SCOTT. Mr. President, there is a great need to continue the financing of Radio Free Europe and Radio Liberty. I ask unanimous consent that an editorial column entitled "A Setback for Liberty," written by John P. Roche, and published in the February 26, 1972, Washington Post, and an editorial entitled "Congress and Free Voices," published in the Philadelphia Bulletin of February 25, 1972, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### A SETBACK FOR LIBERTY

(By John P. Roche)

One of the most bizarre—terrifying—scenes in Aleksandr Solzhenitsyn's masterpiece, "The First Circle," describes a visit to a Soviet prison by a distinguished American, a woman with high political connections. A group of prisoners are put through a special drill for her benefit dressed decently, put in a clean cell with an ikon, and told by the police that if they don't perform, zap! They did go through with the charade and the American visitor left with a high opinion of Soviet justice.

What made this sort of thing possible, of course, was the total isolation from the world outside. Once caught up in the toils of Joseph Stalin's terror apparatus, it was every man for himself with no hope of succor, no hope that outsiders would even learn of the situation. Part of Solzhenitsyn's power comes from his description of how some human beings resisted atomization and persisted in acts of decency.

The prerequisite for running an efficient tyranny—as Aristotle pointed out more than 2,000 years ago—is to destroy this human sense of solidarity, and to convince each victim that he is alone in the face of overwhelming power, that no one cares. This has become more difficult with modern techniques of communication. It is hard to jam all incoming radio messages, and the spread of the transistor radio and of tape recorders has launched a whole new era in underground communications. Through Radio Liberty and Radio Free Europe the United States has for almost a generation brought to the peoples of the Soviet Union and Eastern Europe the message that they are not alone.

To take but one example, a Soviet Jew signed a petition attacking the appalling Leningrad trials. Thirty years ago he would have dropped this pebble down a bottomless well, but now, the next morning at 2:30, Radio Liberty was on the air with the text of the petition and the names of the signatories. This man, now in Israel, recalls the sense of triumph as he heard the broadcast: "They (the KGB) can take us now, but our testimony will stand in history."

Radio Liberty and Radio Free Europe have reunited these peoples with history. And in the view of Sen. J. W. Fulbright that is a capital offense. Just about the time this column is printed, these radio stations—formerly subsidized by the CIA—will go broke unless emergency action is taken. Both houses of Congress have approved their continuation with overt funding and there is overpowering consensus that they have done a splendid and nonprovocative job in a very delicate area, but Fulbright singlehandedly has been blocking a compromise between House and Senate versions of their appropriation.

Fulbright refused to call a meeting of the House and Senate conferees, obviously hoping that in this backhanded fashion he can quietly destroy what he has called these "Cold War relics." It is a clever move: If he can stall, key personnel will have to find other jobs and the expertise built up over a generation will dribble away. He must not be permitted to get away with it.

No one who reads this column will suffer from the illusion that I believe the United States is perfect, but we Americans have been fortunate. We have never had to rise at 2:30 and turn on a radio to learn that we are still members of the human race, that we are still part of history. We can not allow Fulbright to deprive our brothers of this priceless link with humanity.

### CONGRESS AND FREE VOICES

A stalemate between the U.S. House and Senate over separate bills to continue financing Radio Free Europe and Radio Liberty threatens very sudden death for the two enterprises spawned by the cold war to offset censorship of news in Russia and the Communist bloc.

If the two stations stand as nothing more than relics of the cold war, then, their continued existence does seem inconsistent with the new era of detente emerging between the United States and Russia.

But in fact, the approach of broadcasts in recent years has changed, as attested by a recent Library of Congress study, from one of "liberating" people to "liberalizing" the information available to citizens in Communist societies. Translated, the aim is no longer propaganda but a genuine effort to present an objective accounting of outside events and cultural development, generally not permitted by the government-controlled presses in recipient nations.

Whether one chooses to believe the program is only a relic of the cold war or something more, its quick termination by what amounts to a technical strategem is unwise. It deprives President Nixon of a possible bargaining counter in his meeting with the Russians in May and presents a poor picture of democratic procedures to individuals who have voluntarily helped support the broadcasts.

Congress should authorize some additional funding now and delay a decision on the long-term continuation of the broadcasts until their present and potential benefits have been properly assessed. An abrupt cutoff now would satisfy only the opponents who see nothing redeeming in the program and the Communist hard liners who bitterly resent the broadcasts.

## CENTENNIAL OF YELLOWSTONE NATIONAL PARK

Mr. MOSS. Mr. President, today we mark the century anniversary of our first great national park—Yellowstone. Thus, 100 years ago, our country began its enlightened national policy to set aside, preserve, and make available for all people superlative areas of natural beauty, scenic grandeur, geologic interest, and historic significance.

With laudable diligence and devotion, the National Park Service discharges its duties as custodian and interpreter of these wonderlands. Our national parks, national monuments, national historic sites, national seashores, national recreation areas have grown in number and diversity. They are far flung and expanding. But the needs of our people for outdoor beauty and experience are growing even more rapidly. We need more parks.

Yellowstone remains, however, the bellwether park—its wonders, beauty, and wildlife undiminished over a century of time. We must protect and keep it so for the century to come—and beyond.

## THE CONTRIBUTIONS TO SOCIETY OF A FIRST AND SECOND CENTURY OF NATIONAL PARKS

Mr. PACKWOOD. Mr. President, 100 years ago today, President Grant signed into law the creation of Yellowstone National Park—the Nation's and the world's first national park.

This marked the beginning of a unique new way of thinking in public land management in this country, and for that matter, throughout the entire world. The unique natural resources embraced by what then became Yellowstone National Park were considered to be of such novelty and value that they should be preserved for all time for all to see and enjoy. No individual or group should have the right to exploit or despoil them for personal gain.

The passing century since the creation of Yellowstone National Park has borne a tremendous growth in the national idea—not only in the numbers of national park system units—which now total 284—but also in the depth and intensity of understanding, appreciation, and concern for the preservation of our natural, historic, and cultural heritage unspoiled. The first national parks paid primary homage to the preservation of some of nature's most superlative natural wonders. But as the Nation and the park system grew, attention was also turned to preserving some of the most significant historic and cultural resources of this great country. With the onrushing demand for opportunity to refresh the body and spirit in the great outdoors, resources primarily bearing significant outdoor recreational opportunity have also come to be incorporated into the national park system.

As a result of a full century of effort by dedicated individuals, groups, legislators, and administrators, we have built a national park system which was not only the first, but is undoubtedly the finest in the entire world. There is perhaps no other area of cultural enrichment where this country has contributed so exclusively to the rest of the world as in the exportation of the national park idea. There are now 1,204 national park and equivalent reserves around the globe administered by 93 different countries.

In recognition of the important contribution that the national park idea has made to our society, President Nixon has recently proclaimed 1972 as "National Parks Centennial Year." Many forms of celebration and commemoration will be taking place throughout this year. While recognizing the achievements of the past is most logical and important on such an occasion, the Interior Department's National Park Service has chosen to put principal emphasis on looking ahead to the future. The theme chosen for the National Parks Centennial Year is "Parks, Man, and His Environment," and it is designed to strongly emphasize a second century of parks. While not to berate the importance of past contributions, it may well be those very contributions of the future which could constitute the greatest benefit to mankind.

The legislation which created the National Park Service in 1916, to administer a growing number of national park units, set forth a mandate to "conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

Perhaps the greatest challenge which has resulted in administering parks by this act is that of finding an appropriate balance between preservation of the resources and use by people. Strictly speaking, the two prongs of the mandate seem to diametrically oppose each other, yet their reconciliation over the years has generally been highly received by the public. While refinement in the administration of this mandate continues, a part of the act which now seems to be getting ever increasing attention is that phrase at the tag end—"for the enjoyment of future generations"—for that is the part which directs a sustained yield approach, which is so critically important and presents the real test for viable park management.

Parks have become so popular as agents to soothe the recreation of body and spirit, however, that the integrity and welfare of some of these great resources is becoming jeopardized by overuse demands. Not unlike the planet itself, the impact of man's numbers and his ways of doing things are teaming up to overwhelm the health and well-being of the finite resources. In some of the more popular parks, some constraints on man's numbers and activities will undoubtedly have to be applied ever more stringently if the objective of maintaining a quality park experience on a sustained yield basis is to be honored.

A basic approach to dealing with this basic problem of demand overwhelming finite supply seems to be one of recognizing and accepting the need for making tradeoffs. Decisions will have to be made as to what quality of park experience will be offered, and those forces which play upon it will then have to be adjusted accordingly so as to assure the achievement and perpetuation of that experience quality. We cannot have our cake and eat it too. Something will have to be given up—either the park experience quality or the intensity of use. The decision is ours to make.

The National Park Service has for years been aware of and concerned over the growing preservation-versus-use conflict. It has long recognized the concept of the carrying capacity of a resource—both physical and social—as a basic precept upon which all preservation and use decisions must be made.

In many ways, the parks are a microcosm of the world around them. Some of the basic problems that face park management—numbers of people, pollution, congestion, crime, high per capita demand on the resource—are the same as those which afflict the Nation and the world; they are only of lesser scale.

In the process of the Park Service's attempt to alleviate problems through implementation of the carrying capacity concept, it would appear to afford a grand opportunity to model for the outside world, the types of tradeoffs that will be necessary to achieve and sustain the quality of experience identified as desired. And after all, in essence, is not a carrying capacity for the planet one of the key concepts so desperately in need of further recognition and achievement as our global society struggles to make this world a better place for all life?

Throughout the early part of its existence and up until now, a primary mission of the park effort has been that of providing pleasurable quality park experiences, through the provision of park resources, and programs for visitor use upon them. While this will no doubt continue to be of prime importance, it is obvious that a greatly growing need and opportunity, considering the state of our troubled environment, will be in the realm of the broad field of educational enlightenment. The parks would seem to present a marvelous stage for the display of the most sound of environmental practices, and an arena in which the sustained preservation of a quality park experience can model the tradeoffs and constraints which will be necessary regarding such impinging forces as population, technology, pollution, culture, and so forth. In what way other than by such educational efforts can the national park system be more relevant to the societies of today's and tomorrow's environmentally troubled world?

The Interior Department's National Park Service has, with the help and guidance of many dedicated people, molded a tremendously popular and successful system of parks and programs which has and, I am convinced, will continue to serve society well. I think it would be a fitting tribute if my colleagues in the Senate would join me in extending warm congratulations for a splendid performance of a first century of parks, and in further wishing the very best of success in the performance through the second century.

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## THE AMERICAN LEGION

Mr. MATHIAS. Mr. President, these are Legion days on Capitol Hill. I join Senators in welcoming National Commander John Geiger and legionnaires from Maryland and across the Nation who are here for the annual Washington conference of the American Legion.

Commander Geiger has presented testimony on behalf of the Legion to the Veterans' Affairs Committees of both the House and the Senate and the Senate Judiciary Subcommittee on Administrative Practices and Procedure.

I am pleased to see that in the Legion's legislative program for 1972 high priority is being placed on recommendations for improvements in the Vietnam veterans educational assistance program. I am particularly pleased to note that the American Legion continues to support a GI bill program for our Vietnam veterans following the lines of the original GI bill enacted for World War II veterans. Legislative action is long overdue to improve this program which is vitally needed to aid the Vietnam veteran in his readjustment to civilian life.

In June of last year, I introduced S. 2163, to provide for payment of tuition and educational assistance allowance for eligible Vietnam veterans. At that time and since I have urged prompt consideration by the committee and Senate to assure adequate aid to these deserving young men.

I congratulate the American Legion for its 53 years of outstanding service to our veterans and our Nation. It was largely through the efforts of the Legion that the first GI bill was enacted and I am hopeful that in joining forces we can enact equally meaningful legislation for the Vietnam veteran. If ever in the history of our great Nation has any war veteran deserved respect and special consideration, it is those who are coming out of this present conflict.

As a Marylander, I am particularly proud of the role the American Legion has played in my State. Under the excellent leadership of the present State commander, David Wade, of Boonsboro, Adjutant Daniel Burkhardt, and other officers, the Legion is carrying on its tradition of outstanding service.

The Maryland's Legion's Boys State program each year brings hundreds of young men together from all sections of the State for an educational program in leadership, citizenship, and community understanding. Representative students from the five service academies participate. We are extremely proud of these young men. Ten each year are selected on a volunteer basis to attend the Maryland Police Academy. There they go through a regular course of training living with a State trooper and a recruit, going through the program.

The Legion has reached into the inner-city in developing a summer camp program for youth. I am personally aware of great opportunities provided our youth through my own involvement in the development of Camp West-Mar. Starting from nothing, this has been built in a few years into a permanent program. The Legion now has 75 acres at West-Mar, and this summer will run a program for 100 youths at each 2-week session. In setting up this program, the Maryland Legion has not ignored the unique metropolitan complex here on the Potomac River and has brought into the program the youth of the District of Columbia as well as Maryland. The Maryland Legion has also supported youth activities in the Philippines, Japan, Pakistan, Afghanistan, and Indonesia.

The Legion has embarked on a campaign to combat the use of drugs through educational programs in schools and communities. In this endeavor, the Legion works closely with State and local police. The Legion has had the counsel of the Federal Bureau of Narcotics and Dangerous Drugs in developing this program. Each step in its planning has been taken with care to provide the best possible guidance and expertise.

The Maryland Department of the Legion has sponsored an eye bank program which, through the hard work and dedication of individual Maryland legionnaires, has become the largest in the world.

These are all in addition to such longstanding Legion programs as junior baseball and the national oratorical contest.

On the Legion's birthday this year, March 14–16, the Maryland department will sponsor a job fair program at the War Memorial Building in Baltimore. In truth, this will be an "opportunity fair" for veterans. The National Alliance of Businessmen, Federal, and State agencies and more than 100 private employers are participating in this program to provide job opportunities, counseling, and guidance in access to veterans' benefits. Buses will bring into the job fair servicemen who are anticipating early retirement or discharge.

For youth, for veterans, for the entire community, the Maryland Legion has an impressive record of service which I am proud to salute.

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## CENTENNIAL OF YELLOWSTONE NATIONAL PARK

Mr. MOSS. Mr. President, on behalf of the distinguished Senator from Wyoming (Mr. McGEE), who is necessarily absent, I ask unanimous consent to have printed in the RECORD a statement prepared by him about the centennial of Yellowstone National Park.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT BY SENATOR MCGEE

Today marks the 100th Anniversary of President Grant's signing of the Yellowstone

National Park Establishment Act of March 1, 1872. Yellowstone National Park, located in the northwestern corner of Wyoming, incorporating portions of Montana and Idaho, remains one of the most significant monuments to man's ever-growing realization that he must live with nature, not at its expense.

The Park was established, according to the original language of the bill, "as a public park or pleasuring ground for the benefit and enjoyment of the people." In 1872, the Park was hardly to be considered accessible. The West was just as wild, if not wilder, than the Park. Indicative of these wild early days in Yellowstone National Park is the history of the Park's first cadre of park rangers, made up of General Phil Sheridan and his men.

Today, the first national park is much the same as it was in 1872, but the world around it has changed drastically. Yellowstone is, now, truly the pleasuring ground for which it was intended. Over two million visitors a year experience the fascination of natural geologic phenomena and wildlife variety not to be found anywhere else in the world.

Yellowstone's unique collection of geysers, mud pots, paint pots, canyons and waterfalls brought this mysterious land to the attention of the first white men in the upper reaches of the Missouri. These wonders, which are as fantastic today as they were to those first explorers equipped with so little scientific understanding, were the principal reason for Yellowstone's creation. Old Faithful still stands as the prominent symbol of the wonders of the National Park System and the natural heritage of the United States.

Yet, it is for the preservation of our nation's wildlife that Yellowstone National Park's true worth should be best remembered. This massive area of 27,000 square miles, slightly larger than the combined acreage of Vermont, New Hampshire, Massachusetts and Rhode Island, was the first effective wildlife sanctuary in America. Today, impressively large populations of mule deer, elk, moose, bighorn sheep, antelope, buffalo, black bears and grizzly bears are still to be found within the Park's boundaries. But for the establishment of this Park, the buffalo would no longer be found anywhere in the United States. This once so characteristic animal of America was eradicated but for one small herd of some twenty animals in the upland prairies of Yellowstone National Park. The 8,000 bison to be found in various areas throughout the Western United States are all descendants of this same herd.

If we adopt a criterion for man's great achievements in the course of civilization as being one whereby the achievement's value and worth grows in recognition with each passing year, then the accomplishment made on this day, one hundred years ago, must be regarded by all as a milestone in the history of man. Evidence to this point is given by the fact that since March 1, 1872, over 90 countries have adopted systems of national parks and refuges, from the Soviet Union to Brazil, from Tanzania to New Zealand.

Perhaps most importantly, Yellowstone National Park is a living monument to those qualities to be found in men which we esteem so highly. The courage of those first explorers of the Yellowstone, such men as John Colter, Jim Bridger and Warren Angus; the foresight and unselfishness of those promoters of the Yellowstone Park concept, men like General Washburn, Lieutenant G. C. Doane, Montana Territorial Governor Nathaniel Langford, Cornelius Hedges, and others; to the qualities found in these men, Yellowstone Park stands as a tribute.

We in Wyoming take great pride in this National Park, for as it is part of the nation, so is it a part of Wyoming; indicative of all that Wyoming stands for—the wildlife, the natural beauty, the tranquility and purity of a mighty land. This hundredth birthday is a significant and proud day in the history of the State of Wyoming, as it must be for our nation, indeed for the world.

## GENOCIDE: BY CHOICE OR BY ORDER

Mr. PROXMIRE. Mr. President, there is no doubt in any of our minds that each hour of war is a horror, every act of senseless violence a tragedy. The responsibilities shouldered by each soldier in the field is almost inhuman as he decides between life and death each time he pulls the trigger. But that responsibility, great though it is, must be borne with sound judgment and reasoned discretion.

Critics of the Genocide Convention maintain that the treaty would place severe and unjust burdens on the individual trooper, making him responsible for the execution of someone else's orders. They believe that by virtue of the treaty he would no longer be able to defend himself by claiming he dutifully carried out the orders of a superior.

However this argument is unjustified. The articles of the convention state that there must be evidence of clear intent to commit genocide. The soldier who is blindly forced to execute orders which he can neither support nor prevent is merely the tool of his superior and guilty of no crime. According to the interpretation of the treaty, intent implies initiative.

But despite this understanding the field soldier is far from absolved from total responsibility. He must use personal discretion whenever possible to prevent atrocities or incidents of genocide. A review of the treaty summarizes this point as follows:

> . . . superior orders would not be a justification in such cases where the guilty party was not only a tool of his superiors but participated in the 'conspiracy to commit Genocide' . . . and although acting under orders, the person was in a position to use his own initiative and thus act with the intent to destroy the group.

In the final analysis this question is left to the tribunals applying the convention. It is their task to examine each instance individually to determine who had the last reasonable opportunity to prevent the execution of genocide. The responsibility and judgment of both soldier and commander are weighed together with fairness. Every attempt is made to avoid the use of scapegoats and to hold accountable those responsible. Therefore I strongly urge Senators to join with me in ratifying this most judicous and humanitarian treaty.

## EFFECTS OF PRESIDENT'S VISIT TO CHINA

Mr. GOLDWATER. Mr. President, since President Nixon ended his historic trip to Red China I have been besieged with requests for a statement of my views as a conservative to the events which transpired during the talks in Peking.

Because I wanted to make absolutely sure that I understood all the implications—and I mean the correct implications—of this development in world history, I deliberately withheld comment until such time as I had an opportunity to read and study the text of President Nixon's communique; to read and study the text of Mr. Nixon's speech to the American people the night he landed in Washington; until I had a chance to talk not only with President Nixon but with Presidential adviser Henry Kissinger and Secretary of State William Rogers; and until I had such time as it took to compare this information with what appeared in the public press and was broadcast over the radio and television networks.

Based upon the most complete information that I believe it is possible to obtain I want to say very emphatically that I am satisfied that we have not given away one single thing to the Red Chinese; that we will uphold our treaty commitments to the Taiwan Government; and that all Americans should join in supporting the President of the United States in his efforts to establish world peace in the most direct and effective way possible. I am also satisfied that there is no chance that this Nation will extend formal recognition to the People's Republic of China, and I am satisfied that the Government of Mao Tsetung has no wish to bring this about.

Mr. President, it is important to note that the President's communique said it was the ultimate objective of this country's to withdraw all of its forces and installations from Taiwan and that these forces would be reduced progressively "as the tension in the area diminishes." This is no departure from long-established U.S. policy. The United States is always anxious to bring back its forces overseas when conditions warrant, and this goes not only for men and installation stationed on Taiwan but for the men and installations located in Indochina, in Korea, in Europe, and elsewhere throughout the world.

In fact, the promise to withdraw forces and installations from Taiwan as the tension diminishes puts the responsibility plainly up to Red China, which is the fountainhead of the tension that exists in that area.

I should like to say to my conservative friends who have read and believed the terrible distortions of the President's communique and of U.S. policy that it would be well for them to read carefully every single word of that communique and decide its meaning for themselves rather than to let newspaper reporters and news commentators form their conclusions for them.

I also want to say to my conservative friends that this is not 1960; it is 1972, and the world situation which we now confront is an entirely new ball game. Where before there were only two superpowers—ourselves and the Soviet Union—to consider, we now have five power blocs to consider in the development of foreign policy. In addition to Russia and the United States, there is Red China, which is a growing nuclear power; there is Japan, which is rapidly becoming the most important economic power in the Far East; and there is the community of western Europe, which is beginning to solidify its aim and objectives.

When all of these things are considered I believe the great undeniable need today is for all Americans to close ranks behind their President and present a unified posture to the rest of the world. If we allow nitpicking and hairsplitting concerns to divide our people we will be taking an enormous risk with America's future and perhaps even condemning the United States to a vastly inferior status in the world.

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## CONGRATULATIONS TO YOUTH FOR UNDERSTANDING

Mr. STEVENSON. Mr. President, I would like to congratulate the international student exchange program—Youth for Understanding—for its 21 years of outstanding international service. The purpose of YFU is to open new vistas for international understanding and cooperation by allowing teenage exchange students to actively participate in the life of a family and of a community in another country. Since its inception in 1951, over 30,000 students from 41 countries have participated in the YFU program. There is no way to accurately depict the many benefits to each of the cooperating families and countries and to the preservation of international peace.

In Illinois, we are very pleased to have an active YFU program. This year we are fortunate to have exchange students in Glen Ellyn, Wheaton, Westmont, Floosmoor, Grayslake, and Chicago while our own students have recently participated in YFU programs in Germany, Japan, Greece, Sweden, Brazil, and Mexico. Hopefully, the YFU will continue to expand and continue opening new doors to international understanding and cooperation. I am very happy to applaud all of YFU efforts.

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## CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I should like to report that, according to current Census Bureau approximations, the total population of the United States as of today is 208,852,844. This represents an increase of 138,585 since February 1, equivalent, roughly, to the population of New Haven, Conn. It also represents an addition of 1,943,638 since March 1 last last year, an increase which is about equivalent to the population of Philadelphia, Pa.

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## RADIO FREE EUROPE AND RADIO LIBERTY

Mr. MUSKIE. Mr. President, for more than 20 years, millions of people in Eastern Europe and the Soviet Union have had to rely on Radio Free Europe and Radio Liberty for news of the political, economic, and social issues their governments chose not to disclose—news about their own countries and the outside world. It is regrettable that the people needed outside sources of news, but as long as this need has existed, Radio Free Europe and Radio Liberty have provided the vital function of trying to keep these people informed. For instance, much of the recent programing of Radio Liberty has been devoted to the struggle of Soviet Jews, especially their efforts to exercise the right to emigrate. This service is still needed.

During their existence, these stations have, at relatively modest costs, provided services whose value cannot be measured in monetary terms by the people who have depended on Radio Free Europe and Radio Liberty for news. Now, Congress is faced with the responsibility of deciding the best method of control of the radios to eliminate or minimize undesirable governmental influence over the selection of the news and information to be broadcast. While Congress makes that decision, Radio Free Europe and Radio Liberty should not be permitted to die.

As an editorial in the Washington Post of June 26, 1971, stated:

> The stations do not incite to revolution or preach anti-Communism; they say what is going on in East Europe. It would be an unpardonable breach of faith with the stations' millions of listeners to deny them their choice of radio fare.

The State Department has estimated an audience of approximately 30 million people for RFE alone. I hope we will not turn our backs on these people who are so desperately in need of news and information.

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## AGE DISCRIMINATION IN EMPLOYMENT

Mr. PERCY. Mr. President, in yesterday's Evening Star, I noticed an article on discrimination in the Federal Government on the basis of age, written by Joseph Young.

Mr. Young points out that not only are people aged 60 and over being discriminated against, but that, in some cases, people as young as 35 and 40 are being locked out of jobs solely on the basis of age.

Knowledge of such discrimination should concern all of us because it affects, or will affect, everyone—even those in their twenties.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Little Being Done To Combat Bias Against Aged

(By Joseph Young)

While the government appears to be making a sincere effort to end discrimination in the federal service based on race, religion and sex, one form of bias still flourishes with little or nothing being done to stop it:

Discrimination against older persons not only those 60 and older but also those over 40 and, in some cases those over 35.

In seeking initial appointments, transfers and promotions, older applicants and employees find that regardless of their ability, experience and qualifications, their age is an insurmountable barrier. Once the employment officer sees their age on their applications, he often doesn't even bother to call them for an interview.

The law prohibits discrimination in federal jobs because of age.

Yet federal job application forms require the applicants to give their date of birth. In contrast, applicants do not have to give their race or religion.

Those seeking to end discrimination because of age suggest that the date of birth be dropped from federal job application forms, except for certain jobs such as law enforcement agents, custodial officers, air traffic controllers, and other positions in which physical qualifications are vital.

In this way many older persons would at least have a chance to be called for an interview and try to convince and persuade hiring officials of their ability to do the job.

Another suggestion is that President Nixon and the Civil Service Commission join forces in issuing a new directive emphasizing that age should be no barrier in the employment and promotion of able and capable persons.

One actively engaged in the fight to end age discrimination is Phil Loomis of the Veterans Administration's personnel office.

Loomis says, "This is prejudice in its worst form—and if it is to continue—it will mean a tremendous waste of human resources, in a time when human resources are so critical for so many organizations," Loomis also wryly notes that "age, whether or not we like it, will one day affect all of us, even those who are presently prejudiced against it."

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## AMERICAN FOREIGN POLICY: THE HARD LESSONS OF WAR AND PEACE

Mr. HUMPHREY. Mr. President, World Affairs, a quarterly review of international problems, has published in its winter issue an article in which I discuss some of my views on American foreign policy. The article provides in some detail a review of the history of American leadership during the cold war and a discussion of the goals and policies we should be thinking about as we move out of the cold war and into an era of what we hope is greater world understanding.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### American Foreign Policy: The Hard Lessons of Peace and War

(By Hubert H. Humphrey)

#### I

The foreign policy of the United States of the early 1970s continues in a troubled mood: uneasy, much perplexed, and lacking a general sense of vision. Aside from trying to focus on such critical issues as United States relationships with Western Europe, the Soviet Union, Viet Nam, China, and the Middle East, current American foreign policy has permitted the rest of the world almost to vanish from our horizon. Relationships with India, Pakistan, Africa, Latin America—the whole question of world economic and social development—seem hardly a matter of concern to the present Administration except as they intrude upon the well-being of the American economy.

Not a few voices welcome this change of national mood. Some of yesterday's traumatic national worries about global problems now seem muted, even if only temporarily so. There are commentators on all sides calling for Americans to look inward on themselves and, in effect, to let the rest of mankind take care of itself. Not for them the insight of Mazzini that "you cannot, even if you would, separate your life from that of humanity; you live in it, by it, for it."

Historical revisionists seek to provide an intellectual framework for this shifting national temperament. In their view the United States was not simply thrust unwillingly into the responsible role of providing some world leadership after World War II, nor did it rearm primarily to assist in keeping world peace. America must first understand, according to this critique, that it may have consciously pursued the wrong goals, in the wrong places and at the wrong times throughout the entire postwar period. Of course, much of this revisionism tends to downplay or fails to mention the brutalizing terror imposed on Eastern Europe after 1945.

To a degree, however, these shifting moods and judgments are appropriate to the needs of the hour. The United States is not omniscient nor omnicompetent in world affairs. Reassessment of America's foreign policy goals, aspirations, and results must be a continuing element in our national life, no matter where the chips or blame may fall. We are not immune from failure. But it will be the judgment of history not the doubts of statesmen nor instant insights of gloriously unaccountable critics which will provide the ultimate test for measuring American successes or failures.

American involvement in Viet Nam is the catalyst around which national questioning of U.S. foreign policy has been revolving. Peace and war remain the main issue facing us, but Viet Nam is the focal point. The War in Vietnam has already marked its quarter century and American involvement now comprises a full decade. It has cost us more than 45,000 American lives, and almost 300,000 casualties, more than $115 billion of American wealth and division and discord at home.

We entered the war a confident nation concerned with our ability to foster peace and security in many parts of the world; we are leaving it a nation uncertain of ourselves, uncertain of the future, uncertain of our place in the world. This "coming out of war" is a difficult time: Alexis de Tocqueville called it "the most important time in the life of a country." On the other hand, we should not let this period overwhelm our thinking for a questioning mood offers better hope for our future well-being than mere complacency would.

What have we learned? What lessons have we bought in blood and treasure in Southeast Asia? What will we think and do now that differs from our posture of a decade ago?

These are not simple questions, and they do not have simple answers. But we do know that the Viet Nam War has caused something to happen in America. It has changed our country and our people. It has forced us to go against accepted views which hold that failure has to be, in the phrase of Henry Bramford Parker, "the result either of weakness or of an incorrect technique." It has compelled us to reexamine our role in the world; to see in historical perspective what we have done; and to ask what are our responsibilities for peace and security today and in the future.

Twenty-five years ago America was nearing the end of a bitter and costly war and looked forward to a new world at peace. The American dream was of continuing postwar amity and cooperation among wartime allies and of strong moral limits on the use of power—limits to be observed by all nations.

That dream soon faded. We found that only America had the means and the will to save much of the world either from a new tyranny imposed by military force, or from the ravages of economic collapse and a widespread poverty of the human spirit. Looking back in retrospect, some commentators have charged that American convictions about the postwar situation were primarily the result of a misguided anticommunist stance. Anticommunism may, of course, have beclouded some American judgments on foreign policy. Initially, however, the questions faced by the United States did not simply involve capitalism versus communism. Rather, the fundamental issue was the unsettling division of Europe along lines hardly satisfactory to directly concerned parties.

As America faced an increasingly bleak future it resolved, above all, not to repeat its own mistakes and the mistakes of others of the 1920s and the 1930s. There were many who had heard with astonishment the comments of Neville Chamberlain as Japanese bombs were dropping on Chinese cities: "If it was not that China was so far away and the scenes which were taking place were so remote from our everyday conciousness, the sentiments of pity, horror, and indignation which would be aroused by full observation of those events might yet drive this people to courses which perhaps they had never contemplated." When armed confrontations threatened after 1945, the United States was convinced that it could not sit idly by again, waiting until it would be dragged once more into costly and deadly wars.

With this conviction, Americans accepted the role of international responsibility, even though we had no way of forecasting the future. We refused to turn our backs on Europe and other parts of the world that desperately needed our aid. We were determined to hold off the return of isolation, and we worked diligently to build structures of collective security that would bring order out of near chaos. This massive effort took us suddenly into a new and often confusing era in our history; we abandoned almost overnight the most basic tenet of our foreign policy: to beware of entangling alliances.

Our new involvement—including our repudiation of isolationism—was underscored by our leadership in creating the United Nations, in forging the NATO Alliance, and in vast investments in foreign aid. To a significant extent all these developments grew, as Dean Acheson has noted, out of America's "task and its difficulty—to lead a group of free nations by the methods of free association."

Today our network of commitments stretches around the world, and involves alliances with 43 different nations. In less than three decades—an "instant of time" in man's history—we grew from provincial state to superpower, with the greatest physical and economic power the world has ever known.

There was no precedent for this development. No other nation has been required to do—and learn—so much in so little time. And I believe that we met the demands placed upon us with a surprising degree of sophistication and success. We used our resources to bring political stability and economic recovery to nations ravaged by World War II. We provided a shield of protection behind which other peoples and nations could once again stand strong and renewed. We met the fierce force of aggression in Korea. We sought to bring stability to the Middle East. We extended our power and resources bit by bit into Southeast Asia until we were engulfed in a strange and cruel war that defied all norms of conventional warfare.

That war in Vietnam has brought with it such disillusionment and discord that many Americans of every political persuasion now question anew all United States overseas involvements. At this time of national testing and trial it would be inappropriate to scourge ourselves to the point where our national understanding of foreign affairs and our national will are weakened. On the contrary, I believe we should take to heart the counsel of Arnold Toynbee in his lectures "Civilization on Trial." It is always a test of character to be baffled and "up against it," Mr. Toynbee commented, "but the test is particularly severe when the adversity comes suddenly at the noon of a halcyon day which one has fatuously expected to endure to eternity. In straits like these the wrestler with destiny is tempted to look for bugbears and scapegoats to carry the burden of his own inadequacy. Yet to 'pass the buck' in adversity is still more dangerous than to persuade oneself that prosperity is everlasting." America should not have had scapegoats 25 years ago when charges were thundering in the United States that failures in judgment had "lost China." Nor should we seek them on the right or left today for any real or imaginary failures on Vietnam.

Above all, we must not let our experience in Vietnam obscure the reality that for 25 years we helped preserve the world from a major war; in particular, from a nuclear holocaust and that Americans have fundamentally been, as Walter Lippmann once said, "anti-imperialists abroad; that is, they have disliked to see peoples ruled by alien powers." Sometimes our actions have fallen dismally short of our ideals. On other occasions, as we have tried to help other societies, we have been too overconfident that our views on democracy, freedom, and justice were the only ones. Despite all our failures, however, for the most part we can be proud of the general purpose and direction of our postwar foreign aspirations and policies.

More immediately, of course, we must put into practice the costly lessons we learned from the sorrow of Vietnam. We have learned above all that we must now carefully assess all of our national interests, free from an ideology of involvement and tested by hard, uncompromising analysis. Underlying all the rhetoric about Vietnam is the belief that we are overcommitted, that there are limits to the use of military power and these limits need to be defined. We learned that we must not become deeply involved where we have little at stake, or where our own security can be protected by other means than armed intervention. We must exercise that thoughtful discretion which is the better part of valor.

One lesson which we have hopefully not unlearned from our Vietnam experience is the usefulness of alliances and continuous consultation with our friends and allies. At times such ties can overcommit a nation and overextend its limited resources. But we must not drown our Vietnam sorrows through an irrelevant attack on alliances in general, as some would have us do. Alliances, tempered by good judgment and low commitments, continue to be as useful today as in previous eras when Robert Walpole long ago could claim that "by alliances . . . the equipoise of power is maintained, and those alarms and apprehensions awarded, which must arise from the vicissitudes of empire and the fluctuations of perpetual conflict."

There is still a third lesson of Vietnam, a lesson which reflects a new sense in America that we must turn our minds and talents, and direct our resources, to pressing needs at home. The traditional line dividing domestic from foreign affairs has become as indistinct as a line drawn through water. This means that our place in the world and the nature of our own society have become indivisible. Our structure of common defense and security could prove to be only a hard outer shell that could collapse on an empty center unless we bring new strength to areas of our internal life that are threatened on every side—as we see our environment polluted and damaged, our cities rotting, our systems of education and health care grossly inadequate, our people torn by bitter dissension.

There are growing fears that this new questioning of our involvement in the world will lead us to another period of isolation; there is the growing feeling that we will abandon our role of international involvement and return to isolation and Fortress America. Our Allies in Europe are especially concerned; and their fears are fostered by misguided efforts in the United States to regard all of our separate commitments in the world as indivisible—seeing in our disengagement from Vietnam the threat that we will abandon Europe and the Middle East as well.

Nothing could be more absurd. Today it is impossible for us to isolate ourselves physically, politically, or economically from the rest of the world. The facts of communications, transport, trade, and the travels of our people have ruled that out, not just for now but for all time.

In remarking about the spread of a "neo-isolationist" sentiment in the United States, political observers should not overlook one salient feature: the antiwar community in America has been more concerned with the damage wrought to U.S. world standing by Vietnam than it has been with turning tail and running away. The debate within the American community over foreign policy has not focused on rejecting intervention and cooperation, but on what should be the limits and responsibilities of U.S. power and influence. I believe we can safely argue that traditional American isolationism will not become rampant, unless our politicians and statesmen permit a broad failure in our political leadership.

Yet there is a danger of a new moral isolation, brought about in part by our failure to see that recovery and prosperity, as found in Europe, does not mean that the job is done. Nor must we permit our weariness with war and responsibility to trap us into believing that we can now separate ourselves from a deep and lasting involvement in the rest of the world. On the contrary, we are now fully committed to playing a major role in the future of mankind. Historian John Lukacs declared several years ago that "there is still evidence that youthfulness, resilience, adaptability and the idealistic inclination—all traditional American characteristics—continue to exist and that, in their proper context, they may play a beneficent role in the world history of nations."Vietnam may have somewhat deflated and hurt these American characteristics but I believe that this role is still in the American future, not, as some argue, behind us.

We can—and we must—readjust the scale and nature of our involvements, and manage these changes intelligently. But we must be careful not to act in haste, not to explore a shortsighted and ultimately futile moral disengagement from the world. There are equal dangers—of overinvolvement and blind abstention. We must carefully steer a course between the two, a thought which led Theodore Roosevelt to contend that the people of the United States had no choice about whether to "play a great part in the world. This has been determined for us by fate, by the march of events. We have to play that part. All that we can decide is whether we shall play it well or ill." What was true yesterday is equally so today.

In recent years, we have seen the development of a central paradox: that while the United States and the Soviet Union have become more powerful in strictly military terms, our ability to use this power has become more limited. We must not underestimate the latent power and effects of nuclear weapons. They are still of central importance in relations among the major nations of the world. But now, at a time of mutual deterrence, their mystique is dwindling and other expressions of power are emerging in competition with them.

We are living in a new age of pluralism: The bonds of alliances are weakening, both in the West and in the Communist world. Sino-Soviet rivalry has become a threat to peace, and firm evidence that the Communist monolith is no more. The game of world politics now has a host of new players in the developing world. Individual countries are making new diplomatic approaches and arrangements with little reference to the super-powers that once were virtually the sole custodians of security. Even Soviet military occupation of Czechoslovakia has failed to quash hopeful developments in Eastern Europe.

In today's world, power is proving to be persuasive only to the extent that it is appropriate to local circumstances and the interests of local powers. We are discovering a new definition of power that goes beyond military might. We have rediscovered the insight of Romano Guardini that power "presupposes spirit, that reality in man which renders him capable of extricating himself from the immediate context of nature in order to direct it in freedom."

The plain fact is that, in the world of today, there is a much greater play of national capabilities; and they should be concentrated on economic development through multilateral means. We are no longer the only source of help against threats to the security of Southeast Asia, or against poverty. Hopeful developments there will be lasting only if they spring from efforts by local countries, and if they command broad popular support.

Our experience in Southeast Asia points to a central dilemma in foreign policy: the difficulty of reconciling stability with change not only to resist Communist takeover of underdeveloped nations but to preclude chaos from spreading so far and fast that the security of our principal allies is jeopardized.

Today we recognize that the stability of Soviet-American relations is necessary for the survival of the world. But we also recognize that unless there can be change in the world—economic, social, and political change within countries and in international society—then stability itself will prove fruitless and self-defeating.

We must find ways to promote change within a framework of order, or the future of the world will be tyrannized by either anarchy or repression. We can begin by supporting efforts within Europe to move away from more than twenty years of confrontation to a new European Commonwealth of Nations embracing the entire Continent.

The United States no longer has the dominating voice in European politics; nor should we wish it. But we are a European power, deeply involved in providing security and confidence, without which there would be no hope of change.

All this means, of course, that we must build our policy toward Europe around reality, not illusion. National sovereignty still remains the heart of European politics. The gravity of regional institutions and cooperation has been an astounding postwar phenomenon, but there still is no regional taxing power to raise funds for defense and regional security. Nor are there regional legislative institutions which reflect the desires of diverse national constituencies. Britain's entry into the Common Market could inject new life into the European integration movement. While this would be a most welcome step, it could, particularly if Britain and France assumed a new joint form of European leadership, create additional complex problems for U.S. foreign policy.

There has been some movement in the United States today to reduce sharply and quickly our commitment to NATO, before we work out firm understandings with all nations in Europe—East and West—on the future of the Continent.

Would this be wise? As I see it, we will not achieve mutual and balanced force reductions if we act first and alone; we will not convince the Soviet Union to accept rules of civilized behavior in Eastern Europe if we lose interest in European affairs; we will not reassure our allies that we are concerned with the future of Europe if we are insensitive to their anxieties and needs.

We must show that our partnership with Europe really means something, and support efforts to resolve the division of the Continent. As an additional part of the new diplomacy we should encourage our allies in their proposal for a European Security Conference, and realize that this conference can be part of the political process that may help achieve what we want—troop reductions throughout Europe. We should recognize, of course, that many of our European allies desire a full and realistic settlement of the Berlin question before they will be willing to move ahead with this proposed conference.

We should make consultation, particularly on force levels, a constant on-going effort—with regular meetings at the highest level—not a vehicle for showmanship and American lecturing to our European allies. Above all, we should be extremely careful in not permitting the consultation mechanism ever to deteriorate to the point where European confidence in the U.S. nuclear umbrella is either seriously diminished or destroyed.

We should encourage and support bilateral political contacts between our allies and the nations of the Warsaw Pact, including recent West German efforts to improve relations with the Soviet Union and the Eastern European States. Both the United States and our European friends must work for expanded trade and unilateral relations between East and West.

Most importantly of all, we should help to make the NATO Alliance an international instrument for peaceful engagement, not a rigid institution committed to the past. With our allies, we can help to liquidate the legacy of military confrontation. But this will require a new American awareness of Europe's needs, problems, and hopes. This is at the very heart of the new diplomacy of partnership and reconciliation.

III

Despite their increasing parity in certain areas of nuclear weaponry and defense, it is important not to ignore that the fundamental question before the Soviet Union and the United States now is not who should be the superior or enforcer, but rather, according to Robert E. Osgood, "how much of what kinds of strategic weapons is enough for assured destruction, with perhaps an extra margin for damage limitation." We must be continuously alert to redefining the boundaries and scope of this question.

Congressional limitation of the ABM and declarations on limiting the involvement of U.S. troops in conflict abroad have also given the nod from the United States for agreements of substance and scope. The details of current Soviet and U.S. proposals cannot be discussed with any accuracy, and I cannot talk about hypotheticals. However, now that MIRV has begun to be deployed on both Poseidon and Minuteman III, United States and Soviet negotiators must make every effort to reach agreements that are reciprocal.

I do not think that we have the luxury of time or opportunity to reject a limited ban or curtailment of any system, and insist on a comprehensive agreement. This would be the ideal. However, we must not reject making some progress if agreement cannot be reached on all systems.

We have valuable precedents to support Presidential overtures of a conciliatory nature. In 1958 President Eisenhower offered to halt American testing of nuclear weapons for a period of one year from the beginning of negotiations on a formal treaty if the United Kingdom and the Soviet Union would follow suit. This mutual moratorium was preserved for nearly three years.

In 1963 President Kennedy again ordered a halt to testing of nuclear weapons in the atmosphere and proposed to maintain the ban so long as the Russians did likewise. They responded, and the result was the historic Test-Ban Treaty—a proposal I had long urged.

We now have pledges from many countries to adhere to the nuclear non-proliferation treaty. Of course, we must not ignore that serious obstacles remain before this treaty can go into effect. Many countries, including large ones, have neither signed nor ratified this treaty, largely because they feel its impact is to disarm the unarmed. This feeling can be worked on, no doubt, and fears alleviated. The difficult problem comes, however, from those nations which, consciously or unconsciously, wish to keep open their nuclear option.

It is important that President Nixon halt deployment of ABM and delay further deployment of MIRV. Like President Kennedy, he holds in his hands the keys to arms control—or to an uncertain world of mutual terror. We would run no serious risks; and we could always continue our programs if the Russians failed to respond. I believe that such a moratorium can succeed; and all mankind—all future generations—would forever be in our debt. But even if we do succeed—even if we do stop the dangerous and destabilizing weapons now being prepared by both sides, there will be other terrifying weapons in the future.

This prospect increases the importance of the SALT talks. Whether or not we succeed in stopping the MIRV, the ABM and the SS-9 before it is too late, we must work patiently with the Soviet Union to achieve one common goal: continued survival in a world where nuclear weapons technology itself is our greatest enemy.

No nation dare ignore that technology has eroded the ground out from under traditional concepts of security. Today we are faced with a balance of terror. From now on, nations must bare much of their security on greater political understanding, or we will have no security at all!

I do not argue that we can trust the Russians in all of our relations with them. We cannot: they are still not prepared to consider agreements with us or with our allies in many areas of the world in which competition and conflicts of interest could still have deadly consequences. All we have to do is to look at the sudden rapid growth of Soviet naval power in the Mediterranean, Indian Ocean, and Red Sea to be sufficiently alerted to expanding Russian threats throughout the world. Despite these realities, unless we transform Soviet-American relations in the critical area of nuclear weapons, we may not live to debate other questions of serious but lesser importance.

This will require a new diplomacy, managed with skill and patience, and extending far beyond the SALT talks. We must recognize that there is no easy exit from the many dilemmas facing us; we must take full account of the interests of our allies, in Europe and elsewhere; and we must seek ways to turn all aspects of our relationship with the Soviet Union from the sterile byways of military confrontation into the more hopeful paths of political accommodation. On their part, moreover, the Soviets must not mistake current U.S. disillusion and uncertainty about Vietnam as an opening for them to take a leapfrogging lead in nuclear weaponry. Perhaps the most distinguishing hallmark in the American culture is the ideal of "fair play" for all. The American people react instinctively when this ideal is grossly or seriously violated and they would not tolerate in any manner any inkling that the Soviet Union or any other nation was ever again trying to "pull a fast one" on us.

Mutual trust between Soviet Russia and the United States is a hard goal to pursue but we must work at this night and day. Precisely because our two societies differ in their fundamental concepts of man and community, individual freedom and social justice, the path toward mutual trust is an unending and perilous one. Long before the world ever heard of Lenin and Stalin, de Toqueville set down some of the differences between our societies. The American and Russian nations, he stated, seemed "marked out by the will of Heaven to sway the destinies of half the globe . . . the principal instrument of the former is freedom; of the latter, servitude." In the ensuing time since de Toqueville made these reflections, our societies have continued on their diverse, separate development. Over the past decade we have heard arguments advanced that our two countries are "converging" and no doubt there is some truth in this. Our patterns of economic growth, educational structures, and scientific concerns have certain parallel tendencies. At the same time, however, we will probably continue to move into the future along the lines of our separate histories, national spirit, and distinctive political inheritance.

America and Russia, therefore, do view each other's intentions and policies from perspectives which are quite different. Yet this should only compel us to try harder to understand each other. We could usefully begin annual working meetings at the highest level between American and Russian leaders. And we should expand trade relations, cultural contacts, and the search for peaceful engagement in many areas of science, commerce, and technology. This must be a part of the new diplomacy. Americans and Russians do have, we must not forget, one thing in common; that is, they both recognize the need, in the phrase of B. H. Uddell-Hart, for "mutual restraint for mutual security." Man, they both insist, must control both himself and his own destiny—if he is to be fully human. In practice they differ over what this means. But by proceeding on a step-by-step basis, however, Russia and the United States have built some elements for integrating trust into their relationships. We must move forward from here—together.

### IV

American relations with the Soviet Union are of central importance. But other developments in the 1970s demand our attention; other factors will influence what the United States can usefully do in the world.

Most important among these is the emergence of China as a major power in Asia. Today, Chinese power is still more psychological than factual, although it is growing. It would be a fatal error if we let ignorance and unreasoning fear in the face of future Chinese military power close the door to political understandings with Peking.

We must do all we can to end the isolation of China, helping to bring her into the community of nations, free from paranoia, and committed to respecting the legitimate rights of her neighbors. An isolated China is a danger to all the world; a China that is involved with the outside world will still pose problems, and perhaps even threats of a serious nature, but at least there will be some hope that accommodation will replace antagonism.

The resumption of American-Chinese discussions in Warsaw was and is a hopeful development. We must exert greater initiatives in the relaxation of trade and travel restrictions between China and the United States. Cultural exchanges can also serve to broaden the contacts between our peoples.

They are modest beginnings; and they will not be enough. We must also realize that the legacy of embittered Chinese-American relations will not be overcome in a year, or perhaps even in a decade. But we can do much to come to terms with China, and come to terms with ourselves regarding China. Yet it may well take years before these efforts produce a visible change in our relations, before China will respond to our efforts. Our initiatives—always taken in full consultation with our allies—can and should lead to the eventual diplomatic recognition of China. This too must be a part of the new diplomacy.

President Nixon's outstretch to China, now resulting in a hopeful visit, is a generous gesture, especially coming from a leader whose public career was built on contrary sentiments. No American can fail to applaud Mr. Nixon's decision and Peking's welcome response to it. At the same time, however, responsible critics are correct in judging that while by itself Mr. Nixon's move was not unsettling, when linked to his subsequent new international economic policies, the China move has created certain difficulties for the United States. Thus, the U.S.-Japanese relationship was badly hurt by the one-two punch of these moves which, to many Japanese, have seemed directly aimed at them. As with so many other Nixon departures, an initially good move may create more problems for us than it resolves, chiefly because the Nixon Administration has generally failed to take the follow-through steps necessary to make the new policy a viable one.

It would be inappropriate to dash cold water on what one hopes and prays will become a momentous opening for U.S.-China relationships. Yet, like Russia, China is also a creature of history, possessing its own glorious traditions and philosophy of life. No matter how ruthless communist rule or the "cultural revolution" may have been, these traditions are still imprinted on the Chinese character.

As nations unfurl dreams of a China open overnight to the world, dreams which include such things as a market of 800 million Chinese customers, they might do well to examine the past. Mr. Nixon is not the first Westerner to reach out to China. Others have tried before, often without success. The classic example was England's King George III's proposal for diplomatic relations. In reply, Emperor Ch'en Leing (1735–95) politely noted that "our ceremonies and codes of laws differ so completely from your own that, even if your envoy were able to acquire the rudiments of our civilization, you could not possibly transplant our manners and customs to your alien soil. . . . I set no value on objects strange or ingenious, and have no use for your country's manufactures." Our era is an entirely different one. We may be able to open up respectful and mutually beneficial relations with China. I have always held this as a high aspiration. Yet if progress comes, it will probably be only through dint of hard effort on the part of both nations. We must therefore not allow our hopes to be ungrounded in reality or otherwise they may turn into unfulfilled illusions.

We cannot afford to neglect, further, that our search for a common ground with China also may involve a search for a tripartite common ground among China, Russia, and the United States. This will involve most delicate diplomacy since in our own national interests we can never permit either of these great nations to possess a veto over U.S. policy toward the other. They may at present be geopolitical enemies but this may not always remain so. Our aim should be to deal with both nations on terms of trust, honor, and respect.

We see today the rising of a new Asia. We must therefore continuously remind ourselves that the primary responsibility for security and development in Asia rests with the Asian nations themselves.

They must take the lead. It is they who best understand themselves—their past and their hopes for the future. We should be prepared to cooperate—to be a helpful partner, not a dominating force. We do have an interest in Asia—but we are not an Asian power. We are a Pacific power.

Chief among these Asian nations is Japan, with whom we have strong ties. These ties must be continued and expanded as the best hope of promoting development and stability in Asia without holding the ring ourselves.

Japan is uniquely situated. She is the most powerful Asian country—not in military might nor in nuclear weapons, but in economic strength; she has a thorough knowledge of the Asian continent and its diverse cultures, wide-spread trading partnerships, and an inventive approach to new problems. These qualities enhance Japan's ability to play a leading role in helping Asia to enter a new era of political, social, and economic development.

Recent U.S. policies and hints toward Japan have been quite discouraging. President Nixon's economic controls have dealt a harsh blow to Japan's economy and his failure to signal Prime Minister Sato about America's overtures to China was at best inept diplomacy. Defense Secretary Laird's ambiguous statements on Japan's possible nuclear future have left confusion in their wake, despite the clear comment by Japanese leaders that the nuclear option will not be taken. With Japan considerably confused by recent U.S. policies, it could well begin to look inward to find ways for protecting its own national interests. Already both China and South Korea have expressed alarm at this Japanese self-questioning and if wrong turns are taken by Japan, the ill-conceived manner in which Mr. Nixon made his moves could have very serious repercussions on Asia's future.

America should continue, particularly during this period of transition, to be directly concerned with Asian affairs. We seek an early end to the Vietnam war; but we cannot ignore the real problems that will continue in Southeast Asia once we are gone from Vietnam. Without becoming an Asian power, deeply enmeshed in the politics and problems of that continent, we can and should support hopeful efforts by local peoples to work out their own destiny.

In September 1968 at the Commonwealth Club in San Francisco, I gave my views on Southeast Asia in a speech entitled "The New Strategy for Peace." I believe whatever role we play in Southeast Asia should carefully follow three guidelines: self-help, regional and multilateral assistance, and selective American involvement.

First, local countries must manifest a willingness to help themselves, both to provide security and to undertake economic and social development; and they must have the courage to organize their own affairs in ways that will provide them with a stable basis for governing.

Second, primary responsibility for helping individual nations provide for their security and economic development should rest with the nations in the area and with multilateral and regional organizations.

Third, American help should be selective and carefully measured. Our efforts must be justified by our own interests and responsibilities; and they should be concentrated on economic development through multilateral means. We are no longer the only source of help against threats to the security of Southeast Asia, or against poverty. Hopeful developments there will be lasting only if they spring from efforts by local countries, and if they command broad popular support.

## V

Elsewhere in the world the dilemma of change versus order will be even more difficult to resolve, yet more pressing, as population growth, poverty, and unrest disrupt whole continents.

There are more than a billion people in the world today in countries where the average annual income per person is less than 100 dollars. Hundreds of millions live on less than fifty dollars a year. Evidence has shown us that poverty and deprivation, coupled with the beginning of education and hope, create a revolution of rising expectations. And people all over the world are "in touch." The transistor radio and communications satellite will make this even more so in the immediate future.

The man in Korea, or Guatemala, or Zambia knows what modern society can mean to his family. He knows what the United States has. He knows about our wealth. He knows about the vast resources at our command, and at the command of other fortunate nations. This knowledge helps to widen even further the growing gap between the "have" and "have not" peoples of the earth. Inequity is polarizing the world between north and south, rich and poor, white and non-white. This is a recipe for strife, both between the world's divided halves, and throughout the developing world. "Where there is constant want there is no peace."

As an American I take pride in the well-being and relative affluence we have been able to create for an increasing number of citizens. But I also feel shame at the hunger, poverty, and deprivation which surrounds this prosperous island of the Western world.

There are voices, even in America, which tell us to deny that these problems exist or that we can do little or nothing to solve them. There are voices of despair, worn out and exhausted. They would deny the America which James Russell Lowell spoke about a century ago:

> She that lifts up the manhood of the poor,
> She of the open soul and open door,
> With room about her hearts for all mankind.

It is impossible to deny that critics of American foreign aid and of international multilateral assistance do not have considerable merit in their charges. Too much has been attempted and too quickly. We were once told that long-range planning, five-year plans, infrastructure development and loans, not grants, would magically result in world development, especially in Latin America. This has not proven the case, chiefly because, I believe, development programs have rarely succeeded in democratically educating all the people in developing countries to participate in the development process. But if many development and foreign assistance programs have not matched their aspirations, this does not mean they have been total failures. Their contributions to social and economic development have been immense. We must continuously correct their failures and move into the future.

Today our material contribution to the developing world is far below the scant one percent of GNP proposed for development aid by the United Nations Conference on Trade and Development. Our foreign aid has dropped to a postwar low. We have fallen behind many of our European allies. The search for peace is more than withdrawing from Vietnam. Pope Paul reminded us that "development is the new name for peace."

By ignoring this fact, we are taking a tremendous risk. We are trying to have the best of all possible worlds—rightly giving up unilateral American peacekeeping, but at the same time turning our backs on the need for economic development. This will not work it will only be self-defeating. Let us face the problem squarely; either we will take a strong lead in the development of the poorer half of the world, or one day its great social and economic problems will engulf us all as surely as would a nuclear war. We must choose our weapons to secure the peace; ideas and resources today, or guns and troops tomorrow.

We Americans, as part of our responsibility to mankind, must commit ouselves anew to economic and social development, including control of the growth of population. Our commitment should be to nation-building—and not to buying favors in the developed world. Our interest is in having nations that are independent and secure—and thereby free to pursue their own development within the community of nations. But to do this effectively we must channel an increasing flow of aid through multilateral institutions. This will place heavy demands upon the United Nations and other organizations like the World Bank to support regional efforts for development in Asia, Africa, and Latin America.

Currently we spend too much time chiding these organizations rather than supporting them. I am well aware of their weaknesses, especially such institutions as the Inter-American Development Bank which must become more responsive to political and administrative realities in both the United States and Latin America if it is to accomplish the herculean tasks before it. I am also conscious that, except perhaps for the World Bank, many of the international and regional institutions often remain insensitive to the problem of others outside their purview or regions.

Yet some of the fault with these organizations and institutions rests with the United States. At present we pay too little attention to these institutions, often regarding them as poor relations. Yet for many nations, and in many parts of the world, only institutions like the UN can provide the help that is needed, free from complications of superpower relations or national self-interest.

This applies to peacekeeping as well. If American peacekeeping is to be curtailed, that does not mean that there can be no peacekeeping. It must be done by the United Nations or by regional groups. Only this can help to prevent the drift of disordered change into open conflict.

The basis of any system of peacekeeping must be a commitment to noninterference in the internal affairs of other countries. But this policy will only work if it is respected by all states—large and small—and only if there is an effective instrument in the United Nations to serve the interests, not of individual states, but of peace itself.

This means that pledges to recognize the sovereignty and internal politics of other nations must be backed up by United Nations forces which can patrol borders and supervise free elections. This will require the commitment of many nations; the United States must be prominent among them.

## VI

Finally, for us to understand our future role in the world, we need to change many of our basic ideas about the world, and learn about other nations, other peoples, other cultures, as we have never done before.

In the past quarter century, we have had a foreign policy for the whole world with a half-world understanding. We know much about Europe; we know far less about Asia; and we are almost totally ignorant about the developing areas of the world. Indeed, would we have become involved in Vietnam, if we had known more about it? There has been and continues to be a "knowledge gap" that threatens our very survival—a glaring gap in knowledge about the world we live in. Yet, we have made commitments—and commitments without knowledge are dangerous.

For many years the message of the American Revolution was a beacon of hope for all mankind. Then, what we had to say was welcomed by champions of freedom around the world. But today our ideals are not alone; they must compete in a free marketplace with a host of others. For too long our isolation from the rest of the world allowed us to think that we were the center of it.

Too often our schools are so intent on teaching the myths of American destiny that they ignore the billions of other people who find us as foreign as we find them. Too often our newspapers and television only report events in other lands that directly affect us, or translate events in American terms even at the price of gross distortion.

We are part of the English-speaking world, and value the role of this language in communications and the spread of ideas. But our failure to emphasize the importance for Americans to learn other languages has done much to isolate us from a true knowledge of other peoples, and has led us to expect everyone to understand our mother tongue.

We know little even about our two closest neighbors, Canada and Mexico, and few of us understand French or Spanish, even though these languages are spoken by many of our own people and by those on our borders.

Like other great nations before us, we have too often suffered from the myopia of power, imputing to others attitudes about the world that they do not share, and often, in our zeal, imposing our cultural ideas where they are not wanted.

We see others mimicking our material advances—from the automobile to indoor plumbing—but fail to realize that superiority on the assembly line may not mean superiority in way of life.

This is called the "American challenge"—a challenge to resist unwanted influences coming from this country. But I say that this is really a challenge to us. We must break with the tradition that leads great nations to practice cultural imperialism. We must show that we can be involved in the world, without trying to dominate it. Is this possible? I believe it is.

This is a challenge to know ourselves—what is best in our tradition and what would benefit from an infusion of the ideas and experience of others. And it is a challenge to listen intently; to still the cry of our own desires long enough to hear what others may have to tell us.

This is a challenge to our schools, our universities, and the media, to help us with the new education in world citizenship that we need so urgently. Only with a better public understanding of the world and its problems can we build a broad-based involvement for our people in the foreign policy of America—involvement that is necessary if our foreign policy is to serve our nation's needs.

It is a challenge to all of us to abandon that element of self-righteousness that has stigmatized much of our foreign policy—the tendency to substitute moralisms for morally, and legalisms for the rule of law. We need to gain a new perspective on the world and the history of our involvement in it, seeing ourselves neither as saviors uniquely endowed with good, nor as villains possessed by evil.

We can no longer see all the world as divided between friends and enemies. We have had a unique experience; we still have much to offer to others; but we will benefit no one—least of all ourselves—if we corrupt our view of the world and all of our foreign policy dilemmas into a simple, misleading, and often dangerous choice between right and wrong.

The challenge to our understanding of the world and of ourselves does not mean that we must shy away from making available to others what we do have to offer, both in resources and in experience. It is one thing to give freely of what we have; it is quite another to demand that our ways prevail.

This can be our contribution to the search for ways to promote stability and ordered change, development and peace, without recourse to fire and sword. It may win us few friends; but it should also make us fewer enemies.

We are in a new age of revolution—in political relations, technology, education, and rising expectations. We have come to regard these revolutions as commonplace, as the destiny of mankind, in coming years. Yet at the same time, we have too often attempted to contain the effects of revolution, by increasing the commitment of American power, often without much thought about our basic interests in security.

As we have become more involved in the world, we have permitted an increasing division between the ideals of our society and the facts of our power. We have not always understood that the aspirations of other peoples often follow a tradition that we ourselves began. We must find ways of being involved in the world that will protect our security, without stifling the legitimate desires of people who strive for their freedom and personal fulfillment.

We must seek peace, without prohibiting change. We must be patient, not expecting a new world at peace to emerge in a day, a year, or perhaps even in this decade. With Alfred North Whitehead we must be ready to sense that progress does not come from mere technique or from apocalyptic aspirations, but that it "consists in modifying the laws of nature so that the Republic on Earth may conform to that society to be discerned ideally by the divination of wisdom."

As we move into tomorrow, we must inspire a new generation of Americans with the hope that our ideals can once again be the cornerstone of our involvement in the world, not ignoring the continuing facts of power, but not letting them destroy the human dimension of our policy. We must place greater emphasis on human and personal values—having enough to eat, being able to learn, living free of fear.

I believe we can do it. I believe we can make our ideals powerful again.

My optimism for America, while tempered by the harsh reality of our national experience since 1945, continues unabated. I have great faith in the coming generation of Americans—it is not afraid of its humanity. Much of our contemporary young American generation has been born into unprecedented affluence, yet it has values which mirror St. Francis of Assisi.

I do not think it is wrong to think of nations and people in terms of the Spirit, in terms of things that are not mercurial. It is my view that what this nation is longing for today more than anything else is not just a better economy. I think what it is longing for, above all, is a sense of its compassion, of a justice it believes it could have, of a sense of fellowship. It wants uplift, not scolding.

I think the people of this land want somebody to call the best from them. And I have never believed that we can get the best out of anybody by telling them only of their failures.

We must also appeal to their hopes and their aspirations. I appeal today to young and old alike to believe that, out of what we have learned, out of this unbelievable tragedy of war and suffering, we are a wiser people. I am not sure, but I have the right to believe, and I shall.

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## SENATOR CARL HAYDEN

Mr. METCALF. Mr. President, it is an honor to join Senators in paying tribute to Senator Carl Hayden. He was a giant in his time, truly the exemplar of the era in which he lived.

It was not that he served in Congress longer than any other man ever has, although that in itself is a noteworthy achievement, but in his years of service he compiled a record of innovative leadership of legislative foresight that demonstrated him to be a man far in advance of the thinking of his compatriots.

It was a pleasure to appear before him when he was chairing the Appropriation Committee or the subcommittees upon which he served. He had an instant understanding of the needs of the country and a perceptive sense of the priorities in allocation of money and resources.

Senator Hayden was a builder, he was a creator, he was a planner for all of America.

There need be built no statues to Senator Hayden, no commemorative tablets to his memory; his monuments are the fertile reclaimed lands of the West, the prosperous communities, the schoolhouses and hospitals, the water resource projects. These monuments of services and flesh and blood will be more enduring than marble and bronze.

Senator Hayden, a wise man, a kindly man, a gentleman, was with us in America in a time of growth when we needed his wisdom and talents. We are fortunate that he shaped and molded American life as he did as the peer of all Members of Congress. Would that there were more like him.

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## A MATTER OF SIMPLE JUSTICE

Mr. PERCY. Mr. President, yesterday's action by the Senate Judiciary Committee in reporting the equal rights amendment is to be applauded. It brings us one step closer to a single system of equality, an achievement which is long overdue. I look forward to the next several weeks in which the Senate will be debating this important subject.

As a cosponsor of the joint resolution offered by Senators COOK and BAYH, I have felt for a long time that a constitutional amendment insuring equality under the law for women is the only way to abolish discrimination on the basis of sex. A great deal has been said about the application of the equal protection guarantees of the 14th and fifth amendments and the revision or repeal of existing laws. These forms of change are inadequate, piecemeal, and time consuming. Although we should continue to work with these tools, they will not insure a nationwide applications of the theory that differences of treatment under the law shall not be based on the quality or distinction of sex. A constitutional amendment will insure that reform.

The advisability of a constitutional amendment has been under study since 1923 when it was first introduced in Congress. The matter has been thoroughly debated, so much so that the inequities of our present system of laws are painfully obvious. I believe it is time that we take a decisive step—a step to end the dual system of equality which has relegated women to inferior, second-class positions in our society. We vocalize our disagreement with the concept of a dual system of voting, a dual system of education, or a dual system of health care, but we have not fulfilled our responsibility in saying that the dual system of treatment under the law for men and women must end. What we are actually talking about is a move that will affect a majority, not a minority, for women do comprise that former category.

One member of the majority in Congress has been particularly outspoken on the subject of equal rights for women. She is Representative MARTHA D. GRIFFITHS, of Michigan. An article published recently in the Christian Science Monitor commends her fighting spirit and her strength in having gotten the constitutional amendment through the House. Her leadership has certainly helped gather the momentum in Congress for passage of this amendment and she may be assured that she has many allies in the Senate. I am pleased to say that I am among them.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### EQUAL-RIGHTS DRIVE STIRS ANEW

(By Marion Bell Wilhelm)

WASHINGTON.—"Any senator who has the presidency in mind had better not forget. If he is not present and voting for my bill in the Senate, he'll be defeated," declared Rep. Martha W. Griffiths (D) of Michigan.

Martha Griffiths is a fighter. She has been fighing for an idea at least 100 years old. The suffragettes who won the vote for women merely postponed their campaign for amending the United States Constitution. The proposed equal-rights amendment has been in every Congress for more than 40 years. For 30 years it has been supported by the Republican and Democratic parties.

But it wasn't until Mrs. Griffiths went to bat for women's rights that the equal-rights amendment passed the House of Representatives—two times in a row, in both the 91st and 92nd sessions. It was she who steered it through.

Now it is before the U.S. Senate for the second time in the form of a joint resolution proposing an amendment to the Constitution of the United States as follows: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

How was she able to bring the proposed amendment to a successful House vote after so many others had failed?

#### TRIBUTE TO HARD WORK

Representative Griffiths says: "I think the real answer is that I had built up enough goodwill to get it done. This is my 18th year in Congress. I've been busy."

As a member of the House Ways and Means Committee and the Joint Economic Committee, she had been carefully studying ways laws apply differently to men and women. By the time the discharge petition was circulating, she had a routine knowledge of social-security and tax laws, a working friendship with key committee chairmen, and the respect of those who, however reluctantly, admire the ability of a woman to compete in a man's world.

All of this goodwill for Martha Griffiths has all but revolutionized the system of justice for women and children in the United States.

Because of amendments she sponsored or votes she won—"I talked and talked and talked for years to get these things done"—millions of motherless children became eligible for social-security benefits which widowers had been unable to collect from their working wives' accounts, divorced women who have been married 20 years or more became eligible to draw on their former husbands' social security, widowers became eligible for their wives' civil-service pensions, and working women throughout the country won wide-sweeping job protection under the Civil Rights Act of 1964.

#### UPHILL FIGHT THROUGHOUT

"I don't think of any of these accomplishments in terms of personal power," Mrs. Griffiths told this reporter, "but rather in terms of an opportunity as a legislator to make the laws more equitable."

It has been an uphill fight all the way. When the word "sex" was added to the Civil Rights Act, which also bars discrimination on the basis of race, creed, or color, some congressmen told her it couldn't win. But the bill and the word "sex" passed. Now, having failed to block the equal-rights amendment in the House, opponents are taking a similar stand in the Senate, where the amendment was shelved the last time around.

Nevertheless, Martha Griffiths thinks the chances of passage are improving:

"Up until now the senators have been thinking it's going to go away. This time, it won't. In my office we have sent 50,000 letters to the presidents of women's organizations. And, believe me, this is no partisan issue. Republican women are working like mad, too. Just the other day a congressman from Massachusetts told me: 'I am getting more mail on this than I ever got on Vietnam!' "

Those fighting for the Griffiths' amendment are determined to block an amendment by Sen. Sam J. Ervin (D) of North Carolina which would restrict equal rights "in the case of psychiological or functional differences."

"Women will not accept these ridiculous amendments," the House sponsor said. "We are fed up with the notion that men can make any kind of law against women if they say it's in our welfare or for our protection."

#### CHANGES RULED OUT

In a firm voice, she declared: "The equal-rights amendment must pass exactly as it is."

Once passed and ratified, in Mrs. Griffiths' opinion, the constitutional amendment would "shake up" the judicial system within a decade.

"There's no question about it," she points out. "It's not just the states that would be affected; it's the federal government itself. All these agencies would have to stop discriminating against women. So would the city councils and the school boards."

Mrs. Griffiths is skeptical about the value of a recent Supreme Court ruling according the equal protection of the laws to women under the 14th Amendment. She said the decision striking down an Idaho law favoring men over women in handling estates marked the first and only time any woman had won a suit before the Supreme Court on the grounds of constitutional protection.

"At that rate," she contends, "it would take 200 years to get protection of the laws, and it would cost millions and millions of dollars. The Supreme Court has been a bottleneck for women's rights. The justices, like many of the senators, are just too old. They have never lived in a world like this; they don't understand it."

If women had not taken the lead in their own behalf, Mrs. Griffiths believes very little would have been accomplished. "Only a woman with government office is in a position to get action," she concluded.

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## CENTENNIAL OF YELLOWSTONE NATIONAL PARK

**Mr. ALLOTT.** Mr. President, today is a great anniversary which should be noted and celebrated by all Americans. It is a day for us to give thanks for the thoughtfulness and judgment of previous generations, and to renew our dedication to the cause of being thoughtful and judicious in considering the interests of coming generations.

Mr. President, today is the 100th anniversary of the opening of the first national park.

On March 1, 1872, the Yellowstone National Park opened. Last year 2,126,300 persons visited that magnificent park. Last year, at those of our national parks which keep visitation records, nearly 60 million persons enjoyed the blessings of our national beauty.

This morning on NBC's Today show the Secretary of the Interior, Mr. Rogers C. B. Morton, indicated that the success of our national parks is a bit of a problem. There does seem to be a need to limit admissions at times to some parts of some parks. Such limits are necessary in order to fulfill the mission of the national park system—the mission to preserve the splendor of nature.

I, for one, Mr. President, rejoice that more and more Americans enjoy a standard of living—the affluence, leisure time and mobility—which enables them to visit our national parks. At the same time, I recognize the need to take those steps necessary to guarantee that we can pass along to subsequent generations an enhanced legacy of parks.

I have confidence in the Secretary of the Interior, and in the many dedicated ment and women who help him administer this magnificent park program. I join today in saluting these persons, and in commemorating the foresight and dedication which, a century ago, began the national park program.

As one who believes that America the prosperous can remain America the beautiful, and as one who believes that a national park system becomes increasingly important to the spiritual life of this increasingly urban Nation, I pledge myself to this goal: Our children's children shall enjoy the wondrous beauty that our parks preserve. After all, in an important sense our parks are the essence of America.

Mr. President, last Sunday's New York Times contained a useful survey of the National Park System. I ask unanimous consent that the survey be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A GUIDE TO THE NATIONAL PARKS, SEASHORES AND LAKESHORES OF THE UNITED STATES

#### ACADIA NATIONAL PARK

Basic Facts: 41,642 acres; 2,455,700 visitors in 1971; open year round; situated mostly on Mount Desert Island off Maine coast with portions on Isle au Haut and tip of Schoodic Peninsula.

Description: Acadia National Park is a remarkable combination of granite mountains, coastal headlands, cliffs, lakes, streams, bays and peninsulas. For more than 100 years Mount Desert Island has been a noted summer resort. Cadillac Mountain, at 1,530 feet the highest point on the Atlantic Coast, affords a panoramic view.

Accommodations: Campgrounds with tent and trailer sites (no utility connections). Hotel and motel accommodations in Bar Harbor and other nearby towns.

Address: Superintendent, Acadia National Park, Box 338, Bar Harbor, Me. 04609.

#### APOSTLE ISLANDS NATIONAL LAKESHORE

Basic Facts: 42,826 acres; number of visitors in 1971 not recorded; open spring to autumn; situated on Bayfield Peninsula, Wis., about 80 miles east of Superior, Wis.

Description: Twenty picturesque islands plus 11 miles of beaches along the south shore of Lake Superior make up Apostle Islands National Lakeshore, established Sept. 26, 1970.

Accommodations: None.

Address: % Northeast Regional Office, National Park Service, 143 South Third Street, Philadelphia 19106.

#### ARCHES NATIONAL PARK

Basic Facts: 72,233 acres; 202,900 visitor in 1971; open April through November; sit uated in southeastern Utah, just east of U.S. 160 about 5 miles north of Moab.

Description: Giant red rock arches, windows, pinacles and pedestals fill this newly established park (until November, 1971, it was a national monument). Water, wind, rain, frost and sun have created spectacular towers, shapes like men and animals, balanced rocks and other forms from sand deposits turned to stone about 150 million years ago.

Accommodations: Campground for tents and trailers (stays limited to 14 days). Hotels, lodges and motels in Moab.

Address: % Canyonlands National Park, Moab, Utah 84532

### ASSATEAGUE ISLAND NATIONAL SEASHORE

Basic Facts: 39,630 acres; 1,662,900 visitors in 1971; open May to October; situated off Atlantic coast of Maryland and Virginia, reached by automobile from Ocean City, Md., or Chincoteague, Va.

Description: The splendid beaches of this 35-mile barrier reef are its outstanding feature. Rolling sand dunes, wild Chincoteaque ponies, hiking trails and surf fishing are others. The seashore's proximity to the national capital makes it popular with Washington and Baltimore residents.

Accommodations: Federal and state campground. Hotels and motels in Ocean City and Chincoteague.

Address: Superintendent, Assateague Island National Seashore, Route 2, Box 111, Berlin, Md. 21811

### BIG BEND NATIONAL PARK

Basic Facts: 708,221 acres: 247,400 visitors in 1971; open year around; situated in southwestern Texas, 410 miles west of San Antonio and 323 miles east of El Paso.

Description: Situated in an unspoiled area of the United States along the Mexican border, where the lazy Rio Grande makes the big elbow bend that gives the park its name. Big Bend is part mountain, part desert. Arid expanses sweep away to remote horizons; ranges rise abruptly above the flatlands; steep-walled canyons and ribbon-like stretches of green vegetation define the river course. Visitors can see the remains of animals that lived millions of years ago, smell the creosote bushes and almost hear a Comanche war whoop.

Accommodations: Cabins, campgrounds, group campsites, motels and trailer sites. Lodgings also in Alpine and Marathon, Tex. At Chisos Mountains Lodge, within the park, rates range from $5.50 to $14; trailer sites, $2.

Address: Superintendent, Big Bend National Park, Tex. 79834

### BRYCE CANYON NATIONAL PARK

Basic Facts: 36,010 acres; 379,500 visitors in 1971; open year round; situated in Four Corners area of southern Utah.

Description: Bryce Canyon National Park is part of a landscape so spectacular that into it are concentrated quite a number of national parks, monuments and recreation areas. From the Paunsaugunt Plateau visitors view unusual and colorful rock formations that change with every change of light.

Accommodations: Campgrounds with tent and trailer sites (available May 1 to Nov. 15); an inn with cafeteria and store near North Campground (open early May to early October); lodge near Bryce Amphitheater (open from June 10 to Labor Day). Prices at inn and lodge range from $6 to $14.

Address: Superintendent, Bryce Canyon National Park, Utah 84717

### CANYONLANDS NATIONAL PARK

Basic Facts: 241,671 acres; 55,400 visitors in 1971; open year round; situated in southeastern Utah, approached from Moab.

Description: The Green River merges with the Colorado within Canyonlands to form one of the wildest stretches of water on the continent, a force that has carved a forest of fantastic spires, surrealistic rock filigree and canyon walls that drop 1,400 feet. Adjacent to the park is the Glen Canyon National Recreation Area with facilities for boating, swimming, camping, fishing and water skiing.

Accommodations: Campgrounds with tent and trailer sites but no utility hookup; primitive campsites along the river. (Stays limited to 14 days). Motels in Moab and Monticello, Utah.

Address: Superintendent, Canyonlands National Park, Post Office Building, Moab, Utah 84532

### CAPE COD NATIONAL SEASHORE

Basic Facts: 44,600 acres; 4,188,300 visitors in 1971; open March to October; situated on Cape Cod.

Description: It was on Cape Cod, at Provincetown, Mass., that the Pilgrims made their first landing in the New World. Today the Cape Cod area offers a multitude of vacation pleasures, including water sports, hikes along rolling sand dunes and forest trails and evening entertainment.

Accommodations: No overnight accommodations in the national seashore; hotels and motels in nearby towns.

Address: Superintendent, Cape Cod National Seashore, South Wellfleet, Mass. 02663

### CAPE HATTERAS NATIONAL SEASHORE

Basic Facts: 28,500 acres; 1,696,900 visitors in 1971; open year round; situated on Outer Banks of North Carolina, reached from Elizabeth City, N.C., or Atlantic, N.C.

Description: The Outer Banks of North Carolina, known during the days of sailing ships as the Graveyard of the Atlantic, are also remembered for the ill-fated Lost Colony of Roanoke Island and the site of history's first successful power-driven flight, by the Wright Brothers near Kitty Hawk. Four of the oldest and tallest lighthouses in America stand guard over the waters off the Outer Banks, and some of the best fishing grounds on the Atlantic seaboard are found here. Beaches are uncrowded and backed by sand dunes covered with wild oats.

Accommodations: Campgrounds (stays limited to 12 days); restaurants, hotels and motels in island villages.

Address: Superintendent, Cape Hatteras National Seashore, Box 457, Manteo, N.C. 27954

### CAPE LOOKOUT NATIONAL SEASHORE

Basic Facts: 24,500 acres; number of visitors in 1971 not recorded; open year round; situated off coast of North Carolina, just south of Cape Hatteras National Seashore, reached via ferry from Atlantic, N.C., and Beaufort, N.C.

Description: A ghost town, the abandoned fishing village of Portsmouth, N.C., is a feature of this national seashore, as in the Cape Lookout Lighthouse.

Accommodations: None.

Address: Superintendent, Cape Lookout National Seashore, Box 177, Beaufort, N.C. 28516

### CAPITOL REEF NATIONAL PARK

Basic Facts: 241,671 acres; 244,500 visitors in 1971; open year round; situated in south central Utah, on State Route 24.

Description: Elevated from national monument to national park status in December, 1971, Capitol Reef, which takes its name from a dome-shaped rock, is part of a 20-mile-long uplift of sandstone containing highly colored sedimentary formations dissected by narrow high-walled gorges.

Accommodations: Lodge, motel and guest ranch; campground (stays limited to 14 days); utility connections for trailers available at lodge.

Address: Superintendent, Capitol Reef National Park, Torrey, Utah 84775

### CARLSBAD CAVERNS NATIONAL PARK

Basic Facts: 46,753 acres; 791,600 visitors in 1971; open year round; situated in Guadalupe Mountains of southeastern New Mexico, 30 miles from Carlsbad.

Description: These huge caverns, the home of thousands of bats (which fly out at sunset on summer days), are among the most spectacular ever discovered and contain a startling variety of stalactites, stalagmites and other formations.

Accommodations: No overnight accommodations within the park; hotels, motels and trailer parks in White City and Carlsbad.

Address: Superintendent, Carlsbad Caverns National Park, Box 1598, Carlsbad, N.M., 88220

### CRATER LAKE NATIONAL PARK

Basic Facts: 160,290 acres; 558,000 visitors in 1971; open year round (north entrance closed in winter); situated in Cascade Mountains of southwestern Oregon.

Description: Breathtakingly beautiful and incredibly blue, Crater Lake is cradled in an extinct volcano. Frequent turnouts on the rim road enable visitors to view the lake from every side. Of special interest to motorists is the Motor Nature Trail, marked with plaques imparting information on the area's history and Indian legends.

Accommodations: Campgrounds, cabins, cottages and hotel. Lodgings from $5.50 to $13.

Address: Superintendent, Crater Lake National Park, Crater Lake, Ore. 97604

### EVERGLADES NATIONAL PARK

Basic Facts: 1,400,533 acres; 1,293,500 visitors in 1971; open year round (winter favored); situated in southern Florida, 12 miles from Homestead on State Route 27.

Description: This sprawling subtropical wilderness contains extensive fresh water and salt water areas, everglades prairies, mangrove forests and abundant wildlife, including such rare species as crocodiles, manatees, roseate spoonbills, reddish egrets, wood storks and bald eagles. Other inhabitants are the alligator, snook, tarpon and pink shrimp.

Accommodations: Cabins, campgrounds, motels and trailer sites without hookups. Motel prices range from $11 to $19.50 from May 1 to Dec. 14 and from $20 to $25 from Dec. 15 to April 30. (Campground stays limited to 14 days from Dec. 15 to April 15.)

Address: Superintendent, Everglades National Park, Box 279, Homestead, Fla. 33030

### FIRE ISLAND NATIONAL SEASHORE

Basic Facts: 19,311 acres; 445,400 visitors in 1971; open May to October; situated off south shore of Long Island.

Description: Fire Island, a well-known vacation spot, extends for 32 miles from Robert Moses State Park on the west to Moriches Inlet on the east, a narrow barrier beach varying in width from one-half mile to 200 yards and consisting of dunes, wide sandy beach, hidden hardwood groves, grassy wetlands and abundant wildlife.

Accommodations: Campground at Watch Hill; hotels, cottages and private rooms in various settlements on the island.

Address: Superintendent, Fire Island National Seashore, Box 229, Patchogue, L.I. 11772

### GLACIER NATIONAL PARK

Basic Facts: 1,013,129 acres; 1,303,100 visitors in 1971; open June 15 to Sept. 15; situated in northwestern Montana.

Description: Glacier National Park adjoins Canada's Waterton Lakes National Park. Together they offer some of the most stunning mountain scenery on earth. During the peak tourist season, traffic jams are not uncommon in Glacier Park but numerous turnouts afford the visitor a chance to enjoy the scenery and take pictures.

Accommodations: Campgrounds, cabins, hotels, motels, trailer sites without utility connections. (Camping stays limited to 14 days in July and August.) Lodgings from $8 to $34.

Address: Superintendent, Glacier National Park, West Glacier, Mont. 59936

### GRAND CANYON NATIONAL PARK

Basic Facts: 673,575 acres; 2,402,100 visitors in 1971; open year round (North Rim closed from mid-October to mid-May); situated in northwestern Arizona.

Description: Did you know that you can stand on the edge of the Grand Canyon and look down on mountaintops? The canyon is a mile deep, 217 miles long and 9 miles across, and its varicolored walls record more than 2 billion years of geological history. This is one of the great vistas of the world, and observation points along the rim enable visitors to view it from many angles. For the more adventurous, trails lead to the floor of the canyon, where the mighty Colorado River flows.

Accommodations: El Tovar Hotel, Yavapai Lodge, Bright Angel Lodge and Motor Lodge on the South Rim (rates from $5.50 to $35); Grand Canyon Lodge and North Rim Inn on the North Rim (rates from $6 to $14); campgrounds, trailer village with utility hookups (stays limited to seven days); Phantom Ranch on canyon floor (rates $14).

Address: Superintendent, Grand Canyon National Park, Box 129, Grand Canyon, Ariz. 26023

### GRAND TETON NATIONAL PARK

Basic Facts: 310,350 acres; 3,284,500 visitors in 1971; open year round; situated in northwestern Wyoming, south of Yellowstone National Park.

Description: Just getting to the Grand Tetons is exciting, for the distant view of jagged peaks keeps luring one on. This is high country, crowned by 13,770-foot Grand Teton. The region abounds in lakes and streams, and trips on rafts holding up to 18 people are offered on the Snake River, which winds out of Yellowstone.

Accommodations: Campgrounds, trailer sites, cabins, motels and hotels (rates from $5 to $73).

Address: Superintendent, Grand Teton National Park, Box 67, Moose, Wyo. 83102.

### GREAT SMOKY MOUNTAINS NATIONAL PARK

Basic Facts: 516,626 acres; 7,179,000 visitors in 1971; open year round; situated on the North Carolina-Tennessee border.

Description: This park, which has the largest attendance of all the national parks, contains unspoiled forest similar to what the early pioneers found. Main roads afford only an introduction. The 600 miles of horse and foot trails offer more rewarding experiences. There are broad vistas, waterfalls, 1,400 kinds of flowering plants, old homesteads, and animals ranging from black bears to raccoons. The blooming of rhododendron in June and July is always an event.

Accommodations: Campgrounds (stays limited to 7 days from June 1 to Labor Day); trailside shelters spaced a day's journey apart on Appalachian Trail; lodge with 300 furnished cottages in Fontana Village; Le Conte Lodge, open mid-April to late October and accessible only by trail (rates $10); motels and hotels in nearby towns.

Address: Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tenn. 37738.

### GUADALUPE MOUNTAINS NATIONAL PARK

Basic Facts: 82,279 acres; 27,200 visitors in 1971; open year round; situated in southwestern Texas on New Mexico border.

Description: This national park, established in 1966, is not yet developed but is open to people who wish to explore its huge exposed fossil reef, a legacy of the geological era when a great body of salt water covered the region.

Accommodations: None.

Address: ℅ Carlsbad Caverns National Park, Box 1598, Carlsbad, N.M. 88220

### GULF ISLANDS NATIONAL SEASHORE

Basic Facts: 163,200 acres; numbers of visitors in 1971 not recorded; open year round; situated off coast of Florida near Pensacola and off coast of Mississippi near Gulfport.

Description: The relatively new seashore, authorized by Congress on Jan. 8, 1971, contains historic forts, sandy beaches and primitive islands.

Accommodations: None.

Address: ℅ Southeast Regional Office, National Park Service, Federal Building, Box 10008, 400 North Eighth Street, Richmond, Va. 23240

### HALEAKALA NATIONAL PARK

Basic Facts: 27,283 acres; 254,700 visitors in 1971; open year round; situated on island of Maui in Hawaii.

Description: Haleakala could erupt again (the last eruption occurred in 1790) but at present no volcanic activity is visible. What is visible are exotic flora and fauna, including the rare silversword plant (ahinahina). Trails lead into the crater, where three cabins for visitors are maintained.

Accommodations: Campgrounds and cabins. Crater cabins reserved by writing the park superintendent. (Stays limited to three nights.)

Address: Superintendent, Haleakala National Park, PO Box 456, Kahului, Maui, Hawaii 96732

### HAWAIIAN VOLCANOES NATIONAL PARK

Basic Facts: 220,345 acres; 980,700 visitors in 1971; open year round; situated on Island of Hawaii.

Description: The attraction in this park is active Volcanoes—Mauna Loa and Kilauea, Mauna Loa being the largest active volcano in the world. It is possible to drive to the lip of Kilauea's most active vent, the site of the traditional home of Pele, the Polynesian goddess of volcanoes. Other attractions are Kau Desert, a land of sparse vegetation, and lush tropical plant life on the island's windward side.

Accommodations: Campgrounds, cabins, Kilauea Volcano House Hotel.

Address: Superintendent, Hawaii Volcanoes National Park, Hawaii 96718

### HOT SPRINGS NATIONAL PARK

Basic Facts: 3,535 acres; 2,540,100 visitors in 1971; open year round; situated in south central Arkansas.

Description: Indian tradition has it that the Hot Springs region was hallowed ground, a place where warriors laid aside their arms and bathed in peace. In 1832 the springs were set aside as a Federal reservation, giving birth to the idea that the country's natural heritage should be held in trust. Two of 47 springs, containing remarkably pure water, are open, the others sealed. The water is used for bathing and therapy.

Accommodations. Campground and trailer sites without utility connections. (Stays limited to 14 days in summer.) Hotels, motels and boarding houses in city of Hot Springs.

Address: Superintendent, Box 1219, Hot Springs National Park, Ark. 71902

### INDIANA DUNES NATIONAL LAKESHORE

Basic Facts: 8,721 acres; number of visitors in 1971 not recorded; open in summer; situated along southern shore of Lake Michigan between Gary and Michigan City, Ind.

Description: Clean, sandy beaches backed by huge sand dunes covered with trees and shrubs make up this national lakeshore. Some of the dunes are 200 feet high.

Accommodations: None within the lakeshore, but there are hotels and motels in nearby communities.

Address: Superintendent, Indiana Dunes National Lakeshore, Box 12, Chesterton, Ind. 46304

### ISLE ROYAL NATIONAL PARK

Basic Facts: 539,341 acres; 15,900 visitors in 1971; open May 15 to Oct. 20; situated in Lake Superior near Ontario, reached by ferry or floatplane from Houghton, Mich., and Grand Portage, Minn.

Description: This forested island is the largest in Lake Superior and is famed for its wilderness. Among the animal population are moose and timber wolves. The wolves prey on the moose, culling the herds and keeping the population at levels the island can support. Copper mines dating back 4,500 years have been excavated. Transportation is by foot trail and boat.

Accommodations: Campgrounds, cabins, Rock Harbor Lodge, Windigo Inn.

Address: Superintendent, Isle Royale National Park, 87 North Ripley Street, Houghton, Mich. 49931

### LASSEN VOLCANIC NATIONAL PARK

Basic Facts: 106,934 acres; 447, 400 visitors in 1971; open year round (park road is closed from end of October until early June, but winter sports are permitted near southwest entrance); situated in northeastern California near Redding.

Description: Lassen Peak, the only recently active volcano in the 48 conterminous United States, erupted between 1914 and 1921. It is in Lassen Volcanic National Park along with active hot springs, steaming fumaroles, sulphurous vents, a cinder cone, 50 wilderness lakes, almost as many mountains and a 100,000-acre coniferous forest.

Accommodations: Campgrounds, cabins, hotel, bungalows; Manzanita Lake Lodge (open June 15 to Sept. 15); Drakesbad Guest Ranch (open July 1 to Labor Day). Price range, hotel, cabins: $18 to $50; Drakesbad Guest Ranch: $28 to $42 (American Plan).

Address: Superintendent, Lassen Volcanic National Park, Mineral, Calif. 96063

### MAMMOTH CAVE NATIONAL PARK

Basic Facts: 51,354 acres; 1,745,000 visitors in 1971; open year around; situated in southwestern Kentucky.

Description: This immense cavern with 150 miles of passageways, chambers and formations of travertine and gypsum has been explored for at least two and one-half centuries. Indians searched for crystals of gypsum; miners during the War of 1812 extracted nitrates for use in making gunpowder; today visitors wend their way through lighted rooms, across gaping pits and past rivers, fossils, rocks, other geological formations and even the preserved body of an Indian. While taking underground boat trips, visitors can see blind fish, and outside the cave in the forest of the Green River bottomlands they can view huge sycamore and beech trees.

Accommodations: Cabins, campgrounds, group campsites, trailer sites, tents, hotels and motels. Rates from $4.50 to $15.50.

Address: Superintendent, Mammoth Cave National Park, Mammoth Cave, Ky. 42259

### MESA VERDE NATIONAL PARK

Basic Facts: 52,074 acres; 519,500 visitors in 1971; open year round (mid-May to Oct. 15 preferable); situated in southwestern Colorado, approximately 35 miles west of Durango.

Description: Mesa Verde (Green Table) is best known for its well-preserved prehistoric cliff dwellings, dating from the sixth century. The park also contains considerable wildlife and unusual geological formations.

Accommodations: Campgrounds, group campsites, tent cottages, cabins and lodge. (Rates from $5 to $12.50.) Campground stays limited to seven days.

Address: Superintendent, Mesa Verde National Park, Colo. 81330

### MOUNT M'KINLEY NATIONAL PARK

Basic Facts: 1,939,493 acres; 58,300 visitors in 1971; open early June to early September; situated in southeastern Alaska, reached via Denali Highway and by daily train from Fairbanks and Anchorage.

Description: Impressive scenery is the hallmark of this national park where 20,320-foot Mount McKinley, the highest mountain on the North American continent, reigns. Shrouded in ice, the peak is hidden by clouds nearly 60 per cent of the time, but when it comes into view its presence is unmistakable and virtually indescribable. The park road is winding, hilly and often rough but offers visitors a chance to see caribou, moose, grizzly bear, Dall sheep, wolf, lynx and other wildlife.

Accommodations: Campgrounds (camp stoves recommended due to scarce firewood), trailer sites without utility hookups (trailers not advised west of Teklanika Campground) and McKinley Park Hotel (reservations required).

Address: Superintendent, Mount McKinley National Park, McKinley Park, Alaska 99755

### MOUNT RAINIER NATIONAL PARK

Basic Facts: 241,781 acres; 1,742,600 visitors in 1971; open year round (May to October preferable); situated in west-central Washington.

Description: Mount Rainier, an ice-clad dormant volcano, rises 14,410 feet, the highest point in the state of Washington. From November through May, heavy snowstorms are frequent. From mid-June through October, warm, sunny days are mixed with cool, rainy ones. On weekends and holidays from December through April ski tows operate in the Paradise Region.

Accommodations: Campgrounds, trailer sites without utility hookups; Paradise Inn (open mid-June to Labor Day), National Park Inn (open from early May to mid-October). Rates: $7 to $15.

Address: Superintendent, Mount Rainier National Park, Longmire, Wash. 98397.

### NORTH CASCADES NATIONAL PARK

Basic Facts: 505,000 acres; 216,300 visitors in 1971; open early April to mid-October at lower elevations and mid-June to mid-September at higher elevations; situated in northern Washington on Canadian border adjoining two national recreation areas—Ross Lake and Lake Chelan.

Description: This region of jagged peaks, mountain lakes and streams, glaciers and wildlife is one of the newer national parks. Established in 1968, it encompasses a section of the Cascade Mountains noted for varied scenery. There are more than 150 active glaciers and the wildlife includes the rare bald eagle.

Accommodations: Primitive and developed campgrounds. Communities within and adjacent to the park have limited guest accommodations.

Address: Superintendent, North Cascades National Park, Sedro Wooley, Wash. 98284.

### OLYMPIC NATIONAL PARK

Basic Facts: 896,599 acres; 1,859,700 visitors in 1971; open year round; situated on the Olympic Peninsula of Washington.

Description: This national park consists of two areas, one surrounding Mount Olympus, the other a narrow strip of coastline between Queets and Cape Alava. An outstanding feature of the park is its rain forest, where the visitor feels he has stepped into another world and can almost imagine running into a prehistoric animal. Actually, he is likely to encounter the Roosevelt elk, black-tailed deer, bear, racoon and skunk. The coastal area, which is one of the most primitive in the United States, is a rest stop for migrating birds, seals and other marine mammals.

Accommodations: Campgrounds, cabins, lodges and trailer parks.

Address: Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Wash. 98362.

### PADRE ISLAND NATIONAL SEASHORE

Basic Facts: 133,918 acres; 904,400 visitors in 1971; open year round; situated in Gulf of Mexico off Texas, stretching 113 miles from Corpus Christi almost to Mexico.

Description: This long, narrow barrier island is noted for its wide sand beaches, excellent fishing and abundant bird and marine life. More than 350 species of birds visit the island or stay the year round, among them great blue herons, sanderlings, gulls and terns. On grassy flats behind the oceanfront sand dunes are meadowlarks, marsh hawks, sandhill cranes and, occasionally, a great horned owl.

Accommodations: Campsites and beach camping. Campers using the beach must bring their own drinking water and subsist without conveniences.

Address: Superintendent, Padre Island National Seashore, Box 8560, Corpus Christi, Tex. 78412.

### PICTURED ROCKS NATIONAL LAKESHORE

Basic Facts: 67,000 acres; number of visitors in 1971 not recorded; open in summer; situated on south shore of Lake Superior along Upper Peninsula of Michigan.

Description: The nation's first national lakeshore, Pictured Rocks has multicolored sandstone cliffs 200 feet high, broad beaches, sandbars, sand dunes, waterfalls, inland lakes, ponds, marshes and hardwood and coniferous forests.

Accommodations: Primitive campsites at Kingston Lake, Little Beaver Lake and 12-Mile Beach. Developed campgrounds in Hiawatha National Forest and Grand Sable State Forest. Hotels and motels in Munising, Melstrand and Grand Marias, Mich.

Address: Superintendent, Pictured Rocks National Lakeshore, First National Bank Building, Second Floor, Box 32, Munising, Mich. 49862.

### PETRIFIED FOREST NATIONAL PARK

Basic Facts: 94,189 acres; 1,077,400 visitors in 1971; open year round; situated in northeastern Arizona, bisected by Interstate 40.

Description: A portion of the Painted Desert is included in the eroded badlands that make up this national park. Prehistoric Indian ruins and petroglyphs abound, along with thousands of trees turned to stone. Visitors may pick up and look at a piece of petrified wood but may not take even a small sample. Souvenirs made from petrified wood obtained outside the park can be purchased at concessioners.

Accommodations: None.

Address: Superintendent, Petrified Forest National Park, Holbrook, Ariz. 86025.

### PLATT NATIONAL PARK

Basic Facts: 912 acres; 4,147,900 visitors in 1971; open year round; situated in southern Oklahoma about 85 miles south of Oklahoma City.

Description: Platt, the smallest national park in area but the second largest in attendance, is a cool, green shady place with sulphur and bromide springs. An aquatic nature walk is conducted by a naturalist who leads a wading trip up Rock Creek and describes plant and animal life. A small herd of bison commemorates the thousands of buffalo that once watered at Buffalo Springs here.

Accommodations: Campground with fireplaces. Lodgings in Sulphur, Okla., bordering the park.

Address: Superintendent, Platt National Park, Box 539, Sulphur, Okla. 73086.

### POINT REYES NATIONAL SEASHORE

Basic Facts: 64,546 acres; 1,380,500 visitors in 1971; open year round; situated on California's Point Reyes Peninsula, about 45 miles north of San Francisco.

Description: Long sandy beaches backed by tall cliffs are a major feature of this claw-shaped peninsula, but it also contains a lagoon and forested ridges plus offshore bird and sea lion colonies. The San Andreas Fault, which caused the 1906 San Francisco earthquake, runs through the park, its actions recorded on a seismograph in the Visitor Center.

Accommodations: Limited camping facilities accesible only by trail and restricted to one-night stays. Hotel and motel accommodations in nearby communities.

Address: Superintendent, Point Reyes National Seashore, Point Reyes, Calif. 94956.

### REDWOOD NATIONAL PARK

Basic Facts: 57,094 acres; 34,500 visitors between July 1 and Dec. 31, 1971; open year round; situated on northwestern coast of California.

Description: The stately majesty of some of the earth's oldest living trees is a palpable presence as motorists pass beneath the towering giants preserved within three state parks and various memorial groves making up Redwood National Park. Land acquisition is under way, but the region, which became a national park in 1968, remains primarily under state operation. Much of the acreage was purchased by the Save-the-Redwoods League with funds contributed by private citizens and matched by the State of California.

Accommodations: Campgrounds in state parks (reservations accepted through California Department of Parks and Recreational). Fees: $2 to $3. Private trailer parks and motels along major routes.

Address: Superintendent, Redwood National Park, Drawer N, Crescent City, Calif. 95531.

### ROCKY MOUNTAIN NATIONAL PARK

Basic Facts: 262,324 acres; 2,457,300 visitors in 1971; open year round (some roads closed in winter); situated in northern Colorado, about 65 miles from Denver.

Description: Unexcelled sports activities, especially in winter, and spectacular views of high-mountain country any time of the year are the outstanding features of this park, which can be traversed on Trail Ridge Road. One of the world's highest roads, it stays above timberline for 11 miles and reaches 12,183 feet. At the southwest edge of the park is Shadow Mountain National Recreation Area.

Accommodations: Campgrounds and group campsites.

Address: Superintendent, Rocky Mountain National Park, Estes Park, Colo. 80517.

### SEQUOIA AND KINGS CANYON NATIONAL PARKS

Basic Facts: 386,863 acres in Sequoia: 460,331 acres in Kings Canyon; 882,000 visitors in 1971 in Sequoia, 896,700 in Kings; both open year round; situated in the High Sierras of California southeast of Fresno.

Description: Sequoia boasts the General Sherman Tree, the largest and one of the oldest of living things, its age estimated at more than 3,000 years. Visitors can also see Moro Rock, Crescent Meadow and Crystal Cave (daily tours from mid-June through Labor Day) and high mountain scenery, including Mount Whitney, 14,495 feet. The Generals Highway is open year round and winds through the sequoia belt. Kings Canyon National Park is less developed than Sequoia, having only one access road that dead ends at Copper Creek. Along its route, however, are turnouts for viewing outstanding scenery, four campgrounds and a daytime parking lot plus a long-term parking lot. More than 900 miles of trails take hikers and horseback riders into the high country.

Accommodations: Giant Forest Lodge, Grant Grove Lodge and Meadow Camp Cabins (open late May to October), Camp Kaweah Cabins (open all year), trailside camps, campgrounds and trailer sites.

Address: Superintendent, Sequoia, and Kings Canyon. National Parks, Three Rivers, Calif. 93271.

### SHENANDOAH NATIONAL PARK

Basic Facts: 193,539 acres; 2,406,500 visitors in 1971; open year round; situated astride the Appalachian Mountains of northern Virginia.

Description: The 105-mile Skyline Drive, which follows the crest of the Blue Ridge Mountains and is a continuation of the highly popular Blue Ridge Parkway, draws most of this park's visitors. Seventy-five overlooks where motorists can park afford views of the Shenandoah River Valley. There are also nature trails and naturalist-conducted field trips.

Accommodations: Campgrounds, trailside shelters, trail cabins and lodges. (Lodge rates: $10 to $18.)

Address: Superintendent, Shenandoah National Park, Luray, Va. 22835

### SLEEPING BEAR DUNES NATIONAL LAKESHORE

Basic Facts: 71,068 acres; number of visitors in 1971 not recorded; open spring to autumn; situated in northwest Michigan.

Description: Included in this lakeshore are North Manitou and South Manitou Islands as well as 34 miles of mainland shore along Lake Michigan. The region contains beaches, massive sand dunes, forests and lakes.

Accommodations: None.

Address: c/o Northeast Regional Office, National Park Service, 143 South Third Street, Philadelphia 19106

### VIRGIN ISLANDS NATIONAL PARK

Basic Facts: 15,150 acres; 225,600 visitors in 1971; open year round; situated on St. John in the United States Virgin Islands.

Description: Nearly two-thirds of the land mass and most of the offshore waters of St. John are set aside as the only United States national park in the West Indies; a park with white coral sand beaches, scenic mountain roads, quiet coves and underwater coral gardens. At Cinnamon Bay Campground, vacationers can rent camping equipment at $35 a week for two people, plus $8.75 a week for each additional person. At Trunk Bay is an underwater nature trail and a beach that is considered one of the 10 most beautiful in the world.

Accommodations: Besides the camping bargain available at Cinnamon Bay Campground, tent sites without equipment can also be had, for $2 a night, and equipped cottages for $10 a night, plus $2 for each additional person. (Reservations required well in advance from Cinnamon Bay Campground, St. John, U.S. Virgin Islands 00830.)

Address: Superintendent, Virgin Islands National Park, Box 806, St. Thomas, U.S. Virgin Islands 00801.

### VOYAGEURS NATIONAL PARK

Basic Facts: 219,431 acres; number of visitors in 1971 not recorded; open year round (spring through fall preferable); situated in northern Minnesota on border of Canada.

Description: Because it is in a land of beautiful northern lakes where the fishing is outstanding and the forests are filled with wildlife and flowers and berries, Voyageurs National Park attracts sightseers, canoeists, hikers, campers and fishermen. Established Jan. 8, 1971, it is one of the newer national parks and still under development.

Accommodations: Loggings in International Falls and Baudette, Minn., and in Fort Frances and Rainy River, Ontario.

Address: Superintendent, Voyageurs National Park, 1709 Jackson Street, Omaha, Neb. 68102.

### WIND CAVE NATIONAL PARK

Basic Facts: 28,059 acres; 1,085,300 visitors in 1971; open year round (cave open April 1 to Oct. 31); situated on southeastern flank of South Dakota's Black Hills.

Description: The Black Hills were sacred to the Indians, who fought heroic battles to resist invasion of the area. Legend suggests that the cave from which this park takes its name is the sacred Cave of the Winds venerated by the Sioux. In any event, Wind Cave is noted for the strong air currents that blow in and out of the mouth—out when the barometer is falling, in when it is rising. Guided tours are conducted daily during the season. Elsewhere in the park are forests, mountains, prairies, bison herds and prairie dog towns.

Accommodations: Campground at Elk Mountain with trailer sites but no utility hookups; motels, hotels and trailer courts in Hot Springs, Custer and other nearby communities.

Address: Superintendent, Wind Cave National Park, Hot Springs, S.D. 57747.

### YELLOWSTONE NATIONAL PARK

Basic Facts: 2,221,773 acres; 2,126,300 visitors in 1971; open May 1 through Oct. 31; situated in northwest corner of Wyoming with portions in Idaho and Montana.

Description: The world's first national park, Yellowstone is associated with bears, thermal geysers like Old Faithful, mud pots, the Grand Canyon of the Yellowstone River, Yellowstone Falls and Lake Yellowstone. The park was established 100 years ago, on March 1, 1872. In March of this year public hearings will be held on a proposal to set aside approximately 1,963,000 acres as a perpetual wilderness area. The reason, as set forth in the prologue to the proposal: "If Yellowstone is to survive the next 100 years, a new equilibrium must be achieved. The irreplaceable park resources must be weighted against the human impact upon them and a new balance struck."

Accommodations: Campgrounds, group campsites, trailer sites, cabins, motels and hotels. (Lodging: $6 to $31.)

Address: Superintendent, Yellowstone National Park, Wyo. 82190.

### YOSEMITE NATIONAL PARK

Basic facts: 761,320 acres; 2,416,400 visitors in 1971; open year round; situated in California's Sierra Nevada Range, approximately 80 miles east of Merced.

Description. Yosemite boasts an unsurpassed collection of sculptured peaks and domes, tumbling waterfalls, sheer granite cliffs, groves of giant sequoia trees, jewel-like lakes and icy rivers. The growing popularity of the park with both summer vacationers and winter sports fans has led to confrontations between park officials and some visitors in the past, but policy changes, adjustments in operations and the banning of automobiles from portions of Yosemite Valley have helped restore peace.

Accommodations: Campgrounds, group campsites, cabins, housekeeping tents, trailer parks, hotels and lodges. (Lodgings: $6 to $32.) High Sierra camps, accessible only by foot or on horseback, charge $29 a day including breakfast and dinner.

Address: Superintendent, Box 577, Yosemite National Park, Calif. 95389.

### ZION NATIONAL PARK

Basic facts: 147,035 acres; 975,000 visitors in 1971; open year round; situated in southwest corner of Utah.

Description: Because of its many cathedral-like formations, this region of colorful canyons and mesas was named Zion, the heavenly city of God, by early Mormon settlers. The theme persists in the names of various valleys and lofty monoliths, such as the Temple of Sinawava, the Great White Throne, Angels Landing, the Pulpit, the Three Patriarchs and Cathedral Mountain. Forests, fossils, geological features, rivers, waterfalls, hanging gardens and Indian ruins are also found in the park. Many of the sights can be glimpsed from the mile-long Zion-Mount Carmel Tunnel, along which wide viewing galleries have been cut.

Accommodations: Campgrounds, group campsites (stays limited to 14 days), Zion Inn and Zion Lodge. Lodgings: $6 to $14.50.

Address: Superintendent, Zion National Park, Springdale, Utah 84767.

## A TRIBUTE TO CARL HAYDEN

Mr. PACKWOOD. Mr. President, it is always sad to lose a member of one's family, and it is indeed a cause for mourning when our Nation loses a man like Carl Hayden.

He was a quiet, yet giant of a man, who served almost 57 years in Congress, 42 of those years in the Senate. In his first 20 years in the Senate, Carl Hayden made only a single speech on the floor, and he held but one news conference in his first 50 years on Capitol Hill. But though he seldom made a formal speech, his wishes carried almost the weight of canon law. He was highly respected among his colleagues for his dedication and for his masterful ability of constructive compromise.

The Arizona Senator was truly an architect of the West in establishing the modern formula for the vast Federal highway aid program and for his unceasing work in the fields of mining, public lands, reclamation, and other projects affecting Western lands.

In his own State of Arizona, he probably will best be remember as the father of the central Arizona project to bring water from the Colorado River to the valleys of central Arizona and the cities of Phoenix and Tucson. His reputation as a "workhorse" is unsurpassed, and he was as wise as he was just in helping other States to realize their project needs.

The contributions he has made for the betterment of our country and the friendships he wove through the years with other politicians have left an indelible impression in all our minds. We shall miss him. But his work will remain a vibrant part of our history.

## CONTIGUOUS FISHERIES ZONE

Mr. STEVENS. Mr. President, at its regular semi-annual meeting on November 6, 1971, the Board of Directors of the Sport Fishing Institute—SFI—adopted a resolution urging Congress to adopt legislation that would establish a Contiguous Fisheries Zone beyond the adjacent Territorial Seas off the United States to the edge of the Continental Shelf—200 meters—or to a distance of 200 nautical miles, whichever is farther offshore.

The SFI further resolved that the administration is urged to seek adoption of a similar convention at the 1973 United Nations Law of the Sea Conference which would be applicable throughout the world without prejudice to any other principle of "free" or "innocent" passage.

Because this resolution is of such importance to the coastal States and also of course to my State of Alaska, I ask unanimous consent that the resolution be printed in the RECORD.

Senators may recall that it is in accord with S. 46, although that bill sets the outer depths at 550 meters.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

### EXTENSION OF U.S. ZONE OF EXCLUSIVE JURISDICTION OVER FISHERIES RESOURCES

Whereas, several nations have already established or are presently seeking to establish, beyond the narrow limits of their traditional Territorial Seas, broad zones of exclusive jurisdiction over fisheries resources that occur in adjacent coastal waters for distances up to several hundred nautical miles offshore; and

Whereas, the establishment of a similar broad zone around the continental United States seaward beyond the Territorial Seas to the outer or seaward boundaries of the Continental Shelf, as delineated by the 200-meter-deep ocean bottom contour, would contribute materially to eventual practical management of major coastal fisheries resources, whose welfare is closely bound to the environment of the Continental Shelf and its inward extensions within estuaries;

Now, therefore, be it resolved, that the Board of Directors of the Sport Fishing Institute, assembled in regular semi-annual session this sixth day of November, 1971, at Key Biscayne, Miami, Florida, do herewith urge the Congress to adopt legislation that would establish a Contiguous Fisheries Zone extending beyond the adjacent Territorial Seas of the United States to the outer edge of the subjacent Continental Shelf, as indicated by depth of 200 meters, or to a distance of 200 nautical miles, whichever is farther offshore, in order to effect improved long-term management and conservation of the related living aquatic resources that occur in those waters; and

Be it further resolved, that the Administration is urged to propose and to actively seek adoption at the 1973 United Nations Law of the Sea Conference of a corresponding convention for similarly-extended jurisdictional zone over the living marine resources of the Continental Shelf, applicable throughout the world, without prejudice to any other principle of "free" or "innocent" passage of vessels through restricted straits, etc., as now presently practiced or may become adopted, irrespective of the final disposition of the question of increased or uniform breadth of the Terriorial Seas.

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## SPYING ON PUBLIC PERSONS

Mr. HARRIS. Mr. President, the New York Times of February 29, quoting a spokesman for the distinguished Senator from North Carolina (Mr. ERVIN), reported that the Army has had spies monitoring the activities of several public figures including myself, Senators MUSKIE, MCGOVERN, ERVIN, KENNEDY, and HUGHES, and several Members of the House of Representatives.

The New York Times report was the first time I learned of these activities by the Army directed against myself. But it raises a fundamental question. If U.S. Senators and Representatives are subject to this kind of harassment and intimidation, who knows how many private citizens are subjected to surveillance?

From all of this there is a lesson. Bureaucracies use the power they are given, and they can abuse it. The bureaucrat in the Pentagon who is charged with the job of surveillance of public figures undoubtedly believed that the principal way to prove to his superior that he was industrious and competent was to bring an ever-increasing number of public figures under surveillance. So the net of spying extended.

Yesterday, February 29, I wrote a letter to Defense Secretary Laird, demanding to receive both the contents of my file and a public apology. I also stated that when I receive the contents, I am prepared to make them available to the news media. My purpose is to expose the moral and political aimlessness of our Government's policy of surveillance, the contempt for civil liberties which it represents, and the waste of taxpayers' money which it entails.

Mr. President, I ask unanimous consent that both the letter which I sent to Secretary Laird and the February 29 New York Times article be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
*Washington, D.C., February 20, 1972.*

Hon. MELVIN R. LAIRD,
*Secretary of Defense,*
*The Pentagon, Washington, D.C.*

DEAR MR. SECRETARY: As you know, Senator Sam Ervin has been conducting an investigation into Army surveillance of civilian officials over the past several years. Yesterday, Senator Ervin disclosed that Army intelligence agents monitored the political activities of a Supreme Court Justice, a number of U.S. Senators and Congressmen, and several state officials.

Today the New York Times reports that a spokesman for Senator Ervin said the list of subjects includes me, plus Senators Muskie, McGovern, Ervin, Kennedy, Hughes, and former Senators McCarthy and Yarborough.

Since I have never been notified by the Department of Defense of this surveillance, I now ask you to supply me at once with the file of Army intelligence reports on my activities.

Upon receipt of this material, I am prepared to make it public. Such a disclosure, I am convinced, will demonstrate that the Army had absolutely no basis for its surveillance of my activities. I feel that similar publication of the files on other members of Congress listed above would do likewise.

In addition to the file, I would like an explanation from you as to why my activities were watched, when surveillance began, and when it ended or will end.

At a time of growing distrust of this Administration's behavior in the area of civil liberties, I believe you have a clear responsibility to publicly repudiate this unwarranted surveillance of high elected officials. Furthermore, I feel you owe me and the other members of Congress mentioned above a public apology.

I am especially disturbed by the following question: If United States Senators and Congressmen are subject to this kind of harrassment and intimidation, who knows how many private citizens, much less powerful than members of Congress, have been subjected to surveillance?

There is nothing so essential to the maintenance of a free society as the protection of the individual's right to state without fear his convictions and concerns.

Democratic government's first duty—expressed so well in the American Constitution—is to guarantee to each citizen the unrestricted right to speak and to associate, and to do so in any manner not harmful to others.

That is what the Bill of Rights is all about. And when government itself abridges the freedom granted by the First Amendment—when government circumscribes liberty through direct intimidation or through the creation of an atmosphere of suspicion and fear—then government invites the contempt of its citizens.

I look forward to receipt of the Army reports and your explanation.

Sincerely,

FRED R. HARRIS,
*U.S. Senate.*

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[From the New York Times, Feb. 29, 1972]

### WIDER ARMY SURVEILLANCE OF TOP OFFICIALS DISCLOSED—ERVIN SAYS A JUSTICE AND KEY SENATORS WERE TARGETS

(By Richard Halloran)

WASHINGTON, Feb. 28.—Senator Sam J. Ervin Jr. disclosed today that Army intelligence surveillance of civilian officials from late 1967 into 1970 was more extensive than had previously been revealed.

In a brief filed with the Supreme Court, the North Carolina Democrat said that the Army had watched the political activities of a Supreme Court Justice, "numerous Congressmen and United States Senators" and state officials.

The Senator did not name the subjects of the surveillance, the details of which were furnished by the Army to the Subcommittee on Constitutional Rights, which Mr. Ervin heads.

A spokesman for Mr. Ervin said, however, that the subjects included Mr. Ervin, Senators Edmund S. Muskie, George McGovern, Edward M. Kennedy, Harold E. Hughes and Fred R Harris and former Senators Ralph W Yarborough and Eugene J. McCarthy.

Members of the House listed as subjects included Representatives Philip M. Crane, Republican of Illinois; John R. Rarick, Democrat of Louisiana, and Don Edwards, California Democrat when he was a California State Senator, and former Representatives Adam Clayton Powell, Manhattan Democrat, and Allard K. Lowenstein, Nassau Democrat.

Governors said to have come under surveillance included Francis W. Sargent, Republican of Massachusetts, and Kenneth M. Curtis, Democrat of Maine. Former Governor H. Philip Hoff, of Vermont, and Lieut. Gov. Thomas Hayes of Vermont, were also on the list.

Senator Ervin's spokesman declined to name the Supreme Court Justice since his name was on a still-secret document furnished by the Army to the subcommittee. But other authoritative sources who have studied the documents, indicated that it was Thurgood Marshall.

Whether the information was gathered before Mr. Marshall was named to the Court in 1967 or after he took his seat was not clear. He was the Solicitor General before going to the Supreme Court.

No details on what sort of information was collected about Justice Marshall or why he was investigated were available.

Earlier reports on the Army's civilian intelligence operation named Senator Adlai E. Stevenson 3d, Representative Abner J. Mikva, and former Gov. Otto Kerner, all Illinois Democrats, as subjects of surveillance.

The new names came from Army reports and computer printouts from intelligence data banks that Senator Ervin's subcommittee obtained from the Army and had declassified, or taken out of the secret category.

In most cases, the documents showed that Army agents in civilian clothes attended political rallies or listened to speeches given by the subjects and then filed "spots" reports on the event. The Army has consistently justified such surveillance as part of its responsibility for warning against the outbreak of civil disturbances.

The Army was ordered by senior civilian officials of the Johnson Administration in 1967 to 1968 to use its internal counter-intelligence units to gather information that might indicate that civil disturbance was on the way. It was also ordered to collect information that might be useful to Army troops when they were sent into an area of strife.

Civilian officials and military officers involved in the operation conceded later that directives intended to control the surveillance had been drawn too loosely and that the operation had spilled over into watching legitimate political activity.

Among the main targets were persons and organizations that opposed the war in Vietnam, student radicals, blacks, civil rights militants and others considered to be anti-establishment. The Army also watched organizations considered to be conservative or right wing, such as the Daughters of the American Revolution, the Ku Klux Klan and the American Nazis.

Senator Muskie of Maine and Senator McGovern of South Dakota are both candidates for the Democratic Presidential nomination and opponents of the war. Senators Kennedy of Massachusetts, Hughes of Iowa, Harris of Oklahoma, and former Senators Yarborough of Texas and McCarthy of Minnesota, all Democrats, have also spoken out against the American involvement in Vietnam.

However, Representative Crane is considered a militant conservative and Representative Rarick has been a hawkish supporter of American action in Vietnam. Representative Edwards has been a critic of the war, as has Mr. Lowenstein. Mr. Powell was generally considered anti-establishment.

Given the somewhat haphazard pattern of the surveillance, critics of the Army's operation have suggested that it often lacked direction and indiscriminately gathered information on public figures.

Senator Ervin's brief in the Supreme Court was filed as "friend of the court" brief in the case of Arlo Tatum v. Melvin R. Laird, the Secretary of Defense. Mr. Tatum, the executive secretary of the Central Committee for Conscientious Objectors, alleged that he had been put under surveillance by the Army.

He has filed suit against the Government asking for a court order enjoining such surveillance. His case was dismissed in the District Court here and then upheld by the Court of Appeals. It is scheduled to be heard by the Supreme Court this spring.

## GOVERNMENT OPERATIONS COMMITTEE FIELD HEARINGS ON RURAL REVITALIZATION

Mr. PERCY. Mr. President, on January 24 and 25 the entire Committee on Government Operations held hearings on rural revitalization in Carbondale, Ill. The focus of these field hearings, the first of several to be held in locations other than Washington, was S. 10, a bill to promote the development of rural and other economically depressed areas. Sponsored by Senator JOHN L. MCCLELLAN, the distinguished chairman of the Committee on Government Operations, S. 10 has 42 cosponors, of which I am one.

The purpose of the hearings was to gather firsthand information about the problems of economically depressed rural areas in order to gain the information and the insight necessary to shape well-considered, appropriate legislation to deal effectively with the problems of such areas.

Rural development as we defined it for purposes of these hearings and S. 10 is regional economic development in areas that are poor. We do not include development of rural areas where there is substantial economic activity, for example in primarily rural areas where farming is a major successful endeavor. There has been some expressed concern that by rural development we might generate industrial development and population growth in such areas where it is not needed and where many do not want it. This is not the case.

I am pleased to report to the Senate that the hearings were outstandingly successful. Our choice of location for the hearings in southern Illinois was ideal and the testimony elicited from the 20 expert witnesses we called was pertinent and useful. The printed hearings will be available within about a month, and I expect that they will prove to be a valuable sourcebook for those interested in the problems of rural development from both an academic and legislative standpoint, as well as to those whose work involves them in rural development efforts in the field.

The hearings were held on the campus of Southern Illinois University at Carbondale, and this location was appropriate for several reasons. Carbondale is economically and intellectually the center of the Southern Illinois region. Southern Illinois is broadly defined as consisting of those 34 counties in the lower third of Illinois that are now included in the State of Illinois new administrative regions IV and V.

Southern Illinois University has been a germinal influence in the development of this region. Experiencing very rapid growth since World War II, the university has now a student population of 22,000. It has provided a base for faculty and students who, in addition to usual university curricula, have concerned themselves with study of the problems of the area. The university has developed departments and units whose purpose has been to reach out into the region in order to promote agricultural development, community development, educational and other programs benefiting the area. Thus the university, with its large student and faculty population, has provided both an intellectual and economic stimulus for the development of southern Illinois.

For decades the communities and counties in southern Illinois have been experiencing a declining rate of economic activity. Essentially, the problem has been that farming and mining activities have not been sufficient to sustain past commercial activity. The result has been outmigration in search of jobs, and a progressive weakening of the entire area.

It has only been within the last 15 years that individuals, local and regional government units, and the State government, have attempted to deal in a concentrated way with this very difficult problem.

The influence of the university has been great, but even more important have been the efforts of communities which have organized to create industrial development programs. The new efforts being made by the State of Illinois in rural development, and the new emphasis on regional planning by multicounty planning units has been very helpful.

The result has been that important successes have been scored in the attraction of new industry and the creation of new jobs. In some counties the outflow of people has actually stopped in recent years. With assistance from the State and Federal Government for public works and natural resource development projects and highways, there is a new spirit of confidence in the future of the region.

Our hearings were thus designed to examine the successes that had been scored, and the reasons for them, but we also learned at firsthand about the very serious, tenacious problems that remain to be solved.

In all, we heard 19 formally scheduled witnesses, and from other interested individuals who attended the hearings and submitted statements. As acting chairman of the committee in the absence of Senator MCCLELLAN, I also permitted questions to be submitted in writing from the audience, as we had during both days, in both morning and afternoon sessions, a large audience of students, faculty, and interested persons from the region. These questions helped reflect the vital concerns of the area and proved to be stimulating and helpful.

The witnesses were organized to testify in six panels, three each day. The first panel consisted of the Illinois State government officials most directly concerned with rural development. This was done in order to reflect the new emphasis that Illinois Governor Richard Ogilvie has placed on rural development through creation of a Rural Development Cabinet to recommend programs to deal with rural development problems in Illinois. The second panel, and one of the most helpful, consisted of men who are involved directly and professionally in local and regional industrial development efforts. A successful local businessman, a distinguished banker, a well-known consultant in industrial development, and the able representative of the U.S. Commerce Department's Economic Development Administration formed an excellent and highly instructive panel. The third panel in the first day consisted of executive directors of the three multicounty regional planning units that have been created in the Southern Illinois region: the Greater Egypt Regional Planning and Development Commission, the Southeastern Illinois Regional Planning and Development Commission, and the Pulaski-Alexander Development Commission.

As President Nixon said in his message to Congress on rural development on February 1:

> Almost all of the success stories that can be found in rural economic development have occurred because local officials and private leaders have entered into a public-spirited partnership and have taken the initiative.

Plans which are developed by the people involved in the field are, he said—

> Likely to be more realistic, more imaginative and more useful than abstract blueprints which are drawn up far away from the scene of the action or which are altered to meet rigid Federal rules.

The accuracy of this statement continued to be attested to by testimony the second day, January 25. The first panel consisted of a distinguished spokesman for Southern Illinois, the Democratic leader of the Illinois General Assembly, the two exceptionally able mayors of two important growth centers, Mount Vernon and Mount Carmel. The following panel dealt with human resource development problems of the area, and consisted of a forceful spokesman for the black population of Southern Illinois, a distinguished professor who is expert in manpower development and training programs, and the founder of Southern Illinois University's Vocational Technical Institute. The final panel dealt with natural resources and agriculture, and consisted of the executive director of the Kaskaskia Regional Port Authority, one of the most important natural resource development projects in the region, a successful farmer and community leader from Pulaski County in the southernmost tip of the State, and a highly respected professor of agricultural economics from the university's department of agriculture. A full witness list will follow at the conclusion of my statement.

In addition to these witnesses, representatives of other groups were given the opportunity to express their views through written statements. Notable among these were representatives of environmental groups. I was impressed by the testimony presented by a concerned student leader at Southern Illinois University. In a concise but eloquent statement, he noted the environmentally destructive and economically disastrous aspects of strip mining and channelization of rivers and streams.

The concern with strip mining, and with the potentially destructive ecological effects of resource development projects such as damming, stream channelization, and the creation of artificial bodies of water, is a very perplexing one. On one hand the economic visibility and growth of the region, and thus the livelihood and well-being of the people, depends on such development. On the other hand, there are those who see in such development the intolerable destruction of the natural beauty and integrity of their environment. Unfortunately, this conflict has received the appropriate attention only recently. Much damage has been done by bad or careless planning. I am very hopeful that the widely voiced concern for the environmental impact of such activities will result in better planning projects, which eliminate to the maximum extent, ecologically harmful effects, but also permit the beneficial economic and social effects of natural resources projects to be realized.

One of the lessons we learned from the hearings was that communities themselves can, by their own efforts, create a climate for growth and change and literally generate their own development. One of our witnesses said that industrial development is 90 percent preparedness and 10 percent prospecting, and that if a town is friendly, and willing to help industry by creating a good "growth environment," then businesses will establish in that community without asking for special tax and other concessions.

I know from my own experience, and from previous testimony, that people do not want to leave southern Illinois, nor do Americans in other rural depressed areas, want to leave their homes for jobs in an unknown, unfriendly city. A recent poll showed that 83 percent of the people who live in urban areas would prefer living outside the central city and 55 percent of these would choose a small town or rural area. It is clear that a great many people live in urban areas out of necessity, not choice.

Much can be done to improve the quality of life in rural America. Improving the quality of rural life will also improve the quality of urban life. We must attempt to redress the imbalance that exists through Federal Government efforts in the cities and by formulating a national rural development policy, emphasizing local control and local initiative as the beginning of a coordinated, centralized effort to improve life in rural areas.

The hearings demonstrated beyond any question that a national rural development policy such as that set forth in S. 10 is vitally necessary. In addition, the hearings in southern Illinois elicited the following proposals for action by local, State, and Federal Governments.

There is overwhelming support for the adoption of a national rural development policy to assist in the revitalization of the rural areas of our country.

Establish residential vocational centers to develop marketable skills on an areawide basis.

Institute areawide planning for professional and vocational training.

Overcome the bias against blue-collar work.

Inventory all educational facilities—physical plant, equipment, and personnel—available for rapid implementation of new regional educational programs.

Improve the delivery system of existing health care programs; increase health care education courses available at junior colleges in order to increase the availability of basic health care services.

Redirect Federal Government manpower training programs to train rural residents for jobs that actually exist in the area, and to support new businesses locating in the region.

Increase the amount of funds available for multicounty regional planning groups, and make the use of these funds more flexible.

Compile a State maintained catalog of Federal programs that are available to mayors and other local government officials.

Consider establishing Federal instructional system for State and local government officers in use of Federal programs.

Consider more carefully the environmental impact of strip-mining operations, and accelerate Federal and State experimental efforts to reclaim strip-mined areas.

Make special efforts to reconcile public works projects that are needed by towns for economic growth with national environmental objectives.

Investigate the possibility of a tax credit for citizens who contribute to their community's industrial development efforts.

Inaugurate a system to provide quick technical advice to cities to aid in implementing their development projects.

Enact President Nixon's rural community development special revenue-sharing bill.

Enact the President's executive reorganization proposals, particularly the bill creating a Department of Community Development, which should contain a new section directed at rural community development.

Consolidate grant administration; simplify paperwork procedures; and speed notification processes.

Decentralize administration of Federal programs to regional councils, in order to accelerate decisionmaking by officials more knowledgeable in local problems.

Give serious consideration to creation of a Federal Rural Community Development Bank.

Study proposals for State-issued rural development bonds.

Enact a comprehensive rural development tax-incentive program.

As ranking Republican member of the Government Operations Committee, I look forward to working with our chairman and to completing our work on this vitally important legislation.

Mr. President, I ask unanimous consent that the witness list, the opening statement of Senator McCLELLAN, and my own opening statements be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### OPENING STATEMENT OF U.S. SENATOR JOHN L. McCLELLAN, COMMITTEE ON GOVERNMENT OPERATIONS, HEARINGS ON S. 10, JANUARY 24, 1972, CARBONDALE, ILL.

The Senate Committee on Government Operations is delighted to hold these proceedings in the great State of Illinois. It presents the Congress with a unique opportunity to explore—firsthand—a problem of mutual concern to every American—the revitalization of the rural areas of our country.

Last April in Washington, the Committee began its hearings on S. 10—a bill cosponsored by Senator Percy and 42 others—which would establish a national rural development policy. This legislation encourages industrial growth and expansion in our economically distressed countryside.

It seeks to reorient the huge Federal establishment—particularly its grants-in-aid, procurement and manpower training programs—toward an alleviation of the bleak socio-economic conditions that afflict much of the vast heartland of our nation.

It seeks to break through the bureaucratic entanglements which have militated against the effectiveness of many present Federal Government efforts to assist in these outlying regions.

It seeks to create more jobs and a better life for those in our small towns.

And it presents a realistic and viable alternative to the continuing outmigration which is draining rural America dry and innundating our urban centers with too many people and, all too often, a life of disillusionment, heartbreak and hardship.

There is no single remedy for the many difficulties besetting the broad, barren stretches criss-crossing between our overpopulated shorelines. There are no quick or ready made panaceas to provide rural residents with a more equitable share of our nation's progress.

But a start must be made—and the combination of means found—which will begin this process of rural revitalization now. Surely we can find the way to bring all Americans up to new plateaus of prosperity.

That is why we are in Carbondale—to receive the views of the distinguished group of citizens gathered here today. You have worked in this—amorphous and often perplexing—field of endeavor and are expertly qualified to speak to the problems and pitfalls which the Committee should consider in making S. 10 an effective legislative vehicle. The Committee is grateful, indeed, for your interest and for your taking the time to appear at our hearings. Your firsthand knowledge and experience will help to shape what all of us hope will be a new immediacy and direction in our Government's rural development activities.

During these proceedings, therefore, the Committee will want to learn how well our Federal programs and practices are working in Illinois. It will want to receive testimony with respect to the nature and results of Federal-State and local economic development policies—as well as the effectiveness of non-public efforts in achieving and promoting rural growth.

Our witnesses include men who have participated in all phases of rural activity—in both the public and private sectors—in Statewide, regional and local capacities as elected officials, EDA representatives, planners, industrial developers, corporate officers, union and university associates.

I should like to express my personal and the Committee's appreciation to my distinguished and very able colleague, Senator Charles H. Percy, who has agreed to serve as Acting Chairman at these hearings and who undertook all of the accommodations and arrangements which have made the Committee's appearance in this splendid Southern Illinois University Center possible.

### Statement of Senator Charles H. Percy, Acting Chairman, U.S. Senate Committee on Government Operations, at the Opening of Hearings on Rural Revitalization, University Student Center, Carbondale, Ill., January 24 and 25, 1972

These hearings open "field investigation" phase of the Senate Government Operations Committee's work on the problems of rural America. S. 10, a Senate bill with 43 Senators as co-sponsors, is the focus of these field hearings.

S. 10 establishes a national policy for revitalization of rural areas. One of its objectives is to focus Federal programs on withering rural economies.

We have come to Southern Illinois because it exemplifies both the problems of underdevelopment and some of the solutions. For too long a time the words "Southern Illinois" have brought to mind a picture of poverty and hopelessness. This is no longer an accurate picture. There are still problems, and they are grave; but there are in this region important centers of growth and vitality which generate feelings of hope and progress.

We are here to emphasize these forward-moving and progressive aspects of the economic revitalization of Southern Illinois, not to mutter over the bones of the dead past. By coming here to Southern Illinois University at Carbondale, we are coming to the heart of an area that has shown great progress and has excellent prospects. This region has learned how to plan for growth, and the results are clearly evident.

We want to focus the nation's attention on these successes, so that other areas of the country can learn from Southern Illinois' accomplishments.

In the five-county region known as Greater Egypt, population statistics show a reversal of the depopulation trend that has characterized the region for so long. For the first time since 1920 the region's population has increased, and the number of young people in their early twenties who are staying in the area has increased markedly. Housing units increased from 1960 by over 9 percent.

Through these hearings we seek to discover the reasons why growth has occurred, and to identify the obstacles to further growth. We intend to find out how the Federal Government can better organize its own programs to help local governments, regional planning and development groups, and State Governments in their development efforts.

We are particularly interested in how the Federal Government can restructure its relationships with State and local governments so that the many layers of government will work in harmony and with a single purpose, rather than, as is so often the case, at cross-purposes. This is a particularly important concern of the Government Operations Committee which has the responsibility for the effectiveness and efficiency of Federal government programs.

For this reason the Committee has invited witnesses who can describe for us, both broadly and specifically, the problems facing the people of this area. We are privileged to have as our leading panel of witnesses the Directors of the three Illinois Departments most directly concerned with rural growth—the Departments of Agriculture, Business and Economic Development, and Local Government Affairs. Other expert witnesses will testify to the problems of industrial development, regional planning, local government affairs, human resource development, and Local Government Affairs. Other expert witnesses will testify to the problems of industrial development, regional planning, local government affairs, human resource development, and agriculture and natural resources.

### Statement of Senator Charles H. Percy, Acting Chairman, U.S. Senate Committee on Government Operations, Second Day of Hearings on Rural Revitalization, Carbondale, Ill., January 25 1972

In our hearing yesterday three panels testified in the areas of State government rural development programs, industrial development efforts, and regional planning.

I think it would be appropriate in opening our hearings today to reflect on some of this earlier testimony in order to establish some tentative proposals and objectives which we can discuss further.

One of the lessons we learned yesterday was that communities themselves can, by their own efforts, create a climate for growth and change. One of our witnesses said that industrial development is 90 percent preparedness and 10 percent prospecting, and that if a town is friendly and is willing to help industry by creating a good "growth environment," then businesses will establish in that community without asking for special tax and other concessions.

I know from my own experience and from previous testimony that people do not want to leave Southern Illinois. They like living here. A recent poll showed that 83 percent of the people who live in urban areas would prefer living outside the central city and 55 percent of these would choose a small town or rural area. It is clear, then, that most of the people who live in the urban areas do so not from choice, but out of necessity.

I would like to list briefly some of the more promising ideas that emerged from yesterday's hearings, ideas that if implemented could encourage a revitalization of rural America:

1. Clearly, we have established that a National rural development policy is necessary.

2. Serious consideration should be given to issuing State Rural Development bonds, and to strengthening the Illinois Industrial Development Authority because it has shown remarkable progress in a short period of time.

3. State and Federal Governments should give more emphasis to community self-help efforts; study should be given to extending a tax credit to citizens who contribute to their communities' industrial development efforts.

4. Consideration should be given to recreating the Office of Small Town Services in the Department of Housing and Urban Development, the purpose of which would be to help small towns identify their own resources in order to generate internal economic activity.

5. The President's major proposal to create a Department of Community Development, of which I am chief Senate cosponsor, should be reshaped to create a unit capable of specifically serving rural communities.

6. Special emphasis should be given to providing communities quickly with expert advice and guidance on the feasibility of their development projects.

7. Federal grant-in-aid programs must be streamlined in many ways. First, we should adopt special rural community development revenue sharing in order to consolidate Federal grants for rural community development. In the absence of special community development revenue sharing, we must make special efforts at the Federal level to decentralize decision-making to the regions, to simplify application procedures for grants-in-aid, and to speed application processes.

In our testimony today we will learn more about these and other problems. We will be able to obtain the perspectives of two of this region's most able mayors, Mayor Roland Lewis of Mt. Vernon and Mayor Joe McGuire of Mt. Carmel, and of the very distinguished and very able Minority Whip of the Illinois House of Representatives, the Honorable Clyde L. Choate [pronounced Shoat as in boat]. We will broaden our perspectives as well in the areas of human and natural resources.

### Final Witness List

January 24: Panel I—State Government Programs

Mr. Ray C. Dickerson, Director, Illinois Department of Business and Economic Development—Springfield, Illinois

Mr. Ron Michaelson, Assistant to the Governor—Springfield, Illinois

Mr. David Morris, Regional Director, Illinois Department of Local Government Affairs—Marion, Illinois

Mr. Gordon L. Ropp, Director, Illinois Department of Agriculture—Springfield, Illinois

Panel II—Industrial Development

Mr. Russell W. Davis, President, Benton Community Bank; Chairman, Illinois Industry Development Authority; President, Southern Illinois, Inc.; Board Member, Greater Egypt Regional Planning and Development Commission—Benton, Illinois

Mr. Robert E. Feigenbaum, President, Turco Manufacturing Company—Du Quoin, Illinois

Mr. Robert Henderson, Consultant, R. H. Henderson and Associates—Carbondale, Illinois

Mr. A. E. Ramsey, Economic Development Representative, United States Department of Commerce—Carbondale, Illinois

Panel III—Regional Development

Mr. Nolan B. Jones, Executive Director, Pulaski-Alexander Development Corporation—Mounds, Illinois

Mr. Jack Keefner, Executive Director, Southeastern Illinois Regional Planning and Development Commission—Harrisburg, Illinois

Mr. Frank Moreno, Executive Director, Greater Egypt Regional Planning and Development Commission—Carbondale, Illinois

January 25: Panel IV—Local Government Officials

The Honorable Clyde Choate, Minority Leader, Illinois House of Representatives—Anna, Illinois

The Honorable Roland Lewis, Mayor of Mt. Vernon, Illinois

The Honorable Joe McGuire, Mayor of Mt. Carmel, Illinois; President, Wabash Valley Association

Panel V—Human Resources

Mr. Richard Hayes, Internal Compliance Coordinator, Southern Illinois University—Carbondale, Illinois

Mr. Ernest Simon, Former Director, Vocational Technical Institute, Southern Illinois University—Carbondale, Illinois

Mr. Ray E. Wakeley, Professor of Demography and Rural Sociology, Southern Illinois University—Carbondale, Illinois

Panel VI—Natural Resources and Agriculture

Mr. Stanley Reeble, Regional Director, Kaskaskia Regional Port Authority—Kaskaskia, Illinois

Mr. Milo Thurston, Member, Illinois Farm Advisory Committee to Senator Charles H. Percy; Past President, REA—Pulaski, Illinois

Mr. Walter Wills, Professor of Agricultural Industries, Southern Illinois University—Carbondale, Illinois

## MASS TRANSPORTATION: OPERATING ASSISTANCE CAN WORK

Mr. WILLIAMS. Mr. President, on February 28 the Committee on Banking, Housing and Urban Affairs reported to the Senate S. 3248, the Housing and Urban Development Act of 1972, which contains a provision for operating assistance to our Nation's mass transportation systems. Such assistance is desperately needed by our States and municipalities which have been forced, in the absence of a Federal commitment, to carry the burden of transit's financial deterioration.

Such assistance is also essential if we are to revitalize and expand our public transit systems and put urban mass transportation on a sound operating basis. Unfortunately, the administration opposes such assistance on the grounds that no significant benefit can come from grants for meeting transit's operating deficit.

Mr. President, the facts indicate otherwise. Contrary to the administration's contentions, transit's situation would be still worse today if State and local operating support were lacking. This is dramatically illustrated by a series of recent articles in Passenger Transport entitled "Fare Stabilization—Lifeline to Urban Mobility." I ask unanimous consent that the conclusion of my remarks these articles be printed in the RECORD.

This excellent series highlights a variety of local approaches to transit issues and details how expanded transit support in the form of operating assistance has worked to gain an increase in transit ridership.

Mr. President, it is clear that operating assistance can contribute to solving mass transportation's chief problems—rising fares, increasing costs, and declining ridership. It is also clear that solving our mass transit problems requires the best efforts of all levels of government. Hopefully, action on S. 3248 will enable us to get on with the job and meet the mass transportation challenge of the 1970's.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### FARE STABILIZATION—LIFELINE TO URBAN MOBILITY

(EDITOR'S NOTE.—A recent U.S. Department of Transportation report, "Feasibility of Federal Assistance For Urban Mass Transportation Operating Costs," said "State and local operating subsidies have not reversed the decline in ridership . . ."

Passenger Transport this week begins a special report titled "Fare Stabilization—Lifeline to Urban Mobility" detailing how increased transit support in the form of operating assistance has, in fact, worked to gain an increase in transit ridership.

Part I shows how a fare stabilization plan, in the form of a federal demonstration grant, has increased ridership from 0 to 5,000 in just four months on Virginia's Shirley Highway.)

ARLINGTON, VA.—Although the federal government has no program per se to grant fare stabilization payments to transit systems, it is a not-so-silent partner with state and local governments in the successful operation of the country's first high speed bus transit lane.

Federal money—over $4 million of it—is being used successfully to entice motorists from their cars to buses which operate daily along crowded Shirley Highway outside Washington, D.C., and as a "demonstration" project funded by the federal government, a portion ($250,000) of the $4.4 million has been spent to offset operating costs. (Remainder of the monies goes toward the purchase of equipment, service improvements, consultation services, public information and others.)

However, NVTC officials say that recent revenue tabulations show that the daily fare box is close to paying the day-to-day costs of operating the high speed buses and that the revenues should exceed the cost early this year.

During the first four months of the project, the operating costs far exceeded the fare, as was expected. However, the deficit dramatically decreased as patronage grew. In June, 1971 the deficit was at $1,200 per day. In September, the deficit was down to $15 per day.

Reason for the decreases, officials find, is that operating costs are stable and that the high speed, commuter service continues to appeal to the public. In the four months under survey, the Shirley Highway Service attracted over 2,200 new customers and in the same period of time, a reduction of 33% in car commuter traffic (from 8,405 to 5,662 cars) was noted along the Shirley Highway during early morning rush hour.

The Shirley Highway service has won high praise not only from its government backers, but from the more than 5,000 commuters who are using the system today. New, colorful, air-conditioned buses have been put into service through an UMTA grant by AB&W Transit, the local firm which has been contracted to operate the project.

Although the new buses are "nice" the main attraction to the Shirley Highway service, according to most commuters, has been the time saved in traffic—almost 30 minutes in commuting time between homes in Virginia and work in the District of Columbia.

The buses move through the car-clogged Shirley Highway traffic—rated by experts as one of the worst traffic jams in the country—over the recently completed bus lane, separated from the car traffic by a physical barrier. Commuters have come to depend on the printed bus schedules again and have found that the bus drivers keep the schedules. No other improvement, say officials of NVTC, has been more welcome.

An early key to the success of the project was in the use of U. S. Highway trust funds for the construction of the exclusive bus lane. But lanes had been in use in other American cites, but never before had a lane been built for the special use of buses.

The project received the support of Francis C. Turner, federal highway administrator, who has called the project "the best solution to urban transportation." So successful has been the plan, that similar projects, built with UMTA funding and support, are planned for Los Angeles, Milwaukee, Cleveland and Pittsburgh.

Secretary of Transportation John Volpe and UMTA Administrator Carlos Villarreal also enthusiastically back the busway.

NVTC official said that "there is every reason to believe" that the Shirley Highway Service will grow in popularity with commuters as the fringe parking becomes available, new routes are developed and other service changes made.

The real test for the continued success of Shirley Highway Service will come in late 1974 when the demonstration grant is expended.

At that time, NVTC officials say it will be necessary to have the remaining members of the partnership—the local and state governments prepared to carry the financial obligations.

Officials at this time estimate that an annual cost of operation for the Shirley Highway Service would be at least $1.2 million.

### MADISON SUBSIDY LEADS TO RIDER INCREASE

(In Part II of its continuing special report, "Fare Stabilization—Lifeline to Urban Mobility" Passenger Transport this week features Madison Metro, of Madison, Wis. The Madison report illustrates how operating assistance from local subsidies has helped reverse a trend in ridership and has aided in increases in fare box revenues.)

REVENUE PASSENGERS

| | 1970 | 1971 | Change | Percent change |
|---|---|---|---|---|
| January | 489, 962 | 514, 573 | 24, 611 | 5. 0 |
| February | 510, 674 | 513, 573 | 2, 899 | . 6 |
| March | 542, 105 | 602, 211 | 60, 106 | 11. 1 |
| April | 510, 385 | 486, 138 | −24, 247 | −4. 7 |
| May | 465, 255 | 463, 407 | −1, 848 | −. 4 |
| June | 413, 331 | 401, 300 | −12, 031 | −2. 9 |
| July | 426, 719 | 405, 926 | −20, 793 | −4. 9 |
| August | 397, 186 | 431, 916 | 34, 730 | 8. 7 |
| September | 484, 656 | 519, 900 | 35, 244 | 7. 3 |
| October | 545, 141 | 559, 560 | 14, 419 | 2. 6 |
| November | 487, 631 | 558, 736 | 71, 105 | 4. 8 |
| December | 505, 063 | 529, 387 | 24, 324 | 4. 8 |
| Total | 5, 778, 108 | 5, 986, 627 | 208, 519 | 3. 6 |

MADISON, WIS.—This capital city of Wisconsin and the home of the state university is coming of age—the mass transit age—and the growing pains are being made endurable through an effective fare stabilization plan financed by the city taxpayer.

The city of Madison took over the financially-depressed Madison Metro system in May, 1970 and since that time, the city has seen dramatic increases in revenues, and most important, a re-affirmation of public confidence in transit service.

Frant Mattone, general manager of the new Madison Metro, operated under contract to the city by American Transit Corp., of St. Louis, attributes the city's success to innovative transit planning, public education and overall cost control.

Success figures for last year are still being tabulated but Mattone said that in September of last year, the city paid about $16,000 less to subsidize the bus operation than it did in the same month of the previous year. Passenger load for September 1971 was up 35,244 from the previous year and was one of the contributing factors for the subsidy decrease.

In November, Madison Metro reported 71,105 more persons using the buses over the previous November and in December there were increases of 24,324 passengers over the previous December. (Subsidy payments, however, remained stable.)

Only four months in 1971 showed a decrease in the numbers of passengers over the previous year and two of these months, May and July, had mid-week national holidays which would account for a 25,000 per day loss of passengers.

Overall, Madison Metro reported 208,519 more passengers in 1971, an increase of 3.6% over the previous year. Mattone said the increase is not "earth-shaking," but, he said, "when most bus companies are showing the reverse trends, any increase can be highly significant.

Mattone said the takeover of the private firm in 1970 met with "mixed emotions," both on the part of the city and the people. "The city council and the people seemed to be afraid of a government operation," Mattone said. "They had heard all the stories about new people coming in, the red tape, the bureaucracy—all the bad things. And as a new government service, transit was more or less accepted like an adopted child," Mattone said.

In Madison, the adopted child has become somewhat of a prodigal with monthly revenues increasing and the city's operating share being reduced. Passenger increases in the latter part of 1971 has encouraged the Metro to budget $170,000 less in operating subidies for 1972 than was budgeted in 1971.

Madison is a city which has experienced unusual and rapid growth over a relatively short period of time. The population has almost doubled and the geographic size has almost tripled within the past 15 years.

### IN DIRE STRAITS

Mass transit was in dire straits when the city began operations. According to Mattone, the system which was in service prior to the takeover "had not been able to keep pace with the needs of the community." Schedules and routes had not been changed substantially since 1954 and much of the city's growth and new population was without adequate transit service.

In surveying the new needs of the city, schedule changes and shifts in service were designed with a single objective—to run the buses where people needed to go.

The problem of designing a bus route over the city's sprawling and unusual geography is no small task. Most of the shopping, business and service trips through the city had to be channeled across the few major streets located on the narrow land isthmus between Lake Mendota and Lake Monona. Included on the isthmus are most of the state, county and city office buildings, the downtown business section, most of the shopping centers and the University of Wisconsin campus.

Howls of protest at the changes were heard at first, but soon transit customers found that the changes were providing better service, schedules were being maintained and transfer points were being eliminated, and the howls of protest changed to squeals of delight.

The new owners were able then to complete other changes, both in the internal and external operations of the system and the public was kept aware of the changes and how they would benefit from them, through an aggressive public education program.

Modern computers were used for bookkeeping and accounting, leasing and central purchasing was introduced.

An exact fare plan was presented to the public to enable the driver to speed up his service and maintain his schedule, and the public cooperated.

Promotions with shopping centers for senior citizen shopping trips were organized and a low cost shuttle run was introduced to run between the campus and the new downtown Greyhound terminal.

Mattone said that the greatest single factor in the public's confidence was the continued increase in service. "Although fare increases regularly irritate the public, Mattone said, "the public is willing to pay the price if it feels it is getting the service." Madison Metro has not found it necessary however, to increase its fares since the city claimed ownership.

Promotion and marketing are the two most important areas for increases in ridership which, Mattone said, are often the most neglected. "We have to be continually blowing the horn about what we are offering and we have to continually remind public officials of the importance of daily planning for transit in a growing city."

But, Mattone said, the justification of marketing and promotion activities is often the hardest to gain support from the city fathers who are used to the fact that public utilities should be taken for granted and not promoted.

Mattone said that Madison Metro is fortunate in that the Bus Utility established when the city took over the firm has been cooperative in approving the new marketing and promotions which have made the ridership increases possible.

Next year, the Madison Metro plans machinery and equipment replacement programs to be fit into the $530,000 city-subsidized budget which the city council has approved. Mattone said that more cost cutting programs are "in the works" and of course, there is an anticipated continued upward trend in the passenger revenues, to shoulder some of the costs.

Mattone does not foresee a day when revenues will pay completely for the cost of transit service, nor does he think that bus operations should be designed "merely to increase revenues."

"Our intention, as far as cost is concerned, is to hold the line and our intention as far as gaining riders is concerned, is to provide service that is attractive," the general manager said.

American Transit Corp. the firm which has the city contract to operate Madison Metro, has over 25 years experience in operating bus systems, Mattone said, and "while we have made some mistakes in the past, the company has never failed to learn from them. Some of the things we are trying to do in Madison have been tried and tested elsewhere. At the same time, ideas we originate and prove here in Madison are being used in other cities where the American Transit Corp. does business.

While cities like Madison are beginning to "wake up" to the needs of transit service, Mattone said that the city treasury is "strained" in providing the stabilization costs which are needed. Various revenue producing plans must be continually explored in hopes of offsetting the local burden.

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## INNOVATIVE TRANSIT PLANNING ATTRACTS RIDERS

(EDITOR'S NOTE.—In Part III of its continuing special report, "Fare Stabilization—Lifeline to Urban Mobility," Passenger Transport features an effort to encourage express bus ridership to the Lincoln Tunnel outside of New York. Innovative planning and local government operating support guaranteed the success of the project.)

NEW YORK, N.Y.—A one-year experiment in transit innovation—financed through fare stabilization plans from local sources—has found acceptance by over 8.5 million people and will become a permanent part of the traffic plan on the New Jersey approach to the Lincoln Tunnel.

The exclusive bus lane on the approach was hailed as an outstanding success by Chairman A. Earl Wood of the Tri-State Regional Planning Commission. "Everybody likes the exclusive lane," Wood said, "and it will become permanent."

Two thirds of the first-year operating costs were paid by the State of New Jersey and one-third by the Port Authority. Since the exclusive lane was started in December, 1970, a 6 percent increase in ridership, representing an additional 2,300 daily morning peak riders, have become permanent customers on routes using the bus lane. New Jersey Transportation Commissioner John C. Kohl has cited the increase as evidence that innovative transit planning does attract the bus passenger. He said also that the increase "shows proof that we are meeting one of the primary objectives of the project: the encouragement of public transportation."

### ONE OF SERIES

The bus lane is one of a series of projects under the federally-sponsored North Jersey to mid-Manhattan Urban Corridor Demonstration which is being coordinated by the Tri-State Regional Planning Commission. The U.S. Department of Transportation sponsored the project, along with the New Jersey Department of Transportation sponsored the project, along with the New Jersey Department of Transportation, the Port Authority and the New Jersey Turnpike Authority. The bus lane is operated by the Port Authority, with assistance from the New Jersey State Police and Hudson County Police.

Authorities estimate that over 8.5 million persons have saved up to 25 minutes on their way to work each weekday by traveling the bus lane. With this favorable public reaction, authorities have determined that the one-year experiment should be made permanent and plans to provide the appropriate traffic control devices for permanent operation have been prepared.

On Dec. 18, 1970, the eastbound lane for buses—one of three lanes that ordinarily carry traffic in the westbound direction—began speeding 35,000 daily commuters on 800 buses past congested morning peak-period traffic on the 2½-mile, I–495 route from the New Jersey Turnpike to the tunnel.

The positive impact of the first year's operations on New Jersey-to-New York commuter travel was cited by Commissioner Kohl, whose support, as Tri-State chairman in 1970, was crucial to getting the project inaugurated last year, several years after it had first been proposed by the Port Authority.

To evaluate the exclusive bus lane's effect on traffic operations and transportation users, a comprehensive "before and after" survey program was carried out. This survey included the following highlights:

Following establishment of the bus lane, 88% of the bus drivers felt more relaxed and 75% felt safer while driving to Manhattan.

Patrons and bus drivers believed they had made substantial time savings—the majority in each group being in the 10-to-19-minute category. Some 95% of the patrons experienced more reliable travel and 86% indicated a more enjoyable trip.

The exclusive bus lane has attracted an additional 2300 daily morning peak-period riders (representing a 6% increase) on routes using the bus lane.

A majority of the eastbound motorists and even a good many westbound motorists, who had lost a lane to the buses, also felt that driving conditions had been improved.

The traffic surveys indicate some dramatic improvements for bus movement, as well as improved flow for other eastbound traffic in the morning peak period. During the morning peak hour, the exclusive bus lane saved each bus an average of over 10 minutes travel time.

The vehicular capacity of the normal eastbound lanes had been increased by the shift of buses into their own separate lane. However, the bus lane still carries over ten times the number of people transported in any of the three other eastbound lanes, and does so at a faster speed.

The removal of one westbound lane for the eastbound bus lane has had little effect on westbound traffic.

### OPERATING STATISTICS

In the first year of operations, an estimated 8,500,000 passengers, in more than 200,000 buses, used the I–495 exclusive bus lane. Dur- the first three quarters of 1971, 153,986 buses, carrying about 6,467,400 passengers, used the bus lane. During these months the average flow during the morning peak period (approximately 7:30 to 9:30 a.m.) was 809 buses, transporting about 34,000 passengers, while the averages for the 8–9 a.m. hour were 480 buses and 21,100 passengers. The highest average flows were recorded during the spring, when peak-period figures reached 835 buses and 35,100 passengers.

Even higher flows were experienced during the transportation emergency created by the nationwide railroad strike on May 17–18, 1971. The bus lane handled the added loads easily with no stoppages and no delays. Record flows were achieved on May 18, 1971, with 597 buses (25,800 passengers) in the 8–9 a.m. hour and 1,096 buses (47,800 passengers) in the peak period.

### BUS LANE OPERATION DESCRIBED

The I–495 exclusive bus lane opened on Friday, December 18, 1970. The additional eastbound lane, for buses only, is one of the three lanes that ordinarily carry traffic in the westbound direction. These lanes have light use during the morning peak period of about 7:30 to 9:30 a.m. on weekdays when the exclusive lane is in operation. This change provides four lanes for New York-bound traffic.

The highway administration of the United States Department of Transportation financed the installation of the necessary traffic controls, traffic surveys and other costs under a $500,000 allocation. The New Jersey Turnpike Authority financed a $134,000 bus-access roadway from Turnpike interchanges 16 and 17 in Secaucus to Interstate Route 495.

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## Erie Transit—The People's Choice

Erie, Pa.—When you go someplace in this northern Pennsylvania city, it's your civic duty to take the bus.

That may not be a completely true statement, but it is one that is becoming more and more an accepted statement because most of Erie is proud of its bus system and wants to see it succeed.

Thomas Burke, general manager of Erie Metropolitan Transit Authority, cites teamwork, government cooperation and public spirit as ingredients in the mixture for success that he has seen in EMTA. "That," he says, "and a lot of efficient administration."

EMTA's success in winning riders can be attributed to federal, state and county assistance, both in the form of capital grants and a fare stabilization program, and the public's acceptance of mass transit. State, county and city funds have been used to carry $240,000 in operating deficits for the past two years and will be used again in 1972 to overcome an increased estimated deficit of $160,000.

### CAPITAL GRANT

It was a capital grant shared by the various governmental levels that enabled EMTA to purchase a fleet of 50 modern buses, which, when coupled with the improved service and a community-wide effort to attract riders, helped the authority to reverse a 20-year decline in passenger volume in 1968—EMTA's first full year of operation. Since that year EMTA has increased its passenger volume annually. Ridership increase was not "up to expectation" this year, due to a six week school strike.

Fares in Erie are "stable," Burke said, at 30 cents at peak and 20 cents at off-peak. There is no consideration for increases, Burke said.

"Other operating systems have come to Erie to study the system to find out what we have been doing. We try to show them that an efficient operation is the answer."

### TEN EMPLOYEES

There are only 10 employes working in administrative functions at EMTA and 53 drivers, Burke said, and efforts are being made constantly to keep the operating costs down and the service up. The authority operated in 1968 and 1969 with no subsidy needed, but accumulated deficits in 1970 and 1971, due largely to increased labor costs and other factors.

Last year's operational loss of $120,000 is reimbursed by the state ($80,000), the county ($24,000) and the city ($16,000). Losses estimated this year are $160,000 and will be reimbursed on the shared basis, 60 per cent state, 40 per cent county-city. Burke said that FMTA's relationship with the state has been cordial and that there is no anticipated problem in guaranteeing the funding unless "larger cities suddenly need larger and larger amounts of operating subsidies and the funds to the smaller cities must be reduced."

Public funds have been used for the construction of a new operations center especially designed for the efficient maintenance and storage of buses, aiding in the lowering of the cost of bus upkeep and maintenance, which aids in the maintenance of schedules and service, a primary part of the success ingredient.

At the end of 1970, EMTA reported a ridership increase of 16.3%, and found it necessary to expand the fleet by five buses. In that year, Carlos Villarreal, UMTA administrator, said, "Here in Erie, I saw the effect of a total team effort among governments, the community at large, the media, local and regional planners, business and EMTA and it gladdens your heart. Erie's outstanding mass transit effort is indeed a good example for communities throughout the nation."

EMTA has found that the community has responded well to a program which puts the success of the system squarely up to the public. In 1969, EMTA told the community that to make the system a success, 800,000 more people would be needed to fill the seats on the buses in the following years. While the goal seemed excessive. Burke said that mass transit in Erie once carried 30 million riders a year—10 times more than ride the buses now. With good cooperation and continued service, Burke does not think a return to that figure is impossible.

Burke said that EMTA's intent in its operation is "to break even" and operate with revenue funds. This is possible with complete "public acceptance," Burke said and Erie is not far from that goal. EMTA is composed of a "transit-oriented" board of governors, who "are honestly dedicated to making mass transit work."

There has been little turnover in the board since its beginning in 1968 when EMTA was formed. Burke said that the future of EMTA is not dependent upon increases in the various subsidy programs, but on increases in public acceptance and the continued support from government at every level.

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## Riders Beat Path to PATH

New York, N.Y.—The Hudson and Manhattan rail rapid transit system, plagued by deteriorated equipment and frequent service break downs when it was acquired by The Port of New York Authority in 1962, has been revitalized through a heavy investment of Port Authority funds for capital improvements and the underwriting of substantial annual operating deficits. Major improvements in service and the cooperative efforts of the Port Authority and the state of New Jersey have resulted in a major increase in passengers on the PATH system over the past five years.

As it approaches the 10th anniversary of Port Authority operation and modernization, the 64-year old system—now known as PATH—is carrying 38.9 million passengers a year compared to 26.4 million in 1965, the lowest point in the line's history. During this period, PATH's interstate fares have been set at 30 cents a ride.

### INVEST FUNDS

To date, PATH, a subsidiary corporation of the Port Authority, has invested some $160 million in the acquisition, rehabilitation and modernization of the Hudson & Manhattan Railroad's systems and facilities. And the task will involve more than $200 million before it is completed. PATH's deficits totalled $12.8 million in 1970.

When PATH acquired the H&M system in September, 1962, it has just emerged from eight years of bankruptcy and was given little chance for survival. Although the H&M's passenger traffic had fallen sharply from the over 100 million riders it had carried in the late twenties, the 13.9 mile transit system still played a key role in the transportation of trans-Hudson commuters, who otherwise would have been forced to divert to autos or buses, resulting in further congestion, especially during peak hours, on the highways, bridges and tunnels linking New Jersey and New York.

"We believed right from the start that, given the promise of a convenient, comfortable and reliable rail trip, the H&M's passengers would stick with us as we proceeded with the awesome task of rebuilding and modernizing the old system," said Louis J. Gambaccini, PATH's vice president and general manager. "We bought time through an extensive program of communications and information designed to show our passengers that we were deeply concerned with their welfare and that we intended to convert the H&M into a first-class transit operation."

The entire rehabilitation and modernization program has gone forward without any significant interference with PATH's 24 hour a day, seven day a week service, he added.

Immediately after PATH began operation, work went forward on the rehabilitation of the H&M signals, power system, trackage and obsolete passenger cars, most of which were of 1909–1928 vintage. "We spent about a million dollars, mostly on rebuilding motors, just to keep the old cars rolling until the new, air-conditioned PA–1 cars arrived in 1965," Gambaccini noted.

PATH gained over 4 million passengers between 1965, when the shiny new car fleet went into service and 1967, when great numbers of suburban rail commuters transferred to PATH following the implementation of the State of New Jersey's "Aldene Plan" for improved rail passenger service.

Under the state's plan passenger trains of the Central Railroad of New Jersey (CNJ) were rerouted into Pennsylvania Station, Newark. Passengers could then transfer to either PATH or Penn Central trains for the remainder of their Manhattan-bound trips. The CNJ's deficit-ridden ferry service across the Hudson was eliminated and CNJ service was enabled to continue with reduced operating deficits.

Under this vital program for the preservation of rail service, the State of New Jersey appropriated $6.1 million and obtained a federal grant of $3.6 million to finance improvements for the Central Railroad of New Jersey and Penn Central. PATH improvements cost an additional $15.2 million, of which $5.1 represented a federal grant.

### DRAMATIC IMPACT

"The Aldene Plan had a dramatic impact on PATH," Gambaccini noted. Before Aldene's implementation, PATH carried slightly more than 3,000 eastbound passengers during the morning peak hour from Newark. Since 1967, the peak hour passenger volume has more than doubled to 7,100."

PATH's capability was further tested by the abandonment of the Erie Lackawanna Railway's deficit-ridden ferry service from Hoboken to lower Manhattan late in 1967. In this case, the railway, the state and PATH coordinated their plans to make the transition as smooth as possible. A new entrance area was built from the railroad's tracks to PATH's train platforms one level below and other improvements were made prior to the end of ferry service.

Here again, PATH was obliged to absorb a significant increase in peak hour traffic. Prior to the Erie Lackawana ferry abandonment, peak hour volumes at Hoboken totalled about 12,000. Since the ferries ceased operation, the demand has jumped to 16,700.

"The current levels of peak-hour traffic carried from Hoboken and from Newark are the highest ever in the history of the system," Gambaccini said. "Even in the late 1920's, when the H&M carried nearly three times as many daily passengers, the peak hour demand at Hoboken totalled about 12,500 (versus 16,700 today) and at Newark approximately 4,000 (versus 7,100 today)."

### HEAVY PEAK

The heavy peak hour demands which have been made upon PATH's facilities since 1967 have necessitated added service to cope with the increased passenger volume. Because PATH's old lower Manhattan terminal was limited to trains no longer than six cars, the only way to provide for the extra demands was to increase the number of trains and reduce the interval between trains. Peak demands at both Hoboken and Newark requested that trains be scheduled to run every three minutes (for 1½ minutes between trains under the Hudson River, the maximum possible).

In July 1971, PATH opened its gleaming new air-conditioned terminal beneath The World Trade Center to replace the old Hudson Terminal which had served passengers since 1909. "The improved track and platform design of the new terminal will allow it to accommodate the increased passenger traffic expected in the future," Gambaccini said. "Operating platforms at the new terminal are longer and wider and have more usable space for peak hour passenger flow. With the delivery of the 46 additional cars we now have on order, PATH will operate eight-car trains on the Newark-World Trade Center service and seven-car trains on the Hoboken-World Trade Center service."

Between 1966 and 1971, PATH's traffic jumped from 27.8 million annual passengers to 38.9 million, an increase of 40 per cent. Weekday traffic increased from 100,000 to approximately 145,000, a rise of 45 per cent. "In addition to the traffic gained because of the ferry abandonments, a sizeable amount of new traffic has come to PATH because of the many improvements we have made and the more reliable service we offer," Gambaccini commented.

During the past five years, a major portion of PATH's modernization program has been completed. A new silicon rectifier traction power system has replaced the old H&M rotary converters. Rehabilitation of the PATH signal system is in its final stages. In addition to power and signal improvements, extensive track rehabilitation is underway. Improvements also have been made to PATH station entrances, platforms and passenger facilities, most significantly in terms of improved maintenance, repainting and installation of fluorescent lighting. Facilities for passenger information and communication, one of the most important concerns of passengers, also have been improved. A new coordinated rail-bus Transportation Center is under construction in the Journal Square business district of Jersey City.

Another important source of PATH's increased traffic are the suburban railroads in New Jersey, which have been assisted and subsidized by several state programs. Under the state of New Jersey's various programs, the suburban railroads have been provided with new air-conditioned coaches and locomotives and have received substantial operating subsidies. Over the past several years, therefore, due to state policy and funding, the comfort and reliability of the railroads which bring thousands of daily passengers to PATH has been on the upswing. This, in turn, has added passengers to PATH, which provides major transfer points with the suburban railroads on the New Jersey side of the Hudson at Newark and Hoboken.

PATH's locally originating traffic also has been increasing due to more reliable and frequent service, as well as the improvement of facilities such as the Grove Street station in Jersey City. At this station, which handles some 7,000 passengers each way on weekdays, the antiquated and unsightly old station entrance has been replaced by a brand new entrance situated in a re-landscaped park.

Despite the increased number of passengers this system is carrying, PATH's deficit continues to grow due to the heavy concentration of peak hour riders. "Peaking of traffic is disastrous to the economics of the PATH system," Gambaccini said. "The requirements for crews and equipment are determined principally by peak hour traffic volumes. Although a staggered work hours program in lower Manhattan has reduced the severe peaking at the World Trade Center terminal, nearly one-half of PATH's current weekday traffic is carried in the two peak hours; the remainder is spread out at a very low level during the other twenty-two hours of the day."

In summary, the PATH story over the past nine and a half years illustrates how substantial capital funding and subsidies for operating deficits, both provided principally by local sources, have resulted in the revitalization of an antiquated rail rapid transit system which is now carrying millions of additional riders and which is now being cited frequently by the press and the public for the excellence and reliability of its service.

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### OPERATION READING—FIVE YEARS AFTER

READING, PA.—Does fare stabilization mean that fares remain fixed and do not fluctuate?

A federal demonstration project which was completed five years ago, has established that fares can be "stabilized" yet show normal increases as service is improved and expanded.

The project also showed that the commuter will not flinch at this normal increase if he can see the added improvement in service.

"Operation Reading," the code name given the $4.7 million project determined that railroad commuter service was essential to a major metropolitan area, and that it cannot operate effectively when carrying staggering deficits.

In 1964, the Reading Co. was operating 200 commuter trains to 100 community stations in southeast Pennsylvania and was appealing for relief of its passenger obligation which amounted to about 10% of its business, to concentrate on its more lucrative freight service.

The rail firm had been kayoed by declining ridership and was feeling the crunch of a population shift away from the established commuter lines.

It was clear, however, that public interest called for the preservation of the Reading passenger service, which still carried some 44,000 daily commuters and over 10 million passengers each year. There was evidence at the time that if any progress was to be made in reducing the overall deficit or increasing total ridership many changes would have to be made on a systemwide basis.

These proposed changes were the ferment of "Operation Reading," conceived as an experiment on all seven of the Reading operating lines to modify services, revise fare patterns, improve equipment and obtain better facility usage.

Southeastern Pennsylvania Transportation Compact (SEPACT) and SEPTA, the area transportation authority, obtained cooperation of railroad management and labor, as well as the Commonwealth and applied to the federal government for an UMTA demonstration grant to finance the experiment.

Main target of Operation Reading was the elimination of the deficit which continuously threatened the existence of the commuter service, as well as to determine what fare areas were acceptable to the market and if fares could be increased routinely when the added cost of new service and improvements demanded it.

Railroad management, operating brotherhoods, marketing consultants, accountants and engineering firms were formed into evaluation teams to determine the impact of the experiment on the public. New schedules of service and fare changes in collaboration with management and labor were made. Coordination of the promotional efforts of all agencies involved in the experiment was undertaken and many special studies were authorized.

In the course of the study, SEPTA was able to determine that the increased service, promotion and efficiency in the operation were responsible for:

24% increase in total revenue amounting to $1,236,600, with only a 1% increase in operating costs;

22% reduction of operating deficit, amounting to $1,043,600 annualized before public payments;

14% increase in fare level;

9% increase in ridership, equivalent to 1 million passengers per year; and

6% increase in the length of ride, reaching an average of 15 miles.

The demonstration showed that the increased service and higher fares were more effective in reducing the deficits than would be decreasing the service and lowering the fare. SEPTA discovered that the greatest usage of equipment and better scheduling brought in more passengers and more revenue with only slight increases in the operating costs. At the same time, the project showed the public was ready to accept rail usage where service was improved and promoted and was willing to accept a higher fare.

Since the demonstration project, SEPTA has continued to attract more and more riders to the commuter rails. When the project was ended, over 26 million riders were riding the trains. Last year the total number of riders went over the 31 million mark, an increase of 20% in five years.

The SEPTA system is not new, and many of the trains being used along the lines are vintage 1930 and before. Revenue fares have been increased 42% in the past year and one-half, but the fare increase has followed the marketable increase pattern established during the project. However, according to Ed Harvey of SEPTA, the fare increases in no way begin to pay for the heavy operating costs nor do they come close to financing much needed capital improvements. SEPTA has initiated over $58 million in UMTA grants to update the rolling stock, lines and facilities.

Most of SEPTA's operating expenses come in the forms of various city, county and state subsidies. Subsidies for Penn Central have increased from $1.5 million in 1965 to over $6 million for fiscal year 1972. The Reading operation has gone from a $2.5 million subsidy in 1965 to $4.0 million for the next fiscal year.

Harvey said that the local sources are "strained" to a breaking point and in spite of the increases in the subsidy amounts, the rail lines continue to operate at growing deficits.

"Operation Reading" showed the rail transit industry, Harvey said, that there is a need for commuter services, and that need cannot be financed through straight fare revenues.

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### IT TAKES THE WHOLE PACKAGE

OAKLAND, CALIF.—How do you sell a transit ride?

Is it careful scheduling, routing, express service, good equipment, public relations and advertising, an active informational program?

AC Transit, operating a fleet of 721 buses on the east side of San Francisco Bay, believes it takes the whole package—from drivers trained in courtesy and mechanics trained in preventive maintenance to services which will tell each rider how to make the best personal use of the bus.

This view is hardly news to the transit industry. But for most properties to support the package takes some source of income other than the fare box. The basic fare for AC Transit's East Bay riders has remained at 25 cents since 1958.

### PROPERTY TAX

AC Transit's operating subsidy comes from a property tax, which can be imposed to meet operational needs. Through this tax, the bus system has been able to avoid drastic increases in fares or cuts in service actions which are sometimes necessary, but which have the effect of decreasing riding.

Authority to levy property taxes was given to AC Transit through legislation approved by public vote. It has been a right carefully guarded by the publicly-elected seven-man board of directors, according to Alan L. Bingham, general manager.

Each raise in property tax has been reluctantly approved after weeks of careful study and consideration of all factors.

In adopting a budget of $26,348,532 for the current fiscal year, directors decided to use a small tax increase, federal grants and contingency reserve funds to offset a projected $1,776,489 net deficit.

The tax increase of two cents brought the consolidated tax rate for residents within AC Transit boundaries to 31.1 cents per 100 of assessed valuation. The added tax, which represents $1.50 to a $30,000 home owner, is expected to generate about $500,000 in the fiscal period.

Funds to balance the budget include $16,369,216 in operating revenue; $8,702,815 in property taxes and $1,276,501 in federal grants and district reserve funds.

### GOOD PRODUCT

With this compromise package, the bus system has been able to put a good product on the road and to get people to use it.

AC Transit has shown a steady increase in riding over more than a decade of operation. Patronage on system buses jumped 15 percent between 1960 and 1969. During the same period, the number of passengers carried in all U.S. cities declined 15.58 percent.

In 1970, despite a 19-day strike, AC Transit patronage still was 5.81 percent ahead of 1960. In 1971, the property carried 50,584,000 revenue passengers—an increase of 11.4 percent over 1960.

Meanwhile, transbay commuting by bus—from East Bay cities to San Francisco—has doubled since AC Transit went into business 11 years ago. During the peak commute period, buses roll every nine seconds across the span, carrying more than half of the workers traveling the bridge. It takes some 14,884 cars to cross the bridge with the same approximate number of riders.

### FEDERAL AID

Federal grants have financed important equipment purchases, including two-ray radios, EIP kits and low sac needle injectors, giving AC Transit a modern, efficient fleet of buses.

In addition, a new federal grant has cleared the way for a capital improvement program which will give East Bay bus riders top quality transportation for many more years to come, including bus shelters and bus benches.

But from other sources of income, like the property tax, have come the funds that have permitted AC Transit to experiment with new types of services to promote ridership. Most have paid off.

Careful routing sends buses into each neighborhood to provide an over-all complete pattern of service. Buses make pick-ups at convenient stops—almost door to door. Then coaches take to freeways, giving passengers an express type of service unheard of back in the days of trolley operations. At the same time, other buses continue to provide desired local service.

AC Transit has refined its basic product, the ride, by a number of ways, measuring the results by the long-established criteria of speed and convenience.

The bus ride has to have cleanliness, courtesy, comfort—and countless other intangibles. It has to have a cheerful and courteous salesman—the bus driver.

It has to be sold by an intricate ride promotion program, employing all orthodox media—newspapers, radio, television, outdoor posters, all with a single objective: to fill empty bus seats by merchandising the sale of rides.

Letters pour into the general manager's office, some of them complaints, many of them commendations. All are read and answered. If the complaint has merit, steps are taken to correct the corresponding situation. Others receive the kind of answer that keeps them a part of the riding family. Operators are sure to hear about the "bouquets." Letters frequently are posted.

This relationship—between a transit property and its customers—frequently goes further, passengers remember drivers with cakes for anniversaries or birthdays. Drivers plan showers for riders getting married—especially when the romance has its start through mutual bus traveling.

One group of passengers have been playing Hearts on their homeward bound trip for 11 years—68,000 miles of happy fellowship.

Plans to boost patronage include sightseeing tours, brochures on rides to take for fun, various methods of getting the most out of "ride and shop" combinations, lessons for the handicapped in how to ride a bus, pay fares and transfer—even a "bicycle" bus.

AC Transit tops off its program of personal relationships at Christmas time, when it gives a special party for homeward bound commuters at the Transbay Transit Terminal, San Francisco. Thousands pause to hear a program arranged by AC Transit employees. Sometimes they stay to sing "around the piano." They accept candy canes from two women operators, dressed as "Santa's Helpers." They have a chance to exchange a greeting with the district's own Santa Claus.

And then they continue on their way. Invariably somebody has the typical comment.

"I just can believe this is a bus company. It really makes my day to ride with you folks. It's just a great way to travel."

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## PROGRAM OF RURAL DEVELOPMENT

Mr. MILLER. Mr. President, on February 1, 1972, President Nixon transmitted to Congress his proposals for a program of rural development. Among these proposals Mr. Nixon noted that he had previously recommended rural revenue sharing, on which I introduced a bill last year.

In his message of February 1, the President recommended additional legislation, including two major new proposals. The first involves an innovative approach to rural financial assistance. The second concerns added authorities for improving the environment and attaining conservation objectives in rural America.

The Committee on Agriculture and Forestry presently has before it for active consideration five rural development bills. At an appropriate time, I shall offer President Nixon's proposals. In order that Senators may have the opportunity to study these proposals, I ask unanimous consent that the following be printed in the RECORD: a brief summary of the proposals, a section-by-section analysis, and the amendments in their entirety.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### BRIEF SUMMARY OF NIXON ADMINISTRATION RURAL DEVELOPMENT AMENDMENTS

### AMENDMENTS TO CONSOLIDATED FARMERS HOME ACT

1. Allows loans to be made on "market" value as opposed to "normal" value.

2. Changes all references to "sewer" to "waste disposal" and eliminates $4 million limitation on loan and grant funds to single project.

3. Sets population area for loan eligibility at counties with 100 persons per square mile.

4. Increases Agricultural Credit Insurance Fund (ACIF) from maximum $100 million in new notes at one time to $500 million. The direct loan revolving funds from which operating and emergency loans are made are merged into the ACIF in order to make these loans on an insured basis.

5. FHA is authorized to insure watershed protection and flood prevention loans and resource conservation and development loans.

6. The Act provides a new method of determining loan interest rates.

(a) Current yield on U.S. Government obligations.

(b) Private market rates for similar loans.

(c) The fact of the government guarantee.

### *"Credit-Sharing"*

This is a new subtitle to the Consolidated Farmers Home Act.

(1) It would authorize $1.3 billion in loans in fiscal 1974 and such amounts as authorized each year thereafter.

(2) At least 65% of the funds authorized must be used for commercial and industrial loans. The remaining 35% for community facilities and necessary equipment loans.

(3) No more than 90% of the unpaid principal, interest, and related charges may be guaranteed on commercial and industrial loans.

(4) States, multijurisdictional planning districts, and counties would have the authority to select projects which would be funded with 80 percent of the annual authorization.

(5) The additional 20 percent would be used to fund projects selected by FHA.

(6) The 80 percent shall be divided among the States on the following basis: 40 percent on rural population; 20 percent on rural per capita income; and 40 percent on rural population decrease.

(7) One-third of the amount apportioned to the State may be loaned by the State for projects which are part of the State development plan.

One-third of the remaining funds apportioned to the State may be loaned by multijurisdictional planning districts. Funds will be apportioned among the various districts on the same formula as used for State apportionments.

The remaining one-third will be apportioned to local governments (counties) on the same basis.

(8) Each State must create multijurisdictional districts which encompass all rural areas of the State. The governing bodies of the districts must be composed of local elected officials. The State development planning system shall be composed of one representative from each district.

(9) The State, district, or local government must certify to project an applicant's eligibility and other legal determinations.

(10) A Rural Development Insurance Fund (RDIF) would be created from which commercial and industrial loans and community facility loan notes would be sold to private investors. The bill provides, however, that borrowers first must attempt to get private lenders to make the loan with a guarantee before the loan is made from the RDIF.

### *Operating loans*

(1) Loans may be made to rural youths for 4-H projects, etc.

(2) Operating and emergency loans would be changed to insured basis.

(3) Operating loan limits would be increased from $35,000 to $50,000.

### *Soil conservation service*

(1) Increases cost-sharing contract length on soil and water conservation measures from one year to ten years.

(2) Allows SCS to finance water quality management measures within watershed projects.

(3) Authorizes cost-sharing with rural communities for installing facilities for water quality management.

(4) FHA is enabled to make loans to "homestead and desertland entrymen" who have claimed property but have not yet received title.

## SECTION-BY-SECTION ANALYSIS

### TITLE I—AMENDMENTS TO THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

Section 100 of the bill provides that the Consolidated Farmers Home Administration Act of 1961 is amended as set forth in Title I of this bill.

Section 101 would amend section 305 of the Act so as to permit the amount of a loan to be based on the value considered by the Secretary to be appropriate. The purpose of this change is to update the level of appraisal and to make it possible to assist a larger number of families who do not have sufficient funds or equity in resources to pay the difference between the normal value of a farm and its market value under conditions which have prevailed for many years. Experience has shown that, since 1937 when the farm ownership program was initiated, land prices have increased and the spread between "normal value" and market value has continued to increase because of the economic situation.

Section 102 would amend section 306(a)(6) of the Act to—

(1) delete the requirement that the comprehensive plans be "official." This requirement has made it difficult to make such grants in some States due to variations in State law as to what is "official"; and

(2) change the word "sewer" to "waste disposal" in order to permit planning financed with the grants to include solid waste disposal systems. Loans and grants for construction already cover solid waste disposal.

Section 103 would amend section 306 of the Act to apply to "rural area" for the purpose of programs under subtitle A of the Act the definition in section 3.07(5) of new subtitle AA which would be added to the Act by section 410(b) of the bill, *i.e.*, all the territory in a county whose population density is less than 100-per-square-mile or which is not in a Standard Metropolitan Statistical Area.

Section 104 would amend section 306(a) of the Act to delete paragraph (5) thereof which provides that no community water or waste disposal loan borrower may be indebted for more than $4 million less the amount of any grant it may have received. In many situations this restriction currently precludes the most efficient delivery of water and waste disposal services to rural residents and does not result in better loans. Larger systems, by engaging the services of full-time professional managers, treatment plant operators, accountants, and auditors, can operate more efficiently and at less cost per subscriber. Also, many communities already have loans nearing $4 million, the indebtedness ceiling, and cannot expand or extend their services to other residents.

Section 105 would permit taking a lien running to the United States or to the noteholder in connection with insured or guaranteed loans. The present language of section 307(c) requires such lien to run to the United States.

Section 106 would amend section 309(f) of the Act to raise from $100,000,000 to $500,000,000 the maximum amount of unsold loans that can be held in the Agricultural Credit Insurance Fund at any time. Recent legislation permits the Farmers Home Administration to use loan insurance authority to finance projects to public bodies. This will likely result in an increased level of such insured loans. In addition, sections 408 and 414 of the bill would authorize the use of the Agricultural Credit Insurance Fund for making insured loans under the watershed protection and flood prevention and resource conservation and development programs and the operating loan program. There will be an urgent need for increasing the interim loan limit above the present $100,000,000.

Section 107 would amend section 309 of the Act to add two new subsections as follows:

Subsection (g) would transfer to the Agricultural Credit Insurance Fund the assets, liabilities, and authorizations of the Farmers Home Administration direct loan account and the Emergency Credit Revolving Fund. This will make it possible to market loans in the direct loan account and the Emergency Credit Revolving Fund as insured loans. Interest would be paid to the Treasury on equity transferred and subsequent appropriations to the Insurance Fund. The interest on transferred loans made to public bodies and sold out of the Insurance Fund as insured loans would be subject to Federal income tax. The transfer language of the proposed amendment is substantially similar to that of section 517(m) of the Housing Act of 1949, which transferred the Rural Housing Direct Loan Account to the Rural Housing Insurance Fund.

New subsection (h) would clarify the authority of the Farmers Home Administration to guarantee loans originated and serviced by local banks and other lending institutions. While this authority apparently is contained in the present law, the authority is not being used. The amendment is intended to give the FHA an additional lending tool. Presently, all farm operating loans are made and held by the Government as direct loans. Language contained elsewhere in this bill provides for insured loans where the Government makes the loan and the paper is in turn resold on the private money market or where the Government makes an insured loan with a private lender's fund but originates and services the loan. Under the authority of this amendment, the local lending institution would originate and service the loan which would be backed with the full faith and credit of the Federal Government in a procedure somewhat similar to that followed by the Small Business Administration. It is contemplated that FHA field representatives would continue to provide technical assistance.

Section 108 would add to subtitle A of the Act a new section 310A authorizing FHA to insure watershed protection and flood prevention loans and resource conservation and development loans. The interest on any such loans made to public bodies and sold out of the Agricultural Credit Insurance Fund would be taxable. FHA can now make only direct loans for these purposes.

Section 109 would amend section 307(a) of the Act to make all loans thereafter made and insured under subtitle A (farm ownership, individual soil and water, and all association loans, including water and waste disposal) subject to the interest rate provisions of new section 3.05 that would be added to the Act by section 410 of the bill.

### *Subtitle AA—Commercial and Facility Loans*

Section 110 would add to the Act a new subtitle AA, comprising section 3.01 through 3.08, authorizing the Secretary to make and insure or guarantee loans for industrial and commercial businesses and for public works, public service, and other community facilities. It would also bring under subtitle AA the authority in section 306(a)(1) to make and insure loans for water systems and waste disposal facilities. (Guaranteeing a loan means, for the purposes of this subtitle, guaranteeing payment of a loan originated, held, and serviced by a private financial institution.) Where the borrower under the new authority is a public body, the interest on the obligations issued by such public body would be taxable under the Federal income tax laws in the hands of the insured or guaranteed holder of the obligations.

The subtitle requires that at least 80 percent of the authorization made available for the loan purposes of the subtitle (including water systems and waste disposal facilities) be apportioned among the States for State, multijurisdictional areawide planning and development district and local government projects on a formula basis. Of the amount apportioned to the State, 33⅓ percent shall be allocated for projects selected by the State, 33⅓ percent allocated to multijurisdictional areawide planning and development districts of the State, and 33⅓ percent allocated to local governments within the State.

Each level of government, i.e., State, multijurisdictional areawide planning and development district and local government, selects its own projects for assistance from within the State development plan. The remaining loans may (1) be originated, held, and serviced by a private lending institution and guaranteed by FHA, (2) be originated by FHA with private lenders' funds and insured and serviced by FHA, or (3) be made directly by FHA from the Insurance Fund and subsequently insured and sold to private investors. Guaranteed loans may only be made in cases where private lending institutions are unable to provide credit for these programs without Federal guarantee, and insured loans may be made only where private lender loans cannot be obtained with or without the guarantee. The State development plan is formulated by a State commission composed of local representatives of multijurisdictional planning districts within the State and the Governor of the State. Ample lead time is provided for the States to develop the necessary machinery and formulate the required State development plan.

At least 65 percent of the loans are to be for commercial and institutional loans.

At least 75 percent of the loans under this new subtitle (including loans for water systems and waste disposal facilities) will be guaranteed loans. The Federal guarantee will cover not more than 90 percent of the loan. That is, the holder of the loan will be assured by the Farmers Home Administration of payment of a specified portion, not more than 90 percent, of the amount of the unpaid indebtedness at the time of default. This FHA assurance is backed by the full faith and credit of the United States.

The Governor has the responsibility of preparing and submitting a State development plan which is to include all eligible projects within the State. Each level of government, i.e., State, multijurisdictional areawide planning and development district or local government, certifies to the Secretary that certain standards in respect to the loans within its jurisdiction have been met and the Secretary must accept such certification as final.

The Secretary will be responsible for making, insuring, or guaranteeing no more than

20 percent of the total annual loan authorization.

A new revolving credit fund entitled "Rural Development Insurance Fund" would be created. This fund will support the new insurance and guarantee authority of this subtitle.

New section 3.01 of new subtitle AA would authorize the Secretary to make and insure or guarantee loans for industrial or commercial businesses on the basis of the apportionments prescribed in section 3.03 of this subtitle and subject to the standards of section 3.04. These loans are to stimulate economic growth in rural areas. They may be for new or existing businesses. The applicant must be either an individual or an association of the type enumerated in section 3.01. However, no such loan may be for the purpose of relocating a business unless it is within the same rural area. The loan may include sufficient funds for related facilities necessary to the success of the project being financed. The amount of the loan may not exceed 80 percent of the total project cost including the costs of any related facilities. The balance of necessary funds must be obtained by the applicant from other sources such as its own resources or from State assistance programs. It is anticipated that the authority made available in this section will assist in financing in rural areas, as that term is defined in section 3.07(5), such projects as shopping centers, industrial parks, and manufacturing, wholesaling, or retailing enterprises.

In similar manner section 3.02(a) of this new subtitle authorizes the making, insuring, or guaranteeing of loans for public works, public service, or other community facilities, except that the amount of the loan could reach 100 percent of the project cost in appropriate cases. This includes the repair or improvement of existing structures. The project to be financed must tend directly or indirectly to improve the chances of additional long-term employment in the rural area where the project is being undertaken. Under this authority eligible applicants are limited to associations such as corporations operated on a nonprofit basis and public bodies. Related facilities necessary to the success of the project also may be financed in connection with the undertaking. No grant or other subsidy to the applicant is authorized under this section. If additional financial assistance is necessary, the applicant is responsible for obtaining it from other sources such as rural revenue sharing funds available to the States under titles I, II, and III of this bill. Under this provision basic community structures may be financed such as courthouses or municipal buildings, community centers, and firehouses.

Loans may be made, insured, or guaranteed for water systems and waste disposal facilities under new section 3.02(b) in lieu of the existing authority in section 306(a)(1) of the Act and utilizing the new Rural Development Insurance Fund.

Section 3.03(a) provides that of the amounts provided for loans authorized by this subtitle, a minimum of 80 percent shall be apportioned by the Secretary among the States, multijurisdictional areawide planning and development districts, and local governments in accordance with their entitlement as determined by subsections (b), (c), (d), and (e).

Subsection (b)(1) provides that 33⅓ percent of the moneys apportioned pursuant to subsection (a) shall be divided among the States.

Subsection (b)(2) provides that each State shall be entitled to have loaned within its jurisdiction a portion of the aggregate amount apportioned to all the States in accordance with subsection (b)(1), which portion shall be determined in accordance with paragraphs (A) through (C) below.

Paragraph (A) provides that 40 percent of such portion shall be determined according to rural population.

Paragraph (B) provides that 20 percent of such portion shall be determined according to rural per capita income.

Paragraph (C) provides that 40 percent of such portion shall be determined according to rural population.

Subsection (c)(1) provides that 33⅓ percent of the moneys apportioned pursuant to subsection (a) shall be divided among the multijurisdictional areawide planning and development districts of the States.

Subsection (c)(2) provides that each multijurisdictional areawide planning and development district shall be entitled to have loaned within its jurisdiction a portion of the aggregate amount apportioned to all such districts under subsection (c)(1), which portion shall be determined in accordance with paragraphs (A) through (C) below.

Paragraph (A) provides that 40 percent of such portion shall be determined according to rural population.

Paragraph (B) provides that 20 percent of such portion shall be determined according to rural per capita income.

Paragraph (C) provides that 40 percent of such portion shall be determined according to loss of rural population.

Subsection (d)(1) provides that 33⅓ percent of the moneys apportioned pursuant to subsection (a) shall be divided among the local governments of the United States.

Subsection (d)(2) provides that each local government shall be entitled to have loaned within its jurisdiction a portion of the aggregate amount apportioned to all local governments under subsection (d)(1), which portion shall be determined in accordance with paragraphs (A) through (C) below.

Paragraph (A) provides that each county shall receive for the local governments therein 40 percent of such portion determined according to rural population.

Paragraph (B) provides that each county shall receive for the local governments therein 20 percent of such portion determined according to rural per capita income.

Paragraph (C) provides that each county shall receive for the local governments therein 40 percent of such portion determined according to loss of rural population.

Subsection (3) provides that each State's, multijurisdictional areawide planning and development districts', or local governments' apportionment may be reduced by an amount equal to one half of the amount of monetary loss to the Secretary which occurred during the previous fiscal year on loans made, insured, or guaranteed under this subtitle and certified by such State, district, or local government.

Subsection (f) provides that any amounts authorized for loans for any fiscal year which are not apportioned pursuant to subsections (a) through (e) of this section may be available for such loans at the discretion of the Secretary.

Subsection (g) provides that the Secretary's determinations shall be final and conclusive.

Subsection (h)(1) authorizes, without fiscal year limitation but subject to authorization in appropriation acts, a total guaranteed and insured loan program under the new subtitle of $1.3 billion for fiscal year 1974 and such sums as may be necessary for succeeding fiscal years.

Subsection (h)(2) provides that at least 65 percent of the program authorizations be used for commercial and industrial loans under section 3.01 of this subtitle.

Subsection (h)(3) provides that at least 75 percent of the program authorization take the form of guarantee of loans originated and serviced by private financial institutions including but not limited to banks and insurance companies. The guarantee will cover not more than 90 percent of the unpaid indebtedness at the time of default. The private financial institutions may be located either within or outside the rural area in which the establishment or facility financed by the loan is located.

Subsection (h)(4) provides that the apportionment program authorizations shall be available to the States without fiscal year limitation. The Secretary may reduce the amounts apportioned to any State that advises the Secretary that the State does not need all or a part of its apportionment. Such apportionments returned by any States would then be reapportioned by the Secretary among the other States under the formula set forth in section 3.03 (b) through (e).

Section 3.04 provides that, commencing with fiscal year 1975, as a condition precedent to receiving apportionments the Governor of each State shall publish and submit to the Secretary a State development plan formulated through the State development planning system or an alternative planning system assuring consultation and coordination with local government. State development plans would not be subject to the Secretary's approval. For fiscal year 1974 a State could defer submission of its plan until January 1, 1974, and in the interim could receive up to one-half of its apportionment prior to submitting the State development plan.

The States, multijurisdictional areawide planning and development districts and local governments are required to determine and certify to the Secretary as to the eligibility of the applicant and project, the financial soundness of the loan, the applicant's inability to finance the project otherwise, and compliance with all other Federal and State law requirements. The Secretary shall accept the certification as conclusive.

If the Secretary, after giving notice and opportunity for hearing, should determine that there has been substantial failure of compliance in the matters contained in the required certificate, the Secretary would have three courses of action available: (1) refer the matter to the Department of Justice, (3) give 60 days' notice of reduction of the State's apportionment by the amount wrongly used, or (3) take other legally authorized action. If course of action (2) is followed, the State, multijurisdictional areawide planning and development district, or local government may avert the reduction of apportionment within the 60-day notice period by taking corrective action or having the matter adjudicated by the United States Court of Appeals.

All applicants must certify that they cannot get credit elsewhere on terms that would make the project feasible and, in case of insured loans, that they cannot get guaranteed loans on such terms.

For loans authorized and not allocated to the States, the Secretary will make all determinations. All loans would be subjected to the "credit elsewhere" test.

Section 3.05 specifies a maximum repayment period of 25 years for loans under section 3.01 and 40 years for loans under section 3.02. The rate of interest on loans under subtitle AA made and insured (but not "guaranteed" as that term is used in subtitle AA) would be prescribed by the Secretary. The rate, rounded to the nearest eighth, could not be less than the sum of (a) a rate determined by the Secretary of the Treasury after considering (1) the current market yield on marketable Treasury obligations, (2) the rates prevailing in the private market on similar loans, and (3) the effect of the Government's guarantee on the lender's or investor's risk, plus (b) an additional charge prescribed by the Secretary of Agriculture to cover expected losses to the Rural Development Insurance Fund (RDIF) and the Secretary's administrative cost of operating the subtitle AA loan guarantee and insurance program. The additional charge would be deposited in the RDIF. For "guaranteed" loans under subtitle AA there would be the charge for losses and administrative costs. In addition, the Secretary of the Treasury would have discretionary authority to set maximum limitations for interest rates on such loans. Such a limit would have to take into account factors (1), (2), and (3) specified above for the insured loan rate formula. The interest rate provisions in this section would apply to loans for water systems and waste disposal facilities, as well as the other loans under the new subtitle AA.

Section 3.06 would establish a new revolving fund called the "Rural Development Insurance Fund", referred to as the "Fund", which would be used by the Secretary for the purposes of discharging his obligations in connection with loans guaranteed or insured under this subtitle. These would include (1) loans locally originated and serviced by the guaranteed holder, (2) loans made by a local lender that are processed, insured, and serviced by the Secretary, and (3) loans made out of the Fund, sold, insured, and serviced by the Secretary. The assets and liabilities of the Agricultural Credit Insurance Fund applicable to such water and waste disposal loans, including those transferred from the Farmers Home Administration direct loan account by section 309(g) as added by section 407 of the bill, would be transferred to the Fund. Such assets and liabilities, the proceeds of such assets, and bans guaranteed or insured under this subtitle would be subject to the provisions of this section and section 308. The cross-reference to section 308 would make it clear that all contracts of guarantee or insurance entered into by the Secretary for loans under this subtitle, as well as contracts of guarantee or insurance heretofore or hereafter entered into by the Secretary for water and waste disposal loans under section 306(a)(1), are backed by the Fund and the full faith and credit of the United States.

If there should be insufficient moneys in the Fund to enable the Secretary to make loans, advances, and authorized expenditures out of the Fund, he would be authorized to borrow from the Secretary of the Treasury to replenish the Fund. The Secretary of the Treasury would be authorized and directed to purchase notes issued by the Secretary for such purpose, which notes would bear interest comparable to the cost of money to the Treasury for obligations having maturities comparable to the notes and to the loans authorized to be guaranteed or insured.

The Secretary would be required to deposit in the Fund all fees and charges collected by him for loan services, such as expenses for obtaining credit and property appraisal reports, and additional charges assessed for losses and administrative costs in connection with guaranteed or insured loans. It is contemplated that the administration of these loans programs under new subtitle AA will be generally self supporting.

Subsection (g) of section 3.06(g) would authorize the Secretary to use the Fund for the purpose of making and insuring loans authorized under this subtitle where there is reasonable assurance of being able to sell the loans without undue delay.

Subsection (g) would also authorize the Secretary to use the Fund (1) to make default payments to insured holders and payments to guaranteed holders in compliance with the terms of the guarantee contract; (2) to pay to insured holders interest accruing between the date of any prepayments made by the borrower and the date of transmittal to the holder; (3) to purchase notes and bonds in accordance with repurchase agreements contained in contracts of insurance entered into by the Secretary in connection with loans under this subtitle, including loans transferred to the Fund; (4) to pay the cost of the Secretary's administration in connection with these loan programs; and (5) to make other expenditures and advances, such as payment of taxes, insurance, prior liens, fiscal adjustments, credit reports, property appraisals, and other expenses and advances to protect security for insured loans, and for guaranteed loans after or in connection with the Secretary's acquisition of guaranteed loans or security, and to acquire security property at foreclosure sale or otherwise.

The Secretary would also be authorized to use the Fund to make supplementary payments to holders of insured (but not guaranteed) loans in amounts sufficient to make the notes or bonds marketable at par. Such payments are not authorized for the purpose of making below market interest rate loans.

Section 3.07 provides the following definitions for the purposes of subtitle AA:

(1) To guarantee a loan means to guarantee a loan originated, held, and serviced by a private financial institution.

(2) "Multijurisdictional areawide planning and development district" means an organized planning and development body composed of two or more counties, towns, townships, boroughs, municipalities or a combination of any such governmental units established by or under State law.

(3) "Local government" means a municipality, county, or township as defined and used by the United States Bureau of the Census, but does not include school districts or special districts.

(4) "Related facilities" includes land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, and initial operating capital including interest payments.

(5) "Rural area" means any county, parish, or similar political subdivision which either has a population density of less than 100 persons per square mile or is not included within a Standard Metropolitan Statistical Area.

(6) "Rural population" means the total resident population of a rural area.

(7) "Standard Metropolitan Statistical Area" means such term as defined by the Office of Management and Budget.

(8) "State development plan" means a plan for the expenditure of funds to which a State is entitled under this subtitle.

(9) "State development planning system" includes a State development planning advisory commission. The State development planning advisory commission would be comprised of the Governor and one representative from each government planning board of each multi-jurisdictional planning district within the State, which shall advise the Governor with respect to the formulation of the State development plan. Such planning boards shall be comprised of elected officials from local governments affected and shall have such duties as the Governor may determine. Such multijurisdictional planning districts shall encompass the entire geographic area of the State.

(10) "State" includes Puerto Rico, the Virgin Islands, and Guam, as well as the several States.

(11) "Governor" means a State's chief executive officer or his delegate.

(12) "Attorney General" means the United States Attorney General or his delegate.

(13) "Fiscal year" means the United States Government fiscal year.

Section 3.08 provides that loans under the new authority would be available to the United States, Puerto Rico, Virgin Islands and Guam.

Section 110(b) provides that loans under new subtitle AA would not be subject to the "credit elsewhere" or county committee certification requirements of section 333.

Section 110(c) provides that the new subtitle AA would become effective July 1, 1973.

Section 111 would amend subtitle A of the Act to add a new section 310B(a) to the Act to make the "credit elsewhere" and "mandatory refinancing" requirements inapplicable to rural housing loans where the applicants and borrowers are not in the low or moderate income category and the loans are guaranteed by the Farmers Home Administration but are made, held, and serviced by private lenders. Such borrowers would continue to be required to pay interest and charges at rates comparable to those paid by borrowers under the regular Federal Housing Administration insured loan program.

New section 310B(b) of the Act would require the Secretary to accept a guarantee by the Department of Hawaiian Home Lands of the State of Hawaii as security for a rural housing loan on land under such Department's jurisdiction on which a mortgage cannot legally be given.

### *Subtitle B—Operating loans*

Section 112 would amend sections 311 and 312 of the Act to make technical and conforming amendments. It would also add a new subsection to section 311 to—

(1) authorize operating loans to rural youths to enable them to establish or expand an enterprise being carried on as part of their agricultural educational training through such organizations as 4–H Clubs and the Future Farmers of America. In addition, this section would permit loans to rural youths for any of the other operating loan purposes specified in section 312 of the Act where such loans could be made on a sound basis;

(2) provide that a minor signing a note for such a loan would incur full personal liability; and

(3) provide that co-signers could be accepted to supply needed strength for a sound loan.

Section 113 would amend section 313 of the Act to raise the maximum limit on an operating loan from the present $35,000 to $50,000.

Section 114 would add to subtitle B of the Act a new section 317 to authorize insured operating loans. The present operating loan program is funded by appropriations from the FHA Direct Loan Account. This amendment would authorize the Farmers Home Administration to insure operating loans and sell them to private investors and thus shift the funding of this program from appropriations to the private sector.

### *Subtitle C—Miscellaneous*

Section 115 would amend section 331 of the Act to give the Secretary discretionary authority to require that bonds of bonded employees of the Farmers Home Administration be either a faithful performance of duties bond or a fidelity bond as prescribed by him. A faithful performance bond, as defined in 6 U.S.C. 14(a), covers, in addition to proper accounting for all funds or property received by reason of the position of employment of the bonded employees, "all duties and responsibilities imposed upon such individual or individuals by law or by regulations issued pursuant to law." Thus, County Supervisors and Assistant County Supervisors, under the terms of their faithful performance of duties bonds as prescribed by the present law, become virtual guarantors of the correctness of all their official actions. They become personally liable for any loss which results from the failure to comply with any provisions of all the mass of regulations applicable to the multifarious activities of the Farmers Home Administration. This may include, for example, mistakes made by inadvertence or misunderstanding on the part of hard working, conscientious employees who have spent many years in dedicated service to the agency and to the public interest. This provision would, therefore, provide discretionary authority for requiring fidelity bonds protecting against fraud and dishonesty instead of faithful performance of duties bonds, where appropriate.

Section 116 would expressly require the Secretary, in the case of loans subject to the "credit elsewhere" provision, to determine the applicant's inability to obtain conventional credit before the application could be approved.

Section 117(a) would amend section 331 of the Act to permit security property to be sold, transferred, or disposed of in a manner determined by the Secretary to be most advantageous to the Government from the standpoint of carrying out program objectives and protecting the Government's security interest.

Section 117(b) would amend section 335 of the Act to give the Secretary broad discretionary authority as to the downpayment, length of term, and interest rate to be allowed or required in the sale or transfer of property to ineligible applicants. It would also permit sale of such property to a broader range of eligible applicants.

Section 118 would amend section 343 of the Act to define "insure" as including "guarantee" of loans locally originated and serviced as contemplated by the provisions of the added subtitle AA.

### TITLE II—AMENDMENTS TO THE WATERSHED PROTECTION AND FLOOD PREVENTION ACT

#### *Watershed projects*

Section 201 of the bill would amend the Watershed Protection Act as amended.

Section 201(a) of the bill would authorize the Secretary of Agriculture to enter into long-term contracts up to ten years, with landowners, operators, and occupiers in watershed project areas. The contracts would be based on conservation plans developed in cooperation with the conservation districts concerned, and applications for assistance would be made to the districts. This authority would accelerate establishment of land treatment and speed up scheduling of structural works of improvement.

Section 201(b) would provide for Federal cost sharing for watershed works of improvement needed to improve water quality. This amendment would make it possible to provide maintenance of water quality at upstream points where pollution may occur. Works of improvement for water quality management would consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treament or other methods of controlling waste at the source. Such works of improvement must be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management.

Water quality cost sharing is authorized for mainstream development under other Federal programs, but is not authorized in upstream works of improvement under PL–566.

Section 201(c) would add the Administrator of the Environmental Protection Agency, the Secretary of Health, Education, and Welfare and the Secretary of Commerce to provide review and comment on PL–566 watershed works plans relating to measures for control or abatement of water pollution, features which may affect the public health, and measures affecting estuary marine fisheries, respectively.

### TITLE III—AMENDMENTS TO THE BANKHEAD-JONES FARM TENANT ACT

#### *Resource conservation and development projects*

Section 301 would amend Section 32(e) of Title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish for the benefit of rural communities technical and cost-sharing assistance to public agencies and organizations in carrying out plans for water quality management in Resource Conservation and Development projects. Measures and facilities would consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source. Such measures and facilities must be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management.

### TITLE IV—MISCELLANEOUS

#### *Land inventory and monitoring*

Section 401 directs the Secretary of Agriculture to carry out a program to inventory and monitor soil, water, and related resource conditions, and to issue a land inventory report at five-year intervals. The program would include surveys of erosion and sediment pollution damages, land use changes and trends, and degradation of the environment resulting from improper use of soil, water, and related resources.

## AMENDMENTS

### TITLE I—AMENDMENTS TO THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

Sec. 100. The Consolidated Farmers Home Administration Act of 1961 is amended as provided in this title.

#### SUBTITLE A—REAL ESTATE LOANS

Sec. 101. Section 305 is amended by striking out "normal" in the first and second sentences and striking out the last sentence.

Sec. 102. Section 3096(a)(6) is amended by—

(1) striking out "official", and

(2) striking out "sewer" and inserting in lieu thereof "waste disposal".

Sec. 103. Section 306(a)(7) is amended by striking out all that follows "purposes of" and inserting in lieu thereof the following: "loans and grants under this subtitle, are rural areas as defined in paragraph (5) of section 3.07."

Sec. 104. Section 306(a) is amended by striking out paragraph (5) and renumbering the subsequent paragraphs accordingly.

Sec. 105. Section 307(b) is amended by changing "shall" to "may" in the second sentence.

Sec. 106. Section 309(f) is amended by changing "$100,000,000" to "$500,000,000" in paragraph (1).

Sec. 107. Section 309 is amended by adding at the end thereof the following new subsections:

"(g)(1) The assets and liabilities of, and authorizations applicable to, the Farmers Home Administration direct loan account created by section 338(c) and the Emergency Credit Revolving Fund referred to in section 326 are hereby transferred to the fund, and such account and such revolving fund are hereby abolished. Such assets and their proceeds, including loans made out of the fund pursuant to this section, shall be subject to the provisions of this section, section 308, the last sentence of section 306(a)(1), and the last sentence of section 307.

"(2) From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the value as determined by the Secretary, with the approval of the Comptroller General, of the Government's equity transferred to the fund pursuant to the first sentence of this subsection plus the cumulative amount of appropriations made available after enactment of this provision as capital and for administration of the programs financed from the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of loans made or insured from the fund, adjusted to the nearest one-eighth of 1 per centum. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury."

"(h) The Secretary may provide financial assistance to borrowers for purposes provided in this title by guaranteeing loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, or other legally organized lending agency."

Sec. 108. Subtitle A is amended by adding at the end a new section as follows:

"Sec. 310A. Loans meeting the requirements of the Watershed Protection and Flood Prevention Act or title III of the Bankhead-Jones Farm Tenant Act may be insured, or made to be sold and insured, in accordance with and subject to sections 308 and 309, the last sentence of section 306(a)(1), and the last sentence of section 307 of this title."

Sec. 109. Section 307(a) is amended by deleting the second sentence and inserting in lieu thereof the following: "The interest rate or rates at which loans for various purposes will be made or insured under this subtitle shall be determined in accordance with section 3.05(b)."

Sec. 110. (a) The Act is amended by inserting after subtitle A a new subtitle as follows:

#### SUBTITLE AA—COMMERCIAL AND FACILITY LOANS

Sec. 3.01. The Secretary may make and insure or guarantee loans for amounts not in excess of 80 percent of the total project cost to individuals and to associations, including corporations, cooperatives, partnerships, and public and quasi-public agencies, for the purpose of establishing, developing, or improving new or existing industrial and commercial businesses and for related facilities, which have as their purpose the creation and promotion of new or additional economic growth of the rural areas to be served: *Provided* that no such loan shall be made in connection with the relocation of any industrial or commercial establishment from a location outside the rural area to be served by such establishment.

Sec. 3.02. (a) The Secretary may make and insure or guarantee loans to associations, including corporations not operated for profit, and public and quasi-public agencies, for the purpose of establishing, developing, or improving public works, public service, or other community facilities in rural areas, including the rehabilitation, alteration, or expansion of such projects, and for related facilities, if the project for which financial assistance is sought will directly or indirectly tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of plants or facilities for the creation of additional long-term employment opportunities for such area.

(b) The Secretary is hereby authorized to make and insure or guarantee loans for water systems and waste disposal facilities which could be made or insured under section 306(a)(1), in accordance with and subject to sections 306(a)(7)(8)(9), 306(b), 307, and 308 of this subtitle.

Sec. 3.03. (a) Of the amounts provided for loans for any fiscal year to be made and insured or guaranteed under this subtitle, a minimum of eighty per centum (80%) shall be apportioned by the Secretary to States, multijurisdictional areawide planning and development districts, and local governments for development, selection and approval by such units of government, respectively, of projects which are included in the State development plans for guaranteeing or making and insuring loans in eligible rural areas within States in accordance with their entitlement as determined by subsections (b), (c), (d) and (e) of this section.

(b)(1) Thirty-three and one-third per centum of the amount required to be apportioned under subsection (a) shall be divided among the States.

(2) Each State shall be entitled to have loaned within its jurisdiction to eligible applicants a portion of the amount provided to States in paragraph (b)(1), which portion shall be an amount equal to the sum of the amounts determined in paragraph (A), (B), and (C).

(A) Each State shall be entitled to have loaned within its jurisdiction to eligible applicants an amount equal to 40 per centum of the amount determined in paragraph (b)(1) multiplied by a fraction that numerator of which is the population of the rural areas of such State at the most recent point in time for which appropriate statistics are available and the denominator of which is the sum of the populations of the rural areas of all States at the same point in time;

(B) Each State shall be entitled to have loaned within its jurisdiction to eligible applicants an amount equal to 20 per centum of the amount determined in paragraph (b)(1) multiplied by a fraction the numerator of which is the average of per capita incomes of all the States at the most recent point in time for which appropriate statistics are available less the rural per capita income of such State at the same point in time, such difference to be multiplied by the rural population of such State at the same point in time, and the denominator of which is the sum of the numerators for all States: *Provided, however,* That if the rural per capita income of a State is greater than the average per capita incomes of all the States, the difference stated above shall be considered zero; and

(C) Each State shall be entitled to have loaned within its jurisdiction to eligible applicants an amount equal to 40 per centum of the amount determined in paragraph (b)(1) multiplied by a fraction the numerator of which is the numerical decrease in the population of the rural areas of such State during the most recent and appropriate time period for which statistics are available, and the denominator of which is the sum of the numerical decreases in the population of the rural areas of all States in which numerical decreases in the population of rural areas took place during the same time period.

(c)(1) Thirty-three and one-third per centum of the amount required to be apportioned under subsection (a) shall be divided among the multijurisdictional areawide planning and development districts of the States.

(2) Each multijurisdictional areawide planning and development district shall be entitled to have loaned within its jurisdiction to eligible applicants a portion of the amount provided to such districts in paragraph (c)(1), which portion shall be an amount equal to the sum of the amounts determined in paragraphs (A), (B), and (C).

(A) Each district shall be entitled to have loaned within its jurisdiction to eligible applicants an amount equal to 40 per centum of the amount determined in paragraph (c)(1) multiplied by a fraction the numerator of which is the population of the rural areas of such district at the most recent point in time for which appropriate statistics are available and the denominator of which is the sum of the populations of the rural areas of all districts at the same point in time.

(B) Each district shall be entitled to have loaned within its jurisdiction to eligible applicants an amount equal to 20 per centum of the amount determined in paragraph (c)(1) multiplied by a fraction the numerator of which is the average of per capita incomes of all the districts at the most recent point in time for which appropriate statistics are available less the rural per capita income of such district at the same point in time, such difference to be multiplied by the rural population of such district at the same point in time, and the denominator of which is the sum of the numerators for all districts: *Provided, however,* That if the rural per capita income of a district is greater than the average of per capita incomes of all the districts, the difference stated above shall be considered zero; and

(C) Each district shall be entitled to have loaned within its jurisdiction to eligible applicants an amount equal to 40 per centum of the amount determined in paragraph (c)(1) multiplied by a fraction, the numerator of which is the numerical decrease in the population of the rural areas of such district during the most recent and appropriate time period for which statistics are available, and the denominator of which is the sum of the numerical decreases in the population of the rural areas of all districts in which numerical decreases in the population of rural areas took place during the same time period.

(d)(1) Thirty-three and one-third per centum of the amount required to be apportioned under subsection (a) shall be divided among the local governments of the United States.

(2) Each local government shall be entitled to have loaned within its jurisdiction to eligible applicants a portion of the amount provided to local governments in paragraph (d)(1), which portion shall be an amount equal to the sums of the amounts determined in (A), (B), and (C).

(A) Each county shall be entitled to receive for the local governments therein which shall be entitled to have loaned within their jurisdiction to eligible applicants, an amount equal to 40 per centum of the amount determined in paragraph (d)(1) multiplied by a fraction, the numerator of which is the population of the rural areas of such county at the most recent point in time for which appropriate statistics are available and the denominator of which is the sum of populations of the rural areas of all counties at the same point in time.

(B) Each county shall be entitled to receive for the local governments therein which shall be entitled to have loaned within their jurisdiction to eligible applicants, an amount equal to 20 per centum of the amount determined in paragraph (d)(1) multiplied by a fraction the numerator of which is the average of per capita incomes of all the counties at the most recent point in time for which appropriate statistics are available less the rural per capita income of such county at the same point in time, such difference to be multiplied by the rural population of such county at the same point in time, and the denominator of which is the sum of the numerators for all counties: Provided, however, That if the rural per capita income of a county is greater than the average of per capita incomes of all the counties, the differences stated above shall be considered zero; and

(C) Each county shall be entitled to receive for the local governments therein which shall be entitled to have loaned within their jurisdiction to eligible applicants an amount equal to 40 per centum of the amount determined in paragraph (d)(1) multiplied by a fraction, the numerator of which is the numerical decrease in the population of the rural areas of such county during the most recent and appropriate time period for which statistics are available, and the denominator of which is the sum of the numerical decreases in the population of the rural areas of all counties in which numerical decreases in the population of rural areas took place during the same time period.

(e) For any fiscal year each State's multijurisdictional areawide planning and development districts, or local government's apportionment may be reduced by an amount equal to one half of the amount of monetary loss to the Secretary which occurred during the previous fiscal year on loans apportioned to that State, multijurisdictional areawide planning and development district, or local government under section 3.03(a) and made, insured or guaranteed under this subtitle. However, in no event shall the share of total loan authority apportioned to the States, multijurisdictional areawide planning and development districts, and local governments in the aggregate during any fiscal year be less than the percentage set forth in section 3.03(a).

(f) Any amounts authorized for loans for any fiscal year to be made and insured or guaranteed under this subtitle which are not apportioned pursuant to subsections (a) through (e) of this section may be available without regard to subsections (a) through (e) of this section for such loans at the discertion of the Secretary.

(g) All computations and determinations by the Secretary under this section shall be final and conclusive.

(h)(1) The Secretary is authorized to make, insure, and guarantee loans under this subtitle in such aggregate amounts as may be authorized in appropriation acts, but not to exceed $1.3 billion for the fiscal year 1974. Such authorizations in appropriation acts shall remain available until exhausted.

(2) At least 65% of such program authorizations for each fiscal year shall be used for commercial and industrial development loans authorized by section 3.01.

(3) At least 75% of program authorizations pursuant to paragraph (1) of this subsection shall take the form of a guarantee of not to exceed 90% of the unpaid principal balance of the loan, plus any unpaid accrued interest, plus any related charges approved by the Secretary, on loans originated and serviced by private financial institutions.

(4) Apportioned program authorizations shall be available to States, multijurisdictional areawide planning and development districts, and local governments without fiscal year limitation. Upon the advice and concurrence of such unit or units of government, the Secretary may reduce subsequent year apportionments below the level stipulated by the formula in subsections (b) through (e) of this section if such unit or units of government advise that they are unable to utilize their apportioned share of such program authorizations. Such authority shall then be reallocated to the remaining States, multijurisdictional areawide planning and development districts, and local governments by the Secretary under the formula.

SEC. 3.04. (a)(1) Commencing with fiscal year 1975, as a condition precendent to having loans made, insured, or guaranteed within its jurisdiction pursuant to apportionment as provided in subsections (a) through (e) of section 3.03, the Governor of each State shall publish and submit to the Secretary a State development plan formulated through the State development planning system, as set forth in section 3.07: *Provided* that the Secretary may, upon request of the Governor, accept an alternate State development planning system which assures consultation and coordination with units of local government within the State. The State development plan shall be published and submitted annually at or before the beginning of each fiscal year, commencing July 1, 1974. Amendments to the State development plan may be submtited to the Secretary at any time prior to the termination of the fiscal year to which the plan relates. State development plans and amendments shall not be subject to approval by the Secretary.

(2) For fiscal year 1974 a State may delay submitting a State development plan until January 1, 1974, but in that event the State and multijurisdictional areawide planning

and development districts and local governments contained therein shall be eligible from July 1 through December 31, 1973, for only one-half of their apportionments for such fiscal year. To obtain additional apportionments the State development plan for fiscal year 1974 must be submitted to the Secretary on or before January 1, 1974.

(b) (1) As a condition precedent to loans apportioned under subsections (a) through (e) of section 3.03, the States, multijurisdictional areawide planning and development districts, and local governments shall certify, and as a condition precedent to loans made and insured or guaranteed by the Secretary under subsection (f) of section 3.03, the Secretary shall determine—

(A) the eligibility of the applicant and the project;

(B) that the project will carry out the statutory purposes for which the loan is authorized;

(C) the sufficiency of such amounts, if any, of equity, working capital, or other cash equivalent investment as he determines to be necessary to assure a sound loan;

(D) that the financial assistance applied for is not otherwise available from private lenders or, for those eligible, the banks for cooperatives, on terms which will permit accomplishment of the project, and, for insured loans, that the applicant cannot obtain a guaranteed loan on such terms;

(E) that the loan and the project will comply with all other applicable requirements of Federal and State law; and

(F) his approval of the financial soundness of the loan based on the repayment ability of the applicant and the project and on all the terms and conditions of the loan including security required.

(2) The Secretary shall accept as final and conclusive the certifications of States, multijurisdictional areawide planning and development districts, and local governments made pursuant to paragraph (1) of this subsection.

(c) (1) With respect to loans apportioned under subsections (a) through (e) of section 3.03, if the Secretary determines after giving reasonable notice and opportunity for hearing that the certification by a State, multijurisdictional areawide planning and development district, or local government fails to comply substantially with the requirements of paragraph (1) of subsection (b) of this section, he shall—

(A) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; or

(B) notify the State, multijurisdictional areawide planning and development district, or local government that if corrective action is not taken within sixty days from the date of such notification, loan apportionments to it will be reduced in the same or succeeding fiscal year by an amount equal to the amount of funds which were not expended in accordance with the provisions of this subtitle; or

(C) take such other action as may be provided by law.

(2) When a matter is referred to the Attorney General pursuant to paragraph (1) (A) of this subsection, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(3) (A) Any State, multijurisdictional areawide planning and development district, or local government which receives notice of reduction of loan apportionments under paragraph (1) (B) of this subsection may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in litigation.

(B) The Secretary shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(C) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole shall be conclusive. The court may order additional evidence to be taken by the Secretary to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendations, if any, for the modification or setting aside of his original action.

(D) Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) With respect to loans under this subtitle other than those apportioned under subsections (a) through (e) of section 3.03, the Secretary shall also determine that the projects comply with any comprehensive community development plans of the rural areas and with any planned development under State, county, or municipal plans approved or adopted by competent authorities for the rural areas to be served. The Secretary shall require the submission of all applications for such loans to the local government in which the project is to be located for review and its comments within a designated period of time.

(e) For all loans under this subtitle the applicant shall certify that the financial assistance applied for is not otherwise available from private lenders, or, for those eligible, the banks for cooperatives, on terms which will permit accomplishment of the project, and, for insured loans, that the applicant cannot obtain a guaranteed loan on such terms.

SEC. 3.05. (a) The period for repayment of loans made and insured or guaranteed under section 3.01 shall not exceed 25 years. The period for repayment of loans made and insured or guaranteed under section 3.02 shall not exceed 40 years.

(b) (1) Loans guaranteed under this subtitle shall provide for a charge, prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the Rural Development Insurance Fund created by section 3.06, and shall bear interest at rates equal to multiples of one-eighth of one per centum. From time to time maximum limits for interest rates on such guaranteed loans may be prescribed by the Secretary of the Treasury, taking into consideration (i) the current average market yield on outstanding marketable obligations of the United States comparable to the average maturities of such loans, (ii) the rates prevailing in the private market for similar loans, and (iii) the fact of the Secretary's guarantee.

(2) Loans made or insured (but not guaranteed) under this subtitle shall bear interest at a rate, prescribed by the Secretary, not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the private market for similar loans and considering the Secretary's insurance of the loans, plus an additional charge, prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the Rural Development Insurance Fund: *Provided*, that the rate so prescribed shall be adjusted to the nearest one-eighth of one per centum.

(c) The interest or other income on any loan made, guaranteed, or insured under this subtitle paid to a guaranteed or insured holder shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

SEC. 3.06. (a) There is hereby created the Rural Development Insurance Fund (hereinafter in this subtitle referred to as the "Fund") which shall be used by the Secretary as a revolving fund for the discharge of the obligations of the Secretary under contracts guaranteeing or insuring loans under this subtitle.

(b) The assets and liabilities of the Agricultral Credit Insurance Fund referred to in section 309(a) applicable to loans for water systems and waste disposal facilities under section 306(a) (1) are hereby transferred to the Fund. Such assets (including the proceeds thereof) and liabilities and loans guaranteed or insured pursuant to this subtitle shall be subject to the provisions of this section and section 308.

(c) Monies in the Fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the Fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the Fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the Fund.

(d) The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for making loans, advances, and authorized expenditures out of the Fund Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the average maturities of loans made, guaranteed or insured under this subtitle. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for the purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Secretary hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(e) Notes and security acquired by the Secretary in connection with loans made, guaranteed, or insured under this subtitle or transferred by subsection (b) of this section shall become a part of the Fund. Notes may be held in the Fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the Fund.

(f) The Secretary shall deposit in the Fund any charges collected for loan services provided by the Secretary as well as charges assessed for losses and costs of administration in connection with making, guaranteeing, or insuring loans under this subtitle.

(g) The Secretary may utilize the Fund—

(1) To make loans which could be insured under this subtitle whenever he has a reasonable assurance that they can be sold without undue delay, and he may sell and insure such loans.

(2) To pay the interest to which the holder of insured notes is entitled on loans heretofore or hereafter insured accruing between the date of any prepayments by the borrower and the date of transmittal of any such prepayments to the holder. In the discretion of the Secretary, prepayments other than final payments need not be remitted to the holder until due.

(3) To pay to the holder of insured notes any defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan.

(4) To purchase notes in accordance with contracts of insurance heretofore or hereafter entered into by the Secretary.

(3) To make payments in compliance with the Secretary's obligations under contracts of guarantee entered into by him.

(6) To pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers or property appraisals, and other expenses and advances authorized in section 335(a) of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with acquisition by the Secretary of such loans or security therefor after default, to an extent determined by the Secretary to be necessary to protect the interest of the government.

(7) To pay the difference between interest payments by borrowers and interest to which holders of insured notes are entitled under contracts of insurance (exclusive of contracts of guarantee) heretofore or hereafter entered into by the Secretary. This provision is not intended to authorize making below market interest rate loans.

(8) To pay the Secretary's costs of administration of this subtitle, including costs of the Secretary incidental to guaranteeing loans under this subtitle. It is intended that the loan programs under this subtitle shall be generally self-supporting.

SEC. 3.07. (a) For the purposes of this subtitle—

(1) To "guarantee" a loan means to guarantee the payment of a loan, in accordance with its terms, which is originated, held and serviced by a private financial institution.

(2) The term "multijurisdictional areawide planning and development district" (hereinafter referred to as "district") means an organized planning and development body composed of two or more counties, towns, townships, boroughs, municipalities, or a combination of any such governmental units established by or under State law.

(3) "Local government" means a municipality, county, or township as such terms are defined and used by the United States Bureau of the Census. It does not include independent school districts or special districts.

(4) "Related facilities" include, but are not limited to, land, buildings, plans, equipment, access streets and roads, parking areas, utility extensions, services and fees, and initial operating capital including interest payments.

(5) "Rural area" means any county, parish, or similar political subdivision, including all area within the territorial confines thereof, which either has a population density of less than one hundred persons per square mile or is not included within a Standard Metropolitan Statistical Area.

(6) "Rural population" means the total resident population, as defined and used by the United States Bureau of the Census, of a rural area.

(7) "Standard Metropolitan Statistical Area" means a Standard Metropolitan Statistical Area as that term is defined and used by the Office of Management and Budget.

(8) "State development plan" means a plan for the expenditure of funds authorized to be loaned to which a State, multijurisdictional areawide planning and development district, or local government is entitled under this subtitle.

Such plan shall set forth the specific rural community development programs, activities and proposed improvements which are proposed to be undertaken or continued with such funds and shall take into consideration the varying needs and development and growth potentials of rural areas within the State and the possible integrated use of development resources of such areas.

(9) "State development planning system" includes a State development planning advisory commission whose duty it shall be to advise the Governor with respect to the formulation of the State development plan. The membership of such planning commission shall be composed of one representative from each government planning board, as defined in this section, together with the Governor of such State. For the purpose of formulating a State development plan, each State shall establish multi-jurisdictional planning districts which together shall encompass the geographic area of the entire State. A planning board for each district shall be composed of elected officials from local governments within such district and shall be designated by such local governments. The duties and authorities of planning boards within the State shall be determined by the Governor of such State. One representative of each planning board, who shall be a member of such board, shall be selected by members of such board for membership on the State development planning advisory commission.

(10) "State" means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

(11) "Governor" means the chief executive officer of each State or his delegate.

(12) "Attorney General" means the Attorney General of the United States or his delegate.

(13) "Fiscal year" means the fiscal year of the Government of the United States.

Sec. 3.08. Loans under this subtitle may be made and insured or guaranteed in the United States, Puerto Rico, the Virgin Islands, and Guam.

(b) Section 333 is amended by—

(1) inserting "except for loans under subtitle AA," after "(a)" and "(c)" respectively; and

(2) inserting "subtitle AA and" in paragraph (b) after "except for loans under".

(c) This section shall become effective July 1, 1973.

SEC. 411. Subtitle A is amended by adding at the end thereof, after section 310A as added by section 408 hereof, a new section as follows:

"SEC. 310B. (a) Applicants who receive rural housing loans originated, held, and serviced by private lenders and guaranteed by the Secretary under section 517(a)(2) of the Housing Act of 1949, as amended, to provide dwellings in rural areas for their own use shall not be subject to the requirements of sections 501(c) and 502(b)(3) of such Act.

"(b) For the purposes of title V of the Housing Act of 1949, as amended, a guarantee of payment given under the color of law by the Department of Hawaiian Home Lands (or its successor in function) shall be found by the Secretary reasonably to assure repayment of any indebtedness so guaranteed."

SUBTITLE B—OPERATING LOANS

SEC. 112. (a) Section 311 is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end of the section a new subsection as follows:

"(b)(1) Loans may also be made under this subtitle without regard to the requirements of clauses (2) and (3) of subsection (a) to youths who are rural residents to enable them to operate enterprises in connection with their participation in 4-H Clubs, Future Farmers of America, and similar organizations and for the purposes specified in section 312.

"(2) A person receiving a loan under this subsection who executes a promissory note therefor shall thereby incur full personal liability for the indebtedness evidenced by such note in accordance with its terms free of any disability of minority.

"(3) For loans under this subsection the Secretary may accept the personal liability of a cosigner of the promissory note in addition to the borrowers' personal liability."

(b) Section 312 is amended by inserting "(a)" after "311".

SEC. 113. Section 313 is amended by changing "$35,000" to "$50,000".

SEC. 114. Subtitle B is amended by adding at the end thereof a new section as follows:

"SEC. 317. Loans meeting the requirements of this subtitle may be insured, or made to be sold and insured, in accordance with and subject to sections 308 and 309 and the last sentence of section 307 of this title."

SUBTITLE C—MISCELLANEOUS

SEC. 115. Clause (c) of the second paragraph of section 331 of the Consolidated Farmers Home Administration Act of 1961 is amended by inserting after "Act;" the following: "may obtain fidelity bonds protecting the Government against fraud and dishonesty of officers and employees of the Farmers Home Administration in lieu of faithful performance of duties bonds under section 14, title 6, United States Code, and regulations issued pursuant thereto, but otherwise in accordance with the provisions thereof;".

SEC. 116. Paragraph (a) of section 333 is amended by inserting after "in writing" the following: ", and the Secretary shall determine,".

SEC. 117. (a) Section 331 is amended by adding at the end a new clause as follows:

"(g) Consent to the transfer of property securing any loan or financed by any loan or grant made, insured, or held by the Secretary under this title, or the provisions of any other law administered by the Farmers Home Administration, upon such terms as he deems necessary to carry out the purpose of the loan or grant or to protect the financial interest of the Government."

(b) Subsection (c) of section 335 is amended by—

(1) striking out "subtitle A" in the first sentence and inserting in lieu thereof "the provisions of any law administered by the Farmers Home Administration";

(2) striking out "the provisions of subtitle A" in the second sentence and inserting in lieu thereof "such provisions";

(3) striking out in the fourth sentence "of at least 20 per centum" and "not more than five annual"; and

(4) adding at the end of the fourth sentence before the period the following: ", but not in any event at rates and terms more favorable than those legally permissible for eligible borrowers".

Sec. 118. Section 343 is amended by inserting at the end thereof before the period the following: ", and (4) the word 'insure' as used in this title includes the meaning of guaranteeing the payment of a loan originating and serviced by a private financial agency or other lender approved by the Secretary, and 'contract of insurance' includes a contract of guarantee".

### TITLE II—AMENDMENTS TO THE WATERSHED PROTECTION AND FLOOD PREVENTION ACT, AS AMENDED

Sec. 201. The Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended, is amended as follows:

(a) Section 3 is amended by changing the period at the end of paragraph (5) to a semicolon and adding the following: "(6) to enter into agreements with landowners, operators, and occupiers, individually or collectively, based on conservation plans of such landowners, operators, and occupiers which are developed in cooperation with and approved by the soil and water conservation district in which the land described in the agreement is situated, to be carried out on such land during a period of not to exceed ten years, providing for changes in cropping systems and land uses and for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife, and recreation resources of land within the area included in plans for works of improvement, as provided for in such plans, including watershed or subwatershed work plans in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented. Applications for assistance in developing such conservation plans shall be made in writing to the soil and water conservation district involved, and the proposed agreement shall be reviewed by such district. In return for such agreements by landowners, operators, and occupiers the Secretary shall agree to share the costs of carrying out those practices and measures set forth in the agreement for which he determines that cost sharing is appropriate and in the public interest. The portion of such costs, including labor, to be shared shall be that part which the Secretary determines is appropriate and in the public interest for the carrying out of the practices and measures set forth in the agreement, except that the Federal assistance shall not exceed the rate of assistance for similar practices and measures under existing national programs. The Secretary may terminate any agreement with a landowner, operator, or occupier by mutual agreement if the Secretary determines that such termination would be in the public interest, and may agree to such modifications of agreements, previously entered into hereunder, as he deems desirable to carry out the purposes of this paragraph or to facilitate the practical administration of the agreements provided for herein. Notwithstanding any other provision of law, the Secretary, to the extent he deems it desirable to carry out the purposes of this paragraph, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of any crop; or (2) surrender of any such history and allotments."

(b) Clause (A) of paragraph (2) of section 4 is amended by inserting after "or fish and wildlife or recreational development" the words "or for water quality management: *Provided,* That works of improvement for water quality management shall consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage, and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source, and shall be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management,".

(c) Subsection (4) of section 5 is amended to read as follows:

"(4) Any plan for works of improvement involving an estimated Federal contribution to construction costs in excess of $250,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet which includes (a) works of improvement for reclamation, irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) Federal assistance for floodwater detention structures, (c) features which may affect the public health, (d) measures for the control or abatement of water pollution, or (e) measures affecting estuary marine fisheries, shall be submitted to the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, the Administrator of the Environmental Protection Agency, or the Secretary of Commerce, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, the Administrator of the Environmental Protection Agency, and the Secretary of Commerce, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretray to the Congress through the President."

### TITLE III—AMENDMENT TO THE BANKHEAD-JONES FARM TENANT ACT, AS AMENDED

Sec. 301. Section 32(e) of Title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011), is amended by adding at the end thereof the following:

"The Secretary shall also be authorized in providing assistance for carrying out plans developed under this title to provide, for the benefit of rural communities, technical and other assistance and such proportionate share of the costs of installing measures and facilities for water quality management as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs. Such measures and facilities shall consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source, and shall be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management."

### TITLE IV—MISCELLANEOUS

Sec. 401. (a) The first sentence of the Act entitled "An Act to enable the Secretary of Agriculture to extend financial assistance to homestead entrymen, and for other purposes", approved October 19, 1949 (63 Stat. 883; 7 U.S.C. 1006a), is amended by striking out "homestead entry" and inserting in lieu thereof "homestead or desert-land entry".

(b) The last sentence of the first section of such Act is amended by striking out "reclamation project" and inserting in lieu thereof "reclamation project or to an entryman under the desertland laws".

Sec. 402. In recognition of the increasing need for soil, water, and related resource data for land conservation, use, and development, for guidance of community development for a balanced rural-urban growth, for identification of prime agriculture producing areas that should be protected, and for use in protecting the quality of the environment, the Secretary of Agriculture is directed to carry out a land inventory and monitoring program to include, but not be limited to, studies and surveys of erosion and sediment damages, land use changes and trends, and degradations of the environment resulting from improper use of soil, water, and related resources. The Secretary shall issue at not less than five-year intervals a land inventory report reflecting soil, water, and related resource conditions.

## A TRIBUTE TO CARL HAYDEN OF ARIZONA

Mr. **BAKER**. Mr. President, the career of the late Carl Hayden of Arizona gave a real meaning to the abstract term "public service." From his election as a town councilman in 1902 to his retirement as president pro tempore of the U.S. Senate in 1969, Carl Hayden devoted his time and his energy to serving the people of his State and his Nation.

During the 2 years I was privileged to serve in the Senate with Senator Hayden, I came to know him as a man of great dedication and character. He was a quiet man who preferred diligent work to oratory, but when he spoke his colleagues listened to his counsel.

A spirit of steadfast concern for the public good characterized Senator Hayden's life. He served as a frontier sheriff while his State was still a territory. He was elected as Arizona's first Congressman when statehood was achieved, and subsequently served 16 years in the House of Representatives and 42 years in the Senate.

As chairman of the Committee on Appropriations and president pro tempore, Senator Hayden's leadership earned him even greater respect. He met the challenges of change wisely and well.

Carl Hayden personified the pioneer spirit of the American West. He established a tradition of statesmanship and public service for the people of Arizona and, indeed, for all Americans. We must keep that tradition alive and strive to live up to it in the years ahead.

## CLEARCUTTING IN NATIONAL FORESTS

Mr. **HATFIELD**. Mr. President, in response to increasing public opposition to clearcutting on national forests, Members of Congress and other persons requested the President's Council on Environmental Quality—CEQ—to investigate the problem. In 1971 the CEQ commissioned the deans of five major forestry schools in the United States to make independent studies of clearcutting practices in their region.

Exhaustive reports from the five deans have been submitted to CEQ. The reports have not been published, nor has CEQ released a statement of its own on the clearcutting issue.

In January 1972 CEQ considered issuing a Presidential Executive order to further limit or control clearcutting on public lands. After consultation with various groups, the proposal was withdrawn.

In the interim, the debate on clearcutting continues.

At this point, the Congressional Research Service in the Library of Congress was requested to abstract or summarize the reports submitted to CEQ by the five forestry deans in order that Members of Congress might become familiar with the reports and the policy recommendations they contain.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### SUMMARY OF THE FIVE REPORTS ON CLEARCUTTING, PREPARED FOR THE PRESIDENT'S COUNCIL ON ENVIRONMENTAL QUALITY WITH EMPHASIS ON POLICY RECOMMENDATIONS

(A draft statement prepared according to the instructions of Hon. MARK HATFIELD)

### THE FIVE REPORTS

The following section briefly describes the CEQ reports submitted by the five forestry deans.

#### *Rocky Mountains*

Title: Clearcutting in the Forests of the Rocky Mountains.

Author: Dr. Robert E. Dils, Dean, College of Forestry and Natural Resources, Colorado State University.

Area: Montana, Idaho, Wyoming, Colorado, Utah, Nevada, Arizona, and New Mexico.

Contents: History and background; impacts on site, watersheds, wildlife, range land, recreation, et al; clearcutting alternative; research needs; 19 policy recommendations; and a 39-page bibliography.

The "Bibliography of Clearcutting in Western United States" was compiled by Dr. C. W. Barney and lists more than 525 references.

#### *Southern Pine Region*

Title: Clearcutting as Related to Multiple Use Management of Public Forests in the Southern Pine Region.

Author: Dr. Charles W. Ralston, Dean and Professor of Forest Soils, School of Forestry, Duke University.

Area: Virginia, N. Carolina, S. Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, and Arkansas.

Contents: Timber production systems; effects of clearcutting on water, fish and game, grazing, recreation, and aesthetics; planning; 6 policy recommendations, USFS management directives; and notes on bottomland hardwoods.

The title page indicates that Leon F. Chaiken, Professor of Forest Management, and Fred M. White, Assistant Professor of Silviculture, also contributed to the report.

#### *Northern Forest Types*

Title: Clearcutting in the Public Forests.

Author: Dr. Lee M. James, Professor and Chairman, Department of Forestry, Michigan State University.

Area: Michigan, Wisconsin, Minnesota, and similar areas.

Contents: Background, status and trends, impacts in various forest types, and policy recommendations.

Recommends that Congress should require classification of Federal forest lands as to primary use, as advocated by the Public Land Law Review Commission. Classification should be made by an independent Commission constituted for the purpose.

The chapter on "Variability of Impact (by northern forest type groups)" was prepared by Professor Victor J. Rudolph.

#### *Northeast Hardwoods*

Title: Clearcutting in the Hardwood Forests of the Northeast.

Author: Dr. W. W. Ward, Director and Professor of Silviculture, School of Forest Resources, Pennsylvania State University.

Area: Vermont, New Hampshire, West Virginia, Pennsylvania, and similar areas.

Contents: Status and trends; impacts on site, watershed, wildlife, rangeland, and recreation; research needs; alternative to clearcutting; and policy recommendations.

#### *Pacific Northwest and Alaska*

Title: Clearcutting as a Forestry Practice with Special Reference to its Use by the U.S. Forest Service and the Bureau of Land Management in Alaska, Washington, and Oregon.

Author: Dr. James S. Bethel, Dean, College of Forest Resources, University of Washington.

Area: Oregon, Washington, and Alaska.

Contents: Factors in the clearcutting issue, PNW forests, maps and figures, definitions, douglas-fir mgt., logging and fishing, economic and mgt. factors in relation to the proposed ban on clearcutting, harvesting and engineering, trade-offs, impact on elemental cycle (nutrients), computer displays, economics, and biological aspects in Alaska.

### HIGHLIGHTS

Hereafter, for the sake of brevity, each report will be referred to by author's name only. When cited, page numbers will be shown.

All the reports stressed the complexity of the problem, the need for changes in policy, and the need for continued research, but none recommended a complete ban on clearcutting. Four recommended zoning or classification.

Most of the reports began with a backyard analysis of forestry in America. Much of the information presented in the introductory chapters does not relate specifically to clearcutting. Only the most significant elements will be covered in this summary.

#### *Extent of clearcutting in United States*

The following table shows the extent of clearcutting, as compared with other methods of timber harvest (James, Chap. I, p. 11):

TABLE 1.—COMPARISON IN AREAS CUT BY DIFFERENT CUTTING METHODS ON NATIONAL FORESTS, 1965 AND 1970

[Thousand acres]

| Cutting method | All national forests |  | Eastern forests |  | Western forests |  |
|---|---|---|---|---|---|---|
|  | 1965 | 1970 | 1965 | 1970 | 1965 | 1970 |
| Intermediate | 863.2 | 364.7 | 548.7 | 213.6 | 314.5 | 151.1 |
| Salvage | 0 | 3.5 | 0 | 0 | 0 | 3.5 |
| Clearcut | 426.2 | 563.6 | 147.5 | 210.3 | 278.7 | 353.3 |
| Shelterwood, seed tree: |  |  |  |  |  |  |
| Preparatory | 225.6 | 170.1 | 28.2 | 18.0 | 197.4 | 152.1 |
| Removal | 209.6 | 349.7 | 31.6 | 38.7 | 178.0 | 311.0 |
| Selection | 29.3 | 69.7 | 0.3 | 0 | 29.0 | 69.7 |
| Total | 1793.9 | 1521.3 | 756.3 | 480.6 | 997.6 | 1040.7 |

Source: U.S. Forest Service.

In terms of total volume, clearcutting accounts for more than half of the wood removed from national forests annually (James, Chap. I, p. 10).

Or stating it another way, approximately one-fifth of the commercial forest lands of the United States are in our national forests. Half of the total softwood inventory and 30 percent of the total harvest of softwood sawtimber come from these forests. In 1970 harvesting was conducted on 1.5 million acres of national forest land. Of this total a little over a half-million acres were clearcut in some form. Significantly, this one third of the timber land harvest provided about 60 percent of the total volume harvested. (Dils, p. 8).

#### *Comments on the issue*

As James points out (Chap. I, p. 15):

> An underlying issue in the controversy surrounding clearcutting is cutting itself. Some of the public sentiment is against any extensive cutting under any harvest method. . . .
>
> Management which attempts to steer a middle course among all user groups often succeeds in satisfying none of them . . .

In commenting on the controversy, Bethel makes these statements:

> The forests are increasingly perceived by many citizens as a source of amenities rather than a source of employment and materials . . . (p. 4).
>
> Most forest management decisions are in their very nature long-term decisions whereas public attitudes and public policies responsive to these attitudes may change on much shorter time cycles . . . (p. 5).
>
> Clearcutting is an appropriate method and sometimes the only method for salvaging timber after fires and in controlling insect and disease epidemics . . . (p. 11).

Having indicated some reasons for the present debate, it must be admitted that clearcutting has sometimes been misapplied. It can be disastrous when applied to some high mountain species, or dry slopes, or where undesirable plants outcompete regeneration and usurp the site. One of the real hazards in forestry is that mistakes usually are highly visible and long lasting. However, in spite of these impacts, the history of natural forest removal catastrophes—fires, landslides, floods, etc.—illustrate the tenacity and ability of forests to recover . . . (p. 8).

In reference to Northeast hardwoods, Ward (p. 7) makes the following observation:

> The issues regarding clearcutting of forest stands in the hardwood forests of the Northeast really revolve about uses other than timber production. Past practice and research have shown that growing hardwoods in even-aged stands, with clearcutting as the harvest technique, is conducive to both high quality and quantity production if adequate provisions are made for achieving prompt regeneration and for proper development of the immature stands by improvement and thinning treatments. Even-aged management is a very efficient timber growing system, biologically and economically, and one that has been successfully used in Europe for many generations (Plochmann, 1968; Barrett, 1965).

In commenting on the Rocky Mountain area, Dils (p. 15) makes this statement:

> In some cases we have clearcut very steep and very sensitive slopes right up to timberline and have harvests of disaster with respect to erosion and soil movement. Often such areas have also proved to be utter failures insofar as regeneration is concerned. Many of these areas should have been left uncut or at best only cut selectively.
>
> Further, in an effort to achieve artificial regeneration some areas have been heavily terraced and replanted (often unsuccessfully). In the opinion of some of the public the areas are definite eyesores, they detract from other uses, and have resulted in inordinate costs.

Dils believes the Forest Service is not entirely to blame for the dilemma in which it now finds itself. We all share the blame, he says:

> The Forest Service has been accused and probably with some justification, of over-at-

tention to timber production and under-attention to the other resources of the forest. This, I believe, has contributed materially to the clearcutting dilemma. However, I hasten to point out that we literally must all share in the blame for this situation. The Forest Service has responded to a goal of attempting to bolster the local economy by keeping established mills and plants running. They have likewise responded to expressed needs for more forest products for more and better housing in the United States. Similarly they have responded to the apparent wishes of Congress to continue to bring more income into both federal and local treasuries through timber harvesting. Many of the failures that might be cited resulted from honest decisions made in response to what appeared to be national goals. It has literally only been in the past five to ten years that changes in public attitudes and goals became so readily and often apparent. (Dils, p. 16–17).

Regarding the importance of roads, he has this to say:

Finally, it should be pointed out that the road system providing access to the clearcut areas are almost invariably much more damaging in terms of watershed values than is the clearcutting operation itself. Where the watershed values are high and where harvesting operations are scheduled, the utmost caution should be observed in the location, construction, and maintenance of road systems. (Dils, p. 25).

He also calls attention to the impact of forest recreation:

Forest recreation has expanded more rapidly than any other aspect of forestry in the last decade. One of our biggest needs is for the research in this field. (Dils, p. 32).

Ralston, in discussing the Southern pine region, points out the difficulty of applying the multiple-use principle in forest management:

"Multiple use of public lands generally is regarded as a worthy management principle, but in practice, it is a concept that causes difficulties because it has never been defined by the managing agencies in a way that has received general public acceptance. It is widely known that multiple use management is supposed to provide timber, water, wildlife, grazing, and recreation benefits from public lands. However, serious problems arise when either the using public expects certain special interest uses to be provided on every acre, or when managers emphasize timber production without proper regard for other use values. If the latter attitude prevails it should be apparent that indiscriminate application of the clearcut system of even-aged management produces the greatest impact on other forest uses. While effects of clearcutting on management for water, animals, and recreation can be significant, the matter of compatibility with other uses—or lack of it—is not an inherent property of the cutting system, but rather of how well the cutting plan is integrated with other use priorities." (Ralston, p. 16).

### *Nutrient Loss*

When the Senate Subcommittee on Public Lands of the Committee on Interior and Insular Affairs held extensive hearings on clearcutting on April 5, 6, and 7, May 7, and June 29, 1971, the statement that generated most interest and discussion was the one presented by Dr. Robert R. Curry, professor of environmental geology at the University of Montana. Dr. Curry claimed that clearcutting would result in serious nutrient losses from the soil. Some witnesses challenged his statement. Others said that present research data available are not sufficient to warrant solid conclusions.

Since the subject of nutrient loss has become so controversial, several pertinent excerpts from the CEQ reports are included here:

9. Nutrients (James, Chap. I, pp. 29–31).

"An issue has been raised about nutrient losses following logging. Does the loss of nutrients damage the forest ecosystem? Further research is needed to refine estimates of nutrient changes taking place, but a body of work is available to provide general answers."

"Trees accumulate sizable amounts of nutrients in stems, branches, roots, leaves and fruits, but the accumulation is generally a small portion of what is available in the forest floor and soil mantle. Nutrients are added to the forest from the atmosphere. and decomposition and weathering of soils and rocks continually release nutrients to the ecosystem. Leaves, branches and dead plants restore nutrients to the soil. Some nutrients are taken out of the forest by streamflow; smaller amounts of nutrients are released into the atmosphere."

"Log removal does not cause serious losses of nutrients to the forest ecosystem. A study of loblolly pine showed nutrient content of a cord of wood to be 0.25 pound of phosphorus, 1.52 pounds of potassium, 1.69 pounds of calcium, 0.56 pound of magnesium, and 1.44 pounds of nitrogen. Needles and branches alone in the trees cut contain larger amounts of nutrients (11). Needlefall over the shortest pulpwood rotation would restore far more nutrients than are removed in logging. A study of a broadleaved species—black walnut—showed somewhat similar concentrations of nutrients in trees, but higher concentrations in the stems relative to leaves and branches (12). The annual leaf fall over a sawlog rotation in black walnut might restore 20 times as much nutrients to the ecosystem as are removed in logging."

"The more significant nutrient losses caused by logging are likely to be losses from the forest floor and soil rather than in the wood removed. In this respect, the losses are minimal under selection cutting. Losses increase with the size of opening; they are greater under clearcutting than any other cutting method, and they may be presumed greater under large clearcuts than under small clearcuts."

"Highly podsolized soils found in the Northeast appear to be more susceptible to nutrient losses after timber cutting than are soils farther south and west. In podsol soils organic matter builds up on the surface of the soil, and very little is incorporated into the lower mineral layers. Because the surface layer is particularly subject to destruction and decomposition during and after cutting, nutrients can be released more readily from such soils (17). Nevertheless, in all studies completed to date, with the exception of Hubbard Brook (7)[1] which is inapplicable to a normal appraisal of logging, nutrient losses do not appear large in relation to the supply of nutrients in the forest floor and soil and the additions to nutrient supplies by natural processes in the forest."

"In the studies conducted in the East (excepting Hubbard Brook), losses of nitrogen have not exceeded 43 pounds per acre. The rate of loss drops rapidly. In 3 to 7 years nitrogen losses are comparable to those in undisturbed forests—3 to 9 pounds per acre per year. All other elements were lost in smaller amounts than nitrogen. In the West, nutrient losses after cutting have been less than those recorded in eastern studies."

"Other evidence of the lack of damage to the forest ecosystem is available from European and Japanese experience. In Japan evenaged management has been practiced in some areas for 300 to 400 years with no evidence of decline in productivity. In Germany clearcutting has been practiced for several centuries with similar results."

James also cautioned against extrapolating conclusions based on the Hubbard Brook study of nutrient loss (Chap. II, p. 45):

It has been charged that clearcutting results in excessive nutrient losses from a site in the drainage waters. To support this charge, the Hubbard Brook Experimental Forest study of nutrient losses in drainage waters from "clearcut" and undisturbed forest watersheds in New Hampshire is frequently cited. This study was a drastic experiment and not a normal timber harvesting operation by clearcutting.

Ward, in commenting on nutrient loss made this statement (p. 16):

. . . Thus it would appear that the loss of nutrient capital following clearcutting should be small except on the poorest sites and in areas where regrowth is slow . . .

Ralston in his CEQ report also commented on nutrient loss, the research at Hubbard Brook Experimental Forest, and the questions posed by Curry's hearing statement, as follows (Ralston, pp. 21–23):

"While we maintain that prevention of soil erosion from roads or logging is the most critical factor in protecting water quality of public lands, questions recently have arisen about increases in concentrations of dissolved inorganic ions, particularly nitrate, found in streamflow after clearcutting. In reality, studies exploring such relationships have been few in number and it will be several years before the results of more definitive studies will be available for evaluation. The work that has received wide attention of environmentalists is that of investigators at Hubbard Brook Experimental Forest who found significant increases in concentrations of nitrate in streamflow following clearcutting (6). "They observed that maximum nitrate levels exceeded standards set by the Public Health Service during certain periods after cutting and also inferred that clearcutting causes serious depletion of soil nitrogen and hence would lead to degradation of site productivity. The experimental treatment which produced these conclusions consisted of clear felling a beech-birch-maple forest leaving all material in place on the fround, and killing all vegetational regrowth on the area for three successive seasons by spraying with herbicides. With no vegetation to reabsorb nitrates released by microbial decomposition of plant remains and soil organic matter, and with increased leaching caused by absence of vegetation (transpiration was eliminated), nitrate concentrations in stream water peaked at 18 ppm in the fall of the second year of treatment (1967) and was above 6.8 ppm in the spring and summer. Herbicide treatments were stopped in 1968, and in the fall of 1970, after two seasons of vegetational regrowth, nitrate levels of the clearcut watershed at Hubbard Brook had declined to 2.8 ppm, a value quite close to those measured at four other clearcut areas now being monitored in the White Mountains of New Hampshire (7). While data on effects of clearcutting on nitrate levels of stream water are as yet inadequate for authoritative judgments, evidence collected so far indicates that average levels are about 3 ppm in the peak period following clearcutting as opposed to

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[1] In the Hubbard Brook study in the White Mountains of New Hampshire, all woody vegetation on a 39-acre watershed was felled during the winter of 1965–66 and left in place. The area was subsequently treated with herbicides for 3 successive summers so that no woody or herbaceous vegetation appeared. Under these abnormal conditions—no vegetation after logging to utilize the flush of nutrients released after logging, no transpiration because of the absence of plants, and high soil temperature causing rapid decomposition of humus layers and tree remains—nitrates in streamflow peaked at 18 ppm in the fall of 1967, higher than desirable levels. When herbicide treatments ceased in 1968, vegetational regrowth followed; after two growing seasons nitrate levels in the streamflow declined to 2.8 ppm, similar to values recorded at other clearcut areas in the White Mountains. The latter values pose no known health hazards.

0.3 ppm in undisturbed forest areas. If effects of this magnitude are confirmed, there is little reason to worry about health hazards, and if long-term depletion of soil nitrogen in a matter of ecological concern, soil fertility can be restored or enhanced by judicious applications of nitrogen fertilizers. One should remember also, as was the case for regulating quantity of streamflow, that the impace of clearcutting on release of nutrients into individual streams can be moderated a great deal by reducing the size and increasing the dispersion of annual cutting units."

Bethel (Appendix I, pp. 1–11) also discusses the impact of clearcutting on the elemental cycle. He includes several diagrams on nitrogen and potassium cycles.

In the 2nd paragraph he makes the following statement:

When the forest ecosystem structure is changed through some natural process or manipulation by man it should be expected that this change would be felt throughout the system passing through this linkage network. It is for this reason that changing one ecosystem compartment can have an effect on some second compartment several steps removed. Obviously the relationship between compartments is neither simple nor always direct. There are many pathways and mechanisms by which elements move from one compartment to another. Therefore changing the forest ecosystem by clearcutting results in more than the simple removal of a storage compartment, it drastically alters the nature of the entire cycling phenomenon. Whether this restructuring of the cycling system results in a deterioration of the site by accelerating leakage and erosional processes is one of the critical questions within the current clearcutting controversy. . . .

Under the heading "Physical Research Needs," Dils (p. 40) makes this comment:

Nutrient cycling—Little is known about the impacts of clearcutting on available nutrients for regeneration. Neither information regarding on-site impacts of changes in the nutrient stock nor data on off-site impacts, such as alteration of chemical content of adjacent streams, is available.

### *Ban on clearcutting*

In Bethel's CEQ report, he devotes 18 pages to the analysis of economic and management impacts that would result from the proposed ban on clearcutting. None of the other four reports deals with this problem directly.

Bethel (Sec. 5, p. 2) makes this comment regarding the proposed moratorium:

"A moratorium on clearcutting of timber from federal lands will have both short and long run economic consequences. Some of these effects will be felt by sectors of the economy directly engaged in the harvesting and production of timber and timber products. Other sectors of the economy which are linked to the primary forest based industries will also be affected.

On page 6, Sec. 5, he shows the extent of clearcutting in his area:

Clearcutting would have accounted for approximately 63 percent of the total harvest in Washington, Oregon, and Alaska in 1969. Public lands under federal ownership would have accounted for about 24 percent of the total harvest through clearcutting.

And on page 7, he translates these estimates into direct impact:

The estimates above provide an approximation of the direct impact of a clearcut moratorium in the Pacific Northwest. That is, a ban on all clearcutting would tend to reduce harvest by approximately 24 percent if the ban applied only to federal lands. About a 63 percent reduction would occur if all lands were included. These estimates are of the initial gross impact. As adjustments were made, harvest volumes should begin to rise.

As noted previously, there is a substantial volume of timber under sales contract by various public agencies. Should a ban on clearcutting affect only future sales, the timber now under contract would provide a substantial backlog of raw material in the near future. If the limitations on cutting were viewed as strictly short-run, the net impact on harvests would be minimal.

Bethel concludes his analysis of the probable impacts of a ban on clearcutting with this statement (Sec. 5, pp. 17–18):

"In searching for the margin between acceptable and unacceptable practices and policy, limitation on cutting would place a premium on avoiding potential risk of adverse consequences. This premium price is borne by a broad segment of the economy and general public. An appraisal of the potential risks involved as well as the consequences of the burden of avoiding that risk may be desirable. On the other hand, available evidence would suggest that it is uneconomic to attempt to avoid all risk. This would be the consequence of a total restriction on clearcutting. A selective prohibition on only the federal lands would likely result in considerable pressures to shift cutting to other ownerships, to other regions of the nation, and perhaps to less desirable sites. To maintain the timber harvest at the current level, in order to minimize short-run losses, could lead to harvesting substantially larger areas on a selective basis. In both instances, there is a real potential that the major difficulties associated with clearcutting would not be overcome but rather shifted to a new setting. The major problems appear to be associated with the feasibility of cutting specific sites and the proper accounting of social costs where cutting occurs. These problems must be confronted directly if adequate resource policy is to be developed. Limitations on cutting, *per se*, will not accomplish this purpose."

Because of the importance of this topic, Bethel's analysis of the proposed ban (Sec. 5, pp. 1–18) is reproduced in its entirety in the appendix of this report.

### *Miscellaneous*

A great number of other subjects are discussed in the five CEQ reports. Of necessity, some are omitted or treated only lightly in this summary. Emphasis is given to those subjects that have generated the most controversy in Congressional hearings on clearcutting and to the policy recommendations in the CEQ reports.

Some of the subjects not fully covered in this summary include: definitions, history, silvicultural methods, range land, fish and wildlife, aesthetics, recreation, watersheds, ownership statistics, forest types, grazing, evolution of silvicultural systems, production records, and the specifics of needed research.

### RECOMMENDATIONS IN BRIEF

The five CEQ reports contain 22 full pages of specific policy recommendations. One report (Bethel) does not contain such a section, but does provide an analysis of impacts that would result from the proposed ban on clearcutting.

Recommendations most frequently stressed were the need for zoning or classification of forest lands, increased research, better guidelines on clearcutting, better financing for roads and multiple use, improved harvesting equipment, improved utilization, and better public relations.

Since the full text of the policy recommendations is included in the appendix, only a brief outline of the recommendations is presented here.

*Rocky Mountains*, by Dils, includes: Montana, Idaho, Wyoming, Colorado, Utah, Nevada, Arizona, and New Mexico.

1. Acre by acre management.
2. Implement multiple use concept.
3. Refine forest land zoning.
4. Overhaul timber sale contracts.
5. Provide better financing for roads.
6. Improve timber sale adm.
7. Explain the "why" of clearcutting to the public.
8. Involve the profession and the public.
9. Try new and imaginative techniques.
10. Congress and courts must clarify conflicting laws.
11. Seek more complete utilization.
12. Develop better guidelines for clearcuts.
13. Identify high-production sites.
14. Improve harvesting equipment.
15. Honor USFS requests for additional funds for multiple use.
16. Improve slash disposal and removal of logging debris.
17. Find out what the public wants from its forests.
18. Train new foresters for broader emphasis on multiple use mgt.
19. Recognize the credibility gap, seek cooperation and try to regain public confidence.

Chapter* IV stresses biological, physical, and economic research needs.

*Southern Pine Region*, by Ralston, includes: Virginia, N. Carolina, S. Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, and Arkansas

1. Apply mgt. zoning.
2. Improve clearcut restrictions and guide lines.
3. Emphasis on hardwood mgt. to protect water and wildlife.
4. Improve financing for roads. Road problem rates top priority.
5. Develop better harvesting equipment. Consider effects on soils.
6. Reevaluate research needs. Consider monitoring effects, hardwoods, and recreation. p. 40.

*Northern Forest Types*, by James, includes Michigan, Wisconsin, Minnesota, and similar areas

1. To avoid conflict and confusion, Congress should require classification of forest lands as to primary use, as recommended by the PLLRC. Independent commission should do the classifying.
2. On primary timber lands, managing agency should be free to clearcut.
3. Congress should provide funds for intensive timber mgt.
4. Harvesting plans should be developed in cooperation with user groups.

*Northeast Hardwoods*, by Ward, includes: Vermont, New Hampshire, West Virginia, Pennsylvania, and similar areas.

1. Clearcutting is desirable when well regulated. Adverse sites should not be clearcut. Guides are needed.
2. Public forests of the northeast should be zoned. Such zoning should be compatible with private lands. Consider productivity in zoning.
3. Policy should involve both public and private ownerships.
4. Research is needed in production, utilization, and to produce hardwood substitute for softwoods.
5. Improve utilization of small trees and parts.

*Pacific Northwest and Alaska*, by Bethel, includes: Oregon, Washington and Alaska

1. This report does not have a section on specific recommendations.
2. Logging with ballons, helicopters, and special equipment shows promise. Sec. 3.
3. Report evaluate various impacts that would result from a ban on clearcutting. (See appendix).

### APPENDIX

All items in this appendix are excerpted verbatim from the original texts. Highlights of the policy recommendations and an analysis of the probable impacts of the proposed ban on clearcutting were abstracted in the body of this report. But these items are sufficiently important to warrant inclusion of the full text in the Appendix.

Items included in the Appendix are as follows:

1. Policy recommendations by Dr. Robert E. Dils, Colorado State University
2. Policy recommendations by Dr. Charles W. Ralston, Duke University
3. Policy recommendations by Dr. Lee M. James, Michigan State University
4. Policy recommendations by Dr. W. W. Ward, Pennsylvania State University
5. Impact analyses by Dr. James S. Bethel, University of Washington

### V. *Policy recommendations (Dils.)*

As a result of the many professional interviews and a perusal of recent literature dealing with clearcutting many significant items surfaced which should be given serious consideration with respect to implementing or revising current policies or developing and accepting new policies. This list is far from all-inclusive, and is not given in any ranking or priority. All of these issues, though, merit consideration and all affect directly or indirectly clearcutting practices and the quality management of our public forests.

1. It is apparent that we frequently have been guilty of "prescription generalization" by types and/or by regions. With the wide variability of a given type and the range of demands upon our resources this concept is no longer acceptable. Rather we need to think literally in terms of acre by acre management.

2. The multiple use concept is viable but more than lip service must be given to it. We need realistic plans with inputs by all interests. Frequent reviews and updating are absolutely essential. Even more importantly, we need to really accept the principle of multiple use as a land management guide or working tool. Region 1 in 1970 conducted an evaluation of "Quality in Timber Management." This regional self-analysis was unusually candid and the study team made some excellent policy recommendations. More studies of this type, speedily implemented rather than neatly filed away would go far toward erasing past errors and avoiding repetitive mistakes.

3. More attention should be directed to forest land zoning. We have applied broad zoning concepts in most of our national forests generally recognizing such zones as travel, water, crest, general forest, and special use. We need a much more detailed system and we need to apply it with multiple use planning.

4. The entire area of timber sale contracts needs to be thoroughly reviewed and overhauled (despite new procedures approved effective July 1, 1971). Presently it is virtually impossible to alter a contract even for widely recognized environmental improvement (unless such would result in immediate increased income to the government). Some sales presently approved but not yet executed will undoubtedly come home to haunt the Forest Service because contracts cannot be re-negotiated in light of changing public goals and values for quality forest management.

5. At present a new road system must be carried by the immediate timber sale contract and/or appropriated funds. This puts undue pressure on the agency to get maximum income from the cutting to pay for the road. There should be a better way to assess costs—through several cuts rather than "forcing" on clearcut, and through assessment to other uses.

6. Improvement in timber sale administration and supervision is needed. Some of the "failures" have been attributed to personnel policies, including rapid personnel transfers. Apparently, too, additional effort is needed at administrative levels in the area of sale inspection.

7. An inadequate job of public relations or educating the public as to why cuttings—particularly clearcuttings—are made seems apparent. Well prepared signs explaining the need for cutting for mistletoe control or cutting that concurrently will provide timber and improve wildlife habitat would be accepted by much of the public.

8. There is a need to involve the entire profession and the public in the development of goals and priorities in public land management. The tide of the times is running strongly against paternalistic decision-making. Complete, documented facts presented to the public well in advance of a potentially controversial decision would do much to dispel the resentment felt by a majority of the young and many of their elders. It is galling and disturbing to feel that the individual has no voice in matters which legitimately concern him. It is poor policy to advance half-truths and worse still to explain nothing at all. If a clearcut on a certain area honestly seems best, let's say so—and say why.

9. More opportunity should be provided to try new and imaginative techniques in forest land management. There apparently is a feeling that agency personnel are too boxed in by fixed agency policies.

10. Some of the concepts and laws in which the public agencies must operate seemingly are in conflict (e.g., sustained yield, multiple use, Wilderness Act). Congress or the courts must act at an early date to clarify these conflicts and permit an orderly development of policy.

11. A major effort should be made towards ways and means of effecting more complete utilization of the forest crop. Leaving more than half the crop in the forest is inefficient and creates monumental problems in the type of cleanup which increasingly will be demanded by both sightseers and statesmen.

12. New guidelines should be developed with respect to clearcuts. Based upon our ecological knowledge and from the experience hammered home by some of our failures we should be much more specific in designating those areas that should not be clearcut, e.g., steep slopes with sensitive soils, sites where we do not presently know how to bring about regeneration. In some areas no cutting in any form, let alone clearcutting, should be a very viable option.

13. More effort should be directed to the identification of high-production timber sites and to the potential for further yield improvement on these sites through such measures as weeding, thinning, fertilization, and use of genetically superior stock. Intensive management of the highly productive sites could relieve the pressure for timber harvest on sites of lower productivity.

14. Attention should be given to harvesting equipment and methods especially on sensitive areas and on steep slopes. Jammer and heavy equipment logging should not be tolerated on some areas. High value nature trees could be extracted with safer techniques. Such considerations need to be written into sale contracts in a more stringent manner than has previously been the case.

15. To do all that the public would like in quality management would require a tremendous new input of men and money to our public agencies. The Forest Service has recognized some of its own deficiencies and has repeatedly requested additional funds for multiple use, usually with little success. With new public awareness and concern it is hoped that these requests will be honored. At best the agency will not get all of what it needs to do the job required—consequently some re-ordering of priorities will be necessary.

16. A major effort should be made to find better ways of slash disposal and removal of logging debris. Increasingly it will not be tolerated around highly visible and heavy use areas. Chipping and burying, as well as burning and perhaps chemical treatment need to be further assessed.

17. A major effort is indicated to try to make earlier determinations of what the public wants from its forests. As a start we should examine our failures to assess just what it is that is unpopular and why.

18. Increasing emphasis on multiple use planning and management appears inevitable. To prepare for this we need to start a training program now for the foresters who will be putting multiple use plans together and applying the management recommendations. The forest management specialist must also have an innate and ever-present appreciation for wildlife, water, grazing and scenery values.

19. Finally, it must be recognized that there has in fact developed a credibility gap between at least a part of the public and the land management agencies. This gap affects not only the agencies but the entire profession. Other segments of the forestry profession stand ready to provide whatever assistance possible in regaining public confidence and the agencies should take every opportunity to consult with their associates on solutions to mutual problems.

### *Recommendations for Integrating Timber Production With Other Uses and for Maintaining Environmental Quality (Ralston)*

While regional guides and unit plans propose new procedures for national forest management, most of the current criticism is about cutting practices, so public acceptance of the "new look" undoubtedly will depend on how well timber management practices blend with other uses and on their impact on environmental quality. Certain methods for reducing such impacts have been known for some time and merely need to be strictly observed at the operational level. Some of these things are designed for softening the effects of clearcutting, but there are other inherent difficulties with timber harvesting that must be dealt with—irrespective of the silvicultural system finally chosen—if perceptible damage to the environment is to be avoided. Several principles or procedures that deserve consideration in timber management planning are:

1. *Zoning*—For at least 7 years, management specialists in the southern region have recognized 4 zones that have value in planning timber harvesting activities.[1] These are: *travel zones, water zones, special use zones,* and the *general forest zone,* which comprises the remainder and bulk of area where timber production is viewed as a primary activity. Cuttings in travel zones must be planned to prevent undesirable aesthetic accidents and also to enhance viewing qualities. Water zones are vital to recreation, wildlife, and water quality and require most conservative harvesting treatments. Special use zones include recreation sites, wild and scenic areas, and places of unusual natural or human historical value that are to be preserved or developed with minimal disturbance.

2. *Clearcutting restrictions*—Current timber sale directives in Region 8 establish limits of 20–200 acres to size of clearcut areas. Furthermore, the shape and proximity of sale areas to other cutting blocks must be planned in accordance with guidelines prepared by landscape specialists. If district rangers have local problem areas in travel zones, cutting plans are to have advice and approval of the landscape architect.

Some difficulty is being experienced in immediate total enforcement of these regulations, because some sale contracts written prior to their existence must be honored unless contracts are violated by the purchaser.

3. *Management type emphasis*—Current directives place much greater emphasis on management of hardwoods. All sites capable of growing good quality broad-leaved species are to be maintained or converted to these types. This policy recognizes and should perpetuate key habitats for wildlife and water protection zones.

4. *Forest roads*—Design, construction, use, and maintenance of forest roads is the most

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[1] P. J. Hanlon, Supervisor of North Carolina National Forest (Ret.), Pers. Comm., 1971.

serious probable source of environmental difficulties and other use conflicts. The problem is perennial and will continue to be troublesome until a properly financed and regulated road program is developed.

Current regulations state that cost of road construction on National Forests is to be met either directly from money amounting to 10% of timber sale receipts reserved for road building, or indirectly by downward adjustment of stumpage prices, if the logger installs the road.

This operational procedure contributes pressures that often lead to timber harvesting practices that are harmful to other use activities. The economics of road construction favors maximum timber removal and large cutting blocks to reduce unit road costs. Also, road locations are apt to follow routes that give easiest and most direct access to timber sale areas at the expense of regard for other values. Thus, if the public land manager attempts to optimize timber harvesting economics, he is forced on to a path that may lead to severe public criticism.

The road problem is national in scope and should have highest priority for study and solution. The Forest Service maintains that operator-built roads cause most of the harmful effects and that funds should be provided so that all roads could be designed and maintained by Forest Service engineers. Establishment of a revolving fund to be repaid from timber sale receipts has been suggested as a possible solution to this problem. In any event, the road problem is a key question in the environmental management of our public forests.

5. *Harvesting equipment*—A major trend in the development of harvesting equipment for the Southeast and elsewhere may bring about significant long-term decrease in soil productivity. This trend was triggered by increased labor costs that forced the forest industries into doing their own harvesting by highly mechanized methods. Since the cutting units are usually large (ca. 1000 acres) and the pulp mill must be fed 24 hours a day, efficiency called for larger and larger machines that could plow through cutting areas in any kind of weather. It has been shown that soil compaction, puddling, and disruption of surface drainage during logging has detrimental effects on subsequent establishment and growth of loblolly pine on fine-textured soils of the Lower Coastal Plain (14). While it is assumed that tillage in site preparation will correct the damage, this assumption has not yet been established.

The main point here, however, is that Forest Service sale areas tend to be logged in the same way and with the same equipment that is used elsewhere in the region. Possibly this should not be the case, and perhaps the Forest Service could provide leadership in the development of smaller machines with decreased bearing pressures to minimize soil disturbance in logging.

Current directives for decrease in size of cutting areas, emphasis on hardwood management, and environmental protection indicate that specifications for the design of harvesting equipment deserve serious consideration.

6. *Research needs*—Forestry research in the southern region characteristically has been pragmatic and addressed to short range problems related to the silviculture, management, and utilization of pine. The current climate of public opinion has caused reevaluation of research goals and projects are being renamed and reoriented to have some sort of ecological appeal. Although it would seem obvious that studies of environmental effects and multiple use management should have high priority, a few specific examples may illustrate the kinds of things that should be done:

a. External effects should be motivated for all studies of intensive silvicultural practices, e.g., forest fertilization, tillage, drainage, and prescribed burning. Similar data for even-age and all-age cutting systems also should be collected.

b. More attention should be given to hardwood research, particularly to artificial regeneration techniques.

c. More thought on social and economic aspects of forest amenity values is needed, and especially how to shift costs of outdoor recreation from the general taxpayer to people who actually enjoy the benefits.

*Policy Recommendations (James)*

Clearcutting as a management practice on the public forests cannot be appraised properly without clearer definition of the roles to be performed by agencies responsible for public land management.

The Forest Service and the BLM, which are the important federal agencies in timber production, are guided by sustained-yield principles in timber production, multiple uses of lands (outdoor recreation, range, timber, watershed wildlife and fish resources) and constraints of the Environmental Quality Act of 1969. The legislative guidelines, other than those provided by federal budgets, are imprecise.

The Forest Service and the BLM have assumed that other use values require some elimination or restriction of timber harvesting (recognized in the designation of wilderness, water influence zones, travel zones and special use zones including recreation sites, wild and scenic areas, and places of unusual natural or historical value), but over the bulk of their forest jurisdictions they have assumed timber production to be the primary goal of management. This assumption is based on several facts: (1) Timber is a major raw material in the national economy; (2) The Federal Government now owns some 20 percent of the commercial forests in the United States, nearly 40 percent of the merchantable timber and over 60 percent of the softwood sawtimber, (3) Federally owned forests increased the volume of timber cut threefold from 1947 to 1968 to take up the slack as timber supply from private lands declined; (4) Many wood-using firms and communities are dependent on timber supply from federal lands; (5) Projections indicate that national demand for timber products will increase substantially in the decades ahead; (6) Supply projections indicate that national timber supply will fall far short of demand projections at current relative price levels; and (7) The burden of increasing timber supply to meet demand projections will fall increasingly on the federal forest-managing agencies.

These assumptions about timber-production responsibilities have been buttressed by federal budget guidelines which have emphasized timber production over other forest uses and by the professional judgment within the managing agencies that timber production can be pursued with little loss and some benefits to other environmental values.

The significant role of the federal lands in timber production needs definition along with other uses. The agency approach of specifying limited zones for dominant nontimber influences and assuming all general use areas classed as commercial forest to be potentially useful for timber production has led to management practices provoking widespread criticism of federal forest land management. The criticism is currently focused on clearcutting, but timber harvest in general is the more basic issue. The Forest Service, because of the extent and key timber-production role of the national forests, receives the brunt of the criticism.

Without abandoning the concept of overall multiple use, the Congress should require that federal forest lands be classified as to primary use. Under this concept, highly productive forest lands which are not uniquely valuable for other uses would be classified as primarily timberlands. Other areas would be assigned to other primary uses. This recommendation was one advanced by the Public Land Law Review Commission.[1] In such a system of classification, a portion of the public lands would not merit any current primary designation and would be left in a general-use category.

The classification of federal lands by primary uses should be done under the direction of an independent Commission constituted for the purpose. The Commission should be broadly based to represent all uses of the federal lands. It should be enabled to conduct studies and public hearings and seek advice from user groups before deciding on the public land classifications to be submitted to the Congress for statutory recognition.

This approach would provide the basis for public land management which would help to minimize agency dilemmas in deciding on public land use and lead to more efficient management practices. In the case of the Forest Service, classification by primary use would inform the agency as to which portions of its 97 million acres of commercial forest are to be managed primarily for specific purposes.

A classification of primary timberland would be restricted to the most productive timber-growing areas at lower or middle elevations. It would probably include no more than 25 percent of the national forest lands presently classed as commercial forest. The primary timberland classification would still require sustained-yield production and a concern for avoiding unfavorable environmental effects, and it would permit other land uses insofar as they do not interfere with the primary objective.

However, the air would be cleared in important ways. The classification decisions would be arrived at through a process involving broad agency and public participation under an independent Commission and requiring Congressional approval; it would let each user group know which lands are to be managed primarily for its use concerns; and it would provide direction to the management agencies.

In regard to primary timberlands, the managing agency would be directed to manage intensively for timber production. Cutting practices would be determined by economics and the ecological requirements of forest stands. So long as the harvesting and regeneration practices here are not injurious in terms of site productivity and watershed effects, the managing agency should be free to follow clearcutting or any cutting methods suggested by the technical body of knowledge available. It should be directed to bring all primary timberlands under management, to convert all overmature stands to a growing condition as rapidly as possible, to institute harvest cuttings, site preparation, planting, fertilization, intermediate cuttings and other management procedures designed to maximize the yield of timber consistent with economic evaluations of timber-growing. Along with such directives, the Congress would need to provide budgets for the rapid building of access roads and to provide intensive timber management.

If intensive timber management is both directed and budgeted, primary timberlands might produce more timber for national markets than is now possible with current management systems over much larger areas of public forest lands.

Timber management would not be excluded from lands classified for other primary uses, but its secondary position would be clear. On a primary watershed area, e.g., the managing agency would have to defend cutting on the basis of enhancing watershed values. On a primary wildlife area, cutting would have to be justified in terms of improving wildlife habitat. In primary recreation areas, cutting would be used to open intensive use sites and to expose vistas. Sanitation cuts to control insect and disease epidemics would be permissible in all primary use areas other than wilderness.

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[1] Public Land Law Review Commission, 1970. One Third of the Nation's Land, A Report to the President and the Congress, Washington, D.C.

Timber management would also be permitted in general-use areas, but the management approach should be carefully constrained. Evaluation of cutting methods in the body of this report make it clear that carefully designed clearcuts are generally the most appropriate in terms of maximizing timber productivity and wildlife habitat and minimizing utilization costs. Clearcutting does, however, have an unfortunate effect on the general public in esthetic impact and it often has other harmful environmental effects which may be due to mistakes in managerial judgment or overzealous devotion to timber production.

Harvesting in the general-use areas should be pursued with an emphasis on environmental stability. Harvesting plans by managing agencies should be pursued in an atmosphere of close participation with local user groups. The machinery for such planning requires far more thought and effort than the managing agencies have yet been able to institute in the formulation of management plans. Community and firm dependency should be considered in the development of harvesting plans, but the managing agencies should be directed to emphasize environmental stability more than timber production in the general-use areas.

This would mean acceptance of higher administration costs, higher logging costs and reduced stumpage revenues in order to avoid unfavorable environmental impacts. Cutting methods could not be prescribed arbitrarily because of the great variability in ecological conditions over forest areas, but a policy of emphasizing environmental stability in general-use areas would avoid severe cutting impacts. Such a policy would imply that clearcutting, carefully controlled as to size, shape and dispersion, would be acceptable in some forest types and locations, but it would substitute shelterwood for clearcutting (despite higher costs) wherever shelterwood is an ecologically feasible alternative in evenaged management, and it would show a preference for unevenaged management when this is a suitable means of maintaining a particular type.

### *Policy recommendations (Ward)*

*Silvicultural clearcutting* in the hardwood forests of the Northeast is biologically and economically a very desirable timber producing practice when conducted as part of a well-regulated, even-aged management system.

Improvement and thinning operations (partial cuts) are essential during the early and mid years of stand development to control species composition and density in order to grow vigorous, valuable stands. At maturity, harvesting must be performed in a manner to protect the site, the desirable advanced reproduction, and to encourage establishment of the highly desirable intolerant species like paper birch, black cherry and yellow poplar.

The acreage harvested (clearcut) in any one year may fluctuate somewhat to take advantage of market conditions, but should not average more than one or two percent of the total area of the management unit, depending upon the number of years required to grow stands to maturity.

Clearcutting can be compatible with many other forest uses—extensive forms of recreation like hunting, hiking, viewing—if the size, distribution, and configuration of the harvest areas are properly planned.

There are several kinds of sites where clearcutting should not be done. On steep slopes with highly erodible soils a complete vegetative cover should be maintained continuously. Timber utilization may be possible on some of these sites if it is profitable to harvest by the shelterwood or selection systems. Otherwise, these site should be considered non-operable.

Where low-flying areas are subject to frequent frosts or high water tables, the maintenance of a high forest should be continuous. Again, the shelterwood and selection systems are more appropriate for timber production than clearcutting.

Where the dominant use of a forest area is some form of intensive outdoor recreation—camping, picnicking, skiing, water based activities—only salvage cutting of dead or dying trees is appropriate. Patch cutting or selection cutting might be done in the peripheral zones around such areas, but the major purpose should be to enhance enjoyment of the recreational area rather than to produce timber. Only in some cases should it be expected that this type of timber harvesting would be economically profitable. A subsidy to the operator, in some form, would normally be necessary if such work was to be accomplished.

To meet both the timber needs and to maintain the environmental values desired by recreationists, the public forests of the Northeast should be zoned. Much has already been done; a great deal more remains to be done. When a dominant use has been determined for an area, then additional compatible uses may be assigned with appropriate constraints to protect the dominant use.

A suitable procedure must be developed for defining criteria to be applied in zoning. It should recognize the variety of special interests involved and the probable future demands for each legitimate use. Expertise in timber, water, wildlife and recreational planning should be adequately represented in developing and applying zoning criteria. This will require a much greater investment in planning-power than has previously been allocated to the U.S. Forest Service and its counterparts in the State services. Although it is unlikely that any zoning scheme can be completely rigid, drastic revisions should be avoided. The plan should recognize the slow rate of change typified by the growth and decline of forest stands.

It should also recognize that publicly-owned forest lands in the Northeast constitute less than ten percent of the total, and that what is done on adjoining properties may have considerable bearing upon the assignment of uses to public land. Many citizens have the attitude that recreational uses should be given first priority on the public forest lands. Others feel that private investment should be encouraged to develop recreational facilities—ski resort, campground, shooting preserve—and that the citizen should expect to pay, more directly than through taxes, for his particular recreational demands. Zoning of public lands should be compatible with uses of privately-owned lands.

Acquisition of the eastern National Forests under the provisions of the Weeks Law (1911) required that these lands be managed to regulate the flow of navigable streams and to produce timber. The Multiple Use-Sustained Yield Act (1960) required that wildlife, range, and recreational resources receive equal emphasis with the water and timber resources in the management of the National Forests. There is legitimate concern on the part of the wood-based industries of the Northeast as to whether the timber resource will receive its proportionate share of attention since the "voice" of the timber interests is relatively small in comparison to that of the recreationists.

Even though 60 percent of the total land area of the New England and Mid-Atlantic States is classified as commercial forest land, a considerable portion of the forest lands in private ownership have already been reserved for purposes other than timber production. Estimates fluctuate from less than 30 percent to over 70 percent. No one knows how much growing stock is actually available for timber harvesting, but a survey of mill operators in Pennsylvania indicated that 80 percent of the respondents expected the quantity of available sawtimber to decrease substantially in the next 10 years. (Pa. State Chamber of Commerce, 1969)

The information and educational services of the federal, state, and university agencies have been laboring for many years to advise the private land owners of ways to increase the productivity of their forest lands. Much of the effort has been devoted to the tangible benefits to be derived from sale of timber products. Except for his personal enjoyment, the landowner has a very limited incentive to provide water, wildlife, and recreation. Yet these latter benefits are precisely those that the general public desires and even demands. It is not reasonable to expect that the privately-owned forest lands will continue to provide public benefits without reimbursement. On the other hand, it is not likely that the public lands can provide all of the desired recreational opportunities. There is an obvious need for a forest land policy that includes both public and private ownerships.

### Recommendations for Increasing Timber Supply

In the delineation of zones within the public forest, there is a tendency to define the various recreational and special use areas first and to assume that the remaining areas can be efficiently operated to produce timber. Unfortunately, the stream valley and lower slope positions, where intensive recreational demands are frequently concentrated, are also the same sites where timber production has the greatest potential because of better growth rates, species variety, and accessibility at low cost. Therefore, in the zoning process, it is essential that productive capacity be considered for each use in terms of quantity, quality, and costs of management.

By applying known cultural methods—weeding, improvement, thinning—on the better growing sites, it is entirely possible to double the merchantable timber yields now produced by untreated hardwood stands. With genetic improvement within the desirable species and adjustments in the species composition of stands, yields can be further increased. The greatest hindrance to high yield timber production is the present inability to utilize profitably the small-sized trees and tree parts that should be removed in cultural treatments. Timber stand improvement (TSI) often represents a cost against future yields that can be tolerated economically only on the best sites. Research is needed to improve both timber growing and timber utilization technology. It is conceivable that methods can be developed to produce hardwood substitutes for the apparent shortage of softwood lumber and plywood in housing construction, and at the same time grow hardwood forests that better satisfy the aesthetic and recreational requirements of the northeast region.

### *Economic and management factors relating to clearcutting (Bethel)*

In Washington and Oregon most federal forest lands are managed by the U.S. Forest Service and the Bureau of Land Management. BLM is a much more important factor in the timber supply picture in Oregon, because of the O. and C. lands, than it is in Washington.

In Alaska most of the federal timber harvest is from national forests. While BLM has custody of very large areas of federal land, most of it is not commercial forest. In 1970 about 90 percent of the total Alaska harvest came from U.S.F.S. lands and 90 percent of this came from the Tongass National Forest.

In the management of its timberland in southwest Oregon, the BLM has been moving away from clearcutting as a harvesting method. Because of a number of unique biological factors, BLM has not been achieving the regeneration that it desired in this area. The method that they are converting to is a three-stage partial cut designed to achieve better regeneration on dry arid south and west slopes. About one-third of the volume on the west side of the Cascades currently comes from this new system. On the east side, virtually all management involves some form of partial cut.

In its management of eastside forests, the U.S.F.S. harvests more than 90 percent of its volume using partial cutting systems. About one-third of Forest Service westside harvest is accomplished with partial harvest systems. This includes volumes from commercial thinnings, mortality salvage, removal cuttings and regeneration harvests. On the eastside about one-third of the regeneration cut volume is from clearcutting and this is declining. On the west side about 85 percent of the regeneration volume is from clearcutting and this is slightly decreasing.

In Alaska the total estimated allowable cut on U.S.F.S. lands was 1248 million board feet in 1970; 824 million board feet of this was on the Tongass National Forest. The allowable cut in 1970 was nearly double the actual harvest which was 637 million board feet. This results from the large volume of timber included in the allowable cut which is presently inaccessible. In Alaska Forest Service timber harvest affects 13,000 to 15,000 acres annually, and it is essentially all clearcut. The commercial forest is a mixture of 20 to 40 percent Sitka spruce and 60 to 75 percent western hemlock with some western red and Alaska cedars in a few localities.

A moratorium on clearcutting of timber from federal lands will have both short and long run economic consequences. Some of these effects will be felt by sectors of the economy directly engaged in the harvesting and production of timber and timber products. Other sectors of the economy which are linked to the primary forest based industries will also be affected.

The resultant consequences will be broadly felt throughout the economy as income and spending patterns are affected. The distribution of income by economic sector as well as by geographical region will change, and the burden of financing public programs will shift. There will be a redistribution of costs and benefits between those directly or indirectly using public lands and the general taxpaying public.

In order to estimate the various impacts of policy changes, it is necessary to quantity the estimated change in timber harvesting programs which might be caused by the proposed clearcutting moratorium. This necessarily involves arriving at a workable definition of the precise harvesting practices to be prohibited.

The term "clearcut" is sufficiently imprecise that a ready quantification is not possible. Harvesting techniques are not easily segregated into definite categories; rather, there is a continuum of harvesting methods that span a broad range from single tree harvesting at one extreme to total removal of forest over large areas on the other. Policy measures to restrict cutting practices must define the point that divides this continuum between those practices permitted and those not permitted.

It is also necessary to specify the category of lands subject to harvesting restrictions. A moratorium of Federal lands only will have a substantially different impact than a restriction on all commercial forest lands, including state and private. This clarification is particularly significant in areas such as western Washington and western Oregon where intermixed ownership is common.

The impact of timber harvest will also depend upon whether or not restrictions are applied to new timber sales only or to both new sales and timber already under sale contract. Because of the lead time required for sale preparation and the necessity of permitting the harvesting of a sale over a number of years, a prohibition applicable only to future sales would not have such immediate impact. Timber volumes under existing contracts would likely sustain many operators for approximately two years. There would undoubtedly, be individual cases of severe impact, however, the total reduction in timber harvest would likely be marginal. Should prohibitions against clearcutting practices be made applicable to all timber presently under contract and subject to cutting within the next two years, the impact would be quite severe.

The volume of timber chargeable to the allowable cut in Region Six of the Forest Service was 4.1 billion board feet in calendar year 1969. At the end of that year, there was 9.5 billion board feet under sales contract. This was 2.3 times the amount of the 1969 actual cut. If a moratorium were applied to existing sales as well as future sales, a substantial reduction in total harvest would occur.

### *Qualifications of limitations on cut*

Assuming that the factors noted above are resolved and definitive operational criteria are established, it is possible to judge the magnitude of the probable impact of eliminating clearcutting as a timber harvesting practice. Without more empirical research, which would be required to reach definitive conclusions, only some general impressions can be given here.

### *Measure of direct timber impact*

The first consideration is the estimated reduction in gross timber harvest resulting from cutting restrictions. Based on the assumption that such restrictions would apply to only federal public lands and would include all cutting conventionally termed clearcutting, the following facts are relevant.

In Washington and Oregon, the federal government is a major source of timber. In Washington, some 22 percent of all timber harvested in 1969 came from federal lands. The federal harvest in Oregon was slightly over 50 percent. Over 90 percent of the timber harvested came from federal lands in Alaska.

The impact of a clearcutting restriction would affect the volume of harvest from public lands in different ways. In the State of Alaska, clearcutting provides practically the entire cut. In Washington and Oregon, harvesting methods currently used are more variable, yet clearcutting is predominant. In the State of Washington in 1970, over 70,000 acres of Forest Service lands were harvested. Almost 22,500 acres of this were clearcut or over 32 percent of the total. For all ownerships in the State of Washington, clearcutting was used on 121,500 acres or 37.4 percent of all lands cut.

Regional differences in land ownership and differences between Coastal and Inland timber stand composition and stand volume in Washington and Oregon make the role of clearcutting less clear in these two states than in Alaska. As noted above, 32 percent of federal acreage harvested, and 37.4 percent of all acreage harvested in Washington in 1970 was by clearcutting. In western Washington, over 53 percent of the Forest Service acreage harvested was by clearcut, contrasted to only 14 percent in eastern Washington. Differences in harvested volume per acre by region are also important. Less than half the Forest Service acreage harvested was in western Washington; nevertheless, these lands contributed over 76 percent of the harvested volume. For all ownerships, harvested acres in western Washington constituted about 58 percent of the total. These same lands contributed over 86 percent of the harvested volume.

Based on the above differences in distribution of cutting by ownership and region, and estimated proportion of regional volume obtained through clearcutting,[1] the following volumes of timber harvested have been estimated:

TIMBER HARVEST, 1969, MMBM

| State and region | Total harvest | Clearcut harvest | |
|---|---|---|---|
| | | Total | Public only (Federal) |
| Oregon: | | | |
| Eastern | 2,058 | 206 | 127 |
| Western | 7,093 | 5,240 | 2,520 |
| Total | 9,150 | 5,446 | 2,647 |
| Washington: | | | |
| Eastern | 1,068 | 107 | 43 |
| Western | 5,936 | 4,390 | 810 |
| Total | 7,004 | 4,497 | 853 |
| Alaska | 581 | 581 | 523 |
| Total | 16,735 | 10,524 | 4,023 |

Clearcutting would have accounted for approximately 63 percent of the total harvest in Washington, Oregon, and Alaska in 1969. Public lands under federal ownership would have accounted for about 24 percent of the total harvest through clearcutting.

### *Alternative sources of supply*

The estimates above provide an approximation of the direct impact of a clearcut moratorium in the Pacific Northwest. That is, a ban on all clearcutting would tend to reduce harvest by approximately 24 percent if the ban applied only to federal lands. About a 63 percent reduction would occur if all lands were included. These estimates are of the initial gross impact. As adjustments were made, harvest volumes should begin to rise.

As noted previously, there is a substantial volume of timber under sales contract by various public agencies. Should a ban on clearcutting affect only future sales, the timber now under contract would provide a substantial backlog of raw material in the near future. If the limitations on cutting were viewed as strictly short-run, the net impact on harvests would be minimal.

A second consideration is the potential for maintaining some level of harvest through modified sales on the public lands using other logging techniques. The potential for this is highly dependent on the definition of prohibited practices and the particular characteristics of the individual sales. The availability of logging equipment, personnel to reappraise sales, conditions in local timber markets, and potential timber available from other ownerships would all affect the residual timber potentially harvestable from public lands under selective systems.

A generalized estimate of the residual volume can be made on the basis of available experience and potential market responses. Because of the problems of equipment availability, personnel limitations, additional roading and harvesting costs, and associated factors, during the first year of a moratorium not much more than 15 percent of the potential clearcut volume could be harvested by other means. This percentage would likely increase to approximately 25 percent during the second year. Based on these assumptions, the following residual timber harvest would be expected:

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[1] Estimated at 100 percent for Alaska, 75 percent for Coastal Washington and Oregon, and 10 percent for eastern Washington and Oregon.

| Restrictions | Clearcut volume | 1st year | 2d year |
|---|---|---|---|
| All lands | 10,524 | 1,580 | 2,631 |
| Federal lands only | 4,023 | 603 | 1,006 |

A reduction in the volume of timber available by clearcutting would potentially stimulate the harvesting of timber on other ownerships; i.e., State and private, particularly if the limitations applied only to federal lands. Although it is not clear what the magnitude of such a shift might be, it can reasonably be assumed that the supply of timber from private lands would respond to higher market prices. Higher prices would be expected since many operators, both of logging equipment and mill facilities, would be in a position of trying to minimize their shortrun losses. Even if there is no national market adjustment in the price of food products, a higher stumpage price for regional timber could be expected. Other public agencies might respond to increased timber (stumpage) prices in a limited manner. Private owners are more likely to adjust their own harvest plans.

Another potential source of supply would be from British Columbia, a province with substantial timber inventories. The magnitude of these shifts could be as much as 20 percent of the reduced volume caused by restricting clearcutting only on public lands. Obviously, a shift this large toward private and other nonfederal lands would not occur if these lands were also covered by restrictions.

While imported timber would not be equally accessible to all mills in the Pacific Northwest, an estimated volume of approximately 5 percent of the clearcut volume reduction might be available with a ban on only public lands. About 10 percent might be imported if a total ban were placed on clearcutting on all U.S. ownerships. Obviously, these assumptions are contingent on the foreign trade policy of the United States and Canada. Under these assumed conditions, potentially offsetting harvests of the following amounts would occur:

ALTERNATIVE SUPPLY OF TIMBER HARVEST

| Restrictions | Residual harvest | Increase in private | Imports | Total |
|---|---|---|---|---|
| All Lands (MMBF): | | | | |
| 1st year | 1,580 | | 1,052 | 2,632 |
| 2d year | 2,631 | | 1,052 | 3,683 |
| Public (Federal) lands only: | | | | |
| 1st year | 603 | 805 | 201 | 1,609 |
| 2d year | 1,006 | 805 | 201 | 2,012 |

Based on the above estimates, the net effect on timber harvests during the two-year period would be as shown below. These estimates assume the actual 1970 harvest as the base for comparison.

| | Clearcut harvest | Alternative supply (MMBF) | Net timber impact | Percent of 1970 cut |
|---|---|---|---|---|
| All lands | 10,524 | [1] 2,632 | 7,892 | 45.5 |
| | | [2] 3,683 | 6,841 | 40.8 |
| Public (Federal) lands only | 4,023 | [1] 1,609 | 2,414 | 14.4 |
| | | [2] 2,012 | 2,011 | 12.0 |

[1] 1st year.
[2] 2d year.

As would be expected, the net effect of a moratorium would be most severe in terms of reduced timber harvest during the first year of a total ban affecting all lands. This impact would approximate 45 percent of the 1970 regional timber harvest. A restriction affecting only public (federal) lands would potentially reduce harvest by about 14 percent. The potential for timber market adjustments would moderate these impacts during a second year, but not substantially.

It must be noted that these estimates are overall regional approximations for Washington, Oregon, and Alaska. They do not identify the specific impact on individual communities and timber markets. The dependency on public timber varies considerably by both geographical region and segment of the forest industry. Many communities, particularly in Alaska, are almost entirely dependent on public timber for their economic base.

### *Secondary impacts of reduced timber harvest*

A reduction of timber harvest of the magnitude described above would obviously have repercussions throughout the economy. Two primary considerations are the effects on national timber markets and indirect impacts on sectors linked to the harvesting of timber and the production of forest products.

The possible impacts of a reduced timber harvest would include adjustments in markets for finished wood products. The regional role of timber production must also be considered in a national context. Markets for timber products from the Pacific Northwest are national, or international, in scope, and regional products must be competitive in the markets if production is to remain economically feasible.

Log consumption in Washington, Oregon, and Alaska constituted approximately 30 percent of the national log consumption in 1968. A significant reduction of harvest within the region would, therefore, lead to major changes in national markets for wood products.

Changes will reflect both the change in the regional and national supply of timber. A moratorium on clearcutting will lead to a shift in the supply of timber for both the region and nation. The regional adjustment was estimated at 45 percent during the first year if all lands were affected, and about 14 percent if only federal lands were subject to restrictions.

The nature of the adjustment in other regions would differ, due to the differences in forest type and the associated use of clearcutting, and to differences in forest ownership.

A ban affecting only public lands would result in national supply adjustments somewhat less than the regional reduction. This would be due to the dominance of federal lands and timber harvest in the Pacific Northwest and the lessor role (both in acreage and volume of timber) in other major producing regions, particularly the Southeast. Additionally, the use of clearcutting as a silvicultural practice is more widely used in the Pacific Northwest than in most other areas.

In contrast, a ban affecting all commercial forest lands would have greater supply implications nationally, since the production of timber from nonfederal lands is much greater in other regions. Whereas a ban on cutting on federal lands only would stimulate increased production from nonfederal lands (both within the region as well as a shift to other regions), a total restriction would limit the alternative sources of supply to residual harvests using techniques other than clearcutting, and to imports.

In the case of either a limitation on public lands or a total restriction on clearcutting, the market price for timber and ultimately forest products could be expected to rise as the market adjusts to new supply conditions. Without more detailed analysis, the magnitude of the price adjustment would be difficult to estimate. Recent experience in timber markets can be viewed as an indicator. Supply conditions in late 1968 and 1969 in effect created a "moratorium" on timber production. Many causative factors were involved; nevertheless, there was a reduction in shortrun timber supply. This was accompanied by rapid and substantial increases in wood products and stumpage prices. The price for Douglas-fir in western Washington and Oregon, for example, increased from an average of $61 per thousand board feet for sales in Region 6 of the Forest Service in 1968 to over $120 per thousand board feet during the first quarter of 1969.

Such market adjustments result in a twofold impact on the public. First, there is a marginal adjustment in both the amount of timber and wood products entering the economy and the price that the consuming public pays for these goods. The consequence is a lower volume of wood at a higher price. This adjustment will be reflected in major wood products markets, including construction and building materials. Secondly, the residual harvesting of timber under other logging techniques will result in reduced timber receipts, a cost ultimately borne by the resource owner. In the case of the public (federal) lands, this is the general taxpayer. This cost is borne in one of two ways. Either additional revenues must be raised through taxes or other ways, to offset reduced government receipts, or the level of governmental services must be reduced. In both instances, segments of the general public are affected beyond the timber sector itself.

In exchange for the impacts on timber markets and the general taxpayer, some members of the public will view the reduced harvest as a positive benefit. These are the individuals who believe timber should not be harvested, or at least harvested under different methods than clearcutting. Such individuals have an aesthetic preference for maintaining and preserving existing timber stands or minimizing the impact of logging on their composition.

Studies have indicated that those most directly associated with these preferences tend to be highly educated with above-average incomes. While many individuals of all socio-economic levels undoubtedly share these preferences, most benefits associated with reduced harvesting would tend to accrue to a selected sub-group of the general public. To the extent this is so, there is a potential redistribution of economic benefits from the consumer of wood products, and the taxpayer, to a select socio-economic group.

In addition to the market adjustments and distributive impacts, there is the additional factor of the economic linkage of timber sectors to other sectors of the regional and national economy. The timber industry does not operate in isolation. It serves as a market for other producers through the purchase of inputs and labor. It serves as a supplier through the sales of its products to both final markets and other intermediate producers.

Based on studies of the Washington economy, it has been estimated that a dollar of output sold to final markets by the forest industry directly and indirectly leads to a total change in output of the economy of the state of slightly over $2.20. In terms of income generated, each dollar of final sales generates approximately $1.25 in total income. This multiple effect on production and income reflects the fact that sales by the forest industries stimulate the purchase of other inputs, which in turn stimulate additional output.

Each state of production generates income, accruing as personal income, business profits, and taxes. Moreover, such statewide impacts obscure the localized differences in dependence on forest products for income. For the Douglas-fir region (western Washington and western Oregon) it has been estimated that over 44 percent of the manufacturing employment generating sales to final markets outside the region originates in the forest products industries.

Dependency of smaller economic communities varied considerably. Of the 15 sub-areas, nine had a dependency of over 70 percent, with the Roseburg, Oregon, area showing a dependency of over 99 percent. Only three areas (Seattle, Portland, and Salem) had dependencies of less than 30 percent.[3] These latter areas are the location of major non-forest products manufacturing and governmental services activities.

### *Other related impacts*

Several other types of impacts should be mentioned in relation to abrupt changes in the level of timber harvesting. A major factor sometimes overlooked has been the fiscal relationship between the federal government and local and county government relating to receipts from public lands. In the Pacific Northwest, the payment of a proportion of gross receipts has been an important source of revenue to local government.

At present, 25 percent of gross receipts from National Forest lands are returned to the counties for the support of schools and roads. In Oregon, a total of 75 percent of receipts from the O & C lands are returned to the counties, of which one-third (or 25 percent of the total) is refunded to the Bureau of Land Management for the development of roads, reforestation and other management purposes. In 1968, Forest Service Payments to Alaska were over $517,000, in excess of $222,554,000 in Oregon, and $8,854,000 in Washington. Payments to Oregon Counties by the Bureau of Land Management in 1968 totaled another $25,854,000.

A change in timber harvesting practices would affect these receipts in two ways: first there would be an overall reduction in the volume of timber harvested, unless substantially greater areas were made available for selective cutting. Secondly, the average price received for timber would likely decline, reflecting the higher operating costs involved in selective logging and additional roading. Together, these factors would mean reduced federal receipts. Counties with National Forest lands would effectively absorb one-forth of this reduction. Counties with O & C lands would absorb one-half the reduction in receipts, passing the additional 25 percent back to the Bureau of Land Management as a reduction in available management funds.

Based on the estimates previously discussed, the reduction of timber harvest from clearcutting from public lands would be about 85 percent during the first year and 75 percent during the second year of a moratorium. Since clearcutting is estimated to be approximately 75 percent of total cut in western Washington and western Oregon, the cut from public lands would be reduced in this region by approximately 60 percent during the first year and 50 percent during the second year of a moratorium.

Based on the assumption that increased logging and skidding costs for selective cutting would reduce stumpage value by an average of 40 percent, the total impact would be to reduce timber receipts by about 75 percent. Based on 1968 payments by the Forest Service, this would approximate a $24 million reduction in payments to Washington, Oregon, and Alaska. Oregon counties would also face a reduction of some $19.4 million from O & C payments.

In addition to the impact on county fiscal relationships, the revenues to the federal government would also be reduced proportionately. This would include general receipts into the federal treasury which contribute to the national fiscal receipts, and earmarked funds such as the ten-percent roads and trails fund, and the BLM management funds for the O & C lands. This reduction in federal receipts would be borne by the general public through increased taxes or reduced federal expenditures for other public programs.

A final indirect impact should also be noted. Timber management programs often serve as the vehicle for obtaining cooperative agreements with operators to perform maintenance or other development work on the Federal lands. To the extent the level of federal timber harvesting is reduced, the opportunity for such cooperative work is reduced, and the efforts either foregone or undertaken at public expense. Such programs have been important in many instances, such as fisheries and wildlife habitat improvement projects. In some instances, improvements serving recreational and other non-consumptive uses of federal lands are derived from timber-related operations. One significant impact is the development of access roads into previously inaccessible areas. Although this is often seen as a negative impact of timber operations by some, the greatest proportion of recreational use is dependent upon access.

### *General considerations*

A limitation on clearcutting would obviously have substantial impacts on the timber economy of the Pacific Northwest. This would be particularly so if the limitations were extended beyond the federal lands to include all commercial timber harvesting. To prohibit specific cutting practices does provide a potential for avoiding mistakes and inappropriate harvestng. This appears to be the major concern of those seeking some relief from present timber management practices. This might also limit clearcutting where such practices are recognized as reasonable and necessary.

In searching for the margin between acceptable and unacceptable practices and policy, limitation on cutting would place a premium on avoiding potential risk of adverse consequences. This premium price is borne by a broad segment of the economy and general public. An appraisal of the potential risks involved, as well as the consequences of the burden of avoiding that risk may be desirable. On the other hand, available evidence would suggest that it is uneconomic to attempt to avoid all risk. This would be the consequence of a total restriction on clearcutting. A selective prohibition on only the federal lands would likely result in considerable pressures to shift cutting to other ownerships, to other regions of the nation, and perhaps to less desirable sites. To maintain the timber harvest at the current level, in order to minimize short-run losses, could lead to harvesting substantially larger areas on a selective basis. In both instances, there is a real potential that the major difficulties associated with clearcutting would not be overcome but rather shifted to a new setting. The major problems appear to be associated with the feasibility of cutting specific sites and the proper accounting of social costs where cutting occurs. These problems must be confronted directly if adequate resource policy is to be developed. Limitations on cutting, *per se,* will not accomplish this purpose.

## PRIVATE PENSION AND WELFARE PLANS

Mr. WILLIAMS. Mr. President, on Monday, the Subcommittee on Labor released its Interim Report of Activities of the Private Welfare and Pension Plan Study, of 1971.

The report, implementing the Senate mandate to the subcommittee under Senate Resolution 35, section 4, to place "special emphasis on the need for protection of employees covered," details the subcommittee's examination of the role and purpose of private pensions and assesses their effectiveness in assisting American workers to realize financal security upon retirement.

The 163-page document delves deeply into the aspects of private pensions. Contained in this report are accounts of the subcommittee's studies and investigations, research into the history, philosophy, and legal background of private pension plans which had been previously unexamined by congressional committees. The subcommittee believed this analytical approach to be necessary, for, as is outlined in the report, Congress has a long history of interest in pension plan regulation, but has had little success in legislating meaningful controls. The only law which deals specifically with regulation of private pension plans is the Welfare and Pension Plans Disclosure Act of 1959, as amended in 1962, an attempt at requiring public disclosure of plan activities which was ultimately inadequate to live up to the good intentions of its supporters.

Today, nearly 100 years after the founding of the first American private pension plan, the subcommittee finds that:

> Private pension plans and programs in the United States are an integral part of the fabric of the working lives of American men and women and are intrinsically woven into our economic and social structure. The plans represent the largest fund of virtually unregulated assets in the United States today. From available data, minimum estimates indicate that approximately $135 billion in assets are involved and that this vast reservoir of monies is accumulating at an increase of over $10 billion annually. Further, no less than 30 million workers in the United States are estimated to be participants in the private pension plan system, involving at least 34,000 private pension plans.

In order to apprise the Senate of the true dimensions of the problems of private pension plans, the subcommittee, at hearings in July 1971, brought into the public forum the testimony of working men and women who have suffered irreparable damage to their lives because they did not receive the pension benefits to which they had believed themselves entitled. The shattered lives of these people bore testimony to the plight of retired people, who find themselves at the mercy of inadequate, unfair, and harsh pension plans. The financial security which had been promised to them became a myth.

Following these witnesses, who had never before been given a public forum for their views, were employers and plan administrators at hearings in October 1971. These witnesses covered a geographical and industrial spectrum and included some of the largest employers in our country. These hearings afforded corporate officials and plan administrators an opportunity to give their perspectives on the problems which the workers had related in the July hearings. Some employers admitted unhesitatingly that there were areas in pension plans in which the Federal Government should undertake an active regulatory role to achieve correction. Representatives of a major bank, for example, said:

> Our pension plan was in need of improvement. Our management was very receptive

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[3] "Economic Impact Projections for Alternative Levels of Timber Production in the Douglas-fir Region", C. Schallau, W. Haki, and J. Beuter, *Annals of Regional Science,* Vol. III, No. 1, June 1969.

> to that need. In fact, it was a mandate from our management that we do so.

The hearings also raised the issue of communication between employer and employee as to the rights and responsibilities of plan participants. The report details the subcommittee's attempts to relieve this communication gap. Staff members conferred with Department of Labor personnel to explore the possibility of the Secretary using his powers under the WPPDA to rule that employers must take the initiative in communicating such details to employees, and not, as had been the practice, merely to make plan information available to them on request. Just before this report went to press, the Secretary of Labor announced that such regulations had been promulgated.

A major result of the subcommittee inquiry to date has been the confirmation through research of the total fragmentation of Federal responsibility for private pension plans. This report contains an analysis of the nature and extent of every department or agency whose work in some way touches on private pension plans. While the major department having influence is Labor, under the authority of at least seven major laws, there are eight other executive agencies with peripheral authority. And yet, true Federal regulation of private plans, except in the event of criminal action, is confined mainly to supervision of the reporting requirements of the WPPDA and tax qualifications of plans under the Internal Revenue Code.

The problems of the private pension system can be summed up as hardships visited upon working people as the result of the lack of adequate regulatory controls over the operations of the system. The subcommittee finds that these hardships are caused by:

Inadequate or nonexisting vesting;

Inadequate or nonexistent funding;

Impossibility of transferring earned credits from one job to another;

Lack of reinsurance in the event of plan termination;

Lack of Federal fiduciary standards; and

Lack of consolidated and efficient enforcement.

The subcommittee's findings present a fresh mandate to Congress. While pension rights and obligations historically have been basically matters of contractual liability, the report suggests that Congress must not ignore the need to find solutions to the problems which surfaced during the study. The report notes that for those in need, only Congress can help.

Based on these findings are recommendations for legislative action and recommendations for further study. The subcommittee recognizes that many of the problems with private pension plans are sufficiently well defined for legislative action now.

The report recommends prompt enactment of a Federal law establishing minimum standards of vesting, funding and reinsurance, a uniform Federal standard of fiduciary responsibility, and a Federal law covering communication of plan provisions to workers. It also recommends Federal guidelines for a program to develop portability and reciprocity among private pension plans, and the centralization in one agency of all existing as well as prospective regulation of private pension plans.

Further study is needed, the subcommittee finds, in the areas of costs and administration, and in assessing the effects of certain types of plan terminations. Also, the wealth of material in the subcommittee's survey and analysis of 1,431 private pension plans remains to be fully tapped, and this fund of previously uncollected information will continue to be developed as a valuable source for in-depth study.

The major thrust of this report remains the concern for the quality of life of retired working people. In the words of the report:

> There can be no compromise with the obligation that working men and women have a right to live their retirement years, not only with human dignity, but with freedom from financial insecurity. American labor must have the knowledge that it will be free from economic uncertainties in retirement years if it is to be capable of optimum productivity to assure our industrial capacity. Similarly, industry must be assured of a flexible and mobile labor force, which results when employees have no uncertainty about retirement income. If, however, the viability of these two goals becomes frustrated, government has no choice but to compel reform to serve both ends.

## SENATOR CARL HAYDEN

Mr. INOUYE. Mr. President, Senator Carl Hayden was a much beloved Member of this body, and it is difficult even now, after his absence from the Senate for several years, to realize that he is no longer with us. His imprint on the Senate is deep and lasting.

His service here was a tribute to that indomitable spirit he brought with him from the great Southwest. I learned much from him and owe him not only the respect due the long time dean of this body but a personal debt of gratitude for his steady leadership and warm friendship.

His constituents had good cause to support his frequent reelection to the Senate. There were some who wrote that he should be retired because of age. However, that suggestion never came from his colleagues, who knew from their daily contacts with him his great capacity for work and his truly effective performance in this body to the day he retired. There were those who marveled at his age and silently wished that they could keep up even though decades his junior.

Yes, Carl Hayden was not only a Member of the Senate longer than most of us have been on this earth, he was a most effective Member every day until his last. In this day, when we often seem to be glorifying the young, it may be noteworthy that we pay our respects to the accrued wisdom which comes with the passing years. Carl Hayden above all represented that wisdom, and we are all enriched thereby.

## SENATOR CARL HAYDEN

Mr. MONDALE. Mr. President, for 57 years, Carl Hayden served the people of his State and the Nation with enduring distinction.

He belongs first, of course, to the history of Arizona, which he represented so ably for most of the time since it entered this Union. But in the longer view, Carl Hayden surely belongs to the entire Nation. Over our most turbulent half century, he stood always for those qualities of decency and honor and selflessness that are the solid bedrock of the American spirit, whatever the challenges of the time.

As chairman of the Senate Appropriations Committee, Carl Hayden was wise and watchful, progressive and constructive, in overseeing the spending of public funds.

Perhaps his greatest accomplishment, however, lay in the historic work of water conservation and reclamation. Throughout the West he loved, great dams and rich farms and the new life that water brings are Carl Hayden's permanent monuments. The barren and harsh frontier he knew as a boy became a thriving and productive land for millions of Americans because of Senator Hayden's leadership and fortitude.

I will always remember with special personal pride my swearing in by Senator Hayden in 1964. He subsequently gave me, as he gave so many junior Senators, courtesies, counsel, and, most of all, a model of serenity and statesmanship for which I shall always be indebted.

This Chamber has seen many great men, but no one who served America with more continued dedication than Carl Hayden.

Our loss is heavy.

Yet his record of public service will be a lasting example of what free men can achieve.

## OUT-OF-STATE LAND PROMOTERS

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD a new release promulgated by the Alaska State Department of Commerce.

Kenneth W. Kadow, Alaska commissioner of commerce, is acting to protect Alaskans from certain unregistered mail-order promoters of out-of-State land. As indicated, many unscrupulous individuals have attempted to do business illegally to avoid disclosure of misrepresentations concerning the land they have for sale.

I am very much in favor of the action taken by Commissioner Kadow. The practice described in the news release is undoubtedly not confined to my State but certainly occurs elsewhere as well. For this reason, I believe not only my colleagues, but the general public should be aware of this news release as well.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

### NEWS RELEASE

> Kenneth W. Kadow, Commissioner of Commerce for the State of Alaska, today issued a warning to Alaskans to be wary of out-of-State land offerings by mail-order promoters who fail to register under the Alaska statute regulating subdivided lands. The Uniform Land Sales Practices Act, which requires out-of-State land subdivisions to meet strict requirements before be-

ing registered for sale in Alaska, was adopted by the Legislature for the protection of Alaskan residents in 1968. Unscrupulous promoters may try to operate outside of the law to avoid disclosure of misrepresentations regarding the land they are attempting to sell to Alaskans.

The warning by the State's Commerce Department head coincided with entry of a cease and desist order against Select Western Lands, Inc., which the Department accused of illegally advertising New Mexico land in Alaska. The questioned development, known as Sunshine Valley Ranchettes, was recently the subject of large ads appearing in the Anchorage area. "While the Department cannot at this time state categorically that Sunshine Valley Ranchettes is a fraudulent operation, it is engaged in an unlawful activity by having failed to register with us as required by law," the Commissioner said.

Commissioner Kadow urged residents for their own protection to demand proof of proper Alaskan registration from anyone seeking to sell out-of-State land to the public. This can be done by writing to the Department. He noted that promoters of unregistered out-of-State land offerings in Alaska may be engaged in fraudulent promotions and for that reason seek to evade Alaska's registration law.

Commissioner Kadow stressed that the public should know who they are dealing with and that they are properly registered, both in the area of subdivided land and securities.

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## RECALL AND REPAIR OF VEHICLES HAVING SAFETY DEFECTS

Mr. MONDALE. Mr. President, the distinguished Senator from Wisconsin (Mr. Nelson) has been a leader in promoting and authoring auto and tire safety legislation since 1964. I am proud to join him in coauthoring S. 2946, a bill to require vehicle manufacturers to recall and repair safety-related defects when the Secretary of Transportation determines that a defect warrants such action.

Senator Nelson's testimony in support of the bill before the Committee on Commerce on February 16, 1972, describes the need for the legislation—which was passed by the Senate in 1970, but dropped in Senate-House conference on assurances by members of the industry that it was not necessary.

I ask unanimous consent that Senator Nelson's testimony, a letter from the Department of Transportation containing information about auto recalls, and a column by Washington Post reporter Morton Mintz be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

### Testimony of Senator Gaylord Nelson

Bill S. 2946 authorizes the Secretary of Transportation to require the recall and repair of vehicles when the Secretary determines that a safety-related defect is hazardous and warrants such a recall.

This provision was adopted by the Senate in 1970 as part of a package (H.R. 10105) amending the National Traffic and Motor Vehicle Safety Act of 1966. The provision was dropped in Conference, however, on assurances by the industry that it was unnecessary because the industry would assume that responsibility voluntarily.

The present law, however, is inadequate. Under the present law, the Department of Transportation only has the authority to order manufacturers to notify vehicle owners of safety related defects.

The Department may not require the manufacturer to recall and pay for the repairs on vehicles with safety-related defects. This bill strengthens the present law, giving the Department of Transportation stronger tools to protect the public in the area of vehicle safety.

Recent events show that the industry has not been willing to take the initiative voluntarily in making recalls and repairs at no cost to the consumer. I refer specifically to two situations: faulty motor mounts, which, if the motor breaks loose, can jam accelerators on some 6.6 million Chevrolets built between 1965 and 1970; and heaters leaking carbon monoxide in Corvairs built between 1961 and 1969, of which an estimated 760,000 are still in use.

One day after the bill was introduced, General Motors announced that it was recalling the Chevrolets with the defective motor mounts. The company said it would add a restraining device to all affected autos, to prevent the motor mounts from becoming a safety hazard if they should break loose. GM will absorb the cost of adding the restraining device. The recall is scheduled to get underway this month.

However, it was more than two years between the time the National Highway Traffic Safety Administration became aware of and began investigating the Chevrolet motor mount problem, and the December 4, 1971 recall date. During that time, a number of accidents occurred as a result of the defective motor mounts breaking and jamming accelerators open, resulting in serious injury or death to numerous persons. The Traffic Administration received one consumer complaint letter as early as September 27, 1969, and requested information on the motor mount problem from General Motors in a letter dated October 20, 1969. At that time, GM said it had received 14 complaints of separated motor mounts forcing throttles open on 1968 Chevrolets.

If a recall had been initiated soon after General Motors began to receive consumer complaints about the motor mount defect, lives might have been saved and permanent personal injuries avoided. GM has admitted replacing 100,000 motor mounts under warranty provisions alone. Both the Missouri Automobile Club and the Wisconsin Division of Motor Vehicles found in excess of 25% of Chevrolets they inspected had faulty motor mounts. In all, the Traffic Administration has received more than 2,000 letters concerning Chevrolet motor mount failures, including reports of 155 accidents, 35 injuries, and five fatalities.

Still, it took more than two years plus a long overdue threat by the Department of Transportation that it would order the defect notification, before the recall actually came about. By acting voluntarily, at the last minute, GM avoided having its products labeled a safety hazard.

Despite the record of injuries and accidents, GM still does not acknowledge that the defect is safety-related. In announcing its recall, the company stated:

"General Motors does not agree that any potential problem incident to the use of these engine mounts constitutes a safety-related defect as that term is defined in the National Traffic and Motor Vehicle Safety Act of 1966."

GM justified its action by saying:

"It is apparent that, as a result of the publicity which has been given to the engine mount issue, there is a great deal of misinformation and misunderstanding on the part of Chevrolet owners, which we are anxious to eliminate as soon as possible."

There is no reason why this situation should have been prolonged for so long by the manufacturer and the National Highway Traffic Safety Administration. When the Traffic Administration finally acknowledged the seriousness of the problem, it acknowledged that it could only require GM to notify owners of the defect.

In the case of the Chevrolet motor mounts, the repair per vehicle is estimated by the Traffic Administration to cost as little as $5 for the restraining parts.

In the case of the Corvair defect, however, repairs would be more costly, an estimated $170 per car. GM has sent out defect notices on the Corvairs, but has *not* recalled or agreed to pay for the repairs.

Other safety-related defects have not been acted upon. For example, Ford finally did recall some 85,000 police cars with faulty lower control arms, but did not recall privately-owned Fords, despite some 200 reported incidents of failure on privately-owned cars.

It is clear that the auto industry has not fulfilled its promise to the Congress in 1970 to recall and repair, at industry expense, vehicles found to have safety-related defects.

As stated by Senator Hartke, Chairman of the Senate Commerce Subcommittee on Surface Transportation, the Senate-passed language was dropped on assurance by the auto industry that such language would not be necessary.

In explaining the Conference Report in a statement in the Congressional Record, April 23, 1970, Senator Hartke said:

"If it should come to the attention of the Committee that the manufacturers are not recalling any vehicle or equipment which is defective or in violation of the Federal standards and remedying these without charge, we will not hesitate immediately to initiate legislation which would require manufacturers to recall and remedy such vehicles and equipment, to be penalized by the government for failure to do so immediately, and to require payment of punitive damages to owners whose vehicles contain safety defects or fail to comply with safety standards."

The Department of Transportation strongly supported the recall and repair provision in 1969. In a letter to Commerce Committee Chairman, Mr. Magnuson, Under Secretary of Transportation James M. Beggs wrote:

"We agree with the sponsors of the proposal that defect repair as well as defect notification is important if we are to achieve the safety goals Congress established in the act. We have learned from experience that unless notification of a safety related defect in a motor vehicle or equipment is accompanied by an offer to remedy that defect without expense to the vehicle owner, many persons will allow those defects to go uncorrected.

"To cover this situation, we agree that the Secretary should be legally authorized to direct a recall campaign when he determines that the interests of motor vehicle safety make one appropriate."

Mr. Toms stated on November 16, 1971:

"We have been able to achieve everything the law permits us to do. We have gone the full extent of the legal remedy. We have asked for recall authority because we think it is necessary to do our job."

It is clear that Congress must take the next step, if the auto industry does not act to protect the consumer.

This bill would also act as a stimulus to better manufacturing practices.

In connection with the legislation, Congress should consider that, under present procedures, there is no sure way for the Government or the industry to monitor recalls to insure that the affected vehicles actually are repaired.

While the Department of Transportation, in a letter to me dated February 3, 1972, claims an average 69% compliance for all recall campaigns initiated between 1966 and 1968, DOT audits of recalls show that vehicles sometimes never are repaired, despite assurances from dealers to the manufacturer, and from the manufacturer to the Government, that they were repaired. Mr. Chairman, I ask that the letter and information be included as part of my testimony, following these remarks.

The Department advises me that manufacturers rely on dealers' reports in monitoring recalls and repairs. The DOT has issued a new regulation governing recall reporting. However, the new reporting system would still not enable a check on whether the dealers reports are accurate.

Perhaps some legislative language is necessary to place more responsibility on the dealers as well as the manufacturers for recall compliance.

One way to insure better compliance reporting would be to have vehicle owners sign and receive copies of actual work orders, showing what work was performed on a recalled vehicle. In most warranty arrangements at present, the customer signs such work orders, but does NOT receive a copy; a copy does go to the manufacturer, however.

It is also important, in considering this legislation, that it allow for recalls regardless of warranty provisions.

The challenge is evident. Now it is up to the Congress to act, so that future problems like those outlined here will end, and hopefully tragedies on the highways will be reduced.

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U.S. Department of Transportation, National Highway Traffic Safety Administration,
*Washington, D.C., February 3, 1972.*

Hon. Gaylord Nelson,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Nelson: This is in response to your letter of January 19, 1972, which requested information concerning safety defect recall campaigns. The answers to your questions are as follows:

1. From September 9, 1966, through December 31, 1971, there was a total of 906 recall campaigns involving 24,862,392 vehicles.

2. A study by the National Highway Traffic Safety Administration (NHTSA) in 1969 indicated that the average completion rate for all campaigns initiated between September 9, 1966, and September 30, 1968, was 69 percent. Details of this study are in Attachment A.

3. The NHTSA is auditing defect campaign completion performance in two ways at present. The District of Columbia, under contract to the NHTSA, is examining vehicles that pass through District inspection stations for campaign corrective action. This audit has shown an average completion rate of 79.5 percent for the period of August 1971 through December 1971. Details of this audit are in Attachment B. In addition, the NHTSA examines a random sampling of vehicles involved in selected major campaigns. During the calendar year 1971, the NHTSA audited five campaigns. These audits showed an average completion rate of 78.5 percent. Details are listed in Attachment C.

4. The NHTSA has issued a regulation that will provide a regular flow of campaign completion information. Part 573, Defects Reports, became effective October 1, 1971. All manufacturers are required to submit to the NHTSA quarterly progress reports on recall campaigns they conduct. This information will be available in quarterly summaries beginning in April 1972.

Continued auditing will provide an important check of the information provided by manufacturers. The District of Columbia is auditing selected large campaigns initiated by the four major domestic manufacturers and by Volkswagen. The NHTSA audits campaigns selected for their hazard category and their size. In the case of auditing by field sampling, each campaign must involve a large number of vehicles so that groups of vehicles will be available in selected geographic areas. Field audits have the added merit that they permit contacts with dealers as well as with vehicle owners.

5. Manufacturers have informed us that, for the most part, they monitor recall campaigns by reviewing completion reports submitted by dealers. The manufacturer receives a postcard and/or a reimbursement claim from his dealers after the necessary inspection and correction has been completed. These reports then are tabulated to permit the manufacturer to monitor the progress of each campaign and to report completion performance to the NHTSA.

6. Whenever the NHTSA finds a vehicle which has not been corrected, for any reason, the manufacturer is notified. These cases, in our experience, involve failure to receive notification or failure to respond to notification, in that order. We are aware of some instances of discrepancy between what a dealer has reported for a specific vehicle and what the NHTSA has found in the field. These cases are identified for manufacturer attention.

I trust that this information will be helpful to you.

Sincerely,

Douglas W. Toms,
*Administrator.*

EFFECTIVENESS OF DEFECT NOTIFICATION CAMPAIGNS—INITIATED SEPTEMBER 9, 1966, THROUGH SEPTEMBER 30, 1968

| Manufacturer | Total campaigns | Total vehicles involved | Campaigns 100 percent complete | Overall percent of vehicles inspected/corrected |
|---|---|---|---|---|
| Passenger cars: | | | | |
| American Motors | 11 | 213, 554 | 5 | 63 |
| Chrysler Motors | 61 | 604, 660 | 10 | 69 |
| Ford | 30 | 1, 235, 617 | 1 | 71 |
| General Motors | 62 | 2, 660, 125 | 16 | 70 |
| Alfa-Romeo | 1 | 206 | 0 | 73 |
| BMW | 3 | 3, 982 | 0 | 48 |
| Nissan (Datsun) | 3 | 8, 215 | 0 | 65 |
| Fiat | 1 | 5, 378 | 0 | 41 |
| Mercedes-Benz | 4 | 7, 465 | 0 | 77 |
| Porsche | 1 | 2, 226 | 0 | 99 |
| Renault | 2 | 1, 623 | 0 | 76 |
| Rolls-Royce | 7 | 1, 709 | 7 | 100 |
| Simca-Rootes | 2 | 1, 761 | 0 | 57 |
| Toyota | 1 | 19, 179 | 0 | 48 |
| General Motors (Foreign) | 2 | 538 | 2 | 100 |
| Volvo | 1 | 519 | 1 | 100 |
| British Leyland | 6 | 15, 661 | 0 | 33 |
| Volkswagen | 14 | 399, 656 | 7 | 85 |
| Trucks: | | | | |
| Clark | 8 | 1, 587 | 2 | 45 |
| International Harvester | 24 | 226, 509 | 7 | 46 |
| Kaiser Jeep | 8 | 51, 617 | 1 | 74 |
| Mack | 5 | 1, 934 | 1 | 65 |
| White | 8 | 7, 129 | 2 | 27 |
| Bus/Truck bodies: | | | | |
| Blue Bird | 1 | 179 | 0 | 73 |
| Gar Wood | 1 | 49 | 0 | 88 |
| Freightliner | 4 | 148 | 4 | 100 |
| Travco | 1 | 230 | 0 | 10 |
| Pacific Car & Foundry | 2 | 286 | 1 | 57 |
| Fruehauf | 1 | 350 | 0 | 33 |
| Superior Coach | 2 | 140 | 1 | 98 |
| Flexible | 1 | 127 | 0 | 31 |
| Motorcycles: | | | | |
| Harley-Davidson | 4 | 11, 289 | 0 | 18 |
| Honda | 5 | 43, 401 | 1 | 60 |
| Total | 287 | | 69 | |

EFFECTIVENESS OF MOTOR VEHICLE SAFETY-RELATED DEFECT NOTIFICATION CAMPAIGNS INITIATED SEPT. 9, 1966, THROUGH SEPT. 30, 1968

| Hazard category | Number of campaigns | Total vehicles | Campaigns 100 percent complete | Percent vehicles inspected/corrected |
|---|---|---|---|---|
| A | 100 | 1, 177, 408 | 21 | 81 |
| B | 158 | 4, 000, 620 | 37 | 65 |
| C | 29 | 349, 021 | 11 | 82 |
| Total | 287 | 5, 527, 049 | 69 | 69 |

Hazard classifications: A—Occurrence would/could cause loss of control without warning. B—Occurrence would/could cause loss of control with warning. C—Occurrence might cause deterioration of control.

ATTACHMENT B

RECALL CAMPAIGNS AUDITED BY DISTRICT OF COLUMBIA, AUGUST 1971 TO DECEMBER 1971

| Campaign No. and description | Number of vehicles | |
|---|---|---|
| | Inspected | Not corrected |
| MANUFACTURER—CHRYSLER CORP. | | |
| 67–0009B: Master cylinder | 5 | 0 |
| 67–0040A: Disc brake | 6 | 0 |
| 67–0040B: Automatic speed control | 5 | 0 |
| 67–0044A: Disc brakes | 5 | 0 |
| 67–0044B: Linkage | 1 | 0 |
| 67–0044C: Starter cable | 8 | 0 |
| 67–0044D: Parking brake | 24 | 0 |
| 67–0063: Rear seat belt | 1 | 0 |
| 67–0072: Linkage | 3 | 1 |
| 67–0097: Slush shield | 3 | 1 |
| 67–0103: Shoulder belt | 1 | 0 |
| 67–0115: Speed control | 2 | 0 |
| 68–0040: Fast idle cam | 29 | 1 |
| 68–0052: Steering shaft | 67 | 17 |
| 69–0062: Seat belt | 22 | 1 |
| 69–0096: Steering knuckle | 23 | 7 |
| 70–0005: Tires | 4 | 0 |
| 70–0129: Brake linings | 27 | 2 |
| 70–0146: Front wheel bearings | 11 | 1 |
| Total | 247 | [1]31 |
| MANUFACTURER—FORD MOTOR CO. | | |
| 68–0095: Heater hose | 21 | 1 |
| 68–0126: Front brake hose | 42 | 0 |
| 69–0077: Hood latch | 4 | 3 |
| 70–0115: Frame | 2 | 1 |
| 70–0116: Seat belts | 6 | 0 |
| 70–0134: Linkage | 13 | 6 |
| Total | 88 | [2]11 |

| Campaign No. and description | Number of vehicles: Inspected | Number of vehicles: Not corrected |
|---|---|---|
| MANUFACTURER—GENERAL MOTORS CORP. | | |
| 66-0020C: Linkage | 5 | 0 |
| 66-0032A: Steering shaft | 54 | 15 |
| 66-0032B: Steering shaft | 58 | 11 |
| 66-0032C: Steering shaft | 29 | 7 |
| 66-0032D: Steering shaft | 35 | 13 |
| 67-0027: Brake cylinder | 5 | 0 |
| 67-0033: Steering shaft | 25 | 3 |
| 67-0098: Idler arm | 384 | 53 |
| 67-0108: Wheel rim | 4 | 0 |
| 67-0119: Wheel stud | 2 | 0 |
| 67-0130: Idler arm | 377 | 52 |
| 68-0004: Brake tubing | 32 | 0 |
| 68-0031: Transmission switch | 9 | 0 |
| 68-0050: Cruise control | 4 | 0 |
| 69-0030: Exhaust leaks | 2,291 | 664 |
| 69-0031: Fast idle cam | 1,555 | 218 |
| 69-0038: Brake hose | 580 | 72 |
| 69-0046: Steering wheel | 5 | 0 |
| 69-0091: Body filler plate | 3 | 0 |
| 70-0002: Wheels | 5 | 3 |
| 70-0003: Brake hose | 1 | 0 |
| 70-0004: Defroster | 1 | 0 |
| 70-0032: Tire pressure decal | 37 | 9 |
| 70-0033: Tires | 4 | 0 |
| 71-0182: Seat belt | 1 | 0 |
| Total | 5,505 | [3] 1,120 |
| MANUFACTURER—AMERICAN MOTORS | | |
| 68-0022: Seat back latch | 3 | 0 |
| 68-0092: Back-up lamp | 6 | 4 |
| 68-0125: Pitman and idler arm | 6 | 1 |
| 69-0064: Clutch linkage | 7 | 1 |
| 69-0065: Seat belt | 1 | 1 |
| 69-0066: Seat belt latch | 12 | 7 |
| 69-0169: Rear view mirror | 6 | 0 |
| 69-0170: Hood latch | 3 | 1 |
| Total | 44 | [4] 15 |
| MANUFACTURER—VOLKSWAGEN | | |
| 66-0006: Brake pedal stop plate | 52 | 11 |
| 66-0036: Starter cable | 2 | 0 |
| 67-0082: Wiring harness | 29 | 9 |
| 67-0099: Breather tube boot | 14 | 4 |
| 67-0100: Breather tube leak | 54 | 7 |
| 67-0109: Contaminated disc brakes | 14 | 0 |
| 67-0125: Universal joints | 91 | 2 |
| 67-0129: Shift lever | 1 | 0 |
| 68-0001: Spare tire cover | 20 | 0 |
| 68-0002: Brake line | 1 | 0 |
| 68-0048: Wheel bolts | 127 | 2 |
| 68-0070: Seat belt buckle | 397 | 160 |
| 70-0022: Front end alignment | 2 | 0 |
| Total | 804 | [5] 195 |
| Total, all campaigns | 6,688 | [6] 1,372 |

[1] 13 percent.
[2] 12.5 percent.
[3] 20 percent.
[4] 34 percent.
[5] 24 percent.
[6] 20.5 percent.

### ATTACHMENT C—AUDITS BY OFFICE OF DEFECTS INVESTIGATION 1971

| Campaign No. | Description | Percent of vehicles corrected |
|---|---|---|
| 68-0087 | Chrysler Corporation truck and school<br>Bus steering tie rod clamp<br>(Recalled in two phases). | [1] 85<br>[2] 75 |
| 69-0039 | General Motors truck and school bus, brakes and vacuum lines | 94 |
| 70-0048 | Chrysler Corp. Dodge Dart and Plymouth Valiant master cylinder internal leaks | 85 |
| 70-0059 | Chrysler Corp., motor home chassis master cylinder push rod disengagement. | 68 |
| 71-0096 | Mack Truck Inc., steering knuckle cracks (recent campaign in progress 6 months at time of audit). | 64 |

[1] Phase I.
[2] Phase II.

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[From the Washington Post, Feb. 24, 1972]

### Record Is Poor for Auto Recalls

(By Morton Mintz)

General Motors is starting the largest recall the auto industry has ever made, but the record of past campaigns of this kind indicates that owners of possibly 30 per cent of the cars involved never will take them in to dealers for free-of-charge correction.

This would mean that as many as 2 million Chevrolets, Camaros and Novas would continue to be operated with defective or potentially defective engine mounts.

The danger—demonstrated by numerous accidents—is that under acceleration the engine can twist off the mount, jam the throttle and cause the power steering and power brakes to fail.

GM began mailing notification letters Monday to owners of 6.7 million 1965 through 1969 cars and trucks equipped with V-8 engines.

Dealers will install heavy wire restraints to prevent the engine from spinning in event of mount breakage. GM's estimated cost is $5 per car, for a total of $33.5 million. Tax deductions will about halve that figure.

The auto industry conducted 906 recall campaigns for 24,862,392 vehicles between Sept. 9, 1966, and last Dec. 31, according to a summary prepared for Sen. Gaylord Nelson (D-Wis.) by Douglas W. Toms, administrator of the National Highway Traffic Safety Administration.

The only full audit of recall effectiveness made by the Department of Transportation unit covers the two-plus years ended Sept. 30, 1968.

The audit showed that owners brought in for inspection and, when necessary, repair 69 per cent of the 5.5 million recalled. Critics put it another way:

To the possible peril of themselves, their passengers and others, owners neglected to bring in approximately 1.7 million vehicles with defects that manufacturers were willing to remedy at their expense.

Toms, in his letter to Nelson, cited data showing that among the 5.5 million vehicles were 1.2 million that might have had a defect of a kind that would or could "cause loss of control without warning." Of the vehicles in this category, owners brought in 81 per cent, leaving about 200,000 uninspected and unrepaired.

Some of an additional 4 million vehicles had a defect that would or could cause loss of control, but "with warning"; 2.6 million of them were returned to be "inspected/corrected," the safety agency said, but 1.4 million were not.

The balance, 349,000 were vehicles in some of which was a defect that "might cause deterioration of control." For them the "inspected/corrected" rate was the highest, 82 per cent.

That rate in the 1966–1968 recall campaigns was 100 per cent in a few cases—for 538 GM foreign cars, 519 Volvos, 1,709 Rolls Royces. The domestic rate was 71 per cent for Ford, 69 per cent for GM and Chrysler, and 63 per cent for American Motors.

Sens. Nelson and Walter F. Mondale (D-Minn.) are relying heavily on the case of Chevrolet Corvairs in seeking enactment of a law requiring that cars ruled to have a safety defect be repaired at the expense of the manufacturer.

Hundreds of Corvair owners are known to have complained to GM of odors and fumes from the heating system. In numerous cases carbon monoxide poisoning has been reported. Repair, the durability of which is uncertain, cost an average of $170—$20 more than the average trade-in value of a 1965 model

Last Nov. 16, after the safety agency made an initial finding of a safety defect, GM said it would send a voluntary safety-defect notification—but refused to bear the cost of correction.

Starting Dec. 5 GM mailed out 756,000 notifications. As of two weeks ago, Douglas Toms told a Senate Commerce Committee hearing, only 32,000 Corvairs had been taken to Chevrolet dealers for correction and repair. Some 68,000 letters were returned as undeliverable, 84,000 recipients said they were not Corvair owners, and 23,000 owners said they will not take their Corvairs in.

Toms said he is favorably inclined to the Nelson-Mondale bill. The Commerce Department opposes it.

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## INTELLIGENCE: OUT OF CONTROL

Mr. SYMINGTON. Mr. President, an interesting, thought-provoking article entitled "GI Spying: Out of Control?" written by one of the better informed newspapermen on the subject of military matters, George C. Wilson, appeared in the Washington Post last Sunday.

The article could well have been entitled "Intelligence: Out of Control."

In a box adjacent to the article, Chairman Ellender, of the Senate Appropriations Committee, is quoted as stating, "it is criminal" to spend so many billions of dollars to gather too much information for anybody to read; and I was glad to note that this box also states that Representative Nedzi, of the House Armed Services Committee, is planning "a review of Government intelligence operations this year for the House Armed Services Committee." Such a review is long overdue.

I ask unanimous consent that the article and two letters written to me by former members of the military who were involved in intelligence matters and who were interviewed by Mr. Wilson in connection with the article be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 27, 1972]

### GI Spying: Out of Control?

(By George C. Wilson)

One night late in August, 1967, an American submarine surfaced off the North Korean coast to launch a South Korean spy in a rubber boat. His mission was to establish himself as a permanent resident in North Korea and send back coded observations to the South.

Someone on the submarine watched the agent paddle toward the North Korean shore. Then the sub submerged out of sight again. The agent was heard from for only a brief period after landing in North Korea, presumably because he was captured. If he was indeed captured, it was likely the North Koreans tortured him.

Was that agent's trip necessary? Did Congress at the time know that the United States was supporting hundreds of South Koreans spying missions against North Korea? And was this American involvement part of the reason North Korea snatched the USS Pueblo off Wonsan in 1968?

Eight former Army intelligence agents who have been pondering these and related questions since leaving the service decided to speak their mind in hopes of forcing reforms—or at least some public dialogue. They argued in interviews with The Washington Post that right now there is not enough public accountability for Army military intelligence operations overseas. The consequences, they said, range from wanton waste of life to gross inefficiency.

While such specific charges cannot be proven by hearing only their side of the story, the former agents did show in their interviews that Army intelligence operations overseas go far beyond the battlefield. Similar disclosures of the extent of domestic surveillance by the Army aroused wide public criticism in 1970-71.

"Some of the programs of Army intelligence are morally outrageous," said Robert

J. Donia, 26, a former high school teacher who served as a sergeant in the Army's military intelligence branch from 1969 to January, 1972. He now attends the University of Michigan graduate school.

"The scope of military intelligence operations should be a matter of public record." (When queried by The Post, the Army refused to tell how much it is spending now or has spent in the past on its military intelligence activities.)

Donia—limiting himself to completed operations in hopes of staying within the bounds of security—said that "in the mid- to late 1960s" there were 50 to 200 American-supported infiltration attempts from South to North Korea every year, with the submarine mission one of the most dramatic. Most of them were across the demilitarized zone separating North and South Korea.

Donia said the sources for those figures were the records he studied while attached to the 502d Military Intelligence Group in Seoul. The same records, he said, showed very few South Korean agents came back.

"One operational plan that I saw," said Donia in contending that the high-risk missions seemed to have little military value, "called for the agent to infiltrate through the DMZ. Once he got over the DMZ, which took him three or four days, he was to move to a headquarters element of a North Korean battalion; enter a BOQ (bachelor officers quarters) clandestinely; steal a North Korean major's uniform, and return back across the DMZ."

Such missions, Donia said, were coordinated through the U.S.-Republic of Korea Combined Operations Group. He added that South Korean agents often were told to undertake such dangerous missions to clear themselves of suspicion of disloyalty or criminal charges.

North Korea complained vociferously about such spying missions, both at Panmunjom and in radio broadcasts. In what the former Army agents believed was a response to these complaints, Gen. John H. Michaelis, commander of the U.S. Eighth Army headquartered in Seoul, suspended American support of such activities in August, 1970. According to an Army agent who just returned from Korea, that order has been lifted. But he said getting missions approved is more difficult than in the Korean spying heyday of the mid-1960s.

### BREAKING A PROTEST

James S. Sensenig, 23, of Lancaster, Pa., said he was dismayed to see the U.S. Army showing the same avid interest in the surveillance of civilians in South Korea as it had displayed under its own domestic surveillance program in the United States. Sensenig had served as a sergeant in the latter program before working for the Eighth Army Intelligence Group in Korea in 1971. The difference, he said, was that the South Korean Army and CIA collected the information and turned much of it over to the U.S. Army.

"I was shocked to see the U.S. Army routinely collecting information on South Korean students even though they posed no imminent danger to the U.S. Army," he said.

"When the very first student voiced his anti-Korean government feelings—or anti-American for that matter—MI (military intelligence) was right there getting information from the ROK police," Sensenig said.

The Eighth Army's Military Intelligence Group also collected biographical data on South Korean politicians and kept track of their comings and goings, according to the former Army agents.

Similarly, U.S. Army intelligence-gathering in South Vietnam encompassed such domestic activities as anti-war groups. Keith W. Taylor, 25, also a graduate student at the University of Michigan, said he learned this to his horror while running a net of intelligence agents from his cover office (the door was labeled Economic Research Team) in Giadinh, Vietnam. Taylor's outfit was the 525th Military Group, 5th Battalion. His identification there was GS-9 civilian working for the Army.

Taylor, a sergeant fluent in Vietnamese, learned through his net in February, 1970, that a pacifist group headed by a woman Buddhist lawyer, Ngo Ba Thanh, was going to hold a meeting in Giadinh 10 days hence. He wrote up the report for his American commander, only to learn the information got into the hands of Saigon government riot police, who brutally smashed the meeting.

Taylor saw no military threat to the U.S. Army nor anybody else to justify the suppression. Instead, he saw the meeting as "a cry of anguish from the hearts of all these people whose lives had just been totally destroyed by this war just going on and on." Taylor said he wrote no further reports on such protest groups. "I sympathized with these people completely," he said.

"I really believed inside me that everything we were doing in Vietnam was wrong," said Taylor of his service there from December, 1970, to July, 1971. "And if you can speak of morality anymore, it was immoral."

He told of buying South Vietnamese spies who needed the money to live because the war had driven them from their farms and into the cities where they drifted as street people; of agents he knew who infiltrated the Vietcong but were found out and killed long after they had unsuccessfully asked to be rescued; of "Catch 22" type missions which both the American dispatcher and the South Vietnamese agent knew to be just that.

On that last point, Taylor cited an agent sent to plant and activate a disguised radio beacon when Vietcong were sighted moving rockets through the countryside. American bombers, alerted by the radio beacon, would raid the spot. "The agent knew as well as we did that the bombers would drop their bombs before he could get away. The job never came off."

South Vietnamese spies working in the countryside outside Saigon were paid between 300 and 400 piasters by the Americans for every item the Army military intelligence office deemed important enough to type up as a report. "I decided," said Taylor, "since nobody read the reports we did get from the countryside, that I would publish all of them so the farmers working for us would get their money. That was my humanitarian contribution."

If Taylor was against the war, found his intelligence work immoral and so empathized with the Vietnamese people that he wants to spend the rest of his life teaching their history—why didn't he quit his Army job on the spot?

"I did my job in MI out of loyalty to my friends in the Army," Taylor answered. "That was the one thing that bound me in."

Now that he is out of the Army, Taylor wants to make amends somehow. In that sense, he and the other seven agents who bespoke their fears are Vietnam war casualties of a special kind, looking for relief through expression.

### THE PHOENIX PROGRAM

Of the eight former Army agents, four let their names be used, including one of the officers. He is Douglas Bolick, 27, of Arlington—an Army captain who served from mid-1970 to mid-1971 in the Phoenix program designed to root out the hard-core Vietcong in Vietnam.

Now a law student at George Washington Unversity, Bolick appeared less traumatized than his colleagues by his days in Army military intelligence. His concern is focused on the inefficiency of Army counter-intelligence operations and the overclassification of them which, in the case of Phoenix for one, projected in his view inaccurate images to the public. Some journals have portrayed Phoenix as a lethal Murder Incorporated operation where Vietcong leaders are assassinated with skill and stealth. The heart of Phoenix are members of the Provisional Reconnaissance Unit (PRU). These operatives, paid by the U.S. CIA, are supposed to "neutralize" the Vietcong infrastructure (VCI).

"There have been several exposes on Phoenix which make it sound really dastardly," he said. "But the more you really know about the Army in that program, the more you laugh such stories off. The Army is just so inept in that line.

"I don't really know why they pick Army counterintelligence people to staff Phoenix—maybe because it is vaguely counter-intelligence. But Phoenix was just a big farce; totally useless.

"In our province," Bolick continued, "Phoenix couldn't work very well because it was predicated on the faulty premise that the VCI were living in the hamlets and villages as a local, viable organization that you could weed out by hook or by crook. But that was not the way the VCI operated there.

"If there were any VCI in the villages, they were in very deep cover. The rest of them were running around the jungle. But our Army superiors did not want us to put down the true situation in our reports. They wanted glowing reports with impressive figures to justify Phoenix.

"Somehow, in our corps headquarters it was decided that we should have 30 VCI neutralizations a month in our province—a kill, arrest or conviction. They didn't care how we got it.

"The way we filled that quota," said the captain, "was by using the third category of neutralization—people rallying from the Vietcong to the Saigon government side.

"The so-called VC rallying in our province were Montagnards who lived in villages way out in the jungle. They were having a rough time of it out there. Our helicopters harassed them all the time, so they couldn't really farm. The Vietcong took what rice they did have. So they were starving. Whole villages of Montagnards would come in and rally. They had to survive. But the effectiveness of Phoenix was quote proven unquote by charts showing the fulfillment of neutralization quotas—by counting Montagnard villagers who did absolutely nothing."

Besides challenging the Army's military intelligence operations in Korea and Vietnam, two of the former agents decried practices they witnessed while stationed in Europe.

Donia, for one, served in the Army's 66th Military Intelligence Group in Munich from September 1969, to November 1970, before going to Korea and then Vietnam.

"The fault in Europe," he said, "is not with how the Army treats its agents in East Germany and elsewhere behind the Iron Curtain, but the incredible expense of maintaining those agents, who collect nothing really vital.

"A typical request," he said, "would be to find out the shape of a building in Prague; or how many tanks passed a certain point in East Germany on a given day. The outfit was only interested in very low order of battle stuff, which our allies already knew.

"Yet if Congress or anyone else ever calculated the cost of gathering this useless information—including the salaries of the Army personnel backing up the paid agent and the equipment, like a big radio transmitter which sends messages to agents—it would be astounded."

Donia and a captain who also served in the 66th Military Intelligence Group in Munich made a rough calculation of $4 million a year just in personnel costs to gather what they considered useless information.

"I heard a major stand up in a secret briefing in Europe," Donia said, "and say that the most significant intelligence accomplishment in his three years in the outfit was when one agent came up with a complete, intact technical manual for a Soviet tank."

Another former Army agent who was based in Europe said one of the make-work jobs of his unit was to persuade people in Italy to let their homes or offices be used as "accommodation addresses," the intelligence term for a place to which agents can send secret letters.

The Army paid people for these addresses. The out-of-country mail received was to be forwarded to a box number in some other town for further protection.

All this might have made sense, said the former agent, if it had been a case of East Germans sending mail to West Germans. But no professional intelligence officer would have risked arousing suspicion in the first place by having letters in German or some other foreign language coming into Italy on a regular basis.

The secrecy of such American Army intelligence activities in West Germany, the former agents said, has already been compromised. They noted East Germany recently broadcast an hour-long television documentary on American spy operations that went into much more detail. The star of the show, said one former agent, described himself as a former spy hired by the Americans.

All eight of the former agents interviewed were trained at the Army's Intelligence School at Fort Holabird, Md. The school was recently moved to Fort Huachuca, Ariz., near Tucson. It no longer takes in men who just joined the Army but restricts itself to those who have indicated a desire to make the service a career by re-enlisting.

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Hon. Stuart Symington,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Symington: I have supplied information regarding U.S. Army intelligence operations in Vietnam for the purpose of alerting the U.S. Congress and the American public to what I believe is a serious question of accountability. I am speaking of the accountability of clandestine intelligence gathering agencies to Congress, the duly elected representative of the political majority, and ultimately of accountability to the American people themselves. I believe that this is a serious question based on my own experience in U.S. Army intelligence. It is not my intention to cause damage to the interests of the U.S., nor do I believe that my actions will so result; I revealed no information that would tend to threaten current operations or to compromise the basic interests of American policy, however mistaken they may be. My primary motivation has been to enter my voice on the public record in the hope that Congress and the public will enjoy a greater awareness of how money and manpower is being spent on clandestine intelligence operations. To clarify my own experience and motivation I wish to make the following statements:

(1) In addition to the administrative inefficiency and waste of manpower which is standard for army intelligence operations as I observed them in Vietnam, I saw costly (in both money and human life) and pointless (with regard to feasibility or potential results) schemes advanced for no apparent purpose other than to appear on the record of career-minded officers and secure for them a desired promotion.

(2) I participated in an operation costly both in money and in human life which provided information desired and used by no one.

(3) I witnessed the use of information gathered through U.S. channels to effect political repression by the Thieu regime.

(4) It is my firm belief that what the U.S. has done and is doing in Vietnam is criminal and base beyond description and it is with deep shame that I view my recent connection with our government's Southeast Asian policy.

(5) I believe that most Americans do not want to know what their government is doing to gather clandestine intelligence; however, it is this same yearning after ignorance which has permitted and is permitting irresponsible leaders to expend our nation's youth and livelihood on an adventure certain of failure, and I no longer choose to remain silent.

Keith Taylor.

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Senator Stuart Symington,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Symington: An article is scheduled to appear this Sunday in the *Washington Post* regarding the activities of Army Intelligence in several countries of the world. As one of the chief contributors of information for this article, I would like to explain what led me to decide to provide this information to a responsible member of the press.

At the time I entered military service, I had quite an open mind about the activities of the military. I was opposed to the Vietnam war, but certainly not to many other activities of the Army around the world. In fact, I was teaching prior to entering the Army, and my decision to enter the Army was a voluntary one.

During the past three years I have been exposed to the activities of Army Intelligence in Germany, Korea, and Vietnam. Most of the work I found dull, mundane, and simply a waste of time. However, from time to time I learned of activities which I felt were much more damaging; they involved the risk and sometimes the loss of human life. On several occasions I have also seen the "end product" of intelligence work: information gathered by military intelligence agents. In weighing the value of this information against the risks incurred in collecting it, I came to the conclusion that some of the programs of Army Intelligence were morally outrageous. In particular, I spent one day in Korea reading through operations conducted between 1967 and 1970. By the end of that day, I was sickened by the horrible cost in human lives that had been countenanced by dozens of people in intelligence circles. The results were, in terms of hard intelligence, completely negative. It appeared that the organization had simply gone wild, beyond any rational and moral standards. I returned to those files several times, searching for some trace of meaningful results or consideration for human life on the part of those conducting operations. Several re-readings only reinforced my earlier conclusions. I believe at this time I first began to question some of the assumptions under which the Army conducts intelligence operations.

Intelligence, as the Army plays it overseas, is too often a game in which the poor, naive, and helpless native is exploited by rich, powerful and anonymous Americans. Often "sources" used by Army Intelligence are coerced or blackmailed into service, or given the "opportunity" to conduct an intelligence mission in lieu of serving a jail term. Who should decide whether a man should be dispatched across a hostile boundary? Who should weigh his potential to collect information against the possible loss of his life? My own answer is that these decisions are much too vital to be left to military officers alone to decide. In most cases, those officers responsible for such decisions are evaluated for promotion on the basis of their operational aggressiveness. Many careers have been advanced on the basis of operations which were costly but unproductive. Of course collection of some intelligence is by nature costly; however, often the information sought after is of no value and only serves to advance the careers of those involved.

The scope of military intelligence operations should be a matter of public record in a society which looks upon itself as responsible and sensitive to human decency. I am not suggesting that all operations should be a matter of public discussion; but the general nature of U.S. intelligence activities, in broad outlines, should be made available to the public, and certainly to Congress. At the present time much information is classified merely to keep it from the American public rather than to protect it from "opposition" intelligence agencies in other countries.

I know this directly contradicts a number of assumptions the intelligence community makes about its own work. "Plausible denial" is a constant watchword, both in regard to general patterns of activity and to specific operations. The irony, of course, is that opposition intelligence agencies are aware of general operational patterns and sometimes even specific operations. Only the publics of the countries involved are unaware of the extent of their governments' willingness to risk the lives of persons to gather information. Some intelligence officers feel that their methods are of no concern to the general public, or even Congress. Thus a sort of a moral attitude develops, and those responsible see themselves as beyond accountability for the consequences of their actions. I believe that such an attitude is inconsistent with our values as a nation.

Americans were outraged to learn that the Army was conducting routine surveillance of American civilians. Are we also capable of outrage on learning that our government regularly risks the lives of non-Americans to collect unneeded information?

I believe we cannot espouse certain values as a nation and people, and then dismiss them in deference to one dark corner of our national life which is surrounded by shrouds of secrecy.

I wish to emphasize that we have sought to divulge information very selectively. I am aware of many operations currently in progress in which human lives would be lost or endangered if I divulged details, so clearly it was essential to be careful. Our information is general and/or historical, in that the operations are already over, and no threat to human life is involved in our speaking of them. As I have stated, these facts will be no news to "enemy" intelligence agencies, who are already aware of the scope of US Army intelligence activities. (In the past few years East European television stations have even run special documentaries on Army intelligence activities, based on information collected by their own intelligence networks and by defectors.)

Naturally I hope that our act will raise many questions in the public mind about our government's activities overseas. Our act was deliberate and thoroughly considered: we are prepared to stand on what we have done and subject our arguments to any sort of examination you wish. I am willing to testify before an appropriate Congressional committee regarding policy problems in Army Intelligence.

I am writing to you in hopes that our experiences with Army Intelligence will be of value to you in your efforts to achieve greater accountability and responsibility in American intelligence operations.

Sincerely yours,

Robert J. Donia.

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## EXECUTIVE ORDER 11644

Mr. STEVENS. Mr. President, on February 9, Executive Order 11644 concerning the use of off-road vehicles on public lands was printed on pages 2877–78 of the Federal Register. This Executive order directs the head of various governmental agencies controlling public lands to promulgate and issue rules and regulations within 6 months of the date of the order February 8, 1972, providing for administrative designation of the specific areas and trails on public lands on which off-road vehicles may be utilized. By the same date these agencies must set dates by which such designation will be completed.

The public will be insured adequate opportunity to participate in the promulgations of these regulations and in the designation of areas and trails.

By February 8, 1973, each agency must develop and publish regulations prescribing operation conditions for these vehicles.

Because I believe this Executive order is of such interest for the general public and particularly the people of my State, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the Executive order was ordered to be printed in the RECORD, as follows:

EXECUTIVE ORDER 11644—USE OF OFF-ROAD VEHICLES ON THE PUBLIC LANDS

An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dune-buggies, all-terrain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

Now, therefore, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows:

SECTION 1. Purpose. It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

SEC. 2. Definitions. As used in this order, the term:

(1) "public lands" means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as "Land Between the Lakes," and (C) lands under the custody and control of the Secretary of Defense;

(2) "respective agency head" means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) "official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

SEC. 3. *Zones of Use.* (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

SEC. 4. *Operating Conditions.* Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

SEC. 5. *Public Information.* The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

SEC. 6. *Enforcement.* The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

SEC. 7. *Consultation.* Before issuing the regulations or administrative instructions required by this order or designating areas or trails as required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Atomic Energy Commission.

SEC. 8. *Monitoring of Effects and Review.* (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdiction. On the basis of the information gathered, they shall from time to time amend or rescind designations of areas or other actions taken pursuant to the order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.

RICHARD NIXON.

THE WHITE HOUSE,
*February 8, 1972.*

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## STATEMENT OF BILL MONROE BEFORE THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS HEARINGS ON FREEDOM OF THE PRESS

Mr. ERVIN. Mr. President, although the Senate Subcommittee on Constitutional Rights has concluded its hearings on the state of freedom of the press in America, public interest in the issues discussed during the hearings remains high. In response to this public interest, I have on previous occasions placed in the CONGRESSIONAL RECORD testimony presented by several witnesses who appeared before the subcommittee.

On February 16, 1972, the subcommittee heard Mr. Bill Monroe, a correspondent of NBC News. Drawing upon his long and varied experience as a gatherer and reporter of the news, Mr. Monroe presented to the subcommittee one of the most illuminating and perceptive statements of the entire series of hearings. He devoted most of his time to a discussion of the application of first amendment principles to broadcasting.

Mr. Monroe criticized what he perceives to be a "double standard for the first amendment: one interpretation for broadcasting and another for print." He cautioned the subcommittee that, as a consequence of increasing Government regulation of broadcasting, "journalism of vigor and independence comes harder for broadcast editors than it once did; it increasingly requires acts of conscious courage."

I agree completely with Mr. Monroe's observation that broadcasting is merely another medium of the press and that "like the printed press, it is massively engaged in exactly that kind of communication which the first amendment was written to protect."

In summarizing his viewpoint, Mr. Monroe reminded the subcommittee of what I believe to be a great truth documented time and time again in history: That liberty and freedom come from the people and not from the Government.

He said:

> . . . in the final analysis, the continuing validity of the First Amendment doesn't depend on affection for, or trust in, the media. It depends on a healthy distrust of government. It depends on the knowledge that the government itself provides the only ultimate danger to any society of total censorship. It depends on recognition that a long, high wall is vital to block the tendency of any government to influence, then guide, then dominate the media. It depends on the simple arithmetic of freedom: multiple private sources of information versus a single official source.

I ask unanimous consent that Mr.

Monroe's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF BILL MONROE, CORRESPONDENT, NBC NEWS, FEBRUARY 2, 1972, BEFORE THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS OF THE COMMITTEE ON THE JUDICIARY OF THE U.S. SENATE

My name is Bill Monroe. I am a correspondent for NBC News and Washington Editor of the "Today" program. I am testifying, however, not for NBC, but as an individual.

I appreciate this opportunity to participate in hearings which have an historic timeliness. It seems to me this country is already on the road, without realizing it, to a dual system of mass media: a printed press that is free but shrinking and an electronic press that is growing but un-free. This committee, and all of us, may want to ask whether we are, in fact, on this road and whether we should stay on it.

Your committee is interested in, among other things, the tendency of various officials to haul newsmen before governmental bodies to compel them to testify as to confidential information and confidential sources. I join those other witnesses before you who have already endorsed the bill of Senator Pearson and Representative Whelan to protect such confidentiality. Their bill would add a needed stone to the wall protecting independent journalism. It would also shield honorable journalists from jail terms unlikely to profit either them or the government.

But I would like to focus my remarks more sharply on what seems to me to be an ominous contrast: the clearcut quality of freedom that pervades the field of the printed press as opposed to a chill twilight of government regulation and government involvement that envelops broadcasting. This contrast has developed from a new double standard for the First Amendment: one interpretation for broadcasting and another for print. As a result, journalism of vigor and independence comes harder for broadcast editors than it once did; it increasingly requires acts of conscious courage.

The rise of this atmosphere seems particularly dangerous in the light of events that compel continued concentration of power in the government's executive branch. Nuclear weapons burden the President with awesome responsibilities. Modern arms are so intricate it is sometimes hard for the Congress to understand what the Pentagon is talking about. Popular pressures push government expansion into new areas of health, education, welfare and housing. Economic crises force the White House toward a guided economy. Fear of local crime increases demands for the FBI, with its special skills in law enforcement and surveillance, to edge toward the status of a national police force. These trends obviously combine to put in jeopardy the citizen's ability to understand and control his own government. And it seems to me that the single realistic hope for accommodating such trends, and yet retaining democratic control of the executive, lies in keeping at least one part of the American machinery rigidly clear of government influence—the channels of information.

But we have already allowed some government pollution of those channels, and it has happened without substantial outcry from those who customarily act as sentries—intellectuals, newspapermen, legislators, lawyers and judges. Even civil libertarians have made little protest.

There are, of course, factors that may account for this strange complacency.

The fantastic new technology and sudden impact of television may have misled us about its most vital function. Seeking to fit it into familiar categories, some of us have been impressed with the size and wealth of television, and have put it down simply as big business. Some of us have been impressed with its evening parade of singers, dancers, actors and comedians, and have put it down as the new vaudeville. But those nervous pictures that bring the White House, Capitol Hill, Vietnam and London into our living rooms don't strike us immediately as the new front page. So we have missed the main fact about television: it *is* press. And if television and radio spend more time on entertainment and commercials than on news, so, in fact, do many newspapers with their acres of advertising, their sports pages, gossips, astrologists, advice to the loveless and fat Sunday editions with the news tucked inside the colors of Dick Tracy and Peanuts. Radio and television are, at bottom, instantaneous, warm-blooded press. Like the printed press, they carry the flesh of commerce and entertainment on a hard skeleton of news. And, like the printed press, they *are* massively engaged in exactly that kind of communication which the First Amendment was written to protect.

The requirement for licensing has encouraged the tendency to define broadcasting as non-press. But the problem is not licensing itself, it is the *method* of licensing. If Congress and the courts had entered this area originally with a clear understanding of broadcasting as twentieth century press, they could have devised licensing procedures that kept government out of news and program decisions. But they didn't. They devised licensing procedures that encourage government intrusion. When we begin to recognize broadcasting as press, the legislature and the courts can then strip away the intrusions and reverse the government-media entanglement.

Another version of the argument that what is licensed cannot be press holds that the public owns the air waves, therefore the government must police them and look over the shoulder of editors. This suggests that, because the public owns the air waves, the public must be *denied* the most important benefits these air lanes can bestow: information sources clear of government contamination. The First Amendment declares that *private* sources of information serve the *public* interest. Surely then, it also directs the Congress and the courts not to wield the concept of public ownership of the atmosphere as a weapon to rob the public of such private sources. What price ownership under these circumstances? It comes at a calamitous cost.

The whole licensing process began with radio, which came into the world as a little black music box. When radio developed into a vital news medium, the licensing formula was already set in concrete. Then came the new monster of television, which struck us initially as more like big business or like an explosion of vaudeville, not much like press. So we treated it as we had radio, as non-press. We fit it into a licensing system that allows government review of its performance. That system itself made television and radio look even *less* like press. But the system is now widely accepted, in part because of our hasty assumptions and in part because it serves the purpose of those who are nervous about the new media and want to tie strings on them that don't square with the First Amendment.

There are liberal intellectuals who direct their natural instincts for regulation toward television in the hope that a paternal government can make it do better—put on more talk shows, more opera, less Flip Wilson and less Matt Dillon. There are conservatives whose natural inclination might be to extend old-fashioned freedom to this new-fashioned medium. But many of them are fearful it has a liberal slant, so they settle for government guidance instead. There are incumbent politicians who want to lay down rules to make their own life with television more comfortable and less prone to upset by challengers—rules they'd probably like to apply to newspapers as well if they could manage it. And there are the new media populists with an access doctrine they want to try out on television, then apply later to print, to a doctrine that attacks free press under the banner of amplified free speech. They insist the government must direct editors how to divide media time and space into little chunks for all.

So we arrive at a double standard for the First Amendment. The broadcaster must apply to a government body every three years for the right to stay in business. The publisher does not. The broadcaster, in his decisions on journalistic fairness and balance, has to go beyond his own conscience and the disciplines of public reaction; he has to consider also the attitudes of a government commission. The publisher does not. If a news program stirs up public or official criticism, the broadcaster may get a letter from a government commission directing him to explain and justify the program within 20 days. The publisher does not answer to any governmental body. The broadcaster is prevented, by statutory conditions, from presenting a debate among major candidates for the political enlightenment of his audience. The publisher is not. The cumulative restraints and inhibitions create an uneasy atmosphere which is hard for anybody outside of broadcasting to appreciate.

Fifteen years ago, long before broadcast regulation intensified to its present complexity, I had left an assistant editor's job on a newspaper to work for a television station as news director. I was astonished to note the infinite care with which one of the nation's best television stations prepared its elaborate application for license renewal. Station executives spent hours, days and weeks in assembling the proper documents. They combed station files exhaustively for documentation of community involvement, for proofs of programming eligible for gold stars from the government, for confirmation of "public service" efforts known to be smiled on in Washington. They consulted lawyers at every step of the process. They enlisted department heads in the small and large details of the project. The superior record of this station made it one of the least likely in the nation to have license trouble. But I began to realize that its owners, nevertheless, felt no solid assurance of a stable and precise licensing process that translated responsible station operation predictably into continued corporate existence. They had a sense of change and turbulence in Washington, an awareness of a government mixing men and laws, an impression of a Federal Communications Commission with changing members appointed by changing Presidents—men of competence and good will, yes, but nevertheless so many Democrats and so many Republicans depending on who was in the White House. Here, I discovered, was a deep anxiety unknown to newspaper publishers—a built-in requirement for concern about the favors and penalties available from government.

Since that time, the rules have multiplied, the uncertainties have worsened. Apprehension over license renewals, however unreasonable statistically, has risen. I was not surprised to learn recently that a major metropolitan TV station had decided to devote the full time of one of its executives, year in and year out, to preparation of its every-third-year application for license renewal.

I have no atrocity story to tell about outright government censorship. I have never seen it happen. Perhaps it never has. But I *know* that what might be called indirect, or unintended, government censorship *has* happened. It cannot fail to happen in this atmosphere. And it happens by a natural process that keeps all incidents of suppression subterranean and invisible. If fear of government inhibits a station executive from approving a new project, he is motivated not to admit that even to his own newsmen. He may blame it on money problems or other factors. In the first place, he is not proud of consulting his own anxieties. In the second place, any admission along these lines could eventually be held against him by the FCC. The FCC takes the righteous position that its harassment of licensees is occasional and reasonable, and that the licensee's duty is to be of stout heart and make his decisions boldly just as if the harassment didn't exist. It becomes almost impossible, therefore, to cite cases documenting the atmosphere of repression.

I once asked four executives from four specially reputable TV and radio stations if they had ever been intimidated by government or fear of government. They all answered no. Then I asked them, "Have you ever made decisions affecting news coverage or editorial policy in which you felt you had to consider, among other factors, how much of a problem a certain course might cause with government?" They all answered yes.

I once suggested to my bosses at a television station an editorial criticizing Newton Minow, then Chairman of the FCC. They agreed. But, they said, first let's consult our lawyers. The lawyers said to go ahead. (I should have known they would because I worked for people of courage and such people usually hire lawyers of courage.) But suppose the lawyers had said no, wait a minute, why make trouble?

The community would hardly have suffered from the loss of our backtalk to Mr. Minow. The only loss would have been known to just a few: the tiniest sacrifice of freedom, a precedent perhaps, the melancholy consciousness that we had held our tongues out of vague and nameless fears. I couldn't help but wonder what lawyers for other stations say in such cases. And what do lawyers have to do with whether a station that criticizes the mayor can also criticize a federal official? The answer is that broadcasters consult their lawyers about fears publishers don't have, fears of the government that licenses them.

How much of the blandness in television and radio is due to keeping clear of government involvement and how much is due to what Fred Friendly calls "dollar censorship?" Nobody knows. But we do know there are stations that don't do investigative reporting. There are stations that confine their documentaries to safe subjects. There are stations that don't editorialize. There are stations that do editorialize but don't say anything. There are stations that do outspoken editorials but are scared to endorse candidates. My opinion is that much of this kind of caution, probably most of it, is due to a deep feeling that boldness equals trouble with government, blandness equals peace.

Let me suggest a scenario which is fictitious but which I believe is typical of what is happening in television today. A television producer goes into the office of the station manager. The producer has been given a budget to do four documentaries over the next year. He tells his boss about four subjects he would like to deal with. But the manager has an objection. "Tom," he says to the producer, "I know these are all good, lively topics. But at least three of them are going to get me in the same hot water I wound up in six months ago when you did the program on 'The Poles of Extremism.' We made two Congressmen mad. We got a letter of inquiry from the FCC. We had to make a long internal study of how fair, or unfair, that program was on certain points. Then, even though we were happy to stand behind it, we had to write dozens of letters, make phone calls to Washington lawyers, and I just can't go through that much of a hassle again next year on three more tough subjects." After 30 minutes of mild argument, the producer leaves with an agreement that he can tackle two sensitive subjects if he devotes the other two programs to travelogues that won't make waves.

NBC News Producer Fred Freed discussed this problem of government harassment in an article he recently wrote for *Variety*. He said that documentary producers have both economic and political problems. Of the political problems, he said this:

"If you do something controversial, you know you will spend months defending yourself to the government. That's not conducive to doing something controversial.

"We are not part of the free press. We are licensed by government and required always to justify ourselves to a government agency. Anyone can complain about us, and a battery of network lawyers will be required just to keep us even."

What to do about the chilling effects of answerability to the government in regard to both license renewals and editorial decisions?

Basic, clearcut reform to give broadcasting genuine First Amendment integrity may take decades, if it comes about at all. Attitudes will have to catch up, as usual, with technology. Pre-television judges will simply have to grow out of the myopia that applies the First Amendment to monopolistic print but not to competitive broadcasting. Intellectuals will have to get over their blanket hostility toward television. Legislators will have to lose some of their suspicions. The deep upper-class aversions to television, exacerbated certainly by the bumptiousness of the medium and the occasional arrogance of television people, apparently must run their course before we will be able to see this big-eyed thing clearly as, first and foremost, American press.

If press freedom is to mean freedom for all the press, I believe the newspapers will have to become engaged in the struggle for broadcast freedom. The courts will have to reverse decisions they're now making, some of them unanimous. The Congress will have to reform the licensing procedure and, if the courts don't do it first, forbid any imposition of government concepts of fairness or equal time on any media.

The newspapers have played a shameful and shortsighted role in the past few decades. They have been complacent witnesses to the weakening of First Amendment rights for broadcasting. They have consistently consulted their own competitive interests instead of the long-range needs of the nation, which they appeal to so loudly when print is attacked.

In fairness, many broadcasters have been complacent about their own First Amendment status. Not bred in the free press tradition, they have been inclined to approach their problems with government more like businessmen than journalists. Recent events have begun to educate them to the historic responsibility they bear for the future quality of American press freedom. But it is small wonder, what with the indifferent concern of all the media, that Congress, the courts and the White House have been less than attentive to broadcast freedom.

As we come to recognize, hopefully, that the First Amendment itself holds firm, or weakens, depending on its full application to broadcasting, then the legislative and judicial structures necessary to guarantee genuine free press status to the new media will come clear to us. They will almost certainly require the conversion of the present licensing process into a system of permanent franchises. The First Amendment clearly means that, for the sake of the public, the media shall not be answerable to government. It is the license renewal factor, more than any other, which has breached the First Amendment and introduced into the American system for the first time media answerability to government. But if that whole, rugged First Amendment concept is, God help us, too revolutionary for our times, then license renewals should at least be made more automatic and more predictable, perhaps on an every-ten-year basis.

Some critics argue peevishly against permanent licensing on the basis that a broadcast license is a permit to mint money. But on this point, what is the distinction between renewable and permanent licenses? All that the present perverse system manages to achieve is to turn broadcast profits against the public interest because it motivates broadcasters not to jeopardize those profits by offending the government. On another level, the argument against profitability is no more relevant than an attack on the First Amendment itself because it has led to fortunes for Hearsts, McCormicks, Luces, Newhouses, Grahams and others. The overriding concern is media freedom. It should be noted, however, that some of today's prosperous television stations operate on licenses originally granted when the risks were severe. Most of the early TV stations lost money so impressively over a period of years that some prospective competitors actually won licenses and then gave them up rather than accept the economic penalties of establishing the infant medium. Even today FCC figures show that, in 1970, 18 per cent of U.S. television stations and 32 per cent of radio stations (AM and FM) showed a loss.

The writers of the Constitution anticipated that enemies of press freedom would attack it by abridgment, by a thinning process. They did not anticipate today's Supreme Court, which is attempting to *fatten* the First Amendment. In the *Red Lion* case, the high court said that government fairness rules "enhance rather than abridge the freedoms of speech and press protected by the First Amendment." The court's "enhancement" took away from the broadcaster a right held basic by every newspaper editor: his right to decide isues of fairness without government guidelines or government referees. Reuven Frank, the head of NBC News, has suggested that the First Amendment may become "the first Constitutional provision repealed by technological advance."

But for how long will the *old* media escape government capture? If the First Amendment can be "enhanced," why not for print? The advocates of "access" want to fasten it on print and electronics with its unhealthy appendage of federal arbiters. A former FCC commissioner has said that, when newspapers begin transmitting by cable, they'll be subject to FCC regulation. And if the belief spreads that official prodding of the media gets better results for the public than media freedom, wouldn't it work best of all on monopolistic media?

The case against such experiments as government-imposed fairness doctrines and equal time rules goes beyond the principle of non-answerability under the First Amendment. It goes also to the absurdities in government intrusion which are already visible and mounting.

We have already seen a network ordered to provide time to the Republicans to answer what the Democrats said in time granted them to answer several appearances by a Republican President. That bit of fairness was finally called foul—but not until CBS took it to court. The FCC and the courts are now grappling with demands for counter-advertising aimed, initially at least, at the broadcast media—the claim, for example, that commercials for large automobiles require balancing by anti-automobile messages from ecology groups. For the past two years, the FCC has been sending almost 200 fairness doctrine complaints per year to broadcasters around the country asking for explanations of their performance by specified deadlines. The possibilities for economic damage to broadcasters, for multiplication of federal mediators of editorial content and for government harassment of stations and networks extend as far as the eye can see.

With Congress turning "equal time" on and off as it sees fit, the networks have been allowed on one occasion, in 1960, to offer the major presidential candidates a radio-television platform for debates. The astonishing number of more than a hundred million Americans watched those four debates on television. The public, in effect, voted overwhelmingly for campaign debates. But Congress shut them off for succeeding elections because the candidates wanted a law to hide behind rather than have to answer publicly yes or no to legal debate invitations. With the government editing the electronic media, the public interest has been clobbered by politics.

But, without all this Big Brother regulation, what would assure the country of fair broadcast news? The answer is, the same mechanisms we've relied on for 200 years to discipline print: competition, diversity of ownership, multiple sources of information, public criticism. Like other democratic mechanisms, these are not perfect. They have permitted the existence of shabby, partisan newspapers in the past and in the present. They could not guarantee against all abuses by radio and television. But the old idea remains profoundly relevant: to choose the lesser danger over the greater, to provide stonewall protection against the government for all organs of information and opinion, even when they're wrong or offensive, lest government come to dominate them and its voice eventually override them all.

In broadcasting today competition is robust and growing. Here in Washington, for example, there are seven television stations and 41 radio stations, with more television outlets in the offing by cable transmission. The typical American city enjoys an abundance of radio-TV competition alongside a daily newspaper monopoly. Additional national competition in news and information is available now in the possible development of a strong, well-financed system of public television insulated from government influence, but both the White House and the Congress seem bent on discouraging it.

Some people are worried about the power of the commercial television networks. But there are two things to be said about that. One is this: If they're powerful, and they are, that's an argument for freedom, not regulation; better to have their opinion-molding force divided up among three networks than concentrated in one government. Secondly, they are hardly all-powerful. Local stations, for instance, outweigh the networks by far in total time devoted to news and in the size of news audiences.

Nor are the network, for all their occasional touchiness, unresponsive to public criticism. CBS didn't "win" the battle over "The Selling of the Pentagon." Its critics also scored when the network put out a new guideline on film editing. Many network reporters, I among them, find ourselves traveling more than we did to do interviews and film stories in the South, the Midwest and the West—quiet acknowledgment of the complaint, in which Vice President Agnew was not alone, of too much focus on Washington, New York and the East.

But, in the final analysis, the continuing validity of the First Amendment doesn't depend on affection for, or trust in, the media. It depends on a healthy distrust of government. It depends on the knowledge that the government itself provides the only ultimate danger to any society of total censorship. It depends on recognition that a long, high wall is vital to block the tendency of any government to influence, then guide, then dominate the media. It depends on the simple arithmetic of freedom: multiple private sources of information versus a single official source.

The problem today is that the government, all three branches, is seizing on the newness of broadcasting and the convenient handle of licensing to do what comes naturally to government: establish controls over the media. So, for the first time in American history, we have regulation of media content.

Within the familiar paragraphs of the Constitution there is an unfinished phase of the American Revolution waiting to be born. But it will not come to life for our children unless we believe in it. At present we face a conscious choice between allowing the First Amendment to wither or applying it to our times with all of the boldness and zeal for freedom that its authors wrote into it.

## RECOGNITION OF BANGLADESH

Mr. BOGGS. Mr. President, it has now been nearly 3 months since the independent State of Bangladesh was proclaimed. During that time pressure has mounted from the public and from Members of this body for formal diplomatic recognition of this fledgling nation of 70 million people.

It has now become evident that Bangladesh is an irreversible fact of international politics. In the months and years ahead, the people of Bangladesh will be working to repair the ravages of war, disease, hunger, and destruction that have marked their recent tragic history.

The United States can and should play a major role in this rebuilding process. I believe we can be a more effective partner in this effort if the compassion and good will which the American people have for the people of Bangladesh is formalized at the highest level.

Mr. President, the distinguished junior Senator from Delaware (Mr. ROTH) has on several occasions made a strong case for recognition of the Government of Bangladesh, and I am indebted to him for his thoughtful analysis of this question. He has provided a valuable service to the Members of this body by bringing logic and clarity to the recognition debate.

Recently, an editorial appeared in the Wilmington, Del., Evening Journal in support of diplomatic recognition of Bangladesh. I find it a persuasive and forceful statement on this question, and I commend it to Senators.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### IT IS TIME TO RECOGNIZE BANGLADESH

One of the foreign policy problems that President Nixon will have to face upon his return from China is the matter of recognition of Bangladesh.

Two and a half months have elapsed since the India-Pakistan war of early December that resulted in East Pakistan's assuming independent nationhood under a new name. A good many countries, starting with India which helped make Bangladesh's founding possible, and continuing with Russia and her allies who staunchly supported India in the two-week war, have extended full recognition to the state of Bangladesh and to its government. Other more neutral countries such as Germany, the Netherlands, Britain, have also established diplomatic relations with the new government in Dacca. Prominent among the nonrecognizers are the United States, France and China.

Obviously, there is a power play going on here, but one cannot help wondering whether recognition is the proper tool. The procedure of recognition dates back to the mid-17th century and was developed by the prevailing European powers to acknowledge the emergence or realignment of states and to express willingness to deal with their governments. Only countries that recognize each other and their governments have regular diplomatic relations (exchange of ambassadors, etc.) and have a ready channel for official communications.

In and of itself, recognition means no more than acknowledgement that a given government is in control of a given country and thus the proper agency to deal with in matters international. But all too often recognition has been equated with granting a stamp of approval.

For instance, the United States did not recognize the Soviet government until 1933 because of strong ideological opposition to communism. This nonrecognition did not prevent the Communists from becoming entrenched in Russia, nor did it have any impact on their philosophy and its implementation; but the refusal for 15 years to deal with the Kremlin's leaders did build up a feeling of bitterness that still festers.

Nonrecognition of the government of the People's Republic of China has led to such anomalies as Peking and Washington being unable to exchange ambassadors but the heads of state being able to get together in the present history-making meetings.

Currently, there are 15 countries with whom the United States does not have diplomatic relations. Among them are those with whom we are involved in actual hostilities such as North Vietnam. There are others such as Cuba where nonrecognition is meant as a mark of disapproval. And there are some like Egypt where the absence of regular contacts is as much the doing of the other nation as ours.

Nonrecognition has been ineffective in toppling unfriendly governments. China, Russia, Albania, Cuba, etc. bear this out. The U.S. Senate seemed to recognize that when it passed a resolution in the fall of 1969 stating that recognition does not mean approval of the form, ideology or policies of another government.

Nonrecognition perpetuates barriers between peoples of countries who have no legal way of communicating with each other. It also magnifies divisions and differences and reinforces power alignments. In the case of Bangladesh, nonrecognition by the United States is contributing to Russia's chances to exert influence on the South Asian subcontinent.

Sen. William V. Roth Jr., hardly an adventurous liberal, has put the case for recognition of Bangladesh well. "There is no compelling reason why we should not have friendly relations with the people of Bangladesh. With 70 million inhabitants it is the eighth most populous nation in the world.

Indeed, why not?

## ALASKA LAND FREEZE ORDER

Mr. STEVENS. Mr. President, in the last session of Congress, we enacted the Alaska Native Land Claims Settlement Act of 1971, now Public Law 92–203. The bill was the culmination of the efforts of the Alaska Native people for over 100 years to achieve recognition of their just claims to their land and for compensation for the land that was taken in the past without compensation by the Federal Government.

In 1966, former Secretary of the Interior Stewart Udall imposed what we now know as the "land freeze" on all lands in Alaska upon the theory that further dispositions of land in Alaska until the settlement of the land claims act would be contrary to the best interests of the Alaska Native people. This land freeze was formalized in Public Land Order 4582 which was published in the Federal Register on February 23, 1969. The Alaska Native Land Claims Act revoked that order. We thought the "freeze" would be over at the end of 90 days as provided in the Land Claims Act.

Now, substantial controversy has apparently developed concerning the language of section 17(d)(1) and section 17(d)(2). I believe it is necessary to review the legislative history to assure that all those who attempt to interpret these provisions of the Alaska Native Land Claims Act are familiar with that history and are guided by the intent of Congress as they attempt to interpret it.

First and foremost, it should be noted that the conference committee on H.R. 10367, the Native land claims bill, dealt with two distinct versions of this bill: One passed by the House on October 20, the other passed by the Senate on November 1, 1971. When H.R. 10367 was before the House Interior Committee, Congressmen UDALL of Arizona and SAYLOR of Pennsylvania joined together to offer an amendment which, I am informed, was rejected. When the bill came to the floor of the House, this amendment was offered again. It is printed in the CONGRESSIONAL RECORD, volume 117, part 28, page 37075. The text of the amendment was as follows:

> Amendment offered by Mr. UDALL as a substitute for the committee amendment: On page 30, line 19, strike out all of line 19 and all of the remainder of page 30 and all of page 31 down to and including line 17, and insert in lieu thereof the following:
>
> "(g)(1) Except as otherwise provided in this Act, all unreserved public lands in Alaska which have not been previously classified by the Secretary are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. The Secretary is hereby authorized to classify, in the manner heretofore provided by the Classification and Multiple Use Act (78 stat. 986), and to open, subject to the provisions of this subsection, to mineral leasing, entry, selection, location or disposal in accordance with applicable public land laws, lands which he determines are chiefly valuable for the purposes provided for by such laws: *Provided*, That nothing herein shall restrict the land selection rights of Native villages and Alaska Native Regional Corporations under this Act or of the State under the Alaska Statehood Act.
>
> "(2) The lands withdrawn under this subsection shall be subject to administration by the Secretary under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal, except that rights-of-way under section 2477 of the Revised Statutes of the United States shall take effect only under such terms and conditions as the Secretary may establish.
>
> "(3) The Secretary is hereby authorized and directed to review all unresolved public lands in Alaska and to identify within such lands all areas which are generally suitable, under existing statutory and administrative criteria, for potential inclusion as recreation, wilderness of wildlife areas within the National Park System, the National Wild and Scenic Rivers System, and the National Wildlife Refuge System; for retention as National Resources Lands for Federal multiple use management (including for subsistence uses, including hunting and fishing, by Natives and for wilderness); and, after consultation with the Secretary of Agriculture, for inclusion within the National Forest System for multiple use management. The Secretary shall, on the basis of such review and within six months of the date of this Act, withdraw and designate all such generally suitable areas, and especially those areas which have been heretofore inventoried in agency studies, as "national interest study areas", and shall advise the President and the Congress of the location and size of, and the potential national interest in, each such study area: *Provided*, That the total area of all such designations by the Secretary shall not exceed fifty million acres. In making the reviews and in designating national interest study areas as directed by this subsection, the Secretary shall consider areas recommended to him by the Temporary Planning Commission established pursuant to this subsection and by knowledgeable and interested individuals and groups.
>
> "(4) The Congress finds and declares that the Copper River Classification (33 Fed. Reg. 19957), the Iliamna Classification (32 Fed. Reg. 14971), the Brooks Range area as previously proposed for classification (35 Fed. Reg. 18003) by the Secretary under the authority of the Classification and Multiple Use Act (78 Stat. 986), the Naval Petroleum Reserve Numbered 4, and the Rampart Power Site Withdrawal, have potential national interest for the purposes set forth in this subsection and are withdrawn to be studied and investigated in accordance with the procedures and time limits set forth in paragraph (5) of this subsection. Lands withdrawn by the Secretary for study under this paragraph shall not exceed fifty million acres.
>
> "(5) Within five years of the designation of each national interest study area withdrawn pursuant to this subsection, the Secretary shall, on the basis of further detailed studies and after consultation with the Temporary Planning Commission established pursuant to this subsection, report to the President and the Congress his recommendations as to the suitability or non-suitability of such national interest study area or portion thereof, together with such adjacent areas as he may deem appropriate, for the purposes of inclusion as recreation, wilderness or wildlife areas wthin the National Park System, this National Wild and Scenic Rivers System, and the National Wildlife Refuge System; for retention as National Resource Lands for Federal multiple use management (including for subsistence use, including hunting and fishing, by Natives and for wilderness); and, after consultation with the Secretary of Agriculture, for inclusion within the National Forest System for multiple use management; or for such other purposes as the Secretary may deem appropriate.
>
> "(6) Each national interest study area designated pursuant to this subsection shall remain withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, until the Secretary submits his recommendations pursuant to subsection (g)(5) of this section and until the future status and disposition of each such national interest study area is determined by Congress: *Provided*, That the authority of the Secretary to establish national wildlife refuges on the public lands under his jurisdiction, including within any national interest study area, shall not be diminished by this paragraph. Initial identification of lands desired to be selected by Alaska Native Regional Corporations pursuant to section 11(j) of this Act and by the State pursuant to the Alaska Statehood Act may be made within any national interest study area, but such lands shall not be tentatively approved or patented unless and until the withdrawn or such areas pursuant to paragraphs (3) and (4) of this subsection is revoked by Act of Congress: *Provided, further*, That selection of lands by Native villages pursuant to this section and pursuant to section 13 of this Act shall not be affected by such withdrawal and such lands may be patented as authorized by section 11 of this Act. Notwithstanding any of the provisions of this subsection, the total amount of lands that may be selected by Natives or by the State under the terms of this or any other Act shall not be lost or diminished by reasons of the provisions of this paragraph. In the event Congress determines that any area that the Natives or the State desire to select shall be permanently reserved for any of the purposes specified in subsection (g)(5) of this section, then other unreserved public lands shall be made available for alternative selections by the State and Natives. Any time periods established by law for such selections shall be deemed to be extended to the extent that delays are caused by compliance with the provisions of this paragraph.
>
> "(7) The Congress finds and declares that the disposition of Federal lands in Alaska and the use of Federal, State, and other lands, including offshore mineral resources development in Alaska, should be coordinated and planned so as to foster and promote the general welfare, create and maintain conditions in which man and nature can exist in sustained productive harmony, and fulfill the social, economic, cultural, and other requirements of present and future generations of Americans. It is the purpose of this paragraph and paragraph (8) of this subsection to establish policies and procedures which will provide for planned and orderly economic development and conservation of lands in Alaska, including those Federal lands to be transferred to other ownerships, in a manner which is compatible with the social, economic, and cultural well-being of Alaskans and all of the American people of present and future generations, with National and State environmental policies, and with the public interest in public lands and in existing and potential parks, forests, wilderness areas, wildlife refuges, and cultural, historical, and natural sites.
>
> "(8)(A) There is hereby established the Temporary Joint Federal-State Natural Resources and Land Use Planning Commission for Alaska (hereinafter referred to as the 'Temporary Planning Commission'), which shall continue in existence until such time as all administration of land use plans by the Commission is relinquished under the provisions of subsection (g)(8)(I)(ii) of this section or at a sooner time if superseded by subsequent Act of Congress.
>
> "(B) The Temporary Planning Commission shall be composed of fourteen members as follows:
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> "(i) the Governor of the State of Alaska or his designated representative, who shall serve as the State cochairman;
>
> "(ii) two members appointed by the Governor of Alaska to represent major departmental functions of the State of Alaska;
>
> "(iii) two members of the Alaska Legislature: the chairman of the resources committee of the senate and the chairman of the resources committee of the house of representatives;
>
> "(iv) two members elected by the Alaska Native Regional Corporations organized under section 6 of this Act, each such corporation having one vote in such election: *Provided*, That the incorporators shall cast one such vote in the case of any corporation which shall not have been timely organized;
>
> "(v) a Federal cochairman, appointed from the general public by the President, with the advice and consent of the Senate; and
>
> "(vi) six members from the Federal Government appointed as follows: one by the Secretary of the Interior, one by the Secretary of Agriculture, one by the Secretary of Housing and Urban Development, one by the Secretary of Transportation, one by the Secretary of Defense, and one by the Director of the National Science Foundation.

"(C) The initial meeting of the Temporary Planning Commission shall be called by the cochairmen. Nine members of the Temporary Planning Commission shall constitute a quorum. All decisions of the Temporary Planning Commission shall require a majority of those present and voting. Members shall serve at the pleasure of the appointing authority. A vacancy in the membership of the Temporary Planning Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

"(D) (i) Except to the extent otherwise provided in clause (ii) of this subparagraph, members of the Temporary Planning Commission shall receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties. All members of the Temporary Planning Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Temporary Planning Commission.

"(ii) Any member of the Temporary Planning Commission who is designated or appointed from the Government of the United States or from the government of the State of Alaska shall serve without compensation in addition to that received in his regular employment. The member of the Temporary Planning Commission appointed pursuant to subsection (g) (8) (B) (v) of this section shall be compensated as provided by the President at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code.

"(E) Subject to such rules and regulations as may be adopted by the Temporary Planning Commission, the cochairmen, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III in chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

"(i) to appoint and fix the compensation of such staff personnel as they deem necessary, and

"(ii) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

"(F) (i) The Temporary Planning Commission or, on the authorization of the Temporary Planning Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this paragraph and paragraph (7) of this subsection, hold such hearings, take such testimony, receive such evidence, print or otherwise reproduce and distribute so much of its proceedings and reports thereon, and sit and act at such times and places as the Temporary Planning Commission deems advisable. The cochairman, or any other member authorized by the Temporary Planning Commission, may administer oaths or affirmations to witnesses appearing before the Temporary Planning Committee or member thereof.

"(ii) Each department, agency, and instrumentality of the executive branch of the government, including independent agencies, is authorized to furnish to the Temporary Planning Commission, upon request made to a cochairman, such information as the temporary Planning Commission deems necessary to carry out its functions under this section.

"(G) The Temporary Planning Commission shall—

"(i) undertake statewide land-use planning, including recommendation of areas for permanent reservation in Federal and State ownership and of Federal and State lands to be made available for disposal;

(ii) subject to the provisions of subparagraph (H) of this paragraph, make recommendations with respect to the proposed land selections by the State under the Alaska Statehood Act and by Native villages and Alaska Native Regional Corporations under this Act;

"(iii) subject to the provisions of subparagraph (I) of this paragraph, promulgate land-use plans for lands selected by the native villages and Alaska Native Regional Corporations under this Act and by the State under the Alaska Statehood Act, whether or not such State selections have been tentatively approved on the date of this Act;

"(iv) publish criteria for implementing the purposes and provisions of this paragraph and paragraph (7) of this subsection and establish procedures, including public hearings both in Alaska and in other States, for obtaining public views of statewide land-use planning;

"(v) establish a committee of land-use advisers to the Temporary Planning Commission, made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, regional and State environmental groups, Alaska Natives and other citizens, and provide procedures for meetings of the advisory committee at least once every six months;

"(vi) make recommendations to the President of the United States and the Governor of Alaska as to programs and budgets of all Federal and State agencies responsible for the administration of Federal and State public lands; and

"(vii) make recommendations from time to time to the President of the United States, Congress, and the Governor and Legislature of the State of Alaska as to changes in laws, policies, and programs that the Temporary Planning Commission determines are necessary or desirable to meet the policies and purposes set forth in paragraph (7) of this subsection.

"(H) The following procedure shall be applicable to the function of the Temporary Planning Commission pursuant to clause (ii) of subparagraph (G) of this paragraph with respect to proposed land selections by Native villages and Alaska Native Regional Corporations and by the State:

"(i) Each Native village and Alaska Native Regional Corporation and the State shall, in writing, notify the Temporary Planning Commission of each proposed selection.

"(ii) Within six months after receiving such a notice, the Temporary Planning Commission shall, in writing, advise the Native Village and Alaska Native Regional Corporation or the State, as the case may be, with subject to the compatibility of the proposed section with the policies and purposes set forth in paragraph (7) of this subsection and with land use plans promulgated by the Temporary Planning Commission.

"(iii) Within six months thereafter, the Native village and Alaska Native Regional Corporation or the State, as the case may be, shall, in writing, notify the Temporary Planning Commission of its decision whether to retain the selection as originally proposed or to make an alternate selection.

"(iv) No patent shall be issued or, in the case of a State selection, tentative approval given until the foregoing procedure has been followed.

"(v) Notwithstanding any of the provisions of this or any other Act, no selection right shall be lost by reason of compliance with the time requirements established by this subparagraph. Any time periods established for selections shall be deemed to be extended to the extent appropriate for compliance with this subparagraph.

"(I) (i) Uses of all lands selected by Native villages and Alaska Native Regional Corporations pursuant to this Act and by the State of Alaska pursuant to the Alaska Statehood Act, whether or not such State selections have been tentatively approved on the date of this Act, shall be compatible with land-use plans promulgated with respect thereto from time to time after notice and opportunity for hearing by the Temporary Planning Commission. Such plans shall be applicable notwithstanding the issuance hereafter of patents for the lands affected. The United States District Court for the District of Alaska shall have jurisdiction, upon application of the Temporary Planning Commission or the Department of Justice, to issue such orders as may be appropriate to secure compliance with such land-use plans.

"(ii) Land-use plans promulgated by the Temporary Planning Commission pursuant to clause (i) of this subparagraph shall cease to be administered by the Temporary Planning Commission as to any area in which the Temporary Planning Commission determines, after notice and opportunity for hearing, that there are in effect Federal, State, or local zoning regulations and planning and enforcement provisions adequate to meet the policies and purposes set forth in paragraph (7) of this subsection.

"(iii) In carrying out its functions pursuant to this subsection, the Temporary Planning Commission shall be deemed to be an 'agency' for purposes of sections 500–559 and 701–706 of title 5, United States Code.

"(J) (i) On or before January 31 of each year, the Temporary Planning Commission shall submit to the President of the United States, the Congress, and the Governor and legislature of the State of Alaska a written report with respect to its activities during the preceding calendar year, together with its recommendations for programs or other actions which it determines should be taken or carried out by the United States and the State of Alaska.

"(ii) The Temporary Planning Commission shall keep and maintain accurate and complete records of its activities and transactions in carrying out its duties under this paragraph, and such records shall be available for public inspection.

"(iii) The principal office of the Temporary Planning Commission shall be located in the State of Alaska.

"(K) (i) The United States shall be responsible for paying for any fiscal year not more than 50 per centum of the costs of carrying out the provisions of this paragraph for such fiscal year.

"(ii) For purposes of meeting the responsibility of the United States in carrying out the provisions of this paragraph, there is authorized to be appropriated the sum of $1,500,000 for the fiscal year ending June 30, 1972, and for each succeeding fiscal year.

"(iii) No Federal funds shall be expended for the provisions of this paragraph for any period unless prior to the commencement of such period the Secretary has received reasonable assurances that there will be provided from non-Federal sources amounts equal to 50 per centum of the total funds required to carry out such provisions for such period."

This amendment was actually offered as a substitute for the committee amendment which had been offered by Representative KYL, of Iowa. Mr. KYL's amendment was as follows:

Committee amendment: Page 30, after line 18, insert a new subsection as follows:

"(g) Except as otherwise provided in this Act, all unreserved public lands in Alaska which have not been previously classified by the Secretary are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. The Secretary is hereby authorized to classify any lands withdrawn by this section and to open to mineral leasing, entry, selection, location, or disposal in accordance with applicable public land laws, lands which

> he determines are chiefly valuable for the purposes provided for by such laws.
>
> "Upon the application of any applicant qualified to make entry, selection or location, under the public land laws, on lands not classified for entry, the Secretary shall examine the lands described in the application and if he classifies them as suitable for the purpose described in the application and opens them to entry, said applicant shall be entitled to enter, select or locate such lands.
>
> "Nothing in this section shall restrict the land selection rights of the State under the Alaska Statehood Act (73 Stat. 341). The lands withdrawn under this section shall be subject to administration by the Secretary under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal."

The Udall-Saylor amendment was defeated on the floor of the House by a vote of 217 to 177. It is important to note that the Kyl amendment, which was adopted, contained the specific statement:

> Nothing in this section shall restrict the land selection rights of the State of Alaska under the Alaska Statehood Act (73 Stat. 341).

It is also important to note what Congressman UDALL stated as he explained his amendment. He said:

> My amendment first says to the Natives, you come first, we present you these village lands, and you pick out 18 million acres around the villages, and we will stand back while you do this. Then the Federal Government comes in on behalf of 208 million people at this point, and within the next 6 months Secretary Morton—and we know who will be doing it because it has to be done within 6 months—he will look over all of the remaining acres in Alaska, and come up with 50 million acres—he does not have to pick 50 million acres—but up to a ceiling of 50 million acres, and he can then say that these are the lands that the Congress may want to set aside for the future of the people of the United States for great national parks, and similar national interest uses.
>
> He can pick the Brooks Range, or the beautiful St. Elias mountains along the Canadian border, he can pick the Copper River, that is one of the most beautiful rivers in the world. And he will say, just a minute, you cannot select, either the Natives or the State, or the Natives in the second round, until Congress decides whether our national interests require that some of these lands be saved for future generations. That is what the amendment does.

Mr. UDALL went on to explain:

> We give the Natives the right to go ahead and keep whatever land they will select in this first round, and we give the State the right to go and select anything they want so long as it is not part of this 50 million acres of national-interest land. My amendment would permit the Secretary of the Interior to designate that land. And let me say also that there is another 50 million acres of Federal-interest land in my amendment, but those are lands which are already withdrawn, those are lands which the Natives cannot get on their second round of selections in any event.

And I think it is important to note once again that even the Udall-Saylor amendment specifically provide "that nothing herein shall restrict the land selection rights of the Native villages and the Alaska Native regional corporations under this act or of the State under the Alaska Statehood Act."

The purpose of the Udall-Saylor amendment was to direct a national study of existing classification areas which comprise approximately 50 million acres in Alaska—lands previously reviewed for classification by the Interior Department—which included the Copper River Classification Area, the Iliamna Classification Area, the proposed Brooks Range Classification Area, and lands within Naval Petroleum Reserve No. 4, and the Rampart Power site withdrawal. In addition to the 50 million acres already reviewed, the two Congressmen proposed an amendment which would have required the Secretary of Interior to designate within 6 months an additional 50 million acres as national interest study areas.

As I said, the Udall-Saylor amendment was defeated in the House and the Kyl amendment was adopted. In reviewing his amendment, Mr. KYL stated a very cogent reason for the House action when he pointed out:

> At the present time the Federal Government has reserved in the State of Alaska 73 million acres. Now note this: 31 percent of all the national park acreage of the 50 States is in that single State of Alaska—31 percent of it. We have set aside in the State of Alaska for Federal areas, for fish and wildlife preservation, 20 million acres. How much of the total does that constitute? That is 65 percent of all the fish and wildlife preservation acres in the 50 States.

When this bill was before the Senate, the distinguished Senator from Nevada (Mr. BIBLE) also addressed the same question. The text of his amendment was as follows:

> Beginning at page 342 strike all of subsection 24(c)(4), lines 10 through 24, and at pages 343 strike lines 1 and 2, and insert the following new subsection:
>
> (4) In making the classifications required by subsection (c)(1) hereof the Secretary shall, after consultation with the Planning Commission, conduct detailed studies and investigations of all unreserved public lands in Alaska, including classified lands, and of Naval Petroleum Reserve No. 4 and the Rampart Power Site Withdrawal, which are suitable under existing statutory and administrative criteria for inclusion as recreation, wilderness, wild rivers, or wildlife management areas within the National Park and the National Wildlife Refuge Systems, and every six months shall advise the Congress for a period of three years from the date of passage of this Act of the location, size, and values of such area, his recommendations with respect to such areas, and shall simultaneously with notification to the Congress withdraw these areas from any appropriation under the public land laws, including application of the mining and mineral leasing laws, until such time as the Congress acts upon the Secretary's recommendations, but not to exceed five years. In making the detailed studies and investigations and in identifying such areas, the Secretary shall consider areas recommended to him by the Planning Commission.

The Senator from Nevada and I had an interesting exchange when this amendment was discussed on the Senate floor. This was what we said:

> Mr. STEVENS. Mr. President, I am grateful to the Senator from Nevada. He has in fact discussed this matter with us and has made several perfecting changes in the amendment. I would like to clarify some things.
>
> Mr. President, as I understand it, the Secretary of the Interior does, in fact, have the authority today to classify lands. He has classified the Central Brooks Range area. He has classified the Iliamna area and the Copper River area for some time. It is my understanding that the Senator from Nevada seeks to establish a procedure under this amendment whereby there will be an orderly review of the lands of Alaska to determine what land should be added to the national parks and national wildlife and refuges. That is the intent of the amendment.
>
> Mr. BIBLE. The Senator is correct. There will be an automatic review. The Secretary has to report every 6 months. He has to make his final recommendation to the Congress of the United States within 3 years after the final recommendation. At the end of 3 years, or any time within that 3 years, Congress must act affirmatively one way or the other within that additional period if additions to a national park or a new national park is proposed.
>
> That is the intent of the measure. I know of the Senator's interest in a number of the national park areas. He mentioned the Central Brooks Range area. Certainly the Gateway to the Arctic is involved. There have been proposals that that be made a national park.
>
> This makes it abundantly clear that for a period of 3 years the Secretary would be permitted to study the matter. Then, if he wants to recommend it as a national park or a recreation area, he would report back to Congress and Congress would have 5 years to act on it.
>
> The Senator recalls recently that I was lucky enough to be able to get to this rather sizable State north of our State during our recent recess. I noted there at Mount Kennedy that all of the land around there was not completely within the national park. There is a possibility of that being added.
>
> The same is true of the Mount McKinley National Park. There should be some slight increase in the same size.
>
> The same is true of the Glacier National Monument. I know that there are are others.
>
> Mr. STEVENS. Mr. President, I know of the Senator's great interest in our State. I am aware also of his trip this past summer to our State. We appreciate his interest in our park and wildlife areas.
>
> I want to make certain that this amendment provides that if there is to be any additional land added to these areas—and some of them I do support—it will be done by an act of Congress under this amendment.
>
> Mr. BIBLE. The Senator is correct.
>
> Mr. STEVENS. Also, Mr. President, with respect to the lands that have presently been tentatively approved by the State on selections made prior to the so-called freeze—which has been in effect for some time—these tentative approvals that have been given before that date would not be affected by the amendment. This is a prospective amendment.
>
> Mr. BIBLE. The Senator is correct. If they have been tentatively approved either by the Department or the Secretary of the Department or the Bureau of Land Management, they are in no way affected by the amendment.
>
> Mr. STEVENS. Mr. President, I am grateful to the Senator for explanation of his amendment. The amendment is in the same direction as the Kyl amendment. However, I think the Senator has come up with an automatic review provision which puts the burden on the Secretary to come forth and puts the burden on Congress to act within a specific period of time.
>
> While if I had my druthers, I would not have them in the bill.
>
> I understand the Senator's great interest and the interest of many other people in seeking that there is an orderly transition of 3 years. I am grateful to the Senator for pre-

senting the amendment in the way in which he has.

The most important statement in that exchange so far as I am concerned occurred when Senator BIBLE agreed with my statement when I said:

> I want to make certain that this amendment provides that if there is to be any additional land added to these areas—and some of them I do support—it will be done by an act of Congress under this amendment.

The Senator from Nevada (Mr. BIBLE) replied to that statement:

> The Senator is correct.

Thus, the conference committee had before it the House bill containing the Kyl amendment and the Senate bill containing the Bible amendment. In conference, after substantial debate over the question of the necessity for additional lands for conservation purposes in Alaska, it was agreed that the Secretary of the Interior would be authorized to withdraw up to 80 million acres for national parks, national wildlife refuges, national forests, or wild and scenic rivers. That 80 million acres is referred to in section 17(d) (2). Representative SAYLOR, of Pennsylvania, refused to sign the conference report and specifically stated:

> Very frankly, I do not think the Secretary of the Interior can do the job he is supposed to do in 90 days. I am, therefore, notifying the Members of the House now that I may upon the convening of 2d session of this Congress after the 18th of January, if I am told by the Secretary of the Interior that he needs more time, I am going to introduce a bill that will call upon the Congress to give the Secretary of the Interior more time on this total withdrawal because he should have it.

And Mr. SAYLOR also demonstrated that he knew then what the conference committee intended as he continued to discuss the amendment approved by the conference committee. And again I say, with that understanding, he refused to sign the conference committee report.

Mr. UDALL did sign the conference report, and he also pointed out his understanding of it. Section 17(d) (1) authorized the Secretary "to review the public lands in Alaska and determine any portion of these lands should be withdrawn under the authority provided for an existing law to insure that the public interest in these lands is properly protected." Congressman UDALL correctly indicated that this section provided "a clear and systematic mechanism to fulfill the immediate need for protecting these national interest areas against adverse development or disposal of private interest." This is precisely what the conference committee did and in the Senate report 92–581, filed by the Senator from Nevada to accompany H.R. 10367, the conferees specifically stated:

> The "classification" and "reclassification" authority granted under subsection 7(d) (1) is new legislative authority. The authority is limited to Alaska and to the purposes provided for in subsection 17(d). *It is, however, a very broad and important delegation of discretion and authority and the conference committee anticipates that the Secretary will use his authority to insure that the purposes of this Act and the land claims settlement are achieved, that the larger public interest in the public lands of Alaska is protected, and that the immediate and unrestricted operation of all the public land laws 90 days after date of enactment—absent affirmative action by the Secretary under his existing authority—does not result in a land rush, in massive filings under the Mineral Leasing Act, and in competing and conflicting entries and mineral locations.* (Emphasis added.)

In other words, section 17(d) (1) was designed to protect the broad public interest in Federal lands in Alaska to assure that entries under the public land laws would not be made in such a manner as to result in a land rush. Section 17(d) (1) also gave the Secretary the authority to protect the interests of the Native people to assure that the purposes of the Native Land Claims Settlement have been achieved and he has done this already by a withdrawal order which I request be printed at the end of this statement. The "larger public interest" that is referred to in section 17 (d) (1) is the public interest in orderly land management—it was not and was never intended to be an authorization to achieve the same purpose as was outlined by Congressmen UDALL and SAYLOR in their amendment which was defeated on the floor of the House.

Some people now claim that the bill as finally approved by the Congress is ambiguous and that it can be interpreted to authorize and in fact require the Secretary to withdraw more land in Alaska than the Udall-Saylor amendment would have required. In my years in dealing with legislative interpretation, I have never heard of a more specious argument.

The conference committee report specifically stated:

> Subsection 17(d) (2) of the conference report directs the Secretary to withdraw up to 80 million acres of unreserved public lands including lands previously classified such as lands within the Iliamna, Copper River, Brooks Range, White Mountain and other classification areas which he deems are suitable for consideration by the Congress for addition to or creation as new units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems. This subsection also provides a procedure and sets time limits for terminating withdrawals, for transmitting recommendations to the Congress, and for in lieu of selections by the State and Regional Corporations in the event that Congress enacts legislation setting aside these areas for public use and enjoyment.

This explanation makes it extremely clear that the 80 million acres was intended to both encompass the objectives of paragraph (g)3 and paragraph (g)4 of the Udall-Saylor amendment. Subsection (g)3 was the so-called national interest provision. Subsection (g)4 specifically referred to the areas previously classified or proposed for classification by the Secretary. Subsection 17(d) (2) directs the Secretary to withdraw up to 80 million acres of unreserved lands including lands previously classified. The conference committee report specifically refers to the Iliamna, Copper River, Brooks Range, White Mountain, and other classification areas as did subsection (g)4 of the Udall-Saylor amendment. To assume, as some people apparently do, that the conference committee in section 17(d) (1) meant to cover the same ground as the Udall-Saylor amendment would in subsection (g)3 does great violence to the legislative process. It assumes that those Members of the other body who failed to achieve passage of their amendment on the floor of the House were able to convince the conferees to put it back into the bill in an even more generous form than they had originally offered it before it was defeated. A recent ad in the national newspapers urged the Secretary of Interior to withdraw 50 million acres under the "national interest" concept and then to proceed to withdraw 80 million acres under the authority of section 17(d) (2). Now, by what stretch of the imagination can anyone assume that the conference committee which contained three members from Alaska and was chaired by the distinguished Representative from Colorado (Mr. ASPINALL), chairman of the Interior and Insular Affairs Committee, who opposed the Udall-Saylor amendment, could possibly approve such a bill? The proof that the Udall-Saylor amendment was not in the final bill is amply demonstrated by the fact that Representative SAYLOR refused to sign the conference report.

In further explanation of the conference committee report, I want to point out that we had a report from the Geological Survey which showed there were 268 million acres of land below 3,000 feet considered habitable. Of this land, at the time the conference committee was meeting, there were 91,900,000 acres withdrawn, leaving a total of 176,100,000 acres of habitable land not withdrawn. Of this amount, 40 million acres was authorized to be conveyed to the Alaska Native people by the terms of the Alaska Native Land Claim Settlement Act. The State of Alaska was granted 103.5 million acres of land by the Alaska Statehood Act. Of this amount, 78 million remained to be selected at that time. Assuming that both the Native lands and the State lands would come from the lands below 3,000 feet, there would be but 58 million acres of land left in Alaska not already withdrawn or selected by the State of Alaska prior to the date of the act. The reason we included 80 million acres under the Secretary's authorization for withdrawal was that a substantial portion of the lands that had been previously classified, such as the Copper River, Brooks Range, and White Mountain areas are in fact above 3,000 feet.

We know there will be substantial conflict between the requests of the State and requests of the Federal agencies for land in Alaska. It is clear that the Native Land Claims Act of 1971 specifies that with the exception of the 26 million acres the State of Alaska had selected before January 17, 1969, the Native selections come ahead of both the State and the Federal Government within the 25 township withdrawal areas around each village and within the areas reserved by the Secretary for Native "in lieu" selections. As pointed out on page 39 of the conference report, the State of Alaska was authorized to proceed with its selections "immediately in Alaska, outside the 25 township areas around Native villages and in lieu selection areas." It is very clear in the final bill that the State of Alaska, which under the Alaska Statehood Act has a right to select vacant, unreserved and unappropriated lands up to its entitlement of 103.5 million acres, could immediately start its selection outside of the 25 township withdrawals notwithstanding the fact that the final bill would impose a 90-day "freeze" period to permit the Secretary to take action to protect the areas which he might wish to consider under the 80 million acre authorization of section 17(d)(2) and to take action in the public interest under section 17(d)(1) to assure the continued operation of the public land laws for the purpose for which they were enacted.

Mr. President, the difference between section 17(d)(1) and 17(d)(2) is clearly pointed out on page 36 of the conference report. I would like to print this explanation at this point and point out that the "national interest areas" section under the final Alaska Native Land Claims is section 17(d)(2). The "public interest" section is section 17(d)(1):

"(b) National interest areas.

The Secretary of the Interior is authorized to withdraw from selection by the State and Regional Corporations (but not the Village Corporations) and from the operation of the public land laws up to, but not to exceed, 80 million acres of unreserved lands which, in his view, may be suitable for inclusion in the National Park, Forest, Wildlife Refuge, and Wild and Scenic River Systems.

(c) Interim operation of the public land laws. The Secretary is authorized, where appropriate, under this existing authority, to withdraw public lands and to classify or reclassify such lands and to open them to entry, location and leasing in a manner which will protect the public interest and avoid a "land rush" and massive filings on public lands in Alaska immediately following the expiration of the so-called "land freeze".

Now let me turn to another apparent conflict between those who are attempting to construe the Native Land Claims Act of 1971. Subsection 17(d)(2)(E) provides:

Notwithstanding any other provision of this subsection, initial identification of lands desired to be selected by the State pursuant to the Alaska Statehood Act and by the Regional Corporations pursuant to section 12 of this Act may be made within any area withdrawn pursuant to this subsection (d), but such lands shall not be tentatively approved or patented so long as the withdrawals of such areas remain in effect: *Provided,* That selection of lands by Village Corporations pursuant to section 12 of this Act shall not be affected by such withdrawals and such lands selected may be patented and such rights granted as authorized by this Act. In the event Congress enacts legislation setting aside any areas withdrawn under the provisions of this subsection which the Regional Corporations or the State desired to select, then other unreserved public lands shall be made available for alternative selection by the Regional Corporations and the State. Any time periods established by law for Regional Corporations or State selections are hereby extended to the extent that delays are caused by compliance with the provisions of this subsection (2).

It is argued, as I understand it, that land selected by the State of Alaska pursuant to the Alaska Statehood Act prior to withdrawal under section 17(d)(1) would be considered to be subject to later withdrawals under 17(d)(1) not made for the purpose of adding such lands to the four national systems pursuant to section 17(d)(2); that is, for national parks, national forests, national wildlife areas, and wild and scenic river systems. The difficulty of this interpretation is that it ignores the specific language of section 17(d)(1) which states:

Withdrawals pursuant to this paragraph shall not affect the authority of the village corporations, the regional corporations and the state *to make selections and obtain patents* with the area withdrawn pursuant to Section 11.

Section 11 is the 25 township withdrawals around every village. The argument, as I understand it, further alleges that for lands outside the 25 township withdrawals and within areas subsequently withdrawn under section 17(d)(1), notwithstanding the fact that the State had filed for the selection of such lands prior to such withdrawal, the Federal selection would have priority. This argument ignores the fact that section 17(d)(2)(E) was intended to refer to the withdrawals authorized by section 17(d)(2)—this is clearly shown by the provision of section 17(d)(2)(E) which states:

In the event Congress enacted legislation setting aside new areas withdrawn under *this* subsection which the regional corporations or the State desires to select, then other unreserved public lands shall be made available for alternative selection by the regional corporations and the state.

It is clear that Congress intended by the reference to "this subsection" to refer to subsection 17(d)(2)—that is the subsection under which 17(d)(2)(E) appears. Further, it is only under section 17(d)(2) that the Bible amendment appears—the Bible amendment is now contained in section 17(d)(2) (A), (B), (C), (D), and (E).

In other words, the final bill that was enacted by the Congress contains the Kyl amendment as amended by the Bible amendment with the added proviso that the withdrawals under the amendment are limited to 80 million acres and the restriction that the "freeze" would end at the expiration of 90 days following the enactment of the bill.

The Bible amendment had contained a provision, with regard to the areas desirable for inclusion in the national conservation systems, that lands so identified could be selected by the State of Alaska under the Statehood Act "but such lands shall not be definitely approved or patented so long as such withdrawal remains in effect." That language now included in subsection E, page 22 of the act, was derived from the second full sentence of the Bible amendment and it is important to compare those two sections. Let me print them in the Record at this point:

From the Bible amendment—

Notwithstanding any other provision of this Act, initial identification of lands desired to be selected by the State pursuant to the Alaska Statehood Act and by the Commission pursuant to sections 13(g)(3) and 19 of this Act may be made within any area withdrawn pursuant to this paragraph, but such lands shall not be tentatively approved or patented so long as the withdrawal of such areas remains in effect: *Provided,* That selection of lands by Native villages pursuant to sections 13(g)(1) and 14(h) and rights granted pursuant to section 21 of this Act shall not be affected by such withdrawals and such lands may be patented and such rights granted as authorized by this Act. In the event Congress enacts legislation setting aside any areas withdrawn under the provisions of this paragraph which the Natives or the State desired to select, then other unreserved public lands shall be made available for alternative selection by the Natives and the State. Any time periods established by law for Native or State selections are hereby extended to the extent that delays are caused by compliance with the provisions of this paragraph.

From the final act approved by Congress—

Notwithstanding any other provision of this subsection, initial identification of lands desired to be selected by the State pursuant to the Alaska Statehood Act and by the Regional Corporations pursuant to section 12 of this Act may be made within any area withdrawn pursuant to this subsection (d), but such lands shall not be tentatively approved or patented so long as the withdrawals of such areas remain in effect:

*Provided,* That selection of lands by Village Corporations pursuant to section 12 of this Act shall not be affected by such withdrawals and such lands selected may be patented and such rights granted as authorized by this Act. In the event Congress enacts legislation setting aside and areas withdrawn under the provisions of this subsection which the Regional Corporations or the State desired to select, then other unreserved public lands shall be made available for alternative selection by the Regional Corporations and the State. Any time periods established by law for Regional Corporations or State selections are hereby extended to the extent that delays are caused by compliance with the provisions of this subsection (2).

Should the uninformed advice of those who claim that section 17(d)(1) is the "national interest section" from the Udall-Saylor amendment be followed by the Secretary of the Interior, he will be led to a grievous error. It would substantially prejudice the rights of my State and would jeopardize the very delicate balance of the land distribution authorized by the Native Land Claims Settlement Act of 1971. There simply is not enough land in Alaska which is habitable and usable to withdraw vast additions to be held in reserve for addition to national wildlife refuges, parks, forests, or wild and scenic river systems under section 17(d)(1). When we agreed to the 80 million acres in conference, the Representative from Arizona brought to the conference a listing of the areas he considered to be areas which should be examined under the 80-million-acre provision. These areas I understand then included not only those under section (g)(4) of the Udall-Saylor amendment and also these the Congressmen had referred to be included under (g)(3) of their amendment.

It is my understanding that now it has been suggested by the Congressman from Arizona (Mr. Udall) and the Congressman from Pennsylvania (Mr. Saylor), that the Secretary of the Interior might find it desirable to withdraw all public lands in Alaska and to reinstitute a total freeze in Alaska. The answer to that assertion is contained in the statement of the chairman of the conference committee when he reported the conference committee back to the floor. Congressman Aspinall stated succinctly:

> We provide for the lifting of the present freeze.

Mr. President, it was the desire of the Alaska congressional members on the conference committee to assure that the land freeze would be lifted that led us to agree to the 80-million-acre provision. In fact, I stated on this floor on December 14:

> The general land freeze stipulation in the bill is carefully defined and is restricted in time and location, thus, insuring the prudent development of Alaska's land base which is so essential to the social and economic progress of our people.

Mr. President, there is nothing in the Alaska Native Land Claims Settlement Act which directs the Secretary to make withdrawals under 17(d)(1). He is specifically directed to make withdrawals only under 17(d)(2).

The State of Alaska was authorized to commence making its selections immediately upon the passage of the Native Land Claims Act and it has done so before the expiration of the 90-day period. In the areas it has selected, its selections will not be subject to Federal withdrawals under section 17(d)(1). With regard to withdrawals under section 17(d)(2), this is a controversial point, but I believe it was intended by the provisions I have set forth above that with regard to the areas later approved by Congress for addition to the four national conservation systems, the State's selections will be in jeopardy and the State will be given additional selections if that occurs.

I am further informed that the Congressmen I mentioned are urging the Secretary by public land order to establish new national wildlife refuges or additions to the national park system by public land order or Presidential proclamation and completely disregard the legislative history of the Native Land Claims Settlement Act. It was the Kyl amendment as amended by the Bible amendment which was enacted by this Congress. The Udall-Saylor amendment was not adopted, and on the floor of the Senate the Senator from Nevada (Mr. BIBLE) specifically agreed with me that if his amendment were adopted, all further additions to the national conservation systems in Alaska would be made by act of Congress.

It seems strange indeed to me that the views of two members of a conference, one of whom did not sign the conference committee report, should be used by the Department of the Interior as legislative history to interpret the views of the Congress as a whole. Further, it is strange indeed for me to hear that the Department of Interior in which I served almost 5 years as legislative counsel and then as solicitor would ignore the legislative history of this act which is so important to Alaska. It is not possible to interpret 17(d)(2) without determining where that provision came from. I am told that the language speaks for itself. I am also told that it is ambiguous. If it is ambiguous, the ambiguity certainly should be clarified by the legislative intent expressed by Congress and by the statements made by those members to the conference who spoke for the majority of the Members of Congress serving on the conference. If one chooses to ignore the legislative history, then certainly one cannot ignore the facts and the facts are that the Udall-Saylor interpretation of the Alaska Native Land Claims Act would completely stifle State selections and destroy the congressional intent embodied in that act.

I ask unanimous consent to have printed in the RECORD an appendix to to Public Land Order 5156.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

Title 43—PUBLIC LANDS: INTERIOR

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

(Appendix—Public Land Orders, Public Land Order 5156)

ALASKA—WITHDRAWAL OF LANDS IN FORMER RESERVATIONS

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, all of the lands and water areas in the reserves set aside by legislation, Executive and Secretarial Orders for Native use or for administration of Native Affairs, including those created under the Act of May 31, 1938, 52 Stat. 503, which were revoked by section 19(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 710, are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act (72 Stat. 339), and from location and entry under the mining laws (30 U.S.C. Ch. 2), and from leasing under the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. section 181 et seq. (1970), in furtherance of the right of any Native Village Corporation or Corporations to acquire title to the surface and subsurface estates in the reservations, pursuant to section 19(b) of said Act.

2. The withdrawal made by this order will remain in full force and effect until December 18, 1973, unless sooner modified or terminated. Any of the lands or water areas not selected under the provisions of the Alaska Native Claims Act, supra and not withdrawn by said Act or otherwise, shall at 10 a.m. on December 18, 1973, be open to selection by the State of Alaska under the Statehood Act, and to appropriation under the public land laws generally, including location and entry under the mining laws, and to leasing under the mineral leasing laws at 10 a.m. on March 18, 1974.

3. This order shall become effective upon publication in the Federal Register (2-11-72).

HARRISON LOESCH,
*Assistant Secretary of the Interior.*

FEBRUARY 4, 1972.

[FR Doc. 72-2073 Filed 2-10-72; 8:47 a.m.]

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## CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

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## EDUCATION AMENDMENTS OF 1972

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business which will be stated by title.

The assistant legislative clerk read as follows:

> S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education purposes.
> Act of 1963, and related Acts, and for other

The ACTING PRESIDENT pro tempore. The pending business is the amendment (No. 949) offered by the distinguished senior Senator from North Carolina (Mr. ERVIN). Debate on the amendment is limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill.

Mr. ERVIN. Mr. President, I would like to read this proposed amendment to the Senate. It says:

> SEC. —. Notwithstanding any other provision of law, no court, department, agency, or officer of the United States shall have jurisdiction or power under any circumstances to order or require by any means whatever the State or local authorities operating any public school system in any State, district, territory, Commonwealth, or possession of the United States to deny to any student of any race, religion, or national origin admission to the school nearest his home which is operated by such authorities for the education of students of his age or ability. The Congress intends the statutory provision set out in the preceding sentence to apply to every court, department, agency, or officer of the United States, and to every State or local authority, public school system, public school, student, or person, and to every circumstance or situation to which or to whom the Congress has the constitutional power to make it applicable, and to this end the Congress declares its invalidity in particular respects or in particular applications shall not impair in any way its validity in other respects or in other applications.

Mr. President, this amendment provides that where the local school authorities so permit, a child of any race or any religion or any national origin shall have the legal right to attend the school nearest his home operated and available for children of his age and educational ability, and that this right cannot be taken away from him by any Federal judge or by any official of any department or agency of the Federal Government.

It does not interfere with the right of local school authorities to take children out of the district for educational purposes or for any purpose they deem wise.

This is a measure to make little children free to attend their neighborhood schools, regardless of the wishes of Federal judges or some underling in the Department of Health, Education, and Welfare. All Senators who believe in freedom for little children should vote for it.

I yield the remainder of my time to the distinguished Senator from South Carolina (Mr. HOLLINGS) cosponsor of the amendment.

Mr. HOLLINGS. I thank my distinguished colleague from North Carolina. Mr. President, the news reported the other day that one of our candidates for the Presidency was returning to Washington disillusioned with the first vote it had had relative to the Griffin amendment. He certainly, he said, did not want to see a page torn from the civil rights statute or bill of civil rights, and he was coming back to defend civil rights.

I read now from section 2000c, title 42, subchapter 4, of the United States Code, a provision of the 1964 civil rights statute, which states:

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

Mr. President, the Congress has spoken on this. It has spoken time and time again in the Elementary and Secondary Education Act. But, unfortunately, the courts have not listened. The courts have not adhered to the mandates of the Congress. It was agreed at the time of the original arguments, in December 1952, between all parties on all sides, including the judiciary and the Justice Department, at the time of that exchange, that it would be a legislative function to enforce those rights.

So what we really find is the Congress, as the legislative branch, still grappling, as it tries to solve this problem, when it already has been solved once, or at least we attempted to solve it by trying to set guidelines, which have been completely ignored by the courts.

There are now three parts to solving this problem. One is to get a judiciary that will listen, and I think President Nixon is trying to do that. Chief Justice Burger, in the final paragraph in the Swann decision, said:

> It does not follow that the communities served by such systems will remain demographically stable, for in a growing, mobile society, few will do so. Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official actions is eliminated from the system.

Once that is done, once a unitary school has been established, we would not be coming up every year with a school count and a distribution count and a reorganization by a finding that a civil right was there or a civil right had been denied. So I think the first thing is to get a judiciary that will adhere to the Constitution on the matter of rights, so that no one will be denied that right because of race.

Second, perhaps we have got to enact legislation reemphasizing the role of the Congress in this field, so that the 14th amendment would be enforced by Congress, and not by the judicial branch as section 5 of that amendment provides.

In line with this, I have introduced and it has been referred to the Judiciary Committee, an amendment to the section 5 of the 14th amendment. I wanted to reestablish and reaffirm that, with particular respect to public schools in the several States. Congress shall have the right, by appropriate legislation, to enforce that amendment, and this is what my amendment provides.

Third, as we said in the debate the other day, all our efforts are to build up the neighborhood school. The amendment of the Senator from North Carolina goes to the heart of the matter and we further need to increase our support for substandard schools. This is why I supported the Chiles amendment.

It is significant, and we must be absolutely aware, that every time we have approached the problem in Congress, it has been by way of an effort to build up the community. Whether it is the ghetto problem, or the welfare problem, or the unemployment problem, we have tried to put money into it and to get community action. When we go to OEO and poverty, we are always trying to build up the community, to bring assistance to develop the economy, so that those in the community would not be disadvantaged.

We have tried to put money into the community in every respect except the very instrumentality that really gives stability, the community school. There the effort has been to hold them down, to run them out, to put them in an unnatural situation, which really denies them not only equal rights but equal education. We would have equal and quality education for all if we put the money into the schools and built them up. And retaining the neighborhood schools also helps to bring stability to the community and the school because of the participation of the parents. "Public schools" means just that. It means those supported by the public. Excellence in the quality of education comes from public participation, public support, community participation, community administration. We automatically take all these children and assign them all around on a scattered basis with the idea that somehow it is a civil right, but it has brought about the unnatural situation we face now with this very busing.

So the amendment before us provides that:

> Notwithstanding any other provision of law, no court, department, agency, or officer of the United States shall have jurisdiction or power under any circumstances to order or require by any means whatever the state or local authorities operating any public school system in any State, district, territory, Commonwealth, or possession of the United States to deny to any student of any race, religion, or national origin admission to the school nearest his home . . .

This is trying to reestablish the approach with the public school system, the same approach which has proved salutary in every other instance. When we finally bring quality there, when we finally look upon our schools as institutions to build up, as the Chiles amendment and the Ervin amendment would do, rather than as institutions to derogate, we will be guaranteeing quality education in the public school system and giving some meaningfulness to that civil right or constitutional right, protected by the 14th amendment and recognized in Brown against Board of Topeka.

Once again, the courts have been the ones that have caused the trouble. Our distinguished forebear, Thomas Jefferson, said:

> At the establishment of our Constitution, the judiciary bodies were supposed to be the most helpless and harmless members of the government. Experience, however, soon showed in what way they were to become the most dangerous; that the insufficiency of the means provided for their removal gave them a freehold and irresponsibility in office; that their decisions, seeming to concern individual suitors only, pass silent and unheeded by the public at large; that these decisions, nevertheless, become law by precedent, sapping by little and little the foundations of the Constitution, and working its change by construction, before anyone has perceived that that invisible and helpless worm has been busily employed in consuming its substance.

On another occasion, Jefferson wrote:

> The judges are practicing on the constitution by inferences, analogies, and sophisms . . . It has long, however, been my opinion . . . that the germ of dissolution of our federal government is in the constitution of the federal judiciary . . . working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief, over the field of jurisdiction . . .

Here the Senator from North Carolina (Mr. ERVIN) faces up to it, and says, "Let us make no mistake about this. Let us establish jurisdiction within Congress, and not within those courts which have, in essence, taken away the constitutional rights. They have denied the civil rights of the children. Brown vs. Board of Education held that they shall not bus because of race, and that is what the courts are now ignoring."

I yield to the Senator from North Carolina.

**Mr. ERVIN.** Mr. President, I ask unanimous consent that amendment No. 949 be amended by inserting the word "title" between the word "numbered:" and the word "protection", on the line preceding line 1 on the first page.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. GRIFFIN.** Mr. President, I find it difficult to vote against this amendment because I realize, of course, that its broad effect would include and encompass the limited objective of my earlier amendment: to curtail forced racial busing of schoolchildren. But, unfortunately, the pending Ervin amendment reaches much further.

This amendment purports to confer an absolute Federal right on all pupils to attend their "neighborhood" schools. But there is no clear definition as to what is meant by the "neighborhood."

For example, what if the closest school in a pupil's "neighborhood" happened to be across a State line?

This Ervin amendment would raise up many troublesome problems of interpretation which are completely unrelated to racial segregation generally or to the specific abuse of court-ordered busing based on race.

Mr. President, last year I voted against a similar amendment when it was offered by the distinguished Senator from North Carolina. I shall vote against the amendment again today.

**Mr. PELL.** Mr. President, the amendment proposed by the senior Senator from North Carolina would withdraw jurisdiction from the courts, as well as the executive branch of the Government, to make any decision which would result in a specific assignment of a student to any other school than that which is nearest his home, if that school is operated for the education of students of the age or ability group of the particular student. As has been stated many times during the past few days, the question of the constitutional power of Congress to withdraw jurisdiction of courts, when the rights of individuals are involved, is subject to very serious questioning. Perhaps, too, matters of this importance ought to be considered by the Committee on the Judiciary rather than under the present circumstances, although that is out of my ken as a member of the Committee on Labor and Public Welfare.

What this amendment would basically do, would be to continue, North or South, wherever it occurs—and in this regard the South has done a better job than the North for the last few years—those dual systems of education which still exist. With the saving grace of the Mansfield-Scott amendment, we now know that there will not be busing of a few educationally advantaged children from more privileged families to be overwhelmed in an inner city inferior school, busing for busing sake. However, we must provide means for busing youngsters, as has been done in Hartford, Conn., from the less advantaged areas. We have found that as long as the so-called tipping point—25 percent, 30 percent, 35 percent—is not reached, the quality of education for the more privileged children does not decline one iota, while the quality of education for the underprivileged comes up substantially. This process, the use of busing in a moderate way as a moderate tool, should not be thrown out of the window. This amendment does not go directly to that particular objective, but it could end up with the same result. Therefore I must oppose it.

I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I join the manager of the bill on the part of the majority in opposing this amendment.

This is another phrasing of the idea of trying to popularize the use of "freedom of choice" by the slogan, which is obviously attractive, of "neighborhood schools."

After all, in dealing with the amendment, we have to read what it says and pay attention to what it says, not to the advertising about it, and this amendment says that no one—no district, no authority, no court—can "deny" to any student of any race, religion, or nationality admission to the school nearest his home.

That is a modified freedom of choice plan, to wit, that if a student seeks, by freedom of choice, to go to the school nearest his home, he must be admitted; and the courts have already held very clearly that though freedom of choice might be all right, might even be all right as a way to deal with segregation, it is not necessarily so; so to maintain that position is seeking to maintain what the courts have already struck down.

The author of the amendment, Mr. President, is very well aware of that, because he then proceeds, in the next sentence on the same page 2, at lines 7 to 16, to say:

> The Congress intends the statutory provision set out in the preceding sentence to apply to every court, department, agency, or officer of the United States, and to every State or local authority, public school system, public school, student, or person, and to every circumstance or situation to which or to whom the Congress has the constitutional power to make it applicable, and to this end the Congress declares its invalidity in particular respects or in particular applications shall not impair in any way its validity in other respects or in other applications.

So the author of the amendment knows very well that there is very considerable constitutonal doubt, and therefore states the congressional intention that it shall only be applicable where constitutionally possible.

In other words, this amendment does not even have the saving clause that if any part of it is found unconstitutional, the rest of it should stand. I do not believe that the court needs to pay any attention whatever to the intention of Congress as compared to the words of Congress, and the words of Congress would patently, in my judgment, fly in the face of the decided cases.

Mr. President, I think, in the first amendment this morning of this character, we are facing a very serious question about the so-called antibusing amendments of the day, because, Mr. President, practically all of them have, in one way or another, already been dealt with, and the Senate has exercised its will with respect to them.

As one Senator, I do not like to see our proceedings deteriorate, as they have on various days, into a question of who is here and who is not, on testing out propositions on which 97 Senators, as recently as yesterday, decidedly expressed their views. I state that because whatever course of action we, the managers of the bill, may decide upon, the Senate has very clearly expressed itself with regard to the basic propositions, with a very ample number of Senators present.

So, Mr. President, I join the Senator from Rhode Island (Mr. PELL) in opposing this amendment on the grounds stated: first, that the Senate has expressed itself now on this question decidedly, with 97 Members present, as to what it wants done; and I have pledged and Senator PELL has pledged, with the Senator from Minnesota (Mr. MONDALE) to have the greatest fidelity in respect to endeavoring to carry out the will of the Senate.

I might say to the Senate that we have certainly given an earnest of that will in the consummation of the conference yesterday on equal employment opportunity, in which, by dint of running from this Chamber to the conference room, I was able to have a fairly active part, and we have sustained essentially the Senate's position, notwithstanding that that was not the committee's position, and I think that should be an earnest to the Senate in respect of our complete good faith, in that we have done what we said we would do. I think in view of that earnest, the Senate should stay with what it has done. We should not, by arguing these matters this morning, make basic changes in the determinations which have already been made unless there is some very solid reason for them, which I certainly do not see.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MONDALE. During the course of this debate, on two occasions, the Senate voted against the Griffin amendment, which sought to prohibit Federal courts from issuing any orders eliminating desegregation which might include any busing requirements, and to improve the same limitation on HEW.

Is it not the opinion of the Senator from New York that the pending amendment even goes much further than the Griffin amendment, in that it eliminates all remedies of any nature to dismantle discriminatory school systems?

Mr. JAVITS. There is no question about that.

As I said when I opened, this is simply another way to get at freedom of choice plans and to mandate them. That is what this is, and nothing else. Realizing that it may run into constitutional difficulties, this sentence of intention is inserted, which is not even as good as a saving clause. It indicates the vulnerability of the amendment and its real thrust.

Mr. MONDALE. I recall that some Senators who supported the Griffin amendment said they were against discrimination, but they just wanted to deny the court the single remedy of busing. All other remedies of busing would be available to it.

Mr. JAVITS. That is right.

Mr. MONDALE. Senators who argued that way and who voted for the Griffin amendment would be in a position in which they should vote against this amendment, because it denies the court all remedies; and to support this amendment is to deny the court any opportunity to undo a discriminatory system. Is that correct?

Mr. JAVITS. The Senator is correct, and I concur completely with him in his views.

Mr. President, I reserve the remainder of my time.

Mr. ERVIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. ERVIN. Mr. President, this amendment would not have the effect that the distinguished Senator from Minnesota has suggested. The obligation would still rest upon the school board to make the assignments to the neighborhood school on a nonracial basis. It would have to assign students to the school without taking into consideration their race, religion, or national origin.

Furthermore, I think the second clause of this is about the best separability clause that could be drawn—much better than the one in ordinary use.

I would say that it is as clear as the noonday sun in a cloudless sky, from the words of the third article of the Constitution and perhaps as many as 50, or more decisions of the Supreme Court of the United States, that Congress has the right and the power to take away the appellate jurisdiction of the Supreme Court and any jurisdiction it sees fit from the lower Federal courts.

This was put in the Constitution to keep the courts from straining far beyond the bounds of their constitutional power and making a mockery of the Constitution.

I ask all Senators who do not believe that Federal judges or Federal officials should practice tyranny upon little children who are privileged by their school board to attend schools nearest their homes to vote for this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

Mr. JAVITS. Mr. President, time has expired for the proponents, and we have only 4 minutes, so I doubt that we have the time for a quorum call. We could yield back our time and then have a quorum call.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. A quorum is not in order, since there is not sufficient time.

Mr. PELL. I yield the Senator from New York 2 minutes.

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senator from Rhode Island be permitted to ask for a quorum call.

Mr. JAVITS. There is no need for that.

Mr. President, I believe that the discussion has very adequately brought out the issue, and the artful phrasing of the amendment does not change the basic issue as stated by the Senator from Minnesota and by me, which the Senator from North Carolina has recognized; and that is that this is essentially a freedom-of-choice amendment, notwithstanding the way in which it is phrased. It would cut off all remedies. By employing the attractive label of "neighborhood school," in effect it seeks to do what the Senate has expressed itself time after time against any desire to do.

Mr. President, if one can divine the will of the Senate—and I believe we can, from the votes which have been taken—the will of the Senate appears to be that there shall not be an elimination, an absolute bar, to busing as a means for effecting desegregation, but that it shall be limited, and that the rules of limitation shall be essentially those laid down in the Swann case, with the additional interpretation of the Swann case, which the Senate would then take as its own, that the impingement upon the educational process test should be applicable not only to the child bused but should be applicable as well to the school to which that child was bused; that the aspect of the voluntary application for Federal resources on the part of local school authorities is an additional aspect of limitation on busing.

It seems to me that this represents the will of the Senate, the way the Senate has defined its position in the very serious debate and a considerablie number of votes. Hopefully, after the votes today, we shall be able to go to conference and carry out the concept for which the Senate has voted.

I reserve the remainder of my time.

Mr. PELL. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McGOVERN). Without objection, it is so ordered.

All time on this amendment has now expired.

The question is on agreeing to the amendment No. 949 of the Senator from North Carolina (Mr. ERVIN).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Washington (Mr. JACKSON), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. McGEE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

On this vote, the Senator from Mississippi (Mr. STENNIS) is paired with the Senator from Minnesota (Mr. HUMPHREY).

If present and voting, the Senator from Mississippi would vote "yea" and the Senator from Minnesota would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Vermont (Mr. STAFFORD) is necessarily absent and, if present and voting, would vote "nay."

The result was announced—yeas 26, nays 67, as follows:

[No. 73 Leg.]

YEAS—26

Allen
Baker
Bentsen
Bible
Brock
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cotton
Curtis
Eastland
Ellender
Ervin
Fulbright
Gambrell
Gurney
Hollings
Jordan, N.C.
Long
McClellan
Sparkman
Spong
Talmadge
Thurmond
Tower

NAYS—67

Aiken
Allott
Anderson
Bayh
Beall
Bellmon
Bennett
Boggs
Brooke
Buckley
Burdick
Case
Church
Cook
Cooper
Cranston
Dole
Dominick
Eagleton
Fannin
Fong
Goldwater
Gravel
Griffin
Hansen
Harris
Hart
Hatfield
Hruska
Hughes
Inouye
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—7

Hartke
Humphrey
Jackson
McGee
Mundt
Stafford
Stennis

So Mr. ERVIN's amendment (No. 949) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS subsequently said. Mr. President, this morning, when amendment No. 949 to the education bill was voted on on a rollcall vote, I failed to get knowledge of the fact that the vote was in progress until it was too late to arrive in the Chamber.

Mr. President, if present, I would have voted "yea."

### AMENDMENT NO. 952

The PRESIDING OFFICER (Mr. CHILES). Under the previous order, the Senator from North Carolina is recognized to take up amendment No. 952.

Mr. ERVIN. Mr. President, I call up amendment No. 952.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the committee amendment add the following additional title and section appropriately numbered:

TITLE ——

APPLICATION OF PROVISO OF SECTION 407(a) OF THE CIVIL RIGHTS ACT OF 1964 TO THE ENTIRE UNITED STATES

SEC. . The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I am willing to agree to a 5-minute limitation on this amendment.

Mr. PELL. Does the Senator mean 2½ minutes to the side?

Mr. ERVIN. No. I mean 5 minutes to the side.

Mr. PELL. That is agreeable with me.

Mr. ERVIN. Mr. President, I ask unanimous consent that there be a time limitation on the pending amendment of 5 minutes to the side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, the amendment is very simple.

Mr. PASTORE. Mr. President, may we have order? We can have order, can we not?

The PRESIDING OFFICER. The Senate will come to order. Senators will please take their seats.

Mr. ERVIN. Mr. President, this amendment is very simple.

The PRESIDING OFFICER. The Senator will please suspend. The Senate will be in order. Senators will please be seated. The Senator may proceed.

Mr. ERVIN. Mr. President, the amendment states:

> The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any——

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

I know the Chair is doing the best he can to get order.

The PRESIDING OFFICER. If the Senator will please suspend, the Senate will be in order. The Senator may continue.

Mr. ERVIN. Mr. President, I can state the amendment simply. This amendment merely provides that the prohibition on busing to achieve a racial balance shall apply in all circumstances to all parts of the United States, and that those areas of the country which did not anticipate the Supreme Court in discovering that the separate but equal doctrine had ceased to be the law of the land will be brought into the Union and treated as a part of the Union.

I appeal to all Senators who think we should have a unified country with uniform laws applying to all areas of the country, because that is what the amendment would do.

Mr. President, I reserve the remainder of my time.

Mr. PELL. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, the amendment of the Senator from North Carolina simply restates the law. In fairness to all of us, that should be made very clear. It states the law now found in section 407(a) of the Civil Rights Act of 1964. It simply adds the additional clause, which does not add or subtract from the law stated, that under all circumstances this shall be equally applied, whether in the Northern, Eastern, Western, or Southern part of the United States.

I certainly see no harm in it. It simply restates the law. If the Senator desires the yeas and nays, that is his privilege, but as far as I am concerned, I would simply accept the amendment as being a restatement of the law, and if a Member as distinguished as the Senator from North Carolina desires it restated in this context, it is fine with me.

Mr. MILLER. Mr. President, will the Senator yield so I may ask a question of the Senator from New York?

Mr. PELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Rhode Island has 3 minutes remaining.

Mr. PELL. I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, I would like to ask the Senator from New York about the language of the amendment which starts on line 4, page 2, and states:

> or otherwise enlarge the existing power of the court.

I would like to know whether that language is in the Civil Rights Act of 1964.

Mr. JAVITS. The entire language is. I wish to read into the Record the provisions of the Civil Rights Act of 1964, section 407(a), which states:

> *Provided,* That nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance or otherwise enlarge the existing powers of the court to insure compliance with constitutional standards.

Mr. MILLER. The Senator has answered my question precisely. I thank the Senator.

Mr. PELL. Mr. President, there is no question that the South has done a better job of desegregation than the North. This measure states that the law should be applied uniformly and fairly throughout the country. As the repetition of that legal position is a correct one, I urge that it be accepted.

I yield back the remainder of my time.

Mr. JAVITS. Mr. President, does the Senator want a rollcall vote on this amendment?

Mr. ERVIN. Mr. President, I would like to give all Members of the Senate the opportunity to show the magnanimity of the distinguished Senator from New York by a rollcall vote.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from North Carolina, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from Wyoming (Mr. McGee), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), and the Senator from Washington (Mr. Jackson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Vermont (Mr. Stafford) is necessarily absent.

The Senator from Connecticut (Mr. Weicker) is detained on official business.

If present and voting, the Senator from Vermont (Mr. Stafford) would vote "yea."

The result was announced—yeas 92, nays 0, as follows:

[No. 74 Leg.]

YEAS—92

Aiken
Allen
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NAYS—0

NOT VOTING—8

Hartke
Humphrey
Jackson
McGee
McGovern
Mundt
Stafford
Weicker

So Mr. Ervin's amendment (No. 952), as modified, was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. Chiles). Under the previous order, the Senator from North Carolina is recognized to take up his amendment No. 950.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order to ask unanimous consent that there be a time limitation of 20 minutes on the pending amendment, the time to be equally divided as previously prescribed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. I ask unanimous consent that the reading of the amendment be waived and that the amendment be printed in full at this point in the body of the Record.

There being no objection, the amendment—No. 950—was ordered to be printed in the Record, as follows:

> At the end of the committee amendment add the following new title and section appropriately numbered:
>
> TITLE ——
>
> FREEDOM OF CHOICE ASSIGNMENTS
>
> Sec. . Notwithstanding any other provision of law, no court, department, agency, or officer of the United States shall have jurisdiction or power to order or require by any means whatever State or local authorities controlling or operating any system of public schools in any State, district, territory, Commonwealth, or possession of the United States to assign students of any race, religion, or national origin to any schools other than those chosen by the students or their parents where such State or local authorities open the schools under their jurisdiction to students of all races, religions, or national origins and grant them the freedom to attend the schools chosen by them or their parents from among those available for the instruction of students of their ages and educational standings. The Congress intends this statutory provision to apply to every court, department, agency, or officer of the United States, and to every State or local authority, public school

system, public school, student, or person, and to every circumstance or situation to which or to whom the Congress has the constitutional power to make it applicable, and to this end the Congress declares that its invalidity in particular respects or in particular application shall not impair in any way its validity in other respects or in other applications.

Mr. ERVIN. This is a very simple amendment, while I would not under any circumstances be willing to remove permanently from North Carolina, even to go to the Kingdom of Heaven, if I could get there, this is one time when I wish I could temporarily move my residence north of the Mason-Dixon line, because if I did, I am sure the Senate would adopt this amendment.

The amendment reads as follows:

Notwithstanding any other provision of law, no court, department, agency, or officer of the United States shall have jurisdiction or power to order or require by any means whatever State or local authorities controlling or operating any system of public schools in any State, district, territory, Commonwealth, or possession of the United States to assign students of any race, religion, or national origin to any schools other than those chosen by the students or their parents where such State or local authorities open the schools under their jurisdiction to students of all races, religions, or national origins and grant them the freedom to attend the schools chosen by them or their parents from among those available for the instruction of students of their ages and educational standings.

This amendment provides that where the local school authorities open all the schools under their jurisdiction to students of all races, religions, or national origins, the parents or the students shall have the authority to select the schools that the students attend from among the schools available for the education of students of their ages and educational attainments.

The PRESIDING OFFICER. If the Senator will suspend for a moment, the Senate will come to order. Members of the staff will please refrain from conversations.

The Senator may proceed.

Mr. ERVIN. In other words, the amendment would take away from Federal judges and Federal officials the power to say what schools children shall attend, where the local authorities open all schools under their jurisdiction to all children of all races, religions, or national origins, and allow the parents or the students themselves to select the schools which the children shall attend. It restores freedom to a land whose Constitution says that it was created to preserve the blessings of liberty to all Americans of all generations. That is what I seek to do, and I hope that those who believe in freedom will vote for it.

I yield the remainder of my time to the distinguished Senator from South Carolina.

Mr. HOLLINGS. I thank my distinguished colleague from North Carolina.

As we seem to be getting a little bit larger in our view of civil rights, in our concept of what rights were intended and what educational rights were covered by the 14th amendment, I want to go back to the original document, the arguments made before the U.S. Supreme Court by the then Chief Counsel Thurgood Marshall of the NAACP, now Mr. Justice Marshall. I ask unanimous consent that those parts of the argument appearing on pages 47 through 49, be printed in the Record at this point.

There being no objection, the colloquy was ordered to be printed in the Record, as follows:

Justice Frankfurter. You mean, if we reverse, it will not entitle every mother to have her child go to a nonsegregated school in Clarendon County?

Mr. Marshall. No, sir.

Justice Frankfurter. What will it do? Would you mind spelling this out? What would happen?

Mr. Marshall. Yes, sir. The school board, I assume, would find some other method of distributing the children, a recognizable method, by drawing district lines.

Justice Frankfurter. What would that mean?

Mr. Marshall. The usual procedure——

Justice Frankfurter. You mean that geographically the colored people all live in one district?

Mr. Marshall. No, sir, they do not. They are mixed up somewhat.

Justice Frankfurter. Then why would not the children be mixed.

Mr. Marshall. If they are in the district, they would be. But there might possibly be areas—

Justice Frankfurter. You mean we would have gerrymandering of school districts?

Mr. Marshall. Not gerrymandering, sir. The lines could be equal.

Justice Frankfurter. I think that nothing would be worse than for this Court—I am expressing my own opinion—nothing would be worse, from my point of view, than for this Court to make an abstract declaration that segregation is bad and then have it evaded by tricks.

Mr. Marshall. No, sir. As a matter of fact, sir, we have had cases where we have taken care of that. But the point is that it is my assumption that where this is done, it will work out, if I might leave the record, by statute in some states.

Justice Frankfurter. It would be more important information in my mind, to have you spell out in concrete what would happen if this Court reverses and the case goes back to the district court for the entry of a decree.

Mr. Marshall. I think, sir, that the decree would be entered which would enjoin the school officials from, one, enforcing the statute; two, from segregating on the basis of race or color. Then I think whatever district lines they draw, if it can be shown that those lines are drawn on the basis of race or color, then I think they would violate the injunction. If the lines are drawn on a natural basis, without regard to race or color, then I think that nobody would have any complaint.

For example, the colored child that is over here in this school would not be able to go to that school. But the only thing that would come down would be the decision that whatever rule you set in, if you set in, it shall not be on race, either actually or by any other way. It would violate the injunction, in my opinion.

Justice Frankfurter. There is a thing that I do not understand. Why would not that inevitably involve—unless you have Negro ghettoes, or if you find that language offensive, unless you have concentrations of Negroes, so that only Negro children would go there, and there would be no white children mixed with them, or vice versa—why would it not involve Negro children saying, "I want to go to this school instead of that school"?

Mr. Marshall. That is the interesting thing in this procedure. They could move over into that district, if necessary. Even if you get stuck in one district, there is always an out, as long as this statute is gone.

There are several ways that can be done. But we have instances, if I might, sir, where they have been able to draw a line and to enclose—this is in the North—to enclose the Negroes, and in New York those lines have on every occasion been declared unreasonably drawn, because it is obvious that they were drawn for that purpose.

Justice Frankfurter. Gerrymandering?

Mr. Marshall. Yes, sir. As a matter of fact, they used the word "gerrymander."

So in South Carolina, if the decree was entered as we have requested, then the school district would have to decide a means other than race, and if it ended up that the Negroes were all in one school, because of race, they would be violating the injunction just as bad as they are by violating what we consider to be the Fourteenth Amendment now.

Justice Frankfurter. Now, I think it is important to know, before one starts, where he is going. As to available schools, how would that cut across this problem? If everything was done that you wanted done, would there be physical facilities within such drawing of lines as you would regard as not evasive of the decree?

Mr. Marshall. Most of the school buildings are now assigned to Negroes, so that the Negro buildings are scattered around in that county. Now, as to whether or not lines could be properly drawn, I say quite frankly, sir, I do not know. But I do know that in most of the southern areas—it might be news to the Court—there are very few areas that are predominately one race or the other.

Justice Frankfurter. Are you going to argue the District of Columbia case?

Mr. Marshall. No, sir.

If you have any questions, I would try, but I cannot bind the other side.

Justice Frankfurter. I just wondered, in regard to this question that we are discussing, how what you are indicating or contemplating would work out in the District if tomorrow there were the requirement that there must be mixed groups.

Mr. Marshall. Most of the schools in the District of Columbia would be integrated. There might possibly be some in the concentrated areas up in the northwest section. There might be. But I doubt it. But I think the question as to what would happen if such decree was entered—I again point out that it is actually a matter that is for the school authorities to decide, and it is not a matter for us, it seems to me, as lawyers, to recommend except where there is racial discrimination or discrimination on one side or the other.

But my emphasis is that all we are asking for is to take off this state-imposed segregation. It is the state-imposed part of it that affects the individual children. And the testimony in many instances is along that line.

So in South Carolina, if the District Court issued a decree—and I hasten to add that in the second hearing when we were prevented from arguing segregation, the argument was made that on the basis of the fact that the schools were still unequal, we should get relief on the basis of the Sipuel decision—the court said in that case, no, that the only relief we could get would be this relief as of September, and in that case the court took the position that it would be impossible to break into the middle of the year. If I might anticipate a question on that, the point would come up as to, if a decree in this case should happen to be issued by the District Court, or in a case similar to this, as to whether or not there would be a time given for the actual enrollment of the children, et cetera, and changing of children from school to school. It would be my position in a case like that,

> which is very much in answer to the brief filed by the United States in this case—it would be my position that the important thing is to get the principle established, and if a decree were entered saying that facilities are declared to be unequal and that the appellants are entitled to an injunction, and then the District Court issues the injunction, it would seem to me that it would go without saying that the local school board had the time to do it. But obviously it could not do it over night, and it might take six months to do it one place and two months to do it another place.
>
> Again, I say it is not a matter for judicial determination. That would be a matter for legislative determination.
>
> I would like to save my fifteen minutes for rebuttal.

Mr. HOLLINGS. Mr. President, for the sake of time, I would quote just this exchange between Justice Frankfurter and Mr. Marshall made at that time:

> Justice FRANKFURTER. You mean, if we reverse, it will not entitle every mother to have her child go to a nonsegregated school in Clarendon County?
>
> Mr. MARSHALL. No, sir.

Mr. President, I repeat that:

> Justice FRANKFURTER. You mean, if we reverse, it will not entitle every mother to have her child go to a nonsegregated school in Clarendon County?
>
> Mr. MARSHALL. No, sir.

But we have people running back here saying, "We want to change and switch the rights, have everybody coming back to town for the vote in order not to rip a page from the Civil Rights Act." The fact is that the rights were established in Brown against Board of Education of Topeka that no child shall be denied admission because of race, and no child shall be bused because of race, and that it did not give an automatic civil right to attend a nonsegregated school, as per Mr. Marshall, now Justice Marshall.

Going on farther in the argument, they got into the practicalities of the situation, that is exactly what would happen and how the courts would handle this; whether it would be the courts or the legislative branch. And of course they pointed out it would have to be handled by the school authorities, as is provided now in the amendment of the Senator from North Carolina.

> Justice FRANKFURTER. There is a thing that I do not understand. Why would not that inevitably involve—unless you have Negro ghettoes, or if you find that language offensive, unless you have concentrations of Negroes, so that only Negro children would go there, and there would be no white children mixed with them, or vice versa—why would it not involve Negro children saying, "I want to go to this school instead of that school"?

Mr. Marshall—now Justice Marshall—

> That is the interesting thing in this procedure. They could move over into that district, if necessary. Even if you get stuck in one district, there is always an out, as long as this statute is gone.
>
> There are several ways that can be done. But we have instances, if I might, sir, where they have been able to draw a line and to enclose—this is in the North—

Mr. President, I have heard it said we have been drawing red herrings. I am quoting the red herrings of Justice Marshall:

> This is in the North—to enclose the Negroes, and in New York those lines have on every occasion been declared unreasonably drawn, because it is obvious that they were drawn for that purpose.
>
> Justice FRANKFURTER. Gerrymandering?
>
> Mr. MARSHALL. Yes, sir. As a matter of fact, they used the word "gerrymander."
>
> So in South Carolina, if the decree was entered as we have requested, then the school district would have to decide a means other than race, and if it ended up that the Negroes were all in one school, because of race, they would be violating the injunction just as bad as they are by violating what we consider to be the Fourteenth Amendment now.
>
> Justice FRANKFURTER. Now, I think it is important to know, before one starts, where he is going. As to available schools, how would that cut across this problem? If everything was done that you wanted done, would there be physical facilities within such drawing of lines as you would regard as not evasive of the decree?
>
> Mr. MARSHALL. Most of the school buildings are now assigned to Negroes, so that the Negroes buildings are scattered around in that county. Now, as to whether or not lines could be properly drawn, I say quite frankly, sir, I do not know. But I do know that in most of the southern areas—it might be news to the Court—there are very few areas that are predominately one race or the other.

That is Marshall's expression:

> There are very few areas that are predominantly one race or the other.

That is only in the North, not down in the Southland. Then we get to the real point:

> Justice FRANKFURTER. I just wondered, in regard to this question that we are discussing, how what you are indicating or contemplating would work out in the District if tomorrow there were the requirement that there must be mixed groups.
>
> Mr. MARSHALL. Most of the schools in the District of Columbia would be integrated. There might possibly be some in the concentrated areas up in the northwest section. There might be. But I doubt it. But I think the question as to what would happen if such decree was entered—I again point out that it is actually a matter that is for the school authorities to decide.

"For the school authorities to decide." Those are the words of Thurgood Marshall, talking to Justice Frankfurter. The chief counsel in the court said it is not a matter for the judicial branch, it is a matter for the Congress. Mr. President, that is why we are into this hiatus:

> It is not a matter for us, it seems to me, as lawyers, to recommend except where there is racial discrimination or discrimination on one side or the other.
>
> But my emphasis is that all we are asking for is to take off this state-imposed segregation. It is the state-imposed part of it that affects the individual children. And the testimony in many instances is along that line.

He went on to say that as long as the State policy is imposed, they would have freedom of choice as long as they did not assign on the basis of race.

Mr. President, who is for rights and who is not? Who is for the Constitution and who is not? Who is for the Brown decision and who is not? And who is raising red herrings and who is not?

It is obvious to me and to everyone who has worked in this particular field that the only way we are going to make progress is to get judges who will listen, and I think President Nixon is trying to do that. To restore enforcement in the Congress and to put money into the poorer school to bring them up.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. GRIFFIN. Mr. President, last year when this amendment was offered I voted against it. I shall vote against the amendment today, although I do so with some reluctance.

"Freedom of choice" sounds very appealing. But it represents legislative overkill as a means of dealing with the limited abuse of forced busing.

It would be unreasonable and very burdensome administratively to confer an absolute right of free choice upon the parents of every child to attend whatever school they may choose for whatever reason.

If this amendment were interpreted and applied literally, every child in a school district would have an absolute right to attend the one brandnew school building most recently constructed, and could not be assigned to any of the older, perhaps less attractive, school buildings still being used in the district. Or, suppose one of several high schools in the district has a particularly outstanding football coach. It would be unrealistic and ridiculous if all students wishing to play football had an absolute right to attend that one high school.

Obviously, this amendment would raise up many troublesome problems of interpretation and application that have nothing whatever to do with the specific abuse of forced busing of schoolchildren based on race.

Mr. MILLER. Mr. President, will the Senator from Rhode Island yield to me for a question?

Mr. PELL. I yield.

Mr. MILLER. Mr. President, if I may have the attention of the Senator from North Carolina, I should like to ask him this question:

On page 2, line 6 of his amendment, reference is made to schools other than those chosen by the students. Is the Senator suggesting, for example, that if the students should be Amish, choosing to go to an Amish school, they would be exempted from coverage under this amendment?

Mr. ERVIN. I think the Amish children would have a right to go to the Amish schools, under the first amendment. I am not dealing primarily with the Amish. I am dealing with public school students, not private school students.

Mr. MILLER. Then the Senator's amendment, where the word "schools" appears on line 6, really means public schools?

Mr. ERVIN. Yes.

Mr. MILLER. I thank the Senator.

Mr. PELL. I yield to the Senator from New York.

Mr. JAVITTS. Mr. President, I oppose this amendment. I hope very much that the Senate will not adopt it. It is simply another way to reargue what Senator GRIFFIN has already outlined—the freedom of choice proposition which came before us in the first amendment we voted on this morning.

In that amendment, Senator ERVIN put forward the converse of the proposition—to wit, that no child shall be denied entry to the school nearest his home. He puts forward the other side of the proposition, that the child may choose or that the parents may choose any public school to which he chooses to go.

The courts have already dealt with that and the Senate has dealt with it very specifically, saying that this does inhibit the process of what is required in order to deal with a condition in which segregation has existed and exists now in terms of a dual school system, and that we do not wish to place this straitjacket upon what may be done about it. That is what we have decided in the total complex of what we have done, including the limitations on busing.

Therefore, it presents precisely the same question, except that in this case the name tag upon which to ride is called "freedom of choice" instead of "the neighborhood school," which was the name tag on the first amendment. If anything, the first one was more attractive, because it had a more attractive name tag. This one has been outworn and made obsolescent for some years by our own attitude and the actions of the courts.

Therefore, it seems to me that, as the Senate so decisively turned down the first amendment on which we voted this morning, this presents substantively the same proposition, and the Senate ought to deal similarly with it.

Mr. MILLER. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I yield.

Mr. MILLER I ask the Senator from North Carolina a further question. It is about the same subject matter, of schools other than those chosen by the students.

Suppose the students should choose a school but there is not room for them, or suppose the students should choose a school other than a neighborhood school because it has certain advantages that they do not have at the neighborhood school. Does this tie the hands of the court so that it cannot go along with the school district's direction?

Mr. ERVIN. I think the student could take his choice of the next school available.

Mr. MILLER. I think that should be clarified.

Mr. ERVIN. Manifestly, you cannot build schools big enough to house all the students in a State, county, or school district. In other words, the State authorities will have to say that they would assign the students to the schools chosen by them in the order in which they apply for admission to the particular school.

Mr. MILLER. I accept that as a fair interpretation and part of the legislative history.

The next question is this: Suppose the students choose to go to a nonneighborhood school. Suppose they like certain athletic facilities or certain other conveniences they have there.

Mr. ERVIN. They would have the right to do that, provided there is room for them in that school, regardless of their race, religion, or national origin.

Mr. MILLER. I appreciate the Senator's frank response; but I must tell him that in that case I think this would be going too far, to select any school to which they wanted to go, regardless of the location of the school.

Mr. ERVIN. I regret that the Senator takes that position, because the Senator, on prior occasions, has indicated that he is as much in favor of freedom as is the Senator from North Carolina.

Mr. PELL. Mr. President, how much time remains?

The PRESIDING OFFICER. Three minutes.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. STAFFORD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Vermont (Mr. AIKEN) is detained on official business.

If present and voting, the Senator from Vermont (Mr. STAFFORD) would vote "nay."

The result was announced—yeas 31, nays 63, as follows:

[No. 75 Leg.]

YEAS—31

Allen
Baker
Bennett
Bentsen
Bible
Brock
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cotton
Eastland
Ellender
Ervin
Fannin
Fulbright
Gambrell
Goldwater
Gurney
Hansen
Hollings
Jordan, N.C.
Long
McClellan
Randolph
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower

NAYS—63

Allott
Anderson
Bayh
Beall
Bellmon
Boggs
Brooke
Buckley
Burdick
Case
Church
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Eagleton
Fong
Gravel
Griffin
Harris
Hart
Hatfield
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—6

Aiken
Hartke
Jackson
McGee
Mundt
Stafford

So Mr. ERVIN's amendment (No. 950) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, in the midst of the furor about busing there have appeared several articles by concerned journalists who have brought a sense of reason and clarity to the issue.

I believe that three such presentations deserve the full attention of this Senate.

The first one, by Jay Matthews in the Washington Post, of February 28, is a very straightforward description of busing schoolchildren in the metropolitan area of Washington, D.C. Over half of the 579,000 schoolchildren in this community regularly ride buses to and from school.

For these families busing is a normal and desirable method to insure their children have easy access to the schools their taxes support. In one suburban community—Fairfax County, Va.—at least 62 percent of the students regularly ride buses to and from school. But only a small number of all the area's students are bused as a result of desegregation plans. In fact, it is believed that desegregation may have lessened the requirements for busing in suburban Washington schools because at one time blacks had been bused great distances to maintain segregation.

Mr. Matthews' article appropriately explains what busing is all about. He reminds us that busing has been around for some time. In Montgomery County, Md., the first recorded busing began with the opening of school in 1910. It is doubtful that any Member of the Senate believes we should bring an end to that 62-year history.

The second is an editorial from Life magazine entitled "The Busing Furor." It adds another clarifying voice to this very crucial debate. I believe that, along with the facts presented in the Washington Post about busing in suburban Washington, D.C., communities, the editorial from the March 3, 1972, issue of Life appropriately adds reason and clarity to the public debate.

And, the third is a column in the Washington Post by Roger Wilkins, formerly an Assistant Attorney General in the Department of Justice. Mr. Wilkins presents a side of this issue that white America seldom has an opportunity to hear. He eloquently describes what the current debate about busing can mean to black parents. It is too easy for us to ignore or avoid the concerns of blacks as the busing debate continues. But I believe that Roger Wilkins has adequately focused attention on the interests of black parents.

Accordingly, I ask unanimous consent to enter in the RECORD the following news articles:

"Busing Costs Area $15 Million," by Jay Matthews, Washington Post, February 28, 1972; "The Busing Furor," editorial from Life magazine, March 3, 1972, and "A Black Parent Looks in Two

Directions at Busing" by Roger Wilkins, Washington Post, March 1, 1972.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 28, 1972]

### SCHOOL DESEGREGATION IS MINOR CAUSE—BUSING COSTS AREA $15 MILLION

(By Jay Mathews)

On Sept. 20, 1910, the Montgomery County government, having decided to close the Beallsville school, contracted with one T. L. Grubb to transport school children from Beallsville to the school in Poolesville. Grubb, said to be a local farmer, was to furnish his own horse and wagon, and the county would pay him $11.40 a week for his services.

That is the first known instance of school bus services officially recorded in the Washington area.

Today, about 269,000 area school children daily climb into more than 2,300 buses to be taken to school and, later in the day, returned home—at an annual cost of some $15 million.

The whopping growth in school busing since then has nothing to do with the racial desegregation of schools; in fact, officials say, fewer than 5,000 of those children are bused to achieve desegregation—in Arlington County, Alexandria and the District of Columbia.

The rest ride because their homes are far from schools (as in Grubb's day) or because walking entails the crossing of dangerous streets, according to officials.

But despite the cost—and nationwide opinion polls that show overwhelming public opposition to busing for desegregation—six area jurisdictions report that parents pay the busing cost willingly and, indeed, demand still more.

School officials say school bus service has grown naturally with the area's booming school population, mostly in the years since World War II.

Even as more schools were built to bring the classrooms closer to the children, the growing volume of traffic on area streets made walking to school less safe and brought demands for more buses.

Some 579,000 children attend public schools in the Washington area, so the number riding buses represents less than one-half of enrollment.

The number of children bused in the suburban jurisdictions is as follows: Montgomery County, 57,000 of 127,000 students (45 per cent); Prince George's, 78,000 of 162,828 students (47 per cent); Fairfax County, 83,000 of 136,000 students (62 per cent); Arlington County, 9,532 of 23,994 students (40 per cent); and Alexandria, 6,450 of 17,400 students (37 per cent).

Unlike the suburban jurisdictions, the District does not provide its own school buses, but instead allows school children to board regular D.C. Transit buses at a reduced fare. District school officials and D.C. Transit officials, say they have no records to show how many individual children use the buses. Based on the number of reduced priced tickets collected each year, at least 30 per cent, and probably more, of District youngsters ride the bus to or from school.

The desegregation of area schools in the 1950s and 1960s produced little demand for more busing, school officials say. In suburban counties such as Fairfax desegregation may have even slightly reduced the need to bus for a time—because blacks had been bused great distances past white schools.

The few cases of busing designed to achieve racial balance have occurred very recently.

Last September, Alexandria reshuffled its secondary school districts to offset a situation where 70 per cent of the students at a high school in the east end were Negro while less than 1 per cent at a west end high school was black. About 2,500 more students had to ride buses under the plan.

Arlington at the same time, closed two all-black elementary schools and bused the more than 700 Negro children to predominately white elementary schools throughout the county.

In Washington, perhaps as many as 1,000 black students ride buses into white neighborhoods west of Rock Creek Park for racial balance and to relieve overcrowding, as directed by U.S. Circuit Judge J. Skelly Wright in 1967 and 1970 decisions. About 35,000 of the 111,000 city students ride buses.

The District board of education stopped sending a busload of Negro children to predominately white Bannockburn Elementary School in Montgomery County last year. Many District school officials argued that the pupils could get an equal education in predominately black elementary schools in the District and the board could save the transportation cost of the busing.

As for the future, both Alexandria and Prince Georges County have been under pressure from the federal government to desegregate several predominantly black elementary schools. Leaders in both communities have said they would like to avoid increased busing, which some analysts have said would be required to alter the schools' racial makeup.

The boundary lines between the predominantly black District and the predominantly white suburbs have prevented—so far—any busing to balance races on a regional basis.

Thus to local school officials, the "busing problem" still means little more than motorists complaining about buses that hold them up in traffic, and home owners who live in front of bus stops complaining about children on their lawns.

And long before school busing became caught up in today's debate over desegregation, area school officials found their hundreds of buses—mostly standard 66-passenger vehicles uniformly painted National School Bus Chrome Yellow—made handy targets of parental anger.

"If a teacher doesn't correct his students' papers, who cares?" says George E. Baker, director of transportation of the Montgomery County school system. "If the cafeteria runs out of beans, they heat up peas. But if a school bus is 10 minutes late on a cold and rainy morning—the world hears about it."

That is part of the reason that the most frequent request to suburban school officials is usually for more busing, not less.

Parents who live as close as a block from the neighborhood school have successfully petitioned for bus service because their children had to cross a busy street.

(Suburban jurisdictions generally limit bus transportation to elementary children who live more than a mile, and secondary school children who live more than 1½ miles from school. But there are few ways to prevent children who live closer from walking back to bus stops and getting on anyway.)

Demands for service and the spread of congested suburbs into what was once farm country, have in the last two decades shortened the length of the average school bus trip throughout the area to 3.5 miles.

The longest ride is a 50 minute one, from the Potomac River communities of Montgomery County to schools in Gaithersburg, officials said. The shortest is 550 feet, from Byeforde Rd. across six-lane Connecticut Avenue to the Larchmont Elementary School, also in Montgomery County.

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[From the Washington Post, Mar. 1, 1972]

### UNHAPPY MEMORY AND A HOPEFUL PRESENT—A BLACK PARENT LOOKS IN TWO DIRECTIONS AT BUSING

(By Roger Wilkins)

Blacks who can remember being bused for the maintenance of segregation find the current heated debate over busing both bemusing and infuriating. We feel the same way about politicians and pundits who seem sure they know that black parents don't want busing any more than white parents do. It puts one in mind of the old white Southerners who used to assure Northerners that, "our darkies are happy down here," and would then trot one out to prove it.

Well, this one's not very happy about the whole busing debate. My first educational experience was in a one room segregated school in Kansas City, Mo., where I was allowed to come and sit in the back of the room at the age of four because all my older friends were there. The next year, that school was closed and my friends and I were bused many miles to a black school in a blacker part of town. Apart from a keen daily sense that the whites were terribly selfish for hogging the newer and prettier school near our homes, I remember the bus rides as generally convivial and sometimes pretty hilarious. My next stop was Harlem where you learned a lot if you were in an upper track and paid for it with lumps dealt out in the school yard or in the street by resentful lower trackers.

And then on to high school in a midwestern city. If I wasn't the first black in the school, I was the only "one" there then and my family and I were the only "ones" in the neighborhood. In the classroom it was fine with the algebra and the English, but on the street it was tougher than Harlem. Somebody always seemed to have had to clear a clogged throat right on the furry cover of my bicycle seat. Rather than face the humiliation of cleaning it off in view of the passing crowds thronging out of the school. I would often ride home standing up and sometimes through a gantlet of stones, apple cores and teen-age racial epithets.

But it turned out all right. I learned enough in that school to get into college. And I learned some other things too. Things I couldn't have learned in my Kansas City schools nor in my Harlem schools. They were things about white people and things about myself. I learned that whites are not the superior people they were made out to be. Some of them were smarter than I and some not as smart. Some could pump in baskets from the corner better than I and some couldn't make the team at all. And eventually, over time, I came to learn that they and I could deal in human terms across racial lines. And they learned things from me too, about blacks that they could never have learned in an all white school. Yesterday's coon turned out to be a contemporary kid and tomorrow's man. Though it hurt me a lot in the beginning, it was worth it—for all of us. People don't learn to function very well in multiracial societies when they do all their learning in uniracial schools.

My mother's judgment about my education were based partially on the circumstances of her life and partially on her desire that her child receive the best education her resources could provide. She did not seek an all white high school for me, but she was certainly not displeased that the one I attended was the best school in town. She knew to a moral certainty that she didn't want her son to be an illiterate or an emotional cripple hobbling through the last five or six decades of his life. She figured that knowing how to read was essential, but that learning something about white people was useful too. Inadvertently, I suspect, her decision helped a lot of white kids too.

The choice, then, is not to bus or not to bus, but to teach children to read and to live among the wide variety of people with whom they will spend their lives. We can either integrate—sometimes using buses as a tool—or we can choose to create a future generation of cripples, savages and bigots.

Years after my mother had made her choices for me, I had to begin thinking about the same kind of choices for my own children. When it became clear by my daughter's fourth year in a largely black school that she was reading at least two years below grade level, my wife and I took her out of her neighborhood school, and put her on a bus headed for a much better school ten miles from home, which also happened to be integrated. When my son became five, he joined his sister on that same bus headed for the same integrated school where they could learn in a gentler way than I had two decades earlier how to live in an integrated world. They both began to read. And that was the essential point.

[From Life magazine, Mar. 3, 1972]

### THE BUSING FUROR

Busing may have become a subject too important to be left to the courts. The courts got into the issue in the first place because of the long unwillingness of Congress, a succession of administrations, and the public in general to address themselves to providing equal educational opportunities to black Americans. So far the Supreme Court has held only in the most general way that busing is a useful device to break up dual school segregation systems, but as lower courts wrestle with the subject they find themselves called to pass judgment on whether racial patterns were intended or just happened that way. Their agonized, piecemeal and sometimes arbitrary findings then becoming instant law locally, and perhaps valid precedents elsewhere, unless subsequently overturned. This seems a clumsy and uncertain way to determine and carry out important national social policy.

A lot of Americans may be willing to accept integrated schools (and in fact are quite used to them) but are up in arms against more integration if it means busing their children into inferior schools in dangerous neighborhoods. As Leonard Woodcock of the United Auto Workers says: "The bill that has become overdue is owed by every American. It cannot be paid in full by innocent young people."

Politicians find busing a hot issue; they can't avoid it; probably only George Wallace is really happy with it. The others find it hard to enunciate an answer short enough to handle a heckler but complex enough to satisfy the subject. We don't share Senator Jackson's wish for a constitutional amendment to ban busing for balance, or President Nixon's fascination with the idea—since the Constitution shouldn't be cluttered up with transitional matters. We're glad that Vice-President Agnew and HEW Secretary Richardson oppose such an amendment.

Recognizing the high emotions and political risks, Senate Majority Leader Mike Mansfield and Minority Leader Hugh Scott seek a congressional solution free of partisan politicking. It is high time for the congressional branch to come to the aid of the judiciary, but it won't be easy to write legislation that doesn't undo all the gains of the 1954 desegregation decision. One proposal would limit federal funds for busing to school systems carrying out court-ordered or voluntary desegregation plans; integration would continue in this fashion, but federal agencies could not otherwise require local boards to bus for racial balancing. That might take some heat out of the issue, since many blacks are not all that eager for widespread busing either. What concerns them most is inferior schooling, and improving the quality of their education. Until this is done, equal education will remain an unfulfilled obligation.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1467. An act to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans;

H.R. 9463. An act to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals exported contrary to the laws of the countries of origin, and for other purposes;

H.R. 9900. An act to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict;

H.R. 11021. An act to control the emission of noise detrimental to the human environment, and for other purposes; and

H.R. 11185. An act to amend the Internal Revenue Code of 1954 with regard to the exempt status of veterans' organizations.

## HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on Finance:

H.R. 1467. An act to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans;

H.R. 9463. An act to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals exported contrary to the laws of the countries of origin, and for other purposes;

H.R. 9900. An act to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict; and

H.R. 11185. An act to amend the Internal Revenue Code of 1954 with regard to the exempt status of veterans' organizations.

**Mr. MANSFIELD** subsequently said: Mr. President, I ask unanimous consent that H.R. 11021, to control the emission of noise detrimental to the human environment, and for other purposes, which came from the House today, be jointly referred to the Committees on Commerce and Public Works. This is in accord with the previous agreement to refer a message on this subject to these two committees, since the proposed legislation involves the jurisdiction of the two committees.

**The PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

The bill (H.R. 11021), to control the emission of noise detrimental to the human environment, and for other purposes, was read twice by its title and referred by unanimous consent to the Committee on Commerce and the Committee on Public Works.

## EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

**Mr. TALMADGE.** Mr. President, I send to the desk an amendment and ask that it be stated.

**The PRESIDING OFFICER** (Mr. BAYH). The clerk will report the amendment.

The legislative clerk read as follows:

At the end of title IX insert the following new section:

SEC. —. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to enjoin the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student. Such action will also lie if the effect of such a court order is to significantly impinge on his or her educational processes. Further, such parent, or guardian shall have the right to bring a class action to enjoin such a busing plan on behalf of such student and all other students similarly affected thereby.

**Mr. TALMADGE.** Mr. President, I yield myself such time as I shall require.

**The PRESIDING OFFICER.** The Senator from Georgia is recognized.

**Mr. TALMADGE.** Mr. President, the Scott-Mansfield amendment, which has been agreed to by the Senate, on page 3, line 2, provides that no Federal court or agency may "undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned . . .."

The language is clear that we should not transport children such great distances as may affect their health. The language is also clear that we cannot transport children to educationally inferior schools. That particular provision of the bill does not have an adequate remedy.

The average child being transported to school comes from a poor and humble family of limited and meager resources.

The amendment I have offered will merely give those children through their parents or their guardians the right to go into court to seek an injunction to obtain that which the Senate has already conferred upon them and give them a class right as well as an individual right. In other words, the parent or guardian may file a suit not only for his or her own individual child, but also for every other child who is similarly situated. That is what the amendment would do.

I think it would be unthinkable for the Senate to confer a right and then to deny a remedy. The amendment would merely guarantee a remedy where the Senate has already granted a right.

**Mr. STENNIS.** Mr. President, will the Senator yield?

**Mr. TALMADGE.** I yield to the distinguished Senator from Mississippi.

**Mr. STENNIS.** Mr. President, it goes without saying that one of the basic principles of the American-English system of jurisprudence is that there must be a remedy for every right that the law allows. The courts of England centuries ago created a special court in chancery to provide just what the Senator is asking for in the pending amendment if the remedy is not otherwise available.

Mr. TALMADGE. The Senator is correct. The Senate has already conferred the right.

Mr. President, I reserve the remainder of my time.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, the difficulty with the amendment offered by the Senator from Georgia—which he was gracious enough to let me read before he presented, and normally I would certainly have no objection to class actions being permitted in cases of this character—is that if Senators will read the amendment, and there are now copies available——

Mr. President, may I have order so that the Senate may at least hear what the situation is.

The PRESIDING OFFICER. We will have order in the Senate. The Senator from New York may continue.

Mr. JAVITS. Mr. President, the difficulty is that if we read the amendment, we will see that what the Senator from Georgia applies his amendment to is a court order.

Mr. President, to challenge a court order, we do not go into some other court to enjoin it. I think that is what this amendment provides. I have got to be bound by the words of the amendment. I cannot extrapolate the meaning that the Senator would like to accomplish. The fact is that he authorizes a collateral attack on a Federal court order. A parent or a group or parents can go into another court or to a different judge of the same court and challenge the court order made by court A.

Mr. President, if we really want to bollix up the works and confuse the United States and knock down the court system, this is an ideal way to do it.

We could have 50 suits to enjoin the judge of a particular court under this particular section if it should become law.

I would like to read from the amendment. It reads in part:

> A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to enjoin the further implementation of such court order—

We could not be any more specific than that.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. TALMADGE. Mr. President, these orders are enforced through an instrumentality, the local school board. This is the agency that would be applied to by the court order.

Mr. JAVITS. Mr. President——

Mr. TALMADGE. They do not go into courts to file suits against judges.

Mr. JAVITS. Mr. President, I state, as I began, that I see no objection whatever to giving the parent or parents as a group the right to proceed in a court in respect of a court order in the court which issued the order. But the Senator would not do that. He said they may seek to enjoin further implementation of such orders. So they collaterally attack it, not by suing Judge Cox, but the defendant in Judge Cox's court, so it could be collaterally attacked in 16 other courts, wherever they reside.

I hardly think the Senate would wish to proliferate that attitude. I repeat that I see nothing wrong with an amendment that would give standing in court. We have these amendments time and time again. That is why we have conferences in the corridors and elsewhere.

I am not unaware of the total body of law. I do not know whether aggrieved parties have the right to interplead today, but if they do have, I do not see any objection to that. They should have the right to come into court where a matter is being considered to interplead, to seek to vacate it, reform it, and to seek to do so as individuals or as a class. I am agreeable to that but this amendment does not do that.

This amendment, as I read it, would authorize a collateral attack upon the court order by attacking the defendants in that court order in another jurisdiction, or even in the same court, in a separate suit, which might be consolidated or might not be.

For all those reasons I oppose the amendment. I suggest to the Senator that he probably looked up the law which I have not had an opportunity to do. But if there is any question about the standing of a parent or guardian, or a group of parents or group of guardians in a class interpleader to have standing in court with respect to an order made or pending against a local educational agency, I would have no objection to that, but this does not do that.

Mr. TALMADGE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 2 minutes.

Mr. TALMADGE. Mr. President, the Senator from New York is raising a great big bugaboo and making it appear that lawsuits would be filed against judges. How do lawsuits originate? We have the governing board or the instrumentality of the school board. They are the plaintiffs or defendants in the first instance. So the instrumentality that would be in contention in any litigation would be the local school board. There is only one jurisdiction in the municipality or county where they hold office and that would be the jurisdiction of the court.

I repeat that on page 3 of the Scott-Mansfield amendment a majority of the Senate stated that children could have relief where they are transported such great distances as to affect their health or where they are sent to inferior schools; but the Senate did not provide a remedy. By this amendment I am trying to provide a remedy to enforce a right the Senate adopted in the Scott-Mansfield amendment. I read my amendment:

> A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to enjoin the further implementation of such court order, currently in effect, the time or distance of travel is so great as to risk the health of the student. Such action will also lie if the effect of such a court order is to significantly impinge on his or her educational processes. Further, such parent or guardian shall have the right to bring a class action to enjoin such a busing plan on behalf of such student and all other students similarly affected thereby."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TALMADGE. I yield myself 1 additional minute.

That is all the amendment does. It grants a remedy for a right which the Senate conferred. If you do not grant that right, what will the situation be? You will have some poor fellow who perhaps earns $3,000 or $4,000 a year having his child, maybe, getting up before daybreak, standing in the sleet and the rain, waiting for a schoolbus, then sometimes riding 50 and 60 miles a day. I know that is true because I have had pitiful letters relating similar situations. And under this bill as it now stands, the Senate is saying to these children, "Well, you have a remedy. All you have to do is to file suit."

That fellow may be a farmer. How is he going to raise several thousand dollars to hire a lawyer? This amendment would grant the right of class action so that that farmer and his neighbors could get together and pool their funds and hire a lawyer to say, "I do not think it is right for children to have to get up before daybreak and stand in the sleet and rain waiting for a schoolbus, ride 50 and 60 miles a day, and then get home after dark." That lawyer they hire could go into court and file suit. Against whom? The school board.

The PRESIDING OFFICER. The Senator from Georgia has the floor but the Parliamentarian advises the Chair that the time the Senator yielded himself ran out during the sleet and the rain.

Mr. TALMADGE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. TALMADGE. I thank the Presiding Officer. I yield myself 2 additional minutes.

They would file suit against whom? Not the judge, but the school board. The school board is the instrumentality which administers that particular ordered busing order. That is all it does.

The Senator from New York raises a great bugaboo that this would invite suits against judges in other jurisdictions. It would do no such thing. They would have to go to the same jurisdiction where the order was entered in the first instance, where the school board resides. That would be the court of jurisdiction. Unfortunately, they probably would go before the same judge who ordered busing in the first instance. So they might not get relief, but they would have the right to go into court for a remedy, which also could be pursued on appeal.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. STENNIS. If the Senator's amendment is not agreed to, what right will those parents have to go into court to have a suit heard, if the original suit is against the board of trustees. Facts vary as to individuals. Without the amendment they would be without a remedy. Is that right?

Mr. TALMADGE. The Senate would have conferred a right which would be meaningless because they would not have a remedy. I am trying to provide a remedy.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TALMADGE. I yield 1 minute to the Senator from Kentucky.

Mr. COOPER. Mr. President, I intend to support the amendment of the distinguished Senator from Georgia. During the debate on busing, various Members of the Senate have been trying to find means and ways to give some relief against any arbitrary doctrine of busing. The Mansfield-Scott amendment is intended to do that, although I find it doubtful as to any constitutional value. But the Swann case laid down the possibility of protection against harm to the children themselves whether white or black by the establishment of criteria.

As I quickly read the amendment of the distinguished Senator from Georgia it would provide to the parent the right either to intervene for himself, or in a class action and, present the very facts which the Swann case said could be considered. Every person has the right, in my view, to have his case heard and also to believe that he can have justice. I do not understand why this amendment is not a proper one for the Senate's approval—to let all facts affecting the child be presented to the court.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, will the Senator yield to me for 2 minutes?

Mr. PELL. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I think it is most unfair to me to place me in the position of opposing the right of a party to intervene in order to get justice from a court order. I stand for it; I maintain it. I do not oppose it, and I do not say they have to sue the judge. You might; you could under this amendment, but you do not have to; you could sue the defendant. But it is a collateral attack. It is trying the same issue again. Therefore, the way the amendment should read is that the parent or guardian of a child may intervene in respect of any further implementation of any court order involving busing:

> Such intervention will also lie if the effect of a court order is to significantly impinge on the educational process, and the intervention may be by a class as well as by individuals.

That is the way this amendment ought to read.

I would like my colleague from Kentucky, who is an excellent lawyer, to tell me what is wrong with that. Is that denying the people a remedy or creating an effective remedy without creating anarchy in the courts?

Mr. COOPER. If there were such an amendment before the Senate, I would vote for it.

Mr. JAVITS. That is all right. It will be before us.

Mr. COOPER. But Senator TALMADGE's amendment is before us, and I do not see anything wrong with it.

Mr. JAVITS. The amendment was shown to me, and it was perfectly agreeable to me——

Mr. ERVIN. Mr. President, will the Senator yield to me for a question?

Mr. JAVITS. I yield.

Mr. ERVIN. Does not any district judge now who enters a desegregation order have the power to entertain at any time a motion to modify or set it aside?

Mr. JAVITS. Of course he does—there is no question about that—under the application of the proper law under the Swann case, I believe, but I am perfectly willing to say in the law that a parent or group of parents would be a proper party.

Mr. ERVIN. Did not the Senator from New York contend that the so-called Mansfield-Scott amendment created new law? This merely gives a remedy under the Scott-Mansfield amendment to these people.

Mr. JAVITS. Surely, I am not arguing any remedy; I am arguing that this would create anarchy in our courts, when the same issue can be prosecuted in other cases in other ways. I would regularize the procedure, not the remedy.

I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I would like to propound a question to the Senator from New York. I would like the attention of the distinguished Senator from Kentucky, because I think there may be a constitutional issue involved in the pending amendment. I am about to quote from the Swann case with respect to limitations on busing involved in court orders. I will read the language from the Scott-Mansfield amendment, which took the court language and included it almost verbatim in the amendment. It says that a court order should not require a local educational agency to undertake transportation of any student "where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process."

The last phrase "impinge on his or her educational process" refers back to the time or distance of travel. It does not invoke a whole new analysis of the adequacy of the school.

If the pending Talmadge amendment separates the question of impingement on his or her educational process from the question of traveltime, I think it would create a new remedy which is inconsistent and contrary to the Swann case. Thus, in addition to the procedural issues, I think there could be a constitutional issue here.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. COOPER. I shall take only a few seconds. I thank the Senator.

The Swann case did indicate criteria to which the court could address itself—health, distance, quality of schools, and so forth.

Mr. MONDALE. That is correct.

Mr. COOPER. The court could take a view very different from that of the Senator from Minnesota. It has been difficult in this debate to find a method to present the question of criteria to the court. The Mansfield-Scott amendment provides criteria, but imbedded in sections which are very doubtful constitutionally, in my view. The Senator from Georgia has presented an issue which is clear and could reach the courts. Why not give the court a chance to address itself to these criteria, which in my opinion is the best way to approach the issue of busing, perhaps the only way, other than through a constitutional amendment?

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MONDALE. In my opinion, there can be no objection to proper procedural rights to be heard in the court on this matter. Indeed, that is what the trial would be all about. What I object to, in addition to the possibility of court shopping or judge shopping, is that I think the Talmadge amendment changes the law—not just the procedures, but the law—and completely misconstrues the Swann case to provide a legal basis which is not found by any reasonable reading of the Swann case, and instead, it seems to me, seeks to provide by statute something which the Constitution does not provide, and I think would create another constitutional crisis.

Mr. JAVITS. Mr. President, if the Senator will yield me a moment, I think if the language conforms to the practice of the court, which the Senator from Kentucky and I contend for, that would be one thing, but what is being done here is giving a right to intervene to present the case.

The amendment which I have drafted, standing on my feet, provides that the parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student. Such intervention will also lie if the effect of a court order is to significantly impinge on the educational process; and the intervention may be by a class as well as by individuals—further, such parent or guardian shall have the right to intervene and to bring a class action to enjoin such a busing plan on behalf of such student and all other students similarly affected thereby.

All that does is give them standing in court. It may not be the right or best way to couch this language, but it is an attempt not to throw the courts into anarchy. If it is satisfactory to the Senator from Georgia, I would be happy to have it adopted.

Mr. TALMADGE. Mr. President, will the Senator send that language to me so I may examine it?

The PRESIDING OFFICER. The Chair wishes to advise that the time of the Senator has expired.

Mr. JAVITS. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The Senator from Georgia still has time. Such amendment would not be in order until all time is used or yielded back.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the senior Senator from Kentucky (Mr. COOPER) may be listed as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia has 7 minutes remaining on the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that the time for the call of a quorum not be taken out of either side, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Georgia has 6 minutes.

Mr. TALMADGE. How much time do the opponents have?

The PRESIDING OFFICER. The time in opposition is exhausted.

Mr. TALMADGE. Mr. President, I yield 2 minutes to the distinguished Senator from New York for a colloquy. We have conferred and I think reached substantial agreement on the language of this amendment.

Mr. JAVITS. Mr. President, I beg Senators to listen closely.

I am quite prepared, should the Senator from Georgia wish, to submit this amendment as a modification of his amendment, bearing in mind that our time is limited, and that all time expires at 2 o'clock.

The amendment as modified would read as follows:

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student. Such reopening or intervention will also lie if the event of such a court order is alleged to be significantly, to impinge on the quality of his or her educational processes. Further, such parent or guardian shall have the right to seek to reopen or to intervene as a class in respect of such a busing plan on behalf of such or student and all other students similarly affected thereby."

Mr. TALMADGE. Mr. President, will the Senator from New York explain the difference between the suggested modification and the original language?

Mr. JAVITS. The only difference, as I see it, is to put it on the basis of an interpleader in a proceeding which is pending or in respect of an order which has been entered and is in effect. There is no other difference, and I made no other objection.

Mr. TALMADGE. But as a final order, it could be reopened under the language of the amendment?

Mr. JAVITS. It could be, but it is up to the court. That is why I begged my friends to forego those concerns, because it would be up to the court.

All this does is give the right to the parent or parents as a group to go into court. I certainly am in thorough agreement with that.

Mr. TALMADGE. Mr. President, I do not think there is any significant difference whatever between the language that the Senator from New York has suggested and that proposed by the Senator from Georgia. I therefore, Mr. President, ask unanimous consent that my amendment may be modified accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE's amendment, as modified, is as follows:

At the end of title IX insert the following new section:

SEC. —. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student. Such reopening or intervention will also lie if the effect of such a court order is alleged to be significantly to impinge on the quality of his or her educational processes. Further, such parent or guardian shall have the right to reopen or to intervene as a class in respect of such a busing plan on behalf of such student and all other students similarly affected thereby.

Mr. MONDALE. Mr. President, I intend to support the amendment as modified on the assumption that it makes no change in existing law. The Supreme Court has ruled that transportation should not be of such duration or distance as to "risk either the health of the children or significantly impinge on the educational process." Assuming that this is the standard that will be applied under the procedural rights granted by this amendment, I am voting in favor of it.

Mr. TALMADGE. I am prepared to yield back the remainder of my time, if the Senator from Rhode Island is prepared to yield back the time in opposition.

Mr. PELL. We have no time. Our time is used up.

Mr. TALMADGE. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the yeas and nays be rescinded.

Several Senators addressed the Chair.

Mr. TALMADGE. I withdraw that, Mr. President.

Mr. JAVITS. Mr. President, before the Senator makes that decision, will he yield to me?

Mr. TALMADGE. I yield.

Mr. JAVITS. We have an hour and 10 minutes remaining. Other Senators have amendments which are contested. The rollcall would take 15 minutes.

Mr. TALMADGE. Mr. President, some Senators have objected. They want to have a rollcall. Therefore, I withdraw the request.

The PRESIDING OFFICER. Is time yielded back?

Mr. TALMADGE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BAYH). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Georgia (Mr. TALMADGE), as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Wyoming (Mr. McGEE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. STAFFORD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 89, nays 5, as follows:

[No. 76 Leg.]

YEAS—89

Aiken
Allen
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—5

Brooke
Kennedy
McGovern
Ribicoff
Taft

NOT VOTING—6

Harris
Hartke
Jackson
McGee
Mundt
Stafford

So Mr. TALMADGE's amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GAMBRELL and Mr. ALLEN moved to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, may we have the well cleared.

The PRESIDING OFFICER (Mr. STEVENSON). The Senate will please come to order and the well will be cleared.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the names of the distinguished Senators from Alabama

(Mr. SPARKMAN and Mr. ALLEN) may be added as cosponsors of the amendment just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 972

Mr. BROCK. Mr. President, I call up my amendment No. 972 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROCK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

On page 512, between lines 4 and 5, insert the following new section:

### WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

SEC. 135A. Part C of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

### "WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

"SEC. 447. (a) The purpose of this section is to enable students in eligible institutions who are in need of additional financial support to attend institutions of higher education, with preference given to veterans who served in the Armed Forces after August 5, 1964, to obtain earnings from employment which offers the maximum potential both for effective service to the community and for enhancement of the educational development of such students.

"(b) There are authorized to be appropriated $10,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out this section without regard to the provisions of section 465.

"(c)(1) The Commissioner is authorized to enter into agreements with State educational agencies under which the Commissioner will make grants to such State agencies for the purpose of making payments to public, private, or nonprofit agencies to pay the compensation of students who are employed by such agencies in jobs providing needed community services which are of educational value.

"(2) Notwithstanding any other provision of this title, no financial assistance may be provided to any private, nonprofit, or community service organization without prior written approval of the educational institution in which the student is enrolled and the governing body of the political subdivision concerned, as determined by the Commissioner.

"(d) An agreement entered into under subsection (c) above shall—

"(1) provide for the part-time employment of college students in projects designed to improve community services or solve particular problems in the community;

"(2) provide assurances that preference will be given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964 in recruiting students in eligible institutions for jobs under this section, and that the agency will make an effort to relate the projects performed by students to their general academic program and to a comprehensive program for college student services to the community;

"(3) conform with the provisions of clauses (A), (B), and (C) of paragraph (1) of section 444(a), and provide for the selection of students who meet the requirements of clauses (A), (B), and (C) of paragraph (3) of section 444(a);

"(4) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this section.

"(e) For purposes of this section, the term 'community service' includes, but is not limited to, work in such fields as environmental quality, health care, education, welfare, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, conservation, beautification, and other fields of human betterment and community improvement."

Mr. BROCK. Mr. President, this amendment is an effort to provide work-study opportunities primarily for our returning Vietnam veterans. It would fill a gap in the situation facing them. As my colleagues are aware, during 1971, some 900,000 men of all ages were discharged from the Armed Forces, and at yearend the number of Vietnam era veterans in the civilian population totaled 5.6 million. Approximately 80 percent of these men were in their twenties and their relative youth and lack of recent labor force experience made job finding a difficult task.

The unemployment rate for veterans in ages 20–29 averaged 8.8 percent in 1971 compared with 6.9 percent in 1970. Among veterans 20–24 the rate averaged 12.2 percent.

Many returning veterans are hoping to enroll in universities. The high cost of education and the limited GI bill payments require new proposals to assist financially those who wish to have a college education.

My proposed amendment would provide the opportunity especially for Vietnam veterans to work on a part-time basis in community service activities which are closely related to their academic pursuits.

It calls for the establishment of a program initially funded at $10 million to pay employers, private, nonprofit, or public for the community service work.

Payments will be made by the Commissioner of Education to State departments of education, who will then, with the concurrence of the academic institutions and the local political authorities, award cash grants to public and private organizations involved in community service activities.

Community service activities, as described in the amendment, cover the full range of environmental and public service jobs which are so desperately in demand by communities across the country.

This amendment is similar to that proposed in the House version of the education amendments. However, it goes a step further by having the State Department of Education award the cash grants, rather than the Commissioner of Education—a touch of revenue sharing.

It further distinguishes itself in that it brings academic institutions and local political authorities together in determining community needs.

Mr. President, the essence of the amendment is to afford veterans' preference to those men who have served their country and to afford an additional incentive for the Department of HEW to support work-study programs which I think are essential to the total educational process.

Mr. President, I ask unanimous consent that the names of the distinguished Senator from Kansas (Mr. DOLE) and the distinguished Senator from Kentucky (Mr. COOK) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROCK. Mr. President, I would urge the adoption of my amendment, and reserve the remainder of my time.

Mr. PELL. Mr. President, I commend the Senator from Tennessee on his efforts to provide for added incentives for veterans to obtain postsecondary education. We all recognize that the Vietnam veterans have not fully utilized their GI bill benefits. However, I question whether this pending amendment is the best way to go about it.

We are setting up another work-study program. We all recognize that the proposal while only granting veterans a preference has as its basis a veterans aid program. The administration is against another categorical program. I am personally concerned about the rising cost of this bill and here is another $50 million amendment. If we are seeking to aid veterans, let us amend the GI bill. If we are seeking to aid public employment of veterans, let us accomplish it through some other means. If we are attempting to increase the work-study program, let us attain that aim through greater appropriations.

It is for these reasons that I oppose the Brock amendment, although I recognize the good objectives and good purposes of the Senator in offering the amendment.

I believe that the work-study program is one of the best programs we have. I would hope that this dialog in itself would serve as an added reason for the Appropriations Committee to fully fund that portion of the appropriations bill when it comes to the Senate.

Mr. BROCK. Mr. President, may I point out one technical error the Senator made. He mentioned $50 million. This is the figure contained in the House bill. My proposal is for $10 million.

The basis for opposition of this amendment is unfounded. The administration sent up an absolutely inexcusable statement in opposition to the proposal which does not satisfy me in the least. They talk of the percentage of working students now receiving funds and holding jobs.

The library-museum assistant consists of 14.4 percent.

The teaching, research, or lab assistants consist of 12.2 percent.

The security aids make up approximately 7 percent of the total. And so on down the list, to athletic recreation assistant, 4.8 percent, and tutoring or classroom assistant, 4.8 percent.

However, when we get to the public service jobs on which the amendment tries to place prime importance, there is no participation of any magnitude. We have the social or community workers at 1.5 percent, and the health professions aids at 0.7 of 1 percent, and the Government or judiciary assistants at 0.6 of 1 percent.

This is what is wrong with the study. It points to the inadequate job done in administering work services and enhancing work opportunities in the communities where we are so diligently trying to place and train the young people so that they can render service.

That is the effect of the amendment, and that is why the administration's opposition is frankly inconceivable to me. It must be due to misunderstanding on their part of what we are trying to achieve. I do not believe it is possible for the Department to oppose veterans' preference. I cannot believe that they have done so.

Mr. PELL. Mr. President, the reason that I said $50 million is that section (b) authorizes an appropriation of $10 million in fiscal 1972 and extends for the next 4 years. So, it would be a total of $50 million.

Mr. President, I yield back the remainder of my time.

### ADDITIONAL COSPONSOR

Mr. TOWER. Mr. President, I join with the distinguished Senator from Tennessee in offering the amendment and ask that I be listed as a cosponsor.

Mr. BROCK. Mr. President, I ask unanimous consent that the Senator from Texas (Mr. Tower) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BROCK. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I think the Senator from Tennessee has suggested an important reform in the work-study program. The work-study program is on the books as part C of title IV of the Higher Education Act. However, the emphasis on community service is not on the books, because it is generic in terms of allowing whatever work study is directed or permitted by the authority.

I believe it is critically important that a greater proportion be zeroed in on community service. Young people seek that service because they like it. The Federal guidelines and the way in which we advise and suggest to local colleges and institutions that they proceed are very germane to what actually happens.

So, I believe it is very materially helpful to point to this as a very good direction. The breakdown in the statement from the Department of HEW is very helpful.

I think it would be useful if the Senator from Tennessee would allow me to have this tabulation printed in the Record.

Mr. BROCK. I would appreciate it.

Mr. JAVITS. Mr. President, I ask unanimous consent that the tabulation that has been referred to may be printed in the Record.

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

A study of the type of job held by work-study employees during fiscal year 1971 shows the following types of employment:

*Percentage of Work-Study Students Holding*

| | |
|---|---|
| Library/museum assistant | 14.4 |
| Teaching, research, or lab assistant | 12.2 |
| Security aide | 6.8 |
| Hospital service | 5.1 |
| Athletic recreation assistant | 4.8 |
| Tutoring or classroom assistant | 4.8 |
| Social or community worker | 1.5 |
| Health professions aide | 0.7 |
| Government or judiciary assistant | 0.6 |

Mr. JAVITS. Mr. President, we can see the percentage of work-study students and the type of jobs they are holding.

I also point out, in view of the fact that the whole subject will be in conference, that possibly a higher figure than the Senator had in mind may well be agreed to. It may well be that this is the way in which we think the thing ought to go.

We should deal with the proposal as it comes from the House along with the expressions which I and the Senator from Rhode Island (Mr. Pell) have made already in our views. I assure the Senator in respect of myself and in respect of the Labor and Public Welfare Committee functioning as a legislative oversight committee that we will look into the question of this breakdown of community service opportunities. I am glad that the Senator from Tennessee has directed our attention to this.

I think a very useful purpose has been served by offering the amendment and focusing our attention on this situation and exactly how it is being treated and the capabilities which exist respecting utilization of the work-study program for encouraging the broad range of community services with the many new and highly deserving and capable people involved.

Mr. BROCK. Mr. President, I appreciate the statement of the distinguished Senator from New York. With the assurance that my proposal will be covered in conference, with the objective of preserving veterans' preference for the returning members of the armed services, and with the Senator's strong statement of support for community services activities, I am satisfied that substantive action will result.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. BROCK. I yield to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I associate myself with the purpose of the Senator's amendment. I have discussed this matter with some of our colleagues. I think that the Senator from Tennessee has put his finger on a very serious deficiency in our present program. I commend him for it.

I hope that the committee in conference will be able to take cognizance of what has been said here. The Senator's proposal makes a decided improvement. There is a need for this type of work study program.

Mr. BROCK. Mr. President, I am grateful to the Senator for his support.

Mr. President, at this time I withdraw the amendment.

The amendment was withdrawn.

Mr. GAMBRELL. Mr. President, at this time I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be reported.

The assistant legislative clerk proceeded to state the amendment.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the Record.

The amendment reads as follows:

On page 695, line 10, after "702." insert "(a)".

On page 695 after line 18, insert the following:

"(b) Not later than one hundred and twenty days after date of enactment of this bill, the Attorney General of the United States and the Secretary of Health, Education, and Welfare, either jointly or separately, shall submit, in writing, a report to the Congress, describing the conditions of segregation and desegregation by race, whether de jure or de facto, in the public school systems of the United States, and the policies, practices, guidelines, and criteria which have been implemented by the Department of Justice and the Department of Health, Education, and Welfare since April 1970, to assure that the policies of the United States Government in respect to segregation and desegregation of races in the public schools of the United States are applied uniformly in all regions of the United States, without regard to the origin or cause of such segregation and desegregation. Said report shall without limiting the contents thereof, include the following:

"1. The most recent statistics available of the extent of segregation and desegregation of students in the public schools of the United States including those in the one hundred most populous school districts in the United States.

"2. A summary of such statistics

"(a) comparing the progress and extent of desegregation in eleven States comprising the southern region of the United States with the progress and extent of desegregation in other regional sections of the country and with that in the country as a whole.

"(b) comparing the progress and extent of desegregation in the school districts referred to in subparagraph 1 which are located in the southern region, with such school districts as are located in other major regions of the country and with such school districts in the country as a whole.

"(c) a statistical and descriptive summary by States and major regions of the country, of the judicial public school desegregation enforcement proceedings in which the Department of Justice and the Department of Health, Education, and Welfare have been involved since enactment of the Civil Rights Act of 1964.

"(d) a listing by States of each instance in which public assistance to local education agencies has been denied or delayed (indicating length of delay) by the Department of Health, Education, and Welfare because of alleged failure to meet judicial and departmental requirements relating to desegregation of races in the schools of such local educational agency.

"(e) a statement of what desegregation enforcement procedures either judicial or administrative are contemplated by the Department of Justice and the Department of Health, Education, and Welfare with respect to each of the one hundred school systems referred to in subparagraph 1 hereof in which the extent of desegregation shall be less than the average degree of desegregation in all of

> such school systems or in which the extent of racial segregation has increased since the last previous statistical analysis has been made with respect to desegregation in such school systems. In respect to any such system in which no desegregation enforcement procedures are contemplated, said report shall give a full explanation of the reasons therefor."

Mr. GAMBRELL. Mr. President, my amendment is simply a restatement of my amendment No. 776 which is on file, modified to fit the committee's substitute bill. There are two minor modifications which I have made in the original amendment. One is on page 2, line 13, where I have changed the words "and in particular" to read "including those."

On page 3, line 15, I have changed the word "racial" to "judicial".

The substance and the intent of the amendment is identical to that which I had in mind when the original amendment was filed.

The amendment adds subsection 2 to section 702 of the committee substitute on page 695. Section 702 as presently set forth in the bill reported by the committee contains the so-called Stennis-Ribicoff proposal as voted by the Senate last spring when the legislation was before the Senate.

In substance what that section provides in the bill, as it now stands as reported by the committee, is that the guidelines and criteria of the Civil Rights Act of 1964 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race, whether de jure or de facto in schools of the educational agency of any State without regard to the origin or cause of such segregation.

As the Senate knows, that particular provision has been voted and approved of on at least three separate occasions in the Senate by a majority vote.

My amendment would simply ask the Department of Health, Education, and Welfare and the Justice Department to give a report on the conditions which are referred to in section 702, the Stennis-Ribicoff amendment. In other words, my amendment provides that within 120 days after the enactment of the bill the Attorney General and the Secretary of HEW shall make either a joint or a separate report describing the conditions of segregation by race, de jure or de facto, in the United States.

In other words, give us a report on the things we are talking about in section (a) and the policies and guidelines of the Department of Health, Education, and Welfare, and the Justice Department, to assure the policies of desegregation and segregation are applied uniformly in all regions of the United States without regard to origin or cause. Tell us the condition and what you intend to do about implementing the Stennis-Ribicoff amendment. That is all this amendment calls for, except it goes on to give some specific information that the amendment seeks in implementing the report that it calls for.

Sections (a) and (b) simply set forth things the Department of HEW and the Department of Justice are already reporting. The record is full of comparative statistics of segregation and desegregation between the South and other regions of the country, and so forth.

All we are asking in sections (a) and (b) is an updated report on conditions in different parts of the country.

In section (c) we ask for a summary of enforcement proceedings since the enactment of the Civil Rights Act of 1964. In other words, what have you done; what enforcement have you engaged in? I do not see any objection to that.

In subsection (d) we ask in what instances the Department of HEW has delayed or denied any Federal funds to a local school agency because of an alleged failure to meet the requirements with respect to desegregation. As I understand the Scott-Mansfield amendment, that practice is outlawed. I do not see why anyone should object to that report.

Section (e) asks for a statement by the Department of HEW and the Justice Department with respect to the 100 largest school systems in the United States, but only those in which desegregation shall be less than the average of desegregation in all of such school systems, or in which the extent of racial segregation has increased since the last previous analysis has been made with respect to desegregation in such school systems. In those cases, when enforcement proceedings are contemplated in pursuance of desegregation and in respect of those in which none is contemplated give the reason therefor.

Mr. President, all this amendment asks for is the report of what is going on and for some of the facts. I can see no reason to object to bringing forth the facts and laying them before Congress.

I reserve the remainder of my time.

Mr. PELL. Mr. President, I appreciate the thoughts of the Senator from Georgia. I discussed this measure with him, with the ranking minority member and other members of the committee. We sought to work out a compromise, keeping in mind the thrust of his proposal, by extending it to 1 year and taking away some of the references that seemed slanted with a geographic bias. This was unacceptable to the Senator from Georgia.

I have always believed that in getting legislation adopted there has to be a degree of compromise. Compromise was rejected. The way the amendment is now written it is unacceptable to the committee and I must oppose it.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator yield to me for 5 minutes?

Mr. PELL. I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, it is interesting to me that the Senator from Georgia—and we discussed this and I will state to the Senate what I think could be done in this matter with fairness—has not simply attached a report requirement to section 702 of this bill without rewriting and restating the report exactly as he wants it made.

He is not asking the Department to report in respect of everything it is doing; its policy and its progress on the particular section of the law to which the Senator refers. It is already in the law in the so-called Stennis amendment.

But the Senator from Georgia is putting in the mouth of the Department exactly the way he wants the report prepared to prove whatever particular thesis he has in mind, and that I object to because it is loaded and I will demonstrate to the Senate that it is.

Section 702 of the bill is the Stennis amendment.

I have sought reporting provisions myself in many cases before.

The Senator simply takes and tacks on a section to section 702, and states that in 4 months—and he has it in his amendment beginning on page 1, line 3, to page 2, line 7—the Department of HEW and the Attorney General shall submit in writing to Congress the state of various conditions which are referred to in section 702, to be equally applied throughout the United States.

But the Senator from Georgia is not content with that. He goes on to dictate to them what they are to report. He states he wants a summary:

> Comparing the progress and extent of desegregation in 11 States comprising the Southern region of the United States with the progress and extent of desegregation in other regional sections of the country and with that in the country as a whole.

This measure may not be a fair way to report but he dictates that he wants it that way. Why? The reason appears above on page 2, at lines 7 and 8, where it is stated that he wants a report "without regard to the origin or cause of such segregation and desegregation."

Therefore, it is possible, if the Department allows itself to be told what to report by his amendment, tha the Department can take no account of the fact that in the South they had dual school systems for decades.

Obviously, desegregation in the South would involve infinitely more pupils than desegregation somewhere else. By writing the ground rules of the report the Senator makes it mean what he wants it to mean, and not necessarily a true picture of the facts. That is one objection that is fundamental.

Mr. GAMBRELL. Mr. President, will the Senator point out the language he referred to when he stated "without regard"? Is the Senator reading from page 2, line 8?

Mr. JAVITS. The Senator is correct.

The other thing that I cannot go along with is the item which is found on page 3 in subsection (e). The Senator from Georgia wants a statement of desegregation enforcement procedures either judicial or administrative contemplated by the Department of Justice and the Department of HEW with respect to each of the 100 school systems referred to.

That is an effort to show they do not do as much to them as to us. Is that to be revised every week or every month? Are they committed to that so they cannot do anything else, even if court decisions dictate something else be done?

It just seems to me to be completely impractical to make that kind of requirement for a Government department or the Department of Justice.

So I say to the Senator from Georgia publicly what I said to him privately: For me, I would be perfectly willing to call for a report from the Department of HEW and from the Attorney General as to what they are doing about section 702; that the report would come, not in 4 months, as the Senator's amendment provides, right in the middle of a presidential campaign, but would come at the end of the year or next year. The Senator knows the dates of the calendar as well as I do.

For these three reasons, I am firmly opposed to this amendment, as is the Senator from Rhode Island (Mr. PELL), and I hope the Senate will reject it.

Mr. GAMBRELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Georgia has 9 minutes remaining.

Mr. GAMBRELL. Mr. President, I might take this opportunity to comment on the arguments of the Senator from New York.

In the first place, I have not tried to dictate the terms of the report, and I believe if the Senator will read below the language he was referring to, he will find it says:

> Said report shall, without limiting the contents thereof, include the following:

In other words, we have asked that they do report some specific things. They can report anything else they want to. They can report it with any bias they want to. They can report it as the Senator from New York would like them to. All we ask them is that they give us some statistics so we can evaluate what is going on under section 702. In fact, the language that the Senator objected to, on page 2, lines 7 and 8, is taken directly from section 702. All we are asking for is that the report state what policies they have implemented to be sure that the policies of the U.S. Government are applied uniformly in all regions of the United States, without regard to the origin or cause of such segregation and desegregation. That is what section 702 calls for.

Why should we have to use his words instead of ours? We have asked for a report on what is being done under section 702.

Mr. President, the Senator from Rhode Island and the Senator from New York have both stated that this amendment seemed to have certain geographic bias. That, in fact, is what we are trying to get at: Has there been some geographic bias in the enforcement of these policies that has been initiated by the Department of HEW and the Department of Justice? If there has not been, let us know about it. I cannot see any reason why anybody would object to the truth coming out, unless they had something to hide.

The argument was made that it would come in the middle of a presidential campaign. More power to it. If it does, let it come out and let the candidates say something about it. Do not hide it until the end of the year, when everything is over and we can hide it for another 4 years. What we have been trying to do is get this out on the table where it can be discussed by the candidates. I have asked, in all fairness, that we should have the facts as to the enforcement policies with respect to desegregation in all regions of the United States.

Mr. President, I am prepared to yield back my time if the Senator from Rhode Island is prepared to do likewise.

Mr. PELL. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Georgia (putting the question).

All those in favor, say "aye." Those opposed, say "no."

Mr. GAMBRELL. Mr. President, I ask for a rollcall.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GAMBRELL. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Louisiana (Mr. ELLENDER), and the Senator from Hawaii (Mr. INOUYE), and the Senator from Montana (Mr. METCALF), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. STAFFORD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 29, nays 63, as follows:

[No. 77 Leg.]

YEAS—29

Allen
Bentsen
Bible
Brock
Byrd, Va.
Byrd, W. Va.
Chiles
Cooper
Eastland
Ervin
Fulbright
Gambrell
Gravel
Gurney
Hollings
Jordan, N.C.
Long
Mansfield
McClellan
Muskie
Packwood
Ribicoff
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—63

Aiken
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Boggs
Brooke
Buckley
Burdick
Cannon
Case
Church
Cook
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Fannin
Fong
Goldwater
Griffin
Hansen
Harris
Hart
Hatfield
Hruska
Hughes
Humphrey
Javits
Jordan, Idaho
Kennedy
Magnuson
Mathias
McGovern
McIntyre
Miller
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—8

Ellender
Hartke
Inouye
Jackson
McGee
Metcalf
Mundt
Stafford

So Mr. GAMBRELL's amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 924

The PRESIDING OFFICER (Mr. TAFT). The Chair recognizes the Senator from Florida.

Mr. CHILES. Mr. President, I call up my amendment No. 924.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 699, line 20, strike out the words "a final" and insert in lieu thereof the word "any".
>
> On page 711, strike lines 15 through 20, and insert in lieu thereof the following:
>
> "(c) Notwithstanding any other provision of this title, sums appropriated pursuant to section 704, and apportioned to a State pursuant to section 705, shall be available for grants to and contracts with any local educational agency in such State which is eligible to receive financial assistance under section 706(a) (1) (A) (i) (I) of this title, to assist such agency in carrying out programs or projects referred to in section 707 of this title, and as set forth in the plan of desegregation undertaken pursuant to order of court, and no further conditions shall be established by the Secretary, or any other official of the United States Government in order to establish the eligibility of such agency to receive grants or contracts under this title."

Mr. CHILES. Mr. President, this amendment is similar to that amendment we adopted on the floor last fall, when we were dealing with a bill that would provide that schools that are under desegregation orders entered by a Federal court would be able to share in the desegregation funds as set forth in the provisions of the bill; and it would just allow them to qualify for these funds without further qualifications being placed upon them by HEW.

It is our feeling—and I think it was the feeling of the Senate last fall—that if a Federal district court has placed a school district under order and has required it to carry out certain requirements to desegregate its schools, then certainly it should be allowed to have the assistance that we are providing in this act, and HEW should not be allowed to add requirements to the requirements that are already required by the Federal district court. This amendment would just assure that the school district would be entitled to those funds and that the order of the Federal district court could be carried out expeditiously by the use of those funds, and HEW would not have the right to send them back to the wringer again and put on additional requirements before they would be entitled to desegregation funds.

I reserve the remainder of my time.

Mr. PELL. Mr. President, I studied this amendment several days ago. I recalled the effort we made in the committee to set forth certain criteria under which the money was to be granted to those districts and those schools that were complying with the court orders. We wrote in these requirements carefully, after considerable debate and discussion in the committee; and the view of the committee is that these requirements should stand and not be shelved at this time.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, the question would be before the Senate to decide whether it thinks additional requirements should be required of a district that is under a Federal order to carry out a desegregation policy or whether they should be entitled to get some of these funds to carry out the court order.

We have many areas and school districts that are up against it when required by the Federal court to bus schoolchildren. They have to have additional school buses; they have to pair schools; they have to go into triple sessions in classes. If the Federal district court makes that requirement, I see no reason why we should write in additional requirements, why we should allow HEW to put in additional requirements. All they would be able to use this money for would be to do what the Federal court ordered. I do not know why we are trying to put in money for accelerating this program. Why would we add money if we are not going to allow somebody to carry out what the courts require them to do under the order itself?

It seems to me that logic and fairness would dictate that we would want any district that is under an order now requiring it to do something punishable by contempt, if they refuse to do it to be able to have the wherewithal to carry out that order.

Mr. GAMBRELL. Mr. President, will the Senator yield for a question?

Mr. CHILES. I yield.

Mr. GAMBRELL. Will the Senator from Florida answer whether this amendment is not identical or substantially identical in intent to that which was unanimously adopted on the floor of the Senate last spring, when the matter of school desegregation was before the Senate?

Mr. CHILES. I think the intent is identical. I think it is a little more artfully drawn. We were in the closing days of the session then. It did not go to sufficient portions of the bill to cover all the provisions of the bill. I think this is a little more artfully drawn.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. PASTORE. Mr. President, I do not see why the manager of the bill cannot accept this amendment. It obviates the excuse on the part of those who are being compelled to comply that they do not have the money with which to comply. After all, compliance is the name of the game here. If a district has been ordered by the court to carry out a function, the only excuse they would have would be that they do not have the money. If they have the money and they do not carry out the order of the court, they are subject to contempt proceedings.

I think this would be helpful, and I think it should be taken to conference. This is one amendment that I believe has some merit, and it ought to be debated in conference.

Mr. SPONG. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I have only 3 minutes remaining. The Senator from Florida has the floor.

Mr. CHILES. I yield to the Senator.

Mr. SPONG. Mr. President, I am glad the senior Senator from Rhode Island has said what he has, because I recall last year he and I had an exchange about this very amendment, which was unanimously accepted by the Senate.

What we are trying to prevent is a situation where a court order tells you to do one thing and HEW comes along and tells you to do something else—or you fail to qualify for the funds.

Is that correct?

Mr. CHILES. That is correct.

Mr. SPONG. It is a reasonable amendment.

Mr. PELL. I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, the Chiles amendment would prohibit HEW from requiring local school districts under court order on title VI plan to do the following very reasonable things.

Right now, school districts cannot receive money under the Emergency School Aid Act if they are transferring public school property to private "segregation academies." The Chiles amendment would remove that requirement.

Right now, under the committee version of the Emergency Act, we say there will be biracial parental participation. The amendment offered by the Senator from Florida would strike that.

Another of our protections says that they cannot use this money to supplant other funds. It must be used for desegregation. The Chiles amendment would strike that.

It seems to me that what we have done is written in very reasonable minimum protections. The Chiles amendment would wipe all those out. These requirements do not seem onerous to me. I do not see why these funds should not be commissioned that way.

Mr. PELL. This would also mean that schools systems which had given money to so-called segregation academies, freedom academies, would still be eligible for help under section VII. We went to a good deal of trouble to write these provisions in. I think this is a clear-cut issue. I oppose the amendment and believe we should simply vote on it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CHILES. It seems to me that when we say that this is going to allow a school district to transfer these funds to a segregated school, the only thing this amendment says is that they can use those funds under the accelerated program to carry out the court order—just to carry out the court order. If they are going to give some of these funds to a segregated school, what do you think the Federal district judge is going to do to a school board that does that? He is going to put them so far into jail that they will never get out. This amendment says that they can use the funds for the express purpose of carrying out the order.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. PASTORE. That is not the way the Senator from Minnesota explained it. Will the Senator read his amendment? There seems to be a misunderstanding as to what is in the amendment. I go along with the explanation made by the Senator from Florida. The Senator from Minnesota says that it does not say that. Can we not have an understanding as to what it does say?

Mr. CHILES. It just says that they can use these funds as set forth in the plan of desegregation undertaken pursuant to order of the court.

Mr. MONDALE. Mr. President, could I ask for some more time, because there is considerable question about the correctness of what I am saying?

The PRESIDING OFFICER (Mr. TAFT). All time has now expired.

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. For what purpose does the Senator seek recognition?

Mr. CHILES. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

Mr. CRANSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state it.

Mr. CRANSTON. Is it in order to ask unanimous consent for 5 additional minutes so that we can know what we are voting on? I do not know what we are voting on, listening to this discussion.

Mr. MANSFIELD. Mr. President, I ask unanimous consent for 5 additional minutes on the pending amendment, and that rollcall votes from now on take no more than 10 minutes.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I do not intend to object, an extension of 5 minutes will not change or modify the unanimous-consent agreement, will it?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I think the Senator from Rhode Island (Mr. PASTORE) is right, that the amendment should be explained, so that we get to the precise issue.

The precise issue is: The Senator from Florida says that when we have a court order, whatever the court order says, we do, and then we qualify for the money.

The Senator from Minnesota, (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL) and I say that, in addition to complying with the court order, we have got to comply also with some of the elementary precautions, to prevent the trimming of the desegregation process which may be outside the jurisdiction of the court in that case. That is the real issue. We ran into the situation where property was being transferred to freedom academies, and so forth, so we took the precaution of giving the right to administer what will be done with the money to the governmental department in charge, rather than automatically saying that if we comply with a court order we get the money.

Personally, I like the latter, but the Senator from Florida (Mr. CHILES) is contending for the former. In my judgment, it is not going to make any difference except in a few cases, but there it may make a material difference in the good faith with which this whole program is being administered.

Mr. PASTORE. Mr. President, would the Senator from Florida have any objection to dropping out all the language on page 2, after the word "court," on line 3?

Mr. CHILES. If we dropped everything after the word "court" then the Secretary of HEW could impose any requirements he wanted to impose before we could get the funds.

The Senator from Florida puts an entirely different interpretation on his amendment than that of the Senator from New York (Mr. JAVITS). He says, after we carry out the court order, then we can get the funds and use them to give them away to a segregated school.

If we will read the amendment, it simply says,

> . . . to assist such agency in carrying out programs or projects referred to in section 707 of this title, and as set forth in the plan of desegregation undertaken pursuant to order of court, . . .

Thus, the only thing we can use the funds for is to assist in carrying out the court order, not that we carry out the court order and then apply for the funds and we automatically get them. We get the funds to assist in carrying out the court order. So we made the language and the requirement such so as not to be able to push through additional requirements.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. CHILES. Mr. President, I yield back the remainder of my time.

Mr. DOLE. Mr. President, let me take just 30 seconds to say that I have a perfecting amendment following this one which combines the first few sections of the Griffin amendment and the Baker amendment. We will not have time to debate that at this time, but I make that explanation at this time.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. Just to explain the situation, time on the first rollcall vote will be 15 minutes but the remainder of the votes on the pending business will be 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

All time on this amendment has now been yielded back.

The question is on agreeing to the amendment No. 924 of the Senator from Florida (Mr. CHILES).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. STAFFORD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 38, nays 57, as follows:

[No. 78 Leg.]

YEAS—38

Allen
Baker
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Church
Cotton
Dole
Eastland
Ellender
Ervin
Fannin
Fulbright
Gambrell
Goldwater
Gurney
Hansen
Hollings
Humphrey
Jordan, N.C.
Jordan, Idaho
Long
Mansfield
McClellan
Pastore
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower

NAYS—57

Aiken
Allott
Anderson
Bayh
Bellmon
Boggs
Brooke
Burdick
Case
Cook
Cooper
Cranston
Curtis
Dominick
Eagleton
Fong
Gravel
Griffin
Harris
Hart
Hatfield
Hruska
Hughes
Inouye
Javits
Kennedy
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—5

Hartke
Jackson
McGee
Mundt
Stafford

So Mr. CHILES' amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I am pleased that the Senate has successfully overturned those antibusing proposals which, if enacted, would have eroded long fought for civil rights legislation.

Today, as we vote on final passage of amendments to the Higher Education Act of 1965, we will show that the way to deal directly with the matter of busing schoolchildren is to provide adequate resources for a meaningful educational delivery system for all of America's schoolchildren.

Incendiary concerns about busing have unfortunately been debated in a climate of tension that has diverted public attention from the real problems of busing schoolchildren.

Busing, as a critical social concern, is not the true target of black and white families that are troubled by this deeply emotional issue. But rather, the real target is the protection of safeguards that all American families strive to attain for their loved ones. In overwhelming numbers the people who write to me stress that white families are not opposed to children from deprived innercity schools attending suburban classes. But these parents feel that orders requiring suburban students to attend schools in deprived innercity classrooms are wrong. For those who have struggled and worked diligently to achieve the comforts and benefits of adequate schooling in residential communities, there is no question that busing is seen as a threat that may jeopardize the quality of education of their children.

Members of all minority groups—not just blacks, but chicanos, Indians, Puerto Ricans, and many others, are well aware that laws which restrict or limit the resources available to provide for adequate education of their children are direct attacks on their ability to achieve the same benefits and standard of living already enjoyed by those who are not disadvantaged. Any action that we take in this Senate which shuts off resources for delivering the benefits of a decent education to any American child is unfair. To enact legislation that prohibits busing is clearly a slap in the face of deprived citizens. Such legislation effectively removes any initiative by the Federal Government or the courts to seek an end to the inequalities based on bigotry and discrimination in public schools. That is why I objected to the Griffin amendment and why I shall oppose any other measure of that kind.

I have consistently rejected the arguments of those who oppose busing. I firmly believe that to oppose busing is to provide support to those who also oppose efforts to assure that every child will have equal opportunities for a decent education and a wholesome life. Though busing plans have been vigorously opposed by both white and black parents, the legitimate reasons for their opposition have been obliterated by the rhetoric of racism. I am convinced that whites and blacks alike are seeking the same thing. All parents want quality education for their children; and, no parent wants restrictions designed to deny those benefits.

Busing can be an immediate and efficient means for remedying the effects of segregated school systems. Unfortunately the implementation of busing plans has been abused and misconstrued.

If we decide that busing to erase the inequalities in our schools must be halted, then we must be prepared to adopt other measures that seek to accomplish that goal. Simply moving to outlaw busing will not solve the problem of an inadequate education. Many education experts—teachers, administrators, and school planners—have repeatedly explained the requirements for improving the Nation's schools and for narrowing the quality gap between inner city and suburban classes. The experts insist we must equip all schools with the best available materials, manageable sized classrooms and properly trained and motivated teachers.

That is the problem and legislation to outlaw busing is certainly not the answer. There is no question in my mind that the real answer is money for improving our schools. Perhaps we cannot rebuild them overnight, but we can make a start today. We can provide full funding for title 1 of the Elementary and Secondary Education Act of 1965 so that the resources required to create decent schools will be directed toward needy communities.

Measures like those in the Griffin amendment which prohibit courts from issuing orders for feasible attempts to end discrimination in the schools are regressive. If black Americans cannot gain redress in the courts for discrimination, then where can they turn?

The Brown decision in 1954 recognized that "separate but equal" is not only unequal but is a blight on the principles of basic rights and justice.

Any legislative measure that this Senate adopts should be designed to extend its powers in the same manner to all citizens. To enact a law that denies access to any of the Nation's educational resources for a select population is blatantly discriminatory. Such legislation is exceptionally unfair and cruelly biased. So long as America has public schools white American children will ride buses to their schools. And they will be riding buses long after this busing debate is only a sorry memory in Senate history. But we will be telling millions of black men and women across the country that they cannot send their children to better schools.

Mr. President, I am pleased that the Senate was successful in rising above the anguish of divisiveness generated by this issue. It has been important to keep in mind that the principal measure before the Senate, S. 659, amends the Higher Education Act of 1965 and authorizes over $20 billion for education programs, including $1.5 billion for programs of emergency assistance to aid with the desegregation of the Nation's schools and to support quality integrated schools.

If we are really concerned about busing, let's enact the provisions of S. 659 that will produce the results needed for adequacy in all public schools. That is the only reasonable answer to the problems of defective schooling. And that has been the concern of the courts since 1954.

Court orders involving busing plans are designed to undo the damage caused by deliberately constructed segregation in our schools. Courts have made it clear that busing is an immediate and direct attempt to resolve the problems caused by the inequities produced over the years. For the shameful facts of our history confirm that white America has been largely unmoved by the plight of black Americans. Schools that are all black are deemed less successful in achieving ideal educational goals than schools that are all white. Years of neglect and blatant discrimination made it convenient for no one to move our society to act on that failing.

But today, after nearly 20 years since the awakening brought about by the Brown decision, Americans can understand that the real goal must be quality education for all, regardless of race. Busing was not launched as a lasting and permanent approach to that problem. But rather it was seen as a supplementary advancement toward the broader goal to produce an adequate system of public education for each child.

And so I am pleased that the Senate abandoned any temptation to avoid its responsibility to the children of this Nation. As we vote today, each Senator will establish and confirm his stand on the constitutional guarantees for basic rights. I voted to reject the Griffin amendment and other measures designed to eclipse the stride toward equal education because I am committed to the implementation of effective education legislation, as provided by S. 659. Let us begin now to provide the real answer to the plea for equality in education, by voting to accept the provisions in that bill.

Mr. DOMINICK. Mr. President, as the Senate concludes its business on the Education Amendments of 1972 today and sends to conference a 4-year authorization bill exceeding $20 billion, I would like to raise a fundamental issue which transcends any 4-year authorization bill. It is an issue to which not only those of us on the Education Subcommittee or those of us in Congress must address ourselves, but an issue concerning the essential fabric of American life and, therefore, an issue all Americans should consider. Quite simply, the issue is: What is the future of our postsecondary education?

Mr. President, it is important to stress that the phrase "postsecondary education" includes not only the formalized education offered by colleges, universities, and vocational institutions, but also the composite of experiences gained through work, the military, and independent study, among others.

Educators have become increasingly concerned over student discontent in our institutions of higher learning, and the increasing numbers of aimless college students they are graduating. Two of the more highly respected recent studies on postsecondary education, the Newman report on higher education, and the Carnegie Commission's special report on higher education, "Less Time, More Options—Education Beyond High School," conclude that our society's headlong rush to mystically ordained higher education institutions is proving ineffective as an educational tool and is systematically killing off the necessary and previously respected trades and careers which literally built our country. A preview of the effect of our oversold higher educational system is best exhibited by the comparison of the salary of an unemployed Ph. D. and that of a bricklayer, a steel worker, a mechanic, or a plumber.

The effectiveness of postsecondary education in America is indicated by the Carnegie Commission's estimate that of the students who were to enroll in American colleges and universities last fall, over 60 percent of them will fail to get the degree to which they aspire—47 percent will fail to earn a bachelor's degree and of those who proceed to graduate school, another 15 percent will drop out before they obtain the second degree. Statistics or estimates do not indicate the very substantial number of students who don't drop out, but are instead caught in what the Newman report calls the "academic lockstep." Strong society pressures exerted by parents, peers, faculty, and employers keep students in an academic lockstep when they should be pursuing an occupation or a career which has relevance to their talents and desires. Instead, these students continue to attend college as a socially conditioned reflex, all the while becoming dependent upon the academic atmosphere and increasingly devoid of perspectives shaped by nonacademic experiences. More often than not, the lockstep student discovers that after 4 to 7 years of college, he does not have the practical aptitudes necessary for his chosen profession or that he simply does not like the work.

Both of the previously cited reports suggest that the answer to our higher educational quagmire lies in a more relaxed, less structured form of what the Carnegie Commission terms "lifelong learning." Rather than perpetuating the present apartheid educational distinctions of "student" or "nonstudent" education should be made more a part of life. Students should not be separated from the realities of life, but rather they should mingle with their fellow citizens as parttime students and on-the-job training students and step-out rather than dropout students. The value of off-campus experience is probably best illustrated by the high performance and sense of purpose which returning GI's and Peace Corps volunteers bring to college. Armed with these experiences, they are able to make intelligent and relevant career choices and then pursue these choices with diligence.

To accomplish this requires a massive reeducation of our society. Americans must be taught that postsecondary education need not include attendance at a college or a university. Americans must be taught that college attendance is not a precondition to future success. The dignity and appreciation of trade and career occupations must be restored so that they can once again be considered a viable occupational alternative. Once Americans stop deifying college educations in and of themselves, then they can proceed with the task of creating a proper educational environment.

That environment would consist of a

lifelong learning process integrating generations of students and emphasizing less formal tools of education. Particular educational emphasis would be placed on apprenticeship and job-training programs, work/experience programs, vocational schools, and the community colleges. To accomplish this objective, colleges and universities should capitalize on their prior successes with work/experience programs in legal aid services for law students, internships for medical doctors, and the military's training of paraprofessional corpsmen by allowing credits for such experience. The importance of community colleges in such an educational scheme is apparent even today. In 1968, 2 million students—25 percent of all higher educational enrollment—were in 2-year institutions, and over 80 percent of these were in community colleges.

One of the principal beneficiaries of the diversified higher educational system would be the large State universities which today, because of financial and administrative problems, have centralized into large bureaucracies. For example, the State University of New York has 65 campuses and 314,000 students; the City University of New York has 11 campuses and 123 students; the University of California has 10 campuses and 147,000 students; and the California State college system has 19 campuses and 288,000 students. The product of these multi-universities is generally an homogenized education which is not responsive to the individual needs of the students. By relaxing the pressures of student admissions, the universities and colleges could stop administering and start educating with the net result being an improvement in the quality rather than in the quantity of the education. Less students would be run through a mechanized degree system, and more students would find universities better able to respond to their educational needs and interests. College and university students would be provided with rounded curriculums and course requirements rather than being forced down some of today's narrow-gaged course studies. The result would be a student with a rounded and varied education—an aerospace engineer who could contribute to our environmental problems or a social worker who could assist as a paramedic.

Mr. President, I challenge everyone, not only Senators, Representatives, and educators, to understand the need for and to work toward a postsecondary educational system emphasizing educational individuality rather than formalized educational structure. American society must accord all careers equal dignity and appreciation if this most necessary postsecondary education diversity is to become a reality.

Mr. Pearson. Mr. President, yesterday the Senate voted on matters of paramount importance to the Nation's 46 million schoolchildren and their parents. At issue were amendments which affected the future course of our efforts to provide equal educational opportunity for all American children.

Very few Americans will argue against the necessity to desegregate our schools so that our children can receive the best educational opportunities we can offer. To the contrary, the great majority of Americans have embraced the goal of integration within our school systems as required in the historic Brown versus Board of Education decision.

Many Americans, however, will argue against some of the means used to comply with the intent of this and subsequent court decisions, and it was to this issue that the Senate has devoted its attention during the past week.

Mr. President, I have said before and I will say again that I oppose the concept of busing as the only way to achieve racial balance in our schools. In my judgment, Americans—both black and white—who have objected and objected bitterly to their children's being bused inordinately long distances purely to achieve racial balance have raised valid criticisms, and they deserve the attention of each Senator.

With these objections in mind, I voted for an amendment to the Higher Education Act offered by Senators Scott and Mansfield which would prohibit any Federal agency or court from requiring the use of Federal funds for busing unless the local school board specifically requested funds for that purpose. This measure also prohibited any Federal agency from requiring the use of local funds for busing, unless constitutionally required.

Mr. President, other amendments to the Higher Education Act concerning the transportation of schoolchildren were offered, including a proposal barring Federal courts from issuing orders to require busing on the basis of race, religion, or national origin. To my mind, passage of this proposal would have raised serious constitutional questions, ones which have been at issue throughout the history of this Nation. At stake was whether Congress can take away court authority to implement certain procedures, which the amendment's proponents claimed is clear under the Constitution and the Judiciary Act of 1789. However, it has been ruled that Congress is not granted this power if it impinges upon either the fifth or 14th amendments of the U.S. Constitution. In 1938, the Second Circuit, U.S. Court of Appeals stated:

> We think . . . that the exercise by Congress of its control over court jurisdiction is subject to compliance with at least the requirements of the Fifth amendment. That is, while Congress has the undoubted power to give, withhold and restrict the jurisdiction of courts other than the Supreme Court, it must not exercise that power so as to deprive any person of life, liberty or property without due process of law. . . .

It seems to me, Mr. President, that approval of this amendment would have resulted in more suits, more court action, and more discomfort and unrest in the Nation's public schools. The ultimate damage would have been to American schoolchildren themselves, who alone would have to face the consequences of our action.

Mr. President, the concept of busing is anathema to the majority of the American public. I recognize this, as do the majority of my colleagues who voted to accept the more responsible course in approving the so-called Scott-Mansfield amendment. I feel we have taken a stand which admits to the outspoken unpopularity of one—and only one—system to provide equal educational opportunity for all American children. The adoption of any other proposal before us would, I believe, constitute a giant step backward, an admission of our inability to reach this goal.

We can and must attain this goal, Mr. President. Consideration of any alternative cannot deter our efforts in this regard.

### THE FOREIGN SERVICE SCHOLARSHIP PROGRAM

Mr. PERCY. Mr. President, I want to join the distinguished chairman of the Foreign Relations Committee in his effort to strike the Foreign Service scholarship program from S. 659. Since this program would cost $60 million annually when fully effective, and since there is already a surplus of qualified candidates for Government appointments in the foreign affairs field, I consider the proposed program to be extravagant and wasteful. It would serve only to encourage more young men and women to prepare themselves at Government expense for Government careers for which there is already a great surplus of willing and able talent.

I believe that this is an area where we can save $60 million without giving up any benefit to the Nation.

Mr. SPONG. Mr. President, as debate comes to a close on the busing amendments which have been proposed to S. 659, I would like to summarize some of the remarks I have made on the Senate floor during this debate.

First and foremost, as I noted on yesterday, I do not believe any of us should represent to anyone that any great stride has been taken to improve the educational opportunities of the underprivileged. Second, little has been accomplished to render equitable treatment throughout the United States in the attempted resolution of the school desegregation problem.

I appreciate the fact that the majority and minority leaders of the Senate were trying to work out a compromise solution, that they were trying to prevent a retreat from better opportunity for our schoolchildren. In my judgment, they have not accomplished their purpose. At best they have delayed a legislative facing up to the basic need for a national desegregation policy.

During the past 2 years there have been a number of discussions in this Chamber on school desegregation problems and specifically on de facto and de jure segregation. We have statistics compiled by the Federal Government itself which indicate that there is currently more desegregation in areas of the South than in many major cities of the North, the Midwest, and the West. We have statistics which indicate that racial isolation in many major cities outside the South has actually increased, rather than decreased, in recent years.

We have a number of studies and have had testimony before several Senate committees to the effect that the minority group child in a school predominantly of his race is deprived, that his education is not comparable to that in many schools in the suburban areas and more advantaged areas.

We have data, which I have inserted in the RECORD this week, which indicates that at one time or another all but six States in our Nation have had discriminatory statutes. In fact a number of States had such statutes within 5, 10, or 20 years of 1954, the year which has arbitrarily become a determining point to distinguish between those States which have had de facto and those which have had de jure segregation.

In view of this, I do not believe that we can deny that the black child in a school which is all black in Boston or Detroit is just as deprived as a black child in an all-black school somewhere in the South. Nor do I believe we can deny that there are more children outside the South than inside who are educationally deprived under this definition. Furthermore, I do not believe that we can deny that the 1954 date which is used to make a distinction is an arbitrary and false one.

Yet, the Senate this week has failed to come to grips with any of these problems. And, it is indeed ironical to hear Members from States outside the South now argue that the Senate should not act on de facto segregation because the Supreme Court has not ruled upon it or that efforts to desegregate must continue in the South but not in the North. But, that is in effect what some Members have argued. In effect they have argued that the South and those few other areas of the country where de jure segregation has been proved—and it is more difficult to prove outside the South although it may be just as prevalent—must bear burdens of inconvenience, of disruption and of cost which other areas with even more racial isolation do not have to bear. Such a situation is patently unfair. But, not only is it unfair, it also erodes public philosophical and financial support for education, support which must exist if we are to retain the more advantaged children in public school systems and if we are to finance public education in the years ahead.

### SCHOOLBUSING AND QUALITY EDUCATION

Mr. HUMPHREY. Mr. President, I believe it is profoundly wrong to children and concerned parents across America to twist complex and serious problems of education in our Nation into slogans and emotional appeals offering the deception of simple answers to the difficult question of schoolbusing. The people of America expect their elected leaders and representatives to, in fact, demonstrate the conscience and hard thinking demanded of leadership in addressing these vital issues, rather than pander to public opinion of the moment.

The real concern of our people is that all of our children be guaranteed the opportunity to obtain a quality education. School busing, where properly intended to provide this opportunity to millions of children who have suffered under racial and economic segregation, addresses this concern only in part. For other millions of children, this opportunity has been increasingly threatened by tightening school budgets in countless communities where traditional revenue collection measures have reached the saturation point in the face of rising public service costs.

The provision of the best possible education for all our children constitutes an absolutely essential national resource. It is for the protection and strengthening of this national resource that the people of America are now calling the President and Congress to account.

I wish to undertake this accounting now; first, by clarifying the problem of schoolbusing to identify the real issues at stake in the Federal Government's response; and second, by proposing a legislative program of action by this Congress to provide critical Federal financial relief and incentives to our States and communities endeavoring to define and establish equal opportunity to a quality education for all our children.

### THE PURPOSE OF SCHOOLBUSING

The goal of assuring for all of our children equal access to a quality education is not advanced by moving children from better schools to poorer ones. Nor is it advanced, as the Supreme Court has recently held, when travel to school risks the health of children or adversely affects or infringes upon their education. No child, black or white, should be set adrift in an unstable school situation. No parent, no educator, no responsible government official sees any merit to so-called massive busing to achieve an arbitrary racial balance based on a mathematical formula. It does not help the child. It cannot bring about quality education. It has been divisive, compounding rather than helping to solve our racial problems.

The issue of schoolbusing is currently focused on the widely publicized lower court decision affecting the organization of the school districts of Richmond, Va., and neighboring Henrico and Chesterfield Counties. The decision having been appealed, any comment by a governmental representative or official would be premature. But this case does point to one basic need, that school systems throughout the land must develop viable programs that will enable the children of the inner cities to share in the educational and cultural life which should be open to all Americans. The schoolbusing issue must cease to be the symbol of a Nation's failure to provide quality education for all its children.

It is wrong to foster public confusion by equating the critical need for better schools for all our children with a demand for a fixed or arbitrary racial balance in our schools, which is a totally incorrect interpretation of Federal statutes protecting our civil rights. The Civil Rights Act of 1964, to correct a pervasive violation of the 14th amendment to the Constitution guaranteeing the equal protection of the laws, called for an end to State action enforcing the segregation of children in separate schools on the basis of their race—a segregation, let it be clearly noted, that itself had required extensive school busing. This governmentally dictated isolation of hundreds of thousands of children was found to violate their most basic right of equal opportunity, denying their common human dignity, and crippling their educational and emotional development.

Despite dramatic accomplishments in the subsequent desegregation of our schools, over half of our black children, comprising 15 percent of public school enrollment, are in schools with a minority group concentration from 80 percent to 100 percent of total enrollment. Of the 2 million Spanish surnamed pupils in the public schools of the United States, about 70 percent attend schools in a five-State southwest region, with the majority of these students being Mexican-American. About 30 percent of these children are concentrated or isolated in schools in predominantly Mexican-American districts in this region.

What is demanded today at the national level is an honest policy on school desegregation that moves forthrightly against any attempt at official discrimination. It is this Government denial of the equal protection of the laws, whether sanctioned or intended, that is prohibited by Federal law. And it is the enforcement of the specific prohibitions of this law that should be neither avoided nor exceeded by the executive branch of the Federal Government.

But what is also required of the present administration now is the clear recognition that the central issue is not busing. The issue before the American people is the need of all children to have an equal chance to get the best possible education. No parent, white or black, wants his or her child to attend a school with inferior educational standards. What the children of the urban ghetto and the poverty-stricken rural county require, if they are to have an equal opportunity to obtain the best education available, is a major investment by America to redress the serious imbalance in educational resources with which they have been too long confronted.

No child should be condemned to an inferior education by the circumstance of residence, family income level, or race. No child's learning and emotional development should be stunted by a pervasive and constant experience of poor school facilities, obsolete textbooks, sharply limited learning opportunities, or of hunger and malnutrition, and an unsafe and deteriorating neighborhood where he knows only fear, hostility, racial bitterness, and deprivation.

Honesty demands our recognition that such conditions can permanently cripple a child, can effectively deny him the opportunity in later life to obtain a good job, and can mean that a potential productive member of American society becomes, instead, a burden upon society.

Every child should have the right to a stable local school situation where the learning process is stimulating, comprehensive, guided by the most up-to-date knowledge and education psychology, and assures that his or her specific interests, abilities, and needs receive careful and continuing attention.

It is this right to equal participation in educational excellence that should be enshrined as a constitutional law of the land, for it is a prime foundation for establishing the equal opportunity of every American to make the most of his life and to contribute his skills and abilities to make a better society for all. And it should be a permanent right that simultaneously advances our Nation toward the full realization of the ideals under which the United States of America was originally constituted.

No proposed constitutional amendment that deals with anything less than this fundamental issue, or that is any less permanent in its application, can be acceptable to the American people. And it should be clearly recognized that any proposed constitutional amendment that speaks of "freedom of choice," or that inveighs against required attendance at a school on the basis of race, is divorced from the reality of existing Federal law specifically prohibiting enforced school segregation, and employs language repeatedly proposed over recent years precisely to maintain this segregation.

Nor ought any statute be enacted by Congress that retreats from the proposition that all men are created equal and should have the fullest opportunity to enjoy a meaningful life in freedom, or that undermines our commitment to a united nation where justice is established and the general welfare promoted.

What we must establish now is a firm Federal policy of full support for State and local efforts to provide a quality education for all children. Local authorities have the firsthand knowledge and responsibility to take the initiative to achieve this goal. But they have a special capability and duty to launch innovative and comprehensive measures to assist children attending schools in areas of economic and social deprivation. This can and should include the busing of children from a deprived area into a better learning environment—not a so-called massive busing which defeats this very purpose, but a carefully implemented plan that assures that all children affected will enjoy constructive educational benefits, including that vital sense of continuing involvement in the total life of the school they are attending.

The question of school transportation should be decided at the local level. And this decision can only be justified where it will advance the quality of education and the equality of educational opportunity for those children bused. But busing should be viewed as only one method by which children can be released from the isolation of racial segregation and poverty to share in the educational opportunities that are essential for them to realize their true potential.

Busing provides only a temporary and partial answer to this critical need. Wherever possible, we should make full use of other methods to overcome the educational disabilities borne by children isolated in the urban and rural ghettos of poverty in America. These can include carefully planned school district rezoning and new school construction to benefit all children in the local area, as well as the selective assignment of children from poor schools to respective classes in surrounding schools offering a better learning environment.

But the central emphasis must be placed on ending the disparities that deny hundreds of thousands of schoolchildren an equal chance to obtain the best possible education. To compensate for generations of neglect, we must provide these children with the best schools and teachers, with extensive remedial services to upgrade basic learning skills, and with new curriculums and instructional methods focused on the values and strengths of the unity that must continue to be forged out of our distinctive, multiple cultural and ethnic backgrounds. We must initiate extensive guidance and counseling services, innovative applications of communications media and audiovisual resources, and bilingual-bicultural programs. And we must make unremitting efforts to assure effective community participation in the programs of these schools.

Such extensive new directions cannot in themselves overcome the problems of neighborhood decay, social deterioration, and the constant anxiety and despair of critical economic need that also constitute the total learning experience of a child in an atmosphere of racial and economic discrimination. The difficult and sustained task of constructively redressing these grievances remains before American society. But we know that in the education of children we have a preeminent tool with which to work at this task, and it must not be set aside. Children who confront the reality of a dual school system of segregated and inferior education in slum schools and slum neighborhoods must have the right to the promise of an integrated educational system with modern facilities and well-trained, competent teachers. We need a massive and immediate national effort—a Marshall plan for our cities—to improve and rebuild our neighborhoods and aid all of our school districts.

### A PROGRAM TO ESTABLISH FULL EDUCATIONAL OPPORTUNITY

Let history record that precisely out of the current emotion and confusion surrounding the single issue of school busing, there arose a positive demand by the people of America that our Government exercise leadership in presenting a forward-moving and comprehensive program for the extensive improvement of the educational resources of America on behalf of present and fuutre generations of children.

The essential task before the administration and Congress is to forge this new public consensus through developing a constructive legislative program to substantially expand the Federal investment in the education of all of America's children and youth. This program has been launched in the vital legislation presently before the Senate.

### FEDERAL ROLE: ONE-THIRD OF TOTAL PUBLIC INVESTMENT IN EDUCATION

But we must do much more in fulfilling our responsibilities as representatives of the people. We must achieve a Federal investment in the education of their children that amounts to at least one-third of all public resources devoted to this task. This investment must have a two-pronged purpose. First, through a system of basic grants tied directly to the number of schoolchildren, it must provide essential relief to local communities bearing a heavy cost burden for their education, and it must lead to an overall balancing of public support among school districts to firmly establish the equal opportunity for all children to obtain a quality education.

Second, through the provision of additional compensatory aid grants, this Federal investment must provide for extensive special educational services targeted at helping children overcome the serious educational and cultural handicaps with which they are afflicted as a result of being brought up in a segregated and deprived school atmosphere.

This can and should include a program of Federal support for contiguous or adjacent local school jurisdictions to develop joint programs where transportation can improve the quality of a child's education, and where expanded and improved school facilities can enable the effective exercise of this important option in overcoming the deprivation behind barriers of segregation.

### NATIONAL EDUCATIONAL TRUST FUND

To enable local school boards to carefully plan and carry through the complex and sustained effort that will be required to end disparities in educational opportunity, the level of this Federal investment must be guaranteed. That is why I have proposed the establishment of a National Educational Trust Fund, with financing based in part on a predetermined allocation of Federal Revenues. The employment of a trust fund will enable Congress to carry through its commitment to State and local responsibility for the education of our children and youth. It can fulfill a national responsibility to support this task, in recognition of the impact of increasing population mobility that can progressively limit the effectiveness of local revenue support measures for education. And it is justified by the high national priority that now must be given to policies and programs to assure the protection and development of America's human resources through education.

A major program of Federal assistance must be carefully designed to preserve and strengthen State and local decision-making authority and freedom in the area of elementary and secondary education. We must do more than simply affirm support for local control of our schools, which still leaves our communities with the critical problem of rising school costs and inadequate facilities and services—a problem which State and local officials are frank to admit is already on the verge of being out of control. We must provide effective relief from the burden of these costs and assure that Federal assistance is rapidly channeled to meet critical local educational needs. There should be additional Federal incentives for the achievement of these goals, including the promotion of State and local fiscal support reforms and of programs of assessment and accountability on the utilization of educational resources.

### SCHOOL CONSTRUCTION AND MODERNIZATION ASSISTANCE

Any program to further the equalization of local fiscal support for education must mean more than meeting instructional or operating costs. Over the past decade there has been a sharp rise in the index of school construction costs. There has been a steady decline in voter approval of school bond referendums, with less than one-half the par value of issues being approved in fiscal 1970. And interest costs for public elementary and secondary school bonds in that fiscal year continued a rising trend to a record high. The result has been curtailments in critically needed school construction, as well as crowded classroom conditions, a wider use of short or double sessions, and the continued use of outmoded and unsafe facilities.

It is in light of these disturbing trends that I have proposed a program of Federal grants and loan guarantees to provide local education agencies with essential relief from the increasing burden of capital outlay and debt servicing costs. The equalization of disparities in this category of school costs, particularly on behalf of deprived urban and rural areas, demands effective Federal support.

### NEW DIRECTIONS TOWARD A COMPREHENSIVE EDUCATION PROGRAM

I have been talking about the education of some 46.2 million children and youth in America this year at a total public cost of $46.8 billion. But we should also be looking to a recomputation of these figures that enables effective assistance for additional vital areas of education. By this I mean to include the 6.5 million preschool children who have a serious need for comprehensive early childhood development programs, and several million handicapped children who have the right to special educational services. I am talking about 6.2 million children for whom compensatory and remedial skills programs are critical to their future ability to cope with the demands and challenges of adulthood, and 2.2 million youth who want and deserve the opportunity to pursue vocational and career education. And it is time to give full effect to recently enacted Federal programs, to provide extensive adult education opportunities to some 15 million Americans.

A new education policy must also address the total social and learning environment of the child and young person—his health, his neighborhood, his need for careful development and guidance. It is for this reason, for example, that I intend to press for favorable action on the Universal Child Nutrition and Nutrition Education Act, which I introduced to address the pervasive evidence of inadequate nutrition among children of all income levels across America, and to end the confusing patchwork of Federal regulations that can work to deny a daily nutritious meal to hundreds of thousands of schoolchildren.

### DEPARTMENT OF EDUCATION

These examples emphasize the tremendous importance of education in our Nation today. The high national priority which must therefore be given to education demands the establishment of a Cabinet-level Department of Education. The legislation presently before the Senate moves in this direction. But I believe we must accelerate this governmental reorganization to consolidate Federal programs to effectively meet a critical national need. We must have a spokesman for education at the highest level of Government—a department that can launch a concentrated Federal effort to maintain and improve our vital educational resources, and effectively support the ongoing knowledge explosion and rapid and extensive developments in the broad field of learning processes and opportunities.

In the near future, I will be introducing further legislation to enable the achievement of the goals I have outlined for a comprehensive program of action by Congress to promote the equal opportunity for a quality education for all of America's children and youth. I urge the Senate to launch this effort through taking favorable action on the pending legislation, the Education Amendments of 1972. It is now essential that Congress fulfill the responsibilities of conscience and leadership in ending the disparities and deprivations that deny millions of children and youth an equal chance to obtain the best possible education.

Mr. DOLE. Mr. President, I have an amendment at the desk which I ask to be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

### TITLE X

"SEC. 1001. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

"SEC. 1002. No department, agency, officer, or employee of the United States, empowered to extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

"SEC. 1003. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court, the effect of which is or would be to require that pupils be transported to or from school on the basis of race, color, religion or national origin, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted, or in the event no appeals are taken, until the time for such appeals has expired. This section shall take effect upon the date of its enactment and shall expire at midnight, on June 30, 1973.

"SEC. 1004. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.".

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. As I understand, all time has expired and there will be no debate on the amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The amendment is in order, but under the unanimous-consent agreement and the hour of 2 o'clock having arrived, there will be no further debate.

Mr. DOLE. Mr. President, would it be in order to refer to this amendment as the Griffin-Baker amendment?

The PRESIDING OFFICER. The Chair reserves ruling on that.

Mr. MANSFIELD. Mr. President, regular order.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. Mr. President, I ask that the well be kept cleared.

The VICE PRESIDENT. The well will be cleared.

The Chair wishes to remind visitors in the galleries that demonstrations are not permitted under the rules of the Senate at the time the result of the vote is announced.

The Senate will be in order.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. STAFFORD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 47, nays 48, as follows:

[No. 79 Leg.]

YEAS—47

Allen
Allott
Baker
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
McClellan
Proxmire
Randolph
Roth
Smith
Sparkman
Spong
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NAYS—48

Aiken
Anderson
Bayh
Bellmon
Boggs
Brooke
Burdick
Case
Church
Cooper
Cranston
Eagleton
Gravel
Harris
Hart
Hatfield
Hughes
Humphrey
Inouye
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Saxbe
Schweiker
Scott
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—5

Hartke
Jackson
McGee
Mundt
Stafford

So Mr. DOLE'S amendment was rejected.

Mr. PELL. Mr. President, I send an amendment to the desk and ask to have it stated.

The PRESIDING OFFICER (Mr.

TAFT). The clerk will state the amendment.

The assistant legislative clerk read the amendment, as follows:

> On page 696, line 24, strike out "1972" and insert in lieu thereof "1973"; and on line 25 strike out "1973" and insert in lieu thereof "1974".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I have an amendment at the desk, which I call up and ask to be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read the amendment (No. 919) offered by Mr. ALLEN (for himself and Mr. ERVIN) as follows:

> On page 754, line 2, insert the following: "No public school student shall be assigned to or required to attend, or forbidden to attend, a particular school because of his race, creed, color, or economic class.
>
> "This prohibition shall prevent such action by the Federal Government and all agencies, bureaus, departments, and courts thereof."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The question now is on concurring in the House amendment with an amendment in the nature of a substitute, as amended.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. STAFFORD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON) is detained on official business.

The result was announced—yeas 88, nays 6, as follows:

[No. 80 Leg.]

YEAS—88

Aiken
Allen
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—6

Brock
Fannin
Gambrell
Goldwater
Ribicoff
Sparkman

NOT VOTING—6

Cotton
Hartke
Jackson
McGee
Mundt
Stafford

So the House amendment with an amendment in the nature of a substitute, as amended, was concurred in.

Mr. JAVITS. Mr. President, I move to reconsider the vote.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and conforming corrections in the engrossment of the Senate amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the final adoption of the committee substitute resulting in the disposition of the package of education proposals makes an outstanding achievement. To be singled out for special praise for this triumph is the distinguished Senator from Rhode Island, the able chairman of the Education Subcommittee. As the floor manager of this most important proposal, his contributions were invaluable, his outstanding legislative skill indispensable and his strong and able advocacy most necessary to this success. I must say it was only in keeping with the fine record Senator PELL has already established. His many achievements as a public servant stand as an indelible mark. Once again he has won the deep gratitude of the entire Senate.

Joining Senator PELL and sharing the most important task of managing this bill was the distinguished Senator from New York (Mr. JAVITS). It should be said that Senator JAVITS has held the burden on the minority side of legislation ever since the Congress returned for this session. With the equal employment opportunities measure approved followed by the adoption of the education package just now, Senator JAVITS has exhibited once again his enormous talent and outstanding capacity. Senator JAVITS deserves the Senate's highest commendation. The same may be said for the efforts of the distinguished Senator from Colorado (Mr. DOMINICK).

Also deserving praise is the distinguished Senator from Minnesota (Mr. MONDALE). Senator MONDALE has worked tirelessly on the very critical problem of school desegregation. His fine expertise while this issue was before the Senate was invaluable to every Member and we are grateful. We are grateful as well for the efforts of the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN). Both offered their own strong and sincere views. Both joined in cooperating to assure final disposition.

Finally, to the entire Senate, I extend the gratitude of the leadership on both sides. Every Member was given consideration and was extended courtesy. Every Member joined to assure efficient disposition.

## LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, I rise to inquire from the distinguished majority leader as to the program for the rest of today, the rest of the week, and from now until the next recess.

Mr. MANSFIELD. Mr. President, in response to the question of the distinguished minority leader, may I say that the distinguished chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULBRIGHT) is prepared at this time to bring up three conference reports dealing with international banks.

On the disposition of those measures, it is intention of the leadership to take up S. 3160, which raises the price of gold from $35 a fine ounce to $38. It is my understanding that, while there is little argument on raising the price of gold, there may well be a rollcall vote on this measure.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. TOWER. I do intend to ask for a rollcall vote, because I think this is a matter of sufficient import that it deserves a rollcall.

Mr. MANSFIELD. The Senate is on notice.

If we complete action on that measure today, we will take up tomorrow the housing bill, S. 3248, which has been cleared on both sides. That will be followed by H.R. 12910, the increase in the public debt limit.

On tomorrow or Friday, we will take up the foreign aid appropriations conference report, which has been cleared with the chairman of the committee, the distinguished Senator from Wisconsin (Mr. PROXMIRE).

If we have time, some of the odds and ends on the calendar may be taken up after the debt ceiling, if it is disposed of on Friday.

On Monday—and this is very important—the funds for the various committees will be considered on the Senate floor, and I anticipate that that will be an all-day procedure. Following that, it is anticipated, in view of the fact that the equal rights amendment is not on the calendar, nor will it be for 10 days or 2 weeks—an equal rights amendment of which I thoroughly approve, without change—the Senate will turn to the consideration of S. 2574, the National Board of Registration Act, which is a controversial piece of legislation and will take a little time.

Mr. SCOTT. I thank the distinguished majority leader.

I think there is no question that the Voter Registeration Act is highly controversial and will take a considerable amount of time, and I certainly have my reservations about it at the present time.

## U.S. CONTRIBUTIONS TO INTER-AMERICAN DEVELOPMENT BANK—CONFERENCE REPORT

Mr. FULBRIGHT. Mr. President, I call up the conference reports on the three bills, S. 748, S. 749, and S. 2010, relating respectively to U.S. contributions to the Inter-American Development Bank, the Asian Development Bank, and the International Development Association.

The PRESIDING OFFICER (Mr. TAFT). The Chair inquires whether the Senator wishes the reports considered en bloc.

Mr. FULBRIGHT. No; I am not requesting that the three conference reports be voted on en bloc, although there is almost no difference between the reports.

The PRESIDING OFFICER. The Chair inquires which report the Senator wishes to consider first.

Mr. FULBRIGHT. S. 748. I, therefore, submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 748) to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of February 9, 1972, at p. 3398.)

Mr. FULBRIGHT. Mr. President, I am not requesting that the three bills be voted upon en bloc; but the fact is that there is almost no difference between the three conference reports or between the three joint explanatory statements. All these reports and statements already have been printed in the RECORD. No money figures were involved in the conference on the three bills.

In these circumstances, I ask unanimous consent that in this single case the statement of the managers be read in lieu of the report on S. 748, a bill to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement is as follows:

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 748) to authorize payment and appropriation of the second and third installments of the United States contributions to the Fund for Special Operations of the Inter-American Development Bank, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

### EXPROPRIATION AMENDMENT

*House amendment.*—Contains a provision which requires the Secretary of the Treasury to instruct the U.S. Executive Director of the Bank to vote against any loan for the benefit of any country which—

(1) nationalizes, expropriates, or seizes control of property owned by U.S. citizens,

(2) has taken steps to nullify contracts with U.S. citizens,

(3) imposes discriminatory taxes, et cetera, on property of U.S. citizens, or

(4) seizes a vessel of the United States in territorial waters or the high seas on the basis of rights or claims which are not recognized by the United States and requires a charge to be paid to secure the release of the vessel and crew,

unless the Secretary determines that (A) arrangements for compensation have been made, (B) the dispute has been submitted for international arbitration, or (C) good faith negotiations are in progress.

*Senate bill.*—No comparable provision.

*Conference action.*—Adopts the House amendment with the following modifications:

(1) Strikes out all references to the Secretary of the Treasury, and instead, gives to the President of the United States the responsibility to give instructions with respect to the voting against any loan or other utilization of funds for the benefit of any country which expropriates property.

(2) Deletes the matter appearing in paragraph 4 relating to the seizure of vessels of the United States.

### NARCOTICS DRUGS

*House amendment.*—Requires the Secretary of the Treasury to instruct the U.S. Executive Director of the Bank to vote against any loan for the benefit of any country with respect to which the President of the United States makes a determination that such country has failed to take adequate steps to prevent narcotic drugs (which are produced in, or transported through, such country) from (A) being sold illegally within such country to U.S. Government personnel, or (B) entering the United States unlawfully.

*Senate bill.*—No comparable provision.

*Conference action.*—Adopts the House provision.

WRIGHT PATMAN,
WM. A. BARRETT,
LEONOR K. SULLIVAN,
HENRY REUSS,
THOMAS L. ASHLEY,
HENRY GONZALEZ,
WILLIAM B. WIDNALL,
ALBERT W. JOHNSON,
GARRY BROWN,
*Managers on the Part of the House.*

J. W. FULBRIGHT,
JOHN SPARKMAN,
M. MANSFIELD,
G. D. AIKEN,
CLIFFORD P. CASE,
*Managers on the Part of the Senate.*

Mr. FULBRIGHT. Senators will note that the Senate accepted an amendment requested by the House which would have the effect of casting the vote of the United States against loans to countries which have not cooperated in trying to prevent the illegal international traffic in narcotic drugs. The Senate also accepted an expropriation amendment which requires the U.S. representatives on the Bank to vote against loans to countries which expropriate U.S. property without compensation, international arbitration or good faith negotiations, bilateral or otherwise.

For its part, the Senate persuaded the House Conferees to delete references to the Secretary of the Treasury concerning the expropriation amendment, and to give directly to the President the responsibility of instructing U.S. representatives and of making any contrary determinations about expropriations. In this connection, it should be stressed that the general tenor of the so-called expropriation amendment attached to the bill follows very closely the language of the President's policy statement on this subject earlier this year. Because it seemed clear that we were really giving effect to the President's policy on expropriation, we did not waste time arguing about stylistic and peripheral issues.

There is one exception to this point, however, which concerns the Senate action in deleting from the House version of the expropriation amendment a subsection which would have dealt with the seizure of U.S. fishing vessels. The substance of the subsection, which the House agreed to delete, was that the U.S. representatives in the Inter-American Bank would be required to vote against loans to any country which:

> Seizes a vessel of the United States in territorial waters or the high seas on the basis of rights and claims which are not recognized by the United States and requires a charge to be paid to secure the release of the vessel and crew . . .

The Senate conferees did not dispute the importance of the issue raised by the House concerning seizures of U.S. fishing vessels and the requirements for heavy fines to obtain their release. At the same time, this subject is an extraordinarily complicated one which the United States and other countries have been attempting to deal with through diplomatic conferences and other means for quite a period of time. The Senate Conferees did not believe that S. 748 was the appropriate vehicle for such an effort to get at this complicated issue. Although the problems of expropriation of property and of fishing vessel seizures both are serious, there are significant differences between them that may require different solutions.

Mr. President, I do not believe there is any reason to read the statement of the managers on either S. 749 or S. 2010, because the statements are virtually identical with that which was issued on S. 748—with the single exception of the fishing vessel amendment on which the House receded. In short, the narcotic drug amendment and the expropriation amendment were accepted by the Senate conferees, and the House agreed that the President, rather than the Secretary of the Treasury, should be given the direct authority to implement the expropriation amendment. These points applied equally to all three bills and there were no other differences at issue between the two Houses on these bills.

Mr. President, I urge the Senate to adopt, in sequence, the three conference reports on S. 748, S. 749 and S. 2010.

With regard to the Inter-American Development Bank Fund for Special Operations, I might add that in December 1970 we authorized $100 million for the first year. We originally were presented a 3-year program of $1 billion; $900 million is authorized here and is to be paid in two annual installments of $450 million each.

Mr. JAVITS. Mr. President, I consider it most unfortunate that the conferees made the decision to maintain the so-called Gonzalez amendment relating to expropriation in all three bills. This amendment which requires the President of the United States to give instructions against voting against any loan or other utilization of funds for the benefit of any country which appropriates property, is the type of rigid legislative prohibition that does not serve the overall foreign policy interest of the United States. The provision as written contains no national interest waiver and this lack of a waiver or safety value would have the same unfortunate repercussions as the Hickenlooper amendment has had. It is all too clear from the history of the Hickenlooper amendment that the delicate problems in the foreign investment area are much better handled outside the framework of rigid statutory directions which are not flexible enough to deal with the often difficult negotiating situations that arise in our relations with developing nations.

As the world moves toward a new era in international negotiations, as the era of confrontation and the cold war gives way to a more rational era of negotiation that is almost universally applauded, I am troubled that the Congress still insists on applying the outdated and sterile doctrine of the "big stick" in its relations with the less developed world. There is more to our relations with the LDC's than just protecting private foreign investment regardless of the foreign policy costs and this perpetuation of doctrine more suitable to the 1900's in the 1970's is as unfortunate as it is puzzling.

As my colleagues know, the Hickenlooper amendment remains part of the Foreign Assistance Act of 1961 as amended and decrees a cutoff of bilateral assistance in the case of expropriation disputes. This amendment despite its penalties has not contributed to a more harmonious relationship between the LDC's and private foreign investors, nor has it prevented massive expropriations as just have been carried out in Chile. In fact its overall net effect has been to give leftists the world over a rallying point against the United States.

In turn, it is so inept that the U.S. Government has been most reluctant to apply it such as in the IPC case in Peru. And in making the decision not to apply the law, it evidently was the consideration of the U.S. Government that strict application of the law would have an unnecessarily disadvantageous effect not only on our total relations with Peru, but also with the rest of Latin America.

Now much of the wording of the Hickenlooper amendment has already been written into the Inter-American Development Bank Act. In fact the language already in the Inter-American Development Bank Act as it relates to expropriation makes one question whether the Gonzalez amendment is not redundant.

But regardless of this point, rather than having drawn certain conclusions from the sad history of the Hickenlooper amendment, the bills before us transfer much of the language of Hickenlooper to the international lending institutions. So again, the United States Congress will have resorted to the big stick policy without writing in a Presidential waiver. It is my expectation that this will contribute to a further straining of U.S. relations with the developing world and probably will adversely affect the investment climate for private foreign investment. I would seriously doubt whether the vast majority of American firms operating overseas would favor this narrow, rigid language for this very purpose. And as stated, such language hamstrings the conduct of a flexible and imaginative foreign policy at the very time when such imagination and flexibility is needed.

Despite my grave concern about the wisdom of the Gonzales amendment, there are nevertheless some slim grounds for optimism. It is my understanding that the Gonzalez amendment was intended to go no further than the President's own statement which would allow him to continue assistance in those situations where it is in the national interest. While the Gonzalez amendment does not technically contain this provision, I believe that the section that allows a withholding of a negative vote where good faith negotiations are taking place would allow the President to administer the Gonzalez amendment consistent with his own policy. I would like to make clear my own understanding, and I think this reflects the understanding of the Senate, that the Gonzalez amendment is sufficiently broad to allow its administration consistent with the President's expropriation policy.

I ask unanimous consent that the portion of the President's statement dealing with the expropriation policy of the U.S. Government as issued on January 19, 1972, be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the White House Policy Statement on Economic Assistance and Investment Security in Developing Nations—Jan. 19, 1972]

In light of all this, it seems to me imperative to state—to our citizens and to other nations—the policy of this Government in future situations involving expropriatory acts.

1. Under international law, the United States has a right to expect:

That any taking of American private property will be nondiscriminatory;

That it will be for a public purpose; and

That its citizens will receive prompt, adequate, and effective compensation from the expropriating country.

Thus, when a country expropriates a significant U.S. interest without making reasonable provision for such compensation to U.S. citizens, we will presume that the U.S. will not extend new bilateral economic benefits to the expropriating country unless and until it is determined that the country is taking reasonable steps to provide adequate compensation or that there are major factors affecting U.S. interests which require continuance of all or part of these benefits.

2. In the face of the expropriatory circumstances just described, we will presume that the United States Government will withhold its support from loans under consideration in multilateral development banks.

3. Humanitarian assistance will, of course, continue to receive special consideration under such circumstances.

4. In order to carry out this policy effectively, I have directed that each potential expropriation case be followed closely. A special inter-agency group will be established under the Council on International Economic Policy to review such cases and to recommend courses of action for the U.S. Government.

5. The Departments of State, Treasury, and Commerce are increasing their interchange of views with the business community on problems relating to private U.S. investment abroad in order to improve government and business awareness of each other's concerns, actions, and plans. The Department of State has set up a special office to follow expropriation cases in support of the Council on International Economic Policy.

6. Since these issues are of concern to a broad portion of the international community, the U.S. Government will consult with governments of developed and developing countries on expropriation matters, to work out effective measures for dealing with these problems on a multilateral basis.

7. Along with other governments, we shall cooperate with the international financial institutions—in particular the World Bank Group, the Inter-American Development Bank, and the Asian Development Bank—to achieve a mutually beneficial investment atmosphere. The international financial institutions have often assisted in the settlement of investment disputes, and we expect they will continue to do so.

8. One way to make reasonable provision for just compensation in an expropriation dispute is to refer the dispute to international adjudication or arbitration. Firm agreement in advance on dispute settlement procedures is a desirable means of anticipating possible disagreements between host governments and foreign investors. Accordingly, I support the existing International Center for the Settlement of Investment Disputes within the World Bank Group, as well as the establishment in the very near future of the International Investment Insurance Agency, now under discussion in the World Bank Group. The Overseas Private Investment Corporation will make every effort to incorporate independent dispute settlement procedures in its new insurance and guarantee agreements.

I announce these decisions because I believe there should be no uncertainty regarding U.S. policy. The adoption by the United States Government of this policy is consistent with international law. The policy will be implemented within the framework of existing domestic law until the Congress modifies present statutes, along the lines already proposed by this administration. The U.S. fully respects the sovereign rights of others, but it will not ignore actions prejudicial to the rule of law and legitimate U.S. interest.

Finally, as we look beyond our proper national interests to the larger considerations of the world interest, let us not forget that only within a framework of international law will the developed nations be able to provide increasing support for the aspirations of our less developed neighbors around the world.

Mr. JAVITS. Mr. President, the key line in this statement to which I wish to call the attention of my colleagues reads:

> Or there are major factors affecting U.S. interests which require continuance of all or part of these benefits.

Finally, Mr. President, I was pleased to read in the conference report that the so-called fishing boat amendment has been deleted from the Inter-American Development Bank bill since the forum of the IADB was not appropriate for the resolution of the complex problems of international fishery rights. From the statement of the conference report, I would believe that I am correct in saying that even though the language of the Gonzalez amendment with respect to seizure of U.S.-owned property would literally apply to the seizure of fishing boats, it clear that this amendment covers the expropriation situation only and does not cover fishing boat seizures. As the Senator so ably said, this is a matter to be properly resolved by international agreement.

Mr. President, this conference report has been a slippery mountain to climb, especially for the distinguished Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. TOWER), and the Senator from Arkansas (Mr. FULBRIGHT). I do not for one moment wish to derogate from the fact that what they brought up is not great, but I did want to make these observations.

Mr. FULBRIGHT. Mr. President, I recognize the Senator's position. He does know, though, that we have had long experience with this particular problem, and one of the incidents he referred to is one of the main reasons why the amendment was attempted in the other body.

Mr. JAVITS. I thank my colleague.

Mr. FULBRIGHT. Mr. President, I move adoption of the conference report.

Mr. BYRD of Virginia. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I yield.

Mr. BYRD of Virginia. Is this one conference report or three conference reports?

Mr. FULBRIGHT. There are three separate conference reports. The one we are dealing with now is S. 748 on the Inter-American Development Bank. If I may explain, there was no difference in the conference regarding money. The only differences, the only things within the conference were the provisions with regard to expropriation control of narcotics, and the fishing vessel question.

Mr. BYRD of Virginia. Would the Senator from Arkansas kindly refresh my memory on the amount of money there?

Mr. FULBRIGHT. In this bill there is an authorization for $900 million to be paid over a period of 2 years, $450 million per year.

Mr. BYRD of Virginia. That is for the Inter-American Development Bank?

Mr. FULBRIGHT. Yes, the Special Fund of the Inter-American Development Bank.

The Senator will recall that a year ago last December we had a long controversy over this matter. The administration had requested this at that time but due to the opposition, we authorized only $100 million which was for the first year, and required further authorizations of $900 million for the following years. The latter request was allowed to go over and it is taken care of in this bill.

Mr. BYRD of Virginia. So the amount in the pending legislation is $900 million over a 2-year period; is that not correct?

Mr. FULBRIGHT. That is correct.

Mr. BYRD of Virginia. I thank the Senator.

Mr. President, I should like the record to show that the Senator from Virginia will vote in the negative, in opposition to adoption of the conference report.

Mr. FULBRIGHT. Since the Senator has brought that up, I may say that I was disappointed that the Senate, in its wisdom, found it necessary greatly to increase the amount which my committee voted for the bilateral aid program. It had been my assumption that if we voted for these multilateral programs, the bilateral aid would to some extent, at least, be reduced. I did all I knew how to do to reduce it, but I was not able to do so as we could not get the votes. We have now both this program and the bilateral program, but I think this program is much more in the national interest than is the bilateral program.

Mr. BYRD of Virginia. Mr. President, what disturbs me is whether, with the tremendous deficits our Nation is running—$30 billion deficit last fiscal year, $45 billion deficit in the current fiscal year, and a $36 billion for the upcoming year—whether this country is in any position to be authorizing an appropriation of $900 million today to the Inter-American Development Bank.

Thus, I shall cast my vote in the negative when the vote is put on the conference report.

The PRESIDING OFFICER (Mr. TAFT). The question is on agreeing to the conference report on S. 748.

The motion was agreed to.

## U.S. CONTRIBUTIONS TO ASIAN DEVELOPMENT BANK—A CONFERENCE REPORT

Mr. FULBRIGHT. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 749) to authorize U.S. contributions to the Special Funds of the Asian Development Bank.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of February 9, 1972 at p. 3399.)

Mr. FULBRIGHT. Mr. President, I have already explained for the record that this provides for $100 million to be paid out over 2 years, $60 million for the first year and $40 million for the second year.

The problem with fishing boats was not involved.

Mr. President, I move adoption of the conference report.

The motion was agreed to.

## INCREASED PARTICIPATION BY THE UNITED STATES IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION—CONFERENCE REPORT

Mr. FULBRIGHT. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2010) to provide for increased participation by the United States in the International Development Association.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of February 9, 1972 at p. 3399.)

Mr. FULBRIGHT. Mr. President, I will explain, for the record, that this is a 3-year authorization of $320 million each year for the next 3 years for the International Development Association. This makes a total of $960 million over a period of 3 years. Here again, there is no difference in the total money amount of the two bills.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. BYRD of Virginia. Mr. President, would the Senator from Arkansas yield?

Mr. FULBRIGHT. I yield.

Mr. BYRD of Virginia. Mr. President, do I understand that the amount involved is $960 million?

Mr. FULBRIGHT. The Senator is correct. Over a period of 3 years, it will be $960 million. It is $320 million a year for the next 3 years.

Mr. BYRD of Virginia. So, the pending legislation then would authorize the appropriation of $960 million over the next 3 years?

Mr. FULBRIGHT. The Senator is correct.

Mr. BYRD of Virginia. This is the so-called soft loan window.

Mr. FULBRIGHT. The Senator is correct. It is the International Development Association. It is what we call the soft loan operations of the International Bank for Reconstruction and Development.

Mr. BYRD of Virginia. In the three conference reports that the Senate will agree to this afternoon, there is a total of almost $2 billion.

Mr. FULBRIGHT. $1.960 billion is the way I figure it.

Mr. BYRD of Virginia. I usually round things off to the closest number. I would say it is $2 billion or, to be exact, $1,960,000,000 that the Senate on this first day of March 1972, in the late afternoon is authorizing to be appropriated for these three international financial institutions over the period of 3 years.

I want to say again that I think this country and the Congress has gone on too much of a spending spree.

I do not think it is justified to take the money out of the taxpayers' pockets, the money of the hard-working wage earners of this country, and turn this money over to the world international financial institutions to be used as they wish—$2 billion or $1,960,000,000 in these three pieces of legislation that the Senate is passing in a matter of 12, 14, or 16 minutes this afternoon.

I think that somewhere along the line

we have to call a halt to such spending, in authorization bills as well as appropriations bills. I see no justification for the spending of $960 million over a 3-year period for the International Development Association in this time of financial crisis in the United States.

Following these conference reports, the Senate will take up the question of devaluing the dollar or increasing the price of gold, which is the same thing as devaluing the dollar.

I think it is ironical that these two pieces of legislation should come one after the other.

I guess it is appropriate that they should do so. It is in part because of the reckless manner in which we have spent our money on foreign aid that it has become necessary to increase the price of gold. I expect to vote for that legislation. It merely formalizes what has already taken place, namely the devaluation of the American currency.

Whether the American taxpayer's dollar is taken out of his pocket and given directly to other countries of the world or whether it is taken out of his pocket to give to an international financial institution to give to other countries, I cannot see that it makes any difference from the taxpayer's point of view.

In either case, the taxpayer is paying the bill. It is coming out of the sweat of the hard-working wage earners of this country.

I do not see how in the world the Senate or the House of Representatives can justify continuing these programs for these financial institutions which are in better shape financially than is the U.S. Government. Indeed, they are in much better shape than the U.S. Government.

The U.S. Government would be very lucky if it were in as good shape as the international financial institutions to which $2 billion is being authorized for appropriations today, or $1.96 billion, to be accurate.

On tomorrow we will come to the Foreign Aid bill. It is a very interesting thing about the foreign aid conference report.

The foreign aid conference report brings in a figure greater than the amount approved by the House of Representatives and greater than the amount approved by the House of Representatives and greater than the amount approved by the Senate. That is some conference report—$100 million more than the Senate approved, and while I cannot remember the exact amount, it is nearly $200 million more than the House approved.

That is another $3 billion that the Senate will vote on tomorrow for foreign aid. So in these 2 days in a matter of 24 hours, $5 billion of the American tax funds will have been authorized for appropriation by the Senate for foreign aid.

Mr. President, it was just last October that the Senate voted down a smaller foreign aid bill than the Senate will be called upon to pass on tomorrow.

I do not know where the Members of Congress think we are going to get the money to finance these tremendous authorizations to be followed by appropriations.

Of course, we can be pretty sure that the people that are going to be hardest hit, those who will be hurt the most by the taxes that will be taken out of their pockets, and by the depreciation of their dollar, will be those in the middle-income groups and those on fixed income.

The very wealthy people can take care of themselves. The very poor people are not in a position to make much contribution anyway.

However, those in the great middle economic group of this country are going to feel it and are now feeling it, and in the future will feel even more the heavy burden that is put on them as taxpayers by the huge expenditures of this Congress and of this administration.

In my opinion authorizing today $2 billion for these three international financial institutions is not justified.

I think the time has come to call a halt to these foreign aid programs, whether they are called multilateral aid or bilateral aid. It makes no difference to the taxpayer of this country one way or another, because it still comes out of his pocket. I cannot see that it makes any difference at all to him. The money comes from his pocket, and that is the only place from which the money is going to come.

I do not see that it makes any difference to the taxpayer if our Government gives it directly to another foreign country or, as these bills plan, to three international institutions which in turn will give it to the foreign countries.

I have before me an editorial from the Chicago Tribune of today entitled "Don't Forget the Dollar." The editorial refers to the preoccupation of this country with Peking, politics, and prices and states that there has been a tendency to forget about the poor dollar. Yes, Mr. President, there has been a tendency to forget about the poor dollar.

My concern for the dollar is not for the dollar, as such. When the dollar is devalued then the dollar is depreciated and, of course, all of those hard-working people of our country who have worked and saved dollars over a long period of time to take care of themselves in their old age and people on fixed incomes, they are being terribly hurt by this inflation, and Government spending is the major cause of inflation.

I shall vote against the conference report. I do not think it is justified to authorize nearly a billion dollars—$960 million—for the International Development Association.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, of course, we have debated this bill at great length in committee and in the Senate. It has been pending almost a year since the original request for the money in IDA. This is simply the conference report. The entire matter has been debated and I see no reason to extend the discussion now.

Also I point out that in IDA we pay only 40 percent of the amount contributed to the fund contrasted to 100 percent of bilateral aid.

As far as action of the conference on the AID bill, I agree with the Senator. I think it was a most unusual result to get a conference report higher than the total bill of either House. That was done by juggling specific items. I do not expect to support that bill either.

But if we are going to do anything in this field, this is the way to do it.

The PRESIDING OFFICER (Mr. TAFT). The question is on agreeing to the conference report.

The report was agreed to.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the requirement that the conference reports be printed as Senate reports be waived, inasmuch as under the rules of the House of Representatives they have been printed as reports of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MODIFICATION IN PAR VALUE OF THE DOLLAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 648, S. 3160.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3160) to provide for a modification in the par value of the dollar, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. SPARKMAN. Mr. President, S. 3160, to provide for a modification of the par value of the dollar and for other purposes, the bill which is now the pending business of the Senate, provides as follows:

Section 1 provides that the bill may be cited as "Par Value Modification Act."

Section 2 would authorize and direct the Secretary of the Treasury to take the steps necessary to establish a new par value for the dollar of $1 equals one thirty-eighth of 1 fine troy ounce of gold or $38 per fine troy ounce of gold. The need for congressional authorization for this step is specified in the Bretton Woods Agreements Act of 1945, which in section 5(b) provides that the par value of the dollar may not be changed without prior approval by Congress. Once the congressional approval is obtained, the Secretary will establish a new par value by communicating it to the International Monetary Fund. This new par value in the Fund will establish the relationship of the dollar to gold for international purposes. The bill does not, however, establish a gold dollar as defined in section 15 of the Gold Reserve Act of 1934 (31 U.S.C. 444). The gold dollar, which is now equal to 15 and five twenty-one grains of gold nine-tenths fine, was only relevant before par values were established in the Fund and would thus be superseded by this bill.

The only domestic purpose for which it is necessary to define a fixed relationship between the dollar and gold is the issuance of gold certificates.

Section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b) provides that the amount of gold certificates issued and outstanding shall at no time exceed the value, at the legal standard, of the gold so held against gold certificates. In order to set a legal standard for the issuance of gold certificates, section 2 provides that the new par value defines the relationship of the dollar to gold for the purpose of issuing gold certificates. Thus, after the new par value is established, gold certificates may be issued on the basis of $38 per fine troy ounce of gold instead of on the basis of the old par value of the dollar of $35 per fine troy ounce of gold.

Section 3 would authorize and direct the Secretary of the Treasury to maintain the value in terms of gold of the U.S. dollar holdings of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association and the Asian Development Bank to the extent provided in the articles of agreements of these institutions. Each of the articles of agreement which establish these institutions contains a provision for maintaining the value in terms of gold of a member's currency when there is a reduction in any member's par value. The United States, having accepted this obligation as have all other members, is legally bound to meet its obligation in this respect when the par value of the dollar is changed. Since appropriations will be necessary to issue letters of credit to fulfill the maintenance of value obligations, section 3 would authorize the appropriation of such sums as may be necessary for this purpose, to remain available until expended. The exact sums cannot be specified since the total obligations of the U.S. Government can only be accurately determined, in most cases, on the basis of dollar holdings of the institutions as of the day on which the par value of the dollar changed.

Section 4 would direct that the increase in the value of gold held by the United States, including gold held as security for gold certificates, resulting from the change in the par value authorized by the bill be covered into the Treasury as a miscellaneous receipt. Section 7 of the Gold Reserve Act of 1934 (31 U.S.C. 408b) also provides that in the case of any decrease in the weight of the gold dollar, the resulting increase in value of gold would be covered into the Treasury as a miscellaneous receipt. This statute is inapplicable since as a technical matter there would be no reduction in the weight of the gold dollar but, instead, this concept would be superseded by the creation of a new par value for the dollar. Thus, to make explicit the disposition of the increment in value of gold, section 4 provides for payment of this increment of approximately $828 million to miscellaneous receipts of the Treasury.

This bill, Mr. President, is before the Congress because, as I have said, the par value of the dollar in the International Monetary Fund cannot be changed without the prior approval of Congress.

The legislation pending before us today would give formal consent to changing the par value of the dollar. The exchange rate changes agreed upon by the group of 10 countries at the Smithsonian Institution on December 18 have already become operative in market transactions. In other words, other countries have already implemented the Smithsonian exchange rate agreements. Formal consent to the par value change of the dollar is necessary to keep our part of the Smithsonian agreements.

The Smithsonian agreements were negotiated over a period of several months, and the question of revaluation of the dollar as the U.S. contribution to the success of the agreements was widely discussed. A modest change in the price of gold, as part of the overall realinement which included substantial revaluations of other currencies, appears to be widely supported in this country. Although the effect of the realinement gives the United States a better opportunity to compete in international trade, the benefits of the exchange rate realinement can be wasted if we do not manage our affairs at home so as to control inflation, improve productivity and expand exports.

Benefits of realinement can also be wasted if we delay or defeat the formal action providing for the change in the par value of the dollar. Delay may well result in speculation and exchange market instability and erode confidence in our ability to use the opportunity of realinement to correct our payments imbalance. Defeat would be a repudiation of the agreements reached in good faith with our trading partners. They would surely feel absolved from carrying out their exchange rate commitments and would undoubtedly resort to various kinds of restrictions to protect their positions. No one would gain and everyone would lose.

Mr. President, as you know, the Foreign Relations Committee of the Senate has had long association with legislation deriving from the original Bretton Woods Agreement Act and that committee maintains the Senate's legislative oversight function with respect to the international financial institutions covered by section 3 of S. 3160. Those institutions are International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank. Since this is the case, the Foreign Relations Committee took a particular interest in section 3 of the pending bill relating to the maintenance of value provisions respecting dollar holdings in those international institutions. The bill was referred on an informal basis to the Committee on Foreign Relations for its views and in executive session on February 29, 1972, that committee generally expressed agreement with the position of the Banking Committee regarding early Senate approval of S. 3160.

I feel the administration has presented a simple bill to do no more than what is necessary to revalue the dollar and deal with the increases in assets and liabilities directly resulting from that change.

During the consideration of S. 3160 the committee also considered the proposition of allowing American citizens to buy and sell gold. To be very candid, I think such a proposal has merit and I am inclined to be sympathetic to it. However, this is a subject that our committee wishes to go into further before recommending such legislation to the Senate. If this step is taken now, there would be a large outflow of dollars to European gold markets which would have a material effect on our balance-of-payments deficit at the present time. Action on the proposal would be entirely contradictory to all the efforts being made right now to bring our European imbalance into proper levels.

It was the majority consensus of the committee that the proposition of American citizens purchasing gold be postponed until we had the opportunity to hold hearings and study this matter in depth. I have indicated that we will hold such hearings in the future.

In closing, Mr. President, I wish to say to the Senate that S. 3160 was unanimously agreed to by the Banking, Housing and Urban Affairs Committee, and I sincerely hope that the bill as reported will be adopted by the Senate.

I realize that this is a somewhat brief statement concerning S. 3160. Our committee report, however, goes into the modification of the par value of the dollar in depth and in detail. I commend its reading to all Members of this body.

Mr. TOWER. Mr. President, I concur in the statement made by my distinguished colleague from Alabama, and I recommend favorable action on this bill which the committee has reported and of which it seeks Senate approval. The committee has not attached any amendments to the administration bill because of the importance of the early and uncomplicated passage of a law to enable the President to honor our country's commitments under the monetary agreement reached in the Smithsonian meeting in December. In return for changing the gold value of the dollar, the United States will receive the benefits of exchange rate differentials with the other major industrial countries of about 12 percent of their former parities, and will also receive significant trade concessions as well.

The impact of the 12-percent international price advantage we gain from these agreements will help substantially to improve our balance-of-payments position, and to restore stability to world trade and the world financial system. However, over the long run, the U.S. balance-of-payments position—basic balance—will be satisfactory only if we gain control of inflation, so that our domestic price structure remains competitive with those of other countries. Only with a competitive price structure can we recover our favorable balance of trade, which is necessary if the United States is to continue to finance its defense and development efforts in the free world.

I am most concerned that we succeed in gaining control of inflation in order both to maintain our traditionally strong international position, and to protect our employment situation at home from the excessive volume of imports that come with high-price levels at home. The inflationary premium in wages, business contracts, and interest rates must be largely eliminated for price stability to be achieved. The present wage-price controls program is helping to do just this. Even more important than its short-term, strong-arm effects on prices, wages, and interest rates will be the longer run effects of this program on the inflationary expectations of businessmen and employees everywhere in the country. A further major cause of inflation is the continuing occurrence of large Federal deficits, which when monetized by the Federal Reserve System add to the total purchasing power available to pressure prices upward. There must be effective spending limits set upon our Government for this reason, if for no other.

Many people have taken an interest in connection with this bill as to whether U.S. citizens should be allowed to own gold. This question has been considered by the administration in the light of the developments in the international financial system in the months since the President suspended the convertibility of the dollar, and they have concluded that the situation is not yet fortuitous for such legislation. The sudden outflow of dollars which would accompany such a change in the status of gold would cause immediate exacerbation of the existing "dollar overhang" problem in Europe, where foreign governments already have unwanted excesses of dollars. The Treasury Department and the Federal Reserve Board feel that the imposition of this additional element of instability into the present state of affairs in the world financial system would be potentially injurious to U.S. interests in the stability of the system and in monetary reform. Both agencies agree, however, that when the current uncertainties are ironed out and some substantial progress in structural improvements in the monetary system is achieved, they might be willing to support legislation to permit private ownership of gold. I will, myself, be interested in seeing this come to pass, and I would urge my colleagues who have expressed interest in this subject to bear with the administration's request to postpone any action on this question until a later, more appropriate time.

I wonder if the Senator from Alabama would perhaps propound a consent agreement to limit time? I do not think we have any other speakers.

Mr. SPARKMAN. The Senator from Virginia (Mr. BYRD) wishes to speak. He says he is not going to speak very long.

Mr. TOWER. Mr. President, would the Senator be willing to have a limitation of 30 minutes, perhaps, 15 minutes to a side?

Mr. BYRD of Virginia. Mr. President, it is not my intention to take a great deal of time, but as the Senator from Texas himself said just a little while ago in asking for the yeas and nays, this is an important bill.

Mr. TOWER. It is.

Mr. BYRD of Virginia. This being an important bill, I would like to have an opportunity to express my views. I do not know how long it is going to take. It will not take long, because I do not speak long.

Mr. TOWER. May I suggest 1 hour, 30 minutes to each side, and we can yield time to the Senator if he requires additional time?

Mr. BYRD of Virginia. I would just as soon not enter into unanimous consent agreements on the debt limit or on this particular bill. Although I do not expect to take a grat deal of time, I prefer not to enter into a unanimous consent. In the first place, I am not fully clear on one section of the bill, on which I would like to ask the distinguished Senators for information.

Mr. President, I support the proposal to change the price of gold. What this does is merely to formalize what already has taken place; namely, the value of the American dollar has been depreciated. It has been devalued.

It has been devalued, in my judgment, because of the spending policies of the Congress, of the past administration, and of this administration.

Mr. President, the legislation before us today grows out of the speech by the President of the United States on August 15, 1971.

In that speech the President pointed out the very grave fiscal situation facing our Government. He pointed out the balance-of-trade deficits. He pointed out the heavy inflationary spiral in which our Nation has found itself in recent years.

I thought it was important that the President, on August 15, recommended action he felt was necessary under the conditions facing our Nation at that time. I think it was important that we have negotiations with foreign nations in regard to the relative values of the currencies.

I think it was important that the negotiations took place with the Secretary of the Treasury, Mr. Connally, and the Under Secretary of the Treasury, Mr. Volcker, representing the United States.

I want to commend both of them for the job they did. I thought they showed skill in their negotiating. I thought they showed a firmness and a determination which this country needs in our negotiators.

The result of the negotiations is a formal devaluation of the American dollor by 12 percent. I do not blame that on the negotiators.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. BYRD of Virginia. I yield to the Senator from Texas.

Mr. TOWER. Actually, the devaluation amounts to 7.89 percent.

Mr. BYRD of Virginia. I hesitate to take issue with the distinguished Senator from Texas, but I think it is accurate to say—I shall try to measure my words—that foreign currencies, on a weighted average, were valued upward by 12 percent vis-a-vis the American dollar.

Mr. TOWER. The Senator is correct.

Mr. BYRD of Virginia. And the American dollar was devalued by 11 percent vis-a-vis foreign currencies.

Mr. TOWER. Actually, the exchange rate changes amount to a weighted average realinement of 12 percent between the dollar and the currencies of all of our major trading partners with the exception of Canada.

Mr. BYRD of Virginia. With the exception of Canada.

Mr. TOWER. And it is still closer with Canada. Actually, the change of valuation of the dollar in raising the price of gold from $35 an ounce to $38 an ounce is 7.89 percent. The actual increase in the value of gold is 8.57 percent.

Mr. BYRD of Virginia. The increase in the price of gold is 8.57 percent. But the devaluation of the American dollar is 11 percent vis-a-vis the currencies of other countries.

Mr. TOWER. The Senator is correct. I was trying to make a distinction between devaluation relative to the currencies of other countries and devaluation relative to gold.

Mr. BYRD of Virginia. All right. I appreciate the comments of the Senator from Texas. But I want to make clear that it is not the value of gold that concerns me, it is the devaluation of the American currency.

As the Senator from Texas just pointed out, the devaluation—in the official report it is called realinement—of American currencies is 11 percent vis-a-vis the currencies of foreign nations. The other way you can put that is that the foreign currencies have been valued upward by 12 percent vis-a-vis the American currency.

But in any case, the American dollar is worth significantly less today in relation to foreign currencies than it had been a few months ago.

As I say, I support the action taken by the Secretary of the Treasury and the Under Secretary of the Treasury. I commend them for their negotiating abilities.

But that does not obscure the fact that what we have had to do and what they had to do in behalf of our country was formally recommend devaluation of the American dollar. And when the Senate votes on this measure, even though it is clothed in different terms, it will be voting to formally devalue the American dollar.

I expect to vote for this measure, because it merely formalizes what has already taken place. I think something had to be done in regard to cutting the American dollar loose from gold. The President recognized that in his speech of August 15.

We had to do it for this reason: The United States has only $10 billion in gold, and yet we have liquid liabilities to foreigners, foreign governments and central banks, totaling approximately $50 billion.

When those obligations were made, the central bankers of other nations could call on the United States to redeem the American dollar in gold. But when we have only $10 billion in gold, obviously we cannot meet the commitments outstanding against that gold, which total, in round figures, $50 billion.

I think it is a very serious situation, but here again I want to emphasize that the situation results, not from the action of the Secretary of the Treasury and the Under Secretary of the Treasury in negotiating the agreements with their foreign counterparts, but from our spending policies and the heavy deficit financing which has been brought about in recent years by Congress, on the one hand, and by the former administration and the present administration on the other hand.

I think Congress and the two administrations together are equally to blame for what I consider a very grave, dangerous and deteriorating situation in regard to the American dollar.

The American dollar as such is not what concerns me. What concerns me is that for those people who have worked hard all of their lives and saved their money to try to educate their children, to buy life insurance policies, to buy health insurance plans, and to have a little money in the bank for their old age, the reckless spending policies of their Government have meant that the dollars they have earned and saved are of less value as a result of such policies.

It gets back to people. Dollars are not important. People are important. But a wage earner cannot raise a family without some dollars to buy some groceries. He cannot educate his children without some dollars to pay the tuition fees. And when we take steps to reduce the value of those dollars, then everyone suffers.

As I say, the pending legislation does not itself, except in a technical or formal way, devalue the American dollar. It merely recognizes and formalizes what has already taken place. Secretary Connally, the able man that he is, in his testimony the other day to the Senate Finance Committee, pointed out that foreign nations have a very keen interest in the way the American Government handles its financial affairs. Naturally they would have, because the United States is the greatest and most important nation in the world, and, besides that, because so many of these foreign governments and their central banks have such a large supply of dollars on hand.

So they are concerned about it, and they have a right to be concerned.

The pending legislation, for which I intend to vote, is the direct outgrowth of the spending policies of Congress and of the executive branch of Government.

I should like to ask the distinguished chairman of the committee a question with regard to section 3, on page 2. The last sentence reads:

> There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Namely, the commitments to the international financial institutions.

Would the distinguished chairman of the committee indicate how much money is involved in that?

Mr. SPARKMAN. Yes. We had this matter under consideration in the Banking Committee and in the Committee on Foreign Relations. When the bill was referred there informally we considered this matter. I believe there will be liabilities of $1.069 billion.

Mr. TOWER. $1.069 billion.

Mr. SPARKMAN. There will be obligations of $1.069 billion. These obligations are for the purpose of maintaining the value of the dollar in various international organizations in which the United States subscribes. But there will be assets offsetting these obligations to the extent of $1.1 billion. There will be no budgetary impact for the first 2 years, that is, fiscal years 1972 and 1973; for fiscal year 1974 through fiscal year 1976 there will be a budgetary impact of some $343 million; and a budgetary impact from fiscal year 1977 to 1986 of $63 million.

Mr. BYRD of Virginia. As I understand it, then, by changing the price of gold—as I say, I am going to support the change—it requires that we make additional appropriations to the international financial institutions, so that the international financial institutions will not lose as a result of our depreciated dollar. Is that correct?

Mr. SPARKMAN. That is a matter of treaty in connection with the Bretton Woods Agreement years ago, in which each country agreed to maintain the value of its holdings in that bank, as measured by gold.

Mr. BYRD of Virginia. Is the Senator from Virginia correct in this assertion? By changing the price of gold, which devalues our dollar, we must give additional appropriation or reimbursement to the international financial institutions so that they will not lose by the fact that we are devaluing our dollar. Is that correct?

Mr. SPARKMAN. Well, it is so that our contribution, as pledged in the treaty, will be maintained at the proper level. I would rather put it that way.

Mr. BYRD of Virginia. The Senator means at the old level?

Mr. SPARKMAN. At the level we agreed to.

Mr. BYRD of Virginia. That is right.

Mr. PASTORE. Mr. President, will the Senator yield so that I may ask a question of the Chairman?

Mr. BYRD of Virginia. I yield.

Mr. PASTORE. Why was it necessary to insert that in this particular bill? It is not a related matter at all, is it?

Mr. SPARKMAN. Yes, it is. If we change the value of the dollar in international finance, we have to take into consideration these international organizations to which we committed ourselves some 25 years ago by treaty.

I should like to invite attention to this. While it is true that it calls for $1.069 billion over a period of years, there are assets on the other side that amount to $1.1 billion.

Mr. PASTORE. That is true, but 2 years following that, it is my understanding that the budgetary deficit will be $350 million.

Mr. SPARKMAN. It is $343 million.

Mr. PASTORE. That is right. We will have to appropriate that money at that time, will we not?

Mr. SPARKMAN. I presume that is correct.

Mr. PASTORE. So it is an appropriation matter. I am questioning whether or not the appropriation ought to be in this particular bill. I do not contest it. I think the record ought to be clear on the subject. This is an obligation on the part of Congress to come up with $350 million 2 years from now.

Mr. SPARKMAN. It is an obligation that arises under a treaty.

Mr. PASTORE. I understand that. But a treaty comes out of the Committee on Foreign Relations, and here we are talking about finances.

Mr. BYRD of Virginia. Regardless of the reason—and this is the point I want to establish—the fact is that as a result of devaluation of the dollar, as a result of changing the price of gold, which in itself devalues the dollar, the U.S. taxpayers must come up with additional funds to the international financial organizations.

Mr. SPARKMAN. That is correct. But we have offsetting assets.

Mr. BYRD of Virginia. I wanted to get into that in a few moments. Will the Senator indicate what the offsetting assets are?

Mr. SPARKMAN. It is $1.1 billion.

Mr. BYRD of Virginia. Where does that come from?

Mr. SPARKMAN. If the Senator will look at page 9 of the committee report they are set out there under the heading of "Reserve Assets."

First of all, the amount of gold holding our special drawing rights—these will be increased in value.

Mr. BYRD of Virginia. The Senator mentioned $1.069 billion.

Mr. SPARKMAN. That is made up of the liabilities, and the assets are given on page 9 of the commitee report, and they add up to $1.1 billion.

Mr. BYRD of Virginia. Unfortunately, I do not have with me—perhaps someone else does—the statement made by Under Secretary Volcker on February 22 before the banking committee. In any case, in that statement and in his statement to the Committee on Finance 2 days ago, under query by me, he said that Congress would need to appropriate $1.5 billion or $1.6 billion this year to the international financial institutions.

Mr. SPARKMAN. If Congress has to appropriate in order to make up these amounts to the international institutions, it ill be offset by the increase in the value of our reserves. In any event, we are assured that there will be no budgetary impact.

Mr. BYRD of Virginia. I am frank to say what my colleagues already know. I am not an expert on international finance. I do not pretend to be, and I am not.

But Under Secretary Volcker told the Committee on Finance 2 days ago, under questioning by me, that it would require an appropriation of $1.5 billion or $1.6 billion. He said that would not be expended in this fiscal year but that it would require that appropriation. If the staff happens to have Under Secretary Volcker's statement of February 22, I can point it out in that official statement.

Mr. SPARKMAN. I am sorry; I do not have it with me.

Mr. BYRD of Virginia. I think it is a point that should be cleared up. At least, the Senator from Virginia would like to understand it, because, unless I misunderstood Under Secretary Volcker 2 days ago, and I do not think I did, Congress will be called upon this year—he said immediately following passage of this bill—to appropriate $1.5 billion or $1.6 billion as a result of this legislation.

Mr. SPARKMAN. Yes. I have a copy of his statement. Let me read part of it, the pertinent part the Senator refers to as this must be the same thing he replied to the Senator from Virginia:

> It is contemplated that the various obligations incurred by maintenance of value requirements, . . .

In other words, building up our holdings with the international financial institutions—

> however remote, will need to be covered by appropriations in an approximate amount of $1.5 to $1.6 billion. These appropriations, of course, only deal with the liability side of the equation and do not reflect the offsetting gains.

Let me read a little further. It may be that he answers our question about the budgetary impact:

> Over-all, the net result of the series of transactions will be:
>
> In terms of its effects on Treasury cash, to increase our resources.
>
> In terms of budgetary expenditures, a probable rough balance between savings on interest expense (as a result of the added cash resources of the Treasury) and the additional paid-in capital subscription to the international development institutions.
>
> In terms of our over-all asset and liability position, a rough offset between added contingent and deferred liabilities and the increased value of our gold and capital subscriptions.

In other words, his conclusion is that one roughly offsets the other.

Mr. BYRD of Virginia. Well, as I say, I am not enough of an expert on this high finance to know exactly how that works, but we have established that the administration will ask for an appropriation of $1.5 billion or $1.6 billion—is that not correct?

Mr. SPARKMAN. That is correct—between $1.5 and $1.6 billion.

Mr. BYRD of Virginia. Between $1.5 billion and $1.6 billion.

Mr. SPARKMAN. But, at the same time, remember, we will have in our reserves more than enough or, as the Secretary says, roughly enough, to make up for it. In other words, it is largely a bookkeeping device.

Mr. BYRD of Virginia. I do not see it as largely a bookkeeping device.

Mr. SPARKMAN. It is bound to be.

Mr. BYRD of Virginia. I do not see it that way. I might say to the Senator that his own figures which he gave in colloquy with the Senator from Rhode Island said there would be an impact of more than $300 million.

Mr. SPARKMAN. In the years following, that is fiscal year 1974 through 1976, $343 million; in fiscal year 1977 through fiscal year 1986, it will be $63 million. It is over a period of 9 years.

Mr. BYRD of Virginia. What happened, and the reason they need this additional money is that once this legislation is passed—and I support it—the dollars which the American taxpayers have already put into the international financial institutions will not be worth as much, as a result of that, so that the taxpayers will have to get out of their pockets additional money to put into the international financial institutions so that the international financial institutions will come out even.

Mr. SPARKMAN. That is only for the periods beyond——

Mr. BYRD of Virginia. That is the period right now, or we would not have to appropriate the $1.5 or the $1.6 billion. Let us not appropriate it, then, if they do not need it.

Mr. SPARKMAN. Well now, the Senator knows that the way of operating things down at the Treasury is to call these assets. Take, for instance, the gold they have on hand, the gold certificates and foreign exchange certificates, those are assets just the same as if they were dollars, but they have not been appropriated, and therefore——

Mr. TOWER. If the Senator will allow me to interject there, this will be just to cover contingent liabilities. It is not anticipated that the money will be paid out. The initial budget impact will come with fiscal 1974.

Mr. SPARKMAN. That is right.

Let me say to the Senator that I have followed his discussion with a great deal of interest and I cannot find fault with and of it.

Yes; of course, we have not handled things right in the past. That is the reason we find ourselves where we are today. But we are there.

I believe that the best step that has been taken that is available to us, to work ourselves out of this situation. I agree with the Senator when he brought out that point.

Mr. BYRD of Virginia. I thank the Senator from Alabama. I agree with his assertion that we are there. That is why we are faced with this situation. That is why I will support it.

But I think it is wise for the Senate to know what it is doing, that we are formally devaluing the dollar because we have to, and as a result of that, it will cost us more to meet our obligations to the international financial institutions.

Now, Mr. President, if I could have the attention of the distinguished Chairman of the committee to ask him a question, and I will use round figures because it is easier to comprehend, we have approximately $10 billion in gold, do we not?

Mr. SPARKMAN. Somewhere between $10 billion and $11 billion.

Mr. BYRD of Virginia. Somewhere between $10 billion and $11 billion, yes. That $10 billion to $11 billion figure is based, I assume, on $35 an ounce?

Mr. SPARKMAN. That is correct. When the $10 billion increases in value, that is, the gold increases in value, we would then have the $10 billion plus the increase which is $828 million, I believe.

Mr. TOWER. It is an $828 million increase in value—almost $1 billion.

Mr. BYRD of Virginia. We will have the same amount of gold, pound-wise, or ounce-wise, but that gold——

Mr. TOWER. Quantitatively the same, but qualitatively an improvement.

Mr. SPARKMAN. Instead of being worth $35 an ounce, it will be worth $38 an ounce.

Mr. BYRD of Virginia. So instead of $10 billion or a little more, it will be $10 billion plus 8 percent or——

Mr. SPARKMAN. $828 million.

Mr. BYRD of Virginia. $828 million. I thank the Senator from Alabama very much. That was a technical point I was not clear on and I appreciate getting that information.

Mr. SPARKMAN. Of course, the same increment attaches to gold certificates that we hold, and to foreign exchange certificates that we hold, and to the international drawing rights—it increases the value of assets, too.

Mr. BYRD of Virginia. Would the Senator care to explain to me a little bit further what section 4 means:

> The increase in the value of gold held by the United States resulting from the change in the par value of the dollar shall be covered into the Treasury as a miscellaneous receipt.

Does that mean that the $828 million which the Treasury will obtain will be listed on the Treasury books as a receipt?

Mr. SPARKMAN. I have my remarks on that subject in my hand and perhaps I might read them, concerning section 4 of the bill.

Mr. BYRD of Virginia. Yes; I would appreciate that.

Mr. SPARKMAN. Mr. President, section 4 would direct that the increase in the value of gold held by the United States, including gold held as security for gold certificates, resulting from the change in the par value authorized by the bill be covered into the Treasury as a miscellaneous receipt.

In other words, all of assets we hold in gold or backed by gold—I think there were four items—are counted and placed on the books in the Treasury assets. And any appropriation that we make is offset against the increase in assets. In other words, we have that much more credit. Then we pay out the lesser amount of liabilities.

Mr. BYRD of Virginia. Mr. President, I was under the impression that this section meant that the increase in the value of gold resulting from the change in the par value of the dollar shall be covered in the Treasury as miscellaneous receipts.

Mr. SPARKMAN. The Senator is correct.

Mr. BYRD of Virginia. Mr. President, what I understood that to mean—I am not sure I am right about this—is that this $828 million that we will get automatically by the change in the price of gold will go into the Treasury books as a receipt.

Mr. SPARKMAN. As miscellaneous receipts.

Mr. BYRD of Virginia. As miscellaneous receipts.

Mr. SPARKMAN. The Senator is correct.

Mr. TOWER. It will not be considered as a budgetary receipt, but as miscellaneous receipts.

Mr. SPARKMAN. That is the reason that even the appropriation in the amount mentioned will not have a budgetary impact. It has already been offset by the miscellaneous receipts.

Mr. BYRD of Virginia. It will not have an expenditures impact this year. However, it will have an expenditures impact after fiscal 1973.

Mr. SPARKMAN Yes, from 1974 through 1976.

Mr. BYRD of Virginia. The Senator

is correct. However, in any case it will have an expenditures impact beginning after the fiscal year 1973.

Mr. SPARKMAN. The Senator is correct.

Mr. BYRD of Virginia. There will be an appropriations impact in fiscal 1972 of $1.5 billion or $1.6 billion.

Mr. SPARKMAN. Well, there will be an appropriation. However, it has been offset by the miscellaneous receipts in the Treasury.

Mr. BYRD of Virginia. Well, if we get miscellaneous receipts of $828 million and we make an appropriation of $1.5 billion or $1.6 billion——

Mr. SPARKMAN. No. The total receipts are $1.1 billion. There are four items involved. The $828 million is the increase in the value of the gold that we have; there are the special drawing rights of $155 million; there is an increase of $144 million in the U.S. gold deposits that we have in International Monetary Fund which goes up $144 million; and finally, foreign exchange holdings go up $27 million.

Mr. BYRD of Virginia. But virtually all of that, or a great deal of that, is not available for use by the U.S. Government.

Mr. SPARKMAN. It seems to me that it is all usable. It is not something that we can necessarily draw on any time we want. However, if we take, for instance, the U.S. holdings in special drawing rights, there will be an increased value there of $155 million. That amount is available for the United States to draw any time it may be necessary to use it. We might say it is an international bank account. The $144 million is available. That is the gold we have in the International Monetary Fund. We could not draw that down to cash it out.

Mr. BYRD of Virginia. That is correct.

Mr. SPARKMAN. However, if we did not have it, we would have to make it up under the treaty we have.

Mr. BYRD of Virginia. I understand.

Mr. SPARKMAN. Then in the foreign exchange holdings, there will be a $27 million increase. That is the gold on hand.

Mr. BYRD of Virginia. In any case, I should not think that the $144 million would be available.

Mr. SPARKMAN. There is one other thing that I want to call attention to. Included in these international financial institutions are the four development banks. A certain amount of that is in the pledged callable funds.

Mr. BYRD of Virginia. That is correct. I understand that.

Mr. SPARKMAN. The chances are that we will never have to pay any of that money. However, my attention has just been called to the fact that actually the appropriation that will be requested is $525 million.

Mr. BYRD of Virginia. The Secretary's statement said the appropriation would be $1.5 billion or $1.6 billion.

Mr. TOWER. Actually, the only amount that will be a budgetary appropriation will be $406 million, a budgetary outlay.

Mr. BYRD of Virginia. As I understand it, there will not be any outlay this year.

Mr. TOWER. The Senator is correct. However, ultimately when it does have a budgetary impact, beginning in fiscal year 1974 and over from there until 1986, there will be a budgetary outlay of $406 million.

Mr. BYRD of Virginia. I understand that there will not be any outlay soon. I want to be sure that we are all clear on the legislation on which we will be called to vote in a little while. There is arbitrarily authorized an appropriation "to remain available until expended, of such amounts as may be necessary to satisfy these maintenance value obligations . . ."

That is an open authorization, as I understand it.

Mr. TOWER. The Senator is correct. It is an open authorization because the precise amounts are not known over a given year, as I understand.

Mr. BYRD of Virginia. I want to refer to a statement made by Deputy Secretary Volcker. A part of his statement was read into the RECORD by the chairman of the committee in which he says they will seek an appropriation this year of $1.5 billion or $1.6 billion.

Mr. TOWER. That is true. He is making an estimate of $1.5 billion or $1.6 billion because the figures cannot be known with precision. They can be known approximately.

Mr. BYRD of Virginia. I understand. I am not concerned with the amount. I am concerned with making it clear for the record that the executive branch will seek an appropiration this year of $1.5 billion or $1.6 billion.

Mr. TOWER. As far as the $525 million to go to the International Monetary Fund, this is a nonbudgetary appropriation. What it is is assets in existence or already transferred assets already in existence.

Mr. BYRD of Virginia. I am anxious to get the statement made by the Under Secretary of the Treasury in regard to this matter. I think it is a matter that needs to be cleared up.

Mr. TOWER. Let me explain how we arrive at $1.5 billion, if I can; $525 million is a transfer of assets——

Mr. BYRD of Virginia. I am not concerned about the amounts. I am concerned about whether there will or will not be an appropriation.

Mr. TOWER. There will be an appropriation. There must be. But the only spending will be $406 million. In other words, only $406 million will be spent and that will be spread over fiscal years 1964 to 1986.

Mr. BYRD of Virginia. Mr. President, on page 9 of the statement by the Honorable Paul A. Volcker, Under Secretary of the Treasury for Monetary Affairs before the Committee on Banking, Housing and Urban Development, February 22, 1972, at 10 a.m., the following statement appears:

> It is contemplated that the various obligations incurred by maintenance of value requirements, however remote, will need to be covered by appropriations in an approximate amount of $1.5 to $1.6 billion. These appropriations, of course, only deal with the liability side of the equation and do not reflect the offsetting gains.

I assume that the distinguished managers of the bill and the Senator from Virginia are in harmony in their view.

Mr. TOWER. There will have to be $1.594 billion.

Mr. BYRD of Virginia. For the requested appropriation?

Mr. TOWER. That is it, roughly. Only $406 million will be spent. $663 million is contingent.

Mr. BYRD of Virginia. It is callable.

Mr. TOWER. It is callable. It is a demand obligation.

Mr. BYRD of Virginia. It is a demand obligation.

Mr. TOWER. But it is anticipated that only $406 million will be spent.

Mr. BYRD of Virginia. That is what is anticipated.

Mr. TOWER. And $525 million is only the transfer of funds.

Mr. BYRD of Virginia. I think we are clear on that point, that an appropriation will be sought. I have a few more questions, and then I will be finished.

In an editorial in today's Chicago Tribune entitled "Don't Forget The Dollar," it is stated:

> Finally, the administration says it would like to devalue the dollar further without the approval of Congress, a request that is hardly likely to encourage confidence in the dollar abroad.

I would like to ask the managers of the bill if there is anything in this legislation that would permit the administration or give the administration power to devalue the dollar further without the approval of Congress.

Mr. TOWER. The administration did not ask for that. The committee discussed it and put it aside, and reported the clean bill unanimously. There is nothing in the bill that would authorize the executive branch to again change the value of gold without coming back to Congress.

Mr. BYRD of Virginia. But the committee did discuss this matter.

Mr. TOWER. Discussed it and rejected it.

Mr. BYRD of Virginia. Discussed it and rejected it.

Mr. TOWER. Yes.

Mr. BYRD of Virginia. I commend the committee. That would have been a very bad thing to do. It would have been bad for Congress to turn over to any administration, whatever it might be, the right to devalue our currency without coming back to the elected representatives of the people for authority. I commend the distinguished Senator from Texas and the distinguished Senator from Alabama, and the members of the Committee on Banking, Currency, and Urban Affairs.

Mr. TOWER. Obviously the committee concurred with the thinking of the Senator from Virginia in that matter. That was our view.

Mr. BYRD of Virginia. I thank the Senator from Texas.

Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I am ready for third reading.

Mr. TOWER. I am ready for third reading.

Mr. SPARKMAN. May we have third reading?

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I want to make one thing clear. In devaluing the dollar by raising the price of gold we are not having a material effect on the buying power of the dollars in the pocketbooks of the average American in this country except to the extent that they buy goods and services that are imported into this country. It will not affect the price of a domestically produced loaf of bread or a domestically produced automobile.

It will affect prices of foreign produced electronic goods, and other foreign imports. It will affect the amount of money Americans traveling abroad will have to spend. It will work a hardship on them. However, at the same time we should recognize what it does. It makes buying American more attractive; it makes American goods and services cheaper in terms of foreign currencies and, therefore, there will be encouragement to buy American goods and services which will partially stimulate domestic markets for American goods and services.

Americans have been buying a lot of imports lately and this will have the effect, I think, in part in that regard.

In part this will in some measure help stem the flow of jobs from this country to other countries.

So we are not debasing the American dollars in terms of what it buys in domestically produced goods and services.

Mr. SPARKMAN. Mr. President, I am glad the Senator from Texas brought up those points. Manytimes, in talking with people, I have said that we should not call it "devaluing" the dollar; we should call it "revaluing" the dollar. It is true that if one is going abroad to spend money it will be devalued, as against the foreign currencies in the countries being traveled, but also it should stimulate and assist manufacturers and producers in this country in that they will be better off in the competitive field. At the same time it should lend a degree of protection to our people in this country against foreign goods that would be coming in here.

Therefore, I have said as long as people stay here in the United States they will benefit from this legislation and it will be "revaluing" instead of "devaluing."

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. BENNETT. Mr. President, the Smithsonian agreement was made many weeks ago.

Will the Senator agree that at the time it was put into effect prices were more or less averaged because everybody expected us to make this decision, so it is not going to affect that at all.

Mr. SPARKMAN. The Senator is correct.

Mr. DOMINICK. Mr. President, increasing the official price of gold is certainly a step in the right direction. However, this action sidesteps the realities. The Banking Committee's report is both disappointing and cause for joy.

It is disappointing because the committee presently has before it two bills which would allow American citizens to own gold, S. 2709 and S. 3162, and no action was taken on either in connection with the revaluation legislation.

The report is cause for joy not only because the private ownership of gold is finally being discussed, but also because the committee has committed itself to hearings on this vital legislation.

The United States has somewhat less than $11 billion of reserve gold and overseas dollar liabilities of roughly $50 billion. With the free market price of gold oscillating around $48 per ounce coupled with increasing confusion in the world monetary market, any return to convertibility would almost certainly trigger a run on our remaining supply of gold.

Preliminary domestic mine production of gold for 1971 was 1.494 million ounces as compared to 1970 production of 1.743 million ounces. The estimated domestic consumption of gold was 6.5 million ounces. The gap between domestic production and consumption is satisfied by importing $220 to $280 million worth of gold annually, with its consequent adverse effect on our balance of payments.

Mr. President, the realities are that gold has been demonetized and relegated to the role of a nonmonetary commodity. This being the case, it escapes me how allowing American citizens to own gold differs in logic or result from allowing Americans to buy, possess, and sell scrap steel, pork bellies, soybeans, or silver.

Last month, I urged the Committee on Banking, Housing, and Urban Affairs to include in the private ownership of gold legislation in the instant bill, and the essence of my statement was that continued prohibitions on private ownership of gold is anachronistic, because it is based on 1933 circumstances which simply do not justify present restrictions.

America has long subscribed to the economic principle that true value can only be determined in the marketplace. What I am seeking and what the private ownership of gold legislation accomplishes is to allow the market forces of supply and demand by private citizens to be translated into worth, value or price, as is the case of 70 other free world countries.

Mr. President, the U.S. Bureau of Mines estimates that at a price of $46 per ounce, America could mine 25 million ounces; at $110 per ounce, 176 million ounces; and at $140 per ounce, 237 million ounces. Allowing the private market to set the price for gold could further alleviate our foreign flight of dollars by encouraging new exploration and production of gold domestically and bridging the supply-and-demand gap internally, thus eliminating the necessity for imports.

Mr. President, today there is no valid reason for preventing American citizens from buying, possessing, or owning gold. The private ownership of gold legislation does not encourage such investing by Americans, but it does provide the opportunity to do so and eliminates the discrimination which has been practiced against our citizens for almost 40 years.

Mr. JAVITS. Mr. President, it should be recognized that the bill now before the Senate is only the first essential step of others subsequently to reform the international monetary system.

The hour demands that we also treat these long-term reforms with urgency.

I ask unanimous consent that an excellent report on this subject prepared by 12 eminent economists be inserted in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### RESHAPING THE INTERNATIONAL ECONOMIC ORDER

(A tripartite report by twelve economists from North America: C. Fred Bergsten, Council on Foreign Relations; Richard N. Cooper, Yale University; Edward R. Fried, Brookings Institution; Fritz Machlup, New York University, Professor Emeritus, Princeton University; Roy A. Matthews, Private Planning Association of Canada; the European Community: Sir Alec Cairncross, Master of St. Peter's College, Oxford, former British Government official; Jean-Claude Casanova, University of Paris; Don Guido Colonna di Paliano, President of La Rinascente, former member of the Commission of the European Economic Community; Norbert Kloten, University of Tübingen, chairman of the German Council of Economic Experts; and Japan: Motoo Kaji, Tokyo University; Saburo Okita, Japan Economic Research Center; Kiichi Saeki, Normura Research Institute of Technology and Economics; Washington, D.C., The Brookings Institution)

### INTERNATIONAL MONETARY ARRANGEMENTS

The agreement reached in Washington on December 18 established some features of the international monetary system but left others to be settled later. There was agreement on the par values or central rates of the currencies of the leading industrial countries and on the width of the band within which exchange rates would be allowed to move around those parities. But there was no agreement on the conditions that should govern future changes in parities and the degree of flexibility to be expected in the new par values; on the conditions on which any one reserve asset would be convertible into other reserve assets; or on measures for the creation of new reserve assets. In other words, there was no explicit agreement on any one of the three fundamental elements in the international monetary system; the mechanism of adjustment to surpluses and deficits; the means of preserving confidence in alternative reserve assets; and methods of generating new international liquidity.

Such an agreement is indispensable to any long-term settlement. First of all, the mechanism of adjustment has to be improved. The reluctance of countries to allow changes in exchange rates to play their part, especially over the past ten years or so, has perpetuated imbalances that had to be financed and that generated increasing distrust of existing exchange rates. Less reliance on the financing of deficits and more on their elimination through exchange rate adjustments is obviously desirable, and the main issue to be determined is what form of flexibility in exchange rates would work best. Flexibility should not be abused, however, but should be used as a means of correcting external imbalance and never made a substitute for measures of domestic policy to raise the level of employment. It is not the function of exchange rate adjustments to secure full employment.

The achievement of a satisfactory adjustment mechanism to preserve international balance is the chief requirement—but by itself it is not enough. It is also necessary to ensure that existing reserve assets are firmly held. If central banks, for example, come to distrust the dollar because of the large total of U.S. external quick liabilties, a fresh crisis may be precipitated because these banks will be unwilling to accept more dollars or will try to secure convertibility into some other reserve asset. In all probabilty, this situation would give rise to sharp and undesirable changes in the dollar parities of other currencies and renew world uneasiness about the possibilty of competitve devaluations.

This danger has to be viewed against the background of the very large total of U.S. dollars already held by central banks ($45 billion at the end of September 1971 and rising fast) and the possible need to go on financing a continuing U.S. deficit for some time. The urgency of international negotiation for a long-term settlement derives mainly from the need to deal with this large overhang of inconvertible dollars.

In addition, agreement will have to be reached on the future role of the dollar as a reserve asset and on how, if the world is not to be kept supplied with additonal reserve assets indefinitely by means of a U.S. deficit, the genuine need for fresh injections of liquidity is to be satisfied. This is the third element required in any reconstruction of the existing system.

The use of the dollar as a reserve currency is widely thought to confer privileges on the United States that should be brought to an end. This is not, however, as easy as it may seem. The reserve currency role does not result from any initiative by the United States and cannot be terminated by a unilateral decision on its part. Moreover, so long as the dollar continues to be the currency of intervention, and the U.S. economy and financial institutions occupy a dominant position in international trade and finance, there is an unavoidable asymmetry in the system. This asymmetry makes it difficult, if not impossible, to reduce the dollar to the same status as that of other currencies or to ensure for the United States the same freedom of action in relation to exchange rates as that enjoyed by other countries. Nevertheless, it is not in the general interest to perpetuate a system that links the creation of additional liquidity with the continuation of U.S. deficits and multiplies the danger of switches between alternative reserve assets.

### *The previous system restored?*

Before outlining how the system might be reconstructed, it is necessary first to consider why something more than a restoration of the previous system is required. Now that agreement has been reached on the immediate issues through a realignment of parties, there will be strong pressure to reconstitute the preexisting arrangements, modified only in what are conceived to be the most necessary ways. There will be those who argue that the faults of the previous system were not intrinsic to it but resulted from various abuses by countries that failed to use it properly. There will be a tendency, therefore, to remain content with its restoration or to seek to preserve its main features.

These can be summed up as:

—the establishment of fixed par values for the major currencies, par values that are adjusted only when necessary, that is, when a fundamental disequilibrium has become manifest;

—the use of currencies, particularly the U.S. dollar, as monetary reserves and for purposes of intervention in the foreign exchange markets; and

—convertibility of official dollar holdings into monetary reserve assets.

The changes generally agreed to be necessary to make these arrangements workable are:

—a widening of the margin of permissible fluctuations of exchange rates from the 1 percent provided in the present articles of the IMF;

—an exhortation to member countries to recognize situations of "fundamental disequilibrium" more readily and to devalue or revalue their currencies without undue delays; and

—the possibility of using, along with gold or in lieu of gold, another reserve asset, such as Special Drawing Rights, as the denominator for par values and as the base of convertibility.

The viability of such a system may be doubted for several reasons. First, the wider band for permissible deviations of exchange rates from fixed par values, through providing more leeway for the exercise of monetary policy by central banks than was available with the narrow band of the previous system, would soon prove insufficient for the proper operation of an adjustment mechanism. If the maximum deviation from parity is no more than 2.25 percent, diverging trends of prices, incomes, and effective demand cannot help but lead to disequilibrium that will be reflected in large changes in monetary reserves. Such changes may suggest that the existing par values are untenable; both capital movements and trade flows with the usual leads and lags of orders and payments will in due course tax the capacity of the monetary authorities to intervene in the exchange markets to keep the rates within the band. Crises will develop before long—and a traumatic adjustment of par values will ensue. In short, a wider band is not enough; more frequent and smaller adjustments of par values must be made before there is clear evidence of fundamental disequilibrium so that international stability will be assured; however, the resistance to these adjustments will not be much less than it has been in the past if the presumption is still that par values should be changed only as a last resort.

A second disability of this system is that it retains too much the semblance of the "dollar standard." As countries in persistent surplus positions maintain their exchange rates within the band, they can do so only by accumulating dollars. The increase in dollar claims by the surplus countries may lead to new suspicions about a misuse of a "privilege" on the part of the United States. On the other hand, by postponing adjustment, the increase in liquid dollar liabilities by the United States may become an argument for protectionists (or at least for the opposition) against trade liberalization in the United States.

Finally the huge "dollar overhang" from previous years would tend to perpetuate the inconvertibility of the dollar. Existing dollar holdings of monetary authorities, plus the possibility of additional sales of dollars from existing private dollar holdings and from future deficits in the U.S. balance of payments, constitute a vast potential claim for "conversion," no matter whether this is in gold or in alternative reserve assets. There would be a real danger of recurring crises.

### *A reconstruction of the system*

A reconstruction of the system should provide for adjustments in par values in smaller and more frequent steps and in accordance with agreed rules. These rules, whatever form they take, should bear equally on surplus countries in upvaluing their currency and on deficit countries in devaluing theirs. The rules should be framed so as to make clear beyond all doubt that the level of employment—that is, the number of jobs available—must be governed by domestic economic policy and not by the manipulation of exchange rates.

The reconstructed system would provide for a resumption of convertibility of the dollar and would deal with the problem of the existing overhang of dollars. If this were not done, there could be no guarantee that exchange rate adjustments could take place in small steps. Par values would be established in terms of IMF units, no matter how convertibility of the dollar and other currencies was assured.

Provision should be made for the funding of the existing holdings of reserve currencies, including sterling. There are several ways in which this could be done, all of them involving exchange for claims against the IMF or reserve positions with the Fund. There might, for example, be a fresh issue of SDRs to the depositors of reserve currencies with the Fund. Another method would be an exchange into deposit liabilities with the Fund. Under this arrangement, the deposits of dollars by the monetary authorities would create deposit liabilities of the Fund expressed in IMF units. The Fund would exchange the received liquid dollars into long-term obligations of the United States, also expressed in Fund units. The deposits with the Fund would carry interest at a rate similar to that provided for the SDRs (which, however, might be increased above the present 1.5 percent a year), and the U.S. obligations held by the Fund would carry interest close to the current market rate.

One further question to be decided is whether conversion should be voluntary or mandatory. It may be preferable to remove the dollars with one clean sweep; on the other hand, freedom of choice is not a bad principle if it can be upheld without danger. But any dollars from existing official balances that are not funded when the opportunity is offered may have to remain inconvertible and without exchange-value guarantee.

For the appropriate degree of flexibility of exchange rates, a variety of techniques may be used. The main principle is that exchange rates are matters of international concern, and that such concern may relate not only to proposed changes in par values but also to failures of countries to make adjustments when they may be internationally helpful. This implies that the initiative for adjustments of par values may sometimes have to come from trading partners and from international organizations and that there should be a presumption of slow and orderly change rather than of prolonged rigidity. The following techniques may be considered:

1. *Formula-determined adjustments*. Formulas for adjusting par values have been proposed, using as variables the spot and forward rates observed during a preceding period (six months or a year) and increases or decreases of official net reserves beyond certain limits as to size and rates of change (due account being taken of official transactions that may have reduced the changes in reserves). However, probably no formula can be devised that would not dictate inappropriate changes in particular situations.

2. *Presumptive rules for adjustment*. The factors selected as indicators for the appropriateness of adjustments in par values, though rejected as variables in mechanistically used formulas for mandatory change, may still be used as elements in the formulation of presumptive rules for adjustment. These presumptions should be rebuttable on the strength of good evidence supporting either a postponement of the adjustment or a different degree or direction of adjustment. It would make little difference whether the force of the presumptive rules was based on a "code of good international practice," a kind of "common law," or on principles of international cooperation with stronger pressures by international organizations and member governments.

The presumptive rules would not preclude the movement of the European countries toward a monetary union; they might, however, have to be somewhat different within the European Community, with more reliance on the harmonization of economic policies and less on exchange-rate flexibility. The international system would be strengthened by such a movement. A minimum objective for the European countries should be to keep the band within which their cross-rates are allowed to move comparable to the band with respect to the dollar. This would imply either coordinated action by the European central banks in the dollar market or intervention in European currencies to keep fluctuations between them within agreed margins. To a certain extent this would reduce the role of the dollar as an intervention currency.

Although it lies outside the scope of this report, it would be possible to go one step further and suggest an even smaller band for the European currencies. Indeed, progress toward European monetary unification might be necessary to get away from, or avoid a relapse into, a nominally convertible dollar standard.

3. *Limits to changes*. In all but exceptional circumstances it may be desirable to place limits on the size of any single change in par values. It may also be desirable to place limits on the cumulative adjustment in par values in any one year. The main point is that we must avoid the return to a system of recurring monetary crises and of chronic expectation of "the next crisis." Fixed par values, "adjustable when needed," invite uncertainty and speculation. Flexible par values adjusted in minimal steps may provide freedom from fear of recurring monetary crises.

The emphasis on exchange-rate flexibility does not mean that changes in exchange rates would become the sole instrument of adjustment and that demand policy has no place in the process of adjustment. Fiscal and monetary policies, perhaps supported by income policies, will still be needed for the attainment of internal and external balance. Variations of exchange rates within the wider band may be helpful indicators of the effectiveness of demand adjustment in maintaining external balance, and where demand policies are sufficient for this purpose, the need for larger adjustments of par values will not arise.

International coordination of national policies will retain its proper role. But it would be a mistake to rely on its effectiveness; such reliance may result in the development of fundamental disequilibrium and monetary crises, and may eventually necessitate drastic and painful realignments of par values. If a wider band of permissible variations of exchange rates around continually adjusted par values guarantees external balance whenever demand adjustment cannot secure it, it may be possible to achieve greater long-run stability of exchange rates than would be possible under a system of rigid par values.

*Regulation of international liquidity*

It is now an accepted principle that annual increases in international reserves should be determined neither by payments deficits of key-currency countries nor by any excess supply of gold in the free markets; it should be determined by a decision process that combines the best judgment of the world's specialists regarding the optimal increase in international liquidity. These decisions, made for periods of three or more years, would determine the size of annual allocations of SDRs.

The institution of SDRs was designed to complement or substitute for the contributions of reserve currencies and gold to monetary reserves. During the first years of the operation of the SDR facility, the additions to foreign exchange reserves have been so plentiful that there was no need for supplements through creation of SDRs. The funding of the dollar overhang, the realignment of exchange rates, and the rules for continuing adjustments of par values should effectively prevent further accumulations of currency reserves in future years. The conditions for successful regulation of international reserves by the International Monetary Fund will then be realized, and the SDR facility may be operated as it was intended to be.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pell), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

I further announce that, if present and voting, the Sentaor from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from South Dakota (Mr. McGovern), the Senator from Rhode Island (Mr. Pell), and the Senator from Connecticut (Mr. Ribicoff) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. Stafford) is necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

Also, the Senators from Arizona (Mr. Fannin and Mr. Goldwater) and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. Hatfield) would vote "nay."

The result was announced—yeas 86, nays 1, as follows:

[No. 81 Leg.]

YEAS—86

Aiken
Allen
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hollings
Hruska
Hughes
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—1

Saxbe

NOT VOTING—13

Fannin
Goldwater
Hartke
Hatfield
Humphrey
Jackson
McGee
McGovern
Mundt
Muskie
Pell
Ribicoff
Stafford

So the bill (S. 3160) was passed, as follows:

S. 3160

An act to provide for a modification in the par value of the dollar, and for other purposes

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

Section 1. This Act may be cited as the "Par Value Modification Act".

Sec. 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).

Sec. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Sec. 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL subsequently said: Mr. President, I was at the desk talking to the Parliamentarian and discussing the higher education bill, just prior to this vote being taken. I was on my way to my office in the outer halls and missed the ringing of the first bell and did not realize the vote was going on. Then, when the second bell rang and my office notified me, I rushed back to the floor to find that the vote was completed. If I had been here, I would have voted in the affirmative.

## HOUSING AND URBAN DEVELOPMENT ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 614, S. 3248.

The PRESIDING OFFICER (Mr. Taft). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3248) to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance to local governments in support of community development activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill. The Chair hears none and the Senate will proceed to its consideration.

### UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, there will be no further votes tonight. I have discussed the unanimous-consent request I am about to make with the distinguished chairman of the committee, the Senator from Alabama (Mr. SPARKMAN) and the distinguished ranking Republican Member, the Senator from Texas (Mr. TOWER), and with the leadership on the Republican side, and at this time I ask unanimous consent, after the remarks of the joint managers of the bill—the Senator from Alabama will speak tonight; at the conclusion of morning business this measure will be laid before the Senate and the Senator from Texas will then proceed—at the conclusion of the remarks of the Senator from Texas on tomorrow, that there be a time limitation of 1 hour on each amendment to the pending legislation and 3 hours on the bill.

Mr. JAVITS. Mr. President, reserving the right to object, I was not consulted, but I have been told about it, which is why I am on the floor.

I have two amendments. One amendment will relate to the preservation of housing, a very critical matter for us, and the other amendment will relate to operating funds for mass transit systems.

I cannot accept, Mr. President, the 1-hour limitation. I would suggest, because I am anxious to facilitate the work of the majority leader, that I would need an hour and a half on the urban mass transit proposal, because there are so many Senators interested—that is, an hour and a half for my side.

On the housing problem, I would be willing to take an hour, that is, a 2-hour limitation with 1 hour on each side. Also, I would wish the right preserved to offer amendments to amendments, so that we would not cut off amendments in the second degree.

Mr. MANSFIELD. How much time would the Senator want on amendments to amendments?

Mr. JAVITS. We always cut those down. Why not make those 40 minutes, 20 minutes to a side?

Mr. TOWER. Mr. President, I am perfectly willing to make an exception in the case of the Senator from New York.

Mr. JAVITS. I may not use it, and the Senator knows I will not be wanton about it.

Mr. MANSFIELD. Mr. President, in line with the statement made by the distinguished Senator from New York, I make the unanimous-consent request accordingly.

Mr. JAVITS. Now, Mr. President, I stipulated an hour and a half on my side for mass transit, and an hour on my side for——

Mr. TOWER. Make it straight 3 and 2 on his amendments.

Mr. JAVITS. All right.

Mr. MANSFIELD. Straight 3 and 2, the time to be equally divided, and the time to be under the control of the sponsor of the amendment or whomever he may designate.

Mr. JAVITS. Forty minutes on amendments.

Mr. MANSFIELD. Forty minutes on amendments, amendments to amendments, and motions.

Mr. CRANSTON. Mr. President, reserving the right to object, I simply want to inquire whether the following would be possible under the unanimous-consent agreement:

The Senator from California and the Senator from Ohio are cosponsors of an amendment which I would like to bring up tonight, provided it is acceptable, without controversy and need for rollcall, to the ranking member and the chairman of the committee; and I will consult them after this discussion.

Mr. MANSFIELD. That is perfectly all right.

May I reiterate that there will be no rollcall votes tonight.

The PRESIDING OFFICER. How does the Senator want the time on the amendments and bill to be divided? Does he wish it to be divided according to the usual form?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The unanimous-consent agreement reads as follows:

During the further consideration of S. 3248, to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance to local governments in support of community development activities, and for other purposes, and after the speech by the Senator from Texas (Mr. TOWER), debate on any amendment (except two amendments to be offered by the Senator from New York (Mr. JAVITS) on which there will be three hours on one and 2 hours on the other), shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment or motion and the majority leader or his designee. On amendments to amendments, there is to be 40 minutes to be equally divided under the same conditions set forth above: *Provided*, That in the event the majority leader is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him:

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the majority and minority leaders or their designees: *Provided*, That the said leader, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. BYRD of West Virginia subsequently said: Mr. President, with reference to the agreement entered into a little earlier today with respect to the pending business, it is my understanding, after discussing the matter with the distinguished majority leader and with the distinguished Senator from New York (Mr. JAVITS), that there will be a time limitation on any amendment to an amendment of 40 minutes. Is that the understanding of the Chair?

The PRESIDING OFFICER. The Senator is correct.

### PRIVILEGE OF THE FLOOR

Mr. SPARKMAN. Mr. President, I ask unanimous consent that additional staff members of the Committee on Banking, Housing, and Urban Affairs be given the privilege of the floor during the debate on S. 2348, the omnibus housing bill.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and I will not object—would the distinguished manager of the bill state the names of those staff members?

Mr. SPARKMAN. I can supply the names for the record. This is the situation. One staff member might come in, both on the majority and the minority, relating to one particular phase of the proposed legislation. Somebody else might come in on another. We will be glad to supply the names.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SPARKMAN subsequently said: Mr. President, the names of the additional staff members for whom I requested the privilege of the floor are as follows:

Dudley O'Neal, Kenneth McLean, Stephen Paradise, Michael Burns, John Evans, Thomas J. Oden, Paul London, Carl Coan, Robert Malakoff, and Elwin Skiles.

Mr. BYRD of West Virginia subsequently said: Let the record state that I removed my reservation of objection with respect to the request by the distinguished manager of the bill concerning the privileges of the floor for certain members of the staff of the committee which has jurisdiction over the pending matter.

Mr. SPARKMAN. Mr. President, I am pleased to bring up S. 3248, the Housing and Urban Development Act of 1972 a bill to consolidate and improve our housing and community development programs.

This is an omnibus measure, covering a broad range of subjects that require attention, including mortgage insurance, housing assistance, rural housing, community development, comprehensive planning, and transit.

It is, I believe, the most far reaching piece of legislation approved by the Banking, Housing, and Urban Affairs Committee in many years. I expect that it will substantially change the way we conduct our housing and community development programs—and for the better.

I am pleased to report that this bill, reflects a solid consensus among the committee members.

It represents the thinking of many groups and individuals. While I will not detail all of the proposals or contributors, I would like to mention a few of them, very briefly.

The housing consolidation provisions contained in chapter 1 of the bill are, essentially, those recommended by the administration in S. 2049.

Several changes were made by the committee along the lines suggested by amendments introduced by Senators BROOKE, MONDALE, CRANSTON, and TAFT. In the amendments they introduced that deal with housing assistance programs for lower income families and the elderly. Chapter 1 would revise the National Housing Act by establishing eight basic assistance programs to replace about 50 now in the statutes, and by providing for new FHA mortgage ceilings based on area prototype costs instead of nationwide limits; an experimental dual interest rate program to replace the present administrative ceiling—we agreed to that last year in the housing bill, but it did not survive the conference, so we have it in our bill again this year; a reduction in down payments for FHA-insured housing; a new rehabilitation assistance provision to assist low-income owner occupants; a modification of the rental subsidy program in order to serve a more representative cross-section of families, and to insure the viability of the program.

Chapter 2 of the bill would revise the Housing Act of 1937 by eliminating the statutory ceiling on annual contributions, and the requirement that there be a 20-percent differential between standard housing rentals and public housing admission limits. Additional authority to finance operating costs would also be approved, subject to the condition that the average rent established would be equal to at least 20 percent of family income.

Chapter 3, dealing with community development, is perhaps the most significant new feature of the bill. This measure, which I sponsored, would consolidate the major HUD development programs and establish a single, new block-grant community development program.

In adopting my block-grant approach, the committee decided against an alternative revenue-sharing approach recommended by the administration. The approved block-grant program, we believe, is more consistent with meeting our urgent national objectives, than a revenue-sharing approach which would seriously limit congressional and executive oversight of program grants. While it differs from that offered by the administration, it does represent a melding, more or less, of the features of the administration bill and the bill I introduced.

Mr. TOWER. Mr. President, if the Senator will yield, I think that what we actually did was to strike a compromise between that proposal and the revenue sharing.

Mr. SPARKMAN. Yes. I think it melded very well, and I still regard it as a revenue-sharing program, because we adopted an allocation formula which is similar to what the administration had proposed. Therefore, I point out that this is the first action being taken on any part of the President's revenue-sharing program.

Many people overlook the fact that there are different parts to the revenue-sharing program. But this is the first part on which positive action is being taken.

I am glad that we are able to present this measure, and I present it with the solid support of the committee as a whole. As the Senator from Texas has said, it does represent a compromise between the two approaches.

The committee also decided to place authority for the community development program in city hall—or its equivalent—or in an agency designated by the city to undertake the program. This would be done primarily to strengthen coordination and direction of local development activities. But, at the same time, we recognized that there is a great diversity among communities in legal structure, local institutions, and traditions. We understand that, under certain circumstances, it may be necessary or appropriate for the unit of general purpose government to designate an agency to undertake part or all of the program, and to make the necessary commitments required to execute the program.

A very significant feature of the community development program is the provision of 2-year contract authority, in an amount not exceeding $2.7 billion the first year, and $3.2 billion the second year. The committee firmly believes that funding in 2-year cycles is desperately needed in order to permit localities to plan and execute complex development programs in an efficient manner.

In recognition of their critical needs, the committee approved an increase in the Federal contribution to 90 percent of the total program costs. In approving this, the committee also recommended that the requirement for a local contribution be continued, in an amount not less than 10 percent of the costs of the program outlined in the community's application.

Chapter four of the bill would rewrite the existing comprehensive planning law along the lines suggested by Senator STEVENSON in order to strengthen planning assistance programs to States, areawide bodies and localities. It would increase the Federal share from two-thirds to 80 percent of program costs, and would specifically authorize assistance for management activities related to implementation of plans and to policy planning and evaluation.

Chapter five contains provisions for making our rural housing programs more effective. Among the most important of these are measures which would authorize additional funds for farm labor housing; broadened subsidies for rural, low-income families living in rental units; and easier financing for rural residents purchasing mobile homes.

Chapter 6 of the bill deals with the increasingly critical problem or urban mass transportation. The committee received recently a major Department of Transportation study of rapid transit dealing particularly with the problem of operating costs. Out of its concern to arrest the deteriorating finances of transit systems throughout the country, the committee approved proposals offered by Senators WILLIAMS and CRANSTON to permit the use of funds already authorized by the Urban Mass Transportation Act of 1970 to meet operating costs, and to increase the Federal contribution for capital programs from two-thirds to 90 percent.

Finally, the bill includes in chapter VII, a variety of other measures which the committee believes should be enacted at this time. A number of these represent Administration recommendations. I would call to your attention only a few of these proposals in order to be brief.

The committee authorized the establishment of a National Institute of Building Sciences to develop and publish standards affecting building materials and building codes, and to promote studies and coordination of a variety of activities related to the development and utilization of new building products and construction techniques. It also granted authority to the Secretary of HUD to establish and publicize standards governing amounts of closing costs paid in connection with the purchase of houses financed through FHA or VA programs.

The committee, in addition, acted to broaden the program and extend the time period within which low income families can request compensation for housing defects under FHA programs. And, to further promote housing programs for our senior citizens, the committee also authorized the establishment of a new Deputy Assistant Secretary for Housing Production and Mortgage Credit for Elderly Programs.

Mr. President, let me point out that this is an omnibus bill in every sense of the word. It is a massive bill, but it is a bill worked out through extensive hearings and, I would say, quite extensive consideration in executive sessions. It was worked out by the committee as a whole.

I want to pay my respects to the entire membership of the committee for the manner in which they worked on and worked out this bill. Also, we are always indebted to the most able and efficient staff we have, and I want to commend them also at this time.

Mr. President, I ask unanimous consent that a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the section-by-section summary was ordered to be printed in the RECORD, as follows:

### SECTION-BY-SECTION SUMMARY

The first section of the bill would provide that upon enactment it would be cited at the "Housing and Urban Development Act of 1972."

### CHAPTER I—MORTGAGE CREDIT ASSISTANCE

### *Consolidation and revision of mortgage insurance authorities*

SEC. 101.—Provides a new "Revised National Housing Act" which would supersede the National Housing Act.

### Title I—General authority

### Definitions

SEC. 1.—Defines "first mortgage," mortgagee", "mortgagor", "project mortgagor", "maturity date", "condominium", "experimental property", "State", and "Secretary", in substantially the same way these terms are used in the National Housing Act. The term "advances" would be defined to permit advances of insured mortgage proceeds during construction or rehabilitation of projects to cover the cost of building components which are in transit, stored off-site, or otherwise located off-site but which will ultimately become part of the mortgaged property. The term "cooperative" would be defined to mean a consumer-oriented non-profit corporation or housing trust with no identity or interest with the builder, organized to construct, acquire or rehabilitate housing. Such an entity must either restrict permanent occupancy to members or sell units to purchasers meeting the requirements of section 401 or 402 of this act but retain responsibility for community facilities. The term "neighborhood preservation area" would be defined as a reasonably stable area threatened by deterioration but which is capable of supporting long-term values, or which is to be improved by community programs. The term "sound condition" would be defined as a condition meeting state and local housing regulations exclusive of building code requirements.

### General insurance authority

SEC. 2(a).—Requires that an insured mortgage be made by, and held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(b) Would provide general authority for the Secretary to insure and make commitments to insure mortgages and loans. The Secretary could, prior to final endorsement for insurance, amend the amount of any commitment consistent with eligibility limitations for the particular class of mortgage or loan involved in effect at the time of the final endorsement.

(c) Would require that a mortgage transaction eligible for insurance under the Act be determined by the Secretary to be an "insurable risk", except that mortgage transactions involving assistance payments, experimental property, property located in an older and declining area where there is a reasonable prospect for revitalization, or single-family housing for employees of research or development installations could be accepted for insurance by the Secretary as a "special risk."

### Flexible mortgage amounts

Sec. 3 (a).—Limits the amount of any mortgage attributable to dwelling use under the subsidized homeownership and rental programs (sections 402 and 502) to not more than 20 percent above the "prototype cost" established by the Secretary for the area in which the property covered by the mortgage is located. For unsubsidized residential mortgages (sections 401 and 501) the increment would be 100 percent, or such lower percent in any area which the Secretary considered appropriate to prevent a diversion of mortgage credit on reasonable terms from moderate cost housing.

(b) Would direct the Secretary to establish prototype costs at least annually based on his estimate of (1) construction costs of new dwelling units on table for occupancy for persons assisted under sections 402 and 502 (including units designed for elderly) and (2) reasonable allowances for the cost of land and site improvements. In making a determination the Secretary would consider the extra durability required for economical maintenance, the provision of amenities, the application of good design standards, the effectiveness of existing mortgage limits in the area, and the advice of local housing producers. The prototype cost for any area would become effective on publication in the Federal Register.

(c) Would define "construction costs" to mean those cost items which are reflected in the amount of a home or multifamily mortgage insurable under section 402 or 502 of the Act except the costs of land and site improvement.

### Interest rates

Sec. 4.—Gives the Secretary permanent authority to prescribe maximum interest rates for insured mortgages and loans based on his determination of the needs of the mortgage or loan market.

### Water and sewer facilities

Sec. 5.—Requires that there be public or adequate private community water and sewerage facilities serving newly constructed housing except where it was determined by the Secretary that the establishment of a public or adequate private community system was not economically feasible and the Secretary determined that the absence of such a system would not create a significant environmental hazard. The determination of economic feasibility would be made without regard to whether the establishment of the particular type of system was authorized by law or was subject to approval by one or more local governments or public bodies.

### Approval of technically suitable materials

Sec. 6.—Requires the Secretary to adopt a uniform procedure for the acceptance of materials and products to be used in structures approved for mortgages and loans insured under the Act. Acceptance of a material or product would not restrict the discretion of the Secretary to determine that a structure with respect to which a mortgage is executed is an insurable or special risk.

### Insurance contract incontestability

Sec. 7.—Establishes the incontestability of an insurance contract in the hands of an approved mortgagee from the date of its execution, except for fraud or misrepresentation on the part of such mortgagee.

### Administration

Sec. 8.—Authorizes the Secretary to sue and be sued, make expenditures, issue rules and regulations in carrying out the provisions of the Act, and provide or obtain technical assistance in the planning for and construction of projects assisted under the Act.

## Title II—Insurance Funds, Premiums, and Charges

### Insurance funds

Sec. 201.—(a) Provides that in addition to these obligations incurred pursuant to the National Housing Act, the General Insurance Fund also be used (except as otherwise provided) to carry out the Secretary's obligations with respect to (1) property improvement and mobile home loans under title III of this Act, (2) home and project mortgages insured under sections 401, 501, 503, and 505, and (3) supplemental project loans insured under section 504.

(b) Would provide that in addition to those insurance obligations incurred pursuant to the National Housing Act, the Special Risk Insurance Fund also be used to carry out the Secretary's obligations with respect to (1) home and project mortgages insured under sections 402 and 502, (2) home and project mortgages insured under sections 401, 501, and 503 where the mortgage involves experimental property or property located in an older and declining area, (3) home mortgages insured under section 401 involving housing for employees of research and development installations, and (4) supplemental project loans insured under section 504 where the original project mortgage is an obligation of the Special Risk Insurance Fund.

(c) Would provide that in addition to those insurance obligations incurred pursuant to the National Housing Act, the Cooperative Management Housing Insurance Fund also be used to carry out the Secretary's obligations with respect to (1) project mortgages insured under section 501 where the mortgagor is a cooperative, and (2) supplemental project loans where the original project mortgage is an obligation of the Cooperative Management Housing Insurance Fund or is uninsured.

(d) Would provide that income received or expenses incurred in connection with the insurance of mortgages or loans be credited or charged to the fund obligated for such insurance.

(e) Would authorize the Secretary to borrow from the Treasury from time to time such amounts as he determined were necessary to make such cash insurance payments, in lieu of payments in debentures. Notes or other obligations issued by the Secretary would bear interest at a rate determined by the Secretary of the Treasury.

(f) Would allow moneys in an insurance fund which were not needed for current operations to be invested in obligations of, or guaranteed by, the United States or any agency of the United States, or in debentures which are the obligation of the particular fund.

(g) Would authorize repayable advances from one insurance fund to the other in such amounts as the Secretary determined necessary for the administration of the funds.

(h) Would authorize the appropriation of such sums as needed to cover losses sustained by the General Insurance Fund or the Special Risk Insurance Fund.

### Insurance premiums and charges

Sec. 202.—(a) Authorizes the Secretary to establish insurance premiums. Premiums for the insurance of mortgages under this Act (except under section 505) could not exceed an amount equivalent to 1 per centum of the principal obligation of the mortgage outstanding. The Secretary could require payment on an advance or a deferred basis, except that premiums for any mortgage or loan insured under title III must be payable annually in advance.

(b) Would authorize the Secretary, in his discretion, to collect an adjusted premium charge in the event a home or project mortgage were prepaid, but not to exceed the amount of premium that would have been paid if the mortgage were held to maturity.

(c) Would authorize the Secretary to terminate any insurance contract upon request of the mortgagor and the mortgagee, and to require the payment of a termination charge computed in the same manner as an adjusted premium charge.

(d) Would permit payment of premiums and charges under this section to be either in cash or in debentures of the insurance fund to which the premium is to be credited. The premium for loans under title III shall be paid only in cash.

(e) Would require the Secretary of Defense or the Secretary of Transportation (in the case of a member of the Coast Guard) or the Secretary of Commerce (in the case of a member of the U.S. Natural Oceanic and Atmospheric Administration) to pay the mortgage insurance premiums in the case of a mortgage on a single family dwelling or a one-family unit in a condominium, insured under section 401, during such time as the mortgagor was a serviceman. These payments would continue for a maximum of two years on behalf of a widow of a serviceman who died while on active duty.

### Section 203—Processing fees and service charges

Sec. 203.—(a) Authorizes the Secretary to charge the mortgage processing, appraisal, inspection and other appropriate charges for the services rendered. Such charges would be payable in cash. Appraisal and inspection fees with respect to multifamily projects could not exceed 1% of the mortgage.

(b) Would authorize the Secretary in the case of mortgages held by him or made payable to him to collect a service charge from the mortgagor in an amount not exceeding the applicable mortgage insurance premium.

## Title III—Insurance for Property Improvement, Historic Structure Preservation, and Mobile Home Loans

### Types of loans

Sec. 301.—(a) Authorizes the Secretary to insure financial institutions against losses in making, advancing credit in connection with, or purchasing property improvement loans, historic structure preservation loans, and mobile home loans.

(b) Would make eligible for insurance home improvement loans for the purpose of repairing or improving existing structures or the building of new structures (including the repair or replacement of improvements damaged or destroyed by natural disaster) by the owner or a lessee under a lease expiring not less than six months after the maturity of the loan. Alterations or improvements may include the provision of fire safety equipment.

(c) Would make eligible for insurance

loans made for the purpose of financing the purchase of a mobile home and lot to be used by the owner as his principal residence.

(d) Would define for purposes of the historic structure preservation loan the term "historic structure" to mean residential structures which are registered in the National Register of Historic Places or certified by the Secretary of the Interior, and the term "preservation" to mean restoration undertaken for purposes approved by the Secretary.

### Loan terms

Sec. 302.—(a) Requires that a home improvement loan (1) involve an amount not in excess of $6,500, except that where the structure to be repaired includes two or more dwelling units the loan could not exceed $15,000 or an average amount of $3,500 per unit, and (2) have a maturity not exceeding seven years and thirty-two days, except where the loan involves the construction of a new structure for use in whole or in part for agricultural purposes. Any loan to finance fire safety equipment for a nursing home or health care facility may not exceed $10,000 and have a maturity not exceeding twelve years and thirty-two days.

(b) Would set limitations for loans financing purchase of mobile homes. For purchase of the home only, the limitation is $10,000, or $15,000 for a home of two or more modules, plus an amount for site preparation. Maturity cannot exceed 12 years and thirty-two days or 15 years and thirty-two days if the home contains two or more modules. For purchase of a mobile home and undeveloped lot, the maximum is as stated above, plus $5,000 to cover the lot purchase. Maturity cannot exceed fifteen years and thirty-two days. For purchase of a home plus developed lot, the basic maximum is the same, with a $7,500 maximum allowed for purchase of the lot. Maturity cannot exceed fifteen years and thirty-two days, or twenty years and thirty-two days if the home has two or more modules.

(c) Establishes a maximum of $15,000 per unit and a maturity not exceeding fifteen years and thirty-two days for a loan financing the preservation of a historic structure.

### Refinancing

Sec. 303.—Authorizes the Secretary to refinance and extend the maturity of any loan insured under this title, provided that the additional amount or term of the loan did not exceed the limitations prescribed in section 302.

### Prohibitions

Sec. 304.—Requires the Secretary to prevent (1) the use of multiple loans which would result in outstanding loans, with respect to the same property, in an amount in excess of the dollar limits prescribed in section 302 for an individual loan, and (2) the insuring of home improvement loans involving new residential structures which have not been completed and occupied for at least six months. The Secretary would be authorized to waive the prohibition in (2) above.

### Property standards

Sec. 305.—Authorizes the Secretary to declare products or repairs which do not improve the basic livability or utility of propertries or are especially subject to selling abuses ineligible for financing under this title.

(b) Would direct the Secretary to (1) prescribe minimum property standards for mobile homes and the sites on which they are to be located, and (2) obtain assurances from the borrower that the mobile home will be placed on a site meeting standards prescribed by the Secretary and any local zoning or other local requirements.

### Contract provisions

Sec. 306.—(a) Provides that the insurance obligation of the Secretary with respect to any lender not exceed either (1) 10 percent of the total amount of loans made by the lender (under this title and under section 2 of the National Housing Act after July 1, 1939), or (2) 90 percent of the loss on any individual loan.

(b) Would make any payment for loss incontestable after two years in the absence of fraud or misrepresentation by the lender unless a demand for repurchase of the obligation on behalf of the United States has been made prior to the end of the two-year period.

### Waiver of requirements

Sec. 307.—Authorizes the Secretary to waive compliance with any regulation issued pursuant to this title if the lender has acted in good faith and enforcement would impose an injustice on him, but the waiver could not involve an increase in the amount of the Secretary's obligation.

### Transfer of insurance

Sec. 308.—Authorizes the Secretary to transfer the insurance of any loan to any approved lender which purchases such loan.

## Title IV—Home Mortgage Insurance

### Basic insurance program

Sec. 401.—(a) Authorizes the Secretary to insure home mortgages, including open-end advances, meeting the requirements of this section.

(b) Limits the principal obligation of the mortgage to the sum of 100% of the first $20,000 of appraised value as of the date the mortgage is accepted for insurance, 90% of such value over $20,000 but under $30,000, 80% of such value over $30,000 but under $40,000, and 70% of the value over $40,000. For rehabilitation these limitations could be based upon the sum of estimated cost of rehabilitation plus the property value before rehabilitation. Amortization provisions would require payments not in excess of the mortgagee's reasonable ability to pay, and over a term prescribed by the Secretary. The mortgagor would be required to make a minimum downpayment of an amount at least equal to the greater of closing costs or 3% of acquisition cost.

(c) Requires that a mortgage covering a unit in a condominium must contain provisions for maintenance of common areas, and controls to protect the rights of owners.

(d) Requires that the maximum principal obligation of a mortgage permitted under subsection (b) be reduced to 85 percent of that amount if the mortgage involved (1) a newly constructed dwelling not approved for insurance by the Secretary or Administrtaor of Veterans' Affairs prior to the beginning of construction, or (2) a mortgagor who was not the occupant of the property except where the mortgagor is in the military service and his failure to occupy the property is due to his service assignment, or where the mortgagor and mortgagee agree to reduce the mortgagee agreed to reduce the mortgage if the property is not sold to a purchaser who assumes the mortgage and occupies the property the due date of the eighteenth amortization payment, or where the mortgage covers experimental property and the Secretary waives the requirements of this subsection.

(e) Requires that the mortgagor receive a written statement of the Secretary's appraisal of the value of the property prior to completion of the sale or mortgage transaction.

(f) Requires that the mortgagor receive a warranty that the dwelling is constructed in substantial conformity with plans. The warranty would apply only in cases of substantial nonconformity as to which the mortgagor gave notice within one year of title conveyance or initial occupancy. This warranty would not replace rights and privileges under any other law or instrument.

(g) Authorizes the Secretary to insure a home mortgage under this section to refinance existing indebtedness and to finance repairs and improvements on property in a neighborhood preservation area. Such a mortgage could not be used primarily to reduce monthly debt service, but must be used for repairs necessary to place property in a sound condition or for refinancing of a mortgage with a balloon payment provision. The mortgagor or a member of his immediate family must have owned the property at least three years prior to refinancing. A mortgage could include such service charges or fees as the Secretary may approve. Where the mortgage covered property which generated rental income, the mortgagor could be required to meet the conditions of section 501(k)(2).

### Homeownership assistance

Sec. 402. (a) Authorizes the Secretary to contract to make periodic assistance payments on behalf of lower income homeowners to mortgagees holding mortgages insured under this section.

(b) Would require that the assistance payments be made only during such time as the original mortgagor occupied the property but payments could be continued if the mortgage were assumed by an eligible homeowner if assistance payments had been made on behalf of the previous owner, or if the mortgage were assigned to the Secretary.

(c) Provides a formula for determining the amount of the assistance payment. The assistance payment on behalf of any homeowner could not exceed the lesser of (1) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 percent of the mortgagor's income, or (2) the difference between the monthly payment for principal, interest, and mortgage insurance premium due under the mortgage and the monthly payment for principal and interest due under a one percent mortgage.

(d) Authorizes the Secretary to reimburse the mortgagee for the additional expense involved in handling a mortgage insured under this section.

(e) Requires the Secretary to provide for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for purposes of adjusting the amount of assistance payments.

(f) Requires the Secretary to assure that the sales price paid by the purchaser was not inflated or excessive.

(g)(1) Provides contract authorizations not to exceed (for contracts entered into under this section and under section 235 of the National Housing Act) $75,000,000 per year prior to July 1, 1969, which amount would be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, by $115,000,000 on July 1, 1972, and by $170,000,000 on July 1, 1973.

(g)(2) Provides that not more than 30% of contract funds authorized by appropriation acts could be used for existing dwellings or units (including owner-occupied rehabilitated units), as defined by the Secretary.

(g)(3) Provides that at least 10% of total assistance payment contracts must be reserved for dwellings or units approved by the Secretary prior to substantial rehabilitation.

(h) Authorize the Secretary to insure mortgages under this section (including advances with respect to property constructed or rehabilitated pursuant to a self-help program) which meet the requirements of section 401 except as modified. The mortgage must involve a single family dwelling or a unit in a condominium or a unit sold by a cooperative, or a single family dwelling with mortgage executed by the owner-occupant to finance rehabilitation. It shall have a principal obligation not exceeding the appraised value of the property, or in the case of rehabilitation by an owner-occupant the sum of the cost of rehabilitation plus the amount necessary to refinance existing indebtedness or in the case of rehabilitation for sale the value of the property before rehabilitation plus the cost of rehabilitation, plus closing costs and prepaid expenses, minus at least $200.

(i) Provides that assistance payments not be made with respect to a mortgage which secures a loan to finance rehabilitation of owner-occupied property unless the property is located in a neighborhood which is stable enough to support long-term values or is subject to community plans for neighborhood preservation or rehabilitation, and unless the improvements are required to bring the property up to standards of decent, safe and sanitary housing which without rehabilitation it could not meet.

(j) Defines "lower income families" as those incomes do not exceed 90% of the median income for the area, as determined by the Secretary with adjustments for smaller or larger families. The Secretary could establish income ceilings higher or lower than this figure if such variations are necessary because of prevailing construction costs, unusually high or low family incomes, or other factors.

(k) Provides that in determining family income, the Secretary shall exclude the income of a family member, other than the head of the household or his spouse, who is under eighteen years of age or a full-time student: the first $300 of income of a secondary wage earner who is the spouse of the head of the household: 5 percent of the income of the head of the household and his spouse (10% in the case of an elderly family); $300 for each family member resident under eighteen years of age or over eighteen but with no income included in family income; nonrecurring income: and extraordinary medical or other expenses.

(l) Provides that the Secretary could transfer to the Secretary of Agriculture a reasonable portion of his total contract authority for use in rural areas and small towns.

### Title V—Project Mortgage Insurance

### Multifamily housing

Sec. 501. (a) Provides for four categories of multifamily housing; (1) rental projects, (2) cooperative projects, (3) projects in which the individual units are to be sold on a condominium or other basis, and (4) mobile home courts. The term "replacement cost" would be defined to mean the Secretary's estimate of land value plus the cost of improvements, utilities, architect's fees, taxes and interest during construction, and other charges incident to construction and initial operation or disposition. It would also include a builder's and sponsor's profit and risk allowance of 10 percent of the figures allowed above except for land, except that the Secretary could prescribe by regulation a lower percentage with respect to all or to particular categories of projects if he deems it reasonable. Where there is a cooperative or non-profit mortgage, this allowance would be paid to the builder in lieu of any other fee.

(b) Authorizes the Secretary to insure a mortgage (including advances) on a multifamily housing project, executed by an approved mortgagor who may be regulated as to rents, charges, capital structure, rate of return and methods of operation. Such regulation shall continue while the Secretary is obligated under the mortgage insurance and for such further period as the Secretary shall own, hold or reinsure the mortgage.

(c) Provides that the mortgage may involve new construction, rehabilitation, or refinancing of an existing project.

(d) Provides that the principal obligation for a new construction mortgage shall not exceed 90 percent of replacement cost, or 98 percent in the case of a cooperative mortgagor.

(e) Provides that the principal obligation of a mortgage for rehabilitation shall not exceed 90 percent of the sum of rehabilitation cost and property value before rehabilitation. The applicable limitation for a cooperative mortgagor is 98 percent.

(f) Provides that a mortgage to refinance an existing property without rehabilitation shall have a principal obligation not exceeding the lesser of 90 percent of the purchase price or outstanding indebtedness, appropriate, or the appraised value, or 98 percent for a cooperative mortgagor.

(g) Provides that in the case of a cooperative or nonprofit mortgagor the percentage specified in subsections (d), (e), or (f) shall be increased to 100 percent if the principal obligation does not exceed the amount which could be insured under section 502.

(h) Provides that where dwelling units are to be sold to individual purchasers, the principal obligation of the blanket mortgage shall be limited to the sum of the individual mortgage amounts which could be insured for owner-occupants under title IB.

(i) Authorizes the Secretary to establish the maximum term of the mortgage.

(j) Requires that a project contain at least 5 dwelling units (which, with the Secretary's approval, need not be self-contained living units) or 5 spaces in a mobile home court. The project would be required to be primarily residential but could include nondwelling facilities which are adequate to serve the occupants and surrounding neighborhood, and which are found by the Secretary to contribute to the economic feasibility of the project.

(k) Authorizes the Secretary to insure a mortgage on property in a neighborhood preservation area executed to refinance existing indebtedness and to finance needed repairs. The Secretary would prescribe terms and conditions to assure that refinancing results in repairs necessary to place the property in sound condition or in a refinancing of a mortgage containing a balloon payment provision, and is not used primarily to reduce monthly debt service payments; that the mortgagor or a member of his immediate family shall have owned the property at least three years prior to refinancing; that the property will be continuously maintained in sound condition for the period of the loan, with an appropriate percentage of rental income committed to maintenance; that no rental increases are made except those necessary to offset operating expense increase or debt service increases; that before any rent increase tenants receive notice and an opportunity to present objections; that no excessive rent increase has been made in anticipation of participation in this program. The mortgage may include charges and fees approved by the Secretary. If during the mortgage term the mortgagor is forced to make unanticipated repairs the Secretary may insure a supplemental project loan, as authorized under section 504.

### Multifamily housing assistance

Sec. 502. (a) Authorizes the Secretary to contract to make periodic assistance payments on behalf of project owners to mortgagees holding mortgages meeting the requirements of this section, for the purpose of reducing rentals for lower-income tenants.

(b) Requires that assistance payments be made only while the project is operated as a multifamily housing project, and is subject to a mortgage insured under this section or assigned to the Secretary. In case of a project for which the Secretary has issued a commitment to insure upon completion, payments may be made at endorsement for insurance covering the period until occupancy. Payents may be made for a project owned by a nonprofit or limited dividend entity or cooperative and financed under a state or local program when the project is approved under this section prior to completion of construction or rehabilitation.

(c) Provides that the assistance payment on behalf of a project owner could not exceed the difference between the monthly payment for principal, interest and mortgage insurance premium (or other comparable charges approved by the Secretary) on a market rate mortgage and the monthly payment for principal and interest that would be due on a mortgage at one percent.

(d) Authorizes the Secretary to reimburse the mortgagee for additional expenses in handling mortgages insured under this section.

(e) Requires the project owner to follow prescribed requirements with respect to tenant eligibility and rent. The Secretary shall promote by his regulations a reasonable range of tenant incomes in each assisted project. Tenant incomes should be recertified every two years, or more often if necessary.

(f) (1) Provides for the establishment of a "basic rental" for each unit in an assisted project determined on the basis of operating the project with the benefit of the assistance payments. A tenant would pay the basic rental for his unit or such greater amount, not exceeding the fair market rental for such unit (the rental without subsidy), as represents 25 per centum of his income.

(f) (2) Authorizes the Secretary, with respect to 20 percent of the project units, to make assistance payments to the owner on behalf of tenants who cannot meet the basic rental with 25 percent of their income. These payments would be calculated to reduce rent payments to 25 percent of the tenant's income, but in no case to less than an amount equal to utility costs for the unit. Notwithstanding such provisions the Secretary may reduce or increase the 20 percent requirement if necessary to assure the economic viability of the project or to promote an economic integration of the project. Where all or substantially all of the project units are occupied by elderly families, payments may be made with respect to a maximum of 60% of the project units. Not less than one-half of the units with respect to which such payments are made must be occupied by very low income tenants.

(f) (3) Provides that an initial operating expense level would be established for each project, which would be the sum of the cost of utilities, maintenance and local property taxes at the time of full occupancy. Subsequently the Secretary could make additional payments not to exceed either (A) the amount by which the sum of the cost of utilities, maintenance and local property taxes exceeded the initial operating expense level, or (B) the amount required to keep basic rentals of any units from exceeding 30 percent of tenant income.

Such payments could not be made where cost increases were unreasonable in light of increases faced by other projects in the community.

(g) Requires a project owner to pay to the Secretary any rentals charged in excess of the basic rental charges, to be credited to the appropriation available for assistance payments through the next fiscal year.

(h) Provides contract authorizations not to exceed (for contracts entered into by the Secretary under this section and under section 236 of the NHA) $75 million per year prior to July 1, 1969, which amount would be increased by $125 million on July 1, 1969, $150 million on July 1, 1970, $200 million on July 1, 1971, $225 million on July 1, 1972, and $300 million on July 1, 1973. Between 15 and 25 percent of contracts authorized to be made after June 30, 1973 may only be used for projects planned for occupancy by elderly families. At least 30% of such contracts shall be used for integrated projects, except that if necessary to assure the viability of the elderly housing program, this shall be reduced to 15 percent. An "integrated project" has been 10 and 50 percent of units planned for occupancy by elderly families.

(i) (1) Authorizes the Secretary to insure a mortgage which meets the requirements of section 501 (except as modified) for a project to be occupied primarily by tenants of low income at the time of initial occupancy.

(i) (2) Provides that the principal obligation of a mortgage executed by a cooperative, a private nonprofit corporation or a builder-seller shall have a principal obligation not exceeding the replacement cost of the property in the case of new construction, and the cost of rehabilitation plus the original value of the property in the case of rehabilitation.

(i) (3) Provides that the amount of the mortgage executed by a limited dividend entity or by an investor-sponsor who agrees to sell to a cooperative shall not exceed 90 percent of the amount otherwise authorized by this section.

(i) (4) Provides that when a project is sold by a mortgagor other than a cooperative, or a private nonprofit entity, to a cooperative or nonprofit entity, the Secretary can insure a mortgage given by the purchaser in an amount not exceeding the appraised value at time of purchase, the value being based on a mortgage amount on which debt service can be met from income when the project is operated on a nonprofit basis, after payment of operating expenses, taxes, and reserves.

(j) Defines the terms used in this section. "Tenant" includes a cooperative member, and the terms "rental" and "rental charge" used in reference to cooperative members mean the charges under the occupancy agreement. "Lower income tenants" means those tenants whose income does not exceed 90 percent of the median income for the area, with adjustments for smaller or larger families, except that the Secretary can set ceilings higher or lower if necessary. "Very low income tenants" mean those whose incomes do not exceed 50% of the median for the area, with adjustments by family size. "Elderly families" consist of two or more persons the head of which (or his spouse) is sixty-two years of age or older. The term also means a single person sixty-two years of age, or a handicapped person or persons.

(k) Provides that in determining family income the Secretary shall exclude the income of a family member other than the head of household or spouse who is under eighteen or a full-time student; the first $300 of income of a secondary wage earner who is the spouse of the head of household; 5 percent of the income of the head of the household or his spouse, or 10 percent of such income in the case of an elderly family; $300 for each resident family member other than the head of household and his spouse who is under eighteen or who is over eighteen but has no income included in family income; nonrecurring income; and extraordinary medical or other expenses.

(l) Authorizes the Secretary to enter into agreements with States to administer assistance payments contracted to be paid by the States with respect to projects approved by the Secretary prior to the beginning of construction or rehabilitation and meeting the requirements of this section. Under no circumstances could the Secretary undertake to make assistance payments with respect to such projects other than as disbursing agency for a State.

### Mortgage insurance for health facilities

Sec. 503. (a) Defines various terms used through the section. The terms "hospital", "nursing home", "intermediate care facility", and "group practice facility" are defined in substantially the same manner as under the National Housing Act (except proprietary and podiatric group practice facilities would qualify). "Medical practice facility" means a facility in which one to four persons provide preventive, diagnostic and treatment service, situated in a rural area, small town, or low-income urban area in which there exists a critical shortage of physicians. "Replacement cost" means the Secretary's estimate of the land value and the cost of physical improvements, major equipment utilities, fees, taxes and interest during construction, and miscellaneous charges incident to construction and initial operation.

(b) Authorizes the Secretary to insure mortgages which cover a new or rehabilitated project for use as a hospital, a nursing home, an intermediate care facility, a group practice facility, a medical practice facility, or any combination of the foregoing. For new construction the permissible mortgage amount would not exceed 90 percent of the estimated replacement cost, including equipment. In the case of rehabilitation, the mortgage could not exceed 90 percent of the cost of rehabilitation plus the appraised value of the property before rehabilitation.

(c), (d), and (e) would (1) establish the general types of hospitals, nursing homes and intermediate care facilities with respect to which mortgages could be insured, (2) authorize the Secretary, after consultation with the Secretary of Health, Education and Welfare as to medical aspects of these facilities, to prescribe such regulations as are necessary to carry out the insurance program authorized by this section, and (3) provide that hospitals insured pursuant to this section be encouraged to carry out comprehensive health programs for defined populations.

### Supplemental loan programs

Sec. 504. (a) Authorizes the Secretary to insure a supplemental loan for a multifamily or health facility project mortgage insured under the National Housing Act or under this Act, or held by the Secretary. Housing cooperatives which purchased housing covered by an uninsured mortgage for part of the purchase price from the Federal Government, and which qualify for supplemental loan insurance under existing law, are also eligible. Supplemental loans could be made: (1) to cover the operating losses of a project which during the first two years of operation has had costs exceeding income; (2) to finance repairs, improvements, and additions to projects, and major equipment for health facilities; and (3) to finance the purchase and resale of cooperative memberships provided that the downpayment of new members is at least proportionately equal to the original downpayment for such memberships.

(b) Require that a loan covering operating losses not exceed in duration the unexpired term of the original mortgage and be limited in amount to the actual losses incurred by the project, as determined by the Secretary.

(c) Establish as requirements for a loan financing repairs, improvements, additions and equipment. The amount of the loan would be limited to 90 percent (98 percent in the case of a cooperative) of the estimated cost of the eligible items provided that the sum of the loan plus the outstanding balance on the original mortgage does not exceed the maximum mortgage limit prescribed by the section of this Act covering similar projects. The maximum maturity of the loan could not exceed the remaining term of the mortgage except that a supplemental loan with a maturity up to 10 years in excess of the outstanding mortgage term could be made with respect to uninsured cooperatives.

(d) Establishes requirements for a loan to a cooperative to finance the purchase and resale of memberships. The amount of the loan plus the outstanding balance remaining on the mortgage could not exceed the maximum mortgage limit prescribed by the section of this Act covering similar projects. The maturity of the loan could not exceed the remaining term of the mortgage.

(e) Authorizes the Secretary to establish conditions and restrictions including the type of security required on supplemental loans.

Subsection (f) would provide that improvement loans could finance additions of nondwelling facilities to section 502 subsidized elderly projects to serve the neighborhood elderly. Contract authority of $10 million would be provided to subsidize up to the capital cost of the additional facilities.

### Mortgage insurance for land development

Sec. 505. (a) Defines the terms "land development" and "improvements" in substantially the same manner as they are used in the National Housing Act.

(b) Establishes certain conditions under which a land development mortgage could be insured. The mortgage could cover land to be developed and the improvements to be made, except that facilities intended for public use and in public ownership would be excluded. Any eligible party approved by the Secretary other than a public body could qualify as a mortgagor. The term of the mortgage would be determined by the Secretary.

(c) Limits the principal obligation of the mortgage to the sum of 80 percent of the estimated value of the land before the development plus 90 percent of the estimated cost of development.

(d) Requires that the improvements comply with applicable State and local governmental requirements as well as minimum standards set by the Secretary and would establish certain other conditions under which a land development project could be undertaken.

(e) Authorizes the Secretary to adopt requirements for land development including encouragement of broad participation by small builders and a proper balance of housing for low and moderate income families.

(f) Requires that public or private water and sewage systems consistent with existing or planned area systems be provided after development of the land.

(g) Authorizes the Secretary to release or subordinate part or parts of the mortgaged property from the lien of the mortgage.

(h) Authorizes the Secretary to adopt requirements to assure, at reasonable intervals of time during development, that the amount of the outstanding mortgage loan did not exceed 80 percent of the before-development value of the remaining land under the lien of the mortgage plus 90 percent of the cost of the development of such land.

### Cost certification

Sec. 506. (a)—Authorizes the Secretary to assure that the amount of any insured mortgage or loan involving multifamily housing or health facilities does not exceed the approved percentage of the sum of the approved actual cost of construction or rehabilitation, plus the amount of allowances for two factors. One factor is the estimated value of the land or property prior to construction. In a situation where the land involved is held by the mortgagor under a leasehold or other limited interest, the amount would be the cost of acquiring such interest, but this amount in no case could exceed estimated fair market value of the interest exclusive of improvements. In the case of rehabilitation where the mortgagor is to acquire land and improvements by using part of the mortgage proceeds, the amount would be the purchase of land and improvements prior to rehabilitation. In the case of land and improvements owned by the mortgagor subject to an indebtedness which he plans to refinance with part of the mortgage proceeds, the amount would be the outstanding indebtedness secured by this property.

The second factor is an amount for profit and risk as prescribed in section 501(a)(2) in connection with replacement cost definition, plus an amount representing a reasonable allocation of overhead items except where the construction contract includes a lump-sum price for profit and risk and general overhead. Where a subcontractor or supplier who has an identity of interest with the mortgagor or builder furnishes manufactured houses or components, the amount included in calculating the first of the two factors described will be the estimated market value of the manufactured houses or components instead of the actual cost.

(b) Authorizes the Secretary to require from the mortgagor and from such other parties as he feels necessary a certification of the actual cost of construction or rehabilitation. He would also be authorized to exempt mortgagors from the requirements of this section when the projects involved are designed for residential use by twelve or fewer families, or where the insured mortgage amount is less than $250,000. All required certifications would be incontestable except for fraud or material misrepresentations.

(c) Defines the terms "approved percentage" and "actual cost" as they are used in this section.

### Labor standards

Sec. 507(a).—Provides that no loan or mortgage will be insured except a mortgage covering multifamily housing designed for use by fewer than twelve families unless the principal contractor guarantees that prevailing wages will be paid, as determined in accordance with the Davis-Bacon Act prior to the beginning of construction and after the filing date for insurance application.

(b) Provides that the Secretary may waive the above requirements in the case of voluntarily donated services.

### Title VI—Insurance Claims

### Home mortgage insurance claim settlement

Sec. 601.—Establishes insurance claim settlement provisions governing the home mortgage programs similar to those provided in the National Housing Act.

### Forebearance of payment

Sec. 602.—Authorizes the Secretary to permit a mortgagee to extend the time for curing a default in a home mortgage, to extend the time for commencing foreclosure, or to approve a recasting of the terms of the mortgage.

### Acquisition of home mortgages to avoid foreclosure

Sec. 603.—Permits the Secretary to accept an assignment of a home mortgage for the purpose of avoiding foreclosure and hardship to the homeowner. Where such assignment occurs, the mortgagee would be entitled to receive full reimbursement for the unpaid mortgage balance, any unpaid mortgage interest, and an allowance for costs incurred as a consequence of the default and assignment of the mortgage.

### Project mortgage insurance claim settlement

Sec. 604.—Establishes mortgage insurance claim settlement provisions applicable to project mortgages similar to those provided in the National Housing Act.

### Modifications in terms of project mortgages

Sec. 605.—Provides that the Secretary could consent to any extension or modification of a mortgage covering multifamily housing only under and in conformity with regulations prescribed by him. Such regulations must provide that during the period of any such extension or modification the mortgagor will be required to place in trust any income from the project in excess of operating needs: except that the Secretary may consent to an extension or modification of a mortgage without regard to this requirement if he determines that it would not jeopardize the interests of the United States. Criminal penalties would be prescribed for the misuse of project income.

### Settlement of insurance claims with debentures

Sec. 606.—Establishes the terms and conditions under which debentures are to be issued by the Secretary in the settlement of mortgage and loan insurance claims.

### Title VII—Miscellaneous

### General authorization for dealing with and disposing of property

Sec. 701.—Provides authority to the Secretary for dealing with and disposing of property acquired in connection with the settlement of insurance claims.

### Acquisition of title by the Secretary

Sec. 702.—Authorizes the Secretary, in connection with a mortgage assigned to him, to acquire possession and title to the property by a voluntary conveyance in extinguishment of the mortgage debt or to institute foreclosure proceedings and prosecute such proceedings to conclusion. It also would authorize the Secretary to bid at a foreclosure sale of a mortgage held by him and to exercise all the rights of a mortgagee under such mortgage.

### Insurance for mortgage sold or executed in connection with the sale of Property by the Secretary

Sec. 703.—Authorizes the Secretary to insure mortgages sold by him or executed in connection with the sale of property by him. Such insurance is permitted to be made without being limited to the eligibility, insurance premium and settlement provisions of the Act.

### Expenditures to correct or compensate for structural defects in mortgaged homes and Experimental Property

Sec. 704(a).—Authorizes the Secretary to correct structural defects or to pay the claims of the owner arising from such defects, or to acquire title to the property in which defects exist if the property involves a one- to four-family dwelling that has been approved for mortgage insurance prior to the beginning of construction and the owner requests assistance within 4 years after insurance of the mortgage.

(b) Authorizes similar expenditures with respect to serious structural or other defects in existing single-family dwellings covered by mortgages insured under setcion 402 or located in an older and declining area if (1) the owner requests assistance within 1 year after the insurance of the mortgage, (2) the defect existed at the time of purchase, and (3) a proper inspection should have uncovered the defect. The Secretary would be authorized to require any seller of such housing to agree to reimburse him for payments made pursuant to this subsection.

(c) Authorizes the Secretary to expend available funds to correct defects or failures (when he determines it necessary to protect the occupants) with respect to experimental property covered by an insured mortgage.

(d) Empowers the Secretary to issue regulations prescribing conditions under which he would make payments under subsections (a), (b), and (c).

### Penalties

Sec. 705.—Authorizes the Secretary to refuse the benefits of participation in any of the mortgage insurance programs prescribed in the Act to anyone who (1) knowingly violates a provision of the Act or of the law governing the Veterans Home Loan Program, or (2) violates a penal statute in connection with property assisted under such provisions, or (3) materially fails to properly carry out a contractual obligation with respect to the completion of construction of work financed with assistance under the Act or under the VA provisions.

### Transition between National Housing Act and revised National Housing Act

Sec. 102.—Provides that the Revised National Housing Act be effective, in whole or in part, at such date or dates as the Secretary of Housing and Urban Development prescribed and would require the Secretary to establish procedures for the orderly transfer of mortgage insurance operations from the authority of the National Housing Act to the authority of the Revised National Housing Act in order to assure continuity of efficient program activity and to provide adequate opportunity for necessary administrative and legislative revisions.

### Experimental dual interest rate system

Sec. 103.—Authorizes the Secretary to insure mortgages under such sections as he deemed appropriate of the Revised National Housing Act at whatever interest rate was negotiated by the mortgagor and mortgagee, provided no discounts were collected. This authority would expire on July 1, 1974, and would provide an alternative to the interest rate administratively established by the Secretary.

### Conforming and technical amendments

Sec. 104(a).—Provides that all references in other federal, state or local laws to the National Housing Act be construed to refer also to the Revised National Housing Act. References to particular sections in the National Housing Act would be construed to refer to the appropriate sections of the Revised National Housing Act which serve the same functions or meet the same objectives.

(b) Amends section 2 of the National Housing Act to provide that any insurance claims paid under section 2 would be limited by the total number of loans made by lending institutions under the National Housing Act and the Revised National Housing Act.

(c) Amends section 213(k) of the National Housing Act to extend the right to receive distributions of dividends on the Cooperative Housing Management Insurance Fund to cooperative mortgagors under section 501 of the Revised National Housing Act.

(d) Amends section 312 of the Housing Act of 1964 to base the maximum amount of rehabilitation loans on the prototype costs for the area as determined pursuant to section 3 of the Revised National Housing Act rather than on the dollar limitations set out in section 220(h) of the National Housing Act. These dollar limitations will no longer be updated after the effective date of the Revised National Housing Act.

### Chapter II—Public Housing Assistance Program

### Revision of United States Housing Act of 1937

Sec. 201.—Revises the United States Housing Act of 1937, the program of assistance to local public housing agencies in the provision of housing for low-income families.

### Short title

Sec. 1.—Provides that the Act may be cited as the United States Housing Act of 1937.

### Declaration of policy

Sec. 2.—States that it is the policy of the United States to assist the States and their political subdivisions to remedy unsafe and insanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income. It would also vest in local housing agencies the maximum amount of responsibility in the administration of their housing programs. It would also state that it is the sense of Congress that no tenant should be barred from serving on the board of a public housing agency. This section is substantially the same as the present declaration of policy except for the deletion of obsolete or unnecessary language. In this section and elsewhere, the term "low-income housing" is used in lieu of "low-rent housing" to reflect the provision of homeownership opportunities for low income families served by the program.

### Definitions

Sec. 3(1) Defines "low-income housing" to mean decent, safe and sanitary dwellings within the financial reach of families of low income. The maximum rental would be one-fourth of family income and the minimum rent would be the cost of utilities. Family income will be defined to exclude: the income of a family member other than the head of household or his spouse who is under 18 or a full-time student; the first $300 earned by a secondary wage earner who is the spouse of the head of household; 5 per cent of the income of the head of household and spouse and 10 per cent in the case of an elderly family; $300 for each resident family member other than the head of household and spouse who is under 18 or who is over 18 but has no income included in family income; nonrecurring income; and extraordinary medical or other expenses.

Sec. 3(2) Defines "low-income families" to mean families who cannot afford private housing in the area. At least 20 per cent of the units in any project must be reserved for very low-income tenants, as defined by the Secretary.

"Families" may include single persons in the case of elderly or displaced families. "Elderly families" means those whose heads or their spouses or whose sole members are at least 50 years of age, under a disability, or handicapped. "Displaced families" means families displaced by governmental action or families whose homes have been extensively damaged or destroyed by a natural disaster.

3(3) Defines "development" and "development cost" as under present law, except for minor changes to facilitate project financing and the deletion of an unnecessary provision concerning the cost of shared facilities.

3(4) Substitutes "operation" for the present term "administration" in order to conform to current usage in the public housing program. It would otherwise restate the present definition, including the provision which makes it clear that the cost of tenant programs and services are includable in operation of a project and eligible for subsidy assistance.

3(5) Defines "acquisition cost" to mean the amount prudently required to be expended by a public housing agency in acquiring a low-income housing project.

3(6) defines "public housing agency" to mean any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing. This would amend the present provision so as to include public agencies which are authorized to assist in the development or operation of such housing.

3(7) would define "State" to include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and nations (including Alaska Indians, Aleuts, and Eskimos) of the United States.

3(8) would define "Secretary" to mean the Secretary of Housing and Urban Development.

3(9) would define "low-income housing project" or "project" to mean any project developed, acquired, or assisted under the Act and the improvement of such housing.

### Loans for Low-Income Housing Projects

Sec. 4(a).—Authorizes the Secretary to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Such loans would provide for an interest rate specified by the Secretary which is not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of one percent.

Subsection (b) would authorize the Secretary to issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which could not, unless authorized by the President, exceed $1.5 billion.

### Annual Contributions for Low-Income Housing Projects

Sec. 5(a).—Authorizes the Secretary to make annual contributions to assist in achieving and maintaining the low-income character of their projects and to embody provisions for such contributions in a contract guaranteeing their payment. It would provide that the annual contribution payable under this section may not exceed the debt service payable on obligations issued by the public housing agency to finance the development or acquisition cost of the low-income project involved. The present requirement that annual contributions be fixed in uniform amounts and paid in such amounts over a fixed period of years would be deleted in order to afford greater flexibility in the private financing of public housing projects.

The maximum limit based on debt service requirements would replace the present provision which limits annual contributions to an amount equal to the capital cost of the project multiplied by a percentage equal to the going Federal rate plus 2 percentage points. This limit now applies to the aggregate annual amount which can be provided for both debt service and operating subsidy requirements. Under the revised Act there would be a new subsidy structure which would provide for a separation between the authority to make annual contributions based on debt service requirements and the authority to make operating subsidy payments. This subsection would delete the present authorization to pay an additional annual subsidy of up to $120 per dwelling unit occupied by an elderly or handicapped family, a displaced family, a very large family, or a family of unusually low income as the purpose of these subsidies would be included under the broad operating subsidy authorization contained in section 9 of the revised Act.

(b) Authorizes the Secretary to prescribe regulations fixing the maximum contributions to be provided under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants or other factors bearing upon the need to achieve and maintain low rentals.

(c) Authorizes the Secretary to enter into contracts for annual contributions aggregating not more than $1,199,000,000 per year, which would be increased by $225,000,000 on July 1, 1971, by $300,000,000 on July 1, 1972, and by $300,000,000 on July 1, 1973. At least 30 percent of the units in any fiscal year after the effective date of this section shall be units of low-rent housing in private accommodations under section 8. Of the aggregate amount authorized, an amount not to exceed $100 million per year may be used for modernization. The Secretary shall assure that public housing agencies comply with the requirements of section 8(a)(1) concerning low-income housing in private accommodations. There is authorized to be appropriated each year the amounts necessary for payments of all annual contributions contracted for.

(d) Provides that any contract for loans or annual contributions may cover one or more than one low-income project owned by the public housing agency, and that if the contract covers two or more projects, they may be treated collectively as one project.

(e) Provides that the Secretary may not enter into a contract with a public housing agency for preliminary loans for surveys and planning in respect to a project unless the governing body involved has approved the application of the public housing agency and unless the public housing agency has demonstrated that there is a need for the low-income housing which is not being met by private enterprise. This subsection would also provide that the Secretary may not enter into a contract for loans (other than preliminary loans) or for annual contributions unless the governing body of the locality has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to the Act.

(f) Authorizes the Secretary to consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest, security, amount of annual contribution or any other term of any contract or agreement to which the Secretary is a party, subject to specific limitations contained in the Act. It would also authorize the Secretary to amend contributions contracts when it would be in the financial interest of the Government, or would be necessary to maintain the low-income character of the project involved. The Secretary's authority to amend contributions contracts to establish the going Federal rate as of the time of the contract amendment would be deleted. Under the revised Act, annual contributions would no longer be based on the going Federal rate.

### Contract provisions and requirements

Sec. 6. (a).—Authorizes the Secretary to include in any contract or any other agreement or instrument made pursuant to the Act such covenants, conditions, or provisions as he may deem necessary to insure the low-income character of the project involved, including a condition requiring an open space or playground in connection with a housing project. This subsection would also provide that, except in the case of housing predominantly for the elderly, any such contract shall require that high-rise elevator projects shall not be provided for families with children unless the Secretary determines that there is no practical alternative.

(b) Provides a limitation on the cost for construction and equipment on which the amount of annual contributions would be calculated. This cost could not exceed by more than 10 per cent the appropriate prototype cost for the area, determined at least annually on the basis of estimated construction costs of various new units in the area which would be suitable for occupancy by persons assisted under this Act. The determination would take into consideration the extra durability necessary for economical maintenance, the provision of suitable amenities, the use of good design and architectural standards, the effectiveness of existing cost limits, and the advice of local housing procedures.

(c) Requires that every contract for annual contributions include provisions (1) for the Secretary to require the public housing agency to review and revise its maximum income limits if changed conditions in the locality make such revisions necessary; (2) requiring a public housing agency to determine and certify to the Secretary that occupants of projects were admitted in accordance with approved income limits; and (3) requiring prompt notification of applicants determined to be ineligible for admission of the basis for the determination and an opportunity for an informal hearing. This subsection would delete the present provision concerning the establishment of maximum income limits for continued occupancy in low-income housing.

(d)(1) Provides that no annual contributions shall be made available for any project unless the project is exempt from state and local property taxes. The annual contribution contract will require the public housing agency to make payments in lieu of taxes, which in the case of a new project shall be equal to the amount of taxes otherwise payable. Payments by the agency with respect to an existing project shall be increased during the twenty years following the effective date of this section until the payments are equal to the taxes otherwise payable. Payment shall only be made in an amount which is comparable to taxes imposed on other residential property in the area.

(d) (2) Provides that outstanding contracts will be amended to conform to this subsection. Public housing agencies will submit estimates of the amounts by which these provisions require an increase in annual contributions.

(e) Provide that whenever the receipts of a public housing agency exceeds its expenditures, the excess shall be applied to reduce subsequent annual contributions.

(f) Authorizes the Secretary to provide in any annual contributions contract that upon substantial default by the public housing agency with respect to the covenants and conditions to which the agency is subject, as defined in the contract, the Secretary shall require the agency to convey title or possession of the project to the Secretary. The Secretary would be required to reconvey or redeliver the project to the public housing agency when the Secretary was satisfied that all defaults with respect to the project had been cured. This subsection also provides that with respect to contracts for annual contributions containing the provisions set forth above, the Secretary's obligation to pay annual contributions to cover debt service on the local agency's obligations will continue notwithstanding any other provision of the Act.

### Congregate housing

Sec. 7.—Require the Secretary to encourage public housing agencies, in providing housing predominately for displaced, elderly, or handicapped families, to develop housing to meet the special needs of the occupants and, wherever practicable, for use in whole or in part as congregate housing.

### Low-income housing in private accommodations

Sec. 8(a).—Provides that each public housing agency shall, to the maximum extent consistent with the objectives of the Act, provide housing in the form of low-income housing in private accommodations in accordance with this section, where such housing can be provided at a cost not greater than housing in projects assisted under other provisions of the Act. This subsection would provide that the provisions of this section shall not apply to any locality unless the governing body of the locality has by resolution approved the application of such provisions to the locality. The subsection would also define the term "low-income housing in private accommodations" to mean dwelling units leased from a private owner which provide decent, safe, and sanitary dwelling accommodations effectively supplementing other low-income housing assisted under the Act.

(b) Requires each public housing agency from time to time to make known to the public in the community the anticipated need for units to be used as low-income housing in private accommodations, inviting the owners of such dwelling units to make them available for the purpose of this section. It would also provide that not more than 10 percent of the units in any single structure may be leased except to the extent that the public housing agency determines that such limit should not be applied. The public housing agency would be authorized to approve units for use as low-income housing in private accommodations after it has inspected the units and if it finds that the units are suitable for use as low-income housing and the rentals to be charged for such units are within the financial range of families of low income.

(c) Authorizes a public housing agency to enter into contracts with the owners of approved dwelling units, to the extent of contracts for annual contributions entered into by the Secretary with such agency. This subsection would require each contract with an owner to provide that the selection of tenants shall be the function of the owner of the unit; the rental received by the owner shall be negotiated and agreed to by the agency and the owner and the rental paid by the tenant shall be determined in accordance with standards applicable to units in low-income housing projects; and the public housing agency shall have the sole right to give a notice to vacate to a tenant. Each contract between a public housing agency and an owner entered into under this section would be for a term of not less than twelve months nor more than 120 months, and would be renewable by the agency and owner at the expiration of the term. No renewal of the contract term could result in a total term of more than 240 months, or 180 months in the case of an existing structure.

(d) Provides that the period over which annual contributions will be made to a public housing agency for a project under this section and the aggregate amount of payments shall be determined on the basis of the number of units in the community which are in use or can reasonably be expected to be placed in use as low-income housing in private accommodations.

(e) Provides that provisions concerning State and local tax exemption of projects and local cooperation, otherwise applicable to low-income housing, are not applicable to low-income housing in private accommodations.

(f) Authorizes a public housing agency to purchase structures containing dwelling units leased under this section for the purpose of reselling the structure to the tenant or tenants of the structure. The present provision of this section concerning the terms and conditions for resale would be amended to provide that such resale may be made under the terms and conditions provided for under the new homeownership provisions of the Act.

### Annual contributions for operation of low-income housing projects

Sec. 9.—(a)—Provides a separate authorization for the Secretary to make annual contributions to public housing agencies for the operation of low-income housing projects (including low-income housing in private accommodations). The contribution payable annually under this section could not exceed amounts which the Secretary determines are required (1) to assure the low-income character of the projects involved and (2) to achieve and maintain adequate operating services and reserves. The Secretary would be authorized to embody the provisions for annual contributions for operating subsidy in a contract guaranteeing their payment.

(b) Provides that the aggregate rentals of families occupying dwelling units in low-income housing administered by a public housing agency which receives assistance under this section shall be not less than an amount equal to one-fifth of the sum of the incomes of all such families.

(c) Authorizes not to exceed $335 million for contracts for annual contributions under this section.

### Homeownership for low-income families

Sec. 10.—Authorizes a new public homeownership program for low-income families.

(a) Permits low-income families and public housing tenants, or a cooperative or nonprofit association formed by or for the benefit of such families or tenants, to purchase from a public housing agency, newly developed or acquired housing, as well as existing projects now operated as rental housing. Individual homes and dwelling units or entire projects could be purchased.

(b) Provides for conveyance of the property to the low-income family as soon as it undertakes the obligation to purchase the property by executing a mortgage to the public housing agency. The mortgage would be in a principal amount of not more than the sale price of the property plus closing costs and prepaid expenses; would bear interest at the maximum rate then applicable to mortgages insured under section 402 of the Revised National Housing Act, or the rate on the public housing agency's principal debt on the project, whichever is greater; would provide for a maturity satisfactory to the Secretary, but not for a period exceeding forty years; and would be secured by the property which is purchased. Under the mortgage the purchaser would be required to pay one-fifth of income to "monthly homeownership expense" but in no case could the purchaser's income contribution be less than monthly homeownership expense, excluding payments for principal and interest. The income contribution required of a purchaser which is a qualified entity would be determined by using an aggregate amount based on the contribution that would be required of each family who occupies a dwelling unit in the purchased property. The mortgage would also contain provisions requiring the purchaser to make monthly payments for any services furnished by the public housing agency to the purchaser, and would include other terms and conditions which the Secretary determines are required to carry out the purposes of this section.

(c) Defines the term "monthly homeownership expense" to mean monthly amounts for principal and interest under the amortization provisions of the mortgage or other obligation, amounts for insurance and taxes, and an amount attributable to the cost of utilities as determined by the Secretary on the basis of estimated costs for utilities in the area. The term "sale price" would mean (1) in the case of housing newly developed, acquired, or leased for subsequent resale, the portion of the unpaid balance on the public housing agency's principal debt on the project at the time of sale which is allocable to the dwelling unit or units involved, (2) in the case of rental housing, the appraised value of the property at the time of sale, and (3) in cases where participants in mutual-help projects or homebuyers in homeownership opportunity projects (such as Turnkey III) voluntarily elect to purchase their low-income housing units under the terms of the program established under section 10, the purchase price provided for under their lease with option to purchase type of contracts with the public housing agencies involved.

(d) Provides that the sale of a project would not affect the Secretary's commitment to pay annual contributions with respect to the project, but contributions could not exceed the maximum contributions authorized under section 5(a).

(e) Provides that, subject to the approval of the Secretary, any contract previously executed by a public housing agency for the sale or lease of low-income housing to low-income families or public housing tenants may be amended to include any of the terms and conditions provided in section 10.

(f) Provides that in the case of sale of a project to a nonprofit cooperative which restricts occupancy to members, the mortgage may be in a principal amount equal to the sum of the unpaid balance of the housing agency's outstanding obligations, including obligations pursuant to the modernization program, and the prepaid expenses and costs involved in achieving cooperative ownership. After the sale of the project the annual contributions paid to the housing agency would continue to be used to assist in maintaining the low-income character of the project.

### General provisions

Sec. 11.—(a)—Requires the Secretary to prepare annual budget programs as provided for wholly owned Government Corporations by the Government Corporation Control Act and to maintain an integral set of amounts to be audited annually by the General Accounting Office.

(b) Provides that all receipts and assets of the Secretary under the Act be available until expended.

(c) Authorizes the Federal Reserve Banks to act as depositories, custodians, and fiscal agents for the Secretary.

### Financing Low-Income housing projects

Sec. 12.—(a)—Provides that where the Secretary has guaranteed obligations of a public housing agency by pledging loans, annual contributions or both with respect to such obligations, the full faith and credit of the United States would back this guarantee, which would be incontestable in the hands of a bearer.

(b) Provides that public housing agency obligations issued in connection with low-income housing projects and the income from such projects shall be exempt from Federal taxes. It would modify the present provision so as to make it clear that this exemption applies whether the obligations are paid by the public housing agency or by the Secretary.

### Labor standards

Sec. 1.—Requires that contracts entered into pursuant to this Act include a provision that (1) all architects, technicians, engineers and draftsmen employed in the development of a low-income housing project, and (2) laborers and mechanics employed in the operation of projects be paid not less than the wages prevailing in the locality, as determined by the Secretary. It would also require that contracts include a provision that laborers and mechanics employed in the development of a low-income housing project be paid not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor, pursuant to the Davis-Bacon Act.

### Applicability of rental requirement

Sec. 202.—Provides for the deferral of rent increases which may be required of families now living in projects assisted under section 9 of the United States Housing Act of 1937, as amended by section 201 of this Act. The rental increase would become effective in two increments—(1) an increase equal to one half the amount of additional rent at the time the public housing agency makes the first review of the family's income (other than an interim review) which occurs at least one year after the effective date of a contract for annual contributions entered into pursuant to section 9, and (2) an increase to the full amount of the rental charge required under section 9 when the public housing agency makes its next review of the family's income. Section 6(c)(2) of the revised Act requires public housing agencies to review family income at intervals of two years.

### Exemption of certain projects from rental formula

Sec. 203.—Authorizes the Secretary of Housing and Urban Development, in lieu of the rental or income contribution provisions of the United States Housing Act of 1937, as amended by section 201 of this Act, to approve (1) the use of special schedules of required payments for participants in mutual help housing projects who contribute labor, land or materials to the development of such projects, or (2) the continued use of special schedules of required payments as approved by the Secretary for homebuyers in occupancy in homeownership opportunity projects under lease-purchase type contracts on the effective date of title II of the Housing Consolidation and Simplification Act of 1971.

### Repeal of specification requirements in construction contracts

Sec. 204.—Repeals section 815 of the Housing Act of 1954, which requires that every contract for a loan, grant, or contribution under the United States Housing Act of 1937 or title I of the Housing Act of 1949 contain a provision requiring the submission of specifications with respect to such construction prior to the award of the construction contract, and the submission of data with respect to the acquisition of land prior to the authorization to acquire the land.

### Retroactive repeal of section 10(j)

Sec. 205.—Makes the provisions of section 206(c) of the Housing Act of 1961, which repealed section 10(j) of the United States Housing Act of 1937, applicable retroactively. It would authorize the Secretary to agree with a public housing agency to amend outstanding contracts for annual contributions which, in accordance with section 10(j) when it was in effect, required that a proportionate part of the net proceeds of the operation or sale of a project be returned to the Federal Government after the public agency's obligations with respect to the project have been paid.

### Amendment to National Bank Act

Sec. 206.—Amends section 5136 of the Revised Statutes (12 U.S.C. 24), dealing with investment powers of national banks, to conform those provisions to changes made by section 201 of this Act, which would authorize more flexible financing terms with respect to the obligations of public housing agencies. National banks would be authorized to invest in obligations of public housing agencies secured by a combination pledge of both annual contributions under an annual contributions contract between such public housing agency and the Secretary and a loan under an agreement between such agency and the Secretary. To permit investment in such obligations, the amendment would also delete the present provision of the National Bank Act which limits investment in obligations secured by a pledge of a loan to short-term obligations which do not exceed eighteen months in duration.

### Amendment to Lanham Act

Sec. 207.—Amends section 606 of the Lanham Act so as to permit the payment of debt service annual contributions with respect to permanent war housing projects which have been transferred to and are now operated by local housing agencies.

### Effective date of title II

Sec. 208.—Provides that title II of the Housing Consolidation and Simplification Act of 1971 would be effective at such date as prescribed by the Secretary of Housing and Urban Development, but not later than six months after enactment thereof.

## Chapter III—Community Development

### Short title

Sec. 301.—Would cite chapter III of this bill as the Community Development Assistance Act of 1972.

### Findings and purpose

Sec. 302.—Sets Congressional findings that (1) the Nation's cities, towns, and smaller urban communities face critical social, economic and environmental problems arsing from the growth of population in urban areas and the concentration of lower-income persons in central cities; and inadequate public and private investment in planning physical facilities, public and private services.

(2) the Nation's future welfare depends on the establishment and maintenance of viable urban communities and declares that the purpose of this bill is to improve the present system of Federal assistance through simplifying and consolidating existing categorical programs and authorizing a new program to assure greater continuity of Federal support and to increase public and private investment in community development.

The new program is designed to support community development activities which are directed toward (a) conserving and expanding the Nation's housing stock, (b) eliminating slums and preventing deterioration of property and facilities, (c) achieving more national utilization of land, (d) expanding and improving the quality of community services, (e) restoring and preserving properties of special value, and (f) eliminating conditions which are detrimental to health.

### Definitions

Sec. 303.—Would define:

A community development agency as a State or other unit of general local government.

A unit of general local government as a city, county, or other general purpose subdivision of a State, or a consortium of such political subdivisions recognized by the Secretary. One or more public agencies, including existing local public agencies, may be designated by a unit of local government to undertake all or part of any community development activities assisted under the bill.

A metropolitan area as a standard metropolitan statistical area as established by the Office of Management and Budget.

A metropolitan city as a central city within an SMSA or one within a metropolitan area with a population of 50,000 or more persons.

Population as the total resident population according to U.S. Bureau of the Census.

Extent of poverty as the number of persons (or families and individuals) whose incomes are below the poverty level according to data compiled by the U.S. Bureau of Census, and to criteria established by the Office of Management and Budget.

Extent of overcrowding as the number of housing units with 1.01 or more persons per room according to U.S. Census data.

Program experience as the sum of the average of loans or grants received by a locality during the five preceding fiscal years under

Title II of the Housing Amendments of 1955

Title VII of the Housing Act of 1961

Section 702 of the Housing Act of 1954

Title VII of the Housing and Urban Development Act of 1965

Title I of the Housing Act of 1949

### Eligible activities

Sec. 304.—Sets forth a variety of activities which further the purposes of the Act as set forth in Section 302, including

(1) acquisition of property which is blighted or inappropriately developed; appropriate for rehabilitation or conservation; necessary for preservation, beautification, conservation or future development; to be used for public works, facilities or other public purposes.

(2) disposition of property at its fair value

(3) clearance or demolition of buildings

(4) acquisition, construction or reconstruction of community facilities

(5) designing and interim financing for the construction of certain public facilities

(6) relocation payments

(7) conservation and rehabilitation of existing properties through code enforcement and other programs

(8) development of surplus property

(9) provision of technical or financial assistance to persons or organizations participating in the planning and execution of community development programs

(10) provision of grants or loans for rehabilitation and conservation

(11) provisions of additional public services which are not otherwise available

(12) payment of related administrative costs

(13) payment of financial incentives to encourage the timely construction of community facilities

(14) carrying out unspecified activities necessary to the program

(15) payment of the Federal share of the cost of completing a project funded under Title I of the Housing Act of 1949.

### *Authorizations*

Sec. 305.—Subsection (a) would authorize the Secretary to incur obligations in an amount not exceeding $5.9 billion as approved in an Appropriation Act, beginning July 1, 1973. Authority to liquidate obligations would be limited to $2.7 billion prior to July 1, 1974, and $5.9 billion prior to July 1 1975, with sums appropriated remaining available until expended.

Subsection (b) would require the Secretary to report to the Congress annually, and to submit requests for (a) increased authorizations and any needed adjustments in the schedule for liquidation of obligations in a timely manner.

### *Allocation of Funds; Basic Grant Entitlement, Report*

Sec. 306.—Subsection (a) would require that 75% appropriated funds for community development be allocated to metropolitan areas.

Each metropolitan area would be eligible for annual grants in an amount which is the greater of (a) a basic grants entitlement amount or (b) a hold harmless amount.

Subsection (b) provides for the allocation of funds (1) to metropolitan areas and (2) to metropolitan cities according to a formula incorporating population, extent of poverty, extent of housing overcrowding and the extent of program experience.

Subsection (c) defines the hold harmless amount as an amount equal to the sum of the average during the five fiscal years preceding the date of enactment of (A) loans pursuant to title II of the Housing Amendments of 1955, (B) grants pursuant to title VII of the Housing Act of 1961, (C) advances pursuant to section 702 of the Housing Act of 1954, (D) grants pursuant to title VII of the Housing and Urban Development Act of 1965, and (E) grants pursuant to part A of Title I of the Housing Act of 1949; and the average annual grant made in accordance with part B of Title I of the Housing Act of 1949.

Subsection (d) would require the Secretary to adjust in an equitable manner the basic grant entitlement of any metropolitan city which would have an entitlement exceeding 135 percent of the city's hold harmless amount in the first year.

Subsection (e) provides for the retention and distribution of any remainder of a metropolitan area allocation within metropolitan areas.

Subsection (f) would provide that any nonmetropolitan city would be eligible for annual grants in an amount at least equal to its hold harmless if, during the five preceding years, one or more urban renewal or neighborhood development projects or programs were being carried out in the locality with assistance under title I of the Housing Act of 1949.

Subsection (g) would authorize the Secretary to distribute any unallocated funds to localities outside of metropolitan areas and to any locality to meet its hold harmless entitlement.

Subsection (h) would authorize the Secretary to make such adjustment as he deems necessary to maintain a distribution of funds consistent with the objectives of the Act in the event that the full amount of funds authorized to be appropriated are not available for obligation.

Subsection (i) would require the Secretary to report to the Congress his recommendations for modifying or expanding provisions related to the method and level of funding and the allocation of funds, the determination of the basic grant entitlement, and for the application of such provisions in the future distribution of funds under the Act.

### General requirements

Sec. 307 (a).—Would provide that financial assistance shall be granted only upon an annual application by a community development agency.

Each application would be required to contain:

(1) an outline of community development needs and objectives, and actions to be taken during the next three year period (a) to meet the housing needs of families who may reasonably be expected to seek housing in the community, (b) to prevent and eliminate slums and blight and upgrade neighborhoods through code enforcement and other community improvement programs; and (c) to improve and upgrade community services and facilities to meet the social needs of residents in areas affected by community development activities.

(2) a description of activities to be undertaken over the next 2-year period, the general location of these activities and requirements for federally-assisted housing units and rehabilitation loans.

(3) a certification that the applicant:

(A) has determined that the proposed program is consistent with local and areawide comprehensive development plans and national growth policies;

(B) has afforded, or will afford, adequate opportunities for public hearings prior to any acquisition of land, pursuant to reasonable prior notice; and

(C) has afforded adequate opportunity for citizens participation in the development of the anual application, and has provided for meaningful involvement of residents in areas affected by community development activities in the planning and execution of these activities, including provision of adequate information and resources.

(4) a report covering community development activities carried out during the previous year, their costs, and an assessment of these activities in relation to the community's development objectives stated in the previous application.

Subsection (b) would permit the Secretary to waive all or part of these requirements if the application is in behalf of a locality outside an SMSA having a population of less than 25,000 according to the most recent Census data; covers the first development activity carried out by the locality under this Act; is for a single development activity under the act (except for an urban renewal activity); and is determined by the Secretary not to be inconsistent with the purposes of the Act. Subsection (c)(1) would require that the Secretary make his determination with respect to any application and give written notice of his approval or disapproval within ninety days following submission of the application. Any application providing for renewal of revision of an on-going program would be deemed approved within ninety days after submission, unless the Secretary notifies the applicant in writing of his disapproval and sets forth the reasons with respect to performance by the applicant agency or the eligibility of proposed activities.

Subsection (c)(2) would provide that no application for assistance under the Act may be approved by the Secretary unless he has concluded that the community has set forth a meaningful program to meet its urgent development needs and to achieve the purposes of the Act, and has carried out its contractual commitments pursuant to previous applications.

Subsection (c)(3) would provide that the Secretary shall reserve funds to meet the housing requirements specified in the application, to the extent he deems it to be necessary and feasible.

### Grants

Sec. 308(a).—Would authorize the Secretary to enter into contracts to make grants to community development agencies for activities to be carried out within a two year period. No grant may exceed 90 percent of an agency's total net program cost. Where the program involves rehabilitation grants or relocation payments the grant may be increased, subject to prescribed limitations, to include either the full cost of making rehabilitation grants, or the full cost up to $25,000 for each displaced person for relocation. Non-federal contributions to the program cost must be in the form of cash grants, property donated at cash value, or public services or improvements at their cost.

Subsection (b) would exclude from the cost of carrying out community development activities the portion of that cost payable under any other Federal grant program.

Subsection (c) would define "rehabilitation grant" as a grant of under $4,000 made to a low-income owner-occupant to finance repairs and improvements necessary to conform the property to requirements of applicable codes or of the community development program.

### Loans

Sec. 309(a).—Would authorize loans at not less than the going federal rate to community development agencies to finance activities pending receipt of grant assistance. It also would provide interim financing for construction of public facilities. These funds may be obtained by issuance of obligations not to exceed $1,500,000,000, under conditions prescribed by the Secretary with the approval of the Secretary of the Treasury, who is further authorized to purchase and sell any of these obligations as public debt transactions.

Subsection (b) would authorize the Secretary to make rehabilitation loans where the rehabilitation is necessary or appropriate under an approved community development program.

### Consultation

Sec. 310.—Provides that the Secretary in carrying out the provisions of this Act shall consult with other Federal agencies which administer grant-in-aid programs.

### Technical assistance

Sec. 311(a).—Authorize the Secretary to provide technical assistance directly or through contracts to smaller communities in planning, developing and administering community development programs. He may use for demonstration purposes, smaller community programs being carried out under Model Cities or other community development programs.

Subsection (b) would require the Secretary to report to the Congress within 180 days his findings and recommendations with respect to:

1. Existing and recommended programs of federal, state and local governments relating to community development in smaller communities as defined above;

2. The significance of such programs as they relate to the relief of acute problems in communities of greater population, and population density;

3. The need for unified federal agency coordination, control or direction of such programs;

4. The extent to which the Department should be involved in such coordination, direction or control and the manner and method of such participation;

5. The appropriate allocation of federal funds and resources as between the community development of rural areas as herein defined and community development in urban areas.

Subsection (c) would define the term smaller community to mean any municipality or other political subdivision having a population of 50,000 or less according to the most recent census.

### Labor standards

Sec. 312.—Provides that the provisions of section 109 of the Housing Act of 1949, relating to the protection of labor standards, will apply to the administration of this Act.

### Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

Sec. 313.—Extends the definition of a person displaced as the result of the acquisition of real property to include those who discontinue business or move from their dwelling as a direct result of activity assisted under the Community Development Assistance Act of 1972.

### Interstate agreements

Sec. 313.—Approves multi-state agreements and agencies for cooperative effort in support of community development programs which have an interstate impact.

### Effective Date; Transitional Termination of Existing Programs

Sec. 314.—Provides that this Act is to take effect on the date of enactment, and that after June 30, 1973 no new grant or loans are to be made except where funds have been committed before that date pursuant to title II of the Housing Amendments of 1955; title VII of the Housing Act of 1961; section 702 of the Housing Act of 1954; title VII of the Housing and Urban Development Act of 1965; and title I of the Housing Act of 1949. An amendment would be made to Section 3689 of the Revised Statutes to deal with payments pursuant to contracts entered into under section 103(b) of the Housing Act of 1949. The Secretary would be authorized to transfer assets and liabilities of superseded or nonactive programs to a revolving fund for liquidating programs.

## Chapter IV—Comprehensive Planning and Related Programs

### Comprehensive Planning

Section 401 would revise section 701 of the Housing Act of 1954, the program to provide assistance to State and local governments in solving planning and related problems. The revised section 701 would permit expanded uses of funds by grantees and provide specific procedures for implementing the program.

Subsection (a) would amend section 701(a) to state the purposes of the program to include assistance to general purpose units of government and regional combinations thereof in developing the management capacity to implement plans to solve planning problems; and also to encourage the development of a more rational process for setting policy objectives, designing, and overseeing programs to meet these objectives, and evaluating the progress of such programs. It would also provide that grantees could be (1) States for planning assistance to local governments; (2) States for State and interstate activities; (3) Cities of fifty thousand or more; (4) area-wide organizations; (5) Indian tribal groups or bodies; and (6) other governmental units or agencies having special planning needs. The activities undertaken pursuant to the grants made under this section would specifically be made subject to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (Coordination of Federal aids in Metropolitan areas) and Section 401 of the Intergovernmental Cooperation Act of 1968 (Declaration of development assistance policy).

Section (b) would amend section 701 by providing specific activities which may be undertaken with grant money. These include the developing and improving of management capability directly necessary to implement the plan, and the developing of a policy-planning-evaluation capacity to enable a recipient to more rationally determine its needs, set goals and objectives, devise appropriate programs, and evaluate its progress. Each recipient would be required to carry out an ongoing planning process, including provision for public hearings and other citizen participation. A comprehensive plan would be required to be developed which must include, at a minimum, a housing element, a five year capital program element and a land use element. For each element, objectives, programs and progress would be required to be stated.

The Secretary would be authorized to make annual grants upon application. The annual application would include a description of the applicant's work program and an evaluation of progress in meeting its plan objectives during the previous two years, and any changes made. The Secretary would not be authorized to make any grant to applicants which have not made a good faith effort to implement their plan's objectives, and, after three years, to state, cities and areawide organizations whose comprehensive planning does not have the required elements.

Grants could not exceed 80 percentum of the program costs. Appropriations would be authorized to $470,000,000 in fiscal 1972, $607,000,000 in fiscal 1973 and $807,000,000 in fiscal 1974, 30 percentum of the first $125,000,000 appropriated and 25 percentum of any excess appropriation would be required to be available for grants solely to areawide organizations.

There would also be provision for the encouragement of regional planning and for the Secretary to require assurances that the recipient agencies are making progress in the development of the elements of comprehensive planning. Provisions would also be made for interstate compacts.

In addition, specific authorization would be given to the making of grants to organizations composed of public officials representative of the political jurisdictions within the metropolitan area, region, or district to carry on activities such as the collection of data and developing plans, and other activities found by the Secretary to be necessary or desirable.

There would also be authority to make grants for surveys and acquisition of structures and sites of historic or architectural value. Grants would not be available for acquisition (except historic structures), construction repair, or rehabilitation of, or the preparation of engineering or similar drawings or specifications for, specific housing, capital facilities, or public works projects.

The Secretary would be directed to consult with other Federal agencies with respect to general standards and procedures, and any specific project which might be of interest to a particular agency. Provision would also be made for joint funding.

In the definitions, comprehensive planning would include (1) the preparation of general plans with respect to land use, public facilities, and the development and utilization of human and natural resources; (2) identification and evaluation of area needs, and the formulation of appropriate programs; (3) surveys of historic structures; (4) long range physical and fiscal plans; (5) programming of capital improvements; (6) coordination of related activities; and (7) preparation of appropriate regulatory and administrative measures.

### Coordination of Federal Aids in Metropolitan Areas

Sec. 402(a).—Would amend section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 to include comprehensive planning as a covered activity and to redefine the review agency as the areawide agency which has prepared or is in the process of preparing a metropolitan or regional plan for the area and which is predominantly composed of elected officials of a unit of areawide government or the units of general local government in the area.

Subsection (b) would further amend section 204 to require Federal agencies administering applicable programs to report to the Congress concerning the administration of this section and of title IV of the Intergovernmental Cooperation Act. The report would include the number of applications governed by this section's regulations, and the number accompanied by appropriate comments. It would also require the report to include the action taken on each application and the length of time after agency action that the applicant is notified. The report would also include an evaluation of the effectiveness of this section.

### Training and fellowship programs

Sec. 403—Would amend title VIII of the Housing and Urban Development Act of 1964. Subsection (a) would amend section 801(b) to state the expanded purpose of title VIII. Subsection (b) would amend section 802(a) to authorize the Secretary to provide fellowships for the graduate training of professional city planning, management, and housing specialists, and other persons who wish to develop a general capacity in urban affairs. The training may include architecture, civil engineering, economics, municipal finance, public administration, urban affairs, and sociology.

It would further amend title VIII by inserting a new section to provide project grants and contracts. These grants would be to institutions of higher education to assist them in developing the appropriate graduate programs of the type for which fellowship grants could be given. An institution of higher learning would be required to submit an application, which would include its proposed program, in order to be eligible for a grant. Grants could be used by the institution to pay part of the compensation of students employed in professional positions. The grant authorization under title VIII would be increased to $45,000,000.

## Chapter V—Rural Housing

### Prepayment of taxes and insurance

Section 501 of the bill amends Section 502 of the Housing Act of 1949 to permit rural housing borrowers to pay taxes and insurance to the Secretary as escrow agent. It would also amend Section 517 of the Act to authorize the Secretary to remit to lenders annually or semiannually collections received from borrowers on a monthly basis.

### Use of inpectors and appraisers

Section 502 of the bill permits the Secretary to use fee inspectors and appraisers under contract. Funds for paying such inspectors and appraisers could be made available from the rural housing insurance funds.

### Vietnam era veterans preference

Section 503 of the bill amends section 507 of the Housing Act of 1949 to include post-Korean and Vietnam veterans under the definition of veterans and families of deceased servicemen entitled to preference under the Act.

### Legal services

Section 504 of the bill amends section 510 of the Housing Act of 1949 to require the Secretary of Agriculture to accord to all qualified attorneys an equal opportunity to participate in closings of title V loans.

### Assistance authorization

Section 505 of the bill amends section 513 of the Housing Act of 1949 to increase the authorization for farm worker's housing grants by $250 million through June 30, 1974.

### Mobile homes

Section 506 of the bill authorizes rural housing loans to finance mobile homes as well as individual sites for small homes under terms applicable to HUD-insured loans for the same purposes.

### Assistance payments for low income tenants

Section 507 of the bill authorizes the Secretary to make assistance payments under Title V of the Housing Act of 1949 to achieve the same results for lower income families and for very low income families as could be achieved under comparable provisions authorized under HUD's assisted programs.

## Chapter VI—Urban Mass Transportation

Section 624 would amend the Urban Mass Transportation Act of 1964 in order to provide additional assistance to local transit systems.

(a) Increases the federal share in both the long range and emergency programs providing assistance for transit facilities and equipment to 90 percent of net project costs.

(b) Authorizes the Secretary, on such terms and conditions as he prescribes, to make grants or loans to any State or local public body to enable it to assist any mass transit system maintaining service in an urban area to pay operating expenses incurred as a result of providing such service. The Secretary would be prohibited from providing financial assistance under the act unless (1) he determines that services provided by the system involved are essential and (2) the applicant public body has submitted a plan for improving transportation service and placing operations on a sound financial basis.

The amount of any grant for operating expenses would be limited to an amount twice the amount of financial assistance provided from State or local sources. The Secretary would be required to issue regulations to administer this subsection in an equitable manner.

## Chapter VII—Miscellaneous

### Model cities program

Subsection 701(a) amends the Demonstration Cities and Metropolitan Development Act of 1966 to delete the requirement that grants to the city demonstration agency should not exceed 80 per cent of the aggregate amount of non-Federal contributions required to be made to Federally assisted projects, and the requirement that such non-Federal contributions be certified to the Secretary.

(b) Authorizes $400,000,000 for the fiscal year ending June 30, 1974.

Extends the period in which authorization would be available from July 1, 1972, to July 1, 1974.

Subsection (d) would express the sense of Congress that so far as possible the Model Cities Program should attempt to place unemployed aerospace workers in vacant positions in city government.

### Labor standards exception

Sec. 702.—Amends the Davis-Bacon Act to provide that the labor standards requirements of the Act do not apply to contracts of less than $5,000, for the repair of one- to four-family dwellings which have been acquired by the Secretary of HUD under a mortgage insurance contract.

### New Community Development Corporation

Sec. 703.—Amends Title VII of the Housing and Urban Development Act of 1970 to change the name of the Community Development Corporation to the "New Community Development Corporation."

### Interstate Land Sales

Sec. 704.—(a) Amends Section 1402 of the Housing and Urban Development Act of 1968 to extend the land sales regulatory requirement to land located in foreign countries and to commerce involving foreign countries.

Extends the exemptions from this title to those who hold land as fiduciaries and who must file a statement of record, where the Secretary finds that enforcement of this title is not necessary.

Extend the period during which a purchaser may revoke an agreement to purchase or lease land if he has not received a timely property report from forty-eight hours to seventy-two hours, excluding weekends and holidays. It also deletes the language which provides that the contract may stipulate that a revocation may not be made where the purchaser acknowledges that he has inspected the land and read the report before signing the contract.

### Amendments to National Flood Insurance Act of 1968

Sec. 705.—Amends the National Flood Insurance Act of 1968 to increase the maximum amount of flood insurance outstanding at any time from $2,500,000,000 to $4,000,000,000 on July 1, 1972. It also deletes the provision which states that the Secretary's payments to the industry flood insurance pool shall be based only on the aggregate amount of insurance retained by the pool after ceding reinsurance, and which sets a maximum aggregate amount for the payments.

### College housing program

Sec. 706.—Amends Title IV of the Housing Act of 1950 by deleting the proviso which sets a limit on the amount of notes and obligations outstanding for hospitals and which states that the amount not utilized for loans to hospitals may be used for loans to other educational facilities.

It also would amend the section which limits the amount of grants payable to educational institutions by providing for further increases of $4,300,000 on July 1, 1972 and $10,000,000 on July 1, 1973.

### Surplus property

Sec. 707.—Amends section 414 of the Housing and Urban Development Act of 1969. Under the amended section any surplus real property may be made available for land development in furtherance of a new community development or to provide housing and related facilities.

Property to be used for housing may be sold or leased by the Secretary at its market value, or at its fair value for use in providing low and moderate income housing. Property to be used for other purposes may be disposed of in accordance with applicable law. If the land is sold or leased at less than market value, the Secretary must take steps to assure that it is used for the purpose approved, and must give the local governing body an opportunity to object to the sale or lease. The Secretary must inform interested Congressional committees when a sale or lease under this section occurs.

### Flexible interest rate authority

Sec. 708.—Extends from June 30, 1972 to June 30, 1974 the Secretary's authority to set maximum interest rates as necessary to meet the requirements of the mortgage market.

### Urban renewal

Sec. 709.—Amends section 103(a)(2)(B)(i) of the Housing Act of 1949 to authorize three-fourths grants to localities then drop to less than 50,000 population prior to the final grant program.

Provides for additional increases in the total contract authority of $650,000,000 on July 1, 1972 and $300,000,000 on July 1, 1973.

Provides that the amendments made by subsection (a) will apply to contracts entered into on or after the date of enactment of this Act, or to contracts previously entered into if the final payment has not yet been made by the date of enactment.

### Housing for the elderly or handicapped; deputy assistant to elderly housing

Sec. 710.—Increases the appropriation authorization for the loan program for the elderly or handicapped to $750,000,000.

Provides for Deputy Assistant Secretary for Housing Production and Mortgage Credit for Elderly Programs in the Department of Housing and Urban Development, who would be responsible in the administration of programs designed to provide housing for the elderly.

### National Institute of Building Sciences

Sec. 711.—States the feeling of the Congress that there is need for a single nationally recognized institution to evaluate and make recommendations concerning use of new technology in housing and building regulation. Such an organization could provide a national solution present problems of inconsistency and inefficiency which result from purely local efforts to regulate building practice and to utilize technological advances. Care would have to be taken to encourage and utilize present efforts in this direction by various private and governmental groups. With this consideration in mind, the Government, with the advice of the National Academy of Sciences—National Academy of Engineering—National Research Counsel (to be referred to as the "Academies—Research Council") and various other groups, would create a non-governmental instrument to serve the function described above.

Authorizes the establishment of a nonprofit, nongovernmental instrument to be known as the National Institute of Building Sciences. The Academies—Research Council and other knowledgeable organizations will assist in its formation and in the development of an organizational framework which would encourage the participation of groups now engaged in related activities. Efforts would be made to include in the Institute's operations the widest possible variety of interests and experience, and to obtain recommendations and assistance from entities presently operating in the field. The Academies—Research Council need not itself assume any function or operation of the Institute.

Subsection (c) would provide for a Board of Directors of the Institute of between 15 and 21 members, appointed by the President with the advice and consent of the Senate, and would establish the conditions under which members would serve. An effort would be made to fairly represent diverse geographical areas and interests. A Consultative Council would be established with members from interested private and public bodies, to serve as a connection between these groups and the Institute.

Sets limitations on the financial and political activities of the Institute.

Describes the responsibilities of the Institute to include the areas of: development and promulgation of nationally recognized criteria which might be adopted by regulating bodies; of evaluation of new and existing technology; appropriate investigation; and dissemination of information. As much as possible of this work should be delegated to organizations capable of performing it, and the Institute should promote coordination of its efforts with other programs being carried on in the public interest, and use of its findings and recommendations.

Provides that the Institute may accept grant and donations, and may establish fees and other charges for its services in addition to its initial appropriation.

Provides that all federal agencies involved in building and construction should be encouraged to make use of the Institute's work, as should all Federally assisted projects and programs. Such agencies would be authorized to contract with or request grants to the Institute for support and services. Efforts would be made to encourage or assist states to modify laws to conform to the Institute's findings, and to develop training programs for building officials and technical advisers.

Authorizes an appropriation for initial capital of $5,000,000 for each of the first two years after enactment, $3,000,000 for each of the next two, and $2,000,000 for the fifth. After this five-year period the Institute would be financially self-sustaining.

Subsection (i) would provide for an annual report to the President and the Congress.

### Closing costs

Sec. 712.—Amends section 701 of the Emergency Home Finance Act, to provide that the Secretary shall publish standards for allowable closing costs paid by buyer and seller in connection with the financing of one to four family housing which is assisted under the Revised National Housing Act, the National Housing Act, or chapter 37 of title 38 of the United States Code, or which is covered by a mortgage purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation. No mortgage would be insured under these Acts or purchased by these organizations unless the closing costs charged conform to these standards. Standards would be based on estimates of reasonable charges for services, would be consistent within any area, and would be determined after a hearing. An exemption could be made for all transactions in a State where aggregate closing costs are within acceptable limits. The Secretary may make recommendations to Congress for legislation to reduce or standardize closing costs. The standards herein required shall be published within 180 days after enactment of this Act.

### Housing goals and annual housing report

SEC. 713.—Amends section 1601 of the Housing and Urban Development Act of 1968 to express the feeling of Congress that the achievement of housing goals requires better use of the existing housing stock. It also would authorize the Secretary to encourage the formation of state and local housing goals, formulated to include both area production requirements and needed housing preservation activity. Such goals should indicate the number and type of housing needed, the programs which might be utilized, the impediments likely to be encountered, and locational plans which increase employment opportunity.

Subsection (b) would add a requirement for timely Presidential reports to Congress indicating appropriate changes in the ten-year Presidential plan for elimination of substandard housing and realization of goals. These changes would reflect state and local goals and community development needs.

Subsection (c) would extend the scope of the President's annual report to Congress to include a contingency plan for provision of required mortgage credit, an analysis of changes affecting housing costs borne by occupants, and an analysis of annual changes in the national housing investory. The Bureau of the Census would make whatever annual surveys are necessary to obtain current information.

### Section 714—Community Development Guarantees

This section would increase the authority of the Secretary to guarantee bonds or other obligations to finance property acquisition and development pursuant to the new community development programs to the sum of $500,000,000 prior to July 1, 1972, increased to $558,000,000 on July 1, 1972 and to $858,000,000 on July 1, 1973.

### Section 715—Neighborhood Facilities Grants

This section would add an authorization for neighborhood facilities grants of up to $14,000,000 for the fiscal year beginning July 1, 1972. Amounts authorized for any fiscal year but not appropriated may be appropriated for any succeeding year beginning to July 1, 1973.

### Interim authorizations for low-income housing assistance

Sec. 716.—Provides an increase in the aggregate amount of outstanding contracts authorized under section 235 of the National Housing Act of $115,000,000 on July 1, 1972. It would similarly increase authorization for section 236 of the same Act by $225,000,000 on July 1, 1972.

### Assistance to nonprofit sponsors of low- and moderate-income housing

Sec. 717.—Increases the amount authorized to be appropriated for the provision of information, advice and technical assistance to nonprofit sponsors by $25,000,000 for the fiscal year ending June 30, 1973, and $30,000,000 for the fiscal year ending June 30, 1974. These amounts would remain available until expended. It also would increase the amount authorized to be appropriated for loans to nonprofit organizations to cover expenses of planning and arranging financing for construction or rehabilitation of low- and moderate-income housing by $10,000,000 for the fiscal year ending July 1, 1973 and by $15,000,000 for the fiscal year ending July 1, 1974.

### Interim authorization for public housing

Sec. 718.—Increases the authorization for the United States Housing Authority to enter into contracts for annual contributions by $300,000,000 on July 1, 1972.

### Government National Mortgage Association

Sec. 719.—Increases from $22,000 to $26,000 per dwelling unit covered by the mortgage the limitation on the amount of the original principal obligation of a mortgage which the Association may purchase under certain enumerated statutory provisions. These include section 305 of the National Housing Act, except for a mortgage insured under section 220 or title VIII; title X of the same Act when the mortgage is insured under that title with respect to a new community approved under section 1004 thereof; and section 213 of the same Act when the insured mortgage covers property located in an urban renewal area. The limitation would also apply to mortgages covering property located in Alaska, Guam, or Hawaii.

### Federal National Mortgage Association

Sec. 720.—Sets September 1, 1968 as the effective date on which the original Federal National Mortgage Association was divided into two entities the Federal National Mortgage Association and the Government National Mortgage Association.

Provides that the principal office of the FNMA be located in the District of Columbia or its metropolitan area, though for venue purposes it shall be considered a District resident.

Allows purchase of a conventional mortgage with the outstanding balance exceeding 75 per cent of value when the excess over 75 per cent is insured by a qualified insurer, rather than a qualified private insurer as in prior law.

Provides that limitations on the maximum obligation of mortgages purchased should be comparable to the limitations of section 5(c) of the Home Owners Loan Act of 1933.

Eliminates from the capitalization of FNMA the initial nonvoting preferred stock.

Amends the language of the section dealing with FNMA capitalization to reflect the effective date set in subsection (a) of this Act. It would make another change to reflect the elimination of preferred stock. Subsection (h) similarly would delete provisions relating to the preferred stock.

Allows FNMA to purchase mortgages with respect to which the Secretary has contracted to make interest subsidy payment under section 243 of the National Housing Act.

Provides that employees subject to civil service retirement law who become employed by FNMA prior to January 31, 1972 will continue under such law.

Repeals subsections (b) and (c) of section 810 of the Housing and Urban Development Act of 1968, which set forth transitional provisions relating to the operations of the FNMA.

### Expenditures to correct or compensate for substantial defects in mortgaged homes

Sec. 721.—Amends section 518(b) of the National Housing Act to authorize the Secretary to make expenditures to correct or compensate for defects which affect the liveability of a single-family dwelling covered by a section 235 mortgage which was at least one year old when the insurance commitment was issued. The owner in such a situation must request assistance within one year after mortgage insurance, or within six months after enactment of this Act if the mortgage predates enactment, and the defect must have existed on the date of mortgage insurance and must have been of such a nature that proper inspection would have disclosed it. Compensation or defect correction may also apply when the mortgage was insured under section 221(d)(2) less than two years prior to enactment of this Act, if the owner requests assistance within one year following enactment and the defect is of such a nature as described above. The Secretary may require from the seller an agreement for reimbursement of payments made under this provision.

### Federal Reserve Act

Sec. 722.—Rewrites section 24 of the Federal Reserve Act to provide flexibility to national banks which make real estate loans. It would authorize the Comptroller of the Currency to establish additional safeguards by regulation if necessary.

### Expansion of experimental housing allowance program

Sec. 723.—Amends the Housing and Urban Development Act of 1970 to direct the Secretary to undertake an experimental program to demonstrate the feasibility of providing low income families with housing allowances with which they could obtain housing of their choice. As part of this program the Secretary could make allowance payments to families in localties where there is an adequate supply of housing units. The program should test and evaluate different types of allowances and different procedures for providing such allowances. Attention should be given to the impact of this operation on rent levels and on housing availability and services. The authorization for appropriation would be increased to an amount not exceeding $25,000,000 in each of the fiscal years 1972, 1973, and 1974. Further reports to the Congress would be required. The deadline for allowance payments would be extended from June 30, 1973 to June 30, 1974.

### Rehabilitation loans

Sec. 725.—Extends the deadline for payment of a rehabilitation loan under section 312 of the Housing Act of 1964 from June 30, 1973 to June 30, 1974. This limitation would not apply to loans made pursuant to a contract or obligation entered into prior to this date.

### Extension of open space program

Sec. 726.—Provides an extension from June 30, 1972 to June 30, 1974 of activities under the open space program.

### Extension of FHA programs

Sec. 727.—Provides an extension in the authorization for all programs administered by the Federal Housing Authority, with the exception of programs administered under Section 243, 221(i), and 221(j), to January 1, 1973. The authorization for the programs excepted would be continued indefinitely.

**Mr. CRANSTON.** Mr. President, S. 3248 represents 2½ years of committee hearings and consideration. I would like to thank the chairman and the committee staff for their considerable efforts and assistance in behalf of my proposals which have taken the form of amendments to the act.

The act was introduced to simplify and improve the vast array of Federal housing laws. Builders, bankers, and citizen groups have been bogged down and slowed up by overlapping and often antiquated housing laws. This bill will reduce this overlap and will speed up processing of FHA housing applications. We cannot afford to have housing applications stalled.

Our primary consideration is to help the people in general and the home buyer, by making it possible to produce new homes as quickly as possible to meet our Nation's housing needs. Too many Americans are suffering, deeply, because they are without decent housing. The Department of Housing and Urban Development estimates that we need 3 million new housing units each year, until 1980, to provide a decent household for every citizen. The flow of funds and opportunities into the housing field must be speeded up to meet this demand.

At the same time we simplified our Federal housing laws, we adopted several provisions to improve those laws. I introduced a series of amendments to improve federally assisted housing for the elderly. One of these amendments would assure that 30 percent of all federally assisted elderly housing will be constructed in housing units where citizens of all ages reside. A recent book titled "The Last Segregation," reported the sorry story of our senior citizens who are segregated from the rest of our society. Elderly citizens have repeatedly told me that they wish to live near and work with citizens of all ages. We must give them that chance. We must end the last segregation. This provision is the first step of many I plan to take to achieve that goal.

A sad fact of life, and one which has been too long ignored, is that 20 percent of our Nation's poor are elderly. We have a clear responsibility to provide decent housing to this group of people. Accordingly, another proposal I introduced provided that at least 15 percent of all federally subsidized housing for the poor, be set aside for those who are both elderly and poor. The committee adopted that proposal.

Another provision of the new bill I introduced provides for the construction of common dining facilities to serve both residents of elderly housing projects and elderly individuals who live in the neighborhood near the projects.

These facilities will help solve the dilemma of those elderly wanting to live independently, but yet being unable to shop, carry packages, and cook their own meals every day. It will also provide these citizens with desired companionship at meals.

Three other provisions I introduced which were adopted call for: First, higher construction costs for elderly facilities to pay for such needed additions as elevators, handrails, et cetera, second, rent supplements for up to 60 percent of the residents of elderly housing units in order to provide more housing opportunities for the 4.7 million elderly who live below the poverty line, and third, the requirement that regulations for elderly housing be promulgated within 90 days of passage of this Act in order to speed processing of hundreds of applications for such housing which have been backlogged by the failure of HUD to produce such guidelines.

Finally, along with Senators Harrison Williams of New Jersey and Charles Percy of Illinois, I sponsored an amendment which will create a Deputy Assistant Secretary of Housing for the Elderly. I felt it to be essential for the needs and interests of our senior citizens to be represented at the highest levels of Government. This proposal was made at the suggestion of elderly citizens who attended the White House Conference on Aging.

Together with my colleague, Senator Taft of Ohio, I introduced a second major amendment to the housing bill to facilitate the rehabilitation of housing in transitional neighborhoods.

Twenty-six million new housing units are needed by 1978, according to the Department of Housing and Urban Development's national housing goal report. It is estimated that between 17 to 21 million new units are likely to be completed by that same year. That means we will fall short of our needs by as much as 9 million units.

HUD also estimates that between now and 1978, 8.5 million units now in use will be eliminated from the housing supply, thus worsening the shortage. We must save a large portion of these units to avoid adding to the crisis.

Not all substandard housing can be saved, but where buildings are located in transitional or improved neighborhoods, refinancing should be available to restore these homes and apartments to extend their useful lives.

The Cranston-Taft rehabilitation proposal provides Federal guarantees for refinanced loans on homes and apartments in transitional neighborhoods. All additional money made available by the refinancing must be used to bring the homes and apartments up to a fully habitable and safe condition. The legislation contains safeguards to assure these buildings are properly maintained for the life of the loan. If, for instance, expensive emergency repairs are required during the life of the loan, supplemental loans would be made available to the owner to make needed repairs.

A third bill included in the reported legislation will create a National Institute of Building Science. This bill was introduced by Senator Javits of New York, and myself. It would create a National Testing Center to examine new building materials. The Institute's findings will be made available to local code enforcement agencies in cities across the Nation. By providing centralized testing, we will avoid the repetition and expense of doing this work in each city individually. Cities could cross-check the Institute's results to determine their applicability in each local area.

Together with Senator Hollings of South Carolina, I supported two further provisions of the housing bill to help insure plots where mobile homes will be located. Mobile homes provide the only available residences for many low- and moderate-income citizens. Mobile homes are essential alternatives for residential living, in light of our present housing shortage. Even where purchasers can afford mobile homes, however, they are often unable to purchase lots where their homes can be placed. This bill provides Federal guarantees to permit the purchase of mobile home lots. These lots must be large enough in size to prevent overcrowding. The FHA is directed to develop environmentally sound plans for trailer lots and locations.

Another provision of the legislation which I introduced and which was approved by the committee provided compensation to residents of low and moderate income housing which was insured by the FHA but which had not been properly inspected by the Federal Government. In 1970, I introduced similar legislation to provide compensation for purchasers of FHA 235 housing. This amendment extended this protection to purchasers of FHA 221 housing and extended the time to file for compensation under the 235 program.

Two other bills which I sponsored, were assigned for hearings and further consideration during the committee executive meetings. S. 735 provided a mortgage mortarium of 1 year for unemployed homeowners in areas of high unemployment. The bill was intended to provide assistance for employees such as aerospace workers who had long work records, large investments in homes, but were temporarily displaced by shifting governmental and economic priorities.

The administration intends to introduce an alternative mortgage payment insurance program. They requested that my bill be delayed until the committee could consider their proposal. The committee acceded to that request. I intend to press forward for favorable consideration of my proposal.

The second bill assigned for further committee consideration was an earthquake insurance program introduced by my colleague, Senator Tunney of California, and cosponsored by myself and Senator Bayh of Indiana. Earthquake insurance is essential to assure the availability of homebuilding in some areas of California. At the same time, we must provide the means to insure against losses from an earthquake to builders and homeowners throughout the State.

Finally, this bill contains a resolution sponsored jointly by Senators Chiles of Florida, Brooke of Massachusetts, and myself stating that to the maximum extent feasible the Federal Government should employ the talents of aerospace workers to develop improved systems and machinery for the operation of city governments.

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## APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. Taft). The Chair, on behalf of the Vice President, appoints the Senator from Utah (Mr. Moss) as an alternate to the United Nations Conference on the Human Environment, to be held in Stockholm, Sweden, June 6–16, 1972, Vice Senator Muskie resigned.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

(The remarks that Mr. Long made at this point on the introduction of S. 3265 and S. 3266 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

## TRIBUTE TO SENATOR A. WILLIS ROBERTSON

**Mr. LONG.** Mr. President, I would like to express my sense of loss on the death of Senator A. Willis Robertson.

Willis Robertson was both my friend and colleague. His passing is a loss not only to those who knew him personally, but to the Nation as well.

Senator Robertson served the Commonwealth of Virginia with honor for over half a century. His career of public service, beginning in the State Senate of Virginia in 1916, culminated with 20 distinguished years in this body. It was my privilege to serve with him 18 of those years.

Although he will be best remembered for his able chairmanship of the Committee on Banking, Housing, and Urban Affairs, Senator Robertson was also a leader in the field of ecology. His protection of our Nation's natural resources and the legislation he authored on conservation demonstrated that he was a man ahead of his time. He has become an inspiration to many Americans who are working to preserve the natural beauty of this great country.

At this point, I would like to quote from President Nixon's message of condolence which, I think, expresses the feelings of those who knew him:

> Senator Robertson was a distinguished figure in public life, a man of profound conviction, and wholly dedicated to the nation he served with such honor. Those of us who were fortunate to have worked with him will always remember Senator Robertson with warm affection and with great respect for his devotion to the fundamental principles upon which this country was founded.

## ORDER OF BUSINESS

**Mr. SPARKMAN.** Mr. President, the Senator from Wisconsin (Mr. PROXMIRE) is scheduled to speak next. I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

**Mr. BYRD of West Virginia.** Mr. President, would the distinguished Senator withhold that request?

**Mr. SPARKMAN.** Mr. President. I withhold my request.

**Mr. BYRD of West Virginia.** Mr. President, without any infringement of the rights of the distinguished Senator from Wisconsin, I take the floor at this time to make various unanimous-consent requests.

**The PRESIDING OFFICER (Mr. TUNNEY).** The Senator from West Virginia is recognized.

## ORDER FOR ADJOURNMENT TO 9:45 A.M.

**Mr. BYRD of West Virginia.** Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. tomorrow.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR PERCY TOMORROW

**Mr. BYRD of West Virginia.** Mr. President, I ask unanimous consent that on tomorrow, following the recognition of the two leaders under the standing order, the distinguished Senator from Illinois (Mr. PERCY) be recognized for not to exceed 15 minutes.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

**Mr. BYRD of West Virginia.** Mr. President, I ask unanimous consent that at the conclusion of the remarks by the Senator from Illinois (Mr. PERCY) on tomorrow, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR TOWER TOMORROW

**Mr. TOWER.** Mr. President, will the distinguished Senator from West Virginia yield?

**Mr. BYRD of West Virginia.** I yield.

**Mr. TOWER.** Mr. President, it was also understood, but not propounded in the form of a unanimous-consent agreement that I be recognized on the unfinished business on tomorrow. Would the Senator mind putting that in the form of a unanimous-consent request?

**Mr. BYRD of West Virginia.** I would be pleased to do so.

Mr. President, I ask unanimous consent that when the unfinished business is laid before the Senate tomorrow, the distinguished Senator from Texas (Mr. TOWER), be recognized.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## REFERRAL OF S. 2013 TO THE COMMITTEE ON VETERANS' AFFAIRS FOR 30 DAYS

**Mr. BYRD of West Virginia.** Mr. President, I ask unanimous consent, having cleared this matter with the chairman of the committee, the Senator from Alabama (Mr. SPARKMAN) and with the distinguished ranking minority member of the committee, the Senator from Texas (Mr. TOWER), that calendar 647, S. 2013, a bill to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans, be referred to the Committee on Veterans' Affairs .

**Mr. SPARKMAN.** Mr. President, reserving the right to object, and I do not intend to object, that is referred to the committee for them to look it over and report it back, I gather. In other words, it is not taking it away from our committee except to give them the right to join us in the consideration of the measure.

**Mr. BYRD of West Virginia.** Mr. President, I presume that is correct. I really cannot answer the question. I am sure that the distinguished chairman of the committee probably knows whereof he speaks in propounding the question.

**Mr. SPARKMAN.** I just want to say that is my understanding. This legislation represented in the bill originated in our committee many years ago, 25 years ago to be exact. We do have the right to handle it. However, since that time, in fact, just last year, the Veterans' Affairs Committee was set up. That committee is given the right to legislate regarding veterans affairs. However, and I am not raising this as an issue at this time, I think we ought to keep it in mind that in the Senate rules laying down the jurisdiction of the Committee on Banking, Housing and Urban Affairs, it says that our committee shall have jurisdiction over housing. There is no provision in the rules relating to the Veterans' Affairs Committee that gives them the right to have jurisdiction over housing, but only over veterans affairs. However, I respect the committee and its interest in this legislation. Therefore, I have no objection to its referral. I do hope the committee will report it back with such suggestions as they have.

**Mr. BYRD of West Virginia.** Mr. President, I thank the Senator for his statement.

**Mr. SPARKMAN.** Mr. President, while the Senator from West Virginia is on his feet, I really meant to ask him also about this matter. Should there not be a time limitation within which they should report the bill back? I believe that is usual. I wonder if the Senator would propound a further unanimous consent to that extent.

**Mr. BYRD of West Virginia.** I would be glad to do so. Does the distinguished Senator have a suggestion? Does he think 30 days would be satisfactory?

**Mr. SPARKMAN.** I should think 30 days would be satisfactory.

**Mr. BYRD of West Virginia.** Mr. President, very well. I ask unanimous consent, Mr. President, that the referral to the Committee on Veterans' Affairs be with the understanding that the measure be reported back to the Senate within 30 days.

**Mr. CRANSTON.** Mr. President, reserving the right to object, I did not hear the prior discussion. I am interested in this matter because I am on both the Banking, Housing, and Urban Affairs Committee and the Veterans' Affairs Committee.

**Mr. SPARKMAN.** Mr. President, we are referring a bill which we have reported amending a law which originated in our committee. We are referring that bill to the Veterans' Affairs Committee for its consideration, with the Veterans' Affairs Committee to report back, as the Senator from West Virginia has stated, within 30 days.

**Mr. BYRD of West Virginia.** I thank the distinguished Senator.

**The PRESIDING OFFICER.** Without objection, the unanimous-consent reqests of the Senator from West Virginia are agreed to.

## QUORUM CALL

**Mr. BYRD of West Virginia.** Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, for the record, what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending bill is presently open to amendment. The bill is S. 3248, the Housing and Urban Development bill.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

### ORDER FOR RECOGNITION OF SENATOR BEALL ON FRIDAY, MARCH 3, 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Friday, following the recognition of the two leaders under the standing order, the distinguished Senator from Maryland (Mr. BEALL) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON FRIDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the remarks of the distinguished Senator from Maryland (Mr. BEALL) on Friday, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m. After the two leaders have been recognized under the standing order, the distinguished Senator from Illinois (Mr. PERCY) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 3248.

Following the disposition of S. 3248, the majority leader has indicated that the Senate would proceed, but not necessarily in the order stated, to the consideration of H.R. 12910, to increase the public debt limit and/or to the conference report on foreign aid appropriations, 1972.

There will be rollcall votes on tomorrow.

### ADJOURNMENT UNTIL 9:45 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:45 a.m. tomorrow.

The motion was agreed to; and (at 5:39 p.m.) the Senate adjourned until tomorrow, Thursday, March 2, 1972, at 9:45 a.m.

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# HOUSE OF REPRESENTATIVES—*Wednesday, March 1, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Cast all your care upon Him, for He careth for you.*—I Peter 5: 7.

Almighty God, who hast made us for Thyself and who dost keep our hearts restless until they find rest in Thee, at this noontime moment of prayer we turn to Thee for insight and inspiration that we may live well this day and all days.

We commend our Nation to Thee that being guided by Thy grace and strengthened by Thy spirit she may walk in the ways of freedom, justice, and peace forever. Bless our President, our Speaker, the Members of this body, and all who work with them. Fill their minds with wisdom and understanding, their hearts with love and good will, and keep them ever mindful of Thy presence with an eagerness to do Thy will.

In the mood of the Master we pray. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### HAPPY WEDDING ANNIVERSARY, DR. LATCH

Mr. MAHON. Mr. Speaker, it is always pleasant to take note of events that relate to happiness. Edward Gardiner Latch became Chaplain of the House of Representatives on March 14, 1966, and he has been a tremendous force for good in the House throughout these years. His charm, his wit, his compassion, and especially his deep religious devotion have meant so much to us. He and his devoted wife, Rieta, were married 46 years ago today. Rieta is one of the wonderful women of our time.

So, Mr. Speaker, I am glad to have this opportunity to take note of this 46th wedding anniversary of the distinguished Chaplain of the House, our friend, Edward Gardiner Latch.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished Speaker of the House.

Mr. ALBERT. Mr. Speaker, I commend the gentleman for informing the House that this is the wedding anniversary of our beloved Chaplain, Dr. Edward D. Latch.

Our Chaplain is a pillar of strength to every Member of this House. He is a pillar of strength in the House itself. For 6 years his spiritual leadership has helped sustain us all.

I have served with three Chaplains and I have read the prayers of many Chaplains. Dr. Latch is one of the great Chaplains in the history of the Congress of the United States, in either House. His prayers are a legacy of devotion to things of the spirit. They will forever remain a very important part of the chronicles of this Chamber. I join the gentleman from Texas in congratulating our Chaplain and his beloved wife, Mrs. Latch, on this occasion of their 46th wedding anniversary.

Mr. MAHON. Mr. Speaker, anent the remarks just made, I am reminded of the prayer of King Claudius in Shakespeare's "Hamlet":

> My words fly up, my thoughts remain below: Words without thoughts never to Heaven go.

I am convinced Mr. Speaker, that the prayers of our Chaplain ascend to heaven.

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman.

Mr. ARENDS. Mr. Speaker, I am very, very pleased that the distinguished gentleman from Texas has called the attention of the Members of this House to the 46th wedding anniversary of our beloved Chaplain and his wife.

Long before he came to the House of Representatives as Chaplain, I was privileged to be, shall I say, one of his parishioners, where on almost every Sunday I had the opportunity of listening to this wonderful man of God who preached so beautifully and so inspiringly. Nothing pleased me more than when he was named Chaplain of this great body—the House of Representatives.

To him and to his wonderful wife, Rieta—on this their 46th anniversary, my wife and I extend heartiest congratulations and best wishes with the hope that God will grant them many, many more years together.

Mr. MAHON. Mr. Speaker, I thank the distinguished gentleman from Illinois.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Speaker,

I deeply appreciate the opportunity to join with the others in extending to Dr. Latch my very best wishes on this very memorable occasion.

Dr. Latch, since he has joined us in the House, has maintained the high standards of his predecessors and has looked after his flock in the House as he looked after the members of his congregation before he came to this body.

Dr. Latch has been an inspiration to all of us, and I hope he has many more years of good health and happiness.

Mr. MAHON. I thank the gentleman.

## GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

## CONFERENCE REPORT ON S. 602, DISPOSITION OF JUDGMENTS RECOVERED BY CONFEDERATED SALISH AND KOOTENAI TRIBES

Mr. ASPINALL submitted the following conference report and statement on the bill (S. 602) to provide for the disposition of judgments, when appropriated, recovered by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., in paragraphs 7 and 10, docket numbered 50233, U.S. Court of Claims, and for other purposes:

### CONFERENCE REPORT (H. REPT. No. 92–892)

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the Bill (S. 602) to provide for the disposition of judgments, when appropriated, recovered by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in paragraphs 7 and 10, docket numbered 50233, United States Court of Claims, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment, insert the following:

That the funds appropriated to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in satisfaction of judgments awarded in paragraphs 7 and 10 in docket numbered 50233, United States Court of Claims, including interest thereon, after payment of attorneys fees and other litigation expenses, shall be used as follows: 85 per centum thereof shall be distributed in equal per capita shares to each person who is enrolled or entitled to be enrolled on the date of this Act; the remainder may be advanced, expended, invested or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior.

Sec. 2. Any part of such funds that may be distributed to members of the Tribes shall not be subject to Federal or State income tax.

Sec. 3. Sums payable under this Act to enrollees or their heirs or legatees who are less than eighteen years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

And that the House agree to the same.

WAYNE N. ASPINALL,
JAMES A. HALEY,
JOHN MELCHER,
SAM STEIGER,
JOHN H. TERRY,
*Managers on the Part of the House.*
GEORGE MCGOVERN,
QUENTIN N. BURDICK,
LEE METCALF,
PAUL J. FANNIN,
CLIFFORD P. HANSEN,
*Managers on the Part of the Senate.*

### JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the Bill (S. 602) "to provide for the disposition of judgments, when appropriated, recovered by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in paragraphs 7 and 10, docket numbered 50233, United States Court of Claims, and for other purposes," submit this joint statement in explanation of the language agreed upon by the managers and recommended in the accompanying conference report.

The Senate passed bill authorized the entire amount of the judgments to be used for any purpose requested by the tribal governing body and approved by the Secretary.

The House amendment required 90% of the judgments to be distributed per capita, and authorized the remainder to be used as provided in the Senate bill.

At the time of the House hearing the Tribe, by formal resolution, proposed the 90% per capita. The Department concurred. This resolution reflected a compromise with the off-reservation members who wanted a 100% distribution. The off-reservation members constitute about one-half the Tribe and do not receive any substantial benefit from money spent on reservation programs.

After the House hearings, the Tribal Council passed a new resolution asking for an 80% per capita distribution. The off-reservation members objected.

The Conferees compromised the issue by agreeing on an 85% per capita distribution.

WAYNE N. ASPINALL,
JAMES A. HALEY,
JOHN MELCHER,
SAM STEIGER,
JOHN H. TERRY,
*Managers on the Part of the House.*
GEORGE MCGOVERN,
QUENTIN N. BURDICK,
LEE METCALF,
PAUL J. FANNIN,
CLIFFORD P. HANSEN,
*Managers on the Part of the Senate.*

## CONFERENCE REPORT ON S. 671, DIVISION AND DISPOSITION OF FUNDS APPROPRIATED TO PAY JUDGMENT IN FAVOR OF BLACKFEET TRIBE AND GROS VENTRE TRIBES

Mr. ASPINALL submitted the following conference report and statement on the bill (S. 671) to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont., and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont., in Indian Claims Commission docket numbered 279–A, and for other purposes:

### CONFERENCE REPORT (H. REPT. No. 893)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 671) to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Inidan Reservation, Mont., and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont., in Indian Claims Commission docket numbered 279–A, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment, insert the following:

That the funds appropriated by the act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Blackfeet Tribe of the Blackfeet Indian Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont., in Indian Claims Commission docket numbered 279–A, together with interest thereon, after payment of attorney fees, litigation expenses, and the cost of carrying out the provisions of this act, shall be divided by the Secretary of the Interior on the basis of 73.2 percent to the Blackfeet Tribe and 26.8 percent to the Gros Ventre Tribe.

SEC. 2. The sum of $5,671,156 from the funds credited to the Blackfeet Tribe under section 1 of this act shall be distributed per capita to each person whose name appears on or is entitled to appear on the membership roll of the Blackfeet Tribe, and who was born on or prior to and is living on the date of this act. The sum of $2,100,000 from the funds credited to the Gros Ventre Tribe under section 1 of this act shall be distributed per capita to all members of the Fort Belknap community who were born on or prior to and are living on the date of this act and (a) whose names appear on the February 5, 1937, payment roll of the Gros Ventre Tribe of the Fort Belknap Reservation, or (b) who are descended from a person whose name appears on said roll, if such member possesses a greater degree of Gros Ventre blood than Assiniboine blood. If such member possesses equal quantums of Gros Ventre and Assiniboine blood he may elect to participate in the per capita distribution authorized by this section, in which event he shall not be eligible to participate in any per capita distribution of an Assiniboine judgment. A share or interest payable to enrollees or their heirs or legatees who are less than 18 years of ago or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines appropriate to protect the best interest of such persons.

SEC. 3. The balance of each tribe's share of the funds may be advanced, expended, invested, or reinvested for any purposes that are authorized by the respective tribal governing bodies and approved by the Secretary of the Interior.

SEC. 4. None of the funds distributed per capita under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act. The provision of this section regarding eligibility for assistance under the Social Security Act is enacted in recognition of unique circumstances applicable to the tribes involved, and shall not be regarded as a precedent or as a general policy for application to other tribes.

SEC. 5. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

And the House agree to the same.

WAYNE N. ASPINALL,
JAMES A. HALEY,
JOHN MELCHER,
SAM STEIGER,
JOHN H. TERRY,
*Managers on the Part of the House.*
GEORGE MCGOVERN,
QUENTIN N. BURDICK,
LEE METCALF,
PAUL J. FANNIN,
CLIFFORD P. HANSEN,
*Managers on the Part of the Senate.*

### JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 671) "to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont., and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont., in Indian Claims Commission docket numbered 279-A, and for other purposes," submit this joint statement in explanation of the differences between the Senate passed bill and the House amendment in the nature of a substitute, and in explanation of the language agreed upon by the managers and recommended in the accompanying conference report.

1. The Senate-passed bill authorized a $150 per capita payment to the members of the Blackfeet Tribe, but made no provision for the use of the balance of the tribe's share of the judgment.

The House amendment provided for a per capita distribution to the members of the tribe of $5,671,156, which is approximately 89 percent of the Blackfeet share of the judgment, and for use of the remainder of the Blackfeet share of the judgment in any manner authorized by the tribe and approved by the Secretary.

The conferees agreed to this part of the House amendment. It reflects the wishes of the tribal governing body, and was recommended by the Department of the Interior.

2. The Senate-passed bill made no provision for the use of the Gros Ventre share of the judgment.

The House amendment provided for the same use of the Gros Ventre share that is provided for the Blackfeet share (89 percent for per capita distribution and 11 percent for reservation programs). The tribe and the Department both agree.

The conferees agreed to this part of the House amendment, with a limitation that permits a Gros Ventre Indian to receive a per capita payment only if he possesses a greater degree of Gros Ventre blood than Assiniboine blood, or if he possesses equal quantums of Gros Ventre and Assiniboine blood and he elects to participate in the Gros Ventre judgment rather than in any Assiniboine judgment. Both Gros Ventre and Assiniboine Indians live on the Fort Belknap Reservation, and many of them have intermarried. Both tribes have claims against the United States. No Indian should be regarded as a member of both tribes at the same time when tribal funds are distributed, and the limiting language agreed upon will prevent that result.

3. The Senate passed bill provided that no part of a per capita payment may be considered in determining eligibility for public assistance, meaning assistance under the Social Security Act.

The House amendment deleted this provision.

The conferees agreed to the Senate provision, with an addition that bases the Social Security Act language on the unique circumstances that are applicable to these two tribes. The present winter in Montana has been unusually severe, causing many Indians to be added to the relief rolls. Their eligibility for relief should not be affected by a distribution of this judgment, which was recovered 5 years ago, and which would not have been a factor in relief administration in the unusually severe winter of 1972 if it had been distributed in a timely manner.

The conferees regard this as a unique situation which is not intended to impair the general policy that Indians are entitled to participate in the Social Security Act programs equally with all other citizens, and are not entitled to special privileges under that act.

WAYNE N. ASPINALL,
JAMES A. HALEY,
JOHN MELCHER,
SAM STEIGER,
JOHN H. TERRY,
*Managers on the Part of the House.*
GEORGE MCGOVERN,
QUENTIN N. BURDICK,
LEE METCALF,
PAUL J. FANNIN,
CLIFFORD P. HANSEN,
*Managers on the Part of the Senate.*

## SAN DIEGO COUNTY ELECTS DEMOCRATIC ASSEMBLYMAN

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VAN DEERLIN. I know, Mr. Speaker, that many of my colleagues will say, "Here comes another lecture on the tuna situation." But, I have a wider interest to appeal to today.

A special election took place in my home county of San Diego just yesterday. This involved the 76th Assembly District of California, which since its creation has never been represented by a Democrat. However, in a happy turn of events yesterday, the Democratic nominee amassed 24,899 votes while the Republican nominee received only 23,041. Therefore, the representation in this district falls to the Democrats.

Mr. Speaker, I want to take this occasion to tell my Republican colleagues that they will still be welcome in San Diego next August for the Republican National Convention. Although my community shows an unwillingness to accept the full Republican gospel, I want you to know that the gospel missionaries themselves will be welcome—especially those who spend money.

## CONSUMER PRICES CONTINUE TO SLOW DOWN

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKBURN. Mr. Speaker, it is never good news when consumer prices rise. But when the monthly increase is smaller than before, we have good reason to be pleased.

The Labor Department reports that the index of consumer prices increased one-tenth of 1 percent in January, before taking into account various seasonal factors. After seasonal adjustment, the Consumer Price Index—CPI—rose only three-tenths of 1 percent. This compares with the four-tenths of 1 percent advance in December, the first full month after the wage-price freeze.

There can be little doubt that the administration's economic policies are working successfully toward eliminating inflation. The CPI rose 5.5 percent in 1970. In contract, it has grown only 3.4 percent over the last 12 months. Since the President's new economic policy was implemented in August, consumer prices have risen at an annual rate of only 2.2 percent. You do not have to be an economist to view this as a favorable trend. All of us benefit from reduced inflation. These recent figures augur well for a prompt return to the consumer price stability we have not seen for 7 years.

Some feared that termination of the 90-day freeze would unleash a devastating round of inflation. They were wrong. Others argued that the phase II controls could not effectively restrain price increases. They were also mistaken. The recent consumer price figures clearly indicate that the administration's program for price stability is successfully bringing an end to the era of rapid inflation begun in the midsixties.

## UNWARRANTED CRITICISM OF PRESIDENT NIXON

(Mr. WYMAN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WYMAN. Mr. Speaker, I take this time to point out that statements that are being made recently that the Administration in some way, by the President's visit to China, has sold out Taiwan, are clearly without foundation, whether they are made by Republicans or Democratic presidential hopefuls or from whatever source they come.

There is no change in America's treaty commitments with Taiwan. The 7th Fleet remains where it is, and there are no justified implications of change from the joint communiques that have been put out by President Nixon and Premier Chou En-lai.

The United States of America supported Taiwan's efforts to stay in the United Nations. The Nixon administration urged and fought for a two-China policy. It continued this support even after the bitterly opposed vote of expulsion.

It is particularly disturbing that it is now abundantly clear that such criticism of the United States and its Republican President are coming from some Republican sources that ought to know better. Apparently the Republican primary opponents of our Republican President have determined to attempt to defeat an incumbent Republican President of the United States as distinguished from registering a protest vote or winning a primary contest.

Tomorrow I have taken a special order for 1 hour to document these disturbing conclusions.

## WITHDRAWAL OF ALL TROOPS FROM TAIWAN

(Mr. DICKINSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

**Mr. DICKINSON.** Mr. Speaker, I applaud and enthusiastically support President Nixon's trip to China and the resulting joint communique.

Yesterday evening I attended an in-depth briefing at the White House with several of our colleagues from both the House and Senate. As a result of this and other briefings, and from information that has been presented to the House Armed Services Committee, I have reached the following conclusion:

> In the mad rush to analyze the joint communique, it has apparently been forgotten that there are only approximately 200 American servicemen stationed on Formosa who have duties which are directly related to the defense of Formosa.

Because some of the media have released "scare headlines" indicating that U.S. withdrawal of all troops from Taiwan would result in some sort of catastrophe, I feel it should be emphasized that there are presently a total of 8,200 U.S. servicemen stationed on Formosa, some 6,500 of these have duties which are related only to our activities in Indochina and 1,500 U.S. servicemen are engaged in communications and intelligence-related matters for the United States. The remaining 200 serve as advisers and technicians in training the Nationalist Chinese.

It is my firm belief that the only meaningful support Formosa gets from the United States in its defense is the presence of the U.S. 7th Fleet. The President has reemphasized our determination to live up to our treaty with Chiang Kai-shek's Nationalist Government. It should be infinitely clear that the United States will continue to honor our commitment to old friends and allies.

## INCREASING HOUSING CONSTRUCTION CONTINUES TO LEAD OUR ECONOMIC RECOVERY

(**Mr. BROWN** of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

**Mr. BROWN** of Ohio. Mr. Speaker, increasing housing construction has continued to lead our economic recovery. During the month of January housing starts set a record, advancing to a seasonally adjusted rate of more than 2.5 million. The pace of starts in January was 4.8 percent above the Decmber rate of more than 2.4 million, which was the previous monthly high. The December advance itself was more than 9 percent above the November pace.

Dr. Harold Passer, Assistant Secretary of Commerce for Economic Affairs, has stated that this continued very high level of housing starts, "indicates that residential construction will continue to be a strong factor in the economy in 1972." Dr. Passer added that—

> Much of the economic impact of this sustained rise in starts will be registered this year as these starts are brought to completion.

The January rate of more than 2.5 million exceeds the administration's goal for 1972 of approximately 2.2 million new units. Both the well-established downward trend in mortgage rates and the increasingly large number of young people in our population who are moving into the housing market give us good grounds for believing that this healthy growth in housing will continue throughout 1972.

January also saw very sharp growth in orders for durable goods. The January rate of orders was 7.9 percent over the December rate. Almost half of the rise reflected increased orders for ships. The December seasonally adjusted rate of $34.69 billion was approximately $2½ billion over the December level. The gain last month was the sharpest monthly gain since that of December 1970. In the category of producers' capital-goods industries, which are an important clue to capital spending plans, orders rose more than $1 billion to an adjusted $7.92 billion. Mr. Speaker, I think that this strong growth in these basic sectors of our economy provides yet another basis for a favorable economic outlook.

## AUTHORIZING FUNDS FOR THE COMMITTEE ON INTERNAL SECURITY

**Mr. THOMPSON** of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 849 and ask for its immediate consideration.

The Clerk read the resolution as follows:

### H. Res. 849

*Resolved,* That (a) effective January 3, 1972, the expenses of the investigations and studies to be conducted pursuant to clause 11 of rule XI of the Rules of the House of Representatives, incurred by the Committee on Internal Security, acting as a whole or by subcommittee, not to exceed $525,000, including expenditures—

(1) for the employment of investigators, experts, attorneys, special counsel, and clerical, stenographic, and other assistants;

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to section 202(j) of such Act (2 U.S.C. 82a (j)), of committee staff personnel performing professional and nonclerical functions;

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

(b) Not to exceed $25,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); and not to exceed $2,500 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act (2 U.S.C. 72a(j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Internal Security shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

**Mr. THOMPSON** of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, and that it be printed in the Record.

The **SPEAKER.** Is there objecton to the request of the gentleman from New Jersey?

There was no objection.

## CALL OF THE HOUSE

**Mr. THOMPSON** of Georgia. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER.** Evidently a quorum is not present.

**Mr. BOGGS.** Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 56]

Anderson, Tenn.
Andrews
Ashbrook
Baring
Bingham
Blatnik
Byrnes, Wis.
Camp
Carey, N.Y.
Chisholm
Clark
Clay
Davis, S.C.
Diggs
Dwyer
Edwards, La.
Galifianakis
Gallagher
Grasso
Gray
Hawkins
Hébert
Howard
Johnson, Calif.
Jonas
Keith
McCloskey
McEwen
Macdonald, Mass.
Martin
Moorhead
O'Neill
Patman
Pelly
Pryor, Ark.
Rees
Sandman
Scheuer
Smith, Calif.
Springer
Stubblefield
Teague, Calif.
Ullman
Vanik

The **SPEAKER.** On this rollcall 387 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## AUTHORIZING FUNDS FOR THE COMMITTEE ON INTERNAL SECURITY

The **SPEAKER.** The gentleman from New Jersey (Mr. Thompson), is recognized for 1 hour.

**Mr. THOMPSON** of New Jersey. Mr. Speaker, House Resolution 849 is the resolution providing for funds for the Committee on Internal Security. The initial request of the chairman of the committee, the distinguished gentleman from Missouri (Mr. Ichord), was for $596,500.

After two hearings and considerable debate the committee, in light of the fact that last year the committee was granted $570,000, and had a carryover of $28,000, has recommended that for this year the Committee on Internal Security be given an amount not to exceed $525,000.

Mr. Speaker, the committee gave this matter considerable attention. All sides were heard. It is my honor and obligation to bring this resolution to the floor, and I recommend to the House that this resolution be adopted. But I wish to state that as a matter of principle I am opposed to the operation of the Committee on Internal Security and therefore I shall vote against this resolution.

Mr. Speaker, I yield to the gentleman from California (Mr. EDWARDS).

(Mr. EDWARDS of California asked and was given permission to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, an anachronism is defined in Webster's New World Dictionary as "The representation of something as existing or occurring at other than its proper time, anything that is or seems to be out of its proper time in history." I and others have on occasion referred to the House Committee on Internal Security as an anachronism, but in light of Webster's definition I now stand corrected. I do not believe the Committee on Internal Security has, or has ever had, a place in our history. It is not simply out of its proper time; it has never had a proper time in the history of our democracy.

We are now being asked once again to approve the authorization of an additional appropriation of funds for the operation of the Committee on Internal Security. I say additional because this sum is in addition to the approximately $250,000 which this committee gets as a standing committee of the House.

I shall not discuss the larger topic of whether this committee should exist at all, but just the issue of whether or not this special and additional appropriation is necessary in light of its responsibilities as outlined in the original enabling legislation and its mandate as outlined in the House Rules.

I am respectfully recommending that you deny this request. The Committee on Internal Security is provided more than ample funds automatically under the Legislative Reorganization Act of 1946 as a standing committee of the House. The bill we consider today is a request for additional funds.

In addition to the automatic amount received as a standing committee of the House must be added the other automatic emoluments such as printing, stationery, stamps, telegrams, telephone, office equipment, furniture, and office space. A modest estimate of these costs is $75,000 per year. So we see that even if we deny any additional funds, the Internal Security Committee would continue to survive comfortably with an income of approximately $27,000 per month.

I want to make it clear at the outset that none of my remarks should be interpreted as expressing disrespect for any of my colleagues who serve on the House Internal Security Committee. But no manner of highmindedness, no devotion to maintaining decorum, will eliminate the inherent illegalities, the personal abuses visited upon unsuspecting citizens and the kangaroo court atmosphere generated by this committee.

We live in a time in which we are experiencing what can be termed a crisis of credibility. The citizens of this country are alarmed and are requesting if not demanding honesty in government, honesty and fairness in reporting to the public what is going on in the halls of Congress.

But here we are, being asked to approve the continued funding of the maintenance of a data bank of information, compiled we know not by whom or how or to what purpose it is ultimately applied.

This committee for the first session of the 92d Congress had the seventh largest additional appropriation among the 21 standing committees. It is tied for fourth largest in number of staff members.

Speaking of staff members it is interesting to note the committee's own listing of committee employees and their duties. They list a total of 48 employees, 25 of whom are engaged in the following sections; editorial section, publication unit, research section, and files section. Eleven employees alone are employed in the files section. An expenditure of close to $100,000 a year solely for personnel costs to maintain the files.

The titles and duties are likewise of interest.

Information analyst: Analyzes, evaluates public source material; and prepares reports of information requested by Members of Congress.

Information classifier: Prepares and processes public source material for filing.

Clerks receiving $541.67 per month and up, preparing and processing public source material for filing. Public source material? Can that mean what it sounds like. That all material from any public source whatever is received and filed. Rumor? Gossip, Perhaps even lies.

Because the legislative record of this committee is practically nil, because the investigative employees number only approximately 6–8, because the courts of our Nation have struck down most of the committee's incursions against civil liberties, it seems obvious that a great part of this money is being spent on the raw—and that appears a most apt description of the material—files of the committee.

Is this then a proper function of this committee and, if so, where does it get the authority? There is nothing in the authorizing resolution for the committee granting it the authority to create and maintain a library, a data bank, containing rumor and gossip regarding American citizens—and to widely distribute this information under the printed legend "Information from the files of the Committee on Internal Security, U.S. House of Representatives." That is, or should be, the imprimatur of the truth. Here we have the weight and majesty, if you please, of the U.S. House of Representatives applied to public source material prepared and processed by an information classifier of the committee. How fast and loose with credibility can we get?

The Alice in Wonderland quality of the whole situation, as Alice said, "gets curiouser and curiouser" when we examine each report and find that it also contains a printed disclaimer.

> This committee makes no evaluation in their report. The following is only a compilation of recorded public material contained in our files and should not be construed as representing the results of any investigation or finding by the committee. The fact that the committee has information as set forth below on the subject of this report is not per se an indication that this individual, organization, or publication is subversive, unless specifically stated.

The pointlessness of the entire endeavor should be self-evident. The committee makes no evaluation, simply spews out a compilation of recorded public material. This public material may or may not be accurate, but under the imprimatur of the House of Representatives we are disseminating this information to all Members of Congress and their staffs if they so request, in addition to the more than 40 Federal agencies or departments who have access to these files, with no apparent restrictions regarding public distribution of the material once it is obtained.

Even if it is argued that the establishment and maintenance of this bank of unevaluated public material is necessary, by some stretch of the imagination, for the investigative duties of this committee, there is no authority for its use in the present manner.

Although President Truman in Executive Order 9835 of 1947 did authorize the files as a source of information for the investigation of persons applying for Federal employment, this order was specifically revoked by section 12 of President Eisenhower's Executive Order 10450 of April 27, 1953. This latter Executive order was concerned with proper standards and procedures and fair and equitable treatment in the Government's investigation of Government employees, consistent with the security interests of the United States.

Section II of rule XI of the Rules of the House of Representatives directs that—

> The Committee on Internal Security shall report to the House the results of any such investigation, together with such recommendations as it deems advisable.

The function of the unevaluated public material data bank has never been authorized by the House of Representatives and therefore funds spent for this purpose are equally unauthorized.

I respectfully suggest, Mr. Speaker, as I have many times in the past, that no additional funds be provided for this portion of the committee's activities. If this committee wishes to maintain this data bank of unverified unevaluated public material on the citizens of the United States then it should proceed as would any other committee to request and secure, if it can, a change in the House rules or other legislative authority for its snooping.

The cost for the maintenance of this unevaluated public material is far greater than we imagine. In addition to the direct appropriations and indirect benefits as a standing committee, which total nearly a million dollars a year, there are the other annual expenditures in taxpayers money chargeable to this committee. I am referring to the burden placed on the Justice Department and our Federal court system with the hundreds of thousands in dollars spent in tedious and usually unnecessary criminal trials and law suits occasioned by this committee's actions. If we give them more we are asking for more legislative and judicial confrontations, more lawsuits and more millions spent in futile legal wrangling.

My colleagues, if you are not disturbed you should be over Senator Ervin's recent disclosures regarding widespread Army surveillance. I picked up the New York Times of Tuesday, February 29 to find myself mentioned as having been under surveillance by the Army. That, as a fact, does not bother me, but there seems to be a wider range of ways that the CIA, and now the Army, spend their money over which Congress has no control or knowledge. Have we not the same problem right here in our own backyard?

We can only surmise from this disclosure of Senator Ervin's that every Member of Congress may not only be under surveillance but may be included in the committee's files and that unevaluated public information is being disseminated about all of us. The proliferation of surveillance and information gathering activities is almost mindful of a Laurel and Hardy comedy except for the serious issues and constitutional questions it raises.

Mr. Speaker, in order to put the subject of surveillance and data banks in its proper perspective consistent with constitutional rights, it is time for us to put our house in order. It is time to start paying attention to the rising tide of concern by the American people regarding government snooping. It is time for our tide of concern to turn back the tide of dollars which is being requested for the continuation of this unauthorized snooping by a standing committee of the House of Representatives. Mr. Speaker, I urge my colleagues to vote against this appropriation on final passage.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield to the gentlewoman from New York (Mrs. Abzug).

Mrs. ABZUG. Mr. Speaker, I rise in opposition to this resolution, which would provide an additional $525,000 for the House Committee on Internal Security, formerly known as the House Un-American Activities Committee.

I am a bit sorry that the name of this committee was changed, because I thought that their former appellation was a perfect description of what they are: A most "un-American" committee. Since its establishment as a standing committee in 1945, the record of this group has been a blot on this House and on this country. It has an unbroken record of contempt for freedom of speech and of the press, as well as harassment of those who seek to exercise these cherished rights.

Considering the miserable quality of what the Internal Security Committee does produce, I hesitate to complain of the fact that it produces so little. The fact of the matter is, though, that their output does not begin to justify even their basic appropriation of $250,000, let alone the extra $525,000 which this resolution would provide. During the session just ended, only 10 of the nearly 15,000 bills and resolutions introduced in the House were referred to this committee, and three of those 10 items were duplicates. Not one bill was reported to the floor from this committee during 1971, and the one bill which was even reported out of the committee was roundly rejected by the House when it was offered as a substitute in an attempt to water down the bill repealing the concentration camp title of the Internal Security Act of 1950.

The Internal Security Committee's budget is the seventh largest of the 20 in the House; their staff is the third largest. They receive almost eight times as much money as the Committee on Ways and Means and 65 percent more than the Judiciary Committee. Their staff of 54 people is as large as the combined staffs of the Committees on Agriculture, the District of Columbia, and Veterans' Affairs.

In addition to its almost wholly unexercised legislative function, this committee collects data on individuals it deems suspicious. It keeps data primarily on the kinds of activities that the first amendment is designed to protect and sanctify—the people with whom subjects associate, the meetings they attend, the associations to which they belong, and the things they say. This data, which has all been processed into an expensive computer system, is made available—without the consent of the House as a whole—to various Federal agencies and God knows who else. Much of this data is like the material being amassed by private credit agencies—irrelevant, ex parte, or hearsay—but neither the subjects nor even Members of Congress are permitted to inspect or correct these files. If this is not an "un-American" subversion of due process of law, I do not know what would be.

I urge the rejection of this request for additional funds, noting parenthetically that $525,000 would provide a year's day care for over 300 children. Even the Internal Security Committee's basic appropriation of $250,000 is a complete waste of money, for this committee adds nothing to the work of Congress or the wellbeing of this Nation.

Mr. THOMPSON of New Jersey. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the distinguished gentleman from Alabama (Mr. Dickinson).

Mr. DICKINSON. Mr. Speaker, I think the gentleman is very correct in stating the case of the long history of how this bill got here.

Each year at this time when this particular resolution comes up, we have rather extensive debate on the floor, and I think this has helped.

It is the philosophy of the Committee on House Administration not to deny any committee any reasonable request for funds. As a matter of fact, we do not try to be stringent. It is the philosophy of our committee, as I understand it, and it has been enunciated several times, all we ask of any committee is that they justify their expenditures and that we get value received for the money expended—whether they ask for $100,000 or $50,000. We look to see if that value is coming.

Interestingly, of all the resolutions we have approved to date this year, this is the only committee that has received any cut whatever. The Committee on Internal Security last year received $570,000. This year they came to our committee and requested $596,000. As a result of the action of our committee, that amount was reduced, reported out, and approved at $525,000, a substantial cut, keeping in mind that they had in unexpended funds $30,000 to carry over from last year.

It is the opinion of this Member—and I think I reflect the opinion of all the members of this committee—that it is not our province and our responsibility to determine whether or not a committee will remain in existence. It is not our job to cut off all funds for any committee or to cut it so seriously as to hamper the operations of a particular committee. If the House as a whole does not want a committee to function and does not want it to exist, then vote down the resolution and there will be no funds. The committee then will have to go out of business. If, on the other hand, we think that the amount recommended is a reasonable amount—and our committee has felt that it is—then vote for the resolution.

Mr. Speaker, I do not know how long I shall continue to support a resolution for funds for that committee, but I am convinced as of now that the amount is reasonable and in the interest of the country to continue the work of this committee, and, therefore, I rise in support of the resolution.

Mr. THOMPSON of New Jersey. Mr. Speaker, for purposes of debate only, I yield to the gentleman from Massachusetts (Mr. Drinan) for 5 minutes.

Mr. DRINAN. Members of the House, I have been a member of the Committee on Internal Security for more than a year. I think you will be appalled to learn that, once again, in the files of this committee, there are dossiers on more than 754,000 Americans. I introduce into the Record here today, Mr. Speaker, one of those dossiers on a very distinguished professor in one of our leading law schools. He has given me permission to disclose what the Congress of the United States says about him. At the top the dossier says, "We make no inference that this person is per se subversive." But the dossier goes on to name five organizations one or more of which have named this individual and three-quarters of a million other Americans as "subversive."

Very curiously, if any of those listed in the files of HISC is elected as a Member of the Congress, his file is impounded. Why is it that we are ashamed of our own files being disclosed? I say that this double standard shows that we are guilty about this particular committee of the Congress.

On February 22 I wrote to the distinguished Speaker, and I have his permission to reveal and put into the Record this particular letter. I raised two points with the Speaker in a letter to which I have not as yet, because of the time element, had an answer. I noted that there is no Executive order which can justify the keeping of these documents. The one authorizing Presidential order was wiped out in 1953 by President Eisenhower.

Second, I think that the keeping of these dossiers and the sharing of them with the executive branch of the Government is forbidden by the rules of this House, Rule XI, paragraph 27(c), states that the records of this House shall be the property of the House. Yet every single day the representatives of 25 Federal executive agencies come here to the files of the Un-American Activities Committee, now sanitized by calling it the Committee on Internal Security. These investigators get there a list of blacklisted individuals and they presumably deny to these persons jobs in the Federal Government.

I want that particular practice to stop, and I say here that following the answer of the distinguished Speaker, I will take appropriate action to see that those files may not be disclosed or shared with the Civil Service Commission, the FBI, the Peace Corps, or any other agency.

I submit for the RECORD statements by distinguished American organizations devoted to the preservation of civil liberties. These groups, and hopefully a growing number of people in this country, say that the Congress of the United States is bringing disrepute upon itself by continuing this practice, which has no justification in law or in ethics or in practice.

The issue today, Members of the House, is not whether the Members are soft on communism. The issue today is simply this. Are the surveillance and the blacklisting operations of this committee justified by law? Are they something that we, as Members of the House of Representatives, want to live with?

These people whose files are there have not been publicly accused of any crime, they have not been indicted for any offense, they have not been convicted of wrongdoing. Yet they are in the files of HISC where the executive branch of the Government can come in and see these files, and use information obtained there to the disadvantage of these individuals.

Have we forgotten the principle of the presumption of innocence?

I suggest, Mr. Speaker, that today is a turning point in the history of the House of Representatives. If people vote for the funding for this discredited committee, they will be specifically endorsing the punishment of peaceful dissent, because that is the thrust of all the investigations of this committee over the past several years. We, as the representatives of the people, must today stand in judgment of those who claim that they, as Members of this committee, with an overblown staff of 54 individuals for whom there is insufficient work, have the power to judge the character and the Americanism of all these thousands of individuals on whom a file exists.

I urge the Members today to vote against all of these funds, because this committee has made no legislative contribution to our work. This committee threatens the freedom of every American. It should have no place in a society where civil liberties are important.

Mr. Speaker, I include the material referred to at this point:

FEBRUARY 22, 1972.

Hon. CARL ALBERT,
*Speaker, House of Representatives.*

DEAR MR. SPEAKER: I write to inquire of you and possibly of the parliamentarian concerning the legality of some 25 units of the Executive Branch of government visiting on a regular basis the files of the House Internal Security Committee.

As a member of this Committee over the past year I have come to know some of the damage done by the information taken away from the files of the House Internal Security Committee by the officials of Federal agencies who during 1970 made 1,348 visits to the File Section of this Committee of Congress.

After a very comprehensive review of the law on this matter I have come to the conclusion that no Executive Order by the President justifies this practice and that, furthermore, the practice cannot be reconciled with Rule XI, Paragraph 27c of the House of Representatives.

Executive Order 9835, issued by the President on March 25, 1947, directed that each loyalty investigation of a person entering the Federal service should include a check of the files of the House Committee on Un-American Activities.

On April 23, 1953 that Executive Order, however, was "revoked" in Section 12 of a superseding Executive Order 10450.

Executive Order 10450 does not mention the files of the House Un-American Activities Committee. It is clear therefore that the later Executive Order which, to repeat, revokes and replaces everything in the previous Executive Order 9835 does not in any way authorize departments and agencies of the Executive Branch of the Federal government to inspect the files of any Committee of the Congress.

Even if, however, there were an Executive Order by a President directing that representatives of the Executive Branch of government could in fact inspect the files of a Congressional Committee I would feel that such an order violates the Rule of the House noted above. This Rule (XI, Paragraph 27c) states:

"All Committee meetings, hearings, records, data, charts, and files shall be kept separate and distinct from Congressional office records of the Member serving as Chairman of the Committee, and such records shall be the property of the House".

On March 2, 1971 the House of Representatives overwhelmingly rejected a resolution regarding compliance by the Committee on Internal Security with a court order for discovery issued by the Federal District Court in Chicago. The House of Representatives clearly felt that it possessed exclusive control over all documents in the possession of the House of Representatives.

I would feel that the same principle should apply to any attempt by the Executive Branch to the use of documents in the possession of the House of Representatives.

If it is objected that the House of Representatives has acquiesced since 1953 in the practice of the Executive Branch of government using the files of the House I would suggest and indeed feel compelled to insist that the House of Representatives have a clear vote on this matter.

* * * * *

If the House of Representatives asserted its clear right not to allow the Executive agencies to inspect the files and documents of this Committee there would be no point whatsoever in continuing the files in question.

I would appreciate, Mr. Speaker, having as soon as convenient your own ruling or that of the parliamentarian as to 1) whether the use of the files of the House Internal Security Committee is authorized by any Presidential Executive Order and, 2) whether the use of these files by some 25 agencies of the Federal government is consistent with Rule XI, Paragraph 27c of th Rule of the House of Representatives.

I send to you my gratitude for the fullest consideration which I know you will give to this question.

Cordially yours,

ROBERT F. DRINAN,
*Member of Congress.*

INFORMATION FROM THE FILES OF THE COMMITTEE ON INTERNAL SECURITY—U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1972.

For: Honorable ROBERT F. DRINAN.
Subject: VERN COUNTRYMAN.

This Committee makes no evaluation in this report. The following is only a compilation of recorded public material contained in our files and should not be construed as representing the results of any investigation or finding by the Committee. The fact that the Committee has information as set forth below on the subject of this report is not per se an indication that this individual, organization, or publication is subversive, unless specifically stated.

Symbols in parentheses after the name of any organization or publication mentioned herein indicate that the organization or publication has been cited as being subversive by one or more Federal authorities prior to 1962. (No organizations or publications have been cited as subversive by the following Federal authorities since last reprint of "Guide to Subversive Organizations and Publications" in 1961.) The name of each authority is denoted by a capital letter, as follows: A—Attorney General of the United States; C—Committee on Un-American Activities; I—Internal Security Subcommittee of the Senate Judiciary Committee; J—Senate Judiciary Committee; and S—Subversive Activities Control Board. The numerals after each letter represent the year in which that authority first cited the organization or publication.

### COMMUNIST FRONTS

1953—National Lawyers Guild (C–1944; I–1956).

Speaker at national conference held at the Barbizon-Plaza Hotel; New York City [Daily Worker, official Communist newspaper, October 19, 1953, p. 6. The date of the conference is not shown in this source; however, the Daily Worker, October 16, 1953, p. 8, announced that a NLG national conference would be held October 17, at which subject would speak.]

1964—National Committee to abolish the House Un-American Activities Committee (C–1961) [Renamed National Committee to Abolish Huac/Hisc.

1969—in 1969 and now known as National Committee Against Repressive Legislation].

Vice-Chairman, New England Region [Abolition News (official publication of NCAHUAC), January 1967, back page; June 1967, p. 8; handbill, August 1967; letterhead January 28, 1968].

Co-signer of a letter to the Chairman of the House Committee on House Administration concerning HCUA's request for 1967 appropriations [This letter was attached to a letter to Members of the House of Representatives dated March 20, 1967 and bearing subject's name as signer].

Scheduled to speak at a meeting of the Chicago Committee to Defend the Bill of Rights [Mid-west Regional Office of NCAHUAC] on April 20, 1968, McGiffert House, Chicago, Illinois [Letterhead, Chicago Committee to Defend the Bill of Rights, April 1, 1968].

Vice-Chairman, National Committee to Abolish HUAC/HISC [Letterhead, June 6, 1969].

1954—Emergency Civil Liberties Committee (C–1958; I–1956) [Now known as National Emergency Civil Liberties Committee].

1964—Member, National Council [Letterheads, September 30, 1954, November 1, 1954, April 3, 1955].

Scheduled to speak at a meeting April 20, 1959 [Handbill, received April 11, 1959].

Signer of statement defending the "right" of the 50 young Americans who had traveled to Cuba in the summer of 1963 to "defy" U.S. laws and regulations barring such travel. The ad urged readers to contribute funds to ECLC for the legal defense of 3 of the travelers who had been indicted by a Federal Grand Jury for traveling to and from Cuba illegally and also—although not revealed in the ad—for "conspiring illegally to organize and promote a trip to Cuba in violation of U.S. travel laws." [Ad, "we, the undersigned", in the Nation, December 21, 1963, p. 443 and Frontier, February 1964, p. 7; and Justice Department Press Release, September 27, 1963].

On March 4, 1954 Vern Countryman testified in public hearings before the Senate Internal Security Subcommittee in hearings on "Subversive Influence in Certain Labor Organizations," (pages 374–417), presenting a prepared statement and oral testimony representing the position of the Emergency Civil Liberties Committee with regard to legislation being considered by the Subcommittee.

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AMERICANS FOR DEMOCRATIC ACTION,
*Washington, D.C., February 29, 1972.*

DEAR CONGRESSMAN: On Wednesday, March 1, the House will vote on this year's appropriation for the House Internal Security Committee. As a standing Committee of the House, HISC automatically receives approximately $250,000. However, the House Administration Committee has approved an additional appropriation of $525,000 for this Committee. We urge you to vote against this additional appropriation.

We believe there is no justification for the substantial funds sought by HISC, a Committee which contributes nothing to the legislative achievements of the House of Representatives. Indeed much of the additional appropriation will be used to maintain files on individuals who engage in activities clearly protected by the First Amendment. HISC's "data bank" consists of hundreds or thousands of dossiers on individual citizens and organizations, collected from magazines and newspapers, as well as undisclosed sources. This information, available to more than forty federal agencies and to all members of Congress and their staffs, represents unauthorized surveillance over the lives and activities of American citizens.

Because we believe this Committee's procedures have a genuinely chilling effect on First and Ninth Amendment freedoms, that its operations are wasteful and duplicative of the Judiciary Committee and Justice Department functions, and that its goals have nothing to do with the legitimate aims of the House of Representatives, we believe HISC should cease to exist. A cut in its funds this year would be a substantial step toward that goal.

Sincerely,

DOLORES MITCHELL,
*Chairman, Executive Committee.*

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WASHINGTON OFFICE,
AMERICAN CIVIL LIBERTIES UNION,
*Washington, D.C., February 29, 1972.*

DEAR CONGRESSMAN: On Wednesday, March 1, 1972, you will be called upon to vote on H. Res. 849, authorizing funds for the continued operation of the House Internal Security Committee. The American Civil Liberties Union strongly opposes any funds for this Committee. We ask that you, as a cosponsor of a resolution to abolish HISC, take an active role in the effort to defeat this Resolution.

We believe there is no justification for the substantial funds sought by HISC. It contributes nothing to the legislative achievements of the House of Representatives. In the last session of Congress the only bill reported by the Committee, H.R. 820, which would have retained the Emergency Detention Act of 1950, was overwhelmingly rejected in favor of outright repeal by the members of this House on a vote of 356–49. Instead, the actions of this Committee have brought disrepute to the House of Representatives and have detracted from its other achievements.

The entire range of the Committee's activities represents a real threat to the very freedoms which they purport to protect. Of particular concern is their maintenance of over three-quarters of a million files on individuals and groups who engage in activities clearly protected by the First Amendment, but disapproved of by the Committee. These files often contain nothing more than unverified accounts of constitutionally protected First Amendment political activities, on such issues as civil rights and peace. Yet they are used to deny countless numbers of American citizens access to jobs. People are thereby made afraid to involve themselves in activities in any way critical of the government, producing a true "chilling effect" on the free debate which is so essential to our system of government. Moreover, the Congress has *never* authorized this Committee to maintain these files or to share them with the Executive Branch.

This Committee, despite its recent name and mandate change, is a vestige of the McCarthy era. People of good-will have recognized that tactics of that period, "witch-hunting" and political blacklisting, have no place in a free society. Congress should act to insure that public money is not spent to support such activities. Whatever legitimate functions remain can and should be performed by the Judiciary Committee which has jurisdiction over legislation dealing with espionage, sedition, crime and punishment.

The House Internal Security Committee has requested $596,500. The House Administration Committee cut the request to $525,000. We urge you to oppose any appropriations at all, by voting "no" on H. Res. 849 and by encouraging your colleagues to do the same.

Sincerely,

HOPE EASTMAN,
*Acting Director.*

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YALE UNIVERSITY LAW SCHOOL,
*New Haven, Conn., February 29, 1972.*

DEAR CONGRESSMAN: As professors of law interested in the field of political and civil rights, we urge you to vote against H. Res. 849, authorizing funds for the Committee on Internal Security.

In our judgment the Committee, and its predecessor, the Committee on Un-American Activities, have functioned in an unconstitutional manner. The Committee's main business has been the investigation of the beliefs, opinions and associations of American citizens. It has done this both through its hearings and reports, and through the maintenance of dossiers on millions of persons. We believe that the First Amendment permits every person to express his own views on any subject, no matter how unorthodox or radical his opinions may be. The government is entitled to restrict or punish illegal action, but it has no right to interfere with the free interchange of ideas. Yet the principal operations of the Committee have been directed exactly to this end. In the process it has done great damage to our system of free expression.

Numerous laws now on the books provide adequate protection to the security of the United States. If violations of those laws occur it is the business of the Department of Justice to investigate and prosecute. Power to consider revision of the security laws, if that becomes necessary, resides in other committees of the House, particularly the Judiciary Committee. This function can be performed without infringing on freedom of expression. But the Committee on Internal Security has demonstrated that it is incapable of operating within constitutional boundaries. We hope that it will not be given further funds to continue to violate the rights of American citizens.

Sincerely,

THOMAS I. EMERSON,
*Professor of Law, Yale Law School.*
VERN, COUNTRYMAN,
*Professor of Law, Harvard Law School.*

Mr. THOMPSON of New Jersey. Mr. Speaker, for purposes of debate, I yield 5 minutes to the distinguished gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I thank the gentleman from New Jersey for yielding.

Mr. Speaker, this is the annual debate over the appropriations for the House Committee on Internal Security. It was not my intention to speak on the matter, but since the gentleman from Massachusetts, a member of the committee and an opponent of the committee, has chosen to speak. I do take the opportunity to participate in this debate.

We have heard the same old arguments against the appropriations that have been advanced year after year. I think, Mr. Speaker, if we will analyze the statements that were made by the gentleman from Massachusetts, and all of the opposition, we will find that the charges are the same: That the committee is interested only in suppressing political ideas and unpopular political dissent.

Nothing could be further from the truth. The charges are absolutely ridiculous. They are full of rhetoric, but they are not substantiated by the facts. The mandate of the House Committee on Internal Security is contained in rule 11. It is given jurisdiction over those activities that would overthrow or undermine the Government of the United States—and these are the important, gratifying words—by force, violence, and unlawful means. I hope that even the most vociferous critic of the committee would not make objection toward those lawful aims. That is the responsibility, that is the duty, that is the right of an established government—to protect itself—and most certainly that is the responsibility, that is the duty of a free society such as ours.

The charges, I repeat, are absolutely ridiculous. They are not specific. I am ready and willing to defend that legislative jurisdiction of the committee.

In addition, the committee has investigative jurisdiction. It is one of the three permanent investigating committees of the House of Representatives.

It also has the traditional oversight jurisdiction. In that respect the committee is involved at the present time with oversight hearings into the operation of the Federal civilian employee loyalty-security program.

Mr. Speaker, House Resolution 789, which I introduced on January 31, 1972, would provide $596,500 for committee operations in this session. I submitted this resolution with the concurrence of all of my colleagues on the Committee on Internal Security with the exception of the gentleman from Massachusetts, who did not see fit to voice any dissent until he appeared before the Committee on House Administration. The Committee on House Administration had reported House Resolution 849 which cuts $71,500 from the amount requested by the Committee on Internal Security.

This is the fourth occasion on which I have addressed the House as chairman of the Committee on Internal Security in regard to the need for an annual appropriation. In 1969, when the committee was first created, the House provided an authorization of $400,000; in 1970, $450,000; and in 1971, $570,000. As each Member of this House well knows, costs of all Government operation have continued to increase. Government employees' salaries have risen several times in the last few years. A substantial portion of the increase in committee funding from year to year has been attributable to the hungry appetite of our inflationary economy. Most of the balance of the increase for 1971 was necessary, because of the Legislative Reorganization Act, which provided for minority staffing. I would not think the House would want to retrogress in internal security oversight during a period when revolutionary activism continues unabated.

The funds which the House provided for the Committee on Internal Security for 1971 were well and fully utilized with the exception of $28,000 which remained unspent at the end of the year. In order to provide for the continued functioning of the committee at the same level of activity and professional competence, we have asked for a sum which would furnish the same $570,000 as during 1971 plus an amount which will cover the 5½-percent employee pay raise effective in January 1972. For those of my colleagues who may have concern about the adequacy of minority staffing, it should be observed that the minority staff investigative payroll on an annualized basis as of the end of the year was just over $71,000. Salaries of three standing payroll employees are in addition to this. Although the total number of employees on the staff is five more than 1 year ago, eight of the total are assigned to the minority.

I do not intend to take the time of the House today to detail the many activities and accomplishments of the Committee on Internal Security in 1971. These were set out in full in my letter of February 3, 1972, to the distinguished chairman of the Committee on House Administration, and the letter is reproduced in the Committee on House Administration's Report No. 92-868. The reader will find a complete review of committee publications, of committee investigations and hearings, and of legislative activities.

The record will disclose that in 1971 the committee and its subcommittees, held 60 days of hearings, held other meetings on 20 occasions, received testimony from 130 witnesses, and compiled a record of about 5,000 pages of testimony, reports, and exhibits. This is surely not the product of a do-nothing committee. Five major investigations were conducted, including an inquiry into the Progressive Labor Party, an examination of attempts to subvert the Armed Forces, an in-depth analysis of the SACB and Federal employee security program, and a study of the National Peace Action Coalition and the People's Coalition for Peace and Justice. Reports on the Black Panther Party and on Trotskyite Communists were among those issued by the committee.

A favored criticism of the committee is that it does not produce legislation. It would seem to me that those very persons who use the grounds would be the first and loudest to complain if a plethora of bills were reported. It is well and wise to ascertain where legislation would not be helpful, and to ferret out nonenforcement of existing laws, and weaknesses in their administration by the executive branch. We have an abundance of existing statutes, many of which are not utilized. It is important to oversee laws which are already in effect, and the Committee on Internal Security has been diligently exercising its own oversight function. It is said that the committee investigations are not worthwhile since they do not result in specific legislation. Without the accumulation of this body of information in the security field, how would the committee and how would the House assess the dangers to the national security, and how could they possibly know whether legislation is or is not warranted?

Exercise of the oversight function is time-consuming, but essential. A number of other committees of the House reported very few bills which were enacted into Public Law, but those committees cannot be criticized for inactivity. Like the Committee on Internal Security they were busily involved in oversight functions. There are critics who want to play the numbers game by saying that there were 12,382 bills introduced last year and only 10 were referred to Internal Security. Well, as usual there is another side of the coin. In the field of bills enacted into Public Law, is it to be said that, because the Science and Astronautics Committee was responsible for but two that it was not hard at work; that because Public Works was responsible for but three that it was not hard at work; that because Foreign Affairs and Education and Labor were responsible for but four that they were not hard at work; that because the Judiciary Committee was responsible for only two bills which involved the title 18 criminal code that it was not hard at work? I could continue, but perhaps the point is made. Bills enacted into Public Law are not the only criteria for measuring accomplishment. Since other committees are not judged on this basis, please do not discriminate this way against Internal Security.

The Subcommittee on Accounts under the chairmanship of the gentleman from New Jersey thoroughly examined the Internal Security Committee record for the previous year in addition to programs which were already under consideration for 1972. I want to thank the chairman of the Subcommittee on Accounts, the Chairman of the full Committee, and all of the Members of that body for their interest in and attention to the work of the Committee on Internal Security, and for their patience in lisening to an expression of many views. I am deeply appreciative for the courtesies which were shown to me. I well recognize that some Members of the House, some of whom serve on the Committee on House Administration, hold philosophical views diametric to the purposes of the Committee on Internal Security. These gentlemen nevertheless recognize their legislative and parliamentary responsibility to furnish the committee with sufficient funds to discharge its mandate so long as the House of Representatives in its wisdom votes to establish the body as one of its standing committee at the beginning of each Congress. I know their deliberations were in good faith and with these considerations in mind.

The House has already determined that it desires the services of the Committee on Internal Security. The only issue now is what level of funding is required to permit an effective and responsible discharge of the committee's mandate. The Committee on House Administration has recommended $525,000.

House approval of the funds which the committee seeks for operation in 1972 will insure that we can continue to be of service to the House and all its Members and discharge in full the duties imposed by the committee's mandate.

You may all be confident that I would never ask the House to make an allotment of funds exceeding that which I thought could be used in an efficient and beneficial manner in service to the needs of the House as a whole.

There is a relatively small group of Members of the House who seek abolition of the committee. Some of them have repeatedly introduced bills to effect this purpose. Their hostility to the committee is well known. Over the last several years I have observed the trend in the criticism directed toward the committee. The former Committee on Un-American Activities was so often criticized for alleged circus-like proceedings and other similar aspects resulting from the subpena of involuntary witnesses. Because of the different manner in which the Committee on Internal Security has functioned, this line of castigation has not been available. Criticism of recent vintage has been directed toward the indexes and files of the committee. It is complained that the committee maintains unwarranted data on thousands of individuals and organizations.

It must be understood, Mr. Speaker, that the committee does maintain certain data on many individuals and organizations, but it is not unwarranted. The overriding purpose of the indexes and files is to provide resource material for staff use in connection with investigations and hearings. We could not possibly fulfill our obligations under our mandate without it. Organizations do not exist in a vacuum. They are run by flesh and blood human beings. An organization cannot be understood without knowledge of its leaders. So often we find overlapping leadership. So often we find organizational activities in one area being manipulated by individuals who were previously instrumental in a different area. The significance of such facets cannot be realized without identification of the individuals who are involved.

The files are not available to the general public; they are not available to the press. They have, however, by tradition and by interpretation of House rule XI 27(c), been available to all Members of

Congress. The rule states that all committee files "shall be the property of the House and all Members of the House shall have access to such records." The complainants allege that improper use is made of these files, such as when data is solicited by a Member of the House upon request of a constituent and then is in turn released to that constituent. The material does in that manner enter the public domain. The dilemma here, I think, is not one of the making of the Committee on Internal Security, but rather arises from compliance with a rule of the House. What is the committee to do, what am I as chairman to do, when a Member, asserting a privelege under the rule I have cited, asks for information from a committee file? If he is denied, then we are charged with a violation of rule. If we provide it to him, and thus relinquish any control over the use to which it may be put, the committee detractors seize upon this practice as an improper function of a legislative body. The root of the problem is, of course, in the abiding desire which so many Members of the House have for committee information. Last year, for example, we responded to about 700 congressional requests.

I must speculate aloud as to what would be the reaction of these Members if they could not have such access in the future. I must also wonder what would be the reaction of some other chairman of standing committees if they were asked to allow access to their files on the part of any Member of the House. Suppose the Committee on Foreign Affairs were asked by some individual Congressman to produce for his random inspection an entire file on relations of the United States with Egypt, or with Israel, or with South Vietnam, or with a host of other highly sensitive matters. Would the Committee on Appropriations, which conducts such a large proportion of its hearings in executive session, permit at will examination by whatever Member of the House might ask for it? The Committee on Armed Services on which I serve would insist, I think with great justification, that many of its files could simply not be produced for random inspection. And finally I must take notice of a recent remark attributed to my esteemed friend, the chairman of the Committee on House Administration. It was reported in the February 10 issue of the rollcall that House Members' payroll records had been closed to current public inspection for the first time in memory. It was said that the chairman of the Committee on House Administration recently ordered the closure due to computerization of the data, and he was quoted as saying:

> We can't have everybody and his brother in there demanding computer printouts.

Access to committee files must be analyzed with reason. They are kept to service the House, but through the functioning of the committees and their staffs. Surely it was not intended that committee files would be kept as public libraries, whereby they could be "charged out" at the will of any member.

There are not many options available to me in the maintenance and utilization of the committee files. I can consign them to the Archives. I can continue to use them as a resource for investigations and hearings. I could also continue, strictly as an incident to their maintenance, to furnish data from them to Members of Congress on request, or this service could be discontinued. This latter course I would think would require some indicia of approval from the House. I do not think I have any authority to destroy the files.

Mr. Speaker, last year the Committee on House Administration cut $220,000 from the requested appropriation of the Committee on Internal Security. I opposed that recommendation on the floor of the House and an amendment submitted by the distinguished chairman of the Committee on House Administration was adopted restoring $120,000 of the reduction. This year the Committee on House Administration has cut $71,500. It was my earnest belief and judgment that the amount should be $596,500 instead of $525,000; however, I do not intend to oppose the cut. The committee will make every effort to operate within the funds allowed. If that is not possible the committee will request an additional supplemental appropriation.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. I should like to state that it is and has been the policy of the committee to entertain such requests as they are made, and to guarantee to the gentleman that if at a future time he introduces a resolution involving more money he will be guaranteed a prompt and fair hearing.

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield the gentleman an additional 2 minutes.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New York (Mr. RYAN).

Mr. RYAN. In the annual report for 1970 the committee reports 1,348 visits to search the files of the committee by some 25 Government departments and agencies. In 1969 the number of agency visits was 1,506.

Can the distinguished chairman tell us how many such visits to the files section took place in 1971?

Mr. ICHORD. I will say to the gentleman from New York that I do not have the exact number of visits by representatives of the executive department to the files and reference section, to which the gentleman has referred, which took place in 1971, but I am quite certain it was probably at or near the same amount as 1970.

Mr. RYAN. That would be approximately 1,300 visits?

Mr. ICHORD. It would be somewhere in that neighborhood, I believe, but I would not want to be held to a specific figure. I will supply that.

Mr. RYAN. By what authority does the chairman permit the executive branch to review and examine the files maintained by the committee?

Mr. ICHORD. Let me say to the gentleman from New York that President Harry Truman, back in the 1950's, by Executive order directed agents of the Federal Government, representatives of the Executive Department, to examine the files and reference section for information on any person being checked for Federal employment.

Later on President Eisenhower issued an Executive order saying that there should be a national agency check, and it is being continued under those Executive orders at the present time.

The SPEAKER. The time of the gentleman has expired.

Mr. RYAN. Will the gentleman from New Jersey yield the gentleman an additional minute?

Mr. THOMPSON of New Jersey. Does the gentleman from New York wish to be recognized for 1 minute?

Mr. RYAN. I would appreciate it.

Mr. THOMPSON of New Jersey. I yield the gentleman 1 minute for the purposes of debate only.

Mr. RYAN. Mr. Speaker, it is clear that the action of the Internal Security Committee in opening its files to the executive branch is without authority of the House of Representatives and is a violation of the rules of the House of Representatives. Rule XI, paragraph 27(C), states that—

> All committee hearings, records, data, charts and files . . . shall be the property of the House.

It is ironic that, when the U.S. district court for the northern district of Illinois issued a discovery order for records of the committee, the chairman did not turn them over to the U.S. district court, but took the position that documents under the control or in the possession of the House of Representatives could not be released without permission of the House. He resisted the order and asked the House to uphold his position.

On the other hand, although he does not have any statutory authority or permission of the House to do so, he has opened the files of the committee to the executive branch willy-nilly.

It is time for that practice to cease.

The gentleman from Missouri referred to Executive orders of Presidents Truman and Eisenhower. However, no Executive order can bind the Congress. Furthermore, as Congressman DRINAN so ably pointed out, President Truman's Executive order was superseded by President Eisenhower's Executive order which does not even purport to confer authority upon any Federal department or agency to check the files of the House Committee on Un-American Activities—now called the Committee on Internal Security.

On April 30, 1971, I addressed a letter to the Speaker of the House in which I raised this issue and asked the Speaker for his opinion as to the source of authority for opening committee files—the property of the House—to the executive branch. The question has not been answered. My letter of April 30, 1971, follows:

APRIL 30, 1971.

Hon. CARL ALBERT,
*Speaker, U.S. House of Representatives,*
*U.S. Capitol.*

DEAR MR. SPEAKER: The 1970 Annual Report of the Committee on Internal Security states, at page 166:

"Some 25 departments and agencies of the Federal Government include a search of committee records in their security programs, under Executive Order. During the past year there were 1,348 visits to the section by authorized representatives of the Federal Government."

The 1969 Annual Report contains a similar statement, at page 131: "there were 1,506 agency visits to the files section."

As you know, the entire question of the Internal Security Committee's file-keeping functions is very disturbing to me. What is also disturbing is the issue of the Committee's authority to act as it has in opening files to scrutiny by the executive. Rule XI, paragraph 27(c) of the House of Representatives states:

"All committee hearings, records, data, charts and files shall be kept separate and distinct from Congressional office records of the Member serving as Chairman of the Committee, and such records shall be the property of the House."

The Chairman of the Committee himself stated the view, on March 2, 1971, when the House was considering House Resolution 264, regarding compliance by the Committee with a court order for discovery issued by the U.S. District Court for the northern district of Illinois, that "no document under the control and in the possession of the House of Representatives can by the mandate of process of the ordinary courts of justice be taken from such control or possession except by the permission of the House of Representatives. . . ."

If the chairman of a committee has no authority to release files pursuant to a valid court order unless the House has voted to comply with such order, how is it that he has the authority to open Committee files—property of the House—to another branch of the government, e.g., the executive?

I am unable to find any answer to this question other than that the Chairman in fact does not have such authority. The Reports of the Internal Security Committee make reference to the executive agencies examining the files under an executive order. However, this order could have no control over the actions of the House, since it is the House which is the master of its own property.

I would very much appreciate your looking into this matter, and apprising me of your conclusions.

With warmest regards,

Sincerely,

(S) WILLIAM F. RYAN,
*Member of Congress.*

The SPEAKER. The time of the gentleman has expired.

Mr. RYAN. May I have an additional minute?

Mr. THOMPSON of New Jersey. I yield 1 additional minute to the gentleman from New York for the purposes of debate only.

Mr. RYAN. I thank the gentleman.

I hope the Speaker of the House will consider this question and make a definitive ruling on the propriety of continuing this practice of maintaining and opening the files, which is replete with invasions of civil liberties.

Let me turn now to the resolution before us.

The House is faced with a request for over a half million dollars to finance the activities of the House Internal Security Committee for the forthcoming year. House Resolution 849 provides $525,000 for so-called investigations and studies. This is in addition to a sum of approximately $250,000 the committee receives automatically as a standing committee under the rules of the House.

As I, and other Members of this House, have pointed out many times before, the history of this committee clearly defies any justification for further funding. It is a history of assaults on the basic civil liberties embodied in the Constitution; a history which continues to discredit the House of Representatives; and a history of almost total legislative inactivity.

In its 26-year history as a standing committee, HISC and its predecessor HUAC have reported a grand total of six bills which eventually became law.

The committee's performance in the past session, not surprisingly, shows no deviation from this wasteful pattern. Out of the 12,383 bills introduced in the first session of this 92d Congress, only 10 bills were referred to the House Internal Security Committee, three of which were identical; all of which amend the Internal Security Act of 1950 which is within the jurisdiction of the Judiciary Committee, as we saw last September when the House voted 356 to 49 for the Judiciary Committee bill to repeal title II of the Internal Security Act.

Let me briefly outline the nature of these seven substantive pieces of legislation which have occupied the time of this commttee for over a year.

H.R. 574, introduced on January 22, 1971, provided that under the Internal Security Act of 1950 the attorney general of a State would have the power to initiate a case before the Subversive Activities Control Board—an obvious attempt to provide some excuse for the existence of that repugnant body. This bill, although introduced for a second time, remains in committee.

H.R. 587, introduced on January 22, 1971, proscribes three types of activities: interfering with draft offices, obstructing movement of military personnel or supplies, and giving aid to nations with which the United States is engaged in armed conflict. In hearings on an almost identical bill introduced in the 91st Congress, the subcommittee on Internal Security heard testimony from the Defense, State, Justice, Commerce, and Treasury Departments, all of them knowing of no compelling need, from a legal or factual standpoint, for this proposed legislation. Again, this bill could have been referred to the Judiciary Committee, as evidenced by the fact that an almost identical bill introduced in the 89th Congress—H.R. 11864—was referred to that committee.

H.R. 782, introduced January 22, 1971, provided for the repeal of the Emergency Detention Act, title II of the Internal Security Act of 1950. Although this bill is still in committee, a similar bill—H.R. 234—which was referred to the Judiciary Committee, has since been passed by this House. This again indicates the little need this body has for this committee.

H.R. 820, amended the Emergency Detention Act, title II of the Internal Security Act of 1950, by prohibiting detention for "race, color and ancestry," but broadened the definition of detainees. Because of the pressure of the Judiciary Committee, which reported out a bill repealing the Emergency Detention Act, the bill was reported out in an effort to defeat the action of the Judiciary Committee. Incidentally, this was the only piece of legislation reported by the Committee in 1971. However, it was defeated on September 14, 1971, as a substitute for the Judiciary Committee bill (H.R. 234) which repeals title II outright. Here again, the question of jurisdiction speaks for itself.

H.R. 819, entitled the Defense Facilities and Industrial Security Act, is designed to prohibit employment of Communists and others in defense facilities; and to provide for surveillance by the Army of those employed in any defense-related facility, including scientific laboratories at universities. Seven hundred and fifty scientists, including six Nobel Prize winners, petitioned the Senate not to pass this bill, which had passed the House in the 91st Congress. Regardless of the merits of this bill, it, too, clearly falls within the jurisdiction of the Judiciary Committee—in the Senate this bill was referred to the Judiciary Committee. In addition this bill could well have been dealt with by the Armed Services Committee.

H.R. 9669, introduced on July 8, would enact into law Executive Order 11605, reviving the Subversive Activities Control Board under a new name. This is another bill which HISC never reported out, and also another bill which could be considered by the Judiciary Committee.

H.R. 11120, introduced on October 6, provides for a new loyalty oath and screening procedure for all Federal employees, a new list of "subversive" organizations, and makes HISC's files a permanent part of the screening process. In hearings held on H.R. 11120, 23 Federal departments and agencies testified that for most of them, the present screening process is adequate. The Justice Department in its opposition to the bill's provisions, stated that—

> They are to a great extent, as established by Executive Order 10450 and recently amended by Executive Order 11605, and they may, to some extent, operate to decrease the program's effectiveness.

The Post Office and Civil Service or Judiciary Committee could better exercise jurisdiction over this subject.

Mr. Speaker, all the legislation referred to the House Internal Security Committee in the last session could have been—and should have been—considered by the Judiciary Committee or other committees. Thus, apart from the philosophical and political offensiveness of this committee, there is as well its moribund legislative role warranting cessation of its funding.

For those of my colleagues who, while harboring grave doubts about this committee, continue to sustain it, I say—if the affronts to civil liberties committed by this committee are not enough, if its appalling legislative record is not enough, and if the dark shadow of discredit it has on the House of Representatives is not enough, then look, in terms of money, at what this committee is and does.

As of December 31, 1971, the House Internal Security Committee tied for third largest staff of all the standing committees of the House. Fifty-four people occupied staff positions on this committee, a number far greater than the total number of staff (32) of the Armed Services Committee whose jurisdiction extends over more than $70 billion of authorization. A staff over double the size of the staff of the Ways and Means Committee (28), which has jurisdiction over the Nation's entire tax structure and social security laws. A staff greater in size than the staff of the Judiciary Committee (37) whose jurisdiction encompasses the basic issues of law and order, and I might add, internal security.

The following chart shows comparative staff size and ranking:

*Staff for standing committees, 92d Congress, first session—1971*

[Arranged in order of size of the appropriation—Standing committee; staff size, Dec. 31, 1971]

| | |
|---|---|
| House Administration | 60 |
| Education and Labor | 82 |
| Public Works | 54 |
| Government Operations | 54 |
| Interstate and Foreign Commerce | 48 |
| Banking and Currency | 53 |
| Internal Security | 54 |
| Post Office and Civil Service | 38 |
| Interior and Insular Affairs | 22 |
| Foreign Affairs | 33 |
| Science and Astronautics | 28 |
| Judiciary | 37 |
| Armed Services | 32 |
| Merchant Marine and Fisheries | 28 |
| Agriculture | 17 |
| District of Columbia | 17 |
| Veterans' Affairs | 16 |
| Ways and Means | 28 |
| Standards of Official Conduct | 5 |
| Rules | 6 |

In light of this paucity of legislative activity by this committee one has good reason to wonder just what need there might be for so large a staff. If I did not know better, I would suspect these figures to be in error—but they are correct. In fact, the only error committed here is the continued existence of this useless and wasteful committee. Just how expensive this offensive profligacy is, is seen by looking at the appropriations of the standing committees of the House. In the first session of the 92d Congress, the House Internal Security Committee ranked sixth, receiving an appropriation of $570,000 in addition to approximately $250,000 it automatically receives as a standing committee. This is a lot of money for a legislative committee which has dealt with only seven substantive pieces of legislation.

The expenditures become still more astounding—and I commend these particularly to those Members who constantly decry the waste of the taxpayers' dollars—when we find that of those seven pieces of legislation, only one was reported out. And that bill, which I discussed previously—H.R. 820, amending the Emergency Detention Act of 1950—was defeated as a substitute for H.R. 234 which was reported out of the Judiciary Committee, and which repealed the Emergency Detention Act outright.

The following chart lists the appropriations for each of the standing committees of the House in the first session of this Congress:

*Funds for standing committees, 92d Congress, 1st session, 1971*

[Arranged in order of size of the appropriation]

| | *Amount* |
|---|---|
| House Administration | $1,900,000 |
| Education and Labor | 1,350,000 |
| Public Works | $1,072,670 |
| Government Operations | 1,032,600 |
| Interstate and Foreign Commerce | 989,000 |
| Banking and Currency | 975,000 |
| Internal Security | 570,000 |
| Post Office and Civil Service | 533,000 |
| Interior and Insular Affairs | 478,000 |
| Foreign Affairs | 425,580 |
| Science and Astronautics | 380,000 |
| Judiciary | 350,000 |
| Armed Services | 300,000 |
| Merchant Marine and Fisheries | 291,500 |
| Agriculture | 250,000 |
| District of Columbia | 220,000 |
| Veterans' Affairs | 150,000 |
| Ways and Means | 75,000 |
| Standards of Official Conduct | 25,000 |
| Rules | 5,000 |

Where has all this money gone? Certainly, the committee's 56 staff members have not been working solely on legislation—that is obvious.

What else has the committee been doing with this money?

It held four sets of hearings in 1971. Only one of these was directed toward legislation, and this concerned a loyalty-security program for Federal employees. Either the Judiciary Committee or the Post Office and Civil Service Committee could better have jurisdiction over this subject.

Another set of hearings was held on the National Peace Action Coalition and the Peoples' Coalition for Peace and Justice. Both these groups had as their avowed aim bringing an end to the war in Southeast Asia and were exercising constitutionally protected rights. The first amendment is still the cornerstone of our democracy.

Thirteen days were spent by this committe on what it calls the Theory and Practice of Communism in 1971. Testimony was taken from undercover agents and from defectors and others from China, the Soviet Union, and Latin America. This subject falls within the jurisdiction of the Foreign Affairs Committee.

The final set of hearings held in October, dealt with subversion in the military. Again, the activities of the House Internal Security Committee encroached on the jurisdiction of another committee of the House. Matters concerning the military have long been under the jurisdiction of the Armed Services Committee. The fact that this committee intends to deal wth this subject, as well as any other it so chooses, constitutes a clear conflict which will continue so long as the Members of this body continue to grant appropriations.

Since all of these hearings were held in Washington, they obviously could not have used much of the money the committee was given for 1971. It is apparent that the bulk of this money went to maintain the massive system of files, files which are not only used for the arcane purposes of this committee, but files which are used by the executive branch as well.

Rule XI, paragraph 27(c), of the House of Representatives, provides that committee files are the property of the House of Representatives, stating:

> All committee hearings, records, data, charts and files shall be kept separate and distinct from congressional office records of the member serving as chairman of the committee, and such records shall be the property of the House.

The chairman of the Internal Security Committee himself expressed this view on March 2, 1971, when the House was considering House Resolution 264 regarding compliance by the committee with a court order of discovery issued by the U.S. District Court for the Northern District of Illinois. At page 4585 of the CONGRESSIONAL RECORD, volume 117, part 4, the chairman stated:

> No document under the control and in the possession of the House of Representatives, can by the mandate or process of the ordinary courts of justice be taken from such control or possession except by the permission of the House of Representatives . . . no member of the House has the authority to release these documents without the permission of the House of Representatives.

If a committee does not have the authority to comply with a valid Federal court order to produce files, unless the House consents, how then does this committee have the authority to open its files to the executive? Of course, the committee does not have this authority—an issue which I discussed previously in the debate.

Yet, page 166 of the committee's 1970 annual report stated that—

> Some 25 departments and agencies of the federal government include a search of committee records in their security programs under Executive Order. During the past year there were 1,348 agency visits to the section by authorized representatives of the federal government.

When I questioned him earlier in the debate, the chairman of the Internal Security Committee said that the number of agency visits in 1971 approximated the number in 1970.

Forgetting about this committee's pitiful lack of legislative activity, forgetting about its affronts on our civil liberties and even forgetting about the exhorbitant amounts this committee pours down the pit of repressive intentions—its file-keeping function alone mandates its termination.

We have seen year after year that the HISC's legislative output is about minimal, that its bills belong in other committees, and that its hearings are usually used for the purpose of exposure and often devoid of due process. We have watched this committee spend over $7½ million of the taxpayers' dollars. By approving the request for funds before us, the House will thereby sanction continuing this excessive and outrageous performance. This committee has completely failed to earn either the right to use public funds or the support of the House of Representatives. It is high time we faced that reality.

Mr. ANNUNZIO. Mr. Speaker, we are being asked today to appropriate $525,000 for this committee which has little in the way of legislative accomplishment to its credit and which uses its investigative power to violate liberties guaranteed by the Constitution. We are asked to give the committee more than half a million dollars for this second session alone, in addition to the $570,000 appropriated for it in the first session of the 92d Congress and in addition to funds allotted to it for staff salaries under the Legislative Reorganization Act. If we pass this resolution we will have given the committee well over $1.5 million in this Congress. Surely, Members must see that this is more than $1.5 million of taxpayers' money thrown away on a committee which has little legislative purpose.

Mr. Speaker, the business of Congress is legislation, and the measure of the value of any committee is the contribution which it makes toward fulfillment of Congress' legislative responsibilities. By this measure, the Internal Security Committee has been of little value to Congress and to the country. From the 88th through the 91st Congresses, inclusive, only two of the committees' bills have become law—H.R. 950 in the 88th Congress—Public Law 88-290—regarding personnel security in the National Security Agency, and S. 2171 passed in lieu of H.R. 12601 in the 90th Congress—Public Law 90-237—to amend the functions of the Subversive Activities Control Board.

During this same period of four consecutive Congresses only two of its other bills passed the House—H.R. 12047, 89th Congress; H.R. 14864, 91st Congress. It is simply unreasonable to maintain a full standing committee with such limited legislative output. The mandate of the Judiciary Committee already includes jurisdiction over espionage. I have urged before and I urge now that the functions of the Internal Security Committee be transferred to the Judiciary Committee where it belongs.

Mr. Speaker, the problems which Congress and the country must face are so serious and urgent that the diversion of more than a $1.5 million of public funds to this committee during the present Congress is appalling. In my city of Chicago, I can unequivocally state that we desperately need money to improve the quality of education in our schools, to improve mass transportation facilities, to eliminate environmental pollution, and to combat crime in the streets. Faced with such urgent funding needs, can we turn away and appropriate such an enormous sum to a committee which does so little? With the forthcoming vote on House Resolution 789 let us reorder our priorities by denying funds to the House Committee on Internal Security and by determining to reallocate this money to meet the pressing problems of our cities, especially in view of the fact that this committee function can be taken over by the Judiciary Committee which does have jurisdiction and which can continue with the work of internal security.

Mr. HELSTOSKI. Mr. Speaker, at a time of inflation and of increasing threats to the civil liberties of all Americans, one is compelled to ask why the House Committee on Internal Security has requested the funds authorized by this resolution.

Could it be the pressure of a committee calendar weighted with unfinished, important legislation? Clearly not. The HISC Committee received a mere seven bills for consideration during 1971, compared with an average load of 619 bills referred to every other House committee. An inability to handle pending legislation cannot be the basis for this request.

Could it be that this committee is grossly understaffed in comparison with other House committees? No way. The House Internal Security Committee already has the fourth largest staff of all House committees. When one considers that this committee has at its disposal 48 assistants to aid in processing seven obscure pieces of legislation and in conducting witch hunts, it becomes obvious that understaffing is not HISC's problem.

Does HISC's budget request stem from the cost of conducting hearings which have exposed serious threats to our national security? No, again. The four hearings conducted by the committee last year can only be described as fishing expeditions, held to uncover supposed Communist infiltration of student groups and the military. In line with HISC's track record, dating back to the glorious days of the "Un-American Activities" unit, these hearings made a mockery of first amendment rights and the information resulting from the investigations was worthless.

Why then, is the House Internal Security Committee really asking for this money?

The fact is that the committee requires more money to maintain, and expand, the massive files it has compiled containing personal information on hundreds of thousands of American citizens. This is the noble project for which we are being asked to vote over half a million dollars. The committee is asking American taxpayers to subsidize its unrestrained gathering of data dealing with their personal lives.

The funds contained in House Resolution 848 would be utilized to maintain a computerized data bank, whose very existence compromises all Americans' rights to privacy, to free speech, and to free association. At a time when the military, under congressional pressure, claims to have disbanded its domestic spying operations, it is unconscionable for the House to be enabling HISC to take up where the Pentagon's spies left off.

The House Internal Security Committee has been squandering its current budget on a "1984" type of thought control, while many of the programs to meet legitimate needs of Americans have been underfunded or neglected. In transparent attempt to gain respectability a few years ago, the committee changed its name. It remains, however, a blot on the good name of Congress and a threat to the basic rights of thousands of Americans who have done no more than exercise their first amendment rights.

This resolution should be defeated; this committee should be abolished.

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. EDWARDS of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 303, nays 102, not voting 26, as follows:

[Roll No. 57]

YEAS—303

Abbitt
Abernethy
Alexander
Anderson, Ill.
Archer
Arends
Aspinall
Baker
Belcher
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Blackburn
Blanton
Boggs
Bow
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Cabell
Caffery
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Coughlin
Crane
Curlin
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dorn
Dowdy
Downing
Dulski
Duncan
du Pont
Edmondson
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Fulton
Fuqua
Garmatz
Gettys
Gibbons
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Griffin
Griffiths
Gross
Grover
Gubser
Hagan
Haley
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hastings
Hays
Heckler, Mass.
Heinz
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Horton
Hosmer
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Kee
Keith
Kemp
King
Kluczynski
Kuykendall
Kyl
Landgrebe
Landrum
Latta
Lennon
Lent
Link
Lloyd
Long, La.
Long, Md.
Lujan
McClory
McClure
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McMillan
Mahon
Mailliard
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Melcher
Michel
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Minshall
Mizell
Mollohan
Monagan
Montgomery
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
O'Konski
Passman
Patman
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Poff
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Sandman
Satterfield
Saylor
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Symington
Talcott

Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Vander Jagt
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—102

Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Begich
Bingham
Boland
Bolling
Brademas
Brasco
Burke, Mass.
Burton
Byrne, Pa.
Carey, N.Y.
Carney
Celler
Chisholm
Collins, Ill.
Conte
Conyers
Corman
Cotter
Culver
Danielson
Dellums
Diggs
Dingell
Donohue
Dow
Drinan
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Ford, William D.
Fraser
Gallagher
Gaydos
Giaimo
Green, Pa.
Gude
Hanna
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Helstoski
Holifield
Howard
Karth
Kastenmeier
Koch
Kyros
Leggett
McCormack
Madden
Mallary
Matsunaga
Meeds
Metcalfe
Mikva
Miller, Calif.
Mink
Mitchell
Moorhead
Morse
Moss
Nedzi
Nix
Obey
O'Hara
Patten
Podell
Rangel
Rees
Reid
Reuss
Riegle
Rosenthal
Roybal
Ryan
St Germain
Sarbanes
Schwengel
Seiberling
Stanton, James V.
Stokes
Thompson, N.J.
Tiernan
Udall
Van Deerlin
Waldie
Whalen
Wilson, Charles H.
Wolff
Yates

NOT VOTING—26

Anderson, Tenn.
Andrews
Ashbrook
Baring
Blatnik
Camp
Clausen, Don H.
Clay
Davis, S.C.
Dwyer
Edwards, La.
Frey
Galifianakis
Grasso
Hébert
McCloskey
McKinney
Macdonald, Mass.
Martin
O'Neill
Pryor, Ark.
Scheuer
Smith, Calif.
Stubblefield
Ullman
Vanik

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Blatnik for, with Mr. Scheuer against.

Mr. Hébert for, with Mr. McCloskey against.

Mr. Davis of South Carolina for, with Mr. Clay against.

Mr. Ullman for, with Mr. O'Neill, against.

Mr. Martin for, with Mr. Macdonald of Massachusetts against.

Mr. Anderson of Tennessee for, with Mr. Vanik against.

Until further notice:

Mr. Stubblefield with Mr. Ashbrook.

Mr. Pryor of Arkansas with Mr. Camp.

Mrs. Grasso with Mrs. Dwyer.

Mr. McKinney with Mr. Smith of California.

Mr. Baring with Mr. Andrews.

Mr. Frey with Mr. Don H. Clausen.

Messrs. BYRNE of Pennsylvania, BARRETT, and MADDEN changed their votes from "yea" to "nay."

Mr. SYMINGTON changed his vote from "present" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on that resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

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### PROVIDING FUNDS FOR COMMITTEE ON FOREIGN AFFAIRS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 823 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 823

*Resolved,* That, for the further expenses of conducting the studies and investigations, authorized by H. Res. 109, Ninety-second Congress, incurred by the Committee on Foreign Affairs, acting as a whole or by subcommittee, not to exceed $511,082, including expenditures for the employment of experts, clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee or subcommittee, signed by the chairman of the committee, and approved by the Committee on House Administration. However, not to exceed $50,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Foreign Affairs shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey is recognized for 1 hour.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I am glad to yield to my distinguished friend from Missouri.

Mr. HALL. Mr. Speaker, I note in following the various House resolutions which are coming before us today that section 3—or a similar portion thereof—authorizes these funds including travel pursuant to regulations established by the Committee on House Administration under existing law. I would ask the chairman of the subcommittee of the Committee on House Administration handling these resolutions today, if in all instances it involves what we used to refer to in the Committee on Rules as the Hall amendment; namely, that those who travel may not draw per-diem allowances in any type of currencies, for more than one 24-hour period in any country in which they might land by fast jet or otherwise.

Mr. THOMPSON of New Jersey. The gentleman is exactly correct.

Mr. HALL. I thank the gentleman.

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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### PROVIDING FUNDS FOR THE COMMITTEE ON THE JUDICIARY

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 822 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 822

*Resolved,* That, effective January 18, 1972, the expenses of conducting the studies and investigations authorized by H. Res. 161 of the Ninety-second Congress, incurred by the Committee on the Judiciary, acting as a whole or by subcommittee, not to exceed $450,000 including expenditures for the employment of experts, special counsel, clerical stenographic, and other assistants and consultants, and all expenses necessary for travel and subsistence incurred by member and employees while engaged in the activities of the committee or any subcommittee thereof, shall be paid out of the contingent fund of the House on vouchers authorized by such committee signed by the chairman of such committee and approved by the Committee on House Administration. Not to exceed $20,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on the Judiciary shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FUNDS FOR THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 827 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 827

*Resolved*, That the further expenses of the investigations and studies to be conducted pursuant to House Resolution 18, by the Committee on Interior and Insular Affairs, acting as a whole or by subcommittee, not to exceed $226,000, including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of cuch committee, and approved by the Committee on House Administration. However, not to exceed $40,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Interior and Insular Affairs shall furnish the chairman on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

The SPEAKER. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

There was no objection.

(Mr. THOMPSON of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON of New Jersey. Mr. Speaker, this resolution provides for the funds for the operation of the Committee on Interior and Insular Affairs.

Last year the House authorized $478,000 for this committee. This year the amount is $226,000, representing a decrease of $252,000, due in large measure to a carryover of funds from last year.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. SAYLOR).

(Mr. SAYLOR asked and was given permission to revise and extend his remarks.)

Mr. SAYLOR. I thank the gentleman for yielding.

Mr. Speaker, I take this time, first, to commend the gentleman from New Jersey and his committee for the work that they have done this early in the session in bringing this resolution to the House and getting it behind us. However, I am concerned with the growing tendency that appears evident before the committee that they seem to be granting more and more authority to the subcommittees of the various committees of Congress, not only the House Interior Committee, but all other committees.

Very frankly, we actually pervert the old Reorganization Act of 1946 when Congress got rid of all of the small committees and made them major committees of the House of Representatives.

If the same trend continues, we are going to have more subcommittees with authorizations than we had in 1946.

Mr. Speaker, I would sincerely hope that the gentleman from New Jersey and his distinguished committee would keep this in mind as they look at the appropriations to be made to these committees in the next session of Congress.

I should like to add at this point, in table form, a review of the appropriations for the various committees of the House from the 80th Congress to the present Congress. The table will show that the sums appropriated are growing at an alarming rate and pace:

| Committee | 80th | 81st | 82d | 83d | 84th | 85th | 86th | 87th | 88th | 89th | 90th | 91st | 92d |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Agriculture | 30,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000<br>25,000 | 50,000<br>25,000 | 75,000<br>75,000 | 100,000<br>40,000 | 100,000<br>100,000 | 250,000 |
| Armed Forces Survivors Benefits (Select) | | | | 20,000 | 36,500 | | | | | | | | |
| Armed Services | 250,000 | 10,000 | 150,000 | 150,000 | 150,000 | 150,000<br>75,000 | 150,000 | 150,000 | 75,000<br>75,000 | 100,000<br>150,000 | 150,000<br>150,000 | 175,000<br>250,000 | 300,000 |
| Asian Development (Select) | | | | | | | | | | | | 30,000 | |
| Baltic Countries (Select) | | | | 180,000 | | | | | | | | | |
| Banking and Currency | | 25,000 | 70,000 | | 75,000<br>75,000 | 105,000<br>85,000 | 105,000<br>100,000 | 105,000<br>100,000 | 555,000<br>125,000 | 532,000<br>280,000 | 450,000<br>475,000 | 692,500<br>681,000 | 975,000 |
| Campaign Expenditures | 40,000 | 40,000 | 30,000 | 25,000 | 30,000 | 30,000 | 35,000 | 35,000 | 35,000 | 55,000 | 50,000 | 60,000<br>150,000 | |
| Commodity Exchanges (Select) | 35,000 | | | | | | | | | | | | |
| Crime | | | | | | | | | | | | 375,000<br>600,000 | 675,000 |
| District of Columbia | 15,000 | 32,000 | 2,000 | 2,000 | 2,000 | 7,000 | 10,000 | 10,000 | 25,000 | 25,000<br>25,000 | 50,000<br>50,000 | 100,000<br>10,000 | 220,000 |
| Education and Labor | 115,000 | 30,000 | 30,000 | 50,000<br>75,000 | 125,000 | 125,000 | 160,000<br>168,000 | 633,000 | 212,000<br>263,000 | 200,000<br>510,000 | 504,000<br>554,400 | 769,600<br>769,600 | 1,250,000 |
| Energy Resources (Select) | | | | | | | | | | | | | [1] 500,000 |
| Expenditures in Executive Departments | 291,500 | 300,000 | 360,000 | | | | | | | | | | |
| Foreign Affairs | 125,000 | 50,000 | 75,000 | 75,000 | 75,000 | 75,000 | 150,000 | 150,000<br>5,000 | 112,500<br>100,000 | 118,250<br>75,000 | 175,000<br>60,000 | 200,000<br>150,000 | 425,580 |
| Foreign Aid | 125,000 | | | | | | | | | | | | |
| Foundations (Select) | | | 75,000 | 115,000 | | | | | | | | | |
| Government Operations | | | | 585,050 | 495,000<br>500,000 | 575,000<br>600,000 | 640,000<br>400,000 | 640,000<br>400,000 | 600,000<br>600,000 | 650,000<br>800,000 | 725,000<br>775,000 | 850,000<br>900,000 | 1,032,600 |
| Government Research | | | | | | | | | 553,000 | | | | |
| House Administration | 5,000 | | | | 65,000<br>20,000 | 130,000<br>40,000 | 10,000<br>10,000 | 20,000<br>10,000 | 5,000 | 5,000<br>25,000 | 50,000 | 300,000<br>500,000 | 400,000 |
| House Restaurant (Select) | | | | | | | | | | | | 40,000 | 43,000 |
| Interior and Insular Affairs | | | 100,000 | 50,000 | 50,000<br>10,000 | 57,500 | 60,000<br>15,000 | 60,000 | 30,000<br>30,000 | 75,000<br>75,000 | 100,000<br>80,000 | 115,000<br>80,000 | 478,000 |
| Internal Security (Un-American Activities) | 300,000 | 350,000 | 500,000 | 300,000<br>275,000 | 225,000<br>275,000 | 305,000<br>327,000 | 327,000<br>327,000 | 331,000<br>350,000 | 360,000<br>300,000 | 420,000<br>425,000 | 350,000<br>375,000 | 400,000<br>450,000 | 570,000 |
| Interstate and Foreign Commerce | 55,000 | 60,000 | 80,000 | 60,000 | 60,000 | 100,000<br>310,000 | 475,000<br>275,000 | 435,000<br>150,000 | 278,450<br>319,000 | 262,000<br>345,000 | 395,000<br>325,000 | 595,000<br>465,000 | 989,000 |
| Investigate Federal Communications Commission (Select) | 25,000 | | | | | | | | | | | | |
| Investigate Export Control Act of 1949 (Select) | | | | | | | | 50,000 | | | | | |
| Investigate Insecticides, et cetera (Select) | | 30,000 | 75,000 | | | | | | | | | | |
| Investigate Pornographic Material (Select) | | | 25,000 | | | | | | | | | | |
| Judiciary | | 85,000 | 308,000 | 110,000<br>25,000 | 125,000<br>100,000 | 350,000<br>15,000 | 200,000<br>225,000 | 365,000<br>300,000 | 396,000<br>400,000 | 340,000<br>320,000 | 250,000<br>250,000 | 250,000<br>280,000 | 350,000 |
| Katyn Forest Massacre (Select) | | | 85,000 | | | | | | | | | | |
| Lobbying Activities (Select) | | 95,000 | | | | | | | | | | | |
| Merchant Marine and Fisheries | 50,000 | 80,000 | | 50,000 | 75,000<br>10,000 | 50,000<br>25,000 | 75,000 | 75,000 | 37,500 | 50,000<br>85,000 | 115,000<br>155,000 | 135,000<br>175,000 | 291,500 |
| Outer Space (Select) | | | | | | 185,000 | | | | | | | |
| Post Office and Civil Service | 50,000 | 50,000 | | 50,000 | 75,000 | 50,000 | 57,000 | 100,000<br>25,000 | 62,500<br>62,500 | 175,000<br>240,000 | 284,000<br>311,000 | 412,000<br>394,000 | 533,000 |

Footnotes at end of table.

| Committee | 80th | 81st | 82d | 83d | 84th | 85th | 86th | 87th | 88th | 89th | 90th | 91st | 92d |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Public Land | 25,000 | 30,000 | | | | | | | | | | | |
| Public Works | 125,000 | 15,000 | 95,000 | 30,000 | 50,000 | 125,000<br>35,000 | 135,000<br>350,000 | 950,000<br>150,000 | 575,000<br>600,000 | 580,000<br>342,000 | 460,000<br>550,000 | 486,000<br>587,000 | 1,072,67 |
| Rules | | | | 2,500 | | | | | | | 5,000 | 5,000 | 5,000 |
| Science and Astronautics | | | | | | | 300,000 | 300,000 | 150,000<br>175,000 | 250,000<br>250,000 | 250,000<br>300,000 | 350,000<br>365,000 | 380,000 |
| Small Business (Select) | 130,000 | 150,000 | 260,000 | 135,000<br>25,000 | 170,000<br>160,000 | 225,000<br>218,000 | 275,000<br>260,000 | 580,000 | 275,000<br>250,000 | 300,000<br>335,000 | 350,000<br>365,000 | 39p,000<br>515,000 | 530,000 |
| Standards of Official Conduct | | | | | | | | | | 10,000 | 10,000 | 20,000 | 25,000 |
| Veterans' Affairs | 25,000 | | | 50,000 | 50,000<br>35,000 | 75,000<br>35,000 | 110,000<br>50,000 | 50,000<br>100,000 | 60,000<br>85,000 | 100,000<br>60,000 | 100,000<br>75,000 | 150,000<br>100,000 | 150,000 |
| Ways and Means | 25,000 | 25,000 | 250,000 | 200,000 | 330,000 | 250,000 | 300,000 | 25,000 | 12,500 | 35,000 | 50,000 | 50,000 | 75,000 |

[1] Requested.

Note: Where 1 figure appears for a committee for a Congress, the amount app ies for the entire Congresss. Where 2 figures appear, the top amount applies to the 1st sess. and the bottom figure applies to the 2d sess.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I would be happy to yield to my distinguished colleague from Alabama.

Mr. DICKINSON. I would say to the gentleman from Pennsylvania that as a member of the committee I share your concern over the proliferation of subcommittees. But, I was wondering what the gentleman would suggest as an alternative, sitting there day after day hearing these various committee chairmen come in with the ranking member when they come in there with the records and data and say that this is what they need in order to do their job. They lay out their reports of the past year's activity and they say, just as you and your chairman say when you come in, "This is what we need in order to do our job right."

What does the gentleman suggest that the House Administration Committee do?

Mr. SAYLOR. I would suggest to my colleague that we cut down a little bit on each one of these committees and say to them, "If you need any more, you can always come back."

Mr. DICKINSON. Mr. Speaker, if the gentleman will yield further, instead of saving the money, you would be doubling the workload.

Mr. THOMPSON of New Jersey. Mr. Speaker, with respect to the remarks of the gentleman from Pennsylvania, the Subcommittee on Accounts and the Committee on House Administration in each and every instance has insisted that the chairman and the ranking member and such other members of the committee as desire to do so appear before us.

They prepare a formal request, accompanied by a letter to the distinguished chairman of the full committee, the gentleman from Ohio (Mr. HAYS). Those budget requests are studied carefully. We carefully question each committee chairman when he appears before the Subcommittee on Accounts. In each case we require them to justify the needs represented in their request, and in each case, without fail, the gentleman from Alabama (Mr. DICKINSON) has undertaken to ask the ranking minority members a number of penetrating and relevant questions. These matters are studied thoroughly, indeed. I think that in this case, with a request which is $252,000 less than the amount authorized last year, we have an example of the care with which these matters are considered.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FUNDS FOR THE COMMITTEE ON SCIENCE AND ASTRONAUTICS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 824 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 824

*Resolved*, That, for the further expenses of the investigations and studies to be conducted pursuant to H. Res. 243, by the Committee on Science and Astronautics, acting as a whole or by subcommittee, not to exceed $410,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a (i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $25,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.A. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Science and Astronautics shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON of New Jersey. Mr. Speaker, here again is an example of the care with which these matters are considered. The chairman of the committee, the gentleman from California (Mr. MILLER) and the ranking member, appeared before the committee, in agreement. Their request was given careful consideration, and I commend it to the Members of the House.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FUNDS FOR THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 825 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 825

*Resolved*, That, effective from January 3, 1971, the additional expenses of the investigations and studies to be conducted pursuant to H. Res. 5 and H. Res. 19, by the permanent Select Committee on Small Business, acting as a whole or by subcommittee, not to exceed $398,000, including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $25,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the permanent Select Committee on Small Business shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON of New Jersey. Mr. Speaker, the chairman of the Committee on Small Business, and the ranking member, appeared before us and were questioned with respect to their activities and their needs. In the final analysis, with their complete agreement, we reported out a request for $398,000, which represents a $132,000 decrease from the previous year. We consider the request to be entirely justified.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FUNDS FOR THE COMMITTEE ON HOUSE ADMINISTRATION

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 831 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 831

*Resolved*, That for the further expenses of the investigations and studies to be conducted by the Committee on House Administration, acting as a whole or by subcommittee, not to exceed $215,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $30,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There is no objection.

The SPEAKER. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 831 represents moneys for the Committee on House Administration. Last year the House authorized the committee an expenditure of $400,000. The chairman of the committee, the gentleman from Ohio (Mr. HAYS) by what I consider to be splendid administration has not only increased the efficiency of the commitee and its operations, and indeed in many areas expanded them, but has done so in such a way that this year he is asking for only $215,000, representing a decrease from last year of $185,000.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I would like to say, so that nobody in the House will think we are misrepresenting things, that we are keeping the computer section which the committee took over from the Clerk in a separate fund and that it is funded separately.

This amount, which does represent a decrease, is for the Committee on House Administration staff which has, I might say, many more duties than they previously had.

We have tried, and I have had tremendous cooperation from the chairmen of the subcommittees to get the job done.

Mr. Speaker, I thank the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FUNDS FOR THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 826 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 826

*Resolved*, That effective January 3, 1972, the expenses of the investigations and studies to be conducted pursuant to H. Res. 217, by the Committee on Post Office and Civil Service, acting as a whole or by subcommittee, not to exceed $523,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $60,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), but the monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Post Office and Civil Service shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The SPEAKER. The gentleman from New Jersey is recognized for 1 hour.

Mr. THOMPSON of New Jersey. Mr. Speaker, the chairman and ranking member of the Committee on Post Office and Civil Service came before the Subcommittee on Accounts and explained completely their budget request. Last year they were authorized $533,000. This year the committee asks that the House authorize $523,000, representing a $10,000 decrease.

Mr. Speaker, I might say in connection with not only this resolution but all of those being considered today, that the members of the Subcommittee on Accounts have worked very hard, very faithfully, and very cooperatively in the review of these budget requests. I do not want to let this opportunity pass without commending my friend, the ranking member of the subcommittee, the gentleman from Alabama (Mr. DICKINSON) for his cooperation.

Each and every one of these matters has been considered with great care.

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FUNDS FOR THE COMMITTEE ON BANKING AND CURRENCY

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 837 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 837

*Resolved*, That the further expenses of conducting the investigations and studies authorized by H. Res. 114, Ninety-second Congress, incurred by the Committee on Banking and Currency, acting as a whole or by subcommittee, appointed by the chairman of the committee, not to exceed $684,800 in addition to the unexpended balance of any sum heretofore made available for conducting such investigations and studies, including expenditures for employment,, travel, and subsistence of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $20,000 of the amount provided by this resolution may be used to procure the temporary or intermitten services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose. Not to exceed $327,300 of the total amount provided by this resolution (in addition to the unexpended balance of any sum heretofore made available for the expenses of the Housing Subcommittee of the Committee on Banking and Currency) shall be made available for the expenses of the Housing Subcommittee of the Committee on Banking and Currency in accordance with this resolution which shall be paid on vouchers authorized by such subcommittee, signed by the chairman of such subcommittee or the chairman of the committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Banking and Currency shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on Housing Administration Under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The SPEAKER. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON of New Jersey. Mr. Speaker, here again the chairman of the committee and the ranking minority member appeared before us after having sent us the requisite information which was considered with great care.

Last year the House authorized for the Committee on Banking and Currency $975,000. This year we are respectfully requesting that the committee be given $684,000 representing a $291,000 decrease.

Does the gentleman from Missouri wish that I yield to him?

Mr. HALL. At the conclusion of the gentleman's statement, Mr. Speaker, I would appreciate his yielding to me.

Mr. THOMPSON of New Jersey. I am glad to yield to the gentleman from Missouri at this time for debate only.

Mr. HALL. I would just like to be advised in a little more detail, before we let this particular resolution go through practically by unanimous consent or otherwise, as to why the additional funds for this particular committee, historically an off-shoot of the Committee on Ways and Means, but in fact one that has perhaps been as much responsible for the deficits in the Federal Treasury as any other committee we have in the House. Why should they be increased? Why should they have $684,800 in addition to the unexpended balance carried over? Just a few words of justification please, as to how this budget will be expended.

For example, in the committee report——

Mr. THOMPSON of New Jersey. May the gentleman from New Jersey make a comment at that point?

Mr. HALL. Of course.

Mr. THOMPSON of New Jersey. The carryover, I might say to the gentleman from Missouri, was $260,000. Therefore, the total amount which this resolution would make available to the committee is still $31,000 less than the amount the House authorized the committee to spend last year.

Mr. HALL. Mr. Speaker, if the gentleman will yield further, I understand that, and I got the general decrease over what was allocated for last year from the gentleman's original statement. I appreciate that and all small favors. Any saving to the taxpayers is deeply appreciated by the gentleman from Missouri. But I just never have quite understood the justification and, of course, this particular committee often comes back with a supplemental for additional funding, and usually for a travel resolution. I refer to the Committee on Banking and Currency, not the Committee on House Administration.

Mr. THOMPSON of New Jersey. I might say to my friend from Missouri that they did not come back to the House for any additional funds last year. With respect to travel authorizations, those are handled by the Committee on Rules. I do not anticipate that this committee will come back to us this year.

Mr. HALL. I am well aware of that, but has the gentleman no justification in addition to that on page 2 of his own committee report, the third paragraph from the bottom?

Mr. THOMPSON of New Jersey. I do not understand what justification is lacking in my friend's mind.

Mr. HALL. To me the listed or expected expenditures do not add up to the total amount of $684,800, plus the carryover funds. That worries me, as to where the funds of this particular committee might be utilized.

Mr. THOMPSON of New Jersey. I might say to the gentleman that under rather intense questioning, the members of the Subcommittee on Accounts were satisfied that the moneys are being used and are not in any way being diverted for any other purpose at all. They are being used in the proper exercise of the jurisdiction of the committee.

Mr. HALL. In the opinion of the committee, as a result of his questioning, he thinks that this particular standing committee of the House is not overspending?

Mr. THOMPSON of New Jersey. Yes; I think that they are not overspending.

Mr. HALL. The difference in opinion is what makes the "Mairzy Doats" around here. I thank the gentleman for his response.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Alabama.

Mr. DICKINSON. I am inclined to agree with the gentleman from Missouri. That probably is true, and at this time I ask unanimous consent to put into the RECORD the history of the increase in the budgeted amount of this committee for the past few years.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The history is as follows:

| Committee | 80th | 81st | 82d | 83d | 84th | 85th | 86th | 87th | 88th | 89th | 90th | 91st | 92d |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Committee on Banking and Currency | 25, 000 | 70, 000 |  | 75, 000<br>75, 000 | 105, 000<br>85, 000 | 105, 000<br>100, 000 | 105, 000<br>100, 000 | 555, 000<br>125, 000 | 532, 000<br>280, 000 | 450, 000<br>475, 000 | 692, 500<br>681, 000 | 975, 00 |  |

Note: Where 1 figure appears for a committee for a Congress, the amount applies for the entire Congress. Where 2 figures appear, the top amount applies to the 1st sess. and the bottom figure applies to the 2d sess.

Mr. THOMPSON of New Jersey. I think that might be valuable. I think that probably would be a valuable contribution. We can examine it, and I might say to the gentleman from Alabama and the gentleman from Missouri with respect to this and any other committees and their staffing, if you direct your inquiries to us, we shall answer them as quickly and as candidly as possible.

Mr. DICKINSON. If the gentleman will yield further, I have had prepared, or the minority staff has had prepared, the history and chronology of the increases year by year of all the committees, and I think it would be very helpful for the Members.

(Mr. DICKINSON asked and was given permission to insert extraneous matter at this point in the RECORD.)

The material follows:

| Committees | 80th | 81st | 82d | 83d | 84th | 85th | 86th | 87th | 88th | 89th | 90th | 91st | 92d |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Agriculture | 30, 000 | 50, 000 | 50, 000 | 50, 000 | 50, 000 | 50, 000 | 50, 000 | 50, 000<br>25, 000 | 50, 000<br>25, 000 | 75, 000<br>75, 000 | 100, 000<br>40, 000 | 100, 000<br>100, 000 | 250, 000 |
| Armed Forces Survivors Benefits (Select) |  |  |  | 20, 000 | 36, 500 |  |  |  |  |  |  |  |  |
| Armed Services | 250, 000 | 10, 000 | 150, 000 | 150, 000 | 150, 000 | 150, 000<br>75, 000 | 150, 000 | 150, 000 | 75, 000<br>75, 000 | 100, 000<br>150, 000 | 150, 000<br>150, 000 | 175, 000<br>250, 000 | 300, 000 |

| Committees | 80th | 81st | 82d | 83d | 84th | 85th | 86th | 87th | 88th | 89th | 90th | 91st | 92d |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Asian Development (Select) | | | | | | | | | | | | 30,000 | |
| Baltic Countries (Select) | | | | 180,000 | | | | | | | | | |
| Banking and Currency | | 25,000 | 70,000 | | 75,000<br>75,000 | 105,000<br>85,000 | 105,000<br>100,000 | 105,000<br>100,000 | 555,000<br>125,000 | 532,000<br>280,000 | 450,000<br>475,000 | 692,500<br>681,000 | 975,000 |
| Campaign Expenditures | 40,000 | 40,000 | 30,000 | 25,000 | 30,000 | 30,000 | 35,000 | 35,000 | 35,000 | 55,000 | 50,000 | 60,000<br>15,000 | |
| Commodity Exchanges (Select) | 35,000 | | | | | | | | | | | | |
| Crime | | | | | | | | | | | | 375,000<br>600,000 | 675,000 |
| District of Columbia | 15,000 | 32,000 | 2,000 | 2,000 | 2,000 | 7,000 | 10,000 | 10,000 | 25,000 | 25,000<br>25,000 | 50,000<br>50,000 | 100,000<br>10,000 | 220,000 |
| Education and Labor | 115,000 | 30,000 | 30,000 | 50,000<br>75,000 | 125,000 | 125,000 | 160,000<br>168,000 | 633,000 | 212,000<br>263,000 | 200,000<br>510,000 | 504,000<br>554,400 | 769,600<br>769,600 | 1,250,000 |
| Expenditures in Executive Departments | 291,500 | 300,000 | 360,000 | | | | | | | | | | |
| Foreign Affairs | 125,000 | 50,000 | 75,000 | 75,000 | 75,000 | 75,000 | 150,000 | 150,000<br>5,000 | 112,500<br>100,000 | 118,250<br>75,000 | 175,000<br>60,000 | 200,000<br>150,000 | 425,580 |
| Foreign Aid | 125,000 | | | | | | | | | | | | |
| Foundations (Select) | | | 75,000 | 115,000 | | | | | | | | | |
| Government Operations | | | | 585,050 | 495,000<br>500,000 | 575,000<br>600,000 | 640,000<br>400,000 | 640,000<br>400,000 | 600,000<br>600,000 | 650,000<br>800,000 | 725,000<br>775,000 | 850,000<br>900,000 | 1,032,600 |
| Government Research | | | | | | | | | 553,000 | | | | |
| House Administration | 5,000 | | | | 65,000<br>20,000 | 130,000<br>40,000 | 10,000<br>10,000 | 20,000<br>10,000 | 5,000 | 5,000<br>25,000 | 50,000 | 300,000<br>500,000 | 400,000 |
| House Restaurant (Select) | | | | | | | | | | | | 40,000 | 43,000 |
| Interior and Insular Affairs | | | 100,000 | 50,000 | 50,000<br>10,000 | 57,500 | 60,000<br>15,000 | 60,000 | 30,000<br>30,000 | 75,000<br>75,000 | 100,000<br>80,000 | 115,000<br>80,000 | 478,000 |
| Internal Security (Un-American Activities) | 300,000 | 350,000 | 500,000 | 300,000<br>275,000 | 225,000<br>275,000 | 305,000<br>327,000 | 327,000<br>327,000 | 331,000<br>350,000 | 360,000<br>300,000 | 420,000<br>425,000 | 350,000<br>375,000 | 400,000<br>450,000 | 570,000 |
| Interstate and Foreign Commerce | 55,000 | 60,000 | 80,000 | 60,000 | 60,000 | 100,000<br>310,000 | 475,000<br>275,000 | 435,000<br>150,000 | 278,450<br>319,000 | 262,000<br>345,000 | 395,000<br>325,000 | 595,000<br>465,000 | 989,000 |
| Investigate Federal Communications Commission (Select) | 25,000 | | | | | | | | | | | | |
| Investigate Export Control Act of 1949 (Select) | | | | | | | | 50,000 | | | | | |
| Investigate Insecticides, etc. (Select) | | 30,000 | 75,000 | | | | | | | | | | |
| Investigate Pornographic Material (Select) | | | 25,000 | | | | | | | | | | |
| Judiciary | | 85,000 | 308,000 | 110,000<br>25,000 | 125,000<br>100,000 | 350,000<br>15,000 | 200,000<br>225,000 | 365,000<br>300,000 | 396,000<br>400,000 | 340,000<br>320,000 | 250,000<br>250,000 | 250,000<br>280,000 | 350,000 |
| Katyn Forest Massacre (Select) | | | 85,000 | | | | | | | | | | |
| Lobbying Activities (Select) | | 95,000 | | | | | | | | | | | |
| Merchant Marine and Fisheries | 50,000 | 80,000 | | 50,000 | 75,000<br>10,000 | 50,000<br>25,000 | 75,000 | 75,000 | 37,500 | 50,000<br>85,000 | 115,000<br>155,000 | 135,000<br>175,000 | 291,500 |
| Outer Space (Select) | | | | | | 185,000 | | | | | | | |
| Post Office and Civil Service | 50,000 | 50,000 | | 50,000 | 75,000 | 50,000 | 75,000 | 100,000<br>25,000 | 62,500<br>62,500 | 175,000<br>240,000 | 284,000<br>311,000 | 412,000<br>394,000 | 533,000 |
| Public Land | 25,000 | 30,000 | | | | | | | | | | | |
| Public Works | 125,000 | 15,000 | 95,000 | 30,000 | 50,000 | 125,000<br>35,000 | 125,000<br>350,000 | 950,000<br>150,000 | 575,000<br>600,000 | 580,000<br>342,000 | 460,000<br>550,000 | 486,000<br>587,000 | 1,072,670 |
| Rules | | | | 2,500 | | | | | | | 5,000 | 5,000 | 5,000 |
| Science and Astronautics | | | | | | | 300,000 | 300,000 | 150,000<br>175,000 | 250,000<br>250,000 | 350,000<br>300,000 | 250,000<br>365,000 | 380,000 |
| Small Business (Select) | 130,000 | 150,000 | 260,000 | 135,000<br>25,000 | 170,000<br>160,000 | 225,000<br>218,000 | 275,000<br>260,000 | 580,000 | 275,000<br>250,000 | 300,000<br>335,000 | 350,000<br>365,000 | 390,000<br>515,000 | 530,000 |
| Standards of Official Conduct | | | | | | | | | | 10,000 | 10,000 | 20,000 | 25,000 |
| Veterans' Affairs | 25,000 | | | 50,000 | 50,000<br>35,000 | 75,000<br>35,000 | 110,000<br>50,000 | 50,000<br>100,000 | 60,000<br>85,000 | 100,000<br>60,000 | 100,000<br>75,000 | 150,000<br>100,000 | 150,000 |
| Ways and Means | 25,000 | 25,000 | 250,000 | 200,000 | 330,000 | 250,000 | 300,000 | 25,000 | 12,500 | 35,000 | 50,000 | 50,000 | 75,000 |

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[1] Requested.

Note: Where 1 figure appears for a committee for a Congress, the amount applies for the entire Congress. Where 2 figures appear, the top amount applies to the 1st sess. and the bottom figure applies to the 2d sess.

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FUNDS FOR THE COMMITTEE ON EDUCATION AND LABOR

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 847 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 847

*Resolved*, That, effective January 1, 1972, the expenses of the investigations and studies to be conducted pursuant to H. Res. 213, by the Committee on Education and Labor, acting as a whole or by subcommittee, not to exceed $1,128,000, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Of such amount $85,000 shall be available for each of seven standing subcommittees of the Committee on Education and Labor. However, not to exceed $10,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Education and Labor shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey is recognized for 1 hour.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield to the gentleman from Kentucky (Mr. PERKINS) the distinguished chairman of the Committee on Education and Labor, such time as he may consume.

Mr. PERKINS. Mr. Speaker, House Resolution 847, authorizing funds for the Committee on Education and Labor, differs from the original budget request of the committee. I am therefore taking this time in order to clarify the legislative history with respect to the resolution and to state my understanding of the combined effect of the committee's budget request and House Resolution 847.

In my letter dated February 24, 1972, and in House Resolution 842 which I introduced, $1,100,000 was requested for the Committee on Education and Labor for operating expenses for the second session of this Congress. As detailed in my letter of February 24, the total request was computed as follows: $285,000 for the full committee majority; $220,000 for the full committee minority; and $85,000 for each of the seven standing subcommittees. Under our request and in House Resolution 842, the minority would have received 20 percent of the amount requested.

House Resolution 847, under consideration today, proposes $1,128,000 for the committee—$28,000 more than requested in House Resolution 842. This additional amount is, in accordance with the committee report on House Resolution 847, for the minority of the committee. The total of $1,128,000 will, therefore, be allocated as follows: $285,000 for full committee majority; $248,000 for full committee minority; and $85,000 for each of the seven standing subcommittees. In each of these categories there are carryover funds from the first session. Taking this into account, a total of $445,454.27 will be available in 1972 for the full committee majority—that is $160,454.27 in carryover funds from the first session, plus $285,000 under House Resolution 847. A total of $370,126.96 will be available in 1972 for the full committee minority; that is, a carryover of $122,126.96 from the first session, plus $248,000 under House Resolution 847. For the seven standing subcommittees, a total of $737,374.34 will be available—that is, a carryover of $142,374.34 from the first session, plus $595,000 under House Resolution 847.

This analysis does not take into account funds available for the Special Task Force on Welfare and Pension Plans of the General Subcommittee on Labor.

The first session the full committee majority and the minority were authorized a total of $655,000. The majority received 57.2 percent or $375,000; and the minority received 42.8 percent or $280,000.

The full committee majority and minority have expended a total of $372,418; the full committee majority expending 57.5 percent of this amount or $214,545, the minority has expended 42.4 percent of this amount or $157,873.

Mr. THOMPSON of New Jersey. Mr. Chairman, again the chairman and the ranking member of the Committee on Education and Labor came before the subcommittee. Last year there was an authorization for $1,250,000. This year the committee is requesting $1,128,000, the difference, not including the carryover, being $122,000 decrease.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman yielding.

I am almost embarrassed to be the only one on the floor who continues to ask the same type questions. I want to assure the gentleman I have read the committee report in detail and underlined every pertinent portion thereof, so it looks as though emphasis has been supplied throughout; but this, of course, is by far the greatest expenditure out of the House's contingency funds of any of the resolutions being presented here today, being well over $1 million.

Again, we have traditionally had in this committee the question of overstaffing, and overexpenditure, and overtravel, and a wealth of proposals brought to the floor of questionable lineage on national interest at least, to be the very kindest about it. I would like to be reassured by the gentleman from New Jersey that this tremendous amount for the functions of this committee is completely justifiable to the taxpayers.

Mr. THOMPSON of New Jersey. Mr. Speaker, I might say to my friend, the gentleman from Missouri, that it is my considered judgment that this amount is justified. I cannot say to my friend, the gentleman from Missouri, that the legislation produced by this committee is not controversial, and that with respect to the substance of it and the substance of it alone, we find ourselves in disagreement. It is, nevertheless, an extraordinarily sensitive committee with extraordinarily broad responsibilities in the area of both education and labor. It s a contentous committee, but it is, indeed, a very hard-working one.

With respect to the moneys, I think there is complete justification. With respect to the substance of what is produced in the form of empowering legislation, the Elementary and Secondary Education Act, the Higher Education Act, and labor matters, we are, indeed, a controversial committee.

Mr. HALL. If the gentleman will yield further, Mr. Speaker, just as other conferees have been able to make certain agreements, perhaps we could at least stipulate with each other that if it is contentious they hang and respond to the strings of mutual interest defined by the name of the committee, excessively from time to time.

Would that be a fair statement?

Mr. THOMPSON of New Jersey. I am not sure I understand all of its implications, but I have never known the gentleman to make an unfair statement, so I will say it is a fair statement. The gentleman is an honored and personal friend.

Mr. HALL. I thank the gentleman.

Secondly, would the gentleman explain to me the fact that the report says that there will be—and the proposal and the funding reflect—substantially more travel by the committee and its subcommittees during the coming year than in 1971. That is at the bottom of page 9.

Mr. THOMPSON of New Jersey. Yes. In the exercise of its oversight responsibilities and in keeping with the latest Reorganization Act, the subcommittees and the Committee on Education and Labor have undertaken substantial review of the operation of the laws over which they have jurisdiction.

If I may make a personal reference as a subcommittee chairman, in the 12 years I have been a subcommittee chairman, except for my occasional trips to the International Labor Organization, about which the gentleman and my dear friend from Iowa know so much, which are financed and have been financed largely by the Department of State——

Mr. HALL. Which still comes out of taxpayer funds.

Mr. THOMPSON of New Jersey. The Department of State has sent the warm bodies of our distinguished colleague (Mr. ASHBROOK) and myself to Geneva two or three times.

But with respect to committee travel paid for by the committee, in 12 years my subcommittees have made a total of five trips, and only two in this year. We are considering, and must travel in order to get the evidence, the possibility of including the employees of certain institutions under the National Labor Relations Act. Also we had to send two lawyer investigators to California to talk with the disputants in the west coast dock strike.

The Agricultural Committee, under the chairmanship of the gentleman from Michigan (Mr. O'HARA) must undertake considerable travel in order to study its problems.

Mr. HALL. You mean the Committee on Education and Labor, has a Subcommittee on Agriculture in addition to the House standing committee and the Department?

Mr. THOMPSON of New Jersey. I believe this is a perfectly candid and open statement of anticipation of needed and increased travel.

I might say this: Since he has become the chairman of the committee the gentleman from Kentucky (Mr. PERKINS) has put extremely stringent—were I to complain, I would say too stringent—requirements on the subcommittee chairmen with respect to justifying their trips. He has extremely tight control, I can assure the gentleman.

Mr. HALL. Mr. Speaker, if the gentleman will yield finally, I appreciate the dual conflict of interest of my "warm-bodied" friend from New Jersey, and I appreciate that he has desire, and will travel. He is assigned and serves both the Committee on House Administration and the Committee on Education and Labor. I believe he chairs subcommittees of both. This being as it may, perhaps we could agree on a final issue, namely, that as in the case of the consent calendar, we should at least have a vote, since this involves over a million dollars of the taxpayers' money.

I thank the gentleman for yielding.

Mr. THOMPSON of New Jersey. Am I to understand that the gentleman from Missouri is going to want a vote on this resolution?

Mr. HALL. I hoped the gentleman would agree with me.

Mr. THOMPSON of New Jersey. I wish I could. I think the fact that I am not in agreement is not going to get me anywhere, so therefore I am not going to argue. I am sure that we will have a vote, and perhaps we should since considerable money is involved.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to my friend from Iowa.

Mr. GROSS. I thank my friend from New Jersey for yielding.

I have listened with interest to the colloquy between the gentleman from New Jersey and the gentleman from Missouri.

I was interested in the reference to the dual role of the gentleman rather than one of a conflict of interest, and it is suggested we might throw culture into this for good measure somewhere along the line.

Mr. THOMPSON of New Jersey. We will if at all possible as my friend knows, I am known as the culture vulture.

Mr. GROSS. I thought so. I am intrigued by the specification of $85,000 per subcommittee. Is that not rather high and more than other subcommittees in the House have to expend?

Mr. THOMPSON of New Jersey. Yes, it is.

Mr. GROSS. And that is done for the purpose of what? Why is it above other subcommittees' allowances?

Mr. THOMPSON of New Jersey. It is above other subcommittees. I might say to the gentleman from Iowa, because going back a number of years to the previous chairman of the Committee on Education and Labor, it was felt that the exercise of fiscal responsibility could better be spread out and be under the control of the subcommittee chairman rather than exclusively under the control of the chairman. Since that time the largest amount of the other requests, aside from the $85,000 per subcommittee, is divided generously between the majority and the minority.

I see the ranking minority member here (Mr. QUIE) and I think he will testify to the fairness and to the wisdom of this procedure.

Mr. GROSS. The gentleman said that this was a sensitive committee, and I am beginning now to understand why. Certain operations that were carried on as a matter of expediency in the past have now become the customary and adopted procedure in the committee. I did not know that the subcommittee structure had been necessitated by foregoing events. Now I know, and I appreciate the gentleman's explanation. However, I still think $85,000 per subcommittee is on the high side by comparison with other subcommittees with which I am acquainted.

Mr. THOMPSON of New Jersey. It is but on a relative basis. Were it all lumped together, it would not be.

The gentleman is aware of the early history which has been written about the former chairman of the committee whom I shall not mention by name but whom everyone knows.

Mr. GROSS. It would be just as well if you do not.

Mr. THOMPSON of New Jersey. We are very proud of the operation of the Committee on Education and Labor. We think it is very well operated.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 319, nays 78, not voting 34, as follows:

[Roll No. 58]

YEAS—319

Abbitt
Abernethy
Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Annunzio
Arends
Ashley
Aspin
Aspinall
Badillo
Baker
Barrett
Begich
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanton
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Brooks
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Carey, N.Y.
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clark
Cleveland
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Dickinson
Diggs
Dingell
Donohue
Dorn
Drinan
Dulski
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fisher
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Fulton
Fuqua
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gude
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Holifield
Horton
Howard
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Kemp
Kluczynski
Koch
Kyl
Kyros
Landrum
Leggett
Lent
Link
Lloyd
Long, Md.
Lujan
McClory
McClure
McCormack
McDade
McDonald, Mich.
McFall
McKay
McKinney
McMillan
Madden
Mahon
Mailliard
Mallary
Mann
Matsunaga
Mayne
Mazzoli
Meeds
Metcalfe
Mikva
Miller, Calif.
Mills, Ark.
Minish
Mink
Mitchell
Mizell
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nix
Obey
O'Konski
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Pucinski
Quie
Randall
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sarbanes
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—78

Archer
Belcher
Betts
Bevill
Blackburn
Bow
Brinkley
Broomfield
Buchanan
Clancy
Clawson, Del
Collier
Collins, Tex.
Colmer
Crane
Dennis
Devine
Duncan
du Pont
Edwards, Ala.
Eshleman
Fish
Flynt
Frelinghuysen
Gross
Gubser
Hagan
Haley
Hall
Hébert
Hogan
Hosmer
Hull
Hunt
Jonas
Jones, N.C.
King
Kuykendall
Landgrebe
Latta
Lennon
Long, La.
McCollister
McCulloch
McKevitt
Mathias, Calif.
Mathis, Ga.
Michel
Miller, Ohio
Mills, Md.
Minshall
Montgomery
Nelsen
Nichols
Passman
Powell
Price, Tex.
Quillen
Railsback
Rarick
Robinson, Va.
Rousselot
Runnels
Ruth
Sandman
Satterfield
Saylor
Scherle
Schmitz
Schneebeli
Shoup
Snyder
Spence
Steiger, Ariz.
Thompson, Ga.
Whitten
Wilson, Bob
Wyman

NOT VOTING—34

Alexander
Anderson, Tenn.
Andrews
Ashbrook
Baring
Blatnik
Camp
Celler
Clausen, Don H.
Clay
Davis, S.C.
Dow
Dowdy
Downing
Dwyer
Edwards, La.
Frey
Galifianakis
Goldwater
Grasso
McCloskey
McEwen
Macdonald, Mass.
Martin
Melcher
O'Hara
O'Neill
Pryor, Ark.
Purcell
Roberts
Scheuer
Smith, Calif.
Stubblefield
Vanik

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Blatnik with Mr. Andrews.

Mr. Davis of South Carolina with Mr. Camp.

Mrs. Grasso with Mr. Ashbrook.

Mr. Stubblefield with Mr. Martin.

Mr. Vanik with Mr. McEwen.

Mr. Roberts with Mr. Don H. Clausen.

Mr. O'Hara with Mrs. Dwyer.

Mr. Macdonald of Massachusetts with Mr. Goldwater.

Mr. Melcher with Mr. Frey.

Mr. Downing with Mr. McCloskey.

Mr. Anderson of Tennessee with Mr. Purcell.

Mr. Alexander with Mr. Smith of California.

Mr. Clay with Mr. Pryor of Arkansas.

Mr. Dowdy with Mr. Dow.

Mr. Scheuer with Mr. Baring.

Mr. HOSMER changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## COMMUNICATION FROM THE CLERK OF THE HOUSE—U.S.A. AGAINST BOYLE ET AL.

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
*February 29, 1972.*

The Honorable the SPEAKER,
*House of Representatives.*

DEAR SIR: On this date, I have been served with a subpoena duces tecum that was issued by the United States District Court for the District of Columbia. This subpoena is in connection with the case of the United States of America v. W. A. Boyle, John Owens and James Kmetz.

The subpoena commands the Clerk of the House to appear in the said United States District Court for the District of Columbia, on the 6th day of March, 1972 at 4:00 o'clock P.M., for the purpose of testifying, bringing and explaining certain House records that are outlined in the subpoena itself, which is attached hereto.

The rules and practices of the House of Representatives indicate that no official of the House may attend either voluntarily or in obedience to a subpoena without the consent of the House being first obtained.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS,
*Clerk, House of Representatives.*

[In the U.S. District Court for the District of the District of Columbia]

United States of America v. W. A. Boyle, John Owens, and James Kmetz, No. 1741–71.

To Honorable Pat Jennings, Clerk United States House of Representatives, Washington, D.C.

You are hereby commanded to appear in the United States District Court for the District of the District of Columbia at 3rd and Constitution Ave., N.W., in the city of Washington, D.C., on the 6th day of March 1972 at 4 p.m. o'clock to testify in the case of United States v. Boyle, Owens and Kmetz and bring with you the documents described on the attached.

This subpoena is issued upon application of the United States.

February 8, 1972.

JAMES F. DAVEY,
*Clerk.*
CHARLES RUFF,
*Attorney for the Plaintiff.*

ATTACHMENT FOR SUBPENA TO PAT JENNINGS

Certified copies of reports filed with the Office of the Clerk of the House of Representatives in accordance with the Federal Corrupt Practice Act of 1925, as amended, by the following committees for the calendar years indicated:

Arnold Olsen Campaign Committee (Arnold Olsen Democratic Committee) (Olsen for Congress Club)—1968.

D.C. Committee for Wayne L. Hays—1968.

Democratic Congressional Campaign Committee—1967, 1968, 1969 and 1970.

Democratic Congressional Dinner Committee—1967, 1968, 1969 and 1970.

Democratic Senatorial Campaign Committee—1967, 1968, 1969, 1970.

Humphrey for President Committee—1968.

Humphrey for President Club—1968.

Re-Elect Wayne Morse Committee—1968.

Republican Congressional Campaign Committee—1967, 1968, 1969 and 1970.

Republican Leadership Dinner—1968.

Republican National Finance Committee (Republican National Committee)—1967, 1968, 1969 and 1970.

Republican Senatorial Campaign Committee—1967, 1968, 1969 and 1970.

Republican Victory Dinner—1969.

Republican Victory Gala (Republican Congressional Gala Committee)—1967.

Salute to Humphrey Dinner Committee (National Salute to Hubert H. Humphrey Dinner)—1968.

Salute to Saylor Dinner—1968.

Volunteers for Humphrey-Muskie—1968.

Mr. BOGGS. Mr. Speaker, I offer a privileged Resolution (H. Res. 854) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 854

Whereas in the case of the United States of America against W. A. Boyle, John Owens, and James Kmetz (criminal action numbered 1741–71) pending in the United States District Court for the District of Columbia, a subpena duces tecum was issued by the said Court and addressed to W. Pat Jennings, Clerk of the House of Representatives, directing him to appear as a witness before the said court at 4:00 postmeridian on the 6th day of March, 1972, and to bring with him certain documents in the possession and under the control of the House of Representatives: Therefore be it

*Resolved,* That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

*Resolved,* That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

*Resolved,* That W. Pat Jennings, Clerk of the House, be authorized to appear at the place and before the court in the supena duces tecum beforementioned, with certified copies of the documents mentioned in the said subpena, but shall not take with him the documents on file in his office or under his control or in possession of the House of Representatives; and be it further

*Resolved,* That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## REGULATION OF INTERNATIONAL AIR FARES

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 851 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 851

*Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11416) to amend the Federal Aviation Act of 1958 to provide for the regulation of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11416, it shall be in order in the House to take from the Speaker's table the bill S. 2423 and to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 11416 as passed by the House.

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee, and pending that I yield myself such time as I may consume.

Mr. Speaker, I know of absolutely no controversy over this rule and urge its adoption.

Mr. Speaker, I therefore reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Missouri has stated, there is no controversy about which I know on this bill.

The rule, House Resolution 851, provides for a 1 hour open rule, making it in order to consider the committee substitute as an original bill for the purpose of amendment. In addition the rule makes it in order to strike out all after the enacting clause of the Senate bill, S. 2423, and insert the House-passed language.

The purpose of H.R. 11416 is to vest the Civil Aeronautics Board—CAB—with specific authority to suspend or reject tariffs on international air transportation to and from the United States. This new authority would be a discretionary power for the Board and, when exercised, would be subject to disapproval by the President. This bill would allow the continuation of the present mechanisms for establishing international air transportation fares through the International Air Transportation Association—IATA. Under this bill the CAB would be able to suspend and reject rates, fares and practices which are either too high or too low from the standpoint of carrier economic viability.

The motivating factor behind this bill was a recent situation concerning travel over the North Atlantic where Lufthansa held out for a lower fare, against the other members of the IATA. IATA and Lufthansa have since agreed on a 1972 North Atlantic fare structure, but this bill is designed to help prevent a similar situation in the future.

This bill is strictly limited in its scope. It allows the CAB to suspend and reject tariffs, but not to specifically prescribe fixed rates, fares and practices.

The report of the Committee on Interstate and Foreign Commerce indicates that there will be no additional cost to the U.S. Government as a result of this legislation.

The committee report includes letters from the Department of Transportation, the Department of State and the Office of Management and Budget, none of which oppose the provisions of this bill.

There are no minority views.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the

Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11416) to amend the Federal Aviation Act of 1958 to provide for the regulation of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers).

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11416, with Mr. Ichord in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Springer), will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 11416 is a rather simple bill and its enactment is long overdue. It would do the following:

First, impose on domestic and foreign air carriers, which are engaged in international air transportation to and from the Unitd States, the duty to establish, observe, and enforce just and reasonable rates, fares, and practices.

Second, it would vest in the Civil Aeronautics Board the authority to suspend for a period of up to 1 year and reject or cancel new or existing tariffs for foreign air transportation to or from the United States. This would be done with regard to tariffs which it finds to be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial.

Third, Mr. Chairman, the bill would permit the CAB to deal with situations where a foreign government refuses to permit a U.S. carrier flying into that country to observe tariffs properly filed with the Board. In such a situation the CAB would suspend the tariff of any foreign air carrier providing service between the United States and that country and require any such carrier to observe tariffs filed with the Board by a U.S. air carrier as a condition to providing air service between that country and the United States.

Mr. Chairman, I want to emphasize for my colleagues that every action of the Board in suspending, rejecting, or canceling a rate, fare, or charge under the legislation would be subject to review by the President. The President could disapprove any such action for reasons of the national defense or foreign policy of the United States.

Under existing law, Mr. Chairman, air carriers providing interstate and overseas air transportation are required to establish just and reasonable rates. The Board has the power, under certain circumstances to prescribe the rates and practices for interstate air transportation, prescribe maximum or minimum, or maximum and minimum rates for domestic overseas air transportation, and suspend the operation of new tariffs for interstate or domestic overseas air transportation, and suspend the operation of new tariffs for interstate or domestic overseas air transportation pending determination of the lawfulness of such tariffs.

The Board has no such authority with respect to rates and practices in foreign air transportation, although such authority is possessed and exercised by almost every foreign country into which U.S.-flag carriers fly. The only power which the Board now has, except for its power to disapprove agreement among U.S. carriers and foreign air carriers fixing rates and practices in foreign air transportation, is to remove discrimination in foreign rate structures. It has no authority to prevent a carrier, including a U.S. carrier, in foreign air transportation from placing in effect any rate, fare, or practice even though such rate, fare, or practice may be unjust or unreasonable.

Rates, fares, and practices in foreign air transportation are currently established by the International Air Transport Association—IATA—which is an organization of international air carriers. The rates are recommended by the members of IATA and are approved or disapproved by IATA at periodic rate conferences. Approval must be unanimous; any member carrier may veto the proposed rate structure. The rates established through these conferences must be approved by the government of the foreign countries represented by the carriers. The Board, under section 412 of the Federal Aviation Act of 1958, must approve or disapprove the rates established by IATA. Because of the lack of any direct authority over international rates, however, the Board's indirect power under this section has been ineffective and has resulted in the rubberstamping by the Board of IATA rate agreements.

In the past, efforts by the United States to improve its position in meeting foreign air transportation competition have been hampered and restricted by the limited authority of the Board over the rates and practices in foreign air transportation. Foreign countries have recognized this lack of authority and the bargaining power of the United States has been weakened. The consequence has been that the Board has been unable to protect U.S. carriers in rate negotiations from the almost complete domination and control of the foreign countries into which they fly. Nor has the Board been able to protect the U.S. traveling public from the unjust and unreasonably high rates which are prevalent in many markets in foreign air transportation. When a foreign carrier casts its vote at an IATA rate conference, it is in effect casting its government's vote and can depend upon the full assistance and authority of its government in seeing to it that its vote will prevail.

Mr. Chairman, H.R. 11416 will give the U.S. Government, U.S. carriers, and travelers and shippers more equal footing with foreign governments and foreign air carriers. In addition, it will give the Board more authority to implement more rational and equitable rates and fares in foreign air transportation.

Mr. Chairman, some Members have expressed concern that this legislation might adversely affect international charter flights. I would like to assure them that it will not. In fact, Mr. Chairman, it will protect charter operators by arming the Board to suspend and reject or cancel any predatory rates designed to drive them out of business.

Mr. Chairman, as I said at the outset, enactment of this legislation is long overdue. It was reported out of our Subcommittee on Transportation and Aeronautics and out of the full committee unanimously. It is supported by the Administration. I urge my colleagues in the House to pass the bill unanimously.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I would ask the gentleman if there is consumer opposition to this bill?

Mr. STAGGERS. There is certainly none that I am aware of.

Mr. YATES. It is my understanding that there were commercial groups that wanted to testify before the committee. Perhaps my information is wrong. I was told that they wanted to testify but were not permitted to.

I can see why consumer groups would want to testify on this because what is sought to be done by this bill is to make sure that rates are not lower than the carrier can afford to charge. Is that right?

Mr. STAGGERS. I will state to the gentleman from Illinois that this has nothing to do with supplementals or charters at all.

Mr. YATES. I do not mean that. I am talking about trunkline carriers, regular common carriers like Lufthansa, that cuts their rates.

There is, as I understand it now, an agreement in IATA that really does away with the need for this bill.

Mr. STAGGERS. That is partially true, but let me state to the gentleman from Illinois that the only reason it was agreed to was because we were having hearings on this legislation, and the Senate was holding hearings on similar legislation over there. If this had not been going on there probably would have been no IATA agreement whatsoever.

Mr. SPRINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, concern with international fares and the system by which they are determined has nagged the Government of the United States for at least a decade. For a long time the American international carriers on the North Atlantic run had been making determined efforts to lower fares and found it impossible to accomplish because of decisions of the other members of the international organization which set them. This organization, known as the International Air Transport Association, consists of all of the carriers engaged in transoceanic flights. Rates are set by agreement.

Agreements are sometimes difficult to get. It will be noted that what we are talking about are fares, not routes. International air routes are an entirely different matter which must be worked out by the diplomatic process. They rest in country-to-country agreements. They also pose problems, but not the ones with which we are concerned here today.

To provide a bit more history, about 10 years ago our transatlantic carriers became fed up with the IATA insistence upon unrealistically high fares and threatened to reduce them despite IATA. Great Britain threatened to bar our planes from her airports if they did so and a mighty donnybrook ensued, with threats and counterthreats. At that time the U.S. Government came to Congress and recommended changes in the authority of the Civil Aeronautics Board. It was well recognized that a regulatory agency of any one country could not alone decide what international air fares should be. But it was also recognized that without some authority to at least bar the use of unreasonable rates on flights touching our shores, there was little leverage by which our Government could influence the fares at all. Because the flap went away, nothing was done.

In the last few months we have experienced the reverse of the earlier dispute. One foreign airline resisted IATA pressure and went whole hog in the opposite direction, announcing transatlantic fares that no airline could long live with. The loss leader principle was being used to squeeze out all possible competition. Airlines owned entirely, or in part by governments—such as Lufthansa or KLM—could survive indefinitely while private airlines, even though basically far more efficient could not.

Again our Government found itself helpless to influence the problem. Again the Congress was asked to consider legislation which would give CAB some authority in this area. That legislation is before us today. It has passed the other body and is presented to you in exactly the form in which that body approved it. By its provisions the Civil Aeronautics Board may reject or suspend international fares which are clearly out of reason whether imposed by agreement among the IATA members or used by a single carrier in disagreement or defiance of IATA rates. Because all of these matters have diplomatic overtones which cannot be entirely ignored, the President of the United States may disapprove of the CAB action.

Several things should be understood about the authority granted to CAB under this bill. It does not make it possible for CAB to dictate international rates. It applies only to obviously unreasonable rates. The kind of authority given to CAB is just about the same kind of authority given to some agency in each of the other governments operating transatlantic airlines in order to give them some leverage with IATA and the fares that organization agrees upon from time to time.

The Lufthansa argument has been resolved. Again the immediate need for this additional authority has faded. We should not wait still another time until it is too late to take corrective action.

International air travel presents a very complicated tangle of problems. Transatlantic fares is but one. Because we are dealing with governments as well as carriers there can be no simplistic answers to any of them. The Committee on Interstate and Foreign Commerce is keenly aware that other sticky problems are either before us or shortly to be here. We cannot solve them here and now. We don't have the necessary knowledge. In some cases the issues have not been refined. It is more than just likely that we will be back with recommendations for action on some of these other disputes. Meanwhile I strongly recommend that the House approve and pass H.R. 11416.

May I say to my distinguished colleague, the gentleman from Iowa, that no more money of any kind is involved.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman.

Mr. GROSS. Well, I appreciate that statement and I thank the gentleman from the bottom of my heart that that is the case.

Does the gentleman think this will help the deficit in the international balance of payments?

Mr. SPRINGER. I do not believe this would reflect on the international balance of payments to amount to anything.

Mr. Chairman, I do not believe the issues involved would have very much to do with it.

Now let me say this—of course, if you did as Lufthansa does, which pays approximately half or one-third as much to its crews as we do to set an unusually low rate which would be noncompetitive economically for our international air transport companies like Pan Am and TWA to operate—then, of course, it would be possible for them to reject that rate.

But I do not believe this would have very much to do with the question of balance of payments.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman.

Mr. KUYKENDALL. Mr. Chairman, I would like to ask the gentleman a couple of questions.

First, is it not true that most of the world's airlines with which we compete, particularly Lufthansa are either wholly or partially owned by the Government itself?

Mr. SPRINGER. Yes, and those that are not owned are, we will say, partially owned and are in some ways indirectly or directly subsidized as part of the Government operation—yes.

Mr. KUYKENDALL. Is it not your impression that the IATA agreement itself came about because of the likelihood of pressures brought about by the possible passage of this bill?

Mr. SPRINGER. Do you mean the recent actions?

Mr. KUYKENDALL. That is correct.

Mr. SPRINGER. Yes, I believe it is.

Mr. KUYKENDALL. Is it not true that the IATA agreement is only limited to 2 years?

Mr. SPRINGER. Yes.

Mr. KUYKENDALL. If we pass this legislation, then that particular progressive act is likely to continue, but if we do not pass it, it would be under question?

Mr. SPRINGER. I think that is a correct statement.

Mr. KUYKENDALL. I thank the gentleman.

Mr. SPRINGER. Mr. Chairman, I have no further requests for time.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may require to the chairman of the subcommittee, the gentleman from Oklahoma (Mr. JARMAN).

Mr. JARMAN. Mr. Chairman, this bill was passed unanimously by the Transportation Subcommittee and by the Interstate and Foreign Commerce Committee. It vests in the CAB specific authority to suspend or reject tariffs in international air transportation to and from the United States. Through this legislation the CAB will have authority more comparable to that presently held by other nations over international air fares.

Mr. Chairman, the objective of the air transportation policy of the United States is to provide a system of reasonable rates and practices. This bill will aid in achieving that objective.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may require to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, air transportation as we know it today, is in danger of going out the window. All knowledgeable authorities in the field agree that we are on the verge of a great revolution in air transportation.

The widespread violations of its regulations which the Civil Aeronautics Board has permitted to go unchecked, has created an atmosphere which seems to make everyone believe that the only air travel that counts is charter movements in vacation travel. What most people do not realize is the impact of the unchecked development of such charter movements on the maintenance of a scheduled air transport network with a minimum of inconvenience to anyone who wishes to travel to any point in the United States.

I agree that charters are here and their use will continue to grow, but I think it is time that Congress took a hard look at the impact their growth will have on our scheduled airline network. The current issue of Business Week has a most thoughtful and penetrating article on this subject, which covers both sides of the issue in depth. I would like to share with my colleagues the first paragraph of that article which summarizes the essence of the issue:

> A revolution is coming to air travel in the U.S., not this year but very likely within five years. What is coming is bulk air transportation: full planeloads of vacationers by the millions, flying at rock-bottom prices on charter flights. What is in serious danger of going is reliable scheduled air service to small traffic points as well as big ones, and in slow seasons as well as peak periods.

I ask that the entire article be inserted in the RECORD at the conclusion of my remarks.

It is time that Congress takes a hard look at both sides of this question before we let the Civil Aeronautics Board run rampant with further violations of the law and complete failure to enforce its own regulations.

SPECIAL REPORT: THE AIRLINES MOVE TOWARD MASS TRAVEL

This Saturday afternoon, a big stretched DC–8 jet is scheduled to settle down at Boston's Logan International Airport after a nonstop flight from Munich with 250 happy—and, it is hoped, healthy—skiers. The jet belongs to a relatively unknown airline, Overseas National Airways, and the passengers belong to their charter parties from nearby communities: the Marblehead-Swampscott YMCA, St. John's Preparatory School of Danvers, and Gloucester High School.

For eight days they have been skiing near Innsbruck. They paid $152 apiece to get there and back. By contrast, they would have paid Lufthansa, the German airline, $278 round trip for a seven-day excursion from Boston to Munich, including a mandatory $70 for ground expenses. The basic economy fare from Boston to Munich is $267 one way. For these groups of New Englanders, who could drive to ski slopes in their own area in about four hours, the lure of the Alps and of the low air fare was irresistible.

A revolution is coming to air travel in the U.S., not this year but very likely within five years. What is coming is bulk air transportation: full planeloads of vacationers by the millions, flying at rock-bottom prices on charter flights. What is in serious danger of going is reliable scheduled air service to small traffic points as well as big ones, and in slow seasons as well as peak periods.

"The airline industry is facing one of the great watersheds of its career," says Willis Player, vice-president of Pan American World Airways and one of the most respected thinkers in the industry. "The wave of the future is full planes and low-cost transportation. It's coming because that's what most people now want. They want it, and they deserve it."

Yet there is incessant squabbling between the airlines that fly scheduled services on set routes and the far smaller supplemental lines that fly charter parties when and where they want to go at a lower cost per passenger. The antagonists are in full agreement on only one point: There is a huge market "out there" waiting to be tapped by the right pricing and packaging. The argument is over how to tap it and whether the charter approach spells disaster for the U.S. scheduled airline industry, generally conceded to be the world's most efficient, reliable, and economical over-all air transport system.

Perhaps the ultimate sign that the supplements have "arrived" is the fact that conservative old American Express Co. will use charters this summer for the first time. It has contracted with World Airways, the largest of the U.S. supplementals, to fly 200 tour groups in 38 flights from Los Angeles to Europe.

The supplementals make money on lower fares because they almost always go full and they pack more seats into their planes than the scheduled carriers do. A well-run supplemental keeps its empty ferry flights to a minimum, books business so as to avoid peaks and valleys, and has at least 80% of its summer capacity reserved by the preceding January. Also, these lines have nothing like the overhead of the scheduled carriers, no fancy ticket offices on high-rent shopping streets. Their passengers come in groups, which are easy to handle, that are put together far in advance by club secretaries, college offices, or travel agents.

Eleven supplemental airlines are certificated in the U.S., but only the six biggest make wide use of domestic and international rights to operate charter flights. The six—Capitol International, Overseas National, Saturn, Trans International, Universal, and World—had combined revenues of about $334-million last year.

These six leaders have come a long way from the spartan and rickety operations of the nearly nonscheduled airlines. The fleets of all six include stretched DC–8s, and World also has eight 707s. Trans International and Overseas have long-range, wide-bodied DC–10s on order for next year, and Universal will soon be flying a giant 747 with as many as 500 seats that was ordered by the scheduled carrier Braniff but never delivered.

Though the charter planes are justifiably known for a minimum amount of legroom, the cabin service and food no longer are third-class. Many passengers, in fact, find the service warmer and more personal than that provided by the scheduled airlines. And not every plane has maximum-density seating. Trans International has one stretched DC–8 set up as all first class, with two-and-two seating, to handle the growing volume of luxury sales-incentive charter flights. A group of United Delco auto parts wholesalers was the first to use this cabin arrangement last November on a flight to the South Pacific.

The coming of the air revolution tends to be obscured by the dust of the battle between the supplemental and scheduled carriers. Each can marshal persuasive arguments to justify its existence and its need to be protected from the other. The war centers on the North Atlantic.

Stuart G. Tipton, president of the Air Transport Assn., which includes the 11 domestic trunk carriers and Pan Am, speaks for the scheduled airlines' lobby. His position is predictable: "It is clear that the U.S. cannot have things both ways. The public cannot have an economically sound, regulated air transport system, operating dependable scheduled services nationwide and throughout the world at reasonable prices, and at the same time have a supplemental airline industry overflying the regular system and operating when and where it pleases, with 'charter' services which are so loosely controlled as to permit diversion from the weakening of the route-obligated scheduled carriers."

Tipton believes in the concept of "internal cross subsidization," in which the profits from large-volume traffic pay the cost of maintaining service to all route points. "Traffic carried over the North Atlantic by Pan Am and Trans World Airlines in the peak season," he says, "supports not only their North Atlantic routes in other seasons but their total international system as well. Such a balancing is simply essential if a scheduled system is to work. And the very concept of a scheduled system is endangered if traffic is diverted from the heavy traffic routes." Tipton characterizes the supplementals' service on the North Atlantic as "nothing but a hit-and-run wholesale tapping of rich, established markets at times of peak demand."

For the supplementals, the cudgels are wielded by Edward J. Driscoll, president of the National Air Carrier Assn., the supplementals' lobby. His creed: People are entitled to air transportation at the lowest possible price. "What we need," he says, "is what I call a balanced system of air transportation." But his notion of "balanced" differs from Tipton's. To Driscoll, "a balanced system is one that meets the needs of the entire public—the business traveler and the vacation traveler. the person who wants the convenience and flexibility of individual travel and the person who wants the economic advantages of group travel."

Driscoll hotly denies that the supplementals have skimmed the cream from the scheduled carriers' traffic. "The supplementals have developed a new market," he says. "It is also significant that scheduled traffic has grown faster than average in precisely those markets in which the supplementals have scored their greatest penetration." He cites gains in Pan Am's and TWA's traffic to London of 12% between 1967 and 1968, 17% between 1968 and 1969, and 27% between 1969 and 1970. Paris and Rome, where the supplementals operate many flights, showed similar gains, but Frankfurt, not so extensively served by the supplementals, showed a decline.

Rebutting the claim that the supplementals are stealing the scheduled airlines' passengers, Chairman G. F. Steedman Hinckley of Overseas National Airways says: "We once had a leading Washington firm of economists conduct a survey, in flight and by mail, of nearly 4,000 charter passengers. Of these, 74% said they would not have paid the scheduled-service fare if charter service had not been available. The route carriers will have to look for a scapegoat other than the supplementals, to explain their problems, because the diversion argument is absurd."

"Supplementals are supposed to supplement, not supplant," counters Pan Am Chairman Najeeb E. Halaby. In 1970, Halaby says, the nonskeds "diverted over $50-million of revenue from Pan Am and TWA and were the direct cause of a combined loss, rather than a profit, in the Pan Am-TWA Atlantic area operations."

More freedom for supplementals would give the public "super bargains instead of just substantial bargains," adds Charles C. Tillinghast, Jr., TWA's chairman. "But the public would pay a heavy price in the long run in the destruction of a dependable scheduled international air transport system."

"The airline industry exists for the benefit of the public, not vice versa," Hinckley fires back. "And to argue that the public should not be able to get on a charter plane easily is to say that the public exists for the benefit of the airlines."

### THE CROSS FIRE OF ARGUMENTS

The war over the North Atlantic epitomizes the clash of interests between the two groups The scheduled carriers pioneered the routes, built up traffic to the popular cities, and believe they now have the right to draw profits from these routes to build traffic to other points. The law ought to protect Pan Am and TWA better than it does, they insist. And if enforcement of restraints on the charter operators is not strengthened, they will have no choice but to abandon the money-losing routes and fight the supplementals on their own terms, probably putting the supplementals out of business. "It is a myth that Uncle Sam owes the supplementals a living," says Halaby.

With equal fervor, the supplementals believe that they pioneered a new market among people who could not otherwise afford to fly, that this was a market that the route carriers were too blind or stupid to see, and that the supplementals should be protected if the fight gets any rougher. "You could agrue that the route carriers should never have let us come into existence," says Hinckley. "But they did, and here we are by Congressional authorization. It's too late to get rid of us legally now."

Edward J. Daly, chairman of World Airways (1971 revenues of about $77.5-million, in contrast to Pan Am's $1.2-billion), sees one possible way out of the clash: changing the law to allow mergers between supplemental and scheduled carriers. "We haven't talked merger to anyone," he says, "but benefits would accrue to both parties with that kind of arrangement." Daly is unique in the industry. He owns 80% of World's stock, now worth roughly $76-million, and he would not disappear in a merger with a larger scheduled airline. He could probably buy control of either Pan Am or TWA if the law were changed.

The only other supplemental with enough muscle to survive a real brawl probably is Trans International, No. 2 in revenues with about $70-million last year. Its founder, Kirk Kerkorian, sold it in 1968 to Transamerica Corp., the huge conglomerate. Revenues at Overseas National last year were $63.9-million, at Universal $51.5-million, at Capitol $40-million, and at Saturn $31-million.

As Hinckley says, the supplementals exist by Congressional authorization. Congress, the Civil Aeronautics Board, and even President Nixon have reiterated the desirability of maintaining a two-tier air transport industry—both scheduled and supplemental airlines.

### TEACHING PEOPLE TO BREAK THE LAW

Federal law specifically authorizes the CAB to grant supplementals certificates of convenience and necessity putting them under the board's protection and regulation. It also authorizes the supplementals to perform three basic kinds of charter service. In addition, the law specifically forbids the supplementals from selling individual tickets directly to the public. And it specifically permits the scheduled airlines, which do sell individual tickets to the public, to engage in charter operations. Thus, the deck is somewhat stacked in favor of the scheduled carriers if they chose to take advantage of their charter privileges, as they are showing increasing signs of wanting to do.

As manfully as the government has tried to make the two-tier system work, most recently by inventing the complicated nonaffinity charter rule, there are signs that it is too unstable to work.

The rules designed to keep individuals from taking advantage of low group rates are impossible to enforce. There are not enough "policemen" at the CAB to do the job, and there probably never will be. The situation is not unlike Prohibition, which taught a generation to consider it fun to break the law. With enforcement impossible, there is no carrier on the North Atlantic, scheduled or supplemental, that does not regularly fly ineligible passengers unwittingly.

Moreover, everything the scheduled carriers do to combat the supplementals on the North Atlantic—the youth fares, 21-day excursions, and all the other discounts—plays into the hands of the supplementals' argument that what the public really wants is cheap transportation available to as wide a group as possible.

The crazy quilt of scheduled airline fares is unlikely to last long. It came within an eyelash of disintegrating last year when Germany's Lufthansa nearly succeeded in breaking away with simple low-cost fares.

As George S. Gordon, vice-president of the Foote, Cone & Belding ad agency and former marketing vice-president of Eastern Air Lines, wrote in the January issue of *Airline Management:* "The present confusing array of fares has arisen out of the desire to preserve full fares from business travel while seeking incremental nonbusiness traffic by offering promotional discounts. No matter how you examine today's fare structure, it makes little sense administratively, economically, or in the minds of travel agents and travelers."

Gordon also refers to the scheduled airlines' surplus of capacity: "It is a crisis that arises out of having everything ready for mass marketing, including the capacity of jumbo jets, but being forced to sell in accordance with outdated policies and regulations that make it impossible to capitalize fully on the opportunity."

The advent of the jumbos has made it increasingly hard for scheduled airlines to stick to their cross-subsidization and route-balancing polices. With all those seats to sell, it is awfully tempting to dispose of them at bulk rates. Nevertheless, Pan Am is sticking to its guns despite its continuing losses.

Pan Am has more Boeing 747s than any other airline in the world, along with a very large fleet of Boeing 707s. With all this capacity, however, it has chosen not to go after the bulk transportation market but to start selling its 707s. Halaby may feel bitter toward the supplementals, yet those carriers are the prime buyers of secondhand jets. So that is where many of Pan Am's 707s have gone, especially to British charter operators. Two of the aircraft have gone to Donaldson International Airways, two to British Midland Airways, two to Lloyd International, and one to Danair Services. As a final irony, Pan Am has to cut its own throat further by training the British crews for these planes under the sales agreement that Pan Am negotiated with the British carriers.

The European supplementals are an exceedingly important part of the charter airline industry; indeed, they are the precursors of the revolution. Charter operators are free to set their own prices. Whereas the scheduled carriers try to set international fares every two years, the charter carriers need only file a new tariff 30 days in advance. With lower labor costs, the Europeans can withstand more price cutting than the U.S. supplementals. So the unrestricted pricing of bulk transportation could shoot down U.S. aviation just as it scuttled the U.S. merchant marine.

More immediately, though, the European supplementals are a key factor in today's ground swell toward full-plane, low-cost air transportation. They are the carriers that are believed to deal the most with the "New York consolidators," trip organizers in and around New York who put together tour packages and contract with airlines to provide the planes for affinity groups.

The New York consolidators are a special kind of entrepreneur. Retail ticket sellers in the city generate business by offering a flight to, say, London for $85, advertising in specialized newspapers and the underground press and through handbills pasted on lamp posts and mail boxes. They collect the money, provide predated membership cards in an association, and eventually issue tickets when they know what airline will do the flying. The consolidator may also do some retail business, in which case he gets a double rake-off, but his main function is to bundle the people collected by the retailers. He collects them into planeload lots, all having membership cards in the same association. He knows from experience how many passengers each retailer will produce at any given season, and he contracts accordingly with a supplemental airline.

### THE CONSOLIDATORS AT WORK

How ludicrous the charter rules can be for a passenger was experienced last summer by a friend of a Business Week editor. Answering an ad in the *Village Voice,* in New York, she got a round-trip ticket to Europe and a predated affidavit that she was a member of the Eastern Ski Club. The flight was delayed 24 hours, though, and the next day she had to become a "longstanding" member of the Friends for Instant Environmental Growth Action.

When she checked in for the return flight, she joined Holiday & Leisure International. But this flight was delayed four days, and she was informed that her affinity group had changed, this time to the Lumsden Soccer Club. A soccer team has 11 men; she flew to the U.S. that day with 179 other "members." In spite of all the delays the low price of $170 for the round trip made her vacation worthwhile and, in fact, possible.

New York has no monopoly on doing business with consolidators, but its name is attached to it because consolidation is so prevalent there. Actually, one of the first efforts to block the practice was in Los Angeles, where a consolidator named Rita Bopp had been operating Associated Cultural Clubs, Inc. She was shut down by an injunction that is being appealed.

Last September the CAB began proceedings against seven interrelated organizations and 11 individuals to destroy what Robert Davis of *Travel Weekly* called "the funnel through which it alleged thousands of passengers have been consolidated into illegal transatlantic charters in recent years." The defense has succeeded in bringing 10 airlines into the case, which is expected to drag on interminably. Meanwhile, as long as consolidation has not been proved illegal in court, the charter carriers that deal with consolidators are making hay.

It is so easy to go abroad as an individual today that an increasing number of people are not bothering with affinity groups, particularly on college campuses where university-sponsored travel clubs are dying out. But the rules are still there, and even if only one out of 180 passengers on a charter flight is found to be not a bona fide member of a legitimate group the flight can be canceled, ruining everybody's vacation plans.

### THE BRITISH PIONEERED THE WAY

Freddie Laker, owner of 90% of Lakers Airways, Ltd., the second-largest British supplemental on the North Atlantic, insists the abuse of illegal chartering is exaggerated and not half what it is thought to be. Lakers is one of the most highly regarded and articulate figures in British independent air service, so he speaks for his industry when he charges that the U.S. supplementals are doing just what they accuse the British lines of doing: carrying illegal groups across the North Atlantic.

Three-million people fly annually between the U.S. and Europe on charter flights, he says. "You're not going to drive 3-million people out of the air, even if they are illegal.

They're a market; they're no longer a minority."

Laker makes another point that cannot be ignored: If people are prepared to perjure themselves to get cheap air transportation, "it can only be that people feel the rules are unreasonable." Laker dislikes making his passengers swear out affidavits. "I think this is all wrong," he says. "It is a despicable way to treat the traveling public. When one has got to this stage of the game, I would have thought it was time the governments changed the rules. These passengers are taxpayers, and as taxpayers they have a right to be heard. Perhaps this is their way of being heard."

Nevertheless, the British government is tightening up on the charter business. A new Civil Aviation Authority will take over the old Air Transport Licensing Board's functions this spring, including the licensing of travel organizers. Until now no license has been required. Meanwhile, the ATLB has attached a new condition to the 1972 charter licenses: Airlines must give particulars three months in advance about groups that they propose to carry more than 2,250 mi. If the ATLB then has doubts about any group, it will ask the airline to make a one-shot license application "so that any such case may be fully examined." This new rule affects flights after Mar. 15 and already three charter groups have been questioned. The British are also increasing the number of investigating officers who conduct spot checks.

Britain, anxious to protect its state-owned airlines, British Overseas and British European, has long applied stringent rules restricting the freedom of independent airlines to carry individually ticketed passengers. Instead of killing the independents in the early postwar years, however, these rules stimulated them into more creative marketing. The greatest invention of all was the inclusive tour charter. This plan combines air and ground transportation, hotel, and meals in one low price. In the beginning, it also included the all-important services of a guide, because the package was aimed at a class to which foreign travel was a strange and frightening experience.

One-stop ITCs, as they are known in the travel business, are not permitted in the U.S. for either international or domestic supplemental airlines, though they are allowed for scheduled carriers. A supplemental airline wishing to put together a domestic inclusive package must provide three stops at least 50 mi. apart. But one-stop ITCS, which are essentially a round trip by air with the ground arrangements thrown in, are permitted throughout Europe, and business has soared.

The market is so vast and the income generated by tourism is so important that European governments and their scheduled carriers could not stop the trend if they wanted to. Most European scheduled airlines now have their own subsidiaries in the ITC business.

Possibly the best study of the European charter-airline situation was made by McDonnell Douglas Corp. Among its major conclusions: European charter lines "have been able to offer the general public a scale of passenger tariffs far below those of scheduled airlines and . . . have reached into the pockets of a whole new stratum of wage earners. Each new lower stratum penetrated is measurably larger than its predecessor.

"The average industrial wage earner in northern Europe can now pay for a week's holiday in Spain out of one week's earnings. This kind of situation has changed the social habits of nations, and the inclusive tour holiday for the family in the Mediterranean is now considered no more of a luxury than owning a television set."

This could be a valuable lesson for the U.S. airline industry, with its upcoming hundreds of wide-bodied jets. Bulk transportation is, after all, a proven way for the airlines to gain a greater share of the leisure dollar. The McDonnell Douglas study in fact, predicts that, within Europe, nonscheduled traffic will overtake scheduled international traffic around 1974 and will be 30% greater by 1980.

All the emphasis on low-cost transportation packaged by travel agents is bad for the northern European businessman, however, who has business at a Mediterranean resort city, cannot stay a week, and does not want to stay at a hotel that is part of the package. Often, in the words of the old joke, "You can't get there from here." Such a traveler must make reservations weeks in advance for what little scheduled service there is, and he often cannot go when he wants. Furthermore, intra-European fares on scheduled airlines cost about twice as much per mile as those of scheduled airlines in most of the U.S.

Europe's experience will inevitably be duplicated in the U.S. unless airline officials and regulators find a way to retain the best of scheduled service along with the advantages of bulk transportation packaged by travel agents. There are no easy answers to that problem; every solution seems to have an offsetting drawback.

Federal subsidies may become necessary for some domestic and international scheduled flights, putting the burden on all taxpayers rather than on airline users. It may be necessary to charge more for prime-time departures and for reserving a seat at the last minute.

One idea that might make a reasonable start on the problem might be two economy sections on long flights. One cabin would be held back for individual passengers who would pay extra for the privilege of schedule reliability and the ability to make late reservations. The second cabin would be contracted out to wholesale travel agents and tour operators, and it would be up to them to take the risk of seeing that the seats were filled. This scheme could relieve the airlines of a lot of their sales overhead. And if the contract was correctly priced, it could make such flights profitable enough to continue the internal cross-subsidization concept.

### RECRUITS FOR THE REVOLUTION

"A solution like this could be the salvation of Pan Am, with its huge fleet of 747s, once it starts to join the wave of the future instead of fighting it," says a former Pan Am officer. Lockheed Aircraft Corp. is counting on the spread of bulk transportation to create such a need for wide-bodied airplanes that its TriStar program will be profitable though it received a blow when Laker decided to buy two DC–10s recently. If the aerospace industry is to be revitalized, such a trend is inevitable. In fact, the CAB has all but told the scheduled carriers to stop fighting bulk transportation and start figuring how to make it work.

Says Charles F. Butler, director of the CAB's Bureau of Internal Affairs: "The scheduled carriers have a role in the movement of the bulk transportation market. In my opinion they have not attempted to provide for the movement of this type of traffic on scheduled services except in a small way. The scheduled carriers must assume their responsibility in the bulk transportation market by developing a fare structure and marketing techniques to serve this market. To do this, the scheduled carriers must completely rethink their role in providing transportation and realize that there is a low-cost market to be served."

In Europe, low-cost bulk transportation is obviously a success and an important new social force. The Aviation and Tourism Ministry of the Spanish government is sponsoring a congress April 17 through 20 on the impact of mass air travel for both scheduled and supplemental airlines that could be a donnybrook. Just as obviously, it is coming fast on the North Atlantic, because of the operations of the supplemental carriers and the fact that millions of people prefer it, even if it means breaking the law. The scheduled carriers prove the point every time they invent a new special discount. With transatlantic charter fares so low—according to TWA's Tillinghast, 35% below the cost of a New York-Los Angeles bus ticket—the U.S. domestic airline and travel industry can do nothing but join the revolution.

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### Sneaking Around the Rules on Charter Flights

Charter air packages come in a bewildering variety, but they boil down to three major types:

Single-entity or planeload charters in which an organization, such as a football team, charters an entire plane for a specific flight.

Inclusive tour charters, formerly called "all expense paid" charters. Travel agents contract for the space and then sell complete package tours to individuals. The individual becomes a member of a group rounded up by the agent, not necessarily with any relationship to other members of the group. To keep the ITC business from encroaching on scheduled services, the CAB has set up rules that make the charter trips flown by supplemental airlines less flexible than regular flights. The passenger must go for at least seven days and, on international flights, the plane must make at least one intermediate stop for overnight; on domestic ITCs, it must make three stops. The package price must be at least 10% higher than the lowest fare offered by the scheduled airlines to the destination in question.

Affinity charters, by far the biggest piece of the business, accounting for more than 77% of the transatlantic charter market. Passengers must have been bona fide members, for at least six months, of a group established for purposes other than buying wholesale transportation for its members.

The affinity charter rules, which are impossible to enforce, have spawned a whole new segment of the travel industry—group consolidators who are here today, gone tomorrow. These people advertise bargain-basement rates generally in such moderately anti-establishment publications as New York's *Village Voice* or *Boston After Dark*, but occasionally also in the super-establishment *New York Times*. Ticket buyers find bucket shops tucked away in run-down office buildings. Travelers are then enrolled in phony "bona fide" organizations, given predated membership cards, and sold one-way tickets and vouchers for the return trip.

As a rule, passengers booked on affinity flights get to their destination as planned—Europe in most cases. But sometimes they find that the return flight that they are booked for does not exist, nor does a European office of the company that has taken their money for the round trip ticket. Every year, hundreds of American students are stranded in Europe just as schools are reopening.

Recently a Business Week reporter followed up on three *Village Voice* ads picked at random. She found she could go to London and back for $165 as a "member" of the "St. Catellus Sports Club," or for $170 as a member of "Europe Is For Young People, Inc." The third advertiser had fled his plush offices on Manhattan's Fifth Avenue. "I'd book my trip with a regular travel agent," a building guard advised.

To dramatize the loopholes, a Palo Alto (Calif.) travel agent, Marilyn Fink, last spring successfully booked CAB Chairman Secor D. Browne and CAB enforcement chief Richard J. O'Melia on West Coast-Europe flights to be operated by groups called the Educational Student Exchange/International Cultural Exchange and the California Bowler's Travel Club. In making the reservation for the CAB chairman she posed as his mother. The CAB men had never heard of either club; the groups appear to exist only to sponsor trips for "members." The CAB is well aware of what is going on. Says O'Melia: "As quickly as we move to plug one hole in the dike, the ingenious mind of the black-market charter consolidator seeks new ways to scrounge illegal-charter profits."

### CAB'S NEW PROPOSAL

In addition to trying to plug the holes, the CAB is now suggesting that the rules be relaxed. It proposes a new category to be called "travel group charters." Charter organizers would form groups of 50 or more persons to fill chartered space on aircraft. Passengers would not have to be members of a bona fide organization, but they would have to commit themselves to a given flight six months in advance and make a nonrefundable 25% downpayment.

This proposal is supposed to go into effect in mid-March for a three-year trial. In applying to the 1972 season, the six-month proviso would be cut to four months. Under this plan, charters could be sold by both scheduled and nonscheduled airlines, but neither group is very happy about it. Criticism centers on the long lead time, the red tape in the CAB's attempts to keep everyone honest, and a prohibition against advertising in mass media.

The restriction on ad promotion, Overseas National contends, "will engender rather than frustrate a black market in such charters." Echoing industry sentiment, Overseas insists that "established travel agents should organize the charters, because we feel that such a requirement would keep unscrupulous consolidators out of the marketplace."

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### The Squeeze on the Supplementals

The U.S. supplementals are caught in a squeeze. On the one side, scheduled carriers are employing their older jets more and more in charter work. On the other side are the European charter operators, which have far more freedom to expand their business.

Many European national-flag airlines, for example, now have their wholly owned charter subsidiaries, a practice prevented by law in the U.S. For one, West Germany's Lufthansa owns 100% of Condor, the German charter carrier. Universal's President Glenn L. Hickerson says that a Lufthansa official explained the difference between the two companies: "Lufthansa's colors are gold and blue; Condor's colors are blue and gold."

Officials of U.S. supplementals, such as Hickerson and Saturn's President Howard K. Howard, regard the State Dept. as naive in granting virtually unlimited landing rights to European charter carriers on the assumption that the European governments will reciprocate. The U.S. supplementals have to get a landing permit for each flight. "A lot of governments let us sweat every time we ask," says Howard. It is not that the U.S. operators get turned down often, just that it is nerve-racking to sign a contract with a charter group months in advance for a flight that could conceivably never get off the ground. And even when there is no trouble in the end, the procedure is a nuisance.

Breaking new ground. Of the six leading supplementals, only World and Trans International have rights in the Pacific. With the long distances involved and the high per-mile fares charged by the scheduled airlines, the Pacific would seem a natural for the charter industry. "The potential there has barely been scratched," says TIA's President Glenn A. Cramer. The problem is landing rights.

Japan, for example, has a quota system that last year allowed only 55 charter flights, plus 15 for a Boy Scout jamboree. This year Japan is allowing 75 flights, TIA and World are pressing for 208 flights, which Cramer insists could be filled easily.

Not content with government efforts to ease restrictions on landings, World's autocratic Chairman Edward J. Daly last year sallied forth with an entourage of his executives to survey European and Pacific countries. In Australia, which allows virtually no supplemental flights, Daly tried a carrot-and-stick approach by applying for permission to bring in 2,500 American tourists and threatening to take them elsewhere if Australia turned him down. Aside from generating a flurry of publicity, the tactic has accomplished nothing.

### CONFUSED AND ANGRY

For all their problems, the supplementals have a strong ally these days: the tour operators. The harder the scheduled carriers work at inventing complex fare discounts to drive the charters off the North Atlantic—and the more meetings they have to hold to persuade each other to adopt these fares, as they did five times for next summer's travel rush—the more confused and angry the tour operators become. Says Capitol's marketing vice-president, Clifford D. Dancer: "The poor tour operator is just sitting out there not knowing what the prices will be. That's one reason a lot of them have swung to supplementals." Capitol last year landed the biggest inclusive tour charter contract ever for the industry: $6-million for 100 flights to Europe, starting this spring.

As a way of illustrating the price confusion, Overseas has a piece of paper listing 49 different round-trip economy fares ranging up to $595, either in existence or proposed in recent months, between New York and London. Through it all, Overseas notes that it has maintained three prorata prices: a basic $143, a peak-season price of $173, and a winter rate of $130.

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### FILLING EMPTY PLANE SEATS

Competition between the scheduled airlines and the unscheduled supplemental carriers is reaching the point where only profound changes in the structure of the air transport industry can save everyone from economic disaster (page 47). It is time for the two opposing sides of the commercial airline business to stop trying to knock each other's brains out and start working on the terms of a compromise.

The scheduled carriers were created primarily for the business traveler. They have been tailored to meet his needs for convenient timetables and year-around flights to thin traffic points as well as thick. They argue that schedule reliability and a total air transport system supported by the heavy-density, high paying routes is essential for any modern industrial nation.

The supplementals, on the other hand, point out that there is an enormous untapped market consisting of people who would fly if the price were low enough. This market does not need schedule reliability, and it will not pay rates designed to subsidize flights to places where it does not want to go.

Both sides are right. But while they argue over rates, regulations, and responsibilities, the sky is full of empty seats that might be filled if the carriers offered the right service at the right price.

The scheduled carriers must start thinking in terms of providing three classes of service on the same aircraft: first class, tourist, and group excursions. The supplemental carriers must clean up their sales practices and establish strict standards of reliability. Eventually, many of the supplementals probably should merge with the scheduled carriers.

All this means painful changes for both branches of the commercial air transport industry. But if the changes come soon, they will hurt less than the pointless competition that chews into profits and leaves large parts of the public grounded.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Washington (Mr. ADAMS) whatever time he may require.

Mr. ADAMS. Mr. Chairman, you will recall that during the subcommittee hearings on H.R. 11416 there was testimony from some witnesses which was directed, in addition to the rate matter, to other related matters concerning the problems of obtaining landing and uplift rights in foreign countries for charter services performed by our supplemental carriers.

It is my understanding that the matter of landing and uplift rights was not pursued by the subcommittee in connection with the consideration of H.R. 11416 because of the urgency of this legislation and the fact that time did not permit to more fully explore the subject of landing and uplift rights.

My question, Mr. Chairman, is this: Is it the intent of the chairman of the Committee on Interstate and Foreign Commerce to schedule hearings at an early date on the matter of landing and uplift rights in foreign countries for our supplemental carriers involved in charter air transportation?

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the chairman.

Mr. STAGGERS. In reply to the gentleman from Washington, I might say that he knows that this bill was intended to be of limited scope. The matter of landing and takeoff rights in foreign countries was brought up, but we decided that it should not be dealt with in this legislation. There is a bill, H.R. 8108, which is pending before the Committee on Interstate and Foreign Commerce, which deals with this subject. We will have hearings on that bill. I believe it is very important that the Department of State, the Civil Aeronautics Board, and the Department of Transportation should immediately undertake, on an expeditious basis, to negotiate suitable arrangements with foreign countries for a fully reciprocal basis for carriers engaged in charter operations. But we are going to have hearings on H.R. 8108 and we intend to bring it to the House floor.

Mr. ADAMS. I thank the gentleman very much. I am sure that your statement is welcome news to many Members of this Congress as well as to the industry. It is my understanding that the Departments of State and Transportation, and hopefully the Civil Aeronautics Board, are meeting with the European Civil Aviation Conference on March 21 in Paris to explore some of these matters, and I trust that these agencies will take heed to your remarks and let the foreign countries know that the United States will not tolerate discrimination among U.S. air carriers.

Mr. STAGGERS. The question is appreciated, and I can assure the gentleman that this matter will have consideration by the committee. I hope that the different agencies of the Government will take account of our intention and be prepared to expedite their views so that we can have hearings and bring out a bill.

Mr. MOSS. Mr. Chairman, your statement and that of Mr. ADAMS are good news to me, because four of the largest of the U.S. supplemental carriers are located within California.

Mr. Chairman, I am shocked, along with you, that more aggressive action has not been taken especially with regard to the European Civil Aviation Conference. I have, Mr. Chairman, a copy of a recent report by the International Air Transport Association to ECAC on the subject of international air charters. This report is confidential, and I am advised that secret votes were taken as to the recommendations contained therein and that U.S. international scheduled carriers participated in these meetings and in working group sessions, all of which were designed to place restrictions on charter activity to the detriment of the consumer, and in an effort to curtail competition.

Mr. Chairman, I recommend that the Committee on Interstate and Foreign Commerce of this body, request the U.S. Civil Aeronautics Board, and the Department of Justice to immediately investigate the matter of these recommendations to ECAC by IATA in which U.S. carriers participated without prior approval of the U.S. Government and which, in my judgment, violated our antitrust laws since they were not immunized by the CAB under sections 412 and 414. In addition, these recommendations by U.S. carriers to foreign governments are in conflict with U.S. international aviation policy.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Michigan.

Mr. ESCH. I appreciate the gentleman's yielding.

Mr. Chairman, I have no problem with the matter of airlift and landing rights. In fact, I applaud you for suggesting that this is an area in which we are concerned. I am as equally concerned as you are on this matter, but I am also concerned to make sure that in our bargaining we do not jeopardize the scheduled airlines at the same time. I know you share that concern.

Mr. Chairman, I have no problem with the thought of a hearing on charter landing rights retaliation. I concede that this is a genuine problem which the supplementals have, and further congressional inquiry into various countries' reasons for refusing landing rights to charters may be warranted. However, I have a question in my mind as to whether or not Congress needs to solve the supplementals' problem, in view of the fact that the CAB presently has sufficient authority, under part 213 of its regulations, and has been taking steps to resolve this problem as it relates to particular countries. In addition, the U.S. Government is presently engaged in a broad scale attempt to establish landing rights for U.S. charters. But beyond all this, I am concerned that Congress approach this problem with due regard for any impact that it might have on the fine scheduled air transportation which is so critical to the economic viability of our country, as well as the personal convenience of our constituents. I would not want to see U.S. scheduled carriers held hostage in order to provide a quick "political windfall" for supplemental operators.

The international air transportation system is based on negotiations and mutual agreements between sovereign countries. It was through this process that U.S. scheduled carriers acquired their landing rights, and only after arduous negotiation. I am concerned that in providing for retaliation against countries which deny U.S. charter landing rights, the landing rights of U.S. scheduled carriers might be jeopardized. If the United States initiated unilateral action to retaliate against a foreign country denying supplementals' landing rights, that country would retaliate in some manner. Obviously, the target for retaliation would have to be against U.S. scheduled carriers, and therefore this would jeopardize the hard-won landing rights of scheduled carriers and, in effect, render them as "hostages" to solve a supplemental problem. Obviously, there is no equity in this notion.

The President's recently stated policy on international air transportation recognizes that supplemental and scheduled rights should not be commingled. The policy says:

> The foreign landing rights for charter services should be regularized, as free as possible from substantial restriction. To accomplish this, inter-governmental agreements covering the operation of charter services should be vigorously sought, distinct, however, from agreements covering scheduled services. In general, there should be no tradeoff as between scheduled service rights and charter service rights.

I suggest to you today that the whole issue of charter landing rights and retaliation is vastly complex and should not be decided without a full awareness of all ramifications involved.

**Mr. FRENZEL.** Mr. Chairman, the North Atlantic air routes have been subject to severe price wars in the past, and are threatened with the same this year. Competition is healthy, and generally good for the consumer, but in this instance I fear that the long-term interests of the public are not being served.

Allowing the Civil Aeronautics Board the authority to suspend or reject the rate will close an existing loophole in air fare regulations without disturbing the relationship, or the authority of either the CAB or the International Air Transportation Association.

I urge the passage of H.R. 11416.

**Mr. STAGGERS.** Mr. Chairman, I have no further requests for time.

**Mr. SPRINGER.** Mr. Chairman, I have no further requests for time.

**The CHAIRMAN.** Pursuant to the rule, the Clerk will read the amendment in the nature of a substitute as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 404(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)) is amended by inserting "(1)" immediately after "(a)" and by adding at the end thereof the following new paragraph:

"(2) It shall be the duty of every air carrier and foreign air carrier to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to foreign air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers or foreign air carriers paticipating therein which shall not unduly prefer or prejudice any of such participating air carriers or foreign air carriers."

SEC. 2. Section 801 of such Act (49 U.S.C. 1461) is amended by inserting "(a)" immediately after "Sec. 801." and by adding at the end thereof the following new subsection:

"(b) Any order of the Board pursuant to section 1002(j) of this Act suspending, rejecting, or canceling a rate, fare, or charge for foreign air transportation, and any order rescinding the effectiveness of any such order, shall be submitted to the President before publication thereof. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States not later than ten days following submission by the Board of any such order to the President.".

SEC. 3. (a) Section 1002 of such Act (49 U.S.C. 1482) is amended by adding at the end thereof the following new subsection:

### "SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j) (1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding three hundred and sixty-five days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. This paragraph shall not apply to any initial tariff filed by an air carrier or foreign air carrier. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, which was in effect immediately prior to the filing of the new tariff.

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

"(3) Whenever the Board finds that the government or aeronautical authorities of any foreign country have refused to permit the charging of rates, fares, or charges contained in a properly filed and published tariff of an air carrier filed under this Act for foreign air transportation to such foreign country, the Board may, without hearing, (A) suspend the operation of any existing tariff of any foreign air carrier providing services between the United States and such foreign country for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension, and (B) during the period of such suspension or suspensions, order the foreign air carrier to charge rates, fares, or charges which are the same as those contained in a properly filed and published tariff (designated by the Board) of an air carrier filed under this Act for foreign air transportation to such foreign country, and the effective right of an air carrier to start or continue service at the designated rates, fares, or charges to such foreign country shall be a condition to the continuation of service by the foreign air carrier in foreign air transportation to such foreign country.

"(4) The provisions of this subsection and compliance with any order of the Board issued pursuant thereto shall be an express condition to the certificates or permits now held or hereafter issued to any air carrier or foreign air carrier, and the maintenance of rates, fares, or charges in conformity with the requirements of such provisions and such order of the Board shall be a condition to the continuation of the affected service by such air carrier or foreign air carrier.

"(5) In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

"(A) the effect of such rates upon the movement of traffic;

"(B) the need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

"(C) such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

"(D) the inherent advantages of transportation by aircraft;

"(E) the need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to povide adequate and efficient air carrier and foreign air carrier service; and

"(F) whether such rates will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation.".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"SEC. 1002. Complaints to and investigations by the Administrator and the Board."

is amended by adding at the end thereof the following:

"(j) Suspension and rejection of rates in foreign air transportation.".

SEC. 4. The amendments made by this Act shall not be deemed to authorize any actions inconsistent with the provision of section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502).

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. ICHORD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11416) to amend the Federal Aviation Act of 1958 to provide for the regulation of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes, pursuant to House Resolution 851, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, pursuant to House Resolution 851, I call up for immediate consideration the Senate bill (S. 2423) to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of S. 2423 and insert in lieu thereof the provisions of H.R. 11416, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11416) was laid on the table.

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## HEARINGS ON THE FREEDOM OF INFORMATION ACT TO BEGIN MONDAY, MARCH 6

(Mr. MOORHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOORHEAD. Mr. Speaker, I would like to notify Members that next Monday, March 6, the Foreign Operations and Government Information Subcommittee of the Government Operations Committee will begin a comprehensive new series of hearings on the administration, operations, and effectiveness of the Freedom of Information Law (5 U.S.C. 552) and other related fields. The hearings will begin at 10 a.m. in room 2154 Rayburn House Office Building. The tentative list of witnesses during the first 2 weeks follows my remarks.

The Freedom of Information Law was enacted by the 89th Congress after many years of hearings, study, and investigation by the subcommittee headed by the distinguished gentleman from California (Mr. MOSS). It was signed into law by President Johnson and became effective on July 4, 1967. The President said in his statement:

> This legislation springs from one of our most essential principles; a democracy works best when the people have all the information that the security of the Nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest . . . I signed this measure with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded.

The freedom of information law has now been operative for slightly more than 4½ years, spanning parts of two administrations. While the subcommittee has exercised broad oversight into its administration and has become involved in many individual cases involving the law referred by Members and others, these forthcoming hearings will be the first comprehensive review of the overall operation of the law.

The subcommittee held hearings last summer in connection with the publication of the so-called Pentagon papers, dealing with section 552(b)(1) of the law involving information exempted because of national defense and foreign policy matters covered by Executive Order 10501. These hearings also dealt with such related matters as the need to maintain a free press, as guaranteed by the first amendment to our Constitution, prerogatives of the legislative branch in obtaining information from the Executive in order to fulfill our constitutional responsibilities, and the increasing dangers of erosion of public confidence in Government, because of restrictions by the Executive on the free flow of information.

The hearings beginning next Monday will build on the testimony already taken last June and July from witnesses from the Defense, Justice, and State Departments, as well as testimony from many outstanding experts in the fields of security classification matters, public information, and related constitutional questions.

Mr. Speaker, on February 11 and 12 the Washington Post carried two articles by Mr. Sanford J. Ungar revealing the existence of a draft Executive order to replace the present Executive Order 10501, issued in 1953, entitled "Safeguarding Official Information in the Interests of the Defense of the United States." This order was the subject of a report approved by our subcommittee and issued by the Government Operations Committee on September 21, 1962 (H. Rept. 87–2456).

Last June 29, then Assistant Attorney

General Rehnquist described to the subcommittee the work of the Interdepartmental Committee on Internal Security, appointed earlier in the year by President Nixon. This committee had for some months been reviewing Executive Order 10501, with a view toward revisions. According to news reports in the Post, the recommendations of this committee were forwarded to the National Security Council and circulated to the affected Executive departments for comment.

When the news reports appeared concerning the new draft Executive order, I formally requested that a copy be made available for study by the Foreign Operations and Government Information Subcommittee, in view of the matters raised during our hearings last June, the many years of expertise in security classification problems, and their direct relationship with the provisions of section 552(b)(1) of the Freedom of Information Act. This request, submitted in behalf of the subcommittee to Mr. John W. Dean III, White House counsel, has been denied. This denial is particularly regrettable, Mr. Speaker, because our subcommittee has been exploring a workable legislative alternative to replace the present Executive Order 10501 and had already planned additional hearings in early May as part of our overall review of the Freedom of Information Act.

Rumors have been circulating during the past several days that the administration may be planning to issue a new Executive order to head off legislative action in this field by the Congress. I hope that such rumors are unfounded, because our analysis of the contents of the draft being circulated by NSC, as reported by Mr. Ungar in the Post, show, in our judgment, many inadequacies and gross deficiencies that would only make the problem worse if issued prematurely before Congress has the opportunity to consider other alternatives.

Mr. Speaker, our hearings will also explore further the availability of information from the executive branch to Congress. Committee chairmen and individual members who have encountered difficulties in obtaining information are invited to contact our subcommittee. We welcome testimony detailing specific refusal cases during this phase of our hearings that will begin about the middle of May.

In June, the subcommittee will hold hearings on two bills that have been introduced as amendments to the Freedom of Information Law. One is H.R. 8903, sponsored by the gentleman from New York (Mr. Horton) and a number of other Members of the House, and which would prohibit the sale of mail lists for commercial purposes by Federal agencies.

The other is H.R. 854, sponsored by the gentleman from New York (Mr. Koch) and by more than 100 other Members, and which would require Federal agencies who maintain records or files on individual citizens to apprise them of the existence of such records, with certain exceptions for material dealing with national security or law enforcement.

Mr. Speaker, I include at this point in the Record the tentative witness list for the first 2 weeks of our hearings, the text of the Freedom of Information Law, the articles by Mr. Ungar previously referred to in my remarks, a letter to the Washington Post by Mr. William G. Florence, a retired Air Force security classification expert who testified before our subcommittee last June, and a Post editorial on this subject:

### HEARINGS ON "U.S. GOVERNMENT INFORMATION POLICIES AND PRACTICES—ADMINISTRATION AND OPERATION OF THE FREEDOM OF INFORMATION ACT"

### MONDAY, MARCH 6, 10 A.M., ROOM 2154, RAYBURN

A panel of Government information experts consisting of:

Mr. James C. Hagerty, former Press Secretary to President Eisenhower.

Mr. Pierre Salinger, former Press Secretary to President Kennedy.

Mr. George Reedy, former Press Secretary to President Johnson.

Mr. Harold R. Lewis, former Director of Information, Department of Agriculture.

Mr. Arthur Sylvester, former Assistant Secretary for Public Affairs, Department of Defense.

Mr. J. Stewart Hunter, former Associate Director of Information for Public Services, Department of Health, Education and Welfare.

### TUESDAY, MARCH 7, 10 A.M., ROOM 2154, RAYBURN

A panel of legal experts on the Freedom of Information Act consisting of:

Mr. Frank Wozencraft, Attorney, Houston, Texas.

Mr. Anthony L. Mondello, General Counsel, U.S. Civil Service Commission.

Mr. Richard B. Wolf, Deputy Director, Institute for Public Interest Representation, Georgetown University Law Center.

Mr. David Parson, Chairman, Committee on Government Information, Federal Bar Association.

### THURSDAY, MARCH 9, 10 A.M., ROOM 247, RAYBURN

Mr. Arthur J. Goldberg, former Supreme Court Justice, former Secretary of Labor and U.S. Ambassador to the United Nations.

### FRIDAY, MARCH 10, 10 A.M., ROOM 2154, RAYBURN

Mr. Ralph E. Erickson, Assistant Attorney General (Office of the Legal Counsel), Department of Justice, accompanied by Mr. Robert Saloschin, Attorney, Office of the Legal Counsel.

### TUESDAY, MARCH 14, 10 A.M., ROOM 2203, RAYBURN

Mr. Roger C. Cramton, Chairman, Administrative Conference of the United States, accompanied by Mr. John F. Cushman, Executive Director, Administrative Conference.

A witness to be designated by the Office of Management and Budget.

A panel of individuals having experience in the administrative workings of the Freedom of Information Act consisting of:

Mr. Reuben Robertson, Attorney. Mr. Harrison Welford and Mr. Peter Schuck, Center for the Study of Responsive Law. Mr. Bertram Gottleib, Transportation Institute.

### FRIDAY, MARCH 17, 10 A.M., ROOM 2203, RAYBURN

A panel of the news media having experience in the use of the Freedom of Information Act consisting of:

Mr. Ward Sinclair, Washington Bureau, Louisville *Courier-Journal*.

Mr. R. Peter Straus, Publisher, Straus *Editor's Report*.

Mr. Roy McGhee, Reporter, United Press International, Washington Bureau.

Mr. Donald L. Barlett, Reporter, Philadelphia *Inquirer*.

Mr. John Seigenthaler, Editor, Nashville *Tennessean*.

(This partial list will be supplemented to include witnesses for other hearings to be held prior to the Easter Recess on March 20, 24, 27, and 28.)

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### PUBLIC LAW 90–23, 90TH CONGRESS, H.R. 5357, JUNE 5, 1967

An act to amend section 552 of title 5, United States Code, to codify the provisions of Public Law 89–487

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 552 of title 5, United States Code, is amended to read:

"§ 552. Public information; agency rules, opinions, orders, records, and proceedings

"(a) Each agency shall make available to the public information as follows:

"(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

"(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

"(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

"(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

"(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

"(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

"(i) it has been indexed and either made available or published as provided by this paragraph; or

"(ii) the party has actual and timely notice of the terms thereof.

"(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

"(b) This section does not apply to matters that are—

"(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

"(2) related solely to the internal personnel rules and practices of an agency;

"(3) specifically exempted from disclosure by statute;

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

"(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

"(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

"(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

"(9) geological and geophysical information and data, including maps, concerning wells.

"(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress."

SEC. 2. The analysis of chapter 5 of title 5, United States Code, is amended by striking out:

"552. Publication of information, rules, opinions, orders, and public records."

and inserting in place thereof:

"552. Public information; agency rules, opinions, orders, records, and proceedings."

SEC. 3. The Act of July 4, 1966 (Public Law 89–487, 80 Stat. 250), is repealed.

SEC. 4. This Act shall be effective July 4, 1967, or on the date of enactment, whichever is later.

Approved June 5, 1967.

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[From the Washington Post, Feb. 11, 1972]

### NSC Urges Stiffer Law on Secrets

(By Sanford J. Ungar)

The National Security Council is proposing tougher regulations to keep classified information out of the hands of unauthorized government officials, defense contractors and the public.

It suggests that President Nixon may want to go as far as seeking legislation similar to the British Official Secrets Act, which would have the effect of imposing stiff criminal penalties on anyone who receives classified information, as well as on those who disclose it.

The recommendations are contained in the draft revision of the executive order that has governed the security classification system since 1953.

The draft was submitted to the Department of State, Defense and Justice, the Central Intelligence Agency and the Atomic Energy Commission last month for their comments. A copy was obtained by The Washington Post yesterday.

After suggestions have come back from those agencies, a revised draft is expected to be sent to the President for approval on his return from China.

The National Security Council draft is the result of a year's work by a special inter-agency committee headed by William H. Rehnquist, formerly an assistant attorney general and now a Justice of the Supreme Court.

National Security Council sources said yesterday that Rehnquist's contributions to the revision were "very important. . . . He did yeoman work."

Rehnquist resigned from the inter-agency committee when he was sworn in as a member of the high court last month, and he has not been replaced.

If adopted in its current form, the NSC draft would freeze the existing secrecy stamps on thousands of documents now in special categories exempt from automatic declassification over a period of 12 years.

The exempt documents now include "information or material originated by foreign governments or international organizations," "extremely sensitive information or material" singled out by the heads of agencies and "information or material which warrants some degree of classification for an indefinite period."

The NSC draft abolishes special categories and introduces a "30-year rule" setting the time limit for declassification of all future secret government information.

The time period over which some documents would be automatically down-graded in security classification and eventually declassified would be reduced from 12 to 10 years.

Documents originally stamped "top secret" could be made public after 10 years. Those marked "secret" could be declassified after 8 years, and those with a "confidential" stamp after 6 years.

But before that time has passed, the NSC draft suggests, "classified information or material no longer needed in current working files" may be "promptly destroyed, transferred or retired" to reduce stockpiles of classified documents and cut the costs of handling them.

A House subcommittee investigating the availability of classified information has estimated the cost of maintaining secret government archives at $60 to $80 million annually.

Although the special review of classification procedures was commissioned by President Nixon long before the top-secret Pentagon papers on the war in Vietnam were disclosed to the public last summer, the NSC draft reflects a number of the problems debated during the Pentagon papers episode.

Among the recommendations in the NSC draft are:

Creation of an "interagency review committee," whose chairman would be appointed by the President, to supervise all government security classification activity and handle complaints from the public about over-classification.

An annual "physical inventory" by each agency holding classified material to be sure that security has been strictly preserved.

Establishment of a requirement that everyone using classified material not only have a security clearance, but also demonstrate his "need for access" to particular items "in connection with his performance of official duties or contractual obligations."

Tighter control over "dissemination outside the Executive Branch" to such organizations as the Rand Corp. in California, which performs defense research under government contracts.

Establishment of safekeeping standards by the General Services Administration to assure that all classified material is appropriately locked up and guarded.

Markings on every classified document to make it possible to "identify the individual or individuals who originally classified each component."

Establishment of its own rules by every government agency on when and how it will make classified information available to Congress or the courts.

The NSC draft lists 41 government agencies which would have the authority to put classification stamps on documents and other materials. They range from the White House and Atomic Energy Commission to the Panama Canal Co. and the Federal Maritime Commission.

Several agencies which previously did not have such authority are added to the list, such as the White House Office of Telecommunications Policy and the Export-Import Bank.

Only two agencies—ACTION, successor to the Peace Corps, and the Tennessee Valley Authority—are to be restricted to the use of "classified" stamps, and banned from classifying documents "top secret" or "secret."

Except for its final pages, which are stamped "For Official Use Only," the copy of the NSC draft obtained by The Post bears no security marking itself.

It is in the final pages that the National Security Council makes its recommendations for revising criminal statutes to deal with unauthorized disclosure of classified information. The President is offered three options:

Leaving existing law unchanged.

Revising one section of the federal espionage act to omit the requirement that disclosure, to be considered criminal, must be "to a foreign agent." The revision would make it a crime to disclose classified information to any unauthorized person.

Seeking legislation like the British Official Secrets Act, which severely punishes those who disclose and receive classified information.

Touching on an issue that was repeatedly raised during the court cases involving the Pentagon papers, the NSC draft also instructs:

"In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or agency, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security."

Several judges ruled last summer that publication of the Pentagon papers, a history of American involvement in Vietnam, might cause embarrassment to government officials but would not endanger the national well-being.

The draft also substitutes the term "national security" wherever "national defense" was used in the previous regulation controlling the classification of information.

One expert on security classification said yesterday that national security is generally considered a broader term which permits the classification of more material.

The NSC draft also provides for classification of anything whose "unauthorized disclosure could reasonably be expected to result" in damage to the nation, a less stringent condition than was previously imposed.

The preamble to the draft states that "it is essential that the citizens of the United States be informed to the maximum extent possible concerning the activities of their government," but adds that it is "equally essential for their government to protect certain official information against unauthorized disclosure."

The draft, says the NSC, is intended "to provide for a just resolution of the conflict between these two essential national interests."

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[From the Washington Post, Feb. 12, 1972]

### Pentagon Fights Secrets Plan

(By Sanford J. Ungar)

The Defense Department is opposing a National Security Council recommendation that all classified government information be made public after being kept secret for a maximum of 30 years.

Criticizing an NSC draft revision of government security regulations, the Pentagon has appealed for a "savings clause" that would permit agency heads to designate material affecting foreign relations which they believe must remain secret indefinitely in the interest of "national security."

But the Defense Department also questions some sections of the NSC draft as unduly restrictive and has suggested changes that might have the effect of reducing the number of classified documents in government archives.

The Pentagon suggestions are contained in a memorandum to the National Security Council from J. Fred Buzhardt, general counsel of the Defense Department.

The Washington Post has obtained a copy of that memorandum, one of several that will be considered by the National Security Council before submitting the draft for presidential approval.

Meanwhile, members of Congress and other experts on security classification attacked the NSC draft for cutting back on public access to government information rather than expanding it.

Rep. John E. Moss (D-Calif.), the author of the Freedom of Information Act, said that "no more stringent regulations are needed. They are the antithesis of a free society."

Commenting on details of the NSC draft as revealed in The Washington Post yesterday, Moss was especially critical of the suggestion that the President seek legislation, similar to the British Official Secrets Act, which would severely punish anyone who receives classified information as well as those who disclose it.

Such legislation, Moss said, "would be an outrageous imposition upon the American people. I will fight it, and I would hope that every enlightened American will fight it."

Rep. William S. Moorhead (D-Pa.), whose House Subcommittee on Foreign Operations and Government Information will open new hearings next month, complained yesterday that the NSC draft was "aimed only at closing information leaks in the executive branch rather than (making) more information available to the public and in Congress."

Moorhead said he had requested a copy of the NSC draft from the White House.

Earlier in the day, the Office of Legal Counsel at the Justice Department declined to provide a copy to the staff of the Moorhead subcommittee, saying that it was only "a working draft."

The Jan. 11 letter of transmittal which accompanied the NSC proposal when it was sent to the Departments of State, Defense and Justice, the Central Intelligence Agency and the Atomic Energy Commission, however, called it "the final draft."

The Defense Department recommendations concerning the draft, sent to the NSC on Jan. 21, were the product of a review by the three military departments and "a working group composed of classification specialists, intelligence experts and lawyers," according to Buzhardt's memorandum.

Buzhardt observed in the memo that the Pentagon found so many problems with the draft that it should "be substantially reworked before submission to the President."

Among other matters, the Defense Department urged an updating of the definitions of the three security classifications as follows:

"The test for assigning 'Top Secret' classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the nation or its citizens."

As examples of such damage, it cited a range of situations from "armed hostilities against the United States or its allies" to the compromise of cryptologic and communications intelligence systems."

"Secret" is to be used to prevent "serious damage" such as "endangerment to the effectiveness of a program or policy significantly related to the national security" or "jeopardy to the lives of prisoners-of-war."

"Confidential" refers to national security information or material, the unauthorized disclosure of which could reasonably cause damage to the national security." No examples were listed in this category.

The Pentagon also said that "it is imperative that these restrictions be imposed only where there is an established need."

The Defense Department objected, however, to the NSC's proposed requirement that every classified document be marked to indicate who had declared it secret. Buzhardt's memo called this condition "both unrealistic and unworkable."

Its strongest objection appeared to involve the NSC suggestion for a 30-year rule guaranteeing that all secret documents are released eventually.

"A savings clause to provide for exceptions to be exercised only by the agency head concerned is essential to prevent damage to national security," the Pentagon recommendations said.

"There are certain contingency plans dating from the 1920s which should be exempt from the 30-year rule," the Pentagon critique added. "Release of such documents would be unacceptable from a foreign relations standpoint for an indefinite period."

William G. Florence, a retired security expert for the Air Force, complained yesterday that the NSC draft, as reported in The Washington Post, "will continue to permit hundreds of thousands of people to continue putting unwarranted security classifications on information."

Florence referred to the practice as "illegal censorship."

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[From the Washington Post, Feb. 22, 1972]

### An Appeal for a Sensible Policy on National Defense Secrecy

The Washington Post recently published news of a National Security Council recommendation that the existing secrecy policy in Executive Order 10501 for safe-guarding national defense information be reissued in a new order. Measures currently imposed to keep Congress and the people from knowing what the Executive branch is doing would be continued.

We can all be thankful for the opportunity to explore this subject with the President and express our own views. Excessive secrecy has developed into one of the most critical problems of our time. The court cases and other events of 1971 show that the more secret the Executive branch becomes, the more repressive it becomes. It has already adopted the practice of honoring its own secrets more than the right of a free press or the right of a citizen to free speech.

The NSC "final draft" revision, as obtained by the Washington Post, claims that an Executive Order is required to resolve a conflict between (a) the right of citizens to be informed concerning the activities of the government and (b) the need of the government to safeguard certain information from unauthorized disclosure. Of course, *that simply is not true*. The Constitution did not create and does not now contain a basis for any such conflict. The interests and the power of the people are paramount in this country.

The only conflict about this matter is the President's failure to recognize the citizens' rights and ask Congress for legislation, in addition to existing law, that would provide the protection he wants for information bearing on the *active defense* of this nation. The information could be called National Defense Data. A specific definition for the data could be similar to the one already recommended in the report submitted to the President and Congress last year by the National Commission on Reform of the Federal Criminal Code. The President should take guidance from the fact that the Atomic Energy Act has been quite effective in controlling Atomic Energy Restricted Data without objectionable impact on the citizens' right of access to government activities.

If the President still insists on having an Executive order on the subject of safeguarding information, here are some comments that could be helpful:

1. *Updating*. The procedures in Executive Order 10501 for classifying defense information as TOP SECRET, SECRET or CONFIDENTIAL are substantially the same as the Army and Navy used before World War II to classify military information as SECRET or CONFIDENTIAL. The policy was suitable for small self-contained military forces. All of the SECRET and CONFIDENTIAL material held by some of the large Army posts could fit in a single drawer of a storage cabinet. Circumstances are completely different today. The strength of our national defense is not limited to military effort. It stems from the vast politico-social-industrial-military complex of this country. A commensurate interchange of information is essential. Therefore, such Executive order as the President considers to be required should be *radically* updated.

2. *Definition*. A fatal defect of Executive Order 10501 was the absence of a definition of "national defense information." That comparatively narrow term was an improvement over the broader terms "national security" and "security information" which were discarded in 1953. However, it is imperative that the designation used be limited severely by specific definition to information which the President really believes would damage the national defense and which leads itself to effective control measures.

3. *Categories*. Consistent with the urgent need to narrow the scope of protection, there should be only *one category* of defense information. Internal distribution designators could be used to limit distribution of a given item, but there need be only one classification marking. Experience proves

that three classifications invite serious confusion, promote uncontrollable overclassification, and reduce the effectiveness of the security system.

4. *Authority to Classify.* The President's assumed authority to impose a defense classification authority since they are not classification ought to be exercised by only a tiny fraction of the hundreds of thousands of people who are now classifying. The new definition and great importance of the information involved would permit limiting classification authority to persons designated by the President and to such others as they might designate. (Individuals who put markings on documents containing information classified by someone else do not need clasfiers.) As a new procedure, anyone who assigns a defense classification to material which does not qualify for protection should be made subject to disciplinary action as a counterfeiter.

5. *Declassification.* The millions of classified papers currently gushing forth cannot possibly be kept under review for declassification on a document-by-document basis. But that is no reason for perpetuating assigned classifications as the NSC proposed. The President should take the insignificant risk and cancel the classification on historical material by appropriate order. As guidance, this writer authored DoD Directive 5200.9 in 1958 which canceled the classification on a great volume of information under the jurisdiction of the Secretary of Defense that had originated through the year 1945. As for the smaller number of items that should be produced in the future, declassification by the originating authority would be practicable and enforceable. Exceptional classified items, if any, sent to records repositories could be declassified automatically after the passage of a period of time such as 10 years.

6. *Privately Owned Information.* It is estimated that at least 25% of the material in this country which bears unjustifiable classifications was privately generated and is privately owned. The Executive order should specifically exclude privately owned information from the defense classification system.

7. *Misrepresentation of Law.* The NSC draft revision would continue the existing misrepresentation of the espionage laws by warning that disclosure of information in a classified document to an unauthorized person is a crime. The law applies only if there is intent to injure the United States, with no reference to classification markings. Falsification of the law should be eliminated.

The President could do the country a great service if he would seek advice from Congress and others outside the Executive branch regarding Executive Order 10501. It is hoped that many concerned citizens will help influence the adoption of that course of action.

WILLIAM G. FLORENCE.

Washington.

(NOTE.—The writer retired from the Air Force in May, 1971, after 43 years of government service, including 26 years as a security policy specialist.—See following editorial, "Official Secrets.")

### OFFICIAL SECRETS

At least three times in the past year the administration has suffered the embarrassment of unintended leaks of classified information. *Intended* leaks are a commonplace—a form of standard operating procedure. Nothing but embarrassment, however, was entailed in the publication of files stolen from the Media, Pa., office of the FBI, or in the publication of the so-called Pentagon Papers, or in the publication of some reports of National Security Council sessions obtained and made public by columnist Jack Anderson. When we say "nothing but embarrassment" we mean: no irreparable injury to the country's security, no loss of human life, no disclosure of vital facts such as the sailing of transports or the location of troops. Nevertheless, it is easy to understand why the administration was embarrassed and why it would have preferred to keep these documents securely locked up in its own file cabinets. In fact, a great deal of what goes on in the executive agencies of the government is wisely and properly kept secret. No one with any practical sense would suggest that Cabinet meetings ought to be conducted on television or that the Pentagon publish all its war plans or that the Secretary of State's talks with ambassadors be made known to all the world. Confidentiality is a key to many kinds of policy planning, many kinds of contingency preparation, many kinds of difficult and delicate negotiation.

Nevertheless, the first responsibility for the preservation of government secrets is clearly the government's. And clearly the government isn't discharging it very well. Thanks to yet another unofficial leak, this newspaper published the other day an account of the final draft of a proposed revision of the executive order establishing security classification procedures. It would prescribe, among other things, new standards for classification and declassification of government information. A highly sophisticated criticism of this proposal is contained in a letter appearing on the opposite page today from William G. Florence, an experienced security policy specialist formerly with the U.S. Air Force.

We have no quarrel with the proposed measures for tightening the physical safeguards for preserving official documents. And we are in full accord with the philosophy of the proposal's opening statement: "It is essential that the citizens of the United States be informed to the maximum extent possible concerning the activities of their government. In order that it may protect itself and its citizens against hostile action, overt or covert, and may effectively carry out its foreign policy and conduct diplomatic relations with all nations, it is equally essential for their government to protect certain official information against unauthorized disclosure."

One proposal tentatively put forward in the draft seems to us, however, to be fraught with danger to self-government. Existing law makes it a criminal offense for any government employee or official to disclose classified information to a foreign agent; the proposal would make it a crime to disclose classified material to any unauthorized person, if the classification was "secret" or "top secret." In addition, it is suggested that legislation be enacted in imitation of the British Official Secrets Act, which would impose criminal penalties not only on the government employee who divulges classified information but on the recipient of the information as well. That seems pretty plainly aimed at newspapers.

But newspapers in America are not agents, or even allies, of the government. They are, by specific provision of a written constitution—something England doesn't have—wholly independent of governmental regulation, precisely in order to enable them to serve, in Mr. Justice Hugo Black's splendid phrase, the governed, not the governors. If they are to do this effectively, they must be free to publish, within the limits of their knowledge, what they believe the public ought to know. The very essence of press freedom, it seems to us, lies in leaving the determination of what to publish by editors, when information becomes available to them, rather than to government officials.

Under American law, the press may not publish with perfect impunity. It may be called to account and punished for publishing official information if it does so with reason to believe that the publication will do injury to the United States. But this is a standard which imposes on the government, before publication can be punished, the burden of proving injury—not merely embarrassment—and of proving intent. Thus a free press is left free, if its editors and publishers have the courage of their convictions, to publish what they think the public ought to know.

There are risks in this system—as there are risks in all forms of freedom. But these are risks that a self-governing society must run if it wants to be informed, in spite of official classification, of corrupt deals like the Teapot Dome oil leases or the fact that government agents are maintaining surveillance of persons not charged with, or even suspected, of any violation of law, or the deliberate manipulation of public opinion to take the country into war. Official secrets are sometimes disclosed because someone inside the government regards it as his patriotic duty to make the information available to a free press, some ramifications of which are discussed by Kenneth Crawford elsewhere on this page. But to foreclose the publication of such information, when it is not actually injurious to the nation, is to foreclose an essential means of keeping control of the government in the hands of the governed.

## THE AMERICAN LEGION

(Mr. MURPHY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, I rise on this occasion to voice my objection to the current cover story of the magazine the Washingtonian entitled, "The American Legion in Washington: Dirty Jokes, Little Hats and a Bottle of Beer" Veteran groups visiting Washington from my district are outraged at this scurrilous attack on the integrity of their organization.

While the editors of the magazine admit that author Tom Kelly's personal involvement with any veteran's organization has been negligible, he nevertheless launches into a full-scale assault on the Legion and characterizes it as a group of bigoted Archie Bunkers.

This is a wholly unfair charge against an organization of 2,700,000 ex-GI's, sailors and marines whose only condition for acceptance to their membership rolls is that you have served your country honorably. The Legion is open to anyone, regardless of race, color, or religious doctrine. The groundless nature of Mr. Kelly's charge can be found in the large numbers of minority group members who belong to and work actively in the American Legion.

Contrary to the charge of the author that the American Legion in Washington—or anywhere else for that matter—is dedicated to "dirty jokes, little hats, and a bottle of beer," the Legion is still a strong organization dedicated to the principle of serving "God and country."

The American Legion, rather than taking up the cause of booze and bad jokes has, since its existence, worked to defend the Constitution, to maintain law and order, to foster Americanism, to preserve the memories of fallen comrades, to inculcate a sense of obligation to the community, State, and Nation, to combat autocracy, to make right the master of might, to promote peace and good will on earth, and to safeguard the principles of justice, freedom, and democracy.

The most important principle of the legion is found in its efforts to consecrate and sanctify its comradeship and devotion to mutual helpfulness. Not being a member of the Legion, Mr. Kelly is not aware of the extent to which the Legion has translated these words into action.

It began a job placement program for Vietnam veterans 18 months before the Federal Government recognized the plight of the jobless GI. The Legion has a job program in every State of the Union, and has helped place thousands of Vietnam veterans.

The Legion has taken the lead in fighting the menace of drug abuse by assisting addicts and families of addicts, especially where veterans are involved.

The Legion's fighting to improve the GI bill to increase allotments to veterans for school needs, books, and subsistence.

This is an addition to the Legion's dedication to the youth of the United States sponsoring the oldest athletic program for young people in the country. It is also one of the largest sponsors of Boy Scout units in America.

Mr. Kelly's article is a disservice to the memory of fallen comrades in arms, past and present; it is an insult to the surviving veterans of Belleau Wood, Bastogne, Old Baldy, and Bac Lieu.

Mr. Speaker, as a veteran and as a member of the American Legion, I deplore such attempts at "humor" at the expense of this fine organization, and I ask members to join me in restating the faith this body has in the membership and in the future of the American Legion.

Thank you.

## CONSTITUTIONAL AMENDMENT ON THE SCHOOL BUSING QUESTION REPRESENTS ONLY WAY TO SOLVE THE SCHOOL BUSING PROBLEM

(Mr. ABBITT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABBITT. Mr. Speaker, I am firmly convinced that the current hearings before a subcommittee of the House Judiciary Committee are no more than a delaying tactic to stall the signing of our discharge petition on the antibusing resolutions. This is a calculated effort to lull our people into believing that forward progress is being made in dealing with this crucial issue when, in fact, the only way that we will get affirmative action is through a discharge petition.

It is vitally necessary that we quickly get before the House the proposed constitutional amendment on the school busing question. Each day of delay further complicates our problem and makes more uncertain the planning of school districts across the country which must know soon where they stand with respect to their operations next fall.

The only way we are ever going to reverse the trend toward a complete takeover of our public schools by the Federal courts and HEW is to put in the Constitution, in plain language, a precise prohibition against forced busing to achieve racial balances in the public schools. I believe that if we get this matter before the full membership of both Houses, it can be approved and submitted to the States for ratification. If action is not taken now, the American people will become the victims of a gross injustice, the scale of which will be visible for many years to come. It is clear that many of the Federal judges are not going to use restraint in forcing busing—and it is equally plain that the executive agencies are not going to reverse their course. Thus, it is mandatory that Congress take the lead in protecting our public schools.

I strongly urge Members of the House to sign our discharge petition and not wait in vain for the Judiciary Committee to act. It is clear to me that unless we get this matter before the House prior to Easter, there is little likelihood that congressional action will be completed this year. Thus, the tactic of delay will effectively defeat our objectives. Hearings are sometimes useful in determining the views of the public but in this instance the overwhelming majority of our people are opposed to forced busing and this fact is unmistakingly known. The people expect Congress to act and, in my opinion, if we fail to do so, we are remiss in our duty.

This is clearly the most pressing domestic issue before us today. Talk alone will not solve the problem. We must act and that action must come now—before it is too late.

## MEYER SOKOLOW, PIKESVILLE, MD., SELECTED "OUTSTANDING MARYLAND VETERAN OF THE YEAR"

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Maryland. Mr. Speaker, Meyer Sokolow, of Pikesville, Md., has been selected "Outstanding Maryland Veteran of the Year" by the Joint Veterans Committee of Maryland, representing the 90,000 members of the American Legion, Catholic War Veterans, Disabled American Veterans, Jewish War Veterans, Marine Corps League, Veterans of Foreign Wars, and the Veterans of World War I.

I was delighted to attend the testimonial dinner in Towson, Md., on February 24, at which the award was presented. Almost 500 people attended the dinner, including three national commanders; Jerome D. Cohen, of the Jewish War Veterans, Edward T. Conroy, of the Disabled American Veterans, and H. Lynn Cavin, of the Marine Corps League. Several past national commanders were speakers, including Walter D. Hyle, Jr. and Robert T. O'Leary of the Catholic War Veterans, Claude Callegary of the Disabled American Veterans, and Paul Wolman of the Veterans of Foreign Wars. Mr. Jack E. Dyke, chairman of the Joint Veterans Committee of Maryland was also a guest speaker.

Mr. Sokolow, a Korean war veteran, served as commander of the Star of David Post No. 292, Jewish War Veterans; commander of the Jewish War Veterans, Department of Maryland; and chairman of the Joint Veterans Committee of Maryland. He is a member of the Hamilton Post No. 20, American Legion; and the Foreman-Okum Post No. 465, Veterans of Foreign Wars. He is also a member of the War Memorial Commission of Maryland.

Mr. Sokolow was national chairman on Aid to the People of South Vietnam for the Jewish War Veterans. Under his leadership, thousands of tons of clothing, soap, and medical supplies were sent to South Vietnam for distribution in the hamlets and villages.

Under the chairmanship of Mr. Sokolow, the Joint Veterans Committee of Maryland drafted the "Flag Bill," which became law. In 1971, Mr. Sokolow appeared before the Maryland Legislature to oppose the "Draft Dodger Bill."

Mr. Sokolow is the cochairman for public relations for radio and television for the American Legion, Department of Maryland, and is publicity chairman and legislative chairman for the Jewish War Veterans.

Mr. Sokolow has worked selflessly to promote patriotism and has devoted a large portion of his life to service to his country, his State, and his community. The Joint Veterans Committee of Maryland honors itself by honoring Mr. Sokolow as Maryland Veteran of the Year.

## FARM PRICES ARE NOT EXCESSIVE

(Mr. MELCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. MELCHER. Mr. Speaker, Clark E. Schenkenberger, editor of the Western Livestock Reporter, has written an interesting and informative article on the question of agricultural prices which deserves attention.

The plain fact is that farm and ranch prices are not excessive. Agricultural production costs are up 21 percent in the last 5 years alone. Food prices are up 19 percent since 1967; services are up 130 percent, but prices received by farmers and ranchers are up only 12 percent.

The parity ratio in 1971 was 69 while it was 74 in 1969. In other words, Mr. Speaker, the farmer is five points worse off in costs compared with prices since 1969.

The article by Mr. Schenkenberger follows:

[From the Western Livestock Reporter, Feb. 10, 1972]

### OBSERVATIONS BY THE EDITOR

A couple of major T.V. news shows devoted some time last week to tell their viewing audiences about "how high meat prices are." Whether stuff like this is news or propaganda depends on your point of view.

There's no denying that prices all along meat trade channels have risen, but the way some commentators phrased it was a lot more detracting than what they actually said. To state that "cattle prices are the highest they've been in 20 years" is technically correct, but it would be more accurate to say "cattle prices have finally gotten back up to the levels they were 20 years ago." See the difference?

There's another angle to consider. While the cattleman and feeder are getting all the news spotlights about the high price of meat, the intermediate processors who add up to 75 percent of the cost to the over the counter price escape unscathed.

Those spot news tapes failed to reveal any of this.

Over in Washington state for example, the economic impact of the intermediate or processing industries of food and fiber was well illustrated by a report from Dr. James Nielson. Commenting that Washington's total agricultural industry, including production and processing accounted for over $3 billion of the state's economic output, he pointed out that slightly less than $1 billion applied to production only.

In other words, two out of three dollars was generated by processing . . . a healthy, but partially hidden chunk.

Well, it's always easy to stamp an angry foot over unfair play, and cry foul. This is just what the detractors would expect.

Consumers have been bridled with the concept that when a price goes up, someone gets rich, or richer. We really accomplish little purpose in trying to toss the hot potato to the next guy.

Instead, we offer these facts with which you can arm yourselves, taken from the Better Beef Bulletin. If they don't convince or convert consumers, they may at least dull the edge of criticism.

1. In 12 years the American farmer has increased his production by 20 per cent on 6 per cent fewer acres.

2. Beef producers have topped the agricultural production figure by doubling beef production since 1960.

3. Basically, there are only 100,000 major beef producers in America, but they supply 114 pounds of top quality meat to every U.S. man, woman and child . . . or, each beef producer puts meat on 2,000 American tables twice each day.

4. Consumer spendable income has increased twice as rapidly as consumer food expenditures. Between 1960 and 1970 disposable income was up 71 per cent while food purchases were up only 38 per cent.

5. The per cent of disposable income spent on food has decreased from 20 per cent in 1960 to 16.6 per cent in 1970.

6. In 1951, one hour's labor could buy 1.7 pounds of beef . . . today one hour's work buys 3.3 pounds of higher quality beef.

## THE QUESTION OF TAXPAYERS WITH INCOMES OF OVER $100,000 NOT PAYING TAXES

(Mr. CONABLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. CONABLE. Mr. Speaker, there has been a great deal of exclaiming recently about a report that 112 taxpayers with adjusted gross incomes of $200,000 or more in 1970 paid no income taxes. The cases were cited as evidence of the need for additional tax reform.

Some of us questioned the accuracy of this report, pointing out that the returns had not been audited and did not necessarily comprise invidious tax privilege. More adequate information was clearly needed.

The Treasury Department has now compiled more information on these individual cases and I would like to place it in the RECORD for all to examine. I believe this detailed report provides a more substantial basis on which to make a judgment on the need for tax reform.

The report follows:

THE DEPARTMENT OF THE TREASURY,
*Washington, D.C., March 1, 1972.*
Hon. BARBER B. CONABLE, Jr.,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. CONABLE: In response to your request, I am writing to set forth the information that we have developed to date with respect to individuals with adjusted gross incomes above $200,000 for the year 1970 who showed no income tax due on their federal income tax returns for that year.

The information that there were 112 such individuals came from computer runs made from preliminary data extracted for statistical purposes in connection with the customary preparation by the Internal Revenue Service of its Statistics of Income series. The data is derived from a sample of some 500,000 of the approximately 75,000,000 individual income tax returns. The sample includes all returns filed that show adjusted gross income above $200,000, and the information extracted from each return and fed into the computer shows, among numerous items, the amount of adjusted gross income reported and the federal income tax shown on the return to be payable. It is thus a routine matter, as a part of other analyses of data, to run the computer to identify the number of returns with adjusted gross income above $200,000 which reported no tax due.

This statistical data is preliminary, however, and is customarily reviewed before publication of final data for the year.

Moreover, I should point out that this data is taken from the returns as filed by the taxpayers before audit of the returns by the Internal Revenue Service. I understand that at least 58 of these returns are already under audit by the Service or have been assigned for audit. We have now received in the Treasury copies of all the returns, and it appears likely that tax will be collected on a number of the returns after audit.

The Tax Reform Act of 1969 took effect, in general, as of January 1, 1970, although some of its provisions become effective gradually over a period of years. It is significant to note, therefore, that:

(a) There was a substantial decrease between 1969 and 1970 in the number of nontaxable returns with adjusted gross income above $200,000—from 300 to 112.

(b) The percentage which those 112 nontaxable returns bore to the total number of returns with adjusted gross income above $200,000 dropped from 1.6% in 1969 to 0.7% in 1970. (There were some 18,000 returns with adjusted gross incomes above $200,000 in 1969 and some 15,000 in 1970.)

(c) The total adjusted gross income on non-taxable returns with adjusted gross income above $200,000 dropped from $279 million to $46 million less than 17% of the 1969 total.

(d) The number of nontaxable returns with adjusted gross income above $1,000,000 dropped from 52 in 1969 to 3 in 1970.

Of the 112 returns listed preliminarily, examination of copies of the returns show that inadvertently 8 were erroneously so classified:

| | |
|---|---|
| Paid a "minimum tax" under 1969 Act | 2 |
| Paid income tax under Sec. 962 (permitting individuals under certain circumstances to pay corporate income tax instead of individual income tax on certain types of foreign income) | 1 |
| Delinquent returns for prior year (not subject to 1969 Act) | 3 |
| Returns with net operating loss carried over from prior year | 1 |
| Duplicate return | 1 |
| | 8 |

Of the remaining 104 returns, 6 returns paid substantial income tax to foreign countries, mostly on salaries, for which credit is allowable against U.S. income tax.

On the remaining 98 returns, the principal deduction against adjusted gross income resulting in no tax was as follows:

*State income tax*—12.

Review of the returns before audit indicates that this is likely due to payments in 1970 by cash basis taxpayers of state income tax for 1969 or prior years. For example, a person having a large capital gain or other non-recurring income in 1969 generally can pay the state income tax on that 1969 income when he files his state return for 1969 in the spring of 1970, in which event that state tax is deductible on the cash basis of accounting in his 1970 federal income tax return. The state tax on large non-recurring 1969 income may offset all or a substantial part of the taxpayer's lower 1970 income.

Also, if on audit of his state returns for prior years the taxpayer paid additional state taxes for those years in 1970, he might have a very substantial deduction for state taxes in 1970. It is also possible that he could have paid in 1970 state taxes on 1970 income that is not subject to federal income tax, such as interest on state and local bonds, but it does not seem from a review of the copies of the returns that the large deductions were caused by that circumstance.

*Charitable contributions*—13.

Only 2 of these returns showed contributions above the 50% maximum generally permitted, and one of these was a return for a fiscal year ending in 1970, which was not subject to the 1969 Act. In 1966 there were 49 nontaxable returns with adjusted gross income above $200,000 that took the "unlimited" charitable contribution deduction, which was ended by the 1969 Act.

*Interest expenses*—54.

In many cases interest is incurred as an expense of borrowing money for investments which produce current ordinary income. If the interest paid is high in relation to the income received, this may result in returns showing high adjusted gross income but no net taxable income; this may reflect simply a failure by the taxpayer to earn a net profit on his investment, as in the case of a business that borrows money, pays interest to its creditors, and has no net profit after paying the interest.

Where the taxpayer's interest paid substantially exceeds his investment income, however, the 1969 Act included the excess among the preferences subject to the minimum tax for the years 1970 and 1971; and indications are that as a result of that provision in the 1969 Act, a number of these returns will be subjected to the minimum tax on audit. For 1972 and subsequent years, investment interest paid that exceeds by more than $25,000 the taxpayer's investment income will generally be disallowed under the Tax Reform Act of 1969.

Some of the interest claimed as personal deductions on the 1970 returns may properly be classed as business items, but the interest deducation was shown by the taxpayer as a non-business item on his return. The place at which the interest deduction was reflected on the return might be immaterial if no tax is due.

### MISCELLANEOUS DEDUCTIONS

| | |
|---|---|
| Loss of securities pledged as collateral for loans | 3 |
| Gambling losses | 1 |

(Gambling losses are deductible against gambling gains; this return merely reports miscellaneous gambling income above $400,000 and a deduction for an identical amount of miscellaneous gambling losses for the year.)

| | |
|---|---|
| Investment expense other than interest | 7 |
| Theft casualties | 2 |
| Sundry (bad debts; payments in settlement of litigation, etc.) | 6 |
| | 19 |

A number of these deductions involve large sums and some involve unusual transactions. On audit of the returns the deductions may be disallowed or reduced, or they may be treated as capital losses, which may be deducted only against $1,000 of income other than capital gains.

Respectfully yours,

EDWIN S. COHEN.

## VETERANS DAY AND MEMORIAL DAY

(Mr. QUILLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUILLEN. Mr. Speaker, yesterday I introduced H.R. 13455 to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day. My purpose in introducing this bill is to restore tradition and patriotic significance to these days by celebrating Veterans Day on November 11 and Memorial Day on May 30.

There are two holidays firmly fixed in the minds of veterans and American citizens, and for the generation now living will remain days of inspiration and reverence.

Armistice Day, November 11, and Memorial Day, May 30, have a significance which represent something because they carry a message. They are more than just a day set aside by the Congress to pay tribute to a subject, or to provide a holiday for observance for recreation.

Armistice Day, November 11, represents the observance of the signing of the Armistice at the close of World War I. This day on the calendar acknowledges victory over an enemy, a day when the lights literally went on again all over Europe and the British Isles. It represents the day hostilities ceased after more than 4 years of mortal conflict between the Allied and Axis Powers, in which more casualties resulted in one battle than any battle in the history of warfare. Armistice Day is observed by all nations who participated in the war of 1914–18 except, the United States of America. We observed it for a half century even though the name was changed to Veterans Day; this change caused a loss of significance. Finally Armistice Day was officially abolished altogether by an act of Congress and another day selected as Veterans Day. This has not changed the thinking of our citizens who remember Armistice Day. Some States refused to go along with the change, other States are taking State action to restore November 11 as the day to observe, for it has a special meaning.

November 11, 1971, is an example. That year October 25 was selected as Veterans Day. It had no meaning and observances were sparsely attended. However, throughout the Nation November 11 was observed by about two-thirds of the States of the Union by veterans organizations. It is true these were motivated by the veterans of World War I, yet the veterans of subsequent wars participated with the feeling that, irrespective of another day having been selected by the Congress for observance, November 11 was the day for this observance. This was highlighted at Arlington National Cemetery when—the other day was officially observed—the Veterans of World War I of the U.S.A., Inc., held their annual observance of Armistice Day, which had been held at the Tomb of the Unknown Soldier for the past 50 years, and the President of the United States joined in the observance, placing the traditional wreath before the Tomb of the Unknown Soldiers. The Veterans of World War I are deeply grateful for this gesture by the President, and feel that it was, and is, a reflection of the sentiment of the Nation.

Going farther back in history to the beginning of our observance of Memorial Day. It was in the small town of Grafton, W. Va., soon after the close of the war between the States that May 30 was set aside for a day of memory, some time before the official proclamation of May 30 as Memorial Day. The spirit of remembrance has become so engrafted into our thinking that when we think of Memorial Day, May 30 instantly comes to mind. An observance so instilled in our thinking is and will be continued by our people in spirit regardless of another day being selected as Memorial Day.

The Veterans of America, those who have given of their time and many of whom have given of their bodies in the protection of this Nation, feel that the traditional observance of Memorial Day is of more importance than picking a day to suit commercial interests.

For these reasons the veterans and others of these United States feel that they have been deprived by statute of days of observance which have throughout the years contributed to the espirit de corps of our uniform services. The mere selection of days of the calendar to observe important events of our national life, do not meet the requirements conducive to patriotism so necessary to our national life.

## FUNDS FOR EDUCATION

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 60 minutes.

Mr. MICHEL. Mr. Speaker, once again our subcommittee on Labor/HEW of the House Appropriations Committee is engaged in hearings on the annual budget for those two Departments, and presently we are hearing testimony on the education portion of that budget. As usual those of us on the subcommittee are hearing from many individuals and groups who feel that the Federal Government is not providing adequate funds for the education of our children. I suppose there are some who will never be satisfied even if we were to provide funds in excess of what they may be suggesting for their own particular pet projects or for the education budget as a whole.

I have completed an exhaustive and comprehensive study of the budget requests for education programs for fiscal year 1973, and this demonstrates conclusively that a great deal of money will be available for the many education programs which have been established through the years at the Federal level. If the budgetary recommendations are followed by the Congress, these programs will receive $11,712,557,000 in fiscal year 1973.

Certainly, those of us who are charged with the responsibility of appropriating these funds should not be expected to simply meet the requests of the education lobby without any serious questioning of the figures, rather we have the responsibility of trimming the fat from these various items in an effort to see to it that the taxpayers get their money's worth in better schooling for their children.

The bulk of the nearly $12 billion that the budget recommends for education will go to the Department of Health, Education, and Welfare, with substantial amounts being earmarked for the Veterans' Administration and the Departments of Labor, Interior, and Housing and Urban Development. A scrutiny of the study, which I will insert in the RECORD at the conclusion of my remarks, will show that the various programs cover just about everything and everybody in the field of education.

Money will be provided for children in grade school, for teenagers in high school, for young people in colleges and universities, and for adults who need vocational training or retraining. Money will be furnished for educating physicians, dentists, and nurses, for teaching and training returning soldiers, as well as the widows and orphans of those who died in their country's service. Both the handicapped and the gifted will be aided, along with the economically disadvantaged and the culturally deprived. Indians on reservations will be educated. Inmates of penal institutions will be trained so they will be qualified for honest work when they resume their places in society.

The billions which the budget obligates for education will provide school buildings, textbooks, teachers, scholarships, dormitories, and numerous other items. Hardly anything has been overlooked.

Mr. Speaker, I respectfully recommend that those who feel that education is being shortchanged take a close look at the compilation which I am placing in the RECORD. After they have familiarized themselves with it, I will welcome and appreciate their suggestions.

The compilation follows:

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Vocational education facilities | 19,224 | 33,277 | 25,500 |

Grants are made to States and local districts within the Appalachian region for the construction and equipment of vocational education facilities in Appalachia, and in limited cases for operation and demonstrations in Appalachia. Vocational education facilities are key elements for the training and upgrading of potential and existing labor force entrants in skills required in commercial and other vocations. Grants are administered through the Office of Education.

OFFICE OF ECONOMIC OPPORTUNITY

ECONOMIC OPPORTUNITY PROGRAM

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Followthrough | 48,151 | 35,000 | --------- |

This is an experimental compensatory education program designed to develop and test new ways to educate disadvantaged children in the early primary grades. The parents, the community, and the resources at the school are brought together in programs to meet the child's instructional, physical, and psychosocial needs.

PHILIPPINE EDUCATION PROGRAM

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Assistance to students | 605 | --------- | --------- |
| Land reform education | --------- | 1,282 | --------- |

Under an amendment to the Philippine war damage legislation of 1963, a special fund, $28,100,000, for education derived from the Philippine war damage claims fund was established in 1966 to be used as jointly determined by the two Presidents for the purpose of furthering educational programs to the mutual advantage of both countries. Projects totaling $26,800,000 have been approved to support various educational projects in the Republic of the Philippines. It is anticipated that the balance of the funds will be utilized in 1972.

DEPARTMENT OF AGRICULTURE—EXTENSION SERVICE

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Payments for cooperative extension work under the District of Columbia Public Education Act | 672 | 768 | 768 |
| Advances and reimbursements: | | | |
| Cooperation with Department of Defense on extension program work in rural defense information and education program | 134 | 443 | 305 |
| Teaching materials developed and provided State extension services under cooperative agreement on a cost-sharing basis | 32 | 75 | 78 |
| Forest Service permanent appropriations: | | | |
| Payments to school funds, Arizona and New Mexico | 84 | 69 | 75 |

The States of Arizona and New Mexico are paid a share of the national forest receipts for school purposes.

DEPARTMENT OF DEFENSE—CIVIL—THE PANAMA CANAL

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Canal Zone Government, operating expenses: | | | |
| Civil functions: education | 16,221 | 16,454 | 17,429 |

This provides for the operation of schools, kindergarten through college, for the dependents of Canal Zone residents, the dependents of U.S.-citizen Government employees residing in the Republic of Panama, and, on a space available basis, certain other residents of the Republic of Panama. There are two school systems; one for U.S. citizens, the other, which is conducted in the Spanish language, for Panamanians and other non-U.S. citizens. There are specialized facilities for the handicapped.

CAPITAL OUTLAYS—CIVIL FUNCTIONS—EDUCATION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Improvements and replacements to educational facilities | 223 | 569 | 1,060 |

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

[In thousands of dollars]

| Mental health | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Manpower development: | | | |
| Training grants and fellowships | 98,406 | 120,050 | 105,050 |
| Direct operations | 4,561 | 10,353 | 9,141 |
| Total | 102,967 | 130,403 | 114,191 |

Training grants and fellowships. Training grants are made in the key mental health disciplines such as psychiatry, behavioral sciences, psychiatric nursing, and social work, as well as in auxiliary and related areas. In 1973, the Institute will support a total of 1,700 awards with priority consideration to training programs which stress child mental health, crime and delinquency, alcoholism, and drug abuse, and training of mental health paraprofessionals. Fellowships are awarded to individuals who are committed to research careers relative to mental health and who propose to undertake fulltime research training. A total of 657 fellowships will be supported in 1973.

Direct operations. The funds in this subactivity support Institute staff who are responsible for planning and administration of the national mental health manpower program, including mental health manpower studies and the development of training programs for paraprofessionals. Contracts to train individuals to work with drug abusers will be supported. A portion of the funds also supports a program for training psychiatrists for careers in the Federal Government.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants: | | | |
| Fellowships | 4,067 | 3,548 | 4,750 |
| Training | 11,807 | 12,874 | 15,750 |

Fellowships. Approximately 224 postdoctoral and special fellowships will be supported in 1973 as compared to 151 in 1972 and 191 in 1971. Also, some 100 career award and career development fellowships will be supported in 1973 as compared to 78 in 1972 and 82 in 1971.

Training. Grants are awarded to accredited schools for the improvement of instruction in the curriculum; clinical training grants are awarded for training in such fields as surgery, pathology, radiobiology, radiotherapy, and internal medicine; and grants are awarded to research training centers for individual traineeships. The following table summarizes those grants:

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Graduate training | 86 | 90 | 102 |
| Cancer clinical training | 85 | 102 | 113 |

NATIONAL HEART AND LUNG INSTITUTE

| Grants | In thousands of dollars | | |
|---|---|---|---|
| | 1971 actual | 1972 estimate | 1973 estimate |
| Fellowships | 5,094 | 7,371 | 7,371 |
| Training | 15,630 | 17,643 | 17,643 |

Fellowships. Approximately 345 awards will be supported in 1973 as compared with 345 in 1972 and 340 in 1971.

Training. Funds will provide for 250 grants for cardiovascular and pulmonary research and clinical training for 1,000 trainees. Comparable numbers of grants and trainees are 365 and 996 in 1972, and 366 and 1,000 in 1971. The pulmonary academic award was instituted in 1971 to four trainees. It will be continued at this level in 1972 and expanded to 60 trainees in 1973.

NATIONAL INSTITUTE OF DENTAL RESEARCH

[In thousands of dollars]

| Grants | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Fellowships | 1,455 | 1,601 | 1,601 |
| Training | 5,225 | 5,270 | 5,270 |

Fellowships. Funds for fellowships are used for support of clinical and basic research training. Applications under this program are for special fellowships, postdoctoral fellowships, and career development and career awards. In 1973, 91 fellowships will be supported compared with 96 in 1972 and 95 in 1971.

Training. Training funds are the principal means of meeting the need for dental research and academic personnel in the dental schools to teach clinical and basic sciences, and to conduct research. Increased costs per grant will make it necessary to support only 81 grants in 1973, compared with 85 in 1972 and 93 in 1971.

NATIONAL INSTITUTE OF ARTHRITIS AND METABOLIC DISEASES

[In thousands of dollars]

| Grants | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Fellowships | 5,470 | 5,740 | 5,740 |
| Training | 15,060 | 15,072 | 15,072 |

Fellowships. Approximately 323 fellowships will be supported in 1973 as compared to 342 in 1972 and 357 in 1971.

Training. During 1973 it is estimated that 246 grants will be awarded to accredited schools for the improvement of instruction. This compares to 260 grants in 1972 and 276 grants in 1971.

### NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE

[In thousands of dollars]

| Grants | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Fellowships | 2,523 | 2,782 | 2,782 |
| Training | 12,696 | 14,300 | 14,300 |

Fellowships. Approximately 147 fellowships will be supported in 1973 compared to 148 in 1972 and 190 in 1971.

Training. Approximately 187 graduate training grants will be supported in 1973 compared to 198 in 1972 and 221 in 1971. These grants are made to training institutions to establish and improve programs to train teachers and clinical investigators in neurology and otology. Also, approximately 144 traineeships will be awarded to individuals for specialized postgraduate training in 1973 compared to 153 in 1972 and 195 in 1971.

### NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants: | | | |
| Fellowships | 3,291 | 3,579 | 3,579 |
| Training | 8,323 | 8,922 | 8,922 |

Fellowships. Funds for fellowships are used to train professional researchers in research areas within the categorical interests of the Institute. The program supports postdoctoral, special, career development fellowships, and career awards. An estimated 206 awards will be made in 1973 and 1972, compared to 205 actual awards in 1971.

Training. Funds in 1973 will provide approximately 153 grants to train 918 individuals in allergy and immunology and infectious diseases in 1973 and 1972, compared to 151 grants and 906 individuals in 1971.

### NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants: | | | |
| Fellowships | 16,951 | 15,609 | 15,609 |
| Training | 43,746 | 43,746 | 43,746 |

Fellowships. Approximately 1,085 fellowship awards will be made in 1973 as compared to 1,221 in 1972 and 1,735 in 1971.

Training. Approximately 467 grants and 3,952 trainees will be funded in 1973 as compared to 468 grants and 4,160 trainees in 1972 and 521 grants and 4,360 trainees in 1971.

### NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants: | | | |
| Fellowships | 4,471 | 3,786 | 3,786 |
| Training | 13,867 | 10,142 | 10,142 |

Fellowships. Approximately 210 awards will be supported in 1973 as contrasted to 214 in 1972 and 220 in 1971.

Training. In 1973 the Institute will support approximately 98 training grants. This compares with 99 anticipated for 1972, and 112 supported in 1971.

### NATIONAL EYE INSTITUTE

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants: | | | |
| Fellowships | 1,058 | 1,676 | 1,676 |
| Training | 2,819 | 2,998 | 2,998 |

The fellowship program supports the national vision research effort through the provision of postdoctoral research training to individual investigators working on problems of visual health. Awardees receive training in the wide variety of scientific disciplines associated with vision research. Approximately 101 fellowships will be awarded in 1973 as compared to 101 in 1972 and 88 in 1971.

#### TRAINING

Training grants are awarded to academic institutions for the establishment, improvement, or expansion of vision research training programs. The grants provide sophisticated training environments for more advanced investigators who wish to pursue academic careers in vision research. Approximately 42 training grants will be awarded in 1973 as compared to 45 in 1972 and 48 in 1971.

### NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants: | | | |
| Fellowships | 240 | 264 | 264 |
| Training | 3,233 | 3,117 | 3,117 |

Fellowships. Approximately 17 awards will be supported in 1973 as compared to 17 in 1972 and 18 in 1971. Under the fellowship program, postdoctoral, special, and research career development awards are made to physicians and scientists for training in the field of environmental health sciences.

Training grants. Approximately 30 grants will be supported in 1973 as compared to 35 in 1972 and 42 in 1971. The graduate research training program supports the availability of high quality training opportunities in environmental health. It has a threefold goal: To increase the number of highly qualified scientists primarily concerned with environmental health; to enable training institutions to strengthen and enrich the research training capabilities; and to expand opportunities for environmental health research training in a greater number of the graduate institutions throughout the United States.

### RESEARCH RESOURCES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants: | | | |
| Fellowships | 146 | 126 | 126 |
| Training | 387 | 352 | 352 |

Fellowships. Approximately 14 fellowships will be supported in 1973, the same as 1972 and 1971.

Training. Grants are awarded to institutions to support training in the field of laboratory animal medicine. Approximately eight training grants will be supported in 1973 as compared to nine in 1972 and 1971.

### JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN THE HEALTH SCIENCES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants: | | | |
| Fellowships | 1,076 | 1,618 | 1,497 |
| Fogarty scholarships | 170 | 270 | 270 |

Fellowships. Approximately 142 fellowships will be supported in 1973 as compared to 154 in 1972 and 122 in 1971. In addition, funds are provided for scientific evaluation.

Fogarty scholarships. Eight scholars will be supported in 1973, as compared to eight in 1972 and eight in 1971.

[In thousands of dollars]

| Health manpower | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Health professions support | 325,934 | 452,116 | 391,818 |
| Dental health | 10,953 | 11,850 | 12,700 |
| Nursing support | 55,911 | 175,911 | 132,783 |
| Public health support | 15,565 | 20,383 | 21,609 |
| Allied health support | 22,977 | 31,954 | 35,600 |
| Program direction and manpower analysis | 4,511 | 6,698 | 8,530 |
| Total program costs, funded | 435,851 | 698,912 | 603,040 |
| Change in selected resources | −63,826 | | |
| Total obligations | 372,025 | 698,912 | 603,040 |

The 1973 decline in total obligations stems from technical adjustments in advance obligational authority.

Health professions support. The objective of alleviating the shortages of professional health manpower is pursued by providing financial assistance to health professions institutions and their students. This assistance is provided through four mechanisms:

Institutional support. Institutional assistance is provided through several programs. Capitation grants are awarded on a formula basis to health professions schools in order to strengthen their base of financial support, thereby encouraging increases in enrollments and graduates, and improving the quality of their educational programs. Startup grants to new medical, osteopathic, and dental schools are intended to accelerate the date instruction begins or increase the number of students in the entering class. Conversion grants will be awarded to 2-year schools that desire to become degree-granting institutions. Special project grants supply broad-range assistance to schools with potential to increase enrollments as well as to enable schools to experiment with programs designed to increase the quality of trained personnel. Financial distress grants help alleviate the difficulties of schools in serious financial straits. The numbers of schools receiving support are:

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Capitation: | | | |
| Medical and osteopathic | 115 | 115 | 121 |
| Dental | 52 | 52 | 56 |
| Other health professions | 101 | 108 | 109 |
| Special project: | | | |
| Medical and osteopathic | 62 | 75 | 75 |
| Dental | 6 | 21 | 20 |
| Other health professions | | 10 | 10 |

Included in this category are health manpower education initiative awards which are intended to help achieve special national health manpower goals.

Student assistance. Health professions scholarships and loans enable deserving but financially needy students to pursue their education. Scholarships and loans are awarded to students who, in the judgment of the schools, have exceptional financial need. The numbers of recipients are:

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Scholarships: | | | |
| Medical and osteopathic | 8,430 | 8,400 | 8,040 |
| Dental | 3,500 | 3,300 | 3,015 |
| Other health professions | 6,325 | 6,300 | 5,695 |
| Loans: | | | |
| Medical and osteopathic | 10,859 | 13,100 | 14,040 |
| Dental | 4,077 | 4,800 | 5,265 |
| Other health professions | 7,506 | 9,100 | 9,945 |

Construction. Grants are made to public and other nonprofit schools, agencies, and organizations for the construction of health professions and nursing teaching facilities and of multipurpose and graduate facilities. In 1972 and 1973, construction assistance will be in the form of both matching grants and interest subsidy payments on guaranteed loans.

Educational grants and contracts and direct operations. Support is focused on innovation and experimentation in medical education as well as scientific evaluation proposals.

Dental health. Programs administered by the Division of Dental Health are oriented to a full-range of dental health efforts, including activities directed toward increasing and improving the dental manpower supply, support for projects concerned with the control of dental diseases, and provision of high-quality dental services through the improvement of delivery systems.

Dental fellowship grants are awarded to candidates pursuing advanced degrees in public health administration, computer technology, bioengineering, dental health delivery systems, dental economics, and education research. In 1973, 11 fellows will be supported, the same number as supported in 1972. Dental research training grants support students working in the areas of oral epidemiology, dental education, and sociology in dental public health. Five grants will be supported in 1973 for continuing education systems which deliver new knowledge to the practicing dentist and dental assistant. The current dental auxiliary utilization program, designed to teach students the effective utilization of a chairside assistant has produced a more productive practitioner; financial support for this current program continues to undergo gradual withdrawal and be redirected to a program which will provide dental students with training in expanded functions and expanded auxiliary management—the team concept of clinical dentistry. This new approach should expand productivity considerably.

Nursing support. Nurses are an essential element in providing the manpower necessary for the delivery of adequate health care. At present, registered nurses are in short supply. Financial assistance is provided to nursing institutions and students through the following programs:

Institutional support. Funds are included for capitation grants which will provide assistance to approximately 1,100 schools of nursing in 1973. Special projects for the improvement of nurse training provide the impetus for schools to initiate new methods in nursing education designed to improve the quality and increase the number of nurses available in the Nation. Funds requested for 1973 will support approximately 250 projects in such areas as utilization of faculty, methods of instruction, curriculum revision, and enrollment increases. Major emphasis will be placed on projects for the development of programs to prepare nurses to assume expanded functions and responsibilities in the provision of health care. Financial distress grants assist schools in meeting operational costs required to maintain quality educational programs and accreditation requirements. Funds requested in 1973 will support approximately 20 schools in serious financial straits. Startup grants provide training programs where they are most needed and utilize existing resources wherever possible to increase the numbers trained. Funds requested in 1973 will provide for the establishment of an estimated 20 new nurse training programs.

Student assistance. Nurse scholarships and loans encourage and assist qualified young people with serious financial need to undertake education for nursing. Numbers of recipients are:

NURSING STUDENTS

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Scholarships | 17,000 | 19,500 | 19,500 |
| Loans | 24,000 | 30,000 | 26,000 |

Traineeships support the graduate and specialized preparation of professional nurses as teachers, administrators, and supervisors. Funds requested in 1973 will provide approximately 2,000 long-term traineeships. In addition, 750 nurses will receive short-term intensive training.

Construction. Grants are made to public and other nonprofit schools, agencies, and organizations for the construction or renovation of teaching facilities for nurses. The 1973 request includes an increase of $800,000 for interest subsidy payments.

Educational grants and contracts and direct operations. Educational research projects in such areas as nursing practice are supported and result in modifications to and development of nurse educational and training programs. Funds requested in 1973 will support 40 nurse research projects. A nurse-scientist graduate training grant program advances nursing and other health-related research by increasing the number of research scientists with a nursing background. Funds requested in 1973 will support science departments in nine universities. Nursing fellowship grants are awarded to prepare professional nurses for independent research, to collaborate in interdisciplinary research, and to direct community health research. In 1973, 120 fellows will be supported. Recruitment grant and contract funds broaden the recruitment base of nursing students by identifying potential nursing candidates and encouraging them to undertake nurse training. The $2,000,000 for this program will support approximately 20 recruitment projects.

Public health support. Changes in the concepts of health services have created needs for new types of public health personnel when existing types are already in short supply. The following mechanisms are currently being used in an attempt to alleviate the shortages:

Institutional support. Formula grants are awarded to accredited schools of public health for the purpose of assisting them in providing comprehensive professional training, specialized consultative services, and technical assistance in public health fields and in public health administration at the State and local levels. Project grants for graduate training in public health are awarded to schools of public health and to other public or nonprofit private institutions to strengthen or expand the graduate or specialized training in public health which they provide. In 1973, the number of grants awarded will increase by over one-third, reaching a total of 120 and including an estimated 40 first-year projects.

Student assistance. Traineeships support the graduate and specialized preparation of students in public health, most of whom are employed by State and local health agencies representing such health disciplines as medicine, dentistry, nursing, and engineering. Types of training included are postprofessional, long-term academic training; short-term training to update the skills of current public health professionals; residency training in preventive medicine and dental public health; and apprenticeships for medical and dental students in public health training. An estimated 450 additional trainees will be supported in 1973.

Direct operations. Grants programing will emphasize consultation with schools and professional organizations which can most readily utilize resources affecting priority areas of nutrition, maternal and child health, and preventive services to people in disadvantaged situations.

Allied health support. More general use of allied health workers in this country requires more efficient utilization of our present training capacities and experimentation with, and development of, new and improved ways of training and using these personnel. The following mechanisms are directed to these ends:

Institutional support. Special improvement grants will be made to allied health training centers offering the greatest comparative potential for expansion of allied health manpower output through enrollment increases in established curriculums, planning and establishing new programs, shortening curriculums, and developing coordinated programs to conserve faculty and facilities. Some 40 more allied health training centers will be brought into participation in this program through new awards.

Student assistance. Traineeships support students preparing to teach or to serve in an administrative, supervisory, or specialist capacity in the allied health disciplines. Funds requested in 1973 will continue long-term and training institute assistance to approximately 3,000 students.

Educational grants and contracts and direct operations. Funds are requested for special project grants in 1973. Efforts will continue to provide awards for developing, demonstrating, or evaluating interdisciplinary training programs; new teaching methods; new types of health manpower; equivalency and proficiency-testing mechanisms; and special programs to reach special groups such as returning veterans with experience in a health field.

Program direction and manpower analysis. The Bureau of Health Manpower Education guides, supports, plans, and evaluates health manpower programs; designs proposals for new or revised programs; coordinates improved manpower data gathering, statistical, and reporting activities; and maintains an inventory of all health manpower educational programs in the Nation.

HEALTH PROFESSIONS EDUCATION FUND

[In thousands of dollars]

| | | | |
|---|---|---|---|
| Interest | 3,844 | 3,622 | 3,623 |
| Loan cancellations | | 374 | 223 |
| Total obligations | 3,844 | 3,996 | 3,846 |

Title VII, part C, of the Public Health Service Act established a revolving fund from which health professions schools could borrow in order to provide loans to their students. The Allied Health Professions Personnel Training Act of 1966 amended the Public Health Service Act to authorize the Federal Government to pay the difference between the interest paid by students to the schools and the interest payable by the schools to the Government National Mortgage Association and the Treasury.

In 1973, provision is made for the following Federal payments:

The sum of $130,000 to GNMA, which represents the difference between the 5.25 percent interest rate earned by the student loan paper and the 6.38 percent rate paid by GNMA on the $11,500,000 worth of paper held by the public.

The sum of $604,000 to GNMA, which represents the 5.25 percent interest due on $11,500,000 worth of paper held by the public.

The sum of $1,170,000 to the U.S. Treasury on the difference between U.S. Treasury interest rate and that paid by the schools on $18,718,000 loaned to the schools.

In addition, $223,000 will be paid to health professions schools for loan cancellations under the Public Health Service Act. These loans are canceled by either the death or permanent and total disability of the borrower or the borrower's willingness to serve in an area designated by the Secretary.

NURSE TRAINING FUND

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Interest | 2,597 | 2,391 | 2,453 |
| Loan cancellations to schools | | 951 | 894 |
| Total obligations | 2,597 | 3,342 | 3,347 |

Title VIII, part B, of the Public Health Service Act established a revolving fund from which schools of nursing could borrow in order to provide loans to their students. The Allied Health Professions Personnel Training Act of 1966 amended the Public Health Service Act to authorize the Federal Government to pay the difference between the interest paid by students to the schools and the interest payable by the schools to the Government National Mortgage Association and the Treasury.

In 1973, provision is made for the following Federal payments:

The sum of $40,000 to GNMA, which represents the difference between the 5.25-percent interest rate earned by the student loan paper and the 6.38-percent rate paid by GNMA on the $3,500,000 worth of paper held by the public.

The sum of $184,000 to GNMA which represents the 5.25-percent interest due on $3,500,000 worth of paper held by the public.

The sum of $755,000 to the U.S. Treasury on the difference between U.S. Treasury interest rate and that paid by the schools on $12,081,000 loaned to the schools.

In addition, $894,000 will be paid to schools of nursing for loan cancellations under the Public Health Service Act. These loans are canceled by either the death or permanent and total disability of the borrower or the borrower's willingness to serve in an area designated by the Secretary.

OFFICE OF EDUCATION—ELEMENTARY AND SECONDARY EDUCATION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Aid to school districts: | | | |
| Educationally deprived children | 1,499,861 | 1,597,500 | 1,597,500 |
| Supplementary services | 143,210 | 146,393 | 146,393 |
| Library resources | 79,990 | 90,000 | |
| Equipment and minor remodeling | 49,598 | 50,000 | |
| Dropout prevention | 9,490 | 10,000 | |
| Bilingual education | 24,944 | 35,000 | |
| Follow through | | 60,060 | |
| Strengthening State departments of education | 29,750 | 33,000 | 43,000 |
| Planning and evaluation | 8,750 | 3,825 | |
| Total obligations | 1,845,593 | 2,025,778 | 1,876,893 |

Aid to school districts. Educationally deprived children. Grants are made to local educational agencies to provide supplemental services for children from low-income families. In addition grants are made to State education agencies for handicapped children, dependent and neglected children, and orphans and juvenile delinquents in State institutions and for children of migratory workers. In 1971, two new areas of this program were initiated, incentive grants to 30 States putting forth a greater effort than the Nation as a whole in public support for elementary and secondary education and special grants for urban and rural schools serving areas with the highest concentrations of children from low-income families. In 1973, comparable State and local expenditures will be required within school districts as a criteria for eligibility for receipt of these funds. It is estimated that 7,900,000 children will receive benefits in 1973 with greatest emphasis being placed on preschool and elementary school children from attendance areas with high concentrations of children from low-income families. Priority for the disadvantaged will be continued under education revenue sharing.

Supplementary services. The Elementary and Secondary Education Amendments of 1969 consolidated the separate authorities for all supplementary services grants under title III of the Elementary and Secondary Education Act. Under this consolidated authority grants are made to States for developing programs which serve as models for improving and supplementing the regular school curriculum and programs designed to improve testing and guidance and counseling services in public and private elementary and secondary schools. In 1971, over 1,000 projects aided some 14,000,000 students. This program will be included in education revenue sharing to give States and local school systems greater flexibility in the use of education funds.

Library resources. Funds for this program have been transferred to the library resources account.

Equipment and minor remodeling. Grants were made to States on a matching basis for equipment and minor remodeling of laboratory or other space suitable for use in providing education in public elementary or secondary schools while loans were made to private nonprofit schools for similar uses.

It is proposed that these grants be terminated in 1973. Schools and States will have greater flexibility to determine the appropriate mix of equipment and other school resources under Federal grants for educationally deprived children, grants for vocational education, grants for education of the handicapped, and other Federal programs focusing on broad problem areas.

Dropout prevention. Funds for this program have been transferred to educational renewal.

Bilingual education. Funds for this program have been transferred to educational renewal.

Follow Through. Funds for this program have been transfered to educational renewal and salaries and expenses.

Strengthening State departments of education. Grants are made to stimulate and assist States in strengthening the leadership resources of their education agencies by assisting them in the establishments and improvement of programs to identify and meet their educational needs. A new program is being initiated in 1973 to provide financial assistance to State and local educational agencies for the purpose of planning in preparation for education revenue sharing. This program will be included in education revenue sharing to give States greater flexibility in the use of Federal education funds.

Planning and evaluation. Funds for this program have been transferred to educational renewal.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Maintenance and operations | 536,068 | 592,580 | 415,000 |
| Construction | 24,877 | 25,036 | 24,304 |
| Total obligations | 560,945 | 617,616 | 439,304 |

Maintenance and operations. Payments are made to assist in the operation of schools in areas where enrollments are affected by Federal activities. In 1972 payments were based on almost 2½ million federally connected children and made to local school districts educating over half of the Nation's public elementary and secondary school children. In addition, the full cost of education is provided for children residing on Federal property where no State or local educational agency is able, because of State law or for other reasons, to provide suitable free public education to such children. For 1973, appropriation language is proposed to concentrate payments on those children whose parents both live and work on Federal property and on the children of military personnel and Indians who either live or work on Federal property. A provision is also added so that more heavily impacted districts will not be adversely affected. The major portion of this program will be included in the education revenue sharing program.

Construction. Payments are made to assist in the construction of schools in areas where enrollments are affected by Federal activities. For 1973, appropriation language is proposed to fund local agencies that have been unfunded in recent years, that have the most pressing construction needs as a result of increased military activity and housing, and that provide assistance for children residing on Indian lands. A major portion of this program will be included in the education revenue sharing program.

EMERGENCY SCHOOL ASSISTANCE

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Project grants | 70,697 | ---------- | ---------- |
| Federal administration and evaluation | 3,204 | ---------- | ---------- |
| Total obligations | 73,901 | ---------- | ---------- |

The Office of Education provides emergency financial assistance to elementary and secondary schools and nonprofit organizations to aid in solving the problems associated with desegregation. The assistance is provided on a project grant basis for local education agencies implementing desegregation plans under Federal court order, or plans approved under title VI of the Civil Rights Act. A program to provide similar assistance is proposed for later transmittal, pending enactment of the emergency school assistance legislation which would authorize grants to support the establishment and maintenance of stable, quality integrated schools and elimination or prevention of minority group isolation in schools throughout the Nation.

EDUCATION FOR THE HANDICAPPED

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| State grant program | 33,973 | 37,500 | 37,500 |
| Special target programs | 15,481 | 20,800 | 32,493 |
| Innovation and development | 11,079 | 11,255 | 9,916 |
| Technology and communication | 10,951 | 11,000 | 13,500 |
| Special education and manpower development | 32,510 | 34,645 | 37,700 |
| Planning and evaluation | 497 | 550 | ---------- |
| Total obligations | 104,491 | 115,750 | 131,109 |

State grant programs. Grants are made to States to assist in the initiation, expansion, and improvement of programs and projects for education of handicapped children at the preschool, elementary, and secondary school levels. Approximately 183,000 children will receive services in 1973. Priority for the handicapped will be continued under education revenue sharing.

Special target programs. Model centers are supported to provide educational, diagnostic, and consultative services for preschool handicapped children and their parents. These centers are designed to stimulate and influence the development of additional services for preschool handicapped children.

Grants or contracts are awarded for the establishment and operation of regional resource centers to develop and apply the methods of appraising the special educational needs of handicapped children. Grants are also made for model centers to provide diagnostic, educational, and related services to deaf-blind children and for research in the field of physical education and recreation for handicapped children.

Grants are made to operate centers for research, personnel training, and services for preschool and school-age children with specific learning disabilities.

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Model early childhood centers | 41 | 70 | 100 |
| Regional resource centers | 7 | 8 | 13 |
| Model centers for deaf-blind | 3 | 10 | 15 |
| Specific learning disabilities model centers | 9 | 20 | 25 |

Innovation and development. Grants and contracts are awarded for the development of new curricular materials, teaching techniques, research and demonstration centers, and other research and demonstration projects. The 1973 budget includes additional funds for these activities. The estimate also reflects the transfer of basic research support to the proposed National Institute of Education.

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Research and demonstration grants awarded | 39 | 48 | 90 |
| Research grants in physical education and recreation | 34 | 41 | ---------- |

Technology and communication. Contracts are made for the acquisition, captioning, production, and distribution of films and other educational media, for conducting research in the use of educational media, and the training of persons in the use of the materials for the handicapped. Increased funding in 1973 is included for the National Educational Media Center for handicapped children.

Special education and manpower development. Grants are awarded to support training of teachers, supervisors, speech correctionists, researchers, and other professional and subprofessional personnel in fields related to the education of the handicapped.

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Number of individuals supported for full academic year | 4,597 | 6,325 | 7,250 |
| Number of individuals supported in summer and short-term programs | 14,577 | 15,850 | 19,000 |
| Number of grants to strengthen institutional training programs | 64 | 97 | 132 |

Planning and evaluation. Funds for this program have been transferred to educational renewal.

VOCATIONAL AND ADULT EDUCATION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants to States for vocational education: | | | |
| Basic vocational education programs | 321,956 | 384,173 | 384,173 |
| Programs for students with special needs | 19,997 | 20,000 | 20,000 |
| Consumer and homemaking education | 21,247 | 25,625 | 25,625 |
| Work-study | 5,499 | 6,000 | 6,000 |
| Cooperative education | 18,498 | 19,500 | 19,500 |
| State advisory councils | 2,380 | 2,690 | 2,690 |
| Vocational research: | | | |
| Innovation | 13,762 | 21,977 | 16,000 |
| Curriculum development | 4,000 | 4,000 | 6,000 |
| Research, grants to States | 35,651 | 18,000 | 18,000 |
| Special projects | ---------- | 18,000 | ---------- |
| Adult education | 54,940 | 61,300 | 51,300 |
| Planning and evaluation | 897 | 900 | ---------- |
| Total obligations | 498,827 | 582,165 | 549,288 |

Grants to States for vocational education. Matching grants are made to the States for basic vocational education programs, including the construction and remodeling of facilities. These grants will be included in the special revenue sharing proposal for elementary and secondary education giving the States more flexibility to fund programs to meet their particular vocational education needs. States will continue to be encouraged to revitalize vocational education by restructuring the curriculum and education program around a comprehensive career development system. Grants are also made to the States to provide special programs for the disadvantaged to help attack the problems of youth unemployment and delinquency, cooperative education programs which combine work experience with formal education, work-study programs which provide financial assistance needed for disadvantaged students to stay in school, and consumer and homemaking education of which at least one-third of the funds are to be used in economically depressed areas. Funds are also used to support the national and State advisory councils on vocational education.

[Student enrollments in thousands]

| | 1970 actual | 1971 estimate | 1972 estimate | 1973 estimate |
|---|---|---|---|---|
| Basic vocational education programs: | | | | |
| Secondary | 3,271 | 3,680 | 3,983 | 4,308 |
| Post-secondary | 797 | 1,060 | 1,185 | 1,450 |
| Adult | 1,970 | 2,071 | 2,173 | 2,424 |
| Special programs included above for: | | | | |
| Disadvantaged students | (506 | (811) | (967) | (1,080) |
| Handicapped students | (106) | (222) | (265) | (306) |
| Programs for students with special needs | 43 | 50 | 50 | 50 |
| Consumer and homemaking education | 2,400 | 2,660 | 2,850 | 3,010 |
| Work-study | 21 | 20 | 22 | 20 |
| Cooperative education | 99 | 90 | 98 | 98 |
| Construction and remodeling projects supported: | | | | |
| New construction | 169 | 180 | 167 | 170 |
| Remodeled | 139 | 148 | 137 | 140 |

Vocational research. Grants are made to States, colleges, universities, and other institutions to develop new models for upgrading vocational education programs and for stimulating new ways to create a bridge between school and earning a living for school dropouts and youth who graduate from high school lacking employable skills. Grants are also made for the development of curricula for new and changing occupations and to provide the information essential to make necessary improvements and changes for more effective vocational education programs. In 1973, this activity will be part of a career education demonstration effort. Special projects will be transferred to the National Institute of Education in 1973.

| Projects supported | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Innovation | 197 | 356 | 281 |
| Curriculum development | 20 | 25 | 28 |
| Research: State grants | 273 | 181 | 186 |

Adult education. Grants are made to the States for support of basic educational programs attended by adults 16 years and older who wish to overcome English language limitations, prepare for occupational training and more profitable employment, and participate more effectively in our modern society. Continued emphasis will be toward programs related to career education for adults, the national right-to-read effort to abolish illiteracy, and meeting the special needs of disadvantaged adults. Special projects and teacher training have been transferred to educational renewal in 1973.

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Number of participants in adult education programs | 606,000 | 691,000 | 691,000 |

Planning and evaluation. Funds for this program have been transferred to educational renewal in 1973.

[In thousands of dollars]

| Higher education | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Student assistance | 721,643 | 1,079,196 | 1,211,745 |
| Special programs for the disadvantaged | 50,055 | 52,665 | 70,331 |
| Categorical institutional assistance: | | | |
| Strengthening developing institutions | 33,716 | 51,850 | 100,000 |
| Construction: | | | |
| Subsidized loans | 18,262 | 35,913 | 47,013 |
| Grants | 44,684 | 43,050 | ---------- |
| State administration and planning | 5,925 | 6,000 | 3,000 |
| Federal administration | 2,461 | 2,508 | ---------- |
| Language training and area studies | 7,958 | 15,300 | 15,300 |
| University community services | 9,472 | 9,500 | 5,700 |
| Aid to land-grant colleges | 12,680 | 12,600 | 2,600 |
| Undergraduate instructional equipment | 6,990 | 12,500 | ---------- |
| College personnel development | 57,349 | 36,954 | 33,000 |
| Planning and evaluation | 723 | 900 | ---------- |
| Total obligations | 971,918 | 1,358,936 | 1,488,689 |

The 1973 estimate provides resources for implementing higher education legislation now pending before the Congress. The following narrative described the operation of existing programs as well as new legislation initiatives reflected in the 1973 budget. In most cases, 1973 funds are spent in academic year 1973–74.

Student assistance. Funds are allotted to colleges and universities to provide: Educational opportunity grants for financially needy undergraduate students; work-study grants for part-time jobs during the school year and full-time summer jobs for students in need of financial assistance to continue their education; and capital contributions to National Defense Education Act student loan funds. Advances are made on a matching basis to State and nonprofit private loan insurance funds to guarantee loans to college and vocational students, and payments are made to reduce interest costs for students in college whose adjusted family incomes fall below $15,000. A special allowance is provided to lenders when money market conditions make payments essential to the purposes of the program.

Beginning with academic year 1972–73, support would be provided for a student aid program which targets assistance on the disadvantaged and carries out the objectives of the President's 1970 message on higher education reform. A 1972 supplemental of $259 million would increase the number of grant and work-study recipients in academic year 1972–73 from 803,300 to 1,280,000. The 1973 estimate would support approximately 1,300,000 students in academic year 1973–74.

NUMBER OF STUDENTS RECEIVING ASSISTANCE IN ACADEMIC YEAR

| | 1970–71 | 1971–72 | 1972–73 |
|---|---|---|---|
| Work-study grants | 430,000 | 545,000 | 536,000 |
| Educational opportunity grants | 290,500 | 297,300 | 267,300 |
| Subsidized insured loans | 1,087,000 | 1,247,000 | 1,263,000 |
| Direct NDEA loans | 560,400 | 648,900 | 649,000 |
| Total students aided | 1,983,630 | 2,290,840 | 2,279,610 |

The last column does not include the proposed 1972 supplemental.

Special programs for disadvantaged students. For disadvantaged students, grants and contracts are supported for: the upward bound program to motivate high school students to attend college and improve their academic preparation; the talent search program to identify youths with exceptional potential for a college education and publicize available sources of financial aid; and special remedial and other services for enrolled college students to encourage and assist them in continuing their higher education.

In academic year 1973–74, special programs for disadvantaged students will be consolidated and expanded to increase services for all eligible postsecondary students. Career education and assistance for veterans will receive special emphasis.

NUMBER OF STUDENTS RECEIVING SERVICES IN ACADEMIC YEAR

| | 1970–71 | 1971–72 | 1972–73 | 1973–74 |
|---|---|---|---|---|
| Upward Bound programs | 24,200 | 24,500 | 26,500 | 30,700 |
| Talent search projects | 207,000 | 207,000 | 207,000 | 240,000 |
| Special services projects | 30,000 | 40,000 | 40,000 | 65,000 |

Categorical institutional assistance. Grants are made to raise the academic quality of developing colleges, to facilitate construction of academic facilities, to encourage study of modern language and world affairs, to assist universities in meeting community needs, and to aid land-grant colleges.

Additional funds have been proposed in the 1973 budget for a new initiative to improve minority education. Support will be concentrated on a number of selected developing institutions serving large numbers of minority students.

Beginning with academic year 1972–73, Federal interest subsidies on higher education facility loans will be targeted on colleges serving large numbers of disadvantaged students and on urban and other community colleges which increase career education opportunities.

Foreign language and area studies will be maintained at the current level, but Federal support will shift from existing centers to new undergraduate and graduate programs. University community service programs will be reduced to eliminate new starts.

| | Academic year | | | |
|---|---|---|---|---|
| | 1970–1971 | 1971–1972 | 1972–1973 | 1973–1974 |
| Number of developing colleges receiving grants | 226 | 198 | 226 | 226 |
| Number of predominantly black colleges aided in above estimate | (85) | (89) | (105) | (105) |
| Number of new construction loans receiving a Federal interest subsidy | 353 | 310 | 200 | 200 |
| Number of foreign language and area programs and centers | 107 | 106 | 143 | 140 |
| Number of community service projects | 600 | 539 | 475 | 310 |

College personnel development. Grants are awarded to universities for fellowships leading to a doctorate for prospective college teachers.

Grants and contracts are also provided for the full costs of institutes and other training programs to train college teachers, administrators, and educational specialists, especially at 2- to 4-year colleges.

Overall support for college personnel development will be reduced in the 1973 budget to reflect the current surplus of Ph. D.'s. Less than Ph. D. training will be expanded to meet the needs of growing numbers of community colleges.

NUMBER OF PERSONS TRAINED IN ACADEMIC YEAR

| | 1970–1971 | 1971–1972 | 1972–1973 | 1973–1974 |
|---|---|---|---|---|
| Doctoral fellowships | 8,603 | 8,345 | 4,650 | 2,980 |
| Institutes and training programs | 6,272 | 7,952 | 7,716 | 11,525 |

Planning and evaluation. Funds for this program have been transferred to educational renewal.

LIBRARY RESOURCES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| School library resources | | | 90,000 |
| College library resources | 9,896 | 11,000 | 11,000 |
| Librarian training | 3,872 | 2,000 | 3,000 |
| Educational broadcasting facilities | 11,497 | 13,091 | ---------- |
| Planning and evaluation | 400 | 400 | ---------- |

School library resources. Grants are made to States for procurement of library resources, textbooks, and other printed and published instructional materials for use by students and teachers in public and private elementary and secondary schools. This program will be included in education revenue sharing to give States and local school systems greater flexibility in the use of education funds.

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Students aided | 43,000 | 47,500 | 48,500 |
| Number of projects: | | | |
| Libraries | 66,000 | 66,000 | 66,000 |
| Number of local educational agencies | 11,600 | 11,600 | 11,600 |

College library resources. Grants are made to institutions of higher education for acquisition of library books and materials.

NUMBER OF GRANTS FOR HIGHER EDUCATION LIBRARIES

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Basic grants | 548 | 600 | 600 |
| Supplemental grants to correct library deficiencies | 532 | 600 | 600 |
| Special purpose grants for exemplary, national, regional, and joint-use projects | 116 | 73 | 73 |
| Total | 1,196 | 1,273 | 1,273 |

Librarian training. Grants are made to higher education institutions for training and upgrading librarians to staff school, public, and academic libraries.

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Number of participants trained in institutes | 1,429 | 610 | 985 |
| Number of fellowships awarded | 124 | 40 | ---------- |

Educational broadcasting facilities. Funds for this program have been transferred to educational renewal.

Planning and evaluation. Funds for this program have been transferred to educational renewal.

EDUCATIONAL RENEWAL

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Educational systems improvement: | | | |
| Site personnel development | 90,397 | 84,565 | 76,800 |
| Bilingual education | | | 41,130 |
| Dropout prevention | | | 10,000 |
| Personal development: | | | |
| Teacher Corps | 30,782 | 37,435 | 37,435 |
| Career education personnel | 6,883 | 6,900 | 10,000 |
| Other personnel development | 5,556 | 4,900 | 4,000 |
| National priority programs: | | | |
| Followthrough | | | 57,700 |
| Educational technology demonstrations | 1,700 | 7,000 | 30,000 |
| Drug abuse education | 5,901 | 13,024 | 12,400 |
| Right to read | 1,529 | 1,750 | 12,000 |
| Career education model installation | | | 14,000 |
| Environmental education | 1,928 | 3,514 | 3,180 |
| Library demonstrations | 2,170 | 2,000 | 2,000 |
| Other priority programs | 4,150 | 4,250 | 11,750 |
| Data systems improvement: | | | |
| Educational statistics | 3,934 | 4,250 | 7,900 |
| National achievement study | 4,500 | 6,000 | 7,000 |
| Product identification and dissemination | 8,494 | 8,000 | 15,500 |
| Planning and evaluation | 5,792 | 5,650 | 10,205 |
| Research and development: | | | |
| Experimental schools | 12,000 | 15,000 | ---------- |
| Institutional support | 31,996 | 32,100 | ---------- |
| Career education | | 2,000 | ---------- |
| General research and development | 15,934 | 11,000 | ---------- |
| Total obligations | 233,646 | 249,338 | 363,000 |

Educational systems improvement. Beginning in 1973 several existing Office of Education elementary and secondary project grant programs will be administratively consolidated. Funds from all of these programs will continue to be made available to local school districts to foster educational change. Federal funds will enable qualifying schools to develop an overall strategy, obtain necessary materials, and prepare teachers to carry out a comprehensive program designed to improve the educational achievement of students. All funds appropriated for the existing special purpose programs will continue to serve the purposes for which they were authorized, but local school districts will be able to submit a single application for a comprehensive grant.

Site personnel development. Grants are made under part D of the Education Professions Development Act. The primary emphasis will be retraining staff to use improved educational products and practices. In 1973, these funds will provide pilot support and planning for a limited number of local and State renewal sites.

Bilingual education. Grants are made under title VII, Elementary and Secondary Education Act, to achieve comprehensive bilingual-bicultural curriculum reform in areas of high concentrations of non-English-speaking children. In 1973 the program will continue 203 projects and support several new efforts.

Dropout prevention. Grants are made under title VIII, ESEA, to support secondary school reform in order to attack the basic causes of dropouts. Funds will continue 26 existing projects and allow for limited expansion.

Personnel development. Teacher Corps. Grants are made to colleges, universities, and local school districts to support projects which provide teams of experienced teachers and teaching interns to serve in schools located in neighborhoods with concentrations of low-income families. Legislation has been proposed to transfer this program to the new Action agency.

Career educational personnel. Grants are made to States, institutions of higher education, and local education agencies to train educational personnel to merge the best parts of academic curriculums, vocational training, and work-experience programs.

Other personnel development. Grants are made to institutions of higher education and local school districts to support improved undergraduate teacher education, and training for teachers of adults. Programs previously supported under this appropriation for displaced teachers will be supported under the new emergency school assistance program and higher education programs.

National priority programs. Follow Through. This is an experimental compensatory education program designed to develop and test new ways to educate disadvantaged children in the early primary grades. The parents, the community, and the resources at the school are brought together in programs to meet the child's instructional, physical, and psychosocial needs.

Educational technology demonstrations. Matching grants are made for the establishment, expansion, and improvement of broadcasting facilities for educational television and radio stations. Grants are made to support demonstrations of the use of technology as a means of delivering educational services to schools, universities, and homes. Sesame Street will continue to develop and expand along with the new electric company televised reading program.

Drug abuse education. Grants are made to State and local agencies to support demonstration, dissemination, and training projects to improve drug abuse education.

Right to read. Support is provided to schools, States, and other agencies to improve reading programs and end illiteracy by 1980. The 1973 program will concentrate on identifying exemplary reading programs and supporting school districts that wish to adopt these model programs.

Career education model installation. Grants are made to local school districts to support the installation of the career education models being developed by the Office of Education. These grants will be used for large-scale demonstrations at renewal sites and for broad dissemination of the models.

Environmental education. Support is provided to a variety of State, local, and community agencies for demonstration and dissemination of exemplary environmental education projects. This program provides support for projects which cannot be funded from any other source.

Library demonstrations. Support is provided for community learning center demonstrations serving low-income children and adults and special target populations, such as Mexican Americans and American Indians.

Other priority programs. Grants and contracts are made to support exemplary projects in adult education, nutrition and health education, and the District of Columbia schools.

Data systems improvement. Educational statistics. Support is provided to measure the progress and status of education in the Nation. The work includes the collection, compilation, analysis, and dissemination of statistics; work on standard educational terminology; and continued research in statistical survey methods and sampling techniques. In 1973, a feasibility study will be undertaken on an integrated Federal-State-local educational information system.

National achievement study. This national assessment provides information on the educational attainment of the population. Tests have been administered in the first seven subject areas: science, citizenship, writing, reading, literature, music, and social studies. Results were published in 1972 in the first three subject fields. In 1973, two additional fields will be tested, including the second cycle for science, which will allow the first measurement of change in achievement, and results for two additional fields will be published.

Product identification and dissemination. This program provides State and local educators information needed to consider alternatives to their current practices. It supports a national system for collection and dissemination of technical literature; identifies and validates promising programs and practices, including the products of educational research and development; and communicates in print, audiovisual, person-to-person, and demonstration forms so that more rational decisions for educational change may be made.

Planning and evaluation. These items are being consolidated in 1973 under educational renewal. Funds are available for grants, contracts, or other payments for planning succeeding year activities and for conducting evaluation of ongoing programs. In addition, the educational policy research centers will be supported.

Research and development. In 1973, the existing research and demonstration programs discussed below are to be transferred to the proposed National Institute of Education.

Experimental schools. This program tests, develops, and demonstrates ways to improve the learning of children in actual school situations. Support will be provided to schools which will implement, in a comprehensive manner, ideas already verified as feasible by prior research as well as ideas yet to be evaluated. Over the next several years the program will generate a series of experimental school sites that will represent a full range of alternatives to current educational practice. Three schools were chosen in 1972 and four more will be added in 1973.

Institutional support. This program is building a network of educational research and development institutions capable of solving pressing educational problems by supporting specific research and development efforts. In 1973, 11 educational laboratories and nine research and development centers will be supported.

Career education. Grants and contracts are made to support the research and development for four model career education programs. Career education seeks to reunite the best aspects of academic education, vocational education, and work experience so that all students will understand their potential career choices, have salable skills, and understand the world of work. The four models are for school, industry, home, and residential vocational programs.

General research and development. These funds support a variety of multidisciplinary research and development activities and also grants for training manpower to carry out educational research, development, dissemination, and evaluation activities.

EDUCATIONAL ACTIVITIES OVERSEAS

SPECIAL FOREIGN CURRENCY PROGRAM

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Grants to American institutions | 2,877 | 3,268 | 5,000 |

U.S.-owned foreign currency which the Treasury Department determines to be in excess of our normal requirements is used to strengthen American education through research and training abroad sponsored by American institutions. Projects focus on foreign languages, area studies, world affairs, and intercultural understanding and are designed to update the professional competencies of American educators, to further research, and to develop improved curriculums and effective instructional materials.

SALARIES AND EXPENSES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Educational renewal | 11,144 | 12,588 | 11,308 |
| School systems | 12,825 | 13,442 | 15,632 |
| Higher education | 8,686 | 7,894 | 15,102 |
| External relations | 2,363 | 2,396 | 2,523 |
| Management | 13,400 | 14,569 | 21,635 |
| Total obligations | 48,418 | 50,889 | 66,200 |

The Office of Education administers grants-in-aid and provides technical assistance and statistical services to State and local education agencies, institutions of higher education, and libraries. It also supports education renewal by supporting development of education personnel, research in areas of national priority, and planning and evaluation of educational programs. This appropriation provides for management, staff services, and related expenses required in accomplishing the mission of the Office.

CIVIL RIGHTS EDUCATION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Training and advisory services | 15,821 | 16,000 | .......... |
| Technical assistance and administration | 3,177 | 3,657 | .......... |
| Total obligations | 18,998 | 19,657 | .......... |

This appropriation is being terminated in 1973. Funds for carrying out title IV of the Civil Rights Act of 1964 will be included under the emergency school assistance appropriation which is proposed for separate transmittal.

STUDENT LOAN INSURANCE FUND

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Operating costs, funded: | | | |
| Collection fees on insured loans | | 2 | 2 |
| Loss on insured loans | 187 | 410 | 522 |
| Loss on reinsured loans | 434 | 816 | 952 |
| Total operating costs | 621 | 1,228 | 1,476 |
| Capital outlay, funded: | | | |
| Collectable insured loans defaults | 7,033 | 1,457 | 20,178 |
| Collectable reinsured loans defaults | 6,764 | 15,161 | 20,748 |
| Total capital outlay | 13,797 | 16,618 | 40,926 |
| Total program costs, funded | 14,418 | 17,846 | 42,402 |
| Change in selected resources | 941 | 2,594 | 800 |
| Adjustments in selected resources | 599 | 597 | .......... |
| Total obligations | 15,958 | 21,037 | 43,202 |

Under the Higher Education Act of 1965 and the National Vocational Student Loan Insurance Act of 1965, the Office of Education received authority to insure loans to students in eligible institutions who do not have reasonable access to State or private nonprofit programs of student loan insurance.

The Higher Education Amendments of 1968 merged the National Vocational Student Loan Insurance Act into the Higher Education Act insured loan program, and in addition to extending the

Federal insurance program, authorizes the Office of Education to reinsure loans guaranteed by State and nonprofit private agencies at 80 percent of default by student borrowers.

Upon default by the student borrowers, the Office of Education will pay to the beneficiary the amount of the loss sustained by the insured upon federally insured loans and 80 percent of the loss sustained or reinsured loans guaranteed by State and nonprofit private agencies.

STUDENT LOAN INSURANCE FUND

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Increase on collectible insured loans defaults | | 12,765 | |

This supplemental appropriation is to provide funds for an unanticipated increase in defaulted student loans.

HIGHER EDUCATION FACILITIES LOAN AND INSURANCE FUND

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Operating costs, funded: | | | |
| Interest expense on participation certificates | 11,163 | 11,099 | 10,856 |
| Interest expenses to Treasury | 18,704 | 22,000 | 21,000 |
| Administrative expenses | 6 | 6 | 6 |
| Total operating costs, funded | 29,873 | 33,105 | 31,862 |
| Change in selected resources | −2 | −2 | −2 |
| Total operating costs | 29,871 | 33,103 | 31,860 |
| Capital outlay, funded: | | | |
| Academic facilities loan insurance | | | 3,352 |
| Construction loans to higher education institutions | 45,664 | 30,000 | 15,000 |
| Change in selected resources | −65,948 | −8,355 | −15,000 |
| Adjustments in selected resources (loan obligations) | 34,012 | | |
| Total capital outlay, obligations | 13,728 | 21,645 | 3,352 |
| Total obligations | 43,599 | 54,748 | 35,212 |

The Higher Education Facilities Act authorizes loans for construction of academic facilities in higher education institutions. Such loans may be made up to 75 percent of a project's total development cost and must be repaid within 50 years.

The Participation Sales Act of 1966 established a revolving fund for these loans and authorizes the sales of such loans to the private credit market, the proceeds of which are deposited into the fund to be used for new loans to colleges and universities. The Government National Mortgage Association is authorized to serve as trustee for these sales.

Loans under this program have been displaced by the new annual interest grant program under the higher education appropriation. However, new loans may be made from the fund to the extent that such amounts are made available from withdrawals of earlier commitments. These amounts will be used to fund those small institutions of higher education which are unable to obtain private loans necessary to participate in the annual interest grant program.

In 1971, 21 new projects totaling $13,728,000 were supported by commitments withdrawn prior to June 30, 1971. Additional funds, available from commitments withdrawn prior to June 30, 1971, totaling $21,645,000, will support approximately 32 new projects in 1972. No new loans are anticipated for 1973.

The 1973 estimate for academic facilities loan insurance is based on pending legislation which would authorize the Commissioner to insure the payment of interest and principal on non-Federal construction loans to private higher education institutions. The United States shall be entitled to recover, from any institution or agency to which insurance has been issued, the amount of any payment made pursuant to that insurance.

Interest is payable to the Treasury on the cumulative amount of appropriations paid out for loans under this title or available as capital to the fund less the average undisbursed cash balance in the fund during the year. The rate certified by the Secretary of the Treasury as of June 30, 1971, is 7½ percent.

Appropriations for insufficiencies are used to fund the deficit resulting from the interest rate required to sell the participation and the interest rate paid by higher education institutions on facilities loans.

ADVANCES AND REIMBURSEMENTS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Educational renewal | 289 | 94 | 97 |
| School systems | 2,517 | 499 | 514 |
| Higher education | 3,022 | 4,252 | 399 |
| Management | 104 | 934 | 62 |
| Total obligations | 5,932 | 5,779 | 1,072 |

SOCIAL AND REHABILITATION SERVICE

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Assistance to refugees in the United States: Education | 21,572 | 20,920 | 18,000 |

Selected training is provided to equip the refugees for employment through English and vocational training. Also, provision is made for Federal payments to help meet part of the added cost related to refugee children in the Dade Count, Fla., public school system because of the sizable impact these children have on that school system. In addition, loans are made to needy college students: about 4,200 in 1971; for 1972 the estimate is 4,000 students and for 1973, 3,800 students.

SPECIAL INSTITUTIONS—AMERICAN PRINTING HOUSE FOR THE BLIND

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Educational materials | 1,442 | 1,505 | 1,619 |
| Expenses related to advisory committees | 75 | 75 | 78 |
| Total obligations | 1,517 | 1,580 | 1,697 |

Grants are made to this nonprofit institution in Louisville, Ky., to supply educational materials and tangible apparatus for education of the blind, to blind children in schools for the blind, in public schools, and in private nonprofit institutions, and multihandicapped children and adult trainees at rehabilitation centers.

Funds are also provided for staff and other expenses of committees which advise the printing house and approve materials and aids to be manufactured and supplied through the Federal appropriation.

Numbers of blind children served by the program are as follows: 1971 actual, 21,223; 1972 estimate, 21,846; 1973 estimate, 22,750.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Operations: | | | |
| Academic program | 2,421 | 2,907 | 3,221 |
| Administration and support services | 1,559 | 1,794 | 2,120 |
| Construction: | | | |
| Planning and site development | 220 | 1,690 | |
| Building | | 24,500 | |
| Total obligations | 4,200 | 30,891 | 5,341 |

The National Technical Institute for the Deaf provides a residential facility for post-secondary technical education for deaf persons in order to prepare them for successful employment; prepares professional manpower to serve the Nation's deaf population; and conducts applied research in aspects of deafness related to education, training, and employment.

Operations. $4,694,000 is requested for the continued development of the Institute to fully operational status. In 1973, it will serve the needs of 503 full-time equivalent students and will expand cooperative and terminal job placement; develop and evaluate new an ongoing curricula; formulate and implement an expanded hearing and speech program; investigate new and varied use for computerized instructional systems; and automate a student progress and planning evaluation system.

Construction. In 1973, actual construction will reach 85 percent completion with final completion and occupancy scheduled for January 1974. This construction consists of a residence hall, a dining hall/commons, and an academic complex.

MODEL SECONDARY SCHOOL FOR THE DEAF

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Operations | 2,189 | 2,524 | 3,600 |
| Construction: | | | |
| Planning and site development | 943 | 290 | |
| Buildings | | 14,958 | 1,000 |
| Total obligations | 3,132 | 17,772 | 4,600 |

The Model Secondary School for the Deaf will provide an exemplary secondary education program for deaf persons in order to prepare them for college or other advanced study.

Operations. In 1972, the second full year of operation of the Model Secondary School for the Deaf in temporary facilities, emphasis was placed on a program of evaluation of student achievement and effectiveness of materials and methods in use, the refinement of administrative procedures, and on the continued training of staff. For 1973, continued efforts will be directed toward developing instructional materials of an individualized nature, including filmed, televised, computerized, and other technological formats.

Construction. In 1972, construction began on the permanent facilities for the Model Secondary School for the Deaf. For 1973, construction will continue on schedule with occupancy scheduled for 1974. In 1973, funds are requested for items of equipment which must be planned for and processed concurrently with the construction of the facilities.

GALLAUDET COLLEGE

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Academic program, college | 6.875 | 7,888 | 8,598 |
| Construction, college: | | | |
| Planning and site development | 608 | 137 | 500 |
| Building | 835 | 4,628 | 514 |
| Kendall Demonstration Elementary School: | | | |
| Academic program | 691 | 1,212 | 1,900 |
| Construction | | 800 | |
| Total obligations | 9,009 | 14,665 | 11,512 |

Academic program, college. Gallaudet College is a private, nonprofit educational institution providing an undergraduate higher education program for the deaf, a tutorial school for deaf students who need such training to qualify for college admission, and a graduate school program in the field of deafness. The estimates for 1973 will provide funds for increases in educational technology, tutorial programs, training of professional personnel, improvements in the quality of student life, and for expansion of administrative support to facilitate the growth of the college.

Construction, college. Funds requested in 1973 for planning will provide for upgrading and updating the master plan which was developed in 1968 to include the Model Secondary School for the Deaf and Kendall School.

Kendall Demonstration Elementary School. By an act of Congress, the college has the authority to operate the Kendall School as a national demonstration elementary school for the deaf. The school will: Develop an exemplary educational program for children from the age of the onset of deafness through the age of 15; develop a diagnostic center; build a parent education center; and become a source of important research on learning problems of young deaf children. Funds requested in the academic program will provide for expanding current programs.

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Howard University: | | | |
| Academic program | 51,008 | 52,439 | 55,739 |
| Freedmen's Hospital | 18,958 | 20,555 | 21,195 |
| Construction | 2,061 | 54,047 | 12,123 |
| Total obligations | 72,027 | 127,041 | 89,057 |

Academic program. The university is a private nonprofit institution consisting of an undergraduate college, a graduate school offering the master's degree and the degree of doctor of philosophy—in African studies, biochemistry, English, government, history, pharmacology, physics, psychology, physiology, and zoology—and 13 professional schools. Federal funds provide 61.9 percent of the total operating costs for the academic program. Funds from non-Federal sources are realized from student fees, gifts, grants, endowments, dormitory rents, cafeteria sales, bookstore sales, and hospital patients.

Freedmen's Hospital. The hospital furnishes inpatient and outpatient care and a facility for training of physicians and nurses and other professional and technical health personnel. Operation of the hospital is financed by direct appropriation and income derived from charges for medical and hospital services for self-pay and insured patients. Medicare patients, and other patients paid for by the District of Columbia and other jurisdictions. Federal funds provide 67 percent of the total operating costs.

Construction. The Federal Government has undertaken the financing of a major construction program at Howard University, including the erection of a number of new buildings and alterations and repairs to the existing physical plant.

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| OFFICE OF THE SECRETARY | | | |
| Advances and reimbursements: | | | |
| Cost-finding principles in higher education | | 91 | 191 |
| OFFICE OF EDUCATION | | | |
| Education review sharing—additional amounts beyond funds provided from antecedent programs | | | 223,911 |

Legislation has been proposed and is currently pending in the Congress, to initiate a special revenue sharing program for elementary and secondary education. This program will provide support for educational activities in broad areas where the Federal Government has developed strong interests in strengthening school programs. These include compensatory education for the disadvantaged, education of handicapped children, vocational education, aid to schools affected by Federal activities, and general support. The States and localities will have greater freedom to determine their own priorities within these broad areas and to decide how best to meet those priorities.

Existing Federal programs to be transferred to educational revenue sharing are as follows:

| | *1973 estimate* |
|---|---|
| Elementary and secondary education | $1,765,142,000 |
| School assistance in federally affected areas | 369,900,000 |
| Education for the handicapped | 37,500,000 |
| Vocational and adult education | $526,288,000 |
| Library resources | 90,000,000 |
| School lunch program | 224,480,000 |
| Total | 3,013,310,000 |

NOTE.—The school lunch program is not included elsewhere in this tabulation, being agricultural and welfare in nature rather than educational.

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Emergency school aid act | | 500,000 | 1,000,000 |

Legislation has been proposed to authorize the Office of Education to provide assistance to local educational agencies and to other public or private nonprofit agencies to carry out programs designed: To encourage comprehensive planning to eliminate minority group isolation in school systems; to provide financial assistance to encourage the establishment and maintenance of stable, quality, integrated schools throughout the Nation; to assist in eliminating minority group isolation in public school systems; and to aid schoolchildren in overcoming the educational disadvantages of such isolation. Training and advisory services activities formerly provided for under the "Civil rights education" appropriation will be carried out under this appropriation.

[In thousands of dollars]

| Higher education | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Student assistance | | 259,500 | −288,000 |

A 1972 supplemental appropriation for educational opportunity grants and work-study payments will be requested upon enactment of proposed legislation. Support will be provided for a student aid program which targets assistance on the disadvantaged and carries out the objectives of the President's 1970 message on higher education reform.

The 1973 estimate reflects a reduction of $288 million in student loan funds. A secondary market and warehousing mechanism has been proposed to increase the amount of private capital available for student loans. The administration continues to support such a means of financing student loans.

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| National Foundation for Higher Education | | 3,000 | 100,000 |

Legislation has been proposed to establish the National Foundation for Higher Education to support innovation and reform in institutions of higher education. The Foundation will provide funds to colleges and universities that wish to try out new educational concepts and techniques. It will also assist in the development of national policy in higher education.

NATIONAL INSTITUTE OF EDUCATION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Program operations and administration | | 3,000 | 125,000 |

Legislation is now pending before the Congress to establish the National Institute of Education as an agency in the Department of Health, Education, and Welfare. The Institute will be a national focal point for educational research and experimentation in the United States. Working with researchers, school officials, teachers, scientists, humanists, and others, it will help identify educational problems and develop programs to alleviate these problems.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—HOUSING PRODUCTION AND MORTGAGE CREDIT: FEDERAL HOUSING ADMINISTRATION

[In thousands of dollars]

| College housing—Loans and other expenses | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Capital outlay: | | | |
| College housing loans, college service facility loans, and loans for housing of student nurses and interns | 120,982 | 85,000 | 75,000 |
| Change in selected resources | −78,427 | −25,000 | −15,000 |
| Total capital outlay, obligations | 42,555 | 60,000 | 60,000 |
| Operating costs, funded: | | | |
| Interest on borrowings | 47,303 | 66,103 | 72,472 |
| Administrative expenses | 1,074 | | |
| Inspection expense | 375 | | |
| Interest accrued on participation certificates | 90,300 | 51,162 | 30,028 |
| Other expenses | 330 | 315 | 320 |
| Total operating costs, funded | 139,382 | 117,580 | 102,820 |
| Total obligations | 181,937 | 177,580 | 162,820 |

Title IV of the Housing Act of 1950, as amended, authorizes financial assistance to colleges for the construction or acquisition of housing and related facilities such as student centers and dining halls. This assistance is usually provided through debt service grants which reduce the cost of borrowing on the private market. Grants may be made for a period not to exceed 40 years in amounts equal to the difference between the average annual debt service on loans obtained in the private market, and the average annual debt service which would have been required if the loan had been made at a 3 percent interest rate.

A limited number of direct Federal loans may be made in cases where eligible applicants are not able to borrow on the private market except at exorbitant interest rates. These loans ordinarily are made for a period of 40 years at an interest rate set by statute at either 3 percent or .25 percent above the average rate on all interest-bearing obligations comprising the Federal debt, whichever is lower. The 1972 rate is 3 percent.

Living quarters for approximately 45,000 students, student families, and faculty members will be made available during 1973.

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Limitation on administrative expenses, college housing loans and other expenses: | | | |
| Payment to administrative operations fund | 1,074 | | |
| Housing management—Housing payments: | | | |
| College housing grants | 430 | 2,000 | 8,000 |

Note: The limitation on administrative expenses was eliminated in 1971 as part of a departmentwide change in appropriation structure.

Payments under this program result from contracts entered into pursuant to title IV of the Housing Act of 1950, as amended, which authorizes payment of debt service grants to colleges.

The following table summarizes the debt service grants required in 1973 as compared with 1971 and 1972. The increase in requirements reflects the rise in the number of facilities eligible for grants during this period.

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Facilities receiving grants, end of year | 10 | 35 | 140 |
| Obligations | 430 | 2,000 | 8,000 |

COMMUNITY PLANNING AND MANAGEMENT

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Community development training and urban fellowship programs: | | | |
| Grants to States | 2,767 | 3,000 | 3,000 |
| Fellowship awards | 465 | 500 | 500 |
| Total program costs, funded | 3,232 | 3,500 | 3,500 |
| Change in selected resources | 267 | | |
| Total obligations | 3,499 | 3,500 | 3,500 |

Title VIII of the Housing Act of 1964, as amended, authorizes: Matching grants to States for programs which provide special training and skills needed for efficient community development, and fellowship awards to qualified students preparing for careers in urban public service.

Community development training grants are made to States for training subprofessional and professional personnel employed, or soon to be employed, by public or private nonprofit organizations in the fields of housing or community development. Training of low-income persons in the management of housing for low- and moderate-income persons may be included. Training programs are designed by States to meet their needs, and are conducted in cooperation with Federal agencies, local governments, universities, nonprofit organizations, and urban studies centers. The Secretary is authorized to render technical assistance to States in the development of these programs and to compile and distribute training packages which States find useful in administering their programs. Approximately 50 States and territories will be assisted.

Urban fellowships are intended to attract new students at the graduate level into urban studies fields, in order to increase the supply of trained personnel working with State and local agencies. Some 100 fellowships will be awarded for the academic year beginning in 1973.

DEPARTMENT OF THE INTERIOR

PUBLIC LAND MANAGEMENT, BUREAU OF INDIAN AFFAIRS

[In thousands of dollars]

| Education and welfare services | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Educational assistance, facilities, and services | 141,244 | 165,090 | 177,434 |

The Bureau operates Federal school facilities where public schools are not available or cannot meet the special needs of Indian children. Financial assistance is extended to public schools enrolling Indian children where tax-free Indian lands result in financial problems for the local districts and where other special problems exist that are not covered by Federal impact legislation, administered by the Department of Health, Education, and Welfare. The level of this assistance will be increased to meet the needs of the public schools for increased costs and increased enrollments. Grants are made to Indian students attending college. These grants will be increased to meet the needs of additional students and to offer student aid at a more adequate level. Federal school plans include increased enrollment in boarding and day schools and in dormitories housing public school students; adequate base funding of the Indian education program; and for training of Indian paraprofessional staff in Federal schools. The education program plans also provide for the employment of Indian education coordinators and for the operation of schools by Indian school boards. The numbers of children enrolled in Bureau schools and dormitories and those receiving college aid are as follows:

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Boarding schools | 35,938 | 37,038 | 39,761 |
| Dormitories (public schools) | 4,195 | 4,295 | 4,366 |
| Day schools | 16,653 | 17,118 | 18,466 |
| Higher education | 6,447 | 10,335 | 10,335 |
| Total | 63,233 | 68,786 | 72,928 |

Funds for the adult education program provide educational opportunities and services across the total range of human educational needs in order to help the adult Indian become a more effective and efficient functioning human resource in the modern society and help him realize his potential as an individual.

Funds for the community development thrust provide programs and services in the development of social skills necessary for a community's assumption of initiative and responsibility in the setting of community goals and the solving of community problems.

| | Persons served through adult education | | |
|---|---|---|---|
| | 1971 actual | 1972 estimate | 1973 estimate |
| Organized learning situations | 9,817 | 10,000 | 10,000 |
| Individual counseling | 26,219 | 26,000 | 26,000 |
| Advances and reimbursements: | In thousands of dollars | | |
| Manpower Development and training Act (Department of Health, Education, and Welfare | 338 | 161 | |
| Indian education for the disadvantaged | 10,017 | 15,901 | 12,000 |
| Indian education, Elementary and Secondary Education Act | 43 | 226 | 130 |
| Indian education, Teacher Corps | 125 | 229 | |
| Indian education, title VII, Elementary and Secondary Education Act | | 1,000 | 1,000 |
| Indian education, educational centers and services | 218 | 571 | 302 |
| National Defense Education Act | 84 | 59 | 50 |
| Indian education, title II, Elementary and Secondary Education Act | 60 | 250 | 133 |
| Fish and wildlife and parks: | | | |
| National Park Service: | | | |
| Miscellaneous permanent appropriations: Educational expenses, children of employees, Yellowstone National Park | 136 | 255 | 313 |

Revenues received from the collection of short-term recreation fees to the park are used to provide educational facilities to pupils who are dependents of persons engaged in the administration, operation, and maintenance of Yellowstone National Park.

DEPARTMENT OF JUSTICE

FEDERAL PRISON SYSTEM

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Salaries and expenses, Bureau of Prisons: | | | |
| Inmate education[1] | 3,409 | 3,996 | 4,348 |

[1] This covers the cost of the inmate education program including related personal services.

FEDERAL PRISON INDUSTRIES FUND

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Industrial manufacturing program: Vocational training expense | 3,454 | 4,700 | 4,700 |

The vocational training expense limitation finances the vocational training program within the Federal prison system. Advances in vocational education that have proven successful outside the prison system have been adapted to function within an institutional setting. These advances include the use of integrated curriculum combining practical academic and vocational education and training in a number of closely related skills having special relevance to emerging job opportunities. Shifts are continually being made in industrial and vocational training programs to reflect changing demands in the labor market, thus providing inmates with the best chance to secure postrelease employment. Releasees are aided in finding employment by an employment placement service which functions as an integral part of the vocational training activity.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL TRAINING EXPENSES, FEDERAL PRISON INDUSTRIES, INC.

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Administrative expenses (excludes depreciation) | 954 | 1,138 | 1,496 |
| Vocational training expenses (excludes depreciation) | 3,454 | 4,700 | 4,700 |
| Total obligations | 4,408 | 5,838 | 6,196 |

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Salaries and expenses: | | | |
| Manpower development | 20,798 | 31,753 | 42,980 |

Funds are for educational development, internships, training in the latest techniques and methods, training of State and local prosecuting attorneys, and grants and loans to law enforcement officers and other students enrolled on a full- or part-time basis in an approved program leading to a degree.

BUREAU OF NARCOTICS AND DANGEROUS DRUGS—SALARIES AND EXPENSES

[In thousands of dollars]

| State and local assistance | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Public education | 675 | 1,204 | 1,204 |

This activity encompasses educational programs on drug abuse and controlled substances for local, State, and Federal personnel, and the drug industry.

DEPARTMENT OF LABOR—MANPOWER ADMINISTRATION, SALARIES AND EXPENSES

| Training program development and administration | In thousands of dollars | | |
|---|---|---|---|
| | 1971 actual | 1972 estimate | 1973 estimate |
| Institutional training administration | 2,671 | 2,655 | 2,639 |
| Apprenticeship services | 7,422 | 7,702 | 7,892 |

Institutional training administration. The Department of Health, Education, and Welfare develops and directs classroom skills training and retraining for persons entering the labor force and for persons whose skills have been rendered obsolete.

Apprenticeship services. Employers and unions are provided technical assistance and advisory services in developing and conducting programs of apprenticeship and allied industrial training.

Assistance is provided to about 120,000 employers, with more than 400,000 apprentices and other workers participating in training programs during the year. Approximately 2,400 new apprenticeships or other skill-improvement programs are developed annually.

MANPOWER TRAINING SERVICES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Private sector on-the-job training | 172,912 | 186,300 | 178,100 |
| Public sector on-the-job training | 52,700 | 110,600 | 84,700 |
| Institutional training: | | | |
| Regular classroom training | 321,700 | 359,500 | 363,500 |
| Job Corps | 134,283 | 158,900 | 164,700 |
| Inschool work support: | | | |
| Inschool | 49,361 | 75,200 | 75,200 |
| Summer youth training | 149,545 | 243,800 | 270,700 |
| Postschool work support | 127,505 | 196,100 | 195,900 |

OBLIGATIONS BY PROGRAM[1]

[In millions of dollars]

| Program by activities | 1970 actual | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|---|
| Private sector on-the-job training | 221.5 | 205.9 | 223.0 | 194.2 |
| Public sector on-the-job training | 87.1 | 93.9 | 67.1 | 62.2 |
| Institutional training: | | | | |
| Regular classroom training | 321.8 | 361.2 | 378.8 | 368.4 |
| Job Corps | 170.0 | 172.1 | 200.1 | 204.7 |
| Inschool work support: | | | | |
| Inschool | 59.2 | 58.1 | 75.2 | 75.2 |
| Summer youth training | 157.9 | 301.8 | 193.3 | 270.7 |
| Postschool work support: | | | | |
| Operation Mainstream | 51.0 | 71.5 | 83.9 | 83.9 |
| Out of school | 97.9 | 115.2 | 125.5 | 124.2 |

[1] Includes funds appropriated to the economic opportunity program in 1970.

ENROLLMENT OPPORTUNITIES

[By year of funding authority]

| | 1970 actual | 1971 actual | 1972 estimate[1] | 1973 estimate |
|---|---|---|---|---|
| Private sector on-the-job training | 124,600 | 162,500 | 122,600 | 122,600 |
| Public sector on-the-job training | 40,800 | 46,200 | 24,900 | 24,900 |
| Institutional training: | | | | |
| Regular classroom training | 159,900 | 146,400 | 161,800 | 163,400 |
| Job Corps | 20,400 | 22,400 | 25,000 | 25,000 |
| In-school work support: | | | | |
| In-school | 97,100 | 78,800 | 102,000 | 102,000 |
| Summer youth training | 413,100 | 609,300 | 609,300 | 609,300 |
| Postschool work support: | | | | |
| Operation Mainstream | 17,800 | 23,300 | 26,200 | 26,200 |
| Out-of-school | 34,900 | 40,100 | 36,400 | 36,400 |
| Total | 908,600 | 1,129,000 | 1,108,200 | 1,109,800 |

| NEW ENROLLEES | 1970 actual | 1971 actual | 1972 estimate[1] | 1973 estimate |
|---|---|---|---|---|
| Private sector on-the-job training | 176,700 | 191,800 | 145,000 | 140,900 |
| Public sector on-the-job training | 3,600 | 47,300 | 36,500 | 31,200 |
| Institutional training: | | | | |
| Regular classroom training | 130,000 | 163,800 | 165,700 | 166,000 |
| Job Corps | 42,600 | 49,800 | 52,900 | 54,700 |
| In-school work support: | | | | |
| In-school | 139,500 | 120,000 | 131,800 | 131,800 |
| Summer youth training | 527,100 | 567,200 | 600,000 | 600,000 |
| Postschool work support: | | | | |
| Operation Mainstream | 12,500 | 21,900 | 22,000 | 22,000 |
| Out-of-school | 48,400 | 53,000 | 49,000 | 49,000 |

[1] 1972 estimate includes 194,600 summer youth training enrollment opportunities now requested in 1972 supplemental appropriation.

Private sector on-the-job training. This covers the program costs of providing employment and training in the private sector to unemployed and disadvantaged persons and upgrading persons in low-skill occupations. The key feature is the concept of "hire first and then train." The job opportunities in the business sector program is operated in conjunction with the National Alliance of Businessmen.

Public sector on-the-job training. This secures, within merit staffing principles, permanent employment for the disadvantaged and stimulates upgrading of employed persons in the public sector.

Institutional training. This increases the employability of the unemployed and underemployed through classroom occupational training and remedial education supplemented by supportive services. The regular institutional program places emphasis on aiding veterans, criminal offenders, Spanish-speaking persons, Indians, and disadvantaged individuals who do not require special intensive assistance. The Job Corps assists disadvantaged youth to become productive workers by providing a full-service training and development program in rural conservation and residential urban centers, and in nonresidential centers which permit the youths to remain in or near their home community.

In-school work support. This assists disadvantaged students of high school age to remain in school by providing part-time and summer work experience.

SUMMER

[In millions of dollars]

| | 1970 actual | 1971 actual | 1972 estimate | 973 estimate |
|---|---|---|---|---|
| Obligations (calendar year) | $195.4 | $270.7 | $270.7 | $270.7 |
| Enrollment opportunities, funded | 413,000 | 609,300 | 609,300 | 609,300 |

The 1972 estimate includes $95 million and 194,600 enrollment opportunities now requested in 1972 supplemental appropriation.

Postschool work support. This provides work experience and training to the disadvantaged unemployed. Operation Mainstream focuses on poor adults in rural areas who have little opportunity for full-time employment. The out-of-school program provides high school dropouts with skill training opportunities, work experience, income, and other supportive services to enable them to return to school or to find regular employment.

MANPOWER TRAINING SERVICES

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Summer supplemental request | | 95,000 | --------- |

The requested amount will be used to assist disadvantaged youths of high school age to remain in school by providing part-time and summer work experience.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ADVANCES AND REIMBURSEMENTS

[In thousands of dollars]

| Mutual educational and cultural exchange activities | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Agency for International Development | 225 | 263 | 222 |
| Health, Education, and Welfare | 28 | 35 | 35 |
| Other accounts | 10 | 13 | 13 |

EDUCATIONAL EXCHANGE

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Exchange of persons | 25,033 | 27,686 | 38,593 |
| Aid to American-sponsored schools abroad | 1,650 | 1,700 | 2,400 |
| Cultural presentations | 550 | 700 | 1,000 |
| Multilateral organizations activities | 478 | 449 | ---------- |
| Program services | 6,859 | 7,179 | 7,640 |
| Administrative expenses | 2,572 | 2,689 | 2,767 |
| Total obligations | 37,142 | 40,403 | 52,400 |

This appropriation provides for the educational and cultural exchange program of the Department of State. These programs are designed to further national objectives through mutually beneficial cooperative activiites with other countries. Increases are proposed for exchange of persons with renewed emphasis on carrying out the programs through private institutions. Other increases are for services to nongrant foreign students, teenager exchanges, aid to American sponsored schools abroad, and cultural presentations. The United Nations Educational, Scientific, and Cultural Organization functions previously funded under this appropriation have been transferred to the International Organizations portion of the Salaries and expenses appropriation to provide for consolidation of UNESCO activities.

INTERNATIONAL EDUCATIONAL EXCHANGE ACTIVITIES (SPECIAL FOREIGN CURRENCY PROGRAM)

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Exchange of persons | 150 | 177 | --------- |

This appropriation has provided dollars for the purchase of foreign currencies. Since 1963, budget authority for these programs has been included in the mutual educational and cultural exchange activities appropriation.

CENTER FOR CULTURAL END TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Education, research, and training | 4,325 | 4,538 | 5,617 |
| Program direction, administration, and institutional support | 935 | 1,092 | 1,183 |
| Total obligations | 5,260 | 5,630 | 6,800 |

The Center for Cultural and Technical Interchange Between East and West promotes better relations and understanding between the United States and the nations of Asia and the Pacific. The Center provides grants, fellowships, and scholarships to qualified Asians and Americans who work jointly on problems of mutual concern.

EDUCATIONAL EXCHANGE PERMANENT APPROPRIATIONS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Educational exchange fund, payments by Finland, World War I debt | 376 | 375 | 375 |

Any sums paid by the Republic of Finland to the United States as interest on, or principal of, the debt incurred under the act of February 25, 1919, are credited to this fund to finance programs authorized by the Mutual Educational and Cultural Exchange Act of 1961 in relation to Finland and the people of Finland. During 1971, the exchange of 12 Finns and 17 Americans was financed from this fund and 33 grants to Finns under the binational program were supplemented.

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Educational exchange trust funds: | | | |
| U.S. dollars advanced from foreign governments | 72 | 250 | 250 |
| Contributions, educational and cultural exchange | 110 | 150 | 120 |
| Total obligations | 182 | 400 | 370 |

U.S. dollars advanced from foreign governments. Funds advanced by other governments are used to send experts abroad to perform requested services, to give foreign nationals scientific, technical, or other training, and to perform technical or other services in this country.

Contributions, educational and cultural exchange. Funds contributed by foreign governments, international organizations, and private individuals and groups are used for the purposes of the Mutual Educational and Cultural Exchange Act of September 21, 1961.

DEPARTMENT OF TRANSPORTATION—OFFICE OF THE SECRETARY

[In thousands of dollars]

| Transportation Planning, Research, and Development | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| University research | | | 5,000 |

Scientific and technological research and interdisciplinary studies conducted under this activity are designed to assure that resources of the higher education community are effectively brought to bear on transportation problems and to encourage greater involvement of universities and colleges with the Department, State, and local governments, and the transportation industry. In addition to mission-oriented research, university based seminars and conferences will bring university, industry, and government representatives together for joint study of transportation needs.

URBAN MASS TRANSPORTATION ADMINISTRATION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Urban Mass Transportation Fund: University research and training | 1,563 | 1,700 | 1,800 |

Grants under this activity are awarded to public and private nonprofit institutions of higher learning. The grants are to assist in establishing or continuing programs which combine professional training in urban transportation, and related fields.

DEPARTMENT OF THE TREASURY

BUREAU OF ACCOUNTS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Eisenhower College grants | 719 | 1,599 | |

Public Law 90-563 authorizes the appropriation of $5,000,000 for grants to Eisenhower College, Seneca Falls, N.Y., to match gifts and other voluntary donations made to the college. These grants are to be used for the construction of education facilities at Eisenhower College.

ATOMIC ENERGY COMMISSION

[In thousands of dollars]

| Operating expenses | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Training, education, and information | 12,859 | 12,293 | 12,400 |
| Subtract technical and public information services | −5,902 | −5,913 | −5,300 |
| Training and education | 6,957 | 6,380 | 7,100 |

This program includes specialized training courses; graduate fellowships and traineeships; assistance to schools, faculty, and students; operation of the Puerto Rico Nuclear Center; training in materials safeguards; dissemination of scientific and technical information; and operation of nuclear science and technology demonstrations and exhibits.

The cooperative use of specialized atomic energy laboratory facilities and staff in assisting the educational programs of colleges and universities throughout the country will increase.

By major category, the costs are as follows:

| Category | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Nuclear education and training | $6,782,000 | $6,200,000 | $7,000,000 |
| Training in materials safeguards | 175,000 | 180,000 | 100,000 |

Technical information services and public information services have been omitted.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION RESEARCH AND DEVELOPMENT

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Direct program: | | | |
| Supporting activities: | | | |
| Sustaining university program | 11,553 | 10,000 | 3,000 |

This program included grants for graduate studies in interdisciplinary space-related fields. Costs incurred reflect use of funds previously appropriated.

VETERANS ADMINISTRATION READJUSTMENT BENEFITS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Education and training: | | | |
| Post-Korean War veterans | 1,521,700 | 1,938,696 | 2,091,434 |
| Sons and daughters | 61,988 | 64,766 | 67,210 |
| Wives and widows | 8,656 | 10,000 | 11,673 |
| Total | 1,592,344 | 2,013,462 | 2,170,317 |

In 1973, the number of veterans participating in GI bill training is expected to increase by 27 percent over the number of trainees in 1971. The following table provides a comparison of trainees and costs including the effect of proposed legislation to increase monthly benefits—see infra.

NUMBER OF TRAINEES AND COSTS

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Veterans: | | | |
| Number of trainees | 1,585,000 | 1,910,000 | 2,011,000 |
| Average cost per trainee | $960 | $1,042 | $1,118 |
| Total cost (in millions) | $1,522 | $1,991 | $2,248 |
| Sons and daughters: | | | |
| Number of trainees | 51,000 | 53,000 | 55,000 |
| Average cost per trainee | $1,222 | $1,260 | $1,324 |
| Total cost (in millions) | $62 | $67 | $73 |
| Wives and widows: | | | |
| Number of trainees | 9,000 | 10,000 | 12,000 |
| Average cost per trainee | $984 | $1,030 | $1,075 |
| Total cost (in millions) | $9 | $10 | $13 |

The increases in veteran use of GI bill benefits reflects the continuing high rate of military separations, accompanying phased reductions in the size of the Armed Forces, but these increases also reflect a progressive increase in the rate of Vietnam era veteran participation, expected to rise from 23.8 percent through 1969 to 47 percent through 1973. Another important stimulus for veterans to enter and stay in training is proposed legislation to increase the scale of GI bill monthly benefits from $175 for a single veteran to $190.

The average cost of each veteran's training is expected to rise by 7.3 percent. Among other factors, this reflects an increase in the proportion of full-time trainees, longer duration of training, and the more liberal scale of benefits under the proposed legislation.

An equally significant improvement in the GI bill program is the increasing extent to which the program fits the talents and aspirations of returning veterans. As shown by the table below, in 1973 the number of veterans in college-level training will rise by 31.9 percent over the number in 1971. In the same period, there will be a 21.6 percent increase in the number attending vocational and other schools below college level, and a 13.7 percent increase in the number being offered on-the-job training with private or public employers. In line with the administration's strong efforts to encourage participation by those veterans who need GI bill training most, between 1969 and 1973 there is estimated to be a 150 percent increase in the number of high school dropouts who will use the GI bill to complete high school or take vocational or academic training.

| | 1971 | 1972 | 1973 |
|---|---|---|---|
| Total veterans in training: | | | |
| College | 917,000 | 1,156,000 | 1,210,000 |
| Below college | 522,000 | 598,000 | 635,000 |
| On the job | 146,000 | 156,000 | 166,000 |

| | In thousands of dollars | | |
|---|---|---|---|
| | 1971 actual | 1972 estimate | 1973 estimate |
| Medical care: | | | |
| Direct operating costs, funded: | | | |
| Maintenance and operation of VA facilities: | | | |
| Education and training | 102,742 | 117,382 | 143,457 |
| Capital outlay, funded: | | | |
| Maintenance and operation of VA facilities: | | | |
| Education and training | 387 | 900 | 2,000 |
| Medical administration and miscellaneous operating expenses: | | | |
| Operating costs, funded: | | | |
| Postgraduate and inservice training | 3,297 | 4,215 | 4,908 |
| Capital outlay, funded: | | | |
| Postgraduate and inservice training | 210 | 590 | 500 |

Postgraduate and inservice training provides for tuition and registration payments, lecturer fees, travel expenses, and training materials incidental to continuing education programs for professional medical and administrative staff. This also serves as a media for disseminating information on medical advances resulting from research efforts.

READJUSTMENT BENEFITS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Education and training: | | | |
| Post-Korean War veterans | | 52,000 | 156,600 |
| Sons and daughters | | 1,800 | 5,800 |
| Wives and widows | | 300 | 900 |
| Total obligations | | 54,100 | 163,300 |

Legislation has been proposed for the prepayment and advance payment of educational allowances, to increase the rates of educational assistance and special training allowance, and to revise the formula for payment of the educational assistance allowance for correspondence course training.

ACTION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Miscellaneous trust funds: | | | |
| School partnership program | 280 | | |

This account was merged into the gifts and donations account in 1972.

DISTRICT OF COLUMBIA

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

[In thousands of dollars]

| General fund loans | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Higher education facilities | 2, 243 | 7, 700 | 5, 397 |

Appropriations for 30-year interest-bearing loans from the U.S. Treasury are made available for financing construction of the general public works program of the District of Columbia, including school construction, and for education facilities for the Federal City College and the Washington Technical Institute.

INTERGOVERNMENTAL AGENCIES

[In thousands of dollars]

| Advisory Commission on Intergovernmental Relations contributions | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Special project: Special conference on school finance—Ford Foundation | 7 | 11 | |

NATIONAL SCIENCE FOUNDATION

[In thousands of dollars]

| Salaries and expenses | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Institutional improvement for science | 34, 392 | 21, 000 | 12, 000 |
| Graduate student support | 30, 495 | 20, 000 | 14, 000 |
| Science education improvement | 68, 316 | 66, 100 | 70, 000 |

Institutional improvement for science. The National Science Foundation's institutional improvement program will provide funds for flexible use by colleges and universities to improve their academic science programs. Also, competitive grants will be awarded to universities to encourage and support efforts to increase the effectiveness of their research programs through improved management.

Graduate student support. Support is provided, in the form of graduate fellowships, for a limited number of outstanding science students, to provide national recognition to exceptionally talented students and to encourage them to undertake careers in science and engineering. Also included is support for the final year of a phaseout of the NSF graduate level traineeships program.

Science education improvement. This program provides support for research, development, and demonstration projects to improve science education, and for the implementation of important improvements. Support is also provided for efforts to improve the science programs of colleges and universities primarily serving ethnic minorities.

ADVANCES AND REIMBURSEMENTS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Science education program | 567 | 580 | |

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Research and scholarship | 421 | 868 | 842 |

The Woodrow Wilson Memorial Act established the Woodrow Wilson International Center for Scholars.

The Center's fellowship program opened on October 19, 1970, with 25 scholars present—half from the United States and the others from eight other countries. As of September 1, 1971, the Board approved 52 fellowship appointments for scholars from a broad variety of academic and nonacademic disciplines and professions—social sciences, humanities and natural sciences, law, business, journalism, government—and from 16 countries and all major geographic regions. In addition the Center has made 15 guest scholar appointments and its facilities have been used by dozens of visiting scholars on an occasional basis.

Scholars chosen from the fellowship program have been working on projects which fall within the Center's concern for "significant international, government, and social problems, and alternative means of resolving them." In addition, the Center's Board of Trustees has designated three subject areas for special encouragement during the Center's early years: Fundamental long-run issues of peace, world order, and the U.S. international responsibility in the post-Vietnam era; man's overall relationship and response to his deteriorating environment, particularly the social, cultural, and political and international dimensions of the problems of the human environment; and the development of international understanding law and cooperation of the uses of the oceans and safeguarding of the marine environment.

DISTRICT OF COLUMBIA

ASSISTANCE FOR FINANCING CAPITAL OUTLAY PROGRAM

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Capital grants for higher education facilities | | | 20, 000 |

Legislation will be proposed to provide financial assistance to the District Government by authorizing capital grants for higher education facilities. The Federal Government would make direct grants for construction of the physical facilities of the Washington Technical Institute and the Federal City College.

RECAPITULATION

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE | | | |
| Office of Education: | | | |
| Elementary and secondary education: | | | |
| Aid to school districts: | | | |
| Educationally deprived children | 1, 499, 861 | 1, 597, 500 | 1, 597, 500 |
| Supplementary services | 143, 210 | 146, 393 | 146, 393 |
| Equipment and minor remodeling | 49, 598 | 50, 000 | |
| Follow Through[1] | 48, 151 | 95, 060 | 57, 700 |
| Strengthening State departments of education | 29, 750 | 33, 000 | 43, 000 |
| Bilingual education[2] | 24, 944 | 35, 000 | 41, 130 |
| Dropout prevention[2] | 9, 490 | 10, 000 | 10, 000 |
| Higher education | 971, 918 | 1, 618, 436 | 1, 200, 689 |
| Emergency school assistance | 73, 901 | 500, 000 | 1, 000, 000 |
| Vocational and adult education | 498, 827 | 582, 165 | 549, 288 |
| School assistance in federally affected areas | 560, 945 | 617, 616 | 439, 304 |
| Educational renewal: | | | |
| Educational systems improvement: | | | |
| Site personnel development | 90, 397 | 84, 565 | 76, 800 |
| Personnel development: | | | |
| Teacher Corps | 30, 782 | 37, 435 | 37, 435 |
| Career education personnel | 6, 883 | 6, 900 | 10, 000 |
| Other personnel development | 5, 556 | 4, 900 | 4, 000 |
| National priority programs: | | | |
| Educational technology demonstrations | 1, 700 | 7, 000 | 30, 000 |
| Career education model installation | | | 14, 000 |
| Drug abuse education | 5, 901 | 13, 024 | 12, 400 |
| Right to read | 1, 529 | 1, 750 | 12, 000 |
| Environmental education | 1, 928 | 3, 514 | 3, 180 |
| Library demonstrations | 2, 170 | 2, 000 | 2, 000 |
| Other priority programs | 4, 150 | 4, 250 | 11, 750 |
| Research and development | 59, 930 | 60, 100 | |
| Product identification and dissemination | 8, 494 | 8, 000 | 15, 500 |
| Data systems improvement | 8, 434 | 10, 250 | 14, 900 |
| Planning and evaluation[3] | 14, 542 | 9, 475 | 10, 205 |
| Education for the handicapped | 104, 491 | 115, 750 | 131, 109 |
| Library resources[3] | 105, 655 | 116, 491 | 104, 000 |
| Office of Education—Continued | | | |
| Salaries and expenses | 48, 418 | 50, 889 | 66, 200 |
| Student loan insurance fund | 15, 958 | 33, 802 | 43, 202 |
| Higher education facilities loan and insurance fund | 43, 599 | 54, 748 | 35, 212 |
| Civil rights education | 18, 998 | 19, 657 | |
| Educational activities overseas, grants to American institutions | 2, 877 | 3, 268 | 5, 000 |
| Advancements and reimbursements | 5, 932 | 5, 779 | 1, 072 |
| Education revenue sharing, additional amounts beyond funds provided from above programs | | | 223, 911 |
| National Institute of Education | | 3, 000 | 125, 000 |
| National Foundation for Higher Education | | 3, 000 | 100, 000 |
| Office of the Secretary: Advances and reimbursements, cost-finding principles in higher education | | 91 | 191 |
| National Institutes of Health: | | | |
| Health Manpower | 372, 025 | 698, 912 | 603, 040 |
| National Institute of General Medical Sciences | 60, 697 | 59, 355 | 59, 355 |
| National Heart and Lung Institute | 20, 724 | 25, 014 | 25, 014 |
| National Institute of Arthritis and Metabolic Diseases | 20, 530 | 20, 812 | 20, 812 |
| National Cancer Institute | 15, 874 | 16, 422 | 20, 500 |
| National Institute of Neurological Diseases and Stroke | 15, 219 | 17, 082 | 17, 082 |
| National Institute of Child Health and Human Development | 18, 338 | 13, 928 | 13, 928 |
| National Institute of Allergy and Infectious Diseases | 11, 614 | 12, 501 | 12, 501 |
| National Institute of Dental Research | 6, 680 | 6, 871 | 6, 871 |
| National Eye Institute | 3, 877 | 4, 674 | 4, 674 |
| National Institute of Environmental Health Sciences | 3, 473 | 3, 381 | 3, 381 |
| Health professions education fund | 3, 844 | 3, 996 | 3, 846 |
| Nurse training fund | 2, 597 | 3, 342 | 3, 347 |
| Fogarty International Center for Advanced Study in the Health Sciences | 1, 246 | 1, 888 | 1, 767 |
| Research resources, fellowships and training | 533 | 478 | 478 |
| All National Institute of, etc. items are for fellowships and training. | | | |
| Health Services and Mental Health Administration, mental health, manpower development | 102, 967 | 130, 403 | 114, 191 |

Footnotes at end of table.

RECAPITULATION—Continued

[In thousands of dollars]

| | 1971 actual | 1972 estimate | 1973 estimate |
|---|---|---|---|
| Special institutions: | | | |
| Howard University | 72, 027 | 127, 041 | 89, 057 |
| Gallaudet College | 9, 009 | 14, 665 | 11, 512 |
| National Technical Institute for the Deaf | 4, 200 | 30, 891 | 5, 341 |
| Model Secondary School for the Deaf | 3, 132 | 17, 772 | 4, 600 |
| American Printing House for the Blind | 1, 517 | 1, 580 | 1, 697 |
| Social and Rehabilitation Service, assistance to refugees in the United States, education | 21, 572 | 20, 920 | 18, 000 |
| VETERANS' ADMINISTRATION | | | |
| Readjustment benefits, education and training | 1, 592, 344 | 2, 067, 562 | 2, 333, 617 |
| Medical care, education and training | 103, 129 | 118, 282 | 145, 457 |
| Medical administration and miscellaneous operating expenses, postgraduate and inservice training | 3, 507 | 4, 805 | 5, 408 |
| DEPARTMENT OF THE INTERIOR | | | |
| Public Land Management: | | | |
| Bureau of Indian Affairs, education and welfare services, educational assistance, facilities, and services | 141, 244 | 165, 090 | 177, 434 |
| Advances and reimbursements: | | | |
| Indian education for the disadvantaged | 10, 017 | 15, 901 | 12, 000 |
| Other Indian education programs | 446 | 2, 276 | 15, 565 |
| Manpower Development and Training Act | 338 | 161 | |
| National Defense Education Act | 84 | 59 | 50 |
| Fish and wildlife and parks, National Park Service, educational expenses, children of employees, Yellowstone National Park | 136 | 255 | 313 |
| DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT | | | |
| Housing production and mortgage credit: Federal Housing Administration: | | | |
| College housing | 181, 937 | 177, 580 | 162, 820 |
| Limitation on administrative expenses, college housing loans and other expenses, payment to administrative operations | 1, 074 | | |
| Housing management, housing payments, college housing grants | 430 | 2, 000 | 8, 000 |
| Community planning and management, community development training and urban fellowship programs | 3, 499 | 3, 500 | 3, 500 |
| NATIONAL SCIENCE FOUNDATION | | | |
| Salaries and expenses: | | | |
| Science education improvement | 68, 316 | 66, 100 | 70, 000 |
| Graduate student support | 30, 495 | 20, 000 | 14, 000 |
| Institutional improvement for science | 34, 392 | 21, 000 | 12, 000 |
| Advancements and reimbursements, science education program | 567 | 580 | |
| DEPARTMENT OF LABOR | | | |
| Manpower Administration: | | | |
| Salaries and expenses: | | | |
| Training program development and administration, institutional training administration | 2, 671 | 2, 655 | 2, 639 |
| Apprenticeship services | 7, 422 | 7, 702 | 7, 892 |
| Manpower training services: | | | |
| Institutional training | 455, 983 | 518, 400 | 528, 200 |
| In-school work support | 198, 906 | 319, 000 | 345, 900 |
| Postschool work support | 127, 505 | 196, 100 | 195, 900 |
| Private sector on-the-job training | 172, 912 | 186, 300 | 178, 100 |
| Public sector on-the-job training | 52, 700 | 110, 600 | 84, 700 |
| Summer supplemental | | 95, 000 | |
| DEPARTMENT OF STATE | | | |
| Educational exchange activities (various) | 43, 373 | 47, 296 | 60, 215 |
| DEPARTMENT OF JUSTICE | | | |
| Law Enforcement Assistance Administration, manpower development | 20, 798 | 31, 753 | 42, 980 |
| Federal prison system: | | | |
| Vocational training expense | 7, 862 | 10, 538 | 10, 896 |
| Inmate education | 3, 409 | 3, 996 | 4, 348 |
| Bureau of Narcotics and Dangerous Drugs, public education | 675 | 1, 204 | 1, 204 |
| DISTRICT OF COLUMBIA | | | |
| Higher education facilities | 2, 243 | 7, 700 | 25, 397 |
| DEPARTMENT OF DEFENSE—CIVIL | | | |
| The Panama Canal, education | 16, 444 | 17, 023 | 18, 489 |
| ATOMIC ENERGY COMMISSION | | | |
| Training and education | 6, 957 | 6, 380 | 7, 100 |
| DEPARTMENT OF TRANSPORTATION | | | |
| Office of the Secretary, transportation planning, research, and development, university research | | | 5, 000 |
| Urban Mass Transportation Administration, urban mass transportation fund, university research and training | 1, 563 | 1, 700 | 1, 800 |
| NATIONAL AERONAUTICS AND SPACE ADMINISTRATION | | | |
| Research and development, sustaining university program | 11, 553 | 10, 000 | 3, 000 |
| DEPARTMENT OF THE TREASURY | | | |
| Eisenhower College grants | 719 | 1, 599 | |
| DEPARTMENT OF AGRICULTURE | | | |
| Extension Service | 838 | 1, 286 | 1, 151 |
| Forest Service, payments to school funds, Arizona and New Mexico | 84 | 69 | 75 |
| SMITHSONIAN INSTITUTION | | | |
| Woodrow Wilson International Center for Scholars, research and scholarship | 421 | 868 | 842 |
| ACTION | | | |
| School partnership program | 280 | | |
| ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS | | | |
| Special Conference on School Finance | 7 | 11 | |
| FUNDS APPROPRIATED TO THE PRESIDENT | | | |
| Appalachian regional development program, vocational education facilities | 19, 224 | 33, 277 | 25, 500 |
| Philippine education program | 605 | 1, 282 | |
| Total | 8, 597, 723 | 11, 453, 626 | 11, 712, 557 |

[1] Includes funds from educational renewal, national priority programs and funds appropriated to the President, Office of Economic Opportunity.

[2] Includes funds from educational renewal, education systems improvement .

[3] Includes funds from elementary and secondary education.

Note: These changes will make comparisons more meaningful.

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## THE NEED TO LET 435 MEMBERS JUDGE TAX LEGISLATION

The **SPEAKER**. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 30 minutes.

Mr. PATMAN. Mr. Speaker, the withdrawal of 15 unanimous consent requests from the Ways and Means Committee yesterday is—I hope—the beginning of a new era in the consideration of tax measures which have important revenue and policy implications.

When all the facts are laid out, I trust that the Members and the public will understand why we felt it was necessary to take extraordinary steps to call attention to this longstanding custom of allowing these bills to go through under unanimous consent without a hearing record. Unfortunately, some left the impression that these bills were extremely minor and involved nothing but technical changes. This was far from true as a quick look at the list of bills would reveal to anyone.

For example, Mr. Speaker, one of the bills, H.R. 6547, involves the tax treatment for bonds sold by commercial banks. By conservative estimates, this amounts to a $70 million loss in revenue to the U.S. Treasury—a sum which I hope no one could describe as minor. Mr. Speaker, I want to place in the RECORD at this point an article from the American Banker of Monday, February 28, which outlines the tax benefits to the banks under this particular bill: The article follows:

### CONGRESS IS EXPECTED TO RESTORE NONPARALLEL TAX BENEFIT ON BONDS

(By Robert Dowling)

WASHINGTON.—Congress is expected to take a major step this week toward giving the banking industry a $70 million tax break on securities transactions that it lost in the 1969 Tax Reform Act.

The change, which has gone practically unnoticed since it was ordered reported by the House Ways and Means Committee last fall, would restore nonparallel treatment of gains and losses on securities transactions when a bank agrees to hold its securities until redemption.

In passing the 1969 act, Congress agreed to rule out further non-parallel treatment of securities income by banks on the ground it was a $50 million tax loophole. To cushion the change, it agreed to give the industry a five-year transition period during which income earned before July 12, 1969, could be pro rated over the time the bond was held and be taxed at the capital gains rate. Income earned after the cutoff date would be taxed as ordinary income, as would all income on bonds purchased after July 12.

The point of the change, as described by Treasury officials, was to prevent banks from applying the lower capital gains tax rate to profit from their bonds, while deducting losses in full.

Under the new change, capital gains treatment would be restored for all bonds purchased before July 12, 1969, without regard to pro rating income for ordinary tax treatment after that date.

Banks would be required to hold a bond until redemption and discontinue parallel treatment after Jan. 1, 1975.

Another change, covering Treasury refinancings, would permit banks to consider a bond maturing before Jan. 1, 1975 as redeemed when swapped for another Treasury obligation providing the swap took place after Oct. 14, 1971.

The legislation cleared the committee by a voice vote Oct. 14, but was reported by the Ways and Means Committee only last week. In explaining the bill, the committee said the change to parallel tax treatment "could not have been anticipated" by banks in 1969 and resulted in many banks selling off their bonds. The longer the bank held a bond after July 12, 1969, the longer its gain was subject to ordinary tax rates, the committee pointed out. Had sales continued, discounts might have increased on government bonds, it added.

The legislation, which is expected to come before the House Tuesday, has so far drawn no opposition. Committee staff members said late Friday they expected it to pass unopposed.

This particular bill, of course, changes the Tax Reform Act of 1969, about which there was much publicity and even higher hopes.

That is one of the problems in allowing these bills to go through under unanimous consent without hearings. The public was informed of the 1969 Tax Reform Act, but it received no forewarning that part of that act was being dismantled so that the banks and privately controlled foundations could have this additional relief. That is one of the problems that I was trying to point out on the floor yesterday.

Mr. Speaker, the list of bills before us for unanimous consent on Tuesday included many other broad-ranging revenue and policy questions. For example, one of these bills dealt with FCC policy in connection with the divestiture of communications property.

Still another of these bills dealt with the maintenance of common trust funds by affiliated banks—that is, banks in a holding company. This bill appears to facilitate and encourage a further concentration of banking resources in holding companies and this—in my opinion—is a serious policy question which should be passed on only after extensive hearings.

Mr. Speaker, I do not want to go back over all of these bills, but so that Members and the public may have a better understanding, I want to place in the Record at this point a list of the bills which appear on the calendar yesterday under unanimous consent. This list includes a short description along with the estimate of the Ways and Means Committee concerning revenue losses.

The list follows:

### H.R. 532—MONEY GIFTS TO ENHANCE CAPITOL

Authorizes the Architect of the Capitol to accept gifts or bequests of money for the purpose of enhancing the Capitol Building or Grounds. This money is to be placed in a special fund and disbursed for this purpose on the order of the Architect of the Capitol. Gifts or bequests accepted under this provision are to be treated as deductions for purposes of the Federal income, estate, and gift taxes.

The Committee estimates that this bill will not have any effect on revenues. The Treasury Department agrees with this statement.

### H.R. 1010—WAGERING TAX AMENDMENTS OF 1972

Revises the wagering tax provisions of the tax laws to remove constitutional infirmities in those provisions. The bill increases the occupational taxes from $50 to $1,000 for principals and agents; imposes a $100 occupational tax upon pickup men, employees, and punchboard operators; provides a credit against both the tax on wagers and the occupational tax, in the case of those persons who pay similar taxes to State and local governments; and increases the criminal penalties of existing law.

The Committee estimates that the increases in occupational taxes provided for by this bill will yield $20 to $25 million annually in each of the next three years. The Treasury Department agrees with this statement.

### H.R. 1246—TAX TREATMENT OF DIVESTITURES TO EFFECTUATE FCC POLICY

Present law provides for nonrecognition of gain in the case of certain sales or exchanges of radio or television broadcasting stations which are certified by the Federal Communications Commission (FCC as being necessary or appropriate to effectuate FCC policies. The bill amends present law to provide such nonrecognition treatment also for sales or exchanges of community antenna television (CATV) facilities.

It is not possible to determine with any precision the revenue effect of this bill. It is estimated, however, that there will be revenue losses in the next 3 years, but the losses are expected to be small. The Treasury Department agrees with this statement.

### H.R. 2147—MODIFICATIONS OF CHARITABLE DEDUCTION TRANSITION RULES UNDER THE TAX REFORM ACT OF 1969

Modifies in two respects the transition rules relating to the gift tax, estate tax, income tax charitable deductions provided for by the Tax Reform Act of 1969.

The first change relates to the new rules provided in 1969 to prevent the use of the charitable provisions as tax avoidance devices and to insure that a charitable transfer for which a deduction is allowed is accompanied by a comparable distribution to charity. Under the 1969 act, these rules did not apply to wills drawn (or transfers in trust made) before October 9, 1969, if the decedent dies within 3 years of that date without having amended the instrument. The bill provides that if an amendment to the instrument does not alter its dispositive provisions (that is, if there is no change in who the funds are given to, or under what conditions), it will not be considered an amendment for purposes of these transition rules.

The second problem involves another transitional rule contained in the 1969 legislation. Under that legislation, the governing instrument in the case of private foundations and charitable or split-interest trusts must specify that its income will be distributed each year (or within a short period thereafter) and the foundation or trust must be prohibited from engaging in self-dealing, from retaining "excess business holdings," from investing in a manner which jeopardizes its purposes. Present law provides a special transitional rule for pre-1970 organizations before these requirements must be inserted in the governing instrument. The bill provides that in the case of trusts which are private foundations, charitable trusts, or split-interest trusts created by a will executed on or before October 9, 1969 (and not amended by the decedent after that date in a manner which changes the dispositive provisions of the will), the above rule requiring the provisions in the trust instrument are not to apply before January 1, 1972.

It is not possible to determine with any precision the revenue effect of this bill. It is estimated, however, that there will be revenue losses in the next 3 years, but the losses are expected to be small. The Treasury Department agrees with this statement.

### H.R. 1467—PERSONAL EXEMPTIONS IN THE CASE OF AMERICAN SAMOANS

Extends the present law definition of a "dependent" for purposes of claiming an income tax personal exemption to include "nationals" of the United States who otherwise would qualify as dependents but for the fact that they are not citizens of the United States. In addition, the bill provides that a national of the United States, even though not a resident of the United States, is not to be limited to one personal exemption (as he is under present law). In practice these changes will have application only to American Samoans.

The Committee estimates that the treatment of nationals of the United States as eligible to be claimed as dependents will result in a revenue loss of $100,000 annually in each of the next 3 years. The Treasury Department agrees with this statement.

### H.R. 2466—ESTATE TAX TREATMENT OF ANNUITIES IN COMMUNITY PROPERTY STATES

Removes a discrimination in existing estate tax law against spouses of employees in community property States who die before the employee spouse. Generally, an estate tax exclusion is provided for the proportion of the value of a survivor annuity to the extent it is attributable to the contributions of the employer. In a common law State where the nonemployee (often the wife) dies first, no value representing the employer's contribution is included in her estate tax base. However, in a community property State, as a result of the operation of community property laws, half of the value of the annuity in such a case is included in the estate tax base of the nonemployee spouse, even though attributable to employer contributions. The bill overcomes this discrimination against nonemployee spouses in community property States.

It is not possible to determine with any precision the revenue effect of this bill. It is estimated, however, that there will be revenue losses in the next 3 years, but the losses are expected to be small. The Treasury Department agrees with this statement.

### H.R. 3233—TEMPORARY SUSPENSION OF DUTY ON OLIVES IMPORTED IN BULK

Provides for the temporary duty-free treatment of olives imported in bulk for a period of 4 years to November 1, 1975.

It was estimated that the amount of revenue lost by the enactment of H.R. 3233 during fiscal year 1972 would be $3 million.

### H.R. 3544—ACT CHANGING THE BRACKET TAX ON LARGE CIGARS TO AN AD VALOREM TAX

Changes the present bracket system of taxing cigars on the basis of their intended retail price to a single ad valorem tax initially of 8½ percent and gradually decreasing to 6½ percent of the intended wholesale price. More specifically the bill:

(1) Replaces the present tax on large cigars with a flat ad valorem tax of 8½ percent of the wholesale price and reduces the 8½ percent rate by one-half percentage point every 2 years (starting in 1973) until the 6½ percent rate is reached in 1979 (retaining the present law upper limit of $20 per thousand for all years).

(2) Defines wholesale price as the manufacturer's or importer's suggested price at which cigars are to be sold to retailers.

The changes made by this bill are to take effect on the first day of the first month which begins more than 90 days after the date of enactment of this bill.

It is estimated that the bill will reduce tax liability by $9 million in calendar year 1972, $12 million in 1973, and $12 million in 1974. The Treasury Department agrees with this statement.

### H.R. 5372—PRODUCTION OF WINE FOR PERSONAL CONSUMPTION BY OTHER THAN HEADS OF FAMILIES

Allows an individual who is not the head of a family to produce 100 gallons of wine a year free of tax for personal use. This extends the present law exemption which allows the head of any family to produce up to 200 gallons of wine a year without payment of tax.

It is estimated that the revenue losses, if any, in the next 3 years which arise from this bill will be negligible. The Treasury Department agrees with this statement.

### H.R. 5527—REFUNDS IN THE CASE OF CERTAIN USES OF TREAD RUBBER AND TIRES

Amends the tax laws to provide credits or refunds of the manufacturers excise tax on tread rubber where tax-paid tread rubber (1) is wasted in the recapping or retreading process, (2) is used in the recapping or retreading of tires the sale of which is later adjusted, or (3) is used in the recapping or retreading of tires which are exported, are sold to State or local governments, are sold to nonprofit educational institutions, or are sold as supplies for vessels or aircraft. Also, the bill clarifies the treatment of credits or refunds in the case of new tires the sale of which is later adjusted as the result of a warranty or guaranty. In this case the bill makes it clear that the refund or credit is to be based on the adjustment in price of the tire returned and is to be available whether or not the replacement tire is obtained from the same manufacturer or whether or not a replacement tire is obtained.

The Committee estimates that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

### H.R. 5815—CANCELLATION OF INDEBTEDNESS OF STATES FOR FUNDS DEPOSITED WITH THEM IN 1837

Legislation passed in 1936 provided that the Treasury surplus in 1837 in excess of $5 million was to be deposited to the amount of the various States. This bill cancels any possible liability of the States to repay these amounts by providing that these deposits with the States are to be treated as grants by the United States rather than as loans.

This bill cancels liabilities for repayment of funds deposited with the States to the extent of $28.1 million. It is not expected, however, that any of this amount would have been recalled from the States in the next 3 years. The Treasury Department agrees with this statement.

### H.R. 6547—MODIFICATION OF THE TRANSITIONAL RULE UNDER THE TAX REFORM ACT OF 1969 FOR THE TAX TREATMENT OF BONDS OF FINANCIAL INSTITUTIONS

The bill relates to the transitional rule provided in the Tax Reform Act of 1969 for bonds (and other evidences of indebtedness) purchased at a discount by banks or similar financial institutions. The Tax Reform Act provided that the gain or loss on the sale of the bonds by financial institutions was to result in ordinary income and ordinary loss, rather than a net capital gain or a net ordinary loss as under prior law. Generally, the new treatment applied to bonds purchased on or after July 12, 1969. For bonds purchased before that date the old rule applies—that is, capital gain treatment is continued—with respect to the portion of the gain which the portion of the holding period before July 12, 1969 bears to the financial institutions total holding period. The bill provides as an alternative to this transition rule that, if the bonds are held to a maturity which is before 1975, all of the gain to the extent of the discount on the redemption is treated as capital gain. This same general treatment is also provided where U.S. Government bonds which meet the tests set out above are exchanged, in tax-free exchanges, for other U.S. Government bonds.

The Treasury has indicated it has no objection to the enactment of the bill.

It is estimated that the full effect of the revenue losses from the enactment of this provision will be $70 million. The Treasury Department agrees with this statement.

### H.R. 7025—MAINTENANCE OF COMMON TRUST FUND BY AFFILIATED BANKS

Modifies the rules relating to the maintenance of common trust funds and banks. Under present law a bank may maintain a common trust fund (the income of which is taxed to the participants rather than it being taxed as a corporation) for the collective investment and reinvestment of moneys transferred to the bank in its fiduciary capacity. The Internal Revenue Service has taken the position that a fund which accepts contributions from other banks acting in a fiduciary capacity (even though the banks are affiliated) will not qualify as a common trust fund. This bill provides that where banks which are members of the same affiliated group establish a combined common trust fund, this fund is to be treated as a "common trust fund" for tax purposes during the period of the affiliation.

The Committee estimates that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

### H.R. 7175—LIMITATION ON DUTY ON CERTAIN FOREIGN REPAIRS MADE TO U.S. VESSELS

Limits in the case of certain vessels, the application of the duties imposed on equipment and repair parts purchased for, and repairs made to, U.S. vessels in foreign countries.

Based on records that are available at regional offices of the Bureau of Customs, it is estimated that the total revenue loss due to the enactment of H.R. 7175 would not exceed $250,000.

### H.R. 8975—LOCAL COMMUTER SYSTEMS: FUELS TAX REFUNDS AND EXEMPTIONS FROM HIGHWAY USE TAX

Under present law refunds or credits of excise taxes on gasoline, diesel, and special fuels are provided for local transit systems if 60 percent or more of their revenue is "commuter fare revenue." Presently the principal exemption for "commuter fare revenue" relates to fuel used in transportation which does not cost over 60 cents. The bill changes this exemption to include amounts paid for single trips of less than 30 miles. This change reduces the impact of the gasoline and the diesel and special fuels taxes on the cost of local public transportation. The bill also broadens slightly the exemption from the highway use tax for buses used for local public transportation.

The Treasury Department does not object to the enactment of this bill.

It is estimated that the revenue losses in the next 3 years resulting from the enactment of this bill will be less than $0.5 million a year. The Treasury Department agrees with this statement.

### H.R. 9463—IMPORTATION OF PRE-COLUMBIAN SCULPTURE AND MURALS

Prohibits the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals if they are expected in violation of the laws of the country of origin, and to provide that any such sculpture or murals illegally imported into the United States be seized, forfeited, and thereafter either returned to the country of origin upon request therefor by such country, or otherwise disposed of in accordance with law.

It is estimated that enactment of H.R. 9463 would have no effect on revenues. The committee is also of the opinion that enactment of this bill would not result in any additional cost.

### H.R. 9900—INCOME TAX EXCLUSION FOR MILITARY AND CIVILIAN PRISONERS OF WAR

Amends present law to provide an exclusion from gross income for compensation received for active service as a member of the armed forces, or for active service as a civilian governmental employee, during the period the individual is in a "missing status" (which includes a prisoner-of-war status) as a result of the Vietnam conflict. The exclusion applies to compensation received during the Vietnam conflict beginning on February 28, 1961, and ending at the time of the termination (as designated by the President) of combatant activities in Vietnam. An exclusion of this type is already available in most cases for enlisted personnel of the military services. Thus, the addition made by this bill will have its primary effect in the case of commissioned officers (who currently receive an exclusion only for the first $500 of pay per month) and civilian Government employees.

It is estimated that there might be a revenue loss of $5 million over the next 3 years as a result of the enactment of this bill. The Treasury Department agrees with this statement.

### H.R. 10379—DUTY EXEMPTION FOR COMPONENTS AND MATERIALS IN CERTAIN AIRCRAFT EXPORTED FROM, AND LATER RETURNED TO, THE UNITED STATES

Exempts from duty certain U.S. aircraft components and materials installed in aircraft previously exported from the United States and returned without having been advanced in value or improved in condition while abroad.

It is estimated that the amount of revenue loss in fiscal year 1972 would be no more than $24,640.

### H.R. 10837—REQUIREMENTS OF SHOWING TOTAL COST ON AIRLINE TICKETS

Removes the requirement that the airline ticket show in the case of each segment of a trip the total amount (including the tax) paid with respect to the segment. However, the bill continues the rule of existing law which requires the ticket to show the total amount (including the tax) paid by the passenger. This means that on a ticket showing separate segments of a trip there needs to be shown only the basic fare for each segment. However, all tickets must continue to show the total amount paid (including the tax) by the purchaser. As under present law, the tax may be shown separately on the ticket.

The Committee's bill will not reduce tax revenues. The Treasury Department agrees with this statement.

### H.R. 11185—EXEMPT STATUS OF VETERANS' ORGANIZATIONS

Deals with the tax-exempt status of veterans' organizations and the treatment of their insurance activities under the tax laws. Under present law veterans' organizations have been exempt from tax as social clubs, or as social welfare organizations. The bill creates a separate exemption category for veterans' organizations. The bill also provides that income a veterans' organization received from insuring its members and their dependents is not to be subject to the unrelated business income tax, to the extent the income is used or set aside for the insurance benefits or for religious, charitable, educational, etc., purposes.

It is estimated that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

### H.R. 11186—DUTY EXEMPTION FOR CERTAIN FOREIGN REPAIRS MADE TO VESSELS OWNED BY OR OPERATED FOR THE UNITED STATES

Exempts from duty certain foreign equipments and repairs for vessels operated by or for any agency of the United States where entry was made in connection with vessels arriving before January 5, 1971.

Since, in the absence of the duty exemption provided in H.R. 11186, the duties would be paid from one Government agency to another, there is no revenue loss involved.

### H.R. 11196—OPTION LAPSE INCOME OF EXEMPT ORGANIZATIONS

Deals with the application of the unrelated business income tax to income an exempt organization receives from writing options to buy or sell securities in those cases where the option is allowed to lapse. Under present law, premiums received for options which are exercised are treated as part of the gain or loss on the sale of the property involved—that is, usually as capital gain or loss. However, under present law premiums for options which are allowed to lapse generally are treated as ordinary income. In the case of most exempt organizations, capital gains—which include premiums from "exercised" options—are excluded from the unrelated business income tax as a part of the general exclusion for these organizations for investment income. This bill adds income from the lapse of options to buy or sell securities to the exempt category of income for exempt organizations (except for those categories of organizations taxed on investment income). This bill does not change the treatment of exercised options.

It is estimated that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

Mr. Speaker, the list of bills which were on the calendar does not include all of the bills which have been reported under similar circumstances from the Ways and Means Committee. There are other bills which have been recently reported for which I can discover no hearing record. Judging from the remarks of the chairman of the Ways and Means Committee on the floor yesterday, I can only assume that these same bills might be brought before the House under the procedures attempted on the floor on Tuesday.

One of these bills, H.R. 11197, deals with charitable distribution requirements for private foundations. This bill was reported from the Ways and Means Committee on January 27 and I learned of its existence shortly after that date. For many years, I have sought stronger regulation of tax-exempt foundations and measures which would require the foundations to pay out their vast sums for charitable purposes—the purposes for which they were chartered.

Finally, in the 1969 Tax Reform Act, we got the first meaningful legislation aimed at the foundations and now we have before us a bill apparently designed to gut the reform provisions. This legislation would reduce the percentage of pay-out for charitable purposes by foundations. There are other provisions in this bill all designed to favor the big foundations and I regard this as a terrible retreat from what we were able to enact through the 1969 legislation.

Before the tax legislation was passed in 1969, we had years of hearings and studies on foundations. Yet, here we have a bill reported without any hearings to undo all of these years of work. Mr. Speaker, this is the very bill which attracted my attention to this long list of unanimous consent requests from the Ways and Means Committee. It is a prime example of what can happen if the House allows this procedure to continue.

Mr. Speaker, I place in the RECORD at this point a list and a description of six bills which have been reported unanimously from the Ways and Means Committee without hearings, but which were not on the calendar of unnaimous consents yesterday.

### H.R. 9040—ESTATE TAXATION OF DEBT HELD BY FOREIGN PERSONS WHERE INTEREST EQUALIZATION TAX APPLIES

Present law contains a procedure which enables domestic corporations and partnerships to obtain foreign funds for use of their foreign affiliates in a manner which complies with the restrictions on foreign investment imposed by the Office of Foreign Direct Investment in the Commerce Department. Under the procedure, the domestic company or partnership elects to treat such an issue of debt as subject to the interest equalization tax. Where this procedure is elected under present law, the flat 30 percent (or a lower rate imposed by treaty) U.S. tax (generally imposed on interest and other payments by U.S. persons to foreign persons) does not apply to interest payments on debt where the election referred to above has been made. This bill provides that in the case of debt where this election has been made, the value of the debt is not to be included in the U.S. estate tax base of the nonresident alien holder of the debt.

The Treasury Department has recommended enactment of this bill.

The Committee estimates that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

### H.R. 10264—ELECTION TO TREAT CERTAIN INCOME FROM BANKING OR SIMILAR BUSINESS AS EFFECTIVELY CONNECTED WITH U.S BUSINESS

Under present law, U.S. source interest and certain other income, if it is effectively connected with the conduct of a trade or business in the United States, is taxes to a foreign corporation in the same manner as similar income received by a domestic corporation. Capital gains from the sale of bonds or other evidences of indebtedness, received by a foreign corporation if they are effectively connected to a trade or business in the United States also are taxed in the same manner as capital gains realized by domestic corporations. On the other hand, U.S. source interest income, if it is not effectively connected with a U.S. trade or business, generally is taxed to a foreign corporation at a flat 30 percent rate without the allowance of related deductions. In such cases, gains or losses from the sale of bonds or other evidences of indebtedness, if not effectively connected with a U.S. trade or business, are not subject to U.S. taxation at all. The bill provides foreign corporations primarily engaged in the banking business (or a financing or similar business) with an election to treat U.S. source interest income and all gains or losses in the sale of bonds or other evidences of indebtedness as effectively connected with a trade or business in the United States (whether or not actually so connected). This amendment applies to taxable years beginning after December 31, 1966, the general effective date of the Foreign Investors Tax Act of 1966.

The Commitee estimates that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

### H.R. 10335—SOCIAL SECURITY SELF-EMPLOYMENT TAX ON RETIREMENT PAYMENTS TO PARTNERS

Removes two of the conditions from the provision (sec. 1402(a)(10) of the code) excluding retirement payments received by a partner pursuant to a written plan of the partnership from the tax base for the self-employment tax. These two conditions require (1) that the retiring partner hold no obligations from the other partners and (2) that the retiring partner's share of capital in the partnership be paid in full. However, the bill continues to require that the retiring partner must not have rendered services for the partnership during the year and adds a requirement that the retiring partner must be 59½ years old or disabled at the close of any of his years in question.

The Committee estimates that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

### H.R. 10412—CARRYBACK AND CARRYOVER FOR FOREIGN TAXES WHERE LIMITATION ON MINERAL INCOME APPLIES

The Tax Reform Act of 1969 provided that a U.S. taxpayer deriving mineral income from a foreign country would not be allowed a credit for the foreign taxes paid on this income to the extent that the taxes were on income which the United States does not tax because of the deduction for percentage (as distinct from cost) depletion. This bill maintains this limitation but provides that any foreign income taxes for which a credit is denied because of this limitation may be carried back to the two prior years and forward to the 5 succeeding years and used in those years to offset U.S. tax on foreign income, but again subject to the same limitation with respect to foreign mineral income.

The Treasury Department has indicated that it has no objection to enactment of this bill.

It is estimated that the revenue losses in the next 3 years from the enactment of this provision will be small. The Treasury Department agrees with this statement.

### H.R. 10646—U.S. OBLIGATIONS HELD BY CONTROLLED FOREIGN CORPORATIONS IN BANKING BUSINESS

Provides a new exception to the rule in present law which generally treats U.S. shareholders (usually U.S. parent corporations) in a controlled foreign corporation as having received a constructive dividend—taxable to the parent or other shareholder—when the controlled foreign corporation invests its earnings in United States property. The bill provides that in such a case a controlled foreign corporation is to be treated as not having constructively paid a dividend when it acquires an obligation of a U.S. person if (1) the obligation is acquired in the banking (financing or similar) business, (2) the U.S. person whose obligation is acquired is not related to the controlled corporation, and (3) the obligation is acquired in either of two types of lending situations. The first situation is where the debt obligation represents a direct loan to the U.S. person. The second situation is where the debt is part or all of a new issue which the U.S. person issued to obtain foreign funds and which it elects to treat as a foreign issue for purposes of the interest equalization tax. The bill also allows the indirect acquisition of obligations of the type referred to in this second situation where the amount involved is relatively small.

The Committee estimates that this bill will have a negligible effect on the revenues. The Treasury Department agrees with this statement.

### H.R. 11197—CHARITABLE DISTRIBUTION REQUIREMENTS FOR PRIVATE FOUNDATIONS

Reduces from 6 to 5 percent the percentage, applied against the value of a private foundation's investment assets, which represents an alternative minimum amount which must be paid out in charitable distributions by the foundation each year. (The effect of this also is to reduce the percentage requirement applicable to certain types of operating foundations from 4 to 3⅓ percent.) The bill also extends from 1975 to 1978, in the case of private foundations organized before May 27, 1969, the time when this percentage will become fully effective. It also provides 1-percentage-point reductions in the applicable percentage rates during that interim period—3½ percent for 1972 and 1973, 4 percent for 1974 and 1975, and 4½ percent for 1976 and 1977.

The Committee estimates that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

Mr. Speaker, I do not have any animosity whatsoever against the chairman of the Ways and Means Committee or any of the Members of that committee. This is not personal. This is simply a situation in which the House must live up to its rules and to the procedures expected in a democratic institution where Members are elected by the voters in their Districts and are expected to have a say in the legislation that is enacted in their name. This is fundamental and it is a protection against further raids on the U.S. Treasury.

There is no reason why the Ways and Means Committee cannot give notice that these bills are being considered and provide for a hearing date so that any persons interested may appear and submit their case. On some bills, I am sure that there will be few witnesses; on others, the Ways and Means Committee will find a long list of people willing to testify. This is the same procedure which all other committees of the House are required to follow and it places no onerous duties on the Ways and Means Committee.

With a hearing record, the Members of the House can be equipped with the information necessary to make a proper judgment. We can then write home to our constituents and tell them that we acted on tax issues based on the record rather than the word of a handful of Members.

It is my sincere hope that all Members of the House will take up this effort and follow the bills carefully and object to unanimous consent requests when there are no hearings and when they feel the issues justify such action. Many Members have already indicated that this will be their position and I commend them for it. They are rendering a great public service.

It will not be possible for any one Member to follow all of the bills. This is too much to ask. But every one of us has particular areas of legislative responsibility. It shall be my intention to follow closely any tax bills which relate either directly or indirectly to matters under the jurisdiction of the Banking and Currency Committee. Certainly I do not limit my concern about these procedures solely to these issues but as a practical matter these are the areas that I will be equipped to watch most closely just as other Members will be in a better position to spot other issues.

Mr. Speaker, when bills go through on unanimous consent, it puts a heavy burden on all Members of the House. If these bills later create problems and result in serious inequities, all Members of the House are subject to blame. Their constituents can well ask why they were not on the floor to object to these measures. This can create some very serious problems and it is one reason why major tax and policy questions should not be brought to the floor under unanimous consent without at least a hearing record available.

Mr. Speaker, I hope that it will not be necessary for this type of question to arise again. It is my hope that such bills will not be reported out without hearings and under requests for unanimous consent. This is the real solution to the problem.

## GAIN IN SECURITY

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 15 minutes.

Mr. FINDLEY. Mr. Speaker, largely overlooked in the flood of news and comment resulting from the President's trip to China is the immediate and substantial advance it has gained to our security position.

Reporters will keep searching, as they should, for little nuggets representing advantages the President won in his long negotiations with the Chinese leaders.

In the process, most of them seem to be overlooking the most obvious nugget, in fact a vein of pure gold.

Because of the trip, and the initiatives the President took in the 2 years preceding it, the United States is in a much stronger position today in world affairs—militarily as well as politically. This has been accomplished without building a single gun or military force of any kind—and indeed without putting such in a more threatening position. It has been accomplished without the expenditure of an extra defense dollar.

This is so simply because the President has now established for the United States a single basic policy toward the two main centers of Communist power—Moscow and Peking.

Before the President's initiatives, the United States had a double-standard policy, and it was a high-risk dangerous one.

The elimination of the double standard was a singularly personal accomplishment of the President. It was carried out through a series of steps for which the President had clear statutory and constitutional authority. No initiative by Congress was needed. The change to a single basic policy required no concession whatever and indeed very little response on the part of China.

Unlike an arms race, it carried no financial risk or likelihood of retaliation. And unlike an arms accord, a strengthened NATO or other multinational measures, this major security advance did not require the approval or cooperation of other nations.

By going personally to China, the President gave absolute and dramatic proof that the double-standard days are over. It was a fitting capstone to a long series of forward movements in policy which should convince China, the Soviet Union and the rest of the world that we are determined to have an even-handed, unbiased, nondiscriminatory policy toward Moscow and Peking.

What does this mean?

It was indeed, as the President said, a week that changed the world. It gives the Soviet Union the strongest possible incentive to improve relations with the United States, reduce pressures in Europe, the Middle East and Asia, and be more cautious in its border conflicts with China.

It also lays the foundation for communication and peaceful contact between the United States and the most populous nation on earth. It shows that our Government accepts mainland China's national existence as a fact and recognizes its importance in world affairs.

With the finality that only a blaze of worldwide publicity can provide, it lays to rest the dangerous and long held notion that in a crisis the United States would gang up with the Soviet Union against China.

Although the United States reaffirms its defense commitment to Taiwan, under no circumstance will it combine with Taiwan, the Soviet Union or any other combination to achieve military advantage over China. We would condemn any such venture.

Thus President Nixon has brought U.S. policy toward China to grips with reality. By his policy of reducing U.S. forces in Vietnam, Korea, and Taiwan, restoring Okinawa to Japan, by recognizing the existence and territorial integrity of the People's Republic of China, by seeking to establish diplomatic, cultural, and trade relations with China on the same terms as with Moscow—and most importantly by going to China for direct consultations with its leadership, President Nixon has brought world power relationships into balance with reality.

In essence, the United States has now acted to lift its siege of mainland China. The siege was ill-conceived. It was a failure, and its abandonment was long overdue.

All this increases our own security interests, and makes Communist-inspired tensions less likely at each point of the compass.

## VETERANS DAY

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. MAYNE) is recognized for 5 minutes.

Mr. MAYNE. Mr. Speaker, I am pleased to note the presence in Washington this week of so many American Legionnaires from all over the United States. Iowa was honored by having its distinguished son, Donald Johnson, as a recent national commander of the American Legion, and again to have Mr. Johnson now serving as administrator of the Veterans' Administration. It has been my pleasure to have belonged to Monahan Post of the American Legion in Sioux City, Iowa, since shortly after I arrived there to begin the practice of law in 1946, and I continue to retain my membership in that fine post.

Yesterday morning, John H. Geiger, national commander of the American Legion, presented testimony before the House Committee on Veterans' Affairs. I am sure he found the committee chairman and members very attentive to his testimony for his is a deservedly well respected organization and the legislative aims of that organization are generally well-founded and reasonable. I had the pleasure of dining with several Iowa legionnaire leaders later in the day, and came away refreshed by their clear insight into the numerous foreign and domestic problems facing this Nation.

It is fitting that one of the 22 unanimous consent bills passed by the House yesterday was H.R. 11185, a bill clarifying the exemption certain income of veterans organizations from Federal income tax. In view of the great interest of the American Legion in protecting the interest of the serviceman and of the hapless prisoner of war, whether or not members or to become members of the legion, it was also entirely fitting that the House also passed another unanimous consent bill, H.R. 9900, excluding from gross income for Federal income tax purposes the compensation of Americans held prisoner in the Vietnam conflict.

I was pleased to provide my full support for these important legislative proposals. I would like to call the attention of all Members to the fact that one of the leading points in the National, State, and local legion legislative programs is the enactment of legislation restoring Veterans Day to the traditional date of observance, November 11.

Other veterans organizations also share in this objective of restoring Veterans Day or Armistice Day to November 11, a day of real meaning to veterans of World War I and their loved ones.

On December 13, I introduced House Joint Resolution 1009, a resolution to change Veterans Day back to November 11. In my remarks on the House floor on December 14, I said:

> Mr. Speaker, I am sure I am not the only Member of Congress who has received numerous letters from constituents protesting against the change of Veterans Day from November 11 to the fourth Monday in October, which first became effective this fall.
>
> I have heard from many veterans of World War I, World War II, the Korean war, and the conflict in Vietnam, as well as from many nonveterans who feel strongly much of the true meaning and traditional significance of Veterans Day, or Armistice Day as many of us still know it, has been lost by shifting it from its actual historic date. I share their concern that Veterans Day could become just another Monday holiday, only 2 weeks following still another Monday holiday, Columbus Day.
>
> November 11 is a date of great historic significance, a date which automatically stirs the memories of this Nation and reminds it of the tremendous debt it owes to those who have served and are serving in its defense. It makes as much sense to commemorate our veterans on the fourth Monday in October as it would to commemorate our Nation's birthdate of independence on the fourth Monday of June rather than on July 4.
>
> It is not too late to restore Veterans Day to its appropriate date on the calendar. I strongly urge my colleagues to support such action, proposed in the bill which I introduced yesterday.

Mr. Speaker, I again urge the chairman of the House Judiciary Committee and of the subcommittee to which House Joint Resolution 1009 has been referred to take immediate action with regard to this and similar resolutions introduced by colleagues, and I urge my brothers of this House to honor those who have served their Nation in its wars by expediting early restoration of Veterans Day to its appropriate historical date, a date of significance to all veterans and to the Nation. We can do no less.

## MORE ECONOMISTS ENDORSE "JOBS NOW" BILL TO PROVIDE 500,000 PUBLIC SERVICE JOBS

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, on December 2, 1971, I introduced legislation, H.R. 12011, that would create 500,000 public service jobs by amending and expanding the Emergency Employment Act of 1971—CONGRESSIONAL RECORD, volume 117, part 34, page 44358. This legislation has 62 Democratic cosponsors in the House and was introduced in the Senate on January 31, 1972, by Senator WALTER MONDALE and 20 other Democratic Senators.

The 62 House cosponsors are:

LIST OF COSPONSORS

James Abourezk (S. Dak.), Brock Adams (Wash.), Les Aspin (Wis.), Herman Badillo (N.Y.), Nick Begich (Alaska), Jonathan B. Bingham (N.Y.), Edward P. Boland (Mass.), John Brademas (Ind.), Frank J. Brasco (N.Y.), Phillip Burton (Calif.), Hugh L. Carey (N.Y.), Charles J. Carney (Ohio).

Frank M. Clark (Pa.), George W. Collins (Ill.), William R. Cotter (Conn.), George E. Danielson (Calif.), Ronald V. Dellums (Calif.), Robert F. Drinan (Mass.), Thaddeus J. Dulski (N.Y.), Don Edwards (Calif.), Joshua Eilberg (Pa.), Walter E. Fauntroy (D.C.).

William D. Ford (Mich.), Donald M. Fraser (Minn.), Sam Gibbons (Fla.), Ella T. Grasso (Conn.), William J. Green (Pa.), Richard T. Hanna (Calif.), Michael Harrington (Mass.), William D. Hathaway (Maine), Ken Hechler (W. Va.), Henry Helstoski (N.J.).

Joseph E. Karth (Minn.), Peter N. Kyros (Maine), Robert L. Leggett (Calif.), Romano L. Mazzoli (Ky.), Lloyd Meeds (Wash.), Ralph H. Metcalfe (Ill.), Abner J. Mikva (Ill.), Parren J. Mitchell (Md.), Morgan F. Murphy (Ill.), David R. Obey (Wis.).

Edward J. Patten (N.J.), Claude Pepper (Fla.), Bertram L. Podell (N.Y.), Melvin Price (Ill.) Charles B. Rangel (N.Y.), Peter W. Rodino, Jr. (N.J.), Robert A. Roe (N.J.), Benjamin S. Rosenthal (N.Y.), Edward R. Roybal (Calif.), William F. Ryan (N.Y.).

Fernand J. St Germain (R.I.), Paul S. Sarbanes (Md.), John F. Seiberling (Ohio), B. F. Sisk (Calif.), Louis Stokes (Ohio), Frank Thompson, Jr. (N.J.), Robert O. Tiernan (R.I.), Charles A. Vanik (Ohio), Jerome R. Waldie (Calif.), Lester L. Wolff (N.Y.)

I asked a number of eminent economists for their views on this legislation, and on January 31, 1972, I inserted the responses I received from 13 of them—CONGRESSIONAL RECORD, page 1730.

Subsequently I received letters from two more distinguished economists—Dr. George Perry of the Brookings Institution and Dean Seymour Wolfbein of the Temple University School of Business Administration.

Dr. Perry wrote:

> I am glad to support H.R. 12011—Even if the 6 percent growth rate now predicted by the Administration for 1972 could be sustained for as long as necessary, it would take two full years of expansion to get the overall unemployment rate noticeably below 5 percent, and a third year to get it near 4 percent. By focusing directly directly on job creation, H.R. 12011 could speed this return to high employment.

Furthermore, Dr. Perry wrote—

> By focusing on providing jobs for those groups of workers whose unemployment experience in the private job market is particularly bad, H.R. 12011 would help expand employment in a way that minimized any renewal of inflationary forces.

Dean Wolfbein wrote that he was "in accord with the effort you and your colleagues in the Congress are making" on H.R. 12011, and emphasized that legislation of this kind could provide the kind of "specific, viable pathway" which the millions of persons now on welfare can use to move into gainful employment.

The full text of Dr. Perry's and Dean Wolfbein's letters follow:

THE BROOKINGS INSTITUTION,
*Washington, D.C., February 18, 1972.*

Hon. HENRY S. REUSS,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. REUSS: Persistent high unemployment is a serious economic problem today. And while unemployment is unacceptably high throughout the economy, the problem is especially severe for certain groups of workers. The young, the black, the less skilled and the less educated all experience exceptionally high unemployment rates. I am glad to support H.R. 12011; it is the kind of bill that is needed to deal with these problems.

Even if the 6 percent growth rate now predicted by the Administration for 1972 could be sustained for as long as necessary, it would take two full years of expansion to get the overall unemployment rate noticeably below 5 percent, and a third year to get it near 4 percent. By focusing directly on job creation, H.R. 12011 could speed this return to high employment levels. Even more important, a conventional expansion of jobs would still leave us with the large disparities in unemployment rates that we have witnessed in recent years. The groups experiencing relatively high unemployment would continue to do so. And as overall unemployment dropped, some job markets would be growing tight, making it more difficult to contain new inflationary forces, while others would still exhibit clearly excessive unemployment. By focusing on providing jobs for those groups of workers whose unemployment experience in the private job market is particularly bad, H.R. 12011 would help expand employment in a way that minimized any renewal of inflationary forces.

Combining full employment for all with price stability is a great challenge facing domestic economic policy today. Not only is H.R. 12011 a promising measure for helping us do this at present, but I would hope that out of our experience with the program, we could learn how to direct its employment effects so as to serve this purpose increasingly well in future years.

Sincerely yours,

GEORGE L. PERRY,
*Senior Fellow.*

TEMPLE UNIVERSITY,
*Philadelphia, Pa., February 16, 1972.*
Hon. HENRY S. REUSS,
*House of Representatives,*
*Rayburn House Office Building,*
*Washington, D.C.*

DEAR CONGRESSMAN REUSS: I am taking the occasion to reply to your recent letter regarding your proposed legislation to expand the number of federally financed public service jobs.

I am in accord with the effort you and your colleagues in the Congress are making in this regard for two basic reasons:

*First,* there is just about unanimous agreement by all the experts in this field, including the current Council of Economic Advisors, that the prognosis for the year ahead is for continuing relatively high levels and rates of unemployment. The materials on this point are already copious and I realize that you do not need any additional evidence on this matter.

The *second,* and one which I do not think has received sufficient emphasis, lies in the fact that we need some specific, viable pathway where the millions of persons now on welfare can use to move into gainful employment. As I indicated in my testimony on HR 1 before the Senate Finance Committee (January 27, 1972) if we really believe that there is a significant number of welfare recipients who will respond to the availability of meaningful employment at decent pay then we ought to put resources not only into their training; we should not only provide adequate child care for children in AFDC families without charge when the adult participates in a job training or employment program; *we should also insure that there is a job at the end of the training rainbow—and we can do it by providing public service jobs when private employment opportunities are not available.* This could even include part time public service employment—especially in community betterment jobs—for those who cannot move completely off welfare rolls.

The provision of an adequate supply of public service employment opportunity, properly safeguarded so that the jobs would result in a wide spectrum of public services which are badly needed and which would at the same time be worthwhile to the people involved, would thus provide a vital one-two punch: It would be responsive to short term needs represented by current and anticipated unemployment; it would address itself to the longer-range needs of providing a significant dent in the welfare problem, with potentially incalculable advantages to the coming generation of workers.

Perhaps another way of putting this is that the kind of public service employment program envisioned is an excellent blend of social and economic policy as well.

Sincerely yours,
SEYMOUR L. WOLFBEIN, *Dean.*

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## IMPORTS ARE ONE OF THE MAJOR PROBLEMS OF OUR ECONOMY

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 60 minutes.

Mr. DENT. Mr. Speaker, I believe Members of Congress will be interested in reading the remarks of Joseph S. Wright, chairman of the board, Zenith Radio Corp., before the Town Hall of California, Santa Ana, Calif., on February 18, 1972. They deal with the problem of trade from the viewpoint of a person who is not a protectionist, nor opposes international trade—as long as it is conducted on a fair and equitable basis.

The presentation is important for another reason. It gives the view of a person whose industry is affected by imports, but is also interested in imports. Mr. Wright, like many other Americans of good intention, is doing his best to try to maintain a calm view of a very serious situation. I admit that I have long ago given up on any hope that this Nation can recapture lost markets in international trade, or even recapture a reasonable portion of our domestic market.

If you will read the very fine presentation by Mr. Wright you will note that while he is reluctant to spell out the seriousness of the situation, and its direct relationship to the future of America, he does give you enough information to know that there is danger involved in our present trade policies.

Mr. Wright, like any other patient American, is hopeful of reaching an international understanding that this Nation cannot absorb all of the foreign production surpluses that are, in most cases, deliberately dumped into the U.S. market, or are selling at a price structure unobtainable by American industry.

The remedies, of course, call for the impossible as I have found, after many years of being vitally and closely connected with the problems of international trade. There is little or no hope of effective antidumping regulations or administration of the present laws. They are just a dream and cannot be fulfilled.

The attitude of our Government is based upon a very serious concept of our role, which they interpret to be that of an economic godfather to all exporters—both domestic and foreign.

We are fast becoming exporters of raw materials—both agricultural and mineral—production machinery, machine tools, American know-how and financial assistance. These exports will in turn be used to establish competitive industries and production facilities, which will ship their finished products back to the United States. This reality seems to be missed by the makers of our policies, and those who are the perpetrators of the fraudulent trade picture being displayed to the American people.

Trade is now, has been, and always will be a commercial venture, and as such must be treated as an economic reality.

The attempted blending of the exact science of trade with the inexact science of diplomacy is the cancer that affects the Zenith Corp., and its employees. It is the deep-rooted cause of persistent unemployment, and the uneconomic fact that some 60 million Americans depend, in whole or in part, upon withdrawals from the U.S. Treasury and tax revenues from local and State governments.

I am sure that Mr. Wright and I share many thoughts and convictions, which we may express differently but are the same. I agree with Mr. Wright that if certain things would come about, such as: If our Government had the same attitude as the Japanese and other foreign governments have toward their production entities, if American labor would return to paternalistic employment, if we would be satisfied with the same ratio of ownership in foreign countries of automobiles, homes, TV's radios, washers and dryers, central heat and air conditioning, multiple changes of clothing, if we could give up eating out two to three times a week, and many of the other enjoyable features of our living in the United States then, perhaps, we might be able to talk and trade on equal terms.

I recommend close and attentive reading of Mr. Wright's presentation. No matter how you interpret it I am sure one convincing conclusion must come from reading this import statement, and that is "imports are one of the major problems of our economy."

Mr. Wright's presentation follows:

### REMARKS OF JOSEPH S. WRIGHT, CHAIRMAN OF THE BOARD, ZENITH RADIO CORP., BEFORE THE TOWN HALL OF CALIFORNIA, ORANGE COUNTY FORUM

It is a great pleasure for me to be back in sunny southern California, where I spent several very pleasant years as a boy in school, and particularly to be here on a day in February when the wind normally whips into Chicago from a frozen Lake Michigan.

Talking about Japan and some of our trade problems has gotten to be more and more of a popular sport in recent years. I remember enjoying an English story a few years ago to the effect that in January it was announced that scientists in the United States had made a great new fundamental scientific breakthrough; in February the Russians said they had invented it 10 years before; and in March the Japanese started full scale shipments into the U.S.

Somehow that story doesn't seem as funny to me now as it did a few years ago.

The story of Japan's rise in 25 years from the devastation of World War II, from an isolation from the rest of the world, to the No. 3 nation in GNP—and still going strong—is a fascinating one. I want to tell you a little about how this has been done, and examine some of the problems that we will have to deal with in the future.

Japan's business system pre-war had as its backbone the zaibatsu, or business families of banks, shipping companies, trading companies and factories, and we sent teams of experts over after the war specifically charged with breaking up these combines and creating a free enterprise system patterned after our own, complete down to a Japanese version of our own Sherman Antitrust Act and Federal Trade Commission. This appears to have had only a cosmetic impact. Now, 25 years later, the Mitsui's, Mitsubishi's, Sumitomo's and others are flourishing again as combinations of banks, trading companies, steamship lines, steel mills and chemical and electronic plants which dominate Japan's business scene. But a new ingredient has been added—a government-business relationship through the Ministry of Finance and the Ministry of International Trade and Industry, and involving the Prime Minister as head of the Supreme Council. This relationship—sometimes described as Japan Incorporated—represents a new and most effective phenomenon in world trade.

Most of my Japanese friends—and I have a lot of them in spite of our differences—get very up-tight about the notion of a Japan Incorporated and go to great lengths to deny that it exists. Let's look at the record.

In 1956 and 1957 Japan decided as a matter of policy to encourage and develop the machinery and electronics industries and enacted laws known as the Machinery and Electronics Industry Development Emergency Laws, which remained in effect until 1971. A new and similar follow-on law for the same purpose was enacted to be effective until 1978.

Under these laws MITI was directed to set up and supervise programs for the development of the electronics industry, and within MITI there was set up an Electronics Industry Council of top industry officials to help formulate research and development programs as part of a first phase. Under this procedure, the entire spectrum of consumer products, components, computers, communications and industrial electronics was broken down into program projects. They covered such specific items as:

Automatic radar units;
Video tape recorders;
Electronic telephone equipment;
Medical electronics;
Color television transmitters and receivers including cameras;
Magnetic tapes;
Digital electronic computers;
Linear accelerators;
High performance radio communication equipment;
Electronic refrigerating devices;
Industrial TV equipment;
Numerical control devices;
Electronic traffic control equipment;
Transistors;
Integrated circuits;
Resistors; and
Capacitors.

For each one of the programs, MITI developed a time-table, a set of specific objectives and a funding of the money for research and development.

Phase II of each program was the development of a plan for putting the new product into commercial production. The financing of the Phase II production set-up was by means of free or low interest loans from the Japan Development Bank. Phase III contemplated production rationalization accompanied by an accelerated write-off for the tax purposes of whatever investment the companies themselves had made in the program. We don't yet know all the details, but it is clear that the funded R & D, and the no and low interest loans under these programs amounted to hundreds of millions of dollars.

This new system of business is not really free enterprise, as we know it; MITI is the boss and finally decides what projects will be supported, and who will participate and to what extent. Wasted duplication of research in competing projects is eliminated and technology standardized and shared. If the industry in any respect is considered too fragmented for effective action, mergers and consolidations are encouraged.

Rather than an antagonist, the government considers itself an active and responsible partner in the venture.

While this system is not competitive free enterprise, neither does it seem to be the monolithic and bureaucratic system of the Communist world, where planning goes down from the top and most of the things produced look like they were made by a committee. Through MITI's Deliberations Committee the industry members have great influence in getting an effective consensus on what the programs can and should accomplish..

Now, as you might expect, it is asking a great deal of mortal men to encourage them to form a cartel under government supervision for export trade, and then to require them to compete for business in the same products in an anti-trust environment in the Japanese home market. As a result, prices in that market are extremely high when compared to the same Japanese autos or TV sets or tape recorders sold in the United States and other export markets, and this is due to a number of factors, including outright cartels to fix prices and the denial or discouragement of access to the Japanese market of foreign competition. As a matter of fact, this is probably the key reason for the walls that have been built against more U. S. manufactured products in Japan. To give you an illustration: 23-inch color TV consoles, of a type made in the U. S. with suggested retail prices of $500 to $700, were offered a year or so ago in Japan for retail prices of $1200 to $1600; and Japanese color TV table models, selling in Japan for $400 are sold here in the U.S. for less than $300, shipped nearly half way around the world, and with freight and duty paid.

As a matter of fact a couple of years ago when the Treasury Department's action against Japanese dumping of TV sets was first made public, "Mama San" found out she was being charged much more for Japanese TV receivers than the rich Americans. A consumer boycott was organized which caused a great deal of difficulty in Japan and finally resulted in some lowering of Japanese home market prices. I sometimes think that we might be farther ahead had we done more exporting of Ralph Nader to Japan and less of our precious technology.

The kind of business-government relationship I have described has no parallel in our country, except when we have mobilized our industry during a world war. Then we followed the same pattern—an alocation of resources and manpower to achieve the government's objectives. The Japanese resort to such a military-like system as a peacetime tool to expand her trade raises many challenges which we Americans will have to face. I would hate to see us scrap our own anti-trust laws and our free enterprise system just to meet this threat—and I don't believe it is necessary if we are realistic in dealing with the situation through laws already on the books—laws which penalize dumping and add duties to make up for foreign government subsidies.

At this point, I would like to make two things clear: First of all, what Japan has accomplished is, despite its impact on some of our industries, truly remarkable. Devastated and defeated by World War II, isolated by culture, tradition and language from most of the world, lacking any natural resources, except 100 million hard working, dedicated and intelligent people, she came from nowhere to No. 3 in GNP, and is still rising.

We must find ways and means of encouraging and preserving close friendship and good relations with such an ally.

Secondly, I want it clearly understood that I am not advocating, in the traditional, protectionist role, that it is any answer to our own problems for us to extend any farther the already too long list of U.S. import quota schemes or to build tariff walls high enough to keep out foreign competition.

I happen to be in an industry which has an unmatched record for competition in innovation, in technology and in marketing, and for passing on to the public the benefits of our technology and productivity in the form of better products at lower prices. We have been hit extremely hard by the Japanese trade war, but we don't need a government blanket to protect us from the rigors of foreign competition. All we need is a reasonably fair shake in the rules of the game, and an intelligent and informed government interest in our problems.

This country has for many years been the world's leader in dismantling trade and tariff barriers, and while we still have many of them, we have for the most part opened up our market—which is still the world's greatest—to all our trading partners. For instance, we have reduced our tariffs on TV receivers from 25% to 5%, f.o.b. the country of origin.

Now, theoretically, we have received reciprocal treatment from our trading partners, but unfortunately, that has often been in theory only, and in real fact we have not been accorded the same privileges particularly by Japan and the EEC.

Too often our government negotiators have been badly informed or even uninterested in the nitty gritty of our trade problems, and the top priorities in their minds have been political—not economic. As Will Rogers once said: We have never lost a war, nor won a conference!

Last year that seemed to have changed radically.

The President and Secretary Connally realized we were facing massive trade deficits for the first time in our history; that our unemployment—especially in the big cities—had become a major problem; and they moved dramatically on August 15 to float the dollar, and impose an import surtax. This caused a tremendous shock throughout the world, and certainly in this country. While many people were deeply disturbed that this would cause a trade war with Japan, and our Japanese friends were busy telling everyone that they might stop buying our Western wheat or our Illinois soybeans, the fact was that we had been in a trade war with Japan all along, and had only now come to recognize it.

The 360 to 1 relationship of the yen to the dollar had been established when Japan was devastated, and it no longer bore any relationship to the comparative productivity and prosperity of our two countries. It was simply a major weapon by which Japan took advantage of U.S. competition.

The revision of the yen/dollar relationship to 308 to 1 was a major accomplishment, and it should go a long way to rectifying the problem.

It theoretically makes Japanese goods more expensive in export from Japan, and it makes American goods less expensive in Japan and in competition with Japanese goods in export markets. It helps equalize an unfair wage differential between us. Without the dramatic shock of the floating dollar and the surtax the revaluation never could have been accomplished, and the President, Secretaries Connally and Peterson and all the people who accomplished this deserve high praise indeed.

However, one rose does not make a summer and much of this can be nullified unless Japan in good faith moderates some of her past policies—a modification that we are presently being promised by many top level Japanese officials.

For instance, dumping. We have had on our books for many years a law which puts penalties on the practice of dumping goods on the American market at "less than fair value." This law permits the Secretary of Treasury to impose an added duty when he finds that goods are sold here at prices below prices at which the same goods are sold in the country of export.

Dumping is an old dodge, almost universally frowned on; in a free trade economy it is the kind of international price discrimination which can be disruptive and injurious.

As part of her program of industrial development, Japan has given great emphasis to her export industries and many incentives and subsidies for exports have been provided.

For one thing, Japan's tax system is heavily weighted toward indirect taxes on commodities. As Fred Borch of G.E. has recently pointed out, Japan's central government tax revenues consist of only 58.1% income taxes, and nearly 42% indirect taxes—while in the U.S., income or direct taxes account for 86.7% of central government tax revenues, and only slightly more than 13% in indirect or commodity taxes.

The hitch comes when Japan remits commodity taxes on her exports, and imposes them on imports, which means really that her domestic consumers pay a tremendous and disproportionate part of the tax load, and her exporters get a very great subsidy.

Another factor which has tended to encourage export dumping is the fact that the life-time employment system prevalent in Japan encourages considering labor a fixed cost, and that Japanese companies are generally operating with a debt-equity ratio unheard of in this country for any except a utility company. High interest costs, plus fixed labor costs, provide great incentives to produce the maximum number of, say, autos or TV sets, and to price the last 20% for export for any price which will more than cover purchased raw materials, any incremental labor and selling costs. This can really be done effectively only when there is a closed home market where prices can be set high enough to cover all fixed costs.

Mr. Peter Peterson—now Secretary of Commerce Peterson—recently reported to the President on our trade problems. He included in that report some charts showing what has happened to home market and export prices in the U.S. and in Japan over the same period of time—using 1960 as the index base of 100. From 1960, our U.S. price index increased to 131 in 1970. Our *export* price index in the same period rose to 122—up substantially but not as much as the general index, which includes services, medical expenses, etc., which have gone up much more rapidly than most goods and commodities. In Japan, the home market index in the same period went up by a whopping 76 points to 176—but the *export* price index stayed below 100 for most of the time and had reached only 105 by 1970. I am sure that the same factor of services that affected our indices also applied in Japan, but these figures strongly suggest that here again Japan has as a matter of policy thrown the main burden of her rising costs on her own consumers, and her export manufacturers, with a protected home market for autos and TV sets and other manufactured goods, have had a free ride in incrementally costing their shipments to this country.

I hope that now we have a new ball game. Our own government is much more alert and interested in our trade problems. Japan is now saying that she realizes that she must no longer discriminate against foreign imports and foreign investment, and that the tremendous push on exports at the expense of her consumer economy is being modified. For the sake of continued good relations, which are of tremendous importance to both countries, I hope this is true. But we have had many promises from Japan before, about opening her markets and eliminating inequities in our trade relations, and somehow things never seem to change very much. As a matter of fact, it has been suggested that Japan's theme song ought to be "Promises, Promises."

It is disturbing to hear suggestions that perhaps the currency revaluation will be absorbed as an added burden on Japan's consumers, and that she is now seeking some major revamping of our anti-dumping procedures to continue "Business as usual."

There is a tremendous campaign in progress right now to "polish up" the Japanese image in ths country, and *Newsweek* has recently reported that Ambassador Ushiba has an extra million dollar fund to spend on public relations here in the next few months. He is making several speeches every week in various parts of the country and doing an able and effective job. At the same time, the U.S.-Japanese Trade Council, which purports to be not-for-profit organization of U.S. and Japanese companies and business leaders, but which is actually financed by the Japanese Embassy, is busy grinding out propaganda to the effect that all is changed; that Japan has opened up her closed markets, that it is really the U.S. which is protectionist.

Now the only way that the Japanese image can get any lasting polish in this country is by Japan's really dismantling some of the apparatus she has created to take advantage of us in areas of trade; and it is disturbing to hear the Ambassador and other distinguished spokesmen tell us that it will be a long time before we notice much effect from the changes that are being made. Following the Treasury Department's dumping finding in December, 1970, the number of Japanese color TV sets exported to the U.S. increased nearly 50% in 1971—and at prices way below those prevailing in Japan. We continue to hear from Japan that the revaluation will have no very significant impact on exports to the U.S. And we are told that despite the "liberalization" of trade barriers and foreign investment controls, there will not be any great change in the amount of U.S. manufactured goods on the shelves of Japanese retailers. These statements are inconsistent with the soothing speeches telling us that everything is now somehow different, and suggest instead that we may have an attempt to continue the old game by the old rules which have been so stacked against us. It will be unfortunate if this is the way it happens, because that course will surely continue a great many irritating and disagreeable problems between our two countries. It will also give great encouragement to the enactment of such legislation as the pending Hartke Bill, which by penalizing American companies with investments and profits abroad, and erecting quota walls against foreign goods, would turn America inward and isolate her from world trade.

But the ball is really now in Japan's court: If she persists in trying to take advantage of us in nearly every aspect of our trading relationships, no amount of speechmaking and pamphlet writing can really keep her image polished up.

## FULTON BILL SEEKS SEPARATE DEPARTMENT OF EDUCATION

The SPEAKER. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, perhaps one of the best ways to insure the continued progress of our Nation is to insure the best possible educations—teachers, facilities, curriculums, financial aid, advisory assistance and administration of same—for our children.

Currently, I fear our best educational endeavors are getting "lost in the shuffle" of an administrative "monster," the Department of Health, Education, and Welfare. Not that every effort is not being made to provide for the needs of States, local agencies, and the individual child. I would say that, considering the bureaucratic mire inherent in any overly large organization, HEW is generally doing as well as could be expected.

As well as could be expected, however, is a far cry from as well as can, should and must be. Therefore, I today am introducing legislation aimed at establishing a mechanism capable of promising education problems and programs the highest Federal-level attention possible. I today am calling for development of a separate Cabinet-level Department of Education.

The primary function of this Department, as stated in the legislation, would be "to promote the cause and advancement of education throughout the Nation." A full-time administrator, bearing the rank of Secretary, would, among other things: First, advise the President on educational progress; second, devise and recommend to the President policies and programs promoting the development of educational facilities and resources; third, help coordinate Federal education activities; fourth, conduct surveys, collect data, and make available findings outlining educational progress; fifth, provide information and other assistance authorized by Congress to help insure efficient school system operation; and sixth, encourage comprehensive planning by State and local governments to better coordinate educational activities.

This measure would authorize the selections of top Department officials, transfer the Office of Education in its entirety—including functions, personnel, records, obligations, commitments, unexpended appropriations and allocations—to the new department, change legal terminology where called for from "Health, Education, and Welfare" to "Education," and relocate whatever other Federal governmental functions would be deemed appropriate within the Department of Education. Such alterations would be completed before March 2, 1974.

Provisions also included would call for a departmental annual report listing pertinent educational facts, establishment of an interagency committee to help analyze education problems and coordinate education programs, and authorizations for department expenditures and appropriations.

Mr. Speaker, I firmly believe education is the key to our children's development and to our Nation's future well-being. I further believe this measure is a key step forward to better education.

## TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's pioneers of progress, and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

Richard Hoe of the United States is credited with the invention of rotary printing in 1846.

## FAMILY VISITATION ACT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, one of the major complaints that is frequently voiced about our prison system is that the total confinement of a prisoner and the resulting lack of sexual relationships have grossly affected prisoners adversely. It has encouraged homosexuality in the prisons and destroyed family ties, which are needed if the prisoner is to be reformed. The U.S. Board of Parole has stated that one of the most important facets of the prisoner's return to normal life is his family. At present the prisoner is only allowed to visit his family in cases of emergency.

Today I am reintroducing the Family Visitation Act of 1972 with some amendments. This bill would afford prisoners in Federal Institutions a minimum of 12 and up to 30 days of furlough during each year of his or her confinement subject to his or her good behavior. This decision would be made by the chief executive officer of the institution to which the prisoner is confined after consultation with the classification committee or treatment team, the mental health supervisor, and the individual's caseworker. Any violation of the furlough privilege would be deemed an escape and subject to penalties under existing laws. The following is a statistical breakdown of our Federal prison population according to sex and marital status:

| | | *Percent* |
|---|---|---|
| Men[1] | 20,281 | 95.3 |
| Women[1] | 762 | 4.7 |
| Single[2] | 5369 | 26.8 |
| Married[2] | 4464 | 22.2 |
| Widowed[2] | 165 | 0.8 |
| Separated[2] | 1998 | 10.0 |
| Divorced[2] | 1246 | 6.2 |
| Common Law[2] | 877 | 4.4 |
| Not Reporting[2] | 5946 | 29.6 |

[1] Denotes population as of 1/13/72 (total: 21,043).

[2] Denotes population as of October 1971 (total: 20,065).

The benefits to the married are obvious since the bill would afford them an opportunity to maintain some familial relationships. The benefits to the unmarried prisoners would also be of a positive nature since mothers, fathers, brothers, and sisters would be able to maintain better contact with their kin. And surely, it must be recognized that unmarried adults have their sexual drives and needs.

While the present Federal law provides for emergency furloughs, it does not provide for conjugal furloughs. Conjugal furloughs have several practical advantages over conjugal visits. First, the conjugal visits pose the problem of suitable accommodations within the prisons and even when they are available, they are often distasteful to the couple or family because they are confined to a prison facility. Second, conjugal visits present certain psychologically harmful effects and administrative impracticalities for unmarried inmates.

Mr. Speaker, there has been much rhetoric recently concerning prison reform and many States are reexamining their penal codes. The Federal Government by introducing a furlough program into the prisons, could take the lead in a meaningful way.

## CULVER INTRODUCES RESOLUTION TO REVIEW TRADE ADJUSTMENT ASSISTANCE

(Mr. CULVER asked and was given permission to revise and extend his remarks at this point.)

Mr. CULVER. Mr. Speaker, many Members of this House and of the other body have expressed concern in recent months about foreign trade disadvantages being experienced by American firms and workers. Some have pointed to unfair trade practices engaged in by foreign companies and governments, which have gone unchallenged by the Executive. Others have suggested that root difficulties are to be found in our domestic economy, through lack of vigorous competition and declining innovation and productivity. A major debate is shaping up on the degree of trade expansion we need or can afford, and how best to promote the interests of industry and labor and the consumer. There is dispute in Congress—as there is among the affected groups, both about the facts of the matter and about their significance.

But there are a few facts on which a substantial consensus does appear to be emerging. One is that the concerns being voiced by labor and management in the affected sectors of our economy are real concerns, and cannot be ignored or swept away by resort to conceptual slogans, whether of "free trade" or "protectionism." Another is that at least one of the remedial concepts to which we have paid lipservice, and partially embodied in legislation—namely, trade adjustment assistance—has been employed so ineffectively and inadequately in practice as never to have been given a meaningful test. Still a third fact which few deny is that, to the extent the United States reacts unilaterally in the world arena to trade problems and stresses, we risk incurring political losses so serious as to endanger our country's security and well-being.

These at least are among the tentative conclusions derived from a series of hearings held last year by the Foreign Affairs Subcommittee on Foreign Economic Policy, which I chair. We examined successively the economic impact of enlargement of the European Common Market; the international implications of President Nixon's new economic policy; and the state of our politico-economic relationships with our two major trading partners, Canada and Japan.

Our own efforts with regard to internal conversion assistance as a constructive alternative to aggressive mercantilist practices or protectionism dating back to the 1962 Trade Expansion Act, are virtually stillborn. The criteria used for adjustment assistance have been so difficult to met—on occasion even self-contradictory—and the procedures so cumbersome that in the past decade only two firms have ever received any substantial assistance from the Government. I ask leave to have reproduced at the close of my remarks an article from the Wall Street Journal of December 8, 1971, entitled "Promises, Promises," which documents the failing of this program.

Nor does the record of the European Common Market to date seem very much better. Regional and social assistance were included as goals of the Rome Treaty, and funds have been allocated for relief of distress in the coal and textile industries—which have declined in employment by roughly 50 and 25 percent, respectively, since adoption of that treaty. But the level and sophistication of assistance have been nowhere near adequate, it appears, to relieve chronic underemployment in regions like southern Italy, and the outlay for economic conversion has been totally dwarfed by expenditures to subsidize inefficient farming operations under the community's common agricultural policy.

Thus, both domestically and internationally, there appears to be a pressing need for examination of workable schemes for economic conversion as an alternative to destructive trade wars. If our farmers and coal producers are more efficient than those in Europe and Japan, that efficiency should be recognized in access to export markets. By the same token, if firms and workers in other sectors of our economy fall behind their foreign competitors in efficiency, they should have available to them a meaningful and effective array of alternative investment and employment opportunities.

Mr. Speaker, I am not so naive as to expect that economic conversion assistance alone can prove a panacea to all our trade problems and perplexities. Other remedies, both bilateral and multilateral, will no doubt have to be employed from time to time, at least in the short term, to counter genuinely unfair practices by foreign governments and industries. We do not in fact know how much help we can expect from a workable economic conversion program, because we have never had one. Nor do we know how much of our economic conversion needs are attributable to trade pressures, as opposed to other factors operating within our domestic internal economy such as shifting technology and changes in the priorities of Government programs. We do or should know that our country and its constituents—workers, investors, and consumers—along with the peoples and governments of other friendly lands, would be better off if we had answers to these questions.

It is to stimulate the exploration for those answers that I have today introduced, in company with 80 cosponsors, a concurrent resolution expressing the sense of the Congress regarding the importance to our foreign policy of devising effective measures of trade adjustment assistance. With leave, I ask that the text of this resolution together with the names of the cosponsors be printed at the close of my remarks. I must say that I have been very gratified by the depth and breadth of support from my fellow Members for this initiative—extending as it does to representatives of both parties from all regions of the country. It seems obvious that we share a conviction about the importance of examining this subject.

1972 is the year in which to do that. Discussions among governments are now underway to prepare for a possible new round of multilateral trade negotiations to commence next year. This year is also scheduled to witness the completion of the ratification process for enlargement of the Common Market. And the executive has let it be known that it plans to submit no new trade legislation to the Congress this year. We can thus use this year to lay a solid informational and analytical foundation for the legislative consideration that is bound to be called for in 1973. In that context, I am hopeful that the concurrent resolution we have introduced today will be both useful and pertinent.

H. CON. RES. —

CONCURRENT RESOLUTION

Expressing the sense of the Congress regarding steps to strengthen the foreign policy of the United States through measures relating to the domestic economy.

Whereas, in an increasingly interdependent world no longer dominated by the actions or authority of a few superpowers, the United

States needs a foreign policy that will foster sustained, effective, and consistent relationships with other countries, based on sober assessments of long-term mutuality of interests; and

Whereas an international economic posture for the United States that looks beyond immediate issues to a workable pattern of worldwide fiscal, trade, and investment cooperation is essential to such a foreign policy; and

Whereas the ability of the United States to maintain an effective, long-range, and consistent foreign policy has been and remains periodically subject to disruption as a result of stresses felt by various sectors of the United States economy from foreign trade disadvantages; and

Whereas the experience of other nations in pursuing adjustment policies and devising mechanisms to deal effectively with similar stresses and dislocations may have pertinence for appropriate United States policy in this field; and

Whereas presently available means of adapting the United States economy to such stresses have been ineffective and inadequate and are in need of reexamination: Now, therefore, be it

*Resolved by the House of Representatives* (*the Senate concurring*), That it is the sense of the Congress that domestic policies which promote the economic strength of the United States are a necessary prerequisite to the effective implementation of a consistent and constructive foreign policy in the 1970's and beyond; and that the United States Government should exert every effort to examine and prepare workable, responsible, and efficient measures to promote the legitimate interests of American workingmen, consumers, investors, and business in order to be able to carry out a foreign policy which will promote the national interest and the achievement of balanced and stable world relationships.

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## Promises, Promises: Firms Hurt by Imports, Assured of Help in 1962, Find It Tough To Get—So Far, Only Two Recipients Win Federal Aid Intended To Encourage Free Trade—The Plastic Piano Sits Silent

(By John Pierson)

WASHINGTON.—At stake, it would seem, is peace, prosperity, free trade and nothing less than the future of the plastic piano.

You see, Estey Piano Co. of Union, N.J., and Bluffton, Ind., has been badly hurt because the government agreed to lower the tariff that kept the price of foreign-made pianos high. So the government agreed to help Estey design a less expensive plastic model, which would make the company competitive again, to help keep Estey in business until the new piano was ready and then to help produce it.

Now, after a considerable outlay of time and money all around, the government has changed its mind. Estey has laid off its 100 workers and put its factory—situated in Indiana—up for sale. (There's only an office in New Jersey.) The fate of the plastic piano is in doubt. Says Estey President President Robert Mehlin, whose family has been making pianos for six generations: "We have been very seriously injured by this whole thing."

What has happened to Estey is symptomatic of what has happened to a program enacted nine years ago that was supposed to be free trade's answer to protectionism. Let us cut tariffs, free-traders told business and labor, and we'll help you adjust to the inevitable flood of imports. For workers, the help was to come in the form of extra unemployment benefits, retraining and relocation money. For companies, the law specified loans, technical advice and tax breaks to help them modernize present product lines or move into new ones.

### ONLY TWO GOT HELP

Nearly a decade after enactment of the Trade Expansion Act of 1962, U.S. imports have doubled, thousands of workers have lost their jobs an d hundreds of companies have been hurt. While many workers have been getting benefits, only two companies—a shoe manufacturer and a producer of barber chairs—have received any substantial assistance from the government. Another shoe company has been told it will get help.

This failure of the government to make good on its promise to business can only swell pressure for new protectionist moves, free trade advocates fear. This year the Nixon administration has imposed a 10% import surcharge and has won an agreement limiting Asian shipments of synthetic and woolen textiles—atop earlier restrictions on cotton textiles and steel. If new U.S. import restraints should follow, free traders foresee higher prices for American consumers and added bitterness between the U.S. and its trading partners.

For the first seven years after Congress passed the law, the Tariff Commission was the villain of the piece. From October 1962 to October 1969, 13 industries, eight individual companies and six groups of workers asked for help but were turned down by the commission. In November 1969, after a change in membership, the commission began interpreting the law less strictly; it ruled that the piano industry had been injured by imports resulting from tariff cuts.

Since then, two other industries (flat glass and barber chairs), 17 individual companies and 64 worker groups have passed the injury test, either through yes votes of the commission or through tie votes that President Nixon has broken in favor of assistance. The latest to qualify are Bibb Manufacturing Co., a textile maker based in Macon, Ga., and 1,000 of its workers and former workers.

### SO WHAT HAPPENED TO ESTEY?

The Labor Department has certified some 20,000 workers for extra unemployment benefits. But of the 18 injured companies that so far have applied to the Commerce Department for relief, one has been denied help, two have received loans, one has been promised a loan and 13 applications are pending; Estey, which once was authorized by the Commerce Department to obtain a loan, is getting only technical assistance.

Here's what happened to Estey.

In February 1970, two months after the Tariff Commission ruled that the piano industry was injured, President Nixon gave piano makers temporary "escape clause" relief from tariff cuts and made them eligible to seek adjustment assistance.

In March 1970, Estey asked the Commerce Department for permission to apply for help. In June 1970, after determining that Estey was indeed among the injured of the industry, Commerce Secretary Maurice Stans declared the company could submit an aid proposal.

During the next nine months, Estey, the department, a management consultant hired by it, and the Small Business Administration worked out a package that included a $90,000 grant and a $2.6 million loan. The grant was technical assistance for building a prototype plastic piano and for a study to make sure there was a market for the new product. The loan was for paying off Estey's prior creditors, financing continued production of wood pianos until the plastic one was ready and building a new plant.

### BIG PLAY FOR STORY

Last March, Secretary Stans certified that Estey's proposal was "reasonably calculated materially to contribute to the economic adjustment of the firm" and "authorized" the grant and loan. A Commerce Department press release heralded Mr. Stans' action. Newspapers in New Jersey and Indiana gave the story big play.

In April, Edward Killam, then director of the department's trade adjustment assistance division, wrote Estey's creditors that the government money "will be available to liquidate obligations of the firm . . . including any obligations which may exist to you."

Under the law, once he has certified a company's adjustment assistance proposal, the Secretary of Commerce first asks the Small Business Administration if it wants to make the loan and the Economic Development Administration if it wants to make the grant. If either agency says "no," then the Secretary "may" provide the help himself.

In May, the EDA said it was willing to give Estey $90,000 for the prototype piano and the market study. Then things began falling part.

In July the SBA said is was "deferring" action on Estey's loan. Until the prototype and the study were successfully done, the SBA said, there was no "reasonable assurance"—as required by the law—that Estey could repay the government. Commerce Department sources suspect that the SBA simply preferred to have the department risk its own money.

Meanwhile, Mr. Killman had been replaced as director of trade adjustment assistance by Lewis Kaufman, former Los Angeles partner of Goldman, Sachs & Co., an investment firm. Mr. Kaufman viewed the program somewhat differently from Mr. Killam. For example, he felt that no funds should go to pay off prior creditors. As he saw it, the program was meant "for the economic adjustment of firms, not as a creditors' relief act."

Bothering Mr. Kaufman, too, was the fact that some of Estey's creditors were also principal stockholders. Although Estey's proposal stipulated that the stockholders would wait for their money until the government got its money back, Mr. Kaufman says he still worried that the loan would go to "bailing out" stockholders rather than revitalizing Estey.

So despite Mr. Stans' March authorization, despite the Commerce Department's press release, despite Mr. Killam's letters to banks and other creditors, the department joined the SBA in deferring action on the $2.6 million loan.

And in September, it refused a request from Estey for enough money to keep going until the prototype was built and the market study completed early in 1972.

Late in September, Mr. Mehlin told a Senate Commerce subcommittee that the department had a right to change its mind about the program, but he argued that once Secretary Stans had approved Estey's proposal, "he should certainly live up to that commitment."

Harold Scott, Assistant Secretary of Commerce for domestic and international business, called the Estey case "unfortunate." According to Mr. Scott, trade adjustment assistance had "languished as a relatively inactive feature" of his department, handled mainly "at the staff level."

### FROM CHAIRS TO CABINETS

Mr. Mehlin said he was closing his plant in Bluffton and laying off his 100 workers, many of them experts who would be hard to replace if and when the plastic piano went into production. But he now says he'll try to persuade his creditors to hold off and not force Estey into bankruptcy. With the help of the EDA's $90,000 grant, he's going ahead with the prototype and the market study. He still believes that the new piano has "terrific" potential, and he hopes, one way or another, to prove it.

While Estey was having its ups and downs, 17 other companies were applying for help in adjusting to imports. Two have received it.

In September 1970, the BSA loaned $2 million and guaranteed a private loan of another $2.1 million to Emil J. Paidar Co. of Chicago, a maker of barber chairs. The loans were to help Paidar diversify for moving into production of dental cabinets, too. The EDA has provided $22,000 of technical assistance.

Paidar used the loans to begin work on a new plant, but Paidar President John Dlouhy says he now wants to sell the new plant and acquire another company that makes dental cabinets. So he's asking Commerce for an additional $3 million.

And early this year, the SBA loaned $1.4 million to Benson Shoe Co. of Lynn, Mass. The EDA provided $200,000 of technical assistance, and the Commerce Department gave tax aid in the form of an extra two years of net operating loss carryback.

### VARIOUS STAGES OF SUSPENSE

Benson President Phillip Kaplan says government aid has allowed him to reorganize management, production and sales methods. Volume has doubled with only 20% more help. "To us the program has been good," says Mr. Kaplan.

Both these loans included funds to pay off creditors, a standard SBA practice. Both were made before the Commerce Department got adjustment assistance money of its own. Thus, the SPA had to decide the issue for itself, unlike in the Estey case.

Now that it has its own money, the Commerce Department has just agreed to lend $662,000 to help breathe new life into Louis Shoe Co. of Amesbury, Mass. The EDA will kick in $100,000 of technical aid.

Meanwhile, 13 other companies are in various stages of suspense. Some submitted their aid proposals months ago and are waiting anxiously for a response. "I just hope they can get us the assistance in time," says Victor Pomper, president of H. H. Scott Inc., a Maynard, Mass., producer of hi-fi equipment.

A few companies have gotten past the Tariff Commission but are still waiting for Commerce Department permission to apply for help. Robert Bretzfelder, president of Krakauer Brothers, a New York City piano maker, says that every time he sends department officials some figures to prove that his company has been injured, "they ask for more figures." This has been going on for half a year. "If a company was really on the brink of going out of business and had to wait this long, they'd be out of business," he says.

Commerce officials deny it, but these delays may have had something to do with the resignation last month of Mr. Kaufman, the adjustment assistance director. "There have been some suggestions that things happen faster," Mr. Kaufman concedes. "Maybe my problem is that I'm used to dealing with large, successful companies and not with small, unsuccessful ones."

But clearly there are other obstacles to winning trade adjustment assistance. The requirements for proving injury are so tightly written that few companies to begin with get by the Tariff Commission. After that, the procedure for getting help is so complicated that only a few have received it. Division of the authority for dispensing aid permits apparent buck-passing, as in the Estey case.

There may be a basic inconsistency in the law's requirements that companies must be "seriously" injured to be eligible for help and give "reasonable assurance" of repayment. By allowing companies working capital to pay creditors and meet other current expenses only in "exceptional" cases, the law holds little hope for firms like Estey that are on the brink of ruin.

Recently, President Nixon's Commission on International Trade and Investment Policy recommended a number of reforms in adjustment assistance. Among other things, it said one agency should be responsible for operating the program and there should be easier loan terms. Going further, it is urged the government to anticipate import adjustment problems and identify industries most likely to be hurt.

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### LIST OF COSPONSORS

James Abourezk (S. Dak.).
Bella Abzug (N.Y.).
Brock Adams (Wash.).
John B. Anderson (Ill.) R.
Thomas Ashley (Ohio).
Les Aspin (Wis.).
Nick Begich (Alaska).
Jonathan Bingham (N.Y.).
Edward Boland (Mass.).
Richard Bolling (Mo.).
John Brademas (Ind.).
Jack Brooks (Tex.).
Herbert Burke (Fla.) R.
Phillip Burton (Calif.).
James Corman (Calif.).
John Davis (Ga.).
Ronald Dellums (Calif.).
Edward Derwinski (Ill.) R.
John Dow (N.Y.).
Robert Drinan (Mass.).
Pierre du Pont (Del.).
Don Edwards (Calif.).
Frank Evans (Colo.).
Dante Fascell (Fla.).
Thomas Foley (Wash.).
William Ford (Mich.).
Donald Fraser (Minn.).
Peter Frelinghuysen (N.J.) R.
Sam Gibbons (Fla.).
Gilbert Gude (Md.) R.
Lee Hamilton (Ind.).
Richard Hanna (Calif.).
Michael Harrington (Mass.).
William Hathaway (Maine).
Wayne Hays (Ohio).
James Howard (N.J.).
William Hungate (Mo.).
Andrew Jacobs Jr. (Ind.).
Joseph Karth (Minn.).
Edward Koch (N.Y.).
Arthur Link (N. Dak.).
Mike McCormack (Wash.).
William Mailliard (Calif.) R.
Spark Matsunaga (Hawaii).
Lloyd Meeds (Wash.).
Abner Mikva (Ill.).
Patsy Mink (Hawaii).
William Moorhead (Pa.).
Bradford Morse (Mass.) R.
Charles Mosher (Ohio) R.
John Moss (Calif.).
Morgan Murphy (Ill.).
Lucien Nedzi (Mich.).
David Obey (Wis.).
James O'Hara (Mich.).
Claude Pepper (Fla.).
Otis Pike (N.Y.).
Richardson Preyer (N.C.).
Robert Price (Tex.) R.
Thomas Rees (Calif.).
Ogden Reid (N.Y.) R.
Henry Reuss (Wis.).
Benjamin Rosenthal (N.Y.).
Edward Roybal (Calif.).
William Ryan (N.Y.).
James Scheuer (N.Y.).
John Seiberling (Ohio).
Neal Smith (Iowa).
Robert Steele (Conn.) R.
Louis Stokes (Ohio)
James Symington (Mo.).
Frank Thompson (N.J.).
Morris Udall (Ariz.).
Jerome Waldie (Calif.).
Charles Whalen, Jr. (Ohio) R.
Lester Wolff (N.Y.).
Sidney Yates (Ill.).
Gus Yatron (Pa.).
Clement Zablocki (Wis.).
John Zwach (Minn.) R.

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## WHEAT AND WHEAT FOODS RESEARCH, EDUCATION, AND PROMOTION

(Mr. PURCELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PURCELL. Mr. Speaker, it is today my privelege to introduce legislation to establish a needed foundation—one devoted to wheat and wheat foods research, education, and promotion. In introducing the Wheat and Wheat Foods, Research. Education, and Promotion Act, I am joined by the following gentlemen in introducing this bill: Mr. Abourezk, Mr. Alexander, Mr. Andrews, Mr. Aspinall, Mr. Bergland, Mr. Denholm, Mr. Foley, Mr. Halpern, Mr. Hansen of Idaho, Mr. Link, Mr. McClure, Mr. McCollister, Mr. McCormack, Mr. Melcher, Mr. Nelsen, Mr. Roncalio, Mr. Roy, Mr. Sebelius, Mr. Shriver, Mr. Terry, Mr. Thone, Mr. Ullman, Mr. Winn, and Mr. Zwach.

There were those who scoffed a decade ago when the plan was proposed to unite wheat producers, processors and end-product manufacturers into one group for the purpose of backing such a program. Yet despite differences, there persisted all that time the common recognition that here were problems that no one segment of the industry could solve alone. The common interest in research, education and promotion overrode the particular or selfish interest of any one of the three groups. As a result, the bill introduced today enjoys widespread support from those concerned with the production and use of wheat.

What we have as a result is a measure which would provide needed funds—but would do so without cost to the taxpayer or to the government. The proposed Wheat and Wheat Foods Research, Education and Promotion Act represents a unique attempt at industry self-help. Yet it also promises incalcuable benefits to consumers. Let me provide details.

In research, the program calls for studies in human nutrition and motivation to learn how specific types of wheat foods fulfill today's dietary, health and social requirements. You know from experience in your consideration of human research projects that the results of such work cannot be confined to wheat products. Rather they must relate to human nutritional needs and values, subject areas in which we desperately need to expand our sphere of knowledge—especially if we are to deal effectively with the problems of malnutrition and hunger in this country and abroad. So while the research proposed under the bill would begin with wheat products, the final result can do nothing but benefit every American.

Motivation research concerns why people eat certain foods and reject others, which is another area of understanding we must gain if we are ever going to solve the urgent problem of upgrading national diet. People do not eat nutrients they need; they eat the foods they want. Thus, studies to be conducted under the proposed Wheat and Wheat Foods Research, Education, and Promotion Act would help us understand why—in this land of plenty—we find people in almost every walk of life of varying income who show signs of malnutrition.

The education proposed by the bill would be embodied in a program to help teach people how to better use the foods available to them to better advantage—nutritionally, economically, and socially. We live in a world where many mothers no longer teach their daughters proper nutrition, because to some extent the mothers themselves do not know the basics of food preparation and service, or do not have the time because the mothers work. The findings of the proposed research would become part of what is taught about foods and nutrition. The same facts established by research would also serve for the promotion of wheat foods in the normal channels of the communication media.

We are not talking about the creation of a huge fund or power bloc in our consideration of this Wheat and Wheat Foods Research, Education, and Promotion Act. It is currently estimated that Americans consume 230 million hundredweights of processed wheat each year. The bill would limit initial assessments to 1 cent per hundredweight and sets a maximum of two and a half cents per hundredweight. Thus at the start, $2,300,000 would be generated for the kind of program I have described. At its peak, the bill would permit assessments totaling $5,750,000 a year.

Now, these are not large sums when we consider them in the light of what is spent each day in Government or industry. Yet they are important amounts when one considers the kind of a program they would finance and the consumer benefits to be derived. The help for wheat producers, processors and end-product manufacturers of wheat products who join in the effort appears almost secondary by comparison.

The products of wheat have in recent months come under increasingly heavy attack in criticism by those who might be called food faddists, or by otherwise reputable but misled or misinformed people of scientific stature. Such attacks have served to discredit wheat foods, driving per capita consumption down to all time low levels—from a high of 135 pounds in 1950 to less than 112 pounds per person per year today. This growing consumer rejection of wheat foods serves to injure most those who must depend upon wheat products for the largest share of their nutritional requirements—the low income groups who rely on breadstuffs and pastas as a mainstay in their diet.

The research planned by those who devised the Wheat and Wheat Foods Research, Education, and Promotion Act would go a long way toward correcting some of the common misconceptions about wheat-based foods. They are not, for example, more fattening than many kinds of food, and even less fattening than some. In fact, they may have particular virtues. Studies at the University of Iowa indicate that human subjects fed large amounts of carbohydrate—a so-called 1890 meat, potato, and bread diet—exhibit a decline in the blood serum cholesterol, a physician's index to a person's susceptibility to heart disease—the leading cause of death in America today.

There are many other optimistic signs for both consumers and those associated in the growing, processing and manufacture of wheat foods. But research is needed to translate such indications into facts acceptable to scientists and consumers. Basic studies are needed to reaffirm the place of breadstuffs as the staff of life today as they have been for all mankind over the past 6,000 years.

There are additional attributes to this singular piece of legislation that make it unlike anything thus far ever proposed. I mentioned that it can best be described as a self-help measure to raise money at no cost to Government or to taxpayers. At the same time, it is a democratic, voluntary program—in that the majority of wheat producers, processors and end-product manufacturers, organized as the Wheat and Wheat Foods Foundation, must all first agree on a program, a budget and a rate of assessment. Any one of the majorities of the three groups as well as the Secretary of Agriculture can veto the plan in whole or in part at any point. But once everyone is agreed, the assessment I mentioned becomes mandatory—fairly and equitably applied to all processed wheat delivered to all end-product manufacturers.

The processor serves as collection agent for the assessments which are paid by the end-product manufacturer. No refunds are provided—except when any one of the majorities of the three groups or the Secretary exercises the veto power. Then refunds would be made to those who pay the assessment.

There are many other aspects of the Wheat and Wheat Foods Research, Education, and Promotion Act which, to me, militate for your favorable consideration. After so many years in which we have pondered long and hard over special interest legislation that would benefit a relatively few, it seems to me that this measure sets a new standard for acceptance in its broad gage benefits that extend to all.

We need not argue that the proposed bill would contribute to the general economy of the Nation as it improves the lot of millions of wheat producers, processors, end-product manufacturers and their employees. That is patently true. But more than that, it would yield consumer benefits of immense proportions and help as we struggle to improve the nutritional quality of life for everyone. On this basis alone I hope you share with me the conviction that the Wheat and Wheat Foods Research, Education, and Promotion Act merits our most serious, thoughtful consideration and approval.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. Grasso (at the request of Mr. Adams), for today and the balance of the week, on account of death in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Patman, for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Hansen of Idaho), to revise and extend their remarks and include extraneous material:)

Mr. Findley, for 15 minutes, today.

Mr. Don H. Clausen, for 5 minutes, today.

Mr. Wyman, for 60 minutes, March 2.

Mr. Mayne, for 5 minutes, today.

Mr. McCloskey, for 60 minutes, March 2.

Mr. Miller of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. Adams) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Reuss, for 10 minutes, today.

Mr. Dent, for 60 minutes, today.

Mr. Fulton, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mahon, that the remarks that were made on Dr. Latch appear in the Record immediately following the reading of the Journal.

Mr. Moss (at the request of Mr. Adams), to revise and extend his remarks on H.R. 11416.

Mr. Dingell to include extraneous matter with his remarks made today in the Committee of the Whole on H.R. 11416.

(The following Members (at the request of Mr. Hansen of Idaho) and to include extraneous matter:)

Mr. Hogan in 10 instances.

Mr. Springer.

Mr. Peyser in five instances.

Mr. Young of Florida in five instances.

Mr. Derwinski in two instances.

Mr. Keating.

Mr. Duncan in four instances.

Mr. Bob Wilson in four instances.

Mr. Zwach.

Mr. Conte.

Mr. Hansen of Idaho.

Mr. Forsythe.

Mr. McDonald of Michigan.

Mr. Brown of Ohio in four instances.

Mr. Wyman in two instances.

Mr. Minshall in two instances.

Mr. Collier in five instances.

Mr. Schmitz in two instances.

(The following Members (at the request of Mr. Adams) and to include extraneous matter):

Mr. Edwards of California in three instances.

Mr. Corman in two instances.

Mr. Carney.

Mr. Hagan in three instances.

Mr. Rogers in three instances.

Mr. Gonzalez in three instances.

Mr. Fountain in two instances.

Mr. Kluczynski in two instances.

Mr. Rarick in three instances.

Mr. Green of Pennsylvania in two instances.

Mr. Mitchell in four instances.

Mr. Wright.

Mr. Jones of Tennessee.

Mr. Dingell.

Mr. Jones of Alabama.

Mr. Harrington.

Mr. Rangel.

Mr. Johnson of California.

Mr. Cabell.

Mr. Rees in two instances.

Mrs. Mink.

Mr. Bingham in three instances.

Mr. Obey in six instances.

Mr. Downing.

## ADJOURNMENT

Mr. ADAMS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 29 minutes p.m.) the House adjourned until tomorrow, Thursday, March 2, 1972, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1676. A letter from the Acting Secretary of the Treasury, transmitting the 16th annual report of the financial condition and results of the operation of the highway trust fund, pursuant to section 209(e)(1) of the Highway Revenue Act of 1956, as amended (H. Doc. No. 92–258); to the Committee on Ways and Means and ordered to be printed.

1677. A letter from the Acting Secretary of the Treasury, transmitting the first annual report on the financial condition and results of the operations of the airport and airway trust fund, pursuant to section 208 (e)(1) of the Airport and Airway Revenue Act of 1970, as amended (H. Doc. No. 92–259); to the Committee on Ways and Means and ordered to be printed.

1678. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the economics of clean air, containing estimates of governmental and private expenditures for the prevention and control of air pollution, pursuant to section 312(a) of the Clean Air Act; to the Committee on Interstate and Foreign Commerce.

1679. A letter from the Administrator, Environmental Protection Agency, transmitting a report on progress in the prevention and control of air pollution, covering calendar year 1971, pursuant to section 313 of the Clean Air Act, as amended; to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

1680. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Inter-American Social Development Institute for fiscal year 1971 (H. Doc. No. 92–260); to the Committee on Government Operations and ordered to be printed.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPINALL: Committee of conference. Conference report on S. 602. (Rept. No. 90–892. Ordered to be printed.

Mr. ASPINALL: Committee of conference. Conference report on S. 671. (Rept. No. 92–893): Ordered to be printed.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 8763. A bill to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes; with an amendment (Rept. No. 92–894). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10390. A bill to extend the life of the Indian Claims Commission, and for other purposes; with amendments (Rept. No. 92–895). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Interior and Insular Affairs. H.R. 12749. A bill to authorize appropriations for the saline water conversion program for fiscal year 1973 to delete section 6(d) of the Saline Water Conversion Act, and for other purposes; with amendments (Rept. No. 92–896). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 13492. A bill to prohibit Federal assistance to rental housing projects where tenants are not allowed to have dogs, or to local governments which do not permit dogs in rental housing; to the Committee on Banking Currency.

H.R. 13493. A bill to amend title 38 of the United States Code in order to establish a separate non-service-connected disability pension system for certain veterans age 72 or over, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 13494. A bill to amend title 38 of the United States Code to provide that Paget's disease developing a 10 percent or more degree of disability within 5 years after separation from active service during a period of war shall be presumed to be service connected; to the Committee on Veterans' Affairs.

By Mr. BURKE of Massachusetts (for himself and Mr. Mills of Arkansas):

H.R. 13495. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. CELLER:

H.R. 13496. A bill to amend title 28, United States Code, to provide in civil cases for juries of six persons, and for other purposes; to the Committee on the Judiciary.

By Mr. CLARK:

H.R. 13497. A bill to amend the Internal Revenue Code of 1954 to provide that certain bond interest received by individuals 65 or over shall be excluded from gross income; to the Committee on Ways and Means.

By Mr. COLLINS of Texas (for himself and Mr. Roe):

H.R. 13498. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN:

H.R. 13499. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

H.R. 13500. A bill to expand the scope of the National Heart and Lung Institute, to provide for special emphasis on the prevention of arteriosclerosis and the creation of cardiovascular disease prevention centers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 13501. A bill to amend section 120 of title 23, United States Code, to provide that the Federal share payable for Interstate System projects shall be 100 percent, and for other purposes; to the Committee on Public Works.

H.R. 13502. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increases in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. FORSYTHE:

H.R. 13503. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. FULTON:

H.R. 13504. A bill to establish an executive department to be known as the Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. HATHAWAY (for himself and Mr. Teague of Texas):

H.R. 13505. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance under chapter 21 thereof to veterans who are permanently housebound as a result of service-connected disability; to the Committee on Veterans' Affairs.

By Mr. KARTH:

H.R. 13506. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize reduced-fare transportation on a space-available basis for certain persons who are 65 years of age or older; to the Committee on Interstate and Foreign Commerce.

By Mr. KARTH (for himself and Mr. Blatnik):

H.R. 13507. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself and Mr. Zablocki):

H.R. 13508. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KYROS:

H.R. 13509. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MINISH:

H.R. 13510. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mrs. MINK (for herself and Mr. Matsunaga):

H.R. 13511. A bill to enable consideration of the Kokee Water project, Hawaii, under the provisions of the Small Reclamation Projects Act (70 Stat. 1044) as amended; to the Committee on Interior and Insular Affairs.

By Mr. NIX:

H.R. 13512. A bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress; to the Committee on Foreign Affairs.

By Mr. PURCELL (for himself and Mr. Steed):

H.R. 13513. A bill to enable wheat producers, processors, and end-product manufacturers of wheat foods to work together to establish, finance, and administer a coordinated program of research, education, and promotion to maintain and expand markets for wheat and wheat products for use as human foods within the United States; to the Committee on Agriculture.

By Mr. PURCELL, (for himself, Mr. Abourezk, Mr. Alexander, Mr. Andrews, Mr. Aspinall, Mr. Bergland, Mr. Denholm, Mr. Foley, Mr. Halpern, Mr. Hansen of Idaho, Mr. Link Mr. McClure, Mr. McCollister, Mr. McCormack, Mr. Melcher, Mr. Nelsen, Mr. Roncalio, Mr. Roy, Mr. Sebelius, Mr. Shriver, Mr. Terry, Mr. Thone, Mr. Ullman, Mr. Winn, and Mr. Zwach):

H.R. 13514. A bill to enable wheat producers, processors, and end-product manufacturers of wheat foods to work together to establish, finance, and administer a coordinated program of research, education, and promotion to maintain and expand markets for wheat and wheat products for use as human foods within the United States; to the Committee on Agriculture.

By Mr. RANGEL (for himself, Mrs. Abzug, Mr. Badillo, Mr. Burton, Mrs. Chisholm, Mr. Clay, Mr. Collins of Illinois, Mr. Conyers, Mr. Dellums, Mr. Diggs, Mr. Dow, Mr. Edwards of California, Mr. Fauntroy, Mr. Fraser, Mr. Frenzel, Mr. Gallagher, Mr. Halpern, Mr. Harrington, Mr. Helstoski, Mr. Mallary, Mr. Mazzoli, Mr. Mikva, Mr. Morse, Mr. Pepper, and Mr. Riegle):

H.R. 13515. A bill to restore the right to vote in Federal elections to certain disenfranchised citizens; to the Committee on House Administration.

By Mr. RANGEL (for himself, Mr. Rosenthal, Mr. Roybal, Mr. Sandman, Mr. Seiberling, Mr. Stokes, Mr. Metcalfe, Mr. Hawkins, Mr. Mitchell, and Mr. Nix):

H.R. 13516. A bill to restore the right to vote in Federal elections to certain disenfranchised citizens; to the Committee on House Administration.

By Mr. YOUNG of Florida (for himself and Mr. Mizell):

H.R. 13517. A bill to amend the Communications Act of 1934 to direct the Federal Communications Commission to require the establishment nationally of an emergency telephone call referral system using the telephone number 911 for such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. BROWN of Ohio (for himself, Mr. Duncan, Mr. Halpern, Mr. Hansen of Idaho, and Mr. Carter):

H.R. 13518. A bill to amend the Communications Act of 1934 by authorizing general support grants to defray the ordinary operating costs of noncommercial educational radio and television broadcast stations and by establishing the long-range financing of public broadcast programing through the Corporation for Public Broadcasting in a manner consistent with the original intent of the Public Broadcasting Act of 1967; to the Committee on Interstate and Foreign Commerce.

By Mr. COLLIER:

H.R. 13519. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of mica films; to the Committee on Ways and Means.

By Mr. DELLENBACK:

H.R. 13520. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. GUBSER:

H.R. 13521. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for purposes of the Federal estate tax for certain amounts left by the decedent to certain handicapped individuals; to the Committee on Ways and Means.

By Mr. KOCH:

H.R. 13522. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. LINK (for himself, and Mrs. Andrews of North Dakota):

H.R. 13523. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development proposals; to the Committee on Interior and Insular Affairs.

By Mr. NIX:

H.R. 13524. A bill to provide for the establishment of projects for the dental health of children to increase the number of dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SHIPLEY:

H.R. 13525. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. THOMPSON of Georgia:

H.R. 13526. A bill to amend the Internal Revenue Code of 1954 to raise the estate tax exemption from $60,000 to $100,000; to the Committee on Ways and Means.

By Mr. ABBITT:

H.J. Res. 1086. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations shall not exceed revenues of the United States, except in time of war or national emergency; to the Committee on the Judiciary.

By Mr. SIKES (for himself, Mr. Stuckey, Mr. Young of Florida, Mr. Broyhill of North Carolina, Mr. Derwinski, Mr. Saylor, Mrs. Hicks of Massachusetts, Mr. Kemp, Mr. Dingell, Mr. Abbabbo, Mr. Zwach, Mr. Dorn, Mr. Miller of California, Mr. Pickle, Mr. Bevill, Mr. Terry, Mr. Cleveland, Mr. Minshall, Mr. Gaydos, Mr. Waggonner, Mrs. Hansen of Washington, Mr. William D. Ford, Mr. Hunt, Mr. Fisher, and Mr. Halpern):

H.J. Res. 1087. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. SIKES (for himself, Mr. Sebelius, Mr. Long of Maryland, Mr. Flowers, Mr. Robinson of Virginia, and Mr. Alexander):

H.J. Res. 1088. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. CULVER (for himself, Mr. Abourezk, Mrs. Abzug, Mr. Adams, Mr. Anderson of Illinois, Mr. Ashley, Mr. Aspin, Mr. Begich, Mr. Bingham, Mr. Boland, Mr. Bolling, Mr. Brademas, Mr. Brooks, Mr. Burke of Florida, Mr. Burton, Mr. Corman, Mr. Davis of Georgia, Mr. Dellums, Mr. Derwinski, Mr. Dow, Mr. Drinan, Mr. du Pont, Mr. Edwards of California, Mr. Evans of Colorado and Mr. Fascell):

H. Con. Res 546. Concurrent resolution expressing the sense of the Congress regarding steps to strengthen the foreign policy of the United States through measures relating to the domestic economy; to the Committee on Foreign Affairs.

By Mr. CULVER (for himself, Mr. Moorhead, Mr. Morse, Mr. Mosher, Mr. Moss, Mr. Murphy of Illinois, Mr. Nedzi, Mr. Obey, Mr. O'Hara, Mr. Pepper, Mr. Pike, Mr. Preyer of North Carolina, Mr. Price of Texas, Mr. Rees, Mr. Reid, Mr. Reuss, Mr. Rosenthal, Mr. Roybal, Mr. Ryan, Mr. Scheuer, Mr. Seiberling, Mr. Smith of Iowa, Mr. Steele, Mr. Stokes, and Mr. Symington):

H. Con. Res. 547. Concurrent resolution expressing the sense of the Congress regarding steps to strengthen the foreign policy of the United States through measures relating to the domestic economy; to the Committee on Foreign Affairs.

By Mr. CULVER (for himself, Mr. Foley, Mr. William D. Ford, Mr. Fraser, Mr. Frelinghuysen, Mr. Gibbons, Mr. Gude, Mr. Hamilton, Mr. Hanna, Mr. Harrington, Mr. Hathaway, Mr. Hays, Mr. Howard, Mr. Hungate, Mr. Jacobs, Mr. Karth, Mr. Koch, Mr. Link, Mr. McCormack, Mr. Mailliard, Mr. Matsunaga, Mr. Meeds, Mr. Mikva, and Mrs. Mink):

H. Con. Res. 548. Concurrent resolution expressing the sense of the Congress regarding steps to strengthen the foreign policy of the United States through measures relating to the domestic economy; to the Committee on Foreign Affairs.

By Mr. CULVER (for himself, Mr. Thompson of New Jersey, Mr. Udall, Mr. Waldie, Mr. Whalen, Mr. Wolff, Mr. Yates, Mr. Yatron, Mr. Zablocki, and Mr. Zwach):

H. Con. Res. 549. Concurrent resolution expressing the sense of the Congress regarding steps to strengthen the foreign policy of the United States through measures relating to the domestic economy; to the Committee on Foreign Affairs.

By Mr. GRAY (for himself, Mr. Hays, Mr. Thompson of New Jersey, Mr. Abbitt, Mr. Dent, Mr. Nedzi, Mr. Hawkins, Mr. Gettys, Mr. Podell, Mr. Annunzio, Mr. Mollohan, Mr. Ware, and Mr. Veysey):

H. Con. Res. 550. Concurrent resolution providing for the installation of security apparatus for the protection of the Capitol complex; to the Committee on House Administration.

By Mr. BROTZMAN (for himself and Mr. Alexander):

H. Res. 855. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on the Environment; to the Committee on Rules.

By Mr. NIX:

H. Res. 856. Resolution: International Conference on Management of Nuclear Wastes; to the Committee on Foreign Affairs.

By Mr. PEPPER (for himself and Mr. Wiggins):

H. Res. 857. Resolution providing for the expenses of the House Select Committee on Crime; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. RUPPE:

H.R. 13527. A bill to direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Michigan Power Co.; to the Committee on Interior and Insular Affairs.

By Mr. WRIGHT:

H.R. 13528. A bill for the relief of S. Sgt. Chester R. Jordan, U.S. Air Force; to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## SERVICE TO ADOPTED COUNTRY

### HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. WHITEHURST. Mr. Speaker, I wish to insert in the RECORD a newsstory which should touch the hearts of all of my colleagues. It is a story of love of America which should fill all of us with pride. This country has always had a particular friendship for Finland. After reading this story, I think anyone would agree that our affection for that little country is not misplaced. The Finns have a sense of responsibility which is truly admirable. This story is an example of it. The story follows:

[From the Norfolk Virginian-Pilot, Feb. 23, 1972]

SERVICE TO ADOPTIVE COUNTRY: DAD'S DEBT TO BE PAID GLADLY AFTER SON'S TRIP OF SORROW

(By Clifford Hubbard)

NORFOLK.—Kimmo Norri came to Norfolk three weeks ago with instructions from his father to join an American military service.

Today Kimmo will return to Forffa, Finland, bearing an American flag to place on his father's coffin. Three weeks or a month from now, Kimmo will come back to Norfolk to fulfill his father's instructions.

Vesa Norri, 55, who died Monday, had found succor in the U.S. Army after fleeing his homeland at the end of World War II. He never forgot, and as soon as his son had finished his service in the Finnish army, Vesa ordered him to America to repay the obligation he felt.

It is a strange story that Kim and his father's old comrade in arms, retired Master Sgt. Donn Covairt, tell. Tuesday afternoon, in the office of Covairt's personnel business, Mrs. Covairt joined in telling it.

Vesa Norri was an officer in the Finnish Army when the Russians attacked Finland in 1938. He fought, his son said, from the day of the invasion until the final surrender.

"The Russians were calling Finnish officers into Russia for interrogation and possible confinement after the war," Mrs. Covairt said.

To avoid the Russians, Norri and 17 other Finns, with the permission of their government, fled to Sweden and then took ship to South America. "In midocean, they radioed for permission to enter America, and when it was granted, the ship put into Norfolk and put them ashore," said Covairt.

Norri and the other Finns worked at any jobs they could find for two years. Norri ended up in New York, where he met a Finnish girl who was visiting her American mother.

It was not long before they were married, and it was not long after that that the U.S. Army took all of the 18 Finns who had escaped into service on the same day. They also got their first citizenship papers that day in 1948.

Kimmo Norri was born at Ft. Lewis, Wash., and came with his mother and father to Ft. Eustis on the Peninsula where his father, an expert in cold weather warfare, served with the Arctic Test Group.

It was Ft. Eustis that the Covairts met Norri and his family. "I knew him when he was knee high to a tadpole," Covairt said with a grin at Kimmo. The friendship became a firm one, and remained so after Norri decided to return to Finland in 1950. The Russian terror had been lifted.

The family now included a sister, born in 1949 at Ft. Eustis.

Over the years, the Covairts visited Forffa, 50 miles north of Helsinki, twice, and the Norri family returned the visits to America. "The day I retired at Ft. Monroe, 1 November 1970, his father stood beside me in the colonel's office as I was decorated," said an obviously proud Covairt.

So it was natural, when Vesa Norri wanted his son to serve in the American military service, that he should send him to Covairt.

"He has taken all his tests for the Navy and was just waiting for his scholastic record to arrive. That came in Saturday and he would have taken it to the recruiter except they were closed Monday. Then he heard of his father's death," Covairt said.

Covairt called the Veterans Administration about a flag. "They were very nice about a flag. It didn't take five minutes on the phone," he said.

"He would be proud of this. He only had a small one," Kimmo said as he touched a star.

"In a day when so many of our young men flee to Canada, to Sweden, to avoid military service, to see this young man come to this country to serve. I just don't know how to describe it," Mrs. Covairt said, and dabbed at her eyes with a handkerchief.

## AIRLINE INDUSTRY'S ECONOMIC PROBLEMS

### HON. JOHN JARMAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 24, 1972*

Mr. JARMAN. Mr. Speaker, serving on the Subcommittee on Transportation of the Interstate and Foreign Commerce Committee—and representing many thousands of Oklahomans who are employees of airlines and related firms—I am appalled at the lack of public understanding of the airline industry's economic problems.

Think of it for a moment: The U.S. scheduled airline industry today provides 80 percent of their public travel between cities, and more than 90 percent of their travel overseas. As phenomenal as the industry's growth in safety and services has been, most of us have tended to take its achievements for granted. Most of us, too, have overlooked certain economic weaknesses that have long been present but only surfaced publicly during the low tide of recent recession.

The overall U.S. business recovery now underway has brought some healthy increases in airline passenger travel with it. This upsurge may help revive the industry's fortunes somewhat but certain built-in weaknesses are sure to persist—unless the public comes to understand them and supports steps to correct them.

I am pleased to note that the Air Transport Association, representing most U.S. scheduled airlines, recently published a booklet, "Economics of Air Transport: An Overview," as a vehicle for promoting such understanding and support. It details seven economic characteristics that shape airline industry performance—characteristics that might be summarized in this way:

First. As a service industry—with high costs, particularly in labor—airlines are specially vulnerable to inflation. Because they cannot stockpile their product and sell from inventory during a strike, work stoppages—which have been frequent in the industry—hit airlines particularly hard. Legislation now on the books just has not proved adequate for dealing with emergency labor disputes. The recent annual rates of increase in airline labor costs—which account for nearly half of airline cash operating expenses—has exceeded 13 percent.

Second. Airlines prices are regulated, but their costs are not. That puts them in a double bind in times of sustained inflation: costs seem to go up faster than the regulators can get around to adjusting fares.

During most of the sixties the industry realized big productivity gains from the switchover to highly efficient jet equipment. This enabled them to lower average ticket prices during most of that decade, while prices elsewhere were rising. But late sixties' inflation began to cut away airline productivity gains at the very time that the rate of growth in passenger traffic slowed down.

Even though the Civil Aeronautics Board set, in 1961, 10.5 percent as a "fair and reasonable" annual return on investment for airlines—boosting it to 12 percent in 1971—only once since 1961 have major domestic airlines achieved the 10.5 percent figure. Throughout the intervening years they averaged far less.

Third. Few—if any—regulated industries are as competitive as airlines. At least two—and sometimes four or more—airlines are authorized to fly routes of all but the lowest traffic density.

In 1969 CAB route awards outstripped normal market growth. With the advent of an unforeseen recession, most air routes that had been profitable when served by two carriers became unprofitable for all when more competition was added.

Fourth. Airline industry markets are highly seasonal. The times when people prefer to travel vary during a day, week, a month, and a year. Since airlines must have the planes, personnel, and ground facilities adequate to the need of peak demands, they must have expensive, unused capacity and facilities in times of low demand.

Fifth. Alterations in the demographics of the rapidly growing air travel market have had and will continue to have far-reaching effects on airline fare structures.

Sixth. The extreme sensitivity of airlines to swings in the economy complicates their capacity planning. The planners' job is further complicated by the fact that the time between ordering a new-type aircraft and its delivery ranges from 3 to 4 years. Obviously, when recession strikes and growth stops an industry that has normally had a 15-percent rate of growth is more severely affected than one accustomed to a rate of 5 percent.

Seventh. Finally, because the airline industry experiences high technological turnover—with a new equipment cycle every 8 years on the average since the 1930's—the carriers have found it increasingly difficult to finance progress of this magnitude from limited earnings.

The future of the airline industry would therefore seem to hinge on whether the carriers can achieve a greater measure of financial and economic stability. And this in turn suggests that Government regulators must open the way for the industry to make adequate and sustained profits when conditions are favorable so as to offset the years of poor earnings.

I would encourage anyone concerned with having a vigorous air transport system to obtain a free copy of this Economic Overview by writing to: Air Transport Association of America, 1000 Connecticut Avenue, NW., Washington, D.C. 20036.

## REPORT SHOWS PRESIDENT ANDREW JACKSON PIONEERED IN REVENUE SHARING

## HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. EVINS of Tennessee. Mr. Speaker, the Ladies Hermitage Association of Nashville, Tenn., affiliated with the Tennessee Historical Society, recently reported in the Hermitage, the association's magazine, that President Andrew Jackson initiated revenue sharing more than a century ago, and successfully so with a surplus instead of a deficit.

This reliable historical journal has recently shown that President Jackson shared Federal revenues with the States from a surplus—not from a deficit, as would be the case as proposed in revenue sharing bills this year.

The Hermitage article commented that Jackson paid off the national debt during his administration and accumulated a surplus of $35 million.

The article concluded:

> This surplus was distributed to the various States, giving Andrew Jackson a record of fiscal achievement unparalleled in the history of the United States.

My colleague, the distinguished chairman of the Committee on Appropriations, Chairman George Mahon, recently disclosed the results of a fiscal analysis that points up the impact of mushrooming deficits—at a time when revenue sharing is being considered.

Chairman Mahon pointed out that annual deficits have reached record proportions, as follows:

President Eisenhower, $2.7 billion average annual deficit.

President Kennedy, $7.4 billion average annual deficit.

President Johnson, $11.6 billion average annual deficit.

President Nixon, $44.7 billion annual deficit, estimated.

The current fiscal year deficit of the Nixon administration is the highest in modern history.

As I have indicated previously, although I favor the principle of revenue sharing and have cosponsored a revenue-sharing measure, my concern is that the deliberate acceleration of annual deficits to divide additional revenue to the States which we do not have at this time and when there are no revenues to share other than borrowed funds is deceptive deficit financing leading to economic chaos.

The result of massive revenue sharing will mean that our national debt will continue to soar—the national debt is now in excess of $450 billion—and is the true indicator of the scope of our current National Federal deficit financing.

## THE INTERSTATE AND OTHER FEDERAL-STATE HIGHWAYS

## HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. SHOUP. Mr. Speaker, the 42,500-mile National System of Interstate and Defense Highways, commonly called the Interstate System, and now about three-fourths complete, consists of the most important highway routes in the Nation. These magnificent freeways—the safest and best engineered roads the world has ever known—connect nearly all cities of 50,000 and more population in the Nation, and are also designed to serve the national defense.

On the Interstate System there are no traffic lights; no intersections at grade; no sharp curves or steep grades; access is completely controlled and there is no commercial activity along the right-of-way; and opposing lanes—a minimum of two in each direction—are divided by wide medians.

The need for such a system was first described by the Federal Highway Administration—then called the Bureau of Public Roads—in a report to Congress in 1939, and was further justified in later studies. Acting on these recommendations, Congress in 1944 directed the designation of the Interstate System. But it was not until 1956, with the authorizations provided by the Federal-Aid Highway Act of that year, that the construction program got fully underway. To make the program possible, 90 percent Federal financing was provided, and completion of the system was set for the early 1970's. Last year, however, it was necessary for a number of reasons to extend the completion date to 1976.

Equally important as the Interstate System in this Nation's overall highway transportation network are the Federal-Aid Primary and Secondary Highway Systems and their urban extensions. Commonly called the ABC systems, they comprise 876,552 miles of highways, and together with the Interstate System, they carry over two-thirds of all traffic.

In addition to the federally aided highways the States, counties, and cities have built an additional 2.8 million miles of roads and streets. While these roads are not usually the most heavily traveled, they do represent a very large and important part of the total highway system. No Federal funds were involved in the construction of these many hundreds of thousands of miles of roads and streets.

The Federal-aid highway program, including the Interstate and ABC systems, has been cited as one of the largest Federal-grant-type programs. Basically, it is designed to provide financial assistance to State highway departments for constructing the Interstate System and for building or improving the primary or secondary roads and their urban extensions. The funds may be used by the States for research, planning, engineering, right-of-way acquisition, new construction or improvements.

The amount of Federal assistance each State is eligible to receive is determined according to a legislatively established formula. The amounts for primary and secondary programs are based on such factors as ratio of population, area, and post road mileage in the State. Federal assistance for the Interstate System is based on the cost to complete the remainder of the system. The normal Federal share is 90 percent of the costs for Interstate projects and 50 percent for all other projects. However, in cases such as Montana, where the State contains large areas of public lands, the Federal share of the costs is increased. The State of Montana presently receives 91.2 percent for the Interstate and 56.6 percent for other federally aided highways. Thus, Montana must come up with the matching 8.8 percent and 43.4 percent respectively.

There have been a number of beneficial developments arising from these cooperative Federal-State highway programs. For example, the construction of the Interstate System freeways both nationally and in Montana has created many jobs and additional markets. There are new jobs in roadbuilding and increases in production equipment, steel, cement, aggregates and so on. And the experience all over the country has been that new industry and services are attracted by the Interstate, and locate near interchanges. Thus, new highways serve as a direct stimulus to the economy of an area. Additionally, one of the greatest benefits of the Interstate System is in the area of safety. It is estimated that some 30,000 lives have already been saved since 1956 that would have been lost on older, less safe highways.

During my term in office I have urged the completion of the Interstate System and am pleased to note that 34 miles of new Interstate highways have been opened in Montana during this time. In conjunction with this added mileage, Montana has received and spent record funds exceeding the amounts allocated in any of the preceding years.

In all, Montana will have 1,188 miles of Interstate freeways, of which 734 miles are already open and in use. Interstate routes in Montana are I–90, I–94 and

I–15. I–90 stretches from Boston, Mass., to Seattle, Wash., and is the longest single Interstate route. I–94 extends between Billings, Mont., and Port Huron, Mich.—at Billings, it connects with I–90. I–15 travels from the Montana-Canada border to San Bernardino in Southern California, where it connects with I–10 to Los Angeles.

The following table shows that Montana—particularly during 1971—is doing a very fine job and is funding the Interstate freeways at a higher level than the neighboring States of North Dakota, South Dakota, Wyoming, and Idaho.

TABLE I.—FEDERAL-AID INTERSTATE FUNDS PAID

[In thousands of dollars]

| During fiscal year | Idaho | Montana | North Dakota | South Dakota | Wyoming |
|---|---|---|---|---|---|
| 1966 | 19,716 | 33,980 | 14,480 | 19,583 | 27,377 |
| 1967 | 16,251 | 33,999 | 14,266 | 20,430 | 25,558 |
| 1968 | 16,163 | 27,407 | 15,456 | 21,512 | 28,011 |
| 1969 | 18,407 | 36,081 | 12,337 | 24,939 | 30,151 |
| 1970 | 20,506 | 45,817 | 16,821 | 24,418 | 23,356 |
| 1971 | 21,155 | 59,428 | 20,187 | 19,969 | 21,769 |

Source: Provided by the Federal Highway Administration.

Highways are an essential and fundamental element of our economy. They provide new freedom, speed, and safety to the movement of people and goods and services, and there is more comfort and less strain in driving. Deliveries are faster and trucking operations are made more efficient. Interstate routes are important parts of the production, assembly, and distribution lines of business and industry. Farm products are shipped more quickly and with less loss in spoilage and quality than in the past when there were no Interstate highways. In short, highways are a central factor in the economic development of a region and Nation.

The 1970 Federal-Aid Highway Act authorized a bold new experimental program which is designed to aid rural areas and smaller communities by providing highway improvements. The Economic Growth Centers will play a dominant role in revitalizing and diversifying the economics of these less populated areas, and they could also help in checking or slowing down the present migration of people from many of our rural areas to larger and more congested areas.

Montana has received one such experimental program, the Big Sky Highway project, which will be funded out of the total allocated funds of $914,000, and $917,000 for fiscal years 1972 and 1973, respectively. I feel there are a number of other areas in my district and elsewhere in Montana which are highly deserving of benefiting from these additional Federal-aid highway funds. It is my hope that these demonstration funds will be helpful in providing another approach to providing a better standard of living for rural Montana.

Safety on all the Nation's highways, including those in Montana, is one of the tragic problems of our times. More than 50,000 Americans were killed last year on the total highway system. To cope with this continuing problem, the Congress passed the Highway Safety Act of 1966. The U.S. Department of Transportation was charged with the responsibility of carrying out a comprehensive highway and safety program. Standards for automobiles and highway safety have been issued and additional standards are constantly being developed. However, to provide for more effective implementation and development of these standards, the 1970 Federal-Aid Highway Act provided for the creation of a new National Highway and Traffic Safety Administration in the Department of Transportation, and for additional funding of this program.

One result of this safety effort has been that for only the third time since World War II, both the rate of fatalities per 100 million miles traveled and the number of deaths dropped significantly in 1970. Instead of the projected 59,200, actual lives lost totaled 55,300.

Another consequence of the highway systems have been their impact upon social conditions and the environment. Highways, with their construction, have displaced families and businesses, and have caused in some cases some detrimental social conditions. However, the highway program is providing a model of humane treatment for those who must be relocated. In addition to the fair market value of the property taken, highway officials can now authorize up to $15,000 in additional payments so that those who are displaced can obtain "DSS"—decent, safe, and sanitary—comparable facilities. Similar benefits are being made available to apartment dwellers who must move.

Highways have been cited by those deeply concerned, like I am, with conservation efforts and environmental problems. In this regard, there have been some indirect environmental problems which have followed the highways after they have been established. These indirect factors include billboards and the discarded automobile bodies which have been scrapped and lie in unsightly roadside junkyards. Billboards are now being removed and junkyards and other unsightly areas screened from view of the motorists. About a billion dollars a year of the Federal highway funds go for environmental elements of the program. The 1970 Federal Highway Act, in a most significant section, required the Secretary of Transportation to develop guidelines for construction of highways which will take full account of the social, environmental and economic consequences and impact of highway construction. These impacts must now be considered at the earliest stages when decisions as to whether, when and how to build are being made. This section, I feel, will help assure better development and construction of highways in the future.

The Federal-Aid highway program continues to be one of the most significant building programs in the history of this Nation, and perhaps in the history of mankind. We are becoming increasingly aware of both the benefits and consequences of this program. The passage of Federal-aid highway legislation has gone a long way in recognizing these factors. However, I hope we will, if necessary, continue to modify this program in future years in order to meet new and more fully recognized highway needs.

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## MORE FUNDS ARE NEEDED TO FIGHT HEROIN PROBLEM

## HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. EILBERG. Mr. Speaker, we spend a great deal of money in this country to combat crime. This year the President has asked Congress to approve $2.3 billion for this purpose. The Justice Department's budget will increase over 219 percent. Yet, much of this spending will be for hardware and comparatively little will go toward one of the greatest and most serious contributors of crime, heroin addiction.

The fiscal 1973 budget plans only $273 million for narcotics enforcement and earmarks $162 million for drug treatment and rehabilitation. That is little more than $380 million to fight a war which drains their national economy of billions of dollars each year. Last year $188 million was spent for New York State's drug problem. We are clearly not spending nearly enough.

I do not believe that many of us fully understand the extent and spreading nature of heroin addiction.

The House Select Committee on Crime in a report on heroin use in the United States noted:

> Heroin addiction and its complementary fallout of violence and crime constitute a grave national problem.

Heroin addicts clog the criminal justice system which suffers already from a tremendous backlog. They instill fear in many citizens who are afraid to venture out after dark or whose children attend school.

The heroin addict is a victim to himself as well. Last year 56 people died in Philadelphia from narcotics overdose. The figures for other cities and the rate of increase for them are as haunting. New York in 1970 reported 1,156, Chicago 277, Miami 41, San Francisco 170, Washington 63, and Detroit 133.

The problem will not go away and cannot be hidden in a dark ghetto. For the disease has eaten its way into middle and upper class communities, in junior and senior high schools, in colleges, and on street corners of country towns and cities.

In a small Maine community, middle class with a population of 23,000, policemen found worn hypodermic needles and syringes on several occasions last summer discarded in waste barrels on public beaches. These areas are frequented by junior high school students.

Not long ago a college student was carried from a friend's dormitory in upstate New York and nearly died later from a heroin overdose in a nearby hospital.

Heroin addiction is eating the country's insides. Yet we can find only comparatively enough money to treat it as a common cold.

Joseph McCaffrey of Washington television WMAL raised such issues with Edward Bennett Williams. A nationally recognized attorney, Mr. Williams offered some ideas about heroin and its direct relation to crime. At this point I enter into the Record Mr. Bennett's remarks.

### An Interview of Edward Bennett Williams

(By Joseph McCaffrey)

McCaffrey. The gentleman that's talking, of course, is one of the best-known men in Washington—Edward Bennett Williams, one of America's outstanding attorneys—also happens to be president of the Washington Redskins, the professional football team. Two years ago Mr. Williams and I sat in front of these cameras, and Mr. Williams talked about crime. And what he had to say was reprinted all over the country. And I thought that now, two years later, we ought to do a little catching up, and see what's happened in those two years, especially about what he was talking about two years ago. So in just one minute, we'll be hearing from Edward Bennett Williams.

Let's talk about what we talked about two years ago.

Williams. Yes.

McCaffrey. And that is crime. Without going back over what you talked about that time, do you think we've come anyplace, that we've progressed in these two years?

Williams. I wish I could say that we had, Joe. I really wish that I could say to you, yes, we've made a new and enlightened approach to this problem. But in all candor, I can't say so. I think when we talked last about the problem of urban crime, together we agreed that it was the number one domestic issue in our country. And I think all the pollsters now show us that in the eyes of the American people, crime in the city streets is still the number one problem of America; and notwithstanding all the protestations of the administration with respect to what they had promised and what they have done, we still have not dented this problem.

We have not solved it; it's just as serious today as it was in 1970, when last we talked about it. Indeed, the statistics are worse.

McCaffrey. Now you talked at that time about bolstering the police department and shortly after that the local police department was bolstered. You talked about the inadequacies of our court system, the inadequacies of our penal system.

Williams. Yes.

McCaffrey. We're still there.

Williams. We're still there. Last year, there were 2,100,000 burglaries in this country. Only 18 per cent of them were cleared by the urban police forces. That means that the police ended up thinking they knew who committed only 18 per cent of them. That's one out of five. There were 350,000 armed robberies only 25 per cent of them were cleared. There were a million 750 thousand larcenies of property in excess of 50 dollars. Only 18 per cent of those were cleared. Those statistics are no better than what we talked about in 1970. Indeed, the rate of those street crimes has accelerated.

Unfortunately, I don't think that the administration of criminal justice in our courts has improved. We still have what I call slow motion justice. I don't think that we as lawyers have responded to the needs of this decade. I think that we're still moving along at the same snail's pace we moved twenty years ago.

McCaffrey. How are you going to speed up courts?

William. Oh, I think we can do it. I really believe that it—there's a way—

McCaffrey. But lawyers are always continually asking for delays, right?

Williams. I think that our urban criminal justice system should be made to work so that the time between arrest for a street crime—larceny, robbery, burglary, mugging, yoking—the kind of crime about which America is concerned—the time between arrest and final adjudication—I mean exhaustion of appeal—should be handled within 90 days. Now that sounds like Alice in Wonderland stuff, but I am convinced it can be done after long and careful research on the subject. The English are doing it.

McCaffrey. Without interfering with the rights—

Williams. And I don't want to interfere with any of the constitutional rights or the constitutional liberties of the defendants. I don't think we have to tinker with any of the decisions that have come down from the Supreme Court of the United States in the last two decades. I think that we can telescope the process; I think it can be made to work so that we will have the system responsive to the needs of society.

I think the most difficult thing to explain to the intelligent, inquiring layman in America is why it is that after a defendant has been convicted of armed robbery on the streets of Washington or New York or Chicago, he can tinker with the appeals courts for 18 months to two years before there's an adjudication in this case. Now this shouldn't be.

McCaffrey. Well, explain it to me.

Williams. Well, I think that we can correct this.

McCaffrey. How?

Williams. I think first of all that the time has come for us to eliminate, in robbery, larceny, burglary cases—the kind of cases which are obsessing the attention of the American people—eliminate the written brief. I think we don't need written briefs. I think that after the verdict, that a period of 15 or 20 days should be the maximum before there's an argument before the judges.

If the defendant has had a trial that was unfair, his counsel should be able to articulate the inequities or the unfairness to a three-judge court 20 days after the fact, and I think the three judges should be able to affirm or reverse that case within two weeks.

One of the public scandals of the American judiciary is that there are cases that were argued in nineteen hundred and sixty-nine, in appellate courts across this land today, still undecided. Indeed in our own city of Washington, there are a number of cases that were argued in 1969 that haven't been decided yet. Now this is outrageous. It's an indictment of the judiciary. It shouldn't be. These cases should be decided. I don't think that it's necessary to take more than 30 days to decide a case, a common law offense that's been known to the Anglo-Saxon law for 500 years—burglary, robbery, larceny. There's nothing new that can be written on the subject.

McCaffrey. Right.

Williams. And I think that the procedural questions that are raised ought to be decided by three judges within a period of 30 days. I don't think they need to write essays; I think they can write short, concise opinions. They don't need to be signed; they can be the opinion of the three judges. There doesn't have to be any pride of authorship. And they ought to decide the case and get on with the business of the courts.

I don't think that we need briefs; I don't think that we need the long delays while we wait for court reporters to write up the transcripts of the trial. In sports, you know, we have videotape. We can see what happens one minute after it's happened. We can have videotapes in the courtrooms. We can have a steno computerized record, where the court reporter sits and hits the keys, and by an electronic impulse, the word comes out on a printed page in another room in the same building, so that the record is available immediately at the end of the trial, so that we don't have the six and eight week wait while the reporter does the transcript.

Then I think that transcript can be forwarded up to the Court of Appeals, and there can be an argument. I think it's scandalous that we take in some states six and eight weeks to get a jury to try a case. This should be done in one day. I think that it's scandalous that there should be a time hiatus after verdict, before sentence, of six and eight weeks while there's a probation report. I think that after the case is put into the machinery of justice, that there should be a background report available to the trial judge, so that when there is a verdict—if it be a verdict of guilty——

McCaffrey. He knows.

Williams. —the trial judge calls upon the defendant and his counsel and the prosecutor to speak to the subject of sentence, and then he imposes it, and the appellate process is put into motion. This whole thing is done—we can learn from our brothers across the sea—it's done in England, from arrest to the exhaustion of appellate rights in 60 to 90 days. And we—there's no reason for us not to do it.

And as long as there is slow motion justice in America; as long as the defendants in America—as long as the young people who are going out into the city streets to do their mischief know that the odds are four and five to one that they won't get caught, and that if they happen to get caught they can tinker with an archaic, anachronistic judicial machine that is a hundred years behind the time, that they can tinker with it for two years before they face the day of punishment—then the whole criminal justice system is like a tattered scarecrow sitting out in the fields, neglected, so that the birds of lawlessness are going to roost on its arms.

McCaffrey. How much of a role do drugs play in our present problem?

Williams. Well, I think that we have now come to realize for the first time the major problem that drugs are playing on the American crime scene. I think conservatively, Joe—and I'm going to be hyperconservative for purposes of this discussion—I think nobody who is responsible in government will gainsay that today there are 300,000 heroin addicts in the United States—20,000 of them here in Washington, D.C. Now it takes 40 dollars a day for a heroin addict to support his habit. That means that 12 millions of dollars each year is being expended in the black market for heroin. Now how do these addicts get their money?

They get it by stealing. They get is by prostitution, or they get it by pushing. Now if you take 12 million dollars a day necessary to be spend for heroin, you're talking about thefts that are far in excess of this, because if an addict needs 40 dollars to support his habit, he's got to go out and steal a hundred dollars worth of merchandise in order to fence it for 40 dollars.

So we're talking about 25 million dollars a day in thefts because of the heroin problem in America. We're talking about several billions of dollars a year in crime, in street crime, directly attributed to heroin.

Now let's talk about these—these facts, because this is a subject which has engrossed me since we talked last. In the D.C. jail tonight—if you went down there and ran a test, if you could run a urinalysis on every inmate, you would find that 45 per cent of the people in the D.C. jail are heroin addicts. Out of a hundred thousand inmates who were processed through the detention facilities in the city of New York last year, 45,000 were heroin addicts. Our experience across the country shows us that these crimes that we're talking about—burglaries, robberies and larcenies—the kind of crimes that make prisoners of the city people, that keep them in their apartments at night, that keep them in the suburbs at night, that excite fear in their hearts so that they're afraid to come into the city—that kind of crime is being committed, 50 per cent of it, by heroin addicts.

Now what are we doing about the problem? We're not doing anything about it. We have heroin addiction spiraling out of control. Now we have made some futile, misdirected, wholly unenlightened approaches to it. We're paying 35 million dollars to Turkey not to grow poppies. Now this is absurd, because poppies—which supply opium—are grown in Lebanon, in Syria, in Egypt, in China, in Laos, in Burma, in Thailand, in many, many countries, including Mexico.

This opium is being sent to Marseille. Twenty-five dollars is being paid per kilo to the poppy farmer, and the factories in Marseille are refining it, and we know the wholesale price for a kilo of Marseille is 5,000 dollars. By the time it gets to New York, a refined kilo of pure heroin is bringing 15,000 dollars in New York. By the time it's cut and adulterated, it's bringing 200,000 dollars. There is nothing, with the possible exception of diamonds, where the disproportion between size and value is so great. This is why it's so easy to get this contraband into the United States.

We've talked about a massive program to stop the importation of heroin—forget it. I say to you it's folly.

McCaffrey. What can you do?

Williams. Let me just talk to you for one moment about that. There were 105,000 ships that docked in American ports last year. There were 345,000 airplanes that landed in American airports from foreign countries. There were 65 million automobiles that crossed our border. There were 225 million people who came into this country from other countries. Policing those airports, those seaports and those borders were 1,400 Bureau of Customs agents. You could take the whole Army, the whole Navy, the whole Air Force, the FBI, the Bureau of Narcotics and Dangerous Drugs and the Bureau of Customs, and you still could not stop the importation of heroin—because I could bring in that water tumbler 250,000 dollars worth of heroin into this country. It's coming in in foreign automobiles, secreted in the tires, in the assemblies of the headlights, in the bodies of the cars, in the moldings of the cars; there is no way to stop it.

Now we have these addicts. They are sick. They crave heroin the way your body craves vitamins, and they're just as sick when they don't get it as you'd be if you didn't have vitamins. We can't cure them; we can't exile them; we don't have prisons enough to lock them up. You can't execute them. What do you do with them? We have got to come to terms with the fact that we have a national epidemic of people who are sick, who are preying on society to satisfy an unquenchable craving for the juice from a plant that is enslaving 300,000 people in this nation, and providing a traffic in slavery for people who are preying on their disease. We've got to get it out of the black market.

What I suggest is, we have to come to terms with the fact that we have to maintain these people with methadone, which is a synthetic narcotic, which eliminates the craving, and which can be supplied to them through government agencies, through narcotic treatment agencies across the country for as little as a dollar a day. And I say something that I think is probably shocking, and I think that may cause you to blanch. But I believe the time has come for us to face up to the fact that we are going to have to treat some of the addicts in this country by heroin maintenance through goverment-subsidized clinics, where they can go and get a daily dosage so that we'll eliminate this horrible crime problem that is beleaguering this nation, flowing from heroin addiction at this moment.

Now I'm not talking about marijuana. I'm not talking about barbiturates or amphetamines—speed, if you will—I'm not talking about hallucinogenics, LSD. These drugs, by and large, are not related to crime. I deplore their use. We're on a—on a narcotics bender in this country, an alcohol and narcotics bender which I deplore. And I—I'm not for one moment saying that we shouldn't deploy our resources to find out why this is taking place in this country.

But the thing that is crime related is heroin addiction, and we've got to address ourselves to this problem. There'll be plenty of time to philosophize as to why young people are turning to heroin, why they're turning to these drugs. But in the first instance, we have to snuff out the crime problem which they're causing. Do you know that within six blocks of the White House, there is a neighborhood which begins—where 30 per cent of the young boys between 16 and 20 years old are addicted to heroin—in Washington, D.C.? Do you know that in New York State, in the past decade, more people have died from overdosages of heroin than in the Viet Nam War?

McCaffrey. Is that right?

Williams. More New York people have died. Now I say it's time to fasten our attention on this subject. We've ignored it long enough. The National Institute of Mental Health spent only one million dollars in research on this problem last year; at a time when we had 40,000 incidents of polio, we spent 40 millions of dollars trying to develop a vaccine to countervail this problem.

It's time we addressed ourselves to a problem that I suggest to you—and I don't think I'm overstating it or overdramatizing it—is enslaving 300 to 500,000 Americans and causing them to commit billions of dollars worth of crime in our cities, and making our cities unsafe places to live.

McCaffrey. How do you get the impetus behind a campaign to do something about it?

Williams. Well, I want to hear—Joe, I want to hear some of the candidates for the presidency of the United States address themselves to this problem. It's a very unpopular thing to say, I suppose, that we are so bankrupt of ideas at this moment that we have to begin to consider heroin maintenance for our addicts in this country. But our British cousins have done this across the sea. There are 55,600,000 people living in England. There are only 3,000 heroin addicts, all of whom are maintained by the British government through heroin clinics. The heroin epidemic has not spread there, and there's no crime related to its usage, because there is no illicit market——

McCaffrey. But you're asking the American people to leap a great moral barrier, aren't you?

Williams. Yes, I am. I'm asking them to leap a great moral barrier. I don't think we're talking about a criminal question or a moral question. I think we're talking about a medical question here. I'm not saying for one moment that I condone the use of these drugs. I deplore them. But I say that the time has come to recognize that the use of heroin is so closely related to urban crime in this country that if we're going to snuff out urban crime, we have to eliminate the illicit traffic in human slavery; and this is human slavery. We're going to have as many slaves in this country in the next decade as we had before the Civil War, if we don't do something to curb the illicit market.

McCaffrey. And we'll be back in one minute.

McCaffrey. Ed Williams, if by some miracle, at midnight tonight, we could cut off the heroin problem in this country—end it—what would happen in the crime picture?

Williams. Well, I'll tell you what happened in New York. During the dock strike recently, the heroin supply was cut in New York City. There were tremendous busts by the Bureau of Narcotics and Dangerous Drug; the supply of heroin was dried up. There were police hearings going on in New York—the Knapp Inquiry—and the pushers went underground. There was a panic in New York among the addicts. There are over a hundred thousand addicts in New York; they broke into drugstores. There were more burglaries in—than in the history of New York, because they went mad to satiate their craving for heroin. Their hunger was so great that there were more drugstore busts than at any time in the history of New York.

Now if we cut it off tonight, we would have a terrible problem with the 300,000 addicts. Hopefully, they would be detoxified, and eventually, if we could keep it from ever coming into this country maybe they'd be cured. But as long as it's available—and Lord knows, it's available in all the big cities now—we're going to have this problem until we get it under the control of the government and out of the illicit market.

McCaffrey. We have ten seconds. Are you hopeful we can do this?

Williams. I'm hopeful we can do it——

McCaffrey. Because we have to.

Williams. ——if the leaders in this country will undertake to educate the people with respect to the problem.

McCaffrey. Thank you. We've been talking with nationally known attorney, Edward Bennett Williams. I want to thank you, Mr. Williams, for being with me again after two years. And this is Joseph McCaffrey thanking you for being with us.

## EUROPE AND DÉTENTE IN THE 1970'S

### HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. GUBSER. Mr. Speaker, Dr. Dennis L. Bark, one of my highly respected constituents who is with the Hoover Institution on War, Revolution, and Peace at Stanford, Calif., recently addressed the Civic Studies Forum in San Francisco on the subject of "Europe and Détente in the 1970's."

I have been furnished with an adaptation of Dr. Bark's speech which I believe will be of interest and value to readers of the Congressional Record. The adaptation of Dr. Bark's remarks follows, and I hope it will receive the attention which I believe it well deserves:

### Europe and Detente in the 1970's

(By Dr. Dennis L. Bark)

I

For the first time in the post-war history of the Federal Republic of Germany the Social Democratic Party won the national elections held in September 1969. Together with the Free Democratic Party, the CDP formed a coalition government and elected Willy Brandt, the former Mayor of West Berlin, Chancellor of West Germany. In his first "State of the Nation" address of January 1970, Chancellor Brandt emphasized that it is necessary to proceed from an era of confrontation to one of cooperation with the Soviet Union and Eastern Europe in the 1970's. The policy he outlined at that time has since become widely known as "Ostpolitik," a policy based on the mutual recognition by East and West of the existing realities of post-war Europe.

Today, two years later, "Ostpolitik" is a familiar phrase. And Chancellor Brandt is the recipient of the Nobel Peace Prize and of *Time Magazine's* award as the "Man of the Year" for 1970. The Chancellor was selected as one of the ten best dressed men in the world by the London Magazine, *Tailor and Cutter*, this past September and was elected "Man of the Year" for 1971 by listeners of the BBC's international "Morning Show," broadcast throughout Africa and other parts of the world. Chancellor Brandt enjoys mounting prestige as one of the leading statesmen of Europe. He has had the vision to recognize that "change through rapprochement" is the preferable alternative to continued cultivation of the illusions of the past. His foreign policy of reconciliation and détente has restored to Germany—West Germany—the respect earned through exercising the political initiative in a responsible manner: "In a spirit of good will he has achieved extraordinary results in paving the way for peace in Europe. Political and military détente between East and West Europe are prerequisites for peaceful development."[1]

The "coup de Prague" of February 1948 resulted in the conclusion that the precondition for peaceful development in Europe rested in the formation and maintenance of the Atlantic Alliance. It is indeed ironic that although the alliance has insured peace in Europe, it was again "Prague," twenty years later, that produced a very different conclusion. The analysis of East-West relations during 1969 resulted increasingly often in the assessment, particularly in West Germany, that the precondition for peaceful development in Europe was "dialogue" between East and West. The "cold war" became subject to increasing censure. The establishment of détente and peaceful coexistence was more and more often viewed as the prerequisite for future stability on the continent. In 1972 the East-West confrontation has been replaced with "changing relations," with "dialogue" and with "movement" on the diplomatic level between East and West. The politics of current European diplomacy are of détente. In the words of Protagoras,[2] a sophist of the fifth century, "man is the measure of all things: of those that are, that they are and of those that are not, that they are not."

The ability to draw reasoned conclusions based on fact, and not on fiction, appears to be undergoing change in the Western world. One illustration is the deceptive question of "whether the end of ideology also means the end of rivalry?"[3] Another is the assertion by one well-known West German publisher that the Soviet occupation of Prague and Czechoslovakia in 1968 was in reality a deliberate contribution toward maintaining peace in Europe, as opposed to United States involvement in Korea, Cuba or Vietnam.[4] Should this exposition be insufficient, the same publisher proceeded a step further in his support of détente. While the Soviet journal *New Times* accused the British government of "weaving intrigues against peace and security"[5] for the expulsion of 105 Soviet "diplomats" in September of 1971, the publisher of *Der Stern* in West Germany argued in an editorial that the presence of Soviet agents in the Federal Republic was a contribution toward peace; for by this means the Soviet government could gain assurance that West Germany, actually in fact, harbored no intention of attack on Eastern Europe.[6]

In the world and on the continent of Europe past relationships are undergoing change. While one would do well to recognize this situation, the problem is the question of who and what will influence the direction of changing relationships. There are, to cite one observer, five balls in the arena: China, Japan, the Soviet Union, the United States and Europe. In the future these five balls will be juggled in new configurations, in various political, military and economic patterns. What kinds of figures will emerge is unclear; for one of the five, Japan, is without nuclear weapons and another, Europe, is not a complete and independent community. In fact the arbitrary selection of "five balls" is a trifle simplistic. But what is paramount is the reality of the time in which we live. To put it in another manner:

"Changing *compositions* are taking the place of the firmly joined *constructions* of the past. The views of friend and enemy are altering. The prime enemies are changing, even if a change of partner, if a revision of alliances does not appear advisable or possible. In the new game with five balls, diplomacy is again being accorded its rightful place. A variable equilibrium is arising where previously balance appeared to govern."[7]

From the latter conclusion arise numerous questions: What is the difference between "composition" and "construction"? What are friends and enemies? What is a political belief or an economic structure? Why is a revision of alliances neither advisable nor possible? What is diplomacy's "rightful place"? Who determines "variable equilibriums"? Will Western Europe become one of five powers? Would a unified Western Europe be a partner or a rival to the United States in world affairs? How will the conduct of West German foreign policy, and more particularly 'Ostpolitik," influence the cohesion of the Atlantic Alliance and the integration of Western Europe?

In turn there develops a further set of questions. Is the logical consequence of "Ostpolitik" greater Western European integration on a political, economic, and military level? If the maintenance of the Atlantic Alliance, i.e. NATO, is necessary for the successful conduct of "Ostpolitik," will the alliance be necessary once the goals of "Ostpolitik" have been achieved? If the primary purpose of "Ostpolitik" is to "make peace more secure," does a "more secure" peace mean reunification of Germany? Does it mean "Europe for the Europeans"? Does it mean the elimination of military conflict? Does it mean the neutralization of Germany? Does it mean the replacement of "political, military and ideological rivlary" with ". . . Soviet/Western cooperation . . . understanding and accommodation"?[8]

II

In the wake of the exciting diplomatic activity conducted by the West German government during the past two years, the advocates of "Ostpolitik" cite with earnest conviction the constructive steps that have been taken toward achieving détente in Europe. West Germany has concluded treaties with Poland and Russia. For the first time in twenty-two years an agreement has been reached on Berlin. But in the excitement and enthusiasm generated by the assurances of "détente" and the prospects of peace provided by the asserted goals of "Ostpolitik," significant political and psychological liabilities accompany a proclaimed atmosphere of détente that still does not exist in fact.

Certainly the concept of 'Ostpolitik" itself is to be welcomed. But the distinction must be made between the concept and the path chosen for its realization. "Change through rapprochement," first used in 1963 by Chancellor Brandt's foreign policy advisor Egon Bahr, is a favorite phrase of the West Germans. And it is a captivating one. But "rapprochement," "peaceful coexistence," or "détente" are not absolutes. They require definitions. One must ask what kind of change? What kind of "détente"? And what kind of peaceful coexistence? In the West peaceful coexistence is interpreted to mean that peace will be made more secure. But in the East peaceful coexistence is defined in the Soviet Union as ". . . a special form of class struggle."[9] Adequate discussion of these issues has been neglected. On the contrary government spokesmen, in West Germany in particular, have concentrated on eulogizing the ideals of peace, cooperation and détente.

Since 1949 "the basic premise" of West German foreign policy has been the assumption of the obligation ". . . to prevent the beginnings of conflict and to preserve peace in the interests of one's own survival."[10] Assurances are given that West German foreign policy is ". . . firmly anchored in the political concept of the Alliance and will continue to be so in the future."[11] This is the basis of "Ostpolitik." It certainly may not be found astonishing that the Federal Republic is concerned with peace, that is not in the least prompted by her "special geographical situation."[12] This question of geographical position is extremely important; which is why Konrad Adenauer sought integration of the Federal Republic with the West and rejected the possibility of neutralism as unjustifiable in view of the attendant political risks. At the same time, however, it is necessary to maintain and improve West Germany's relations with the East. West German governments since Adenauer have sought and seek at the present time "to build bridges to our Eastern neighbors."[13] They have been justly concerned with ". . . a balance of power, a balance in Europe between the Eastern and Western communities."[14]

"Living in the center" for West Germany, "means living with greater risks."[15] And yet precisely for this reason it is not the concern with the balance of power that requires careful public attention, but the effects of the political and psychological atmosphere created by the image of détente. It is the kind of change that rapprochement may elicit that warrants analysis, not the assertion that the existence of bridges will make peace more secure. It is the *West German* interpretation of its interests that justifies concern, not whether the German empire under Bismarck "lived under a 'Cauchemar de Coalitions.'"[16] The West German government has concluded that the "public," confronted with the crises of Berlin and Cuba in 1961 and 1962, has "developed a general desire for détente."[17] But the question remains whether the endorsement of détente is creating an atmosphere in which "European realities and prospects" are objectively recognized or whether these are being retained or discounted on a selective basis.

In the discussion of East-West relations during 1971 one theme was carefully avoided by the West German government—the subject of strategic parity and the unprecedented Soviet arms buildup of the past six years. At the same time, another theme, conspicuously absent in discussions of the past, has become the center of attention: "Today there is no big international event, no important speech by a statesman, no representative forum of a diplomatic or public nature, where the peace-loving foreign policy ideas of the Soviet Union are not discussed."[18] This observation is not of minor significance. As one Soviet writer observed in September of 1971, ". . . *European realities themselves have changed.*"[19] Under present international circumstances détente has assumed a new meaning. A conference on security in Europea assumes new importance. Because European realities ". . . have changed thanks to the successes of socialism in a vast geographical region,"[20] and because the psychological and political estimation of these changes has created an atmosphere of détente, détente has become the central topic of conversation on security and Europe. The immediate consequence is that it is extremely difficult to decisively control the ideas that invariably arise from the widespread conclusion that an "era of cold war" has been replaced with an "era of détente."

In the West the continued endorsement of détente, as existing in fact or in the immediate offing, places in question the necessity of what often appear to be "exorbitant" military expenditures. The vision of the "state" of détente of the absolute, contributes to erroneous estimations of the intentions of potential enemies, and may tend to minimize discussion of the capabilities of past enemies as contradictory to the "realities" of the efforts being made by the Federal Republic and the Soviet Union to improve the atmos-

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phere in Europe. Thus the continual Soviet arms buildup is seldom mentioned in the West German press, and is even less seldom the object of public discussion. The consequence is that growing Soviet military power is not interpreted as evincing any untoward intentions, but as an indication that new relationships of power must be formed in the world so as to correspond to postwar realities. The Soviet Union, on the other hand, pursues the initiative of détente, but warns of "the most dire consequences" should "détente" not be achieved. The Soviet Union is, moreover, in the position to transform its threat into reality—to which the invasion of Czechoslovakia and increasing military strength testify. Détente is, in other words, in the eye of the beholder. The result is that threats of war and endorsement of détente continue, and Soviet analysis of the dangers of war and the security of peace is accorded increased attention as the realistic analysis of European realities and prospects—a use of dialectic that would warm the cockles of any Marxist's heart:

"Today, both the West European countries and the United States are faced with the problem that either the division of Europe into two military groups must be eliminated, ways found for collective security in the continent and good relations arranged between states with a different social system, or a situation of tension, fraught at the present level of armaments and armed forces with the most dire consequences, will be preserved in the European continent for a long time to come." [21]

III

In May of 1971 there were more Soviet divisions, as a result of the invasion of Czechoslovakia, "deployed farther West than at any time since the close of World War II." [22] This has been accompanied by a simultaneous expansion of Soviet naval strength, particularly in the Mediterranean and in the Indian Ocean. Within the next two years, for example, there is every likelihood that the Soviet Union will surpass the United States in the number of ballistic missile submarines of the Polaris type.[23] At the same time also, the faith of the Western democracies in their ability to solve their domestic problems is shaken. The significance of the threat to democratic governments posed by Communism has become secondary to the importance of a claimed disparity between foreign and domestic expenditures. For many at home and abroad and particularly in West Germany, the most alluring solution to these problems is the establishment of détente with the Soviet Union.

If "senior Army, Navy and Air Force officers believe that the United States' capability to intervene militarily in support of American and allied interests abroad has been drastically reduced" [24] it may not be surprising if allied governments believe it also. According to Drew Middleton our "strategic options . . . have been curtailed by the quantitative and qualitative improvement in Soviet forces, by United States budgetary retrenchment and a decline in morale that is most serious in the Army, but felt to some extent in the other services as well." [25] We are confronted with serious problems concerning our military capabilities of support in view of the increasing number of Soviet attack submarines, their deployment in the North Atlantic and by the limits on the maneuverability of U.S. aircraft carriers placed on them by Soviet submarines, particularly with regard to support for NATO in Europe and its northern flank. In addition, there is ". . . allied distaste for military involvement at America's side." [26] For example, "none" of America's NATO allies were prepared to support action on behalf of King Hussein's government during the Jordanian crisis in the autumn of 1970. The logical consequence is reflected in the assertion that recently these factors have ". . . raised doubts among some allied military establishments about the wisdom of implementing collective security arrangements." [27]

There must be, however, no doubt whatsoever that America will observe her treaty commitments. President Nixon made this extremely clear in his report to the Congress on United States' foreign policy on February 25, 1971; and did so with equal clarity in his report to the Congress of February 9 of this year. The difficulty of détente and/or defense lies elsewhere: on the one hand with the European interpretation of the "Nixon Doctrine" and the necessity for "partnership" with the United States, and on the other hand with the interpretation of Soviet support for détente.

The Soviet Union is undoubtedly concerned with preventing major conflagration. But in the process of improving relations between East and West the Soviet government will try to achieve détente on the most favorable terms possible; namely, on its own terms. It must be clear that as long as a reasonable balance of power remains between East and West, the maxim that "ideas have consequences" will continue to insure a political struggle between democracy and communism. The primary care is not whether the West is committed to its own defense. It is whether it is understood in the West that Soviet willingness to participate in negotiation does not mean that its interests coincide with our own.

The consequences of strategic parity between the United States and the Soviet Union is that the nature of the equilibrium is being defined anew. There are so many problems in the world of the 1970's that neither the United States nor the Soviet Union can effectively deal with them alone. A new balance of power must be established that will permit other nations, and groups of nations, to contribute to a more effective solution of outstanding problems, and thus to the creation of a more stable balance of power. This realization is one of the reasons underlying the concept of American foreign policy in the 1970's. The "Nixon Doctrine" represents a realistic appraisal of the problems that make the conduct of foreign policy in this decade so perplexing.

In Europe the "very stability of peace" depends, as it does elsewhere, on the recognition of reality. The consequence in West Germany was the formulation of the concept of "Ostpolitik." The liability that has arisen, however, is the interpretation and conduct of that policy. Chancellor Brandt recently stated that "coexistence has become a condition for existence itself, it is our only chance of survival. War must no longer be a means of political conduct." [28] It is nevertheless still highly questionable whether the recognition of the necessity for "coexistence" has successfully "annulled" Clausewitz's dictum on war as "the continuation of political intercourse by other means."[29] A modus vivendi" in Europe, based in the West on the temporary acceptance of the status quo, is being established.[30] But the remaining question is that of the consequences for the freedom of democracy in the West should Clausewitz's dictum be inverted, to read that détente, as endorsed by the Soviet Union, is the continuation of warfare by political means. Should this be the case, the Soviet Union will continue to impress "European realities and prospects" on the West with the dictum that "the future belongs to those who personify the indomitable striving of the nations for peace and genuine security." [31]

The advocacy of détente, accompanied by simultaneous threats of "dire consequences" should it not be achieved, can be employed as a very useful weapon of political warfare. Obviously no intelligent individual would welcome "dire consequences" were détente not achieved. Therefore the proponents of "détente" are praised in the Soviet press and contrasted with those who have sought or seek ". . . to aggravate the situation in Europe." [32] One result is that the specious assertion of disappearing rivalry and ideological conflict, engendered by the false sense of security that the conclusion of "compromise" agreements is designed to create, will be extrolled as a virtue that is beyond reproach. Loud voices will denounce with aplomb those who continue to advocate the appropriation of defense expenditures in an attempt to frustrate ". . . the establishment of stable peace."

If one believes that détente is the desirable goal, and moreover the only alternative to the arms race and the cold war, there is nothing that will convince its advocates that the concept of détente may be used as a political weapon by the Soviet government. Words of caution may come from some government leaders concerning the continuing necessity for defense, but greater emphasis will be devoted to the avowal that détente is making significant progress. Agreements between West Germany and the Soviet Union, or with Poland or with Czechoslovakia or on Berlin will be acclaimed. The quality of the agreements in the eyes of the general public will not be the measure of their value, *but their existence*. In short the perspective will be completely altered.

Those who applaud détente without reservation (referred to in the Soviet press as the advocates of peace, so as to suggest that "non-advocates" exist and furthermore "oppose" peace) will continue to make optimistic prophecies in an effort to provide assurance that the motives of the Soviet Union are of the purest nature. And the conclusion will be drawn that ". . . in spite of shots on the borders of Germany [a] . . . European order of peace" is being fashioned.[34] It may not be perfect. It may be based on ". . . the division of Germany as the order of peace of the Vienna Congress of 1915 [was based] on the division of Saxony." [35] But in the world of the 1970's past alliances of "cold warriors" and their constructive words of caution are judged to have little in common with the concept of détente or with the establishment of a "modus vivendi" [36] in Europe. New ideas are being discussed, and with them new realities are taking shape:

"When new problems arose . . . and different threats appeared, the nature of the equilibrium had to be defined anew. In this new definition, the old unanimity could hardly be recaptured, for only in revolutionary periods do threats assume universal scope; only then are defensive coalitions to be generalized. The very stability of the peace will tend to disintegrate [an] . . . alliance if nothing holds it together save the memory of the common danger." [37]

IV

The Europeans recognize that reason requires adaptation to change. Therefore their interpretation of the military power relationship—strategic parity—between the United States and the Soviet Union is of essential importance, especially in West Germany. But of equal significance is the interpretation of the "Nixon Doctrine": Does it represent a major initiative designed to introduce stability "in the strategic relationship" and to remove the "imbalance between the scope of America's role and the potential of America's partners"? [38] Or does it reflect weakness, uncertainty, and "tacking about" on the foreign policy level? [39] Does it indicate that constraints on American freedom of action have been imposed by a contended "internal crisis of American self-confidence"? [40]

If the conclusion is drawn that America recognizes it cannot continue to occupy the role of the "world's policeman," but must forge a "new partnership" with Western Europe based on equality of independence and responsibility, faith in the ability and de-

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termination of the United States to defend "the freedom of a nation allied with us or of a nation whose survival we consider vital to our security" [41] will not necessarily diminish. Indeed the confidence of the Western European nations in their own ability to "determine the path of their own progress" together with, and not dependent on, the United States, could increase considerably. This should be the case if America's allies are not chary of assuming the responsibilities attendant on the independence they justly require for the conduct of their own foreign affairs. If, however, our allies, who so correctly in the recent past have pointed out to us that we alone cannot assume world responsibilities, as illustrated by Vietnam for example, begrudge our acknowledgment of this situation, then entirely different possibilities present themselves.

A difficult situation arises if the "Nixon Doctrine" is not completely understood by our allies; and there are some indications that this is the case. It may be falsely interpreted as a symptom that America is "ill," a polite description of the contended malaise. This interpretation may produce the equally false conclusion that America cannot be relied upon to defend the "freedom" and "liberty" of the Western World. One West German newspaper, for example, concluded that the Senate vote against foreign aid in October of 1971 ostensibly reflected ". . . a steadily broadening attitude among the people in the United States . . . The bitter experience of the Vietnam war . . . led to the double reaction of not trusting *any* government in Washington any longer in the foreign policy field, and of wanting to retreat from the complex, incalculable and always thankless quarrels of the rest of the world." [42]

That confusion exists is illustrated well by two editorials that appeared within the same week in the West German daily, *Sueddeutsche Zeitung,* published in Stuttgart. It was observed in the editorial of October 30/31, 1971 that "The President and the Secretary of State, and particularly their staffs of experts in the White House (Kissinger) and the State Department, support German Ostpolitik initiatives without reservations." The editorial did not make clear, however, that support of "Ostpolitik initiatives" represents endorsement of the concept and not necessarily the method. The "crucial" factor in the concept of the Nixon Doctrine is "the method" [43] employed when taking initiatives and in the conduct of policy. On the assumption that these points were understood by the editorial's author, that the concept of "initiative" and not "reaction" in foreign affairs, is consistent with the "Nixon Doctrine," and that the method is crucial, then the author of an editorial that appeared four days later certainly did not understand them. The author drew the following conclusion: "Naturally, the unthinking spontaneous reaction of the Senators [their rejection of the foreign aid bill] is also explained by their antipathy toward President Nixon, whose tacking about in the fields of domestic and foreign policy scarcely shows a clear concept, even in extremely important national questions . . ." [44] The editorial of November 3 must prompt the question as to how carefully this writer on foreign policy issues had read the "Nixon Doctrine" as presented in the President's address to the Congress on February 25, 1971.

Misunderstandings fortunately can be corrected, which is why they are called misunderstandings. It is much more difficult, however, if an erroneous interpretation is accompanied by the conclusion that the United States is no longer prepared to honor its political and military commitments for reasons of strategic parity of domestic strife.

Therefore, President Nixon made the position of the United States very clear once again in his foreign policy message to Congress of February 9, 1972:

"As Chancellor Brandt has pointed out emphatically on several occasions. Western cohesion underpinned by the visible and substantial commitment of American power in Europe is the essential condition that makes efforts at détente possible today. With East-West diplomacy more complex and relationships more fluid than ever before in 20 years, unilateral American withdrawals from Europe would undermine stability. Today's conditions, not those of 20 years ago, make American strength in Europe absolutely essential. I therefore intend to maintain it." [45]

With respect to the European community itself, the President was equally as clear in the assessment of European and American partnership. President Nixon referred to "the end of American tutelage and [to] the end of the era of automatic unity." And he stressed equally that "discord is not inevitable either":

"The challenge to our maturity and political skill is to establish a new practice in Atlantic unity—finding common ground in a consensus of independent policies instead of in deference to American prescriptions.

"We continue to feel that political and defense cooperation within Europe will be the fulfillment of European unity. European and American interests in defense and East-West diplomacy are fundamentally parallel and give sufficient incentive for coordinating independent policies. Two strong powers in the West would add flexibility to Western diplomacy, and could increasingly share the responsibilities of decision." [46]

The immediate reaction of the *Sueddeutsche Zeitung* was more positive than the interpretation given the "Nixon Doctrine" in November: "Nixon's now published annual report has a double claim in Germany because his policy on Europe is being stated in exceedingly welcome principles. The 'end of American tutelage over Europe' is a promising formula and the understanding that the cohesion of the Western world is not at all times an automatic fact, only too correct . . . Nixon's renewed emphasis on his consent to Brandt's Ostpolitik should be taken into account by the German opponents of this policy more than ever." [47] At the same time the analysis of the *Frankfurter Allgemeine Zeitung,* whose editorials have reflected careful scepticism of the West German government's conduct of "Ostpolitik" in the past, indicated that the "Nixon Doctrine" is and has been understood by other observers of foreign affairs in West Germany for some time: "The message is directed at the Western family. This includes America's allies and they find the concept of changed relations within the pact reiterated, as it has been progressively and consistently worked out during Nixon's time in office." [48]

What will occur in Europe in the next five years is by no means certain, but the structure, if not the system of alliances in Europe will undoubtedly look very different at the end of this decade. That the Atlantic alliance is changing may be a healthy development. But equally important is that the development of East-West relations is proceeding at such a rapid space that adequate time for substantial analysis of the long term effects is lacking. In this kind of atmosphere, where the tempo and excitement of foreign relations sometimes are considered to be a synonym for the proper conduct of policy, the advocacy of detente "in the interests of peace and security" [49] can easily become another means with which the Soviet Union may conduct political warfare.

For the Soviet government "the present state" is characterized by ". . . one important peace-loving action after the other . . . in the international arena." [50] The most important of these, in addition to the Bonn-Moscow treaty and the Bonn-Warsaw treaty, were the visit to the Crimea by Chancellor Brandt on September 20, 1971, the Soviet-Egyptian Treaty of Friendship and Cooperation, the Treaty of Peace, Friendship and Cooperation between the Soviet Union and the Republic of India, and the "quadripartite agreement on questions related to West Berlin." [51] On the basis of past experience, one would be well consulted to reserve praise of agreements with the Soviet Union until a Conference on Security and Cooperation in Europe for example, or discussion on Mutual and Balanced Force Reductions, have produced positive results—and until it is clear that the Soviet Union's definition of détente is the same as our own.

## V

On the one hand the West German government recognizes that its "Ostpolitik initiatives" cannot be successful "without the Atlantic Pact." [52] For this reason Chancellor Brandt is justly concerned that advocates of "Ostpolitik" in the United States may undermine his policy if they call for the precipitate withdrawal of United States troops from Europe. At the same time, however, the Chancellor cautions that because of the possibility of withdrawal, of changing relationships, that "reconciliation" with the East is necessary:

"America will certainly not remain engaged to the same degree [in Europe]: It will continue to show its interest, but nevertheless will not remain engaged to the same degree. The responsibility of the West Europeans will grow. But the West Europeans will be well advised, and we together with them, to concern themselves not only with a good partnership with the United States, but also to represent themselves as solid partners of the Soviet Union and the East European states." [53]

In this new decade the United States ". . . has shifted from the predominant role it played in the postwar period to a new role of accepting and encouraging initiative and leadership from our allies." [54] This does not mean that measures to ensure continued "Western solidarity" [55] are no longer practical or necessary. Precisely the contrary is true: "Steps to relax tensions in Europe . . . must be steps which increase security, not insecurity." [56] New diplomatic initiatives on behalf of the Western Europeans vis-a-vis Eastern Europe must entail the assumption of greater responsibility for their own defense, if the present European governments place the same conviction on the value and cohesion of the Atlantic Alliance as has been the case in the past. If this conviction were to no longer exist the alliance would find itself in a state of dissolution. The misinterpretation of the "Nixon Doctrine" as a sign of weakness or uncertainty would strengthen the position of the advocates of accommodation, on the basis that accommodation is the only remaining alternative in view of an asserted American "disengagement." Hopefully there is no longer any doubt that the "Nixon Doctrine" reflects "the steadfastness and purposefulness of American policy all around the world." [57]

If the Soviet analysis is correct that the movement for detente will gather increased momentum at the expense of European unity and European defense, there is every reason for the Soviet government to continue to encourage the advocates of "Ostpolitik" in their belief that détente is not only possible, but will cure the ills of a divided Germany and a divided Europe. The Soviet Union will encourage simultaneously those in the West who wish to withdraw American troops from the continent *before* the Europeans themselves, and primarily the West Germans, assume a greater share of the economic, political, and military burdens of the Atlantic alliance.

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The governments of Western Europe, led by West Germany, must make, therefore, major efforts to form the economic, political and defense community of Europe envisioned by Konrad Adenauer, that is necessary for the success of a "new partnership" with the United States. This is the precondition for an "era of cooperation" with the East in the 1970's. Recently the Europeans have taken some constructive steps toward the furtherance of European unity. At the end of October, after many months and many years of debate, the British parliament voted to join the Common Market. This January negotiations on Great Britain's formal entry were successfully completed. In December of 1970 and a year later in December of 1971, our NATO allies in Europe have committed 2 billion dollars to the improvement of NATO's infrastructure and their own armed forces over the next five years. At the end of January the West German government clearly stated its position that the "European Economic Community must play a role at any conference on security and cooperation in Europe, especially with regard to issues of economic and trade policy."[58] During this year a meeting of Western European leaders is scheduled to take place that will hopefully give ". . . further impetus and direction to the emerging European identity."[59]

Future leadership in West Germany will play a decisive role in shaping the political, economic, and military quality of the Western European community. The future conduct of "Ostpolitik" will also share decisively in determining whether relations between West Germany and her allies will be built on mutual respect and on mutual responsibility, on partnership and on joint leadership. The future conduct of "Ostpolitik" will also decisively determine whether relations between West Germany, the Soviet Union and Eastern Europe will consist of security *and* détente, of defense and peaceful coexistence. If the Nobel Peace Prize holder of 1971, Chancellor Brandt, is to make a major contribution to a durable peace in Europe, he must ensure that the endorsement of détente remains in the proper perspective. European integration must be the precondition for détente if a more stable balance of power is to be achieved during the decade of the 1970's. European unity must be fostered together with simultaneous formation of a "new partnership" with the United States, that must be characterized by "shared leadership, shared responsibility *and* shared burdens."[60] Until these two goals have been achieved, détente will remain only a vision.

In more recent weeks Chancellor Brandt and the members of his government have stressed clearly that ". . . the Atlantic Alliance and the West European community are and remain prerequisites for our well-being and our security."[61] During 1970 and most of 1971 this emphasis was not lacking, but it was insufficient. It must continue in the future, for there are still many who extoll the *vision* of détente as the panacea for concrete problems. If the visible realities of Soviet foreign policy are ignored, or are replaced with generous excuses for the presence of twenty Soviet divisions in East Germany alone, or with friendly explanations for the continued division of Berlin, of Germany and of Europe, "Ostpolitik" will foster the acceptance of an asserted "modus vivendi" in Europe at the expense of European unity.

As one West German newspaper observed in November 1971 ". . . it would be a great error to assume that the Soviets have renounced their big European goal, namely, the neutralization of the Western part of the continent. They are not wrong in hoping that they can attain their goal more easily through a trustful climate of détente than through threats or suspicious political maneuvers."[62] In his address to the Congress in February of 1972 President Nixon made the position of the United States equally clear: "Western cohesion must be the bedrock of our pursuit of détente. We and our allies have a responsibility to consult together in sufficient depth to ensure that our efforts are complementary and that our priorities and broad purposes are essentially the same."[63] This responsibility must be met if negotiations between East and West in the decade of the 1970's are to have productive and positive results. Détente is a practical goal. But for the freedom of the Western world unity, partnership and security are indispensable.

FOOTNOTES

[1] "Begruendung des Nobel-Komitees," *Die Zeit*, November 2, 1971.

[2] See Plato's refutation of Protagoras' argument, entitled "The Protagoras."

[3] *Die Zeit*, January 11, 1972, p. 3.

[4] Henri Nannen, "Lob der Geheimdienste," *Der Stern*, October 10, 1971, p. 27.

[5] *New Times*, No. 40, 1971, p. 8.

[6] Henri Nannen, *op. cit.*

[7] Theo Sommer, "Weltpolitik im Fuenfeck," *Die Zeit*, October 26, 1971.

[8] See "Brezhnev in Paris," editorial in *The New York Times*, November 6, 1971.

[9] I. Shakhov in his review of *Soviet Foreign Policy. Urgent Problems* (*1967–1970*), published in 1970 in Moscow by International Relations Publishers. *International Affairs*, Moscow. December, 1971, p. 105.

[10] Dr. Paul Frank, State Secretary in the West German Foreign Office, from a speech entitled "German Eastern Policy in a Changing World," delivered to the German Society for East European Studies in Bonn on October 13, 1971. The text may be found in *Relay from Bonn* . . ., November 17 and 18, 1971. Vol. II, Nos. 213, 214.

[11] *Ibid.*

[12] Walter Scheel, West German Foreign Minister, as cited in Frank, *ibid.*

[13] Dr. Paul Frank, *ibid.*

[14] *Ibid.*

[15] *Ibid.*

[16] *Ibid.*

[17] *Ibid.*

[18] N. Polyanov, "European Realities and Prospects," *International Affairs*, September, 1971, p. 3.

[19] *Ibid.*, p. 7.

[20] *Ibid.*

[21] *Ibid.*

[22] John J. McCloy, "The Mansfield Amendment: No," *The New York Times*, May 19, 1971.

[23] Drew Middleton, "Drop in U.S. Capability Worries Military," *The New York Times*, November 1, 1971. See also *European Security and the Soviet Problem* (Report of a Study Group of the Institute for the Study of Conflict, July–November 1971), London, January, 1972; *The Military Balance 1971–1972. Institute for Strategic Studies*, London, 1971; Drew Middleton, "Air Power Is Seen Key To Moscow's Strategy," *The New York Times*, January 10, 1972.

[24] Drew Middleton, *ibid.*, November 1, 1971.

[25] *Ibid.*

[26] *Ibid.*

[27] *Ibid.*

[28] Willy Brandt on January 28, in: *Relay From Bonn*, January 28, 1972. Vol. III, No. 20.

[29] Theo Sommer, *op. cit.*

[30] *Ibid.*

[31] N. Polyanov, *op. cit.*, p. 18.

[32] See, for example, the article on the quadripartite agreement on Berlin by V. Vysotsky. "Landmark in the Struggle for Défense," *International Affairs*, November, 1971, pp. 12–16, 38.

[33] V. Berezin, "The Pentagon's Dangerous Appetites," *Krasnaya Zvezda*, Moscow, December 18, 1971. See also Dean Acheson's remarks on the pressures for increased domestic spending and "distrust of 'the military-industrial complex'" in: *The Washington Sunday Star*, "The Hidden Crisis," December 5, 1971.

[34] Theo Sommer, "Der Friede bleibt ein Fremdling," *Die Zeit*, January 4, 1972.

[35] *Ibid.*

[36] *Ibid.*

[37] Henry A. Kissinger, *A World Restored*, New York, 1964, p. 39. Kissinger is referring to William Pitt's peace plan of 1805, that was "resurrected" by Castlereagh in 1813 to form the basis of a European settlement.

[38] See Richard M. Nixon. *U.S. Foreign Policy for the 1970's. Building of Peace.* A Report to the Congress by Richard M. Nixon, President of the United States. February 25, 1971, p. 10.

[39] *Suddeutsche Zeitung*, November 3, 1971.

[40] *Ibid.*, November 6/7, 1971.

[41] Richard M. Nixon, *op. cit.*, p. 13.

[42] *Sueddeutsche Zeitung*, November 3, 1971.

[43] Richard M. Nixon, *op. cit.* p. 15.

[44] *Sueddeutsche Zeitung*, November 3, 1971.

[45] Richard M. Nixon. *United States Foreign Policy for the 1970's. The Emergency Structure of Peace.* A Report by President Richard M. Nixon to the Congress. February 9, 1972, p. 50.

[46] *Ibid.*, pp. 44–45.

[47] *Sueddeutsche Zeitung*, February 10, 1972.

[48] *Frankfurter Allgemeine Zeitung*, February 10, 1972.

[49] "In the Interests of Peace and Security" (editorial), *Pravda*, September 20, 1971. This translation is quoted from *The Current Digest of the Soviet Press*, October 19, 1971. Vol. XXIII, No. 38.

[50] *Ibid.*

[51] *Ibid.*

[52] Willy Brandt, January 28, 1972, in: *Relay From Bonn*, January 28, 1972. Vol III, No. 20.

[53] Willy Brandt, in an interview with Arnulf Baring in October, 1971, as quoted by Baring in his article, "Das Ziel: gute Nachbarschaft mit Ost und West," *Die Ziet*, November 2, 1971.

[54] Richard M. Nixon, February 9, 1972, *op. cit.*, p. 8.

[55] *Ibid.*, February 25, 1971, *op. cit.*, p. 37.

[56] *Ibid.*, February 9, 1972, *op cit.*, p. 50.

[57] *Ibid.*, p. 235.

[58] Conrad Ahlers during a press conference in Bonn on January 31, 1972. See *Relay From Bonn*, February 1, 1972, Vol. III, No. 22.

[59] Richard M. Nixon, February 9, 1972, *op. cit.*, p. 44.

[60] Peter G. Peterson, Assistant to the President for International Economic Affairs. *A Foreign Economic Perspective*. December 27, 1971.

[61] Willy Brandt in his New Year's address of December 31, 1971, in: *The Bulletin* (Press and Information Office of the Government of the Federal Republic of Germany). Bonn. January 4, 1972. Vol. 20, No. 1. See also Chancellor Brandt's remarks on February 9, 1972 concerning the treaties concluded between Poland and the Soviet Union, during which he stressed the necessity of "the Atlantic defense alliance as a guarantee for peace and security in Europe." *Relay from Bonn, February 10, 1972*, Vol. III, No. 29.

[62] *Stuttgarter Zeitung*, November 2, 1971.

[63] Richard M. Nixon, February 9, 1972, *op. cit.*, p. 51.

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## REVENUE SHARING AT WORK

### HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HUNGATE. Mr. Speaker, the following information should be particularly encouraging to those who support revenue sharing. Apparently we are now doing an outstanding job of this in some areas—perhaps without sufficient fanfare:

### UNITED STATES PAYS 2,000 OF THE 10,000 CITY EMPLOYEES

Mayor Alfonso J. Cervantes said Monday that while the number of city employes may be at an all-time high, the number of those who are paid by the city has been cut sharply under his administration.

"What we have been able to do is shift the cost of employes to the payroll of the federal government," Cervantes explained at his regular weekly press conference.

The mayor was responding to a recent Globe-Democrat story that reported there are currently 10,000 city employes, an all-time high.

According to the mayor, the city currently has 8,186 persons on its own payroll, a sharp decline from the 8,800 figure in 1965, the first year of his administration.

He indicated that the nearly 2,000 other positions are federally-funded by such programs as Model City, the Human Development Corp., and the Emergency Employment Act.

At the time of The Globe-Democrat story, city officials were unable to provide a breakdown on how many positions were federally-funded. The analysis was made after the article appeared.

The story did report that city officials attributed the record total to the expanded federal programs. It also said Alderman Raymond Percich (Dem.), 27th Ward, a frequent Cervantes critic, disagreed, charging that there were unnecessary jobs on the city payroll.

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## A REVIEW OF TODAY'S FARM PROBLEMS

## HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. JONES of Tennessee. Mr. Speaker, on February 16, Secretary of Agriculture and I spoke to a meeting of the Tennessee Livestock Association in Nashville, Tenn. These livestock men are some of the very best in the country. In 1970 over 62 percent of farm income in Tennessee was from livestock and this is rising each year. This is a reflection of the efforts and expertise of Tennessee livestock men.

Secretary Butz, in his speech, recounted some of the problems farmers have been faced with. The Secretary and I do not agree on all the solutions to the problems, but we agree that there are serious problems.

I want to submit in the RECORD Secretary Butz' remarks as a review of today's farm problem:

### ADDRESS BY SECRETARY OF AGRICULTURE EARL L. BUTZ

I come before you today as your hired hand. The Secretary of Agriculture works for you. That's how I size up my job, and we keep this in mind at the Department of Agriculture.

Therefore, I'd like to report to you on what we are doing on your behalf, and to give you an accounting of our efforts. I think it's important that we should keep you informed. It's also important that we keep the Congress, and the consuming public, posted on the facts of the agricultural situation.

It will be my policy to report periodically and give accountings of the actions we take on farmers' behalf, and the reasons why. This is the first of these reports. The occasion is appropriate, because any meeting of the Tennessee Livestock Association can be counted on to draw a good cross-section of this State's agriculture. Many of us here today have an interest in cattle and feeder calves, and hogs and feeder pigs, but many are also concerned with burley tobacco, cotton, soybeans, and corn—some of the Nation's foremost crops.

All of us here understand the need to keep the American agricultural machine in top working order. That takes income, because we have a $335 billion farm plant to maintain. Every American has a stake in fair prices to farmers in order to keep this agricultural machine in working order, because food is the first law of life. The first claim any society makes on its total resources is to produce sufficient food for the population to stay alive and reproduce itself. Only after that is done can a nation then develop the affluence and good life that we seek. The unequaled affluence and good life of this Nation are testimony to how well you have done your job.

Modern agriculture has other vital responsibilities as well: To expand people's choice to have the kinds and qualities of food they want; to exercise prudent stewardship over our environmental assets; and to provide a strong foundation for a better life in farm communities and countryside areas.

Those are all missions of the highest order for agriculture. And in my opinion, few regions of the country can match the opportunities and potential rewards for meeting those responsibilities that you have, here in the great State of Tennessee. I speak not only of your natural resources, but of the energies and character of Tennessee's people.

My job—and the aim of the Administration—is to do all we can to help you fulfill agriculture's great responsibilities and, in the process, to help you to gain an income level at least on a par with the rest of the economy. Farmers should have every right and opportunity to earn as much as city people are making. That's my goal.

Now I'd like to report to you on what we have been doing to move you toward that goal.

#### DOCK STRIKES

Since my first day in office, we've hammered away trying to end the dock strike that started last July. Along with that, we've tried to bring about a lasting remedy for transportation tie-ups that periodically victimize farmers, depress farm prices, and shrink your income.

I invited farm commodity groups to come to a meeting at the Department which 80 attended, from all parts of the country. I wish you could have heard them stand up one by one and tell what the dock strike was doing to your markets, and to farm prices, and to your income, commodity by commodity. It would have made you boiling mad, as it did me, to hear this while some labor leaders and Congressional leaders sat on their hands for months while your income suffered. I wrote letters; I went on radio and TV; I spoke out at every opportunity on the need to get those ports open so that farm products could move again to overseas markets.

The seven long months of dock strike cost American farmers an estimated billion dollars in lost export sales, in lower prices, in spoilage, in higher storage costs, and loss of future markets as foreign buyers tired of the mess and turned to other countries for supplies.

An end to this disastrous strike now seems to be in sight, and there are signs that Congress may be moving toward passage of legislation to deal more effectively with transportation tie-ups.

Congress has passed a standby compulsory arbitration law to bring an end to the West Coast strike.

However, there is still no permanent legislation on the books to prevent another shameful, costly mistake from happening again—at your expense. This dock strike came out of your hide.

Nobody knows when or where the next transportation tie-up will come. I know that you and other farmers are getting mighty fed up with strikes and threats of strikes, and you should. They always seem to come just at harvest time when your year's income depends heavily on moving your products to market promptly. The most maddening part of it all is that, like the dock strike, these tie-ups invariably stem from labor disputes in which you have no part and no vote.

I agree with President Nixon 100 percent that there has to be a better way to deal with transportation strike emergencies. I think you should beat on the Capital door demanding that Congress adopt the Crippling Strike Prevention Act or comparable legislation. You have a direct, personal interest—good dollars and cents reasons—to see that this legislation is enacted. You farm organizations and your commodity groups should not be satisfied until we overhaul our system of dealing with transportation strikes.

#### EXPORTS

You realize full well what export sales mean to soybean growers, cotton growers, and livestock raisers. Fully half of all the soybeans you produce go to overseas markets. In addition, there is a big foreign business in many meat by-products—beef tongues, tallow, hides, meat meal, casings—what some people refer to in the cattle business as the "fifth quarter" of the beef animal. Right now, the fifth quarter is worth about $22.50 a head. On a weekly Federally-inspected kill of more than 600,000 head of cattle, that amounts to more than $13½ million each week. Fifth quarter exports are running well over 1½ million tons a year—a full half of the production is sold overseas. The potential for sales of these products abroad is growing. This is part of the reason why we intend to fight to maintain access to foreign markets so that you can sell these livestock and crop products overseas.

But we are meeting resistance. We're having trouble keeping the doors of foreign markets open to you on a fair basis. Within the last two months, we have dispatched our top Department of Agriculture negotiators four times to go to the European Common Market headquarters at Brussels on your behalf. Our officials have met two times with the Japanese. These USDA officials were working for you. You deserve a fair shake in the world markets, and I'm going to try my best to see that you get it.

#### FOOD PRICES

As soon as beef cattle prices reached their highest point in 20 years—getting up to the 1951 level—you began to hear agitation for "price controls" on food. Last week I went to the country and spoke in five cities against controls on food. I was on CBS national television yesterday morning speaking against food price controls.

There can't be price controls on food without you getting hurt and without consumers getting hurt. I intend to fight for farmers and resist every move to impose controls that in the end would do more harm than good. Controls would merely put a ceiling on farm prices that are still too low—and just at a time when they are getting nearer to what they ought to be.

Look at other costs and prices: Industrial wages, fringe benefits, prices for services, dividends, and almost every other indicator you can think of have marched steadily upward over the past two decades. The economy has grown and moved forward, leaving farm prices in the lurch. Farmers have a lot of catching up to do, and I mean to see that they have a fair chance.

The prices received by farmers are a long way from being inflationary. Farm food prices are up only 7 percent from 20 years ago. Wholesale food prices have increased 22 percent from 20 years ago Retail food prices are up 44 percent from 20 years ago. Yet when food prices in the store go up a little, who's the scapegoat? You're right—the farmer.

The plain truth is that the increase in food prices is due primarily to higher wages and income. First, the higher wages bring about higher costs all along the line of transporting, storing, processing, and distributing food. Average wage rates per hour in the Nation are 2.4 times higher than 20 years ago. The average hourly labor cost for marketing food products has increased 66 percent in the past 10 years alone.

Second, higher incomes mean that there is more competition for food—especially for the higher-priced cuts of meat. A sizable part of the supply of Prime and Choice grade beef is sold through hotels and high-class restaurants. They bid against housewives for these cuts, and housewives compete among themselves for the better cuts. This is a result of our greater affluence. Even Food Stamps have made it possible for more people to buy more and better-quality foods.

Food, however, is one of the most reasonable buys available for at least three good reasons: (1) Farmers have been extraordinarily productive; (2) Production of farm food is an extremely competitive business which keeps margins low; and (3) Farm prices have been lower than they should be.

Retail food prices have gone up—but not as much as the other chief categories in the cost-of-living index.

The truth is that 20 years ago, people paid 23 percent of their take-home pay for food; in 1971 they spent 16 percent of their take-home pay for food; and in 1972 they are expected to spend less than 16 percent of their take-home pay for food. And that includes the food eaten in restaurants and hotels, where higher labor costs and service charges have caused the largest rises in food costs.

The plain truth is that the farmer today is receiving a smaller share of each dollar that the consumer spends on food than he did 20 years ago. In 1951 the farmer's share was 49 cents; today it is 38 cents.

I say, it's about time farmers got better and fairer prices for their food. And this is something I will continue to tell within Government, to the Congress, and to consumers.

The fuss over milk price supports illustrates how self-styled consumer champions have misled the public. Whereas the farmer's share of each dollar spent for milk at the store was 56 cents in 1951, it's now down to 50 cents. The support increase won by farmers last year amounted to about half a cent a quart, which the self-appointed consumer spokesmen want taken away.

The increase was so microscopic it had practically no effect on manufactured dairy items consumers buy. In the case of ice cream, for instance, 78 cents out of each dollar of retail price goes to pay marketing costs—the farmer gets only 12 cents. Yet court action has been instituted in the name of consumers to whittle down that 12 cents. How ridiculous can they get?

MEAT FACTS

I want to tell you, as livestock producers, that I am telling the facts about meat being nutritious, plentiful, and a reasonable buy. I have told that to the public, in numerous speeches, on radio and television, and in press conferences. I'm going to keep it up, because I think farmers deesrve credit, not criticism; I think farmers need to be rewarded, not repudiated.

Some of the facts about meat prices are these:

Recent broiler prices at the farm are less than they were last year, and less than the 1967–69 average. They are so low, in fact, that broiler producing firms are going out of business because they can't make a profit.

Average farm hog prices in January were 10 percent less than in January two years ago, and 10 percent less than in January six years ago—and hog prices this month are running lower than the top prices in January.

Consumers should never forget that good prices are the best means of insuring a plentiful, reliable, safe supply of beef in this country. Our economy operates on the profit motive, not the loss motive—and the profit motive is what made beef go into the rough competition of the marketplace and win for itself an increase in per capita consumption from 56 pounds 20 years ago to 115 pounds today. In that 20 years the beef industry increased its output by 13.3 billion pounds, a remarkable increase of 2½ times.

People need to know that there are no price supports on meat, and no production controls. Those who remember the mess we got into when the Government imposed wartime meat price controls dread to think of going back to the shortage, the black markets, the rationing, the under-the-counter favoritism, and all the other unpleasantness that came with price regulation. I'm going to fight against that.

FARM INCOME

We have a real fight on our hands to get farmers' income up to the level of city people. Compared with 20 years ago, farmers are paying almost double in production costs, more than double the wages for help, farm real estate taxes that are 3.6 times higher, and twice what they had to pay for farm machinery. Farm debts are nearly five times larger than 20 years ago—farmers have had to borrow on the equity of their land each year to stay in business while nearly everyone else has been enjoying regular pay increases.

We are all pleased that your prospects for 1972 are looking better. Chances are that livestock farmers will gross $1¾ billion to $2 billion more than in 1971. Overall, America's farmers should take in $3 billion to $3½ billion more gross income this year than last. Even better news is that farm costs may increase less than before as Phase II of the Administration's economic program slows down inflationary trends.

That means that farmers should have $1½ billion to $2 billion more realized net income from farming in 1972 than 1971—a 10 to 12 percent increase. And isn't it about time?

If 1972 turns out the way it now appears it will, farmers' realized net will average $16.4 billion for the four years, 1969 through 1972—compared with an average of $13.8 billion from 1961 through 1968. That's a 19 percent increase, and it's progress—but it's still not good enough.

It's still not good enough because the average disposable income of farm people is still only three-fourths as much as the average income for non-farm people. That's considerably better than the average of the preceding eight years, but I'll never be satisfied with conditions that force farmers to work for 25 percent less than the rest of the Nation.

City people want a fair wage, and they should get it. Businessmen want a fair return on their investment, and they should get it. And everybody should realize that farmers want a fair return for their work and investment—and they should get it. That's why I am pushing a variety of efforts to boost farm income, ranging from the new options in the major commodity programs to better credit terms and availability for small farmers and rural communities.

DISEASE CONTROL

We aim to bring more direct and more economical services to you, in the never-ending fight to cope with animal diseases. Just last month Tennessee became the 33rd State to eradicate hog cholera and since then three more have been declared cholera free. Four more are expected to qualify during March, bringing the total to 40 "free" States by the end of next month.

We will soon begin to accelerate efforts to eradicate brucellosis, putting emphasis on a system of market identification as a means for locating infected animals. This will replace the former method of down-the-road testing and should save time for the livestock owner. At present, 24 of the 50 States plus the Virgin Islands have eliminated brucellosis and most of the remaining States, including Tennessee, are well along the way toward eradicating this costly disease.

FAMILY FARMS

I am doing my utmost to see that small farmers and family farmers have the chance to grow into economic farm units that will keep up with the times, so that they and their growing families can live as well as others.

To help family farmers get more leverage, we are organizing marketing teams to mobilize expertise, on a commodity by commodity basis, and bring it to bear on farmers' marketing problems. They will consult with farmers, industrial firms, university people, and all who can contribute to devising innovative approaches to improving the flow of commodities from farms to markets at better rates of return for producers.

We are planning to explore ways of improving the tax structure of family farmers. We must find alternatives to the burden of taxes on farm land—the gravity of this problem was recognized by the President in his recent State of the Union Message.

I'm also for giving you more say over the prices of what you sell, more say over the terms, and more say over your own operations. This is why I favor the principles of better farm bargaining legislation . . . and I urge that you look at this carefully from all angles. Give full consideration to its potential in helping you attain a real voice in the marketing of your products.

ECONOMIC GROWTH

We are seeking the best ways to improve economic opportunities in rural America and are pushing a countryside growth program to increase economic activity and job opportunities in rural communities.

We want more of this Nation's future economic expansion to be invested in rural America, so that farm and rural people can find more and better jobs in their home areas instead of having to move to some far-off city that is already over-crowded and congested. You are setting a good pace for this type of activity here in Tennessee—in McMinnville in Warren County, for example, Rogersville over in eastern Tennessee, and Dyer and Obion Counties in the western part of the State. Another outstanding example of the kind of progress we have in mind is Bowling Green, just over the line in Kentucky.

Last year, funds for rural credit advanced by the Department of Agriculture reached a record high of more than $2.5 billion in supplementary financial assistance made available to rural people for housing, family farms, and community facilities. The President supports proposals now in Congress to expand the Department of Agriculture's credit programs to include industrial and commercial development, and community facilities such as industrial parks . . . all aimed at creating more jobs for rural people.

The task of sparking new activity, of building for a better total environment, is one that justifies the cooperation of each one of us. It could well be the most important challenge we face—because on our success may hinge the very nature and character of the United States of America for years to come. Let's consolidate our forces and move ahead on the job!

## RADICALS AND ASYLUMS IN THE U.S.S.R.

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## HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. CRANE. Mr. Speaker, the Soviet Union has for many years pursued the policy of eliminating dissenters by sending them to mental institutions and declaring that they are insane.

Last month, Vladimir K. Bukovsky, one of the most active members of the Soviet Union's dissident movement was convicted of anti-Soviet agitation and propagandizing. In a summary 1-day trial he was sentenced to 7 years' deprivation of freedom, to be followed by 5 years' exile.

Mr. Bukovsky, only 29 years old, has already spent a total of 6 years in prison, a labor camp, and mental institutions. He was arrested last March after having sent documentation abroad to show that sane political nonconformists were being held in psychiatric hospitals.

Writing in the New York Times of February 15, 1972, Journalist I. F. Stone declares that:

> The commitment of radicals to lunatic asylums in the Soviet Union has become an international scandal.

He notes that one aspect of this scandal which has not been sufficiently discussed in the United States is the fact that the Soviet Union relies upon an American study to refute charges of misusing psychiatry.

That document, written by Judge David L. Bazelon of the U.S. Court of Appeals and six leading American mental health specialists after a visit to the Soviet Union in 1967 was published by the Department of Health, Education, and Welfare. Mr. Stone points out that:

> It nowhere even mentions the charge that psychiatry is misused by the K.G.B. to put away critics of the regime.

Mr. Stone declares that "a special obligation rests on Judge Bazelon." It is high time that the record was set straight concerning the Soviet Union's treatment of dissidents, and that no document published by the U.S. Government in any way assists a totalitarian regime in mistreating its own citizens.

I wish to share Mr. Stone's article with my colleagues, and insert it into the RECORD at this time:

[From the New York Times, Feb. 25, 1972]

### RADICALS AND ASYLUMS IN THE SOVIET UNION

(By I. F. Stone)

When Ivan Yakhimovich, the head of a collective farm in Latvia, got into trouble for criticizing the higher authorities, they had him examined by psychiatrists. The latter listed among his "peculiarities" that he "puts the public interest higher than his own" and "believes that he has to dedicate his life to the ideals of Communism." The story is told in "A Question of Madness" by the Medvedev brothers and illustrates one of the saddest paradoxes of Soviet life. The successors of the Promethean handful who set out to change the world now regard any effort to change theirs with suspicion. Obsessive reformist delusions" has become a familiar diagnosis in the psychiatric police records smuggled to the West by Soviet dissidents.

The commitment of radicals to lunatic asylums in the Soviet Union has become an international scandal. One aspect of it has attracted too little notice here. It is the misuse by Soviet apologists of an American report on their mental hospitals as if it were a whitewash of Soviet practices. The report was written by Judge David L. Bazelon of the U.S. Court of Appeals and six leading American mental health specialists after a visit to the Soviet Union in 1967. It was published by H.E.W. as The Report of the First U.S. Mission on Mental Health to the U.S.S.R."

The report has many good things, as well as some critical, to say of Soviet psychiatry. But it nowhere even mentions the charge that psychiatry is misused by the K.G.B. to "put away" critics of the regime. Yet the report is being used privately and has been cited on three recent occasions publicly as if it were evidence that these charges are false. The first was in Izvestia last Oct. 24. The second was during the World Psychiatric Congress in Mexico City when the Soviet delegation walked out rather than discuss these charges. Its leader, Dr. A. V. Snezhnevsky, instead gave an interview to Excelsior (Dec. 1) in which he cited the American report as if it disproved the charges made at the congress. The third occasion was Jan. 20 when the Austrian state radio carried an article from Volkstimme, organ of the Austrian Communists, attacking Vladimir Bukovsky and the documents he smuggled abroad on the commitment of Soviet dissidents to mental hospitals. There again the American report was quoted as if it rebutted "such primitive slander propaganda."

It is time that Judge Bazelon and his colleagues answered these misrepresentations. It is also time that they supplemented their report by examining the Bukovsky documents. He smuggled out last January the actual diagnostic commitment records of six Soviet crusaders for civil liberties. These were examined by 44 British psychiatrists. In a letter to The Times of London last Sept. 16 they felt "impelled to express grave doubts about the legitimacy of compulsory treatment for the six people concerned," and asked that the issue be raised at the World Psychiatric Congress. At my suggestion The New York Review obtained the documents from London and presented them last week to Judge Bazelon with a request that he and his colleagues make their own report upon them in the interests of justice and in view of the way their report has been misused.

A special obligation rests on Judge Bazelon. He was the member of the mission who visited the Serbsky Psychiatric Institute. Judge Bazelon later wrote the introduction to the English translation of the standard Soviet work on Forensic Psychiatry edited by G. V. Morozov, head of the Serbsky, and published here in 1970. Neither in the report nor in the introduction does he show any awareness that the Serbsky is notorious among the dissidents as a K.G.B. institution. It is clear now that Judge Bazelon was treated with less than candor by his Soviet hosts. He did notice as odd that the Serbsky was guarded by soldiers. He was told this was because it contained so many dangerous patients!

At Mexico City Dr. Snezhnevsky said the charge that radicals were incarcerated in Russian lunatic asylums was an old canard which the Western press spread as far back as Czarist days "for selfish and political motives." But Bazelon's introduction quotes the same "canard" from the Morozov book. It condemns the treatment of radicals as lunatics "under conditions of class terror and brutal reprisal against revolutionaries" in the days of Czarism. Neither Bazelon nor of course Morozov recognizes that this old Russian custom has been revived and expanded by the present regime.

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## RAY A. KROC—MARKETING MAN OF THE YEAR

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## HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. PUCINSKI. Mr. Speaker, last week the Chicago chapter of the American Marketing Association honored Mr. Ray A. Kroc, chairman of the board of McDonald's Corp., as "Marketing Man of the Year" at its 14th annual award dinner.

This annual award is given to a person who operates at policymaking levels with respect to marketing decisions.

Mr. Speaker, I am placing in the RECORD today the program from this inspiring event and Mr. Kroc's timely remarks in accepting the award.

Ray Kroc is one of Chicago's most distinguished business leaders and he has well earned the honor bestowed upon him as "Marketing Man of the Year." His message should serve as an inspiration to all Americans.

The articles follow:

### PROGRAM OF MARKETING MAN OF THE YEAR ANNUAL AWARD DINNER

#### THE AWARD

This annual award is given to a person who operates at policy making levels with respect to marketing decisions. These marketing decisions may be made in any field of endeavor such as business, government or academic. To be eligible for this award, nominees must be headquartered in the Chicago area.

Nominees are judged primarily on their continuing contribution to marketing. Specificially they are evaluated on scope of marketing responsibilities and efforts, nature and extent of innovation, marketing success, consumer benefit, and advancement of marketing as a profession. Additional consideration is given to civic contributions, philanthropic involvement, social welfare, and overall contribution toward improved quality of life.

#### ABOUT THE AMERICAN MARKETING ASSOCIATION

The "Marketing Man of the Year" Award Dinner is an annual event sponsored by the Chicago Chapter of the American Marketing Association.

Chicago claims the second largest chapter (1,200 members) in the nation; and Chicago is the home of the parent organization, the American Marketing Association with a total membership of approximately 17,500.

Members are men and women professionals in the field of marketing management, marketing research, advertising, physical distribution, sales and education.

The American Marketing Association exists "for the advancement of science in marketing." This purpose is carried out through annual conferences, regular luncheon and dinner programs, special interest groups, discussions, seminars, and courses.

The Chicago Chapter publishes a news monthly, The Chicago Marketing Scene; the national association publishes two professional journals: the Journal of Marketing and the Journal of Marketing Research; a semi-monthly newspaper, the Marketing News, as well as a variety of monographs, books, and other professional papers.

The American Marketing Association holds an annual fall conference for its members who are professional educators; and a summer national convention for all its members.

Since establishing his first restaurant in Des Plaines in 1955, Ray A. Kroc has built

McDonald's Corporation into a world-wide chain of more than 1,900 outlets with sales of over $700 million and has served over 9 billion hamburgers. In the course of developing his concept of licensed restaurants offering a limited menu, fast self-service and reasonable prices, he became known as the "father" of today's fast-food industry.

Mr. Kroc has little formal education, leaving high school to join a Red Cross ambulance unit in World War I. Until he founded McDonald's, his business career was primarily concentrated in sales, including real estate and restaurant equipment and supplies. He was born in Chicago and his company's world headquarters are in suburban Oak Brook.

Mr. Kroc's outside interests are principally concerned with health and youth. He is a principal figure in charitable activities through the Kroc Foundation, which benefits research in the areas of diabetes, arthritis and multiple sclerosis. He and his company provide continuing support for the Boy Scouts of America and local Scout troups. McDonald's is closely involved in the Scouts' Project SOAR, a national program to beautify America. At Mr. Kroc's suggestion, the company also is a national supporter of the Scouts' recruiting program throughout the country. As a result of his interest in Scouting, he was the recipient of the 1971 "Good Scout Award" conferred by the Boy Scouts of America.

### 1972 A.M.A. MARKETING MAN OF THE YEAR—SPEAKERS' TABLE

Chairman: Mr. Gary L. Greathouse, Vice President, Grey-North, Inc.

Mr. Ray A. Kroc, 1972 A.M. Marketing Man of the Year, Chairman of the Board, McDonald's Corporation.

Mrs. Ray A. Kroc.

Dr. John G. Keane, President, Chicago Chapter, American Marketing Association, Vice President, J. Walter Thompson Company.

Mrs. John G. Keane.

Mr. Harold F. Werhane, 1968 A.M.A. Marketing man of the Year, President, Culligan International Company.

Mrs. Harold F. Werhane.

Mr. George E. Keck, 1967 A.M.A. Marketing Man of the Year, Director, United Air Lines, Incorporated.

Mrs. Gary L. Greathouse.

Mr. James W. Button, 1971 A.M.A. Marketing Man of the Year, Senior Vice President, Sears, Roebuck and Co.

Mr. Fred L. Turner, President and Chief Administrative Officer, McDonald's Corporation.

Mrs. Fred L. Turner.

Mrs. Kenneth N. Hildebrand.

Rev. Dr. Kenneth N. Hildebrand, Pastor, Central Church of Chicago.

### 1972 A.M.A. MARKETING MAN OF THE YEAR COMMITTEE

Chairman: Gary L. Greathouse, Vice President, Grey-North, Inc.

Vice Chairman: Eugene S. Mahany, Vice President, Needham, Harper & Steers, Inc.

Committee: Thomas L. Harris, Vice President, Needham, Harper & Steers, Inc.; Philip C. Martin, Philip Martin and Associates; John M. Beele, Inter-Design.

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Gary L. Greathouse, Grey-North, Inc.

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### RAY KROC SPEECH

It's a great honor for me—and for the entire McDonald's organization—to receive this award. We're extremely flattered to join some of the great American corporations whose leaders have been honored by the Chicago Chapter of the American Marketing Association.

When I look through the list of companies and executives selected for this unique award, it makes me even prouder of the accomplishments of our company and of our people in the relatively short period of less than 17 years.

I'd like to take this opportunity tonight to discuss with you my answer to the question I'm asked most often: Ray, how did it happen?

It's a simple answer, really, we just take the hamburger business a lot more seriously than anybody else.

People were making and selling hamburgers long before we opened our first McDonald's in Des Plaines back in 1955. And although we now have close to two thousand McDonald's restaurants in the United States and seven other countries, you can still find a hamburger on any menu.

So there's something just as basic to our success as the hamburger, which is America's favorite food. That something is marketing, McDonald's style. It's bigger than any person or product bearing the McDonald's name.

McDonald's marketing is an almost unlimited number of activities in small towns and big cities and neighborhoods and communities where five million McDonald's hamburgers are being served every day.

But as diverse as our marketing activities are, they have only one objective: satisfy each customer, every time he chooses to patronize one of our restaurants.

Our business isn't altogether different from a pro football team to whom execution of the fundamentals spells the difference between winning and losing. Between success and failure.

At McDonald's, the fundamentals are Q.S.C.—Quality, Service and Cleanliness. Q.S.C. is our credo and we live with it—and by it—every day.

You ladies were just youngsters back in the early 50's, I'm sure, but perhaps your fathers told you about the early part of that decade: women wore their skirts long; rock and roll was something that happened to a ship . . . and eating out was a family ordeal. There were no convenience food restaurants and no McDonald's. But there were plenty of drive-ins, with car hops and juke boxes and tipping and waiting and food whose quality ranged all over the ball park.

And taking the family to a sit-down restaurant, with impatient children, inconsistent service and often incredible prices frequently became an ordeal.

It was in direct response to those conditions in the marketplace that McDonald's first offered a unique alternative: our restaurant catered to budget-conscious families on wheels who wanted quick service, clean surroundings and high quality food.

We priced our products inexpensively enough so that the entire family could eat out. And we made our restaurants attractive enough so that eating out could be enjoyable.

In short, we developed the fundamentals of the McDonald's system that we believed would attract and bring back families.

And as a matter of fact, it wasn't long after McDonald's started that the price was removed from our outside signs. We believed then—and we still believe—that McDonald's Q.S.C. will attract more customers and will sell far more hamburgers than a neon sign flashing a low price.

So to this day, the philosophy of our business is the same. We've changed the architecture from an attention-getting red and white tile billboard building to a handsome brick and mansard roof style; we've added new products to our menu; and we've sold almost ten billion hamburgers.

But just like a winning football team, we are sticking to our game plan. Learn how to satisfy that customer, take it more seriously and then stick to it, and do it better than anybody else. I believe that is what it takes to be successful in this business.

It's easy to have principles when you're rich and successful. The hard part is sticking to your principles in the formative stages of your business or career.

It isn't easy to forgo a quick profit when you need it. We could have used the commissions from the telephone company, the juke box people or from cigarette machines. But we avoided this . . . because when we said we were different, we wanted to prove it.

The McDonald's way succeeds because every restaurant is a local retail business unto itself. We don't sell food or paper products or equipment to our licensees. We encourage them to buy locally, according to our quality specifications.

They bank locally, and each McDonald's provides employment for anywhere from 40 to 60 local people.

We're particular about our licensees—because they're the men who make McDonald's successful store by store and city by city. We have to make sure that the person we select as "Mr. McDonald's" of his community is right.

Very few of them bring any restaurant experience with them to McDonald's. Some are former military men, shoe salesmen, accountants, attorneys, sales managers, dentists, a former assistant secretary of labor—and even advertising executives.

Before they serve their first McDonald's hamburger, each man is trained at our Hamburger University in Elk Grove Village. He learns how to handle raw products and maintain his equipment and take care of his store—and most of all, he learns how to satisfy his customers with quality, service and cleanliness the McDonald's way.

OPNAD is the name for our operators' national advertising fund—a voluntary cooperative through which a percentage of member stores' sales goes for national advertising.

The OPNAD steering committee is composed of elected representatives from each of our six regions who meet regularly with our advertising experts to help plan our marketing and advertising programs.

Locally, our licensees and representatives of company-owned stores join forces to purchase advertising time and space to complement the national ad schedule.

This year, McDonald's will invest more than $35 million in local and national advertising and marketing.

Some companies might be tempted to use

that advertising budget as a crutch to get past other marketing opportunities.

But we can't do that because we have almost two thousand individual production and service facilities. Each McDonald's is a center for production, quality control, retail sales, marketing and consumption.

And a customer must get the same high quality in every one of those facilities. That's what we promise him, and that's what we must deliver.

Product quality means it's hot and fresh and good-tasting.

And it must be served in immaculately clean surroundings, outside as well as inside.

But quality and cleanliness aren't enough. It takes quick, courteous service by friendly, sincere people behind the counter.

We seem to go for initials at McDonald's. In addition to our Q.S.C., T.L.C. is also extremely important. We think we imbue all our people with the tender, loving care attitude, which filters down to our customers.

It's quite simple to teach the tangibles and mechanics of handling food products, but it takes years to teach the importance of T.L.C. and to develop the habit of saying "please" and "thank you." We feel very strongly about cleanliness because cleanliness denotes quality.

McDonald's is unlike any other business I know because its personality is a true reflection of our 70,000 people. They're young and old and full time and part time, but they share a real dedication to what they're doing.

Through the years, tens of thousands of our young employees have been able to further their educations, thanks to money earned at a McDonald's.

And I've received hundreds of letters from parents grateful not only for the opportunity their children had to earn a paycheck, but grateful for our teaching their children things they didn't learn at home—like how to wash floors and take out the trash.

But I think the important lesson learned by the young McDonald's people is the value of teamwork. The next time you drive past a McDonald's at lunch time, stop in and take a look at what teamwork can do.

In the last two-and-one-half years, more than 500 of our restaurants have added additional parking spaces, added to or remodeled patios and relandscaped. And, in the last two-and-one-half years, more than 300 McDonald's have undergone major remodeling, which means they've changed from the original red-and-white title design to the new mansard roof and brick exterior.

Today, more than two-thirds of our restaurants feature the "new look."

One of our strengths is our commitment to local involvement. We've always encouraged each McDonald's licensee and manager to become actively involved in the community. It's no coincidence when a McDonald's sets aside part of a day's proceeds for a local charity. Community relations—building consumer loyalty for each store—continues to be a major goal.

We extend involvement to the national level, too. For the last two years we have been working with the Boy Scouts on their ecology program, Project SOAR—(short for "Save Our American Resources"). We provided litterbags and served thousands and thousands of free meals to the youngsters who are out cleaning up the environment.

To give national recognition to some of the nation's outstanding young people, we created McDonald's All-American High School Band. Made up of 101 top high school musicians, they come from all 50 states and the District of Columbia, representing the very finest high school musical talent.

The All-American Band plays twice a year—in the Macy's Thanksgiving Day Parade and the Rose Bowl Parade on New Year's Day. Both parades are televised nationally by NBC and CBS. It's been a rewarding project for our company—as for the first time—youngsters are recognized for their musical talents the way athletes have been for so many years.

Some excerpts of a film you're about to see tells the band story.

And now I'd like you to see three of our TV commercials. The first is a spot for children featuring our Ronald McDonald, which, incidentally, I think, tells an important story these days . . . and the other two are beamed for the adult TV audience.

I'm sure you'll agree that the show business theme does get our clean message across.

I keep hearing that America is no longer the land of opportunity—that our system just doesn't work anymore.

But I was over 50 when the McDonald's chain was started. I saw an idea and I was convinced it would work.

There always have been, and I guess there always will be, scores of books telling how to get rich. Anybody who undertakes anything with the single goal of making lots of money will fall flat on his face. Learn the fundamentals, stick with them, and you'll succeed. You'll succeed if you have an idea of what success is.

At McDonald's, success has always meant customer satisfaction through Q.S.C. and T.L.C. It's meant changing and growing as our market changes and grows.

The conscience of a company, as I see it, is to operate with fairness and honesty. The individual is the key and we try to encourage an awareness in the employee that responsibility for action rests with individuals or groups and *not* with a mystical corporation.

Our biggest challenge is to be sensitive to change—improvements and increased expectations. It is a dynamic process that never ends.

McDonald's has meant spirit, enthusiasm and excitement. Our growth has been an adventure and I hope it always will. It is *our* responsibility to continue opening day excitement for both our customers and licensees *forever*. The alternative could cause boredom and stagnation.

Our financial success has come as an almost automatic consequence of the philosophy expressed in "Press On":

"Nothing in the world can take the place of persistence. Talent will not; nothing is more common than unsuccessful men with talent. Genius will not; unrewarded genius is almost a proverb. Education will not; the world is full of educated derelicts. Persistence and determination alone are omnipotent."

I'd like to invite all of you to visit our new world headquarters building in Oak Brook.

Thank you for this award as Marketing Man of the Year, which I'm proud to accept on behalf of our president, Fred Turner, and the great staff of young, vigorous and dynamic executives he has assembled, many of whom, I'm happy to say, are here tonight.

Fred started at our number one McDonald's and literally worked his way up through every phase of our company. He loves what he's doing—and our people share this feeling. If they don't—we send them to our competitors! He's only 39—so you can visualize the years of leadership we have with him at the helm. Thank you again—for myself, Fred and the entire McDonald's family.

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## LAWRENCE D. SLOCOMBE

## HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. SHRIVER. Mr. Speaker, State Representative Lawrence D. Slocombe, of Peabody, Kans., recently passed away in Topeka while fulfilling his legislative responsibilities in the Kansas State Legislature. Lawrence Slocombe was a good friend of mine, and it was my privilege to serve with him in the Kansas Legislature prior to my election to Congress. He served the people of his district and the State of Kansas with intelligence and integrity for 16 years.

He will be sorely missed in Marion County which he served so well, and by all Kansans who knew and respected him.

Mrs. Shriver joins with me in extending heartfelt sympathy to his widow, Florence; to his daughters, Mrs. Roger Hannaford, of Marion, and Mrs. Harold Parker, of Atchison; and to his brother, Vernon Slocombe, of Peabody.

Under leave to extend my remarks in the RECORD, I include the following editorials from Kansas newspapers which eloquently eulogize Lawrence Slocombe and the mark which he has left upon his community, his county, and our State:

[From the Marion County (Kans.) Record]

### LOST, ONE GOOD MAN

Marion County and the State of Kansas lost a good man last week when Lawrence Slocombe was the victim of a heart attack in his room at the Jayhawk Hotel in Topeka.

For 16 years he had represented his district well, sometimes during troubled times, in the House of Representatives.

He was a rural representative during a time when the power in the statehouse passed from country to city domination.

Slocombe had held some of the most powerful of assignments in Topeka, and was a member of that inner-sanctum in the Capitol. He knew how to get good legislation passed, and he also had the ability to stop bad bills dead in their tracks.

Just a "country boy" as he liked to be known, he oftentimes taught the city slickers a trick or two when it came to politics.

But Slocombe's political action was never of the "dirty" variety. He was always open and above board with all his actions. He was frank and honest with the press, and at times let his opinion be known when it would have been to his advantage to conceal his own personal likes or dislikes.

At his funeral Saturday there was a big delegation of fellow lawmakers, some who had fought with Lawrence Slocombe in the halls of legislation. But even though they had at times disagreed totally in concept with this Marion County legislator, they respected him. It is hard for a legislator from Johnson County, for example, to agree on many things with a legislator from Marion County. Their viewpoints are completely opposite from many standpoints, especially when it comes to assessment and taxation.

And for many years Slocombe headed the important committee on assessment and taxation.

But they were there to pay last respects to a man they admired. Lawrence Slocombe fought to the hilt for the people he represented. He was sincere, he was honest, and he never flinched when it came to convictions.

Truly a good man has been lost. But he will long be remembered.

[From the Hillsboro (Kans.) Star-Journal]

### IN APPRECIATION

The people of this county, state and especially this community will miss Rep. L. D. Slocombe. It's sad but true that often it is only after someone dies that people realize their effectiveness or appreciate what they have done.

Lawrence Slocombe served this county, as well as the state, for 16 years in the Kansas Legislature. Lawrence was not a great orator, but his colleagues always listened to what he had to say . . . it made sense. Lawrence always had his district at heart when making a legislative decision.

His statement at the Hillsboro C. of C. Legislative Luncheon the Saturday before his death clearly marked the man he was . . . Slocombe said, "I talked against the highway revenue bond issue for 20 minutes on the floor of the House yesterday and could only muster seven votes opposing this deficit spending bill." Slocombe added, "This was all right, but when representative after representative came to me afterwards and commended me for my position and agreed with me, but said strong lobbying prevented their voting with me," Slocombe explained, "This made me mad."

Flags flew at half mast over the Statehouse in Topeka last week in a fitting tribute to Rep. Slocombe. State officials and friends packed the church in Peabody Saturday for his funeral. We have lost a good representative, a close friend and gained a lesson in appreciating a person when he is living.

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[From the Wichita (Kans.) Eagle & Beacon]

Representative Lawrence Slocombe

Rep. Lawrence Slocombe of Peabody, who died Wednesday in Topeka, was a conscientious and sincere legislator who ably represented his constituency in the Kansas House of Representatives for 16 years.

A friendly and a candid man, Rep. Slocombe was highly regarded both by his colleagues and by newsmen covering the legislature because he withheld no information and always told the truth as he saw it.

For several years he was chairman of one of the most important committees in the House, Assessment and Taxation. He made no pretention to understand all of the intricacies of that complicated area, but he always saw to it that there were members on the committee who did, and he presided over the group firmly and fairly, seeing that all sides of an argument had a hearing and making no attempt to force his personal views upon the committee.

As a legislator he was always attentive to his duties and present for the voting. As a private citizen he was a successful farmer and rancher near Peabody. His interests, like those of most of his constituents were mostly rural, and he was an effective spokesman for them.

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[From the Newton (Kans.) Kansan,
Feb. 22, 1972]

Lawrence Slocombe

Marion County—and central Kansas—lost one of its leaders last week with the sudden death in Topeka of Rep. Lawrence Slocombe.

Mr. Slocombe had represented Marion County in the state legislature for 16 years, and in recent years his district had included 2 townships in Harvey County and several in the northern part of Butler County.

During his tenure in the legislative he had served on the taxation and assessment committee in the house, and had an active interest in tax legislation during his time in office.

It takes a man of dedication to serve in the state legislature for year after year with all of this hard work and the frustrations that the job entails.

To serve in such a post a man first must resign himself to the fact that during the months that the legislature is in session he must be content to live in a hotel room in Topeka for at least 5 days a week. This means that he must be away from his family during that period.

He also must realize that he's going to be away from his job or his business during that period. He also must realize that he's going to be subject to calls from his constituents not only during the legislative session, but during the entire year, and the pressures that go with the job are tremendous.

Marion County and the other areas that he represented were fortunate to have such a man as Lawrence Slocombe to look after their interests at the state level.

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[From the Hutchinson (Kans.) News]

Lawrence Slocombe

Flags flew at half-mast over the Statehouse this week in a fitting tribute to Rep. Lawrence Slocombe, R-Peabody.

He was known as a man who gave a "dog" bill a chance—a man who didn't dismiss new ideas out-of-pocket, and he picked up the affectionate nickname of "Doggy" because of it. He wore the handle proudly, and once explained to a newsman that some of the doggy ideas he championed later became laws. And good laws at that.

Doggy saw a lot of change in the Legislature in his 16 years, many of which he served as chairman of the important Assessment and Taxation Committee. He saw a change of attitude, and watched as the low-profile of lawmaker's jumped more into the public spotlight. He once joked that this change bothered him. He didn't like to campaign in person because his constituents thought he was six foot tall.

Well, Doggy was six feet tall in every way but physical stature.

He believed in the system—its disappointments and its triumphs—and all it stood for. He believed in strong state government. He was a man who liked being involved; liked the idea of shaping the course of history in any way he could.

His eulogy is that he was a good man, who did the best he could.

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NORTHERN IRELAND

## HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ST GERMAIN. Mr. Speaker, the bloodshed and suffering in Northern Ireland are matters of deep concern to me and my constituents. Although the conflict can only be successfully resolved ultimately by the people of Ireland themselves, I have urged the President to offer the good offices of the United States in mediation. I am inserting in the Record the text of a resolution regarding Northern Ireland which was passed by the Rhode Island General Assembly:

Resolution

Memorializing Congress and the President of the United States to take whatever steps in their power to bring about reconciliation and peace in Ireland

Whereas, In recent months and especially in the last few days, the world has witnessed the consummate tragedy born of hatred and violent despair in Northern Ireland; and

Whereas, All of Ireland is moving swiftly and almost irrevocably toward massive civil war and carnage while British troops purportedly guard the peace in Ulster; and

Whereas, Catholics of Northern Ireland are being interned in camps because they continue to wage their struggle for the freedom and equality inherent in the right of self-determination; and

Whereas, The issue in Northern Ireland is human dignity—the basic human right due to all men and one that men throughout history have been willing to relinquish their lives to possess; and

Whereas, Until the minority enjoys equal rights with the majority, since equality and justice are the only true instruments men possess to eradicate fear and mistrust, the handmaidens of violence and terror, peace will be alien to Ireland; and

Whereas, The true answer may lie in a unified Ireland in which Catholics and Protestants work together to create a new Ireland—a country in which all men by having full and mutual respect for each other come together and tenaciously guard their hard fought peace, now therefore be it

Resolved, That the congress and the President of the United States be and hereby are respectfully requested to take whatever steps in their power to bring about reconciliation and peace in Ireland; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the congress, the President, and the delegation from Rhode Island in congress.

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DEFICITS UNLIMITED

## HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. SCHMITZ. Mr. Speaker, the presentation of the administration's proposed budget for fiscal year 1973, which begins this July, coupled with its admission that the budget for the current fiscal year will run an almost incredible $38.8 billion in the red, marks the surrender of our political leadership—at least for the time being—to Federal deficits as a way of life. History shows unmistakably that the ultimate consequence of that way of life is runaway inflation, the collapse of the value of the Nation's money.

Herbert Stein, Chairman of the President's Council of Economic Advisers, told the House Appropriations Committee January 26:

> I don't think any government will ever again try to balance the budget when the economy is well below full employment.

Since truly full employment is virtually unattainable and Government has every incentive to describe almost any existing unemployment as well below the desired level, this means, for all practical purposes, continuing deficits as a matter of policy. Further evidence that this is now our policy was given last year when the bill raising the debt ceiling authorized, for the first time, long rather than only short-term loans to finance the deficit.

It is essential to understand clearly just what a large and continuing Federal deficit does to our economy. The deficit is the excess of expenditures over revenues—of money going out of Government over money coming in. The extra money being spent is obtained from Federal Reserve banks in return for the Government's promise to repay. That promise, like a Government bond, immediately becomes an asset of the bank, on which it may lend money and obtain currency. This new money is backed by no actual economic productivity. Therefore, it dilutes the value of all the dollars now in circulation by the proportion that the deficit bears to this total—a very significant proportion where the deficit is nearly $40 billion.

This means more inflation, open or hidden, regardless of whatever price and wage controls we try to impose. When the controls fail, as they usually do, there is visible inflation. To the extent that they succeed in holding prices down over a considerable period of time, shortages develop in the price-controlled products, because they become no longer profitable to produce.

The $38.8 billion deficit for the current fiscal year is by far the largest Federal deficit in our entire history except for World War II. The administration estimates a deficit of only $25 billion for the next fiscal year. But last year its estimate of this year's deficit was just $14 billion, which turned out to be short by $25 billion. If the current estimate is as far off the mark as last year's, the deficit for fiscal year 1973 could reach $50 billion.

Charles Bartlett's widely circulated newspaper column, in the week of the budget announcement, made a fascinating and significant comparison of the Nixon administration's budget for fiscal year 1973 with that proposed by the administration of President Kennedy just 10 years ago, for fiscal 1963. During those 10 years the population of the United States increased just 9 percent, but the Federal budget went up nearly 150 percent.

Federal payments for welfare rose from $2.6 billion to $12.3 billion. Federal aid to education rose from $702 million to $5.1 billion. Federal appropriations for manpower training and development rose from $60 million to $5.1 billion. Federal aid to State and local governments went up from $9.9 billion to a staggering $43.8 billion, including $5 billion in the proposed budget for revenue sharing. Alice would feel right at home in Wonderland with that item—the Federal Government sharing $5 billion of the $38.8 billion in revenue it does not have.

It would be hard to argue against Mr. Bartlett's conclusion after looking at this budget:

Nixon is asserting his credentials as a Keynesian.

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## DOCUMENTARIAN'S LAMENT

### HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ANDERSON of Illinois. Mr. Speaker, the network television documentary has recently been the target of much criticism and controversy, and I would be the first to concede that some of the criticism has been justified. I think that as a result of that criticism the networks are now taking greater care to be more fair and accurate in their presentations, and to that end, the criticism has served a constructive purpose. But perhaps there is also the danger of overkill—that is, becoming so critical of anything controversial that we simply scare the networks out of making good documentaries. I think this would be most unfortunate because the networks are just beginning to experiment and take some risks, and as a result are turning out some high-quality documentaries. In the process, some people are bound to be offended and some controversy is bound to be stirred up, for a good documentary should lay bare the truth, and the truth is sometimes painful, but it is also a necessary first ingredient in correcting intolerable situations.

What I fear is that public criticism of documentaries will be carried beyond the justified and constructive stages to a strong negative reaction against anything controversial, and that this backlash in turn could eventually cower the networks into eliminating any documentary programing which might be controversial. We would thus revert to a steady diet of "Beverly Hillbillies"—and our television screens would indeed become the "vast wasteland" which Newton Minnow foresaw. It seems to me this would be a serious setback for our democratic system which thrives on the dynamics of controversy and the search for truth.

In this connection, I would like to include in the RECORD at this point an article which appeared in the January 5, 1972, issue of Variety, written by Fred Freed of NBC on the problems of producing documentaries.

The article follows:

[From Variety, Jan. 5, 1972]

#### TELEVISION'S LEADING "LOSER": THE MAKER OF DOCUMENTARIES

(By Fred Freed)

The makers of news documentaries—people like me—have real problems. But they are not necessarily failures of talent, or our inability to be interesting enough, or art, which often is the opposite of journalism, getting in our way, although they may be any of these.

Our real problems are economic and political.

I work for a commercial network. It is in business to make money. I lose money.

I lose money in several ways. First, the programs I do cost between $150,000 and $200,000 to make. That is not because I am extravagant but because the costs of equipment and labor and transportation are very high.

Second, I cost money because the time I take on the network could have been sold to a sponsor for a very considerable sum. My program almost certainly will not be sponsored. Once it might have been. But now people are angry. No one agrees with anyone else. Everything is controversial. Why should a man who is trying to make a good impression on customers sponsor a program he knows will anger many of them?

Most people won't watch. The best film I ever did was opposite a Steve McQueen feature that got the highest rating of that whole year. Even my mother and father watched it.

Third, I cost money because my program will have a low rating. That means it will hurt the programs coming before and after it.

Fourth, I cost money because of the controversy that follows my programs. Letters will have to be prepared for the FCC, for Congressmen, for local officials. Law suits will have to be defended.

One year we were sued by various people for $517,000,000.

Finally, I cost money because the programs I do take time to research and pin down. Dozens of people have to be interviewed. Hundreds of books and periodicals have to be read.

##### THREE STRIKES

So, the point very simply is that NBC cannot afford very many of me because I cost money, cause touble and lower ratings. I think you would agree these are precisely three things that no other sane business organization would think of financing.

But, many people say, the FCC forces NBC to put on a certain number of programs like that. Not quite true. NBC would have to put on some kind of public service programs, but they do not have to be controversial and they do not have to be expensive.

It is fair to say that NBC does quality news programming for reasons of prestige and perhaps because it has a conscience—not just because it is afraid of Congress or the FCC.

Yes, money is a problem. But, and more important perhaps, we also have problems of a political nature.

They have mutliplied rapidly.

When I began in television the sides were clearly drawn. We were the good guys. On the other side were the bad guys who wanted to censor us. People like Joseph McCarthy, far right wingers and the like.

##### IT'S US AGAINST THEM

This has very much changed. Now, everyone seems to be on the other side.

To the young and the left we represent the Establishment who keeps their views from being heard and seen. To the blacks we are white racists. To many whites we are apologists for the Black Panthers. To the South we are anti-Southern. The Midwest thinks we are effete Eastern snobs. The effete Eastern snobs think we are midcult Yahoos. The left says we promoted the war in Vietnam. The Pentagon *knows* we are against them. Cops don't trust us at all.

If you do something controversial, you know you will spend months defending yourself to the government. That's not conducive to doing something controversial.

We are not part of the free press. We are licensed by the government and required always to justify ourselves to a government agency. Anyone can complain about us, and a battery of network lawyers will be required just to keep us even.

I recently did a program called "An NBC White Paper: Vietnam Hindsight." It examined the period between the inauguration of John F. Kennedy and the death of South Vietnamese President Diem. The purpose was to see how we got ourselves, I think inextricably, involved in a war no one wanted.

I'm from a generation that made an inflexible rule of the phrase "No more Munichs." So, we got into Vietnam. Now the inflexible conventional wisdom is "No more Vietnams."

I wanted this program to say that isn't the lesson at all. The lesson is "No more inflexible cliches."

That, I think is the real function of the homogenizing medium called television.

To ask the right questions. To remind people that what you think is so may not always be. To open our minds. Not in any one direction. But in all directions.

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## DRAFT RESISTORS

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. CRANE. Mr. Speaker, some communications from constituents are so eloquent that they require no further words of introduction.

The two following letters from Mrs. Robert Merker, of Northbrook, Ill., certainly fall into that category. For those who ask amnesty for draft resisters, I would ask them to read the eloquent statement of this heroic mother.

I insert these letters in the RECORD:

NORTHBROOK, ILL., *January 27, 1972.*

Hon. PHILIP CRANE,
*Washington Office*
*House Office Building,*
*Washington, D.C.*

DEAR SIR: I am enclosing a copy of a letter I wrote to the Sun-Times in regard to their poll on the subject of amnesty for draft resistors and deserters. I feel they made their choice and they can take the consequences of their choice, just as our servicemen did when they died for the country they loved.

What a difference there must be to be able to go to Canada and see your son, instead of to a mausoleum to see only my son's name on a slab of granite.

Please read those letters to your collegues in Congress and those Senators who think so little of the sacrifices made by our servicemen who were killed in action. I am depending on you to get my message through. Show them the picture of my son and his bride taken two weeks before he left for Vietnam. Tell them about the fact that he was the best drafting student that Glenbrook North School has ever had. (He was first in drafting competition in the entire state of Illinois in 1965). Tell them what a fine, healthy, young man he was and how much he had to live for. Tell them of The Bronze Star for valor, the other Bronze Star for meritorious service, the Air Medal, the Purple Heart, and the Vietnamese medals, the Gallantry Cross with Palm, and the Military Medal of Merit awarded posthumously for the 30 days in which he was in vietnam before the helicopter he was piloting was shot down. On behalf of all the grieving families such as ours, who only have pictures and our memories, try to make them understand what a mockery amnesty to deserters and resisters would make of our dead servicemen. How could this country of ours ever ask another wife or mother to give up her husband or son to the service of his country if the resisters and deserters are allowed to return to this country after the war is over? I challenge any Congressman or Senator to look me in the eye and others like me and tell us the resisters and deserters are more important than our dead sons.

I know you will represent me in this message. Thank you for your help.

Respectfully,

MRS. ROBERT A. MERKER.

NORTHBROOK, ILL., *January 27, 1972.*

ENCOUNTER,
*Chicago Sun-Times,*
*Chicago, Ill.*

DEAR SIRS: I do not favor any sort of amnesty to the draft resisters and deserters, either now or after the war is over. If anyone is truly a conscientious objector, they could have served in a non-combat capacity and still given time to their country. I feel that we will be at the mercy of foreign powers if they know our citizens are allowed to disregard their country by being unwilling to fight and die for it.

Our eldest son could have resisted the draft too. Instead he enlisted in the Army, became a Warrant Officer and a helicopter pilot. He was killed in action when his light scout helicopter was hit by small arms fire and crashed. He loved this country enough to die to contribute to the safety and well being of it and its citizens.

Why should anyone leading the soft, safe, life in Canada be given extra consideration for their cop-out on their responsibilities as citizens. Let them stay in Canada. This was their choice.

Most sincerely,

MRS. ROBERT A. MERKER.

## HERO OF LITTLE DIXIE

## HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HUNGATE. Mr. Speaker, I call my colleagues' attention to a pair of outstanding authors from my district, and both, incidentally, from the same town in Shelby County, "Little Dixie," Shelbina:

### HERO OF LITTLE DIXIE

(By Jack Rice)

The voice on the telephone said it belonged to Tom Bates, and that a book he wrote was going on sale at a department store here. He would appreciate a plug for the book. I said, Uh-Huh, meaning why should I plug some stranger's unread book, and then I woke up and said, "Tom? That you?"

He allowed that it was. Tom Bates, originally of Shelbina, Mo., one of the few model boys in Little Dixie and the only one the nonmodel boys could live with and admire. His brother Sam and I were of an age. Tom was three years older. That gave him a head start on us in muscle and experience, in addition to the considerable head start he was born with, intelligence. He was our leader, whether he liked it or not.

When he did not like it, Tom was kind about it. If he wearied of us as tagalongs he did not do anything so gruff as tell us to get lost. He simply outdistanced us, on foot or on bicycle, or said that he would meet us at the town pump with ice cream cones in five minutes. Then he would hide out at the cattle sales barn or go to the water reservoir for a private swim and a good laugh.

Tom's family was Miles & Bates, Dry Goods. His father had the business in Shelbina for 50 years. When Mr. Bates sold a yard of goods the measure was three feet, six inches. He had a gentleman's compassion for allowing a lady to under estimate herself in figuring the skirt material necessary at the hips.

The grownups expected great things of Tom and we younger boys accepted that as standard grownup behavior; they were lagging behind the facts. We knew he already was great and he bore us out early in the Second World War when he was the first hero in town to be accepted by NavCad, the Navy's pilot training program.

Shelbina's only ranking military genius before Tom was an Army man and it took him 30 years, from West Point to retirement, to make lieutenant colonel. Sixty years before that, a brevet general briefly lived in Shelbina. He built a mansion and put in Italian pier mirrors, installed a French woman without a marriage license, and his commission had been in the Union Army. He was powerfully impressive but he was not acceptable in Little Dixie.

Tom's brother, Sam, and the others of Tom's followers settled into the long wait for Tom to finish flight school. It was a comfort, during the waiting, to look forward to the day we would walk with Tom on Main Street, the glory of his little gold wings and his ensign's gilt stripe reflecting from sun to us.

Well, the Navy managed to louse it up. The Navy was new at Nav-Cad and there were flaws in the program. The Navy's primary training plane, the biplane Stearman, forever was making some mistake or another, with Tom in it. My recollection is that two of them betrayed him, on one flight.

The Stearman he was driving came in for a landing and made it on top of another Stearman. Tom was not damaged, and neither was the other cadet, but the Nav-Cad people said that made Tom an ace, with a total of five Stearmans to his credit, and sent him to merchant marine gunnery school.

That was 30 years ago and I had not seen Tom between times but had heard that he owns a successful auto agency in Kirksville. Now here he was, on the telephone, and in St. Louis, and the author of a book. A book on what, Tom? What is the title?

"It's called 'The Oklahoma Convention,' it's a system to bid in bridge that I devised when I was living in Oklahoma for a time, after the war. Meet me for a drink and I'll show you how it works."

I knew better, of course. There is no such thing as a bidding system that works. I have proved it, time and again, at bridge tables and I prove it so expertly that the nuts who give bridge parties are ashamed, and disgruntled, and sulky and never invite me to return. Tom's book looks real pretty, though, with his convention detailed on the front and back covers.

Between the covers are 24 white sheets, blank except for the words We and They at the top. Tom said it mostly is a score-pad, with his bidding system thrown in for $1, but his modesty offends me. Tom Bates, one of the best of the good old boys, has written a book and he is from Shelbina, right here in Missouri. There is hope for the world yet.

## THE PLIGHT OF SOVIET JEWRY

## HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. BRINKLEY. Mr. Speaker, the plight of the Soviet Jewry is, indeed, of international concern. And, because I believe the following letter from Miss Pam Cohn so clearly expresses the feelings not only of our Jewish citizenry, but of all Americans, I wish to commend it to the attention of my colleagues. I also wish to share with the Members of this body a petition signed by many leading citizens of Columbus, Ga., and would urge President Nixon to make the plight of Soviet Jewry a priority subject for discussion with Soviet officials during his visit to Russia in May.

The letter follows:

DEAR SIR: I am an American Jew who is deeply concerned with "my people"—(over) two million Jews held in the Soviet Union not allowed to be freed. For them they have no idea of what the word freedom means and unless you, the government of the United States and the people of America try (and I do express try), try very hard to open the eyes of the Russian government, these people may never realize the meaning of freedom.

I know the cost of freedom for I am an American. Throughout the South I have traveled and attended quite a few rallys for Soviet Jewry.

I'm not begging, nor pleading—just asking with all my heart, with all my soul, and with all my might—please, as you being our Representative, I urge you to talk with Mr. Nixon and all who have authority as our government officials. Try (and once again I do express try) and try very hard to open their eyes as I hope to have opened yours and in turn for all of you as one as being united to open the eyes of Russia and its people.

Enclosed you will find a petition—not our first and definitely not our last.

Thank you for your time and cooperation.

PAM COHN,
*United Synagogue Youth of America.*

PETITION

We, the undersigned, being deeply concerned, both as Jews and as citizens of the United States of America, for the fate of over two million Jews in the USSR, do strongly urge you, as our elected representatives, and in accordance with the principles of which this country was founded, to do all in your power as follows:

1. To expand Voice of America in Russian-Yiddish to at least twenty minutes daily.

2. To urge passage of the Brock, Jackson, Anderson, O'Neil amendment calling for the United States to place the matter of Soviet Jewry before the United Nations.

3. To arrange via Congress, rapid emigration to the United States of those Soviet Jews having relatives in this country.

4. To ensure right of emigration to Israel for all Soviet Jews, in accordance with the United Nations Declaration of Human Rights.

5. To ensure freedom to practice their religion, as a legitimate religious minority, for all Soviet Jewish citizens, without fear of reprisal, including:

a. restoration of synagogues.

b. publication of Jewish religious materials for educational and devotional use, including prayer books, Bibles and Jewish calendars in Hebrew, Russian and Yiddish.

c. restoration of educational and cultural institutions.

d. production of Jewish ritual articles.

6. To express to the leaders of the Soviet peoples the concern of the American people regarding prison conditions in the USSR, especially in the areas of medical attention, nutrition and receipt of mail and food parcels.

7. To urge immediate permission to emigrate to Israel, on compassionate grounds, of Mrs. Sylva Zalmonson, imprisoned in a Siberian labor camp for alleged hijacking attempt and reportedly suffering from severe tuberculosis.

Mrs. Jack Hirsch, Mrs. Ben Greenblatt, Mrs. Markus Spandorfer, Mrs. Gilman Hackel, Mrs. Arthur Rulnick, Mrs. Harry Brill, Mrs. Herman Harrison, Mrs. A. J. Schroeder, Dr. Norman I. Goldman, Dr. Jack W. Hirsch.

Mrs. M. Solomon, Mrs. Leon Siegel, Mrs. Marvin Podem, Mrs. Melvin Satlof, Mrs. Bernard Taranto, Mrs. Abe Koplon, Mrs. William Sherman, Mrs. Herbert Kohn, Mrs. Robert Behar, Mrs. Marvin Witt.

Mrs. H. A. Furman, Mrs. Harold Becker, Mrs. S. M. Cohn, Mrs. Samuel Kravtin, Mrs. Maurice Kravtin, Mrs. Richard Grifenhagen, Mrs. Stanley Hirsch, W. B. Spiegel, Arthur Rulnick, Steve Kanner.

Susan Kravtin, Rickie Zimmerman, Gilbert Hahn, Seymour Zimmerman, Pam Cohn, Mitzi Kravtin, Patsy Kravtin, Rae Shapiro, Mindy Zimmerman, Fern Cohn, Donna Cohn, Bill Borman, Bot-Zion Aharon, Barry Hirsch, Alex Lieberman.

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## MICHAEL E. BECKES TESTIMONIAL DINNER

## HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. CARNEY. Mr. Speaker, on Saturday, February 26, 1972, I had the pleasure of attending a testimonial dinner dance in honor of Michael E. Beckes, general representative of the United Brotherhood of Carpenters and Joiners of America.

Mike Beckes began his affiliation with the brotherhood in August 1952, when he joined Local No. 171. At that time, Mike was following heavy industrial work. In April 1961, he was appointed assistant business representative of Local No. 171, and in October of the same year he became the business representative.

During his tenure as business representative, he particiated in contract negotiations and won better wages and working conditions for his membership. He also attended and graduated from union leadership classes conducted by Ohio State University.

In October 1965, Mike became executive secretary of the Mahoning, Trumbull, and Mercer Counties Carpenters District Council, a position he held until September 1971, at which time he was appointed a general representative for the brotherhood by General President M. A. Hutcheson.

His colleagues in the labor movement have recognized his outstanding leadership qualities as evidenced by the fact that he has become a vice president of the Ohio State Council of Carpenters, executive secretary of the Greater Youngstown AFL–CIO, and secretary of the Mahoning Trumbull United Labor Council.

Mr. Speaker, Michael E. Beckes is a most persuasive and articulate man who has served his community and his union with distinction. He is a big man physically, mentally, socially, and morally. I am proud to call Mike Beckes my friend.

Mr. Speaker I insert in the RECORD the names of the officials who participated in the ceremony as well as those who made the Michael E. Beckes testimonial a great success:

OFFICIALS AT MICHAEL E. BECKES TESTIMONIAL DINNER

Invocation: Rev. Harold E. Simones, Pastor, First Christian Church, Girard, Ohio.

Toastmaster: James F. Moore, Executive Secretary, M.T.M. Carpenters District Council.

Presentation: Charles J. Ivan, Coordinator, M.T.M. Joint Apprenticeship Committee.

Presentation: Henry H. Albright, President, Carpenters Local Union No. 171.

Presentation: Daniel T. McCarthy, State Supervisor, Bureau of Apprenticeship and Training.

Presentation: William Lyden, President, Mahoning and Columbiana County Bldg. Trades.

Presentation: Al Shipka, President, Greater Youngstown AFL–CIO.

Presentation: Joseph M. Masternick, Mayor, City of Girard, Ohio.

Presentation: Joseph Sedivy, Secretary-Treasurer, Ohio State Building & Construction Trades Council.

Remarks: Frank King, President, Ohio AFL–CIO.

Presentation: Harry Meshel, Senator, 33rd District of Ohio.

Presentation: James F. Moore.

Presentation: J. Phillip Richley, Director of Highways, State of Ohio.

Remarks: Charles J. Carney, Congressman, 19th District.

Presentation: Milan Marsh, Secretary-Treasurer, Ohio State Council of Carpenters.

Honoree: Michael E. Beckes, General Representative, U.B. of C. & J. of A.

Benediction: Rev. Harold E. Simones.

Cochairmen: Milan Marsh, Frank Leseganich, William Lyden, Al Shipka, Edward Fine, and Joseph Nemetz.

Dinner committee: George Thornton, Ted Kramer, James Oakes, Harold Gilbert, B. T. Brown, Charles Ivan, Ray Piaski, Larry Hackett, and Roland Heaton.

Treasurer: James F. Moore.

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## BLEEDING IRELAND

## HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. BRASCO. Mr. Speaker, I have watched the developments in Northern Ireland over the past several months with increasing dismay. Now it has reached the point where 13 civilians have been gunned down in a confrontation with the British military forces in that unhappy country.

For century after century, Britain has occupied part or all of Ireland. Over the generation, she has utilized Ireland as a colony, granting minimal civil rights to its people. Whenever any advance has been made by the Irish people toward self-government, it has been grudingly yielded by Britain after much bloodshed, travil, and agony. Nothing seems to have changed.

Great Britain has passed her peak as a colonial power. Over the ages, she has shown enlightenment in a variety of ways. More than one former colony has been aided down the path toward self-government by Britain, encouraged to develop in its own way. Only Ireland seems to exist as an exception to this long range English view of the development of nations. A peculiar blind spot exists in the British mentality as far as this tiny island across the Irish Sea is concerned. I find this inexplicable.

Today, the Roman Catholic population of Northern Ireland is forbidden from exercising elementary civil liberties that are taken for granted in this country and in Great Britain. These are rights which owe their finest and fullest expression to the nation of Great Britain, which has fought innumerable wars to preserve them for her own people and for other nations far beyond the immediate ken of England.

From time immemorial, it seems, the Irish have struggled to be free in their own land. Their blood has been freely shed more than once on behalf of the greater cause, usually in cooperation with Great Britain. Uncounted thousands of Irishmen have given their lives in England's landmark struggles against tyranny. Does it behoove England today to ignore such examples and continue to oppress these people?

It is a shameful thing to see British troops still patroling the streets of Belfast against the will of the overwhelming majority of the people of Ireland. It is even more disgraceful to witness such slaughters as have filled the news in recent weeks, culminating in the recent events.

I believe nationalism is the most powerful force loose in the world today. In fact, it is growing faster and stronger everywhere in the world. Some observers have called it the retribalization of the world. No matter how it is viewed, this is a feeling that is visceral, omnipresent and growing.

No nationalism is older or more emotional than that of the Irish. They have fought the British doggedly and bitterly, and there is no reason for doubting that it will continue, growing ever more fierce and uncompromising.

The time has come for Great Britain to grant to the Irish what she has already given to the former colonies of Asia, Africa, and Latin America: Complete self-determination with no strings attached.

Certainly thinking people in Great Britain have no further desire to have their name attached in any form whatsoever to future occurrences of the kind we refer to today.

If Britain does not understand this, then the agony will go on. The spirit of Wolfe Tone will live and grow and fight, until at last, some day, the last British soldier will shake the dust of Ireland from his feet and that tormented land will at last be free.

## THE SANCTIONS AGAINST RHODESIA: CARGO—CHROME AND SHAME

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. FRASER. Mr. Speaker, the February 28, 1972, edition of the New York Times carried an editorial entitled "Cargo: Chrome and Shame" noting that an Argentine ship will soon deliver 25,000 tons of Rhodesian chrome at New Orleans. This shipment will be an infraction of the sanctions against the white minority regime in Salisbury—sanctions invoked by the U.N. Security Council with the support of the United States. Not only will we unilaterally break the sanctions but we will be in violation of the U.N. Charter.

As the Members will recall, an amendment to the Military Procurement Act of 1971 forbids the President to continue participation on the U.N. ban on Rhodesian chrome as long as chrome ore is being imported from the Soviet Union. As the Times editorial points out, the arguments in support of the amendment were specious. Moreover, the amendment was rejected by House Foreign Affairs and Senate Foreign Relations Subcommittees. Through the circuitous "rider" route in the Senate, the amendment was attached to the military procurement bill and survived separate votes in both Houses.

Mr. Speaker, this unfortunate measure not only damages the U.N., but it makes our country a violator of international law and order—a concept that we have faithfully advocated in the past. It is imperative that the Congress act to repeal this unwise and ill-timed section of the Military Procurement Act of 1971.

The editorial follows:

CARGO: CHROME AND SHAME

An Argentine ship, the Santos Vega, has been loading 25,000 tons of Rhodesian chrome ore in Portuguese-ruled Mozambique for delivery at New Orleans. When the cargo is landed in this country, it will become the symbol of a deliberate infraction by the United States of the sanctions that were invoked with strong American backing by the United Nations Security Council against Rhodesia's white minority Government. Thus it will come about that this country, which has probably spoken up more often than any other at Turtle Bay in support of the rule of law in world affairs, will place itself in violation of such law and the United Nations Charter.

Majorities in Senate and House wrote in the Military Procurement Act of 1971 an amendment forbidding the President to continue the U.N. ban on Rhodesian chrome so long as the metal was also imported from Russia. Lawmakers argued that this country could not rely on Communist sources for strategic needs; that Russian prices were far higher than Rhodesia's, and that the Soviet Government was more despotic than the Salisbury regime.

The national defense argument, at least, was fraudulent. The United States has so much chrome in its stockpile that the Administration submitted legislation last year to provide for the disposal of 1.3 million tons over three years. The Office of Emergency Preparedness has estimated that the stockpile is 2.2 million tons in excess of any foreseeable strategic need. This country had been importing large quantities of Russian chrome before sanctions, as much as 49 per cent of all chrome imports. Yet the Administration took no action during the Congressional debate either to set the record straight on chrome or to sustain the American commitment to the United Nations.

Bishop Abel Muzorewa, head of the Methodist Church in Rhodesia and a leading spokesman for Rhodesia's black majority, told the Security Council recently that the United States should be brought before the World Court. Whether that happens or not, it is clear that the Santos Vega will be carrying a large portion of American discredit along with the chrome.

## SOVIET JEWISH REFUGEE ASSISTANCE ACT OF 1972

### HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DUNCAN. Mr. Speaker, I am today introducing a bill known as the Soviet Jewish Refugee Assistance Act of 1972.

Since April 1967 the House has been on record urging the Soviet Union to permit the migration of Soviet Jews to Israel. The Soviet Union has responded to this request by lifting its iron curtain and allowing some 40,000 to 60,000 Soviet Jews to migrate to Israel.

As history has demonstrated freedom always has a price. In this instance these refugees represent an economic burden to the State of Israel. In order to relieve this burden and show the sincerity of our efforts I am introducing a bill which authorizes the Secretary of State to provide the State of Israel with $85 million for the relief of these refugees. This money will be spent on food, clothes, education, and training for these most recent members of the free world.

I urge the House Foreign Affairs Committee to act promptly on this measure as it assists a proud people who man our first lines of defense in the Middle East.

## MY RESPONSIBILITY TO FREEDOM

### HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ULLMAN. Mr. Speaker, this is the 25th year the Veterans of Foreign Wars and its ladies auxiliary have sponsored the annual Voice of Democracy Contest. The 1972 finals were held here in Washington, D.C., February 28 and 29, and the winner is expected to be announced next week. The event brings together winners from each of the 50 States to compete for college scholarships, including a $10,000 first prize. This year the theme of the contest was "My Responsibility to Freedom," and more than 400,000 senior high school students competed throughout the Nation.

Among the outstanding entries in this year's contest is the speech submitted by the State of Oregon winner, Miss Frances Tish, of Culver, Oreg.:

MY RESPONSIBILITY TO FREEDOM

My responsibility to freedom. What a big statement for a small human mind to contain. What is responsibility, and what is freedom? Webster says that responsibility is an obligation, something that is one's duty. Freedom is the power to say, or think, as one pleases, but when those two words are joined together by the small word "to," they seem to take on a combined meaning. By then adding one's self to the phrase, it reads: "What is my obligation, or my duty, toward the power to say, or think, as I please?"

Say what you think is right, state your beliefs, and don't keep them hid inside. Freedom of speech is a part of my freedom as an American citizen. It's hard to stand up and say just what you think. Somebody might snicker, somebody might laugh. But there's another side too, someone might agree, they may even stand up with you, and shake your hand.

I remember when the first day of school came at the beginning of my freshman year. I bounced into gym class ready for anything. I exercised and played a roaring game of baseball. It was fun then, but the next morning was an altogether different story. I had some very, very sore muscles, muscles I hadn't even realized I owned. That's sort of the way it is with the freedom of speech. Unless we continually practice this freedom, we aren't going to be ready to use it, and we may even forget it's there.

"But my church doesn't do it that way," commented Susie to her friend Jane one day. The two girls had been talking about their different types of religions. Say, I never thought of it that way before, but that word "different". How many countries have different types of religions? This is another of my freedoms. Because I'm an American, I'm allowed to choose the religion I want.

My responsibility to the freedom of voting has stepped into my life now because of the new voting age law. I feel that along with my responsibility of voting comes another responsibility, and that is to have some knowledge of how I am going to vote. This knowledge is to know if what I'm voting for is building up or tearing down my other freedoms. Also, am I voting for something that will be helping or hurting my neighbor? My responsibility of voting also must be practiced so that I may be sure it is never forgotten.

When Susie grows up she wants to be a nurse, her brother Bill wants to be a fireman, and Jane, next door, would just like to be a mother. These children can dream, because it is their freedom just as it is mine, to choose a career. They are not born into a trade, or placed there by a government, it's their choice. My responsibility to this freedom, is to choose a career and build it around my life and my other friends.

It's a natural law for every living thing to reproduce before it dies. Freedom lives. I cannot see it, touch it, or even feel its heart beating, but I know it lives. I can sense its life around me. My responsibility to freedom is to teach it to others, to pass it on, to reproduce it, so that always responsible Americans can have the freedoms that I do.

## THE TRAGEDY IN NORTHERN IRELAND

## HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. COTTER. Mr. Speaker, tomorrow I will submit testimony to the Foreign Affairs Subcommittee on Europe. The subject of the hearing is the tragic situation in Northern Ireland. For the benefit of my colleagues and the readers of this RECORD, I wish to enclose my statement, as follows:

TESTIMONY OF THE HONORABLE WILLIAM R. COTTER BEFORE THE HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON EUROPE—MARCH 1, 1972

Mr. Chairman: It is a pleasure to share my thoughts with you and your distinguished subcommittee about the problems affecting Northern Ireland.

The problems confronting the people of Northern Ireland today are manifestations of recurring historical conflicts.

The strong antagonisms between the Irish and English peoples reach far back into the Middle Ages and the time of Henry II. A review of this history reveals that the causes of the present conflict incorporate the abuses and hatreds of nine centuries. In a country where Cromwell's memory is as alive today as it was hundreds of years ago, the potential for misunderstanding and bloodshed is enormous.

Ulster was, until the 17th century, the center of the most intransigent resistance to English Rule. In 1608, there began a policy of populating Ulster with Protestant settlers, expelling the native Catholic and Gaelic speaking people to the poorer lands of the south.

In the 1800's, religion became a predominant factor in Ulster politics as the Catholics became emancipated and militant Irish nationalism was restored. By the second half of the 19th century, this pattern was firmly established and continues up to this day.

The feelings and emotions involved in this struggle are deeply ingrained in the people. The problems and loyalties of today reflect conditions of many, many years ago. For example, Londonderry was the site in the late 1600's of a Protestant victory over James II, a Catholic convert. The victor of that battle was William of Orange. Today the same narrow streets of Londonderry express the same emotions in different terms.

The bloody civil war of 1916–1921 dramatically illustrates the intensity of this struggle. The temporary and obviously inadequate solution to those five years of warfare was a divided country, but the deep-seated causes of this violent struggle still remain today.

This unfortunate division did little to end the violence and antagonisms. In the year following partition, 232 people died and over 1,000 were injured. Violence flared up in the period of 1932–1936 and sporadic violence continued after World War II.

Today these same conditions prevail but at an increased tempo. In 1970, 19 people died in Northern Ireland as a result of political turmoil, and by November, 1971, 126 more people were killed.

In spite of promises for reform and various study commissions, deliberate discrimination in housing, employment, educational opportunities, and political participation remains in force. These economic conditions have reinforced religious tensions and provided the environment for more overt violence. Continued repression and lack of reforms escalate violence.

There are two schools of thought on the best means to stabilize this situation. One group argues the need for significant and immediate reforms. The other for reunification as the essential first step. I am told that even in the IRA there is division over the most effective course of action.

After careful consideration, I have concluded that reunification followed by effective guarantees for individual liberties is the only reasonable course of action.

It was for this reason I was proud to join with my colleague from New York, Hugh Carey, in introducing H.J. Res. 654. I was happy to see that some distinguished Members of the Senate, including Senators Ribicoff and Kennedy, also joined in this effort.

This resolution, as this distinguished Committee knows, addresses itself directly to the substantive issues existing in Northern Ireland. First, the resolution calls for the immediate end to the unconstitutional and hated internment policy: the mistreatment, even torture, of prisoners, which have been authenticated, must be ended immediately.

The resolution goes even further. It requires these reforms to extend not only to law enforcement but also to housing, employment, and voting rights. Incidently, Mr. Chairman and members of the subcommittee, these were reforms that were promised by the British Government in 1968. Further, the resolution provides for the withdrawal of all British troops.

As I pointed out, I believe that the basic problems in Northern Ireland can only be solved by reunification. This legislation calls for the abolition of the Ulster Parliament and the convocation of all interested parties to reunify Ireland.

I have not been content to just introduce this resolution. I urged the President, before his summit conference with British Prime Minister Heath at the end of last year, to exert U.S. influence in a constructive manner to end the tragic civil war.

I am confident that this subcommittee will take steps to alleviate the crisis in Northern Ireland. This subcommittee's action is in accordance with the foundamental concepts of nondiscrimination, fairness, democracy, self-determination, and justice.

The terror of the conflict is expanding every day. Increasingly, chaos and destruction are becoming commonplace. No one desires another massacre of citizens or soldiers. Diplomatic relations are being unnecessarily strained. If ever there was a need for our assistance and a reversal of developments, it is now.

I thank Chairman Rosenthal and the subcommittee for the opportunity to testify on the steps to be taken to end the violence that has plagued the people of Northern Ireland.

## A TRIBUTE TO ADNAH H. HARLOW

## HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. KEITH. Mr. Speaker. Adnah H. Harlow has spent most of his life in quiet dedication to the cause of justice. He has done so with unfailing loyalty to Plymouth County, to Massachusetts, and to its people. Adnah retired as county sheriff last November. At a testimonial dinner on March 4, the residents of Plymouth County will honor him as a fine gentleman and outstanding American.

Appointed deputy sheriff in September of 1939, Adnah held that position until drafted into service in 1942. He was discharged as a sergeant in 1945, after serving in the 326th Army Air Force Base Unit. He resumed his duties at the county house of correction. In October 1955, he was appointed sheriff.

In my opinion, the county could not have had a more conscientious, hardworking, and dedicated public servant. His compassion for his fellow man is one of his most outstanding traits. It was manifested in his concern for, and treatment of, the inmates at the house of correction. Those who served under him respected and admired him.

Of equal importance is his capacity for friendship. I am proud to say that I can claim him as a friend. Adnah and I have worked together, professionally and politically, for many years. The tasks we set about to do were made easier by his determination to finish a job once it was started.

Adnah has been a loyal Republican ally through thick and thin, working tirelessly for Republican candidates at all levels. Elected officials of both parties throughout the area recognize the debt we owe him as one of "the greatest."

Mr. Speaker, I could continue in this praise of Adnah Harlow. However, the sincerity with which these words are spoken could not increase. I felt that with the upcoming tribute to him in my district, I could not let slide this opportunity to pay personal tribute to a man whose friendship I shall always treasure.

## ANSWERS TO THE PROBLEM OF POLLUTION

## HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. COLLIER. Mr. Speaker, while a world totally free from pollution is as unattainable as one without sin, we ought nonetheless to strive for the greatest possible protection of the environment from further deterioration. Unfortunately, much of what has been said and written about pollution during the last few years has contributed more heat than light.

In a nation containing over 200 million people, most of whom are working and all of whom can ride in an automobile simultaneously, pollution is part of the price we are forced to pay for industrial progress. Instead of cursing the manufacturers for causing pollution, we ought to encourage modern science to find workable solutions that would cut industrial pollution to the irreducible minimum.

One of the most sensible analyses of the subject that I have yet seen appeared in a recent issue of Better Homes and Gardens. This aricle, which is entitled "Industrial Pollution: The High Cost of Prosperity," discusses the pros and cons of the issue in a straightforward and lucid manner. Only with complete understanding can we provide meaningful solutions to the problems of our environment which were regrettably ignored for so many, many years.

Mr. Speaker, as we search for effective ways to combat pollution, we need more enlightenment. The article, which I am inserting in the RECORD at the conclusion of my remarks, provides practicable answers to the problem:

### INDUSTRIAL POLLUTION: THE HIGH COST OF PROSPERITY

Since the beginning of the industrial revolution, smoking chimneys have meant money in the pockets of millions of U. S. workers. Contaminated beaches, stinking air and dying rivers are but products of man's new affluence. Ours is the dirtiest country on earth because it is the richest.

Now it's time to pay the piper. We can no longer afford an expanding economy unless we cut down the industrial pollution that has always been its partner.

Experts tell us that virtually every stream, lake and estuary in the United States is polluted to some degree, and getting steadily worse, and that our industries are responsible for some 60 percent of this contamination. When it comes to air pollution, the automobile is still the biggest villain, but here too industry accounts for a large share—16 percent.

To make prospects gloomier yet, industrial production is increasing about three times as fast as our population, and there isn't a single clean major industry. Even food manufacture pollutes, mostly with organic wastes that contribute to eutrophication (aging) of our waters.

Let's look at some of our most infamous contaminators:

Steel mills belch out deadly carbon monoxide, sulfur oxides and fly ash, a combination that can be dangerous and not merely unpleasant. What's more, this industry uses about eight billion gallons of fresh water a day, mostly for cooling purposes, and sends the effluent back into nature fouled with countless tons of oil, scale, ash and acids.

The paper industry is notorious for the stench generated by its Kraft pulping process, the most common in use today. While not proven harmful in low concentrations, hydrogen sulfide, which is one of the components of this awful smell, can induce strong nausea.

The petroleum industry emits largely the same poisons as do trucks and cars: carbon monoxide, nitrogen and sulfur oxides, plus some unburned hydrocarbons (although the hydrocarbon problem is not as serious here as with vehicles). In addition, the petroleum industry spews soot into the air, and discharges nearly 5 billion gallons of waste water a day, much of it from old refineries and full of chemical residues. The industry's accidents—colliding tankers and offshore drilling spills—cover hundreds of square miles of ocean with oil slicks every year, gum up beaches and kill millions of birds and fish.

The chemical and pharmaceutical industries, besides putting out a wide variety of specific poisons, emit vast amounts of synthetic organic wastes that cannot be absorbed into the water life cycle.

Some of the most notorious toxins known to man are involved in everyday industrial processes which we could not get along without. Cyanides, for instance, are a by-product of coke-making. Mercury is essential in the production of electrical apparatus, paints, organic pigments, many kinds of pharmaceuticals, dental preparations and mildewproofing compounds. Chlorides are used by textiles and paper mills for bleaching, by the food industry for salting, by the steel industry for the pickling and cleaning of steel. In almost every instance, some—often a lot—of the pollutant spills over into the environment.

This much we know. The pollution is there. But in practically all but the most obvious cases, it's nearly impossible to pin down the polluters. Individual companies do not volunteer the information, and you can't exactly blame them: once a plant's effluents are known, surprising as it may seem, the competition can deduce what processes are being used and copy them. What if it turns out, then, that no pollutants are involved? It's hardly likely that society could stop the competition from adopting a similar process, and the company that bared its secrets would be unjustly handicapped.

What's the answer?

Some environmentalists are so alarmed they want to stop all economic growth. But that's patently impossible. We can't retreat into a simple agrarian past. About 24 million of our fellow citizens live on incomes below poverty level. We need economic growth if they are ever to achieve an acceptable standard of living, to say nothing of maintaining our own. We must solve the problems of our bigness, not dream of escaping them.

The fact is that most industrial pollution can be stopped or at least curtailed with current technology. The biggest reason this hasn't been done is an economic one. Cleaning up is expensive. Manufacturers worry about higher costs and consumers about higher prices. Just as in other areas of pollution, nobody seems willing to foot the bill.

Industry expenditures for pollution control totaled less than $3 billion last year. This may sound like a lot of money, but not if you ocmpare it to our defense budget of $80 billion, and our national investment of $40 billion to put a man on the moon. Evidently something has gone wrong with our priorities.

Estimates of the cost of cleaning up industrial pollution sufficiently so that we can live with what's left range up to about $14 billion a year—some $5 billion for equipment and the rest for improved operations. That's still less than 1.5 percent of our GNP, and wouldn't break us.

Industry has to make the initial investment. All of us will have to help amortize it. That's a fact of life.

### WHAT INDUSTRY CAN DO

Antipollution research is vital, not so much because we don't know how to combat industrial contaminants but to find more economical ways of doing it. In the long run that will be extremely important if our goods are to compete in the international marketplace against the lower priced products of other, less pollution-conscious countries. Meanwhile, our industry can—and must—put current technology to work even if it isn't always cheap. In short, pollution control must be accepted as a part of the cost of doing business, just as labor and materials are.

Modern methods of waste water treatment can remove or neutralize practically all contaminants. Even mercury can be removed from plant effluents by means of advanced filtration systems and chemical treatment, or by settling it out and burning or burying the sludge residue.

Hydrochloric acids pickle liquors, discharged by the steel industry, can be diverted for use in sewer systems, as they are in Detroit and Milwaukee, where they neutralize phosphates at low cost—in effect killing two pollutants with one action.

Precipitators in smoke stacks and other soot-screening devices, such as "bag houses" in steel mills, can reduce the output of particles by 95 percent. Several new processes, including the use of super-cooling (cryogenics), have gone beyond the laboratory into commercial development to remove sulfur from sulfur oxide fumes.

Indeed, practically every industrial pollution problem has a technical solution. Some of this is being done—but not enough. For instance, of the 2.3 billion gallons of water used by our 24 biggest papermakers every day, more than one-third is released entirely untreated, loaded with chemicals from pulping and bleaching. Another third is treated but still fails to meet federal standards.

It is clear that in any industry there are leaders and foot draggers. In Charleston, W. Va., for example, Union Carbide Co. joined with the city in financing a treatment plant to handle both city sewage and the plant's chemical wastes. The total load of pollution discharged in the Kanawha River was cut by more than 80 percent. Republic Steel has built an $18 million waste-water treatment system on a five-acre site in Ohio's Cuyahoga Valley. U. S. Steel pioneered the use of electrostatic precipitators to eliminate smoke from open-hearth furnaces almost twenty years ago, and has since invested more than $235 million in air and water pollution controls. Bethlehem Steel is cleaning up the water it pours into Lake Erie at its Lackawanna, Pa., mill, and its giant new plant at Burns Harbor on the Indiana dunes is considered a model of cleanliness. Armco Steel has put some $74 million into air and water treatment facilities at its plants in Ohio, Missouri, Kentucky and Texas. It cost Inland Steel $10 million to construct a terminal waste treatment facility.

On the other hand, the Justice Department recently had to sue three steel producers and a chemical company for polluting the Ohio and Monongahela Rivers in the Pittsburgh area, charging the concerns with 73 violations of Federal law. And a recent civil suit filed against Jones & Laughlin Steel accused that company of dumping cyanides and other contaminants into the Cuyahoga River near Cleveland.

Coke-oven operations have given the chemical industry one of its tougher environmental problems. Now, Allied Chemical Corporation has come up with a new pipeline-charging system that can reduce smoke and gases from by-product cokes by as much as 70 percent. It uses closed pipelines to move preheated coal into ovens. In all, the chemical industry is spending $1 billion annually on antipollution measures. A big chunk of that is accounted for by Du Pont, which has budgeted more than $300 million over the next three years.

Even the pulp and paper industry has its shining examples. Georgia-Pacific, which is on a big antipollution push, was recently commenced by the Council for Economic Priorities for its clean pulp mill at Samoa, Calif. At that plant, the odor has been reduced sharply and the output of particulate matter has been cut by more than 99 percent. Kimberly-Clark's new paper mill on Beech Island, S.C., built in 1968, is an industry showpiece for its technology which cut the output of polluting organic and chemical solids by more than 85 percent. And this isn't just a best-foot-forward proposition. Between 1949 and 1969, while this company's production increased threefold, its total output of oxygen-demanding eutrophication agents was reduced by more than half. By 1974, the hydrogen sulfide emissions of its two pulping operations, in California and Alabama, will be down to less than ten percent of what they used to be.

Owens-Illinois, too, has followed a policy for many years of adopting new pollution-abatement systems as they are developed. Since 1953, the company has installed control equipment at each of its 102 manufacturing plants. Another big papermaker, Weyerhaeuser, has invested $300 million in cleanup equipment over the last two years.

In the oil industry, older refiners are heavy polluters because they were built before technology was developed to clean stack gases and water discharges. New refineries with closed processing systems and smokeless flares on top of their chimneys do not dirty the air, except when occasional operating upsets occur. They use much smaller amounts of water in cooling, and some have shifted to air cooling. In general, a new refinery is a clean refinery. If one of these giant plants costs $100 million to build, $10 million of that probably represents investment for air and water control. But it is high time for the oil industry also to get its old refineries cleaned up, and it has at least begun to do so.

It's also time for the oil industry to more closely supervise its drilling-platform managers and tanker skippers. Some offshore drilling spills are no more necessary than collisions. Storm chokes can cut off oil flow when accidents occur, and their installation is required by law, but as federal spot checks have shown, the chokes are sometimes removed because they slow output.

Oil tanker collisions, too, are often the result of too much management pressure on line executives—true also in other industries—to excel in profit performance. Coast Guard investigations of two such recent collisions, one on the West Coast and one on the East, showed that in both cases, the tankers were running in weather when they should have dropped anchor—but the skippers were trying to make speed to meet their schedules. While no one denies the necessity for profits, a little less such pressure all around might go a long way toward reducing unnecessary environmental damage and material waste.

### WHAT GOVERNMENT CAN DO

Just as current technology could clean up most industrial pollution, so could laws now on the books safeguard a livable environment. The trouble is that these laws have not been enforced.

As far back as 1899, the Rivers and Harbors Act prohibited dumping of waste into rivers. Under William D. Ruckelshaus, the head of the new Environmental Protection Agency (EPA), this law has been revived after 72 years, and now for the first time a number of manufacturing plants have been sued under its provisions.

The Clean Air Act of 1963 lay dormant for five years before the federal government went to court for the first time—and then against a small chicken-rendering plant in Bishop, Md.

The 1970 National Air Quality Standards Act is potentially the strongest antipollution measure ever enacted. It requires all new factories to use the latest pollution-control techniques, and gives EPA the authority to set nationwide air-quality standards for ten major pollutants, ranging from soot to sulfur dioxide. The agency can sue a violator directly. Beyond that, any citizen may sue the agency for failing to act on the alleged violator. Penalties of convicted violators range up to a $25,000-a-day fine or a year in jail.

Using all these tools, the government is getting a little tougher. In addition to its actions against steel companies, the Justice Department recently indicted two textile dye companies for polluting the Hudson River. Most other crackdowns so far have been settled out of court after offending companies agreed to correct abuses.

Still, no matter how tough the federal government may get, it can't do the job alone. Without the cooperation of state pollution control boards, the federal standards cannot really be enforced. In most cases, the states must challenge the polluter—and they won't unless he violates state laws.

So far, only 17 states have even submitted their proposed air-quality standards to Washington, and of these only ten qualified under the federal legislation. As for clean water, only about half the states have yet adopted regulations that meet federal requirements.

The Galveston Bay scandal of last summer serves as a case in point. The Texas Water Quality Board, a state agency, had given permits for industries to discharge thousands of pounds of oil, grease and toxic wastes into the bay. As one of the results, about half the bay is now closed to shellfishing. When the federal government tried to force a showdown over this pollution, the Texas board blandly conceded the contamination but insisted that it should be left alone to deal with the situation according to its own standards and its own pace.

The core of the federal-versus-state problem is that the pollution control boards of more than 30 states include members drawn from affected industries. There is nothing illegal about this. Statutes often call for representation by vested interests. Ruckelshaus recently appealed to the governors to correct this situation. Whether his appeal will work is another matter. Logic certainly suggests that while a defendant must have his day in court, he shouldn't sit on his own jury.

The government has a weapon it has not yet used—taxes. It could impose, as suggested by some legislators, a penalty tax on polluters. It could also offer tax incentives for installing pollution-control equipment. Most enlightened businessmen, however, are against this approach. Tax incentives would mean shifting the cost of abatement from industries and their specific customers to the general taxpayer. Since consumers will have to pay much of the cost of antipollution equipment through higher prices anyway, this would mean in effect that they'll be paying for it twice.

### WHAT YOU CAN DO

Most important in the fight against industrial pollution is your support for those political candidates in your state whose platforms call for state compliance with federal antipollution standards.

At best, however, such action will take many months, if not years. Meanwhile, you can personally fight polluters in your own area. The first step is to check with your state's pollution agency (usually in the capital) if they are aware of the situation; they may well be, and have the problem on the back burner. If so, keep after them and recruit your friends to do the same.

If the state refuses to move, go to the U.S. Attorney for your area. He probably won't be of much help with an air-pollution problem—the laws are not this far advanced yet—but he has the 1899 Rivers and Harbors Act to back him against water polluters. If you have a good cause, chances are he'll make it his cause.

Assuming that all this fails, you can undertake action on your own, either alone or, better yet, by getting together with a group of other interested citizens. But don't go off half-cocked. You've got to be sure of your facts—scientifically sure—or you'll just be another of the hysterical agitators who don't help anyone and only bring disrepute down on the ecological movement.

Such a private campaign isn't easy, and it isn't cheap. Apart from a costly factual investigation, involving all sorts of laboratory tests, you'll have to hire a lawyer to handle your case. Such complicated legal actions as environmental suits are apt to run on for many months. Your bill may run to many thousands of dollars. Before undertaking any such action, you'd be well advised to contact The National Environmental Law Society, Stanford Law School, Stanford, Calif. 94305. They will help you find a qualified environmental lawyer in your particular area.

As a stockholder in a company which you know pollutes, you have a perfect right—and obligation—to make your voice heard as a part-owner.

Individual and group pressure can also help fight impending pollution threats. However, this does not mean that you should indiscriminately oppose every industry that tries to move into your area. Remember that unemployment is a form of social pollution, and you don't want to encourage that either. The only sound criteria to go by are the federal clean air and clean water standards. If the applying industry meets those, don't fight it—the plant will be an asset to your area, not a detriment.

As an example of constructive community action, take the recent Florida Case when a major paper company announced plans to dump its waste two and a half miles out in the ocean from the Florida coast. In that instance, individuals got together with state and federal agencies and managed to block the scheme.

On the other hand, environmental enthusiasm sometimes goes perhaps too far, as happened last year when the construction of an oil refinery was proposed for Machiasport, on the coast of Maine. The purpose of this plant was to provide cheaper fuel oil to New England consumers who have to pay a premium price because of transportation costs. The refinery would have been virtually pollution-free—not only to protect the environment but because the new, clean refining methods actually lower production costs in the oil business: there is less waste of energy and raw materials.

In most industries, however, pollution controls will increase prices, though probably not as much as most people, and even industry, seem to fear.

As an individual you'll simply have to get used to this idea. The extra money spent will be well worth it.

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## JUDGE NIBLACK

## HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. JACOBS. Mr. Speaker, on February 2, 1972, during debate on H.R. 11394 I quoted from a letter written by the Honorable John L. Niblack, judge, circuit court of Marion County, Ind.

Subsequently I received a copy of a letter to Judge Niblack from the Honorable Homer E. Capehart, former U.S. Senator from Indiana. Senator Capehart wrote to Judge Niblack to inform him that the judge's letter had been in error with respect to the amount of the premium paid for a bond in a receivership originally under the jurisdiction of Judge Niblack but removed to the Federal court for the southern district of Indiana.

The following are Senator Capehart's letter and Judge Niblack's response:

INDIANAPOLIS, IND.,
*February 10, 1972.*

Hon. JOHN NIBLACK,
*Judge, Circuit Court, City-County Building, Indianapolis, Ind.*

DEAR JUDGE: You wrote a letter to the Editor of the Indianapolis Star stating that I, as Receiver for the Barbers Union and Pension Fund, spent and used $100,000 of the Barbers Fund as payment for a bond in order that I might act as Receiver for the Barbers Union and Pension Fund.

Congressman Andrew Jacobs placed a

clipping of said letter in the Congressional Record in Washington.

This certainly was a libelous statement since nothing could be further from the truth.

I am attaching letter from the Chief Accountant of the Barbers Union together with xerox copies of cancelled checks and statements from Marsh & McLennan Insurance who wrote the bonds. You will notice from the cancelled checks and statements that we received a $500,000 bond at a cost of $1,683.00; that we paid a $700.00 premium on a bond covering all the employees; and later, when more employees were added, an additional premium of $129.00.

The last two bonds were bonds on the employees which ran to me as the Receiver and not to the Union.

Now that you have the facts, don't you think that you should write a letter to the Star correcting your error and make certain that the Star publishes your letter of correction?

Don't you feel that this would be the nice and honorable thing to do?

Personally, I hate to see Judges make such obvious errors.

Sincerely,

HOMER E. CAPEHART,

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FEBRUARY 17, 1972.

DEAR COUSIN HOMER: Received your letter and it is obvious that I ruffled your feelings—for which I am truly sorry, as you are a good man and a good Republican, and a certain amount of the same bloods flows through our veins.

It is also apparent my information as to the amount of your bond was incorrect. However, the principle is still the same. The Judge who made the big mistake was the Federal Judge.

Homer, I hope that the Judge fixes you a nice fee that will assuage your sorrow, and I have no doubt he will. That was the only good thing in re the whole matter, that a kinsman of mine and a Republican should be appointed.

You just got caught between a struggle between the Federal Government and the States rights. I know that you personally will do a job.

Your truly,

________,
*Judge, Marion Circuit Court.*

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## IN MEMORY OF WALLACE J. CAMPBELL, JR.

## HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. KYROS. Mr. Speaker, in October of last year Wallace J. Campbell, Jr., of South Portland passed away at the age of 47, and Maine lost an outstanding and devoted citizen. One of those at the forefront of the "Democratic renaissance" in the 1950's, Wally had a distinguished career of public service to Maine, as attorney, judge, and legislative agent for the Maine State government.

It is with great pride and not a little sadness that I commend to the attention of my colleagues a fitting memorial eulogy for Wally prepared by the Cumberland Bar Association:

MEMORIAL SERVICES, CUMBERLAND BAR ASSOCIATION, 1972

*May it please the court:*

Mr. President, Members of the Cumberland Bar Association and Guests:

The month of October was particularly significant and fateful in the career of Wallace J. Campbell, Jr. He was born in Portland, Maine, on October 25th, 1923, son of Wallace J. Campbell and Mary Gorham Campbell. He was admitted to the Maine Bar on October 6th, 1948. On October 6th, 1951 he exchanged marriage vows with his beloved life's companion, the former Mary E. Murphy. And on October 4th, 1971, he passed away.

Wallace J. Campbell, Jr. who filled at various times the roles of football gladiator, advocate, judge and legislaive agent, displayed in those roles respectively: Resourcefulness on the gridiron, dauntlessness as advocate, compassion as a judge and persuasiveness in his endeavors as legislative agent. Withal, he was a boon companion with a big brother friendliness that never wavered from those to whom he was committed. To his family, he was a good husand, and a pal to the five boys who sought to emulate their father's sports and scholarship prowess. Perhaps the affection of family and friends alike might be illustrated by a gift or trophy in the shape of a whale given by one of his boys bearing the inscription "To a whale of a good guy."

Wally, or "Ozzie", as he was called in school days, distinguished himself in scholarship and sports while at Portland High School, receiving the coveted Brown Medal Award for scholarship, and was a standout on Portland High School's strong Eleven of 1940, graduating in the Class of 1941.

While at Bowdoin College he continued his prowess in football and, as Dick Boyle, Sports Editor for the Portland Newspapers recalled in a column of tribute to "Ozzie," this "former Portland High and Bowdoin lineman and back, helped restore football at Bowdoin in the early post-World War II days," the article further alluding to one of his five sons, Bob, "who is a promising sophomore backfield man on South Portland High's Football Team."

Wally Campbell's career was interrupted in mid-college to enter the service, and Bowdoin designated him an honorary alumnus at that time, a designation bestowed in diploma form to the College's departing servicemen. He came back from the service a second lieutenant, and continued his education until graduation from Bowdoin and then from Boston University Law School in 1948. While at Boston University, he contributed to his law school tuition by teaching mathematics at Charleston High School and Boston Latin School.

Following admission to the Maine Bar in 1948, he was employed in the enforcement division of the Maine Office of Price Stabilization under Administrator Edmund S. Muskie. Wally was active in Maine Democratic Politics after his O. P. S. days, as an organizer and president of the Young Democrats.

Wally was proudest of his part in the creation of the Democratic renaissance and the emergence of Edmund S. Muskie as a successful political figure in 1954. He was active at the now legendary Democratic Convention that nominated Muskie. Following the convention, Mr. Campbell was on that 1954 team, that wandering band of brothers who perfected a Democratic miracle in Maine.

I can see them now, Wally Campbell in the lead with Milton Wheeler, Casper Tevanian and Ed Muskie in tow, traveling up and down Exchange Street, and greeting people on Temple Street at the bus stop, telling the good tidings and introducing big, reticent Ed to all comers, assuring with each handshake that they were veritably shaking hands with the next Governor of Maine—these words spoken with an air of diffidence and defensive chuckles to disbelieving Republicans and Democrats alike. But Muskie did win—as unbelievable as it then seemed—and at the age of 34 Wallace Campbell became first recorder and then judge of the South Portland Municipal Court.

Wally Campbell won respect for fairness in the administration of his judicial office, having especially a quality of relating to the young people who appeared in Juvenile Court. While judge, Wally Campbell, a member of the Harold T. Andrews Post, American Legion, gave Memorial Day addresses both in Portland and South Portland. At this time, Wallace J. Campbell, Jr. was associated in the practice of law with Attorney Milton G. Wheeler, now Director of the Small Business Administration of Maine.

Following the Democratic landslide of 1964, the pleading skill of Wally Campbell was employed before the Maine Legislature as a Legislative Agent. In this activity, Wally teamed up with former Speaker of the House, Burleigh Martin; and former Governor of Maine, Frederick G. Payne, representing a variety of businesses and causes seeking legislative change. Governor Payne evaluated the style and skill of Mr. Campbell's legislative work at the conclusion of the session: "May I express my personal thanks and appreciation to 'Wally' Campbell, Jr. who handled the legislative work with me. 'Wally' is not only a very wonderful gentleman, but a skillful, hard-working, sincere individual with lots of intelligence. He handled a most difficult task with great credit to himself and those he represented. He was honest, persuasive, and above-board in everything he did. Personally, I feel very honored to have had a chance to work with him."

Wally seemed to accomplish miracles for those whom he represented at court. He was a hard-hitting advocate of the Policemen's Benefit Association. The tribute of gratitude from successfully defended clients was sometimes his only reward for work well done. In the last two weeks of his too brief career, he faced with wry good humor the tell-tale scribbles of the monitor in the Intensive Care Unit. His wife, Mary, sat in prayerful vigilance until that glorious moment when the doctor said Wally could go home.

That last week-end reflected in microcosm the loving home life of Wally Campbell. In the bosom of his family, Wally saw with field glasses from a car his son's performance on the football field. With his boys around him, Wally read the write-up in the Sunday paper, with reference to that game. That Sunday afternoon his son, James, departed for Bowdoin with the reassurance of his father's presence again in the home. Wally successfully negotiated the closing of a case on the telephone on Monday, and he concluded that negotiation, with the insurance executive on the other end of the wire not knowing from the confident voice on Wally's end of the line that anything was amiss, and then without more, Wally finished his course. He had fought the good fight; he had kept the faith.

And like Valiant-for-truth in the timeless allegory he could say " 'I am going to my Father's; and though with great difficulty I have got hither, yet how I do not repent me of all the trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it. My marks and scars I carry with me, to be witness for me that I have fought His battles who will now be my Rewarder.' When the day that he must go hence was come, many accompanied him to the river-side. So he passed over, and all the trumpets sounded for him on the other side."

Wally Campbell's friendliness, helpfulness and professional associations will be missed by his host of friends and associates.

Wallace J. Campbell, Jr., is survived by his wife, the former Mary E. Murphy, and five sons, James, a student at Bowdoin College, John, Robert, Richard, and Stephen, all at home; three sisters, Mrs. Annabelle Mikkelsen, Portland; Mrs. Kenneth (Sally) Battey, Lewiston; Mrs. Robert (Ellen) Southworth, Cape Elizabeth; three brothers, Clifford Sudbay, Portland; Robert Campbell, Portland, and Donald Campbell, South Portland.

Funeral services were held on Thursday, October 7, 1971, followed by a Mass of the Resurrection in Holy Cross Church, South Portland, with interment in Calvary Cemetery.

Therefore, be it resolved that the Cumberland Bar Association mourns the passing of our brother, Wallace J. Campbell, Jr., and

Be it further resolved that a copy of these Resolutions be spread upon the permanent records of Our Association, and

Be it further resolved that a copy be sent to his family.

Dated at Portland, Maine, this second day of February, A.D. 1972.

Respectfully submitted.

PAUL K. STEWART,
(For the Committee).

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## CONGRESSMAN CLEVELAND APPLAUDS THE NATIONAL FEDERATION OF INDEPENDENT BUSINESSMEN

## HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. CLEVELAND. Mr. Speaker, deeply committed, as I am, to the aims of the Rural Job Development Act, I applaud the National Federation of Independent Businessmen for its initiative and efforts in sponsoring the "Operation Build America" campaign now being conducted in the bill's behalf.

"Operation Build America" is aimed at the Dangerous phenomenon of rural outmigration which over the last 50 years has changed the lives of many Americans. This flow of population from rural to urban areas, bleeds the countryside of jobs and people. At the same time, it swells the cities and increases the problems associated with urbanization, such as housing, crime, and pollution.

I have been concerned with this problem of outmigration for more than half a decade. In February of 1966 I sponsored a conference on the subject at Plymouth State College in New Hampshire. In May of 1969 I observed that reversing the downward spiral that outmigration causes would not be an easy task, but would be one of the exciting challenges facing government today. At the time, I stated:

> Government cannot possibly solve the problem without enlisting and working with private resources.

Today it is heartening to see small business taking the lead in rural job development, for small business is really the keystone of the American economy. The National Federation of Independent Businessmen is the largest small business organization in the United States and has been effective in the past in focusing national attention on the problems of small business and professional people.

On February 1, 1972, President Nixon sent a message to Congress in which he emphasized the important role that rural America has played in the Nation's development and the necessity to preserve and expand that vitality in the coming years. He observed that the overall growth of economic opportunity in rural America has lagged far behind that of urban areas and that disparities exist in such indices as per capita income, housing standards, education, and medical care. He also pointed out that in the majority of Federal projects too many decisions are made in Washington and too few by local and State governments. This is a fault I have been trying to correct for many years.

The President's proposals include, centralization of all programs supporting community development under a new Department of Community Development, more local participation in projects, more help to farmers, more attention to environmental factors, and more loans and guarantees available for rural projects.

The Rural Job Development Act, which I am cosponsoring, would be complimentary to the President's proposals. Through limited, controlled tax incentives, it would encourage new, job-producing enterprises to locate in the economically underdeveloped areas of the Nation. It would permit local people to find employment in or near their hometowns and thus, hopefully, stop outmigration and urbanization.

Most of my Second District of New Hampshire would be covered by the bill. When I note the thousands of people who come to our State from the city each year to enjoy its ski slopes, camping areas and fresh air, I am reminded how painful it must be for those New Hampshire natives forced to leave the State in search of employment. Most of these people would choose to stay, if they could be assured of steady, well-paying jobs.

It is rare we get a chance to change the course of national trends for the betterment of all the people. The Rural Job Development Act is such an opportunity. I commend the National Federation of Independent Businessmen for its initiative and support.

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## CARL HAYDEN: A MAN OF THE PEOPLE

## HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HELSTOSKI. Mr. Speaker, I would like to take this opportunity to join with my colleagues in expressing my deep regret over the passing of one of the most distinguished gentlemen ever to have served in the U.S. Congress, the Honorable Carl Trumbull Hayden.

Carl Hayden served this country in many different capacities during the long span of his public career. He worked as a farmer, storekeeper, town councilman, sheriff, and Senator, but above all, Carl Hayden was a man of the people.

Born in 1877, Carl Hayden exemplifies a true Son of the Old West, literally growing up with this country, and witnessing its proud expansion from east to west. Charles Trumbull Hayden, Carl's father, along with countless other pioneers of this era, courageously blazed trails and cleared forests, thus making a former wilderness safe for permanent settlement.

Because of this pioneer heritage, Carl Hayden became greatly concerned with the preservation of America's natural resources, an interest which would shape the path that his long and illustrious career in government service would take. Carl Hayden had a dream: a dream that all the States of the Southwest United States would share the waters of the Colorado River, and use those waters for their collective ecological and economic benefit. It took 46 years before his dream became a reality, and during all that time, he worked tirelessly for the institution of this and other measures which would benefit the people of his beloved State of Arizona. This example is typical of Carl Hayden's tenacity when fighting for the best interests of his constituents. As he often said himself, he was a Senate workhorse, not a showhorse; elected to the Congress to serve the people, not for his own self-aggrandizement.

Carl Hayden was indeed a great leader and statesman, but even more importantly, he was a man who was in constant contact with the people of his State, and considered the furtherance of their best interests to be the most significant aspect of his senatorial career. The dedication and integrity exhibited by Carl Hayden are indeed an inspiration to us all, and although he is no longer with us, it is my hope that the ideals and principles which he advocated will be perpetuated long beyond his death.

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## MORE LIGHT THAN HEAT

## HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. BROWN of Ohio. Mr. Speaker, I have read, with interest, a report by Mr. KEITH, of Massachusetts, to Interstate and Foreign Commerce Committee Chairman STAGGERS on a Sierra Club conference on electrical power. It was held at Johnson College, Vt., during the recent congressional recess.

Mr. KEITH reported that the conference was unique, in that it found utility company executives and environmental activists working side by side in mutual concern over "the cresting crisis in energy." He said the conference leadership concluded, among other things, that the laws and incentives for power production must be changed, in a coordinated, comprehensive manner, that takes into account the long-range requirements of the Nation's need for power.

He made clear that the conference underscored his belief that:

> The climate is right for Congress to authorize the creation of some agency of Government which would be responsible for informing the Congress on the nature of the developing energy crisis and the best way to cope with it.

I commend this excellent report on a most serious national matter to the attention of all Members of the House. It follows:

### MORE LIGHT THAN HEAT

(Report of Hon. HASTINGS KEITH, of Massachusetts)

During the recently concluded Recess, it was my privilege to attend the Sierra Club Conference on Electrical Power, held in Johnson, Vermont from January 15–17. Nominally, the topic of the Conference was the electric power industry. In the course of discussions, however, the subject matter ran from poverty to the underdeveloped nations, ethics, economics, politics, consumption patterns, and much more.

The participants ran a similar gamut, ranging from academicians to militant conservationists, college activists, government officials, and utility executives.

Though no votes were taken, nor any official positions, by the end of the Conference most participants thought they perceived something of a consensus growing. It was, to be sure a fragile one. But coming from such an influential and disparate community, it may well be a significant one.

### THE APPROACHING CRISIS

It is my feeling that, unless some very fundamental changes are made in current policy and patterns of life, the United States in the late 1970's will face an energy crisis whose impact will be comparable to that of the 1960's preoccupation with the Vietnam War. Like the Southeast Asian conflict, the buildup will be a gradual one. The public now is as uninformed and unconcerned about the coming energy crisis as it was a decade ago about Vietnam. A decade from now, it will know more—and care very much.

This crisis will come from several directions. Certainly the first indication of trouble will be from the natural gas producers and distributors. Already, in many areas, utilities and large industrial gas users have been told to look elsewhere for fuel. Domestic supplies are low and dwindling, foreign supplies are unreliable (both in terms of price and availability) and market pressures are increasing, since natural gas has less harmful environmental effects than most alternative fuels.

But soon thereafter—and well before the end of the 20th century—oil too will become a scarce commodity, if current trends continue. And while nuclear fuel will be in relatively abundant supply, the problem of the disposition of the tons of radioactive wastes will become increasingly hard to answer.

### FUTURE SHOCK, UNLESS

In recent decades, demand for electrical power has doubled every ten years. Nearly everyone at the Sierra Club Conference agreed that this trend must be halted. Among the ideas presented to accomplish this were the following:

*Limit electric companies' advertising.* Certainly it is not in the overall public interest to promote the use of electric power in situations where other energy forms can serve more efficiently. New York's Consolidated Edison Company, under Charles Luce, has pioneered in this; not only has it dropped all promotional advertising, but it has instituted a "Save-a-Watt" campaign to induce New Yorkers to use less power.

*Change the rate structure.* The current system favors the huge industrial consumer over the small residential user. This should be reversed.

*Make the rates reflect all the costs* of energy production. For years, the ecological damage caused by power plants—dirty air, thermal pollution of water, etc.—was ignored. Although it was an undeniable social cost of power production, it never showed up in the consumer's bill. With passage of air and water pollution laws, this has begun to change, but there is still much to do.

*Design buildings more intelligently.* Most modern urban buildings use an inordinate amount of power—for heating, for lighting, for cooling—sometimes for all three at once. It would be both feasible and economical to design buildings that take advantage of natural processes, and thus use much less electric power. Another alternative might be to design homes with better insulation and perhaps, in the future, design homes that use solar radiation for heat, again saving electricity.

*Restrict appliances.* The number and variety of appliances in American homes has grown enormously in the last few decades. Perhaps an ecological tax on wattage could be used to make the price of these appliances reflect the total cost of their use to the consumer, and to society.

There are, in short, many different ways to change the current trend of rising electric use. But they all involve a societal expense—fiscal, or environmental. Who pays it, and how, is the real crux of any discussion about future power use.

### THE ENVIRONMENTAL BATTLE

Right now, no matter how power is produced, there is an expense involved. As Marc Roberts, economist of Harvard, said: "There is no free lunch; there will always be a tradeoff." For example, *coal* fueled plants pay less for fuel, but if the fuel is from strip mines, the environment suffers; and the cost of keeping the air near a coal powered plant clean is a heavy one. *Oil* is cleaner than coal, but scarcer, and natural *gas* is even cleaner, and even more scarce. *Nuclear* plants produce thermal pollution, as well as mountains of radioactive wastes for which no one has yet found a satisfactory place.

Not until the last few years have most people—citizens, regulators, and utility managers alike—realized that while their electric bills were low, other costs were high. The air they breathed, the water they drank, the land they looked at—all were being denigrated by the effects of producing electric power.

An aroused citizenry demanded governmental action, and a plethora of environmental protection laws were passed. The electric companies soon found their plants and plans under seige. Environmental objections—in the courts and outside—were forcing delays and modifications in many electric plants all over the nation.

Much of this still goes on today, but more thoughtful conservationists have begun to realize that this kind of situation cannot possibly continue. As Keith Roberts, Conference organizer, put it, "We're now at the point where we don't want to be in the position of arbitrarily blocking every new electric power plant that comes along."

Reaching a new strategy for the future was the main purpose of the Sierra Club Conference. But it was not the only purpose.

### THE NEED FOR RESEARCH

Under the current fragmented system of every-utility-for-itself, the electric power industry spends considerably less on research than it does on advertising. And if there were one point on which unanimity was reached at the Sierra Club Conference, it was that more was needed.

Technically, the most promising field for research was seen as nuclear. Both fission and fusion seem to hold great promise for future energy generation—the breeder reactor in the near future, the fusion process later in the century.

But coupled with technical R&D work was seen a need for complementary studies on the social, economic, and environmental areas. Who is hurt most by current processes? Who should pay for cleaning up the environment? Should the trend to larger plants be continued, or reversed? Is the current monopolistic position of private utilities the best alternative available?

These are just a few of the kind of questions that exist. There exists no systematic attempt—either by industry or by government—to answer them.

### CONFERENCE CONCLUSION: A NATIONAL AGENCY FOR ENERGY

It was former Secretary of the Interior, Stuart Udall, who summed up a proposed solution to the many complex problems the Conference had discussed. His proposal would create a Federal agency, somewhat on the model of the Council of Economic Advisors, to advise the President and Congress on the long-range and short-range policies the government should take with regard to energy. Such a Board would:

Prepare an annual energy policy statement, just as the Council on Environmental Quality is mandated to do now with regard to environmental policy.

Direct a comprehensive research and development program in the energy field, possibly financed by a special tax on energy users.

Make policy with regard to import quotas for oil, gas, and other energy sources.

Consider land use policy, with particular regard to power plant siting; and

Concern itself with the environmental effects of fuel procurement, power generation, and ultimate waste disposal.

The leadership at the Conference concluded that the reason for the cresting crisis in energy is that the laws and regulations currently existing make it economically advantageous—as well as legally necessary—to "drain America first". These laws and incentives must be changed, but only in a coordinated, comprehensive manner, that takes the long-range interests of the country into account.

Just a few years ago, a proposal for a coordinated Federal approach would have been greeted with howls of outrage—both from the conservationists, who saw the power industry as an undiluted evil that should be opposed at all costs, and from the industry. But the very existence of the Sierra Club Conference, with utility executives and long-haired activists working side by side, proves that neither group is remaining intransigent.

In my view this Conference proved that the industry is maturing, and learning to look farther ahead than to the next year's profits. Their own projections demonstrate that, if action is not taken, by the end of the 20th century there may *be* no energy industry.

I share generally the conclusion of the Conference and believe that the climate is right for Congress to authorize the creation of some agency of Government which would be responsible for informing the Congress on the nature of the developing energy crisis and the best way to cope with it.

Respectfully submitted:

HASTINGS KEITH,
*Member of Congress.*

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## A WILL TO WORK—THE KEY TO INCREASED PRODUCTIVITY

## HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. WAMPLER. Mr. Speaker, at a recent meeting of the Wise County

Chamber of Commerce in Wise, Va., the principal speaker was Mr. John P. Fishwick, president and chief executive officer of the Norfolk and Western Railway Co. Mr. Fishwick's address was entitled "A Will To Work—The Key To Increased Productivity." His remarks carry a timely message worthy of the attention of my colleagues, and I insert them in the RECORD:

### A WILL TO WORK—THE KEY TO INCREASED PRODUCTIVITY

(Address by John P. Fishwick)

In America we have been brought up to be optimistic, and our record in this century has shown that, in most cases, we have had the ability and determination to put foundations under our dream castles. What has happened to our economy in the last few years and to the dollar a few months ago, however, has caused many to wonder whether we must look forward to a quite different business life and political climate than we have known, whether we are losing our envied role among nations and whether the spirit of optimism which has been our hallmark is growing weak. In fact, these events have cast a cloud over all our optimistic projections, including those for this area.

Let's look at a few facts. Between 1966 and 1970, our growth, as measured by real GNP, was 9%, or only about 2% per year. Of the so-called developed countries, we stood last in growth, well behind such formidable competitors as Japan, West Germany, France and Italy.

Since January 1968, our industrial output has shown virtually no growth while Japanese production increased 40%, West German production 25%, French production 25%, and even the United Kingdom showed greater output gains than did this country.

#### PRODUCTIVITY

In terms of output per man-hour, or productivity, our record during the pasts few years has fallen far below that of the other industrialized countries. The United States Department of Labor indicates our increase in productivity has been less than 2% per year since 1965. During the same period, the annual increase in productivity in Japan was 14%, in France 8%, in West Germany 6%, in Italy 6% and even in the United Kingdom close to 5%.

Our declining productivity has weakened our competitive position throughout the world, resulting in one of the highest levels of unemployment of any industrialized nation.

In some cases, such as coal mining which is important to Southwest Virginia, production has actually decreased. In 1968, Virginia mines produced 16.6 tons per man day. By 1970 production had dropped to 14.9 tons, and, when the figures for 1971 are available, they will surely show a further decline.

Last year we witnessed the spectacle of worldwide lack of confidence in the dollar which resulted in our making the dollar nonconvertible into gold, its devaluation of about 8½% against gold and the revaluation of other currencies so that, in effect, the dollar has depreciated in value against other currencies. In the case of the yen, this depreciation in value amounts to about 17%.

Our nation has been flooded with foreign products with which our producers have great difficulty in competing, such as textiles and steel. Nine out of every 10 radios sold in America are made overseas. One of every six new cars, seven of every 10 sweaters, 19 of every 20 motorcycles and one-half of our shoes are made in foreign countries. This has led to the imposition of quotas in some instances and pressure for tariff protection in others.

#### CONTROLS IMPOSED

Last August 15, we had a 90-day price and wage freeze, and we are now in the midst of price and wage controls. No one can say when these controls, or some other type of controls, will end. Some express confidence that they will end soon, but others have voiced the opinion that they mark a new relationship between Government and business and that America will never again be the same.

I could cite other examples, but I believe I have referred to enough to make my point: American has serious economic problems.

Our Government, as you know, took decisive and, I believe, sound action to respond to the international monetary crisis which occurred last year. After extensive negotiations, we worked out a revaluation of the world currencies which will be helpful to our economy, at least in the short run, and which will enable international trade to be conducted on a stable basis. It will, no doubt, improve our balance of payments. Price and wage controls will undoubtedly help slow down the rate of inflation which we have experienced in recent years.

These actions by our Government have restored a good deal of confidence in the business community and in consumers. The almost unanimous predictions of economists are for good business this year with real growth in the 6% area, the highest growth rate in a decade. What concerns me is that we will be lulled into a secure feeling that the Government has solved, or can solve, our basic economic problems and that we can continue to do business as usual. To my mind, this would be a great mistake. For the Government has done no more than recognize and remove the tip of an iceberg. But the iceberg is still there, the bulk of it, the dangerous part.

I am not a philosopher or sociologist, and I will not purport to tell you how we reached this point of danger where we now find ourselves, although I suspect our affluence, our emphasis on material possessions and our abandonment of institutions and ideals which have given stability to our society may have had something to do with it.

#### LOST OUR ZEST

I do believe, however, that a basic cause is that we have lost our zest for work. As you know, as long as man has been on this globe, work has been a major and satisfying part of his life. Gradually, as his productivity increased, the number of his working hours decreased, and he had more time for leisure. But this change has not occurred at the same pace in all countries, even though as a result of modern communications and transportation the Earth has shrunk in size. In our country, our productivity has increased to the point that we have more leisure and a higher standard of living than any nation has known in history.

The rub, however, is that many of us are concerned more with leisure than with work. In fact, some seem to feel that work is unnecessary. But in competing with the rest of the world, we cannot stand still. We cannot maintain our affluence and obtain all of the things we want, including such things as clean air, clean water and a pleasant and healthful environment so long as we do not do a good day's work, so long as 6% of our people are unemployed and so long as 20% to 25% of our existing productive capacity stands idle.

President Nixon has urged Americans to renew their faith in the necessity and the joy of work. I agree with him. Unless this occurs, I foresee troubled days ahead. I have recently returned from a visit to Japan and have made some study of the economic record and prospects of that country. Let me illustrate what I mean by taking Japan as an example of the competition we will face in the 1970's.

More than a decade ago, the Japanese set as a goal an improvement in their standard of living. They decided to accomplish this through growth. They reasoned that this would require a high rate of savings and capital investment. In the 1960's, they invested more than twice as much of their GNP in new or improved facilities than we did. They concentrated on products in which they thought they could excel.

Prior to World War II, they had gained a reputation for cheap and shoddy products. They quickly shed this reputation by turning out first-rate products with high quality controls. They made substantial inroads in the American market in textiles, sewing machines, steel, bicycles, pottery, cameras, television sets and radios. Last year about 30% of Japan's exports entered the United States.

#### JAPANESE GROWTH SOARS

As a result, Japan's growth rate between 1960 and 1968 averaged about 11%. Can Japan keep up this phenomenal growth rate? Although Japan purports now to be in a depression, well-informed students agree that her growth rate during the 1970's will average at least 8%, and some think it will be at least 10%. This will be a growth rate far in excess of anything that anyone projects for the United States. It does not depend upon an increase in Japan's exports although it is likely that, despite the revaluation of the yen, the volume of Japanese exports, including exports to the United States, will continue to grow.

Japan is now directing her efforts to products requiring higher skills and abandoning to less developed countries industries in which she no longer wants to compete, such as textiles, sewing machines and radios. She is concentrating on automobiles, precision tools, large scale construction equipment and computer electronics. American industries manufacturing these products will face tough competition from Japan in this decade.

Japan is undoubtedly the most striking example of what we face in the way of competition in the decade of the 1970's for economic growth and a pre-eminent role in world economic affairs. But there is also the European Economic Community which will soon include Great Britain. There is also the Soviet Union, and coming on the scene is Red China, now a member of the United Nations and now being sought as a trading partner by businessmen from all over the world. If China decides to open her doors and modernize as Japan did about a century ago, her entry into the mainstream of economic life could occur in a short period of time, taking into account modern technology and modern communications and transportation.

#### WORK IS REQUIRED

We cannot expect our growth rate and increased productivity to equal that of less developed and less mature nations. On the other hand, we cannot maintain our position as the leading economic power or satisfy the demands of our citizens for a higher quality of life unless we increase our productivity. We cannot increase our productivity unless we are willing to work—not longer hours or under unfavorable conditions, but more effectively while we are on the job.

Government cannot solve this problem for us though it can help. As Tolstoy pointed out in *War and Peace* and as we have learned in Vietnam, wars are won not by clever generals but by the inexorable will of people. Likewise, the economic fortunes of a nation depend not so much upon the monetary and fiscal policies of the government as upon the beliefs, the character and the determination of its citizens. It takes work as well as dreams to make a country great, or keep it great.

## CONGRESSMAN LES ASPIN URGES TAXING THE PROFITS OUT OF POLLUTION

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## HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. REUSS. Mr. Speaker, Representative LES ASPIN brings impressive credentials as an economist to his position in the Congress. Accordingly, he has looked with an economist's eye at the sorry state of our environment, and concluded that bringing the profit motive into play can be one excellent approach in a concerted effort to curb pollution. He has sponsored and championed a number of bills designed to preserve the environment by taxing the polluter. In an article in the March issue of the Progressive magazine, Congressman ASPIN cogently outlines the philosophy, and gives examples of the technique. The article follows:

### TAXING THE PROFITS OUT OF POLLUTION

(By Congressman LES ASPIN)

It does not require an in-depth study of pollution in the United States to see that our present approach has been scattershot, and that progress has been uneven at best.

Air pollution, our most serious environmental problem, was worse in 1971 than in 1970. Deaths from lung cancer have increased 250 per cent from 1950. Emphysema, which was rare thirty years ago, now kills 25,000 people each year. Deaths from all respiratory diseases are up fifty per cent since 1950. Economically the National Wildlife Federation estimates that air pollution costs the average American family $309 each year in damage to human health, residential property, materials, and vegetation.

One of the major reasons our present approach to pollution control has been ineffective is that we have failed completely to use one of the most potentially effective weapons in our anti-pollution arsenal: economic incentives in the form of taxes. This is not to say that the economic incentive approach should replace our other environmental efforts; rather, it is to suggest that a truly comprehensive attack on pollution requires us to utilize this important approach as well.

What follows are examples of bills I have introduced in Congress this session which make use of economic incentives (taxes) to combat pollution. The detailed content of these bills is not nearly so important as the approach they embody. They are designed primarily to illustrate how we can utilize the strongest incentive in the free enterprise system—profits—to help effect a unified, immediate, and continuing reduction in pollution.

The first example of how economic incentives would work is a bill aimed at air pollution which would place an immediate tax, escalating to twenty cents per pound by 1974, on sulfur emissions, one of the major sources of air pollution. The Environmental Protection Agency (EPA) reported that in 1967 more than 14,412,500 tons of sulfur—equal to 145 pounds per person—were dumped into the atmosphere in the United States from stationary sources. EPA has estimated that each pound of this pollution costs society twenty-five cents—more than $140 per year for a family of four.

Would this tax provide enough incentive to reduce pollution? In a recent report called "The Economics of Clean Air," EPA estimates that the average steam electric power plant emits 14,500 tons of sulfur annually. If this bill were passed, and if the average steam electric power plant continued to pollute at its present level, the plant would pay a tax of approximately $6 million per year. But the initial investment cost for pollution abatement equipment would run only $3.5 million, with a total annual cost of $1.5 million. Thus, it would obviously be much more profitable for a steam electric power plant to install the pollution abatement equipment rather than continue to pollute.

Conversion to effective pollution abatement equipment would increase electric energy costs by only two percent, according to EPA. Assuming these costs would be passed on to the consumer, this would mean that the consumer's average monthly electric bill, by our reckoning, would be increased from about $8.00 to $8.16—a pretty small price to pay for cleaner air.

A second bill would place a ten cent *tax* on all non-returnable bottles and cans, and would require that a five cent *deposit* be collected on all returnables. Relatively few people—although I am sure there would be some—would be willing to pay an extra sixty cents to buy a six pack of non-returnable cans or bottles rather than a six pack of returnables. The five cent bottle deposit on returnables would clearly act as a strong incentive for people to return them rather than toss them out.

A third bill would require that a $50 deposit be placed on each automobile at the time of purchase, to be refunded when the car was properly scrapped at the end of its useful life. The reason that a million cars a year are now abandoned to rust along our streets and highways is simply because the price of hauling a car away in those cases would cost the owner more than the car is worth. This legislation would clearly make it more profitable, in virtually every case, for the owner to have the car hauled to the scrap yard so that he could collect the $50 deposit, rather than abandon the machine and lose the deposit.

Another bill I recently introduced would place a stringent tax, averaging about ten cents a pound, on the discharge of effluents into our nation's waters. It is obvious that economic incentives could be used to meet a variety of other pollution problems as well.

While the economic incentive approach is clearly not the most appropriate one to meet every environmental problem, it does have a number of advantages over the two other basic governmental approaches: subsidies to industry and direct regulation. Unlike subsidies to the polluter himself (the approach generally favored by industry), pollution taxes put the cost of cleaning up the environment where it belongs: on the polluter and the user of the polluter's products. Unlike the use of direct regulation, with the pollution tax there is no controversy over what is an acceptable level of pollution. The tax is set on a sliding scale; the less the polluter pollutes, the less tax he has to pay. Also, unlike using direct regulation, there is no controversy over when the regulation goes into effect; the tax can be put on immediately, and when the amount of pollution is decreased the tax will decrease.

Moreover, a tax is easier to enforce than direct regulation; the standards are clearer and more objective, and the need to rely on the discretion and good faith of the bureaucrat is minimized. In the air pollution tax proposal, for instance, each industry that emits sulfur would be required to monitor its own emissions. The tax would initially be established at the maximum level, based on the assumption that the firm will do nothing to reduce the level of its sulfur emissions. The firm will qualify for a tax rebate when it proves through its own monitoring devices that it has reduced its sulfur emissions a certain amount below the maximum level, on which the initial tax is set. Thus, the burden of proof is essentially placed on the polluter, not the Government. Simple and quick spot checks by the Government can easily insure the basic honesty of the polluter's monitoring reports. Complicated and drawn out legal proceedings are avoided.

When a pollution tax goes into effect, a polluter has several options. First, he could stop producing and thereby stop polluting. With a fair and reasonable tax this should almost never occur. It is important to remember that this tax would also be imposed on all the polluter's competitors; if people did not want to buy a firm's product when that product's price comprises the *total* cost of production, including the pollution cost to society, then that product should not be made and the firm should go out of business.

A second choice for the polluter is to install pollution abatement equipment. He will do this when the cost of pollution control is less than the tax the producer would have to pay if he continued to pollute at his present level.

Third, the polluter could pay the tax. But he will do this only when the cost of abatement is greater than the cost of the tax. The key to writing the tax is to keep it at a high enough level so that the vast majority of polluters will choose to take remedial action rather than continue to pollute at their present level and pay the tax.

Why have we not already adopted this approach of taxing polluters if it is such a good way of controlling pollution? One reason is that many individuals and organizations concerned with the environment have felt that, philosophically, taxing polluters was an ill-conceived approach tantamount to granting a license to pollute. It has also been argued that the big firms would have sufficient wealth to keep on polluting and pay the tax.

I believe these objections have resulted from a misconception of Government tax policies. There are two types of taxes: revenue taxes, like the income tax, designed to bring large sums of money into the Government coffers; and regulatory taxes, such as tariffs, conceived to motivate people to act in certain ways. A pollution tax is of the second type—the less money you collect under the tax the more effective the regulatory tax is. It is noteworthy that a new coalition of conservation groups has just been formed to support pollution taxes. The members of this coalition include the Sierra Club, Friends of the Earth, Environmental Action, the Wilderness Society, and Zero Population Growth. One of their main efforts this year will be to help gain support for the air pollution tax bill.

A second objection to the pollution taxing approach is that a pollution tax will raise a firm's cost, and the firm will simply pass these increased costs on to the consumer. I agree that a pollution tax will do just that. But the increased cost of the product will be borne by the consumers of that product. At present, many people are buying products which cause a lot of pollution because the price of that product does not reflect the total cost.

For example, people living near a sulfur-belching factory are the ones who presently pay the cost of that factory's pollution. The dirty air the factory produces causes a higher incidence of respiratory diseases and other health hazards. This not only costs many of the nearby residents their health, but costs them money because of increased medical expenses. It means that they will have to wash their clothes and paint their houses more often. If they want some fresh air for, say, a picnic, it means that they will have to travel, possibly a long way, to have one. These consequences are part of the *real* costs of a product's pollution. But since air is "free," it is presently cheaper for an industry to continue to pollute rather than pay for pollution abatement equipment. Thus, the costs of air pollution are borne not by the polluter and the consumers of the polluter's product, but by the people who happen to live near the polluting factory.

Only when all products for sale truly reflect the total cost of production ("external" as well as private costs) will we, as consumers, be able to make intelligent choices as to what to buy. Under this new total-cost pricing system, products which cause pollution will cost more and people may well buy less of them, which is exactly what we want to happen.

There are, however, a few caveats concerning the value and use of pollution taxes that are important to note. Pollution tax legislation is only as good as the level of the tax. If the tax is too low, it may provide little or no incentive to the polluter to take remedial action. If the tax is set at a level that is too high, it may have the effect of unfairly penalizing the producer even though he may have fully utilized the available technology to minimize the pollution which results from his production process.

There is, however, some leeway here. A pollution tax which is set at a level higher than necessary to serve as an incentive for the polluter to take the most effective remedial action could still be a reasonable and appropriate tax as long as the tax is set at a level equal to or less than the total cost of pollution—including the external environmental costs. Thus, even if a tax of fifteen cents per pound on sulfur provided sufficient incentives for every steam electric plant in the United States to install the appropriate pollution abatement equipment, it would still be reasonable and appropriate to set the tax as high as twenty-five cents per pound, which is what EPA has estimated each pound of sulfur emissions costs us as a society in economic terms. The twenty cents per pound tax level in the air pollution tax bill is in-between and is, thus, both reasonable and defensible.

At present, we have enough data in many areas of pollution to know what is causing the pollution, how much it is costing us as a society in objective economic terms, and what can be done to reduce the amount of pollution. Knowing roughly the answer to these three questions in any area of pollution makes it feasible and desirable to institute a pollution tax. Such a tax, set at the proper level to provide for maximum incentive, will have the effect not only of forcing the polluter to take initial action to combat pollution, but also of insuring that he will respond on a continuing basis to new technological advances which would reduce the amount of pollution the manufacture of his product causes, and therefore the amount of taxes that he has to pay.

In the case of many large manufacturers, polluters will not only respond to new technological advances, they may help create them—for the simple reason that there will be sufficient economic incentive for them to encourage (and pay for) pollution abatement research in those areas in which they are being taxed. In other words, pollution taxes set at the right level would not only insure that the current pollution abatement technology was being fully utilized but would also accelerate the development of that technology.

All of the pollution tax bills I have mentioned, with the exception of the water pollution legislation, have been referred to the House Ways and Means Committee, which has jurisdiction over tax proposals. None of the proposals has been acted on yet.

The bill with the greatest chance of getting action is the air pollution tax. President Nixon, in his environmental message on February 8, 1971, announced his backing of air pollution tax legislation and appointed a top level task force to come up with specific legislation. In his energy message in June, he again expressed his strong support of such a proposal. In August, in the President's preface to the 1971 annual report of the Council on Environmental Quality, Mr. Nixon again reaffirmed his support of an air pollution tax.

On February 8 of this year the President reiterated his intention of proposing a tax on sulfur emissions. The chances of a concrete proposal this year are improved because of advances in technology.

When, and if, the Administration does make a specific proposal to Congress, we are likely to see some action on air pollution tax legislation. The mere existence of a specific Administration proposal would be useful because it would help trigger Congressional and public discussion on an approach to combating pollution which has, in the past, often been misunderstood or ignored. This is not to say that the Administration's bill will necessarily be good legislation. The thing to watch for in pollution tax legislation is the rate of the tax. You can wager that the tax rate in the Administration's promised proposal will not be too high. But it may be too low, which would result in many polluters simply paying the tax and continuing to pollute at their present level, because it would be more profitable for them to do so.

One excellent indication of the depth of the Administration's commitment to the environment will be the specific air pollution tax rate proposed in its legislation. An excellent indication of Congress's understanding of and commitment to preservation of the environment will be how it responds.

## OBSERVANCE OF PURIM

### HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ANNUNZIO. Mr. Speaker, the Festival of Purim, which is being observed this year between sundown February 29 and sundown March 1, is a holiday of gladness commemorating the survival of Judaism and celebrating the eternal triumph of right over evil.

On this occasion, Jews throughout the world remember the joy which the Jewish people felt in their deliverance from Haman by the beautiful Queen Esther who saved her people from extermination.

The story of Esther is one of the most moving in Jewish literature. It reminds us of the humility, courage, and faith which one woman possessed, and which, together with a steadfast devotion to her people, gave them hope where there had been despair. This story of Esther and Haman is well known to all of us. Haman had tricked his King, Ahasuerus, into issuing a decree of death against all Jews living in the kingdom of Persia. The date of execution, the 13th of Adar, was determined by choosing lots. Haman's plot, however, was discovered by Queen Esther, the Jewish wife of the King. Esther persuaded the King to spare the Jews, and Haman was hanged from the gallows which he had prepared for Esther's relative, the Jewish elder, Mordecai.

Purim, then, is truly a time of Thanksgiving, of prayerful joy in God's deliverence of His people in a time of great danger. It is, moreover, a symbol of Jewish faith in the rightness of God's law, in the mercy of God, in the conviction that the force of right is a triumphant expression of the will of God, and in the determination of the Jewish people to endure and prevail over the greatest adversities.

Purim is also a reminder to us of the valiant stand which the Jews have always made in the face of oppressive religious discrimination and persecution. During this holiday observance, it is appropriate for us to join together in renewing our efforts to insure religious freedom for the Jews and for all peoples who are being harassed and persecuted in practicing their religion.

On this occasion I extend my greetings to the Jewish people in Illinois, as well as to Jews everywhere in this Nation and abroad, and express my sincere hope for their prosperity and well-being in the year ahead.

## THE ANTI-BUSING TIDE

### HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. BINGHAM. Mr. Speaker, in the February 28 New York Post, the distinguished columnist Max Lerner has done a most sensible analysis of what he calls "The Anti-Busing Tide," as follows:

[From the New York Post, Feb. 28, 1972]

THE ANTI-BUSING TIDE

(By Max Lerner)

Pity poor Hubert Humphrey, who in a moment of candor blurted out a secret to a huddle of governors in a hotel room, and will be riddled for it. It was the not-so-innocent secret that a volcanic explosion over busing is hot upon us, and that the liberals who don't heed the rumbling will soon be covered with lava and mummified forever in their lofty stance of virtue.

This is all helping George Wallace, who delightedly eats agonized liberal Senators and governors every day, using his version of the busing story to fry them in public. The anti-busing fury may well give him victory in the Florida primary, but it goes well beyond the Southern battles and has become the rallying cry in a national war. Obviously it suits Wallace's style of fake Populism, and will be used by many nationally as a Populist cop-out, to scrap the whole movement for school integration.

But it would be foolish to dimiss it as only a weapon for Wallace and a cop-out for the faint-hearted. Senators Mansfield, Scott, Javits and other architects of the recently passed Senate Amendment to the education bill, took the anti-busing movement seriously enough to design a tactical retreat, in order to head off more damaging versions or a Constitutional amendment. I raise a cheer for their bill, however ineffectual it was against the strong running tide, as witness the later passage of the Griffin version, sterner and more sweeping, which tries to strait-jacket the courts—and is probably unconstitutional.

The purpose of the Mansfield-Scott version should be clear enough. It tells the federal courts that Congress doesn't want them to order further busing, that in effect it wants busing to be a local option of the school districts. A Constitutional amendment would outlaw it altogether, and not only shut off the future but roll back the past—which could mean the start of re-segregation.

Have Mansfield, Scott and the liberal coalition beaten a craven retreat, as Sen. Ribicoff insists? This depends on how strong the anti-busing tide is. My own view is that it isn't a die-hard fanatic movement, limited to racists, but that its springs are deep and its appeal widespread. What triggered it was the federal court decision in the Richmond case, but the sources of its explosiveness reach far deeper than Richmond. If we had any doubt of it, the vote on the Griffin measure, whatever happens to it eventually should dispel it.

Every passionate movement involves an enragement which says, "You have driven us too far: from this moment we fight back, at whatever cost." The rage in anti-busing is against something vaguely called the "liberals," especially the federal courts, and the ideas they get from the liberal intellectuals and press. The American character is a melange of the sentimental and the violent, sometimes a dangerous combination. There are few sentiments in America stronger than those about children. In this case the sentiment is the feeling that the children are being short-changed and victimized—by being bused long distances, sometimes into crime-ridden areas, and torn away from their neighborhoods, and that the end-product is worse education for many, and confusion for all.

Is this a true or false picture? The fact is that students of education just don't know, because the evidence isn't in. But whether true or false, a strong majority of Americans today pretty much believe it is true. I don't doubt that some of them are moved, more or less consciously, by racial fears and prejudices. But they don't form the majority, which is made up of people who feel that busing is the breaking-point, and rationalize their rage by their conviction that the children are getting the short end of the stick.

There are two ways of meeting this, without a Constitutional amendment and without resegregation. One is to meet it head-on, use the Title VI weapon of the denial of federal funds to resisting school districts, egg on the federal judges, crack down with a liberal version of law-and-order constitutionalism, and try to shame the waverers and defy the rebels. I suspect it would very quickly lead to a chain-reaction of open rebellion against the law.

The other way is that of the more tough-minded Senate liberals, who won't lay down their arms, but are ready for a pause to consolidate the gains of two decades of liberal court decisions. If the nation uses the time thus gained and turns its social inventiveness into opening both the inner city ghetto and the suburb, changing the residential patterns of both, and improving the quality of schooling in both, it won't be long before the drive toward equal education can be completed.

## NESTOR CHYLAK HONORED AS "MAJOR LEAGUE UMPIRE OF THE YEAR"

### HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. McDADE. Mr. Speaker, the people of northeastern Pennsylvania are justifiably proud of their long tradition of native sons who have achieved greatness in their chosen professions. Many of these men have chosen a career in major league baseball. Their names are all well known to baseball fans everywhere. To that distinguished list, we can now add the name of Nestor Chylak of Olyphant, Pa. Recently in Daytona Beach, Fla., Nestor was honored by his fellow umpires as "Major League Umpire of the Year." The award was given by the Al Somers Umpire School to him for proficiency and excellence in his profession.

The task of a major league umpire is not exactly a glamorous one. It is a thankless, yet important job. Everyone has had the urge to "kill the ump." Few take the time to praise him. So when that praise comes from your peers, it is truly the highest accolade an umpire can receive.

Mr. Speaker, those of us who believe in the idea that hard work and the determination to be the best are sure to be rewarded can take special pride in Nestor Chylak's accomplishments. For there is no one who loves the game more; there is no one who has worked harder to excel; and there is no one who has given more lustre to baseball's image as the national pastime than he.

Nestor Chylak has been an umpire for 25 years. He worked his way up from the Pony League in the low minors through Triple-A baseball to the major leagues. Upon reaching his goal of becoming a major league umpire in the spring of 1954, Nestor Chylak realized many thrills in a career that has achieved many milestones.

He has worked in four All-Star games, the 1969 playoffs, and the World Series in 1957, 1960, 1966, and last year in 1971, to name but a few. Yet, as many thrills as Nestor has received from baseball he has given back many more. He has shared his experiences on the Hot Stove League by entertaining the patients in our veterans hospitals, with youngsters at Little League banquets, Boys Clubs, church clubs, old timers groups, and others whose lives have been brightened by his advice, his humor, and his knowledge. He is baseball's finest ambassador of good will.

Mr. Speaker, I know the Members of this House will join with me and with Nestor's many friends in northeastern Pennsylvania in adding our congratulations and best wishes for many more years of success to this outstanding gentleman.

## UNITED AUTO WORKERS POSITION

### HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. WILLIAM D. FORD. Mr. Speaker, I would like to call attention to a timely insert by Senator ALAN CRANSTON in the RECORD of February 9 (pp. 3540–3552) regarding the United Auto Workers' suit against the United States Pay Board. The UAW, since joined by the International Association of Machinists, is asking the court to overturn the pay board's denial of a negotiated pay increase for nearly 250,000 aerospace workers.

The material placed in the RECORD by Senator CRANSTON documents the UAW position, and is of such interest that I would have had it printed in the RECORD had not Senator CRANSTON done so. Rather than have the rather lengthy presentation reprinted twice, I take this opportunity to recommend it to my colleagues in the House.

## THE POLITICS OF THE INTERNATIONAL OIL INDUSTRY

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HAMILTON. Mr. Speaker, Paul Frankel, the highly respected, London-based oil economist, recently predicted that if the prices of oil and gas rise much higher over the next 5 years, the have-not countries of the world oil industry, including some of the major consuming countries, will rebel. In recent years, the balance between oil exporting countries and international oil companies and consuming countries has begun to shift in favor of the exporting countries, and Mr. Frankel warns of trouble ahead if this process continues. He does not, however, indicate what these consuming countries will do. In the financial section of the New York Times of February 27, 1972, William D. Smith quotes Mr. Frankel extensively and describes the growing restlessness of the have-nots of the fuel energy world. I insert Mr. Smith's article into the RECORD at this point and recommend it to my colleagues:

[From the New York Times, Feb. 27, 1972]

OIL: FUEL FOR DISCORD?—HAVE-NOT COUNTRIES GROWING RESTLESS

(By William D. Smith)

The have-not countries in the world-energy sweepstakes are getting restless.

If the prices of oil and gas rise much higher over the next five years, some major consuming countries might get rebellious, according to one highly regarded oil economist, Paul Frankel of London.

In a recent visit to New York, he commented, "During the last decades there have been major shifts in economic and political power; yet the world-energy industry today is still based on the power structure of 30 or 60 years ago."

He added, "The next five years will show whether the necessary changes will take place in cooperation or conflict."

Mr. Frankel contends that Governments of Japan, West Germany and other industrialized nations with economic clout are watching closely the present negotiations between the Middle East producing countries and the oil companies on the question of participation by the producers in existing concessions.

"If the producing countries get their way and achieve a major interest in the concessions and the price of oil goes up again, the consuming countries may begin to take action."

Mr. Frankel said he did not want to elaborate on what actions the consumers could take, but he noted that several options were open.

Over the last two years the oil-producing nations have united together as never before, making the Organization of Petroleum Exporting Countries a potent force in the world eco-political scene, and driving petroleum prices sharply higher.

This common front took both the oil companies and consuming nations by surprise. Many oil analysts contend that a new era in energy has been reached with the producers calling the shots even though there is an actual oil surplus in the world.

Mr. Frankel said that "the energy supply situation for those areas such as Europe and Japan, which depend overwhelmingly on oil imports, is now particularly precarious. These highly industrialized and populous areas are dependent not only on foreign suppliers for a number of raw materials, as they always have been, but now are also [dependent] on energy imports without which industrial and domestic life could come to a standstill.

"The position has been made still more critical by the main reserves of oil being concentrated in a very small and politically delicate area in the Middle East and also by the fact that they are being organized by a small number of oil companies belonging to virtually two countries, the United States and England; neither of whom are in the particularly good political graces of the producer nations."

Mr. Frankel maintains that until 1970 the natural competitive forces in the market place kept the price of oil low and the companies in a position of legitimate brokers for consumers.

The economist commented, "The events of 1969–70, on the other hand have proved that it takes but little in the way of some collective pressure applied by the producers to force prices up considerably.

"The Teheran and Tripoli deals of 1971 actually amounted to classical commodity agreements such as the ones for wheat and coffee except that unlike these other cases the oil consumers, or rather the consumer countries, who in the end have to pay the price, were not in the negotiations.

Mr. Frankel then noted wryly, "There have been revolutions in the past to make sure that there was no taxation without representation."

"It is now no longer possible to maintain that these economic problems should be left to the industrialists to handle on their own. This maxim would be valid if the world were one unit, but it is not. When on the one side sovereign governments acting together use their prerogatives to the full, other governments can no longer bury their heads in the sand."

Most oil economists see little hope that the have-not nations will make any discovery large enough to upset the leverage held at present by the Middle Eastern nations.

"What is needed is the entry of the 'latecomers' into the international oil industry itself and that with the full consent of the producer countries and the existing international oil companies.

"The most relevant contribution of the 'latecomers' would be to provide a substantial share of the funds required for fuller development, mainly in the Middle East."

What are the forces that might allow such an arrangement is the obvious question.

Mr. Frankel points out that the oil companies now involved in the Middle East might not have any great incentive for additional massive investment in the face of continuing threats to security of investment from the producing nations.

"They might welcome—even if not with open arms—someone to share the risks." The economists continued, "It may be asked, 'Why should the have-not countries invest in a situation that is of questionable security?' The answer is that the consumer countries are compelled to make the effort, simply because they must avoid a real oil shortage, which would have dire consequences for all of them. In addition the fundamental renegotiation which is to be envisaged anyhow could provide an element of security, which is now absent."

Mr. Frankel is not calling for a breakup of the international oil industry by any stretch of the imagination. He noted, "The network of international oil companies has proved so far to be a workmanlike system which has organized smoothly and effectively both the flow of oil and also the flow of investment on which the former depends.

"I see the world going through a period of rapid change that affects some traditional positions but also provides opportunities for creating a system in line with the political and economic factors of today and tomorrow.

"Neither a Maginot-type rigidly defensive posture on one side nor an irresponsible radicalism on the other, can help in creating a triagularly balanced situation in oil exporting and importing countries as well as the world oil industry can find their proper places."

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## FRENCH PRISONS: BRICKS OF SHAME

## HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. MIKVA. Mr. Speaker, we can take little comfort in the knowledge that prison systems abroad are as archaic and counterproductive as our own. That is the obvious message which comes through from a reading of a recent article in the English language version of Le Monde, criticizing French society for permitting the continuation of an inhumane, anachronistic criminal justice system which continues to throw people in steel cages on the pretense that they will somehow emerge better citizens.

Neither the French nor the Americans have a great deal to be proud of when it comes to their prison systems, but it is well that we are both beginning to face the realities of our failures. The article follows:

[From the Guardian, Jan. 22, 1972]

### FRENCH PRISONS: BRICKS OF SHAME

(By Robert Badinter)

All down the ages prisons have been symbols that exercise as great a fascination as palaces, whether in Venice or Rome, Mont Saint Michel or Loches. In Paris, the Conciergerie on the Ile de la Cite attracts as many visitors as the Trianon.

A prison, whatever it's called—house of detention, remand home, reform school, penitentiary, dungeon, or concentration camp—is so striking because it is stripped of all pretence. It is an expression of the limits of society's consideration for the individual person. It is as though the very quality of a society or its leaders were measured by the treatment it reserves for its most discredited citizens.

The collective conscience has never been taken in. Louis XI was for France an industrious and useful monarch, but his achievements were overshadowed by his iron cages. The glories of the age of Louis XIV are sullied by the memory of slave ships. Later, when the people tore down the Bastille, they were razing an entire social order which the prison symbolised.

To come closer to our time, by chronicling the daily life of a humble Ivan Denisovich in his Siberian prison camp, Alexander Solzhenitsyn branded the Stalinist regime with infamy for all time. And now explosions in France's own prisons have shattered, if not their walls of stone, at least the ramparts of silence surrounding them. Some light has been let into the darkest prison administrations. The horrors of Clairvaux, the indignities of Toul, the scandal of Nimes have for diverse and sometimes contradictory reasons stirred the minds of people hitherto indifferent to this cloistered world.

#### DIAGNOSIS

There are certainly some sensitive people, long conscious of this neglect of prison reform, who were already denouncing the situation. But they were people professionally involved with the penal system—magistrates, lawyers, social workers, psychiatrists, chaplains, and penitentiary employees. Their very expertise lent the debate a sort of technical character.

The problem remained apparently limited to a better organisation of the public service that is the prison system, in much the same way that problems of hospital care and ways of solving them are discussed in the interests of the nation's health. The key issue was not faced, however. It is not enough to expose the defects and shortcomings of the prison system. It is essential to go beyond criticism and try to understand its real significance in a society such as ours.

To begin with, you wonder what prisons are for. The 1945 penal reform legislation clearly answered that: "The deprivation of liberty is essentially intended to bring about a modification and reclassification of the convict's social position."

It is an admission that punishment is little more than the absurd survival of the age-old law of retaliation if, at the end of a convicted person's sentence, he is physically, morally, and professionally incapable of being reintegrated into society. If he emerges from prison unchanged, or even more dangerous, incarceration has helped to create a threat to society rather than protect it.

Remand prisons should be reserved for persons awaiting trial—presumed innocent until proved otherwise—and short-term prisoners. Yet 40 per cent of the long-term prisoners are kept in remand prisons: a practice forbidden, but current, like the scandalous business of putting youthful offenders in the same prisons as adult criminals.

The situation is all the more dangerous because nearly half the prison population in France is made up of persons under 25. It is these persons who will largely determine the future course of delinquency in France. Although legislation envisages the appointment of specially trained teachers for social rehabilitation work, so far France has only 100 teachers for some 30,000 prisoners.

A similarly ridiculous situation obtains among the judges whose task it is, after sentences are handed down, to follow and direct the prisoner's progress step by step until he leaves prison. Today there are only 21 of them for all of France, and they are weighed down with many other duties.

The prison administrations are in the same plight. They are accused of being so obsessed with their own safety that they no longer see prisoners except as enemies. It is a state of affairs which naturally creates a climate of hostility or hatred which contributes still further to the degradation of prison life.

#### BETTER BET

In view of what must be called an abdication of responsibility, one must therefore ask why nothing has been done to remedy the situation. The funds required for improving prison living conditions and for recruiting and training staff do not present an insurmountable problem for a country so prone to vaunt its economic growth rate. We are taking a gamble with the Concorde; why not take a safer gamble on changing an institution whose defects result in so many ruined lives and a growing crime rate?

It is not enough to charge that successive governments lack imagination or are wedded to routine. Such shirking of obligations can be explained only in terms of total indifference, or, worse, acceptance of a penitentiary system which is not more than the expression of a deliberate desire to avoid facing the real issue.

Official policy tends to gloss over the situation, arguing that the rehabilitation of prisoners is the system's aim. The reality is somewhat different. Prison merely keeps the convicted man cut off from society, just as lepers were once kept outside the city gates. Prison is in fact no more than a penitential leper colony to which are banished men who are pronounced—or merely presumed—dangerous to society. It is of course claimed that they are treated and cared for behind prison walls. But the walls were built not to facilitate recovery, but to protect society from the disease. No wall has ever fenced contagion off, nor has segregation of criminals reduced crime.

PENT-UP EVIL

And confinement as a system exerts its own demands: that it be ever more thorough, ever more complete. Thus, because the prison world is one in which evil is immured to protect society, it becomes a circumscribed universe—a universe of evil.

Naturally prisoners kept separate from society are not like other citizens subject to the rule of law; they are subject to rules and a discipline which are arbitrary. Any system is arbitrary where he who makes the rules is also responsible for applying them and deciding whether they have been violated. And this is the case in the penitentiary system, where defenceless prisoners, at the mercy of absolute commands, can be given up to 90 days solitary confinement in cells that shame society.

So, in the murky depths of our prisons there continues to exist a sub-society without rights. Manifestly, all our bastilles have not fallen. And that raises the last and most pertinent question of all: why, since such places still exist and we are perfectly aware of the fact, do we tolerate them?

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## KEEP THE FACTS FLOWING

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. DERWINSKI. Mr. Speaker, I have directed the attention of the House on a number of occasions to the deliberate manner in which the chairman of the Senate Foreign Relations Committee has set about to terminate the operations of Radio Free Europe and Radio Liberty.

In my judgment, we need the operation of these two radio groups more than ever before. I was pleased, therefore, that the Chicago Daily News saw fit to editorialize in its Wednesday, February 23, edition on the need to continue the communications provided by these two radio operations.

The editorial follows:

KEEP THE FACTS FLOWING

Radio Free Europe and Radio Liberty, the Munich-based stations that reach out to inform Eastern Europe, are in danger of going out of business. The federal funds they need—in addition to private support—have run out, and Sen. J. William Fulbright (D-Ark.) is blocking a bill that would keep the money flowing.

Fulbright contends that the radio stations are "cold war relics" and ought to be phased out. But this is a vast oversimplification. The role of the stations has changed in recent years, to be sure, but they still serve a highly important function, and should be kept going.

Radio Free Europe has aimed its native-language broadcasts at Poland, Czechoslovakia, Hungary, Bulgaria and Romania since 1950. Radio Liberty started a year later, beaming its programs in Russian and other languages used in the Soviet Union. The main purpose was to give the people behind the Iron Curtain factual information they could not get via the tightly controlled local press and radio.

There was a time when Radio Liberty, in particular, was a conduit for urging the people to "liberate" themselves. These days the main focus is on "liberalizing" thought in Eastern Europe, and there is considerable evidence that both stations have had profound effects on their listeners. In spite of the tight Communist control over communications and press, East Europeans have heard the "other side" and broadened their field of knowledge. Perhaps the most striking evidence is the spread of American pop music through Eastern Europe when it could be heard only on the Western radio.

The cold war has moderated to a large degree, but the millennium has by no means arrived. Providing the people of Eastern Europe with alternatives to their own single-note propaganda machines is a service that should be continued with the help of U.S. government funds.

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## DANZANSKY HONORED

### HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. GUDE. Mr. Speaker, Joseph B. Danzansky, the president of Giant Food Inc. and a leader in many charities and efforts toward greater understanding in the Washington area, was awarded the 23d annual Brotherhood Citation February 15 at a dinner of the National Conference of Christians and Jews.

I was pleased to attend this dinner for Mr. Danzansky. Its warm spirit, I believe, is shown in the invocation by the Catholic Archbishop of Washington, Patrick Cardinal O'Boyle, which follows:

O God of Wisdom and Understanding, do look with favor on all of us who come together to promote justice and equality of opportunity for all men.

In a world divided, we seek the wisdom to be able to unite.

In a world that knows vast poverty, we seek ways to enrich man's dignity through the compassionate sharing of this world's goods.

In a world full of bitterness and hate, we seek to console and to bring peace.

In a world that seeks a will to power, we ask the power to know Your Will.

We gather here tonight, in a spirit of harmony and joy, to give public expression of respect and gratitude to one who has embodied in his life and his work, a spirit of dedication to God through unselfish service to his fellowman. As Joseph of old wore a coat of many colors, this Joseph goes about spreading many deeds of good will among all. In helping to remove walls of separation, he has built bridges of understanding. He has sought ways of reconciliation, not causes for polarization. He has said of himself that he tries to "approach life with an open and an understanding heart," and strives to see himself not as his "brother's keeper but as his brother's brother."

In honoring him we reaffirm and renew our own commitment to serve, in Your Name, our fellowmen, to labor together for amity and respect for one another, and to promote good will and brotherhood among all.

May we be ever mindful of Your love for all men, ever faithful to Your law that governs all our deeds, ever conscious of our daily duty to serve others in Your Name. May God bless us all.

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## A KNIFE AT THE JUGULAR

### HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ALEXANDER. Mr. Speaker, I would like to share with my colleagues an article concerning the dock strikes that appeared in a recent issue of the "American Cotton Grower."

The article follows:

A KNIFE AIMED AT THE JUGULAR—DOCK STRIKES WILL RUIN OVERSEAS MARKET UNLESS CONGRESS ACTS NOW

(By Seton Ross)

Unless Congress acts quickly and firmly to put an end to wars and rumors of wars by longshoremen against the public interest, losses to the cotton economy could well mount to the point where overseas buyers will no longer consider U.S. cotton a deliverable commodity and turn totally to other growths. These strikes could spell the end of the export market for American cotton. They are knife thrusts aimed at the jugular.

By the time this issue reaches our readers, dock strikes on both the West Coast and Gulf ports may be resumed. The 80-day cooling-off period under the Taft-Hartley Law expired December 24 on the West Coast, but the contract under which dockers worked before the strike was extended to January 17. The cooling-off period is scheduled to end at Gulf ports February 15. If there are no settlements before these dates, cotton faces a rerun of the traumatic experience of the costly, frustrating dock strike of the 1968–69 season, which plunged U.S. cotton exports to the low level of 2.7 million bales from the previous season's 4.2 million.

In this season, our principal competing countries in Latin America, which produce comparable types of cotton, moved in and took our markets (resulting incidentally, in a loss of $165 million in the U.S. balance of payments).

Export increases chalked up by Latin American countries at that time are directly proportional to the decrease suffered by U.S. cotton due to the dock strike:

Brazil, +933,000 bales.
Mexico, +390,000 bales.
Columbia, +144,000 bales.
Peru, +98,000 bales.
Guatemala, +98,000 bales.
Nicaragua, +44,000 bales.

A survey of exporting members of the American Cotton Shippers Association taken in March 1969 revealed that during the strike period 115,000 bales of cotton were held from shipment at Gulf ports, and 578,000 bales were held in port warehouses awaiting shipment. Losses incurred by shippers for carrying charges alone totaled $2.5 million.

Approximately 600,000 bales of U.S. cotton have been sold for shipment through Gulf ports in the four-month October 1971-January 1972 period. Overseas buyers of American cotton have clearly made it known that this amount would have been substantially larger were it not for the uncertainty as to delivery dates due to the constant threats of a dock strike. Buyers have to *know* cotton will be delivered at the date specified by the contract. They cannot afford to gamble on it.

Cotton was not the only victim of the strike. Other agricultural export crops suffered, including soybeans and rice. In fact rice, the most perishable of the three commodities, suffered most—several rice elevators were forced into bankruptcy. Totally, it was estimated that the 1968–69 strike cost close to $2.4 billion.

Theoretically, strikes occur only when collective bargaining breaks down. This is not true of longshoremen's unions, which use strikes as a built-in mechanism of the bargaining process. And once the court-imposed cooling-off period ends, the unions can go right back to throttling the Nation's foreign trade lifelines. The gravity of the threat is agonizingly clear when one considers that this Nation is not self-sufficient—not by a long means. Our economy is largely dependent on foreign sources for many basic raw materials.

### IT'S TIME FOR ACTION

The time is rotten ripe for remedial action. It's squarely up to Congress. Under present law, courts can apply only poultices to the festering dockside sore. They must be empowered to enforce a law which would safeguard the public interest—and enacting effective legislation is a job only Congress can do.

The Congress has a clear right, as well as a duty, to act decisively. As long ago as 1917 the Supreme Court, acting to avoid a threatened nationwide rail strike, upheld an Act of Congress governing labor relations in any situation affecting the public interest. The strike threat was promptly ended.

The court said that "neither party has any right in its relations with any other to engage in acts or practices which jeopardize the public health, safety or interest."

The public interest has been damaged and placed in jeopardy many times by recurring dock strikes. Members of Congress recognize this, and a number of remedial bills have been introduced. The most effective of them is Senate bill 560 and an identical bill in the House—HR 3596. Salient provisions give the President the choice of a number of alternative actions if the 80-day Taft-Hartley cooling-off period fails to produce a settlement:

He may extend the cooling-off period another 30 days; he may appoint a 3-man panel to determine whether the strike impairs the national health or public interest; or—and this is the most effective—he may direct that final offers and alternative offers be submitted by both parties to the Secretary of Labor within three days, and the Secretary of Labor can then appoint a 3-man panel to select the offer they consider the most reasonable—and that would be it!

This bill is of vital importance to cotton growers as well as to the rest of the industry. Foreign markets are urgently needed if U.S. cotton growers are to prosper. We therefore ask our readers to urge their representatives in both Houses of Congress to support this legislation.

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## HEARTMOBILE

## HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. GUDE. Mr. Speaker, I recently had the pleasure of participating in a graduation ceremony for rescue squad workers who had completed advanced cardiovascular training in the Montgomery County Heart Association's Heartmobile. Members of the first graduating class were Omer P. Bedard, Jr., Douglas M. Burr, Lawrence J. Cain, William D. Carlson, Joseph M. Conrad, Anthony M. Crofoot, Lewis German, David L. Griffin, Vincent B. Hutt, Neil P. Kjeldsen, Christopher F. Kiger, Richard B. Mullins, Jon E. Nathanson, William J. Parks III, John D. Pearson, Jack W. Russell and William O. Suddath.

They were instructed by Mary Beth LaGoey, RN and John White, CPR.

This suburban Maryland effort is an extraordinary one that should be repeated in many areas of the Nation. The excellent work of the Heartmobile was recently recognized in an editorial broadcast on WMAL-TV here. The editorial said:

> Twenty months ago the Montgomery County Heart Association took to the streets with a heartmobile, prompted by the fact that 65% of those who died of heart attacks never made it to the hospital.
>
> Today, there are at least 8 residents who owe their lives to this sophisticated first-aid vehicle. But the federal funding is being curtailed at year's end because of the cost of operation.
>
> However, the future isn't that bleak. Out of this unique experiment may come a fleet of so-called mini-heartmobiles . . . rescue squad ambulances equipped with the necessary drugs, electric shock equipment and radio-telemetry.
>
> The first 17 paramedics, members of the Bethesda-Chevy Chase and Wheaton Rescue Squads, have been trained, the ambulances are already available, and efforts are underway to raise the three to five thousand dollars needed to equip each vehicle.
>
> But, before this operation can expand or even start rolling, the para-medics need Legislative approval to administer certain drugs and operate some of the equipment. Such approval can be expected if the state medical society gives the green light. With heart disease the number one killer, approval can't come a moment too soon.

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## CONGRESS SHOULD SUPPORT CONVERSION TO THE METRIC SYSTEM

## HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. McCLORY. Mr. Speaker, I am pleased to learn that the Department of Commerce has forwarded a joint resolution "to establish a national policy relating to conversion to the metric system in the United States." This measure delivered to the Speaker of the House and to the President of the Senate today appears to fulfill the recommendations made by the Secretary of Commerce Stans on July 29, 1971. Also, it is consistent with the recommendation of the President in his state of the Union message.

Mr. Speaker, the joint resolution and a statement issued by James H. Wakelin, Jr., Assistant Secretary for Science and Technology, Department of Commerce, would establish a National Metric Conversion Board composed of 25 members which would develop a program or plan for an orderly conversion to the metric system to be substantially accomplished over a 10-year period.

Mr. Speaker, I am hopeful that the program outlined by the Department of Commerce will be adequate to meet the requirements of its own study report.

It is gratifying that hearings are being held by the Senate Commerce Committee under the chairmanship of Senator Daniel K. Inouye. In addition, I am pleased to receive assurance that the distinguished Chairman of the House Committee on Science and Astronautics, Congressman George Miller, long an advocate of conversion to the metric system, will schedule hearings on metric conversion legislation soon.

It seems to me vital that a suitable legislative measure should be passed during this Congress in order to set in motion a metric conversion program targeted to reach final conclusion by January 1, 1983.

Mr. Speaker, as an early sponsor of the study program which was authorized in 1968 by Public Law 90-472, I have followed with special interest the work of the U.S. Metric Study and have examined the reports issued in December 1970 as well as the final report issued in August 1971. The conclusion is inescapable that conversion to the metric system is an idea whose time has come.

Indeed, conversion to the metric system is inevitable. Of course, this is a very bad time in our history for us to undertake a comprehensive program of complete conversion to the metric system of Weights and Measures as the official system of our Nation. However, any later time would be far worse.

Conversion also is desirable. It offers untold advantages to business, to learning, to safety, to international understanding, to advertising, to entertainment, to human comfort, and to efficiency and economy in our social, political, and economic life.

Of course, conversion to the metric system already has been accomplished—partially. The pharmaceutical industry which is predominant in my congressional district employs metric measurements—almost exclusively. This is the case also in the optical, photographic, and many other industries where extensive scientific research and development have taken place. The entire space program is almost entirely metric. Many industries—particularly those with large foreign sales—employ a dual system, one applying to domestic sales, and the other applicable in the foreign markets.

Mr. Speaker, we are particularly fortunate that Great Britain, Australia, New Zealand, and Canada, and a few other countries, are in the process of converting to the metric system at this very time. We are fortunate, I say, because we can benefit from their experiences and profit from the particular problems which they have encountered.

There seem to me to be several basic principles which should guide us in the development of the legislative program which we should now undertake.

### 1. THE PROGRAM OF CONVERSION SHOULD BE ESSENTIALLY VOLUNTARY

In order to carry out a voluntary conversion program successfully, it is essential that all segments of our society participate in the action program which must be undertaken. This should include business organizations such as the U.S. Chamber of Commerce—already committed to the support of a metric conversion program—retailers, labor organizations, scientific associations, educational organizations, Federal agencies, State and local units of government, consumer organizations, representatives of the media, including radio, television, and the press and citizen groups. In order to assure such voluntary cooperation, an officially constituted metric coordinating commission with authority to act and with funds sufficient to perform their essential work should be authorized by appropriate legislation. Such a commission preferably should be relatively small in number in order to effectively and efficiently perform the basic program of a comprehensive conversion to the metric system. In addition, a representative advisory commission of virtually every individual industry and economic and social interest should be named.

### 2. THE LEGISLATION SHOULD ESTABLISH A TARGET DATE

The measure which I have introduced in the House of Representatives, H.R. 12307, provides for a target date of January 1, 1983. This is roughly 10 years after the effective date of the legislation which I feel should be enacted during this Congress. This corresponds with the recommendation of the Study Commission as well as the view as expressed by The Honorable Maurice H. Stans, until recently the Secretary of Commerce. I believe this continues to represent the view of that department. A 10-year program was adopted by Great Britain in 1965. This is also the time frame adopted by Australia—although Australia did not designate any specific target date.

It is my understanding that New Zealand is endeavoring to achieve overall conversion within a period of 7 years.

While some areas and some specific activities may require additional time, it would seem vital to a comprehensive conversion program that a fixed time schedule for complete conversion should be established.

### 3. AUTHORITY SHOULD BE RETAINED TO EXEMPT SOME ACTIVITIES

International agreements affecting fasteners, for instance, and various other activities, which do not relate directly to the national economy or to domestic and international commerce, might appropriately be excluded from the comprehensive conversion program. Certainly, screws and bolts and other fasteners, which are currently used in accordance with internationally accepted measurements should not be required to be converted to metric standards. Land measurements which continue to apply units which are no longer current should nevertheless continue to be valid although it would seem desirable to standardize these measurements for better understanding and for greater accuracy.

### 4. THE CONVERSION PROGRAM SHOULD BE LIMITED INITIALLY TO LENGTH, VOLUME, WEIGHT, SPEED AND TEMPERATURE

In this connection, measurements of heat, energy and other subjects which are amenable to measurement according to varying systems should not be included in the 10-year conversion program which the Metric Conversion Coordinating Commission would establish.

### 5. GENERAL PUBLICITY SHOULD ACCOMPANY ACTIONS OF THE METRIC CONVERSION COORDINATING COMMISSION

It is reported to me that resistance in Great Britain has resulted from a seemingly "closed door" decisionmaking policy of the British Metrication Board. It would appear that such resistance could be avoided by keeping the public fully informed of both problems and progress in the conversion program.

### 6. A BROAD EDUCATIONAL PROGRAM SHOULD BE ADOPTED AT AN EARLY DATE IN ALL ELEMENTARY AND SECONDARY SCHOOLS

With a target date of January 1, 1983, it is possible to establish an educational program in the public and private schools at the grammar school and high school levels so that usage of the Metric System by this large segment of the population would be almost automatic by the time the target date arrives. Metric measurements are acknowledged to be more logical and timesaving. The existence of such a large segment of our society as those who will have been students during the 10-year period ending in January 1983 would greatly facilitate the changeover which would be effectively completed at the time the target date is reached.

Mr. Speaker, in these remarks I am endeavoring to offer practical considerations. Indeed, this, it seems to me, should be the prime objective of legislation which we may soon enact.

Conversion to the metric system should be made convincing and advantageous to all concerned. There should be no suggestion of punishment or attack upon any group or segment of our society. At the same time, we should establish the mechanism for making the program of conversion to the metric system persuasive and logical.

Mr. Speaker, let me simply add that, according to my information, the estimated costs of conversion have been grossly exaggerated in almost every instance. In addition, unforeseen benefits such as improved and more economical methods of manufacturing have been revealed in the course of other governmental-sponsored programs of conversion to metric standards.

The time-worn objections of inconvenience, expense, dislocation, as well as conscientious criticism of the metric system itself, have effectively delayed up until this time a national program for conversion to metric. These fears and obstacles should now be discarded, and we should begin, at long last, to move ahead with the rest of the world toward a universally understood and accepted system of weights and measures.

Mr. Speaker, again let me say that I am indeed hopeful that during this Congress a measure may be passed around which American industry can rally for a coordinated program of conversion to the metric system to be completed on or before January 1, 1983.

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## JUDGE EDWARD A. BARNEY—AN OUTSTANDING MAN

## HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. CLEVELAND. Mr. Speaker, New Hampshire, indeed the whole country, lost a truly outstanding citizen recently with the demise of Judge Edward A. Barney of Canaan, New Hampshire.

"Ned" Barney, as he was known to his friends and readers, lived most of his 90 years in Canaan, serving the people of the area as owner and publisher of the Canaan Reporter and Municipal court judge for 40 years. During the early part of his life he also spent several years in Washington serving his country, as secretary to Congressman Frank D. Currier and clerk for the Congressional Committee on Patents.

But the greatness of Judge Barney was in the small everyday displays of kindness, wisdom, and concern for fellow human beings which made his an exemplary lime. Few who came in contact with him or his words went away without being positively influenced.

A clearer measure of the man can be gleaned from his own words. As a judge he once said:

> When I came to the court I found the courtroom set up in such a way that the judge was expected to sit on what amounted to a throne, a truly regal thing. I never sat up there, always preferring to function on the same level as the accused and their legal representatives.

The following are an article and editorial marking the passing of Ned Barney which appeared in the Mascoma Week in Canaan, N.H. The people of New Hampshire will miss this man.

The article follows:

### EDWARD A. BARNEY

Edward A. Barney, the doyen of New Hampshire newspaper publishers, died last Friday at the Alice Peck Day Hospital in Lebanon following a brief illness. He was 90 years old.

From 1912 until he retired in 1946, Mr. Barney published the weekly *Canaan Reporter*, a paper his father founded in 1867. In 1945, Mr. Barney purchased the *Enfield Advocate* and, until he sold the business, published both newspapers at the Reporter Press in Canaan. The *Reporter* and *Advocate* were merged six years ago into the present *Mascoma Week*.

Mr. Barney, who contributed frequent articles to *Mascoma Week* up to the time of his death, is survived by his wife, Bessie Hutchinson Barney, whose column, "Bird and Garden Notes," a miscellany of nature notes and comment on community affairs, has been appearing in the paper for more than 35 years, under the by-line "B.H.B."

Funeral services were held Monday at the Canaan Methodist Church with the pastor, the Rev. Allan R. Cornelius, officiating. Burial was in Canaan Street Cemetery.

### NATIVE OF CANAAN

Ned Barney, as he was called all his life, was born July 22, 1881, in Canaan, the son of Charles Oscar Barney, founder of the Reporter Press and the Canaan Reporter 14 years earlier, and Mary E. Wilmarth of Enfield, a schoolteacher. His mother died when Ned was six.

Educated in the Canaan elementary and high schools, Ned began working around the Reporter Press as soon as he was big enough to be useful.

By Jan. 1, 1900, inaugural day of the Twentieth Century, the 18-year-old Ned Barney was already launched on a career as a man of parts. A shy, gangling, country youth, he was dividing his time between the editorial office and back shop. He was both country editor and printer. In the spare time that was given to him, young Ned was composing short humorous sketches and submitting them to such magazines of the day as *Judge* and *Life*.

In common with most Americans at the turn of the century, Ned had never heard of Henry Ford of Detroit, then 35, or the Wright brothers of Dayton, Ohio, still in their early 30s. His world was free of gasoline fumes, jet streamers, television, radio and the income tax. McKinley was president. Canaan's property tax was insignificant; none of the town roads were paved.

Mr. Barney always maintained that the greatest stroke of good fortune to come his way was an invitation from Congressman Frank D. Currier of Canaan, newly-elected to the Congress in 1900, to go to Washington as his private secretary. This appointment, accepted with alacrity, kept Mr. Barney in the capital until 1912, the full period of Mr. Currier's six terms. After a short time in Washington, an appointment as clerk of the Congressional Committee on Patents provided him with a second salary and encouraged thoughts of marriage.

On Nov. 30, 1909, Mr. Barney married Bessie Hutchinson, daughter of Arthur W. Hutchinson and Irene Tenney Hutchinson of Canaan, the wedding uniting two of the town's earliest and foremost families.

Back home in 1912, Ned joined forces with his father at the Reporter Press, taking on editorial responsibilities for the three weekly papers then being produced: *The Canaan Reporter Mascoma Register* and *Concord Tribune*. The *Tribune* had been started in 1890 by the politically-involved Charles O. Barney. It survived good times and bad until 1918 when circulation dropped to 700.

The printing business in those days was later described by Mr. Barney as "an occupation that ran neck-and-neck with country preaching in the poorhouse sweepstakes."

He recalled a hard winter when business was extremely bad. "My father," he related, was so discouraged by the state of affairs that he took the train for Boston one day and called on the president of the Boston & Maine, offering his services as a sort of on-the-spot representative of the railroad in the Canaan district. To his surprise, he was given the job at $200 a month. This success led him to approach the New Haven railroad with a similar offer, which was also taken up. Thus, for a brief time anyway, my father had an income far beyond any that he had ever enjoyed from his own business."

Through two world wars, depressions, disastrous fires that wiped out the Reporter Press, floods that stopped the machinery, and other calamities, the Reporter Press survived. When Mr. Barney was appointed judge of the Canaan Municipal Court, the printing shop often served as the scene of court hearings, Judge Barney leaving his press or stone long enough to dispense justice. For over a quarter-century, Mr. Barney presided over the court in Canaan, always as informally as possible.

"When I came to the court," he once said, "I found the courtroom set up in such a way that the judge was expected to sit on what amounted to a throne, a truly regal thing. I never sat up there, always preferring to function on the same level as the accused and their legal representatives."

The courthouse and most other buildings in Canaan village, including the Reporter Press, disappeared in the great fire of 1923. After the fire, Mr. Barney built a new home for his printing business on Depot Street and moved his court into quarters engaged by the town.

In his later years Mr. Barney was active in probate work. He wrote many articles of reminiscence which appeared in *Mascoma Week* and delighted readers who enjoyed the unfailing Barney wit.

In addition to his wife, his brother, Ralph T. Barney, survives.

ELMER DULMAGE

### NED BARNEY, A TRULY REMARKABLE MAN

It's not easy to write of a man whom you knew only briefly in the latter years of his active and full life. But, to have met Ned Barney once was to know that you had met a truly remarkable man.

Ned Barney had often been to the Reporter Press shop in recent years. He stopped each week to get his paper and although it wasn't finished, he understood, for he had been part of the Canaan paper since the turn of the century.

A lot of things have changed since those early days and Ned was always interested to see what the latest equipment was and how it operated. Those years in the U.S. Patent Office in Washington must have given him a great deal of insight into the way today's methods become tomorrow's antiques for he was always fascinated with the new machines and understood them well.

I don't know when Ned first started writing for the *Canaan Reporter* but it must have been at least 70 years ago. As this week's paper attests he was still writing at his death.

One of Ned's greatest contributions was to the young people he met and counseled all his adult life. I'm sure that there are a great number of citizens of Canaan and elsewhere today who can remember some point in their life when Ned Barney's words or actions inspired them to become more like the individual he was.

It is truly a remarkable man who sees and lives life to its fullest for ninety years, all the while contributing to the welfare of his fellow man.

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## THE SPECIAL INTEREST LOBBIES NEED A TIGHT REIN

## HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. BOLLING. Mr. Speaker, the following editorial from the Kansas City Star of Sunday, February 27, has an important message concerning the special interest lobbies:

### THE SPECIAL INTEREST LOBBIES NEED A TIGHT REIN

The powerful and sustained fight waged by billboard interests in the Missouri and Kansas legislatures is a stark dramatization of the influence that special interests can wield. It is only the tip of the iceberg.

Lobbying in the 50 states and Congress is a multimillion-dollar-a-year venture. If they didn't consider it necessary to achieve their ends, lobbies wouldn't be spending that volume of money and time. But there they are, buying drink and food, being accommodating with a wide variety of services (some running to the luxurious) and, quite naturally, espousing a line that will put their clients in the most favorable position.

Lobbying, whether for evil or good, is an integral part of the democratic legislative process. Given that, the best defense against those who show contempt for the public good is to build in controls that minimize conflicts of interest for both legislator and lobbyist. In the broadest sense the laws should cover all executive and administrative agencies and the people who appear before them.

The insidious signboard episode over the last half-dozen years has brought Kansas and Missouri perilously close to losing millions of dollars in federal highway funds. Now, under threats and deadlines from Washington, the legislatures are grappling again with bills to bring the states into compliance with federal regulation of outdoor signs along highways.

The use of these obstructive tactics, which have been costly, cuts to the heart of protection for the public against private interests. It is but one in a long list of examples.

### THE PRESSURE HORDES

Literally hundreds of organizations, trade and commercial associations, unions and many, many other groups attempt to pass or defeat legislation. Not every lobbyist engages in the food-drink-favors routine. And not every legislator takes advantage of everything that is offered and available. Moreover, lobbying need not be inherently bad. Some efforts on behalf of governmental agencies, from the local to the federal levels, are for the good. Common Cause, a nonpartisan citizens' movement, is using professional lobbying techniques in behalf of reform measures.

Honest, well-meaning legislators should not have to be prodded into striving for strong conflict-of-interest statutes. Effective regulation would help reduce the questionable practices that pull all legislators into the gray area, beclouding them, the legitimate lobbyists and the institution of free government.

One rather important measure of the political maturity of a people is the height of moral standards they require in public affairs. In the 19th Century, a period of rapid expansion in America, there was widespread corruption in government. A U.S. House investigation in 1854 revealed that the attempts of Samuel Colt to obtain extension of valuable patents included the retention of a member of Congress on a $10,000 contingency fee, and numerous gifts of small arms to other members plus lavish entertainment.

It was not until nearly 100 years later, in 1946, that Congress got around to trying to regulate lobbying in the Legislative Reorganization Act. Even so, loopholes remain that allow abuses if lobbyists want to take advantage of them.

Not all states have regulations, and many that do are not considered effective. State legislators are perhaps more vulnerable to overtures because a lack of proper staffing makes them dependent on lobbyists for information. In some cases legislators can be susceptible because of low salaries and expense allowances.

Outright bribery can be a threat to the orderly working of a legislature. But just as dangerous, or perhaps more so, is the subtlety of much of the lobbying efforts. It is far more difficult to detect and combat. A favor is never—well seldom—asked. The extension of amenities, proffered often in genteel surroundings, puts lobbyist and legislator on friendly terms. Under these circumstances it is rather natural for an offer, and acceptance, of a campaign contribution. It is hard for many legislators to see any harm in this.

Nevertheless, the result of these relationships is a system, loosely knit and rather elusive to identify, that apparently is beyond the pale of pure corruption charges. Lobbyists ingratiate themselves with legislators, concentrating on the leadership and other key representatives. It is a clubby arrangement with tacit understandings and ground rules. Not every lobbyist gets everything he wants, but as the billboard controversy shows, a terrific amount of pressure can hardly unglue legislators from their lobbyist friends. And it is not unheard of for the law partner or law firm of a legislator, particularly high-placed and effective ones, to be on retainer of a business or special interest group.

That could be called preventive lobbying.

Many lobbyists are expert on legislative procedures and strategy, as well as on analyzing legislation. These capabilities can build respect and confidence in lobbyists, many of whom are former legislators. They often have an important role in helping a legislator guide a bill through the legislative labyrinth. They help arrange for committee hearings. The lobbyists campaign for commitments of support among key representatives who have pockets of votes and the membership as a whole. If legislation is introduced that affects their clients adversely, lobbyists offer amendments at committee hearings or substitute bills more to their liking—something they say they can "live with."

The sphere of lobbies can go beyond the legislative halls. If they become disenchanted with a legislator, they can threaten to recruit or support his opposition. Labor frequently assists candidates. The Missouri Chamber of Commerce keeps record of votes and recommends candidates on the basis of their attitude toward the "business climate."

PUBLIC IN THE DARK

The average citizen, unfortunately, knows little about all this. Many legislators and lobbyists aren't inclined to talk about it much. It is difficult, virtually impossible, to find outright corruption, although there is a widely accepted opinion that not all expenses are disclosed, even in states where such details are required.

Stronger, much tighter conflict-of-interest laws, including definitive sections on lobbying, are needed. Other reforms could help. Higher legislative salaries could be beneficial. In Missouri and Kansas, and perhaps in other states, public support for more money would be far more likely if major efforts in upgrading the legislatures were made first. Research assistants and staff for committees is one suggestion.

All lobbyists should be required to register as they are in Missouri and Kansas. They should also be required to file periodic, detailed reports on expenditures that include information on how the money was spent and the purpose of the lobbying. These records should be readily accessible to the public. An airtight campaign contribution and expenditure law would shed light on lobbyists' activities in elections.

A tighter rein on lobbyists is needed. The public must demand effective conflict-of-interest laws and fair treatment for all legislation. Legislators who propose conflict-of-interest bills should be encouraged. Currently there is legislation to strengthen the Missouri law. In Kansas some legislators are trying to weaken that state's statute while others are trying to reinforce it. The acts should be stronger. Indisputable is the fact that lobbyists work for a fee to produce a certain result.

Experience shows that special interests will have their lobbyists at the legislatures. If the people want to be on a par with them they must let their representatives know it.

## OUR DUTY TO PRESERVE FREEDOM: EVAN SPANGLER, HAWAII'S WINNER IN VFW "VOICE OF DEMOCRACY" CONTEST, MAKES ELOQUENT PLEA

### HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. MATSUNAGA. Mr. Speaker, each year the Veterans of Foreign Wars conducts a nationwide speech competition, "Voice of Democracy." High school students from every area of America participated in the contest this year, the final results of which will be announced within the next few days.

The winner in my State of Hawaii was Evan Spangler, a junior at Radford High School in Honolulu, and the son of Lt. Col. and Mrs. Billie E. Spangler of Fort Shafter. I take this opportunity to congratulate Evan and his parents and the VFW. In his winning speech, Evan emphasizes eloquently the theme of this year's contest, "My Responsibility to Freedom." His speech follows:

MY RESPONSIBILITY TO FREEDOM

Demographers tell us that some where in this world a baby is born every three seconds—that in the United States a new American is born every seven seconds.

Consider for a moment that man, with his great capacity to create and produce, has no choice over the time, place or ancestry of his birth. That I am an American is an accident. To be born free is an accident.

But to live free is a challenge.

In the divided city of Berlin in 1945, Peter Fechter was born and by accident in the Communist-controlled sector. Seventeen years later, Peter Fechter was working as an apprentice mason on the east side of the infamous Berlin wall.

As he looked at the wall, he clearly understood the challenge to live free. One day during his lunch break, Peter made his decision.

Without a second thought, he hurdled the barbed wire barricade, dashed across the sandy strip between the wire and the wall, and clawed his way to the top.

A volley of pistol fire cut him down. East Berliners watched terrified as his body fell. For an hour he lay bleeding, screaming for help, clutching at the sand. When his youthful body became quiet and cold, the Communist soldiers carried him away.

To be born free is an accident. To live free is a challenge. To die free is an obligation.

Because I was born free, I have a responsibility to freedom. It is an inescapable responsibility that was born at Valley Forge, nurtured at New Orleans, tempered at Shiloh and Gettysburg, and tested in the Belleau Woods.

My defense of freedom is not always by the sword. I defend freedom when I exercise my responsibilities as an American citizen through constitutional processes that have prevailed for nearly two centuries.

My freedom of speech is only as strong as the free speech enjoyed by my fellow citizens. If their voices are restrained, then my voice is hushed also. Voltaire recognized this responsibility when he said "I disagree with what you say, but I will defend to the death your right to say it."

To be born free is an accident; to live free is a challenge.

I face up to this challenge when I express my views through letters to my representatives in government and through letters to the editors of newspapers. In another year, I will exercise my responsibility to freedom through the ballot box, recognizing that if I fail to vote I have weakened the legacy of my forefathers.

I must not abuse my freedom. To do so is to risk its loss. Any freedom I enjoy at the expense of my fellow man is mockery. I strengthen my freedom when I champion the rights of others. We are a nation of laws and not a nation of men. Frederic Bastiat wrote: "Liberty does not exist because men have made laws. On the contrary, it was the fact that freedom existed beforehand that caused men to make laws in the first place. The law exists only to protect freedom."

To be born free is an accident; to live free is a challenge; and to die free is an obligation.

The defense of freedom is my obligation for history documents that once a people lost their freedom, they never regained it. I accept my obligation knowing full well the price. I abhor war and the anguish it reaps. Yet I cannot ignore the alternative for as General Omar Bradley observed: "A soldier's pack is not so heavy as a prisoner's chains."

Another American said "if we do not defend freedom we will lose it, and if we fail, I fear we will face telling our children and our children's children what it was we found more precious than freedom."

Peter Fechter understood the consequence that day when he dashed to the top of the wall.

I understand it, too. I accept my responsibility because to be born free is an accident; to live free is my challenge; and to die free is my obligation.

## A SHELL GAME WITHOUT THE PEA

### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. STOKES. Mr. Speaker, at the moment that our President is shifting from low profile to high gear, it is good to take a close look at the man who seeks to be our leader for another 4 years. Although many people are bemoaning the inevitability of Mr. Nixon's second term, I reject such pat judgments.

After all, the American voter, if he exercises his privilege, does have some control over his national destiny. Inflation, poverty, war, and racism are not inevitabilities and do not occur randomly at the whim of the gods. They are manmade creations, and man must assume the responsibility for their annihilation.

The man who holds the highest office in the land has the power to effect a great deal of change if he wishes to do so. There are many who say that the President holds too much power in his lonely person. That is true, and should be challenged.

But, in the meantime, while we are operating under what could easily become an autocracy, it is incumbent upon us to examine the autocrat.

On February 24, 1972, the New York Review of Books published a book review by Prof. William Appleman Williams of Oregon State University. More than a book review, Professor Williams' paper is a careful, sensitive, and historical analysis of President Nixon—past, present, and future.

It is Mr. Williams' contention that, in the attempt to analyze the President, we are playing "a shell game without any pea." Professor Williams carefully sifts through all of the past interpretations of Mr. Nixon's behavior, and comes up with an explanation of his own. He arrives at the conclusion that Mr. Nixon is running—as fast as he can—to the top and beyond. He looks to neither side, nor back from whence he came, but always moves onward and upward. Nothing stands in the way of his flight—not honor or compassion or ideals.

Mr. Williams analysis is especially helpful in understanding the recent China and the upcoming Russia trips in a historical context.

I urge my colleagues to read Professor Williams' book review. It is a significant piece of political writing.

The article follows:

### EXCELSIOR!

(By William Appleman Williams)

(Nixon in the White House: The Frustration of Power by Rowland Evans, Jr., and Robert D. Novak. Random House, 431 pp., $8.95.)

(The First Two Years of the Nixon Watch by John Osborne. Liveright, 218 pp., $3.75.)

Almost everyone who has tried to make sense of Richard Milhous Nixon has acknowledged serious doubts about the value of the effort, admitted spells of boredom and outbursts of anger, and confessed recurrent frustration in finding and understanding the man. Their exasperation calls to mind the old children's game: "Nixon, Nixon, who's got *the* Nixon?"

The answer, very probably, is nobody. Not even Nixon.

If that is correct, and I think it is, then we can be clear about the reason for our unhappiness, anger, and fear. It is a shell game without any pea.

The support for this interpretation begins to emerge as one reviews other explanations of the man. One approach, offered by liberals and radicals (and some old-fashioned conservatives), pictures him as a bad or evil man embarked upon a brilliant and determined campaign to redefine traditional values in such narrow terms as to exclude most of us from consequential citizenship.[1] Without denying the harmful effects, for example, of his slap-dash anticommunism, and recognizing that he does display malice and meanness. I think that interpretation breaks down for one basic reason: Nixon is neither that imaginative nor coherent. Being evil is a *heavy* trip.

A second analysis explains Nixon as first and always a politician. While admitting that he is guided by a few general values (such as capitalism and a distorted Protestant piety), and differing among themselves about his ability to deal with real issues and problems, these Nixonologists agree that he acts largely to obtain and retain public office. One gets the impression, for example, that Dwight David Eisenhower made that estimate of Nixon—giving him a B in shallowness and a D in leadership. A good bit of Nixon's career can be explained by this political analysis, and his trips to China and Russia have revived its appeal after his earlier behavior as President had raised serious questions about its accuracy.

That approach has a major weakness, however, because defining a man as a politician does not—in and of itself—tell us how and why he responds to public moods and pressures (or to advice from confidants). It is not convincing to meet that objection by calling Nixon a pure politician (for whom office is all) who occasionally makes a mistake. He is neither that stupid nor that inexperienced, and his gaffes do follow a pattern. The strongest statements of the political analysis have been offered by Ralph de Toledano and Garry Wills, who explain Nixon as the politician as self-made man.[2]

Wills has attracted more attention because he offers an elaborate discussion of market place individualism and liberalism, because he digresses at great length on various current issues (Nixon disappears for pages on end), and because is is smypathetically critical instead of simply, sympathetic. But one cannot read the books consecutively without becoming aware of their important similarities. Toledano's book (the earlier) is a hopper car full of data, and his interpretation is basically the same as the one offered by Wills. Taken together, they almost convince one that Nixon can be understood as the grade C self-made man as politician.

But only almost.

The first reservation arises from the information provided by Toledano and Wills that is not explained by their interpretation (give them high marks for that), from data supplied by Nixon himself,[3] and from further evidence offered in the collection of essays by John Osborne and the book by Rowland Evans and Robert D. Novak. The second weakness involves a central point in the theory of the self-made man. It is this: the classic self-made man does get made. He struggles upward until he makes the place that offers him the opportunity to fulfill himself. Then he proceeds to fulfill himself and, according to the theory, that personal fulfillment contributes to the general welfare.[4] Having earned success, the self-made man is at peace.

And so, the politician as self-made man explanation will not work for Nixon.

First. Nixon reveals no sense of the place where, *as himself*, he should stop and fulfill himself. It most probably was the House of Representatives; but, typically, he displayed so little recognition of place that he never became involved as a congressman (or even as a senator).[5]

Hence, second, there is nowhere any display of the self-made man's competence that becomes excellence in the proper place.

And so, third, there is no psychological ease and contentment.

We must therefore turn elsewhere for assistance in understanding Nixon. Specifically to the insight (first advanced by the Germans) about the middle-class individual who, denied any opportunity to realize himself as a consequential member of society (no sense of place or fulfillment), flees forward to escape destruction. To stop is to die because flight is identity. Life is a sequence of problems rather than a mix of difficulties, opportunities, and realization. And problems are solved either by fleeing past them or by resolving them into ever bigger problems.

Toledano, Evans and Novak, and Osborne supply much evidence for this analysis of Nixon, and Wills seems at one or two points about ready to slide into it without stating it. And Murray Kempton recently caught the essence without pausing to develop it: "The real Mr. Nixon just rushes past us in ill-concealed flight." [6] But the unnerving part of it all is that Nixon not only documents the interpretation in classic form but seems at times to perceive the truth and ask for help by supplying more evidence.

This is most apparent, perhaps, in *Six Crises*, though the pattern reappears in later interviews. Once the flight has begun, Nixon explains, a man "can never become adjusted to a more leisurely and orderly pace." "When you have won one battle is the time you should step up your effort to win another until final victory is achieved." [7] But there can be no end because final victory is never defined. Nixon's bumbling effort in *Six Crises* to construct a psychological theory of crises reads more like a public warning and a cry for help—watch me and grab me because I cannot stop myself. Father John Cronin, one of his earliest advisers, caught it all in one pithy sentence: "There is something in Nixon that will not let well enough alone." So did Toledano: "Nixon has always run scared." [8]

"Once you get into this great stream of history," Nixon screams at us as he races by, "you can't get out." [9] He was so anxious to avoid having to come ashore after he lost the race for governor in California that he was even willing to accept help from the Eastern Establishment, which he has always held responsible for blocking his way forward. "The main thing," he remarked about the job they offered, "it is a place where you can't slow down—a fast track. Any person tends to vegetate unless he is moving on a fast track." [10] But even the action in a major law firm at the center of the corporate power structure was not enough. He told one associate that he would die in four years if that was the end of the road.[11] As for a life of relaxation, pleasure, and contemplation—"nothing could be more pitiful." [12]

The politician as a man in flight is very largely limited to being the politician as campaigner. And that is Nixon's record. There is no sense of self to provide the basis for a philosophy (even an ideology), and neither time nor confidence to develop issues or answers. Hence the gross exaggerations and wild distortions about his opponents (Dean Acheson as an architect of "retreat and appeasement"); his manipulative and titillating secrecy about himself ("Is there a new Nixon? . . . You've got to answer the question yourself"); and his persistent evasion of issues by laying down a pepper gas smokescreen of rhetoric about liberty, individualism, and responsibility.[13] Osborne is correct: Nixon must "be faulted for a fundamental lack of political honor." [14]

There are many justifications for that judgment, but perhaps the most convincing one is Nixon's 1968 bargain with the Southern extremists, which won him the endorsement of Strom Thurmond. Even if John Quincy Adams and Henry Clay actually did agree (in 1824) to divvy up the White House and the Department of State, their higgle-haggle was by comparison a child's game in the sandbox. Nixon risked *and very nearly lost* the chance for American society to continue functioning while undertaking to transform itself into a community. He could make a case for tucking himself into Strom Thurmond's vest pocket if he had done so because he was openly and honestly committed to white supremacy, or if he had acted on a broader concern to bring rational and responsible white Southerners back into the national community (and thereby create pressure on white Northerners to mop up their own mess). But not Nixon. He was merely prejudiced and, even more, desperate to avoid having to terminate his life-long flight forward.

The most generous thing to say is that he had a secret hope that being President would give him the identity he had never been able to create. A frightening example of the man who thinks the role makes the man. To be sure, the Presidency *is* one of the two or three offices in world politics (at least since 1860) that have the psychological power to bring out the best in a man. But it cannot work miracles. Nor is it a loom on which to weave finished cloth from raw fiber.

Lest there be any misunderstanding, Nixon does contain some raw fiber. He does have considerable native intelligence. He does have some sense of what is involved in study and thought. (But he always talks more about the setting than the process, and his intellectual strategy of war-gaming a subject is the dead end of the problem-solving approach to life.) He has, under special conditions, learned from others. And he does have a fuzzy idealism that includes an honest concern for the poor and others who have been stunted by the system.[15]

The trouble is that even all of that is not enough by half. There is simply no sense of self, no putting it together by Nixon himself. The most wrenching evidence lies in the stories about Pat trying to stop his flight forward. No doubt she is square, but she knows who she is and she wants a chance to realize her particular humanity. But Nixon broke his written promise to her to leave politics, confront himself, and thereby begin the struggle to fulfill himself—and her. Her anger is healthy.

Like ours.

And so into the White House. Where the private weakness becomes the public terror. Lack of identity compounded by incompe-

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Footnotes at end of article.

tence compounded by little comprehension of American reality. "I've always thought this country could run itself domestically without a President." [16]

Incredible.

No purpose, no program, not even any pragmatics; no ability even to keep on his staff the men who offered leadership to counter his weakness; not even any idea of how to pay the debt to Strom Thurmond. Evans and Novak, and Osborne, tell this part of the story in considerable (and chilling) detail. After two terrifying efforts to destroy the integrity of the Supreme Court (which is about the only established institution that blacks can believe in), Nixon blundered into a solution to that problem. Undertaking to use the Executive Department to weaken the law that the President is sworn to uphold, Nixon discovered that the law on school desegregation would have to be changed for Thurmond to have his way.[17]

So much for John Mitchell as a lawyer. But Nixon was off the hook, piously explaining to old Strom that he had no recourse but to enforce the law.

As a man who recognized what was going on, and what was at stake (if not what to do), Daniel Patrick Moynihan did his utmost to give Nixon some sense of identity. Appealing to the President's inherent conservatism and his vague idealism, he suggested that Nixon become America's Benjamin Disraeli. Find out who you are by aping a British prime minister who saw himself as the Tory as Reformer.[18]

Imaginative, and worth a try.

And it just might have worked if Nixon could have found the guts to fire (or ignore) Mitchell, and if the other Harvard professor in the White House had not countered by offering Nixon the image of a Woodrow Wilson reinforced and hardened with some realism from Prince Klemens von Metternich. Moynihan (and others who knew even more about America) hung on long enough to put together a reform package dealing with welfare, the draft, the tax system, social security, the electoral process, foreign aid, and the environment.[19] But again, the politician as campaigner lacked the skill and dedication required to finesse and muscle the program through the Congress.

John Mitchell and Henry Kissinger knew their man. Mitchell blocked Nixon from any serious effort to become a latter-day Disraeli by deploying the force of his will, and by keeping the campaign blinders tied on tight. Kissinger understood (or sensed) the more fundamental point: for a man fleeing forward, the last frontier is the world. There is the virgin land where a man can find and fulfill himself.[20] And, no doubt about it, the making of foreign policy within *that* idiom *is* the fastest track of all.

Having scrambled free of Thurmond, and been pulled away from Moynihan, Nixon joyously launched the ultimate crusade to realize the vision of St. Woodrow. Wilson was "our greatest President," Nixon explained, the man who "had the greatest vision of America's world role." [21] America must regenerate "a crusading zeal, not just to hold our own but to change the world—including the Communist world—and to win . . . without a hot war." "You cannot win a battle in any arena of life merely by defending yourself." [22]

Eisenhower had no more use for that concept of global benevolent empire than he did for most of Nixon's other suggestions, but Dick could never learn the important things from Ike. The man fleeing forward is inherently unable to understand the man who comprehends the fable of the tortoise and the hare. So Nixon did not change. He simply smoldered on the slow track provided by the Vice Presidency. But the fires of world salvation leaped skyward when President John Fitzerald Kennedy asked him what to do after the defeat at the Bay of Pigs. Nixon told Kennedy to "find a proper legal cover" and topple Castro with the Marines.[23]

So much for Nixon as a lawyer.

Once again runing free after 1960, Nixon revived his natural rhetoric: the "sellout" of the "enslaved people in Eastern Europe"; the necessity "to bring freedom to the communist world"; and the crisis of America's "*confidence*" in its ability to realize such goals. He was contemptuous of the suggestion that there might be limits. "I completely reject the idea that there are so-called peripheral areas, collateral areas—like Cuba and Vietnam—that are not important." [24]

But the consequences of acting on that view of Vietnam could not be ignored by the politician as campaigner. When Democrats began using the issue against Democrats, Nixon had to hurry-scurry about for ways to sustain St. Woodrow's crusade. His tactical response was to follow Wilson's lead in distorting the principle of self-determination to mean self-determination for those who accepted the American empire. Meaning Vietnamization maintained with American aid and airpower. That offered the possibility of withdrawing American ground troops, which would help Nixon reach the White House—and also provide time to devise a new strategy capable of realizing the Wilsonian vision.

Nixon might yet squeak through with that ploy despite its inherent weaknesses, and even though two typical actions almost ended his chance to develop a new strategy. Instead of making a full commitment to withdrawal, and then working out a rational plan that would leave no unprotected American supply troops (and at the same time offer a basis for serious negotiations in Paris), Nixon floundered into the dangerous necessity of having to mount a defensive offensive. That meant Cambodia.

He compounded that mistake because, always fleeing forward, he had never taken the time to understand the opposition to the war. He panicked in the face of the upheaval that was intensified by the killings at Kent State and Jackson State. Almost in a state of funk, the Administration was saved by the very kind of people that Nixon had damned throughout his public career, meaning the radicals who were committed to creating an American community, the liberals who were trying to reform the establishment, and conservatives who were trying to use their power responsibly. But, given that moment of grace, which he does not even yet comprehend, he stumbled up and forward toward the great vision.

"We are now in a position to give the world all the good things that Britain offered in her Empire without any of the disadvantages of nineteenth-century colonialism." [25] To the charge that such an approach still means empire, he offered this response: colonialism is not as bad as communism.[26] All vintage Wilson. Including the unwillingness to acknowledge past mistakes and accommodate gracefully, and the determination "never [to] settle for second best in anything." [27] Even including the trips to China and Russia. He is Wilson, this time with an assist from Metternich, going to Versailles. It involves the same misunderstanding and mistaken judgment. Wilson should have gone first to Leningrad, and Nixon should go first to Hanoi.

Yet, whatever our deep reservations about Nixon, let us give him full credit (whatever his motives) for renewing the dialogue with China. To worry that issue is to miss the vital point, which is that the relationship cannot be developed creatively within the Wilsonian idiom. Wilson saw opening the door to China as the way to Americanize the Orient. Nixon still chases that fantasy. He is not only "totally unwilling to cede US influence in any part of the world where it exists," but is determined to extend it wherever possible.[28] A man still worried about being No. 1 in a world where such competitiveness is the one attitude guaranteed to produce disaster deserves our sympathy and concern—but not our votes.

The most helpful thing we can do is to make sure that Dick honors his promise to Pat. This is the moment, Mr. President, to stop fleeing forward. Go home and explore the vast inner frontiers. The insight you had back in 1966 is the place to start. "I'd like to write two or three books a year, go to one of the fine schools—Oxford, for instance just teach, read, and write." [29] Oxford may be a bit much, but the idea is sound.

Go ahead, turn Wilson on his head. Become an imperial politician devoted to scholarship. It offers the most promising way for you to help the rest of us realize the vision of a world of brotherhood and peace.

FOOTNOTES

[1] This view was first advanced during and after Nixon's initial campaign against Jerry Voorhis.

[2] R. de Toledano, *One Man Alone: Richard Nixon* (Funk and Wagnalls, 1969); G. Wills, *Nixon Agonistes: The Crisis of the Self-Made Man* (Signet, 1971).

[3] As in, but by no means restricted to, R. M. Nixon, *Six Crises* (Doubleday, 1962). I have consulted an extensive range of materials beginning with the record of his first campaign.

[4] Such action, as we all know, does not produce the general welfare. But that is a weakness in the broad Smithian theory of individualism/liberalism; and here the focus is on a specific person.

[5] Evans and Novak see this point, *Nixon in the White House*, p. 106; and it is very apparent in Nixon's various autobiographical ruminations.

[6] M. Kempton, *The New York Review of Books*, January 27, 1972, p. 21.

[7] Nixon, *Six Crises*, pp. 426, 38, 61.

[8] Wills, *Nixon Agonistes*, p. 38; Toledano, *Alone*, p. 295.

[9] Toledano, *Alone*, p. 193.

[10] Ibid., p. 332.

[11] Osborne, *Nixon Watch*, p. 136.

[12] Wills, *Nixon Agonistes*, p. 28.

[13] Nixon, *Six Crises*, p. 63; Osborne, *Nixon Watch*, pp. 4–5; Evans and Novak, *Nixon in the White House*, p. 367; and see Toledano's accounts of the various campaigns.

[14] Osborne, *Nixon Watch*, p. 6.

[15] Wills, *Nixon Agonistes*, p. 154; Evans and Novak, *Nixon in the White House*, p. 28 and see Osborne, "After Three Years," *New Republic*, January 15, 1972, pp. 4–15.

[16] Evans and Novak, *Nixon in the White House*, p. 11.

[17] Ibid., pp. 19, 24, 30, 49, 137ff., 409; Osborne, *Nixon Watch*, p. 45.

[18] Evans and Novak, *Nixon in the White House*, p. 212.

[19] Ibid., p. 241 for a good summary; but also see Osborne.

[20] Here see H. N. Smith, *Virgin Land* (Vintage, 1957).

[21] Wills, *Nixon Agonistes*, pp. 30–31.

[22] Nixon, *Six Crises*, pp. 68 and 83.

[23] Toledano, *Alone*, p. 315.

[24] Ibid, pp. 333–336, where he provides a good review of this period, and in particular of the series of articles in *The Reader's Digest*.

[25] Wills, *Nixon Agonistes*, p. 30.

[26] Toledano, *Alone*, p. 225.

[27] Evans and Novak, *Nixon in the White House*, p. 29; Nixon, *Six Crises*, pp. 454–455.

[28] Evans and Novak, *Nixon in the White House*, p. 79.

[29] As recounted in Osborne, *Nixon Watch*, p. 135.

## THE STATE DEPARTMENT'S ROLE IN FOREIGN POLICYMAKING

### HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. DOW. Mr. Speaker, like many Congressmen, I have been concerned about the eclipse of the State Department and the assignment of such vast scope which has been placed in the hands of Mr. Henry Kissinger. Frankly, I am convinced that the enlargement of immense power over foreign affairs in the hands of one individual, who is declared to be "out of bounds" for congressional oversight, is a matter for positive congressional attention.

In line with this thinking, I asked the Library of Congress Research Service to prepare a summation of the historical place of the State Department and of executive advisers to the President. Appended below is the very clear and interesting report which they have provided on this subject.

Frankly, I am disappointed that the precedents in our history would support the employment by the President of a free agent, like Mr. Kissinger, and reveal the overshadowing of the State Department in more past situations than I care to see.

Does it not seem desirable that the Congress should take more account of these tendencies and bring back into the sphere of congressional oversight, all major instrumentalities that the Executive employs?

The paper prepared by the Congressional Research Service is offered as follows:

### THE STATE DEPARTMENT'S ROLE IN FOREIGN POLICYMAKING: ITS EXTENT AND ITS LIMITS

The State Department was officially established by Act of Congress on September 15, 1789.[1] It was preceded by a Department of Foreign Affairs, which dated back in a slightly different form to the Articles of Confederation, and then had been formally established under the new federal government just a few months before, in July, 1789.[2] Under the July Act, the Secretary of Foreign Affairs was to perform such duties as he might be assigned by the President relating "to correspondence, or negotiations with public ministers or consuls from the United States of from foreign states."[3] The law also specified that the Secretary was to conduct foreign relations according to the orders and instructions of the President. All the records of the Department of Foreign Affairs that had existed under the Articles of Confederation were to be the responsibility of the new Secretary of Foreign Affairs, and he was authorized to appoint a chief clerk to take charge of them in his absence.

Shortly after the Department of Foreign Affairs was established by the new federal Congress, the latter decided to vest the former with certain additional duties. These included keeping the Great Seal and the accounts and records of the United States among others. A bill, which became effective September 15, 1789, assigned these new functions to the Foreign Affairs Department but changed its name to the designation by which it has been known ever since, the Department of State.

This legislation provided that the Secretary of State "shall perform and execute such duties as shall from time to time be enjoined or entrusted to him by the President of the United States, agreeable to the Constitution, relative to correspondences, commissions or instructions to or with public ministers or consuls, from the United States, or to negotiations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs, as the President of the United States shall assign to the said department; and furthermore, that the said principal officer shall conduct the business of the said department in such manner as the President of the United States shall from time to time order or instruct."

The foregoing provision is still considered to be the organic law of the State Department. Its language seems broad enough to encompass the two functions ordinarily ascribed to the State Department, namely advising the President on foreign policy and managing the conduct of U.S. diplomacy. Elmer Plischke has outlined the functions of the Secretary and broken them down as follows:

A. FOREIGN RELATIONS FUNCTIONS

1. Promotes the maintenance of friendly relations with foreign governments.
2. Advises the President in the formulation and determination of foreign policy.
3. Advises the President respecting the acceptance, recall, and dismissal of foreign emissaries, and assists in their official reception.
4. Conducts our diplomatic negotiations under the direction of the President.
5. Manages the drafting of correspondence with the diplomatic and consular representatives of the United States stationed abroad, and with the representatives of foreign powers accredited to the United States.
6. Participates personally, or provides for proper representation, in international conferences.
7. Concludes, interprets, enforces, and terminates treaties and agreements with foreign states, under Presidential authorization.
8. Manages American participation in international organizations and agencies.
9. Provides protection for American citizens or public and private rights and interests in foreign countries.
10. Stimulates the settlement of international claims by or against foreign states.
11. Supervises the administration of American immigration laws abroad.
12. Manages certain other administrative functions, such as the issuing of passports to American nationals, and the granting of exequaturs to foreign consuls in the United States.
13. Supplies information regarding the political, economic, social and cultural conditions in foreign lands.
14. Directs and administers the Foreign Service of the United States.[4]

Much of this outline simply classifies and systematizes State Department functions that can be logically traced to the Act of 1789. Other functions set forth in the outline, such as supervising the administration of American immigration laws abroad, can be traced to other specific legislation.

Along with predominance in the field of foreign affairs, the office of Secretary of State has traditionally enjoyed special prestige as foremost in the Cabinet. The Secretary of States outranks the other cabinet heads in line of succession to the Presidency, and since the time of Thomas Jefferson, who was the first Secretary of State, the Secretary "has been entitled to take, and has usually taken, his oath of office before all other members of the Cabinet."[5] The media frequently refer to the Secretary as the "ranking member" or "senior member" of the Cabinet. Other members tend to defer to the Secretary of State although in terms of salary and legal authority he is their equal, not their superior. Custom, then, decrees that the Secretary is first among equals.

Yet despite his preeminence, the Secretary's opinion has not always carried any greater weight in foreign policy-making than that of other Cabinet officers. Sometimes it has carried less. Thus Jefferson, as Secretary of State, has been adjudged as having less influence in deciding issues of foreign policy in President Washington's administration than Alexander Hamilton, who was the Secretary of the Treasury.[6] Some Presidents have been, in effect, their own Secretaries of State. In such instances the Secretary of State, and by extension the State Department, have been relegated to a secondary role. Among the Secretaries of State who experienced this treatment were: Robert Smith in the Madison administration, James Buchanan in the Polk administration, Lewis Cass in the Buchanan administration, John Sherman in the McKinley administration, and to perhaps a lesser extent William Jennings Bryan in the Wilson administration and Cordell Hull in the Administration of Franklin D. Roosevelt. There were four Secretaries of State during the Jackson administration, three of whom were virtually shut out of any part in policy making because of Jackson's reliance on unofficial advisers, the so-called "Kitchen Cabinet." The sole exception was Martin Van Buren, but his influence on foreign policy derived from his close political alliance with Jackson, not from any change in Jackson's conception of the Secretary.[7]

There have also been a number of instances in our history when different Presidents relied on executive agents for a variety of diplomatic missions. This practice is virtually as old as the Republic, but it has perhaps gained added prominence in this century with the activities of such emissaries as Colonel House and Harry Hopkins, the former acting for President Wilson, the latter for President Franklin Roosevelt.

Writing in 1917, Edward S. Corwin found difficulty in harmonizing the practice with a reasonable construction of the Constitution.[8] He viewed it as a striking assertion of Presidential prerogative in the field of foreign relations. However Henry M. Wriston, in his standard work, Executive Agents in American Foreign Relations, first published in 1929, pointed out that the Senate had made no protest against the use of these agents and that senators of both parties had accepted such appointments without open criticism from their associates. Wriston argued that this constituted presumptive evidence that the Senate accepted the practice.[9]

In addition, Wriston contended that the conferring of a diplomatic rank is not an appointment to an office but merely a designation of title or honor to give the agent precedence or privilege. Recognizing that the practice commenced virtually with the establishment of the new federal government in 1789 and has been acquiesced in since that time, Wriston cites several Supreme Court cases, plus an opinion of William Howard Taft when he was Solicitor General (an opinion approved by the then Attorney General) to show that usage conveys sanction.[10]

While Congress may well continue to recognize that the use of such executive agents is occasionally advantageous and while members may continue to accept short-term diplomatic appointments, such as service on U.S. delegations to the United Nations, it appears doubtful that the practice will continue to be accepted as unquestioningly as in the past. The Senate Foreign Relations Committee is already on record as opposed to the conferring of personal ranks of Ambassador or Minister for any purpose.[11] The Committee apparently feels that Congress has been ignored, and that it (Congress) must exercise its constitutional powers over for-

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Footnotes at end of article.

eign affairs with greater vigor, rather than permit the Executive to dispatch personal agents in the same unrestricted fashion as heretofore. Moreover, prior court opinions on a particular point are not immutable, as the history of the Supreme Court repeatedly illustrates.

The fact that a number of U.S. Presidents have exercised direct control over foreign policy and that they have repeatedly used executive agents in the conduct of that policy illustrates again that diminished influence and power on the part of the State Department is a recurring phenomenon in U.S. history. Had every President vested complete control of foreign policy in the State Department, however, and had the custom of executive agents never arisen, the power of the Department would very likely have been diluted simply by the ever-increasing complexity of foreign relations in an ever more complex environment. To political and strategic interests centered in the State, War, and Navy (now Defense) Departments were, added the economic interests of the Treasury Department, the Commerce Department, the Agriculture Department, the Interior Department, and the Department of Transportation. The Department of Labor is concerned with foreign relations from the standpoint both of economics and social service. The Department of Health, Education and Welfare "discharges a disparate variety of foreign affairs roles." [12] In the post World War II era agencies such as AID and its predecessors, USIA, and the Peace Corps have assumed a major share of U.S. responsibilities overseas, to the point where their total representation abroad, as of 1967, outnumbered those performing traditional Foreign Service functions by about four to one.[13] The proliferation of agency interest in foreign affairs reached the point where, in 1949 the first Hoover Commission concluded that out of fifty-nine major agencies of the federal government, forty-six were drawn into foreign affairs to a greater or lesser degree.[14] Despite subsequent studies, recommendations, and reorganiaztions, the problem of coordinating this sprawl is far from solved. As long as so many agencies participate in the formulation or execution of some phase of foreign policy, the State Department will continue to experience a certain dilution of its authority.

Given the propensity of strong Presidents to be their own Secretaries of State, and given the fragmentation of jurisdiction over foreign affairs, it is not surprising that some of our recent chief executives have looked for both policy guidance and execution to personal assistance with official or unofficial status. President Franklin D. Roosevelt, for example, named Harry Hopkins to advise and assist him on Lend-Lease but never named him administrator.[15] Yet the appointment cut across many lines of governmental authority, including the conduct of diplomacy. Hopkins was known as "Roosevelt's own personal Foreign Office," and the Washington missions of combatant nations tended to deal directly with him and bypass the State Department. W. Averell Harriman was sent to London as Lend-Lease "Expediter" and reported directly to Hopkins through Naval communications rather than through the State Department.[16]

While Hopkins' role and authority may have been unique, other Presidents have relied heavily on White House assistants. President Truman appointed Mr. Harriman as his Special Assistant for Foreign Relations in 1950. It is generally acknowledged that in President Eisenhower's administration Secretary Dulles enjoyed unchallenged preeminence in foreign affairs, but the President did have several advisers concerned with specialized aspects of foreign affairs, including psychological warfare, foreign aid, and arms limitation, as well as a Special Assistant for National Security Affairs. President Kennedy made extensive use of White House aides, including Arthur Schlesinger, Theodore Sorenson, Richard Goodwin and Jerome Wiesner, among others, while McGeorge Bundy served as Special Assistant for National Security Affairs. According to Schlesinger, the center of foreign affairs administration "lay not in Foggy Bottom but in the White House." [17] Walt Rostow, who served in the Kennedy administration along with the other men named, became President Johnson's Special Assistant for National Security Affairs. Thus the office was well established when President Nixon picked Dr. Henry Kissinger for the post. While there were many reports in the media that Mr. Bundy played a larger role in making foreign policy than did Secretary Rusk, Dr. Kissinger appears to enjoy greater influence than any of his predecessors. Indeed, the trust reposed in him by the President, combined with his personal force, have led to repeated assertions in the press and elsewhere that his office has the dominant voice in U.S. foreign policy making today, with the possible exception of questions concerning the Middle East.

Assuming this observation to be valid, the restoration of the State Department to a position of primacy in foreign policy making would appear to be largely one of Presidential decision. The law, after all, provides that the Secretary shall perform and execute such duties as are enjoined or entrusted to him by the President in the field of foreign affairs. If the President decides that the presumed ascendancy of his Special Assistant has become a political liability, or that demoralization in the State Department has reached dangerous proportions, he may decide to rely more heavily on State Department guidance and may make public gestures to indicate this. Of course, a change in leadership in either or both of the offices most directly concerned, that of the Secretary of State and that of the Special Assistant for National Security, could also affect the situation. Congress has several avenues open to it by which it may indicate displeasure with the current situation, a factor which the President must consider. In sum, the solution to the problem appears to be essentially a political one. The fact that Dr. Kissinger undoubtedly wields great power over the nation's foreign policy and that he has refused to appear before the Senate Foreign Relations Committee is troubling to many people. The basis of this refusal has been executive privilege—that is the power asserted by the President to be "inherent" in the executive to withhold information residing therein from the public, from the legislature, or from the judiciary.

Generally, the executive does not withhold information in this manner without also claiming that disclosure of the information would not be in the national interest." [18] While the Constitution does not provide for executive privilege, its existence has been asserted from the President's powers to see that the laws are faithfully executed. Since the President could not execute the laws alone and unaided, the concept was broadened to include the entire executive branch. President Kennedy, however stated in 1962 that executive privilege could be invoked only by the President and would not be used without the approval of the President. Presidents Johnson and Nixon reaffirmed this policy.[19] It would seem a safe assumption, therefore, that the invocation of executive privilege by an official of as high rank as Dr. Kissinger would be at the President's direction and with his approval. It should be noted that Dr. Kissinger's refusal to appear before the Foreign Relations Committee is not without precedent. Dr. John Steelman, whose title was Assistant to the President, was directed by President Truman not to appear before a subcommittee of the House Committee on Education and Labor. Sherman Adams also a President Assistant, declined to appear before a congressional committee during the Eisenhower administration. General Bradley refused to disclose details of his conversations with President Truman to the Joint Committee that investigated the dismissal of General MacArthur. Each of these refusals was based on the confidential relationship between the individual in question and the President. However Mr. Adams did appear before a committee investigation personal allegations against him, as did Donald Dawson, administrative assistant to the President Truman.

As matters stand, it is theoretically possible for the President to direct the head of an executive department, such as the Secretary of State, not to appear before a congressional committee. But the fact that cabinet departments are creations of Congress has had the effect of obligating department heads, in the normal course of events, to go before Congress and explain how their departments are administering their assigned responsibilities. The prevailing policy for members of the President's staff, however, has been that they do not testify in formal sessions before Congressional Committees.

FOOTNOTES

[1] Title 5, Section 156. U.S. Code Annotated.

[2] Act of July 27, 1789. Chapter 4, sectional. 1 Stat. 28.

[3] Stuart, Graham H. The Department of State. Macmillan. New York. 1949. p. 14.

[4] Plischke, Elmer. The Conduct of American diplomacy. D. Van Nostrand Company, Inc. Princeton, N.J. 3rd ed. 1967. pp. 169–70.

[5] De Conde, Alexander. The American Secretary of State—An Interpretation. New York. Frederick A. Praeger. 1962. p. 17.

[6] Ibid. pp. 19–20.

[7] Ibid. pp. 88–89. Jackson actually discontinued meetings of the regular cabinet while relying heavily on his friends and advisors.

[8] Corwin, Edward S. The President's Control of Foreign Relations. Princeton. Princeton University Press. 1917. pp. 65–66.

[9] Wriston, Henry M. Executive Agents in American Foreign Relations. Gloucester. Peter Smith. 1967. p. 200. Originally published by the Johns Hopkins Press in 1929.

[10] Ibid. pp. 202–204.

[11] U.S. Congress. Senate. Committee on Foreign Relations. The Senate Role in Foreign Affairs Appointments. Committee Print. 92nd Congress. 1st session. Washington, U.S.G.P.O. August 1971. Appendix IV. pp. 68–69.

[12] Johnson, Richard A. The Administration of United States Foreign Policy. Austin. The University of Texas Press. 1971. p. 248.

[13] Ibid. p. 217.

[14] Plischke, op. cit. p. 162.

[15] Sherwood, Robert E. Roosevelt and Hopkins. New York. Harper & Brothers. 1948. p. 267.

[16] Ibid. pp. 268–269.

[17] Schlesinger, Arthur M. Jr. A Thousand Days: John F. Kennedy in the White House. Boston. Houghton Mifflin Company. 1965. p. 420.

[18] See CRS Multilith, Executive Privilege—A Brief Survey, by Marjorie Ann Browne. #71–238F. July 23, 1971. p. 1.

[19] U.S. Congress. Senate. Committee on the Judiciary. Executive Privilege. The withholding of Information by the Executive. Hearings before the Subcommittee on Separation of Powers. 92nd Congress. 1st Session. Washington, U.S.G.P.O. 1971. pp. 2–3.

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## THE CRISIS IN NORTHERN IRELAND

### HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HELSTOSKI. Mr. Speaker, the Subcommittee on Europe of the Committee on Foreign Affairs has begun hearings on the crisis in Northern Ireland and proposed legislation dealing with that grave situation. As an original cosponsor of House Resolution 673, the Carey resolution, I set forth at length my views on the Ulster crisis in a statement to the subcommittee, which I include at this point in the RECORD under unanimous consent:

### STATEMENT OF HON. HENRY HELSTOSKI

Mr. Chairman and Members of the Subcommittee: "We shall be unable to extricate ourselves from an unwinnable civil war which corrupts our political morals and destroys our army as a fighting force."

That quote, Mr. Chairman, is not from an old speech on the dangers of American involvement in Vietnam; it is from a front-page editorial in the October 22, 1971 issue of the respected British journal, New Statesman.

Last fall, the New Statesman seemed hopelessly alarmist. Indeed, those of us who at that time sponsored the Kennedy-Ribicoff-Carey Resolution on the crisis in Northern Ireland were denounced on both sides of the Atlantic for political opportunism and naivete. The intervening winter, however, has brought a fresh sense of crisis to Ulster and to the British Isles. And, the steady deterioration of the situation in the North was accelerated by the massacre of 13 Ulster Catholics by British troops in Derry on January 30, 1972. Thus, recent events have shown the Cassandras of last fall to have been accurate in their estimate of the gravity of the Irish Crisis. Even to the most casual observer, it should now be clear that the polarization of the communities in Ulster is complete and that continued rule from both Stormont and Westminster will not resolve the crisis. Indeed, the unchanged policies of the Tory Government in London and of the Unionist regime in Belfast hasten the disintegration of the Ulster situation. The governing Tories, the Labour Opposition, the Catholic and Protestant communities in Ulster and the Irish Republic to the South are increasingly caught in the quicksand of communal strife bordering on civil war.

It has been argued, Mr. Chairman, that the United States must remain absolutely neutral, in spirit and in deed, with respect to the Ulster Crisis. The strife in Northern Ireland, it is said, is Britain's internal affair, of no consequence to America.

While many Americans have become understandably reluctant to become involved in problems overseas as a result of our disastrous and benighted policies in Southeast Asia, I believe that there are many compelling reasons for not shutting our eyes to brutality and injustice in Northern Ireland.

First, it is fallacious to say that Ulster is solely Britain's problem. A brief review of recent events will indicate that the sovereign Irish Republic has been deeply involved in Ulster, thus establishing the future of Northern Ireland as an issue of international concern. Further, the Irish Government has been consulted by, and has negotiated with, the British authorities in London. And, the overriding question of reunification creates a paramount Irish interest in the question of Ulster's future. Contrary to what Mr. Heath may say, the border is an issue.

In this regard, the dispute over Ulster may be viewed as a four-sided international problem, involving the Republic of Ireland, the United Kingdom and the two communities in the North. Finally, the Irish Republic has become a major source of moral and physical support for the IRA and other Catholic elements in Ulster. Thus, the situation in the North cannot be resolved by the unilateral fiat of the British Government. It involved the vital interests of the Irish people and the Irish government. These interests must be taken into account in any discussion of the crisis.

Second, one of the main building blocks of American foreign policy since the founding of the Republic has traditionally been unwavering support for the right of self-determination. In recent years, a perverse interpretation of this principle has been applied to our government's efforts to shore up unrepresentative military elites in Southeast Asia. And, our government has actually turned its back on self-determination as recently as last year when it ignored the slaughter in Bangladesh and supported the Pakistani Dictatorship.

Despite the Administration's current preoccupation with balances of power in Asia and other Metternich-like foreign policy initiatives, the devotion of the American people to principles of justice, freedom and self-determination remains strong. It is up to us in the Congress to foster these principles and to see that they are reflected in our foreign policy. The tragedy of Ulster requires that we speak out and that we condemn the oppressive policies of Westminster and Stormont. We must point out to our British friends that their abandonment of traditional English civil liberties and indulgence in repression in Ulster are the moral equivalents of our immoral and self-defeating policies in Southeast Asia.

Earlier in my testimony, I alluded to Vietnam as a forerunner of the Irish Crisis and would like to dwell on that analogy for a moment. Again the New Statesman has said it as well as anyone:

"The real tragedy of Vietnam was that the Americans did not will it; they slithered into it. Indeed they hardly knew they were at war until it was too late to withdraw 'without dishonour' and 'without breach of faith.' Much the same is now happening to us in Northern Ireland . . . The most deadly disease of British and American democracy is the way we acclimatise ourselves to the evils done in out-of-the-way places on our behalf."

As in Southeast Asia, the tide of events is running too strong in Ulster to be controlled by outside forces. The built-in dilemma for Britain is this: "Pacification" can only entail repression; repression can only lead to further alienation of the Catholic community and more violence. As with My Lai, Bloody Sunday in Derry has shown that winning the hearts and minds of the people often costs them their lives and intensified their resistance.

The close relationship between Britain and America precluded any criticism by the Labour Government of the United States' increasingly irrational policies during the 1960's in Vietnam. How much better an ally Britain would have been, had she faced the ire of the Johnson Administration and told the Emperor he had no clothes. In a similar vein, our traditional friendship with Britain would be best served by the Administration or Congress point out of the tragic end to which Britain's Ireland policy will come if left unchanged.

But we cannot limit ourselves to criticism of the Tory Government's policies. If we speak out, we must also propose a viable solution to the Irish Crisis. The Carey Resolution, of which I was an original cosponsor, provides such a framework for peace in Ulster.

Besides demanding full respect for the civil rights of all in Northern Ireland, and implementation of housing, employment and other promised reforms, our Resolution calls for:

(1) An end to the policy of internment without charges or trial. This abominable practice violates one of the most sacred rights of the English-speaking peoples, the right of habeas corpus. Further, internment is but one aspect of the Special Powers Act. This legislation, which has blotted Ulster's statute books for decades, grants, at the stroke of a pen, virtual dictatorial powers to the government. The former Justice Minister, now Prime Minister of South Africa once said that he would trade all of his country's repressive legislation for one paragraph of the Special Powers Act.

The implementation of internment under the Special Powers Act has resulted in a lawless roundup of anyone suspected of membership in, or sympathy for, the IRA. Hundreds of Ulstermen are now rotting in British jails, not knowing charges against them, having no prospect of trial, and cut off from communication with their families. It is estimated that if a proportional number of citizens were interned in Britain itself, some 30,000 such persons would now be in English jails.

Internment and other policies under the Special Powers Act are violations of international law and Britain's international covenants. The Ulster Regime itself acknowledged this fact in one of its own publications, A Record of Constructive Change, but, in keeping with the rationalizations characteristic of one-party dictatorships, glibly found state security reasons for the treaty violations:

"While the Northern Ireland Government would wish as soon as possible to revoke those Special Powers which are in conflict with international obligations, it clearly cannot contemplate the withdrawal of any powers required to protect life and property in face of the mounting scale of violence and subversive activity."

Were Prime Minister Faulkner, his predecessors and his reactionary supporters not so short-sighted, they would realize that implementation of the Special Powers Act has only served to stoke the fires of resistance in the Catholic community. Its termination can be a first step toward peace.

(2) Our resolution urges dissolution of the Parliament of Northern Ireland. For 50 years, the Stormont assembly has existed as a cruel mutation of the Mother of Parliaments. Not only have discriminatory electoral laws prevented any meaningful Catholic participation in the Stormont Government, but also the voting system has been so distorted by vested economic interests as to exclude effectively working-class Protestant participation. Stormont's Parliament, then, has been dominated by a business elite. One has to go back to England at the time of the Reform Act of 1832 to find a franchise so subservient to the vested interests. Peace cannot be brought to Ulster while this parody of democracy exercises power.

(3) We propose withdrawal of all British forces from Northern Ireland. Just as American forces cannot impose a settlement on the Vietnamese, so the British troops in Ulster cannot bring peace to the Irish. As I have said before, the presence of English troops only contributes to the conflict.

Given the hostility which exists between elements in the Catholic and Protestant communities, this withdrawal must be undertaken in a careful manner. Britain should announce a deadline for withdrawal, perhaps within six months. In the interim, British troops should be ordered to keep out of the Catholic community. These sections of Ulster could be adequately patrolled by local forces. An announcement of British troop withdrawals and non-interference in the affairs of the Catholic community would go a long way toward relieving the tension in Ulster and strengthening the hands of the moderates in both communities.

(4) Finally, we suggest the "convening of all interested parties for the purpose of accomplishing the unification of Ireland." Once Britain has, by her announcement of troop withdrawals, signalled her determination that the Irish must work out their own destiny, the only alternatives facing Ulster will be further communal strife or peaceful reunification. I am confident that the majority in both communities will recognize the futility of the first option. I am confident

also that the Irish Republic will be most cooperative with respect to guaranteeing the rights of the Protestant community. Indeed, the democracy of the Irish Republic offers a more meaningful opportunity for working-class Protestant participation than does the oligarchic parliamentary system in Ulster. The Irish of Ulster must come to the realization that there is more to unite them than to divide them. The course of reunification is a difficult one, but I am convinced that it is the only hopeful alternative to the gathering darkness in Ulster.

Mr. Chairman, let us regain our perspective as Americans, a people devoted to justice and decency. Let us speak out against repression in Ulster, and for the freedom of the Irish people.

## EASTERN ORTHODOX MEN'S SOCIETY HOLDS 10TH ANNUAL AWARDS DINNER IN YOUNGSTOWN, OHIO

### HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. CARNEY. Mr. Speaker, on Sunday, February 10, 1972, I had the privilege of attending the 10th Annual Awards Dinner of the Eastern Orthodox Men's Society in Youngstown, Ohio. At this dinner, the Society presented Dr. Matthew Siman with its 1971 "man of the year" award. Dr. Siman is a registered professional engineer in the State of Ohio, and is a member of many professional and educational associations. He is currently on the faculty of Youngstown State University, and also serves as the Eastern Orthodox Men's Society's representative on the Black Studies Committee of the Youngstown Board of Education and the Keep Christ in Christmas Committee. Past recipients of the "man of the year" award are: 1963, Harry Meshel; 1964, Nicholas Pavelko; 1965, Theodore Baxter; 1966, Dr. A. K. Phillips; 1967, Attorney Charles Zubyk; 1968, William Karelin; 1969, George Mays; 1970, Dr. James W. Kiriazis and 1971, Dr. Matthew Siman.

In addition to Dr. Siman's award, the Society presented Mahoning County Sheriff Ray T. Davis with its 1971 "community service" award. Sheriff Davis has been active in community affairs for many years. Past recipients of this award are: 1963, William F. Maag, Jr.; 1964, Samuel C. Sharp; 1965, the Honorable Anthony B. Flask; 1966, Dr. Howard W. Jones; 1967, the Honorable Michael J. Kirwan; the Honorable David G. Jenkins; 1968, John W. Powers; 1969, John Parimucha; 1970, Leonard P. Caccamo, M.D., and 1971; Ray T. Davis.

In light of these presentations, Mr. Speakers, I would like to take just a few minutes to describe this unique organization to my colleagues. The Eastern Orthodox Men's Society was founded in 1962 to remove self-imposed ethnic barriers and to promote better understanding between all Orthodox as well as other religious groups. Its members come from varied backgrounds, including Hellenic—Greek—Russian, Ukrainian, Carpatho-Russian, Serbian, Romanian, Syrian, and Bulgarian. However, these men realize that they are now Americans of the Orthodox faith, and no longer wish to retain exclusive allegiance to their ethnic heritages.

In addition to promoting better understanding, the Society has also made substantial contributions to community services. These services include charitable activities, sports events, and scholarships for students attending seminaries or Youngstown State University.

The 1972 Officers of the Eastern Orthodox Men's Society are:

President, Dr. Matthew J. Siman.

First vice president, Dan Altemese.

Second vice president, Paul Woloschak.

Treasurer, William Sywy.

Financial secretary, William G. Karelin.

Recording secretary, Theodore C. Baxevandes.

Corresponding secretary, Charles Zubyk.

Captain of Guard, Mike Baltic.

Warden, Jacob Gricuk.

The members of the Board of Trustees are:

Chairman, Dr. James W. Kiriazis.

Trustees, Steve Serednesky, Nicholas Deniakis, Nicholas Libertine, John Tilea, John Bilas, John Parimucha, Carl Dimoff.

The Orthodox churches and pastors in Youngstown and Campbell, Ohio, are:

Rev. George J. Kostan, St. Nicholas Greek Orthodox Church.

Rev. George Pappas, Archangel Michael Greek Orthodox Church.

Rev. John Alexandrou, St. John Greek Orthodox Church.

Very Rev. Feodor Kovalchuk, Nativity of Christ Russian Orthodox Catholic Church.

Rev. John Psinka, St. John Russian Orthodox Church.

Rev. George Hutnyan, St. Michael's Carpatho-Russian Orthodox Church.

Rev. William Olynyk, Sts. Peter and Paul Ukrainian Orthodox Church.

Rev. Eugene Lazar, Holy Trinity Romanian Orthodox Church.

Rev. Kiril Antonoff, Holy Ghost Macedono Bulgarian Orthodox Church.

Rev. Philip Koufas, St. Mark Orthodox Church.

Rev. John Rajlich, Holy Trinity Serbian Orthodox Church.

Mr. Speaker, the Eastern Orthodox Men's Society exemplifies the unity and mutual understanding which make America a great Nation. The officers and members of the society, as well as those honored at the awards dinner, are to be commended for their high ideals and unselfish community service.

## U.S.S. "ARIZONA" MEMORIAL FACILITIES BILL GAINS STRONG SUPPORT

### HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. MATSUNAGA. Mr. Speaker, on December 7, 1971, the 30th anniversary of the attack on Pearl Harbor, I reintroduced with cosponsors my bill to establish a theater and museum on the shore near the U.S.S. *Arizona* Memorial.

Since that time, other Members have joined me in sponsoring this legislation, bringing to 134 the number who have either cosponsored my bill or introduced similar legislation of their own. It is interesting to note that the cosponsors come from 37 different States. Such widespread support is truly fitting, since the *Arizona* Memorial itself is visited each year by Americans from every State in the Union. An estimate of the number of visitors to the *Arizona* Memorial last year from each of the States is submitted for the RECORD. A list of the cosponsors to date is also offered for the RECORD.

Mr. Speaker, the strong bipartisan support for my bill is an appropriate tribute to the brave men who perished during the attack on Pearl Harbor. I have discussed the matter of early committee consideration with the distinguished chairman of the Armed Services Committee, the gentleman from Louisiana (Mr. HÉBERT) who has assured me of his full cooperation. If there are others who wish to join me in support of this worthy legislation I would welcome their cosponsorship.

The material follows:

SPONSORS OF LEGISLATION TO ESTABLISH U.S.S. "ARIZONA" MEMORIAL THEATER AND MUSEUM, BY STATE, DECEMBER 13, 1971

ALABAMA

Tom Bevill.

ALASKA

Nick Begich.

ARIZONA

John J. Rhodes.
Sam Steiger.
Morris Udall.

CALIFORNIA

Glenn Anderson.
Phillip Burton.
George E. Danielson.
Don Edwards.
Richard T. Hanna.
Augustus Hawkins.
Chet Holifield.
Craig Hosmer.
Harold Johnson.
Robert Leggett.
George Miller.
John Moss.
B. F. Sisk.
Charles E. Wiggins.

COLORADO

Frank E. Evans.

CONNECTICUT

Robert N. Giaimo.
Ella T. Grasso.
Robert H. Steele.

FLORIDA

Charles E. Bennett.
Don Fuqua.
Sam Gibbons.
Claude Pepper.
C. W. Bill Young.

GEORGIA

John W. Davis.

HAWAII

Spark Matsunaga.
Patsy Mink.

ILLINOIS

John Anderson.
Frank Annunzio.
Harold Collier.
Kenneth Gray.
Ralph Metcalfe.

Abner Mikva.
Morgan Murphy.
Melvin Price.
Dan Rostenkowski.
George Shipley.
Sidney Yates.

INDIANA

Ray Madden.

IOWA

Fred Schwengel.

KANSAS

William Roy.
Larry Winn, Jr.

LOUISIANA

John Rarick.

MAINE

Peter Kyros.

MARYLAND

Edward A. Garmatz.
Clarence Long.
Parren Mitchell.
Paul Sarbanes.

MASSACHUSETTS

Edward Boland.
Harold Donohue.
Louise D. Hicks.
Torbert Macdonald.

MICHIGAN

Marvin L. Esch.
Donald W. Riegle, Jr.

MINNESOTA

Bob Bergland.
Joseph Karth.

MISSOURI

William Clay.
W. R. Hull, Jr.
William Hungate.
Leonor Sullivan.

MONTANA

John Melcher.

NEBRASKA

John Y. McCollister.
Charles Thone.

NEW HAMPSHIRE

James C. Cleveland.

NEW JERSEY

Dominick Daniels.
Peter Frelinghuysen.
Cornelius Gallagher.
Henry Helstoski.
John E. Hunt.
Joseph Minish.
Edward Patten.
Peter Rodino, Jr.
Robert A. Roe.
William Widnall.

NEW MEXICO

Manuel Lujan.

NEW YORK

Bella Abzug.
Mario Biaggi.
Jonathan Bingham.
Frank Brasco.
Hugh Carey.
Emanuel Celler.
Shirley Chisholm.
Thaddeus Dulski.
Seymour Halpern.
James Hanley.
Frank Horton.
Norman Lent.
Otis Pike.
Alexander Pirnie.
Bertram Podell.
Samuel Stratton.
Lester Wolff.

NORTH CAROLINA

James Broyhill.

NORTH DAKOTA

Arthur Link.

OHIO

Charles Carney.
Delbert Latta.
John Seiberling.
Louis Stokes.

PENNSYLVANIA

Edward Biester, Jr.
James Byrne.
Frank Clark.
Daniel Flood.
William Moorhead.
Thomas Morgan.
Robert Nix.
Joseph Vigorito.
John Ware.
Lawrence Williams.
Gus Yatron.

SOUTH CAROLINA

William Dorn.
James Mann.

SOUTH DAKOTA

James Abourezk.
Frank Denholm.

TENNESSEE

William Anderson.
Joe Evins.

TEXAS

Earle Cabell.
Bob Casey.
O. C. Fisher.
J. J. Pickle.
Ray Roberts.
Olin Teague.
Jim Wright.
John Young.

WASHINGTON

Julia B. Hansen.
Floyd Hicks.
Mike McCormack.
Lloyd Meeds.

WEST VIRGINIA

Ken Hechler.
James Kee.

WISCONSIN

Les Aspin.
David Obey.

*Estimate of Visitors to U.S.S. Arizona Memorial, 1971*

(Based on figures provided by the Pacific War Memorial Commission)

| | |
|---|---|
| PACIFIC COAST | |
| Alaska | 1,450 |
| California | 267,600 |
| Oregon | 20,000 |
| Washington | 41,000 |
| CENTRAL NORTH-WEST | |
| Iowa | 6,450 |
| Kansas | 5,740 |
| Minnesota | 11,480 |
| Missouri | 10,000 |
| Nebraska | 3,600 |
| North Dakota | 700 |
| South Dakota | 1,450 |
| CENTRAL SOUTH-EAST | |
| Alabama | 2,870 |
| Kentucky | 2,870 |
| Mississippi | 1,450 |
| Tennessee | 3,600 |
| NEW ENGLAND | |
| Connecticut | 7,900 |
| Maine | 700 |
| Massachusetts | 14,350 |
| New Hampshire | 15,780 |
| Rhode Island | 2,150 |
| Vermont | 700 |
| MID ATLANTIC | |
| New Jersey | 20,000 |
| New York | 47,250 |
| Pennsylvania | 22,960 |
| CENTRAL SOUTH-WEST | |
| Arkansas | 2,150 |
| Louisiana | 3,600 |
| Oklahoma | 5,740 |
| Texas | 20,800 |
| MOUNTAIN | |
| Arizona | 7,900 |
| Colorado | 11,480 |
| Idaho | 2,870 |
| Montana | 2,150 |
| Nevada | 4,350 |
| New Mexico | 2,870 |
| Utah | 5,740 |
| Wyoming | 700 |
| CENTRAL NORTH-EAST | |
| Illinois | 40,180 |
| Indiana | 10,000 |
| Michigan | 2,150 |
| Ohio | 22,960 |
| Wisconsin | 9,300 |
| SOUTH ATLANTIC | |
| Delaware | 1,450 |
| District of Columbia | 2,870 |
| Florida | 10,700 |
| Georgia | 6,400 |
| Maryland | 8,600 |
| North Carolina | 5,020 |
| South Carolina | 4,350 |
| Virginia | 8,600 |
| West Virginia | 1,450 |

## A PATERSON NEWS EDITORIAL SOS FOR OUR WORKING SENIOR CITIZENS

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ROE. Mr. Speaker, all of us are highly cognizant of the serious cost-of-living and spiralling inflationary pressures affecting our senior citizens and retirees who are on fixed income. During the first session of this 92d Congress we enacted a 10-percent social security benefit increase retroactive to January 1, increased minimum benefits and other liberalizations of the social security system. We also enacted the same increase of 10 percent retroactive to January 1 for railroad retirees.

On June 22, 1971, we in the House passed H.R. 1 entitled "Family Assistance and Social Security Amendments of 1971" which bill has since been languishing in Senate Committee because of its controversial provisions for welfare reform. When the bill was voted in the House I moved with a number of other members to have the welfare provisions stricken from H.R.1 so that these reforms could be considered separately on their merits. Most of the social security amendments contained in the bill were to have been effective January 1, 1972.

H.R. 1 includes many of the benefits proposed in legislative measures that I have sponsored for our senior citizens and retirees. It includes a 5-percent increase in social security benefits and, most important, an automatic cost-of-living increase in benefits which include an adjustment in the earnings test as well as the contribution and benefit base.

In order to expedite the essential benefits to our senior citizens and retired persons on fixed income that are contained in H.R. 1 and act with dispatch to see that these proposed social security amendments are placed in effect without any further delay, I joined with Congressman SAMUEL S. STRATTON and others in introducing H.R. 12728 for the immediate enactment of the Social Security amendments contained in H.R. 1.

There is another side of the coin that also requires our urgent and immediate attention the working senior citizens who may be forced by circumstances to continue working or because of health, desire and the opportunity to work are gainfully employed and finding happiness, satisfaction, and dignity in their golden years. I am privileged to call your attention to an editorial contained in the February 3, 1972, issue of one of New Jersey's most prestigious newspapers, the Paterson News, which was forwarded to me by their city editor, Bob Stakesing, calling attention to and poignantly highlighting the desperate plight of these working senior citizens and seeking the assistance of the Congress to help rectify the gross inequities that these members of our community are encountering. I cite the Paterson News editorial and ask your personal attention and consideration of this comprehensive statement and the proposals contained therein, as follows:

### HELP FOR RETIRED! WHAT ABOUT WORKING SENIORS?

This could be a good year for senior citizens with political leaders from both parties anxious to snare their share of the 21,000,000 votes of the medicare group.

The retired seniors will bless government for any efforts in their behalf but it appears that they and the law makers are paying little attention to the plight of the eligibles who for one reason or another do not retire or take social security benefits.

If you are over 65 and under 72, still working and not drawing Social Security benefits, you are fortunate that you can still do a job but you take it on the chin to this extent:

You and your wife lose an amount which may be well over $300 a month not being paid you in Social Security benefits.

You still contribute 5.2 per cent of your earned income up to an amount of $468 a year in Social Security taxes and your employer gives a like amount.

You pay $5.60 a month ($12.20 if you include you wife) for Part B of medicare.

And you pay income tax on your earnings.

These are penalties for those who have the health, the desire and the opportunity to work in their sunset years.

We suggest to our representatives in Washington that they weigh such measures as exempting this group from a charge for Medicare Part B and that those affected be permitted, for income tax purposes, to deduct from earnings an amount equal to the Social Security benefits they are forfeiting. Study might develop better ways to help the employed oldsters.

Many of those working after 65 are doing so out of necessity. With inflation gnawing at them, government should study their problem.

President Nixon's proposed fiscal 1973 budget includes total spending, to benefit older adults, of an estimated $50 billion. That is $6 billion more than the 1972 budget for the 21 million elderly.

Virtually all this expenditure is required under legislation in existence or already proposed. One initiative suggested by the President is the elimination of the premium for the voluntary part B, medicare program, which is a form of insurance covering doctors' bills, in addition to the hospital insurance included in Part A. Almost all medicare participants have signed up for Part B. Getting rid of the premium for Part B would also forestall the scheduled rise in July from $5.60 a month to $5.80 a month. The saving to the aged would run to nearly $1.5 billion a year.

Nixon asked for new Social Security benefits worth nearly $5.5 billion. He envisioned an across-the-board hike of 5 per cent effective July 1, an increase from $1,600 to $2,000 in the amount a recipient may earn without losing any of his Social Security payments and a boost in widows' income from 82.5 per cent to 100 per cent of what their husbands would have been entitled to.

Another initiative concerns a special agency for the aged for which the President provided $100 million funding, five times more than last year's request for this purpose. In this, he catches up with what Congress has appropriated in the current year.

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## FARMERS HOME ADMINISTRATION HELPS RURAL AREAS

## HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. MICHEL. Mr. Speaker, the Farmers Home Administration of the U.S. Department of Agriculture is making significant contributions in helping the people of rural America.

The assistance provided by this agency in the broad areas of farming, community services and housing is meeting many of the needs created by our modern day requirements. Farmers Home Administration programs are helping rural communities develop opportunity for people, so they may remain in a rural setting and earn a decent living, rather than move to some distant city that has myraid problems and handicaps for the rural newcomer.

Services of the Farmers Home Administration often loom larger than can be told in statistics, as we measure their impact on the future of a family or a small community.

One example can be seen in Mapleton, a village in my home county of Peoria.

Mapleton has a population of 320 people. It is located on the limestone bluffs on the west side of the Illinois River. Shallow wells which often dried up provided a precarious water supply. The people knew something had to be done. They turned to the Farmers Home Administration for help through its rural community facilities program.

With a $90,000 loan from that agency and $18,000 raised locally, a central water system was built to give Mapleton an adequate water supply. This town has again become an attractive place to live, a likely site for new business.

New homes are much in evidence. A private firm is developing 30 acres of adjacent land for housing purposes. This development will be dedicated to the village upon completion.

Indeed, Mapleton is now on the move and its future growth appears to be assured—thanks largely to the progressive spirit of its citizens and to financing help for its central water system.

As I mentioned at the outset, this agency provides credit for farmers, especially young farmers who are long on ability and industry but short on assets, to enter the business of farming. Contrary to what we are hearing so much of today, there are many who are doing just that and succeeding.

For example, one such man whom I could identify is a well-respected farmer in Bureau County, Ill. A few years ago when his career was just beginning, he almost gave up. He was too poorly financed to establish a viable farm. His net worth showed a minus $3,000.

At this point he went to the Farmers Home Administration for a $15,000 loan. He figured he could pay off long-term credit as he built a sound farming operation—often with the good technical assistance FHA county staff members are able to contribute. His fortunes began to take an about turn.

The first year after receiving the loan, this farmer's gross income was $13,000. Last year—1971—it was $33,000.

The net worth of this FHA borrower has grown from a minus $3,000 to $25,000, and he is on his way toward graduation from FHA to regular farm credit. All this was accomplished by a strong determination and hard work on the part of the farmer, coupled with the right kind of financing assistance from the Farmers Home Administration.

The agency is also providing valuable services to lower income people who are unable to obtain conventional credit for decent, modern housing.

Some years ago Mr. Harry Rayhill from my district suffered a stroke that paralyzed both legs. His total income was quite minimal—certainly not enough for a disabled person to secure conventional credit. He was in desperate need of decent housing for his wife and their nine children. Through the Farmers Home Administration, he was able to finance the purchase of a 9-room house in good condition, adequately meeting his family needs.

The rural housing insured credit program is tailored to rural family income. The agency is moving thousands of families every year out of substandard houses into modern homes they can pay for. It draws its funds for long-term credit from the private sector through FHA insurance of loan notes.

Mr. Speaker, these examples are representative of the invaluable work of the Farmers Home Administration, in creating new opportunity for rural living in Illinois and throughout the nation. It is an agency dedicated to helping people who want to help themselves.

I wish to personally compliment Mr. James V. Smith, national administrator, and Mr. Charles W. Shuman, State director in Illinois, as well as all the deserving personnel of the Farmers Home Administration for the splendid service they are rendering in our rural towns and counties. Certainly these programs and the work of this agency, which the President now proposes to expand, deserve our strong and continued support.

# THE CASE OF MIKE GRAVEL, U.S. SENATE, AGAINST UNITED STATES

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## HON. MIKE GRAVEL

OF ALASKA

IN THE SENATE OF THE UNITED STATES

*Tuesday, February 29, 1972*

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks, the legal papers which have been filed in the case of Mike Gravel, U.S. Senate against United States. All of the prior court papers were similarly placed in the CONGRESSIONAL RECORD on November 23, 1971.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[U.S. Court of Appeals for the First Circuit]

UNITED STATES OF AMERICA *v.* JOHN DOE, No. 71-1331

(Mike Gravel, United States Senator, Intervenor, Appellant)

UNITED STATES OF AMERICA *v.* JOHN DOE, No. 71-1332

(Mike Gravel, United States Senator, Intervenor, Appellee)

MOTION

The United States of America moves the court for an order modifying its order entered October 29, 1971, in cases Nos. 71-1331 and 71-1332, *United States* v. *John Doe—Mike Gravel United States Senator, Intervenor*, restraining the grand jury from pursuing its inquiry into crimes relating to the so-called "Pentagon Papers," to permit investigation by the grand jury into such crimes, provided that no witness shall be subpoenaed to appear or testify before the grand jury in the District of Massachusetts concerning the acquisition, use or publication of the "Pentagon Papers" by Senator Mike Gravel or any member of his staff, or any matter related thereto.

This motion is based on the attached affidavit of Warren P. Reese and the files and records of the case.

Respectfully submitted,
JAMES N. GABRIEL, *U.S. Attorney.*
Dated, November 26, 1971.

AFFIDAVIT

State of California, County of San Diego, ss.

I, Warren P. Reese, being duly sworn, state:

1. I am an Assistant United States Attorney temporarily assigned to assist the United States Attorney for the District of Massachusetts with regard to a grand jury investigation and court proceedings ancillary thereto concerning the so-called "Pentagon Papers".

2. On October 29, 1971, this court entered an order in cases Nos. 71-1331 and 71-1332, *United States* v. *John Doe—Mike Gravel United States Senator, Intervenor*, restraining the grand jury from pursuing its inquiry into crimes relating to the "Pentagon Papers" until further order of the court. It is my understanding that that order was made by the court to protect any constitutional right Senator Mike Gravel might have to prevent grand jury inquiry into his conduct, or the conduct of any member of his staff, relating to his acquisition, use or publication of the "Pentagon Papers," or any matter related thereto, pending appellate determination by this court of the existence and scope of any such right.

3. In the interim this court decided case No. 71-1336, *United States* v. *John Doe—In the Matter of Idella Marx*, reversing a judgment of contempt and remanding the case to the district court with instructions concerning the consequences of the witness' continued refusal to testify before the grand jury.

4. In view of the court's decision in the *Marx* case, it is the desire of government attorneys to request the grand jury to proceed with questioning of Idella Marx forthwith concerning crimes relating to the "Pentagon Papers," but not concerning the conduct of Senator Mike Gravel or any member of his staff in acquiring, using or publishing the "Pentagon Papers," or any matter related thereto. Since such questioning could not in any way jeopardize any right Senator Gravel contends he possesses, it is submitted that the court's modification of its restraining order to permit questioning of Idella Marx would not disturb the status quo as it affects Senator Gravel pending determination of his case on appeal.

5. Therefore it is respectfully requested that an appropriate order be issued to permit the grand jury to pursue its investigation for the purpose stated.

Dated: November 26, 1971.

WARREN P. REESE,
JO ANN ASAKAWA,
*Notary Public.*

Subscribed and sworn to before me this 26th day of November, 1971.

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[U.S. Court of Appeals for the First Circuit]

UNITED STATES OF AMERICA *v.* JOHN DOE, No. 71-1331

(Mike Gravel United States Senator, Intervenor, Appellant)

UNITED STATES OF AMERICA *v.* JOHN DOE, No. 71-1332

(Mike Gravel United States Senator, Intervenor, Appellee)

ORDER

The court having considered the request of the United States of America for an order modifying the court's order entered October 29, 1971, restraining certain grand jury inquiry, to permit questioning of the witness Idella Marx concerning matters not embraced within the purpose of the restraining order,

It is ordered that the grand jury may pursue its inquiry into crimes relating to the so-called "Pentagon Papers," provided that no witness shall be subpoenaed to appear or testify before the grand jury in the District of Massachusetts concerning the acquisition, use or publication of the "Pentagon Papers" by Senator Mike Gravel or any member of his staff, or any matter related thereto, until further order of the court. The restraining order referred to above entered October 29, 1971, shall remain in full force and effect in all other aspects until further order of the court.

——— ———,
*U.S. Circuit Judge.*

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[U.S. Court of Appeals for the First Circuit]

UNITED STATES OF AMERICA *v.* JOHN DOE, No. 71-1331

Mike Gravel, United States Senator, Intervenor, Appellant.

UNITED STATES OF AMERICA *v.* JOHN DOE, No. 71-1332

Mike Gravel, United States Senator, Intervenor, Appellant.

Before Aldrich, Chief Judge, McEntee and Coffin, Circuit Judges.

MEMORANDUM AND ORDER

Entered November 29, 1971.

It is ordered that the grand jury may pursue its inquiry into crimes relating to the so-called Pentagon Papers, provided that neither Senator Mike Gravel nor any member of his staff or of the staff of the subcommittee on Buildings and Grounds shall be subpoenaed to testify, and no witness shall be questioned concerning the acquisition, use, publication, or republication of the Pentagon Papers by Senator Mike Gravel or by any member of the staff as above defined, until further order of this court. The restraining order entered October 29, 1971 shall remain in full force in all other aspects until further order of this court.

By the Court:

/S/ DANE H. GALLUP,
*Clerk.*

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[U.S. Court of Appeals for the First Circuit]

UNITED STATES OF AMERICA *v.* JOHN DOE, No. 71-1331 and 1332

Mike Gravel, United States Senator, Intervenor, Appellant.

UNITED STATES OF AMERICA, APPELLANT, *v.* JOHN DOE, No. 71-1335

Appeals from the United States District Court for the District of Massachusetts

Before Aldrich, Chief Judge, McEntee and Coffin, Circuit Judges.

*David R. Nissen*, Assistant United States Attorney, with whom *James N. Gabriel*, United States Attorney, and *Warren P. Reese*, Assistant United States Attorney, were on brief, for the United States.

*Robert Reinstein* and *Herbert O. Reid, Sr.* with whom *Charles L. Fishman* was on brief, for Mike Gravel, United States Senator.

*Doris Peterson, Peter Weiss, James Rief*, and *Morton Stavis* on brief, for Leonard Rodberg, Amicus Curiae in case No. 71-1335.

January 7, 1972.

ALDRICH, *Chief Judge*. These cross appeals raise important questions as to the extent of the privilege afforded by the Speech or Debate clause of the Constitution. This clause, the separate and concluding part of Article I, Section 6, Clause 1, provides that ". . . for any Speech or Debate in either House, they [Senators and Representatives] shall not be questioned in any other Place." The issues arise in the context of a motion to limit the testimony that can be presented to a federal grand jury. The facts are these.

A copy of classified Defense Department documents, now widely known as the Pentagon Papers, containing hitherto unpublished facts concerning the background and conduct of the Vietnam War, found itself, unauthorizedly, in the hands of Senator Gravel, the junior senator from Alaska. The Senator was Chairman of the Senate Subcommittee on Public Buildings and Grounds. He called a meeting of the subcommittee, read to it a summary of the high points, and then introduced the entire Papers, allegedly some 47 volumes and said to contain seven million words, as an exhibit. Thereafter, he allegedly supplied a copy of the Papers to the Beacon Press, a Boston publishing house, owned by the Unitarian-Universalist Society, for publication.

These matters and the events preceding them have attracted the attention of a grand jury in the Massachusetts District. The court found, "The crimes being investigated by the grand jury include the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371)." (Strictly, the court misused the word "public.")

Among other summoned witnesses were Leonard S. Rodberg, a legislative assistant to Senator Gravel, and Howard Webber, director of M.I.T. Press. Rodberg objected to testifying, on the ground of invasion of his First Amendment rights of freedom of association and freedom of the press, and in addition, on the ground that as a legislative assistant to the Senator, he is protected by the Speech or Debate clause. The Senator himself has not been called, and the Department of Justice has stated that it has no intention of calling him. The court, however, permitted the Senator to intervene in the proceedings for the purpose of arguing that his own privilege under the Speech or Debate clause requires that the subpoenas issued to Rodberg and Webber be quashed, and that a protective order be issued suppressing certain other testimony. The resulting order the Senator, as the present appellant, finds too limited, and the government, as cross-appellant, too broad.

### JURISDICTION

The government, correctly, points out that if the subpoena that was sought to be quashed was directed to intervenor, there could be no appeal from the refusal to quash unless he took the further step of refusing to comply, and was adjudicated in contempt. *Cobbledick* v. *United States,* 1940, 309 U.S. 323; *United States* v. *Ryan,* 1971, 402 U.S. 530. Here, however, the subpoena was not addressed to intervenor, but to third parties, who could not be counted on to risk contempt in order to protect intervenor's constitutional rights. *See United States* v. *Ryan,* ante, at 533. Hence he was "powerless to avert the mischief of the order" unless permitted to appeal it. *Perlman* v. *United States,* 1918, 247 U.S. 7, 13. The government's effort to take the case outside the *Perlman* exception, by arguing that intervenor will not suffer irreparable injury if the grand jury hears the evidence, assumes the correctness of its claims that no injury is cognizable unless and until intervenor is indicted. *Perlman,* however, illustrates that, to the contrary, a court, in determining whether an intervenor will suffer irreparable injury unless allowed to appeal, should assume his claim to be correct. We hold, therefore, that the order denying intervenor's motion is appealable.

### THE ISSUES

The court's order, so far as presently material, provided as follows.

"(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.

"(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

This order was preceded by a comprehensive recitation of facts, some of which we do not repeat, and discussion of the legal principles. *United States* v. *John Doe, In re Rodberg,* D.C. Mass., 1971, 332 F. Supp. 930. By a subsequent order the court refused further relief, except for a brief temporary stay, which we extended.

The response of both parties is extreme. Intervenor's brief suggests that the entire inquiry is improper.

"There probably is no clearer case of the prostitution of the grand jury process than is daily evidenced [here]. . . . This Court is thus presented by the government with a flagrant misuse of the subpoena power of the grand jury . . . [by the executive]. This represents a fundamental perversion of the function of the grand jury. . . ."

The government does not make the rejoinder that intervenor's own action in disclosing documents which were, in his own words, 'critical of Executive conduct in foreign affairs," had no conceivable relevance to the functions of the Subcommittee on Public Buildings and Grounds; a matter which would seem self-evident.[1] While recognizing that that claim would be (at least largely, see post) irrelevant, it does take the extreme position that while legislators may not be questioned "for" their speech or debate, in the sense of being held accountable, they may be freely questioned "about" them.

### "SPEECH OR DEBATE"—THE SCOPE OF THE PRIVILEGE

The areas in which intervenor objects to questioning are three—speech or debate itself, or publication; preparation, or prepublication, and finally, republication. We will consider them in that order.

### (*a*) *Publication*

For what he says or does on the floor of the Senate, or before the subcommittee, intervenor is concededly protected by an absolute privilege from all criminal and civil liability. *See United States* v. *Johnson,* 1966, 383 U.S. 169; *Tenney* v. *Brandhove,* 1951, 341 U.S. 367. It is equally clear that this protection extends to any written reports of the committee proceedings addressed to Congress, including material unspoken at the hearing but inserted directly into the record. *See Kilbourne* v. *Thompson,* 1880, 103 U.S. 168, 204; *McGovern* v. *Martz,* D.D.C., 1960, 182 F. Supp. 343, 347. The privilege protects against a claim of irrelevancy, *see Cochran* v. *Couzens,* D.C. Cir., 1930, 42 F. 2d 783, 784, as well as of falsity and malice. The government would argue that intervenor could be questioned "about" his conduct for this very reason, drawing the analogy that one who is immune from prosecution cannot claim the protection of the Fifth Amendment.

In our view this misconceives the scope and purpose of the Speech or Debate clause, which is not principally to protect the person and pocketbook of legislators, but, rather, is to ensure freedom of debate. *United States* v. *Johnson,* ante, at 180–82. Intimidation of a legislator harassment, embarassment with the electorate, all may be achieved short of obtaining a criminal or civil judgment. *Cf. United States* v. *Johnson,* 4 Cir., 1964, 337 F. 2d 180, 191, *aff'd,* 383 U.S. 169. Since these consequences can flow from mere inquiry, the possibility of judicial inquiry could itself serve as an effective deterrent to speaking out against executive policy. Id. Further, although it seems to us relatively less important, the time required to respond to such an inquiry would be inconsistent with another purpose of the Speech or Debate clause, which is "to insure that legislators are not distracted from or hindered in the performance of their legislative tasks." *Powell* v. *McCormack,* 1969, 395 U.S. 486, 504; *see Tenney* v. *Brandhove,* ante, at 377. We cannot accept the government's distinction between questioned "for" and questioned "about."[2] Nor do we think that the place of questioning, whether it be before the grand jury or before a petit jury, determines its palatibility. The legislator need not answer questions anywhere.

### (b) *Pre-publication*

Turning to the pre-publication period, we note that we are concerned not with whether a legislator may be protected from prosecution for illegal conduct in obtaining information for use in a congressional proceeding, but only with the extent to which the constitutional privilege bars grand jury questioning. Different considerations may well apply. Effective debate presupposes access to facts. *See generally* Cella, The Doctrine of Legislative Privilege of Freedom of Speech and Debate; Its Past, Present and Future as a Bar to Criminal Prosecutions in the Courts, 2 Suffolk L. Rev. 1, 36 (1968). Since the scope of the privilege should be as broad as is necessary to achieve its purpose of assuring full and free debate, *see Stockdale* v. *Hansard,* 1839, 9 Ad. & E. 2, 150, 112 Eng. Rep. 1112, 1169, we include therein inquiries which would restrict acquisition of information. It seems manifest that allowing a grand jury to question a senator about his sources would chill both the vigor with which legislators seek facts, and the willingness of potential sources to supply them. *Cf. Caldwell* v. *United States,* 9 Cir., 1970, 434 F. 2d 1081, *cert. granted* 402 U.S. 942. Whatever the accommodation that must be made with respect to the public interest in prosecuting crime, *cf. Dombrowski* v. *Eastland,* 1967, 387 U.S. 82, we cannot accept that it is to be drawn in favor of permitting direct inquiry of a legislator.[3] To what other persons this protection may extend we will consider later. All government action cannot be frozen in the name of chilling speech.

*Cf. United States* v. *O'Brien,* 1968, 391 U.S. 367.

### (*c*) *Republication*

Intervenor in his appeal contends that the clause comprehends not only the delivery of a congressional speech and conduct antecedent thereto, but also conduct subsequent to the speech aimed at its wider dissemination, including private republication. Apart from republication such as in the news media or the Congressional Record, which is the natural consequence of a speech and is necessarily protected, *see McGovern* v. *Martz,* ante, at 347, no American court appears to have decided this question.[4] *But cf. id.; Long* v. *Ansell,* D.C. Cir., 1934, 69 F. 2d 386, 389, *aff'd* 293 U.S. 76. In urging us to resolve it in his favor, intervenor acknowledges that it will not affect his freedom to speak, since the speech has already been made, but argues that republication is essential to the "due functioning of the legislative process," *United States* v. *Johnson,* ante, 383 U.S. at 172, and is "generally done" by members of Congress.[5] *Kilbourne* v. *Thompson,* ante, at 204. *See also Stockdale* v. *Hansard,* ante, at 150, 1169. The difficulty is that the term "legislative process" is no more self-defining than "Speech or Debate."

The language and history of the Speech or Debate clause is a surer guide to the scope of the privilege than catch-phrases, and we find in both a focus upon matters occurring in the course of deliberation. This had been the English concept upon which our privilege had been patterned.[6] Two English cases, decided shortly after the enactment of the American constitution, held that the parliamentary privilege did not immunize members from civil liability for libels contained in privately published reproductions of their parliamentary speeches. *Rex* v. *Creevey,* 1813, 1 Maule & Selwyn 273; *Rex* v. *Lord Abington,* 1795, 1 Esp. N.P. Cases 228. See generally T. E. May, Treaties on the Law, Privileges, Proceedings and Usage of Parliament 48–66 (16th ed. E. Fellowes & T.G.B. Cocks 1957); C. F. Wittke, The History of English Parliamentary Privilege 23–32 (1921). Our courts have expanded the privilege beyond the act of debating within Congress a proposal before it only when necessary to prevent indirect impairment of such deliberations. *See Kilbourne* v. *Thompson,* ante; *Coffin* v. *Coffin,* 1804, 4 Tyng (Mass.) 1.

We do not find private republication within that category. The fact that it may be customarily done by members of Congress

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Footnotes at end of article.

is not the answer.[7] Only those acts by which a congressman ordinarily expresses to the House his views on matters before it come within the Supreme Court's extension of the privilege to "things generally done . . . *in relation to the business before* [*Congress*]." *Kilbourne* v. *Thompson*, ante, at 204. (Emphasis supplied)

Intervenor's argument that communicating with the electorate is essential to effective deliberation because it elicits responses to guide his legislative decisions and because it helps to put pressure upon other legislators (n. 5, ante, ¶ 4) proves too much. If accepted, it would bring within the privilege not only republished congressional speech, but speeches delivered anywhere. But even restricted to repeating what has once been said in a legislative context, the consequences of an unlimited absolute privilege would be staggering. We do not believe intervenor has struck such gold in a field previously thought to be barren.[8] The fact that some repetition may be inevitable does not mean that there should be immunity to add to it. *Cf. Murray* v. *Brancato*, 1943, 290 N.Y. 52 (no privilege for judge to circulate privately a calumnious opinion); see Annot., 146 ALR 913. We will not hold that there is a constitutional privilege to print privately what, we must assume for present purposes, were classified documents simply because intervenor had first disclosed them to a Senate subcommittee whose function was totally unrelated thereto.[9]

The fact that republication is not within the constitutional privilege does not exclude consideration of other protection. To the extent that a congressman has responsibility to inform his constituents, his performance of that responsibility may be protected from liability by a common law privilege, as in an executive official's. A news release about the speech may well be as protected as the speech itself. *Cf. Barr* v. *Mateo*, 1959, 360 U.S. 564 (absolute immunity given executive officer for libel contained in news release). How far this immunity should go will depend upon the facts of the particular case. An even more difficult question is whether the measure of the grand jury's right to make personal inquiry of the legislator follows the immunity. Arguably, it may go further, or not so far. Because we do not consider this a matter of present substantial importance, and partly because the court is not in total agreement, *we presently resolve it, without binding ourselves for future purposes, if the matter is more sharply put, that he may not be questioned at all as to republication.*[10] We do not, of course, mean by this that we are ruling, even tentatively, on the limits of criminal liability.

### WITNESSES PRECLUDED

It may be wondered why, since under *Cobbledick* v. *United States*, ante, until he has been held in contempt we apparently have no jurisdiction to advise intervenor as to the measure of his immunity from testifying, we have nevertheless been answering that question. The reason is that such answer is a necessary condition to passing upon the immunity of others, such as Rodberg, who intervenor claims in this appeal to come under his legislative protection. We now turn to this.

#### (*a*) *Legislative aides*

It is not only accepted practice, but, we would think indispensable, for a legislator to have personal aides in whom he reposes total confidence. This relationship could not exist unless, during the course of his employment, the aide and the legislator were treated as one. To the extent, if any, that there might be exceptions, again, for present purposes, we do not inquire. We note, however, that this synonymity is founded upon the relationship, not on the fact of employment. Rodberg, for example, is not protected from inquiry as to events unconnected with intervenor at the time of occurrence. We reject intervenor's contention that the fact of hiring insulated him from all inquiry as to prior events related to the Papers, but not to intervenor. *See Heine* v. *Raus*, 4 Cir., 1968, 399 F. 2d 785, 790–91.

#### (*b*) *Third parties*

*United States* v. *Johnson*, ante, holds that any person who dealt with a legislator with respect to speech or debate can not be inquired of if the object is to attack the legislator's motives in speaking. Specifically, it could not be shown that the defendant's speech was written by a constituent, or that the defendant was paid to deliver it. The Court did not suggest that a legislator was free in all respects from criminal prosecution. *But see id.*, at 185. Indeed, were it to be thought so, one need only turn to the other portions of the Clause, which regulates, procedurally, criminal trials. With respect to third persons, provided that the principles of *Johnson* are observed, we can see no reason for them to be free of inquiry as to their own conduct regarding the Pentagon Papers, including their dealing with intervenor or his aides. We have already spoken as to Rodberg, pre-employment. At the other end, so far as intervenor's privilege is concerned, we hold that no immunity was conferred upon Beacon Press simply because, if he did, intervenor delivered the Papers to it for private publication. Indeed, we would hold, if his appeal can be thought to raise that question,[11] that whatever Beacon Press did is freely inquirable even to the extent, if any (it has not presently been suggested), that it may have made payments to intervenor or others in connection with the Papers subsequent to their introduction into the subcommittee records. Payment for delivering a copy, by a post-speech agreement, is not comparable to a payment for initially delivering the speech. Similarly, the district court's refusal to include Webber in its order was correct.

### PROCEDURE

Intervenor has presented us with a request covering the type of witnesses he believes should be excluded altogether, and an elaborate procedure for the court to employ as to testimony the government proposes to introduce through other witnesses. Much of this request goes by the board with our rejection of some of his basic premises. As to the rest we find such procedure unnecessarily cumbersome, and suggest a simpler solution. Intervenor may supply a list of his personal aides, and the dates of their employment. Upon the court's being satisfied as to the correctness of the list it shall order that no questions be asked of any of them relating to the Pentagon Papers or to intervenor's legislative activities during the period of their employment. It shall further order that no questions be asked of any other witness as to communications with intervenor regarding legislative activities, including the furnishing of information, or with his aides during such periods, directed to intervenor's motives or purpose in introducing the Papers into the subcommittee records. We believe the contempt power of the court will be a sufficient guarantee of enforcement without the need of adopting intervenor's extraordinary request that every question be submitted to him for approval before it is asked.

Except to the extent that it is modified herein the order of the district court is affirmed. Even though intervenor has essentially lost his appeal, we do not believe this an appropriate case in which to award costs.

### FOOTNOTES

[1] Nor does the government point out that intervenor, although relying elsewhere on the public's "right to know," (*see* n. 5, post) basically is seeking to block exposure of how he exposed what, in turn, the Executive did not wish to have exposed.

[2] On the other hand, while we are discussing terminology, except insofar as his hyperbole quoted ante may so suggest, we do not believe intervenor contends that his constitutional protection against questioning means that the government cannot prove aliunde wrongful acts by others which, by implication, may bring his own conduct "into question." There could be no merit in such a claim.

[3] In *New York Times* v. *United States*, 1971, 403 U.S. 713, the Court accommodated related free speech interests in holding that the newspaper's conduct could not be enjoined, although, as pointed out in Mr. Justice White's concurring opinion, it may have been criminal. *Id.*, at 730–41.

[4] We put to one side cases refusing an injunction, as involving different considerations. *See Hentoff* v. *Ichord*, D.D.C., 1970, 318 F. Supp. 1175; *Methodist Federation for Social Action* v. *Eastland*, D.D.C., 1956. 141 F. Supp. 729; *cf. New York Times* v. *United States*, n. 3 ante. In the more common situation, it has long been settled that the publication of defamation, although actionable, may not be enjoined. *E.g., Crosby* v. *Bradstreet Co.*, 2 Cir., 1963, 312 F. 2d 483, 485, *cert. denied* 373 U.S. 911; *Kidd* v. *Horry*, C.C. E.D.Pa., 1886, 28 F. 773.

[5] "The Framers presuppose[d] the maximum amount of communication between the citizens and their elected representatives."

"The people must be informed fully of the workings of government."

"The heart of representative democracy is the communicative process between the people and their agents in government."

"Informing the electorate is a 'legislative act' since it is clearly 'related to the due functioning of the legislative process.' *United States* v. *Johnson*, supra at 172. In fact, it is not exaggeration to say that direct communication between a Member of Congress and the electorate is an essential bedrock of the legislative process, for it insures that the people will inform *him and his colleagues* [sic] of their well-considered views on pending and future legislation—an indispensable prerequisite for each Congressman deciding how to cast his own vote."

[6] "[I]t may be reasonably inferred that the framers of the Constitution meant the same thing by the use of language borrowed from that source." *Kilbourne* v. *Thompson*, ante, at 202.

[7] *Cf. United States* v. *Johnson*, ante, at 172. There the Court observed that an attempt to influence the Department of Justice in favor of a constituent was unprotected, yet assisting constituents is just as customary a function as communicating with them. See generally V. O. Key, Politics, Parties and Pressure Groups (3d ed. 1952); R. Davidson, The Role of the Congressman 99 (1969).

[8] Those with long memories may recall the frequent, but unaccepted, challenges to a former junior senator from Wisconsin to repeat outside the walls of Congress the calumnies he often expressed within their protection. If intervenor is correct, we would see no reason for distinguishing between the types of legislative speech that could be repeated.

[9] Examples might be multiplied. If an unpublished manuscript was stolen by parties unknown and subsequently was introduced into the records of a Congressional committee, could it be thought that the common law copyright was lost by reason of the Speech or Debate clause? Or, in the case of a published work, that the statutory copyright would thereby be extinguished?

[10] In part we do this because we propose, so far as possible, to make a practicable decision that avoids unnecessary or doubtful points that might burden the Supreme Court.

[11] We take it that intervenor believes it does, in the light of a contempt proceeding he instituted when he erroneously believed the United States Attorney was using a subpoena to examine the Beacon Press' bank records during the processing of this appeal.

[U.S. Court of Appeals for the First Circuit]

United States of America, Versus John Doe, Nos. 71-1331 and 71-1332

(Mike Gravel, U.S. Senator, Intervenor, Appellant)

JUDGMENT: ENTERED—JANUARY 7, 1972

These causes came on to be heard on appeals from the United States District Court for the District of Massachusetts, and were argued by counsel.

Upon consideration whereof, It is now here ordered, adjudged and decreed as follows: The orders of the District Court of October 28, 1971, are affirmed, except that the Protective Order of that date is modified to read as follows:

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment.

No costs on these appeals.

The court does not propose to stay mandate beyond the statutory period except upon motion, which must be shortly made, showing substantial cause.

By the Court:

Dana H. Gallup,
*Clerk.*

[U.S. Court of Appeals for the First Circuit]

United States of America, Appellant, Versus John Doe, No. 71-1335

Judgment: Entered—January 7, 1972

This cause came on to be heard on appeal from the United States District Court for the District of Massachusetts, and was argued by counsel.

Upon consideration whereof, It is now here ordered, adjudged and decreed as follows: The order of the district court of October 4, 1971, is affirmed. No costs on appeal.

By the Court:

Dana H. Gallup,
*Clerk.*

[U.S. Court of Appeals for the First Circuit]

United States of America, Versus John Doe, No. 71-1331 and No. 71-1332

(Mike Gravel, U.S. Senator, Intervenor, Appellant)

PETITION OF INTERVENOR-APPELLANT FOR RECONSIDERATION

Robert J. Reinstein, Temple University Law School, 1715 N. Broad Street, Philadelphia, Pa. 19122 and Charles L. Fishman, 633 East Capitol Street, Washington, D.C., Attorneys for Senator Gravel.

TABLE OF CITATIONS

*Cases*

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*Tenney* v. *Brandhove*, 341 U.S. 367 (1951).

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*Statutes*

39 U.S.C. § 4163.

*Miscellaneous*

Black, "Inside a Senate Investigation," 172 Harpers 275 (Feb. 1936).

Frank, "Hugo L. Black," 3 *The Justices of the Supreme Court* (Friedman & Israel, ed. 1969).

Landis, Constitutional Limitations on the Congressional Power of Investigation, 40 Harv. L. Rev. 153.

"Senator Black and the American Merchant Marine," 14 U.C.L.A. L. Rev. 399 (1967).

Story, *Commentaries on the Constitution*, § 866 (4th Ed. 1873).

PETITION FOR RECONSIDERATION

Pursuant to Rule 40 of the Federal Rules of Appellate Procedure, Senator Mike Gravel, intervenor-appellant, respectfully petitions this Court to reconsider its resolution of two issues in the decison of January 7, 1972.

A. The first issue upon which reconsideration is sought relates to the Court's holding that the actions of Senator Gravel in informing the electorate about Executive conduct in foreign relations, by arranging for the republication and widespread distribution of the official record of the Subcommittee on Buildings and Grounds, are not protected by the constitutional privilege of the Speech or Debate Clause. This issue is of utmost importance to the separation of powers in our system of government, and its disposition by the Federal Courts will have an obvious and substantial impact upon the future actions of Senators and Representatives. Although our arguments on this matter have already been stated at some length, the expedited schedule which was set for the submission of briefs and oral argument severely constricted the amount of research which an issue of this importance deserves. Subsequent research has revealed new legal material which we believe lends considerable, and perhaps dispositive, weight to our position. Because of the importance of the issue and the significance of this new material, we respectfully request reconsideration.

1. The standards enunciated in the various Supreme Court decisions on the scope of the Speech or Debate Clause focus on whether or not the activity in question is an essential part of the legislative process. Under the precise facts of this case, we deal with the informing function in the context of a Member of Congress telling the people about Executive behavior in foreign policy. It was activity of this sort upon which the Supreme Court commented in *Watkins* v. *United States*, 354 U.S. 178, 200 fn. 33 (1957). After holding that Congress had no power to expose solely for the sake of exposure, the Court, stated:

"We are not concerned with the power of Congress to inquire into and publicize corruption, maladministration and inefficiency in agencies of the government. This was the only kind of activity described by Woodrow Wilson in *Congressional Government* when he wrote: 'The informing function of Congress should be preferred even to its legislative function.' *Id*, at 303. *From the earliest time in its history, the Congress has assiduously performed an 'informing function' of this nature.* See Landis, Constitutional Limitations on the Congressional Power of Investigation, 40 Harv. L. Rev. 153, 168–194." (emphasis added)

In the article cited by the Court, Dean Landis reviewed Congress' historic exercise of the informing function in investigating and exposing bad judgment and corruption in the Executive Branch. He then discussed this function as an inherent part of the legislative process in representative government:

"[The Congressman's] duty is to acquire [knowledge about administration], partly for the purposes of further legislation, partly to satisfy his mind as to the adequacy of existing laws. Yet the ultimate basis for the duty is the broader presupposition of representative government that the legislator is responsible to the electorate for his actions. Responsibility means judgment, and judgment, if the word implies its intelligent exercise, requires knowledge. The electorate demands a presentation of the case. . . The very fact of representative government thus burdens the legislature with this informing function." Landis, *supra*, at 206–07.

And Dean Landis also concluded, in response to arguments concerning the source of the informing duty: ". . . That duty, however, is not distinct from the legislative process, but implied and inherent in it." *Id.* fn. 227. As demonstrated in point 3, *infra*, the recognition of this view of the informing function led the English courts to extend the privilege to republication.

Probably more than any example of investigation and publicity discussed by Dean Landis, or dealt with more broadly by the English courts, in informing the electorate fully about the decision-making process that led the Executive to take this country into a still-continuing war. Senator Gravel has engaged in legislative activity in the classic and historic sense of the term.

2. The government's only response to our argument of the informing function is (apart from citing dicta in two cases) to hypothesize examples of possible abuse, e.g.:

"Receiv[ing] a valuable stolen literary property, enter[ing] it as an exhibit in a committee hearing and then dispos[ing] of it to a publisher." Government Brief, p. 22.

This is, of course, clearly distinguishable as it obviously does not involve the informing function of exposing Executive behavior.[1] It may well be, as we argued before, that the scope of the privilege on republication covers all matters of political concern, since "Legislators have an obligation to take positions on controversial questions so that their constituents can be fully informed by them . . ." *Bond* v. *Floyd*, 385 U.S. 116, 136 (1966). And there are strong arguments that even judicial inquiry into relevance should be precluded. *Cochran* v. *Conzens*, 42 F. 2d 783 (D.C. Cir. 1930). On the facts of this case, however, these decisions need not be made.

In any event, the mere possibility that Congressional power may be abused "affords no ground for denying the power." *McGrain* v. *Dougherty*, 273 U.S. 135, 175 (1927). The cogent answer to "parade of horribles"[2] argument was given by Mr. Justice Harlan in *Barr* v. *Matteo*, 360 U.S. 564, 576 (1959):

"We are told that we should forbear from sanctioning any such rule of absolute privilege lest it open the door to wholesale oppression and abuses on the part of unscrupulous government officials. It is perhaps enough to say that fears of this sort have not been rea-

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Footnotes at end of article.

lized within the wide area of government where a judicially formulated absolute privilege of broad scope has long existed. It seems to us wholly chimerical to suggest that what hangs in the balance here is the maintenance of high standards of conduct among those in the public service. To be sure, as with any rule of law which attempts to reconcile fundamentally antagonistic social policies, there may be occasional instances of actual injustice which will go unredressed, but we think that price a necessary one to pay for the greater good . . . We think that we should not be deterred from establishing the rule which we announce today by any such remote forebodings."

This reasoning supported the extension of the Executive privilege to republication, even though thousands of diverse, subordinate and non-elected officials were covered.[3] It would seem, *a fortiori*, to govern the scope of the constitutional privilege of the elected Members of Congress.[4] Even the dissenters in *Barr* conceded as much. *Id.*, at 579, 587 & fn. 4.

Moreover, the government's hypothetical example may be compared with *Hearst* v. *Black*, 87 F. 2d 68 (D.C. Cir. 1936), where the plaintiff filed a complaint alleging that personal telegrams had been seized illegally and were to be exposed to the general public by a Senate Committee. The Court dismissed the complaint on the principles of separation of powers. It is noteworthy that the defendant in that case was Senator (later Mr. Justice) Hugo L. Black, who was catapulted into national fame by his exposure of corruption in the utility lobbies and their bribery of newspapers, including the plaintiff Hearst Publishing Co., for which acquisition and publicity of these telegrams were essential.[5] Yet if the government's theory in this case were correct, Hearst could have successfully harassed Senator Black in a court proceeding by merely alleging illegal acquisition and thereby hindered the investigations. Thus, in considering the government's parade of horribles, it is appropriate to quote the wise statement of Judge Learned Hand in *Gregoire* v. *Biddle*, 177 F. 2d 529, 581 (2d Cir. 1949):

"[If] it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery. The justification for doing so is that it is impossible to know whether the claim is well-founded until the case has been tried, and that to submit all officials, the innocent as well as the guilty, to the burden of a trial and to the inevitable danger of its outcome, would dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties."

This certainly applies with equal force to the constitutional privilege of Congressmen who are "to be protected from the resentment of everyone, however powerful," II Works of James Wilson, 38, (Andrews ed. 1896), particularly the Executive Branch, *United States* v. *Johnson*, 383 U.S. 169, 181.[6] And see *Tenney* v. *Brandhove*, 341 U.S. 367, 377 (1951). Finally, in the unlikely event that a Congressman engages in such reprehensible conduct as hypothesized by the Government, he *will be* held accountable—by the House and by the people at the polls.

3. In England, Members of Parliament are privileged in republishing speeches and reports for the information of their constituents, and this privilege applies derivatively to publishers and the press. The earliest cases which held to the contrary were based upon a precedent later characterized as a "disgrace," were never firmly settled, and have not survived.

(a) The origin of the doctrine that a Member of Parliament may be held liable for republication is *Rex* v. *Sir W. Williams*, 2 Show. K.B. 471, Com. 18, 89 Eng. Rep. 1048 (1794), where the Speaker of the House of Commons was prosecuted for publishing a House document. The political motivation behind the prosecution and the evident bias of the Court is partly apparent from the report of the case,[7] and this subsequently caused the decision to be repudiated (see (c), *infra*).

(b) Lord Kenyon, sitting *nisi prius*, one year later followed the rule set down in *Williams*. *Rex* v. *Lord Abington*, 1 Esp. 226, 170 Eng. Rep. 337 (1795).

(c) Yet four years later, in *Rex* v. *Wright*, 8 T.R. 293, 101 Eng. Rep. 1396 (1799), the King's Bench held a bookseller immune for printing and circulating a House report. Lord Kenyon commented of *Willams*, which was principally relied upon by the Crown, that it "happened in the worst of times;" and Justice Grose said of the decision, "it must be remembered that that was declared by a great authority to be a disgrace to the country." [8] And Lord Kenyon said:

"[T]he report in question, being adopted by the House at large, is a proceeding of those who, by the constitution, are the guardians of the liberties of the subject; and we cannot say that any part of that proceeding is a libel." *Id.*, 101 Eng. Rep. at 1398.

(d) Unfortunately, by the time *Rex* v. *Creevey*, 1 M. & S. 272, 105 Eng. Rep. 102 (1813), was decided, Lord Kenyon had died, and the King's Bench resurrected *Abington*, without citing *Williams*. The theory underlying this decision appears to be that since Parliament has a standing order barring republication of its proceedings, any Member or publisher who does so is acting *ultra vires*. See *Wason* v. *Walter* discussed in (f) *infra*, and Story, *Commentaries on the Constitution*, § 866, pp. 611–12 (4th Ed. 1873).

(e) In *Davison* v. *Duncan*, 7 E. & B. 229, 233, 119 Eng. Rep. 1233, 1234 (1857), all of the Justices agreed in dictum, that despite *Creevey* a Member of Parliament was privileged in republishing a speech in order to disseminate it to his constituents.

(f) In *Wason* v. *Walter*, L.R. 4 Q.B. 73 (1868), the Court held, in a libel action against a bookseller for republication of a speech in Parliament, that the privilege protected a Member, if published "for the information of his constituents," *Id.*, at 95, and a publisher. The reasoning of earlier cases, including *Stockdale* v. *Hansard*, 9 A. & E. 2, 112 Eng. Rep. 1112 (1839), was severely criticized; *Abington* and *Creevey* were limited in the narrowest possible manner; and the Court forthrightly rejected the *ultra vires* argument:

"It only remains to advert to an argument urged against the legality of the publication of parliamentary proceedings, namely, that such publication is illegal as being in contravention of the standing orders of both houses of parliament. The fact, no doubt, is, that each house of parliament does, by its standing orders, prohibit the publication of its debates. But, practically, each house not only permits, but also sanctions and encourages, the publication of its proceedings, and actually gives every facility to those who report them. Individual members correct their speeches for publication in Hansard or the public journals, and in every debate reports of former speeches contained therein are constantly referred to. Collectively, as well as individually, the members of both houses would deplore as a national misfortune the withholding their debates from the country at large. Practically speaking, therefore, it is idle to say that the publication of parliamentary proceedings is prohibited by parliament. The standing orders which prohibit it are obviously maintained only to give to each house the control over the publication of its proceedings, and the power of preventing or correcting any abuse of the facility afforded. Independently of the orders of the houses, there is nothing unlawful in publishing reports of parliamentary proceedings. Practically, such publication is sanctioned by parliament; *it is essential to the working of our parliamentary system, and to the welfare of the nation*. Any argument founded on its alleged illegality appears to us, therefore, entirely to fail." L.R. 4 Q.B. at 95 (emphasis added).

In America, Congress has never had standing orders against republication; from the beginning, Congress has actually encouraged it. *See*, e.g. 39 U.S.C. § 4163 (the franking privilege). And the legislative privilege for republication was recognized fully in England only after democratic reforms had emphasized the primacy of Parliament as the people's representatives, and the correlative informing duty. Again, in America, this was the revolutionary presupposition of our Constitution. On this ground, Chief Justice Parsons stated in *Coffin* v. *Coffin*, 4 Mass. 1, 27 (1808), that the privilege cannot be confined to actions within the legislative chamber:

"These privileges are thus secured, not with the intention of protecting the members against prosecutions for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal. I therefore think that the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate; but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature, and in the execution, of the office; and I would define the article as securing to every member exemption from prosecution, for every thing said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules. I do not confine the member to his place in the house; and I am satisfied that there are cases in which he is entitled to this privilege, when not within the walls of the representatives' chamber."

For the foregoing reasons, we respectfully request the Court to reconsider its holding that the Constitution does not protect a Congressman who republishes an official, public subcommittee record in order to inform the people about Executive conduct in foreign relations.

B. The other issue upon which intervenor-appellant seeks reconsideration relates to this Court's holding with respect to the allowable scope of questioning of third parties about the legislative activities of Senator Gravel. In paragraph 1 of the modified Protective Order, this Court stated that no questions at all could be asked about Senator Gravel's conduct at the subcommittee hearing, but that questions could be asked about his conduct in preparing for the hearing as long as they were not "directed to the motives or purposes" for holding the hearing.

The two portions of this paragraph appear to be internally inconsistent. Moreover, we believe that the second part, which permits judicial inquiry into protected activity in preparing for the hearing misapprehends the holding of *United States* v. *Johnson, supra*, where the Court barred inquiry not only into motives but also into *how* the speech was prepared and its precise ingredients. 383 U.S. at 175–76. The motivational issue became relevant in *Johnson* only because the government argued that the Congressman's evil intent divested the privilege insofar as "antecedent conduct" was involved, *id.*, at 182, which was of course rejected. *See also Tenney* v. *Brandhove, supra*.

There is an implication in this Court's opinion (p. 12) that the scope of questioning of third parties depends entirely upon the intent of the interrogator, and that inquiry into speech or debate is forbidden only "if the object is to attack the legislator's motives." This rationale affords little, if any, protection to a Congressman, for it allows the

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Footnotes at end of article.

grand jury intensively to breach the sanctity of the legislative process. It may thereby investigate how a Congressman wrote a speech, what materials were in his possession, his conversations prior to voting or speaking out of a controversial issue, and, for that matter, his conduct at a hearing—so long as the interrogators disclaim any intent to attack his motives. The intimidating potential of this holding and its possible effects on Congressional deliberations seem awesome. And even the very limited prohibition established seems unenforceable since the Court declined to require the government to specify its purpose for questioning third parties about Senator Gravel's legislative activities.

Respectfully submitted,

ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
*Attorneys for Senator Gravel.*

FOOTNOTES

[1] On the other hand, the hypothetical posed by the Court at oral argument dealing with the President's diary may well implicate the informing function if the diary contained information about the official conduct of the Executive. A Congressman who publicized that diary would of course be open to charges that his conduct was morally reprehensible, but we think he may be held to answer for it only by the House and by the people. And, obviously, if he actually participated in the theft of the diary, could be prosecuted for theft.

[2] The Framers, who gave Congressmen the power to set their own salaries, seemed to have considerable faith that they would not pervert their power for commercial gain.

[3] *Barr* has been read by this Court to encompass all forms of utterances of Executive officials. *Denman* v. *White*, 316 F. 2d 524 (1st Cir. 1963). See also *Sheridan* v. *Crisona*, 198 N.E. 2d 359, 14 N.Y. 2d 108 (Ct. App. 1964); *Preble* v. *Johson*, 275 F. 2d 275 (10th Cir. 1960).

[4] It is appropriate, in this regard, to recall Justice Holmes' famous statement in *Missouri, K. & T. Ry.* v. *May*, 194 M.S. 267, 270 (1904): "It must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts."

[5] See generally, Frank, "Hugo L. Black" in 3 *The Justices of the Supreme Court* (Friedman & Israel, ed. 1969) at pp. 2328–29. Respecting a similar investigation by Senator Black, Nicholas Johnson said, "He stimulated the nation's conscience, creating demand for Congressional maritime reform." "Senator Black and The American Merchant Marine," 14 U.C.L.A L. Rev. 399 (1967). For a more personal account, see Black, "Inside a Senate Investigation," 172 Harpers 275 (Feb. 1936).

[6] In the District Court, the government characterized the present grand-jury investigation as an "executive proceeding" and hinted broadly that it would subpoena Senator Gravel:

"In responding to a subpoena, Senator Gravel would only fulfill his own duty as a citizen to assist the Executive branch in its own constitutional obligation to enforce the laws of the United States. Should questioning prove self-incriminating, the Senator would retain his own Fifth Amendment privilege, in this regard. To withhold testimony on this basis of exemption would frustrate the separation of powers doctrine by interfering in executive proceedings." (Government memorandum, p. 8).

[7] "[Williams' counsel] began, 'The Court of Parliament . . .' "Lord Chief Justice, 'Court, do you call it? Can the order of the House of Commons justify the scandalous, infamous, flagitious libel? . . . Let judgment be entered for the King." (89 Eng. Rep. at 1048).

[8] No case is better illustrative of "intimidation by the Executive and accountability before a possibly hostile Judiciary." *United States* v. *Johnson, supra*, at 181.

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[U.S. Court of Appeals for the First Circuit No. 71–1331, No. 71–1332]

### UNITARIAN UNIVERSALIST ASSOCIATION'S MOTION TO INTERVENE

(United States of America v. John Doe, Mike Gravel, United States Senator, Intervenor, Appellant)

1. Comes now the Unitarian Universalist Association and moves to intervene in the above-entitled and numbered actions.

2. Movant is a religious association established more than 200 years ago and incorporated under the laws of the Commonwealth of Massachusetts. It has its principal offices at 25 Beacon Street, Boston, Massachusetts.

3. Beacon Press is a division of Movant and is subject to its direction and control.

4. This Court, in its Opinion in the above-entitled case delivered on January 7, 1972, stated that "we would hold, if this appeal can be thought to raise that question, that whatever Beacon Press did is freely inquirable even to the extent, if any (it has not presently been suggested), that it may have made payments to intervenor [Senator Gravel] or others in connection with the [Pentagon] Papers subsequent to their introduction into the subcommittee records." (Slip Opinion at 12–13.)

5. In view of the above-quoted language in this Court's Opinion, it is evident that Movant's substantial rights and interests have been brought into this proceeding and have been decided and resolved by this Court against Movant. It is at this stage that, for the first time, Movant's rights have been clearly, directly and specifically decided by a court, despite the absence of Movant as a party, intervenor, or *amicus* in the proceedings to date. Movant has a substantial interest in putting its views before this Court in any reconsideration of the January 7, 1972 Opinion which might be undertaken, as well as a substantial interest in pursuing Supreme Court review of questions decided by this Court adversely to Movant.

6. In order for Movant's interests and rights to be protected adequately, it is necessary for Movant to intervene herein in order that its rights are not irreparably prejudiced and injured by an adjudication to which it is not a party and in which it is not heard.

7. Movant would not be assured of adequate representation by any of the present parties to this proceeding, despite the fact that Movant herein claims rights derivative of Senator Gravel's rights emanating from the Speech or Debate Clause of the Constitution. The interests of Movant and of Senator Gravel, while overlapping, are not identical, for several reasons. First of all, the Government has stated in this Court that it has no intention of either questioning or indicting Senator Gravel, while the Government has given strong indication of its interest in inquiring of and perhaps in indicting agents of Beacon Press. (See "Opposition to Plaintiff's Application for Temporary Restraining Order" filed by the Government in *Unitarian Universalist Association, et cetera*, v. *Joseph L. Tauro, et al.*, Civil Action No. 72–136–C.) Secondly, a Senator might at any time drop plans to pursue Supreme Court review in such a case as this for reasons completely independent of whether or not he desires to protect the interests of third parties, and such third parties should be allowed to pursue an appeal separately on their independent standing in order to vindicate rights under the Speech or Debate Clause which they believe they have permanently and irrevocably acquired and which they believe have attached to their actions regardless of whether or not the Senator is later in a position to pursue these rights to the ultimate extent possible. Beacon Press, having relied upon its relationship with the Senator in publishing the work in question, and having done so under the assumed mantle of protection offered by the Speech or Debate Clause, should not now have to insist upon and rely upon the Senator's continuing litigation in Beacon's behalf. The purposes of the Speech or Debate Clause would be ill served if parties acting under its mantle of protection must be entirely reliant upon the willingness or the ability of a Senator to pursue such parties' interests to the highest tribunal.

8. Movant's claims and the claims raised in the main action have questions of law and fact in common.

9. Allowing Movant's intervention herein would probably serve the cause of judicial economy since Beacon Press would, if necessary, have to pursue its claims under the Speech or Debate Clause through the federal courts in another proceeding, whether it be in an action to quash a subpoena, defend against an indictment, or the like. While there could be no guarantee that Beacon would not raise the issue later despite intervention in this case, nevertheless it would be best to attempt to settle in this proceeding the question of Beacon Press' rights. This would also serve to protect Beacon from suffering irreparable injury while it is being inquired into or while its records are being perused by executive and judicial bodies acting under the ambit of this Court's January 7, 1972, Opinion. Movant submits that it would be best for all parties concerned to have Movant's rights adjudicated in this proceeding with Movant participating as a party.

10. Movant asserts that this intervention is covered by Rule 24(a), Federal Rules of Civil Procedure (Intervention of Right) ("[A]nyone shall be permitted to intervene . . . when the applicant . . . is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."), but it is also covered by F.R.C.P. Rule 24(b) (Permissive Intervention) ("[A]nyone may be permitted to intervene . . . when an applicant's claim or defense and the main action have a question of law or fact in common.").

11. Movant was not aware from the proceedings below or from the proceedings in this Court prior to January 7, 1972, that Movant's interests would be so directly involved at this stage, and it is only because this Court has so clearly indicated that Movant's interests are now involved and because this Court proceeded to decide issues concerning Movant that it now becomes apparent to Movant that intervention is necessary in order to fully protect Movant's rights. Movant should not be excluded from deliberations resulting in decisions which so directly affect its interests.

12. In the alternative, Movant prays this Honorable Court to allow intervention for purposes of Movant's seeking Supreme Court review of the aforesaid Opinion and Judgment.

Respectfully submitted,

(Frank B. Frederick, William B. Duffy, Jr., Johnson, Clapp, Stone & Jones, One Boston Place, Boston, Massachusetts 02108, Attorneys for Unitarian Universalist Association.)

(Of Counsel: Alan M. Dershowitz, Harvard Law School, Cambridge, Massachusetts 02138. Norman S. Zalkind, Harvey A. Silverglate, Zalkind & Silverglate, 65A Atlantic Avenue, Boston, Massachusetts 02110.)

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[U.S. Court of Appeals for the First Circuit No. 71–1331, No. 71–1332]

### UNITARIAN UNIVERSALIST ASSOCIATION'S PETITION FOR RECONSIDERATION

(United States of America v. John Doe, Mike Gravel, United States Senator Intervenor, Appellant, Unitarian Universalist Association, Intervenor)

Pursuant to Rule 40 of the Federal Rules of Appellate Procedure, the Unitarian Universalist Association (hereinafter "Association") moves this Honorable Court to reconsider its Opinion and Judgment issued January 7, 1972, insofar as that Opinion and Judgment denies to third parties, including the Beacon Press (a division of the Association), protections emanating from Senator Mike Gravel's privileges and rights under the Speech or Debate Clause of the Constitution, the constitutional doctrine of separation of powers, and the common law privileges of legislators and publishers.

The arguments contained herein were not presented previously, and the Association did not seek representation in this case, because it did not become apparent that the Association's rights would be directly and expressly dealt with until the issuance of the Court's opinion on January 7th. Moreover, the expedited schedule which was set for the case restricted the amount of research that Senator Gravel's attorneys were able to do.

In holding that the Speech and Debate Clause privileges did not extend to republication, this Court stated that

"Two English cases, decided shortly after the enactment of the American Constitution, held that the parliamentary privilege did not immunicize members from civil liability for libels contained in privately published reproductions of their parliamentary speeches. Rex v. Greevey, 1813, 1 Maule & Selwyn 273; Rex v. Lord Abington, 1795, 1 Esp. N.P. Cases 228." (Slip op. at 9).

The association requests that this Court reconsider its reliance upon these cases in view of the Parliamentary Papers Act, Cap. IX 3 & 4 Victoria (1840) and *Wason v. Walter*, L.R. 4 Q.B. 73 (1868). In the Parliamentary Papers Act, Parliament partially rejected the interpretation of the English Constitution advanced in the *Creevey* and *Abington* cases, *supra*, by providing immunity to publishers of parliamentary papers, reports, votes and proceedings. Subsequently, in *Wason v. Walter, supra*, the Court went beyond the Parliamentary Papers Act and held that the parliamentary privilege protected a bookseller against a libel action for publication of a member's speech.*

Even if *Rex v. Greevey* and *Rex v. Lord Abington, supra*, were good law, they would be inapposite because they involved private libel actions. As the Supreme Court stated in *United States v. Johnson*, 383 US 169, 180–81 (1966), "it is apparent from the history of the [Speech and Debate] clause that the privilege was not born primarily of a desire to avoid private suits . . . but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary." In the instant case, the executive seeks to investigate and possibly to prosecute because information belonging to the executive was made public by a member of the legislature. Fundamental issues of the separation of powers are involved, and cases involving private litigants are therefore distinguishable.

In addition to the arguments advanced above, the Association adopts the arguments made by Senator Gravel in his Petition for Reconsideration of the Judgment of January 7, 1972.

Respectively submitted,

(Frank B. Frederick, William B. Duffy, Jr., Johnson, Clapp, Stone & Jones, One Boston Place, Boston, Massachusetts 02108, Attorneys for the Unitarian Universalist Association.)

(Of Counsel: Alan M. Dershowitz, Harvard Law School, Cambridge, Massachusetts 02138. Norman S. Zalkind, Harvey A. Silverglate, Zalkind & Silverglate, 65A Atlantic Ave., Boston, Mass. 02110.)

[U.S. Court of Appeals for the First Circuit, No. 71–1331, No. 71–1332]

### PETITION OF INTERVENOR-APPELLANT FOR CLARIFICATION

(United States of America, v. John Doe, Mike Gravel, United States Senator, Intervenor, Appellant)

Senator Mike Gravel, intervenor-appellant, respectfully requests this Court to clarify the scope of permissible questioning of witnesses before the grand jury relative to the activities of Senator Gravel and his aides. This petition for clarification is filed because the modified Protection Order issued in the Judgment does not appear, in certain respects, to conform with holdings in the opinion.

Paragraph 1 of the modified Protective Order reads as follows:

"No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting."

In our petition for rehearing, we discussed what appears to be an apparent inconsistency between the scope of questioning permitted with respect to conduct at the hearing (clause 1) and preparation for it (clause 2).

We also desire clarification with respect to the second clause, which permits inquiry into preparation "if the questions are [not] directed to the motives or purposes behind the Senator's conduct at the hearing." In the opinion (p. 12) the Court construed *United States* v. *Johnson*, 383 U.S. 169 (1966), to prohibit inquiry into preparation "if the *object* is to *attack* the legislator's motives in speaking." (emphasis added) We request the Court to clarify whether the grand jury is prohibited from inquiry of third parties about (1) the Senator's motives for holding the hearing, or about (2) such motives if the purpose of the inquiry is to attack them, or about (3) preparation for the hearing if that relates to his motives for holding it.

Paragraph 2 of the Protective Order provides:

"Dr. Leonard S. Rodberg may not be questioned about his own actions while being interviewed for, or after having been engaged as a member of Sentaor Gravel's personal staff to the extent that they were in the course of his employment."

Since the Court in the opinion stressed the necessity of preserving the confidential relationship between the Senator and his aides, we think that, in order to bring this provision into conformity, it should bar questioning of what aides observed and heard, as well as did, in the course of their employment. Otherwise, a literal reading of Paragraph 2 would permit questioning of an aide about the Senator's actions or about communications from others with whom they were directed, by the Senator, to deal.

Finally, the Court mandated in the opinion (p. 13) that the District Court prohibit questioning of aides "relating to the Pentagon Papers or to intervenor's legislative activities during the period of their employment." This appears to be substantially different than Paragraph 2 above.

Respectfully submitted,

(Robert J. Reinstein, Temple University Law School, 1715 N. Broad Street, Philadelphia, Pa. 19122, Charles L. Fishman, 633 East Capitol Street, Washington, D.C., Attorneys for Senator Gravel).

### MOTION

[U.S. Court of Appeals for the First Circuit, No. 71–1331, No. 71–1332]

(United States of America, v. John Doe, Mike Gravel, United States Senator, Intervenor, Appellant)

(United States of America, v. John Doe, Mike Gravel, United States Senator, Intervenor, Appellee)

The United States of America moves the court for an order modifying its order entered November 29, 1971, in cases Nos. 71–1331 and 71–1332, *United States v. John Doe—Mike Gravel, United States Senator, Intervenor*, restraining the grand jury from pursuing its inquiry into crimes relating to the so-called "Pentagon Papers," to permit investigation by the grand jury into such crimes, provided that:

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment.

This motion is based on the attached memorandum in support of said motion and the files and records of the case.

Dated: January 13, 1972.

Respectfully submitted,

JOSEPH L. TAURO,
*United States Attorney.*
RICHARD J. BARRY,
*Assistant U.S. Attorney.*

[U.S. Court of Appeals for the First Circuit, No. 71–1331, No. 71–1332]

### MEMORANDUM IN SUPPORT OF MOTION TO MODIFY ORDER OF NOVEMBER 29, 1971

(United States of America *v.* John Doe, Mike Gravel, U.S. Senator, Intervenor, appellant)

(United States of America *v.* John Doe, Mike Gravel, U.S. Senator, Intervenor, appellee)

The following relevant factors are set forth in support of the government's motion to modify the November 29, 1971, Order of this Court to make the Order consistent with the opinion and modified Protective Order entered by this Court, January 7, 1972.

1. On October 29, 1971, this Court entered an Order in case Nos. 71–1331 and 71–1332, *United States* v. *John Doe—Mike Gravel United States Senator, Intervenor*, restraining the grand jury from pursuing its inquiry into crimes relating to the "Pentagon Papers" until further order of the court. The purpose of this Order was to protect any constitutional right Senator Mike Gravel might have to prevent grand jury inquiry into his conduct, or the conduct of any member of his staff, relating to his acquisition, use or publication of the "Pentagon Papers," or any matter related thereto, pending appellate determination by this court of the existence and scope of any such right.

2. On November 29, 1971, this Court modified the Order of October 29, 1971, to allow the grand jury to pursue a limited inquiry into crimes related to the "Pentagon Papers," but prevented any inquiry which might disturb the status quo as it affected Senator Gravel pending determination of his case on appeal. The purpose of this Order was to allow the grand jury to pursue its investiga-

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*The Association maintains that the doctrines of the Parliamentary Papers Act and Wason v. Walter are incorporated in the Speech and Debate Clause and in the American common law concept of separation of powers, and that therefore publishers have *independent* standing to assert a "legislative" privilege against being questioned or prosecuted by reason of the publication of legislative speeches.

tion into matters wholly unrelated to Senator Mike Gravel, while at the same time protecting any constitutional right Senator Mike Gravel might have to prevent grand jury inquiry into his conduct, or the conduct of any member of his staff, relating to his acquisition, use or publication of the "Pentagon Papers," or any matter related thereto, pending appellate determination by this court of the existence and scope of any such right.

3. This Court's decision of January 7, 1972, in case Nos. 71–1331 and 71–1332, *United States* v. *John Doe—Mike Gravel United States Senator, Intervenor,* and the modified Protective Order entered in this Court's judgment filed the same day has defined the existence and scope of the constitutional right of Senator Gravel to prevent grand jury inquiry into his conduct.

4. The modified Protective Order entered by this Court on January 7, 1972, allows grand jury inquiry into matters which are prohibited from inquiry by the Order of November 29, 1971.

3. The original purpose for entering the November 29, 1971, Order has been fulfilled, and no purpose is served by continuing the November 29, 1971, Order in a fashion inconsistent with this Court's modified Protective Order of January 7, 1972.

6. This Court's original order staying all grand jury proceedings filed October 29, 1971, recognized that "the integrity of the processes of a grand jury must not be lightly regarded; . . ."

7. The statutorily limited life of the grand jury and the interest of society in seeing that grand juries pursue their investigations with prompt dispatch suggest that investigation into those matters allowed by the January 7, 1972, opinion and modified Protective Order, but which have already been stayed in excess of two months, should now proceed at the earliest possible time.

8. The grand jury has been for some time scheduled to convene on January 18, 1972, to hear evidence not prohibited by the November 29, 1971, Order, and if this Court should modify its order of November 29, 1971, consistent with its modified Protective Order of January 7, 1972, the grand jury could at that time hear additional testimony with the greatest efficiency and least amount of inconvenience to itself, while best serving its constitutional function to investigate federal criminal violations.

9. Modification of the November 29, 1971, Order consistent with the January 7, 1972, Protective Order will not have an adverse effect upon the constitutional rights of Senator Mike Gravel, as defined by this Court, nor will it prejudice his right to Petition the United States Supreme Court for certiorari.

10. Therefore it is respectfully requested that an appropriate order be issued to permit the grand jury to pursue its investigation in a manner not inconsistent with this Court's Modified Protective Order of January 7, 1972.

Dated: January 13, 1972.

Respectfully submitted,

JOSEPH L. TAURO,
*United States Attorney.*
RICHARD J. BARRY,
*Assistant United States Attorney.*

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[U.S. Court of Appeals for the First Circuit, No. 71–1331, No. 71–1332]

INTERVENOR-APPELLANT'S RESPONSE IN OPPOSITION TO MOTION TO MODIFY ORDER

(United States of America, v. John Doe, Mike Gravel, United States Senator, Intervenor Appellant)

Senator Mike Gravel, intervenor-appellant, opposes the Government's motion to modify this Court's Order of November 29, 1971, which motion in effect asks this Court to vacate the statutory stay of mandate with respect to the Judgment of January 7, 1972. Intervenor-appellant opposes the stay from being vacated at this point for two reasons:

1. Intervenor-appellant has filed, on January 14, 1972, a petition for reconsideration and a petition for clarification of the Judgment. These petitions raise substantial questions concerning the correctness of certain parts of the Court's opinion and the precise scope of questioning of witnesses which is prohibited by the modified Protective Order. Intervenor-appellant respectfully submits that it would be inappropriate to vacate the stay pending disposition of these petitions.

2. Notwithstanding the statement by the Government in paragraph 9 of its Memorandum that a vacation of the stay will not prejudice intervenor-appellant's right to petition the Supreme Court for certiorari, it is evident that such action by this Court at this time would moot precisely those legal issues with respect to which Senator Gravel would seek Supreme Court review. Modification of the November 29, 1971 Order, in conformance with the January 7, 1972 Protective Order, "will not have an adverse effect upon the constitutional rights of Senator Mike Gravel" only if the Supreme Court were to leave those rights "as defined by this Court." The issues which were decided adversely to Senator Gravel are of substantial constitutional importance and, in all fairness, are certainly not free from doubt. Moreover, continuance of the stay will not impede the grand jury unduly because the stay relates only to a part of the investigation, and the Government has asserted no compelling reason to vacate the stay.

(Robert J. Reinstein, Temple University Law School, 1715 N. Broad Street, Philadelphia, Pa. 19122. Charles L. Fishman, 633 East Capitol Street, Washington, D.C. Attorneys for Senator Gravel.)

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[U.S. Court of Appeals for the First Circuit, No. 71–1331 and 71–1332]

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

(United States of America *v.* Mike Gravel, United States Senator, Intervenor, Appellant)

(Before Aldrich, *Chief Judge,* McEntee and Coffin, *Circuit Judges.* On Petition for Rehearing, etc. January 18, 1972.)

*Robert J. Reinstein and Charles L. Fishman* for appellant.

*David R. Nissen,* Assistant United States Attorney, for appellee.

ALDRICH, *Chief Judge.* Intervenor has filed a petition for "reconsideration." The word is accurately used; intervenor is arguing the same points he made before. His proffered excuse is that the "expedited schedule . . . severely constricted . . . research." If this was so, it is the first we have heard of it. No pre-argument protest of lack of time was raised; no protest was made at the argument; no request was made for permission to file a further brief, either then, or during the eight weeks we had the matter under advisement. Nor should it be forgotten that petitioner sought intervention in August 1971. We would have thought he had ample opportunity to do his research. F.R.A.P. 40 was not promulgated as a crutch for dilatory counsel, *Cross Baking Co.* v. *NLRB,* 1 Cir., 12/30/71, F.2d, nor, in the absence of a demonstrable mistake, to permit reargument of the same matters.

We pass this, in view of the importance of the case. More difficult to overlook is the fact that, with our views and reasoning now fully before him, intervenor, in rearguing the republication issue, fails to address himself to our specific "attempts to reconcile fundamentally antagonistic social policies" (*Barr* v. *Mateo,* 1959, 360 U.S. 564, 576). Further generalities about "legislative activity in the classic and historic sense" do not indicate to us why we are wrong in drawing a distinction between normal and customary republication of a speech in Congress and republishing privately all or part of 47 volumes of, we must presently assume, lawfully classified documents through the device of filing them as exhibits to the records of a subcommittee to which they have no conceivable concern. In repeating the familiar arguments why he should be absolutely protected with respect to introducing the exhibits before the subcommittee—a matter no one questions—and talking broadly about his duty to inform the public, intervenor does not answer our analysis of what should be the subsequent limits of protection.

The petition for reconsideration is denied.

Alternatively, petitioner seeks clarification of our order. We do not, however, understand how he can think the order permits inquiry of third persons directed to his motives. We see no need of clarification here. His further inquiry, whether the questions could be asked of third parties about "preparation for the hearing if that *relates* to his motives for holding it," (emphasis suppl.) perhaps calls for comment. During oral argument we posed a hypothetical, not repeated in our opinion, but to which intervenor now returns. Suppose that the President's private diary is stolen, and thereafter a Congressman introduces it into the legislative record. Petitioner's present brief suggests that since this would be an exercise of "the informing function of exposing Executive behavior," the only answer he would have to make would be to the "House and . . . the people," unless he participated in the theft. His point is put best in the form that preparation is part of speech, and that if inquiry may be made even as to third parties as to the sources, he will be inhibited. Here, it seems to us, some adjustment of competing interests must be made. We believe that if a document shown to be improperly at large is sought to be traced, it may be traced by inquiry of third parties even if the effect may be to lead to a legislator. In *United States* v. *Johnson,* 1966, 383 U.S. 169, the prosecution was barred from questioning third parties about their role in preparing a congressional speech only because the questions were directed to proving that the speech itself was part of a criminal conspiracy. This should not mean that all illegal activity is insulated from inquiry, apart from prosecution, simply because it could be characterized as preparation for a speech. The introduction of the document into the subcommittee records, like Thetis' immersion of Achilles, cannot effect universal protection.

Intervenor has a valid point with respect to the portion of the order relating to Rodberg. This is clarified by inserting after the phrase "his own actions" the words "in the broadest sense, including observations and communications, oral or written, by or to him, or coming to this attention."

This brings us to the government's motion to revoke our stay, which was granted broadly, pending appeal, to cover all facets of intervenor's contentions. With a limit of time on the grand jury proceedings, we amend the stay by substituting the order called for by our opinion, and contained in the judgment, but as presently clarified as to Rodberg. This amendment and substitution is, in turn, stayed until January 26, 1972, to permit intervenor, if he sees fit, to apply forthwith, prior to Friday of this week, to the Circuit Justice.

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[U.S. Court of Appeals for the First Circuit, No. 71–1331, No. 71–1332]

MEMORANDUM AND ORDER

(United States of America v. John Doe, Mike Gravel, United States Senator, Intervenor, Appellant)

Entered January 18, 1972.

The Unitarian Universalist Association, hereinafter Associations, moves to intervene, pointing to the fact that in our opinion of January 7 we stated that Senator Gravel's rights based upon the Speech or Debate clause would not prevent all inquiry of the Beacon Press, said to be owned by the Association. The Association urges that if it is not allowed to intervene it will be bound by our decision. This, of course, cannot be so; it was not a party. All that we are holding is that the Senator's privilege, so far as he is concerned, to object to inquiry is not that extensive. He, but not the Association, is presently bound by our decision.

The Association's motion to intervene to raise on its own behalf a privilege not to testify seeks precisely what is forbidden by *Cobbledick* v. *United States,* 1940, 309 U.S. 323. It is denied.

By the Court:

Dana H. Gallup,
*Clerk.*

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[U.S. Court of Appeals for the First Circuit, No. 71-1331, No. 71-1332]

### Order of Court

(United States of America, v. John Doe, Mike Gravel, United States Senator, Intervenor, Appellant)

(Before Aldrich, Chief Judge, McEntee and Coffin, Circuit Judges.)

Entered January 18, 1972.

Pursuant to opinion of instant date, the broad stay granted on October 29, 1971, as modified, is hereby revoked and there is substituted the order contained in the judgment of January 7, 1972 as clarified by the explanatory clause contained in our opinion defining "actions" as "in the broadest sense, including observations and communications, oral or written, by or to him or coming to his attention."

The present order of revocation and substitution is stayed until January 26, 1972.

The motion for clarification is otherwise denied.

The motion for reconsideration is denied.

By the Court:

Dana H. Gallup,
*Clerk.*

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[In the Supreme Court of the United States, October Term, 1971]

Mike Gravel, U.S. Senator, Petitioner, Versus United States, Respondent No. 71-1017

### APPLICATION FOR STAY OF MANDATE OF UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

To the Honorable William J. Brennan, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the First Circuit:

Petitioner, Mike Gravel, United States Senator, prays that an order be entered staying the mandate of the United States Court of Appeals for the First Circuit, which will otherwise issue on January 26, 1972, pending the filing of a petition for certiorari and a final determination of the matter by this Court. In support of this application, petitioner respectfully shows as follows:

1. This case presents squarely an important Separation of Powers question in that it involves a direct and clear conflict between a United States Senator and the Executive and Judicial Branches.

2. This case involves the claim of a United States Senator that the Speech or Debate Clause of the Constitution and the doctrine of Separation of Powers guarantees that he may engage in the unfettered discharge of his legislative privileges and duties without restraint and inquiry by the Executive and Judicial Branches.

3. All of the courts below which have participated in the consideration of this issue have at all times assiduously preserved the status quo by an unbroken chain of stays in order that the enormously important issues of this case not be mooted prior to final resolution by the highest tribunal in the land, and in order to preserve from irreparable injury the rights and privileges which a United States Senator claims under the Constitution.

4. While the Court of Appeals declined to grant a stay pending review on certiorari, it nevertheless stayed its mandate until January 26, 1972, in order to allow petitioner to apply to the Circuit Justice, prior to January 21, 1972, for such a stay.

5. Unless this stay be granted, the issues presented herein will necessarily be mooted and the unconstitutional injury accomplished beyond repair.

6. The questions involved in this case are of the greatest magnitude and will have a significant effect upon the dignity of the United States Senate and the ability and willingness of members of that body to carry out their constitutional duties.

7. No serious harm will be suffered by the United States if this stay be granted.

8. Petitioner will file a Petition for Writ of Certiorari with this Court within the statutory period or within any expedited or other schedule set by this Court, and in any event the Petition will be filed without undue delay.

Wherefore, Movant respectfully requests this Honorable Court to grant a stay of the mandate below pending this Court's taking action on the forthcoming Petition for Writ of Certiorari, and if review should be granted, to continue said stay pending final disposition by the Court.

In further support of this Motion, Movant respectfully offers the following facts and arguments:

On June 29, 1971, petitioner convened a hearing of the Subcommittee on Buildings and Grounds of the Public Works Committee of the United States Senate. He stated at the outset of the hearing that the conduct of United States foreign policy in Indochina was relevant to his subcommittee, as to practically every subcommittee in the Congress, because of its effects upon the domestic economy and, specifically, the lack of sufficient federal funds to provide for adequate public facilities. During the course of this hearing, Senator Gravel read or inserted into the record portions of the so-called "Pentagon Papers", which examine the causes and history of the conflict in Indochina. In order to make the contents of the Subcommittee record widely available to his colleagues and constituents, Senator Gravel arranged on a non-royalty basis for its verbatim republication by Beacon Press, a non-profit publishing division of the Unitarian Universalist Association.

In August of 1971, a Federal grand jury sitting in Boston, Massachusetts, and investigating the release of the Pentagon Papers to the press subpoenaed Dr. Leonard Rodberg, an aide of Senator Gravel. Petitioner moved to intervene and quash the subpoena on the grounds that the purpose of the proposed inquiry of his aide was to investigate petitioner's activity which he asserted was immune from judicial inquiry by virtue of the Speech or Debate Clause. A subpoena was also served upon Howard Webber, Director of Massachusetts Institute of Technology Press, with whom petitioner and his aides had unsuccessfully negotiated for the republication of the record. During the pendency of the appeal, two subpoenas were served upon officials of Beacon Press but were revoked due to the stay in effect.

The District Court granted the motion to intervene but denied the motion to quash Dr. Rodberg's subpoena. The Court issued a Protective Order barring inquiry of any witness into Senator Gravel's actions in holding the hearing and in preparing for it. The Court held, however, that the verbatim republication of the record "stands on a different footing" and is not protected by the legislative privilege. (The District Court's October 4, 1971 Decision and Order are attached hereto as Exhibit A.) The motion to quash Webber's subpoena was likewise denied. A petition for reconsideration was denied on October 27, 1971, and the stay previously entered was continued for an additional ten days.

Petitioner appealed to the United States Court of Appeals for the First Circuit, which promptly issued a stay to preserve the status quo pending appeal. (The stay of October 28, 1971, and the modified stay of November 29, 1971, are attached hereto as Exhibits B and C). A cross-appeal was filed by the Government.

The Court of Appeals' opinion of January 7, 1972 (Exhibit D) noted that "important questions as to the etxent of the legislative privilege" were raised by the appeal. The Court of Appeals concluded that petitioner "has essentially lost his appeal," and affirmed the judgment of the District Court and entered a modified Protective Order (Exhibit E). The Court held that the constitutional privilege of the Speech or Debate Clause did not extend to Senator Gravel's exercise of the informing function in republishing the Subcommittee record. The Court also held that the Grand Jury in conjunction with the Executive could interrogate all persons other than his aides with whom the Senator dealt about his actions in preparing for the Subcommittee hearing, as long as the questioning was not directed to the Senator's motives.

The Court of Appeals issued a subsequent opinion denying a motion for reconsideration (Exhibit F), in which it suggested that ordinary republication of a Subcommittee record enjoyed constitutional immunity but that the republication in question did not because the Subcommittee had "no conceivable concern" with the documents entered into the record.

### ISSUES PRESENTED FOR REVIEW ON CERTIORARI

1. Does the constitutional responsibility of a United States Senator to inform his constituents and colleagues about the workings of government require that his actions in republishing an official, public record of the Subcommittee of which he is chairman, containing documentary information critical of Executive conduct in foreign affairs, be protected legislative activity under the Speech or Debate Clause?

2. To what extent is a Federal Grand Jury in conjunction with the Executive Branch precluded from utilizing compulsory process to interrogate persons with whom a Senator dealt, about his planning and executing a Senate Subcommittee hearing and thereafter publishing and distributing the official record of that hearing, and thereby to inquire into and investigate the Senator's legislative activities.

3. May a Federal court, consistent with the Speech or Debate Clause and the doctrine of Separation of Powers, sanction an otherwise impermissible inquiry into a Senator's legislative activity because the court believes that the manner in which that activity was carried on was irregular and contrary to the manner in which the Senate internally allocates its functions?

### REASONS FOR SEEKING CERTIORARI

#### 1. *Importance of the issues presented*

Senator Gravel intends to file a Petition for Writ of Certiorari to determine a question of first impression which has not but which must be decided by this Court.

It is an issue which, while it has not been squarely faced by the Court as yet, will almost certainly have to be faced sooner or later, and this is an appropriate and indeed urgent case. This is a classic Separation of Powers problem, and if not decided here and now it might lead to an embarrassing and perhaps dangerous confrontation between the Legislative Branch on the one hand and the Executive and Judicial Branches on the other. This Court plays no more important or appropriate role as when it uses its power and its wisdom to avert a constitutional crisis of major proportions. A United States Senator has squarely and clearly raised a claim that his privileges and protections under the Speech or Debate Clause have been infringed by a Grand Jury inquiry, led by the Executive Branch, into his activities and those of his aides, assistants and associates in carrying out his duty of informing his constituents and colleagues on the functioning of government and with respect to alleged wrongful acts committed by the Executive.

The Speech or Debate Clause, Article I. Section 6, Clause 1, provides that ". . . for any Speech or Debate in either House, they [Senators and Representatives] shall not be questioned in any other Place."

In its Opinion of January 7, 1972 (Exhibit D), the Court of Appeals held that the "private republication" of the Subcommittee record at the direction of Senator Gravel was not protected from inquiry because "[o]nly those acts by which a congressman ordinarily expresses to the House his views on matters before it come within the Supreme Court's extension of the privilege to 'things generally done . . . in relation to the business before [Congress],' " citing *Kilbourne* v. *Thompson,* 1880, 103 U.S. 168, 204. Slip opinion at 9 (Exhibit D). Along a similar vein, in its January 18, 1972 Opinion on the Petition for Rehearing (Exhibit F), the Court of Appeals drew "a distinction between normal and customary republication of a speech in Congress and republishing privately all or part of 47 volumes of, we must presently assume, lawfully classified documents, through the device of filing them as exhibits to the records of a subcommittee to which they have no conceivable concern." (Typewritten opinion at 3.)

The Court of Appeals has thus taken upon itself the power of determining whether or not a procedure followed by a Senator in the performance of his legislative functions is sufficiently "regular" so as to not divest his protection under the Speech or Debate Clause. Petitioner contends, and even the District Court Judge recognized in its Opinion (Exhibit A, typewritten opinion at 12) that "[t]he courts have no right to dictate . . . the procedures for Congress to follow in performing its functions. . . ." (citing United States v. Hintz, N.D. Ill., 1961, 193 F.Supp. 325, 331), and that "[j]udging the applicability of the legislative privilege in the exercise of the functions of a legislator's office should be done 'without inquiring whether the exercise was regular according to the rules of the House, or irregular and against their rules,' " (citing *Coffin* v. *Coffin,* 1808, 4 Mass. 1, 27). How a House of Congress internally allocates its functions and prescribes and enforces its procedures is a political question which is beyond the cognizance of the courts.

Despite the fact that the Speech or Debate Clause must be, and has by this Court been "read broadly to effectuate its purposes," *United States* v. *Johnson,* 383 U.S. 169, 180, the Court of Appeals limited the applicability of the Clause to conduct done within the four walls of the Capitol. The Court thus permitted the Grand Jury to investigate into Senator Gravel's exercise of the informing function through the interrogation of "third parties" * such as Howard Webber and the Beacon Press, with whom the Senator dealt in order to publish and disseminate the Subcommittee record to his colleagues, constituents, and to the public at large. Far from being a broad reading of the privilege, this reading so restricts the scope of the Senator's privilege that it makes it impossible (or, to be more precise, dangerous) for a member of the Senate or the House to enlist the assistance necessary in order to adequately perform his legislative task of informing his constituents and colleagues about vital matters concerning the operations of government. It is this informing function of a member of the legislative branch which this Court has viewed as his most important task:

"We are not concerned with the power of Congress to inquire into and publicize corruption, maladministration and inefficiency in agencies of the government.

"This was the only kind of activity described by Woodrow Wilson in *Congressional Government* when he wrote: 'The informing function of Congress should be preferred even to its legislative function.' *Id.,* at 303. From the earliest time in its history, the Congress has assiduously performed an 'informing function' of this nature. See Landis, Constitutional Limitations on the Congressional Power of Investigation, 44 Harv. L. Rev. 153, 168–194."

*Watkins* v. *United States,* 354 U.S. 178, 200, fn. 33 (1957).

The Court of Appeals has noted, of course, that *United States* v. *Johnson, supra.,* requires that the Senator's privilege extend to cover acts essential to the "due functioning of the legislative process" (slip opinion at 8), but in defining the term "legislative process", and in determining what acts are "legislative acts", the Court of Appeals poses obstacles in the Senator's path which could paralyze a conscientious member of Congress in his attempts to perform his informing function. For a court to hold that republication of such a Subcommittee report is not a proper "legislative act" is an unwarranted incursion by the Judiciary into the prerogatives of Congressmen to adopt whatever procedures are necessary to accomplish the informing function.

This Court in *United States* v. *Johnson, supra.,* made it clear that the privilege "shall be read broadly to include not only 'words spoken in debate,' but anything 'generally done in a session of the House by one of its members in relation to the business before it.' " The standard to be applied under the Speech or Debate Clause, and the only one consistent with the history and policies of the privilege, is whether or not the activities sought to be protected are "related to the due functioning of the legislative process." *United States* v. *Johnson, supra,* at 169, 172, 179. This standard immunizes a Member of Congress for actions taken in the discharge of his duties as a representative of the electorate and prevents harassment and retaliation by the Executive which would thereby endanger our system of separation of powers. It is for this reason that the privilege has been consistently held to immunize conduct of a Senator taken at a committee hearing. *Kilbourn* v. *Thompson,* 103 U.S. 168 (1880); *Tenney* v. *Brandhove,* 341 U.S. 367 (1951); *Dombrowski* v. *Eastland,* 387 U.S. 82 (1967); *Powell* v. *McCormack,* 395 U.S. 486, 502–03 (1969). We think it evident, however, that direct communication by a Senator with the electorate through the publication and distribution of committee records plays as large a role in our system of representative government and is thus entitled to like protection.

The logic of prior precedents, when combined with the historical purposes of the Speech or Debate Clause and the sphere of its contemporary importance in our system of separation of powers would establish an absolute privilege to govern the facts of this case. The civil cases presented typically a claim that a Member of Congress was using the authority of his office to violate willfully an individual's rights.

That kind of situation creates the maximum temptation for intervention by the judiciary on the side of the individual, and there may very well be circumstances, in which no other means is available to safeguard the preferred constitutional rights of the individual, that the judiciary will be compelled to draw the balance on the side of the individual. Cf. *Hentoff* v. *Ichord,* 318 F.Supp. 1175 (D.D.C. 1970).

On the other hand, what is now before this Court is a classic separation of powers case. The judiciary is not being asked to balance the rights of individuals, including preferred Constitutional rights, against the privileges of Members of Congress; to the contrary, the Executive Branch of government has come to the courts and claimed that it may determine what a Member of Congress may tell his constituents about matters of overwhelming public concern. We do not exaggerate by saying that this claim challenges the fundamental character of our tripartite system of government. To any such claim, the Constitution must stand as an impenetrable barrier.

The Executive's contention that it may investigate and indeed prosecute for republication flies in the face of the historical purposes of the Speech or Debate Clause. The Clause was drafted to secure absolute freedom of speech for Members of Congress. It was the end product of a lineage of legislative free speech guarantees from the English Bill of Rights of 1689 to the first State constitutions and the Articles of Confederation. See generally *Tenney* v. *Brandhove, supra* at 372–75. None of these provisions drew a distinction between a speech of a legislator directed at his colleagues and one to his constituents. On the contrary, the Court in *Tenney* stated that the Clause was designed to protect both. *Id.,* at 377 and fn. 6. This is consistent with no less an authority than Thomas Jefferson. When a Federal grand jury protested against abuses by Congressmen who disseminated slanderous accusations to the public, Jefferson responded that the framers of the Constitution wrote the Speech or Debate Clause to allow Congressmen to inform the electorate without inhibition:

"[T]hat in order to give to the will of the people the influence it ought to have, *and the information which may enable them to exercise it usefully,* it was part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive." 7 Writings of Thomas Jefferson 158 (Ford Ed. 1896) (Emphasis added).

The privilege must be read to protect republication and public distribution of speeches and committee records. This is a principal avenue relied upon by Members of Congress to provide the people with "the information which may enable them to exercise it usefully."

The Constitutional evil which would result from denying the privilege's applicability to the informing function of Congress is magnified when this is done at the behest of the Executive and with respect to material which is critical of executive behavior. As this Court has emphasized, the central purpose of the Speech or Debate Clause is "to prevent intimidation by the Executive and accountability before a possible hostile Judiciary." *United States* v. *Johnson, supra* at 181. If the Executive Branch may, at will, institute grand jury proceedings and interrogate witnesses about Senators' publications of their speeches and committee reports which they sent to the electorate, it will possess the power to isolate effectively all but the most courageous legislators from their constituents. If such a rule applies, Congressmen will have to watch what they say to the people—in press releases, newsletters and anything spoken outside of the four walls of the Capitol—lest it offend the Executive and open them up to harassment, grand jury inquisitions and even prosecutions. Yet if the Speech or Debate Clause means anything, it is that courts and prosecutors are not referees over what Congressmen say to people or how they say it.

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*The Court of Appeals, admitting that "the court is not in total agreement" on this point, nevertheless "presently" held that the Senator and his aides could not personally be questioned as to republication, "without binding overselves for future purposes." Slip opinion at 11 (Exhibit D). To be precise, the Court of Appeals found that the Speech or Debate Clause privilege did not extend at all to the republication, but that the Senator and his aides may be protected by a common law privilege. Slip opinion at 10.

The proper rule of Constitutional law was stated in *Methodist Federation* v. *Eastland*, 141 F.Supp. 729, 731 (D.D.C. 1956) (three judge court):

"Nothing in the Constitution authorizes anyone to prevent the President of the United States from publishing any statement . . . similarly nothing in the Constitution authorizes anyone to prevent the Supreme Court from publishing any statement. We think it equally clear that nothing authorizes anyone to prevent Congress from publishing any statement."

Moreover, the reliance of the Court of Appeals on early English cases is decidedly misplaced. These cases had their genesis in a politically-motivated republication prosecution of the Speaker of the House of Commons, *Rex* v. *Williams*, 2 Show. K.B. 471, 89 Eng. Rep. 1048 (1794), and this decision was later declared to be "a disgrace to the country," *Rex* v. *Wright* 8 T.R. 293, 101 Eng. Rep. 1396 (1799). At least since Wason v. Walter, L.R. 4 Q.B. 73 (1868), the settled law in England is that the parliamentary privilege protects a member who republishes a speech in Parliament "for the information of his constituents," and that the privilege applies derivatively to the publisher, because "such publication . . . is essential to the working of our parliamentary system, and to the welfare of the nation." *Id.*, at 95. There is no reason in history, reason or policy why the privileges of elected representatives in the United States should not be equal to those of their counterparts in England.

The implications of prior decisions of this Court and the history and policies of the Speech or Debate Clause thus appear strongly at odds with the holding of the Court of Appeals, and this Court ought therefore to clarify the extent of the Congressional privilege. Clarification is also necessary so that Members of Congress, who routinely inform their constituents by issuing news releases and republishing their speeches and committee records, will know precisely what their rights are. Similar considerations led this Court to take review in *Barr* v. *Matteo*, 360 U.S. 564 (1959), and to hold that the judicially-created doctrine of executive privilege protected the issuance of news releases by the thousands of subordinate officials of the Executive Department. The Court of Appeals has not explained why the constitutional privilege of elected Members of Congress is narrower.

Finally, the consequences of the decision of the Court of Appeals are not ameliorated by the fact that Senator Gravel and his aides will not personally be questioned before the Grand Jury. In allowing the interrogation of "third parties" into the legislative activities of a Congressman, so long as his "motives" are not attacked, the Court of Appeals misapprehended the holding of *United States* v. *Johnson*, *supra* at 175–76, where this Court barred inquiry of anyone not only into motives but also into *how* the speech was prepared and into its precise ingredients. The rationale of the Court of Appeals affords little, if any, protection to Congressmen, for in the course of their legislative activities they of necessity deal with innumerable people, and questioning of them before the Grand Jury may accomplish by indirection precisely what the Court of Appeals recognized could not be done directly—the intensive breach of the sanctity of the legislative process. The Executive, with the assistance of the Grand Jury may, under this decision, investigate how a Congressman wrote a speech, what materials were in his possession, his conversations prior to voting or speaking out on controversial issues and, for that matter, his conduct at a hearing—so long as the interrogators disclaim any intent to attack his motives. Aside from the clear violation of separation of powers thus effectuated, the intimidating potential of this approach and its possible effects on Congressional deliberations seem awesome. When legislative investigations were perceived to have a similar impact upon First Amendment freedoms, this Court did not allow those investigations to proceed unchecked. See, e.g., *Gibson* v. *Florida Legislative Investigation Committee*, 372 U.S. 539 (1963). There is no reason why the Grand Jury, which is subject to the supervisory powers of this Court, should not be governed by like restrictions when it intrudes into an area of prime constitutional importance.

### 2. DANGER OF MOOTNESS

If this request for a stay is not granted, the issues presented herein likely will be mooted, since the witnesses in question will be brought before the Grand Jury and required to testify as to the matters which Senator Gravel claims are privileged and protected by the Speech or Debate Clause. It is quite possible, and indeed probable, that some witnesses would testify as to matters claimed by the Senator to be privileged without so much as telling the Senator that they are about to testify. Other subpoenaed witnesses might not be willing to incur the sanction of contempt of court in order to test or to allow the Senator to test the scope of the privilege in the context of a contempt proceeding. If the Court of Appeals opinion is allowed to stand in the absence of Supreme Court review, it is inconceivable that any inferior court would sustain a claim of privilege by a third party; it is also difficult to conceive of any judge of a district court granting a stay pending appeal, just as it is unlikely that the Court of Appeals for the First Circuit, which would at that point regard the matter as settled in that Circuit, would grant a balking witness a stay in order to allow such witness to seek review by this Court. Therefore, if this Court does not review the issue at this stage, either the issue will become moot, or a constitutional crisis will be provoked in order for the Senator to attempt to vindicate his privilege when such witnesses are called upon to testify, or the issue will be brought again to this Court by a witness in a contempt proceeding.

### 3. RIPENESS

This case is clearly ripe for Supreme Court review. As of this writing, at least one person with whom the Senator dealt in connection with the informing function, Howard Webber, Director of Massachusetts Institute of Technology Press, has been subpoenaed, and his subpoena will be activated at the moment the stay which is now in effect expires. In addition, two officials of Beacon Press were served with subpoenas (which were temporarily withdrawn as a result of the current stay), and it is all but certain that they will receive new subpoenas upon the expiration of the stay. As the Court of Appeals observed, since these third parties "could not be counted on to risk contempt in order to protect [petitioner's] constitutional rights," appellate review of the claims presented is proper at this time. (Exhibit D, Slip opinion, pages 3–4.)

### 4. ABSENCE OF HARM TO THE GOVERNMENT

A Grand Jury investigating the "Pentagon Papers" incident is currently in progress in Boston and has been since the summer of 1971. The Court of Appeals' stay order of November 29, 1971 (Exhibit C) allows the Grand Jury to investigate other aspects of the incident while not touching for the time being any of those areas which the Senator claims to be privileged. Thus, the investigation certainly can continue while this Court decides the issues to be presented in the Certiorari Petition, but it may proceed on a limited basis. The Grand Jury has another year to its life, and certainly it is more important that this issue be resolved finally and correctly than that the Grand Jury complete its work a bit sooner rather than a bit later.

### CONCLUSION

For the reasons set forth hereinabove, petitioner respectfully prays that an order be entered staying the mandate of the United States Court of Appeals for the First Circuit. Such an order will leave in effect the modified stay issued by the Court of Appeals on November 29, 1971 (Exhibit C) and preserve the status quo pending the filing of a petition for certiorari and a final determination of the matter by this Court.

Respectfully submitted,

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### EXHIBIT A

[U.S. District Court, District of Massachusetts—E.B.D. No. 71-1724G]

### MEMORANDUM OF DECISION AND PROTECTIVE ORDER—OCTOBER 4, 1971

(United States of America v. John Doe, in the matter of a grand jury subpoena served upon Leonard S. Rodberg)

Garrity, J. Dr. Leonard S. Rodberg, a physicist and resident fellow at the Institute for Policy Studies in Washington, D.C., and currently engaged as a staff member of United States Senator Mike Gravel of Alaska, petitioned the court on August 27, 1971 to quash a subpoena ordering him to appear before a federal grand jury ostensibly investigating crimes related to the release and dissemination of the much-publicized classified study by the Department of Defense entitled "History of U.S. Decision-Making Process on Viet Nam Policy," popularly called the "Pentagon Papers."

The crimes being investigated by the grand jury include the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371), as is indicated in the prosecuting attorneys' oaths of office on file with the Clerk.[1]

At the initial hearing on Dr. Rodberg's motion, the court stayed his appearance before the grand jury until after the parties had filed affidavits and briefs and presented further oral argument. Senator Gravel moved for leave to intervene and, after briefing, intervention was allowed and the court accepted motions by the Senator to quash the subpoena and for specification of the exact nature of the questions to be asked of Dr. Rodberg. Both motions of the Senator allege, and the court finds, that "as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called

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[1] Various opinions in *New York Times Company* v. *United States*, 1971, 403 U.S. 713, 727–740, emphasized that a criminal prosecution might lie for acts related to the publication of classified materials. Whether such a prosecution would lie for acts subsequent to the placing of classified materials in the public record of a congressional subcommittee, the Supreme Court opinions did not intimate and we have not considered. Obviously there may be no prosecution for publication of declassified materials.

'Pentagon Papers,' which were critical of the Executive's conduct in the field of foreign relations."

Dr. Rodberg's first contention in support of his motion to quash is separate from the argument advanced jointly by him and Senator Gravel. This contention is that the subpoena violates rights of his under the First Amendment. In a supporting affidavit, Dr. Rodberg states in part that:

"My roles have been multiple: research, writing, lecturing, supervising research projects, as well as providing advice, assistance, information, expertise to Senators and Congressmen for the performance of their official duties, as well as liaison to other persons whose expertise Congressmen require. Experience has shown that my success in fulfilling these multiple roles depends upon my ability to maintain access to a wide variety of confidential sources of information. My knowledge of and ability to communicate and advise on issues relating to government policy in the areas mentioned above would be seriously jeopardized if I should be forced to appear before a secret grand jury."

While recognizing the importance and usefulness of this type of work by men like Dr. Rodberg, and *acknowledging the existence of First Amendment interests here*, he is only incidentally a journalist and the court rejects this argument for the reasons stated in its memorandum of decision in E.B.D. No. 71-165, *Application of Falk*, filed contemporaneously herewith.

Dr. Rodberg's other contention, identical to that urged by Senator Gravel, is that the grand jury subpoena served upon him contravenes the Speech or Debate Clause, Article I, section 6, clause 1, of the Constitution of the United States.[2] It is based upon an unusual sequence of events occurring at the height of the court battle over newspaper publication of the controversial Papers. The Court of Appeals for the District of Columbia Circuit had ruled that no prior restraint should issue against publication but the Court of Appeals for the Second Circuit had reached the opposite result. Oral arguments had been heard by the Supreme Court on June 26, 1971. Pending decision by the Supreme Court, publication was temporarily barred. Meanwhile the President had sent a set of the documents to the Congress. On June 30, the Supreme Court affirmed the judgment of the District of Columbia Circuit and reversed that of the Second Circuit, thereby permitting publication. *New York Times Company* v. *United States, supra.*

Late in the evening of June 29, Senator Gravel, a member of the Committee on Public Works, called a meeting of its Subcommittee on Public Buildings and Grounds, of which he is chairman.[3] Earlier that same day, the Senator had added Dr. Rodberg to his personal staff. At the meeting he read extensively from the study and, at its conclusion, placed the entire study comprising 7,000 pages of complex material in 47 volumes on file with the subcommittee, thereby making it widely available to the press. About seven weeks later, on August 18, it was reported in the Washington Post that Senator Gravel had turned over the Pentagon Papers to a Boston publisher, Beacon Press, for compilation into a four-volume book to be released in late October under the title, "The Senator Gravel Edition of the Pentagon Papers: the Defense Department History of Decision Making on Vietnam"; and that Beacon Press came to agreement with the Senator after negotiations with his assistant Dr. Rodberg. In the August 24 edition of a weekly newspaper, Boston After Dark, an article, "Why MIT & Harvard Suppressed the Pentagon Papers," described in detail Dr. Rodberg's prior negotiations with publishers other than Beacon Press. On the evening of August 24, Dr. Rodberg was subpoenaed to appear and testify before the current grand jury.

In opposing the motions to quash and for specification, the Government has pointed out that the grand jury proceedings are secret and it has not been proved by the moving parties that Dr. Rodberg will be interrogated about the subjects described in the newspaper stories. However, given the secrecy and flexibility of all grand jury proceedings, no movant ever could demonstrate with certainty the specific facts about which he had been subpoenaed to testify. Viewing together the crimes which this grand jury is investigating and the chronology of acts and events leading up to Dr. Rodberg's subpoena, the court infers that the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers, and that the government attorneys plan to question him about them before the grand jury.

The Speech or Debate Clause, in the context of criminal proceedings, has been applied definitively in *United States* v. *Johnson*, 1966, 383 U.S. 169. Defendant Johnson was a Maryland congressman accused of violating the conflict of interest statute, 18 U.S.C. § 281, and conspiring with codefendants to defraud the United States in violation of 18 U.S.C. § 371. As part of the conspiracy, defendant allegedly delivered for pay a speech in Congress favorable to certain loan companies. Johnson and codefendants were convicted of both crimes. The Court of Appeals had upheld the conspiracy conviction of the coconspirators and the conviction of Johnson under the conflict of interest statute, but held that the conspiracy count was "unconstitutional as applied to . . . Johnson." 337 F. 2d at 192. In effect, the Court of Appeals read the Speech or Debate Clause to create an immunity against prosecutions for unlawful acts or motives underlying otherwise privileged legislative conduct. On certiorari granted on the Government's petition, the Supreme Court affirmed the judgment of the Court of Appeals but did not agree as to the breadth of the application of the Speech or Debate Clause. Rejecting the interpretation that the privilege barred the conspiracy prosecution, the Supreme Court instead remanded for a new trial on that count, admonishing however that no evidence of, or inquiry into, the privileged speech would be permitted.

In its opinion in the *Johnson* case, the Supreme Court stated that the privilege must "be read broadly to effectuate its purposes," 383 U.S. at 180, and that "the privilege was not born primarily of a desire to avoid private suits . . . but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary," at 181. The Court also ruled that the Clause does not reach "conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise related to the due functioning of the legislative process," at 172, and that its "decision does not touch a prosecution which . . . does not draw in question the legislative acts of the defendant member of Congress or his motives for performing them," at 185. Thus, the privilege is limited specifically to legislative acts and antecedent conduct so intimately related to them such as cannot be proved without resort to inquiry into legislative acts.

Another relevant fundamental principle is that the legislative privilege conferred by the Speech or Debate Clause belongs to Congressmen only and not to their assistants and aides. In the first place, the Constitution mentions only Senators and Representatives. Secondly, Thomas Jefferson's authoritative interpretation of the privilege, in Jefferson's Manual of Parliamentary Practice, Section III, reprinted in the Senate Manual, 1967, 382–383, states that "the framers of our Constitution . . . have only privileged Senators and Representatives themselves . . ." Thirdly, no case or other authority indicates to the contrary. Cf. *Powell* v. *McCormack*, 1969, 395 U.S. 486, 504–506, holding that employees of the House of Representatives might be sued in a civil action which would be barred against Congressmen by the legislative privilege.

It follows that while the Speech or Debate Clause plainly sets limitations upon the grand jury's investigation, the motions to quash the subpoena served on Dr Rodberg seek too broad a result. Without doubt he may be questioned as to the activities of third parties with whom he and the Senator dealt. He may also be questioned about, and is legally responsible for, his own actions previous to his joining the Senator's personal staff on June 29 and many of his actions thereafter. That the Senator's legislative privilege will serve to bar some questions, as hereinafter ruled, does not by any means excuse Dr. Rodberg from appearing and answering questions on subjects beyond the protection of the privilege.

Similarly, Senator Gravel's motion for specification which seeks an order requiring the Government to specify in detail the purpose, scope and exact nature of questions to be asked of Dr. Rodberg will not be granted in terms. In the court's opinion such an order is unnecessary in the circumstances of this case to afford full protection to the Senator's legislative privilege and would moreover impede the grand jury in the discharge of its investigative duties. As stated in *Blair* v. *United States*, 1919, 250 U.S. 273, 282, regarding the nature of the grand jury,

> It is a grand inquest, a body with powers of investigation and inquisition, the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime. As has been said before, the identity of the offender, and the precise nature of the offense, if there be one, normally are developed at the conclusion of the grand jury's labors, not at the beginning.

On the other hand, it is equally clear from the *Johnson* case that Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause be the subject of questioning before the grand jury.[4] The question of what constitutes legislative acts has been treated in decisions in civil actions cited with approval in the *Johnson* case. The classic statement appears in *Kilbourn* v. *Thompson*, 103 U.S. 168, 204, as follows:

> It would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forci-

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[2] Art. I, § 6, cl. 1 provides, "The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; *and for any Speech or Debate in either House, they shall not be questioned in any other Place.*" The last clause is known as the Special or Debate Clause. (Emphasis added).

[3] Most of the facts stated in this paragraph appear only in Dr. Rodberg's unverified motion which incorporates as exhibits two newspaper stories thereto attached. They have been adopted as findings by the court for purposes of this decision because not disputed in any way by the Government and because underlying the parties' legal submissions.

[4] On a later appeal from Johnson's conviction upon retrial, *United States* v. *Johnson*, 4 Cir., 1969, 419 F.2d 56, it was held that the grand jury's receipt of evidence about Johnson's speech, while "constitutionally impermissible," did not invalidate the indictment, citing *Costello* v. *United States*, 1956, 350 U.S. 359.

ble in its application to written reports presented in that body by its committees, to resolutions offered, which, though in writing, must be reproduced in speech, and to the act of voting, whether it is done vocally or by passing between the tellers. In short, to things generally done in a session of the House by one of its members in relation to the business before it.

In view of the primary purpose of the privilege "to prevent intimidation by the Executive and accountability before a possibly hostile Judiciary," *United States* v. *Johnson, supra* at 181, the protection of the privilege afforded by the Speech or Debate Clause may be broader in criminal proceedings than in civil. Therefore the court sustains Senator Gravel's claim that whatever he did at the subcommittee meeting on June 29 and certain acts done in preparation therefor are privileged.

The Government has argued that the Senator's conduct at the subcommittee meeting is unprivileged because the purpose of the meeting, the reading of the Pentagon Papers, was unrelated to any investigation or undertaking authorized by the parent Committee on Public Works or by the Senate in its delegation of power to the parent committee. Senator Gravel has suggested that the availability of funds for the construction and improvement of public buildings and grounds has been affected by the necessary costs of the war in Vietnam and that therefore the development and conduct of the war is properly within the concern of his subcommittee. The court rejects the Government's argument without detailed consideration of the merits of the Senator's position, on the basis of the general rule restricting judicial inquiry into matters of legislative purpose and operations. "To find that a committee's investigation has exceeded the bounds of legislative power it must be obvious that there was a usurpation of functions exclusively vested in the Judiciary or the Executive." *Tenney* v. *Brandhove,* 1951, 341 U.S. 367, 378.

There are, of course, occasions when a court is obliged to scrutinize the powers of a congressional committee and the relationship of its activities to its legitimate legislative purpose. But such occasions have been limited to cases in which the power of Congress under the Constitution has been at issue, e.g., *Kilbourn* v. *Thompson, supra,* or where the constitutional rights of individuals have been jeopardized by congressional action, as in cases dealing with prosecutions under 2 U.S.C. § 192 for contempt of Congress, e.g., *Watkins* v. *United States,* 1957, 354 U.S. 178. As stated in the latter case, at 205:

> "It is, of course, not the function of this Court to prescribe rigid rules for the Congress to follow in drafting resolutions establishing investigating committees. That is a matter peculiarly within the realm of the legislature, and its decisions will be accepted by the courts up to the point where their own duty to enforce the constitutionally protected rights of individuals is affected."

It has not been suggested by the Government that the subcommittee itself is unauthorized, nor that the war in Vietnam is an issue beyond the purview of congressional debate and action. Also, the individual rights at stake in these proceedings are not those of a witness before a congressional committee or of a subject of a committee's investigation, but only those of a congressman and member of his personal staff who claim "intimidation by the executive." *United States* v. *Johnson, supra,* at 181. "The courts have no right to dictate . . . the procedures for Congress to follow in performing its functions . . . ." *United States* v. *Hintz,* N.D. Ill., 1961, 193 F. Supp. 325, 331. Judging the applicability of the legislative privilege in the exercise of the functions of a legislator's office should be done "without inquiring whether the exercise was regular according to the rules of the House, or irregular and against their rules." *Coffin* v. *Coffin,* 1808, 4 Mass. 1, 27.

Senator Gravel's arranging for private publication of the Pentagon Papers by Beacon Press stands on a different footing and, in the court's opinion, is not embraced by the Speech or Debate Clause.[5] The test is not the public benefit or political value of such private publication [6] but whether it is a legislative act, i.e., "related to the due functioning of the legislative process," *United States* v. *Johnson, supra* at 172, or "generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn* v. *Thompson, supra* at 204. Guidance is available mainly in decisions in civil actions dealing with congressmen's civil liability for libel. A distinction has been drawn in the cases between defamatory words inserted in the Congressional Record, held to be privileged, and defamation resulting from a congressman's circulation of reprints or copies of the Congressional Record to his constituents. As to the latter, *McGovern* v. *Martz,* D.D.C., 1960, 182 F.Supp. 343, held that the absolute privilege of the Speech or Debate Clause does not apply to republication, stating at 347, "The reason for the rule—complete and uninhibited discussion among *legislators*—is not here served." See *Restatement of Torts,* 1938 ed., § 590, comment b. In *Hentoff* v. *Ichord,* D.D.C., 1970, 318 F.Supp. 1175, an issue was whether the court had power to enjoin distribution of a House committee report by the Public Printer and Superintendent of Documents. In holding that it did, the court said at 1180, "Nothing in the Constitution or the cases suggests, however, that a committee report is a necessary adjunct to speech or debate in Congress. . . . and its further printing and public distribution is not necessary to give effect to the freedom of congressmen to speak and debate on or off the floor. The Speech or Debate Clause does not necessarily bar an action to enjoin the Public Printer from printing a committee report for public distribution."

While recognizing a special vitality attaching to the Speech or Debate Clause in criminal proceedings, *United States* v. *Johnson, supra* at 180–182, the court nevertheless concludes that the reasoning of these civil cases is valid and in the instant case controlling.

Having delineated the area of Senator Gravel's conduct which may not be investigated by the grand jury, the court turns to the question whether some of Dr. Rodberg's activities are also protected from investigation, not because of any privilege of his own but by reason of his having acted as the Senator's agent and assistant in the Senator's performing various legislative acts.[7] The Senator and witness submit, and the court agrees, that the legislative privilege enjoyed by a senator must extend to some activities of a member of his personal staff acting at his direction. To rule otherwise would dilute and jeopardize the privilege itself. For example, speeches delivered on the floor of Congress are often drafted by a skilled staff assistant and not by the congressman himself; to make such an assistant accountable for the content of a speech drafted by him would serve to defeat the privilege. A legislator's dependence upon confidential assistants is analogous to a lawyer's, whose client's privilege against disclosure of confidential communications has been held applicable to the lawyer's assistants. *United States* v. *Kovel,* 2 Cir., 1961, 296 F. 2d 918. The opinion in that case stated at 921, "The complexities of modern existence prevent attorneys from effectively handling clients' affairs without the help of others . . . ." This holding has been adopted by the Proposed Rules of Evidence for the United States Courts, Preliminary Draft, 1969, Rule 5–02(b). Although the attorney-client privilege is of ancient origin, 8 Wigmore, Evidence (McNaughton Rev. 1961), § 2290, p. 542, and is grounded on strong social policy, it is not a constitutional privilege and surely does not warrant broader protection than the legislative privilege based upon the Speech or Debate Clause. In this respect the legislative privilege is akin to the executive privilege about which the Supreme Court in *Barr* v. *Matteo,* 1959, 360 U.S. 564, commented at 573:

> The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy.

*Powell* v. *McCormack,* 1969, 395 U.S. 486, and similar cases permitting actions against subordinate employees of legislative bodies are distinguishable. Employees held accountable in such cases were administrative personnel whose non-discretionary duties to the legislative body as a whole in no substantial way related to the specific furtherance of the legislative tasks of individual members. Such institutional employees clearly have less impact upon legislation than personal staff members entrusted by the legislator himself with sensitive and confidential duties. Therefore the court holds that the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Sentaor's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally.

Lastly, the relief to which Senator Gravel is entitled under the particular circumstances here presented must be determined in the light of two of the principles derived from the decisions discussed in this memorandum: a congressman may not be prosecuted for legislative acts but may be prosecuted for non-legislative acts; and in any such prosecution no evidence from any source of a congressman's legislative acts may be considered against him. A further consideration is the self-evident proposition that no prosecuting attorney, grand jury foreman or other official has lawful authority to prohibit or foreclose a federal grand jury from investigating any offenses against the United States. Therefore, if Senator Gravel's rights under the Speech or Debate Clause are to be fully protected, a protective order will be required limiting the subject matter of the current grand jury's investigation and not merely the questions which may be put to Dr. Rodberg, the witness under subpoena.

For the foregoing reasons it is ordered that the motions to quash and for specification be denied, but that the following protective order be entered:

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the ex-

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[5] The Senator has made no specific claim that his legislative privilege extends to his actions subsequent to the subcommittee hearing. However, this claim has been advanced by Dr. Rodberg and contested by the Government and hence the court has considered it.

[6] The importance of the "informing function of Congress" is described in powerful terms in a quotation from Wilson, Congressional Government (1885), 303, set forth in fn. 6 of the opinion of the Court in *Tenney* v. *Brandhove, supra* at 377.

[7] Despite *Kilbourn* v. *Thompson, supra,* and *Tenney* v. *Brandhove, supra,* the related doctrine of legislative immunity is applicable, though not absolutely, to officers and employees of legislative bodies. *Dombrowski* v. *Eastland,* 1967, 387 U.S. 82, 85. In this sense, therefore, such employees have rights flowing from the Speech or Debate Clause.

tent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting.

W. ARTHUR GARRITY, Jr.
*U.S. District Judge.*

EXHIBIT B

[United States Court of Appeals for the First Circuit No. 71-1331]

MEMORANDUM AND ORDER ENTERED OCTOBER 29, 1971

(United States of America, v. John Doe, Mike Gravel, U.S. Senator, Intervenor, Appellant)

(Same, v. Same, No. 71-1332)

(Same)

(Before McEntee and Coffin, Circuit Judges)

Hearing having been held on Intervenor's motion for stay pending appeal from the district court's denial of his motion for further relief and, it appearing that: (1) the integrity of the processes of a grand jury must not be lightly regarded; (2) the grand jury here convened is not restricted to investigation of the specific crimes described below; (3) the allegations of possible infringements of the rights of the Intervenor under Article I, Section 6, Clause 1, of the Constitution of the United States as well as allegations of violation of the doctrines of separation of powers, raise important issues of substance, the harm of any such alleged infringements being irreparable; (4) as expedited schedule for hearing * * * as related issues has been adopted, such hearing to be held on November 4, 1971, and it being contemplated that speedy disposition of these issues including those raised at the instant motion, may be forthcoming.

It is Hereby Ordered that until further order of this court, the grand jury shall not pursue its inquiry into the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), or conspiracy to commit such offenses or to defraud the United States (18 U.S.C. § 371) insofar as these or any other crimes may relate to the so-called "Pentagon Papers", in whatever form. However, it shall be empowered to continue its investigation into any other crimes.

It is further ordered that the parties be excused from reproducing the records on appeals in appendix form, that appellants' brief is to be filed on or before five p.m., Monday, November 1, 1971, and that appellee's brief is to be filed on or before five p.m. Wednesday, November 3, 1971. It is further ordered that the parties are granted leave to file four copies of their briefs in reproduced form to comply with Rule 5(d) and that service of said briefs is to be made in hand.

By the Court:

DANA H. GALLUP,
*Clerk.*

EXHIBIT C

(United States Court of Appeals for the First Circuit No. 71-1881.)

MEMORANDUM AND ORDER
Entered November 29, 1971

(United States of America, v. John Doe, Mike Gravel, U.S. Senator, Intervenor, Appellant.)

(No. 71-1332)

(United States of America, v. John Doe, Mike Gravel, U.S. Senator, Intervenor, Appellant.)

(Before Aldrich, Chief Judge, McEntee and Coffin, Circuit Judges.)

It is ordered that the grand jury may pursue its inquiry into crimes relating to the so-called Pentagon Papers, provided that neither Senator Mike Gravel nor any member of his staff or of the staff of the subcommittee on Buildings and Grounds shall be subpoenaed to testify, and no witness shall be questioned concerning the acquisition, use, publication, or republication of the Pentagon Papers by Senator Mike Gravel or by any member of the staff as above defined, until further order of this court. The restraining order entered October 29, 1971 shall remain in full force in all other aspects until further order of this court.

By the Court:

DANA H. GALLUP,
*Clerk.*

[In the Supreme Court of the United States October Term, 1971]

MIKE GRAVEL, U.S. SENATOR, PETITIONER, VERSUS UNITED STATES, RESPONDENT

MOTION OF UNITARIAN UNIVERSALIST ASSOCIATION FOR LEAVE TO INTERVENE

Comes now the Movant, Unitarian Universalist Association, a religious corporation duly incorporated under the laws of the Commonwealth of Massachusetts, and moves this Honorable Court to vacate the Memorandum and Order of the United States Court of Appeals for the First Circuit entered January 18, 1972 (a copy of which is appended hereto as Exhibit C), and grant Movant leave to intervene in these proceedings and leave to file a Motion to Stay Mandate.

Movant gives as its reasons for this Motion that it has an interest in the granting of such a stay and in the decision of this Court as to whether or not to allow Senator Mike Gravel's Petition for Writ of Certiorari when same be filed, and that the Movant is so situated as to be adversely affected by the Judgment of the Court below, and as a practical matter said Judgment will impair or impede Movant's ability to protect its interests. Rule 24(a), F.R.Civ.P.; *Cascade Natural Gas Corporation* v. *El Paso Natural Gas Co.*, 386 U.S. 129 (1967).

Movant filed in the Court below a Motion to Intervene (Exhibit A) and a Motion for Reconsideration (Exhibit B), but intervention was denied (Exhibit C).

Respectfully submitted,
HARVEY A. SILVERGLATE,
Zalkind & Silverglate,
*Counsel for Movant.*

Of Counsel: Frank B. Frederick, William B. Duffy, Jr., Johnson, Clapp, Stone & Jones, Boston, Mass., Norman S. Zalkind, Boston, Mass., Alan M. Dershowitz, Cambridge, Mass.

EXHIBIT A

[U.S. Court of Appeals for the First Circuit]

UNITARIAN UNIVERSALIST ASSOCIATION'S MOTION TO INTERVENE

(United States of America v. John Doe, Mike Gravel, U.S. Senator, Intervenor, appellant—No. 71-1331)

(Same, v. Same, Same—No. 71-1332)

Of Counsel:

Alan M. Dershowitz, Harvard Law School, Cambridge, Massachusetts 02138.

Norman S. Zalkind, Harvey A. Silverglate, Zalkind & Silverglate, Boston, Massachusetts 02110.

Frank B. Frederick, William B. Duffy, Jr., Johnson, Clapp, Stone & Jones, Boston, Masachusetts 02108.

1. Comes now the Unitarian Universalist Association and moves to intervene in the above-entitled and numbered actions.

2. Movant is a religious association established more than 200 years ago and incorporated under the laws of the Comonwealth of Massachusetts. It has its principal offices at 25 Beacon Street, Boston, Massachusetts.

3. Beacon Press is a division of Movant and is subject to its direction and control.

4. This Court, in its Opinion in the above-entitled case delivered on January 7, 1972, stated that "we would hold, if this appeal can be thought to raise that question, that whatever Beacon press did is freely inquirable even to the extent, if any (it has not presently been suggested), that it may have made payments to intervenor [Senator Gravel] or others in connection with the [Pentagon] Papers subsequent to their introduction into the subcommittee records." (Slip Opinion at 12-13.)

5. In view of the above-quoted language in this Court's opinion, it is evident that Movant's substantial rights and interests have been brought into this proceeding and have been decided and resolved by this Court against Movant. It is at this stage that, for the first time, Movant's rights have been clearly, directly and specifically decided by a court, despite the absence of Movant as a party, intervenor, or *amicus* in the proceedings to date. Movant has a substantial interest in putting its views before this Court in any reconsideration of the January 7, 1972 Opinion which might be undertaken, as well as a substantial interest in pursuing Supreme Court review of questions decided by this Court adversely to Movant.

6. In order for Movant's interests and rights to be protected adequately, it is necessary for Movant to intervene herein in order that its rights are not irreparably prejudiced and injured by an adjudication to which it is not a party and in which it is not heard.

7. Movant would not be assured of adequate representation by any of the present parties to this proceeding, despite the fact that Movant herein claims rights derivative of Senator Gravel's rights emanating from the Speech or Debate Clause of the Constitution. The interests of Movant and of Senator Gravel, while overlapping, are not identical, for several reasons. First of all, the Government has stated in this Court that it has no intention of either questioning or indicting Senator Gravel, while the Government has given strong indication of its interest in inquiring of and perhaps in indicting agents of Beacon Press. (See "Opposition to Plaintiff's Application for Temporary Restraining Order" filed by the Government in *Unitarian Universalist Association, et cetera,* v. *Joseph L. Tauro, et al.,* Civil Action No. 72-136-C.) Secondly, a Senator might at any time drop plans to pursue Supreme Court review in such a case as this for reasons completely independent of whether or not he desires to protect the interests of third parties, and such third parties should be allowed to pursue an appeal separately on their independent standing in order to vindicate rights under the Speech or Debate Clause which they believe they have premanently and irrevocably acquired and which they believe have attached to their actions regardless of whether or not the Senator is later in a position to pursue these rights to the ultimate extent possible. Beacon Press, having relied upon its relationship with the Senator in publishing the work in question, and having done so under the assumed mantle of protection offered by the Speech or Debate Clause, should not now have to insist upon and rely upon the Senator's continuing litigation in Beacon's behalf. The purposes of the Speech or Debate Clause would be ill served if parties acting under its mantle of protection must be entirely reliant upon the willingness or the ability of a Senator to pursue such parties' interests to the highest tribunal.

8. Movant's claims and the claims raised in the main action have questions of law and fact in common.

9. Allowing Movant's intervention herein would probably serve the cause of judicial economy since Beacon Press would, if necessary, have to pursue its claims under the Speech or Debate Clause through the federal courts in another proceeding, whether it be in an action to quash a subpoena, defend against an indictment, or the like.

While there could be no guarantee that Beacon would not raise the issue later despite intervention in this case, nevertheless it would be best to attempt to settle in this proceeding the question of Beacon Press' rights. This would also serve to protect Beacon from suffering irreparable injury while it is being inquired into or while its records are being perused by executive and judicial bodies acting under the ambit of this Court's January 7, 1972, Opinion. Movant submits that it would be best for all parties concerned to have Movant's rights adjudicated in this proceeding with Movant participating as a party.

10. Movant asserts that this intervention is covered by Rule 24(a), Federal Rules of Civil Procedure (Intervention of Right) ("[A]nyone shall be permitted to intervene . . . when the applicant . . . is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."), but it is also covered by F.R.C.P. Rule 24(b) (Permissive Intervention) ("[A]nyone may be permitted to intervene . . . when an applicant's claim or defense and the main action have a question of law or fact in common.").

11. Movant was not aware from the proceedings below or from the proceedings in this Court prior to January 7, 1972, that Movant's interests would be so directly involved at this stage, and it is only because this Court has so clearly indicated that Movant's interests are now involved and because this Court proceeded to decide issues concerning Movant that it now becomes apparent to Movant that intervention is necessary in order to fully protect Movant's rights. Movant should not be excluded from deliberations resulting in decisions which so directly affect its interests.

12. In the alternative, Movant prays this Honorable Court to allow intervention for purposes of Movant's seeking Supreme Court review of the aforesaid Opinion and Judgment.

Respectfully submitted,
Frank B. Frederick,
William B. Duffy, Jr.,
Johnson, Clapp, Stone & Jones,
*Attorneys for Unitarian Universalist Association.*

Of Counsel:

Alan M. Dershowitz, Harvard Law School, Cambridge, Massachusetts 02138.

Norman S. Zalkind, Harvey A. Silverglate, Zalkind & Silverglate, Boston, Massachusetts 02110.

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### Exhibit B

[U.S. Court of Appeals for the First Circuit]

### Unitarian Universalist Association's Petition for Reconsideration

United States of America v. John Doe, No. 71–1331

Mike Gravel, U.S. Senator, Intervenor, Appellant, Unitarian Universalist Association, Intervenor

Same v. Same, Same, No. 71–1332

Frank B. Frederick, William B. Duffy, Jr., Johnson, Clapp, Stone & Jones, Boston, Massachusetts 02108.

Of Counsel:

Alan M. Dershowitz, Harvard Law School, Cambridge, Massachusetss 02138.

Norman S. Zalkind, Harvey A. Silverglate, Zalkind & Silverglate, Boston, Massachusetts 02110.

Pursuant to Rule 40 of the Federal Rules of Appellate Procedure, the Unitarian Universalist Association (hereinafter "Association") moves this Honorable Court to reconsider its Opinion and Judgment issued January 7, 1972, insofar as that Opinion and Judgment denies to third parties, including the Beacon Press (a division of the Association), protections emanating from Senator Mike Gravel's privileges and rights under the Speech or Debate Clause of the Constitution, the constitutional doctrine of separation of powers, and the common law privileges of legislators and publishers.

The arguments contained herein were not presented previously, and the Association did not seek representation in this case, because it did not become apparent that the Association's rights would be directly and expressly dealt with until the issuance of the Court's opinion on January 7th. Moreover, the expedited schedule which was set for the case restricted the amount of research that Senator Gravel's attorneys were able to do.

In holding that the Speech and Debate Clause privilege did not extend to republication, this Court stated that

"Two English cases, decided shortly after the enactment of the American Constitution, held that the parliamentary privilege did not immunicize members from civil liability for libels contained in privately published reproductions of their parliamentary speeches. Rex v. Greevey, 1813, 1 Maule & Selwyn 272; Rex v. Lord Abington, 1795, 1 Esp. N.P. Cases 228." (Slip op. at 9)

The Association requests that this Court reconsider its reliance upon these cases in view of the Parliamentary Papers Act, Cap. IX, 3 & 4 Victoria (1840), and *Wason v. Walter*, L.R. 4 Q.B. 73 (1868). In the Parliamentary Papers Act, Parliament partially rejected the interpretation of the English Constitution advanced in the *Creevey* and *Abington* cases, *supra*, by providing immunity to publishers of parliamentary papers, reports, votes and proceedings. Subsequently, in *Wason v. Walter, supra*, the Court went beyond the Parliamentary Papers Act and held that the parliamentary privilege protected a bookseller against a libel action for publication of a member's speech.*

Even if *Rex v. Greevey* and *Rex v. Lord Abington, supra*, were good law, they would be inapposite because they involved private libel actions. As the Supreme Court stated in *United States v. Johnson*, 383 U.S. 169, 180–81 (1966), "it is apparent from the history of the [Speech and Debate] clause that the privilege was not born primarily of a desire to avoid private suits . . . but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary." In the instant case, the executive seeks to investigate and possibly to prosecute because information belonging to the executive was made public by a member of the legislature. Fundamental issues of the separation of powers are involved, and cases involving private litigants are therefore distinguishable.

In addition to the arguments advanced above, the Association adopts the arguments made by Senator Gravel in his Petition for Reconsideration of the Judgment of January 7, 1972.

Respectfully submitted,
Frank B. Frederick,
William B. Duffy, Jr.,
Johnson, Clapp, Stone & Jones,
*Attorneys for the Unitarian Universalist Association.*

Of Counsel:

Alan M. Dershowitz, Harvard Law School, Cambridge, Massachusetts 02138.

Norman S. Zalkind, Harvey A. Silverglate, Zalkind & Silverglate, 65A Atlantic Ave., Boston, Mass. 02110.

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### Exhibit C

[U.S. Court of Appeals for the First Circuit]

### Memorandum and Order—Entered January 18, 1972

(United States of America v. John Doe, No. 71–1331—Mike Gravel, U.S. Senator, Intervenor, Appellant)

(Same v. Same; Same, No. 71–1332)

The Unitarian Universalist Association, hereinafter Association, moves to intervene, pointing to the fact that in our opinion of January 7 we stated that Senator Gravel's rights based upon the Speech or Debate clause would not prevent all inquiry of the Beacon Press, said to be owned by the Association. The Association urges that if it is not allowed to intervene it will be bound by our decision. This, of course, cannot be so; it was not a party. All that we are holding is that the Senator's privilege, so far as he is concerned, to object to inquiry is not that extensive. He, but not the Association, is presently bound by our decision.

The Association's motion to intervene to raise on its own behalf a privilege not to testify seeks precisely what is forbidden by *Cobbledick* v. *United States*, 1940, 309 U.S. 323. It is denied.

By the Court:

/s/ Dana M. Gallup,
*Clerk.*

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[In the Supreme Court of the United States, October Term, 1971]

### Mike Gravel, U.S. Senator, Petitioner, v. United States, Respondent

Unitarian Universalist Association, Intervenor

### MOTION OF INTERVENOR UNITARIAN UNIVERSALIST ASSOCIATION TO STAY MANDATE; OR, IN THE ALTERNATIVE, MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE, AND BRIEF AMICUS CURIAE.

Comes now intervenor Unitarian Universalist Association and moves this Honorable Court to stay mandate of the Judgment of the United States Court of Appeals for the First Circuit entered on January 18, 1972 (appended hereto as Exhibit A), which mandate will otherwise issue on January 26, 1972, pending the filing by Senator Mike Gravel of a Petition for Writ of Certiorari and the filing by Movant of a Petition for Writ of Certiorari (if intervention is granted) or a brief *amicus curiae* (if intervention is denied) and a final determination of the matter by this Court. In support of this application, Movant states as follows:

1. Movant and its publishing arm the Beacon Press, in collaboration with Senator Mike Gravel, Petitioner in this proceeding, published the record of the meeting of the Senate Subcommittee on Buildings and Grounds held on June 29, 1971, containing portions of the so-called "Pentagon Papers" which had been placed or read into the record of the meeting by Senator Gravel.

2. The opinions of the Court below (appended to Petitioner Gravel's Motion for Stay of Mandate Pending Review on Certiorari) hold that Movant does not have a privilege under the Speech or Debate Clause of the Constitution, Article I, Section 6, to be free from Grand Jury inquiry concerning the publication of the said Subcommittee record.

3. Senator Gravel has told Movant that Movant is protected by the Senator's Speech or Debate privilege, and the Senator has ordered Movant and its agents to refrain from testifying before a Grand Jury or any Judicial or other body with respect to the said publication.

4. Movant has already received two subpoenas *duces tecum* from the Grand Jury sitting in Boston, Massachusetts, both of which were withdrawn due to the pending Court of Appeals stay order of October 29,

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* The Association maintains that the doctrines of the Parliamentary Papers Act and *Wason v. Walter* are incorporated in the Speech and Debate Clause and in the American common law concept of separation of powers, and that therefore publishers have *independent* standing to assert a "legislative" privilege against being questioned or prosecuted by reason of the publication of legislative speeches.

1971, but Movant believes that the said subpoenas will be reissued if and when mandate issues herein. Movant will then be placed in the untenable position of having either to obey the Senator's admonition to act under his privilege and thereby risk contempt of court, or to ignore the Senator's wishes and risk betraying a privileged relationship without specific direction from the Highest Court of the Land.

Wherefore, Movant prays the Court to stay the mandate of the Court below pending review on certiorari. Movant further prays that in the alternative this Court treat this Motion as a Brief *amicus curiae*.

Respectfully submitted,

HARVEY A. SILVERGLATE.
ZALKIND & SILVERGLATE.

Of Counsel:

Frank B. Frederick, William B. Duffy, Jr., Johnson, Clapp, Stone & Jones, Boston, Mass. Norman S. Zalkind, Boston, Mass. Alan M. Dershowitz. Cambridge, Mass.

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EXHIBIT A

[U.S. Court of Appeals for the First Circuit]

MIKE GRAVEL, U.S. SENATOR, INTERVENOR, APPELLANT

(United States of America, v. John Doe, No. 71-1331)

(Same, v. Same, Same, No. 71-1332)

### ORDER OF COURT

Entered January 18, 1972.

Pursuant to opinion of instant date, the broad stay granted on October 29, 1971, as modified, is hereby revoked and there is substituted the order contained in the Judgment of January 7, 1972 as clarified by the explanatory clause contained in our opinion defining "actions" and "in the broadest sense, including observations and communications, oral or written, by or to him or coming to his attention."

The present order of revocation and substitution is stayed until January 26, 1972.

The motion for clarification is otherwise denied.

The motion for reconsideration is denied.

By the Court:

/S/ DONA H. GALLUP, *Clerk*.

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[In the Supreme Court of the United States, October Term, 1971]

MIKE GRAVEL, U.S. SENATOR, PETITIONER, v. UNITED STATES

### OPPOSITION TO APPLICATION FOR STAY OF MANDATE OF THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Petitioner, Mike Gravel, United States Senator, requests a stay of the mandate of the United States Court of Appeals for the First Circuit, which will otherwise issue on January 26, 1972, pending the filing of a petition for certiorari and a final determination of the matter by this Court. The government opposes such a stay. The relevant facts are set forth in the opinion of the court of appeals (pp. 2–3 of the slip opinion, Exhibit D to Application for Stay) and in the application.

1. The stay requested by petitioner would cause the following order entered by the court of appeals on November 29, 1971, to remain in effect:

It is ordered that the grand jury may pursue its inquiry into crimes relating to the so-called Pentagon Papers, provided that neither Senator Mike Gravel nor any member of his staff or of the staff of the subcommittee on Buildings and Grounds shall be subpoenaed to testify, and no witness shall be questioned concerning the acquisition, use, publication, or republication of the Pentagon Papers by Senator Mike Gravel or by any member of the staff as above defined, until further order of this Court. The restraining order entered October 29, 1971 shall remain in full force in all other aspects until further order of this Court.

If, on the other hand, the stay application is denied, the following protective orders entered on January 7, 1972 (and revised on January 18, 1972) would limit the grand jury's investigation:

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions "in the broadest sense, including observations and communications, oral or written, by or to him, or coming to his attention" while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment.

Unlike the order of November 29, 1971, the January 7, 1972, order permits questioning of persons other than Senator Gravel and Dr. Rodberg about republication of the paper. It also permits some questioning of third persons, including Dr. Rodberg for the period before his employment by Senator Gravel, concerning events prior to the June 29, 1971, meeting of the Senator's subcommittee.

2. The decision by both courts below that republication is not protected by the Speech and Debate Clause has been resolved in the same way by every other court that has considered the question in the past. See, *e.g.*, *Long* v. *Ansell*, 69 F. 2d 386 (C.A. D.C.), affirmed, 293 U.S. 76; *McGovern* v. *Martz*, 182 F. Supp. 343 (D.D.C.). See also, *Restatement of Torts*, 1938 ed. § 590 Comment b; 1 Story, "Commentaries on the Constitution of the United States," (5th Ed. 1905) § 866, N. (a).

In ruling that witnesses could be questioned concerning arrangements made for private publication of the "McNamara Papers," the court below properly ruled that the privilege embodied in the Speech or Debate Clause does not apply, since the reason for the rule, uninhibited discussion among legislators, does not extend to such republication.[1] See *Long* v. *Ansell*, 69 F. 2d 386 (C.A. D.C.), affirmed, 93 U.S. 76; *McGovern* v. *Martz*, 182 F. Supp. 343 (D.D.C.).

The test suggested by *Kilbourn* v. *Thompson*, 103 U.S. 168, is that the immunity conferred by the Speech or Debate Clause envisions only ". . . things generally done in a session of the House by one of its members in relation to the business before it." 103 U.S. at 204. As the court of appeals concluded, whatever legislative business of the Senate petitioner may have been engaged in at midnight on June 29, 1971, terminated at the close of the Subcommittee hearing that night; and subsequent *private* publication of documents disclosed that night is not rendered immune from a grand jury investigation by the Speech and Debate Clause.

The ruling of the court of appeals on this issue conforms to earlier authority. In *Long* v. *Ansell*, 69 F. 2d 386 (C.A. D.C.), affirmed, 293 U.S. 76, suit was filed against Senator Long for printing and distributing several libelous articles alleged to be a reprint of a speech made by him in the Senate. Affirming a denial of a motion to quash the subpoena served upon the legislator, the court of appeals noted:

"The charge here is not for slander resulting from a speech made on the floor of the Senate, but for libel in publishing and distributing a copy of the speech. . . . The acts charged have only remote connection with the speech. While the published articles were in part reproductions of the speech, the offense consists not in what was said in the Senate but in the publication and circularizing of the documents."

*Long* confirms the long-standing rule in both American and English common law that republication of legislative documents is privileged only to a qualified extent. The *Restatement of Torts* § 590, Comment b, states the general rule:

"* * * Defamatory matter spoken or otherwise uttered in a legislative proceeding is a publication thereof and a report of the legislative proceeding is a republication of the defamatory matter. Such republication is not absolutely privileged under the rule stated in this Section, but is conditionally privileged under the rule stated in § 611. Thus there is no absolute privilege to disseminate the Congressional Record or reprints therefrom, either by a Senator or a Congressman or by a third person."

In a case following *Long*, *McGovern v. Martz*, 182 F. Supp. 323 (D.D.C.) the court explained:

"But what of republication? Should an absolute privilege exist to bar suits for defamation resulting from a Congressman's circulation of reprints or copies of the Congressional Record to non-Congressmen? The reason for the rule—complete and uninhibited discussion among *legislators*—is not here served. Accordingly, the absolute privilege to inform a fellow legislator (either by way of speech on the floor or writings inserted in the Record) becomes a qualified privilege for the republication of the information. 'Though a member of congress is not responsible out of Congress for words spoken there, though libellous upon individuals; yet if he causes his speech to be published, he may be punished as for a libel by action or indictment. This is the English and the just law.' 1 Kent's Commentaries 249, Note c 8th Ed. 1854." (182 F. Supp. at 347)

This rule is in harmony with collateral doctrines. For example, only a qualified privilege exists for the unofficial circulation of copies of a defamatory judicial opinion. See, e.g., *Murray* v. *Brancato*, 290 N.Y. 52, 48 N.E. 2d 257; *Francis* v. *Branson*, 168 Okl. 24, 31 P. 2d 870.

3. Petitioner claims that he will be injured if a stay is not granted. Since we believe he enjoys no constitutional protection as to testimony by third persons concerning republication, we contend that he will suffer no cognizable injury, but in any event, the possibility of harm to petitioner must be balanced against the damage to the public interests if the stay is granted, and only if the balance of the equities favors the applicant should the stay be granted. *United States* v. *United Liquors Corp.*, 77 S. Ct. 208, 1 L. Ed. 32 (Opinion of Mr. Justice Reed as Circuit Justice). Here, a grand jury investigation of possible violations of the espionage act has been thwarted since October 4, 1971. The protective order now entered by the court of appeals will continue to inhibit sharply the grand jury's functioning; and it would be inappropriate to interfere further with the grand jury by closing off this area of questioning which the order allows, and which is so plainly proper. Cf. *Railway Express Agency* v. *United States*, 82 S. Ct. 466, 7 L. Ed. 432 (Opinion of Mr. Justice Harlan as Circuit Justice).

4. The order of the court of appeals also allows some questioning of persons other than Senator Gravel and Dr. Rodberg about their dealings with the Senator and his aides concerning the meeting and preparation for it, so long as the questions are not "directed

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[1] The court's original opinion indicates clearly that its holding that private republication is not protected by the Clause does not depend, as petitioner suggests (Application for Stay, p. 5), on the irrelevance of the papers to the proper business of the subcommittee (Slip. op., pp. 8–11).

to the motives or purposes behind the Senator's conduct at that meeting. . . ." (See also the clarification of this part of the order in the court's opinion on petition for rehearing, pp. 4–5, Exhibit F.) It is the government's position that this part of the order allows too little questioning rather than too much.

It is therefore respectfully submitted that the application for a stay should be denied.

ERWIN N. GRISWOLD,
*Solicitor General.*

January 1972.

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[Supreme Court of the United States, No. A–746, October Term]

MIKE GRAVEL, PETITIONER, VERSUS UNITED STATES

ORDER

Upon consideration of the application of counsel for the petitioner,

It is ordered that the stay of the mandate in Cases No. 71–1331, 71–1332 ordered by the United States Court of Appeals for the First Circuit dated January 18, 1972, be, and it is hereby, continued until February 10, 1972.

However, if the petition for a writ of certiorari is filed on or before February 10, 1972, the stay is to remain in effect pending disposition of the case in this Court or until further order.

Due to the shortness of time, the printing of both the petition for a writ of certiorari and the brief in opposition is not initially required.

WILLIAM J. BRENNAN, Jr.,
*Associate Justice of the Supreme Court of the United States.*

Dated this 24th day of January, 1972.

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[IN THE SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1971]

MIKE GRAVEL, PETITIONER, VERSUS UNITED STATES, RESPONDENT

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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CITATIONS

*United States Constitution*

Article I, Section 6, Clause 1.

*Cases*

*Barr v. Matteo,* 360 U.S. 564 (1959).
*Bond v. Floyd,* 385 U.S. 116 (1966).
*DeGregory v. Attorney General of New Hampshire,* 383 U.S. 825 (1966).
*Dombrowski* v. *Eastland,* 387 U.S. 82 (1967).
*Hearst* v. *Black,* 84 F.2d 68 (D.C.Cir. 1936).
*Hentoff* v. *Ichord,* 318 F.Supp. 1175 (D.D.C. 1970).
*Howard* v. *Lyons,* 360 U.S. 593 (1959).
*Kilbourne* v. *Thompson,* 103 U.S. 168 (1881).
*Long* v. *Ansell,* 69 F.2d 386 (D.C.Cir. 1934) 293 U.S. 76 (1934).
*McGovern* v. *Martz,* 182 F.Supp. 343 (D.D.C. 1960).
*Methodist Federation for Social Action* v. *Eastland,* 141 F.Supp. 729 (D.D.C. 1956).
*Perlman* v. *United States,* 247 U.S. 7 (1918).
*Powell* v. *McCormack,* 395 U.S. 486 (1969).
*Proceedings against Sir John Eliot,* 3 How. St. Tr. 294 (1668).
*Rex* v. *Abington,* 1 Esp. 226, 170 Eng. Rep. 337 (1795).
*Rex* v. *Creevey,* 1 M&S 273, 105 Eng. Rep. 102 (1813).
*Rex* v. *Williams,* 2 Show. K.B. 471, 89 Eng. Rep. 1048 (1794).
*Rex* v. *Wright,* 8 T.R. 293, 101 Eng. Rep. 1396 (King's Bench, 1799).
*Tenney, et al* v. *Brandhove,* 341 U.S. 367 (1951).
*United States* v. *Brewster,* No. 1025, jurisdiction postponed, 401 U.S. 935, No. 70–45 (restored to the calendar for reargument) 40 U.S.L.W. 3351.
*United States* v. *John Doe.* In the Matter of a Grand Jury Subpoena Served Upon Leonard S. Rodberg, 332 F.Supp. 930 (D.Mass. 1971).
*United States* v. *Johnson,* 383 U.S. 169 (1966).
*United States* v. *Ryan,* 402 U.S. 530 (1971).
*Wason* v. *Walter,* L.R. 4 Q.B. 73 (1868).
*Watkins* v. *United States,* 354 U.S. 178 (1957).
*Yellin* v. *United States,* 374 U.S. 109 (1963).

*Statutes*

28 U.S.C. Sec. 1254(1).
28 U.S.C. Sec. 1291.

*Miscellaneous*

*Congressional Government,* Woodrow Wilson (1885).
Landis, *Constitutional Limitations on the Congressional Power of Investigation,* 40 Harv. L. Rev. 153.
*Report by the United States National Advisory Commission on Civil Disorders* (Bantam Books, N.Y. 1968) ("The Kerner Commission Report").
*Report of the Commission on Obscenity and Pornography* (introd. by Barnes, Bantam Books, N.Y. 1970).
*Rights in Conflict: The Violent Confrontation of Demonstrators and Police in the Parks & Streets of Chicago During the Week of the Democratic Convention of 1968* (Report to the National Commission on the Causes and Prevention of Violence, introd. by Max Frankel) (E. P. Dutton & Co., N.Y. 1968) ("The Walker Report") (also published by New American Library, introd. by Donovan, N.Y. 1968).
*II Works of James Wilson* (Andrews ed. 1896).
*The Challenge of Crime in a Free Society* (President's Commission on Law Enforcement and Administration of Justice, introd. by Silver) (Avon Books, N.Y. 1968).
The Parliamentary Papers Act, Secs. I and II (3 & 4 Vict. c. 9 (1840)).
*To Establish Justice, To Insure Domestic Tranquility* (National Commission on the Causes and Prevention of Violence, introd. by Reston) (Bantam Books, N.Y. 1970) ("Eisenhower Commission Report") (also published by Aware Books, N.Y. 1969).
*Vietnam Hearings* (copyright and introd. by J. W. Fulbright) (Random House (paperback ed. Vintage Books) N.Y. 1966).
*Violence in America, Historical & Comparative Perspectives* (Graham and Gurr et als., Task Force on Historical & Comparative Perspectives, Report to the National Commission on the Causes and Prevention of Violence) (New American Library, N.Y. 1969).
*Writings of Thomas Jefferson* (Ford ed. 1898) quoted in Luce, *Legislative Assemblies* (1924).

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[In the Supreme Court of the United States, October Term, 1971]

MIKE GRAVEL, PETITIONER, VERSUS UNITED STATES, RESPONDENT

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Petitioner, Mike Gravel, United States Senator, respectfully prays that a writ of certiorari issue to review the opinions of the United States Court of Appeals for the First Circuit entered in this proceeding on January 7, 1972, and January 18, 1972, and the amended judgment of that Court entered January 18, 1972.

OPINIONS BELOW

The opinions of the Court of Appeals and the Protective Order (as modified) which was entered are not yet reported and appear in the Appendix hereto. The opinion of the District Court is reported at 332 F. Supp. 930 (D. Mass. 1971).

JURISDICTION

The judgment of the Court of Appeals for the First Circuit was entered on January 7, 1972. A timely petition for rehearing was denied on January 18, 1972, and this petition for certiorari was filed by February 10, 1972. The mandate of the Court of Appeals was stayed by Mr. Justice Brennan on January 24, 1972, pending the filing and disposition of the petition for writ of certiorari, provided that filing of the certiorari petition occur on or before February 10, 1972.

This Court's jurisdiction is invoked under 28 U.S.C. § 1254 (1).

QUESTION PRESENTED

1. Does the constitutional responsibility of a United States Senator to inform his constituents and colleagues about the workings of government require that his actions in publishing an official, public record of the Subcommittee of which he is chairman, containing documentary information critical of Executive conduct in foreign affairs, be accorded protection as legislative activity under the Speech or Debate Clause?

2. May a Federal Grand Jury at the request of the Executive Branch inquire into and investigate the legislative activities of a Senator by utilizing compulsory process to interrogate persons with whom a Senator dealt and to secure documents, about his planning and executing a Senate Subcommittee hearing and publishing the official record of that hearing?

3. May an otherwise impermissible inquiry be allowed because the legislative activity in question was carried out in a manner deemed by a Federal court to be irregular and contrary to the court's notions of germaneness and of the proper way for the Senate to internally allocate its functions?

CONSTITUTIONAL PROVISION INVOLVED

The Speech or Debate Clause of the Constitution Article I, Section 6, Clause 1, provides:

"And for any Speech or Debate in either House, they [the Senators and Representatives] shall not be questioned in any other Place."

STATEMENT OF THE CASE

This case involves the claim of a United States Senator that the Speech or Debate Clause of the Constitution and the doctrine of Separation of Powers guarantee that he may engage in the unfettered discharge of his legislative privileges and duties without restraint and inquiry by the Executive and Judicial Branches, operating through the Grand Jury. The questions involved in this case are of the highest magnitude and the manner in which they are resolved will have a significant effect upon the ability and willingness of the members of Congress to carry out their legislative duties. The relevant facts giving rise to the issues in this case are as follows: [1]

On June 29, 1971, Senator Gravel convened a hearing of the Subcommittee on Buildings and Grounds of the Public Works Committee of the United States Senate. He stated at the outset of the hearing that the conduct of United States foreign policy in Indochina was relevant to his subcommittee, as to practically every subcommittee in the Congress, because of its effects upon the domestic economy and, specifically, the lack of sufficient federal funds to provide for adequate public facilities. During the course of this hearing, Senator Gravel read or inserted into the record portions of the so-called "Pentagon Papers", which examine the causes and history of the conflict in Indochina. In order to make the contents of the Subcommittee record widely available to his colleagues and the electorate, Senator Gravel arranged, without any personal profit to himself, for its verbatim publication by Beacon Press, a nonprofit publishing division of the Unitarian Universalist Association.

In August of 1971, a Federal Grand Jury sitting in Boston, Massachusetts, and investigating the release of the Pentagon Papers to the press, subpoenaed Dr. Leonard Rodberg, an aide of Senator Gravel. The Senator moved to intervene and quash the subpoena on the grounds that the purpose of the proposed inquiry of his aide was to investigate his own activity which he asserted was immune from judicial inquiry by virtue of the Speech or Debate Clause. A subpoena was also served upon Howard Webber, Director of Massachusetts Institute of Technology Press, with whom the Senator and his aides had unsuccessfully negotiated for the publication of the Subcommittee record. During the pendency of the appeal, two subpoenas were served upon officials of Beacon Press but were revoked due to the stay in effect.

The District Court granted the motion to intervene, and found, *inter alia*, that "the Government's interest in [Dr. Rodberg's] testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." 332 F. Supp. at 933. The Court denied the motion to quash Dr. Rodberg's subpoena, but issued a Protective Order barring inquiry of any witness into Senator Gravel's actions in holding the hearing and in preparing for it. The Court held, however, that the verbatim publication of the record "stands on a different footing" and is not protected by the legislative privilege. *Id.*, at 936–937. With respect to the Webber subpoena, the Government conceded in oral argument that its primary reason for calling him was to question him about conversations with the Senator's aides; the subpoena itself demanded production of all notes relating to Dr. Rodberg and the Pentagon Papers. Intervention was also allowed in this matter, but the motion to quash Webber's subpoena was denied.

Senator Gravel appealed to the United States Court of Appeals for the First Circuit, and the Government cross-appealed.[3] The Court of Appeals' opinion of January 7, 1972, noted that "important questions as to the extent of the legislative privilege" were raised by the appeal (App. 2). The Court of Appeals concluded that Senator Gravel "has essentially lost his appeal," and affirmed the judgment of the District Court and entered a modified Protective Order (App. 14–16). The Court held that the constitutional privilege of the Speech or Debate Clause did not extend to Senator Gravel's exercise of the informing function in publishing the Subcommittee record and therefore did not bar grand jury investigation into, for example, the Senator's communications with Webber and Beacon Press. The Court also held that the Grand Jury in conjunction with the Executive could interrogate all persons other than the Senator's aides about his actions in preparing for the Subcommittee hearing, as long as the questioning was not directed to the Senator's motives for holding the hearing.

The Court of Appeals issued a subsequent opinion denying a motion for reconsideration, in which it suggested that ordinary publication of a Subcommittee record might enjoy constitutional immunity but that the publication in question did not because it was done "privately" and because the Subcommittee had "no conceivable concern" with the documents entered into the record (App. 19).

REASONS FOR GRANTING THE WRIT

The issues which are presented for review are ones of first impression which have not but which must be decided by this Court. These are issues which must be faced and resolved definitely sooner or later, and this is an appropriate and indeed urgent case. What is now before the Court is a classic Separation of Powers problem, and if not decided here and now, it might lead to an embarrassing and perhaps dangerous confrontation between the Legislative Branch on the one hand and the Executive and Judicial Branches on the other. A United States Senator has squarely and clearly raised a claim that his privileges and protections under the Speech or Debate Clause have been infringed by a Grand Jury inquiry, led by the Executive Branch, into his activities and those of his aides and associates in carrying out his duty of informing his colleagues and the electorate about acts committed by the Executive and, specifically, with respect to Executive conduct in foreign relations.

Despite the fact that the Speech or Debate Clause must be, and has by this Court been, "read broadly to effectuate its purposes," *United States* v. *Johnson*, 383 U.S. 169, 180 (1966), the Court of Appeals has effectively denied the applicability of the Clause to the informing function of Congress. The Court thus permitted the Grand Jury to investigate into Senator Gravel's exercise of the informing function through the interrogation of "third parties" [4] such as Howard Webber and the Beacon Press, with whom the Senator dealt in order to publish and disseminate the Subcommittee record to his colleagues, constituents, and to the public at large. Far from being a broad reading of the privilege, this reading so restricts the scope of the Senator's privilege that it makes it impossible (or, to be more precise, dangerous) for a member of the Senate or the House to enlist the assistance necessary in order adequately to perform his legislative task of informing his constituents and colleagues about vital matters concerning the operations of government. It is this informing function of a member of the Legislative Branch which this Court has viewed as his most important task:

"We are not concerned with the power of Congress *to inquire into and publicize* corruption, maladministration and inefficiency in agencies of the government. This was the only kind of activity described by Woodrow Wilson in *Congressional Government* when he wrote: 'The informing function of Congress should be preferred even to its legislative function.' *Id.*, at 303. *From the earliest times in its history, the Congress has assiduously performed an 'informing function' of this nature.* See Landis, Constitutional Limitations on the Congressional Power of Investigation, 40 Harv. L. Rev. 153, 168–194." *Watkins* v. *United States*, 354 U.S. 178, 200, fn. 33 (1957) (emphasis added).

As much as speaking on the floor and voting, the informing function is an inherent part of the legislative process in representative government:

"[The Congressman's] duty is to acquire [knowledge about administration], partly for the purposes of further legislation, partly to satisfy his mind as to the adequacy of existing laws. Yet the ultimate basis for the duty is the broader presupposition of representative government that the legislator is responsible to his electorate for his actions. Responsibility means judgment, and judgment, if the word implies its intelligent exercise, requires knowledge. The electorate demands a presentation of the case. . . . The very fact of representative government thus burdens the legislature with is informing function. . . .

". . . That duty, however, is not distinct from the legislative process, but implied and inherent in it." Landis, *supra* at 205–06 & N. 227.

This Court has consistently emphasized that the Speech or Debate Clause immunizes from judicial inquiry "legislative acts of . . . [a] members of Congress [and] his motives for performing them," *United States* v. *Johnson*, *supra* at 185. This standard has been variously expressed to encompass conduct which is "related to the due functioning of the legislative process," *id.*, at 172, or "in the sphere of legitimate legislative activity," "*Tenney* v. *Brandhove*, 341 U.S. 367, 376 (1951), or "generally done in a session of the House by one of its members in relation to the business before it," *Kilbourne* v. *Thompson*, 103 U.S. 168, 204 (1881). Far from indulging in "catch-phrases" (App. 9), this Court has but recognized that the history and policy of the Clause can be satisfied only by a broad standard that immunizes a Member of Congress for actions taken in the discharge of his obligations as a representative of the electorate and prevents intimidation and harassment by a possibly hostile Executive and Judiciary. It is for this reason that other legislative activities, such as obtaining material for committee hearings, *Dombrowski* v. *Eastland*, 387 U.S. 82 (1967), conduct at the hearings, *Tenney* v. *Brandhove*, *supra*, and committee resolutions and votes, *Powell* v. *McCormack*, 395 U.S. 486, 502–3 (1969), have been held entitled to protection. We think it evident that in our system of representative government, where "[l]egislators have an obligation to take positions on controversial political questions so that their constituents can be fully informed by them," *Bond* v. *Floyd*, 385 U.S. 116, 136 (1966), direct communication by a Senator to the electorate through the publication and distribution of committee reports, is legislative activity which is entitled to like protection.[5]

The issue of the degree to which the informing function of Congress is encompassed within the scope of the Speech or Debate Clause is presented herein with striking clarity. What is now before this Court is a classic separation of powers case. There is no claim here, in contrast to some civil cases, that a Member of Congress used the authority of his office to violate willfully an individual's constitutional rights. That kind of situation draws into play the obligation of the Courts to protect individual rights, and there may very well be circumstances where no other means is available to safeguard the preferred constitutional rights of the individual, and where the judiciary will therefore be compelled to draw the balance on the side of the individual. Cf. *Hentoff* v. *Ichord*, 318 F.Supp. 1175 (D.D.C. 1970).

In this case, on the other hand, the judiciary is not being asked to balance the rights of individuals, including preferred constitutional rights, against the privileges of Members of Congress; to the contrary, the Executive Branch of government has come to the courts and claimed that it may determine what a Member of Congress may tell his constituents about matters of overwhelming public concern. It is no exaggeration to say that this claim challenges the funda-

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Footnotes at end of article.

mental character of our tripartite system of government.

The Executive's contention that it may investigate and indeed prosecute for the publication of legislative proceedings flies in the face of the historical purposes of the Speech or Debate Clause. The Clause was drafted to secure absolute freedom of speech for Members of Congress. It was the end product of a lineage of legislative free speech guarantees from the English Bill of Rights of 1689 to the first State constitution and the Articles of Confederation. See generally *Tenney* v. *Brandhove, supra* at 372–75. None of these provisions drew a distinction between a speech of a legislator directed at his colleagues and one to his constituents. On the contrary, the Court in *Tenney* stated that the Clause was designed to protect both. *Id.*, at 377 and fn. 6. This is consistent with no less an authority than Thomas Jefferson. When a Federal Grand Jury protested against abuses by Congressmen who disseminated slanderous accusations to the public, Jefferson responded that the framers of the Constitution wrote the Speech or Debate Clause to allow Congressmen to inform the electorate without inhibition:

That in order to give to the will of the people the influence it ought to have, *and the information which may enable them to exercise it usefully*, it was a part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive. . . .

"That . . . for the Judiciary to interpose in the legislative department between the constituent and his representative, *to control them in the exercise of their functions or duties towards each other*, . . . to put the representative into jeopardy of criminal prosecution, of vexation, expense, and punishment before the Judiciary . . . is to put the legislative department under the feet of the Judiciary, is to leave us, indeed, the shadow, but to take away the substance of representation, which requires essentially that the representative be as free as his constituents would be . . .; *and is the more vitally dangerous when it is considered that grand jurors are selected by officers nominated and holding their places at the will of the Executive.*" 7 *Writings of Thomas Jefferson* 158 (Ford ed. 1898), quoted in Luce, *Legislative Assemblies* 516–18 (1924) (emphasis added).

The privilege must be read to protect the publication and public distribution of speeches and committee records. This is a principal avenue relied upon by Members of Congress to provide the people with "the information which may enable them to exercise [their will] usefully."

The Constitutional evil which would result from denying the privilege's applicability to the informing function of Congress is magnified when this is done at the behest of the Executive and with respect to material which is critical of executive behavior. As this Court has emphasized, the central purpose of the Speech or Debate Clause is "to prevent intimidation by the Executive and accountability before a possibly hostile Judiciary."[6] *United States* v. *Johnson, supra* at 181. If the Executive Branch may, at will, institute Grand Jury proceedings and interrogate witnesses about Senators' publications of their speeches and committee reports which they send to the electorate, it will possess the power to isolate effectively all but the most courageous legislators from their constituents.[7] If such a rule applies, Congressmen will have to watch what they say to the people—in press releases, newsletters and anything spoken outside of the four walls of the Capitol—and they will inescapably be inhibited out of fear of harassment. Grand Jury inquisitions and even prosecutions. Yet if the Speech or Debate Clause means anything, it is that courts and prosecutors are not referees over what Congressmen may say to the people or how they may say it.[8]

The proper rule of Constitutional law was stated in *Methodist Federation for Social Action* v. *Eastland*, 141 F. Supp. 729, 731 (D.D.C. 1956) (three-judge court):

"Nothing in the Constitution authorizes anyone to prevent the President of the United States from publishing any statement. . . . Similarly, nothing in the Constitution authorizes anyone to prevent the Supreme Court from publishing any statement. We think it equally clear that nothing authorizes anyone to prevent Congress from publishing any statement."

The Court of Appeals placed reliance upon two early English cases[9] holding publication of legislative proceedings outside the Parliamentary privilege. This reliance is decidedly misplaced, for their underpinning has been repudiated and their holding has not survived. These cases had their genesis in a politically-motivated prosecution of the Speaker of the House of Commons, *Rex* v. *Williams*, 2 Show. K.B. 471, 89 Eng. Rep., 1048 (1794), and this decision was later declared to be "a disgrace to the country," *Rex* v. *Wright* 8 T.R. 293, 101 Eng. Rep. 1396 (King's Bench, 1799). At least since *Wason* v. *Walter*, L.R. 4 Q.B. 73 (1868), the settled law in England is that the Parliamentary privilege protects a member who publishes a speech "for the information of his constituents," and that the privilege applies derivatively to the publisher, because "such publication . . . is essential to the working of our Parliamentary system, and to the welfare of the nation." *Id.*, at 95. There is no reason in history or policy why the privileges of elected representatives in the United States should not be at least equal to those of their counterparts in England.

The confusion which was endemic in British law before final resolution by the highest court of England is now mirrored in our own country in conflicting decisions of the lower Federal courts. There are *dicta* in two prior cases which are consistent with the holding of the First Circuit. *Long* v. *Ansell*, 69 F.2d 386, 389 (D.C. Cir. 1934); *McGovern* v. *Martz*, 182 F.Supp. 343 (D.C. 1960).[10] On the other hand, there are two decisions which hold that the Speech or Debate Clause affords complete protection to Congressmen who publish committee records. *Hentoff* v. *Ichord, supra; Methodist Federation for Social Action* v. *Eastland, supra.*[11] Furthermore, the holding of the First Circuit conflicts in principle with the decision of the District of Columbia Circuit in *Hearst* v. *Black*, 84 F.2d 68 (D.C. Cir. 1936). This was an action to enjoin members of a Senate subcommittee chaired by then Senator (later Justice) Hugo L. Black from keeping, reproducing and distributing to his colleagues and to the public, documents which were alleged to have been obtained illegally. The court dismissed the complaint on principles of separation of powers:

"The prayer of the bill is that the committee be restrained from keeping the messages or making any use of them or disclosing their contents. In other words, that if we find that the method adopted to obtain the telegrams was an invasion of the appellant's legal rights, we should say to the committee and to the Senate that the contents could not be disclosed or used in the exercise by the Senate of its legitimate functions. We know of no case in which it has been held that a court of equity has authority to do any of these things. On the contrary, the universal rule, so far as we know it, is that the legislative discretion in discharge of its constitutional functions, whether rightfully or wrongly exercised, is not a subject for judicial interference.

"The Constitution has lodged the legislative power exclusively in the Congress. If a court could say to the Congress that it could use or could not use information in its possession, the independence of the Legislature would be destroyed and the constitutional separation of the powers of government invaded." *Id.*, at 71–72.

The recurring nature of this issue and the conflicting decisions in the lower courts are additional reasons for this Court to clarify the extent of the Congressional privilege. A clear decision by this Court is necessary so that Members of Congress, who routinely inform their constituents by issuing press releases and by circulating copies of their speeches and committee reports and records, will know precisely what their rights are. Similar considerations led this Court to take review in *Barr* v. *Matteo, supra*, and *Howard* v. *Lyons*, 360 U.S. 593 (1959), and to hold that the judicially-created doctrine of executive privilege protects the issuance and circulation of news releases by the thousands of subordinate officials of the Executive Department. The Court of Appeals has not explained why the constitutional privilege of elected Members of Congress should be narrower.

Perhaps out of recognition that its holding was at odds with the thrust of prior decisions of this Court and was inconsistent as well with the history and policies underlying the Speech or Debate Clause, the Court of Appeals suggested that ordinary publication of committee reports might well be constitutionally protected but that this particular instance was not. This was implied in the initial decision[12] and stated beyond doubt in the second opinion (on rehearing), where the Court of Appeals "dr[ew] a distinction between normal and customary republication of a speech in Congress and republishing privately all or part of 47 volumes of, we must presently assume, lawfully classified documents, through the device of filing them as exhibits to the records of a subcommittee to which they have no conceivable concern" (App. 19).

The clarifying language in the opinion on rehearing indicates clearly that the Court of Appeals has thus taken upon itself the power of determining whether or not a procedure followed by a Senator in the performance of his legislative functions is sufficiently "regular" so as not to divest his protection under the Speech or Debate Clause. In so doing the Court of Appeals has departed drastically from settled principles. Even the District Court recognized in its Opinion that "[t]he courts have no right to dictate . . . the procedures for Congress to follow in performing its functions . . .", and that "[j]udging the applicability of the legislative privilege in the exercise of the functions of a legislator's office should be done 'without inquiring whether the exercise was regular according to the rules of the House, or irregular and against their rules,' " 332 F. Supp. at 936. How a House of Congress internally allocates its functions and prescribes and enforces its procedures is a political question which is beyond the cognizance of the courts.[13] The judiciary has no more authority to tell a Senator what is germane to the subcommittee which he chairs than to adjudicate the current jurisdictional dispute between the Foreign Affairs and Armed Services Committees.

It is equally clear that there is nothing in the nature of "private" publication which may defeat the privilege. Technological developments in printing have so persuaded Congressmen and other public officials to utilize private facilities to disseminate reports and records in order to obtain the cheapest and most widespread distribution that it is now a dominant mode of publication. This Court may take judicial notice of the fact that, for example, every important commission report over the last decade has been printed privately,[14] as have transcripts of significant Congressional committee hear-

Footnotes at end of article.

ings.[15] And even before this development became so pronounced, the Public Printer, who is after all distinguished only by being subsidized by the taxpayer, has not had a status at all different, under either American or English Law, from private printers who publish legislative proceedings.[16]

By making the applicability of the privilege for publication turn upon judgments of "germaneness" and "regularity," the Court of Appeals has hardly provided a limiting principle. It has, to the contrary, supplied yet more uncertainty, for the privilege is "of little value", if Congressmen must depend upon the way a court or jury later speculates upon such amorphous concepts. See *Tenney* v. *Brandhove, supra* at 377.

Finally, the consequences of the decision of the Court of Appeals are not ameliorated by the fact that Senator Gravel and his aides will not personally be questioned before the Grand Jury. In allowing the interrogation of "third parties" into the legislative activities of a Congressman, so long as his "motives" are not attacked, the Court of Appeals misapprehended the holding of *United States* v. *Johnson, supra* at 173–76, where this Court barred inquiry of anyone not only into motives but also into *how* the speech was prepared and into its precise ingredients. The rationale of the Court of Appeals affords little, if any, protection to Congressmen, for in the course of their legislative activities they of necessity deal with innumerable people,[17] and questioning of them before the Grand Jury may accomplish by indirection precisely what the Court of Appeals recognized could not be done directly—the intensive breach of the sanctity of the legislative process. The Executive, with the assistance of the Grand Jury may, under this decision, investigate how a Congressman wrote a speech, what materials were in his possession, his conversations prior to voting or speaking out on controversial issues, how he prepared for a hearing, and how he made his speeches, reports and hearings available to his constituents—so long as the interrogators disclaim any intent to attack his motives. Aside from the clear violation of separation of powers thus effectuated, the intimidating potential of this approach and its possible effects on Congressional deliberations are awesome.

And surely there is nothing unique about the Grand Jury which justifies such a holding. Other investigative bodies, of at least equal stature and importance, have not been permitted to proceed unchecked when their investigations were perceived to have a similar impact upon First Amendment freedoms. See, *e.g., DeGregory* v. *Attorney General of New Hampshire,* 383 U.S. 825 (1966), and cases cited therein at 829. There is no reason why the Grand Jury, which is subject to the supervisory powers of the Federal Courts, should not be governed by like restrictions when it intrudes into an area of prime constitutional importance.

### CONCLUSION

Only six years ago, in but the third case dealing with the Speech or Debate Clause decided by this Court, Mr. Justice Harlan observed that "[i]n part because the tradition of legislative privilege is so well established in our polity, there is very little judicial illumination of this clause." *United States* v. *Johnson, supra* at 179. Since then, the Court has been obliged to take review three more times.[18] An important provision of the Constitution, adopted at the Convention without debate and viewed as axiomatic for most of our history, is now the center of controversy and doubt. This is an appropriate case for this Court, as the ultimate interpreter of the Constitution, to enunciate definitively the extent of the Congressional privilege.

Petitioner respectfully prays that a writ of certiorari issue to review the judgment and opinions of the Court of Appeals for the First Circuit.

Respectfully submitted,
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### FOOTNOTES

[1] Due to the expedited schedules which have been set by both the Court of Appeals and by this Court, and transcription delays by the District Court reporter, the complete record of proceedings in the District Court is not yet available for certification. However, as the District Court noted, the facts are not in dispute and have formed the basis of the legal submissions of all parties. 332 F.Supp. at 933 n.3.

[2] The publication by Beacon Press has variously been referred to in the opinions and papers below as the "publication" and as the "republication". Inasmuch as the Beacon Press edition was the first occasion on which the Subcommittee record was printed after its compilation, we use the term publication.

[3] There was jurisdiction over the appeal under 28 U.S.C. § 1291, because Senator Gravel had no other means of obtaining review and consequently the denial by the District Court of his motion to quash was, as to him, a final appealable order. *Perlman* v. *United States,* 247 U.S. 7 (1918). See *United States* v. *Ryan,* 402 U.S. 530, 533 (1971). The Court of Appeals therefore properly held that it had jurisdiction over the appeal (App. 4). Similarly, this Court has jurisdiction.

[4] The Court of Appeals, admitting that "the court is not in total agreement" on this point, nevertheless "presently" held that the Senator and his aides could not personally be questioned as to "republication", "without binding ourselves for future purposes." (App. 11). More exactly, the Court of Appeals found that the Speech or Debate Clause privilege did not extend at all to the "republication", but that the Senator and his aides may be protected from direct interrogation by a common law privilege (App. 10–11).

[5] See Woodrow Wilson, *Congressional Government* (1885):

"The argument is not only that discussed and interrogated administration is the only pure and efficient administration, but, more than that, that the only really self-governing people is that people which discusses and interrogates its administration . . ." (at 303).

"Quite as important as legislation is vigilant oversight of administration; and even more important than legislation is the instruction and guidance in political affairs which the people might receive from a body [Congress] which kept all national concerns suffused in a broad daylight of discussion" (at 297).

Even if, as the Court of Appeals believes, focus should be confined exclusively to Congress' deliberative processes—which we submit is too narrow a view—it is clear that the colloquy between a congressman and the electorate is a prime determinant in influencing him in his decisions on pending legislation. The Court of Appeals did not rebut this argument, but rejected its consequences as "staggering", with reference to speculative examples of virtually unimaginable abuses (App. 10, particularly n. 9). Identical "parade of horribles" arguments have been consistently rejected by this Court, even when the possibility of abuse was much less speculative. See, *e.g., Barr* v. *Matteo,* 360 U.S. 564, 576 (1959).

[6] One of the most notorious events crystalizing the struggle for the Parliamentary privilege was the vindictive action of Charles I against Sir John Eliot and other Members of Parliament who vocally opposed funding a needless and bloody war overseas. 3 How. St. Tr. 294, 332. See *Tenney* v. *Brandhove, supra* at 372.

[7] Compare Woodrow Wilson, *Congressional Government* (1885), at 303:

"It is the proper duty of a representative body to look diligently into every affair of government *and to talk much about what it sees.* It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; *and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct*" (emphasis added).

[8] See II *Works of James Wilson* (Andrews ed. 1896) at 38:

"In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary, that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of everyone, however powerful, to whom the exercise of that liberty may occasion offense."

This Court has made it abundantly clear that the "powerful" of whom Wilson spoke, refers primarily to the Executive Branch. *United States* v. *Johnson, supra* at 180–81.

[9] *Rex* v. *Abington,* 1 Esp. 226, 170 Eng. Rep. 337 (1795); *Rex* v. *Creevey,* 1 M.&S. 273, 105 Eng. Rep. 102 (1813).

[10] *Long* was not even a Speech or Debate Clause case; it involved a claim of a Senator that he was immune from service of process because of the privilege from arrest in Article I, Section 6. The only reference to the Speech or Debate privilege was in a brief final paragraph. On review, the Supreme Court did not refer to the Speech or Debate Clause. 293 U.S. 76 (1934). In *McGovern,* the comments on "republication" were *dicta* because there was no publication except in the *Congressional Record.*

[11] The Court below distinguished these cases because they involved requests for injunctive relief to prevent the publication of defamation, which "although actionable, may not be enjoined" (App. 8). Yet in neither case is there so much as a hint that this factual distinction entered into the decision. Moreover, *Hentoff* was not a defamation case; the plaintiffs sought relief on First Amendment grounds. The court held that the Speech or Debate Clause deprived it of jurisdiction to consider a complaint "seeking any remedy" against the Congressmen for publication, 318 F.Supp. at 1179, and the court indicated quite clearly that the only reason it had jurisdiction to grant any relief against the Public Printer was because the publication would infringe the protected First Amendment rights of the plaintiffs. *Id.* at 1180.

[12] "We will not hold that there is a constitutional privilege to print privately what, we must assume for present purposes, were classified documents simply because intervenor [Senator Gravel] had first disclosed them to a Senate subcommittee whose function was totally unrelated thereto" (App. 10).

[13] Of course, as with other variants of the political question doctrine, when a committee infringes upon an individual's constitutional rights, the courts may be obliged to examine enabling legislation in order to determine whether there is an overriding governmental interest. *E.g., Watkins* v. *United States,* 354 U.S. 178, 205 (1957). Here, no such claim is made by the Government, and the matter is "peculiarly within the realm of the legislature." *Ibid.* See also *Yellin* v.

*United States*, 374 U.S. 109, 121-22 (1963), which drew this distinction precisely.

[14] See *Violence in America, Historical & Comparative Perspectives* (Graham and Gurr et als., Task Force on Historical & Comparative Perspectives, Report to the National Commission on the Causes and Prevention of Violence) (New American Library, N. Y. 1969); *To Establish Justice, To Insure Domestic Tranquility* (National Commission on the Causes and Prevention of Violence, introd. by Reston) (Bantam Books, N. Y. 1970) ("Eisenhower Commission Report") (also published by Award Books, N. Y. 1969); *The Challenge of Crime in a Free Society* (President's Commission on Law Enforcement and Administration of Justice, introd. by Silver) (Avon Books, N. Y. 1968); *Rights in Conflict: The Violent Confrontation of Demonstrators and Police in the Parks & Streets of Chicago During the Week of the Democratic Convention of 1968* (Report to the National Commission on the Causes and Prevention of Violence, introd. by Max Frankel) (E. P. Dutton & Co., N. Y. 1968) ("The Walker Report") (also published by New American Library, introd. by Donovan, N. Y. 1968); *Report by the U. S. National Advisory Commission on Civil Disorders* (Bantam Books, N.Y. 1968) ("The Kerner Commission Report"); *Report of the Commission on Obscenity and Pornography* (introd. by Barnes, Bantam Books, N. Y. 1970).

[15] See *e.g.*, Senate committee hearings, republished as *The Vietnam Hearings* (copyright and introd. by J. W. Fulbright (Random House (paperback ed. Vintage Books), N.Y. 1966).

[16] See *Hentoff* v. *Ichord*, 318 F. Supp. 1175, 1180 (D.D.C. 1970); The Parliamentary Papers Act, §§ I and II (3 & 4 Vict., c. 9 (1840)); *Wason* v. *Walter*, 4 Q.B. 73 (1868). It should be noted that in this case, Beacon Press made its paperback edition available to the public in sufficient quantity at a price of $20 for the set, while the Government Printing Office made available a limited printing of a censored edition, with unnumbered pages (making the work less useful as a research and reference tool) at a price of $50.

[17] It is difficult to imagine, for example, a Congressman being able to perform the informing function without the assistance of "third party" printers. Questioning Webber and Beacon Press officials about how Senator Gravel published the Subcommittee record would disclose precisely the same information about his legislative activities as if he and his aides were called.

[18] *Dombrowski* v. *Eastland, supra; Powell* v. *McCormack, supra; United States* v. *Brewster*, No. 1025, jurisdiction postponed 401 U.S. 935, No. 70-45 (restored to the calendar for reargument) U.S. —, 40, U.S.L.W. 3351.

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[In the Supreme Court of the United States, October Term, 1971—No. A-746]

BRIEF OF UNITARIAN UNIVERSALIST ASSOCIATION, AMICUS CURIAE, IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI

(Mike Gravel, petitioner, v. United States, respondent)

### INTEREST OF AMICUS

This brief in support of the petition for certiorari is filed with the consent of the parties; [1] it is submitted because, as will appear, the amicus has a direct and substantial interest in the outcome of this litigation. Nonetheless, the amicus recognizes that at this stage briefs by amicii are not favored. Accordingly, the amicus will make its points with as much economy as possible, and it will not burden this court with a repetition of matters comprehensively treated in the petition.

The Unitarian Universalist Association is a religious association established more than 200 years ago and incorporated under the laws of The Commonwealth of Massachusetts. Beacon Press is a division of the association and is subject to its direction and control. In its opinion of January 7, 1972, the court of appeals said:

"We would hold, if this appeal can be thought to raise that question, that whatever Beacon Press did is freely inquirable even to the extent, if any (it has not presently been suggested), that it may have made payments to [Senator Gravel] or others in connection with the [Pentagon] Papers subsequent to their introduction into the subcommittee records." (Op. at 12-13)

Thereafter, on January 11, 1972, the government served a grand jury subpoena on Gobin Stair, the Director of Beacon Press and a second subpoena on him or the custodian of the records calling for the production of all Beacon records pertaining to the Pentagon Papers publication. While these subpoenas have been withdrawn, the government, in papers filed in *Unitarian Universalist Association* v. *Joseph L. Tauro*, et al. (D. Ct. Mass; 72-136-C), a related proceeding, specified that ". . . identification of the participants in the transaction whereby the 'Pentagon Papers' were obtained and published by Beacon Press *is* sought, along with the details of such transactions." The interest of the amicus is, therefore, evident.[2]

### REASONS FOR GRANTING THE WRIT

After concluding that the speech and debate clause [3] necessarily insulated petitioner from any inquiry into his publication and prepublication activity concerning the Pentagon Papers, the court of appeals held that the clause: (1) Did not prohibit grand jury inquiry into petitioner's subsequent private publication of the papers through Beacon Press, although *deus ex machina* the court *tentatively* accorded him a common law privilege against further interrogation (but not necessarily criminal liability) on that matter (Op. pp. 10-11). (2) Did not prohibit interrogation of third persons except where the "object [of the inquiry] is to attack the legislator's motives in speaking" (Op. p. 12). As we shall show, each holding is erroneous. And their manifest importance,[4] centering as they do upon important prerogatives of members of congress, provides ample warrant for plenary consideration by this court. *Powell* v. *McCormack*, 395 U.S. 486.

### I. PRIVATE PUBLICATION

The court of appeals recognized that the protection afforded by the speech and debate clause extends beyond simply insulating petitioner from inquiry concerning any documents he introduced into congress. At least since *Kilbourne* v. *Thompson*, 103 U.S. 168, 204, it has been settled that the protection of the clause extends to all "things generally done . . . in relation to the business before [congress]." See also *Powell* v. *McCormack, supra* at 501-506. Nevertheless, despite *Kilbourne* and this court's admonition in *United States* v. *Johnson*, 383 U.S. 169, 179, that "the privilege should be read broadly," the court of appeals gave the clause an extremely restricted scope. The clause, it said, protects only *one* category of "things generally done" in congress; namely, things "generally done" in relation to congressional deliberations. "Our courts," said Judge Aldrich, "have expanded the privilege beyond the act of debating within congress . . . only when necessary to prevent indirect impairment of such deliberations" (Op. p. 9). This view of the clause, in turn, led the court to reject petitioner's claim that his private publication of speeches made in or documents submitted to congress is protected.

The court of appeals was wrong in concluding that petitioner's private publication was not protected, *even assuming its narrow conception of the clause*. What is more, such a restrictive reading of the clause is inconsistent with its history and purpose, as well as the decisions of this court.

1. The court of appeals nowhere purports to demonstrate why the subsequent private publication of documents introduced into congress is not, in the court's language, "necessary to prevent indirect impairment of [congressional] deliberations." The court simply assumes that private publication will not have any effect on *future* congressional deliberations. That assumption is, on its face, highly vulnerable: congress is, after all, an ongoing body, and it would seem apparent that private publication by a legislator represents one method of affecting future congressional deliberations. But the difficulty with the court's assumption is much more basic. The court's willingness to make *any* assumption about the effect of private publication on future congressional deliberations requires a degree of judicial superintendence of the legislative process which is wholly at odds with the doctrine of separation of power. It is for congress, not the court of appeals, to determine whether a senator's private publication of congressional documents will further future congressional deliberations.[5]

2. It is interesting to observe that the court nowhere denies that private publication can aid future congressional deliberations. Rather, the court simply opines such a claim "proves too much," because it would extend the protection of the clause to any speech made outside congress, at least if it had been previously delivered in congress. That possibility is brushed aside with the observation that "we do not believe [petitioner] has struck gold in a field previously thought to be barren" (Op. p. 10). We would have supposed that more than an *ipse dixit* was required to dispose of petitioner's claim. Moreover, the court of appeals never considered whether, given the "profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide open" (*New York Times* v. *Sullivan*, 376 U.S. 254, 270), this court's holding in *Barr* v. *Mateo*, 360 U.S. 564,[6] would call for protection of speeches repeated outside of congress, entirely apart from the strictures of the speech and debate clause.

3. The infirmity in the court of appeals' position is further demonstrated by its concessions. It conceded that some kinds of private publications were protected by the clause: petitioner could claim protection with respect to "republication such as in the news media or the congressional record, which is the *national consequence of a* speech and is necessarily protected" (Op. p. 8).[7] Surely the conclusion that one category of subsequent publication—by newspaper—is a "natural consequence" of speech, but that other closely similar categories of publication—by book, etc.—are not, is wholly question begging, particularly so given the court's further concession that, in fact, the latter type of publication "may be customarily done by members of Congress" (Op. p. 9). If congressmen customarily engage in the private publication of their speeches why is that not a "natural consequence" of their speech?

In denying the petition for rehearing, the court of appeals sought to escape the foregoing difficulties by yet another formulation. The court suggested a distinction—

"Between normal and customary republication of a speech in Congress and republishing privately all or part of 47 volumes of, we must presently assume, lawfully classified documents through the device of filing them as exhibits to the records of a subcommittee to which they have no conceivable concern." (Op. on reh. p. 3)

This shift in analysis is striking. What is "customary" publication now becomes a function of a judicial determination of what is relevant to a congressional subcommittee, not whether the publication is done "privately." Plainly, any judicial assessment of what is "relevant" to a congressional committee intrudes a court far into the legislative process itself—an intrusion which, we

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Footnotes at end of article.

believe, is in manifest conflict with time-sanctioned principles of separation of powers. Not only is this difficulty ignored by the court of appeals, its new analysis is advanced without even a glancing reference to its earlier conclusion that the "privilege protects against a claim of irrelevancy" (Op. p. 6).

4. Underlying these difficulties is the court's effort to confine the speech and debate clause to its narrowest historical setting. Like its predecessors in the English Bill of Rights and in the Articles of Confederation and in the state constitutions, the clause specifically prohibits executive sanctions for speeches made in the legislature. But, like the other provisions in a document "intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs," (*McCulloch* v. *Maryland*, 4 Wheat. 316, 415) the clause has a breadth and meaning which transcends the specific events which gave it birth. See *Powell* v. *McCormack*, 395 U.S. 486, 506. The clause reflects fundamental principles concerning the appropriate distribution of power among the three branches of government. Accordingly, the clause must be "recognized as an important protection of the independence and integrity of the legislature." *United States* v. *Johnson*, 383 U.S. at 178. Not surprisingly, therefore, "the language of the Constitution is framed in the broadest terms" and it is to be "read broadly" (Id. at 179, 182–183). This, in turn, means that the clause "cannot remain static if it is to remain meaningful." [8] To some degree, the precise contours of the clause are shaped by what is appropriately and "customarily" done in the modern legislative process. Contemporary legislative practice, not seventeenth and eighteenth century history, measures what is "generally done . . . in relation to the business before [Congress]."

5. The court's effort to confine the speech and debate clause to its narrowest historical setting shows, moreover, that, on this occasion, the court was a bad historian. The speech and debate clause was adopted by the constitutional convention "without discussion and without opposition" largely because it was a familiar one, having existed in the Declaration of Rights, the Articles of Confederation and in various state constitutions. *United States* v. *Johnson*, *supra*, at 177. Plainly, therefore, the general import of the clause, if not all its details, was understood by members of the constitutional convention. And it seems clear that the clause's admittedly spare language was understood by them to protect not only a legislator's free and untrammeled participation in the legislative process, but also his duty to contribute to an enlightened electorate. Thus both the New Hampshire Constitution of 1784 and the Massachusetts Constitution of 1780 explicitly tied the protection of their clauses to that of the "rights of the people." [9] See also *Tenney* v. *Brandhove*, 341 U.S. 367, 377 n. 6. The court below failed to appreciate that the speech and debate clause "performs an important function in representative government." *Powell* v. *McCormack*, *supra*, at 503. And representative government presupposes that a legislator may communicate with his constituents and the country at large, as well as with his colleagues. The only checks on this legislative prerogative stem from the political process, not from the executive or judicial departments—a result which is, of course, entirely consistent with the underlying assumptions of our polity. Cf. *Munn* v. *Illinois*, 94 U.S. 133, 134.

6. Finally, even assuming the court of appeals' reading of history, we think it evident that the clause protects petitioner's private publication of the Pentagon Papers. For we have here little more than ancient problems in a twentieth century context: the executive still seeks to intimidate and discipline members of the legislature for conduct which casts aspersion upon the executive's handling of a matter of overriding national interest. The only difference between this effort and that of earlier times is that techniques more appropriate to our age, interrogation, harassment and exposure, have been substituted for the ancient devices of arrest and imprisonment.[10]

### II. THIRD PARTY PROTECTION

The court of appeals restricted the protection of the clause in another significant manner. Inquiry of third parties was not barred by the clause unless (citing *Johnson*) "the object [of the inquiry] is to attack the legislator's motives in speaking" (Op. p. 12):

"With respect to third persons, provided that the principles of *Johnson* are observed, we can see no reason for them to be free of inquiry as to their own conduct regarding the Pentagon Papers, including their dealing with the intervenor or his aides . . . [we] hold that no immunity was conferred upon Beacon Press simply because, if he did, intervenor delivered the Papers to it for private publication." [11]

The importance of this holding cannot be underestimated. It is evident that any legislator will and must frequently act in cooperation with or through private parties in the discharge of his functions. Simply put, this is a necessary and "customary" aspect of the functioning of the legislative process in the twentieth century. Accordingly, even the narrow protection afforded by the clause to petitioner under the holding of the court of appeals is illusory: where the clause shields a legislator from direct inquiry, his conduct still can be inquired of through interrogation of the third parties with whom he dealt. But, surely, "[i]ntimidation . . . harassment, embarrassment" of a legislator (Op. p. 6) can be accomplished by either form of inquiry. The only difference is the point at which the executive pressure is laid, not in end result. And the end result of allowing unlimited inquiry of third parties necessarily must be either to intimidate the legislator in the discharge of his constitutional functions, and/or to intimidate those private persons with whom he would deal.

The court of appeals, however, thought that petitioner's rights are adequately secured so long as third party inquiry is prohibited where its "object is to attack the legislator's motives in speaking" (Op. p. 12). It is difficult to see what relevance the court thought that this limitation had in this case since petitioner's third party contacts occurred after he placed the Pentagon Papers before congress. More fundamentally, however, in the context of this problem (compare *United States* v. *Johnson*, *supra*) the suggested standard lacks content. By what criteria could a court determine whether "the object" of a grand jury interrogation of Beacon Press concerning petitioner's publication of the Pentagon Papers was to "attack" petitioner's motives in speaking? Finally, we are at a loss in understanding why the protection of the clause should depend upon "the object" of the interrogator? The injury done to the legislator in no significant way depends upon a resolution of that elusive element.

The petition for certiorari demonstrates that there is authority recognizing protection for third parties for private publication of legislative speeches. See, e.g., *Wason* v. *Walter*, L.R. 4 Q.B. 73 (1868). See also *Doe* v. *McMillian*, —— F.2d —— (D.C. Cir. 1972) 40 L.W. 2471, expressly recognizing that the clause protects not only members of congress but federeal employees assisting them in publishing a congressional committee report. We submit that there are no relevant differences between Beacon Press and the federal employees in *McMillian*, particularly once it is conceded that private publication by members of congress is "customary." Moreover, even if Beacon Press could not invoke the protection of the speech and debate clause, the court of appeals nowhere explains why it would not be protected by a "common law privilege" such as the court tentatively accorded to petitioner. In *Doe* v. *McMillian*, *supra*, the court of appeals recognized such a privilege for officials of the District of Columbia who supplied information to the congressional committee.

This court has never definitively resolved the extent to which the speech and debate clause, or some other privilege, protects third parties,[12] in either of two distinct situations: *first*, with respect to their legal accountability for action taken in conjunction with members of congress, an issue which, of course, is not raised here; *second*, and of grave importance here, the extent to which third parties can be interrogated concerning their dealings with a member of congress, the direct inquiry of whom could not be undertaken. That the questions of legal accountability and of interrogation are quite distinct was fully appreciated by the court below (Op. p. 10).

*Kilbourne* v. *Thompson*, *supra*, and its progeny are not dispositive of the latter question. In *Kilbourne* members of congress were held protected by the clause, but the congressional marshalls were held responsible in damages for the execution of an unconsitutional legislative arrest order. See also *Dombrowski* v. *Eastland*, 387 U.S. 82; *Powell* v. *McCormack*, 395 U.S. 486, 501–506. Thus in *Kilbourne*, the clause operated so as to protect legislators, but not third parties, from the consequences of *unconstitutional* action which deprived citizens of rights secured to them by the constitution of the United States. See *Powell* v. *McCormack*, *supra*, at 503–504. Here, by contrast, there is no claim that any citizen's constitutionally protected liberty has been abridged by the tortious conduct of third parties. Moreover, here, unlike *Kilbourne*, petitioner's conduct was constitutionally protected activity, and Beacon Press simply assisted petitioner in the exercise of his constitutional prerogative. And finally, here the crucial question raised by the petition is not the legal accountability of Beacon Press (e.g., in a criminal case) for its conduct,[13] but whether it can be *interrogated* about its dealings with petitioner in circumstances where he cannot be interrogated. *Kilbourne* is not even remotely relevant to that question.

In closing, we would observe that Beacon Press is in a sensitive and unfortunate position in view of the court of appeals' ruling. It is under an obligation to petitioner, a United States Senator, not to violate his privilege. Yet, unless this court acts, it may soon be under a judicial order to do just that.

### CONCLUSION

The petition for certiorari should be granted.

(Respectfully submitted, Frank B. Frederick, William B. Duffy, Jr., Johnson, Clapp, Stone & Jones, One Boston Place, Boston, Massachusetts 02108. Henry Paul Monaghan, 10 Post Office Square, Boston, Massachusetts 02109.)

### CERTIFICATE OF SERVICE

In accordance with Rule 33, I hereby certify that I have made service of three copies of the Brief Of The Amicus Curiae In Support of The Petition For Certiorari on all counsel of record as follows: Solicitor General, Department of Justice, Washington, D.C.; Counsel for United States by personally delivering three copies to his place of business; Charles Fishman, Esquire, counsel for petitioner by delivering three copies to his business office; and Harvey Silvergate, Esquire, counsel for respondent, by causing

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**Footnotes at end of article.**

three copies to be delivered by hand to his business office.

FRANK B. FREDERICK.

FOOTNOTES

[1] The letters of assent have been filed with the clerk of the court, copies thereof appear at the end of this brief.

[2] To be sure, the court of appeals subsequently noted that the amicus was not bound by the language in the opinion since Beacon Press was not a party to the case. While technically accurate, of course, the court's response is unconvincing. It is evident that the court's langauge reflects its considered judgment and that it would adhere to it in any further proceeding.

[3] "[F]or any Speech or Debate they [Senators and Representatives] shall not be questioned in any other place." U.C. Const. art. 1, § 6.

[4] The court of appeals had no doubt of the importance of the issues before it. It explicitly recognized the importance of the case both in the opening sentence of its opinion of January 7 as well as in its petition denying the motion for rehearing.

[5] See *United States* v. *Johnson, supra,* 383 U.S. at 185, where the court recognized that the question of the reach of speech and debate clause would have been substantially affected by a congressional judgment that certain conduct was *not* protected by the clause.

[6] In *Barr* v. *Mateo,* this court held that, in a libel action, the utterances of a federal official were absolutely privileged so long as they were made "within the outer perimeter" of his official duties.

[7] Emphasis added.

[8] "In its application, it must be geared to the realities of the manner in which a modern legislative system operates. It cannot afford to be permanently attached to the ways in which legislatures discharged their responsibilities when the Republic was founded, or for that matter, even fifty years ago. Modern legislatures have had to adapt their techniques of operation to the increasingly complex society within which they must function. New techniques and new methods of procedure have gradually evolved. The doctrine of legislative privilege cannot remain static if it is to remain meaningful." Cella, *The Doctrine of Legislative Privilege of Freedom of Speech and Debate,* 2 Suffolk U.L.R. 34 (1968).

[9] See, e.g., Mass. Const. art. XXI (1780). "The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever." N.H. Const. pt. 1 art. XXX (1784). "The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever."

[10] It is well worth noting here that the court below did not in fact rule out criminal prosecution for petitioner. (Op. pp. 10–11)

[11] The court of appeals added: "Indeed, we would hold, if his appeal can be thought to raise that question, that whatever Beacon Press did is freely inquirable even to the extent, if any (it has not presently been suggested), that it may have made payments to intervenor or others in connection with the Papers subsequent to their introduction into the subcommittee records. Payment for delivering a copy, by a post-speech agreement, is not comparable to a payment for initially delivering the speech. . . ."

[12] Either directly, or derivately through their association with a member of congress.

[13] We, of course, do not concede that criminal sanctions could validly be imposed for that conduct.

OFFICE OF THE SOLICITOR GENERAL,
*Washington, D.C., January 28, 1972.*

Re Mike Gravel, U.S. Senator v. United States, No. —, October Term, 1971.

FRANK B. FREDERICK, Esq.,
*Johnson, Clapp, Stone & Jones,*
*Boston, Mass.*

DEAR MR. FREDERICK: In response to the request in your letter of January 26, 1972, I hereby consent to your filing a brief amicus curiae in the above-entitled case on behalf of The Unitarian Universalist Association.

Very truly yours,

ERWIN N. GRISWOLD,
*Solicitor General.*

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U.S. SENATE,
*Washington, D.C., January 28, 1972.*

Re Mike Gravel, U.S. Senator v. United States, No. —, October Term, 1971.

FRANK B. FREDERICK, Esq.,
*Johnson, Clapp, Stone & Jones,*
*Boston, Mass.*

DEAR MR. FREDERICK: In response to the request in your letter of January 26, 1972, I hereby consent to your filing a brief amicus curiae in the above-entitled case on behalf of The Unitarian Universalist Association.

Very truly yours,

CHARLES L. FISHMAN,
*Chief Counsel to Senator Mike Gravel.*

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[In the Supreme Court of the United States, October term, 1971—No. 71—]

### PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

(United States of America, petitioner *v.* Mike Gravel, U.S. Senator)

The Solicitor General, on behalf of the United States of America, petitions for a writ of certiorari to review that portion of the judgment of the United States Court of Appeals for the First Circuit, which extends the protections of the Speech or Debate Clause to third parties and legislative aides and grants legislative aides immunity from testifying before a grand jury under a common law privilege.

#### OPINIONS BELOW

The original opinion of the court of appeals (App. A, *infra,* pp. 17–31) and its opinion on petition for rehearing (App. B, *infra,* pp. 32–35) are not reported. The opinion of the district court (App. D, *infra,* pp. 36–52) is reported at 332 F. Supp. 930.

#### JURISDICTION

The judgment of the court of appeals was entered on January 7, 1972 (App. C, *infra,* pp. 36–37) and the court of appeals denied rehearing on January 18, 1972. By order dated January 24, 1972, Mr. Justice Brennan stayed the court's mandate until final disposition or further order, if a petition for a writ of certiorari is filed on or before February 10, 1972. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

#### QUESTIONS PRESENTED

1. Whether Article 1, Section 6, of the Constitution providing that "* * * for any Speech or Debate in either House," "the Senators and Representatives * * * shall not be questioned in any other Place" bars a grand jury from questioning aides of members of Congress and other persons about matters that may touch on activities of a member of Congress which are protected "Speech or Debate."

2. Whether an aide of a member of Congress has a common law privilege not to testify before a grand jury concerning private republication of material which his Senator-employer had introduced into the record of a Senate subcommittee.

#### CONSTITUTIONAL PROVISION INVOLVED

Article 1, Section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" Clause, provides:

> The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

#### STATEMENT

The relevant facts and procedural history of this case as stated by the court of appeals (App. A *infra,* pp. 18–19) and the district court (App. D *infra,* pp. 38–39, 41–42) are as follows: At midnight on June 29, 1971, Senator Mike Gravel of Alaska convened a public hearing of the Subcommittee on Buildings and Grounds, of which he was chairman, of the Senate Public Works Committee, and read aloud extensive portions of a classified study prepared by the Departmennt of Defense popularly called the Pentagon Papers. At the close of the hearing, he placed the entire study, comprising some 7,000 pages of material in 47 volumes and bearing an overall defense security classification of Top Secret, Sensitive, in the public subcommittee record.

Earlier that day, Dr. Leonard S. Rodberg, a physicist and resident fellow at the Institute for Policy Studies in Washington, D.C., had been engaged as a staff member by Senator Gravel; he assisted the Senator in preparing for and conducting the subcommittee hearing. Thereafter, Dr. Rodberg assisted Senator Gravel in negotiating with several publishing firms for private republication of the study. An agreement was ultimately concluded with Beacon Press, of Boston, to publish a four-volume work entitled "The Senator Gravel Edition of the Pentagon Papers: the Defense Department History of Decision Making on Vietnam."

On August 27, 1971, a federal grand jury sitting in Boston, Massachusetts,[1] subpoenaed Dr. Rodberg to appear as a witness. Following Dr. Rodberg's motion to quash the subpoena, Senator Gravel was allowed to intervene; he argued that Dr. Rodberg, as his legislative aide, was protected by the Speech or Debate Clause from any inquiry regarding the meeting of the subcommittee and efforts by Rodberg, on behalf of Senator Gravel, to publish the Study. Rodberg also moved to quash the subpoena.

The district court denied the motions to quash. It ruled, however, that Senator Gravel's privilege under the Speech or Debate Clause placed limitations on the subject matter about which the grand jury could question Dr. Rodberg. The court held "that the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally" (App. D, *infra,* p. 51). The court further ruled that the arrangement for private republication of the study by Beacon Press was not within the Senator's privilege and therefore that Dr. Rodberg could not refuse to testify before the grand jury concerning that matter. The court entered the following order (*id*, at 52):

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[1] The grand jury was investigating the following possible crimes: the retention of public property or records with intent to convert (18 U.S.C. 641), the gathering and transmitting of national defense information (18 U.S.C. 793), the concealment or removal of public records or documents (18 U.S.C. 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. 371). (App. A, *infra,* p. 19).

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor about things done by the Senator in preparation for and intimately related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting.

During the time Senator Gravel was seeking modification of the order of the district court, a grand jury subpoena was served on Howard Webber, Editor of the Massachusetts Institute of Technology Press with which ultimately unsuccessful negotiations for republication had been carried out, and his appearance before the grand jury was scheduled for October 29, 1971. The district court issued a supplemental protective order staying enforcement of the subpoenas. This was superseded by a stay order issued by the court of appeals, after notices of appeal had been filed. This granted Senator Gravel's motion for a stay pending appeal and halted the grand jury's inquiry until further order.

Both sides appealed. In its opinion the court of appeals discussed numerous issues concerning the scope of the Speech or Debate Clause.[2] It first rejected the government's argument that questioning before a grand jury "about" legislative conduct was not within the protection afforded to Speech or Debate. The court determined that, even when there is no danger of criminal prosecution or civil liability, a legislator might be intimidated and harassed by questioning and could be hindered in performing his legislative responsibilities.

The court next ruled that under the Speech or Debate Clause a grand jury could not inquire into a Congressman's antecedent conduct in obtaining information for use in a Congressional proceeding. The court stated: "allowing a grand jury to question a senator about his sources would chill both the vigor with which legislators seek facts, and the willingness of potential sources to supply them" (App. A, *infra*, p. 24). The court held, however, that the Clause does not cover private republication after the legislative speech (App. A, *infra*, pp. 24–28). But the court ruled that there is a common law privilege, akin to that enjoyed by officials of the Executive Branch, which prevents the grand jury from questioning a member of Congress concerning republication. It specifically refrained from holding that this common law privilege bars criminal prosecutions.

The court then turned to the questions whether and to what extent the Speech or Debate Clause and common law privilege protect persons other than members of Congress. Because of their relationship to their Congressmen-employers, the court held, legislative aides are afforded the same protection as Congressmen themselves with respect to events related to their responsibilities during their period of employment. On the other hand, "Rodberg [the aide in this case] * * * is not protected from inquiry as to events unconnected with intervenor at the time of occurrence" (App. A, *infra*, p. 29). Similarly, the court ruled, the mere fact of employment did not insulate Rodberg from inquiry as to events prior to his employment.

Finally, the court dealt with private third parties. It recognized that they could be asked certain questions, including inquiries as to their own conduct regarding the Study and matters concerning republication. On the other hand, relying upon its interpretation of *United States* v. *Johnson*, 383 U.S. 169, the court held that "any person who dealt with a legislator with respect to speech or debate cannot be inquired of if the object is to attack the legislator's motives in speaking" (App. A, *infra*, p. 29)[3]

"Intervenor may supply a list of his personal aides, and the dates of their employment. Upon the court's being satisfied as to the correctness of the list it shall order that no questions be asked of any of them relating to the Pentagon Papers or to intervenor's legislative activities during the period of their employment. It shall further order that no questions be asked of any other witness as to communications with intervenor regarding legislative activities, including the furnishing of information, or with his aides during such periods, directed to intervenor's motives or purposes in introducing the Papers into the subcommittee records."

The Court entered the following order (as modified in its decision on petition for rehearing):

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions "in the broadest sense, including observations and communications, oral or written, by or to him, or coming to his attention" while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment.[4]

### REASONS FOR GRANTING THE WRIT

This case presents important issues under the Speech or Debate Clause of the Constitution. The court of appeals has interpreted the Clause more expansively than is justified by its language, by decision of this Court or by the basic purpose of the Clause. It has also created a novel common law privilege that prevents questioning a legislative aide about matters not reached by the Speech or Debate Clause. The immediate impact of its rulings is effectively to bar inquiry by a grand jury into possible serious violations of the federal criminal laws. The decision also has the potential of impeding future grand jury investigations and precluding institution of otherwise legitimate criminal prosecutions. A decision of that significance warrants review by this Court.

1. The basic purpose of the Speech or Debate Clause is "to insure that legislators are not distracted from or hindered in the performance of their legislative tasks by being called into court to defend their action" (*Powell* v. *McCormack*, 395 U.S. 486, 505). Its goal is "to prevent intimidation by the executive and accountability before a possible hostile judiciary" (*United States* v. *Johnson*, 383 U.S. 169, 181). Although the primary intent of the Clause is to protect Congressmen from legal accountability, there is substantial justification[5] for the court of appeals' conclusion that it also immunizes Senator Gravel from questioning "about" his legislative conduct by a grand jury,[6] even though there is no possibility of his criminal prosecution.

No similar justification exists, however, for extending the Clause to immunize persons other than members of Congress from questioning by grand juries about Congressmen's legislative conduct. Conceivably the grand jury testimony of those persons touching on the performance of legislative acts might embarrass or impugn the motives of a legislator and conceivably that possibility might inhibit a Congressman in performing his legislative activities. But such inhibitions might also result from the possibility of criticism of a legislator's speech or conduct by constituents, other members of Congress or the press; legislators are no less sensitive to criticism than other people.

This kind of hypothetical hindrance of legislative activity is of a different order from that which would occur if the legislator himself were required to answer to the Executive or Judiciary or appear before a grand jury. His own time is in no way being expended. Nor is he personally being distracted in the performance of his legislative duties. See *Powell* v. *McCormack*, *supra*, 395 U.S. at 505.

Whatever minimal added protection against harassment the legislator would receive if third-party testimony were barred is substantially outweighed by the strong public interest in unimpeded grand jury investigation of crime. Testifying before a grand jury is a public duty of the highest importance. The interest of society "is best served by a thorough and extensive investigation * * *." *Wood* v. *Georgia*, 370 U.S. 375, 392. See also *United States* v. *Johnson*, 319 U.S. 503, 513; *Blair* v. *United States*, 250 U.S. 273; *United States* v. *Bryan*, 339 U.S. 323; *Brown* v. *Walker*, 161 U.S. 594; *Hannah* v. *Larche*, 363 U.S. 420, 499 (Mr. Justice Douglas, dissenting). The public interest requires that all witnesses having knowledge of relevant events give their testimony. The court of appeals has seriously restricted the ability of the grand jury properly to perform its function in a manner that is unnecessary to implement the protections of the Speech or Debate Clause.

Neither the language of the Clause nor relevant judicial interpretation requires this result. The Clause covers only "Senators and Representatives." As this Court pointed out in *United States* v. *Johnson*, 383 U.S. 169, 177–178, the constitutional provision is based on the formulation contained in the English Bill of Rights of 1689, which refers to "Freedom of Speech, and Debates or Proceedings in Parliament."[7] Neither of these provisions even suggests that the privilege was intended to extend to other persons merely because they have working or business relationships with a legislator.

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[2] Initially the court held that Senator Gravel as an intervenor could properly appeal from the refusal to quash the subpoenas directed to Rodberg and Webber, on the ground that he would have no other method of testing the validity of the subpoenas and that compliance with the subpoenas would irreparably injure him.

[3] The court specified the following procedure for determining the proper scope of questioning by the grand jury (App. A, *infra*, p. 31):

[4] An application for a stay by Senator Gravel was granted by Mr. Justice Brennan on January 24, 1972, thus leaving in effect the following order entered by the court of appeals on November 29, 1971:

It is ordered that the grand jury may pursue its inquiry into crimes relating to the so-called Pentagon Papers, provided that neither Senator Mike Gravel nor any member of his staff or of the staff of the subcommittee on Buildings and Grounds shall be subpoenaed to testify, and no witness shall be questioned concerning the acquisition, use, publication, or republication of the Pentagon Papers by Senator Mike Gravel or by any member of the staff as above defined, until further order of this court. The restraining order entered October 29, 1971 shall remain in full force in all other aspects until further order of this court.

[5] It may be that when Congress has delegated its authority to punish under the Speech or Debate Clause, a member of Congress may be subject to grand jury inquiry. See the government's brief in *United States* v. *Brewster*, No. 70–45, this Term.

[6] As has been made clear during these proceedings, the government has no intention of calling Senator Gravel as a witness before the grand jury. Our concern relates to third parties and those of his legislative assistants who might provide relevant information for the grand jury.

The limited judicial precedent on this question is contrary to the view taken below. Thus, in *United States* v. *Johnson*, 337 F. 2d 180, the Fourth Circuit, while holding that a Congressman could not, consistent with the Speech or Debate Clause, be convicted of a conspiracy involving the making of a speech on the floor of the House, also held that the attack on the conspiracy charge of Johnson's nonmember codefendants could not be sustained since "none of the privileges of Article 1, Section 6 pertain to the defendants who are not members of Congress * * *" (337 F. 2d at 192).[8]

The court below did not adopt a blanket rule regarding the application of the Clause to third parties. It formulated the test that "any person who dealt with a legislator with respect to a speech or debate cannot be inquired of if the object is to attack the legislator's motives in speaking" (App. A, *infra*, p. 29). We consider this standard too narrow in the questioning it permits and too uncertain in meaning and application to be viable. Rather clearly it would bar questioning where the sole purpose is to impugn a legislator's motives. But what of questioning the aim of which is to gain information concerning other persons, but which necessarily involves information regarding a legislator's motives? For example, suppose a grand jury is investigating a conspiracy to bribe a Congressman, not with a view toward his prosecution, but in order to ascertain the involvement of several possible conspirators. Is all questioning barred which might develop facts of the Congressman's complicity? Presumably on the basis of its erroneous reading of the *Johnson* case, which is at odds with the unreviewed determination of the Fourth Circuit, the court below would hold that neither the questioning nor a subsequent prosecution would be permissible under the Speech or Debate Clause.

In creating a large area of third party immunity, the court of appeals has departed from the language of the Speech or Debate Clause and has formulated a vague and unworkable standard.

2. The court's blanket extension of the Speech or Debate Clause to legislation aides is also the product of an unduly expansive reading of the Clause.

The immunity provided by the Clause to members of Congress from criminal prosecution and inquiry is an extraordinary one, not shared by members of other branches of the government. It should not be broadly extended to legislative aides, who are subject neither to the judgment of the electorate nor to the imposition of criminal penalties or discipline by Congress. See *Kilbourn* v. *Thompson*, 103 U.S. 168, 189–190. The rigid rule the court of appeals has adopted—that the aide has a privilege as broad as the Congressman under the Speech or Debate Clause—provides a far greater immunity than is necessary to insure the protection that the Clause was designed to provide for the "Senators and Representatives." Any privilege enjoyed by aides should be considerably narrower in scope (cf. *Barr* v. *Matteo*, 360 U.S. 564) than that which the Clause confers on Congressmen. If, contrary to this view, the protection of the Speech or Debate Clause from grand jury and criminal prosecution ever reaches aides, it should only be in those unusual situations where the activities of the legislative aide are closely and directly related to the actual performance of the legislator's speech or debate.

The arguments we have already made regarding third parties similarly militate against the broad derivative grant of privilege given by the court below. Legislative aides are not referred to in the Speech or Debate Clause, and relevant decisions suggest that they are not entitled to the same protections afforded members of Congress. See *Dombrowski* v. *Eastland*, 387 U.S. 82;[9] *Tenney* v. *Brandhove*, 341 U.S. 367, 378.

Moreover, the impact that an absolute immunity for aides could have on grand jury investigations and criminal prosecutions would be great. For example, even if the Congressman were entirely innocent if an aide provided material for a speech for him where the aide was bribed or subjected to blackmail by third parties, the aide could be immunized from questioning by a grand jury investigating the blackmail. Nor are such problems unrealistic when account is taken of the size of a legislator's staff. To recognize selective instances when the privilege may attach to an aide is one thing; to grant blanket immunity coextensive with that of the Congressman-employer is quite another. It distorts the privilege and in this case has impeded the work of the grand jury.

3. The court below erred in creating a common law privilege, available to legislative assistants, not to testify before a grand jury with regard to republication.

In holding that a common law privilege protects a member of Congress from being questioned by a grand jury about activities outside the reach of the Speech or Debate Clause, the court below reached a novel result not supported by prior authority. Since there never has been any intention to call Senator Gravel as a witness before the grand jury, the possible existence of such a privilege for the Senator himself is not directly in issue here. The government, however, does wish to question Dr. Rodberg about republication, among other matters, and therefore challenges the derivative application of a common law privilege to congressional aides. The executive privilege from which the court draws prohibits only the imposition of civil liability for acts committed "within the outer perimeter of [the actor's] line of duty." *Barr* v. *Matteo*, 360 U.S. 564, 575; see *id.* at 569–570. It does not shield one from grand jury inquiry or criminal prosecution. At all events, whatever its reach when applied to a member of Congress, this privilege should not afford protection against inquiry concerning criminal violations to his staff of legislative assistants. In short, Dr. Rodberg should not be free from grand jury inquiry on the issue of republication, because of any possible common law privilege Senator Gravel himself may have against such inquiry.

CONCLUSION

For the reasons stated, the petition for a writ of certiorari should be granted.

Respectfully submitted.

ERWIN N. GRISWOLD,
*Solicitor General.*
ROBERT C. MARDIAN,
*Assistant Attorney General.*
JEROME M. FEIT,
*Assistant to the Solicitor General.*
ROBERT L. KEUCH,
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*Attorneys.*

FEBRUARY 1972.

## APPENDIX A

[U.S. Court of Appeals for the First Circuit—No. 71-1331 and 1332]

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

(United States of America *v.* John Doe, Mike Gravel, U.S. Senator, Intervenor, appellant)

[No. 71-1335]

(United States of America, appellant *v.* John Doe)

Before Aldrich, *Chief Judge*, McEntee and Coffin, *Circuit Judges.*

*David R. Nissen*, Assistant United States Attorney, with whom *James N. Gabriel*, United States Attorney, and *Warren P. Reese*, Assistant United States Attorney, were on brief, for the United States.

*Robert Reinstein and Herbert O. Reid, Sr.* with whom *Charles L. Fishman* was on brief, for Mike Gravel, United States Senator.

*Doris Peterson, Peter Weiss, James Rief*, and *Morton Stavis* on brief, for Leonard Rodberg, Amicus Curiae in case No. 71-1335.

[January 7, 1972]

ALDRICH, *Chief Judge*. These cross appeals raise important questions as to the extent of the privilege afforded by the Speech or Debate clause of the Constitution. This clause, the separate and concluding part of Article I, Section 6, Clause 1, provides that "* * * for any Speech or Debate in either House, they [Senators and Representatives] shall not be questioned in any other Place." The issues arise in the context of a motion to limit the testimony that can be presented to a federal grand jury. The facts are these.

A copy of classified Defense Department documents, now widely known as the Pentagon Papers, containing hitherto unpublished facts concerning the background and conduct of the Vietnam War, found itself, unauthorizedly, in the hands of Senator Gravel, the junior senator from Alaska. The Senator was Chairman of the Senate Subcommittee on Public Buildings and Grounds. He called a meeting of the subcommittee, read to it a summary of the high points, and then introduced the entire Papers, allegedly some 47 volumes and said to contain seven million words, as an exhibit. Thereafter, he allegedly supplied a copy of the Papers to the Beacon Press, a Boston publishing house, owned by the Unitarian-Universalist Society, for publication.

These matters and the events preceding them have attracted the attention of a grand jury in the Massachusetts District. The court found, "The crimes being investigated by the grand jury include the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371)." (Strictly, the court misused the word "public.")

Among other summoned witnesses were Leonard S. Rodberg, a legislative assistant to

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[7] The entire clause in the English Bill of Rights is: "That the Freedom of Speech, and Debates or Proceedings in Parliament, ought not to be impeached or questioned in any Court or Place out of Parliament."

[8] This Court made it explicit in its subsequent decision in the case that it was not passing on this third-party issue. *United States* v. *Johnson*, 383 U.S. 169, 172–173, n. 3.

[9] While this Court has not had occasion to deal with the precise problem here involved, it has held that the Speech or Debate Clause "is less absolute, although applicable, when applied to officers or employees of a legislative body, rather than to legislators themselves." *Dombrowski* v. *Eastland*, 387 U.S. 82; *Kilbourn* v. *Thompson*, 103 U.S. 168.

Senator Gravel, and Howard Webber, director of M.I.T. Press. Rodberg objected to testifying, on the ground of invasion of his First Amendment rights of freedom of association and freedom of the press, and in addition, on the ground that as a legislative assistant to the Senator, he is protected by the Speech or Debate clause. The Senator himself has not been called, and the Department of Justice has stated that it has no intention of calling him. The court, however, permitted the Senator to intervene in the proceedings for the purpose of arguing that his own privilege under the Speech or Debate clause requires that the subpoenas issued to Rodberg and Webber be quashed, and that a protective order be issued suppressing certain other testimony. The resulting order the Senator, as the present appellant, finds too limited, and the government, as cross-appellant, too broad.

### JURISDICTION

The government, correctly, points out that if the subpoena that was sought to be quashed was directed to intervenor, there could be no appeal from the refusal to quash unless he took the further step of refusing to comply, and was adjudicated in contempt. *Cobbledick* v. *United States*, 1940, 309 U.S. 323; *United States* v. *Ryan*, 1971, 402 U.S. 530. Here, however, the subpoena was not addressed to intervenor, but to third parties, who could not be counted on to risk contempt in order to protect intervenor's constitutional rights. *See United States* v. *Ryan*, ante, at 533. Hence he was "powerless to avert the mischief of the order" unless permitted to appeal it. *Perlman* v. *United States*, 1918, 247 U.S. 7, 13. The government's effort to take the case outside the *Perlman* exception, by arguing that intervenor will not suffer irreparable injury if the grand jury hears the evidence, assumes the correctness of its claims that no injury is cognizable unless and until intervenor is indicted. *Perlman*, however, illustrates that, to the contrary, a court, in determining whether an intervenor will suffer irreparable injury unless allowed to appeal, should assume his claim to be correct. We hold, therefore, that the order denying intervenor's motion is appealable.

### THE ISSUES

The court's order, so far as presently material, provided as follows.

> "(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.
>
> "(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommitee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

This order was preceded by a comprehensive recitation of facts, some of which we do not repeat, and discussion of the legal principles. *United States* v. *John Doe, In re Rodberg*, D.C. Mass., 1971, 332 F. Supp. 930. By a subsequent order the court refused further relief, except for a brief temporary stay, which we extended.

The response of both parties is extreme. Intervenor's brief suggests that the entire inquiry is improper.

> "There probably is no clearer case of the prostitution of the grand jury process than is daily evidenced [here]. * * * This Court is thus presented by the government with a flagrant misuse of the subpoena power of the grand jury * * * [by the executive]. This represents a fundamental perversion of the function of the grand jury. * * *"

The government does not make the rejoinder that intervenor's own action in disclosing documents which were, in his own words, "critical of Executive conduct in foreign affairs," had no conceivable relevance to the functions of the Subcommittee on Public Buildings and Grounds; a matter which would seem self-evident.[1] While recognizing that that claim would be (at least largely, *see* post) irrelevant, it does take the extreme position that while legislators may not be questioned "for" their speech or debate, in the sense of being held accountable, they may be freely questioned "about" them.

### "SPEECH OR DEBATE"—THE SCOPE OF THE PRIVILEGE

The areas in which intervenor objects to questioning are three—speech or debate itself, or publication; preparation, or prepublication, and, finally, republication. We will consider them in that order.

### (*a*) *Publication*

For what he says or does on the floor of the Senate, or before the subcommittee, intervenor is concededly protected by an absolute privilege from all criminal and civil liability. *See United States* v. *Johnson*, 1966, 383 U.S. 169; *Tenney* v. *Brandhove*, 1951, 341 U.S. 367. It is equally clear that this protection extends to any written reports of the committee proceedings addressed to Congress, including material unspoken at the hearing but inserted directly into the record. *See Kilbourne* v. *Thompson*, 1880, 103 U.S. 168, 204; *McGoverr* v. *Martz*, D.D.C., 1960, 182 F. Supp. 343, 347. The privilege protects against a claim of irrelevancy, *see Cochran* v. *Couzens*, D.C. Cir., 1930, 42 F. 2d 783, 784, as well as a falsity and malice. The government would argue that intervenor could be questioned "about" his conduct for this very reason, drawing the analogy that one who is immune from prosecution cannot claim the protection of the Fifth Amendment.

In our view this misconceives the scope and purpose of the Speech or Debate clause, which is not principally to protect the person and pocketbook of legislators, but, rather, is to ensure freedom of debate. *United States* v. *Johnson*, ante, at 180–82. Intimidation of a legislator, harassment, embarrassment with the electorate, all may be achieved short of obtaining a criminal or civil judgment. *Cf. United States* v. *Johnson*, 4 Cir., 1964, 337 F. 2d 180, 191, *aff'd*, 383 U.S. 169. Since these consequences can flow from mere inquiry, the possibility of judicial inquiry could itself serve as an effective deterrent to speaking out against executive policy. *Id.* Further, although it seems to us relatively less important, the time required to respond to such an inquiry would be inconsistent with another purpose of the Speech or Debate clause, which is "to insure that legislators are not distracted from or hindered in the performance of their legislative tasks." *Powell* v. *McCormack*, 1969, 395 U.S. 486, 504; *see Tenney* v. *Brandhove*, ante, at 377. We cannot accept the government's distinction between questioned "for" and questioned "about."[2] Nor do we think that the place of questioning, whether it be before the grand jury or before a petit jury, determines it palatability. The legislator need not answer questions anywhere.

### (*b*) *Pre-publication*

Turning to the pre-publication period, we note that we are concerned not with whether a legislator may be protected from prosecution for illegal conduct in obtaining information for use in a congressional proceeding, but only with the extent to which the constitutional privilege bars grand jury questioning. Different considerations may well apply. Effective debate presupposes access to facts. *See generally* Cella, The Doctrine of Legislative Privilege of Freedom of Speech and Debate; Its Past, Present and Future as a Bar to Criminal Prosecutions in the Courts, 2 Suffolk L. Rev. 1, 36 (1968). Since the scope of the privilege should be as broad as is necessary to achieve its purpose of assuring full and free debate, *see Stockdale* v. *Hansard*, 1839, 9 Ad. & E. 2, 150, 112 Eng. Rep. 1112, 1169, we include therein inquiries which would restrict acquisition of information. It seems manifest that allowing a grand jury to question a senator about his sources would chill both the vigor with which legislators seek facts, and the willingness of potential sources to supply them. *Cf. Caldwell* v. *United States*, 9 Cir., 1970, 434 F. 2d 1081, *cert. granted* 402 U.S. 942. Whatever the accommodation that must be made with respect to the public interest in prosecuting crime, *cf. Dombrowski* v. *Eastland*, 1967, 387 U.S. 82, we cannot accept that it is to be drawn in favor of permitting direct inquiry of a legislator.[3] To what other persons this protection may extend we will consider later. All government action cannot be frozen in the name of chilling speech.

*Cf. United States* v. *O'Brien*, 1968, 391, U.S. 367.

### (*c*) *Republication*

Intervenor in his appeal contends that the clause comprehends not only the delivery of a congressional speech and conduct antecedent thereto, but also conduct subsequent to the speech aimed at its wider dissemination, including private republication. Apart from republication such as in the news media or the Congressional Record, which is the natural consequence of a speech and is necessarily protected, *see McGovern* v. *Martz*, ante, at 347, no American court appears to have decided this question.[4] *But cf. id.; Long* v. *Ansell*, D.C. Cir., 1934, 69 F. 2d 386, 389, *aff'd* 293 U.S. 76. In urging us to resolve it in his favor, intervenor acknowledges that it not affect his freedom to speak, since the speech has already been made, but argues that republication is essential to the "due functioning of the legislative process," *United States* v. *Johnson*, ante, 383 U.S. at 172, and is "generally done" by members of Congress.[5] *Kilbourne* v. *Thompson*, ante, at 204. *See also Stockdale* v. *Hansard*, ante, at 150, 1169. The difficulty is that the term "legislative process" is no more self-defining than "Speech or Debate." The language and history of the Speech or Debate clause is a surer guide to the scope of the privilege than catch-phrases, and we find in both a focus upon matters occurring in the course of deliberation. This had been the English concept upon which our privilege had been patterned.[6] Two English cases, decided shortly after the enactment of the American constitution, held that the parliamentary privilege did not immunize members from civil liability for libels contained in privately published reproduction of their parliamentary speeches. *Rex* v. *Creevey*, 1813, 1 Maule & Selwyn 273; *Rex* v. *Lord Abington*, 1795, 1 Esp. N.P. Cases 228. See generally T. E. May, Treaties on the Law, Privileges, Proceedings and Usage of Parliament 48–66 (16th ed. E. Fellowes & T.G.B. Cocks 1957); C. F. Wittke, The History of English Parliamentary Privilege 23–32 (1921). Our courts have expanded the privilege beyond the act of debating within Congress a proposal before it only when necessary to prevent indirect impairment of such deliberations. *See Kilbourne* v. *Thompson*, ante; *Coffin* v. *Coffin*, 1808, 4 Tyng (Mass.). 1.

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[1] Nor does the government point out that intervenor, although relying elsewhere on the public's "right to know," (*see* n. 5, post) basically is seeking to block exposure of how he exposed what, in turn, the Executive did not wish to have exposed.

[2] On the other hand, while we are discussing terminology, except insofar as his hyperbole quoted ante may so suggest, we do not believe intervenor contends that his constitutional protection against questioning means that the government cannot prove aliunde wrongful acts by others which, by implication, may bring his own conduct "into question." There could be no merit in such a claim.

[3] In *New York Times* v. *United States*, 1971, 403 U.S. 713, the Court accommodated related free speech interests in holding that the newspaper's conduct could not be enjoined, although, as pointed out in Mr. Justice White's concurring opinion, it may have been criminal, *Id.*, at 730–41.

[4] We put to one side cases refusing an injunction, as involving different considerations. *See Hentoff* v. *Ichord*, D.D.C., 1970, 318 F. Supp. 1175; *Methodist Federation for Social Action* v. *Eastland*, D.D.C., 1956, 141 F. Supp. 729; *cf. New York Times* v. *United States*, n. 3 ante. In the more common situation, it has long been settled that the publication of defamation, although actionable, may not be enjoined. *E.g., Crosby* v. *Bradstreet Co.*, 2 Cir., 1963, 312 F. 2d 483, *cert. denied* 373 U.S. 911; *Kidd* v. *Horry*, C.C. E.D.Pa., 1886, 28 F. 773.

We do not find private publication within that category. The fact that it may be customarily done by members of Congress is not the answer.[7] Only those acts by which a congressman ordinarily expresses to the House his views on matters before it come within the Supreme Court's extension of the privilege to "things generally done * * * *in relation to the business before* [*Congress*]." *Kilbourn* v. *Thompson*, ante, at 204. (Emphasis supplied)

Intervenor's argument that communicating with the electorate is essential to effective deliberation because it elicits response to guide his legislative decisions and because it helps to put pressure upon other legislators, (n. 5, ante, ¶4) proves too much. If accepted, it would bring within the privilege not only republished congressional speech, but speeches delivered anywhere. But even restricted to repeating what has once been said in a legislative context, the consequences of an unlimited absolute privilege would be staggering. We do not believe intervenor has struck such gold in a field previously thought to be barren.[8] The fact that some repetition may be inevitable does not mean that there should be immunity to add to it. *Cf. Murray* v. *Brancato*, 1943, 290 N.Y. 52 (no privilege for judge to circulate privately a calumnious opinion); see Anot., 146 ALR 913. We will not hold that there is a constitutional privilege to print privately what we must assume for present purposes, were classified documents simply because intervenor had first disclosed them to a Senate subcommittee whose function was totally unrelated thereto.[9]

"The heart of representative democracy is the communicative process between the people and their agents in government."

"Informing the electorate is a 'legislative act' since it is clearly 'related to the due functioning of the legislative process.' *United States* v. *Johnson*, supra at 172. In fact, it is not exaggeration to say that direct communication between a Member of Congress and the electorate is an essential bedrock of the legislative process, for it insures that the people will inform *him and his colleagues* [sic] of their well-considered views on pending and future legislation—an indispensable prerequisite for each Congressman deciding how to cast his own vote."

The fact that republication is not within the constitutional privilege does not exclude consideration of other protection. To the extent that a congressman has responsibility to inform his constituents, his performance of that responsibility may be protected from liability by a common law privilege, as is an executive official's. A news release about the speech may well be as protected as the speech itself. *Cf. Barr* v. *Mateo*, 1959, 360 U.S. 564 (absolute immunity given executive officer for libel contained in news release). How far this immunity should go will depend upon the facts of the particular case. An even more difficult question is whether the measure of the grand jury's right to make personal inquiry of the legislator follows the immunity. Arguably, it may go further, or not so far. Because we do not consider this a matter of present substantial importance, and partly because the court is not in total agreement, we presently resolve it, without binding ourselves for future purposes, if the matter is more sharply put, that he may not be questioned at all as to republication.[10] We do not, of course, mean by this that we are ruling, even tentatively, on the limits of criminal liability.

### WITNESSES PRECLUDED

It may be wondered why, since under *Cobbledick* v. *United States*, ante, until he has been held in contempt we apparently have no jurisdiction to advise intervenor as to the measure of his immunity from testifying, we have nevertheless been answering that question. The reason is that such answer is a necessary condition to passing upon the immunity of others, such as Rodberg, who intervenor claims in this appeal to come under his legislative protection. We now turn to this.

#### (*a*) *Legislative aides*

It is not only accepted practice, but, we would think indispensable, for a legislator to have personal aides in whom he reposes total confidence. This relationship could not exist unless, during the course of his employment, the aide and the legislator were treated as one. To the extent, if any, that there might be exceptions, again, for present purposes, we do not inquire. We note, however, that this synonymity is founded upon the relationship, not on the fact of employment. Rodberg, for example, is not protected from inquiry as to events unconnected with intervenor at the time of occurrence. We reject intervenor's contention that the fact of hiring insulated him from all inquiry as to prior events related to the Papers, but not to intervenor. *See Heine* v. *Raus*, 4 Cir., 1968, 399 F. 2d 785, 790–91.

#### (*b*) *Third Parties*

*United States* v. *Johnson*, ante, holds that any person who dealt with a legislator with respect to speech or debate cannot be inquired of if the object is to attack the legislator's motives in speaking. Specifically, it could not be shown that the defendant's speech was written by a constituent, or that the defendant was paid to deliver it. The Court did not suggest that a legislator was free in all respects from criminal prosecution. *But see id.*, at 185. Indeed, were it to be thought so, one need only turn to the other portions of the Clause, which regulates, procedurally, criminal trials. With respect to third persons, provided that the principles of *Johnson* are observed, we can see no reason for them to be free of inquiry as to their own conduct regarding the Pentagon Papers, including their dealing with intervenor or his aides. We have already spoken as to Rodberg, pre-employment. At the other end, so far as intervenor's privilege is concerned, we hold that no immunity was conferred upon Beacon Press simply because, if he did, intervenor delivered the Papers to it for private publication. Indeed, we would hold, if his appeal can be thought to raise that question,[11] that whatever Beacon Press did is freely inquirable even to the extent, if any (it has not presently been suggested), that it may have made payments to intervenor or others in connection with the Papers subsequent to their introduction into the subcommittee records. Payment for delivering a copy, by a post-speech agreement, is not comparable to a payment for initially delivering the speech. Similarly, the district court's refusal to include Webber in its order was correct.

### PROCEDURE

Intervenor has presented us with a request covering the type of witnesses he believes should be excluded altogether, and an elaborate procedure for the court to employ as to testimony the government proposes to introduce through other witnesses. Much of this request goes by the board with our rejection of some of his basic premises. As to the rest we find such procedure unnecessarily cumbersome, and suggest a simpler solution. Intervenor may supply a list of his personal aides, and the dates of their employment. Upon the court's being satisfied as to the correctness of the list it shall order that no questions be asked of any of them relating to the Pentagon Papers or to intervenor's legislative activities during the period of their employment. It shall further order that no questions be asked of any other witness as to communications with intervenor regarding legislative activities, including the furnishing of information, or with his aides during such periods, directed to intervenor's motives or purposes in introducing the papers into the subcommittee records. We believe the contempt power of the court will be a sufficient guarantee of enforcement without the need of adopting intervenor's extraordinary request that every question be submitted to him for approval before it is asked.

Except to the extent that it is modified herein the order of the district court is affirmed. Even though intervenor has essentially lost his appeal, we do not believe this an appropriate case in which to award costs.

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[5] "The Kramers presuppose[d] the maximum amount of communication between the citizens and their elected representatives."

"The people must be informed fully of the workings of government."

[6] "[I]t may be reasonably inferred that the framers of the Constitution meant the same thing by the use of language borrowed from that source." *Kilbourne* v. *Thompson*, ante, at 202.

[7] *Cf. United States* v. *Johnson*, ante, at 172. There the Court observed that an attempt to influence the Department of Justice in favor of a constituent was unprotected, yet assisting constituents is just as customary a function as communicating with them. See generally V. O. Key, Politics, Parties and Pressure Groups (3d ed. 1952); R. Davidson, The Role of the Congressman 99 (1969).

[8] Those with long memories may recall the frequent, but unaccepted, challenges to a former junior senator from Wisconsin to repeat outside the walls of Congress the calumnies he often expressed within their protection. If intervenor is correct, we would see no reason for distinguishing between the types of legislative speech that could be repeated.

[9] Examples might be multiplied. If an unpublished manuscript was stolen by parties unknown and subsequently was introduced into the records of a Congressional committee, could it be thought that the common law copyright was lost by reason of the Speech or Debate clause? Or, in the case of a published work, that the statutory copyright would thereby be extinguished?

[10] In part we do this because we propose, so far as possible, to make a practicable decision that avoids unnecessary or doubtful points that might burden the Supreme Court.

[11] We take it that intervenor believes it does, in the light of a contempt proceeding he instituted when he erroneously believed the United States Attorney was using a subpoena to examine the Beacon Press' bank records during the processing of this appeal.

## APPENDIX B

[U.S. Court of Appeals for the First Circuit No. 71-1331 and 71-1332]

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

(United States of America v. Mike Gravel, United States Senator, intervenor, appellant)

Before Aldrich, *Chief Judge*, McEntee and Coffin, *Circuit Judges*, on petition for rehearing, etc.

[January 18, 1972]

*Robert J. Reinstein and Charles L. Fishman* for appellant.

*David R. Nissen*, Assistant United States Attorney, for appellees.

ALDRICH, *Chief Judge*. Intervenor has filed a petition for "reconsideration." The word is accurately used; intervenor is arguing the same points he made before. His profferred excuse is that the "expedited schedule * * * severely constricted * * * research." If this was so, it is the first we have heard of it. No pre-argument protest of lack of time was raised; no protest was made at the argument; no request was made for permission to file a further brief, either then, or during the eight weeks we had the matter under advisement. Nor should it be forgotten that petitioner sought intervention in August 1971. We would have thought he had ample opportunity to do his research. F.R.A.P. 40 was not promulgated as a crutch for dilatory counsel, *Cross Baking Co.* v. *NLRB*, 1 Cir., 12/30/71, — F.2 —, nor, in the absence of a demonstrable mistake, to permit reargument of the same matters.

We pass this, in view of the importance of the case. More difficult to overlook is the fact that, with our views and reasoning now fully before him, intervenor, in rearguing the republication issue, fails to address himself to our specific "attempts to reconcile fundamentally antagonistic social policies" (*Barr* v. *Mateo*, 1959, 360 U.S. 564, 576). Further generalities about "legislative activity in the classic and historic sense" do not indicate to us why we are wrong in drawing a distinction between normal and customary republication of a speech in Congress and republishing privately all or part of 47 volumes of, we must presently assume, lawfully classified documents through the device of filing them as exhibits to the records of a subcommittee to which they have no conceivable concern. In repeating the familiar arguments why he should be absolutely protected with respect to introducing the exhibits before the subcommittee—a matter no one questions—and talking broadly about his duty to inform the public, intervenor does not answer our analysis of what should be the subsequent limits of protection.

The petition for reconsideration is denied.

Alternatively, petitioner seeks clarification of our order. We do not, however, understand how he can think the order permits inquiry of third persons directed to his motives. We see no need of clarification here. His further inquiry, whether the questions could be asked of third parties about "preparation for the hearing if that *relates* to his motives for holding it," (emphasis suppl.) perhaps calls for comment. During oral argument we posed a hypothetical, not repeated in our opinion, but to which intervenor now returns. Suppose that the President's private diary is stolen, and thereafter a Congressman introduces it into the legislative record. Petitioner's present brief suggests that since this would be an exercise of "the informing function of exposing Executive behavior," the only answer he would have to make would be to the "House and * * * the people," unless he participated in the theft. His point is put best in the form that preparation is part of speech, and that if inquiry may be made even as to third parties as to the sources, he will be inhibited. Here, it seems to us, some adjustment of competing interests must be made. We believe that if a document shown to be improperly at large is sought to be traced, it may be traced by inquiry of third parties even if the effect may be to lead to a legislator. In *United States* v. *Johnson*, 1966, 383 U.S. 169, the prosecution was barred from questioning third parties about their role in preparing a congressional speech only because the questions were directed to providing that the speech itself was part of a criminal conspiracy. This should not mean that all illegal activity is insulated from inquiry, apart from prosecution, simply because it could be characterized as preparation for a speech. The introduction of the document into the subcommittee records, like Thetis' immersion of Achilles, cannot effect universal protection.

Intervenor has a valid point with respect to the portion of the order relating to Rodberg. This is clarified by inserting after the phrase "his own actions" the words "in the broadest sense, including observations and communications, oral or written, by or to him, or coming to his attention."

This brings us to the government's motion to revoke our stay, which was granted broadly, pending appeal, to cover all facets of intervenor's contentions. With a limit of time on the grand jury proceedings, we amend the stay by substituting the order called for by our opinion, and contained in the judgment, but as presently clarified as to Rodberg. This amendment and substitution is, in turn, stayed until January 26, 1972, to permit intervenor, if he sees fit, to apply forthwith, prior to Friday of this week, to the Circuit Justice.

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## APPENDIX C

[U.S. Court of Appeals for the First Circuit—Nos. 71-1331 and 71-1332]

JUDGMENT

(United States of America, *v.* John Doe)

Mike Gravel, U.S. Senator, intervenor, appellant

Entered: January 7, 1972.

These causes came on to be heard on appeals from the United States District Court for the District of Massachusetts, and were argued by counsel.

Upon consideration whereof, It is now here ordered, adjudged and decreed as follows: The orders of the District Court of October 28, 1971, are affirmed, except that the Protective Order of that date is modified to read as follows:

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment.

No costs on these appeals.

The court does not propose to stay mandate beyond the statutory period except upon motion, which must be shortly made, showing substantial cause.

By the Court:

DANA H. GALLUP, *Clerk*.

## APPENDIX D

[U.S. District Court for the District of Massachusetts, E.B.D. No. 71-172-G]

MEMORANDUM OF DECISION AND PROTECTIVE ORDER

(United States of America v. John Doe, in the Matter of a Grand Jury subpoena served upon Leonard S. Rodberg)

[October 4, 1971]

Garrity, J. Dr. Leonard S. Rodberg, a physicist and resident fellow at the Institute for Policy Studies in Washington, D.C., and currently engaged as a staff member of United States Senator Mike Gravel of Alaska, petitioned the court on August 27, 1971 to quash a subpoena ordering him to appear before a federal grand jury ostensibly investigating crimes related to the release and dissemination of the much-publicized classified study by the Department of Defense entitled "History of U.S. Decision-Making Process on Viet Nam Policy," popularly called the "Pentagon Papers."

The crimes being investigated by the grand jury include the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371), as is indicated in the prosecuting attorneys' oaths of office on file with the Clerk.[1]

At the initial hearing on Dr. Rodberg's motion, the court stayed his appearance before the grand jury until after the parties had filed affidavits and briefs and presented further oral argument. Senator Gravel moved for leave to intervene and, after briefing, intervention was allowed and the court accepted motions by the Senator to quash the subpoena and for specification of the exact nature of the questions to be asked of Dr. Rodberg. Both motions of the Senator allege, and the court finds, that "as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called 'Pentagon Papers,' which were critical of the Executive's conduct in the field of foreign relations."

Dr. Rodberg's first contention in support of his motion to quash is separate from the argument advanced jointly by him and Senator Gravel. This contention is that the subpoena violates rights of his under the First Amendment. In a supporting affidavit, Dr. Rodberg states in part that:

"My roles have been multiple: research, writing, lecturing, supervising research projects, as well as providing advise, assistance, information, expertise to Senators and Congressmen for the performance of their official duties, as well as liaison to other persons whose expertise Congressmen require. Experience has shown that my success in fulfilling these multiple roles depends upon my ability to maintain access to a wide variety of confidential sources of information. My knowledge of and ability to communicate and advise on issues relating to government policy in the areas mentioned above would be seriously jeopardized if I should be forced to appear before a secret grand jury."

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[1] Various opinions in *New York Times Company* v. *United States*, 1971, 403 U.S. 713, 727-740, emphasized that a criminal prosecution might lie for acts related to the publication of classified materials. Whether such a prosecution would lie for acts subsequent to the placing of classified materials in the public record of a congressional subcommittee, the Supreme Court opinions did not intimate and we have not considered. Obviously there may be no prosecution for publication of declassified materials.

While recognizing the importance and usefulness of this type of work by men like Dr. Rodberg, and acknowledging the existence of First Amendment interests here, he is only incidentally a journalist and the court rejects this argument for the reasons stated in its memorandum of decision in E.B.D. No. 71-165, *Application of Falk,* filed contemporaneously herewith.

Dr. Rodberg's other contention, identical to that urged by Senator Gravel, is that the grand jury subpoena served upon him contravenes the Speech or Debate Clause, Article I, section 6, clause 1, of the Constitution of the United States.[2] It is based upon an unusual sequence of events occurring at the height of the court battle over newspaper publication of the controversial Papers. The Court of Appeals for the District of Columbia Circuit had ruled that no prior restraint should issue against publication but the Court of Appeals for the Second Circuit had reached the opposite result. Oral arguments had been heard by the Supreme Court on June 26, 1971. Pending decision by the Supreme Court, publication was temporarily barred. Meanwhile the President had sent a set of the documents to the Congress. On June 30, the Supreme Court affirmed the judgment of the District of Columbia Circuit and reversed that of the Second Circuit, thereby permitting publication. *New York Times Company* v. *United States, supra.*

Late in the evening of June 29, Senator Gravel, a member of the Committee on Public Works, called a meeting of its Subcommittee on Public Buildings and Grounds, of which he is chairman.[3] Earlier that same day, the Senator had added Dr. Rodberg to his personal staff. At the meeting he read extensively from the study and, at its conclusion, placed the entire study comprising 7,000 pages of complex material in 47 volumes on file with the subcommittee, thereby making it widely available to the press. About seven weeks later, on August 18, it was reported in the Washington Post that Senator Gravel had turned over the Pentagon Papers to a Boston publisher, Beacon Press, for compilation into a four-volume book to be released in late October under the title, "The Senator Gravel Edition of the Pentagon Papers: the Defense Department History of Decision Making on Vietnam"; and that Beacon Press came to agreement with the Senator after negotiations with his assistant Dr. Rodberg. In the August 24 edition of a weekly newspaper, Boston After Dark, an article, "Why MIT & Harvard Suppressed the Pentagon Papers", described in detail Dr. Rodberg's prior negotiations with publishers other than Beacon Press. On the evening of August 24, Dr. Rodberg was subpoenaed to appear and testify before the current grand jury.

In opposing the motions to quash and for specification, the Government has pointed out that the grand jury proceedings are secret and it has not been proved by the moving parties that Dr. Rodberg will be interrogated about the subjects described in the newspaper stories. However, given the secrecy and flexibility of all grand jury proceedings, no movant ever could demonstrate with certainty the specific facts about which he had been subpoenaed to testify. Viewing together the crimes which this grand jury is investigating and the chronology of acts and events leading up to Dr. Rodberg's subpoena, the court infers that the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury.

The Speech or Debate Clause, in the context of criminal proceedings, has been applied definitively in *United States* v. *Johnson,* 1966, 383 U.S. 169. Defendant Johnson was a Maryland congressman accused of violating the conflict of interest statute, 18 U.S.C. § 281, and conspiring with codefendants to defraud the United States in violation of 18 U.S.C. § 371. As part of the conspiracy, defendant allegedly delivered for pay a speech in Congress favorable to certain loan companies. Johnson and codefendants were convicted of both crimes. The Court of Appeals has upheld the conspiracy conviction of the coconspirators and the conviction of Johnson under the conflict of interest statute, but held that the conspiracy count was "unconstitutional as applied to * * * Johnson." 337 F.2d at 192. In effect, the Court of Appeals read the Speech or Debate Clause to create an immunity against prosecutions for unlawful acts or motives underlying otherwise privileged legislative conduct. On certiorari granted on the Government's petition, the Supreme Court affirmed the judgment of the Court of Appeals but did not agree as to the breadth of the application of the Speech or Debate Clause. Rejecting the interpretation that the privilege barred the conspiracy prosecution, the Supreme Court instead remanded for a new trial on that count, admonishing however that no evidence of, or inquiry into, the privileged speech would be permitted.

In its opinion in the *Johnson* case, the Supreme Court stated that the privilege must "be read broadly to effectuate its purposes," 383 U.S. at 180, and that "the privilege was not born primarily of a desire to avoid private suits * * * but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary," at 181. The Court also ruled that the Clause does not reach "conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise related to the due functioning of the legislative process," at 172, and that its "decision does not touch a prosecution which * * * does not draw in question the legislative acts of the defendant member of Congress or his motives for performing them," at 185. Thus, the privilege is limited specifically to legislative acts and antecedent conduct so intimately related to them such as cannot be proved without resort to inquiry into legislative acts.

Another relevant fundamental principle is that the legislative privilege conferred by the Speech or Debate Clause belongs to Congressmen only and not to their assistants and aides. In the first place, the Constitution mentions only Senators and Representatives. Secondly, Thomas Jefferson's authoritative interpretation of the privilege, in Jefferson's Manual of Parliamentary Practice, Section III, reprinted in the Senate Manual, 1967, 382–383, states that "the framers of our Constitution * * * have only privileged Senators and Representatives themselves * * *." Thirdly, no case or other authority indicates to the contrary. Cf. *Powell* v. *McCormack,* 1969, 395 U.S. 486, 504–506, holding that employees of the House of Representatives might be sued in a civil action which would be barred against Congressmen by the legislative privilege.

It follows that while the Speech or Debate Clause plainly sets limitations upon the grand jury's investigation, the motions to quash the subpoena served on Dr. Rodberg seek too broad a result. Without doubt he may be questioned as to the activities of third parties with whom he and the Senator dealt. He may also be questioned about, and is legally responsible for, his own actions previous to his joining the Senators' personal staff on June 29 and many of his actions thereafter. That the Senator's legislative privilege will serve to bar some questions, as hereinafter ruled, does not by any means excuse Dr. Rodberg from appearing and answering questions on subjects beyond the protection of the privilege.

Similarly, Senator Gravel's motion for specification which seeks an order requiring the Government to specify in detail the purpose, scope and exact nature of questions to be asked of Dr. Rodberg will not be granted in terms. In the court's opinion such an order is unnecessary in the circumstances of this case to afford full protection to the Senator's legislative privilege and would moreover impede the grand jury in the discharge of its investigative duties. As stated in *Blair* v. *United States,* 1919, 250 U.S. 273, 282, regarding the nature of the grand jury.

> It is a grand inquest, a body with powers of investigation and inquisition, the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime. As has been said before, the identity of the offender, and the precise nature of the offense, if there be one, normally are developed at the conclusion of the grand jury's labors. not at the beginning.

On the other hand, it is equally clear from the *Johnson* case that Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause be the subject of questioning before the grand jury.[4] The question of what constitutes legislative acts has been treated in decisions in civil actions cited with approval in the *Johnson* case. The classic statement appears in *Kilbourn* v. *Thompson,* 103 U.S. 168, 204, as follows:

> "It would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forcible in its application to written reports presented in that body by its committees, to resolutions offered, which, though in writing, must be reproduced in speech, and to the act of voting, whether it is done vocally or by passing between the tellers. In short, to things generally done in a session of the House by one of its members in relation to the business before it."

In view of the primary purpose of the privilege "to prevent intimidation by the Executive and accountability before a possibly hostile Judiciary," *United States* v. *Johnson, supra* at 181, the protection of the privilege afforded by the Speech or Debate Clause may be broader in criminal proceedings than in civil. Therefore the court sustains Senator Gravel's claim that whatever he did at the subcommittee meeting on June 29 and certain acts done in preparation therefore are privileged.

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[2] Art. I, § 6, cl. 1 provides, "The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; *and for any Speech or Debate in either House, they shall not be questioned in any other Place.*" The last clause is known as the Speech or Debate Clause. (Emphasis added.)

[3] Most of the facts stated in this paragraph appear only in Dr. Rodberg's unverified motion which incorporates as exhibits two newspaper stories thereto attached. They have been adopted as findings by the court for purposes of this decision because not disputed in any way by the Government and because underlying the parties' legal submissions.

[4] On a later appeal from Johnson's conviction upon retrial, *United States* v. *Johnson,* 4 Cir., 1969, 419 F.2d 56, it was held that the grand jury's receipt of evidence about Johnson's speech, while "constitutionally impermissible," did not invalidate the indictment, citing *Costello* v. *United States,* 1956, 350 U.S. 359.

The Government has argued that the Senator's conduct at the subcommittee meeting is unprivileged because the purpose of the meeting, the reading of the Pentagon Papers, was unrelated to any investigation or undertaking authorized by the parent Committee on Public Works or by the Senate in its delegation of power to the parent committee. Senator Gravel has suggested that the availability of funds for the construction and improvement of public buildings and grounds has been affected by the necessary costs of the war in Vietnam and that therefore the development and conduct of the war is properly within the concern of his subcommittee. The court rejects the Government's argument without detailed consideration of the merits of the Senator's position, on the basis of the general rule restricting judicial inquiry into matters of legislative purpose and operations. "To find that a committee's investigation has exceeded the bounds of legislative power it must be obvious that there was a usurpation of functions exclusively vested in the Judiciary or the Executive." *Tenney* v. *Brandhove*, 1951, 341 U.S. 367, 378.

There are, of course, occasions when a court is obliged to scrutinize the powers of a congressional committee and the relationship of its activities to its legitimate legislative purpose. But such occasions have been limited to cases in which the power of Congress under the Constitution has been at issue, e.g., *Kilbourn* v. *Thompson, supra*, or where the constitutional rights of individuals have been jeopardized by congressional action, as in cases dealing with prosecutions under 2 U.S.C. § 192 for contempt of Congress, e.g., *Watkins* v. *United States*, 1957, 354 U.S. 178. As stated in the latter case, at 205:

> It is, of course, not the function of this Court to prescribe rigid rules for the Congress to follow in drafting resolutions establishing investigating committees. That is a matter peculiarly within the realm of the legislature, and its decisions will be accepted by the courts up to the point where their own duty to enforce the constitutionally protected rights of individuals is affected.

It has not been suggested by the Government that the subcommittee itself is unauthorized, nor that the war in Vietnam is an issue beyond the purview of congressional debate and action. Also, the individual rights at stake in these proceedings are not those of a witness before a congressional committee or of a subject of a committee's investigation, but only those of a congressman and member of his personal staff who claim "intimidation by the executive." *United States* v. *Johnson, supra*, at 181. "The courts have no right to dictate * * * the procedures for Congress to follow in performing its functions * * *." *United States* v. *Hintz*, N.D. Ill., 1961, 193 F. Supp. 325, 331. Judging the applicability of the legislative privilege in the exercise of the functions of a legislator's office should be done "without inquiring whether the exercise was regular according to the rules of the House, or irregular and against their rules." *Coffin* v. *Coffin*, 1808. 4 Mass. 1.27.

Senator Gravel's arranging for private publication of the Pentagon Papers by Beacon Press stands on a different footing and, in the court's opinion, is not embraced by the Speech or Debate Clause.[5] The test is not the public benefit or political value of such private publication[6] but whether it is a legislative act, i.e., "related to the due functioning of the legislative process," *United States* v. *Johnson, supra* at 172, or "generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn* v. *Thompson, supra* at 204. Guidance is available mainly in decisions in civil actions dealing with congressmen's civil liability for libel. A distinction has been drawn in the cases between defamatory words inserted in the Congressional Record, held to be privileged, and defamation resulting from a congressman's circulation of reprints or copies of the Congressional Record to his constituents. As to the latter, *McGovern* v. *Martz*, D.D.C., 1960, 182 F. Supp. 343, held that the absolute privilege of the Speech or Debate Clause does not apply to republication, stating at 347, "The reason for the rule—complete and uninhibited discussion among *legislators*—is not here served." See *Restatement of Torts*, 1938 ed., § 590, comment b. In *Hentoff* v. *Ichord*, D.D.C., 1970, 318 F. Supp. 1175, an issue was whether the court had power to enjoin distribution of a House committee report by the Public Printer and Superintendent of Documents. In holding that it did, the court said at 1180,

> Nothing in the Constitution or the cases suggests, however, that a committee report is a necessary adjunct to speech or debate in Congress * * *. and its further printing and public distribution is not necessary to give effect to the freedom of congressmen to speak and debate on or off the floor. The Speech or Debate Clause does not necessarily bar an action to enjoin the Public Printer from printing a committee report for public distribution.

While recognizing a special vitality attaching to the Speech or Debate Clause in criminal proceedings, *United States* v. *Johnson, supra* at 180–182, the court nevertheless concludes that the reasoning of these civil cases is valid and in the instant case controlling.

Having delineated the area of Senator Gravel's conduct which may not be investigated by the grand jury, the court turns to the question whether some of Dr. Rodberg's activities are also protected from investigation, not because of any privilege of his own but by reason of his having acted as the Senator's agent and assistant in the Senator's, performing various legislative acts.[7] The Senator and witness submit, and the court agrees, that the legislative privilege enjoyed by a senator must extend to some activities of a member of his personal staff acting at his direction. To rule otherwise would dilute and jeopardize the privilege itself. For example, speeches delivered on the floor of Congress are often drafted by a skilled staff assistant and not by the congressman himself; to make such an assistant accountable for the content of a speech drafted by him would serve to defeat the privilege. A legislator's dependence upon confidential assistants is analogous to a lawyer's, whose client's privilege against disclosure of confidential communications has been held applicable to the lawyer's assistants. *United States* v. *Kovel*, 2 Cir., 1961, 296 F. 2d 918. The opinion in that case stated at 921, "The complexities of modern existence prevent attorneys from effectively handling clients' affairs without the help of others * * *." This holding has been adopted by the Proposed Rules of Evidence for the United States Courts, Preliminary Draft, 1969, Rule 5–03 (b). Although the attorney-client privilege is of ancient origin, 8 Wigmore, Evidence (McNaughton Rev. 1961), § 2290, p. 542, and is grounded on strong social policy, it is not a constitutional privilege and surely does not warrant broader protection than the legislative privilege based upon the Speech or Debate Clause. In this respect the legislative privilege is akin to the executive privilege about which the Supreme Court in *Barr* v. *Matteo*, 1959, 360 U.S. 564: commented at 573:

> The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy.

*Powell* v. *McCormack*, 1969, 395 U.S. 486, and similar cases permitting actions against subordinate employees of legislative bodies are distinguishable. Employees held accountable in such cases were administrative personnel whose non-discretionary duties to the legislative body as a whole in no substantial way related to the specific furtherance of the legislative tasks of individual members. Such institutional employees clearly have less impact upon legislation than personal staff members entrusted by the legislator himself with sensitive and confidential duties. Therefore the court holds that the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally.

Lastly, the relief to which Senator Gravel is entitled under the particular circumstances here presented must be determined in the light of two of the principles derived from the decisions discussed in this memorandum: a congressman may not be prosecuted for legislative acts but may be prosecuted for non-legislative acts; and in any such prosecution no evidence from any source of a congressman's legislative acts may be considered against him. A further consideration is the self-evident proposition that no prosecuting attorney, grand jury foreman or other official has lawful authority to prohibit or foreclose a federal grand jury from investigating any offenses against the United States. Therefore, if Senator Gravel's rights under the Speech or Debate Clause are to be fully protected, a protective order will be required limiting the subject matter of the current grand jury's investigation and not merely the questions which may be put to Dr. Rodberg, the witness under subpoena.

For the foregoing reasons it is ordered that the motions to quash and for specification be denied, but that the following protective order be entered:

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor about things done by the Senator in preparation for and intimately related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Sub-

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[5] The Senator has made no specific claim that his legislative privilege extends to his actions subsequent to the subcommittee hearing. However, this claim has been advanced by Dr. Rodberg and contested by the Government and hence the court has considered it.

[6] The importance of the "informing function of Congress" is described in powerful terms in a quotation from Wilson, Congressional Government (1885), 303, set forth in fn. 6 of the opinion of the Court in *Tenney* v. *Brandhove, supra* at 377.

[7] Despite *Kilbourn* v. *Thompson, supra*, and *Tenney* v. *Brandhove, supra*, the related doctrine of legislative immunity is applicable, though not absolutely, to officers and employees of legislative bodies. *Dombrowski* v. *Eastland*, 1967, 387 U.S. 82, 85. In this sense, therefore, such employees have rights flowing from the Speech or Debate Clause.

committee on Public Buildings and Grounds or in preparation for and intimately related to said meeting.

W. ARTHUR GARRITY, JR.,
*United States District Judge.*

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UNITED STATES SENATE,
*Washington, D.C., 20510, February 22, 1972.*
Re Mike Gravel v. United States.
Hon. ERWIN N. GRISWOLD,
*Solicitor General of the United States,*
*Department of Justice,*
*Washington, D.C.*

DEAR DEAN GRISWOLD: I wish to bring your attention to a matter of the utmost importance relating to the above-captioned matter now pending before the Supreme Court.

On February 10, 1972, a *subpoena duces tecum* was served upon Gobin Stair, Director of the Beacon Press of Boston, ordering him to appear as a witness at the trial of Anthony J. Russo, Jr., and Daniel Ellsberg. The subpoena was apparently issued January 21, 1972, received in Boston on January 26th, and not served until February 10th. It orders Stair to appear with certain documents on March 7, 1972, in Los Angeles. A similar subpoena was served on Howard Webber, Director of the M.I.T. Press.

Both subpoenas demand production of the exact documents sought earlier by the Boston Grand Jury but prohibited by the present stay. Thus the subpoena to Mr. Webber demands the production of "all notes and memoranda made by you during or concerning a meeting with Leonard Rodberg on July 23, 1971." The subpoena to Mr. Stair demands the following material:

1. All documents received by Beacon Press comprising what are commonly known as the "Pentagon Papers".

2. All records reflecting:

(a) All costs to Beacon Press of publishing said documents.

(b) The price paid for said documents by Beacon Press or its parent association.

(c) All agreements made with Beacon's source of the papers, including agreements for remuneration.

Enclosed are copies of the subpoena for your easier reference.

It is quite obvious from the face of these subpoenas that the Government seeks to have these two men produce in Los Angeles documents, and perhaps testimony, which could not be sought or produced in Boston before the Grand Jury without violating the stay order issued by Mr. Justic Brennan in the Gravel case on January 24, 1972. It is our view that this attempt to execute these subpoenas violates at least the spirit of the First Circuit's Order of November 29, 1971, as extended by Mr. Justice Brennan's January 24th order. We have been considering seeking from Mr. Justice Brennan an expanded restraining order so that actions such as the issuance and execution of these subpoenas would be a clear violation of the letter, as well as the spirit, of the stay which must remain in effect during the pendancy of this case in order to avoid making the issues moot.

We respectfully request that you intervene in this matter and cause that these two subpoenas be withdrawn. In view of the fact that the Russo-Ellsberg trial has recently been re-scheduled from March to May 1972, we would also ask that no further subpoenas be issued for the production of testimony or documents relating to the Subcommittee hearing or to the publication of the Senator Gravel edition of the Pentagon Papers.

We felt it appropriate to seek relief from your Office before burdening the Supreme Court with this problem, and we trust that you will see fit to use your good efforts in this matter.

Respectfully,

CHARLES L. FISHMAN,
*Chief Counsel.*

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UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

(United States of America v. Anthony J. Russo, Jr., et al., No. 97373–WMB–CD)

To Gobin Stair,
*Director, Beacon Press,*
*Beacon Press Company,*
*25 Beacon Street, Boston, Mass.*

You are hereby commanded to appear in the United States District Court for the Central District of California, before the Hon. Wm. Matthew Byrne, Jr. at 312 North Spring Street in the city of Los Angeles on the 7th day of March 1972 at 9:30 o'clock A.M. to testify in the case of United States v. Anthony J. Russo, Jr., et al., and bring with you:

1. All documents received by Beacon Press comprising what are commonly known as the "Pentagon Papers."

2. All records reflecting:

(a) All costs to Beacon Press of publishing said documents.

(b) The price paid for said documents by Beacon Press or its parent association.

(c) All agreements made with Beacon's source of the papers, including agreements for remuneration.

This subpoena is issued upon application of the United States of America.

January 21, 1972: William D. Keller, United States Attorney; David R. Nissen, Special Asst. U.S. Atty., Attorney for Plaintiff.

EMORY G. HATCHER,
*Clerk.*
By ROBERT J. FOLLIS,
*Deputy Clerk.*

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U.S. DEPARTMENT OF JUSTICE,
*Washington, D.C.*

NOTICE TO WITNESSES ON BEHALF OF UNITED STATES GOVERNMENT

*Allowances.*—Under Title 28, United States Code, Section 1821, witnesses are entitled to the following fees:

(a) $20 for each day's attendance and time spent traveling from place of residence to the place specified in the subpena, and return.

(b) 10¢ per mile for going from and returning to place of residence for witnesses within the United States, mileage to be computed in accordance with the Rand McNally Standard Highway Mileage Guide. For travel between Territories and possessions, or to or from the continental United States, witnesses shall be entitled to actual expenses of travel at the lowest first-class rate available at the time of reservation for passage, by the means of transportation actually used.

(c) $16 per day for expenses of subsistence, in addition to the $20 fee in (a) above, if the witness is attending at a point so far removed from his residence that he cannot return thereto from day to day.

These rates do not apply to Government employees nor do they apply to witnesses in Alaska.

*Attendance.*—The subpena tells the witness where to appear. Before reporting to a courtroom, it is necessary for the witness to report to the office of the United States Attorney so that his attendance may be properly recorded. This should be done *each day* on which the witness is asked to be in attendance. When a witness has been advised that his attendance is no longer required, he should also report to the office of the United States Attorney as soon as possible, so that arrangements may be made for payment of fees.

*Payments.*—Before payment is made to a witness, he must execute a Certificate of Attendance form, which is also signed by a member of the United States Attorney's office. The office of the United States Marshal is responsible for issuing the payment check.

*Appearance in another city.*—If a witness has insufficient funds to travel to court, he should so advise the U.S. Attorney's office of the trial district immediately and request an advance. The Assistant U.S. Attorney handling the case will then request the Marshal serving the subpena to advance one way transportation and, if necessary, the first day's attendance fee. The witness should be required to sign a Form USM–24, indicating his need for the advance. Any amount advanced will be deducted when the final payment is made by the Marshal.

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UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

(United States of America v. Anthony J. Russo, Jr., et al., No. 9373–WMB–CD)

To Howard R. Webber,
Director, MIT Press,
Massachusetts Institute of Technology,
Cambridge, Massachusetts.

You are hereby commanded to appear in the United States District Court for the Central District of California, before the Hon. Wm. Matthew Byrne, Jr., at 312 North Spring Street in the city of Los Angeles on the 7th day of March 1972 at 9:30 o'clock A.M. to testify in the case of United States v. Anthony J. Russo, Jr., et al., and bring with you all notes and memoranda made by you during or concerning a meeting with Leonard Rodberg on July 23, 1971.

This subpoena is issued upon application of the United States of America.

January 21, 1972: William D. Keller, U.S. Attorney; David R. Nissen, Special Asst. U.S. Atty., Attorney for Plaintiff.

EMORY G. HATCHER,
*Clerk.*
By ROBERT J. FOLLIS,
*Deputy Clerk.*

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*Washington, D.C.*

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[In the Supreme Court of the United States—October Term, 1971]

Memorandum for the United States

(No. 71-1017—Senator Mike Gravel, Petitioner *v.* United States of America)

(On petition for a writ of certiorari to the U.S. Court of Appeals for the First Circuit)

The court of appeals has rendered an important decision concerning the scope of the Speech or Debate Clause which warrants plenary review by this Court. As we pointed out in our opposition to the stay, we believe the court below correctly decided that republication is not protected by the Clause, the principal issue raised in the instant petition. Nevertheless, we are concerned by several other aspects of the decision—namely the granting of blanket protection under the Clause to legislative aides and, although in less sweeping terms, the extension of the protection of the privilege to third parties. We have filed a petition for a writ of certiorari seeking review of these portions of the court's judgment, as well as of its ruling granting a common law privilege to legislative aides.

Because of the manifest importance of the case, we urge that the Court grant both petitions in order that all aspects of the decision below may be reviewed here.

Respectfully submitted.

ERWIN N. GRISWOLD,
*Solicitor General.*

FEBRUARY 1972.

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[In the Supreme Court of the United States—October Term, 1971]

BRIEF IN OPPOSITION TO GOVERNMENT'S PETITION FOR A WRIT OF CERTIORARI

(No. 71-1026—Mike Gravel, petitioner, v. United States, respondent)

(Attorneys for Senator Gravel)

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(Of Counsel)

Alan M. Dershowitz, Cambridge, Mass.

Norman S. Zalkind; Roger C. Park, Zalkind & Silverglate, Boston, Mass.

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[In the Supreme Court of the United States—October Term, 1971]

BRIEF IN OPPOSITION TO GOVERNMENT'S PETITION FOR A WRIT OF CERTIORARI

(No. A-746—Mike Gravel, petitioner, v. United States, respondent)

The primary issue which the Government seeks this Court to review is whether the Speech or Debate Clause protects a Senator against Grand Jury interrogation of his aides about his legislative activities. While conceding that the Senator himself cannot personally be interrogated (Govt. Pet. 10), the Government urges nevertheless that the Court of Appeals erred in holding that an identical inquiry into his legislative conduct, pursued by the questioning of his aides, is similarly unconstitutional. While this issue is obviously a significant one, the Court of Appeals' disposition of it is clearly correct and is in harmony with the views of other courts; therefore, we respectfully submit that this issue does not warrant Supreme Court review at this time.

1. Except for the instant case, the Government has consistently and successfully argued that the Congressional privilege, to be viable, must be held to extend to aides who assist Congressmen in the performance of their legislative duties. In the recent decision of *Doe* v. *McMillan*, No. 71-1027 (decided January 20, 1972),[1] the District of Columbia Circuit agreed with and relied upon the First Circuit's holding that aides like Dr. Rodberg, who act within the sphere of legislative activity, are within the umbrella of the Speech or Debate Clause:

"In this day of complex public problems, where assignment of authority by legislators to legislative assistants is an absolute necessity if Congress is to be able to perform its constitutional functions, it would indeed be hollow to afford immunity to the Congressmen, but not to their assistants, for these aides might be hesitant to undertake the full performance of their lawful duties if they had to face the threat of possible lawsuits. Such an inconsistent result would impossibly hinder congressional activities, and effectively prevent the attainment of the objectives underlying the Speech or Debate Clause." (Slip Op., pp. 17-18).

Similarly, in two other cases in the District Courts, the Government has argued vigorously this same proposition. *United States Servicemen's Fund* v. *Eastland*, Civ. No. 1474-70 (D.D.C., decided October 21, 1971); *McSurely* v. *McClellan*, Civ. No. 516-69 (D.D.C.) In the *Servicemen's Fund* case, the court barred the deposition of Sourwine, counsel for the Internal Security Subcommittee, about its legislative activities, on the grounds that:

". . . a full-scale examination, by the attempted deposition of the Subcommittee's counsel [about] the Subcommittee's judgment[s] . . . would be an invasion of the prerogatives of the legislature and a serious interference with Congressional investigations and with Congressional privilege."[2]

Likewise, in the analogous area of Executive privilege, this Court has held that the privilege encompasses the thousands of subordinate administrative officials.

"The privilege is not a badge or emolument of exalted office, but an expression of a policy . . . designed to aid in the effective functioning of government. The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy." *Barr* v. *Matteo*, 360 U.S. 564, 572-73 (1959).

And for the past three years the Executive has invoked his privilege to prevent the appearance of Dr. Henry Kissinger and other aides who were called to testify before Congressional committees.

Such cases as *Kilbourne* v. *Thompson*, 103 U.S. 168 (1881) and *Powell* v. *McCormack*, 395 U.S. 486 (1969) are clearly distinguishable. There the Sergeant-at-Arms was held liable for acting as a law enforcement official in enforcing coercive orders of the House which violated individual rights, and he was held accountable so as not to forestall judicial review of unconstitutional actions.

These decisions follow necessarily from the principles of *Marbury* v. *Madison*, 1 Cranch 137 (1803). Here, on the other hand, we deal with aides whose role is to assist a Senator in speaking out on controversial issues. Compare *Dombrowski* v. *Eastland*, 387 U.S. 82, 85 (1967) (the privilege is "less absolute, *although applicable*, when applied to officers or employees of a legislative body"[3]).

2. Nor has the Government offered in its Petition any cogent reasons why the position it has consistently and successfully argued in other cases is suddenly rendered erroneous. The Government should not be heard to assert the privilege as a shield for the invasion of a citizen's constitutional rights and then to deny its applicability to a classic separation of powers case.[4]

The central purpose of the Clause is, of course, to insure that a Congressman is able to act fearlessly in the discharge of his official duties, with the guarantee that his freedom of action will be respected by the coordinate branches of government. The central, incontrovertible fact is that no Congressman could even attempt to meet his official responsibilities without the assistance of aides. In preparing a speech on controversial issues, in informing the electorate, and in determining how to cast his vote, a Congressman of necessity must rely in part on the assistance and advice of trusted aides. Given the realities of modern government, the compelled testimony of a Congressman's aides before the Grand Jury about his legislative activities would intrude *precisely* the same degree into the activities of Congress as if the Congressman himself were called, and carries with it precisely the same potential for intimidation and harassment. By stressing only that a Congressman's time will not be expended while his aides are interrogated about his protected conduct (Govt. Pet. 11),[5] the Government simply ignores that these far more serious consequences will deter any conscientious Congressman from properly representing his constituents and will thereby jeopardize the central purpose of the Congressional privilege.

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[1] A copy of this opinion has heretofore been furnished to the Court.

[2] Memorandum in Support of Defendant's Opposition to Plaintiff's Motion for Order Compelling Answers, pp. 7-8.

[3] (Emphasis added.) Although the Subcommittee counsel in *Dombrowski* claimed that he did nothing more than help the Subcommittee issue subpoenas, there was a disputed issue of fact as to whether he actually conspired with State officials to conduct an illegal raid, and this Court remanded that issue for trial. If such a dispute of fact had not existed, the complaint would have been dismissed as to him.

[4] We have been informed by counsel for the plaintiffs in *Doe* v. *McMillan* that they intend to file a petition for writ of certiorari on or before March 13, 1972. One may properly wonder whether the Government intends to argue in favor of the applicability of the privilege for aids in that case and argue directly against it in the instant case.

The insubstantiality of the Government's singular position on this issue is further revealed by the arguments in its Petition. It is far too late in the day to suggest (Govt. Pet. 11) that a narrow, literalistic reading of the Speech or Debate Clause governs this case. Since "the privilege has been recognized as an important protection of the independence and integrity of the legislature," *United States* v. *Johnson*, 383 U.S. 169, 178 (1966), the rule from the earliest decisions has been that the Clause must be "read broadly to effectuate its purposes." *Id.*, at 180.

[5] We confess to being amazed at the Government's assertion that the Congressman will not be "distracted [from] the performance of his legislative duties" (Govt. Pet. 11) while his aides are subpoenaed by the Grand Jury and interrogated about how the Congressman wrote his speeches, cast his votes and held his committee hearings—a matter to which he will hardly be oblivious.

Equally remarkable is the Government's assertion that the conduct of aides cannot be restrained "[by] the judgment of the electorate nor [by] the imposition of criminal penalties or discipline by Congress" (Govt. Pet. 13). We have been unable to find authority for such a sweeping statement.

The Government poses the issue as requiring this Court to strike a balance between "whatever minimal added protection against harassment the legislator would receive" and "the strong public interest in unimpeded grand jury investigation of crime" (Gov. Pet. 11). The effects of interrogation of necessary assistants can by no stretch of the imagination be deemed "minimal",[6] and the basic flaw in the Government's position is that it refuses to recognize that the appropriate balance was struck long ago by the Framers when they decided to immunize legislative acts, so that, to borrow from the language of the English Bill of Rights, "the freedom of speech or debates, or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament." Obviously, every time the privilege is invoked the Executive believes that a "public interest" is impeded.[7] The Farmers realized that on occasion this would be true but believed that this was the price to pay for the independence of the people's elected representatives.[8]

The Government also seeks review of the Court of Appeals' holding with respect to the permissible scope of inquiry of "third parties" about a Congressman's legislative activities. We agree that this ought to be reviewed, and have presented it in Question 2 of our Petition, but for reasons quite different than the Government's.

The Government suggests that the Court of Appeals, by barring questioning about a Congressman's motives,[9] has created "a vague and unworkable standard" (Govt. Pet. 13). In fact, the only extent to which the First Circuit's standard is unworkable is when it seeks to protect the Senator's privilege by assuming that questioning of persons concerning matters other than the Senator's motives will leave a sufficient protective "fence" around the Senator's legislative activities. Yet it is difficult to see how any court could enforce this "motives" standard, since almost any act committed by the legislator in pursuance of his official duties can with equal cogency be said to reflect or not to reflect upon his motives to one extent or another. In order to be workable *and effective*, the standard has to be expanded, not contracted.

Finally, if the Court agrees that there is a constitutional privilege under the Speech or Debate Clause or the doctrine of Separation of Powers, see *Doe* v. *McMillan, supra*, pertaining to aides, then it would be unnecessary for the Court to grant certiorari covering the question of whether there is a common law privilege protecting such persons. Only if the Court finds that there is no constitutional privilege covering aides, or that there is a constitutional privilege covering only some activities of aides but not others, then the Court has to consider the question of the common law privilege.

CONCLUSION

Petitioner respectfully submits that the Court should grant Senator Gravel's Petition for Writ of Certiorari and deny the Government's Petition.

Respectfully submitted,

(Attorneys for Senator Gravel)

Robert J. Reinstein, Temple University Law School, 1715 N. Broad Street, Philadelphia, Pa.

Charles L. Fishman, 633 East Capitol Street, Washington, D.C.

Harvey A. Silverglate, Zalkind & Silverglate, 65a Atlantic Avenue, Boston, Mass.

(Of Counsel)

Alan M. Dershowitz, Cambridge, Mass.

Norman S. Zalkind, Roger C. Park, Boston, Mass.

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WASHINGTON, D.C., *February 24, 1972*.

Re Mike Gravel, U.S. Senator, Petitioner v. United States, Respondent 71–1017; 71–1026. E. ROBERT SEAVER, Esq.

*Clerk, Supreme Court of the United States Washington, D.C.*

DEAR SIR: The purpose of this letter is to inform you that I have been notified by Mrs. Fitzhugh, the Court Reporter in the United States District Court for the District of Massachusetts, that she is unable at this time to complete the transcripts in the above captioned cases because she is presently under orders from Judge W. Arthur Garrity, Jr., to work exclusively on the transcript of another case.

At this point Mrs. Fitzhugh has completed transcribing but not proofreading the proceedings of one hearing. Another full hearing remains to be transcribed and proofed. We also are awaiting completion and delivery of the transcript of a hearing held in the United States Court of Appeals for the First Circuit.

The above transcripts were ordered shortly after each hearing. Repeated, but unsuccessful, attempts were also made to secure these transcripts for inclusion in the briefs for the Court of Appeals.

It is our intention to include parts of the above transcripts in the Record for the Supreme Court as we will need these transcripts to prepare our brief on the merits. We will file a motion forthwith before Judge Garrity to secure these transcripts as soon as possible. However, the Court Reporter was unable to estimate the length of time necessary for her to complete her work.

Sincerely,

CHARLES L. FISHMAN,
*Chief Counsel to Senator Gravel.*

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ZALKIND & SILVERGLATE,
*Boston, Mass., February 25, 1972.*

CHARLES DUFFY,
*Court Stenographer, U.S. Post Office & Courthouse, Post Office Square, Boston, Mass.*

DEAR MR. DUFFY: The Supreme Court of the United States has granted the Petition for Writ of Certiorari filed by Senator Mike Gravel, as well as a cross-petition filed by the Government, and the Court will thus review the decision of the Court of Appeals for the First Circuit in *United States of America* v. *John Doe* (Nos. 71–1331 and 71–1332). As of this writing, it appears that the Court will place the matter on an expedited schedule, and briefs and appendices might have to be filed by March 16, 1972.

In order to meet such a schedule, whether expedited or not, we will have to have the transcript of every argument which transpired in the case rather soon. In fact, we would need all such transcripts within a week or so in order to have time to include references to them in our briefs and in order to have them printed.

I recall that you took stenographic notes of the proceeding before the Court of Appeals when Senator Gravel filed a motion to hold certain Government attorneys in contempt for seeking to examine bank records of Beacon Press. This is one of the transcripts that we will need. I further understand (please correct me if I am wrong) that a committee of the United States Senate has ordered the transcript from you, with the intention of turning it over to Charles L. Fishman, Esquire, Chief Counsel for Senator Gravel, for use in the Supreme Court phase of this case.

Could you kindly expedite the completion of this transcript. If the Senate committee has *not* yet ordered it, then Mr. Fishman and I will order it. But in any event it must be completed shortly because the Supreme Court has indicated an intention to have the case heard this Term on an expedited schedule.

Would you please get in touch with me on this, as I am very anxious to have all preparations of the record done on time. It would be embarrassing if the Supreme Court calls for the certified record and has to be told that it is not ready. I will cooperate with you in whatever way I can, including by filing with the Court of Appeals a motion to have the preparation of the transcript expedited in the event you tell me that such a motion would be required to put this matter ahead of other matters on your schedule.

You may call me anytime either at my office (742–6020) or at my home in Boston (523–1093).

Thank you.

Sincerely yours,

HARVEY A. SILVERGLATE.

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[U.S. District Court, District of Massachusetts, Civil Action, No. EBO–71–172]

MOTION TO EXPEDITE COMPLETION OF TRANSCRIPT

(United States of America v. John Doe, in the Matter of a Subpoena addressed to Leonard Rodberg, Mike Gravel, United States Senator, Intervenor)

The Intervenor in the above-captioned and numbered proceeding, Senator Mike Gravel, hereby moves this Honorable Court to issue an order expediting the completion of the transcripts of all of the hearings conducted in this matter with respect to Senator Gravel by this Court (the Honorable W. Arthur Garrity, Jr., presiding) and to instruct the Court Stenographer to give this matter the highest priority.

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[6] The Government's *de minimis* argument is reminiscent of arguments of the Crown in support of prosecutions of printers of parliamentary proceedings. The Parliamentary Papers Act of 1840 was enacted because Parliament found that "it is essential to the due and effectual Exercise and Discharge of the Functions and Duties of Parliament . . . that no Obstructions or Impediments should exist to the Publication of . . . Reports, Papers, Votes, or Proceedings of either House . . . as such House . . . may deem fit or necessary to be published." The Parliament further found that civil and criminal proceedings taken against the printers of such reports was just such an obstruction to the workings of Parliament, and as a result an absolute privilege was extended to such printers, both public and private. 3 & 4 Vict., c. 9 (1840).

[7] Cf. *Myers* v. *United States*, 272 U.S. 52, 293 (1926) Brandeis, J., (dissenting):

"The doctrine of the separation of powers was adopted by the convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy."

[8] The Government poses two hypotheticals in support of its arguments. First, it asks whether "all questioning [is] barred which might develop facts of [a] Congressman's complicity" in a conspiracy to bribe a Congressman (Govt. Pet. 13). The answer, as made clear in *Johnson, supra*, is to prohibit only questions about the Congressman's legislative activities. Second, the Government proposes that the Court of Appeals' decision might insulate from Grand Jury inquiry aides who were bribed by third parties to insert material in the speech of an innocent Congressman (Govt. Pet. 15). Here, too, the bribe could be investigated, but not the preparation of the Speech. *Ibid.* Moreover, since the privilege must be asserted by the Congressman himself, he might be able to waive it entirely in such a situation.

[9] Since the Court of Appeals held that Senator Gravel's actions in obtaining the publication of the Subcommittee records were not constitutionally protected, it allowed the Grand Jury to question third parties (*e.g.*, Webber and Beacon officials) about them, whether or not these questions bore on the Senator's motives.

The reasons for this Motion are as follows: On Tuesday, February 22, 1972, the Supreme Court of the United States announced that it had granted two Petitions for Writs of Certiorari with respect to this case, including one Petition filed by Senator Mike Gravel, and one Petition filed by the Solicitor General of the United States. The Supreme Court thus will review the Opinion of the United States Court of Appeals for the First Circuit in this matter, — F.2d — (1st Cir. 1972), which Opinion reviewed the Opinion of this Court, 332 F. Supp. 930 (D. Mass. 1971).

In connection with such Supreme Court review, the Clerk of the Supreme Court, E. Robert Seaver, Esquire, telephoned Counsel for Senator Gravel to inquire on behalf of the Supreme Court as to whether or not it would be possible for briefs to be filed by March 16, 1972, in order that this case might be argued this Term along with *United States* v. *Daniel Brewster*, jurisdiction postponed 401 U.S. 935, set down for re-argument — U.S. —, 40 USLW 3351. It thus appears to be the present intention of the Supreme Court to expedite the schedule in this case.

Even if the schedule is not expedited, Senator Gravel's brief and appendix would be due to be filed in the Supreme Court no later than Monday, April 3, 1972, and counsel would need the aforesaid transcripts sufficiently in advance to have the appendix printed and to include references to the transcripts in the briefs.

It is therefore respectfully requested that this Honorable Court expedite the completion of the aforesaid transcripts.

(By his Attorneys, Charles L. Fishman, 633 East Capitol Street, Washington, D.C. 20003, Robert J. Reinstein, Temple University Law School, 1715 N. Broad Street, Philadelphia, Pennsylvania 19122, Harvey A. Silverglate, Zalkind & Silverglate, 65a Atlantic Avenue, Boston, Massachusetts 02110, Tel. (617) 742-6020.)

CERTIFICATE OF SERVICE

I, Harvey A. Silverglate, an Attorney and Member of the Bar of this Court, hereby certify that I served a copy of the within "Motion To Expedite Completion of Transcript" by delivering same to Joseph L. Tauro, Esquire, United States Attorney, 1107 U.S. Post Office and Courthouse, Post Office Square, Boston, Massachusetts, and by mailing same to Erwin N. Griswold, Esquire, Solicitor General of the United States, Department of Justice, Washington, D.C. via air mail, postage pre-paid, on this day.

Done this 25th day of February 1972 at Boston, Massachusetts.

HARVEY A. SILVERGLATE.

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[In the Supreme Court of the United States, October Term, 1971, No. 71-1017]

CERTIFICATE OF SERVICE OF MOTION OF THE UNITARIAN UNIVERSALIST ASSOCIATION APPEARING AS AMICUS CURIAE FOR LEAVE TO ARGUE ORALLY

(Mike Gravel, United States Senator, Appellant v. United States of America, Appellee)

In accordance with Rule 33, I hereby certify that I have made service of three (3) copies of the Motion of the Unitarian Universalist Association, appearing as Amicus Curiae, for Leave to Argue Orally on all counsel of record as follows:

Solicitor General, Department of Justice, Washington, D.C., Counsel for the United States;

Charles Fishman, Esquire, and Harvey A. Silverglate, Esquire, Counsel for the Petitioner;

In each instance, service was made on February 23, 1972, by mailing said copies by first class mail, postage prepaid, to said counsel at their respective offices.

FRANK B. FREDERICK,
*Counsel for Unitarian Universalist Association.*

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## SCHOOLBUSING TESTIMONY

## HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. PRICE of Texas. Mr. Speaker, it was my pleasure to testify earlier today before Subcommittee No. 5 of the Committee on the Judiciary in regard to proposed amendments to the Constitution concerning busing. I would like to have printed at this point in the RECORD my testimony before the subcommittee, which was chaired by the distinguished chairman of the full committee:

TESTIMONY OF CONGRESSMAN BOB PRICE OF TEXAS

Mr. Chairman, I appreciate the opportunity to appear before this subcommittee today in order to express the feelings of my constituents on the much-discussed issue of busing.

From the outset, I would like to clarify exactly what I am referring to as well as what I am not referring to when I talk about "busing." I am not referring to the busing of school children that has been taking place for many years in rural areas like so much of my West Texas district, nor am I referring to the normal kind of busing that takes place in the cities. I am not referring to busing in these forms, nor do I oppose busing in these forms, because this type of busing is in nearly every case merely a means of getting school children transported from their homes to the public school nearest them in the safest, quickest way possible and because—above all else—this type of busing is a voluntary act on the part of the school children and their taxpaying parents.

What I am referring to when I talk about busing is forced, compulsory, involuntary busing solely for the purpose of achieving some sort of racial balance in school populations.

Despite loud outcries to the contrary, I want it understood unequivocally that this issue of busing is not an issue of race. Opposition to busing in order to achieve racial balance in public schools does not constitute an attempt to perpetuate segregation in those areas where it may still exist. Busing is not a method at once embraced by blacks and rejected by whites—on the contrary, it is, in my Congressional district at least, uniformly shunned by blacks and whites alike. I have received much mail on this matter of busing, as have all my colleagues, and the will of the people is clearly ascertainable on the issue.

Let me articulate, if I may be permitted to attempt to do so, why so many are so upset and concerned about this one issue which would affect actually only a small percentage of the total number of students throughout the country. I believe that two major reasons form the bedrock on which the outcry of opposition to busing is based. First, the people simply do not accept the underlying principle that a mathematically precise distribution of students is necessary for quality education, which is what federal courts are trying to tell us. And second, the people absolutely reject the mandatory aspect of this court-directed homogenization of human beings.

What the courts are trying to do—and what the people do not want to have done—is to take some more of the freedom of the people away from them.

The people want neighborhood schools. The people want local control of their schools through their own locally-elected school boards. And when I say "the people," I mean all of them, black and white. As a matter of fact, I have received from my own district more signatures on petitions and letters from blacks than I have from whites opposing forced busing.

Forced busing is, in my opinion, damaging to students and an inconvenience to parents. It involves much more than safety and economy, although those factors are important. It involves removing school children from familiar neighborhood groupings and busing them long distances solely to juggle percentages of races in schools. It is my contention that this results in a loss of neighborhood and community identity, a loss of control over the schools by the parents, and a likelihood that parents will not participate in their children's school activities to as great a degree due to the increased difficulty of doing so.

Mr. Chairman, I introduced House Joint Resolution 860 during the last session of this Congress aimed at amending the Constitution in order to provide a solution to the problem of forced busing. I prefer this method over the legislative approach, because it allows the people a chance to speak to the issue in a more direct way through their state legislatures during the ratification process. I am not, however, opposed to a strictly legislative solution to the problem if that procedure can, in fact, achieve our goal. Consequently, I am studying several ideas with the thought in mind of introducing legislation designed to provide an acceptable solution to this situation.

In summation, let me say that the vast majority of people do not like forced busing; they do not want it; they are determined not to have it; and, if the people are to be served, we, as their representatives, must work to conform the policy of this government and the law of this land to the will of the people.

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## LEAD POISONING AMONG CHILDREN

## HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. McKINNEY. Mr. Speaker, I have reserved this space in the CONGRESSIONAL RECORD to bring to congressional attention data compiled by the University of Connecticut's Department of Pediatrics regarding the incidence and impact of lead poisoning among the children in some areas of Connecticut. I bring this testimony to your attention as concise, factual approach to the problem.

The data follows:

THE UNIVERSITY OF
CONNECTICUT HEALTH CENTER,
*January 27, 1972.*

DEAR MR. McKINNEY: I am writing in support of current legislation to ban the sale of all lead-containing paint.

I am a member of the faculty of The University of Connecticut School of Medicine in Hartford, Connecticut. We work in a large ambulatory clinic serving a low income population mostly of Black and Puerto Rican children.

For the past three years, the Department of Pediatrics and medical students have been working with Dr. George Bowers, Clinical Chemist at Hartford Hospital, and Dr. Norton Chaucer of the Hartford Health Department to identify children with an increased body burden of lead and the source of this lead.

The following investigations have been performed: In 1969, a block survey in one census tract revealed that among 76 one to five year-olds tested 30% had blood lead levels >40 μgms and several required hospitalization for deleading. In 1970, 975 ghetto children were tested by urine ALA examination. Sixty were identified for further diagnosis and treatment. In 1971, two groups of children were tested. Blood lead levels were performed on 350 one to five year olds attending the University clinics for sick care at the Burgdorf Health Center. Twenty-two percent had elevated levels (>40 μgms%) and twenty were >60 μgms. The latter group all required deleading. Most of these children lived in houses >25 years of age. The mean lead level for the group was 35 μgm. In 1971, a concerted effort was made to test the paint in the houses where children with elevated levels lived or visited in Hartford. Both indoor and outdoor accessible surfaces were tested. In only *half* of the indoor surfaces of dwellings tested was the percentage of lead in the paint chips tested found to be >1%. When outside surfaces, such as porch railings, doors, and accessible windowsills with flaking paint, were tested, these frequently had higher concentration of lead in the paint. We found several children were eating paint chips from dirt outside their building.

We have data on lead content of soil contiguous to a tenement building where three children were identified with lead levels high enough to require treatment in the summer of 1971. There were visible paint chips in the dirt which were removed. The quantity of lead in 100 gms of soil next to the building was 100 times greater than that found in soil contiguous to a new housing area and 10 times that found 50 feet away next to a driveway or a nearby gas station. The lead content in soil of a nearby city park was 10 times greater than in a suburban residential street not close to a highway.

These observations indicate that the excessive lead in the soil near the house was mainly due to lead in paint mixed into the soil. However, urban soil also contained more lead due to atmosphere pollution from gasoline. Urban ghetto children get double exposure.

The second group of children tested consisted of 350 one to five year olds attending well child clinics in towns in Dutchess County, New York, and Litchfield County, Connecticut, as well as at Sharon Clinic in Sharon, Connecticut (rural areas). Although there was a predominance of lower socioeconomic families represented, children from professional and managerial families also attended these clinics. Eight percent were found to have levels >40 μgms. All socioeconomic groups were represented. There was a significant difference in the mean lead levels of children living in housing >25 years and those living in new housing. Of twenty dwelling tested where children had lead levels >40 μgms, paint containing 10–15% lead was found on inside surfaces (accessible) in 14. In the remainder, outdoor paint in the dirt with high lead content was found.

In 1969, the Conneticut State Legislature passed an ordinance for warning labels for paint cans containing 1% lead. The warning was: "This paint may be hazardous to children." In 1970, a survey of 17 retail paint stores revealed 15 of 17 had some cans of paint containing lead on shelves without warning labels (see attached reprint). Many paint store dealers did not know of the problem of lead poisoning in children and thus couldn't interpret the warning label. Most people interpret the warning to mean "Don't let the children drink the paint in the can."

We have gone into apartments which are being repaired and found landlords applying paint containing >1% lead to accessible surfaces without realizing the danger.

Paint with >1% lead was found on outside windowsills of a housing project in Hartford and on playground equipment purchased from a reliable company. The Hartford Housing Authority had purchased new lead-containing paint for renovations. Had it not been for the survey and finding of 5 children with elevated lead levels in the project, these hazards would not have been removed (see attached reprint).

Recently, toy trucks produced by a reputable company were found to have 15% lead in the paint. This came to light in two children with lead poisoning living in a housing project where there is no lead in the paint.

As a pediatrician and teacher of medical students, I believe the data we have collected indicate clearly that any lead in paint on residential structures is a serious environmental hazard and that the only solution is to eliminate lead from any paint that is sold for residential use inside or out on any surfaces accessible to children (playground equipment and schools). We need stronger enforcement of American Standard's regulation of 1954 banning use of lead paint in toys!

On the basis of experience in a large Connecticut city, warning labels are useless in preventing sale or application of lead-based paint on any surface (see attached reprint). The public is not sufficiently educated to understand or obey such a regulation. We have numerous examples in our community of landlords applying new lead paint to surfaces from which old leaded paint was removed.

As long as we allow lead-based paint to be sold, we are setting the stage for more lead poisoning in young children in the future.

Sincerely,

MARTHA L. LEPOW, M.D.,
*Associate Professor,*
*Department of Pediatrics.*

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# A COMMONSENSE VIEW OF HOW WE PROTECT OUR ENVIRONMENT

## HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. GUBSER. Mr. Speaker, a great many people have jumped on the environmental bandwagon simply because it is politically popular. I welcome these people to the ranks of those who are concerned about what man is doing to his environment but I respectfully suggest that our actions should be unified under a program which is sensible and is dictated by logic instead of emotion and political expediency.

Recently I received a letter from Mr. Ray K. Linsley, professor of Civil Engineering at Stanford University and a Commissioner of the National Water Commission. I have known Mr. Linsley for some time and know that he has great respect for our environment and is dedicated to preserving it in man's best interests. I thought his letter displayed so much commonsense that it should be read by every person who receives the CONGRESSIONAL RECORD. I, therefore, submit the letter for publication:

STANFORD UNIVERSITY,
SCHOOL OF ENGINEERING,
*Stanford, Calif., January 13, 1972.*

Hon. CHARLES H. GUBSER,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN GUBSER: I have grave concerns regarding the so-called Muskie bill on water pollution which has passed the Senate and the companion measure in the House which is pending. I heartily endorse any measures for improvement and protection of the environment, I have striven for nearly two decades to teach engineering students that their primary role should be that of protectors of the environment. However, it seems to me that action for environmental protection or enhancement must be taken within the bounds of reason.

Both of the bills, as you know, are extremely lengthy and complex. They have many points which are open to criticism, but I should like to speak to only one. The requirement that there be no discharge of pollutants into the streams within a little more than a decade seems to me to be impossible of achievement. Technically, of course, such a degree of waste treatment is possible, but the costs are fantastic. I doubt very much that the necessary funds to pay for such extensive waste treatment will be forthcoming either from the federal treasury or from local and state taxes or bond issues. If the funds were forthcoming, there is still another serious consideration which has seemingly been ignored. This is the principle of physics known as conservation of matter. True the pollutants can be removed from municipal and industrial waste, but they must go somewhere. If they are burned the atmosphere is polluted. If they are discharged into the ocean, the ocean is polluted and if they are disposed of on the ground still another pollution problem occurs. One cannot ban pollution by law. Waste exists and the problem of its disposal must be dealt with in a reasonable, rational and fully integrated manner.

The proposed bills are promises of utopia which are not likely to be achieved. Promises of this kind which are not attained raise questions of credibility. This is a serious problem which the Congress must recognize. This kind of promise is not forgotten and failure to fulfill raises serious doubts about "the system".

A far more reasonable approach would be to propose to attain established water quality standards throughout the country within the next decade. This would lead to marked improvements in water quality in almost every part of the nation, it would represent a goal which is possible of attainment with present technology and at costs which, while high, are not out of the realm of possibility. It would not lead to zero pollution, which seems to be the goal of the present legislation, but presuming that existing quality standards are set with some rationale, it would mean a major step forward. Hopefully quality standards can be progressively improved so that by the end of the century water in most, if not all, streams and lakes would be entirely acceptable. The effort to improve the quality of our streams should be directed at all sources of pollution. Present legislation is aimed primarily at municipal and industrial waste. In some parts of the country agricultural sources are far more important, and in a few cases stream pollution from natural sources such as salt springs is relatively serious. In some sections of the country mine wastes pollution and the mines themselves is the major contaminant in streamflow. Instead of a blanket restriction on a few sources, it would be much more cost effective to analyze each stream, determine its principal pollutants, and the methods which could achieve maximum reduction in pollution at minimum cost for that particular stream.

I would hope that the House could defeat the proposed legislation and replace it with something more possible of attainment. I know that it is difficult to vote against legislation of this kind. However, it may be much more difficult in some future session of Congress to cope with the problem of backing down from a set of impossible goals. I urge you to use your influence to achieve an effective water pollution control bill.

Very truly yours,

RAY K. LINSLEY,
*Professor of Civil Engineering and*
*Commissioner, National Water Commission.*

## RESOLUTION AND LETTER FROM POLISH AMERICAN CONGRESS

## HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. DINGELL. Mr. Speaker, pursuant to permission granted I insert into the CONGRESSIONAL RECORD a letter received by me from the Polish American Congress, Inc., Michigan Division, signed by its president, Kazimierz Olejarczyk, and Gregory Kirchner, its secretary.

That letter encloses also a copy of a resolution adopted by the fine Americans of Polish descent of the Polish American Congress, Michigan Division, condemning Soviet Russia's systematic, premeditated, and methodical destruction of monuments and artifacts in the city of Lwow.

This is a matter which should be brought to the attention of all of the people of the world and the real action of the Soviet Government made plain so that public opinion may bring this last of many outrages to a halt.

The letter and resolution follow:

POLISH-AMERICAN CONGRESS, INC.

*Detroit, Mich., February 18, 1972.*

DEAR SIR: The Polish American Congress, General Assembly passed an unanimous motion on December 5, 1971 meeting, to provide each and every member of the Michigan Congressional Delegation with a copy of the attached resolution along with a request that said resolution be read at the next session of the House of Representatives and the Senate of the United States of America and published in the Congressional Record.

In addition, we request the Honorable Members of the United States Congress to instruct the Secretary of State an initiation of a vigorous protest in the name of the United States of America directed to the Ambassador of the Soviet Union in Washington and also instruct the United States Consular Authorities in the Soviet Union to voice similar protest with the Foreign Office of the Soviet Union—to halt immediately the systematical and methodical destruction of everything that reminds one of Polish character of the City of Lwow, and especially stop the barbarian destruction of the "Dzieci Lwowskie" (Children of Lwow) cemetary.

Hoping that this request will receive your immediate attention, we remain

Very truly yours,

KAZIMIERZ OLEJARCZYK,
*President.*
GREGORY KIRCHNER,
*Secretary.*

RESOLUTION

Whereas, the Soviet Union carries premeditated, systematical and methodical destruction of monuments and artifacts in the city of Lwow; and

Whereas, such monuments and artifacts show definitely a Polish character of that city; and

Whereas, such actions are barbarious and unprecedented in civilized society; and

Whereas, the perfidious and concentrated hulliganism is especially directed to the resting places of the defenders of the city of Lwow; and

Whereas, the cemetery of the "Children of Lwow" (Dzieci Lwowskich) is also the eternal resting place of several American air men that took part in the defense of the city in the World War I; and

Whereas, a monument erected to these heroic Americans by the people of Chicago was completely destroyed.

Now, therefore, be it resolved that the Executive Board is authorized to submit this resolution to all Honorable Members of Michigan Delegation with request for entry into the next session of Congress of the United States. Furthermore, the Honorable Michigan Delegation is requested to petition the Secretary of State to voice immediate and strong protests with the Soviet Union authorities against the destruction of monuments of Polish character in the city of Lwow and request immediate cease action and restoration of the monuments that were already destroyed. Adopted by the quarterly meeting on the December 5, 1971, Detroit, Michigan.

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## LITHUANIAN INDEPENDENCE

## HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. DANIELSON. Mr. Speaker, the people of Lithuania commemorate two important anniversaries this month. This year marks the 721st anniversary of the formation of the Lithuanian state in 1251 by Mindaugas the Great, unifying all the Lithuanian principalities into one kingdom. The month of February specifically signifies the establishment of the Republic of Lithuania in 1918, and the 54th anniversary is celebrated this year.

These are happy memories out of the history of the small country of Lithuania, and Lithuanians around the world recall these highlights from the past. But the conditions and situation under which the people of Lithuania live today do not reflect these happy occasions and do not bring cause for joyous celebration.

The trials and hardships endured by the Lithuanian people have been recounted numerous times. In recent times they have been subjected to the aggression of both Nazi Germany and the Soviet Union, and have been annexed and reannexed through political settlements. Attempts to assert their political independence and efforts of national self-determination have been short-lived and continually frustrated by their powerful neighbors. The courage and stamina of the Lithuanian people in their struggle for freedom deserves great commendation.

It is to their credit that the Lithuanians during their brief period of independence following the formation of the Republic of Lithuania in, 1918 showed significant strides forward in a number of social and cultural areas. Great emphasis was placed on improving agriculture, and a land reform program was instituted. While approximately 450 families had owned 22 percent of all the land prior to World War I, with a minimum ownership estimated at 2,000 acres, by 1939 there were 335,720 farming units, raising a variety of grains, potatoes, sugar beets, livestock, and poultry.

Also, industrialization progressed. In 1913 Lithuania had 151 industrial establishments with 6,603 employees, but by 1939 there were 16,131 enterprises employing 33,000 workers. Lithuania also made progress in social legislation, with a labor control law, the introduction of the 8-hour day, and various social measures. The number of grammar schools increased; the University of Vytautas the Great had a student body of 3,041 by 1938; Lithuanian literature flourished and achievements were noted in opera and music.

It is indeed sad that today Lithuania does not have the freedom, the identity, and the self-government that its people have fought for. On this occasion we must rededicate ourselves to help all people who are oppressed to achieve the freedom and basic human rights they deserve.

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## A NEW TURN TOWARD "OVERKILL": HURRIED ULMS DEVELOPMENT

## HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. FRASER. Mr. Speaker, Orr Kelly wrote in the February 22 Evening Star that ULMS—the undersea long-range missile system—will "share to a large extent, both the advantages and the vulnerabilities of the present fleet of Polaris and Poseidon ships."

Mr. Speaker, this is a fundamental difficulty I have with the accelerated ULMS program: we are going ahead full with a program to combat an unknown—and unlikely—threat and gaining little in defense capability.

Kelly quotes Admiral Moorer:

> We will pay a very high price in the effectiveness of our diplomacy if we permit the Soviet Union to achieve a clearly evident strategic superiority, even if that superiority would have no practical effect on the outcome of an all-out nuclear exchange.

Kelly adds that this, in effect, was the lesson of the 1962 Cuban missile crisis:

> At the time of the Cuban missile crisis, the Soviet Union may have had the capability to launch an unacceptable attack on the United States—the ability to wipe out quite a few cities—but it backed down because we had a much more imposing nuclear arsenal . . .

The diplomatic argument for ULMS I find less than persuasive. The circumstances surrounding the Cuban missile crisis have been thoroughly analyzed in an appendix to the May 1971 Adelphi paper No. 77, "The Political Implications of Strategic Parity," authored by Walter Slocombe and published by the Institute for Strategic Studies. I find this a reasoned look at the 1962 Cuba crisis and it makes clear that the lesson of 1962 is not as clear as it is often assumed to be.

On Friday, February 25, the Senate Armed Services Committee decided not to authorize $35 million for the ULMS program requested by the administration as a supplement to fiscal 1972 ULMS funds already authorized. I approve of the Senate committee's go-slow approach. ULMS may be necessary ultimately. But our security interests do not require the speeded-up program proposed by Secretary Laird.

The Kelly column and Washington Post, Evening Star, and New York Times stories on the Senate committee action by Michael Getler, Kelly, and John W. Finney plus Slocombe's appendix follow:

[From the Washington Star, Feb. 22, 1972]

### A NEW TURN TOWARD "OVERKILL"

(By Orr Kelly)

If the administration goes through with its plans for hurried development of the ULMS submarine, it will be the first time this nation has deliberately conceived, designed and employed "overkill" weapons.

It also will be the first time that a major strategic nuclear weapons system has been put into the force in response to a political and diplomatic threat rather than to a military threat.

True, the United States has considerable overkill capacity. But this has come about for reasons quite different from the decision to pour nearly $1 billion this year into the under-sea long-range missile system.

In theory, each of the nation's strategic forces—bombers, land-based missiles and missile carrying submarines—would be able to inflict unacceptable damage on the Soviet Union in retaliation for a surprise attack, even if the other two forces were destroyed. If one or more survived, then of course there would be the power to inflict even greater damage.

This force also would be developed to meet the higher-than-expected threat. In other words, more weapons than the minimal necessary were built and they were designed to penetrate defenses that haven't developed. This, again, has added to the overkill capacity.

But ULMS is something else again.

At the accelerated rate of development in deployment now proposed by the administration, it would not be an indication for a replacement for a part of the present nuclear force, but an add on. It would not provide a separate kind of survivable strategic system. Instead, it would share to a large extent, both the advantages and the vulnerabilities of the present fleet of Polaris and Poseidon ships.

It is—at least in many of the explanations made by an administration spokesman so far—a response to a specific military problem.

In his testimony to the Senate Armed Services Committee, Defense Secretary Melvin R. Laird provided a remarkably candid explanation for the decision.

The administration felt, he said, that some kind of "new initiative" was needed as a "signal to the Soviets and our allies that we have the will and resources to maintain sufficient nuclear forces in the face of a growing Soviet threat."

Several possible alternatives were considered before the decision to accelerate the ULMS program was made, he said. In other words, the administration rippled through the various military options it has on the shelf in search of an appropriate new initiative.

Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, cast some further light on the decision to accelerate the arms program in testimony before the same committee.

"We will pay a very high price in the effectiveness of our diplomacy if we permit the Soviet Union to achieve a clearly evident strategic superiority, even if that superiority would have no practical effect on the outcome of an all-out nuclear exchange," he said.

The ULMS, in the context in which the administration has proposed it, almost certainly "would have no practical effect on the outcome of an all-out nuclear exchange." Yet it could increase the edge and that's about all.

The reasoning behind the decision is understandable. Neither President Nixon nor any other president wants to be in a position where another country has a very apparent edge in "overkill" capacity—even though we still have the ability to inflict "unacceptable" damage on him. The lesson of 1962 is difficult to forget. At the time of the Cuban missile crisis, the Soviet Union may have had the capability to launch an "unacceptable" attack on the United States—the ability to wipe out quite a few cities—but it backed down because we had a much more imposing nuclear arsenal, small as it seems in comparison to those on both sides today.

The President may well be right in urging this kind of initiative at this time—even though, from a strictly military point of view, it would probably make sense to wait a few years before rushing into ULMS.

But Congress and the people should be aware that this is something new in the nuclear age, a new corner turned in the nuclear arms race.

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[From the Washington Post, Feb. 26, 1972]

### SENATE UNIT WON'T FREE SUB FUNDS

(By Michael Getler)

The Senate Armed Services Committee, in a surprise move yesterday, rejected the administration's request for an immediate speed-up in development of a huge new missile-firing submarine.

Committee Chairman John C. Stennis (D-Miss.) announced that the Pentagon's request for an additional $35 million in supplemental funds for the current fiscal year for the sub project had been turned down.

Stennis explained that the extra money for fiscal 1972 would be considered along with—but not before—the $942 million requested for the Undersea Long-range Missile System (ULMS) in the new fiscal 1973 budget that Congress has just begun hearings on.

The Pentagon wanted the $35 million earlier so that it could speed up word on the submarine. The committee action is being interpreted on Capitol Hill as a sign of congressional caution about becoming committed to huge programs by letting relatively small money requests go through easily.

Similarly, the committee deferred a $128.8 million fiscal 1972 supplemental request to speed procurement of four Boeing 747 jumbo jets to be equipped as new flying command posts, replacing older 707s, for the President and his staff in a nuclear emergency.

This action is viewed as committee reluctance to make the first down payment on a completely new project without the formal budget approval process. The Pentagon had asked the committee for informal approval of the supplemental funds, although the money is actually approved or disallowed by the appropriations committees.

Rejection of the supplemental requests does not mean that the committee is opposed to either project.

In other action, the committee approved a House-passed bill authorizing the Navy to lend five destroyers and two submarines to Spain, two subs to Italy, one destroyer and two subs to Turkey, and two destroyers each to Greece and Korea.

The Senate approval covers five years; the House version four years. The Senate would also require the President to seek renewal approval with Congress, rejecting an administration request to forego that requirement.

Committee rejection of the extra ULMS money this year reportedly will not slow work on the first version of the missile intended to go into the new sub.

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[From the Washington Star, Feb. 26, 1972]

### SENATE PANEL REJECTS FUNDS FOR MISSILE SUB

(By Orr Kelly)

The administration's plan for a new billion-dollar missile launching submarine has run aground on the shoals of the Senate Armed Services Committee.

The committee announced yesterday afternoon that it had rejected the administration's request for a $254.8 million supplemental appropriaion to be added to the 1972 fiscal year defense budget.

A key item in that request was $35 million for work on the undersea long-range missile system.

The $35 million was to be added on to $110 million included in the original 1972 budget for research on the new submarine and a new missile.

The 1973 budget carries a figure of $942 million for the submarine missile program.

#### NEED QUESTIONED

Committee sources said the unexpected rejection of the request was based on several considerations, including a serious question of the need for a sharply accelerated development of a submarine to replace the present Polaris-Poseidon submarines.

The committee's action apparently was also strongly motivated by resistance to the Pentagon effort to obtain approval on a relatively small supplementary appropriation for several very large programs.

The committee noted that it had not been asked to give formal authorization to the programs but, instead, had been asked to review them and to give informal approval.

Also rejected by the committee, at least for the time being, was the administration's proposal to purchase three Boeing 747 airplanes as the beginning of a fleet of flying command posts to replace the smaller planes now available to the President and the battle staff that would aid him in the event of a nuclear war.

#### REQUEST TO BE STUDIED

The committee said this request would be studied by a special subcommittee. It deferred the remainder of the supplemental requests for consideration during hearings on the 1973 budget.

It was not clear how much the committee was motivated by opposition to the ULMs system itself and how much it was motivated by opposition to the manner in which the proposal had been submitted.

The committee did, however, give its approval to administration plans to lend a total of five submarines and ten destroyers to Spain, Turkey, Greece, South Korea and Italy for a five-year period.

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[From the New York Times, Feb. 26, 1972]

### SENATE UNIT BARS SUBMARINE FUNDS

(By John W. Finney)

WASHINGTON, February 25.—The Senate Armed Services Committee rejected today the Nixon Administration's request for additional funds now to accelerate development of a new class of missile-launching submarines.

The committee also turned down a request for emergency funds to purchase four 747 jets to serve as airborne command posts and denied the Administration authority to lend seven ships to Spain for 10 years as part of an agreement on military bases.

Senator John C. Stennis, Democrat of Mississippi, the committee chairman, said in an interview that the actions reflected a critical attitude being assumed by the committee toward Pentagon requests for major new weapons.

In a recent speech questioning the need for a $6.3-billion increase in the defense budget, Senator Stennis said that the committee would give "the closest sort of scrutiny" to weapons and manpower programs and that the actions today were the first manifestations of that policy direction.

The committee was also challenging the Pentagon argument that the Soviet strategic build-up necessitated emergency action to accelerate procurement of a new fleet of missile submarines and a squadron of planes to serve as airborne command centers for the President in event of a nuclear attack.

This, in itself, represented a significant change in attitude. In the past such emergency requests, particularly dealing with planes for the President, have generally received the almost automatic approval of the committee.

### MOVE TO SWAY SENATE

Earlier this year, Defense Secretary Melvin R. Laird asked Congress to appropriate $35-million immediately in supplementary or emergency funds to accelerate development of the new submarine, known as ULMS.

For undersea long-range missile system.

At the time, Mr. Laird said that this "major new strategic initiative" must be undertaken to "signal to the Soviets and our allies that we have the will and our allies that we have the resources to maintain sufficient strategic forces in the face of a growing Soviet threat."

In part, as suggested by the Laird statement, the request for the supplementary funds for the submarine program was designed to influence the Soviet Union to accept a limitation on missile-launching submarines in the agreement on limitation of strategic armaments that the two sides are near to concluding.

A restriction on missile-launching submarines has proved to be one of the major points of difference in the negotiations, and one of the Administration's purposes was to serve notice on the Soviet Union that, if it would not accept limitations, the United States was prepared to go ahead with a new class of submarines capable of firing ballistic missiles at Soviet targets.

Rather than accept this argument, the Senate committee decided to consider the submarine program as part of the regular budget for the next fiscal year, starting July 1. Senator Stennis explained that the committee had decided unanimously that such a major new weapon program required "further in-depth hearings."

In addition to the supplementary funds, the Administration has requested $942-million in the regular budget for the submarine program, representing the first big installment on a weapon system that will cost billions of dollars.

The new submarine, each of which is expected to cost nearly $1-billion, is designed to replace the present Poseidon vessel. Mr. Laird has estimated that the accelerated development sought by the Administration this fiscal year would permit the first submarine to go into operation in 1978, two to three years ahead of the present schedule.

### SOVIET THREAT CITED

The committee similarly deferred until the regular budget consideration of the Administration's request for $128.8-million in supplementary funds to start purchasing four Boeing 747 jumbo jets to replace the current fleet of Boeing 707 airborne command craft.

In requesting the emergency funds, Mr. Laird expressed concern that the present emergency command system could be paralyzed by the electromagnetic pulses given off by large nuclear explosions and said, "The growing threat from Soviet strategic forces makes early improvements to our national command and control system imperative."

Senator Stennis said the committee took the position that purchases of the planes had not been authorized by Congress and that there was no emergency dictating an immediate start on them.

### FIVE-YEAR LIMIT IMPOSED

Technically, the Pentagon had not asked the Senate committee for legislative authorization for the supplementary funds. Rather, it had sought the committee's informal approval. In view of the committee's action, however, it was regarded as doubtful that the Senate Appropriations Committee, of which Senator Stennis is a senior member, would approve the requested funds.

In an attempt to impose some Congressional constraints on the Administration's ability to enter into military agreements with other nations, the Armed Services Committee also approved a bill placing a five-year limit on the loan of 10 destroyers and six submarines to Spain, Turkey, Greece, South Korea and Italy. The Administration had asked authority to lend the ships for five years, with the President having the option to extend the lease for another five years.

In legislation passed late last year, the House imposed a four-year limitation on the loan of the ships. In opposing the restriction, the Defense Department contended that it would make it difficult to carry out a 1971 agreement extending American base rights in Spain. In the executive agreement, the Administration, without informing Congress, promised to lend Spain five destroyers and two submarines for up to 10 years in return for a similar period of base rights in Spain.

Senator Stennis said the committee took the position that, if the Administration wanted to extend the ship loans beyond the five years, it should come back to Congress for approval.

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## APPENDIX 2—ADELPHI PAPER NO. 77
## THE POLITICAL IMPLICATIONS OF STRATEGIC PARITY

(By Walter Slocombe)

### THE STRATEGIC NUCLEAR BALANCE AND THE 1962 CUBA CRISIS

An understanding of the role which the very great American numerical and qualitative lead in strategic forces played in the 1962 crisis should give insights into what, if anything, there was to be lost to parity in terms of American ability to use nuclear power to influence crises.[1] This Appendix addresses that issue.

### *The forces at the time*

At the time of the Cuban missile crisis, the United States had a very great advantage in strategic nuclear delivery vehicles.[2] The United States had between 300 and 400 ICBMs, the Soviets around 50; in SLBMs, the U.S. lead was proportionately as great—some 150 to 25. The U.S. missile lead was reinforced by a bomber advantage of some 630 B-52s and 850 B-47s to 190 Soviet long-range aircraft. The Soviet force was very much more vulnerable than the American.

The Soviet nuclear force was, however, on any measure but a relative one, very formidable indeed. Although apparently none of the Soviet ICBMs were in hardened silos, the United States would have had to reckon with the possibility that some of the 'soft' ICBMs would either be launched on warning or survive an American counter-force strike because of U.S. missile failures or inaccuracy. There is no recorded American claim that the Soviet submarine-based force was so vulnerable as to be subject to sudden, complete elimination, once deployed at sea. Moreover, the 700-odd missiles of the Soviet IR/MRBM force, and the 1,000 medium-range bombers, at the very least complicated American targeting requirements and raised the possibility of the USSR holding Western Europe hostage to a US attack.

From the US perspective then, if the Soviet Union had not reached a minimum assured-destruction capability, it is likely to have seemed sufficiently close to this to be capable of immensely damaging responses to an American first strike. But the Soviet leadership would still have had to expect that any Soviet force surviving a US counter-force blow would have been limited in both numbers and capability, allowing very few choices for retaliatory attacks against the territory of the United States other than an attack on cities using all surviving units. Indeed, a desire to use IR/MRBMs based in Cuba to augment the Soviet side of the strategic balance until the ICBM programme reached high gear is one of the two principal motives attributed to the introduction of missiles into Cuba, the other being a desire to gain a prestige victory from invading the American preserve in Latin America and from defying explicit US warnings, and to obtain a bargaining counter for other negotiations over Berlin or US overseas bases. Thus, the Cuban case presents a reasonably clear-cut example of a situation where to the weaker side at least, a massive counter-force strike by the stronger side was a possibility.

### *The nuclear elements of the crisis*[3]

American spokesmen, both at the time and subsequently, were at pains to emphasize that the United States Government recognized that its determination to do whatever was necessary to secure the removal of the Soviet missiles in Cuba entailed some risk of nuclear war. Just how immediate those risks were thought to be—and how important the proclaimed American willingness to face nuclear war over the issue was to the eventual resolution of the conflict, compared to other factors—remain subjects of dispute. It appears that American assessments of the nuclear risks ran along these lines: having decided that removal or elimination of the missiles was essential, a quarantine-blockade of missile-related military supplies was decided by President Kennedy and his advisers with explicit recognition that if it did not force a prompt Soviet withdrawal, more drastic measures would follow. Just before the announcement of the Soviet agreement to withdraw its missiles, the United States sought, by ostentatious troop movements and private warnings, to give the impression that an invasion of the island and an air attack on the missile sites would take place in a few days if the Soviet Union did not yield. There may have been some element of bluff in these warnings. Before mounting an invasion of Cuba, the United States might have tried tightening the blockade, e.g. by stopping petroleum supplies. However, in view of the wide support which there had been within the US Government for an air-strike invasion as the *initial* American reaction, there is little reason to doubt that an invasion accompanied by an attack on the missile sites would have been ordered within no more than a few weeks had the Soviets not backed down.

There is no evidence that the United States seriously considered a nuclear attack on the Cuban sites themselves to be necessary. It was in connection with possible Soviet reactions to an attack on the missile sites that the most immediate prospect of the use of nuclear weapons arose. By the time the warnings of imminent invasion were being given, the 24 shorter-range MRMBs were probably operational; certainly Washington so regarded them. The United States Government was by no means confident that an air strike could destroy all the potentially operational missiles before they could be launched. Therefore, in contemplating an air attack, the United States had to deal with the possibility that some of the Soviet missiles in Cuba which were operational would survive and could be launched, carrying nuclear weapons, against the United States. In dealing with that possibility, the United States may have relied in part on the possibility of an American counter-force attack on the Soviet Union but the threat of such an attack was not a central, and certainly not the

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Footnotes at end of speech.

only, element determining the result of the crisis.

The most important element in the nuclear part of the American crisis policy was the effort to deter any sort of Soviet use of nuclear weapons by warnings that any Soviet nuclear attacks, including an attack from Cuba alone, would lead to a strong American nuclear attacks, including an attack from Kennedy's initial speech had included the warning that 'it shall be the policy of this nation to regard any nuclear missile launched from Cuba against any nation in the Western Hemisphere as an attack by the Soviet Union on the United States, requiring a *full* retaliatory response upon the Soviet Union' (emphasis added).[4] During the crisis, bombers of the US Strategic Air Command were put on additional alert and the American strategic forces brought to a high state of readiness. In his eleventh-hour conversation with Soviet Ambassador Dobrynin, in which he urged that only a prompt Soviet withdrawal of the missiles could avert a US invasion of Cuba, Robert Kennedy conceded that if the United States invaded Cuba 'perhaps his [Dobrynin's] country might feel it necessary to take retaliatory action but before that was over, there would not only be dead Americans but dead Russians, as well.'[5]

These declarations of intentions did not of course necessarily determine what the United States would have done had an attack actually been made from Cuba. If the Soviet Union, despite the warnings, launched a 'revenge' strike from Cuba after an invasion, the United States could have accepted the losses, on the grounds that they were compensated for by elimination of the Cuban missiles and conquest of the island and that any nuclear retaliation by the United States could achieve no useful purpose and involved unacceptable risks of further escalation. Such acquiescence would, however, have been a very difficult course, made more so by the warnings of American determination to retaliate with a nuclear attack on the USSR for any nuclear attack from Cuba. In an attempt to redeem the pledge to retaliate, while minimizing the risks of further escalation, the United States could have limited itself to some form of 'compensatory' or 'demonstrative' attack, on either military or civilian targets in the USSR, possibly geared to the damage actually inflicted by the Soviet attack from Cuba.[6] The danger of this course was, of course, that by attacking the Soviet homeland, the Soviet government would be put under pressure to make some nuclear counter-attack while leaving virtually intact the nuclear striking force with which Soviet counter-attacks could be made.

To limit Soviet choices in retaliation, the United States in the conditions of 1962 may have thought it technically feasible to make a massive counter-force attack on Soviet bombers and missiles, hoping that by withholding an 'assured-destruction' force, it could deter an all-out retaliation by surviving Soviet forces, while reducing these forces to a level where no other meaningful response would be possible. How deeply American leaders were convinced that such an attack was more than technically feasible, i.e. how they assessed the risk that the Soviet Union would retaliate 'irrationally' with whatever forces it had left, and whether they believed that the damage which would have resulted if such a Soviet attack had been made, would have been 'unacceptable', remain unknown, probably even to themselves.

Whatever the American leaders thought, it is very likely indeed that the Soviet leaders believed that the United States had the technical ability to present the Soviet Union with, at best, a choice between accepting a very serious military defeat—not merely loss of Cuba and the missiles, but virtual elimination as an inter-continental nuclear power—or all-out nuclear war, with destruction of the USSR certain, regardless of how much damage could be inflicted on the United States in return. There is no way to know how the Soviet leaders reacted to the assessment they are likely to have made of American technical capabilities, e.g. whether they considered 'launch-on-warning' as a countermeasure, but recognition that the United States had such a physical capability would have tended to reinforce pressures on the Soviet Government towards pulling back from the Cuban missile adventure. Thus it is possible that US superiority was an important force for Soviet restraint, even if the American leaders themselves thought the risks too great for a massive counter-force strike to be a real option.

However, the possibility of such an attack came into the picture, for either the United States or the Soviet Union, only on the assumption that the crisis would be allowed to grow through many preliminary levels. At those lower levels, the United States had important advantages in 1962 which were not dependent on the relative size of the two strategic nuclear striking forces. These advantages were great enough to make it likely that the result would have been the same even if the strategic forces of the two sides had been evenly balanced.

Of the strictly military advantages the United States enjoyed, the most important was overwhelming conventional superiority in the Caribbean—the immediate area of confrontation. Once the United States used even limited and non-nuclear force in the partial quarantine-blockade, if the Soviet Union could not bluff the United States into backing down, its only alternatives to yielding were the massive enlargement of conventional conflict, by opening new fronts in Berlin or elsewhere, or the use of nuclear weapons. It could not hope to defeat the United States in conventional encounters in the immediate area of conflict, so such measures of local resistance as submarine attacks on the blockading vessels or conventional defense against an invasion of Cuba were pointless. These US conventional advantages—and the burden of escalation they placed on the USSR—were in no way dependent on nuclear superiority and they may have been sufficient to be decisive in themselves.

Even considering only the strictly nuclear parts of the Cuban situation, the American counter-force capability was only one of its advantages. Most important, the crisis developed in such a way—and the balance of conventional forces in the area of conflict was such—that the Soviet Union, not the United States, would have had to bear the onus and risks of initiating the use of nuclear weapons. At no point was the United States required to use nuclear weapons, except in response to Soviet use. Moreover, though their nuclear force was small, the Soviet leadership did not lack the physical means to conduct a "bargaining" by limited nuclear attacks in the hopes that the United States would draw back. Rather they lacked a convincing basis for belief that such a course could be advantageous. At least until the United States launched a full-scale counter-force attack, the Soviet leaders could reply in kind to a range of possible American attacks. Even after a massive counter-force attack, they could—however irrationally—respond by a suicidal all-out response. Undoubted recognition of American superiority at this ultimate level tended to restrain the Soviet Union, but it seems likely that in discouraging Soviet persistence in the crisis, the prospect of vast mutual destruction, perhaps beyond levels intended by either side, was at least as convincing as Soviet recognition of the results of a massive American attack and of Soviet inability to gain an advantage at intermediate stages.

A quite distinct inhibition on the Soviet Union was the fact that a Soviet nuclear strike afforded no better hope of an advantageous resolution of the crisis than conventional escalation, even ignoring the likelihood of American retaliation. In particular, a 'revenge' strike by surviving Cuban missiles was not only likely to provoke a variety of nuclear counter-strikes by the United States to which the USSR would have had no clearly effective reply, it would also have accomplished nothing for the Soviet Union except revenge; the position in Cuba would still have been lost. To be sure, if the United States had passively absorbed a 'revenge' strike without nuclear retaliation, the USSR might well have gained a psychological advantage outweighing the loss of its Cuban bases. However, from the Soviet perspective, that this consequence would result if the United States did not make some nuclear strike in retaliation for a 'revenge' strike was not an argument in favour of such a strike. Rather it demonstrated that such a strike would not only have no immediate advantage in the crisis itself, but also that it entailed not merely a possibility, but a near certainty, of setting off a round of nuclear exchanges in which the Soviet Union would suffer far greater losses than the United States.

### *Nuclear weapons and the psychology of the crisis*

An alternative approach to the role of nuclear weapons and of American superiority in the Cuban crisis would emphasize their effects more on intangible factors in the crisis and especially on the ability of the U.S. Government to give an impression of confidence and willingness to run great risks. Of all the advantages the United States enjoyed in the crisis, the most important may have been its success in making it clear to the Soviet Union that it was resolved to obtain the withdrawal of the missiles whatever the cost. In conveying its sense of determination and making credible the proposition that the United States would accept some risk of nuclear war rather than yield, confidence in American nuclear forces undoubtedly played some part. Even if the American leaders regarded the risks of a massive counter-force strike as so great as to make this an option open only in theory—and they may not in fact have discounted it so heavily—they had no reason to doubt the adequacy of U.S. nuclear forces for any possible measure, while the USSR had ample reason to be concerned about its nuclear forces. More generally, the confidence which the Kennedy Administration had come to feel in American nuclear capabilities must have contributed to its sense of competence and control of the situation.

Strategic advantage was not, however, the only factor which made American determination in the crisis appear convincing. Domestic public opinion strongly backed the Administration's stand; if anything there was a clamour for stronger action. The United States had remarkable success in carrying its allies and even some neutrals with it. Moreover, conventional superiority gave the U.S. Government not only operational flexibility but grounds for resoluteness because it meant that the men responsible knew that if their first actions were insufficient they could increase the pressure by a succession of conventional measures which offered high potential for forcing a satisfactory result and which, although by no means riskless, did not involve the immense uncertainties of starting nuclear attacks.

On the Soviet side, the unfavourable-numerical balance must have been an important source of doubt about Soviet strength in an ultimate confrontation, with a corresponding undermining of confidence generally. But other factors also weakened the Soviet Government's psychological position. Internationally, it was at a disadvantage through having been caught doing precisely what it had explicitly denied it would, or needed to, do. The Soviet Government was apparently divided within itself over both the wisdom of introducing the missiles into

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Footnotes at end of speech.

Cuba and the conduct of Soviet policy after they were discovered. In general, the weight the Soviet leadership gave to the strategic balance as a psychological factor in the crisis probably depended considerably on their purposes in putting the missiles into Cuba in the first place. The Cuban missiles may have been intended to compensate for a concrete strategic inferiority, to fill a gap in Soviet deterrence until more ICBMs were ready. To the extent that significant elements believed the unfavourable strategic balance was important enough in its direct and political effects to justify the risks of the Cuban deployment, they may have given great weight to American strategic power as a factor urging caution, once the missiles had been discovered before the deployment was complete and the gap narrowed. On the other hand, the missiles may have been intended largely for bargaining purposes and to score a prestige coup over the United States. If this was the dominant Soviet motive, the actual strategic balance was probably a less significant factor in Soviet readiness to yield than more general conclusions that American determination meant that earlier hopes for a big, easy Soviet gain were illusory.

A final advantage to the United States not dependent on its strategic lead was its success in defining the crisis so that the stakes were higher for the American than for the Soviet Government. The Soviet Government had made a secret deployment hoping for a quick, cheap gain whether strategic or psychological; it had publicly committed itself to nothing except general outrage at American action and the supposed threat to Cuba. The United States, by contrast, had, rightly or wrongly, decided that it faced a major challenge, political and/or strategic, and deeply committed its prestige to success in the encounter, while taking care to leave the Soviet Union a way to retreat without excessive costs. Once the Soviet Government understood the American position, it may well have believed that as the crisis continued, the American Government would find acceptable a level of risk which the Soviets, given the limited gains they could possibly obtain from success, would find intolerable. So in terms of the inherent credibility of the threats, both nuclear and conventional, made by both sides, the American Government was in a strong position.

FOOTNOTES

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[1] Arguably, the roughly contemporaneous, but much more protracted Berlin crisis of the late 1950s and early 1960s offers as good an example as Cuba of the role of differences in relative forces sizes in a major US-Soviet confrontation. Some claim that indications of American willingness to use nuclear weapons if necessary over Berlin—coupled with the credibility American numerical superiority is said to have given such indications—was a vital factor in Soviet failure to press the Berlin issue to resolution. Others, however, maintain that the purported willingness of the United States to risk nuclear war over Berlin was a far less important factor in the eventual defusing of the crisis than the build-up of NATO conventional capabilities and internal Soviet and East European developments.

The Berlin crisis would, therefore, be an equally suitable object for historical analysis of the political usefulness of the strategic advantage the United States enjoyed then. As a practical matter, however, Cuba is a better case to study because so much more information is available, and because the nuclear element in the confrontation was more direct and concrete.

[2] Data from *The Military Balance 1970–1971* (London: The Institute for Strategic Studies 1970) p. 106 Table (1B, 'Growth of ICBM/SLBM Strength, 1960–1970 (mid-years)' and from *The Military Balance 1962–1963*.

[3] The principal sources for this account of the role of nuclear weapons in the crisis are E. Abel, *The Missile Crisis* (New York: Lippincott, 1966), published in Britain as *The Missiles of October* (London: MacGibbon and Kee, 1966); R. F. Kennedy, *Thirteen Days* (London: Macmillan, 1969); T. Sorensen, *Kennedy* (London: Hodder and Stoughton, 1965), ch. 24; A. Schlesinger, *A Thousand Days* (London: Deutsch, 1965), chapters 30, 31; and the statements of Secretary McNamara to the House and Senate Armed Services Committees in the budget hearings shortly after the crisis.

[4] Significantly, even as the spokesman for the stronger power, Kennedy emphasized the possibility of an unlimited US response to a small attack as the most effective deterrent to any use of nuclear weapons.

[5] Kennedy, *op. cit.*, p. 105.

[6] A reference to such an attack in a note by Paul Nitze, quoted in Abel, *op. cit.*, p. 98, suggests that 'demonstrative' attacks for token retaliation, but not to produce a militarily significant result, were contemplated at least for discussion purposes.

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## LAUNCHING OF U.S.S. "CAVALLA"

### HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HOLIFIELD. Mr. Speaker, February 19, 1972, my distinguished colleague, Congressman MELVIN PRICE, gave the keynote speech at the launching of the U.S.S. *Cavalla* at Groton, Conn. His speech, which I hope every member of Congress will have an opportunity to read, points out clearly the growing Soviet naval threat and our precarious position relative to them in the naval nuclear propulsion field.

Congressman PRICE, as you all know, is in an excellent position to assess the growing discrepancy between the U.S. strategic capability and that of the Soviets because of his senior positions on both the House Armed Services Committee, where he is the second ranking member, and on the Joint Committee on Atomic Energy, where he serves as vice chairman.

I include Congressman PRICE's remarks at this point in the RECORD together with the brief introduction by Vice Adm. H. G. Rickover of Mrs. Price, who was designated the sponsor of the U.S.S. *Cavalla.*

The article follows:

REMARKS BY CONGRESSMAN MELVIN PRICE

The launching of a ship is a many-faceted occasion. It most certainly is a happy one; but it's also an occasion with a solemn undertone.

In just a few minutes from now, when the *Cavalla* slides down the ways, there isn't a person assembled here today who won't experience a special kind of thrill. And that's understandable; that's the way it should be. Exactly why each of us will feel that way varies with the individual. But for many of us the reason will be that we are experiencing a moment in time that may well epitomize in a most tangible and perceptible way just how this country remains strong—and this nuclear attack submarine, soon to be named the *Cavalla*, is the clear and specific evidence of how we do this.

Everyone who has been connected with the building of this submarine has reason to be proud, and the reason for that pride, the *Cavalla* itself, is right here before us.

One person deserves special mention any time we speak of nuclear submarines. This individual is Admiral Rickover. No one individual has done more to make our nuclear submarine program a success. The Nation owes a great debt of gratitude to Admiral Rickover.

When *Cavalla* joins the Fleet early in 1973, we will have a total of one hundred nuclear powered submarines. But today the Soviets already have a hundred nuclear submarines plus six times as many diesel submarines as we do. By the time the *Cavalla* joins the Fleet, the Soviet will have 15 percent more nuclear submarines than we will have. And there is every indication that the Soviet lead will grow as they build nuclear submarines at three times the rate that we do.

Although I have cautious hope that our relations with the Soviet Union will improve as times go on, I cannot help but remember—in my caution—that the Soviets are fully aware of the instruction of Machiavelli that no move should be made against an enemy until you have the power to destroy him utterly. And he went on to say that until that time one should preserve a friendly appearance toward him.

My hopes for the success of the SALT talks are tempered by the Biblical admonition: What if the salt should lose its savor?

My service as the only present member on both the House Armed Services Committee and the Joint Committee on Atomic Energy provides me a unique vantage point from which to view our defense.

Ladies and gentlemen, you must understand, and you must help to get our fellow Americans to understand, that the Soviets are embarked on a military expansion such as the world has never seen in what I will call "peacetime". The Soviets are today not only the world's strongest land power, but for the first time in the quarter century since the end of World War II our great maritime Nation must face the reality that there is now a foreign naval power that can challenge our ability to maintain free use of the seas. This is a simple fact and obviously one of vital importance to our very survival.

The philosopher Hegel once referred to the fact that in the inexorable march of history there occur moments when the sheer weight of accumulating events finally produces a decisive change. I wonder whether we have not arrived at such a moment. It seems wholly clear to me that this country has an unmistakable obligation to provide our Navy with the kinds of warships that can successfully counter the rapidly expanding Soviet naval threat. Failure on our part to provide naval forces that can successfully counter the naval forces the Soviets are building could very well lead to our having to yield to them on all issues for which we are not willing to enter a nuclear holocaust. And this is an intolerable thought.

With all sincerity I say—do not take this warning lightly. Every American must recognize that the United States no longer has a nuclear weapons capability superior to that of the Soviets. Nuclear war would involve a major risk of annihilation. And in such a circumstance where can we look for help? This country has friends, and this country has allies; let us hope that we never have to find out whether they are the same people.

We may well discover—because of the fault of no one—that we are alone. It is with no sense of frivolity that I liken our position in those circumstances, as we look around for help, to that of Adam in the Garden of Eden who, when asked by Eve, "Do you love me?" responded, "Who else?" Who else, indeed, can we look to to help us? We may well have at that time as little choice as Adam; and this has one simple moral: We must be independently capable of taking care of ourselves.

Let me at this point raise a few issues in regard to our future naval strength; first, the importance of continuing a vigorous construction program for ships of the new High Speed Los Angeles Class attack submarines. The first 12 ships of this class are now under contract, 7 of them, as a matter of fact, to be built here in Groton. This class of submarines was started 4 years ago when Congress took the initiative that they be built. At that time the Defense Department—believe it or not—intended to stop construction of all nuclear submarines. This decision, fortunately reversed by the Congress, makes me think of the remark by a statesman some years ago that the United States Government is a singular vessel in that the greatest leakages come from the top.

I am pleased to tell you that the budget now before the Congress includes funds for 6 additional ships of this class and advance procurement funds for 5 more.

The next submarine issue that I would like to touch on briefly is the development of an advanced submarine that can fire long-range tactical cruise missiles. This program has the full support of the Chief of Naval Operations, the Joint Committee on Atomic Energy and the House Armed Services Committee.

The Soviets recognize the great potential of cruise missile submarines. They have over 65 of them at sea, 37 nuclear powered. We have none.

Before dealing with the third submarine program now before the Congress, I want all of us to recollect that the entire history of Naval nuclear propulsion, starting with the Nautilus, the world's first nuclear submarine, began right here at this shipyard 18 years ago. This was a program that required the leadership of the Congress, and the origin of which can be directly traced to the Congress.

The story is told that during the Civil War General Grant had as part of his staff a young and inexperienced boy. General Grant, who had some difficulty communicating with his field commanders, would read the orders of the day to this very young and inexperienced boy. He would then ask the boy to repeat in his own words what the orders meant to him. When the boy finished, General Grant would say, "By the great Jehovah, if you can understand these orders then my Generals ought to be able to!"

In the case of the Nautilus, and to a very great extent since then, the Congress has, to a considerable extent, played the part of that young boy. At the beginning the Congress was far from expert on nuclear matters, but it did have a sufficient understanding—an understanding lacking in the Executive Branch—to recognize the essentially clear message of the potential that was represented by nuclear propulsion.

This brings me to the third of the submarine programs, the Undersea Long Range Missile System, called ULMS which is being designed here at Electric Boat.

I don't think the importance of this program can be overemphasized. For example, these submarines will carry strategic ballistic missiles of longer range than our current Polaris and Poseidon. With such missiles the ULMS submarines can operate, almost invulnerably, in much more of the ocean while still being able to cover their potential targets.

This program is only beginning, but I have confidence that it will receive the same kind of farsighted support from the Congress that the other nuclear propulsion programs have received in the past.

From the design of ULMS, which is being done here at Electric Boat, to the time that these ships will join the Fleet will be, I hope, as short as possible. But "as short as possible" can still be quiet a span of time, as is true with the design, development and production of any new weapons system. It will be expensive, and in the prevailing budgetary atmosphere, it will be subject to fiscal hazards along with all the other hazards that are inherent in a program of this kind.

I know that there are those who will oppose this new class of submarines because of concern over its possible effects on the SALT talks. But while we have been holding back for the SALT negotiations, the Soviets have rapidly expanded their land-based strategic missiles and their fleet of ballistic missile submarines. Today some 25 new Yankee Soviet submarines are in operation, with enough additional ships under construction to enable them to surpass our fleet of 41 next year.

So, with every expression of hope for good luck at the SALT talks, let us keep in mind that someone has defined "luck" as "an accident that happens to the competent"—and I will substitute for "competent" the "words capable and ready."

I mentioned previously my belief that the Soviets well understood Machiavelli's instruction to make no move against an enemy until you could destroy him, and to preserve a friendly appearance until that time. Of much more recent vintage—but in the same vein—is an observation that we in this country could well ponder on—an observation to the effect that you can get more with a kind word and a gun than with just a kind word.

Very simply stated, we are being eclipsed so rapidly in the area of strategic weapon systems that I am deeply concerned that we may soon find ourselves faced with nuclear blackmail—unless we take vigorous action today to guarantee a strong U.S. strategic deterrent for tomorrow.

I do not need to point out that nuclear propulsion is by no means restricted to submarines. A problem that faces the Congress this year, and may face us in the years to come, is to get the Department of Defense to understand the importance of nuclear propulsion in our surface ships too. I am referring of course to our aircraft carriers and the ships that accompany these carriers. Most importantly, in addition to the carriers themselves, is the matter of persuading the Department of Defense that this country needs more nuclear frigates.

It took many years for the Congress to get the Department of Defense to understand the importance of providing nuclear propulsion in our new aircraft carriers. Regrettably the two carriers following the Enterprise, which is our first nuclear carrier—the America and the John F. Kennedy—are oil fired despite the pleas of Congress to make them nuclear. Finally, in 1966, the Defense Department came forward with a plan to build three nuclear powered aircraft carriers. Two of these are now under construction, the Nimitz and the Dwight D. Eisenhower. For the last three years we have been trying to get the Administration to make up its mind whether or not it is going to build the third ship of this class. This year the Administration has finally recognized the vital importance of proceeding with this ship and has included funds for advance procurement in the budget now before Congress. Unfortunately, the delay in making the decision to proceed has added unnecessarily to the cost of the ship. However, there is no point in crying over spilt milk—we have no choice now but to proceed without further delay. The ship, which even now won't be completed until 1980, is urgently needed in the fleet to replace aging World War II carriers.

The issue which concerns me the most is that the Department of Defense budget request now before Congress does not include any funds to continue the nuclear frigate construction program—the ships which would escort our nuclear carriers. Congress has recognized for many years the vital importance of building all-nuclear carrier task forces. Admirals Moorer, Zumwalt, and Rickover have testified that the all-nuclear carrier task force has greater capability to penetrate and counter the projected Soviet naval threat than any other surface force they know how to build. Until a few months ago it appeared that the Defense Department also recognized the importance of the nuclear frigates. In fact, at the keel laying of the nuclear frigate California just two years ago, Secretary Laird said:

"What we are doing here today is to begin a vitally needed and continuing program of ship construction to improve the Navy of the United States. We are building nuclear-powered frigates for the Navy of the 1970's, 1980's, and the 1990's.

"The California will be the first such ship of 7 which have been authorized by the United States Congress.

". . . As an escort to nuclear aircraft carriers of the present and the future the California and her successors which have been authorized by the Congress will greatly extend the range of attack carrier striking forces throughout the world."

We in Congress thought that at long last the Defense Department had accepted the nuclear frigate program. The Defense Department informed us that the Navy program included more than 20 such ships for future construction.

Then last May, without warning, the Defense Department canceled nuclear frigate construction. They even canceled two of the 7 nuclear frigates Secretary Laird had referred to in his speech for which Congress had already appropriated funds. I for one do not accept that decision and I intend to fight it. I think the majority of the members of the Joint Committee and the Armed Services Committee will join me in that fight.

The vastly superior qualities of nuclear surface warships have been substantiated and documented in the record of almost 2 million miles of steaming over the last decade. They have been demonstrated under combat conditions in Southeast Asia, in the historic 30,000 mile cruise around the world without logistic support—Operation Sea Orbit—in 1964, they have been attested to by the captains who have commanded these ships and the admirals who have directed their operations, as well as by countless analytical studies which have been furnished to Congress. The Commander of the task force in the 1962 Cuban crisis which included the nuclear carrier Enterprise and the conventional carrier Independence concluded that his experience in Enterprise convinced him that the military advantages of nuclear propulsion in surface ships more than outweigh their extra cost. He said then:

". . . In Washington these often cited advantages of nuclear propulsion seem to get lost in a shuffle of paper. Off Cuba they were real. I think the Cuban crisis made all of us do a lot more thinking about how we will fare in war. On blockade duty our conventional escorts were usually refueled every other day. Protecting that oil supply train under air and submarine attack would have been tough enough right here in our own backyard—in an advanced area the problem will be magnified manyfold. I am certain that the naval commanders facing the problem of large numbers of Soviet nuclear submarines and the missiles and the aircraft of the 1967–87 era will consider that the added cost of nuclear propulsion in combatant ships is a cheap price to help solve the problems facing them.

He said his experience told him that nuclear propulsion offers the Navy tremendous military advantages that will be sorely needed in the years ahead, that to maintain fleets at sea against the hostile forces that are sure to oppose us will require every technical advantage we can possibly muster. He said:

"I do not believe you can weigh victory or defeat on a scale of dollars and cents—yet the margin between victory and defeat in future naval engagements may well depend on the availability of nuclear-powered ships to the fleet commanders of the future."

The commander of the first task force including nuclear ships to go into combat wrote a detailed report on the advantages of nuclear power and its utilization in a combat environment based on his experience with the carrier *Enterprise* and the nuclear frigate *Bainbridge* when they first entered combat off Vietnam in 1965. He concluded:

"The evolution of the Navy to a progressive program of nuclear power can revolutionize our naval establishment and naval warfare in a more dramatic manner than that realized by the change from sail to steam or from coal burning to oil burning propulsion plants. The future of the U.S. Navy is nuclear power. We must not ignore it."

Despite all of the evidence, despite all of the studies, despite all of the facts the Defense Department has buried its head in the sand.

A few months ago at the keel laying of the nuclear attack submarine *L. Mendel Rivers*, a sister ship of the *Cavalla*. Chairman Hébert of our House Armed Services Committee recounted the entire history of the long fight Congress has led for nuclear frigates. He concluded:

"I tell you today, I pledge to you in Mendel River's name that the fight for an adequate number of nuclear frigates goes on.

"I tell you today that those of us in Congress to whom he threw the torch are determined that Mendel River's dream of a nuclear Navy shall someday become a reality."

Ladies and gentlemen, I asure you that no member of our committee takes these words lightly.

The nuclear submarine and surface warship programs I have talked about today will cost a lot of money. But the advancement of technology has caused all military hardware to become complex and costly. With the fiscal constraints placed on the economy and the desire of our people to devote their energies to solving the many internal problems of our Nation, it is onerous to make major investments for our future military security. It is tempting to conclude that we cannot afford to pay the high costs of the weapons needed to counter our potential enemies successfully. However, if the investment for our future military security is not made now, there may be no future. As President Truman so aptly said:

"All national security programs are expensive and we might as well face up to it."

The price we must pay to have an adequate defense is small compared to the price we will pay if we have an inadequate defense.

The statement by President Eisenhower quoted on the keel of the nuclear aircraft carrier now under construction which will bear his name sums up the situation:

"Until war is eliminated from international relations, unpreparedness for it is well nigh as criminal as war itself."

Secretary Laird has warned us that the naval power which the Soviet Union continues to amass and to operate at accelerating rates must be recognized as a threat to free world security. He said:

"The United States Navy has a crucial part to play in helping to carry out the Nixon Doctrine and the strategy of realistic deterrence. A first-rate U.S. Navy will continue to be imperative as far into the future as any man can see."

But the United States needs modern warships—ships with modern weapons and nuclear propulsion—for these words to have meaning. Our fleet of ships designed in World War II is getting too old and outdated to match the modern weapons of the newly built Soviet fleet.

The choice we face is to embark on a vigorous program of fleet modernization including the nuclear warship programs I have discussed with you today, or accept the fact that we will soon find ourselves unable to defend our national interests. I hope history will record that the American people have the courage and determination to do what is necessary to maintain the strength of our great Nation.

We all must stand behind the men who will man this ship—men of courage and dedication who will sail in Cavalla to protect our freedoms. To these men who will guide this ship through the silent depths of the ocean—alone and unafraid—we all owe an incomprehensible depth of gratitude. God speed you on your noble mission.

It has been said that what men usually ask of God when they pray is that two and two not make four.

In the light of the threat that faces this country, and the response to that threat that we have made so far, is this not a correct description of our defense policy—of our prayer?

My answer to that, an answer that I know is echoed by my friend and Committee colleague, Craig Hosmer, and my other colleagues here today is that our policy—our prayer for the future—will be that two and two do equal four; that moral force and adequate defense will add up to peace for the world.

### INTRODUCTION OF GARALDINE FREELIN PRICE BY VICE ADM. H. G. RICKOVER, U.S. NAVY

Several years before the current push for equal opportunity for women, Garaldine Freelin Price achieved notable success in professional positions with the Seven-Up Company and the American Cancer Society. She also served as a stewardess on the Baltimore and Ohio Railway. Her service must have contributed to the railroad's profit, because soon after she left the railroad industry entered into a decline from which it has still not recovered. On the positive side, the railroads now realize what a good thing they had when Garaldine Price was working for them. Passenger trains once more have stewardesses.

Since marrying Melvin Price in 1952, Garaldine has had a busy life as a mother and homemaker. The Prices have one son, William Melvin, who is a pre-med student at St. Louis University. Garaldine is a member of the Women's National Democratic Club and is on the Board of the Democratic Wives' Forum.

I must also tell you of Mrs. Price's work with the blind. She is a certified braillist and works unstintingly aiding the blind. At the request of the State Department and the Lighthouse for the Blind, she conducts special tours of the capitol for blind visitors.

What I have said gives you some idea of how warm and charitable she is. She has set a high standard of behavior toward others less fortunate. Her concern for people comes from an inbred sense of *noblesse oblige*—from a "kind heart." This quality has been evident throughout her life. It manifested itself early when she served as a Field Director for the American Cancer Society, and today in her volunteer work for the blind.

She also devotes much time to supporting her husband in carrying out his important and burdensome work. The program booklet has several pictures of occasions when Congressman Price and I have been together since the *Nautilus* went to sea 17 years ago. He has always given leadership and support to the nuclear Navy. I take this opportunity to thank him for all he has done.

In thanking him I am likewise thanking Mrs. Price. For twenty years she has been his bulwark, providing him the inspiration and support a Member of Congress must have to carry out his responsibilities. Only those who have the misfortune to be married to a politician can have any conception of the patience, understanding, and fortitude a Congressman's wife must possess.

Mrs. Price has chosen Mrs. Edward J. Bauser, the charming wife of the Executive Director of the Joint Committee on Atomic Energy as her Matron of Honor. She is married to a hardworking, dedicated husband who is one of the mainstays of the Navy's nuclear propulsion program. Mrs. Bauser is the mother of three children. She has found that taking care of her husband, three children and a home can keep one fully occupied.

And now I take great pleasure in introducing two gracious ladies, Garaldine Price, the sponsor of the USS *Cavalla*, and Doloris Bauser, as Matron of Honor.

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## CALIFORNIA STATE SENATOR BEILENSON'S OBSERVATIONS ON WELFARE REFORM

## HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. REES. Mr. Speaker, California State Senator Anthony C. Beilenson, chairman of the California Senate Committee on Health and Welfare, has an outstanding record in the area of welfare reform. Not only has he authored comprehensive legislation in this field, but he has followed the progress of welfare programs in our State.

Recently, Gov. Ronald Reagan testified before the U.S. Senate Finance Committee which is hearing H.R. 1. I would like to have included in the RECORD Senator Beilenson's letter to Senator LONG, which sets the record straight concerning Governor Reagan's testimony.

FEBRUARY 17, 1972.

Hon. RUSSELL B. LONG,
*Chairman, Senate Finance Committee, Senate Office Building, Washington, D.C.*

DEAR SENATOR LONG: As Chairman of the California Senate Health and Welfare Committee, and as author of our State's Welfare Reform Act of 1971, I have closely followed news accounts of your Committee's recent hearings on federal welfare reform legislation, H.R. 1.

I am prompted to write you and your fellow Committee members at this time because of my concern that misleading testimony given on February 1 by Governor Reagan not go unchallenged. At the time, the Governor recommended numerous amendments to H.R. 1 based on what he termed "the product of our experience with an actual reform program that is succeeding in California."

Unfortunately, the Governor's description of our experience with reform bears little resemblance to what has actually transpired. Accordingly, I find it necessary to set the record straight.

As you will recall, the Governor presented 25 specific reforms for the consideration of your Committee contending that the California reform experience constituted proof of the efficacy of his proposals.

Upon close examination, however, only 10 of the 25 recommendations resemble measures adopted by the California Legislature in 1971. Further, of these 10 items only three had been implemented by December 31,[1]

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[1] Welfare reforms relating to the list presented to the Committee which were actually implemented in 1971 in California were:

5. *Work-related expenses.*

10. *Increased federal reimbursement for child support activities.*

22. *Marital and community property resources.*

1971 and two of the three had been stayed by the courts.[2]

*In other words, only one of the Governor's total 25 proposals can accurately be said to have been an unimpeded part of applied reform in our state.*

A Superior Court ruling ordered the State Department of Social Welfare to cease and desist from presuming the availability of income from a stepfather, basing the decision on 45 CFR 233.90, an HEW regulation specifically prohibiting such a presumption where there is no legal support liability under a law of general applicability. (Stepfathers are not generally liable for the support of non-adoptive stepchildren under California law.)

The single operative item is a fiscal incentive to county government to work harder at securing support contributions from absent fathers of AFDC children. However, county welfare officials inform me that support contributions are presently being collected from *fewer* absent fathers than before the Welfare Reform Act of 1971 became operative on October 1, 1971.

These same county sources advise me that the California State Department of Social Welfare has completed a survey of welfare reform implementation which bears out this statement.

Governor Reagan emphasized before this Committee that California welfare rolls dropped significantly during 1971. Yet the Governor did not tell this Committee that he has requested a welfare budget increase of $118 million for the fiscal year commencing July 1, 1972. Moreover, this $118 million increase was made assuming 100 percent implementation of our 1971 reforms, and it fails to take into account a major court decision that will mean an estimated added cost of $70 million for AFDC grants.

In short, welfare costs in California are rising at a yearly rate of approximately $190 million.

That fact alone makes it clear that caseload reduction figures merit close analysis.

Of the 176,000 net reduction cited by the Governor, 108,000 were in the AFDC–U (Aid to Families with Dependent Children-Unemployed Parent) category. This reduction occurred over a period of time during which the unemployment rate dropped in California from a peak of 8.1 percent to slightly over 6 percent.

The fact that nearly two percent of California's labor force left the ranks of the unemployed obviously had a great impact on a welfare program for which eligibility is based on unemployment as AFDC–U is.

Thus, the improved job situation would seem a much more likely explanation for the reduction in numbers of persons receiving AFDC–U benefits than any welfare reform efforts.

Second, of the remaining 68,000 decrease, 47,548 were recipients of County General Relief—a program totally unaffected by our Reform Act. Hence, 88% of the 176,000 decline was directly attributable to improved employment conditions and a decrease in County Relief cases, neither of which can be properly ascribed to the reforms.

Third, the Governor did not tell this Committee that more than 20,000 of the caseload drop was accomplished by a change in accounting procedures by Los Angeles County. Previously, many persons on County General Relief were counted twice because they also received AFDC benefits during the same month.

Fourth, a significant portion of the overall caseload decrease stems from a major decrease in average size of welfare families. In the AFDC–FG (Family Group) program, for example, cases *increased* by more than 3,000 during the March–December 1971 period cited by the Governor although the total number of persons on the program declined by more than 12,000.

Finally, it should be noted that the California welfare system is presently under court order to reinstate 7,000 families whose aid was terminated last June under regulations subsequently found invalid by the State Supreme Court.

So while there was a decline in the total number of Californians receiving welfare, the causal effect of welfare reform in that decline seems minimal. In the least, it certainly is not the kind of hard evidence on which to base long-term legislation.

Nonetheless, any decrease in welfare caseloads is a good sign. My relief at the downturn is considerable. Were I self-seeking, I should be capitalizing on such good news, since the Welfare Reform Act of 1971 bears my name as lead author.

My concern here, however, is not with credit but with *credibility*. I share your devotion to making public policy strictly on the basic of the *facts*. The Congress is now in its third year of debate on welfare reform. That is evidence that Congress has a deep concern for the possible effects of proposed welfare reforms on the poor people who are so vulnerable to public policy decisions in these matters. For that reason, I see it as my duty to warn you against drawing prematurely any general conclusions on the relationship between California "welfare reform" and California caseload declines.

In this connection, the State Department of Social Welfare late last year sent auditors into every California county to examine case records in an effort to determine how welfare reform is working.

This information has not been provided to the Legislature nor to the public. However, in view of the Governor's claims before your Committee, this factual report would seem most appropriate for your consideration. If the facts bear out the Governor's claim, there should be no hesitancy in making this report available to you.

Permit me at this point to offer a few comments on H.R. 1 from my viewpoint as a state legislator who has been actively involved in the complexities and intracacies of welfare reform.

The overriding objective in welfare reform, in my view, should be to reduce poverty. Welfare costs have risen dramatically over the past decade largely because we have failed to defeat poverty by reforming some of our more basic social institutions.

Ironically, there are fewer poor people in the United States than ever before, just as there are more poor Americans on welfare than at any time since the Great Depression. The explanation for this is simple. As affluent America rediscovered poverty, poor Americans rediscovered welfare.

In 1960, no more than one in seven or eight poor people received welfare benefits. The vast majority of the poor simply suffered on tragically substandard incomes. Today, about half the poor people in America receive welfare benefits. Although those who subsist on wefare still do so for the most part at substandard income levels, they are relatively less destitute than they were a decade ago.

I submit that in a limited sense we should take pride in our ability to assist the less fortunate to the degree we do. If we have something to worry about, it is that the size of our welfare population represents our failure to provide better alternatives to the disadvantaged.

The adoption of a program of assistance to working poor families, regardless of the sex of the head of household or the parental deprivation status of the children will be a major step forward toward equitable treatment of the poor. It will only haunt us if we do not follow up with what is *true* welfare reform—namely the elimination of economic dependency for employable people by pursuing every means at our command to insure a decent job at a living wage to every American who can work. It was done during World War II—it can be done *without* war.

Likewise the adoption of a federal floor on income is commendable. Unfortunately, the level of the income floor being considered is totally inadequate to meet the minimum needs of families without other resources. I will not belabor this point in view of the massive testimony you have already received on it. I do, however, urge that in the event Congress chooses to establish a floor without regard to adequacy, it does so in conjunction with absolute guarantees that existing benefit levels in states with higher minimums be maintained.

Finally on the matter of substantive programs, I urge the Committee to eliminate the forced labor provisions of HR 1, especially those which require acceptance of a job paying substandard wages. There is absolutely no justification for such a corruption of our work ethic. The vast majority of welfare recipients who can be defined as "employable" have not been able to support themselves in the labor market for reasons other than those implied by the forced labor rule. Many are victims of systematic exclusion from opportunities to be self-supporting as members of racial minorities, but even more to the point vis-a-vis welfare, because they are women.

Even with the inclusion of the working poor, the large majority of heads of poor families will continue to be women. They are victims of restricted educational opportunities and generally can find employment, when it is available, only in a very narrow range of jobs. Despite the increasing participation of women in the labor force, the average women earns only slightly more than half what men earn. In addition, AFDC mothers generally have young children who need care, and until the expansion of child care programs proposed by HR 1 becomes a reality and those programs have been able to demonstrate their quality and effectiveness, it will be improper to force such services on a woman simply to push her into a dubious work situation.

Associated with this problem is HR 1's prohibition on aid to families headed by a full-time student. If we are truly concerned with promoting economic independence of families who now need public help, it seems to me that we would encourage in every way possible an expansion of educational opportunities.

Generally I support the approach of HR 1 to aid programs for the aged, blind and disabled. A uniform federal floor on such aid would be a giant step toward eventual integration of welfare with Social Security. The establishment of a livable minimum income for all persons covered is long overdue.

Although the minimum standards for aid to adults is a great improvement over what is being proposed for families with children, the federal minimum is still below existing benefit levels in many states, including my own. I therefore urge Congress to require the states to guarantee maintenance of current benefit levels to the aged, blind and disabled where they are above the proposed federal floor.

Further, as to aid to the aged, I strongly recommend that the Congress allow the states to give our senior citizens rebates on their property taxes without having such rebates considered as income for welfare purposes.

In California, we have a Senior Citizens Property Tax Assistance law that provides for refunds to aged homeowners based on their income and the assessed valuation of their home. Yet aged welfare recipients are not eligible because such refunds would, under federal law, be considered as "income" and hence deducted from their subsequent Old Age Security grants.

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[2] Reforms which were implemented and then stayed by court order before the end of 1971 were:

5. *Work-related expenses.*

22. *Marital and community property resources.*

As a result of this present federal requirement, the elderly homeowners who most need this help are ineligible for it. I urge that this inequity be corrected.

Any comprehensive discussion of welfare reform must deal with suggestions as to the federal administration of welfare programs.

Experience has shown that poverty is a national problem that has not proved amenable to elimination or substantial reduction by state and local efforts.

Further, the degree of federal participation has continually increased over the years due to the growing inability of state and local governments to raise the necessary revenues. The problem largely relates to the ability to finance such programs on a deficit basis.

Welfare dollar needs are most pressing when there is an economic slump. This is the time when state and local governments suffer from reduced general revenues, which they cannot deal with through accumulation of debt to be reduced when the economy improves. The federal government, on the other hand, is able to adjust its finances on a countercyclical basis. For this reason, it makes sense for the federal government to assume the major share of expense, and, as HR 1 proposes, to hold the states harmless against unanticipated cost increases.

I firmly believe that the federal government is entirely capable of operating a national welfare system efficiently and humanely, if the genuine commitment to do so is made by the Executive branch and if Congress maintains a careful watch over implementation.

The experience of the last several years in California has clearly shown that a state government which sets out to defy the federal government on a program for which it accepts federal funds can do a great amount of mischief before Washington clamps down. The politics of such a situation is understandable, but no less deplorable for its understandability. The courts have had to bear a great burden in forcing states like California to obey federal law. I believe it is time that Congress relieve that burden on the courts, and to a great extent relieve the same kind of pressure that surely must be felt here by assuming the responsibility for welfare under a program of fair, uniform, and lawful federal administration.

From my own involvement in welfare legislation, I have come to the conclusion that the most useful efforts to improve the overall welfare situation are focused in three areas—job training and career development, easily available voluntary family planning services, and widespread and effective child care facilities. These three factors, I submit, offer the best hope for enabling people to become self sufficient and to end their welfare dependency.

A number of attachments are included for the purpose of providing the factual basis the the statements I have made in the foregoing.

Your inclusion of this statement in your Committee's hearing record with respect to HR 1 would be genuinely appreciated.

Sincerely,

ANTHONY C. BEILENSON.

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## MAN'S INHUMANITY TO MAN—HOW LONG?

## HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

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## COMMANDER GEIGER PRESENTS AMERICAN LEGION PROGRAM

## HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ARENDS. Mr. Speaker, this morning John H. Geiger, national commander of the American Legion, appeared before the House Committee on Veterans' Affairs. As spokesman for over 2.7 million veterans in more than 16,000 Legion posts throughout the country, he presented to the committee what may be said to be the American Legion program.

Commander Geiger made an excellent presentation—one of the best. Recognizing that every Member of Congress is interested in the welfare of our veterans, I am placing in the CONGRESSIONAL RECORD the statement, and supporting material, Commander Geiger presented to the Veterans' Affairs Committee.

I commend it to your careful examination.

Commander Geiger's presentation follows:

### STATEMENT OF JOHN H. GEIGER

Mr. Chairman and Member of the Committee: I appreciate the opportunity of appearing today before this distinguished Committee of the Congress to represent The American Legion, the largest of the nation's veterans organizations, composed of over 2,700,000 veterans in more than 16,000 Posts located throughout the country. Included among its members, who have served in four wars, are nearly 500,000 veterans of the Vietnam Era. The organization in 1971 recorded its seventh consecutive year of membership growth.

The annual appearance of the National Commander of The American Legion before the House Committee on Veterans Affairs is prized by all National Commanders.The reasons are twofold. First, it provides me with an opportunity to acknowledge, on behalf of my organization, the contribution of this Committee to the welfare of the nation's veterans, and to let you know how much we appreciate the contribution. Second, I am able to inform you, at least briefly, of those matters which, in our judgement, are of the greatest importance at this particular time to the nation's veterans, and to which we hope you will give your attention during this session of Congress.

For many years the House of Representatives has reposed in this Committee the responsibility of looking to the needs of the nation's veterans, and of preparing legislation that will answer those needs. The resulting program of veterans benefits that has been enacted into law through the years is nothing short of monumental. At no time in the history of the world has a nation taken such keen interest in the readjustment of the citizen soldiers who fight its wars, and made such extensive provisions to facilitate that readjustment.

American veterans are fortunate in many ways in consequence of having performed the highest duty of citizenship—that of bearing arms in defense of the republic. But they are most fortunate because they are part of a people represented by a Congress that has never ignored them once their service was completed.

And may I say that this particular Committee has most certainly met its responsibilities in the best tradition of its distinguished predecessors. We of The American Legion are grateful to you, Mr. Chairman, and to all of you who serve on the Veterans Affairs Committee. We appreciate your efforts—we look to you for leadership—and we pledge to you our full resources in the preparation and consideration of constructive legislation, and also in the task of bringing to the attention of the American people the extent and nature of the nation's responsibilities to its veterans.

I cannot compliment this Committee without at the same time expressing the thanks and appreciation of The American Legion to the Committee's very able Staff Director and the entire Committee staff. Their expertise in the field of veterans affairs, and their complete cooperation with The American Legion and its staff, are invaluable in enabling us to meet our responsibilities to the nation's veterans.

### SPECIAL COMMITTEE ON VETERANS MEDICAL CARE

The first matter of importance that I have to discuss this morning is the future of the Veterans Administration medical care program. It is the considered opinion of The American Legion that the medical care program is in jeopardy. And if we are correct in that estimation, we wish to make one further point in that regard. That is, that the VA medical care program, as it is now constituted, will be defended by The American Legion with all of the energies and resources this organization will be able to muster.

The present unparalleled medical care program administered by the Veterans Administration has been developed through a period of fifty years until it has reached its present position of proficiency and effectiveness. It is at present a great national resource, and The American Legion does not intend to see it disappear, either as a result of being dismantled or by being absorbed into some other comprehensive medical care plan that the Congress may see fit to adopt.

The American Legion has seen this potential threat to the VA medical care program developing on the horizon for some time. At our 1971 National Convention the delegates decided that it was time to openly and formerly recognize the existence of this threat as we face the growing debate on the subject of National Health Insurance.

The National Convention adopted Resolution No. 113, a copy of which is appended to this statement. Resolution 113 directed the National Commander to establish a Special Committee that would report to the 54th National Convention in Chicago next summer.

A Special Committee, composed of distinguished Legionnaires, all knowledgeable in the field of veterans affairs and rehabilitation, has been appointed. The Committee has held many meetings, including one informative session with members and staff of this Committee.

My travels throughout the country, conferring with Legionnaires and with other Americans from all walks of life, have convinced me that the results of the work of the Special Committee cannot wait to be reported at our National Convention in August 1972. I therefore requested our Committee to step up the pace of its labors, and it will issue an interim report this week. We will keep you informed of our position.

The American Legion will do all in its power to thwart the danger to the VA medical care program, and we will look to this Committee for support and assistance. I have every confidence that the Veterans Affairs Committee will respond, because I know that the dedication of each of you to the health and welfare of the nation's veterans is as great as is our own. And I am satisfied that, working together, we can defeat any threat to the existing VA medical care program.

### EDUCATIONAL ASSISTANCE PROGRAM FOR VIETNAM VETERANS OF OUR ARMED FORCES

Approval on March 3, 1966 of the "Veterans Readjustment Assistance Act of 1966" established an educational assistance program for the Post-Korean Conflict and Vietnam Era veteran. Since then, educational assistance payments have been increased by seventy-five percent. Despite these increased payments, cost of living increases and rising costs of education continue to bar many veterans from using their eligibility for educational assistance. Many of those veterans who use their eligibility do so at considerable financial cost to themselves or to their families.

Although there may be some divergence of philosophy between other groups and organizations, The American Legion continues to adhere to the original concept associated with the World War II G.I. Bill, that the educational assistance provided was never intended to cover all costs but that veteran students were expected to supplement these costs from their personal funds or from other sources. We believe, though, that educational assistance—a combination of subsistence and direct institutional payments—should bear a reasonable relationship to the total costs, be they incurred in public or private education or training institutions.

Based on this belief, The American Legion at its 1971 National Convention approved Resolution 342. This mandate seeks four basic changes in the current GI education program administered by the VA—

Direct payment to the educational institution of three-fourths of the costs for tuition, books, and other fees, but not more than $1000 in any one ordinary school year

VA-guaranteed educational assistance loans

Direct VA loans to veterans who cannot obtain guaranteed commercial loans under conditions and terms acceptable to the VA

Continuance of the present educational assistance allowances as monthly subsistence payments

It is recognized that some abuses of the institutional direct payment provision of the original GI Bill occurred. These, we believe, were a direct result of laxity in the law, poor administration and confusion in regulation, inadequate supervision by State Approval Agencies and VA officers, and general inexperience on the part of the Federal Government in its initial venture into a unique and tremendous program of education and readjustment assistance.

In our opinion, a recurrence of these abuses is preventable by restrictions of subsequent and current law, VA experience in administration of education and training programs, and expertise in State Approval Agencies.

We do not propose that the program be so liberal as to stimulate veterans to enter the program merely for the purpose of subsistence allowances, but that it be sufficient to motivate veterans to enter and pursue to completion programs of education or training.

In urging these changes in the current GI education provisions, The American Legion was motivated by the concept that the Veterans Administration should be a one-stop agency to service those veterans who desire to enter programs of education or training by providing them with—

Subsistence;

Direct payment to institutions of education or training to cover costs of tuition, fees, books and other charges on enrollment;

Guaranteed and direct educational loans.

Mr. Chairman and Members of the Committee, we do appreciate the significance of the constructive changes proposed in HR 12828 as reported by this Committee to the Committee of the Whole House. We express disappointment, though, that the measure as reported did not provide for direct institutional payments and VA student loans as recommended by the Legion.

We will continue to urge enactment of these provisions.

### INCREASED RATES OF COMPENSATION FOR SERVICE-DISABLED VETERANS

At present, Chapter 11 of title 38, United States Code, authorizes payment of compensation of $450 monthly to those veterans whose wartime service-connected disabilities are evaluated at 100 percent.

Under the authority of this Chapter the Administrator of Veterans Affairs adopts and applies a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries, including disease residuals. These ratings are based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations.

Disability compensation payments were last increased by Public Law 91–376, effective July 1, 1970. At that time the increased payments for 100 percent disability compared favorably with spendable average annual earnings of production or nonsupervisory personnel in private nonagricultural payrolls.

To maintain the veteran's purchasing power, these payments must respond to cost-of-living increases. As published by the Bureau of Labor Statistics, Department of Labor, the July 1, 1970 index was 116.7, and by December 1971 it had advanced to 123.1, an increase of about 5.5 percent. Current estimates are that the consumer price index will advance at an annual rate of 3 percent. In view of the fact that disability compensation rates do not automatically respond to changes in the cost of living, legislation proposed should anticipate increases that will occur in the interval between enabling legislation granting offsetting increases.

Mr. Chairman, we urge this Committee's consideration of increasing the monthly rate for 100 percent to $500. This amount would materially assist these severely disabled veterans in meeting today's cost of living at a standard which is not demeaning to their status as veterans. A similar percentage increase in monthly compensation payments should be authorized those with disability evaluations of less than total.

The American Legion will recommend additional improvements in this program when hearings on compensation legislation are held by one of your subcommittees in the next few weeks.

### DEVELOPMENT AND MAINTENANCE OF AN ADEQUATE SYSTEM OF NATIONAL CEMETERIES

At present there are four separate cemetery systems administered by federal agencies: the national cemetery system operated by the Department of the Army; a number of cemeteries adjacent to its facilities controlled by the Veterans Administration; the National Park Service of the Department of Interior; and overseas cemeteries under the American Battle Monuments Commission.

We believe that this division of jurisdiction is responsible for the absence of a clear policy on the present and future development of a system of national cemeteries.

To assure that every veteran who wants the honor should have the right to burial in a national cemetery reasonably close to his home, The American Legion is urging the enactment of legislation which would provide that

Congress transfer all active cemeteries to the jurisdiction and supervision of the Administrator of Veterans Affairs

The Administrator undertake and complete a study of national cemetery needs based upon a demographic study of the veteran population, and submit his findings and recommendations to the Congress, within a reasonable period of time

The Administrator be empowered to acquire, by gift, purchase, or condemnation, lands necessary for use as national cemeteries.

In addition, we suggest that the enabling statute or its legislative history specifically bar the Administrator of Veterans Affairs from issuing orders limiting burial of eligible veterans, such as is now the case in Arlington National Cemetery, so long as burial sites are available.

Mr. Chairman, we urge favorable consideration of these objectives and early reporting for House consideration of national cemetery legislation.

### INCREASE THE AMOUNT PAYABLE BY THE VETERANS ADMINISTRATION TOWARD THE COST OF BURIAL AND FUNERAL EXPENSES

Chapter 23 of title 38, United States Code, provides that the Administrator of Veterans Affairs may pay not to exceed $250 to cover the burial and funeral expenses of a deceased veteran, and the expense of preparing the body and transporting it to the place of burial.

The amount of this burial benefit was last increased in August 1958, from $150 to the present $250.

According to the latest information published by the National Funeral Directors Association of the United States, Inc., the average prices for adult funerals rose from $661 in 1958 to $926 in 1969. Bureau of Labor Statistics reports show that between December 1969 and December 1971, adult funeral prices increased by 7.7 percent. These averages do not include vault, cemetery or crematory expenses, monument or grave marker, or miscellaneous items such as flowers, burial clothing, additional transportation charges, honorarium for the clergyman or newspaper notices.

We believe that the increased costs of funeral and burial services establish that there is a compelling need to increase the Veterans Administration burial benefit to $500.

Mr. Chairman, time does not allow a more detailed presentation to you of the Legion's legislative objectives in veterans affairs. Readjustment and rehabilitation of the young veteran is a continuing problem. As you know, we are actively supporting both legislative and administrative programs to meet their housing needs, assure them job opportunities and placement, and preference in federal employment.

In conclusion, may I again express appreciation to this Committee, to the Congress, and to the President of the United States for the understanding of the problems of our veterans and of their dependents and survivors. This understanding was reflected again in the recent enactment and approval of laws to improve the income maintenance of pensioners and of the parents, widows and children receiving dependency and indemnity compensation.

I would like to remind each of you that it will be the pleasure of The American Legion, tomorrow evening, to host all of the Members of Congress at our annual dinner in the Grand Ballroom of the Sheraton Park Hotel. Many of you have attended these dinners in past years. I hope you will agree they are pleasant affairs, and that you will be our guest again on this occasion. More than 1600 members of The American Legion, and the American Legion Auxiliary, are in attendance at our Annual Washington Conference. The dinner tomorrow evening will provide them with an opportunity to greet the Members of Congress from their home states.

Once more, I extend my warmest invitation to each of you to join us tomorrow evening—to have dinner, and to meet the Legionnaires from your particular areas.

Mr. Chairman and Members of the Committee, thank you again for this opportunity, and for the time you have given us.

Our beloved nation is living through difficult days. This is an election year, and there will be great debates on the issues. That is good in a democracy. However, for The American Legion, in all that is said and done, certain verities remain. Devotion to flag and country—devotion to the ancient principles of our heritage from our forefathers—dedication "to care for him who shall have borne the battle, and for his widow and his orphan"—these things are—for us—above the debate. And we shall be true to them as long as there is an American Legion.

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FIFTY-THIRD ANNUAL NATIONAL CONVENTION, THE AMERICAN LEGION, HOUSTON, TEX., AUG. 31, SEPT. 1, 2, 1971

Resolution: No. 113 (Pennsylvania)

Committee: Veterans Affairs and Rehabilitation

Subject: Authorizes and directs the National Commander to appoint a special committee to be known as the Special Committee on Veterans Medical Care

Whereas, The American Legion, for the entire period of its existence, has been committed to the need for a single agency of the federal government to handle all veterans affairs; and

Whereas, an integral part of that agency, designated the Veterans Administration, has always been the veterans medical care program; and

Whereas, through the years the Veterans Administration medical care program and its hospital system, with the support of The American Legion, has developed into the finest single system of health delivery service in the world; and

Whereas, a continuing and intense concern of The American Legion is and has always been the maintenance of the integrity of the Veterans Administration medical care program; and

Whereas, there is a real possibility that proposals will be made to merge or associate the Veterans Administration medical care program with other national health delivery systems that are or will be brought into being by the federal government; and

Whereas, such a prospect creates in The American Legion a sense of alarm and concern; and

Whereas, it appears that it would be provident for The American Legion to examine into the situation now existing with reference to national health delivery systems and their possible impact on the Veterans Administration medical care program; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 31, September 1, 2, 1971, that The American Legion is irrevocably committed to the need for the maintenance of the Department of Medicine and Surgery within the Veterans Administration, and to the need for the preservation of the Veterans Administration medical care program and its hospital system as the single agency for providing health care services to the nation's war veterans; and be it further

Resolved, that The American Legion will oppose with all of its energies and resources any effort to materially weaken, restrict or reduce the Veterans Administration medical care program in the face of the apparent needs of the nation's war veterans; and be it further

Resolved, that this Convention does hereby authorize and direct the National Commander to appoint a special committee, to be known as the Special Committee on Veterans Medical Care; the members of the Special Committee, to be drawn from the Veterans Affairs and Rehabilitation Commission, and to include representatives from among Department Rehabilitation Directors and Department Service Officers, and the Committee to be provided with staff support drawn from the staff of the National Veterans Affairs and Rehabilitation Division of the National Headquarters, and with professional and qualified consultants as may be necessary; and be it further

Resolved, that the National Executive Committee is hereby instructed to provide, from the funds of the national organization, such moneys as may be necessary to enable the Special Committee to complete its assigned task; and be it further

Resolved, that the Special Committee on Veterans Medical Care is charged to—

(1) examine into the adequacy of the Veterans Administration medical care program

(2) consider the potential impact on the Veterans Administration medical care program of a national health insurance plan

(3) restate, following thorough research, the reasons for the continuing necessity of an independent medical care program within the Veterans Administration

(4) study and examine any and all other matters relating to veterans medical care; and be it finally

Resolved, that the Special Committee on Veterans Medical Care shall submit its report, findings and recommendations to the 54th Annual National Convention of The American Legion.

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RESOLUTIONS THAT REQUIRE LEGISLATIVE ACTION

POLICY

A. *Increase mileage allowance for VA beneficiaries*

1970 Convention Resolution No. 476 (P.R.) urges that the Administrator of Veterans Affairs pay a mileage rate of 10 cents per mile for expenses incurred by beneficiaries while traveling pursuant to a Veterans Administration authorization.

B. *Conditional discharges*

1970 Fall NEC Resolution No. 31 seeks legislation to establish eligibility to VA benefits of those veterans conditionally discharged or released from active service who immediately reenter such service.

C. *Funds for the operation of the Veterans Administration*

1971 Convention Resolution No. 420 (Ill.) urges the Congress to give a high priority to the budgetary needs of the VA to insure that sufficient funds will be made available to carry out this nation's commitment of providing first quality medical and hospital care for veterans.

D. *Cabinet rank for Administrator of Veterans Affairs*

1970 Convention Resolution No. 399 (Texas) seeks legislation to raise the office of the Administrator of Veterans Affairs to that of Cabinet rank.

E. *Oppose the merging of VA programs with Social Security program*

1970 Convention Resolution No. 487 (Alabama) urges opposition to any legislation or administrative attempts to merge programs administered by the Veterans Administration with Federal Social Security benefits program.

F. *Mustering-out payments for Vietnam Era veterans*

1971 Convention Resolution No. 194 (Ohio) seeks legislation to provide that each member of the Armed Forces who served on active duty during the Vietnam Era, and who is discharged or released from active duty under honorable conditions, shall be eligible for mustering-out payments.

G. *Commissary privileges for certain widows*

1971 Convention Resolution No. 980 (Maryland) seeks legislation to authorize commissary and post exchange privileges for the widows of those war veterans who die of a service-connected disease or injury after separation from active duty with the Armed Forces.

H. *Opposition to hospitalization of nonveterans in VA hospitals*

1970 Convention Resolution No. 570 (Va.) urges opposition to legislative and administrative efforts to authorize the hospitalization of nonveterans in VA hospitals.

I. *Recovery of overpayments*

1970 Fall NEC Resolution No. 34 seeks legislation to provide that there shall be no recovery of payments or overpayments of any benefits (except servicemen's indemnity) under laws administered by the VA from any person, where, in the judgment of the Administrator, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience.

J. *Oppose removal of limitations on existing attorney or agent fees*

1970 Fall NEC Resolution No. 35 urges opposition to the enactment of legislation that would remove the attorney or agent fee limitations imposed by 38 USC 3404 or strike the penalty provisions of 38 USC 3405.

K. *Special clothing allowance be provided certain disabled veterans*

1970 Fall NEC Resolution No. 37 seeks legislation to provide for payment of a special clothing allowance to those veterans eligible to receive an artificial limb or brace from the VA.

L. *Amend the Dual Compensation Act*

1970 Fall NEC Resolution No. 38 seeks legislation exempting the Veterans Administration from the Dual Compensation Act as it applies to retired military personnel desiring employment with the Veterans Administration Department of Medicine and Surgery.

M. *Transportation costs for burials of certain veterans*

1971 Spring NEC Resolution No. 12 seeks legislation to provide that when any retired member of an Armed Force dies while a patient in a United States hospital, the cost of transporting the body to the place of burial shall be borne by the Secretary of such Armed Force.

1971 Convention Resolution No. 215 (Nebr.) seeks legislation to provide that where an eligible veteran dies in a State Veterans Home, the Administrator of Veterans Affairs shall pay the cost of transporting the remains to place of burial.

N. *Military honors at burial of veterans*

1971 Spring NEC Resolution No. 15 seeks legislation to provide for full military honors at burial services of veterans.

O. *Opposition to closing of United States public health hospitals*

1971 Spring NEC Resolution No. 48 urges the Congress and the President of the United States to restore to the budget funds needed to continue the operation of these hospitals.

P. *Veterans memorial hospital in the Philippines*

1971 Convention Resolution No. 339 (Philippines) seeks legislation to extend beyond June 30, 1973 the grants-in-aid program to the Veterans Memorial Hospital in the Philippines.

1971 Convention Resolution No. 350 (Philippines) seeks legisation to extend beyond June 30, 1972 the grants-in-aid for research in the Veterans Memorial Hospital in the Philippines.

Q. *Government-issued grave markers*

1971 Convention Resolution No. 388 (Missouri) seeks legislation to provide that the cost of setting government-issued markers, not to exceed $100, be borne by the Department of Defense.

### NATIONAL CEMETERIES

### *A. The national cemetery policy of the American Legion*

1970 Convention Resolution No. 452 (N.Y.) seeks legislation to: (1) Transfer to the Administrator of Veterans Affairs existing national cemeteries presently under the jurisdiction of the Department of the Interior, and Department of the Army; (2) provide the Administrator of Veterans Affairs with authority and responsibility for the operation, care, and maintenance of these cemeteries; (3) direct the Administrator of Veterans Affairs to plan a system of national cemeteries and to establish a program of expansion of existing national cemeteries and creation of additional ones so that the capacity and distribution of national cemetery sites shall, at all times, be sufficient to assure burial in a national cemetery for those who so desire; (4) authorize the Administrator of Veterans Affairs to acquire such lands as are needed—by gift, purchase, condemnation, transfer, or by any other means; and, (5) provide that jurisdiction of national cemeteries be placed under those committees of the United States Senate which have jurisdiction of veterans affairs; and, (6) petitions the President, the Congress of the United States, and the Secretary of Defense to rescind the discriminatory order of February 10, 1967 which limited burials in Arlington National Cemetery.

### *B. Burial sites at Custer Battlefield National Cemetery*

1971 Convention Resolution No. 100 (Wyoming) seeks legislation to provide additional burial sites at the Custer Battlefield National Cemetery.

### CLAIMS AND RATINGS

### *A. Burial allowance*

1970 Convention Resolution No. 104 (Montana) urges opposition to those legislative proposals that would amend 38 USC so as to reduce burial benefits.

1971 Convention Resolution No. 199 (Ohio) seeks legislation to provide that the burial allowance be increased to $500.

### *B. Armed Forces retirement payments*

1970 Convention Resolution No. 180 (Okla.) seeks legislation to remove the restriction against the receipt of Armed Forces retirement pay, due to length of service, concurrently with VA compensation.

### *C. Aid and attendance allowance to children*

1970 Convention Resolution No. 195 (Md.) seeks legislation to provide aid and attendance allowance at the rate of $50 per month to a child who is in receipt of death compensation or dependency and indemnity compensation, if such child is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

### *D. Improve the disability compensation program*

#### Seven-year Presumption for Progressive Muscular Atrophy

1970 Convention Resolution No. 577 (Va.) seeks legislation to provide that progressive muscular atrophy developing to a compensable degree within 7 years of separation from wartime service shall be considered to have been incurred in or aggravated by such service.

#### Special Compensation for Veterans Requiring Hemodialysis

1970 Fall NEC Resolution No. 36 seeks legislation to provide that a special monthly compensation be payable to those veterans whose chronic service-connected kidney condition requires hemodialysis on a continuing basis.

#### Presumption of Service-connected Death in Certain Cases

1971 Convention Resolution No. 370 (Va.) seeks legislation to provide that the widow, children and dependent parents of any person who died from natural causes after a service-connected disability had been rated total and permanent for 10 years shall be entitled to dependency and indemnity compensation.

#### Two-year Presumption for Psychosis

1970 Convention Resolution No. 541 (Minn.) seeks legislation to provide that a psychosis developing a ten per centum degree of disability or more within two years from the date of separation from war service shall be considered to have been incurred in or aggravated by such service.

#### Increase Statutory Awards Rate

1971 Convention Resolution No. 71 (Ky.) seeks legislation to increase the statutory awards of compensation payable under 38 USC 314 (k) from $47 to $75.

#### Increased Compensation (A&A) While a Nursing Home Care Patient

1970 Convention Resolution No. 573 (Va.) seeks legislation to provide that a person shall be considered to be entitled to increased disability compensation under title 38, USC, 314 (1) if he is a patient in a nuring home for a service-connected disability.

### *E. Improve the disability and death pension program*

#### *Comprehensive Improvements*

1971 Convention Resolution No. 217 (Nebr.) seeks legislation to improve the death and disability pension benefits program for veterans of World War I, World War II, the Korean conflict, and the Vietnam era, and for their widows and children.

#### *Oppose Suspension of Payments to Veterans Residing Outside the U.S.*

1970 Fall NEC Resolution No. 32 urges opposition to any legislation which seeks to suspend or discontinue payments of disability pension to any war veteran residing outside the United States.

#### *Income Exclusion for VA Pension Benefits*

1970 Fall NEC Resolution No. 39 seeks legislation to exclude from pension annual income determinations the additional railroad retirement annuity payable for dependents in the family group.

#### *Effective Date of Disability Pension*

1971 Convention Resolution No. 310 (Calif.) seeks legislation to provide that the effective date of disability pension shall be the date permanent and total disability is established if an application is received within one year from that date.

### *F. Guerrilla recognition program of the Philippines*

1971 Spring NEC Resolution No. 11 seeks legislation for the reopening of the guerrilla recognition program of the Commonwealth of the Philippines by the Department of Defense of the United States.

### *G. Payments to hospitalized incompetent veterans*

1971 Spring NEC Resolution No. 17 seeks legislation to provide that in any case in which an incompetent veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds $2000, further payments of pension, compensation, or emergency officers retirement pay shall not be made until the estate is reduced to $1000.

### *H. Improve administrative discharge procedures*

1971 Fall NEC Resolution No. 14 seeks legislation to further improve and insure due process in the Administrative Discharge Procedure followed by the Armed Forces and the U.S. Coast Guard.

### MEDICAL AND HOSPITAL

### *A. Extend nursing home care to nine (9) months*

1970 Convention Resolution No. 587 (Va.) seeks legislation so as to extend community nursing care at VA expense to nine months.

### *B. Hospital care in civilian facilities of certain veteran dependents*

1970 Fall NEC Resolution No. 40 seeks legislation to provide that the surviving dependents of those war veterans who die of a service-connected disability after discharge from active duty in the Armed Forces, as well as the wives and children of permanently and totally service-connected disabled veterans, shall be authorized hospital and outpatient care in civilian medical facilities at Government expense.

### *C. Medical services for nonservice-connected disability*

1971 Spring NEC Resolution No. 9 seeks legislation to provide that the Administrator of Veterans Affairs, within the limits of the Veterans Administration facilities, may furnish such medical services as he finds reasonably necessary to any war veteran for a nonservice-connected disability.

### *D. Establishment and improvement of state medical schools*

1971 Spring NEC Resolution No. 18 seeks legislation to authorize the Administrator of Veterans Affairs to provide certain assistance in the establishment of new state medical schools and the improvement of existing medical schools affiliated with the Veterans Administration.

### *E. Direct admission for nursing home care*

1971 Convention Resolution No. 619 (Convention Committee) seeks legislation to provide that the Administrator of Veterans Affairs may authorize direct admission to any public or private institution which furnishes nursing home care, or care at the expense of the United States.

### EDUCATION AND TRAINING

### *A. Educational benefits for wives and widows*

1970 Convention Resolution No. 193 (Md.) seeks legislation to authorize educational assistance at the secondary level for eligible wives and widows; and that such training be provided without charge to any period of entitlement.

1971 Spring NEC Resolution No. 14 seeks legislation to permit eligible wives and widows to enroll in correspondence courses.

1971 Convention Resolution No. 544 (Miss.) seeks legislation so as to extend apprenticeship and other on-job training benefits to eligible wives and widows, and wives of prisoners of war and missing in action.

### *B. Educational assistance and vocational rehabilitation programs*

1971 Spring NEC Resolution No. 44 (superseded, in part, by 1971 Convention Resolution No. 342) seeks legislation to improve the educational assistance and vocational programs to (1) increase the maximum period of eligibility to 48 months, and (2) increase the monthly subsistence allowance for vocational rehabilitation to a level commensurate with today's cost of food, housing, transportation and other necessities.

1971 Convention Resolution No. 342 (Md.) seeks legislation to improve the educational assistance program to (1) pay the cost of tuition, and such laboratory, library, health, infirmary, books, supplies, equipment, and other necessary expenses, excluding board, lodging, other living expenses, and travel, but in no event shall the payment authorized exceed 75 percent of such tuition cost and fees or $100, whichever is the lesser, for an ordinary school year, (2) a veteran eligible for such tuition, costs, and fee shall be paid monthly assistance allowance, and (3) establish VA guaranteed and direct educational loans for Vietnam era veterans.

1971 Convention Resolution No. 471 (Idaho) seeks legislation to provide that vocational-technical students not be required to make monthly certification of attendance.

### INSURANCE

*A. Reopen NSLI for one year*

1970 Fall NEC Resolution No. 30 supports legislation to reopen, for a one-year period, the right to apply for National Service Life Insurance for those insurable and service-disabled veterans of service between the inclusive dates of December 7, 1941 and September 2, 1945, and of June 27, 1950 and July 27, 1953, under policies providing for a premium charge that will include administrative costs.

B. *Special term (RS) insurance be made participating*

1970 Fall NEC Resolution No. 33 supports legislation to make policies of insurance issued to veterans under section 723, title 38, USC, participating; and, asks that the Administrator of Veterans Affairs determine the amount in the revolving fund which is in excess of the actuarial liability, including contingency reserves, and pay such excess as a dividend without interest less the annual administrative cost per policy.

C. *Special government insurance for Vietnam era veterans*

1970 Fall NEC Resolution No. 41 supports legislation to provide a Special Government life insurance program for Vietnam era veterans.

D. *Effective date for increase in servicemen's group life insurance*

1971 Convention Resolution No. 22 (La.) seeks legislation to provide that the effective date of the increased Servicemen's Group Life Insurance shall be June 1, 1971.

E. *Statutory total disabilities*

1971 Convention Resolution No. 501 (Texas) seeks legislation to provide that kidney and heart transplants shall qualify as statutory total disabilities for waiver of premiums and payment of monthly benefits for those insured who purchased a total disability income provision rider.

### DEPARTMENT OF DEFENSE

A. *Extend delimiting date for correction of a military record*

1970 Convention Resolution No. 486 (Ala.) seeks legislation to delete the delimiting date for applying for a correction of a military, naval, or air service record.

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THE 53D NATIONAL CONVENTION OF THE AMERICAN LEGION HELD IN HOUSTON, TEX., AUGUST 31, SEPTEMBER 1, 2, 1971

Resolution No. 342.

Committee: Veterans Affairs and Rehabilitation.

Subject: Sponsor and support legislation to authorize tuition payments and to establish VA guaranteed and direct education loan program for Vietnam era veterans.

Whereas, the purpose of educational assistance programs developed by the Congress for veterans of our Armed Forces is to

(1) extend the benefits of higher education to eligible young persons who might not otherwise be able to afford such education;

(2) provide vocational readjustment and restore educational opportunities to those veterans whose careers have been interrupted by reason of active duty in the Armed Forces; and

(3) aid such persons in attaining the vocational and educational status which they might normally have aspired to and attained had they not served their country; and

Whereas, despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; and

Whereas, The American Legion supported the enactment of the Servicemen's Readjustment Act of 1944, approved June 22, 1944; and

Whereas, under this Act, the Veterans Administration was authorized to pay to the educational or training institution, for each person enrolled in full-time or part-time training, up to $500 for an ordinary school year, toward the customary cost of tuition, and such laboratory, library, health infirmary, and other similar fees as are customarily charged, and for books, supplies, equipment, and other expenses (exclusive of room and board) as were generally required for the successful pursuit and completion of the course by other students in the institution; and

Whereas, this Act, in addition, authorized the payment of a monthly subsistence allowance while enrolled in and pursuing a course of $65 per month if without dependents, and $90 per month with dependents (increased January 19, 1948 to $75 and $105 and to $120 per month for those with more than one dependent; and

Whereas, a comparison of average education costs and allowances in the case of a single veteran attending an institution of higher learning under the World War II and post-Korean Conflict bills, fifty-five months after they were enacted, showed the following:

| | WW II | Post-KC |
|---|---|---|
| Educational allowance | $675 | $1,575 |
| Tuition: | | |
| Public | 140 | 339 |
| Private | 396 | 1,627 |
| Tuition, room and board: | | |
| Public | 600 | 1,259 |
| Private | 850 | 2,680 |

and

Whereas, a joint report on 1970–71 student charges from the American Association of State Colleges and Universities and National Association of State Universities and Land Grant Colleges states—

"A look at what has happened to student costs over the past five years most effectively underscores the alarming rise in charges in every category. Comparative data on total costs shown here were the national medians for both NASULGC and AASCU for the 1965–66 academic year. In summary there has been an average yearly increase of over six percent in total charges to resident students for both associations. NASULGC schools have increased total charges to non-residents on an average of almost seven percent annually and AASCU schools have had an annual average increase of better than eight percent.";

and

Whereas, the Office of Education, Department of Health, Education and Welfare "Projections of Educational Statistics to 1976–77" reported—

"The estimated average basic student charges (tuition and required fees, board, and room) by publicly controlled institutions of higher education, in 1966–67 dollars, increased from $874 in 1956–57 to $1,034 in 1966–67. The charges are expected to reach $1,211 by 1976–77. The estimated average basic student charges by nonpublicly controlled institutions of higher education were $1,486 in 1956–57, $2,125 in 1966–67, and are expected to reach $2,748 in 1976–77.";

and

Whereas, The American Legion believes that no qualified veteran should be barred from an education because of lack of funds; and

Whereas, under existing federal programs, any student may apply for federally guaranteed loans from commercial lending institutions or banks; and

Whereas, students face mounting difficulty in obtaining these loans in times of tight money (the competition for student loans is stiff, and the student is further handicapped by the interest ceiling of 7 percent); now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 31, September 1, 2, 1971, that The American Legion sponsor and support legislation to amend Chapter 34 of title 38, United States Code, so as to provide that in the case of an eligible veteran not on active duty who is pursuing a program of education or training at an approved educational or training institution on a half-time or more basis, the Veterans Administration shall pay directly to the educational or training institution on behalf of such eligible veteran the customary cost of tuition, and such laboratory, library, health, infirmary, or other similar fees customarily charged, and shall pay for books, supplies, equipment, and other necessary expenses, excluding board, lodging, other living expenses, and travel, as are generally required for the successful pursuit and completion of the course by other students in the institution, but in no event shall the payment authorized exceed 75 percent of such tuition cost and fees or $1000, whichever is the lesser, for an ordinary school year; and be it further

Resolved, that while pursuing an approved program of education or training, a veteran eligible for such tuition, costs, and fee assistance shall be paid the monthly educational assistance allowance as presently authorized in paragraph (1) of subsection (a) of section 1682 of title 38, United States Code; and be it finally

Resolved, that Chapter 34 of title 38, United States Code, be amended to provide

(1) in addition to tuition, costs and fee payments and educational assistance allowance authorized by such Chapter, educational assistance loans made to eligible veterans pursuing a program of education or training under the provisions of this Chapter, by a lending institution authorized to do business in a State or in the District of Columbia may, with the approval of the Administrator of Veterans Affairs, be guaranteed by the United States;

(2) whenever the Administrator finds that eligible veterans are unable to obtain educational assistance loans from commercial lending sources at reasonable rates and on reasonable terms and conditions, he be authorized to make educational assistance loans to such veterans on the same terms and conditions prescribed for loans guaranteed under this Chapter.

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## ARTIFICIAL BRAIN

## HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. GUBSER. Mr. Speaker, articles appearing recently in the New York Times, the Wall Street Journal, and Newsweek magazine, describe a fascinating and highly important avenue of research begun by a team of scientists at the Stanford Research Institute in Menlo Park, Calif. As the articles indicate, the scientists devised a means of restoring coordinated movement to paralyzed limbs of monkeys. With considerably more research work, this technique could hopefully be applied one day to paralyzed human beings.

Unfortunately, funds for this research

work, provided by the Office of Naval Research, were cut off some time ago because of the so-called Mansfield amendment which prohibits military funding of research deemed unrelated to direct military matters.

This innovation offers great potential benefit to stroke victims and similarly afflicted individuals, and I believe work on it should continue. Hopefully, something can be done if enough people are made aware of this development. With this idea in mind, I am inserting the above-mentioned articles in the Congressional Record:

[From the New York Times, Feb. 10, 1972]

### Artificial Brain Lets Paralyzed Monkeys Move

(By Sandra Blakeslee)

Menlo Park, Calif., Feb. 9.—A team of California researchers has developed an experimental "artificial brain" that has been used to restore a variety of movements in the limbs of partly paralyzed monkeys.

The technique, if it can be extended to humans, might eventually help stroke victims overcome paralysis.

A report of the scientists' work appears in the current issue of Stroke magazine, a bimonthly medical journal published by the American Heart Association.

Dr. Lawrence R. Pinneo of the Stanford Research Institute here, who led the research effort, said in an interview that a "brain prosthesis," which means an artificial or auxiliary brain, serves the same sort of purpose as does an artificial heart, lung or kidney. All are devices and techniques for replacing the functions of organs lost by injury or disease.

#### FUNCTIONS REPLACED

Dr. Pinneo has not invented an artificial "thinking" brain, but rather he has learned how to replace a lost function of the brain by altering the way the brain operates.

Primates, including man, have a highly developed cortex, or outer portion of the brain. Voluntary motor activities, such as the ability to move an arm or leg, are directed from points within the cortex.

When a stroke or injury occurs within the cortex, certain command area are often knocked out, and paralysis can result.

Dr. Pinneo wondered if other parts of the brain could direct motor activities. That is, could another, deeper part of the brain take over the lost motor function?

Animal studies suggested that this was true. When subcortical structures of monkeys' brain were stimulated with electrodes, it was found that skeletal motor activities could indeed be prompted.

#### MOVEMENTS EVOKED

Electrodes planted deep within the brain stem area, where commands from the cortex are normally integrated, could evoke movements of the head, foreleg, hindquarters and muscles of the face.

Higher levels of behavior, including attack, withdrawal, sitting, standing, preening and eating food, could also be elicited.

Dr. Pinneo hoped that by placing electrodes in precise spots in the brain stem, certain elementary movements, such as the turn of a wrist, could be produced.

Through experiments on monkeys, the research team found more than 200 locations in the brain stem in which elementary movements could be produced by electrical stimulation.

In all cases, it was found that the extent and complexity of the movement was directly related to the strength of the electrical current. That is, a slightly higher current stimulated a slightly larger area in the brain where the electrode was placed. As adjacent areas were stimulated, the movements became more complex.

#### COMPUTER PROGRAMED

The final step, Dr. Pinneo said, was to coordinate the possible movements. A computer was programed to handle all the information and to fire the electrodes in the proper sequence.

The complete apparatus is called a Programed Brain Stimulator, and it is, in effect, a brain prosthesis.

Several animals have been hooked up with the Programed Brain Stimulator.

For example, Bruno, a rhesus monkey, was paralyzed in his right arm after two operations removed part of his cortex. Then electrodes were carefully and painlessly placed in his head.

Thirteen locations were found that, upon stimulation, produced movement in Bruno's paralyzed right arm.

The computer was programed to carry out several purposive movements for Bruno, such as reaching out for food, grasping it and returning it to his mouth, reaching out and up in a climbing motion and reaching back to scratch the base of his tail.

The monkey, when presented with switches, could even direct his own motions electronically.

#### THINGS TO BE DONE

Several things need to be done before the brain prosthesis can be extended for use in human stroke victims, Dr. Pinneo said.

First, a better clinical picture of stroke needs to be simulated in animal subjects. The researchers hope to induce stroke surgically in experimental animals.

Second, the neuropsychologist said, science must learn how long electrodes can safely remain in the brain. Vital functions are carried out in the stem and could be endangered.

There is another avenue that Dr. Pinneo hopes to explore before extending any techniques to humans. He calls it "associated stimulation."

This would involve stimulating the brain electrically in two places at once, at the margins of the injured tissue in the cortex and within the brain stem where the function also takes place.

Perhaps, Dr. Pinneo said, the marginal cortical tissue might be "taught" to recover the lost function if such parallel stimulation were applied. Spontaneous recovery of marginal tissue in the cortex does occur naturally, and perhaps it can be promoted artificially, he said.

Looking farther into the future, the scientist said the brain stimulator might be extended to other problems arising from brain injury or disease, including retinal blindness, coma and some types of mental retardation.

The co-authors of the report were Dr. Joel N. Kaplan and Dr. Edward A. Elpel of the Stanford Research Institute and Dr. Peter C. Reynolds and Dr. John H. Glick of the Stanford University School of Medicine.

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[From the Wall Street Journal, Feb. 2, 1971]

### Artificial Brain Gives Movement to Monkeys Paralyzed by Strokes

New York.—Scientists at the Stanford Research Institute in Menlo Park, Calif., said they have devised an "artificial brain" that has restored coordinated movement to the paralyzed limbs of monkeys.

While the computerized device is in an early stage of development, the researchers said it has potential application for humans paralyzed by stroke. And they said it might eventually be extended to other brain-damage malfunctions, including retinal blindness, coma and mental retardation.

A report on the device, which consists of electrodes implanted in the brains of monkeys and attached to a computer programmed to fire them in sequence to produce various movements of the limbs, appears in Stroke, a medical publication of the American Heart Association.

Senior scientist on the project, Lawrence R. Pinneo, did about half of the work leading up to development of the artificial brain at Tulane University's primate research center in Louisiana under a contract with the Office of Naval Research. The Navy also funded further work at the Stanford Research Institute and at Stanford University School of Medicine in Palo Alto. Mr. Pinneo's associates on the project were Joel N. Kaplan, Edward A. Elpel, Peter C. Reynolds and John H. Glick.

In human stroke victims, paralysis results because part of the brain has been destroyed. The Stanford researchers reproduced the effect of stroke in adult monkeys by cutting out small portions of the brain. They then implanted as many as 60 electrodes in undamaged portions of the brain that previous research has shown to be capable of taking over control of lost functions when stimulated electrically.

The scientists then wrote computer programs, based on studies of monkey movements and on extensive brain mapping to determine which electrodes would produce which movements.

The researchers said they could cause the monkey's paralyzed arm to do such things as reach out and grasp food, and then smoothly and rapidly bring the food back to its mouth by firing 10 or fewer of the electrodes in a certain sequence. Or, they said, with other sequences they could make the monkey's limbs perform reaching or climbing movements, or scratch its back.

Some monkeys have even been taught to operate switches tied into the computer so that the animal can control its own movements, the scientists reported.

"With proper funding," Mr. Pinneo said in an interview, the artificial brain might be applied to human stroke victims "in three to five years." But he said that because of the so-called Mansfield Amendment, which prohibits military funding of research deemed unrelated to direct military matters, the Navy had ended support of his work. "It's ironic," he said: "The same day the Navy notified me that funds had been cut off, I got a letter from a mother whose son was brain damaged in Vietnam." The project presently hasn't any funds, Mr. Pinneo said.

Athough much work remains to be done on the artificial brain to extend the range of movements possible in monkeys, even more problems stand in the way of human use, the article stated. These include the high cost of the equipment, the necessity of implanting electrodes in the brain and the impracticality of large computers for individual use.

But the Stanford scientists suggested that the cost could be lowered by mass production and subsidies to the patient, and that the computers could be miniaturized so that they would be small enough to be carried.

And implanted electrodes would certainly be less objectionable than continued paralysis, the researchers stated. Eventually, they said, it may be possible to stimulate the brain with external electrodes. "Should this become possible, brain prosthesis may well be used for other types of deficits than those produced by injury or disease, including disorders of behavior," the article concluded.

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[From Newsweek, Feb. 21, 1972]

### The Electric Brain

Man-made substitutes for the body's natural organs are among medicine's most glittering triumphs. Artifical kidneys invented in the 1940s save or prolong the lives of thousands of victims of potentially fatal renal disease. Heart-lung machines devised in the 1950s sustain the body's vital circulation while surgeons undertake lengthy operations to repair lethal cardiac defects. Now, a team of California researchers has taken the first, albeit tentative, steps toward the development of a mechanical substitute for the most complex organ of all—the human brain.

To be sure, the artificial brain devised by Dr. Lawrence R. Pinneo and his associates at the Stanford Research Institute in Menlo Park cannot duplicate the complex processes of reasoning and imagination that make the human brain unique. Nor do its steel, wire and plastic components generate such deep psychic drives, as love, hate, hunger and desire. But the artificial brain does show promise of being able eventually to replicate the natural brain's motor functions, directing the purposeful movement of the arms and legs. When further refined, it may help millions of persons paralyzed by brain damage caused by strokes to regain use of their limbs.

Bodily movement, Pinneo notes in the current issue of Stroke, a journal of the American Heart Association, is directed by the motor areas of the cerebral cortex, the massive outer layer of brain cells, and is integrated in the brain stem just above the spinal cord. In strokes, disruption of the blood supply to the cortex often destroys cells of the motor area, causing paralysis. At the outset of their research, Pinneo and his colleagues decided to see if parts of the brain stem—which is not ordinarily affected by strokes—could be electrically stimulated to take over for damaged cortical motor cells and direct limb movement.

In a series of experiments in which slender wire electrodes were implanted in the brains of monkeys, the Stanford researchers mapped 200 sites in the brain stem that, when electrically stimulated, produced such elementary movements as the flexion of wrists, elbows, shoulders, knees or hip, the opening and closing of the mouth, rolling of the eyes, and wagging of the tongue. Indeed, the movements were even more precise when governed by the brain stem than they would have been if the motor cortex itself had been similarly stimulated. The extent and complexity of the movements, moreover, was directly related to the amount of current delivered by the implanted electrodes.

### SCRATCH

Equipped with these findings, the California investigators programed a computer to fire electrodes in sequence to cause purposeful motion. Then, they tested the device, called a Programed Brain Stimulator, on monkeys in whom the paralytic symptoms of strokes had been reproduced by surgery in which small portions of the motor cortex were destroyed. One monkey's right arm was surgically paralyzed, for example, and thirteen electrodes were implanted at appropriate sites in the brain stem at the back of the animal's head. One PBS program enabled the monkey to reach out for food and bring it back to its mouth; another sequence of stimulation permitted the extension of the arm for climbing, and a third program allowed the animal to scratch his back. When presented with a set of switches controlling the computer, the monkey could pick a program and direct his own movements.

Pinneo and his associates emphasize that much further research must be done before human arms and legs can be moved by a man-made brain. All the possible combinations and permutations of electrode placement must be worked out for the production of the widest range of movement. And the electronic hardware itself must be miniaturized for practical use in everyday activity. But with further development, the California scientists believe PBS may not only help restore movement to stroke victims, but also perhaps aid in the rehabilitation of the mentally retarded, restore vision in some types of blindness and even correct disorders of behavior.

## NSPA RECOMMENDATIONS FOR THE PROTECTION OF TAXPAYERS

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## HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HANNA. Mr. Speaker, the problem of the unscrupulous, fly-by-night tax preparer who advertises his expertise and then is gone after the filing season is a serious matter. I have attempted for some time to focus attention on the situation which has grave ramifications for the American taxpayer who is faced with the complexities of Federal income tax forms and the constantly changing rules and interpretations.

Now, in response to the request of the Internal Revenue Service for comments, one of the leading professional organizations has taken the lead in offering a reasonable first step. The National Society of Public Accountants, whose 13,000 members are already bound by rigid code of professional ethics, which among other things precludes advertising of their services, has replied to the IRS with an eight-point proposal.

The recommendations call for registration of all who prepare Federal tax returns for a fee and for some continuing technical education before those registrations could be renewed at 3-year intervals.

The NSPA plan would assure identification of all preparers so that problem or marginal preparers could be held responsible for their acts.

Certainly continued technical education in a fast changing field such as tax regulations is vital.

I commend the National Society of Public Accountants for their efforts.

At this point, I would like to insert a copy of their recommendations in the RECORD.

NATIONAL SOCIETY OF
PUBLIC ACCOUNTANTS,
*Washington, D.C., February 25, 1972.*

Mr. J. R. TURNER,
*Acting Assistant Commissioner, Internal Revenue Service, Washington, D.C.*

DEAR MR. TURNER: In response to your request for the view of the National Society of Public Accountants on the extremely controversial question of regulating Federal tax return preparers, NSPA has developed the enclosed recommendations for consideration.

We have felt for some years that the unfettered growth of certain segments of the commercial preparation field (as contrasted with professionals who are governed by ethical codes of conduct) has created serious problems for the taxpayer seeking assistance in filing or in tax planning. The persuasive forces of advertising have especially caused us concern.

Our recommendations are intended to offer an increased measure of responsibility on the part of those who engage in tax return work, while we remain mindful of the realistic problems of administration and enforcement that make some proposals impractical.

NSPA is delighted by this reply to take the lead among the professional organizations whose comments were sought. We hope that our suggestions will be endorsed by the other major bodies representing professionals engaged in accounting and tax services.

We would welcome any thoughts you have on our suggestions and look forward to working closely with the Internal Revenue Service in this important matter. Thank you for the opportunity.

Sincerely,

RUDOLPH J. PASSERO,
*President.*

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### RECOMMENDATIONS BY THE NATIONAL SOCIETY OF PUBLIC ACCOUNTANTS FOR THE PROTECTION OF TAXPAYERS

### AMERICAN TAXPAYERS MUST BE PROTECTED FROM INCOMPETENT AND IRRESPONSIBLE TAX RETURN PREPARERS

The main objective of these recommendations is to protect the taxpaying public. It is necessary to begin by identifying preparers so that they can be held accountable for their work. The need for a greater measure of responsibility for the quality of work and the uses made of confidential information in the tax field has long been a concern of the National Society of Public Accountants. The rampant increase of commercial tax preparation operators and heavier reliance upon advertising has led to recent action by the Federal Trade Commission and enactment in Congress of provisions insuring confidentiality in the Revenue Act of 1971. NSPA applauds these steps. Members of NSPA are bound by a strict Code of Professional Ethics and those engaged in tax practice must meet additional provisions specifically applied to that aspect of professional practice. Confidentiality has been the keystone of these Codes. Other professional groups similarly oversee the manner in which their members practice. By requiring the identification of all preparers responsibility to the public is assured. Continuing technical education will do much to insure competence in a constantly changing field. Above all, with mandatory registration the scope of the problem and the troublesome areas can be pinpointed and specific remedies designed in the future.

### EVERY FEDERAL TAX RETURN PREPARER WHO ASSISTS TAXPAYERS FOR A FEE MUST REGISTER WITH THE INTERNAL REVENUE SERVICE

Registration at a local IRS District office would be required of every return preparer who prepares Federal tax returns for a fee on a full-time, part-time or even seasonal basis. Every registrant would be assigned a registration number. For multiple offices or franchise operations, the individual in charge of each of the respective offices would be required to register. No qualifications are set for the initial registration. This disclosure is the heart of the recommendation. Any exceptions from registration will erode the usefulness of the program as a means of identifying the problem areas. The National Society of Public Accountants believes that the simple and inexpensive registration process suggested would cause the true professional no great burden and that administrative costs could be made self-sustaining to a large extent by a minimal fee. While no qualifications are set for initial registration, this would serve to get the program started. It avoids the problems inherent in licensing after examination. The only persons who might be reluctant to register would be the marginal preparers who have something to hide.

### CONTINUING TECHNICAL EDUCATION MUST BE SHOWN FOR RENEWAL OF REGISTRATIONS AT THREE YEAR INTERVALS

Registration would be valid for a period of three years (or some other reasonable period). In order to renew a registration, an individual would have to show that he has received continuing technical education in the Federal tax field. The standards for continuing education would be set by the IRS. An affidavit filed with the local District office would be required of the registrant. Appropriate penalties should be imposed for filing of a false affidavit concerning participation in approved continuing technical education programs. Qualifying continuing education could include correspondence courses, conferences and seminars sponsored by professional and technical organizations, formal courses at educational institutions, participation in courses or seminars that could be sponsored by the Internal Revenue Service, inhouse training in firms with a set number of persons in attendance and by other means prescribed by the IRS. NSPA believes that the field of tax practice is so complex and that technical regulations, interpretations and court decisions bring change so frequently that some proof of continuing education is highly desirable. A key element here is that methods of compliance are flexible enough to permit a variety of means be available to the practitioner to meet the requirements. The National Society and affiliated state societies already offer a wide range of seminars, materials and services to assist members in keeping up-to-date on changes in tax law and procedures.

### ADVERTISING THE FACT OF REGISTRATION WOULD BE PROHIBITED TO PREVENT ANY APPARENT ENDORSEMENT BY IRS

By prohibiting the registrant from advertising his registration, the danger of misleading the public into thinking any given registrant is endorsed by the Federal Government is removed. The registration number would have to be made available to a client upon request (so that he was assured the preparer possesses a registration) but a commercial preparer could not benefit from the fact of registration in his promotional practices. This would eliminate to the maximum extent possible the misuse of a registration program by an unscrupulous operator to further deceive the public about his qualifications. To avoid any loopholes, the prohibition against promotional use of the fact of registration should extend to stationery, signs, cards and listings. Since registration would be mandatory for all who prepare Federal tax returns for a fee, everyone doing so would presumably possess a registration. Penalties for practice without a registration are provided.

### NO PROHIBITIONS ON ADVERTISING OTHER THAN THOSE NOW IN EFFECT WOULD BE IMPOSED

Professional ethical codes would continue to operate on attorneys, certified public accountants, independent public accountants and enrolled agents (who are licensed after examination to practice before the IRS on tax matters). Misleading advertising, false and erroneous claims should continue to be prosecuted under present laws by the Federal Trade Commission and other entities. A complete ban on advertising, while considered desirable and adhered to by NSPA members along with other professional organizations, would be subject to attack on legal grounds.

### PREPARATION FOR A FEE WITHOUT A CURRENT REGISTRATION WOULD BE ILLEGAL

Preparation of a Federal tax return for another for a fee without a registration, or with an invalid registration, should be a misdemeanor subject to fine and imprisonment upon conviction. This is vital if the recommended program is to succeed in identifying preparers, holding them to a measure of responsibility for their work and bringing all preparers under the requirements of continuing technical education. Enforcement of this provision will be aided by reports from fellow practioners and commercial competitors as well as the public. As the program is implemented, taxpayers will learn to check the registration of their prospective return preparers to see that he is registered and has a current registration (which will in the future demand continued techical education).

### EVERY RETURN UNDER A REGISTRANT'S RESPONSIBILITY MUST BEAR HIS NAME AND REGISTRATION NUMBER

All returns prepared in whole or in part under a registrant's responsibility for compensation must be signed by him and include his registration number. The identification of preparers will enable the IRS to determine, when a pattern of returns shows a problem, the source. This will be true even if the preparer has moved around geographically.

### REVOCATION OR SUSPENSION OF A REGISTRANT BY IRS WOULD BE FOR GROSS MISCONDUCT, FRAUD, ETC.

The IRS should have the right to suspend or revoke a registration for cause under procedures that afford the registrant his rights of due process, administratively and constitutionally. Reasons for suspension or revocation could include gross incompetence, unethical advertising, fraud, willful misconduct, filing a false report and similar activities. It may be expected that some unqualified or unethical persons may not seek the registration at all since it makes them identifiable for their work. Those who are not willing to meet some continuing technical education requirements probably should not be in practice anyway. The program is designed not as one of exclusion, although it may have that effect to a degree, but rather as one of inclusion. By bringing the wide variety of preparers under the umbrella of coverage, the public will be better served in this important area. With disclosure comes responsibility; with renewal comes continued education and with these combined, the American taxpayer will be better protected. The National Society of Public Accountants stands ready to help to realize this goal.

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## EUROPEAN SECURITY

## HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. VANDER JAGT. Mr. Speaker, the West German policy of Ostpolitik is currently the subject of debate in the Bundestag. In addition to the debate there and elsewhere over approval of the 1970 treaties between Bonn and Moscow and Warsaw, there is growing discussion over the possible convening of a European Security Conference.

I have grave apprehensions over Ostpolitik, which threatens to undermine Western hopes for freedom of the satellite nations as well as for integrated European economic and political development. That one nation should undertake diplomatic initiatives of this magnitude in Europe, involving questions about which the entire free world has genuine concern, seems to me to be contrary to the interests of Western European unity.

Similarly, I share the views of many observers in the United States and in Western Europe who believe that a European Security Conference at this point would detract from rather than increase the possibilities for long-term political stability on the continent. On February 25, former Under Secretary of State George Ball appeared before the Subcommittee on NATO Commitments of the Armed Services Committee. In an excellent statement, Mr. Ball emphasized that a European Security Conference at this time could be disasterous, causing Europeans in their euphoria to become blind to the threats they face. Ball contended that the Soviet leaders have not abandoned their goal of European domination, only their tactics.

I am hopeful that the time will soon come when a relexation of tensions in that part of the world will foster mutual reductions of military commitments. But we must not rush into a conference which would create a false sense of security, increase pressure for withdrawal of American forces, and leave European nations individually to seek accommodation with a dominating Soviet Union.

I commend to my colleagues' attention Mr. Ball's very thoughtful and cogent remarks:

### STATEMENT OF THE HONORABLE GEORGE W. BALL

These are, of course, fringe opinions—the overstated biases that supply no basis for serious policy. It is somewhere between them that one finds two alternative assumptions that deserve careful scrutiny.

Of these, much the more comforting is that the Soviet Union is no longer caught up in an imperialist drive, but is now reconciled to the status quo. Frustrated by an obdurate Western resistance, it has, over the years, gradually shed its expansionist ambitions, having lost its fear that the West threatens its Eastern European empire. Because it is preoccupied with its struggle with China, its obsessive concern is to secure recognition of existing geographical and political boundaries on its Western flank, abandoning any hope of dominating Europe. Thus, for the first time since the advent of the Cold War, the West, by weaving an increasingly intricate web of bilateral arrangements between nations on the two sides of the Iron Curtain, should be able to stabilize relations with Moscow and the other Eastern European capitals, create new security arrangements with the Soviets as a substitute for the present opposing power blocs, and, at the end of the road, achieve the reunification of Europe from the Atlantic to the Urals.

That, in the course of this process, America will progressively withdraw its military presence—and indeed its political influence—from Europe is, to those who hold this view, no longer a cause for anxiety; for in the new environment of *detente* the nations of Europe should live happily together—in spite of the fact that they have never been able to do so in their long and sanguinary history.

Though many intelligent people have embraced this analysis, I find it a dangerous basis for Western policy—grounded, as it is, on wishful assumptions and implausible inferences. It is, as I see it, a far more prudent and realistic hypothesis that the Soviet leaders have not so much changed their long-range strategic objective of gaining political dominance over the whole of Europe as that they have revised the tactics by which they hope to achieve it. Having tried for years to break the political will of the West, expressed in the Western Alliance, they no longer see hope in frontal pressure. Instead, following lines of least resistance, they have chosen to expand their power and influence around the Southern flank of Western Europe into the Mediterranean. Once the Suez Canal is reoponed, they will deploy the massive naval power they are now frantically building to extend their presence and influence into the Red Sea, the Persian Gulf and, ultimately, the Indian Ocean, thus joining their fleets in all the oceans to form a cordon around the whole underbelly of the Eurasian land mass. It is on this geopolitical hypothesis one can find shrewd logic in Moscow's recent political support for India and Bangladesh; the expected reward is the prospect of forward bases in one or the other of these countries.

If this thesis is too sweeping for everyone's taste, if it seems too reminiscent of Admiral Mahan and the nineteenth century, one need not accept it fully to conclude that the

Soviet leadership still cherishes its ultimate European ambitions and that the Kremlin's softening line toward the West is merely a tactical move. That Moscow is deeply preoccupied with China seems indisputable, so there is ample reason why the Soviets should wish to avoid trouble on two fronts. At the same time, it is reasonable to believe that the Soviets might have taken a milder line with the West even were there no two-front nightmare, since they had ample reason to conclude that their policy of continued pressure was bankrupt; it simply consolidated Western resistance, whereas detente would encourage those forces of fragmentation and rivalry that have plagued the continent for centuries.

But whatever the Kremlin's rationale may have been, the significant fact is that—for the moment at least—the Soviets have ceased to scowl and growl at Europe, and the resultant change in atmosphere is beginning to weaken the Western will to resist the extension of Soviet influence. There are many reasons why that result should not be unexpected: the advent of a postwar generation with little recollection of the Stalinist years, the loss in authority and self-confidence of the United States as a result of the Vietnamese imbroglio, the acceptance of parity in nuclear weapons which has diminished the credibility of the American deterrent, and the normal desire of people to achieve that state of grace which is vaguely thought of as "normality"—as though there could be anything normal in a world where one-third of the world's population is still locked behind an Iron Curtain and the wall still stands in Berlin.

Nor does there seem serious doubt that the Soviet Union is now deliberately concentrating on two objectives essential to its strategy of domination. First, it is striving to encourage the removal of the American presence and influence from Europe. Second, it is doing everything possible to block Western European efforts to build effective institutions for common economic and political action, while stimulating those ancient habits and practices of myopic nationalism, which always at cross purposes, reduce the power and influence of Western Europe to something substantially less than that of any of its parts.

To encourage the forces of fragmentation in Europe, the Kremlin has, once again—as it has done so often—played what it has long regarded as its trump card—its control of access to Berlin. It has taken advantage of the understandable yearning of the West German people for easier relations with their Eastern European neighbors—and particularly their friends and relatives in East Germany—to gain acceptance of the status quo and encourage the Federal Republic to look eastward.

To exploit fully the European yearning for 'normality," it has renewed its call for a European Security Conference, recognizing that the attractions of even an allusory detente operate with differing degrees of force on different national units in the European system; it fact, contrary to the normal principles of magnetics, they seem to exercise the strongest attraction in inverse proportion to mass.

I am sure that the Administration clearly perceives the possibilities of mischief in a European Security Conference; yet it is awkward for our Government to take a firm negative stand against the frantic desire of several European Governments to get such a conference underway. To many Europeans, an American veto would be deeply resented; yet on the Western side there has been no full meeting of the minds as to how a European Security Conference might be organized, or just what should be its agenda. Certainly there has been a great deal of serious and intelligent work among the Alliance nations, but there is still disagreement on a number of questions relating to the Conference, and the problem is complicated because the whole issue has become enmeshed in European domestic politics.

Yet I could think of few things more disastrous than a premature conference, since it could give further impetus to the centrifugal forces already far too evident in the Western political system. Considerable damage might occur if the Western nations appeared to lack a coherent line of policy, while the discontents that lie below the surface in many Eastern European countries were ruthlessly stifled by Soviet discipline.

At the moment, discussion on the Western side is largely limited to procedural arguments as to the level at which the Conference should begin and the rate at which progress should be made toward summitry; but that does not go to the heart of the problem, which is the symbolic meaning that would be given to the Conference both in Europe and America.

For there is reason to fear that certain sectors of European opinion would regard the fact that the Conference was held as more important than any substantive achievement or lack of achievement. As a result, the mere convening of the Conference could trigger a considerable euphoria—encouraging the wishful belief that the Cold War was indeed ended, that major military exertions were no longer needed to maintain the security of the West, and that every East-West problem could now be worked out in a spirit of mutual accommodation.

Unhappily, similar reactions in Europe and America might be expected to interact on one another; for I need not remind this Committee that our own country no longer sees its world responsibilities either with complete clarity or common conviction.

Yet I do not mean to give this Committee an alarmist impression as to the state of the Western Alliance. Today there are encouraging signs that Europe is beginning to recognize the requirements of the twentieth century and is pulling itself together. Though little heralded in this country, no more important event has occurred in the last fifty years than the decision of the British Parliament to adhere to the Rome Treaty. Since I have been personally preoccupied for many years with the measures to advance unity in Europe, it is for me, an article of faith that, once the formalities of adherence are completed and Britain's role in Europe has become an accomplished fact, the British will apply their special genius for political pragmatism to the gradual shaping of European institutions—not only economic but political—that will permit Europe to speak without a cacophony of voices and to play more than that regional role to which its present obsolete structure condemns it.

Thus, in a sense what we are witnessing in Europe is a race against time between the forces of fragmentation and unity. It is a dilemma which Europe has known before—on the one hand, the attraction for certain nations of an Ostpolitik; and, on the other, the consolidation of Western policy and action. Though it may be heresy to say so, I question whether the two can be easily reconciled.

I have set forth this background at some length, Mr. Chairman, since it seems to me important that America not lose interest in Europe during a time when our national attention is deflected toward other parts of the world. Europe is, after all, the source of the two greatest wars in history, and it still remains the center of world power. I do not doubt for a moment that the principal dangers to world peace still lie in the struggle between the two great systems of power whose capitals are Moscow and Washington.

Thus, I think it essential that, at this point, America should continue not only to play an active role in giving direction and support to the Western Alliance, but that we should rigorously avoid any precipitous steps toward withdrawing—or even substantially diminishing—our presence in Europe. Indeed, during the critical months ahead, when the strains of, and pressures on, the Alliance are more subtle and dangerous than ever before, it is imperative that we set an example of steadfastness.

After all, what is the most critical danger that lies ahead? It is, I suspect, not so much that Europe will be overrun by military force, but that its political fabric will be weakened to the point where pressures for compromise with the East can lead to the gradual attrition of the West's ability to maintain its freedom and independence.

Let us not forget that if the Soviet Union should succeed in inducing the removal of the American presence from Europe, and, at the same time, frustrate Europe's drive toward unity, then the Soviet Union would clearly loom as the major power on the European land mass, and the scurry of many nations to achieve accommodation could become a stampede.

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## ARMY SPY MEMO

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HARRINGTON. Mr. Speaker, last week I inserted into the RECORD one of the most shameful documents I have encountered since coming to Congress. It was an information collection plan issued by the Army Intelligence Command, a blueprint for systematic clandestine monitoring of lawful democratic political activity by agents of our Armed Forces.

All of this has been discussed publicly before. But I commend to every Member interested in preserving our first amendment freedoms a close examination of this document which is made public here for the first time. There can be no valid purpose for much of the activity which this document outlines. What conceivable legitimate reason, for example, do Army intelligence agents have in collecting the type of information or printed guidance being given on how to register as a conscientious objector?

And I am particularly interested in the list of presumably dangerous organizations assigned dossier numbers to facilitate reporting on them. Among these organizations which the Army apparently considered dangerous threats to our liberties is the National Association for the Advancement of Colored People, an organization whose record on behalf of racial justice in this country is outstanding and whose purposes and efforts ought to command the support and respect of every Member of this body. We also find SANE on the list of organizations which the taxpayers are asked to pay agents to monitor. Personally, I would be pleased if I thought the Pentagon intended to study SANE's activities with the intention of learning from them, but I'm afraid SANE's inclusion on this list is for more insidious reasons. As a third example of the absurd nature of this enterprise, I would cite the inclusion of Americans for Democratic Action on the list of organizations slated for surveillance. On the 18th of March, I will be sitting at the head table of the annual Roosevelt Day dinner of the Massachusetts chapter. Many Members of this body are officers of that organization and my colleague from New York (Mrs. CHISHOLM) is a member of the national board. Frankly, Mr. Speaker, I would warn the Army that if they intend to monitor Mrs. CHISHOLM's activities, they better select a team of vigorous, alert, and highly active young men and women, because keeping up with her pace will not be easy.

The NAACP, SANE, and ADA are three organizations dedicated to the creation of a better America. They have long demonstrated a commitment to democracy that other organizations—in and out of government—would do well to emulate. They are composed of men and women committed to peace, social justice, racial equality, and the protection of our constitutional liberties. It is scandalous that they should be singled out by the Army as targets for surveillance.

We have been told that this document has been rescinded and the Army is no longer spending valuable time and money protecting us from conscientious objectors, SANE, the NAACP, and ADA. I hope this is so, Mr. Speaker, but I have so little confidence in the mentality of those who could promulgate such a document that I cannot be sure.

This document which is of such importance to those of us concerned with protecting the Constitution was brought to light by the Phoenix, a weekly newspaper which circulates widely through the Greater Boston area. I commend the editors of the Phoenix for their diligence in making this document available to us. I commend them also for an incisive analysis of the entire subject of Army surveillance, embodied in the two articles on the matter, which I insert at this point:

### ARMY SPY MEMO

(By Vin McLellan)

The Phoenix has obtained a copy of a secret Army intelligence directive, which details more than any previously published document the extent to which Army intelligence agents infiltrated the fabric of civilian society.

On the 23rd of April, 1969, the US Army Intelligence Command (USAINTC) at Fort Holabird, Maryland, issued this secret "Information Collection Plan," directing agents working out of 300 MI offices across the nation to intensify their surveillance of civilian activity, broaden their scope of reporting and collect information on a detailed list of specific targets. Agents were specifically ordered to place under surveillance all strikes and labor disputes, all antiwar and antidraft activities, all demonstrations, rallies, parades, marches, conventions, conferences and picketing activities.

This 29-page document is the most recent Army plan for domestic intelligence to have been made public, officially or unofficially. Until this publication, all students of the Army domestic snoop operation, including Sen. Sam Ervin's Senate Subcommittee on Constitutional Rights, have had to make do with a much earlier obsolete report, The Civil Disturbance Information Collection Plan, dated May 2, 1968, and declassified only February 24th of this year.

The Senate subcommittee, which has been investigating Army surveillance of civilians since February 1970, has repeatedly requested the Defense Department to supply the committee with the Army's subsequent operational orders, but the Department has thus far refused.

According to the signatures on the routing sheets that accompanied the document, the order was issued by Lt. Col. Orville K. McLay, chief, CONUS (Continental US) Intelligence Branch, at Fort Holabird, Maryland, the headquarters of the USAINTC. After consultation with staff experts on the Senate Subcommittee on Constitutional Rights, and an inquiry among both current and former MI agents, we have become convinced of the document's authenticity.

This document is very important; first, because it documents as nothing before the size and nature of the Military Intelligence civilian surveillance operation; and second, because it informs us as to the nature of the material gathered under this program and still stored in Army data banks. Although the Army was forced to cease collecting information on civilians (with some exceptions, the RITA files on Resistance In the Army, for example), subcommittee investigators claim the Army has managed to maintain at least two SEARCH data banks, which are used for security checks, at Fort Holabird and Fort Monroe, Virginia. And the SEARCH banks incorporated the fruits of the Army's civilian surveillance projects.

The document we have obtained is the only Army intelligence command order leaked that lists the names of at least some of the target organizations, "a partial list of organizations . . . of intelligence interest." There are three pages of this report, listing 60 organizations, each with its assigned dossier number.

The list of organizations cited is a curious one. It goes from groups like the American Nazi Party (ZB 00 93 32) on the right to the Black Panther Party (ZA 02 21 64) on the left. The list is heavily weighted with leftist and black organizations. It also includes liberal-oriented groups such as the Americans for Democratic Action, ADA, (ZA 00 17 81); the Congress of Racial Equality, CORE, (ZB 00 01 10); the National Association for the Advancement of Colored People, NAACP (ZA 00 04 02), and the National Committee for A Sane Nuclear Policy, SANE (ZA 00 90 26). Also on the list is Cambridge-based RESIST (ZB 00 82 95), the American Friends Service Committee (ZA 00 02 00), and Clergy and Laymen Concerned About Vietnam (ZB 50 05 27).

The project mission, as described in this document, is "to procure, evaluate and disseminate as expeditiously as possible information relating to actual, potential or planned demonstrations, civil disturbances, dissident activities, disasters and catastrophes which threaten the civil order, military security and/or the capability of the Department of the Army to accomplish its mission."

To this end, the directive set-up channels and reporting procedures for various target catagories: (a) civil disturbances; (b) major disasters and catastrophes; (c) antiwar, antidraft activities; (d) militant organizations; (e) extremists in the armed forces; (f) demonstrations, rallies, parades, marches, conventions, conferences and picketing activities; (g) foreign element participation or influence in civil disturbances; (h) strikes and labor disturbances; (i) dissidents/subversives in civil disturbances; (j) legal aspects (as related to civil disturbances only), and (k) thefts of weapons and ammunitions.

The May 1968 intelligence collection plan set forth 96 required areas of coverage for civil disturbances. This new 1969 version intelligence directive reproduces these almost exactly, with only a few small changes in the particulars of the information to be collected. But while that was essentially the entire operational detail included in the 1968 directive, in this new document there is, for each of the other 10 categories, a separate list of "essential elements of information" to be obtained by MI agents.

"Extensive photo coverage of the civil disturbance activity in this plan is desired," according to the special instructions attached to this document, "and will include photos of known or suspected leaders or members of any white or nonwhite dissident/militant group, organization or element . . .

"Full utilization of telephoto lens equipment is directed to minimize the possibility of direct involvement by MI Group personnel in the conduct of peripheral photographic coverage. Liaison with the utilization of local press and press wire services for the acquisition of photography is encouraged. In this regard, expenditure of ICF (apparently money) is authorized in the accomplishment of this coverage."

When there was a strike or labor disturbance within their region, local MI agents were ordered to gather the following information and report it under Case Control Number 8051-9288:

"a. Identification of individual leaders and members of the striking union to include background information as well as official titles or position and degree of participation in previous strikes and/or labor disturbances. Only those individuals who are provided news media coverage are of reporting interests. No investigative action is required to satisfy this requirement inasmuch as only that information on leaders available at your local files and through news media contacts is desired.

"b. Indication of present and future plans, to include the capability of carrying out any acts of violence or disturbances.

"c. Indications of the presence of 'underground' labor instigators.

"d. Indications of migration of large numbers of leaders in the affected area.

"e. Issues, both published and unpublished, involved in the labor dispute strike.

"f. Indications whether the labor dispute is the result of wage and/or employee benefit negotiations without racial issues or arising from disparity of average income between whites and non-whites.

"g. Indications of declining rapport between law enforcement officials and the striking union and/or the unions leadship.

"h. Information concerning degree of opposition that may be expected by military forces if called upon to maintain or restore order."

Reports on Anti-War/Anti-Draft Activities, (to be forwarded under Case Control Number 8051-9291), were again to be characterized by a full-sweep approach. MI agents were ordered to report "full identifying data on individuals/groups who are engaged in such anti-war activities;" "type of instruction or printed guidance being given on how to register as a conscientious objector," "identification of registrants who have received instructions and sources of such instruction on how to avoid the draft or delay induction;" and to avoid or delay induction."

The agents were also directed to "establish the relationship of individuals/groups engaged in (anti-war/anti-draft activities) with cited organizations or suspected/confirmed subversive organizations." The agents were also told "the activities of US Army members connected or alleged to be connected with cited and extremist organizations are of continuing interest in CONUS (Continental U.S.) inteligence."

In this regard, the order describes as "reportable CONUS intelligence" any information linking a GI to the Communist Party, groups cited by the Attorney General as "having aims and purposes inimicable to the best interests" of the U.S., and "minority, racist, terrorist, left-wing, right-wing, and/or other dissident organizations of possible future intelligence interest which may be potentially detrimental to national defense or public order, even though not cited by the Attorney General."

In dealing with demonstrations, rallies, parades, marches, conferences and picketing activities, MI agents were ordered to record and file "details concerning specific types of protest activities expected to occur, to include demonstrations, counter-demonstrations, rallies, sit-ins, picketings and other forms of either non-violent or violent protestations, such as bomb threats within the activity area."

The agents were also directed to identify "all personalities involved, or expected to become involved in protest activities, to include leaders or 'activists' of local dissident groups and leaders, representatives, or speakers of national or regional organizations;" and to obtain information on the extent of overt and/or covert financing, "to include source of funds, extent of funding and planning for utilization of funds available or committed."

Agents are also ordered to report the themes and issues of protests or demonstrations, "whether local, national or international;" "identification by name of extreme right and/or left wing dissident organizations expected to participate," and the number of people each can mobilize; details concerning transportation arrangements and housing facilities for non-local visiting demonstrators, the former to include "chartering of and reservations for buses, trains, planes, and private automobiles," and the latter, "non-commercial facilities such as churches and private homes."

Any "indications of outside (foreign) influence, direction, support or leadership," or indications "that militant factions plan to stage violent confrontations with local law enforcement officials under the pretext of participating in peaceful anti-demonstrations," are also to be reported.

The portion on extremists in the Armed Forces is strangely one-sided—seemingly aimed solely at black GI radical organizing. Agents are to provide all available information on GIs who "are leaders in racial demonstrations or disturbances during which participants are urged to engage in acts of violence," or "make statements which indicate that they favor violence, if necessary, for Negro attainment of their goals" . . . "any extremist whose background indicated military training in guerrilla warfare, counterinsurgency or use of explosives and demolitions" was to be reported, as was any GI recruiting for groups like the Black Panthers.

The Army agents were ordered to locate and investigate all militant organizations on the outside, too. Agents were to develop comprehensive backgrounds on individual leaders and members of militant groups at the local, state and national level, and develop dossiers detailing the funding, training facilities and programs, and present and future aims of those groups.

The Army first became active in domestic intelligence operations in 1963, according to testimony before Ervin's Subcommittee from Assistant Defense Secretary Robert Froehlke on March 3, 1971. At first it was in response to the desegregation violence in the South but later, he said, it was greatly expanded after the 1967 urban riots in Detroit and Newark.

To protect persons and property with the greatest effectiveness in case their troops were called out "military commanders must know all that can be learned about the area and its inhabitants," explained Froehlke. That was the explanation, what you have been reading was the reality of the project. The strange thing is that virtually everyone, in hindsight, sees the projects as over-extended and messed up, even those who don't go so far as to see it as evil.

On December 6, 1970, Army General Counsel Robert E. Jordan told the Washington Star in an interview, the pictures and reports collected by MI agents "were the most worthless damn things I had ever seen in my life. It was a waste of paper, we said 'Burn 'em!'" Of course the point is not that the Army intelligence operation was inept, for that largely reflects the agents' lack of seriousness and a sense of threat.

The Army intelligence operation, if it had not been handled by young civilian-oriented liberals who went about their work with a smirk on their faces, could have been a very dangerous operation. Men like Chris Pyle would not have come forward to write and speak out about what he had been involved in. Over 80 former MI agents voluntarily testified about their Army work before Senator Ervin's Subcommittee.

While Assistant Defense Secretary Froehlke said Army Domestic Intelligence is only eight years old Pyle—an attorney who wrote the first published revelations of the Army spy net in December 1968, and is now doing his Doctorial Thesis at Columbia on the subject—challenges that. In his testimony before the Ervin Subcommittee, Pyle charged that "Army intelligence has, since its inception in 1917, aggressively sought information on civilian dissenters of all kinds. During WWI, until about 1924, Army intelligence maintained a domestic intelligence system within the U.S. which was at least as large as the one we are now concerned about."

Pyle went on to add, "the categories of interest—subversion, disloyalty, threats against the Army and civil disturbances—have not changed, only the focus and size of the operation have fluctuated in response to the intensity of public fears and the availability of manpower and organization."

One of the surest signs that those Army SEARCH files are secure is the curious silence on the subject emanating from the hearing rooms of the respective House and Senate Internal Security Committees. Silence being so uncharacteristic of the key members of those committees—particularly when any federal internal security files are threatened—the odds are running high in Washington that those files and others will resist the public's fad interest in the privacy question.

Another point, of course, and a very important one is the atmosphere in the Capital. Ever since Mr. Nixon has taken office, the federal government has activated more and more of its political surveillance apparatus. The President has given broad new responsibilities to the old Subversive Activities Control Board, reactivated the Attorney General's list of Subversive Organizations, and given new life to the loyalty-security program, all by executive order. The Department of Justice has an activated and very busy internal security unit and claims an inherent right to wiretap.

The situation is perhaps best epitomized by the actions of the Army Adjutant General, Major General Kenneth G. Wickham, on December 15, 1970.

General Wickham issued two statements on the 15th. The first was a general letter concerning counter-intelligence activities involving civilians not affiliated with the Department of Defense. This was a statement of broad principle generally lauded by informed critics of military intelligence, among other things, fairly narrow criteria were established to define the circumstances under which the Army could investigate and keep records on civilians not affiliated with D.O.D. That letter met with such favorable response that it was adapted into a Defense Department regulation on March 1, 1971.

On the same day he issued that initial statement, General Wickham also sent an order to the intelligence command which, while reaffirming his stated principles, he "temporarily exempted" the U.S. Army Investigative Records Repository from these restrictions pending study of the impact of such a purging.

### ESPIONAGE: WHO WAS BEING WATCHED?

(By Vin McLellan)

(NOTE.—Last week, in a copyrighted story, The Phoenix revealed for the first time the scope of the Army's domestic intelligence operation when we published the still-classified Army directive that governed the Army's civilian surveillance program. Space and time considerations last week precluded our publishing the list of 60 national organizations that the Army was spying on. This week we are publishing that list in full.

(We have also been able to ascertain which of these organizations were placed under surveillance locally, as well as to gather a fairly complete list of other local organizations on which Army intelligence agents maintained "active" dossiers.)

With the first revelations of the Army's huge domestic spy operations in December 1969, a shaken and frightened Army high command ordered Army intelligence agents to cut down their surveillance of civilians drastically. Over the ensuing year, under harsh criticism from the press and Congress, the Army progressively destroyed its civilian spy apparatus and its many depositories of dossiers and files connected with that system, apparently in the hope of forestalling congressional edicts that would specifically bar the Army from this sort of operation.

While the Army went to great lengths to destroy the evidence of its surveillance apparatus at the local level, it has tried—and thus far succeeded—through a variety of subterfuges to continue to hold and maintain, in several computer data banks and in the Army's Investigative Records Depository, files that incorporate all the data collected under the civilian surveillance program.

The protectiveness with which political intelligence agents of any stripe, uniform or authority view their respective collection of dossiers is legendary. The empassioned defenses offered in Congress against the periodic liberal efforts to kill the mammoth files of the House Internal Security Committee, the renamed HUAC, are annual demonstrations of this protectiveness. The same thing can be seen in the Massachusetts Legislature when the State Police Subversive Activities Committee Budget comes under fire. And while the same can be seen in the top-level finagling of the Army command, it was also demonstrated at the local bottom rung of the Army Intelligence operation.

In February of 1970, with the beginning of the congressional investigation into the Army intelligence network by Senator Sam Ervin's Senate Subcommittee, on Constitutional Rights (which is still going on), the Army Command issued orders that local military intelligence offices were to cut back on the civilian files they maintained. Then, as the heat increased, the Army issued a series of specific orders—each narrowing the range of files on civilians that could be maintained at the local and regional levels of the intelligence system—between June and November 1970. In September of 1970, the ax finally fell on the intelligence files at the Region III headquarters of the 108th Military Intelligence Group, then located at the Boston Army Base. All records on civilians not affiliated with the Army were ordered destroyed. The response at the local MI office, informs us as to the survival capability of a political surveillance system.

Faced with a direct order, special agent Nicholas D. Meimaris, agent in charge of the special operations unit at Region III, took key files, and instead of destroying them handed them over to special agents Charles Houghton and James Page at the local office of Naval Intelligence, the office of Naval Investigative Services on the fourth floor of the Fargo Building. Meimaris gave the Navy only a portion of the Army MI files, but perhaps the most important portion. He gave him some 1200 to 1500 "personality reports," on "left-wing or antiwar" activists, some 400 similar reports on black militants and about 150 descriptions of organizations.

Besides these files, the Region III office—whose jurisdiction was all New England except Vermont—kept "active" files on between 50 and 70 organizations and numerous "dead" files on organizations and individuals of the past 25 years. Any agent reports or additional data on individuals—supplied by the FBI, local police (particularly Boston and Cambridge), the state police, etc.—was filed under the organization(s) with which they were associated. There were only a few individuals active enough and independent enough to rate individual dossiers, two prominent cases being BU historian Howard Zinn (see Zinn's article on surveillance, this issue) and MIT linguist Noam Chomsky. MI could never figure out how to categorize these two brilliant scholars and outspoken antiwar critics.

The point about MI files containing reports from a variety of other local and Federal agencies should be expanded. Although the Army's political surveillance apparatus has been largely dismantled, the fact is that Army system was only a two-bit operation. Much of the information that went into the Army files came from other surveillance systems, and while we can get some idea of the scope of these systems from the MI apparatus, we must assume that most of the police agencies involved in political surveillance—including the large local operations, Boston and Cambridge police "Red Squads," and the State Police Subversive Activities Division—because they invested in far more resources than the Army, have developed far more extensive files and surveillance systems. The FBI, of course, outdoes everyone, as was amply demonstrated in the publicized documents stolen from the Media, Pennsylvania, FBI office last March.

Among the files eventually destroyed at the MI regional office were some dated as early as 1947, including dossiers on such respected establishment figures as historian Arthur Schlesinger, Jr., from the early '50s. But equivalents of those files can be found in several dossier cabinets in this area. Captain Joseph Ahern, who has headed the State Police Subversive Activities Division since 1964, last June told the Herald Traveler that he could not even make an estimate as to the number of dossiers his division maintained because he inherited so much material from the old special legislative commission on Communism. It's known, however, that Ahern directs probably the most frantic collect-and-file operation in this area, with a tremendous collection of photographs and a card on anyone who ever signed a newspaper advertisement protesting the war.

The Subversive Activities Division is as free from limiting scrutiny of the Legislature, or any other nonpolice authority, as the Army was from the Secretary of Defense or as Hoover's FBI is from the Attorney General or as the Boston police "Red Squad" is from the Mayor's office. Political intelligence units seem to inevitably develop into fiefdoms. With the Army we were lucky; the very existence of that spy operation was a secret, and when it was revealed, there was resentment from all sides at the arrogance of the military and executive branch in taking independent action that it was immediately repudiated. The "legitimate" out-front spy operations, on the other hand—the FBI, the state police and the Boston police—become politically sacrosanct. Actually, the structure of the Central Intelligence Agency is such that the Agency's operations are more subject to "outside" review (by non-CIA officials) than is the political surveillance program of the Cambridge police.

Of the organizations listed in the Army's Information Collection Plan directive, which was operative between April 23, 1968, and June or July of 1970, The Phoenix has been able to confirm that the following were subject to Army intelligence surveillance locally or at least were the subject of files maintained by local Army MI:

The American Friends Service Committee (the Quakers) were subject to extensive files; the American Nazi Party, whose activity was largely concentrated in Connecticut; the Americans for Democratic Action (ADA) founded by Hubert Humphrey; the Black Panther Party, with extensive files covering chapters in both Massachusetts and Connecticut; the Communist Party, USA, extensive files, many of them dating back into the '50s; Clergy and Laymen Concerned About Vietnam; the Minutemen, extensive files mostly on their Connecticut activities; the Nation of Islam, extensive files mostly from the FBI; and the National Association for the Advancement of Colored People, NAACP.

Also: the National Committee for a Sane Nuclear Policy (SANE), extensive files with many photographs; the National Coordinating Committee to End the War in Vietnam, extensive files; the National Socialist White People's Party, a Nazi offshoot; the Peace and Freedom Party, sizable files, particularly around the P&F's Cambridge City Council campaign in December 1969; the Progressive Labor Party (PLP), extensive files; the Revolutionary Action Movement (RAM), small file on this black radical group; RESIST, headquartered in Cambridge, the Resistance; the Socialist Workers Party, huge files because they were so active in GI resistance movements; the Student Nonviolent Coordinating Committee.

Also: the Students for A Democratic Society, with individual files on all SDS chapters (including: University of Maine, Bowdoin College, Colby College and Nasson College, all in Maine; Dartmouth College and UNH in New Hampshire; Yale, Wesleyan University, University of Connecticut, University of Hartford and Trinity College in Connecticut; and University of Massachusetts, Amherst, Clark, Holy Cross, Boston University, Harvard and Radcliffe College, MIT, Boston College, Brandeis University and Northeastern University, all in Massachusetts).

Also: the Veterans and Reservists to End the War in Vietnam; the Veterans for Peace in Vietnam; the War Resisters League; the W.E.B. DuBois Clubs of America; the Women's Strike for Peace; the Young Socialist Alliance, the youth branch of the Socialist Workers Party; and Youth Against War and Facism.

Beyond the checklist attached to the Army ICP directive, The Phoenix has been able to confirm that the following organizations were also subject to Army intelligence surveillance and dossier collection:

The American Servicemen's Union; the Boston Area Ecology Action; Bread and Roses, a radical women's liberation group; Mass-Pax, the largest peace group in the state, oriented wholly to electoral politics; the GI-Civilian Alliance for Peace; Massachusetts Welfare Rights Organization; the Militant Labor Faction; the New England Free Press; the November Action Coalition, extensive files; the Old Mole/Media Collective, extensive files; the Science Action Coordinating Committee, an MIT-based nonviolent radical group protesting the Institutes military research; the Student Mobilization Committee; the New Mobilization Committee (New Mobe); and each of the various moratorium committees for the 1969 October and November moratoriums.

Also: Operation Exodus, fairly extensive files; the Blue Hill Christian Center; NEGRO; the Youth Alliance in Roxbury; FAIT (Financial Approaches to Investment Techniques), a Dorchester-based black community development corporation; Freedom Industries; the Lower Roxbury Community Development Corporation; FUND (Fund for Urban Negro Development); and the United Front Foundation, the umbrella group for nearly all Boston's black community organizations.

## TAXING THE PROFITS OUT OF POLLUTION

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## HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. HAMILTON. Mr. Speaker, there are several ways to control pollution. As my colleague, the gentleman from Wisconsin, LES ASPIN, has recently pointed out, the best way is the use of economic incentives in the form of taxes.

In an article appearing in the March 1972, issue of Progressive magazine, Mr. ASPIN describes the advantages of this approach, which has been incorporated into several bills now awaiting action by the House.

I urge my colleagues to read the article, which follows, and to consider supporting this excellent approach to pollution abatement:

### TAXING THE PROFITS OUT OF POLLUTION

(By Les Aspin)

It does not require an in-depth study of pollution in the United States to see that our present approach has been scattershot, and that progress has been uneven at best.

Air pollution, our most serious environmental problem, was worse in 1971 than in 1970. Deaths from lung cancer have increased 250 per cent from 1950. Emphysema, which was rare thirty years ago, now kills 25,000 people each year. Deaths from all respiratory diseases are up fifty per cent since 1950. Economically, the National Wildlife Federation estimates that air pollution costs the average American family $309 each year in damage to human health, residential property, materials, and vegetation.

One of the major reasons our present approach to pollution control has been ineffective is that we have failed completely to use one of the most potentially effective weapons in our anti-pollution arsenal: economic incentives in the form of taxes. This is not to say that the economic incentive approach should replace our other environmental efforts; rather, it is to suggest that a truly comprehensive attack on pollution requires us to utilize this important approach as well.

What follows are examples of bills I have introduced in Congress this session which make use of economic incentives (taxes) to combat pollution. The detailed content of these bills is not nearly so important as the approach they embody. They are designed primarily to illustrate how we can utilize the strongest incentive in the free enterprise system—profits—to help effect a unified, immediate, and continuing reduction in pollution.

The first example of how economic incentives would work is a bill aimed at air pollution which would place an immediate tax, escalating to twenty cents per pound by 1974, on sulfur emissions, one of the major sources of air pollution. The Environmental Protection Agency (EPA) reported that in 1967 more than 14,412,500 tons of sulfur—equal to 145 pounds per person—were dumped into the atmosphere in the United States from stationary sources. EPA has estimated that each pound of this pollution costs society twenty-five cents—more than $140 per year for a family of four.

Would this tax provide enough incentive to reduce pollution? In a recent report called "The Economics of Clean Air," EPA estimates that the average steam electric power plant emits 14,500 tons of sulfur annually. If this bill were passed, and if the average steam electric power plant continued to pollute at its present level, the plant would pay a tax of approximately $6 million per year. But the initial investment cost for pollution abatement equipment would run only $3.5 million, with a total annual cost of $1.5 million. Thus, it would obviously be much more profitable for a stream electric power plant to install the pollution abatement equipment rather than continue to pollute.

Conversion to effective pollution abatement equipment would increase electric energy costs by only two per cent, according to EPA. Assuming these costs would be passed on to the consumer, this would mean that the consumer's average monthly electric bill, by our reckoning, would be increased from about $8.00 to $8.16—a pretty small price to pay for cleaner air.

A second bill would place a ten cent *tax* on all non-returnable bottles and cans, and would require that five cent *deposit* be collected on all returnables. Relatively few people—although I am sure there would be some—would be willing to pay an extra sixty cents to buy a six pack of non-returnable cans or bottles rather than a six pack of returnables. The five cent bottle deposit on returnables would clearly act as a strong incentive for people to return them rather than toss them out.

A third bill would require that a $50 deposit be placed on each automobile at the time of purchase, to be refunded when the car was properly scrapped at the end of its useful life. The reason that a million cars a year are now abandoned to rust along our streets and highways is simply because the price of hauling a car away in those cases would cost the owner more than the car is worth. This legislation would clearly make it more profitable, in virtually every case, for the owner to have the car hauled to the scrap yard so that he could collect the $50 deposit, rather than abandon the machine and lose the deposit.

Another bill I recently introduced would place a stringent tax, averaging about ten cents a pound, on the discharge of effluents into our nation's waters. It is obvious that economic incentives could be used to meet a variety of other pollution problems as well.

While the economic incentive approach is clearly not the most appropriate one to meet every environmental problem, it does have a number of advantages over the two other basic governmental approaches: subsidies to industry and direct regulation. Unlike subsidies to the polluter himself (the approach generally favored by industry), pollution taxes put the cost of cleaning up the environment where it belongs: on the polluter and the user of the polluter's products. Unlike the use of direct regulation, with the pollution tax there is no controversy over what is an acceptable level of pollution. The tax is set on a sliding scale; the less the polluter pollutes, the less tax he has to pay. Also, unlike using direct regulation, there is no controversy over when the regulation goes into effect; the tax can be put on immediately, and when the amount of pollution is decreased the tax will decrease.

Moreover, a tax is easier to enforce than direct regulation; the standards are clearer and more objective, and the need to rely on the discretion and good faith of the bureaucrat is minimized. In the air pollution tax proposal, for instance, each industry that emits sulfur would be required to monitor its own emissions. The tax would initially be established at the maximum level, based on the assumption that the firm will do nothing to reduce the level of its sulfur emissions. The firm will qualify for a tax rebate when it proves through its own monitoring devices that it has reduced its sulfur emissions a certain amount below the maximum level, on which the initial tax is set. Thus, the burden of proof is essentially placed on the polluter, not the Government. Simple and quick spot checks by the Government can easily insure the basic honesty of the polluter's monitoring reports. Complicated and drawn out legal proceedings are avoided.

When a pollution tax goes into effect, a polluter has several options. First, he could stop producing and thereby stop polluting. With a fair and reasonable tax this should almost never occur. It is important to remember that this tax would also be imposed on all the polluter's competitors; if people did not want to buy a firm's product when that product's price comprises the *total* cost of production, including the pollution cost to society, then that product should not be made and the firm should go out of business.

A second choice for the polluter is to install pollution abatement equipment. He will do this when the cost of pollution control is less than the tax the producer would have to pay if he continued to pollute at his present level.

Third, the polluter could pay the tax. But he will do this only when the cost of abatement is greater than the cost of the tax. The key to writing the tax is to keep it at a high enough level so that the vast majority of polluters will choose to take remedial action rather than continue to pollute at their present level and pay the tax.

Why have we not already adopted this approach of taxing polluters if it is such a good way of controlling pollution? One reason is that many individuals and organizations concerned with the environment have felt that, philosophically, taxing polluters was an ill-conceived approach tantamount to granting a license to pollute. It has also been argued that the big firms would have sufficient wealth to keep on polluting and pay the tax.

I believe these objections have resulted from a misconception of Government tax policies. There are two types of taxes: revenue taxes, like the income tax, designed to bring large sums of money into the Government coffers; and regulatory taxes, such as tariffs, conceived to motivate people to act in certain ways. A pollution tax is of the second type—the less money you collect under the tax the more effective the regulatory tax is. It is noteworthy that a new coalition of conservation groups has just been formed to support pollution taxes. The members of this coalition include the Sierra Club, Friends of the Earth, Environmental Action, the Wilderness Society, and Zero Population Growth. One of their main efforts this year will be to help gain support for the air pollution tax bill.

A second objection to the pollution taxing approach is that a pollution tax will raise a firm's cost, and the firm will simply pass these increased costs on to the consumer. I agree that a pollution tax will do just that. But the increased cost of the product will be borne by the consumers of that product. At present, many people are buying products which cause a lot of pollution because the price of that product does not reflect the total cost.

For example, people living near a sulfur-belching factory are the ones who presently pay the cost of that factory's pollution. The dirty air the factory produces causes a higher incidence of respiratory diseases and other health hazards. This not only costs many of the nearby residents their health, but costs them money because of increased medical expenses. It means that they will have to wash their clothes and paint their houses more often. If they want some fresh air for, say, a picnic, it means that they will have to travel, possibly a long way, to have one. These consequences are part of the *real* costs of a product's pollution. But since air is "free," it is presently cheaper for an industry to continue to pollute rather than pay for pollution abatement equipment. Thus, the costs of air pollution are borne not by the polluter and the consumers of the polluter's products, but by the people who happen to live near the polluting factory.

Only when all products for sale truly reflect the total cost of production ("external" as well as private costs) will we, as consumers, be able to make intelligent choices as to what to buy. Under this new total-cost pricing system, products which cause pollution will cost more and people may well buy less of them, which is exactly what we want to happen.

There are, however, a few caveats concerning the value and use of pollution taxes that are important to note. Pollution tax legislation is only as good as the level of the tax. If the tax is too low, it may provide little or no incentive to the polluter to take remedial action. If the tax is set at a level that is too high, it may have the effect of unfairly penalizing the producer even though he may have fully utilized the available technology to minimize the pollution which results from his production process. There is, however, some leeway here. A pollution tax which is set at a level higher than necessary to serve as an incentive for the polluter to take the most effective remedial action could still be a reasonable and appropriate tax as long as the tax is set at a level to or less than the total cost of pollution—including the external environmental costs. Thus, even if a tax of fifteen cents per pound on sulfur provided sufficient incentives for every steam electric plant in the United States to install the appropriate pollution abatement equipment, it would still be reasonable and appropriate to set the tax as high as twenty-five cents per pound, which is what EPA has estimated each pound of sulfur emissions costs us as a society in economic terms. The twenty cents per pound tax level in the air pollution tax bill is in-between and is, thus, both reasonable and defensible.

At present, we have enough data in many areas of pollution to know what is causing the pollution, how much it is costing us as a society in objective economic terms, and what can be done to reduce the amount of pollution. Knowing roughly the answer to these three questions in any area of pollution makes it feasible and desirable to institute a pollution tax. Such a tax, set at the proper level to provide for maximum incentive, will have the effect not only of forcing the polluter to take initial action to combat pollution, but also of insuring that he will respond on a continuing basis to new technological advances which would reduce the amount of pollution the manufacture of his product causes, and therefore the amount of taxes that he has to pay.

In the case of many large manufacturers, polluters will not only respond to new technological advances, they may help create them—for the simple reason that there will be sufficient economic incentive for them to encourage (and pay for) pollution abatement research in those areas in which they are being taxed. In other words, pollution taxes set at the right level would not only insure that the current pollution abatement technology was being fully utilized but would also accelerate the development of that technology.

All of the pollution tax bills I have mentioned, with the exception of the water pollution legislation, have been referred to the House Ways and Means Committee, which has jurisdiction over tax proposals. None of the proposals has been acted on yet.

The bill with the greatest chance of getting action is the air pollution tax. President Nixon, in his environmental message on February 8, 1971, announced his backing of air pollution tax legislation and appointed a top level task force to come up with specific legislation. In his energy message in June, he again expressed his strong support of such a proposal. In August, in the President's preface to the 1971 annual report of the Council on Environmental Quality, Mr. Nixon again reaffirmed his support of an air pollution tax.

On February 8 of this year the President reiterated his intention of proposing a tax on sulfur emissions. The chances of a concrete proposal this year are improved because of advances in technology.

When, and if, the Administration does make a specific proposal to Congress, we are likely to see some action on air pollution tax legislation. The mere existence of a specific Administration proposal would be useful because it would help trigger Congressional and public discussion on an approach to combating pollution which has, in the past, often been misunderstood or ignored. This is not to say that the Administration's bill will necessarily be good legislation. The thing to watch for in pollution tax legislation is the rate of the tax. You can wager that the tax rate in the Administration's promised proposal will not be too high. But it may be too low, which would result in many polluters simply paying the tax and continuing to pollute at their present level, because it would be more profitable for them to do so.

One excellent indication of the depth of the Administration's commitment to the environment will be the specific air pollution tax rate proposed in its legislation. An excellent indication of Congress's understanding of and commitment to preservation of the environment will be how it responds.

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## HALE HOUSE: HARLEM REFUGE FOR ADDICTED BABIES

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. RANGEL. Mr. Speaker, one of the greatest tragedies of heroin addiction is that a growing number of children are born addicted. This congenital addiction is passed on by the addict-mothers and an estimated 550 heroin babies were born in New York City in 1971. We do not yet know the nationwide dimensions of the problem, but we are very aware of the human problems the child faces.

Along with the need for medical care during post-natal withdrawal, the heroin baby is in critical need of love and attention which the addicted mother is generally unable to provide, financially or emotionally. For the past two and a half years, however some of these unfortunate children have had a place to turn, the home of Mrs. Clara Hale in my community of Harlem.

Mrs. Hale has provided these youngsters with the stability and love they so desperately lack. Her devotion and compassion are an inspiration to the people of Harlem, and her commitment to these innocent victims of drug abuse has made her one of the most respected members of the community.

I would like to share with my colleagues, Mr. Speaker, a recent account of Mrs. Hale's efforts which appeared in the New York Sunday News on February 13. I would hope that her work and leadership will be followed across the United States.

The article follows:

[From the Sunday News, Feb. 13, 1972]

### ADDICTED BABIES CROWDED BUT NOT UNLOVED

(By Larry Cole)

There was an old lady
Who lived in a shoe
She had so many children
She didn't know what to do

The major differences between Mrs. Clara Hale of Harlem and the old lady of shoe fame are that Mrs. Hale knows what to do and that the children sharing her five-room apartment—all 22 of them—were born addicted to drugs.

The youngsters, ranging in age from a few months to six years, have been accumulated one at a time since last July by Mrs. Hale, who takes in children in need of love and attention as readily as most complain of taxes.

Everywhere you look in the Hale apartment you can find a child. The bedrooms are virtually wall-to-wall cribs, and convertible couches crowd the living room.

What the children may lack in space, however, is more than made up for by the love and attention they receive from the 65-year-old Mrs. Hale. "I feel bad about the crowding," she says, "but the children don't really seem to mind to much as long as they know they're being cared for."

#### CONGENITAL ADDICTS

Her daughter, Lorraine, the executive director of the Hale House program, says, "Crowded as it is, it is 50 times better than anything these children come from."

What these children come from is a home where the mother is a heroin addict who, in addition to passing on her addiction to her child before birth, is totally incapable of providing the youngster with anything approaching a stable upbringing. Left with these mothers, the child, if it survived, would be doomed to a life of misery and drug addiction.

In addition to her own two sons and daughter, Mrs. Hale, a widow, has raised 40 foster children over the past 30 years. All 40, and her own children, too, managed not only to avoid trouble in a neighborhood where trouble is easy to come by, but went on to college as well. "That's a rule of the house," Mrs. Hale says with a proud grin.

The first drug-addicted child came into the Hale apartment about two-and-a-half years ago. Lorraine, a former supervisor of early childhood education for the New York City Board of Education, was coming to visit her mother when she noticed a woman in a drug-induced stupor holding a baby precariously on a corner. Concerned for the infant's safety, Lorraine approached the woman and suggested that she leave the child with Mrs. Hale till she could straighten herself out.

#### WORD SPREAD AROUND

The woman agreed and Mrs. Hale had her first drug-addicted baby. Within a month, word of the availability of the Hale household as a home for children born addicted to drugs spread around the neighborhood, and eight such infants were brought to Mrs. Hale.

In those days, the money for the care of these children came from Lorraine and her older brother, Nathan, an assistant controller at Beth Israel Hospital.

"It didn't seem like a lot of money at first," Lorraine recalled, but it soon became apparent as the number of children increased that some ground rules had to be established and some financial help forthcoming.

The money came in the form of a $400,000 18-month grant from the Office of Economic Opportunity in July of 1971. Since that time the infant population at Hale House has grown to 22.

No child is accepted unless the mother agrees to enroll in a narcotics rehabilitation program. There is no charge to the mother, nor are any papers or contracts signed.

"We insist that all the mothers visit their children occasionally," Lorraine says. "We've found that as the children get older and start to become people, the mothers are more attracted to them and thus further motivated to straighten themselves out. Many women who have left rehabilitation programs after giving us their babies have returned to it following a visit to their child."

#### KEEP BABIES ABOUT 3 YEARS

Hale House expects to keep the baby for a period of approximately three years. "It takes a woman that long to straighten herself out and get ready to be a mother," Lorraine says.

The babies generally lose their need for drugs—a need developed in the womb—by the time they're 2 months old. This is accomplished merely by going "cold turkey" during which time the baby does a lot of crying.

Once detoxified, Mrs. Hale claims, "These children are not handicapped in any way. Given love and understanding, they are just like any other child."

#### NEIGHBORS PITCH IN

Love and understanding are two things the tireless Mrs. Hale has plenty to give. The children worship her and all call her "Mommy."

In addition to Lorraine, who is primarily concerned with the program's administrative task and counseling of mothers, Mrs. Hale receives daily help in the care and feeding of 22 infants from neighbors Ida Phillips, Minnie Sachet, Doloros Hall and Clifford Tabron. Other neighbors have also provided help from time to time.

The crowding problem should be alleviated in two months, when Mrs. Hale and "her children" will move into a five-story brownstone on W. 125th St. Of course, the added room will make it possible for Mrs. Hale to take in more babies, and she and Lorraine estimate they'll be able to take care of 40 to 50 children at the new facility.

#### TO HAVE A STAFF

Mrs. Hale will have a staff to help her at the new Hale House, but if she had to go it alone, she'd somehow find a way.

"When you've been caring for children as long as I have" she said, "you don't think about how difficult it is. It becomes a way of life."

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## EDUCATIONAL TELECOMMUNICATIONS—THE FUTURE IS NOW

### HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. BROWN of Ohio. Mr. Speaker, I recently had occasion to read a speech by Sidney P. Marland, U.S. Commissioner of Education, which he delivered last October 19, to the annual convention of the National Association of Educational Broadcasters.

The speech, entitled "Educational Telecommunications—the Future Is Now" is a comprehensive discussion of the potential of broadcasting to help further many of the expensive goals of quality education in America. For those Members of the House who may not have had a chance to previously read Commissioner Marland's remarks, I insert it in the RECORD:

### EDUCATIONAL TELECOMMUNICATIONS—THE FUTURE IS NOW

(By S. P. Marland, Jr.)

It is the privilege of every speaker to start things off by assuring his audience in solemn tones that he and they meet at a fateful moment of history, and that their common affairs, moreover, have arrived at a time of crisis and a moment of decision.

Of course one sounds this apocalyptic note at the risk of creating an instant credibility gap. Oratorical fulminations too easily tend to climb to the same pitch of intensity whether the subject be human rights or instant tea.

Yet I do not hesitate to cast this message on such a note this morning. When we consider our subject—educational technology—we can easily and correctly speak of impending revolution and corresponding crisis decisions. This is not manufactured drama but simply the situation. For these are dramatic times in the history of education in the United States—and particularly in the short but interesting annals of educational technology. And we are faced by any number of crises—though the one with particular relevance to this meeting is the ever-present but worsening crisis of finance. Finally, it seems that the time is now to make a strong affirmative decision that technology will no longer be simply an interesting curiosity in education—to be wondered at, to be extolled in rhetoric as possessed of a great future, but not to be relied upon this year. I should like to move now, nationally, through whatever influence my office can exert, to establish educational technology as a dependable resource to be used widely and regularly—one might say routinely—to effect significant and revolutionary improvement in existing forms of education.

We in education need what you in broadcasting and other techonologies have to offer, very badly indeed. Employment of technology in education can no longer be thought of in terms of the future—a vision conjured up at a world's fair and then forgotten for a decade or more. We must think in terms of now. A child cannot wait for the future in order to become educated. His needs are current and pressing. The equality we have long and loudly talked about cannot wait on another day, a more propitious time, for realization in our infinitely pluralistic and varied educational system. We must make it as uniformly just and effective as we can, and as soon as we can. And we cannot hope that our deteriorating financial situation will improve if only we wait. It may, but I wouldn't count on it.

A week or so ago the New York Times published a profile of consumer price changes from 1965 to the first half of 1971. Nearly everything has gone up considerably, as you might expect. Hospital rooms led the list: they are up 110 percent. Local transit fares are up 60 percent, movie admissions 58 percent, and so on. (I should note that one industry—pantyhose manufacturers—has managed to keep its prices exactly the same throughout this inflationary period. As an appreciative observer of its products, I commend this industry for its self-evident efficiency in extending its market against the counter-revolutionary forces of hip boots and maxis. But, alas, we are off the subject of the revolutionary forces of educational technology.)

Education wasn't included in that consumer-price profile in the Times. But I did a little checking and discovered that the total cost had risen from $45.4 billion in 1965–66—or 6.6 percent of the Gross National Product—to $77.6 billion in 1970–71 or 8 percent of the GNP.

That means that the cost of education to America has risen 70.9 percent in six years, placing it above everything except hospital rooms on the inflation roster—and fixing it, moreover, as an object of the taxpayer's ire. The public purse, to be quite literal, is closing on our fingers. Last year, voters throughout the Nation approved only 47 percent of the school bond issues put before them—compared with 75 percent in 1965 and 89 percent in 1960. The willingness of the people to invest their treasure unhesitantly and unquestioningly and solely on faith for anything labeled education has come to an end. I am not at all certain when this period of public stringency will end. Perhaps never. But it is clear that whatever the level of public expenditure for education, the services bought will be much more closely examined than they have been and the results much more carefully evaluated. While education has always been viewed as having too little money to perform its tasks, and to pay teachers what they deserve, we are now being asked to become accountable for the swiftly rising dollars, and to demonstrate cost-effectiveness in our affairs. I think education can only be the better for it.

At the same time, the people are properly demanding that our classroom instruction become more individualized, more personalized, and more responsive to the needs of the young. In the past, schools moved forward in this direction slowly and fearfully by reducing the student-teacher ratio in modest and barely discernible annual fractions. Over the past 10 years, the number of pupils per teacher in the public elementary schools has decreased by little more than three—from 25.8 to 22.3. And the ratio is continuing to decrease with present projections suggesting that by 1973 it will be about 22 pupils per teacher. Thus, in 18 years we may have advanced individualization of instruction at a rate of 2 tenths of a teacher per year.

This is a very costly procedure. Public school current expenditures have gone up from $384 per pupil in 1959–60 to about $850 today. Two-thirds of this money goes for teachers' salaries, less than 4 percent for textbooks, teaching materials, and educational technology. Understandably, the technology industry has not been particularly impressed with the very modest number of dollars available in the education market.

Since education can scarely become more labor-intensive than it already is without risking total financial collapse, the need for telecommunications and other forms of technology to extend, supplement, and complement the teacher's skills is clearly evident. But cost is not the only consideration. There are additional and equally compelling reasons to develop and apply new knowledge-delivery systems, reasons that take us out of the classrooms of America and into its homes and factories and business offices. The schools enroll approximately 90 percent of the population aged 5 to 19. But there are millions of potential learners who have little or no contact with the schools—the preschooler, the dropout, the handicapped, the migrant, the unemployed, the underemployed, the elderly.

We must devise ways to give them the knowledge they want and need, for their own utilitarian purposes, for their personal fulfillment intellectually and emotionally, and for the needs and purposes of this country. We have an obligation to all. We must reach all.

Thus we are impelled by logic, by justice, and by economics to put telecommunications to work now for education, to use radio, television, satellites, and all the rest of these marvelous devices to satisfy the great hunger for learning in this country. President Nixon summed up his position on the subject when he said: "Our goal must be to increase the use of the television medium and other technological advances to stimulate the desire to learn and to help to teach." We are optimistic that with your assistance we can reach that goal within this decade. The President intends that the Federal Government will be a strong and helpful partner in the development of new low-cost delivery systems and in the conception and delivery of a whole variety of programs that will effectively serve both the in-school and out-of-school populations.

My personal experience with educational technology thus far has been, to put it mildly, dramatically encouraging. Sesame Street—notwithstanding its Banned-in-Britain label—is delivering sound and telling educational fare to more than seven million American preschoolers every day. Even though it cost $6.5 million to produce the initial 26-week series—even in OE terms, this is a large contract—the size of the viewing audience reduces the cost per student served to a remarkably low figure, on the order of one cent per child per hour—one penny per hour for extraordinary education. I can think of no other bargain in any part of our marketplace remotely approaching this kind of value. As Dean Burch, Chairman of the Federal Communications Commission, noted in an address before the International Radio and Television Society in New York, Sesame Street has become in the short time of its existence an accepted standard—a benchmark—among millions of parents and teachers, as well as the youngsters themselves, for measuring the quality of the children's programming on the commercial networks. Mr. Burch adds that, in corporate annals, the decision of the networks not to look into Joan Cooney's ideas for an early-childhood series when they had the opportunity must rank right alongside of the decision to go ahead with the Edsel!

Come next Monday, of course, another creation of Joan Cooney and Children's Television Workshop will premiere and, from the previews I've seen, The Electric Company will prove a worthy companion to Sesame Street in providing supplementary reading instruction to children in the early grades. I am very pleased that the broadcasters are scheduling Electric Company for prime time in the afternoon so that homes as well as schools can receive it. I would also mention that the premiere episode is being shown in the exhibit hall here in the hotel by the Children's Television Workshop staff.

Televised programming is also demonstrating low-cost effectiveness for the in-school population. Ripples, the early childhood awareness series initiated and coordinated by the National Instructional Television Center, is reaching about 1,500,000 students a week in the five-to-seven age group. Other NIT productions, Images and Things, and Patterns in Arithmetic, an instructional package developed by one of our OE-sponsored laboratories, are proving their value in daily use in large numbers of classrooms. These programs are demonstrating that teacher resistance to telecommunications can be quickly reconciled if the product is worthwhile. Teachers have often been sweepingly criticized for failing to take advantage of television. I must take exception to this generalization by noting that teachers have every right to be discriminatory in what they use in their classrooms. Just because a product is on the telly does not mean that it is good. Teachers have found Sesame Street good, and I hope they will find The Electric Company equally good—and use it!

Patterns in Arithmetic is another example of a good teaching resource. It involves the use of some new theories about ways in which children assimilate concepts of number—and some new strategies for making those concepts stick. The approach is called the "spiral organization of subject matter." Because children differ in their readiness to assimilate an idea, spiral organization introduces a concept not once but several times, causing it to appear, disappear, and reappear at various points in the student's curriculum until his maturing intellect suddenly latches on. It is an effective idea, well presented, but just as with Sesame Street and with all successful educational research and application, it could not have been done without adequate funding.

Telecommunications authority that would

greatly enhance the ability of the Office of Education to research and fund programming such as Patterns in Arithmetic and Sesame Street is, as you are aware, being cooperatively developed by HEW and the Corporation for Public Broadcasting. The Office of Education is working closely with the Office of Telecommunications Policy in the White House as well as with John Macy on this effort and we are extremely hopeful that the last wrinkles will be ironed out in a short time, enabling the proposal to enter the legislative process. While the final specifications have not been cleared by OMB and the White House, our intentions now are to ask for broadened authority for the Office of Education in four areas:

First, to strengthen our ability to support newly developed telecommunication technologies such as satellites, cable TV, Instructional Television Fixed Service, and so forth, to permit more efficient delivery of programming as well as widening the definition of eligible grantees to include nonprofit organizations such as institutions of higher education.

Second, the legislation as presently projected would allow OE to work with State and local officials (hopefully in conjunction with other government agencies and nonprofit organizations) to develop systematic experimental hardware/software packages to meet human development needs by moving promising pilot programs to applied research stage. A good example of this kind of cooperative effort is the OE satellite experiments that we are carrying out in conjunction with the National Institutes of Health and the National Aeronautics and Space Administration.

In the first experiment we have established a unique two-way radio hookup to assist teachers in 21 remote native villages in Alaska to improve both their own skills as well as the educational fare they can offer their pupils. Actual transmissions by means of a NASA ATS–1 satellite began late last month, providing these villages, most of which are without telephone service, a combination of in-service training and other support for teachers as well as the means for conducting forums on educational health and native cultural topics. The teachers can also use the communications system mutually to reinforce their performances by talking to each other from village to village as well as to a central source of consultants located in Fairbanks.

We are also planning to use another NASA satellite, a somewhat more complicated device that is scheduled to be launched in March 1973, for experimental educational telecasts and broadcasts to remote areas of the Rocky Mountain States, many of which are inaccessible to conventional education broadcasting. The experiments will be carried on for approximately nine months, after which the satellite will be repositioned over India where the Indian Government will use it to broadcast instructional programs four to six hours a day. I am told that 5,000 ground receivers will be installed in that country—simple, chicken-wire affairs—for less than $100 apiece.

The third area of the projected legislation would be planning—enabling the Office of Education to provide State public telecommunications authorities with grants to develop coordinated plans. We obviously require better planning of activities, measurement of need, assessment of costs, demonstration of capabilities, and evaluation of performance.

The fourth and final area is programming authority for OE. I must stress that we do not seek in any sense to compete with the Corporation for Public Broadcasting. Indeed we regard OE's educational TV arm as a small but lively component of the entire CPB spectrum. But it seems clear that the Office can serve the cause of education in an important way by obtaining authority to research and develop strictly educational software for both home and in-school audiences as we did with Sesame Street. Individual school systems—even individual States—are largely incapable by reason of limited budgets and personnel resources of turning out sophisticated programming that goes beyond simple reproduction of classroom techniques. How many school systems, for example, can afford the production costs of a Sesame Street at $40,000 per hour of programming? Part of our rationale in seeking liberalized legislation is to target our resources on this type of Federal investment.

In this connection I would commend the 13 members of the NIT consortium who chipped in approximately $15,000 apiece to develop Ripples. Such sums individually will do little more than maintain poor quality programming. But the pooling of small resources permitted creation of a genuinely first-class series which is being used by the original 13—including, by the way, the Province of Ontario, Canada—at an absurdly low per pupil outlay. A series on health now under development at NIT is supported by a total of 33 organizations which will supply some $450,000 to put the program together. The consortium phenomenon is growing and I would hope that other cities, States, and private institutions will see fit to adopt this technique. It seems particularly well-suited to the high-cost, high-productivity television medium.

Potential programming activities of the Office of Education are explored in a study on the subject of telecommunications which we are preparing in conjunction with NASA for the President's Domestic Council. Among its interesting speculations are possible programs on child-rearing, bilingual education, high school equivalency, career education for secondary and postsecondary students and the underemployed, teacher-training, education of the handicapped, and an intriguing open university of the air of the kind that is operating successfully in Great Britain.

An open university could be built upon our experience in helping to support the University Without Walls, an OE project being operated by a consortium of 17 colleges and universities. This enterprise offers students from any age group a combination of internships, field experience, independent study projects, work experience and so on, all tailored to meet individual educational needs within the most flexible possible format. An open university would give consideration to prospects for higher learning such as the housewife, the convict, postman, cab driver, executive, teacher, mother—not to mention the usual prospective college student from the traditional age group. An open university would be truly accountable to both the advantaged and the disadvantaged, encouraging not only the urban housewife to pursue her studies in English literature but also the dropout to earn his high school equivalency and then to go on to college-level work.

We have, as I mentioned, strong hopes that the telecommunications legislative proposal will be completed forthwith within the Administration, offered, and enacted promptly by the Congress. We will continue to welcome the support of the NAEB and your broadcasting brethren as indispensable to the judicious enactment of any piece of legislation in this area as well as to its successful implementation.

Meanwhile we are using existing authorities within the Office of Education to advance the cause of educational telecommunications. In the programming area we are, of course, continuing to help fund the Children's Television Workshop. We have committed a total of $7 million to CTW for Fiscal Year 1972. This includes The Electric Company, provided the Emergency School Aid Act passes. In the hardware end we are seeking substantially expanded funding in Fiscal Year 1973 for our Educational Broadcasting Facilities Program which, since it was established in 1962, has helped in a major way to bring the number of educational television stations currently operating or under construction to 222. The audience potential of these OE-assisted stations comes to 80 percent of the entire population and 75 percent of all elementary and secondary students. An important measure of the program's success in stimulating the growth of a strong system of noncommercial television and radio has been its "pull" in attracting non-Federal funds. Every "seed" dollar invested has attracted $16 in State, local, and private funds.

We will also be announcing in detail within a week a realignment of a number of OE components—including technology—under the Deputy Commissioner for Development. The overall purpose of the shift is to strengthen the capacity of the Office of Education to promote adoption of sound and valid educational research results that have been developed during the last few years but which the schools—partially due to a confusing overlap of program authorities and paperwork requirements at our end—have been discouragingly slow to adopt. I've sometimes wondered why local school people have been willing to put up with this kind of fragmentation. The answer, of course, is that they need the money. The amalgamation of these various programs will continue to provide that money and do so with a far greater degree of efficiency, coordination and—hopefully—final instructional effect.

Separation of the technology from the library components of the Office will enable us to tie technology and telecommunications closely into the renewal strategy of the entire Office, combining machines, technology, and people into coordinated units tailored to and responsive to local conditions. Technology is obviously key to any potential program of reform and we are especially interested in the interactive capacity of cable systems to promote free exchanges between the teacher and the taught. Concepts such as the "wired city" offer mind-expanding possibilities for increasing educational productivity.

Before I close, I should like to take a moment to commend those of you who have faced the realities of civil rights in your programming, indeed who have moved ahead of the commercial networks in designing and scheduling creative shows for minority audiences. As you know, we in HEW are obliged by our various laws and authorities to assure that broadcasters who are supported to any extent with Federal funds comply with civil rights regulations. Those of you who have not yet engaged in the challenge of meeting the needs of racial and ethnic minorities, as well as those of the disadvantaged population, can learn from your colleagues who have already established a fine record in this regard.

I hope that I have conveyed to you today a sense of the commitment to educational technology that exists throughout the Administration, and particularly in the Office of Education. We intend to lay out a specific and bold program of experimentation, demonstration, and implementation in educational telecommunication. We intend to seek support and participation from both public and private sectors and at the national, State, and local levels in order speedily to achieve the goal the President enunicated—the employment of technology to full advantage in education. But we also recognize that our efforts will fail if they do not engage your expertise and your enthusiasm. As I said at the beginning of these remarks: we need you. We need you in broadcasting to show us in education how technology can enhance and speed the delivery of better teaching and learning.

We need to make first-quality instructional resources available through technology to every learner, transcending the monstrous differences in educational quality now prevailing. Television, properly enlarged, may be the great equalizer as we continue to press to bring our elusive dream of equal educational opportunity to reality.

## EQUAL OPPORTUNITY IN HIGHER EDUCATION

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## HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

*Wednesday, March 1, 1972*

Mr. HUMPHREY. Mr. President, an excellent article about the continuing failure to guarantee equal higher education opportunity for all was published in Change magazine for September 1971. The author of the article, entitled "Washington: Seven Years After the Civil Rights Act," is Francis X. Gannon, who was administrative assistant to the Assistant Secretary of Health, Education, and Welfare from 1964 to 1966, and helped to establish the Federal framework for enforcing title VI of the Civil Rights Act of 1964.

Mr. Gannon argues that title VI is not and cannot be effectively enforced under current administrative rulings, and without financial support to assure poor black and white students effective opportunities to pursue a postsecondary education. But he is also critical of the actual performance record of America's colleges, citing disturbing statistical evidence that the barriers of racial discrimination remain. I find this incisive commentary especially pertinent to the current consideration by the Senate of major legislation to extend programs of Federal assistance to higher education.

Mr. President, I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### SEVEN YEARS AFTER THE CIVIL RIGHTS ACT

(By Francis X. Gannon)

This marks the seventh academic year that the Federal government has been in the business of guaranteeing equal higher education opportunity for all. In 1964 Congress passed the Civil Rights Act with its Title VI compliance procedure which was to assure minorities equal access to the nation's colleges and universities.

Ten years ago the U.S. Commission on Civil Rights issued a report on U.S. higher education. Discrimination, it found, was blatant in academia and was not limited to one section of the nation. At least twenty percent of the public institutions in Northern and Western states inquired into the race of prospective students and some of these institutions, the Commission observed, were "using this information for discriminatory purposes." In the South, "all forty-nine of the public higher educational institutions for white students in Alabama, Georgia, Mississippi and South Carolina maintain strict exclusion policies as do thirty-seven institutions in Arkansas, Florida, Louisiana, North Carolina, Texas and Virginia," the Commission charged.

Exclusively Negro colleges provided a clearly inferior education to a few. But academic standards in these colleges suffered because inferior precollege education was being given to Negroes; regional accrediting agencies had recognized only 2.6 percent of all Negro high schools in Mississippi, 17 percent in Alabama and 13.8 percent in South Carolina.

The 1961 Commission charged that the chief prop of the entire segregated system was the Federal government. By allotment, grants and contracts, the government was pumping large sums of money into publicly controlled colleges which practiced racial exclusion. The government, the Commission found, "is supporting operations in violation of the Constitution," contrary to decisions of the Supreme Court.

Perhaps the bleakness of the picture at that time was best illustrated by conditions at the University of Wisconsin, one of the most progressive institutions in the nation. Expansion of equal opportunities had become a watchword at the university. A summer mathematics institute was being held for faculty members from 40 predominantly Negro colleges in the South. Wisconsin had received a two-year Carnegie grant to interchange faculty with three Southern Negro colleges. A program for identifying bright students from poor homes to enable them to go to college had been initiated. An Institute of Human Relations was created to coordinate the University's research and teaching concerns. Inner city remedial programs for Negro children were being conducted. Various departments were focusing their attention on urban problems and urban government in Wisconsin.

The University would seem to have been fully committed in every way to anti-discrimination policies. But enrollment statistics of blacks showed otherwise. There were fewer than 100 Negro students in a Madison student body of 24,000 and only 75 at the Milwaukee branch—although 74,000 Negroes were then residing in Milwaukee. If this was the case at a "progressive" school, what should have been expected elsewhere? Clearly, the academic community—which most Americans might have characterized as "liberal" on matters of racial discrimination—ranked at the top of discriminatory sectors of American life.

But when Congress passed the Civil Rights Act of 1964 with its Title VI provision barring use of federal monies to support discriminatory institutions and facilities, there was considerable optimism that rampant discrimination in higher education would dissolve almost by itself. Perhaps previously the academic community had been unable to do as much to end discrimination as it should have done, but in many conservative states, this was more a consequence of public policies, economic factions, and social mores than of academic blindness to racial injustice.

Unfortunately, Title VI did not reverse these trends. Nor are there clear prospects of greater change in the immediate future. Black college student enrollment has doubled from 250,000 to approximately 500,000. Still they are largely concentrated in nearly all-black schools or in some major public institutions.

The precise figures on minority enrollments remain unclear. But in 1967 the Office of Civil Rights of the Department of Health, Education and Welfare conducted an incomplete survey on Negro enrollment. The study was never published by the government, but the figures leaked out. They showed a total of 4,764,834 full-time undergraduate students enrolled, with only 245,410 of them—5.15 percent—Negroes. Since 150,000 of the Negro students were enrolled in predominantly black institutions, a mere two percent, or 95,000 were in mostly white colleges and universities.

In 1969 a report by John Egerton of the Southern Education Reporting Service threw further light on discrimination in higher education. By then, many colleges had publicly committed themselves to enrolling more Negroes. Private schools had gained most of the favorable publicity for what was widely regarded as a major turnaround. But the Egerton report noted that while percentages of blacks enrolled in public institutions—1.69 percent—was lower than the 2.02 percent reported for private schools, the number in public institutions was almost five times as great. But even at that Egerton declared: "Desegregation in state universities—and in the rest of higher education—has been talked about, declared, implied and assumed to be substantial for several years. On the basis of the data presented in this report, it seems fair to conclude that desegregation in those institutions has been largely token."

One simple example cited was that of the law schools. Ninety-nine percent of legal process in civil rights in America has been the work of black lawyers. Yet in 1970 a mere 1 percent—543 persons—of the total law school student population of 54,265 was black—and 165 of these 543 were at predominantly black Howard University. On the basis of black-white population ratios there should be 5,500 black law students enrolled; even on the basis of blacks in college, there should be 2,800 law students.

Of course, several factors are at work helping to keep discriminatory patterns in higher education in effect, including:

The continuing low level of demands for higher education by Negroes. With the expectations dimmed by prolonged exploitation and the need to earn a living a matter of urgency, countless blacks with great potential for higher education were probably still being passed over in the college selection process.

Low family incomes which make it difficult for black students to finance a higher education. According to testimony in 1970 before a Special Subcommittee on Education of the House Education and Labor Committee, two-thirds of America's black families could not contribute a penny to the higher education expenses of their children.

Continuing weak high school education for Negroes, leaving many unprepared for college entrance. One 1968 estimate states that only 15 percent of Negro high school graduates in the South went on to college, as contrasted with the national record of 45 percent. According to these figures, perhaps 250,000 Negro boys and girls in the South who graduate each year in the top half of their classes fail to continue their education.

Rapidly rising academic costs and the general economy which has made it difficult for many high quality institutions to open their doors wide to high-risk students. If Vice-President Spiro T. Agnew's widely publicized remarks about reducing academic standards to admit high-risk students indicates present Administration policies, there may not be much federal money available to encourage these students.

Problems of cultural integration, which work against many smaller colleges and universities. Even when actual desegregation takes hold in situations, both in policy and practice, social and cultural integration does not follow, any more than it does in society at large. In consequence, potential black enrollees are wary of entering institutions where they will be isolated from social and community life. At the same time many institutions fail to encourage even small numbers of potential black enrollees because the change might drastically overturn community and college relationships.

The continuing financial and academic weakness of the traditionally all-Negro institutions. As former U.S. Commissioner of Education, Earl J. McGrath, has pointed out, these colleges require hundreds of millions of dollars to come up to the level where they should be. This kind of funding is nowhere in sight.

The general unwillingness of the public to pay for higher education as it did after Sputnik of the late 1950s. Bond financing issues face heavy public opposition. Faculty are laid off. Hiring of new faculty is sluggish. Even major private institutions with gigantic endowments such as Yale and Princeton incur operating deficits. In this academic recession, diminished attention is paid to the educational needs of the poor white or black.

Finally, the role of the Federal government. Washington annually subsidizes American higher education to the tune of $4–$4½ billion, with perhaps one-third of this coming from the Department of Health, Education and Welfare. Under a coordinated federal enforcement program, HEW was designated several years ago as the Title VI compliance agency for the entire federal establishment.

From 1964 through 1968 HEW paid scant attention to enforcing Title VI in colleges and universities. But in 1968 HEW developed a well thought-out Title VI compliance review program which covers the entire institution's practices and policies for such areas as counseling, training assignments and financial aid. In the period between mid-1968 and 1970, HEW's Office of Civil Rights made 375 field reviews in 2,400 institutions.

But the results of this activity have been modest. Colleges and universities everywhere remain universally committed to the Title VI requirement of nondiscrimination. But they have found it difficult or impossible to break down long-standing practices. Some of these factors are outside the control of either colleges or the Federal government. But certainly both have much more to do before they achieve meaningful compliance with the civil rights statute.

Two steps are needed if the Title VI mandate is not to remain a noble but unrealized ideal. First, the nondiscrimination requirement must be built into the regular programs administered by regular officials who deal on a day-to-day basis with the academic community. As the Civil Rights Commission pointed out in October 1970, HEW has only two officials in its central Civil Rights Office handling Title VI enforcement. But in 1966, the House Appropriations Sub-committee mandated that the department eliminate Title VI from the purview of regular officials and programs. These officials were no longer to take into account the nondiscrimination requirement in according funds, except in cases where the small civil rights unit uncovered flagrant discrimination. Contrary to the entire purpose and thrust of the Title VI statute as passed by Congress, administrators now have little or no concern as to whether the fund they are pouring into academic institutions are being used to foster or impede discrimination or open up genuine equal educational opportunities. Until this ruling is reversed, the civil rights staff can do only herculean labor with minimal results.

Leon Panetta, the former director of the civil rights unit, summed up the problem in 1969: "Although we have notified five college systems (i.e., state college systems with separate Negro and white colleges) that they must desegregate, few have presented effective plans to do so. Because of this ruling, dual college systems continue to flourish in the deep South, the border states and even in Pennsylvania and Ohio."

Second, while Title VI commits the Federal government to achieving non-discrimination in the higher educational institutions it supports, this clearly cannot be done merely through field investigations of each college and university. Experience indicates that the best way to achieve this goal would be a mix of federal and other educational support and financing activities to enable the poor black or white student to enroll where he chooses. Perhaps more important, it will encourage the institutions to take broad positive steps to foster equal educational opportunities on their campuses.

The Nixon Administration has proposed some bold reforms on student financing which could conceivably revolutionize the forms of financial aid available at low cost to students. But it seems implausible that any administration would even seriously consider dealing with the second question—how to use federal funding as leverage to press academic institutions to provide full equal educational opportunities as mandated by Title VI. Thus, prospects are not too bright for seeing widespread improvements in existing patterns of racial discrimination in American colleges and universities.

Neither government nor academia can be expected to play a major role in achieving equal educational opportunities in the United States unless the course of national events forces dramatic change in their attitudes, policies and actions.

More black students than ever may continue to obtain a college education: But if conditions remain as they are, this achievement will no doubt be due more to the continuing improvements in the economic well-being of the general Negro population rather than to innovation or inspiring leadership by either America's colleges and universities or by the Federal government. Seven years after the Civil Rights Act, this failure is an apt commentary on two segments of national life which are at least in principle committed to liberal, humanistic and progressive policies and programs.

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## ENVIRONMENTAL IMPACT OF MODERN TECHNOLOGY IN SOUTHEAST ASIA

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. RANGEL. Mr. Speaker, the Indochina Resource Center has made available the "Environment" report on the environmental impact of modern technology in Southeast Asia. The study, written by E. W. Pfeiffer and Arthur H. Westing, details some of the tragic results of American involvement in the Indochina conflict. It is obvious that bombing and strafing are totally in conflict with the survival of man and his environment, a fact which appears to have been disregarded in the Pentagon and White House planning of the war. The victims of the bulldozer and the bomb will suffer for decades to come.

The Pfeiffer-Westing report should serve as a vivid reminder of what Congress has sanctioned as it continued to appropriate without question the funds necessary for the United States to wage war in Southeast Asia.

The study follows:

### ENVIRONMENTAL IMPACT OF MODERN WEAPONS TECHNOLOGY IN SOUTHEAST ASIA—LAND WAR

(By E. W. Pfeiffer and Arthur H. Westing)

The following three reports on Vietnam were prepared for *Environment* by two U.S. scientists who have had considerable experience in that country. They are Dr. E. W. Pfeiffer, zoologist from the University of Montana, and Dr. Arthur H. Westing, botanist from Windham College, Putney, Vermont. Both scientists had previously traveled to Vietnam to investigate the effects of wartime use of herbicides. In August, they visited Vietnam on behalf of the Scientists' Institute for Public Information and *Environment;* their trip was supported in part by the Fund for Investigative Journalism and the D. J. B. Foundation. They explored, among other things, ways in which the landscape has been drastically altered by high explosives, including 7.5-ton bombs, and special bulldozers. (Previous reports dealt with the effects of herbicide spraying.)

In summary, the investigations reveal that military operations in Vietnam have disrupted the economy and cultural life of the people, as did saturation bombing and mechanized armies in Europe in World War II. For the most part, the high explosives used in the Indochina War have devastated the land rather than major cities, but the destruction has seriously damaged forests and soil on which the Vietnamese depend. For example, bulldozers equipped to clear jungles to the forest floor and thus deny cover to the opposing soldiers have already destroyed more than $40 million worth of timber and rubber trees. Timber not destroyed outright frequently contains shrapnel that either breaks saw blades or promotes disease that weakens the wood. In the wake of jungle-clearing operations come soil erosion, flash floods, and invasion by economically useless weeds. The estimated ten million or more bomb craters in South Vietnam disrupt rice farming and fill with water to become breeding places for disease-bearing mosquitoes. Special blockbuster bombs—the largest aerial weapons available short of nuclear weapons—uproot all vegetation in football-field-size areas and kill or injure all animal life for almost a mile in every direction. And as yet undetermined cost of the war will be the long-term ecological and sociological effects of this devastation.

#### I. CRATERS

(By E. W. Pfeiffer)

During the Indochina War the U.S. has dropped more than two times the tonnage of bombs that was dropped in Europe, Asia, and Africa during World War II, most of it in Vietnam, a country about the size of New England or one-half the size of the state of Montana. Rockets, artillery shells, and mines have been exploded on a vast scale in many areas in Vietnam, in addition to explosives dropped from aircraft. This ordnance has been used principally in free-fire zones or special strike zones, which all people except the National Liberation Front and its North Vietnamese allies have supposedly vacated. Data on the extent of the free-fire zones of South Vietnam would permit calculation of the percent of Vietnamese land surface that has been intensively subjected to these weapons. These data are not, however, presently available.

Although few details have been released regarding expenditures or target locations for the various types of munitions, the following summary figures for all of Indochina has been made available by the Department of Defense:

MUNITIONS USED IN INDOCHINA WAR

[In millions of pounds]

| Year | Air munitions | Surface munitions | Total |
|---|---|---|---|
| 1965 | 630 | (1) | 630 |
| 1966 | 1,024 | 1,164 | 2,188 |
| 1967 | 1,866 | 2,413 | 4,278 |
| 1968 | 2,863 | 3,003 | 5,866 |
| 1969 | 2,774 | 2,808 | 5,583 |
| 1970 | 1,955 | 2,389 | 4,344 |
| Total | 11,112 | 11,777 | 22,889 |

[1] Unknown.

We do not know what fraction of the 23 billion pounds of munitions expended during these six years was small arms and other ordnance that would not produce craters (nor do we know what the distribution is among South Vietnam, North Vietnam, Cambodia, and Laos). To make some wild assumptions, if half the munitions (by weight) were of the sort that produce craters (bombs, shells, etc.) and if each was a 500-pound bomb, then Indochina's landscape would now be more or less permanently rearranged by more than twenty million craters. Using an estimated average diameter of 30 feet, the holes alone would cover a combined area of about 325,000 acres.

Although occasional, scattered craters can be found almost anywhere in rural South Vietnam, we have observed large areas of severe craterization in the provinces of Tay Ninh, Long Khanh, Gia Dinh, Hau Nghia, Binh Duong, Quang Ngai, Quang Tin, and Quang Nam. We have been told about similar areas in Kien Giang, An Xuen, and Quang Tri. No type of habitat seems to be spared, including forests and swamps, fields and paddies. Many severely craterized areas—such as the so-called free-fire zones, free-bomb zones, or specified strike zones—were formerly inhabited and farmed. Such regions of important military activity as War Zones C and D, the Iron Triangle, the Rung Sat and U Minh Special War Zones, the Demilitarized Zone, and the Ho Chi Minh Trail are among those regions that have been subjected to repeated saturation or pattern bombing.

What is this unprecedented bombardment doing to Vietnam and its people? In order to make a preliminary assessment of the effects of these explosives, Arthur H. Westing and I visited Vietnam in August 1971. In preparation for our trip we had sought information from many sources on effects of bomb craters resulting from military activities, but were unable to find any significant information.

We flew over bombed areas in helicopters and rode armored personnel carriers to observe at first hand craters from B-52 strikes. We interviewed in the field Vietnamese farmers who were trying to reclaim bombed land, Vietnamese loggers who were operating in bombed and shelled areas, and several Vietnamese and American officials.

In order to judge the magnitude of the problem it is necessary to have some idea of the number of bombs dropped and the amount of territory affected. Earlier studies have presented data which suggest that some 7.5 million craters have been formed as a result of the massive bombardment. Although we estimate that the current figure for South Vietnam is in excess of 10 million, we currently are awaiting Department of Defense data to verify this figure.

The standard weapon of the B-52s is a 500-pound bomb; each B-52 carries 108 five-hundred pound bombs. Each bomb produces a hole 20 to 50 feet wide and 5 to 20 feet deep, depending on soil conditions. The bombs are usually dropped from over 30,000 feet by the B-52 aircraft and can have sufficient force on impact to penetrate deeply into certain types of soil.

Severely bombed areas observed on our trip included the following land types: heavily cultivated areas of the Mekong Delta, intensively cultivated mountain valleys in the northern region of Vietnam, mangrove forests evergreen hardwood forests of the flat terraces northwest of Saigon, and evergreen hardwood forests of the precipitous mountain areas in the Da Nang-Quang Ngai area.

Because of the war situation at the time of our visit, we were unable to fly over, even at high altitude, the most intensively bombed regions of South Vietnam which lie in the northwest corner of the country and along the Demilitarized Zone. We were also very disappointed to find that security problems made it very difficult to visit on foot bombed areas in all of the regions that we attempted to study. It is important to note that there are areas of South Vietnam, particularly in the delta region, that do not reveal, at least from the air at 3,000 feet, much evidence of war damage. Large areas, however, have been hit very intensively by several types of ecologically devastating weapons.

What are the effects of the massive bombardments on cultivated areas such as the Mekong Delta? Our observations made both in wet and (on previous visits) dry seasons show that in the delta the B-52 craters and those caused by large artillery shells are permanently filled with water, probably because the craters penetrate the water table. In many areas waters of different colors fill adjacent craters. Some of the waters in the craters are aquamarine while others have more bluish to greenish tint, and many are simply a muddy brown. These differences in coloration are apparently due to growths of varying types of algae. It is interesting that different growths occured in contiguous craters.

I was able to visit on foot three such craters in an agricultural area about 30 miles south of My Tho in the heart of the Mekong Delta. The area, near the hamlet of Hoi Son, had been a free-fire zone until fairly recently, but farmers were now being resettled on their land because senior officials considered the region relatively secure. The degree of security became evident: During my stay in the area U.S. aircraft were rocketing and strafing only a few miles away. I interviewed some families who had left the area eleven years ago because of the fighting. They took me to three craters made in 1967. I would estimate that they were caused by 500-pound bombs dropped by fighter bombers. Each crater was about 30 feet in diameter, filled with water and, at the time of my visit, about 5 feet deep in the center, as proven by one of my guides.

He waded into the center of the crater where he could just manage to keep his nose above water while standing. The entire immediate vicinity had been a rice paddie; the rice had been replaced by a very tall reed (6 to 8 feet), genus *Phragmites*, which surrounded the craters at distance of 10 to 20 feet. Growing from the rim of the craters and into the reeds was a species of relatively short grass, genus *Brachiaria*. A taller grass, *Scirpus*, was also prevalent. The whole area was inundated by very shallow water, as it was the middle of the wet season. The farmers were growing seed rice near the craters and were plowing under the reeds and grasses in preparation for planting rice. It was obvious that they could not use the cratered areas for rice cultivation, because the water was much too deep.

One solution to the problem is to bring in soil from elsewhere. Although I could not confirm it, one farmer said that the craters I observed yielded exceptionally good fish catches. The fish presumably had moved into the craters during the monsoon flooding. Surrounding the area that had been cultivated in rice were banana, coconut, and jackfruit trees. The jackfruit was dead as a result of herbicides; the coconut trees were destroyed by the bombing, leaving only bare stumps.

In our conversations with these and other farmers who were trying to resettle their fought-over land, it became obvious that their main problem was the presence of unexploded munitions in the areas. The Hoi Son people stated that within the last few weeks three women had been killed and one badly wounded when plows detonated unploded weapons. We learned that mines in some resettled areas have been cleared, but the problem of locating and neutralizing unexploded weapons. We learned that mines in an urgent one. On several occasions we encountered the fear of unexploded munitions, which probably accounts for a phenomenon we often observed from the air; fields with craters were usually not being cultivated although nearby fields were. One farmer whom we interviewed stated that the people do not like to plow in the bombed areas because the shrapnel in the dirt cuts the buffalos' hoofs, resulting in infection.

According to science spokesmen of the U.S. Agency for International Development (USAID) and the Military Assistance Command, Vietnam (MACV), bomb craters are sometimes used as sources of freshwater for irrigation. In much of the southern Mekong Delta, brackish (salty) water floods cultivated lands at high tides if it is not kept back by dikes. Thus, irrigation is necessary and freshwater in the craters could be useful.

Presumably the permanently water-filled crater areas of the delta region are excellent breeding grounds for certain species of mosquitoes and other carriers (vectors) of disease. Those craters not invaded by predators of mosquito larvae provide conditions for greatly accelerated reproduction of mosquitoes and other vectors. According to MACV-Command Information pamphlet 6-70, February 1970, "malaria has been causing increasing concern in Vietnam. * * * Up until recently it (*Plasmodium falciparum*) only affected regions of I and II Corps but has now spread to other areas throughout the country."

We discussed with several scientists the possible relationship between craterization and this increase in malaria, but no studies have yet been made of this problem as far as we could determine. A USAID specialist in public health with headquarters in Saigon stated that the current alarming increase in hemorrhagic (dengue) fever seen in the Vietnamese was not related to craterization because the mosquito vector for this disease, *Aëdes aegypti*, lives only in and around houses and would thus not be affected by ecological changes such as craterization. (We do not know of any field research which supports this view.) We flew a mosquito-control spray mission in a C-123 aircraft from which malathion was being sprayed (one-half pound per acre) over and around an Australian military base. There are only two aircraft now carrying out this program, and, as far as we were able to determine, there is no spray program involving treatment of cratered areas.

We observed many craters in isolated mountain valleys near Da Nang. They were in small clusters in mountain rice fields and thus were probably caused either by artillery or fighter-bomber strikes and not by B-52s. In these valleys the craters were generally filled with water as in the delta, but they probably are without water in the dry season and thus cannot be used for fish culture. The paddies that had been cratered were not being cultivated. During our visit we flew over many rice paddies with ponds in the centers almost comparable in size (about ten feet across) to the bomb craters, but these were fish ponds and apparently did not interfere with the cultivation of the rice surrounding the ponds. It is thus unlikely that scattered craters could create changes in soil moisture or other conditions that would make cratered paddies uncultivatable.

We observed from the air large areas of the mangrove swamps of the Rung Sat Zone which had been subjected to very heavy B-52 strikes. These are all permanently water-filled and obviously would make transportation into the area very difficult. This could be of some significance because the mangrove forests have been regularly used as sources of wood for charcoal and for fishing grounds.

We observed many craters at first hand in the Boi Loi woods area. This had been an evergreen hardwood forest on the flat terrace northwest of Saigon. Most mature trees were dead from defoliation (herbicide spraying) but there was a very thick understory of useless broadleafed brush, vines, bamboo, and *Imperata* grass reaching a height of 15 to 20 feet. Craters were very numerous in this area and were scattered at least every 100 feet or so. Each crater was 20 to 30 feet across and 5 to 10 or more feet deep. They were all in a grey podzolic soil (a poor soil often formed in cool, humid climates) with poorly defined horizons (layers).

There were many generations of craters. The most recent ones were bare of vegetation but contained a little rain water at the bottom. In the older ones a few sprigs of grass, probably *Imperata*, were sprouting in the center. (We also noted the beginning of plant growth in the center of some of the water-filled craters in the delta.) As the craters age the grass grows radially, covering the bottom, and finally grows up the sides to meet vines growing down from the peripheral vegetation. There is some filling of old craters with soil washed down from the sides, but this is limited because old craters completely covered with grass were still 5 to 10 feet deep. We did not observe any broadleafed plants invading these holes.

We were able to learn something of the effects of saturation bombing and artillery fire upon forest timber resources through interviews with loggers and saw mill operators and by inspection of damaged logs, mainly in the Ben Cat and Chon Thanh area. We also interviewed South Vietnam forestry officials about the problems of utilizing bombed forest areas. These officials indicated that loggers do not like to operate in bombed timber because the trees have metal fragments in them which greatly reduce the value of the logs. (One logger estimated that the price of logs containing metal is reduced by 30 percent.) We could understand the reason for the reduced value when we observed piles of saws with teeth ripped out and examined discarded logs from which we dug pieces of metal. In some logs there were dead areas about twelve inches in diameter and six inches deep from which we recovered bomb fragments. We learned that when mature timber is punctured by metals such as steel shards or bullets, entry is provided for disease organisms, probably fungi, which result in dead areas that increase in size as the wound ages.

Thus, largely unlike trees in temperate zones, the trees of Vietnam are susceptible to rot when penetrated by metal. This greatly decreases the value of the timber and also weakens trees so that they are much more subject to being blown down. An official of a French rubber plantation told us that he had lost many rubber trees on his plantation because the trees had been weakened by fungous infection following bomb damage and then blown down in one of the frequent violent wind storms that occur in the area. The loggers whom we interviewed said that the craters in the forest made passage very difficult for trucks and loaders, a situation that necessitated cutting much shorter logs than desirable in such areas. (We saw 90 foot logs coming out of undamaged forests.)

We were able to observe from a high-flying helicopter the craters caused in a mountain forest near Da Nang by a B-52 strike about one and one-half years earlier. The craters were still obvious on the mountainside and along the ridges. The large burned areas in these forests appeared to be even more significant; they had apparently resulted from fires started by various types of ordnance such as white phosphorus, napalm, and flares.

We tentatively conclude that those cultivated areas hit heavily with conventional high explosives will be very difficult, if not impossible, to recultivate. They can perhaps be used as fish-rearing ponds or, in certain situations, as sources of freshwater for irrigation. They may provide additional breeding areas for insect vectors of disease. In the forested areas that have not been killed by chemical defoliation, the bombing has created problems that are probably just as great as those caused by defoliation. However, the immediate problem of greatest concern is the vast number of unexploded mines, bombs, rockets, and so forth, that must be removed if the land is to be resettled. Since the Department of Defense reports that approximately 1 to 2 percent of our air and ground munitions fail to explode, there are several hundred thousand of these randomly buried throughout Indochina.

We recommend studies to determine the relationship of water-filled craters to the spread of certain diseases, and to determine how cratered areas can best be rehabilitated. We also recommend that greatly expanded operations be initiated to locate and neutralize unexploded ordnance in agriculturally useful areas.

## II. LEVELING THE JUNGLE

(By Arthur H. Westing)

Despite the lavish application of great wealth and superior technology, the U.S. has made surprisingly little headway over the years against the National Liberation Front and its North Vietnamese allies. With the growing realization that the forest functions as a key ally of guerilla fighters by providing cover and sanctuary, more and more effort has been directed toward its obliteration. For a number of years reliance was placed primarily on chemical destruction. The approach reached its peak in 1967, but largely because of pressure exerted by the scientific community, it now not only has been reduced to a low level (see *Environment*, July/August 1970, p. 16) but also has been entirely "Vietnamized." The herbicidal assault has left South Vietnam with a legacy of many millions of dead, now rotting trees, and with locally debilitated ecosystems. A second approach that has been employed through the years to make the forest less hospitable to the other side is a bombing and shelling program of incredible magnitude. The 23 billion pounds of total munitions expended in Indochina between 1965 and 1970 alone are more than double those used by us throughout World War II in all theaters.

In recent years, however, a new technique has emerged. Born about 1965, developing into major proportions in 1968, and growing ever since, a vast program of systematic forest bulldozing now exists. The U.S. Engineer Command in Vietnam is daily putting Hercules and his twelve labors to shame. This report outlines the methods, scope, and magnitude of this "jungle eating" program and speculates on its economic and ecological impacts.

The basic tool of the landclearing operations in Vietnam is the 20-ton D-7E Caterpillar tractor fitted with a massive 11-foot wide, 2.5-ton "Rome plow" blade equipped with a special 3-foot splitting lance or "stinger," and wth 14 tons of added armor. A very limited number of the even more immense D-9 tractors are also in use. More than twice the size and weight of the D-7, each of these machines is said to be the operational equal of several. The tractors are presently organized into five companies of three platoons each, each company operating 30 or more tractors. Unofficially, the companies go under such names as Rome Runners, Land Barons, and Jungle Eaters. These outfits bulldoze continuously from dawn to dusk, seven days a week under what can only be described as spine-twisting and gut-wrenching (to say nothing of dangerous) conditions. No tree appears to be too large and no jungle too dense to escape these powerful machines in what must certainly be the most intense land-clearing program known to history.

The bulldozing began on a very small scale in 1965 and was devoted primarily to the clearing of roadsides and other lines of communication in order to discourage enemy ambushes. It was not until mid-1967 that the tractors were organized into small units. By the beginning of 1968, most of the major road systems in the central half of South Vietnam (Military Regions II and III) had already been cleared. Although this mission still continues, virtually all major roads in the country have now been cleared for 300 to 600 feet or more on each side. These swaths throughout forest and plantation are now a conspicuous feature of the Vietnamese landscape. In some instances chemical herbicide treatment has helped to maintain these strips in a treeless condition.

The employment of massed tractors organized into companies for extensive forest clearing began in 1968, and the program has expanded ever since. In its primary mission of denying forest cover and sanctuary, the "Rome plow" appears to be without equal. Effectiveness of the tractors is clearly superior to that of aerial application of chemical antiplant agents. The devices are considered, for example, to be playing an instrumental role in the attempt to "secure" the region centered around Saigon (Military Region III). They are also of considerable importance in the northern half of the country (Military Regions I and II). The U.S. has outfitted and is training two Vietnamese landclearing companies as one of the facets of "Vietnamization."

We were able to spend one day in action with the 984th Landclearing Company, which at the time was operating in the southeastern corner of Tay Ninh province. During our stay, the company was in the final stages of obliterating the Boi Loi woods. More accurately, it was supplying the *coup de grâce* to this longtime enemy stronghold that previously had been treated at least once with herbicides, had been subjected to saturation bombing from B-52 stratofortresses, and had also been shelled by artillery.

We joined the outfit on its twenty-seventh day in the Boi Loi woods. During the past 26 it had already scraped clean 6,037 acres. Several days more and this job would be finished, permitting the 84th to move on to greener pastures. Before this job, the men had eliminated the 9,000-acre Ho Bo woods in nearby west-central Binh Duong province.

The Boi Loi woods was enemy territory and we were dropped in by helicopter. We accompanied one of the platoon commanders in his armored personnel carrier and were flanked by several Sheridan tanks of the Eleventh Armored Cavalry. Although we had no contact with the enemy that day and hit no landmines, we were informed that both were regular occurrences. In the past 26 days, for example, several enemy attacks had been repulsed and the tractors had set off no less than 37 mines in the course of their work. (Seven casualties from landmines had been sustained during this period.)

In operation, the tractors were strung out in a long staggered formation, the lead tractor being directed for much of the time by the company commander circling overhead in a small helicopter. The large number of bomb craters made the job of maneuvering the large tracked vehicles most difficult. The heat was oppressive (hovering around 130 degrees F. in the tractor cabs) and the work was truly arduous. But the morale of the men seemed very high, despite their fifteen-hour work days, seven days a week, wet season and dry. The company was proud of its abilities and accomplishments and, we are told, was among the rare units in Vietnam without a drug problem.

At the time of our visit, the unbulldozed terrain was covered largely by a tangle of head-high, broad-leafed brushy plants and vines intermingled with *Imperata* grass and shrubby bamboos. Of the scattered trees, more than half were dead. The plow blades were set to skim the surface, each tractor scraping bare almost an acre per hour. The big trees came crashing to the ground with great regularity. Most were simply pushed over, but the really large ones were first split by the stinger.

The terrain was flat and the soil a heavy grey podzolic, so that neither erosion nor laterization (hardening of soils to a brick-like substance) are likely to be problems here. In view of available seed (or other reproductive plant parts) and shadeless conditions, this area is likely to be quickly dominated by a combination of *Imperata* grass and shrubby bamboos, thereby largely precluding reforestation for years (perhaps decades) to come. In other areas we inspected in Binh Duong province that had been bulldozed two or three years previously, by far the most prevalent vegetation was the worthless and pernicious weed *Imperata*. Indeed, of the thousands of acres of formerly bulldozed areas that we were able to see on this and our previous visits, there was only one area where forest trees (a commercially low-grade species of *Dipterocarpus*) were recolonizing naturally. Where bulldozing is done in more hilly terrain, erosion can become a severe liability. Moreover, with the elimination of the enormous water-holding capacity of an extant forest, the heavy rains characteristic of Vietnam can produce severe flood damage. We learned of one devastating flash flood in a recently bulldozed area in Khanh Hoa province.

It cannot be denied that there are advantages to the bulldozing, given the conditions of this grim war. First, bulldozing largely clears areas of landmines, an ever-present horror throughout much of Vietnam to all who attempt to reutilize a war-visited area. (One Vietnamese whom we came to know has so far lost six relatives to mines left behind by one side or the other.) Secondly, some of the timber can subsequently be salvaged, particularly for firewood and charcoal manufacture. Thirdly, some of the bulldozed lands in "secure" areas have been taken over for agricultural pursuits, although this is often not feasible even in such areas because of extensive craterization by explosives. Farming is particularly evident in the roadside strips near population centers. A small fraction of the clearing by bulldozers is actually said to be done with subsequent resettlement or agricultural pursuits in mind (see, for example, *New York Times*, July 15, 1971, p. 3).

Bulldozing has, according to official military sources, leveled over 750,000 acres to date. I estimate that clearing continues at a rate of more than 1,000 acres per day. Because I was unable to obtain a breakdown of land and land use categories that have fallen to the relentless bulldozers, it is difficult to estimate the overall economic loss that can be attributed to these operations. However, some partial indications can be presented. With respect to the timber resource, the South Vietnamese forest service has determined that at least 126,000 acres of prime timber lands accessible to lumber operations have been destroyed through 1970, together with an estimated twenty million board feet of marketable tropical hardwood timber.

At recent Saigon market values, averaging about $72 per thousand board feet, this amounts to a loss of $14.7 million. To this sum must be added a future loss due to destruction of growing stock. With respect to the rubber resource, the French rubber interests in South Vietnam have determined that substantially more than 2,500 acres of producing rubber trees (representing just over 1 percent of South Vietnam's total rubber) have so far been destroyed by bulldozers. There are about 120 rubber trees per acre, with an average value of $88 per tree. Total loss here can thus be estimated to exceed $26.4 million. (I might add that to the consternation of the French owners, they have received no compensation.)

There are, of course, many other losses attributable to the bulldozer program, most of which are impossible to quantify. Among them can be listed site degradation, erosion, weed invasion, destruction of wildlife habitat, flood damage, and miscellaneous property loss. One recent press report from western Hau Nghia province tells of the obliteration by bulldozers of a still partially inhabited farming region and the consequent disruptive impact (*New York Times*, May 7, 1971, p. 5). Even whole villages have been obliterated (*Nation*, Oct. 23, 1967, p. 397).

Discussions with professional Vietnamese foresters revealed yet another headache connected with the landclearing operations. In its nationwide forest conservation program, the South Vietnamese forest service issues timber-cutting permits on a judiciously restricted basis. However, corrupt province chiefs have, during the past year or so, come to realize that a denied local cutting permit can often be circumvented by turning to the Vietnamese Defense Department and, for pretended reasons of military necessity, request that the area be designated for bulldozing. If the request is granted, the chiefs can then cut the timber for personal profit. Finally, another use of the bulldozers results in a smaller amount of additional and unnecessary damage. In their lighter moments the engineers occasionally turn to carving up the landscape for the sheer hell of it. Thus one can now find a U.S. First Infantry Division emblem, covering some 1,500 acres, carved into the landscape about 25 miles northwest of Saigon (*New York Times*, Apr. 5, 1970, p. 7); a giant peace symbol is similarly engraved near Hue (*Life* magazine, July 2, 1971, p. 72).

In conclusion, the question is raised—although not answered—of how much forest loss can be sustained by an area before the regional ecology is adversely affected to a substantial extent. Before the war, more than 25 million acres of South Vietnam were covered by forest, representing about 60 percent of the country's total area of 43 million acres. So far, the war has claimed at the very least 3 million acres of the forest cover. The herbicide program has accounted for somewhat more than a third of this, the bulldozing somewhat less than a third, and the bomb, rocket, and shell craters (plus damage from other munitions) the remainder. Although the estimated 12 percent reduction in forest cover may not have a dramatic influence on the overall ecology of South Vietnam, detailed investigation will elucidate the magnitude of the subtle changes that have resulted. In the numerous local areas of severe damage, often covering several thousands of contiguous acres, the repercussions—both ecological and sociological—will be profound.

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## III. THE BIG BOMB

(By Arthur H. Westing)

In this report I summarize our findings about a new bomb in the U.S. arsenal, a bomb unique to the Second Indochina War. Owing to the paucity of information domestically available, I describe in some detail the bomb's general characteristics and employment.

The BLU–82/B general-purpose high-explosive concussion bomb turns out to be one of the most awesome and least publicized weapons to have been spawned by the war. It is a bomb with record-breaking dimensions: It is 4.5 feet in diameter, over 11 feet long, and weighs 15,000 pounds. Within its thin steel case are 12,600 pounds of a special, dense blasting agent (DBA–22M) consisting of a gelled aqueous slurry of ammonium nitrate and aluminum powder (plus a binding agent.) This formulation provides a concussive blast surpassed only by that of a nuclear bomb.

Often referred to in Vietnam as the "Daisy Cutter" and sometimes as the "Cheeseburger," this super bomb is delivered by C–130E aircraft (of the 463rd Wing of the Seventh Air Force flying out of Cam Ranh Bay air base). Even though the bomb is floated to the ground by a parachute from altitudes of 7,000 to 10,000 feet and occasionally even over 20,000 feet, the Seventh Air Force claims that the point of impact seldom is more than 300 feet off target and usually less than 150 feet. Timing of the drop is determined by ground radar.

The Daisy Cutter was developed primarily for the instant creation of clearings in dense jungle. Such clearings can then be used immediately as a landing zone by assault helicopters in locations inaccessible to conventional land-clearing equipment and techniques. The progenitor of this unique bomb was the 10,000 pound "blockbuster" bomb of World War II. Several dozen or more of these bombs were left over from that conflict. These were used in Indochina on an experimental basis, apparently beginning in 1967. The presently used BLU–82/B was developed and became operational in early 1970.

The bomb is detonated by an impact fuse at the end of an attached three-foot probe which sets off the main charge simultaneously at both ends of the bomb just above the ground. If all goes well, the resulting radial blast leaves no crater, but rather uproots and blows away all trees and other obstructions—even in heavy jungle—to create a virtually perfect clearing about the size of a football field. Although the size of each clearing differs, of course, according to local conditions of terrain and vegetation, the average radius of the opening, according to the Air Force, is about 60 feet, and its area thus about two acres. No fires are reported to have been set by these bombs and only minimal charring occurs. The blast is spectacular: A mushroom cloud rises some 6,000 feet into the air, and light aircraft flying more than two miles from the explosion are badly shaken by the shockwave. The landing zone, suitable for landing within minutes of the blast, can accommodate one to several assault helicopters at a time. The military code name for such an operation is "Commando Vault."

According to the Seventh Air Force, the average rate of use of the Daisy Cutters in South Vietnam has been one to two per week in recent months. (We were made aware of five drops during a one-week period in mid-August.) Although the total number of drops to date is classified information, an official spokesman for the U.S. Military Assistance Command in Vietnam (MACV) informed me that it is well in excess of 100. One press report claims that 160 drops occurred prior to June of 1970 (*Los Angeles Times*, June 1, 1970, p. 20). Most of the drops in South Vietnam have occurred in the northern half of the country and in the delta region to the south (Military Regions I, II, and IV). Information on the drops in Cambodia and Laos was not made available to us.

In the briefing we received on the Commando Vault operations, an official spokesman for the Seventh Air Force stressed and restressed that use of the Daisy Cutters was restricted to the creation of landing zones and that they were nothing more than "explosive bulldozers." He went into some detail on how the local populace is always alerted prior to a drop. On the other hand, we learned from another local Air Force source that exceedingly strict security is always maintained before a drop to avoid alerting the enemy; the flight crew does not even receive the target location or drop time until just before takeoff.

The Daisy Cutter is officially designated as a general-purpose bomb and has been used in a number of ways in Indochina beyond the creation of landing zones. One Air Force report explains that the bomb can be used for road interdiction by triggering landslides. In the Hanoi press this past spring (in an otherwise unconfirmed report) there is a description of the obliteration of an entire hamlet in Laos by this means. We also learned from three independent sources (two military and one embassy) that the Daisy Cutter has been and is being employed against enemy or suspected enemy troop concentrations. Moreover, in one of the Commando Vault missions we inspected from the air, the bomb had been dropped, according to our official military guide, onto a suspected enemy rocket emplacement. This mission had been carried out in June of this year in Quang Nam province nineteen miles southwest of Da Nang. The antipersonnel use of this bomb has also been reported in the press (for example, *New York Times*, Apr. 13, 1971, p. 1; Apr. 15, 1971, p. 5; Apr. 18, 1971, p. E2). Press reports describe one additional use for the bomb, that of removing the thick jungle canopy above suspected enemy storage areas (*New York Times*, Apr. 15, 1971, p. 5).

What is the environmental impact of a Daisy Cutter? Here I am chagrined to report that of the scores of Commando Vault missions, old and new, no site could be found by MACV in an area secure enough for us to visit. U.S. citizens are generally not aware that the National Liberation Front and its North Vietnamese allies control virtually all of the forest and other wild lands of South Vietnam. Moreover, we could find no one who had examined or even thought about these sites with ecology in mind, not even the MACV science advisor or his staff. Although the immediate overt impact is easy to surmise, the more subtle and long-term effects must await further study.

According to an official Seventh Air Force source, the blast of a Daisy Cutter is of such intensity that all terrestrial and arboreal wildlife (as well as any luckless humans) within a radius of approximately 3,280 feet are killed outright by the concussive shockwave. The lethal zone from one such bomb thus covers an area of about 776 acres. Beyond this circle of death, concussion injury diminishes to insignificance radially outward for a distance of another 1,640 feet or so. This larger area of both death and injury to wildlife thus encompasses about 1,746 acres per bomb. Assuming that the total number of bomb drops to date has been 150, the forest area totally eliminated by this means has been only about 300 acres. Of much greater concern, all the wildlife occupying 116,400 acres or more have been killed. The wildlife on again as much area have sustained injuries. The Daisy Cutter thus adds significantly to the already severe stress imposed by the war on Vietnam's wildlife.

With respect to the vegetation, my information on damage is less complete. The innermost circle of two acres is, of course, totally annihilated. (One press report claims that even the worms in the ground are killed in this zone [*Life* magazine, May 21, 1971, p. 41].) I suspect that damage to the flora beyond the central, cleared area becomes negligible within a modest distance, but actual extent of damage will require on-site investigation. Recolonization by plants in the central, cleared zone seems to be fairly rapid, at least in the delta region. An Air Force officer familiar with the delta told us that a Commando Vault landing zone blasted out in that region looks green from the air within several weeks; it often becomes unusable within several months because of the regrowth of brush. Past experience suggests that the upland clearings will be quickly invaded primarily by Imperata grass and/or a variety of low-growing, brushy bamboo species, all tenacious and worthless weeds.

The Daisy Cutter is, in the words of one military officer we met in Vietnam, "a super bomb with super punch." MACV has been using these bombs on a steady basis for more than a year and a half now, apparently with no mention of them in the official daily, weekly, or monthly war news summaries. One senior Seventh Air Force officer explained to us, "they have such a devastating effect that we hate to give them much publicity."

The Commando Vault 7.5 ton bombs provide just one more means by which we casually rearrange the environment of Indochina with little if any concern about either the immediate or the long-term impact on the ecology of the area. I am painfully aware of how little in the way of biological data this report contains, but in providing the first detailed account of this new, indiscriminately wide-area weapon for the open literature, I hope that it will stimulate the necessary wildlife and other ecological studies as conditions permit.

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## IS ST. PAUL, MINN., REPLACING BOSTON AS THE IRISH CAPITAL OF AMERICA?

## HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

*Wednesday, March 1, 1972*

Mr. HUMPHREY. Mr. President, in the early 1960's a major newspaper set a headline over a newsstory which read: "Ireland Like a Colossus Bestrides the World." There was much truth in this statement, spiritually if now geographically. For at that juncture in the world's history, three "sons of Erin" were at the helm of world political power and influence: John F. Kennedy, President of the United States; General McKeon, head of the United Nations forces in the Congo; and Mr. Boland, then president of the U.N. Assembly. Here was surely a moment when men whose ancestors sprang from a small, but proud nation were providing leadership, inspiration, and hope to men everywhere.

We are all aware of the tremendous political and economic contribution which the Irish have made to world civilization, and especially to America. As one who traces a part of his ancestry back to Ireland, I am deeply aware of the Irish genius for politics and statesmanship.

But beyond politics the Irish have contributed immensely to world culture. We should always recall that from the sixth to the 10th centuries A.D., Irishmen and Irishwomen kept European civilization alive by founding monasteries and centers of learning and culture in every European country and region.

In the United States much of the Irish cultural tradition has often been lost from sight, except for an occasional remembrance, such as on St. Patrick's Day when all Americans become Irish.

I am pleased to take note today, however, of the work of a promient national and international Irish cultural organization, the Irish-American Cultural Institute, with headquarters in my home State of Minnesota, whose objective is the enrichment and extension of the Irish heritage.

For those who do not know of its achievements, I am privileged to observe that the Irish-American Cultural Institute is the first and only organization in the United States devoted exclusively to promoting the culture of Ireland, past and present. It is not a social, fraternal or a religious organization. It promotes no cause but the cause of Irish culture: Its history and archeology, its literature in Gaelic and English, the forgotten ancient music and the whole of national intellectual and cultural life. The IACI's focus also includes Irish Government, religion, athletics and education—and all elements of Ireland's heritage.

For too many Irish—both in Ireland and beyond the Irish seas—Irish culture has seemed nothing but the memory of a past glory. Frank O'Connor once said:

> No nation in the world is so divorced from its own past as Ireland.

The ancient Irish heritage of culture and learning which once made Ireland the light of Europe—the land of "saints and scholars"—is a dim memory.

The nonprofit Irish-American Cultural Institute was founded to help rekindle the eternal flame of Irish culture. It does not exist to promote Irish chauvinism or inflated rhetoric. Its sole purpose is to continue to enrich the great Irish renaissance which began in Ireland in the 19th century.

Founded in 1964 by a cross-section of Irish-Americans, its original Board of Directors was chartered in and largely formed from our Twin Cities areas of St. Paul-Minneapolis. Chartered chapters now exist in other cities. The IACI's distinguished Board of Directors now includes members from across the United States. In 1971 a national Advisory Council was established to assist in promoting and carrying out the programs of the institute. Support for the IACI now comes from every U.S. area—Boston, New York, Cleveland, Chicago, St. Louis, Omaha, Washington, Virginia, Denver, Dallas, and San Francisco.

Most recently, HSH Princess Grace of Monaco has joined our distinguished Minnesotan and my friend Mr. I. A. O'Shaugnessy as international cochairman of the institute.

The institute's scope of activities includes every aspect of Irish intellectual and cultural life. It brings a unique Irish contribution to American life. It aims to serve as a bridge between the cultures of Ireland and America.

The institute, among other things—

Arranges exhibitions of Irish art and design, both classical and contemporary, in America;

Developed the foremost quarterly journal of Irish studies, Éire-Ireland, which has attracted subscribers in more than 25 countries. The Library Journal has said that—

> The writing style, while scholarly, is easily within the grasp of the average layman, and the scope is wide enough to appeal to anyone remotely interested in Irish culture.

Offers annual awards of $10,000—the Butler Literary Prize—for important new writing in the Irish language; these awards are the first of their kind;

Runs the IACI artists and lecturers series. This is the first systematically planned lecture series and a visiting professor/artist-in-residence program which supplies American colleges and universities with distinguished Irish lecturers;

Prepared a series of television programs on Ireland which represented the greatest concentration upon any single foreign country in the history of American television;

Developed a resident artists and advanced study program to assist persons of outstanding achievement to a residency—paid—appointment to an American university campus; and, to assist Irish students procure fellowships at American universities;

Arranges both credit and noncredit summer schools in Ireland in such fields as Irish civilization, comparative education, modern Irish drama, and Irish traditional music;

Develops short-time work camp experience in Ireland for a limited number of exceptionally qualified volunteers;

Offers tours and extended stays in Ireland for various groups, including escorted tours for teens.

The Irish-American Cultural Institute is financed largely from individual contributions. The Patrick and Aimee Butler family, the McKnight and the Quillan Foundations of Minnesota, and the Charlpeg of New York have made generous gifts.

Support comes from men and women of Irish ancestry who are concerned about—

Preserving a knowledge of one of Europe's oldest civilizations;

Coming to an understanding for themselves of what the culture is—and was;

Appreciating its meaning for themselves and for the United States;

And, showing a little gratitude for what this inheritance has given them.

Praise for the institute's work has come from many sources. Writing in PEN International, 1967—issued with the assistance of UNESCO, Mr. Frank O'Brien said that—

> The IACI is the first large-scale, organized effort in financial terms to promote Irish studies.

Ireland's former Minister of External Affairs, Mr. Frank Aiken, has declared that the institute's "aim to educate the American public to a better understanding of Irish culture is one that deserves the highest commendation. Already much has been achieved by your deep and devoted interest and you may be assured of my cooperation and encouragement for further projects in this field that will redound to Ireland's good name in the United States."

Much of the credit for the achievements of the IACI belong to my Minnesota friends, Mr. and Mrs. I. A. O'Shaughnessey and to Mr. and Mrs. Patrick Butler. Their contribution to Irish-American relations, as well as that of my former fellow Minnesota Senator, Eugene J. McCarthy, previously an IACI Board member, is, I believe, both unique and outstanding.

But I believe that all Minnesotans and all those interested in Irish culture would agree that the vision and dedication of one man—Dr. Erin McKeirnan of our St. Thomas College, St. Paul, Minn., assisted by his wonderful wife, Jeanette, has been the primary driving force stimulating the institute's achievements for their contributions to Irish culture. Both Mr. Butler and Dr. McKeirnan have been awarded honorary doctorates by University College, Dublin. This is an award bestowed only rarely on Americans and among its few recipients have been our distinguished poet, the late Robert Frost, and President Kennedy himself.

This year, Mr. President, our Minnesota Irish Institute's impact will be seen in other major areas of the United States through its "Irish Fortnight Program." This extraordinary program will bring from Ireland for a 2-week period, starting on March 16, some of Erin's most distinguished scholars, writers, poets, musicians, and performers. This year the Irish Fortnight will be held in three major cities: St. Paul, Minn.; Washington, D.C.; and Newark, N.J.

Mrs. Humphrey and I have been asked to serve, together with various other individuals, as honorary patrons of the Irish Fortnight program, which the institute will run in Washington in conjunction with the Catholic University of America. I can say, Mr. President, that we are privileged to accept this honor which has been extended to us by Catholic University's president, Dr. Clarence Walton, and by Dr. and Mrs. Frank Gannon. Together with Mr. Frank J. Kelliher, Dr. Gannon is a member of the National Council of the IACI and both men are cochairmen of the Washington Irish Fortnight program.

Mr. President, I would also like to congratulate Miss Mary Louise Wittkofski, president of the C.U. Graduate Students' Association; Mr. Joseph Hurley, president of the C.U. undergraduate Student Government; Sister Marcia McDonald, R.M., and Mr. T. J. Murphy, for their efforts in bringing the Irish Fortnight to Washington.

I ask unanimous consent to have printed in the Record a preliminary announcement and the tentative schedule for the Washington Fortnight which runs from March 14 through March 28, 1972, and also a newstory by Mr. Desmond Rushe from the Irish Independent newspaper, Dublin, Ireland, which describes the excellent reception which our Minnesota-based institute receives in Ireland itself.

There being no objection, the items were ordered to be printed in the Record, as follows:

### Announcing the Irish Fortnight Program for Metropolitan Washington, March 16–28, 1972

The Irish Fortnight program is a unique concentration in Irish culture. Prominent public figures, artists, and academics are brought from Ireland for a two-week program.

The program consists of illustrated and regular lectures and demonstrations. Various aspects of the culture and civilizations of Ireland are presented in separate programs—art, music, history, literature, archaeology, etc.

The Irish American Cultural Institute, the premier international Irish organization and publishers of Eire-Ireland—the quarterly journal of Irish studies, is presenting its *Irish Fortnight* program this year in Washington, D.C., Newark, N.J., and St. Paul, Minn. Washington co-sponsor is the Catholic University of America, Dr. Clarence Walton, President.

Co-chairmen of the Washington *Irish Fortnight* are:

Mr. Frank Gannon, Ph.D.

Mr. Frank Kelleher (members, National Council, Irish-American Cultural Institute).

### PRELIMINARY SCHEDULE[1]

*Tentative Washington dates*

Sean O Tumaa (premier author and poet in English and Gaelic), March 22, 23, 24, "The Irish Character".

Liam Gogan (poet & scholar, formerly with National Museum of Ireland), March 17, "Gods of the Gael".

Tony Butler (journalist and author), March 18, "Irish Humor".

Thomas Mac Anna (Director, Experimental Players, Abbey Theatre, Dublin), March 16, 19, "Themes in Irish Drama".

James White (Director, National Gallery of Ireland), March 21, "Jack B. Yeats".

M. J. O'Kelly (Professor, Archaelogoy, UC Cork), March 27, "Revelations from Irish Archaeo Archaeology".

Sean Ac Dhonnchadha (folksinger & teacher), March 20, "The Traditional Irish Song".

Alec Reid (author and interpreter of Beckett), March 26, "Anglo-Irish Sensibility".

Donald Macartney, (political historian, lecturer in Modern Irish History, University College, Dublin), March 24, 25, "Irish Nationalism".

Paddy Moloney (Claddagh Records, leading performer), March 23, "Traditional Irish Pipe Tunes".

Dr. Robert Meyer (Chairman, Celtic Department, Catholic University of America, Lecturer, Harvard & Oxford), "Celtic Studies in America."

Rev. Thomas Hanley, S. J. (historian, American Catholic Historical Society).

### A Not So Leprecorny Look at the Irish

The Irish American Cultural Institute, that immensely progressive and imaginative organisation with headquarters in St. Paul, Minnesota, is now bringing out another publication in addition to "Eire-Ireland". The first issue of "Duchas" came out towards the end of last week, and is now on its way to readers in a couple of dozen countries throughout the world. There was a mailing list of 20,000 for the initial edition.

"Eire-Ireland" is a scholarly quarterly on Irish studies which has achieved and maintained an exceptionally high standard. "Duchas" will be a monthly, and its purpose is to give a dignified, rational, honest-to-goodness basis for pride in being Irish, and for pride in Irish cultural heritage and traditions. It will be aimed at a man-in-the-street readership, but will be completely devoid of shamroguery.

This is a most interesting new development, and it is perfectly in keeping with the level of enlightened activity we have come to associate with the Institute, far and away the premier international Irish organisation. By comparison, other groups in the American-Irish orbit are trivial.

The Institute will be presenting this year's Butler Awards (for the best three pieces of Irish writing over the past 20 months) in the Abbey Theatre at the end of this month. The prizes, of £2,000, £1,000 and £500, are the highest made in this country, and I am told that there are high hopes of other equally valuable awards coming for other creative work. Professor Erin McKeirnan, the incredible President of the Institute, has been canvassing financial patronage among Irish-American interests, and he is confident that activities can be expanded considerably within the next year or two.

One wealthy Irish-American family seems ready to chip in some of its company profits; it can be assured that if it does, so it's money will be supremely well used. It can also be assured that the maximum prestige will derive from helping the Institute which has made and circulated 53 television programmes on Ireland's history and traditions, arranged countless lectures, film shows and talks in the U.S., and organised many exchanges between the two countries of a cultural nature.

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[1] All events (mostly in the evening) will be held in either Caldwell or Maloney auditoriums at The Catholic University campus.

Why is the Institute always up to something constructive, imaginative and exciting while other organisations—the Ireland America Foundation, for instance—are content to plod along their unoriginal ways, justifying their dull existences by occasional hand-outs for dubious scholastic purposes?

The Institute is fired by a profound commitment, a tremendous zest, an unquenchable enthusiasm, and every bit of patronage, down to the last cent, should be centered on it.

## DISCHARGE PETITION FOR REVENUE SHARING

### HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. PEYSER. Mr. Speaker, for the past 13 months, the Ways and Means Committee, under the chairmanship of one of our most distinguished Members, Congressman WILBUR MILLS, has for one reason or another bottled up proposed Federal revenue-sharing bills. Mr. MILLS himself introduced his own revenue sharing bill to his committee last November. He has repeatedly promised that the House of Representatives would have a chance to act on this legislation. We are now entering the month of March and we still do not have a bill reported out of committee. The need for this legislation must be apparent to all of us—and the need is now.

Throughout the country we are seeing cities and States that are not able to provide the services their people desperately need. In my own State of New York, if Federal aid through revenue sharing is not forthcoming, we will see our narcotics programs closing, the horrible conditions at institutions for mentally retarded, such as Willowbrook and Letchworth Village will continue; and programs such as prison reform; aid for the elderly; and aid for education, will be cut back. These problems do not just exist in New York, but in every State in this country and particularly those with large urban areas. I believe that revenue sharing truly offers a chance for the cities and States to answer the needs of their people. It is for this reason that I am today filing a discharge petition that will call forth Chairman MILLS' own revenue-sharing bill to the floor.

I realize the reluctance of Members to use this device, but I believe we have been patient enough and the people have suffered enough that we can no longer wait on the Ways and Means Committee to act. It is my hope that we can bring a revenue-sharing bill to the floor of the House this month under an open rule.

Furthermore, it is my hope that when this bill comes to the floor it can be amended to permit the recipient cities and States to use these moneys for educational expenses if they so desire. The present bill does not allow this option.

Once again, on behalf of the American people, I ask you to take this step and start an action that will bring relief where it is so desperately needed, join me on signing this petition.

## BIBLIOGRAPHY OF VEYSEY'S REMARKS ON BLOOD BANKING

### HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. VEYSEY. Mr. Speaker, as readers of the CONGRESSIONAL RECORD may have noticed by now, I have inserted a number of studies and articles on blood banking in these pages since I introduced H.R. 11828, the National Blood Bank Act, on November 17. I thought people interested in this subject might be able to use a single index of my entries, so I have compiled the bibliography which follows:

BIBLIOGRAPHY OF VEYSEY REMARKS ON THE NATIONAL BLOOD BANK ACT

1. NBC Documentary on Blood Banking—October 28, 1971, page E11403—text of Cronolog show and review thereof from Washington Post, October 23, 1971.
2. NBC Documentary On Blood Banking: Part 2—November 1, 1971, page E11570.
3. Blood Banks—A Matter Of Life And Death—November 10, 1971, page E12068 Changing Times article.
4. National Blood Bank Act—November 17, 1971, page H11209—introduction of bill and speech.
5. Death By The Pint: The Critical Need For More Volunteer Blood Donors—November 22, 1971, page E12617—first half of Chicago Tribune series.
6. Death By The Pint: Trading Blood For Dollars—November 30, 1971, page E12763—second half of Tribune series.
7. Washington's Embolic Blood System—December 2, 1971, page E12892 Washington Sunday Star article by William Hoffer.
8. CBS News On The Blood Crisis—December 6, 1971, page E13029 Outlook radio show text.
9. Victims Of The Blood Lottery—December 15, 1971, page E13475—letters from supporters of the bill who have had personal experience with serum hepatitis.
10. Organized Labor Calls For An End to The Pint—January 21, 1972 page E331—risk E13763—AFL–CIO recommendations on National blood program.
11. WRC–TV Calls For Action To Assure Safer Blood—January 18, 1972, page E74—WRC editorial of Christmas season.
12. Why The Federal Government Must Act To Assure Safer Blood—January 19, 1972, page E138—list of state laws on blood banking.
13. Blood From Paid Donors: Death By The Pint—January 21, 1972 page, E331—risk rates of serum hepatitis from commercial blood.
14. The Cost Of Hepatitis And Commercial Blood—January 24, 1972, page E350—Dr. J. Garrot Allen study.
15. Blood That Kills—January 27, 1972, page E533—National Observer article by August Gribbin.
16. Haiti: Jobless Poor Line Up To Sell Blood—February 3, 1972, page H718—Los Angeles Times article by Francis B. Kent.
17. Policing The Plasma Plants—February 4, 1972, page E845—Time Magazine August 17, 1970.
18. Seattle Blood Bank Cuts Cost And Risk Of Infection—February 18, 1972, page E1134—New York Times article of October 27, 1971.
19. Correction of RECORD—February 18, 1972, page E1328—correction of errors in printing of State laws (number 12, above).
20. Pony Express Carries Volunteer Blood Across New Jersey—February 23, 1972, page E1544—Trenton Sunday Times Advertiser article by Sharon Schlegel.
21. Hucksters In Blood—February 28, 1972, page E1700 Dr. J. Garrot Allen article.

## THE AMERICAN LEGION

### HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. PICKLE. Mr. Speaker, this week Washington once again welcomes over 1,000 leaders of our great veterans' organization, the American Legion. I am delighted to join in that welcome.

Now holding a membership of 2.7 million, with 1 million more in the Legion auxiliary, they are our largest veterans' group. Now in their 53d year, they span this century from their first organizational meeting in Paris in 1919 down to the some 425,000 Vietnam veterans now in their ranks. And they span the length and breadth of this country in some 16,000 local posts.

But size, age, and widespread membership give only a hint of what this great organization is all about. "For God and Country" is their motto, and their vow is to preserve Americanism, to insure that no veteran go without needed medical help, and to see that no widow or orphan of an American serviceman ever want for any need or for adequate education.

Surely no organization has raised their professed purposes to a higher plain or fought so steadfastly and righteously for their fulfillment than has the American Legion.

When they were formed in 1919, there was no hospital or medical program for wounded veterans. Now we have one of the best in the world.

Thousands of veterans have gone to school on the GI bill—a direct product of efforts of the American Legion.

And this organization has generously seen to the needs of veterans' families in countless different ways.

They have fostered and pursued one of the most well-known highly honored, and worthy youth programs in this country in their Boys' State and Nation, Girls' State and Nation, national high school oratorical contest, and a whole variety of various scholarship programs.

They have reached out to the problems of the current generation, securing through their job fairs some 70,000 jobs for returning Vietnam veterans.

And they come each year, quietly knocking on each of our doors to remind us that there is still much to do for these men who have risked life and health for their country in its darkest hours and in its greatest perils.

## TAXPAYERS SAVINGS OF $72,000 PER YEAR IN MEMPHIS, TENN.

### HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. JONES of Tennessee. Mr. Speaker, on February 6, 1972, the Naval Air Station, Memphis, Tenn., converted from a dial telephone private branch exchange to a centrex system.

As a result of his company's efforts in effecting this change, Mr. W. S. Howard, president and manager of the Millington Telephone Co., received letters of commendation from the commanding officer of the Southern Division of the Naval Facilities Engineering Command, Capt. Whitney B. Jones, and from the commanding officer of the Naval Air Station itself, Capt. G. K. Gregory, Jr.

The result of this changeover will be a saving to the taxpayer of approximately $72,000 per year.

Since I consider the efforts of the Millington Telephone Co., to be in the highest tradition of American free enterprise, I add my commendation to this fine independent telephone company and ask that Capt. Whitney B. Jones' letter to Mr. Howard be inserted at this point in the RECORD.

The letter follows:

DEPARTMENT OF THE NAVY, NAVAL
FACILITIES ENGINEERING COMMAND,
*Charleston, S.C., February 11, 1972.*

MR. W. S. HOWARD,
*President-Manager, Millington Telephone Co., Millington, Tenn.*

DEAR MR. HOWARD: The Naval Air Station, Memphis, Tennessee, has converted from a Dial Telephone Private Branch Exchange to a Centrex System effective on 6 February 1972 at a cost savings of approximately $72,000 annually to the Government. This is in direct conformance with the Navy's policy and program of modernization and mechanization to stay abreast of technological innovations in the industry providing more adequate service.

Your Company is commended for the outstanding efforts and success in meeting the cutover date, particularly considering the expeditious manner used to overcome the vexatious situation in obtaining and installing AUTOVON terminating equipment adaptable to Automatic Network In and Out Dial (NIOD) to access the dedicated long lines network of the Department of Defense through the network switching center in Memphis Junction.

Your Company is further commended for the outstanding performance under Contract N62467-69-C-0004 and assistance to the Naval Air Station over the past years in problems resulting from lack of technological knowledge of or understaffing of Station personnel. Your outstanding performance is highlighted from the standpoint of being in direct support of our fighting forces.

A visit to your Company's Centrex Exchange by my Communications Specialist revealed a most orderly equipment room and efficient operations in all Departments.

As a result of your efforts, the Navy can be assured of reliable telephone service at the Naval Air Station and thereby enhance telephone communications throughout the Department of Defense.

Your continued assistance and cooperation will be appreciated.

Very truly yours,
WHITNEY B. JONES,
*Captain CEC, USN, Commanding Officer.*

## REINTRODUCTION OF PUBLIC BROADCAST BILL

### HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. BROWN of Ohio. Mr. Speaker, in February of this year I introduced H.R. 12808 which would authorize 5-year Federal funding for Public Educational Broadcasting. I am reintroducing that bill today in order that several of my colleagues can join me as cosponsors.

In addition to providing a much needed plan for long-term financing, this bill would—

First. Distribute Federal funds for operating grants to local educational broadcasting stations as a matter of right through the Department of Health, Education, and Welfare, instead of continuing such distribution on a discretionary basis through the Corporation for Public Broadcasting—CPB.

Second. Require that 10 of the members of the CPB governing board be representatives of the local educational broadcasters, with consideration given to balancing such representation by geographic location, community size, and type of station. At present only one CPB board member is a station manager.

Third. Prevent CPB from funding programs dealing with the presentation, discussion, or analysis of current issues that are the subject of partisan political controversy; and would also prevent CPB from engaging in direct lobbying activities.

Rather than providing support for the development of programing balanced between instructional needs and the general interest, CPB has been giving priority to the development of a centralized national network system which is preoccupied with general interest programing that will improve its ratings in competition with the commercial networks. There has been only limited Federal support for the operating needs of local ETV stations, or for the encouragement of local instructional programing. By reversing the downward power flow on programing decisions from a federally well-heeled CPB to a hard-pressed locally financed station, and by limiting the influence of large outside sources of income, we can reestablish the balance of instructional and cultural programing as local communities want it. CPB should serve the local stations, rather than the local stations becoming mere affiliates for a nationally imposed viewpoint.

The bill I have submitted accomplishes the purpose of redirecting the control and thrust of CPB's activities in order to achieve the economies in program production, localized service and freedom from central control of public educational broadcasting that was envisioned by the Carnegie report and by the Congress in the Public Broadcasting Act of 1967.

Legislation for long-range funding and for direct support to the local stations should be carefully considered by the Congress. I have sent out questionnaires to all ETV stations requesting their views on the several proposals now before the Congress. In addition, the station managers are conducting a study of their own to answer similar questions. Hopefully, we will be able to study these reports before any legislation is passed.

The public broadcasting system should be built on a bedrock of localism, and it can be. Issues that were left unresolved in 1967 have been dealt with by CPB in a manner that made the so-called bedrock a very shaky foundation for the system indeed. Final resolution of these issues in a manner consistent with the original intent of Congress will serve to strengthen that foundation before the structure crumbles on its own weight.

## ADEQUATE DEFENSE IS NOT CHEAP

### HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following editorial from the San Diego Union.

[From the San Diego Union, Feb. 21, 1972]

SOVIET STRENGTH GROWS: ADEQUATE DEFENSE IS NOT CHEAP

Three principal opinions prevail each year among the critics of the defense budget proposed by the Administration when Congress settles to the task of evaluating it, and this year is no exception.

We should hold off providing essential new defenses, some critics say, until we see what the Soviet Union promises in the way of arms limitations. Perhaps, they add, if the promises are credible enough, we can avoid spending additional funds for our defense.

Another school of thought is that the United States of America, as well as the Soviet Union, has enough arms to destroy the world several times over anyway, so why should we buy any more?

Other critics argue that social programs should take the bulk of any new government revenues because of the great need in this area.

The actions of the Soviet Union should be studied by Congress as it considers the arguments. Regardless of what they promise at the arms limitation discussions, the Soviet Union is taking no chances. The recent testimony of Defense Secretary Melvin Laird that his previous projections about the rapidly growing Soviet military strength were short of the mark is both sobering and frightening. Mr. Laird's testimony to Congress exhibits that he is convinced that when the Soviet Union completes the defense programs it now has in progress, it will come close to matching the nuclear strength of the United States across the board, and it is not slowing down.

Adm. Thomas H. Moorer Jr., chairman of the Joint Chiefs of Staff, adds that the Soviet Union will move ahead of the United States this summer in the total number of missiles and bombers with which it can launch a nuclear attack. He reminds us that "the mere appearance of Soviet strategic superiority could have a debilitating effect on our foreign policy and negotiating posture."

What the people to whom we have entrusted the security of the United States are telling us is that there is no cheap or easy way to assure our survival. Obviously the Soviet Union does not subscribe to the theory that it should see what the strategic arms talks produce before it sees to its defense needs. Clearly Russia, which also has more than enough arms to destroy the world, wants even more to assure itself that it could eliminate our missiles in the first salvo to preserve its own people and to dominate the world through its strength.

However, the weakest criticism of defense spending is the belief that the bulk of all new spending should go toward new social programs, when the enemy is spending an increasing portion of his own treasure to destroy that very society.

## SELF-DETERMINATION FOR ESTONIA

## HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. FORSYTHE. Mr. Speaker, on February 24, 1972 the people of Estonian descent celebrated the 54th anniversary of the declaration of independence of the Republic of Estonia. It is a grim irony that only those living outside the boundaries of Estonia were able to celebrate this anniversary, while their friends and relatives within that country continued under the yoke of Communist aggression. Ever since 1940 when the mighty fist of Soviet imperialism struck at the young state of Estonia, the Estonian people have never given up the hope that this latest invasion would be overcome.

In 1918 the Estonian declaration of independence brought into being a progressive government interested in the social welfare and technological progress of its people. During its short life this government made great strides in land reform, education, and modernization. Unfortunately, just a short 22 years later, these proud people were forcibly brought under the control of the Communist dictatorship.

I wish to quote from the unanimous House Concurrent Resolution 416 passed during the 89th Congress:

> The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation. . . .
>
> All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development.

Those sentiments, so eloquently expressed in 1966, are no less true today. We have a moral obligation to continue our efforts to encourage that undying hope for independence which lies in the heart of every Estonian. We should continue to recognize the Estonian diplomatic and consular personnel as the true representatives of a captive people.

We can only hope that the 32-year bondage of the Estonian people will soon come to an end. In this respect we can empathize with the brave citizens who endeavor to combat overwhelming odds in the pursuit of freedom for their countrymen.

## A ROLE PLAYED BY PEOPLE ON BEHALF OF WORLD UNDERSTANDING AND PEACE

## HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. JOHNSON of California. Mr. Speaker, during the past week the people of this Nation have watched with great interest the spectacular trip to China by the President of the United States. This, without question, is an example of the highest level of diplomatic relations seeking better understanding between nations of the world.

A few days ago in Chico, Calif., there occurred another event not publicized much beyond the Chico area but I believe that this event is a fine example of the type of activity which this country must undertake if we are to truly achieve peace in our time. Agreements can be reached between our Nations' leaders but these agreements can be implemented only if they are supported by the people the leaders represent. True understanding among the peoples of the world is the only real way to achieve peace.

For the past several years Chico State College has conducted on an independent basis an excellent example of promoting understanding and good will among the peoples of the world. This is the General Douglas MacArthur scholarship fund sponsored by the world-minded citizens of the Chico area and the personnel of Chico State College. For the past 16 years dozens of young men and women from foreign lands have been aided in their quest for a basic education plus a better understanding of the American people and the American way of life through these scholarships. This year seven students from such widely separated areas as Hong Kong, Iran, Kenya, Ethiopia and Palestine were the beneficiaries of the scholarship fund.

One of the most dedicated and hardest workers on this people-to-people type program is Dr. Julian Lorenz, a Chico physician, who this year was honored by the scholarship program with an award as the most world-minded citizen of Chico. The role of the scholarship program and Dr. Lorenz' part in it is stated very well in an editorial from the Chico Enterprise-Record, which was written by its executive editor, Mr. Bill Lee, who has long been a vigorous supporter of this program.

So that I may share these thoughts with my colleagues here in the House of Representatives, I insert the editorial in the RECORD at this time.

### A ROLE PLAYED BY PEOPLE ON BEHALF OF WORLD UNDERSTANDING AND PEACE

The placing of major emphasis in this day and age on diplomatic activity by top-level governmental leaders—with special stress on the rash of recent and future "summit" sessions between President Nixon and other leaders—tends to diminish the important role that "people" play, year in and year out, in the effort to enhance international understanding and improve the chances of world peace.

It might be said, for example, that the fact that summit sessions are possible at all stems from the success on lower and unofficial level of people-sponsored programs, projects and activities on the international scene. We contend that the possibilities of ultimate harmony and good relations between government leaders are based more on foundations built by non-governmental programs than national leaders sometimes realize.

Tourists traveling about the world often promote good feelings and foster understanding between the peoples. Church groups, private businesses and cultural endeavors do much to bring the peoples of different nations together. And surely major credit must be given to those who endeavor to utilize the educational field as a promoter of understanding and good will.

One of our favorite local examples in the latter category is the Gen. Douglas MacArthur Scholarship Committee, a program sponsored jointly by world-minded citizens of the community and personnel at Chico State College.

As we have pointed out in past years, the local MacArthur project is small indeed when measured against some of the huge federal assistance programs and against the heavily-financed efforts of tax-exempt organizations such as the Rockefeller and Ford foundations.

But from the standpoint of proportionate impact, those giants in the field might well take lessons from the MacArthur program here.

For example, over the period of 17 years since its inception in 1955, MacArthur Scholarship awards ranging up to $250 have assisted dozens of young people from foreign lands in furthering their education at Chico State College. A partial listing includes students from Hong Kong, Thailand, Tanzania, Jordan, Iraq, the Azores, Nigeria, Japan, Korea, Taiwan, Indonesia, India, etc.

Yet the geographical scope and the amounts of money involved are not the main distinguishing characteristics of the MacArthur Scholarship program. Rather, the unique nature of the program makes its awards—in the minds of the recipients—mean a great deal more than mere financial assistance.

Through personal association with the campus and townspeople volunteers who play key roles in the MacArthur program, the young students from foreign lands undergo a significant "people-to-people" experience of friendship, understanding and cooperation.

This important relationship is, of course, impossible of attainment by the huge, impersonal governmental programs and national foundations with their high-salaried executives and staffs.

Significantly, then, the MacArthur Scholarship program enables the foreign students to become participants in—rather than wards of—the local campus and community. And this circumstance—in the final analysis—is what international understanding and cooperation is all about.

An example can be found in the person of Dr. Julian Lorenz, Chico physician, who has been named as this year's recipient of the scholarship program's award as the Most World-Minded Citizen of Chico. During his decade in Chico, Dr. Lorenz has been a consistent supporter and participant in the program sponsored by the MacArthur organization.

More important, however, is the fact that all members of the Lorenz family—father, mother and three boys—have played integral roles in the program by serving as "host family" for international students over the past six years. As a matter of fact, Dr. Lorenz modestly told newsmen that the award he is receiving might more properly be assigned to his sons than to him.

All "A" students, two of the Lorenz sons attend Chico State College themselves—David, a junior majoring in English, and John, a freshman Language major—and the third, Stephen, is in junior high school. All are extremely interested in world affairs—David, for example, has been the author of numerous letters to the editor on international affairs, letters carefully researched and documented and extremely well written.

In the process of serving as a "host" family, then, the Lorenz family has provided succeeding foreign students with the exceedingly productive relationship of living and studying with alert, intelligent and inquisitive young men of like age.

Presentation of the Most World-Minded Citizen award to Dr. Lorenz will be one of the highlights of the MacArthur Scholarship Committee's annual International Dinner tomorrow evening.

Scheduled for 6 p.m. at Craig Hall (1400 West Third St.), the dinner is the scholarship committee's primary method of raising funds to assist the foreign student recipients of its awards. Current and new scholarship winners also will be featured during the evening program.

The International Dinner itself is fondly regarded by many Chico citizens who delight in foods prepared from recipes stemming from the far corners of the earth. The dishes run from exotic oriental specialties to a tempting South American beef main plate.

## SWIMMER DAVE EDGAR, THE FASTEST MAN AFLOAT

### HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DUNCAN. Mr. Speaker, recently I had the opportunity to participate in a special occasion at the University of Tennessee honoring one of America's greatest swimmers, Mr. Dave Edgar.

The University of Tennessee is very proud of Dave Edgar, because he has been the inspiration that gave them a swimming team of national recognition. The university did not even have a swimming program before he went there in 1968.

Since he has been on the team, they have lost only one dual meet and that was while he was in the hospital recovering from a car accident. Since that time they have won 32 consecutive dual swimming meets.

The young man is from Fort Lauderdale, Fla. He swam for Fort Lauderdale High School where he was an All-American swimmer. He held the national high school record for the 50-yard free style.

Since he came to the University of Tennessee he has been an All-American 4 years in several events. Sports Illustrated has claimed him as the fastest man afloat. In the 1970 and 1971 NCAA swimming meets he won the 50-yard and the 100-yard free style.

He holds the American record in the 50-yard free style at 20.2 seconds; the American record in the 100-yard free style at 44.5 seconds. He is the only man to ever go under 20.5 seconds in the 50-yard free style and the only man to ever break the 45-second barrier in the 100-yard free style.

Dave was in a car accident in 1969 which injured his hip so that the doctors thought he would never be able to enter swimming competition again. But he worked hard and, in fact, set the world records after the accident.

We Tennesseans have been proud to have Dave Edgar as captain of the University of Tennessee swimming team. He has brought us much excitement and recognition.

## TRIBUTE TO MARK S. GURNEE

### HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. JONES of Alabama. Mr. Speaker, few Americans have contributed as much to the development of the water and related land resources of this Nation as Mark S. Gurnee, who retired last week after many years of distinguished service with the Army Corps of Engineers.

Mr. Gurnee, as Chief of the Operations Division, Civil Works Directorate, Office, Chief of Engineers, has played a major role in carrying forward vital programs for the development and improvement of waterways and harbors as an essential element of the Nation's transportation system, for the protection of lives and property of our citizens against the ravages of floodwaters, for the protection of our valuable coastal resources from erosion, for the development of water supplies of suitable quantity and quality to serve our Nation's cities and industries, for the conservation and enhancement of fish and wildlife resources, for providing increased opportunities for our citizenry to enjoy healthful outdoor recreational opportunities, and, in general, for inducing economic development as a means of enhancing the general welfare.

On February 17, several hundred coworkers and friends of Mark Gurnee attended a reception at the Fort McNair Officers Club in Washington to honor Mark and his lovely wife, Marguerite, on their well-deserved retirement from Federal service.

In speaking to this gathering, Lt. Gen. Frederick J. Clarke, the Chief of Engineers, delivered an outstanding address which was timely and meaningful, and I would like to share his comments at this time with my colleagues in the House of Representatives.

Mr. Speaker, I include the text of General Clarke's statement.

REMARKS BY LT. GEN. FREDERICK J. CLARKE

Normally, on occasions of this kind, I would be expected to recount for those present the achievements of the person being honored. However, I'm afraid that if I were to do that tonight, most of you would be compelled to go directly from here to work tomorrow morning. So, initially, I was somewhat at a loss as to how best to serve simultaneously the demands of the occasion and the interests of those of us who function better after a little sleep. But now, after "counting the house" so to speak, I can see that much of my problem has been solved. It has been solved by those of you who felt the need to be here tonight to honor Mark Gurnee.

The size of this gathering is most impressive but its makeup is even more significant. I see in attendance not only a great number of Mark's associates and co-workers from the Corps of Engineers and his personal friends from other walks of life, but also very substantial and distinguished representation from the Congressional Staffs and the Federal and private agencies having such vital interest in national water resources development. It is, I think, very rare for a public servant to achieve the stature deserving of such a level of recognition. This gathering speaks for itself in saying much more eloquently than I can what should be said about Mark Gurnee.

So, having disposed of our honored guest, I would very much like to talk about the Corps of Engineers for a few moments. For some reason it would seem appropriate to summarize some of the Corps' accomplishments over the past, say, fourteen years.

In 1958, which, just coincidentally, was the year Mark Gurnee assumed his current position as Chief of the Operations Division in Civil Works, our annual civil construction appropriation was about $500 million. Today it stands at $1 billion annually, with some 270 projects in the construction stage. During the period, total construction expenditures amounted to over $12 billion. In 1958 our budget for operating and maintaining our projects was $120 million a year. Now it is over $415 million annually to operate and maintain over 1,400 projects. Expenditures during the period amounted to about $3 billion.

I think the Corps has every right to be proud of its achievements in water resources development over the past fourteen years. A list of the projects completed or well under way would indeed be lengthy, but a few of the highlights include the Arkansas River project extending water navigation to Tulsa; the Ohio River and Monongahela River modernization projects; John Day Lock and Dam, our largest multi-purpose project featuring the highest lock lift; and the Los Angeles flood control system.

In conjunction with our construction accomplishments, we have seen a great increase in our real estate holdings. The amount of project land managed by the Civil Works program has grown from 4.4 million acres to 7.4 million acres since 1958. Not only has the acreage greatly increased but so have the responsibilities and complexities of managing this land to provide a variety of public benefits. Perhaps most notable of these is recreation. At our lakes alone we have experienced a rise in annual visitor attendance from 95 million in 1958 to over 300 million today.

We can take pride in our performance of yet another of our missions over the past fourteen years.

I am sure that you can all recall quite vividly when, in August of 1969, Hurricane Camille struck the United States mainland at Mississippi with winds of 200 miles an hour—the most intensive storm on record in the country. I'm sure also that you remember an even more recent disaster—the San Fernando earthquake of February 1971. Perhaps you are well aware of the responsiveness and efficiency with which the Corps carried out its disaster relief and recovery operations in these cases. What you may not know is that since 1958 there have been about 250 natural disasters in this country requiring Corps of Engineers assistance in conducting emergency relief and recovery operations, often under the most demanding and hazardous of conditions. If success is measured in terms of lives saved, suffering abated, and property restored, our record is one of unqualified success.

One final Corps activity I think worthy of mention is our mission for the protection of the Nation's navigable waters. We have pursued this mission since passage of the River and Harbor Act of 1899 primarily for purposes of maintaining navigability. However, in recent years a series of court decisions has broadened the interpretation of Section 13 of the Act (known as the Refuse Act) so that today it stands as the most sweeping water pollution law on the books. In administering the Refuse Act we have undertaken a massive and complicated job of far-reaching consequence for the future well-being of the Nation. The success we have realized in spite of the controversial and sensitive issues involved speaks most highly for the combination of management skill and adroit common sense that was applied to the problem.

I could go on, but I think that I have by now made the point I wanted to make. And that is how truly difficult it is to talk about the Corps of Engineers without also talking about Mark Gurnee. You are all aware that more than any other individual, Mark Gurnee has been responsible for the programs I have been discussing and many more.

The tangible benefits accruing to this Nation as a result of Mark Gurnee's accomplishments are substantial. It would be most difficult to go anywhere in this country where these benefits could not be discerned and measured. But there are intangible benefits also that will be with us for a very long time. They can be expressed in terms of the excellent reputation for efficiency and responsiveness enjoyed by the Army in its mission of serving the public interest. They can be recognized in the gratitude and trust we have won from millions of Americans aided in times of distress. And they are clearly evident in a substantial improvement in the quality of life enjoyed by the citizens of the United States.

There are perhaps many reasons for Mark Gurnee's success throughout his career. But I perceive an essential factor in his ability to "reach" people. The dignity he brings to his position commands respect; his straightforward sincerity evokes trust and confidence; his down-to-earth good humor wins abiding friendship. In carrying out his imposing responsibilities, his intuitive sense of human values has never yielded to expediency or the extreme pressures of the moment. Rather, it has been his ability to maintain this humanistic perspective that has, in the long run, established his stature as a public servant and insured his exceptional success.

Mark, may I wish you and Marguerite, on behalf of your many friends and associates throughout the Corps, a long, fruitful, and happy retirement.

## THE AMERICAN LEGION

## HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. ZWACH. Mr. Speaker, I am pleased to join with my colleagues here in the House today in saluting the American Legion. While I would prefer not to have had those terrible conditions in the world that served as the birthplace for our veterans organization, I am proud of and want to commend this organization and membership for their service to our country.

Their service has not only been in time of war, but they have developed and maintained a strong, healthy respect for our Nation within their own organization. The American Legion should also be commended for promoting such programs as boys' and girls' State and scholarship awards which have enabled our young people to develop good citizenship.

I especially want to salute the American Legion for their continuous efforts in taking care of their own members. This morning, our Veterans' Affairs Committee welcomed John Gieger, national commander of the American Legion, who presented the legislative interests and proposals of the organization. There are many areas which deserve our constant attention such as medical care, employment, training, and education, in order to keep these programs up to date in meeting our veterans needs. It is my hope that Congress will continue its record of achievement in behalf of our veterans.

## ON HENRY KISSINGER

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. RARICK. Mr. Speaker, events over the past few days continue to point out the decisionmaking role in the course of American foreign policy played by Henry A. Kissinger.

It is not every hired man in the Federal bureaucracy who can say, "The President is under the illusion that he is giving instructions." Nor is any other Government employee felt so indispensable to our Chief Executive that the President has said, "Frankly, I cannot imagine what the Government would be like without you."

I think that the paper entitled "Oh, Henry! Henry Kissinger, One-World Swinger" by Gary Allen, which appeared in the American Opinion magazine for March 1972 will be of interest to our colleagues and it follows my remarks.

The paper follows:

### OH, HENRY!—HENRY KISSINGER, ONE-WORLD SWINGER

(By Gary Allen)

Henry Kissinger has been the darling of the Establishment media ever since last summer when he emerged from his two-day visit behind the Bamboo Curtain. Presidential advisors are usually about as well known to the general public as third-string guards on the football team at Montana State, but Kissinger has become a household word. The former Harvard professor even rivals Jackie Kennedy for space in the movie magazines.

Typical of the Batman prose which has been draped about him was this little horror from the *New York Times* of July 17, 1971:

"Who but Henry A. Kissinger could have slipped into mainland China, arranged a future chat between Premier Chou En-lai and President Nixon, and kept it all a secret? Only the President's Assistant for National Security Affairs could match the Orientals at inscrutability. . . .

"The 48-year-old foreign policy expert manages the development of Presidential diplomacy while creating the illusion that he is a full-time permanent floating cocktail party guest of honor. That takes dazzling intellect, fancy footwork, beguiling aplomb and, it sometimes seems, mirrors. . . . He has been described as "Nixon's Svengali" and as the President's Metternich, discussed on the floor of the Senate as 'Secretary of State in everything but title.'

"The only other person in the White House who may know precisely what Mr. Kissinger represents was clearly relieved when Mr. Kissinger decided last January to give up his tenure at Harvard to stay on in Government. 'Frankly, I cannot imagine what the government would be like without you,' Mr. Nixon wrote to him."

In protocol, says one of his secretaries, Dr. Kissinger comes "just below God." The *New York Times* calls him "the President's proxy," and *Cosmopolitan* coos of Mr. Nixon's superman that he is "the Man of Steel, whom the President can trust with the world's biggest and best secrets."

In Washington, the definition of power is access to the President and possession of information valuable to him. U.S. News & World Report remarks that Kissinger "spends more time with the President in the latter's office than any other member of the official family." According to Time, "He sees the President an average of 90 minutes a day, apart from formal meetings of the National Security Council." Eugene Risher of United Press International notes of Kissinger:

"He probably spends more time with Nixon than anybody except Mrs. Nixon, much of it alone in relaxed and private discussions. At every international conference the President has held, Kissinger has been at his side. He briefs Nixon on world development for about 15 minutes each morning and spends at least another hour in the President's oval office each day. Virtually every piece of paper going to Nixon on foreign policy, intelligence, or defense passes through his hands."

In a slip of the tongue, White House Secretary Ronald Ziegler recently referred to Kissinger as "Secretary of State Kissinger." Ziegler quickly corrected the faux pas, but then declared the slip "off the record." United Press International reported it anyway, for there can be no doubt that the Press Secretary was right the first time. "Liberal" columnists Evans and Novak declare that the Harvard Professor's authority is "revolutionary," and confirm that "Kissinger's influence, as a direct result of Mr. Nixon's witness and Kissinger's own unique expertise in the mysterious ways of the bureaucracy, has also been extended over Secretary Melvin Laird's Defense Department."

This is a very interesting position for a man who had to be issued a ninety-day security waiver when he was appointed. Certainly that waiver effectively quashed any investigation into Professor Kissinger's subversive connections. The President is well aware that, after an official is ensconced in high public office for three months, it is virtually futile for the F.B.I. or any other security agency to produce an adverse security report. All of which suggests that we might profitably rummage about in Dr. Kissinger's past before inspecting his present, so that we might prophetably look into his, and our own, future.

By now every American who can read knows that Heinz Alfred Kissinger was born in Germany and emigrated to the United States in 1938 as a result of Nazi persecution of Jews. Following graduation from high school with scholastic honors in 1941, his highest ambition in life was to become an accountant. Fate, in the form of World War II, intervened.

While he was a private in the Army, Kissinger's potential somehow came to the attention of Dr. Fritz Kraemer, a fellow German refugee serving in American military intelligence. Kraemer saved young Henry (who had by now changed his name from the Germanic Heinz) from latrine duty and had him promoted into the Counter-Intelligence Corps. At first Kissinger was used as an interrogator, but after the fall of Germany he was made administrator of a large German town.

Within a year, through his capabiliites and connections, Kissinger was governing a whole district. By now he was once again a civilian with a $10,000-a-year Civil Service job, a remarkable amount of money in those days for a foreign-born youth of twenty. But the bug of ambition had bitten young Henry and he realized that he needed a college education.

In the fall of 1946, Henry Alfred Kissinger entered Harvard, where he was taken under the wing of Professor of Government William Yandell Elliott. In recommending Kissinger to *Phi Beta Kappa*, Elliott was later to observe that Kissinger is "more like a mature colleague than a student . . . his mind . . . is Teutonic in its systematic thoroughness." *Newsweek* tells us of their relationship: "Elliott, who became Kissinger's mentor throughout his student days at Harvard, was himself a consultant to five U.S. Presidents and probably helped persuade Henry to set his sights higher than professorial distinction."

What *Newsweek* neglects to mention is that Professor Elliott was one of those Harvard Leftists whose names had cropped up in 1953 during Senate Hearings on the Institute of Pacific Relations (I.P.R.). After thorough investigation, the Senate Internal Security Subcommittee found the I.P.R. to be "an instrument of Communist policy, propaganda, and military intelligence" used by the Reds to help deliver China to Mao Tse-tung. To quote further from the official findings: "Members of the small core of officials and staff members who controlled IPR were either Communist or pro-Communist." Yes, Professor Elliott knew how the world was run. And he obviously informed Henry. *Newsweek* continues:

". . . after being appointed to the Harvard government faculty in the mid-50's, [Kissinger] became intimately associated with two prestigious organizations located in that peculiarly American midway between the academy and the government: the Council on Foreign Relations and the Rockefeller Brothers Fund, Inc. And from these two convenient jumping-off points, it was just a short hop for the Harvard professor to enter government service as an expert on foreign affairs."

Through Elliott, Kissinger was initiated into the Council on Foreign Relations, the club of Establishment Insiders in which Elliott was himself an important member. So important is this organization to the subsequent rise of Henry Kissinger that we must spend a few moments describing it.

Although the nation's leading titans of finance, politics, commerce, the academy, and communications belong to the C.F.R., until recently it has eschewed publicity as Count Dracula avoids the sign of the cross. Following repeated exposure by a handful of Conservative authors, however, the C.F.R. has recently allowed certain carefully selected information about itself to appear in the Establishment media. A feature story on the Council by Anthony Lukas was carried in the New York Times of November 21, 1971. Lukas was obviously aware of the charges made over the years by Conservative opponents of this legion of America's unelected rulers. For example, he states:

"One of the most remarkable aspects of this remarkable organization, whose 1,500 members include most figures who have significantly influenced American foreign policy in the last 30 years, is how little is known about it outside a narrow circle of East Coast insiders. . . . Most newspapers references are brief notations that some notable has spoken there (omitting what he said, for all Council proceedings are off the record.)"

While the Times correspondent does admit that the C.F.R. has made American foreign policy for thirty years,[1] it is what he omits that is most interesting. Nowhere does Mr. Lukas tell us that there are well over a hundred members of the Council on Foreign Relations who hold high positions in the Nixon Administration—including, most especially, "Assistant President" Henry Alfred Kissinger.

The New York Times obviously assigned Mr. Lukas to act as the magician in charge of making the rabbit disappear into a (cocked) hat . . . so that those who have been disturbed by Conservative exposure of the C.F.R. will once again return to their siestas. Nothing is said of the largely unseen men behind the scenes at the Council on Foreign Relations who select or reject Presidential candidates, staff Administration after Administration, and set national policy. When Joseph Kraft, a longtime member of the Council, calls Henry Kissinger "the second most powerful man in the world," he means of those men who visibly hold power. As Disraeli observed, "the world is governed by very different personages from what is imagined." These are the men who took a political has-been, shattered after his defeat for the governorship of California, and made him President. And they are the men who picked up an obscure but brilliant young refugee and made him the "Assistant President" of the United States.

Writing in the *Boston Globe*, Bernard Collier refers to Kissinger's "endlessly lucky career." That is absurd. Henry Kissinger became destiny's tot because the *Insiders* who are now creating our destiny recognized his talents and selected him as their agent for the shaping and molding of American policy.

The owlish Kissinger sailed through Harvard on the wings of four scholarships, including the Rockefeller Foundation Fellowship for Political Theory. He thereby established an early alliance with the Rockefeller family, a powerful force in the Council on Foreign Relations. One day the Rockefellers, like the man from Hertz, would put him in the driver's seat at the White House. Meanwhile, Kissinger had by 1954 earned his doctorate at Harvard and was already a consultant to a number of government agencies. At the same time he was teaching at Harvard and running a group called the Harvard International Seminar which, according to *Time*, was bankrolled by the Central Intelligence Agency using foundations as conduits.

Martin Mayer writes in *Cosmopolitan* for January 1972 that in 1956: "When the Rockefeller Brothers Fund was formed, essentially as an investigative arm of the Rockefeller Foundation, Kissinger, while continuing to serve as associate director of Harvard's Center for International Affairs, was made director of its Special Studies Project." Also in 1956, when the job of Managing Editor of the C.F.R.'s *Foreign Affairs* magazine opened up, C.F.R. Harvardians McGeorge Bundy, Arthur Schlesinger, and William Elliott recommended Kissinger for the post. Instead of taking that job, however, he became a research secretary for the C.F.R. and launched into the writing of a book on nuclear weapons. According to Bernard Collier, "He worked with single-minded concentration on it. He lived with his wife in a New York apartment, and when he came home at night he forbade her to talk to him because it would interrupt his train of thought."

The *New York Times* tells us that in 1957 when that first book, *Nuclear Weapons And Foreign Policy*, was published it "brought Kissinger to the attention of scores of politicians, diplomats and military men and became a source book for American policymakers." That was obviously the plan. The flyleaf acknowledges that it was published by Harper & Brothers for the Council on Foreign Relations. *Nuclear Weapons And Foreign Policy* was particularly dangerous since instead of using the usual Marxist rationale for creating at a World Government, it arrived at that point through an apparently hard-headed analysis of Communism. It had the unique distinction of being praised by both *National Review's* James Burnham and security risk Julius Robert Oppenheimer.

In *Nuclear Weapons And Foreign Policy*, Henry Kissinger argued that the most effective deterrent to Communist aggression was the knowledge that the United States would employ nuclear weapons from the very outset. Quotations from this book were cited in a number of Conservative journals at the time of Kissinger's appointment by Nixon, the object being to show that the C.F.R. protege was a Conservative and an anti-Communist. This glossed the fact that in his next book, *The Necessity For Choice*, Kissinger stated that he had re-thought his previous stands, the ones praised by anti-Communists, and had decided they were wrong. Discussing this about-face, Chalmers Roberts observed in his column in the "Liberal" *Washington Post* for December 3, 1968, that Kissinger "later decided that it was doubtful that the United States would know how to fight a limited nuclear war and therefore a conventional strategy should first be employed in case of Communist attack."

Kissinger had now become an advocate of the sort of "limited" no-win ground wars into which we were betrayed in Vietnam. You see, Henry said, "The Soviets cannot profit from limited war." Which is totally absurd. The Soviets have profited enormously by fighting America by proxy in both Korea and Vietnam.

Instead of relying upon a nuclear deterrent, Professor Kissinger now proposed that America put her faith in disarmament treaties. In *The Necessity For Choice* he put it this way:

"This is the measure of the task ahead: simultaneously with building our capabilities for limited war and our conventional forces, we will be embarked on arms-control negotiation of crucial import. Our leadership must convince public opinion that we have to increase our military expenditures even while making earnest efforts to negotiate on arms control."[2]

Henry Kissinger has been deeply involved with the nuclear disarmers for many years. According to James Reston of the C.F.R. and the *New York Times*:

"Kissinger worked very closely with Jerome Wiesner, Thomas C. Schelling and others on the formulation of 'the strategy of equilibrium' for dealing with the Soviet nuclear threat. . . . This stable deterrent system, it should be noted, did not rest, as Mr. Nixon's campaign speeches seemed to rest, on the assumption that the United States must always have a clear superiority in military arms over the Soviets."

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[1] Mr. Lukas reminds us in the *Times* that "everyone knows how fraternity brothers can help other brothers climb the ladder of life. If you want to make foreign policy, there's no better fraternity to belong to than the Council."

[2] Kissinger writes in the preface to this book: "I must say a word about two other institutions which have given me encouragement and support: the Carnegie Corporation of New York and the Council on Foreign Relations. . . . Five years ago, the Council on Foreign Relations gave me my first opportunity to work systematically on problems of foreign policy. My relations with it have remained close and my admiration for it has, if anything, increased. . . . In 1958–59 I had the privilege of acting as research secretary for a discussion group on Political and Strategic Problems of Deterrence. . . ."

Schelling and Wiesner, both "Liberal" Democrats and members of the Council on Foreign Relations, are two of the foremost leaders in the effort to disarm America. They openly oppose American military superiority over the Communists. According to Joseph Kraft, Professor Schelling was Kissinger's closest friend at Harvard and advocates a U.N. "Peace Force" with an "invulnerable nuclear deterrent" used as a "strategic force absolutely committed to preventive war." The "Liberals" have always told us that "preventive war" against the Communists is unthinkable, but Kissinger's closest friend at Harvard proposes using nuclear weapons against any country resisting the World Superstate. He specifically advocates nuclear bombing of the United States should it oppose the world dictatorship of the United Nations.[3]

Kissinger has himself been a participant in at least one of the Pugwash Conferences on disarmament, those periodic meetings of radical American scientists and politicians with their Soviet counterparts. These Conferences are sponsored by pro-Soviet activist Cyrus Eaton, whom the Reece Committee to investigate foundations discovered to be a secret member of the Council on Foreign Relations. The Pugwash Conferences were often the target of Republican attacks during the Johnson and Kennedy Administrations.

But then Henry Kissinger is amazingly bipartisan. He has been an advisor to every Administration since that of Harry Truman. As Ray McHugh of the Copley News Service observes:

"Kissinger is the man who wrote the so-called Rockefeller Commission Report on the Defense Department in 1953 that suggested major moves toward centralization of the defense establishment. President Eisenhower did not invoke many of the recommendations, but the Kissinger plan later became the blueprint for Robert S. McNamara's reign in the Pentagon.

"Kissinger's Pentagon reorganization ideas alienated many professional military officers. . . ."

My, my isn't *that* interesting! Robert McNamara and Henry Kissinger are, of course, both members of the ubiquitous Council on Foreign Relations. But wasn't it those very McNamara policies that Mr. Nixon, who has also been listed as a member of the C.F.R., pledged during his 1968 campaign to repudiate? You just know it was.

During the Kennedy Administration, Kissinger was special consultant to J.F.K. on the Berlin Crisis.[4] If the President's decision to accept the Berlin Wall as *fait accompli* was not a product of Kissinger's advice, at least he has never repudiated it. President Kennedy soon appointed Henry Kissinger to the Arms Control and Disarmament Agency, whose stated goal is not only to disarm us, but to transfer American arms to an all-powerful U.N. military force. Kissinger certainly knows that the military arm of the United Nations, as represented by the Under-Secretary for Security Council Affairs, has by America's agreement been headed by a Communist since the founding of the United Nations.[5]

Henry Kissinger's star continued to ascend during the Johnson Administration as the President used him on three highly secret missions to Vietnam, two of them to North Vietnam itself. Of course, during the period that he was advising Democrats Kennedy and Johnson, Kissinger was also foreign policy advisor for Nelson Rockefeller—a fact indicative of the power and influence the Rockefellers have in Washington no matter which party is in power. According to the late *Look* magazine:

"When Nelson Rockefeller decided to run for President in 1968, Kissinger tutored the New York Governor through a series of seminars designed to reformulate Rockefeller's thinking on foreign policy. In fact, one reporter who interviewed Rockefeller was directed afterward by the Governor's office to Kissinger to find out just what Rockefeller had meant."

Henry Kissinger's attitude toward Richard Nixon was revealed in the *Wall Street Jounal* for December 3, 1968:

"When the Republican Convention in Miami this summer picked Richard Nixon for President, one of the most disgusted onlookers was a 45-year-old Harvard professor named Henry Kissinger. 'All of us Rockefeller-rooters were disappointed of course," recalls a Kissinger teammate, 'but Henry was really bitter.' "

So crestfallen was Kissinger, according to Bernard Collier in the *Boston Globe*, that "When Rockefeller had lost for sure, Henry was seen weeping." Collier says: "The alleged Kissinger quotation that is most often repeated is: 'That man Nixon is not fit to be President.' " And, Mr. Kissinger's contempt for Nixon continued for some time, as *Newsweek* observes in its issue for December 22, 1969:

"He received an immediate offer to help write nominee Nixon's speeches but turned it down because, a former associate recalls, "Henry doubted that he could write anything that Nixon would be wiling to use.' But he did remain in informal contact with both the Nixon camp and members of Hubert Humphrey's foreign-policy task force."

Apparently his C.F.R. contacts would have assured Kissinger the same position of importance in either a Humphrey or Nixon Administration. Certainly Henry has never even pretended to be a Republican. *Look* said that Kissinger is a " 'political independent' who likes to think of himself as 'liberal.' " Columnist Nick Thimmesch adds that "as a political independent, it is doubtful that Kissinger even voted for Nixon."

Nonetheless, Henry A. Kissinger was President-elect Nixon's first major appointment. We are asked to believe that it was fate, the result of a casual meeting that proved to be love at first sight. The *New York Times* for December 3, 1968, tells us that "Dr. Kissinger has known Mr. Nixon less than a year—they met at a Christmas party at the home of Mrs. Clare Boothe Luce—but Mr. Nixon said he knew Mr. Kissinger long before through his writings [*for the C.F.R.*]." We are apparently supposed to believe that Richard Nixon appointed Professor Kissinger to the most important position in his Administration on the basis of this happenstance meeting at a party. Obviously the President-elect made the appointment on the advice or at the direction of others.

The *Desert News* of Salt Lake City can afford to be less coy than the *Times*. It tells us the truth about how Kissinger came to be selected as Mr. Nixon's Colonel House: "In the end, it was Rockefeller himself who brought Nixon and Kissinger together. 'Rocky set up the job for Henry,' says a former Rockefeller aide, 'because he . . . thought it might give him (Rockefeller) some voice in foreign policy.' " *U.S. News* confirmed this in its issue for November 1, 1971, as follows: "It was on the advice of Governor Rockefeller, who described Mr. Kissinger as 'the smartest guy available,' that Mr. Nixon chose him for his top advisor on foreign policy." And *Cosmopolitan* adds: ". . . Though nobody says it in so many words, apparently Kissinger did not accept the offer until he had talked over the situation with Nelson Rockefeller."

Just why Rockefeller, who could not even deliver his own state's electoral vote to Nixon, should be naming the key man for the Nixon Administration is a point which concerned Americans should ponder. It is both ironic and sad that even the Conservative weekly, *Human Events*, was at the time gloating that Rockefeller and his allies had been shut out of all key posts in the Nixon Administration.

Nelson Rockefeller, whose brother David is Chairman of the Board of the Council on Foreign Relations, had advocated the establishment of a sort of "Assistant President" in 1960, when Nixon made his first run for the White House. This "first secretary," according to the *Wall Street Journal* of June 23, 1960, "would be answerable only to the President; he would determine long-range policy. . . . He would have the status of prime minister, as it were, and he would outrank the Cabinet members." As Rockefeller saw it, there would be two positions. One man for foreign affairs (Kissinger), and one for domestic affairs (originally Arthur Burns, now George Schultz). Upon announcing the appointment of Kissinger, President-elect Nixon revealed that his job would be to plan "long-range policy."

In making the appointment, Mr. Nixon said several men had been under consideration, but: "I felt that at this time there was a need to bring to government someone who had never had that responsibility before." While this was in line with Candidate Nixon's pledge to bring "new leadership" to America, it was not in line with the facts. As we have seen, Kissinger had been an advisor to the previous three Administrations. Asked whether the appointment meant that he was embracing ideas expressed by Mr. Rockefeller, the President-elect responded: "As we approach these problems, we are going to approach them without any inhibition with regard to statements that have been made in the past by those in the planning functions."

If you can make heads or tails of that artful circumlocution, please explain it to me.

The American voters should have opened fire as soon as they saw who saluted when Nixon ran Kissinger's flag up the pole. The Far Left went into fits of ecstasy. The *New York Times* of December 4, 1968, quoted Professor Adam Yarmolinsky (C.F.R.) of Harvard, the notorious Leftist who was responsible for the Kennedy appointment of Robert Strange McNamara to be Secretary of Defense, as declaring: "I will sleep better with Henry Kissinger in Washington. He has the kind of judgment, balance and ability to see that the President is exposed to the whole spectrum of views he should get." The *Times* then quoted Arthur Schlesinger Jr. (C.F.R.) as declaring: "I think it's an excellent appointment. It's very encouraging. He's the best they'll get. He asked for my advice a few weeks ago and I urged him to accept." Professor Schlesinger added that he did not think Kissinger would have accepted the job if he had believed Mr. Nixon's campaign speech calling for arms superiority over the Soviet Union.

George F. Kennan (C.F.R.) also "applauded" the selection. And John Kenneth Gailbraith "called the appointment of his friend 'a good one.'" James Reston (C.F.R.), apparently the Establishment's chief media spokesman since the retirement of Walter Lippmann (C.F.R.), declared Mr. Nixon's choice of Kissinger "a reassuring sign that the new administration is going to make a serious and objective reappraisal of its security programs and priorities." The ancient radical Max Lerner noted, "It is also a happy choice because of Kissinger's high standing in the intellectual community." And "Super-liberal" Joseph Kraft (C.F.R.) wrote:

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[3] For the ugly details see Dr. Thomas Schelling's *Strategic Problems Of An International Force*, quoted in "Inspectorate," *American Opinion* for May 1965.

[4] Henry Kissinger has remained loyal to the Kennedys, and according to *U.S. News & World Report* of July 14, 1969, he is "a professed admirer of the late Senator Robert F. Kennedy—a man whose policies were anathema to rank and file Republicans."

[5] See *American Opinion*, January 1972. "Get US out!"

"The best augury to date for the incoming administration is the article on Vietnam just published here in Foreign Affairs by Henry Kissinger. Nobody can tell how the new foreign policy team named by President-elect Nixon will respond to the challenge of events. But at least the way is finally open to play it straight with the Communist world."

Business Week reported that the appointment of Kissinger "should banish the notion that Nixon might pursue any simplistic sort of anti-Communist policy in the world." And the delight of the Establishment Insiders generally was summed up by Joseph C. Harsch, another member of the C.F.R., who observed in his column:

"Politically, Professor Kissinger belongs to the 'Eastern Establishment.' . . . Kissinger has grown up in the foreign policy group which revolves around the Council on Foreign Relations in New York. Here he came to know, and work with, the whole cluster of top men in banking and industry who make up the true inner core of the so-called 'Eastern Establishment.'"

William F. Buckley Jr., the Establishment's certified voice of reasonable and respectable opposition, cooed that Kissinger was the "anti-Communist at Harvard." Buckley had also given his perfumed seal of approval for Nelson Rockefeller to be Nixon's Secretary of State. Apparently Mr. Rockefeller accepted by proxy!

Time magazine wrote of Kissinger: "Bonn, London and Paris may disagree on a score of issues, but they are in happy unanimity in their respect for him; even Moscow is not displeased." You can bet Moscow was not displeased! But those who voted for Nixon had every right to be. Throughout his campaign Candidate Nixon had proclaimed: "We cannot be led in the '70s by the same men who led us from disaster to disaster in the '60s." Yet Nixon's very first move was to appoint one of the architects of those disasters to the most important position in his Administration. According to Establishment spokesman James Reston:

"Dr. Kissinger, who took his doctoral degree at Harvard under McGeorge Bundy [C.F.R., and now head of the Ford Foundation], has been concentrating on precisely these problems for years at Cambridge and at the Council on Foreign Relations in New York, and it is significant that he has the repect of most of the foreign policy experts who have served the last three presidents."

The more it changes, the more it remains the same. When a new Administration enters, Team One of the C.F.R. returns to the foundations and the academy, and Team Two takes its place under the banner of "New Leadership."

As the President's chief advisor on foreign policy, Kissinger now sits at the apex of a pyramid of vital committees. The most important of these is the 25-man National Security Council, charged with formulating U.S. defense policies. Henry Kissinger helped President Nixon bring "New Leadership" to America by picking twenty-three holdovers from the Kennedy-Johnson Administrations for that Council—a fact almost totally ignored by the Establishment media. Columnist Anthony Harrigan, who did comment, said:

"Nixon Administration supporters who closely observe the defense establishment and who count themselves as realists in military and foreign policy issues were shocked recently when they saw the full list of new National Security Council members.

"Dr. Kissinger has assembled a staff made up of people identified with the Kennedy and Johnson Administrations and with such individuals as McNamara, Rusk, Rostow and Katzenbach. To many people, the list will appear to be nothing less than incredible. . . . The Kissinger selections would fit in nicely with a Hubert Humphrey or Edward Kennedy Administration."

The *New York Times* quoted a "knowledgeable Johnson Administration official" as admitting Kissinger's staff was comprised of "virtually all in-house people." Another observed that holdovers from the Kennedy-Johnson Era would outnumber newcomers from the academic world or Nixon's campaign organization. The disgusted American Conservative Union, a predominantly Republican organization, declared in its *Battle Line* for February-March 1969:

"But what all this means should be clear to any conservative who still possesses his reason. Whatever policies in foreign affairs President Nixon may choose to follow, the apparatus he has established to execute those policies is controlled by the very liberals who have weakened American power and prestige for two decades."

Most of Kissinger's staff was put together from McNamara's "Whiz Kids" and the staff of Walt Rostow, who was three times refused security clearance. For instance, an early member of the Kissinger staff was Daniel Ellsberg, who was part of a special panel of foreign policy experts working to formulate Nixon's Indo-China policy.

All policy options devised by the various important Administration committees filter up to Henry Kissinger, who in turn synthesizes them for the President. Kissinger is at the apex of the system, and while the claim is made that he passes on all recommendations to the President with total objectivity, he would be less than human if his own very strong views were not reflected in the presentation. As Kissinger remarks about his job: "I make very sure to tell the President of the choices various departments recommend and the implications of each. Usually, he asks which I'd take and I tell him."

David Landau of Harvard writes in the *Los Angeles Times* that Kissinger "is the single authoritative carrier of national policy besides the President himself." Professor Kissinger's disdain for advice from *hoi polloi* of the Cabinet and Congress has become legendary, and is described by Landau in the *Los Angeles Times* of July 18, 1971, as follows:

"Kissinger felt that the Presidency was the only office of government which could determine and execute foreign policy in the way it should properly be conducted. Congress was an impediment; its members, by and large, were not properly schooled in the hard-fought, intricate practice of diplomatic affairs and were more likely to respond to the uninformed concerns of their voters, to the shoddy tug-and-pull of the popular political process, than to the arduous twists and turns of great-power relationships. . . .

"His feelings are similar toward the academics who parade to Washington to peddle their ideas. And when one sets aside popular opinion, Congress, the bureaucracy and the academic community, there remains the President alone. The inescapable conclusion is that Kissinger's only meaningful constituency is a constituency of one."

Mr. Nixon has made much political capital with rhetoric about the necessity of decentralization. But the national security system which Kissinger has set up for the President is centralization personified. As Landau puts it:

"Such a policy of threat demanded a high degree of centralization—and the resulting Nixon-Kissinger policy structure was designed to circumvent those forces in government, such as Congress and the Cabinet bureaucrats, which were considered extraneous to that approach."

So centralized is the decision-making process that there is some indication that Henry Kissinger may be more important in setting foreign policy than even the President. While discussing the Indo-Pakistani War, the arrogant Kissinger told the other members of the Washington Special Group meeting at the White House: "The President is under the illusion that he is giving instructions."

Does Henry Kissinger ignore the President's instructions with impunity? One wonders. Certainly President Nixon recently took another giant step towards centralizing power in the hands of Kissinger by giving him absolute control of an intelligence activities. On November 5, 1971, U.P.I. reported:

"President Nixon has ordered an overhaul of the government's intelligence operations by creating a special committee headed by Dr. Henry Kissinger, the White House announced today. The announcement said Kissinger, presidential advisor on national security affairs, will supervise an intelligence committee to be set up within the National Security Council.

"Reporting to him will be Richard Helms, director of the Central Intelligence Agency; the attorney general; the undersecretary of state; the deputy secretary of defense and the chairman of the Joint Chiefs of Staff."

Naturally, the White House said it was making the changes to "increase efficiency and improve quality," but David Kraslow of the Los Angeles Times indicates that the changes are being made because the White House is unhappy with the fact that the various bureaus of military intelligence are "alarmist" about Communist plans, whereas the C.I.A. and Kissinger take a more reasonable view. Columnist Flora Lewis adds the following:

"There is also a concern that the reorganization, which makes the President's national security advisor, Henry Kissinger, top dog over intelligence, will centralize the system so much it will become a tool for White House aims, not an outside source of technical expertise."

General Nathan Twining voiced similar worries over such centralization of intelligence as early as 1966 in his book Neither Liberty Nor Safety. Well aware of what it could mean, Twining warned:

"If I were more inclined to hysteria and gloom with respect to the future health of our military forces, I would take very seriously the comments of one of my former staff officers, who in 1961, made the following observation:

"'The first thing which a revolutionary coup attempts is to seize control of the communications system, the public information system, and the intelligence system of the government in power which is being overthrown. Even though there has never been an overt coup in this country, it seems to me that our government is creating a very powerful machine, a machine possibly subject to the whim and the control of a single agency. This agency is not now despotic, nor is it interested in the overthrow of the system of government which is America's heritage. However, I worry about the people who will come later and so, I must also worry about this constant erosion of our traditional system of checks and balances and the interference of free communications with the American people.'"

Kissinger watchers have remarked that the President's security advisor is suffering from an absolute case of Action's Disease. Henry is getting precariously close to absolute power—and it shows. According to Bernard Collier in the *Boston Globe*, he had a traumatic childhood and a domineering mother, and as a result Henry "broods and worries and wrestles with guilts." Collier continues: "He will have small nasty tantrums, sometimes so close together that they seem like one big one . . . ." Kissinger's close friend Joseph Kraft remarks that "His suspiciousness is proverbial." *Life* describes him during his days as a professor:

"At Harvard he was seen as a tense, driven man with a prickly personality that made him as many enemies as friends. He was proud, impatient, intolerant of fools and suspicious of those who seemed potential competitors. 'Sooner or later,' said a man to whom it had happened, 'that thin link of trust Henry had with anyone would break and then he would be a devastating adversary.'"

Working for Kissinger is reputed to be akin to spending life in a pressure cooker. A former member of the Kissinger staff spoke of him to writer Noel E. Parmentel: "He's got us all buffaloed He can (and will) lift your security, get you a foundation black ball, bong you at the colleges, put you in Coventry. He's got spies in every department. He's running the Ministry of Fear. All his phones are tapped and he keeps long dossiers."

Another former Kissinger employee bitterly refers to Henry as "Dr. Strangelove," and uses adjectives such as "selfish, cunning, calculating, power-mad, and publicity-obsessed." This former staffer declares: "In my book Hank Kissinger is a suspicious, fearful misanthrope surrounded by people who are compelled to maintain a low profile to keep their jobs. I'd sooner dig ditches than work for him again."

Described by Bernard Collier as a compulsive nail biter, Kissinger reminds others of Captain Queeg in *The Caine Mutiny*. "I have been accused of megalomania," says Kissinger. "Actually I suffer from paranoia." Kissinger is supposed to be kidding, but the members of his staff laugh just loud enough to get by.

Friend and foe alike agree that Henry thoroughly enjoys his power and fame. Joseph Kraft tells us Kissinger's intellectual hero is the German philosopher Hegel. This will mean nothing to those who are unaware that both Karl Marx and Adolf Hitler built their dreams on Hegel's theories of dialectical materialism and total subservience of the individual to the state. As Kissinger told *Look*: "The imperatives of the individual are always in conflict with the organization of society." He makes it clear that "the organization of society" under the federal government comes first—right after Henry Kissinger.

But the machines of mass propaganda spend little time on such aspects of Kissinger's personality. We are told what a devoted father he is to his two children, but nothing is said about why he abandoned them. Some of the gooier puff even implies that he is still deeply in love with his former wife, Ann Fleischer, and only chases movie starlets to forget the loneliness of life without her. That is hardly the picture painted by the acitic Noel E. Parmentel:

"When he [Henry Kissinger] was married to Ann, who was a genuine human being, he couldn't stand it. After she literally slaved to send him through graduate school he almost turned her into a zombie with all that screaming and shouting. Just like the Gestapo. He was ashamed of her New York accent and always told her how she embarrassed him in front of 'important people.' It got so bad she was scared to even open her mouth. That house in Belmont was like 'Gaslight.'"

Little wonder his wife divorced him.

But Dr. Kissinger shows no signs of pining away. Despite the fact that he is said to work from twelve to twenty hours a day, he somehow manages a flamboyant social life. 'Kissinger spread the word by describing himself to a group of journalists as "a secret swinger." Now, reveals the stodgy *New York Times*, "Glamorous women reportedly stalk him at social events." *Parade* quotes one of these as gushing, Henry is "my own jolly little war criminal obsessed with power. But I love him." *Women's Wear Daily* has actually called him "Cuddly Kissinger." As the Don Juan of the Potomac confided to a *New York Times* reporter, "Power is a great aphrodisiac."

When he is out playing, Kissinger carries an electronic "call-boy" to summon him to instant communication with the President.

Among the much-known ladies who have been connected with the Lothario of the White House are Women's Lib leader Gloria Steinem, a former C.I.A. shill who is now sponsor of the Committee to Defend the Black Panthers; Leftwing activist Jill St. John; Zsa Zsa Gabor, Marlo Thomas, Hope Lange, and Samantha Eggar. While Kissinger usually enjoys the publicity, he wasn't too pleased when Judy Brown, best-known for her role in the pornographic X-rated Danish film, *Threesome*, called in reporters to discuss their eighteen-month relationship.

At a recent Hollywood party, Henry was introduced to Playboy's June Wilkinson, who is best know for her oft photographed serial numbers: 42–22–36. Gossip columnist Nancy Anderson reports: "The next morning the President's advisor phoned June for a date, giving her the surprise of her life, because she didn't think he had her brand-new, unlisted phone number. Henry explained: 'I called the White House and got it in three minutes.'" Big Brother has your number too!

While Kissinger's proclivities for public chasing may be symptomatic of his neurosis, they do not directly affect the survival of the nation. His attitudes and policies toward Communism do. Water Trohan, columnist emeritus of the Chicago Tribune, strongly protests the policies now being pursued by Nixon and Kissenger. Trohan observes:

"Only six years ago Henry A. Kissinger branded as 'suicidal' the policy of communist appeasement on which he has embarked the President and the United States. The assistant to the President on national security affairs has done a complete about face. In 1965, while he was at Harvard University, Kissinger wrote a book, 'The Troubled Partnership,' which was published by the McGraw-Hill Book Co. In this book he clearly warned against efforts by our leaders to deal with their Communist Russian counterparts. He wrote frankly and to the point: '. . . Such a course is suicidal for the West. It will stimulate distrust within the alliance. The traditional Western balance-of-power diplomacy will reappear manipulated by the Kremlin. [One may substitute Peking, if one pleases.] Any Soviet [Peking] incentive to be responsible will vanish. The Soviet [Peking] leaders will be able to overcome their difficulties with the assistance of the West and without settling any of the outstanding issues.'

"The U.S.-prompted move to get Red China into the United Nations has stimulated distrust within the Western Alliance. Nationalist China was expelled by the votes of our allies. Allies were encouraged to vote against Nationalist China by Kissinger's second trip to Red China at the time admission was an issue in the U.N. Already France is pursuing a course of bilateral diplomacy with the Kremlin. So is Canada."

It should also be mentioned that Kissinger has cleared West German détente with the Soviets. He has done much to destroy our alliances in both Asia and Europe, and in doing so has strengthened the Communists immeasurably. At the same time these moves, combined with the endless war in Vietnam, have produced in America a near paralysis of will to resist Communism. When the "Liberal" Democrats told the public that the Cold War was over and the rowdy Reds had been domesticated, a significant portion of the American people refused to believe them. Now that the false promises of "peace" are emanating from "Conservative" Republicans, the great masses of American people are sinking slowly into their easy chairs, mesmerized by pipe dreams of the lion at last lying down with the lamb.

The Nixon Administration has from the start worked to soften the image of the Communists as an implacable foe bent on world rule. After all, if Communism is intrinsically evil, and if the Reds are untrustworthy and break their treaties, why would we want an "era of negotiation"? In order to prepare the American people for this glorious new era, Mr. Nixon's campaign rhetoric to the effect that America must settle for nothing short of military superiority over the Soviets was immediately replaced with Kissinger's doctrine of "sufficiency."

Dr. Kissinger helped prepare a report for the Carnegie Endowment for International Peace which opposed Nixon's campaign appeal for "nuclear superiority." Shortly after that report was submitted to Nixon, the President at his first press conference came out for "sufficiency" instead of superiority. A column by union propagandist Edward P. Morgan revealed that "sufficiency" is not a new invention. According to Morgan:

"Nuclear physicist Ralph Lapp refers to it several times in his recent book, The Weapons Culture. It has also been attributed to Columbia University's Zigbigniew Brzezinski, one-time head of the State Department's policy planning staff and foreign policy advisor to Hubert Humphrey in the 1968 Presidential campaign."

Brzezinski is of course a member of the Council on Foreign Relations. Morgan continues:

"Physicist Lapp, a steadfast critic of the nuclear arms race, described the President's adoption of "sufficiency" last week as a "fantastic Republican U-turn" and said he was delighted with it."

Kissinger says the concept of "sufficiency" is explained by the following principle: "The foundation of a stable order is the relative security—and therefore the relative insecurity—of its members." That's doubletalk, and it means our chief adviser on national security desires that the United States be relatively insecure. That is a fantastic U-turn for the Republican Party. And it was immediately after adopting this approach that the Nixon Administration entered the Strategic Arms Limitation Talks.

Mr. Nixon's Colonel House does not even view Communism as a threat within our own Hemisphere. The respected columnist Paul Scott reveals that it is "Colonel" Kissinger who is behind Mr. Nixon's repudiation of his campaign promises to quarantine Castro:

"Henry Kissinger, the controversial White House national security advisor, is apparently convinced that President Nixon has no intention of carrying out his campaign promise to adopt a hard-line policy toward Communist Cuba. Although the President pledged to tighten the U.S. economic-political quarantine of Cuba if elected, Kissinger is working quietly within the Nixon Administration for just the opposite.

"The President's chief foreign policy advisor has asked the Rand Corporation, a private study organization, to make a report on the feasibility of restoring political, economic and cultural relations with Castro's Cuba.

"'If Kissinger wanted a policy to back up the President's campaign pledge, he wouldn't have asked for that type of study,' stated one high-ranking Defense Department official. 'His request would have been for a joint State-Defense review on how the quarantine could be strengthened.'

"For example, Kissinger has encouraged persons working on Governor Nelson Rockefeller's Latin American report to press the view that the U.S. should offer Cuba normal relations with trade. He also had a major role in getting the National Council of Churches recently to call for the U.S. to drop its quarantine of Cuba and reestablish diplomatic relations."

Henry Kissinger even arranged for the Nixon Administration to reverse its promises to the people concerning aid and trade with Communist nations. Instead of closing down any pipelines to the Communists, Nixon followed Kissinger's advice and increased trade with the Communist bloc by one thousand percent while the President's Commerce Secretary predicted an even greater expansion in the near future. The Pentagon was recently informed that *all* the barriers to Red trade are coming down, and that any objections from within the ranks will be dealt with hashly.

It was Kissinger who arranged President Nixon's trip to Communist Romania, and who is now encouraging the President to turn over to the Hungarian Communists the Holy Crown of St. Stephen, symbolic of the legitimate rule of Hungary and now in safekeeping with the U.S. Government. Both of these moves are calculated to demonstrate to the captive nations that rebellion is hopeless, for the United States is now on the side of their captors.

Professor Kissinger is also running up the white flag here at home. Each year he attends the Soviet Embassy's annual celebration of their victory in the Bolshevik Revolution. There, amid vodka toasts to the Glorious Soviet Union, our highest security advisor fraternizes with some of history's greatest mass murderers. What is *any* American doing at a celebration of the victory of the Bolsheviks? If this is not hypocrisy then, with American boys being killed with Soviet weapons in Southeast Asia [7] it is treason!

Certainly "our" Henry the K. is on the coziest of terms with Soviet Ambassador Dobrynin, a high official in the Soviet K.G.B. The *New York Times* reveals of Kissinger:

"On the wall of his office in the White House is a curious photograph—a veterinarian about to inoculate a bulldog. Mr. Kissinger admired it at an exhibit of Soviet photographs. It was sent to him by the Soviet Ambassador, Anatol F. Dobrynin, with this message on the back: 'Henry, don't be too serious. Take it easy, Relax, Anatol.'"

It certainly makes one feel all warm inside to know that Anatol and Henry are such good friends.

Meanwhile the Vietnam War is a disaster unparalleled in American history. Every aspect of that seemingly endless conflict hurts the American cause and helps the Communists. It has alienated virtually an entire generation; it has paralyzed our nation's will to resist Communism; it has promoted weakness and pacifism; it has been used to excuse the hippie movement and the drug cult; it has escalated inflation to dangerous proportions; and, it has been used to destroy morale and discipline in the military. Yes, it has been Henry Kissinger's kind of war.

Kissinger was one of the originators of the "flexible response" doctrine of "limited warfare" which produced the Vietnam tarbaby. In *The Necessity For Choice*, he wrote: "Limited war is based on a kind of tacit bargain not to exceed certain restraints . . . it takes two to keep a limited war limited or a local defense local." The Vietnam War has been just such a tacit bargain for America to continue to pour her sons into the meat grinder while the Soviets arm Asians to do their killing for them. Kissinger has maintained: "Any limited war must have some sanctuary areas." It has been these sanctuary areas, where the real targets are, which have permitted the war to be dragged on for a decade when almost every military authority says it could have been ended with victory in a few months.

Within a week of Kissinger's appointment by President Nixon an advertisement appeared in the *Washington Post* promoting a new radical book entitled *No More Vietnams?* Incredibly, this Vietnik polemic was authored by superpinks Theodore Draper, Edwin Reischauer, Stanley Hoffman, Hans Morgenthau, Arthur Schlesinger Jr.—*and Henry A. Kissinger*. Dr. Kissinger was a dove on Vietnam before Dr. Spock, yet *U.S. News & World Report* calls him "the author of the Administration's basic formula for dealing with the Vietnam problem." One can only gasp!

An especially telling insight into Kissinger's duplicity in this business appeared in a column by Jules Witcover on June 24, 1968. Mr. Witcover described a private background dinner with Kissinger and eight of the nation's top columnists and news commentators during the early part of June. Jules Witcover revealed that Kissinger "suggested strongly that the Nixon Administration is not unalterably opposed to an eventual Communist takeover in Saigon so long as the Administration isn't blamed for it." And, Witcover continued:

"At that dinner in the Georgetown home of a prominent columnist, Kissinger said that if the war was ended, and six months later Ho chi Minh was sitting in Saigon, that would not be an honorable end. But, he said, that if two or three years later, Saigon went Communist, the Administration would accept that."

Accept it? It's being planned that way! Writing in the London Observer, Nora Beloff comments of Kissinger:

"No one was more responsible than the former Harvard professor for hammering out President Nixon's peace offer, disavowing military victory. . . . If he is right, the Americans can look forward to a more or less painful withdrawal even if, after several years, the Communists take over."

In his syndicated column of December 5, 1968, Joseph C. Harsch (C.F.R.) revealed that Kissinger "was one of the first among the top experts to conclude that a military victory in Vietnam was, perhaps, neither possible nor to be desired." To think that military victory is impossible might be only a reflection of ignorance; to decide that it is not desirable amounts to treason. And Americans know it!

Thinking to praise Kissinger, Nora Beloff writes: "He is less troubled by the turbulence on the left than by the threat of an anti-intellectual backlash from the right." (Read: His only fear is that when Americans realize how they've been had they could well descend on Kissinger and those he represents with an anger worthy of an enraged Zeus.) Professor Kissinger's friend, Joseph Kraft, confirms this fear. He maintains Henry Kissinger's job is to camouflage our defeat in Vietnam, and writes that the war was extended into Cambodia "because otherwise President Nixon would be unseated by the super-patriots of the right." The Boston Globe confirms this as follows: "As one might suspect from his background, Henry Kissinger says he is most concerned about the danger on the right."

So far, Dr. Kissinger has succeeded in avoiding any backlash by prolonging the war until even Vietnam hawks are thoroughly exhausted. And he has now pulled off a series of cloak and dagger stunts in Paris which amount to a proposal of American surrender—complete with reparations to be paid the enemy. If it works, the Communists will in a few years control Saigon, Phnom Penh, Vientiane, and Bangkok. But if America wakes up to what is happening, Professor Kissinger will, indeed, get a very close look at that "danger on the right" about which he is worried.

Meanwhile, the Kissinger-Nixon team has managed to pull the linchpin on the Republic of China, the Taiwan mainstay of anti-Communism in Asia. Now that other Asian nations see we are preparing to surrender South Vietnam and betray Taiwan to the Red Chinese, they are reading the handwriting on the wall—and they note that it is written in the fine hand of Henry Alfred Kissinger.

It was only twelve days after President Nixon took his oath of office that he instructed Professor Kissinger to explore the possibilities of opening relations with the regime in Peking, now carefully referred to as the People's Repubic of China. Mr. Nixon took this action after promising during the campaign that he would do no such thing. At the same time, he was writing in the C.F.R.'s official house organ, *Foreign Affairs*, that he *would* establish relations with the Red Chinese. Different words for different birds.

Kissinger has claimed that "the People's Republic is led by a highly principled man" and expressed high praise for the Asian Eichmann, Chou En-lai. To Henry Kissinger, we are told, the fact that we have had "problems" with those who control Mainland China has nothing to do with Communism. *Life* quotes him as follows:

"The turbulence in Asia is a matter of imbalance rather than ideology alone—it is the result of the size of China, 700 million people. It is not a matter of what government they have but the fact that they are all united behind one government."

Which is a falsehood so arrogant and obvious as to inspire awe.

The "ultimate relationship" between Peking and Taiwan, Kissinger told a news conference, should be settled "by direct negotiations between Taiwan and the People's Republic of China." In other words, "Adios, Chiang!" The United States has already reduced its military commitment to Free China, and the move is being read in the Orient for what it is: a pullout. World leaders also read the graffiti on the wall when Kissinger was visiting in Peking as the vote came up for seating Red China in the United Nations and expeling our Nationalist ally. Kissinger dismissed it as "a painful coincidence," but a diplomat in Hong Kong remarked: ". . . the fact is that foreign ministries make a special effort to avoid such coincidences. Coincidences happen only when they are planned. Why was it planned in this case?"

It appears that the move is designed to create a Great Troika, embracing the U.S.S.R., Red China, and America as a step toward the Great Merger. Kissinger knows Americans would be very reluctant to enter a World Government dominated by the combined and united powers of Russia and Red China. The two must be made to appear to have as great difference with each other as they have with us—and that is how it has been made to appear to the American public.

Like the other Establishment *Insiders*, Henry Kissinger always refers to the planned Great Merger of the nations of the world as a "new world order." *Newsweek* notes: "'International order,' the highest value in Kissinger's political pantheon and a recurrent phrase in all his writings, can only be achieved through the most delicate balance of major-power relations." As Henry says, Institutions based on present concepts of national sovereignty are not enough." The World Superstate, Kissinger explains, "will not come quickly; many intermediate stages must be traversed before it can be reached. It is not too early, however, to prepare ourselves for this step beyond the nation-state."

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[7] On October 9, 1971, the *Washington Post* carried this statement by Soviet President Nikolai Podgorny: "The Soviet Union supports until total victory the Vietnamese people's patriotic struggle against U.S. aggression. . . ."

And that is just what Dr. Henry Alfred Kissinger is preparing for us.

Many Republicans want desperately to believe that Richard Nixon is still basically sound, but that he is a victim of Kissinger, who has somehow hypnotzed the President. That is utter nonsense. As a columnist for the "Liberal" *Chicago Daily News* put it: "Kissinger understandably is President Nixon's pride and joy." And remember that Richard Nixon has written to Kissinger: "Frankly, I cannot imagine what the government would be like without you."

Supply your own comeback.

## COMPLETING THE EMPLOYMENT ACT

## HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mrs. MINK. Mr. Speaker, one of my Hawaii constituents, Dr. John H. G. Pierson, has proposed a method to resolve the unemployment-inflation problem by amending the Employment Act of 1946.

His statement, "Completing the Employment Act," offers a most provocative approach to one of the most urgent problems facing the Government.

Because of the wide interest in this subject, I am including Dr. Pierson's statement in the RECORD. Briefly, he suggests that the President propose, and Congress enact, a policy to achieve an annual employment level determined to be most productive to our economy. This would be accomplished through expanded or contracted Federal budget levels, increased or reduced taxes, and similar direct steps, all in line with a predetermined goal.

Dr. Pierson, who has a Ph. D. in economics from Yale, served for many years as an economist and a policy adviser in the U.S. Department of Labor, the foreign aid program, and the United Nations. He has published three books and numerous articles about full employment. In this article he puts his proposal into the language of legislation.

I feel that my colleagues will find the proposals interesting and timely. The article follows:

### COMPLETING THE EMPLOYMENT ACT

(By John H. G. Pierson)

In the twenty-six years since the Employment Act of 1946 was signed into law, the country has experienced five recessions. Even when business has prospered, the central aim of this Act—useful employment opportunities for all those able, willing, and seeking to work—has seldom been brought within sight, let alone achieved. Only for three years, in the Korea war boom, has the official unemployment estimate averaged below 3.5 percent of the civilian labor force (dropping to 2.9 percent in 1953 and to 2.5 percent, in seasonally adjusted figures, that May and June). In as many as eleven years it has stood above 5 percent (rising to 6.8 percent in 1958 and to 7.5 percent that July). Earlier bench marks, not entirely comparable, were 24.9 percent unemployment in 1933 and 1.2 percent in 1944 under wartime price controls.

In the long absence of recessions after 1961 the unemployment rate finally dropped to 3.5 percent for 1969 (touching 3.3 percent momentarily early that year), but the statistics somewhat overstate the actual improvement since stricter definitions of unemployment were used as from 1965 and 1967. Then in 1970 the jobless percentage jumped to 4.9, and in 1971 it hovered around, and averaged just under, 6 percent.

Six percent unemployment now means more than 5 million persons. Even 4 percent—sometimes treated as though it were an acceptable goal—would still leave some 3½ million persons in this country looking for work and unable to find any. Moreover the published unemployment total understates the real extent of involuntary idleness at virtually all times and especially during recessions. One reason among several is that some persons who want to work full-time can only get part-time jobs. Some others eventually become too discouraged to keep on looking and are then no longer counted as part of the labor force; and so—except for less frequent and less reliable estimating—they slip through the statistical net altogether.

A list of the legislative measures enacted or proposed since 1946 to try to cope better with our national economic problems would be long indeed. Many amendments have been offered to the Employment Act itself, keyed mainly to three objectives: (1) Repeated efforts have been made from the outset to have the Act not only promote employment but also restrain inflationary price increases; (2) Lately, since about 1960, it has often been urged that this law should concern itself with our balance of payments as well; (3) There have also been attempts to go back to the more formal kind of "national full employment budget" planning which was originally suggested in 1945–46 but rejected by Congress at that time.

No amendments other than technical or housekeeping ones have ever been adopted, however, and some of the reasons are easily imagined. Many proposals were addressed to section 2, the Declaration of Policy.—Why load the Act with further policy objectives when its first objective was still not being achieved? Again, the "national full employment budget" concept was originally framed in a way that automatically aroused strong opposition by failing to safeguard the private enterprise interest. And all else aside, tinkering with an Act so broad in scope would have seemed like opening Pandora's box.—Where would the modifications end if once begun?

But are the reasons for standing pat still good enough? The need to have our economy function properly is as great as ever. The quarter-century record of failure of the Employment Act as written is more obvious today than before because of the length and peculiarities of the present slump. Indeed we now have not only the doctrine that full employment and price stability cannot be achieved simultaneously but the experience of the simultaneous non-achievement of both. Meanwhile in engineering, for example, scientifically-minded practical people are every day making progress by simply asking "what would be the conditions under which X" (some desired result) "would be achieved?" and then proceeding to construct those very conditions. Certainly the question must be raised whether the arguments against changing the Act are still convincing.

The answer to this must depend at least partly on whether amendments can be framed that will once and for all complete the Employment Act—make it do what it should, ideally speaking, have done from the start. Can it be strengthened to guarantee jobs to able job-seekers, while at the same time staying clear of irrelevant matters? (To keep full employment from itself causing inflation is of course anything but irrelevant.) Can these things, moreover, be done without prejudging the handling of the touchy public- versus private-sector issue; or changing the traditional relationship between the President and the Congress (as by expecting Congress to rubber-stamp a Presidential spending program or to give the President unduly wide discretionary powers); or interfering in the legitimate concerns of Congressional committees?

It is here submitted that all this is possible, and textual amendments to the Act are offered below to illustrate how. Much the most important amendment and the key to the others is the addition of a new final section 6 to vest appropriate responsibilities in Congress as a whole. However, for the sake of clarity, this discussion will proceed straight through the Act from the beginning.

First, however, a word is needed about what is really at stake, because the arguments over the full-employment issue are often pitched on altogether too narrow ground. In briefest summary: (1) Involuntary unemployment is destructive of personality. (2) An assurance of continuous prosperity and full employment would weaken the antisocial (usually inflationary) compulsions of business, labor, farmer, and other interest groups. (3) Racial peace seems impossible in this country without universal job opportunity—the present lack of which is also partly responsible for the alienation of youth, not to speak of the helpless bitterness of many older people. (4) Getting rid of poverty would be greatly simplified as a result of the cash-income effects of continuous full employment (more paid labor; less chance of exploiting labor by paying substandard wages). (5) The extra wealth (GNP) which would be created under those full-activity conditions—the staggering amount now wasted through avoidable nonproduction—is needed to help finance programs to meet the problems of the cities, backward rural areas, and the environment generally, including again problems of poverty but not limited to them. (6) Internationally, that extra wealth would confirm our ability to extend more generous aid to the world's less developed countries. (7) More (and more fundamental) than that, confidence in our ability to maintain a market adequate for our own full-employment prosperity through domestic policy would substantially deflate our fear of imports and our exaggerated preoccupation with export markets and export surpluses; thus it would enable us to be a "good neighbor" that encourages and helps the less developed countries to shift "from aid to trade" as they become ready for it.

Section 1 of "AN ACT to declare a national policy on employment, production, and purchasing power, and for other purposes" (60 Stat. 23) (Public Law 304—79th Congress) (approved February 20, 1946) merely states that the short title is "Employment Act of 1946."

Section 2 is the "Declaration of Policy." This has received so much attention that it will be quoted here in full, with proposed additions to the text italicized (as also subsequently) and proposed deletions placed within square brackets:

"Sec. 2. The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means consistent with its needs and obligations and other essential considerations of national policy, with the assistance and cooperation of industry, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions under which there will be [afforded] *the assurance* of useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power] *; and opportunities for training, to improve employability; and healthy growth of production,* *with full, non-inflationary employment and purchasing power."*

Comments: (1) It is necessary to include an assurance of employment opportunity, since that is the heart of the matter. (The rather profuse introductory language of this Declaration might perhaps be pruned a little too without sacrificing vital safeguards, but that is not essential, and the changes suggested here are purposely held to a minimum.)

(2) The concept of "maximum employment . . ." has been a false lead from the beginning. Maximum purchasing power is inflationary. Maximum employment is either inflationary or simply weak ("let's do the best we can"). And maximum production is now more than ever open to challenge as a national objective, both psychologically and ecologically. Hence there is much to be said for rewording the final clause.

(3) The Employment Act is not the place where training programs should be spelled out. As far as policy is concerned, however, there is or should be a national purpose not only to provide employment opportunities for all those able, willing, and seeking to work but also to fight against so-called unemployability; that is, to help anyone, "willing" and "seeking" but not as yet "able," to overcome his or her inability. Hence the end of this Declaration could well refer to that issue too, as here suggested.

Section 3 deals with the "Economic Report of the President." Additional language is proposed for the first subsection in order to give special emphasis to certain recommendations, not now debarred but not explicitly required either, which the Economic Report definitely needs to include:

"Sec. 3. (a) The President shall transmit to the Congress not later than January 20 of each year an economic report (hereinafter called the 'Economic Report') setting forth (1) the levels of employment, production, and purchasing power obtaining in the United States and such levels needed to carry out the policy declared in section 2, *including specifically the minimum and maximum levels of employment recommended in the light of that policy, and the minimum and maximum rates of aggregate personal consumption expenditures deemed consistent with that policy in view of the program of Federal Government purchases of goods and services recommended to be undertaken and the anticipated other demands on the national product*; (2) current and foreseeable trends in the levels of employment, production, and purchasing power; (3) a review of the economic program of the Federal Government and a review of economic conditions affecting employment in the United States or any considerable portion thereof during the preceding year and of their effect upon employment, production, and purchasing power; and (4) a program for carrying out the policy declared in section 2, together with such recommendations for legislation as he may deem necessary or desirable."

Comments: (1) The proposed minimum level of employment (in terms, presumably, of the seasonally adjusted monthly national total reported by the Department of Labor) would reflect the President's view of the correct statistical definition of full employment for the year ahead. This quantity would be derived by estimating the civilian labor force and subtracting the amount of unemployment that seemed to the President reasonable in the light of production shifts, manpower policies, and labor mobility at the time (the allowance for "necessary frictional unemployment"). Apart from labor-force growth due to the changing size and age-composition of the population, an effective full-employment policy would no doubt also bring into the picture at the beginning many persons previously not even on record as wanting to work. No need, however, to attempt the impossible. In the transition period from our present excessive unemployment, the President could if he thought best propose moving up to full employment by stages and reaching it in, for example, the second quarter of the second year.

(2) A maximum limit on employment is needed too, as a safeguard against inflation. (Purely as illustration, if the President in some year proposed a minimum of 86.5 million jobs, he might also state that anything above 87.8 million jobs would represent overemployment—too tight a situation in the labor market, with too much upward pressure on pay scales and on total income payments.)

(3) Key importance attaches to also setting limits to personal consumption expenditures (as compiled quarterly, at seasonally adjusted annual rates, by the Department of Commerce), and to deriving this target in the manner indicated. In the first place, since the President would of course state that any expansion or contraction of his recommended government program would imply an opposite change in needed consumer spending, this approach would eliminate the fear that a government commitment to serve as "employer of last resort" might lead to a degree of expansion of the public sector that was unacceptable to Congress. Such a government commitment—such underwriting of the job market—would still be essential, of course; and some consequent manipulation of the level of employment on public works and services would result, in compensation for net "error" in estimating other forms of demand and the employment-generating effect of a given demand. But there would be no inherent one-way bias toward government expansion, no greater probability (if the mid-point between the employment floor and ceiling were aimed at to begin with) of a need to accelerate public works and services than of a need to decelerate them. Hence this approach would remove a basic obstacle to the solution of the problem of making continuous full employment possible in practice.

This approach would also greatly help to remove the second basic obstacle, which is the fear of inflation. While that subject can best be viewed in a comprehensive way at a later point, it is evident that a firm ceiling on consumer spending (mentioned here, explained in due course) would act as a powerful brake against inflationary demand spirals, especially when coupled with the proposed ceiling on employment.

To return to the computations envisaged. First of all, all the statistical series needed are continuously available. Second, while all the components of gross national expenditures, or GNP, would be used for deriving the needed consumer spending, there is no proposal here that the GNP itself or any of its components except consumer spending should have lower and upper limits set. The suggested procedures do not imply control over private investment decisions, for instance. (Given the permanently high final-product markets implied by the policy, private domestic investment could be expected to continue reasonably high also, with its cyclical swings damped down considerably. In estimating it for the purposes here in view, there might be advantages in choosing a mid-point figure on the diminished investment cycle rather than an actual forecast figure. This would look toward having fluctuations in private construction offset by opposite *ex post* fluctuations of public works rather than by opposite *ex ante* fluctuations of private consumer spending.)

This much having been said, the technical estimating procedure may be clarified, at least in outline. Other things (specifically, the sum of State and local government purchases of goods and services, gross private or business domestic investment, and net exports of goods and services) being equal, the needed total of (a) private consumer spending and (b) Federal Government spending for goods and services would remain constant too. ("Needed" here translates into required for a full-employment level of GNP, at a given level of prices.) In point of fact, other things cannot be expected to be quite equal if the ratio of (a) to (b) changes. In particular, certain common types of government spending yield more employment, dollar for dollar, than does more private consumer spending. A substantial program of public service employment would, moreover, have the great advantage that it would help to ease the disproportionately high unemployment among less-skilled and less-educated workers. But differences such as these can all be roughly estimated, just as can the other components of the GNP. Thus, the President would add his optional items to the relatively fixed or unavoidable ones already there and would state what total volume of purchases of goods and services he wanted the Federal Government itself to undertake. He would then specify the level of private consumer spending that in his view would be required to be associated with that much Federal Government spending in order to have, at the price level which he anticipated, an aggregate market capable of sustaining full employment as he had defined it. And no doubt he would also suggest—without needing to have the law say so—a scale of variations of the consumer component that would be appropriate in case Congress introduced variations of the government component.

Here also appears the third major advantage from pegging consumer spending. An increase of net exports has often been sought in the past as a solution for our unemployment, even though other countries might suffer from the action we took. The proposed approach would turn the problem around, calling for an expansion of the domestic market (via larger consumer spending) when the foreign market (net exports) was projected as declining. Consequently this approach would allay fears of a shortage of markets in the overall sense, and so would help us to maintain a liberal foreign-trade policy based on the widest interpretation of national self-interest.

(4) Part (4) of the subsection asks the President to set forth his program and, if necessary or desirable, recommend new legislation. Although the text here probably needs no formal amplification, the President would clearly be concerned—under this proposal—not only with legislative and administrative measures directly or indirectly affecting the performance of the economy on a continuing basis (welfare reform and antitrust action, for instance) but also with special compensatory measures. The latter would be for use only when that might prove necessary to keep total employment, total personal consumption expenditures, or both from straying outside their specified limits. The subject of contingent, compensatory measures is, however, reserved for later discussion.

Not to overlook the regional aspect of the employment problem—the President's program would certainly not limit itself to questions of national averages. Also dealt with in his recommendations would naturally be the continuing special needs of the country's Appalachias, as well as any unusually severe local job shortages of a more temporary nature brought about, say, by technological change or import competition.

No comment is required on the remainder of section 3. Subsection (b) authorizes the President also to transmit supplementary reports to Congress. Subsection (c) states that the Economic Report and any supplements shall be referred by Congress to its Joint Economic Committee.

Section 4 of the Act deals at some length, in six subsections, with the "Council of Economic Advisers to the President." The functions of this three-member Council, established in the Executive Office of the President, are essentially those implied by its title.

Section 5, the last one as the Act now stands, brings us to the "Joint Economic Committee." Here again the text deals largely with matters outside the scope of the present analysis, such as the Committee's composition (ten Senators and ten Members of the House of Representatives, with the majority party represented by six members in each case), the holding of hearings, the appointment of experts, consultants, and other assistants, the procurement of printing and binding, the authorization of necessary appropriations, and so on. Subsection (b), however, one of the five subsections, is concerned with the vital issue of what happens to the President's Economic Report, and here a brief amendment needs to be incorporated, consequential on what comes later. With the proposed addition, this subsection would read:

"(b) It shall be the function of the joint committee—

(1) to make a continuing study of matters relating to the Economic Report;

(2) to study means of coordinating programs in order to further the policy of this Act; and

(3) as a guide to the several committees of the Congress dealing with legislation relating to the Economic Report, not later than March 1, of each year (beginning with the year 1947) to file a report with the Senate and the House of Representatives containing its findings and recommendations with respect to each of the main recommendations made by the President in the Economic Report, *together with a draft Joint Resolution for the consideration of the Congress as provided for in section 6;* and from time to time to make such other reports and recommendations to the Senate and House of Representatives as it deems advisable."

Comments: (1) The process which the Act has caused the President and his advisers to initiate each year by preparing the Economic Report should no longer be allowed to disappear in thin air at the end. Rather, if there is to be the practical possibility of assuring continuous full employment, it is essential that Congress as a whole should also assume appropriate responsibilities. Everything hinges on that.

(2) A procedural problem arises at this point because the Joint Economic Committee, in spite of what the law says about its powers to recommend, is not regarded as having the authority to recommend "legislative" action to Congress as a whole. Logically speaking, this Committee, with its detailed understanding of the subject, is clearly the one to prepare the annual draft joint resolution. As an interim measure it might if necessary work with one or more of the other, legislative committees in preparing the resolution for submission to Congress as a whole.

We come now to the decisive amendment that would complete the Employment Act by making provision for nearly all the action required to assure continuous full employment from that time on. This proposed new section 6 would presumably be entitled "Congressional Action on the Report of the Joint Economic Committee," and could for brevity be phrased approximately as follows:

*"Sec. 6. As soon as practicable after the filing of the report of the Joint Economic Committee, the Congress shall by joint resolution of the Senate and the House of Representatives set forth its decisions with respect to—*

*(a) the minimum and maximum acceptable levels of employment throughout the year in question;*

*(b) the minimum and maximum acceptable rates of aggregate personal consumption expenditures throughout the year;*

*(c) the preventive action to be taken by the President if employment should at any time tend to fall below its minimum, or rise above its maximum, acceptable level as defined in (a); and*

*(d) the preventive action to be taken by the President in case personal consumption expenditures should at any time tend to fall below their minimum, or rise above their maximum, acceptable rates as defined in (b).*

Comments: (1) In adopting this amendment Congress would obviously not be committing future Congresses on the substance of their decisions on the four indicated subjects but only on always reaching some definite decisions on them.

(2) Congress would always have the option to agree with or differ from the President on the minimum and maximum acceptable levels of employment, or in other words on what "full employment" should mean for operating purposes. It might take a different view, for example, of the size of the labor force (the Joint Economic Committee has the help of its own staff experts); or of how much frictional unemployment was acceptable (the President might have considered, say, 3 percent unemployment as tantamount to full employment, whereas Congress preferred 3.5 percent, or 2.5 percent); or of how wide a gap should be allowed between minimum and maximum limits.

(3) The decision on acceptable rates of aggregate personal consumption expenditures would above all settle the public-versus private-sector issue in the way Congress wanted it settled at the time. Suppose that in some year the President's program if adopted would go so far in reordering the country's priorities as to increase not only the overall emphasis on social welfare fields (health, education, low-cost housing, antipollution, and so on) but also the percentage of GNP represented by the government's own purchases of goods and services. The majority in Congress might agree—or go even farther. On the other hand, perhaps the majority would favor maintaining the existing GNP ratios instead. Thus, to illustrate, Congress might some year decide that the acceptable limits to consumer spending would be $765 billion and $780 billion, whereas the President, having different GNP proportions (more heavily weighted on the government side) in mind, had recommended a range of only $745–760 billion.

(4) While decisions under proposed clause 6(b) would thus clearly imply a certain general view of the government's economic role, they would not tie the hands of the Committees on Appropriations, let alone exert any refined degree of control over the elusive question of how much the Federal Government would in fact spend before the year was out. As already noted, the purpose of the pre-announced limits to consumer spending would be quite different: first, to separate the "big government" issue from the full-employment issue; second, to provide, by way of the maximum limit set, a brake against any inflationary upward spending spiral; and third, to make it possible to accept a reduction in our traditional export surplus—since our ability to maintain adequate total markets for domestic output would remain unaffected.

(5) Fundamental to proposed clauses (c) and (d) is that both provide for action that would be made contingent on the showing of the chosen indicators and mandatory in application when one or both of those indicators began to move outside the Congressionally predetermined range. In other words, as far as these compensatory adjustments are concerned (other sorts of economic legislation are dealt with just below), Congress would begin making the rules in advance and would have a more basic policy-making role.

(6) Under clause (c) Congress would be writing the specifications for a government commitment to serve as employer of last resort. Broadly speaking, that commitment would necessarily entail contingent accelerations and decelerations of public works and services. What would be up for decision would be such things as the exact content of that category for the purpose in hand (with reference, for example, to Federally financed State and local government projects and perhaps private non-profit projects); how to secure an adequate, ready reserve shelf of suitable projects; and the best formula for apportioning accelerations and decelerations by States.

(7) Under clause (d) Congress would have a wide range of options. It might, for example, decide that, when and if adjusting aggregate personal consumption expenditures should prove necessary, this would be done by temporarily reducing or increasing personal income taxes—and (on the "up" side, at least) by taking some other fiscal action that would comparably benefit low-income groups not liable for income tax. Or, if welfare reform had led to adoption of a plan guaranteeing a minimum income to all families and single individuals as a matter of right, and of a negative income tax as the pay-out mechanism for this, then Congress might decide that the income tax itself (positive and negative) should be the vehicle for all the necessary adjustments. The allowances or negative taxes would in that case be raised, and the positive income taxes lowered, when necessary to increase consumer spending, and conversely the positive income taxes would be raised, and the allowances lowered (but never below their base level), when necessary to decrease it. On the other hand, Congressional economic advisers might consider that variations in consumers' saving could still—even in the absence of booms and slumps—partly frustrate any effort to control their spending by merely controlling their disposable income. In that case Congress might decide on a more direct procedure.

(8) For example, Congress could enact a Federal sales tax/sales bonus which would be put on a standby basis to be used only for lowering or raising consumer spending to hold that aggregate within the stipulated limits. As a bonus, when spending was running too low, it would work like a (universal) stamp plan: all buyers of goods and services at retail would during pay-out periods receive stamps convertible (unlike food stamps) into cash at a bank or post-office if promptly presented. As a tax, it would automatically lower the amount of consumer expenditure received net of tax by business, that being then designated the amount required to be held below the established ceiling. Consumer spending could thus beyond any doubt be restrained to any desired extent, any "stubbornness" in spending or saving propensities (and any reluctance to regulate consumer credit) to the contrary withstanding; or alternatively, it could be given a very powerful incentive for expansion. (This fiscal device was first proposed in my communication "On Underwriting Consumption and Employment" published in *The American Economic Review* in September, 1955.)

(9) To see, finally, how this proposed unified action by Congress as a whole would mesh with the normal functioning of the Congressional committee system, let us suppose, for example, that the House Ways and Means Committee took up again the general subject of tax reform. While such tax changes as Congress ultimately adopted would no doubt alter the distribution of the tax burden and probably also the level of tax revenue, neither the target-fixing under section 6(b) nor the choosing of a contingent compensatory formula under section 6(d) would be affected. What almost

certainly would be affected is the actual (preadjustment) rate of consumer spending and its likelihood of falling within the acceptable range "of its own accord";—and hence also the likelihood that the President would actually have to apply the contingent adjustment measures provided for under 6(d).

(10) Incidentally, there would be some presumption that by a kind of feedback effect any unduly large or frequent need to take either type of compensatory action (to adjust consumer spending or to adjust employment) would lead to the sponsorship and passage of improved legislation relating to distribution of income, enforcement of competition and/or regulation of monopoly, or other factors strategically affecting the self-balancing capacity of the economy.

The above-described actions required to effectuate this proposal—first, the enactment of certain amendments to the Employment Act; second, the annual sequences of steps by the Council of Economic Advisers, the President, the Joint Economic Committee, and Congress as a whole—would of course need to be supported by operational actions. The proposed approach is broadly describable as Economic Performance Insurance, and the country in taking out that kind of insurance policy could expect to see an "automatic" response to the key signals. But it is important to realize that this "automaticity" could not eliminate the need for decisions at the operating level. On the contrary, judgment would be called for not only in the recurrent formulation of terms and procedures but also in the execution process.

The agencies to be designated by the President to operate under this law need not, it would seem, be specified in the Employment Act. The only two statistical indicators required to serve as primary action signals are currently prepared by the Departments of Labor and Commerce, as already noted. Perhaps the Labor Department would also be given broad responsibility over accelerations and decelerations of public works and services. Meanwhile the Internal Revenue Service would have a major part to play in administering the contingent adjustments in consumer spending or disposable income, but would work, presumably, in close collaboration with the Department of Health, Education, and Welfare and other agencies of the Executive Branch.

Timing would present the big challenge. Postponing all action until the employment level or the rate of consumer spending was already too high or too low to be "acceptable" would breach the continuity of the system before correction could take hold. Then again, after any correction was made, the question would arise as to just how soon (at what point within the acceptable performance range) the use of the compensatory device should be terminated.

At present the seasonally adjusted monthly employment totals are published some three weeks after the statistical survey—in the early days of the next month; and preliminary quarterly personal consumption expenditures data, at seasonally adjusted annual rates, are published seven weeks or a little less after the end of each quarter. Those time intervals could perhaps be shortened somewhat; in any case, government experts with access to the data can certainly see trends emerging before the results are published. Nevertheless, there must also be considered the further time lag between ordering a compensatory measure instituted and having it put into effect. For example, an immediate acceleration of public works and services is hardly possible on a geographically widespread basis. In signing a $1 billion appropriation bill to create emergency public service jobs President Nixon said on August 9, 1971 that the first group of unemployed should be at the new jobs by Labor Day—nearly a month later. Of course, we neither have nor have had anything approaching either an adequate reserve shelf of public works and services or an adequate system of getting ready to use it; to remedy those deficiencies would be a major project to be undertaken concurrently with amending the Employment Act itself.

The best answer to problems of timing would thus probably combine at least the following three elements: (1) Congress might agree that employment and consumer spending could without prejudice be at "unacceptable" levels briefly—say, for a single reporting period. (2) Substantial effort and expense should be undertaken to build up an adequate reserve shelf on a nationwide basis, and also to give local organizations the capacity for swift action in carrying out Washington directives in regard both to "last resort" employment and to the fiscal means chosen for adjusting consumer spending. (3) The Federal agencies in charge should probably issue an "alert" before employment or consumer spending actually went beyond an upper or lower limit, if it seriously threatened to do so. Their staff economists would thus be expected to use a fairly wide range of data and forecasting procedures. Moreover some wrong guesses would inevitably occur, so that some expense would be incurred throughout the country in mobilizing forces to meet contingencies that failed to materialize. Reimbursing such expenses would simply be, then, one of the financial costs of maintaining a full-employment system.

A concluding word about inflation. If full employment were, as so often alleged, bound to generate inflation, amending the Employment Act to give it real teeth might have little point. But two recent developments have brought that gloomy thesis into the most serious question—first, the ample demonstration that inflation now tends to occur even without full employment, and second, the not unrelated shift of informed public opinion into favoring an incomes policy of some kind to help maintain price stability. Thus full employment need no longer carry such burdens as do not, properly speaking, belong to it.

More than that, however, it is here submitted that a program of guaranteed full employment along the lines suggested would not only not feed inflation but actually be the best cure for inflation. This is asserted for two reasons in combination. First, the ceilings on employment and on consumer spending that would be imposed under this approach would choke off upward demand spirals almost entirely. That is the built-in "mechanical" aspect. It would limit "demand pull" directly, as already emphasized, and indirectly it would also moderate the wage-demand side of the "cost push" by holding down the prices that make up the worker's cost of living. Second, there is the psychological point that cannot be proved but that should appeal to common sense—a point that would arise from the very fact of the government's readiness to commit itself in this unprecedented way. An agreement on the part of the government to assure a total market adequate for business prosperity, and to assure continuous full employment for labor, should be enough to persuade business and labor leaders to agree to abide by some reasonable set of price and wage guidelines.

Those who blame inflation on the incurable wickedness of Big Business or Big Labor or both often seem unaware of how far the behavior of both has been caused by the malfunctioning of our economy—its cyclical instability combined with secular weakness—the inevitability of which is precisely what needs to be denied. Once the government stood ready to assure continuously adequate total demand for products and for workers, (1) all businesses would have more chance to spread their overhead costs and hold prices down; (2) management in areas of administered pricing could logically give up planning for extra profits in boom times to cushion losses in future slumps; and (3) union leaders would feel less pressure to demand extreme hourly wage rates on the one hand, or annual pay guarantees on the other, to fortify their members against the return of unemployment.

To put this in context—as these words are being written, the country is deep in President Nixon's economic Phase II. Whether this experiment with a Wage Board and a Price Commission will be followed soon by selective permanent legal controls or by some other incomes policy is impossible to say. But what the government commitments proposed in this article would in any case contribute, when it comes to resolving the ultimate hard-core part of the "cost push" phenomenon, is to open the door as wide as possible to achieving essential results by voluntary cooperation.

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## THREE FACTS MARK TRAGIC SKYJACKING

## HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. CORMAN. Mr. Speaker, there have been many occasions when I have been reminded of the failures of our Nation's health care system. Often these reminders come in the form of heartbreaking letters from constituents who have been forced to sell a cherished family home or go on welfare to pay for mounting medical bills.

But recently I was jarred by a newsstory which told of a father so burdened by medical bills resulting from his son's open heart surgery, that he was driven to commit an insane crime, for which he paid with his life. It is indeed tragic that in this richest of all nations, medical costs should cause some people to lose their hold on reality.

Mr. Speaker, I commend to the attention of my colleagues this article, written by William Hines of the Chicago Sun Times:

### THREE FACTS MARK TRAGIC SKYJACKING

(By William Hines)

WASHINGTON.—Dr. David G. Hubbard, the Dallas psychiatrist who has written a book about skyjackers and what he calls their "flights of fancy," says the serial piracy syndrome is like a virus disease.

Just about the time the experts think they are getting the Asian flu or whatever under control, the little protein-wrapped package of nucleic acid that causes it suddenly mutates into something quite different and often more bizarre.

So it is with skyjacking, Hubbard remarked about a year ago in conversation with a friend. Events of the last two months have amply borne out his observation.

First there was "D. B. Cooper," who established a new skjacking norm with his successful takeover of an airplane in the Pacific Northwest—"successful," at any rate, in the sense that he parachuted from the plane with $200,000 ransom money into a forested area of Oregon and has not been seen or heard from since.

Just last week the Cooper format was embellished by two other skyjackers, who were less fortunate in the outcome of their piratical plans. One died; the other was wounded and taken into custody.

The case of Heinrik Von George, perpetrator of one of these ill-starred skyjackings, is a particularly tragic one, not only because he was slain by an FBI agent after hijacking an airplane to Poughkeepsie, N.Y., using a fake bomb and a pistol loaded with blanks as persuaders. An even more bitter element of Von George's case lay in the circumstances that apparently drove him to what looks like a suicide attempt.

Three points might be made about Von George in light of Hubbard's carefully developed theory about the skyjacker personality. Many of these people, he believes, are definitely suicidal but disinclined to take their own lives, either for religious reasons or out of simple personal cowardice. How better, then, to die than from police gunfire?

A second facet of Hubbard's theory that is pertinent is that the skyjacker's motivation is "flight across a hostile border"—in Freudian terms, the act of escaping from a threatening, domineering father into the arms of a supportive, understanding mother. Cuba for many years has filled this role for some; so did Canada, briefly, until that country served notice on skyjackers that they would be promptly deported.

Cuba, yes; Canada, conceivably; but Poughkeepsie, N.Y.? This goes to a third fundamental of Hubbard's thesis; namely, that all skyjackers are at least a little bit crazy.

When reporters started picking up the tangled threads of Von George's existence it did not take them long to identify crushing debt as the motive of his final, irrational effort to escape.

Von George had been living in the Boston suburb of Brockton, where things eventually got too bad to be endured. He had lived and worked prior to that in the Poughkeepsie area. Life hadn't gone too well in Poughkeepsie, either, but must have seemed in retrospect better than it was in Brockton. In a psychiatric sense, the skyjacking to Poughkeepsie was, to Von George's unstrung mind, "flight across a hostile border."

What may finally have snapped Von George's tenuous hold on reality was a backbreaking load of medical bills incurred when one of his children underwent open-heart surgery at Massachusetts General Hospital.

There is something sadly out of kilter with a society that pauperizes a father and drives him to an insane crime and eventual death as the price for restoring his child to health.

## LOUISIANA SCHOOL BOARDS OPPOSE FORCED BUSING TO ACHIEVE PREDETERMINED RACIAL BALANCE

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. RARICK. Mr. Speaker, the Louisiana School Boards Association has gone on record supporting an amendment to the Constitution or an effective statute which would prohibit busing of public school students only to achieve a predetermined racial ratio.

I insert a telegram I received today from the Louisiana School Board Association expressing their opposition to the continued use of discriminatory busing and calling on the Congress to enact effective statutory provisions or approve a constitutional amendment prohibiting the use of forced busing to achieve racial balance in the RECORD at this point:

BATON ROUGE, LA.

Hon. JOHN R. RARICK,
*House of Representatives,*
*Washington, D.C.*

The Louisiana School Boards Association urges your support for an effective amendment to the United States Constitution or for an effective statute which would prohibit busing of public school students only to achieve a predetermined racial ratio. LSBA is cognizant of your opposition to current Federal court mandates requiring students to be transported long distances out of home schools regardless of the effect upon students. We want you to know that we would appreciate congressional assistance in eliminating such mandates.

R. MCINTYRE BRIDES, M.D.,
*FAC President, Louisiana School Boards.*